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HOUSE HEALTH EDUCATION AND SOCIAL SERVICES COMMITTEE
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SUMMARY OF COMMITTEE ACTIVITY

CONFIRMATION: BOARD OF EDUCATION

CONFIRMATION: PROFESSIONAL TEACHING PRACTICES

DFYS (DIV. OF FAMILY & YOUTH SERVICES)
INVESTIGATION

DFYS (DIV. OF FAMILY & YOUTH SERVICES)

BOARD OF OPTOMETRY

EO 54

EO 56

HB 19

HB 32

HB 36

HB 39

HB 43

HB 56

HB 73

HB 76

HB 88

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HB 275

HB 291, see HB 191

HB 292

HB 332

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HB 354

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HB 357 (FILE 3)

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HOUSE HEALTH EDUCATION AND SOCIAL SERVICES COMMITTEE
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SB 26

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SB 446

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HOUSE HEALTH EDUCATION AND SOCIAL SERVICES COMMITTEE
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SJR 26

SJR 27

Summary of Committee Activity

SUMMARY OF HOUSE HESS COMMITTEE ACTIVITY
Current as of 5/1/84

PART I. OVERVIEW

Category	1st Session	2nd Session	Total
Legislation Referred to HESS:	98	56	154
Legislation Passed Out of HESS:	63	28	91
Legislation Pending Before HESS:	-	-	63
Number of Committee Days (To Date):	50	50	100

PART II. LEGISLATION PENDING BEFORE COMMITTEE

No.	General Subject*	Sponsor
HB 3	DOE Payments to School Districts	Duncan
HB 35	DOE Education Foundation Program	Malone
HB 43	School Construction	Lacher
HB 65	4-Year College in Sitka	Lindauer
HB 76	Bd. of Regents Terms	Lindauer
HB 78	Post-Secondary HQ in Alaska	Lindauer
HB 90	School Construction from DOE to DOT	Bettisworth
HB 95	Anchorage Community College Offices	Lindauer
HB 96	ACC Faculty Building	Lindauer
HB 112	Maintenance Health Facilities	Cato
HB 127	Increase Punishment - Sex Assault	Lindauer
HB 159	Achievement Scholarships	Koponen
HB 177	Dept. of Corrections Judgement	Bussell
HB 191	School Board Negotiations	Hurlbert
HB 192	Protection of the Elderly	Clocksin
HB 215	Non-Certified Employees' Retirement	Koponen
HB 216	Labor Relations - School Boards	Koponen
HB 252	Physical Sciences Endowment	Koponen
HB 253	UA Physical Science	Koponen
HB 260	Community College System to DOE	Lindauer
HB 263	DOE Public School Foundation	Koponen
HB 264	Joint Committee - DOE Foundation	Koponen
HB 269	Kodiak Auditorium	Zharoff
HB 272	UA Sports Center in Kodiak	Zharoff
HB 290	UA Study of Crude Oil	Davis
HB 333	Practice of Medicine	L & C
HB 355	Health Resources Development	Koponen
HB 359	Nick Begich Memorial Scholarship	Koponen

CATEGORY CONTINUED ON NEXT PAGE

*For identification purposes only

SUMMARY OF HOUSE HESS COMMITTEE ACTIVITY
Current as of 5/1/84

PART II. LEGISLATION PENDING BEFORE COMMITTEE (CONTINUED)

No.	General Subject*	Sponsor
HB 420	School Construction	Bettisworth
HB 422	Teachers' Retirement System	Zharoff
HB 425	Appropriation to DHSS	Koponen
HB 427	Adoption Pre-Placement Investigation	Koponen
HB 439	Prohibit Tenure - UA Professors	Vaska
HB 482	Homer Community Mental Health Clinic	Fritz
HB 489	Child Abuse	McBride
HB 522	Kindergarten Programs	Duncan
HB 549	Vital Statistics Records	Fritz
HB 550	Pre-Marital Blood Tests	Fritz
HB 565	Hearsay Evidence - Child Abuse	Lacher
HB 567	DOE - Child Sexual Abuse	Lacher
HB 583	Report of Certain Injuries	Rules
HB 585	Inmate Education Advisory Council	Miller (D)
HB 598	Delete COLA Program - Libraries	Rules
HB 612	UA - Drill Core Sample	Ringstad
HB 628	DOE - Schools Programs	McBride
HB 631	Runaway Children	Liska
HB 646	Acts Committed by Students	Liska
HB 670	Runaway and Homeless Youths	Lacher
HB 712	Medical Assistance Program	L & C
HB 713	Physical Therapy	L & C
HJR 71	School Prayer Amendment - US Congress	HESS
HCR 23	Joint Committee - DOE Foundation	Koponen
HCR 24	Public School Foundation Program	Koponen
SB 26	Immunity from Civil Liabilities	Ziegler
SB 135	Nick Begich Memorial Scholarship	Kerttula
SB 241	Adoption	Kerttula
SB 320	Dissolution of Marriage	Ray
SB 343	Pre-Marital Blood Tests	Josephson
SB 346	Treatment of the Mentally Ill	Josephson
SB 362	Student Loans - More than 1 School	Kerttula
SB 446	Personal Safety Curricula	Kerttula
SB 463	Veterans Exposed to radiation, etc.	Fischer (D)
SJR 27	Health Cost Containment	Sackett

END OF CATEGORY

*For identification purposes only

SUMMARY OF HOUSE HESS COMMITTEE ACTIVITY
Current as of 5/1/84

III. LEGISLATION PASSED OUT OF COMMITTEE

No.	General Subject*	Sponsor
HB 19	Repeal Certificate of Need Program	Fritz
HB 32	UAA Dormitories	Furnace
HB 39	Services for Pregnant Women	Miller (D)
HB 56	Scholarship Loans	Lindauer
HB 73	DOE - Supplemental	Furnace
HB 88	Improve Buchner Building in Whittier	Bettisworth
HB 91	Vital Statistics Records	Bettisworth
HB 103	Department of Corrections	Fritz
HB 107	Right to Natural Death	Clocksin
HB 108	MDs - Inclusion in Exempt Services	Rules/Gov
HB 117	Sexual Abuse of a Minor	Pestinger
HB 125	Emergency Closure Days	Larson
HB 128	Raise Penalties - Child Prostitution	Lindauer
HB 137	DOE - Retire School Debt	Larson
HB 160	DOE - Aviation Training Program	Hurlbert
HB 174	Student Loan Eligibility	Davis
HB 182	Exemption from Minimum Wage	Barnes
HB 194	Education of Exceptional Children	Rules
HB 196	Adequate Teacher Housing	Adams
HB 217	Establishment of Prison Facilities	Cato
HB 219	UA Citizens' Advisory Board	Lindauer
HB 225	Use of Certain Drugs by Optometrists	Martin
HB 230	Regulation of Practice of Medicine	Rules
HB 243	Respite Care	Phillips
HB 251	State Support for Education	Tischer
HB 257	Limitations in Health Insurance	Ward
HB 262	Child Safety Devices Loan Program	Clocksin
HB 270	Child Pornography	Liska
HB 275	Establischment of Prison Facilities	Larson
HB 291	Tuberculosis Exams and Quarantines	Hurlbert
HB 292	Tuberculosis Screening in Schools	Hurlbert
HB 332	State Medical Board	L & C
HB 347	Naturpathic Medicine	Martin
HB 352	Definition of Death	Fritz
HB 353	DOE - Rural School Design	Herrmann
HB 354	Physicians' Staff Priveleges	Koponen
HB 357	Religious Schools	Fritz
HB 374	Prisons - Anderson, Palmer, Sutton	Shultz
HB 383	Payments Child Care Services	Fritz
HB 384	Expenditures of Local Schools	Tischer

CATEGORY CONTINUED ON NEXT PAGE

*For identification purposes only

SUMMARY OF HOUSE HESS COMMITTEE ACTIVITY
Current as of 5/1/84

PART III. LEGISLATION PASSED OUT OF COMMITTEE (CONTINUED)

No.	General Subject*	Sponsor
HB 412	Adoption Medical Records	Szymanski
HB 418	Rights of the Blind and Disabled	Lacher
HB 423	DOE - School Construction Debt	Bettisworth
HB 463	DH&S - Prison in Whittier	Furnace
HB 466	UA Fiscal Procedures	Martin
HB 467	UA Pay Obligations Past Years	Martin
HB 470	DOE - WWII Film	Fritz
HB 477	Repayment for Hospital Construction	Martin
HB 492	State Aide for School Construction	Pestinger
HB 496	Food Banks	Koponen
HB 504	Teacher Scholarship Loans	Hayes
HB 514	Regulation of Private Schools	Tischer
HB 515	UAA - International Business Center	Martin
HB 548	Community Health Aides	Herrmann
HB 566	In-Service Training on Sexual Abuse	Lacher
HB 570	Kodiak Auditorium and School	Zharoff
HB 579	Junior ROTC Instructors' Retirement	Furnace
HB 596	Public Construction	Rules
HB 611	Dentists and Dental Hygenists	Furnace
HB 617	Council on the Arts - Arts Camps	Koponen
HB 649	Teacher Retirement System	Bettisworth
HB 681	Student Loan Program	Rules
HB 690	Post Mortem Exam and Autopsies	Finance
HJR 27	Health Care - Non-Native Dependents	Herrmann
HJR 35	Payment Alaska Area Native Health	Ward
HCR 14	REAA Budget Oversight Committee	Rules/REAA
HCR 16	Hepatitis-B	HESS
HCR 17	State Medal for Heroism	Fritz
HCR 38	Teaching of Sign Languauge	Furnace
HCR 46	Background Check on School Employees	Lacher
HR 6	Emergency Medical Services System	Davis
HR 13	Policy for Developmentally Disabled	HESS
SB 18	Elementary and Secondary Schools	Kerttula
SB 19	Post-Secondary Capital Projects	Kerttula
SB 72	Sexual Assault Investigations	Kerttula
SB 93	Physical Sciences Endowment	Bennett

CATEGORY CONTINUED ON NEXT PAGE

*For identification purposes only

SUMMARY OF HOUSE HESS COMMITTEE ACTIVITY
Current as of 5/1/84

PART III. LEGISLATION PASSED OUT OF COMMITTEE (CONTINUED)

No.	General Subject*	Sponsor
SB 96	DHSS - Hepatitis-B	Sackett
SB 97	DHSS - Bethel Social Services	Sackett
SB 122	Protection of the Elderly	Josephson
SB 129	CPR, Cancer Detection Training	Ziegler
SB 130	DHSS - CPR Films	Ziegler
SB 229	UA - Capital Projects	Finance
SB 354	Regulation of Private Schools	Faiks
SB 384	Food Banks	Ferguson
SB 508	HSS - Bethel/Sitka Youth Programs	Finance
SB 519	School Funding Program	Ferguson
SJR 1	Equal Rights Amendment - US Congress	Fischer (D)
SJR 11	Health Care Delivery - Non-Natives	Ferguson
SJR 26	Training of Physicians	Kerttula
SCR 12	DOA State Employee Health Insurance	Josephson
SCR 26	Creating Local Advisory Boards	Ferguson

END OF CATEGORY

*For identification purposes only

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 3 d.	An Act Making a supplemental approp. to the Dept. of Ed. for payments to school districts under the pub. school foundation prog.	Duncan, Grussendorf, Clocksin, Zharoff, Wendte, Koponen, Goll, Malone, Vaska, Miller, Davis, Larson, McBirde, Szymanski	In 1/18/83 Out	Requested 1/18/83 D N/A	hold - bill heard on 1/24 w/ HB 73
SS HB 19 D	An act repealing the Certificate of Need Program	Fritz, Hayes, Zharoff, Cato, Lindauer, Szymanski	In 1/18/83 Out	1/19/83	Sponsor substitute Sch - 2/19 psd out - 3/2/83
HB 32 d.	An act making a special approp. to the Univ. of AK for construction of dormitories at the Anch campus	Furnace, Martin, Barnes, Flood, Lindauer, Abood, Liska, Szymanski, Fritz	In 1/18/83 Out 27 Jan 84	2/18 30 Jan 84	~~Rotate~~ in Finance
HB 35 d.	An act making a supplemental approp. to the Dept. of Ed. for payments to school district under the pub. school foundation prog.	Malone, Clocksin, Zharoff, Wendte, Koponen, Davis, Shultz, Larson, Szymanski, Fritz	In 1/18/83 Out	Req. 1-18-83 N/A	hold - bill heard on 1/24 w/ HB 73
HB 36 d.	An act relating to the longevity bonus program and providing for an effect. date.	Malone, Zharoff, Wendte, Szymanski	In 1/18/83 Out	2/18	sch. 3/30
HB 39 D	An act relating to services for pregnant women & providing for an effective date.	M.M. Miller, Martin, Zharoff, Koponen, Fritz	In 1/18/83 Out	1/19/83 Rec'd 3/8/83	scheduled 2-16 CS passed out 3/11/83
HB 43 d.	An act rel. to state aid to municipalities for school construction; eptaed.	Lechner	In 1/18/83 Out	Req. 1-18-83 Received 2-2-83	Scheduled 1st Mtg - 2/4/82 — taken off schedule held per sponsor
EO 54 D	Creation of a Dept. of Corrections	Gov. Sheffield	In 1/18/83 Out 2/11/83	ATTACHED to E.O.	1st Mtg - 1/26 - 2/13 psd out 2/11/83
HB 65 L	4 yr. college in Sitka	Lindauer, Grussendorf	In 1/19/83 Out	2/18	hold
✓ HB 56 L	Scholarship loans	Lindauer	In 1/19/83 Out	2/18 Rec'd	~~HOLD - MAE~~ Sch 3/2, 3/7 PRIORITY heard 2 THURS
HB 73 L	Sp. Approp. to Dept of Ed Pub. School Foundation	Furnace et. al.	In 1/19/83 Out 1/28/83	Req 1/19/83 Rec'd - see file	scheduled 1/24 mtg - Rec CS - Rec'd 1/26 psd out CS 1/28/83 - 22.3 mill.
HB 78 L	Postsecondary Educ. Headquarters	Lindauer, Liska	In 1/19/83 Out	2/18	HOLD - MAE never scheduled

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 76 D	Term of office/ Board of Regents	Lindauer, Uehling, Liska	In 1/19/83 Out	1/20/83	Not scheduled yet
SS HB 88 D	Spec. Appropriations Correction facilities acquisition.	Bettisworth	In 1/20/83 Out	2/15/83 Rec'vd 4/7	OUT 4/5/83 3-2 NO PASS
HB 90 L	Transfer school facility construction	Bettisworth	In 1/20/83 Out	2/18 Rec'vd 2/23 from DOE Req from DOT-2/23	Sponsor does not request hearing. ing from Schultz
✓ HB 91 D	Disclosure vital statistics records	Bettisworth	In 1/20/83 Out	2/15/83 2/23/83	psd out w/ ind. recs 3/4/83
HB 95 L	Office space, Anchorage Comm. College	Lindauer	In 1/20/83 Out	2/18	Sponsor Request Hearing. hold per sponsor
HB 96 L	Univ. of AK to lease space to Anch. Comm College	Lindauer	In 1/20/83 Out	2/18	Sponsor Requested Hearing hold per sponsor
HB 103 D	establishing Dept. of Corrections	Fritz et.al.	In 1/21/83 Out 2/11/83	1/25/83 COMMITTEE F.N.	C.S. in file 1/27 sch 2/7/83 pssd out CS 2/11/83
HB 107 D	right to a natural death	Clocksin Goll	In 1/21/83 Out	1/26/83 2/9/83	Scheduled 3/14/83 4/20/83 - OUT
HB 108 D	Exempt service of physicians/Dpt. H+S.S.	Rules Committee	In 1/21/83 Out 2/7/83	1/24/83	Scheduled 1/2/83 - mtg held - holding for fiscal note F.N. Rcd 2/3. RESCHEDULE: OUT - 2/7/83
~~HB 113~~	~~Repeal Certificate of Need Program~~	~~Fritz et. al~~	~~In 1/24/83 Out~~		
HB 113 L	Sp. Approp. Scholarship ~~[illegible]~~ revolving loan fund.	Lacher et. al	In 1/24/83 Out	1/26/83 Rec'vd fiscal 1/28/83	Schedule 2/4/83 Rose Sponsor withdrew
~~SS HB 19~~	~~Repeal certificate of need.~~	~~Fritz et. al~~	~~In 1/24/83 Out~~		

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HSCR	Disapproving EO #54 (Dept. of Corrections)	HESS Committee	In 1/26/83 Out		
HB 117 D	Sexual abuse of a minor.	Pestinger Cowdery Barnes	In 1/26/83 Out	1/27/83	Sch 2/9/83 CS recvd 3/25 sch 4/6 - out of Committee
HB 125 d	"Emergency closure days" - schools	Larson	In 1/26/83 Out	2/8/83 & position paper from Div of PH. Recvd 2/23	WAITING for LARSON from DOE - fiscal note Sch 3/9 OUT 3/3
HB 127 ✓	Increase punishment for sexual assault 1st degree.	Lindauer et. al.	In 1/26/83 Out	1/27/83 17 Jan 84	Sch 2/9/83 Read
HB 128 ✓	Raising penalties for promoting child prostitution.	Lindauer et. al.	In 1/26/83 Out	1/27/83	sch 2/9/83 OUT 2/28
✓ HB 137 d	Supp. Approps. for school construction debts.	Larson et. al	In 1/28/83 Out	2/8/83 2/9/83 recd	sch 3/7 - OUT 3/7 1/28/83
HSCR 1	Disapproving EO 54	~~Rules Committee~~ HESS Committee	In 1/31/83 Out	2/8/80	Sch 2/7/83 Read
HCR 14 d	Extend REAA Budget Oversight Committee	Rules Committee	In 1/31/83 2/11/83 Out	2/2/83 2/9/83	sch 2/11/83 pcd out 2/11/83
HB 159 d	Achievement scholarships	Kapsner et. al.	In 2/4/83 Out	2/4/83 2/9/83	Ready Hold
✓ HB 160 d	~~Supp~~ Approp to DOE AK Aviation Training Prog.	Hurlbert et. al.	In 2/4/83 Out	2/4/83 2/15/83 revised.	sch 2/16
HJR 27 D	Health Care to non-Native dependents by U.S. Pub. Health	Herrmann	In 2/7/83 Out	2/8/83	Comm. Subst. 6 mos. 2/28
HB 174 L	Student loan eligibility	Davis et al.	In 2/8/83 Out	2/18/83	Hold pcd out 5/11/83

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 177 D	Payment of costs in case against Dept. of Corrections.	Bussell et. al.	In 2/8/83 Out	2/14/83	Hold - Constitutional questions 5/18/83 Sponsor Requested to HOLD
HCR 16 D	Relating to Hepatitis B	HESS	In 2/8/83 Out	N/A-fp	Sch - 2/16 passed out of committee 2/16
HB 181 L	Bd of Psychological Examiners	Cato	In 2/9/83 Out	2/18 2/23	Holding - CATO trying to get moved to Labor & Commerce 2/22
HB 182 D	Drug House Progs. Min. Wage Exceptions	Barnes et. al.	In 2/9/83 Out	2/14/83	schedule Out 4/20/83
HB 191 L	Sch. Bd. negotiations w/ certificated employees	Murdock et. al.	In 2/11/83 Out	2/18 Rec'd from DOE 3/23	Scheduled 4/8 sch 5/20
HB 192 H	Protection of the elderly.	Clocksin	In 2/11/83 Out	2/18/	Scheduled 3/14/83 3/21 CSSB 122 (3rd) am out 5/27
HB 194 L	Education of exceptional children.	Rules Comm. by request of Gov.	In 2/11/83 Out	Rec'd w/bill Rec'd from DOE 3/23	sch 5/20, 5/23 out 5/23
HB 196 L	Housing - rural area teachers	Adams et. al.	In 2/14/83 Out	2/18/83 Rec'd from DOE 3/23	Req. hearings from Citizens Hold Scheduled 3/16 scheduled 4/8
HCR 17 D	State medal for heroism.	Fritz	In 2/16/83 Out	2/18/83	2/24 Committee Subcommittee Amendment
~~HB 112~~ D	~~Health Facilities~~	~~Cato, Zharoff~~	In 2/17/83 Out	2/18 CLARK	To State Affairs now.
HB 215 L	Credited service for noncertified school employees.	Koponen Div. Retirement Dept Admin	In 2/21/83 Out	2/22	Hold
HB 216 L	Labor relations school boards	Koponen Labor ✓ DOA - Div of Labor Relations	In 2/21/83 Out	2/22 (Labor)	Hold

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 217 D	Prison Facilities	Cato Lindauer	In 2/21/83 Out	2/22/83	schedule Apr 18 DEAD - NO PASS
HB 219 L	Citizens Advisory Bd. to U. of A.	Lindauer et.al.	In 2/21/83 Out	3/11/83	Rec'd letter from Lindauer scheduled 4/11
HB 225 P H	Use of prescription drugs by optometrists	Hurlbert	In 2/23/83 Out 22 Feb 84		~~held~~ sch. 5/13 5/16 5/17 referred to Rules
SJR 11am D	Health care to non-native dependents	Ferguson	In 2/23/83 Out	DONE	[redacted]/Heard 2/28 Passed Out
SSHB 191 L	School board negotiation certificated employees	Hurlbert et.al.	In 2/25/83 Out	Req. backup DOE - Ø Fiscal	scheduled 4/8, 5/20, 5/24 out 5/24
SSHB 56 L	Scholarship loans	Lindauer	In 2/25/83 Out	Revised	~~Ready - sch 3/17~~ - CS - out
HR 6 L	Emergency Medical Services Funding	Davis Koponen	In 2/28/83 Out	3/2/83	~~held~~ psd out 5/11/83
HB 230 D	Licensing/regulation of practice of medicine	Rules Committee — request of Gov.	In 2/28/83 Out	3/3	~~held~~ scheduled 4/6 PASSED OUT 4/8 4/8/83
HB 243 D	Day care - developmentally disabled children	Phillips Malone Koponen	In 3/9/83 Out	~ 3/15 DHSS	~~held~~/Sponsor Req. 3/21-25 sch 3/23 sch 4/15
CSSB 96 D	Hepatitis-B innoculations	Sackett	In 3/9/83 Out		sch 3-21 OUT 3-21-83 ☺
HJR 35 D	AK Native Health Service. D	Ward	In 3/11/83 Out	HJR 35	Sch 3-25 Sch 4-13
HB 251 L	State support for education	Tischer, Adams, Fuller, Lindauer	In 3/11/83 Out		Scheduled 3/16 aa CS w/ Intent OUT letter

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 252 L	Endowment for physical sciences at the U of A.	Koponen	In 3/11/83 Out		Hold Like SB 93 passed out of comm. 5/30
HB 253 L	Supp Approp to U of A for a phys science endowment	Koponen	In 3/11/83 Out		Hold Like Bill to SB 94 - held in Senate Finance
HB 257 D	Limitations in health insurance policies.	Ward	In 3/11/83 Out	3/15	Sch 3-25 Sch 4-13 psd out 4/13
SSHB 260 L	Administration of U of A.	Lindauer et.al.	In 3/11/83 Out	3/29	sch 4/11 SS recvd - 5/12
HB 262 L	Child safety devices + loans - motor vehicle	Clocksin Szymanski	In 3/11/83 Out	3/15	Hold psd out 5/2/83
HCR 23	St. Committee Public school foundation	Koponen et. al.	In 3/14/83 Out		
HCR 24	Public school foundation	Koponen et.al.	In 3/14/83 Out		
HB 263	Approp. to DOE for pub. school foundation prog.	Koponen et.al.	In 3/14/83 Out		RELATED
HB 264	Spec. approp to St. Committee public school foundation	Koponen et.al.	In 3/14/83 Out		
HB 269 L	Spec. Approp to Kodiak Schools	Zharoff	In 3/16/83 Out		not scheduled yet holds per Sponsor
HB 270 D!	Child pornography	Liska et.al.	In 3/16/83 Out	3/16/83 Fiscal	Scheduled H S&P SS recvd 3/25 4/5/83 Sch 4/5 CSSSHB 270 OUT
HB 272 L	Spec. Approp. to Kodiak Community College	Zharoff	In 3/16/83 Out		not scheduled yet

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
SSHR 6 L	Emergency Medical Services System	Davis Koponen	In 3/16/83 Out	3/16/83	psd out of committee 5/11
HB 275 D	Establishment of Prison Facilities	Lawson Lacher	In 3/18/83 Out	3/23	NO PASS DEAD
HB 290 L	Spec. Approp to U of A, Fbks, Prudhoe Bay crude oil study	Davis Koponen	In 3/23/83 Out		Held
HB 291 D	Tuberculosis exams	Humbert by request	In 3/25/83 Out	3/23 Rec'd 4/7	Held sch. 5/18 psd out 5/18
HB 292 D	TB screening school employees	Humbert	In 3/25/83 Out	3/23 Rec'd 4/7	SSHB 292 recvd. 4/12 sch. 5/18 psd out 5/18
SB 97 H	Supp. approp to DHSS Grant to Bethel Social Services	Sackett	In 4/6/83 Out		CSSB 97 psd out 5/16
[redacted]			In Out		
SSHB 88	Buckner Building in Whittier/Corrections	Fifty-sixth	In 4/7/83 Out		psd out 4/11/83 CORRECTED REPORT
HB 332	St. Medical Board - extend termination date	Labor & Commerce Comm	In 4/7/83 Out		OUT 4/28/83
HB 333	Regulation of the practice of medicine	Labor & Commerce Comm	In 4/7/83 Out		
CSSB 190	Spec. Approp. - Post sec. educ. Capitol projects/land acquisition	Kerttula	In 4/8/83 Out	4/20	Psd. out 5/2/83
			In Out		

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 347 D H	Licensing of Naturopaths	Martin Abood Tischer	In 4/12/83 Out 16 Feb 84		sch. 4/22 sch 5/20 Labor & Commerce
HB 352 L	Defintion of Death	Fritz by request	In 4/12/83 Out		4/22/83 - OUT
HB 353 L	DOE spec. appropriation rural school design/construction	Herrmann	In 4/13/83 Out		hold per sponsor 4/25
HB 354 D	Physicians' staff privileges	Koponen Fritz	In 4/13/83 Out		4/25/83 - OUT Ø Fiscal note
HB 355 D	Health resources development	Koponen	In 4/13/83 Out		Not scheduled yet.
HB 357 L	Regulation of religious schools	Fritz et.al.	In 4/14/83 Out	Recvd 4/21 Fiscal note to DOE	sch 5/13, 5/17 Psd out 5/17
HB 359	Nick Begich memorial scholarship	Koponen Wendte	In 4/15/83 Out		Not scheduled yet.
SB 229 L	Special Approp. to U of A for certain capital projects	Senate Finance	In 4/18/83 Out	4/22	Psd out 5/2/83
CS SB18(Rls) L	Capitol projects + planning for educational facilities	Kerttula et.al	In 4/19/83 Out	4/22	Psd out 5/6/83
CS SJR 1 (Rls) L	Equal Rights Amendment	V. Fischer et.al.	In 4/25/83 Out		Taken out of Committee
SSHB 374 H	Max. Sec. Prison at Anderson + Palmer/Sutton	Schultz	In 4/26/83 Out	4/27	Psd out 5/6/83
HB 383 L	Residential child care services	Fritz	In 4/27/83 Out	4/28	Psd out 5/9/83

BILL #	SUBJECT	SPONSOR	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 384 D	Chief school administrators	Tischer by request	In 4/28/83 Out	4/26	sch. 5/3 sch 5/17 CS pcd out 5/17
CSSCR 12	DOA to study cost control alternatives for state employee insurance plans.	Senate HESS	In 5/5/83 Out		Sch. 5/18 out w/ Inc Rec
HCR 38 L	Teaching Sign Language	Furnace	In 5/9/83 Out		~~Not scheduled yet~~ CS out sch. 5/27
HB 412 L	Adoption medical records	Szymanski	In 5/12/83 Out	fiscal & position from vital statistics Reg. & forthcoming 5/18	~~Not scheduled yet.~~ sch 5/25 - 1 mtg. CS being prepared
HB 418 L	Physically disabled persons	Lachar	In 5/16/83 Out	Reg fiscal 5/18	~~Not scheduled yet.~~ sch 5/18 5/25 CS out 5/25
HB 420 L	State aid for school construction	Bettisworth	In 5/18/83 Out	5/18 Reg. Fiscal from DOE - Reg FN from Dept of Rev.	
CSSB 122 (Sud) am H	Protection of the elderly.	Josephson	In 5/18/83 Out		Sch. 5/27 HCS out 5/27
HB 422	Teachers retirement system	Zharoff	In 5/19/83 Out	fiscal from Fennig 5/18/20	
HB 423	Approp. to DOE school construction debt	Bettisworth	In 5/19/83 Out	Reg. fiscal from DOE-F	sch 5/24 out 5/24
HB 425	Spec. Approp to DHSS payment of a debt	Koponen	In 5/21/83 Out		
SB 93	Endowment for physical sciences - U of A	Bennett	In 5/21/83 Out		Sch. 5/30 OUT w/CS
HB 427	Adoption preplacement investigation	Koponen	In 5/26/83 Out		

BILL	SUBJECT	SPONSER	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
SJR 27	Health Cost Containment Tax Act (this bill opposes)	Sackett	IN 10 Jan 84 OUT		
E.O. 55	Creates a Dept of Corrections	Governor	IN 10 Jan 84 OUT		
H.B. 463	makes special appropriations to build a prison in Whittier	Furnace, Cowdery	IN 10 Jan 84 OUT 25 Jan 84		Finance
H.B. 466	relating to appropriations to and fiscal procedures of U of A	Martin	IN 10 Jan 84 OUT 27 Jan 84		referred to Finance
H.B. 467	special appropriations to U of A capital reserve fund and app's to pay obligations for past years	Martin	IN 10 Jan 84 OUT 27 Jan 84		referred to Finance
HB 477	relating to repayment of state for hospital & health facility construction.	Martin	IN 10 Jan 84 OUT 17 Feb 84		Community & Regional Affairs
HB 432	for payment (as grant) to Homer for a community mental health building in Homer	Fritz	IN 10 Jan 84 OUT 5 March 84		
HB 489	relating to child abuse	McBride, Koponen, Szymanski	IN 10 Jan 84 OUT		
HB 492	relating to state aid for school construction	Pestinger, Larson	IN 10 Jan 84 OUT 27 Feb 84		Finance
HB 496	relating to food banks - liability of donors (of free food) to those what ate the food	Koponen, M.M. Miller	IN 10 Jan 84 OUT 8 Feb 84	zero 2/4/84	referred to Judiciary back-up taken to Judiciary on 27 Feb 84
HB 504	relating to teacher scholarships loan program	Hayes, Hurlbert, Adams, Abood, Baines, Brussell, Cato, Cowdery, Davis, Fuller, Furnace, Grussendorf, Lemman, Koponen, Lindauer, Linke, Malone	IN 11/Jan 84 OUT 27 Feb 84		State Loans Committee
		Martin, M.W. Miller, Ringstad, Shultz, Szymanski, Uehling, Ward, Zharoff, Fritz, Bettisworth & McBride	IN 11 OUT		

BILL	SUBJECT	SPONSER	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 514	relating to regulation of private schools	Tischer, et al	IN 13 Jan 84 OUT 23 Jan 84		~~23 to 24 = waived out of committee~~ House Rules Turned into SB 354 → Rules
HB 515	Special appropriation to UofA Center for International Business	Martin, Hayes, Barnes	IN 16 Jan 84 OUT 21 March 84		
HB 522	Kindergarten programs in public schools	Duncan	IN 16 Jan 84 OUT		Returned
CSSB 354 Jud (am)	regulations of private schools	Faiks	IN 24 Jan 84 OUT 30 Jan 84		Scheduled for House floor referred to Rules
SSHB 522	relating to kindergartens programs in public schs.	Duncan	IN 27 Jan 84 OUT		
HB 548	assistance for community health aid	Herrmann, McBride	IN 27 Jan 84 OUT ~~24 Feb 84~~	14 Feb 84 ~~21 Feb 84~~	
HB 549	relating to vital statistics records.	Fritz & Szymanski by Request	IN 30 Jan 84 OUT	15 Feb 84	
HB 550	premarital blood tests	Fritz & Szymanski by Request	IN 30 Jan 84 OUT		
SB 26	Freedom from liability for "Good Samaritan" acts	Ziegler, Halford	IN 1 Feb 84 OUT		
HCR 46	background checks for public school employees who come in contact w/ children	Lacher, Philips, Flood	IN 1 Feb 84 OUT		
HB 565	hearsay evidence	Lacher, Philips, Flood	IN 1 Feb 84 OUT	21 Feb 84	
HB 566	training teachers & principals on subject of sexual abuse of minors.	Lacher, et al	IN 1 Feb 84 OUT		

BILL	SUBJECT	SPONSER	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 567	spec. approp $ of $ for curriculum on sexual abuse	Lacher, et al	IN 1 Feb 84 OUT		
CSSB 254	Private schools	Faiks	IN (28 Jan 84) OUT 30 Jan 84		Rules
HB 570	Kodiak auditorium	Zharoff (by request)	IN 2 Feb 84 OUT 6 March 84		
HB 583	report of certain injuries	Rules Committee by request of Governor	IN 6 Feb 84 OUT		
HB 579	Junior Reserve Officers training Corps instructors	Furnace	IN 6 Feb 84 OUT		
SSHB 470	AK History Commission	Fritz & Cloksin by Request	IN 8 Feb 84 OUT 7 March 84	✓	
HB 585	Inmate Education Advisory Council	Miller, Duncan, Cloksin	IN 8 Feb 84 OUT		
HB 596	public construction, ED.	By Rules Committee by Request by Gov B.S.	IN 9 Feb 84 OUT 2 April	✓	
HB 670	runaway & homeless youths	Lacher	IN 14 Feb 84 OUT		
HB 681	default on and collection of student loans	Rules Committee by Request of Gov.	IN 14 Feb 84 OUT		
HB 646	reports of certain acts committed by students	Luick	IN 14 Feb 84 OUT		
HB 649	Teacher Retirement System	Bettisworth	IN 14 Feb 84 OUT		

BILL	SUBJECT	SPONSER	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
HB 628	payments to school districts	McBride, Clarkson, Davis, et al	IN 14 Feb 84 OUT		
HB 631	relating to runaway children	Luska	IN 14 Feb 84 OUT	✓	
HB 617	AK Council on the Arts	Koponen	IN 14 Feb 84 OUT		
HB 612	U of A drill core sample library facility	Ringstad & Bettisworth	IN 14 Feb 84 OUT		
SS HB 353	D of E: grants for rural sch. design & construction.	Herrmann	IN 15 Feb 84 OUT		
CSSSSB 241 (Jud) am	relating to adoption	Judiciary Committee	IN 15 Feb 84 OUT		
~~SB 530~~	~~cost of post mortem exams~~	~~Pestinger~~	IN OUT	21 Feb 84	
HB 690	Cost of post mortem exams	Finance Committee	IN 21 Feb 84 OUT		
SB 130	CPR manikins & films	Ziegler, Ellason, Ferguson	IN 22 Feb 84 OUT 7 Mar 84		
House Resolution 13	State Policy for the develop mentally disabled	House HESS	IN March 5 84 OUT		
HB			IN OUT		
HB 598	deleting Cola provision in library assistence program	Rules Committee by request of the Gov.	IN 6 March 84 OUT		

BILL	SUBJECT	SPONSER	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
CSSB 129 (RIS) X	CPR	Ziegler, Ellason, Ferguson	IN 6-10-83 OUT 7 March 84	✓	
HB 439 X	Prohibits Bd. of Regents from estab. right of tenure	Vaska	IN 6-14-83 OUT	✓	
SCR 26 X	Re-training of physicians	Kerttula, et al	IN 6-14 83 OUT		
CS SCR 26 Y	feasibility of creating local advisory boards	Ferguson	IN 6-17-83 OUT	✓	
CSSB 320 (Jud) am X	relating to dissolution of marriage	Judiciary	IN 7 March 84 OUT 7 March 84		
HJR 71 X	School prayer	H. HESS	IN 16 Mar 84 OUT		
SB 342 (Title am) Y	premarital blood tests	Josephson	IN OUT		
~~CS HB 588~~ X	~~Costs & Attorney fees~~ (NOT IN HESS)	Tischer	IN OUT	✓ 21 May 84	
CSSSSB 72 (HESS) am X	sexual assault investigations	Kerttula, Fischer, Josephson	IN 22 March 84 OUT		
CSSB 446 (RLS) am X	personal safety curriculum in public schools	Rules Committee	IN 28 March 84 OUT		
HB 712 X	provision of services under the medical assistance program.	Labor & Commerce Committee	IN 2 April 84 OUT		
HB 713 X	practice of physical Therapy	Labor & Commerce Committee	IN 2 April 84 OUT		

BILL	SUBJECT	SPONSER	DATE	FISCAL NOTE	ADDITIONAL COMMENTS
SB 519	State support for education	Finance	IN 3 April 84 OUT		
CSSB 346 (Jud) am	treatment of the mentally ill.	Judiciary	IN 11 April 84 OUT		
SB 362	applicability of scholarship loans to those attending more than one postsecondary ed. facility	Kerttula	IN 11 April 84 OUT		
CSSB 135 (HESS)	Nick Begich memorial scholarship.	Senate HESS	IN 12 April 84 OUT		
CSSB 384 (HESS)	food banks	S HESS COMMITTEE	IN 13 April 84 OUT		
SB 509	DHSS grants to Bethel Social Services Inc; and Sitka Youth Advocates, Inc. e.D.	Finance	IN 13 April 84 OUT		
HB 611	dentists; dental hygienists	L & C Committee	IN 13 April 84 OUT		
			IN OUT		
			IN OUT		
			IN OUT		
			IN OUT		
			IN OUT		

CONFIRMATION

BOARD OF EDUCATION

STATE OF ALASKA

OFFICE OF THE GOVERNOR
Pouch A
Juneau, Alaska 99811

BOARDS AND COMMISSIONS RESUMÉ

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resumé. The initial determination of whether you qualify for the position specified will be based on this application.

Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Position for which I am applying:
STATE BOARD of EDUCATION

Please list any other Board or Commission on which you serve:
NORTHWEST ARCTIC School BOARD - Member

Name	Previous Name applied under
MARY J. SCHAEFFER	N/A
Mailing Address	**Residence Address**
P.O. Box 106	826 4th Ave. Kotzebue, Ak.
City, State and Zip Code	
KOTZEBUE, ALASKA 99752	
Home Telephone	**Business or Message Telephone**
(907) 442-3468	(907) 442-3580

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

AS 39.05.100 requires that a person appointed to a board or commission be a registered voter before the last general election:

Are you a registered voter? ☒ YES ☐ NO

Voter Registration Number (Optional)

Social Security Number (Optional) 574-12-7906

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years? ☐ YES ☒ NO

If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency and relationship to the board position applied for will be evaluated and a determination will be made after a review of all relevant facts.

A policy in the Governor's Office pertaining to boards and commissions is that a member attend at least 75% of the meetings. Are there any circumstances in either your professional or personal life which would prevent you from participating at the required authorized meetings? ☐ YES ☒ NO

If "YES", explain on a separate sheet of paper and attach to this application.

This position may require that the member travel to either urban or rural (or both) areas. Are there any circumstances which would prevent you from participating?
N/C

CONFLICTS OF INTEREST: Certain Boards and Commissions require full disclosure of personal financial data under AS 39.50.010. If required for the Board or Commission for which you are applying, are you willing to do so? ☒ YES ☐ NO

Could you or any member of your family be affected financially be decisions to be made by the Board or Commission for which you have applied?
☐ YES ☒ NO If "YES", explain.

The Office of the Governor will not discriminate against an applicant for a Board or Commission based on Sex, Age, National Origin, Marital Status, Pregnancy, Handicap, Religion or Parenthood.

01-012(2/81)

U P - D A T E

3/22/84

On her resume', Mrs. Schaffer states that she is currently employed as Legislative Information Officer in Kotzebue. That information is now out-of-date.

Actually Mrs. Schaeffer is employed at Maniilaq Corporation, a non-profit, native health service for the Kotzebue - Kotzebue Sound area.

R E S U M E'

NAME: Mary J. Schaeffer
AGE: 40 (Born at Kotzebue, Alaska 6-7-40
MARITAL STATUS: Married 12-25-59: we have nine children (five own and four foster)

EDUCATION:
Completed High School: 4 years Mt. Edgecumbe High School, Sitka Alaska

LANGUAGE SKILLS: Speaks fluent English and Eskimo (Inupiak)

EMPLOYMENT HISTORY:
1. September 24, 1980 to present
Title: Legislative Information Officer, Division of Public Services.
Duties: Set up and opened the Legislative Information Office. Prepare participants for teleconference and public hearings using the teleconference network. Monitor the IBM, CRT and teleconference equipment. Provide information on legislative activities to the general public and facilitate public participation in the legislative process. Handle all the administrative duties including correspondence, billings, etc. Provide current information on legislative activities to residents in the NANA Region using terminals on site. Supervise one assistant.

EMPLOYMENT HISTORY:
2. May 1, 1978 to September 16, 1979
Title: Director, Kotzebue Senior Citizens Center, Maunaluk Association
Duties: Had overall responsibility for the management, supervision, and administration of the Senior Center. Was responsible for the physical facility, equipment, furniture, supplies and other property therein. Worked with the Senior Center Board in employing, screening, interviewing and recommending names of applicants for either employment or clients. Worked with the Board and maintained a constant supervision of the total operation of the Center to assure the full service as perscribed by the Center for the well-being of all the clientle. Worked with the Board to enter into any agreements with other Agencies or organizations for specific services. Supervised twelve employees, employed in the Center as kitchen staff, housekeeping, janitors and Licensed Practical Nurse or Nurses Aides. Was responsible for arranging regular in-service staff orientation and training programs for the comtinual proficiency and efficiency in providing the ultimate services, services to the elderly. Maintained liaison and communications with Maunaluk Association, Offices of the State of Alaska, Bureau of Indian Affairs, Indian Health Services, Public Health Services and related organizations to help develope services and programs for the Elderly including Public relations, Recruitment, consumer education, training, technical assistance and appropriate reporting and accountability of the Center's operation. Performed other duties as they arise.

(2)

R E S U M E

Name: Mary J. Schaeffer
Age: 42 (Born at Kotzebue 6-7-40)
Marital Status: Married 12-25-59; we have nine children (five own and four foster)

Education:
Completed High School: 4 years Mt. Edgecumbe High School, Sitka, Ak.

Language Skills:
Speaks fluent English and Eskimo (Inupiak)

Cultural Background:
I was raised in the Village of Noatak until I was 11 years of age. The main language spoken was the Eskimo language. It was not until we moved to Kotzebue that the English language was mandatory. Our means of traspertation was dogsled in the winter months and boats in the summer. We lived in tents from April until last August gathering food for the winter months.

Employment History:

1. Maumeluk Association: promoted as Vice-President for Management and Planning December, 1976 provides leadership, guidance and coordination in the planning, development, operation and evaluation of the delivery of services in the areas of Health, Education, Manpower and Planning; develops and demonstrates new methods and techniques for community participation in and management of their health programs; provides consultation and technical assistance in the evaluation, design, and implementation of health management and corporations delivery system; and coordinates health development activities within the Northwestern region directed to the improvement of the health of the people.

2. Hired as an "ONAP" Program Director to initiate efforts of increase the amount of self-determination afforded to the natives of Northwest Alaska with the passage of the Indian Self-Determination Act (P.L. 93-638). Maintain close contact with Bureau of Indian Affairs personnel in Juneau and Nome; act in liason role and close communciation with eleven (11) village Tribal Governing Bodies within the Region; attend Contract Managers Committee meetings within the State of Alaska as a representative of the NANA Region; travel to villages attending Tribal Governing Body Meetings in order to facilitate an exchange of information and ideas on program contracting; hold regional workshops with representatives from each Tribal Governing Bodies within the region; help develop contract proposals that reflect self-determination for the design and operation of Bureau of Indian Affairs programs that impact the NANA Region.

Bureau of Indian Affairs (Juneau, Alaska)

Was employed as an Employment Assistance Specialist: opened up a Sub-Agency office in Kotzebue; assisted in the development and carrying out of the program which included Adult Vocational Training; Direct employment and Pipeline hire of Natives within the NANA Region. Travelled to eleven (11) villages within the region and had contact with the village governing bodies.

Bureau of Indian Affairs (Kotzebue, Alaska)

Hired as an Administrative Assistant at the Kotzebue Community School and was reponsible for the upkeep and submitting time and attendance for 107 employees; prepared all personnel action forms; GTR's; maintained records of all requisition for the school operation.

Bureau of Indian Affairs (Nome, Alaska)

Was hired as an Employment Assistance Aide. I interviewed, Screened and counseled Adult Vocational Training and Direct Employment Clients interested in securing training or employment. Contracted and made all necessary travel and medical arrangements; compiled all monthly and yearly reports and acted as an Employment Assistance officer in the absence of the officer making decisions based on my knowledge.

Bureau of Indian Affairs (Anchorage, Alaska)

Was hired as a clerk (IMF) in the Realty Branch. Typed doctuments on Native allotments; townsite lots; homestead, and maintained files on reports; record books on Native allotments, also made decisions in the absence of the Realty Officer based on my knowledge.

Bureauof Indian Affairs (Nome, Alaska)

Was hired as a clerk (IMF) and worked in the clerical field maintaining files on Tribal Operations; Realty and Civil Services records; typed necessary correspondence and helped with draft resolutions for the governing bodies within the Bering Straits and NANA Region.

Public Health Service (Kotzebue, Alaska)

Was hired as a Dental Assistant in Kotzebue on temporary basis. Worked closely the dentist, chairside assisting, patients preparatory work; sterilizing instruments; daily reports and giving as many children as we can flouride treatments.

Voluntary Work:

Helped at the elders workshop sponsored by NANA Region Corporation gathering Eskimo history to preserve our cultural heritage. Helped translate in the Eskimo Language workshop conducted by the NANA Retional Corporation, in village hearings on important issues such as the Caribou Disaster; Alaska Land Claims implementation, Etc.

Civic Organizations:

Secretary, newly organized Regional School Board created under Senate Bill 35.

PAST
Member - State Advisory Council - Vocational Education

Registered agent for the Northwest Inupiat Elders' Conference

Member of Chamber of Commerce
Girls' Scout Leader
Member of Kotzebue Community Youth Council

PAST
Executive Director, Association of School Boards

Panel Member, Native Arts Council

Member, Inupiak Language Commission

Secretary, Statewide Elders Conference

R E S U M E

SAM KITO, JR.

2550 Denali Street
Suite 1606
Anchorage, Alaska 99503

PRESENT POSITION:

President
Sam Kito, Jr. & Associates

EDUCATION:

Petersburg High School
Petersburg, Alaska
Graduated: 1955

Western Washington College of Education
Undergraduate

MILITARY HISTORY:

February 11, 1957 - November 21, 1960
United States Marine Corps
Served as an Electronics Technician
Honorably Discharged

MILITARY SCHOOL:

Electronics Fundamental "P" School - 1957
Communications Electronics "A" School - 1957-58

TECHNICAL SCHOOL:

Industrial Communications Electronics Course
RCA Institutes, New York
1961 and 1962
Graduated

MANAGEMENT SCHOOL:

RCA Management Training Seminar - 1967

LICENSES HELD:

FCC Radiotelephone First Class

CIVIC ORGANIZATIONS:

Commissioner--Rural Affairs Commission (State of Alaska)
Past Commissioner--Alaska Educational Broadcasting Commission
Past President--Fairbanks North Star Borough Board of Education
Past President--Fairbanks Native Association
Past Director---Alaska Federation of Natives, Inc.
Past Director--Tundra Times
Past Vice President--Fairbanks Montessori Association
Executive Committee--Tanana Valley Economic Development Corp.
Member--Board of Regents, University of Alaska
Member--Governor's Advisory Committee on Telecommunications
Member--Board of Directors, Organ. for Management of Alaska's Resources
Member--Board of Directors, Arts Alaska
Member--Governor's Vocational Advisory Board
Member--Fairbanks Native Association
Past Member--State Vocational Education Advisory School Board

CONSULTANT:

University of Alaska Biomedical Satellite Communications Program
University of Alaska BIA School Board Training Program

EMPLOYMENT HISTORY:

June 1977 to Present

President, Sam Kito, Jr. & Associates. I have provided services as a consultant/lobbyist to corporations and organizations providing expertise in cultural, social and economic development in the rural areas of the State. I have served as a consultant to the following companies: ALASCOM, Inc., Alaska 100 Insurance, Inc., Morrison-Knudsen Company, Inc., Doyon, Ltd., Goldbelt, Inc., Alaska Federation of Natives, Arctic Slope Regional Corporation, Alaska 1984, Cook Inlet Region, Inc., Sealaska, Inc.

June 16, 1975 to June, 1977:

President, Alaska Federation of Natives, Inc., Anchorage, Alaska. My duties were overall administrative responsibility for all employees of AFN, Inc. I had under my direction all departments of AFN, Inc., which included Land Claims, Human Resources, Technical Assistance, Alaska Student Higher Education Services, Health Careers, Bush Justice, Accounting and the Office of Minority Business Enterprises.

March 1973 to June 15, 1975

Executive Vice President of Doyon, Ltd.; Fairbanks, Alaska. My duties were overall administrative responsibility for all employees of Doyon, Limited. Under my direction were the departments of Land, Community Services, Finance, Legal, Administrative and Economic Development.

EMPLOYMENT HISTORY: (cont.)

February 1972 to March 1973

Executive Director of the Tanana Chiefs Conference, Fairbanks, Alaska. My duties were overall administrative responsibility for all employees in all programs contracted by the Tanana Chiefs Conference. There were 30 full-time employees under my direction. During this period, Doyon, Limited, contracted all implementation functions of the Alaska Native Claims Settlement Act to the Tanana Chiefs Conference.

June 1971 to February 1972

Executive Director of the Fairbanks Native Association, Fairbanks, Alaska. My duties were overall administrative responsibility for all programs administered by the FNA. These included a $193,000 Monel Urban Indian Center Grant, a $284,000 BIA general assistance contract, and a contract for the Boarding Home Program. I was responsible for implementing the programs as outlined by the Model Urban Indian Center grant. There were 18 full-time employees and 6 part-time employees under my direction.

August 1967 to June 1971

Operations Controller for RCA Service Company, Gilmore Creek, Fairbanks. Duties were the overall administative and technical responsibility for group activities. This included delegating work assignments, supervising activities and providing technical assistance when required. Technicians under my direction operated and maintained unique ground equipment for Nimbus weather satellites.

May 1966 to August 1967

Leader Test and Validation Activity, RCA Service Company, Kennedy Space Center Communications Project, Merritt Island, Florida. My duties were the overall administative and technical responsibility for group activities. This included delegating work assignments supervising activities, and providing technical assistance when required. Technicians under my direction were responsible for the operation and maintenance of all voice, data, and A2A video wide band circuits and equipment at the Kennedy Space Center.

August 1962 to May 1966

RCA Service Company, Anchorage, Alaska--White Alice Project. My duties were the operation and maintenance of REL-39 Tropospheric Scatter Transmitters and Receivers and associated carrier equipment and systems.

Prior to my employment in the White Alice Project, I attended school.

CONFIRMATION

PROFESSIONAL TEACHING PRACTICES

VITA

Spike Jorgensen

Home Address: P.O. Box 132
Tok, Alaska 99780

Telephone: 907-883-5331

Business Address: ALASKA GATEWAY SCHOOL DISTRICT
P.O. Box 226
Tok, AK 99780

Telephone: 907-883-5151

Personal Information

Married, two children, citizen of the United States, resident of Alaska. Birthdate, November 12, 1942. Height 6'1", Weight 210 lbs.

Education

University of Wyoming, Laramie, Wyoming, 1970-1972. Doctorate in Educational Administration, 1976.

Northern Arizona University, Flagstaff, Arizona, 1967-1968, M.A.T. in Biology, Minor in Public School Administration.

University of Arizona, Tucson, Arizona, Summer Session 1966.

Black Hills State College, Spearfish, South Dakota, 1961-1965, B.S. Biology, Chemistry, Speech.

Professional Service, Societies, and Honors

Alaska Council of School Administrators, Board of Directors
Alaska Association of School Administrators
Wyoming Association of School Administrators, President
National Academy of School Executives, State Academy Leader
Alaska and Wyoming Delegate to AASA
Association for Supervision and Curriculum Development
American Association of School Administrators
PHI Delta Kappa, Secretary-Treasurer
Kappa Delta Pi (education)
American Association of University Professors
Who's Who in American Colleges and Universities
International Society for General Semantics

Employment Experience

Alaska Gateway School District, Tok, Alaska
Superintendent of Schools, 1979 to present

Sublette County School District No. 1, Pinedale, Wyoming
Superintendent of Schools, 1972-1979

University of Alaska, Fairbanks, Alaska
University of Wyoming, Laramie, Wyoming
Lecturer and Extension Professor, 1974 to present

University of Wyoming, Laramie, Wyoming
Graduate Administrative and Teaching Intern and Research Assistant
Department of Education Administration, 1970-1972
Wyoming Educational Needs Assessment Project, 1971-1972

Faith Public Schools, Faith, South Dakota
Principal and Teacher of Grades 7-12, 1969-1970

Colome Public Schools, Colome, South Dakota
Superintendent of Schools, Principal and Teacher of Grades K-12
1968-1969

Buffalo Public Schools, Buffalo, South Dakota
Teacher, Biology and Speech, Grades 7-12, 1965, 1966, 1967

Western South Dakota, during undergraduate years
Auctioneer, Rodeo Announcer, Building Subcontractor, Teacher

Post Graduate Seminars and Institutes

Columbia University, New York, Superintendents' Conference
Two week invitational, 1978

American Association of School Administrators, Leadership Conferences, Atlanta, 1977, and New Orleans, 1978.

National Academy of School Executives' Seminars
Computers in the Schools, Atlantic City, 1983
Small Schools, Los Angeles, 1980
Negotiations by Lifton, Sheridan, 1979
Conflict Management, New Orleans, 1979
Public Relations, Atlanta, 1977
Effective Communications, Atlantic City, 1976
Time Management, Dallas, 1975
Evaluating the Instructional Staff, Calgary, 1974
Evaluation of Administrative Performance, San Francisco, 1973

National Curriculum Study Institute (ASCD)
Curriculum Evaluation, Seattle, 1977

Post Graduate Seminars and Institutes	University of Alaska, Alaska Pacific University Superintendent Training Academy, 1980 Alaska Native Foundation The School Board and Curriculum Making, 1980
Community Service	Alaska Professional Teaching Practices Commission, Secretary Tok Area Chamber of Commerce, Vice-President Sublette County Historical Society, Vice-President Harding County Junior Chamber of Commerce, Charter President YGOP State Central Democratic Precinct Committeeman Special Awards for Junior Miss Pageantry C-V Ranch, Inc., Founding Board of Directors (Special Education Facility), Jackson Hole, Wyoming Auctioneer and Rodeo Announcer (Volunteer Service Locally) AFSC Volunteer in Norwegian Institutions Wyoming Council for Children and Youth
Professional Presentations	Network for Outcome Based Schools Mastery Learning in Small Schools, 1983 American Association of Schools Administrators Participative Decision Making, Atlantic City, 1975 Building a Research Base for Effective Schools, Las Vegas, 1976 National School Boards' Association Recruiting and Retaining an Effective Staff in Small Schools, Miami, 1979 State School Board and Administrators Presentations Program Development-Needs Assessment, Casper, 1972 Evaluation of the Superintendent, Jackson Hole, 1973 Staff Development and Participative Decision Making, Thermopolis, 1975 Supervision of Building Projects (Clerk of the Works), Sheridan, 1977 Local Control of Schools, Fairbanks, 1980 Board Meeting Organization and Procedures, Thermopolis, 1975-1977 WSBA New School Board Member Workshops
Travel	Traveled extensively on the North American Continent from Mexico to Alaska, and in Northern Europe including the U.S.S.R.

Primary Experience Background	Curriculum Development Theoretical and Applied Educational Research Board Meeting Agendas and Information Policy Development and Implementation Building Programs (bonds to buildings) Budget Preparation and Administration Staff Selection, Evaluation, and Training Public Relations and Communication Plans, Presentations, Practices and Releases Cost Benefit Program Analysis Master Plan Development and Administration School Climate Maintenance and Supervision Professional and Community Service Activities School Governance Design and Technique Applied School Law Specifications' Development and Purchasing Procedures Staff and Public Participatory Governance Programs Special Services Programs, Design and Implementation (Gifted and Talented, Special Education) Community School and Advanced Placement Programs Food Service Program Improvement Professional and Ethical Practices in Administration
Special Interests	Special interests other than education and community service include hunting, fishing, backpacking, photography, travel, and outdoor writing.
Supplemental Information	NOT AVAILABLE FOR EMPLOYMENT AT THIS TIME.

RESUME

HB85

Karen M. Ryals
16665 Lena Loop Road
Juneau, Alaska 99803

GENERAL BACKGROUND

Sixteen years of experience in education in Alaska, including: five years secondary teaching experience, supervisory experience, curriculum development, and six years administrative experience at the State level. These have been with all ages and educational levels.

CURRENT POSITION

1980 - present: Education Administrator I with the Alaska Department of Education, Office of Adult and Vocational Education.

PAST EXPERIENCE

July 1978 - December 1979: Program Manager, Career and Vocational Education, Alaska Department of Education.

June 1974 - May 1978: Instructor (Lecturer): Juneau-Douglas Community College.

I developed and taught courses for the Juneau-Doulgas Community College including "Wild Game for the Table", "Food from the Sea", "Infant and Child Nutrition", and "Mexican Cooking".

December 1976 - February 1977: Consultant: University of Alaska.

I designed and developed a plan for a statewide training program for Title 20 Education Programs in Homemaker-Home Health Aide Training.

March 1975 - September 1976: Instructor: Homemaker-Home Health Aides Incorporated, Juneau.

I coordinated instruction and assisted with selecting applicants for the Homemaker-Home Health Aide positions.

August 1970 - June 1974: I was an Instructor and Department Chairperson for Juneau-Douglas Borough School District, Home Economics Department.

I taught secondary Home Economics courses designated as Family Living, Advanced Food Preparation, and Service Advanced Clothing Selection and Construction, Occupational Training for Waiter-Waitress and Food Service. I supervised another employee, completed curriculum development, department planning, and budget. I was responsible for designing and developing a new Home Economic facility and program for the Floyd Dryden Junior High School. In addition, I acted as advisor to Future Homemakers of America, a vocational student leadership organization.

ADDITIONAL INFORMATION

High School Honors

Honor Student
Activities Award - outstanding Student
Girls State Representative
FHA - Individual, Chapter, and State Degree
Selected for U.N. IOOF Pilgramage Delegate - 1963

College Honors

Statewide PTA Scholarship - Home Economics Education Scholarship
Home Economics Association Award Scholarship from Spokane Chapter of AHEA
Selected for Golden Circle - Senior Women's Honorary
Ellen Richards Home Economic Award - Local Chapter - Outstanding Student

Community Services

Instructed for community schools program - gardening; candlemaking; Kid's in the Kitchen
Served as elected director - Glacier Highway Electric - 1974-1978
Offices held - President
Vice-President
Treasurer
Secretary

Assisted Cooperative Extension Service - University of Alaska, in Marine Science Program and 4H Gardening Program - Home Economics Pamphlet review.

Member - Alaska Home Economics Association and American Home Economics Association

Phi Delta Kappa

Juneau Garden Club

Alaska State Nutrition Committee

Alaska State Vocational Association and American Vocational Association

Professional Teaching Practices Commission

Award

Alaska State Vocational Association "Leadership in Vocational Education" award - 1980.

"Alaskan Home Economist of the Year" award in 1983.

August 1968 - June 1969: Instructor: Juneau-Doulgas Borough School District.

I taught secondary home economics courses designated as Home Economics I and Home Economics II. In addition, I acted as advisor to the Juneau-Doulgas High Pep Club.

EDUCATION

Institutions	Year	Degree
Eastern Washington State College	1964-1968	B.A. Home Economics Educ B.A. Home Economics
San Francisco City College	1970	FEAST Program
Alaska Methodist University	1972	Curriculum Development Course
University of Alaska	1974-1978	Masters of Arts in Secondary Education
National Rural Electric Cooperative Association Director Training	1975-1978	Administrative Management Program (Non-degree progra

REFERENCES (local)

Dr. Alan Barnes
Southeast Regional Resouce Center
538 Willoughby Avenue
Juneau, AK. 99801

Dr. Phillip Hocker
University of Alaska
11120 Glacier Highway
Juneau, AK. 99803

Ms. Robbie Stell, Past President
Alaska State Vocational Association
17 1/2 Mile Glacier Highway
Juneau, AK. 99802

August 1968 - June 1969: Instructor: Juneau-Doulgas Borough School District.

I taught secondary home economics courses designated as Home Economics I and Home Economics II. In addition, I acted as advisor to the Juneau-Doulgas High Pep Club.

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Alaska State Vocational Association
17 1/2 Mile Glacier Highway
Juneau, AK. 99802

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
326 Fourth St., Suite #510 Juneau, Alaska 99801 586-9702

an organization of Alaskan School Administrators

April 9, 1984



The Honorable Mae Tischer
House of Representatives
State Capitol, Pouch V
Juneau, AK 99811

Dear Representative Tischer:

The Alaska Council of School Administrators would like to take this opportunity to support Mr. Spike Jorgensen for reappointment to the Professional Teachers Practice Commission. Mr. Jorgensen has been the representative from the Superintendents association and continues to have their support, not only on the commission, but as an officer of the the State Administrators Association. His professional integrity, as well as his knowledge of issues faced by the Commission, makes him a valuable asset to the Professional Teachers Practice Commission.

We urge legislators to support this nomination.

Sincerely,

Don MacKinnon
Executive Director

DM:clc

DIVISION OF FAMILY & YOUTH SERVICES INVESTIGATION

Box 188
Douglas, AK 99824
April 4, 1984

Member of the House and Senate
State Capitol
Pouch WF
Juneau, AK 99811

Dear Senators and Representatives:

A number of parents and foster parents across the state have complained to their legislators or to members of the house HESS committee concerning abuses and improper action at the hands of DFYS administrators and/or social workers. Many of these complaints concern the administration of recently passed child abuse laws and the unjustified removal of children from their families. Other complaints concern unjustified abuse charges brought against foster parents by DFYS. One Juneau foster parent had to pay $24,000 in attorney's fees to clear his name of DFYS's groundless abuse charges.

The members of Alaska Citizens for Families (ACF) were surprised on April 3, 1984, when the house HESS committee refused a request by it's chairperson to investigate the Division of Family and Youth Services and their treatment of parents and foster parents. The ACF considers it irresponsible by the legislature to pass new child abuse legislation that gives DFYS more power over parents and their children while ignoring parents and foster parents complaints. We consider this investigation so important that a moratorium on all HESS legislation is requested until this investigation has been accomplished.

Sincerely,

Jan C. Still

Jan C. Still for
Alaska Citizens for Families

to determine whether legislative action is necessary to resolve possible procedural or legal deficiencies in present practices and or to review, increase or decrease appropriations required to perform the tasks of the division.

4/2/84

HOUSE HESS COMMITTEE
INVESTIGATION OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF FAMILY AND YOUTH SERVICES

consider questions concerning

PURPOSES The purposes of the investigation by the House HESS Committee will ~~be to determine if~~ the Department of Health and Social Services, Division of Family and Youth Services, ~~has used state~~ funds inappropriately; and to ~~determine if legislative action is necessary to remedy~~ problems subsequently identified.

practices of

SCOPE The Committee will investigate questions concerning the Department of Health and Social Services, Division of Family and Youth Services, raised in testimony before the Committee. Initially the investigation will concentrate on the following cases: Bernie Holland, Jan Stihl, ~~and Eileen Hahn (Turning Point Boys Ranch)~~; however, the investigation will probably not be limited to these cases and may be extended to include additional questions, ~~as appropriate~~.

by members of the public

result which may occur from the investigation

PROCEDURE Mason's Manual of Legislative Procedure, Part X (Pages 570 - 586), and Title 24 of the Alaska Statutes will govern all investigative hearings by the Committee.

STAFF Bill Lovell and Kimberly Babcock, both of the HESS Committee staff, will be responsible for coordinating, scheduling, and providing staff support for, the investigation. The Committee will be advised on legal matters by Billy Berrier at the Legislative Affairs Agency, Division of Legal Services. No additional staff is anticipated at this time.

SCHEDULING Persons asked to testify before the Committee will be given at least 24-hours notice. The Committee will schedule no more than 2 persons per investigative hearing. Persons may be asked to appear before the Committee more than once. The Committee will continue to hear bills as necessary and in a manner consistent with Committee policy announced earlier.

FUNDING At this time, no requests for additional funding are anticipated.

/wtl

4/3/84

HOUSE HESS COMMITTEE
INVESTIGATION OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF FAMILY AND YOUTH SERVICES

PURPOSES The purpose of the investigation by the House HESS Committee will be to consider questions concerning the Department of Health and Social Services, Division of Family and Youth Services, in order to determine whether legislative action is necessary to resolve possible procedural or legal deficiencies in present practice; or to redirect, increase or decrease appropriations required to perform the responsibilities of the division.

SCOPE The Committee will investigate questions concerning practices of the Department of Health and Social Services, Division of Family and Youth Services, raised by members of the public in testimony before the Committee. Initially the investigation will concentrate on cases involving Bernie Holland and Jan Stihl; however, the Committee investigation will probably not be limited to these cases and may be extended to include additional questions, which may result from the investigation.

PROCEDURE Mason's Manual of Legislative Procedure, Part X (Pages 570 - 586), and Title 24 of the Alaska Statutes will govern all investigative hearings by the Committee.

STAFF ~~Bill Lowell and Kimberly Babcock, both of the~~ Existing HESS Committee staff, will be responsible for coordinating, scheduling, and providing staff support for, the investigation. The Committee will be advised on legal matters by ~~Billy Berrier, Director of~~ the Division of Legal Services. No additional staff is anticipated at this time.

SCHEDULING Persons asked to testify before the Committee will be given at least 24-hours notice. The Committee will attempt to schedule no more than 2 persons per investigative hearing, but may do so if necessary. Persons may be asked to appear before the Committee more than once. During the course of the investigation, the HESS Committee will continue to hear bills as necessary and in a manner consistent with Committee policy announced earlier.

FUNDING At this time, no requests for additional funding are anticipated.

/wtl

4/4/84
Version 6

HOUSE HESS COMMITTEE
INQUIRY INTO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF FAMILY AND YOUTH SERVICES

Pursuant to Sections 795 and 798 of Mason's Manual of Legislative Procedure, the House Health, Education and Social Services Committee resolves to commence an inquiry into the the Department of Health and Social Services, Division of Family and Youth Services, in accordance with the following provisions.

PURPOSE

The purpose of the inquiry by the House HESS Committee will be to consider specific questions within the scope of the inquiry concerning the Department of Health and Social Services, Division of Family and Youth Services, in order to determine whether legislative action is necessary to resolve possible procedural or legal deficiencies in present practice; or to redirect, increase or decrease appropriations required to perform the responsibilities of the division.

SCOPE

The scope of the HESS Committee inquiry will include questions concerning practices of the Department of Health and Social Services, Division of Family and Youth Services, with respect to the case of Mr. Bernie Holland. Specifically, the HESS Committee will address the following question; subject to the time indication limitation

> Were the procedures used by the Department of Health and Social Services, Division of Family and Youth Services, in the revocation of Mr. Bernie Holland's license to operate a foster home in the state, such that a need for corrective legislation was demonstrated?

While the circumstances of this particular case are being examined, the purpose of the inquiry is to develop information which may lead to legislation. Determining the merits of this particular case is not within the scope of the inquiry.

PROCEDURE

Mason's Manual of Legislative Procedure, Part X (Pages 570 - 586), and Title 24 of the Alaska Statutes will govern all

investigative hearings by the Committee. Persons asked to testify before the Committee will be given at least 24-hours notice. The Committee will attempt to schedule no more than two persons to testify per investigative hearing, but may schedule more than two persons if necessary. Persons may be asked to appear before the Committee more than once. Testimony will be limited to those persons requested to testify by the Committee.

Actual hearing time by the HESS Committee relating to the inquiry will be limited to a period not to exceed eight hours.

During the period of the inquiry, the HESS Committee will continue to hear bills as necessary and in a manner consistent with previously announced Committee policy.

STAFF

The HESS Committee staff will be responsible for coordinating, scheduling, and providing appropriate staff support for the inquiry. The Committee will be advised on legal matters by the Legislative Affairs Agency, Division of Legal Services. No additional staff is anticipated at this time.

FUNDING

At this time, no requests for additional funding are anticipated.

MODIFICATIONS

All of the provisions of this inquiry are subject to modification by a majority vote of the members of the HESS Committee at any time.

/wtl

4/3/84
Version 3

HOUSE HESS COMMITTEE
INVESTIGATION OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF FAMILY AND YOUTH SERVICES

Pursuant to Sections 795 and 798 of Mason's Manual of Legislative Procedure, the House Health, Education and Social Services Committee resolves to commence an investigation of the Department of Health and Social Services, Division of Family and Youth Services, in accordance with the following provisions.

PURPOSE The purpose of the investigation by the House HESS Committee will be to consider questions concerning the Department of Health and Social Services, Division of Family and Youth Services, in order to determine whether legislative action is necessary to resolve possible procedural or legal deficiencies in present practice; or to redirect, increase or decrease appropriations required to perform the responsibilities of the division. ~~SPECIFICALLY~~,

SCOPE The Committee will investigate questions concerning practices of the Department of Health and Social Services, Division of Family and Youth Services, raised by members of the public in testimony before the Committee. ~~Initially~~ the investigation will concentrate on two specific cases: Bernie Holland and Jan Stihl; ~~however, the Committee investigation will probably not be limited to these cases and may be subsequently extended to include additional questions, which may result from the investigation.~~ SPECIFICALLY, The Committee wishes to address the following questions:

hearing time limit?

PROCEDURE Mason's Manual of Legislative Procedure, Part X (Pages 570 - 586), and Title 24 of the Alaska Statutes will govern all investigative hearings by the Committee. Persons asked to testify before the Committee will be given at least 24-hours notice. The Committee will attempt to schedule no more than two persons to testify per investigative hearing, but may schedule more than two persons if necessary. Persons may be asked to appear before the Committee more than once. Testimony will be limited to those persons requested to testify by the Committee.

During the period of the investigation, the HESS Committee will continue to hear bills as necessary and in a manner consistent with previously announced Committee policy.

STAFF The HESS Committee staff will be responsible for coordinating, scheduling, and providing appropriate staff support for, the investigation. The Committee will be advised on legal matters by the Legislative Affairs Agency, Division of Legal Services. No additional staff is anticipated at this time.

FUNDING At this time, no requests for additional funding are anticipated.

/wtl

1. Dirk —

2.

3.

4.

5.

4/3/84

HOUSE HESS COMMITTEE
INVESTIGATION OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF FAMILY AND YOUTH SERVICES

Pursuant to Sections 795 and 798 of Mason's Manual of Legislative Procedure, the House Health, Education and Social Services Committee resolves to commence an investigation of the Department of Health and Social Services, Division of Family and Youth Services, in accordance with the following provisions.

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PROCEDURE Mason's Manual of Legislative Procedure, Part X (Pages 570 - 586), and Title 24 of the Alaska Statutes will govern all investigative hearings by the Committee. Persons asked to testify before the Committee will be given at least 24-hours notice. The Committee will attempt to schedule no more than two persons to testify per investigative hearing, but may schedule more than two persons if necessary. Persons may be asked to appear before the Committee more than once. During the ~~course~~ period of the investigation, the HESS Committee will continue to hear bills as necessary and in a manner consistent with Committee policy announced earlier. Testimony will be limited to those persons requested to testify by the Committee.

STAFF The HESS Committee staff will be responsible for coordinating, scheduling, and providing appropriate staff

support for, the investigation. The Committee will be advised on legal matters by the Legislative Affairs Agency, Division of Legal Services. No additional staff is anticipated at this time.

FUNDING At this time, no requests for additional funding are anticipated.

/wtl

Official Business

Alaska State Legislature

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES
MAJORITY LEADER

ANCHORAGE
2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7904

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3718

MEMORANDUM

TO: Representative Bettisworth
Chairman, Legislative Budget and Audit Committee

FROM: Representative Barnes
House Majority Leader

DATE: March 19, 1984

I request that a Legislative Performance Audit be conducted of the Division of Family and Youth Services of the Department of Health and Social Services.

My particular concerns in this regard center on the handling of cases involving sex abuse of minors. I have had repeated constituent complaints alleging insensitive and unprofessional conduct on the part of DFYS staffers in handling these cases. Also, it has been alleged to me that one case involves a serious conflict of interest.

Inquiries by me and my staff into these matters indicate that there are adequate grounds for serious concern.

RB/rt

HOUSE OF REPRESENTATIVES

OFFICE OF THE MAJORITY LEADER

Room 216
STATE CAPITOL

CONFIDENTIAL CONFIDENTIAL CONFIDENTIAL

To: Ramona Barnes, Majority Leader

From: Jim Wood, PA

Date: March 22, 1984

Re: Allegations of Improprieties in the Division of Family and Youth Services.

These allegations pertain to the Anchorage Office of DFYS, Department of Health and Social Services and their handling of child sex abuse and foster care programs.

1) In the Wilson case (Mrs. Pat and daughter) Cheryl Mann, a DFYS social worker, was interviewing the victim, a female minor, in the presence of the child's mother. Ms. Mann inquired as to what the adult male perpetrator had done to her. The child, not knowing the sophisticated term masturbation, replied, "He made me jack him off."

At that time Ms. Mann burst into fits of laughter. Upon regaining her composure, Ms. Mann then reprimanded the child, noting that, "You don't use that kind of language when you're talking to professionals."

Complaints by the mother of insensitive and unprofessional conduct on the part of Ms. Mann were dismissed by both Dolly Coke and Sue Harris, the unit supervisor. She was told that her concerns should be centered on her daughter, rather than on the conduct or performance of the DFYS office.

Dolly Coke, in recent conversation with Representative Barnes' office, defended Cherly Mann's performance, and her departure from the office with a good recommendation.

Other statements bv Mrs. Wilson indicate that DFYS staffers, rather than explaining their procedures and the reasons why they were acting in accordance with the requirements of the law and in the best interest of the child, ~~DFYS staffers~~ relied on threats to obtain Mrs. Wilson's cooperation; repeatedly threatening to take her daughter away from her if she did not do as they said.

Mrs. Wilson requested assistance from Representative Barnes in correcting what she considers gross improprieties and unprofessional conduct on the part of DFYS personnel that was upheld by supervisors. She asked, also, for assistance in obtaining legal counsel to file a lawsuit against the state in case these abuses were not corrected forthwith.

PRIVILEGED AND RESTRICTED INFORMATION -- NOT TO BE RELEASED.

2) In the Parker case (Mr. and Mrs. Joe), Representative Barnes was asked for assistance/guidance in the case of the Sterns children. The children (one male, one female) of Lynn Stearns told the Parkers they were both being physically and sexually abused by Bruce Dittman, live-in companion of their mother. The Parkers reported the alleged abuse to police, who notified DFYS. DFYS took custody of the children.

Initial concerns of the Parkers were as follows:

Lynn Sterns is an employee of the DFYS. (She had told the Parkers she was a social worker, handling abused children. This heightened their concerns. DFYS officials told Representative Barnes' office, however, that she was a secretary). The Parkers' children are close friends of the Stearns children. The Stearns children visited the Parkers frequently; often spending the night. The Parkers stated they had gown to love the Stearns children, and felt that after the trauma these children had suffered as a result of being taken into custody, then to a DFYS facility, interviewed, questioned, etc.; that a visit from friends would be helpful and supportive. They were told they could not visit the children by Dolly Coke, the DFYS social worker assigned to the case. When they later appeared at the shelter and again asked if they could visit the Stearns children, they were allowed to do so. When Dolly Coke learned they had visited the children, she became highly incensed and irate. The Parkers feared the incident would jeopardize their chance to obtain custody of the Stearns children; which they had requested. At this point, they requested guidance from Representative Barnes' office.

Additional concerns surfaced subsequently, which aggravated the Parkers concerns that there would be built-in bias in favor of Lynn Stearns, due to her working relationship and association with the social worker handling the case. Ms. Coke admitted to Representative Barnes' office that, indeed, she had counseled Ms. Stearns for previous problems.

Discussion with the prosecutor in the Dittman case revealed that Ms. Coke had permitted Ms. Stearns to visit with the children prior to the grand jury proceeding where Mr. Dittman was indicted; and that Ms. Stearns had coached the children in how to respond to questioning; thus breaking her pledge that she would not attempt to tamper with witnesses in the proceeding. It would appear that this was a serious indiscretion that would call into question either Ms. Coke's objectivity or her judgment.

Ms. Stearns reportedly refused to believe that Mr. Dittman would harm her children; but lashed out at the children instead; calling them liars, thieves, delinquents, etc. and alleged that they were likely to have sex together if opportunity permitted. Based on her allegation, the Parkers assert, the Stearns children were split up. The Parkers feel that this action was improper in that it was taken on the basis of nothing more than a totally baseless allegation by Ms. Stearns arising out of an angry, resentful reaction to her boy friend's arrest and that it was only the relationship between Ms. Coke and Ms. Stearns that resulted in any credence being placed in such a transparent and totally predictable and false allegation.

The Stearns daughter has been placed in a foster home run by a good friend of Ms. Stearns. The Parkers see this as another example of favoritism to Ms. Stearns that is rooted in a conflict of interest situation. As Ms. Stearns has access to her daughter, and has not accepted the fact that her daughter has been abused, the Parkers fear that Ms. Stearns will attempt to coerce her daughter to retract her testimony regarding her abuse.

A serious concern of the Parkers as well as Representative Barnes is that Ms. Coke of DFYS resents the fact that the Parkers contacted Representative Barnes and Senator Rodey and requested guidance. Ms. Coke reportedly threatened the Parkers, saying that they were going to get into serious trouble for violating the privacy of the children. Representative Barnes and Senator Rodey both feel strongly that constituents have a right to contact their elected representatives any time and on any topic they choose. State agencies must understand and accept this right as fundamental in a democratic society. It appears very probable that Ms. Coke's resentment will prejudice the Parkers' opportunity to visit the Stearns children and receive fair consideration in their request for being awarded custody of them.

The Parkers stated they were also concerned that the Stearns children were not receiving needed care. To their knowledge, neither has received any counseling to help them overcome the trauma they have suffered, and both were in need of eye exams, glasses, etc. for extended periods of time.

Lastly, the Parkers stated that the Stearns daughter was extremely lonely, distraught, and miserably unhappy when they met her by chance; yet she is not permitted to visit her brother, the Parkers, or anyone except her mother, whom she both dislikes and distrusts.

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
A PROFESSIONAL CORPORATION
801 W. TENTH, SUITE 300
P. O. BOX 1150
JUNEAU, ALASKA 99802 1150
(907) 586-2210
TELEX: 090-45-335

MICHAEL M. HOLMES
RANDALL J. WEDDLE
WILLIAM B. ROZELL
LAWRENCE T. FEENEY
CHARLES N. DRENNAN
ANTHONY M. SHOLTY
JAMES R. WEBB
MICHAEL A. BARCOTT *
KAREN L. RUSSELL
LEE S. GLASS
RICHARD B. BROWN
TIMOTHY A. McKEEVER
JOHN F. CLOUGH III
RICHARD L. WAGG
GREGORY F. COOK
ROBIN G. WILCOX
JAMES B. PENTLARGE
LEON T. VANCE
DIANE L. DALEY **

NORMAN C. BANFIELD
OF COUNSEL

HERBERT L. FAULKNER (1882-1972)
FRANK M. DOOGAN (1923-1977)

*ADMITTED IN WASHINGTON & ALASKA
**ADMITTED IN WASHINGTON ONLY

ANCHORAGE OFFICE

DENALI TOWERS NORTH
2550 DENALI STREET, SUITE 700
ANCHORAGE, ALASKA 99503 2774
(907) 274-0666
TELEX: 090-26-455

SEATTLE OFFICE

FIFTH AVENUE PLAZA
800 FIFTH AVENUE, SUITE 3740
SEATTLE, WASHINGTON 98104
(206) 292-8008
TELEX: 70-4212

January 30, 1984

To Whom it May Concern:

This is to advise you that Mr. B.G. Holland incurred legal bills, with this firm, in the denial of foster home license matter as follows:

Bill date	Amount
4/13/83	$ 1,892.62
5/ 9/83	2,511.14
8/18/83	26.52
9/26/83	17,691.42
11/14/83	94.11
	$ 22,215.81

Please contact me if you require additional information.

Yours truly,

W. Hogan

William Hogan
Office Manager

Mr. B. G. Holland



Deposits recieved:

3/8/82	$ 1,000.00
4/18/82	3,700.00
4/25/82	3,000.00
	7,700.00

Bills:

2/12/82	# 05491	$ 38.63	
4/13/83	11998	1892.62	
5/9/83	12579	2511.14	
9/26/83	14687	17,691.42	
			22,133.81
			$ 14,433.81

PROMISSORY NOTE

$ 14,433.51 Juneau, Alaska

~~October~~ JANUARY 9, ~~1983~~ 1984

FOR VALUED RECEIVED, the undersigned promises to pay to the order of Faulkner, Banfield, Doogan & Holmes at 801 W. 10th Street, Suite 300, P. O. Box 1150, Juneau, AK 99802-1150, or at such other place as payee shall designate, the sum of Fourteen Thousand, Four Hundred Thirty-three Dollars and Eighty-one Cents (14,433.81), together with interest on the unpaid balance thereof at all times at the rate of eight percent (8%) per annum. Said sum and interest are due and payable in installments of $500 on the first day of each and every month commencing ~~November 1, 1983~~ FEBRUARY 15, 1984 and continuing until said note is fully paid.

If any of said installments of principal or interest is not paid within ten (10) days after the same become due and payable, the whole of the principal sum then remaining unpaid, together with interest that shall have accrued thereon, shall forthwith become due and payable at the election of the holder of this note; PROVIDED, HOWEVER, that the maker or guarantors of this note may pay any or all unpaid installments before their respective maturity dates and reduce the principal amount thereof accordingly.

Presentment for payments, notice of non-payment, protest and notice of protest for non-payment are hereby waived, and each and every person signing or endorsing this note binds himself hereon as a principal and not as a surety, and agrees that the time for payment of such note may be extended by payee without notice, and agrees that in case suit or action is brought to collect this note, or any portion thereof, to pay,

paid within ten (10) days after the same become due and payable, the whole of the principal sum then remaining unpaid, together with interest that shall have accrued thereon, shall forthwith become due and payable at the election of the holder of this note; PROVIDED, HOWEVER, that the maker or guarantors of this note may pay any or all unpaid installments before their respective maturity dates and reduce the principal amount thereof accordingly.

Presentment for payments, notice of non-payment, protest and notice of protest for non-payment are hereby waived, and each and every person signing or endorsing this note binds himself hereon as a principal and not as a surety, and agrees that the time for payment of such note may be extended by payee without notice, and agrees that in case suit or action is brought to collect this note, or any portion thereof, to pay, in addition to the costs of said suit or action, a reasonable sum as attorney's fees.

Bernard George Holland
P.O. Box 67
Juneau, Alaska 99802

1772h
Gregory F. Cook
Faulkner, Banfield, Doogan & Holmes
P.O. Box 1150
Juneau, AK 99802-1150
(907) 586-2210

STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

In the matter of Bernie and Mary Holland, a Licensed Child Foster Home, Respondents.	)	NO. 4190

CHRONOLOGICAL SUMMARY

1972	Mary and Bernie Holland begin accepting foster children into their home in Juneau, Alaska
1972-1981	H&SS consistently evaluates Holland foster home as one of the best in Alaska.
October 1978	H&SS/DFYS adopts regulations governing foster child care
September 16, 1981	Artie J, a foster child placed by the State at the Holland's home, sexually molests the Holland's 8 year old son. Hollands request State remove AJ from their home and obtain psychological counseling for him.
Mid-October, 1981	Rumors circulate at DFYS that BG Holland will complain to Ombudsman about State's "mishandling" of AJ case. Rumors circulate at DFYS that Bernie Holland uses drugs, beats his wife, molests female employees.
October 31, 1981	AJ, placed in Gisel foster home, rapes and sodomizes young daughter of foster parents. State had obtained no psychological counseling for AJ. H&SS' worries escalate regarding possible complaint to Ombudsman by Mr. Holland.
October 23 - November 9, 1981	Dr. Lobo investigates Holland House, finds rumors unsubstantiated. H&SS Pugh telephones BG Holland and states: "You won't get a license for your group foster home; no money in the budget this year, or next year."

FAULKNER, BANFIELD, DOOGAN & HOLMES
A PROFESSIONAL CORPORATION
801 WEST TENTH STREET - SUITE 300
P.O. BOX 1150 PHONE (907) 586-2210
JUNEAU, ALASKA 99802-1150

FAULKNER, BANFIELD, DOOGAN & HOLMES
A PROFESSIONAL CORPORATION
801 WEST TENTH STREET - SUITE 300
P.O. BOX 1150 PHONE (907) 586-2210
JUNEAU, ALASKA 99802-1150

November 1, 1981	H&SS employee Danneker tells Father Lobo "If it wasn't for those goddam Hollands this would never have happened." (AJ's rape incident of 10/81 at Gisel home)
November 13, 1981	BG Holland makes formal complaint to Ombudsman re H&SS failures on AJ case.
November-December, 1981	Alaska Foster Parent Association tells BG Holland "If you file a complaint, DFYS will lay formal allegations against you. That's their standard operating procedure in Anchorage."
December, 1981	All foster children removed from BG Holland home. H&SS explains this as merely coincidental and "natural attrition."
June 4, 1982	Holland House group home provisional license signed by Kay Smith, H&SS (license # 235005)
June 4, 1982	Highly laudatory personnel evaluation for Father Lobo received.
June 8, 1982	Father Lobo attends H&SS meeting to discuss Holland group home application. Lobo speaks favorably of Hollands. All administrators opposed to granting Hollands a group home license.
June 10, 1982	H&SS, Mr. Pugh, calls meeting with BG Holland, Reece, Hansen, Monroe, & Walker to reject Holland group home application.
June, 1982	H&SS, Mrs. Borkowski hears Mr. Reece at Regional Office, call BG Holland ("that son of a bitch...".
July, 1982	H&SS, Mrs. Borkowski, hears Reece and Smith say about BG Holland "We'll shut him up and he'll never get his hearing..." (to appeal denial of group foster home license).
July 13 (or 16?), 1982	DFYS decides to suspend Father Lobo
July 14, 1982	Danny H. and Mickey H. accuse BG Holland of bad actions.
July 15, 1982	Evening meeting: H&SS Olson, BG Holland, Dr. Brandaman, Dr. Horchover, Mickey H. Mickey H.

admits allegations against BG Holland were lies by her and Danny H; only an attempt to show anger, frustration.

July 16, 1982 — H&SS, Mr. Reece, receives written and oral reports from Probation Officers Olson and Anderson clearing BG Holland. Reece orders Danneker to investigate and "get Holland, I've got my orders."

July 16, 1982 — DFYS orders highly unusual investigative procedure: Holland file removed from "Family" side of DFYS (Father Lobo) and permanently given over to "Youth Services" side of DFYS (Danneker, Reece and AJ's Probation Officer, Mr. Wild).

July 23, 1982 — H&SS. Danneker and Tuovinen arrive unannounced at BG Holland home, make allegations against BG Holland of child molestation; call BG Holland "asshole"; threaten to remove all foster children from Hollands. Danneker and Tuovinen present a formal written document accusing the Hollands of thirteen allegations, including child molesting/sexual abuse.

July 28, 1982 — Danneker receives phone call tipping him off that BG Holland is aware of Danneker's misbehavior in Wrangell (sleeping with foster mother, smoking marijuana in ~~State~~ vehicle while on duty; being caught smoking marijuana in ~~State~~ vehicle by child he was assigned to supervise as the child's probation officer).

August 5, 1982 — Laurie Vaughn conducts Standard by Standard evaluation of Holland House. Hollands cooperate fully.

August 6, 1982 — H&SS, Mr. Reece, asks Alaska State Troopers to investigate BG Holland to see if BG Holland had access to AJIS system. AST later reports Holland has no access to AJIS.

August 11, 1982 — Alaska State Troopers respond to H&SS Monroe's request for criminal history information on Mary and BG Holland. AST later reports no criminal history exists.

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August 17, 1982	Investigator Danneker makes final report directly to Mr. Pugh. Report was approved by Reece and finds all allegations uncontradicted. Recommends license revocation.
August 20, 1982	Danny H files affidavit with H&SS stating all charges made 7/15/82 against BG Holland false
September 27, 1982	DFYS officially closes its "investigation" of Hollands. DFYS concludes "most allegations were uncontradicted." Notifies Hollands of conclusions.
November 11, 1982	BG Holland requests and receives meeting with Commissioner Beirne, H&SS to seek settlement. Botelho tells Holland "Danneker bungled the investigation." Botelho tells Holland "Reece doesn't think you have been punished enough."
December 1, 1982	H&SS, Mr. Reece, files formal accusation of BG Holland incorporating by reference thirteen allegations of 7/23/82.
December 2, 1982	H&SS, Mr. Reece, receives letter from Danny H. admitting falsity of charges against Hollands; DH explains reasons for making false charges.
December 3, 1982	BG Holland requests meeting with Mr. Reece to discuss settlement.
December 15, 1982	H&SS, Mr. Reece, receives letters from Mickey H. and Kathy S. admitting falsity of charges against BG Holland.

Jan meeti

Dec. meeti

Dec 20, 1982. AST investigates BG Holland upon insistance of Lew Reece for interferring with an investigation and divulging confidential information to another foster parent.

Jan 19, 83 Botelho & Pugh ask Holland to meet with them.

This paper is a "Chrono" of events that have happened since September 1981

1. In September 1981 we put in an application for a group home license for teenagers.
2. On September 23, 1981 we had a fourteen year old child removed from our home as my wife caught him trying to molest our eight year old son.
3. Mid-October 1981--- Rumors began to spread around the Regional office about our over-reacting towards having that child removed from our home that was trying to molest our son. The P.O. Bob Wild wrote a report to Dr. Tony Mander and called us over-reactors for having the child removed when we did.
4. Further rumors were spreading in the community-- I beat my wife, drink excessively, use drugs, and molest my female [illegible].
5. Dr Alinio Lobo "informally checked" on these rumors from Oct 1981 through November 1981 and found no wrong doing, in fact just the oposite.
6. October 30, 1981---m there was a meeting in the Regional office that was called by Ms. Kay Smith. The meeting was about my proposed group home proposal. In attendance was Dr. Lobo, Ms Kay Smith, Mr. Lew Reece and Myself. During the meeting, my proposal was rejected for group home application and an improved version was asked for.
7. October 31, 1981---m The same 14 year old boy who we had removed from our home was arrested by the Alaska State Troopers for rape and sodomy on a 6 year old girl who was a member of the household the boy was placed in by his P.O. Wild.
8. November 12, 1981-- I recieved a telephone call from Mr. John Pugh the Director of Family & Youth Services while I was at work at the Alaskan Coin connection located at 723 West 10th Street. He called to tell me that no funds existed in the budjet to support my group home. I informed him that I have never asked the department for money and he stated that the department suffered a huge budjet cut and that funds would not be available for the next year for my group home. His conversation than got around to Art Johnson and the incident in our home and he said to me " We've had staff meetings concerning that incident and we've got our asses covered."
9. November 13, 1981-- I filed a written complaint with the State Ombudsman's office of Gross Negligence against the P.O. Bob Wild. I also stated in that same corresspondance that I was told about the no funds for the group home.
10. When Ms. Smith learned of my filing a complaint she stated to Helen Borkowski that " His name is shit in my book" And when Ms. Borkowski asked her who she was talking about she said "That Bernie Holland""He filed a complaint with the Ombudsman's office and now he can't be trusted, he'll probably go running to the Ombudsman every chance he gets".

12/81

10A.

→ Investigated by Lobo.

11. Between the dates of November 13, 1981 and December 15, 1981 all the children were removed from our home. Ms Smith testified under oath that this was due to "natral attrition".

12, December 11, 1981--- Mr. Lew Reece wrote a confidential memo to Mr Dave ARnold with a copy to Mr John Pugh telling him of my meeting with them on October 30, 1981 and my group home proposal.

13. January 13, 1982 --- Submitted my new group home proposal and when Ms Smith saw this she stated in from of Ms Helen Borkowski " The nerve--- he'll get his license ~~xxx~~ over my dead body.

14. In March 1982 the division began sending hard core cases to our home as they were then under investigation by the Ombudsman's office.

15. In May 1982 the Ombudsman sent a copy of his findings to Mr. John Pugh and on June 7, 1982 Mr Pugh acknowledged the Ombudsman's report with a letter dated June 7, 1982. By this acknowledgement he was aware of my group home plans.

16. June 4, 1982 Ms Kay Smith signed the license approval form and then went to Central Office and had a meeting with Ms Yvonne Walker concerning my group home license, and in fact gave her a copy of my Program Evaluation & Licensing Recommendation. A meeting was held in the C.O. and my license was denied that day. The same day as approval. Everyone denied this meeting except the secretary Ms Helen Borkowski who stated she recieved a telephone call from Ms Smith who stated she was in Walkers office.

17. June 8, 1982-- a meeting was held in Central Office with John Pugh, Yvonne Walker, Connie Hansen, Alinio Lobo and Pat Monroe. My License was discussed and denied at that meeting. Connie Hansen stated under oath that it was denied at this meeting and Dr Lobo left this meeting with the same feeling. At 11:30 am that same date I was in Dr Lobo's office when he recieved a phone call from Yvonne Walker telling him of the meeting and to bring the important docyments for this case. Dr Lobo had my file at that time as it was on his desk because he copied my Standard-By-Standard Evaluation, Program Evaluation & Licensing Recommendation as well as the CWS 80A for me. Pugh stated he read my file and program evaluation before that June 8, 1982 meeting and had questions for Dr Lobo and Connie Hansen. It's impossible because my file never left the Regional Office until the 9th of June 1982. Pat Monroe called me the afternoon of June 8th and wanted ameeting with me on the morning of the ninth to discuss my license. I set up a meeting for the 10th of June and during that meeting John Pugh denied my license three times. Pat Monroe stated she took my file home the night before to study it upon orders from John Pugh and found too

18. June 8, 1982-- at approx. 7:30 pm I saw Dr Lobo at the Juneau Airport and he stated to me that he thought my license was going to be denied from what went on at the meeting he was at earlier that day in C.O. He further stated my license was pulled from the clerks desk.
19. Dr Lobo testified he had possesion of my file untill 5:00 pm on June 8, 1982 because he put pertinant documents back into my file upon his return from C.O.
20. June 7, 1982 John Pugh wrote a letter to the Ombudsman acknowledging reciept of his report.
21. June 14, 1982--- I telephoned Ms. Pat Monroe in the C.O. and asked her for a written denial based upon her office's verbal denial on June 10,1982.
22. Written denial done by Pat Monroe on June 15, 1982--- Signed by Jo Walker.
23. Late June 1982--- The secretary Ms Helen Borkowski overheard [illegible], talk between Mr. Lew Reece and Ms Kay Smith, once it was learned I filed for a hearing concerning this denial of licensure,---- to thwart my hearing by counteracting made up allegations that would silence me once and for all.
24. July 14, 1982-- Danny Jo Harrison was sent back to jail for violation of his probation. He was contacted by Robert Danneker and then was helped to make allegations against us. w/ Danneker
25. July 15, 1982-- Mickey Horschover made complaints against us to her P.O. marlyn Olson--- A meeting was held that evening with her father Dr. Robert Horschover, her psychologist Dr Sonya Brandaman, myself and P.O. Olson. At that meeting she stated that the only reason she was complaining was because she was tired of being punished by the state. And that "Being at Bernie & Mary Holland's house was probably the best thing that ever happened to her because she would probably be dead from drugs or something else". Mr Olson stated he would write his report reflecting we were clear from any wrong doing.
26. During that week the probation department interviewed all residents in my home and on the 16th of July 1982 Mr. Norm Anderson and Mr Marlyn Olson's report to their superior Mr Lew Reece showed no wrong doing in my household and that collusion existed between Mr Danny Harrison and Ms Mickey Horschover. Mr Reece told his P.O.'s that these reports were bullshit and that he had his orders from upstairs and he was going to get that bastard meaning me.

27. I recived a telephone call from an individual telling me even tho I was cleared of any wrong doing, Reece had his orders to get me and that allegations, and this individual told me what they were, would be laided upon me within two weeks.

28. July 23, 1982--- Mr Robert Danneker and Ms Carolyn Touvenen came to my residence and served my wife and I with thirteen allegations. For 1 ½ hours they harrassed us into trying to answer them with thrates of removing the children and at one point Danneker said to me "Just answer the allegations asshole.

29. At 10;42 p m Robert Danneker (friday night) called my house to tell me they had completed part of there investigation and that he would be serving them on me the next morning at 9:00 am . That evening at 6:00 pm two of my foster children walked down to the office at 515 wlilloughby ave and Danneker told them they had new homes for them.

30/ On Junly 24, 1982 I wrote a letter to Mr Danneker telling him I would not answer his allegations.

31. On July 27, 1982 Mr. Danneker wrote me a letter telling me I was impeeding his investigation and thereby violated three statutes and that I had ten days to answer him in regards to these allegations..

AUG 7 letter

32. On September 27, 1982 the Division found that all these allegations except one was true. It was referred to the Attorney General's office.

33. On September 23, 1982 the Asst A G informed me that no evidence exists confirming these allegations and that he would take no action on my license when the regional office sent it to him and he called Fred Baxter to tell him of this.

34. I attended a meeting with the Commisioner Helen Beirne with the Asst A G and all she wanted me to do was answer the allegations. She stated that Pugh had really trying to get ahold of me. I refused to sit down with him as he lied at the Oct 4-7 hearing about not knowing about my license application and reading the files, on June 8, 1982.

35. On Oct 11, 1982 I filed purjury charges against Pugh and Monroe with the D A's office with documentation against Pugh.

Ombud Findings →

36. Now Met w/Beirne

37. JAN 83 Settlement + comprimise Aggrement

38. Apr Notice of Hearing

39.

MEMORANDUM State of Alaska

TO: Mr. Lew Reece
Regional Administrator
Southeast Region
Youth Services

DATE: July 16, 1982

FILE NO:

TELEPHONE NO:

FROM: N.L. Anderson
Probation Officer II
Youth Services
Juneau

SUBJECT: Abuse Allegations

On July 14, 1982, I received a phone call from Bernie Holland, foster parent, about Danny Harrison, one of my clients placed in the Holland home. Mr. Holland said he was about have Harrison removed. Harrison was: (1) lying; (2) failing to perform chores; (3) associating with people he had been restricted from; (4) ripping off other foster children in the house; (5) trying to "scam" Mr. Holland on an unemployment check ploy. I asked Mr. Holland to have Harrison report to me at 11:00 a.m.

Harrison called me at 9:30 a.m. to say he could not come at 11:00, that he had a State Office Skills test scheduled at that time. I instructed Harrison to report at 1:00 p.m. instead.

Upon returning to the office after lunch break, there was a note in my box that Harrison had come in at 12:25 p.m. to see me. At 1:15 p.m. Mr. Holland called to ask if I had seen Harrison. I told him of the test conflict and that Harrison was a no-show for the new time. Mr. Holland said Harrison was in his room playing his guitar.

I drove to the Holland residence to take Harrison for a urine sample, per court order. One of the people he had been associating with is a rather well known (to this office) cocaine user.

On the way to the testing center, Harrison denied allegations Mr. Holland had made earlier of violating the foster home rules and/or Conditions of Release. Upon arriving at the urine testing center, Harrison would not produce a urine sample, saying the timing was bad and he could not urinate. After 15 minutes, I took him to the Johnson Center. Upon threat of being detained, Harrison produced a more than ample urine sample within 5 minutes. Returning to the Holland residence Harrison continued to deny any wrong doing on his part. I decided to have a meeting with Mr. Holland, Harrison and myself to resolve the matter.

I explained to Mr. Holland that Harrison was denying any wrong doing. Mr. Holland, in Harrison's presence, outlined the problems he was having with Harrison. Harrison then admitted to most of the charges, but tried putting the blame on other foster children in the home or saying "I'm trying to be good, you can't expect me to change overnight". He continued to deny the unemployment check "scam". Mr. Holland then called Officer McCracken, JPD, to whom Harrison had boasted of the "scam". With the three of us listening, McCracken outlined the conversation he had with Harrison:

Harrison had gone to the Unemployment Office and changed his mailing address from Hollands' to General Delivery. Harrison's plan was to put two of the anticipated checks into his restitution savings fund and hold one back, telling Mr. Holland he had not received it. He planned on blowing the money from the third check.

After this conversation, Harrison admitted it was originally his plan to run the "scam", but since hadn't received the checks yet, and therefore, hadn't pulled of the scam, he hadn't done anything wrong.

Mr. Holland I spoke at length with Harrison about the wrongness of this "scam", whether he had pulled it off or not. Harrison maintained that he had done no wrong. At this point, Mr. Holland left the room. I spoke with Harrison for about 5 minutes and then I left. During that 5 minues, Harrison had completely changed his story and, in Mr. Holland's absence, was again denying any of his wrong acts. As I left, I saw Mr. Holland and asked him to call me the next day if he decided he no longer could work with Harrison. Mr. Holland asked me to remove him immediately, that he felt he could no longer work with Harrison.

Since the Juneau Receiving Home in the past has refused to accept Harrison and he has no relatives in Juneau, I transported him to the Johnson Center for detention. The staff at Johnson was busy with adult prisoners, so Harrison and I had to wait in the lobby for 30 minutes.

During this wait, Harrison became more and more agitated about being detained. He started by saying the only reason for detention was a "personality conflict" between he and Mr. Holland. Then he said that he "was going to blow the whistle on Bernie tomorrow in Court". He explained that Mr. Holland had physically abused him saying that Mr. Holland had hit him in the arm with a stick on several occasions. In the most recent, Harrison said he shoved Mr. Holland onto the kitchen table after Mr. Holland struck him, breaking the table. Mr. Holland then jumped up and challenged him to fight. The matter diffused with no further blows. Harrison said Merick Habon, another foster child with the Hollands, could verify this.

On July 15, I conducted a low key interview with Habon. Bob Dannecker, Foster Care Coordinator, was present. Habon said he was quite happy at the Holland home, that he had not been subject to any verbal or physical abuse. (This is significant, since Habon comes from a very abusive natural home and was fearful upon placement that the foster home would function the same way). He said he had never seen Mr. Holland hit Harrison, either with a stick or a fist. He did say the two have engaged in "friendly" wrestling matches and shadow box with one another.

Habon said the kitchen table was replaced with a more sturdy picnic-type table several days ago because the other table was starting to sag towards the middle. (I was in the Holland house 10-14 days ago for a reception for Lt. Governor Miller and can verify the old table was rather wobbly).

In conjunction with allegations Twiggy Horchover made about Mrs. Holland using foul or abusive language, Habon said this had never happened. That it was his experience she was rather quiet. He did say that Mr. Holland does use foul language in the house occassionally.

Habon volunteered that Harrison had been in trouble at the house recently for failing to do chores and for being caught in the girls living area.

At 2:30 p.m. on July 15, a detention hearing was held on Harrison. Following the hearing, I asked Harrison in his attorney's presence to give me a taped statement about the physical abuse. I explained to the attorney that I had an obligation towards the other children placed there if an abusive situation existed. Harrison immediately went into private counsel with the attorney. The attorney then advised me that Harrison's only complaint was of a "personality conflict" between Harrison and Mr. Holland. He explained the "conflict" as being Mr. Holland calling Harrison a "shitbag" and "worthless" in front of the other children.

I told the attorney Harrison had alleged he had been hit with a stick and physically roughed up by Mr. Holland. The attorney again conferred with Harrison and returned to report that Harrison said he had never been hit or otherwise assaulted. Further, Harrison declined to give any taped statement about the "personality conflict".

#12

Complaint registered to: Division of Family & Youth Services
515 Willoughby Avenue
Juneau, Alaska 99801

000239

Regarding: Bernie & Mary Holland Foster Home /X/ Licensed
(Name of Facility)
/ / Unlicensed

Address: P.O. Box 67, Juneau, AK

Phone: 586-1724

Date complaint received: July 15, 1982

The following complaints were received by the Division of Family and Youth Services regarding the above facility:

1. Allegation that Bernie and Mary Holland yell and direct vulgar and abusive language towards foster children. [7AAC 50.450,(2)]

2. Allegation that Bernie Holland frequently hits foster children with a stick, ruler, yardstick and his hands. [7AAC.50.450,(1)(5)]

3. Allegation that Bernie Holland squirted lemon juice into a resident's mouth, as punishment, and in the process of the resident resisting, used force to open the resident's mouth by holding the jaw and applying pressure. [7AAC 50.450,(1)]

4. Allegation that Bernie and Mary Holland are providing Day Care in their home for from 2-5 children. [7AAC 50.430(b)(d)]

5. Allegation that there is not sufficient space for each foster child to have specific place to keep his/her own personal possessions. [7AAC 50.540(c)]

6. Allegation that the Holland children have played with, destroyed, broken or lost the foster childrens personal possessions. [7AAC 50.420(e)]

7. Allegation that the Holland children are allowed to annoy and "bug" the foster children. When a conflict arises over this issue, that the foster children are verbally abused, and that "the foster children are always wrong, and the Holland children are always right". [7AAC 50.450,(2)(5)]

8. Allegation that adult boarders are living in the Holland foster home and that they are sharing sleeping quarters with foster children. [7AAC 50.420]

NOTIFICATION OF COMPLAINT

Complaint registered to: Division of Family & Youth Services
515 Willoughby Avenue
Juneau, Alaska 99801

000249

Regarding: Bernie & Mary Holland Foster Home /X/ Licensed
(Name of Facility)
/ / Unlicensed

Address: P.O. Box 67, Juneau, AK

Phone: 586-1724

Date complaint received: July 15, 1982

The following complaints were received by the Division of Family and Youth Services regarding the above facility:

9. Allegation that adult boarders participate in the family meetings and trials and are allowed to vote on foster childrens punishment [7AAC 50.410(a)]

10. Allegation that three foster children and one adult boarder sleep in a bedroom with no windows. [7AAC 50.560(e)(3)]

11. Allegation that family meetings are held late at night and often last from 11:00 p.m. to 2:00 a.m., and that foster children do not get enough sleep because of this and that one foster child fell asleep at a meeting and was punished for it. [7AAC 50.410]

12. Allegation that Bernie Holland has belittled and used cruel and derogatory remarks when describing a foster child to other foster children, and to other persons who have entered the foster home. [7AAC 50.450(2)]

13. Allegation that Bernie Holland patted a female resident on the bottom, grabbed a female resident around the waist and while "wrestling, grabbed her legs to get a cheap feel." [7AAC 50.410]

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

515 Willoughby Avenue
Juneau, Alaska 99801
Phone: (907) 586-1861

September 27, 1982

Bernie and Mary Holland
P.O. Box 67
Juneau, Alaska 99802

Dear Mr. and Mrs. Holland:

This is to inform you that the Division's investigation of complaints regarding your foster home has been concluded. You have responded to allegation #10 that foster children have been relocated from the basement to the upstairs bedroom. With that exception, no response or corrective action plan to the allegations which were delivered to you on July 23, 1982 has been received by the Division. You have continued to be unwilling to discuss the allegations, therefore the findings in this letter are based solely on the Division's investigation without any information provided by either of you.

INVESTIGATION FINDINGS

1. Allegation: Bernie and Mary Holland yell and direct vulgar and abuse language towards foster children.

   Findings: 75 percent of the foster children interviewed stated that verbal and vulgar language had been directed at them, or other foster children, in the home.

   Required: "..... in no event may any child in care be subjected to verbal abuse...." 7 AAC 50.450,(2).

   Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

2. Allegation: Bernie Holland frequently hits foster children with a stick, ruler, yard stick and his hands.

   Findings: 87 percent of foster children interviewed stated they had been hit by Mr. Bernie Holland with either a stick or his hand. A majority of foster children interviewed stated that they witnessed Mr. Holland hitting other foster children.

Required: ".....in no event may a child in care be disciplined by shaking or by delivering a forceful blow with hand or weapon..." 7 AAC 50.450,(5).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

3. Allegation: Mr. Bernie Holland squirted lemon juice into a resident's mouth as punishment, and in the process of the resident resisting, used force to open the resident's mouth by holding the jaw and applying pressure.

Findings: Although this allegation is an isolated incident with the alleged victim graphically describing what happened, there is no corroborating evidence to support the allegation.

Required: ".... in no event may a child in care be subjected to unusual, severe, cruel, capricious, humiliating, or unnecessary punishment;" 7 AAC 50.450,(1).

Conclusion: This allegation is found to be unsubstianted. This means that the violation could have occurred as alleged, but the evidence is not conclusive, or sufficient evidence is not available to make a determination.

4. Allegation: Mr. Bernie and Mrs. Mary Holland are providing day care in their home for 2-5 children.

Findings: 100 percent of the foster children interviewed stated that they observed day care being provided in the Holland home.

Required: Number of foster children permitted in home, ".... no more than eight children in all are permitted in any one home..." ".... no more than five children of any age who are unrelated to the foster parents are permitted." 7 AAC 50.430(b)(d).

Day care of children and commercial care for the aged, or maternity, or convalescent patients may not be combined with foster care of children without prior approval of the Division representative. 7 AAC 50.440(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows the standard was violated.

5. Allegation: There is not sufficient space for each foster child to have specific place to keep his/her own personal possessions.

Findings: This allegation deals specifically with the female residents who lived in the basement and shared a room with an alleged boarder. All female residents interviewed stated that they did not

have enough room for their possessions due to the alleged boarder using up most of the available space.

Required: "..... there must be a sufficient space and a specific place for each child to keep his own clothing and personal possessions." 7 AAC 50.450(c).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

6. Allegation: The Holland children have played with, destroyed, broken or lost the foster children's personal possessions.

Findings: 85 percent of the foster children interviewed stated that they had either had lost, or had destroyed or had broken personal possessions due to the Holland children. They also stated that even though they complained to the Holland's about the situation, it was never corrected.

Required: ".....foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children." 7 AAC 50.410(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows the standard was violated.

7. Allegation: The Holland children are allowed to annoy and "bug" the foster children. When a conflict arises over this issue, that the foster children are verbally abused, and the "foster children are always wrong, and the Holland children are always right."

Findings: 80 percent of the foster children interviewed stated that they felt "bugged" at times by the Holland children, and when the issue was confronted the foster children were yelled at for causing a disturbance.

Required: "..... in no event may a child in care be denied treatment equal to that of the foster parents' own children as a method of discipline;..." 7 AAC 50.450(7).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

8. Allegation: Adult boarders are living in the Holland foster home and they are sharing sleeping quarters with foster children.

Findings: That there are two additional adults living in the Holland foster home without proper knowledge of the Division.

Required: "Foster parents shall report to the Division representative any significant changes in the household....that would affect the ability to care for foster children." 7 AAC 50.420(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows the standard was violated.

9. Allegation: Adult boarders participate in the family meetings and trials and are allowed to vote on foster children's punishment.

Findings: A majority of foster children interviewed stated they had been subject to or observed alleged boarders participating in family meetings or trials.

Required: "Foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children." 7 AAC 50.410,(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

10. Allegation: Three foster children and one adult boarder sleep in a bedroom with no windows.

Findings: By personal observation from myself, Carolyn Touvinen, CCS II, and personnel admission from Mr. Holland, this was found to be true.

Required: ".....each foster home must have one or more windows which are large enough for emergency exit and rescue in each sleeping room."

Conclusion: This allegation was found to be valid upon inspection. However, Mr. Holland agreed to move the foster children to another room, which was accomplished within a 24-hour period. Therefore, at this date, the allegation is found to be invalid as long as that particular room is not used for foster children, or until the room is brought up to standards.

11. Allegation: Family meetings are held late at night and often last from 11:00 p.m. to 2:00 a.m., and that foster children do not get enough sleep because of this and that one foster child fell asleep at a meeting and was punished for it.

Findings: A majority of foster children interviewed stated that family meetings and trials could and would last until all hours of the night, and also stated punishment was dealt out for falling asleep.

Required: "Foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children." 7 AAC 50.410,(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

12. Allegation: Bernie Holland has belittled and used cruel and derogatory remarks when describing a foster child to other foster children, and to other persons who have entered the foster home.

Findings: All foster children interviewed in regard to the allegation stated they had been subject to or witnessed another foster child be subjected to belittlement or derogatory remarks.

Required: ".....in no event may a child in care be subjected to verbal abuse, derogatory remarks about himself or members of his family...." 7 AAC 40.450,(2).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

13. Allegation: Bernie Holland patted a female resident on the bottom, grabbed a female resident around the waist and while "wrestling, grabbed her legs to get a cheap feel".

Findings: A female foster child made this complaint (patting on bottom) in writing. She stated that it happened and that she did not like it. The wrestling incident was observed by another foster child, who thought that Mr. Holland's behavior was inappropriate. This incident (wrestling) is also in a written statement.

Required: "The foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children." 7 AAC 50.410,(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows the standard was violated.

In addition to the July 23, 1982 allegations, the Division became aware of additional non-compliance items when a standard-by-standard evaluation was conducted on your home from August 4, 1982 to August 6, 1982 for consideration of your application to operate a residential child care facility. The following areas would be in non-compliance under 7 AAC 50.310 to 7 AAC 50.620:

1. 7 AAC 50.410(1) - "An annual license may not be issued without written evidence that all members of the household 16 years of age or older are free from active tuberculosis;"

According to the standard-by-standard evaluation there was no record of written evidence that this requirement has been met. On September 21, 1982 tuberculin clearances dated September 16, 1982 were received for both of you. If there are any other adult, members of the household, additional tuberculin clearances are required.

2. 7 AAC 50.560(b) - "A 5-lb ABS dry chemical fire extinquisher or its equivalent must be charged at all times and strategically located; more than one is required for multi-level homes."

   The standard-by-standard states that there is only a 2 1/2 lb. ABC extinguisher in the basement area which has been previously used as living space for foster children. While the Division has interpreted and implemented the above requirement as meaning that there must be a 5lb. extinguisher on every level of a multi-level home, the Division concedes that your home has two acceptable extinguishers and therefore, meets the requirement for more than one for multi-level homes. Correction is advised, but not required.

3. 7 AAC 50.570(f) - "Firearms must be unloaded and stored in a place inaccessible to young children. Ammunition must be stored separately in a place inaccessible to children."

   It was reported in the standard-by-standard that one hand gun was accessible to children while loaded and that the gun was unloaded in front of the licensing worker. There is no issue with compliance at this time as the gun was unloaded. However, in the future all guns must remain unloaded and ammunition stored separately and inaccessible to children.

EVALUATION AND RECOMMENDATION

All of the above allegations are of a serious nature and all except #3 were found valid upon investigation. The three additional findings in the recent standard-by-standard evaluation are also serious. You have demonstrated a total lack of cooperation with the Division in dealing with the allegations. If corrections have occurred, you have failed to inform the Division. For example, at least six telephone calls to your attorney were necessary to obtain the tuberculin clearances.

Given the pattern of violations, and your refusal to respond or to formulate a corrective action plan, the Division is referring your case to the Department of Law for consideration of license modification, license suspension, or revocation. You will be informed of the Department of Law's recommendation to this Department.

Sincerely,

Lew Reece

Lew Reece
Regional Administrator
SERO - Juneau

Enclosure

LR:JRP:PM:pvk

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

515 Willoughby Avenue
Juneau, Alaska 99801
(907) 586-1861

December 1, 1982

Bernie and Mary Holland
Box 67
Juneau, Alaska 99802

Dear Mr. and Mrs. Holland

RE: Holland Foster Home

You are hereby notified that the enclosed Accusation has been filed with the Department of Health and Social Services, Division of Family and Youth Services. The Division of Family and Youth Services will conduct a hearing, if requested, to decide the issues presented in the Accusation.

Notice of Defense and Request for a Hearing

The enclosed accusation was prepared pursuant to AS 44.62.360 and sets forth the issues that will be decided by the Department of Health and Social Services, Division of Family and Youth Services. This letter constitutes notice as required by AS 44.62.380 that you may request a hearing on the issues set forth in the Accusation.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Division of Family and Youth Services within 15 days after receipt of the enclosed Accusation, the Division of Family and Youth Services pursuant to AS 44.62.530 will decide in your absence the issues presented in the Accusation. The request for a hearing may be made by delivering or mailing the enclosed Notice of Defense to the Division of Family and Youth Services in the enclosed envelope, postage prepaid. Mailing of the Notice of Defense signed by you or on your behalf and returned to the Division of Family and Youth Services within 15 days in the enclosed addressed envelope, postage prepaid, acknowledges receipt of the enclosed Accusation and constitutes a notice of defense pursuant to AS 44.62.390.

Sincerely,

Lew Reece
Regional Administrator

Enclosures

Accusation
Notice of Defense
Envelope (postage prepaid)

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LEW:IRP:PM:ksw

Bruce M. Botelho
Assistant Attorney General
Office of the Attorney General
Pouch K
Juneau, Alaska 99811
(907) 465-3603

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

In the matter of Bernie and Mary Holland, a Licensed Child Foster Home, Respondent.	Facility No. 4190

ACCUSATION
(AS 47.35.040, AS 44.62.360)

Petitioner Lew Reece, Regional Administrator, Division of Family and Youth Services, Alaska Department of Health and Social Services, alleges:

1. This is a proceeding authorized by AS 47.35.040(b) and AS 44.62.360 to condition child foster home license 4190, helu by Bernie and Mary Holland, hereinafter "respondents."

2. The respondents were issued License No. 4190 on May 23, 1982 authorizing them to operate a child foster home at 707 West 10th Street, Juneau, Alaska.

3. On or about July 15, 1982 the Division of Family and Youth Services received complaints from two youths who had been placed in the respondents' home. The allegations consisted for the most part of charges that respondents had been physically or verbally abusive, had taken inappropriate disciplinary measures, had failed to exercise restraint over their own children, had provided day care services, and had adult boarders in the home without division approval.

4. The division immediately initiated an investigation. The investigation included interviews with respondents and several youths who had been in respondent's care. Respondents refused to discuss most allegations with the division, claiming that the division had harrassed them and declaring:

> "In regard to your expectations of receiving a telephone call from me. . . to discuss those "allegations;" As I expressed during our meeting on July 23, 1982, these "allegations" will not be addressed by me . . ."

5. On July 27, 1982 the division again urged respondents to reply to the allegations. No reply was received.

6. In the succeeding weeks the division, through the Department of Law, attempted to conciliate with respondents, to no avail.

7. On September 27, 1982 the division finally closed its investigation and, because of the summary failure of respondents to address the complaints, concluded that most allegations were uncontradicted. Accordingly, the division referred the matter to the Department of Law for further action.) Lie! They recommended revocation.

8. The Department of Law again initiated steps to reconcile the differences between respondents and the division, including scheduling of a meeting with Helen Beirne, Commissioner of Health and Social Services.

9. Respondent Bernie Holland has consistently refused to formally respond to the allegations, making it difficult, if not impossible, for the development of on-going professional relationships between the division and the licensed home, a prerequisite to determinations of compliance with state law.

10. Respondents' failure to cooperate, as set forth above, is a basis for conditioning of respondents' license under AS 44.62.360.

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ACCORDINGLY, Accuser requests that

1. Foster Home Care License No. 4190 be amended to include the following conditions:

a. licensees will notify the department of all non-related adults living in the home for more than 21 days;

b. licensees will seek department approval of all day care services provided in the home;

c. licensees will provide the department a written description of their behavior management and discipline techniques (including any planned use of corporal punishment or family trials) within 30 days of issuance of the license with conditions; and

d. licensees will cooperate with all department requests for information related to the operation of their child foster home, license 4190.

DATE: 12/1/82

Lew Reece

Lew Reece

STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

In the Matter of:

Bernie and Mary Holland
Child Foster Home

Respondent

Facility No. 4190

NOTICE OF DEFENSE

The respondent, pursuant to AS 44.62.390, hereby acknowledges service of the Accusation or Statement of Issues and gives notice of defense on the following grounds:

_____

_____

_____

_____

_____

_____

_____

_____

A hearing on the matters set forth in the Accusation or Statement of Issues is requested.

DATE: _____

_____
Respondent

Mailing Address: _____

_____

_____

NOTE: This Notice of Defense must be signed by or on behalf of respondent, must set forth respondent's mailing address and must be filed with the Division of Family and Youth Services within 15 days of receipt.

Gen. 179, 06-3383, Rev. 11/82

Ombudsman

John B. Chenoweth

State of Alaska

Reply to:

☐ 840 K Street, Room 203
Anchorage, Alaska 99501
(907) 276-4011

☐ Pouch WO
Juneau, Alaska 99811
(907) 465-4970

P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

MEMORANDUM

TO: John B. Chenoweth, Ombudsman

THRU: Duncan C. Fowler, Ombudsman Regional Representative

FROM: Bruce Aronson, Ombudsman Assistant

SUBJ: Ombudsman Complaints J82-0689, J82-0728, J82-1136, and J82-1188

DATE: January 28, 1983

Four complaints, J82-0689, J82-0728, J82-1136, and J82-1188, direct the attention of the office to investigatory and licensing practices of the Southeast Regional Office of the Division of Family and Youth Services. Due to the interrelationship of the four, they were examined at the same time by this investigator.

Throughout this memorandum, the names of minors involved in these complaints have not been used, rather initials were substituted for their names.

A summary of my investigation of each complaint is provided below:

J82-0689

Bernie and Mary Holland filed a complaint with this office on July 26, 1982, alleging that the Division of Family and Youth Services (DFYS) is failing to conduct a proper investigation of their foster home license. and is harassing them. Investigation of their complaint has focussed on whether the agency had sufficient reason to initiate an investigation, and whether the investigation was properly conducted.

The Hollands are Juneau residents with a decade of experience in foster care involving Juneau youth. Their complaints were filed with the Juneau office after they were served a NOTIFICATION OF COMPLAINT by officials of the Division's Juneau regional office. The officials advised that the notification, containing 13 allegations, was served in conjunction with information received by division personnel during the preceding 10 day period. Investigation of the allegations was a prerequisite to a decision by division officials to modify or revoke the Hollands' foster home license.

A copy of the notification is attached to this memorandum.

Background:

On July 14, 1982, Norm Anderson, Probation Officer II, transported a minor, D.H., to the Johnson Human Services Center for detention purposes. In a memorandum from Mr. Anderson to Lew Reece, Regional Administrator, DFYS, dated July 16, 1982, Mr. Anderson states:

> During this wait, D.H. became more and more agitated about being detained. He started by saying the only reason for detention was a "personality conflict" between he and Mr. Holland. Then he said that he "was going to blow the whistle on Bernie tomorrow in court". He explained that Mr. Holland had physically abused him saying that Mr. Holland had hit him in the arm with a stick on several occasions. In the most recent, D.H. said he shoved Mr. Holland onto the kitchen table after Mr. Holland struck him, breaking the table. Mr. Holland then jumped up and challenged him to fight. The matter diffused with no further blows. D.H. said M.H. (male), another foster child with the Hollands, could verify this.

Mr. Anderson also reports in this memorandum that M.H. (male) said the kitchen table was replaced with another table, since the older table was sagging. Mr. Anderson confirms that "the old table was rather wobbly." M.H. described Mary Holland as a quiet person, and that she did not use "foul or abusive language." M.H. does indicate that Bernie Holland has used foul language. No written statement from M.H. was taken by DFYS. .

In a memorandum from Candace Canfield, YCIII, Johnson Human Services Center to Marlyn Olson, Probation Officer III, dated July 14, 1982, it was reported that D.H. told both Ms. Canfield and Margaret Pugh, Program Director, Johnson Human Services Center, that Bernie Holland hit him, and that Mr. Holland uses a stick to hit people, including D.H. Also, D.H. and Bernie Holland, on more than one occasion, stayed up late arguing. D.H. closed by saying that M.H. (female) was also hit with a stick, and would confirm this information. Ms. Pugh then called Marlyn Olson and requested Mr. Olson immediately visit the Johnson Human Services Center.

Mr. Olson indicates in his file notes of July 14, 1982, that when Mr. Olson met with D.H., D.H. had already contacted his attorney. Mr. Olson reported that D.H. said his attorney advised D.H. to remain silent. Mr. Olson wrote in his notes that, "He did elude [sic] however two serious problems..." Mr. Olson also indicates that D.H. felt that M.H. (male) and M.H. (female) could corroborate his statements.

In his July 16, 1982 memorandum, Mr. Anderson states:

> On July 15, I conducted a low-key interview with M.H. (male). Bob Danneker, Foster Care Coordinator, was present. M.H. said he was quite happy at the Holland home, that he had not been subject to any

> verbal or physical abuse. (This is significant, since M.H. comes from a very abusive natural home and was fearful upon placement that the foster home would function the same way). He said he had never seen Mr. Holland hit D.H., either with a stick or a fist. He did say that the two have engaged in "friendly" wrestling matches and shadow box with one another.

The last two paragraphs of Mr. Anderson's memorandum describe a meeting with Mr. Anderson, D.H. and D.H.'s attorney. The meeting took place at 2:30 p.m. on July 15, 1982. The attorney (after conferring with D.H.) advised that D.H. had only one complaint, regarding a "personality conflict" between D.H. and Bernie Holland. Anderson also wrote that the attorney said the conflict was that Bernie Holland called D.H. a "shitbag" and "worthless" while other children were present. When the attorney was asked about D.H.'s allegation that Bernie Holland had hit D.H. with a stick, the attorney stated (after conferring with D.H.), "that D.H. said he had never been hit or otherwise assaulted. Further, D.H. declined to give any taped statement about the 'personality conflict'."

Robert Danneker's notes of July 20, 1982, describe a meeting with D.H. At that time, D.H. agreed to give a written statement to Danneker by Thursday, July 22, 1982. A statement was provided by D.H. on July 22, 1982, which said Bernie Holland and D.H. got into a scuffle, and Bernie challenged D.H. to fight. D.H. also said:

> Bernie was sitting on the couch next to M.H. (female) and I was sitting at the table when Bernie and M.H. started wrestling sort of and Bernie was grabbing M.H. around the waste [sic] and her leg's [sic] and it looked more like Bernie was trying to get a cheap feel off her he does this all the time and he has this stick that is about two and a half feet long that he smack's [sic] us with and it hurt's [sic] several times' [sic] I asked him not to smack me but he still does.

D.H.'s assertion is deserving of independent verification. A psychological evaluation (a copy of which is in the DFYS files) prepared by Carol C. Greenough, Ph.D., and dated June 23 and June 25, 1982, cautions:

> . . .
>
> D.H. admits to being very good at lying and convincing himself as well as others of his lies.
>
> . . .
>
> D.H. is very manipulative, using people and situations to create gratification for himself.
>
> . . .

D.H.'s probation officer, Norm Anderson, told this office, on January 3, 1983, that D.H. thought Bernie Holland was mad at him, thus causing D.H. to be sent to the Johnson Human Services Center for detention purposes on July 14, 1982. D.H. became very upset at the prospect of detention, and that he was going to get back at Bernie Holland. On July 15, 1982, Anderson said, he believed that D.H. was lying.

Since D.H.'s credibility is called into question, corroboration of his statements by the two foster children he named, is important. There was no written statement by M.H. (male). However, Mr. Anderson's memorandum indicates that M.H. can only verify that Bernie Holland used foul language on occasion. Notes prepared by Marlyn Olson say that on July 14, 1982, M.H. (female) a foster child at the Holland home, volunteered information to Mr. Olson. A synopsis of Mr. Olson's notes includes the following incidents, as described by M.H. (female):

- Bernie Holland told her to get out of bed, using vulgar language,

- Mary Holland has called her names,

- M.H. was preparing guacamole, and to quiet J.H., M.H. squirted lemon juice into J.H.'s mouth. Mary Holland cursed at M.H. for this,

- Mary Holland cursed at M.H. for being late when called to the main floor of the house, from the basement, and

- Bernie Holland used coarse language upon M.H.'s return to the Holland home, after having run away from the Holland home.

Mr. Olson's notes for July 15, 1982, include the following:

> We [Sonja Brandman, Counselor, and Mr.Olson] discussed M.H.'s (female) behavior over the past three weeks, the fact that it has been very difficult for her having violated curfew, run, caught in several lies, and being on restriction much of the time. Sonja and I agreed that it was difficult to tell when M.H. is being truthful or not.

Shortly thereafter, M.H. (female) provided a handwritten statement of her allegations against the Hollands. M.H.'s statement includes descriptions of the following episodes:

- When M.H. was moving to another room, Mary Holland cursed at her,

- During a family meeting, Mary Holland described M.H.'s performance as a dishwasher, in vulgar terms,

- Mary Holland cursed at M.H. during an incident involving a television,

- Mary Holland, in vulgar terms, told M.H. to be quiet, when M.H. was slow in coming to the main floor of the house from her bedroom,

- When M.H. was making guacamole, one of the Holland children was irritating M.H., so M.H. squirted lemon juice into the child's mouth, and the child started screaming. Mary Holland then cursed at M.H.,

- When M.H. was slow in getting out of bed one morning, Bernie Holland cursed at her to get up,

- Bernie Holland hits D.H. with a stick during family trials and meetings, and

- "When I have my but [sic] up in the air reaching for something and I [have] been hit for no reason twice with [a] stick once with [a] hand and last night befor [sic] he hit me with his hand I caught him first a[nd] said don't hit me what's the reason. he [sic] said boy you [are] lucky I couldn't resist."

Mr. Olson said in his notes of July 15, 1982:

. . .

> I reviewed her statement and found that several of the things she told me yesterday were not addressed and that some of the incidents she wrote about that we talked about yesterday were or somewhat watered down. . . .
>
> Most of what she put in writing seemed to be directed towards conflicts that she was having with Mary instances in which she says Mary directed fould [sic] language towards her, telling her to shut up, calling her asshole, etc.

Mr. Olson also reported that M.H.'s (female) mother said M.H. seemed to be using vulgar language, and that the Holland home "...was the best placement for her."

The next day (July 15, 1982) a meeting was held with Mr. Olson, M.H. (female) and her father, Bernie Holland and Ms. Brandman. During this meeting, they reviewed the allegations M.H. had made regarding the Hollands. Mr. Olson noted that M.H. lied when discussing what she did one Sunday. Mr. Olson also wrote:

. . .

> We note that the conflicts she brought up involved she [M.H.] and Mary. I think we have to recognize the fact that there could be a great deal of transference going on here, meaning that a lot of the hostility, the anger, the hurt M.H. feels in her relationship with her mother are under difficult circumstances transferred to Mary, her foster mother.
>
> . . .

> Before we closed the meeting and while M.H. was still meeting with us we questioned her in several different ways about whether or not the problems she told us about at the Hollands were so serious that they couldn't be worked out, that perhaps this difficult time will soon pass and once again, things will level out for her. Her response was that things could probably be worked out.
>
> . . .

M.H. (female), during a deposition taken on December 30, 1982, told me that she felt that her problems with Mary and Bernie Holland were resolved during the above described meeting.

From records retained by DFYS, staff then gathered statements from the following people:

- D.H. gave a statement on July 22, 1982, and signed it on August 2. D.H. later retracted this statement, in a written statement dated December 1, 1982.

- M.H.(female) gave a statement on July 22, 1982, and signed it on July 29, 1982. An unsigned statement given on July 23, 1982, was also given by M.H.

- K.S. signed a statement on July 29, 1982, which was originally given on July 20, 1982.

- A.J. gave a statement on July 22, 1982, and signed it July, 29, 1982.

- A.M. gave a statement on July 22, 1982, which was later signed on July 29, 1982.

- M.F. gave a statement on July 23, 1982, which was not signed.

- Gil Lucero gave a signed statement on July 28, 1982.

Allegations against the Hollands:

Based upon the statements that division personnel had received as of July 23, 1982, DFYS prepared a NOTIFICATION OF COMPLAINT. The notification included a description of 13 allegations against the Hollands. Each of the 13 allegations was reviewed by me to determine if there was adequate factual basis for the allegation, and adequate basis to begin and continue investigation of the allegation.

Since an administrative hearing regarding modification of the Holland foster license is being scheduled in the near future, the truthfulness of the allegations is not a matter within the jurisdiction of this office.

Summarized, the allegations provide as follows:

1. This allegation was that the Hollands "yell and direct vulgar and abusive language towards foster children." DFYS officials cited 7 AAC50.450(2).

Information provided by some of the foster children as of July 23, 1982, indicates this allegation had an adequate factual basis and was properly the subject of investigation.

2. This allegation was "that Bernie Holland frequently hits foster children with a stick, ruler, yardstick and his hands," and was presented with a cite to 7 AAC 50.450(1) and 7 AAC 50.450(5).

Information provided by some of the foster children, as of July 23, 1982, indicates this allegation had an adequate factual basis and was properly the subject of an investigation.

3. It was alleged that "Bernie Holland squirted lemon juice into a resident's mouth, as punishment, and in the process of the resident resisting, used force to open the resident's mouth by holding the jaw and applying pressure." The notification referenced 7 AAC 50.450(1).

Information provided by one foster child, as of July 23, 1982, provided sufficient basis for the allegation, and the matter was properly the subject of an investigation.

4. "Allegation that Bernie and Mary Holland are providing Day Care in their home for from 2-5 children," accompanied by reference to 7 AAC 50.430(b) and 7 AAC 50.430(d). As of July 23, 1982, six different sources reported that day care services were being provided for as many as four children.

The two regulations cited by DFYS provide:

> 7 AAC 50.430. NUMBER OF FOSTER CHILDREN PERMITTED IN THE HOME.
>
> . . .
>
> (b) No more than eight children in all are permitted in any one home.
>
> . . .
>
> (d) No more than five children of any age who are unrelated to the foster parents are permitted.

Read together, these two regulations do not appear to have any direct relationship to the issue of day care services. Rather, the regulations seem to describe the maximum number of foster children and other unrelated children a foster home may have (five), and the total number of children, including foster and natural children that may live in a foster home (eight).

Since the allegation mentions day care as well as number of children, DFYS may have been relying on 7 AAC 50.440(a):

> (a) Day care of children and commercial care of the aged, or maternity, or convalescent patients may not be combined with foster care of children without prior approval of the division representative.

As of July 23, 1982, there was not sufficient basis for the allegation that the Hollands were providing day care services for up to and including five children. Pat Monroe, Licensing Coordinator, told me that DFYS always requires foster homes to secure a day care license, when day care services are going to be provided, in addition to divisional approval. Since it appears that a day care license is required only if day care services are provided in the home to more than four children, it does not appear that the Hollands would be required by law to secure a day care license. AS 47.35.020(2). In addition, providing day care services in a foster home, per se, does not appear to violate the foster care regulations cited by DFYS.

There is confusion concerning day care licensing obligations within a licensed foster home, and it is not at all clear that, in citing 7 AAC 50.430, the division made the point it had intended. Taking the cite provided as the basis of my review, it does not appear that the allegation has a sufficient basis. The Hollands might have admitted the truth of the allegation but it is far from certain that the admission or the finding will support revocation of the license.

5. The fifth allegation held that there was not sufficient space for foster childrens' personal possessions. As of July 23, 1982, there appeared to be sufficient basis for the allegation, and there appeared to be an adequate amount of information to warrant the investigation of the allegation.

6. Allegation 6 stated that "the Holland children have played with, destroyed, broken or lost the foster childrens[']' personal possessions." The notification in which the allegation was contained included a reference to 7 AAC 50.420(e), a provision which states:

> (e) The foster parents shall allow the child to bring personal possessions into the foster family home, and allow him to acquire possessions of his or her own, within reason with regard to space and comfort, and safety.

The above cited regulation only directs that personal possessions of foster children may be brought into the home, with certain limitations. That the regulation supports an investigation of the allegation is at best arguable.

7. It was alleged that children of Mr. and Mrs. Holland annoy the foster children, that, when a dispute arises, the foster children are always wrong and the natural children right, and that the foster children are verbally abused. The allegation referred to 7 AAC 50.450(2) and 7 AAC 50.450(5).

The "verbal abuse" portion of this allegation is identical to the one included in allegation number 1 above. The applicable regulation for it appears to be found in 7 AAC 50.450(2).

The other regulation, 7 AAC 50.450(5), states:

> 7 AAC 50.450. DISCIPLINE.
>
> (5) disciplined by shaking or by delivering a forceful blow with a hand or a weapon, however, controlled hand spankings of one to three slaps on the buttocks are allowed when appropriate;

Allegation 7 appears to be partially redundant with the first allegation. In addition, the second regulation cited, 7 AAC 50.450(5), bears no direct relationship to any part of allegation 7. Accordingly, it is not possible to conclude that the allegation is supported by any part of the regulations cited, and I question whether it ought to have been the basis for subsequent investigation and finding.

8. Citing 7 AAC 50.420, it was alleged that "adult boarders are living in the Holland foster home and that they are sharing sleeping quarters with foster children." The applicable portion of this regulation is part (a):

> 7 AAC 50.420 RESPONSIBILITIES OF FOSTER PARENTS
>
> (a) The foster parents shall report to the division representative any significant changes in the household such as employment, housing, or serious illness, that would affect the ability to care for foster children.

There was sufficient evidence from foster children that, in addition to Mary and Bernie Holland, other adults may have been living at the home. Although the allegation refers to these adults as "boarders," the regulations cited do not appear to prohibit boarders, and the use of the term is of no impact on the allegation.

The main point of the allegation is that the Hollands failed to notify the DFYS that additional adults were staying at their home. DFYS apparently believes that the addition of the residents is a significant change impairing the ability of the Hollands to properly care for foster children. As the regulation is written, it is not clear who is to determine, for purposes of reporting, what constitutes "a significant change." In this instance, DFYS should have identified the impairment resulting from the additional adults. The failure to provide this in the allegation suggests that the allegation is flawed, and should not have been investigated.

9. This allegation was that "adult boarders participate in the family meetings and trials and are allowed to vote on foster childrens [sic] punishment." 7 AAC 50.410(a) was cited.

Although there appears to be sufficient evidence for this allegation to be included and investigated, the cited regulation does not clearly indicate such activity is improper. The cited regulation, a provision that describes the qualities of a good foster parent, says:

> 7 AAC 50.410. QUALIFICATIONS OF FOSTER PARENTS AND OTHERS IN THE HOUSEHOLD.
>
> (a) The foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children.

If DFYS is concerned about discipline aspects in the Holland home, the applicable regulation seems to be 7 AAC 50.450, which describes standards for discipline.

10. It was alleged that "three foster children and one adult boarder sleep in a bedroom with no windows," citing 7 AAC 50.560(e)(3). This regulation states that each bedroom used by foster children must have a large window exit for emergency use. It does not mention boarders.

Based upon statements from two foster children, there appeared to be sufficient basis for the allegation that foster children were sleeping in a bedroom without a window large enough for emergency use. In addition, there appeared to be enough evidence to warrant investigation of this allegation. The allegation, as prepared by DFYS is poorly stated.

11. It was alleged that family meetings were conducted until late in the evening, and because of the late meetings, foster children were not able to get sufficient sleep, citing 7 AAC 50.410 as authority.

Statements from two foster children indicate there was sufficient basis for this allegation, and that it should have been investigated.

12. The next to the last allegation was that "Bernie Holland has belittled and used cruel and derogatory remarks when describing a foster child to other foster children, and to other persons who have entered the foster home." Reference followed in the notification to 7 AAC 50.450(2), which states:

> 7 AAC 50.450. DISCIPLINE.
>
> The foster parents must be able to show evidence of ability to work with children without recourse to physical punishment or psychological abuse and must be positive in their approach to discipline. Any discipline or control must be appropriate to the child's age and developmental level, but in no event may a child in care be:

> (2) subjected to verbal abuse, derogatory remarks about himself or members of his family, or threats to expel the child from the foster home;

Four foster children gave information which provided the basis for this allegation and the need to investigate it. One of these four foster children indicated the remarks by Mr. Holland were not intentional.

13. The last allegation was "that Bernie Holland patted a female resident on the bottom, grabbed a female resident around the waist and while 'wrestling, grabbed her legs to get a cheap feel.'" The allegation was supported in the notification by reference to 7 AAC 50.410. (Presumably, the agency meant to cite subsection 410(a) in support of this allegation.)

The applicable portion of D.H.'s July 22 written statement, on which this allegation is based, states:

> Bernie was sitting on the couch next to M.H.(female) and I was sitting at the table when Bernie and M.H. started wrestling sort of and Bernie was grabbing M.H. around the waste [sic] and her leg's [sic] and it looked more like Bernie was trying to get a cheap feel off her he does this all the time . . .

In the course of my investigation, Robert Danneker told me the quoted portion of this allegation came from D.H. He acknowledged, however, that he had provided the phrase regarding sexual contact to D.H. On July 22, 1982,. D.H. provided a second written statement, signed on August 2, 1982, which says in part:

> Danneker: Read a quote from written statement regarding Bernie wrestling with M.H.(female)
>
> D.H.: Said that Bernie grabs her from behind under the arms. Stated that he didn't think Bernie should do this. M.H. got up to go somewhere and was bending over to pull down her pants (said she wears tight pants and had to pull them down when she got up). This was when Bernie swatted her (hit her on the bottom).
>
> Danneker: Have you seen him do this with any other girl in the house?
>
> D.H.: No.
>
> Danneker: What was M.H.'s reaction?
>
> D.H.: Walked away. It appeared to be done in fun but....

In addition to the obvious inconsistencies in the two statements provided by D.H., the incorrect quotation provided by Mr. Danneker, and the phrase regarding sexual contact which had been provided by Mr. Danneker, there is the July 15, 1982 written statement of M.H. (female), which says in part:

When I have my but [sic] up in the air reaching for something and I have been hit for no reason twice with [a] stick once with [a] hand and last night before he hit me with his hand I caught him first a[nd] said don't hit me what's the reason. he [sic] said boy you are lucky I couldn't resist.

Read together, the three statements do not seem to accurately describe the same or similar incidents. In addition, M.H. (female) is reported to have had the following conversation with Robert Danneker on July 23, 1982:

Danneker: Have you ever wrestled with Bernie?

M.H.: He likes to tickle us and stuff like this.

Danneker: When he hugs you is it from behind or from the front?

M.H.: Front. It's mostly when I'm feeling down.

Danneker: Is he sexual towards you?

M.H.: No. He told us he'd never do anything like that. If he wanted to bad enough he has a wife.

When asked if the incident she described in her July 15, 1982 statement included any sexual connotation, M.H. (female) told me on December 30, 1982, "not even, Bernie's not that way." Marlyn Olson, told me on January 4, 1983, that when he took the first written statement from M.H. (female) that although there appeared to be physical contact between M.H. and Bernie Holland, it was probably not of a sexual nature. Finally, Robert Danneker told me on January 10, 1983, that, "There's no sexual connotation in there. I am just saying it's inappropriate behavior." Mr. Danneker also said this allegation did not concern any illegal activities.

From the information provided by D.H., M.H. (female), Marlyn Olson, and Robert Danneker, investigation of allegation 13 should have been terminated after preliminary inquiries by DFYS.

Presentation of the allegations to the Hollands:

The NOTIFICATION OF COMPLAINT was given to the Hollands on July 23, 1982, during a home visit by Robert Danneker, and Carolyn Tuovinen, a Community Care Licensing Supervisor. Both Bernie and Mary Holland have

stated to me that Mr. Danneker and Ms. Tuovinen were pushy and rude during the meeting. As an example of this, Mary Holland recalled that "they pushed themselves through the front door." Another example given by the Hollands, was that Mr. Danneker told Bernie Holland, "hey asshole, just answer the allegations." In addition, the Hollands stated that Mr. Danneker and Ms. Tuovinen threatened to remove the foster children if the Hollands refused to answer the allegations.

Both Mr. Danneker and Ms. Tuovinen denied; that they were pushy, that Mr. Danneker used the language described above, and that they threatened to remove the children if the allegations were not answered. However, Ms. Tuovinen did admit there may have been a discussion about removing foster children, but this was not a threat.

Before leaving the Holland home, Ms. Tuovinen and Mr. Danneker examined the sleeping quarters for the foster children. He told the Hollands that children could not sleep in the basement bedroom if it did not have had an adequate fire escape. As reported in DFYS notes, Ms. Tuovinen and Mr. Danneker also told the Hollands DFYS would be in touch. Ms. Tuovinen told me that DFYS hoped to be in touch the same day as the visit (July 23, 1982).

Later that night, at approximately 10:30 p.m. a call was placed by DFYS to the Hollands to tell them that DFYS would be in touch the next day (July 24, 1982) regarding the allegations, and to inquire if the foster children sleeping in the basement bedroom had been moved to an bedroom with an adequate fire escape. Bernie Holland believes this telephone call was a form of harassment, especially considering the time the call was placed.

The following morning (July 24, 1982), Mr. Danneker visited the Holland home to deliver a letter (detailing three of the thirteen allegations, and having the NOTIFICATION OF COMPLAINT and foster care administrative regulations attached) signed by Ms. Tuovinen and Mr. Danneker and dated July 23, 1982. Mr. Holland claims that Mr. Danneker told him, "I've got my ass covered, so I'm not sweating it." Danneker admitted to me on January 10, 1983, that during this visit of July 24, 1982, he did say that to Bernie Holland.

Refusal to respond to the allegations:

In a letter dated July 24, 1982, Mr. Holland advised Mr. Danneker that the foster children formerly in the basement bedroom, had been assigned to an upstairs bedroom. Mr. Holland refused to answer the allegations, and encouraged DFYS to investigate the allegations. Mr. Danneker responded to the above correspondence by stating in a letter dated July 27, 1982:

. . .

> By not responding you have interfered with the Division's authority to supervise and enforce standards allowed by Alaska Statutes 47.35.010, (1) (2) (3) in regard to facilities. Also, by not replying, the Division may be forced to make a

> determination of the allegations based soley [sic] on the information gathered by the Division without having your input. If this becomes necessary, it will be done.
>
> I am again requesting that a reply to the allegations be submitted. You and your wife, and/or your legal counsel, are requested to reply within ten (10) days of the date of this letter. I look forward to hearing from you.

A person violating any of the statutes or regulations regarding foster care "is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $200". AS 47.35.070. In light of the criminal penalty, the reluctance of the Hollands to further discuss the 13 allegations appears understandable. Although DFYS presented the 13 allegations as a licensing issue, any information gathered by DFYS through discussions with foster children and or the Hollands could nevertheless provide the basis for a criminal prosecution.

I briefly reviewed the legal basis for a person suspected of violating a licensing law, to refuse to answer questions during the investigation for fear of self-incrimination. A discussion of this issue is found in State of Alaska, Department of Revenue v. Oliver, 636 P.2d 1156(1981), and several other cases. This review leads me to believe there is no clear answer to the question of when a person may invoke the right against self-incrimination during an investigation, particularly when the investigation initially appears to be non-criminal in nature. As to DFYS saying that refusing to answer allegations is interference of an investigation -- such a belief does not appear to be well founded.

Investigation of allegations completed:

On August 17, 1982, Danneker completed his report on the investigation of the 13 allegations. Danneker found that allegations 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, and 13, are valid. He also found that allegation 3 was not substantiated by the evidence and allegation 10 was valid upon inspection, but had since been resolved.

The report included three problems noted during a standard-by-standard inspection of the Holland home during August, 1982. In closing his report Danneker states:

> EVALUATION AND RECOMMENDATION
>
> All of the above allegations are of a serious nature. Since they were found valid through investigation of the available information, they require immediate correction for the foster home to remain in operation. A serious matter is the Holland's refusal to respond to the allegations. Refusal to respond, either from the Hollands or their legal counsel, has not only interfered with the Division's

> authority to supervise and enforce standards for foster care allowed by statute, but also has demonstrated a lack of responsibility on the part of the Hollands and placed those children entrusted to their care at an unacceptable risk level.
>
> The Hollands have repeatedly violated the foster home regulations and have made no attempt to correct some of the violations, or if they have corrected them have failed to inform the Division. Foster parents who are seriously concerned about the welfare of children would normally be willing to cooperate with the Division to resolve any problems of [sic] misunderstandings that may arise. The Hollands have demonstrated a total lack of co-operation with the Division in dealing with the allegations.
>
> It is therefore recommended that the foster home license for Bernie and Mary Holland be revoked.

Though the report determined that "The Hollands have repeatedly violated the foster home regulations...", identification or explanation of these previous violations was not given in the report.

In a letter dated September 27, 1982, Lew Reece, Regional Administrator, DFYS, told the Hollands that the investigation of the 13 allegations had been completed, and, with the exception to allegation 10, the Hollands had failed to respond to the allegations. The letter notes allegations 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, and 13 are valid. Mr. Reece also said that allegation 3 was not supported by the evidence, and that allegation 10 although true at the time of inspection(July 23, 1982), is now not valid since the foster children have been moved. Mr. Reece closes the letter by telling the Hollands:

> Given the pattern of violations, and your refusal to respond or to formulate a corrective action plan, the Division is referring your case to the Department of Law for consideration of license modification, license suspension, or revocation. You will be informed of the Department of Law's recommendation to this Department.

Related incident:

Mr. Holland also alleges that the DFYS was harassing him by asking the Troopers to investigate an incident involving him and another foster parent. Mr. Holland believes he was the focus of this investigation, and that the investigation centered on Mr. Holland's alleged obstruction of an investigation conducted by DFYS. The relevant facts on this matter are that Mr. Reece, via a memorandum dated December 10, 1982 to 1st Sgt. John Murphy, requested the Troopers investigate how information (concerning another DFYS investigation) from Reece's office was transmitted to Bernie Holland. Mr. Reece was concerned that a state employee was illegally leaking confidential information.

On December 28, 1982, the Troopers concluded that, "...investigation indicated the information regarding the investigation was passed from #6, M.H. (female), to #4, Holland, who called C. and advised him he was being investigated."

M.H. (female) was the source of the information DFYS was investigating in the other matter. Therefore, one person not a state employee (M.H.) gave the information to another person who was not a state employee (Bernie Holland). Because of this, the final report indicates there was no "leak" from the offices of DFYS. Also, the focus of the investigation was not Holland, rather, it was to determine if there was a state employee leaking confidential information. This has been confirmed by 1st Sgt. Murphy.

FINDING:

As to the allegations that the Division of Family and Youth Services failed to conduct an investigation properly, and is harassing the Hollands, the following problems are noted:

1. The referenced regulations in allegation 4 (7 AAC 50.-430(b),(d)) do not appear to directly relate to the issue of providing day care services in a home licensed for foster care. Therefore this allegation lacks sufficient legal basis and should not have been investigated;

2. Allegation 6 indicates that 7 AAC 50.420 is the applicable regulation regarding destroyed, lost or broken personal possessions of foster children. However, the regulation only addresses the ability of the foster child to bring possessions into the home, not what happens to these possessions after arrival in the foster home. The allegation does not appear to have sufficient legal basis;

3. At best allegation 7 appears to restate the essence of allegation 1 and therefore is redundant, and the second regulation cited, 7 AAC 50.450(5) bears no known relationship to any portion of the allegation;

4. The Division used the word "boarders" in allegation 8, yet the cited regulation does not prevent boarders from living in a home that is licensed for foster care. Rather, the Division seems to be concerned that the Hollands failed to report "any significant changes in the household". The DFYS should have identified any impairment in the care of foster children resulting from additional adults at the Holland home. This allegation lacks sufficient specificity, and should not have been investigated;

5. Regulation 7 AAC 50.410(a), as cited in allegation 9 (that "adult boarders participate in the family meetings and trials and are allowed to vote on foster childrens [sic] punishment") is not directly related to the allegation. The regulation regarding discipline, 7 AAC

50.450, describes the applicable discipline standards, which should have been used to measure conduct against;

6. The Division used the word "boarder" in allegation 10, yet the regulation only talks about fire safety, and does not mention boarders. Therefore, one has to question the reason for using the word, and the allegation is poorly stated;

7. Based upon the information available to the Division as of July 23, 1982, investigation of allegation 13 should have been terminated after preliminary inquiries and the Hollands so notified in the letter given them on July 24, 1982;

8. Robert Danneker used vulgar language when transmitting a letter to Bernie Holland on July 24, 1982.

Of the above noted problems, numbers 1, 2, 3, 4, 5, and 7, appear to constitute harassment of the Hollands.

The secondary allegation, relating to the later investigation undertaken by the Alaska State Troopers initiated by Lew Reece is not supported.

J82-1136

Bernie Holland filed a complaint with this office on November 18, 1982, alleging that an official of the DFYS improperly ordered employees not to place children in the Holland home for foster care purposes. In a letter from Lew Reece, Regional Administrator, to Mr. Holland dated December 1, 1982, Reece said:

. . .

> On August 25, a certified letter of license non-compliance was sent to you and again you failed to contact us. On September 27, 1982, the investigation was concluded and a copy of the findings was sent to you and the Attorney General's office for further action.
>
> It was only after the investigation was concluded and you had been given approximately 2 months to respond to the Division that I instructed the Juneau District Office to suspend juvenile placements until the alleged licensing violations in your foster home had been resolved.
>
> I would be more than happy to meet with you at your convenience, with our licensing specialist, to assist you in developing a corrective action plan for your foster home. Without this meeting I cannot recind [sic] the instructions I have given the Juneau District Office not to place children in your foster home. [Emphasis added]

At the time of this letter, Holland held a valid foster care license which had not been suspended, modified, denied or revoked.

There is no known regulation which permits the state to "suspend juvenile placements" when "alleged licensing violations" in a foster home holding a valid foster license (which has not been suspended, modified, denied or revoked) have not been resolved to the satisfaction of the Division of Family and Youth Services. State law provides that a foster license may be revoked or modified "if it [the Division] determines that a facility is not in compliance with AS 47.35.010 - 47.35.080 or the regulations adopted under AS 47.35.010 - 47.35.080." AS 47.35.040(b).

On September 27, 1982, the Hollands were told in a letter from Mr. Reece that several of the allegations were found to be true, yet their license was not modified or revoked at that time. The agency determined the Hollands failed to meet several of the regulations found in 7 AAC 50.310 - 7 AAC 50.620, and because of this the Holland license should have been revoked at that time (see 7 AAC 50.390(a)).

> 7 AAC 50.390. DENIAL OR REVOCATION.
>
> (a) If the division finds that a foster home does not comply with the provisions of 7 AAC 50.310 - 7 AAC 50.620, or the specific terms of a license which has been issued, it shall deny or revoke the license. [Emphasis added]

In addition to 7 AAC 50.390(a), a statutory provision states the following:

> AS 47.35.040. LICENSING.
>
> (e) The department shall give written notice of revocation or modification under (b) of this section 30 days before the effective date of the action. However, if the health or well-being of children or dependent adults is in jeopardy, the revocation or modification action is effective immediately upon the issuance of written notice by the department.

This complaint presents the unusual situation in which the agency has determined the Hollands do not comply with the regulations for foster homes, then their foster home license should have been revoked (per 7 AAC 50.390(a)) and they should have been given 30 days notice of the effective date of the revocation of their license (per AS 47.35.040(e)). None of this was done. If the Holland's license had been revoked, the agency would not have been able to place children there (See AS 47.35.020).

On this subject, Mr. Reece in a letter to this office, dated January 10, 1983, notes the following regulation:

7 AAC 50.360. SCOPE OF LICENSING.

> The licensing of a foster home by the division does not create an obligation for the state or any child placement agency to support the foster home financially, nor obligate the state or any child placement agency to place or maintain any child in the home. The issuance of a license means only that the home, the family, the physical environment, and services have been evaluated and determined to meet required standards.

Mr. Reece said in the letter:

> Respondents, Bernie and Mary Holland, refused, on numerous ocassions [sic], to respond to the allegations against them, made it difficult, if not impossible, for the development of ongoing professional relationships between the Division and the licensed home, a prerequisite to determine compliance with State law.

FINDING:

Based upon the available evidence, the Division of Family and Youth Services acted without the benefit of clear legal authority when it suspended placement of foster children in the Holland home. For reasons discussed in the report of a later complaint, the agency apparently should have acted to revoke the Holland license, a procedure that would have prevented placement of foster children in the Holland home.

Still, the regulation cited above entails no obligation on the part of the Division to place foster children in an approved home. Placement is discretionary with division personnel. Though the division appears to have been in error in basing its decision on the events preceding Mr. Reece's September 27 letter, the decision to direct no further placements in the Holland home until licensing violations were corrected was one that the division could properly make.

J82-1188

A complaint was filed with this office on December 12, 1982, alleging that the Division of Family and Youth Services erred in either determining the Holland foster home was not safe, or in leaving foster children in their unsafe home. This complaint concerns the Hollands' foster home license.

Since the DFYS did not immediately revoke or modify the foster home license as provided by AS 47.35.040(e), when the health or well-being of the children is in jeopardy, division personnel apparently concluded that the violations found during its investigation were not serious. The notice to the Hollands that they were not in compliance was given on September 27, 1982. The Hollands had 14 days to correct the compliance problems (7 AAC 50.370(2)). If at the end of the period corrective

action had not been taken, any foster child would be removed from the foster home.

As of October 28, 1982, the Hollands had not corrected problems identified in the letter to them dated September 27, 1982. In the case at hand, K.S., a foster child, remained at the Holland home until October 28, 1982, which is approximately two weeks beyond the time allowed for either satisfactory corrective action(s), or removal from the home.

FINDING:

Based upon the available evidence, the Division of Family and Youth Services incorrectly left K.S. in the Holland foster home more than 14 days after the agency determined the home failed to meet the applicable standards.

J82-0728

Ombudsman Complaint J82-0728 was filed with this office on August 11, 1982. The complainant, Jan Still, alleged that DFYS wrongfully took a statement from his 14-year-old daughter concerning allegations involving the foster home where she was living. Mr. Still also alleged that his daughter was not able to have an attorney, nor her parents present, during the interview by the DFYS and that the agency refused to give a copy of the statement to him.

The child at the center of this complaint provided a statement during the later part of July, 1982, to the DFYS concerning the investigation of the Holland foster home license by the DFYS. At that time she was under the custody of the DFYS. The child admitted to this office the statement was given voluntarily to the DFYS, and that she was not coerced. She also said that at the time of the interview she did not request either her parents or an attorney be present. Since the subject of the interview was the foster home where she lived and not possible illegal activities on her part, there was no apparent reason for her to have an attorney or her parents present while being interviewed.

Based upon conversations with Linda Scoccia, Assistant Attorney General, Department of Law, and staff at the DFYS, it appears that the child was initially refused access to the written statement given to DFYS. Only after a subsequent consultation with Ms. Scoccia was the statement released. The child refused to give her parents access to the statement at the time she received it from DFYS. Ms. Scoccia also advised that the statement should not be released to Mr. Still because the statement is considered confidential in nature. When I asked Ms. Scoccia if the statement could be released at the time the parents regained full custody of the child, she said no.

The child in this complaint was considered a "child in need of aid" at the time of the request for the statement. The rights of the parents of a child in need of aid are stated under AS 47.10.084(c):

> When there has been a transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 09.65.100, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section.

From this statute, it seems the parents may not have had the legal right to examine statements provided by a child when the child is in state custody. I checked with Lt. Roger McCoy, Alaska State Troopers, and inquired as to their procedures in this type of case. Lt. McCoy told me that the Troopers will give a child a copy of a statement taken by the Troopers, as well as to the legal custodian of the child. Also, if the parents of a child do not have custody of the child, a copy of the statement will not be given the parents until they regain legal custody.

The anxiety of the father in not being able to examine the statement provided by his daughter is described in his letter to this office, dated October 4, 1982:

. . .

> On about August 10th (9-11) I questioned Mr. Danniker [sic] (social worker) who stated that he had obtained the statement from [Still's daughter] and that I could have a copy. I arrived at Mr. Dannikers [sic] office about 10 minutes after talking to him on the phone and was ushered into an office by Mr. Danniker [sic] and Mr. Reese [sic], his supervisor. Mr. Danniker [sic], who seemed excited, then informed me that he had signed statements from 6 children concerning mental, physical and sexual abuse and that he had told [Still's daughter] that she could move out of the Holland foster home anytime she wanted to. Mr. Danniker [sic] also mentioned an after hours meeting at H&SS with [Still's daughter]. He reported that she was visibly shaking as the result of questioning and pressure from Mr. Holland.

. . .

FINDING:

Based upon the available evidence, the Division of Family and Youth Services did not wrongfully take a statement from a child while investigating allegations of violations of foster home laws. The child in question did not request to have either an attorney or her parents present when giving the statement, and the investigation was not directed at any possible illegal activities of the child. The agency did refuse to give a copy of the statement to Jan Still, and apparently did so properly. (However, the agency could have handled the request in a more sensitive manner, and if the allegations were in fact serious, the child should have been removed from the foster home immediately, and or the license should have been revoked or modified. (See 7 AAC 50.370 and AS 47.35.040(e)). Also, based upon the procedures of the Troopers, the agency could have given a copy of the statement to Still when legal custody of the child was regained.)

RECOMMENDATIONS:

By way of immediate personal remedy to the complainants in J82-0689, I recommend:

Recommendation 1. The Division of Family and Youth Services should prepare and send a written apology to the Hollands concerning the harassment aspects to these complaints, and the foul language used by Mr. Danneker.

The following recommendations should be made to the Division of Family and Youth Services to prevent recurrence of the problems found during the investigation of these complaints:

Recommendation 2. The Division should state as clearly as possible any allegation regarding a foster home. The allegation should have sufficient basis to be stated, and be directly related to a standard established by statute and/or regulation.

Recommendation 3. The Division should refrain from demanding that a foster home secure a day care license unless and until it is clear that the law so requires.

Recommendation 4. The Division should notify the subject of an investigation, at the earliest opportunity, when investigation of an allegation has terminated because the allegation lacks sufficient legal basis or proof, or is shown to be false.

Recommendation 5. In its revision of its office manual, the Division should examine, with the Department of Law, the issue of self-incrimination by a licensee in the course of a licensing investigation, and prepare and include discussion of this issue in the policy and procedures manual.

Recommendation 6. The Division, with the assistance of the Department of Law, should revise the applicable portions of the policy manual and Alaska Administrative Code to guarantee to persons providing statements to the DFYS a copy of that statement upon request.

Recommendation 7. The Division, with the assistance of the Department of Law, ought to examine the legal basis for denying information retained in DFYS files to the parents and legal custodians of children receiving services from the DFYS. A definitive policy on this matter appears to be in order. The policy adopted ought to be included in the policy manual and Alaska Administrative Code.

Recommendation 8. Division personnel should strive to handle matters as identified in Ombudsman Complaint J82-0728 in a sensitive manner. The Division may wish to consider sending a letter of apology to Mr. Still.

Recommendation 9. The Division should review current policy regarding employee discipline and should; if warranted, consider appropriate disciplinary measures for the employee(s) involved with the harassment matters and the use of vulgar language by one employee.

BA:mm
Attachment

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

In the Matter of the Application for Licensure as a Residential Child Care Facility by B.G. HOLLAND, Respondent.	License No. 235005 (Denied)

RECOMMENDED DECISION

This proceeding involves the issue of whether the Department of Health and Social Services, Division of Family and Youth Services (DHSS) acted properly in denying respondent Bernie G. Holland's application for a license to operate a residential child care facility in Juneau. The proceeding was initiated by the filing of a statement of issues by DHSS on June 15, 1982. On June 25, 1982, respondent submitted his notice of defense, and on August 9, 1982, DHSS filed an amended statement of issues. The hearing briefs were filed and evidence was taken during a hearing held between October 4th and October 7, 1982. At the conclusion of the hearing, respondent presented an oral closing argument and DHSS, by its attorney, and with the approval of the hearing officer and respondent, submitted a written closing argument.

I. FACTS

While there is disagreement among the parties as to the inferences to be drawn from the facts, there appears to be little disagreement as to most of the primary facts. In September of 1981, Mr. Holland submitted an application for a license for a "foster family group home," to be known as "Holland House." Document 66. On November 19, 1981, respondent was notified by Alinio Lobo, licensing specialist at the Southeast Regional Office (SERO) in Juneau, that the office was looking forward to respondent's submission of an "improved final version of the proposal." Document 16.

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On January 12, 1982, respondent submitted to the SERO Office of DHSS at least two copies of a document entitled "Family Group Home Proposal." Document 403. That document was intended by respondent to be the expanded program description requested by SERO in the letter of November 19, 1981. For some inadequately explained reason, SERO had numerous problems handling the document. The testimony indicated that some of the recipients of the document at SERO thought it was merely a proposal for a program being considered by respondent that was unrelated to the September 30, 1981 application for a license. Consequently, at least one of the copies of the proposal was passed on to the Central Office for informational purposes only. At least one other copy of the proposal was retained in respondent's license application file at SERO. At some time between its submission on January 12, 1982 and June 8, 1982, the proposal disappeared from respondent's application file. Testimony indicated that this disappearance was merely an accident in that the document fell out of respondent's file and into the back of a drawer in a desk at SERO.

In April of 1982, Alinio Lobo, the licensing specialist responsible for reviewing respondent's license application, began a series of on-site visits to the proposed facility. These visits were in furtherance of the completion of a standard by standard evaluation of the proposed facility, the satisfactory completion of which was necessary prior to issuance of a license by DHSS.

On May 20, 1982, new regulations for residential child care facilities in Alaska became effective. This was prior to completion of the standard by standard evaluation by Mr. Lobo. On June 4, 1982, Ms. Kay Smith, supervisor of the Southeast Regional Office, reviewed the Facility Information Summary (CWS 80) presented to her by Mr. Lobo. Document 22. That CWS 80 recommended that respondent be issued a provisional license for the facility applied for, with the license to run from June 15, 1982 to December 15, 1982. On the same date that she reviewed it, Ms. Smith signed off on the document. According to the language next to her signature block, her signature confirmed that she had reviewed the study and that she concurred that "the facility meets specified requirements." According to the testimony

of Ms. Smith and Ms. Connie Hansen of the SERO Office, Ms. Smith left town that same day and instructed Ms. Hansen to sign the program evaluation and licensing recommendation for her as soon as the document was typed. On June 8, 1982, Ms. Hansen in fact did sign the typed version of the program evaluation and licensing recommendation. Document 41. In that document, Mr. Lobo recommended that the application submitted by respondent in September of 1981 be approved and a license issued. By the signature of the Acting Regional Manager, Ms. Hansen, SERO concurred with Mr. Lobo's recommended approval. However, Ms. Smith testified that she actually never read any of the back-up documents supporting the licensing recommendation. Further, Ms. Hansen testified that she also did not read any of the back-up documentation and merely signed the document recommending licensure because Ms. Smith had instructed her to do so.

According to the testimony of Mr. Pugh, the licensing for Holland House came to his attention on June 8, 1982 when Ms. Yvonne Walker informed him that she had received a monthly report from Ms. Smith which indicated, among other things, that SERO was in the process of finalizing license. According to Mr. Pugh, because he wished to be involved in the licensing of any new facilities, he met on the afternoon of June 8th with Yvonne Walker, Pat Monroe, Alinio Lobo and Connie Hansen to discuss licensing of Holland House. Also according to Mr. Pugh, the licensing file and proposal of Mr. Holland were brought to him prior to that meeting at his request. (There appears to be some confusion as to when Mr. Holland's file actually was brought to Central Office for Ms. Hansen testified the file was brought to Central Office on June 9th.) On that same day, at Mr. Pugh's request, Ms. Monroe and Ms. Walker searched for and located the license which was about to be issued for Holland House, and that license was thereafter held in abeyance pending a complete review of the licensing file by Central Office.

At the June 8th meeting it was discovered that the file did not contain a completed standard by standard evaluation. Mr. Pugh therefore asked Ms. Monroe to review the file and determine whether the facility complied with

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the new regulations for residential child care facilities which became effective on May 20, 1982. Ms. Monroe completed her review and reported back to Mr. Pugh on June 9th. Her conclusion, concurred in by Mr. Pugh, was that the proposed facility was not in compliance with the new regulations and that the license should not be issued until the facility was brought into compliance.

Mr. Holland was called into the Central Office for a meeting on the morning of June 10th, at which time Mr. Pugh and Ms. Monroe informed Mr. Holland that they could not issue a license for Holland House at that point because it was not in compliance with the new regulations. That same day Ms. Monroe informed him that she would be willing to work with him and assist in bringing his facility and application into compliance with the regulations. After a meeting with Ms. Monroe at which she began to explain what Mr. Holland would have to do before DHSS could issue Holland House a license, Mr. Holland indicated he would have to think about it. A few days later he called Ms. Monroe and requested that DHSS grant or deny his application. Central Office complied with that request and the license application for Holland House was denied. By letter of June 15, 1982, Mr. Holland was informed of the denial and presented with a statement of issues setting forth the reasons for the denial.

At some time after Alinio Lobo's return to Juneau on June 14, 1982, there appeared a completed standard by standard evaluation for the Holland House facility. Testimony as to when this document had been completed was contradictory. It was the testimony of Ms. Monroe and Mr. Pugh that the document was not in the file as of June 9, 1982 and that the only standard by standard evaluation in the file at that time was far from complete. They also testified that Mr. [illegible]d stated on June 8th that he was still working on the standard by standard evaluation. Mr. Lobo, however, testified that he had completed the standard by standard evaluation and placed it in the file on or before June 8, 1982.

In August of 1982, Mr. Holland and Mr. Botelho met with me to discuss procedures to be followed in bringing this case to a hearing. At that time

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Mr. Botelho indicated that it was the position of DHSS that no complete standard by standard evaluation assessing the facility's compliance with the new residential child care facility regulations had been done for the facility, and that that in itself was sufficient to justify denial of the license application. It having been my view that it made little sense to go through a long and costly hearing in this case only to reach the conclusion that the license could be denied because a standard by standard evaluation had not been done, I recommended to Mr. Holland that he allow DHSS to conduct a new standard by standard evaluation of his facility. Mr. Holland agreed. At Mr. Holland's request, Ms. Laurie Vaughn of the Fairbanks Regional Office of DHSS performed the standard by standard evaluation. Her conclusion was that the facility was not in compliance with the May 20, 1982 residential child care facility regulations and that the license should not be issued. Document 183.

At some time in August, the "proposal" submitted to SERO by Mr. Holland on January 12, 1982, which, inexplicably, had not found its way to Mr. Holland's licensing file, was brought to the attention of DHSS. According to the testimony of Ms. Hansen, she had seen the document sometime prior to May of 1982, but for some unknown reason, had not considered it part of Mr. Holland's application. She became aware sometime during the summer of 1982 that the document was not in Mr. Holland's licensing file, and she ultimately obtained a copy of it by driving out to Mr. Lobo's home. Evidently, the copy so obtained was an extra copy Mr. Lobo had for his personal use for he testified that there were two other copies which he had placed in Mr. Holland's licensing file. Mr. Lobo was certain that he had placed those two copies in the file, clipping one of them into the file and placing the other one loosely in the file. According to the testimony, a couple of days after obtaining the document from Mr. Lobo at his home, another copy was found in the back of a drawer in Ms. Hansen's desk at SERO. The explanation given by Ms. Smith for this occurrence was that Ms. Hansen has a very messy desk and that the document had plastic covers and must have slipped out of the file and into the back of Ms.

Hansen's desk drawer. According to Ms. Hansen, she had discussed this document with Ms. Smith sometime prior to May of 1982.

Upon discovery of the group home proposal of January 12, 1982, a copy of the document was sent to Ms. Vaughn for her assessment to determine whether the document changed the conclusion she had reached in her standard by standard evaluation. She then assessed the Holland House application in view of the new document. Her conclusion, however, remained that the Holland House did not satisfactorily meet the new residential child care facility regulations and that the license should be denied.

CONCLUSIONS OF LAW

Each of the parties argues that the other bears the burden of proof in this proceeding. Mr. Holland has cited no support for his assertion. The State has cited Fields v. Kodiak City Counsel, 628 P.2d 927 (Alaska 1981); Thornton v. Commissioner of Department of Labor and Industry, 621 P.2d 062 (Montana 1980), and Country Club Home, Inc. v. Harder, 620 P.2d 1140 (Kansas 1980). None of these cases is instructive on the point. In Fields, the court applied the standard rule that one seeking a variance to zoning requirements has the burden of proof, and the ordinance at issue specifically set forth what one seeking a variance was required to show to be successful. In Thornton and Country Club Home, Inc., the courts were reviewing a final order emanating from an administrative hearing, and in each case the court concluded that the order was presumed to be correct and the burden was on the one challenging the order. In the case at bar, we are not dealing with a final order of an agency following a hearing. Instead, we are trying to derive that order.

A case which Mr. Holland might have cited in support of his position is that of Alaska Alcoholic Beverage Control Board v. Malcolm, Inc., 391 P.2d 441 (Alaska 1964). There, the court concluded that since under the Administrative Procedure Act the party filing a statement of issues is the moving party and the party seeking the issuance or re-newal of a license is the respondent, the party filing the statement of issues bears the burden of

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proof on the issues raised therein.

In my view, none of the above authorities are very helpful. It is my conclusion that in this case, DHSS has the burden of presenting a prima facie case in support of the claims set forth in the statement of issues. Once it has done so, the burden of proof falls upon Mr. Holland to prove by a proponderance of the evidence that the requested license should be issued. See Mezines, Stein & Gruff, 4 Administrative Law, § 24.02 (1982). This approach seems to me to give proper recognition to both the fact that DHSS cannot arbitrarily refuse to issue a license on the one hand, while on the other hand, given the importance of DHSS' licensing function in protecting society, a presumption of some magnitude in favor of the State's licensing decision should apply.

The arguments of Mr. Holland in support of his case appeared to be as follows. First, because of an incident at his home and his subsequent complaint to the Ombudsman, as well as a number of rumors at the SERO Office concerning occurences at Mr. Holland's facility, DHSS intended to deny Mr. Holland's application regardless of whether his proposed facility complied with applicable regulations. In support of this part of his argument, Ms. Borkowski testified that Ms. Smith had stated, upon reviewing the January 12, 1982 proposal, that Mr. Holland would be licensed over her dead body. Furthermore, Ms. Borkowski testified that Ms. Smith had indicated that she was dissatisfied because of Mr. Holland's complaint to the Ombudsman and that he was essentially a troublemaker.

With the foregoing premise established, Mr. Holland proceeded to argue that someone in DHSS had removed the completed standard by standard evaluation performed by Mr. Lobo and the January 12, 1982 Group Home Proposal from his licensing file for the purpose of assuring that the application would be denied. In response to the fact that DHSS' denial of the license was maintained even after review of those two documents, Mr. Holland argued that the deficiencies which remained in his application were rather minor, DHSS had the authority to waive adherence to those provisions with which Mr. Holland had not complied, and DHSS had exercised that

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discretion in approving the applications of certain other facilities. In Mr. Holland's view, DHSS should have issued him a provisional license for his new facility allowing him a reasonable amount of time within which to bring his facility into compliance with those portions of the new residential child care facility regulations with which he had not yet complied.

The position of DHSS was that, notwithstanding all that occurred prior to August of 1982, once all of the proper documents were in Mr. Holland's file and a standard by standard evaluation was performed, his facility was found not to be in compliance with the new residential child care facility regulations, and therefore the denial of the license application was proper. While provisional licenses have been issued in the past, DHSS' position is that given recent amendments to AS 47.35.055, a provisional license is only appropriate for on-going facilities, not for new facilities, the difference being that denial of a license to an existing facility would cause great hardship for the residents of that facility because it would require closing the facility, while any delay in starting a new facility would not have such an affect. According to DHSS, a waiver of regulation requirements could only be given in certain cases, and then only if an applicant applied in writing for a waiver. In those cases in which field workers addressing other facilities exercised discretion and did not require that certain documents called for in the regulations be submitted with a facility's application, the field workers were not complying with the policies of DHSS. I find the argument of DHSS to be persuasive.

No person may operate a residential facility without first obtaining a license to do so from DHSS. AS 47.35.020; 7 AAC 50.003. To obtain a license for a new residential child care facility, an applicant must satisfy the requirements of 7 AAC 50.001 - 7 AAC 50.073. AS 47.35.040. A facility in operation at the time new regulations are passed may continue in operation despite not being in compliance with some of the new regulations if it submits an acceptable plan of correction for those items of the regulations with which it is not in compliance. A new facility may not begin operation until it has satisfied all of the applicable regulations. 7 AAC 50.05(a)(2).

DHSS is required to issue a provisional license to a new facility "if the facility submits to the Department an acceptable plan for operation that is in conformity with" applicable statutes and regulations. AS 47.35.055(a); 7 AAC 50.013. Under that statute and regulation, a new facility which does not meet all of the regulatory requirements is not entitled to a provisional license. While under 7 AAC 50.023 DHSS possesses the authority to waive certain of the regulatory requirements under certain conditions, an applicant desiring a waiver must make application therefor to DHSS in writing.

The facility for which Mr. Holland is seeking a license is a new facility, and he is therefore required to satisfy all of the regulations applicable to residential child care facilities. He is not entitled to a provisional license while he is bringing his facility into compliance with the regulations. He is also not entitled to a waiver of any of the regulations for he did not apply to DHSS in writing for any such waivers.

A number of witnessess testified that one reason for denying Mr. Holland's license application was that DHSS did not recognize a category of provider called a foster family group home. This reason for denial, however, was not included in the amended statement of issues in support of denial of the license. Furthermore, it appears that DHSS construed the application of Mr. Holland to be for a residential child care facility and evaluated the facility using residential child care facility regulations. For these reasons, this recommended decision will not address the question of whether the absence of a category of care provider specifically matching the title set forth in Mr. Holland's application would, in itself, justify denial of his application.

Turning to the reasons for denial set forth in the first amended statement of issues, DHSS has met its burden of making a prima facie showing that the inadequacies set forth therein did in fact exist. Mr. Holland put on no evidence to the contrary. He also failed to present evidence showing that a provisional license had been provided for any other new residential child care facility in Alaska which had failed to satisfy those regulations set forth in the first amended statement of issues. Furthermore,

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he failed to put on any evidence tending to show that any other new residential child care facility in Alaska had obtained a waiver of any regulatory requirements without submitting a written waiver request. Consequently, Mr. Holland failed to prove that the denial of his license was arbitrary or capricious, or that he was treated differently than other applicants in a similar situation.

While Mr. Holland may consider some or all of the deficiencies in his application identified by DHSS to be of minor significance, I do not intend to pass judgment on either the wisdom or importance of the regulations he failed to satisfy. DHSS is clearly authorized by law to set forth by regulation standards with which care providers in this state must comply and Mr. Holland has not challenged that authority. Mr. Holland having failed to satisfy those standards, I recommend that the denial of his application be upheld. DHSS, at least as of June 10, 1982, appeared willing to assist Mr. Holland in bringing his facility into compliance with the regulations. Mr. Holland chose not to follow this route, and instead demanded that DHSS take action on his license, notwithstanding that it certainly should have been clear to Mr. Holland that the only action DHSS could take at the time was to deny his license.

Though I recommend that the license denial be upheld, something must be said of DHSS' very poor handling of Mr. Holland's application. Were the results not so costly to the State in time and money, and to Mr. Holland both in time and emotional distress, one could refer to the handling of his application as a comedy of errors. The application was submitted by Mr. Holland in September of 1981 and yet no decision was made on the license until June of 1982. Furthermore, the amended version of his group home proposal which SERO had specifically requested in November of 1981, upon receipt by SERO, was not even recognized as being related to his application, notwithstanding the fact that the document bore the exact same title and appearance as did the plan attached to his original application. SERO then evidently lost the document. When SERO finally got around to considering Mr. Holland's application, the Regional Director recommended

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that it be approved, without even reviewing any of the documentation in support of the license. The Acting Regional Director then signed the approval recommendation, also without reviewing any back-up documentation. As it turns out, the kind of facility for which Mr. Holland was applying,and for which SERO recommended licensure, did not even exist in DHSS regulations.

Mr. Holland assigns sinister purposes to all of these events and interprets them in some manner to be a conspiracy against issuance of his license. I do not agree with that conclusion. While Mr. Holland argued that SERO was dead set against issuing him a license, it was in fact SERO which recommended issuance of the license. It appears that all of the events to which Mr. Holland pointed as evidence of a sinister conspiracy were evidence of nothing more than a very poor performance by the employees at SERO. Had the license application been properly handled, it is doubtful this matter would have ever gone to a hearing, and a care provider who has provided high quality services for the State in the past would not be so disillusioned with continuing to serve the State in the future. It would seem to be most beneficial for the State to make every reasonable effort to assist quality care providers in continuing to provide services on behalf of the State. Sadly, no such effort appears to have been made in this case until it was too late.

DATED this 3rd day of December, 1982.

Richard M. Burnham
Hearing Officer

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CHAPTER 75

INVESTIGATIONS BY LEGISLATIVE BODIES

Sec. 795. Right of a Legislative Body to Make Investigations

1. The right of a legislative body to make investigations in order to assist it in the preparation of wise and timely laws must exist as an indispensable incident and auxiliary to the proper exercise of legislative power. This has been recognized from the earliest times in the history of American legislation, both federal and state, and from even earlier epochs in the development of British jurisprudence.

2. The legislature has the power to investigate any subject regarding which it may desire information in connection with the proper discharge of its function to enact, amend or repeal statutes or to perform any other act delegated to it by the constitution.

Section 795—
Paragraph 1—
Marshall v. Gordon (1917), 243 U.S. 521, Ann. Cas. 1918B, 371 L. R. A. 1917F, 279, 61 L. Ed. 881, 37 Sup. Ct. Rep. 448; Burnham v. Morrissey (1859), 14 Gray (Mass.) 226, 74 Am. Dec. 676; Wilkens v. Willet (1878), 40 N. Y. (1 Keyes) 521, 4 Abb. Dec. 596; Briggs v. MacKellar (1855), 2 Abb. Pr. (N. Y.) 30; Robertson v. Peeples (1919), 120 N. C. 176, 118 S.E. 300; Anderson v. Dunn, 6 Whet. (U.S.) 204, 5 L. Ed. 242; Federal Trade Com. v. American Tobacco Co. (1924), 264 U. S. 298, 32 A. L. R. 786, 68 L. Ed. 696, 44 Sup. Ct. Rep. 336; Harriman v. Interstate Commerce Com. (1903), 211 U. S. 407, 53 L. Ed. 253, 29 Sup. Ct. Rep. 115; In re Chapman (1897), 166 U. S. 661, 41 L. Ed. 1154, 17 Sup. Ct. Rep. 677; Kilbourn v. Thompson (1880), 103 U. S. 168, 26 L. Ed. 377; In re Battelle (1929), 207 Cal. 227, 277 Pac. 725; Goldman v. Olson (Wis. 1968) 268 F. Supp. 35. Murphy v. Collins (1974), 20 Ill. App. 3d 181, 312 N. E. 2d 772.
Paragraph 2—
Ex parte McCarthy (1866), 29 Cal. 395; Greenfield v. Russel (1920), 292 Ill. 392, 129 N.E. 102; Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82; Briggs v. MacKellar (1855), 2 Abb. Pr. (N.Y.) 30; People v. Keeler (1885), 99 N.Y. 463, 2 N.E. 615; Simpson v. Hill (1927), 128 Okla. 269, 263 Pac. 635; Commonwealth v. Costello (1912), 21 Pa. Dist. 232; State v. Frear (1909), 138 Wis. 173, 119 N.W. 894.

3. The power and duty reposed in the legislature and in each and every member of both houses thereof is that of preparing and proceeding to enact wise and well-formed and needful laws, and in the preparation of such laws, the necessity of investigation of some sort must exist as an indispensable incident.

4. Legislatures in enacting laws, like courts in interpreting such laws when enacted, must have in mind the former law, if any, the wrong or defect requiring remedial action, and the nature and extent of the needed and appropriate remedy; and in the application of this principle, the power of these coordinate branches of government.

5. The inherent and auxiliary power reposed in legislative bodies to conduct investigations in aid of prospective legislation carries with it the power in proper cases to compel the attendance of witnesses and the production of books and papers by means of legal process, and to institute, and carry to the extent of punishment, contempt proceedings in order to compel the attendance of such witnesses and the production of such documentary evidence as may be legally called for in the course of such proceedings, whether conducted by the legislative body or a branch thereof, directly or through its properly constituted committees.

6. The legislature has power to investigate any subject where there is a legitimate use that the legislature can make of the information sought, and an ulterior purpose in the investigation or an improper use of the

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Section 795—Continued
Paragraph 3—
In re Battelle (1929), 207 Cal. 227, 277 Pac. 725; Briggs v. MacKellar (1855), 2 Abb. Pr. (N.Y.) 30.
Paragraph 4—
In re Battelle (1929), 207 Cal. 227, 277 Pac. 725.
Paragraph 5—
In re Battelle (1929), 207 Cal. 227, 277 Pac. 725; Petition of Special Assembly Interim Committee (1939), 13 Cal. 2d 497, 90 Pac. 2d 304.

information cannot be imputed.

7. The legislature or a committee cannot be enjoined from investigating a matter which is under litigation in the courts.

8. The ascertainment of pertinent facts as a basis for legislation is within the power of a legislative body.

9. A legislature in conducting whatever inquisitions the proper exercise of its proper functions require, must be as broad as the subject to which the inquiry properly entered upon has relation.

10. An investigation into the management of the various institutions of the state and the departments of the state government is at all times a legitimate function of the legislature.

11. The right to investigate any lawful matter is a right separate and distinct in each house and may be exercised through a committee.

12. A local legislative body has the power to make investigations having a relation to the performance of its functions the same as a state legislature. The investigation can be conducted by the body itself or through a committee.

Section 795—Continued

Paragraph 6—
Robertson v. Peeples (1919), 120 S. C. 176, 115 S.E. 300.
Paragraph 7—
Robertson v. Peeples (1919), 120 S. C. 176, 115 S.E. 300.
Paragraph 8—
Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82.
Paragraph 9—
In re Battelle (1929), 207 Cal. 227, 277 Pac. 725.
Paragraph 10—
Dickinson v. Johnson (1915), 117 Ark. 582, 176 S.W. 116.
Paragraph 11—
Ex parte Hague (1929), 105 N. J. Eq. 134, 147 Atl. 220; Simpson v. Hill (1927), 128 Okla. 269, 263 Pac. 635; Robertson v. Peeples (1919), 120 N. C. 176, 115 S.E. 300.
Paragraph 12—
State v. Milwaukee (1914), 157 Wis. 505, 147 N.W. 50; Hendricks v. Carter (1918), 21 Ga. App. 527, 94 S.E. 807.

13. Authority to obtain information for its determination concerning the exercise of power to make laws may be conferred on nonlegislative bodies.

14. In the exercise of its power to make investigations, a legislature may incur reasonable necessary expenses payable out of the public funds.

15. The legislature and each house thereof has the inherent and implied power to appoint investigation committees and conduct investigations to obtain information concerning proposed or future legislation and to report back its findings to the body that appointed it.

Sec. 796. Investigations Respecting Members

See also Sec. 564, Investigation of Charges Against Members.

1. The legislature or either house has power to investigate and institute an inquiry into the truth of an alleged bribery of any of its members or the members of a previous legislature connected with its legislative functions, and, in the exercise of such power, it must necessarily have the same power to compel the attendance of witnesses before it or before a committee and compel them to testify as in any other investigation.

2. A legislative body has the right in an election contest concerning one of its members to conduct an investigation, before the body or one of its committees and

Section 795—Continued
Paragraph 13—
Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82.
Paragraph 14—
State v. Frear (1909), 138 Wis. 173, 119 N.W. 894; Goldman v. Olson (1968), 268 F. Supp. 35.
Paragraph 15—
Petition of Special Assembly Interim Committee (1939), 13 Cal 2d 497, 90 Pac. 2d 304; Massett Bldg. Co. v. Bennett (1950), 4 N. J. 53, 71 Atl. 2d 327.
Section 796—
Paragraph 1—
In re Falvey (1856), 7 Wis. 528; Briggs v. MacKellar (1855), 2 Abb. Pr. (N.Y.) 30.

to compel the attendance of witnesses and take testimony.

3. Knowledge or information acquired by a witness, though at the instance of and in connection with and under the direction of a prosecuting attorney to use in the trial of indictment against members of the legislature for bribery, is not privileged and furnishes a witness lawfully summoned no legal ground for refusing to respond to legitimate questions by a legislative committee appointed to investigate the matter.

4. When a house is investigating the conduct of its members upon a public charge that some of them whose names are not given have taken bribes and have called as witnesses the editor and reporter of the paper which published the charge, it is a contempt of the authority of the house for the witnesses to refuse to give the names of those from whom they have received information concerning the charge of bribery and of the nature of that information.

5. When a committee is charged with an inquiry, if a member prove to be involved, the committee cannot proceed against him, but must make a special report to the house; whereupon the member is heard in his place, or at the bar, or a special authority is given to the committee to inquire concerning him.

Sec. 797. Limitations on Right of a Legislative Body to Investigate

1. It is a general rule that the legislature has no power through itself or any committee or any agency to make

Section 796—Continued
Paragraph 2—
In re Gunn (1893), 50 Kan. 155, 32 Pac. 470.
Paragraph 3—
Sullivan v. Hill (1913), 73 W. Va. 49, 79 S.E. 670
Paragraph 4—
Ex parte Lawrence (1897), 116 Cal. 298, 48 Pac. 124
Paragraph 5—
Jefferson, Sec. XI.

inquiry into the private affairs of a citizen except to accomplish some authorized end.

2. The legislature has no right to conduct an investigation for the purpose of laying a foundation for the institution of criminal proceedings, for the aid and benefit of grand juries in planning indictments, or for the purpose of intentionally injuring such persons or for any ulterior purpose.

3. A state legislature in conducting any investigation must observe the constitutional provisions relating to the enjoyment of life, liberty and property.

4. An investigation instituted for political purposes and not connected with intended legislation or with any of the matters upon which a house should act, is not a proper legislative proceeding and is beyond the authority of the house, or legislature.

5. When a committee is appointed by resolution to make an investigation and the object of the investigation, as shown by the resolution, is not a proper legislative object but is to establish an extraordinary tribunal for the trial of judicial and other officers, the duties imposed on the commission being strictly judicial and not ancillary to legislation, the committee has no legal status.

Section 797—Continued
Paragraph 1—
Greenfield v. Russel (1920), 292 Ill. 392, 127 N.E. 102; Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82; Ex parte Hague (1929), 105 N.J. Eq. 134, 147 Atl. 220; In re Barnes (1912), 204 N. Y. 108, 97 N.E. 508.
Paragraph 2—
Kilbourn v. Thompson (1880), 103 U. S. 168, 26 L. Ed. 377; Greenfield v. Russel (1920), 292 Ill. 392, 127 N.E. 102; Ex parte Hague (1929), 105 N. J. Eq. 134, 147 Atl. 220; Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82.
Paragraph 3—
Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82
Paragraph 4—
Keeler v. McDonald (1885), 99 N. Y. 463, 2 N.E. 615.
Paragraph 5—
Commonwealth v. Costello (1912), 21 Pa. Dist. 232.

6. A governmental "fishing expedition" into the papers of a private corporation on the possibility that they may disclose evidence of crime is contrary to the first principles of justice and an intention to grant the power must be expressed in most explicit language.

7. The investigatory power of a legislative body is limited to obtaining information of matters which fall within its proper field of legislative action.

Sec. 798. Method of Investigation by a Legislative Body

1. The legislative arm of government is not to be restricted in the exercise of the power of inquiry by the fact that methods and processes, judicial or quasi-judicial in character, are employed in the course of the inquiry; and it is immaterial whether the power of inquiry is to be exercised by a state or a federal legislative body, or whether in the exercise of that power the legislative arm of the government is acting under or by virtue of granted or reserved authority, or what the particular constitutional limitations may be which separate legislative from judicial functions of government and which forbid the trespass of the one on the domain of the other.

2. Legislative bodies, by the mere employment of methods of procedure which resemble those employed or required in judicial proceedings, are not to be held to be engaged in the exercise of a judicial function and

Section 797—Continued
Paragraph 6—
Federal Trade Commission v. American Tobacco Company (1924), 264 U. S. 298.
Paragraph 7—
U. S. v. Owlett (1936), 15 F. Supp. 736.
Section 798—
Paragraph 1—
In re Battelle (1929), 207 Cal. 227, 277 Pac. 725; Briggs v. MacKellar (1855), 2 Abb. Pr. (N. Y.) 30; Kilbourn v. Thompson (1880), 103 U. S. 168, 26 L. Ed. 377.

to be thereby trenching upon the area exclusively assigned to the judicial department of the state government.

3. By uniform custom, more or less rigidly adhered to, every official inquisition has from the earliest times made use of procedural methods which resemble those obtaining in judicial tribunals. This is because, in the nature of things, as exemplified by human experience, such methods have been found to furnish the surest means of arriving at the truth of the particular matter involved in the inquiry. It does not follow, however, that legislative bodies or administrative agencies or municipal organizations or executive officials, by the mere employment of methods of procedure which resemble those employed or required in judicial tribunals, must be held to be engaged in the exercise of a judicial function.

4. Where the legislature has constitutional power to institute an investigation the manner of conducting such investigation rests on the sound discretion of the legislature.

5. Hearings of a board of trustees of a village are not circumscribed by the evidentiary rules against hearsay.

Sec. 799. Legislative Investigating Committees

See also Sec. 564, Investigation of Charges Against Members

1. In American legislatures, the investigation of public matters before committees, preliminary to legislation or with the view of advising the house which

Section 798—Continued
Paragraph 2—
In re Battelle (1929), 207 Cal. 227, 277 Pac. 725.
Paragraph 3—
In re Battelle (1929), 207 Cal. 227, 277 Pac. 725.
Paragraph 4—
In re Falvey (1856), 7 Wis. 328.
Paragraph 5—
Dubato v. Board of Trustees of Incorporated Village of Bayville (1957), 166 N. Y. S. 2d 971.

appointed the committee, is a parliamentary usage as well established as it is in England, and the right of either house to compel witnesses to appear and testify before its committees and to punish for disobedience has been frequently enforced.

2. The legislature may proceed to make any investigations within its authority, by authorized committees of one or both houses. The houses can act jointly in appointing a committee or either house can act alone.

3. It is a common procedure for committees of local legislative bodies to be appointed to make investigations, take evidence, and report to the body concerning pending and contemplated legislation, and for other purposes relating to the functions of the body.

4. The legislative power of a state being vested in the two houses of the legislature, such bodies may create committees or even commissions by concurrent resolutions as well as by act and may confer upon them such power as they are not prohibited by express provision of the constitution from conferring.

5. Powers delegated by the legislature or either house to a committee by a simple resolution cease with the adjournment sine die of the legislature. But a legislature may invest its committees with power to function after the adjournment of the session; and where each house can act separately, the joint act of both houses is not required to set up a committee which can continue to function after adjournment.

Section 799—Continued
Paragraph 1—
Briggs v. MacKellar (1855), 2 Abb. Pr. (N. Y.) 30.
Paragraph 2—
Ex parte Bunkers (1905), 1 Cal. App. 61, 81 Pac. 748; Dickinson v. Johnson (1915), 117 Ark., 582, 176 S.W. 116; Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82; People v. Keeler (1885), 99 N. Y. 463, 2 N.E. 615; Ex parte Dalton (1886), 44 Ohio St. 142, 5 N.E. 136; Robertson v. Peeples (1919), 120 S. C. 176, 115 S.E. 300; Terrell v. King (1929), 118 Tex. 237, 14 S.W. 2d 786; State v. Frear (1909), 138 Wis. 173, 119 N.W. 89.
Paragraph 3—
State v. Milwaukee (1914), 157 Wis. 505, 147 N.W. 50. Hendricks v. Carter (1918), 21 Ga. App. 527, 94 S.E. 807.
Paragraph 4—
People v. Bucker (1920), 185 N. Y. Supp. 459; Terrell v. King (1929), 118 Tex. 237, 14 S.W. 2d, 786; People v. Milliken (1906), 185 N. Y. 35, 77 N.E. 872.

6. A legislative investigating committee may not delegate its powers of investigation to one of its members without authority granted in the resolution appointing the committee.

7. Testimony before a committee should be taken down for the information of the house.

8. A legislator's service on an interim committee appointed pursuant to a statute duly passed for the purpose of investigating and reporting to the next legislature, would not be violative of a constitutional prohibition against occupation by legislators of any other office, trust or employment.

Sec. 800. Witnesses in Legislative Investigations

See also Sec. 797, Limitations on Right of a Legislative Body to Investigate.

1. By the common parliamentary law, a legislative body may compel the attendance of all persons as witnesses in regard to any subject on which it has power to act, and into which it has instituted an investigation.

Section 799—Continued
Paragraph 5—
Fergus v. Russel (1915), 270 Ill. 304, 110 N.E. 130, People ex rel. Hastings v. Hofstadter (1932), 358 N. Y. 425, 180 N.E. 106; In re Impeachment (1913), 22 Pa. Dist. 833; see also Ex parte Caldwell (1906), 61 W. Va. 49, 55 S.E. 910, 10 L. R. A. (N. S.) 172.
Paragraph 6—
In re Leach (1922), 232 N. Y. 600, 19 N. Y. Supp. 135, 134 N.E. 588.
Paragraph 7—
Jefferson, Sec. XIII.
Paragraph 8—
Petition of Special Assembly Interim Committee etc., (1939), 13 Cal. 2d 497, 90 Pac. 2d 304.
Section 800—
Paragraph 1—
Ex parte D. O. McCarthy (1866), 29 Cal. 395; Ex parte Bunkers (1905), 1 Cal. App. 61, 81 Pac. 748; Hendricks v. Carter (1918), 21 Ga. App. 527.

2. The power of a state legislative body to compel witnesses to testify in aid of investigations is an attribute of the power to legislate and follows as an essential implication.

3. When witnesses are brought before either branch of the legislature, they may be compelled to testify by process of contempt, when without legal cause they refuse to do so.

4. Witnesses before a legislative body or its committee need not be sworn, unless there is some provision of law or of the constitution authorizing it, but give their testimony under the penalty of being adjudged guilty of contempt, and punished, if they testify falsely.

5. When any person is examined before a committee, or at the bar of the house, any member wishing to ask the person a question must address it to the presiding officer, who puts the question to the person. If the propriety of the question be objected to, the presiding officer should direct the witness, counsel, and parties to withdraw, for no question can be moved or put or debated while they are there. Sometimes the questions are previously settled in writing before the witness enters.

Section 800—Continued
94 S.E. 807; In re Gunn (1893), 50 Kan. 155, 32 Pac. 470; Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82; State v. Brewster (1916), 89 N. J. L. 658, 99 Atl. 338; Briggs v. MacKellar (1855), 2 Abb. Pr. (N. Y.) 30; Ex parte Dalton (1886), 44 Ohio St. 142, 5 N.E. 136; Sullivan v. Hill (1913), 73 W. Va. 49, 79 S.E. 670.
Paragraph 2—
Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82.
Paragraph 3—
Ex parte D. O. McCarthy (1866), 29 Cal. 395; Attorney General v. Brissenden (1930), 271 Mass. 172, 171 N.E. 82; Briggs v. MacKellar (1855), 2 Abb. Pr. (N.Y.) 30; In re Gunn (1893), 50 Kan. 155, 32 Pac. 470; Ex parte Dalton (1886), 44 Ohio St. 142, 5 N.E. 136; Sullivan v. Hill (1913), 73 W. Va. 49, 79 S.E. 670.
Paragraph 4—
Ex parte D. O. McCarthy (1866), 29 Cal. 395.
Paragraph 5—
Jefferson, Sec. XIII.

6. A member, in his place, may give information to the house of what he knows of any matter under hearing at the bar.

7. Either house may request, but not command, the attendance of a member of the other. In case a member refuses to attend or testify, the house desiring his testimony may make the request by message to the other house, expressing clearly the purpose of the attendance.

8. If either house have occasion for the presence of a person in custody of the other, they may ask the other house for the custody of the person.

Sec. 801. Compelling Witnesses to Attend and Testify. Power to Punish for Contempt

1. Each house of the legislature may punish breaches of its authority when they are committed in its presence, and may equally punish a witness for contempt of the house for his refusal to appear or testify before a properly empowered committee or to produce books and papers.

2. The power of a house of a state legislature to punish a person for contempt can only be exercised in strict conformity with the rules of procedure which the laws

Section 800—Continued
Paragraph 6—
Jefferson, Sec. XIII.
Paragraph 7—
Jefferson, Sec. XIII.
Paragraph 8—
Jefferson, Sec. XIII.
Section 801—
Paragraph 1—
Ex parte McCarthy (1866), 29 Cal. 395; In re Gunn (1893), 50 Kan. 155, 32 Pac. 470; Burnham v. Morrissey (1859), 14 Gray (Mass.) 226; Lowe v. Summers (1897), 69 Mo. App. 637; In re Barnes (1912), 204 N. Y. 108, 97 N.E. 508; Keeler v. McDonald (1895), 99 N. Y. 463, 2 N.E. 615; Ex parte Dalton (1886), 44 Ohio St. 142, 5 N.E. 136; In re Impeachment (1913), 22 Pa. Dist. 833; In re Falvey (1856), 7 Wis. 528; In re Battelle (1929), 207 Cal. 227, 277 Pac. 725.

of the state provide as a prerequisite to the validity of an adjudication of contempt.

3. A statute empowering either house to imprison a contumacious witness is not in excess of legislative power. Where a witness refuses to answer proper questions propounded by an investigating committee, it has been held to be criminal contempt.

4. Witnesses cannot be punished for contempt before a legislature unless the matters inquired into are within the jurisdiction of the legislature. A witness before a court or any other inquisitorial body who is otherwise orderly and respectful cannot be adjudged guilty of contempt committed in the presence of such tribunal for his failure or refusal to answer any question or to produce any record, book or paper, unless the order so adjudging him guilty of contempt contains an express recital of the facts affirmatively showing not only the precise question which he has declined to answer, or the precisely specified books or papers which he has refused to produce, but also affirmatively setting forth the facts which show the materiality and pertinency of each of these forms of evidence to the issue before the court or tribunal.

5. In order to authorize a conviction under a statute making it a misdemeanor for a witness in an investigation before a legislative committee to refuse to produce documents in his possession, it must appear that the documents demanded are material to the inquiry.

Section 801—Continued
Paragraph 2—
In re Battelle (1929), 207 Cal. 227, 277 Pac. 725.
Paragraph 3—
People v. Keeler (1885), 99 N. Y. 463, 2 N.E. 615; Ex parte Wolters (1912), 64 Tex. Cr. 238, 144 S.W. 531.
Paragraph 4—
Ex parte Hague (1930), 105 N. J. Eq. 134, 150 Atl. 322; In re Battelle (1929), 207 Cal. 227, 277 Pac. 725.
Paragraph 5—
People v. Foster (1923), 236 N. Y. 610, 142 N.E. 304; In re Battelle (1929), 207 Cal. 227, 277 Pac. 725; Federal Trade Commission v. American Tobacco Co. (1924), 264 U. S. 298.

6. The right to compel a witness to produce books and papers before a legislative committee is determined by whether their production is necessary to the inquiry which it is conducting, and the production of papers material to an inquiry cannot be refused merely because they are private.

7. An examination of the history of the English Parliament and the decisions of the English courts show that the power of the House of Commons, under the law and customs of Parliament, to punish for contempt rests upon principles peculiar to it and not upon any general rule applicable to all legislative bodies.

8. No expressed power to punish for contempt was granted to the houses of Congress except the power to deal with contempt submitted by its own members (Const. Art. I, Sec. 5). The houses have implied power to deal directly with contempt so far as necessary to preserve and exercise legislative authority especially granted, it being, however, a power of self preservation. It is a power to prevent acts which inherently prevent or obstruct the discharge of legislative duty.

9. The powers of a local legislative body to punish for contempt must be expressed clearly by constitution or statute. Such powers cannot be implied or inferred.

10. A legislative house may refuse to a party, summoned before it as a witness, the aid of counsel when

Section 801—Continued
Paragraph 6—
In re Barnes (1912), 204 N. Y. 108, 97 N.E. 508; Burnham v. Morrissey (1859), 14 Gray (Mass.) 226; People v. Foster (1923), 236 N. Y. 610, 142 N.E. 304
Paragraph 7—
Kilbourn v. Thompson (1880), 103 U. S. 168; 26 L. Ed. 377; Lowe v. Summers (1897), 69 Mo. App. 637; Marshall v. Gordon (1917), 243 U. S. 521.
Paragraph 8—
Marshall v. Gordon (1917), 243 U. S. 521.
Paragraph 9—
State v. Fitzgerald (1915), 131 Minn. 116, 154 N.W. 750.

charged with contempt in not answering questions.

Sec. 802. Summons, Subpoenas and Warrants

1. A legislative body or a committee, when acting within the scope of its authority to conduct an investigation, may summon and examine witnesses, require the production of and examine books, records and papers.

2. The law may make it a penal offense for a person to fail to appear before a legislative committee on process, regular on its face, issued by the chairman of the committee under general authority conferred upon him by the committee, either expressly or by parliamentary usage, either with or without specific authority in the particular case.

3. Where a committee is authorized to subpoena witnesses, the chairman of the committee in conjunction with its counsel may select the names and number of witnesses for attendance at each session, and the chairman may sign the summons for each witness. Subpoenas should not be issued in blank.

4. A summons by the committee ordering a witness to appear before a joint committee of the two houses, may be signed by the chairman of the committee.

5. A subpoena for attendance of a witness is not vitiated as to the necessity of the attendance of a witness

Section 801—Continued
Paragraph 10—
Ex parte D. O. McCarthy (1866), 29 Cal. 395.
Section 802—
Paragraph 1—
Ex parte Bunkers (1905), 1 Cal. App. 61, 81 Pac. 748; Ex parte Dalton (1886), 44 Ohio St. 142, 5 N.E. 136.
Paragraph 2—
State v. Brewster (1916), 89 N. J. L. 653, 99 Atl. 338; People v. Foster (1923), 236 N. Y. 610, 142 N.E. 304; Sullivan v. Hill (1913), 73 W. Va. 49, 79 S.E. 670; In re Chapman (1897), 166 U. S. 661, 41 L. Ed. 1154.
Paragraph 3—
State v. Scott (1916), 89 N. J. Eq. 726, 99 Atl. 342; Jefferson, Sec. XIII.
Paragraph 4—
Sullivan v. Hill (1913), 73 W. Va. 49, 79 S.E. 670.

by the inclusion of illegal requirements for the production of documents.

6. When a subpoena duces tecum has been issued under statutory authority showing that the purpose of the examination was within the scope of the inquiry authorized, the court cannot cancel the subpoena nor enjoin the issuance of any further subpoena.

7. When a witness lawfully summoned refuses to appear, a warrant may be issued to compel his attendance.

8. No affidavit charging contempt need be filed before a house to authorize it to issue its warrant to arrest a contumacious person who refuses to testify before one of its committees. The written report of the committee is sufficient authority for the issuance of the warrant.

9. When a prisoner of the State of New York was taken by the sergeant-at-arms of the House of Representatives under a warrant issued by said house, it is not an escape and the state officer was not liable for his release.

10. A person disobeying a subpoena of a legislative committee may be apprehended and brought before the committee by a sheriff under a warrant issued to him, and either prosecuted for a misdemeanor under a statute for failure to obey the subpoena or punished for contempt by the legislature, but he cannot be punished

Section 802—Continued
Paragraph 5—
Ex parte Hague (1929), 104 N. J. Eq. 31, 145 Atl. 618.
Paragraph 6—
In re Martens (1919), 180 N. Y. Supp. 171.
Paragraph 7—
Ex parte Hague (1929), 105 N. J. Eq. 134, 147 Atl. 220; Wilckens v. Willet (1878), 40 N. Y. (1 Keyes) 521, 4 Abb. Dec. 596; Ex parte Caldwell (1906), 61 W. Va. 49, 55 S.E. 910.
Paragraph 8—
Lowe v. Summers (1897), 69 Mo. App. 637.
Paragraph 9—
Wilckens v. Willet (1878), 40 N. Y. (1 Keyes) 521, 4 Abb. Dec. 596.

by the judiciary for contempt.

11. A writ of prohibition cannot be used to prevent an administrative or legislative body from proceeding with an investigation.

12. Service of a subpoena or the execution of a warrant requiring attendance before a legislative committee is not "an arrest" within statute exempting members of the legislature from arrest.

13. Warrants, subpoenas, etc., issued during recess of Congress are signed only by authority specially given. The speaker also certifies cases of contumacious witnesses for action by the court.

14. Witnesses summoned to appear before a city council are entitled to definite notice of the time and place of the meeting.

Sec. 803. Right of Investigating Committees to Sit Between Sessions.

See also Section 622, Committees Functioning During Recess or After Adjournment.

1. A legislative committee may be created by statute, authorized to sit during the interim between sessions for any proper purpose, empowered to take testimony, compel attendance of witnesses and punish for contempt and report its findings to the next session.

2. A committee for the purpose of obtaining information concerning proposed legislation and reporting back its findings, with the power to sit during a session or during a constitutional recess between parts of the session may be authorized by a single house resolution or by concurrent resolution.

3. Unless authorized by the constitution, neither house of the legislature can lawfully appoint by single house resolution a committee with power to sit after adjournment sine die.

4. A fact-finding committee which was appointed by a single house resolution during a regular session of the legislature, has no legal authority to sit after the adjournment of the legislature sine die.

5. A legislature cannot by concurrent resolution lawfully create a committee with power to sit after adjournment.

6. The fact that interim committees had been appointed by single house resolutions and had theretofor carried on without objection, was not determinative of whether the legislature by single house resolution might lawfully create an investigating fact-finding committee with power to function after adjournment sine die.

Section 802—Continued

Paragraph 10—
People ex rel. Hastings v. Hofstadter (1932), 258 N. Y. 425, 180 N.E. 106.
Paragraph 11—
People v. Milliken (1906), 185 N. Y. 35, 77 N.E. 872.
Paragraph 12—
People v. Hofstadter (1932), 258 N. Y. 425, 180 N.E. 106.
Paragraph 13—
U. S. House Rule 1, 80th Congress, note 626.
Paragraph 14—
Hendricks v. Carter (1918), 21 Ga. App. 527, 94 S.E. 807.

Section 803—
Paragraph 1—
State v. Yelle (1947), 29 Wash. 2d 68, 185 Pac. 2d 723.

Section 803—Continued

Paragraph 2—
Petition of Special Assembly Interim Committee, etc. (1939), 13 Cal. 2d 497, 90 Pac. 2d 304.
Paragraph 3—
Petition of Special Assembly Interim Committee, etc. (1939), 13 Cal. 2d 497, 90 Pac. 2d 304.
Paragraph 4—
Petition of Special Assembly Interim Committee, etc. (1939), 13 Cal. 2d 497, 90 Pac. 2d 304.
Paragraph 5—
Petition of Special Assembly Interim Committee, etc. (1939), 13 Cal. 2d 497, 90 Pac. 2d 304.
Paragraph 6—
Petition of Special Assembly Interim Committee, etc. (1939), 13 Cal. 2d 497, 90 Pac. 2d 304.

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AS24.25.010 DOCUMENT= 1 OF 8
CITATION Sec. 24.25.010.
CATCH LINE
ISSUANCE AND FORM OF SUBPOENA.
TEXT (a) A subpoena requiring the attendance of a witness before either house of the legislature may be issued by the president or the speaker.

(b) A subpoena requiring the attendance of a witness before a standing or special committee of the legislature may be issued by the chairman of a committee when authorized to do so by a majority of the membership of the committee and with the concurrence of the president or the speaker, or with the concurrence of the house or the senate.

(c) A subpoena requiring the attendance of a witness before an interim committee established by either house of the legislature, or by both, may be issued by the chairman of a committee when authorized to do so by a majority of the membership of the committee and with the concurrence of the president or the speaker.

(d) The subpoena is sufficient if

(1) it states before whom the proceeding is held;

(2) it is addressed to the witness;

(3) it requires the attendance of the witness at a time and place certain;

(4) it is signed

(A) by the president or the speaker under (a) of this section, or

(B) by the committee chairman with the concurrence of the president or the speaker under (b) and (c) of this section.

(e) This section does not apply to the Legislative Council nor to the Legislative Budget and Audit Committee.

AS24.25.020 DOCUMENT= 2 OF 8
CITATION Sec. 24.25.020.
CATCH LINE
SERVICE OF SUBPOENA.
TEXT A person over the age of 19 years who is competent as a witness in the state courts may serve the subpoena. His affidavit that he delivered a copy to the witness is evidence of service.

AS24.25.030 DOCUMENT= 3 OF 8
CITATION Sec. 24.25.030.
CATCH LINE
DISOBEYING SUBPOENA OR REFUSING TO TESTIFY.
TEXT If a witness neglects or refuses to obey a subpoena, or neglects or refuses to testify or to produce upon reasonable notice any material and proper books, papers or documents in his possession or under his control, the senate or house of representatives may by resolution entered on its journal commit him for contempt. If contempt is committed before a committee, the committee shall report the contempt to the senate or house of representatives, as the case may be, for such action as may be considered necessary.

AS24.25.040 DOCUMENT= 4 OF 8
CITATION Sec. 24.25.040.

CATCH LINE
ARREST FOR DISOBEDIENCE TO SUBPOENA.
TEXT A witness who neglects or refuses to attend in obedience to subpoena may be arrested by the sergeant-at-arms and brought before the senate or house of representatives, as the case may be. The only warrant or authority necessary authorizing arrest is a copy of a resolution of the senate or house of representatives signed by the president of the senate or speaker of the house of representatives, as the case may be, and countersigned by the secretary of the senate or the clerk of the house of representatives, as the case may be.
AS24.25.050 DOCUMENT= 5 OF 8
CITATION Sec. 24.25.050.
CATCH LINE
WITNESS FEES AND MILEAGE.
TEXT A person appearing before either house, or both, or a legislative committee in response to a subpoena is entitled to $20 for each day's attendance, and for the time necessary in coming and returning to his place of residence and mileage at the rate of 15 cents a mile for the distance traveled in going to and returning from the place of attendance. The witness fee and mileage fee shall be paid out of the state treasury upon presentation of a certificate of attendance and mileage due, signed by the presiding officer of the house which authorized issuance of subpoena.
AS24.25.060 DOCUMENT= 6 OF 8
CITATION Sec. 24.25.060.
CATCH LINE
OATH AND PENALTY FOR VIOLATION OF OATH.
TEXT The president of the senate and speaker of the house of representatives and the chairman of every committee of either body may administer an oath to a witness appearing before the respective bodies. A person who wilfully swears or affirms falsely concerning any matter material to the subject under investigation or inquiry is guilty of perjury and upon conviction is punishable by imprisonment for not less than one year nor more than five years.
AS24.25.070 DOCUMENT= 7 OF 8
CITATION Sec. 24.25.070.
CATCH LINE
GRANT OF IMMUNITY ON CLAIM OF PRIVILEGE OF SELF-INCRIMINATION.
TEXT (a) A person called as a witness before the senate, house of representatives, or a committee of either or both, who refuses to answer any question or to produce any book, paper or document relating to the matter under inquiry, on the ground that the answer or the production may tend to incriminate him, may be granted immunity from punishment for the offense to which the question or evidence relates by resolution of the house which is conducting the inquiry. The resolution shall be entered upon its journal, and the witness may then be compelled to answer the question or produce the evidence.

(b) If a witness is granted immunity and compelled to testify or produce evidence after claiming the privilege of self-incrimination, he may not thereafter be prosecuted in any court for the offense to which the question or evidence relates.
AS24.25.080 DOCUMENT= 8 OF 8

CITATION Sec. 24.25.080.
CATCH LINE

PUNISHMENT FOR DISOBEDIENCE TO SUBPOENA OR REFUSAL TO TESTIFY.

TEXT A person subpoenaed as provided in this chapter who fails, neglects or refuses to attend at the time and place where his presence is required, or fails, neglects or refuses to produce the books, papers, or instruments or other evidence designated in the subpoena, or who having attended in response to the subpoena, or having appeared voluntarily, refuses to testify as to any material and proper matter within the power of the senate, house of representatives, or a committee to investigate, upon conviction, is punishable by a fine of not less than $100 nor more than $500, or by imprisonment for not less than 30 days nor more than six months.

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4990

Alaska State Legislature
HOUSE OF REPRESENTATIVES

REPRESENTATIVE
CHARLIE BUSSELL
CHAIRMAN

Committee on Judiciary

27 March, 1984

Representative Mae Tischer
Chairman, HESS Committee
House of Representatives
118 Capitol
Juneau, Alaska 99811

Dear Representative Tischer:

At the recent House Judiciary Committee hearings on House Bill No. 588, you may recall that Mr. Bernie Holland appeared and presented a brief, capsulized testimony depicting wantonly unjust, callous, and irresponsive practices in the administrative proceedings within the Department of Health and Social Services.

Mr. Holland's testimony, as well as that of the other witnesses who appeared before the Committee on that occasion, would indicate that further investigations are certainly warranted to attempt to alleviate any malpractices in the proceedings of that department. I feel that it would be a grave disservice to Mr. Holland and the others not to pursue this matter further.

I would urge you to instigate these hearings in your committee as soon as is practicable. I am,

Sincerely yours,

Representative Charlie Bussell
Chairman, House Committee on Judiciary

/cl

cc: Representative Mike Davis
Representative Peter Goll
Representative Niilo Koponen
Representative Terry Martin
Representative Sam Pestinger
Representative Rick Uehling

MEMBERS:
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE

Follow-Up Information
HESS Hearing March 19, 1984

This is to provide information regarding some issues which were raised in the hearing on the Division of Family & Youth Services on March 19, 1984, in Juneau. Chairperson Tischer indicated that she would call for a statewide investigation of the issues raised in the hearing. The Division of Family and Youth Services wants to assure the Committee members that we would welcome an opportunity to respond to such an investigation.

We wish to clarify that while the hearings in Anchorage, Soldotna and Fairbanks focussed on the topic of foster care, some of the witnesses at the March 19 hearing in Juneau were testifying to investigations of child abuse and neglect, including sexual abuse of children. We feel it is important to consider the issues of investigations of child abuse separately from the foster care issues.

In regards to the issue of investigations of child abuse and neglect, the Division has a mandated responsibility to carry out investigations as required under AS 47.17, whenever the Division receives a report of suspected child abuse or neglect. Removal of children from their homes is a last resort when the child's safety or welfare cannot be adequately safeguarded without removal. There are a number of safeguards against capricious action on the part of Division employees, including clear direction under Alaska statutes, Division policies and procedures, and, of course, judicial review of all actions taken to remove children from their homes. In addition, the Committee should be aware that when the alleged abuse is criminal in nature, as in the case of sexual abuse, the Division must involve law enforcement authorities to carry out their part of the investigation, and a coordinated investigation is usually the result. While one witness referred to the "wholesale destruction of families", we must point out that the issue of investigations of sexual abuse allegations is a very complex one which involves societal attitudes toward punishing sexual offenders, including required jail terms under AS 11.41.

We would also suggest that when witnesses are being so specific in their charges, it would be advisable to request that they sign releases of information to the Committee, so that we may provide additional facts demonstrating the total situation. As it is, we are unable to provide information which we feel would give the Committee a more balanced picture of what truly occurred. We recognize that to be involved in an investigation is a very painful, agonizing process. If the District Attorney decides to file criminal charges against a parent or parents we proceed from the assumption that parents are innocent until proven guilty; however, we must provide protection to a child until we can assure the child's safety in the home. Furthermore, in those situations in which criminal charges are not being filed, ensuring the child's safety is also paramount.

One witness testified to the inadequacy of foster care rates. He was aware that the Division is holding foster care rate hearings this week

across the State; but in conversation following the hearing, he stated he would not be in town on the date of the hearing. Therefore, he was requested to provide his information to the Division staff present and did so following the HESS hearing.

Two witnesses referred to a program being conducted in the schools in which their children felt they were being given the message that hugging is not acceptable. We are aware of the curriculum and know that the program makes a strong point that hugging between family members and children is fine. The program distinguishes between that and what is not acceptable, i.e., touching the child's private parts. However, since at least two witnesses referred to children having received the wrong impression, we will contact the School District and advise them of this problem.

We wish to clarify some facts regarding Mr. Holland's testimony about the complaint investigation of allegations of mistreatment of children in his foster home and subsequent hearing. He has asked for and the Committee is considering a special appropriation of $13,000 owing to Mr. Holland's attorney. Following is a summary of significant facts in the Holland case:

Two youths in the Holland home complained about mistreatment. The Division investigated the allegations by interviewing a number of other youths currently or previously in care. The allegations of those youths were then presented to the Hollands for response and discussion. As the hearing officer pointed out on page 9 of the decision, "I believe there was sufficient information to justify meeting with the Hollands to discuss the allegations...They were nothing more than complaints made against the Hollands to which DFYS felt Hollands, in their own interest, should be provided an opportunity to respond. The Department did not represent to the Hollands that DFYS agreed with the allegations." Usually an investigation is resolved at this point; however, this is the first case where a foster parent has refused to discuss allegations. Mr. Holland insisted that the Department prove the allegations.

Because the Hollands had operated a foster home that had demonstrated prior substantial success in dealing with difficult foster children, the Department attempted to negotiate a settlement with the Hollands rather than to take the matter to hearings. The settlement broke down when the State refused to honor Mr. Holland's request to change the personnel evaluation of a licensing worker, who was Mr. Holland's friend. Eventually the case was brought to a hearing for resolution.

At the hearing the State asked the hearing officer to rule on license issuance or revocation based on the evidence presented at the hearing. A three week hearing was held, one of the longest administrative hearings in State history. The proposed ruling of the hearing officer was adopted. The hearing officer ruled that none of the 13 allegations could be substantiated because the State had based its findings on the interviews, written statements, and memoranda submitted in the case

rather than having each child called as witness and being subjected to cross examination. In the hearing, Mr. Holland attempted to prove that the Department had a conspiracy against him. On page 7 of the decision, the hearing officer wrote, "Mr. Holland attempted to show that because of that complaint, and others to the Ombudsman, there was a conspiracy within DHSS to revoke his foster home license or to drive him out of the program. I was not persuaded by Mr. Holland's conspiracy theory in the prior proceeding, and I am no more impressed with it in this proceeding." And on page 9, "Mr. Holland's position at the hearing was that DFYS had intentionally prepared false allegations against him...There is no meaningful evidence to support this theory." The hearing officer also stated on page 13, "While it certainly would have been in Mr. Holland's best interest to have discussed the allegations in detail, and thereby possibly have disposed of all of them without the time and expense of a hearing, the regulations and statutes did not require that he do so." Finally, the hearing officer concluded that Department concerns could be remedied through 7 AAC 50.360 which states, ":'The licensing of a foster home by the Division does not...obligate the State or any child placement agency to place or maintain any child in the home.'" The time taken by the State to present its case was three days. The remainder of the three week period for the hearing was taken by Mr. Holland and his attorney. The Department believes that these facts are significant and should be considered by the Committee when considering a special appropriation for Mr. Holland.

At the Fairbanks foster care hearing Michael L. Price, Director of the Division of Family and Youth Services, provided Committee members with a copy of all relevant documents on the Holland hearing including the State's closing arguments, Holland's closing arguments, the hearing officer's recommended decision and the Department's decision and order. Additional copies of those documents are available upon request.

Mr. Holland also claimed that the Department had taken no actions regarding the manner in which complaint investigations against a licensed foster home are handled. The Department is currently in the process of reviewing complaint investigation procedures through reviewing procedures in states that have exemplary programs, through two task forces composed of Division representatives and foster parents, one on licensing procedures and one on foster home licensing, and through arrangements with the Alaska Foster Parents Association to examine the Utah approach. Pending the outcome of these efforts, no definitive change is being instituted in licensing investigation procedures. Staff training was accomplished last May utilizing an expert trainer from Texas and additional staff training is planned this year.

Michael L. Price, Director
Division of Family and Youth Services

STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

In the matter of)
BERNIE AND MARY HOLLAND,)
a licensed foster home,)
respondents.)
) License No. 4190

TELEPHONE DEPOSITION OF

DANNY JOE HARRISON

APPEARANCES:

GREG COOK, Attorney for respondents
BRUCE BOTELHO, Assistant Attorney General, State of Alaska

Date: May 3, 1983
Time: 1 p.m.

P R O C E E D I N G S

MR. COOK:

This is going to be the tape to be transcribed for a telephone conference call. Today is Tuesday, May 3; the time is 1 p.m. This call is being made pursuant to stipulation between Bruce Botelho, Assistant Attorney General, State of Alaska, and Greg Cook, counsel for Bernie Holland. We will be taking a statement from Danny Harrison, who will be calling from California. Mr. Botelho will participate via teleconference from Anchorage, and will have an opportunity to cross examine the witness. This is Greg Cook speaking, operator.

OPERATOR:

Okay, and Mr. Botelho? Mr. Botelho? Just a moment, sir. Mr. Harrison? Okay. Mr. Botelho?

MR. BOTELHO:

Yes.

OPERATOR:

Okay, and Mr. Harrison?

MR. HARRISON:

Hello.

OPERATOR:

Mr. Harrison, can you hear us?

MR. HARRISON:

Yes.

OPERATOR:

Okay, fine. Okay, go ahead, everyone's on.

MR. COOK:

Danny, I can only read you very faintly, so I'm going to need you to speak loudly, please, and the same goes for Bruce. I read both of you, but very, very faintly. What I would like to do here is to swear you in as a witness, Danny, and then ask you some questions; and then it will be Bruce Botelho's turn to ask you some questions. Is that all right?

MR. HARRISON:

Yeah.

MR. COOK:

Okay, Danny, first, could you state for the record your name and address?

MR. HARRISON:

My name's Danny Joe Harrison, and my address is unknown.

MR. COOK:

Could you spell your last name, please?

MR. HARRISON:

H-A-R-R-I-S-O-N.

MR. COOK:

Thank you. And, Danny, Mr. Harrison, do you swear that the testimony you are about to give is the truth, the whole

truth, and nothing but the truth, so help you God?

MR. HARRISON:

Yes.

MR. COOK:

All right, then, we will proceed. Bruce, do you think this meets with the procedural requirements that you will demand?

MR. BOTELHO:

Well, first of all, is this conversation being recorded?

MR. COOK:

Yes, it is. I have a tape recorder right next to the phone, and that's another reason why I am asking each of you to speak up; although, if you want to make an individual tape recording of the conversation, as we discussed earlier, then I would certainly have no objection to that.

MR. BOTELHO:

Let me also clarify: Is there a court reporter present?

MR. COOK:

There is not a court reporter present, but that is how we will have the tape transcribed, if you desire.

MR. BOTELHO:

And let me ask Mr. Harrison: He does not know his address?

MR. HARRISON:

Yeah, I don't know my address.

MR. BOTELHO:

Would you identify, essentially, what community you are located in right now?

MR. HARRISON:

Lake Isabella area.

MR. BOTELHO:

California?

MR. HARRISON:

Yes, sir.

MR. BOTELHO:

Okay.

MR. COOK:

Would you have any other questions, then, Bruce?

MR. BOTELHO:

Not at this point.

MR. COOK:

All right, then, fine. What I'd like to do, then, is proceed with a direct examination of Danny.

DIRECT EXAMINATION BY GREG COOK:

Q. Danny, were you ever a resident at the home of Bernie and Mary Holland?

A. Yes, I was.

Q. And could you describe for me whether you were a visitor in that home, or were you placed there by the State?

A. I was placed there by the State.

Q. Were you a foster child?

A. Yes, sir.

Q. And how long did you reside with the Hollands, Danny?

A. I think it was just about a year, I think. Maybe a little longer than that.

Q. All right. I'd like to ask you some specific questions about the time that you spent in the Hollands' household. Can you tell me, please, whether or not either Bernie or Mary Holland yelled at you?

A. The only time that they ever yelled at me was -- well, they never really yelled at me; it was more like -- there was never really any yelling going around in the house. It was mostly just, you know, like Bernie would say something, and, like, if I didn't do it, then he, you know, he might say it again, you know, a little bit more -- you know, with a little bit more seriousness in his voice. But he's never yelled at me.

Q. I see. Did he ever direct vulgar and abusive language towards you?

A. No, he didn't.

Q. Did you ever hear him direct vulgar or abusive language

to any of the other foster children in the home?

A. No, he didn't.

Q. How would you describe Mr. Holland's relations with the foster children who were placed at their home?

A. Well, I think -- my personal opinion is, is that Bernie was more of a father to me than, you know, my own own dad is, you know. Him and Mary, they treated me really super good, and they helped me out, really, quite a bit.

Q. Danny, did Bernie ever hit you with a stick, or a ruler, or a yardstick, or his hands?

A. No, he didn't.

Q. Did Mary Holland ever hit you with a stick of any kind, or with her hands?

A. No, she didn't.

Q. Danny, do you know if either Bernie or Mary hit any of the other foster children with a stick or with their hands?

A. No, he didn't.

Q. And does this apply to all of the time that you were present in the Hollands' home?

A. Yes, sir.

Q. Danny, there was a statement that you once made, I believe it was for Robert Danneker of the Division of

Family and Youth Service. And in that statement, it's alleged that Bernie did hit you and other children with a stick. Could you tell me a little bit about that statement that you made?

A. The reason I made that statement was because I had had myself thrown in jail, but I was unaware that I was the one that did it. I thought that Bernie had just put me back in jail for some other strange reason that I didn't know of. But I had broken some rules that the court had given me, and he had placed me back in jail. And I got mad at Bernie, so that was the reason for these statements that I had made, and they're all lies.

Q. Did you retract the written statement that you made, shortly after you made it?

A. Yes, sir. I made a verbal retraction. I said -- I went down to Bob Danneker, and I asked him, I said, I want to retract my statements, because they're all lies. And he said, no, you cannot do that. And so I went back later on and wrote one up myself and dropped it off there and had it signed by their secretary; and I have copies of it.

Q. Danny, did you also make out an affidavit for Fred Baxter that describes the original statement you made as being untrue?

A. Which statement's that?

Q. I have an affidavit here that's on stationery from Bernie's other attorney, a fellow by the name of Fred Baxter. And in that you also state, just as you've stated here this morning, that your original charges that Bernie hits kids were not true. Do you recall making that affidavit?

A. Yes, I did.

Q. And do you recall going to see this Fred Baxter?

A. Yes, I do.

Q. And what did you tell Mr. Baxter at that time, Danny?

A. I just told him the same thing that I'm telling you right now, that I revoked my statements, and that I was told that I cannot, so I went down and had it redone again; and I told them about me being put in jail, and that I made up a bunch of lies, a bunch of accusations against Bernie which are untrue. I just told him that.

Q. And could you tell me once again, please, what the reason was that you made those statements in the first place?

A. Well, it was because I had broken the law, according to some checks that I had -- they're checks that you get, unemployment checks. And I had -- I wasn't supposed to do any kind of -- on my release -- I was released from the juvenile jail out there, and when I was released,

the judge had my probation officer write up a whole bunch of - about ten - rules that I was to follow, completely; and I hadn't followed them. So I was placed back into the -- detention.

Q. Thank you, Danny. I'd like to ask another series of questions, please. While you were living at the Hollands' home, did you have what you felt to be enough space for your own personal belongings?

A. Completely.

Q. Could you provide me with a few facts that would help me understand why you say that?

A. Well, because we got the whole basement, the attic -- enough rooms in there. I had plenty of room inside that house.

Q. I see. Thank you, Danny. Is there any part of the house that was off limits to you?

A. Yes. The middle floor, which Bernie and his wife live on.

Q. Did you ever go into the Hollands' bedroom?

A. No, I didn't.

Q. Was that room accessible to you?

A. It was, but I never went in there, because it was a rule of the house.

Q. Was that room generally kept locked, Danny?

A. Quite a bit of the time, yes, it was.

Q. I see. Danny, were there some people living at the Hollands' home, while you were there, who were not foster children?

A. Yes, there was. There was one girl that was living there who was -- who, I guess, had before been a foster child, and she had been having problems, and so she asked Bernie for some help, and Bernie, you know, was helping her out.

Q. I see. Did this in any way interfere with Bernie or Mary's ability to look after you?

A. No, it did not.

Q. Do you know whether or not it interfered with Bernie or Mary Holland's ability to look after the other foster children in the home?

A. No, not at all.

Q. Danny, some of these people - I think Lilly Manignok (ph) was one and Gil Lucero was another who lived at the Hollands' home - did any of these people share sleeping quarters with you or the other foster kids?

A. Well, could -- like, what do you mean by sleeping quarters?

Q. Same bedroom.

A. At one point, yes, yeah.

Q. Do you feel that this interfered in any way with the

Hollands' ability to provide good care?

A. No, not at all.

Q. And did these people participate in any of the family meetings?

A. No, not really.

Q. Danny, did any of them participate in any of the trials while you were there?

A. That's kind of hard to remember. It was mostly -- the trials that we had and stuff were mostly for the kids that were foster parents [sic] there.

Q. I see. Could you tell me, please, in your own words, Danny, what are the trials?

A. You mean, what do they do?

Q. Yeah, that's right. What happens?

A. Well, like, if someone stays out after curfew, then, instead of Bernie, you know, picking out a particular punishment for them, like, say, you know, you're on restriction, he'd let the kids decide what kind of punishment they should have. And then, you know, we'd all just, you know, decide on what, you know, they should -- what should happen, like, should they be on restriction for a month? Should they be on restriction for a week? And we'd all take a vote, and then -- and that's what happened.

Q. I see. And who had the authority to make the final

decision, Danny?

A. Bernie did. Because sometimes it gets to the point where, like, a couple of people -- the sentence would be too light or be too strong, and then Bernie would have to say, you know, that's not right, because you guys -- you know, I mean, if someone stayed out, you know, twenty minutes past curfew and we gave them, you know, a year restriction, I mean, he'd have to say something about that.

Q. That makes good sense, Danny. What time did family meetings usually take place, please?

A. Between -- after dinner, which was around -- about seven-thirty, until about nine, at the most; and then sometimes we'd, stay up talking, you know, pretty late.

Q. One of the things the State has charged, Danny, is they have alleged that family meetings are held late at night, often lasting from eleven p.m. to two a.m. Could you tell me, please, whether in your experience, that is correct or not?

A. I can particularly remember that we've never had a meeting anywhere past nine o'clock, I'm almost sure of it. All the time that we -- we'd have a meeting, and then after the meeting's over, you know, maybe one or two people would go to bed because they have to get up

for work, and the rest of us'd just sit around and talk, you know, and talk about things that happened and everything, and joke around. And there was nobody that had to stay awake, and everybody knew that, too. So ... .

Q. Let me be sure that I understand you on this, Danny. Did you say that there were no meetings called after eleven o'clock?

A. No, no way.

Q. Did you ever call any family meetings late at night, once, or at any other time?

MR. BOTELHO: (Indisc.) elaborate on his testimony.

MR. COOK: Say it again, please, Bruce?

MR. BOTELHO: I understand that Mr. Harrison had not completed his testimony when you began to interrupt him with another question.

Q. I apologize. Go ahead, Danny, and start up again, at the beginning, please.

A. Of what -- of what you just asked me? Those (indisc. -- simultaneous speech) ...

MR. BOTELHO: (Simultaneous

speech with Mr. Harrison) Mr. Harrison, I understand that you're about ready to state -- to elaborate on this testimony about (indisc.).

A. ... at one time, there was a -- we did have a meeting, and that was because at the time -- well, that was me and one of the other kids, Mike Frawley (ph) that lived there, were late one night, and we came home and it was -- it wasn't a meeting, all it was was that we got up and Bernie sat down and said, I want to know why. Because everybody else was already awake. It was on a Friday night or a Saturday night, and everybody was already awake. And we all sat around and, you know, he said, you know, why did you guys stay out that late? And what happened was my car had broken down at the time.

Q. I see. Danny, this may sound foolish, but when you started out that sentence, Bruce and you were talking at the same time, so I'm afraid that will come out as a little garbled on the tape. Could you just start over with that story again, and tell it from the top, so that we've got a clean version of it for the tape, please?

A. Yeah. What happened was, me and Mike Frawley had stayed out late one night -- or not late, but you know, were out in the valley of Juneau. And when we were coming back, my car had broken down. And it was a Friday or Saturday night - I don't remember - but everybody was already awake, and when we got home, we were late, past curfew, and Bernie, you know, got us all to the table, since we were all already awake and everything; and he asked us why we had -- you know, we were late. And I told him that my car had broken down, and that was the whole thing. That was the only meeting that I can recall that was that late.

Q. I see. And Mike Frawley, was he another foster child living in the Hollands' house?

A. Yes, sir, he was.

Q. I see, thank you. Danny, I'd also like to ask you whether or not another charge is true. This charge that the State has made reads as follows: It says that Bernie Holland has belittled and used cruel and derogatory remarks when describing a foster child to other foster children, and to other persons who have entered the foster home. I'd like to ask you in particular, Danny, to your personal knowledge, has Mr. Holland or Mrs. Holland ever belittled you?

A. I don't really understand what you mean by that.

Q. Have they ever called you names or been verbally abusive with you?

A. Mary Holland's never called me any names at all. But me and Bernie, like, joke around and stuff, but none of it's serious.

Q. I see. Did you ever take offense at any of the things Bernie said to you?

A. No, I don't.

Q. Did he ever use cruel and derogatory remarks towards you?

A. The word, scam, which is just a joking word for me, I guess.

Q. Did Bernie Holland call you Dan the Scam?

A. Yeah, he did.

Q. And could you explain to me what that term means to you?

A. It just means that, like, I play games with people quite a bit, you know, and I'm always trying to, you know, scam things for myself and everything. It's just -- it's just a joking name for me.

Q. I see. And do you ever use that name when you refer to yourself; do you ever call yourself Dan the Scam?

A. Well, I have before, yes.

Q. I see. And do you think it's a cruel or derogatory

remark when you say it?

A. No, not at all.

Q. To your knowledge, did the other foster children think it was cruel to use the word, Scam, referring to you?

A. No, none of the other kids really used that. It was more of a -- like an inside, private joke between me and Bernie, basically.

MR. BOTELHO: Object to the form of the question.

MR. COOK: Could you elaborate on that, please, Bruce?

MR. BOTELHO: Calls for a hearsay answer.

Mr. COOK: Say again, please? You're coming through real faint.

MR. BOTELHO: It calls for a hearsay answer.

MR. COOK: Thank you.

Q. Danny, Bruce has objected to that question, in that it calls for a hearsay answer, and we have to note that objection. In administrative proceedings, of course, hearsay can be allowed by the hearing officer. So I'm going to ask you to answer the question anyway, and we'll let the hearing officer decide whether or not he

wants to allow your answer to go on the record. Can you tell me then, please, Danny, whether or not the other kids in the home felt or seemed to feel that Scam was cruel or derogatory?

A. Like what do you mean? Like, did I think that the -- did they think that it was a real bad word, or something? Or did they know what it mean, or what?

Q. That's right, Danny. Was it your impression that when the other kids heard Bernie use the word, Scam, with you, was it your impression that the other kids thought that was a bad name?

A. No, not really.

Q. Thank you, Danny. I'm going to ask you some other questions that have appeared in the State's pleadings, that may surprise you. And please don't take offense at my use of these words. Did Bernie or Mary ever call you a shitbag?

A. No, they didn't.

Q. Did they ever call you worthless?

A. No, not really.

Q. Did they ever say anything that was like that to you?

A. No.

Q. Did they ever call any of the other kids filthy names?

A. No, he didn't.

Q. Did Mary ever do that?

A. No. Me and Bernie were pretty close to each other, you know, and so, like, when you hear, like, that we'd say stuff like that to each other - it wasn't even like that - but, you know, say, (indisc.) joking around, (indisc.) knows, unless someone else might have picked it up as something bad, but to me and Bernie, we were just joking around with each other.

Q. Thank you, Danny. Danny, are you aware that there were firearms in the Hollands' home?

A. Not really. I know that Bernie had some when he had the gun shop, you know, and the coin collections and stuff, but other than that, no.

Q. I see. If I told you that Bernie had a gun in the closet of his bedroom, would you know whether that was a true statement or a false statement?

A. Could you repeat that again?

Q. Do you know, of your own personal knowledge, whether or not Bernie Holland had a gun in the closet of his bedroom, while you were a foster child in his home?

A. Did I know whether he had one?

Q. Yes.

A. I'm sure that he did, but I never really -- I don't know for a fact or nothing.

Q. I see. Thank you. So just to clarify this, then, you

don't have any personal knowledge of whether he had guns in his bedroom?

A. Right.

Q. Did you have access to the closet in Bernie's bedroom?

A. No, I did not.

Q. Okay. Thank you, Danny. I'd like to ask you some questions now about Twiggy, Mickey Horchover. There were some allegations made for a period of close to a year that Bernie had misbehaved towards Twiggy, and had grabbed her on the behind in order to get a cheap feel. Do you know what the events in question are that gave rise to that accusation?

A. It was mostly because when -- the way they got that story about that was because when I was speaking to Bob Danneker and I was really mad at Bernie, he'd say -- he'd say, well, has Bernie done any sexual things, you know, and he was placing -- basically, he was making suggestions into which I'd turn into -- like, he'd say -- he'd say, well, has Bernie ever done this and this? And I'd say, yeah, yeah, yeah, and I was agreeing to anything, you know. And that's the way you guys came up with that whole accusation, I guess.

Q. I see, Danny. So if I understand you correctly, then, did Mr. Danneker suggest that there was some sexual

misbehavior going on, or did you suggest that?

A. He suggested it.

Q. Say again, please?

A. He suggested it.

Q. Thank you. And are those suggestions true at all?

A. No, not at all.

Q. Did Bernie ever behave in a sexually aggressive manner towards any of the girls, including Mickey?

A. No.

Q. To the best of your knowledge, is there any truth to the allegation that Bernie grabbed Mickey in order to get a cheap feel?

A. Not at all. No way.

Q. Now, you stated earlier to me, Danny, that you thought Mr. Danneker was making these suggestions to you. Could you describe for me, please, why you said that?

A. Well, because -- okay, when we were sitting inside his office, like, I was telling him what was going on and everything in the house, right? Making up all these lies and everything, you know? And I was -- you've got to put yourself in the position that I was really super mad at Bernie because I was in jail, all right? And so I was on the point of where I'd say just about anything, all right? And Bob Danneker was sitting

there and he'd sit there and he'd say, well, you know, did Bernie ever touch Mickey? And I'd say, you know, oh, yeah, you know; but not -- I wasn't saying it in the way that he was touching her, the way he was suggesting it. Then he'd say, well, do you think he was trying to get a cheap feel? And you know, and at the time that I was mad, I was saying, yeah, yeah. But it was untrue, totally.

Q. So if I understand you correctly, these phrases were fed to you by Mr. Danneker? See 23

MR. BOTELHO: (Indiscernible - end of first side of tape).

(OFF RECORD)

(ON RECORD)

MR. COOK: Thank you, Bruce. I just had to switch tapes, so if you'd be kind enough to restate your objection, Bruce, and then we'll see about an answer. So, Bruce Botelho, could you restate your objection, please.

MR. BOTELHO: Are we on tape?

MR. COOK: Roger that.

MR. BOTELHO: One of the

problems I have here: I try to make objections and I can't tell whether anybody's hearing them or not. I have a hunch this conference phone situation is not picking them up. I have to repeat it five or six times. My objection at the time was that it's an unfair leading of the witness, and to the form of the question.

MR. COOK: So you've objected that it's an unfair leading of the witness, and that's your objection to the form of the question, Bruce?

MR. BOTELHO: Right.

DIRECT EXAMINATION BY MR. COOK (continued):

Q. Danny, I'll rephrase that question, then, and ask it in this manner, and see if it is acceptable to Bruce this time. The statements or any allegations, rather, that Bernie engaged in sexual misconduct with girls at the Holland home, were those statements that originated

with you?

A. You mean did they start with me?

Q. Yes.

A. No, they did not.

Q. Who suggested those statements, please, Danny?

A. Bob Danneker.

Q. And when did he suggest those to you, Danny?

A. At the time that he was taking down the other stuff that I was saying to him.

Q. Do you have any idea why he would make those suggestions, Danny?

A. Because at the time -- I have no -- I don't know if he's got -- I don't know anything about, you know, Bob Danneker or Bernie liking each other or anything - I don't know nothing about that. But as far as I know, that -- when I was making the statements, he was just -- he would say that stuff and then I'd -- you know, at the time I was mad, so I don't know if he knew it or what, but I would say just about anything, and I'd agree with anything. If someone told me that he shoots people, I probably would have said that, too.

Q. Okay, thank you, Danny. Just a few final questions here, then, to close up. Did you ever play a game called slaps with Bernie?

A. Slaps?

Q. Yeah. With your hands?

A. No, not that I remember.

Q. If you hold both hands in front of you, and then the other person tries to slap the hands, would that help jar your memory?

A. Let's see. I don't really recall doing that.

Q. Okay. That's fine, Danny.

MR. COOK: I have no further questions at this time. Bruce, if you'd like to ask your questions, I think I'll turn the witness over to you. And how does this sound for a procedure: Why don't you ask the question, and then before Danny answers, I will restate the question, using your words, so that we are certain that the tape recorder does pick it up.

MR. BOTELHO: No. Not acceptable.

MR. COOK: Okay, then go ahead on her, Bruce.

CROSS EXAMINATION BY MR. BOTELHO:

Q. Mr. Harrison, how old are you?

A. Eighteen years old.

Q. When's your birthday?

A. 8/23/64.

Q. You understand you're under oath?

A. Yes, sir, I do.

Q. And do you know what the crime is when you fail to tell the truth?

A. Yes, sir, I do.

Q. What is it?

A. It's that -- well, it's lying. It's like perjury, I guess.

Q. That's right. And you know that's a felony in Alaska?

A. What's that?

Q. You know that's a felony in Alaska?

A. Yes, sir, I do.

Q. Okay. Now, to start out with, you've indicated that you were so mad that you were willing to tell the State anything to get back at Bernie. Is that right?

A. Yes, sir, I was at the time.

Q. Do you want to tell us why we should believe you today?

A. What's that?

Q. You want to tell us why we should believe you today?

A. You'd have no reason to. You got -- you have a choice:

You either take my word for it or you don't. I'm not mad at Bernie now and I'd have no reason to make up lies about him like that, because I found out that I had gotten myself into trouble myself, and it wasn't Bernie after all.

Q. Where are you right now?

A. In California.

Q. Where specifically?

A. In Lake Isabella.

Q. And where in Lake Isabella?

A. I don't know my address down here.

MR. COOK: I'll object to the question as irrelevant there, please.

MR. BOTELHO: Your objection is not well taken. You can only object to the form of the question. All other objections are reserved.

Q. Where are you located?

A. In Lake Isabella.

Q. Where in Lake Isabella?

A. I don't know my address down here.

Q. Describe the building.

A. It's a two-story house.

Q. Are you a fugitive at the moment?

A. What's that?

Q. Are you a fugitive?

A. Not that I know of.

Q. Where can we reach you next week?

A. I'd have to call you guys.

Q. Why?

A. Because the phone here that I use, I'm not allowed to receive any phone calls on it.

Q. What's the telephone number?

A. I can't give that out.

Q. You're under an oath, and I'm asking right now: Give us the telephone number.

MR. COOK: I'll object to the form of the question, and Mr. Harrison has answered the question, so this is asked and answered. You can't compel the witness to answer a question, Bruce.

MR. BOTELHO: I'll suspend the deposition on my own at this point, and will protest its use in the hearing. I find it

unsatisfactory in any case, but if I'm not going to get the cooperation that I was assured I'd get, I'll conclude it at this point.

MR. COOK: Danny, if you want to answer that question, you may.

MR. HARRISON: What question is he referring to?

Q. What is the telephone number you are calling from?

A. Sir, I cannot give the phone number out.

Q. Because you can't see it?

A. It's not that I can't see it. I am told that I'm not supposed to give the phone number out.

Q. Why are you refusing to give it out?

A. It's not because of me; it's because of my parents. That's the same reason I didn't give Bernie the phone number, and I didn't give Greg Cook the phone number, either. You know, because they could have easily called me at one o'clock instead of me calling them at one o'clock. The same thing on Friday.

Q. Why are you being elusive?

A. What do you mean ...

MR. COOK: I'll object to the form of the question. I think you're badgering the witness. If you have anything to ask regarding the merits of the case, it would seem more productive to confine your questions to that, rather than his parents' orders regarding their private telephone line, Bruce.

MR. BOTELHO: I'm trying to find out, right now, the conditions -- why Mr. Harrison on the one hand refused to disclose where he's located -- I'm trying to get some idea, and I'm leading towards it, why he isn't available to testify in Juneau, Alaska, next week at the hearing.

MR. HARRISON: Mr. Cook?

MR. COOK: Yes, Danny?

MR. HARRISON: It's fine. He can go ahead and ask the

question.

Q. What is the answer?

A. There's no problem there. It's just I can only answer to a certain extent on each, you know, question.

Q. My question, again, to you: Why are you -- let me start off by this: Why can't you be in Juneau, Alaska, next week?

A. Next week?

Q. Yes.

A. Because I have a warrant for my arrest up there; I don't have the money to get up there; and I don't have the money to get back. And I have no place to stay.

Q. You have a warrant for your arrest. On what charge?

A. For -- I have a fine up there that I cannot pay ...

Q. For what?

A. ... because I didn't -- that I don't have the money to pay.

Q. What's the charge?

A. It was when I was a juvenile, I had done some breaking and entering up there; and I was released under the condition that I pay the fine back -- pay the ...

Q. Did you voluntarily leave the state?

A. What's that?

Q. Did you leave Alaska?

A. Yes, sir, I did.

Q. Knowing that a warrant was out for your arrest?

A. What's that?

Q. Knowing that there was a warrant out for your arrest?

A. I did not know at the time, but, see, when I was talking to my probation officer, he was telling me that they were going to put me back in jail unless I paid it; and at the time, I didn't even have a place to live or any food to eat, so I can't understand how I was supposed to pay a fine back that I -- that there was no way I could possibly pay back. I still have intentions of paying the fine back, but until I do, I can't go back there.

Q. Why were you in a foster -- why were you placed on probation in the first case?

A. Why was I placed on probation?

Q. Yeah. What ...

A. I broke the law.

Q. ... was the -- was this the same crime?

A. Yes, sir.

Q. Okay. And you indicated that you were in the Holland home for about a year. From when to when?

A. I'm not sure of the dates.

Q. Approximately.

A. They -- various -- from time to time. Sometimes I was

there, sometimes I wasn't.

Q. Okay, you didn't stay there steadily for a full year?

A. No. It was probably more than a year, but sometimes -- like I went to -- I went into the service after I had my -- after I got my GED, you know, and then after that, when I got back out, I was still under eighteen years old, so I was placed back under custody again.

Q. Do you recall meeting with Norm Anderson (ph) on or about July 14, 1982?

A. On what?

Q. Simply to meet you, to take you out for a urine analysis?

A. Yes, I do.

Q. And do you recall telling him that Holland physically abused you?

A. If I did, it was a lie.

Q. Well, do you recall whether you told him that, whether or not it was a lie?

A. No, I don't recall telling him that.

Q. If he were to testify that you did tell him that, would you have any basis to contradict it?

A. I couldn't hear you. What was that?

Q. I said: If he were to testify that you told him that you were being physically abused, would you have any

basis to indicate that he was lying under oath?

A. That Norm Anderson was lying?

Q. That's right.

A. Well, he'd have to show better proof than just his statement.

Q. Well, that's up to the court to decide. The question to you is: Do you have any basis, in fact, to deny the truth of his allegation, which is that you told him that Bernie Holland physically abused you?

A. Could you hold on for a second? Hold on for just a second.

MR. COOK: At this time, I'll interject an objection to the form of the question. You're calling for a hypothetical situation that doesn't really exist, and I think the witness has provided one answer to your question already.

MR. BOTELHO: I think -- pardon me, can we hold on for a moment.

A. Now, could you -- go ahead and repeat that again. What was that?

Q. Yeah. If Mr. Anderson were to testify that you told

him on July 14, 1982, that Bernie Holland physically abused you, would you deny that you told him that?

A. Of course.

Q. Why?

A. Because Bernie's never physically abused me.

Q. So that Norm Anderson would be lying, is that your testimony under oath right now? If he were to testify that you told him that Bernie Holland had hit you?

A. I guess he'd be lying. Well, he's probably going on what I said, and at the time, if I did say it, I lied to him.

Q. That's my question to you: Did you ever tell him -- I don't care whether it's the truth or not, that is, the truth of the statement itself - did you ever tell him that Bernie Holland physically abused you?

A. I do not recall doing that -- saying that.

Q. If he testified that you did, would you have a basis to contradict him?

MR. COOK: Asked and answered.

A. Well, if he -- if he ...

Q. Go ahead and answer the question.

A. If he says it -- if he went to court and said that, then it'd be up to him; but if I did say it, I lied, and if I didn't, you know, then he's lying.

Q. Do you recall ever telling Norm Anderson that Holland hit you in the arm with a stick on several occasions?

A. No, I don't.

Q. Do you recall you ever telling him about an incident involving your pushing Holland into a table after Holland struck you?

A. I don't remember.

Q. Could you have told him?

A. Could I have?

MR. COOK: Calls for speculation on the part of the witness.

Q. Go ahead and answer the question.

A. I don't really have no answer for that.

Q. Could you have told him?

A. Well, I guess it's possible I could have said anything. Any time I was -- at the time, I was considered by a shrink that I was some kind of a - I don't know what they call it, neurotic or something, liar. I was constantly lying about quite a bit of things.

Q. Do you still do that today?

A. Not really. See, any of these statements that I'm being asked right now, I'm not lying.

Q. Are you under any treatment right now?

A. No, I'm not.

Q. Are you on any drugs right now?

A. No, I'm not.

Q. Have you used any drugs in the last week?

A. I haven't used any drugs in about five weeks.

Q. Do you recall ever telling Norm Anderson that Holland called you a shitbag?

A. No, I don't recall ever saying that.

Q. Might you have said that?

MR. COOK: Objection. Calls for speculation.

Q. (Indisc.) answer.

A. As I said before, I could have said anything. I don't recall saying anything like that, at all. And right now -- and I'll tell you right now that Bernie has never said that to me.

Q. Do you recall meeting with Margaret Pugh at the Johnson Human Services Center on or about July 14, 1982?

A. Do I recall it?

Q. Yeah.

A. I'm not sure of the date, but I remember talking to her (indisc. - simultaneous speech).

Q. Do you remember telling her that Bernie popped you on the arm real hard?

A. Like I said, if I said that, it was a lie.

Q. So anything I would ask you right now about statements you made to other people, you would indicate was a lie?

A. Depending on the statement.

Q. Well, let's go through it, then. Do you recall telling Margaret Pugh that Bernie knocked you around some?

A. That's a lie, if I said it to her.

Q. Do you recall telling Candace Camfield (ph), that is, Candy Camfield, that Bernie hit other people in the foster home, too?

A. Like I said, at the time -- if you're talking about the people out at the Johnson Human Services Center, at the time, when I was in jail, when I was talking to them, and it's the same thing as asking me about what I said to Danneker. I was mad at the time, so anything that I said, in -- accusation-wise to Bernie - against Bernie - was all lies, because I was mad at him at the time.

Q. How long you mad?

A. For the length of time I was in jail.

Q. How long was that?

A. I don't recall.

Q. Say, approximately. Was it one day, two days?

A. I don't remember.

Q. Could it have been a month?

A. It could have been longer. I can't remember.

Q. What do you remember?

A. Just the things that I've said already. I don't remember dates of anything that happened. I don't remember any lengths of time that I was in jail, because, you know, I don't really ...

Q. Where were you when you gave Bob Danneker your written statement about being hit around?

A. I can't hear you that well.

Q. Where were you when you gave Bob Danneker your written statement?

A. I was in his office.

Q. Were you transported there from the Johnson Human Services Center, do you remember?

A. The Johnson Human Services Center? Is that what you said?

Q. Yes.

A. Yeah, that's -- I was transported from there.

Q. Okay. So you were still in custody, then?

A. Yes, I was.

Q. Okay.

A. Oh, hey, I remember when it happened. I was going to court -- it wasn't a court, I think it was a hearing or something like that. And then right after the hearing, Norm Anderson brought me down to his office to talk to him.

Q. Okay. Do you recall being interviewed by Bob Danneker and Carolyn Kubenin (ph)?

A. Yes, I do.

Q. Do you recall answering the following questions: ...

A. What's that?

Q. Do you recall any of the following questions - you were asked: Where did Bernie keep the stick? And you answered: On top of the couch. Do you remember making that statement?

A. Yes, I do.

Q. Did Bernie have a stick?

A. Yes, he did.

Q. Did Bernie ever use it?

A. No, he didn't.

Q. How did you know it a stick?

A. How did I know it was a stick?

Q. What's he use it for?

A. Well, it looked like a stick.

Q. What's he use it for?

A. Like, when -- when his son, Jason, starts yelling and pulling hair on people and stuff like that, he'll slam it against the couch to make a loud noise; and, you know, he'll say, stop that.

Q. Did he ever hit you in the hand with a stick?

A. No, he never has.

Q. Did he ever hit you with his own hand?

A. No.

Q. Do you recall making this statement: Question - did Bobby Hughes (ph) ever get hit with a stick? And your response is, yes. How much? Quite a bit. Why would Bobby get hit? Sometimes for joking. More than once? Yes. Twice? Yes. Three times? Yes, maybe five times. Where? The back of the legs. Did anyone else get hit that bad? Yeah, me. What did Bobby do? Tried to get out of the way. When did this happen? Sitting at meetings. You'd say something, and out of the blue, wham. I always got hit on my fingers. Do you recall making those statements?

A. I recall making the statements, but they're -- they're also lies, and I'd also like to say that I don't see how it'd be possible to get hit in the back of the legs sitting at that bench, when Bernie's sitting on one side of it, and me and Bobby were sitting on the other side. I don't see how he could possibly reach around it, completely all the way around that whole table, all the way around behind it, and slap us in the back of the legs; it's impossible, so, there's my proof it's a lie.

Q. Now, I would presume that anybody else -- you would

take the position -- that confirms your testimony here, would also be lying. Is that right?

A. Say that again?

Q. Anybody else who would testify to the same thing that you've indicated here would also be lying, is that right?

A. Anybody else that says that that was true?

Q. Yes.

A. Yes, they'd be lying.

Q. Now, you indicated that none of the trials convened after nine o'clock in the evening, is that right?

A. I couldn't hear you.

Q. None of the trials convened after nine o'clock in the evening?

A. No, they were not. I'm not sure exactly of the time. I can't say exactly nine o'clock, but they weren't as late as Mr. Cook was saying.

Q. Was there ever a trial that was held late-night?

A. Not that I recall.

Q. Well, you don't seem to recall a lot. Is it possible that one could have been held late at night?

A. Yes, but I doubt it.

Q. How often did these trials happen?

A. Whenever somebody had broken house rules.

Q. Well, would it happen once a month?

A. I couldn't really tell you, depending on the kids in the house. If they got in trouble, you know, at a certain time or something like that, then, you know, I mean, I can't really tell you how often everybody got in trouble.

Q. Well, could you tell me whether the meetings happened once every two months, on an average?

A. I don't know, they could have -- sometimes they'd get three in one day, sometimes we wouldn't get any for a couple of months.

Q. Okay. Well, why don't you describe one of these trials for me.

A. Describe one?

Q. Just describe one, yeah. How did they (indisc. -- simultaneous speech).

A. Okay.

Q. How did you hear about them?

A. Does it have to be a real one, or ...?

Q. Sure.

A. Okay, let's see. One time I didn't -- most of them -- most of them were on staying out late and stuff like that, and I was on trial for staying out late one night, and ...

Q. Who would bring the charge?

A. Bernie.

Q. And would this be written?

A. What's that?

Q. Would it be a written charge?

A. No, it'd be verbal.

Q. And would it be done at the dinner table, or where?

A. Yes. With everybody present.

Q. Okay. And would it be right after supper, is that what you were saying?

A. No, not necessarily. Most of the time, though.

Q. (Pause) Are you still there?

A. Yeah.

Q. Well, okay. Everybody would be told to show up for the trial. How did that work?

A. He'd just say -- tell the kids downstairs or wherever they were at that there was going to be a meeting, a trial.

Q. Okay. And then what happened?

A. Then we'd all sit at the table, and then Bernie would say, what happened? You know, say, Dan stayed out late and he broke the house curfew; and so, he'd give -- he'd say, let everybody ask me questions why and everything. And then after that, then, we'd all take a piece of paper and just, you know, find out whether I was guilty or not guilty. And if I was -- you know, if

I was guilty, then everybody just took a piece of paper and wrote down the punishment they think I should have had, and then gave them to Bernie and Bernie figured them all out, you know. Like, if one person said four days' restriction, another person said two, and another person said four, you know, he'd vary it out, you know.

Q. Would you get to write your own?

A. What's that?

Q. Would you participate, too? That is, could you write down on a slip of paper whether you were guilty or not?

A. No, because I was the person that was being charged.

Q. Okay. Did he always read off the verdict?

A. Oh, yeah. He'd tell everybody, you know.

Q. What if somebody said you were innocent?

A. Then we'd all sit around and argue the point.

Q. Okay. And would he read off the punishment, as well?

A. You asked if he read off the punishment?

Q. Yes. Say, you write down on a slip of paper that Joe Blow should be restricted for a week.

A. No, he didn't read out what the kids wrote to me. Like, say, Mickey wrote "three weeks" on there, right? He wouldn't take that piece of paper and actually say, oh, Mickey, you know, said three weeks. He wouldn't do that. He'd -- all of them would be kept, you know, to

where nobody else knew what was being read. No one else would be -- know what was being written down by each person, and so there was -- there'd be no way of, you know -- that way, I couldn't say, you know, hey, I can't believe you said that about me, or, you know, so on and so on. You know, that way there'd be no arguments, so nobody actually knew what was going on.

Q. What if anybody wised off (indisc.)?

A. What's that?

Q. What if somebody wised off at the meetings?

A. At Bernie?

Q. Yeah.

A. Most people in the house had more respect than just to wise off to him. Most of the time it was just joking, and Bernie would say, oh, you're pretty funny, or something. You know, he'd retract with something, you know, but it wouldn't be as bad as what Mr. Cook was saying.

MR. COOK: Excuse me, could I interrupt here briefly, please, Bruce? We need to change tapes.

MR. BOTELHO: Fine.

(OFF RECORD)

(ON RECORD)

MR. COOK: Okay, we're back on tape, here, now.

MR. HARRISON: Did you hear me?

MR. COOK: Negative. Say again, please.

MR. HARRISON: I was just wondering if Bernie was present for this?

MR. COOK: Yes, he is, Danny; he's sitting in the room with me at this time.

MR. HARRISON: Okay, I was just checking.

MR. BOTELHO: Was there a reason you wanted to know that?

MR. HARRISON: No, I was just curious.

CROSS EXAMINATION BY MR. BOTELHO (continued):

Q. Mr. Harrison, can you recall how long Gil Lucero was in the home?

A. I don't really remember at the time. He ...

Q. Was it a week?

A. As far as I recall, it was just a couple days, I think.

Q. Did he ever participate in any trial?

A. No, he didn't. He (indisc.--simultaneous speech).

Q. If he testifies that he did, would that be a lie?

A. What's that?

Q. If he testifies that he did, would that be a lie?

A. No, not necessarily, because maybe I wasn't there for one of the trials, or maybe I wasn't even there at all - at the house - because at the time I left, if I remember right, he was still there, I guess, at the time that I was sent somewhere, I don't remember where, though. So he might have been at one of those trials, but I probably wasn't there. But I don't recall him being -- I remember him sitting in one of the meetings -- or sitting in, I mean, just to listen, to hear how it goes and everything, but, other than that, he's never really participated.

Q. Do you recall Gil Lucero ever telling you that you shouldn't have to take all the abuse you get?

A. What's that?

Q. Do you recall Gil Lucero ever telling you that you shouldn't have to take all the abuse you take?

A. I don't remember him saying that.

Q. Would he have said that to you?

A. I don't remember him saying that.

Q. If he did?

A. If he did, then what?

Q. Is it possible that he could have told you and you just don't remember?

A. I guess so. I mean, I guess it's possible that he could have.

Q. You indicated that you knew that Bernie had firearms. How did you know that?

A. Well, I kind of assumed, because Bernie had a store that was right next to his house that -- in which he had firearms in there and coins which were for sale, and when he closed it, I -- you know, as far as I remember, that he hadn't sold all his weapons. So I'm sure that he didn't, you know, throw them away or anything like that. So, I assumed. I never actually seen any of the weapons inside the house at all.

Q. When was the last time you talked to Bernie?

A. Let's see, quite awhile ago, actually, other than Friday, but I really didn't talk to him because I was, you know, being talked to about the meeting here. But other -- I didn't really get to talk to him at all. I haven't talked to him in quite a while.

Q. When was the last time, besides Friday - about?

A. God, I don't remember; it was quite awhile ago, though.

Q. Would it have been two weeks ago?

A. I think it was longer than that.

Q. Maybe a month ago?

A. Yeah, maybe.

Q. How about Mr. Cook - when was the last time you spoke with him?

A. On Friday.

Q. And before that?

A. That was the first time I ever talked to him, I think.

Q. And what did you talk about?

A. What?

Q. What did you talk about?

A. Just that I was going to be recorded over the phone and that I'd have to swear to an oath, and that just to make sure that I call at one o'clock today.

Q. Have you talked with Bernie or with Mr. Cook about any of the allegations ...

A. No, we did not.

Q. ... we've discussed today?

A. It was mostly just about, you know, that the phone was going to be recorded and that I'd have to be called down from Anchorage and all these other places, and that I was going to be questioned about, you know, the accusations that I had made. But we never talked in any kind of detail at all.

Q. This is Friday you're talking about?

A. Um-hum.

Q. Okay, before Friday, did you discuss this case with Bernie Holland?

A. No, not really, 'cause I really don't understand what's going on all that well. I just know that, for some reason, everybody thinks that those accusations I made were true when they weren't.

Q. According to Bob Danneker, you said that Bob Danneker suggested that Bernie was involved in sexual misconduct. I want you to describe in detail why you say that Danneker suggested sexual misconduct.

A. You have to speak up, 'cause it's real hard to hear you.

Q. I'll repeat the question: You testified earlier that Bob Danneker suggested to you that Bernie Holland had acted improperly sexually with Mickey. What I'd like you to do is describe how he suggested the topic.

A. Oh. Well, like -- okay, I was sitting there telling Bob Danneker about, you know, all the stuff I was making up, like: Oh, Bernie hits me; oh, Bernie does this; and, oh, Bernie does that. Right? And during the time that I was making those accusations, you know, like, you know, saying, oh, you know, he hits Mickey,

he hits me, he hits Bobby, he hits everybody; that's -- you know, at the time that I was saying that? Well, see, at the time when I was doing that, he was saying: Well, does he ever, you know, grab Mickey? And I say: Yeah, he grabs Mickey like this. And he says: Well, do you think that he's trying to grab her for, you know, a cheap feel? And I say, yeah. But, see, when he said it -- see, he was just saying those things, and as soon as he'd say 'em, then I'd go, you know -- like, he'd say: Well, did he grab her? And I'd say: Yeah. You know. And then he'd say, you know: Well, do you think he was trying to get a cheap feel? And I'd go: Yeah, yeah, yeah. To anything he said. So he was basically -- see, otherwise, I wouldn't even have said that.

Q. Okay. Are you calling from your family home right now?

A. Yeah, I am.

Q. This is the one you don't know the address to?

A. Right.

Q. Okay.

MR. BOTELHO: I'm going to go off here for second. I may be about done with my questioning, Greg. But it's going to sound like I'm

cutting off for a moment. I want to go through my notes.

MR. COOK: Okay, then, I'm going to go off the record, here, briefly, and just tell me, please, when you're ready to go on. We'll all be standing by, waiting for you to come back on line, there, Bruce.

(OFF RECORD)

MR. COOK: We're back on the record, now, Bruce. Are you ready to go ahead?

MR. BOTELHO: I have no further questions.

MR. COOK: Okay, Danny, I just have a few cleanup questions, here, then.

REDIRECT EXAMINATION BY MR. COOK:

Q. When Bruce Botelho was asking you questions a few moments ago, he asked questions regarding your present testimony, which is under oath, and some statements you made earlier to Mr. Danneker and to Mr. Anderson. I'd

like to direct these questions to that subject. When you gave a statement to Mr. Danneker, were you under oath?

A. I don't remember.

Q. When you gave a statement to Mr. Anderson, do you know if you were under oath at that time?

A. Nah, he's never put me under oath.

Q. So your answer is, no, you were not under oath to Mr. Anderson?

A. No, I wasn't.

Q. Do you recall whether or not, when you were talking to Mr. Danneker, whether you raised your right hand and swore to tell the truth, the whole truth, and nothing but the truth, so help you God; do you recall doing that with Mr. Danneker?

A. I might have, but I don't remember doing it.

Q. Do you know whether or not Mr. Danneker is authorized by law to give oaths?

A. Not -- I don't know.

Q. Okay, thank you. Danny, I'd like to ask you, again, whether or not you're telling me the truth here today?

A. Everything I've said is the truth so far.

Q. And why are you making this call, Danny?

A. Just because -- because of the fact that I lied and I've brought a lot of bad things to happen onto Bernie,

which I'm really super sorry for, but I have, you know -- I can't do anything about it now, except for, you know, tell them that I've, you know -- I'm trying to tell the truth now. Because, you know, I started a pretty bad thing here, but ain't much I can do now, you know.

Q. Thank you, Danny. And could you describe, again, the reason that you made false statements to Danneker when you were in jail.

A. It was because I was mad at Bernie, because I had I thought Bernie had put me in jail when Bernie hadn't put me in jail; I'd put myself in jail. But I was under the impression that Bernie put me in jail, so I was trying to get back at him.

Q. I see. A couple other odd questions yet, Danny. Referring to the matter of the trials back at the house, did anybody ever get good-time off; for example, after a restriction, did they have some of their penalty lifted for good behavior?

A. Yeah.

Q. Thank you, Danny. Regarding Gil Lucero, did you know Gil very well?

A. Not really, kind of. Just, you know, I knew him, you know, as a friend of Bernie's.

Q. When you saw him at the house and around in Juneau, did you ever have the opportunity to observe Mr. Lucero when he was drinking alcohol?

A. No, I never did.

Q. Do you have any personal knowledge as to whether Mr. Lucero abused alcohol?

A. I know that he used to, but at the time, I was under the impression that he didn't drink or anything at the time.

Q. Do you have any knowledge of why Mr. Lucero was staying at the Holland's home?

A. I think it was because him and his wife were having problems and he was under quite a bit of pressure.

Q. I see. Do you know whether or not Mr. Lucero was paying room and board while he was there?

A. I have no idea.

Q. I see. And could you tell me once again, please, Danny, whether or not everything you have said today is the truth?

A. Everything I've said is the truth.

MR. COOK: I thank you very much, Dan. I appreciate you ...

MR. BOTELHO: I have a follow-up question based on some of

your redirect. Are you still there?

MR. COOK: Roger that. You're still on. Go ahead on her, Bruce.

RECROSS EXAMINATION BY MR. BOTELHO:

Q. Danny, is it possible that you might have lied under oath to Bob Danneker?

A. Say that again?

Q. Is is possible that you might have lied under oath to Bob Danneker?

A. You mean, when I was talking to him?

Q. Yes.

A. Yeah, like I said before, I've told you through this whole phone call that all I was doing was lying to him.

MR. BOTELHO: I have no further questions.

MR. COOK: Okay, then, Danny, that really concludes our little exercise here today. Thank you very much for calling in and we'll look forward to hearing from you again sometime when you get

the opportunity to call me or to call Bernie. Thank you very much. Bruce, is it correct that you have no further questions?

MR. BOTELHO: I just think it's important that, if you could perhaps request, Greg, that Mr. Harrison check in on a daily basis after the commencement of your case next week, your portion of the case. There may be occasion to have him examined directly by the hearing officer.

MR. COOK: That sounds fair, Bruce. I'm just a little curious as far as the actual mechanism that we'll use to make contact if I'm up at Rich Burnham's office. So, Danny, if you'd be kind enough, could you please call in to this office sometime Thursday morning this week and I'll try

and work out a telephone schedule for you. Is that possible?

MR. HARRISON: Yeah, no problem. Greg, before you all hang up and everything, I need to speak at you, just between me and you, if it's possible.

MR. BOTELHO: I will cut off the line right now.

MR. COOK: Okay, thank you very much, Bruce.

(END OF PROCEEDINGS)

(Signature waived)
DANNY JOE HARRISON

C E R T I F I C A T E

STATE OF ALASKA)
: SS.
FIRST JUDICIAL DISTRICT)

I, JUDITH R. JONES, a Notary Public duly commissioned and qualified in and for the State of Alaska, do hereby certify that the foregoing transcript of the telephone deposition of DANNY JOE HARRISON was recorded by a person or persons unknown to me and thereafter transcribed by me or someone under my direction.

I further certify that the transcript consisting of pages 1-59, both inclusive, is a full, true, and correct transcript of the proceedings, considering the quality of the tape and the information furnished to me.

I further certify that I am not a relative or employee of any of the attorneys or of any of the parties, nor financially interested in the action.

I further certify that the original of this transcript was given to Richard Burnham, hearing officer, pursuant to their instructions.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 6th day of May 1983.

Judith R. Jones
Notary Public, State of Alaska
My commission expires: 12/30/84

DIVISION OF
FAMILY &
YOUTH
SERVICES

MEMORANDUM State of Alaska

TO: Robert London Smith, Ph.D., Commissioner
Department of Health & Social Services

DATE: March 19, 1984

THRU: John R. Pugh 3/19/84
Deputy Commissioner

FILE NO:

TELEPHONE NO: 3170

FROM: Michael L. Price, Director
Division of Family & Youth Services

SUBJECT: Foster Care Activity Report

The February Activity report for the special subject foster care is in three sections: Statewide Progress, Social Services Regional Activity and Youth Services Regional Activity.

STATEWIDE PROGRESS

Governor Sheffield signed an Executive Proclamation in February proclaiming March 19-24, 1984 as Alaska Foster Care Week. (See Attachment I.)

February marked another month for significant progress in foster care. The officers of the Alaska Foster Parents Association traveled to Juneau to meet with legislators, the Central Office Task Force on Foster Care, Regional Managers and Administrators, and myself. The officers are: Louiese Rodoni, President; Barbara Nutt, Vice President; Dee Cromer, Secretary; Miriam Sumner, Treasurer; and Jeannie Cortez, Anchor Foster Parent Association President. In my view their trip was highly successful. They stated that a major goal was to initiate a new beginning with the Division: one of cooperation and increased quality communication. They were organized and professional, so that substantial progress was made. In turn, they were pleased with the progress of the Division in identifying 43 foster care issues to be resolved and with the Division's comprehensive long range approach to resolving these issues. There was agreement that fragmented corrective policies issued with short time lines have been a problem in the past. The Association representatives committed themselves to assisting on policy projects with draft work. They recognized that many foster care issues need to be coordinated through regulatory projects and asked to be kept informed of progress and to assist where appropriate. I was personally impressed with the professionalism they demonstrated.

On the morning of February 27, 1984 I met with the AFPA representatives with the following agenda:

Travel monies for foster parents attending Regional and Statewide Training Conferences.
Question - Contract Support Services (RFPs) for Nome and Bethel.
Meetings established for AFPA and the Regional Managers.
Quarterly meetings for AFPA and Mike Price.
Question-Intentions for AFPA Contract for FY 84/85.
Request for Direct Support Services for Foster Homes.

Discussion of Utah proposal.
Mandated Training.
Leveled Foster Care.
List of issues for resolution to be discussed with the Central Office Task Force.

Time limits prevented discussion of all items, but many items were covered at meetings in the next two days.

On the afternoon of February 27, 1984 the AFPA representatives met in House HESS with House and Senate finance sub-committee representatives to hear a budget proposal from the AFPA. The proposal was professionally presented and initially well received. I offered to have Division staff analyze the proposal and report back to the committee. See Attachment 2 for the proposal and a copy of your letter to Representative Mae Tischer transmitting the Divisions's findings upon reviewing the proposal.

On February 27, 1984 the AFPA representatives met with Nina Keeler and Pat O'Brien for four hours with the following agenda:

Confidentiality Draft
Placement Agreement Form
Evaluations
Reimbursement Problems
1. stipend
2. special needs procedure
3. funds for damages procedure
Emergency Placement Stipend
Clothing Allowances
Medical Authorization Cards
Criminal Records Clearance
Biennial Licensing
Provisional Licensing
Mandated Training - Regulation Changes
Question-Foster Care Rate Hearings
Question-DFYS Indian Child Welfare Act Interpretation
1983/84 Contract Payments
New Contract
Final Implementation of Foster Home Investigations
Final Implementation of Appeals Procedure
Detail Regional Managers' Meetings
Regular Meetings scheduled with Nina
Medicaid

All agenda items were addressed with information sharing and cooperative planning. The foster care issue outline was presented to the AFPA representatives at this meeting.

On February 29, 1984 the AFPA representatives attended the Regional Administrators'/Regional Managers' Meeting. The AFPA representatives presented an overview of the National, Regional, State, and Local organization of the Foster Parent Associations. Plans were made to secure travel funds for foster parents to attend upcoming conferences throughout the State. The AFPA representatives also presented their perception of regionally based differences in the following areas: emergency placement/payment, clothing allowances, special needs, and provisional and expired licenses.

Significant issue progress was achieved in February as a result of the above meetings and Division effort. Following are some examples:

Travel funds were identified and a mechanism was established to fund foster parents' travel for training at the statewide and local conferences.

The special Augmented Foster Care pilot project in Anchorage, which is being administered by the Youth Services Section, is proving successful. A plan was made to expedite payment. Approval of an augmentation must receive the approval of the Regional Administrator and the Youth Services Field Administrator. Upon receipt in Central Office, the augmentation is set up on the computer payment system to ensure timely payment upon receipt of the invoice from the foster parents. A change in the program was made the first of March which will allow the foster parents to continue receiving the initial augmentation rate after the first six months, even when the youth may have improved to the next level. It was felt that reducing the rate when the level of needed care improved was a disincentive in the program.

Research was completed by Pat O'Brien on criminal records searches. Research findings were forwarded to Regional Managers and Administrators along with a questionnaire to elicit regional response. A consistent statewide policy will be formulated based on the review of the responses. The AFPA was also asked to respond to the questionnaire. The licensing record clearance request was revised with the Departments of Law and Public Safety approval. The revised form allows arrest record reviews and is clearly marked "Confidential". The handwritten "Hit" will no longer be placed on any clearance request forms.

A computer work request was submitted asking that provisional licenses and biennial licenses be added to the computer summary report of expired licenses, currently being prepared by Jeannette Sanders and Margaret Levitt of Central Office.

Regional Managers and Administrators agreed on an emergency placement/payment policy to be placed in the staff manual and the Foster Parent Handbook.

AFPA representatives agreed to draft a form to be used for foster care special needs requests.

AFPA and Division representatives agreed that a placement agreement was properly a subject for regulations. The AFPA developed form will be a primary resource.

The Division assumed responsibility for conducting the annual foster care rate hearings required by AS 47.05. Hearings were set up for the week of March 19-23, 1984. In addition to notices being placed in major newspapers, individual letters of notice were sent to all foster parents, since one of the AFPA concerns about previous rate hearings was that inadequate notice had been given.

Issue identification and planning drafting is continuing. Draft issue papers will be circulated to managers, administrators, and the AFPA prior to finalization. New issues were identified in the recent meetings.

SOCIAL SERVICE REGIONAL ACTIVITY

Special foster care activities were reported from the following social service regions.

SOUTHCENTRAL REGIONAL OFFICE

The Anchorage foster care staff was actively involved in recruitment efforts during the Fur Rendezvous this month. The Anchor Foster Care Association and the Alaska Foster Parent Association jointly sponsored a booth at the Trade Fair between February 10th and 19th. The booth was staffed continuously during this time by a total of 36 foster parents, 18 DFYS workers and four Parent Training Center Foster Care component staff. In addition to raising $995 for the two associations by selling made-to-order buttons, the Trade Fair generated 30 prospective foster families for the Division. These applicants are scheduled to attend the March 13th Foster Parent Orientation meeting. Hundreds of other Southcentral residents visiting the Trade Fair took the brochures and talked informally with the people staffing the booth about the foster home program.

A foster parenting float was entered in the Fur Rendezvous parade February 18th. Four foster families and one Division staff person's family rode on the float, which won a fourth place prize in the noncommercial category. The float had the DFYS telephone number on it and many of the recent inquiries about foster care have mentioned our participation in the parade.

February was a full month for the Parent Training Center Foster Care Component. The two foster parent support groups met four times each during thi month. Workshops offered during February were: "Preparing a Child to Leave for Adoption", "Foster Parents as Advocates", "Teaching Independent Living Skills for Teens", "Don't Condemn Me Until You Know Me-Natural Parents", "Learning Disabilities in Children", "Ages & Stages-Child Development", "Burning Out in Foster Care" and "C.P.R. for Foster Parents".

The Division published two newspaper advertisements this month in the "Help Wanted" section to recruit homes for several difficult-to-place adolescents. Of the three serious responses to this, one family has chosen not to participate in the program and one family is currently receiving an emergency provisional license for one of the teens targeted for this special recruitment. Half-page ads were also placed once in the TV Guides in the two Anchorage newspapers to recruit for foster homes.

A day-time preservice preparation and evaluation group ended February 14th, graduating three families. This class was designed to accommodate applicants with evening work hours and North slope work schedules.

Another preservice began February 22nd with eleven new foster families participating in this series of classes.

Field staff conducted individual orientations with two staff members making special presentations as a part of their participation in other community programs. On February 1st, Flora Tutiakoff, Unalaska social worker, spoke regarding the need for foster homes during the Chemical People Task Force meeting. Barbara Smith, Social Service Associate of McGrath, participated in a Domestic Violence workshop on February 7th and 8th in Nikolai and on February 15th, she made a presentation before a meeting of Health Aides from McGrath and nearby villages. In both programs, she provided information about licensing and the need for additional foster homes in the area. Barbara also shared information about one of our foster children who has been in care approximately four years and now is a senior. This young man was inducted into the National Honor Society on February 14th and also won first place in the local ski meet. His successes reflect to a large degree quality of care and support he received from his foster parents.

One of the main goals for the Mat-Su area this winter was to offer and complete the foster parenting NOVA University Program as it was originally presented and suggested by the NOVA University Trainer. The program has been implemented, but they are still in the process of "fine tuning" it to meet the needs of that particular community.

Mat-Su foster parents and staff are in the planning stages and getting ready to start action on the Foster Care Booth at the State Fair in Palmer which begins in mid-August. They anticipate involvement from the Alaska Foster Parents Association and from other local groups.

NORTHERN REGIONAL OFFICE

A lot of energy was spent during February working with the new Foster Parent Association board members. Committees were formed and objectives solidified. The two most active were the conference and membership committees. The conference committee met weekly and the dates, location, theme and program design were decided and registration materials were developed. The membership committee started its membership drive March 1, 1984. There are plans for a mass mailing, radio and newspaper releases, posters, television and community appearances. Tied into the Association's membership drive will be an effort to recruit new foster homes with special emphasis on teenage and Native foster homes.

Both Social Services and Youth Services began to organize a delegation to attend the State conference in Anchorage. So far thirty foster parents from the Northern region have indicated an interest in attending.

The support contractor had two people complete its February training and had about twelve foster parents signed up to take the eight week intensive training starting in March. The contractor is beginning to provide more individualized in-home services centering around initial placements and specific placement problems.

February's Foster Parent Association meeting was attended by about thirty foster parents and foster teens. Steve Emmerson from the Fairbanks Native Association's Alcohol Program led a very lively discussion on just about everything you wanted to know about drugs and alcohol.

The Association is working with the Division and the Foster Grandparent Program to set up a pilot Foster Grandparent Program involving the grandparent with foster families as the new team member. The local Foster Grandparent Program will be doing a presentation at the March Foster Parent meeting.

Meetings with the respite care worker and the long term care worker from Fairbanks Rehabilitation Association were held this month. Training in regulations, forms and procedures was given in an effort to keep licenses current for homes caring for handicapped children and adults.

Fairbanks foster parents, Richmond and Shirley Lewis, were awarded "Roses in the Snow" by a local radio station for their work with handicapped foster children. The couple was nominated by a teacher to receive this honor for their "...willingness to help others in such a loving manner after raising their own children."

SOUTHEAST REGIONAL OFFICE

The first regional foster care conference in Alaska was held in February in Ketchikan. Regional Manager, Kathy Tibbles, stated that it was highly successful. Some foster parents from Wrangell and Petersburg were able to attend. Credit for the success should go to Grace Kinney, President of the Ketchikan Foster Parents Association; Close Encounters, the foster parents support contractor; Jackie O'Sullivan, Ketchikan foster parent; and other active foster parents in the Ketchikan area.

YOUTH SERVICES REGIONAL ACTIVITY

Special foster care activities were reported from the following youth service regions.

SOUTHCENTRAL REGIONAL OFFICE

Jack Hansen traveled to Kenai, Soldotna, Homer, and Seward to license and to provide training utilizing video tapes of Dr. Jane Krauss. Betsy Gerace went to Kodiak for an orientation for new foster parents. Three applications were given to Native couples. She also traveled to the Mat-Su Valley for licensing and support services.

Preparations are being made for upcoming Basic Foster Parent Training to be held in April and Augmented Rates' training to be held in May. The curriculum has been set for monthly foster care meetings and other training to be given by Sandy Jackson of Community Mental Health.

A newspaper article was published in the Kodiak Daily Mirror (see Attachment 3) regarding the need for foster homes. An award was given for "Big Shot" by the Advertising Federation of Alaska. (See Attachment 4.) Attachment 5 is the revised policy for the Augmented Foster Care Special Program.

In February there were eleven pending foster care applications, eight licensing studies in process, and 33 licensed homes available for Southcentral Youth Services. Eight homes were on hold. Thirty-two youth services children were in foster care placement.

NORTHERN REGIONAL OFFICE

During the month of February, 1984, the Northern Youth Services Office served twenty-nine children in foster homes.

SOUTHEASTERN REGIONAL OFFICE

The month of February included licensing trips to Sitka and Haines, as well as conducting numerous home studies in the Juneau area. One initial study was successfully completed in Haines and resulted in another resource for their community. The majority of the homes visited were satisfied with their relationship to the Division and comfortable in their role as foster parents. Overall things are moving well for this region as the licensing focus continues on renewing expired licenses.

In February there were thirty-seven foster homes available, one pending foster home application, and five children in foster care placement.

Attachments

cc: RSSMs

RAs

Dave Arnold, Youth Services Administrator
Anchorage

Freda Borchick, Administrative Officer
Central Office

Pat O'Brien, CC Licensing Coordinator
Central Office

Nina Keeler, SS Program Coordinator
Central Office

ATTACHMENT 1

STATE OF ALASKA

Executive Proclamation

by

Bill Sheffield, Governor

In the State of Alaska, there are currently 1,038 children under foster care, and both public and private social agencies and dedicated foster families provide these children with a temporary or permanent home environment that will help them become responsible citizens.

The goal of the foster care program is to improve home conditions so that the child may be returned to his family or, if this is not possible, to make suitable permanent plans for the child.

The Alaska Foster Parent Association has undertaken the need to create greater public awareness of the needs of children in foster care and the role and responsibility of the foster families that serve them. The Alaska Foster Parent Association also is sponsoring an educational conference open to the public, agency personnel, and foster parents on March 22 - 24, 1984.

NOW, THEREFORE, I, Bill Sheffield, Governor of the State of Alaska, do hereby proclaim March 19 - 24, 1984, as

ALASKA FOSTER CARE WEEK

in Alaska, and urge all citizens of Alaska to give special attention to the needs of children in foster care and to recognize the important role of foster families in the delivery of service to our children in care.

Dated: February 6, 1984

Done by—

Bill Sheffield

Bill Sheffield, Governor who has also authorized the seal of the State of Alaska to be affixed to this proclamation.

ATTACHMENT 2

March 9, 1984

DOCUMENT NO. 84-79

The Honorable Mae Tischer
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

This is in follow up to the hearing on March 2, 1984, regarding foster care. Michael Price, Director of the Division of Family and Youth Services and his staff felt that the foster parents made an excellent presentation. We are pleased that we have improved our working relationship with them, and appreciate the efforts they have made to present their views. The Association members have also recognized that the Division of Family and Youth Services is committed to improving services to foster parents to ensure that children receive better care. Mr. Price had an opportunity to review the proposal submitted to you by the Alaska Foster Parents Association and is very supportive of the proposal.

The Alaska Foster Parent Association (AFPA) proposed support service contracts in the amount of $295,000. During FY 84 the Division awarded foster care support contracts totalling $294,989. We believe these contracts could be reduced to $95,000 and still provide adequate support services.

The AFPA recommended $100,000 for statewide foster parent orientation. We believe the continuation of Statewide Foster Parent Orientation is a very important part of the service needs in the Foster Program. In FY 84, $12,500 was awarded for this orientation from the 700 line in Foster Care as well as $8,000 utilized for the Southcentral area training and $13,400 from Staff Development monies. If the same level of funding could be earmarked for this training only $15,000 additional funds would be required to meet the $40,000 viewed as needed by the Alaska Foster Parent Association.

There is an additional $50,000 in the FY 84 budget which is being utilized for specialized training for the augmented foster care program. This money will continue to be available for training. Therefore, $98,000 will be available for foster parent orientation.

The Association requested $50,000 for reimbursement for loss or damages to property of foster parents. There is an existing program which allows for reimbursement to foster parents for certain loss and damage to property by children/youth in placement. Because of procedures and qualifications for such claims, expenditures during the first half of FY 84 have totaled only $4,235. The Department is willing to cooperate with the Alaska Foster Parents Association in order to clarify and simplify procedures for reimbursement. Pending this clarification, it is believed that these costs can be absorbed by the present budget.

The Association proposed $369,000 for foster care units. In discussion with them, the Association stated that support from Division staff is more critically needed than from outside contractors. The Association's proposal for foster care support staff is a need recognized by the Department but was not included in the budget submittal due to funding constraints. The staff needed would be 9 additional Social Worker III positions: 4 in Anchorage, 3 in Fairbanks, and 1 each in Juneau and Ketchikan, and clerical support in Anchorage for an estimated cost of $462,100. Of this figure $200,000 could be absorbed from the Governor's budget (i.e., from the foster parent support contracts) leaving a need of $262,100 additional funds.

The Alaska Foster Parents Association is an agency which represents an extension of the foster care services of the State. It is this Department's aim to continue to work in concert with this agency to improve services and public understanding of the Foster Care Program. However, while we are pleased to provide the above information, nothing herein should be interpreted as anything less than the Department's full support for the Governor's budget as submitted.

Sincerely,

Robert London Smith, Ph. D.
Commissioner

Attachment

RLS:MLP:FMB:pvk

bcc: DFYS

4/Price2/Tischer Ltr/D#737

February 28, 1984

The Alaska Foster Parent Association is requesting the following be put in the Department of Health and Social Services budget for FY 85.

1. A grant to named recipient of $48.0 to the Alaska Foster Parent Association to provide information, education, statewide networki;ng, direct, and indeirect support services to foster families as outlined in the contract proposal.

2. We are further requesting an intent statement that directs the Division of Family and Youth Services to use $295.0 from the line item in their budget under "Other" for specific Foster Family Support Service Contracts for training, recruitment, respite, or on-going support.

3. We request another intent statement that directs Family and Youth Services to do the following:

a. Use 52.0 for statewide training and mandatory training programs to be administered by the Dept. of Health and Social Services. Funds for transportation of foster parents to training programs held locally and statewide and to provide the cost of babysitters, and other incidental expenses which are incurred to attend these meetings, will be provided by the Department.

b. Establish a fund for reimbursement for loss or damages to the property of foster families as the result of having destructive foster children in the home. $50.0

c. $250.0 to provide 2 social worker aide positions in Ketchikan, Anchorage, and Fairbanks regions, and one clerical support position in each one of those regions. The purpose is to establish Foster Care Units that provide agency support to recruit families, keeping foster families in the program, and other on-going foster family support services.

INTENT: $ 814,000.00

Direct support services to foster families for the purposes of recruitment and retention.

1. $ 295,000.00 — Specific foster family Support Service Contracts, i.e. training, recruitment, respite, or on going suport services.

2. 100,000.00 — Implimentation of Statewide programs for Foster Parent Orientation to foster care. Mandatory training programs and Grants. Transportation for foster parents to training programs - National, State, Local.

3. 50,000.00 — Funds for reimbursement for loss or damages to the property of foster families.

4. 369,000.00 — Foster Care Units, in appropriate areas, providing in agency support, recruitment and retention program development, and on going foster family support services. Staff and clerical staff.

Direct Support Services to Foster Care Families for the purposes of recruitment and retention of foster homes

$ 814,000.00.

Included is a Grant for Alaska Foster Parent Association to provide information, education, statwide networking and direct and indirect support services to foster families.

$ 48,000.00

COST BREAKDOWN

Institutional Care:

Average cost per child per day	$122.00	
Cost of care for one year (365 days) per child	$44,530.00	
Cost for 25 children in institutions for one year at current average		$1,113,250.00

Foster Care:

Average cost per child per day	$ 15.00	
Cost of care for one year (365 days) per child	$ 5,475.00	
Cost for 25 children in ~~institutions~~ Foster care for one year at current average		$ 136,875.00

Total savings of foster care over institutions: (there is currently not enough licensed, trained, and willing foster homes to care for these 25 children)	$ 976,875.00
Proposal Cost: (this would recruit, train and support the needed new foster homes)	$ 814,000.00
Total savings 1st year after implementation of proposal:	$ 162,375.00

SECOND YEAR:

Institutional care: 50 children x 45,643.00 (44,530 x 2.5% cost of care increase)	$2,282,150.00
Foster care: 50 children x 5,662.00 (5,475 x 2.5% cost of care increase)	$ 280,594.00
Total savings 2nd year of implementation	$2,562,744.00
Cost of proposal: 814,000 x 2.5% cost increase	$ 834,350.00
Total savings 2nd year of implementation	$1,728,394.00
Total savings in a two year period	$1,890,769.00

It will be possible to double the number of children in foster care because there will be support and recruitment to meet that need.

Alaska Foster Parents Association

P. O. BOX 3651 • ANCHORAGE, ALASKA 99508

TO WHOM IT MAY CONCERN:

Alaska Foster Parents Association is a non-profit organization whose objectives are to:

1) promote the health and welfare of foster children
2) provide educational opportunities in the field of foster care
3) be of assistance, as needed, to all foster parents
4) cooperate with public and private welfare agencies in their foster care programs

To meet these objective Alaska Foster Parent Association (AFPA) has developed several goals, such as:

1) Recruitment and and retension of foster homes
2) Regional and Statewide conferences
3) Development of local, chartered organization to meet locally identified needs of foster children and foster parents
4) Quarterly educational and informational newsletter
5) education of the community and agencies as to the realities of foster care and foster parenting
6) Development of programs to enhance foster care as a positive, therapeutic treatment for children unable to live in their biological parents home
7) Recognition for foster families contribution to society, agencies, families, and individual children.

All officers and board members of AFPA serve totally volunteer, with no salary, benefits, reimbursements for personal expenses (such as transportation, childcare, personal equipment usage).

No portion of the budget of AFPA goes toward staff salary, employee benefits, or administration. All expenditures apply to direct services to foster children, foster families, agencies, and the community.

Direct service volunteers of AFPA donate a minimum of 160 hours weekly. plus an additional 40 hours donated weekly by committee and board members.

AFPA is the only statewide organization working to enhance foster care and assist foster parents in their difficult role of parenting a child not their own on a temporary basis.

Budget projection for 1984-85	$57,910.
Income from other sources	$ 9,910.
GRANT REQUEST FOR 1984-85	$48,000.

Georgia Rodini, President A.F.P.A.

Alaska Foster Parents Association

P. O. BOX 8651 • ANCHORAGE, ALASKA 99508

REQUEST FOR 1984-85 CONTRACT

NEWSLETTER (4 times yearly to 1500 people) $ 4340.

Includes Bulk Mailing
Printing
Layout
Artwork
Typing

AREAWIDE CONFERENCES $10000.

Includes $2500. grant each x 4 areas
AFPA representatives transportation
and per diem

SUPPORT TO CHARTERED OR DEVELOPING ORGANIZATIONS $10000.

Includes 2 transportation and per diem
$400 set up grant for 2 new organizations

(It is AFPA's intent to charter at least 2 local associations each year. These developing groups need exposure to the experiences of similar organization and experienced organizational leadership information, set up expenses, and on-site support. Already chartered organizations need leadership training, on-site support, and on-going foster parent and leadership training.)

STATEWIDE CONFERENCE $15000.

Includes Brochure and flyers
Rooms & location costs
postage
lunch
childcare
Reception
Speakers transportation
per diem
honorariums
Awards and miscellaneous

AFPA BOARD MEMBERS TRANSPORTATION $ 4400.

quarterly board meetings

EDUCATIONAL MATERIALS $ 2000.

Development and distribution to foster parents

OPERATING EXPENSES $ 6570.

Stationery and supplies
Equipment maintenance
Long Distance phone calls
postage
Xerox copies

NATIONAL FOSTER PARENT ASSN. TRAINING AND LEADERSHIP CONFERENCE

5 Alaska representatives transportation $ 4000.
per diem

REGION X FOSTER FAMILY CARE ASSN. PARTICIPATION 1 representative transportation x 4 per year	$ 1600.
TOTAL BUDGET	$57910.
INCOME FROM OTHER SOURCES	$ 9910.
Total Requested contract amount	$48000.

INCOME FROM OTHER SOURCES

Conference Registrations	$ 1500.
Other membership dues	$ 500.
Fund Raising	$ 2500.
Donations	$ 500.
In kind service donations	$ 4910.
Total other income	$ 9910.

Alaska Foster Parents Association
P. O. BOX 8651 • ANCHORAGE, ALASKA 99508

Budget needs not covered under contract request:

AFPA would like to begin in 1984-85 a SCHOLARSHIP FUND

2 scholarships @ $2500. for foster children going on to higher education — $5000. yearl

ONE TIME INVESTMENTS:

Xerox machine with collater	$7500.
2 typewriters @ $800. each	1600.
3 file cabinets @ $150. each	450.
Video equipment	3500.
Computer with printer	5000.
TOTAL TANGIBLE GOODS	$18050.

$18050. one t

ONGOING AND GROWING NEED FOR:

Office space and expenses (could be no cost if given space in the former DFYS Staff Development Center and/or DFYS Regional Office)	$12000. yearly
Office Manager/executive director-secretary	$30000. yearly
total needs for the future	$42000. yearly

ALASKA FOSTER PARENT ASSOCIATION officers and board members serve totally volunteer. There are no salaries, benefits, or reimbursements for personal expenses such as transportation, childcare, or use of personal equipment.

Direct service volunteers donate a minimum of 160 hours weekly plus an additional 40 hours donated by committee and board members.

No portion of the Alaska Foster Parent Association budget goes toward staff salary or employee benefits; all expenditures apply to direct services to foster children, foster families, agencies, and the community.

ATTACHMENT 3

Meeting tonight

Area teens need foster homes

By MARLIN STUM
Staff Writer

Do you like teenagers? Do you remember some of the trouble you got into as a teen? Do you have the time and interest to help raise a young person who does not have caring parents or whose parents are living off the island?

Would you welcome a teenager in your home for a couple of weeks, a month, or even a year? Are you able to set limitations? Can you work with the criminal justice system? Are you afraid of the word "delinquent?"

These are some of the questions one might be asked when applying to become a foster parent.

"We need more foster parents in Kodiak," said Dwight Becker, district juvenile probation supervisor. "Right now we have four foster parents here and I'm supervising about 30 kids." Becker said he hears of an additional 15 juveniles in an average month who may be helped by foster parents.

Becker and Betsy Gerace, regional foster care coordinator from Anchorage, will be meeting with Kodiak foster parents tonight at 7 p.m. in the Kodiak Baptist Mission. The meeting will be held in the lounge area upstairs and anyone interested in the program is invited to attend. Showing up at this meeting does not in any way obligate a person, said Becker, but it provides a chance to meet foster parents and program coordinators and find out more about the program.

Briefly summarized, a foster parent provides a teenager with temporary care ranging from a couple weeks to several months. These teens have broken some law and need a firm but understanding guardian. Single parents are considered along with couples. Even fishermen traveling to Bristol Bay can be foster parents, said Becker.

The average age of a Kodiak area teen in need of a foster

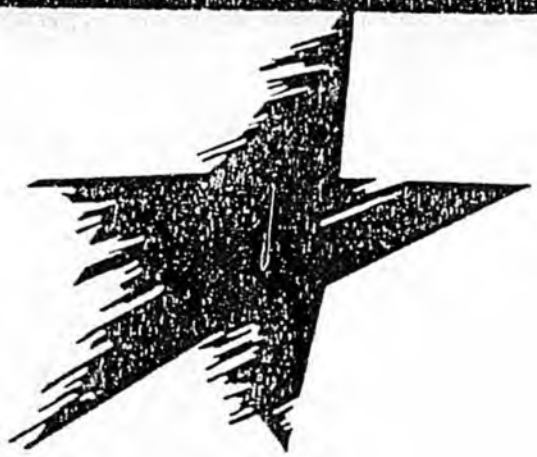
(Continued on Page 12)



DWIG

Kodiak Daily Mirror 2/23/84

ATTACHMENT 4



BEST OF THE NORTH MERIT AWARD

1983

PRESENTED BY
THE ADVERTISING FEDERATION
OF ALASKA

PUBLIC SERVICE, 2 OR MORE MEDIA

"BIG SHOT"

STATE OF ALASKA, JUVENILE PROBATION OFFICE

HOLDEN-HACKNEY PRODUCTIONS

Linda L Bockever

PRESIDENT

DEPARTMENT OF HEALTH & SOCIAL SERVICES
DIVISION OF FAMILY & YOUTH SERVICES
SCRO CHAPTER ADDITION (Revised 2/84)

SECTION: Youth Services
POLICY: Augmented Foster Care (Special Program)

46.0 PURPOSE:

Traditional foster care programs, qualifications, and care payment rates have a tendency to create catch-all foster care services provided by general duty foster parents. Some delinquent youths who are placed in group residential facilities could be cared for, supervised and treated in foster homes if their needs and problems are adequately assessed and they are placed with foster parents who possess the necessary skills, training and support to work successfully with more difficult youths or youths requiring special services.

This program establishes a method of performing individual Level of Difficulty assessments for delinquent youths having mental, emotional and behavioral problems who are in need of nonrelative out-of-home placement.

Those youths placed in foster care will be placed in licensed homes where an evaluation of the foster parents has shown their ability to provide care, supervision and treatment commensurate with the assessed needs of the youths. While providing foster care services for youths with special problems, foster parents will be compensated for the expenses of care by augmenting the standard foster care payment as provided by 7AAC50.730(4)(5) Augmented Rates. These sections provide for payment of augmented foster care rates as compensation for reoccurring damages to the household or the belongings of a foster parent caused by an extraordinary destructive child, and for any other related costs which may be incurred in caring for foster children who have special problems. The Level of Difficulty Assessment is used to identify those youths with special problems and to determine the severity of those problems.

PROCEDURE:

Level of Difficulty Assessment - The Level of Difficulty Assessment tool is designed to identify those youths who, because of delinquent offense records, behavioral problems in combination with medical, emotional, or learning problems require the foster home to provide special services, devote large amounts of time and energy, and deal with special risks to persons or property. The assessment tool measures a group of current and past behaviors, as well as emotional, medical, educational and supervision requirement issues. The assessment factors directly relate to the nature, quality, and quantity of placement services required for a youth and the degree to which care of the youth will result in additional costs incurred by the care provider.

Level I and II placements normally placed in residential care facilities are the primary target group of this program.

When a Probation Officer determines that an out-of-home placement is necessary for a delinquent youth, the referring officer completes a Placement Referral (Attachment A). In a staffing with the officer's Supervisor and a Foster Care Coordinator, the youth's behavior and needs are assessed using the Level of Difficulty Assessment form (Attachment B). Instructions for completing the assessment are contained in Attachment C. A Foster Care Coordinator then scores the form in accordance with a scoring key (Attachment D).

Those youths with a level of difficulty assessment score of 0 to 179 are defined as Level I and are not eligible for this program. Those with a score of 180-259 are Level II and those with a score of 260 and above are Level III. Based on field testing, it is anticipated that approximately 75% of youths in placement will fall into Level I, 20% into Level II and 5% into Level III.

If a youth assessed at Level of Difficulty II or III has been referred and accepted for foster care placement in the Augmented Foster Care Program the Probation Officer will prepare a Request for Augmented Rates and complete an Augmented Foster Care Placement Agreement and Plan at the time of placement.

Level of Difficulty Reassessment - All youths in augmented foster care assessed at Level II and III difficulty will be reassessed at six month intervals and Levels of Difficulty adjusted accordingly. Changes to a higher level must be reviewed by the Probation Supervisor and approved by the Regional Manager. All such reviews will take place in a joint staffing between the foster parent and the Probation Officer. The Foster Care Coordinator may be included.

At 90 day intervals, the Probation Officer will conduct a placement progress staffing and assessment review with the foster parents. The Foster Care Coordinator and biological parents may participate in this staffing. The purposes of the progress staffing and assessment review are to assure that the plan of foster care is addressing the services and behavior problems outlined in the Level of Difficulty Assessment, to review the youth's progress in care and to modify the placement plan if required.

Foster Parent Qualifications, Assessment, and Matching - Foster parents caring for youths in the Augmented Foster Care Program will be selected on the basis of their warmth; sensitivity; child care skills; prior training or experience; tolerance of troubled youth; ability to cooperate with the Division; and willingness to learn and participate in mandatory training, consultation and case staffings. All foster parents must have a current and valid child foster care license with a study and/or assessment completed by the SCRO Foster Care Unit.

In order to be compensated at an augmented rate for youths assessed at Level of Difficulty II, the foster parent(s) must:

1. Have completed basic Foster Parent Training and Orientation provided by the Division or the equivalent; and

2. Be willing and participate in frequent case staffings and attend monthly foster parent meetings for regular on-going training; and

3. Have at least six months experience fostering adolescents with behavior problems, or completed Advanced Foster Parent Training provided by the Division or the equivalent or elsewhere; and

4. Have an average skills assessment rating of 7 or higher.

Foster parents providing care and receiving an augmented rate for a youth assessed Level of Difficulty III, in addition to requirements 1 through 4, must:

5. Be a two-parent foster home with one parent not employed outside the home; and

6. Have provided at least one year of prior foster care for adolescents with behavior problems; and

7. Have completed Advanced Foster Parent Training provided by the Division or the equivalent elsewhere; and

8. Have an average skills assessment rating of 8 or higher.

Foster parent's qualifications and abilities to provide augmented foster care for Level of Difficulty II and III youths will be documented and assessed on a Foster Home Evaluation and Assessment form (Attachment E). The foster home will be assessed jointly by the Regional Foster Home Coordinator(s) and each Probation Officer who has supervised placements in the home. If there are significant differences between the ratings of the Foster Care Coordinator and Probation Officers, a second assessment will be made in a joint staffing between the coordinator and the Probation Officer convened by the Regional Manager.

Foster parents wishing to provide augmented foster care under this program, may complete a self assessment prior to the assessment completed by Division staff. Foster home self assessment will not used for the actual rating. Those assessments will help determine areas of additional training and experience needed by the foster parents.

A home capable of providing augmented foster care for Level of Difficulty II youth may also be used for youths assessed as Level I. A home capable of providing augmented care for Level III may also provide care for Levels II and I.

Expectations of Foster Parents - Foster parents providing care for Level of Difficulty II and III youth will serve as paraprofessional treatment team members. They will work in harmony with the placing Probation Officer and Foster Care Coordinator as well as the natural parents and school personnel.

The foster parents emphasis is on thoroughly understanding the youth, forming a meaningful relationship, working thorough trust problems, building self esteem, providing close supervision and effective discipline, and implementing the treatment plan. The foster parents will be expected to keep clear records of the youth's behavior in the foster home and aid natural parents in developing a supportive home environment so that the youth can eventually return home.

Foster parents providing care for a youth and receiving augmented rate payments under this program will not be eligible to request Special Needs reimbursement for damages or losses under $250 or for hobby or recreational supplies and equipment for the youth. Other special needs categories are not affected. The augmented rate is partially intended to cover the excluded special needs.

Foster Parent Training - All foster parents receiving augmented care rates under this program must have completed "basic foster parent training and orientation." That training shall consist of instruction and review of materials contained in the Foster Home Licensing Regulations and the Division Foster Parent Handbook.

Ongoing training and individual monthly support sessions will be provided by the Foster Care Unit. Group training and support sessions will be held at least quarterly with training topics applicable to foster parenting difficult youths presented at each session. Guest speakers will present information regarding adolescent behavior or foster parenting whenever possible.

The "basic training" requirement can be fulfilled by evidence of completing one of the Division's Foster Home Training and Orientation courses or similar foster parent training provided by another foster care placement agency.

Advanced foster parent training will be provided through the Regional Foster Care Unit. The training will consist of not less than 30 hours and cover topics such as: Treatment team approach, understanding the delinquent personality, crisis intervention, aggressive and assaultive behaviors, sexuality, education planning, runaway, discipline, use of professional resources, working with natural parents, behavior observation, record keeping, legal procedures and separation and loss. Yearly follow-up training workshops and self study materials will also be provided.

Attachment F is an example of an advanced foster parent training curriculum.

The requirement for advanced foster parent training can be waived by the Regional Manager for foster parents who have completed other comparable substitute training. Substitutions could include portions of training received from the Alask Foster Parent Association Annual Conference, Child Welfare League of Ameri . Conferences, National Foster Parent Association Conferences, Division of Mental Health Specialized Foster Parent Training, training by other social service and child placement agencies, and college level courses.

Placement Procedures - Foster home selection shall be based on the needs of the youth, including the Level of Difficulty Assessment and the abilities of the foster parent to meet the identified treatment and supervision needs of the youth.

Following completion of the Level of Difficulty Assessment on a youth referred for augmented foster care placement and selection of an appropriate foster home, a preplacement staffing will be conducted. This staffing will include the youth, the youth's Probation Officer, Foster Care Coordinator, and the prospective foster parents as a minimum. The Probation Supervisor may also participate as well as the youth's parents or guardian if feasible and desirable.

The purpose of this staffing is to formalize the referral to the particular foster home, share pertinent background information, develop the initial treatment plan, and complete the placement agreement. The Placement Agreement and Plan (Attachment G) is modeled after that required by 7AAC50.049 for Residential Care Placements. Preplacement visits may be initiated either before or after this staffing. Other placement procedures required by Youth Services or Regional policies will also be followed.

Limitation on Placements - Care of a Level of Difficulty II or III youth requires expenditure of considerable time and energy by the foster parent(s) and limits the foster parents capability to adequately care for other foster children.

Single foster parents and foster parent couples with both parents working outside the home may provide care and receive augmented payment rates under this program

for youths assessed at Level of Difficulty I and II only. Only foster parent couples with one non-working parent can care for a youth assessed at Level III.

Foster parents providing augmented foster care for Level II or III youths must agree to provide foster care for other youths only when such other placements have been approved by the Division's Regional Manager or designee responsible for placement of the Level II or III youth. The Regional Manager or designee will use the following guidelines to determine if consent for care of other youths should be granted:

- No more than one (1) Level II youth should be placed in a single foster parent home where the foster parent is employed outside the home.
- No more than two (3) Level II youth should be placed with a single foster parent not employed outside the home.
- When a single foster parent is caring for a Level II youth, they should care for no more than two total placements.
- No more than one (1) Level II youth and a total of three (3) youths should be placed in a couple's foster home with both parents working outside the home.
- No more than two (2) Level II or Level III youths and a total of three (3) youths should be placed in a couple's foster home where one parent works outside the home.
- No more than three (3) Level III youths and four (4) youths total should be placed in a home where both parents are available for full time supervision.
- A foster home providing care for Level II or III youths should not accept placements from other agencies or private parties, nor should they care for adult boarder or provide day care.

Rates of Care Payment and Method of Augmentation - Foster parents will be reimbursed for care expenses in accordance with 7AAC50.710 through 840. Augmented rate payments will be made only to qualifying foster parents caring for youth assessed Level of Difficulty II and III. A home providing care for more than one youth, therefore, might receive varying payment rates depending upon the Level of Difficulty for each youth in placement.

For a youth assessed at Level of Difficulty of II, and placed in a qualifying foster home, an augmented foster care payment rate will be made which will equal 200% of the standard foster care rate*($34.32/day-SCRO).

The foster care payment rate for a Level of Difficulty III youth placed in a qualifying foster home may be augmented to equal 300 percent of the standard foster care payment rate*($51.48/day-SCRO).

The foster care payment rate will be implemented through an Augmented Foster Care Rate Request initiated by the placing Probation Officer and approved by the Probation Supervisor, Regional Manager and Division Director or designee. The

Augmented Foster Care Rate Request (Attachment H) shall indicate that the youth has been assessed for Level of Difficulty in accordance with this program and shall have attached a copy of the Level of Difficulty Assessment and the Augmented Foster Care Placement Agreement and Plan. The narrative shall note that the foster home has been evaluated and that the foster parent(s) possess the requisite skills, training, and experience to care for the youth. The Augmented Rate Request with attached documents will be routed through supervisory channels for approval and issuance an Augmented Rate Authorization and Invoice (A&I).

An augmented rate authorization under this program will be approved for a period of six months. The Augmented Rate Request may be renewed at six month intervals upon approval of another Augmented Rate Request. Level of Difficulty reassessments and a review of the placement plan will be made before augmented rates are renewed.

Evaluation - The purpose of this augmented rate program is to provide placement and care for youths having special problems in foster home which are equipped to provide the special care they need and to decrease the utilization of more expensive residential care placements.

A data base of placement utilization by region has been established over the last two fiscal years. Rates of foster care utilization and residential care placement utilization will continue to be documented. Successful implementation of this program will be demonstrated by an increase in foster care placement and decrease in residential care placement during the time of implementation as compared to similar time periods in prior years.

Each week the Regional Administrator will provide a report to the Youth Services Administrator documenting the number of youths in foster care and the number of youths in residential care. At six month intervals the Regional Administrator shall compare those placement rates to prior years and submit a report to the Youth Services Administrator.

Richard Illias, Regional Manager - SCRO

February 1984
Date

* FY84 Rate Table

Attachments: Placement Referral (A)
Level of Difficulty Assessment Form (B)
Instructions for Completing the Assessment (C)
Foster Home Evaluation & Assessment (E)
Placement Agreement and Plan (G)
Request for Augmented Foster Care Rates (H)

DIRECTIONS FOR COMPLETING THE PLACEMENT LEVEL OF DIFFICULTY ASSESSMENT FORM

The Placement Level of Difficulty Assessment Form is designed to give us information concerning the special problems, treatment needs, and behavioral problems of a youth being placed in foster care. The supervision requirements, treatment needs, and behaviors provide a quantitative measure of how difficult the youth will be to care for in placement. It will serve as assessment documentation for any Augmented Rate Request submitted for the Augmented Foster Care Program. The initial assessment is to be completed by the youth's Probation Officer and the officer's supervisor at the time a referral for placement is made.

There are two pages to this assessment. Page 1 documents special problems, case plan services which the foster parent is expected to provide and the degree of supervision needed by the youth. All the information contained on Page 1 should be based on your evaluation of the youth at the time of assessment. Page 2, Manifest Rating Scale, is used to document significant behavioral history.

In the area on page 1 marked SPECIAL PROBLEMS, note any listed problems which apply at the time of assessment. For each item marked "yes", a comment must be made in the verified block noting the document and date. The case file must contain an adequate verifying document for each special problem. For example, EMOTIONAL DISTURBANCE must be documented by a recent psychological or psychiatric report, RETARDATION by psychological report or school records, LEARNING DISABILITY by an IEP, DELINQUENCY by an adjudication order, PREGNANCY by a medical report and MEDICAL DISABILITY by a medical report or history. Medical Disability means a chronic, life threatening condition such as epilepsy, diabetes, leukemia.

In the CASE PLAN SERVICES area, note in the appropriate column the frequency of effort by the care provider required for each listed item at the time of assessment.

The SUPERVISION LEVEL area has definitions on the assessment form. Circle the most appropriate.

The MANIFEST BEHAVIOR RATING SCALE on Page 2 is divided into two sections - Behavior Problems (A) and (B).

The behavior items in Section A are those which require special skills by the care giver and have been evident in the six months immediately proceeding the assessment.

The behaviors in Section B are those which subject the foster parent, other members of the family and the youth to serious risks of persons or property and are a part of the youth's total behavioral history. Caring for youths with those problems requires exceptional judgement, skill, and supervision by the care giver.

For each behavior type listed, place an X in the column which best describes the frequency of that behavior during the last six months for Section A and total history for Section B.

None (0) indicates that the youth has not exhibited or given any indication of exhibiting the behavior. Mild (1-3) indicates that the youth has not exhibited the behavior, but has given some indication, verbal or physical of exhibiting the behavior. Moderate (4- 6) indicates that the youth has exhibited the behavior at least once. Serious (7-9) is marked for a youth who has exhibited the behavior more than twice. Very Serious (10) indicates that the youth continuously exhibited the behavior.

The adjective "serious" next to several items in Section B refers to value of loss to the frequency of incidents.

PLACEMENT LEVEL OF DIFFICULTY ASSESSMENT Date Assessed:_____

NAME_____ Worker Initials_____ Supvs. Initials_____

CASE NO._____ Raw Score_____ Adjusted Score_____ Level_____

SPECIAL PROBLEMS

DELINQUENCY YES___ NO____ VERIFIED_____

MEDICAL DISABILITY YES___ NO____ VERIFIED_____

EMOTIONAL DISTUREANCE YES___ NO____ VERIFIED_____

RETARDATION YES___ NO____ VERIFIED_____

LEARNING DISABILITY YES___ NO____ VERIFIED_____

PREGNANCY YES___ NO____ VERIFIED_____

CASE PLAN SERVICES Provided by Care Giver

Once a Month MINIMAL — 2 X a Month AVERAGE — Weekly ABOVE AVERAGE — Daily EXTENSIVE

	0	1	2	3	4	5	6	7	8	9	10
NATURAL PARENT INVOLVEMENT											
SCHOOL COORDINATION											
TRANSPORTATION											
TUTORING OF SOC. AND EDUCATIONAL NEEDS											
COUNSELING OF ACTING OUT BEHAVIOR											
PERSONAL HYGIENE COUNSELING											

SUPERVISION LEVEL — MINIMAL — AVERAGE — ABOVE AVERAGE — EXTENSIVE

(Circle one) 0 1 2 3 4 5 6 7 8 9 10

Supervision level definitions:

MINIMAL - Knows general whereabouts of child (emancipation process).

AVERAGE - Occasional monitoring (knows whereabouts of child and activities generally.

ABOVE AVERAGE - Needs consistent monitoring (checking of whereabouts/activities).

EXTENSIVE - Needs consistent and constant direct sight supervision.

Page 1 Score_____

REVIEWED AND APPROVED: Reg. Manager's Initials _____ Date_____

PLACEMENT LEVEL OF DIFFICULTY ASSESSMENT
Manifest Behavior Rating Scale

BEHAVIOR PROBLEMS(A)	None 0	1	Mild 2	3	4	Moderate 5	6	Sericus 7	8	9	Very Serious 10	Raw Score	Adj. Score
OPPOSITION TO HOME RULES													
TRUANCY													
RUNAWAY													
LYING													
SEXUALLY ACTIVE													
DRUG ABUSE													
ALCOHOL ABUSE													
MANIPULATION													
PETTY THEFT IN HOME													
VERBAL ABUSE													
HOMOSEXUALITY													
PROSTITUTION													
SELF MUTILATION													
CARELESSNESS W/PROPERTY													
BEHAVIOR PROBLEMS (B)													
ASSAULTIVE BEHAVIOR													
CHILD MOLESTATION													
PROPERTY DAMAGE (Serious)													
FIRE SETTING													
THEFT IN THE HOME (Serious)													
CRUELTY TO PETS													
SUICIDAL													

Total page 2 _____ _____

Total page 1 _____ _____

TOTAL BOTH PAGES _____ _____

RATING SCALE DEFINITIONS

None - Has not exhibited or given any indication of exhibiting behavior.
Mild - Has never exhibited behavior but has given some verbal/physical indication of doing so.
Moderate - Has exhibited behavior at least once.
Serious - Has exhibited behavior more than twice.
Very sericus - Continuously exhibits behavior.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES
AUGMENTED FOSTER CARE PLACEMENT AGREEMENT AND PLAN

Date:_____

Foster Home:_____ License No._____

Youth's Name:_____ Case No._____

We, the undersigned, agree that _____ will be placed in

the _____ foster home on _____198__. We understand that the youth has been initially assessed as requiring special care. We promise to do everything possible to help the youth and the youth's family to make this a successful experience. The foster parent(s) have read the findings of the youth's Level of Difficulty Assessment and agree to provide supervision and foster care services in conformance with Alaska Administrative Code Child Foster Home regulations 7AAC 50.310-.620 to meet the youth's identified needs and problems. The foster parents agree to participate in regular case review staffings with the placing worker, Foster Care Coordinator, youth and youth's parents to evaluate progress and review or modify the case plan. The foster parents also agree to attend regularly scheduled foster parent training meetings provided by the Division. This agreement and plan will be reviewed every three months to revise and/or evaluate progress on the plan.

The placing worker has provided the foster parents with all available and appropriate information on the background and needs of the youth necessary for effective care. The foster parents agree to respect that information about the youth, his/her family and keep it confidential except when disclosure is authorized by the Division. The foster parents agree to safeguard and maintain the youth's medical and school records and keep legible and accurate chronological log notes or journal entries concerning the youths behavior and progress while in foster care which will be shared with the placing worker.

The placing worker will immediately prepare and submit a Request for Augmented Care Rates. We understand that approval of an augmented rate of payment expires after six months but may be renewed. When an augmented rate is paid for a youth under the Augmented Foster Care Program for Youth With Special Behavior and Emotional Problems, the foster parents understand that they will not be eligible to claim Special Needs reimbursement for damages or loss under $250, or for hobby/recreational supplies and equipment for the foster child.

The foster parents agree not to provide foster care for other youth without specific consent of the Division of Family & Youth Services office which has made this placement.

The foster parents and the placing worker mutually agree to give each other at least five days notice if they believe that it is in the best interests of the youth or the foster parents for the youth to be discharged prior to the agreed-upon date.

The following are the agreed-upon initial placement plans:

ISSUE	PLAN	DUE DATE	RESPONSIBILITY
SCHOOL: Enrollment- Attendance- Problems-			

06-3469; GEN. # 70 Rev. 2/84

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES
PLACEMENT REFERRAL

NAME_____ DOB_____ RACE____ REFERRAL DATE_____

DATE NEEDED_____ CT. DATE_____ PRESENTLY AT_____

REASON FOR PLACEMENT_____

EST. LENGTH OF
PLACEMENT_____ SCHOOL_____ GRADE_____

SCHOOL STATUS_____ SPECIAL ED ( ) YES ( ) NO

DELINQUENT BACKGROUND: (LIST ALL OFFENSES)_____

_____

SPECIAL APPOINTMENTS: ( ) YES ( ) NO EXPLAIN:_____

PLACEMENT PREFERENCE: ( ) RES. CARE (NAME) _____

( ) FOSH STANDARD ( ) FOSH EMERGENCY

COMMENTS:_____

WORKER NAME:_____ SUPV. APPROVAL _____ OUT OF DISTRICT APPROVAL_____

- -

OUTCOME OF REFERRAL FOR FOSTER CARE

LEVEL OF CARE ASSESSMENT: RAW SCORE_____ ADJUSTED SCORE_____

ASSESSMENT LEVEL _____ RM APPROVAL _____

PLACEMENT VISITS STARTED AT:_____ HOME: ON:_____

PLACED AT_____ HOME: ON_____

RIGHT TYPE OF HOME ( ) SEX ( ) AGE ( ) RACE ( ) RELIGION ( ) EMERGENCY
NOT AVAILABLE

( ) NO FOSTER HOME AVAILABLE IN THE COMMUNITY
( ) SPECIAL FOSTER HOME BEING RECRUITED
( ) REFERRAL WITHDRAWN
( ) REFERRAL REJECTED - CASE TRANSFER PROCEDURES NOT FOLLOWED
( ) YOUTH NOT APPROPRIATE FOR ANY FOSTER HOME

NOTES

_____

_____

_____

Foster Home Coordinator_____ Date_____

06-3464; Gen. #67 (7/83)

Department of Health and Social Services
Division of Family and Youth Services

Request for Augmented Foster Care Rates

Region Code _____

_____ _____
Name of Child Case No. (Form 1 Green)

_____ _____
Foster Home Facility No. (Form 1 Blue)

Approval is requested for an augmented foster care rate for the above name child.
Condition Justifying Augmentation (Describe briefly):

Categories of Need:
(Specify type, i.e. transportation, diet, clothing, equipment, other; List details, frequency and cost):

___ Approved

___ Not Approved
Reason:

_____ _____
DFYS Worker Date

_____ _____
DFYS Supervisor Date

_____ _____ _____ _____
RSSM/RA Date Director Date

06-3667; CWS. #142 Rev. 7/83

AUGMENTED FOSTER CARE PLACEMENT AGREEMENT AND PLAN

Youth's Name:_____ Date:_____

ISSUE	PLAN	DUE DATE	RESPONSIBILITY
EMPLOYMENT: Obtaining- Problems- Soc. Sec. #-			
CLOTHING: Inventory- Initial- Upkeep- Payment Resp.-			
MEDICAL: Phys. Exam- Dental Exam- On-going Care- Payment Resp.-			
OUT-PATIENT: Testing- Counseling- T.A.S.C- Payment Resp.-			
FINANCIAL: Restitution- Savings- Allowance-			
TRANSPORTATION: Daily (school/job)- Appointments- Drivers Lic/Insur.-			

MEMORANDUM State of Alaska

TO: Robert London Smith, Commissioner
Department of Health & Social Services

DATE: February 17, 1984

FILE NO:

THRU: John R. Pugh
Deputy Commissioner

TELEPHONE NO:

FROM: Michael H. Price, Director
Division of Family & Youth Services

SUBJECT: Foster Care Activity Report

The January Activity report for the special subject foster care is in three sections: Statewide Progress, Social Services Regional Activity and Youth Services Regional Activity.

STATEWIDE PROGRESS

Significant progress was made during January by the central office task force on foster care issues. In preparation for addressing foster care issues with the legislature and in carrying out the goals of improving foster care under the Commissioner's designation of foster care as a special subject, two sets of two volume notebooks were prepared. All key data currently available on foster care issues in Alaska was assembled. These notebooks will contain short and long range planning and progress. (See Table of Contents Attachment #1). During the preparation of the notebooks, the central office task force was requested to prepare an analysis of the most recent Alaska Foster Parent Association publication titled, "Problems and Recommendations". In reviewing the document, task force members recognized that there was repetition from other Alaska Foster Parent Association publications and the Legislative Audit on Foster Care. It was decided a total approach to resolving foster care issues was needed. As an interim measure, in order to respond to legislative questions, a one page fact sheet on foster care was prepared (Attachment #2). Forty-three foster care issues were then identified as being addressed or needing to be addressed by the Division. (Refer to the Issue Section of the Table of Contents, Attachment #1.) A format for clarifying issues and planning was designed (Attachment #3). Work on the 43 issue resolution plans was begun and will continue through the month of February. Issue resolution planning will involve designating specific staff to work on resolving each issue and to develop time lines. Regional Managers and Administrators will be asked to revise regional foster care plans to address identified foster care issues. A format for the monthly foster care activity report will be implemented which will require reporting progress on identified issues. It is anticipated that up to two years may be required to fully resolve all foster care issues. Given the magnitude of the foster care system and the time lines needed to effect long range change, a comprehensive approach is required and will be implemented.

SOCIAL SERVICE REGIONAL ACTIVITY

Special foster care activities were reported from the following social service regions.

SOUTHCENTRAL REGIONAL OFFICE

Anchorage Service Unit:

The January Foster Parent Orientation had nine family units (14 people) present. One evening preservice training was begun by Janell Fernadez with eleven family (16 people) units starting the training. Two family units, both single parents, have withdrawn to date. The begin date was 1/11/84.

Pam Montogmery began a day-time preservice training (a first) to accommodate shift and slope workers. This training group is meeting each Tuesday and Thursday for five sessions from 2-4 p.m. and five family units are enrolled. The begin date was 1/31/84.

Both foster care licensing workers have also been involved in committee meeting with foster parents on Fur Rendezvous and State conference planning. Brochures are being printed for the Fur Rondy Booth as recruitment effort, and social workers are volunteering off duty time to help staff the booth with foster parents and Parent Training Center (PTC) personnel.

Janell Fernnandez and Ann Sponholz, PTC, appeared on the "Good Morning Alaska" TV program in January to address recruitment for teen homes and support systems for foster parents.

Bettye Davis, Foster Care Coordinator, negotiated 26 placements during the month. Foster homes are being sought for 26 other adolescents who are presently residing in emergency shelter or residential care facilities. Bettye, Anchorage supervisors, and Frank Dalley, met weekly to discuss teenage placement needs. Advertisements were placed in the Anchorage Times and Anchorage Daily News for "Teen Foster Homes" on 1/22 and 1/28-30.

An issue that has taken much time in problem-solving is the ASU after hours on call system. Meetings with the Foster Parent Association and other concerned community leaders have been held to address the on call issue. Currently two workers have been assigned to cover the on call system with back-up by supervisors Anita Stevens and Dolly Coke. The system appears to be working at present and continuing efforts to improve the system are in effect. The foster parents concern for late afternoon parental visits has been addressed by the supervisor of the alternative care unit, Jan Ottenfeld. Foster parents have been assured that workers can and will flex their working hours to accommodate such visits, when arranged in advance and clearly appropriate to the case plan.

Dolly Coke, Anita Stevens and Frank Dalley met regularly with members of the Foster Parent Association to discuss mutual issues and solutions. Open communication with the Foster Parent Association has generated improvement in the relationship with ASU and foster parents; and there is a spirit of unity in the goals of service to children expressed by both groups. Gaps in agreement on certain issues such as foster parents sharing an equal role in the treatment of children and in the development of case plans will exist, but foster parents are being utilized in better roles than in the past and are routinely being asked to add their observations of children's behavior when case plans are being developed.

Mat-Su Activities:

NOVA training for new foster parents began January 12th and will end February 16th. The sessions which meet 7-9 on Thursday evenings have had three to seven people in attendance. Monday afternoons are used as planning sessions for NOVA parents with Helena Whitstine and Pat Carrier, Anchorage foster parents, participating.

Foster parents are pursuing ideas about the coming Alaska State Fair during late August. They are raising money for the deposit deadline in February.

Field Offices:

The field offices had a higher than normal level of licensing activity during this month with a total of 35 actions involving foster homes.

Craig Fitzgerald of Kenai, conducted a community School sponsored meeting on foster care which was attended by five individuals. Barbara Smith, Social Services Associate in McGrath, wrote a small article on the need for foster homes, which will run in the Kusko-Courier for three weeks. Field Supervisor Betty Davis distributed data on three adolescents, one from St. Paul Island, one from Cordova and one from Valdez, to the Anchorage and Mat-Su offices, as well as to other Field Offices, requesting consideration for foster home placements. The three require more structured settings than are available in the local communities, and all require treatment not available locally, as two are sexual abuse victims and the third requires access to ANMC medical/dental care. No responses were received.

NORTHERN REGIONAL OFFICE

January has been an active month for staff. The register to fill the recently approved (1/19/84) licensing position in Fairbanks has been called for and it is hoped that it will be filled in February. That will certainly ease the licensing load in the region - which currently is about enough for four staff and there are only two.

One issue which is impacting operations is the rising tide of interest in tribal sovereignity. The area of direct impact is ICWA. A suit was filed in federal court this month in behalf of the village of Stevens. The council, acting as a tribal government, removed a child from the care of the parents and placed the child in a foster home. The Division was asked to pick up the payments and refused. There are a substantial number of unresolved legal issues involved in this. Is Stevens a government? If so, what is it's relation to the State (especially to DFYS)? If not, what recourse do the affected parties have? Can they obligate state agencies for expenditures...and so on? The hearing has not been calendared. The A.G.'s office in Fairbanks will probably handle the case. The basics of State/tribal relations will need to be addressed by the administration, legislature and the Congress. The Fairbanks office is continuing to suggest that the non-profits, which usually act as the service arm to councils apply for funding from various sources. This was one of the regional priorities in the RFP for preventive service grants.

They had a foster child molested by a foster parent. It was an exceptional occurrence in that it is not common, but the response to the report went "by the book" and was handled very well.

The Brower application for a foster home license in Barrow was denied and no hearing was requested. Subsequent to the denial, Mr. Brower was indicted on several counts for sexually molesting youth in Barrow.

SOUTHEAST REGIONAL OFFICE

The community care specialist in the Ketchikan office is particulary overloaded. To allow more time for foster care, residential and day care center licensing, day care home licensing has been transferred to another worker.

Regarding the foster parent support contracts, the regional manager would like to see these services provided by Division workers rather than a contractor. At the time the Division entered into these contracts, it did not have adequate staff to supply necessary support to foster parents. It still does not, and the contractor in Ketchikan has done a good job. However, with an additional position in Juneau and one in Ketchikan, DFYS could provide those services without the conflicts/confusion that occasionally arise.

When the former director of Ketchikan Children's Home closed their intensive treatment unit (licensed to serve five emotionally disturbed children ages 8-13 at $156/day) the Ketchikan office worked with their former staff and a local church to open a foster home for such children at augmented foster care rates, to provide the same service at less cost to the state. The program seems to be working very well.

The Division is short on institutional and foster care funds and is only placing children where it is absolutely necessary.

Much January activity centered around getting ready for the Foster Parent conference on February 24th and 25th with Robert VanCleave as the keynote speaker.

YOUTH SERVICES REGIONAL ACTIVITY

Special foster care activities were reported from the following youth service regions.

SOUTHCENTRAL REGIONAL OFFICE

The foster care budget will have a balance, but not nearly as much as central office staff initially believed.

The Augmented Foster Care program is getting off the ground. At the end of the month, six youths were participating in the Augmented Foster Care program. Two youths terminated the project in January. Based in experience so far, the region has made a number of changes in the written procedures. These mostly involve changes in the level of difficulty, assessment and classification.

Jack Hansen and Betsy Gerace have agreed to co-lead a two hour training session at the Alaska Foster Parent Association conference in March. The training topic will be delinquency and discipline.

At the request of the Southeast region, Betsy Gerace spent three days in Juneau training the new youth services foster care coordinator and the social services foster home licenser in licensing procedures.

Foster parent recruitment has not been as productive as we had hoped so far this year. In addition to the public relations problems caused by negative press articles, the regional foster care unit has not been as aggressive at recruiting activities as hoped. Jack Hansen is currently on a one month annual leave and Betsy is overloaded work. We still have several foster parent training activities to plan and conduct, including a one week augmented foster care training session and a three day basic foster care training program.

NORTHERN REGIONAL OFFICE

During the month of January, 1984, they served thirty-three children in foster homes. Youth Services currently has twenty-six foster homes licensed and has licensed ten Family Focus homes. Nine foster homes licensed by Family Services were utilized during the month.

Youth Services handled eight payment complaints from Alternative Care providers. One new foster home license was issued with four foster home applications currently being processed.

A public service announcement was placed in the local newspapers addressing our need for teenage foster homes. This was through coordination with Family Services.

Youth Services was represented at the monthly Foster Parents Association meeting and was also involved in the planning of the upcoming Foster Parents Conference.

SOUTHEAST REGIONAL OFFICE

Foster Care continues to be a problem with only four foster homes in use for the region. A new foster home coordinator has been appointed, Greg Roth, and they will be addressing the recruitment and placement problems.

January was a full month for the new Regional Alternative Care Coordinator. Training included a full day with Pat O'Brien from Central Office, reviewing licensing regulations and forms. An additional three days field work, home study and organizational training was provided by Foster Care Coordinator, Betsy Gerace, from Anchorage. The remainder of the month focused on visiting foster homes and attempting to bring current as many licenses in the region as possible. Considerable work remains to be done in this area.

It should be noted that the training during the month considerably enhanced the speed and accuracy with which licenses could be issued or renewed. Licensing travel to Haines and Sitka is planned for the up-coming month of February.

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   Tlinget Haida

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FACT SHEET
Division of Family and Youth Services
Department of Health and Social Services
FOSTER CARE PROGRAM

LEGISLATIVE AUDIT RECOMMENDATIONS

- The Division should improve relations with foster parents.
- The Division should review policy and monitor field operations.
- Executive and Legislative support should be given to the Division in developing new levels of foster care.
- The Division should revise its management information system and improve case documentation by social workers.
- The Division should establish standards for determining parental support payments.

DEPARTMENT ACTION

- Commissioner Smith designated the foster care program as a "Special Subject" requiring monthly reports until significant problems are resolved.

MAJOR ACCOMPLISHMENTS

- Emergency procedures for early and rapid payment to foster parents.
- Anchorage twenty-four hour social workers on duty for emergencies.
- Foster Parent Handbook distributed.
- Support contracts which enhance relationships with foster parents, reduce turnover and prevent multiple child placements.
- Contract let to license Native foster homes in 7 communities.
- Training of all Division licensing staff in complaint investigations.
- Production of an improved automated payment system.
- Designation of central office staff to work with the Alaska Foster Parent Association in identifying needed policy improvements.
- Reorganization to give regional managers more authority and accountability for ensuring policy is followed.
- Initiation of a specialized foster care "pilot project" in Southcentral Alaska.
- Task force formulation of recommendations to improve regulations and complaint investigations.
- Orientation and training of foster parents.

ONGOING PLANS

- Regional Councils are being established in the Southcentral and Northern Regions of the Division to channel community and foster parent concerns.
- A central office monitoring team will be hired by January 30, 1984.
- A central office task force has designated forty foster care issues to be addressed in a systematic manner.

ASSESSMENT OF PROGRESS

- Department response to the audit was assessed by audit supervisor, Keith Busch, before LB&A in September as one of the best responses of his experience.
- Later, before House HESS, he informed committee members that reports of Division activity demonstrate considerable progress toward meeting the concerns of the audit, but it is too soon to fully evaluate progress.
- The Division will assess progress monthly on the forty identified issues.

FC ISSUE RESOLUTION PLAN

1) Issue Clarification

* Who i.d. it as an issue? Document?
* Perspective(s)
  - FP Assoc.
  - Audit
  - F & YS
* Statewide or Local
*Significant, Moderate Importance, Minor

2) Committments

* Response to Legis. Audit
* Briefing Paper
* To Commissioner
* To FP Assoc.
* Still appropriate? Time lines realistic.
* Is there a better response

3) Progress Made

* What has been done? Reference, Briefing and no. of spec. project reports.
* Policy Improvement Done?
* Implementation Done?
* Inpletation known?
* Resolved adequately?

4) Planning

* What yet remains to be done?
* Plan, if any, or state plan needs to be developed.
* Who is assigned
* Time frames if feasible

BOARD OF OPTOMETRY

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

April 18, 1984

The Honorable Joe Hayes
Speaker of the House of Representatives
Juneau, Alaska

Dear Mr. Speaker:

The House Standing Committee on Health, Education and Social Services has reviewed the qualifications of the following named individuals who have been nominated by the governor to serve on the Board of Examiners in Optometry:

John A. Demske, D.O., of Soldotna; and
Robert D. O'Connell, D.O., of Kenai.

Members of the HESS Committee have signed below indicating their individual recommendations to the House concerning these individuals' confirmations.

Members Recommending To Confirm:	Members With Other Recommendations:
Mae Tischer	
Rich Clehlney	
T.H. Martin	
Sam Pestinger	
Mike Davis	

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives

4/16/84

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

The Board of Examiners in Optometry, created in 1949 and substantively restructured to its present form in 1980, is authorized by AS 08.72.010 and is therein given the responsibility "to regulate and control the practice of optometry and to protect and promote the public health, welfare, and safety."

The principle powers of the board are enumerated in AS 08.72.050: "The board shall adopt rules and regulations

(1) necessary for the proper performances of its duties;
(2) governing the applicants and applications for licensing;
(3) for the registration of optometrists;
(4) necessary to govern the practice of optometry;
(5) prescribing requirements which a person licensed under this chapter must meet to demonstrate continued professional competency."

The five members of the Board of Examiners in Optometry are appointed by the governor and serve staggered terms of four years each (AS 08.72.020). Members of the board may be removed from office by the governor for cause (AS 08.72.025). The board is composed of four licensed, practicing optometrists who have been residents for at least three years; and one public member (AS 08.72.040).

Members of the Committee have copies of the applicable statutes in their packets.

RESUME

I. HEALTH RELATED EXPERIENCE:

March 1978 - Present: Employed by the Yukon-Kuskokwim Health Corporation (YKHC) in Bethel, Alaska as department head of eye care program. Duties include: supervision of one associate optometrist and three assistants; providing full scope optometric care in the eye clinic of the Yukon-Kuskokwim Delta Regional Hospital; supervision of optical dispensory; organizing and providing field clinics to the 48 villages in the YKHC service area; and providing didactic and clinical training for the community health aides of the area. Emphasis is placed on primary care optometry in this rural practice. Preventative care is also practiced with Periodic Glaucoma and Pre-school screening clinics.

November 1977 - Feb. 1978: Part-time employment with the Optometric Center of Seattle, Washington. The Center provided vision care for the indigent population of Seattle. The short stay in Seattle was due to my anticipated move to Alaska.

January 1977 - June 1977: Volunteer work in Puerto Cabezas Nicaragua. Program was initiated by unified efforts of Lions Club International, Partners of Americas and the University of Wisconsin - Madison. Duties were to train paramedical personnel in the skills necessary to provide rudimentary eye care with the expectation that they would carry on after my departure. Included with the training was the organization of thousands of eye glasses donated by the Lions Club International. Once organized, field clinics were held in outlying communities. I returned in August of 1978 to learn that all personnel had departed and the clinic was closed, so our objective had failed.

November - December 1976: Organization and planning work in Nicaragua.

Feb. - June 1976: Employed by the Billings Area Indian Health Service on contract to the Wind River Reservation in Wyoming. The contract was to provide optometric care for the student population of the reservation. Clinics were held in all schools and in the Ft. Washakie Health Center for adult referrals.

Sept. 1973 - August 1975: Served as itinerant optometrist in the Commissioned Corporations of the U.S. Public Health Service for the Billings Area Indian Health Service. Provided optometric care for the Ft. Belknap, Ft. Peck and Rocky Boys Reservations in Montana and the Inter-mountain Indian School in Brigham City, Utah. Annual clinics were held in all schools and health centers at each reservation.

June - August 1972 - Part time employment as optician/optometric assistant at the Willamette Valley Migrant Clinic Stayton, Oregon.

Sept. - December 1970-71 - Part-time laboratory instructor for ophthalmic optics at Pacific University College of Optometry, Forest Grove, Oregon.

June - August 1970 - Employed as optician by Dr. Corliss Schanel, Madison, Wis.

Time intervals not included were dedicated to travel in the western United States, Mexico and Central America.

II. EDUCATION:

1973 - Present - Various post - graduate courses sponsored by Pacific University College of Optometry, the Native Health Service and the Alaska and Washington Optometric Associations.

Sept. 1969 - May 1973 - Pacific University College of Optometry, Forest Grove, Oregon. Emphasis on public health optometry. Elective clinics in cross - cultural settings.

Degrees received: Bachelor of Science in Psychology, Doctor of Optometry.

Sept. - May 1967-68, 1968-69 - Undergraduate - University of Wisconsin - Madison.

June - August 1968 - Part-time student at University of Wisconsin - Green Bay.

September - May 1966 - 67 - Under graduate - University of Wisconsin - River Falls.

September 1962 - June 1966 - DePere High School, DePere, Wisconsin.

III. LICENSES:

Optometrist, Alaska - 1978 - present. Optometrist, Washington 1973 - present.

IV. ASSOCIATIONS

Professional: Alaska Optometric Association

American Optometric Association

Service : Bethel Lions Club

Other : The Wilderness Society

V. HOBBIES, INTERESTS:

Cross-country Skiing, Boating, Backpacking, Out-door activities, Photography, Carpentry.

VI. PERSONAL INFORMATION:

My birthdate is August 3, 1948, I am married and have lived in Bethel for over three years. My wife, Guadalupe, and I have a daughter, Adinda, and we are expecting our second child any day now, we own our home in Bethel, are registered voters and we enjoy the lifestyle of rural Alaska.

Dennis A. Swarner, O.D.
Robert D. O'Connell, O.D.
Doctors of Optometry
Drawer 4370
Kenai, Alaska 99611
Telephone (907) 283-7575

RECEIVED
APR 21 '82
GOVERNORS OFFICE

April 15, 1982

Resume

Robert D. O'Connell, O.D.
Born January 2, 1947, Chicago, Illincis. Moved to Eugene, Oregon at age 6 months. Moved to Albany, Oregon at age 2½ years, moved to Gresham, Oregon at age 4 years. Moved to Reno Nevada at age 6. Attended Veterans Memorial Elementary School; E. Otis Vaughn Junior High School and Earl Wooster High School for 1 year. Moved to Kent, Washington and finished last two High School years at Kent Meridian Senior High School, graduating in 1965. Attended Green River Community College at Auburn, Washington for 1 year. Moved to Gresham, Oregon and attended Mount Hood Community College for 1 year.

Joined United States Army, serving three years as Eyes, Ears, Nose and Throat Specialist; honorably discharged in 1970.

Attended Portland Community College, Portland, Oregon for 1 year. Attended Pacific University, Forest Grove, Oregon for 6 years; receiving B.S. Degree in 1975 and Doctor of Optometry Degree in 1977. (Slaved my summers away in Kodiak during this time working in shell fish canneries.)

Licensed in four states:

Oregon, Washington, Idaho and Alaska

Moved to Alaska August 1977. Became partners in Kenai Vision Center in 1978 I'm Presently the Scout Master of Boy Scout Troop #357, Kenai. I'm a registered Republican. Wife: Annette and 1/3 children.

Robert D. O'Connell

RDO/lr

Member
American Optometric Association

Article 1. Board of Examiners in Optometry.

Section
10. Creation and purpose of board of examiners
20. Membership of board and terms of office
25. Removal of board members
30. Vacancies
40. Qualifications
50. Power of board to adopt regulations
60. Miscellaneous powers and duties of board
70–100. [Repealed]

Sec. 08.72.010. Creation and purpose of board of examiners. There is created the Board of Examiners in Optometry to regulate and control the practice of optome[illegible]d to protect and promote the public health, welfare, and safety. (§ 35-3-132 ACLA 1949; am § 2 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment added "to regulate and control the practice of optometry and to protect and promote the public health, welfare, and safety."

Sec. 08.72.020. Membership of board and terms of office. The board consists of five persons, appointed by the governor. Members serve staggered terms of four years. (§ 35-3-132 ACLA 1949; am § 22 ch 102 SLA 1976; am § 3 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "four" for "three" and deleted the former third sentence, which read: "The terms of the public members of the Board shall be set so that they do not expire at the same time."

Sec. 08.72.025. Removal of board members. A member of the board may be removed from office by the governor for cause. The board may by regulation provide that unexcused absences from meetings constitute cause for removal. (§ 4 ch 75 SLA 1980)

Sec. 08.72.030. Vacancies. The governor shall fill vacancies on the board by appointment for the unexpired term. (§ 35-3-132 ACLA 1949)

Sec. 08.72.040. Qualifications. Four board members shall be licensed, practicing optometrists who have been residents for at least three years. One board member shall be a public member. A person who has served two successive complete terms may not be reappointed until four years from the expiration of the second term that the person served. (§ 35-3-132 ACLA 1949; am § 23 ch 102 SLA 1976; am § 5 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "Four" for "Three," and the material beginning, "One board member" and ending "term that he served" for the former second sentence, which read: "Two shall be persons who have no direct financial interest in the health care industry."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.72.050. Power of board to adopt regulations. The board shall adopt rules and regulations

(1) necessary for the proper performances of its duties;

(2) governing the applicants and applications for licensing;

(3) for the registration of optometrists;

(4) necessary to govern the practice of optometry;

(5) prescribing requirements which a person licensed under this chapter must meet to demonstrate continued professional competency. (§ 35-3-133 ACLA 1949; am § 6 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment added paragraph (5).

Sec. 08.72.060. Miscellaneous powers and duties of board. (a) The board or a member designated by the board, may issue subpoenas, administer oaths and take testimony concerning any matter within its jurisdiction.

(b) The board may

(1) adopt a seal;

(2) define professional conduct and adopt rules of professional conduct.

(c) The board shall

(1) elect a president and secretary from among its members;

(2) order a licensee to submit to a reasonable physical examination if the licensee's physical capacity to practice safely is at issue.

(d) Repealed by § 3 ch 59 SLA 1966.

(e) Repealed by § 23 ch 75 SLA 1980.

(f) Repealed by § 3 ch 59 SLA 1966. (§§ 35-3-133, 35-3-140 ACLA 1949; am § 3 ch 59 SLA 1966; am §§ 7, 8, 23 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote subsections (b) and (c), and repealed subsection (e), which read: "The board may define professional conduct and adopt rules of professional conduct."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.72.070. Applicability of Administrative Procedure Act. Repealed by § 23 ch 75 SLA 1980.

Sec. 08.72.080. Compensation of board and secretary. Repealed by § 3 ch 59 SLA 1966.

E. O.

54

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Executive Order No. 54
Title Creating Department of Corrections
Requested by Governor Date Jan. 16, 1983

II. FISCAL DETAIL
Agency Affected Department of Corrections
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected Director's Office
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	250.0	951.6	1008.7	1069.3	1133.4	1201.3

FUNDING (Thousands of Dollars)

GENERAL FUND	250.0	951.6	1008.7	1069.3	1133.4	1201.3
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The Executive Order will create the Department of Corrections necessitating the transfer of the Division of Corrections and Parole Board from the Department of Health & Social Services to the new department.

IV. DATE January 16,1983 PREPARED BY Marsha Hubbard
AGENCY Dept. of Health & Social Services
PHONE 465-3331

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

33-001 (Rev. 12/82)

Alaska State Legislature

Senate

Office of the Secretary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

January 18, 1983

M E M O R A N D U M

TO : Senator Josephson, Chairman
Health, Education and Social Services Committee

FROM: Peggy Mulligan
Secretary of the Senate

RE : Executive Order No. 54

Enclosed please find a transmittal letter from the Governor showing statutory corrections to Executive Order No. 54.

"AS 24.30.130 (b) An executive order proposing a change in the executive branch and requiring the force of law under § 23, art. III, of the state constitution shall be submitted to the presiding officer of each house on the day the house organizes. The legislature has 60 days of a regular session, or a full session if of shorter duration to disapprove the order. Unless disapproved by a special concurrent resolution introduced in either house, concurred in by a majority of the members in joint session, the order becomes effective at a date thereafter to be designated by the governor. An order submitted to but not disapproved by the legislature shall be published in the bound session laws and any codification of state law. (§ 41 ch 157 SLA 159; am § 12 ch 47 SLA 1961)."

Thank you.

BILL SHEFFIELD
GOVERNOR

EO 54

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 17, 1983

The Honorable President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.30.130(b), I am transmitting an executive order which creates a Department of Corrections. The new department is being created from the division of corrections which is currently located in the Department of Health and Social Services. This is similar to Executive Order No. 39's 1977 creation of the Department of Transportation and Public Facilities out of the former Department of Highways and Department of Public Works.

This Order's sec. 28 creates the new department. Section 29 then states that the commissioner is the principal executive officer and sets out some basic duties and powers. Section 29's AS 44.28.020 is based on AS 44.29.020(9) (amended in sec. 30 of the Order) and AS 44.29.020(17) (repealed in sec. 31), pertaining to the Department of Health and Social Services. Similarly, the new AS 44.28.030 is based on AS 18.-05.040(15).

Art. I, sec. 12, of the Alaska Constitution mandates that penal administration be based on protection of the public and reformation of the offender. Given the unprecedented increases in the prison population in the state, I believe that elevating the division of corrections to departmental status is necessary to achieve these twin goals and is in the best interests of efficient administration.

The problem of increasing crime in Alaska and how best to deal with those who are convicted of violations of the criminal law was the focus of a recent inquiry by a corrections task force that I created. In its January 3, 1983 report, the task force recommended the immediate elevation of the division of corrections to departmental status. According to members of the task force, this recommendation is strongly supported by all segments of the criminal justice system.

The Order does not transfer the responsibility for juvenile corrections matters and for offenders who are found guilty but mentally ill or not guilty by reason of insanity under AS 12.47.

Also, some responsibilities of the commissioner of public safety, principally the transportation of prisoners, have not been addressed in this Order. The decision on whether or when to transfer these responsibilities to the new commissioner of corrections will depend on such factors as the level of increased training that must occur before the new department can effectively and safely assume these responsibilities.

The phrase "Repealed effective July 1, 1987," which appears in brackets and capital letters in the AS 33.32 (correctional industries) headings for the sections being amended in secs. 15, 17, 19, 20, and 24 of this Order, appears in this Order because it appears in those headings in The Michie Company's publication of the statutes. That language is not being deleted, and the amendments made by this Order do not affect that statutory termination date of the correctional industries program. See sec. 7, ch. 53, SLA 1982.

Sincerely,

Bill Sheffield

Bill Sheffield
Governor

STATE OF ALASKA

TASK FORCE ON CORRECTIONS

A Report On the Status of Corrections

for

Governor William Sheffield

December/January 1982-1983

The Honorable William J. Sheffield
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

January 3, 1983

Dear Governor Sheffield:

It is my pleasure to present to you the following report of the Task Force on Corrections. We have evaluated the issues and problem areas of correctional administration and management in Alaska as directed in your charge.

It is our hope that you will find the report of this Task Force and its policy recommendations useful to the future administration of a sound correctional system. We believe that it is not only possible but also mandatory that the executive, legislative and judicial branches of state government work diligently and harmoniously to carry out the directive of the Constitution of the State of Alaska for protection of the public and reformation of the offender.

We hope that this report will provide you with, at least, one tool toward that end.

We are pleased that we have had the opportunity to assist you.

Sincerely yours,

Roger Endell
Chairman
Task Force on Corrections

GOVERNOR'S TASK FORCE ON CORRECTIONS

December/January 1982-1983

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INTRODUCTION

Governor's Charge

Governor William Sheffield's transition Task Force on Human Services identified the management and operation of the Alaska Division of Corrections as a "dominating problem" within the Alaska Department of Health and Social Services. The Task Force on Human Services recommended the appointment of a "Blue Ribbon Task Force on Corrections" to address the following issues and relevant policy and procedural concerns:

1. Prison overcrowding and examination of current capital improvement programs.
2. Rehabilitation and alternatives to institutionalization.
3. Administrative organization and staffing problems.
4. Communications and coordination among justice agencies.
5. Municipal assumption of pretrial detention responsibilities.
6. Institutional location of juvenile corrections in state government.
7. Institutional placement of Corrections in state government.

The Task Force on Corrections was directed to commence an investigation of these identified issues immediately and to prepare and submit a report and policy recommendations to the Governor in early January, 1983.

To carry out its mission, members of the Task Force used two principal investigative methods which provided sources of information. These methods included: 1) the review of a multitude of reports and planning documents written by both in-state and out-of-state correctional practitioners and consultants since 1976; and 2) a statewide and systematic series of interviews with persons from municipal and state governments and local communities who were both knowledgeable about correctional problems and issues, and who were capable of making sound recommendations which would address these problems and issues.

It was not the intent of this Task Force to accumulate all of the voluminous materials and information already existent on this subject and incorporate it into yet one more burdensome volume. We believe that the nearly one million dollars spent on a variety of correctional reports and plans over the past six years provides but one example of the crisis in correctional management. The division has been managed by four different directors in the past six-year period. The most recent director as well as the current director were both hired by the previous administration to move the Division of Correction toward a more stable management situation. Their task was made more difficult because of their lack of knowledge of the unique problems and potential advantages of Alaskan corrections.

Alaska need neither to continue to hire out-of-state leadership nor to contract with out of state consultants. We are not convinced that the other states have developed correctional systems superior to that of Alaska in spite of our current and temporary crisis. We <u>are</u> convinced that knowledgeable and capable leadership should be sought from within our population to manage corrections just as talented and capable Alaskans are found to direct and manage the other departments and divisions within the executive, judicial and legislative branches of state government.

It is clear that there is a crisis in corrections. It is also clear that with sound, long term, and professional management, most of the current problems can and will be resolved. The resolution of these problems will require full cooperation as well as coordination between and among all three branches of Alaska's government--executive, judicial and legislative.

SUMMARY OF RECOMMENDATIONS

The following represents an abbreviated listing of the major policy recommendations to be found in this report. These statements are not comprehensive and are extracted out of context as an aid to the discussion of issues contained in the charge to the Task Force on Corrections.

Prison Overcrowding

1. Except for the Anchorage Careage House, no correctional facilities should be closed until adequate new correctional space has been prepared. (p.9)

2. The Careage House should be utilized as corrections' Southcentral Alaska headquarters and as a correctional training center. (p.9)

3. The new Cook Inlet pre-trial facility should not be opened to inmate populations until the facility is ready for secure occupancy and the staff has been properly trained. (p.9)

4 &
5. The Third Avenue and 6th & C correctional centers in Anchorage should be utilized to hold short term offenders and those incarcerated for alcohol related offenses. (p.10)

6. The continued use of Ridgeview should be re-evaluated for potential correctional use in light of economic costs and public benefits. (p.11)

7. Hiland Mountain correctional center near Eagle River must be permitted to return to its original mission. (p.11)

8. Mentally disturbed offenders should continue to be housed temporarily at the Alaska Psychiatric Hospital. (p.12)

9. Sentenced adult female housing space at Meadow Creek (Eagle River) should be added as necessary with much less expensive architecture than past practice. (p.12)

10. The type and methods of contruction of the two institutions at Palmer should be copied elsewhere as needed in the state. (p.13)

11. The state should move immediately to evaluate and obtain additional available sites for expansion of correctional operations in the Kenai and Matanuska-Susitna Boroughs. (p.13)

12. Comprehensive correctional services regional centers should be constructed in both Nome and Bethel utilizing either "stick built" or prebuilt modular units or a combination of both. (p.14)

13. All new correctional construction proposals should be evaulated in relationship to the need for increased bed capacity statewide. (p.14)

14. The state should continue to maintain a number of dangerously violent Alaska offenders within the Federal Bureau of Prisons system. (p.15)

15. Either a Matanuska-Sustina or Kenai Borough site should be developed and utilized to provide maximum security prison space. (p.15)

16. Correctional construction should be recognized as a high priority among all units of state government. (p.16)

17. A maximum security institution is needed to securely house a portion of the Alaska offender population. (p.17)

Administrative Organization

18. The recently completed management plan for corrections should not be fully implemented. (p.19)

19. The revised classification system should be implemented in concert with correctional reorganization and development. (p.19)

20. Corrections should be managed on a decentralized regional basis. (p.20)

21. All jail contracts should be managed by the Department of Corrections. (p.21)

22. A well trained correctional staff is mandatory and critical to efficient management. (p.22)

Institutional Placement of Corrections in Government

23. The Division of Corrections should be moved quickly and decisively in toto by immediate executive order to Departmental status. (p.24)

24. A Commissioner of Corrections should be appointed by the Governor as soon as possible. (p.24)

Communication and Coordination Among Justice Agencies

25. A cabinet level body should be directed to coordinate policy and law implementation for the effective administration of justice. (p.26)

26. Management personnel of the agencies of justice (state and local) should coordinate the activities of these agencies at the local and regional level. (p.26)

27. The present partial settlement agreement efforts in the Cleary et al. case should be halted and reviewed immediately. (p.26)

Municipal Responsibilities

28. Municipalities should not be made responsible for the costs of pre-trial incarceration of offenders held on state criminal charges, but municipal-state coordination is essential. (p.28)

29. The state should move immediately to address the law, policies and procedures with regard to public drunkeness and drunk driving. (p.29)

30. The state Office of Alcohol and Drug Abuse should provide comprehensive program services to correctional populations in cooperation with local municipalities. (p.29)

Juvenile Corrections

31. All youth correctional functions should be organized as a separate division within the Department of Corrections when reorganization is completed and functional. (p.21)

Rehabilitation and Alternatives to Incarceration

32. The prisoner population of the State of Alaska should be put to work. (p.33)

33. Offender education and recreational programs should be made available to prison populations during the non-work hours of those prisoners. (p.34)

34. A systematic evaluation of approximately 150 parole eligible offenders should be conducted immediately. (p.35)

35. Corrections should provide the opportunity to every offender the resources of a halfway house program for those about to be released -- corrections must correct. (p.35)

PRISON OVERCROWDING

Class action suits, media accounts, and expert as well as lay opinion have confirmed beyond all doubt that Alaska's statewide system of correctional centers is overcrowded beyond any reasonable margin of safety and security. The Task Force is well aware that the Constitution of the State of Alaska mandates that the state's correctional system must reform offenders and protect the public. In our judgment, the current crisis in corrections only insures that the state cannot carry out its Constitutional mandate. The State of Alaska must move immediately and with diligence to resolve overcrowding in the correctional system.

The members of the Task Force on Corrections are cognizant that the public has demanded that state and local officials "get tough on crime," that the public's attitude is appropriate, but that it is also extremely costly. Therefore, we have developed a series of recommendations which will alleviate the overcrowded conditions in our correctional system at lower costs than proposed by the previous administration which will, at the same time, we believe, provide adequately for protecting the public and reforming offenders.

Recommendation 1:

With the exception of the Anchorage Careage House, no facilities currently holding incarcerated accused or sentenced offenders should be closed until and unless adequate new correctional space has been fully prepared and readied for occupancy.

Recommendation 2:

The Careage House in Anchorage should be utilized immediately as the Division of Corrections' headquarters. All Anchorage area central office, institutional, field services and training employees should be moved immediately from the Frontier Building in Anchorage to this new location for greater cost and operating efficiency. This facility is now owned by the state so that only the costs of utilities and minor necessary renovations need be incurred for the Division of Corrections to operate efficiently from this site.

Recommendation 3:

In spite of the tremendous pressure on the managers of the correctional system, the transfer of offenders into the new Cook Inlet Pretrial Facility in Anchorage should not take place until the institutional staff has been hired, fully trained, and the facility has been completed. To do otherwise will almost assuredly result in major management problems and raise the risks of difficulties within the offender population. When completed, this facility could

operate, as designed, to book and hold all Anchorage area pre-trial detainees, and could have, again as designed, full-time on site magistrate services. This latter procedure would save police man hours and the great expense of prisoner transportation and prevent the unnecessary incarceration of persons able to be released on their own recognizance or to make bail. Use of video equipment would appear to be practical in both Anchorage and Fairbanks at the present time.

Recommendation 4:

The Third Avenue Correctional Center should be utilized to hold short-term offenders, and especially those incarcerated for alcohol-related offenses. It is inappropriate to utilize the facility for booking of new arrestees, for long term offenders, or for the purposes of classification of offenders as was proposed to the Task Force during our discussion with the current director.

Recommendation 5:

The Correctional Center Annex at 6th and C in Anchorage recently received approximately $1.4 million of renovations in order to comply with a judgment of the court to make it constitutionally sound. It should continue to be fully utilized as a booking facility until the new Cook Inlet institution is operationally ready. Even after Cook Inlet comes on line, the Annex can and should continue to serve as an adequate facility to house short term offenders.

Recommendation 6:

The Ridgeview facility should also continue to be utilized until the Cook Inlet institution is ready. With the opening of Cook Inlet, use of the Ridgeview correctional center should be re-evaluated for potential correctional use in light of economic costs and public benefits. It is possible that Ridgeview could be converted for use as a regional halfway house/community services facility for offenders about to be released and for offenders whom the courts wish to sentence to short term and/or pretrial incarceration (usually followed by probationary supervision). There is a drastic need for this type of less costly facility in the Anchorage area and public opinion should support a "lower risk" use of this present site. Structural and design improvements may be borne by present Division of Corrections expertise and prison labor.

Recommendation 7:

The Hiland Mountain Correctional Center near Eagle River must be relieved as quickly as possible of the burden of too many inmates in the available space. This facility must return to its original mission as a rehabilitation center for first offenders and those of low security risk. This institution has, in the past, been recognized nationally and even internationally as the model correctional center in which offenders might be reformed. The state must insure that the institution performs its task

as it was intended to perform. Mentally disturbed offenders should not, under none but the most unusual of circumstances, be permitted to be housed at this institution.

Recommendation 8:

Mentally disturbed offenders should continue to be housed temporarily at the Alaska Psychiatric Hospital until a special unit can be designed to treat these offenders within appropriate security facilities to be determined by the Division of Mental Health. The Task Force is cognizant of the June 20, 1980 Task Force Report which specifically addresses these issues. We recommend that the report be carefully re-evaluated.

We believe that the Division of Mental Health must assume responsibility for the security and treatment of mentally disturbed offenders. We have found that the previous administration had gone "full circle" in periodic changes of policy with regard to those offenders. This lack of consistency in management decisions has contributed to the current confusion and jeopardizes offender, as well as public, safety.

Recommendation 9:

The Meadow Creek (Women's) Correctional Center near Eagle River and adjacent to the male facility is an example of architectural extravagance where simplicity and a more spartan environment would have sufficed. It now houses 28

adult women and has a capacity of 30. If expansion becomes necessary, less expensive units can be utilized to extend existing capacity.

Recommendation 10:

The two correctional institutions at Palmer (actually near Sutton) provide good examples of the appropriate mix of tax dollars and inmate labor. The original Palmer Camp (minimum security) was built from the ground up by inmate labor (capacity is now approximately 100 offenders). We recommend that this practice be encouraged and continued. The new, nearly $5 million medium security facility on the same grounds also houses approximately 100 male offenders. Both facilities are fully utilized but there is a clear need for a full range of prison work programs which would keep all offenders busy for at least 40 hours per week.

Recommendation 11:

The State of Alaska should move immediately to evaluate and to obtain available sites which could be utilized to house correctional operations. Site selection should insure provision for rapid availability of housing for up to 100 offenders. Capacities at these sites should have the potential to be increased. The Task Force recommends that one site be located within the Matanuska-Susitna Borough and the other in the Kenai Borough. Sites which have the advantage of existing grounds, utilities and buildings, and which could have security modules added at relative low cost

and high benefit, should be of priority concern. With rapid site acquisitions, this Task Force believes that overcrowding in the Division of Corrections could be addressed dramatically within nine months to one year.

Recommendation 12:

Institutions have previously been approved for construction at both Bethel and Nome. Apparently the availability of funds for the Nome institution are currently in doubt. The Bethel funds have deteriorated in value due to mismanagement of site selection and building design delays. We strongly recommend that either the new Palmer institutional model ("stick built") or prebuilt modular units or any combination be incorporated for sites at both Nome and Bethel as quickly as possible. These facilities should serve as comprehensive correctional services regional centers. They would meet the needs of the southwestern Bethel area and the needs of the Seward Peninsula and Western Alaska regions for short term offenders (up to one year), probation and parole services, community supervision, halfway house, and other correctional related services. These institutions would help to relieve the pressure on the existing state facilities, provide regional treatment and incarceration capabilities, and provide state correctional services where very little now exists.

Recommendation 13:

The Task Force is aware of expansion work at the

Fairbanks and Juneau Correctional Centers and of a new replacement facility in Ketchikan. Ironically, while these modifications are essential, they will not add substantially, if at all, to the overall correctional system bed capacity. With new facilities to be developed rapidly in the Matanuska-Susitna and Kenai Boroughs, these other state regional correctional centers can return to a more efficient operational posture. It may be necessary and advisable to add a pretrial capability to the Fairbanks institution but this should be re-evaluated in light of our other recommendations. We recommend that all new construction proposals be evaluated in relationship to the need for increased bed capacity statewide. The potential for utilizing prison labor should also be evaluated.

Recommendation 14:

The 188 Alaska prisoners currently being held within the Federal Bureau of Prisons need not all be returned to Alaska. This Task Force recommends that the out-of-state population of offenders be carefully screened so that those who might be ready to be returned to Alaska could be brought back in small numbers as new space is readied for them in both new and existing facilities. It should be possible to continue to maintain a number of dangerously violent Alaska offenders within the FBP system.

Recommendation 15:

Related to #14 immediately above, this Task Force

recommends that either the Matanuska-Susitna or Kenai Borough site, or both, should be utilized to provide maximum security space potential to house Alaska's more serious offenders through the use of maximum security units. Such facilities holding up to 300 offenders have been built in the outside states using modular units and are apparently functioning well at low cost relative to poured concrete and steel institutions and have ample security provisions. Only Butler buildings (or similar) need be added for industrial work and/or recreational space.

Recommendation 16:

The Task Force recommends that new site acquisitions, construction additions and building renovations be completed expeditiously as the highest priority through the channels of state government while minimizing both hindrances and costs. The Department of Transportation and Public Facilities should recognize prison construction as a high priority. Building supplies and prisoner labor should be utilized in building renovations and in the construction of non-secure buildings. Security buildings should be built expeditiously by contract labor from the private sector and full service warranties on all new construction should be mandatory. Corrections should have its own facility planners who can expedite construction and renovation work statewide. We recommend that a project evaluation be required upon completion of all major construction.

Recommendation 17:

Finally, in regard to the need for a maximum security facility in Alaska, the Task Force received clear and compelling testimony from state and local police representatives, the court system, knowledgeable citizens, and correctional professionals that Alaska now needs a maximum security institution. Our recommendation is that the Cook Inlet building design and/or modular security units be constructed in a Southcentral location.

ADMINISTRATIVE ORGANIZATION AND STAFFING PROBLEMS

A clear and consistent pattern of evidence and opinion has been presented to this Task Force that the Division of Corrections has suffered, and is suffering from, a lack of clear leadership from within the Division and from within the Department of Health and Social Services. We earlier identified the fact that the Division of Corrections has been headed by four directors over the past six-year period, and that the most recent past director and the current director were employed by the previous administration from positions they held in the lower contiguous states. They came to Alaska with the disadvantages of not knowing the "territory" and those within the system who were weak from those who had/have strong potential leadership and management ability.

We believe that strong, decisive and professional leadership and management is essential to successful correctional operations in this state. Further, a sense of history, of past failures and accomplishments, of goals and objectives peculiar to the unique strengths and weaknesses of Alaska and Alaskans is essential for state correctional managers.

The multitude of reports, plans and recommendations from experts and practitioners from within the state and beyond have repeatedly stated that we need not transfer and repeat the mistakes of correctional systems elsewhere. We have found, as one interviewee stated, that too often divisional and departmental management decisions have been based, not on merit, but on perceptions. Interrelationships and coordination of services within the Department of Social Services have proven to be complex and perhaps impossible under the current umbrella structure of the Department. We will address the institutional placement of corrections within state government in a separate section.

We make the following recommendations with regard to the elimination of organization and staffing problems within the current organization of corrections.

Recommendation 18:

The management plan recently completed at a cost of over $100,000 by the Touche-Ross management and accounting firm should not be implemented until it has been reviewed by the new Department of Corrections. Portions of the plan appear to be unrealistic and unworkable.

Recommendation 19:

While the division managers may be commended for their efforts to develop an improved classification system for the division, we believe that even a superlative classification system will be of little use when bed space alternatives are

not yet available to which offenders might be classified. In order for a correctional classification system to work effectively, there must exist a range of correctional institutional and community placement alternatives with available space in each, to which offenders may be directed. A range of facilities from maximum, medium, minimum, to and including, community halfway houses must first be available. While a sophisticated matrix classification system will be useful eventually, we feel it ironic that the basis for the management structure of the system can be found in a report to the Alaska Legislature written five years ago in 1978. We recommend that the revised classification system be implemented in concert with division reorganization and development.

Recommendation 20:

We have examined the potential reorganization of the organizational and management structure of the division along both functional and regional lines. This Task Force strongly recommends that the division be reorganized immediately upon a decentralized regional concept. It is our opinion, and the opinion of the majority of the interviewees within and outside of corrections, that a regionalized management structure would bring increased efficiency and accountability to correctional operations statewide. While a specific plan is inappropriate for this Task Force, our preliminary findings are that regional

directors should be appointed for each of the geographic regions - southeast, southcentral, and interior. A fourth regional director should be appointed to manage correctional services in rural Alaska - an area that has suffered from a policy of "benign neglect." Regional Directors should be partially-exempt positions. Each regional director should have full responsibility and authority for managing all correctional services in the region. These responsibilities should include but not be limited to the supervision of institutions, probation and parole, other field services and personnel and budget, and should include coordination with the presiding superior court judges, trooper detachment commanders, district attorneys, public defenders, local chiefs of police and peripheral service agencies. Each regional director should be encouraged to establish local citizen advisory groups to advise him or her on correctional programs in the area. Communications between the state's citizens and correctional managers will be enhanced via this mechanism.

Recommendation 21:

The members of this Task Force recommend that the agreement for administration of local jail contracts should transfer, under a new agreement, from the Department of Public Safety to a new Department of Corrections and that both governmental units should prepare their FY 84 budgets

acccrdingly. We believe that all correctional operations administered in part, or totally, by the State of Alaska should be housed in only one administrative unit.

Recommendation 22:

Professionalism in the ranks of the correctional system and in the management structure is of critical concern to this Task Force. Formal educational standards should be established, in addition to agency in-house training for all correctional and field service positions. A uniformed, neat and well-groomed correctional officer staff within the institutions with a well-trained, and professional demeanor would do much to enhance the morale and credibility of correctional staffs. The need for initial and periodic formal education and training is critical. Training can be physically conducted at the Careage House in Anchorage where board and room can be provided at low relative cost.

INSTITUTIONAL PLACEMENT OF CORRECTIONS IN STATE GOVERNMENT

As stated previously by the transition Task Force on Human Services, the management and operation of the Division of Corrections is a "dominating problem" within the Alaska Department of Health and Social Services and is of critical concern. Several factors were identified by that Task Force which contributed to that assessment. Our Task Force on Corrections, in re-examining those previous conclusions, and in conducting our own independent investigation has found agreement that it is essential to move Corrections to departmental status.

The three guiding factors of greatest relevance are: 1) that the Division has suffered from lack of continuously stable and professional management within the Division and within the Department of Health and Social Services; 2) the fiscal and management needs of the Division of Corrections has placed tremendous demands on the resources of the Department of Health and Social Services; and 3) the primary factor and mission of the Department of Health and Social Services has been oriented toward community health, public assistance, mental health and family services and is neither

efficiently organized nor properly prepared to address the problems of corrections within the criminal justice system. Therefore, the Task Force on Corrections recommends the following:

Recommendation 23:

The Division of Corrections should be moved quickly and decisively in toto by immediate executive order to departmental status. We have found unanimous agreement from virtually all persons interviewed, from all regions of the state, and from all segments of the criminal justice system - police, courts, corrections, law - and from the citizen sector that departmental status is not only justified but necessary. The Task Force has considered previous proposals which discussed a transitional phasing-in of the division toward a cabinet level position. We have concluded that a transitionary movement will cause undue delays and probably result in a less efficient and more burdensome administrative process. We recommend a "quick and clean" transfer by executive decree.

Recommendation 24:

A Commissioner of Corrections should be appointed by the Governor as soon as possible. deputy commissioner and four regional directors (the latter explained in a recommendation elsewhere in this report) should be appointed by the commissioner to manage the new Department of Corrections.

COMMUNICATION AND COORDINATION AMONG JUSTICE AGENCIES

This Task Force and the practitioners in the justice system from both the previous and present state administrations, and those from municipal law enforcement departments whom we interviewed, are clear in their request for statewide coordination of criminal justice policy and law. The activities of the Governor's Commission on the Administration of Justice under the direction of the previous administration were primarily oriented toward the dispersion of federal dollars which emanated from the Law Enforcement Assistance Administration (LEAA). With the demise of the federal program, the Governor's Commission (GCAJ) ceased to function.

New criminal laws and new policies and procedures emanating from one department or sector of the government can have a serious impact on the management and administration of other governmental units. For this reason alone, it is critical to insure that clear communication and sound coordination take place among the managers of the justice system statewide. We recommend the following:

Recommendation 25:

The Governor should empanel members of his administration who have justice administration responsibilities, invite representatives of appropriate related agencies, and appoint lay citizens to coordinate policy and law implementation for the effective administration of justice.

Recommendation 26:

Appropriate management level personnel of the agencies of justice should meet regularly for the purpose of coordinating the activities of the justice agencies at the local and regional level. These groups should be made up of the regional director of corrections, the presiding superior court judge, the local chief (or chiefs) of police, the local trooper detachment commander, the district attorney, the public defender, a municipal attorney and a lay citizen. We found at least one excellent example of this type of coordination and recommend that this management technique be emulated at least regionally across the state.

Recommendation 27:

We believe there are serious potential ramifications from the current effort at pre-settlement in the Cleary case. We strongly recommend that the present partial settlement agreement effort between the State of Alaska and Michael Cleary et al be halted and reviewed immediately and that the state proceed to trial, if necessary, in defense of the State.

MUNICIPAL RESPONSIBILITIES

The Task Force has examined the potential for municipal assumption of pre-trial detention responsibilities. This issue has been of concern because of the differences which exist between the larger urban population centers of the state and the smaller municipalities. That is, within the larger cities, no municipal facilities exist to hold prisoners while they await trial. The burden of pre-trial detention is assumed by the state. On the other hand, the small town police chief must be administratively responsible for housing the arrestee until trial or other disposition is reached. The state has therefore developed contractual arrangements with local municipalities to reimburse or otherwise pay for the maintenance of prisoners held on state charges.

It can cost approximately $50 per day to book and hold a minor criminal offender in a jail bed which may have cost up to $125,000 per bed to construct. It is clear that relatively minor offenders should be held in less costly prison or jail space.

There should be an incentive for local municipalities to increase their crime prevention and criminal diversion programs at least for minor offenders who potentially take

up expensive bed space needed for the serious criminal predator. It has been argued that if the municipalities were paying all costs of pre-trial incarceration related to crime at the local level, a substantial incentive (because of the high costs of incarceration) would exist for the cities to develop substantial prevention and diversion programs.

Recommendation 28:

The Task Force on Corrections recommends that municipalities not be made responsible for the costs of the pre-trial incarceration of offenders held on state criminal charges. The impact of such a requirement would be that very costly expenditures would be incurred immediately by every municipality statewide. We believe that the state can and should be responsible for the management and administration of criminal defendents being tried under state statutes. We do believe and strongly recommend however, that careful coordination between and among the criminal justice professionals in both state and local governments is essential to sound management of the system.

Corrections managers do not and cannot select their prison population. The gatekeepers at the front door of the state system of corrections are the local police, troopers, prosecution and court personnel. They should work cooperatively to insure that offenders are held in space appropriate to the level and nature of their offense.

Corrections has an obligation to insure that a variety of types and levels of security is available to the law enforcement commmunity.

Recommendation 29:

While we are reluctant to recommend that still other task forces be formed to investigate and resolve other issues, it is clear that there is a compelling need to address the law, policies and procedures with regard to public drunkeness and drunk driving. The issue has appropriately been identified by the public and in the media as one which demands specific attention. We therefore recommend immediate attention to this issue.

Recommendation 30:

We recognize the high statistical correlation between alcohol abuse and crime. We recommend that the State Office of Alcohol and Drug Abuse (SOADA) should provide alcohol and drug abuse program services in cooperation with local municipalities to correctional centers and community service offices statewide. There is a crucial need for a comprehensive approach to the problem of substance abuse, including "in-house", after care and follow-up program services to offenders.

JUVENILE CORRECTIONS

Following completion of the Correctional Master Plan for the State of Alaska in 1979, the previous Commissioner of the Department of Health and Social Services moved the juvenile corrections segment of the Division of Corrections to the Division of Family and Children's Services. The argument for this move was primarily that the juvenile side of the corrections organization always would receive secondary prioritization in relationship to the demands of adult confinement. The benefits were to be that greater attention to juvenile needs would be the result of the transfer of juvenile institutions and probation supervision services to the family services division.

We have heard ample and persuasive testimony that all persons who have been adjudicated as delinquent or criminal should be managed organizationally within the same governmental unit. We are convinced that the age of the offender separates juvenile crime from adult crime and that many of the most serious crimes are being committed by young offenders.

We have also found duplication of effort within the Department of Health and Social Services. Where previously

a probation officer in Nome, Barrow or Haines, for example, could supervise and direct both adults and juveniles, it now seems that these services may require both and adult and juvenile specialists.

It is also clear that serious juvenile offenders require strong and decisive management by both the courts and corrections. Violent juvenile offenders require secure supervision and incarceration.

Related to the preceding discussion, we make the following recommendations.

Recommendation 31:

The entire present organization of youth corrections should be moved as a Division of Juvenile Corrections, to the new Department of Corrections when reorganization is completed and functional. Management of this division should be decentralized to fit the regional organization of the Department. For example, the juvenile institution in Fairbanks and the juvenile probation and field services operations should be accountable to the regional director of corrections in Fairbanks. There is no apparent need to add additional staff to juvenile corrections as a result of this transfer, although there may be a need for additional juvenile staff for other reasons to be defined at a later date.

REHABILITATION AND ALTERNATIVES TO INCARCERATION

The public has a right to demand a positive return for its investment in corrections. While protection of the public from the offenders who are sent to jail or prison is reasonably assured, that protection exists primarily during the length of the prisoner's incarceration. Long term protection can only be brought about by the reformation of the offender as mandated by the Constitution of the State of Alaska. Prisoners can return to the state's population as better persons or more bitter as a result of their prison experiences.

Idleness in our prison system, mixed with overcrowding can and will produce chaos and perhaps result in violence to both property and persons. There is a dearth of meaningful work opportunities for the prison population. Make-work institutional maintenance is the routine alternative for even a minority of prisoners. Prison industries and public works projects should be implemented in all long term correctional centers. Restitution and community services opportunities for individual prisoners who are not security risks should be made available and taken into consideration by parole authorities for those prisoners who are eligible.

A system of relatively inexpensive community treatment halfway houses should be available within the Department of Corrections range of institutions. Offenders who fail or who are not yet ready for release should not be eligible for these lesser security facilities. However, all offenders nearing eventual release should be placed under the carefully coordinated and supervised system of halfway house resources. A full range of maximum to halfway house security level institutions is essential to the reformation of offenders and the efficient management of offender populations. We recommend the following:

Recommendation 32:

The prisoner population in the State of Alaska should be put to work. While the unemployment rate in Alaska is seasonally and regionally high, the citizens of the state can no longer endure an idle segment of otherwise able bodied prisoners. Prison industries and public works projects have been adequately addressed in the Correctional Master Plan. It is not our intent here to review those already voluminous plans. We intend to emphasize the need for a halt to planning and the commencement of activity. Corrections must be given the resources to provide meaningful work opportunities for the offender population. Cutting and clearing of land, stream rehabilitation, trail building, and parks maintenance and construction are but a few examples of public works projects which would benefit

the citizens of the state as well as the non-violent offender population. Eight hour a day work habits can be learned and law abiding skills can be developed. Adequate pay to prisoners can and should be permitted with the responsibility that the working offender repay the state and/or the victim for at least the partial cost of his crime. His or her family can be partially supported as a result of prison labor, board and room can be at least partially paid, and small amounts can be set aside in savings toward release. The non-working offender should not be entitled to the same privileges granted to the working population.

Recommendation 33:

We agree with current correctional policy that any offender who does not possess a high school diploma or its equivalent should be required to complete a G.E.D. program if feasible within the length of his or her incarceration.

We feel strongly however, that these offenders and those who already possess a high school diploma and who wish to take part in educational and recreational programs should do so in their non-working hours - the same as working citizens of the state outside of the prison system. Higher education courses, arts and crafts and other culturally oriented programs should be encouraged and funded. But prisoners pursuing college educations should seek out and apply for Alaska Student Loans the same as "freeworld"

students. The Department of Corrections should coordinate and contract with local school districts, the Department of Education, and the University of Alaska Statewide Systems for teaching resources.

Recommendation 34:

This Task Force has learned that there are approximately 150 parole eligible offenders within the corrections' institutional population. These offenders apparently meet all of the current qualifications for eligibility for parole consideration but have not applied. In relationship to the very high cost of prison bed space and the current crisis in overcrowding, we strongly recommend that a systematic evaluation of these offender eligibles be conducted immediately.

Recommendation 35:

The Department of Corrections should provide the opportunity to every offender the resources of a halfway house program for those about to be released. Offenders should be encouraged to be self-sufficient, apply for jobs, seek out community treatment resources and renew the ties with the law abiding community including family and friends. Close coordination and carefully organized transitions should be mandatory as the offender moves from secure institutions to halfway houses and finally to the community. Probation and parole field staffs should develop community resources and a system of community volunteers to assist

offenders in making the transition. Community service halfway houses should also be available to probationers, parolees, and ex-offenders who are in need of assistance. The use of university and community college interns should be encouraged in these facilities. Finally, the Department of Corrections should assure that alcohol, mental health and vocational rehabilitation services provided through other departments and divisions of state and local governments are heavily utilized. These offenders should not receive treatment not otherwise available to "ordinary" citizens. However, corrections must correct.

GOVERNOR'S TASK FORCE ON CORRECTIONS
ACKNOWLEDGEMENTS
INTERVIEWEES BY GEOGRAPHIC AREA

Anchorage

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DHSS

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John Franklin.

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Div. of Corrections

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Corp. Bachman, AST

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Janice Cole, Div. of
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Office of Governor

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Cmdr., C Det., AST

C. E. Swackhammer, Det. Cmdr.
Det. C, AST

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Seward Police Dept.

Duane Udland, Chief
Soldotna Police Dept.

Walt Koenol, Corr. Supv.
City of Kenai

Rick Ross, Chief
Kenai Police Dept.

Mike Daugherty, Chief
Homer Police Dept.

Ketchikan

Robert Andrews
Asst. Supt. Corr. Ctr

Nome

Bob Lewis, Dist. Atty.

Gail Frank, Supt.
Nome Corr. Ctr.

Charles Tunley, Pres. Judge
2nd Jud. Dist.

Kodiak

Ed Martin, Chief
Kodiak Police Dept.

Palmer

Dick Giles, Asst. Supt. Pgms. and Dennis Vincent, Asst. Supt., Security, Palmer Corr. Ctr.

Stan Zaborac, Supt.
Palmer Corr. Ctr.

Red Henderson, Chief
Palmer Police Dept. and Pres., Ak Chiefs of Pol. Assn.

Beverly Cutler, Judge
Sup. Ct., 3rd Dist.

Valdez

Don Wagner, Valdez
Police Dept.

Correctional Center Site Visits

Anchorage, 3rd Avenue
Ridgeview
Cook Inlet (under const.)
Meadow Creek (Eagle River, women)
Palmer Med. Security
Palmer Jail - new (under const.)
Fairbanks Youth Facility
Bethel
Juneau Johnson Center
Anchorage, 6th Avenue
Careage House
Hiland Mountain (Eagle River, men)
Palmer Min. Security
Palmer Jail - Police Dept. (old)
Fairbanks Corr. Ctr.
Barrow
Kenai City Jail

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.

TITLE PAGE ONLY HAS BEEN FILMED.

STATE OF ALASKA
DEPARTMENT OF HEALTH & SOCIAL SERVICES
DIVISION OF ADULT CORRECTIONS

ANALYSIS OF PRISON POPULATION

MARCH 1982

E. O.
56

February 9, 1984

Senator Vic Fischer
Pouch V
Juneau, Alaska 99811

Dear Vic:

Although I have been a critic of Alaska's State Office in Tokyo, I found it very useful to me when I was in Tokyo both on State and personal business. My criticism has focused upon our Tokyo Office's preoccupation with Japan, and its failure to develop business with the world's fastest growing regional market: Southeast Asia.

Now it has been suggested we open similar offices in Seoul and Taiwan. I share your skepticism about the cost-effectiveness of this idea, but I do endorse the idea we should expand our Asian market development efforts.

Japan is our primary trade competitor in the entire Asian market, as well as our biggest customer. If we want to expand into the Chinese market, and largely through the overseas Chinese community, we will then expand naturally into the Southeast Asian market where we will be able to sell oil, gas, ore, and some steam coal. Rather than open an office in Taiwan, which will risk some regional political compromise and associated trade difficulties, we should consider Hong Kong, the center of the entire Asian market. Business can be done in Hong Kong without injuring other national or factional sensibilities in Asia. Several other States and larger muncipalities, and the Seattle Port Authority, maintain Hong Kong offices. I do not look for the character of Hong Kong to change appreciably after 1991. In any event, Hong Kong will continue to be the world center of trade with Peoples Republic of China.

If the State's Asian market development were to someday justify a third office, rather than in Seoul, which can be effectively covered from Tokyo, I would open an office in Jakarta, Indonesia, headquarters of the Association of Southeast Asian Nations, and work within the ASEAN organization to develop a Southeast Asian market for Alaska. (The members of ASEAN are Indonesia, Malaysia, Thailand, Singapore, the Philippines, and Brunei.)

I don't mean to downgrade Korea's importance as both a

customer as well as a competitor. But Korea must be seen in its proximity to Japan, and her relationship with Japan which has become her door into the mainland Chinese market.

I view the political likelihood of opening more State offices in Asia to be remote. We can cover all of Asia from Tokyo if we outreach to other Asian market places like Seoul, Taiwan, Hong Kong and Singapore. Such an outreach program will cost more money, but would constitute an expansion far more justifiable than opening more state offices in Asia at this time.

Thanks for your interest.

Sincerely yours,

Thelma

Thelma Garcia Buchholdt

cc: All members,
House & Senate

EO 56

Department of Education, would perform this responsibility. Under a reimbursable services agreement, that division has been doing this since 1979 anyway. Considering the nature of its other duties, that division is the most logical place for this state function to be performed.

Sincerely,

/s/
Bill Sheffield
Governor

EO 56 was referred to the State Affairs, Health, Education & Social Services, and Finance Committees.

EO 57

The following letter dated Janua v 9, 1984, accompanied EXECUTIVE ORDER NO. 57. (EO 57 is available from Documents.)

A zero fiscal note accomp ed EO 57.

Dear Representative Hayes:

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.30.13)(b), I am transmitting an executive order that transfers the Alaska State Office from the Governor's Office to the Department of Commerce and Economic Development and renames it the Alaska Foreign Office.

Under current statutes (AS 44.19.074 -- 44.19.082), the Alaska State Office is in the Office of the Governor. Because the functions of the Alaska State Office are in the area of economic development, resource, and trade information, and contact between government and private industry, the appropriate administrative location for the office is the Department of Commerce and Economic Development. With a very slight re-wording, this Order just relocates the current statutes to that department's chapter from the Governor's Office chapter. No substantive changes are being made. State employees in the Tokyo office remain in the exempt service by virtue of AS 39.25.110(17).

Renaming the office as the Alaska Foreign Office gives it an obviously more appropriate name.

EO 56

Department of Education, would perform this responsibility. Under a reimbursable services agreement, that division has been doing this since 1979 anyway. Considering the nature of its other duties, that division is the most logical place for this state function to be performed.

Sincerely,

/s/
Bill Sheffield
Governor

EO 56 was referred to the State Affairs, Health, Education & Social Services, and Finance Committees.

EO 57

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A zero fiscal note accompanied EO 57.

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Renaming the office as the Alaska Foreign Office gives it an obviously more appropriate name.

EO 57

I believe that this transfer will improve the efficiency of state government.

Sincerely,

/s/
Bill Sheffield
Governor

EO 57 was referred to the State Affairs and Labor & Commerce Committees.

EO 58

The following letter dated January 9, 1984, accompanied EXECUTIVE ORDER NO. 58. (EO 58 is available from Documents.)

Three fiscal notes which accompanied EO 58 appear in House and Senate Journal Supplement No. 13.

Dear Representative Hayes:

Under the authority of art. III, sec. 25, of the Alaska Constitution, I am transmitting an executive order that transfers two veterans' programs from the Department of Commerce and Economic Development to the Department of Military Affairs and renames that department as the Department of Military and Veterans' Affairs.

The veterans' services program (AS 26.10.010 -- 26.10.050) and the veterans' burial allowance program (AS 26.10.080) are both currently assigned to the division of investments within the Department of Commerce and Economic Development. This executive order would transfer these two programs to the renamed Department of Military and Veterans' Affairs.

The transfer places these programs where they logically belong and the departmental name change corresponds more nearly with the name of Title 26 of the Alaska Statutes, "Military Affairs and Veterans." Most of that title already relates to the Department of Military Affairs. After transfer of these two programs, AS 26.15, concerning the veterans' loan program in the Department of Commerce and Economic Development, will be the only part of AS 26 that relates to another agency. The amendment of AS 26.-15.030(c)(1) in sec. 13 recognizes that change by slightly modifying one of the duties of the Department of Commerce and Economic Development. The language being added to AS 44.35.020 in sec. 21 of the order, listing duties of the Department of Military and Veterans' Affairs, is a consolidation of current AS 26.15.030(c)(1) and (3) (the latter of which is being repealed in sec. 25 of the order).

HB

19

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/24/83

Date: _____

Mr. Speaker:

The Committee on HESS has had SS HB 19

Ac Act repealing the certificate of need program; and providing for an effective date.

under consideration and reports it back as follows:

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
M.W. Miller Do Pass	
Mr. Tracker	
~~Mike Davis~~	Mike Davis Do not pass
[illegible]	[illegible] Do not pass
Milo Fritz	

Milo Fritz
CHAIRMAN
Mr. Tracker

H 60

POSITION PAPER/Department of Health & Social Services

Position Paper

on

Sponsor Substitute for House Bill 19

"For an Act repealing the certificate of need program; and providing for an effective date."

Sponsor Substitute for House Bill 19 repeals those portions of AS 18.07.021 which provide the statutory authority for the Department to administer a certificate of need program and repeals references to certificate of need in other sections of the Statute as well.

The Administration supports Sponsor Substitute for House Bill 19 as it is currently written.

The Department recommends that the Committee review statutory provisions which relate to health facility development including the following:

Medicaid Programs

The state's participation in the Medicaid program (State dollars fund approximately 52 percent of total program costs) has grown from $1 million in 1972 to nearly $38 million in FY 82 and total costs including federal participation have grown from $2 million to nearly $74 million in this same period. Ninety-two percent of patients in Alaska's long term care facilities are supported by the Medicaid program which means that the state (and federal) government has nearly the full burden of all operational costs for the facility. These Medicaid costs increase when additional beds are added, new equipment is purchased or new services (including new types of manpower) are offered. The Division of Public Assistance must effect a provider agreement with any qualified provider who seeks this agreement.

Capital Budget

Alaska has provided substantial financial assistance in the development of health care facilities. The 12th Legislature provided more than $36.6 million by line item appropriation to expand one hospital, replace two others and provide planning assistance for two rural hospitals. The number of requests for state funding has steadily increased.

Revenue Sharing

Alaska has a revenue sharing program (AS 29.90.010) which provides 25 percent plus interest of hospital construction costs to all non-profit hospitals. This program, administered by the Department of Community and Regional Affairs, provides further support for hospital construction projects in addition to any front-end capital funds provided by the state. This additional health facility construction resource underscores the importance of determining the actual need

POSITION PAPER/Department of Health & Social Services

for construction, before the State is committed to pay for a major portion of such construction.

Non-profit hospitals each receive a quarter of a million dollars in operating assistance each year through the state's revenue sharing program (AS 29.89.030). Nursing homes and other health facilities also receive assistance based on the number of beds they have. There are no specific requirements as to how such funds are to be expended. Not only are existing health facilities assured of these funds in addition to other state support, but new facilities are encouraged by the availability of these funds.

Recommended by: Phoebe A Lindsey
Phoebe A. Lindsey, Director
Division of Planning, Policy
and Evaluation

Date: February 18, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 2/22/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill 19 Date on Bill: 1/24/83
Title: An Act repealing the certificate of need program;and providing for an effective date
Sponsor: Representatives Fritz, Hayes, Zharoff, Cato, Lindauer, Szymanski
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

			FY 83	FY 84	FY 85	FY 86			
Capital			0	0	0	0			
Operating			0	0	0	0			
Total			0	0	0	0			

b. Revenues:

Revenue			0	0	0	0			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Dave W. Williams DW Phone: 465-3038
Division: State Health Planning and Development Date: 2-14-83

Approved by Commissioner: Robt. London Smith, M. D. Date: 2/22/83
Department: Health and Social Services Date:

6. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor

CERTIFICATE OF NEED
HB 19

STAFF REPORT

TO

HOUSE HESS COMMITTEE

FEBRUARY 10, 1983

CONTENTS

- Memo from House HESS staff: Dave Palmer
- Memo from Senate HESS staff: Nancy Dietrich
- Itemization of funds subject to sanctions
- Itemization of FY82 payments from municipal revenue sharing
- Activity summary-DHSS CON review
- Letter from Department of Health and Human Services Public Health Service regarding repeal of CON
- Memo summarizing the Arthur D. Little report

To: House HESS Committee
From: Dave Palmer
Date: February 10, 1983
Subject: HB 19, An act to repeal the Certificate of Need Program

The certificate of need program was established in 1974 by federal law (PL 93 641). It is intended to serve as a cost control aid and a planning review process. Through review of major capital expenditures, it is intended to serve as a check to a frivolous or misdirected projects. It directs capital construction investment to be compatible with statewide health planning goals. The certificate of need was designed to prevent unnecessary duplication which results in underutilization and inflated costs in a cost based reimbursement system for medical payments.

While discussion of the Certificate of Need (CON) process can lead to esoteric analysis of health care, government, and social issues, I have identified four topics that I believe will be discussed by the committee and those testifying on either side of this issue:

1. Federal mandates
2. Effect on State revenue sharing programs
3. Effect on State medicaid programs
4. The private enterprise vs government regulation issue.

Federal Mandates

The CON process is required by Federal law. Failure to comply with the law carried a sanction that provided that the Federal government would withhold "any allotment, grant, loan and loan guarantee made to and each contract entered into with an individual or entity in such State... under this Act (Public Health Service Act), the Community Mental Health Centers Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970, and the Drug Abuse Office and Treatment Act of 1972."

The sanctions were to begin at a withholding of 25% of the entitlement and increase by 25% increments annually.

These sanctions have been lifted, temporarily at least, by a continuing resolution of Congress, which expires on September 30th of this year. Attached at the end of this paper is a letter itemizing those funds and programs that would be affected by the imposition of sanctions.

The Alaska Legislative Information Office in Washington, D.C. answered by inquiry about sanctions this way:

Question: What are the chances that the sanctions may be again suspended beyond September, 1983?

Answer: This is going to depend on what the 98th Congress chooses to do. The continuing resolution will stand unless Congress takes some action before the end of the fiscal year. If Congress does not act before June 30th of FY 84,the Dept. of Health and Human Services is powerless to impose the sanctions mandated by law and is waiting for some direction from Congress.

In response to a question about the reaction by the Department of Health and Human Services to Alaska's repeal of the CON program, the unofficial reply is: Alaska will still have to comply with some sort of federal regulations to receive health care funds and that starting from scratch (after repeal) might be much more difficult than trying to amend the existing program on CON. For instance, the Block Grant proposals from the 97th Congress included a CON requirement. The compromise bill by Senators Quayle and Kennedy (which was not accepted by the administration) included CON requirements. The Reagan administration favors repeal of CON, the Congress favors retention.

Regardless of the status of the sanctions, repeal of CON would probably mean loss of some federal health planning funds.

Effect on State Revenue Sharing Program

State aid through Title 29 revenue sharing funds for hospital entitlement grants, hospital capital construction, public roads, and volunteer fire departments outside the organized borough may be affected by repeal of the CON program. The reasoning is like this: If repeal of the CON removes a control on public health facility construction, other things being equal, one could expect an increase in construction. An increase in construction could mean more demand on the hospital entitlement and capital construction fund. Because all funds for the Title 29 topics listed above are allocated on a pro rata basis within the available appropriation, increasing the demand on one area decreases the funds available to all those entitled to funds.

Proponents for repeal explain that because the capital construction reimbursements are paid after financing and construction, the program is of little use to any but a few revenue producing facilities. I have attached the most current itemization of revenue sharing payments for health facilities and hospital construction aid.

Effect of State Medicaid

If the CON program does help contain health care costs by avoiding duplication and misdirected investments, it follows that repeal would have the opposite effect on health care costs. Because medicaid is a retrospective program, that is, payments are made after costs are incurred, an increase in health care cost will increase medicaid payments. Those arguing for retention of CON also point out that repeal could lead to overbuilding of facilities, and revenue for unused facilities must be generated from those services generating revenue. In short, costs subject to medicaid payments could increase.

There is a proposal by the Alaska State Hospital Association to develop a prospective rate structure for medicaid payments. This would allow for the establishment of approved rates by an independent commission. Discussion of the latitude of the commission for inclusion of economic depreciation, rate of return, and other costs associated with unused facilities would be relevant.

Private enterprise vs Government regulation

It is generally agreed that most health care facilities (especially in Alaska) do not fit within the free enterprise category. A free enterprise system operates when certain elements are present:

1. There exists a large number of buyers and sellers.
2. Consumers must bear the consequences of their decisions.
3. The seller must be able to leave or enter the marketplace freely.

With the exception of Anchorage, there are no Alaskan communities with more than one hospital. Choices for health care are limited.

Third party payments remove the consumer's responsibility for the financial consequences of their actions. There is little incentive to restrict demands on the system if someone else pays the bill. In 1981, only 32.1% of the health care users paid for their own treatment.

Health care is not a free entry marketplace. The CON review is only one of the restrictions to entry. There exists licensing standards, public funding processes, and licensing requirements for personnel...the physicians, nurses, and technicians. Because of the complexity of health care questions, consumers rely heavily on physicians. 70% of health care expenditures are influenced by physicians.

The question of private enterprise vs regulation is one that can be discussed over and over, but repeal or retention of the CON program will not address that issue.

CONCLUSIONS:

The certificate of need statute in Alaska is out of date. The limits are low, lower than those set by Federal law. Amendments could be proposed to address particular problems relating to the requirement for the replacement of existing equipment, replacement of like equipment, time limits for review and the like.

The purposes for which the CON procedures were enacted probably do not have much application in Alaska. Because of the large involvement by the State in the funding of hospitals, both for capital construction and operating facets, it can be argued that there exists sufficient programatic review. However, capital budget review and a detailed justification by a hospital administration in a CON process are completely different in scope and detail.

Several states, like Alaska, are currently out of compliance with the Federal requirements. Sanctions have never been imposed against a state, however, no state has repealed its CON program.

Repeal of the program will not reduce health care costs to the recipient of such care.

Repeal of the program may encourage expansion of existing facilities,

Repeal of the program will remove a state level review of health care facility development.

Repeal of the program will make health planning assistance for the Federal government difficult to obtain.

Repeal of the program will not remove Federal health planning requirements.

The current statutory requirements of the Alaskan CON program are obsolete.

SENATE HESS COMMITTEE

CERTIFICATE OF NEED PROGRAM

The Certificate of Need program was instituted by the Federal government, along with health planning concepts as a tool to stem the rapid growth rate of the health care industry(currently consuming nearly 10% of the GNP).

Certificate of Need is a review process conducted by the state health planning agency, including local input and public hearings, to determine the need for new health facility construction and equipment acquisition. The review process takes into consideration other facilities in the geographic area, or other facilities serving the same patient population.

Certificate of Need carries sanctions from the Federal government tied to other monies received by the state in Public Health areas, mainly related to block grants. No state has ever had funding denied on the basis of non-compliance with the program, nor has any other state attempted to repeal this program.

The current administration in Washington has contemplated the elimination of the program for over two years, intending to replace it with a form of marketplace competition to control growth. However, since the health care industry has never behaved as other business enterprises do (the growth rate in health care always exceeds the inflation rate common in any other industry, and is currently between 15 and 17% yearly and on the rise), the Reagan policy makers have been unable to conceive of a plan to replace Certificate of Need.

Much discussion has revolved around the value of the program, since the major attribute appears to be the discouragement of frivolous ventures which could not be justified to the review process. This program is the only control mechanism available to the state at this time to control duplication and unnecessary facilities and services.

The current threshold levels for review are artifically low in comparison to costs in the industry, as an attempt to raise the levels to federally approved standards by the 1982 Senate HESS Committee did not pass the legislative process. (approved levels are now $400,000 for equipment and $600,000 for construction plus a yearly inflationary factor).

A health planning bill passed the House in Congress in December of 1982 but was stymied in the Senate by the addition of a gasoline tax. Efforts are currently evident in Washington to retain the program and raise the threshold to one million dollars for all levels, although it is difficult to second guess what may happen. Sanctions against non-compliance have been suspended through September 30, 1983 by a continuing resolution, but even in this light many other states have opted to raise threshold levels for review process (Colorado has raised levels the highest, to $750,000).

Arguments for the repeal of the program mostly relate to the costliness of the review process, and that marketplace economics will control growth. In order to consider these arguments, one has to look at the questions asked in the review process:

The relationship of the proposed project to the applicable local and State Health Plans as well as any long-range plans (if any) for the health facility;

The need that the population to be served has for the proposed project;

The availability of less costly or more effective alternatives;

The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health care services;

The relationship of the purposes proposed to be provided to the existing health care system;

The availibility of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed;

The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services; and

The costs and methods of the proposed construction, including the costs and methods of energy provision.

These eight standards would, presumably have to be justified anyway in any attempt to receive financing through an institution, and would appear to be good planning policy. The most expensive plan ever submitted to the state of Alaska reportedly cost $25,000, although consultants and planners need not be hired. Most hospitals in the state have done C.O.N. applications internally or have borrowed planners from other facilities (Soldotna, Kenai and Valdez use resources of the Fairbanks Memorial Hospital). Many hospitals have also used their proposals for bid applications for construction. C.O.N. also includes public input locally through a hearing process which may not be available otherwise.

Marketplace competition does not work in the health care industry, and would be particularly ineffective in Alaska since all locations except Anchorage have no alternative institutions. The basic premise of market place economics assumes a willing , competent and knowledgeable buyer who is offered a reasonable opportunity to make a choice for competitive pricing to occur. Since physicians have relationships to one particular hospital where they have priviledges, and refer their patients there for treatment, this line of thinking will not support such a statement. Small hospitals in this state are moving in the direction of more regional care through expansion to more specialized services within the community. Planning for the inter-relationship of these services with large facilites may not be accomplished without a unified state planning function (It should be noted here that the state health planning agency has been defunded in the FY 84 Executive budget)

Current expansion plans in Anchorage support the fact that marketplace economics is not a viable solution. Even though the Municipal Health Commission in Anchorage has projected that Anchorage will need only 456 to 514 beds in 1990, plans by Humana and Providence, if allowed to procede unheeded would add 178 to 236 unnecessary beds to the community. Competition in this case seems to apply to construction and not to fair pricing.

The two Certificate of Need applications currently being considered for the Anchorage area are:

Humana - 93 beds - $20 million ($56 million with interest) 65% occupancy
Providence - 150 beds - $80 million ($185.6 million with interest) 90% occupancy.
(These do not include any reference to the approved Certificate of Need for the Lake Otis Hospital - 125 beds)

What effect do these proposals have on state revenues, and what would be the further effect if the Certificate of Need program were repealed allowing facilities to build at will?

Revenue Sharing for Hospitals AS 29.90 provides a yearly amount of $250,000 or $1,000 per bed to hospitals for operating expenses.

C & RA Hospital Construction Assistance provides for repayment of a quarter of the construction costs(including interest) within the first five years, with no repayment clause for situations like the sale of the Teamster Hospital to Humana.

How will insurance premiums be affected by repeal?

The Medicaid Program(52% state funds) and the General Relief Medical Program(100% state funds) will also be affected by any construction, since the Medicare guidelines allow a percentage of construction costs related to applicable patient caseload to be added to reimburseable costs. The state's Medicaid program alone has risen from $4 million in 1972 to almost $70 million in 1984 (projected, but due to an additional increase through added caseload of up to 2,000 from withdrawal of Indian Health Service non-native dependents).

When visiting Providence Hospital last year with the Senate HESS Committee, we were told that the percentage of Medicaid clients was 13, even considering a 10% client caseload, this will add over $18 million to the Medicaid budget for Providence proposed construction alone. If the Federal "CAP" on Medicaid goes into effect, these costs will simply be shifted to other third party payors and not absorbed by the hospitals, whether or not the beds remain unused.

The health insurance industry and the Municipal Health Planning Commission of Anchorage are opposed to the repeal of Certificate of Need, and the Legislature must ask itself if we can afford to give up the only control on health expenditures available to the state.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF STATE HEALTH PLANNING & DEVELOPMENT

BILL SHEFFIELD, GOVERNOR

POUCH H 01A
JUNEAU, ALASKA 99811
PHONE: 465-3037

DOCUMENT NO. 83-35

February 2, 1983

FEB 7 1983

Dave Palmer
Legislative Assistant
Office of Representative Tischer
Pouch V
Juneau, Alaska 99811

Dear Mr. Palmer:

Attached per your request is a letter the Department received on March 22, 1982 from DHHS Region X outlining the project and formula grants received (presumably in federal fiscal year 1981) in Alaska which would be subject to the sanctions of Section 1521(d) of Title 15 of the U. S. Public Health Service Act.

Sincerely,

Phoebe A. Lindsey

Phoebe A. Lindsey
Director

Enclosure

DEPARTMENT OF HEALTH & HUMAN SERVICES
Public Health Service

Region X
M/S 859 Arcade Plaza Building
1321 Second Avenue
Seattle WA 98101

RECEIVED
MAR 22 1982
DSHFD

Ms. Phoebe Lindsey, Director
Division of State Health Planning & Development
Department of Health and Social Services
Pouch H 01A
Juneau, Alaska 99811

Dear Phoebe:

In response to your letter to Jack Whitney, a listing is provided below of the project and formula grants funded for Alaska, along with the dollar amount involved.

PROJECT GRANTS Federal	NUMBER	AMOUNT AWARDED
Health Systems Agencies	3	$ 980,836
State Health Planning & Development Agencies	1	$ 442,551
Immunization, Financial Assistance	1	$ 130,188
Direct Assistance		$ 38,853
Venereal Disease, Financial	1	$ 155,392
Direct		$ 72,229
Community Health Centers	1	$ 560,535
General Community Health	1	$ 120,000
Family Planning	2	$ 310,239
Maternal & Child Health R/B	1	$ 422,012
Crippled Children's Services R/B	2	$ 141,000
Community Mental Health; Initial Oper.	1	$ 787,229
TOTAL PROJECT GRANTS	14	$4,161,064
FORMULA GRANTS		
Alcohol Formula	1	$ 182,238
Health Incentive	1	$ 38,300
Maternal & Child Health A Funds	1	$ 364,000
B Funds	1	$ 70,000
Crippled Children's A Funds	1	$ 175,100
B Funds	1	$ 70,000
TOTAL FORMULA GRANTS	6	$ 899,638
TOTAL OF ALL GRANTS	20	$5,060,702

If you need clarification of the above or any further information, please let us know.

Sincerely,

Rebecca J. Dyer

Rebecca J. Dyer, Director
Office of Grants Management

cc: Jack Whitney

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (H2)

FEBRUARY 22, 1982
1982

TOTAL ENTITLEMENT = $55,707,600

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITAL CONST. AID
BOROUGHS AND SERVICE AREAS						
0010	ANCHORAGE A.W.	400.60	0.00	$463,885	$688,405	$5,483,870
0020	CITY S.A.	0.00	0.00	$0	$0	$0
0030	EAGLE RIVER	25.99	0.00	$0	$0	$0
0040	CHUGIAK	0.00	0.00	$0	$0	$0
0060	GIRDWOOD	10.54	0.00	$0	$0	$0
0070	GLEN ALPS	10.59	0.00	$0	$0	$0
0080	FIRE S.A.	0.00	0.00	$0	$0	$0
0090	ROADS & DRAINAGE	0.00	0.00	$0	$0	$0
0095	LIMITED ROAD S.A.	0.00	0.00	$0	$0	$0
0100	POLICE S.A.	0.00	0.00	$0	$0	$0
0110	PARKS & REC	0.00	0.00	$0	$0	$0
0120	P & R/CHUGIAK	0.00	0.00	$0	$0	$0
0130	SOLID WASTE S.A.	0.00	0.00	$0	$0	$0
0140	CHUGIAK/SOLID WASTE	0.00	0.00	$0	$0	$0
0150	BUILDING SAFETY	0.00	0.00	$0	$0	$0
0160	CITY SA ROADS & DRAINAGE	0.00	0.00	$0	$0	$0
0170	SERVICE AREA 35	0.00	0.00	$0	$0	$0
0175	UPPER O'MALLEY	14.60	0.00	$0	$0	$0
0180	PORT OF ANCH.	0.00	0.00	$0	$0	$0
0185	ROADS	58.16	0.00	$0	$0	$0
0190	AIRPORT S.A.	0.00	0.00	$0	$0	$0
0195	PUBLIC TRANSIT	0.00	0.00	$0	$0	$0
0200	PARKING S.A.	0.00	0.00	$0	$0	$0
0210	BRISTOL BAY BOROUGH	6.87	0.00	$0	$38,414	$0
0230	FAIRBANKS BOROUGH	93.60	0.00	$0	$0	$0
0240	ESTER F.P.	0.00	0.00	$0	$0	$0
0250	NORTH STAR F.P.	0.00	0.00	$0	$0	$0
0260	UNIVERSITY F.P.	0.00	0.00	$0	$0	$0
0270	HAINES BOROUGH	0.00	0.00	$0	$0	$0

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) FEBRUARY 22, 1982

TOTAL ENTITLEMENT = $55,707,600

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITAL CONST. AID
0280	FIRE DISTRICT	0.00	0.00	$0	$0	$0
0290	JUNEAU BOROUGH A.W.	0.00	0.00	$231,942	$159,576	$33,217
0300	S.A. 1	14.23	0.00	$0	$0	$0
0310	S.A. 2	5.08	0.00	$0	$0	$0
0320	S.A. 3	38.67	0.00	$0	$0	$0
0330	S.A. 4	0.00	0.00	$0	$0	$0
0340	S.A. 5	0.00	0.00	$0	$0	$0
0350	S.A. 6	0.00	0.00	$0	$0	$0
0360	S.A. 7	0.00	0.00	$0	$0	$0
0370	S.A. 8	0.00	0.00	$0	$0	$0
0380	KENAI PENINSULA BOROUGH	2.79	0.00	$0	$0	$0
0385	CENTRAL PENINSULA HOSPITAL	0.00	0.00	$249,662	$0	$0
0390	NIKISKI F.P.	0.00	0.00	$0	$0	$0
0395	SOUTH PENINSULA HOSPITAL	0.00	0.00	$249,662	$0	$0
0400	NORTH KENAI REC.	0.00	0.00	$0	$0	$0
0410	BEAR CREEK F.P.	0.00	0.00	$0	$0	$0
0420	KETCHIKAN BOROUGH	0.00	0.00	$0	$0	$0
0430	SHORELINE S.A.	0.00	0.00	$0	$0	$0
0440	KODIAK ISLAND BOROUGH	0.00	0.00	$249,662	$125,830	$0
0450	FIRE DISTRICT I	0.00	0.00	$0	$0	$0
0455	SERVICE DISTRICT	0.00	0.00	$0	$0	$0
0460	ROAD DISTRICT	15.00	0.00	$0	$0	$0
0470	MAT-SU BOROUGH	0.00	0.00	$0	$0	$0
0480	WASILLA F.P.	0.00	0.00	$0	$0	$0
0490	BUTTE F.P.	0.00	0.00	$0	$0	$0
0500	GREATER PALMER F.P.	0.00	0.00	$0	$0	$0

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KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITAL CONST. AID
0510	SUTTON F.P.	0.00	0.00	$0	$0	$0
0520	NON AREA-WIDE	0.00	0.00	$0	$0	$0
0525	TALKEETNA FLOOD S.A.	0.00	0.00	$0	$0	$0
0530	TALKEETNA F.P.	0.00	0.00	$0	$0	$0
0540	GARDEN TERRACE	0.00	0.00	$0	$0	$0
0541	MIDWAY	581.89	12.00	$0	$0	$0
0550	LAKES F.P.	0.00	0.00	$0	$0	$0
0560	NORTH SLOPE BOROUGH	54.47	0.00	$0	$82,700	$0
0570	SITKA BOROUGH	16.05	0.00	$240,640	$32,727	$0
FIRST CLASS CITIES						
1000	BARROW	0.00	0.00	$0	$0	$0
1010	CORDOVA	8.55	0.00	$268,751	$25,800	$0
1020	CRAIG	4.91	0.00	$0	$22,266	$0
1030	DILLINGHAM	7.77	0.00	$0	$0	$0
1040	FAIRBANKS	87.20	0.00	$268,751	$165,551	$1,181,859
1050	GALENA	5.58	0.00	$0	$10,337	$0
1060	HAINES	10.44	0.00	$0	$0	$0
1070	HOMER	11.70	0.00	$0	$15,973	$0
1080	HOONAH	4.00	0.00	$0	$0	$0
1090	HYDABURG	3.17	0.00	$0	$0	$0
1100	KAKE	5.17	0.00	$0	$0	$0
1110	KENAI	45.87	0.00	$0	$15,978	$0
1120	KETCHIKAN	16.60	0.00	$231,942	$37,110	$40,659
1140	KING COVE	3.10	0.00	$0	$9,603	$0
1150	KLAWOCK	1.69	0.00	$0	$7,422	$0
1160	KODIAK	14.68	0.00	$0	$0	$0
1170	NENANA	13.26	0.00	$0	$0	$0
1180	NOME	13.60	0.13	$323,049	$51,687	$0
1190	NORTH POLE	10.72	0.00	$0	$0	$0
1200	PALMER	19.36	0.00	$240,640	$0	$0
1210	PELICAN	1.10	0.00	$0	$7,989	$0
1220	PETERSBURG	9.48	0.00	$240,640	$23,101	$0
1230	SAND POINT	8.34	0.00	$0	$9,603	$0
1240	SAINT MARY'S	7.93	10.21	$0	$9,964	$0
1250	SELDOVIA	6.31	0.00	$0	$7,989	$0

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) FEBRUARY 22, 1982

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KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITAL CONST. AID
1260	SEWARD	18.35	0.00	$249,662	$143,805	$0
1270	SKAGWAY	9.50	0.00	$0	$7,989	$0
1280	SOLDOTNA	24.78	0.00	$0	$0	$0
1290	UNALASKA	38.42	0.00	$0	$9,603	$0
1300	VALDEZ	15.80	0.00	$278,818	$8,922	$0
1330	WRANGELL	7.13	0.00	$240,640	$15,400	$0
1360	YAKUTAT	3.31	0.00	$0	$7,989	$0
SECOND CLASS CITIES						
5000	AKHIOK	4.00	0.00	$0	$0	$0
5010	AKIACHAK	1.59	9.00	$0	$9,964	$0
5020	AKIAK	0.00	0.00	$0	$9,964	$0
5030	AKOLMIUT	0.00	44.75	$0	$19,928	$0
5040	AKUTAN	0.00	0.00	$0	$0	$0
5050	ALAKANUK	4.00	8.00	$0	$9,964	$0
5060	ALEKNAGIK	0.00	0.00	$0	$9,603	$0
5070	ALLAKAKET	2.70	0.00	$0	$0	$0
5080	AMBLER	5.22	0.00	$0	$10,337	$0
5090	ANAKTUVUK PASS	0.00	0.00	$0	$0	$0
5100	ANDERSON	5.00	0.00	$0	$0	$0
5110	ANGOON	5.18	0.00	$0	$0	$0
5120	ANIAK	8.10	24.00	$0	$20,675	$0
5130	ANVIK	0.00	0.00	$0	$10,337	$0
5140	ATMAUTLUAK	0.00	0.00	$0	$9,964	$0
5150	BETHEL	10.85	48.00	$0	$132,026	$0
5160	BREVIG MISSION	0.00	0.00	$0	$10,337	$0
5170	BUCKLAND	0.00	0.00	$0	$0	$0
5180	CHEFORNAK	0.00	0.00	$0	$9,964	$0
5190	CHEVAK	0.50	0.00	$0	$9,964	$0
5200	CHUATHBALUK	4.00	6.00	$0	$10,337	$0
5210	CLARK'S POINT	0.00	0.00	$0	$9,603	$0
5220	DEERING	0.00	0.00	$0	$10,337	$0
5230	DELTA JUNCTION	10.88	0.00	$0	$8,600	$0
5240	DIOMEDE	0.00	0.00	$0	$0	$0

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) FEBRUARY 22, 1982

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KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITAL CONST. AID
5250	EAGLE	2.39	0.00	$0	$0	$0
5260	EEK	0.00	0.00	$0	$0	$0
5270	EKWOK	0.00	0.00	$0	$0	$0
5280	ELIM	1.60	0.00	$0	$10,338	$0
5290	EMMONAK	3.41	7.50	$0	$9,964	$0
5300	FORT YUKON	13.50	0.00	$0	$0	$0
5310	FORTUNA LEDGE	5.00	0.00	$0	$9,964	$0
5320	GAMBELL	0.00	0.00	$0	$0	$0
5330	GOLOVIN	0.00	0.00	$0	$10,337	$0
5340	GOODNEWS BAY	0.00	0.00	$0	$0	$0
5350	GRAYLING	0.00	0.00	$0	$0	$0
5360	HOLY CROSS	4.00	0.00	$0	$10,337	$0
5370	HOOPER BAY	0.00	0.00	$0	$0	$0
5380	HOUSTON	30.75	0.00	$0	$0	$0
5390	HUGHES	0.00	0.00	$0	$0	$0
5400	HUSLIA	17.70	0.00	$0	$10,337	$0
5410	KACHEMAK	0.00	0.00	$0	$0	$0
5420	KAKTOVIK	0.00	0.00	$0	$0	$0
5430	KALTAG	0.00	0.00	$0	$0	$0
5440	KASAAN	0.00	0.00	$0	$7,422	$0
5460	KIANA	2.20	0.00	$0	$10,337	$0
5470	KIVALINA	0.00	0.00	$0	$0	$0
5480	KOBUK	0.00	0.00	$0	$0	$0
5490	KOTLIK	0.00	0.00	$0	$9,964	$0
5500	KOTZEBUE	15.50	3.50	$0	$0	$0
5510	KOYUK	1.79	0.00	$0	$10,337	$0
5520	KOYUKUK	1.00	0.00	$0	$10,337	$0
5530	KUPREANOF	0.00	0.00	$0	$0	$0
5540	KWETHLUK	0.00	0.00	$0	$0	$0
5550	LARSEN BAY	0.00	0.00	$0	$0	$0
5555	LOWER KALSKAG	3.86	40.00	$0	$10,337	$0
5560	MANOKOTAK	0.43	0.00	$0	$9,603	$0
5570	MCGRATH	10.95	0.00	$0	$10,337	$0
5580	MEKORYUK	0.00	0.00	$0	$9,964	$0
5590	MOUNTAIN VILLAGE	3.50	18.00	$0	$9,964	$0
5600	NAPAKIAK	2.48	0.00	$0	$9,964	$0

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) FEBRUARY 22, 1982

TOTAL ENTITLEMENT = $55,707,600

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITA CONST. AI
3610	NAPASKIAK	0.00	0.00	$0	$9,964	$
3620	NEWHALEN	0.00	0.00	$0	$9,603	$
3630	NEW STUYAHOK	0.00	0.00	$0	$9,603	$
3640	NEWTOK	0.00	0.00	$0	$9,964	$
3650	NIGHTMUTE	0.00	0.00	$0	$9,964	$
3660	NIKOLAI	0.00	0.00	$0	$0	$
3670	NONDALTON	1.50	0.00	$0	$9,603	$
3680	NOORVIK	2.42	0.00	$0	$10,337	$
3690	NULATO	5.80	0.00	$0	$10,337	$
3700	NUIQSUT	0.00	0.00	$0	$0	$
3710	OLD HARBOR	4.45	0.00	$0	$0	$
3720	OUZINKIE	3.10	0.00	$0	$0	$
3730	PILOT STATION	2.00	0.00	$0	$0	$
3740	PLATINUM	0.00	0.00	$0	$0	$
3750	POINT HOPE	0.00	0.00	$0	$0	$
3760	PORT ALEXANDER	0.00	0.00	$0	$0	$
3770	PORT HEIDEN	26.60	0.00	$0	$9,603	$
3780	PORT LIONS	3.39	0.00	$0	$0	$
3790	QUINHAGAK	1.25	0.00	$0	$9,964	$
3800	RUBY	0.00	0.00	$0	$0	$
3810	RUSSIAN MISSION	0.00	0.00	$0	$0	$
3820	SAINT MICHAEL	0.00	0.00	$0	$10,337	$
3830	SAINT PAUL	37.50	0.00	$0	$0	$
3840	SAVOONGA	0.00	0.00	$0	$10,337	$
3850	SAXMAN	3.20	0.00	$0	$0	$
3860	SCAMMON BAY	1.25	0.00	$0	$0	$
3870	SELAWIK	0.00	0.00	$0	$0	$
3880	SHAGELUK	2.00	0.00	$0	$0	$
3890	SHAKTOOLIK	3.50	18.00	$0	$10,337	$
3900	SHELDON POINT	0.00	0.00	$0	$9,964	$
3910	SHISHMAREF	1.98	0.00	$0	$0	$
3920	SHUNGNAK	0.00	0.00	$0	$10,337	$
3930	STEBBINS	0.00	0.00	$0	$10,337	$
3940	TANANA	31.69	0.00	$0	$0	$
3950	TELLER	2.69	0.00	$0	$10,337	$
3980	TENAKEE SPRINGS	2.00	0.00	$0	$7,700	$

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) FEBRUARY 22,. 1982

TOTAL ENTITLEMENT = $55,707,600

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPITA CONST. AI
3990	TOGIAK	5.00	0.00	$0	$9,603	$
3000	TOKSOOK BAY	0.00	0.00	$0	$9,964	$
3010	TULUKSAK	9.50	43.00	$0	$9,964	$
3015	TUNUNAK	0.00	0.00	$0	$9,964	$
3020	UNALAKLEET	9.52	0.00	$0	$10,337	$
3030	UPPER KALSKAG	1.50	16.50	$0	$0	$
3040	WAINWRIGHT	0.00	0.00	$0	$0	$
3050	WALES	0.00	0.00	$0	$0	$
3060	WASILLA	45.14	0.00	$0	$15,400	$
3070	WHITE MOUNTAIN	1.52	0.00	$0	$9,603	$
3080	WHITTIER	6.00	0.00	$0	$0	$
3090	EXT FIRE AREAS	0.00	0.00	$0	$0	$61,81
3100	NATIVE VILLAGE COVT	0.00	0.00	$0	$0	$1,141,85
	TOTAL			$4,028,354	$2,476,985	$7,943,27

Activity Report
December 30, 1982
for Certificate of Need
Health Resources Development
State Health Planning and Development

RECEIVED
JAN 4 1983
DEHFD

A. CERTIFICATE OF NEED REVIEWS COMPLETED

1. Lake Otis Clinic, Anchorage -- "Grandfathered CON" for 125 general acute care hospital; (issued 7/27/77)

2. Sitka Community Hospital, Sitka -- Review status of "Grandfathered CON" for new facilty; (six-month extension issued 12/31/78)

3. Lake Otis Clinic, Anchorage -- Review of status of "Grandfathered CON" for new facility; (six-month extension issued 12/31/78)

4. Fairbanks Memorial Hospital, Fairbanks -- Purchase and installation of laboratory information system; (information in archives)

5. Fairbanks Memorial Hospital, Fairbanks -- Application to Medical Facility Authority for bond sale; (information in archives)

6. Alaska Hospital and Medical Center, Anchorage -- Provide 21 bed chemcial dependency unit; (information in archives)

7. Juneau Regional Rehabilitation Facility, Juneau -- Construction of a 16 bed drug abuse/detoxification and rehabilitation facility; $654,000. (issued 6/7/79)

8. Providence Hospital, Anchorage -- Purchase and instalation of a simulator for radiation therapy; $195,365. (issued 9/4/79)

9. Providence Hospital, Anchorage -- Purchase and installation of a G.E. flouricon system; $285,000. (issued 2/14/80)

10. Lake Otis Clinic, Anchorage -- Review to determine status of "Grandfathered C/N"; (Bonified certificate status continued 3/10/80)

11. Fairbanks Memorial Hospital, Fairbanks -- Remodel of labor, delivery, and nursery areas; $540,000. (issued 2/26/80)

12. Central Peninsula Hospital, Soldotna -- expansion and improvement of facility (phase one); $6,762,646. (issued 4/2/80)

13. Providence Hospital , Anchorage -- Purchase and installation of a linear accelerator; $1,785,000. (issued 5/15/80)

14. Valdez Community Hospital, Valdez -- Purchase and installation of replacement radiology room; $150,000. (issued 5/15/80)

15. Seward General Hospital, Seward -- several energy saving construction projects; $286,113. (issued 10/6/80)

16. Valley Hospital, Palmer -- Minimal expansion and remodeling of facility; $2,000,000. (issued 6/9/80)

17. South Peninsula Hospital, Homer -- expansion and improvement of facility; $6,472,300. (issued 10/28/80)

18. Faith Hospital, Glennallen -- Expansion of outpatient areas of facility; $700,000. (issued 11/3/80)

19. Providence Hospital, Anchorage -- "Grandfathered C/N" for 250 bed acute care facility; (issued 5/1/81)

20. Alaska Hospital and Medical Center, Anchorage -- "Grandfathered C/N" for 199 bed acute care facility; (issued 12/4/81)

21. Sitka Community Hospital, Sitka -- 1122 review of diagnostic ultrasound services; $79,320. (five year lease with option to purchase) (issued 11/5/80)

22. Providence Hospital, Anchorage -- Replacement of radiology room; $236,000. (issued 12/26/80)

23. Juneau Regional Rehabilitation Facility, Juneau -- Remodel facility to meet hospital standards; $250,000. (issued 2/21/81)

24. Central Peninsula Hospital, Soldotna -- Purchase and installation of radiographic and fluorscopic imaging system; $305,899. (issued 5/21/81)

25. Wrangell General Hospital, Wrangell -- Renovation and Expansion of facility; $6,870,000. (issued 7/13/81)

26. Providence Hospital, Anchorage -- Purchase of replacement radiology room; $230,000. (issued 7/20/81)

27. Providence Hospital, Anchorage -- Construction of hostel for outpatients and family of inpatients; $900,000. (issued 7/29/81)

28. Petersburg General Hospital, Petersburg -- Renovation and expansion of facility; $7,150,000. (issued 8/11/81)

29. Alaska Hospital and Medical Center, Anchorage -- Purchase adjacent professional office building for expansion of chemical dependancy unit and other hospital areas; $15,236,000. (issued 9/24/81)

30. Central Peninsula Hospital, Soldotna -- Expansion of surgery and other areas of facility (phase two); $5,849,000. (issued 11/10/81)

31. Family Centered Birth, Juneau -- Construction of a birthing center; Review terminated following a Department of Law Opinion regarding applicability of C/N statute to birthing centers; (review terminated 12/22/81)

32. Alaska Treatment Center, Anchorage -- Construction of a new free-standing inpatient rehabilitation facility; $11,400,000. (denied, 1/22/82)

33. Valley Hospital, Palmer -- Construction of a new hospital adjacent to existing facility; $10,570,000. (issued 2/19/82)

34. Cordova Hospital, Cordova -- Construction of a new hospital at a new site; $15,075,000. (issued 4/13/32)

35. Providence Hospital, Anchorage -- Purchase and installation of a laboratory computer; $440,000. (issued 4/23/82)

36. Petersburg General Hospital, Petersburg -- Modification of previously issued CON, increase in space and expenditure; $2,005,000. (issued 5/18/82)

37. Fairbanks Memorial Hospital, Fairbanks -- Construction of new 5 floor patient tower, increase in acute care beds; $26,200,000. (issued 6/2/82)

38. Humana Hospital, Anchorage - Application for temporary certificate for expansion of chemical dependency unit; $1,000,000. (denied 6/28/82)

39. Providence Hospital, Anchorage -- Purchase and install replacement hospital incinerator; $200,000. (issued 7/20/82)

40. Humana Hospital Alaska, Anchorage -- Purchase and install CT full body scanner to replace CT head scanner; $848,000. (issued 10/1/82)

41. Advanced Health Systems, Anchorage -- Construct new free-standing Raleigh Hills alcoholism treatment hospital; $3,700,000. (issued 11/16/82)

42. Charter Medical Corporation -- Construct new free-standing psychiatric and substance abuse hospital; $12,248,000. (issued 11/16/82)

43. Providence Hospital, Anchorage -- Purchase and install replacement CT full body scanner; $832,000. (issued 11/16/82)

44. Providence Hospital, Anchorage -- Purchase and install new digital fluorography system; $256,000. (issued 11/30/82)

B. CERTIFICATE OF NEED APPLICATIONS RECEIVED AND IN PROCESS OF REVIEW

1. Providence Hospital, Anchorage -- Purchase and install new hospital information system; $2,698,000.

2. Providence Hospital, Anchorage -- Construct new 160 bed patient tower, increase acute care beds, add inpatient rehabilitation program, expand ancillary departments; $79,754,000.

3. Surgery Center, Inc., Anchorage -- Construct new free-standing ambulatory surgery center to replace current facility; $2,698,000.

4. Humana Hospital Alaska, Anchorage -- Renovation and expansion of emergency department; $1,012,200.

5. Humana Hospital Alaska, Anchorage -- Construction of new patient tower adjacent to existing hospital, 73 bed increase in acute care beds, addition of 20 bed inpatient rehabilitation program; $20,000,000.

6. Lake Otis Hospital, Anchorage -- Hearing to determine whether CON should be revoked; cost of project not identified. Decision - pending.

C. ADDITIONAL LETTERS OF INTENT RECEIVED BUT NOT REVIEWED AS APPLICATIONS

1. Valley Hospital, Palmer -- Termination of skilled nursing services. No further action by VH. (LOI dated 12/13/79)

2. Metlakatla Indian Community, Metlakatla -- construction of long term care facility. $200,000. No further action by MIC. (LOI dated 12/26/79)

3. Lake Otis Clinic, Anchorage -- Construction of 265 bed acute care/chemical deependancy hospital. $7,000,000.+ No further action by LOC. (LOI dated 2/14/80)

4. Providence Hospital, Anchorage -- Construction of 132 bed addition and expansion of services. $25,400,000. No further action by Providence. (LOI dated 3/31/80)

5. Health Care Services - Alaska, Anchorage -- Sale of Nakoyia Health Care Center. $14,200,000. No further action by HCS. (LOI dated 6/6/80)

6. Alaska Kidney Foundation, Anchorage -- Construction of a new facility for Alaska Kidney Center. Capitalized five year lease = $200,000. No further action by AKC. (LOI dated 6/23/80)

7. Norton Sound Regional Hospital, Nome -- Provision of family services unit. No further action by NSRH. (LOI dated 9/25/80)

8. Kodiak Island Hospital, Kodiak -- Offering of diagnostic ultrasound services. Decision - diagnostic radiology is a part of radiology department and not a new service; therefore, is not subject to CON review. (LOI dated 10/14/80)

9. Alaska Hospital and Medical Center, Anchorage -- Addition of 21 beds to chemical dependancy unit. No further action by AHMC. (LOI dated 10/21/80)

10. Alaska Hospital and Medical Center, Anchorage -- Purchase of professional office building for facility expansion; $10,000,000. (LOI dated 12/28/80)

11. Ketchikan Genceral Hospital, Ketchikan -- Replacement of computer system. $103,000. Decision - not subject to CON review. (LOI datded 2/11/81)

12. Ketchikan General Hospital, Ketchikan -- provision of recompression chamber. $55,000. Decision - not subject to CON review. (LOI dated 7/21/81)

13. Akeela House, Anchorage -- new building for residential drug abuse therapy program. $460,000. Decision - not subject to CON review. (LOI dated 8/4/81)

14. Ketchikan General Hospital, Ketchikan -- Offering of diagnostic ultrasound services. $70,000. Decision - not subject to CON review. (LOI dated 8/19/81)

15. Providence Hospital, Anchorage -- Predevelopment application for large construction project; $4,000,000. (withdrawn 10/8/81)

16. Humana, Anchorage -- Purchase of Alaska Hospital and Medical Center by Humana. $65,000,000. Decision - not subject to CON review. (LOI dated 11/13/81)

17. Comprehensive Care Corporation, Anchorage - Establishment of a 50 bed alcoholism and chemical dependency hospital in Anchorage. Letter of intent still valid through 2/16/83, however letter received from applicant indicates that application was not expected to be submitted. (LOI dated 2/17/82)

18. Providence Hospital, Anchorage -- Offering of home health services; cost uncertain. Decision - subject to CON review. (LOI dated 1/19/92)

19. Kodiak Island Hospital, Kodiak - Purchase of gamma camera, $90,000. Decision - not subject to CON review. (LOI dated 2/10/82)

20. Humana Hospital, Anchorage - Relocation and expansion of chemical dependency unit, increase CDU from 21 beds to 36 beds; $1,000,000. Letter of intent withdrawn. (LOI dated 5/10/82)

21. Anchorage Community Mental Health, Anchorage - Establishment of residential transitional facility. Decision - not subject to CON review. (LOI dated 6/14/82)

22. Humana Hospital, Anchorage, Purchase of hospital data processing services; Decision - not subject to CON review. (LOI dated 10/11/82)

23. Penninsula Addiction Center, Inc., Soldotna - Establishment of new freestanding 12 to 24 bed substance abuse treatment facility; cost undetermined. Application anticipated. (LOI dated 5/14/82)

24. Bartlett Hospital, Juneau -- Construction of new patient tower, increase in acute care beds; $20,000,000. Application anticipated. (LOI dated 7/21/82)

25. Providence Hospital, Anchorage -- Purchase of new cardio-vascular imaging system; $820,000. Application anticipated. (LOI dated 10/1/82)

26. Providence Hospital, Anchorage - construction of employee child care center; $1,400,000. Decision - not subject to CON review. (LOI dated 10/14/82)

27. Sisters of Providence, Inc. Seattle - Purchase of Nakoyia Health. Care Center Applicability of certificiate of need requirement under review by Department of Law. (LOI dated 12/10/82)

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Region X
M/S 403
2901 Third Avenue
Seattle, WA 98121

HESS

February 7, 1983

David R. Palmer
Alaska State Legislature
House of Representatives
Pouch V
State Capital
Juneau, Alaska 99811

Dear Mr. Palmer:

Although our Regional Office has not yet received a copy of House Bill 19 proposing to repeal the Alaska (AS18.07) Certificate of Need law, our recent telephone conversation provided sufficient information to reply to your January 28, 1983, letter to Mr. John D. Whitney.

Several issues are involved and although interrelated, for clarity sake ought to be considered separately, at least at first.

Section 1536 of P.L. 93-641 as amended does not, as suggested in your letter, deal with exemption of Certificate of Need requirements. In essence, it allows local Health Systems Agencies to be dropped, as a requirement of P.L. 641, and transfers their functions to the State. This includes HSA CON functions usually performed under section 122.310. Therefore, the effect of the 1536 request if granted to Alaska would be to close out Health Systems Agencies, while necessitating a State plan to accomplish the required local planning functions now accomplished by these planning bodies.

The National Health Planning and Resources Development Act of 1974, P.L. 93-641 as amended by P.L. 96-79 and P.L. 96-538, requires a State Certificate of Need program and specifies minimal requirements for this activity. These requirements are not currently being met by Alaska's CON program. Current law could be changed to gain compliance. The absence of CON enabling legislation, however, would clearly remove the possibility of compliance and prevent Full designation of the Alaska State Health Planning and Development Agency (SHPDA).

Without Full designation within specified time limits, P.L. 93-641 as amended, calls for termination of Federal support to the SHPDA and imposes certain sanctions on other Public Health Service dollars going into Alaska. The language of the Continuing Resolution passed in December 1982, however, specifically prohibits imposition of such penalties during FY 1983. Therefore, revocation of Alaska's AS 18.07 would have little impact for the remainder of FY 1983. Beyond FY 1983, the impact could be minor or drastic, depending on Congressional action and the continuance of a Federal planning act.

Potentially negative impact issue from revoking Alaska CON Statute might come from budget reductions in the upcoming SHPDA's grant application. Since approximately 30% of the SHPDA's activities have been allocated to CON, the proposed budget would probably be reduced proportionately if CON activities were no longer authorized.

During the telephone conversation you mentioned that you heard many States were considering termination of their CON program. I believe such information is not valid. Last week Mr. Whitney and I attended a week long meeting in Washington, D.C., with nine other Regional Offices and Headquarters staff. During this period, in addition to informal information exchange, each of the ten Regions reported on Planning and CON activities in the States on the basis of intelligence recently collected.

You may find several of our observations relevant to your current task:

1) Many States are---as is usual---revising their planning statute and rules to better meet their own environment and to make the State Planning less dependent on Federal support, or in anticipation of future block grant funding for Planning.

2) Several States that had requested and received 1536 designation, such as Alabama and Texas, apparently wish to regain their former planning status and reconstitute their Health Systems Agencies and local planning. (While a final program decision has not been made on this issue, the current perception is that once done, it probably cannot be undone under existing rules.)

3) Because the free-market elements do not yet exist in order to allow competition to be the major controlling factor for health care costs, most States intend to strengthen their CON and health facility rate review regulation mechanisms to cover the next few years. Highly populous States, such as New York, as can be noted by the recent report of the Health Care Capital Policy Advisory Committee" which is attached, see CON and rate review as critically important tools of planning and cost management. Other States, such as Washington, while having one of the nation's most effective programs, perceive CON and rate review as an essential but perhaps intermediate range solution to health costs management over the next few years.

On the telephone I mentioned a new and very thorough study by Arthur D. Little, Inc., that suggests CON and capital expenditure reviews are definitely cost-effective. I am including an October 1982 transition briefing memo that includes a summary of the findings of this report and some other facts you may find useful.

I hope you find this information responsive to your needs and I encourage you to call or write if we can be of further assistance.

Sincerely,

Edgar LeRoy Ross
Regional Program Consultant
for Regulatory Activities

Enclosure

cc: William R. Berry

Transition Briefing Memo 21

October 28, 1982

1. CERTIFICATE OF NEED IS STILL PLANNING'S "CENTER RING" ACTIVITY

Despite the fact that 15 states have written "sunset" provisions to end Certificate of Need in the next two years, review of proposed capital investments is still the number one priority of many State Agencies and HSAs.

In the West and across the nation, the number of applications and the dollar value of hospital proposals have been rising dramatically. Last year, California experienced a 50 percent increase in the number of CON applications. The proposed capital cost of all proposals in California climbed nearly 100 percent from 1980, totalling $696 million in 1981. Add to that $309 million for replacement projects, which were exempt under the California CON statute, and the total is more than $1 billion in health facility capital investment in California 1981.

In Denver, five hospitals completed to build a new facility in the South Denver metro area. The proposals were denied after the Governor and the employers' coalition testified in opposition. In Contra Costa County, a bedroom surburb of the San Francisco Bay Area, the Alameda-Contra Costa HSA has received seven letters of intent for applications whose capital cost may exceed $100 Million. Many agencies similarly report a surge of CON applications in the past 18 months.

Given limited staff resources and volunteer energy, some agencies are questioning how much priority they should give to Certificate of Need and capital expenditure review.

A new study by Arthur D. Little, Inc., suggests that CON and capital expenditure review are definitely cost-effective. In a study prepared for the Office of the

Western Center for Health Planning
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Sponsored by the Western Consortium for Continuing Education for the Health Professions, Inc.: Schools of Public Health and University Extensions, University of California at Berkeley, University of California at Los Angeles, University of Hawaii, Affiliate Graduate Program in Health Services Administration, University of Southern California

Assistant Secretary for Health*, the consultants made the following findings:

- CON has been an effective inhibitor of rising capital expenditures in a study of five states (Colorado, Florida, Maryland, Massachusetts and Oregon), in the period 1974-78;
- CON/capital expenditures review programs were successful in averting 13 percent of hospital projects and saving 16 percent of the proposed capital investments;
- The CON process is not dominated by teaching hospitals or facilities with higher rates;
- CON programs have a dampening effect on the amount of capital investment in the state;
- New capital investments increase costs--over a 10-year period $1 of new capital is estimated to generate $1.84 of additional operating costs, in constant dollars;
- Increases in operating costs due to new capital investment was highest in proprietary hospitals ($0.33), compared with government ($0.20) and community hospitals ($0.16);
- Capital investments in equipment generate a larger increase in annual operating costs; and
- If every hospital annually reinvested 5 percent of its operating budget in new capital stock (beds, equipment, other), the operating costs would be increased by 10 percent each decade even without inflation.

The consultants concluded that if competitive approaches to controlling health care costs are to succeed, it may be necessary to continue capital expenditure review programs and controls until cost-reducing competitive systems are functioning. They predict the immediate effect of deregulating

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*Development of an Evaluation Methodology for Use in Assessing Data Available to the Certificate of Need (CON) and Health Planning Programs", Final Report, Arthur D. Little, Inc., Cambridge, MA, April, 1982.

hospital investment in the name of competition will be a surge in hospital operating expenditures. Health Planning has the potential to significantly lower hospital costs, an important policy finding in light of the Administration's proposed elimination of both planning and Certificate of Need.

2. ROCHESTER'S "MINICAP" PROJECT reported a 10 percent increase in hospital costs in 1982, barely half the national rate of 18.7 percent. Nine Rochester (New York) hospitals are participating in the second year of a five-year experiment in voluntarily living within a community-wide revenue cap.

The Rochester program was profiled in the Western Center's recent conference "Hospital Rate Regulation: Lessons for California from Mandated and Private Approaches". Hospitals improved their fiscal position this year with all nine in the black despite declining admissions and a difficult economy. The experimental reimbursement program provides predictable income, greatly enhancing liquidity and cash position. New York hospitals are under great financial pressure now with nine out of ten voluntary hospitals operating in the red for at least two of the five years from 1974-78. The Rochester experience is demonstrating that implementing a voluntary financial discipline -- with appropriate mechanisms -- can be beneficial both to the hospitals and the community. The program, with cooperation of the local Health Systems Agency and State agency has allowed service improvements and capital investments in the hospitals. A contingency fund helps hospitals adjust to changes in patient volume during the year, and subsidizes operating revenues for approved Certificate of Need projects.

A copy of the report, "Affordable Health Care: Rochester Area Hospitals Strategies for the 80's," is available from the Western Center's Reference Service. For more information about the program, contact James A. Block, M.D., President, Rochester Area Hospitals' Corporatopn, 220 Alexander Street, Suite 608, Rochester, New York 14607.

Dave I would ask for this

3. SPECIAL PLANS AND PROJECTS

Congressional extension of funding for health planning suggests that the emphasis upon "transition" may be shifting back to planning. A number of agencies have developed special plans, or intend to do so in the coming year. These "special plans" are often the outcome of studies or implementation efforts. The special plans are usually problem-specific, or focus on the special health needs of a particular population group or region within the Health Service Area. Outside

funding or "co-production" with a cooperating agency has made a number of these special plans possible.

Western Center staff have developed a list of possible "special plans" which HSAs and State agencies might develop, including:

- "Year 2000" Health Plan
- Regional Capital Investment Plan
- Community Health Promotion Plan
- Regional "Quality of Life" Assessment
- Medicaid Plan
- Health Plan for the Aged
- Community Services Cutback Plan
- Block Grant Plan
- County Health Plan (City or other local region)
- "Boomtown" Plan
- Categorical Disease Plan, e.g., Regional Cardiac Care Plan
- Rural Health Plan
- Facility-Specific Plan, e.g., Free-standing Emergency Rooms Plan

The Center is conducting a survey in November of all HSA special plans. The result will be a published compendium of all of the plans, with a short description, funding, outside resources and responsible staff. The special plans will be abstracted for computerization as part of a national project by all three Centers to develop a "Plan Document File" for computerized search of all plans developed by Health Systems Agencies and State planning agencies. Copies of the special plans will be available through the Western Center's Reference Service. For information, contact Rus Coile, Western Center staff, telephone: (415)546-7601.

This project has been funded with Federal Funds from the Health Resources Administration, Department of Health and Human Services, under contract HRA 232-79-0037. The contents of this publication do not necessarily reflect the view or policies of the Department of Health and Human Services, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

PROVIDENCE
HOSPITAL

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ANCHORAGE, ALASKA 99502
PHONE: (907) 276-4511

JAN 31 1983

SISTERS OF
PROVIDENCE

SERVING IN THE WEST SINCE 1856

January 26, 1983

H 555

The Honorable Mae Tischer
Alaska State House of Representatives
State Capitol
Pouch V
Juneau, Alaska 99811

Position Paper on HB 19 and a companion bill being submitted to the Senate -- pertaining to an "Act repealing the certificate of need program."

Dear Representative Tischer:

Providence Hospital joins the rest of the hospitals in this state in requesting the repeal of the certificate of need law and endorsing House Bill 19 (Fritz and Hayes) and the companion bill about to be submitted to the Senate. The process which this law sets in place is cumbersome and wasteful and totally inappropriate for Alaska.

The major impetus for the law was to control excess hospital beds in many large cities and to help control rising health care costs. The belief was that by controlling the number of beds, capital expenditures and new services, costs would be contained. The results have been much less than desirable throughout the country, and, in Alaska, have been needless, wasteful, cumbersome and costly.

The lack of success in Alaska is better termed overkill. Designed for areas of heavy population, excess hospital beds and competition, the law does not work and is inappropriate for our small state for several reasons:

- The law only covers private facilities, and does not cover public health, military or state owned institutions.
- Alaska has only one city with more than one hospital, and there are only three hospitals in the whole state (eligible for review) of over 100 beds.
- The law is reactive to existing decision making processes. Hospitals in Alaska already have local public review and approval designed in their own budget review processes. Many hospitals are owned by

municipalities, and all have governing boards or advisory boards of local citizens. These citizens and municipalities should have control of the expansion and budgetary decisions of their own institutions. Several other layers of bureaucracy and review are cumbersome, costly and inefficient. For our Certificate of Need, the following is an actual review cycle showing the different bureaucratic levels we had to go through just to have a decision made on one project.

Letter of intent to file certificate of need

Pre-application conference (HSA, Municipal Health Commission, State)

Public Hearing on Certificate of Need Application (State)

Joint Project Review (HSA and Municipal Health Commission)

Concurrent Review (HSA and Municipal Health Commission)

Board Review (Municipal Health Commission)

Board Review (HSA and Southcentral Health Planning & Development Agency)

Commissioner's Review (State)

From the time of holding the application conference to the ultimate decision by the Commissioner, the process has taken over a year.

- The law places a costly burden on all institutions who have to prepare and submit Certificates of Need. The documents which need to be prepared are massive, require hundreds of hours of preparation and at least 35 each need to be produced for the review boards and other parties. The 110 day minimum time period for a review is unrealistic, and often times, the institutional cost of delaying implementation means an eventual increase in price of the piece of equipment or construction project due to inflation.

- The law also passes on a cost to the public in that state, regional and local staff are needed to coordinate the program, prepare staff analyses and hold public meetings. We are estimating that the cost of state, regional and local staffs have increased the cost of health care by at least $8,000,000 in he last six years.

- The dollar limit for what must be reviewed is absurdly low. In 1982 alone, Providence spent hundreds of man hours and other monies preparing six CON applications for such things as a $167,000 replacement incinerator (the old one being 25 years old was required to be replaced by both State and EPA codes!); a CT scanner and Cath lab replacement; and a $250,000 computer enhancement for an x-ray machine. Believe it or not, the STATE did not give approval on the incinerator until the 90th and final day for a decision to be made.

The Alaska State Hospital Association is unanimous in endorsing the repeal of the CON law. We have also received indications from several legislators and the Alaska Medical Association that repeal of the CON law would be best for a growing state such as Alaska.

We are supportive of local planning for Alaska's health care needs. The process, however, should be positive and proactive -- encouraging institutions to respond to needs in the community -- not negative, reactive and cumbersome.

Your support in repealing the certificate of need law in Alaska would be appreciated. With an early response and passage of HB 19 or the companion bill in the Senate, a tremendous and costly burden will be lifted from Alaska's hospitals.

Thank you for your consideration.

Sincerely,

Al M. Camosso
Administrator

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

January 28, 1983

John D. Whitney
Department of Health Resources Development
Public Health Service
1321 Second Ave.
Seattle, Wa. 98101

Dear Mr. Whitney:

I am the staff person assigned to develop background material for the House Committee for Health and Social Services in the Alaskan Legislature.

I am writing to solicit your comments on the attached House bill 19 that proposes to repeal the certificate of need process in Alaska. If this is done in conjunction with an application for exemption under §1536 of PL 93 641, would the effect be different, assuming the exemption is granted?

I know that this is not a new issue, just the names and faces have changed. This bill will be scheduled for a hearing soon. I will appreciate any help you can provide.

Sincerely,

David R. Palmer

Historical Note

References in Text. Subchapter XIV of this chapter, referred to in subsec. (b)(13), is classified to section 300o et seq. of this title.

1979 Amendment. Subsec. (b)(5). Pub.L. 96–79, § 122(b), inserted "and contain provisions to assure compliance with requests for information made by health systems agencies in accordance with section 300l–2(h) of this title" following "section 300n–1 of this title".

Subsec. (b)(6). Pub.L. 96–79, § 111(c), inserted in cl. (A), provision exempting from the public meeting requirement any part of a meeting in which it is likely that information respecting the performance or remuneration of an agency employee will be disclosed and such disclosure would constitute a clearly unwarranted invasion of privacy or that information relating to the agency's participation in a judicial proceeding will be disclosed, and in cl. (C), provision exempting from the public records requirement any records or data respecting the performance or remuneration of an employee the disclosure of which would constitute a clearly unwarranted invasion of privacy or records or data of the agency relating to its participation in a judicial proceeding.

Subsec. (b)(7)(A). Pub.L. 96–79, § 120(b), inserted "and for the coordination by the State Agency in the conduct of its activities with any entity of the State which reviews the rates or budgets of health care facilities in the State" following "health and health care".

Subsec. (b)(7)(C). Pub.L. 96–79, § 115(b)(3), added cl. (C).

Subsec. (b)(10). Pub.L. 96–79, § 101(b)(2), inserted provision requiring the State Agency to assemble and report to the Secretary data, other than data regularly collected by any entity of the Department of Health, Education, and Welfare, required by the Secretary to carry out his responsibilities under section 300k–1(e) of this title, including data on personnel, facilities, and other resources needed to meet State health plan goals.

Subsec. (b)(13). Pub.L. 96–79, §§ 117(b)(4), 123(c)(1)(A), substituted in provision preceding subpar. (A), "paragraph (4), (5), or (6)" for "paragraph (3), (4), (5), or (6)" and "or (g)" for "(g), or (h)", inserted in subpar. (A), "in a timely manner" following "be reviewed" and ", or, if there is no such State law" following "administrative agencies", and in cl. (B), "under subparagraph (A)" following "reviewing agency".

Subsec. (c). Pub.L. 96–79, § 123(e)(1), substituted "once every three years" for "once every year".

Change of Name. "Department of Health and Human Services" was substituted for "Department of Health, Education, and Welfare" in subsec. (b)(10) pursuant to section 509(b) of Pub.L. 96–88 which is classified to section 3508(b) of Title 20, Education.

Effective Date of 1979 Amendment. Amendment of subsec. (b)(13) by section 117(b)(4) of Pub.L. 96–79 effective on Oct. 4, 1979, except that if the Secretary of Health and Human Services determines that any amendment made by such section will require a State to change its laws before the State health planning and development agency designated for such State may perform its functions under section 300m–2(a)(4)(B) of this title, such amendment shall take effect in such State, if the State legislature is in a regular session on Dec. 17, 1980, and the legislature will be in session for at least 12 months from Dec. 17, 1980, 12 months from Dec. 17, 1980, or if the State legislature is in session on Dec. 17, 1980, but 12 months do not remain in such session after Dec. 17, 1980, or if the State legislature is not in session on Dec. 17, 1980, 12 months after the beginning of the first regular session of the legislature beginning after Dec. 17, 1980, see section 129(b)(2) of Pub.L. 96–79, set out as an Effective Date note under section 300m–6 of this title.

Amendment of subsec. (b)(5) and (7) by Pub.L. 96–79 effective one year after Oct. 4, 1979, see section 129(a) of Pub.L. 96–79, set out as an Effective Date of 1979 Amendment note under section 300l of this title.

Transfer of Functions. All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office Personnel Management (except as otherwise specified) by Reorg Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex.Ord.No.12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

Health Systems Agencies, State Health Planning and Development Agencies, and Statewide Health Coordinating Councils; Organizational and Related Changes; Changes in Functions. Effective on or after Oct. 4, 1979, health systems agencies, State health planning and development agencies, and Statewide Health Coordinating Councils may make the organizational and related changes required by the amendments to this section by Pub.L. 96–79 and may act in accordance with the changes in their functions made by the amendments to this section by Pub.L. 96–79, see section 129(a)(2) and (3) of Pub.L. 96–79, set out as an Effective Date of 1979 Amendment [illegible] title.

Legislative History. For legislative and purpose of Pub.L. 93–641, see 1974 U.S. Code Cong. and Adm.News, p. 7842. See, also, Pub.L. 96–79, 1979 U.S.Code Cong. and Adm.News, p. 1306.

Library References

States ⇐4.10.

C.J.S. States § 24.

Notes of Decisions

1. Exhaustion of administrative remedies

Health systems agency's petition for judicial review of the state board of health's recommendation to the secretary that defendant hospital be reimbursed with federal funds for certain expenses related to a proposed expenditure was properly dismissed for petitioner's failure to exhaust its administrative remedies, since the review mechanism of this subchapter requires that health systems agency whose recommendation has been rejected by a state agency request a review by an agency of the state, since petitioner did not even allege that it made any request for such a review, and since it was entitled to a review, it was not shown that a request for review would have been futile. Southern Indiana Health Systems Agency, Inc. v. State Bd. of Health, Ind.App.1979, 391 N.E.2d 845.

§ 300m–2. State health planning and development functions

Performance by State agency of State designated under section 300m(b)(3) of this title

(a) Each State Agency of a State designated under section 300m(b)(3) of this title shall, except as authorized under subsection (b) of this section, perform within the State the following functions:

(1)(A) Conduct the health planning activities of the State and implement those parts of the State health plan (except as provided under section 300m–3(c)(2)(E) of this title) and the plans of the health systems agencies within the State which relate to the government of the State, and (B) determine the statewide health needs of the State, including the need for mental health services in the State, after providing reasonable opportunity for the submission of written recommendations respecting such needs by the State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor for the purpose of making such recommendations, and after consulting with the Statewide Health Coordinating Council.

(2) Prepare and, review at least triennially, and revise as necessary a preliminary State health plan which shall be made up of the HSP's of the health systems agencies within the State. In carrying out its functions under this paragraph, the State Agency shall refer the HSP's to the State health authority, the State mental health authority, and other agencies of the State government (designated by the Governor to make the review prescribed by this sentence) to review the goals and related resource requirements of the HSP's and to make written recommendations to the State Agency respecting such goals and requirements. Such preliminary plan may, as found necessary by the State Agency,

contain such revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs determined under paragraph (1)(B). Such preliminary plan shall be submitted to the Statewide Health Coordinating Council of the State for approval or disapproval and for use in developing the State health plan referred to in section 300m–3(c) of this title.

(3) Assist the Statewide Health Coordinating Council of the State in the performance of its functions generally.

(4)(A) Serve as the designated planning agency of the State for the purposes of section 1320a–1 of this title if the State has made an agreement pursuant to such section, and (B) administer a State certificate of need program which applies to the obligation of capital expenditures within the State and the offering within the State of new institutional health services and the acquisition of major medical equipment and which is consistent with standards established by the Secretary by regulation. A certificate of need program shall provide for procedures and penalties to enforce the requirements of the program. In performing its functions under this paragraph the State Agency shall consider recommendations made by health systems agencies under section 300*l*–2(f) of this title.

(5) After consideration of recommendations submitted by health systems agencies under section 300*l*–2(f) of this title respecting new institutional health services proposed to be offered within the State, make findings as to the need for such services.

(6) Review on a periodic basis (but not less often than every five years) at least those institutional and home health services which are offered in the State and with respect to which goals have been established in the State health plan and, after consideration of recommendations submitted by health systems agencies under section 300*l*–2(g) of this title respecting the appropriateness of such services, make public its findings. In making the appropriateness review required by this paragraph of a health service, the State Agency shall at least consider the need for the service, its accessibility and availability, financial viability, cost effectiveness, and the quality of service provided.

(7) Prepare an inventory of the health care facilities (other than Federal health care facilities) located in the State and evaluate on an ongoing basis the physical condition of such facilities. Such inventory and evaluations shall be reported to the health systems agencies designated for health service areas located (in whole or in part) in the State for purposes of the functions of the agency under section 300*l*–2(b) of this title.

(8) Provide technical assistance to individuals and public and private entities in obtaining and filling out the necessary forms for the development of projects and programs.

If in determining the statewide health needs under paragraph (1)(B) or in preparing or revising a preliminary State health plan under paragraph (2) the State Agency does not take an action proposed in a recommendation

submitted under the applicable paragraph, the State Agency shall when publishing such needs or health plan make available to the public a written statement of its reasons for not taking such action.

Performance by other State agencies

(b)(1) Any function described in subsection (a) of this section may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency satisfactory to the Secretary.

(2) The requirement of paragraph (4)(B) of subsection (a) of this section shall not apply to a State Agency of a State until the expiration of the first regular session of the legislature of such State which begins after January 4, 1975.

(3) A State Agency shall complete its findings with respect to the appropriateness of any existing institutional health service within one year after the date a health systems agency has made its recommendation under section 300*l*–2(g) of this title with respect to the appropriateness of the service.

Statement

(c) If a State Agency makes a decision in carrying out a function described in paragraph (4), (5), or (6) of subsection (a) of this section which is not consistent with the goals of the applicable HSP or the priorities of the applicable AIP, the State Agency shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency.

(July 1, 1944, c. 373, Title XV, § 1523, as added Jan. 4, 1975, Pub.L. 93–641, § 3, 88 Stat. 2246, and amended Aug. 1, 1977, Pub.L. 95–83, Title I, § 106(n), 91 Stat. 385; Oct. 4, 1979, Pub.L. 96–79, Title I, §§ 115(c)(1)(A)–(C), (i)(2), 117(b)(1), (2), 118(a)(2), (b)(2), 123(c)(2), (3), (e)(2), (g)(1), 93 Stat. 607, 608, 610, 618, 619, 621, 625–627; Oct. 7, 1980, Pub.L. 96–398, Title III, § 303, 94 Stat. 1588; Aug. 13, 1981, Pub.L. 97–35, Title IX, § 902(e)(1), 95 Stat. 560.)

Historical Note

1980 Amendment. Subsec. (a)(1)(B). Pub.L. 96–398 added provisions respecting applicability to the need for mental health services in the State.

1979 Amendment. Subsec. (a). Pub.L. 96–79, § 115(c)(1)(C), inserted following par. (8), provision requiring that if the State Agency, in determining the statewide health needs or in preparing or revising a preliminary State health plan, does not take an action proposed in a recommendation, the State Agency make available to the public a written statement of its reasons for not taking such action when publishing such needs or health plan.

Subsec. (a)(1). Pub.L. 96–79, § 115(c)(1)(A), redesignated existing provision as subpar. (A), and in subpar. (A) as so redesignated, substituted "except as provided under section 300m–3(c)(2)(E) of this title" for "under section 300m–3(c)(2) of this title", and added subpar. (B).

Subsec. (a)(2). Pub.L. 96–79, § 115(c)(1)(B), (i)(2), substituted "review at least triennially, and revise as necessary" for "review and revise as necessary (but at least annually)" and "statewide health needs determined under paragraph (1)(B)" for "statewide health needs" and inserted provision requiring the State Agency to refer the health systems plan to the State health authority, the State mental health authority, and other agencies of the State government to review the goals and related resource requirements and to make written recommendations to the State Agency respecting such goals and requirements.

Subsec. (a)(3). Pub.L. 96–79, § 123(c)(2) struck out "review of the State medical facilities plan required under section 300o–2 of this title, and in the" following "State in the".

MSG 83-00005437 PRTY 1 02/01/83 16:36:45 ORIG: LJ03 IN= 0001
FROM: DAVE PALMER TO: KIM
TARGET: LJ03 SUBJ: CERTIFICATE OF NEED..RETRY PAGE 0001

KIM..I FOUND THAT I SENT THE SECOND PAGE TWICE. I AM LEARNING THIS SPACE AGE STUFF SLOWLY. I WILL SEND THE FIRST PAGE NOW.

I AM TRYING TO GATHER INFORMATION CONCERNING THE CERTIFICATE OF NEED PROCESS THAT FINDS ITS ROOTS IN PL 93-641. THERE IS A BILL IN OUR COMMITTEE THAT PROPOSES TO REPEAL REFERENCE TO SEC. 1521 (B)(3) AND SEC. 1523 OF PL 93-641...THE CERTIFICATE OF NEED PROCESS. I AM TRYING TO DETERMINE THE IMPACT ON ALASKA IF THAT BILL IS PASSED.

SANCTIONS AGAINST STATES THAT DO NOT CONFORM TO THE FEDERAL LAW INCLUDE REDUCTION OF PUBLIC HEALTH SERVICE GRANTS AND CONTRACTS TO ANY ENTITY IN THE STATE BY 25% THE FIRST YEAR, THEN 50%,75%, AND 100% OVER THE NEXT THREE YEARS.

MY UNDERSTANDING IS THAT ALASKA HAS ALREADY BEEN PLACED ON "CONDITIONAL" STATUS DUE TO NON COMPLIANCE WITH PORTIONS OF THE CERTIFICATE OF NEED PROGRAM (PIONEER HOMES ARE NOT INCLUDED). I HAVE ASKED JOHN WHITNEY OF REGION X IN SEATTLE FOR HIS AGENCY'S REACTION TO A REPEAL OF THE CERTIFICATE OF NEED. IN PRACTICE, IT APPEARS THAT THE FEDERAL GOV'T HAS NOT INSTITUTED SANCTIONS, EVEN THOUGH STATES LIKE CALIFORNIA HAVE...CONT NEXT PAGE

MORE _ NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 83-00005437 PRTY 1 02/01/83 16:36:45 ORIG: LJ03 IN= 0001
FROM: DAVE PALMER TO: KIM
TARGET: LJ03 SUBJ: CERTIFICATE OF NEED..RETRY PAGE 0002

OUT OF COMPLIANCE FOR YEARS. IN FACT, SANCTIONS WERE SUSPENDED BY PL 97-377. A CONTINUING RESOLUTION SUSPENDS THOSE SANCTIONS THROUGH SEPTEMBER OF 1983. SPECIFIC QUESTIONS ARE ON OMNI 5332 AND 5404. I HOPE THIS OMNI CONFUSION HASN'T MADE THINGS IMPOSSIBLE FOR YOU TO DECIPHER. THANKS AGAIN. DAVE PALMER

BACK _ NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 83-00005332 PRTY IN= 0001
FROM: Dave Palmer TO: Kim
ACCT: kinney SUBJ: HB 19, certificate of need TYPE: PAGE 1

My questions, general and specific:F
1. What are the chances that the sanctions may again be suspendedF as in 97-377. In short, what does the mood of congress seem to be regardingF certificate of need (how's that for a wide open questions?).F
2. Can you find out what response the Health and Human ServicesF Dept. would have to a repeal of certificate of need here?F
3. Would an exemption via B1536 of PL 93Z641 for Alaska to theF health systems agency requirement do the same thing as a repeal of theF certificate of need? Authority is supposedly in an amendment to the F Omnibus Budget Reconciliation Act of 1981.F
4. If certificate of need were repealed, and sanctions invoked,F how much money would Alaska loose?F
F
I'll appreciate any help. Send answer to the LIO office in Juneau.F I am in rm. 112 at the capitol. The phone is 465Z3777. Thanks.

MORE
MSG326 MSG WITH THIS NUMBER ALREADY EXISTS

5404 p. 2

MSG1-5 to img

3391

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 25, 1982

MEMORANDUM

TO: Representative Mike Beirne

FROM: Leslie Longenbaugh, Research Staff

RE: Health Care Planning Agencies
Research Request Number 82-32

Jens Zehbe of your staff asked that we provide information on moving to a "§1536 designation" in Alaska to replace the State's health systems agencies. Mr. Zehbe also asked that we provide a copy of the Ohio legislation that dissolved that state's health systems agencies in favor of the §1536 designation.

The §1536 designation derives from Section 1536 of PL 93-641, the National Health Planning and Resources Development Act of 1974. The Act required that governors designate health systems agencies in local health care service areas; these agencies assess the health care needs of their local populations and make recommendations regarding certificates of need, which must be obtained by providers who plan to make capital improvements costing more than $600,000 or purchase equipment at a cost of more than $400,000.[1] The State Health Planning and Development Agency (SHPDA) and Statewide Health Coordinating Council (SHCC), also required and partially funded under the Act, use the health systems agencies' recommendations in issuing certificates of need to health care providers.

The federal government provides funding for each health systems agency according to the size of the population served; states of small population, such as Alaska, receive a minimum level of funding for their health systems agencies. The states share in the cost of the PL 93-641 agencies.

Section 1536 exempts certain political bodies, such as Guam and Puerto Rico, from the requirement that they establish local health systems agencies in conjunction with their State Health Planning and Development Agencies and their Statewide Health Coordinating Councils. Also made exempt by §1536 were those states that had no health planning agencies at all prior to 1975.

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[1]These figures, $400,000 and $600,000, are the result of 1981 amendments; the original Act of 1974 specified that all improvements or purchases costing more than $150,000 required a certificate of need.

An amendment to the Omnibus Budget Reconciliation Act of 1981 allows states to apply to the Secretary of Health and Human Services for a §1536 designation (an exemption from the requirement that they provide health systems agencies) under two conditions: 1) any state could apply for an exemption, showing good cause, before November 1, 1981; and 2) a state with a population of less than 600,000 may apply for an exemption at any time. Alaska, with a population of just over 400,000, would be eligible to apply for the §1536 designation under the second of these conditions. States that move to a §1536 designation are eligible to receive for use in health care planning some of the federal funds that would have been allocated to the health systems agencies if the state were not exempt.

In the last year, the governors of Rhode Island and Hawaii have applied for and received exemptions on the grounds that their populations are under 600,000. The governors of five additional states with larger populations applied to Secretary Schweiker for §1536 designation before the November 1, 1981 deadline. The Secretary granted all five requests; Ohio, Nebraska, Missouri, Louisianna, and Alabama have taken the §1536 designation and are now dismantling their health systems agencies.

Ohio was the first state to apply for a §1536 designation under the conditions of the Omnibus Health Care Reconciliation Act of 1981. We spoke with Frankie Williamson of the Health Planning and Development Agency in Ohio's Department of Health,[2] who reported that in applying for the exemption, the governor of Ohio was responding to a political battle that had been raging for some time. Because they refused to issue a number of certificates of need to potential builders of hospitals, the state's ten health systems agencies were seen by some legislators and others as standing in the way of a source of employment. Ms. Williamson noted that the Ohio health systems agencies were somewhat more aggressive in the pursuit of their advisory function than their counterparts in most other states have been. When the state Department of Health issued certificates of need over their objections, the health systems agencies sometimes took the state to court, charging that the state health planning and development agency had been "arbitrary and capricious" in overriding the agencies' recommendations. For its part, the State of Ohio accused the health systems agencies of being "politically motivated" in their recommendations.

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[2]Frankie Williamson, Ohio Department of Health, Columbus; telephone: (614) 466-3543.

Because the National Health Planning and Resources Development Act gave responsibility for applying for and administering health care agency funds to governors rather than to legislatures, it was the executive branch in Ohio that moved to change that state's designation. The only legislation that was introduced concerning the move was enacted after the change in designation, to "clean up" the state statutes by deleting all mention of the official duties and privileges of the dissolved health systems agencies. This legislation was important in Ohio, because there was some question over whether the §1536 designation would actually dissolve the agencies if they were still included in the statutes. The legislation finally was enacted, after much debate, in late 1981. Because the bill did not actually enact the change to a §1536 designation but instead only deleted the health systems agencies from the statutes, and did not contain any language that would be instructive to you, we did not obtain a copy of the legislation.

In addition to amending the conditions of eligibility for the §1536 designation, Congress, at the request of President Reagan, in 1981 reduced substantially the level of federal funding for the state health care planning agencies that are required under PL 93-641. The President has been said to feel that health care costs can best be reduced through free market competition, achieved through deregulation of the industry. This philosophy was reflected in Ohio, according to Ms. Williamson, where the governor and legislature chose limited deregulation of health care over continued local planning. According to staff at the State Health Planning and Development Agency[3], the federal funding for Alaska's three health systems agencies has been reduced by almost 40%, to approximately $165,000 per agency; the Legislature has allocated $100,000 to each of the health systems agencies for the present fiscal year.

If we can be of further assistance to you, please call on us.

LL/bf

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[3]State Health Planning and Development Agency, Department of Health and Social Services, Juneau; telephone: 465-3038.

ments. Sole community providers would be eligible for exceptions or adjustments at the Secretary's discretion. Psychiatric, long term care, tuberculosis, and pediatric facilities would continue to receive cost-plus reimbursement while HHS works on separate payment plans for each group. The payment system would be phased in according to each hospital's fiscal year. HHS hopes to have the plan implemented for fiscal 1984, which begins on Oct. 1, 1983.

Despite Schweiker's enthusiasm for the DRG model, Congress is expected to take a careful look at the details of the plan. Madigan has not warmed to the concept and may prove to be a difficult problem for HHS. Waxman is expected to maneuver to gain some jurisdiction over such a bill even though it is a Medicare Part A proposal and therefore under the Ways & Means Committee's province. Reliable Capitol Hill sources say they believe Congress will spend the next year talking about prospective payment but do nothing until 1984 in time for the fiscal 1985 budget. Congress can rely on the cost controls instituted under TEFRA to continue to contain costs while this debate goes on.

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STATUS REPORT

Health Planning Odyssey Continues

With the failure of the 97th Congress to pass a new health planning bill (HLeg. 12-22-82), the fate of that program remains in limbo. However, it is clear that despite Reagan Administration opposition, the planning program continues to have strong bipartisan Congressional support. New attempts by the Administration to eliminate or cripple the program are almost sure to fail. In fact, if anything at all happens in 1983, Congress is likely to pass a strengthening measure.

During the past two years, the Administration has made several legislative and regulatory attacks on the planning system. Health and Human Services Secretary Richard Schweiker and Office of Management and Budget director David Stockman brought with them to the Administration a dislike for the regulatory aspects of planning. Strong hospital industry influence on HHS and White House officials fueled the anti-planning fire.

In his first budget, President Reagan proposed a three-year phase-out of the planning program. Funding was to be cut in half in fiscal 1982 and more or less eliminated after fiscal 1983. At the same time, the Administration sought changes in planning's certificate of need laws and a diminution of the power of health systems agencies -- the local planning component.

Congress resisted the call for a phase-out but did agree to make substantive changes in the planning law. Certificate of need thresholds were increased to the following new levels: capital expenditures $600,000, major medical equipment $400,000, and new institutional health services $250,000. Congress also agreed to establish a new flexibility for states whereby a governor could ask HHS to allow that state to eliminate all HSAs and perform planning activities on a statewide basis. This power became known as the "1536 option" named for the section of the new bill pertaining to the flexibility. In the time since that bill became law, 11 states have taken the 1536 option. HHS is encouraging other states to join them.

The Administration was not satisfied with those changes and, in its fiscal 1983 budget proposal, provided only $2 million for planning activities. These funds were to be used to close offices of remaining planning agencies. Reagan officials hoped that they would have more luck with this proposal since the planning authority expired on Sept. 30, 1982. However, despite several attempts, Congress never agreed to a planning bill but continued to fund the program into fiscal 1983 through a continuing appropriations resolution.

The Administration might have had its way if not for the opposition of key House Republican health leader Rep. Edward Madigan (R-Ill.). Madigan, who holds the ranking Republican spot on the House Commerce Health Subcommittee, decided early in 1982 that some planning function is necessary in the multi-billion hospital industry. He began work with the National Council of Community Hospitals to develop an alternative planning program. The plan that Madigan arrived at would have repealed the current program but created a new planning block grant. CON thresholds would rise to $5 million for capital expenditures while leaving the other thresholds at their current levels. It would have allowed states the option of continuing local planning but provide no federal funding for it.

Madigan put forward a draft version of his bill for comment in the hospital and planning community and by fellow health policy makers in Congress. It received a cool welcome from all concerned but was not dismissed by any. Rep. Henry Waxman (D-Calif.), chairman of the Commerce Health Subcommittee, had introduced his own planning bill and was not immediately open to compromise with his Republican counterpart. Later, this lack of trust between the two men proved to be a key factor in the long delay that eventually led to the rejection of any planning bill.

With Waxman holding steady on the left, Madigan moved to the right to court conservative colleagues on the Health Subcommittee. In order to gain support from conservative Democrats Richard Shelby (D-Ala.) and Phil Gramm (D-Tex.), Madigan agreed to change his draft bill to significantly increase the CON thresholds. Now, he proposed a $10 million threshold for capital expenditures and $1 million for each of the remaining two categories.

By making these moves, Madigan picked up enough support to pass his bill in the Health Subcommittee. Waxman moved to stymie Madigan in the full committee but could not gain enough support to pass his own bill. When Madigan seemed almost sure to have the votes to get his bill approved in committee, Waxman agreed to compromise. The two men, along with Shelby, Gramm, Rep. John Dingell (D-Mich.), and James Broyhill (R-N.C.) fashioned a compromise that would have set CON thresholds at $5 million for capital expenditures, and $1 million each for medical equipment and health services. That bill later passed the House by a wide margin.

Meanwhile, in the Senate Human Resources Committee planning debate took many turns. Democrats on the panel backed an extension of planning while committee chairman Orrin Hatch (R-Utah) opposed the program. However, Republican moderate Lowell Weicker (Conn.) supported planning and developed a proposal that he offered as an amendment to a biomedical research bill. Weicker seemed to have the support of two Republican colleagues on the panel, Dan Quayle (R-Ind.) and Paula Hawkins (R-Fla.). Those two deserted Weicker at the last minute and his amendment was defeated. Quayle, under pressure from his Republican governor, pressed Hatch and Hawkins to develop some kind of planning proposal. The

three later introduced S.2720, a bill that would have extended planning for one year with no CON thresholds and no local planning. The skeleton bill was introduced but never considered by the Senate.

While Congress debated the merits of health planning legislation, the Administration continued its attempts to weaken the existing program. It placed sharp restrictions on the minimum staffing levels for HSAs. While the staffing requirements were on the federal books, they had been developed during a time when planning was a growing program. With the changes enacted by Congress in 1981, the staffing requirements were obsolete. Several HSAs were sent termination notices before Congress stepped in once again.

Behind the leadership of Senate Appropriations Labor-HHS Subcommittee chairman Harrison Schmitt (R-N.Mex.), Congress approved a restriction on HSA closing for understaffing. The language was added to a supplemental appropriations bill.

The final round of fighting over health planning came during the recently completed lame-duck session of the 97th Congress. Madigan, Waxman, Hatch, and others saw that the session was the last chance they would have to put together a compromise bipartisan planning measure. Working quietly behind the scenes, the three men agreed to a bill that would continue the program for two-and-one-half years, raise the CON thresholds to $1 million for capital expenditures and $500,000 for other costs, and provide for the repeal of the program on March 31, 1985. That bill cleared the House as part of a package including alcohol and drug abuse funding and was sent to the Senate for what was expected to be quick approval.

It was here that HHS Secretary Schweiker stepped in and gummed up the works (HLeg. 12-22-82). Schweiker insisted that Congressional Republicans would do better in the 98th Congress in obtaining repeal of the program. This argument seemed to fly in the face of common political belief that the GOP would have difficulty passing much of anything in the coming year because of Democratic gains in the House. Madigan argued that he felt Waxman would be able to steamroll him in committee and gain House passage of a liberal planning bill. Madigan added that Waxman is clever enough to attach such a bill to a popular legislative vehicle that would be difficult to block in the Senate. Schweiker, citing his 20 years of experience in Congress, stuck to his guns and blocked Senate approval of the bill.

Schweiker's actions seemed even more peculiar in light of the action taken by Congress on the continuing appropriations resolution. Congress not only funded planning at $64 million, but added language that blocks HHS from terminating HSAs for understaffing or because they have been on conditional status for more than 12 months. It also places a one-year restriction on the imposition of penalties on states without CON laws.

The results for planning agencies are almost all positive. Funding will continue at the same level as 1982. CON thresholds will remain at $600,000 for capital expenditures, $400,000 for major medical equipment, and $250,000 for institutional health services. HHS may well be unable to terminate any HSA durthe coming year. And Waxman and his fellow planning supporters will have a stronger hand in seeking a planning bill in 1983.

* * *

MSG 83-00005404 PRTY 1 [redacted]/01/83 15:47:18 ORIG: [redacted]40 IN= 0002
FROM: DAVE PALMER TO: KIM
TARGET: LJ40 SUBJ: CERTIFICATE OF NEED..PAGE 2 PAGE 0001

...SANCTIONS WERE SUSPENDED BY PL 97-377 THROUGH SEPT. 83.
MY QUESTIONS:

1. WHAT ARE THE CHANCES THAT THE SANCTIONS MAY ATAIN BE SUSPENDED? IN SHORT, WILL 97-377 BE CONTINUED BEYOND SEPTEMBER 1983?

2. CAN YOU FIND OUT WHAT RESPONSE THE HEALTH AND HUMAN SERVICES DEPARTMENT WOULD HAVE TO A REPEAL OF THE CERTIFICATE OF NEED HERE?

3. WOULD AN EXEMPTION VIA SUBSECTION 1536 OF PL 93-641 FOR ALASKA TO THE HEALTH SYSTEMS AGENCY REQUIREMENT DO THE SAME THING AS A REPEAL OF THE CERTIFICATE OF NEED? AUTHORITY IS SUPPOSEDLY IN AN AMENDMENT TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981.

4. IF THE CERTIFICATE OF NEED PROCESS IS REPEALED, HOW MUCH MONEY DOES ALASKA LOOSE?

I HAD TROUBLE WITH OMNI, THIS IS MY FIRST TRY. REPLY TO LIO OFFICE IN JUNEAU. I AM IN RM. 112, PH 465-3777. HOPE THIS ALL GETS THERE. THANKS FOR ANY HELP.

NXT MSG U/R/S PREV MSG U/R/S RESEND CANCEL

2-4-83

Phone call from Jack Whitney, Ed Ross
206-442-0215
Public Health - send copy of SSHB19 - omitted from letter

1. State is on "conditional" status.
   Pioneer home exemption NOT as big an issue w PHS as w/ state hosp. assn.
   Notification, requirements, etc
2. Attempt by state to repeal CON does not change ~~State~~ Fed law. Requiring CON. Put state further out of compliance
3. Most states are strengthening CON process
4. Sanctions don't apply until October.
5. 1536 exemption is from public Health planning agencies. State must do same functions w/o fed money States that have taken the exemption can't get back out
6. Look at Arthur Little report - plaribe

¶LOOKUP ALL WHILE TOPIC IS "CERTIFICATE OF NEED". 15 ENTRIES WERE DETECTED 7 ARTICLES DETECTED 8 REPORTS DETECTED ¶SHOW ABSTRACTS

******* ARTICLES *******

TITLE: BOOK NOTES: 'HOSPITAL CERTIFICATE-OF-NEED CONTROLS.'
AUTHOR: AUTHOR UNLISTED.

PERIODICAL: STATE LEGISLATURES.
VOLUME INFORMATION: VOL. 5, NO. 5.
DATE 06/01/79

SCOPE
GE

ABSTRACT

THIS STUDY, CONDUCTED BY THE AMERICAN ENTERPRISE INSTITUTE, CONCLUDES THAT STATE LAWS INSTITUTING CERTIFICATE-OF-NEED PROGRAMS FOR HOSPITALS HAVE FAILED TO CONTROL RISING HOSPITAL COSTS.

NCSL IDENTIFICATION NUMBER: ART7900119
****

TITLE: CONTROLLING HEALTH CARE COSTS: STRATEGIES FROM THE STATES.
AUTHOR: HEREFORD, R.

PERIODICAL: STATE LEGISLATURES.
VOLUME INFORMATION: VOL. 6, NO. 3.
DATE 03/01/80

SCOPE
WI MD WA NJ PA NY MI FE

ABSTRACT

STATES APPEAR TO BE THE MOST APPROPORIATE LEVEL AT WHICH RISING HEALTH COSTS CAN BE CONTROLLED, SINCE STATES OFFER THE OPPORTUNITY FOR EXPERIMENTATION ON VARIOUS APPROACHES TO HEALTH CARE COST CONTROL. HOSPITAL COST CONTAINMENT PROGRAMS HAVE BEEN ENACTED IN 18 STATES, WITH PROGRMS REGULATING RATES AND CHARGES APPEARING TO BE SUCCESSFUL IN CONTROLLING HOSPITAL COST INCREASES. SEVERAL STATES HAVE ENACTED ALTERNATIVES TO INSTITUTIONAL CARE PROGRAMS DESIGNED TO PROVIDE NURSING-HOME LEVEL CARE TO PERSONS IN THEIR OWN HOME. OTHER STATES HAVE MOVED TO REDUCE THE OVERSUPPLY OF HOSPITAL BEDS AND PROVIDE EFFICIENT UTILIZATION OF AVAILABLE SERVICES.

NCSL IDENTIFICATION NUMBER: ART8000346
****

TITLE: THE MICHIGAN HOSPITAL BED REDUCTION ACT.
AUTHOR: PAUL-SHAHEEN, P.

PERIODICAL: STATE HEALTH NOTES.
VOLUME INFORMATION: VOL & # NOT AVAIL.
DATE 01/01/80

SCOPE
MI

ABSTRACT

IN 1978, THE MI LEGISLATURE ENACTED A LAW DESIGNED TO HELP SLOW THE STATE'S ESCALATING HEALTH CARE COSTS BY ESTABLISHING A PLANNING METHODOLOGY TO IDENTIFY AND REDUCE THE STATE'S EXCESS HOSPITAL CAPACITY. WHILE THE LEGISLATION, THE CONSTITUENCY THAT DEVELOPED IT AND THE PROCESS USED TO ACHIEVE IT ARE UNIQUE TO MI, THE LAW IS AN EXAMPLE OF ACTIONS THAT INDIVIDUAL STATES CAN INITIATE TO CONTROL RISING HEALTH CARE COSTS. IN THIS ARTICLE, A FORMER HEALTH CONSULTANT TO THE MI LEGISLATURE DESCRIBES THE COALITION THAT DEVELOPED THE LEGISLATION, THE KEY POINTS OF DEBATE IN ENACTING THE BILL, THE STEPS INVOLVED IN IMPLEMENTING THE ACT, AND FUTURE HURDLES TO THE PROGRAM'S SUCCESS.

NCSL IDENTIFICATION NUMBER: ART8000445
********** ----------

TITLE: NEW CERTIFICATE OF NEED LAWS IN IDAHO AND INDIANA.
AUTHOR: HEREFORD, R.

PERIODICAL: STATE HEALTH NOTES.
VOLUME INFORMATION: NUMBER 12.
DATE 06/01/80

SCOPE
CA CO CT GA HI ID IN KS KY LA MI MN MO OK NJ NY NH NM PA RI SD TN VA VT WA WI WV FE

ABSTRACT

THIS ARTICLE SUMMARIZES RECENT TRENDS IN STATE LEGISLATION IN THE AREA OF HEALTH. AMONG THE LEGISLATION DISCUSSED IN THIS ISSUE ARE NEW CERTIFICATE OF NEED LAWS IN ID AND IN, STATE REGULATION OF HEALTH INSURANCE, LAWS IN KS AND PA TO REDUCE THE NUMBER OF INSPECTIONS OF MEDICAL CARE FACILITITES REQUIRED FOR LICENSING THESE FACILITIES, LAWS REGARDING THE LICENSING OF MEDICAL PERSONNEL AND CHANGES IN LAWS RELATING TO NURSING HOMES. IT ALSO DISCUSSES A RECENT FE COURT DECISION THAT RULED THAT PERSONS OVER 65, NO MATTER HOW WEALTHY, COULD TRANSFER THEIR ASSETS TO SOMEONE ELSE AND BECOME IMMEDIATELY ELIGIBLE FOR MEDICAID.
CONT., BILL., BIBL., CASE., STAT. INCLUDED.

NCSL IDENTIFICATION NUMBER: ART8000462
********** ----------

TITLE: IN BRIEF: STATES HAVE EXTRA YEAR TO COMPLY WITH CON LAW.
AUTHOR: AUTHOR UNLISTED.

PERIODICAL: DATELINE WASHINGTON.
VOLUME INFORMATION: VOL. 5, NO. 20.
DATE 12/22/80

SCOPE
FE

ABSTRACT

LEGISLATION NOW AWAITING PRESIDENT CARTER'S SIGNATURE GIVES STATES A ONE-YEAR DEADLINE EXTENSION FOR COMPLIANCE WITH THE CERTIFICATE OF NEED (CON) REQUIREMENTS MANDATED BY THE HEALTH PLANNING AMENDMENTS OF 1979. THE EXTENSION, LONG SOUGHT BY NCSL, WAS INCLUDED IN THE CONFERENCE REPORT ON THE HEALTH SCIENCES PROMOTION ACT OF 1980. APPROVAL OF THE DEADLINE CHANGE PRECLUDES THE STATES' LOSS OF SUBSTANTIAL FE HEALTH FUNDS FOR NON-COMPLIANCE WITH FE CON LEGISLATION. NCSL CONTACT: KATHY BRENNAN WIGGINS, 202/624-5441.

NCSL IDENTIFICATION NUMBER: ART8100530
********** ----------

TITLE: HEALTH PLANNING.
AUTHOR: AUTHOR UNLISTED.

PERIODICAL: STATE HEALTH NOTES.
VOLUME INFORMATION: NO. 19.
DATE 06/01/81

SCOPE
FE

ABSTRACT

A FEW INITIATIVES ARE UNFOLDING AT THE STATE LEVEL IN RESPONSE TO THE PROPOSED WITHDRAWAL OF FE FUNDS. THIS BRIEF ARTICLE OUTLINES SOME EFFORTS IN THE STATES TO COPE WITH WHAT APPEARS TO BE A SUBSTANTIAL REDUCTION IN FE GOVT AID. THESE EFFORTS RANGE FROM INCREASED APPROPRIATIONS IN SOME STATES, CREATION OF SPECIAL STUDY TEAMS IN OTHER STATES, AND CREATION OF PUBLIC CORPORATIONS TO SERVE AS A SINGLE HEALTH SYSTEMS AGENCY IN ANOTHER STATE. BILL. INCLUDED.

NCSL IDENTIFICATION NUMBER: ART8101052
********** ----------

TITLE: CERTIFICATE OF NEED.
AUTHOR: AUTHOR UNLISTED.

PERIODICAL: STATE HEALTH NOTES.
VOLUME INFORMATION: NO. 19.
DATE 06/01/81 Rcd

SCOPE
AR AL MI FL NH NM ND SD TX MS HI TN UT VA WV WI WY FE

ABSTRACT

IN SPITE OF ADMINISTRATION EFFORTS TO WITHDRAW FEDERAL SUPPORT FOR HEALTH PLANNING AND REGULATION, MANY STATES ARE MOVING AHEAD TO BRING THEIR CERTIFICATE OF NEED STATUTES INTO CONFORMITY WITH 1979 AMENDMENTS TO THE NATIONAL HEALTH PLANNING AND RESOURCES DEVELOPMENT ACT (PL 93-641). MOST STATES HAVE UNTIL THE END OF 1981 IN WHICH TO COMPLY WITH THE C.O.N. REQUIREMENTS OF THE 1979 AMENDMENTS. THIS ARTICLE DETAILS EFFORTS IN A NUMBER OF STATES TO MODIFY THEIR C.O.N. STATUTES. STAT.

NCSL IDENTIFICATION NUMBER: ART8101053
********** ----------

******* REPORTS *******

TITLE: PROCEDURES FOR THE ISSUANCE OF A CERTIFICATE OF NEED.
AUTHOR: MIDGET, D.

SOURCE
STATE AGENCY
OK LEGIS. COUNCIL.

PUBLISHED 03/15/78, 2 PAGES

SCOPE
OK FE

ABSTRACT

P.L. 93-641 REQUIRES THAT EACH STATE HEALTH PLANNING AND DEVELOPMENT AGENCY ADMINISTER A STATE CERTIFICATE OF NEED PROGRAM WHICH APPLIES TO PROPOSALS FOR NEW INSTITUTIONAL HEALTH SERVICES TO BE DEVELOPED WITHIN THE STATE. THE PROCEDURES PRESCRIBED BY THE OK HEALTH PLANNING COMMISSION AND THE OK HEALTH SYSTEMS AGENCY FOR OBTAINING A CERTIFICATE OF NEED ARE OUTLINED.

NCSL IDENTIFICATION NUMBER: RCH7802604
********** ----------

TITLE: CERTIFICATE OF NEED: ASSESSMENT OF CURRENT PROGRAMS AND POLICY ISSUES.
AUTHOR: HEANEY, C.

SOURCE
STATE AGENCY
WA WA UNIV.

PUBLISHED 03/13/78, 72 PAGES

SCOPE
50 FE

ABSTRACT

BACKGROUND INFORMATION AND HISTORY OF STATE CERTIFICATE OF NEED (CON) PROGRAMS IS SUPPLIED AS AN INTRODUCTION TO A COMPREHENSIVE ANALYSIS OF CON MAJOR AREAS OF DISCUSSION INCLUDE: (1)MINIMUM FEDERAL REQUIREMENTS FOR STATE CON PROGRAMS; (2)THE IMPACT OF CON (ON HEALTH CARE PLANNING, ACCESS, AND QUALITY); (3)CONSIDERATION OF CON BEYOND THE MINIMUM REQUIREMENTS. ILL., BIB., R&R., STAT. INCLUDED.

NCSL IDENTIFICATION NUMBER: RCH7802620

TITLE: CERTIFICATE OF NEED.
AUTHOR: GODFREY, B.

SOURCE
STATE AGENCY
LA LEGIS. COUNCIL.

PUBLISHED 04/16/79, 92 PAGES

SCOPE
LA FE GE

ABSTRACT

THE JOINT COMMITTEE ON HEALTH AND HUMAN RESOURCES DIRECTED ITS SUBCOMMITTEE ON HEALTH TO COMPLETE A PROJECT OF DEVELOPING A PROPOSED DRAFT OF CERTIFICATE OF NEED LEGISLATION BASED UPON PUBLIC LAW 93-641 AND THE RULES PROMULGATED AND ISSUED PURSUANT THERETO. THE DRAFT HAS THE MAIN OBJECTIVE OF MEETING THE MINIMUM REQUIREMENTS OF A CERTIFICATE OF NEED PROGRAM IN ACCORDANCE WITH PUBLIC LAW AND RULES. IT ADDRESSES THE MAJOR ELEMENTS OF A CERTIFICATE PROGRAM WHICH ARE (1)DEFINED SCOPE OF COVERAGE; (2)THRESHOLD FOR APPLICABILITY; (3)PLAN-BASED REVIEW; (4)DUE PROCESS MECHANISM; AND (5)SANCTIONS FOR NON-COMPLIANCE. CERTIFICATE OF NEED IS CLOSELY LINKED TO HEALTH PLANNING. STAT., R&R. INCLUDED.

NCSL IDENTIFICATION NUMBER: RCH7903624

TITLE: HOSPITAL COSTS IN CALIFORNIA.
AUTHOR: CHANDLER, D.

SOURCE
STATE AGENCY
CA ASSEM. OFC. OF RES.

PUBLISHED 11/01/79, 13 PAGES

SCOPE
CA FE

ABSTRACT

CURRENT GOVERNMENT POLICY REGARDING HOSPITALS IS FOUNDED ON THE THEORY THAT THE NATION HAS ENOUGH RESOURCES. THE NEW GOAL IS TO ACHIEVE MORE EQUITABLE DISTRIBUTION AND USE OF THESE RESOURCES THROUGH A MORE RATIONALE SYSTEM OF MEDICAL SERVICES ALLOCATION. BUT AN EXCESS SUPPLY OF HOSPITAL BEDS, INSTEAD OF CAUSING RATES TO FALL, LEADS TO A SMALLER PERCENTAGE OF OCCUPIED BEDS AMONG WHICH TO SPREAD THE HOSPITAL'S FIXED COSTS. THIS RESULTS IN HIGHER COSTS PER UNIT. INCLUDED IS A DICUSSION OF DEFICIENCIES WITH STATEWIDE HEALTH PLANNING AND PROBLEMS WITH CERTIFICATE OF NEED, HOSPITAL COST CONTAINMENT, MEDI-CAL COST CONTROL, AND GOVERNMENT REGULATION OF HOSPITALS.

NCSL IDENTIFICATION NUMBER: RCH8004110
********** ----------

TITLE: CERTIFICATE OF NEED.
AUTHOR: TRESIDDER, A.

SOURCE
STATE AGENCY
OR LEGIS. RESEARCH.

PUBLISHED 02/08/80, 6 PAGES

SCOPE
OR FE

ABSTRACT

CERTIFICATE OF NEED IS BASICALLY A METHOD TO PREVENT TH NSTRUCTION OR DEVELOPMENT OF UNNECESSARY AND INAPPROPRIATE HEALTH CARE FACILITIES AND SERVICES. OR LAW SPECIFIES THAT ANY PROJECT OR SERIES OF PROJECTS HAVING A CLINICAL HEALTH SERVICE RELATED LINKAGE, WHICH IN THE AGGREGATE EXCEEDS $150,000, CANNOT BE OFFERED OR DEVELOPED WITHOUT OBTAINING A CERTIFICATE OF NEED. ARGUMENTS FAVORING CERTIFICATE OF NEED INCLUDE THAT THE PROCEDURES CAN MODERATE COSTS, LESSEN DUPLICATION OF SERVICES AND FACILITIES, AND IMPROVE QUALITY AND ACCESSIBILITY OF HEALTH CARE SERVICES. OPPONENTS ARGUE THAT THE REGULATORY PROCESS RESULTS IN POLITICS ENTERING THE AREA OF HEALTH PLANNING. BIBL., INCLUDED.

NCSL IDENTIFICATION NUMBER: RCH8004346
********** ----------

TITLE: STATE REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS.
AUTHOR: BELSKY, A.

SOURCE
STATE AGENCY
CT LEGIS. RESEARCH.

PUBLISHED 02/21/80, 3 PAGES

SCOPE
CT

ABSTRACT

HEALTH MAINTENANCE ORGANIZATIONS (HMOS) PROVIDE COMPREHENSIVE HEALTH CARE SERVICES IN RETURN FOR A FIXED PREPAYMENT RATHER THAN ON A FREE-FOR-SERVICE BASIS. AS A SPECIFIC TYPE OF NONPROFIT CORPORATION WITHOUT CAPITAL STOCK, HMOS ARE REGULATED BY THE INSURANCE COMMISSIONER. IN ADDITION, THEY ARE WITHIN THE JURISDICTION OF THE COMMISSION ON HOSPITAL AND HEALTH CARE'S CERTIFICATE OF NEED PROGRAM AND ARE CLASSIFIED AS 'CLINICS' FOR THE PURPOSE OF LICENSURE BY THE DEPT OF HEALTH SERVICES. SUMMARIZED ARE MAJOR STATUTORY PROVISIONS REGARDING CERTIFICATE OF NEED, INCORPORATION REQUIREMENTS, GOVERNANCE, FINANCIAL MATTERS, MINIMUM SERVICES, SUBSCRIBER AGREEMENTS AND PUBLIC HEALTH CODE LICENSURE STANDARDS.

NCSL IDENTIFICATION NUMBER: RCH8004438
********** ----------

TITLE: REPORT OF THE AD HOC COMMITTEE ON NURSING HOME UTILIZATION.
AUTHOR: AUTHOR UNLISTED.

SOURCE
STATE AGENCY
WI LEGIS. COUNCIL.

PUBLISHED 01/01/81, 32 PAGES

SCOPE
WI FE

ABSTRACT

ABOUT 60% OF NEARLY $1 BILLION SPENT THROUGH MEDICAL ASSISTANCE PROGRAMS GOES TO NURSING HOMES. IN WI 7.2% OF THE PERSONS OVER 65 LIVE IN NURSING HOMES, COMPARED WITH 5.5% NATIONALLY. COMMITTEE RECOMMENDATIONS AIMED AT SLOWING GROWTH OF NURSING HOMES BY ENCOURAGING COMMUNITY AND HOME CARE. THE COMMITTEE ADVISED A TWO-YEAR MORATORIUM ON ISSUING CERTIFICATES OF NEED FOR NEW NURSING HOME BEDS. A DRAMATIC INCREASE IN DEMAND FOR BEDS RESULTS FROM A CHANGE IN THE LAW THAT ALLOWS MENTAL PATIENTS TO BE REIMBURSED UNDER MEDICAL ASSISTANCE AS NURSING PATIENTS. THE COMMITTEE ADVISED USING HOSPITAL BEDS FOR SOME ELDERLY. BY SCREENING NURSING HOME ADMISSIONS, A TEAM COULD DIRECT SOME ELDERLY TO COMMUNITY CARE. BIBL.

NCSL IDENTIFICATION NUMBER: RCH8104934
********** ----------

TITLE: BACKGROUND MEMORANDUM ON NURSING HOME REGULATION AND NURSING HOME RATE STRUCTURES.
AUTHOR: AUTHOR UNLISTED.

SOURCE
STATE AGENCY
ND LEGIS. COUNCIL.

PUBLISHED 09/01/81, 6 PAGES

SCOPE
FE ND

ABSTRACT

A STUDY OF STATE REGULATION OF NURSING HOMES WAS REQUESTED BECAUSE OF A BELIEF THAT LARGE DIFFERENTIALS EXIST IN NURSING HOME CHARGES TO RESIDENTS WHO ARE ABLE TO PAY THEIR OWN COSTS AND THOSE RESIDENTS WHO ARE NOT. THIS REPORT CONTAINS FE AND STATE STATUTES AND REGULATIONS AND STATISTICAL DATA WITH REGARD TO NURSING HOMES IN ND. FE LAW PLACES SEVERAL REQUIREMENTS ON NURSING HOMES AS CONDITIONS OF OBTAINING FE MEDICAID FUNDS. ND REGULATES AND ADMINISTERS LONG-TERM CARE HOMES THROUGH 2 AGENCIES--THE STATE HEALTH DEPT. AND THE STATE SOCIAL SERVICE BOARD. ND LAW PROVIDES FOR THE ESTABLISHMENT OF NURSING HOMES BY A COUNTY. ILL., STAT. INCLUDED.

NCSL IDENTIFICATION NUMBER: RCH8205416

SEWARD GENERAL HOSPITAL
P.O. BOX 365
SEWARD ALASKA 99664
PHONE (907) 224-5205

January 26, 1983

JAN 31 1983

Representative Bette Cato
Alaska State Legislature
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Bette:

From our point of view at Seward General Hospital, prompt passage of House Bill No. 19 repealing the State Certificate of Need program is needed immediately.

This hospital wants to and needs to offer long term care to the patients of this community under the "Swing-Bed Program" passed by Congress. To do so we must go through the Certificate of Need process because the Department of Health and Social Services has not issued a blanket Certificate of Need for this level of care. The Certificate of Need process takes 90 to 120 days to complete and the expense runs as much as $4,500.00.

I submit to you that those dollars could be better spent in patient care rather than paper work to justify a program that all agree needs to be implemented without further delay.

Thank you for your attention to this matter.

Yours truly,

C. Keith Campbell, Administrator

CKC:ecb

cc: Dennis L. DeWitt, Ak. Hosp. Asso.

Bette:

Thanks for introducing this Bill: I would like to invite you to a party at the Home of Jim Burns in Juneau on Feb 27th. Dinner afterwards if possible. I'll confirm by phone.

Keith

northern alaska health resources association, inc.

FEB 9 1983

February 03, 1983

The Honorable Bette Cato
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Cato:

The Board of Directors of the Northern Alaska Health Resources Association has discussed the issue of repeal of the Certificate-of-Need (CON) law as currently proposed in HB 19. We reached agreement that a modified CON process is preferable to repeal. Although we recognize that there are problems with the current process, we believe that they can be solved by making major revisions in the regulations rather than by repealing the law. There is little disagreement that the threshold limits that trigger CON review are too low or that review of many non-clinical expenditures is a nuisance. Moreover, the process should be tightened up so that reviews are completed in a timely and efficient manner.

There are several reasons why we believe the CON process should be retained; however, the most important reason has to do with citizen participation in deciding what health care services and facilities are most appropriate and affordable for a specific community or region of the state. The issue has not been whether a CON should be approved or denied but rather that a discussion or negotiation has taken place between the community and health-care facility regarding local, regional and statewide needs. The Certificate-of-Need process has been a forum for these discussions and has served to guide the appropriate development of health care services and facilities throughout the state.

A recent trend has been to appropriate increasing amounts of public funds for construction or expansion of health care facilities in Alaska (i.e., $31,500,000, FY 81-82). Moreover, we are seeing the cost of health care increasing at a rate which has been consistently higher than the general rate of inflation. It has been demonstrated that capital investment contributes significantly to the growth of total hospital expenditures. Although it is true that general inflation, sophisticated technology, and increasing staff requirements also contribute to rising costs of hospital care, hospital capital investments add to the operating costs by an amount in excess of the value of the investment. In April, 1982, Arthur D. Little, Inc., a health economics consulting firm under contract with the National Center for Health Services Research, estimated that the present value of additional operating expenditures in the next ten years is $1.84 for every dollar invested in capital improvements, exclusive of depreciation and debt service. Uncontrolled

529 5th avenue, suite 8 fairbanks, alaska 99701 telephone (907) 456-2553

capital expenditures for more or bigger health care facilities can only serve to drive up operating costs at an accelerated rate. These increased costs are ultimately passed on to the patient or community. We believe that people must continue to have the opportunity and responsibility through the CON process to determine what level of health services they are willing to pay for. Competition in the health care field essentially does not exist, especially in Alaska where most communities cannot afford more than one health care facility; therefore, the only way that we can keep a lid on overbuilding is through a capital expenditures review program similar to the current Certificate-of-Need program.

Several states have already revised their CON process (among them Colorado and New Mexico) with full support of their respective state hospital associations. Revision of Alaska's CON process must occur if we expect to see the process work as it was designed to do. The following revisions are offered for consideration:

1. Increase the threshold level which triggers a CON review from $150,000 to <u>at least</u>:
   a. $600,000 for capital expenditures
   b. $400,000 for major medical equipment
   c. $250,000 for operating expenses associated with new services.

2. Exempt all non-clinical capital expenditures. The bill should indicate that non-clinical services which are not subject to review include, but are not limited to: parking, telephone systems, day care, mailrooms, heating and air conditioning, blood bank, dietary/cafeteria, laundry and linen, medical records, business office, housekeeping, central supply, library, reception, and data processing. This exemption would apply only if one of these non-clinical projects was the main purpose of the application. For example, a project proposing a new facility could still include review and consideration of the non-clinical activity if it were part of a larger project.

3. Expedite review of capital equipment replacement.

4. Specify a time limit for a decision by the Commissioner subsequent to a recommendation by the regional health planning agency.

5. Provide that each legislator be informed of all projects in his/her district, especially regarding the outcome of the review.

6. Consider a sunset provision of four or more years to review effectiveness of the CON process.

In summary, there is little disagreement that there are problems with the current CON process; however, the forum that the CON process provides for community discussion about the relative merits of a proposed project far outweigh what we perceive to be correctable problems. We recommend revision of the CON process rather than repeal.

Sincerely,

J. B. Carnahan
President

JBC:flr

cc: William Sheffield
Governor

Robert London Smith, Ph.D.
Commissioner, DHSS

Alaska Health Coalition

Southeast Alaska HSA

South Central Health Planning
and Development, Inc.

Blue Cross
of Washington and Alaska

15700 Dayton Avenue North/P.O. Box 327
Seattle, Washington 98111
206/361-3000

February 4, 1983

POLICY STATEMENT

Blue Cross of Washington and Alaska supports the retention of Certificate of Need. That process should, however, be modified as follows:

1. The dollar threshold should be increased to $1,000,000 per application.

2. Modifications which are necessary to reduce health and safety hazards should be exempted.

3. The State Health Planning and Development Agency should become the sole health planning body for the State and should be charged with health planning for all Alaskans. A provision should be included allowing municipalities to establish local health councils to the State Health Planning and Development Agency, who may make recommendations on planning matters.

JHG:pf

Alaska State Legislature

REPRESENTATIVE
BETTE CATO
DISTRICT 5
BOX 775
VALDEZ, ALASKA 99686
(907) 835-4568

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4858

House of Representatives

COMMITTEES

CHAIRMAN
HOUSE TRANSPORTATION

MEMBER
COALITION POLICY COMMITTEE
HOUSE HEALTH EDUCATION
AND
SOCIAL SERVICES

M E M O R A N D U M

TO: Dave Palmer

FM: Edie Russel

RE: HB 19

DT: February 14, 1983

For your information, I've attached the correspondence received by Representative Cato, to date, concerning the proposed repeal of the State Certificate of Need program.

Unless you indicate otherwise, I'll continue to do so.

Municipal Revenue Sharing

Hospital entitlement $1,000/bed or $250,000 or $50,000/hospital

1981 - $14,620,000

Hospital Construction 25% Reimbursement

1981 = $6,000,000

Public Roads $2500/mile

~~Native Villages $25,000 each~~

Volunteer fire depts in unorganized borough

10.00 /per capita

Chris - Betty - Alt

HEALTH CARE

STATE HEALTH NOTES

Number 19
June 1981

In This Issue

- Certificate of Need
- Health Planning
- Emergency Medical Services
- Health Insurance

Certificate of Need

In spite of Administration efforts to withdraw federal support for health planning and regulation, many States are moving ahead to bring their certificate of need (CON) statutes into conformity with 1979 amendments to the National Health Planning and Resources Development Act (PL 93-641). Most States have until the end of 1981 in which to comply with the CON requirements of the 1979 Amendments. Federal law stipulates that if a State CON program is found out of compliance with the federal requirements, the State will face a sizeable reduction in the amount of federal health funds it receives.

During 1980, thirteen states took action to bring their CON statutes into compliance, despite the fact that federal regulations implementing the 1979 Amendments were not issued until late in the year.

In 1981 eleven other States (**ARKANSAS, MISSISSIPPI, NEW HAMPSHIRE, NEW MEXICO, NORTH DAKOTA, SOUTH DAKOTA, TEXAS, UTAH, TENNESSEE, WEST VIRGINIA** and **WYOMING**) adopted comprehensive CON legislation. All of these laws, however, must await a determination by the Secretary of HHS to assure they meet federal specifications. So far only one state--**HAWAII**--has been judged to be in full compliance with the 1979 Amendments.

Further CON action is possible in fourteen other States where legislation has been introduced but no final action taken as of yet. A total of twelve States, however, have either refused to act or are unlikely to take action this year, thereby bringing themselves into direct conflict with federal law.

Of the States which enacted CON legislation in 1981, several referenced the federal requirements as the catalyst for their action. **ARKANSAS** and **ALABAMA**, however, have both adopted language which effectively repeals their state CON statutes in the event the Health Planning Act (PL 93-641) is not reauthorized or is repealed. The **ALABAMA** law (H 826) sets the effective date for repeal on the last day of the regular session of the legislature following the repeal of PL 93-641; the **ARKANSAS** statute makes the repeal coincidental with the repeal of the federal law. **TEXAS** amended its earlier law making CON review applicable only to those facilities and services required as a minimum by federal law.

In adopting some amendments to its CON legislation, **UTAH** reaffirmed its previous policy in support of competition. **UTAH's** law--known as the Pro-Competitive Certificate of Need Act--states that one primary objective is to increase competition and improve market conditions. The law directs that among the criteria the agencies must consider for conducting CON reviews is "the relationship of the proposed project to the existing health care system of the area in which the project is proposed to be provided, including the effect of the proposed facility or service on the maintenance of competitive conditions in the local market." The law further directs the administering agencies to consider the effectiveness of competition and consumer choice in protecting the public interest.

In other CON actions, **VIRGINIA** (HB 1452) adopted a one-year moratorium on the issuance of any certificates of need for the construction of any new nursing

homes or an increase in the bed capacity of any existing nursing homes. **MISSISSIPPI** (HB 427) extended its existing moratorium on certificates of need for nursing homes for one additional year. **WISCONSIN** is considering (AB 66) a two-year moratorium on granting certificates for both hospitals and nursing homes.

FLORIDA amended (SB 459) its CON statute giving the department extended authority to enforce statements of intent expressed by applicants which the department relied on in making a decision to issue the certificate of need.

Health Planning

On the health planning front, a few initiatives are unfolding at the state level in response to the proposed withdrawal of federal support. Bills (A 6962, S 4876) in the NEW YORK legislature would provide an additional $400,000 in state funds to health systems agencies to continue to perform state-mandated health planning functions. A resolution (HCR 5026) adopted by the **KANSAS** legislature directs the SHCC to study the future of health planning activities in the State, emphasizing the need to find ways to maintain planning activities in relevant areas and to protect the interests of local communities.

A new **FLORIDA** law (SB 459) mandates the creation of a special task force drawing from the SHCC and the Hospital Cost Containment Board to make recommendations to the legislature on important state health policy concerns. Among its specific charges, the task force is to make recommendations on alternative organizational models and funding sources for any necessary health planning or regulation programs in the State in the absence of federal requirements.

A recent telephone survey by iHPP of various state officials revealed very little optimism for the survival of local health systems agencies in the event federal financial support is withdrawn. With the exception of a few places where local business and labor coalitions or Blue Cross-Blue Shield associations have indicated a willingness to support local health planning, most state officials contacted felt that neither public nor private support would be forthcoming for their continuation. Significantly, many of the same officials expressed the view that, even if the Federal Health Planning law is repealed, their state would probably retain some degree of certificate-of-need authority, as well as some health planning functions at the state level.

In other health planning action, a new **UTAH** law (SB 15) creates a public benefit corporation to serve as the single State Health Systems Agency. In addition to its planning and development functions, the corporation is charged with fostering competition and encouraging innovations in the financing and delivery systems for health services in order to promote economic behavior by consumers and providers.

A **WEST VIRGINIA** bill (HB 1787) would authorize the SHPDA to develop and implement a plan in cooperation with participating health facilities for the merger and sharing of services for which competition will not appropriately allocate supply. The bill also would provide antitrust immunity to those facilities complying with the SHPDA's plan. A **CALIFORNIA** bill (AB 1263) would require the SHPDA to develop a plan for the regionalization of certain tertiary health care services.

Health Planning and Antitrust

In a major decision affecting health planning, the U.S. Supreme Court ruled that actions taken by providers under the general authority of the Health Planning Act are not necessarily immune from federal antitrust laws. In a specific case, the Court refused to extend immunity from antitrust to Blue Cross of Kansas City for its refusal to enter into a reimbursement contract with a hospital because the hospital failed to obtain approval from the local HSA before beginning construction (National Gerimedical Hospital and Gerontology Center v. Blue Cross of Kansas City). Blue Cross contended that its action was pursuant to the local HSA plan and was furthering the purposes of the National Health Planning Act. The Court, however, rejected the argument that the Health Planning Act immunizes all private conduct undertaken in response to the health planning process. The decision suggests that immunity from antitrust should be granted only in cases where Congress has explicitly indicated its preference. And, in the Court's opinion, "There is no reason to believe that Congress specifically contemplated 'enforcement' of advisory decisions of an HSA

by private insurance providers, let alone relied on such action to put 'teeth' into the noncompulsory local planning process."

Emergency Medical Services

Emergency medical services has been the focus of considerable legislative attention in the states this year. Both **UTAH** and **VERMONT** enacted comprehensive EMS statutes, covering a range of issues such as licensure and training of personnel, maximum rates for services, minimum standards for equipment and data collection. A comprehensive EMS bill (SB 159) is under consideration in the **MICHIGAN** legislature.

A **MINNESOTA** bill (SF 1428) emphasizes the creation of regional emergency medical service districts as the best strategy for maintaining a coordinated emergency medical services system in the State.

HAWAII is considering amending its EMS statute to increase the physician composition of the EMS Advisory Council from four to five and to require that at least two of the five physicians be engaged in the full-time practice of emergency medicine and be board eligible or board certified by the American Board of Emergency Medicine. **ARIZONA** amended its law transferring administrative authority for EMS from the Department of Public Safety to the Department of Health Services, while **VIRGINIA** amended its statute to establish a statewide air medical evacuation system.

Several States have concentrated their legislative efforts on assuring proper training programs for EMS personnel and setting standards for the provision of emergency services. **HAWAII's** amended statute (HB 733) requires that basic life support and advanced life support training programs be based on a medical model.

A recently adopted **TEXAS** bill (SB 874) and a **LOUISIANA** proposal (SB 617) would require ambulances to be staffed by two persons, thus bringing these states into compliance with federal basic life support requirements.

NEVADA's new law (SB 147) permits the activities of intermediate emergency medical technicians. Intermediate technicians are authorized to perform certain procedures and administer certain drugs so long as they are under the direct supervision of a physician or a registered nurse supervised by a physician or are in direct communication with a physician or a registered nurse supervised by a physician.

A **PENNSYLVANIA** bill (HB 1139) would provide for the recertification of emergency medical technicians every three years, while another measure (SB 603) would set out licensure requirements to operate an ambulance service and minimum standards for personnel and equipment required on ambulances. The Senate bill, for example, would require that three years after the effective date of the act all ambulances be staffed by at least two persons, one of whom must be an emergency medical technician. The bill also would direct the Department of Health to provide tuition-free emergency medical technician courses to train adequate numbers of such personnel.

Three different bills dealing with immunity from civil damages for persons providing emergency medical services (commonly referred to as Good Samaritan laws) were introduced in **LOUISIANA**. Two relate to emergency medical technicians (HB 938 and SB 695); the other covers firemen and policemen as well as certified members of ambulance or rescue squads (HB 1302).

A **WISCONSIN** bill would extend the reach of the state's Good Samaritan law by allowing ambulance drivers to assist licensed EMS personnel without being licensed themselves. This protects them from civil liability under the Good Samaritan act when they handle sick, injured or disabled persons (SB 282). **VERMONT's** new EMS statute (SB 61) limits the civil liability of volunteer personnel.

Two states, **HAWAII** and **ALASKA**, are debating legislation which would assure emergency medical services for indigents. Under SB 1275, **HAWAII** would earmark all payments for services collected by the department to finance emergency care for indigents. HB 1130 in **LOUISIANA** would require any hospital offering emergency room services and receiving financial assistance (direct or indirect) from the State to provide emergency medical services free from discrimination or without regard to ability to pay.

Finally, a **NEW YORK** bill (S 4043) would mandate group health insurance policies which cover physician services to include coverage for emergency medical services provided in physicians' offices.

Health Insurance

Public Employees—A **FLORIDA** bill (SB 327) would require that at least two group health plan options be offered to public employees. Each option must provide financial incentives to participants not to overutilize benefits. Specifically, one option would allow participants who did not file a claim in a calendar year to receive reduced premium rates in the following year. A second option would permit participants to accumulate those portions of a policy deductible not used in a calendar year and be awarded the accumulated amount upon termination from the group. A **NEVADA** law (AB 301) gives public employees the option upon retirement to cancel or continue their group insurance or medical and hospital service coverage. If a retiree elects to continue coverage, he or she must assume the portion of the premium costs for the coverage continued which the governing body does not pay on behalf of retired employees.

Cost Containment—A **WEST VIRGINIA** bill (HB 1518) would require a demonstrated "good faith effort" to control costs on the part of all accident and health insurers before the insurer could increase its rates or lessen its benefits or coverage. The bill defines a good faith effort as a vigorous attempt by the insurer through a combination of education, persuasion, and financial incentives and disincentives to control costs and to encourage health care providers to also control costs by 1) eliminating duplicative or unnecessary services or facilities; 2) promoting alternative forms of care; 3) engaging in such experiments as incentive reimbursement and utilization review; 4) encouraging consumer involvement; and 5) promoting sound management practices by health care providers. A **NEW YORK** bill (A 4154) would require health insurance plans filing for rate changes to submit an economic impact statement indicating the effect of such increased rate on the elderly, the handicapped, the unemployed and on persons living on marginal fixed incomes.

Conversion—A new **GEORGIA** law (HB 124) provides conversion privileges under private health insurance for insured surviving or former spouses. The law prohibits individual policies which provide coverage to the spouse of the insured from terminating the coverage of the spouse solely as a result of a break in the marriage, except by reason of death or divorce. All policies must contain provisions to permit the spouse, upon the death of the insured or a divorce, to obtain a nongroup policy similar to the coverage contained in the earlier policy. Similarly, an **OREGON** bill (SB 484) would permit divorced or widowed spouses to obtain nongroup health insurance coverage when previously covered under the former spouse's group policy.

Medicaid Survey

IHPP recently completed a fifty state survey of current Medicaid cost containment strategies. The survey identifies all legislative and executive proposals affecting services, eligibility and reimbursement, as well as strategies for improving the administration and management of the program. A brief summary of the survey indicates that over one half of the States have proposed some degree of benefit reduction, from limits on the number of covered hospital days to the elimination of some or all optional services. Twenty-one States have proposed either increases in current copayments on some optional services or new copayment requirements on optional services. Almost half of the States are considering significant changes in provider reimbursement, from decreasing or freezing physician payment levels to restructuring nursing home reimbursement methodologies. Most significant, 14 States are proposing significant changes in their eligibility standards. Such proposals range from more restrictive criteria for the medically needy to eliminating 18 to 21 year old students to eliminating coverage altogether for the medically needy and the AFDC-U populations.

The IHPP survey is current through mid-May 1981. Copies can be obtained by sending $3.00 to IHPP.

Publications and Reports

• A publication entitled, Role of State and Local Governments in Relation to Personal Health Services, is now available from the American Public Health Association for $4.00 a copy. The volume, a collection of presentations made at a symposium in 1980, examines the involvement of state and local governments in the financing, organizing and delivery of health care services.

•The final report of the Primary Care Task Force in **NEW YORK** has been released. The Task Force was commissioned by Governor Carey to make recommendations on how the State's primary health care policy can be improved. Among the Task Force's major recommendations are: the establishment of a Primary Care Development Program to promote new primary and ambulatory care service delivery locations and to support placement of primary care personnel in medically underserved areas; changes in state aid for medical training and establishment of reimbursement incentives to stimulate primary care training; and a "fast track" review of new types of certificate-of-need applications designed to provide primary care services in shortage areas.

• The **CALIFORNIA** Department of Health Services recently released a report entitled, "Benefits and Costs of the Family Planning Program." The report suggests that by using formal family planning services, a woman of childbearing age reduces her annual probability of pregnancy by 21 percent. Findings indicate that for Family Planning Program clients in California, the State saves an average of $5.10 for each dollar spent on family planning services; for Medi-Cal beneficiaries the State saves an average of $77.00 for each dollar spent.

• The Office of Research, Demonstrations and Statistics, HCFA, HHS, recently released a briefing paper entitled, "HMO's: Issues and Alternatives for Medicare and Medicaid." The paper provides a comprehensive overview of the major issues and alternatives which need to be addressed if public payer involvement with HMOs is to expand. The report focuses on current legislative barriers to HMO enrollment, reimbursement problems, benefits and liabilities, marketing strategies, and quality assurance. To order, request HCFA Pub. No. 03107.

• A recent report by the General Accounting Office (GAO) supports greater state legislative involvement in the federal grant process. The report, entitled "Federal Assistance System Should Be Changed To Permit Greater Involvement By State Legislatures," reviews some of the more important ways the federal grant process has discouraged legislative participation. The report concludes with a recommendation that Congress should ensure that "grant provisions assigning responsibilities to state executive officials not be construed as limiting or negating the powers of state legislatures under state law to appropriate federal funds, to designate state agencies, and to review state plans and grant applications."

• A GAO report concluded that, while the maximum allowable cost (MAC) resulted in savings under state operated Medicaid outpatient drug programs, the savings could have been even more substantial if (1) the states had implemented the limits in a more timely manner; (2) HHS had systematically updated the limits; and (3) HHS had encouraged states to implement or expand their own MAC programs.

State Health Highlights

• **NEBRASKA** has adopted legislation (LB 379) which significantly expands the scope of nursing practice. The new law addresses the state's problem of geographic maldistribution of health care services by encouraging and enabling registered professional nurses to perform in expanded roles in nursing, such as, nurse-practitioner and nurse-anesthetist.

• The **NEW YORK** Department of Health has released an information kit which explains in detail the rights and responsibilities of employers and employees under the State's new "Right to Know" law. The "Right to Know" law requires employers to notify employees what information is available concerning the toxic effects of chemical substances; to provide all requested information; and to provide education and training to employees in the safe and proper handling of such substances.

• A **MONTANA** law (Chapter 432, 1981) waives the state licensure inspection requirement for hospitals that are accredited by the Joint Commission on Accreditation of Hospitals and for clinical laboratories that are accredited by the College of American Pathologists.

• A new agreement between the **PENNSYLVANIA** Departments of Health and Insurance and Pennsylvania Blue Shield would establish a new selection process to guarantee greater consumer representation on the Blue Shield Board of Directors. The new agreement, said to be a national trend setter for nonprofit health care insurance organizations, seeks to balance the Board's structure between providers and consumers.

• The **CONNECTICUT** Department of Health Services unveiled a plan for a proposed new rating system designed to rank individual nursing homes according to certain quality-of-care standards.

• The **NEW YORK** legislature adopted legislation (S 5672, A 7137) expanding the State's Insurance law to require insurance carriers to furnish information on coverage of Medicaid recipients to the Department of Social Services, or to the local districts, upon their request.

• State health agencies spent nearly $1.2 billion in FY 80 for maternal and child health programs, according to National Public Health Program Reporting System (NPHPRS) data. Such expenditures represented the largest portion of personal health expenditures by state health agencies in FY 80.

• SB 413 in **PENNSYLVANIA**, if enacted, would preclude the implementation of any proposed closing of any state hospital or any substantial reduction in staff or patients without the approval of certain legislative committees within the General Assembly. Both the Senate Public Health and Welfare Committee and the House Health and Welfare Committee must approve the closing or staff and patient reductions before the Department could take action.

• A **FLORIDA** statute (SB 459) charges the SHCC, in consultation with the SHPDA and the local HSAs, with submitting recommendations to the legislature by October 1, 1981, regarding how federal health block grant monies should be allocated.

• A U.S. District Court ruled that **ALABAMA** is not obligated to pay all coinsurance, deductibles and other cost-sharing charges for dual eligibles under the buy-in agreement on those Medicare Part B benefits which are not covered under Medicaid. (For example, speech therapy, podiatry services, chiropractic services). Moreover, the Court declared that if the State opts to provide less than the full amount of Medicare Part B cost-sharing charges, the State is not required to file an amended state plan. The State is, however, obligated to assure that the portion of the cost-sharing charges it meets must be reasonably related to the recipient's income and resources.

• The Supreme Court of **MONTANA** has recently upheld the constitutionality of its state Medical Malpractice Panel Act. The 1977 statute had been challenged on the grounds that Montana's Medical Malpractice Panels violates an individual's right to a jury trial, access to the courts, and due process (Linder vs. Smith, Murray, and the Montana Medical Association, June 10, 1981).

• A new **GEORGIA** law directs the Department of Human Resources to establish minimum standards for certifying family violence shelters. These facilities would serve as temporary receiving shelters for the admission of any persons who were subjected to family violence (HB 203).

STATE HEALTH NOTES

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February 14, 1983

The Honorable Milo Fritz
The Honorable Mae Tischer
Co-Chairman
Health, Education and Social Services Committee
State Capitol
Juneau, Alaska 99811

Dear Representatives Fritz and Tischer:

It is my understanding that your committee will be considering H.B. 19, An Act Repealing the Certificate of Need Program, at a hearing to be held on Friday, February 18, 1983. While it is not possible for me to attend in person, I would appreciate your reviewing the enclosed statement in opposition to this bill and entering it into the hearing record.

On behalf of the Ætna Life Insurance Company, I thank you for considering our comments.

Sincerely,

JEB/jem

Enclosure

STATEMENT OF

ÆTNA LIFE INSURANCE COMPANY

IN OPPOSITION TO

H.B. 19

As a major writer of commercial health insurance, the Ætna Life Insurance Company has for years been deeply concerned about health care cost increases and has consistently supported viable health planning programs. We strongly oppose H.B. 19, An Act Repealing the Certificate of Need Program. We believe that enactment of this legislation would represent a large step backward in Alaska's effort to realize an efficient and effective health care delivery system.

Health planning is one of the elements in the armamentarium of programs that are necessary to help in the reduction of the escalation of health costs and to ensure that the health care delivery system of the future is one that has been rationally and systematically planned.

We feel that it is most important that there be a mechanism in place for participation in the planning and development of health programs to improve the distribution of health services, ensuring that services are available to those citizens who need them, while restricting the investment in unnecessary facilities and services.

An important portion of a viable health planning program is state certificate of need legislation. We find it is essential to have such legislation in order that the necessity of capital expenditures can be determined, because of the two-pronged effect on the growth of health care costs. In the short run, the purchase, installation, and financing of expenditures increases annual health care expenditures. In the long run, operation and maintenance of capital expenditures continue to add to health care costs, to increased use of highly skilled labor (for maintenance and operation) and non-labor inputs (i.e., energy, supplies, etc.).

It has been estimated that every dollar of capital investment adds an additional 50¢ to annual operating cost. An important element in today's economy, which has had a dramatic effect on health care costs related to capital expenditures, is the interest rate now being charged on the finance debt. Efforts must be made to ensure that all capital expenditures made today are necessary and consistent with the goals of Alaska's Health Systems Plan and necessity for such expenditures.

Alaska's Certificate of Need Program is an important tool for implementation of the area health plan. We urge that this program be continued.

1) WHAT ARE THE CHANCES THAT THE SANCTIONS MAY BE AGAIN SUSPENED BEYOND SEPT. 1983?

THIS QUESTION IS GOING TO DEPEND ON WHAT THE 98TH CONGRESS CHOOSES TO DO. THE CONTINUING RESOLUTION WILL STAND UNLESS CONGRESS TAKES SOME ACTION BEFORE THE END OF THE FISCAL YEAR. IF CONGRESS DOES NOT ACT BEFORE JUNE 30TH, THE DEPARTMENT WILL HAVE TO AT LEAST FUND STATES THROUGH THE FIRST QUARTER OF FY84. H.H.S. IS POWERLESS TO IMPOSE THE SANCTIONS MANDATED BY LAW AND IS WAITING FOR SOME DIRECTION FROM CONGRESS.

2) WHAT RESPONSE WOULD THE DEPARTMENT OF HEALTH & HUMAN SERVICES HAVE TO A REPEAL OF THE CERTIFICATE OF NEED HERE?

OFFICIALLY I AM TOLD THAT THE DEPARTMENT CANNOT FORMULATE A RESPONSE UNTIL A REPEAL BILL IS ACTUALLY PASSED. UNOFFICIALLY, I WAS TOLD BY ONE PERSON THAT ALASKA WILL STILL HAVE TO COMPLY WITH SOME SORT OF FEDERAL REGS TO RECEIVE HEALTH CARE FUNDS AND THAT STARTING FROM SCRATCH (AFTER A REPEAL) MIGHT BE MUCH MORE DIFFICULT THAT TRYING TO AMEND THE EXISTING PROGRAM ON CERTIFICATE OF NEED. FOR INSTANCE, THE BLOCK GRANT PROPOSALS FROM THE 97TH CONGRESS ALL HAD CERTIFICATE OF NEED REQUIREMENTS. THE COMPROMISE BILL BY SENATORS QUAYLE, & KENNEDY (WHICH THE ADMINISTRATION WAS NOT WILLING TO ACCEPT IN THE 97TH CONGRESS) HAD CERTIFICATE OF NEED PROGRAM REQUIREMENTS ALSO.

3) WOULD A 1536 EXEMPTION DO THE SAME THING AS A REPEAL OF THE C.O.N.?

IT WOULD NOT. THERE IS NO CONNECTION. THE 1536 SECTION IS AN ORGANIZATIONAL OPTION WHICH THE GOVERNOR HAS TO CONTINUE OR NOT TO CONTINUE THE (3) STATE SYSTEM AGENCIES. IF ALASKA WANTS THE 1536 EXEMPTION, THE GOVERNOR WOULD HAVE TO APPLY FOR IT. THE CERTIFICATE OF NEED IS A STATUTORY PROVISION WHICH HAS PENALTIES FOR NON-COMPLIANCE ALTHOUGH THEY ARE NOT BEING EXERCISED.

4) IF THE CERTIFICATE OF NEED PROCESS IS REPEALED, HOW MUCH $ WOULD AK. LOSE?

NONE AT THE MOMENT. THE DEPARTMENT DOES NOT HAVE ANY ALTERNATIVE OTHER THAN TO CONTINUE AS THINGS ARE NOW UNTIL CONGRESS CLARIFIES THE ISSUE.

**** BROWSE FILE IN BILL ORDER ****

BILL NUMBER	STATUTE	ACTION
HB 19	18.07.021	AMENDED
HB 19	18.07.031	REPEALED
HB 19	18.07.041	REPEALED
HB 19	18.07.041	REFERENCE
HB 19	18.07.051	REPEALED
HB 19	18.07.051	REFERENCE
HB 19	18.07.061	REPEALED
HB 19	18.07.061	REFERENCE
HB 19	18.07.071	REFERENCE
HB 19	18.07.081	REPEALED
HB 19	18.07.081	REFERENCE
HB 19	18.07.091	REPEALED
HB 19	18.07.091	REFERENCE
HB 19	18.07.101	REPEALED
HB 19	18.07.101	REFERENCE
HB 19	18.07.111	REPEALED
HB 19	18.07.111	REFERENCE
HB 19	18.26.071	REPEALED
HB 19	18.26.220	REPL&REIN

SELECT A BILL NUMBER AND HIT ENTER BILL NUMBER *B 19 STATUTE 1826220

RETURN TO MAIN MENU ?

2/23
HEARING

2/23 Fbks Tom Mingen Administrator Fairbanks Memorial

1) Duplication of services
2) Cost to prepare CON
   5 people @ 60 days work
   hired organization $24,000 to review need projections
3) Public input: Lay Boards citizens
   Board of directors
4) Increased costs if CON repealed -
   N/A in Alaska
   construction costs hold up - 1%/mo inflation
   CON process difficult to time review to construction season.
5) Denied only 1 - no savings
   "No major proposal waiting in the wings".
6) Medicaid - population no increase significantly
   in medicaid # benefits increased

⇒ Increasing limits of CON threshold not addressing problem.

? # $ Retired in Fed & State 60% State grant process funds capital construction.
   Funds

Anchorage

DR. BEIRNE FAVOR modification of law
CHANGE threshold 750,000 to 1,000,000
1) MONITOR hospital, since STATE FUNDS constitute MAJOR investments.

Art Willman - SITKA President SE AK Health System
Agency - Rob. Health Service
LAW NEEDS work, don't REPEAL
opportunity REGIONAL & local groups. to REVIEW
Limits too low - 1,000,000 - 1.5M
COSTLY PROCESS $100,000?

Martin Tirador BLUE CROSS
RETAIN CON REPEAL could affect ability to provide coverage (100 of CAPital < 30K, IN operation Need to change law:
Limit to $1,000,000 min CAP EXPEND & MAJOR, equip REMOVE items from CON REVIEW / items subject to review & REGULATION. STREAMLINE process. ONE AGENCY - SHPDA in DHSS to review.
WRITTEN REMARKS? - YES

TRURAN

Dorothy Truman - Fairbanks - citizen
supports CON. Recommend changes
Work for commission on handicapped

Dennis Dewitt Nursing homes & Hospitals

- MEDICAID - CON NO RELATIONSHIP
  Agency can only stop projects

- HB112 is option to CON
  Cost of health care NOT relevant to Cost of care

Susan Callan HSA planner
Priority system for cap like CON
Public process, testimony
Local boards have vested interest in hospitals they work for. Raise limit to $750,000 or to 1 million & tie to inflation

HSA - Anchorage
Peggy Wilson - CON work gets done anyway.
public involvement - hundreds of people - testimony on controversial issues increases. Overall health planning

STATE planning - Regional plans

AK: 409.00/day 262.00/WASH 245.00/USA Aug.

UTILIZATION MORE AVAILABLE = MORE USE

John Pugh Support repeal - ... but look at AREAS that INCREASE HEALTH CARE COSTS:

Medicaid: Hospital construction & HEALTH CARE ARE RELATED. STUDY COMMITTEE ON RATE setting

Capital Budget 36.6 million for const or renovation in budget.

Reserve Sharing AS 29.90 Capital Rev. Sh. Reimbursement 25%

Capital Review HB 112 if CON REPEALED, then some REVIEW is REQUIRED to look at feasibility - STATE AS BANKER, NEED fiduciary RESPONSIBILITY, REVIEW

1. What Review exists if CON REPEALED?
   CAP REVIEW by gov.

2. Q-

Implied in position paper - need process to review construction costs

Repeal ~~or~~ in conjunction w/ review

P. Gould - capital pork barrel - cap. review not based on reason. Is CRNA relevant to review?

Why repeal CON? by Governor - marketplace economy will work in Anchorage.

PRELIMINARY STATEMENT OF FISCAL IMPACT

+165

Bill No: Senate Bill 85 Date on Bill: 1/27/83
Title: An Act repealing the certificate of need program;and providing for an effective date
Sponsor: Senators Faiks, P. Fischer, and Pettyjohn
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

			FY 83	FY 84	FY 85	FY 86			
Capital			0	0	0	0			
Operating			0	0	0	0			
Total			0	0	0	0			

b. Revenues:

Revenue			0	0	0	0			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Dave W. Williams DW Phone: 465-3038
Division: State Health Planning and Development Date: 2-14-83

Approved by Commissioner: Date: 2/16/83
Department: Health and Social Services Date:

6. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor

SPONSOR: House Hess Committee

SUBJECT: HB 19 - Certificate of Need Repeal

MAILING ADDRESS: Note: Invitational only

zip

PHONE: 3777 CONTACT: Dave Palmer

SITES PARTICIPATING: 2 wire TC

TAKEN BY: Gail 2/18

T/C DATE/DAY: Wed

TIME: 1-3 pm Pacific
11-1:00 pm Alaska
10-12 Noon Bering

T/C DURATION: 2 hour.

ALL ALASKAN

WASHINGTON DC

Sen. Stevens
Sen. Murkowski
Congressman Young

Anchorage	Dillingham	Juneau *	Mat-Su	Sitka
Barrow	Fairbanks	Ketchikan	Nome	Seward
Bethel	Haines	Kodiak	*Petersburg	Soldotna (Kenai)
Delta Junction	Homer	Kotzebue	Sand Point	Valdez
				*Wrangell

SPECIAL OFF-NET* LOCATIONS/PHONE NUMBERS

Chairing Site/Person *JNU - Rep Fritz*

Signature of Sponsor/Contact Person 2/18/83 Date

Susan Callon	To testify
278-3631	from Anchorage
	c/o office

-------- TELECONFERENCE OFFICE USE ONLY --------

MODERATOR NOTES

Special backup, publicty or technical considerations.

Juneau Room Location
H. Hess Committee Room
112 schedule 12:20 pm
W 3:00 pm

POST TELECONFERENCE NOTES

SITE/LOCATION: _____

LOCAL MODERATOR: _____

T/C Started: _____

T/C Ended: _____

Was T/C Recorded? _____

Was T/C Broadcast on RADIO or TV?

(If yes, what stations?) _____

TESTIFIED/PARTICIPATED: _____

UNABLE TO TESTIFY: _____

OBSERVORS: _____

TOTAL #: _____

BILLING INFORMATION

Billing Address: _____

zip

Phone Charges To: _____
(area code) (phone number)

CATEGORY: Legislative ___ Non-Legislative ___

AMOUNT PAYABLE: _____

ALASKA

STATE LEGISLATURE

MEMORANDUM

Art Willman

Sitka 966-8333

1 pm Sitka L.I.O.

Chuck Kalt

Art Willman

Sitka 966-8333

PRES. SE H.S.A.

Pub Health Heath Service

H

(1)



HB 19 2/21

GOVERNOR'S POSITION TODAY PER EMIL:

1) FAVORS REPEAL
2) WANTS TO REMOVE STATE 25% CONSTRUCTION Reimbursement - give outright GRANTS IN PLACE of CON
3) Not strong support but will SIGN bill if PASSED.

HB19 2-25-83

Clocksin

HEALTH CARE - NOT FREE MKT

1) CONSUMER NOT RESPONSIBLE for COSTS
   3rd PARTY PAYS
2) - SUPPLY induced demand 80-70% physician's influence
3) high cost of technology
4) lack of information - choices AVAILABLE to patient

Non competitive - non profit - public funds

ROLE of CON

1) REPEAL of laws - sunset - NOT REPEALED
2) COST of CON. $250,000 for FY84
   COST to hospitals - have them support costs?

STUDIES - Arthur Little - 6 STATE REVIEW - DOCUMENTS
   SAVINGS due to CON
   - MASSachusetts - ROEMER?

IN ALASKA = NOT applicable only Anchorage
   Proposal presented - Altered by CON process - benefit
   in SMALL RURAL AREAS too.

IN Anchorage: HUMANA, Providence calculated beds in 1995 - 575 to 606. If both Approved = 692 - 85-90 beds extra

   HUMANA: NO ~~hospital~~ public $ 30% REVENUE of addition - comes from Gov't programs.

   COST COMPARISONS

Providence	250 beds	$ 186,000,000	223 47	376,000	Per bed
Hum	200 "	$ 56,000,000	161 63	150,000	Per bed

clocksin

Medical care FY 80 81 82 $153,000,000
health care covered by programs covered by CON.
ENTITLEMENT 23
Rev Operat. 36
7.5
Medicaid GRM, corrections operating funds
COST TO CONSTRUCT – related to COST to operate

Amend:
INCREASE: threshold to $600,000
~~$750,000~~ or more
400,000
Exempt: Replacement equipment
Non medical construction
Remodeling due to code conformance
STREAMline process
1) Simplify application for smaller projects
2) deadline on commissions time to approve
3) Review whether HSA's are necessary
4) ~~Prospective Rate~~ Setting commission
eliminate full reimbursement w/o careful
Review
5) tie capital const $ to C.O.N.

Supply induces demand - Roemer effect NOT VALID
WESTERN OS patient day AK - 600/1000

occupancy Rate on WEST COAST less than EAST COAST
Dentistry; ultrasound
New Mexico
"ASSN supports planning process"
ERROR factor 16% ± for Humana & Providence

DAVIS — PROV - Humana - difference between two - ?
"
HB 112
FED $ lost if CON ? 25%

OCCUPANCY RATE - Humana
Providence 95%

P. Groll — DATA from CON for Cordova made justification for expansion of hospital easier.

Mild - EQUIPMENT VERY EXPENSIVE + MAKES COST A different.

- DELAY in CON limits ACCESS to HEALTH CARE

ALAN BLUME

GOV-

1. Public REVIEW?
2. Statewide planning & coordination H. SH
3.

Humana & Providence - CON REPEAL

ALAN BLUME 2/23

1) Marketplace ECONOMICS

John Pugh

1) Fritz - Reconsider - mention to you.
2) CAP other Aspects of CAPital construction
3) - Prospective R System +
ANHS - Medicaid

Comprehensive health care cost containment

Would NOT oppose Amendment or omnibus
bill to ~~[illegible]~~

alaska state hospital association

NORTHERN CARE

Published by the
Alaska State Hospital Association

Vol. 6 April 1985 No. 4

DATES TO REMEMBER

April 20 - 23, 1985
Medical Technology Association
of Alaska Annual Meeting
Sheraton Hotel, Anchorage

April 24 - 27, 1985
AWH Convention
Anaheim, California

April 25 - 26, 1985
Rehabilitation Workshop
Cordova Community Hospital

May 8 - 14
National Hospital Week
National Nursing Home Week

May 19-21, 1985
Alaska Medical Records Assn.
Anchorage Hilton

August 29 - 30, 1985
ACHA Seminar: Staff Evaluation
Anchorage, Alaska

September 18 - 21, 1985
ASHA Annual Meeting
Valdez, Alaska

CON REPEAL STUMBLES

On Monday, April 18, the House Finance Committee reported out a committee substitute for House Bill 19, formerly the certificate of need repeal. At the first hearing on March 25, Chairman Al Adams, (D) Kotzebue, referred HB 19 to a subcommittee of Terry Martin, (R) Anchorage, John Lindauer, (R) Anchorage, and Jim Duncan, (D) Juneau. The subcommittee, on the votes of Martin and Duncan, reported back a proposal which would sunset certificate of need and aid to construction revenue sharing on July 1, 1986, increase the threshold on new equipment and some construction to $1 million, retain CON review on any new beds or new services, caps operational revenue sharing at its current level and creates a prospective payment system for Medicaid and General Relief Medical.

Representative Bob Bettisworth, (R) College, twice offered Association sponsored amendments which would have repealed certificate of need. Both times the amendments failed. Voting with the Association for repeal were Representatives Bettisworth, Lindauer, Joe Flood, (R) Anchorage, and Jerry Ward, (R) Anchorage. Voting against the Association were Reprsentatives Adams, Martin, Duncan, Ben Grussendorf, (D) Sitka, Sam Pestinger, (R) Anchorage, and Fred Zharoff, (D) Kodiak.

A floor fight looms on the horizon over the certificate of need issue. The Association will seek to have the Bettisworth amendments added to the Finance Committee Substitute for House Bill 19 or failing that defeat House Bill 19 on the floor of the House. Without the immediate repeal of certificate of need, there is no obligation to maintain a commitment to the other parts of the bill. According to Association President Dennis DeWitt, "Legislative compromises are supposed to contain quid pro quo's to achieve some satisfaction for all participants. Currently, the Finance Committee Substitute for House Bill 19 has all the quids but the Finance Committee took away the pro quo for the Association. We, unfortunately, have no option but to carry on a floor fight to insert an amendment to repeal certificate of need and be prepared to defeat the bill entirely if we fail to amend it."

CAPITAL BUDGET BLEAK

In early April Governor Sheffield released his revised capital budget which failed to receive rave reviews. For health facilities the picture was extremely bleak. While Fairbanks Memorial Hospital received $3.4 million and Valley Hospital in Palmer received $1 million in the supplemental appropriation bill which emerged from the legislature to complete their projects, there was little in the way of commitment to new projects. In the revised budget Cordova Hospital was listed for a $2 million grant towards its $15 million project but Wrangell's $9 million project received no mention. The Association will continue to work with legislative leadership in an attempt to augment the appropriations to hospitals.

FEDS PASS PROSPECTIVE PAYMENT

On March 24 Congress passed and sent to the President a massive overhaul of the Social Security System, including a new payment process for the Medicare system. In doing so, Congress accomplished in six weeks what would have taken the better part of two years under normal circumstances.

The new Medicare Prospective Payment system will be based on Diagnostic Related Groupings (DRG) which were developed at Yale University to create an effective framework to monitor the quality of care and perform as a utilization review tool in hospitals. In 1976 the state of New Jersey began a prospective payment system based on DRG's which now has effectively been spread nation wide for hospital inpatient services under Medicare. It does not include outpatient, psychiatric, or skilled nursing services.

The measure passed by Congress (HR 1900) creates a three year phase-in period moving from the current system based on 223 limitations through a phase of nine regional urban and rural rates to national urban and rural rates. During the three year phase-in period payments will be a blend of hospital specific average Medicare costs per discharge and a combination of national and regional payment rates based on DRG's. In the fourth year payments will be based totally on national urban and rural DRG based rates.

Capital costs are passed through until October 1, 1986. In the interim, Congress must determine how to pay capital costs and if it wishes to differentiate between capital costs incurred before and after March 1, 1983. If Congress fails to act on the capital cost question by October 1, 1986 states will be mandated to perform a review of all capital expenditures over $600,000 under Section 1122. The return on equity is reduced one third and appears to be eliminated on October 1, 1986.

Sole community providers will be subject to a blended rate which is 75% hospital specific, 25% combination of regional and national DRG based payments with a further adjustment by the secretary of HHS to fully pay the costs involved if the hospital's Medicare volume changes more than 5% one year to the next. This cost adjustment would be in effect for only three years. The fourth year sole community providers would be paid as other providers under the DRG system.

The measure included language which provides a special cost of living adjustment for both Alaska and Hawaii. Also of significance to Alaska is a one year suspension of the TEFRA provision which requires a single rate for hospital based and free-standing nursing homes.

JAMBOREE WRAP-UP

Long term care facilities in Alaska reported approximately $11,000.00 in contributions to the Alaska chapters of the Diabetes and Heart Associations as a result of Rock N' Roll Jamborees sponsored by nusing homes around the state. This money raised by nursing home residents, staff and volunteers will go to benefit public education, research and community service projects of these worthwhile charities, both in local areas and on the national level.

The marathon fundraiser traditionally features individuals rocking in rocking chairs and rolling in wheelchairs for donations pledged to them by members of the community. Each nursing home in Alaska, through their resident councils, elected to add to or "dress-up" the original idea of rocking and rolling. 1983 Jamboree activities in our state included a raffle for roundtrip airfare Outside, bake sales, quessing contests, costumes, and the election of Jamboree royalty. Entertainment for the rock n' rollers ranged from belly dancing and bagpipes to a dog sled demonstration. Residents sold (and ate) chili dinners, homemade pies and sweetbreads and the ever-popular Big Mac. We recieved one report of a long term care resident who swam to benefit charity.

The Jamboree was organized by the American Health Care Association in 1977 and has become one of the most popular events in the history of nursing homes.

NATIONAL NURSING HOME WEEK

Governor Bill Sheffield has set aside May 8 - 14, 1983 as the special week this year to honor nursing homes and their residents. The theme "Memories Were Made To Be Shared" emphasizes the fact that nursing home residents have contributed much to the history of our state and have many personal memories to share about the early life of Alaska. Many of our convalescing aged and chronically ill friends and relatives need contact with the community. Members of the Alaska State Hospital Association are sponsoring many activities during the week of May 8 - 14 to ensure that this important contact is reinforced. The primary focal point is the nursing home resident and National Nursing Home Week is a good time to visit the facility in your community and share with a friend.

NORTON SOUND HOSPITAL AWARDED RURAL GRANT

A proposal entitled "Audiology Measures for Reduction of Student and Employee Absenteeism", submitted by Jane Sabes, administrator of the Norton Sound Regional Hospital, was selected as one of the winners of the Association of Western Hopitals' Rural Health Care/Business Alliance Grant Award Program. The Nome hospital will receive $24,500.00 for audiometry testing equipment to provide screening for early detection of hearing problems. Sabes cites ear infections among workers and school-aged children as a major health problem experienced in the Arctic enviroment.

Funding for the project is provided through a grant to AWH from the W.K. Kellogg Foundation. The overall goal of the Rural Health Care/Business Alliance Program is to build a supportive relationship between rural health care providers and local business leaders for the mutual benefit of the community. David Jeppson, president of AWH, noted that "competition was keen and we believe the top proposals represent important contributions to the field of rural health care".

NATIONAL HOSPITAL WEEK MAY 8 - 14

May 8 - 14 has been designated by President Reagan as National Hospital Week. The theme for the week, "We Treat You Like Family" reminds us that hospitals in Alaska are like family to the communities they serve. A caring attitude characterizes our hospitals, often situated in isolated areas where indeed, they provide a primary health care resource. The Alaska State Hospital Association urges members and friends to participate in local activities planned to increase community awareness of the services provided by dedicated and skilled professionals who offer compassionate help in the hospital.

WESTERN NETWORK INST. FOR NURSE EXECUTIVES

The Western Network for Education in Health Administration has announced the second annual Western Network Institute for Nurse Executives to be held at the University of California, Berkeley, from July 23 - 30, 1983.

This is an intensive residential program designed for nurses who hold managment positions in hospitals and long term care facilities. Its core curriculum includes the Art of Nurse Management, Strategic Planning and Marketing, Financial Management and Advanced Managerial Strategies and Tactics.

According to the Institute's news release, "the curriculum will be presented in a problem-oriented format focusing on the application of theory to pratice."

A fee of $2,150 covers tuition, course materials, housing and meals. A 10% reduction of the fee will be granted when participants submit a completed application by May 1. For applications or further information, contact Catherine Robinson, Western Network for Education in Health Administration, School of Public Health, Warren Hall, University of California, Berkeley, CA 94720 (415) 642-1627.

EXAMS FOR CLINICAL LAB TECHS

The Health & Human Services' (HHS) Proficiency Examination for Clinical Laboratory Technologists will be held October 7, 1983 in Fairbanks and Anchorage. The exact locations have not yet been determined. Applications for the exam may be obtained from the Division of State Health Planning & Development, Health Facilities Certification & Licensing in the Frontier Building, 36th and C Streets, Anchorage, Room 508 or by writing the same at 3601 C Street, Pouch 6333, Anchorage, 99502-0333, phone: (907) 561-4350. A $35. fee must accompany the application.

The examination will be conducted by Professional Examination Services, 475 Riverside Drive, New York, New York 10115 and the applications must be submitted to them before June 30, 1983.

FELLOWSHIP SITE AT BRISTOL BAY HOSPITAL

The Bristol Bay Area Hospital at Dillingham has been selected by the Association of Western Hospitals as one of two sites for the 1983 Kellogg Rural Post-Graduate Fellowship Program. The other site selected is Delta County Memorial Hospital in Delta, Colorado.

The fellowship program provides rural hospitals an opportunity to obtain management assistance from a well-trained individual who has expressed interest in rural health and who is evaluating alternatives for placement in the field. John Dumbolton, administrator of the Bristol Bay hospital, will participate with AWH in the selection of an exceptional hospital/health graduate to assume a staff management position in the Dillingham hospital for one year beginning September, 1983. Dumbolton and the Kellogg Fellow will develop specific objectives and one or more special projects achievable within the year period of the fellowship.

Funding for the project is provided through a Kellogg Foundation grant, the AWH Educational & Research Foundation and the participating hospital. AWH advises they received 13 excellent site applications from throughout the western states. "We feel that both facilities ultimately selected offer a unique and valuable fellowship experience focusing on rural health concerns," the announcement stated.

AWH: 53RD ANNUAL CONVENTION

Industry professionals from hospitals, hospital associations, and other health care organizations from throughout the West will be meeting at the 1983 Association of Western Hospitals annual convention in Anaheim, California, April 24-27.

"Essentials for Excellence: New Directions in Health Care" is the theme of the 52rd annual convention and participants will be able to explore new directions in health care through a wide variety of educational programs. The 74 Western Instructional Conferences (WICs) offer an opportunity for in-depth examination of a broad range of health care issues including financial management, education and training, fund development, marketing, information systems, reimbursement, organizational models, planning and ambulatory care.

The $25. general registration fee admits participants to the opening and closing general assemblies and two special sessions, as well as the exhibit floor. Additional fees of $45., $65. and $100. cover the cost of attending WICs. Convention registration catalogs and additional information may be obtained by contacting the Association of Western Hospitals, 850 Market Street, CA 94102, (415) 421-8810.

THIS N' THAT

Humana Hospital Alaska has elected its medical staff officers. They are Richard Curtis, president; Robert Bosveld, president-elect; Leo Morresey, vice president; David Anderson, secretary-treasurer; Thomas J. Harrison, member-at-large; and John D. Frost, immediate past president.

Jane Sabes, administrator of Norton Sound Regional Hospital, has been recommended to the Board of Governors of the American College of Hospital Administration as a 1983 Nominee.

A sale of attic treasures was held mid-March to benefit the Wrangell Hospital Auxiliary. Proceeds from the sale will go toward the purchase of Resusic-Annes, used in teaching cardio-pulmonary resuscitation (CPR).

Three members of the Providence Hospital Auxiliary were nominated to receive the Volunteer of the Year Award according to Shirley Shaggs, volunteer manager for Providence. Nominated were Cleo Schoen, Billie Church, and Irene Durrant. The award will be presented at the annual awards luncheon on May 3rd.

The new intensive care unit at Central Peninsula General Hospital in Soldotna, opened on March 14. According to administrator Mike Lockwood, this is the first area of the $5.7 million construction project to be opened. The four-room intensive care unit will have complete monitoring capabilities including three telemetry monitoring units which will double the present hospital capabilities for the critically ill. The ICU will be manned 24 hours a day by specially trained nurses.

NORTHERN CARE

Published By

alaska state hospital association

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Juneau, Alaska 99801
(907) 586-1790

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BULK RATE
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The Honorable Mae Tischer
State House of Representatives
Pouch V
Juneau, AK 99811

Sources of $ to hospitals

25% CAPITAL CONST. REIMBURSEMENT

250,000 or 2500/bed operating grant

Capital budget appropriations

Tax free bonding capability via Alaska Medical Facility Authority

30-42% hospital REVENUES ARE from government (STATE & FEDERAL) funds

STATE MEDICAID from 2 million in 1972 to 70 million today.

Alaska State Legislature

House of Representatives

MAR 1 1983

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

cc to all committee members

MEMORANDUM

TO: Rep. Milo Fritz, Co-Chairman
Rep. Mae Tischer, Co-Chairwoman
House Health and Social Services Committee

FROM: Rep. Jack Fuller, Chairman
House Rules Committee

DATE: March 1, 1983

RE: House Bill 19 - Certificate of Need

Attached for your files and information is back-up information relating to House Bill 19.

The Norton Sound Health Corporation has offered recommendations for consideration to the proposed legislation.

Thank you.

FEB 28 1983

NORTON SOUND
HEALTH CORPORATION

P.O. BOX 966
NOME, ALASKA 99762
(907) 443-5411

February 24, 1983

Representative Jack Fuller
Pouch V
Juneau, Alaska 99811

Dear Jack:

HOUSE BILL 19 - CERTIFICATE OF NEED

OPINION-

ADVANTAGES TO CON

There are distinct advantages to the CON process if those working within the division are truly dedicated to their objective of supplying adequate health care for the area.

(1) The state dept of health planning can gather and supply data relevant for planning to hospitals lacking time and expertise for such essential information prior to a proposed building or equipment acquisition.

(2) In the review process, CON requires and assists hospitals in the formidable steps so necessary but not infrequently overlooked or ignored - public input, avoiding duplicity of services....

DISADVANTAGES TO CON

(1) Public Health Service (federal) hospitals are exempt. ALL health care facilities should be required to participate - or none.

(2) Current lengthy process.

(3) Planning should be for the sake of planning - not tied to funding levels. If improper planning and building (or equipment acquisition) the institution will eventually find the funding not meeting expense.

While the battle wages between the State Hospital Assn and Blue Cross, between Humana and Providence Hospitals of Anchorage I must still maintain that the CON advantages outweigh the disadvantages WITH the following modifications:

(1) Demand the state health planning office to streamline the CON review process-currently lengthy and costly. The entire process should be fashioned after an employee grievance system-three steps, brief periods of time in which to respond back to the employee.

(2) Begin to accept the fact that in this day of Medicare, Medicaid, IHS and even private philanthropic dollar reductions responsible health care providers would be fiscally foolish to act in any other than a judicious way - not adding one additional service, bed, staff, or squre foot that would be "unprofitable" - even to a non-profit establishment. This is where I agree with the President that free enterprise will rule if allowed.

(3) The state health planning agency should establish a long range goal to develop expertise and assistance "in the field" in health planning - assuming more an advocate or assistant rather than an adversary role.

(4) Require ALL hospitals - federal, state, private, etc - to participate in the CON process.

There are my opinions in a nutshell. My prayers are with you that heaven will assist you in this and all your deliberations to cut through subjective opinions and see only what would be best for the people, the state, the country.

Cordially,

Jane Sabes
NORTON SOUND REGIONAL HOSPITAL
Hospital Administrator

ne

PS I'd love to view the legislative process, especially on a health issue. How does one go about that? A response from your secretary will suffice. Thank you.

2-25-83 9:40 AM

MAE-MED:

ENTITLEMENTS OUTSTANDING AS of JULY 1, 1983
(FY84) 25% HOSPITAL REIMBURSEMENT

FAIRBANKS MEMORIAL	1,215,281	1 YR REMAINING
JUNEAU DETOX FACILITY	75,059	3 YRS REMAINING
KENAI - CENTRAL PEN. HOSPITAL	2,167,338	4 YRS REMAINING
	# 3,457,678	

Proposed Amendment to SSHB 19

By Dem. H

Section 4 AS 29.90.010 - 29.90.030 is Repealed

Section 5. Those hospitals or health facilities which are currently receiving funds pursuant to ~~sections~~ AS 29.90.010-29.90.030 shall continue To receive construction AID as Though AS 29.90 were not repealed until its entitlement is satisfied. No new applications shall be received a processed after the effective date of this legislation

Mike Maher
Corrections
Mary Hess

The proposal to ~~establish~~ change the division of corrections within DHSS to ~~a~~ departmental status is one that is supported by the governor's office, correctional professionals and the Health Education and Social Services Committee.

Dealing with the correctional crisis is one of the governor's ~~prime~~ primary objectives for this session, and as responsible legislators, it should be ours too. Knowledge of the crisis — the overcrowding, the mismanagement, the poor conditions, the lack of rehabilitation and the rest ~~are all too well~~ is common. The Clearycase, as you know too well, brings the problem to rest in the laps of both the legislature and the executive departments.

As pointed out by the Governor's task force on Corrections, cooperation between the three branches of government is necessary to solve the problem.

Fortunately, the problem can be solved with proper administration, budgeting, and organization. Correction of the problems identified by the ~~previous~~ task force, begins with proper management. The ~~best~~ solution is to develop a Department of Corrections and establish a Commissioner in charge of that Department who can build a management team dedicated to the solution of Alaska's

Alaska Health Coalition

529 5th Avenue, Suite 8
Fairbanks, Alaska 99701
(907) 456-2553

FEB 23 1983

February 17, 1983

The Honorable Bill Sheffield
Governor, State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

We were dismayed to discover that funding for Alaska'a three Health Systems Agencies (HSAs) was not included in your FY84 budget.

During your campaign, you responded very positively to our "Health Issues Questionnaire." We were greatly encouraged to learn that you strongly supported a formal mechanism for citizen participation in State health program decisionmaking and that you felt that HSAs were an appropriate avenue for that involvement. You answered the questionnaire by saying that you support raising State funding for each HSA "to at least $300,000 to maintain citizen involvement in health care decisions at the local level."

Because of recent Congressional action, each HSA in Alaska will receive $100,000 from the U.S. Department of Health and Human Services in FY84. This is a 63% decrease from FY82. Therefore it is critical that HSAs receive $200,000 in State support to prevent their demise.

I would suggest to you that HSAs have provided the only real means for public involvement in health care decisionmaking at the State, regional, and local levels. HSAs enable effective citizen participation in grant and Certificate of Need reviews, in planning, and in resource ddvelopment. Because of this input, the State has been able to direct its resources to areas of greatest need in efficient and effective ways. Also, the State has been able to avoid unnecessary duplication and to prevent unneeded service expansion, resulting in savings of several million dollars in the last six years. In addition, HSAs provide technical assistance to communities and organizations in ways that improve service effectiveness and continuity of care and promote development of new, needed services and facilities.

The publication I have enclosed, "Public Involvement in Health Care Decisions" summarizes the activities of the three Alaska HSAs. It also describes the important services which would be lost to the public if HSAs do not receive adequate State support. I hope you will take the time to familiarize yourself with the many significant accomplishments

Coalition Members

J. B. Carnahan, Fairbanks; Joseph Cladouhos, Juneau;
Charles Kaltenbach, Dr. P.H., Fairbanks; Steve Lesko, Anchorage;
John Manning, Ketchikan; Lillie McCarvey, Anchorage; Art Willman, Sitka; Margaret Wilson, Anchorage

that HSAs have made in the health care system of Alaska. The Alaska Health Coalition believes the Health Systems Agencies have earned a place within the health care system in this State and we urge your support for their continued operation.

Sincerely,

Charles M. Kaltenbach

Charles M. Kaltenbach, Dr. P.H.
Chairman

CMK:flr

cc: Robert London Smith, Ph.D.
Commissioner, DHSS
Senate HESS Committee
Senate Finance Committee
House Hess Committee
House Finance Committee
Alaska Health Coalition
The Honorable Don Clocksin





Public Involvement in Health Care Decisions



At Risk

Alaska's three Health Systems Agencies, funded by State and Federal dollars since 1976, will cease to exist unless funds are restored to the State budget or appropriated by the Legislature this session.

WITHOUT HEALTH SYSTEMS AGENCIES AT THE REGIONAL LEVEL THERE WILL BE:

* NO opportunity for public discussion at the regional level of the impact of health care programming and funding decisions.
* NO public participation in deciding the future of local health care services. (Decisions will be made in Juneau.)
* NO technical assistance for agencies, organizations, and communities from a non-aligned organization with experienced staff.
* NO regional efforts to promote health.
* NO regional coordination to focus on health-related issues of mutual concern.
* NO independent assessments in the public interest of issues related to health care cost containment.
* NO regional source of information related to health status measurement, health service utilization, health-care quality issues, and health care costs.

THERE WILL BE DUPLICATION OF DATA COLLECTION AND ANALYSIS, RESEARCH, SYSTEMS MANAGEMENT ACTIVITIES, AND PROGRAM DEVELOPMENT.

THERE WILL BE UNNECESSARY EXPANSION OF SERVICES AT EXCESSIVE COSTS TO THE TAXPAYER.

Our Past and Present

Three Health Systems Agencies (HSAs) serve the State of Alaska.

The **Northern Alaska Health Resources Association** serves the North Slope and Fairbanks North Star Boroughs and the areas encompassed by the Arctic Slope, Doyon, and NANA Native regional corporations.

South Central Health Planning and Development serves the Municipality of Anchorage and the areas covered by the Bering Straits, Calista, Bristol Bay, Aleutians, Kodiak, Copper River, North Pacific Rim, and Cook Inlet Native regional corporations.

The **Southeast Alaska Health Systems Agency** serves the Southeastern panhandle.

These HSAs were established by Public Law 93-641 in 1974 to plan for the rational development of health care resources within their regions by providing staff to governing boards composed of a representative cross-section of providers and consumers of health care services. As was the case in other states, the State of Alaska provided funds to supplement the federal grant awards and, consequently, has enjoyed an efficient and mutually beneficial relationship between State officials and planners and their local constituents.

The legal responsibilities of the HSAs are as follows:

A. To improve the health of residents of the health service areas.
B. To increase the accessibility (including overcoming geographic, architectural, and transportation barriers), acceptability, continuity, and quality of health services.
C. To restrain increases in the cost of providing health care.
D. To prevent unnecessary duplication of health care resources.
E. To preserve and improve advantageous competition in the health service area.

These responsibilities are carried out through the development of a long-range health plan and a short-range action plan; reviews of various federal and State grant applications; community assistance with needs assessments, evaluations and plan implementation; and technical assistance to agencies and organizations. These functions are closely coordinated with the respective State agencies which build and expand on our local and regional activities to construct appropriate State-level plans, studies, and policies.

While all this is accomplished on a regular basis by each of the three HSAs, each agency has also recognized the need to tailor its particular work program to the unique requirements and circumstances of its individual health service area.

These activities have helped to:

- **Improve the health status of Alaskans.**
- **Contain the costs of health care.**
- **Improve access to needed health services.**
- **Involve the public in decision-making about the current and future health care delivery system for their communities.**
- **Tailor health service and facility development to the unique needs of each community.**

Our Future

Decreasing support at the Federal level has given Alaska's HSAs a chance to reassess our activities and to discard irrelevant federal requirements. We now have more opportunity to meld our activities to the health systems needs of the regions and communities of Alaska.

The three HSAs have formed the Alaska Health Coalition to encourage responsible participation by the State in health planning and decisionmaking and to support those activities which are vital to the health of Alaska's citizens. The essential program areas are:

COMMUNITY ASSISTANCE

Regional health resources organizations should be available to assist communities and citizen groups in defining health problems in their communities and in identifying solutions to those problems, through:

A. Organizing key individuals for action.
B. Gathering ideas and opinions on identified issues.
C. Analyzing problems and assisting in the development of local strategies for their amelioration.
D. Assisting communities in the implementation of identified strategies.
E. Providing assistance to individuals and organizations in the preparation of funding applications, program development, and evaluation.

HEALTH PROMOTION

Because many of the health problems in the state are related to lifestyle and individual behavior, the resource organizations will seek to improve the health status of Alaskans, by:

A. Determining the prevention and health promotion needs of the regions.
B. Assisting existing programs to improve their effectiveness through coordination and cooperation with other programs.
C. Providing a forum for prevention and health promotion interests.
D. Developing new prevention and health promotion programs to meet the special health needs of Alaskans.

REGIONAL ADVOCACY

To allocate limited resources in a rational and equitable manner, it is necessary to examine individual community needs in relation to the needs of the region and the state as a whole. A framework for providing and communicating this perspective will be accomplished by:

A. Maintaining a regional and local capability to provide current, accurate, health-related data for planning and program development
B. Providing a forum for local grant applications and proposals for new institutional health services and facilities.
C. Providing the Legislature and the Department of Health and Social Services with regional perspectives on health-related issues.
D. Assisting State, local and regional organizations and the Government by conducting research on health-related issues.

HSAs are the forum through which citizens influence the development of health-related services for Alaska. As arenas for participatory democracy, HSAs assist communities, agencies, and individuals to define needs and achieve goals for health resource development. As regional advocates, HSAs bring the concerns of local residents to the attention of the Alaska Legislature and State government. As agents for improving the health of the people, HSAs direct their energies to health promotion and disease prevention, aiming toward increases in the overall health status of the population. **These activities are essential to the continuation of community self-determination in the area of health service development.**

Some of Our Recent Activities

COMMUNITY ASSISTANCE

- SCHPD* assisted the Kenaitze Tribe to establish a clinic.
- NAHRA** helped to establish a patient hostel in Fairbanks.
- SCHPD supported the development of Hospice in Anchorage and Home Health Care, Inc., of Anchorage.
- NAHRA supported development of the Arctic Alliance for People, an association of human service providers in the Interior.
- SCHPD administered a contract for safety week fairs in Sand Point and King Cove.
- NAHRA analyzed the effectiveness and efficiency of Fairbanks Rehabilitation Association's respite care programs.
- SCHPD explored the issues surrounding provision of health care to non-Natives in Bethel.
- SEAHSA*** developed information and assessed the impact of government funding cuts in Ketchikan.
- SEAHSA assessed alternatives for program design and funding sources in Ketchikan.
- NAHRA, SCHPD, and SEAHSA conducted numerous service-specific needs assessments.
- SCHPD trained the Yukon-Kuskokwim Health Corporation Board and staff on health planning, assessment, and management issues.
- NAHRA, SCHPD, and SEAHSA conducted a survey of primary care clinics in rural areas on behalf of DHSS.
- SEAHSA and SCHPD assisted Kake and the Mat-Su Borough to develop community health plans.
- SCHPD provided technical assistance to the Whittier Health Committee.
- NAHRA assessed alcoholism treatment services in Fairbanks and alcohol counselor training in the northern region.

HEALTH PROMOTION

- NAHRA and SEAHSA funded six community-based health education programs.
- SEAHSA developed a boating safety curriculum for grades 7-12.
- SCHPD sponsored a "Health Promotion at the Workplace" conference, with 120 participants.
- SCHPD established a Tel-Med service in Anchorage, with plans to expand to other parts of Alaska.
- NAHRA implemented Alcohol Awareness Week in the Greater Fairbanks area.
- SCHPD developed a resource guide for community health fairs.
- NAHRA published a Health Promotion Resource Directory.
- NAHRA, SCHPD, and SEAHSA wrote a manual for communities to use in establishing health education in their schools.
- NAHRA, SCHPD, and SEAHSA assisted with numerous community health fairs.
- SCHPD established an ongoing Health Promotion at the Workplace working group.
- NAHRA and SCHPD organized child passenger safety groups in Fairbanks and Anchorage.
- NAHRA, SCHPD, and SEAHSA provided information and assistance to various school districts on health education curricula development.
- SCHPD participated in the organization, planning, and leadership of workshops at the Alaska Native Health Board Health Conference.
- NAHRA and SCHPD developed health education legislation.

REGIONAL ADVOCACY

- NAHRA, SCHPD, and SEAHSA developed documents, through public involvement, which identify health problems and health service delivery concerns and propose solutions.
- NAHRA, SCHPD, and SEAHSA provided regional data and evaluation comments for use in the State Health Plan and the Maternal and Child Health Plan.
- NAHRA, SCHPD, and SEAHSA reviewed and commented on proposals for State and federal funding for programs such as mental health, alcohol, and drug abuse (on request of the funding authority).
- NAHRA, SCHPD, and SEAHSA reviewed major capital expenditures by facilities under the Alaska Certificate of Need program, including:
  - Free-standing birthing center in Juneau.
  - Changes in Petersburg Hospital.
  - Re-financing of Alaska Hospital.
  - Expansion of Central Peninsula General Hospital.
  - Replacement of Valley Hospital, Palmer.
  - Replacement and improvement of computer tomography equipment at Alaska Hospital.
  - Free-standing inpatient rehabilitation facility by Alaska Treatment Center.
  - Replacement of Cordova Hospital.
  - Mini-computer system for clinical

lab at Providence Hospital, Anchorage.

- Digital fluoroscopy at Providence Hospital, Anchorage.
- Development of an 80-bed substance abuse/psychiatric facility by Charter Medical Corporation.
- Development of a substance abuse facility by Advanced Health Systems.
- Replacement and expansion of an ambulatory surgery center in Anchorage.
- Expansion of Humana Hospital emergency department.
- Installation of a hospital information system at Providence Hospital, Anchorage.
- Expansion of Fairbanks Memorial Hospital.

* SCHPD — South Central Health Planning and Development, Anchorage
** NAHRA — Northern Alaska Health Resources Association, Fairbanks
*** SEAHSA — Southeast Alaska Health Systems Agency, Ketchikan

HESS —7

What is South Central Health Planning and Development, Inc.(SCHPD)? South Central Health Planning and Development, Inc., like the other two Health Systems Agencies in Alaska, is a non-profit corporation run by a volunteer board of directors established for the purpose of improving the health of residents, increasing the accessibility, acceptability, continuity and quality of health services provided to the population, restraining increases in the cost of providing health services, and preventing unnecessary duplication of health services.

SCHPD serves the 270,000 residents of south central and western Alaska. The service area encompases eight of the twelve Native regional corporation areas: Norton Sound, Yukon-Kuskokwim, Kodiak, Bristol Bay, Copper River, Cook Inlet, North Pacific Rim, Aleutian/Pribilof Islands. The Municipality of Anchorage is designated as a ninth subarea in the total service area.

While all the residents of the area are affected by the decisions of the agency, SCHPD works most closely with: 1) health care providers, including physicians, nurses, representatives from the 16 hospitals in our area, staff from the 8 non-profit health corporations in the area, directors of mental health and alcohol/drug abuse programs, Indian Health Service representatives (on health care cost and health promotion at the workplace issues), community residents who desire technical assistance for the development of proposals for new health services, Boards of health programs who desire training on effective functioning, and others.

The volunteer Board members of SCHPD with help from the staff they hire, provide a process for public involvement in the decisions as to how public money is to be spent in health care. With an ever increasing portion of public (State and Federal) dollars being spent on health services through Medicare, Medicaid, revenue-sharing, mental health and alcoholism programs, risk reduction grants, direct appropriations for capital expenditures (to name a few) public input into the form and organization of those services becomes even more critical.

The public involvement process as implemented by SCHPD has meant:

- -continual coordination with providers and consumers on health care delivery issues in the development of planning documents, on committees and task forces, public meetings;
- -publication, at least annually, of short-range plans listing high priority areas of concern in south central and western Alaska;
- -publication and distribution of periodically updated long-range plan that analyzes health problems and establishes a framework for development of health services by size of community;
- -public review of any Certificate of Need proposals (the only opportunity for the public to review and comment on any analysis of proposals submitted);
- -provision of data to communities, elected officials, health care providers to justify and/or evaluate health care expenditures;
- -public meetings in communities, technical assistance to communities;
- -other involvement in health issues, such as sponsorship and organization of a Health Promotion at the Worksite conference attended by over 200 participants.

South Central
Health Planning and Development, Inc.
1135 West Eighth Avenue • Suite 1 • Anchorage, Alaska 99501
(907) 278-3631

February 16, 1983

FEB 18 1983

Mae Tischer
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

The Executive Committee of South Central Health Planning and Development, Inc., met on February 14 to consider our future as a regional health planning agency. In order to continue our activities beyond May 31, 1983, the end of our grant year, we need to have some assurance of funding from the State. We are asking that an amount of $200,000 for each of the three Health Systems Agencies be reinstated in the budget.

As we understand it, your subcommittee is now in the process of reviewing the DHSS budget. Alaskan Health Systems Agencies, established in 1976, have received Federal and State grants each year of our operation. Commissioner Beirne told us HSAs were not included in the proposed budget this year for two reasons. First, the Division of Corrections was consuming an increasing portion of the Department's resources. Since then, the new administration has proposed changes in the organization with respect to Corrections services. Second, at the time the budget was drafted, there was no indication Federal money was going to be available. However, Congress has since passed a continuing resolution providing for funding of HSAs at last year's levels.

Continuation of Federal funding at last year's levels means a basic grant of $100,000 plus $15,000 in match (at 30¢ on the dollar for the $50,000 State grant). The chart on the next page shows grant amounts received for the last six years. In addition to the $200,977 in Federal and State money received this last fiscal year, we had approximately $40,000 in carry-over. Therefore, a $200,000 grant from the State would mean a reduction in funding from FY 1980, 1981, 1982 levels. It would mean a slight increase from the latest year. During the past year all staff (except one) are working on a half-time basis due to the budget cuts.

Amount	Federal	State	Total
FY 1983	150,977	50,000	200,977
FY 1982	298,377	100,000	398,377
FY 1981	353,310	100,000	453,310
FY 1980	234,902	125,000	359,902
FY 1979	175,000	125,000	300,000
FY 1978	175,000	125,000	300,000

We urge you to rectify the error made by the Department in excluding funding for the three organizations that provide a forum for public involvement in health care decisions. (See attached page for brief summary of our responsibilities.)

If you have any questions about our organization do not hesitate to call me or the President of the Board, Lillie McGarvey.

Sincerely,

Margaret M. Wilson

Margaret M. Wilson
Executive Director

MMW/ab

Enclosure

In This Issue
- Governors' Health Messages
- The FY 1984 Health Budget

STATE HEALTH NOTES

Number 32
January 1983

Intergovernmental Health Policy Project, George Washington University, Washington, DC 20037

Governors' Health Messages

The governors' state of the state and inaugural messages not surprisingly concentrated on the state of their separate economies. Controlling state budgets is clearly the dominant priority among the states' chief executives. Among the states, deficits for the remainder of their fiscal years are estimated at $1.6 billion in **CALIFORNIA**, $530 million in **NEW YORK**, $260 million in **WISCONSIN**, $164 million in **PENNSYLVANIA**, $150 million in **NEW JERSEY**, and the list continues. Governor Nigh of **OKLAHOMA** reported that a revenue shortfall has occurred for the first time in the state's history.

A recent survey by the National Conference of State Legislatures shows that 19 states are incurring deficits for the current fiscal year and another 13 are operating on very slim margins between revenues and expenditures.

Interestingly, very few governors singled out their Medicaid programs for major reductions or constraints in order to help bring their budgets into balance. Most apparently are reasonably satisfied with the initiatives their states have taken over the past year or two to control the rates of growth in their Medicaid budgets.

GEORGIA'S new Governor Harris specifically pointed to the need for new efforts in Medicaid fraud and abuse control, improved claims review and recovery of overpayments, and a careful study of various alternative reimbursement structures under Medicaid. **NEW YORK** Governor Cuomo intends to recommend a Medicaid Reform Program, which will include major financial and programmatic restructuring. The plan, according to the governor, will enable the state to institute appropriate cost controls, improve access to health care, and strengthen the state's oversight capability through audits and utilization review.

Two governors—Rockefeller of **WEST VIRGINIA** and Lamm of **COLORADO**—made specific references to the need for the regulation of hospital costs. Governor Rockefeller singled out a tripling in state expenditures for public employee health insurance benefits since 1976 as a key reason for his support for a hospital rate setting commission. Governor Lamm referred to the unemployment rate plus increased federal cost containment efforts as reasons for expanding state cost containment measures. In addition to rate regulation, the governor urged the legislature to consider competitive bidding by providers for Medicaid contracts and insurance reform packages.

Acknowledging that hospital costs in **NEVADA** are the highest in the nation—41 percent higher than the national average —Governor Bryan called for several cost containment strategies, e.g., performing day surgery where appropriate and shortening hospital stays. The governor also intends to submit legislation to require understandable billing procedures to reduce the chances of patients being billed for services not received.

Governors Lamm, Anaya (**NEW MEXICO**) and Garrahy (**RHODE ISLAND**) used their inaugural addresses to reconfirm their support for strong certificate of need (CON) legislation. Governor Lamm declared that the state's CON program had saved almost $38 million in health costs over a three-year period, while Governor Garrahy pointed to $42 million in savings to his state over the past decade. Governor Lamm also urged the legislature to consider a limitation on the total yearly amount of capital expenditures made by hospitals.

LESLIE LONGENBAUGH
RESEARCH STAFF

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE (907) 465-3991

see next pg., too

Governor Cuomo took the opportunity to announce he was ordering a one-year moratorium on the issuance of any new certificates of need. During the one-year moratorium, the Department of Health, in cooperation with other state agencies, is directed to design a new capital budgeting process for hospitals, nursing homes and clinics. The new process is designed to provide the state with the ability to analyze relative need among projects, as well as specific elements in the proposals.

The governors made very little mention of moving away from regulatory strategies and in the direction of containing costs through greater competition. **ARIZONA's** Governor Babbitt was a major exception, however. The governor mentioned the state's repeal of certificate of need legislation in 1982 and deregulation of nursing homes as examples of the state's contribution to removing artificial subsidies in the health care delivery industry. The governor identified three new initiatives he will support on behalf of furthering competition: 1) requiring health care institutions to participate in a uniform billing and discharge data reporting program; 2) prohibiting tax exempt bond issuing bodies from providing tax exempt financing for health care institutions which maintain overall occupancy rates below 85 percent; and 3) creating programs which encourage state employees to be more sensitive about costs in choosing between health care options.

With regard to the state's employee health insurance program, the governor will seek legislative action to establish an employee rebate program for employees selecting lower cost health care insurance plans and to require contracting indemnity insurers to offer plans with varied copayment levels.

Prevention ranked high on the priority list of the governors of **ALASKA, ARIZONA, NEW MEXICO** and **RHODE ISLAND.** Governor Garrahy identified the need to reassess health insurance coverage with a goal of emphasizing coverage for less costly preventive care. Governor Babbitt will seek legislative action to develop health promotion and education programs for state employees and to require contracting indemnity insurers to allow payments for preventive health measures.

The need for expanded alcoholism services received a fair amount of attention. Governor Cuomo will support legislation mandating private health insurance coverage for alcohol treatment. Governor Rockefeller called for an increase in the state tax on alcoholic beverages and a dedication of the revenues to alcohol treatment programs. And Governor Anaya identified alcoholism prevention and services among the top priorities of his administration.

Improving mental health services was a key priority of the governors of **INDIANA, NEW HAMPSHIRE, NEW YORK** and **NORTH DAKOTA.**

A commitment to expanding home and community-based services for the elderly was mentioned by the governors in **NEW MEXICO, MARYLAND, NEW JERSEY,** and **NEW YORK.**

Governor Rockefeller and **MINNESOTA** Governor Perpich spoke of the need to restore medical benefits that had recently been cut. Rockefeller requested a revision in the state's corporate income tax to provide additional revenues for restoring some cuts and financing the federal match to receive federal funds under the primary care health block grant.

Governor Matheson of **UTAH** called for state assumption of the county medically indigent program.

The FY 1984 Health Budget

President Reagan's Fiscal Year 1984 budget proposes a number of far reaching reforms in the financing of health care. Most of the reforms concentrate on the Medicare program, with very little attention given to Medicaid. The major ingredients of the President's Health Care Incentives Reform plan are: 1) extending Medicare coverage for catastrophic illness; 2) restructuring beneficiary cost-sharing under Medicare; 3) establishing a prospective rate structure for hospitals under Medicare; 4) limiting the current tax subsidy of higher cost private health insurance plans; and 5) establishing a voluntary voucher program to permit Medicare beneficiaries to enroll in private health plans.

To underscore the need for substantial reforms in health care financing, the Administration points to some alarming statistics. In 1982, health care costs went up almost three times the national inflation rate. The cost of health insurance rose 15.9 percent in 1982, the biggest increase ever. Over the last five years, Medicare

costs have increased at an average annual rate of 19 percent. And in 1983, Medicare and Medicaid will spend as much *every month* as they did during the entire year of 1966, their first full year of operation.

According to the Administration's restructuring initiative, Medicare beneficiaries will continue to pay a deductible equal to one day of hospital care, but a copayment equal to 8 percent of the deductible will be required for each day of hospital care from the 2nd through the 15th day. From the 16th through the 60th day the copayment will be reduced to 5 percent of the deductible (currently, no cost-sharing is required from the 2nd through the 60th day). After the 60th day, beneficiaries would face no further financial obligation for hospital costs for the remainder of the year.

With respect to reimbursement reform, the budget assumes the implementation of a prospective payment system on a per-case basis, adjusted by diagnosis and patient characteristics. The diagnosis-related group (DRG) classification system would serve as the basis for the case adjustments.

Under the Administration's proposed Voluntary Voucher program, beneficiaries will enjoy the option of receiving services through a private health benefits plan, rather than through the Medicare system. If a beneficiary selects alternative coverage, the government would pay an amount equal to 95 percent of the per person costs under the Medicare program.

At the heart of the Administration's Incentives Reform plan is a proposal to limit the current tax subsidy of higher priced health insurance plans. If the plan is adopted, tax-free treatment of employer contributions to employee benefits would be limited to $175 a month for family coverage or $70 a month for individual coverage. According to the Administration's estimates, about 30 percent of those with employment-based health coverage currently receive employer contributions above those limits. An additional $2.3 billion in tax revenue is anticipated in FY 84 as a result of this initiative.

The Administration projects that, if Congress accepts its reform proposals, Medicare payments will reach $63 billion in 1984—13.2 percent higher than the current estimate for 1983. The Administration claims, however, that the rate of increase would be 16.3 percent absent its legislative proposals.

Other significant initiatives in the FY 84 budget affecting Medicare include: freezing physician reimbursement for one year; modifying the rate of increase in Part B premiums; indexing the Part B deductible to the Medicare Economic Index; eliminating mandatory utilization review by hospitals and skilled nursing facilities; and authorizing DHHS to employ competitive purchasing procedures for the procurement of laboratory services, durable medical equipment and other medical supplies for beneficiaries.

The FY 84 budget is marked by the absence of any significant new reform proposals for the Medicaid program. The budget recommends an extension of the reductions in federal payments to states for Medicaid (as originally provided in the 1981 Reconciliation Act) by 3 percent beginning in 1985 and continuing indefinitely. A state could, however, offset the reductions if it managed to contain its expenditures below specified limits. The budget also includes a recommendation to require states to impose nominal copayments on the categorically and medically needy for physician, clinic, and hospital inpatient and outpatient service. Finally, the budget contains a provision which would require applicants, as a condition of eligibility, to assign their health insurance rights to the state Medicaid agency.

Once again, the Administration's budget contains no request for health planning activities, which is in keeping with its policy to eliminate federal involvement in health planning at state and local levels.

The FY 84 budget contains a request for $1.357 billion to fund the four health block grants (Preventive Health at $85 million; Alcohol, Drug Abuse and Mental Health at $439 million; Primary Care at $460 million; and Maternal and Child Health at $373 million). The Administration intends to submit legislation to include three additional programs in the Primary Care block grant: Migrant Health Services, Black Lung Clinics, and Family Planning. The budget further proposes to consolidate the administration of the block grants within the Office of the Assistant Secretary for Health.

Reports and Publications

A new study commissioned for the Federal Trade Commission details the trends in the evolution of three separate kinds of health care services: retail dentistry, freestanding emergency care centers, and freestanding surgery centers. The study provides a descriptive overview of the three types of services and identifies various factors impeding their growth. It provides some answers to four broad questions: 1) How does the growth of entrepreneurial medical/dental services vary across states because of differences in licensing requirements? 2) How do reimbursement practices of commercial insurers and of medical and dental service plans impact on the growth of these entities? 3) How are these services being marketed and to what types of consumers? 4) Is there any evidence of competitive responses by traditional health care providers? Copies of the report, entitled *Entrepreneurial Trends in Health Care Delivery: The Development of Retail Dentistry and Freestanding Ambulatory Services*, are available free on a limited basis. Request document number IH-83 from Michael Pollard, Room 272, FTC, Washington, DC 20580.

The Institute for Health Planning recently published several monographs which should be of interest to health policymakers. The publications include: *State Health Care Cost Containment: A Review of Strategies* ($9.00); *Health Care Vouchering and Competition* ($8.00); *A New Era for State Health Planning* ($8.00); *Issues in Health Block Grant Funding* ($7.00); *Bidding for Long Term Care Patients* ($8.00); and *Altering Incentives in Health Care Delivery* ($6.00). To order copies write to: IHP, 702 North Blackhawk Avenue, Madison, WI 53705.

State Health Highlights

• A **NEW YORK** bill (S 737, A 817) would amend the state's Medicaid law to require programs to provide recipients with the means to make a fully informed and independent choice from among licensed health and mental health providers.

• A **COLORADO** bill (HB 1184) would prohibit hospitals from denying or limiting staff privileges or the use of hospital facilities to any health care provider licensed to perform surgery, or from discriminating against such providers on any basis other than training, experience, or demonstrated competence in their field of practice.

• A **NEW MEXICO** bill (HB 20) would require any health care practitioner advertising services to the public to state in the advertisement his name, address, telephone number, and the designation of the profession in which he is licensed to practice.

• **NORTH CAROLINA** recently decided to replace Blue Cross-Blue Shield coverage for state employees with a self-insurance plan. The new plan provides for a $100 deductible with 5 percent employee coinsurance up to $2,000, and full coverage thereafter. The plan also removes limits from hospital and physician reimbursement, which had been frozen for over a year.

• **CALIFORNIA** enacted legislation (AB 2346, Chapter 1304) permitting physician assistants to form professional corporations and to render professional services in the name of a corporation. The law also allows registered nurses to be shareholders in a physician assistants' corporation, and physician assistants to be shareholders in a nursing corporation.

STATE HEALTH NOTES

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For subscription information, write: Dick Merritt, State Health Notes, 2100 Pennsylvania Ave., Suite 616, Washington, D.C. 20037

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innovations

Southern Innovations Selected

Innovative programs from Florida, Louisiana and Mississippi have been selected for further study by a committee of the Southern Legislative Conference (SLC) of The Council of State Governments.

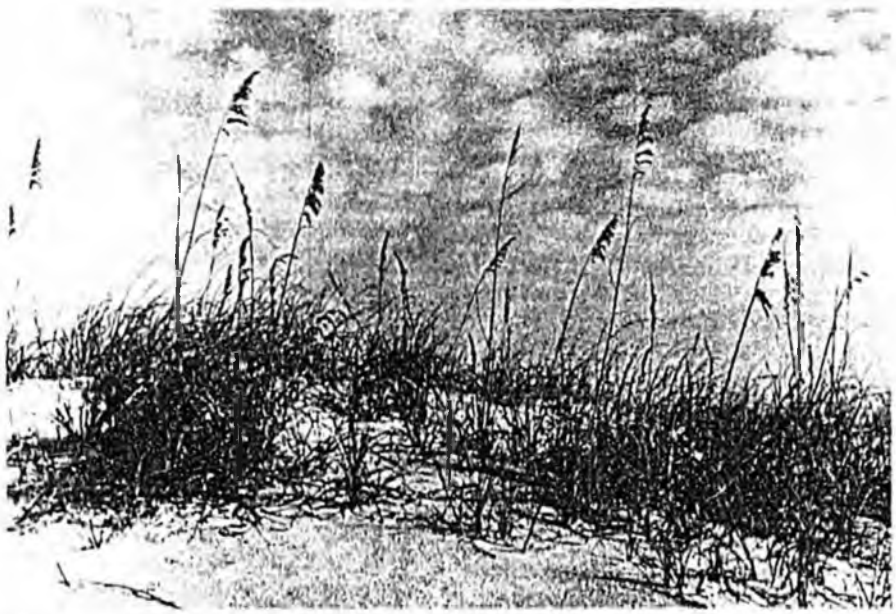
Selected were: Florida's Inmate Tutorial Program to reduce illiteracy among inmates; Louisiana's Computer Information System to provide senators information quickly and conveniently; and Mississippi's Variable Compensation Plan to eliminate automatic cost-of-living increases and place the emphasis on productivity.

The innovations panel met during the SLC annual meeting August 29-Sept. 2 in New Orleans. Members included: Michael Baer, secretary of the Louisiana Senate; Betty Button, executive director of the Texas Senate Committee on Human Resources; Rep. Charles Capps, chairman of the Mississippi House Constitution Committee; Rep. John Paul Capps, Arkansas house speaker designee; Sen. Riley Darnell, chairman of Tennessee Senate Fiscal Review Committee; David Iannucci, supervisor of legislative drafting in Maryland; George Oliver, director of research for South Carolina Joint Appropriations Legislative Review Committee; David Poynter, clerk of Louisiana House; Rep. Bill Presnal, chairman of Texas House Appropriations Committee; and Delegate Larry Schifano, chairman of West Virginia House Health and Welfare Committee.

Among state programs not selected for further study are the following:

Florida's Coastal Construction Control Line Program—The goal of this program is to preserve Florida's beaches and dune areas. It regulates coastal construction seaward of a control line that was established after lengthy public hearings throughout the impacted sandy beach areas. The program is designed to save beaches and beachfront property by allowing only building designs that will stand the test of wind and wave and that will help preserve the dune system.

Contact: Elton J. Gissendanner, Dept. of Natural Resources, Tallahassee (904) 488-1555.



Florida is protecting its beaches and sand dunes.

Local Health Planning Councils—A new law passed by the Florida legislature preserves local input into the health planning and the Certificate of Need process by establishing "local health councils" financed by Certificate of Need applications. Councils will: develop district plans for use in the Certificate of Need process, assist in the allocation of health care resources, and aid in developing competitive alternatives. Board members are appointed by local units of government. Consumers and major purchasers of health care are required to form a majority of the members; providers make up the balance. The official review time for a Certificate of Need has been cut in half, from 90 to 45 days. The new law also creates a 17-member task force to explore health care costs and competition; it will report its findings and recommendations to the governor and the legislature over a two-year period.

Contact: Tom Konrad, Dept. of HRS, Tallahassee (904) 488-8673.

The Florida Pre-Release Employment Program—A joint venture between the Departments of Corrections and of Labor and Employment Security assists youthful offenders in their transition from inmate to citizen. Male youthful offenders at Indian River and Brevard Correctional Institutions are trained to look for jobs, to fill out employment applications, to interview, to arrange for housing and transportation, and to prepare for the world of work and community

1) If CERTIFICATE of NEED is REPEALED and HSA funding is cut, ~~what~~ how will STATEwide health planning be implemented.

2) What CONTROL ON health CARE COSTS EXISTS if CON is REPEALED?

3) If prospective RATE setting is proposed, why should it not be included in AN omnibus bill that links CON REPEAL with PRP?

4) ~~Hospital ASSOCIATIONS and STATES~~
NATIONwide trend is toward STRENGTHENING CON REVIEWS - Hospital ASSN's generally support it.

5) What benefit to public by repeal? Loose public INPUT at local level. Loose STATEwide planning perspective at STATE level. Loose Federal health planning $ and MAY loose up to 5 million IN FEDERAL $ for programs. What's the benefit to weigh against that?

What benefits accrue to the public if CON is repealed? The HSA's recommendation will have no authority to support it, the statewide planning perspective will be lost. Alaska may loose up to 5 million dollares in Federal funds and will loose 30% of the Federal Health Planning funds. What is the benefit to public? Health care costs reduced?

2. Will Hospital Assn support an omnibus package that includes repeal of CON with prospective rate program, repeal of 25% Capital reimbursement, in short, a comprehensive health care cost containment package?

3. If CON is unworkable as it is, why not amend it, or work out problems instead of throwing the whole program out?

Law Department
151 Farmington Avenue
Hartford, CT 06156

James E. Brown
Counsel
Government Relations
(203) 273-0343

February 14, 1983

Senator Joe Josephson, Chairman
Health, Education and Social Services Committee
State Capitol
Juneau, Alaska 99811

Dear Senator Josephson:

It is my understanding that your committee will be considering S. B. 85, An Act Repealing the Certificate of Need Program, at a hearing to be held on Wednesday, February 16, 1983. While it is not possible for me to attend in person, I would appreciate your reviewing the enclosed statement in opposition to this bill and entering it into the hearing record.

On behalf of the Ætna Life Insurance Company, I thank you for considering our comments.

Sincerely,

JEB/jem

Enclosure

RECEIVED
FEB 17 1983
Josephson

STATEMENT OF

ÆTNA LIFE INSURANCE COMPANY

IN OPPOSITION TO

S.B. 85

As a major writer of commercial health insurance, the Ætna Life Insurance Company has for years been deeply concerned about health care cost increases and has consistently supported viable health planning programs. We strongly oppose S.B. 85, An Act Repealing the Certificate of Need Program. We believe that enactment of this legislation would represent a large step backward in Alaska's effort to realize an efficient and effective health care delivery system.

Health planning is one of the elements in the armamentarium of programs that are necessary to help in the reduction of the escalation of health costs and to ensure that the health care delivery system of the future is one that has been rationally and systematically planned.

We feel that it is most important that there be a mechanism in place for participation in the planning and development of health programs to improve the distribution of health services, ensuring that services are available to those citizens who need them, while restricting the investment in unnecessary facilities and services.

An important portion of a viable health planning program is state certificate of need legislation. We find it is essential to have such legislation in order that the necessity of capital expenditures can be determined, because of the two-pronged effect on the growth of health care costs. In the short run, the purchase, installation, and financing of expenditures increases annual health care expenditures. In the long run, operation and maintenance of capital expenditures continue to add to health care costs, to increased use of highly skilled labor (for maintenance and operation) and non-labor inputs (i.e., energy, supplies, etc.).

It has been estimated that every dollar of capital investment adds an additional 50¢ to annual operating cost. An important element in today's economy, which has had a dramatic effect on health care costs related to capital expenditures, is the interest rate now being charged on the finance debt. Efforts must be made to ensure that all capital expenditures made today are necessary and consistent with the goals of Alaska's Health Systems Plan and necessity for such expenditures.

Alaska's Certificate of Need Program is an important tool for implementation of the area health plan. We urge that this program be continued.

innovations

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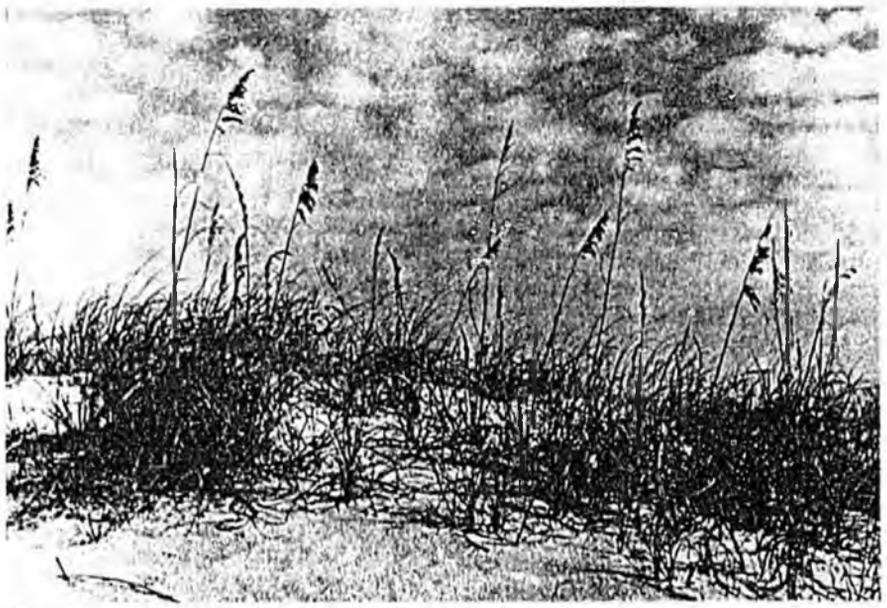

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A recent survey by the National Conference of State Legislatures shows that 19 states are incurring deficits for the current fiscal year and another 13 are operating on very slim margins between revenues and expenditures.

Interestingly, very few governors singled out their Medicaid programs for major reductions or constraints in order to help bring their budgets into balance. Most apparently are reasonably satisfied with the initiatives their states have taken over the past year or two to control the rates of growth in their Medicaid budgets.

GEORGIA's new Governor Harris specifically pointed to the need for new efforts in Medicaid fraud and abuse control, improved claims review and recovery of overpayments, and a careful study of various alternative reimbursement structures under Medicaid. **NEW YORK** Governor Cuomo intends to recommend a Medicaid Reform Program, which will include major financial and programmatic restructuring. The plan, according to the governor, will enable the state to institute appropriate cost controls, improve access to health care, and strengthen the state's oversight capability through audits and utilization review.

Two governors—Rockefeller of **WEST VIRGINIA** and Lamm of **COLORADO**—made specific references to the need for the regulation of hospital costs. Governor Rockefeller singled out a tripling in state expenditures for public employee health insurance benefits since 1976 as a key reason for his support for a hospital rate setting commission. Governor Lamm referred to the unemployment rate plus increased federal cost containment efforts as reasons for expanding state cost containment measures. In addition to rate regulation, the governor urged the legislature to consider competitive bidding by providers for Medicaid contracts and insurance reform packages.

Acknowledging that hospital costs in **NEVADA** are the highest in the nation—41 percent higher than the national average —Governor Bryan called for several cost containment strategies, e.g., performing day surgery where appropriate and shortening hospital stays. The governor also intends to submit legislation to require understandable billing procedures to reduce the chances of patients being billed for services not received.

Governors Lamm, Anaya **(NEW MEXICO)** and Garrahy **(RHODE ISLAND)** used their inaugural addresses to reconfirm their support for strong certificate of need (CON) legislation. Governor Lamm declared that the state's CON program had saved almost $38 million in health costs over a three-year period, while Governor Garrahy pointed to $42 million in savings to his state over the past decade. Governor Lamm also urged the legislature to consider a limitation on the total yearly amount of capital expenditures made by hospitals.

see next pg., too

Governor Cuomo took the opportunity to announce he was ordering a one-year moratorium on the issuance of any new certificates of need. During the one-year moratorium, the Department of Health, in cooperation with other state agencies, is directed to design a new capital budgeting process for hospitals, nursing homes and clinics. The new process is designed to provide the state with the ability to analyze relative need among projects, as well as specific elements in the proposals.

The governors made very little mention of moving away from regulatory strategies and in the direction of containing costs through greater competition. **ARIZONA's** Governor Babbitt was a major exception, however. The governor mentioned the state's repeal of certificate of need legislation in 1982 and deregulation of nursing homes as examples of the state's contribution to removing artificial subsidies in the health care delivery industry. The governor identified three new initiatives he will support on behalf of furthering competition: 1) requiring health care institutions to participate in a uniform billing and discharge data reporting program; 2) prohibiting tax exempt bond issuing bodies from providing tax exempt financing for health care institutions which maintain overall occupancy rates below 85 percent; and 3) creating programs which encourage state employees to be more sensitive about costs in choosing between health care options.

With regard to the state's employee health insurance program, the governor will seek legislative action to establish an employee rebate program for employees selecting lower cost health care insurance plans and to require contracting indemnity insurers to offer plans with varied copayment levels.

Prevention ranked high on the priority list of the governors of **ALASKA, ARIZONA, NEW MEXICO** and **RHODE ISLAND.** Governor Garrahy identified the need to reassess health insurance coverage with a goal of emphasizing coverage for less costly preventive care. Governor Babbitt will seek legislative action to develop health promotion and education programs for state employees and to require contracting indemnity insurers to allow payments for preventive health measures.

The need for expanded alcoholism services received a fair amount of attention. Governor Cuomo will support legislation mandating private health insurance coverage for alcohol treatment. Governor Rockefeller called for an increase in the state tax on alcoholic beverages and a dedication of the revenues to alcohol treatment programs. And Governor Anaya identified alcoholism prevention and services among the top priorities of his administration.

Improving mental health services was a key priority of the governors of **INDIANA, NEW HAMPSHIRE, NEW YORK** and **NORTH DAKOTA.**

A commitment to expanding home and community-based services for the elderly was mentioned by the governors in **NEW MEXICO, MARYLAND, NEW JERSEY,** and **NEW YORK.**

Governor Rockefeller and **MINNESOTA** Governor Perpich spoke of the need to restore medical benefits that had recently been cut. Rockefeller requested a revision in the state's corporate income tax to provide additional revenues for restoring some cuts and financing the federal match to receive federal funds under the primary care health block grant.

Governor Matheson of **UTAH** called for state assumption of the county medically indigent program.

The FY 1984 Health Budget

President Reagan's Fiscal Year 1984 budget proposes a number of far reaching reforms in the financing of health care. Most of the reforms concentrate on the Medicare program, with very little attention given to Medicaid. The major ingredients of the President's Health Care Incentives Reform plan are: 1) extending Medicare coverage for catastrophic illness; 2) restructuring beneficiary cost-sharing under Medicare; 3) establishing a prospective rate structure for hospitals under Medicare; 4) limiting the current tax subsidy of higher cost private health insurance plans; and 5) establishing a voluntary voucher program to permit Medicare beneficiaries to enroll in private health plans.

To underscore the need for substantial reforms in health care financing, the Administration points to some alarming statistics. In 1982, health care costs went up almost three times the national inflation rate. The cost of health insurance rose 15.9 percent in 1982, the biggest increase ever. Over the last five years, Medicare

costs have increased at an average annual rate of 19 percent. And in 1983, Medicare and Medicaid will spend as much *every month* as they did during the entire year of 1966, their first full year of operation.

According to the Administration's restructuring initiative, Medicare beneficiaries will continue to pay a deductible equal to one day of hospital care, but a copayment equal to 8 percent of the deductible will be required for each day of hospital care from the 2nd through the 15th day. From the 16th through the 60th day the copayment will be reduced to 5 percent of the deductible (currently, no cost-sharing is required from the 2nd through the 60th day). After the 60th day, beneficiaries would face no further financial obligation for hospital costs for the remainder of the year.

With respect to reimbursement reform, the budget assumes the implementation of a prospective payment system on a per-case basis, adjusted by diagnosis and patient characteristics. The diagnosis-related group (DRG) classification system would serve as the basis for the case adjustments.

Under the Administration's proposed Voluntary Voucher program, beneficiaries will enjoy the option of receiving services through a private health benefits plan, rather than through the Medicare system. If a beneficiary selects alternative coverage, the government would pay an amount equal to 95 percent of the per person costs under the Medicare program.

At the heart of the Administration's Incentives Reform plan is a proposal to limit the current tax subsidy of higher priced health insurance plans. If the plan is adopted, tax-free treatment of employer contributions to employee benefits would be limited to $175 a month for family coverage or $70 a month for individual coverage. According to the Administration's estimates, about 30 percent of those with employment-based health coverage currently receive employer contributions above those limits. An additional $2.3 billion in tax revenue is anticipated in FY 84 as a result of this initiative.

The Administration projects that, if Congress accepts its reform proposals, Medicare payments will reach $63 billion in 1984—13.2 percent higher than the current estimate for 1983. The Administration claims, however, that the rate of increase would be 16.3 percent absent its legislative proposals.

Other significant initiatives in the FY 84 budget affecting Medicare include: freezing physician reimbursement for one year; modifying the rate of increase in Part B premiums; indexing the Part B deductible to the Medicare Economic Index; eliminating mandatory utilization review by hospitals and skilled nursing facilities; and authorizing DHHS to employ competitive purchasing procedures for the procurement of laboratory services, durable medical equipment and other medical supplies for beneficiaries.

The FY 84 budget is marked by the absence of any significant new reform proposals for the Medicaid program. The budget recommends an extension of the reductions in federal payments to states for Medicaid (as originally provided in the 1981 Reconciliation Act) by 3 percent beginning in 1985 and continuing indefinitely. A state could, however, offset the reductions if it managed to contain its expenditures below specified limits. The budget also includes a recommendation to require states to impose nominal copayments on the categorically and medically needy for physician, clinic, and hospital inpatient and outpatient service. Finally, the budget contains a provision which would require applicants, as a condition of eligibility, to assign their health insurance rights to the state Medicaid agency.

Once again, the Administration's budget contains no request for health planning activities, which is in keeping with its policy to eliminate federal involvement in health planning at state and local levels.

The FY 84 budget contains a request for $1.357 billion to fund the four health block grants (Preventive Health at $85 million; Alcohol, Drug Abuse and Mental Health at $439 million; Primary Care at $460 million; and Maternal and Child Health at $373 million). The Administration intends to submit legislation to include three additional programs in the Primary Care block grant: Migrant Health Services, Black Lung Clinics, and Family Planning. The budget further proposes to consolidate the administration of the block grants within the Office of the Assistant Secretary for Health.

Reports and Publications

A new study commissioned for the Federal Trade Commission details the trends in the evolution of three separate kinds of health care services: retail dentistry, freestanding emergency care centers, and freestanding surgery centers. The study provides a descriptive overview of the three types of services and identifies various factors impeding their growth. It provides some answers to four broad questions: 1) How does the growth of entrepreneurial medical/dental services vary across states because of differences in licensing requirements? 2) How do reimbursement practices of commercial insurers and of medical and dental service plans impact on the growth of these entities? 3) How are these services being marketed and to what types of consumers? 4) Is there any evidence of competitive responses by traditional health care providers? Copies of the report, entitled *Entrepreneurial Trends in Health Care Delivery: The Development of Retail Dentistry and Freestanding Ambulatory Services,* are available free on a limited basis. Request document number IH-83 from Michael Pollard, Room 272, FTC, Washington, DC 20580.

The Institute for Health Planning recently published several monographs which should be of interest to health policymakers. The publications include: *State Health Care Cost Containment: A Review of Strategies* ($9.00); *Health Care Vouchering and Competition* ($8.00); *A New Era for State Health Planning* ($8.00); *Issues in Health Block Grant Funding* ($7.00); *Bidding for Long Term Care Patients* ($8.00); and *Altering Incentives in Health Cure Delivery* ($6.00). To order copies write to: IHP, 702 North Blackhawk Avenue, Madison, WI 53705.

State Health Highlights

• A **NEW YORK** bill (S 737, A 817) would amend the state's Medicaid law to require programs to provide recipients with the means to make a fully informed and independent choice from among licensed health and mental health providers.

• A **COLORADO** bill (HB 1184) would prohibit hospitals from denying or limiting staff privileges or the use of hospital facilities to any health care provider licensed to perform surgery, or from discriminating against such providers on any basis other than training, experience, or demonstrated competence in their field of practice.

• A **NEW MEXICO** bill (HB 20) would require any health care practitioner advertising services to the public to state in the advertisement his name, address, telephone number, and the designation of the profession in which he is licensed to practice.

• **NORTH CAROLINA** recently decided to replace Blue Cross-Blue Shield coverage for state employees with a self-insurance plan. The new plan provides for a $100 deductible with 5 percent employee coinsurance up to $2,000, and full coverage thereafter. The plan also removes limits from hospital and physician reimbursement, which had been frozen for over a year.

• **CALIFORNIA** enacted legislation (AB 2346, Chapter 1304) permitting physician assistants to form professional corporations and to render professional services in the name of a corporation. The law also allows registered nurses to be shareholders in a physician assistants' corporation, and physician assistants to be shareholders in a nursing corporation.

STATE HEALTH NOTES

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HOSPITAL GROUP WANTS PATIENT FEES IN MEDICARE PAY PLAN

While determined to see Congress pass a prospective payments system, the American Hospital Assn. wants Congress to make some significant changes in HHS' proposed plan. The group's major concern is to have the plan allow hospitals to charge Medicare patients a fee above what Medicare will pay for hospitalization. AHA Vice President Jack Owen urged members at the group's annual meeting to press Congress to give the go-ahead to such payments by Medicare beneficiaries.

The group also will lobby Congress to base the pay plan on each hospital's cost per diagnosis group, rather than use national average costs as proposed by HHS. The association claims this will not raise total costs for Medicare, merely allocate funds more accurately.

AHA also hopes legislators will exempt some small and rural hospitals from the plan. Another area of worry is that the HHS secretary will be the one to decide the actual dollar figure on which payment for each diagnosis will be based (WHCL, Jan. 7, page 1). The non-profit hospital group wants an independent panel of economists to decide this. Owen also urged AHA members to lobby for health planning programs that are locally-run, rather than federally controlled.

CAPITAL COSTS CURBED BY HEALTH PLANNING PROGRAMS

Proponents of the highly criticized health planning program will note with satisfaction a study for the Health Resources Administration which found that certificate-of-need programs have succeeded in curbing increased capital costs. The program in particular averted capital expenditures for acute care services and facilities, said the study(*) prepared by Arthur D. Little, Inc. Health planning programs were studied in six states: N.J., Iowa, Colo., Va., S.C., Wash.

Projects were blocked because they did not meet objectives set forth in state and health systems plans. Review of programs before applications were submitted meant that some programs were stopped early on. Iowa's program of a presubmission conference between the applicant and local health planning staff on the need for a project eliminated the expense of preparation and review for projects which were immediately rejected.

Decisions on certificate-of-need were made on the basis of specific objectives, standards for programs and need estimates. The latter included the volume and utilization of existing and proposed health services. The issue of financial feasibility came into most decisions, particularly at the state level. The effect of new capital spending on operating costs and patient charges was evaluated.

More than two-thirds of the acute care capital expenditures approved were for renovation/replacement and/or conversion of existing capacity. This may be related to the fact that while standards exist for adding acute care capacity, there are no guidelines for renovation and replacement of such services. Many of the new or additional services approved were equipment. Nearly half of N.J.'s new/additional capacity was equipment.

Certificate-of-need programs are especially effective when integrated with state cost containment plans such as rate setting, the study said. It also recommended better standards for long-term care and renovation of acute care facilities.

(*) - Document used in an article is available from our affiliated *Regulatory Watchdog Service* (202) 47[illegible]

POSITION PAPER/Department of Health & Social Services

Position Paper

on

Senate Bill 85

"For an Act repealing the certificate of need program; and providing for an effective date."

Senate Bill 85 repeals those portions of AS 18.07.021 which provide the statutory authority for the Department to administer a certificate of need program and repeals references to certificate of need in other sections of the Statute as well.

The Administration supports Senate Bill 85 as it is currently written.

The Department recommends that the Committee review statutory provisions which relate to health facility development including the following:

Medicaid Programs

The state's participation in the Medicaid program (State dollars fund approximately 52 percent of total program costs) has grown from $1 million in 1972 to nearly $38 million in FY 82 and total costs including federal participation have grown from $2 million to nearly $74 million in this same period. Ninety-two percent of patients in Alaska's long term care facilities are supported by the Medicaid program which means that the state (and federal) government has nearly the full burden of all operational costs for the facility. These Medicaid costs increase when additional beds are added, new equipment is purchased or new services (including new types of manpower) are offered. The Division of Public Assistance must effect a provider agreement with any qualified provider who seeks this agreement.

Capital Budget

Alaska has provided substantial financial assistance in the development of health care facilities. The 12th Legislature provided more than $36.6 million by line item appropriation to expand one hospital; replace two others and provide planning assistance for two rural hospitals. The number of requests for state funding has steadily increased.

Revenue Sharing

Alaska has a revenue sharing program (AS 29.90.010) which provides 25 percent plus interest of hospital construction costs to all non-profit hospitals. This program, administered by the Department of Community and Regional Affairs, provides further support for hospital construction projects in addition to any front-end capital funds provided by the state. This additional health facility construction resource underscores the importance of determining the actual need

for construction, before the State is committed to pay for a major portion of such construction.

Non-profit hospitals each receive a quarter of a million dollars in operating assistance each year through the state's revenue sharing program (AS 29.89.030). Nursing homes and other health facilities also receive assistance based on the number of beds they have. There are no specific requirements as to how such funds are to be expended. Not only are existing health facilities assured of these funds in addition to other state support, but new facilities are encouraged by the availability of these funds.

Recommended by: Phoebe A. Lindsey

Phoebe A. Lindsey, Director
Division of Planning, Policy
and Evaluation

Date: 2/16/83

Approved by: for John R. Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 2/16/83

Bill No: Senate Bill 85 Date on Bill: 1/27/83
Title: An Act repealing the certificate of need program;and providing for an effective date
Sponsor: Senators Faiks, P. Fischer, and Pettyjohn
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

			FY 83	FY 84	FY 85	FY 86			
Capital			0	0	0	0			
Operating			0	0	0	0			
Total			0	0	0	0			

b. Revenues:

Revenue			0	0	0	0			

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Dave W. Williams DW Phone: 465-3038
Division: State Health Planning and Development Date: 2-14-83

Approved by Commissioner: John R. Bragg Date: 2/16/83
Department: Health and Social Services Date:

6. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor

Central Peninsula General Hospital

P. O. Box 1268
SOLDOTNA, ALASKA 99669

OPERATED BY
LUTHERAN HOSPITALS AND HOMES SOCIETY
FARGO, NORTH DAKOTA 58102

February 14, 1983

The Honorable Mae Tischer
Alaska State House of Representatives
State Capitol
Pouch V
Juneau. Alaska 99811

FEB 18 1983

Subject: House Bill #19

Dear Representative Tischer:

Central Peninsula General Hospital, along with the other hospitals of the Alaska State Hospital Association, would encourage the earliest possible passage of Senate Bill #85.

It is a premise of this organization that the Certificate of Need process is both cumbersome and ineffective in a state such as Alaska. The original purpose was developed to help contain health care costs by discouraging over-building of hospital beds. The State's major health care problem is not over-bedding, but the continuing lack of accessibility to health care programs and facilities due to the rural nature of our state.

I would encourage our legislators to promote the health care agencies in the planning and providing for better health care, and not tying up their time with the fruitless Certificate of Need process.

Please find attached a copy of a letter from the Central Peninsula General Hospital Service Area Board to the Kenai Peninsula Borough Assembly in support of the repeal of the Certificate of Need process.

Again, passage of this legislation at the earliest time is available.

Thank you for your consideration.

Sincerely yours,

Michael J. Lockwood,
Administrator

MJL/pt

enc. (1) Resolution of the Central Peninsula General Hospital Service Area Board for Repeal of the C.O.N.

Central Peninsula General Hospital

P. O. Box 1268
SOLDOTNA, ALASKA 99669

OPERATED BY
LUTHERAN HOSPITALS AND HOMES SOCIETY
FARGO, NORTH DAKOTA 58102

February 11, 1983

Kenai Peninsula Borough Assembly

At its regular meeting on February 10, 1983, the Service Area Board of the Central Peninsula General Hospital unanimously endorsed Resolution 83-13 "Urging the Alaska Congressional Delegation to work for Repeal of 42 USC 300 M (D) and Urging the State to subsequently repeal AS18.07 03L-111 which provides for a Certificate of Need program for the Construction, Alteration of Bed Capacity, or Addition or Elimination of a Category of Health Services of a Health Care Facility.

To this end the Service Area Board also endorses House Bill 19 and Senate Bill 85, 2 bills that have been introduced in the 1983 Alaska State Legislature.

Copies of this endorsement have been sent to Senators Stevens, Murkowski and to Congressman Young as well as the Alaska State Legislators.

Robert F. Jensen

ROBERT F. JENSEN
Chairman
Service Area Board

alaska state hospital association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

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Humana Hospital Alaska
Anchorage

Chairman-Elect
Mark Hawkins
Sitka Community Hospital
Sitka

Immediate Past Chairman
Tom Mingen
Fairbanks Memorial Hospital
Fairbanks

Secretary/Treasurer
Edward Zeine
Cordova Community Hospital
Cordova

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Providence Hospital
Anchorage

Alternate Delegate to the American Hospital Assoc.
Michael Lockwood
Central Peninsula Hospital
Soldotna

Delegate to the American Health Care Association
Jack Buck
St. Ann's Nursing Home
Juneau

Alternate Delegate to the American Health Care Association
Emma G. Ivy
Wrangell General Hospital
Wrangell

Delegate to the Association of Western Hospitals
Michael Herring
South Peninsula Hospital
Homer

Alternate Delegate to the Association of Western Hospitals
Daniel Van Wieringen
Kodiak Island Hospital
Kodiak

Trustee Delegate to the American Hospital Assoc.
Moe Kadish
Trustee, Providence Hospital
Anchorage

Alternate Trustee Delegate to American Hospital Association
Robert Jenson
Central Peninsula Hospital
Soldotna

Physician Member of the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

Alaska State Hospital Association

Position Paper

Certificate of Need Repeal

The Certificate of Need program in Alaska (AS.07) should be repealed. It is both inequitable and unnecessary. Its basic presumption is that the Department of Health and Social Services can make better decisions for hospitals and nursing homes than can the facilities themselves.

Basic Issues

1. Equity

- While controlling non-state construction of skilled nursing facilities (SNF's) and intermediate care facilities (ICF's), the prgram exempts these beds constructed in Pioneers' Homes. Thus any determination of need based on the current program is flawed because forces external to the program can and have - in Anchorage, Juneau, and Ketchikan - altered the factual situation.

- Alaska Native Health Service and the Armed Forces facilities are also exempt from coverage. Their activities have a direct bearing on many other facilities in terms of both service area and referrals.

- Physician office construction and equipment purchase are also exempt.

The inequities are clearly illustrated in the Anchorage area: Providence Hospital, Humana Hospital, Nakoyia Health Care Center, Hope Cottages and the Alaska Treatment Center are included in the CON program while the Alaska Native Health Service Hospital, Elmendorf AFB Hospital, the Anchorage Pioneers's Home and the Diamond Emergency Center are not included. All of these facilities share the same basic service area.

2. Unnecessary

Market place economics and competition should be the determinant of capital expansion for health facilities. In Anchorage, the Municipal Health Commission as well as open board meetings provide the public input into a facility's planning process. In smaller communities the city council or borough assembly who own the facility provide the public input opportunity.

Alaska is a developing state of many isolated regions without any appeal for duplication of services or need to limit access to health care, which is the basic intent of the CON program.

3. Conformity

42 USC 300 m-(d) requires that states conform to the federal program or face a reduction of specified public health service funds.

- Conformity is not achievable without the inclusion of the Pioneers' Homes.

- There are 30 states, including New York and California as well as Alaska, which are not in conformity.

- The penalties have been deferred every year since passage. In December of 1982 they were deferred until October 1, 1983.

- The Reagan Administration is not supportive of continuing this program. Congress is working to create a state optional program without penalties. Thus the likelihood of imposition of penalties is remote at best and the across the board elimination of CON would not change Alaska's current status.

4. Other States

- Louisiana does not have a certificate of need law.

- According to the American Hospital Association, 30 states currently do not conform.

- At least seven states have termination clauses or specific sunset provisions.

5. Attachments

- Alaska State Hospital Association Policy Paper on Repeal of Certificate of Need

- Providence letter to Mayor Knowles explaining opposition to CON.

- U.S. Department of Health and Human Services letter to Denni[illegible]t discussing Alaska's non-conformity.

(Attachments cont.)

- Alaska Department of Administration letter to Representative Don Clocksin discussing Pioneers' Homes exemption, conformity problem, and potential for penalties.

- 42 USC 300m-(d)

- Alaska Department of Health and Social Services letter to Representative Mike Beirne indicating lack of compliance with federal program.

- Alaska State Medical Association Resolution calling for the repeal of certificate of need.

- Alaska State Hospital Association letter to Stevens on CON repeal.

- Governor Sheffield's response to the Association letter to Senator Stevens.

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hospital
association

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to American Hospital
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Robert Jensen
Central Peninsula Hospital
Soldotna

Physician Member of
the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

POLICY STATEMENT

CERTIFICATE OF NEED

Position: The Alaska State Hospital Association advocates the repeal of the certificate of need (CON) law, AS 18.07.

Rationale: The CON process has proven costly, wasteful, and unnecessary. The program has become excessively bureaucratic to the point that it undermines economic incentives throughout the decision-making process and so increases the cost of capital projects it takes valuable dollars from patient care. The certificate of need process also removes community control from local jurisdictions in respect to municipally-owned facilities and local advisory boards in respect to corporate ownership.

An alternative approach to state control would permit marketplace economics to control expansion and would rely on local decision-makers to make decisions for their own communities. We see a value in state government continuing its planning function with input from regional and local groups.

Note: This does not contemplate repeal of construction or licensure standards.

#1

bcc Dennis Nesbett

PROVIDENCE
HOSPITAL

3200 PROVIDENCE DRIVE - POUCH 6604
ANCHORAGE, ALASKA 99502
PHONE: (907) 276-4511

SISTERS OF
PROVIDENCE

SERVING IN THE WEST SINCE 1856

December 27, 1982

Mayor Tony Knowles
Municipality of Anchorage
Pouch 6-650
Anchorage, Alaska 99502

Dear Mayor Knowles:

Thank you for the opportunity on December 13 to share Providence's plans and some of our concerns with you.

One point came up during our discussion regarding Certificate of Need (CON). I would like to elaborate for you in more detail why the health care providers in Alaska oppose CON and have so strongly supported its repeal.

As you know, the CON law was passed in this and most other states as a requisite to receive Federal funds. The major impetus for the law were:

1. Excess hospital beds in many large cities, and
2. rising health care costs.

The belief was that by controlling the number of beds, capital expenditures and new services, costs would be contained. The results have been much less than desired throughout the country. The law is cumbersome, wasteful and, in fact, costly.

The lack of "success" is especially true in Alaska for some basic reasons:

1. The process which the law sets in place is cumbersome and wasteful. The institution must:
   - submit a letter of intent at least 60 days prior to an application (for no apparent reason);
   - submit an elaborate, repetitive application (most are well over 100 pages). There are 12 separate "criteria" which must be addressed in any application;
   - wait to be declared complete (minimum 20 days; several of our applications were delayed months);
   - then go through a 90-day review process--with three or four public meetings.

2. The costs of CON to the institution are enormous to prepare this cumbersome document (at least 35 copies) and submit to the minimum 110-day process. There are also the institutional costs of delaying implementation and watching the price of a piece of equipment or construction project increase several percent points with inflation.

   The cost to the public is also great in the state, regional and local staff needed to coordinate the program, prepare staff analyses and hold public meetings.

3. The dollar limit for what must be reviewed has been ridiculously low--$150,000. The federal law has allowed that limit to be raised to $400,000 and $600,000 although the Alaska legislature failed in its last session to raise the limits. Some states have raised the limit to $1 million or more. To have a limit of $150,000 or even $600,000 when the hospital's annual operating budget is $75,000,000 (such as Providence's) is overkill.

   In just 1982 alone, Providence has prepared 6 CON applications, including two equipment replacements (for a CT Scanner and a Cath Lab), a $250,000 computer enhancement for an x-ray machine and most absurd, a $167,000 replacement incinerator (25 years old, replacement required by State and EPA codes!). The State did not give final approval on the incinerator until the 90th day.

4. The law itself is overkill in Alaska. Designed for areas of heavy population, excess hospital beds and competition, the law does not work for Alaska for several reasons:

   - The law only covers private facilities--not public health, nor state owned (API or Pioneer Homes), nor military.

   - Alaska has only one city with more than one hospital and only three private ("eligible") hospitals of over 100 beds.

5. The law is reactive to existing decision making processes. Most hospitals in the State already have local public review and approval designed in their own budget review processes. Many hospitals are owned by municipalities, and all have governing or advisory boards of local citizens. These citizens should have control of the expansion and budgetary decisions of their own institutions. Several other layers are unnecessary. Hospitals and their boards are capable of making sound financial and program decisions.

As the attached Policy Statement of the Alaska State Hospital Association (ASHA) notes, we are supportive of state and local planning for the health care needs. The process should be positive and proactive-- encouraging institutions to respond to needs in the community rather than reactive, cumbersome and negative.

We encourage the city to support the ASHA position on repealing the state CON law. Your own Municipal Health Commission is a strong local planning body which helps identify health needs and encourages solutions. It also serves to review public expenditures in health. Those roles are appropriate. It should be freed from the cumbersome CON review.

Thank you for giving me the opportunity to share our concerns with you.

Best wishes for a prosperous 1983.

Sincerely,

Al M. Camosso
Administrator

Enclosure

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Region X
M/S 829 Arcade Plaza Building
1321 Second Avenue
Seattle WA 98101

June 22, 1982

Re: 10P 550016
Alaska SHPDA

Dennis L. DeWitt
President
Alaska State Hospital Association
319 Seward Street
Juneau, Alaska 99801

Dear Mr. DeWitt:

Your letter dated June 11, 1982, requested information about Region X's intentions as a result of the failure of the Alaska Legislature to pass amendments proposed to bring the State Certificate of Need program into compliance with the Federal planning law, as amended. Our course of action is quite clear. We will continue to fullfill our mandated responsibilities guided by actions and time frames specified in the law.

Under the existing provisions of Title XV of the Public Health Service Act, as amended, current law requires (in order to be fully designated) that a SHPDA must meet all requirements for full designation, including that of having a complying Certificate of Need program.

If a SHPDA is not eligible for full designation by a certain date (which for Alaska is January 19, 1983) the Department must invoke the statutory penalty of reducing most Public Health Service grants and contracts to any entity in the State by 25% the first year, 50%, 75%, and 100% over the next three years. Amendments contained in PL 97-35 extended the date by which a State must have a fully designated SHPDA to avoid imposition of the penalty. However, PL 97-35 also amended Section 1521(b)(2)(B) by specifying that a conditional designation agreement could not extend beyond a State's penalty date.

Fully designated SHPDAs (such as Alaska) which do not have complying CON programs but continue to meet other requirements, will be returned to conditional designation. As noted above, PL 97-35 prohibits the conditional designation of any SHPDA from extending beyond its penalty date. Any SHPDA which remains conditionally designated on its penalty date must be terminated. Therefore, we will send a termination notice to any conditionally designated SHPDA 90-days prior to its penalty date, if it still has not demonstrated that it has a complying CON program.

The enclosed copy of a letter to Commissioner Beirne, from the Regional Health Administrator, further emphasizes the critical nature of having a complying CON program in Alaska.

Also the enclosed copy of a 1981 letter addressed to Mr. Ivan Lawner, Esq. concerning Pioneer Homes Certificate of Need review issues, reflects our unchanged position.

I hope the facts in this letter provide the detail of information required to understand the situation. Please call or write, should you need further assistance.

Sincerely,

John D. Whitney
Director
Department of Health
Resources Development
Region X

Enclosures (2)

DEPARTMENT OF HEALTH. EDUCATION. AND WELFARE

829

JUN 21 1982

Re: IOP 550016
Alaska SHPDA

Helen D. Beirne, Ph.D.
Commissioner
Department of Health and
Social Services
Pouch H 01
Juneau, Alaska 99811

Dear Dr. Beirne:

The State of Alaska's Department of Health and Social Services full designation agreement with the Department of Health and Human Services is being extended for three months, until September 30, 1982. As you know, because Alaska's Certificate of Need Program does not comply with Federal requirements, it is necessary that the SHPDA be returned to conditional designation. As required by statute, this 90-day extension of your current designation is being given to allow you to request and prepare for a hearing, if you should want one. Letters from the Bureau of Health Planning to you and to the Governor will further explain this process.

The following conditions are to be considered a part of the extended full designation agreement:

1. If the Agency is unable to retain full designation after September 30, 1982, it will be returned to conditional designation for the period October 1, 1982 to June 30, 1983.

2. The designation of the Agency will automatically terminate when the Agency reaches its penalty date, if the Agency still has not achieved full designation.

You may at any time prior to your penalty date (1-19-83, per PPM 82-12) submit documentation which you believe contains evidence that the State's CON program complies with the minimum Federal requirements, or a certification by the State's Attorney General, attesting to the program's complian

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Please sign both copies of this letter, indicating your acceptance of this extension with conditions. Return one copy to this office. As soon as we receive the signed copy, we will issue a Notice of Grant Award for the extended designation period.

Sincerely,

Dorothy H. Mann, M.P.H.
Regional Health Administrator
Region X

Helen D. Deirne, Ph.D.
Commissioner
Alaska Department of Health

Date

DHRD:ROSS:vw:6/21/82

DEPARTMENT OF HEALTH & HUMAN SERVICES

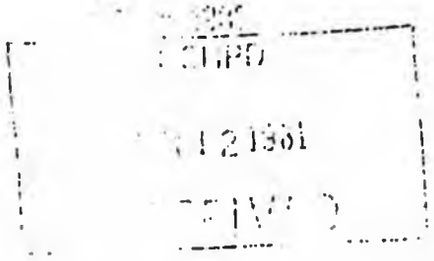
Public Health Service

Pioneer Homes
Lynns Room

Region X
M/S 829 Arcade Plaza Building
1321 Second Avenue
Seattle WA 98101

Re: 10P 550007-05

Mr. Ivan Lawner, Esq.
Hellen & Partnow
524 G Street
Suite 710
Anchorage, Alaska 99501



Dear Mr. Lawner:

This is to respond to your recent letter concerning Certificate-of-Need review of a skilled nursing facility addition to the Pioneer Home in Anchorage. In that correspondence you raised two issues: the need for clarification of our 1978 letter to Howard Gabriel regarding C/N coverage of Pioneer Homes, and the compliance of the Alaska C/N program with federal standards. These matters will be addressed separately.

1. In our September 11, 1978 letter to Howard Gabriel, Director of the Southeast Alaska HSA, we were assuming that Pioneer Homes were only residential or domiciliary care facilities; there was no understanding that inpatient skilled nursing care was provided in these institutions. Given this understanding of the nature and services of Pioneer Homes at that time we were correct in concluding that they would not be included in the federal definition of "health care facilities" which would require coverage under Certificate-of-Need programs. If indeed skilled nursing services are provided in these institutions, they would be considered "health care facilities" as defined by our C/N regulations. The 1978 letter did not consider a Pioneer Home to be such a facility.

2. We have reviewed the Alaska C/N statute and implementing regulations to determine whether Pioneer Homes would be included in the definition of a health care facility. We found that:

   a. The Alaska C/N statute defines a "health care facility" as:

      A private, municipal. . . hospital, psychiatric hospital, turberculosis hospital, skilled nursing facility. . . . (Sec. 18.07.111(7)).

   b. The Alaska C/N regulations, in turn, define "health care facility" as:

      Any of those listed in AS 18.07.111, as defined, where appropriate, in 42 CFR 123.401 (adopted 1/21/77). (7AAC07.130)

c. The State's C/N statute and regulations, taken together and including the cross reference to 42 CFR 123.401, would provide coverage of a distinct part of an institution and would, therefore, meet the federal definition of a skilled nursing facilities, i.e., an institution or a distinct part of an institution which is primarily engaged in providing inpatient skilled nursing care and related services for patients who require medical or nursing care . . . . (42 CFR 123.401)

From the above points, it would appear that the Alaska C/N program adequately defines "heath care facility" and "skilled nursing facility." It is the responsibility of the state to follow its own C/N statute and regulations. If there is an on-going and sustained pattern of not following their statute and regulations, we would certainly assess the state's overall C/N program and then take appropriate action.

Please call us should you have further questions.

Sincerely yours,

John D. Whitney, Director
Division of Health Resources
Development PHS, Region X

cc: Ron Hammett, Director, SCHPD
Howard Gabriel, Director, SEAHSA

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

May 29, 1981

Honorable Donald E. Clocksin
Chairman, Health, Education and
Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Clocksin:

This is in response to your request to put in writing my verbal testimony before your committee on CSSB 225. I will try and confine my remarks to the major issues.

Administration's position is that the Legislature has always implicitly exempted Pioneers' Homes from the certificate of need program. The Senate has concurred with this position as evidenced by CSSB 225. We are asking that the House members be afforded the same opportunity to express their will as the Senate.

There appears to be some confusion existing with the recent State Supreme Court decision of South Central Health Planning and Development, Inc. vs the Department of Administration, on certificate of need. At issue was whether or not the Legislature exempted Pioneers' Homes from certificate of need. The court found that there is no language in State statutes which can reasonably be read as exempting skilled nursing facilities from the certificate of need process when they are contained in Pioneers' Homes. Consequently, whether or not the Legislature intended to exempt Pioneers' Homes now becomes moot. The Legislature's intent can now be established only through the legislative process of amending existing law to allow this exemption.

There has been a substantial amount of discussion centering around the need for proper planning so that health facilities in Alaska are not overbuilt. This is an admirable and worthy objective, and I can assure you that this Department supports health facility planning. However, the existing system under the certificate of need program is fraught with inequities and frustrations; further, it does not represent a comprehensive planning effort.

2-89LH

There are three providers of health facilities; the federal government, the State government, and the "private sector." However, the federal health facilities don't come under the certificate of need program, and in most states this wouldn't pose any problem. The military contingent in California, for instance, would represent a small portion of the state's total population and as such would not greatly impact the planning process for certificate of need. In Alaska, the opposite is true. The federal government is a major provider of health care and facilities. Roughly one-fourth of the state's population are eligible to use federal health facilities (military base, Public Health, Indian Health, etc.). This has a devasting effect on trying to logically plan for state and "private sector" health facilities when a critical component is missing.

In addition, if we look closely at the "private sector" we see that it is not truly private. A substantial portion of the revenues of private nursing homes and health facilities originate through state and federal programs. State and federal rules, regulations, requirements, and laws, guide and govern, in minute detail, the construction and operation of private health facilities. This includes the proper ratios of professional staff to patients, the type of equipment allowed, size of hallways, reporting procedures, and many others. In effect, the "private sector" is part of the "public sector." Consequently, the charge that the State, through the establishment of Pioneers' Homes, is unfairly competing with the private sector is a fallacious argument.

There has also been considerable discussion on the impact of granting Pioneers' Homes an exemption from certificate of need as it relates to federal programs. Mr. Vern Perry, Director of the Division of Pioneers' Benefits spoke with Mr. Jim Egan, Regional Project Officer of the Office of Health Planning, Region X, U. S. Department of Health, Education and Welfare, on Wednesday May 27, regarding the certificate of need program.

QUESTION: What effect would there be on the State of Alaska if Pioneers' Homes were exempted from the certificate of need program?

ANSWER: It would have no effect on medicare, medicaid, AFDC or Indian Health Service. It could only affect categorical programs such as alcoholism, EMS, Neighborhood Health Clinics, Mental Health Clinics, Day Care, etc.

QUESTION: Would the federal government actually discontinue such programs as alcoholism and mental health if Pioneers' Homes were exempted from the certificate of need program?

ANSWER: No! Absolutely not. In his opinion, under the new administration, there would be no federal sanctions whatsoever in health care programs, especially since the responsibility for this is being turned over to the states.

Further, discussions were held with the States of California and Washington regarding their certificate of need programs. In California, Mr. Ken Umbach (916/323-6955) of the Office of Statewide Health Planning and Development was contacted. He stated that California has been out of conformance with the federal certificate of need program since 1969. Their latest date for coming into conformance is October. He stated that if they did not meet the deadline that the feds would probably extend it. Mr. Jim Bettridge of Washington Health Care Facilities Authority (206/753-6185) indicated that the feds were withdrawing total support from the certificate of need program by 1983.

These conversations indicate that:

i. The federal government is not inclined to impose sanctions on a State for nonconformance with the certificate of need program;

ii. There are states which are nonconforming, and have been nonconforming for a number of years, on which federal sanctions have not been imposed; and

iii. The federal government is withdrawing total support for the certificate of need program by 1983. If the state wants to continue a planning process for health facility development it will have to provide for the process by using General Funds monies. Based on the aforementioned problems, now would be the appropriate time to revise this planning process to make it more meaningful.

Finally, a compromise position has been mentioned in which the new nursing wing at the Anchorage Pioneers' Home and the new Pioneers' Home in Ketchikan would be totally grandfathered into law and not made subject to certificate of need. This compromise does not address a truly complex problem.

The Fairbanks Pioneers' Home presently is serving twelve skilled nursing beds in unlicensed beds. Unless a certificate of need is issued which allows licensing of these beds, these twelve pioneers would have to be discharged.

The Fairbanks and Palmer Pioneers' Homes are full to capacity with skilled nursing patients at the present time. If we are to accommodate anticipated need in the near future, additional skilled nursing facilities will have to be constructed within the next few years. This expansion would be impossible unless a certificate of need is issued.

The Department of Health and Social Services, in recent licensing inspections, has advised a significant number of residents in the ambulatory sections of all the Pioneers' Homes should be designated intermediate care patients. Intermediate care requires both a certificate of need and a significant increase in staffing, installation of call buttons or other signalling devices, and closer attention to patients when taking medications, etc. The number of patients which might be considered in need of intermediate care are: thirty at Sitka, twenty at Fairbanks, twenty at Palmer and forty at Anchorage (in the new wing).

Funding to provide intermediate care was not included in the FY 82 operating budget. Although a dollar figure is not available at the present time, a significant increase will be necessary if we must comply with the certificate of need program. Passage of SB 225 would eliminate this situation.

In summary:

1. Administration believes the Legislature had always intended to exclude Pioneers' Homes from certificate of need;

2. The certificate of need process is not appropriate for Alaska;

3. There needs to be planning for health care facilities and a more responsive process needs to be developed;

4. Grandfathering the nursing wing at Anchorage and the new Pioneers' Home at Ketchikan will not solve the complex problems existing at the Fairbanks, Palmer, and Sitka Pioneers' Home; and,

5. Passage of CSSB 225 will eliminate the potential for pain and suffering by allowing Pioneers' Homes residents to remain in their home.

If I can be of any further assistance to you or your committee, please give me a call.

Sincerely,

Frederick B. Muller

Frederick B. Muller
Deputy Commissioner for
Personnel Management

FBM/mjc
cc: Honorable Charles Parr
Honorable Robert Ziegler
Honorable Jalmar Kerttula
Honorable Patrick Rodey
Pioneers' Homes Advisory Board
Dennis Dewitt, Executive Director
Alaska State Hospital Association

accordance with subsection (b)(2), or (b)(3) of this section (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

Failure to designate State Agency within specified period; reduction in allotment, grant, loan, loan guarantee, or contract

(d)(1) If an agreement under subsection (b)(3) of this section for the designation of a State Agency for a State is not in effect upon the expiration of—

(A) the fourth fiscal year which begins after 1975; or

(B)(i) if the legislature of the State is in a regular session on December 17, 1980 and the legislature will be in session for at least twelve months from such date, twenty-four months from such date, or

(ii) if the legislature of the State is in session on December 17, 1980, but twelve months do not remain in such session after such date or if the legislature of the State is not in session on such date, twenty-four months after the beginning of the first regular session of the legislature beginning after such date,

whichever occurs later, the Secretary shall take the action prescribed by paragraph (2).

(2) If upon the expiration of the period applicable under paragraph (1) an agreement is not in effect for the designation of a State Agency for a State, the Secretary shall until such an agreement is in effect take the following action:

(A) During the first twelve months after the date of the expiration of the applicable period, the Secretary shall reduce by 25 percent the amount of each allotment, grant, loan, and loan guarantee made to and each contract entered into with an individual or entity in such State during such period under this chapter or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

(B) During the second twelve months after such expiration date, the Secretary shall reduce by 50 percent the amount of each such allotment, grant, loan, loan guarantee, and contract.

(C) During the third twelve months after such expiration date, the Secretary shall reduce by 75 percent the amount of each such allotment, grant, loan, loan guarantee, and contract.

(D) After the expiration of thirty-six months after such expiration date, the Secretary may not make or enter into any such allotment, grant, loan, loan guarantee, or contract.

(July 1, 1944, c. 373, Title XV, § 1521, as added Jan. 4, 1975, Pub.L. 93–641, § 3, 88 Stat. 2242, and amended Aug. 1, 1977, Pub.L. 95–83, Title I, § 106(*l*), (m), 91 Stat. 385; Dec. 19, 1977, Pub.L. 95–215, § 6(b), 91 Stat. 1507; July 16, 1979, Pub. L. 96–33, 93 Stat. 86; Oct. 4, 1979, Pub.L. 96–79, Title I, § 123(a), (b)(1)(A), (2), (d), (f), (g)(2), 93 Stat. 624–627; Oct. 17, 1979, Pub.L. 96–88, Title V, § 509(b), 93 Stat. 695; Dec. 17, 1980, Pub.L. 96–538, Title III, § 303(b), 94 Stat. 3190; Aug. 13, 1981, Pub.L. 97–35, Title IX, §§ 902(g)(5), 936(b), 95 Stat. 561, 572.)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

May 10, 1982

The Honorable Mike Beirne
Chairman
House HESS Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Rep..sentative Beirne:

I am enclosing a Program Policy Notice we recently received from the Bureau of Health Planning in the U. S. Department of Health and Human Services. This Notice emphasizes that states which do not have State Health Planning and Development Agencies which fully comply with federal requirements will lose federal support for health planning efforts and will also lose most federal Public Health Service dollars. Alaska currently receives some $5 million annually in such federal funds. Our lack of compliance would result in one quarter of these funds being withheld for four years until certain federal public health service funds are no longer available to Alaska.

We appreciate the hearing you conducted on House Bill 195. We believe this bill, with the amendments we offered, would bring our State Health Planning and Development Agency into full compliance with federal requirements. Your assistance in helping to move this legislation would be very much appreciated.

We appreciate your assistance and support in this matter.

Sincerely,

Helen D. Beirne

Helen D. Beirne
Commissioner

Enclosure

cc: Phoebe A. Lindsey

F38LH

ALASKA STATE MEDICAL ASSOCIATION
4107 Laurel Street • Suite 1 • Anchorage, Alaska 99504 • (907) 277-6891



ADOPTED BY THE ALASKA STATE MEDICAL ASSOCIATION HOUSE OF DELEGATES AT ITS ANNUAL MEETING IN FAIRBANKS, ALASKA JUNE 3, 1982

RESOLUTION NO. 82-23

SUBJECT: Certificate of Need

WHEREAS, the certificate of need process has increased the cost of health care rather than reduced it; and

WHEREAS, the certificate of need process has wreaked havoc upon the orderly development of hospitals in Alaska, therefore

BE IT RESOLVED, the Alaska State Medical Association urges and encourages the Legislature to repeal the certificate of need law.

DISTRIBUTION: Legislature
Alaska State Hospital Association
Press

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

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Sitka Community Hospital
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Jack Buck
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Trustee, Providence Hospital
Anchorage

Alternate Trustee Delegate to American Hospital Association
Robert Jensen
Central Peninsula Hospital
Soldotna

Physician Member of the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

November 4, 1982

The Honorable Ted Stevens
United States Senate
Washington, D.C. 20510

Similar letter sent to:
Senator Murkowski and
Congressman Young

Dear Senator Stevens:

As you are well aware the State of Alaska is not in conformity with the National Health Planning and Development Act and without federal action in 1982 faces penalties in grant monies under the Public Health Service Act and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. To avoid this penalty it is imperative that Congress repeal 42 U.S.C. 300m-(d) (copy attached).

This Association as well as the Alaska State Medical Association (resolutions attached) are opposed to the continuation of the state Certificate of Need law. Both are committed to its repeal in 1983. Repeal of 42 U.S.C. 300m-(d) will greatly assist our efforts.

We have communicated our support for various measures considered by this Congress to restructure the federal law. It appears however, that a full reform may be a consideration which must be left to the next Congress. If that is so, it is imperative that you secure repeal of 42 U.S.C. 300m-(d) before the current Congress adjourns in December.

All of those concerned with this issue including Congressman Waxman, the National Governors Conference, the American Hospital Association, etc., agree on removing sanctions against states which do not conform to the federal program. The notion of further delay of the sanctions does not assist anyone, it simply prevents states such as Alaska from dealing with its own law on anything beyond a temporary basis.

For these reasons we urge you to secure the repeal of 42 U.S.C. 300m-(d). This will permit the legislature of the State of Alaska to deal with its law in whatever manner it deems appropriate. Further, we urge that this repeal be secured prior to the adjournment of the 97th Congress.

Sincerely,

Dennis L. DeWitt
President

DLD:lf
cc: Friday Mailing
Alaska State Medical Society
Governer Jay Hammond
Governer Elect Sheffield
Lt. Governer Terry Miller
Lt. Governer Elect McAlpine
American Hospital Association - Lynn Hart
Federation of American Hospitals

BILL SHEFFIELD, GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 22, 1982

Mr. Dennis L. DeWitt
President
Alaska State Hospital Association
319 Seward Street
Juneau, Alaska 99801

Dear Mr. DeWitt:

Thank you for sending me a copy of your letter to Senator Stevens regarding the state Certificate of Need law.

As you know, I am in agreement with you in your opposition to this law. Please keep me posted as to what I can do to change the law in Alaska.

Best regards.

Sincerely,

Bill Sheffield
Governor

Blue Cross
of Washington and Alaska

15700 Dayton Avenue North/P.O. Box 327
Seattle, Washington 98111
206/361-3000

FEB 18 1983

February 14, 1983

Representative Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Tischer:

I appreciated having the opportunity to discuss with you the legislative proposals which you are addressing in this session and which are of concern to Blue Cross of Washington and Alaska. Martin Tirador will be keeping in close contact with you on these and other issues.

We are continuing to develop information which supports our position for the modification of the certificate of need law. Other organizations such as the Health I[redacted] Much of this information will be presented to the Health Education and Social Services Committee in the hearing on HB 19.

I particularly appreciated the chance to visit with you. I would hope that you will call on either Martin Tirador or me if you feel we can provide you with information on any issue you are considering in the legislative process.

Sincerely,

Joan Gaumer

Joan Gaumer, Director
Government Relations

JHG:pf

Blue Cross
of Washington and Alaska

15700 Dayton Avenue North/P.O. Box 327
Seattle, Washington 98111
206/361-3000

February 4, 1983

POLICY STATEMENT

Blue Cross of Washington and Alaska supports the retention of Certificate of Need. That process should, however, be modified as follows:

1. The dollar threshold should be increased to $1,000,000 per application.

2. Modifications which are necessary to reduce health and safety hazards should be exempted.

3. The State Health Planning and Development Agency should become the sole health planning body for the State and should be charged with health planning for all Alaskans. A provision should be included allowing municipalities to establish local health councils to the State Health Planning and Development Agency, who may make recommendations on planning matters.

JHG:pf

northern alaska health resources association, inc.

FEB 9 1983

February 03, 1983

The Honorable Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Tischer:

The Board of Directors of the Northern Alaska Health Resources Association has discussed the issue of repeal of the Certificate-of-Need (CON) law as currently proposed in HB 19. We reached agreement that a modified CON process is preferable to repeal. Although we recognize that there are problems with the current process, we believe that they can be solved by making major revisions in the regulations rather than by repealing the law. There is little disagreement that the threshold limits that trigger CON review are too low or that review of many non-clinical expenditures is a nuisance. Moreover, the process should be tightened up so that reviews are completed in a timely and efficient manner.

There are several reasons why we believe the CON process should be retained; however, the most important reason has to do with citizen participation in deciding what health care services and facilities are most appropriate and affordable for a specific community or region of the state. The issue has not been whether a CON should be approved or denied but rather that a discussion or negotiation has taken place between the community and health-care facility regarding local, regional and statewide needs. The Certificate-of-Need process has been a forum for these discussions and has served to guide the appropriate development of health care services and facilities throughout the state.

A recent trend has been to appropriate increasing amounts of public funds for construction or expansion of health care facilities in Alaska (i.e., $31,500,000, FY 81-82). Moreover, we are seeing the cost of health care increasing at a rate which has been consistently higher than the general rate of inflation. It has been demonstrated that capital investment contributes significantly to the growth of total hospital expenditures. Although it is true that general inflation, sophisticated technology, and increasing staff requirements also contribute to rising costs of hospital care, hospital capital investments add to the operating costs by an amount in excess of the value of the investment. In April, 1982, Arthur D. Little, Inc., a health economics consulting firm under contract with the National Center for Health Services Research, estimated that the present value of additional operating expenditures in the next ten years is $1.84 for every dollar invested in capital improvements, exclusive of depreciation and debt service. Uncontrolled

529 5th avenue, suite 8 fairbanks, alaska 99701 telephone (907) 456-2553

capital expenditures for more or bigger health care facilities can only serve to drive up operating costs at an accelerated rate. These increased costs are ultimately passed on to the patient or community. We believe that people must continue to have the opportunity and responsibility through the CON process to determine what level of health services they are willing to pay for. Competition in the health care field essentially does not exist, especially in Alaska where most communities cannot afford more than one health care facility; therefore, the only way that we can keep a lid on overbuilding is through a capital expenditures review program similar to the current Certificate-of-Need program.

Several states have already revised their CON process (among them Colorado and New Mexico) with full support of their respective state hospital associations. Revision of Alaska's CON process must occur if we expect to see the process work as it was designed to do. The following revisions are offered for consideration:

1. Increase the threshold level which triggers a CON review from $150,000 to at least:
   a. $600,000 for capital expenditures
   b. $400,000 for major medical equipment
   c. $250,000 for operating expenses associated with new services.

2. Exempt all non-clinical capital expenditures. The bill should indicate that non-clinical services which are not subject to review include, but are not limited to: parking, telephone systems, day care, mailrooms, heating and air conditioning, blood bank, dietary/cafeteria, laundry and linen, medical records, business office, housekeeping, central supply, library, reception, and data processing. This exemption would apply only if one of these non-clinical projects was the main purpose of the application. For example, a project proposing a new facility could still include review and consideration of the non-clinical activity if it were part of a larger project.

3. Expedite review of capital equipment replacement.

4. Specify a time limit for a decision by the Commissioner subsequent to a recommendation by the regional health planning agency.

5. Provide that each legislator be informed of all projects in his/her district, especially regarding the outcome of the review.

6. Consider a sunset provision of four or more years to review effectiveness of the CON process.

In summary, there is little disagreement that there are problems with the current CON process; however, the forum that the CON process provides for community discussion about the relative merits of a proposed project far outweigh what we perceive to be correctable problems. We recommend revision of the CON process rather than repeal.

Sincerely,

J. B. Carnahan
President

JBC:flr

cc: William Sheffield
Governor

Robert London Smith, Ph.D.
Commissioner, DHSS

Alaska Health Coalition

Southeast Alaska HSA

South Central Health Planning
and Development, Inc.

FEB 18 1983

South Central
Health Planning and Development, Inc.
1135 West Eighth Avenue • Suite 1 • Anchorage, Alaska 99501
(907) 278-3631

David, all these type comments need to be made part of the testimony. Please put with our file

February 15, 1983

Dear Alaska Legislator:

The Executive Committee of South Central Health Planning and Development, Inc., yesterday met to discuss the proposed Certificate of Need repeal bill. The Committee asked me to convey to you our support for the attached position paper developed by the Alaska Health Coalition.

The [redacted]

If you have questions on this issue, you might contact Executive Director, Peggy Wilson.

Sincerely,

Margaret McClure Wilson

Margaret M. Wilson
Executive Director

MMW/ab

Alaska Health Coalition

529 5th Avenue, Suite 8
Fairbanks, Alaska 99701
(907) 456-2553

February 11, 1983

TO: Members of the Alaska Legislature

Proposed legislation (HB 19 and SB 85) would repeal Alaska Statute 18.07.031-18.07.111, better known as the Alaska Certificate of Need (CON) law. These bills reflect the position of the Alaska Hospital Association, whose member institutions are subject to the provisions of the CON process. The attached paper, developed by the Alaska Health Coalition, was written to provide legislators and the public with a series of alternatives to consider during discussion of these important bills. The paper summarizes the provisions of the CON law, discusses several of the problems which have been identified with the current process, and reviews the effectiveness of the CON program, both nationally and within Alaska. In addition, a list of recommendations is provided for consideration in revising the current CON law.

The Alaska Health Coalition is a group of interested citizens with memberships from the three Alaska Health Systems Agencies and the Statewide Health Coordinating Council. The primary purposes of the Coalition are to review the need for health planning, development, and promotion activities and to develop goals, describe functions, and recommend structures to achieve optimal health for the citizens of the state. Therefore, we believe that the subject of public review of capital expenditures as currently provided for in the Certificate of Need law is an important issue which deserves a reasonable, objective discussion. We present this paper for the purpose of initiating this discussion.

For additional information, please contact any of the following organizations: Northern Alaska Health Resources Association, Fairbanks (456-2553); South Central Health Planning and Development, Anchorage (278-3631); or, Southeast Alaska Health Systems Agency, Ketchikan (225-9681).

Best regards,

Charles M. Kaltenbach

Charles M. Kaltenbach, Dr. P.H.
Chairman

CMK:sem

Enclosure

Coalition Members

J. B. Carnahan, Fairbanks; Joseph Clarkson, Juneau;
Charles Kaltenbach, Dr. P.H., Fairbanks; Steve Lesko, Anchorage;
John Manning, Ketchikan; Lillie McCarvey, Anchorage; Art Wilson, Sitka; Margaret Wilson, Anchorage

CERTIFICATE OF NEED:

REVISION OR REPEAL

Prepared in
the
Public Interest
by
the

ALASKA HEALTH COALITION
February, 1983

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EXECUTIVE SUMMARY

Alaska's Certificate of Need (CON) Law was enacted by the State Legislature in 1976, following passage of Public Law 93-641, the National Health Planning and Resource Development Act of 1974. Provisions in the CON law require that non-federal health care institutions apply for and receive a Certificate of Need from the State of Alaska before proceeding with major capital investments which will result in new construction, alterations or renovations, and/or new services. The Thirteenth Alaska Legislature currently has before it companion bills, HB 19 and SB 85, which provide for repeal of the CON law. The purpose of this paper is to review the data available on the effectiveness of the CON process, both nationally and within the State of Alaska, and to present alternatives for consideration by the Legislature regarding public review of capital expenditures for health care facilities.

Evidence is presented that the CON program has had an effect on limiting the amount of capital expenditures. Furthermore, current economic research has demonstrated that, for every dollar of capital investment made in a health care facility, an accompanying increase in operating costs can be expected amounting to 184% of the original investment in ten years.

Evidence gathered on Alaska's experience with the Certificate of Need program indicated that it has been effective in deterring and/or guiding capital investment within the health care industry and has stimulated improved planning within the health-care institutions themselves. Examples are presented which illustrate how the process created this impact.

Several issues are discussed relating to recognized concerns within the current CON process. These issues include: 1) costs attendant to developing a CON application; 2) delays in the review process; 3) loss of community control; 4) marketplace economics; and, 5) the dollar-threshold limits which require a CON.

The conclusion drawn from this review was that, although there are problems with the current CON process, revision of the law is preferable to outright repeal. Recommendations for revision of the law are provided and include:

1. Raising threshold levels.
2. Exempting non-clinical capital expenditures.
3. Expediting reviews of equipment replacement.
4. Specifying time limits on reviews.
5. Providing legislators with information on the outcome of reviews in their districts.
6. Providing for a sunset review of the process.

CERTIFICATE OF NEED PROGRAM

PURPOSE

The most controversial aspect of the health planning effort, in Alaska and nationwide, has been the Certificate of Need (CON) program. Borrowed from public utility regulations, the earliest CON program was enacted by New York in 1964. Twenty-six other states instituted CON programs in the next ten years, and, with the passage of Public Law 93-641, CON was mandated for all states. Alaska's Certificate of Need statute (18.07.031-.111) was enacted by the State Legislature in 1976 and amended in 1981.

As originally designed, the CON program was implemented to curb rapidly escalating costs of health care by stemming uncontrolled capital investments in new health-care facilities, services, and high-technology equipment. To accomplish this goal, the CON program had several primary objectives: 1) to prevent unnecessary duplication of services and facilities; 2) to reduce the number of available hospital beds or at least not allow the growth of hospital beds to exceed guidelines established in the State Health Plan; 3) to promote an equitable and efficient allocation of resources; and 4) to determine if less costly alternatives to expensive capital expenditures were available to accomplish the same purpose.

WHO MUST APPLY

The State of Alaska requires approval of capital expenditures for projects which meet or exceed certain thresholds:

1. Capital expenditures in excess of $150,000 toward building, improving, or purchasing a health care facility, including lease or purchase of equipment, costs of any study surveys, designs, and site acquisitions and preparations.

2. Any change within a two-year period in the licensed bed capacity of a health care facility amounting to 10 beds or 10 percent, whichever is the lesser, which increases or decreases the number of beds or redistributes beds among different categories of service.

3. Any addition or elimination of a major type of service offered in or through the health care facility.

A project meeting or exceeding these thresholds is required to obtain a Certificate of Need from the State of Alaska prior to implementation.

THE PROCESS

An applicant enters the CON review process by submitting a "Letter of Intent" to the Department of Health and Social Services (DHSS) and to the appropriate health systems agency describing briefly the scope of the proposed activity. If the DHSS determines that the project is subject to CON review, the applicant develops a formal application and submits it to the State agency and the regional health systems agency. In most cases, a pre-application conference is scheduled with the applicant to minimize any potential misunderstandings and to achieve an agreement on what would represent a successful application. Once the State agency certifies that the application is "complete" -- that it contains sufficient information necessary to conduct an objective review -- the agency has 90 days to review the application and to submit an analysis to the Commissioner of DHSS for final action. Within the 90-day review period, the regional health planning agency has 60 days to review and seek public comments on the appropriateness of the proposed application. The HSA submits its findings and recommendations to the Commissioner. Once the Commissioner has considered the information that has been submitted, he decides whether or not to issue a Certificate of Need to the applicant. The Commissioner notifies the applicant in writing of the decision. Copies of the decision are sent to the Health Systems Agency and are published in regional newspapers.

EFFECTIVENESS

Nationwide

Nationally, credible information is just beginning to emerge regarding the effect of capital expenditures review. Although this topic has been of interest for many years, much of the early literature is of little value because of a basic lack of understanding about the process and outcome of capital expenditure review programs.[1] Two recently completed studies in the State of Massachusetts have reported CON impacts.[2,3] The first analyzed hospital capital investment among short-term general voluntary hospitals between 1967-1976. The results were that, by 1976 and beyond, CON review reduced all dimensions of project scale and cost by as much as two-thirds of that originally proposed. The second study found that the formal and informal actions of the CON agency from 1972-1976 resulted in small, but statistically significant, reductions in the rate of hospital investment.

Two studies conducted in 1982 by Arthur D. Little, Inc., shed additional light on the potential impact of capital expenditures review.[4,5] The first study analyzed the effect of capital expenditures review decisions in five states: Colorado, Florida, Maryland, Massachusetts, and Oregon (chosen for their geographical and regulatory differences). Based on their analysis, CON programs appeared to be effective in limiting the amount of capital expenditures undertaken. Furthermore, they discovered that, for every dollar of capital investment, there was a definite increase in operating costs. They projected that, over a ten-year period, a dollar of capital investment generates additional operating costs with a present value of $1.84 (exclusive of

depreciation and debt service). They concluded from these results that CON programs have the potential to play an important role in curbing hospital cost inflation.[4]

A second report by Arthur D. Little, Inc., involved an analysis of information from a six-state study.[5] For the states of Virginia, South Carolina, Washington, New Jersey, Iowa and Colorado, Arthur D. Little undertook a review of Certificate of Need programs for the twelve-month period beginning July 1, 1979 to June 30, 1980. Three significant findings were reported: 1) certain capital costs were not incurred as a result of the CON review program; 2) the objectives contained in individual state plans and health systems plans tended to deter capital expenditure projects; and, 3) pre-application conferences -- health planners and providers working together to avoid project denial -- were effective means of reducing the "administrative costs" of the review process as well as excessive capital expenditures.[6]

Alaska

Currently (February 1983) there are five projects under review by the Department of Health and Social Services that total $106,000,000. Two additional applications are anticipated, totalling $20,820,000. These seven applications ($126.8 million) provide an interesting contrast with the more than 30 projects which were approved for $149,000,000 in the previous five years (1977-1982).

Two projects with a combined total of $12,400,000 have been denied during the past five years. In addition, several other Letters of Intent have been received by the Department for which applications were never received. It is impossible to estimate how many applications or letters of intent were never submitted because of the presence of the CON law.

The Alaska CON Program has been effective in accomplishing three things. First, it seems reasonable to expect that CON has deterred misdirected projects that could not withstand the test of public scrutiny. It has, therefore, acted to uphold existing plan standards. Secondly, it has guided institutional actions into areas which are compatible with the goals and objectives of the State as reflected in State and regional health plans. Thirdly, the presence of the CON program has promoted better planning on the part of the health care institutions throughout the State.

Deterrent Effects

Although the deterrent effect of Certificate of Need is admittedly difficult to demonstrate, there is evidence from the number of "Letters of Intent" which never resulted in an application that CON is a deterrent. A specific example of this phenomenon was observed during a recent effort by four different applicants to provide inpatient alcoholism treatment services in and around Anchorage. The Department of

Health and Social Services and the local health systems agency identified a need for 40-80 alcohol-treatment beds in the area. Due to pre-application planning, only two of the four applications were completed for final consideration. Both were subsequently approved.

Improved Institutional Planning

Situations in which the CON process provides expert guidance and stimulates better institutional planning do not always result in smaller, less-expensive projects. For example, Valley Hospital in Palmer submitted an application to complete a minimal and temporary renovation of their 30-year old facility at a cost of $2,000,000. Part of the renovation included additional insulation to prevent heat loss through the roof. At the suggestion of the Department, a structural engineer was asked to study the ability of the roof to withstand the increased load of snow which would not be melted because of the insulation. The Department also requested a life-cycle cost analysis which would determine the cost of a temporary renovation as opposed to costs of major renovation. The results of these inquiries demonstrated that the roof was not designed to withstand the extra load of snow and that, when total operating expenses and capital costs were considered for a 25-year period, it would be less expensive to forgo the minimal renovation and proceed with a major renovation. The result of this review was an approval for a major renovation project -- at a long-term cost savings.

Petersburg General Hospital filed a letter of intent for $3,400,000 to renovate an existing acute care facility. Following an architectural assessment of the facility and a life-cycle cost analysis requested by the State, it was determined that the cost of new construction would be preferable to renovation. Subsequently, a CON was approved for $7,150,000. Obviously, the CON process is not punitive, but rather seeks to use health care resources to gain the maximum benefit for the community.

Hospitals in Homer and Fairbanks submitted proposals for review which contained "shelled-in" space for which no use was intended for the immediate future. In Homer, the Department requested further assessment of the situation to identify a solution to future use of the shelled-in space. As a result the plans were redrawn for the renovation and expansion and included the proposed use of the shelled-in space.

Better Conformance with Identified Community Needs

In Fairbanks, the CON process stimulated a community discussion of the need for inpatient psychiatric services and a concern for approving the construction of two shelled-in floors that did not have an identified use. Because of discussions at the local level during the review by the health systems agency, the hospital agreed to specify the intended use of the shelled-in space and, furthermore, to enter into a planning process with the community during the following year to determine the most appropriate configuration for the proposed services.

Summary

Although it is difficult to place a dollar figure on the impact of the Certificate of Need program over the past six years, it appears that Alaska's program has effectively deterred and guided capital investment within the health care industry and has stimulated improved planning within the institutions themselves. Because of the CON program, Alaskans have saved millions of dollars in operating costs which would have resulted from unneeded expansion of facilities and services. Moreover, the State Legislature and the Administration should feel some measure of assurance that, because of the CON process, the millions of dollars in public funds that have flowed from the State to health care facilities for construction and operation are being used for projects which meet an identified need, do not duplicate existing services, and are financially feasible.

PROBLEMS WITH THE CON PROCESS AND RECOMMENDATIONS FOR IMPROVEMENT

INTRODUCTION

Proponents and opponents of the Certificate of Need program agree that the current CON process requires substantial changes. Opponents cite several reasons for their decision to push for repeal of the current law. Among the reasons are: 1) significant costs are involved in developing a CON application and proceeding through the review; 2) delays in implementation are caused by an extended review period; 3) the CON process removes community control; 4) market-place economics should control capital investment; and 5) threshold limits which trigger a CON review are too low.

COSTS

No one denies that there are costs attendant to developing a CON application. The majority of those costs, which have been estimated to run as high as $40,000 for the more complex projects, can be attributed to personnel costs. Most of these costs would continue in the absence of CON if a facility did a credible job of planning for future services. In order to gain public support, justify the financial feasibility of a construction project, and obtain adequate architectural designs, planning still must occur. The costs of institutional planning will not disappear in the absence of CON.

DELAYS

Extended review schedules have in some cases resulted in delays in construction start-up time which have been not only frustrating but also costly. It seems reasonable that the cause for these delays can be identified and corrected by revising the regulations regarding CON review. For example, provisions could be made to expedite review of capital equipment replacement and to set a time limit for a decision by the Commissioner subsequent to a recommendation by a regional health planning agency. Also, by raising the threshold limits which require a CON, there will be approximately 25% fewer reviews to do. This should improve the efficiency of the review process.

COMMUNITY CONTROL

Concern has been expressed that the CON process removes community control from local jurisdictions in the case of municipally-owned facilities and local advisory boards with respect to corporately-owned facilities. However, local governments and advisory boards do not necessarily maintain a regional or statewide perspective when it comes to considering new services and facilities. In other words, persons who

serve on local hospital advisory boards are chosen for their expertise and dedication in local issues; often, however, a project will have regional or statewide implications that cannot be properly addressed at the local level. The CON process, at the very least, offers local, regional and statewide perspectives on the need and appropriateness of a proposed project. Instead of removing community control, the CON process bestows some control on the community at large.

In addition, a trend is evident that an increasing amount of public funds are being appropriated by the legislature for construction and renovation. It seems reasonable that in a time of decreasing state revenues, citizens should have an opportunity to influence the distribution of these funds so that they meet state and regional needs instead of local demand. The CON process ensures public participation in these decisions.

MARKETPLACE ECONOMICS: COMPETITION vs. "REGULATION"

In recent years, there has been a popular theory that the problems in U.S. health services can be blamed on excessive government intervention and regulations. It has been argued that high costs and related problems could be solved by a "return to the free market and competition."[6] Two recent articles argue to the contrary.[7,8]

Roemer and Roemer, well-known health-economics experts, examined the past and present operations of free trade and competition in the health care system and found that not one of at least five conditions necessary for competition existed.[7] In addition, they found that the free market created a geographic maldistribution of health manpower, causing serious problems for rural populations. Furthermore, they discussed the paradoxical problem which has been demonstrated for every component of the health care industry of "supply creating demand" rather than the reverse, which is true in an effectively operating market. Supply creates demand in the health care industry fundamentally because the seller (doctor) rather than the buyer (patient) makes most of the decisions on what health services are to be obtained.[7]

Needlemen, another health economist, expressed a similar opinion.[8]

> An effective market is one in which there is competition on the basis of both price and quality, and in which those who sell services are limited in their ability to influence the volume of services they sell and are constrained in the prices they set by competitive pressures. By this definition, an effective market for health care services does not exist in most communities. Competition exists but it is rarely price competition; indeed the nature of current competition based on scope of services, amenities, and convenience is to encourage price increasing behavior. (Emphasis added).[8]

Arthur D. Little, Inc., summarized the policy implication of the debate surrounding competition and regulation. They reported that, in the absence of Certificate of Need regulations, hospitals will compete more vigorously by offering improved facilities to recruit physicians and patients. The resulting "building boom" will drive up operating expenditures over the next ten years by $1.84 for every dollar invested, exclusive of depreciation and debt service.

THRESHOLD LIMITS

Alaska regulations specify that a CON is required for any capital expenditure in excess of $150,000. There is general agreement that this threshold is far too low. Federal regulations have already changed to accomodate a significant increase in CON thresholds. The threshold levels which trigger a CON review should be increased from $150,000 to at least $600,000 for capital expenditures; $400,000 for major medical equipment; and $250,000 for operating expenses associated with new services.

CONCLUSIONS

Recent evidence nationally and available information from the Certificate of Need Program in Alaska indicate that the program has been effective in deterring unjustified projects, guiding capital investment projects, and stimulating improved institutional planning. Together these effects have served to meet the health care needs of the public, prevent duplication of costly services, and restrain the increasing costs of health care. Acute problems with the CON process are correctable by amending the law.

Options available to the Legislature can be placed into three categories: 1) keep the law as it is and maintain the status quo; 2) repeal the law in its entirety; or, 3) revise the law to correct recognized problems.

MAINTAIN CURRENT CON PROCESS

The State would continue to operate the program in its current form. This option assumes the CON process is working efficiently and requires only minor changes.

Because of recognized problems, this option appears to have little merit. Threshold levels are too low, most non-clinical expenditure reviews are a nuisance for applicants and reviewers, and delays in the review process are unacceptable.

REPEAL THE CON LAW

This option assumes that the Certificate of Need process has been entirely ineffective and that marketplace incentives will arise to control capital investments and health care costs.

It also assumes that public review of health care capital expenditures are unimportant and that health care consumers should not have a voice in determining the appropriateness of services in their community.

A competitive pricing market does not exist within the health care services industry of any community in Alaska. In addition, the State of Alaska did not renew its Section 1122 agreement with the federal government in 1981 because the Certificate of Need law was in place. (Section 1122 of PL 92-603 required that health care facilities, which received federal monies under Titles XVIII and XIX, be subject to review to ensure consistency with state health plans.) Repeal of the CON law would leave the State entirely without a capital expenditure review process for health care facilities; therefore, the State would have to rely principally on either the competitive market or incentives established under some kind of a prospective reimbursement system to control costs and allocate resources. (Hospitals are currently reimbursed by the federal government under Medicare and Medicaid on a retrospective basis; that is, after the costs have already occurred. Under this

reimbursement mechanism, there is no real incentive for containing costs. Prospective reimbursement, on the other hand, would require that hospitals negotiate the rate or cost of a service a year in advance. The government and other third-party insurers would reimburse the hospital only at the negotiated rate; therefore, costs exceeding the rate would be borne by the hospital, and, conversely, the hospital would make money if costs were kept below the negotiated rate.)

Because a competitive pricing market does not exist anywhere in Alaska, eliminating the CON program will likely lead to new, unneeded services and facilities which will result in increased operating costs. These costs are passed directly on to the buyers (patients and taxpayers).

Prospective reimbursement, on the other hand, comes in various forms and generally has been found to be more difficult to enact and implement than Certificate of Need. Generally speaking, prospective reimbursement is likely to be successful only where there has been political support for Certificate of Need.[3]

Finally, repeal of CON serves the interests of the health services establishment only. Those who control health-care costs would also be controlling capital investments. Consumers could not have a voice in determining the most appropriate and affordable level of service for their community or region.

MODIFY THE CON PROCESS

This option assumes that the CON program has been effective and can be modified to make it more efficient. The scope of the CON program could be scaled back by raising threshold levels and exempting certain non-clinical capital expenditures. Under this option, the CON program could be reduced further if a market capable of insuring an appropriate allocation of services emerged or to complement a prospective reimbursement system.

RECOMMENDATIONS

The Alaska Health Coalition recommends that negotiations take place among members of the Alaska State Hospital Association, the Legislature, and the Administration to work out revised CON regulations.

[redacted]

1. [redacted] to at least:

[redacted]

2. Exempt all non-clinical capital expenditures. The bill should indicate that non-clinical services which are not subject to review include, but are not limited to: parking, telephone systems, day care, mailrooms, heating and air conditioning, blood bank, dietary/cafeteria, laundry and linen, medical records, business office, housekeeping, central supply, library, reception, and data processing. This exemption would apply only if one of these non-clinical projects was the main purpose of the application. For example, a project proposing a new facility could still include review and consideration of the non-clinical activity if it were part of a larger project.

3. Expedite review of capital equipment replacement.

4. [redacted]

5. Provide that each legislator be informed of all projects in his/her district, especially regarding the outcome of the review.

6. [redacted] the CON process.

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APPENDIX

NATIONAL HEALTH PLANNING AND DEVELOPMENT ACT OF 1974

INTRODUCTION

Public Law 93-641, (National Health Planning and Resource Development Act), passed by the U.S. Congress in 1974, established a national health planning program which was implemented in each state and several American territories. The intent of Congress was to integrate previously sponsored programs (Hill-Burton, Regional Medical Program, Comprehensive Health Planning), retain the best features of each, and address major national, state, and local concerns about the current planning, development, and operation of the nation's health care system. To address these concerns, the Act authorized the designation and funding of state and regional health planning agencies and set forth several functions these agencies had to perform in order to further the "achievement of equal access to quality health care at a reasonable cost."

HEALTH SYSTEMS AGENCIES

Health Systems Agencies (HSAs) were designated as local or regional bodies with the responsibility for preparing and implementing plans designed to improve the health of the residents of its health service area; to increase the acceptability, accessibility, continuity and quality of health services of the area; to restrain increases in the cost of providing health services; and, to prevent unnecessary duplication of health resources. These functions were carried out by interested consumers and providers working together to identify community and regional problems and to develop strategies and recommendations to help alleviate those problems.

HSAs were established as either private, non-profit corporations or public entities governed by boards that had to have a consumer majorities. Operational funds have been awarded through both Federal (PHS) and State (DHSS) sources. In Alaska, the Governor designated three health service areas which were each to be served by an HSA. Alaska's three HSAs are: Northern Alaska Health Resources Association, Inc. (Fairbanks), serving northern Alaska; South Central Health Planning and Development, Inc. (Anchorage), serving south central Alaska, including the Aleutian chain; and Southeast Alaska Health Systems Agency (Ketchikan), serving Alaska's panhandle.

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

The Governor designated a State Health Planning and Development Agency (SHPDA) as a unit of State government. The SHPDA has the responsibility to conduct the health planning activities of the State, including preparation and implementation of the State Health Plan, and to provide coordination of the HSAs. The SHPDA also supports the function of the Statewide Health Coordinating Council and is responsible for administration of the Certificate of Need program. In Alaska, the SHPDA resides within the Department of Health and Social Services. It currently occupies division-level status.

STATEWIDE HEALTH COORDINATING COUNCIL

The Alaska Statewide Health Coordinating Council (SHCC) is the third entity involved in the State health planning network. The SHCC is a group of citizens appointed by the Governor who oversee the health planning activities within the State. Specifically, they have responsibility for preparation of the State Health Plan. The State Health Plan forms the basis upon which Certificate of Need applications are reviewed. Both the SHPDA and SHCC are supported with a mix of Federal and State funds.

STATEMENT OF

ÆTNA LIFE INSURANCE COMPANY

IN OPPOSITION TO

H.B. 19

As a major writer of commercial health insurance, the Ætna Life Insurance Company has for years been deeply concerned about health care cost increases and has consistently supported viable health planning programs. We strongly oppose H.B. 19, An Act Repealing the Certificate of Need Program. We believe that enactment of this legislation would represent a large step backward in Alaska's effort to realize an efficient and effective health care delivery system.

Health planning is one of the elements in the armamentarium of programs that are necessary to help in the reduction of the escalation of health costs and to ensure that the health care delivery system of the future is one that has been rationally and systematically planned.

We feel that it is most important that there be a mechanism in place for participation in the planning and development of health programs to improve the distribution of health services, ensuring that services are available to those citizens who need them, while restricting the investment in unnecessary facilities and services.

An important portion of a viable health planning program is state certificate of need legislation. We find it is essential to have such legislation in order that the necessity of capital expenditures can be determined, because of the two-pronged effect on the growth of health care costs. In the short run, the purchase, installation, and financing of expenditures increases annual health care expenditures. In the long run, operation and maintenance of capital expenditures continue to add to health care costs, to increased use of highly skilled labor (for maintenance and operation) and non-labor inputs (i.e., energy, supplies, etc.).

It has been estimated that every dollar of capital investment adds an additional 50¢ to annual operating cost. An important element in today's economy, which has had a dramatic effect on health care costs related to capital expenditures, is the interest rate now being charged on the finance debt. Efforts must be made to ensure that all capital expenditures made today are necessary and consistent with the goals of Alaska's Health Systems Plan and necessity for such expenditures.

Alaska's Certificate of Need Program is an important tool for implementation of the area health plan. We urge that this program be continued.

FEB 16 1983

CERTIFICATE OF NEED:

REVISION OR REPEAL

Prepared in
the
Public Interest
by
the

ALASKA HEALTH COALITION
February, 1983

Alaska Health Coalition

529 5th Avenue, Suite S
Fairbanks, Alaska 99701
(907) 456-2553

February 11, 1983

FEB 15 [illegible]

TO: Members of the Alaska Legislature

Proposed legislation (HB 19 and SB 85) would repeal Alaska Statute 18.07.031-18.07.111, better known as the Alaska Certificate of Need (CON) law. These bills reflect the position of the Alaska Hospital Association, whose member institutions are subject to the provisions of the CON process. The attached paper, developed by the Alaska Health Coalition, was written to provide legislators and the public with a series of alternatives to consider during discussion of these important bills. The paper summarizes the provisions of the CON law, discusses several of the problems which have been identified with the current process, and reviews the effectiveness of the CON program, both nationally and within Alaska. In addition, a list of recommendations is provided for consideration in revising the current CON law.

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For additional information, please contact any of the following organizations: Northern Alaska Health Resources Association, Fairbanks (456-2553); South Central Health Planning and Development, Anchorage (278-3631); or, Southeast Alaska Health Systems Agency, Ketchikan (225-9681).

Best regards,

Chas M. Kaltenbach

Charles M. Kaltenbach, Dr. P.H.
Chairman

CMK:sem

Enclosure

Coalition Members

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EXECUTIVE SUMMARY

Alaska's Certificate of Need (CON) Law was enacted by the State Legislature in 1976, following passage of Public Law 93-641, the National Health Planning and Resource Development Act of 1974. Provisions in the CON law require that non-federal health care institutions apply for and receive a Certificate of Need from the State of Alaska before proceeding with major capital investments which will result in new construction, alterations or renovations, and/or new services. The Thirteenth Alaska Legislature currently has before it companion bills, HB 19 and SB 85, which provide for repeal of the CON law. The purpose of this paper is to review the data available on the effectiveness of the CON process, both nationally and within the State of Alaska, and to present alternatives for consideration by the Legislature regarding public review of capital expenditures for health care facilities.

Evidence is presented that the CON program has had an effect on limiting the amount of capital expenditures. Furthermore, current economic research has demonstrated that, for every dollar of capital investment made in a health care facility, an accompanying increase in operating costs can be expected amounting to 184% of the original investment in ten years.

Evidence gathered on Alaska's experience with the Certificate of Need program indicated that it has been effective in deterring and/or guiding capital investment within the health-care industry and has stimulated improved planning within the health-care institutions themselves. Examples are presented which illustrate how the process created this impact.

Several issues are discussed relating to recognized concerns within the current CON process. These issues include: 1) costs attendant to developing a CON application; 2) delays in the review process; 3) loss of community control; 4) marketplace economics; and, 5) the dollar-threshold limits which require a CON.

The conclusion drawn from this review was that, although there are problems with the current CON process, revision of the law is preferable to outright repeal. Recommendations for revision of the law are provided and include:

1. Raising threshold levels.
2. Exempting non-clinical capital expenditures.
3. Expediting reviews of equipment replacement.
4. Specifying time limits on reviews.
5. Providing legislators with information on the outcome of reviews in their districts.
6. Providing for a sunset review of the process.

CERTIFICATE OF NEED PROGRAM

PURPOSE

The most controversial aspect of the health planning effort, in Alaska and nationwide, has been the Certificate of Need (CON) program. Borrowed from public utility regulations, the earliest CON program was enacted by New York in 1964. Twenty-six other states instituted CON programs in the next ten years, and, with the passage of Public Law 93-641, CON was mandated for all states. Alaska's Certificate of Need statute (18.07.031-.111) was enacted by the State Legislature in 1976 and amended in 1981.

As originally designed, the CON program was implemented to curb rapidly escalating costs of health care by stemming uncontrolled capital investments in new health-care facilities, services, and high-technology equipment. To accomplish this goal, the CON program had several primary objectives: 1) to prevent unnecessary duplication of services and facilities; 2) to reduce the number of available hospital beds or at least not allow the growth of hospital beds to exceed guidelines established in the State Health Plan; 3) to promote an equitable and efficient allocation of resources; and 4) to determine if less costly alternatives to expensive capital expenditures were available to accomplish the same purpose.

WHO MUST APPLY

The State of Alaska requires approval of capital expenditures for projects which meet or exceed certain thresholds:

1. Capital expenditures in excess of $150,000 toward building, improving, or purchasing a health care facility, including lease or purchase of equipment, costs of any study surveys, designs, and site acquisitions and preparations.

2. Any change within a two-year period in the licensed bed capacity of a health care facility amounting to 10 beds or 10 percent, whichever is the lesser, which increases or decreases the number of beds or redistributes beds among different categories of service.

3. Any addition or elimination of a major type of service offered in or through the health care facility.

A project meeting or exceeding these thresholds is required to obtain a Certificate of Need from the State of Alaska prior to implementation.

THE PROCESS

An applicant enters the CON review process by submitting a "Letter of Intent" to the Department of Health and Social Services (DHSS) and to the appropriate health systems agency describing briefly the scope of the proposed activity. If the DHSS determines that the project is subject to CON review, the applicant develops a formal application and submits it to the State agency and the regional health systems agency. In most cases, a pre-application conference is scheduled with the applicant to minimize any potential misunderstandings and to achieve an agreement on what would represent a successful application. Once the State agency certifies that the application is "complete" -- that it contains sufficient information necessary to conduct an objective review -- the agency has 90 days to review the application and to submit an analysis to the Commissioner of DHSS for final action. Within the 90-day review period, the regional health planning agency has 60 days to review and seek public comments on the appropriateness of the proposed application. The HSA submits its findings and recommendations to the Commissioner. Once the Commissioner has considered the information that has been submitted, he decides whether or not to issue a Certificate of Need to the applicant. The Commissioner notifies the applicant in writing of the decision. Copies of the decision are sent to the Health Systems Agency and are published in regional newspapers.

EFFECTIVENESS

Nationwide

Nationally, credible information is just beginning to emerge regarding the effect of capital expenditures review. Although this topic has been of interest for many years, much of the early literature is of little value because of a basic lack of understanding about the process and outcome of capital expenditure review programs.[1] Two recently completed studies in the State of Massachusetts have reported CON impacts.[2,3] The first analyzed hospital capital investment among short-term general voluntary hospitals between 1967-1976. The results were that, by 1976 and beyond, CON review reduced all dimensions of project scale and cost by as much as two-thirds of that originally proposed. The second study found that the formal and informal actions of the CON agency from 1972-1976 resulted in small, but statistically significant, reductions in the rate of hospital investment.

Two studies conducted in 1982 by Arthur D. Little, Inc., shed additional light on the potential impact of capital expenditures review.[4,5] The first study analyzed the effect of capital expenditures review decisions in five states: Colorado, Florida, Maryland, Massachusetts, and Oregon (chosen for their geographical and regulatory differences). Based on their analysis, CON programs appeared to be effective in limiting the amount of capital expenditures undertaken. Furthermore, they discovered that, for every dollar of capital investment, there was a definite increase in operating costs. They projected that, over a ten-year period, a dollar of capital investment generates additional operating costs with a present value of $1.84 (exclusive of

depreciation and debt service). They concluded from these results that CON programs have the potential to play an important role in curbing hospital cost inflation.[4]

A second report by Arthur D. Little, Inc., involved an analysis of information from a six-state study.[5] For the states of Virginia, South Carolina, Washington, New Jersey, Iowa and Colorado, Arthur D. Little undertook a review of Certificate of Need programs for the twelve-month period beginning July 1, 1979 to June 30, 1980. Three significant findings were reported: 1) certain capital costs were not incurred as a result of the CON review program; 2) the objectives contained in individual state plans and health systems plans tended to deter capital expenditure projects; and, 3) pre-application conferences -- health planners and providers working together to avoid project denial -- were effective means of reducing the "administrative costs" of the review process as well as excessive capital expenditures.[5]

Alaska

Currently (February 1983) there are five projects under review by the Department of Health and Social Services that total $106,000,000. Two additional applications are anticipated, totalling $20,820,000. These seven applications ($126.8 million) provide an interesting contrast with the more than 30 projects which were approved for $149,000,000 in the previous five years (1977-1982).

Two projects with a combined total of $12,400,000 have been denied during the past five years. In addition, several other Letters of Intent have been received by the Department for which applications were never received. It is impossible to estimate how many applications or letters of intent were never submitted because of the presence of the CON law.

The Alaska CON Program has been effective in accomplishing three things. First, it seems reasonable to expect that CON has deterred misdirected projects that could not withstand the test of public scrutiny. It has, therefore, acted to uphold existing plan standards. Secondly, it has guided institutional actions into areas which are compatible with the goals and objectives of the State as reflected in State and regional health plans. Thirdly, the presence of the CON program has promoted better planning on the part of the health care institutions throughout the State.

Deterrent Effects

Although the deterrent effect of Certificate of Need is admittedly difficult to demonstrate, there is evidence from the number of "Letters of Intent" which never resulted in an application that CON is a deterrent. A specific example of this phenomenon was observed during a recent effort by four different applicants to provide inpatient alcoholism treatment services in and around Anchorage. The Department of

Health and Social Services and the local health systems agency identified a need for 40-80 alcohol-treatment beds in the area. Due to pre-application planning, only two of the four applications were completed for final consideration. Both were subsequently approved.

Improved Institutional Planning

Situations in which the CON process provides expert guidance and stimulates better institutional planning do not always result in smaller, less-expensive projects. For example, Valley Hospital in Palmer submitted an application to complete a minimal and temporary renovation of their 30-year old facility at a cost of $2,000,000. Part of the renovation included additional insulation to prevent heat loss through the roof. At the suggestion of the Department, a structural engineer was asked to study the ability of the roof to withstand the increased load of snow which would not be melted because of the insulation. The Department also requested a life-cycle cost analysis which would determine the cost of a temporary renovation as opposed to costs of major renovation. The results of these inquiries demonstrated that the roof was not designed to withstand the extra load of snow and that, when total operating expenses and capital costs were considered for a 25-year period, it would be less expensive to forgo the minimal renovation and proceed with a major renovation. The result of this review was an approval for a major renovation project -- at a long-term cost savings.

Petersburg General Hospital filed a letter of intent for $3,400,000 to renovate an existing acute care facility. Following an architectural assessment of the facility and a life-cycle cost analysis requested by the State, it was determined that the cost of new construction would be preferable to renovation. Subsequently, a CON was approved for $7,150,000. Obviously, the CON process is not punitive, but rather seeks to use health care resources to gain the maximum benefit for the community.

Hospitals in Homer and Fairbanks submitted proposals for review which contained "shelled-in" space for which no use was intended for the immediate future. In Homer, the Department requested further assessment of the situation to identify a solution to future use of the shelled-in space. As a result the plans were redrawn for the renovation and expansion and included the proposed use of the shelled-in space.

Better Conformance with Identified Community Needs

In Fairbanks, the CON process stimulated a community discussion of the need for inpatient psychiatric services and a concern for approving the construction of two shelled-in floors that did not have an identified use. Because of discussions at the local level during the review by the health systems agency, the hospital agreed to specify the intended use of the shelled-in space and, furthermore, to enter into a planning process with the community during the following year to determine the most appropriate configuration for the proposed services.

Summary

Although it is difficult to place a dollar figure on the impact of the Certificate of Need program over the past six years, it appears that Alaska's program has effectively deterred and guided capital investment within the health care industry and has stimulated improved planning within the institutions themselves. Because of the CON program, Alaskans have saved millions of dollars in operating costs which would have resulted from unneeded expansion of facilities and services. Moreover, the State Legislature and the Administration should feel some measure of assurance that, because of the CON process, the millions of dollars in public funds that have flowed from the State to health care facilities for construction and operation are being used for projects which meet an identified need, do not duplicate existing services, and are financially feasible.

PROBLEMS WITH THE CON PROCESS AND RECOMMENDATIONS FOR IMPROVEMENT

INTRODUCTION

Proponents and opponents of the Certificate of Need program agree that the current CON process requires substantial changes. Opponents cite several reasons for their decision to push for repeal of the current law. Among the reasons are: 1) significant costs are involved in developing a CON application and proceeding through the review; 2) delays in implementation are caused by an extended review period; 3) the CON process removes community control; 4) market-place economics should control capital investment; and 5) threshold limits which trigger a CON review are too low.

COSTS

No one denies that there are costs attendant to developing a CON application. The majority of those costs, which have been estimated to run as high as $40,000 for the more complex projects, can be attributed to personnel costs. Most of these costs would continue in the absence of CON if a facility did a credible job of planning for future services. In order to gain public support, justify the financial feasibility of a construction project, and obtain adequate architectural designs, planning still must occur. The costs of institutional planning will not disappear in the absence of CON.

DELAYS

Extended review schedules have in some cases resulted in delays in construction start-up time which have been not only frustrating but also costly. It seems reasonable that the cause for these delays can be identified and corrected by revising the regulations regarding CON review. For example, provisions could be made to expedite review of capital equipment replacement and to set a time limit for a decision by the Commissioner subsequent to a recommendation by a regional health planning agency. Also, by raising the threshold limits which require a CON, there will be approximately 25% fewer reviews to do. This should improve the efficiency of the review process.

COMMUNITY CONTROL

Concern has been expressed that the CON process removes community control from local jurisdictions in the case of municipally-owned facilities and local advisory boards with respect to corporately-owned facilities. However, local governments and advisory boards do not necessarily maintain a regional or statewide perspective when it comes to considering new services and facilities. In other words, persons who

serve on local hospital advisory boards are chosen for their expertise and dedication in local issues; often, however, a project will have regional or statewide implications that cannot be properly addressed at the local level. The CON process, at the very least, offers local, regional and statewide perspectives on the need and appropriateness of a proposed project. Instead of removing community control, the CON process bestows some control on the community at large.

In addition, a trend is evident that an increasing amount of public funds are being appropriated by the legislature for construction and renovation. It seems reasonable that in a time of decreasing state revenues, citizens should have an opportunity to influence the distribution of these funds so that they meet state and regional needs instead of local demand. The CON process ensures public participation in these decisions.

MARKETPLACE ECONOMICS: COMPETITION vs. "REGULATION"

In recent years, there has been a popular theory that the problems in U.S. health services can be blamed on excessive government intervention and regulations. It has been argued that high costs and related problems could be solved by a "return to the free market and competition."[6] Two recent articles argue to the contrary.[7,8]

Roemer and Roemer, well-known health-economics experts, examined the past and present operations of free trade and competition in the health care system and found that not one of at least five conditions necessary for competition existed.[7] In addition, they found that the free market created a geographic maldistribution of health manpower, causing serious problems for rural populations. Furthermore, they discussed the paradoxical problem which has been demonstrated for every component of the health care industry of "supply creating demand" rather than the reverse, which is true in an effectively operating market. Supply creates demand in the health care industry fundamentally because the seller (doctor) rather than the buyer (patient) makes most of the decisions on what health services are to be obtained.[7]

Needlemen, another health economist, expressed a similar opinion.[8]

> An effective market is one in which there is competition on the basis of both price and quality, and in which those who sell services are limited in their ability to influence the volume of services they sell and are constrained in the prices they set by competitive pressures. By this definition, an effective market for health care services does not exist in most communities. Competition exists but it is rarely price competition; indeed the nature of current competition based on scope of services, amenities, and convenience is to encourage price increasing behavior. (Emphasis added).[8]

Arthur D. Little, Inc., summarized the policy implication of the debate surrounding competition and regulation. They reported that, in the absence of Certificate of Need regulations, hospitals will compete more vigorously by offering improved facilities to recruit physicians and patients. The resulting "building boom" will drive up operating expenditures over the next ten years by $1.84 for every dollar invested, exclusive of depreciation and debt service.

THRESHOLD LIMITS

Alaska regulations specify that a CON is required for any capital expenditure in excess of $150,000. There is general agreement that this threshold is far too low. Federal regulations have already changed to accomodate a significant increase in CON thresholds. The threshold levels which trigger a CON review should be increased from $150,000 to at least $600,000 for capital expenditures; $400,000 for major medical equipment; and $250,000 for operating expenses associated with new services.

CONCLUSIONS

Recent evidence nationally and available information from the Certificate of Need Program in Alaska indicate that the program has been effective in deterring unjustified projects, guiding capital investment projects, and stimulating improved institutional planning. Together these effects have served to meet the health care needs of the public, prevent duplication of costly services, and restrain the increasing costs of health care. Acute problems with the CON process are correctable by amending the law.

Options available to the Legislature can be placed into three categories: 1) keep the law as it is and maintain the status quo; 2) repeal the law in its entirety; or, 3) revise the law to correct recognized problems.

MAINTAIN CURRENT CON PROCESS

The State would continue to operate the program in its current form. This option assumes the CON process is working efficiently and requires only minor changes.

Because of recognized problems, this option appears to have little merit. Threshold levels are too low, most non-clinical expenditure reviews are a nuisance for applicants and reviewers, and delays in the review process are unacceptable.

REPEAL THE CON LAW

This option assumes that the Certificate of Need process has been entirely ineffective and that marketplace incentives will arise to control capital investments and health care costs.

It also assumes that public review of health care capital expenditures are unimportant and that health care consumers should not have a voice in determining the appropriateness of services in their community.

A competitive pricing market does not exist within the health care services industry of any community in Alaska. In addition, the State of Alaska did not renew its Section 1122 agreement with the federal government in 1981 because the Certificate of Need law was in place.[9] (Section 1122 of PL 92-603 required that health care facilities, which received federal monies under Titles XVIII and XIX, be subject to review to ensure consistency with state health plans.) Repeal of the CON law would leave the State entirely without a capital expenditure review process for health care facilities; therefore, the State would have to rely principally on either the competitive market or incentives established under some kind of a prospective reimbursement system to control costs and allocate resources. (Hospitals are currently reimbursed by the federal government under Medicare and Medicaid on a retrospective basis; that is, after the costs have already occurred. Under this

reimbursement mechanism, there is no real incentive for containing costs. Prospective reimbursement, on the other hand, would require that hospitals negotiate the rate or cost of a service a year in advance. The government and other third-party insurers would reimburse the hospital only at the negotiated rate; therefore, costs exceeding the rate would be borne by the hospital, and, conversely, the hospital would make money if costs were kept below the negotiated rate.)

Because a competitive pricing market does not exist anywhere in Alaska, eliminating the CON program will likely lead to new, unneeded services and facilities which will result in increased operating costs. These costs are passed directly on to the buyers (patients and taxpayers).

Prospective reimbursement, on the other hand, comes in various forms and generally has been found to be more difficult to enact and implement than Certificate of Need. Generally speaking, prospective reimbursement is likely to be successful only where there has been political support for Certificate of Need.[8]

Finally, repeal of CON serves the interests of the health services establishment only. Those who control health-care costs would also be controlling capital investments. Consumers could not have a voice in determining the most appropriate and affordable level of service for their community or region.

MODIFY THE CON PROCESS

This option assumes that the CON program has been effective and can be modified to make it more efficient. The scope of the CON program could be scaled back by raising threshold levels and exempting certain non-clinical capital expenditures. Under this option, the CON program could be reduced further if a market capable of insuring an appropriate allocation of services emerged or to complement a prospective reimbursement system.

RECOMMENDATIONS

The Alaska Health Coalition recommends that negotiations take place among members of the Alaska State Hospital Association, the Legislature, and the Administration to work out revised CON regulations.

The Coalition further recommends that the following revisions be considered as a starting point for the negotiations.

1. Increase the threshold level which triggers a CON review from $150,000 to at least:
   a. $600,000 for capital expenditures
   b. $400,000 for major medical equipment
   c. $250,000 for operating expenses associated with new services.

2. Exempt all non-clinical capital expenditures. The bill should indicate that non-clinical services which are not subject to review include, but are not limited to: parking, telephone systems, day care, mailrooms, heating and air conditioning, blood bank, dietary/cafeteria, laundry and linen, medical records, business office, housekeeping, central supply, library, reception, and data processing. This exemption would apply only if one of these non-clinical projects was the main purpose of the application. For example, a project proposing a new facility could still include review and consideration of the non-clinical activity if it were part of a larger project.

3. Expedite review of capital equipment replacement.

4. Specify a time limit for a decision by the Commissioner subsequent to a recommendation by the regional health planning agency.

5. Provide that each legislator be informed of all projects in his/her district, especially regarding the outcome of the review.

6. Consider a sunset provision of four or more years to review effectiveness of the CON process.

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APPENDIX

NATIONAL HEALTH PLANNING AND DEVELOPMENT ACT OF 1974

INTRODUCTION

Public Law 93-641, (National Health Planning and Resource Development Act), passed by the U.S. Congress in 1974, established a national health planning program which was implemented in each state and several American territories. The intent of Congress was to integrate previously sponsored programs (Hill-Burton, Regional Medical Program, Comprehensive Health Planning), retain the best features of each, and address major national, state, and local concerns about the current planning, development, and operation of the nation's health care system. To address these concerns, the Act authorized the designation and funding of state and regional health planning agencies and set forth several functions these agencies had to perform in order to further the "achievement of equal access to quality health care at a reasonable cost."

HEALTH SYSTEMS AGENCIES

Health Systems Agencies (HSAs) were designated as local or regional bodies with the responsibility for preparing and implementing plans designed to improve the health of the residents of its health service area; to increase the acceptability, accessibility, continuity and quality of health services of the area; to restrain increases in the cost of providing health services; and, to prevent unnecessary duplication of health resources. These functions were carried out by interested consumers and providers working together to identify community and regional problems and to develop strategies and recommendations to help alleviate those problems.

HSAs were established as either private, non-profit corporations or public entities governed by boards that had to have a consumer majorities. Operational funds have been awarded through both Federal (PHS) and State (DHSS) sources. In Alaska, the Governor designated three health service areas which were each to be served by an HSA. Alaska's three HSAs are: Northern Alaska Health Resources Association, Inc. (Fairbanks), serving northern Alaska; South Central Health Planning and Development, Inc. (Anchorage), serving south central Alaska, including the Aleutian chain; and Southeast Alaska Health Systems Agency (Ketchikan), serving Alaska's panhandle.

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

The Governor designated a State Health Planning and Development Agency (SHPDA) as a unit of State government. The SHPDA has the responsibility to conduct the health planning activities of the State, including preparation and implementation of the State Health Plan, and to provide coordination of the HSAs. The SHPDA also supports the function of the Statewide Health Coordinating Council and is responsible for administration of the Certificate of Need program. In Alaska, the SHPDA resides within the Department of Health and Social Services. It currently occupies division-level status.

STATEWIDE HEALTH COORDINATING COUNCIL

The Alaska Statewide Health Coordinating Council (SHCC) is the third entity involved in the State health planning network. The SHCC is a group of citizens appointed by the Governor who oversee the health planning activities within the State. Specifically, they have responsibility for preparation of the State Health Plan. The State Health Plan forms the basis upon which Certificate of Need applications are reviewed. Both the SHPDA and SHCC are supported with a mix of Federal and State funds.

Phoebe Lindsey

1122 PROGRAM

CERTIF ON NEED 18.07.111 (7)

hospitals, licensed, care facilities

PROCESS:

60 days from letter of intent to Application date

0-60 DAYS Application

15 DAYS - Dept Determines APP is OK

90 DAYS - TO MAKE RECOMMENDATION to COMMISSIONER

APPEAL

REQUEST for HEARING

PL 97-377 CONTINUING RESOLUTION through Sept 83

- 93-641 HEALTH PLANNING ENABLING LAW

If current 97-377 is REPLACED then FED MAY REQUIRE inspections, etc

1) Medicaid FED & STATE SUPPORT- 60 million

REPEAL OPENS option

PER DAY RATE to different facilities based on operating EXPENSES

PROSPECTIVE not Retrospective Reimbursement system

2) Revenue Sharing 25% cost of non profit capital construction

HOSPITALS —

Operating expenses - $250,000 to each non prof. Hospital

Nursing homes get $2000 per bed

TRACK RECORD

Dave Williams 305 Assembly Bldg.

└ heads staff

INSURANCE companies support CERT. of NEED

HEALTH INSURANCE CORP of America favors cert of need

HB 19

1/21

BLUE CROSS COBBIEST —

QUESTIONS • tie to STATE AID

- COST of SERVICE if EXTRA beds
- why ~~pr~~ set PRIORITY for health CARE facilities if repeal Cert. of Need. Bette Cato may intro bill setting up PRIORITY

SEARCH
ALL

SELECT
ALL CHAPTER EQ 18.07

Summary:

PL 93-641 is FED. ENABLING ~~STEP~~ Authority RE: HEALTH PLANNING

PL 97-377 is A CONTINUING RESOLUTION effective through Sept 83. The "1122" PROGRAM 1122 SEC of Soc. Sec. Act REQUIRES SOME SORT of CERT. of NEED ANALYSIS - that is not REQUIRED under current temporary law.

Until Sept 83, REPEAL of CERT of NEED would have NO other Federally mandated counterpart. ~~IF~~ FEDERAL action could supercede the REPEAL. All 50 STATES have "CON" PROCESS.

1) Reimbursements for Medicaid ± 60 million

All CERTIFIED FACILITIES ARE ELIGIBLE for REIMBURSEMENT REPEAL could MEAN MORE OPTIONS. PER DAY REIMBURSEMENT VARIES with individual facility

Change to PROSPECTIVE, NOT REIMBURSEMENT method might help

2) State Rev. Sharing funds available for 25% cost of CAPITAL CONSTRUCTION - more facilities built, greater demand

- Why Hospital Assn support for this bill? Acts as controlling factor to competition.

THE CERTIFICATE of NEED

1. OUTLINE BASIC PROCESS - FED MANDATE, STATE LAW
   STATE AGENCY. ATTACH CON ACTIVITY REPORT
   CURRENT THRESHOLD LIMITS 7AAC 07.010 - $150,000 CAP 600,000 EQUIP. 400,000
2. SUMMARIZE VIEWPOINTS
   A. REPEAL - UNNECESSARY CONTROL ~~FOR~~ ON AN ENTERPRISE. MOST FACILITIES COVERED BY CON
      REQUIRE PUBLIC FUNDS - ALLOCATION & BUDGET REVIEW
   B. A FREE ENTERPRISE
      B. B ESPECIALLY NOT SUITED FOR RURAL AK
      C. C SANCTIONS NOT IN EFFECT. TIME TO ACT IF SANCTIONS ARE IMPOSED
      D. D CHANGE IN RETROSPECTIVE TO PROSPECTIVE FEE
      E. E SCHEDULE FOR MEDICAID WOULD ~~BE~~ PROVIDE RATE REVIEW
   C. RECURRENT THRESHOLD LIMITS UNREALISTICALLY LOW.
2. B. MAINTAIN OR AMEND
   1. REQ'D BY FED LAW
   2. MANDATES COULD MEAN LOSS OF $
   3. PROVIDES PLANNING ON STATEWIDE BASIS
   4. RESTRICTS FRIVOLOUS EXPENDITURES
   5. FREE ENTERPRISE DOESN'T EXIST IN HEALTH CARE

Repeal will have effects on 4 major four topics:

4 issues appear prominently when considering Repeal of Certificate of Need:

1. ~~Effect~~ Demand on State Revenue Sharing funds
2. Effect on State Medicaid payments
3. Free Enterprise vs. Regulation
4. Federal mandates and potential loss of funds.

Tierney, et al

The Certificate of Need Program was established in 1974 by federal law (PL 93-641). It is intended to serve as a cost control aid and planning review process. It acts as a check to frivolous or misdirected projects. It directs capital (construction) investment to be compatible with the goals and policies of the reviewing agency. The certificate of need was designed to avoid unnecessary duplication which results in underutilization and inflated costs in a cost based reimbursement system.

- Sanctions "Any allotment, grant, loan and loan guarantee made to and each contract entered into with an individual or entity in such State ... under this Act (Public Health Service Act), the Community Mental Health centers Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972."

  Sanctions begin at 25% and continue annually in 25% increments.

1979 Amendments to Health Planning 96-79

7 AAC 07.010 PL - 93-641

Senate Advisory Catalogue Library
CARD # 000262
Category HEALTH
Auth AMER HOSPITAL ASSN
Pubs 1981

CARD # 000549
AMER HOSP ASSN
APPROPRIATENESS REVIEW of Health Care Services

7 AAC 07.010 - SETS level of construction amount REQ CON at $150,000.

FED LAW allows CAP imp $600,000
EQUIP 400,000

Federal Mandates

The 1974 law, 93-641 established the requirement for states to develop the certificate of need review. The law was amended by 96-79 in 1979. The sanctions imposed against states for non compliance with the CON (certificate of need) process have been temporarily lifted by P.L. 97-377, which expires September 30, 1983. So, until Sept 30, 1983, a repeal of CON would impose no threat of loss of federal funds. Federal funds that are subject to sanction action IF the sanctions are allowed total just over 5 million dollars. See letter of Rebecca Dyer attached.

Attach $ letter

The most recent word from the Legislative information office in Wash D.C. is that the continuing resolution (that suspends sanctions) will stand unless congress takes action before the end of the fiscal year. If congress does not act before June 30th, the Dept. will have to fund at least the first quarter of FY84. The Dept of H.H.S. is waiting for congressional direction. Repeal of CON would probably result in loss of some planning review regardless of sanctions.

Attach 1 & 2 from Omnicom

Alaska, and several other states are out of compliance now and have been placed on "conditional" status by D.H.H.S. Should sanctions be imposed, the state is given notice that funds may be withheld.

STATE REVENUE SHARING to MUNICIPALITIES

Don't GRIFFIN

STATE AID through Title 29 REVENUE SHARING ~~GRANTS~~ FUNDS ~~ARE~~ FOR HOSPITAL ENTITLEMENT GRANTS, & HOSPITAL CAPITAL CONSTRUCTION, PUBLIC ROADS, AND VOLUNTEER FIRE DEPTS IN THE UNORGANIZED BOROUGH ARE ISSUED by PRORATING THE TOTAL REQUESTS ~~by the amounts~~ within the ALLOCATIONS.

ASK GINNY

If REPEAL on CERTIFICATE of NEED MEANS AN INCREASE in CAPITAL CONSTRUCTION, AND, therefore, AN INCREASE in demand for STATE AID, THERE will be A REDUCED AMOUNT of funds AVAILABLE to individual RECIPIENTS for those CATEGORIES listed — ~~hospital~~ GRANTS, PUBLIC ROADS, VOLUNTEER FIRE DEPARTMENT.

ATTACH FY81,82 ENTITLEMENTS C&RA

5437

Public Health Service in Seattle for his AGENCY's Retention to a Repeal of the certificate of NEED. IN PRACTICE, it APPEARS that the Federal government has not instituted SANCTIONS - EVEN though STATES (like CALIFORNIA) have been out of compliance for YEARS. IN FACT, SANCTIONS WERE SUSPENDED by PL 97-377. A continuing RESOLUTION suspends SANCTIONS Through September 1983.

My QUESTIONS for you - GENERAL ONES which you MAY not be able to address EASILY and then SPECIFIC ONES:

1) What ARE the CHANCES that the SANCTIONS MAY AGAIN BE SUSPENDED AS in 97-377? - MOOD of CONGRESS?

2) CAN you find out what ~~the~~ response the Health and Human Services Dept would have to a Repeal of certificate of need process here?

3) Would AN EXEMPTION (§1536 of PL 93-641) for ALASKA to the ~~the~~ HEALTH SYSTEMS ~~AGENCY~~ AGENCY REQUIREMENT do the SAME thing AS Repeal of C/N PROCESS? (FOUND IN AN AMENDMENT to the Omnibus Budget RECONCILIATION Act of 1981).

4) If C/N were REPEALED and SANCTIONS WERE INVOKED, how much Federal money would ALASKA loose.

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) april 27, 1981

TOTAL ENTITLEMENT = $51,900,000 14,6200,000 6 million

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. A
BOROUGHS AND SERVICE AREAS						4,885,65
0010	ANCHORAGE A.W.	0.00	0.00	$423,674	$355,886	$4,885,6
0020	CITY S.A.	0.00	0.00	$0	$0	
0030	EAGLE RIVER	0.00	0.00	$0	$0	
0040	CHUGIAK	0.00	0.00	$0	$0	
0060	GIRDWOOD	0.00	0.00	$0	$0	
0070	GLEN ALPS	0.00	0.00	$0	$0	
0080	FIRE S.A.	0.00	0.00	$0	$0	
0090	ROADS & DRAINAGE	402.95	0.00	$0	$0	
0100	POLICE S.A.	0.00	0.00	$0	$0	
0110	PARKS & REC	0.00	0.00	$0	$0	
0120	P & R/CHUGIAK	0.00	0.00	$0	$0	
0130	SOLID WASTE S.A.	0.00	0.00	$0	$0	
0140	CHUGIAK/SOLID WASTE	0.00	0.00	$0	$0	
0150	BUILDING SAFETY	0.00	0.00	$0	$0	
0160	SPECIAL ASSESSMENT	0.00	0.00	$0	$0	
0170	SERVICE AREA 35	63.37	0.00	$0	$0	
0180	PORT OF ANCH.	0.00	0.00	$0	$0	
0190	AIRPORT S.A.	0.00	0.00	$0	$0	
0200	PARKING S.A.	0.00	0.00	$0	$0	
0210	BRISTOL BAY BOROUGH	0.00	0.00	$0	$0	
0220	SOUTH NAKNEK S.A.	4.42	0.00	$0	$0	
0230	FAIRBANKS BOROUGH	74.31	0.00	$0	$0	
0240	ESTER F.P.	0.00	0.00	$0	$0	
0250	NORTH STAR F.P.	0.00	0.00	$0	$0	
0260	UNIVERSITY F.P.	0.00	0.00	$0	$0	
0270	HAINES BOROUGH	0.00	0.00	$0	$0	
0280	FIRE DISTRICT	0.00	0.00	$0	$0	

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0290	JUNEAU BOROUGH A.W.	0.00	0.00	$74,766	$89,719	
0300	S.A. 1	14.23	0.00	$0	$0	
0310	S.A. 2	4.84	0.00	$0	$0	
0320	S.A. 3	38.17	0.00	$0	$0	
0330	S.A. 4	0.00	0.00	$0	$0	
0340	S.A. 5	0.00	0.00	$0	$0	
0350	S.A. 6	0.00	0.00	$0	$0	
0360	S.A. 7	0.00	0.00	$0	$0	
0370	S.A. 8	0.00	0.00	$0	$0	
0380	KENAI PENINSULA BOROUGH	2.79	0.00	$160,956	$0	
0390	NIKISKI F.P.	0.00	0.00	$0	$0	
0400	NORTH KENAI REC.	0.00	0.00	$0	$0	
0410	BEAR CREEK F.P.	0.00	0.00	$0	$0	
0420	KETCHIKAN BOROUGH	0.00	0.00	$0	$0	
0430	SHOREL INE S.A.	0.00	0.00	$0	$0	
0440	KODIAK ISLAND BOROUGH	0.00	0.00	$80,478	$67,601	
0450	FIRE DISTRICT I	0.00	0.00	$0	$0	
0460	ROAD DISTRICT	15.00	0.00	$0	$0	
0470	MAT-SU BOROUGH	286.12	0.00	$0	$0	
0480	WASILLA F.P.	0.00	0.00	$0	$0	
0490	BUTTE F.P.	0.00	0.00	$0	$0	
0500	GREATER PALMER F.P.	0.00	0.00	$0	$0	
0510	SUTTON F.P.	0.00	0.00	$0	$0	
0520	NON AREA-WIDE	0.00	0.00	$0	$0	
0525	TALKETNA FLOOD S.A.	0.00	0.00	$0	$0	
0530	TALKEETNA F.P.	0.00	0.00	$0	$0	
0540	GARDEN TERRACE	0.00	0.00	$0	$0	

0550 LAKES F.P.	0.00	0.00	$0	$0	

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) april 27, 1981

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KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPI CONST.
0560	NORTH SLOPE BOROUGH	51.94	0.00	$0	$38,876	
0570	SITKA BOROUGH	16.05	0.00	$77,569	$16,548	
	FIRST CLASS CITIES					
1000	BARROW	0.00	0.00	$0	$0	
1010	CORDOVA	8.30	0.00	$86,631	$13,861	
1020	CRAIG	4.50	0.00	$0	$3,987	
1030	DILLINGHAM	6.81	0.00	$0	$0	390,934
1040	FAIRBANKS	87.20	0.00	$179,038	$90,096	$1,380,9
1050	GALENA	5.58	0.00	$0	$5,553	
1060	HAINES	10.44	0.00	$0	$0	
1070	HOMER	10.63	0.00	$0	$8,584	
1080	HOONAH	4.00	0.00	$0	$0	
1090	HYDABURG	3.17	0.00	$0	$3,987	
1100	KAKE	5.17	0.00	$0	$0	
1110	KENAI	45.12	0.00	$0	$8,584	261,2
1120	KETCHIKAN	16.60	0.00	$91,713	$19,937	$261,2
1140	KING COVE	0.00	0.00	$0	$5,159	
1150	KLAWOCK	1.69	0.00	$0	$3,987	
1160	KODIAK	14.68	0.00	$0	$0	
1170	NENANA	11.28	0.00	$0	$0	
1180	NOME	13.45	0.13	$104,134	$11,107	
1190	NORTH POLE	10.72	0.00	$0	$0	
1200	PALMER	19.36	0.00	$77,569	$0	
1210	PELICAN	1.10	0.00	$0	$4,292	
1220	PETERSBURG	9.48	0.00	$77,569	$8,274	
1230	SAND POINT	8.34	0.00	$0	$5,159	
1240	SAINT MARY'S	7.93	10.21	$0	$5,353	
1250	SELDOVIA	6.48	0.00	$0	$4,292	
1260	SEWARD	18.35	0.00	$80,478	$77,259	
1270	SKAGWAY	9.50	0.00	$0	$4,292	
1280	SOLDOTNA	24.78	0.00	$0	$0	
1290	UNALASKA	38.42	0.00	$0	$5,159	

1320 ZONE II	0.00	0.00	$0	$0

FY 1981 MUNICIPAL REVENUE SHARING ENTITLEMENTS (#2) april 27, 1981

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KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPIT CONST. A
1330	WRANGELL	7.04	0.00	$77,569	$4,137	
1340	ZONE II	0.00	0.00	$0	$0	
1350	ZONE IV	0.00	0.00	$0	$0	
1360	YAKUTAT	3.31	0.00	$0	$4,292	
SECOND CLASS CITIES						
5000	AKHIOK	0.00	0.00	$0	$0	
5010	AKIACHAK	2.00	11.00	$0	$0	
5020	AKIAK	0.00	0.00	$0	$5,353	
5030	AKOLMIUT	0.00	44.75	$0	$10,706	
5040	AKUTAN	0.00	0.00	$0	$0	
5050	ALAKANUK	4.00	4.00	$0	$5,353	
5060	ALEKNAGIK	0.00	1.50	$0	$5,159	
5070	ALLAKAKET	0.00	0.00	$0	$5,553	
5080	AMBLER	5.22	0.00	$0	$5,553	
5090	ANAKTUVUK PASS	0.00	0.00	$0	$0	
5100	ANDERSON	5.00	0.00	$0	$0	
5110	ANGOON	5.18	0.00	$0	$4,137	
5120	ANIAK	8.00	24.00	$0	$11,107	
5130	ANVIK	1.50	0.00	$0	$0	
5140	ATMAUTLUAK	0.00	15.00	$0	$5,353	
5150	BETHEL	10.85	48.00	$0	$66,915	
5160	BREVIG MISSION	0.00	0.00	$0	$5,553	
5170	BUCKLAND	0.00	0.00	$0	$0	
5180	CHEFORNAK	0.00	0.00	$0	$5,353	
5190	CHEVAK	0.50	00	$0	$5,353	
5200	CHUATHBALUK	4.00	00	$0	$5,553	
5210	CLARK'S POINT	0.00	00	$0	$5,159	
5220	DEERING	0.00	0.00	$0	$5,553	
5230	DELTA JUNCTION	10.88	0.00	$0	$4,620	
5240	DIOMEDE	0.00	0.00	$0	$0	

KEY	COMMUNITY	PUBLIC ROAD MILES	ICE ROAD MILES	HOSPITAL ENTITLEMENT	HEALTH FACILITIES ENTITLEMENT	HOSPI CONST.
5300	FORT YUKON	16.48	0.00	$0	$0	
5310	FORTUNA LEDGE	5.00	0.00	$0	$5,353	
5320	GAMBELL	0.00	0.00	$0	$0	
5330	GOLOVIN	0.00	0.00	$0	$5,553	
5340	GOODNEWS BAY	0.00	0.00	$0	$0	
5350	GRAYLING	0.00	0.00	$0	$0	
5360	HOLY CROSS	4.00	0.00	$0	$5,553	
5370	HOOPER BAY	0.00	0.00	$0	$0	
5380	HOUSTON	30.75	0.00	$0	$0	
5390	HUGHES	5.00	0.00	$0	$0	
5400	HUSLIA	17.70	0.00	$0	$5,553	
5410	KACHEMAK	0.00	0.00	$0	$0	
5420	KAKTOVIK	0.00	0.00	$0	$0	
5430	KALTAG	2.00	0.00	$0	$0	
5440	KASAAN	0.00	0.00	$0	$0	
5460	KIANA	0.00	0.00	$0	$0	
5470	KIVALINA	0.00	0.00	$0	$0	
5480	KOBUK	4.00	0.00	$0	$0	
5490	KOTLIK	0.00	0.00	$0	$5,353	
5500	KOTZEBUE	15.52	3.50	$0	$0	
5510	KOYUK	0.00	0.00	$0	$0	
5520	KOYUKUK	1.50	0.00	$0	$5,553	
5530	KUPREANOF	0.00	0.00	$0	$0	
5540	KWETHLUK	0.00	0.00	$0	$5,353	
5550	LARSEN BAY	0.00	0.00	$0	$0	
5555	LOWER KALSKAG	2.60	40.00	$0	$5,553	
5560	MANOKOTAK	0.43	0.00	$0	$5,159	
5570	MCGRATH	10.95	0.00	$0	$5,553	
5580	MEKORYUK	0.00	0.00	$0	$5,353	
5590	MOUNTAIN VILLAGE	0.00	0.00	$0	$0	
5600	NAPAKIAK	2.48	0.00	$0	$5,353	
5610	NAPASKIAK	0.00	0.00	$0	$5,353	
5620	NEWHALEN	0.00	0.00	$0	$5,159	
5630	NEW STUYAHOK	0.00	0.00	$0	$5,159	
5640	NEWTOK	0.00	0.00	$0	$5,353	
5650	NIGHTMUTE	1.00	0.00	$0	$5,353	

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5660	NIKOLAI	0.00	0.00	$0	$0	
5670	NONDALTON	1.80	0.00	$0	$0	
5680	NOORVIK	2.20	0.00	$0	$5,553	
5690	NULATO	4.80	0.00	$0	$5,553	
5700	NUIGSUT	0.00	0.00	$0	$0	
5710	OLD HARBOR	4.45	0.00	$0	$0	
5720	OUZINKIE	0.00	0.00	$0	$0	
5730	PILOT STATION	2.00	0.00	$0	$0	
5740	PLATINUM	0.00	0.00	$0	$0	
5750	POINT HOPE	0.00	0.00	$0	$0	
5760	PORT ALEXANDER	0.00	0.00	$0	$0	
5770	PORT HEIDEN	26.60	0.00	$0	$5,159	
5780	PORT LIONS	2.44	0.00	$0	$0	
5790	QUINHAGAK	1.25	0.00	$0	$5,353	
5800	RUBY	0.00	0.00	$0	$0	
5810	RUSSIAN MISSION	0.00	0.00	$0	$5,353	
5820	SAINT MICHAEL	0.00	0.00	$0	$5,553	
5830	SAINT PAUL	37.50	0.00	$0	$0	
5840	SAVOONGA	0.00	0.00	$0	$0	
5850	SAXMAN	2.90	0.00	$0	$0	
5860	SCAMMON BAY	1.25	0.00	$0	$5,353	
5870	SELAWIK	0.00	0.00	$0	$0	
5880	SHAGELUK	0.00	0.00	$0	$0	
5890	SHAKTOOLIK	3.50	18.00	$0	$5,553	
5900	SHELDON POINT	0.00	0.00	$0	$5,353	
5910	SHISHMAREF	0.00	0.00	$0	$0	
5920	SHUNGNAK	0.00	0.00	$0	$5,553	
5930	STEBBINS	0.00	0.00	$0	$5,553	
5940	TANANA	29.35	0.00	$0	$0	
5950	TELLER	2.69	0.00	$0	$5,553	
5980	TENAKEE SPRINGS	2.00	0.00	$0	$0	
5990	TOGIAK	5.00	0.00	$0	$5,159	
6000	TOKSOOK BAY	0.00	0.00	$0	$5,353	
6010	TULUKSAK	9.50	18.00	$0	$5,353	
6015	TUNUNAK	0.00	0.00	$0	$0	
6020	UNALAKLEET	9.22	0.00	$0	$5,553	

6020 DNALAKLEET 9.22 0.00 $0 $5,553

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6030	UPPER KALSKAG	1.50	1.50	$0	$0	
6040	WAINWRIGHT	0.00	0.00	$0	$0	
6050	WALES	0.00	0.00	$0	$0	
6060	WASILLA	44.96	0.00	$0	$4,137	
6070	WHITE MOUNTAIN	0.00	0.00	$0	$0	
6080	WHITTIER	10.50	0.00	$0	$4,620	~~74,357~~
6090	EXT FIRE AREAS	0.00	0.00	$0	$0	~~$74,~~
6100	NATIVE VILLAGE GOVT	0.00	0.00	$0	$0	~~$1,~~470,
	TOTAL			$1,682,026	$1,241,800	~~$8,~~072,5

1,470,402

8,072,574

NV6= $24,574 ea.

SUMMARY OF MAJOR CHANGES IN

THE NATIONAL HEALTH PLANNING AND RESOURCES DEVELOPMENT PROGRAM

FROM ENACTMENT OF THE HEALTH PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS

OF 1979 (Public Law 96-79) ON OCTOBER 4, 1979

The Health Planning and Resources Development Amendments of 1979 amend Titles XV and XVI of the Public Health Service Act and extend for 3 years the health planning program begun by P.L. 93-641 enacted on January 4, 1975. The amendments authorize appropriations of $267 million in fiscal 1980, $354 million in 1981 and $416 million in 1982, a total of $1.04 billion.

Title XV (National Health Planning and Development) is administered by the Bureau of Health Planning, Health Resources Administration, and Title XVI (Health Resources Development) by the Bureau of Health Facilities, HRA. The Administration is one of the six agencies of the Public Health Service of the U.S. Department of Health, Education, and Welfare. The two bureaus are located at 3700 East-West Highway, Hyattsville, Maryland 20782.

Contacts:

Title XV, Bureau of Health Planning, Frances Dearman (301) 436-6110
Title XVI, Bureau of Health Facilities, Dorothy Bailey, (301) 436-8988

October 11, 1979

TITLE XV NATIONAL HEALTH PLANNING AND DEVELOPMENT

ADMINISTERED BY BUREAU OF HEALTH PLANNING

National Guidelines for Health Planning (Section 1501)

The Department of Health, Education, and Welfare (HEW) must annually review the goals and standards of the National Guidelines for Health Planning as well as the plans of the Health Systems Agencies (HSA) and State Health Planning and Development Agencies (SHPDA) and on the basis of the findings, revise the National Guidelines. The HSAs, SHPDAs and Statewide Health Coordinating Councils (SHCC) must be consulted at least 45 days prior to their issuance or revision. Relying on data HSAs and SHPDAs must supply, HEW may collect and make public data on whether the health care delivery systems are changing to meet the standards and goals in the Guidelines and the resources required to meet the goals.

The standards promulgated as part of the National Guidelines must reflect the unique circumstances and needs of medically underserved populations including isolated rural communities.

National Health Priorities, National Council (Section 1502)

The list of National Health Priorities is lengthened from 11 to 17, more emphasis is placed on cost containment and a new section is added on the role of competition in the allocation of health services. New priorities concern:

--identification and discontinuance of unneeded or duplicate services and facilities;

--cost containment through technology, more appropriate use of resources and increased efficiency;

--deinstitutionalization of improperly placed mental patients and improved care for the institutionalized;

--emphasis on outpatient mental health care;

--promotion of health prevention and treatment including emotional and psychological components of care; and

--development and use of cost-saving technology.

Also added as a priotity is strengthening of competition where it can appropriately advance quality assurance, cost effectiveness and access to care.

Council: The National Council on Health Planning and Development is expanded from 15 to 20 members. The number of nonprovider members is increased from 5 to 8 and the representation of urban and rural medically underserved populations is required. At least one hospital representative is required. The Assistant Secretary of Agriculture for Rural Development is added as a nonvoting, ex-officio member.

Health Service Areas (Section 1511)

Procedures for review and revision of health service area boundaries are changed. A review can be initiated by HEW, a Governor or HSA. The boundaries may be revised if HEW finds they no longer meet the requirements of the law or that the proposed boundaries meet them more appropriately. Within one year of enactment of the amendments, HEW must publish regulations listing criteria for revisions.

The Commonwealth of Puerto Rico is added to the jurisdictions where the State agency, under Section 1536, may perform the functions of the HSA.

Health Systems Agency Governing Body (Section 1512)

The amendments provide that the governing board of a public HSA must appoint the members of its governing body for health planning. Under the amendments the governing board of a public HSA rather than the separate governing body for health planning is responsible for personnel policies and budget unless it specifically delegates the responsibility.

Consumer members of an HSA governing board no longer are required to have been consumers for 12 months prior to appointment. The language requiring them to be "broadly representative" of the composition of the area's population has been deleted. The new language requires consumers to be "broadly representative of the health service area" and to include representatives of the principal social, economic, linguistic, handicapped and racial populations and of geographic areas of the health service area.

Providers can now serve on HSA governing bodies where they live or where they work. The proportion of direct providers among the provider minority is increased from one-third to one-half and at least one direct provider must be engaged in the administration of a hospital.

Governmental representatives other than elected officials must be appointees of units of general purpose local government.

The proportion of nonmetropolitan representation must be "at least equal to the nonmetropolitan proportion of the population of the area." Persons knowledgeable about mental health must be included on the governing body.

A consumer majority is required for all subcommittees or advisory bodies appointed by an HSA governing board or executive committee.

A new section requires broad participation in governing body selection by residents of the area served. The process developed by each agency must prohibit selection of more than one-half of the members by the governing body itself. The same requirements apply to subarea council selection if the subarea council selects one or more members of the governing body.

If a governing body has more than 30 members, the required size of its executive committee is changed from "not more than 25" to "not less than 10 nor more than 30."

A new section requires each HSA to have a program of technical support of governing body members, executive committee members and members of entities appointed by these groups. At least one staff person is to be responsible for providing information and technical assistance to governing body members particularly consumers. Minimum areas of staff expertise are expanded to include financial and economic analysis, prevention of disease and other health matters, and development and use of health and mental health resources.

A new subsection deals with conflict of interest for members of governing bodies, executive committees or other HSA entities. They are prohibited from voting on matters involving any individual or entity with which a member has had "any substantial ownership, employment, medical staff, fiduciary, contractual, creditor or consultative relationship" currently or in the preceding 12 months. Written disclosure and public announcement of conflicts are required at meetings during which actions are taken.

Revised language absolves an HSA from liability for damage when a governing body member or employee acts within the scope of his duty with reasonable care and without malice.

Provisions are changed to allow closed meetings and records when the board determines that discussions about an employee's performance or salary would constitute an unwarranted invasion of personal privacy. Meetings also may be closed when information relating to a judicial proceeding involving the agency might be disclosed.

HSA governing body membership must now include individuals who are knowledgeable about mental health services (including substance abuse).

Health Systems Plan, Annual Implementation Plan, PUFF, (Section 1513)

Lobbying: New language prohibits an HSA from hiring a lobbyist.

Health Systems Plan and Annual Implementation Plan: The review and revision of the Health Systems Plan are changed from an annual to a triennial process, allowing more time for implementation. An HSA must establish the Health Systems Plan in a format determined by the SHCC in consultation with the State agency and HSAs. The description of a "healthful environment" is to be "primarily with regard to health care equipment and to health services provided by health care institutions, health care facilities and other providers of health care and other health resources."

The Health Systems Plan must include goals for the delivery of mental health services.

The goals of the Health Systems Plan are to be responsive to statewide needs but no longer are required to be consistent with the National Guidelines. The plan must describe the institutional health services needed to provide for the well-being of persons in the area and must also describe the number and type of resources needed to meet the plan goals plus the extent to which new facilities need to be constructed or existing ones need modernization, discontinuance or conversion.

The procedural requirements for the Health Systems Plan also apply to the establishment, review and amendment of the Annual Implementation Plan.

Coordination: Examples of other regional planning bodies with which an HSA must coordinate activities are agencies concerned with aging, alcohol abuse, drug abuse and mental health. Coordination is required with rate review bodies.

New language describes coordination among HSAs within a Standard Metropolitan Statistical Area and requires HEW to issue regulations for sharing of HSA data with Indian Tribes.

Proposed Uses of Federal Funds: A number of changes are made in the review of Proposed Uses of Federal Funds (PUFF). Direct funding of entities other than State government is usually subject to HSA review while direct funding to State government is reviewed only if its impact on health resources occurs solely in the Agency's health service area. Federal funds made available by a State to a third party are now reviewable not only under the allotment programs but also under grants or contracts to State government.

An attempt is made to clarify HSA review of research and training funding. Training funds would be reviewed only if they made a significant change in health services available in the health service area. Research funds would be reviewable only if they would change significantly the delivery of health services or the distribution of available health resources in the area.

In the case of Federal funds made available by a State to a third party, a Governor must allow 60 days for HSA review. If the Governor decides to make funds available despite a negative HSA finding, the HSA and SHPDA must be provided with a detailed statement of the reasons.

Appropriateness: The requirement for review of appropriateness of "all institutional health services" is narrowed to "at least" those institutional and home health services for which goals have been set in the State Health Plan. In an appropriateness review, the minimum considerations are "accessibility and availability, financial viability, cost effectiveness, and quality of service provided."

Hospital Charges: To aid consumers in making informed choices, a new provision requires each HSA to collect annually on forms developed with the State the charges for the State's 25 most frequently used hospital services. The charges must include average rates for private and semiprivate rooms. The information must be made available in easily understandable form for public inspection and copying.

Designation of Health Systems Agencies (Section 1515)

The maximum duration of a full designation agreement is extended from 12 months to 36 months. HEW may terminate the agreement with a nonperforming HSA but must first consult with the Governor and the SHCC; give notice of intent to terminate, listing steps that could be taken to comply; provide an opportunity for a hearing; and consult with the National Council.

HEW may return a nonperforming HSA to conditionally designated status for not more than 12 months if the agency is given notice and an opportunity for a hearing. Before renewing a full designation agreement, HEW must provide the State agency with an opportunity to comment on the HSA's performance and to recommend whether or not the HSA should be renewed as well as stating any conditions the State agency believes should be attached to the renewal.

In terminating an HSA, HEW may choose to continue its operation until a new designation agreement is in effect. It must provide the terminating agency an opportunity to settle its affairs.

HSA Planning Grants (Section 1516)

The amendments provide for carryover of grant funds for one more year beyond that in which they are made available. The funding formula is changed in several respects. The maximum base grant is the lesser of $0.60 per capita or $3,750,000. The minimum base grant is a sliding scale of $225,000 for fiscal 1980; $245,000 for fiscal 1981; and $260,000 for a succeeding year.

HEW is authorized to retain an amount not to exceed 5 percent of the appropriation to supplement grants to meet extraordinary expenses, such as those related to bi-State status, large underserved populations and large geographic areas or to assist an agency in improving its performance as a result of the development and implementation of innovative planning mechanisms. The grant amount may be reduced if not needed by the Agency.

Non-Federal funds may be matched by: (1) an amount equal to the non-Federal funds (2) $200,000 or (3) $0.25 per capita, whichever is less.

State Agency Designation (Section 1521)

The period of conditional designation may be extended beyond 36 months if HEW finds the State agency is making "a good faith effort" to comply with its required functions.

The penalties for a State failing to have its agency qualify for full designation have been extensively revised and the effective dates changed. During the first year of noncompliance, HEW will withhold 25 percent of Federal funds. The percentage rises to 50 percent in the second year, and 75 percent in the third with a complete cutoff in the fourth year.

September 30, 1980, is the earliest date for compliance but the deadline will be later for many States depending on when their legislatures meet.

The period of a full designation agreement is extended from 12 to 36 months. If HEW decides to terminate a State agency agreement, the Department must consult with the SHCC; notify the agency, explaining the decision and listing corrective actions required; provide an opportunity for a hearing; and consult with the National Council.

Before renewing a State agency designation agreement, HEW must provide each HSA and the SHCC with an opportunity to comment and recommend renewal or nonrenewal. If it is not performing satisfactorily, a State agency may be returned to conditionally designated status for up to 12 months.

State Health Planning and Development Functions (Section 1523)

A new function, the determination of statewide health needs, is given to the State agency. In developing these needs, the agency is to consult with the SHCC and to solicit written recommendations from the State health authority, the State mental health authority and other agencies designated by the Governor.

The development of the preliminary State Health Plan and review of the Health Systems Plan is changed from an annual to a triennial process. In reviewing Health Systems Plans, the State agency is required to make them available to

the State health authority, the State mental health authority and other State agencies specified by the Governor. It also is to solicit written recommendations concerning the goals and resource requirements in Health Systems Plans.

As another new function, the State agency must prepare an inventory of health care facilities, evaluate their physical condition and report the results to HSAs for their use. The requirement for a separate State Medical Facilities Plan is deleted.

Statewide Health Coordinating Council (Section 1524)

HSA representation required on the SHCC will vary with the number of HSAs in the State. If there are ten or fewer HSAs, each is entitled to two representatives. If there are more than ten, each is entitled to one representative. Each HSA is to submit to the Governor a list of at least twice as many representatives as it is entitled to. In the case of bi-State HSAs, representation on the SHCC will be based on the proportion that the population of the bi-State area living in the State bears to the population of the largest health service area in the State, with a minimum of one representative assured.

Not less than one-half the providers on the SHCC must be direct providers. If there are rural and urban medically underserved populations in a State, they must be represented on the SHCC. The Governor is given the option of selecting, with legislative advice and consent, the chairman of the SHCC from among its members. If the Governor does not act, the SHCC can select its own chairman.

The SHCC is given responsibility for establishing in consultation with the HSAs and the State agency, a uniform format for the Health Systems Plan. It also reviews and coordinates the Health Systems Plans triennially and the Annual Implementation Plans annually. The State Health Plan also is prepared triennially. It must include a description of the institutional health services needed in the State, describe the number and type of resources available and those in need of modernization, closure and conversion.

New language seeks to integrate mental health, alcohol and drug abuse into the State health planning process and requires the health plans in these areas to be consistent with the State Health Plan.

As approved by the SHCC, the State Health Plan does not become effective until it is approved by the Governor. The Governor can disapprove the plan only if he determines it does not effectively meet the statement of health needs as developed by the State agency.

In a change in the review of uses of Federal funds function, the SHCC is given authority to review and recommend approval or disapproval of applications for certain Federal health funds submitted by the State government which is carried out in more than one health service area. If the SHCC recommends disapproval of a plan or application, HEW, after finding that the proposed use is not in conformity with the State Health Plan, may not make funds available. The Governor must be allowed 30 days to submit a revised plan or application that conforms with the State Health Plan.

The SHCC is extended the same immunity from damages as the HSA board and placed under the same conflict of interest requirements.

Grants for State Health Planning and Development (Section 1525)

Amendments permit one year carryover of grant funds.

Grants for Rate Regulation (Section 1526)

New language removes the limitation on the number of rate regulation demonstration grants to States, allows entities of State government other than the State agency to administer the rate regulation program, and allows rate regulation grant funds to remain available for one fiscal year after that in which they are awarded.

Certificate of Need (Section 1527)

A new section broadens and further defines certificate of need programs. Certificate of need decisions must be consistent with the State Health Plan except for emergency situations. In reviewing applications, a SHPDA must make its determination before major equipment is purchased, institutional health services are offered or capital expenditures obligated.

The amendments limit the type of conditions that can be placed on awarding a certificate of need. States are prohibited from attaching any condition not related to criteria in the law or in State or Federal regulations in force before the amendments took effect.

A State agency is authorized to withdraw a certificate of need if the applicant is not adhering to its timetable or making a good faith effort.

Each certificate must specify the maximum amount of money that can be spent on an approved project.

HMOs: Health maintenance organizations (as defined in this section or as qualified under Section 1310 of the Public Health Service Act) are exempt from certificate of need requirements under specified conditions. The State may not require a certificate of need for the offering of an inpatient health service, the acquisition of major equipment, or obligation of capital expenditures by health maintenance organizations if:

--the HMO meets the definition under this law;

--the HMO (or a combination of HMOs) has an enrollment of at least 50,000 individuals;

--the facility in which the service will be provided is reasonably accessible to members; and

--at least 75 percent of the patients who can be reasonably expected to receive the service will be individuals enrolled with the HMO (or combination of HMOs).

Certificate of need applications from other health maintenance organizations must be approved if the State agency finds that approval is required to meet the needs of enrollees and the health maintenance organization cannot obtain these services or facilities within the area in a manner consistent with the health maintenance organization concept.

The establishment of and the outpatient facilities and services of an health maintenance organization are exempt from certificate of need review in any case.

Safety Hazards, Licensure, Accreditation: Automatic approval is required of any certificate of need application to comply with building and safety codes, State licensure standards or Medicare/Medicaid certification unless the SHPDA finds the facilities or services are unneeded or inconsistent with the State Health Plan.

Simple Acquisitions: Special treatment also is provided for simple acquisitions of health facilities or major medical equipment for noninstitutional uses. In both cases, a notice stating intent to acquire and expected uses must be filed with the SHPDA 30 days before contracts are signed. These acquisitions are exempt from certificate of need coverage unless notice is not given or the State agency finds that the acquisition will provide inappropriate bed capacity or services.

Definitions of "capital expenditure" and "major medical equipment" are added. "Major medical equipment" excludes the equipment of independent clinical labs. Congress wanted to make clear that this provision is a minimum requirement of an acceptable certificate of need program, and that a State is permitted to cover medical equipment acquired for use in other than inpatient settings, which costs less than $150,000, or which is acquired by a clinical laboratory. Although States would be prohibited from changing their law to go beyond the minimum requirements after September 30, 1982, no State which had imposed additional requirements before that date would be required to alter those requirements.

Definitions (Section 1531)

"Indirect provider" is no longer a separate category but included under "direct providers." This term is broadened to include persons who: have a fiduciary interest in health care delivery, research, health manpower instruction and drug production; receive directly or through their spouse more than 20 percent of their gross income from health care; or are members of the immediate families of persons in these categories. An individual will not be considered a provider solely because of membership on the governing board of a health care institution or drug or equipment producer.

The definition of "institutional health services" is altered to include services which are provided through designated facilities and those to be defined in HEW regulations and which entail an annual operating cost of at least $75,000. The $75,000 figure may be adjusted upward after 12 months at the discretion of a State to reflect inflation.

Criteria and Procedures for Reviews (Section 1532)

Extensive statutory requirements relating to review procedures are added. They include requirements for administrative and judicial reviews, timely notification and those related to failure to complete review in a timely manner.

"Batched review" of all similar certificate of need applications is required at both the State agency and HSA level at least twice a year. Batching enables planning agencies to review simultaneously applications proposing similar services and to evaluate them on the basis of relative need.

Factors to be considered in the development of criteria for review are expanded to include: the effects of the service on the needs for clinical training in the area; the access that health profession schools will have to services for teaching; and the accessibility of the services to all residents of the service area. Other factors include the efficiency and appropriateness of the use of existing services and facilities, and quality of care provided by the applicant in the past.

TITLE XVI HEALTH RESOURCES DEVELOPMENT

ADMINISTERED BY THE BUREAU OF HEALTH FACILITIES

State Allotments and State Medical Facilities Plans

In amending Title XVI, Congress targeted resources to meet special needs ranging from excess inpatient hospital capacity to the unmet primary care needs of the urban and rural poor. These needs are defined by conditions, not by State or other geographic boundary lines. Thus, Congress repealed the allotment grants to States which originally existed in Title XVI to aid facilities construction. Congress also repealed the requirement for a separate, HEW-approved State Medical Facilities Plan. Previously, the State Medical Facilities Plan existed as a framework which had to be approved before allotments could be made for facility construction and aid. In the amendments, Congress intends to integrate facilities planning as part of the State Health Plan produced by each State's SHCC.

Loan and Loan Guarantee Program (Sections 1601-2)

Congress centralized the loan and loan guarantee program by requiring that all applications under this program be submitted directly to HEW for approval. Direct loans, previously limited to public facilities, have been expanded to nonprofit private facilities. Loan guarantees, limited before to nonprofit private facilities, may now go to public entities as well.

Authority for loans and loan guarantees had been limited to projects for: (1) modernization; (2) construction of new outpatient medical facilities; (3) construction of new inpatient medical facilities in areas where population growth has been recent and substantial; and (4) conversion projects. Now loan and loan guarantees are also authorized for: (1) projects which will discontinue unneeded hospital services or facilities, and (2) modernization projects which before had been eligible only for special project grant money to correct safety hazards and avoid noncompliance with licensure or accreditation standards.

Interest Subsidy: HEW may now pay up to one-half the net effective interest rate on guaranteed loans for projects located in poverty areas. Formerly this subsidy was limited to three percent and was not targeted to any special need areas.

Default Authority: Under the previous law, HEW did not have authority to act on behalf of loan or loan guarantee projects which were in danger of default. Default funds were limited to actual default procedures. The amended law permits HEW to spend money on technical and consultative assistance to prevent such defaults. In addition to taking title to assets used to secure loans HEW may now take "any other actions needed" to protect the government's interests.

Project Grants For Construction Modernization (Section 1610)

The amended law allows facilities to apply for loan and loan guarantees for construction to correct safety hazards or to avoid licensure or accreditation noncompliance. The law also now allows private nonprofit facilities to apply for grant aid. Formerly only public facilities were eligible. To be eligible, however, the private nonprofits must serve the same patient population as would public facilities (i.e., the same proportion of patients unable to pay for services) and, further, must show that without a grant there would be a disruption of health care services to low income individuals.

New Project Grants: Congress addressed the special needs of medically underserved areas by establishing a new grant program. The grants would be available to public or private nonprofit facilities for construction of outpatient facilities or conversion of inpatient to outpatient or long-term care facilities in underserved areas.

Funds for this program are authorized starting in fiscal 1981.

Discontinuance and Conversion (Sections 1641-2)

A new program of grants for voluntary discontinuance and conversion of unneeded hospital services is authorized effective April 1, 1980. Congress intended it to be a demonstration program to help combat the escalating cost of inpatient hospital care. It also is intended to strengthen health care delivery through conversion of hospital capacity to less expensive and more appropriate services.

Grants may be awarded for liquidation of debt in case of closure; planning, development and delivery of another service in case of conversion; termination pay and retraining and re-employment costs for displaced hospital personnel.

Applications for grants must be reviewed by the local HSA, which recommends approval or disapproval, and forwarded to the State agency which reviews and makes its recommendation to HEW. The HSAs and SHPDAs are to determine the need for discontinuance or conversion of a service or facility and give special attention to needs and access patterns of poverty populations. HEW may not override a State agency recommendation for disapproval but may disapprove a recommendation for discontinuance or conversion if it determines the project would not reduce health care costs.

The Department of Labor must review applications and certify that any proposed project protects the rights and vested interests of affected employees of the hospital.

Grants also are authorized to SHPDAs to assist in the reduction of excess hospital capacity. Funds are authorized to assist State agencies in: identifying excess hospital capacity; developing programs to reduce excess capacity to lower health care costs; developing means to overcome barriers to reduction of excess capacity; and carrying out programs to decertify nonappropriate facilities serving densely populated areas and for poverty area outpatient services.

Enforcement of Assurances: The amendments reinforce the intent of Congress that facilities adhere to the uncompensated care and community service parts of the law. Facilities which received Federal aid under either Title VI (Hill-Burton) or XVI were required to give assurances that they would provide a certain amount of uncompensated care to those unable to pay and to provide care without discrimination to community residents. The obligations apply to more than 5,000 hospitals, nursing homes and other medical facilities.

Periodic reports by facilities of compliance with the law are required under the amendments.

AUTHORIZATIONS FOR APPROPRIATIONS ($ MILLIONS)

HEALTH PLANNING AND RESOURCES DEVELOPMENT AMENDMENTS OF 1979

	FY 1980	FY 1981	FY 1982
HSA Planning Grants (Sec. 1516)	$150	$165	$185
State Agency Grants (Sec. 1525)	35	40	45
Technical Assistance/Health Planning Centers (Sec. 1534)	6	8	10
Rate Reviews (Sec. 1526)	6	6	6
Area Development Funds (Sec. 1640)	-	20	30
Facilities Project Grants (Sec. 1610)	40	50	50
Outpatient Facilities (Sec. 1610)	-	15	15
Closure/Conversion Grants (Sec. 1643-44)	30	50	75
TOTALS	$267	$354	$416

HEALTH PLANNING AND DEVELOPMENT BUDGET HISTORY

FY 1978-80

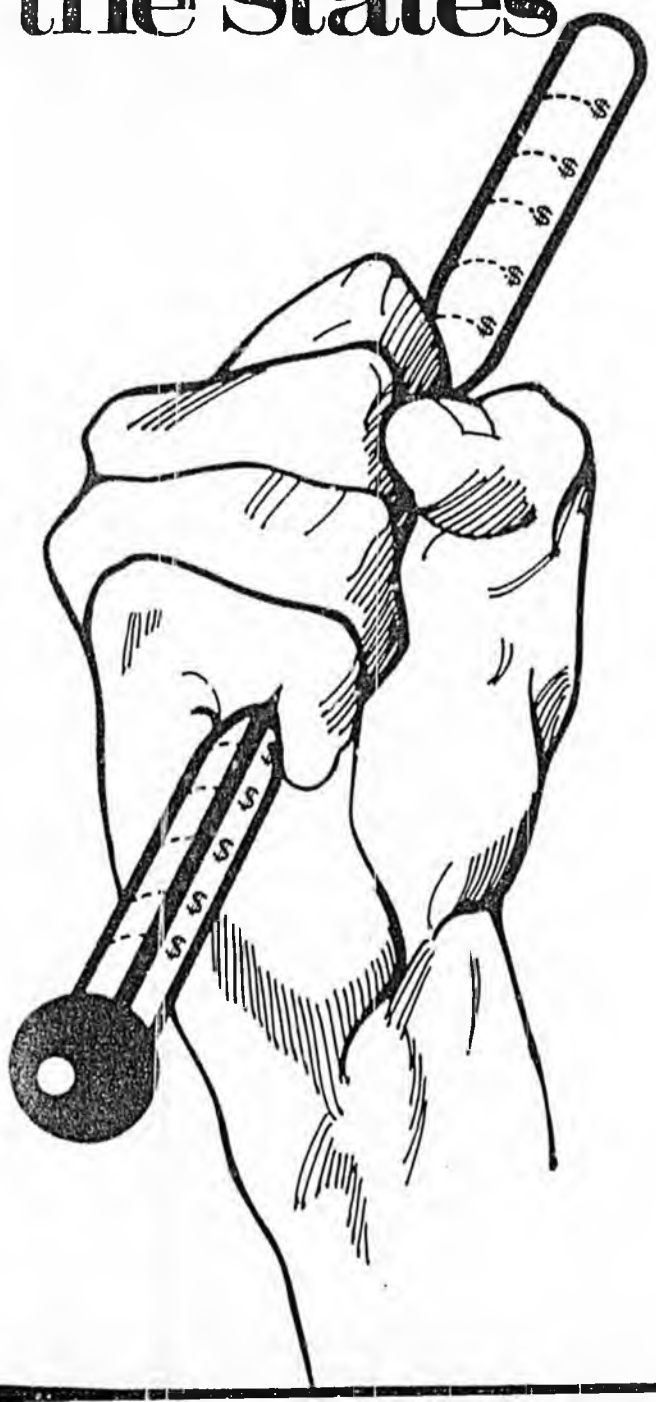
(Millions)

	Appropriations		
	1978	1979	1980
HSA Planning Grants (Sec. 1511)	107.0	107.0	124.7
State Agency Grants (Sec. 1525)	29.5	29.5	32.0
Technical Assistance/Health Planning Centers (Sec. 1534)	6.5	6.5	1.0
Rate Reviews (Sec. 1526)	2.0	2.0	-
Area Development Funds (Sec. 1640)	-	-	-
Facilities Project Grants (Sec. 1625)	-	-	-
Outpatient Facilities (Sec. 1625)	-	-	-
Closure/Conversion Grants (Sec. 1644 & 1643)	-	-	30.0

Russ Hereford

Controlling Health Care Costs: Strategies from the States

With Congress divided over how—and whether—to address the rising cost of health care, states have taken the lead in fashioning solutions.



The defeat of President Carter's hospital cost containment legislation in the House of Representatives underscores the difficult task facing those who seek to curb the high rate of inflation in health care. It also reemphasizes the key role which states must continue to play in the nation's health cost crisis. The role is not a new one for the states; in fact, they have taken the lead in developing solutions to the problem.

Although the health care cost problem has not disappeared (during the 12 months ending last March, the nation's health expenditures rose 13.3 percent to 198.6 billion dollars), actions undertaken in some states appear to have had a major impact on health expenditures. For example, in the eight states that would have been exempted from federal controls under the Administration's bill—because they were already operating mandatory hospital cost containment programs—1978 hospital expenses per admission increased at a rate less than three-fourths that of the other 42 states.

Why States?

States appear to be the most appropriate level at which rising health costs can be controlled. State legislators and state government are affected by rising health costs in a variety of ways. As purchasers of health care for the needy through Medicaid, states (and, in nine states, local government) contributed over $8 billion to this joint federal-state program in 1978. States spent another $1 billion for the poor who are not eligible for Medicaid and for benefits not covered by federal matching funds. In addition, state governments are major employers who contribute to the cost of health insurance premiums for their employees. The growing burden placed on constituents to finance the increased cost of health programs leaves legislators with the unpleasant dilemma of either raising taxes to cover increased costs or reducing services to keep health costs within budget.

Having responsibility for the state's economic environment, legislators face demands from both industry and labor. Businesses express concern over their ability to remain competitive and still generate sufficient profits for future capital investment in the face of the growing costs of health benefits for their workers. At the same time, workers are increasingly frustrated as they forego real increases in their standard of living, or improvements in health benefit coverage, merely to maintain their current level of benefits.

State level control of health care costs should be encouraged for a number of reasons. The protection of

public health has traditionally been within the recognized police powers of the states. (It is interesting to note that the U.S. Department of Health, Education and Welfare was not established until 1953.) As financiers and regulators of health care, and through the delivery of public health services, state government has a long history of involvement in health activities.

"States have responded to the problem with a number of innovative programs. Some particularly interesting ones are in the fields of hospital cost containment, alternatives to institutional care, and health planning."

States are in the best position to view the operation of health programs within the context of statewide priorities and resources. The ability to consider the unique features of a particular state, especially its health care delivery system, when designing a cost containment program best assures that the legitimate concerns of all interested parties will be addressed.

It is at the state level that many health-related programs are regulated. The complementary nature of these activities can give extra clout to cost containment efforts: Certificate of need programs are operated by the states; states administer the Medicaid program; health care providers, such as physicians, nurses, and hospitals, are licensed by state government; the insurance industry is regulated at the state level. Through coordination of these and other regulatory programs, a comprehensive, system-wide cost containment approach can be implemented.

At the same time, states offer the opportunity for experimentation on various approaches to health care cost control. Cost containment is a new art, not an established science. States have the opportunity to develop and implement innovative approaches to health care cost containment which may later be adopted by other states or the federal government.



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Finally, given their major financial stake as a health care financing agency, states have a vested interest in seeing that cost containment programs work.

State Responses

States have responded to the problem of rapidly rising health care costs with a number of innovative programs. Some particularly interesting approaches are in the fields of hospital cost containment, alternatives to institutional care, and health planning.

Hospital Cost Containment Programs: Eighteen states have enacted some type of legislation designed to control hospital costs. These programs vary widely in scope, structure and procedure, from simple disclosure statutes to programs requiring state review and approval of hospital rates and charges.

The programs regulating rates and charges appear to have been quite successful in controlling hospital cost increases. For example, the effectiveness of the mandatory state programs was recognized by the Carter Administration when it chose to exempt them from federal controls under the Administration's proposed cost containment bill.

State rate review programs have one major feature in common. They revise one of the inflationary incentives built into the hospital payment system: retrospective reimbursement. Under the Medicare and Medicaid programs in most states, and under many Blue Cross plans, hospitals are paid after the fact on the basis of costs incurred in treating a patient. This retrospective, cost-plus system contains no incentives to hospitals for cost control. In reality, the incentive is to increase costs, since higher costs will result in increased hospital revenue. Even unnecessary services will lead to additional income.

To counter this inflationary incentive, state rate-setting programs determine ahead of time the rates which hospitals may charge. Under such a prospective reimbursement system, hospitals know in advance the amount of money they will receive for treating patients. In effect this requires hospitals to hold their costs within a predetermined budget, and instills an element of financial management into hospital operations.

Maryland established one such program in 1971. After an initial developmental period, the Maryland Health Services Cost Review Commission began setting rates in 1974. In 1977, HEW's Health Care Financing Administration, on an experimental basis, agreed to permit the Maryland Commission to set rates for the Medicare program—an agreement that made Maryland the first state agency in the country to set rates for all payers. More recently, Medicare waivers have also been granted for experimental programs in Washington, New Jersey and western Pennsylvania. Senate Majority Leader Rosalie Abrams played a key role in the enactment of the legislation and continues to be pleased with the law. According to Senator Abrams, "The commission has demonstrated its effectiveness in containing the rise in hospital costs in Maryland, where the rate of

increase is certainly more rational than in the rest of the country. It is not state rate review alone, however, that is achieving this effect. One essential ingredient of the legislation was a requirement that a uniform accounting system be adopted. This has forced hospitals to examine their own budgets and has made them more cost conscious."

While a state body sets rates in Maryland, Wisconsin has vested rate review authority in a 20 member committee composed of representatives of the State, the Wisconsin Hospital Association, and Blue Cross of Wisconsin. The



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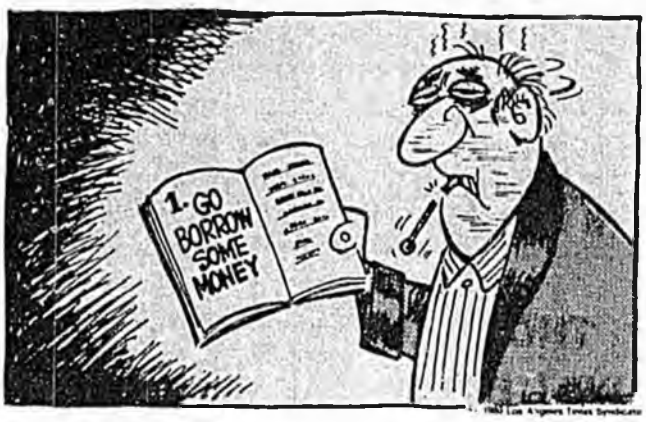
methodology for rate setting was developed by the Department of Health and Social Services, but actual analysis is performed by Blue Cross. Representative Joseph Czerwinski, Chairman of the Assembly Health and Services Committee reports that, "The rate review process appears to be working well, although we are still only in the developmental stage." Representative Czerwinski agrees with Senator Abrams that hospitals have become more cost conscious since the program began. "We do have to be satisfied that any one making a decision on hospital costs —a hospital administrator talking to a dietary expert or to a physician who wants a CAT scanner—is thinking about the fact that he will have to go before a rate review committee, and justify that position in public," Czerwinski says. "That exercise makes hospital administrators much more conscious of the cost implications of their decisions."

Alternatives to Institutional Care: While much attention nationally has been focused on controlling hospital costs, an even more serious problem for the states is long-term care. This segment now takes the largest portion of the average state's Medicaid budget—39 percent, or over $7 billion nationally.

It appears that long-term care will continue to be a major financial burden on state governments. The size of the nation's elderly population will continue to grow. It is estimated that by the year 2015, almost 40 million people will be over 65 versus 24 million in 1978. And it appears that relief will not be forthcoming should a national health insurance plan be enacted: No national health insurance proposal now under consideration in Congress would reduce the states' role in financing long-term care. A number of the proposals would place additional funding responsibilities on state government.

One cannot consider alternatives to institutional care as a purely fiscal issue. Few people disagree that patients are happier when they are able to remain at home with family or friends rather than be placed in a nursing home. Unfortunately, the long-term care funding programs—primarily Medicaid—are heavily biased towards expensive insitutions rather than at-home care. At the same time, community-based delivery systems are lacking or woefully inadequate in many places. Several states, however, have initiated actions to rectify this situation.



One such effort has recently been undertaken in New York through the enactment of the "Nursing Home without Walls" program in 1977. The author of the legislation establishing the program, Senate Health Committee Chairman Tarky Lombardi, Jr., explains, "This program is designed to provide nursing-home level care to persons in their own home. We expect it to have several benefits: We should find happier patients recovering more rapidly under a managed, coordinated program of care provided at home. This program will also obviate the need for construction of more long term care facilities. It should free acute hospital beds for sicker patients, or permit the closing of excess hospital beds that had been filled with patients who need nursing home—not acute hospital—care. We have found that almost 4,000 Medicaid beneficiaries are in our hospitals awaiting long term care placement at an average monthly cost in excess of $6,000. We have been able to serve patients under the Nursing Home without Walls program for an average of $785 per month." Senator Lombardi is also quick to emphasize that the program has an important quality of life aspect. "As just one example, one of the persons served under this program is a 93-year-old woman with a heart condition who is able to stay home and supervise her 72-year-old mentally retarded daughter."

Health Planning: An oversupply of hospital beds and inefficient utilization of available services have also been major contributors to health inflation. The problem is not a small one. The Department of Health, Education and Welfare has estimated that approximately 130,000 hospital beds could be eliminated without affecting quality of care. An analysis of health costs in Michigan determined that over 16 percent of the state's bed supply was surplus.

Excessive supply contributes to high costs in at least two major ways. First, empty beds are expensive to maintain. Although the exact cost has never been determined, estimates place it between 50 and 75 percent of the cost of a full bed. Second, given the expense of maintaining an empty bed, physicians and hospitals are encouraged to fill empty beds in order to generate revenue. This can result in unnecessary admissions and excessive stays in the hospital.

"Obviously, the interest of state legislators in health care issues extends beyond cost containment. Other unmet needs are readily apparent . . . Resolution of these problems, however, is intimately related to cost containment. Few public officials will look favorably at efforts to expand government's financial stake in the health care delivery system until they rest assured that the high rate of inflation in that system is under control."

To deal with the problem of oversupply of beds and services, and to prevent future unnecessary construction, New York enacted legislation in 1964 to establish the nation's first certificate of need program. Certificate of need is a mechanism to require prior state approval of hospital capital expenditures and construction; the primary determining factor in the approval process is the need for a proposed new service or facility. By the early 1970's, more than half of the state legislatures had enacted laws establishing a certificate of need program. Ten years after New York's action, the federal government adopted the concept in the National Health Planning and Resources Development Act, requiring that states must have an approved certificate of need program in order to be eligible for federal funds under such programs as the Public Health Service Act.

Some states, however, have gone beyond a simple certificate of need program. In 1978, Michigan enacted legislation establishing a mechanism for reducing that state's surplus of hospital beds. The legislation, which grew out of a joint public/private cost containment coalition, identifies health service areas with surplus beds. The local Health Systems Agency is responsible for developing a hospital specific plan for closing the excess beds. After the state has approved the HSA's bed reduction plan, the State Department of Public Health is prohibited from issuing a certificate of need inconsistent with the bed reduction plan, or to a facility out of conformity with the plan. Michigan hopes to eliminate 3,800 excess beds during the first five years of the law.

In addition to controlling the supply of hospitals and institutions, certificate of need provides a mechanism for assuring that expensive new technologies, such as kidney dialysis or open heart surgery, are distributed according to need. An example of a high cost technology that has recently been introduuced is computerized axial tomography, or CAT scanning. This process represents a tremendous advance in medical diagnostic capability; it is so significant that its inventors were awarded the 1979 Nobel Prize for Medicine. While virtually every hospital might like its own CAT scanner, and every patient might like to have one in the the local hospital, the machine costs between one-half and three-quarters of a million dollars. In addition a CAT scan is not administered to most hospital patients. The high price of such a technology and its relatively restricted use dictate that if it is to operate in a cost effective manner, the supply should be limited and distributed on the basis of the public need for the service. Accordingly, a certificate of need program might require that the equipment perform at least 2,000 CAT scans annually in order to be approved.

Wisconsin has gone even further. As Representative Czerwinski said, "Certificate of need is reactive only to new development. In Wisconsin, we thought it important to look at existing services and institutions available to our citizens. So along with certificate of need, Wisconsin has the ability to decertify existing services which do not meet minimum usage criteria in such areas as heart catheterization, radiation therapy, chemo-dialysis, renal transplants, high risk maternal and neonatal care, and computer tomography." In order to permit the effective and planned reduction of services without placing an institution in extreme financial hardship, the Wisconsin Rate Review Committee "has the ability to negotiate with the hospital to increase its daily rate to amortize the costs of deleting that service. While this may raise short run costs, in the long run it should prove cost effective."

Obviously, the health interests of state legislators extend beyond cost containment. Even in the relatively narrow field of health financing other unmet needs are readily apparent: expanded access to care for rural residents; protection against the catastrophic costs of a major illness; and funding health services for the poor not covered under existing programs are among the other urgent concerns. Resolution of these problems, however, is intricately related to cost containment. Few public officials will favorably view efforts to further expand government's financial stake in the health care delivery system until they rest assured that the high rate of inflation in that system is under control. Accordingly, it appears that cost containment will retain its place at the top of the nation's health agenda.

Russ Hereford is director of the Health Care Cost Containment project of the National Conference of State Legislators.

Chapter 88. Municipal Tax Resource Equalization.

Section

10. State equalization of tax resources for local government services
15. Determination of population
20. Determination of millage rate equivalent
25. Reports
30. Limitation on computation and use of payments
35. Tax equalization account
40. Administration
45. Definitions

Effective date of chapter. — Section 17, ch. 155, SLA 1980, provides that §§ 1 — 12 of the act take effect on the first day of the fiscal year for which $33,400,000 or more is appropriated and allowed by the governor for distribution to municipalities and other recipients under the provisions of §§ 1 — 12 of this act or on July 1, 1983, whichever is earlier. A total of $33,500,000 was appropriated for the programs for the fiscal year beginning July 1, 1980. The appropriations were made in §§ 51 and 52, ch. 120, SLA 1980, and § 6, ch. 165, SLA 1980.

Editor's note. — Section 1, ch. 155, SLA 1980, effective on the same day as this chapter, provides: "It is the purpose of sec. 2 of this act [this chapter] to (1) improve the revenue raising and distribution system for the benefit of residents of home rule and general law municipalities by providing for more equitable allocation of financial resources among municipalities to improve their fiscal capacities; and (2) assure that no municipality suffers impoverishment of necessary public services, relative to other municipalities, because of the chance location of taxable wealth in the state."

Section 12, ch. 155, SLA 1980, effective on the same day as this chapter, provides: "(a) Notwithstanding other provisions of secs. 1 — 11 of this act, (1) a municipality may not receive less than $25,000 plus an area cost-of-living differential during the first fiscal year in which this act is effective; and (2) a municipality which would receive under AS 29.88, added by sec. 2 of this act, less than 125 percent of the amount which it received for the last fiscal year under AS 43.18.010 — 43.18.045, repealed by sec. 11 of this act, is, for each of the first five fiscal years during which secs. 1 — 10 of this act are effective, entitled to receive an amount equal to 125 percent of the amount which it received for the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045 in accordance with those provisions. (b) For the first five fiscal years during which secs. 1 — 10 of this act are effective, in order to pay the amounts required by (a) of this section, the allocations made by the Department of Community and Regional Affairs to the accounts established in AS 29.88.035, AS 29.89.080, and AS 29.90.020 shall be prorated by an amount which reduces the allocation to each account in equal proportion, and the prorated amounts shall be allocated to these accounts. (c) For the first five fiscal years during which secs. 1 — 10 of this act are effective, payment of an entitlement to a borough under AS 29.88 may be made to a borough only if the borough assembly agrees to allocate to each borough service area in the borough at least the amount of money that the service area received during the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045, in accordance with those provisions."

Sec. 29.88.010. State equalization of tax resources for local government services. (a) During each fiscal year the department shall compute an equalization entitlement for local government services provided by a taxing unit.

(b) The equalization entitlement computed for a taxing unit is based on the population, relative ability to generate revenue, and local tax burden of the taxing unit and is determined by the application of the

formula

Entitlement = P x R

where P = population, and

R = millage rate equivalent, determined by dividing the sum of the locally generated revenue of the taxing unit by one-tenth of one percent (0.1) of the full and true value of assessed property of the taxing unit determined under AS 29.88.020(d); however, the property value used under this subsection may not be less than 15 percent of the statewide average per capita full and true assessed property value.

(c) For purposes of this section, locally generated revenue

(1) includes

(A) the actual revenue derived from the levy and collection of local taxes in the taxing unit for local government services during the preceding fiscal year of the taxing unit;

(B) motor vehicle payments received by the municipality during the preceding fiscal year under AS 28.10.431;

(C) revenue from fees, rentals, leases, penalties, licenses or permits received during the preceding fiscal year by the municipality for a function or service over which it has control, including revenues derived from parks and recreation services, mass transit, offstreet parking, and garbage and solid waste disposal services;

(D) special assessments received during the preceding fiscal year; and

(E) payments received by a municipality from a utility which are in place of taxes levied and collected by the municipality;

(2) excludes

(A) revenue derived from the levy and collection of municipal taxes and appropriated for the operating expenses and debt service of utilities;

(B) revenue from interest earned on investments and from the sale and lease of land or equipment; and

(C) all other revenue from whatever service derived. (§ 2 ch 155 SLA 1980)

Sec. 29.88.015. Determination of population. (a) For purposes of this chapter, the population of a taxing unit shall be determined annually by the latest figures of the United States Bureau of the Census or other population data which, in the judgment of the department, is reliable.

(b) The population of the taxing unit includes the population of any military reservation which is a part of the taxing unit. (§ 2 ch 155 SLA 1980)

Sec. 29.88.020. Determination of millage rate equivalent. (a) The department may require a municipality to return a certification, signed by the municipal treasurer or manager and the mayor, which provides an estimate of the locally generated revenue received by the municipality during the preceding fiscal year.

(b) By October 15 of each year, the department shall make an initial determination of the millage rate equivalent of each taxing unit to be used for computing and distributing equalization entitlements for the current fiscal year under this chapter. The department shall base the initial determination on the estimates in the certification returned by a municipality under (a) of this section.

(c) As early as possible, but not later than December 15 of each year, the department shall make a final determination of the millage rate equivalent of each taxing unit to use to compute and distribute equalization entitlements under this chapter. The department shall base the determination on audits, financial statements and other financial reports prepared and submitted by a municipality. The department shall adjust the locally generated revenue reported by a municipality to exclude the municipal revenue claimed by the municipality which does not qualify for inclusion in or recognition as locally generated revenue for local government purposes under AS 29.88.010(c)(1). The adjustment shall be made by deducting from total revenue claimed by the municipality the amount of the department's estimate of revenue which is not recognized for local government purposes.

(d) The full and true assessed property value shall be determined by the department in the manner provided for the computation of state aid to education under AS 14.17.140. When the determination of locally generated revenue includes revenue of a utility received under AS 29.88.010(c)(1)(E), the full and true assessed property value shall include the computed assessed value of the utility, determined by dividing the amount of the payment in place of taxes made by the utility by the millage rate which would apply to the utility if the utility were subject to levy and collection of taxes under AS 29.53.

(e) In addition to the computation for municipalities which levy and collect a property tax, the department shall determine an estimated full and true assessed property value under (d) of this section for

(1) each municipality which is a school district and which does not levy and collect a property tax;

(2) each second class city with a population of 750 or more persons; however, a computation is not required under this paragraph more often than once during a period of three successive calendar years; and

(3) all other second class cities, by determining the average per capita full and true assessed property value of all cities having a population of less than 750 persons in which an assessment has been completed by a municipality or for which a determination is not made under (1) or (2) of this subsection.

(f) The department shall annually compute a statewide average per capita full and true assessed property value. (§ 2 ch 155 SLA 1980)

Sec. 29.88.025. Reports. A payment of an equalization entitlement may not be made to a municipality under this chapter until the municipality has submitted its certificate of estimated revenue and its financial report to the department for the fiscal year preceding the year for which the equalization entitlement is sought, together with a budget for the municipality's current fiscal year. The financial report shall include a listing of general revenue collected from taxes levied and assessed by the municipality and any other revenue which, in the opinion of the municipal officials, is eligible for inclusion in computations of the locally generated revenue of the taxing unit. (§ 2 ch 155 SLA 1980)

Sec. 29.88.030. Limitation on computation and use of payments. (a) An equalization entitlement generated by the general tax levy of a taxing unit may be used only for authorized expenditures of that taxing unit, but up to 15 percent of the payment of an equalization entitlement generated by areawide revenue of a municipality may be used by the municipality for areawide or nonareawide purposes at the discretion of its assembly or council.

(b) An equalization entitlement determined with reference to revenue other than revenue obtained from the levy and collection of taxes may be used for areawide or nonareawide purposes, at the discretion of the assembly or council. (§ 2 ch 155 SLA 1980)

Sec. 29.88.035. Tax equalization account. The tax equalization account is established. Money to carry out the provisions of this chapter shall be allocated by the department to the account. The amount allocated to the account shall be fully distributed by the department as payments to municipalities to fulfill each municipality's share authorized under AS 29.88.010. The amount allocated to the account shall be distributed by the department pro rata among eligible municipalities. (§ 2 ch 155 SLA 1980)

Sec. 29.88.040. Administration. (a) The department may adopt regulations necessary to implement this chapter. The regulations shall include, among other provisions,

(1) procedures and filing dates for submitting certification and financial reports;

(2) procedures for obtaining information required to compute and determine the municipality's millage rate equivalent; and

(3) procedures by which the department shall notify a municipality in writing of the reasons for a proposed disallowance or adjustment of any factor bearing upon the determination of the municipality's entitlement and by which the municipality will be provided reasonable time in which to respond or to challenge the department's determination.

(b) The department shall make reasonable efforts to advise and assist municipalities in collecting information and completing reports necessary for the determination of entitlements under this chapter.

(c) The department shall, by regulation, classify for inclusion or exclusion as a component of a municipality's millage rate equivalent under AS 29.88.010 any tax revenue appropriated for a utility not included in the definition set out in AS 29.88.045(4). (§ 2 ch 155 SLA 1980)

Sec. 29.88.045. Definitions. In this chapter

(1) "department" means the Department of Community and Regional Affairs;

(2) "municipality" means a city, borough or unified municipality incorporated under the laws of the state;

(3) "taxing unit" means a municipality and

(A) in a borough or unified municipality, a service area or the entire area outside cities;

(B) in a city, a differential tax zone;

(4) "utilities" means electricity, water, sewer, gas, heat, or telephone services, and refuse and garbage collection services. (§ 2 ch 155 SLA 1980)

Chapter 89. State Aid for Miscellaneous Municipal Purposes.

Section

10. Revenue sharing payable
20. State aid to municipalities for roads
30. State aid to municipalities and other eligible recipients for health facilities and hospitals
40. State aid to volunteer fire departments in the unorganized borough
50. State aid to Native village governments
60. Population determination
70. Area cost-of-living differential
80. Miscellaneous services account
90. Regulations
100. Definitions

Effective date of chapter. — Section 17, ch. 155, SLA 1980 provides that §§ 1 — 12 of the act take effect on the first day of the fiscal year for which $33,400,000 or more is appropriated and allowed by the governor for distribution to municipalities and other recipients under the provisions of §§ 1 — 12 of this act or on July 1, 1983, whichever is earlier. A total of $33,500,000 was appropriated for the programs for the fiscal year beginning July 1, 1980. The appropriations were made in §§ 51 and 52, ch. 120, SLA 1980, and § 6, ch. 165, SLA 1980.

Editor's note. — Section 12, ch. 155, SLA 1980, effective on the same day as this chapter, provides: "(a) Notwithstanding other provisions of secs. 1 — 11 of this act, (1) a municipality may not receive less than $25,000 plus an area cost-of-living differential during the first fiscal year in which this act is effective; and (2) a municipality which would receive under AS 29.88, added by sec. 2 of this act, less than 125 percent of the amount which it received for the last fiscal year under AS 43.18.010 — 43.18.045, repealed by sec. 11 of this act, is, for each of the first five fiscal years during which secs. 1 — 10 of this act are effective, entitled to receive an amount equal to 125 percent of the amount which it received for the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045 in accordance with those provisions. (b) For the first five fiscal years during which secs. 1 — 10 of this act are effective, in order to pay the amounts required by (a) of this section, the allocations made by the Department of Community and Regional Affairs to the accounts established in AS 29.88.035, AS 29.89.080, and AS 29.90.020 shall be prorated by an amount which reduces the allocation to each account in equal proportion, and the prorated amounts shall be allocated to these accounts. (c) For the first five fiscal years during which secs. 1 — 10 of this act are effective, payment of an entitlement to a borough under AS 29.88 may be made to a borough only if the borough assembly agrees to allocate to each borough service area in the borough at least the amount of money that the service area received during the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045, in accordance with those provisions."

Sec. 29.89.010. Revenue sharing payable. In addition to the equalization entitlements paid under AS 29.88, during each fiscal year the department shall pay aid

(1) to a municipality or other eligible recipient which has the power to provide the services described in AS 29.89.020 — 29.89.040 and exercises the power in the manner required by this chapter;

(2) to a Native village government under AS 29.89.050. (§ 3 ch 155 SLA 1980)

Sec. 29.89.020. State aid to municipalities for roads. (a) The department shall pay to a municipality which has power to provide for road maintenance and exercises that power, $2,500 a mile for each mile of road, street or highway maintained by the local government, excluding (1) the official state highway system, (2) roads, streets or highways not dedicated to public use, (3) roads, streets or highways maintained under the local service road program (AS 19.30.111 —

19.30.251), and (4) alleyways, in accordance with regulations adopted by the Department of Transportation and Public Facilities. A payment may not be made under this subsection for maintenance of a road which is not used by automotive equipment.

(b) A frozen waterway and a connection from an inhabited area to a waterway which may be safely used for public transportation by automotive equipment and is so used during a portion of a year is eligible for a payment of $1,500 per mile if the waterway and connection are maintained during the period of use by a municipality or combination of municipalities. The department, after consultation with the Department of Transportation and Public Facilities, shall determine which waterways and connections qualify and, where the waterways or connections lie outside the corporate limits of a municipality, which municipalities shall receive the payments under this subsection, unless the municipalities involved have agreed in writing to a particular distribution. (§ 3 ch 155 SLA 1980)

Sec. 29.89.030. State aid to municipalities and other eligible recipients for health facilities and hospitals. (a) The department shall pay

(1) to a municipality which has the power to provide hospital facilities and services and which exercises that power, $1,000 per bed for each bed actually used for patient care, limited to the number of beds provided for in the construction design of the hospital, or $250,000 a hospital for those hospitals with 10 or more beds, or $50,000 a hospital for those hospitals with less than 10 beds, as the municipality may elect; money received under this paragraph may be used only for hospitals and shall be apportioned among qualifying hospitals as the municipality determines;

(2) on the basis set out in (1) of this subsection to a municipality for a nonprofit hospital not operated by a municipality if the municipality first certifies to the department that the nonprofit hospital is in compliance with all standards for hospitals which have been adopted by the municipality; money may not be paid on behalf of a nonprofit hospital without this certification; payments to the municipality shall be transferred to the nonprofit hospital in accordance with the basis by which the payment was generated by the hospital, and shall be applied to the annual cost of operation and maintenance of the hospital or for the provision of health care service at the hospital as the directors of the hospital determine;

(3) to a municipality in which a health facility is operated, $2,000 per bed for each bed actually used for patient care, limited to the number of beds provided for in the construction design of the health facility, or $8,000 per health facility as the municipality determines.

(b) A hospital may not receive payment under both (a)(1) and (a)(2) of this section.

(c) Money received by a municipality under (a)(3) of this section shall be used for expenses of health services or operation and maintenance of health facilities as the municipality determines.

(d) Before money may be distributed under this section, the commissioner of health and social services shall certify to the commissioner of community and regional affairs that any accumulation of assets by nonprofit corporations or other recipients under this section is dedicated irrevocably to a public purpose. (§ 3 ch 155 SLA 1980; am §§ 1, 2 ch 103 SLA 1981)

Cross reference. — As to state aid for hospital construction, see AS 29.90.

Editor's note. — As to reports by Department of Health and Social Services and Department of Community and Regional Affairs and commissioner of health and social services, see § 14, ch. 155, SLA 1980, effective July 1, 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 29.89.040. State aid to volunteer fire departments in the unorganized borough. (a) The department shall pay to a volunteer fire department registered with the state fire marshal and serving an area not in an organized borough or city a sum for protection purposes equal to $10 per capita for the population served by the department, as determined by the state fire marshal.

(b) A grant shall be made under (a) of this section to facilitate the organization of a volunteer fire department in an area not in an organized borough or city, upon application of the proposed fire protection group to the state fire marshal and upon approval of applications according to standards of organization and service prescribed by regulations adopted by the state fire marshal. (§ 3 ch 155 SLA 1980)

Sec. 29.89.050. State aid to Native village governments. The state shall pay $25,000 to a Native village government for a village which is not incorporated as a city under this title. In this section, "Native village government" means

(1) a local governing body organized by authority of the Act of Congress of June 18, 1934 (25 U.S.C. § 476); or

(2) a traditional village council or, if there is no traditional village council, the paramount chief or other governing body of a Native village which meets the requirements of the Alaska Native Claims Settlement Act (43 U.S.C. §§ 1601 — 1628). (§ 3 ch 155 SLA 1980)

Sec. 29.89.060. Population determination. For purposes of this chapter, population shall be determined by the latest figures of the United States Bureau of the Census or other reliable population data, including but not limited to public school enrollment figures, public utility connection, registered voters or certified employment payrolls. (§ 3 ch 155 SLA 1980)

Sec. 29.89.070. Area cost-of-living differential. (a) Payments to a municipality or other eligible recipient under AS 29.89.020 — 29.89.030 shall reflect area cost-of-living differentials. Payments shall be based upon the sum of per capita, per mile and per bed or facility grants due each municipality or other recipient multiplied by the appropriate area cost-of-living differential. The area cost-of-living differential for each recipient shall be determined annually by election district under the provisions of AS 39.27.030. Application of the area cost-of-living differential may not result in distribution of an amount less than the amount of the payment determined without application of this section.

(b) The election districts used to establish area cost-of-living differentials under (a) of this section are those designated by the proclamation of reapportionment and redistricting of December 7, 1961, and retained for the house of representatives by proclamation of the governor September 3, 1965. (§ 3 ch 155 SLA 1980)

Sec. 29.89.080. Miscellaneous services account. The miscellaneous services account is established. Money to carry out the provisions of this chapter shall be allocated by the department to the account in accordance with AS 29.95.010. If amounts in the account are insufficient to pay each municipality's or other recipient's share authorized under this chapter, the amounts which are available shall be distributed pro rata among eligible municipalities and other recipients. (§ 3 ch 155 SLA 1980)

Sec. 29.89.090. Regulations. The department shall adopt regulations necessary to carry out the purposes of this chapter. The regulations shall include minimum standards required to qualify a municipality or other recipient for payments for each service. The department may require a municipality or other recipient to submit a performance report adequate to demonstrate to the department that a service for which payment is requested under this chapter was performed by the municipality or other recipient and meets minimum standards of service prescribed by regulation. (§ 3 ch 155 SLA 1980)

Sec. 29.89.100. Definitions. In this chapter

(1) "department" means the Department of Community and Regional Affairs;

(2) "health facility"

(A) means a facility which is licensed, when required, by the state under AS 18.20.010 — 18.20.130 and which is owned or operated or both by a municipality or by a nonprofit corporation or other nonprofit sponsor;

(B) includes a public health center, maternity home, community mental health center, facility for the mentally or physically handicapped, nursing home or convalescent center;

(C) excludes a facility operated or wholly supported by the state or the federal government;

(3) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general hospital; the term excludes a facility operated or wholly supported by the state or the federal government. (§ 3 ch 155 SLA 1980)

Chapter 90. State Aid for Hospital Construction.

Section

10. State aid for hospital construction
20. Hospital construction assistance account
30. Definitions

Cross reference. — As to state aid to municipalities and other eligible recipients for health facilities and hospitals, see AS 29.89.030.

Effective date of chapter. — Section 17, ch. 155, SLA 1980, provides that §§ 1 — 12 of the act take effect on the first day of the fiscal year for which $33,400,000 or more is appropriated and allowed by the governor for distribution to municipalities and other recipients under the provisions of §§ 1 — 12 of this act or on July 1, 1983, whichever is earlier. A total of $33,500,000 was appropriated for the programs for the fiscal year beginning July 1, 1980. The appropriations were made in §§ 51 and 52, ch. 120, SLA 1980, and § 6, ch. 165, SLA 1980.

Editor's note. — Section 12, ch. 155, SLA 1980, effective on the same day as this chapter, provides: "(a) Notwithstanding other provisions of secs. 1 — 11 of this act, (1) a municipality may not receive less than $25,000 plus an area cost-of-living differential during the first fiscal year in which this act is effective; and (2) a municipality which would receive under AS 29.88, added by sec. 2 of this act, less than 125 percent of the amount which it received for the last fiscal year under AS 43.18.010 — 43.18.045, repealed by sec. 11 of this act, is, for each of the first five fiscal years during which secs. 1 — 10 of this act are effective, entitled to receive an amount equal to 125 percent of the amount which it received for the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045 in accordance with those provisions. (b) For the first five fiscal years during which secs. 1 — 10 of this act are effective, in order to pay the amounts required by (a) of this section, the allocations made by the Department of Community and Regional Affairs to the accounts established in AS 29.88.035, AS 29.89.080, and AS 29.90.020 shall be prorated by an amount which reduces the allocation to each account in equal proportion, and the prorated amounts shall be allocated to these accounts. (c) For the first five fiscal years during which secs. 1 — 10 of this act are effective, payment of an entitlement to a borough under AS 29.88 may be made to a borough only if the borough assembly agrees to allocate to each borough service area in the borough at least the amount of money that the service area received during the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045, in accordance with those provisions."

As to reports by Department of Health and Social Services and Department of Community and Regional Affairs and commissioner of health and social services, see § 14, ch. 155, SLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 29.90.010. State aid for hospital and health facility construction. If construction of a hospital began after January 1, 1968, or if construction of a health facility began after January 1, and before July 1, 1980, and state matching aid for construction approved for payment to the municipality or other hospital or health facility sponsor constitutes less than 25 percent of the total project cost, the department shall pay to the municipality or other hospital or health facility sponsor each fiscal year $2,500 a bed for the maximum number of beds provided for in the construction design of the hospital or health facility or five percent of the total project cost, whichever is greater. State aid provided for in this section shall continue until the municipality or other hospital or health facility sponsor has received an amount which, combined with state matching money for construction of the hospital or health facility, equals 25 percent of the total project cost. Money received for construction may not be used for any other purpose. (§ 4 ch 155 SLA 1980; am § 3 ch 103 SLA 1981)

Sec. 29.90.020. Hospital and health facility construction assistance account. The hospital and health facility construction assistance account is established. Money to carry out the provisions of this chapter shall be allocated by the department to the account in accordance with AS 29.95.010. If amounts in the account are insufficient to pay each recipient's share authorized under this chapter, the amounts which are available shall be distributed pro rata among eligible recipients. (§ 4 ch 155 SLA 1980; am § 4 ch 103 SLA 1981)

Sec. 29.90.030. Definitions. In this chapter

(1) "department" means the Department of Community and Regional Affairs;

(2) "hospital" means a licensed hospital determined by the Department of Health and Social Services to be a general hospital; the term excludes a facility operated or wholly supported by the state or the federal government;

(3) "total project cost" means

(A) costs directly related to the project; and

(B) the total of all costs of financing and carrying out the project, including but not limited to,

(i) the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property, and the acquisition of machinery and equipment as may be necessary in connection with the project;

(ii) an allocable portion of the administrative and operating expenses of the municipality or other hospital sponsor;

(iii) the cost of financing the project, including interest on bonds issued to finance the project; and

(iv) the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary.

(4) "health facility"

(A) means a facility that is licensed, when required, by the state under AS 18.20.010 - 18.20.130 and that is owned or operated or both by a municipality or by a nonprofit corporation or other nonprofit sponsor;

(B) includes a public health center, maternity home, community mental health center, facility for the mentally or physically handicapped, nursing home, or convalescent center;

(C) excludes a facility operated or wholly supported by the state or the federal government.

(§ 4 ch 155 SLA 1980; am § 5 ch 103 SLA 1981)

Chapter 95. Administration of Municipal Financial Assistance Programs.

Section

10. Allocation and distribution
20. Qualification for minimum payment
30. Proration of payments

Effective date of chapter. — Section 17, ch. 155, SLA 1980, provides that §§ 1 — 12 of the act take effect on the first day of the fiscal year for which $33,400,000 or more is appropriated and allowed by the governor for distribution to municipalities and other recipients under the provisions of §§ 1 — 12 of this act or on July 1, 1983, whichever is earlier. A total of $33,500,000 was appropriated for the programs for the fiscal year beginning July 1, 1980. The appropriations were made in §§ 51 and 52, ch. 120, SLA 1980, and § 6, ch. 165, SLA 1980.

Editor's note. — Section 12, ch. 155, SLA 1980, effective on the same day as this chapter, provides: "(a) Notwithstanding other provisions of secs. 1 — 11 of this act, (1) a municipality may not receive less than $25,000 plus an area cost-of-living differential during the first fiscal year in which this act is effective; and (2) a municipality which would receive under AS 29.88, added by sec. 2 of this act, less than 125 percent of the amount which it received for the last fiscal year under AS 43.18.010 — 43.18.045, repealed by sec. 11 of this act, is, for each of the first five fiscal years during which secs. 1 — 10 of this act are effective, entitled to receive an amount equal to 125 percent of the amount which it received for the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045 in accordance with those provisions. (b) For the first five fiscal years during which secs. 1 — 10 of this act are effective, in order to pay the amounts required by (a) of this section, the allocations made by the Department of Community and Regional Affairs to the accounts established in AS 29.88.035, AS 29.89.080, and AS 29.90.020 shall be prorated by an amount which reduces the allocation to each account in equal proportion, and the prorated amounts shall be allocated to these accounts. (c) For the first five fiscal years during which secs. 1 — 10 of this act are effective, payment of an entitlement to a borough under AS 29.88 may be made to a borough only if the borough assembly agrees to allocate to each borough service area in the borough at least the amount of money that the service area received during the last fiscal year under the former provisions of AS 43.18.010 — 43.18.045, in accordance with those provisions."

Sec. 29.95.010. Allocation and distribution. (a) Each year, the Department of Community and Regional Affairs shall allocate money appropriated to the accounts established in AS 29.88, AS 29.89, and AS 29.90 in the amounts determined by the legislature.

(b) Money in the miscellaneous services account established in AS 29.89.080 which exceeds the amount required to fully fund distributions authorized by AS 29.89 shall be reallocated to the tax equalization account established in AS 29.88.035 and distributed according to the provisions of AS 29.88.

(c) Money in the hospital construction assistance account established in AS 29.90.020 which exceeds the amount required to fully

fund distributions authorized by AS 29.90 shall be reallocated to the tax equalization account established in AS 29.88.035 and distributed according to the provisions of AS 29.88. (§ 5 ch 155 SLA 1980)

Sec. 29.95.020. Qualification for minimum payment. (a) A municipality qualifying for an entitlement under AS 29.88 or AS 29.89 shall receive a minimum payment of $25,000 plus an area cost-of-living differential for each fiscal year if:

(1) the municipality has conducted a regular election under AS 29.28.010 — 29.28.050 during the fiscal year preceding the year for which payment of an entitlement is authorized by AS 29.88 or AS 29.89 and has reported the results of the election to the commissioner of the Department of Community and Regional Affairs;

(2) regular council meetings are held in the municipality in accordance with the requirements of AS 29.23.210 during the fiscal year preceding the year for which payment of an entitlement is authorized by AS 29.88 or AS 29.89 and a record of the proceedings is maintained;

(3) a municipal budget has been adopted for the fiscal year during which payment of an entitlement is authorized by AS 29.88 or AS 29.89 and an audit or financial statement for the preceding fiscal year has been prepared and furnished to the Department of Community and Regional Affairs in accordance with AS 29.23.560(a); and

(4) local ordinances adopted by the governing body of the municipality have been codified in accordance with AS 29.48.180.

(b) The area cost-of-living differential payable to each municipality under this section shall be determined annually by election district under the provisions of AS 39.27.030. Except as provided in AS 29.95.030, application of the area cost-of-living differential may not result in a payment which is less than the minimum payment determined under (a) of this section. For purposes of this subsection, the election districts used are those designated by the proclamation of reapportionment and redistricting of December 7, 1961, and retained for the house of representatives by proclamation of the governor September 3, 1965.

(c) The Department of Community and Regional Affairs shall pay to each municipality eligible to receive a minimum payment under this section an amount equal to the difference between the minimum payment determined under (a) and (b) of this section and the sum of the amounts payable for the same fiscal year under AS 29.88 and AS 29.89.

(d) A payment under this section may be prorated and reduced under AS 29.95.030.

(e) Payments under this section shall be made from the money allocated to the tax equalization account established in AS 29.88.035. (§ 5 ch 155 SLA 1980)

Sec. 29.95.030. Proration of payments. (a) Payments under AS 29.95.020 and AS 29.88 shall equal the amount allocated to the tax equalization account (AS 29.88.035), adjusted in accordance with AS 29.95.010.

(b) Adjustments of payments shall be determined by prorating amounts payable under AS 29.95.020 and amounts payable under AS 29.88 by a factor which, when applied, reduces all payments in equal proportion so that payments under AS 29.95.020 and payments under AS 29.88 equal the amount allocated to the tax equalization account established in AS 29.88.035. (§ 5 ch 155 SLA 1980)

LEGISLATIVE CHANGES AFFECTING STATE CERTIFICATE OF NEED PROGRAMS

This list summarizes the changes made by the National Health Planning and Resources Development Amendments of 1979 to the requirements for acceptable State Certificate of Need programs. The amendments are grouped according to changes in procedures, in coverage, in criteria, and in definitions. Following the summary of each change are citations for the conference report, the Health Planning Act, and the page in the conference report on which the complete text of the change may be found.

Prepared by Division of Regulatory Activities
Bureau of Health Planning

October 1979

CHANGE IN PROCEDURES

Applications must be submitted according to a timetable established by the reviewing agency. Reviews must be undertaken in a timely fashion, and similar types of applications must be considered in relation to each other, but no less often than twice a year. (Section 116(e) amends 1532(b)(13)(A), see page 24.)

Written notification of the beginning of a review and notification of review status must be made in a "timely" manner. Agencies are required to maintain a mailing list of persons requesting to be notified of reviews. (Section 116(d)(1)(A)&(B) amends 1532(b)(1)&(7), page 22.)

If an agency requests additional information the applicant must be given 15 days to provide the information. (Section 116(d)(2) amends 1532(b)(2), page 22.)

Agencies must establish procedures to assure that only necessary information is requested in an application, and that all "essential" information is accessible to the general public. (Section 116(i)(1)&(2) amends 1532(b), page 25.)

The State Agency must specify a time period for approving or disapproving an application, and for granting an exemption. If additional information is requested of an applicant, the applicant may request that the review period be extended by 15 days. (Section 116(d)(3) amends 1532(b)(12)(C), page 23.)

The following requirements apply to hearings held before the State Agency and before an HSA to which the State Agency has delegated the authority to hold a hearing: Any person may be represented by counsel and may submit arguments and evidence. Any person directly affected may question persons who make factual allegations. A record of the hearing must be maintained. (Section 116(d)(3) amends 1532(b)(12)(A), page 22.)

A State's decision to approve, disapprove, or withdraw a certificate of need must be based solely on a review by the State conducted in accordance with adopted procedures and criteria, and on the record of administrative proceedings. A State's decision to approve or disapprove an exemption is based solely on the record established in administrative proceedings. (Section 116(d)(3) amends 1532(b)(12)(B), page 23.)

An HSA which includes a portion of a single standard metropolitan statistical area will review criteria used for project reviews and certificate of need decisions which affect the area. (Section 121(b) amends 1513(d), page 35.)

Upon the request of any person directly affected, a decision to approve, disapprove, or withdraw a certificate of need must be <u>administratively</u> reviewed under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies. (Section 116(d)(3) amends 1532(b)(12)(D), page 23.)

After an administrative review, any person adversely affected by a decision may seek judicial review. The Court must affirm the State's decision unless it is found to be "arbitrary, capricious, or not made in compliance with applicable law." (Section 116(d)(3) amends 1532(b)(12)(E), page 23.)

An HSA must be permitted a "timely" appeal. The decision of the reviewing agency must be considered the decision of the State Agency. (Section 117(b)(4) amends 1522(b)(13), page 31.)

A notice of intent is required before any person arranges to acquire an existing health care facility, or arranges to acquire major medical equipment which will not be owned by or located in a health care facility. (Section 117(a) adds 1527(d)(2) and (e)(2), page 29.)

Once a hearing has commenced, ex parte contacts are prohibited between applicants or opponents and any person in the State Agency who exercises responsibility in granting, denying, or withdrawing certificates of need. (Section 116(d)(3) amends 1532(b)(12)(F), page 24.)

If no decision is made within the required time, the applicant may bring an action in the appropriate State Court to require the State Agency to make a decision. (Section 116(d)(3) amends 1532(b)(12)(C)(ii), page 23.)

A governing body member is prohibited from voting on any application in which the member has a conflict of interests. (Section 113(a) amends 1512(b)(3)(F), page 17.)

The State Agency must consider the recommendation of the HSA to approve, disapprove, or withdraw a certificate of need. (Section 117(a) adds 1527(g), page 30.)

The State Agency must monitor the progress of the holder of a certificate in meeting the timetable specified in the application. The State Agency may withdraw a certificate of need if it determines that the holder is not making a good faith effort to meet the timetable. (Section 117(a) adds 1527(a)(3), page 26.)

A certificate of need may only be issued by the State Agency, and must, except in emergency circumstances which pose a threat to public health, be consistent with the State health plan. (Section 117(a) adds 1527(a)(5), page 26.)

When a State issues a certificate of need it must specify a maximum capital expenditure which may be obligated under the certificate. The State program will prescribe the nature of further review if the capital expenditure maximum is exceeded. (Section 117(a) adds 1527(a)(4), page 26.)

HSAs and State Agencies must coordinate the development of procedures and criteria. (Section 116(c) amends 1532(a), page 22.)

Any criterion used to review an application or any condition attached to a certificate of need must be directly related to criteria at section 1532(c), criteria in Federal regulation prior to the date of enactment, or criteria in State regulation. The Secretary may not require the inclusion of criteria other than those at section 1532(c) or those in regulation prior to the date of enactment. (Section 117(a) adds 1527(a)(2), page 25.)

A certificate of need program must provide procedures and penalties to enforce the requirements of the program. (Section 117(b)(2) amends 1523(a)(4), page 30.)

CHANGES IN COVERAGE

A certificate of need program must provide for the review and determination of need for capital expenditures, major medical equipment, and institutional health services. (Section 117(a) adds 1527(a)(1), page 25.)

A certificate of need may not be required for 1) the offering of an inpatient institutional health service 2) the acquisition of major medical equipment for the provision of an inpatient institutional health service or 3) the obligation of a capital expenditure for the provision of an institutional health service by 1) an HMO, 2) combinations of HMOs, 3) health care facilities controlled directly or indirectly by HMOs, or 4) facilities leased by HMOs, if exemption requirements are met. (Section 117(a) adds 1527(b)(1), page 26.)

An HMO or health care facility which meets the requirements must apply for and receive an exemption from coverage. (Section 117(a) adds 1527(b)(2), page 26.)

A certificate of need is required when any major medical equipment or facilities acquired under an exemption are sold, unless the purchaser is an exempted organization. (Section 117(a) adds 1527(b)(3), page 27.)

HMOs and HMO health care facilities may be subject to certificate of need review only to the extent that they are not exempt under the conditions at section 1527(b)(1), and then only for the offering of inpatient institutional health services, the acquisition of major medical equipment, and the obligation of capital expenditures. (Section 117(a) adds section 1527(b)(4), page 28.)

A State Agency must approve an application from an HMO or HMO facility if the Agency finds that the approval is required to meet the needs of enrolled members and new members reasonably expected to enroll, and is required to offer health services in a reasonable and cost effective manner. (Section 117(a) adds 1527(b)(5), page 28.)

A certificate of need must be approved for capital expenditures required to eliminate safety hazards, to comply with State licensure standards, or to comply with accreditation standards required to receive certain reimbursements or payments, unless the State Agency finds that the facility is not needed or the expenditure is not consistent with the State health plan. (Section 117(a) adds 1527(c), page 28.)

A certificate of need is required for the acquisition of a health care facility by any person if a notice of intent is not submitted or if the State Agency finds within 30 days that the acquisition will result in a change of service or bed capacity. (Section 117(a) adds 1527(d)(1), page 29.)

A certificate of need is required for the acquisition of major medical equipment by any person if a notice of intent is not submitted or if the State Agency finds within 30 days that the equipment will be used to provide service to inpatients. A State may require additional coverage of major medical equipment; however, after September 30, 1982, a State may not change its program to include additional requirements. (Section 117(a) adds 1527(e)(1)(A), page 29.)

CHANGES IN COVERAGE

Donations, leases and transfers for less than fair market value (if the fair market value is greater than the capital expenditure threshold) of major medical equipment are subject to review if the acquisition would be subject to review under 1527(e)(1)(A). (Section 117(a) adds 1527(e)(3), page 30.)

Applications from osteopathic and allopathic facilities must be considered on the basis of the needs of osteopathic and allopathic physicians and patients. (Section 117(a) adds 1527(f), page 30.)

CHANGES IN CRITERIA

The State Health plan is added to those plans which must be considered. (Section 116(b)(3) amends 1532(c)(1), page 22.)

Additional criteria concerning the availability of resources and funds, the effect on health professional training programs, alternative uses of the resources involved, and accessibility of the proposed service. (Section 116(f)(3) amends 1532(c)(6), page 24.)

Additional criteria concerning the effects of construction projects on costs and charges, the efficiency and appropriateness of existing services, and the quality of existing services. (Sections 116(g)(1) & (2) amend 1532(c)(6) and add 1532(c)(13) & (14), page 25.)

Adds a consideration of the factors which affect the effect of competition on the supply of the proposed service, and a consideration of improvements or innovations in the financing and delivery of services which foster competition and promote quality and cost effectiveness. (Section 103(c) adds 1532(c)(11) & (12), page 5.)

The criterion on the special needs and circumstances of HMOs is amended to include all HMOs. (Section 117(b)(5) amends 1532(c)(8), page 32.)

DEFINITIONS

"Capital expenditure" is defined as an expenditure which exceeds the minimum, substantially changes the bed capacity, or substantially changes the services of a health care facility. States may adjust the capital expenditure threshold to reflect changes in an index maintained or developed by the Department of Commerce and designated by the Secretary by regulation for purposes of making such adjustments. (Section 117(b)(3) adds 1531(6), page 30.)

"Major medical equipment" means equipment which provides medical and other health services, and which costs in excess of $150,000. (Section 117(b)(3) adds 1531(7), page 31.)

"HMO" is defined as a qualified HMO under section 1310(d), or an organization which satisfies the requirements in existing regulations. (Section 117(b)(3) adds 1531(8), page 31.)

"Institutional health service" is defined as a health service which is provided through the specified facilities, and which entails an annual operating cost of $75,000 (or a figure adjusted as specified by the Secretary by regulation.) (Section 126(a)(1) adds 1531(5), page 40.)

National Conference of State Legislatures

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House of Representati

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MEMORANDUM

TO: Interested Legislators and Staff

FROM: Kay Miller, NCSL Health Planning Project Director

SUBJECT: 1979 Congressional Health Planning Amendments (P.L. 96-79): Implications for State Certificate of Need Programs

DATE: December 27, 1979

NCSL Health Planning Project

The National Conference of State Legislatures, through a contract with HEW's Bureau of Health Planning, has a Health Planning Project designed to collect information on state certificate of need (CON) legislation. As part of the project, NCSL is providing interested legislators and staff with information on federal developments which have ramifications for their state certificate of need programs.

NCSL has completed a series of four regional seminars for legislators and their staff which focused in part on the recent amendments to the Health Planning Act and the impact those amendments have on certificates of need. The materials included in this packet are intended to supplement the information provided at the seminars and to give those who did not attend the basic information necessary to understand the implications of the recent amendments.

Finally, the NCSL project can make available necessary technical assistance to state legislatures attempting to develop certificate of need legislation to reflect new changes. Questions regarding the project or requests for technical assistance should be directed to: Kay Miller, Project Director, Health Planning Project, NCSL, Denver, CO 80202 (303) 623-6600.

1979 Amendments to the Health Planning Law

The National Health Planning and Resources Development Act of 1974, P.L. 93-641, established a new nationwide network of health planning agencies. It also mandated that each state establish and administer a certificate of need (CON) program. Certificate of need is basically a method to prevent the construction and other development of unnecessary and inappropriate health care facilities and services. These programs were regarded by many as the regulatory mechanism necessary to give teeth to the planning process.

The Congressional amendments, signed into law October 4, 1979, to the 1974 Act have certain implications for state certificate of need programs. Depending on the latitude which a state's statute permits the state health planning agency in developing a certificate of need program, a legislature may be required to amend (or enact, in a few cases) its CON statute to reflect the significant changes in the federal legislation.

Several examples of the changes in the recent Congressional amendments which may require changes in the state laws are:

I. Health maintenance organizations (HMOs) meeting certain specified criteria outlined in federal law (Section 117 (a), page 26 of the Conference Report, adds 1527 (6)) may not be required to obtain a certificate of need for: 1) the offering of an in-patient institutional health service 2) the acquisition of major medical equipment for the provision of an inpatient institutional health service or 3) the obligation of a capital expenditure for the provision of an institutional health service.

II. A certificate of need is required for the acquisition of major medical equipment by any person if a notice of intent is not submitted or if the state agency finds within 30 days that the equipment will be used to provide service to inpatients. A state may require additional coverage of major medical equipment; however, after September 30, 1982, a state may not change its program to include additional requirements (Section 117 (a) of the Conference Report adds 1527 (e) (1) (A) on page 29.)

There are numerous other changes which may require state statutory changes if state law does not grant liberal rulemaking authority to the state agency. Each state will need to review its legislation in light of the new amendments to determine what legislative action will be necessary to comply. The NCSL Health Planning Project can assist in making this determination and reviewing proposed amendments for compliance.

Timetable for Compliance

Section 123 of the Conference Report, page 38, amends subsection (d) of section 1521 to establish the dates when a state agency must have a final designation agreement is a satisfactory CON program which may require legislation to implement, the dates are tied to legislative sessions. Basically, the amendments state: 1) if the legislature of the state was in session on the date of enactment of the 1979 health planning amendments (October 4, 1979) and will continue to be in session 12 months, the state agency must be fully designated 12 months from that date; 2) if the legislature of a state was in session on the date of enactment but 12 months do not remain in that session, or if the legislature was not in session on the date of enactment, the state agency of that state must be fully designated 12 months after the beginning of the first regular session of the legislature beginning after that date.

NCSL has provided the HEW's Bureau of Health Planning with 1979 adjournment information and 1980 session information on all 50 states. Legislators and staff with questions regarding when their state must have a fully designated State Health Planning & Development Agency should contact their regional office of HEW. If the Regional Office is unable to give a definite answer, contact NCSL, which will obtain a judgment from the Bureau of Health Planning.

Penalties for Failure to have a Fully Designated State Agency

The 1979 amendments also make changes in the penalties that will be imposed on states which do not have final designation agreements in effect on the dates outlined above. These penalties also appear in Section 123 of the Conference Report, page 38, in the amendments to subsection 1521 (d) (2). Basically, the sanctions that HEW must impose

on any state failing to have a fully designated state agency by the required date would involve any "allotment, grant, loan and loan guarantee made to and each contract entered into with an individual or entity in such State ... under this Act (Public Health Service Act), the Community Mental Health Centers Act, the Comprehensive Alcohol Abuse & Alcoholism Prevention Treatment and Rehabilitation Act of 1970 and the Drug Abuse Office & Treatment Act of 1972."

If a final designation agreement is not in effect during the first year after the applicable expiration date, the Secretary of HEW must reduce the above mentioned funds by 25 percent; in the third year by 75 percent; and all funds under these acts are to be withheld after three years have elapsed.

The penalties in the new amendments are more stringent and comprehensive than those contained in the original Health Planning Act, P.L. 93-641, Section 1521 (d). The new amendments add funds under the Drug Abuse Office & Treatment Act of 1972 to the list of sanctions. More importantly, the amendments include all funds under the stated acts, not just those for "the development, expansion and support of health resources" as stated in the original act.

NCSL requested the Bureau of Health Planning to compute for each state the total dollars involved if the penalties were imposed. They have done this based on FY 1978 figures. States should be able to obtain these dollar figures through their regional HEW office of by contacting NCSL directly.

Federal Regulations Pursuant to the New Amendments

Federal law requires HEW to promulgate rules and regulations to implement the new amendments within six months of enactment. The Bureau of Health Planning intends to publish a Notice of Proposed Rulemaking (NPRM) in the Federal Register in mid-January, 1980. The NPRM will outline the issues on which further regulatory guidance is necessary. Interested parties will be given a period of time, probably sixty days, to review and comment on these issues before the final regulations are published in April, 1980.

NCSL will insure that everyone receiving this mailing will also receive the January NPRM. Legislative response to the proposed rules can be addressed directly to DHEW or channeled through NCSL. The Human Resources Committee of NCSL's State Federal Assembly will be actively involved in the review of the regulations and would appreciate receiving at least copies of the comments or concerns of state legislators and their staffs.

SFA Resolution Supporting a Timetable Extention for States

During the NCSL seminars on the health planning amendments, it became apparent that the timetable for compliance with the new amendments presents a hardship on those states which will have to amend CON statutes in the 1980 legislative sessions. Many states have to enact legislation even before the final federal regulations are published in April.

In response to this problem, the State-Federal Assembly of NCSL, the body which gives policy guidance to the organization in areas of state-federal relations, adopted the enclosed policy resolution at its December 7, 1979 meeting. The resolution urges

passage of an amendment to the recent Congressional amendments (P.L. 96-79) which would give states until the close of the first regular session after the promulgation of the HEW regulations to enact complying CON legislation.

Because Congress was near recess at the time of passage of the SFA resolution, it was impossible to find a Congressional sponsor for such an amendment before the holiday recess. However, efforts will continue to find a sponsor as soon as Congress reconvenes in January.

For additional information regarding the status of this amendment, contact: Dick Merritt, Human Resources Staff Director, NCSL Washington, (202) 624=5413.

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Certificate-of-Need—No Panacea but Not without Merit

JOHN T. TIERNEY, WILLIAM J. WATERS, and WILLIAM H. ROSENBERG

WITH the current Administration in Washington promoting competition, the certificate-of-need (CON) program is experiencing critical scrutiny. The National Health Planning and Resources Development Act of 1974, Public Law 93–641, required all states to establish certificate-of-need programs to control major hospital and nursing home construction, renovation, and development proposals. However, many states had certificate-of-need programs long before Public Law 93–641 was enacted, and many are likely to maintain certificate-of-need programs for many years to come.

An extensive literature has developed over the past few years regarding the effectiveness of certificate-of-need (1). While the empirical evidence is mixed, the current academic perspective appears to be largely negative on certificate-of-need. Evidently, certificate-of-need has enjoyed some success in restraining the number of hospital beds, but many researchers indicate that certificate-of-need has not been greatly successful in controlling health care costs. Apparently, in those areas where beds have been controlled, hospitals have shifted investment to service-intensifying expenditures. Many analyses point out the fact that a high percentage of all certificate-of-need applications are approved. However, most certificate-of-need analyses give little attention to three of its most important features: *deterrence*, *guidance*, and *institutional planning*.

The very existence of certificate-of-need acts as a deterrent to frivolous or obviously misdirected projects. Few institutions are likely to expend the time, energy, and money to traverse the complex certificate-of-need process for a project that cannot withstand the test of public scrutiny. This is a powerful deterrent to unnecessary and inappropriate development in the health care industry.

The deterrent effect appears to be working in Rhode Island where the physician supply has been expanding more rapidly than the acute hospital bed supply. In the absence of certificate-of-need, one would have expected the hospital bed supply to expand in accordance with an expanding supply of practicing physicians. From 1956 to 1971, the number of licensed physicians in Rhode Island increased by 49%, and the number of community hospital beds during the period 1958 to 1973 (assuming a two-year lag period) increased by 31%. That is, for every new physician, .63 beds were added. After certificate-of-need was operational in Rhode Island, that is, from 1971 to 1980, the number of licensed physicians in Rhode Island increased by 13%, but during the period 1973 to 1980, the community hospital bed supply actually decreased by 2.3%. Had the trend of the previous fifteen years continued after certificate-of-need, Rhode Island would have 300 more hospital beds today (see Table 1).

TABLE 1

Hospital Bed[1] and Physician Supply[2] in Rhode Island, 1956–1980

Resource	*1956*	*1958*	*1971*[3]	*1973*	*1980*
PHYSICIAN SUPPLY					
Number	1264		1889		2100
Rate per 100,000 population	152		197		226
HOSPITAL BED SUPPLY					
Number		2707		3550	3420
Rate per 1,000 population		3.2		3.7	3.6
Beds per physician[4]		2.1		1.9	1.5

[1] Short-term, acute, community hospital beds. Source: AHA Annual Survey.
[2] Licensed physicians. Source: Division of Professional Regulation, RIDH.
[3] Rhode Island certificate-of-need program was instituted in 1968 but did not become fully operational until around 1971.
[4] Beds in year X ÷ physicians in year X–2. For 1978, the number of licensed physicians was 2238.

Further, one cannot minimize the potential of certificate-of-need in terms of guiding institutional actions. While certificate-of-need may not have had the effect of reducing overall hospital investment, it may very well have had a positive impact on the types of investments which hospitals have been making. Certainly, the desire on the part of hospitals for success-

ful certificate-of-need applications would tend to guide them into areas which are compatible with the goals and policy positions of certificate-of-need bodies and agencies. For example, the certificate-of-need program in Rhode Island has promoted a number of important policies: the utilization of tax-exempt bonds where appropriate, the pursuit of community fund drives as a source of financing capital expenditures, the employment of debt/equity ratio limitations to moderate community debt burden, the use of insolvency insurance as a substitute for large capital reserves for developing health maintenance organizations (HMOs), and the gradual and thoughtful introduction of CAT scanners. The appropriate funneling of provider activity is an obviously critical but largely unevaluated area of certificate-of-need impact.

Thirdly, certificate-of-need tends to promote better institutional planning. This is especially true in states where hospitals are required to submit annual long- and short-range plans as part of the certificate-of-need process. This is the case in Rhode Island. In Rhode Island, institutional plans serve as the notices-of-intent for certificate-of-need purposes. That is, no certificate-of-need proposals will be accepted unless they have previously appeared in the institution's documented plan for the future. Informal reports seem to indicate that hospitals themselves agree that certificate-of-need requirements have encouraged them to upgrade their institutional planning processes. In addition, the Rhode Island experience indicates that the certificate-of-need process can promote greater inter-institutional planning. In fact, over the last ten years the certificate-of-need process in Rhode Island has encouraged or required significant increases in inter-institutional planning affecting nine hospitals, almost half the hospitals in the nation's smallest state.

Thus existing empirical evaluations of certificate-of-need do not tell the whole story. There may be certain beneficial aspects of certificate-of-need which are difficult to measure. In fact, effective institutional/system planning encouraged by a credible certificate-of-need process should result in very few certificate-of-need denials. In this context, happiness in certificate-of-need is saying yes. That is, effective, upfront planning and dialogue between the institutional and systemwide levels should minimize the number of certificate-of-need denials. In any event, controlling total health expenditures is not the only policy objective of certificate-of-need. In fact, certificate-of-need by itself is not well suited to controlling total health expenditures. Nevertheless, certificate-of-need can be an effective mechanism for restraining health care costs, affecting the supply of health care resources,

and guiding health policy and planning at both the institutional and system levels. Therefore, certificate-of-need programs should not be abandoned without careful consideration of all the foreclosed opportunities which abandonment implies.

Finally, certificate-of-need would be a more effective cost-control device if there were a capital expenditure limit associated with the certificate-of-need process. As things stand now, there are no financial boundaries conditioning the number of certificate-of-need proposals which can be approved in a given time-frame. This is unrealistic and cripples the cost-control potential of the certificate-of-need process. No industry can afford to operate forever without some form of capital budget. Certificate-of-need capital limits would not only serve to restrain costs, they would also induce a healthy priority-setting process within certificate-of-need. Perhaps we should direct our energies toward improving the certificate-of-need process rather than dismantling it.

In conclusion, certificate-of-need was designed to avoid unnecessary duplication which results in underutilization and inflated costs in a largely cost-based reimbursement system. From this perspective, certificate-of-need has been successful in Rhode Island and elsewhere. Rhode Island's high overall community hospital occupancy rate (85.6%) and the absence of patently wasteful developments attest to this. At the same time, it is recognized in Rhode Island and elsewhere that effective overall cost control also requires use of a combination of other mechanisms such as prospective reimbursement, utilization review, consumer choice, and health maintenance organization (HMO) development.

REFERENCE

1. Steinwald, B. and F. A. Sloan. *Regulatory Approaches to Hospital Cost Containment: A Synthesis of the Empirical Evidence*, Nashville, Tenn.: Vanderbilt University, August 1980.

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97-377 PL suspends Dec 21, 1982 SANCTIONS

- for res to Sept 30, '83

Health Planning

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Original Article on Health Economics

THE SOCIAL CONSEQUENCES OF FREE TRADE IN HEALTH CARE: A PUBLIC HEALTH RESPONSE TO ORTHODOX ECONOMICS

Milton I. Roemer and John E. Roemer

In recent years, difficulties in U.S. health services have been ascribed to excessive government intervention and regulation; high costs and other problems would be solved, it is argued, by "return to the free market and competition." Examination of the past operations of free trade and competition in health care, however, shows that in this market not one of at least five conditions necessary for effective competition exists. Numerous adjustments made by society reflect strikingly the problems caused by these market deficiencies (such as seriously inadequate information or the presence of major social "externalities"). Furthermore, even these adjustments—such as medical ethics or health insurance—have generated serious secondary problems. Many types of waste and social inequity also persist, in spite of all the attempts to compensate for market failure. In effect, the so-called free market in health care has survived only because of the extensive regulations and other actions taken to patch it up. Abandoning these adjustments would further aggravate current problems. Only replacement of free trade by systematic social planning could hope to achieve a health care system that allocates resources and distributes services both efficiently and equitably.

In recent years it has become increasingly fashionable to attribute the many serious problems of the American health care system to "excessive government regulation." It is argued that a deliberate return to the classical entrepreneurial model of free trade and competition would solve or greatly reduce our problems of spiraling health care costs and inaccessibility of needed services. From this viewpoint, there follow many political actions to minimize the entire role of government—with respect to both regulation and planning—and to enhance the private sector in health care (1). Under the Reagan Administration, such strategies have become explicitly dominant.

INTRODUCTION: THE BASIC ISSUE

The question of whether free trade with competition, or social planning with regulation, is the most effective mechanism for governance of the health care system, has very complex ramifications. Comprehensive analysis of these issues would require a lengthy book. In this paper, we shall offer only an introductory statement of our

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argument that a policy of greater free trade and lesser public regulation of health services would not reduce but would increase the problems of the U.S. health care system.

We contend that the current health care systems in the United States and other capitalist nations have survived to the present day only because they have been continuously modified by planning and regulation. Without those modifications, the effects of free market dynamics in the health care sector would have been so disastrous, so unacceptable politically, that these systems would have collapsed long ago, and been replaced by completely planned and regulated health care systems. In order to solve the still persistent health care problems—involving costs, accessibility, quality, and other features—America requires not greater free trade and competition, but rather much more planning and regulation.

The virtues of free trade and competition have long been acclaimed in the modern, parliamentary, and capitalist world. From early childhood, we become so deeply convinced of the wisdom of free competition as the best incentive for diligence—in the classroom, on the athletic field, everywhere—that in later life it becomes naturally accepted as the obvious path to sound social policy.

As well summarized by Anne Somers (2, p. 468), in the wind-up of a 1977 national conference of economists on Competition in the Health Care Sector:

> Competition is generally the most desirable method of quality control, price-setting, and resource allocation. In theory, at least, the consumer has the final say, while producers or providers compete for his favor in terms of quality as well as price, thus maximizing the incentive to efficiency.

Continuing with her statement of this ideal, Professor Somers states further:

> Interference by Government or any other third party in the consumer-provider relationship is non-existent or minimal. . . . Even in the health care economy, with all its idiosyncrasies, my philosophical bias is in the same direction.

Most Americans probably share this notion of the virtues of free trade and competition in all sectors of society, including the health field; the basic trouble, many think, is that the concept has not really been fairly tested. Some regard "government interference" as the major obstruction. While most would acknowledge problems caused by monopolistic producers (i.e. health care providers) and by the non-sophistication of consumers (i.e. patients), these characteristics of the health care industry are viewed as only minor disturbances that do not nullify the basic soundness of a free market policy—perhaps modified in small ways.

Examining the actual dynamics and experience of free trade and competition in the health care systems of the United States and other countries, however, one becomes increasingly skeptical of the whole idea. With respect to a goal of social justice, one finds not only the inadequacy of the free competition model for governing the complex processes of a modern health economy, but even its ultimate perversity. In countless ways, free trade and competition have operated and still operate to thwart the attainment of social justice in the health sector. Regulation, controls, and numerous other instruments of public policy have been necessary to overcome or neutralize the harmful social consequences of unbridled competition. These "interventions" have been gradually replacing free competition with a strategy that may be epitomized in the phrase "systematic social planning."

It is relevant to recall the origins of the concept of free trade and the theoretical rationale of competition as its regulatory mechanism. After this, some of the major consequences of this mechanism in the health sector can be better understood.

ORIGINS OF FREE TRADE AND COMPETITION

Theoretical formulation of the principles of free enterprise—with competition, its regulator—as the best path to a just and efficient social order, we all know, came from a Scottish economist, Adam Smith. His classic *Inquiry Into the Nature and Causes of the Wealth of Nations* was published in 1776, the same year, interestingly, that another kind of freedom was formulated by American revolutionaries in their *Declaration of Independence*. In light of the restrictions of free trade and various other vestiges of feudalism, one can well appreciate how principles of *laissez-faire* economics and unfettered competition were a great step forward at the time.

In spite of his eloquent call for a free market, Adam Smith recognized the need, even in the 18th century, for a certain amount of government regulation. He saw this as necessary to prevent monopolies, and he accepted tariffs (trade barriers) as justified to protect young industries in a nation. This was *before* the Industrial Revolution was far along, with its urban slums, sweat shops, 12-14 hour workdays, and child labor. As against monarchistic and feudal despotism, economic and political freedom seemed a far preferable general policy.

Adam Smith's 1776 model was also formulated before the great flowering of science in the 19th century. The monarchy and the church were being rejected as the guides to truth and justice, but science had not yet acquired the stature to replace them. Electricity, bacteriology, and other instruments to achieve control over nature for the sake of human welfare were to come later. Likewise, rational or scientific social planning, by which societies could be effectively controlled for the sake of human welfare, were also to come later. Labor laws, public health legislation, and social security were products of the 19th century (3).

Thus, the notion of letting each individual be free to pursue his own self-interest seemed a sounder path to social justice than royal or religious dogma. Unreasonable or improper outcomes of this freedom would be averted, or at least minimized, by the "invisible hand" of competition in a free market. The scientific method had not yet won recognition as a better strategy. It has been the development of science, and its application both to nature and to society, that makes possible the replacement of competition by systematic social planning, particularly to meet essential needs such as health care.

Before reporting some of the health consequences of free enterprise and competition in the last two centuries or so, the relationship between free trade (*laissez-faire*) and competitive market dynamics should be clarified. These considerations are, of course, not limited to the health sector.

FREE TRADE MARKET STRUCTURES

Free trade is the umbrella concept encompassing many types of market mechanisms which may arise as each individual pursues his own self-interest, unrestrained by regulation from any source, such as the state. A competitive market is one structure

which, under certain circumstances, may emerge in a *laissez-faire* environment. Other economic structures may also emerge, as often occurs in the health sector.

Thus, as schematized in Figure 1, at least four market structures may evolve under free trade capitalism. *Monopoly* or oligopoly can result if one or a few of the competing producers beat out the others in the competitive struggle. As noted later, this often occurs in the health sector when technology can yield huge economies of scale, so that many atomized producers cannot remain viable. A second possible outcome is long-term *contractual arrangements*, as when producers and consumers decide to handle their transactions through a "health maintenance organization." The third and fourth outcomes in Figure 1 require elaboration.

The process of competition under free trade may also yield a more complex dynamics. Before reaching an outcome of competitive equilibrium, the market typically passes through a stage we describe as *turbulent competitive disequilibrium*. In this stage, consumers are shopping around (usually with very limited information) and providers are offering diverse sorts and qualities of product at various prices. The idealized description of the free market assumes this period of disequilibrium to be transient, leading rapidly to *competitive equilibrium*, in which the faulty products are eliminated from the market. Due, however, to the nature of the doctor-patient relationship, seriously inadequate consumer information, and other features of the health sector discussed below, the period of turbulent competitive disequilibrium is typically protracted. Competitive equilibrium is probably the rarest outcome of free trade dynamics in the health sector. But even if such an equilibrium is attained, it may be inefficient, as well as inequitable, in the allocation of health resources (hence the representation in Figure 1 of two types of competitive equilibrium).

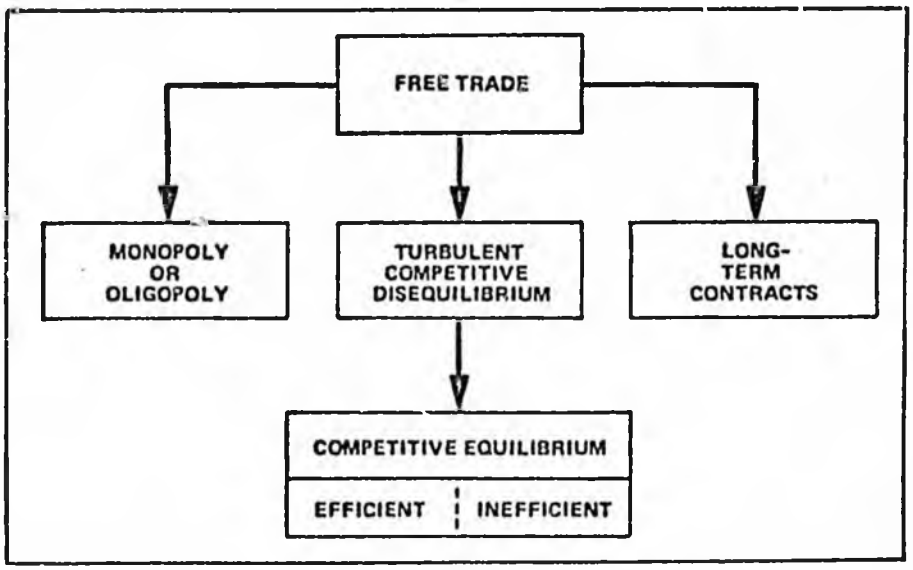

Figure 1. Free trade dynamics: some alternative outcomes.

The frequent outcomes of monopoly/oligopoly or turbulent competitive disequilibrium, unless averted by regulation, may be very deleterious to consumers. Occasionally the outcome of a free market is a long-term contract, which can be beneficial for consumers (although, as we shall see, even such contracts may require substantial regulation to protect consumers). In a sense, systematic social planning aims to extend this contracting phenomenon to a universal one, under specified conditions.

To understand why the invisible hand of Adam Smith's free trade seldom leads to a balanced market structure, with its famous property for efficient allocation of resources, one may identify at least five necessary conditions for achievement of that outcome (4):

1. *Many buyers and sellers freely interacting.* If there are few sellers, as often characterizes the health sector, competition can barely operate.
2. *No substantial economies of scale.* If such economies are possible, a competitive solution is not efficient. It is often more efficient to have one large producer (a "natural monopoly") than many small ones. Price and quality, however, must then be regulated to protect consumers, in place of competition.
3. *Low transaction costs.* If arranging the purchase of a commodity or service is, itself, a complex transaction, then the use of the market can be very costly and inefficient. The commonest solution in industry is the firm, which avoids these costs by internal planning and authority. The hospital is an obvious analogue.
4. *Adequate information.* If buyers are to exercise reasonable choices in a market of competing sellers, they must have knowledge about the product being sold. Advertising is intended theoretically to enlighten consumers on the merits of various competing products (although it has been found necessary to regulate to reduce biased or misleading information). Without clear and reliable information, how can "consumer sovereignty" be exercised to lead to selections of the "best" product?
5. *Absence of externalities.* A transaction entails "externalities" if people beyond the buyer and seller are directly affected by it. (With significant externalities, even pure competitive markets are seldom efficient.) Immunization is an obvious example; if one person is not immunized, many others may be harmed. Even if all the other conditions necessary for a competitive equilibrium hold, with significant externalities it will not be efficient.

These five conditions are not the only ones necessary for static efficiency of a competitive market, but they are sufficient to show the inapplicability of the concept to the health sector. On the other hand, free competition is often heralded for its *dynamic* efficiency, in leading to technological innovation. Adam Smith's invisible hand, some argue, is more important in this dynamic sense—that is, competition as the mother of invention, the stimulus to technological innovations and advances. However valid this may have been in the past, how true is it today? By far, the lion's share of scientific research is funded by government and philanthropy, not by competing entrepreneurs. In 1978, private industry supported 28 percent of the cost of health-related research, compared to 72 percent from government and philanthropy (5). The contribution to *basic* scientific knowledge from entrepreneurial research is doubtless smaller than 28 percent.

Before proceeding to empirical facts on free competition in the health sector, another word is necessary on the process schematized in Figure 1. By what mechanism does laissez-faire dynamics lead to competitive market equilibrium? In theory, with many buyers and sellers, those with a poor product or too high a price lose out and disappear. Competition supposedly weeds out the inferior sellers, until only those with an optimal combination of price and quality (for the consumer) remain. No one claims any harmonious efficiency during this period of disequilibrium, but it is commonly assumed to lead rapidly to efficient competitive equilibrium.

We have noted five conditions necessary for that outcome; if any one of these is absent, an efficient market equilibrium will not be reached. Instead, the injurious instability will persist, monopoly will emerge, a long-term contract may result, or an inefficient equilibrium may occur which misallocates health resources (each with its own persistent problems, as discussed below). Even if an efficient competitive equilibrium is attained, social equity still cannot be assured.

What, in fact, are the workings of free trade and competition in the medical market? To what extent do the operations of the market result either in the long run or the short run, in "quality control, price-setting, and resource allocation" that is "desirable" or optimal for achieving the best results for the individual and for society? What is the empirical evidence on the consequences of the free trade and competition model in the health sector?

The harmful effects of a social or socioeconomic idea can be reflected in two ways: first, by identification of actions taken by society to reduce those effects, and second, by recognition of problems that persist and have not yet been fully corrected. Below we offer evidence of the first type: adjustments found necessary to compensate for the ill effects of the free market over the past century.

ADJUSTMENTS FOR THE ILL EFFECTS OF FREE TRADE AND COMPETITION

One might offer scores of examples of social programs launched to intervene in the free market, insofar as its normal operations have yielded significant social problems. Many of these problems are perceived as failures to achieve social justice, or more specifically equitable response to the personal health needs of people. Some of the problems, as we will see, relate to economic waste; still others involve explicit harm to people.

Exposition of these social adjustments may be offered in accordance with the five conditions necessary for the effective operation of a free competitive market, as explained earlier.

The Need for Many Buyers and Sellers Freely Interacting

The ordinary medical care process is hardly conducive to comparative shopping by patients among many sellers of medical care. An essential requirement for effective doctor-patient relationships is long-term continuity in the linkage of the patient with a particular doctor; the very act of consulting another physician jeopardizes this relationship. Yet the initial choice of a doctor is often based on happenstances such as geographic location or a chance recommendation.

Little has been done deliberately to assure free interaction of many buyers and sellers of primary health care. An unplanned or spontaneous social adjustment, however, has been the great expansion of hospital "emergency" services, in response to the difficulties of patient access to ordinary primary care (6). In effect, the spiraling utilization of hospital emergency departments for non-urgent primary care has been an adjustment to the lack of adequate numbers of primary care doctors in American communities.

Perhaps a more deliberate adjustment to the sparsity of sellers of primary medical care has been the U.S. movement of the 1960s and 1970s to train substitutes for the general practitioner, in the form of physician assistants and nurse practitioners. It is noteworthy that other affluent nations with adequate supplies of generalists have not employed such a strategy (7). Many types of federally subsidized community health centers in poverty areas have been another American adjustment.

With respect to secondary care, specifically surgical operations, intervention to permit comparisons between sellers has been deliberate. Health insurance plans have introduced procedures for "second surgical opinions"—not to determine the lowest price bid, but to permit the patient to decide whether the surgery is truly necessary in the first place (8). Yet even this process has been opposed by medical societies as "interference in the doctor-patient relationship."

No Substantial Economies of Scale

The social adjustments induced by the clear existence of economies of scale and the associated "natural monopolies" have been numerous.

After discovery of the Salk vaccine against poliomyelitis, the restricted licensing of a few large pharmaceutical firms to produce the vaccine was done in obvious recognition of the economies, as well as quality controls, in such restriction of competition. The same policy is pursued with respect to production of all vaccines in many capitalist countries, not to mention the socialist countries.

In organized health care settings, the irrationality of the competitive free market model has long been evident. Hospitals, for example, continue to make exclusive contracts with radiologists and pathologists, even though this bars competition in these specialties (9). Without such contracts, hospital care would be less efficient and even more expensive than it is. The same basic concept of structured "closed staff" hospitals has been found to promote efficiency and quality for *all* specialty services in general hospitals throughout most of the industrialized world (capitalist and socialist) (10).

In normal comprehensive health planning, the implementation of "certificate of need" legislation to authorize new hospital construction is an obvious recognition of the value of restricting competition due to the benefits of natural monopoly (11). Quite aside from the wastefulness of superfluous hospital beds generating unjustified utilization (see below), multiple small facilities in a community are more costly and less effective than a larger integrated facility. Similar policies govern the authorization of new pharmacies in an area, even in an entrepreneurial nation like Belgium (12).

Low Transaction Costs

The bewildering complexities of the medical care system have induced all sorts of adjustments to the high costs of the whole transaction process.

Group medical practice is one such adjustment (13). Over the last 40 years it has grown rapidly, as an adjustment to the complexities caused for the patient by specialization in medicine, and in spite of its reduction of competition. Thus, a reduced choice of specialists is traded off for the benefits of professional teamwork and greater convenience for the patient. The elaborate integrated mechanism of the general hospital is also, of course, an adjustment to the economic and logistical monstrosity that would result if each of the hospital's hundreds of services were to be sold as a separate market transaction.

The operations of virtually all programs of organized health care delivery are further demonstrations of the high cost and inefficiencies of multiple separate transactions. This may be illustrated by governmental health programs from the magnitude of the Veterans Administration 175-hospital network down to a Health Department prenatal clinic in one small town.

Consider the transaction costs involved in the rehabilitation of a patient with a serious disability. His needs for physician services, drugs, hospitalization, physical and occupational therapy, perhaps prosthetic appliances, occupational retraining, job placement, and much more are bewildering. The process is so complex that highly directive vocational rehabilitation programs have had to be organized in all states, under which "vocational rehabilitation counsellors" cut through the complexities and make decisions for the patient, rejecting the competitive process with its high transaction costs.

Adequate Information

The deficiencies of information available to the consumer are perhaps the most widespread obstacles to the efficient operation of a free health care market. A catalog of all the social adjustments stimulated to cope with this problem would be very lengthy, indeed, and only a few can be cited.

Free competition gave rise to countless numbers and types of unqualified practitioners, particularly with the growth of cities in 19th-century Europe and America. How could the average consumer be expected to distinguish the knowledgeable physician from the imposter? Licensure in medicine (and later other professions) was the solution adopted throughout the world, even though it clearly reduced competition (14). Such restriction of the free market was preferable to the tragic consequences of treatment by charlatans.

But even licensure has been an imperfect solution in the United States, as state legislatures, clinging to free market concepts, have licensed chiropractors in almost every state; this is not merely to treat vertebral disorders (for which there may be limited justification), but to handle every type of disease (15). Moreover, medical licensure laws have been widely misused, to protect the "competitive position" of existing practitioners rather than to safeguard consumers. Yet no state has been willing to risk the disasters that might follow from revoking licensure legislation. Instead, licensure boards are being reconstituted to include consumers as spokesmen for the public interest (16).

Some have looked upon professional licensure and similar forms of regulation as a strategy for prohibiting innovation that might be sound. They point to the long history of opposition to new ideas by orthodox medicine—opposition to smallpox

vaccination, to the infectious cause of "childbed fever," and even to the pasteurization of milk (17). The negative American attitudes today about the use of trained midwives for normal obstetrical deliveries or of New Zealand-type "dental nurses" for the care of children are put in the same class. But the latter types of health personnel are, in fact, productively used in dozens of countries. Their non-acceptance in the United States is not caused by regulation but by the political effectiveness of the medical and dental professions in suppressing competition. When and if public pressures are mounted to change the licensure laws, these reasonable types of health personnel will be licensed in the United States, as they are elsewhere.

The countless tragedies from misinformation—often deliberately false claims—about drugs make a long and distressing saga. In the United States at the end of the 19th century, the unfettered free market was particularly adventurist; among other things, drugs were manufactured, labelled, and sold with complete abandon. The result was enormous deception of people by grossly false claims on packaged medications, with resultant waste of millions of dollars and doubtless thousands of lives. In response, the U.S. Congress passed the first Food and Drug Control Act in 1906, greatly restricting the free market in drug production and sales. It took additional tragedies in 1939 (scores of infant deaths from a lethal "elixir" of sulfanilamide) and in 1962 (hundreds of limbless babies born to mothers taking "thalidomide") to bring further tightening of drug control legislation against the abuses of competitive free enterprise in the U.S. pharmaceutical industry (18).

The workings of hospitals have long been far too complex to be evaluated by the average patient, even by the average community physician. Many facilities lacked proper laboratories, surgical equipment, or nursing staffs, but how was the outsider to know? In response, non-governmental action was taken first in 1919; this evolved into the Joint Commission on Accreditation of Hospitals in 1952 (19). Thus, information about hospitals is provided to potential users (or buyers of hospital service) through an emblem of approval, in spite of this indirect interference with free competition for the patient's patronage. Even so, an emblem of quality may not protect the consumer, since the hospital is ordinarily chosen not by him but by the doctor—who may (and often does) have his own reasons for selecting a non-accredited facility.

Absence of Externalities

In the health sector, externalities abound with particular force. Each person's health status affects the health and welfare of everyone else. As a practical matter, therefore, nations at all stages of capitalist development have taken actions to assure the distribution of health care quite outside the mechanism of a free competitive market. One may not always appreciate the abandonment of *laissez-faire* dynamics that these actions constitute.

The rise of insurance for health care—first voluntary, later mandatory—was an early response to recognition of the societal importance of assured medical care at times of need. In the 19th century, as medical care became a market commodity (available only from charitable sources for the very poor and destitute), mutual insurance societies grew up in Europe to pay doctor bills for low-wage workers. Eventually in the 1880s, Germany enacted a law mandating "sickness insurance" for low-wage workers, and launching the concept of social security. Both the private and public forms of health

care insurance spread to many other countries (20). Not until 1965 did the United States enact any social insurance for general medical care, limiting it to the aged. Mandatory or social insurance constitutes a major adjustment to the problems of the free market ideology (21). To a lesser extent, the same is true of voluntary health insurance. By spreading sickness risks over many people and over periods of time, the constraints of price on individual demand, when sickness strikes, are greatly reduced; the degree, of course, depends on the nature of copayments, deductibles, and other "cost-sharing" requirements that may be imposed (22). Prevention of insurance "abuse" by either patient or doctor—the so-called "moral hazard" of insurance—engenders all sorts of surveillance and policing in any insurance program. With all their weaknesses and faults, which are many, both voluntary health insurance and Medicare for the aged mollify the worst effects of the classical market mechanism in the distribution of medical care (albeit through introduction of another market for insurance).

To provide medical care for the poor—for those without even the low but stable incomes adequate for insurance—other adjustments have long been made. General revenue support of the U.S. Medicaid program is only the latest in a long saga of social measures to finance needed medical care that poor people were unable to purchase in the free market (23). Parliamentary governments could ignore the brutalities of a market price for all care of the sick only at the risk of deaths in the street, mass rebellion, and social revolution. Compromising the free medical market, with tax-supported health care for the poor, was a much more prudent solution taken throughout the world, if only to maintain social order. The introduction of social security under Bismarck was not designed to extend democratic rights and liberties, but rather to weaken the rising socialist movement among European workers (24).

The entire field of preventive medicine and public health has developed out of recognition of the crucial "externality" that each person's health care affects the well-being of all others. This has long been obvious for immunizations and other measures of communicable disease control; compulsory vaccinations, isolation, and quarantine have been implemented for centuries. Although less obvious, the same principle applies to health education on behavior to reduce the risk of chronic noncommunicable disease. We need not fall into the trap of blaming the victim for his "life style" in recognizing the importance of social measures (e.g. bans on cigarette advertising) to discourage harmful habits (25). Such social measures must operate not only outside the arena of free trade, but even as a frontal assault upon it.

These specific adjustments to the ill effects of a free market in the health sector may constitute enough empirical evidence of its grave inadequacies as a means for reasonable allocation of resources in society. All five of the conditions necessary for the market to serve as an efficient distributive mechanism are seriously lacking.

But the ill effects of free trade and competition in the health sector are shown in other ways. Returning to the process modeled in Figure 1, one must recognize the development of monopoly/oligopoly on the one hand, and semi-market contractual arrangements on the other—channels of development that do not even lead theoretically to competitive market equilibrium.

OTHER OUTCOMES OF FREE TRADE IN HEALTH CARE

The obstructive and anti-social rise of monopoly in the health sector has occurred again and again. Actions taken in response to this problem have led, in turn, to injurious secondary effects.

The U.S. pharmaceutical industry has engaged repeatedly in collusive price-fixing in restraint of trade. Convictions, such as that achieved for pegging the price of antibiotics to yield superprofits to several major firms after World War II, were widely publicized (26). But such exposure of monopolistic practices is probably only the iceberg seen above the water. Is it not significant that the U.S. pharmaceutical industry has long had the highest rate of profit of any type of enterprise (27)—higher than the steel industry or the manufacture of computers?

Medical societies have long used "ethics" as a constraint against development of innovative patterns of medical care delivery. Their strategy has been essentially monopolistic. Agreements among producers to stifle innovation sabotaged the ability of competition to regulate the whole free enterprise system.

There were other more subtle ways, however, that private physicans could block the development of competitive new patterns of health care delivery, designed to give consumers a better deal. Consumer cooperatives getting their medical care through group practice clinics constituted one such pattern; doctors in these clinics could be barred from admitting their patients to community hospitals, dominated by private solo practitioners. Exactly such a tactic was used by the Medical Society of the District of Columbia, along with the American Medical Association, in an attempt to destroy the Group Health Association of Washington, D.C., in the 1930s. It took legal action in the courts to stop this assault on competition from new health care ideas, resulting in the 1943 conviction of the AMA for "criminal conspiracy in restraint of trade." (28) In spite of this watershed decision, medical societies continue to apply social ostracism and other subtle strategies against physicians who would deviate from the status quo of private fee-for-service medical practice.

The development of long-term contractual arrangements under free trade in the health sector has taken several forms. While constituting partial departures from conventional market arrangements, each of these mechanisms has generated secondary problems, which in turn require regulatory controls.

Recognition of broadly accessible health care as sound social policy led to the rise of health insurance—first voluntary and then mandatory—as discussed earlier. Insurance overcame the obstacles to accessibility erected by market prices for medical care; but, in the absence of regulation, it generated much unnecessary service to enhance the earnings of doctors and hospitals.

In reaction to this abuse—that is, a serious flaw in the very mechanism (health insurance) designed to adjust for the inequities caused by the free market—numerous corrective adjustments have become necessary. In most countries official fee-schedules for medical services have been established, freezing price competition, and in the U.S. Medicare program various constraints have been put on the determination of "reasonable, customary, and prevailing" doctor fees. Under 1972 law, PSROs (professional standards review organizations) were set up throughout the nation to monitor the propriety of all services in hospitals financed by both Medicare and Medicaid (29).

It has also been found necessary to establish a federal Office of Fraud and Abuse, to cope with professional misconduct. Thus, socially planned insurance, organized to assure accessibility to health care, generates secondary problems, unless the economic freedom of vendors is regulated.

Health maintenance organizations (HMOs) are the most recent striking expression of a diversion to long-term contractual arrangements, in response to free market problems. The HMO is basically a strategy for complete removal from the orbit of the market of a population of patients and health care providers. Buyers and sellers make an agreement, a fixed-price contract, for future delivery (usually for one year) of needed medical care. This mechanism has been found to be so effective in controlling the cost escalations of the free medical market, that in 1973 federal legislation was enacted to promote it (30). The growth of HMOs has been slower than some had hoped; the reasons are many, but a major one is doubtless the opposition of private medical entrepreneurs precisely because the HMO constitutes such a departure from free market dynamics. It greatly modifies the profit incentives to maximize sales. Moreover, the HMO is regarded as an incursion on physician freedom and a first step in a broader assault on the medical market.

At the same time, HMOs have not been an unmixed blessing; they have given rise to new forms of abuse. In the early 1970s, to reduce medical care expenditures for the poor, California and certain other states actively encouraged the establishment of HMOs for Medicaid-eligibles. But these "prepaid health plans" (PHPs) were allowed to operate without any official standards; as a result dozens of unscrupulous organizations were formed, giving seriously deficient services (31). With fixed monthly payments from the state government assured, the PHPs gave grossly inadequate ambulatory as well as hospital care; an indigent patient would have to be at death's door before he was admitted to a hospital. It took widely publicized evidence of scandalous medical neglect or fiscal abuses to lead to new state regulation of these Medicaid HMOs. Only after this corrective action were the corrupt HMOs eliminated (32).

Others have spoken glowingly of the HMO as the crucial strategy for achieving the benefits of free competition in the U.S. health care system (33). The fundamental merit of the HMO concept is, in fact, its modification of the usual profit motive of maximizing the sale of medical services, toward an opposite motive of minimizing services—presumably through "maintenance of health." But the dynamic is far more complicated than this, and the potential for abuse is enormous, as shown in the California experience.

The allegedly effective competition among several HMOs in one midwest metropolitan area has been widely acclaimed (34). Its replication elsewhere or, indeed, its continued integrity in Minneapolis may be reasonably expected only if cautious state regulation and painstaking consumer education prevent the abuses experienced in California in the 1970s. (It is relevant that Minnesota's current statutory regulation of HMOs is especially rigorous.) Regulatory safeguards would be needed against still other potential abuses in "selection of risks" or "preferential pricing," which have long caused inequities in the commercial insurance industry (35). Whether the burden of public regulation necessary to assure equity and efficiency—under a system of HMOs competing with each other and also with other health insurance programs—would be less than under a wholly planned health care system, is very doubtful.

UNSOLVED PROBLEMS OF THE FREE MARKET

Beyond all the evidence of free market failure, reflected by the many adjustments stimulated in response, there are a host of persistent problems on which little action has been taken or the attempted corrections have been ineffective. Only some of the most prominent of these unsolved problems need be briefly noted:

High and endlessly rising costs of medical care are probably the most prominent unsolved problem in the whole contemporary health sector (36). Several of the adjustments just reviewed have been directed to cost controls, but expenditures continue to mount. Some traditional economists argue that the regulatory constraints on competition are the *cause* of cost escalations–as though the many inherent obstacles to a free competitive market in health services, reviewed above, did not exist. The numerous imperfections of the competitive process in the health sector have not been sufficiently corrected by regulation, on the one hand, nor replaced by systematic planning, on the other. Prospective global budgeting of hospital operation, for example (not to be confused with prospective *per diem* reimbursement), is not implementable in the current pluralistic American health economy. It is these realities of halfway regulation, combined with halfway competition, that yield inflation of health care costs.

While professional licensure has eliminated the worst chicanery from the medical care market, it has not gone far enough. Disciplinary actions taken against even grossly incompetent doctors are notoriously weak. The beginnings of mandatory continuing education, enforced by requirements for periodic relicensure of pharmacists, physicians, nurses, and others in a few states, point up the need for great extension of such policies (37).

Excessive medical, and particularly surgical, specialization in America has led to many difficulties, most prominently a serious shortage of primary care doctors. Under the Health Professions Educational Assistance Act of 1976, training grants have been designed to favor residencies in primary fields of medicine. Much more is needed, however, to assure the appropriate access of everyone to a continuing and reliable source of primary health care (38).

Geographic maldistribution of physicians and other health personnel–causing serious handicaps for rural populations–is a problem plaguing the health care system of every capitalist nation. While many factors account for this problem, the operation of the free market is important among them; most rural people are relatively poor and lack the purchasing power for proper medical care. Many countries have coped with this by scrapping market mechanisms, and requiring a period of rural service from all new medical graduates. Norway has its highly developed "district doctor" system, and the United States has its modest "National Health Service Corps." (39) Far more powerful measures are needed, if this major inequity of the free medical market is to be corrected.

Permeating the American free market in health services is the paradoxical problem of "supply creating demand"–fundamentally because the seller (doctor) rather than the buyer (patient) makes most of the decisions on the health services to be obtained and paid for (40). The problem has been most conspicuous with respect to hospitalization and its spiraling costs, and yet one wonders why it took until the late 1950s to recognize the dynamics.

As the rise of U.S. hospital costs accelerated in the 1950s, attention became focused on possible "overutilization." It was charged that, because insurance had eliminated the constraints of price, patients were "abusing" it and consuming more hospital days than needed. One would have thought patients could check into a hospital, as into a hotel. Studies at Cornell's Institute of Hospital Administration, however, showed that—with almost any ratio of hospital beds in a community, high or low—doctors managed to keep those beds filled at about the same occupancy level (41). As a result, New York State enacted in 1964 the first "certificate of need" law to control hospital bed supply. Soon many other states did the same, and federal law in 1974 made such regulation virtually nationwide (11). What a strange commentary on the operations of the free market model of supply, demand, competition, and price! Excess supply did not bring down the price, but caused greater overall expenditures.

Indeed, excess hospital beds have resulted not only in higher rates of patient-day utilization, but even higher costs per day, as competing hospitals acquire superfluous technology in order to attract doctors. How can more CT (computerized tomography) scanners be justified in Los Angeles County (some 65 units for a population of 7,000,000) than in all of Great Britain (population of 55,000,000) where the machine was invented? (42). The low point in hospital enticements to doctors may have been reached in May 1980, when evidence was disclosed that a supposedly prestigious institution, with low bed occupancy, was operating a "call girl service" for doctors, to induce them to admit patients (43). Legal prosecution, of course, was necessary. With respect to CT scanners or excess hospital beds, planning agency decisions—hardly distinguishable from regulation—are necessary to control the extravagances of the free market in hospital care. Not many states, however, have been as forthright as Michigan, in passing legislation to deliberately reduce excess hospital capacity (44).

Evidence that supply creates demand has now accumulated for every component of the health care industry, not only for the use of hospital beds (45). Surgeons create "demand" for surgical operations, the benefits of which are far from established (46). In Canada, the in-migration of foreign medical graduates was stopped a few years ago when it was learned that each new physician meant an expenditure of some $300,000 —about 40 percent for his own gross income and 60 percent for the hospital and other secondary services that he generated. Similarly, a steady increase in the U.S. doctor-population ratio has led not to any decline in prices, but to a rise in aggregate expenditures.

Partial or half-way planning leaves many problems unsolved. Thus collectivized financing along with entrepreneurial delivery of service creates enormous problems in surveillance of quality and expenditures. For reasons explored earlier, insurance, taxation, and other third-party sources of finance have been mobilized everywhere to help achieve health care equity. At the same time, everyone agrees that third-party payment inevitably dulls or eliminates both the doctor's and the patient's sensitivity to price. Such social financing, nevertheless, is quite properly designed to facilitate the seeking of health service in the first place. Thus, for the lion's share of total health care costs now supported by third parties, the free market has already been largely abandoned (47). Yet, monitoring medical care fee claims under third-party financing programs is enormously difficult and seldom effective.

Within the field of health insurance, insofar as competition operates among carriers,

its effects have promoted inequity. The commercial insurance practice of "experience-rating"–decreasing premiums for the young and healthy, and increasing them for the aged and disabled–has forced the non-profit insurance plans to follow suit or lose their enrollment (48). The only solution to this perverse dynamics would be a system of universal social financing, within a framework of either enormously regulated competition or systematic social planning.

Zealous devotion to concepts of the free market and competition has led to the rejection of "ethical" bans on medical advertising (49). The importance of consumer accessibility to complete objective information is one thing; freedom of advertising is another. Even with the utmost scientific effort, evaluation of either the "process" or "outcome" of health services is extremely difficult to carry out, let alone to report lucidly. Take note of the limited impact of the U.S. Federal Trade Commission on the advertising of so-called "ethical drugs"–as revealed each month in the highly authoritative *Medical Letter on Drugs and Therapeutics*–in spite of the relatively broad powers vested in government by the Food, Drug, and Cosmetic Act. Objective information should be broadcast by government or some neutral body, not by parties obviously trying to sell their own particular products. Are we to welcome to the health care industry the skillful distortions with which advertising has glamorized cigarette smoking, liquor consumption, and other garden paths to disease and death?

Inadequate consumer information persists in plaguing a free market health care model, despite the most earnest efforts to ameliorate it through education. To the extent that a patient may have an impact on the doctor's decisions, he must be inordinately knowledgeable. Even if he or she is, it is rare for the patient to prevail over the judgment of the doctor. Not many patients are as sophisticated as Norman Cousins who, aided by a physician of exceptional humility, cured himself of an incurable disease (50). For every Mr. Cousins, there are thousands of other patients whose non-compliance with their doctor's prescription of anti-hypertensive drugs, for example, leads to fatal strokes.

The problems arising from the complexity of medical information, beyond the understanding of the vast majority of consumers, can be tragic. The choice of a faulty product (e.g. an incompetent doctor) may be prolonged disability or death. Rapid technological change creates new information requirements almost daily. If new drugs could freely enter the market each week, there could be endless human tragedy and waste as consumers tested each product. (Regulation, of course, has been necessary to bar this.) Even after a product has been purchased and consumed, how can the consumer judge its value? Health outcomes depend on many environmental, genetic, and other factors outside of medical care.

Market mechanisms may achieve reasonable distribution of some luxury goods and services, such as fancy clothing or night-club entertainment, but they cannot be expected to work soundly for health care. Regarding services accounting for 80-90 percent of health care costs, decisions in the last analysis are made by the doctor, not the patient. How can one expect *consumer* preferences to govern the flow of products in the medical market (51)?

Finally, one need only take note of the magnitude of "unfinished business" faced by the nation's 212 local health planning agencies, to recognize the enormity of health deficiencies remaining in the free market of health care. It has not been excessive regulation, but the consequences of the free market that led to establishment of Health Systems Agencies as mechanisms to cope with excess general hospital beds,

health care cost-containment, emergency medical services, environmental health protection, perinatal intensive care, and rehabilitation services—to name only some of the problems recently identified in the planning of one local HSA (52).

Health planning (national and local) constitutes, after all, a series of interventions in the free market of health care, designed to correct its many failures.

IN CONCLUSION—SYSTEMATIC SOCIAL PLANNING OF THE HEALTH SECTOR

We trust this is enough of a recitation of the failures, distortions, wastages, and human inequities of the free market in health care to clarify our reasons for rejecting it, and preferring a strategy of *systematic social planning.* The failures of a free market in health care to achieve effective allocation of resources for meeting the needs of populations have been gigantic. Some entrepreneurial voices even reject as "naive" the very concept of *needs*, and wish only to consider "effective demand" in a market. Yet, the market has not been completely abandoned in capitalist nations, only because countless corrective measures have kept patching it up.

Entitlement to health care, unlike most other goods and services, has come to be recognized throughout the world as a "universal human right." (53) The rationale is both humane and pragmatic. To implement its distribution, one cannot be satisfied with a free market mechanism that treats health care fundamentally as a commodity to be produced for profit and sold. A pig trough philosophy of access has been rejected. The incompatibilities between these two concepts of health care—as a commodity for sale versus a basic right—are overwhelming.

In broad terms, an agenda for a systematically planned health care system is not difficult to summarize: (a) universal population coverage; (b) comprehensive services, based solely on need; (c) emphasis on prevention through integration with treatment; (d) health personnel trained at public expense to serve in coordinated teams; (e) health facilities public and regionalized; (f) quality regulated through built-in organizational structure (rather than external surveillance); and (g) fully collectivized financing (54). In a word, a planned social system would replace the vagaries of the competitive medical market. Consumer choice would not disappear (e.g. for Doctor A rather than Doctor B), but it would be constrained by conditions under which one person's choice does not thwart reasonable response to another person's need.

The way of science, which matured only after the days of Adam Smith, has far more effective strategies to offer, both along the biological and the social dimensions of health care. Health services can be effectively distributed not by the tools of price or non-price competition, not on the basis of personal affluence, geographical location, social position, educational sophistication, or any other of the features on which free market dynamics depend. The production and distribution of health services can be based on their scientifically demonstrated value and on the differential needs of each human being (55).

The strategies required to construct a soundly planned health care system are not simple, nor free from the possibilities of error. Each of the above seven attributes of such a system requires vast information and sophisticated judgment in the arena of

both economics and politics. If one prefers an option of modifying the free market, however, the requirements for regulatory intervention are no less—if efficiency and social justice are to be attained. Programs of this sort, formulated by Alain Enthoven (33) and others, would require elaborate administration and constant regulation. These complex issues and options must be discussed, but the issue before us is the past and present medical markets. We believe it can be demonstrated that deliberate and systematic social planning of the health services can be more effective, less subject to the evils of corruption and inequity, than the most judiciously regulated model of the free competitive market. The lessons of history on the perverse social consequences of the pursuit of individual self-interest in the health sector are abundant. The human and social benefits of rational scientific health planning are demonstrable throughout the modern world.

In this paper, we have addressed the ascending wave of opinion in the United States that current difficulties in the health sector arise from "too much" regulation, and that the path to efficiency and justice lies in uninhibited competition and free trade. An objective assessment of past experience, we believe, points to a path in exactly the opposite direction.

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February 1, 1983

Dave Palmer
Legislative Assistant
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Dear Mr. Palmer:

Enclosed, per your request, are several publications on the topic of certificate of need. These include:

- A Study of Intermediate Outcomes of the CON Review Process - a final report by the Arthud D. Little Co.
- "Certificate-of-Need - No Panacea but Not Without Merit" by William H. Rosenberg
- "The Social Consequences of Free Trade in Health Care: A Public Response to Orthodox Economics" by Milton I. Roemer and John E. Roemer
- Regulating Hospital Capital Investment: The Experience in Massachusetts - an NCHSR publication

Our library and files contain many other materials and reports which you are welcome to review at your convenience.

When I receive a final copy of the "Briefing Paper on Certificate of Need" which is being prepared by the ALPHA Center, I will be happy to send you a copy.

Please let me know if we can be of further assistance.

Sincerely,

Phoebe A Lindsey

Phoebe A. Lindsey
Director

Enclosures (4)

Regulating Hospital Capital Investment: The Experience in Massachusetts

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
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RESEARCH SUMMARY SERIES

Regulating Hospital Capital Investment: The Experience in Massachusetts

Julianne R. Howell, Ph.D.
University of California, San Diego

March 1981

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
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Abstract

This study examines hospital capital investment among Massachusetts short-term general voluntary hospitals between 1967 and 1976, and assesses the impact of Certificate of Need (CON) regulation. A profile of capital expenditures for fiscal years 1967-1976 was developed from Massachusetts Rate Setting Commission data for 26 sample hospitals, stratified by teaching status and Boston versus non-Boston location. Case studies were conducted in nine sample hospitals to explore the determinants and consequences of major capital projects undertaken by the institution. Enormous capital expansion took place from 1967-76. Hospitals in areas of rapid population growth significantly increased their bed size; other hospitals replaced or modernized inpatient facilities, and expanded ambulatory care capacity. All hospitals significantly expanded their ancillary service capacity. With respect to the impact of CON regulation, the evidence revealed that by 1976 and beyond, CON review had reduced all dimensions of project scale and cost by as much as two-thirds of [illegible] proposed

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Broadly speaking, certificate of need laws are grounded on the assumption that a primary reason for spiralling health care costs lies in the existence of duplicative and inappropriate facilities and services. To avoid perpetuating this problem, it is necessary to curtail the construction of new facilities and the provision of new services unless they can be shown to be needed. The rationale for certificate of need is compelling. However, there are many who doubt that the substitution of a regulatory mechanism for an admittedly imperfect market mechanism will improve the situation. On the other hand, it is the failure of the market system, embodied in the so-called "Roemer effect" which posits that the existence of hospital beds creates a demand for them, that certificate of need programs are designed to correct. How well these programs work is still an open question.

This report presents a summary of Ph.D. dissertation research supported by the National Center for Health Services Research. The study examines in detail hospital capital investment undertaken by Massachusetts short term general hospitals between 1967 and 1976. Patterns of capital expansion are compared for teaching versus nonteaching, and for Boston versus nonBoston hospitals, and special emphasis is placed upon assessing the impact of certificate of need legislation. It is hoped that this report will contribute to our understanding of the regulatory process and the reactions of those who are involved.

Gerald Rosenthal, Ph.D.

March 1981

1 **Introduction**

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4 Development of the capital expenditure profile
6 Conduct of case studies

8 **Findings**

8 Capital investment among Massachusetts voluntary hospitals
13 The extent of certificates of need coverage
14 The accomplishments and limitations of certificate of need regulation in Massachusetts

19 **Implications and recommendations**

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20 Proposed modifications in current regulatory procedures
22 The role of "competition" versus regulation in limiting increasing medical costs

24 **References**

During the past decade the rapid and continuing increase in the costs of medical care has emerged as a major health policy issue at all levels of government. Leading the health care cost spiral has been the acute care hospital sector; expenditures for hospital services constitute the largest portion of total health care spending, 40 percent in recent years, account for more than half of the government share, and since the enactment of Medicare and Medicaid in 1965 have risen almost twice as fast as outlays for other categories of medical care.[1] Most efforts to curb the increase in health care costs have therefore been focused on acute care hospitals.

Analyses by several different investigators have now established that approximately half of the total increase in hospital costs since 1960 has been attributable simply to inflation – that is, to the increase in the wages and prices in the hospital sector that would have been required simply to produce the same level of service over time. The remainder of the increase, however, stems from the inexorable growth in the sophistication of labor and non-labor inputs required to produce the ever more complex services that now comprise a hospital admission or "patient day".[2,3] Capital expansion – the construction of new facilities, the addition of new beds and services, and the investment in new "equipment-embodied technology" – has long been recognized as one of the major vehicles through which the intensity of hospital care is increased. As a result, the creation of mechanisms to limit capital investment by hospitals, and particularly the enactment of Certificate of Need (CON) regulation, have received early and continuing prominence in state and federal government strategies to contain rising health care costs.[4]

Despite the importance of hospital capital expansion and of Certificate of Need, neither the factors influencing hospital capital investment nor the impacts of CON upon them have been examined in detail. Not even the actual composition and patterns of hospital capital expenditures over time have been de-

termined because the sources of readily available data are too aggregated to reveal any but the most obvious changes in total beds and total investment. Yet an understanding of the nature and determinants of hospital capital expansion is essential to the evaluation of the impacts of current regulatory mechanisms and to the design of more effective strategies to shape future investment.

This study was conducted to fill some of the gaps in current knowledge about hospital investment behavior and its response to regulation. Previous investigations either examined hospital capital expansion or attempted to evaluate the process and outcome of Certificate of Need. By contrast, this study employed a design that combined an in-depth analysis of the amount and composition of capital investment across the whole voluntary hospital industry in one state, both before and after the introduction of CON regulation, with an examination of the implementation of the CON program itself and of the changes in the nature of hospital investment resulting from the presence of CON. Study findings, therefore, offer insights into the dynamics of hospital capital expansion and the impacts of CON that previous work could not provide.

The study focused on short-term general non-government nonprofit (i.e. voluntary) hospitals in Massachusetts over the period Fiscal Years 1967-76, five years prior to the enactment of CON regulation in the Commonwealth on November 15, 1971, and five years following CON implementation, and addressed the following major sets of questions:

- Is there a basic pattern of investment followed by all hospitals or by certain categories of hospitals, such as teaching versus nonteaching institutions? In particular, how frequently does investment in beds occur and is there a relationship between investment in beds and investment in ancillary services?

- What are the incentives, opportunities, and constraints that have governed a hospital's choice of investment projects? Have these determinants varied by type of hospital and/or time period?

- How much of hospital capital expenditure falls under the aegis of CON review and what, therefore, is the potential of this mechanism to limit future capital expenditure?

- What is the lag between the introduction of CON regulation and the time that capital expenditures reviewed by CON first appear in a hospital's asset base? When, therefore, can CON impacts be appropriately examined using "ultimate" outcome

measures focused on the amount and composition of hospital investment? What measures of more "intermediate" outcomes can be used to evaluate CON performance in the interim?

- How have the Certificate of Need program, the prospective reimbursement programs of the Rate Setting Commission, and the broader planning efforts under P.L. 93-641 affected hospital investment behavior in Massachusetts? What changes in current regulatory policies and procedures might establish more binding constraints on hospital capital expansion?

TABLE 1: Sample composition and its determination using optimal allocation

Stratum	Stratum size (N_h)	Stratum standard deviation [1] (in Thousands) (s_h)	Sample size (n_h)
Major teaching	10		5
Boston	7	$7,100	3
Non Boston	3	6,200	2
Lesser teaching	7		4
Boston	5	8,900	3
Non Boston	2	6,700	1
Limited teaching	5		2
Non Boston	5	6,800	2
Nonteaching	73		15
Boston	18		4
≤ 100 Beds	6	130	2
> 100 Beds	12	1,240	2
Non Boston	55		11
≤ 100 Beds	14	1,600	2
101-200 Beds	18	1,900	2
> 200 Beds	23	5,900	7
Total	95		26

[1] Standard deviation of Certificate-of-Need approved capital expenditures 1972-76 as estimated from Massachusetts Determination of Need Program Information System

Optimal Allocation Formula (with equal cost of sampling for each stratum):

$$n_h = \frac{n N_h s_h}{\sum_{l=1}^{L} N_h s_h}$$

n = total sample size
n_h = sample size in the hth stratum
N_h = population in the hth stratum
s_h = standard deviation in the hth stratum

From public information available in the files of the Commonwealth of Massachusetts Rate Setting Commission, data were collected on the annual capital expenditures over the period FY 1967-76 made by each sample hospital in total and in the following categories: land, "plant" (including building, building improvements, and fixed equipment), and major movable equipment (MME). Data on asset values at historical cost and accumulated depreciation were also collected for Fiscal Years 1966, 1971 and 1976.

For all "projects" that involved total expenditures of $100 thousand or more (current dollars), the introduction of a major new ancillary service, or the addition of 4 or more beds, information was then obtained on the specific changes in hospital facilities and services that resulted from these investments: number and types of beds added or renovated, number of square feet added or renovated, ancillary service changes, etc. Data from the Rate Setting Commission, the Massachusetts Department of Public Health, the Massachusetts Determination of Need Program (as Certificate of Need is officially known in Massachusetts), and the sample hospital itself were combined to provide the necessary

Methodology

This study was designed to combine a statistically valid quantitative examination of capital investment among Massachusetts voluntary hospitals with a more qualitative case-study investigation of the factors that shaped the amount and composition of this investment. The design was developed because the combination of quantitative and qualitative analyses could yield complementary insights into hospital capital investment and the impact of Certificate of Need upon it that neither approach alone could provide. The quantitative analyses could offer a basic profile on the amount and composition of capital expenditure over time and on variations in the pattern of investment among hospitals of different teaching status and geographic location. Against this background, case-study analysis of selected institutions and specific investment projects could then offer information on the motivations underlying a hospital's capital program, the decision-making process surrounding capital expansion, and the consequences resulting from it. The conduct of case studies could also provide an opportunity to explore perceptions of CON and its effects held by individuals involved with hospitals in a variety of different capacities.

Development of the capital expenditure profile

The 95 short-term general voluntary hospitals in Massachusetts were stratified by Boston versus non-Boston location (with "Boston" defined by the boundaries of Health Services Area 4) and by teaching status: major teaching, lesser teaching, limited teaching, and nonteaching. Nonteaching hospitals were further stratified by bed size into those with 100 or fewer beds, 101 to 200 beds, and more than 200 beds. All teaching hospitals had at least 200 beds and therefore did not have to be further classified according to total bed complement. A random sample of 26 hospitals was then selected, using the technique of optimal allocation to determine the number of institutions to be drawn from each cell (Table 1).

detail. For projects approved by the Determination of Need Program, information was also obtained on changes in design, scope, and estimated cost that resulted from the process of CON review.

Data on the amount of capital expenditures, in total and for "plant" and MME considered separately, were used to examine general differences in capital investment by teaching status, geographic location, and time period. Because hospital accounting conventions recognize a capital expenditure only at the time the asset is first put into service, a hospital's capital expenditure profile is quite "lumpy" if examined on an annual basis. Therefore, total and average annual expenditures over the "pre-CON" period of 1967-71 versus the "post-CON" period 1972-76 were analyzed instead. In order to eliminate the effects of the considerable inflation in capital costs that occurred during the study period, all expenditures were converted to constant 1967 dollars using deflators derived from two indices employed by the Rate Setting Commission (RSC) to determine price-level depreciation: the Marshall and Stevens Class B Eastern Index for plant and an index for major movable equipment developed specifically for Massachusetts hospitals by American Appraisal Company at the request of the RSC.

Within the basic "picture" of hospital capital investment established by the expenditure data, "project" data were then used to determine more specifically the nature and composition of investment. Eight project categories were defined, and particular attention was focused on exploring variations across time and hospital type for "major bed projects" (i.e. new buildings or wings constructed by hospitals that included at least 20 inpatient beds), projects devoted to ancillary services and/or ambulatory care, and projects devoted to research. These project categories proved most important in institutional development strategy over the study period for all types of hospitals examined.

Conduct of case studies

Case studies were designed to elicit information on the course of institutional development among different types of Massachusetts voluntary hospitals by using a specific capital project or group of projects completed by an institution to focus discussion. This approach was chosen to assure that the same set of decisions and outcomes would be discussed with different "actors" in a hospital and to allow interviews to probe concrete details surrounding an actual capital investment as well as more general issues of

institutional development. All but 3 of the 26 sample institutions had either completed major capital projects during the study period or had submitted applications for such projects for CON review during this time and, therefore, were considered candidates for case-study. Ultimately, 9 institutions were selected representing the range of teaching status both in Boston and the rest of Massachusetts. In each case-study hospital, extensive interviews were conducted with the director or associate director, the chief financial officer or one of his principal assistants, a senior member of the board of trustees, the current or past president of the medical staff, and either the Chief of Radiology or Chief of Pathology. Selected other members of a hospital's administration, board, and medical staff who had played particularly important roles in the institution's development and who were identified during the course of discussion with the hospital director were interviewed as well. In order to gain some insight into the development of the three sample institutions that had made only limited capital investments during the study period, the director or associate director of two of these hospitals was interviewed as well.

Extensive interviews were also conducted with various members of the staff of the Massachusetts Department of Public Health to obtain information on the structure, function, and evolution over time of the Determination of Need Program and with staff of the Rate Setting Commission to clarify details of the prospective reimbursement system the Commission is developing for Massachusetts hospitals.

Findings

Both the capital expenditure analyses and case study findings revealed that Massachusetts voluntary hospitals experienced dramatic changes in the scale and scope of their operations during the period under study. Further, an appreciation of these changes and the forces underlying them proved essential to correctly interpreting the effects of Certificate of Need regulation upon hospital expansion. Therefore, the basic patterns of investment that have been characteristic of different types of Massachusetts hospitals are first summarized before the presentation of findings on the potential and actual impacts of CON.

Capital investment among Massachusetts voluntary hospitals

The period 1967-76 was one of enormous capital expansion among voluntary hospitals in Massachusetts. Net total capital asset values per bed of total complement at least doubled for all categories of institutions. Yet, average total bed complements increased by no more than 20 percent among any type of hospital (except nonteaching institutions with less than 100 beds) and actually declined slightly among nonBoston major teaching hospitals and among limited teaching hospitals. Major teaching hospitals in Boston led all other types of institutions in total capital investment, spending on average $23 million per hospital (constant 1967 dollars), $60 thousand per bed of total complement. Lesser teaching hospitals, both in Boston and elsewhere in the Commonwealth, showed the greatest change in asset values over the study period, increasing their net total capital assets almost 400 percent through average capital expenditures per hospital of $14 million (constant 1967 dollars), $44 thousand per bed. Nonteaching hospitals, on average, spent $4 million per institution, $25 thousand per bed.

Despite this universal expansionary behavior, the pattern of capital expenditures during the "pre-Certificate of Need" period 1967-71 versus the "post-CON" period 1972-76 proved distinctly

different as a function of hospital teaching status and bed size (Table 2). Among major, lesser, and limited teaching hospitals and hospitals with greater than 200 beds in general, total capital expenditures during 1972-76 in constant 1967 dollars were, on average, almost twice those during 1967-71; among nonteaching institutions, particularly those with fewer than 200 beds located outside of Boston, these patterns were reversed and expenditures "pre-CON" exceeded those "post-CON" by at least two-fold. When expenditures for physical plant versus major movable equipment were examined separately, those for plant exhibited the same patterns across time found for total expenditures. By contrast, expenditures for major movable equipment, the category most readily identified with hospital investment in "technology", were essentially constant across time, except among lesser teaching hospitals which showed a two-fold increase during 1972-76.

These patterns in total and plant expenditures, apparently associated with the presence of CON regulation, proved instead to be a function primarily of the completion dates of "major bed projects" and the synchrony in the construction of such facilities among similar hospitals (Table 3). Thus, the higher expenditures in 1972-76 among various categories of teaching hospitals largely resulted from the fact that these hospitals completed their major bed projects in 1972 or later. The higher expenditures in the "pre-CON" era among nonteaching hospitals arose because most of these institutions completed their major bed projects during 1967-71.

Differences in the completion dates of major bed projects reflected during the study period were found to have been present throughout the years since the conclusion of World War II. On average, Massachusetts voluntary hospitals constructed new inpatient facilities once every 14 years during this time. In general, construction peaked at different times for different types of institutions, largely as a function of particular environmental influences such as the ready availability of Hill-Burton funding to community hospitals during the early 1950's and the impact on teaching hospitals of the Medicare regulations requiring the replacement of ward care with semi-private accommodations.

Among virtually all types of Massachusetts hospitals, almost half of total capital expenditures during the entire study period was devoted to major bed projects, and case studies revealed that the 25 such projects completed by sample institutions played the pivotal roles in hospital development strategy and response to

TABLE 2: Average capital expenditures per hospital 1967-71 and 1972-76 by teaching status and geographic location—5-year sums, constant 1967 dollars in thousands

	Total		Total/Bed		Plant		Plant/Bed		MME		MME/Bed	
	1967-71	1972-76	1967-71	1972-76	1967-71	1972-76	1967-71	1972-76	1967-71	1972-76	1967-71	1972-76
Major teaching	$6,624	$11,833	$18.2	$28.8	$3,898	$8,006	$10.6	$19.2	$2,558	$3,231	$7.0	$8.1
Boston	8,425	14,766	24.1	37.3	5,048	9,856	14.4	24.7	3,203	4,140	9.2	10.6
Non Boston	2,420	4,987	4.6	9.0	1,215	3,687	2.3	6.3	1,053	1,110	2.0	2.3
Lesser teaching	4,831	9,448	14.7	28.9	3,553	6,788	10.7	20.8	987	1,721	3.0	5.2
Boston	4,024	9,834	13.4	30.9	2,756	6,770	9.2	21.4	885	1,789	2.9	5.5
Non Boston	6,847	8,484	18.2	23.9	5,546	6,835	14.7	19.3	1,209	1,552	3.3	4.3
Limited teaching	2,758	3,383	9.2	10.8	1,991	1,799	6.7	5.7	730	960	2.4	3.1
Nonteaching	2,513	1,688	15.8	9.4	2,068	1,078	13.0	5.8	416	455	2.6	2.5
Boston	2,236	1,314	13.8	10.4	1,758	824	11.1	7.6	437	442	2.5	2.5
< 100 Beds	747	1,493	11.6	19.0	662	1,334	10.2	16.9	86	143	1.4	1.9
> 100 Beds	2,980	1,224	14.9	6.1	2,306	568	11.5	3.0	612	593	3.1	2.9
Non Boston	2,604	1,810	16.5	9.1	2,170	1,161	13.6	5.2	410	460	2.7	2.5
< 100 Beds	1,229	357	15.5	3.9	1,029	62	12.6	0.7	200	144	2.9	1.7
101-200 Beds	3,980	1,551	26.1	9.8	3,522	814	22.7	4.5	419	516	3.0	3.2
> 200 Beds	2,364	2,897	9.5	11.8	1,807	2,099	7.1	8.6	530	609	2.3	2.5
All hospitals	$3,129	$3,273	$15.6	$13.0	$2,366	$2,266	$12.2	$ 8.3	$ 700	$ 867	$3.1	$3.3
Statistically Significant Differences [1]	p < .01	TEACH	None		None		None		TEACH TEACH × LOCATION		TEACH TEACH × LOCATION	
	p < .05	None	TIME × LOCATION × BED SIZE		TEACH		TIME × LOCATION × BED SIZE		LOCATION BED SIZE		LOCATION	

[1] Four Way Analysis of Variance by Time Period (TIME), Teaching Status (TEACH), Geographic Location (LOCATION), and BED SIZE.

TABLE 3: Total capital expenditures (in constant 1967 dollars) "Pre-CON" 1967–71 versus "Post-CON" 1972–76 among sample hospitals and fraction of total attributable to major bed projects

Hospital category	Total capital expenditures (in millions) "Pre-CON" 1967–71	"Post-CON" 1972–76	Fraction of total attributable to major bed projects 1967–71	1972–76
Major teaching	$18.1	$32.4	0	.50
Lesser teaching	9.3	18.1	.57	.49
Limited teaching	3.8	4.6	0	.29
Nonteaching	50.2	33.7	.76	.38
All hospitals	$81.4	$88.8	.54	.44

changing market conditions. For all categories of voluntary hospitals, both before and after the introduction of CON, these projects provided the opportunity to greatly expand ancillary service "capacity" necessitated by rapid technological change and growing numbers of physicians entering practice with specialty and subspecialty training. Among nonteaching hospitals, in particular, the increase in the sophistication of the institution's product that resulted from the ancillary service expansion accompanying major bed project completion in the late 1960's represented a significant change in the hospital's capability to diagnose and manage complicated medical problems. Such projects provided the opportunity to introduce intensive care units, to inaugurate high-technology ancillary services, such as radiation therapy, and to greatly expand the scope of basic ancillary services such as radiology and laboratory. As a result, the necessity for community hospitals to transfer difficult cases to teaching centers was considerably diminished and a marked change in the structure of the hospital services market occurred.

With the decrease in referrals from community hospitals, teaching centers had to turn increasingly to their surrounding neighborhoods as a source of patients and redefined their mission to include provision of the full range of medical services as well as tertiary care. The major bed projects completed by major and lesser teaching hospitals were, therefore, largely motivated by the necessity to create the commanding institutional presence and to expand the primary care services considered essential to competing successfully for patients. The implementation of Medicare and Medicaid contributed greatly to the success of these efforts by providing third-party coverage to potential patient populations that previously had lacked the financial means to seek care in the private sector. While teaching hospitals also used such projects to marginally increase total bed complement, only non-

teaching hospitals in areas of rapid population growth significantly increased their bed size during the study period. The 25 major bed projects completed by sample hospitals resulted in the construction of more than 2200 new beds, but almost two-thirds of these beds replaced existing old ones. Hence, total bed complement increased by less than 800 beds.

Because most hospitals experienced only minimal increases in their total bed complements but greatly expanded the size and value of their physical plant, their resource "intensity" per bed increased considerably. The increased intensity, however, was found both prior to and following the introduction of Certificate of Need and simply reflected that fact that by the late 1960's and beyond, the provision of "state of the art" ancillary services and ambulatory care had become as necessary a part of a hospital's basic "capacity" as the hospital bed itself. A hospital lacking such services could not fill its beds because it could attract neither the necessary medical staff nor the requisite patient population.

During the study period, all types of voluntary hospitals constructed new inpatient facilities. Major and lesser teaching hospitals in addition significantly expanded their facilities devoted exclusively to ancillary services and research as these institutions enlarged their teaching and research commitments in response to greatly increased medical school enrollments and federal support for medical education and research.

While much of hospital capital investment during the study period was motivated by the desire of hospital decisionmakers to be responsive to the increased technological sophistication of current and potential staff physicians, decisions on the timing and scope of major investments were still primarily the province of hospital administrators and trustees. Except in teaching hospitals where major chiefs of service, such as the Chief of Medicine, played particularly influential roles in shaping institutional development, staff physicians were not the primary influences determining the amount or composition of a hospital's capital investment.

During the late 1960's and early 1970's, because third-party reimbursement assumed most of both the capital and operating costs associated with such investment, hospitals were largely unconstrained in their ability to expand. Some limited constraint on the overall scale and cost of major construction, however, was imposed for most hospitals by concerns over maintaining per-diem rates roughly comparable to those of other institutions in their market. Hospitals, therefore, had to exercise some caution

in the amount of debt they assumed. By the mid-1970's, the presence of the Determination of Need Program and charge control policies of the Rate Setting Commission, coupled with more restrictive reimbursement policies introduced by Medicare, began to introduce some further constraints, though not before most hospitals in Massachusetts had at least inaugurated if not completed capital expansion on a truly massive scale.

The extent of Certificate of Need coverage

During the period 1967 - 76, on average three-fourths or more of a hospital's total capital expenditures either were or would have been subject to CON review (Table 4). Of the expenditures devoted specifically to an institution's inpatient facilities, 80 percent or more would have or did require CON approval; by contrast, only 37 percent of hospital expenditures for major movable equipment either did or would have come under the aegis of CON.

Basically, all construction of new facilities and all projects involving the introduction or modernization of high-technology

TABLE 4: Average fraction of capital expenditures per hospital that either was or would have been subject to Certificate-of-Need review 1967–1976

	Total	*Plant*	*Major movable equipment*
Major teaching	.60	.73	.28
Boston	.66	.81	.28
	(.21)	(.10)	(.24)
Non Boston	.48	.54	.27
	(.39)	(.45)	(.06)
Lesser teaching	.83	.91	.46
Boston	.81	.88	.35
	(.04)	(.08)	(.31)
Non Boston	.89	.98	.46
Limited Teaching	.67	.86	.15
	(.14)	(.03)	(.13)
Nonteaching	.76	.85	.40
Boston	.73	.84	.44
≤200 Beds	.80	.85	.55
	(.17)	(.07)	(.24)
>200 Beds	.70	.87	.35
Non Boston	.76	.85	.39
≤200 Beds	.84	.93	.42
	(.06)	(.05)	(.19)
>200 Beds	.66	.74	.34
	(.33)	(.35)	(.22)
All hospitals	.74	.84	.37

( ) = standard deviation

specialized ancillary services fell under the authority of CON. Thus, all of the investments that have served as key elements in a hospital's strategy to make major changes in institutional image and/or product are subject to regulatory control, and Certificate of Need, therefore, has at least the theoretical potential to have a considerable influence on the direction of a hospital's future development. The minor renovations to existing facilities and purchase of major movable equipment associated with hospital investment in basic ancillary services, however, for the most part fall outside of the boundaries of CON authority, and whenever possible, at least in recent years, many hospitals have "packaged" even those few investments that should have been submitted for review in ways that avoided the CON ceiling. Thus, CON regulation has not been an effective mechanism for controlling this component of hospital capital investment and other approaches have more potential for limiting the amount of routine "technological investment".

The accomplishments and limitations of Certificate of Need regulation in Massachusetts

Previous investigators have commonly used "ultimate" outcome measures, such as the change in total hospital capital investment or investment per bed, to evaluate the effects of CON.[5,6,7] The patterns of hospital investment revealed by this study suggest, however, that such measures are not appropriate at least for several years following the introduction of regulation. The majority of hospital capital expenditures are attributable to infrequent large-scale "major bed projects" that have been built in different periods by hospitals of similar size and teaching status. At least in Massachusetts, the introduction of Certificate of Need regulation coincided with the conclusion of the peak of construction among small nonteaching hospitals and the beginning of the construction peak among teaching hospitals and large hospitals in general. Hence, differences in total capital expenditures across time display a spurious association with the introduction of CON that, in fact, was not related to the presence of regulation. Further, because all projects actually under construction when CON regulation began were exempt from review and because the construction of a major new facility takes several years, less than one-[illegible] of the expenditures actually made by sample hospitals during the "post-CON" period had in fact been reviewed by the program (Table 5). During the first two years "post-CON", virtually

TABLE 5: Average fraction of total capital expenditures per hospital falling under aegis of CON in 1972-76, 1972-73 and 1974-76 compared with average fraction actually approved by CON during each period

	Fraction of expenditures falling under aegis of CON 1972-76*	Fraction actually CON-approved 1972-76	Fraction of expenditures falling under aegis of CON 1972-73	Fraction actually CON-approved 1972-73	Fraction of expenditures falling under aegis of CON 1974-7*	Fraction actually CON-approved 1974-76
Major teaching.....	.66	.27	.70	.01	.56	.44
Boston	.71	.28	.75	.01	.57	.37
	(.21)	(.45)	(.24)	(.02)	(.27)	(.44)
Non Boston	.56	.25	.57	0	.54	.54
	(.46)	(.15)	(.46)		(.44)	(.44)
Lesser teaching.....	.81	.40	.78	.11	.57	.53
Boston	.78	.26	.77	.14	.41	.41
	(.14)	(.61)	(.30)	(.25)	(.32)	(.32)
Non Boston	.87	.74	.80	0	.89	.89
Limited teaching....	.52	.42	.02	.02	.61	.50
	(.38)	(.24)	(.02)	(.02)	(.38)	(.23)
Nonteaching	.53	.29	.32	.01	.43	.31
Boston	.52	.27	.39	0	.50	.24
≤200 Beds...	.72	.22	.58	0	.61	.24
	(.15)	(.37)	(.52)	0	(.13)	(.40)
> 200 Beds...	.15	.15	0	0	.23	.23
Non Boston . ..	.53	.30	.30	.01	.41	.34
≤200 Beds...	.51	.34	.22	0	.47	.38
	(.35)	(.40)	(.44)		(.37)	(.07)
>200 Beds ...	.53	.24	.40	.01	.33	.31
	(.40)	(.38)	(.50)	(.03)	(.43)	(.44)
All Hospitals	.57	.31	.38	.02	.46	.38

*Fraction of Expenditures that according to CON Regulations would be subject to review, including both expenditures that actually were reviewed and those that would have been if they had not been initiated prior to enactment of the CON statute in November, 1971.
( ) = Standard deviation

none of the capital expenditures made by hospitals had been subjected to review. By 1974 and beyond, almost all expenditures that fell under the aegis of CON had in fact been reviewed and approved by the program. Nonetheless, during the 1974 - 76 period, the great majority of the expenditures that had been reviewed were attributable to projects approved during the first year of CON operation when the program lacked the rigorous review procedures and standards that characterized the function of the "mature" Certificate of Need process in 1976 and beyond (Table 6).

For these reasons, an ultimate outcome assessment was concluded to be inappropriate during the 1972 - 76 interval for which relevant data were available. Instead, this study evaluated CON effects using two measures of "intermediate" outcome: first, changes in project scope and design that resulted from the process of review, differentiating those achieved during the Program's "early" phase 1972 - 74 versus its "mature" period post-

TABLE 6: Amount and fraction of CON-approved expenditures in millions (current dollars) made during 1974-76 attributable to projects approved during 1972, by hospital teaching status

	Total expenditures 1974-76 that had been CON-approved	Amount of 1974-76 CON-approved total approved in 1972	Fraction of 1974-76 total approved in 1972
Major teaching	$31.3	$26.7	.85
Lesser teaching	17.5	13.4	.77
Limited teaching	6.5	2.2	.33
Nonteaching	23.5	16.8	.72
All hospitals	$76.8	$59.0	.75

1975, and second, changes in internal hospital investment strategy and interhospital relationships attributable to the presence of Certificate of Need.

Over the period 1972 to 76, only 9 percent of projects submitted to CON review by sample hospitals were denied certificates of need, and even many of these projects were eventually approved in modified form. However, as other investigators have also noted, a program's denial rate merely reflects the degree to which the review process permits negotiation over project details before a final decision is rendered.[8] The CON process in Massachusetts involves considerable interaction between program staff and applicant hospitals in the course of project evaluation. Consequently, despite the low project denial rate, one fourth of all projects ultimately approved by the CON program were either significantly modified as a result of CON review or were approved only with attached conditions that required some change in existing hospital operations. The projects of all types of hospitals, including those of the major teaching institutions in Boston, experienced such modifications.

Throughout its existence, the CON program devoted its most careful analysis to projects involving acute care beds. During the early years of regulation, CON review concentrated on reducing the increase in a hospital's total bed complement that would result from the construction of a major bed project. The final CON-approved form of a project virtually always either included fewer new beds than an applicant had proposed or required that existing underutilized inpatient services, such as obstetrics or pediatrics, be closed as a condition of approval for the proposed project. During this phase of CON program operation, however, projects were usually approved at the total cost proposed by the applicant hospital, and the final costs of many completed facili-

ties often exceeded even these generous budgets by several million dollars before the Rate Setting Commission in 1975 became aware of the problem and helped to institute more rigorous financial analysis and control in the CON review process.

By late 1975, the scope of CON review had been expanded beyond a consideration of the number of beds proposed to include a critical analysis of every aspect of a project. Over the next three years, the CON Program began to develop the detailed standards and criteria required to evaluate "need" for various ancillary services and ambulatory care components as well as for acute care beds and established a basis for examining many dimensions of a project's scale and cost. During this mature phase of CON analysis, the final approved form of some projects was reduced by as much as two-thirds of that originally proposed, and in several instances the process of CON review and approval was able to eliminate several million dollars in proposed expenditures. Case-study interviews revealed that hospitals had not specifically "padded" proposed projects in order to provide opportunities for cuts by the CON Program, and these reductions therefore represent true savings attributable to the presence of regulation. No group of hospitals has been immune to such careful scrutiny, and even cherished projects of influential teaching hospitals were considerably diminished in scope and cost.

During both its early and mature stages, the Certificate of Need Program in Massachusetts also achieved considerable success in preventing the duplication of high-technology specialized ancillary services. In particular, for several years CON severely restricted the diffusion of CT scanners by approving only one scanner per HSA region outside of Boston until criteria for the appropriate use of CT scanning had been established and the technological development of the necessary equipment sufficiently stabilized to limit the high cost of rapid obsolescence. The CON Program was also able to reduce already existing redundancy in services such as radiation therapy by denying applications for new equipment submitted by hospitals lacking sufficient utilization to justify continuation and modernization of the service. In its mature form, the Massachusetts Determination of Need Program has also markedly changed the whole hospital investment "environment", in the view of all hospital decisionmakers. The construction of new facilities and the introduction or modernization of specialized ancillary services that have played so prominent a role in institutional development strategy are no longer the sole province of the individual hospital. Instead, the details of such projects must now be carefully negotiated with

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By late 1975, the scope of CON review had been expanded beyond a consideration of the number of beds proposed to include a critical analysis of every aspect of a project. Over the next three years, the CON Program began to develop the detailed standards and criteria required to evaluate "need" for various ancillary services and ambulatory care components as well as for acute care beds and established a basis for examining many dimensions of a project's scale and cost. During this mature phase of CON analysis, the final approved form of some projects was reduced by as much as two-thirds of that originally proposed, and in several instances the process of CON review and approval was able to eliminate several million dollars in proposed expenditures. Case-study interviews revealed that hospitals had not specifically "padded" proposed projects in order to provide opportunities for cuts by the CON Program, and these reductions therefore represent true savings attributable to the presence of regulation. No group of hospitals has been immune to such careful scrutiny, and even cherished projects of influential teaching hospitals were considerably diminished in scope and cost.

During both its early and mature stages, the Certificate of Need Program in Massachusetts also achieved considerable success in preventing the duplication of high-technology specialized ancillary services. In particular, for several years CON severely restricted the diffusion of CT scanners by approving only one scanner per HSA region outside of Boston until criteria for the appropriate use of CT scanning had been established and the technological development of the necessary equipment sufficiently stabilized to limit the high cost of rapid obsolescence. The CON Program was also able to reduce already existing redundancy in services such as radiation therapy by denying applications for new equipment submitted by hospitals lacking sufficient utilization to justify continuation and modernization of the service. In its mature form, the Massachusetts Determination of Need Program has also markedly changed the whole hospital investment "environment", in the view of all hospital decisionmakers. The construction of new facilities and the introduction or modernization of specialized ancillary services that have played so prominent a role in institutional development strategy are no longer the sole province of the individual hospital. Instead, the details of such projects must now be carefully negotiated with

other institutions in the hospital's market area and with the Health Systems Agency and the CON staff. As a result, internally hospitals have been forced to evaluate their appropriate roles and mission much more carefully and to develop more systematic and precise plans for capital expansion and replacement. Externally, interactions and interrelationships among hospitals have been greatly increased; hospital councils in many areas of Massachusetts have now become the arenas in which hospitals are attempting to develop the cooperative relationships that will diminish some of the pressures for product competition by allowing one institution to become the center for renal dialysis, another for obstetrics, a third for CT scanning, and so forth. These are negotiations of considerable delicacy because each hospital views its services as highly interdependent. Therefore, only the presence of external constraints imposed by CON, planning in general, and the emerging prospective reimbursement systems of the Rate Setting Commission has forced hospitals to alter the natural tendencies to maintain or acquire specialized services and facilities evidenced by hospital investment during the early years of the study period.

Nonetheless, Certificate of Need has not established a binding constraint on hospital capital expenditure. The CON process achieves only limited control over the acquisition of major movable equipment because the majority of such expenditures fall below CON review limits and hospitals have been successful in "unbundling" even some projects that should have been reviewed to circumvent the CON process. While CON reduced the scale of new construction, it has not prevented the addition of new physical capacity because the program now has no overall basis upon which to evaluate "need" for new replacement construction. Further, while CON has developed standards for acute-care beds that now permit precise calculation of the number of beds a hospital requires, the guidelines for the ancillary services and ambulatory care that now comprise such a major component of hospital capital expansion are much less specific. Finally, even mature CON analysis is based upon standards that define optimal efficient hospital practice on a service-by-service basis. Certificate of Need regulation provides no means of establishing an overall limit to the amount of resources an individual hospital or hospitals in general "should" commit to capital investment. Even the presence of a mature CON program, therefore, does not force an institution to choose among "necessary" projects for which expenditures can be justified on the basis of current or projected demand.

Implications and recommendations

These findings have significant implications for the conduct of future evaluations of regulatory impacts, for the ongoing operation of the Massachusetts Determination of Need Program and the prospective reimbursement system of the Rate Setting Commission, and for the use of "competitive" versus regulatory strategies in the effort to contain rising medical care costs.

Implications for the design of future evaluations of regulation

From the perspective of future evaluations of regulatory impacts, three particularly important lessons emerge from this study. First, regulation is imposed upon already existing patterns of behavior that in a realm such as capital investment with its long lags in planning and implementation are not likely to show an instantaneous response to a changed environment. Unless an effort is first made to understand these underlying patterns, one risks serious misinterpretation of the results generated by evaluation. Second, the implementation of regulation is an extremely complex process. The mobilization of requisite staff and the development of defensible procedures necessary to establish a rigorous and effective program take *years*, not months, even in the presence of strong political commitment to the importance of the effort. Therefore, it is simply unrealistic to expect that the effects of program action will begin to appear immediately after its enactment, especially if measures of ultimate outcome are used to determine these effects. Essential as it is to evaluate the impacts of the numerous government interventions that have been introduced in recent years, it is also important to be realistic in establishing a time frame within which results can be expected. Otherwise, one risks concluding that a program has been ineffective or worse, has been counterproductive when, in fact, it is simply too early to determine what its actual effects have been. Finally, much as measures of ultimate impact are eventually the ones that provide the true test of regulatory accomplishments, it is important to develop and use more intermediate measures of program

performance until final outcomes do begin to appear. Intermediate outcome measures are currently held in lower esteem than measures of ultimate outcome and usually require more detailed and costly data collection. Nonetheless, measures of intermediate outcome, such as those employed in this study, are the only ones that can provide the kind of interim assessment of program strengths and weaknesses necessary to improve regulatory performance.

Proposed modifications in current regulatory procedures

As judged on these intermediate outcome measures, the Determination of Need Program in Massachusetts has clearly been successful in creating an external mechanism that can assure the "necessity" of the investments being pursued by hospitals and limit the wasteful duplication of some facilities and services that previously accompanied each hospital's pursuit of its own individual interests. At present, however, the CON process in Massachusetts (and elsewhere in the country as well) is based on standards of absolute need and does not provide a means for allocating limited resources. Under present procedures, tradeoffs are not required, either among the worthy projects of a single institution or among those of the various hospitals serving a particular population. Hence, Certificate of Need does not now constrain capital investment in total and can therefore make only a limited contribution to the ultimate objective of restraining further increases in the consumption of real resources by the hospital sector.

The principal strategy now being advocated to impose a binding constraint on hospital capital expenditure is the introduction of a total expenditure "cap", either at the national level as Title II of President Carter's 1977 Hospital Cost Containment legislation proposed or in selected states, as New York for example, has considered. The crucial issues of how a fixed expenditure ceiling should be allocated across health services areas and how criteria could be developed to permit the approval of specific hospital capital projects within this "budget", however, have not been addressed in any detail. Given the difficult and time-consuming process that the development of defensible standards even for the review of individual projects proved to be in Massachusetts, it is hard to imagine how the necessary criteria for allocation of a fixed budget could be generated.

The patterns of hospital investment revealed by this study suggest, however, that a less comprehensive and therefore potential-

ly more feasible approach directed at the level of the individual hospital might be taken to more effectively constrain hospital capital expenditure in total. Such an approach would combine the development of a specific capital budget for each hospital to limit routine annual investment in major movable equipment and minor plant renovation with the establishment of more stringent criteria to guide evaluation for less frequent capacity and service expansion projects. The following specific modifications in current Certificate of Need and rate setting procedures are proposed as the first steps toward establishing more stringent limits on the amount of capital expenditure by Massachusetts hospitals:

- An annual budget for major movable equipment should be developed for each hospital on the basis of size, teaching status, and other relevant characteristics and not tied simply to the institution's own current MME asset value. The budget should be established through the Rate Setting Commission's prospective reimbursement system and once full payer participation in this system is secured, hospitals should be permitted to spend their budgets as they wish, submitting only projects involving high-technology ancillary services or new construction for CON review. Such a change would free the CON staff from reviewing projects that rarely have been modified significantly by the CON process, eliminate current incentives for hospitals to try to subvert CON review for these types of expenditures, and provide more time for the analysis of the types of projects that are the major vehicles used by hospitals to achieve significant changes in product and image.

- As part of the development of Health Systems Plans and the State Health Plan, criteria should be formulated to specify the grounds justifying replacement of existing facilities. In addition, more precise guidelines must be developed regarding expansion of facilities for ancillary services and ambulatory care. Such criteria and guidelines are essential to support more rigorous review of proposals for future major construction and hopefully would better enable Certificate of Need to counteract the environmental factors that stimulated and facilitated the enormous expansion in hospital physical plant since the mid-1960's.

- The Rate Setting Commission should reinstate its efforts to replace the current provision of historical cost depreciation with a "capital allowance" for each hospital that would include the costs of principal on current indebtedness and provide funding for future capital replacement and, if necessary, expansion. The de-

velopment of such an allowance was initially intended to be one important component of the prospective reimbursement system being established for Massachusetts hospitals. Recently, the Commission has retrenched from this position, feeling that it lacks sufficient information on capital formation to make a compelling argument for changing current reimbursement policies. The vital role that this and earlier studies have shown such policies to play in contributing to hospital capital expansion suggests that a capital allowance is an important component of an effective prospective reimbursement system and should be developed as initially planned.

The role of "competition" versus regulation in limiting increasing medical costs.

In recent years, numerous voices have been raised against the failings of "command and control" regulation, and more "market-oriented" solutions have been advocated as a better means of overcoming the problems to which regulation has been addressed.[9] In the health care sector, the development of health maintenance organizations (HMO's) is the most prominent of the "competitive" strategies now being promoted.[10] Because the financial viability of an HMO depends upon careful control of the costs of hospital care rendered its enrollees, HMO's are sensitive to the price of hospital services in a way that individuals with comprehensive insurance coverage are not. Hence, if HMO's gain wide acceptance, hospitals may be forced to compete on the basis of price as well as product.

Nonetheless, it must be appreciated that at present HMO's still cover a small fraction of the population, that most physicians still are in fee-for-service private practice, and that the number of physicians is still increasing. It is widely recognized that physician utilization of hospital services is a major contributor to the total level of hospital costs and that the increasing number of physicians therefore has ominous implications for future increases in the cost of hospital care and indeed of medical care in general. The findings of this study have demonstrated, however, that while hospitals have expanded service and facility "capacity" in response to the "needs" of current and potential medical staff, the major decisions involving the timing and scale of expansion reside with hospital administrators and trustees. Therefore, capital expenditure and rate regulation designed to constrain the future options of hospital decisionmakers has the potential to exert considerable influence on physician behavior as well. Hence, the

continuation and indeed strengthening of existing hospital regulation offers an important instrument for limiting the future cost impacts of the growth in the supply of physicians.

Given the nature of the health services "market", therefore, the fostering of "competition" and the further refinement of regulation should be viewed not as alternative strategies but rather as complementary mechanisms to introduce some economic discipline into a sector that has largely operated without it.

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(PHS) 78-3187 Criterion Measures of Nursing Care Quality (PB 287 449)

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15. Supplementary Notes			

16. Abstracts

This study examines hospital capital investment among Massachusetts short-term general voluntary hospitals between 1967 and 1976, and assesses the impact of Certificate of Need (CON) regulation. A profile of capital expenditures for fiscal years 1967 - 1976 was developed from Massachusetts Rate Setting Commission data for 26 sample hospitals, stratified by teaching status and Boston versus non-Boston location. Case studies were conducted in nine sample hospitals to explore the determinants and consequences of major capital projects undertaken by the institution. Enormous capital expansion took place from 1967-76. Hospitals in areas of rapid population growth significantly increased their bed size; other hospitals replaced or modernized inpatient facilities, and expanded ambulatory care capacity. All hospitals significantly expanded their ancillary service capacity. With respect to the impact of CON regulation, the evidence revealed that by 1976 and beyond, CON review had reduced all dimensions of project scale and cost by as much as two-thirds of that originally proposed.

17. Key Words and Document Analysis. 17a. Descriptors

NCHSR publication of research findings does not necessarily represent approval or official endorsement by the National Center for Health Services Research or the U.S. Department of Health and Human Services.

Marianne Miller, NCHSR Project Officer, 301/436-8943

17b. Identifiers/Open-Ended Terms

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DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF PUBLIC ASSISTANCE
FY84 BRIEFING PAPER

I. GENERAL INTRODUCTION

The Division of Public Assistance (DPA) is responsible for administration of ten programs:

- Aid to Families With Dependent Children (AFDC)
- Old Age Assistance (OAA)
- Aid to the Disabled (APD)
- Aid to the Blind (ABL)
- Food Stamps
- General Relief
- General Relief Medical
- Catastrophic Illness
- Medicaid
- Energy Assistance

Several of these programs are funded wholly or in part with federal funds. These programs include AFDC (50% Federal), Food Stamps (95% Federal), Medicaid (48% Federal) and Energy Assistance (100% Federal). Food Stamp funding is not contained in the State budget. The remaining programs are funded entirely from state general funds. Along with the presence of federal money in these four programs comes a complete set of federal rules and procedures governing conditions of eligibility for benefits as well as rules for overall program operation.

The Division conducts business through a mixture of private vendor contracts and state staffed facilities. Most activities still administered by state staff are prohibited by federal law from transfer to the private sector. At present the Division has state staffed client service offices in (21) locations:

SOUTHEAST	SOUTHCENTRAL	NORTHERN	SOUTHWEST
Juneau	Anchorage	Fairbanks	Nome
Sitka	Valdez	Galena	Unalakleet
Ketchikan	Dillingham	Ft. Yukon	Bethel
Wrangell	Kodiak	Kotzebue	Aniak
Petersburg	Kenai		
	Wasilla		
	Palmer		
	Homer		

The Division also contracts for application-taking assistance in Barrow with the North Slope Borough and in Kotzebue through a similar arrangement with Maniilaq Association. Total Division staff authorized for FY83 is 299 positions.

In addition to these state and contractor operated client service offices, the Division has paid agents in approximately 165 additional communities around the State, bringing the total number of communities having local Division representation to approximately 185 locations.

The Division will serve approximately 25,000 families monthly during FY84. Since a large number of these families will access more than one of the Division's programs, the above numbers do not represent an unduplicated count of families to be served. A conservative estimate would place the unduplicated count of families who will receive aid during FY83 at 20,000 families consisting of approximately 45,000 persons, or roughly 11% of the State's population. One out of ten Alaskans will, by these estimates, seek some type of cash, food, medical, or energy assistance from the Division in FY84.

II. ADVISORY COMMITTEES

The Division also does business with four advisory committees. These include the Medical Care Advisory Committee, the Catastrophic Illness Committee, the Corrective Action Committee, and the Energy Assistance Committee.

1. The Medical Care Advisory Committee: Comprised of persons appointed by the Commissioner who provide policy and program guidance for the administration of the Medicaid and General Relief Medical programs.

2. The Catastrophic Illness Committee: A three member body appointed by the Governor who provide the Commissioner with policy guidance in the operation of the Catastrophic Illness Program, which is a sub-program of General Relief Medical.

3. The Corrective Action Committee: Comprised entirely of Division employees and is chaired by the Division Director. The Corrective Action Committee meets to review error data compiled by the Quality Control Section as well as from other surveillance sources, and develops appropriate corrective action to reduce the occurrence of these errors.

4. The Energy Assistance Committee: Appointed by the Commissioner to evaluate the Division's energy assistance plan.

III. DIVISION BUDGET OVERVIEW

The Division's FY84 total budget request is $164.6 million plus $24.0 million in Food Stamps benefits for a total of $188.7 million ($89.9 million SGF).$15.2 million or 8% finances the administrative activities of the Division. The remaining $173.0 million flows directly to needy Alaskans as cash ($60.9 million), food stamps ($24.0 million), medical care ($81.7 million), or energy assistance ($6.7 million). A comparison of Division administrative and program budgets between FY83 and FY84 is as follows:

Budget Category	FY83	FY84 Request
Human Services N.W.	$ 179.3	$ 179.3
Administration	14173.5	15183.1
Cash Assistance	56384.8	60851.5
Food Stamps	26500.0	24000.0
Medical Assistance	74355.9	81720.0
Energy Assistance	7208.6	6747.5
PFD Hold Harmless	12866.5	-0-
TOTALS	$191668.6	$188681.4

IV. QUALIFYING LEVELS FOR ALASKA'S PUBLIC ASSISTANCE PROGRAMS

The following table displays the FY83 income qualifying limits for the Division's programs compared to the poverty level. AFDC and APA benefits for FY84 will be approximately 6% higher.

Programs	1 Person	2 Persons	3 Persons	4 Persons	Based On Gross Or Net Income
FOODSTAMPS	636	844	1052	1260	Gross
AFDC	-	546	614	682	Net
AGED, BLIND AND DISABLED	546	802			Net
GENERAL RELIEF	300	400	500	600	Gross
ENERGY PROGRAM	851	1113	1375	1637	Gross
OMB POVERTY LEVEL	489	649	809	969	Gross

V. DIVISION PROGRESS REPORT

The Division was faced with serious problems from a number of quarters. These included:

- The AFDC payment error rate was at 30%.
- Decision timeframes for new applicants exceeded the federal standard of 30 days routinely, and in some offices reached 60 days or longer.
- The computer system which supported the client service offices and authorized monthly benefits was developed in 1968 and was near collapse.
- The state run medical payment system was taking up to 6 months to pay medical providers for medical services received by public assistance recipients.
- Recipient failure to report information to the agency was contributing to a mushrooming overpayment problem with inadequate field staff to impose tighter surveillance of recipients' financial circumstances.

The Division set out in 1979 to remedy these problems. The goals were:

- to reduce the level of overpayments to recipients and concurrently the high error rates,
- to place the agency on a solid legal footing through introduction of regulations and statute revisions,
- to upgrade the data processing capabilities supporting client service offices,
- to reimburse the medical community in a more timely and cost efficient manner by transferring the medical payment system to the private sector, and
- to accomplish this with as little harm to truly needy Alaskans as possible.

The Division accomplished these goals as evidenced by the following milestones:

- The Division successfully transferred the processing of medical claims to the private sector. Complete transfer was completed in August 1982. The present five year contract provides for processing of medical claims through 1987. The contract calls for a 20 day processing standard at one third the cost of the previous Department operated system.

- The Division is nearing implementation of its new data processing support for client service offices. This new eligibility system will integrate all ten of the Division's programs into a single data base. The system will permit on-line eligibility determination and benefit issuance from the central computer from any Division office by late 1983 and further improve client service.

- State regulations and policy manuals for each program have been adopted.

- Decision timeframes on new applications of 30 days or less have been maintained in all programs.

- AFDC, Medicaid and Foodstamp error rates are much improved.

- Major program reforms were implemented in AFDC and Food Stamps during 1982. Monthly reporting of financial circumstances, introduction of prior month budgeting, and requiring home visits have reduced error rates and caseloads.

VI. DIVISION CONCERNS FOR 1983

1. Error Rates

Improved quality in AFDC, Medicaid and Foodstamp eligibility determinations remains a top priority of the Division. To date federal expectations in each of these programs have been met or corrective action plans (CAP) been negotiated to achieve reductions. The Division entered a new penalty period in October 1982 that brings with it the following payment error rate expectations for the next 12 months:

Program	Current Error Rate	Required Error Rate
AFDC	11%	4%
Food Stamps	23%	21%
Medicaid	1%	5%

An important factor in the error rate calculation is that all client caused errors, such as failure to report information, are counted against the State when assessing its error rate.

2. AMPS Performance Improvement

The new Alaska Medical Payments System (AMPS) must continue to be improved to foster a better relationship between the medical community and low income Alaskans needing medical care.

3. Eligibility Information System (EIS)

The detailed design of this new automated eligibility system has been completed. This new system will reduce much of the risk of agency caused error in the eligibility determination process, and greatly improve service timeframes to Alaskans around the State.

4. Food Stamp Mail Issuance Losses

A new federal rule has been established setting a mail loss limit of .5%.

Under federal rules Alaska has the option of sending households an Authorization To Purchase (ATP) card which can be exchanged for food stamps at a client-service office or U.S. Post Office, or the State can mail households their food stamps directly.

The Division currently mails food stamps directly to all recipients monthly except those residing in Anchorage. Anchorage residents are issued an ATP which is exchanged for food stamps at the Post Office. Alaska has periodically experienced a high loss level with the direct mailing of food stamps. Fairbanks residents were removed from direct mail for a period of time for this reason but are now back on direct mail. Because of the rural nature of many addresses, mail losses have at times exceeded 1%. This loss rate must be watched routinely to avoid State repayment of any loss amounts that exceed .5%. Backup delivery methods have been designed in the event that direct mail creates losses above the .5% level. These backup measures should be deployed if needed.

5. Food Stamp Rural Allotment

Alaska must push for implementation of a rural Food Stamp allotment. Since 1973 the State has been lobbying the U.S. Department of Agriculture (USDA) and the U.S. Congress for a higher food stamp allotment for rural Alaska. The State has demonstrated repeatedly that rural food costs exceed urban costs by 40% or better. Congress gave USDA the authority to create the 2nd standard in Alaska in 1981. USDA has failed to implement this law thus far even though the State defined the geographic areas to be affected.

6. HB174 Implementation

During the 1982 Session the Legislature passed HB174 which provided for an increase of approximately $50 monthly to most AFDC families but no funds were appropriated. This increase was to be in addition to the 7.4% annual cost-of-living increase also given AFDC families on July 1. The purpose of HB174 was to close the gap between the payment levels for two adults receiving APA and two individuals on AFDC. In view of this, Governor Hammond advised the legislative leadership that HB174 would be implemented within available funds. The Division has concluded that funds are available to implement HB174 safely effective January 1, 1983. The Division has published regulations proposing to do this. In excess of $2 million has been included in the FY84 AFDC request in anticipation of this increase in AFDC grant levels. A final decision is pending whether to effect this increase in FY83, or to wait until FY84, or to forego the increase altogether if funds for FY84 are determined not available in view of the constitutional spending limit.

7. Medical Budget Projections

The Department has perpetually had problems predicting spending levels in this category. While projection models for administrative and cash assistance budgets generally were reliable, prediction of medical costs were not. Most states have a problem similar to Alaska's. Several changes will improve the Division's ability to predict the medical costs for a fiscal year and to remain solvent in times of trouble:

(A) Shift Medicaid and GR Medical expenditure accrual from "month of service" to "month of billing". Under the present system a fiscal year is nearly over before the Division can safely predict its outcome.

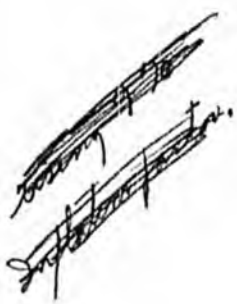
(B) Consider adoption of uniform cost reporting and prospective reimbursement for hospitals and nursing homes. Hospital and nursing home expenditures comprise 54% of the medical budget.

(C) Consider new Medicaid regulation requiring all non-emergency hospital admissions be reported to the Department in advance. In its simplest form this requirement would generate needed information to permit total program liabilities to be more closely watched.

8. Strategy to Contain Escalating Medical Costs

In any period, total spending is always a function of the number of recipients, the volume of services used, and the unit price of service. With an automatic cost-of-living increase that expands Alaska's eligible population, coupled with no unit price control or volume limits, Alaska currently has no ability to effectively control growth in medical costs.

According to a recent study by THE URBAN INSTITUTE, Medicaid payments rose at an annual rate of 15.5 percent from FY73 to FY79 nationally. Alaska had the highest annual rate of increase at 41.8 percent during this same period. Since, FY79 costs have increased in excess of 20% annually in Alaska.



This situation will be further complicated in FY84 and later years in light of Congress' actions to reduce Medicaid funding to all States (TEFRA changes). Alaska is facing a 4 to 5 million dollar shortfall in FY84 because of these federal changes. Absent additional funding to replace these lost federal/State revenues, critical decisions need to be made to bring program spending in line with available federal/State resources.

This decision process must arrive at an equitable balance between persons eligible, covered services and unit price for services received, particularly hospitals and nursing homes. All of these choices are largely controlled by the Alaska Legislature. This decision process will also cause the State to more precisely define its health care policy for all areas of Alaska, particularly in rural areas where the delivery of health care cannot be accomplished as competitively in large urban areas with more than one hospital.

9. General Relief Program Review

This state funded program is not meeting the emergency subsistence needs of employable Alaskans. Strict income requirements and a demonstrated need (such as an eviction notice) must be met. If eligible, a maximum monthly payment of $80 per person is allowed by state statute. The Division makes these payments to landlords and utility companies to ensure only critical subsistence needs are met. Participation in this program has declined, even though the BIA General Assistance program was terminated. An analysis of this program is critically needed to determine if changes in qualifying conditions and benefit levels are appropriate. No changes have been made in the qualifying limits since 1978, and the $80 payment limit since 1957.

10. Catastrophic Illness Program

This program was funded at $2.1 million for FY83 but has requests totalling $8-10 million. Any individual with unpaid medical bills of $1000 may apply. The Catastrophic Illness Committee determines the eligibility formula and may adjust it as frequently as necessary to stay within available funding. Under the current formula, the FY83 program is already out of funds. A complete review of this program is also in order.

11. Work Programs

Considerable debate continues as to the type of work programs that should be imposed on Alaska public assistance recipients, if any. Options range from merely registering for employment to requiring every able-bodied recipient to perform some type of public service employment. Because of Alaska's conservative set of public assistance programs, and the lack of two parent, unemployed households on assistance in this State, the Division has recommended that a mandatory public service program not be adopted in Alaska. Rather, the Division has recommended an emphasis towards job search and job training with built-in program disincentives for recipients who refuse to cooperate. The following elements are essential to a meaningful program in Alaska within an acceptable administrative cost:

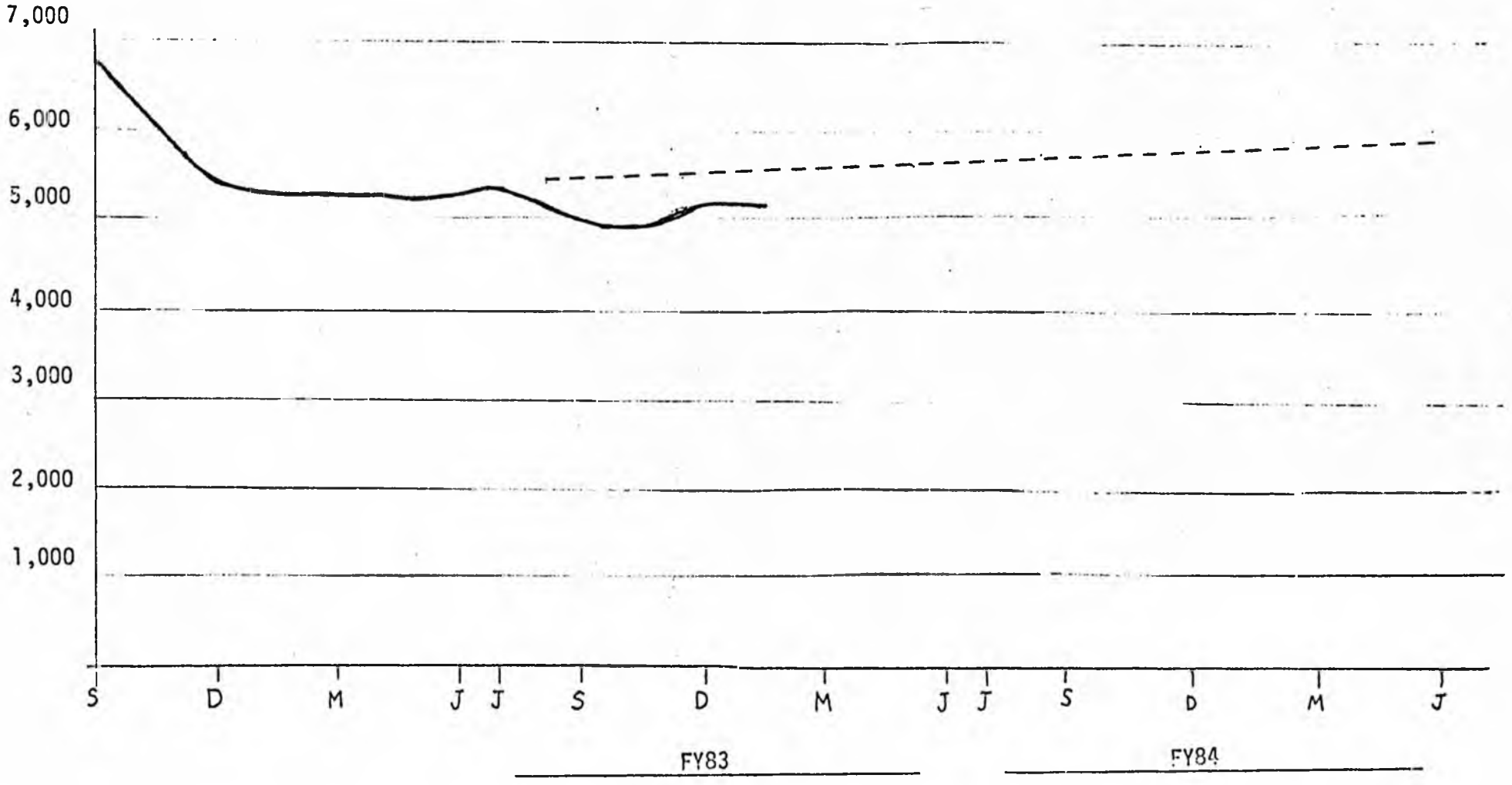
(a) Focus on high availability jobs
(b) Constructive not punitive in nature (Rules out CWEP)
(c) Establish client motivation through AFDC program disincentives for those who do not cooperate
(d) Prepare client to compete with non-welfare job applicants
    - Resume preparation
    - Effective job search skills
    - Develop a marketable skill through training or education
        ** typing
        ** key punching
        ** general clerical
        ** day care
    - Effective job interview skills
    - Agency follow-up on unsuccessful interviews to determine why
    - Client preparation to leave AFDC/Medicaid once employed
(e) Coordination with State and private job placement agencies
(f) Contracts for OJT leading to permanent position with private agencies

(g) Minimal surveillance burdens on agency - low state staff needs
(h) Coordination with day care agencies/homes for school age kids
(i) Recipient workshops - allow successful recipients to enlighten and encourage others
(j) Fair good cause system for clients who do not cooperate
(k) Pilot project experience

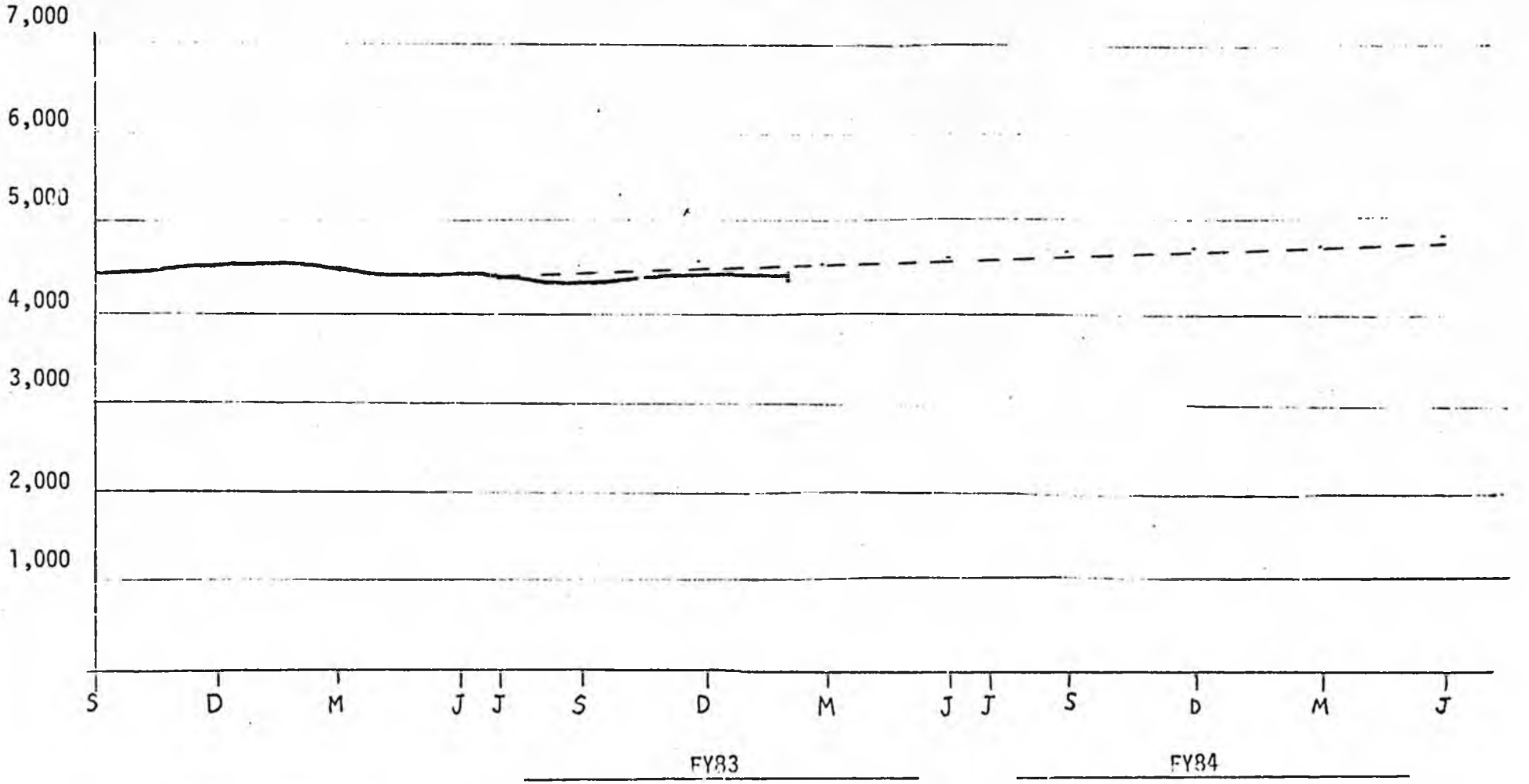
12. APA Federalization

The State is in a position to consider federal administration of its aged, blind and disabled programs. Although these three programs were federalized in 1974, Alaska and a number of other states continued to operate their programs because the uniform national payment was below that previously received by recipients in these states. As a result, there is a great deal of duplicate administrative effort, conflicting information and other problems which could be avoided if the State part of the program were federalized as well. The Division commissioned an analysis of this issue. The final report will be available by March 1, 1983 at which time the Department will consider the merits of complete federalization from both an administrative and program perspective and then make a recommendation to the Governor.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)
Caseload analysis Sept. 1981 thru June 1984



ADULT PUBLIC ASSISTANCE PROGRAMS
Caseload analysis Sept. 1981 thru June 1984



ADULT PUBLIC ASSISTANCE (APA) :

OLD AGE ASSISTANCE (OAA)
AID to the BLIND (ABL)
AID to the DISABLED(APD)

——— APA ACTUAL CASELOAD Sept. 1981 thru Feb. 1983

----- APA PROJECTED CASELOAD FY83 and FY84

Division of Public Assistance

FY84 Contracts/RSA

BRU	Component	Contract	FY84 Amount
PA Admin	Admin	Dept. of Law	$ 51.4
PA Admin	Admin	AMPS	736.2
PA Admin	Admin	AMPS Reports	43.4
PA Admin	Admin	TPL Collections	40.0
PA Admin	Elig Det	Fee Agents	149.7
PA Admin	Elig Det	Loomis	207.7
PA Admin	Elig Det	North Slope	81.7
PA Admin	Elig Det	U.S. Post Office	139.0

	FY83 Projected Without SB817	FY83 FCC With SB 817	FY83 Base Revised 10/1/82	FY84 Factor	FY84 Request	% Increase FY84 vs FY83 FCC
Medicaid	$48,923.5	$64,924.5	$61,933.4	12.7%	$69,809.8	7.5%
GR Medical	$14,625.8	$7,931.4	$10,392.8	14.6%	$11,910.2	50.2%
Total	$63,549.3	$72,855.9	$72,326.2	13.0%	$81,720.2	12.2%
(State)	(37,232.0)	(36,413.8)	(37,320.1)	14.2%	(42,604.8)	17.0%
(Federal)	(26,317.3)	(36,442.1)	(35,006.5)	11.7%	(39,115.2)	7.3%
Comments	Estimated costs of medical care for FY83 if SB 817 had not been passed by the 1982 Alaska Legislature. SB 817 moved all low-income children into the Medicaid Program out of GR Medical, among other changes.	Revised FY83 estimate taking SB 817 into account. Several key assumptions made: 1. $1.5 million would be later added to $7.9 million GRM from Federal Budget Impact Fund. 2. Prescription drugs would be paid out of Medicaid, not GRM. 3. SB 817 would be implemented on 7/1/82 for 12 month cost savings. 4. Adult medical care would be provided under GRM for persons not eligible for AFDC, OAA, ABL or EPD. If funding fell short, services would be reduced.	Latest FY83 estimate showing full costs of Medicaid and GRM. Assumptions include: 1. $1.5 Federal impact money assumed part of $10.3 GRM base. 2. Drugs moved back into GRM ($1 million). 3. SB 817 implemented 10/1/82 not 7/1/82. Based on these assumptions the total FY83 medical cost expected exceed authorized State funding by $906.3 if the federal impact funds are not made available.	Factors vary by type of medical service in Medicaid and GRM. These factors are a composite for Medicaid and GRM.	Estimate of medical costs for FY84 with following assumptions: 1. Medical care costs will increase at 9%. 2. Caseloads and therefore persons covered will increase at 6%. 3. No limits will be applied to rate of increase in hospital or long term care rates.	The Department seriously questions the forecast of a 9% increase in medical costs for FY84. Preliminary information from the hospital association indicates their facilities are expecting increases in costs ranging from 12% to 16%.

23 CONTINUED 2

AGENCY Health and Social Services

PROGRAM Public Health

BRU Medical Assistance BRU

COMPONENT

Page 5 of 5

Revised Date

FY 84

001300

01 1154 (7.82) - 23

FDIJ

- STATE REVENUE SHARING
  25% CAPITAL CONSTRUCTION
  $20,000 OPERATIONS

- MEDICAID

- 3rd PARTY PAYMENTS

- BLUE CROSS JOAN GAUMER, MARTIN TIRADOR

- AETNA

CURRENT BUDGET

* DOCUMENT= 1 OF 1 PAGE = 25 OF 36

MENTAL HEALTH ADVISORY COUNCIL AND LAND BOARD

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
16,200			

SPECIAL PROJECTS AND GRANTS (3 POSITIONS)

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
427,300			

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
	711,700	461,300	250,400

HEALTH PLANNING & DEVELOPMENT (10 POSITIONS)

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
	525,300	260,900	264,400

CERTIFICATION & LICENSING (6 POSITIONS)

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
327,800			

* DOCUMENT= 1 OF 1 PAGE = 26 OF 36

ADMINISTRATION (4 POSITIONS)

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
169,700			

HEALTH PLANNING COMMITTEE (1 POSITION)

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
64,200			

HEALTH SYSTEMS AGENCY GRANTS

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
150,000			

COMMISSIONER'S OFFICE

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
	860,300	860,300	

COMMISSIONER'S OFFICE (11 POSITIONS)

APPROPRIATION ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
860,300			

GAO STUDY - competitive strategy

CON - Restricts competition

MEDICAL MARKETPLACE

with KEY ELEMENTS. MARKET PLACE will OPERATE EFFECTIVELY. KEY ELEMENTS ARE:

1. A LARGE NUMBER of buyers AND sellers
2. CONSUMERS must bear CONSEQUENCES of bad DECISIONS
3. SELLER MUST be able to LEAVE OR ENTER the MARKET FREELY

Differences from ECONOMIC model in MEDICAL MARKETPLACE

1) THIRD PARTY PAYMENTS REMOVE CONSUMER'S RESPONSIBILITY for FISCAL effect of their ACTIONS. IN 1981 only 32.1% of HEALTH CARE USERS paid for their own treatment
2) BECAUSE of COMPLEXITY of HEALTH CARE, CONSUMERS are NOT AWARE of CONSEQUENCES OR OPTIONS re: HEALTH CARE. 70% of HEALTH CARE EXPENDITURES are INFLUENCED by PHYSICIANS.
3) # of PROVIDERS is SMALL in SOME MARKETPLACES i.e. RURAL AREAS - ALASKA IN GENERAL
4) RESTRICTIONS to entry into MKTPLCE - licensing of NURSES; PHYSICIANS, FACILITIES VIA CON, possibly by STATE FUNDING.

TABLE 1 - good on competition.

JAN 31 1983

PROVIDENCE HOSPITAL

SISTERS OF PROVIDENCE

SERVING IN THE WEST SINCE 1856

3200 PROVIDENCE DRIVE - POUCH 6604
ANCHORAGE, ALASKA 99502
PHONE: (907) 276-4511

January 26, 1983

The Honorable Bette Cato
Alaska State House of Representatives
State Capitol
Pouch V
Juneau, Alaska 99811

Position Paper on HB 19 and a companion bill being submitted to the Senate -- pertaining to an "Act repealing the certificate of need program."

Dear Representative Cato:

Providence Hospital joins the rest of the hospitals in this state in requesting the repeal of the certificate of need law and endorsing House Bill 19 (Fritz and Hayes) and the companion bill about to be submitted to the Senate. The process which this law sets in place is cumbersome and wasteful and totally inappropriate for Alaska.

The major impetus for the law was to control excess hospital beds in many large cities and to help control rising health care costs. The belief was that by controlling the number of beds, capital expenditures and new services, costs would be contained. The results have been much less than desirable throughout the country, and, in Alaska, have been needless, wasteful, cumbersome and costly.

The lack of success in Alaska is better termed overkill. Designed for areas of heavy population, excess hospital beds and competition, the law does not work and is inappropriate for our small state for several reasons:

- The law only covers private facilities, and does not cover public health, military or state owned institutions.

- Alaska has only one city with more than one hospital, and there are only three hospitals in the whole state (eligible for review) of over 100 beds.

- The law is reactive to existing decision making processes. Hospitals in Alaska already have local public review and approval designed in their own budget review processes. Many hospitals are owned by

municipalities, and all have governing boards or advisory boards of local citizens. These citizens and municipalities should have control of the expansion and budgetary decisions of their own institutions. Several other layers of bureaucracy and review are cumbersome, costly and inefficient. For our Certificate of Need, the following is an actual review cycle showing the different bureaucratic levels we had to go through just to have a decision made on one project.

Letter of intent to file certificate of need

Pre-application conference (HSA, Municipal Health Commission, State)

Public Hearing on Certificate of Need Application (State)

Joint Project Review (HSA and Municipal Health Commission)

Concurrent Review (HSA and Municipal Health Commission)

Board Review (Municipal Health Commission)

Board Review (HSA and Southcentral Health Planning & Development Agency)

Commissioner's Review (State)

From the time of holding the application conference to the ultimate decision by the Commissioner, the process has taken over a year.

- The law places a costly burden on all institutions who have to prepare and submit Certificates of Need. The documents which need to be prepared are massive, require hundreds of hours of preparation and at least 35 each need to be produced for the review boards and other parties. The 110 day minimum time period for a review is unrealistic, and often times, the institutional cost of delaying implementation means an eventual increase in price of the piece of equipment or construction project due to inflation.

- The law also passes on a cost to the public in that state, regional and local staff are needed to coordinate the program, prepare staff analyses and hold public meetings. We are estimating that the cost of state, regional and local staffs have increased the cost of health care by at least $8,000,000 in the last six years.

- The dollar limit for what must be reviewed is absurdly low. In 1982 alone, Providence spent hundreds of man hours and other monies preparing six CON applications for such things as a $167,000 replacement incinerator (the old one being 25 years old was required to be replaced by both State and EPA codes!); a CT scanner and Cath lab replacement; and a $250,000 computer enhancement for an x-ray machine. Believe it or not, the STATE did not give approval on the incinerator until the 90th and final day for a decision to be made.

The Alaska State Hospital Association is unanimous in endorsing the repeal of the CON law. We have also received indications from several legislators and the Alaska Medical Association that repeal of the CON law would be best for a growing state such as Alaska.

We are supportive of local planning for Alaska's health care needs. The process, however, should be positive and proactive -- encouraging institutions to respond to needs in the community -- not negative, reactive and cumbersome.

Your support in repealing the certificate of need law in Alaska would be appreciated. With an early response and passage of HB 19 or the companion bill in the Senate, a tremendous and costly burden will be lifted from Alaska's hospitals.

Thank you for your consideration.

Sincerely,

Al M. Camosso
Administrator

1982-CURRENT

145.83 [Repealed, 1979 c 323 s 16]

145.831 [Repealed, 1979 c 323 s 16]

NOT REPEALED - DAVE

MINNESOTA CERTIFICATE OF NEED ACT

145.832 PURPOSE; CITATION.

Subdivision 1. The legislature finds that the unnecessary construction or modification of health care facilities increases the cost of care and threatens the financial ability of the public to obtain necessary medical services. The purposes of sections 145.832 to 145.845 are to promote comprehensive health planning; to assist in providing the highest quality of health care at the lowest possible cost; to avoid unnecessary duplication by ensuring that only those health care facilities and services which are needed will be developed; and to provide an orderly method of resolving questions concerning the necessity of construction or modification of health care facilities.

It is the policy of sections 145.832 to 145.845 that decisions regarding the construction or modification of health care facilities should be based on the maximum possible participation on the local level by consumers of health care and elected officials, as well as the providers directly concerned.

Subd. 2. Sections 145.832 to 145.845 may be cited as "The Minnesota Certificate of Need Act."

History: *1979 c 323 s 1*

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.833 DEFINITIONS.

Subdivision 1. As used in sections 145.832 to 145.845, unless the context otherwise requires, the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Health care facility" means any facility licensed under sections 144.50 to 144.56, or any nursing home licensed under sections 144A.02 to 144A.11; but does not include any facility licensed under sections 245.781 to 245.813 or 252.28, unless the facility is a vendor of medical care under section 256B.02, subdivision 7, and is certified as any type of intermediate care facility or skilled nursing facility or is operated by the commissioner of public welfare as a state hospital. "Health care facility" also includes any facility in which services are provided primarily for the treatment of kidney diseases.

Subd. 3. "Health services" means all clinically related services, diagnostic, treatment or rehabilitative, that are cost centers utilized by a health care facility for its accounting purposes. The cost center shall conform to definitions of cost centers recognized by generally accepted accounting principles and shall conform to the cost center definitions utilized in reports of the facility, or organization to any other state agency or program. The cost centers include alcohol, drug abuse and mental health services.

Subd. 4. "Predevelopment activity" means any activity by or on behalf of a health care facility or any person which occurs in preparation for the offering or development of a new institutional health service if the predevelopment activity would require an expenditure in excess of $150,000 or if the predevelopment activity involves any arrangement or commitment for financing the offering or development of a new institutional health service.

Subd. 5. "Construction or modification" means:

(a) Any erection, building, alteration, reconstruction, modernization, improvement, extension, lease or other acquisition, or any purchase, lease or other

COMMITTEE REPORT

HOUSE

FURTHER:

Date: _____

Mr. Speaker:

The Committee on _____ has had _____

An Act repealing the certificate of need program; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mike Davis Do not Pass

CHAIRMAN

H 60

SOURCES OF HOSPITAL FUNDING

Ak statue: 25% construction cost reimbursement AS 29.90.010

$250,000 or $2500 per bed operating grant

Capital budget process through legislature funds major construction.

Tax free bonding capability via Alaska Medical Facility Authority provides access to lower rates on bonds.

Approximately 30 to 42% of hospital revenues are from state and federal funds.

State medicaid has risen from a 2 million dollar program in 1972 to 70 million dollar program today.

2-25-83 9:40 AM

MAE-MICO:

ENTITLEMENTS OUTSTANDING AS of JULY 1, 1983
(FY84) 25% Hospital REIMBURSEMENT

FAIRBANKS MEMORIAL	1,215,281	1 YR REMAINING
JUNEAU DETOX FACILITY	75,059	3 YRS REMAINING
KENAI - CENTRAL PEN. HOSPITAL	2,167,338	4 YRS REMAINING
#	3,457,678	

Proposed Amendment to SSAB 19

By Dem. H

Section 4 AS 29.90.010 - 29.90.030 is Repealed

Section 5. Those hospitals or health facilities which are currently receiving funds pursuant to ~~sections~~ AS 29.90.010-29.90.030 shall continue To receive construction AID AS Though AS 29.90 were not repealed until its entitlement is satisfied. No new applications shall be received a processed after the effective date of this legislation

Dorothy Tururan - FBks citizen
Speaks against repeal:

Dennis DeWitt - Pres Ak St. Hosp. Assn
Supports the repeal:
will reduce consumer costs
Medicaid
Cost of care containment has not occurred

Susan Callan - Health System Agency
Speaks for repeal: or raise thresh. to Fed. Regs.
& tie it to inflation

Peggy Wilson - Staff to Health Resources System Agency.
Speaks against repeal:
Ak av. cost $409
St of ~~Wash~~ Wash. - 262

John Puah (Peno) / Phoebe Lindsay - D.H.S.S.
Supports Repeal: Must look at the following in Relationships
1. Medicaid.
2. C.O.N.
3. Health Care Cost
4. Capital Budget - tighter review process.
5. Revenue Sharing - Capital projects
all requests for funding goes thru C+RA.
repeal should be in conjunction with review capital process.

1. no competition
2.

Elaine Sitka - Art Wilman

Bonnie - Observer - Ketchikan - John Manning (SE. AK Health agency)

Barbara - Anch - Susan Callan Health Systems agency
Peggy Wilson

Tom Mingen - FBks Memorial Hospital Administrator
speaks for repeal: expensive, cumbersome, delays construction which is expensive daily, short building season, public input by Hospital layboards. State has not saved $. Medicaid population $ haven't increased. The # of recipients + services have increased

Question: Banker -
60% State $

Dr Bierne:
Speaks against Repeal:
Wants Modification (Major) upward of $ of thru amendment, to $1 mil

Art Wilman - SE. AK. Health Systems agency
Speaks against Repeal: agrees w/ Bierne
The law + regs are to cumbersome but gives some control by citizens. threshhold to $1.5 mil.

Tirador - Blue Cross
Speaks against repeal: will increase care costs, recommends capital thresh to $1 mil.
Remove some juris. by State agencies.
streamline process, use of local health committees, one agency to make recommendat to Grantor ie Planning + Develop.

Rep Clarkson – Speaks against

no cost controls
- not a free market
- Consumer indifference
- high cost of Technology.
- Lack of info in the consumer info

now state has repealed – only sunset Provisions

Cost to State – $250,000 FY84

Lack for documentation from witnesses on "Costs" of CON.

Studies show 2/3's in savings w/ CON.

Anch – projected need Bed capacity 575 beds to 606 beds

692 total if CON approved w/ Humana + Providence

Waste of Taxpay $

Humana – " will build w/out taxpay funds

but 30% revenue rec'd from Bed occupancy.

Medicare etc

Per bed
$196 mil Providence – 250 added Beds 186 mil $206
$150 thou Humana – 200 ad. beds 50 mil $161

$ Medical Care in State – $ 15B mil paid under CON

22 mil = 25% Construction re-imburse

7.5 mil – Operating

Medicaid, Corrections, etc

Proposed Substitute:

Increase Threshold to Fed law or above

$ 400 thou – Equip

$ 600 thou – Construction

Exempt – any replacement of Equipment

Non-Medical equip + Construction

Any purchase or expense to meet fire + other codes

1. Simplify + streamline CON
2. Impose deadline Commissioner decision
3. Do the health care input adequate

Establish a rate review Council - Tough
Type Tie appropriate w/ approval.

Dennis DeWitt -

719 Beds established

~~Consultant~~

Mr Davis - Providence occupancy 80% overall

Consultant -
beds filled

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: February 25, 1983

TIME: 1:00 pm

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

SSHB 19 An act repealing the certificate of need program.

Other notes or reminders:
Announce / Ask Committee about Confirmation Hearings

Monday, February 28, 1983

HCR 17	Relating to the state medal for heroism.
HJR 27/ SJR 11am	Relating to health care delivery to non-Native dependents by the U.S. Public Health Service.
HB 117	An act relating to sexual abuse of a minor.
HB 127	An act to increase punishment for sexual assault in the first degree.
HB 128	An act raising penalties for promoting child prostitution.

MAE —

FEB 16 1983

CERTIFICATE OF NEED:

REVISION OR REPEAL

Prepared in
the
Public Interest
by
the

ALASKA HEALTH COALITION
February, 1983

Alaska Health Coalition

529 5th Avenue, Suite 8
Fairbanks, Alaska 99701
(907) 456-2553

February 11, 1983

FEB 16 1983

TO: Members of the Alaska Legislature

Proposed legislation (HB 19 and SB 85) would repeal Alaska Statute 18.07.031-18.07.111, better known as the Alaska Certificate of Need (CON) law. These bills reflect the position of the Alaska Hospital Association, whose member institutions are subject to the provisions of the CON process. The attached paper, developed by the Alaska Health Coalition, was written to provide legislators and the public with a series of alternatives to consider during discussion of these important bills. The paper summarizes the provisions of the CON law, discusses several of the problems which have been identified with the current process, and reviews the effectiveness of the CON program, both nationally and within Alaska. In addition, a list of recommendations is provided for consideration in revising the current CON law.

The Alaska Health Coalition is a group of interested citizens with memberships from the three Alaska Health Systems Agencies and the Statewide Health Coordinating Council. The primary purposes of the Coalition are to review the need for health planning, development, and promotion activities and to develop goals, describe functions, and recommend structures to achieve optimal health for the citizens of the state. Therefore, we believe that the subject of public review of capital expenditures as currently provided for in the Certificate of Need law is an important issue which deserves a reasonable, objective discussion. We present this paper for the purpose of initiating this discussion.

For additional information, please contact any of the following organizations: Northern Alaska Health Resources Association, Fairbanks (456-2553); South Central Health Planning and Development, Anchorage (278-3631); or, Southeast Alaska Health Systems Agency, Ketchikan (225-9681).

Best regards,

Chas M. Kaltenbach

Charles M. Kaltenbach, Dr. P.H.
Chairman

CMK:sem

Enclosure

Coalition Members

J. B. Carnahan, Fairbanks; Joseph Cladouhos, Juneau;
Charles Kaltenbach, Dr. P.H., Fairbanks; Steve Lesko, Anchorage;
John Manning, Ketchikan; Lillie McGarvey, Anchorage; Art Willman, Sitka; Margaret Wilson, Anchorage

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EXECUTIVE SUMMARY

Alaska's Certificate of Need (CON) Law was enacted by the State Legislature in 1976, following passage of Public Law 93-641, the National Health Planning and Resource Development Act of 1974. Provisions in the CON law require that non-federal health care institutions apply for and receive a Certificate of Need from the State of Alaska before proceeding with major capital investments which will result in new construction, alterations or renovations, and/or new services. The Thirteenth Alaska Legislature currently has before it companion bills, HB 19 and SB 85, which provide for repeal of the CON law. The purpose of this paper is to review the data available on the effectiveness of the CON process, both nationally and within the State of Alaska, and to present alternatives for consideration by the Legislature regarding public review of capital expenditures for health care facilities.

Evidence is presented that the CON program has had an effect on limiting the amount of capital expenditures. Furthermore, current economic research has demonstrated that, for every dollar of capital investment made in a health care facility, an accompanying increase in operating costs can be expected amounting to 184% of the original investment in ten years.

Evidence gathered on Alaska's experience with the Certificate of Need program indicated that it has been effective in deterring and/or guiding capital investment within the health-care industry and has stimulated improved planning within the health-care institutions themselves. Examples are presented which illustrate how the process created this impact.

Several issues are discussed relating to recognized concerns within the current CON process. These issues include: 1) costs attendant to developing a CON application; 2) delays in the review process; 3) loss of community control; 4) marketplace economics; and, 5) the dollar-threshold limits which require a CON.

The conclusion drawn from this review was that, although there are problems with the current CON process, revision of the law is preferable to outright repeal. Recommendations for revision of the law are provided and include:

1. Raising threshold levels.
2. Exempting non-clinical capital expenditures.
3. Expediting reviews of equipment replacement.
4. Specifying time limits on reviews.
5. Providing legislators with information on the outcome of reviews in their districts.
6. Providing for a sunset review of the process.

CERTIFICATE OF NEED PROGRAM

PURPOSE

The most controversial aspect of the health planning effort, in Alaska and nationwide, has been the Certificate of Need (CON) program. Borrowed from public utility regulations, the earliest CON program was enacted by New York in 1964. Twenty-six other states instituted CON programs in the next ten years, and, with the passage of Public Law 93-641, CON was mandated for all states. Alaska's Certificate of Need statute (18.07.031-.111) was enacted by the State Legislature in 1976 and amended in 1981.

As originally designed, the CON program was implemented to curb rapidly escalating costs of health care by stemming uncontrolled capital investments in new health-care facilities, services, and high-technology equipment. To accomplish this goal, the CON program had several primary objectives: 1) to prevent unnecessary duplication of services and facilities; 2) to reduce the number of available hospital beds or at least not allow the growth of hospital beds to exceed guidelines established in the State Health Plan; 3) to promote an equitable and efficient allocation of resources; and 4) to determine if less costly alternatives to expensive capital expenditures were available to accomplish the same purpose.

WHO MUST APPLY

The State of Alaska requires approval of capital expenditures for projects which meet or exceed certain thresholds:

1. Capital expenditures in excess of $150,000 toward building, improving, or purchasing a health care facility, including lease or purchase of equipment, costs of any study surveys, designs, and site acquisitions and preparations.

2. Any change within a two-year period in the licensed bed capacity of a health care facility amounting to 10 beds or 10 percent, whichever is the lesser, which increases or decreases the number of beds or redistributes beds among different categories of service.

3. Any addition or elimination of a major type of service offered in or through the health care facility.

A project meeting or exceeding these thresholds is required to obtain a Certificate of Need from the State of Alaska prior to implementation.

THE PROCESS

An applicant enters the CON review process by submitting a "Letter of Intent" to the Department of Health and Social Services (DHSS) and to the appropriate health systems agency describing briefly the scope of the proposed activity. If the DHSS determines that the project is subject to CON review, the applicant develops a formal application and submits it to the State agency and the regional health systems agency. In most cases, a pre-application conference is scheduled with the applicant to minimize any potential misunderstandings and to achieve an agreement on what would represent a successful application. Once the State agency certifies that the application is "complete" -- that it contains sufficient information necessary to conduct an objective review -- the agency has 90 days to review the application and to submit an analysis to the Commissioner of DHSS for final action. Within the 90-day review period, the regional health planning agency has 60 days to review and seek public comments on the appropriateness of the proposed application. The HSA submits its findings and recommendations to the Commissioner. Once the Commissioner has considered the information that has been submitted, he decides whether or not to issue a Certificate of Need to the applicant. The Commissioner notifies the applicant in writing of the decision. Copies of the decision are sent to the Health Systems Agency and are published in regional newspapers.

EFFECTIVENESS

Nationwide

Nationally, credible information is just beginning to emerge regarding the effect of capital expenditures review. Although this topic has been of interest for many years, much of the early literature is of little value because of a basic lack of understanding about the process and outcome of capital expenditure review programs.[1] Two recently completed studies in the State of Massachusetts have reported CON impacts.[2,3] The first analyzed hospital capital investment among short-term general voluntary hospitals between 1967-1976. The results were that, by 1976 and beyond, CON review reduced all dimensions of project scale and cost by as much as two-thirds of that originally proposed. The second study found that the formal and informal actions of the CON agency from 1972-1976 resulted in small, but statistically significant, reductions in the rate of hospital investment.

Two studies conducted in 1982 by Arthur D. Little, Inc., shed additional light on the potential impact of capital expenditures review.[4,5] The first study analyzed the effect of capital expenditures review decisions in five states: Colorado, Florida, Maryland, Massachusetts, and Oregon (chosen for their geographical and regulatory differences). Based on their analysis, CON programs appeared to be effective in limiting the amount of capital expenditures undertaken. Furthermore, they discovered that, for every dollar of capital investment, there was a definite increase in operating costs. They projected that, over a ten-year period, a dollar of capital investment generates additional operating costs with a present value of $1.84 (exclusive of

depreciation and debt service). They concluded from these results that CON programs have the potential to play an important role in curbing hospital cost inflation.[4]

A second report by Arthur D. Little, Inc., involved an analysis of information from a six-state study.[5] For the states of Virginia, South Carolina, Washington, New Jersey, Iowa and Colorado, Arthur D. Little undertook a review of Certificate of Need programs for the twelve-month period beginning July 1, 1979 to June 30, 1980. Three significant findings were reported: 1) certain capital costs were not incurred as a result of the CON review program; 2) the objectives contained in individual state plans and health systems plans tended to deter capital expenditure projects; and, 3) pre-application conferences -- health planners and providers working together to avoid project denial -- were effective means of reducing the "administrative costs" of the review process as well as excessive capital expenditures.[5]

Alaska

Currently (February 1983) there are five projects under review by the Department of Health and Social Services that total $106,000,000. Two additional applications are anticipated, totalling $20,820,000. These seven applications ($126.8 million) provide an interesting contrast with the more than 30 projects which were approved for $149,000,000 in the previous five years (1977-1982).

Two projects with a combined total of $12,400,000 have been denied during the past five years. In addition, several other Letters of Intent have been received by the Department for which applications were never received. It is impossible to estimate how many applications or letters of intent were never submitted because of the presence of the CON law.

The Alaska CON Program has been effective in accomplishing three things. First, it seems reasonable to expect that CON has deterred misdirected projects that could not withstand the test of public scrutiny. It has, therefore, acted to uphold existing plan standards. Secondly, it has guided institutional actions into areas which are compatible with the goals and objectives of the State as reflected in State and regional health plans. Thirdly, the presence of the CON program has promoted better planning on the part of the health care institutions throughout the State.

Deterrent Effects

Although the deterrent effect of Certificate of Need is admittedly difficult to demonstrate, there is evidence from the number of "Letters of Intent" which never resulted in an application that CON is a deterrent. A specific example of this phenomenon was observed during a recent effort by four different applicants to provide inpatient alcoholism treatment services in and around Anchorage. The Department of

Health and Social Services and the local health systems agency identified a need for 40-80 alcohol-treatment beds in the area. Due to pre-application planning, only two of the four applications were completed for final consideration. Both were subsequently approved.

Improved Institutional Planning

Situations in which the CON process provides expert guidance and stimulates better institutional planning do not always result in smaller, less-expensive projects. For example, Valley Hospital in Palmer submitted an application to complete a minimal and temporary renovation of their 30-year old facility at a cost of $2,000,000. Part of the renovation included additional insulation to prevent heat loss through the roof. At the suggestion of the Department, a structural engineer was asked to study the ability of the roof to withstand the increased load of snow which would not be melted because of the insulation. The Department also requested a life-cycle cost analysis which would determine the cost of a temporary renovation as opposed to costs of major renovation. The results of these inquiries demonstrated that the roof was not designed to withstand the extra load of snow and that, when total operating expenses and capital costs were considered for a 25-year period, it would be less expensive to forgo the minimal renovation and proceed with a major renovation. The result of this review was an approval for a major renovation project -- at a long-term cost savings.

Petersburg General Hospital filed a letter of intent for $3,400,000 to renovate an existing acute care facility. Following an architectural assessment of the facility and a life-cycle cost analysis requested by the State, it was determined that the cost of new construction would be preferable to renovation. Subsequently, a CON was approved for $7,150,000. Obviously, the CON process is not punitive, but rather seeks to use health care resources to gain the maximum benefit for the community.

Hospitals in Homer and Fairbanks submitted proposals for review which contained "shelled-in" space for which no use was intended for the immediate future. In Homer, the Department requested further assessment of the situation to identify a solution to future use of the shelled-in space. As a result the plans were redrawn for the renovation and expansion and included the proposed use of the shelled-in space.

Better Conformance with Identified Community Needs

In Fairbanks, the CON process stimulated a community discussion of the need for inpatient psychiatric services and a concern for approving the construction of two shelled-in floors that did not have an identified use. Because of discussions at the local level during the review by the health systems agency, the hospital agreed to specify the intended use of the shelled-in space and, furthermore, to enter into a planning process with the community during the following year to determine the most appropriate configuration for the proposed services.

Summary

Although it is difficult to place a dollar figure on the impact of the Certificate of Need program over the past six years, it appears that Alaska's program has effectively deterred and guided capital investment within the health care industry and has stimulated improved planning within the institutions themselves. Because of the CON program, Alaskans have saved millions of dollars in operating costs which would have resulted from unneeded expansion of facilities and services. Moreover, the State Legislature and the Administration should feel some measure of assurance that, because of the CON process, the millions of dollars in public funds that have flowed from the State to health care facilities for construction and operation are being used for projects which meet an identified need, do not duplicate existing services, and are financially feasible.

PROBLEMS WITH THE CON PROCESS AND RECOMMENDATIONS FOR IMPROVEMENT

INTRODUCTION

Proponents and opponents of the Certificate of Need program agree that the current CON process requires substantial changes. Opponents cite several reasons for their decision to push for repeal of the current law. Among the reasons are: 1) significant costs are involved in developing a CON application and proceeding through the review; 2) delays in implementation are caused by an extended review period; 3) the CON process removes community control; 4) market-place economics should control capital investment; and 5) threshold limits which trigger a CON review are too low.

COSTS

No one denies that there are costs attendant to developing a CON application. The majority of those costs, which have been estimated to run as high as $40,000 for the more complex projects, can be attributed to personnel costs. Most of these costs would continue in the absence of CON if a facility did a credible job of planning for future services. In order to gain public support, justify the financial feasibility of a construction project, and obtain adequate architectural designs, planning still must occur. The costs of institutional planning will not disappear in the absence of CON.

DELAYS

Extended review schedules have in some cases resulted in delays in construction start-up time which have been not only frustrating but also costly. It seems reasonable that the cause for these delays can be identified and corrected by revising the regulations regarding CON review. For example, provisions could be made to expedite review of capital equipment replacement and to set a time limit for a decision by the Commissioner subsequent to a recommendation by a regional health planning agency. Also, by raising the threshold limits which require a CON, there will be approximately 25% fewer reviews to do. This should improve the efficiency of the review process.

COMMUNITY CONTROL

Concern has been expressed that the CON process removes community control from local jurisdictions in the case of municipally-owned facilities and local advisory boards with respect to corporately-owned facilities. However, local governments and advisory boards do not necessarily maintain a regional or statewide perspective when it comes to considering new services and facilities. In other words, persons who

serve on local hospital advisory boards are chosen for their expertise and dedication in local issues; often, however, a project will have regional or statewide implications that cannot be properly addressed at the local level. The CON process, at the very least, offers local, regional and statewide perspectives on the need and appropriateness of a proposed project. Instead of removing community control, the CON process bestows some control on the community at large.

In addition, a trend is evident that an increasing amount of public funds are being appropriated by the legislature for construction and renovation. It seems reasonable that in a time of decreasing state revenues, citizens should have an opportunity to influence the distribution of these funds so that they meet state and regional needs instead of local demand. The CON process ensures public participation in these decisions.

MARKETPLACE ECONOMICS: COMPETITION vs. "REGULATION"

In recent years, there has been a popular theory that the problems in U.S. health services can be blamed on excessive government intervention and regulations. It has been argued that high costs and related problems could be solved by a "return to the free market and competition."[6] Two recent articles argue to the contrary.[7,8]

Roemer and Roemer, well-known health-economics experts, examined the past and present operations of free trade and competition in the health care system and found that not one of at least five conditions necessary for competition existed.[7] In addition, they found that the free market created a geographic maldistribution of health manpower, causing serious problems for rural populations. Furthermore, they discussed the paradoxical problem which has been demonstrated for every component of the health care industry of "supply creating demand" rather than the reverse, which is true in an effectively operating market. Supply creates demand in the health care industry fundamentally because the seller (doctor) rather than the buyer (patient) makes most of the decisions on what health services are to be obtained.[7]

Needlemen, another health economist, expressed a similar opinion.[8]

> An effective market is one in which there is competition on the basis of both price and quality, and in which those who sell services are limited in their ability to influence the volume of services they sell and are constrained in the prices they set by competitive pressures. By this definition, an effective market for health care services does not exist in most communities. Competition exists but it is rarely price competition; indeed the nature of current competition based on scope of services, amenities, and convenience is to encourage price increasing behavior. (Emphasis added).[8]

Arthur D. Little, Inc., summarized the policy implication of the debate surrounding competition and regulation. They reported that, in the absence of Certificate of Need regulations, hospitals will compete more vigorously by offering improved facilities to recruit physicians and patients. The resulting "building boom" will drive up operating expenditures over the next ten years by $1.84 for every dollar invested, exclusive of depreciation and debt service.

THRESHOLD LIMITS

Alaska regulations specify that a CON is required for any capital expenditure in excess of $150,000. There is general agreement that this threshold is far too low. Federal regulations have already changed to accomodate a significant increase in CON thresholds. The threshold levels which trigger a CON review should be increased from $150,000 to at least $600,000 for capital expenditures; $400,000 for major medical equipment; and $250,000 for operating expenses associated with new services.

CONCLUSIONS

Recent evidence nationally and available information from the Certificate of Need Program in Alaska indicate that the program has been effective in deterring unjustified projects, guiding capital investment projects, and stimulating improved institutional planning. Together these effects have served to meet the health care needs of the public, prevent duplication of costly services, and restrain the increasing costs of health care. Acute problems with the CON process are correctable by amending the law.

Options available to the Legislature can be placed into three categories: 1) keep the law as it is and maintain the status quo; 2) repeal the law in its entirety; or, 3) revise the law to correct recognized problems.

MAINTAIN CURRENT CON PROCESS

The State would continue to operate the program in its current form. This option assumes the CON process is working efficiently and requires only minor changes.

Because of recognized problems, this option appears to have little merit. Threshold levels are too low, most non-clinical expenditure reviews are a nuisance for applicants and reviewers, and delays in the review process are unacceptable.

REPEAL THE CON LAW

This option assumes that the Certificate of Need process has been entirely ineffective and that marketplace incentives will arise to control capital investments and health care costs.

It also assumes that public review of health care capital expenditures are unimportant and that health care consumers should not have a voice in determining the appropriateness of services in their community.

A competitive pricing market does not exist within the health care services industry of any community in Alaska. In addition, the State of Alaska did not renew its Section 1122 agreement with the federal government in 1981 because the Certificate of Need law was in place.[9] (Section 1122 of PL 92-603 required that health care facilities, which received federal monies under Titles XVIII and XIX, be subject to review to ensure consistency with state health plans.) Repeal of the CON law would leave the State entirely without a capital expenditure review process for health care facilities; therefore, the State would have to rely principally on either the competitive market or incentives established under some kind of a prospective reimbursement system to control costs and allocate resources. (Hospitals are currently reimbursed by the federal government under Medicare and Medicaid on a retrospective basis; that is, after the costs have already occurred. Under this

reimbursement mechanism, there is no real incentive for containing costs. Prospective reimbursement, on the other hand, would require that hospitals negotiate the rate or cost of a service a year in advance. The government and other third-party insurers would reimburse the hospital only at the negotiated rate; therefore, costs exceeding the rate would be borne by the hospital, and, conversely, the hospital would make money if costs were kept below the negotiated rate.)

Because a competitive pricing market does not exist anywhere in Alaska, eliminating the CON program will likely lead to new, unneeded services and facilities which will result in increased operating costs. These costs are passed directly on to the buyers (patients and taxpayers).

Prospective reimbursement, on the other hand, comes in various forms and generally has been found to be more difficult to enact and implement than Certificate of Need. Generally speaking, prospective reimbursement is likely to be successful only where there has been political support for Certificate of Need.[8]

Finally, repeal of CON serves the interests of the health services establishment only. Those who control health-care costs would also be controlling capital investments. Consumers could not have a voice in determining the most appropriate and affordable level of service for their community or region.

MODIFY THE CON PROCESS

This option assumes that the CON program has been effective and can be modified to make it more efficient. The scope of the CON program could be scaled back by raising threshold levels and exempting certain non-clinical capital expenditures. Under this option, the CON program could be reduced further if a market capable of insuring an appropriate allocation of services emerged or to complement a prospective reimbursement system.

RECOMMENDATIONS

The Alaska Health Coalition recommends that negotiations take place among members of the Alaska State Hospital Association, the Legislature, and the Administration to work out revised CON regulations.

The Coalition further recommends that the following revisions be considered as a starting point for the negotiations.

1. Increase the threshold level which triggers a CON review from $150,000 to at least:
   a. $600,000 for capital expenditures
   b. $400,000 for major medical equipment
   c. $250,000 for operating expenses associated with new services.

2. Exempt all non-clinical capital expenditures. The bill should indicate that non-clinical services which are not subject to review include, but are not limited to: parking, telephone systems, day care, mailrooms, heating and air conditioning, blood bank, dietary/cafeteria, laundry and linen, medical records, business office, housekeeping, central supply, library, reception, and data processing. This exemption would apply only if one of these non-clinical projects was the main purpose of the application. For example, a project proposing a new facility could still include review and consideration of the non-clinical activity if it were part of a larger project.

3. Expedite review of capital equipment replacement.

4. Specify a time limit for a decision by the Commissioner subsequent to a recommendation by the regional health planning agency.

5. Provide that each legislator be informed of all projects in his/her district, especially regarding the outcome of the review.

6. Consider a sunset provision of four or more years to review effectiveness of the CON process.

REFERENCES CITED

1 U.S. Congress, Congressional Budget Office. Health Planning Issues for Reauthorization. Washington, D.C. March 1982.

2 Howell, Julianne. Regulating Hospital Investment: The Experience in Massachusetts. Hyattsville, Maryland. DHHS/Health Resources Administration, (DHS) 81-8298. March 1981.

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4 Arthur D. Little, Inc. Development of an Evaluation Methodology for Use in Assessing Data Available to the Certificate of Need (CON) and Health Planning Programs. Final report prepared for DHHS/Office of Assistant Secretary for Health. Contract #233-79-4003. April 1982.

5 Arthur D. Little, Inc. A Study of Intermediate Outcomes of the CON Review Process. DHHS/Health Resources Administration. Contract #232-81-0018, Task Order #2. March 1982.

6 Enthovan, A.C. Consumer Choice Health Plan (in two parts). New England Journal of Medicine. 298:650-658, 709-720. March 1978.

7 Roemer, M.I. and John E. Pomer. The Social Consequences of Free Trade in Health Care: A Public Health Response to Orthodox Economics. International Journal of Health Services. 12(1):111-129. November 1982.

8 Needlemen, Jack. Competition and State Health Planning Programs: Options for State Action. Alpha Center for Health Planning. Bethesda, Maryland. DHHS/BHP. HRA Contract #232-79-0035. June 1982.

APPENDIX

NATIONAL HEALTH PLANNING AND DEVELOPMENT ACT OF 1974

INTRODUCTION

Public Law 93-641, (National Health Planning and Resource Development Act), passed by the U.S. Congress in 1974, established a national health planning program which was implemented in each state and several American territories. The intent of Congress was to integrate previously sponsored programs (Hill-Burton, Regional Medical Program, Comprehensive Health Planning), retain the best features of each, and address major national, state, and local concerns about the current planning, development, and operation of the nation's health care system. To address these concerns, the Act authorized the designation and funding of state and regional health planning agencies and set forth several functions these agencies had to perform in order to further the "achievement of equal access to quality health care at a reasonable cost."

HEALTH SYSTEMS AGENCIES

Health Systems Agencies (HSAs) were designated as local or regional bodies with the responsibility for preparing and implementing plans designed to improve the health of the residents of its health service area; to increase the acceptability, accessibility, continuity and quality of health services of the area; to restrain increases in the cost of providing health services; and, to prevent unnecessary duplication of health resources. These functions were carried out by interested consumers and providers working together to identify community and regional problems and to develop strategies and recommendations to help alleviate those problems.

HSAs were established as either private, non-profit corporations or public entities governed by boards that had to have a consumer majorities. Operational funds have been awarded through both Federal (PHS) and State (DHSS) sources. In Alaska, the Governor designated three health service areas which were each to be served by an HSA. Alaska's three HSAs are: Northern Alaska Health Resources Association, Inc. (Fairbanks), serving northern Alaska; South Central Health Planning and Development, Inc. (Anchorage), serving south central Alaska, including the Aleutian chain; and Southeast Alaska Health Systems Agency (Ketchikan), serving Alaska's panhandle.

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

The Governor designated a State Health Planning and Development Agency (SHPDA) as a unit of State government. The SHPDA has the responsibility to conduct the health planning activities of the State, including preparation and implementation of the State Health Plan, and to provide coordination of the HSAs. The SHPDA also supports the function of the Statewide Health Coordinating Council and is responsible for administration of the Certificate of Need program. In Alaska, the SHPDA resides within the Department of Health and Social Services. It currently occupies division-level status.

STATEWIDE HEALTH COORDINATING COUNCIL

The Alaska Statewide Health Coordinating Council (SHCC) is the third entity involved in the State health planning network. The SHCC is a group of citizens appointed by the Governor who oversee the health planning activities within the State. Specifically, they have responsibility for preparation of the State Health Plan. The State Health Plan forms the basis upon which Certificate of Need applications are reviewed. Both the SHPDA and SHCC are supported with a mix of Federal and State funds.

POSITION PAPER/Department of Health & Social Services

Tischer

Position Paper

on

Senate Bill 85 & HB 19

"For an Act repealing the certificate of need program; and providing for an effective date."

Senate Bill 85 repeals those portions of AS 18.07.021 which provide the statutory authority for the Department to administer a certificate of need program and repeals references to certificate of need in other sections of the Statute as well.

The Administration supports Senate Bill 85 as it is currently written.

The Department recommends that the Committee review statutory provisions which relate to health facility development including the following:

Medicaid Programs

The state's participation in the Medicaid program (State dollars fund approximately 52 percent of total program costs) has grown from $1 million in 1972 to nearly $38 million in FY 82 and total costs including federal participation have grown from $2 million to nearly $74 million in this same period. Ninety-two percent of patients in Alaska's long term care facilities are supported by the Medicaid program which means that the state (and federal) government has nearly the full burden of all operational costs for the facility. These Medicaid costs increase when additional beds are added, new equipment is purchased or new services (including new types of manpower) are offered. The Division of Public Assistance must effect a provider agreement with any qualified provider who seeks this agreement.

Capital Budget

Alaska has provided substantial financial assistance in the development of health care facilities. The 12th Legislature provided more than $36.6 million by line item appropriation to expand one hospital; replace two others and provide planning assistance for two rural hospitals. The number of requests for state funding has steadily increased.

Revenue Sharing

Alaska has a revenue sharing program (AS 29.90.010) which provides 25 percent plus interest of hospital construction costs to all non-profit hospitals. This program, administered by the Department of Community and Regional Affairs, provides further support for hospital construction projects in addition to any front-end capital funds provided by the state. This additional health facility construction resource underscores the importance of determining the actual need

for construction, before the State is committed to pay for a major portion of such construction.

Non-profit hospitals each receive a quarter of a million dollars in operating assistance each year through the state's revenue sharing program (AS 29.89.030). Nursing homes and other health facilities also receive assistance based on the number of beds they have. There are no specific requirements as to how such funds are to be expended. Not only are existing health facilities assured of these funds in addition to other state support, but new facilities are encouraged by the availability of these funds.

Recommended by: Phoebe A. Lindsey

Phoebe A. Lindsey, Director
Division of Planning, Policy
and Evaluation

Date: 2/16/83

Approved by: for John R. Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 2/16/83

Bill No: Senate Bill 85 Date on Bill: 1/27/83
Title: An Act repealing the certificate of need program;and providing for an effective date
Sponsor: Senators Faiks, P. Fischer, and Pettyjohn
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

			FY 83	FY 84	FY 85	FY 86			
Capital			0	0	0	0			
Operating			0	0	0	0			
Total			0	0	0	0			

b. Revenues:

Revenue			0	0	0	0	-		

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Dave W. Williams DW Phone: 465-3038
Division: State Health Planning and Development Date: 2-14-83

Approved by Commissioner: Jack R. Fry Date: 2/16/83
Department: Health and Social Services Date:

6. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor

Central Peninsula General Hospital

P. O. Box 1268
SOLDOTNA, ALASKA 99669

OPERATED BY
LUTHERAN HOSPITALS AND HOMES SOCIETY
FARGO, NORTH DAKOTA 58102

February 14, 1983

The Honorable Mae Tischer
Alaska State House of Representatives
State Capitol
Pouch V
Juneau, Alaska 99811

FEB 18 1983

Subject: House Bill #19

Dear Representative Tischer:

Central Peninsula General Hospital, along with the other hospitals of the Alaska State Hospital Association, would encourage the earliest possible passage of Senate Bill #85.

It is a premise of this organization that the Certificate of Need process is both cumbersome and ineffective in a state such as Alaska. The original purpose was developed to help contain health care costs by discouraging over-building of hospital beds. The State's major health care problem is not over-bedding, but the continuing lack of accessibility to health care programs and facilities due to the rural nature of our state.

I would encourage our legislators to promote the health care agencies in the planning and providing for better health care, and not tying up their time with the fruitless Certificate of Need process.

Please find attached a copy of a letter from the Central Peninsula General Hospital Service Area Board to the Kenai Peninsula Borough Assembly in support of the repeal of the Certificate of Need process.

Again, passage of this legislation at the earliest time is available.

Thank you for your consideration.

Sincerely yours,

Michael J. Lockwood,
Administrator

MJL/pt

enc. (1) Resolution of the Central Peninsula General Hospital Service Area Board for Repeal of the C.O.N.

Central Peninsula General Hospital

P. O. Box 1268
SOLDOTNA, ALASKA 99669

OPERATED BY
LUTHERAN HOSPITALS AND HOMES SOCIETY
FARGO, NORTH DAKOTA 58102

February 11, 1983

Kenai Peninsula Borough Assembly

At its regular meeting on February 10, 1983, the Service Area Board of the Central Peninsula General Hospital unanimously endorsed Resolution 83-13 "Urging the Alaska Congressional Delegation to work for Repeal of 42 USC 300 M (D) and Urging the State to subsequently repeal AS18.07 03L-111 which provides for a Certificate of Need program for the Construction, Alteration of Bed Capacity, or Addition or Elimination of a Category of Health Services of a Health Care Facility.

To this end the Service Area Board also endorses House Bill 19 and Senate Bill 85, 2 bills that have been introduced in the 1983 Alaska State Legislature.

Copies of this endorsement have been sent to Senators Stevens, Murkowski and to Congressman Young as well as the Alaska State Legislators.

Robert F. Jensen

ROBERT F. JENSEN
Chairman
Service Area Board

alaska state hospital association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board
Ronald A. Pavellas
Humana Hospital Alaska
Anchorage

Chairman-Elect
Mark Hawkins
Sitka Community Hospital
Sitka

Immediate Past Chairman
Tom Mingen
Fairbanks Memorial Hospital
Fairbanks

Secretary/Treasurer
Edward Zeine
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Delegate to the American Hospital Association
Al M. Camosso
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Alternate Delegate to the American Hospital Assoc.
Michael Lockwood
Central Peninsula Hospital
Soldotna

Delegate to the American Health Care Association
Jack Buck
St. Ann's Nursing Home
Juneau

Alternate Delegate to the American Health Care Association
Emma G. Ivy
Wrangell General Hospital
Wrangell

Delegate to the Association of Western Hospitals
Michael Herring
South Peninsula Hospital
Homer

Alternate Delegate to the Association of Western Hospitals
Daniel Van Wieringen
Kodiak Island Hospital
Kodiak

Trustee Delegate to the American Hospital Assoc.
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Trustee, Providence Hospital
Anchorage

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Robert Jensen
Central Peninsula Hospital
Soldotna

Physician Member of the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

Alaska State Hospital Association

Position Paper

Certificate of Need Repeal

The Certificate of Need program in Alaska (AS.07) should be repealed. It is both inequitable and unnecessary. Its basic presumption is that the Department of Health and Social Services can make better decisions for hospitals and nursing homes than can the facilities themselves.

Basic Issues

1. Equity

- While controlling non-state construction of skilled nursing facilities (SNF's) and intermediate care facilities (ICF's), the prgram exempts these beds constructed in Pioneers' Homes. Thus any determination of need based on the current program is flawed because forces external to the program can and have - in Anchorage, Juneau, and Ketchikan - altered the factual situation.

- Alaska Native Health Service and the Armed Forces facilities are also exempt from coverage. Their activities have a direct bearing on many other facilities in terms of both service area and referrals.

- Physician office construction and equipment purchase are also exempt.

The inequities are clearly illustrated in the Anchorage area: Providence Hospital, Humana Hospital, Nakoyia Health Care Center, Hope Cottages and the Alaska Treatment Center are included in the CON program while the Alaska Native Health Service Hospital, Elmendorf AFB Hospital, the Anchorage Pioneers's Home and the Diamond Emergency Center are not included. All of these facilities share the same basic service area.

2. Unnecessary

Market place economics and competition should be the determinant of capital expansion for health facilities. In Anchorage, the Municipal Health Commission as well as open board meetings provide the public input into a facility's planning process. In smaller communities the city council or borough assembly who own the facility provide the public input opportunity.

Alaska is a developing state of many isolated regions without any appeal for duplication of services or need to limit access to health care, which is the basic intent of the CON program.

3. Conformity

42 USC 300 m-(d) requires that states conform to the federal program or face a reduction of specified public health service funds.

- Conformity is not achievable without the inclusion of the Pioneers' Homes.

- There are 30 states, including New York and California as well as Alaska, which are not in conformity.

- The penalties have been deferred every year since passage. In December of 1982 they were deferred until October 1, 1983.

- The Reagan Administration is not supportive of continuing this program. Congress is working to create a state optional program without penalties. Thus the likelihood of imposition of penalties is remote at best and the across the board elimination of CON would not change Alaska's current status.

4. Other States

- Louisiana does not have a certificate of need law.

- According to the American Hospital Association, 30 states currently do not conform.

- At least seven states have termination clauses or specific sunset provisions.

5. Attachments

- Alaska State Hospital Association Policy Paper on Repeal of Certificate of Need

- Providence letter to Mayor Knowles explaining opposition to CON.

- U.S. Department of Health and Human Services letter to Dennis DeWitt discussing Alaska's non-conformity.

(Attachments cont.)

- Alaska Department of Administration letter to Representative Don Clocksin discussing Pioneers' Homes exemption, conformity problem, and potential for penalties.

- 42 USC 300m-(d)

- Alaska Department of Health and Social Services letter to Representative Mike Beirne indicating lack of compliance with federal program.

- Alaska State Medical Association Resolution calling for the repeal of certificate of need.

- Alaska State Hospital Association letter to Stevens on CON repeal.

- Governor Sheffield's response to the Association letter to Senator Stevens.

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319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
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the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

POLICY STATEMENT

CERTIFICATE OF NEED

Position: The Alaska State Hospital Association advocates the repeal of the certificate of need (CON) law, AS 18.07.

Rationale: The CON process has proven costly, wasteful, and unnecessary. The program has become excessively bureaucratic to the point that it undermines economic incentives throughout the decision-making process and so increases the cost of capital projects it takes valuable dollars from patient care. The certificate of need process also removes community control from local jurisdictions in respect to municipally-owned facilities and local advisory boards in respect to corporate ownership.

An alternative approach to state control would permit marketplace economics to control expansion and would rely on local decision-makers to make decisions for their own communities. We see a value in state government continuing its planning function with input from regional and local groups.

Note: This does not contemplate repeal of construction or licensure standards.

#1

bcc Dennis Nelson

PROVIDENCE
HOSPITAL

SISTERS OF
PROVIDENCE

3200 PROVIDENCE DRIVE - POUCH 6604
ANCHORAGE, ALASKA 99502
PHONE: (907) 276-4511

SERVING IN THE WEST SINCE 1856

December 27, 1982

Mayor Tony Knowles
Municipality of Anchorage
Pouch 6-650
Anchorage, Alaska 99502

Dear Mayor Knowles:

Thank you for the opportunity on December 13 to share Providence's plans and some of our concerns with you.

One point came up during our discussion regarding Certificate of Need (CON). I would like to elaborate for you in more detail why the health care providers in Alaska oppose CON and have so strongly supported its repeal.

As you know, the CON law was passed in this and most other states as a requisite to receive Federal funds. The major impetus for the law were:

1. Excess hospital beds in many large cities, and
2. rising health care costs.

The belief was that by controlling the number of beds, capital expenditures and new services, costs would be contained. The results have been much less than desired throughout the country. The law is cumbersome, wasteful and, in fact, costly.

The lack of "success" is especially true in Alaska for some basic reasons:

1. The process which the law sets in place is cumbersome and wasteful. The institution must:
   - submit a letter of intent at least 60 days prior to an application (for no apparent reason);
   - submit an elaborate, repetitive application (most are well over 100 pages). There are 12 separate "criteria" which must be addressed in any application;
   - wait to be declared complete (minimum 20 days; several of our applications were delayed months);
   - then go through a 90-day review process--with three or four public meetings.

MEMBERS OF THE SISTERS OF PROVIDENCE CORPORATION—ALASKA: PROVIDENCE HOSPITAL, ANCHORAGE—WASHINGTON: PROVIDENCE MEDICAL CENTER, SEATTLE—THE DePAUL RETIREMENT RESIDENCE AND MOUNT ST. VINCENT NURSING CENTER, SEATTLE—PROVIDENCE HOSPITAL, EVERETT—ST. PETER HOSPITAL, OLYMPIA—ST. ELIZABETH HOSPITAL, YAKIMA—OREGON: PROVIDENCE HOSPITAL, MEDFORD—PROVIDENCE MEDICAL CENTER, PORTLAND—PROVIDENCE CHILD CENTER, PORTLAND—ST. VINCENT HOSPITAL AND MEDICAL CENTER, PORTLAND—CALIFORNIA: PROVIDENCE HOSPITAL, OAKLAND—PROVIDENCE HIGH SCHOOL, BURBANK—SAINT JOSEPH MEDICAL CENTER, BURBANK

2. The costs of CON to the institution are enormous to prepare this cumbersome document (at least 35 copies) and submit to the minimum 110-day process. There are also the institutional costs of delaying implementation and watching the price of a piece of equipment or construction project increase several percent points with inflation.

   The cost to the public is also great in the state, regional and local staff needed to coordinate the program, prepare staff analyses and hold public meetings.

3. The dollar limit for what must be reviewed has been ridiculously low--$150,000. The federal law has allowed that limit to be raised to $400,000 and $600,000 although the Alaska legislature failed in its last session to raise the limits. Some states have raised the limit to $1 million or more. To have a limit of $150,000 or even $600,000 when the hospital's annual operating budget is $75,000,000 (such as Providence's) is overkill.

   In just 1982 alone, Providence has prepared 6 CON applications, including two equipment replacements (for a CT Scanner and a Cath Lab), a $250,000 computer enhancement for an x-ray machine and most absurd, a $167,000 replacement incinerator (25 years old, replacement required by State and EPA codes!). The State did not give final approval on the incinerator until the 90th day.

4. The law itself is overkill in Alaska. Designed for areas of heavy population, excess hospital beds and competition, the law does not work for Alaska for several reasons:

   - The law only covers private facilities--not public health, nor state owned (API or Pioneer Homes), nor military.

   - Alaska has only one city with more than one hospital and only three private ("eligible") hospitals of over 100 beds.

5. The law is reactive to existing decision making processes. Most hospitals in the State already have local public review and approval designed in their own budget review processes. Many hospitals are owned by municipalities, and all have governing or advisory boards of local citizens. These citizens should have control of the expansion and budgetary decisions of their own institutions. Several other layers are unnecessary. Hospitals and their boards are capable of making sound financial and program decisions.

As the attached Policy Statement of the Alaska State Hospital Association (ASHA) notes, we are supportive of state and local planning for the health care needs. The process should be positive and proactive-- encouraging institutions to respond to needs in the community rather than reactive, cumbersome and negative.

We encourage the city to support the ASHA position on repealing the state CON law. Your own Municipal Health Commission is a strong local planning body which helps identify health needs and encourages solutions. It also serves to review public expenditures in health. Those roles are appropriate. It should be freed from the cumbersome CON review.

Thank you for giving me the opportunity to share our concerns with you.

Best wishes for a prosperous 1983.

Sincerely,

Al M. Camosso
Administrator

Enclosure

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Region X
M/S 829 Arcade Plaza Building
1321 Second Avenue
Seattle WA 98101

June 22, 1982

Re: 10P 550016
Alaska SHPDA

Dennis L. DeWitt
President
Alaska State Hospital Association
319 Seward Street
Juneau, Alaska 99801

Dear Mr. DeWitt:

Your letter dated June 11, 1982, requested information about Region X's intentions as a result of the failure of the Alaska Legislature to pass amendments proposed to bring the State Certificate of Need program into compliance with the Federal planning law, as amended. Our course of action is quite clear. We will continue to fullfill our mandated responsibilities guided by actions and time frames specified in the law.

Under the existing provisions of Title XV of the Public Health Service Act, as amended, current law requires (in order to be fully designated) that a SHPDA must meet all requirements for full designation, including that of having a complying Certificate of Need program.

If a SHPDA is not eligible for full designation by a certain date (which for Alaska is January 19, 1983) the Department must invoke the statutory penalty of reducing most Public Health Service grants and contracts to any entity in the State by 25% the first year, 50%, 75%, and 100% over the next three years. Amendments contained in PL 97-35 extended the date by which a State must have a fully designated SHPDA to avoid imposition of the penalty. However, PL 97-35 also amended Section 1521(b)(2)(B) by specifying that a conditional designation agreement could not extend beyond a State's penalty date.

Fully designated SHPDAs (such as Alaska) which do not have complying CON programs but continue to meet other requirements, will be returned to conditional designation. As noted above, PL 97-35 prohibits the conditional designation of any SHPDA from extending beyond its penalty date. Any SHPDA which remains conditionally designated on its penalty date must be terminated. Therefore, we will send a termination notice to any conditionally designated SHPDA 90-days prior to its penalty date, if it still has not demonstrated that it has a complying CON program.

The enclosed copy of a letter to Commissioner Beirne, from the Regional Health Administrator, further emphasizes the critical nature of having a complying CON program in Alaska.

Also the enclosed copy of a 1981 letter addressed to Mr. Ivan Lawner, Esq. concerning Pioneer Homes Certificate of Need review issues, reflects our unchanged position.

I hope the facts in this letter provide the detail of information required to understand the situation. Please call or write, should you need further assistance.

Sincerely,

John D. Whitney
Director
Department of Health
Resources Development
Region X

Enclosures (2)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

829

JUN 21 1982

Re: IOP 550016
Alaska SHPDA

Helen D. Beirne, Ph.D.
Commissioner
Department of Health and
Social Services
Pouch H 01
Juneau, Alaska 99811

Dear Dr. Beirne:

The State of Alaska's Department of Health and Social Services full designation agreement with the Department of Health and Human Services is being extended for three months, until September 30, 1982. As you know, because Alaska's Certificate of Need Program does not comply with Federal requirements, it is necessary that the SHPDA be returned to conditional designation. As required by statute, this 90-day extension of your current designation is being given to allow you to request and prepare for a hearing, if you should want one. Letters from the Bureau of Health Planning to you and to the Governor will further explain this process.

The following conditions are to be considered a part of the extended full designation agreement:

1. If the Agency is unable to retain full designation after September 30, 1982, it will be returned to conditional designation for the period October 1, 1982 to June 30, 1983.

2. The designation of the Agency will automatically terminate when the Agency reaches its penalty date, if the Agency still has not achieved full designation.

You may at any time prior to your penalty date (1-19-83, per PPM 82-12) submit documentation which you believe contains evidence that the State's CON program complies with the minimum Federal requirements, or a certification by the State's Attorney General, attesting to the program's complian

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Please sign both copies of this letter, indicating your acceptance of this extension with conditions. Return one copy to this office. As soon as we receive the signed copy, we will issue a Notice of Grant Award for the extended designation period.

Sincerely,

Dorothy H. Mann, M.P.H.
Regional Health Administrator
Region X

Helen D. Cairne, Ph.D.
Commissioner
Alaska Department of Health

Date

DHRD:ROSS:vw:6/21/82

DEPARTMENT OF HEALTH & HUMAN SERVICES

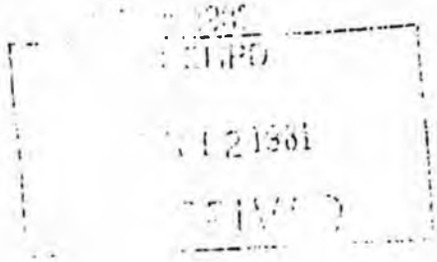
Public Health Service

Pioneer Homes
Lynns Room

Region X
M/S 829 Arcade Plaza Building
1321 Second Avenue
Seattle WA 98101

Re: IOP 550007-05

Mr. Ivan Lawner, Esq.
Hellen & Partnow
524 G Street
Suite 710
Anchorage, Alaska 99501



Dear Mr. Lawner:

This is to respond to your recent letter concerning Certificate-of-Need review of a skilled nursing facility addition to the Pioneer Home in Anchorage. In that correspondence you raised two issues: the need for clarification of our 1978 letter to Howard Gabriel regarding C/N coverage of Pioneer Homes, and the compliance of the Alaska C/N program with federal standards. These matters will be addressed separately.

1. In our September 11, 1978 letter to Howard Gabriel, Director of the Southeast Alaska HSA, we were assuming that Pioneer Homes were only residential or domiciliary care facilities; there was no understanding that inpatient skilled nursing care was provided in these institutions. Given this understanding of the nature and services of Pioneer Homes at that time we were correct in concluding that they would not be included in the federal definition of "health care facilities" which would require coverage under Certificate-of-Need programs. If indeed skilled nursing services are provided in these institutions, they would be considered "health care facilities" as defined by our C/N regulations. The 1978 letter did not consider a Pioneer Home to be such a facility.

2. We have reviewed the Alaska C/N statute and implementing regulations to determine whether Pioneer Homes would be included in the definition of a health care facility. We found that:

   a. The Alaska C/N statute defines a "health care facility" as:

      A private, municipal. . . hospital, psychiatric hospital, turberculosis hospital, skilled nursing facility. . . . (Sec. 18.07.111(7)).

   b. The Alaska C/N regulations, in turn, define "health care facility" as:

      Any of those listed in AS 18.07.111, as defined, where appropriate, in 42 CFR 123.401 (adopted 1/21/77). (7AAC07.130)

c. The State's C/N statute and regulations, taken together and including the cross reference to 42 CFR 123.401, would provide coverage of a distinct part of an institution and would, therefore, meet the federal definition of a skilled nursing facilities, i.e., an institution or a distinct part of an institution which is primarily engaged in providing inpatient skilled nursing care and related services for patients who require medical or nursing care . . . . (42 CFR 123.401)

From the above points, it would appear that the Alaska C/N program adequately defines "heath care facility" and "skilled nursing facility." It is the responsibility of the state to follow its own C/N statute and regulations. If there is an on-going and sustained pattern of not following their statute and regulations, we would certainly assess the state's overall C/N program and then take appropriate action.

Please call us should you have further questions.

Sincerely yours,

John D. Whitney, Director
Division of Health Resources
Development PHS, Region X

cc: Ron Hammett, Director, SCHPD
Howard Gabriel, Director, SEAHSA

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

May 29, 1981

Honorable Donald E. Clocksin
Chairman, Health, Education and
Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Clocksin:

This is in response to your request to put in writing my verbal testimony before your committee on CSSB 225. I will try and confine my remarks to the major issues.

Administration's position is that the Legislature has always implicitly exempted Pioneers' Homes from the certificate of need program. The Senate has concurred with this position as evidenced by CSSB 225. We are asking that the House members be afforded the same opportunity to express their will as the Senate.

There appears to be some confusion existing with the recent State Supreme Court decision of South Central Health Planning and Development, Inc. vs the Department of Administration, on certificate of need. At issue was whether or not the Legislature exempted Pioneers' Homes from certificate of need. The court found that there is no language in State statutes which can reasonably be read as exempting skilled nursing facilities from the certificate of need process when they are contained in Pioneers' Homes. Consequently, whether or not the Legislature intended to exempt Pioneers' Homes now becomes moot. The Legislature's intent can now be established only through the legislative process of amending existing law to allow this exemption.

There has been a substantial amount of discussion centering around the need for proper planning so that health facilities in Alaska are not overbuilt. This is an admirable and worthy objective, and I can assure you that this Department supports health facility planning. However, the existing system under the certificate of need program is fraught with inequities and frustrations; further, it does not represent a comprehensive planning effort.

C-89LH

There are three providers of health facilities; the federal government, the State government, and the "private sector." However, the federal health facilities don't come under the certificate of need program, and in most states this wouldn't pose any problem. The military contingent in California, for instance, would represent a small portion of the state's total population and as such would not greatly impact the planning process for certificate of need. In Alaska, the opposite is true. The federal government is a major provider of health care and facilities. Roughly one-fourth of the state's population are eligible to use federal health facilities (military base, Public Health, Indian Health, etc.). This has a devasting effect on trying to logically plan for state and "private sector" health facilities when a critical component is missing.

In addition, if we look closely at the "private sector" we see that it is not truly private. A substantial portion of the revenues of private nursing homes and health facilities originate through state and federal programs. State and federal rules, regulations, requirements, and laws, guide and govern, in minute detail, the construction and operation of private health facilities. This includes the proper ratios of professional staff to patients, the type of equipment allowed, size of hallways, reporting procedures, and many others. In effect, the "private sector" is part of the "public sector." Consequently, the charge that the State, through the establishment of Pioneers' Homes, is unfairly competing with the private sector is a fallacious argument.

There has also been considerable discussion on the impact of granting Pioneers' Homes an exemption from certificate of need as it relates to federal programs. Mr. Vern Perry, Director of the Division of Pioneers' Benefits spoke with Mr. Jim Egan, Regional Project Officer of the Office of Health Planning, Region X, U. S. Department of Health, Education and Welfare, on Wednesday May 27, regarding the certificate of need program.

QUESTION: What effect would there be on the State of Alaska if Pioneers' Homes were exempted from the certificate of need program?

ANSWER: It would have no effect on medicare, medicaid, AFDC or Indian Health Service. It could only affect categorical programs such as alcoholism, EMS, Neighborhood Health Clinics, Mental Health Clinics, Day Care, etc.

QUESTION: Would the federal government actually discontinue such programs as alcoholism and mental health if Pioneers' Homes were exempted from the certificate of need program?

ANSWER: No! Absolutely not. In his opinion, under the new administration, there would be no federal sanctions whatsoever in health care programs, especially since the responsibility for this is being turned over to the states.

Further, discussions were held with the States of California and Washington regarding their certificate of need programs. In California, Mr. Ken Umbach (916/323-6955) of the Office of Statewide Health Planning and Development was contacted. He stated that California has been out of conformance with the federal certificate of need program since 1969. Their latest date for coming into conformance is October. He stated that if they did not meet the deadline that the feds would probably extend it. Mr. Jim Bettridge of Washington Health Care Facilities Authority (206/753-6185) indicated that the feds were withdrawing total support from the certificate of need program by 1983.

These conversations indicate that:

i. The federal government is not inclined to impose sanctions on a State for nonconformance with the certificate of need program;

ii. There are states which are nonconforming, and have been nonconforming for a number of years, on which federal sanctions have not been imposed; and

iii. The federal government is withdrawing total support for the certificate of need program by 1983. If the state wants to continue a planning process for health facility development it will have to provide for the process by using General Funds monies. Based on the aforementioned problems, now would be the appropriate time to revise this planning process to make it more meaningful.

Finally, a compromise position has been mentioned in which the new nursing wing at the Anchorage Pioneers' Home and the new Pioneers' Home in Ketchikan would be totally grandfathered into law and not made subject to certificate of need. This compromise does not address a truly complex problem.

The Fairbanks Pioneers' Home presently is serving twelve skilled nursing beds in unlicensed beds. Unless a certificate of need is issued which allows licensing of these beds, these twelve pioneers would have to be discharged.

The Fairbanks and Palmer Pioneers' Homes are full to capacity with skilled nursing patients at the present time. If we are to accommodate anticipated need in the near future, additional skilled nursing facilities will have to be constructed within the next few years. This expansion would be impossible unless a certificate of need is issued.

The Department of Health and Social Services, in recent licensing inspections, has advised a significant number of residents in the ambulatory sections of all the Pioneers' Homes should be designated intermediate care patients. Intermediate care requires both a certificate of need and a significant increase in staffing, installation of call buttons or other signalling devices, and closer attention to patients when taking medications, etc. The number of patients which might be considered in need of intermediate care are: thirty at Sitka, twenty at Fairbanks, twenty at Palmer and forty at Anchorage (in the new wing).

Funding to provide intermediate care was not included in the FY 82 operating budget. Although a dollar figure is not available at the present time, a significant increase will be necessary if we must comply with the certificate of need program. Passage of SB 225 would eliminate this situation.

In summary:

1. Administration believes the Legislature had always intended to exclude Pioneers' Homes from certificate of need;

2. The certificate of need process is not appropriate for Alaska;

3. There needs to be planning for health care facilities and a more responsive process needs to be developed;

4. Grandfathering the nursing wing at Anchorage and the new Pioneers' Home at Ketchikan will not solve the complex problems existing at the Fairbanks, Palmer, and Sitka Pioneers' Home; and,

5. Passage of CSSB 225 will eliminate the potential for pain and suffering by allowing Pioneers' Homes residents to remain in their home.

If I can be of any further assistance to you or your committee, please give me a call.

Sincerely,

Frederick B. Muller

Frederick B. Muller
Deputy Commissioner for
Personnel Management

FBM/mjc
cc: Honorable Charles Parr
Honorable Robert Ziegler
Honorable Jalmar Kerttula
Honorable Patrick Rodey
Pioneers' Homes Advisory Board
Dennis Dewitt, Executive Director
Alaska State Hospital Association

accordance with subsection (b)(2), or (b)(3) of this section (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

Failure to designate State Agency within specified period; reduction in allotment, grant, loan, loan guarantee, or contract

(d)(1) If an agreement under subsection (b)(3) of this section for the designation of a State Agency for a State is not in effect upon the expiration of—

(A) the fourth fiscal year which begins after 1975; or

(B)(i) if the legislature of the State is in a regular session on December 17, 1980 and the legislature will be in session for at least twelve months from such date, twenty-four months from such date, or

(ii) if the legislature of the State is in session on December 17, 1980, but twelve months do not remain in such session after such date or if the legislature of the State is not in session on such date, twenty-four months after the beginning of the first regular session of the legislature beginning after such date,

whichever occurs later, the Secretary shall take the action prescribed by paragraph (2).

(2) If upon the expiration of the period applicable under paragraph (1) an agreement is not in effect for the designation of a State Agency for a State, the Secretary shall until such an agreement is in effect take the following action:

(A) During the first twelve months after the date of the expiration of the applicable period, the Secretary shall reduce by 25 percent the amount of each allotment, grant, loan, and loan guarantee made to and each contract entered into with an individual or entity in such State during such period under this chapter or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

(B) During the second twelve months after such expiration date, the Secretary shall reduce by 50 percent the amount of each such allotment, grant, loan, loan guarantee, and contract.

(C) During the third twelve months after such expiration date, the Secretary shall reduce by 75 percent the amount of each such allotment, grant, loan, loan guarantee, and contract.

(D) After the expiration of thirty-six months after such expiration date, the Secretary may not make or enter into any such allotment, grant, loan, loan guarantee, or contract.

(July 1, 1944, c. 373, Title XV, § 1521, as added Jan. 4, 1975, Pub.L. 93–641, § 3, 88 Stat. 2242, and amended Aug. 1, 1977, Pub.L. 95–83, Title I, § 106(*l*), (m), 91 Stat. 385; Dec. 19, 1977, Pub.L. 95–215, § 6(b), 91 Stat. 1507; July 16, 1979, Pub. L. 96–33, 93 Stat. 86; Oct. 4, 1979, Pub.L. 96–79, Title I, § 123(a), (b)(1)(A), (2), (d), (f), (g)(2), 93 Stat. 624–627; Oct. 17, 1979, Pub.L. 96–88, Title V, § 509(b), 93 Stat. 695; Dec. 17, 1980, Pub.L. 96–538, Title III, § 303(b), 94 Stat. 3190; Aug. 13, 1981, Pub.L. 97–35, Title IX, §§ 902(g)(5), 936(b), 95 Stat. 561, 572.)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

May 10, 1982

The Honorable Mike Beirne
Chairman
House HESS Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Rep. .sentative Beirne:

I am enclosing a Program Policy Notice we recently received from the Bureau of Health Planning in the U. S. Department of Health and Human Services. This Notice emphasizes that states which do not have State Health Planning and Development Agencies which fully comply with federal requirements will lose federal support for health planning efforts and will also lose most federal Public Health Service dollars. Alaska currently receives some $5 million annually in such federal funds. Our lack of compliance would result in one quarter of these funds being withheld for four years until certain federal public health service funds are no longer available to Alaska.

We appreciate the hearing you conducted on House Bill 195. We believe this bill, with the amendments we offered, would bring our State Health Planning and Development Agency into full compliance with federal requirements. Your assistance in helping to move this legislation would be very much appreciated.

We appreciate your assistance and support in this matter.

Sincerely,

Helen D. Beirne

Helen D. Beirne
Commissioner

Enclosure

cc: Phoebe A. Lindsey

HF38LH

ALASKA STATE MEDICAL ASSOCIATION
4107 Laurel Street • Suite 1 • Anchorage, Alaska 99504 • (907) 277-6891



ADOPTED BY THE ALASKA STATE MEDICAL ASSOCIATION HOUSE OF DELEGATES AT ITS ANNUAL MEETING IN FAIRBANKS, ALASKA JUNE 8, 1982

RESOLUTION NO. 82-23

SUBJECT: Certificate of Need

WHEREAS, the certificate of need process has increased the cost of health care rather than reduced it; and

WHEREAS, the certificate of need process has wreaked havoc upon the orderly development of hospitals in Alaska, therefore

BE IT RESOLVED, the Alaska State Medical Association urges and encourages the Legislature to repeal the certificate of need law.

DISTRIBUTION: Legislature
Alaska State Hospital Association
Press

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

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Moe Kadish
Trustee, Providence Hospital
Anchorage

Alternate Trustee Delegate to American Hospital Association
Robert Jansen
Central Peninsula Hospital
Soldotna

Physician Member of the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

November 4, 1982

The Honorable Ted Stevens
United States Senate
Washington, D.C. 20510

Similar letter sent to:
Senator Murkowski and
Congressman Young

Dear Senator Stevens:

As you are well aware the State of Alaska is not in conformity with the National Health Planning and Development Act and without federal action in 1982 faces penalties in grant monies under the Public Health Service Act and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. To avoid this penalty it is imperative that Congress repeal 42 U.S.C. 300m-(d) (copy attached).

This Association as well as the Alaska State Medical Association (resolutions attached) are opposed to the continuation of the state Certificate of Need law. Both are committed to its repeal in 1983. Repeal of 42 U.S.C. 300m-(d) will greatly assist our efforts.

We have communicated our support for various measures considered by this Congress to restructure the federal law. It appears however, that a full reform may be a consideration which must be left to the next Congress. If that is so, it is imperative that you secure repeal of 42 U.S.C. 300m-(d) before the current Congress adjourns in December.

All of those concerned with this issue including Congressman Waxman, the National Governors Conference, the American Hospital Association, etc., agree on removing sanctions against states which do not conform to the federal program. The notion of further delay of the sanctions does not assist anyone, it simply prevents states such as Alaska from dealing with its own law on anything beyond a temporary basis.

For these reasons we urge you to secure the repeal of 42 U.S.C. 300m-(d). This will permit the legislature of the State of Alaska to deal with its law in whatever manner it deems appropriate. Further, we urge that this repeal be secured prior to the adjournment of the 97th Congress.

Sincerely,

Dennis L. DeWitt
President

DLD:lf
cc: Friday Mailing
Alaska State Medical Society
Governer Jay Hammond
Governer Elect Sheffield
Lt. Governer Terry Miller
Lt. Governer Elect McAlpine
American Hospital Association - Lynn Hart
Federation of American Hospitals

BILL SHEFFIELD, GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 22, 1982

Mr. Dennis L. DeWitt
President
Alaska State Hospital Association
319 Seward Street
Juneau, Alaska 99801

Dear Mr. DeWitt:

Thank you for sending me a copy of your letter to Senator Stevens regarding the state Certificate of Need law.

As you know, I am in agreement with you in your opposition to this law. Please keep me posted as to what I can do to change the law in Alaska.

Best regards.

Sincerely,

Bill Sheffield
Governor

Blue Cross
of Washington and Alaska

15700 Dayton Avenue North/P O Box 327
Seattle, Washington 98111
206/361-3000

FEB 18 1983

February 14, 1983

Representative Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Tischer:

I appreciated having the opportunity to discuss with you the legislative proposals which you are addressing in this session and which are of concern to Blue Cross of Washington and Alaska. Martin Tirador will be keeping in close contact with you on these and other issues.

We are continuing to develop information which supports our position for the modification of the certificate of need law. Other organizations such as [redacted] Much of this information will be presented to the Health Education and Social Services Committee in the hearing on HB 19.

I particularly appreciated the chance to visit with you. I would hope that you will call on either Martin Tirador or me if you feel we can provide you with information on any issue you are considering in the legislative process.

Sincerely,

Joan Gaumer

Joan Gaumer, Director
Government Relations

JHG:pf

Blue Cross
of Washington and Alaska

15700 Dayton Avenue North/P.O. Box 327
Seattle, Washington 98111
206/361-3000

February 4, 1983

POLICY STATEMENT

Blue Cross of Washington and Alaska supports the retention of Certificate of Need. That process should, however, be modified as follows:

1. The dollar threshold should be increased to $1,000,000 per application.

2. Modifications which are necessary to reduce health and safety hazards should be exempted.

3. The State Health Planning and Development Agency should become the sole health planning body for the State and should be charged with health planning for all Alaskans. A provision should be included allowing municipalities to establish local health councils to the State Health Planning and Development Agency, who may make recommendations on planning matters.

JHG:pf

northern alaska health resources association, inc.

FEB 9 1983

February 03, 1983

The Honorable Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Tischer:

The Board of Directors of the Northern Alaska Health Resources Association has discussed the issue of repeal of the Certificate-of-Need (CON) law as currently proposed in HB 19. We reached agreement that a modified CON process is preferable to repeal. Although we recognize that there are problems with the current process, we believe that they can be solved by making major revisions in the regulations rather than by repealing the law. There is little disagreement that the threshold limits that trigger CON review are too low or that review of many non-clinical expenditures is a nuisance. Moreover, the process should be tightened up so that reviews are completed in a timely and efficient manner.

There are several reasons why we believe the CON process should be retained; however, the most important reason has to do with citizen participation in deciding what health care services and facilities are most appropriate and affordable for a specific community or region of the state. The issue has not been whether a CON should be approved or denied but rather that a discussion or negotiation has taken place between the community and health-care facility regarding local, regional and statewide needs. The Certificate-of-Need process has been a forum for these discussions and has served to guide the appropriate development of health care services and facilities throughout the state.

A recent trend has been to appropriate increasing amounts of public funds for construction or expansion of health care facilities in Alaska (i.e., $31,500,000, FY 81-82). Moreover, we are seeing the cost of health care increasing at a rate which has been consistently higher than the general rate of inflation. It has been demonstrated that capital investment contributes significantly to the growth of total hospital expenditures. Although it is true that general inflation, sophisticated technology, and increasing staff requirements also contribute to rising costs of hospital care, hospital capital investments add to the operating costs by an amount in excess of the value of the investment. In April, 1982, Arthur D. Little, Inc., a health economics consulting firm under contract with the National Center for Health Services Research, estimated that the present value of additional operating expenditures in the next ten years is $1.84 for every dollar invested in capital improvements, exclusive of depreciation and debt service. Uncontrolled

529 5th avenue, suite 8 fairbanks, alaska 99701 telephone (907) 456-2553

capital expenditures for more or bigger health care facilities can only serve to drive up operating costs at an accelerated rate. These increased costs are ultimately passed on to the patient or community. We believe that people must continue to have the opportunity and responsibility through the CON process to determine what level of health services they are willing to pay for. Competition in the health care field essentially does not exist, especially in Alaska where most communities cannot afford more than one health care facility; therefore, the only way that we can keep a lid on overbuilding is through a capital expenditures review program similar to the current Certificate-of-Need program.

Several states have already revised their CON process (among them Colorado and New Mexico) with full support of their respective state hospital associations. Revision of Alaska's CON process must occur if we expect to see the process work as it was designed to do. The following revisions are offered for consideration:

1. Increase the threshold level which triggers a CON review from $150,000 to <u>at least</u>:
   a. $600,000 for capital expenditures
   b. $400,000 for major medical equipment
   c. $250,000 for operating expenses associated with new services.

2. Exempt all non-clinical capital expenditures. The bill should indicate that non-clinical services which are not subject to review include, but are not limited to: parking, telephone systems, day care, mailrooms, heating and air conditioning, blood bank, dietary/cafeteria, laundry and linen, medical records, business office, housekeeping, central supply, library, reception, and data processing. This exemption would apply only if one of these non-clinical projects was the main purpose of the application. For example, a project proposing a new facility could still include review and consideration of the non-clinical activity if it were part of a larger project.

3. Expedite review of capital equipment replacement.

4. Specify a time limit for a decision by the Commissioner subsequent to a recommendation by the regional health planning agency.

5. Provide that each legislator be informed of all projects in his/her district, especially regarding the outcome of the review.

6. Consider a sunset provision of four or more years to review effectiveness of the CON process.

In summary, there is little disagreement that there are problems with the current CON process; however, the forum that the CON process provides for community discussion about the relative merits of a proposed project far outweigh what we perceive to be correctable problems. We recommend revision of the CON process rather than repeal.

Sincerely,

J. B. Carnahan
President

JBC:flr

cc: William Sheffield
Governor

Robert London Smith, Ph.D.
Commissioner, DHSS

Alaska Health Coalition

Southeast Alaska HSA

South Central Health Planning
and Development, Inc.

FEB 18 1983

South Central
Health Planning and Development, Inc.
1135 West Eighth Avenue • Suite 1 • Anchorage, Alaska 99501
(907) 278-3631

Dave, all these type of comments need to be made part of the testimony. Please put into my file

February 15, 1983

Dear Alaska Legislator:

The Executive Committee of South Central Health Planning and Development, Inc., yesterday met to discuss the proposed Certificate of Need repeal bill. The Committee asked me to convey to you our support for the attached position paper developed by the Alaska Health Coalition.

[redacted]

If you have questions on this issue, you might contact Executive Director, Peggy Wilson.

Sincerely,

Margaret McClure Wilson

Margaret M. Wilson
Executive Director

MMW/ab

Alaska Health Coalition

529 5th Avenue, Suite 8
Fairbanks, Alaska 99701
(907) 456-2553

February 11, 1983

TO: Members of the Alaska Legislature

Proposed legislation (HB 19 and SB 85) would repeal Alaska Statute 18.07.031-18.07.111, better known as the Alaska Certificate of Need (CON) law. These bills reflect the position of the Alaska Hospital Association, whose member institutions are subject to the provisions of the CON process. The attached paper, developed by the Alaska Health Coalition, was written to provide legislators and the public with a series of alternatives to consider during discussion of these important bills. The paper summarizes the provisions of the CON law, discusses several of the problems which have been identified with the current process, and reviews the effectiveness of the CON program, both nationally and within Alaska. In addition, a list of recommendations is provided for consideration in revising the current CON law.

The Alaska Health Coalition is a group of interested citizens with memberships from the three Alaska Health Systems Agencies and the Statewide Health Coordinating Council. The primary purposes of the Coalition are to review the need for health planning, development, and promotion activities and to develop goals, describe functions, and recommend structures to achieve optimal health for the citizens of the state. Therefore, we believe that the subject of public review of capital expenditures as currently provided for in the Certificate of Need law is an important issue which deserves a reasonable, objective discussion. We present this paper for the purpose of initiating this discussion.

For additional information, please contact any of the following organizations: Northern Alaska Health Resources Association, Fairbanks (456-2553); South Central Health Planning and Development, Anchorage (278-3631); or, Southeast Alaska Health Systems Agency, Ketchikan (225-9681).

Best regards,

Charles M. Kaltenbach, Dr. P.H.
Chairman

CMK:sem

Enclosure

Coalition Members

J. B. Carnahan, Fairbanks; Joseph [illegible], Juneau;
Charles Kaltenbach, Dr. P.H., Fairbanks; Steve [illegible], Anchorage,
John Manning, Ketchikan; Lillie McGarvey, Anchorage; Art Williams, Sitka; Margaret Wilson, Anchorage

CERTIFICATE OF NEED:

REVISION OR REPEAL

Prepared in
the
Public Interest
by
the

ALASKA HEALTH COALITION
February, 1983

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EXECUTIVE SUMMARY

Alaska's Certificate of Need (CON) Law was enacted by the State Legislature in 1976, following passage of Public Law 93-641, the National Health Planning and Resource Development Act of 1974. Provisions in the CON law require that non-federal health care institutions apply for and receive a Certificate of Need from the State of Alaska before proceeding with major capital investments which will result in new construction, alterations or renovations, and/or new services. The Thirteenth Alaska Legislature currently has before it companion bills, HB 19 and SB 85, which provide for repeal of the CON law. The purpose of this paper is to review the data available on the effectiveness of the CON process, both nationally and within the State of Alaska, and to present alternatives for consideration by the Legislature regarding public review of capital expenditures for health care facilities.

Evidence is presented that the CON program has had an effect on limiting the amount of capital expenditures. Furthermore, current economic research has demonstrated that, for every dollar of capital investment made in a health care facility, an accompanying increase in operating costs can be expected amounting to 184% of the original investment in ten years.

Evidence gathered on Alaska's experience with the Certificate of Need program indicated that it has been effective in deterring and/or guiding capital investment within the health-care industry and has stimulated improved planning within the health-care institutions themselves. Examples are presented which illustrate how the process created this impact.

Several issues are discussed relating to recognized concerns within the current CON process. These issues include: 1) costs attendant to developing a CON application; 2) delays in the review process; 3) loss of community control; 4) marketplace economics; and, 5) the dollar-threshold limits which require a CON.

The conclusion drawn from this review was that, although there are problems with the current CON process, revision of the law is preferable to outright repeal. Recommendations for revision of the law are provided and include:

1. Raising threshold levels.
2. Exempting non-clinical capital expenditures.
3. Expediting reviews of equipment replacement.
4. Specifying time limits on reviews.
5. Providing legislators with information on the outcome of reviews in their districts.
6. Providing for a sunset review of the process.

CERTIFICATE OF NEED PROGRAM

PURPOSE

The most controversial aspect of the health planning effort, in Alaska and nationwide, has been the Certificate of Need (CON) program. Borrowed from public utility regulations, the earliest CON program was enacted by New York in 1964. Twenty-six other states instituted CON programs in the next ten years, and, with the passage of Public Law 93-641, CON was mandated for all states. Alaska's Certificate of Need statute (18.07.031-.111) was enacted by the State Legislature in 1976 and amended in 1981.

As originally designed, the CON program was implemented to curb rapidly escalating costs of health care by stemming uncontrolled capital investments in new health-care facilities, services, and high-technology equipment. To accomplish this goal, the CON program had several primary objectives: 1) to prevent unnecessary duplication of services and facilities; 2) to reduce the number of available hospital beds or at least not allow the growth of hospital beds to exceed guidelines established in the State Health Plan; 3) to promote an equitable and efficient allocation of resources; and 4) to determine if less costly alternatives to expensive capital expenditures were available to accomplish the same purpose.

WHO MUST APPLY

The State of Alaska requires approval of capital expenditures for projects which meet or exceed certain thresholds:

1. Capital expenditures in excess of $150,000 toward building, improving, or purchasing a health care facility, including lease or purchase of equipment, costs of any study surveys, designs, and site acquisitions and preparations.

2. Any change within a two-year period in the licensed bed capacity of a health care facility amounting to 10 beds or 10 percent, whichever is the lesser, which increases or decreases the number of beds or redistributes beds among different categories of service.

3. Any addition or elimination of a major type of service offered in or through the health care facility.

A project meeting or exceeding these thresholds is required to obtain a Certificate of Need from the State of Alaska prior to implementation.

THE PROCESS

An applicant enters the CON review process by submitting a "Letter of Intent" to the Department of Health and Social Services (DHSS) and to the appropriate health systems agency describing briefly the scope of the proposed activity. If the DHSS determines that the project is subject to CON review, the applicant develops a formal application and submits it to the State agency and the regional health systems agency. In most cases, a pre-application conference is scheduled with the applicant to minimize any potential misunderstandings and to achieve an agreement on what would represent a successful application. Once the State agency certifies that the application is "complete" -- that it contains sufficient information necessary to conduct an objective review -- the agency has 90 days to review the application and to submit an analysis to the Commissioner of DHSS for final action. Within the 90-day review period, the regional health planning agency has 60 days to review and seek public comments on the appropriateness of the proposed application. The HSA submits its findings and recommendations to the Commissioner. Once the Commissioner has considered the information that has been submitted, he decides whether or not to issue a Certificate of Need to the applicant. The Commissioner notifies the applicant in writing of the decision. Copies of the decision are sent to the Health Systems Agency and are published in regional newspapers.

EFFECTIVENESS

Nationwide

Nationally, credible information is just beginning to emerge regarding the effect of capital expenditures review. Although this topic has been of interest for many years, much of the early literature is of little value because of a basic lack of understanding about the process and outcome of capital expenditure review programs.[1] Two recently completed studies in the State of Massachusetts have reported CON impacts.[2,3] The first analyzed hospital capital investment among short-term general voluntary hospitals between 1967-1976. The results were that, by 1976 and beyond, CON review reduced all dimensions of project scale and cost by as much as two-thirds of that originally proposed. The second study found that the formal and informal actions of the CON agency from 1972-1976 resulted in small, but statistically significant, reductions in the rate of hospital investment.

Two studies conducted in 1982 by Arthur D. Little, Inc., shed additional light on the potential impact of capital expenditures review.[4,5] The first study analyzed the effect of capital expenditures review decisions in five states: Colorado, Florida, Maryland, Massachusetts, and Oregon (chosen for their geographical and regulatory differences). Based on their analysis, CON programs appeared to be effective in limiting the amount of capital expenditures undertaken. Furthermore, they discovered that, for every dollar of capital investment, there was a definite increase in operating costs. They projected that, over a ten-year period, a dollar of capital investment generates additional operating costs with a present value of $1.84 (exclusive of

depreciation and debt service). They concluded from these results that CON programs have the potential to play an important role in curbing hospital cost inflation.[4]

A second report by Arthur D. Little, Inc., involved an analysis of information from a six-state study.[5] For the states of Virginia, South Carolina, Washington, New Jersey, Iowa and Colorado, Arthur D. Little undertook a review of Certificate of Need programs for the twelve-month period beginning July 1, 1979 to June 30, 1980. Three significant findings were reported: 1) certain capital costs were not incurred as a result of the CON review program; 2) the objectives contained in individual state plans and health systems plans tended to deter capital expenditure projects; and, 3) pre-application conferences -- health planners and providers working together to avoid project denial -- were effective means of reducing the "administrative costs" of the review process as well as excessive capital expenditures.[6]

Alaska

Currently (February 1983) there are five projects under review by the Department of Health and Social Services that total $106,000,000. Two additional applications are anticipated, totalling $20,820,000. These seven applications ($126.8 million) provide an interesting contrast with the more than 30 projects which were approved for $149,000,000 in the previous five years (1977-1982).

Two projects with a combined total of $12,400,000 have been denied during the past five years. In addition, several other Letters of Intent have been received by the Department for which applications were never received. It is impossible to estimate how many applications or letters of intent were never submitted because of the presence of the CON law.

The Alaska CON Program has been effective in accomplishing three things. First, it seems reasonable to expect that CON has deterred misdirected projects that could not withstand the test of public scrutiny. It has, therefore, acted to uphold existing plan standards. Secondly, it has guided institutional actions into areas which are compatible with the goals and objectives of the State as reflected in State and regional health plans. Thirdly, the presence of the CON program has promoted better planning on the part of the health care institutions throughout the State.

Deterrent Effects

Although the deterrent effect of Certificate of Need is admittedly difficult to demonstrate, there is evidence from the number of "Letters of Intent" which never resulted in an application that CON is a deterrent. A specific example of this phenomenon was observed during a recent effort by four different applicants to provide inpatient alcoholism treatment services in and around Anchorage. The Department of

Health and Social Services and the local health systems agency identified a need for 40-80 alcohol-treatment beds in the area. Due to pre-application planning, only two of the four applications were completed for final consideration. Both were subsequently approved.

Improved Institutional Planning

Situations in which the CON process provides expert guidance and stimulates better institutional planning do not always result in smaller, less-expensive projects. For example, Valley Hospital in Palmer submitted an application to complete a minimal and temporary renovation of their 30-year old facility at a cost of $2,000,000. Part of the renovation included additional insulation to prevent heat loss through the roof. At the suggestion of the Department, a structural engineer was asked to study the ability of the roof to withstand the increased load of snow which would not be melted because of the insulation. The Department also requested a life-cycle cost analysis which would determine the cost of a temporary renovation as opposed to costs of major renovation. The results of these inquiries demonstrated that the roof was not designed to withstand the extra load of snow and that, when total operating expenses and capital costs were considered for a 25-year period, it would be less expensive to forgo the minimal renovation and proceed with a major renovation. The result of this review was an approval for a major renovation project -- at a long-term cost savings.

Petersburg General Hospital filed a letter of intent for $3,400,000 to renovate an existing acute care facility. Following an architectural assessment of the facility and a life-cycle cost analysis requested by the State, it was determined that the cost of new construction would be preferable to renovation. Subsequently, a CON was approved for $7,150,000. Obviously, the CON process is not punitive, but rather seeks to use health care resources to gain the maximum benefit for the community.

Hospitals in Homer and Fairbanks submitted proposals for review which contained "shelled-in" space for which no use was intended for the immediate future. In Homer, the Department requested further assessment of the situation to identify a solution to future use of the shelled-in space. As a result the plans were redrawn for the renovation and expansion and included the proposed use of the shelled-in space.

Better Conformance with Identified Community Needs

In Fairbanks, the CON process stimulated a community discussion of the need for inpatient psychiatric services and a concern for approving the construction of two shelled-in floors that did not have an identified use. Because of discussions at the local level during the review by the health systems agency, the hospital agreed to specify the intended use of the shelled-in space and, furthermore, to enter into a planning process with the community during the following year to determine the most appropriate configuration for the proposed services.

Summary

Although it is difficult to place a dollar figure on the impact of the Certificate of Need program over the past six years, it appears that Alaska's program has effectively deterred and guided capital investment within the health care industry and has stimulated improved planning within the institutions themselves. Because of the CON program, Alaskans have saved millions of dollars in operating costs which would have resulted from unneeded expansion of facilities and services. Moreover, the State Legislature and the Administration should feel some measure of assurance that, because of the CON process, the millions of dollars in public funds that have flowed from the State to health care facilities for construction and operation are being used for projects which meet an identified need, do not duplicate existing services, and are financially feasible.

PROBLEMS WITH THE CON PROCESS AND RECOMMENDATIONS FOR IMPROVEMENT

INTRODUCTION

Proponents and opponents of the Certificate of Need program agree that the current CON process requires substantial changes. Opponents cite several reasons for their decision to push for repeal of the current law. Among the reasons are: 1) significant costs are involved in developing a CON application and proceeding through the review; 2) delays in implementation are caused by an extended review period; 3) the CON process removes community control; 4) market-place economics should control capital investment; and 5) threshold limits which trigger a CON review are too low.

COSTS

No one denies that there are costs attendant to developing a CON application. The majority of those costs, which have been estimated to run as high as $40,000 for the more complex projects, can be attributed to personnel costs. Most of these costs would continue in the absence of CON if a facility did a credible job of planning for future services. In order to gain public support, justify the financial feasibility of a construction project, and obtain adequate architectural designs, planning still must occur. The costs of institutional planning will not disappear in the absence of CON.

DELAYS

Extended review schedules have in some cases resulted in delays in construction start-up time which have been not only frustrating but also costly. It seems reasonable that the cause for these delays can be identified and corrected by revising the regulations regarding CON review. For example, provisions could be made to expedite review of capital equipment replacement and to set a time limit for a decision by the Commissioner subsequent to a recommendation by a regional health planning agency. Also, by raising the threshold limits which require a CON, there will be approximately 25% fewer reviews to do. This should improve the efficiency of the review process.

COMMUNITY CONTROL

Concern has been expressed that the CON process removes community control from local jurisdictions in the case of municipally-owned facilities and local advisory boards with respect to corporately-owned facilities. However, local governments and advisory boards do not necessarily maintain a regional or statewide perspective when it comes to considering new services and facilities. In other words, persons who

serve on local hospital advisory boards are chosen for their expertise and dedication in local issues; often, however, a project will have regional or statewide implications that cannot be properly addressed at the local level. The CON process, at the very least, offers local, regional and statewide perspectives on the need and appropriateness of a proposed project. Instead of removing community control, the CON process bestows some control on the community at large.

In addition, a trend is evident that an increasing amount of public funds are being appropriated by the legislature for construction and renovation. It seems reasonable that in a time of decreasing state revenues, citizens should have an opportunity to influence the distribution of these funds so that they meet state and regional needs instead of local demand. The CON process ensures public participation in these decisions.

MARKETPLACE ECONOMICS: COMPETITION vs. "REGULATION"

In recent years, there has been a popular theory that the problems in U.S. health services can be blamed on excessive government intervention and regulations. It has been argued that high costs and related problems could be solved by a "return to the free market and competition."[6] Two recent articles argue to the contrary.[7,8]

Roemer and Roemer, well-known health-economics experts, examined the past and present operations of free trade and competition in the health care system and found that not one of at least five conditions necessary for competition existed.[7] In addition, they found that the free market created a geographic maldistribution of health manpower, causing serious problems for rural populations. Furthermore, they discussed the paradoxical problem which has been demonstrated for every component of the health care industry of "supply creating demand" rather than the reverse, which is true in an effectively operating market. Supply creates demand in the health care industry fundamentally because the seller (doctor) rather than the buyer (patient) makes most of the decisions on what health services are to be obtained.[7]

Needlemen, another health economist, expressed a similar opinion.[8]

> An effective market is one in which there is competition on the basis of both price and quality, and in which those who sell services are limited in their ability to influence the volume of services they sell and are constrained in the prices they set by competitive pressures. By this definition, an effective market for health care services does not exist in most communities. Competition exists but it is rarely price competition; indeed the nature of current competition based on scope of services, amenities, and convenience is to encourage price increasing behavior. (Emphasis added).[8]

Arthur D. Little, Inc., summarized the policy implication of the debate surrounding competition and regulation. They reported that, in the absence of Certificate of Need regulations, hospitals will compete more vigorously by offering improved facilities to recruit physicians and patients. The resulting "building boom" will drive up operating expenditures over the next ten years by $1.84 for every dollar invested, exclusive of depreciation and debt service.

THRESHOLD LIMITS

Alaska regulations specify that a CON is required for any capital expenditure in excess of $150,000. There is general agreement that this threshold is far too low. Federal regulations have already changed to accomodate a significant increase in CON thresholds. The threshold levels which trigger a CON review should be increased from $150,000 to at least $600,000 for capital expenditures; $400,000 for major medical equipment; and $250,000 for operating expenses associated with new services.

CONCLUSIONS

Recent evidence nationally and available information from the Certificate of Need Program in Alaska indicate that the program has been effective in deterring unjustified projects, guiding capital investment projects, and stimulating improved institutional planning. Together these effects have served to meet the health care needs of the public, prevent duplication of costly services, and restrain the increasing costs of health care. Acute problems with the CON process are correctable by amending the law.

Options available to the Legislature can be placed into three categories: 1) keep the law as it is and maintain the status quo; 2) repeal the law in its entirety; or, 3) revise the law to correct recognized problems.

MAINTAIN CURRENT CON PROCESS

The State would continue to operate the program in its current form. This option assumes the CON process is working efficiently and requires only minor changes.

Because of recognized problems, this option appears to have little merit. Threshold levels are too low, most non-clinical expenditure reviews are a nuisance for applicants and reviewers, and delays in the review process are unacceptable.

REPEAL THE CON LAW

This option assumes that the Certificate of Need process has been entirely ineffective and that marketplace incentives will arise to control capital investments and health care costs.

It also assumes that public review of health care capital expenditures are unimportant and that health care consumers should not have a voice in determining the appropriateness of services in their community.

A competitive pricing market does not exist within the health care services industry of any community in Alaska. In addition, the State of Alaska did not renew its Section 1122 agreement with the federal government in 1981 because the Certificate of Need law was in place.[9] (Section 1122 of PL 92-603 required that health care facilities, which received federal monies under Titles XVIII and XIX, be subject to review to ensure consistency with state health plans.) Repeal of the CON law would leave the State entirely without a capital expenditure review process for health care facilities; therefore, the State would have to rely principally on either the competitive market or incentives established under some kind of a prospective reimbursement system to control costs and allocate resources. (Hospitals are currently reimbursed by the federal government under Medicare and Medicaid on a retrospective basis; that is, after the costs have already occurred. Under this

reimbursement mechanism, there is no real incentive for containing costs. Prospective reimbursement, on the other hand, would require that hospitals negotiate the rate or cost of a service a year in advance. The government and other third-party insurers would reimburse the hospital only at the negotiated rate; therefore, costs exceeding the rate would be borne by the hospital, and, conversely, the hospital would make money if costs were kept below the negotiated rate.)

Because a competitive pricing market does not exist anywhere in Alaska, eliminating the CON program will likely lead to new, unneeded services and facilities which will result in increased operating costs. These costs are passed directly on to the buyers (patients and taxpayers).

Prospective reimbursement, on the other hand, comes in various forms and generally has been found to be more difficult to enact and implement than Certificate of Need. Generally speaking, prospective reimbursement is likely to be successful only where there has been political support for Certificate of Need.[8]

Finally, repeal of CON serves the interests of the health services establishment only. Those who control health-care costs would also be controlling capital investments. Consumers could not have a voice in determining the most appropriate and affordable level of service for their community or region.

MODIFY THE CON PROCESS

This option assumes that the CON program has been effective and can be modified to make it more efficient. The scope of the CON program could be scaled back by raising threshold levels and exempting certain non-clinical capital expenditures. Under this option, the CON program could be reduced further if a market capable of insuring an appropriate allocation of services emerged or to complement a prospective reimbursement system.

RECOMMENDATIONS

The Alaska Health Coalition recommends that negotiations take place among members of the Alaska State Hospital Association, the Legislature, and the Administration to work out revised CON regulations.

[redacted]

1. [redacted]

2. Exempt all non-clinical capital expenditures. The bill should indicate that non-clinical services which are not subject to review include, but are not limited to: parking, telephone systems, day care, mailrooms, heating and air conditioning, blood bank, dietary/cafeteria, laundry and linen, medical records, business office, housekeeping, central supply, library, reception, and data processing. This exemption would apply only if one of these non-clinical projects was the main purpose of the application. For example, a project proposing a new facility could still include review and consideration of the non-clinical activity if it were part of a larger project.

3. Expedite review of capital equipment replacement.

4. [redacted]

5. Provide that each legislator be informed of all projects in his/her district, especially regarding the outcome of the review.

6. [redacted]

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4 Arthur D. Little, Inc. Development of an Evaluation Methodology for Use in Assessing Data Available to the Certificate of Need (CON) and Health Planning Programs. Final report prepared for DHHS/Office of Assistant Secretary for Health. Contract #233-79-4003. April 1982.

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8 Needleman, Jack. Competition and State Health Planning Programs: Options for State Action. Alpha Center for Health Planning. Bethesda, Maryland. DHHS/BHP. HRA Contract #232-79-0035. June 1982.

APPENDIX

NATIONAL HEALTH PLANNING AND DEVELOPMENT ACT OF 1974

INTRODUCTION

Public Law 93-641, (National Health Planning and Resource Development Act), passed by the U.S. Congress in 1974, established a national health planning program which was implemented in each state and several American territories. The intent of Congress was to integrate previously sponsored programs (Hill-Burton, Regional Medical Program, Comprehensive Health Planning), retain the best features of each, and address major national, state, and local concerns about the current planning, development, and operation of the nation's health care system. To address these concerns, the Act authorized the designation and funding of state and regional health planning agencies and set forth several functions these agencies had to perform in order to further the "achievement of equal access to quality health care at a reasonable cost."

HEALTH SYSTEMS AGENCIES

Health Systems Agencies (HSAs) were designated as local or regional bodies with the responsibility for preparing and implementing plans designed to improve the health of the residents of its health service area; to increase the acceptability, accessibility, continuity and quality of health services of the area; to restrain increases in the cost of providing health services; and, to prevent unnecessary duplication of health resources. These functions were carried out by interested consumers and providers working together to identify community and regional problems and to develop strategies and recommendations to help alleviate those problems.

HSAs were established as either private, non-profit corporations or public entities governed by boards that had to have a consumer majorities. Operational funds have been awarded through both Federal (PHS) and State (DHSS) sources. In Alaska, the Governor designated three health service areas which were each to be served by an HSA. Alaska's three HSAs are: Northern Alaska Health Resources Association, Inc. (Fairbanks), serving northern Alaska; South Central Health Planning and Development, Inc. (Anchorage), serving south central Alaska, including the Aleutian chain; and Southeast Alaska Health Systems Agency (Ketchikan), serving Alaska's panhandle.

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

The Governor designated a State Health Planning and Development Agency (SHPDA) as a unit of State government. The SHPDA has the responsibility to conduct the health planning activities of the State, including preparation and implementation of the State Health Plan, and to provide coordination of the HSAs. The SHPDA also supports the function of the Statewide Health Coordinating Council and is responsible for administration of the Certificate of Need program. In Alaska, the SHPDA resides within the Department of Health and Social Services. It currently occupies division-level status.

STATEWIDE HEALTH COORDINATING COUNCIL

The Alaska Statewide Health Coordinating Council (SHCC) is the third entity involved in the State health planning network. The SHCC is a group of citizens appointed by the Governor who oversee the health planning activities within the State. Specifically, they have responsibility for preparation of the State Health Plan. The State Health Plan forms the basis upon which Certificate of Need applications are reviewed. Both the SHPDA and SHCC are supported with a mix of Federal and State funds.

STATEMENT OF

ÆTNA LIFE INSURANCE COMPANY

IN OPPOSITION TO

H.B. 19

As a major writer of commercial health insurance, the Ætna Life Insurance Company has for years been deeply concerned about health care cost increases and has consistently supported viable health planning programs. We strongly oppose H.B. 19, An Act Repealing the Certificate of Need Program. We believe that enactment of this legislation would represent a large step backward in Alaska's effort to realize an efficient and effective health care delivery system.

Health planning is one of the elements in the armamentarium of programs that are necessary to help in the reduction of the escalation of health costs and to ensure that the health care delivery system of the future is one that has been rationally and systematically planned.

We feel that it is most important that there be a mechanism in place for participation in the planning and development of health programs to improve the distribution of health services, ensuring that services are available to those citizens who need them, while restricting the investment in unnecessary facilities and services.

An important portion of a viable health planning program is state certificate of need legislation. We find it is essential to have such legislation in order that the necessity of capital expenditures can be determined, because of the two-pronged effect on the growth of health care costs. In the short run, the purchase, installation, and financing of expenditures increases annual health care expenditures. In the long run, operation and maintenance of capital expenditures continue to add to health care costs, to increased use of highly skilled labor (for maintenance and operation) and non-labor inputs (i.e., energy, supplies, etc.).

It has been estimated that every dollar of capital investment adds an additional 50¢ to annual operating cost. An important element in today's economy, which has had a dramatic effect on health care costs related to capital expenditures, is the interest rate now being charged on the finance debt. Efforts must be made to ensure that all capital expenditures made today are necessary and consistent with the goals of Alaska's Health Systems Plan and necessity for such expenditures.

Alaska's Certificate of Need Program is an important tool for implementation of the area health plan. We urge that this program be continued.

Alaska Health Coalition

529 5th Avenue, Suite 8
Fairbanks, Alaska 99701
(907) 456-2553

February 11, 1983

FEB 16 1983

TO: Members of the Alaska Legislature

Proposed legislation (HB 19 and SB 85) would repeal Alaska Statute 18.07.031-18.07.111, better known as the Alaska Certificate of Need (CON) law. These bills reflect the position of the Alaska Hospital Association, whose member institutions are subject to the provisions of the CON process. The attached paper, developed by the Alaska Health Coalition, was written to provide legislators and the public with a series of alternatives to consider during discussion of these important bills. The paper summarizes the provisions of the CON law, discusses several of the problems which have been identified with the current process, and reviews the effectiveness of the CON program, both nationally and within Alaska. In addition, a list of recommendations is provided for consideration in revising the current CON law.

The Alaska Health Coalition is a group of interested citizens with memberships from the three Alaska Health Systems Agencies and the Statewide Health Coordinating Council. The primary purposes of the Coalition are to review the need for health planning, development, and promotion activities and to develop goals, describe functions, and recommend structures to achieve optimal health for the citizens of the state. Therefore, we believe that the subject of public review of capital expenditures as currently provided for in the Certificate of Need law is an important issue which deserves a reasonable, objective discussion. We present this paper for the purpose of initiating this discussion.

For additional information, please contact any of the following organizations: Northern Alaska Health Resources Association, Fairbanks (456-2553); South Central Health Planning and Development, Anchorage (278-3631); or, Southeast Alaska Health Systems Agency, Ketchikan (225-9681).

Best regards,

Chas M. Kaltenbach

Charles M. Kaltenbach, Dr. P.H.
Chairman

CMK:sem

Enclosure

Coalition Members

J. B. Carnahan, Fairbanks; Joseph Cladoukos, Juneau;
Charles Kaltenbach, Dr. P.H., Fairbanks; Steve Lesko, Anchorage;
John Manning, Ketchikan; Lillie McGarvey, Anchorage; Art Willman, Sitka; Margaret Wilson, Anchorage

northern alaska health resources association, inc.

FEB 9 1983

February 03, 1983

The Honorable Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Tischer:

The Board of Directors of the Northern Alaska Health Resources Association has discussed the issue of repeal of the Certificate-of-Need (CON) law as currently proposed in HB 19. We reached agreement that a modified CON process is preferable to repeal. Although we recognize that there are problems with the current process, we believe that they can be solved by making major revisions in the regulations rather than by repealing the law. There is little disagreement that the threshold limits that trigger CON review are too low or that review of many non-clinical expenditures is a nuisance. Moreover, the process should be tightened up so that reviews are completed in a timely and efficient manner.

There are several reasons why we believe the CON process should be retained; however, the most important reason has to do with citizen participation in deciding what health care services and facilities are most appropriate and affordable for a specific community or region of the state. The issue has not been whether a CON should be approved or denied but rather that a discussion or negotiation has taken place between the community and health-care facility regarding local, regional and statewide needs. The Certificate-of-Need process has been a forum for these discussions and has served to guide the appropriate development of health care services and facilities throughout the state.

A recent trend has been to appropriate increasing amounts of public funds for construction or expansion of health care facilities in Alaska (i.e., $31,500,000, FY 81-82). Moreover, we are seeing the cost of health care increasing at a rate which has been consistently higher than the general rate of inflation. It has been demonstrated that capital investment contributes significantly to the growth of total hospital expenditures. Although it is true that general inflation, sophisticated technology, and increasing staff requirements also contribute to rising costs of hospital care, hospital capital investments add to the operating costs by an amount in excess of the value of the investment. In April, 1982, Arthur D. Little, Inc., a health economics consulting firm under contract with the National Center for Health Services Research, estimated that the present value of additional operating expenditures in the next ten years is $1.84 for every dollar invested in capital improvements, exclusive of depreciation and debt service. Uncontrolled

529 5th avenue, suite 8 fairbanks, alaska 99701 telephone (907) 456-2553

capital expenditures for more or bigger health care facilities can only serve to drive up operating costs at an accelerated rate. These increased costs are ultimately passed on to the patient or community. We believe that people must continue to have the opportunity and responsibility through the CON process to determine what level of health services they are willing to pay for. Competition in the health care field essentially does not exist, especially in Alaska where most communities cannot afford more than one health care facility; therefore, the only way that we can keep a lid on overbuilding is through a capital expenditures review program similar to the current Certificate-of-Need program.

Several states have already revised their CON process (among them Colorado and New Mexico) with full support of their respective state hospital associations. Revision of Alaska's CON process must occur if we expect to see the process work as it was designed to do. The following revisions are offered for consideration:

1. Increase the threshold level which triggers a CON review from $150,000 to <u>at least</u>:
   a. $600,000 for capital expenditures
   b. $400,000 for major medical equipment
   c. $250,000 for operating expenses associated with new services.

2. Exempt all non-clinical capital expenditures. The bill should indicate that non-clinical services which are not subject to review include, but are not limited to: parking, telephone systems, day care, mailrooms, heating and air conditioning, blood bank, dietary/cafeteria, laundry and linen, medical records, business office, housekeeping, central supply, library, reception, and data processing. This exemption would apply only if one of these non-clinical projects was the main purpose of the application. For example, a project proposing a new facility could still include review and consideration of the non-clinical activity if it were part of a larger project.

3. Expedite review of capital equipment replacement.

4. Specify a time limit for a decision by the Commissioner subsequent to a recommendation by the regional health planning agency.

5. Provide that each legislator be informed of all projects in his/her district, especially regarding the outcome of the review.

6. Consider a sunset provision of four or more years to review effectiveness of the CON process.

In summary, there is little disagreement that there are problems with the current CON process; however, the forum that the CON process provides for community discussion about the relative merits of a proposed project far outweigh what we perceive to be correctable problems. We recommend revision of the CON process rather than repeal.

Sincerely,

J. B. Carnahan
President

JBC:flr

cc: William Sheffield
Governor

Robert London Smith, Ph.D.
Commissioner, DHSS

Alaska Health Coalition

Southeast Alaska HSA

South Central Health Planning
and Development, Inc.

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FRANK M. POTTER, JR.
CHIEF COUNSEL AND STAFF DIRECTOR

U.S. House of Representatives
Committee on Energy and Commerce
Room 2125, Rayburn House Office Building
Washington, D.C. 20515

February 2, 1983

Pierre Howard, Chairman
Senate Human Resources Committee
The State Senate
Atlanta, Georgia 30334

Dear Senator Howard:

Thank you for your letter concerning the consideration of Certificate of Need legislation by the Georgia Senate.

I can appreciate your interest in CON legislation. It is clear that without a strong health planning program, hospital and nursing home expansion will wildly inflate State and private, as well as Federal, health care payments. I suspect that Georgia, and Georgia's employers and employees, can ill afford to waste their resources on unnecessary or over-priced health services.

I am pleased to report to you that there is a firm Federal commitment to support a health planning system throughout the nation. A bill to extend Federal assistance to State and local health planning agencies was passed by the House of Representatives last year by a vote of 302 to 14. Although it was not possible to work out an agreement with the Senate in this regard at the end of the 97th Congress, the program was extended through FY 1983 by the Continuing Resolution.

As the 98th congress begins its work, I am sure that health planning legislation will again be on the agenda. While it is not possible to predict what the exact result of the legislative process will be, I think it is reasonable to assume:

1. The Federal government will continue to provide substantial funds to the States and local agencies to support health planning activities; and

2. In order to be elgible to receive such funds, States and local agencies will have to meet certain standards of organization and operation necessary to ensure their effectiveness.

3. States will be required to conduct a certificate of need program which covers hospital and nursing homes and otherwise complies with Federal law.

In this context, I would suggest that the prudent course for Georgia, or any other State, at this time is to maintain the current program without any major change. This will insure that both State and local agencies remain eligible for Federal support this year under the FY 1983 Continuing Resolution. It will also mean that, once all of the details of the Federal legislation are settled, Georgia can, in a single step, make changes in its CON program with a clear understanding of what its effect on eligibility for Federal support may be. If Georgia revises its CON program this year, further revisions, even contradictory changes, may be necessary next year or the year after.

With specific regard to the provisions of SB 121, I can report that they are not consistent with the current requirements of the Federal statute. I cannot guess whether these provisions will or will not be consistent with that legislation that will be developed this year. I can point out, by way of example, that the legislation endorsed by the House last year did include detailed requirements for State CON programs and that the provisions of SB 121 are not consistent with all of the provisions of that bill.

Again, I appreciate your interest in the future of the health planning program. As a Federal-State partnership, planning can only be successful with the understanding and support of State officials throughout the nation.

My best regards to you and your colleagues in the Georgia Senate.

Sincerely,

HENRY A. WAXMAN
Chairman, Subcommittee on
Health and the Environment

HAW/bbg

Blue Cross
of Washington and Alaska

15700 Dayton Avenue North/P.O. Box 327
Seattle, Washington 98111
206/361-3000

FEB 18 1983

February 14, 1983

Representative Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Tischer:

I appreciated having the opportunity to discuss with you the legislative proposals which you are addressing in this session and which are of concern to Blue Cross of Washington and Alaska. Martin Tirador will be keeping in close contact with you on these and other issues.

We are continuing to develop information which supports our position for the modification of the certificate of need law. Other organizations such as the Health Insurance Association of America and the American Health Planning Association have also researched the subject and have documented the necessity to retain CON if costs are to be contained in the health delivery system. Much of this information will be presented to the Health Education and Social Services Committee in the hearing on HB 19.

I particularly appreciated the chance to visit with you. I would hope that you will call on either Martin Tirador or me if you feel we can provide you with information on any issue you are considering in the legislative process.

Sincerely,

Joan Gaumer

Joan Gaumer, Director
Government Relations

JHG:pf

MAE -

New Mexico, Arizona, Minnesota, Colorado have sunset provisions that provide for Cert. of Need laws to expire on future dates - like ALASKA's sunset on topics like PAROLE Board, Psyclological examinos board, etc. REPEAL has NOT been passed by any legislature of FOR. CON.

DAVE

Alaska State Legislature

Representative Mae Tischer
District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

House of Representatives

MAE TISCHER

15 March 1983

Dr. Mike Beirne
President, Lake Otis Clinic
P. O. Box 4-1539
Anchorage, AK. 99509

Dear Mike:

Thank you for your March 2 update regarding CON. The Bill has passed out of my committee but has a long way to go before final passage, as you know. Presently in House Finance, I will copy your attachments and personally present them to the Finance Committee for their perusal. Many of the points in the February 23, 5-page letter to Commissioner Smith are pertinent facts for deliberation.

Sincerely,

Representative Mae Tischer
District 11



MAR 7 1983

LAKE OTIS CLINIC, INC. P.O. BOX 4-1539 ANCHORAGE, ALASKA 99509
(907) 276-3166

THE LAKE OTIS COMMUNITY HOSPITAL

file in my HESS CON file

March 2, 1983

The Honorable Mae Tischer
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

I know you are in the process of reviewing the Certificate of Need (CON) law. And, you are probably aware of the latest developments regarding the applications for CONs by Providence and Humana Hospitals.

Therefore, the attached materials are simply for your review. Should you have any questions, please let me know.

Sincerely,

mike

Dr. Mike Beirne
President
Lake Otis Clinic

MB/nc

attachments

mae —
Please don't repeal that law!
modify it - one million
threshold, but keep the law.
i.e. only thing you need a
CON for is new beds. Thanks,
— mike

LOA

LAW OFFICES OF
DAVIS, WRIGHT, TODD, RIESE & JONES
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(202) 965-6484
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PLEASE REPLY TO ANCHORAGE OFFICE

February 23, 1983

The Honorable Robert L. Smith
Commissioner
Department of Health and Social Services
Pouch H 01
Juneau, AK 99811

Re: In the Matter of the Revocation of the Certificate of Need for Lake Otis Hospital

Dear Commissioner Smith:

Thank you for your letter of January 31, 1983 regarding the status of the above-referenced administrative proceeding. We am writing to you today on behalf of our client, Lake Otis Clinic, Inc., because of recent developments we believe should be brought to your attention. Counsel for petitioner, South Central Health Planning and Development, Inc. ("South Central") has been provided with a copy of this letter and its attachments so he may respond to the letter if he wishes.

As you are no doubt well aware, the principal issues in this case are whether there are grounds for revoking Lake Otis Clinic's certificate of need, and if so, whether the certificate should or should not be revoked. The revocation proceeding was filed and prosecuted by South Central, the regional health systems agency which acts in an advisory capacity to DHSS. Since 1977, South Central has opposed the certificate of need issued to Lake Otis Clinic by DHSS essentially on the grounds (1) that the certificate was never submitted to South Central's review and recommendations and (2) that there is no need for the 125 acute care hospital beds Lake Otis Hospital would put into operation in Anchorage. The Anchorage Municipal Health Commission ("MHC") has taken a similar position. It filed a lawsuit challenging Lake Otis' certificate of need in 1979 which was dismissed late that year. South Central filed the instant administrative action in 1980. Lake Otis has consistently taken the position that it is

CB 2/24/83

not required to submit its hospital proposal to review by South Central and MHC since its certificate was "grandfathered" and that there was or would be need for the additional 125 acute care beds when they are constructed.

Disturbing recent developments indicate that South Central and MHC may be radically altering their position on bed need in Anchorage, after having effectively embroiled Lake Otis' certificate of need in litigation since mid-1979. Providence Hospital has filed an application for a certificate of need authorizing it to undertake a $97 million construction project to increase its bed capacity from 250 to 410 beds. Humana Alaska Hospital also has filed an application for a certificate of need authorizing it to spend $21.5 million to add 93 beds to its 199 bed hospital. The two proposals together would add 243 new hospital beds in Anchorage, slightly less than twice as many beds authorized under the Lake Otis Clinic certificate of need.

Based on the firm position taken by South Central and MHC in opposition to the Lake Otis certificate of need over the last several years and those agencies' current bed-need projections for Anchorage, an impartial observer could reasonably anticipate rejection of the Providence and Humana applications on lack-of-need grounds. For example, in September, 1977 the Municipal Health Commission formally came out in opposition to the Lake Otis certificate of need under a resolution which states:

> The Municipal Health Commission recommends to the regional health systems agency, Mayor Sullivan, and the Municipal Assembly that there be a moritorium on the construcion of civilian non-native acute care hospital beds within the Municipality of Anchorage for a five-year period or until civilian population reaches 270,000, whichever is sooner.

Exhibits R-55 and R-68, Lake Otis Revocation Proceedings (copy attached). Shortly thereafter, South Central's board of directors adopted a similar resolution finding "need for no additional civilian non-native accute care beds for the Municipality of Anchorage," and opposing the Lake Otis certificate of need. Exhibit R-56, id. (copy attached). Based upon these and other exhibits and testimony in the Lake Otis

revocation proceedings, Hearing Officer Joan Katz concluded that neither agency would have found any need for Lake Otis' 125 hospital beds had the project been submitted for review. Hearing Officer Katz expressly found:

> Beirne's refusal to submit to agency review was predicated on a realistic assessment that the agencies would not find bed need sufficient to support LOC's respective applications. (Emphasis added.)

Proposed Decision of Joan M. Katz, Ultimate Findings of Fact at page 32 (June 25, 1982). Beirne, of course, is Dr. Michael F. Beirne, president of Lake Otis Clinic, Inc.

South Central and MHC have both adopted health systems plans, as required by their enabling statutes, which are consistent with their position that there is essentially no need for additional hospital beds in Anchorage. The Municipality of Anchorage Health Systems Plan (1982-84), attached hereto as Exhibit B, projects total acute care bed-need at 480 in 1985 and 511 in 1990 as against the 449 beds currently licensed and in operation. The addition of Lake Otis' 125 beds would, according to that plan, exceed projected bed need until 1995. Similarly, the South Central bed need projection for Anchorage, Exhibit C (copy attached), projects "high" bed needs of 481 and 513 in 1985 and 1990 respectively. Although we understand that one or both of these health plans have been revised upwards slightly this year, neither revision projects additional bed needs beyond the 125 beds authorized for Lake Otis Clinic.

In these circumstances, it is anomalous that the joint South Central/MHC project review committee assigned to review the Providence and Humana expansion applications has recommended approval of not one, but both hospital applications! The February 13, 1983 Anchorage Times article attached hereto as Exhibit A describes the action taken by the project review committee. The committee apparently has abandoned the MHC moritorium on construction of additional hospital beds "until civilian population [of Anchorage] reaches 270,000." It also has abandoned the health systems plans which - even disregarding Lake Otis' 125 beds - show no need for the number of beds proposed by Providence and Humana Hospitals until some time between 1995 and the year 2000, or later. According to the newspaper article, which our client believes

accurately reflects the actions taken by the committee, justification for approval of both applications is predicated on projections of bed need in 1995, some twelve years in the future, and the committee's "instinctive" or "gut" feeling that the 1995 projections are too low. If these recommendations are adopted by MHC and South Central in their February 23 and March 5, 1983 hearings, the agencies will have taken a position completely inconsistent with their long-running opposition to construction of the Lake Otis Hospital.

These developments have a direct impact on the case pending before you. Lake Otis Clinic believes that it has demonstrated good cause for not having completed its hospital project. Even assuming for the sake of argument that good cause were not shown, revocation of its certificate is permissive, not mandatory, under AS 18.07.081(d). Whether revocation is justified depends upon a careful weighing of equitable considerations such as Lake Otis' investment in and desire to complete its project and the public's interest in containing hospital cost escalations through prevention of unnecessary construction and equipment acquisitions. We believe it would be fundamentally unfair for the Department to revoke Lake Otis' certificate of need in the present circumstances. If South Central adopts the project review committee's recommendations, it will have effectively swung one hundred and eighty degrees from a position that there is no need for Lake Otis' 125 acute care beds to a position supporting the construction of 243 beds. The irony of South Central's revocation petition is that if it is granted by DHSS, Lake Otis's 125-bed certificate would be eliminated at precisely the same time the two major Anchorage hospitals are aggressively moving ahead with their own expansion plans which will have a substantially greater impact on bed availability than Lake Otis' project. In fairness, South Central cannot have it both ways: either there is no need for additional beds in Anchorage and all expansion applications should be resisted or there is need and Lake Otis should be permitted a reasonable time free of debilitating litigation against its certificate of need to complete construction of its hospital. The inequities inherent in these recent developments are clear.

We respectfully request that you consider the recent and pending actions by South Central and MHC in connection with the

Providence and Humana applications in rendering your final decision regarding the Lake Otis Clinic certificate of need. Thank you.

Very truly yours,

DAVIS, WRIGHT, TODD, RIESE & JONES

Parry Grover

PEG:lt
Attachments
cc: Lake Otis Clinic, Inc.
Peter Partnow, Esq.
0297G

2/24/83

ALASKA'S LARGEST NEWSPAPER

SUNDAY FINAL

The Anchorage Times

SUNDAY, FEBRUARY 28, 1988

Committee approves hospital plans

by Cary Virtue
Times Writer

A "hesitant" health committee voted 12 times — and did some flip-flopping — but decided Saturday that both Providence and Humana Alaska hospitals should be allowed to expand.

It will now be up to other review commissions, and ultimately the state health commissioner, to make the tough decision on which gets to expand, and by how much, by April 4.

The 13-member joint subcommittee of the state Health Systems Agency and the Anchorage Municipal Health Commission met for 10 hours at the Municipal Assembly Building before making the final decision. The vote was 8-5 in favor of the two hospitals' expansion requests.

But immediately after the favorable vote, the committee debated whether to overturn that decision. After three more votes, and almost two hours of discussion, the committee decided to stick with its original expansion approval.

The committee's next review hearing, which was to be held Saturday, has been canceled.

Committee chairman Pete Gallagher said the committee was "hesitant" about making up its mind. And, commissioner Don Bantz said the committee was "shirking its responsibility" by approving both proposals.

But a majority of the committee members disagreed, basing their approval vote on three major assumptions:

- An "instinctive" and "gut" feeling that adopted city and state tables showing a total need of 616 beds for 1995 was too low. It took three votes to decide that Anchorage may need 630 beds, with an error of plus or minus 100 beds.
- Dr. Mike Bierne's proposed 125-bed Lake Otis hospital expansion project, which already has a certificate of need to expand, won't be built. Bierne's project has been tied up in a lawsuit involving Lake Otis and Providence Hospital since 1977.
- That neither Providence or Humana would open new beds or hire additional staff and equipment for either expansion projects unless the need developed.

Humana wants to spend $21.5 million to create 93 new beds (for a total of 292) by building a 71,345 square-foot, five-story hopsital tower by 1995.

Providence proposes spending $97 million to increase its bed capacity from 250 licensed beds to 410 beds. The project involves remodeling about 84,000 square feet, and building a five-story, 186,000-square-foot hospital tower by 1996.

Voting in favor of both expansions were commissioners Margia-

See Hospitals, page A-4

Exhibit A

Calhoun, and Larry Korn.

"We recognize the need for two strong hospitals in the community and the need for additional beds," Wolfe said. She said she did not believe the two hospital would staff the new expansion unless there was a need.

Also, Wolfe said she suggested

thought the committee's approval of both projects was "fine."

"But I'm not going to hold my breath because we ave three more hurdles," Pavelias said.

Other hearings are scheduled for:

- **Feb. 23:** Both hospital expansions will be presented before the full Municipal Health Commission starting at 5:30 p.m., at the sixth floor conference room of the HIll Building, 632 W. Sixth Ave.
- **March 5:** Recommendation by full board of Health Systems Agency following a 9 a.m. hearing at the Municipal Assembly Chambers, 3500 E. Tudor Road.

Anchorage Health Systems Plan (1982-84)

TABLE 4.42

PROJECTED ACUTE CARE BED NEED FOR ANCHORAGE, 1985 - 2000

	1985	1990	1995	2000
Civilian Non-Native Population	188,668	201,779	225,364	262,724
° Women 14-44 (27%)	50,940	54,480	60,848	70,935
° 13 yrs & Under (25.1%)	47,355	50,646	56,566	65,943
° 14 & Over (74.9%)	141,312	151,132	168,797	196,780
Medical/Surgical				
° Anch Use Rate 491/1000				
° Anch Use 76.2%				
° Occupancy 85%				
° Beds Needed	294	314	351	409
° Licensed Beds Existing	290			
Pediatrics				
° Anch Use Rate 134/1000				
° Anch Use 78.2%				
° Occupancy 65%				
° Beds Needed	35	37	41	48
° Licensed Beds Existing	32			
Obstetrics				
° Anch Use Rate 266/1000				
° Anch Use 90.1%				
° Occupancy 75%				
° Beds Needed	47	50	56	66
° Licensed Beds Existing	41			
Psychiatrics				
° Anch Use Rate 24/1000				
° Anch Use 83.1%				
° Occupancy 85%				
° Beds Needed	13	14	16	19
° Licensed Beds Existing	15			
Subtotal Beds Needed**:	389	415	464	542
° Plus Thermal (50)% (11 existing)	10	11	12	14
° Plus ICU/CCU (60%) (38 existing)	44	46	52	60
° Plus CPU (75%) (22 existing)	37	39	44	51
TOTAL BEDS NEEDED	480	511	572	667
° Licensed Beds Existing	449			
° Bed's C/N'd, not built	125			

Exhibit B

South Central Health Planning & Development, Inc.

Health Systems Plan 1982-1986

7. Summary of Anchorage Community Hospital Bed Need

The table below summarizes the high and low estimates of civilian non-Native acute care need for Anchorage for 1985 and 1990.

TABLE VIII-34

Range of Projected Acute Care Bed Need
Anchorage, 1985-1990

Type	Licensed	1985 Low	1985 High	1990 Low	1990 High
Medical/Surgical	290	247	294	281	314
ICU/CCU	38	39	46	44	49
PCU	22	30	36	34	38
Pediatric	32	29	35	33	37
Obstetric	41	40	47	45	50
Psychiatric	15	12	13	13	14
Thermal	11	9	10	10	10
TOTAL	449*	406#	481#	460#	513#

* Lake Otis Hospital, Inc. holds Certificate of Need for 125 additional beds. #Also neonatal intensive care: 1985 - 30 beds, 1990 - 36 beds (20 available).

The chart below indicates the year by which additional beds will have to be in place by service. Since projections were estimated using 1985 and 1990 as benchmarks, in some cases beds would be needed earlier.

TABLE VIII-35

Estimated Year by Which Anchorage Will Need
Additional Beds®, By Type

	1985 Low	1985 High	1990 Low	1990 High
Medical/Surgical		*		*
ICU/CCU	*	*	*	*
PCU	*	*	*	*
Pediatric		*	*	*
Obstetric		*	*	*
Neonatal Intensive Care	*		*	

® Depending on low versus high range population estimates

D. Summary Statistics as Compared to National Guidelines for General Acute Care Beds

In response to the rising costs of hospital care, the Federal government adopted a set of resource standards in 1978 called "National Guidelines for Health Planning", most of which relate to inpatient acute care facilities.

Exhibit C

Municipality of Anchorage

MEMORANDUM

DATE: September 15, 1977

TO: South Central Health Planning and Development, Inc.

FROM: Municipal Health Commission

SUBJECT: Revised Acute Care Hospital Bed Need Projections

The Municipality of Anchorage is currently experiencing what is termed as an "overbedding" situation for acute care. This situation arose from the following:

(a) Simultaneous completion of two construction projects for new hospital beds;

(b) Exceeding of approved number of beds (according to the State facilities plan) in construction of one new facility;

(c) Impacts of peer review which is keeping down the average length of inpatient stays;

(d) Availability of beds in outlying areas which draws away potential patients from Anchorage.

At present, neither civilian non-native hospital is operating with all beds opened and staffed. Both facilities are experiencing major difficulties in recruiting and hiring nursing personnel. After one year of overbedding, the bed need situation has stabilized as follows:

Utilization Rate = 600 inpatient days/1,000 population
Average Length of Stay = 4.8 days

Bed need projections for the civilian non-native population for 1977 through 1985 are as follows:

	Total Available Beds	Licensed Beds	Open Beds	Occupancy Rates (Open Beds)
Alaska Hospital	202	154	132	73%
Providence Hospital	250 (268)	250	232	74%
	452 (470)	404	354	73.8%

Exhibit R-55

M 9-29-77

Bed Need Projections:

Year	Civilian Non-Native Population	Occupancy Rate	Number of Beds
1977	156,825	85%	303
1982	208,728	85%	403
1985	255,524	85%	494
1989	298,116	85%	577

Additionally, with 577 beds in 1978, the following would occur at 600 inpatient days per 1,000 population.

Year	Civilian Non-Native Population	Occupancy Rate	Number of of Beds
1978	170,893	48%	577

By 1982, unless the utilization dramatically increases or the average length of stay increases, we will achieve less than 75% occupancy with existing beds, using 452 beds as baseline (with 470, occupancy would be at 72%). The consequences of not reaching 85% occupancy for "overbedding" are as follows:

(a) high room rates to offset costs of plant maintenance;

(b) incentive for non-necessary hospitalization and increased length of stay;

(c) higher tax support for subsidized patients;

(d) dis-incentive for use of low cost and outpatient alternatives to hospital care (i.e., outpatient surgery).

The addition of 125 acute beds to an already "overbedded" market will serve to exaggerate the present cost increases and inappropriate use of inpatient beds. The Municipal Health Commission, and its predecessor, the Anchorage Health Planning Council, has gone on record as opposing additional acute bed construction for reasons of cost effectiveness. This position is supported by the South Central Health Systems Agency which has endorsed a policy of non-approval of beds exceeding four per 1,000 total population. Present statistics (including Elmendorf and A.N.S. hospitals) shows 4.6 beds per 1,000 population in 1977 existing in Anchorage. The number of acceptable beds per 1,000 population will decrease to three per 1,000 population by 1985, according to the areawide health systems plan.

There is some cross utilization of civilian non-native facilities by the native and military population.

The total native population in Anchorage is stabilized at 4%. At that figure (6,273 in 1977), utilizing the Alaska Native Medical Center utilization rate (1,400 inpatient/1,000), total anticipated native inpatient days in 1977 would equal 8,680. ANMC has 170 beds with a potential number of inpatient days of 62,050.

The military hospital has 200 beds with a total number of potential inpatient days of 73,000. There are 27,242 military and dependents. Using the Elmendorf utilization rate of 1,100/1,000 population, the total number of inpatient days which would be generated by our local military and dependent population is 29,920.

There is some utilization of Anchorage civilian non-native hospitals by non-Anchorage residents. The primary use appears to be in the categories of sophisticated tertiary care, not available in smaller communities. The construction of additional small facilities in outlying regions will decrease the use of Anchorage facilities for other levels of care not requiring high levels of technology. Patient origin studies which are available, combined with new construction and utilization trends, indicate a probable use of a maximum of 5% of the available inpatient beds by non-Anchorage residents.

Finally, there is still significant use of facilities outside Alaska by Anchorage residents for certain types of specialized care. While this utilization may be more related to tradition than need, it is a factor which serves to reduce utilization of Anchorage facilities.

The following motion was carried unanimously by the Municipal Health Commission at a special meeting held September 14, 1977:

THE MUNICIPAL HEALTH COMMISSION RECOMMENDS TO THE REGIONAL HEALTH SYSTEMS AGENCY, MAYOR SULLIVAN, AND THE MUNICIPAL ASSEMBLY THAT THERE BE A MORATORIUM ON THE CONSTRUCTION OF CIVILIAN NON-NATIVE ACUTE CARE HOSPITAL BEDS WITHIN THE MUNICIPALITY OF ANCHORAGE FOR A 5 YEAR PERIOD OR UNTIL CIVILIAN POPULATION REACHES 270,000, WHICHEVER IS SOONER.

South Central Health Planning and Development, Inc.
1135 West Eighth Avenue Suite I Anchorage, Alaska 99501
(907) 278-3631



cc Evtiachek

P. 3

M E M O R A N D U M

To: SCHPD Board of Directors and Interested Others

From: SCHPD Staff

Subject: Information Update #19

Date: September 23, 1977

I. The major conference planned for Unalaska in early November is beginning to take shape. The first day will deal mostly with fisheries related issues and other economic and resource problems. The second day will address the social, health, education and physical needs of the Aleutian/Pribilof region (water, police, fire, etc.) It is anticipated that about 100 people will attend the conference, about 45 of whom will be State and Federal officials. The lack of hotel facilities in Unalaska will allow participants to "discover" Alaska via the good offices of the high school gymnasium and their own sleeping bags. Coordinator for the conference is Hillary Hilscher, at the Aleutian/Pribilof Island Association. South Central Health Planning and Development, Inc. has been given responsibility for conducting the health portion of the second day's proceedings.

II. Update welcomes Dr. Tom Neiswander back to Alaska after several years outside. Dr.Neiswander was the first Alaska Coordinator for the National Heal[illegible]ervice Corporation; he was instrumental in establishing the clinic op[illegible]tions at Yakutat, Galena, and Unalaska. He is currently in charge of outpatient services at Alaska Native Medical Center, in Anchorage.

III...Speaking of which, Cook Inlet Association has unveiled plans to assume responsibility for a large portion of the outpatient services at ANMC. They came into a $600,000 windfall, and seem to have struck an accord with the IHS on the matter.

IV...Speaking of which, Update congratulates Mr. Jake Lestenkoff on his new job with Cook Inlet Native Association as Executive Assistant. Jake is a Pribilof Islander, recently involved with APIA in planning the Unalaska Conference. Jake reports that he will continue to have some involvement with that effort, while he assumes his new duties.

V...Speaking of which, Update congratulates Mr. Dan Hertsgaard on his

Exhibit R-56

new job with Aleutian/Pribilof Island Association as their Health Department Director.

VI. Update welcomes Mr. Bob Ogden back as Administrator of Valley Hospital in Palmer. Bob tried Utah for a while, but couldn't stay away from Alaska.

VII. Robert Clark, Director of Bristol Bay Area Health Corporation and a member of the SCHPD, Inc. Board, reports he still has need for workers in the Dillingham area. He needs a controller, a planner, and a village coordinator.

VIII. The Bristol Bay Area Health Corporation Board of Directors at their recent meeting passed several resolutions:

....for more housing in the area, the lack of which is hindering recruitment of qualified health and regional corporation personnel.

....opposing RCA Alaska's proposed 87% rate hike.

....asking the legislature and the Governor to provide funds for EMS services at least to the level provided in FY 1976 as a minimum.

....asking Rural Cap to reassign an Alcoholism counselor to 32 villages of Bristol Bay.

....asking IHS cooperation in providing needed data in the development of Tribal-Specific Plans that are now required.

....supporting Representative Anderson's bill which would increase Community Health Aide salaries.

....supporting a bill that would widen, lengthen and improve the lights on airplane landing strips, in the interest of impoving EMS capabilities of rural Alaskan airports.

IX. South Central Health Planning and Development, Inc. held it's regular meeting September 16 and 17 in Anchorage, with the following major results:

The Board approved the Health Systems Plan (HSP) as amended, including most of the 151 separate suggestions for changes and additions. The Plan now goes to the State Health Planning and Development Agency (SHPDA) for their review.

Dr. Dave Johnson, Regional Health Officer for DHEW, Region X, spoke at some length with Board members regarding the regulatory role of HSAs.

The Annual Report of SCHPD, Inc. was discussed in it's draft format, and the Executive Committee will approve the final report in about two weeks, allowing for further input by Board members.

Two persons from Yukon-Kuskokwim subarea have been voted to fill vacancies on the SCHPD, Inc. Board. They are: Pat Shea, a provider from Bethel, and Peter Black, a consumer from Alakanuk.

Three persons from the Anchorage subarea have been elected to fill vacancies on the SCHPD, Inc. Board. They are: Gari Andreini, a provider, and Jerry Ward and Elizabeth Jacks, both Consumers.

The SCHPD, Inc. Board voted to approve meetings between the SCHPD Nominating Committee and the Anchorage Subarea Advisory Councils, Operations Committee for purposes of discussing common goals and problems.

Diddy Hitchins, of the SCHPD, Inc. Board, has been named Coordinator of Social Services Planning to the Capitol Site Planning Commission.

The following motion was approved by the SCHPD, Inc. Board of Directors: "Based upon statistical demonstration of the lack of clear and evident need as supported by the SCHPD, Inc. Health Systems Plan, the Health Systems Agency shall publicize it's Plan contents with emphasis on the need for no additional civilian non-Native acute care beds for the Municipality of Anchorage. The Health Systems Agency shall oppose the irresponsible and possibly illegal Certificate of Need for Lake Otis Hospital and publicize these two efforts to Blue Cross, the State and others who have funding authority".

X. Mr. Jerry Madden has been retained by the Department of Policy Development and Planning in the Office of the Governor, to complete a study of housing in Alaska. The emphasis will be upon rural areas and will include concerns for environmental health. The first draft of goals and objectives will be available in mid November.

XI. On the 4th, 5th, and 6th of October, the 25th Annual Convention of the Alaska State Hospital Association, Inc. and the 5th Annual meeting of the Alaska Hospital Research and Education Foundation, Inc. will be held in Wrangell, Alaska. The theme will be: THE SECRET TO SUCCESS IS CONSISTENCY OF PURPOSE.

XII. Mr. Roy Haney, President of the Idaho HSA, will be visiting SCHPD, Inc., September 28th, to study our ways of doing business.

XIII. Public Information and Education Council of the Municipal Health Commission has been studying the Adolescent Sexuality Conference held in May, and is presently involved in reviewing the health curriculum of the Anchorage School District.

XIII. The Anchorage Health Service Plan is in it's final completion stages and will go to public hearing in October and November.

XV. The Behavioral Health Advisory Council of the Municipal Health Commission, in studying the Governor's Legislative Alcoholism Package, has been meeting with members of the Legislature. Most recently they met with Senator Colletta and discussed the philosophy of the Interim Alcoholism Committee in their review of the Governor's bills. In an effort to understand how extra revenue would be utilized the Council has also invited Mr. Robert Cole, Director of the State Office on Alcoholism.

XVI. The Human Resources Planning Division of the Municipal Planning Department has recently completed the Human Resources Study.

The study includes the results of a community needs assessment of a random sample of 500 Anchorage residents, reflecting attitudes and participation rates in relation to leisure, health and social services.

XVII. An Annual meeting of all HSAs, SHPDAs and SHCCs in Region X will be held October 19, 20, 21. The exact agenda is not known yet.

XVIII. A Rural health Seminar for staffs and board members of regional health entities is being hosted by Norton Sound Health Corporation in Nome, October 11, 12, 13.

XVIIII. Hearings on National Health Insurance will be held in Anchorage October 12 and 13.

XX. There will be a meeting of the Alaska Public Health Association September 28, 7:30 p.m. on the 5th floor in the Conference Room of the old Community Hospital building at 825 L. Street, Anchorage.

XXI. The next SCHPD, Inc. Annual Board of Directors Meeting will be in Anchorage on December 2 and 3. The location will be announced at a later date.

/ab

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN, MAYOR

MUNICIPAL HEALTH COMMISSION

December 15, 1977

Dr. Helen Beirne
Commissioner
Dept. of Health and Social Services
Pouch H-01
Juneau, Ak 99811

Subject: Hospital Bed Construction in Anchorage

Dear Commissioner Beirne:

The Anchorage Municipal Health Commission was created by Municipal Ordinance AO 255-76 in February, 1977. The Commission is the designated subarea council for Anchorage to the regional health systems agency, South Central Health Planning and Development, Inc. The duties and function of the Commission in This capacity are to advise the HSA concerning local subarea health resource allocation, improvement in availability, accessibility, acceptability of health services, to contain costs and to promote the quality and continuity of health care.

Recently the Municipal Health Commission unanimously passed the following motion: "THAT THE MUNICIPAL HEALTH COMMISSION RECOMMEND TO THE REGIONAL HEALTH SYSTEMS AGENCY, MAYOR SULLIVAN AND THE MUNICIPAL ASSEMBLY THAT THERE BE A MORATORIUM ON THE CONSTRUCTION OF CIVILIAN, NON-NATIVE, ACUTE CARE HOSPITAL BEDS WITHIN THE MUNICIPALITY OF ANCHORAGE FOR A FIVE YEAR PERIOD, OR UNTIL THE CIVILIAN POPULATION REACHES 270,000, WHICHEVER IS SOONER".

This request was forwarded to the regional health systems agency and the Commission bed need projections were reviewed by their Board of Directors. The result of their review was approval of the following motion:

"BASED UPON STATISTICAL DEMONSTRATION OF LACK OF CLEAR AND EVIDENT NEED AS SUPPORTED BY THE SCHPD HEALTH SYSTEMS PLAN, THE HEALTH SYSTEMS AGENCY SHALL PUBLICIZE ITS PLAN CONTENTS WITH EMPHASIS ON THE NEED FOR NO ADDITIONAL CIVILIAN, NON-NATIVE ACUTE CARE BEDS FOR THE MUNICIPALITY OF ANCHORAGE. THE HEALTH SYSTEMS AGENCY SHALL OPPOSE THE IRRESPONSIBLE AND POSSIBLY ILLEGAL CERTIFICATE OF NEED FOR LAKE OTIS HOSPITAL AND PUBLICIZE THESE EFFORTS TO BLUE CROSS, THE STATE, AND OTHERS WHO HAVE FUNDING AUTHORITY."

Enclosed is a copy of the draft Anchorage Health Services Plan, and excerpts from the South Central Health Planning and Development, Inc. Health Systems Plan, in which bed need projections are contained, and upon which these motions were based.

Exhibit R-68

Blue Cross of Washington and Alaska, a major health insurance provider in Alaska, has stated that they support the health systems agency and Commission's position concerning a moratorium on construction of hospital beds. A copy of their letter is also enclosed.

At this time I respectfully request that the State of Alaska accept the recommendations of the Anchorage subarea council and regional health systems agency on this matter and incorporate these conclusions into the State Facilities Plan as soon as possible.

If you have any questions, please contact Noreen Pedrick, Manager, Human Resources Planning Division, telephone number 264-4261.

Sincerely,

Bonnie L. McGee

Bonnie McGee, Chairman
Municipal Health Commission

cc: D. Sharon Osborne
Office of Planning and Research

Lowell Schwartz
Office of Planning and Research

Ron Hammett
South Central Health Planning and Development, Inc.

PROVIDENCE
HOSPITAL

3200 PROVIDENCE DRIVE - POUCH 6604
ANCHORAGE, ALASKA 99502
PHONE: (907) 276-4511

SISTERS OF
PROVIDENCE

SERVING IN THE WEST SINCE 1856

March 4, 1983

mt

The Honorable Mae Tischer
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

Thank you for taking the time to meet with us on our recent visit to Juneau. I know how pressing your time is, with constituent requests, keeping pace with legislation and going to committee meetings. The time you gave us was appreciated.

We hope the information we discussed regarding the certificate of need repeal was informative for you, and that with an amendment, also repealing the construction revenue sharing monies (Title 29.90.010-030), and consideration for passing HB 112 or a like bill in the Senate, that the concerns you may have had are now answered. Should you have any further questions, please feel free to contact us at any time.

Al Camosso, administrator, and I want to assure you that should you need any resource material regarding health care information, we will do everything we can to provide it for you.

Sincerely,

Christopher Beardsley
Director of Public Relations
& Governmental Affairs

P.S. Notice you passed bills out of committee with a "do pass." Great!

Alaska State Legislature

Representative Mae Tischer
District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

Mae
HESS

House of Representatives

MAE TISCHER

March 19, 1983

George S. Rhyneer, M.D.
3300 Providence Drive
Anchorage, Alaska 99504

Dear Dr. Rhyneer,

Thank you for your March 16, 1983 letter regarding the Certificate of Need law. I too support the repeal of the Certificate of Need process.

House Bill 39, which repeals the Certificate of Need law, was passed out of the Health, Education and Social Services Committee, which I co-chair, with my affirmative vote. The bill now rests in Finance Committee.

Sincerely,

Mae Tischer

Rep. Mae Tischer
District 11

MT/dp

3300 PROVIDENCE DRIVE
ANCHORAGE, ALASKA 99504

Cardiology

James A. Baldauf M.D.
George S. Rhyneer M.D.
Leo B. Bustad M.D.

Telephone
(907) 279-8577

Internal Medicine
Gilbert P. Blankinship M.D.

March 16, 1983

Representative Mae Tischer
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

I am writing this letter to encourage you to repeal the present "Certificate of Need law" which requires multilayered local and Department of Health and Social Service review of all health facilities which anticipate expansions costing more than $150,000 and the development of new services costing any amount.

This law was joisted upon Alaska and many other states under the guise of "cost saving" and "planning." There were financial inducements for states to develop these laws.

The Certificate of Need law requires that applications for new services and expenditures for expansion of health facilities be reviewed by quasigovernmental boards made up of consumers and "providers" organized into health systems agencies. The State of Alaska has three health systems agencies. I sit as a board member on the South Central Alaska HSA (South Central Health Planning and Development, Inc.).

After participating in this review process, I have observed that the Certificate of Need law requirements are neither planning nor cost saving. A sizeable fraction of my fellow board members agree.

In support of the Certificate of Need law, some national health planners and federal government agencies claim that the Certificate of Need legislation has prevented unnecessary duplication of services in some parts of the country. This may or may not be true in New York City, Los Angeles and Philadelphia; but the law certainly prevented the early distribution of CAT scanners in many communities, thus dooming some of its citizens in those areas to unnecessary operations, dangerous alternative tests and misery, possibly death. Thus, is the history and potential of this law.

As to cost savings - evidence for this is difficult to find elsewhere, and cannot be demonstrated in Alaska at all. In fact, we have been trying to improve services and availability of medical care in Alaska, only to have a law eat into our limited financial resources by requiring publication of expensive application documents, many which have cost thousands of dollars - dollars which small communities like Glennallen, Palmer, Kodiak, Valdez and Cordova do not spend foolishly. Even the larger communities must put up with unnecessary expenses and maddening delays due to the review process.

Finally, the law has nothing to do with health planning at all; in fact, it is the antithesis of planning. If you check with the health workers in your community, you will find that it is the local professionals who have done the planning. When a community has required new or improved facilities, it has been a community need, recognized by all, and planned by the appropriate hospital service boards with community business and leader support that has generated the plan for community health. After these professionals have spent hundreds or thousands of hours and thousands of dollars planning, applications are reviewed by amateurs for several hours at most.

Talk with your own physician, hospital administrator, community hospital board member or civic leaders. Please work to eliminate this harmful law by supporting House Bill 19.

Sincerely,

George S. Rhyneer, M.D.

alaska state hospital association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board
Ronald A. Pavellas
Humana Hospital Alaska
Anchorage

Chairman-Elect
Mark Hawkins
Sitka Community Hospital
Sitka

Immediate Past Chairman
Tom Mingon
Fairbanks Memorial Hospital
Fairbanks

Secretary/Treasurer
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Alternate Delegate to the American Hospital Assoc.
Michael Lockwood
Central Peninsula Hospital
Soldotna

Delegate to the American Health Care Association
Jack Buck
St. Ann's Nursing Home
Juneau

Alternate Delegate to the American Health Care Association
Emma G. Ivy
Wrangell General Hospital
Wrangell

Delegate to the Association of Western Hospitals
Michael Herring
South Peninsula Hospital
Homer

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Anchorage

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Dennis L. DeWitt
Juneau

Alaska State Hospital Association

Position Paper

Certificate of Need Repeal

The Certificate of Need program in Alaska (AS.07) should be repealed. It is both inequitable and unnecessary. Its basic presumption is that the Department of Health and Social Services can make better decisions for hospitals and nursing homes than can the facilities themselves.

Basic Issues

1. Equity

- While controlling non-state construction of skilled nursing facilities (SNF's) and intermediate care facilities (ICF's), the prgram exempts these beds constructed in Pioneers' Homes. Thus any determination of need based on the current program is flawed because forces external to the program can and have - in Anchorage, Juneau, and Ketchikan - altered the factual situation.

- Alaska Native Health Service and the Armed Forces facilities are also exempt from coverage. Their activities have a direct bearing on many other facilities in terms of both service area and referrals.

- Physician office construction and equipment purchase are also exempt.

The inequities are clearly illustrated in the Anchorage area: Providence Hospital, Humana Hospital, Nakoyia Health Care Center, Hope Cottages and the Alaska Treatment Center are included in the CON program while the Alaska Native Health Service Hospital, Elmendorf AFB Hospital, the Anchorage Pioneers's Home and the Diamond Emergency Center are not included. All of these facilities share the same basic service area.

2. Unnecessary

Market place economics and competition should be the determinant of capital expansion for health facilities. In Anchorage, the Municipal Health Commission as well as open board meetings provide the public input into a facility's planning process. In smaller communities the city council or borough assembly who own the facility provide the public input opportunity.

Alaska is a developing state of many isolated regions without any appeal for duplication of services or need to limit access to health care, which is the basic intent of the CON program.

3. Conformity

42 USC 300 m-(d) requires that states conform to the federal program or face a reduction of specified public health service funds.

- Conformity is not achievable without the inclusion of the Pioneers' Homes.

- There are 30 states, including New York and California as well as Alaska, which are not in conformity.

- The penalties have been deferred every year since passage. In December of 1982 they were deferred until October 1, 1983.

- The Reagan Administration is not supportive of continuing this program. Congress is working to create a state optional program without penalties. Thus the likelihood of imposition of penalties is remote at best and the across the board elimination of CON would not change Alaska's current status.

4. Other States

- Louisiana does not have a certificate of need law.

- According to the American Hospital Association, 30 states currently do not conform.

- At least seven states have termination clauses or specific sunset provisions.

5. Attachments

- Alaska State Hospital Association Policy Paper on Repeal of Certificate of Need

- Providence letter to Mayor Knowles explaining opposition to CON.

- U.S. Department of Health and Human Services letter to Dennis DeWitt discussing Alaska's non-conformity.

(Attachments cont.)

- Alaska Department of Administration letter to Representative Don Clocksin discussing Pioneers' Homes exemption, conformity problem, and potential for penalties.

- 42 USC 300m-(d)

- Alaska Department of Health and Social Services letter to Representative Mike Beirne indicating lack of compliance with federal program.

- Alaska State Medical Association Resolution calling for the repeal of certificate of need.

- Alaska State Hospital Association letter to Stevens on CON repeal.

- Governor Sheffield's response to the Association letter to Senator Stevens.

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Soldotna

Physician Member of the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

POLICY STATEMENT

CERTIFICATE OF NEED

Position: The Alaska State Hospital Association advocates the repeal of the certificate of need (CON) law, AS 18.07.

Rationale: The CON process has proven costly, wasteful, and unnecessary. The program has become excessively bureaucratic to the point that it undermines economic incentives throughout the decision-making process and so increases the cost of capital projects it takes valuable dollars from patient care. The certificate of need process also removes community control from local jurisdictions in respect to municipally-owned facilities and local advisory boards in respect to corporate ownership.

An alternative approach to state control would permit marketplace economics to control expansion and would rely on local decision-makers to make decisions for their own communities. We see a value in state government continuing its planning function with input from regional and local groups.

Note: This does not contemplate repeal of construction or licensure standards.

#1 Dec Dennis Kelly

PROVIDENCE
HOSPITAL

3200 PROVIDENCE DRIVE - POUCH 6604
ANCHORAGE, ALASKA 99502
PHONE: (907) 276-4511

SISTERS OF
PROVIDENCE

SERVING IN THE WEST SINCE 1856

December 27, 1982

Mayor Tony Knowles
Municipality of Anchorage
Pouch 6-650
Anchorage, Alaska 99502

Dear Mayor Knowles:

Thank you for the opportunity on December 13 to share Providence's plans and some of our concerns with you.

One point came up during our discussion regarding Certificate of Need (CON). I would like to elaborate for you in more detail why the health care providers in Alaska oppose CON and have so strongly supported its repeal.

As you know, the CON law was passed in this and most other states as a requisite to receive Federal funds. The major impetus for the law were:

1. Excess hospital beds in many large cities, and
2. rising health care costs.

The belief was that by controlling the number of beds, capital expenditures and new services, costs would be contained. The results have been much less than desired throughout the country. The law is cumbersome, wasteful and, in fact, costly.

The lack of "success" is especially true in Alaska for some basic reasons:

1. The process which the law sets in place is cumbersome and wasteful. The institution must:
   - submit a letter of intent at least 60 days prior to an application (for no apparent reason);
   - submit an elaborate, repetitive application (most are well over 100 pages). There are 12 separate "criteria" which must be addressed in any application;
   - wait to be declared complete (minimum 20 days; several of our applications were delayed months);
   - then go through a 90-day review process--with three or four public meetings.

MEMBERS OF THE SISTERS OF PROVIDENCE CORPORATION—ALASKA: PROVIDENCE HOSPITAL, ANCHORAGE—WASHINGTON: PROVIDENCE MEDICAL CENTER, SEATTLE—THE DePAUL RETIREMENT RESIDENCE AND MOUNT ST. VINCENT NURSING CENTER, SEATTLE—PROVIDENCE HOSPITAL, EVERETT—ST. PETER HOSPITAL, OLYMPIA—ST. ELIZABETH HOSPITAL, YAKIMA—OREGON: PROVIDENCE HOSPITAL, MEDFORD—PROVIDENCE MEDICAL CENTER, PORTLAND—PROVIDENCE CHILD CENTER, PORTLAND—ST. VINCENT HOSPITAL AND MEDICAL CENTER, PORTLAND—CALIFORNIA: PROVIDENCE HOSPITAL, OAKLAND—PROVIDENCE HIGH SCHOOL, BURBANK—SAINT JOSEPH MEDICAL CENTER, BURBANK

2. The costs of CON to the institution are enormous to prepare this cumbersome document (at least 35 copies) and submit to the minimum 110-day process. There are also the institutional costs of delaying implementation and watching the price of a piece of equipment or construction project increase several percent points with inflation.

   The cost to the public is also great in the state, regional and local staff needed to coordinate the program, prepare staff analyses and hold public meetings.

3. The dollar limit for what must be reviewed has been ridiculously low--$150,000. The federal law has allowed that limit to be raised to $400,000 and $600,000 although the Alaska legislature failed in its last session to raise the limits. Some states have raised the limit to $1 million or more. To have a limit of $150,000 or even $600,000 when the hospital's annual operating budget is $75,000,000 (such as Providence's) is overkill.

   In just 1982 alone, Providence has prepared 6 CON applications, including two equipment replacements (for a CT Scanner and a Cath Lab), a $250,000 computer enhancement for an x-ray machine and most absurd, a $167,000 replacement incinerator (25 years old, replacement required by State and EPA codes!). The State did not give final approval on the incinerator until the 90th day.

4. The law itself is overkill in Alaska. Designed for areas of heavy population, excess hospital beds and competition, the law does not work for Alaska for several reasons:

   - The law only covers private facilities--not public health, nor state owned (API or Pioneer Homes), nor military.

   - Alaska has only one city with more than one hospital and only three private ("eligible") hospitals of over 100 beds.

5. The law is reactive to existing decision making processes. Most hospitals in the State already have local public review and approval designed in their own budget review processes. Many hospitals are owned by municipalities, and all have governing or advisory boards of local citizens. These citizens should have control of the expansion and budgetary decisions of their own institutions. Several other layers are unnecessary. Hospitals and their boards are capable of making sound financial and program decisions.

As the attached Policy Statement of the Alaska State Hospital Association (ASHA) notes, we are supportive of state and local planning for the health care needs. The process should be positive and proactive-- encouraging institutions to respond to needs in the community rather than reactive, cumbersome and negative.

We encourage the city to support the ASHA position on repealing the state CON law. Your own Municipal Health Commission is a strong local planning body which helps identify health needs and encourages solutions. It also serves to review public expenditures in health. Those roles are appropriate. It should be freed from the cumbersome CON review.

Thank you for giving me the opportunity to share our concerns with you.

Best wishes for a prosperous 1983.

Sincerely,

Al M. Camosso
Administrator

Enclosure

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Region X
M/S 829 Arcade Plaza Building
1321 Second Avenue
Seattle WA 98101

June 22, 1982

Re: 10P 550016
Alaska SHPDA

Dennis L. DeWitt
President
Alaska State Hospital Association
319 Seward Street
Juneau, Alaska 99801

Dear Mr. DeWitt:

Your letter dated June 11, 1982, requested information about Region X's intentions as a result of the failure of the Alaska Legislature to pass amendments proposed to bring the State Certificate of Need program into compliance with the Federal planning law, as amended. Our course of action is quite clear. We will continue to fullfill our mandated responsibilities guided by actions and time frames specified in the law.

Under the existing provisions of Title XV of the Public Health Service Act, as amended, current law requires (in order to be fully designated) that a SHPDA must meet all requirements for full designation, including that of having a complying Certificate of Need program.

If a SHPDA is not eligible for full designation by a certain date (which for Alaska is January 19, 1983) the Department must invoke the statutory penalty of reducing most Public Health Service grants and contracts to any entity in the State by 25% the first year, 50%, 75%, and 100% over the next three years. Amendments contained in PL 97-35 extended the date by which a State must have a fully designated SHPDA to avoid imposition of the penalty. However, PL 97-35 also amended Section 1521(b)(2)(B) by specifying that a conditional designation agreement could not extend beyond a State's penalty date.

Fully designated SHPDAs (such as Alaska) which do not have complying CON programs but continue to meet other requirements, will be returned to conditional designation. As noted above, P 97-35 prohibits the conditional designation of any SHPDA from extending beyond its penalty date. Any SHPDA which remains conditionally designated on its penalty date must be terminated. Therefore, we will send a termination notice to any conditionally designated SHPDA 90-days prior to its penalty date, if it still has not demonstrated that it has a complying CON program.

The enclosed copy of a letter to Commissioner Beirne, from the Regional Health Administrator, further emphasizes the critical nature of having a complying CON program in Alaska.

Also the enclosed copy of a 1981 letter addressed to Mr. Ivan Lawner, Esq. concerning Pioneer Homes Certificate of Need review issues, reflects our unchanged position.

I hope the facts in this letter provide the detail of information required to understand the situation. Please call or write, should you need further assistance.

Sincerely,

John D. Whitney
Director
Department of Health
Resources Development
Region X

Enclosures (2)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

829

JUN 21 1982

Re: IOP 550016
Alaska SHPDA

Helen D. Beirne, Ph.D.
Commissioner
Department of Health and
Social Services
Pouch H 01
Juneau, Alaska 99811

Dear Dr. Beirne:

The State of Alaska's Department of Health and Social Services full designation agreement with the Department of Health and Human Services is being extended for three months, until September 30, 1982. As you know, because Alaska's Certificate of Need Program does not comply with Federal requirements, it is necessary that the SHPDA be returned to conditional designation. As required by statute, this 90-day extension of your current designation is being given to allow you to request and prepare for a hearing, if you should want one. Letters from the Bureau of Health Planning to you and to the Governor will further explain this process.

The following conditions are to be considered a part of the extended full designation agreement:

1. If the Agency is unable to retain full designation after September 30, 1982, it will be returned to conditional designation for the period October 1, 1982 to June 30, 1983.

2. The designation of the Agency will automatically terminate when the Agency reaches its penalty date, if the Agency still has not achieved full designation.

You may at any time prior to your penalty date (1-19-83, per PPM 82-12) submit documentation which you believe contains evidence that the State's CON program complies with the minimum Federal requirements, or a certification by the State's Attorney General, attesting to the program's compliance

Please sign both copies of this letter, indicating your acceptance of this extension with conditions. Return one copy to this office. As soon as we receive the signed copy, we will issue a Notice of Grant Award for the extended designation period.

Sincerely,

Dorothy H. Mann, M.P.H.
Regional Health Administrator
Region X

Helen D. Deirne, Ph.D.
Commissioner
Alaska Department of Health

Date

DHRD:ROSS:vw:6/21/82

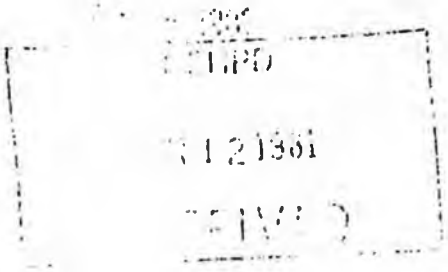
DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Pioneer Homes
Lynns Room

Region X
M/S 829 Arcade Plaza Building
1321 Second Avenue
Seattle WA 98101

Re: 10P 550007-05



Mr. Ivan Lawner, Esq.
Hellen & Partnow
524 G Street
Suite 710
Anchorage, Alaska 99501

Dear Mr. Lawner:

This is to respond to your recent letter concerning Certificate-of-Need review of a skilled nursing facility addition to the Pioneer Home in Anchorage. In that correspondence you raised two issues: the need for clarification of our 1978 letter to Howard Gabriel regarding C/N coverage of Pioneer Homes, and the compliance of the Alaska C/N program with federal standards. These matters will be addressed separately.

1. In our September 11, 1978 letter to Howard Gabriel, Director of the Southeast Alaska HSA, we were assuming that Pioneer Homes were only residential or domiciliary care facilities; there was no understanding that inpatient skilled nursing care was provided in these institutions. Given this understanding of the nature and services of Pioneer Homes at that time we were correct in concluding that they would not be included in the federal definition of "health care facilities" which would require coverage under Certificate-of-Need programs. If indeed skilled nursing services are provided in these institutions, they would be considered "health care facilities" as defined by our C/N regulations. The 1978 letter did not consider a Pioneer Home to be such a facility.

2. We have reviewed the Alaska C/N statute and implementing regulations to determine whether Pioneer Homes would be included in the definition of a health care facility. We found that:

   a. The Alaska C/N statute defines a "health care facility" as:

      A private, municipal. . . hospital, psychiatric hospital, turberculosis hospital, skilled nursing facility. . . . (Sec. 18.07.111(7)).

   b. The Alaska C/N regulations, in turn, define "health care facility" as:

      Any of those listed in AS 18.07.111, as defined, where appropriate, in 42 CFR 123.401 (adopted 1/21/77). (7AAC07.130)

c. The State's C/N statute and regulations, taken together and including the cross reference to 42 CFR 123.401, would provide coverage of a distinct part of an institution and would, therefore, meet the federal definition of a skilled nursing facilities, i.e., an institution or a distinct part of an institution which is primarily engaged in providing inpatient skilled nursing care and related services for patients who require medical or nursing care . . . . (42 CFR 123.401)

From the above points, it would appear that the Alaska C/N program adequately defines "heath care facility" and "skilled nursing facility." It is the responsibility of the state to follow its own C/N statute and regulations. If there is an on-going and sustained pattern of not following their statute and regulations, we would certainly assess the state's overall C/N program and then take appropriate action.

Please call us should you have further questions.

Sincerely yours,

John D. Whitney, Director
Division of Health Resources
Development PHS, Region X

cc: Ron Hammett, Director, SCHPD
Howard Gabriel, Director, SEAHSA

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

May 29, 1981

Honorable Donald E. Clocksin
Chairman, Health, Education and
Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Clocksin:

This is in response to your request to put in writing my verbal testimony before your committee on CSSB 225. I will try and confine my remarks to the major issues.

Administration's position is that the Legislature has always implicitly exempted Pioneers' Homes from the certificate of need program. The Senate has concurred with this position as evidenced by CSSB 225. We are asking that the House members be afforded the same opportunity to express their will as the Senate.

There appears to be some confusion existing with the recent State Supreme Court decision of South Central Health Planning and Development, Inc. vs the Department of Administration, on certificate of need. At issue was whether or not the Legislature exempted Pioneers' Homes from certificate of need. The court found that there is no language in State statutes which can reasonably be read as exempting skilled nursing facilities from the certificate of need process when they are contained in Pioneers' Homes. Consequently, whether or not the Legislature intended to exempt Pioneers' Homes now becomes moot. The Legislature's intent can now be established only through the legislative process of amending existing law to allow this exemption.

There has been a substantial amount of discussion centering around the need for proper planning so that health facilities in Alaska are not overbuilt. This is an admirable and worthy objective, and I can assure you that this Department supports health facility planning. However, the existing system under the certificate of need program is fraught with inequities and frustrations; further, it does not represent a comprehensive planning effort.

2-89LH

There are three providers of health facilities; the federal government, the State government, and the "private sector." However, the federal health facilities don't come under the certificate of need program, and in most states this wouldn't pose any problem. The military contingent in California, for instance, would represent a small portion of the state's total population and as such would not greatly impact the planning process for certificate of need. In Alaska, the opposite is true. The federal government is a major provider of health care and facilities. Roughly one-fourth of the state's population are eligible to use federal health facilities (military base, Public Health, Indian Health, etc.). This has a devasting effect on trying to logically plan for state and "private sector" health facilities when a critical component is missing.

In addition, if we look closely at the "private sector" we see that it is not truly private. A substantial portion of the revenues of private nursing homes and health facilities originate through state and federal programs. State and federal rules, regulations, requirements, and laws, guide and govern, in minute detail, the construction and operation of private health facilities. This includes the proper ratios of professional staff to patients, the type of equipment allowed, size of hallways, reporting procedures, and many others. In effect, the "private sector" is part of the "public sector." Consequently, the charge that the State, through the establishment of Pioneers' Homes, is unfairly competing with the private sector is a fallacious argument.

There has also been considerable discussion on the impact of granting Pioneers' Homes an exemption from certificate of need as it relates to federal programs. Mr. Vern Perry, Director of the Division of Pioneers' Benefits spoke with Mr. Jim Egan, Regional Project Officer of the Office of Health Planning, Region X, U. S. Department of Health, Education and Welfare, on Wednesday May 27, regarding the certificate of need program.

QUESTION: What effect would there be on the State of Alaska if Pioneers' Homes were exempted from the certificate of need program?

ANSWER: It would have no effect on medicare, medicaid, AFDC or Indian Health Service. It could only affect categorical programs such as alcoholism, EMS, Neighborhood Health Clinics, Mental Health Clinics, Day Care, etc.

QUESTION: Would the federal government actually discontinue such programs as alcoholism and mental health if Pioneers' Homes were exempted from the certificate of need program?

ANSWER: No! Absolutely not. In his opinion, under the new administration, there would be no federal sanctions whatsoever in health care programs, especially since the responsibility for this is being turned over to the states.

Further, discussions were held with the States of California and Washington regarding their certificate of need programs. In California, Mr. Ken Umbach (916/323-6955) of the Office of Statewide Health Planning and Development was contacted. He stated that California has been out of conformance with the federal certificate of need program since 1969. Their latest date for coming into conformance is October. He stated that if they did not meet the deadline that the feds would probably extend it. Mr. Jim Bettridge of Washington Health Care Facilities Authority (206/753-6185) indicated that the feds were withdrawing total support from the certificate of need program by 1983.

These conversations indicate that:

i. The federal government is not inclined to impose sanctions on a State for nonconformance with the certificate of need program;

ii. There are states which are nonconforming, and have been nonconforming for a number of years, on which federal sanctions have not been imposed; and

iii. The federal government is withdrawing total support for the certificate of need program by 1983. If the state wants to continue a planning process for health facility development it will have to provide for the process by using General Funds monies. Based on the aforementioned problems, now would be the appropriate time to revise this planning process to make it more meaningful.

Finally, a compromise position has been mentioned in which the new nursing wing at the Anchorage Pioneers' Home and the new Pioneers' Home in Ketchikan would be totally grandfathered into law and not made subject to certificate of need. This compromise does not address a truly complex problem.

The Fairbanks Pioneers' Home presently is serving twelve skilled nursing beds in unlicensed beds. Unless a certificate of need is issued which allows licensing of these beds, these twelve pioneers would have to be discharged.

The Fairbanks and Palmer Pioneers' Homes are full to capacity with skilled nursing patients at the present time. If we are to accommodate anticipated need in the near future, additional skilled nursing facilities will have to be constructed within the next few years. This expansion would be impossible unless a certificate of need is issued.

The Department of Health and Social Services, in recent licensing inspections, has advised a significant number of residents in the ambulatory sections of all the Pioneers' Homes should be designated intermediate care patients. Intermediate care requires both a certificate of need and a significant increase in staffing, installation of call buttons or other signalling devices, and closer attention to patients when taking medications, etc. The number of patients which might be considered in need of intermediate care are: thirty at Sitka, twenty at Fairbanks, twenty at Palmer and forty at Anchorage (in the new wing).

Funding to provide intermediate care was not included in the FY 82 operating budget. Although a dollar figure is not available at the present time, a significant increase will be necessary if we must comply with the certificate of need program. Passage of SB 225 would eliminate this situation.

In summary:

1. Administration believes the Legislature had always intended to exclude Pioneers' Homes from certificate of need;

2. The certificate of need process is not appropriate for Alaska;

3. There needs to be planning for health care facilities and a more responsive process needs to be developed;

4. Grandfathering the nursing wing at Anchorage and the new Pioneers' Home at Ketchikan will not solve the complex problems existing at the Fairbanks, Palmer, and Sitka Pioneers' Home; and,

5. Passage of CSSB 225 will eliminate the potential for pain and suffering by allowing Pioneers' Homes residents to remain in their home.

If I can be of any further assistance to you or your committee, please give me a call.

Sincerely,

Frederick B. Muller
Deputy Commissioner for
Personnel Management

FBM/mjc
cc: Honorable Charles Parr
Honorable Robert Ziegler
Honorable Jalmar Kerttula
Honorable Patrick Rodey
Pioneers' Homes Advisory Board
Dennis Dewitt, Executive Director
Alaska State Hospital Association

accordance with subsection (b)(2), or (b)(3) of this section (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

Failure to designate State Agency within specified period; reduction in allotment, grant, loan, loan guarantee, or contract

(d)(1) If an agreement under subsection (b)(3) of this section for the designation of a State Agency for a State is not in effect upon the expiration of—

(A) the fourth fiscal year which begins after 1975; or

(B)(i) if the legislature of the State is in a regular session on December 17, 1980 and the legislature will be in session for at least twelve months from such date, twenty-four months from such date, or

(ii) if the legislature of the State is in session on December 17, 1980, but twelve months do not remain in such session after such date or if the legislature of the State is not in session on such date, twenty-four months after the beginning of the first regular session of the legislature beginning after such date,

whichever occurs later, the Secretary shall take the action prescribed by paragraph (2).

(2) If upon the expiration of the period applicable under paragraph (1) an agreement is not in effect for the designation of a State Agency for a State, the Secretary shall until such an agreement is in effect take the following action:

(A) During the first twelve months after the date of the expiration of the applicable period, the Secretary shall reduce by 25 percent the amount of each allotment, grant, loan, and loan guarantee made to and each contract entered into with an individual or entity in such State during such period under this chapter or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

(B) During the second twelve months after such expiration date, the Secretary shall reduce by 50 percent the amount of each such allotment, grant, loan, loan guarantee, and contract.

(C) During the third twelve months after such expiration date, the Secretary shall reduce by 75 percent the amount of each such allotment, grant, loan, loan guarantee, and contract.

(D) After the expiration of thirty-six months after such expiration date, the Secretary may not make or enter into any such allotment, grant, loan, loan guarantee, or contract.

(July 1, 1944, c. 373, Title XV, § 1521, as added Jan. 4, 1975, Pub.L. 93-641, § 3, 88 Stat. 2242, and amended Aug. 1, 1977, Pub.L. 95-83, Title I, § 106(*l*), (m), 91 Stat. 385; Dec. 19, 1977, Pub.L. 95-215, § 6(b), 91 Stat. 1507; July 16, 1979, Pub. L. 96-33, 93 Stat. 86; Oct. 4, 1979, Pub.L. 96-79, Title I, § 123(a), (b)(1)(A), (2), (d), (f), (g)(2), 93 Stat. 624-627; Oct. 17, 1979, Pub.L. 96-88, Title V, § 509(b), 93 Stat. 695; Dec. 17, 1980, Pub.L. 96-538, Title III, § 303(b), 94 Stat. 3190; Aug. 13, 1981, Pub.L. 97-35, Title IX, §§ 902(g)(5), 936(b), 95 Stat. 561, 572.)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

May 10, 1982

The Honorable Mike Beirne
Chairman
House HESS Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Beirne:

I am enclosing a Program Policy Notice we recently received from the Bureau of Health Planning in the U. S. Department of Health and Human Services. This Notice emphasizes that states which do not have State Health Planning and Development Agencies which fully comply with federal requirements will lose federal support for health planning efforts and will also lose most federal Public Health Service dollars. Alaska currently receives some $5 million annually in such federal funds. Our lack of compliance would result in one quarter of these funds being withheld for four years until certain federal public health service funds are no longer available to Alaska.

We appreciate the hearing you conducted on House Bill 195. We believe this bill, with the amendments we offered, would bring our State Health Planning and Development Agency into full compliance with federal requirements. Your assistance in helping to move this legislation would be very much appreciated.

We appreciate your assistance and support in this matter.

Sincerely,

Helen D. Beirne

Helen D. Beirne
Commissioner

Enclosure

cc: Phoebe A. Lindsey

P38LH

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

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Humana Hospital Alaska
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Sitka Community Hospital
Sitka

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Secretary/Treasurer
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Alternate Delegate to the American Hospital Assoc.
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St. Ann's Nursing Home
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Homer

Alternate Delegate to the Association of Western Hospitals
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Moe Kadish
Trustee, Providence Hospital
Anchorage

Alternate Trustee Delegate to American Hospital Association
Robert Jensen
Central Peninsula Hospital
Soldotna

Physician Member of the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

November 4, 1982

The Honorable Ted Stevens
United States Senate
Washington, D.C. 20510

Similar letter sent to:
Senator Murkowski and
Congressman Young

Dear Senator Stevens:

As you are well aware the State of Alaska is not in conformity with the National Health Planning and Development Act and without federal action in 1982 faces penalties in grant monies under the Public Health Service Act and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. To avoid this penalty it is imperative that Congress repeal 42 U.S.C. 300m-(d) (copy attached).

This Association as well as the Alaska State Medical Association (resolutions attached) are opposed to the continuation of the state Certificate of Need law. Both are committed to its repeal in 1983. Repeal of 42 U.S.C. 300m-(d) will greatly assist our efforts.

We have communicated our support for various measures considered by this Congress to restructure the federal law. It appears however, that a full reform may be a consideration which must be left to the next Congress. If that is so, it is imperative that you secure repeal of 42 U.S.C. 300m-(d) before the current Congress adjourns in December.

All of those concerned with this issue including Congressman Waxman, the National Governors Conference, the American Hospital Association, etc., agree on removing sanctions against states which do not conform to the federal program. The notion of further delay of the sanctions does not assist anyone, it simply prevents states such as Alaska from dealing with its own law on anything beyond a temporary basis.

For these reasons we urge you to secure the repeal of 42 U.S.C. 300m-(d). This will permit the legislature of the State of Alaska to deal with its law in whatever manner it deems appropriate. Further, we urge that this repeal be secured prior to the adjournment of the 97th Congress.

Sincerely,

Dennis L. DeWitt
President

DLD:lf
cc: Friday Mailing
Alaska State Medical Society
Governer Jay Hammond
Governer Elect Sheffield
Lt. Governer Terry Miller
Lt. Governer Elect McAlpine
American Hospital Association - Lynn Hart
Federation of American Hospitals

· BILL SHEFFIELD, GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 22, 1982

Mr. Dennis L. DeWitt
President
Alaska State Hospital Association
319 Seward Street
Juneau, Alaska 99801

Dear Mr. DeWitt:

Thank you for sending me a copy of your letter to Senator Stevens regarding the state Certificate of Need law.

As you know, I am in agreement with you in your opposition to this law. Please keep me posted as to what I can do to change the law in Alaska.

Best regards.

Sincerely,

Bill Sheffield
Governor

ALASKA STATE MEDICAL ASSOCIATION
4107 Laurel Street • Suite 1 • Anchorage, Alaska 99504 • (907) 277-6891



ADOPTED BY THE ALASKA STATE MEDICAL ASSOCIATION HOUSE OF DELEGATES AT ITS ANNUAL MEETING IN FAIRBANKS, ALASKA JUNE 8, 1982

RESOLUTION NO. 82-23

SUBJECT: Certificate of Need

WHEREAS, the certificate of need process has increased the cost of health care rather than reduced it; and

WHEREAS, the certificate of need process has wreaked havoc upon the orderly development of hospitals in Alaska, therefore

BE IT RESOLVED, the Alaska State Medical Association urges and encourages the Legislature to repeal the certificate of need law.

DISTRIBUTION: Legislature
Alaska State Hospital Association
Press

HB

32

COMMITTEE REPORT

HOUSE

(7)
1/17/83

FURTHER: FINANCE

Date: 1-30-84

Mr. Speaker:

The Committee on HESS has had HB 32

Making a special appropriation to the University of Alaska for construction of dormitories at the Anchorage campus; and providing for an effective date.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 32 (HESS) [X] same title [ ] new title

and recommends that the committee substitute do pass.

[X] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mae Fischer

Peter Jacobs

Terry Martin

Ruth Chaney

MEMBERS HAVING OTHER RECOMMENDATIONS:

M.W. Miller NO REC

Otto Kopman No Rec.

Mike Davis NO REC

Mae Fischer
CHAIRMAN

H 60

Sherman Carter
Executive Vice President
474-7448

University of Alaska
Fairbanks, Alaska 99701

January 31, 1984



The Honorable Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Tischer:

Thank you very much for having permitted me to testify before the Health, Education and Social Services Committee last Friday with respect to CS for House Bill #32 and House Bills #466 and #467. The help which you and other representatives receiving copies of this letter give to the University of Alaska is deeply appreciated.

With respect to CS for House Bill #32, I was asked during the committee meeting how many students could be accommodated with the funding proposed in it for student housing in Anchorage. As I remember, I estimated about 275 students but said that I would report back on this matter, and that is one of the purposes of this letter. Related information is shown in the page immediately below.

I understand from discussions at the committee meeting last Friday that legislators intend for the student housing to be constructed in Anchorage to accommodate students from both UAA and ACC, and that is also the university's intent. I also understand that legislators want the housing to accommodate as many students as possible for the money, considering such things as the need for suitable construction which will not result in undue maintenance costs. The university administration will do the best it can to take care of these matters. Because of the special interest which Representative Walt Furnace has in student housing in Anchorage, I shall send a copy of this letter to him.

I shall work with Elmer Lindstrom to attempt to get suitable wording in House Bill #466 to place reasonable restrictions on how general fund money might be invested by the University of Alaska, to accommodate the concern which Representative Goll voiced during the committee meeting last week. To take care of this matter, I suggest a wording change along the line shown on

the second page attached. Such a change would be meaningful, establish reasonable constraint, and would not inhibit efficient investment practices. As Representative Koponen pointed out during the committee discussions, the great need for liquidity in these specific, temporary investments of cash also helps preclude the possibility of many types of speculative investments.

Sincerely,

Sherman Carter

SFC/pe
Attachment
cc: Representatives M. W. Miller, Martin, Uehling, Goll, Koponen, Davis and Furnace
President Jay Barton
Chancellors Biggerstaff and Outcalt
Mr. Elmer Lindstrom

JAN 3 1 REC'D

University of Alaska
Facilities Planning & Construction

January 31, 1984

TO: Sherman Carter
Executive Vice President

FROM: Fred King
University Architect

SUBJECT: Anchorage Student Housing

You asked Chris how many more students could be accommodated in the Anchorage Housing project if the budget was increased from the Eleven Million Eight Hundred Thousand Dollars ($11,800,000.00) requested to Fifteen Million Dollars ($15,000,000.00). If we use the unit costs that were used to develop the budget we will be able to build 16 more apartments, housing an additional 64 students, raising the total student accommodations from 220 to 284.

Sherman, the budget was established anticipating a more traditional method of construction. Using the bidder design process, we now believe that we can accommodate about 250 students for the Eleven Million Eight Hundred Thousand Dollars ($11,800,000.00) requested. An increase in the funding to Fifteen Million Dollars ($15,000,000.00) would probably result in an increase in the capacity of the project to 324 students. Our consultant, William J. King and Associates, has not yet completed his first cost estimates for the project to confirm these expectations so we have not shared them with anyone.

dvb

cc: Christopher K. Ahoy
Director

Introduced: 1/9/84
Referred: Health, Education &
Social Services and Finance

01 Reports
1/16/84

IN THE HOUSE BY MARTIN

HOUSE BILL NO. 466

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to appropriations to and fiscal procedures of the University of Alaska; and providing for an effective date."

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

* Section 1. AS 14.40.250 is amended to read:

Sec. 14.40.250. REGENTS TO ACT AS TRUSTEES AND ADMINISTER MONEY OR PROPERTY [FROM SOURCES OTHER THAN LEGISLATURE OR FEDERAL APPROPRIATION]. The Board of Regents may receive, manage, and invest money or other real, personal or mixed property ~~in any manner~~ received from any source [SOURCES OTHER THAN THE STATE LEGISLATURE OR FEDERAL APPROPRIATION] for the purpose of the University of Alaska, its improvement or adornment, or the aid or advantage of students or faculty, and in general, may act as trustee on behalf of the University of Alaska for any of these purposes. ~~However~~, The regents shall make a written report to the legislature, in accordance with AS 14.40.190, as to the administration and disposition of funds received [UNDER THIS SECTION].

* Sec. 2. AS 14.40.296(a) is amended to read:

(a) There is established in the treasury of the University of Alaska the University of Alaska working capital reserve fund. The fund consists of interest income from investments made by the Board of Regents under AS 14.40.250 and money appropriated by the legislature for the purpose of providing nonlapsing current working capital for the University of Alaska and is not available for appropriation by the Board of Regents.

Investment of general fund monies shall be made in federal securities or shall be insured or collateralized.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM January 27, 1984

SUBJECT: Letter of Intent on CSHB 32 (HESS)

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: LHA Linn H. Asper
Legislative Counsel

Letter of intent:

It is the intent of the Health, Education and Social Services Committee in adopting a committee substitute to HB 32, that the appropriation made by that bill to the University of Alaska be used for the construction of dormitories at the Anchorage campus that will be available for the use of the Anchorage Community College as well as the University of Alaska, Anchorage.

LHA:ojb
J3/007

Mae -
Linn Asper, legislative Counsel, said that this "letter of intent" underscores the language in CSHB 32 and makes it doubly clear what the Committee meant by the language.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M January 27, 1984

SUBJECT: Letter of Intent on CSHB 32 (HESS)

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: LHA Linn H. Asper
Legislative Counsel

Letter of intent:

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LHA:ojb
J3/007

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
Friday, 27 January 1984
1:15 p.m.

Agenda

Call to Order

Comments by Representative Mae Tischer, Chairman

Testimony on HB 32, "An Act making a special appropriation to the University of Alaska for construction of dormitories at the Anchorage campus; ED."

Testimony on HB 466, "An act relating to appropriations to and fiscal procedures of the University of Alaska; ED."

Testimony on HB 467, "An Act making special appropriations to the University of Alaska working capital reserve fund and to the University of Alaska to pay obligations from past fiscal years; ED."

Comments by members

Announcements

Adjournment

MAR 2 0 1983

University of Alaska, Anchorage

Proposed Student Housing

Walsh/Rosenell Development

February, 1983

A. Project Assumptions

1. The proposed development concept is to build a turnkey 100 unit apartment styled dormitory housing 400 students.
2. Each dormitory unit consists of a seperate entry deck, 4 bedrooms, one bath, complete kitchen and dining area, a living room, storage areas and outdoor deck, and all room appliances and furnishings. The Floor plan totals 1080 SF.
3. The property required for the project is 3.5 acres including landscaping and walkways. The proposal calls for the project to be developed on University owned land with a dollar per year nominal lease for thirty years.
4. The project also includes common facilities of a 4000 SF student lounge, a 400 SF laundry facility and a dormitory office.

5. Construction is a three-story walk-up; type V-1hr wood frame building.
6. Utilities are common, with students paying as part of their monthly rent, one fee for heat, lights, water, sewer, garbage and janitorial. Students will be responsible for cleaning their individual units.
7. The developers are proposing a turnkey project in which they will design, build, and manage the project. University approval will be required on design specifications.
8. The University will be financially responsible for site selection, road improvement to site, offstreet parking if required, and utilities to curbside. The developers will assume all costs beyond curbside. (The developers will serve as construction manager on the University improvements if requested by the University).

B. Project Financing

1. Cost estimates for the project are as follows:

a. Dwelling Units and Furnishings 100 units @ 1080SF @$47.00/SF	$5,076,000
b. Student Center Amenities 4600SF @ $80.00/SF	368,000
c. Site Development $100,000/acre @ 3.5 acres	350,000
d. Architectural-Engineering	300,000
e. Interim Financing	300,000

f. AIDA Loan Fees	$250,000
g. Overhead and Administration	400,000
Total Estimated Development (not including land)	$7,044,000

Cost per SF : $63.00

Cost per Unit : $70,440

Cost per Student : $17,610

2. Total monthly rents for students are suggested to be set at $170 per month with a CPI increase of 8% annually.

3. Proposed finance method is for the developers to assume 100% of the financing obligation and for the University to guarantee the lease of the facility.

4. Responsibilities of the Developers/Managers include:
   a. Maintaining the facility to University standards
   b. Managing the facility, including all janitorial requirements within the facility, all facility maintenance, utility, insurance, and office payments, bookeeping, and protecting the general condition of the facility.
   c. Maintaining a replacement reserve to keep all facility furnishings and appliances in approved condition.

5. Responsibilities of the University include:
   a. Maintaining the University grounds surrounding the dormitory facility

b. Collecting rent payments with the term tuition payments.

c. Inspecting/approving facility to insure proper specifications are met.

6. Having reviewed several methods of financing the developers propose the following:

   a. The requirements of offering inexpensive student rent prohibits obtaining the required rate of return to normally interest a private developer;

   b. By making a financial arrangement whereby the University guarantees to lease 100% of the facility, and contributes a site for development, then the University in effect brings the project to the minimally accepted break-even requirement.

   c. In response to the University contributions, the developers will then allocate to the University 100% of the excess rental income over the developers costs, management and operational costs, and replacement reserve. This should amount to several hundred thousand dollars per year to the University.

   d. Details of the cash flow of the project are following in this proposal.

7. The developers have based their financial assumptions on receiving an AIDA loan or conventional at 11.6% with 90% financing over 30 years.

8. The University assumes ownership of the facility after 30 years for one dollar. All obligations of the developer/manager end at that time.

C. Project Timetable

1. Proposed plan can be 100% completed in approximately 7 months construction. The following schedule is achievable:

a. Design and engineering	1 1/2 months
b. Completion of 200 units	4 1/2 months
c. Completion of 400 units	3 months

2. In order to have the facility prepared for the next school year (september '83) the following schedule is required:

a. Project approval	March 15
b. Design and Engineering	May 1
c. Groundbreaking	May 1
d. Completion of 200 units	Sept. 15
e. Completion of 400 units	Dec. 15

D. Options

1. The developers have some flexibility to reconfigure the project if minor changes would more fully meet the needs of the University. These options include phasing the project with different size units, or a different number of units, or discussing other financing relationships that would not alter the minimally acceptable requirements of the developers.

E. Contractor History

1. Tom Walsh Construction Co. has nearly 20 years experience in the low cost and multiple unit construction field, completing over

1. (cont.) 3000 multiple units.
2. Walsh Construction has recently completed 4 major University housing projects valued at over 16 million dollars. These projects include two dormitories at the University of Washington and two dorms at Washington State University.
3. Walsh Construction has built many turnkey projects throughout the northwest and in climates similar to Anchorage's, such as the W.S.U. Dormitories at Pullman.

F. Cash Flow Analysis

1. The following analysis has been run for 15 years for the sake of brevity; the same format continues for years 16-30.

G. Mailing Address

The Rosenell Group
215 Second Avenue
Suite 215
Anchorage, Alaska 99501

Att: Michael C. Mitchell

Phone: 279-1037

Note: This proposal is to serve as a general guideline to gain conditional University approval. The developer understands that the final acceptance of the project by the University will require approvals of the actual project plans and specifications. The project timetable is also subject to the municipality all other permitting agencies.

Signing for the Developers: _____ Date: 3/1/83

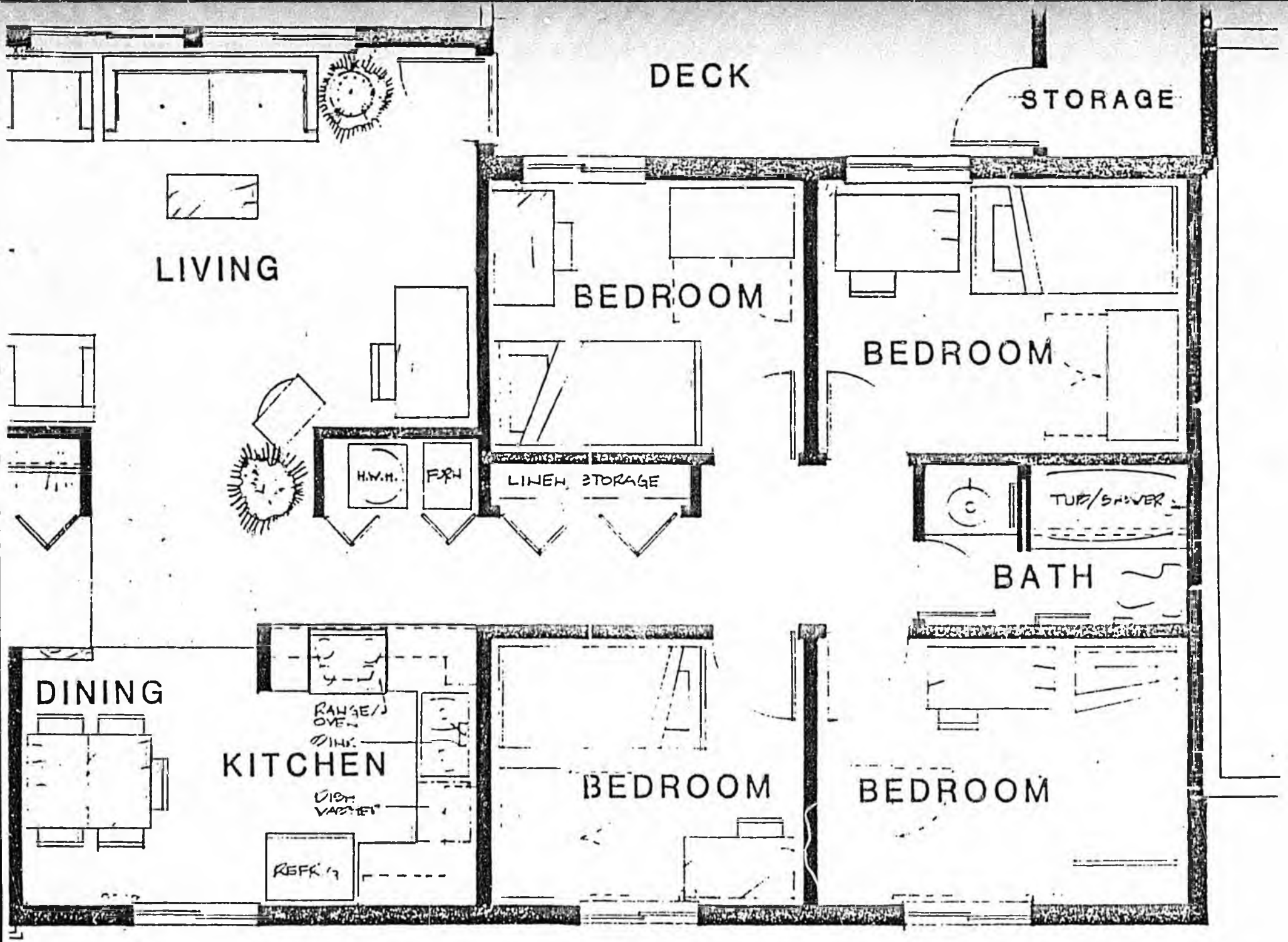
Michael C. Mitchell

UNIVERSITY DORMITORY PROPOSAL

CASH FLOW ANALYSIS

YEAR	STUDENT FEE/MTH	OCCUPANCY REVENUE(100%)	BUILDING AMORTIZATION	OPERATING EXP. REPLAC. RESERVE	DEVELOPERS CASH REQ.	INTEREST ON STUDENT DEP.	PROJECT INCOME	UNIVERSITY INCOME	UNIVERSITY INCOME (CUM)
1	$170	$816,000	$658,000	$250,000	$908,000	$25,000	$841,000	(67,000)	($67,000)
2	183	878,400	658,000	275,000	933,000	27,000	905,000	(28,000)	(95,000)
3	198	950,400	658,000	300,000	958,000	29,000	979,400	21,400	(73,600)
4	214	1,027,200	658,000	355,000	1,013,000	31,000	1,058,200	45,200	(28,400)
5	231	1,108,800	658,000	416,000	1,074,000	33,000	1,141,800	67,800	39,400
6	249	1,195,200	658,000	477,000	1,135,000	35,000	1,230,200	95,200	134,600
7	269	1,291,200	658,000	543,000	1,201,000	37,000	1,328,200	127,200	261,800
8	291	1,396,800	658,000	612,000	1,270,000	39,000	1,435,800	165,800	427,600
9	314	1,507,200	658,000	686,000	1,344,000	41,000	1,548,200	204,200	631,800
10	339	1,627,200	658,000	765,000	1,423,000	43,000	1,670,200	247,200	879,000
11	366	1,757,400	658,000	848,000	1,506,000	45,000	1,802,400	296,400	1,175,400
12	395	1,896,000	658,000	938,000	1,596,000	47,000	1,943,000	347,000	1,522,400
13	427	2,049,600	658,000	1,034,000	1,692,000	49,000	2,098,600	406,600	1,929,000
14	461	2,212,800	658,000	1,138,000	1,796,000	51,000	2,263,800	476,800	2,396,800
15	498	2,390,400	658,000	1,250,000	1,908,000	53,000	2,443,400	535,400	2,932,200

16 - 30 similar schedule


DECK
STORAGE
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BEDROOM
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F&R
LINEN STORAGE
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BATH
DINING
KITCHEN
RANGE/OVEN
REFR.
BEDROOM
BEDROOM

FLOOR PLAN

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4111

TONY KNOWLES, MAYOR

DEPARTMENT OF HEALTH AND ENVIRONMENTAL PROTECTION

November 30, 1982

Representative Terry Martin
1024 West Sixth Avenue
Anchorage, AK 99501

SUBJECT: Dormitories for the University of Alaska, Anchorage Campus

Dear Representative Martin:

I am pleased to provide the following information to support the construction of dormitories for the University of Alaska, Anchorage.

As the manager of the Division of Environmental Health, I supervise the Air Quality Program for the Municipality of Anchorage. I also represent the director of the Municipal Department of Health and Environmental Protection on the Southcentral Clean Air Authority and on the AMATS Technical Advisory Committee.

The Federal Clean Air Act contains provisions requiring compliance with mandatory federal standards. Anchorage is a "non-attainment" area under the standards, and as such must come into compliance with the standards by July 1, 1985. To do so, the Municipality must implement severe and immediate measures to control carbon monoxide. These measures will include mandatory inspection and maintenance of automotive vehicles, increases in the use of public transportation, carpooling and other measures. However, even with the full implementation of these measures, the analysis shows that Anchorage will not be able to comply with the standards. We must therefore look at every available possibility to reduce carbon monoxide concentrations.

Almost all of the carbon monoxide problem comes from the exhaust of gasoline-powered vehicles. A reduction in the use of automotive vehicles will help in reaching the attainment standards of the Clean Air Act.

This department therefore endorses the construction of dormitories at the the University campus in Anchorage. At the present time, students who attend the University must live off campus, and this will necessitate the use of a car to attend school. Once a student has purchased a car, there is no reason not to use it for other purposes such as shopping, visiting friends, etc.

If the same student lived on campus, however, the prime motivation for owning a car would be eliminated. The student would then use public transportation for shopping and other purposes.

I don't want to understate the importance of achieving the carbon monoxide standards in Anchorage. The impact on the health of those persons in the community susceptible to respiratory diseases has been well-documented, and a serious health hazard may result if levels are not brought down to acceptable values.

I hope this information is of assistance to you in your deliberations.

Sincerely yours,

Stan Brust

Stan Brust, Director
Division of Environmental Health

SB.L2/su/D27

HB

36

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

P. O. BOX 9
KENAI, ALASKA 99611

REPRESENTATIVE HUGH MALONE

M E M O R A N D U M

To: Representative Mae Tischer
Co-chair, House HESS Committee

From: Representative Hugh Malone

Subject: House Bill 36 (An Act relating to the longevity bonus program; and providing for an effective date)

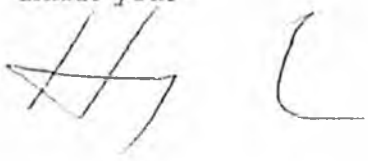
Date: March 11, 1983

I respectfully request that my bill (HB 36) be scheduled for committee consideration.

I hope that we can, this year, resolve any/all constitutional problems surrounding this program.

I would appreciate a written reply as to when this bill will be scheduled.

Thank you.



ALASKA STATUTES

TITLE 47. WELFARE, SOCIAL SERVICES AND INSTITUTIONS

Chapter 45. Alaska Longevity Bonus

Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS. (a) A person who is 65 years of age or over, who was domiciled in the territory on or before January 3, 1959 and who has maintained a continuous domicile in the territory or state for 25 years may apply to the commissioner of administration for qualification to receive a monthly bonus of $250. (§ 1 ch 205 SLA 1972; am § 1 ch 33 SLA 1976; am § 1 ch 89 SLA 1978; am § 1 ch 147 SLA 1980; am § 1 ch 13 SLA 1981)

(b) When the commissioner of administration determines that an applicant qualifies under this chapter he shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in this chapter may continue to do so only as long as he continuously retains a domicile in the state.

Sec. 47.45.020. CONTINUOUS ELIGIBILITY PROCEDURES. After qualification, monthly applications for bonuses may be made in person to any office of the Department of Administration. Mailed monthly applications shall also be considered by the Department of Administration. In-person or mailed applications shall be made on forms provided by the Department of Administration and shall conform to the conditions as provided by regulation. The commissioner may make exceptions to those residents who are isolated in rural areas and cannot mail a monthly application; however, they shall mail an application at least once every six months.

Sec. 47.45.030. ABSENCE FROM THE STATE. A recipient shall notify the commissioner of administration when he expects to be absent from the state if the absence is for a continuous period that exceeds 30 days. After such notification, the recipient shall no longer receive bonuses from the Department of Administration

after his last regularly approved monthly application. Upon his return to the state he may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after his return to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, he may not be disqualified, if he still otherwise qualifies upon his return to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

Sec. 47.45.040. DISQUALIFICATION. Disqualification under this chapter shall rest solely with the commissioner of administration and shall be outlined in the regulations promulgated under sec. 100(1) of this chapter.

Sec. 47.45.050. DEPARTMENT HEARING. The Department of Administration may hold a departmental hearing upon the request of any applicant or recipient who has been disqualified. Previous to this hearing the department shall by certified mail notify an applicant or recipient in plain and comprehensive language the exact reason for his disqualification. Form letters using only referral to state statutes or department regulations, or otherwise vague in detail, shall not be considered compliance by the department with this section.

Sec. 47.45.060. LEGAL REMEDY. Legal remedy from disqualification may be sought by an applicant or recipient in any court of competent jurisdication in the state. The burden of proof shall rest solely upon the applicant or recipient and any costs related to a disqualification verdict determined against the applicant or recipient may be recoverable by the attorney general from that person, or from any agency representing that person supported in whole, or in part, with state appropriations.

Sec. 47.45.070. UNQUALIFIED PERSONS. An unqualified person is one who

(1) does not meet the age or residence requirements as provided for under this chapter;

(2) meets the age and residence requirements of this chapter but is confined in a state or federal mental health institution or facility and is certified by the state as unable to manage his own affairs; however, if such a person was at the time of his commitment the principal support of a spouse, the commissioner of administration may determine to pay the confined person's bonus to his spouse until the spouse is qualified for a bonus;

(3) is otherwise qualified but confined in a penal or correctional institution or facility; upon completion of sentence or upon the conferral of a pardon, parole or probation, the person may make application; confinement outside the state shall be considered as residence in the state if a person was convicted and sentenced from a court in Alaska; revocation of parole or probation shall be cause for immediate disqualification until release from confinement is again effected;

(4) leaves the state of his own volition and remains absent from the state for a continuous period of more than 180 days.

Sec. 47.45.080. ACCRUAL OF BONUSES. No recipient may, for any reason, receive an accrual of bonuses in excess of two monthly payments. No interest may be paid on accrued bonuses. Upon the death of a recipient the commissioner of administration shall pay to the beneficiary of the recipient any accrued bonuses not to exceed two monthly payments.

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. (a) There is the Alaska longevity bonus fund created for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of all money made available by appropriations of the state legislature, and from other appropriated funds, all contributions from whatever source, and income and interest derived from the investment of money.

(b) The commissioner of administration is the administrator of the fund.

Sec. 47.45.100. POWERS AND DUTIES OF THE ADMINISTRATOR. The commissioner of administration shall

(1) promulgate regulations necessary to carry out the provisions of this chapter;

(2) make expenditures from the fund necessary to administer this chapter;

(3) establish and maintain an adequate system of accounts for the fund;

(4) publish annually a report showing the financial condition of the fund.

Sec. 47.45.110. CUSTODY OF FUNDS. The commissioner of revenue is the treasurer of the system and has powers and duties for this purpose including but not limited to the following:

(1) to act as official custodian of the cash and securities belonging to the fund;

(2) to receive all items of cash belonging to the fund.

Sec. 47.45.120. EXEMPTION FROM TAXATION AND PROCESS. Bonuses received under this chapter are exempt from all state and political subdivision taxes except sales and use taxes and are not subject to execution, attachment, garnishment or other process. No bonus received under this chapter may be exempt from a federal tax requirement.

Sec. 47.45.130. DEATH OR CESSATION OF RESIDENCY. The commissioner of administration shall establish procedures to stop a bonus when a recipient under this chapter no longer qualifies. When a recipient dies or discontinues his residency in the state his qualification for a bonus shall stop at the time of his last approved monthly application.

Sec. 47.45.140. PENALTY FOR FALSE STATEMENTS. A person who wilfully or knowingly makes a false statement, or falsifies or permits to be falsified any record required by this chapter, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $500, or by imprisonment

for not more than six months, or by both, forfeits all rights under this chapter, and shall make adequate restitution for any bonuses illegally received.

Sec. 47.45.150. DEFINITIONS. In this chapter

(1) "bonus" means a monthly Alaska longevity bonus payment made to a person or his beneficiary who qualifies under this chapter;

(2) "domicile" means the place with which a person has a settled connection for determination of his civil status or other legal purposes because it is actually or legally his permanent and principal home.

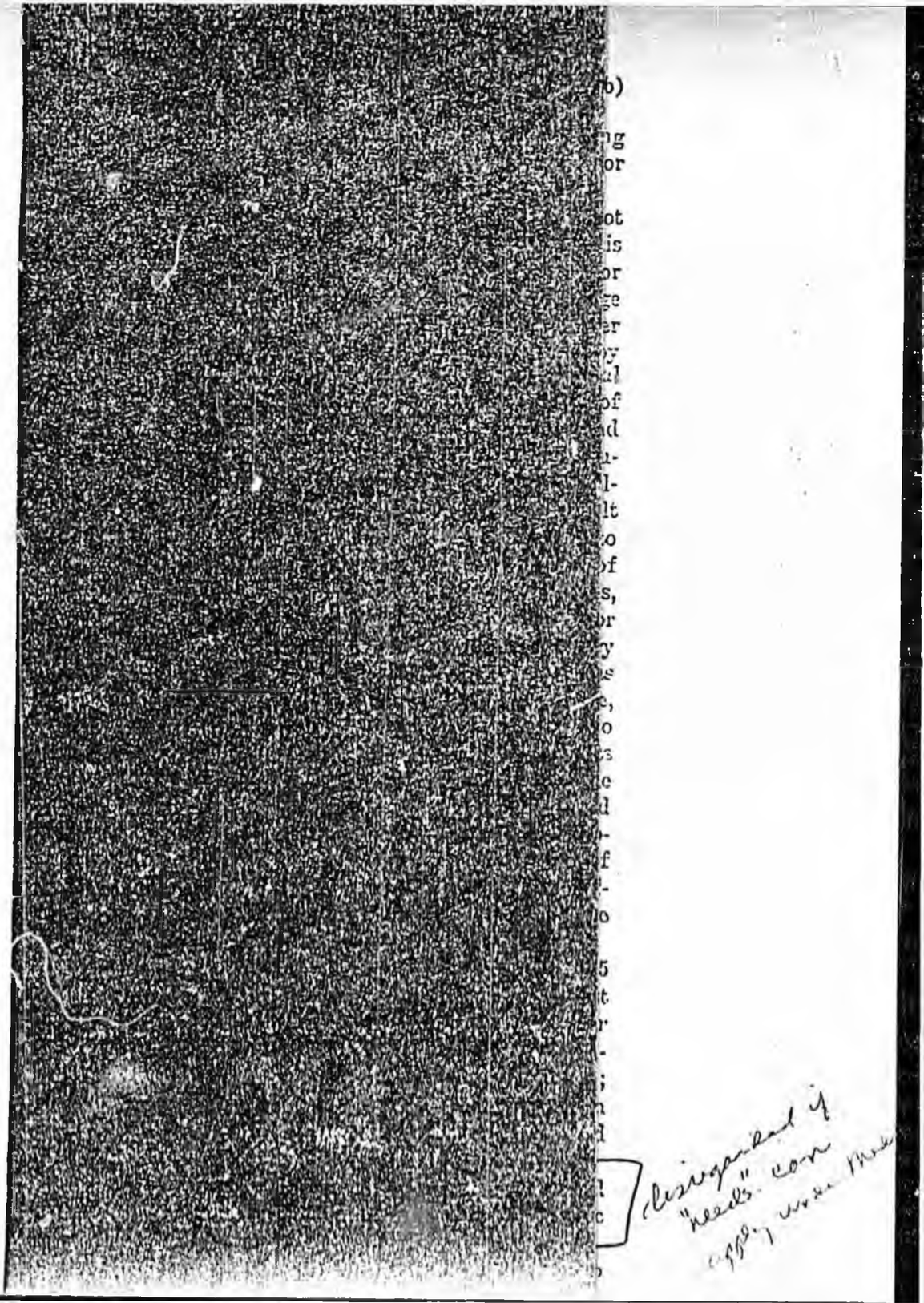
Sec. 47.45.160. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT. The Administrative Procedure Act (AS 44.62) does not apply to this chapter.

Sec. 47.45.170. PURPOSE. The sole purpose of this chapter is to offer and provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state. Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. Bonuses made under this chapter are not predicated on need even though they may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsiblities of the state. The legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans, Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans, who in the prime of their life were in effect treated as second-class citizens by the federal government who paid much of their hard-earned income to a government in which they did not have the right to participate through power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering in many cases, the loss of familial relationship with

their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans the benefit of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding the new Alaskan in making this state truly "The Great Land."

* Sec. 2. AS 01.10.030 does not apply to this Act. If any provision of this Act, or the application of a provision of this Act to any person or circumstances is held invalid, this entire Act shall be considered invalid.

* Sec. 3. This Act takes effect January 1, 1973.



[43 FR 45204, Sept. 29, 1978, as amended at 44 FR 17937, Mar. 23, 1979]

Subpart G—General Financial Eligibility Requirements and Options

§ 435.600 Scope.

This subpart prescribes general financial requirements and options for determining the eligibility of both categorically and medically needy individuals specified in Subparts B, C, and D of this part. Subparts H and I prescribe additional financial requirements.

(Secs. 1102, 1902(a)(25), 1903(d)(2), 1903(o), 1903(p), and 1912 of the Social Security Act (42 U.S.C. 1302, 1396(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396k))

[43 FR 45204, Sept. 29, 1978, as amended at 45 FR 8986, Feb. 11, 1980]

§ 435.602 Limitation on the financial responsibility of relatives.

(a) Except for a spouse of an individual or a parent for a child who is under age 21 or blind or disabled, the agency must not—

(1) Consider income and resources of any relative available to an individual; nor

(2) Collect reimbursement from any relative for amounts paid by the agency for services provided to an individual.

(b) The income and resources of spouses and parents must be considered in determining financial eligibility as provided for the categorically needy in Subpart H and the medically needy in Subpart I of this part.

[45 FR 82250, Dec. 15, 1980]

§ 435.603 Applications for other benefits.

(a) As a condition of eligibility, the agency must require applicants and recipients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so.

(b) Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation.

§ 435.604 Assignment of rights to [illegible]

(a) As a condition of eligibility, in addition to other requirements of this part, the agency may require [illegible] able applicants and recipients to assign rights to medical support or other third party payments and to cooperate with the agency in obtaining medical support or payments. See [illegible] 433, Subpart D, for specific requirements.

(b) If an agency requires assignment of rights, it must do so uniformly for all groups covered under the plan.

(Secs. 1102, 1902(a)(25), 1903(d)(2), 1903(o), 1903(p), and 1912 of the Social Security Act (42 U.S.C. 1302, 1396(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396k))

[45 FR 8986, Feb. 11, 1980]

Subpart H—Financial Requirements for the Categorically Needy

§ 435.700 Scope.

This subpart prescribes financial requirements for determining the eligibility of categorically needy individuals under Subparts B and C of this part. The requirements apply only to individuals who are not receiving AFDC, SSI, or an optional State supplement. The financial eligibility requirements of AFDC, SSI, or the State supplement apply to individuals receiving those payments. This subpart also prescribes requirements for applying an institutionalized recipient's income to cost of care.

Financial Requirements Applicable to Optional Groups: Families and Children

§ 435.711 General requirements.

In determining eligibility for families and children, a Medicaid agency must apply the financial eligibility requirements of the State's AFDC plan.

§ 435.712 Financial responsibility of spouses and parents.

(a) For families and children, the agency must consider income and resources of spouses or parents as available to the individual whether or not they are actually contributed, if they live in the same household. For this purpose, "parent" includes a stepparent if he is equally liable with the natural parent for the support of children under State law of general applicability.

(b) If the spouse or parent does not live with the individual, the agency must consider only income and resources that are actually contributed to the individual from a parent or spouse as available to him.

(c) Even if State law confers adult status below age 21, the agency must consider parental income and resources as available to a child, if he is living with the parent, until he becomes 21.

Financial Eligibility Requirements Applicable to Optional Groups: The Aged, Blind, and Disabled in States Covering Individuals Receiving SSI

§[illegible]721 General requirements.

(a) This section applies when an agency provides Medicaid to—

(1) All SSI recipients or to all SSI recipients and to State supplement recipients; and

(2) One or more of the optional coverage groups specified in §§ 435.210 (eligible for but not receiving cash), 435.211 and 435.231 (institutionalized individuals).

(b) If the agency, under § 435.120, provides Medicaid to SSI recipients but not to optional State supplement recipients, it must use the SSI financial eligibility requirements to determine Medicaid eligibility of aged, blind, and disabled individuals under the optional provisions of §§ 435.210, 435.211, and 435.231. However, under § 435.231, it may use a higher income standard than SSI to determine eligibility for institutionalized individuals.

(c) If the agency provides Medicaid to SSI recipients and, under § 435.230, to individuals who are not receiving SSI but are receiving optional State supplements, the agency must use the following criteria to determine Medicaid eligibility under the optional provisions of §§ 435.210, 435.211, and 435.231 for aged, blind, and disabled individuals:

(1) The agency must use the SSI financial eligibility requirements for individuals who would be eligible for SSI but would not be eligible for an optional State supplement.

(2) The agency must use the supplement program's financial eligibility requirements for individuals who would be eligible for an optional State supplement. However, the agency may use a higher income standard than SSI or the State supplement program to determine eligibility of institutionalized individuals under § 435.231.

(d) In determining eligibility under paragraph (b) or (c) of this section, the agency must use the SSI deductions from income and resources and budgeting methods set forth in 20 CFR Part 416, unless greater deductions from income and higher income standards are used in an optional State supplement program that meets the requirements of § 435.230.

§ 435.722 Individuals in institutions who are eligible under a special income level.

(a) If an agency, under § 435.231, provides Medicaid to individuals in medical institutions and intermediate care facilities who would not be eligible for SSI or State supplements if they were not institutionalized, the agency must use income standards based on the greater need for financial assistance that the individuals would have if they were not in the institution. The standards may vary by the level of institutional care needed by the individual (hospital, skilled nursing, or intermediate level care), or by other factors related to individual needs. (See § 435.1005 for FFP limits on income standards established under this section.)

(b) In determining the eligibility of individuals under the income standards established under this section, the agency must not take into account income that would be disregarded in determining eligibility for SSI or for an optional State supplement.

(c) The agency must apply the income standards established under this section effective with the first full month of institutionalization.

[43 FR 45204, Sept. 29, 1978, as amended at [illegible]

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: March 30, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

CSHB 56	An act relating to scholarship loans.
HB 36	An act relating to the longevity bonus program; and providing for an effective date.

Other notes or reminders:

NO MEETING SCHEDULED ON FRIDAY, APRIL 1, 1983

HB 36 Longevity Bonus

1. Malone

How much does it cost now annually? 30,000,000 35.5 37.7 40.9

(3803 additional people) + Fiscal Note 12,037,500.

Rodney West - Sent against the State.

250,000,000 Capit Proj $ into acct.

2. Rudd - Bill substitute w/ Fiscal Note

10 yr fazeout

Rep Malone bill Year 1987: $70,000,000

3. Palmquist - retain a resource in the State

Jan 1973 - first Bonus Chs - 5400

now doubled.

No retroactive - she opposes retroactive

Gorsbell: public assistance / Bonus just transfer funds + responsibility

don't translate Bonus into public assistance

gives greater security

suggests volunteer public service to earn Bonus. Measurable

1. approve 1 yr Residency

2. Opposes fazeout.

3.

(Senate)

Jon Tillinghast – Ad Hoc Committee on Residency.

Kay, Bertulla Dockett – members

Zigler Halford – advisors

25% of P. F. earnings into annuity would be savings acct.

by year 2000: will have secure fund

$1.7 Bill. savings acct

FY 1984 – 13,672 3.9% to 3.2%

85

yr 2000 – 25,158 people

EQUAL RETIREMENT BENEFITS

SECTION 1

Establishes the Longevity Bonus Account as a separate account within the Alaska permanent fund and also takes 12.5 percent of the income of the permanent fund earned during a fiscal year that is available for distribution and transfers it to the Longevity Bonus Account. Section 1 also states that the money shall be reinvested, and that the Commissioner of Revenue transfers money in the Longevity Bonus Account to the Alaska Longevity Bonus Fund to pay monthly longevity bonuses.

SECTION 2

Changes percentage of Permanent Fund Earnings distributed to 37.5 percent (To coincide with Section 1).

SECTION 3

Establishes a 1 year residency and over 65 years of age as the qualifications for the Longevity Bonus.

SECTION 4

Establishes a $250 a month payment plus a 3 percent annual increase.

SECTION 5

Changes the "He" and "His" to "the recipient".

SECTION 6

Changes the language so that the Alaska Longevity Bonus Fund can receive funds from the Alaska permanent fund.

SECTION 7

Adds new language so that as requested by the Commissioner of Administration, the Commissioner of Revenue shall transfer amounts from the Longevity Bonus Account to the Longevity Bonus Fund to pay the monthly bonuses.

SECTION 8

Definition of resident.

SECTION 9

Finding and purposes.

SECTION 10
Repeals definition of bonus and domicile in Alaska statues.

SECTION 11

Effective date.

THE LONGEVITY BONUS PROGRAM:
OPTIONS UNDER THE VEST SETTLEMENT

JON K. TILLINGHAST

Birch, Horton, Bittner, Pestinger & Anderson

March 8, 1983

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I. INTRODUCTION

On June 14, 1982, the United States Supreme Court ruled that the cumulative residency requirements of Alaska's permanent fund dividend distribution program violated the Equal Protection Clause of the United States Constitution.[1] Shortly thereafter, Alaska's Longevity Bonus ("ALB") Program was challenged on equal protection grounds.[2] On August 9, 1982, the Department of Law, with the approval of the Alaska Legislative Council, entered into a stipulation in the Vest case which stayed all proceedings pending adjournment of this legislative session, in order to afford the legislature an opportunity to address the constitutional problems with the existing program.

The purpose of this report is to analyze some 10 options available to the legislature in amending the Alaska Longevity Bonus Program. This report is a first step in a process which must be completed by the end of this session. As subparts (C) and (D) of this section discuss, the likely consequence of failing to enact remedial legislation this session is that the ALB program will be judicially terminated.

A. Description Of The Longevity Bonus Program

Predecessors of the existing ALB program can be traced to 1915. In that year, the Territorial Legislature authorized a monthly allowance of $12.50 for needy elderly Alaskans of 10 years

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[1]Zobel v. Williams, 72 L. Ed. 2nd 672 (1982)

[2]Vest v. Shafer, 1 JU-82-1103 Civ. (1st Jud. Dist., 1982)

residency who chose not to enter the newly-created Pioneers' Homes.[3] The current program was enacted in 1972[4] as a result of legislation introduced by Senators Butrovich and Ray.[5] Quite unlike the "need-based" focus of its predecessors, the 1972 legislation was to:

> "... provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state. Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. The bonuses made under this chapter are not predicated on need even though they may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsibilities of the state. The Legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans, Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans who, in the prime of their life, were in effect treated as second class citizens by the federal government and who paid much of their hard earned income to a government in which they did not have the right to participate through the power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans the benefit of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding

[3]Chapter 54, SLA 1915.

[4]Chapter 205, SLA 1972; AS 47.45.010 et. seq.

[5]SB 211, 7th Leg., 2nd Sess.

the new Alaskan in making the state truly "The Great Land." §1, Ch. 205, SLA 1972.

The ALB program, then, has several purposes:

1. providing an incentive for a particular class of senior citizens to remain in the state;

2. compensating for the hardships faced by retirement in Alaska;

3. rewarding the past contributions of Alaska's elderly;

4. compensating for past hardships suffered by Alaska's pioneers; and

5. retaining the wisdom and experience of Alaska's pioneers.

Originally, the bonus was $100 per month. Over the years, the amount has gradually increased to its current $250 per month.[6] A person is eligible for a bonus if he or she:

1. is 65 years of age or older;
2. was "domiciled in the territory" on or before January 3, 1959; and
3. has been continuously domiciled in the state for 25 years.[7]

Additionally, if a person is absent from the state for more than 30 days, he will not receive another bonus until he returns. AS 47.45.030. If the person is absent for a continuous period in excess of 180 days, he is ineligible for a bonus for the next 12 calendar months following his return. Id.

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[6]Chapter 13, SLA 1981

[7]AS 47.45.010

Exceptions are made if the absence "is beyond the control of the recipient." Id.

The longevity bonus is taxable under the Internal Revenue Code. However, it is almost universally excluded in calculating income eligibility for state and federal assistance programs.[8]

B. The Individuals Covered By The Alaska Longevity Bonus Program.

There are currently some 9,425 Alaskans receiving some $28.4 million in longevity bonus payments. Sketching an accurate portrait of the state's ALB recipients is difficult, because the ALB application form requires little personal information. In 1976, the Alaska Department of Health and Social Services conducted a random survey of ALB recipients,[9] and, in conjunction with the Vest

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[8]Under 42 U.S.C. §1382(a)(b)(2)(B), which governs eligibility for federal Supplemental Security Income, and by reference also controls other federal programs such as Medicaid and energy assistance, the following is excluded from the definition of income:

> "monthly (or other periodic) payments received by any individual under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence is such state by such individual."

[9]"Alaska Longevity Bonus Impact Survey," Alaska Department of Health and Social Services (1976) (hereinafter "ALB Survey)

settlement, the Department of Law conducted a non-random survey of some 1,896 participants.

From those surveys, it is apparent that a large percentage of ALB recipients are Alaska Natives living in rural areas of the state.[10] Moreover, and in large part because of the ineligibility of many rural residents for social security, the longevity bonus is often the primary source of income for rural residents. For example, 41% of the elderly in Southwest Alaska, and 66% in Northwest Alaska, rely on the longevity bonus as their primary source of income.[11]

Available evidence suggests that a large percentage of ALB recipients have incomes only marginally above the current state welfare assistance level of $546 per month. The Department of Law's 1982 survey -- which was skewed toward the more needy recipients of the ALB -- found that 81.4% of the 1,896 recipients sampled had monthly incomes of $750 or less. The 1976 ALB survey found that half of the ALB recipients had a monthly income, "including that of their spouse," of under $500 per month.[12] Another

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[10]In 1976, 41% of the ALB recipients lived in rural areas of the state and 24.1% were Alaska Natives. ALB Survey at 14-15.

[11]"An Assessment of the Status and Needs of Alaska's Elderly," Department of Sociology, College of Arts & Sciences, University of Alaska (1981) (hereinafter "Assessment.")

[12]ALB Survey, op. cit. n. 9 at 18-19.

44% had incomes of less than $1,000 per month. A 1981 University of Alaska survey indicated that roughly half of Alaska's elderly had monthly incomes of less than $800.00.[13]

The 1976 ALB survey suggests that, in light of the high percentage of bonus recipients in the 65-70 age group, the bonus has had a material effect in allowing older citizens to remain in the state after retirement.[14] The report also indicates that the ALB program has allowed a significant percentage of the elderly to remain off various public assistance programs -- including food stamps and state Old Age Assistance.[15]

One significant characteristic of Alaska's elderly in general warrants note -- one that will become quite significant in our analysis of alternatives. Only 10% of Alaska's elderly have resided in the state for 10 years or less.[16]

C. The Effects of Zobel And Vest On The ALB Program.

In reviewing the 1972 legislation creating the Longevity Bonus Program, the Department of Law concluded that "... the classification predicated upon being domiciled in the territory on or before January 3, 1959, bears little, if any, rational relationship to any legitimate legislative purpose which this bill is conceivably designed to serve and thus is in

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[13]Assessment, op. cit. n. 11 at 31.

[14]ALB Survey, op. cit. n. 9 at 12.

[15]Id. at 10, 18.

[16]Assessment, op. cit. n. 11 at 12.

all probability unconstitutional."[17]

Nonetheless, the ALB program remained unchallenged until 1982, following the U.S. Supreme Court's decision in Zobel v. Williams (hereafter "Zobel III").[18]

The law in issue in Zobel III (AS 43.23.010 et. seq.) provided for the distribution of a permanent fund dividend of $50.00 for each year of accumulated Alaska residency. The Court ruled, 8-1, that the cumulative residency requirement of the program was not rationally related to the goals of the statute -- a ruling which is discussed in more detail in section II(A), post.

The permanent dividend fund distribution program, in part, was intended to reward Alaskans for prior contributions to the state, a goal which: (1) three justices believed was constitutionally impermissible;[19] and (2) five justices believed was a permissible goal, but was not rationally furthered by a scheme

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[17]Memorandum, Havelock to Egan, Re: FCCS HCS CSSB 211 at 17 (June 29, 1972).

[18]In Williams v. Zobel, 619 P.2d 422 (Alaska 1980) ("Zobel I"), the Alaska Supreme Court invalidated the state's graduated personal income tax repeal. In Williams v. Zobel, 619 P.2d 448 (Alaska 1980) ("Zobel II"), the court upheld the cumulative residency requirement of Alaska's permanent fund dividend distribution plan -- a ruling reversed by the U.S. Supreme Court in Zobel III.

[19]Opinion of the Court, 72 L. Ed. 2nd at 679.

which awarded dividends solely on the basis of residency.[20]

Beyond the ruling of the case, the various opinions -- particularly those of the concurring justices -- are rich in foreboding language suggesting that any durational residency requirement may receive "intensified scrutiny" by the Court, and will be justified only in "rare" circumstances.[21]

As is more fully discussed in Part II(A), post, the impact of the Zobel decision upon the ALB program was apparent. Two major goals of the existing ALB program are to reward elderly Alaskans for their prior contributions, and to compensate for past hardships and suffering -- ends which are implemented by a durational residency requirement more severe than that at issue in Zobel. A challenge to the ALB program was not long in coming. On July 6, 1982, one Rodney G. Vest challenged the ALB program in Superior Court in Juneau.[22] Mr. Vest is an elderly Alaskan whose residency in the state commenced three months after statehood. His complaint sought declaratory and injunctive relief striking the durational and statehood residency requirements of the act.

The State's response was colored by §2 of the legislation, which provided, inter alia, that:

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[20]See Brennan conc., 72 L. Ed.2nd at 684: O'Connor conc., 72 L. Ed. 2nd at 685.

[21]Brennan conc., 72 L. Ed. 2nd at 681, 684.

[22]See n. 2, ante.

> "if any provision of this act, or the application of a provision of this act to any person or circumstance is held invalid, this entire act shall be considered invalid."

As the Department of Law explained in reviewing the 1972 law:

> "It is clear that the intent of the Legislature expressed in Section 2 of the bill is to forestall the possibility that a partial declaration of unconstitutionality would result in broadening the coverage of the bill to included additional clauses. This would be the case, for example, if either the 25 year waiting period requirement or the January 3, 1959 cutoff date were declared invalid, and the bill was expressly or impliedly severable."[23]

Thus, invalidation of the Longevity Bonus Program would result not in expanding the number of ALB recipients, but rather in the abrupt termination of the entire program.

Facing that grim probability, the State, with the approval of the Alaska Legislative Council, entered into an agreement with Vest, a copy of which is attached as Appendix A. The essence of the agreement is as follows:

> 1. Proceedings in the Vest case are stayed through the conclusion of this legislative session. Because that case has been subsequently certified as a class action,[24] existing ALB recipients are not in jeopardy at least through adjournment of this session;
>
> 2. The Alaska Legislative Council promised to use its "best efforts" to secure the enactment of legislation which treated equally "all persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents for at least one year prior to that date";

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[23] Op. cit. n. 17 at 5.

[24] Order Certifying Class and Directing Notice to Class Members, Oct. 1, 1982.

3. If legislation of this sort were enacted this session, the suit would be dismissed; and

4. Recognizing that the Council could not bind the legislature, if legislation is not enacted, Mr. Vest may pursue his case, with the probable result that the program will be terminated.

There are three aspects of the settlement which warrant note. First, obviously, are the severe time constraints under which the legislature is operating. Second, there is the settlement's intentionally broad litmus test of acceptable legislation. All the legislature need do is treat all elderly, one-year Alaskan residents "equally." The standard could be met by any number of options, including repeal of the program. Third, there is the inescapable financial impact of the settlement itself. In order to treat all elderly Alaskans who were one-year residents as of July 1, 1982 equally, it will be necessary to fund retroactive longevity bonus payments under the existing program to the some 3,800 elderly Alaskans who would have qualified. The necessary retroactive appropriation is approximately $11.4 million.

Of course, the legislature itself is not "bound" to pass any particular kind of legislation, or any legislation or appropriation at all. While a "best efforts" clause is enforceable, that obligation runs only to the Alaska Legislative Council, which has already demonstrated both good faith and diligence in attempting to meet the obligations of the order and settlement.

D. Scope And Intent Of This Report.

The purpose of this report is not to recommend particular amendments to the Alaska Longevity Bonus Program. As Section II, post makes plain, any "recommendation" is a function of the goals which the legislature seeks to achieve through this exercise.

Rather, the goal of this report is to assemble a comprehensive list of alternatives proposed by various interested parties, and to analyze the alternatives in light of:

1. constitutional constraints;
2. fiscal impacts;
3. practicability; and
4. the effect of any changes on the elderly's eligibility for other programs.[25]

In developing a list of alternatives, this report has included five options examined by the Sheffield Administration, and five alternatives developed by the authors of this report. The information presented with respect to each option is intended to be sufficient for a threshold determination of feasibility. The report attempts to anticipate the major problems and issues surrounding each option; however, it is not intended to exhaust the details of every proposal.

Rather, the report should be used as a basis for the Senate Judiciary Committee's preliminary indication of

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[25]See Section II.(C) post.

preference. We are recommending that the committee choose two or three primary options. We will then prepare implementing legislation and a detailed analysis of the primary options. Under this approach, the committee will not be required, at this early point, to make an "all or nothing" choice. It will also afford the committee flexibility in the event that, for some presently unforeseeable reason, one option becomes impracticable.

Draft implementing legislation and a detailed analysis of the committee's choices can be transmitted within two to three weeks, depending on the options chosen.

E. Alternatives Included In This Report.

The options included in this report, which are analyzed in turn in Section III, are:

1. expand the Alaska Longevity Bonus Program to include all elderly Alaskans with one-year's residency;

2. phase out the Alaska Longevity Bonus Program by gradually reducing benefits;

3. phase out the Alaska Longevity Bonus Program by gradually reducing benefits, while contemporaneously raising the eligibility limits for general state assistance;

4. providing a minimal base payment under the Alaska Longevity Bonus Program based solely on one-year's residency, with supplemental payments made on the basis of need;

5. phase out the Alaska Longevity Bonus Program by increasing the age eligibility each year;

6. create an annuity plan, with the annuity corpus consisting of permanent fund distributions. This option would necessitate a transition program for those persons 40 years and older;

7. fund the Alaska Longevity Bonus Program through a "pay as you go" social security system, funded by approximately 25% of the existing permanent fund dividend distributions;

8. replacing the Alaska Longevity Bonus Program with a comprehensive health insurance program for elderly Alaskans;

9. condition eligibility for a longevity bonus upon a demonstration of hardship which would be suffered by being unable to continue Alaska residency; and

10. open the Alaska Longevity Bonus Program to all one-year residents, and terminate the program -- giving FY 1984 recipients a grandfather right to continued bonuses.

II. CONSTRAINTS ON THE CHOICE OF OPTIONS

There are four basic considerations in choosing a package of amendments to the Alaska Longevity Bonus Program. The purpose of this section is to provide an overview of the constraints and policy choices which should play a role in this committee's decision.

A. Constitutional Constraints.

The obvious and primary constraint on any set of amendments to the Alaska Longevity Bonus Program lies in the equal protection clauses of the United States (Amendment 14) and Alaska (Art. 1, §1) constitutions. The existing Alaska Longevity Bonus Program discriminates between Alaska residents based on their duration of residency; moreover, all of the alternatives considered by this report involve some durational residency requirement.

Under both the federal and Alaska constitutions, a durational residency requirement which conditions or denies either a "fundamental right" or a "basic necessity of life" is valid only if the discrimination is necessary to further a compelling state interest. Zobel II, 619 P.2d at 448; Memorial Hospital v. Maricopa County, 415 U.S. 250, 259 (1974). "Fundamental rights" involve such things as voting,[26] while "basic necessities of life" include basic medical care[27] and welfare.[28]

The so called "right to travel" -- which any durational residency requirement arguable affects -- is not a fundamental right automatically triggering the compelling state interest test. Zobel II, 619 P.2d at 425-426, Zobel III, 72 L.Ed. 2nd at 677-678.[29]

We are confident in concluding that longevity bonus is not a "basic necessity of life." The program is not welfare -- it is not based on need. Basic indigent assistance -- including both income supplements and Medicaid -- are available to the

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[26]Dunn v. Blumstein, 405 U.S. 330 (1972).

[27]Memorial Hospital v. Maricopa County, 415 U.S. 450 (1974).

[28]Shapiro v. Thompson, 394 U.S. 618 (1969).

[29]One of the oddities of Justice Brennan's concurrence in Zobel III was his view that the "right to travel" is a "fundamental" right (id. at 682) -- although impairment of that right by a durational residency requirement should be tested under the deferential "rationally related" standard (see text, post) or at worst "intensified ... scrutiny." Id. at 681.

needy in this state.[30] The longevity bonus program seems more akin to the permanent fund dividend, which the Alaska Supreme Court held in Zobel II was not a "basic necessity of life." 619 P.2d at 445. As the Court of Appeals for the Ninth Circuit has observed:

> "Deprivations which are only uncomfortable are not enough, such as conditioning lower tuition at state institutions of higher education upon a one-year residency requirement." Fisher v. Reiser, 610 F.2d 629, 639 n. 5 (1979), cert. denied 447 US 930.

Under the federal constitution, then, any durational residency requirement imposed by amendments to the ALB program need only be "rationally related" to a legitimate governmental purpose. Zobel III, 72 L.Ed. 2nd at 678. As this section will discuss, however, that standard is occasionally more deferential in its terms than in its application.

Conversely, under the Alaska Constitution, a durational residency requirement will withstand scrutiny only if it is "fairly and substantially related" to a legitimate governmental purpose. Zobel I, 619 P.2d at 427. The more the balance tips in favor of the individual, the more necessary the discrimination must be in order to further the law's purpose. Id.

From these standards, the following ground rules can be extracted from applicable case law:

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[30] See Memorial Hospital v. Maricopa County, 415 U.S. at 261

1. Unquestionably, the "length of residence may be used to test the bona fides of citizenship." Zobel III, 72 L.Ed. 2d at 684 (Brennan conc.). In other words, the state may, by a durational residency requirement, "make virtually certain (that the recipients of the program are) bona fide residents of the state ..." Vlandis v. Kline, 412 U.S. 441, 453-454 (1973).

As a general rule, attorneys have assumed that in cases not involving the "compelling state interest" standard, a one-year durational residency requirement is permissible as a presumption of domiciliary. See, Starns v. Malkerson, F. Supp. 326, 234 (Minn. 1970), affd. mem. 401 U.S. 985 (1971). Moreover, the State of Alaska has taken the position that in cases involving either particularly attractive benefits, or particularly transient populations, a durational residency requirement in excess of one year is constitutionally permissible. See Motion For Summary Judgment, September 8, 1982, Andress v. Baxter, et al., No. A82-307 Civil, U.S. District Court, (D. Alaska 1982).

For the purposes of the Longevity Bonus Program, there are three reasons why it makes little sense to attempt a multi-year durational residency requirement as a presumption of domiciliary. First, the attempt would lack substantial

precedential support. Second, it would be contrary to the August 9, 1982 settlement in the Vest case. Finally, and as noted previously, a durational residency requirement would not begin to exclude significant numbers of elderly Alaskans unless it was in excess of 10 years.

2. . Durational residency requirements may be permissible for reasons other than presuming domiciliary, although at least four justices of the United States Supreme Court believe that those situations are "rare." Zobel III, 72 L.Ed. 2nd at 684.[31]

At the outset, a state cannot use a lengthly durational residency requirement to reward long time residents for their prior contributions to the state. To a majority of the court, while the purpose itself is permissible, a durational residency requirement is irrationally tailored to that goal -- a point bluntly made by Justice O'Connor in her concurrence:

> "A multitude of native Alaskans -- including children and paupers -- may have failed to contribute to the state in the past. Yet the state does not dock paupers for their prior failures to contribute, and it awards every person over the age of 18 dividends equal to the number of years that person has lived in the state." 72 L.Ed.2d at 689.

The flip side of rewarding a person for prior contributions is compensating a person for prior hardships. That, as noted previously, is a second major goal of the

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[31]One "rare" example cited by the four concurring justices was qualification of public office. Id.

existing ALB program. If it is irrational to assume that all long time residents "contributed" to the state, it may be equally irrational to assume that all long time residents suffered substantial past hardship.

There is one universal hardship which equates with territorial residency -- the lack of franchise. It is conceivable that a Longevity Bonus Program intended to compensate for that lack of representation would be constitutionally permissible. However, that rationale would only justify the January 3, 1959 residency requirement -- not the 25-year continuous residency provision of the act.

A much closer question is posed by the program's goal of allowing elderly Alaskans to remain in the state who would suffer particularly severe hardship if they were financially required to relocate. Justices Dimond and Matthews of the Alaska Supreme Court believe this may be a constitutionally permissible goal substantially furthered by a durational residency requirement:

> "... a state Longevity Bonus ... require(s) lengthy residency. Both those programs, however, are apparently designed to help those individuals who would like to retire in the state but cannot afford to do so because of the high cost of living. The state might well want to limit the benefits to those that would suffer the most hardship by being forced to leave, and it seems reasonable to suppose that a long period of residency would be some indicia of close ties to Alaska and the disruption that leaving might cause." Zobel II, 619 P.2d at 469 n. 13 (Dimond dissenting).

The Department of Law, in fact, has concluded that the Pioneers' Home may be constitutionally defensible as a reasonable means of accomplishing precisely this goal.[32] Indeed, one option considered in this report would award longevity bonuses on the basis of hardship caused by relocation -- which in turn would be measured in part by length of residence. By making length of residency "some indicia" (619 P.2d at 469) of the hardship of relocation, the option would avoid the indictment of overbreadth which was fatal to the permanent dividend fund distribution program in Zobel III.

Finally, as to the ALB program's goal of providing an incentive for a specific subclass of Alaska's elderly to remain in the state, the courts in all likelihood would view that purpose as merely discrimination for its own sake. See Zobel III, 72 L.Ed. 2nd at 678-679. Presuming that only long-time residents have the requisite "wisdom and experience" to warrant subsidization is hardly likely to impress the U.S. Supreme Court.

B. Varying Goals of Several Longevity Bonus Options.

There is a substantial difference of opinion as to what an amended ALB program should accomplish. As noted previously, the legislature may wish to retain one of the major goals of the existing program -- allowing those elderly with the closest ties to Alaska to continue to live here.

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[32] 1982 Op. Atty. Gen. ____(November 26, 1982) at 25.

Alternatively, the fiscal consequences of the various alternatives may be the primary consideration. As previously discussed, if legislation in conformity with the Vest settlement is enacted, an additional $11 million must be appropriated as retroactive bonus payments to July 1, 1982. Several of the options which propose to phase out the program, or which propose a conversion to permanent fund earnings, are partially or primarily directed at this end.

The primary goal of the legislation may also be to protect those currently most dependent upon the bonus. The current Old Age Assistance income level is $546.00 per month and there are approximately 2,300 elderly Alaskans receiving state assistance. Since the longevity bonus is not included in the calculation of income for state assistance, the practical consequence of a phase out or termination of the program would be to materially reduce the available income of the poorest elderly Alaskans. Moreover, as noted in Section I(B), ante, there are a large number of elderly Alaskans who are currently only marginally above the existing state poverty level.

There are two options particularly sensitive to this goal -- the phase out of the ALB program in conjunction with a correlative rise in state assistance levels, and the option of compensating those who would suffer the most hardship by relocation.

With respect to this goal, however, it should be stressed that the existing ALB program has been purposefully sturctured so as to not be a "welfare program." Precisely for that reason, the program is administered by the Department of Administration, rather than the Department of Health and Social Services, and any conversion to a "need-based" program will undoubtedly offend the dignity of many elderly Alaskans.

Finally, there is the possible goal of providing a long term, stable bonus program which frees the general fund from increasing commitments. The annuity and state social security options are primarily directed at this goal.

C. Consequential Effects of Any Amendment To The Longevity Bonus Program.

Any change to the Longevity Bonus Program may have two consequences which must be considered: (1) the continued eligibility of ALB recipients for other state or federal assistance programs; and (2) tax consequences on participants.

As noted in Section I(A), ante, under federal law the ALB is excluded from the definition of "income" for many federal assistance purposes.[33] As long as any amendments to the ALB program continue to base eligibility "solely on attainment of age 65 and duration of residency," and remain sufficiently similar to the existing program so as to be fairly called "a program established prior to July 1, 1973," the exemption would be retained.

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[33]See n. 8, ante.

Obviously, any material changes in eligibility requirements or structure of the program raise the risk that the new benefit will be included as "income," and many elderly Alaskans will be terminated from the applicable federal program. The Department of Health and Social Services has estimated the impacts from a loss of the longevity bonus exclusion. Those estimates appear at Appendix B of this report.

Anticipating the same problem with permanent fund dividends, the legislature, in the 1982 Special Session, provided that the state would substitute lost benefits for a period of four months.[34] Obviously, and to the extent possible, any amendments to the ALB program should either be tailored to the existing exception, or fall within another separate statutory income exclusion such as a "need based" payment.[35]

The tax consequences of amendments to the existing ALB program become particularly important with respect to this report's annuity option -- which is treated in detail in Section III (F), post. At the outset, it is sufficient to note that:

> 1. The existing longevity bonus program is taxed under the Internal Revenue Code;
>
> 2. Any ALB program which is based on need, or could be characterized as a "social benefit program for the promotion of the general welfare," would in all likelihood not be taxed by the IRS; and[36]

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[34]AS 43.23.075.

[35]See 42 U.S.C. §1382(a)(b)(6).

[36]See IRS Revenue Rulings, 63-136, 1963-2 C.B. 19; 68-38, 1968-1 C.B. 446; 72-340, 1972-2 C.B. 31; 78-170, 1978-1 C.B. 24.

3. On February 27, 1981, the Internal Revenue Service ruled that dividends distributed under the state's prior permanent dividend fund legislation -- the statute invalidated in Zobel III -- were taxable under the Internal Revenue Code.[37] While the IRS has yet to rule on the existing dividend program, it is likely that taxation of the permanent fund dividend could be deferred if it is used to fund the annuity or social security options discussed in this report.

III. DISCUSSION OF ALTERNATIVES

A. Expanding The Class Of Alaska Longevity Bonus Recipients To Include All Elderly With One-year's Residency.

There are currently some 9,425 Alaskans who receive bonuses totally $28.28 million. This proposal would require additional appropriations for (1) bonuses for an additional 3,803 people; and (2) additional clerical support in the Department of Administration. The additional costs would total $12 million in FY 1984, increasing to $13.7 million in FY 1988.[38]

These appropriations are in addition to the $11.4 million retroactive award required under the Vest settlement.

The advantages of this option are two-fold. First, it is one of the constitutionally "safest" options. Second, since eligibility would remain dependent on "duration of residence" -- albeit only one-year -- in all likelihood it would fall within the existing ALB exclusion to federal assistance programs.

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[37] IRS Index Nos. 0061.40-00; 0451.20.00; 0102.00-00.

[38] Department of Administration draft fiscal note, January 11, 1983.

Additionally, while theoretically any "one-year" elderly Alaskan could take advantage of this program, the demographics of Alaska's elderly (see Section 1(B), ante) are such that the primary beneficiaries of this option would be those who have lived in the state from 10 to 25 years. Whether such a program would encourage in-migration is problematical.

In addition to obvious fiscal disadvantages, this alternative would dilute the dignity and recognition attendant the current bonus to the point of non-recognition.

B. Phase Out The Existing Longevity Bonus Program.

One of the options analyzed by the Sheffield administration would phase out the ALB Program by reducing benefits by $50.00 each year beginning with FY 1984. By paying $200.00 a month to 13,228 recipients rather than $250.00 to 9,425, the net increase to the program in FY 1984 would be $2.1 million. In fiscal year 1985, however, when the bonus is reduced to $150.00, there will be a net decrease of $8.7 million in program costs.

This option has been unfavorably viewed by the administration, and apparently was prepared only as a point of comparison. Despite its fiscal benefits, the proposal protects no one. The poorest of Alaska's elderly would suffer the most. Since, as discussed previously, Alaska longevity bonuses are not counted in existing state and federal assistance income limits, the needly elderly person in Alaska receives, currently, a

subsidized monthly income of $546 for Old Age Assistance, plus $250 from the ALB program. This option would thus materially reduce state assistance levels.

C. Phase Out The Existing Longevity Bonus Program With A Contemporaneous Increase In State Assistance Levels.

The apparent "preferred" option of many with the Sheffield administration is to gradually increase state Old Age Assistance levels while at the same time gradually decreasing the amount of the longevity bonus. The program would function in the following manner:

CHART 1.

YEAR	OLD AGE ASSISTANCE LEVEL	ALASKA LONGEVITY BONUS
FY 1983	$546	$250
FY 1984	$596	$200
FY 1985	$646	$150
FY 1986	$696	$100
FY 1987	$746	$ 50
FY 1988	$796	$ 0

In analyzing the fiscal impacts of this alternative, assumptions must be made about how many elderly Alaskans will become eligible for Old Age Assistance as the OAA income level increases, and how many of the newly eligible will be inclined to seek assistance as their longevity bonus gradually diminishes.

Regardless of which assumptions are used, the impacts upon the longevity bonus program, are, of course, identical to the 'phase out" option. Those impacts would be as follows:

CHART 2.

ADDITIONAL COST (SAVINGS) TO THE ALB PROGRAM (in millions)

FY 1984	2.1
FY 1985	(8.7)
FY 1986	(19.2)
FY 1987	(30.9)
FY 1988	(44.1)

The fiscal impact upon the Department of Health and Social Services' OAA program is far more difficult to determine. The Department of Administration has used two alternative assumptions -- (1) that of the 13,228 elderly in Alaska, 5% will become eligible and apply for public assistance as the income level is increased to $796 in FY 1988; or (2) that 25% of the elderly will become eligible and apply for assistance during that period.

We believe that the 25% possibility may be closer to the truth. Approximately 30% of Alaska's elderly have monthly incomes marginally above existing assistance levels -- from $500-$800 per month.[39] If those figures are accurate, as many as 3,968 will become eligible for public assistance -- in addition to the 2,300 currently on the OAA program.

The second variable involves the size of the benefits which the new clientele will receive. The Department of Health and Social Services has assumed that each new recepient will receive the mean benefit currently given or projected for

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[39]Assessment, op. cit. n. 11 at 31.

existing receipients -- $295 in FY 1984.

In computing the fiscal impacts for this option, we have used the following three assumptions:

(1) Of the 3,968 elderly whom current data suggest could be eligible for the increased OAA program, 2500 will in fact apply. This figure arbitrarily discounts both those who will decline to apply for psychological reasons, and those who will not apply because the minimal benefits to them are simply not worth the bother;

(2) Because we have discounted those who will receive minimal benefits, we have retained the "mean benefit" assumption employed by the Department of Health and Social Services; and

(3) The new recipients will be evenly distributed over each of the five years -- so that in each year an additional 500 recipients will be added to the OAA program.

Additionally, persons who become eligible for Old Age Assistance will also become eligible for Medicaid. The State's Medicaid budget for FY 1983 is $65 million dollars. 48% of that figure -- or $31.2 million -- is paid by the State. Some 23% of that budget -- or $7.17 million dollars -- is attributable to those currently on Old Age Assistance. If the OAA population doubles over the next five years -- as our assumptions presume that it will -- there will be an additional cost of $7.17 million (not adjusted for inflation) to this option, chargeable in equal portions to each of the next five fiscal years.

With these assumptions, the following chart illustrates the possible net fiscal impact of this option:

CHART 3

Year	# Add. on OAA	Mean Benefit	--------IN MILLIONS-------- Added Medicaid Costs	Added ALB Costs (Savings)	Net
FY 1984	500	$295.02	1.4	2.1	5.27
FY 1985	1000	345.02	2.8	(8.7)	(1.76)
FY 1986	1500	395.02	4.2	(19.2)	(5.90)
FY 1987	2000	445.02	5.6	(30.9)	(14.60)
FY 1988	2500	495.02	7.0	(44.1)	(29.30)

Thus, even with fairly liberal assumptions regarding the number of additional OAA clients and Medicaid costs, this option will begin saving money in FY 1985.

Moreover, for those elderly in the $500 - 800 per month income range who pay some federal taxes, the option would have advantages, since increased need based assistance, unlike the longevity bonus, should not be taxed under the Internal Revenue Code.

One obvious disadvantage of this option is that it transforms the longevity bonus program into a welfare scheme. Persons who currently receive $796 or less per month -- including the bonus -- will indeed be "held harmless" under the option, but only at the expense of applying for assistance to the Department of Health and Social Services.

Moreover, those current elderly bonus recipients whose monthly incomes (excluding the bonus) exceed $796 per month will receive no protection under this option.

Finally, because welfare payments are generally viewed by the courts as involving "basic necessities of life" (see §II(A), ante), the durational residency requirement for increased old age assistance must be dropped from one year to 30 days.[40] The minimum national old age assistance level under the federal Supplemental Security Income system -- which OAA supplements -- is $284.30/mo.. A person with $600 a month income in a "minimum benefit" state is presumably ineligible for old age assistance (including Medicaid) in that state, but could become eligible under the Alaska system upon 30 days residency. While the mere prospect of an additional $196 per month (in FY 1988) is unlikely to induce people to retire in Alaska, the concommitant provision of Medicaid services -- including full nursing home coverage -- may have that effect. If a person can obtain free nursing home coverage -- valued at between $40 - $60,000 per year -- simply by spending the month of August in Anchorage, the State may face a rather remarkable in-migration problem indeed.

D. Retaining A Modest Longevity Bonus, While Providing A "Need Based" Supplement.

This option is largely a variant of option C, and has been discussed by the Sheffield Administration as a means of

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[40] Shapiro v. Thompson, 394 U.S. 618 (1969).

retaining some longevity bonus payment which could not be considered "welfare."

Under this option, the longevity bonus, as with Option C, would be gradually reduced to, say, $100.00 per month. As the fiscal information for alternatives B and C suggest, this alternative would result in a savings to the longevity bonus program of $19.2 million by FY 1986.

To compensate for the loss of $150.00/mo. to the needy, either State OAA limits could be increased by $150, or a separate "need based bonus supplement" could be established by the Department of Administration.

The advantage of the latter option is that although based on "need," applicants will not be dealing with the Department of Health and Social Services, and may view the supplement less as a form of welfare. Additionally, since the supplement will be provided under a program other than State OAA, its recipients would not be entitled to Medicaid (including nursing home coverage) unless they are otherwise eligible for OAA under existing limits.

Additionally, the "need" is not necessarily limited to financial need. As this report's discussion of Option I indicates, longevity bonuses may be apportioned according to the hardship which the elderly would face by being forced to retire outside Alaska.

The disadvantage of a separate "need based" program in the Department of Administration is, of course, the necessary creation of a parallel bureaucracy in state government.

The fiscal costs of this option have not been developed by the administration or this report because of the variables involved -- the size of the remaining "basic" longevity bonus, and the question of administration. Costs of administration aside, the net savings to the State should be substantially similar to the FY 1986 figures for Option C -- in which the declining longevity bonus payment would be $100.00 per month. The projected net savings of $5.9 million would certainly exceed the costs of even a parallel bureaucracy within the Department of Administration.

E. Gradual Increase In The Age Of Eligibility.

Another option explored by the Administration would reduce the durational residency requirement for a bonus to one year, but raise the eligibility age each fiscal year. For FY 1984, the age would be raised to 66; to 67 in FY 1985; and so on.

This option would have a substantial fiscal impact until fiscal year 1988, at which time mortality would have reduced the class of beneficiaries below existing levels. For FY 1984, the option would cost an additional $9.5 million dollars beyond existing funding levels, according to the Department of Administration.

This option has been quite unfavorably received. It has been facetiously but not unfairly referred to as the "newcomer's bonus program." A recent migrant born prior to June 30, 1918 would receive a longevity bonus for life, while a long-time Alaskan born subsequent to that date would receive nothing.

F. Self-Sustaining Annuities.

The prior five options were developed by members of the administration, although the administration has not formally "sponsored" any particular approach. Moreover, several of the options -- particularly the "graduated age" and "phase out" options -- were developed more as comparative conversation pieces than as actual proposals.

The following five options -- commencing with the self-sustaining annuity -- were prepared by the authors of this report.

Under the self-sustaining annuity option, individuals would no longer receive a permanent fund dividend under AS 43.23. Rather, those dividends would form the corpus of a self-sustaining annuity account from which the individual would receive an annuity commencing at the age of 65.

According to Department of Revenue projections, the permanent fund dividend payment for FY 1984 will be $365.00, rising gradually throughout the remainder of this century to $952 in the year 2000.

Given this level of contribution to the corpus, a self-sustaining annuity account will produce an annuity roughly equivalent to the existing longevity bonus (with a 3 percent annual cost of living adjustment) for those who are currently 40 years or younger, and who will be residents of Alaska each of the next 20 years. For various age groups, the annuity entitlements at age 65 as a percentage of the "target" annuity ($3000/yr. plus 3% per annum) would be roughly as follows:

Current age	Annuity as a % of target annuity
25	358%
35	161%
40	100%
45	66
55	21

Obviously, some transition measure is necessary for those who are simply incapable of accruing a sufficient corpus by the age of 65 to be entitled to the "target annuity". The general fund, simply put, will be required to make up the difference, although, over time, that "differential" will decrease as annuity accounts assume some significance.

Many of the options explored in this report could suffice as a 20-25 year shrinking general fund obligation. One option particularly tailored to the annuity approach would be to allow those who are at or near the age of 65 to continue to receive their permanent fund dividends in cash, with the PrD being subtracted from the longevity bonus amount. For those in

the 40-60 year age group, the general fund would simply fund the difference between their annuity and the "target" figure.

Under this "transitional measure", the general fund "residual" payment would be based on the amount necessary to supplement the annuity corpus assuming that an individual received a permanent fund dividend every year. There would seem, in this regard, no obligation on the part of the state to give a larger general fund supplement to someone with two PFD credits than to someone with 15.

Thus, in fiscal year 1994, when current 55-year olds first receive their annuity, they would receive a state supplemental of 79 percent of the target annuity -- regardless of the actual PFD credit any individual has accrued.

The remaining question, obviously, is what to do about the person who is currently 65. If that individual's supplement is the same in 1994 as a new annuitant -- 79% -- he will in fact receive less than the new annuitant since he will have only his permanent dividend, rather than a 21% annuity, to make up the difference. Conversely, if the grandfathered PFD recipient received a full target annuity in 1994, he would be at a substantial advantage over the new annuitant. The reason is this: while the new annuitant has earned a substantial portion of his target annuity by foregoing his cash dividend each year, the "grandfathered" recipient has both enjoyed the dividend, and its earning power, over that same period of time.

The question is largely one of equity for the legislature. Either approach is defensible. While the latter scenario would seem to discriminate in favor of the existing elderly, the Alaska Supreme Court has recognized the legitimacy of creating preferential grandfather rights for those who have come to depend upon an existing state program.[41]

In either case, the difficulty with this "transition" option is that the longevity bonus program continues to be a substantial drain on the general fund for 20-25 years to come. Under the transition option described above, the FY 1984 budget for the ALB program would be increased by $6 million dollars over existing funding levels.[42]

Through Aetna Insurance Co., we investigated the alternative of simply purchasing a lifetime annuity for all those currently 65 or older. Unfortunately, the cost of a lifetime annuity for all Alaskans 65 or older would be prohibitive -- in the neighborhood of $300 to $400 million.

Finally, the Legislature should consider using the administration's options C and/or D as a transition measure. The short term fiscal impacts of those options are superior to those of a simple general fund supplement.

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[41] Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d at 1259-61.

[42] Assuming that the ALB of the "grandfathered class" is reduced by the $365 permanent fund dividend, each of 13,228 persons will receive a payment of $2,635 this year -- totaling $34 million dollars.

For all of the short term problems of an annuity program, the long term advantages should receive equal time. First, in a period of 20-25 years, the general fund will no longer be encumbered with the longevity bonus program. Second, the eventual size of one's annuity payments would be a function of the number of permanent fund dividend contributions that have been credited to the annuitant's account. We seriously doubt that a successful durational residency claim could be made to this aspect of the program. An annuitant with three years contributions could no more claim that he is due an annuity based on 20 years contribution than could a 1996 resident claim not merely the $787 cash dividend available that year, but rather some $6,000 which his predecessors had amassed by being residents of Alaska since 1984.[43]

We believe that there is a strong case for distributing annuities only to persons who are residents of Alaska at the

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[43]Because future annuities are a direct function of actual past payments to the program, the program does not "reward" presumed contributions but simply returns actual investments. cf. Zobel I, 619 P.2d at 435 (Rabinowitz conc.) Nor is the option akin to a situation where prior tax contributors are excused from funding the present needs of government, as with the tax repeal scheme at issue in Zobel I. At any point in time, each Alaskan is treated quite equally -- being entitled to an annuity credit if he or she resided in the state for six months during the pertinent year.

time. Partially for reasons discussed below, no individual will have a "vested right" to an annuity in the future. A purpose of the annuity program will be to alleviate the particular financial hardships caused by retirement in Alaska -- a purpose which we believe is constitutional. This goal would be served only by confining actual annuity payments to Alaska residents. Second, and particularly if the program is properly viewed as conferring an economic benefit not upon the crediting of an annuity account, but rather upon annuity distribution, the state certainly possesses the right to prefer its own residents in the disposition of its resources.[44]

There are, of course, other issues surrounding the annuity option. Many Alaskans will undoubtedly wish to retain the existing cash benefits of the permanent fund distribution. Alaskans will not be, however, totally without recompense. An annuity account for younger Alaskans in particular -- at least for those planning to stay in the state -- will one day lead to substantial benefits.

Of course, the prospect of a lucrative retirement account is a product of the legislature's continued willingness and ability to devote 25% of permanent fund earnings to the

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[44] Reeves, Inc. v. State, 65 L.Ed. 2nd 244, (1980); see also White v. Massachusetts Council of Construction Employees, ___ U.S. ___, No. 81-1003 (U.S.S.Ct., Feb. 28, 1983)(distinguishing Hicklin v. Orbeck, 437 U.S. 518 (1978).

annuity program. Unquestionably, at some point in time, a material percentage of the permanent fund's earnings will be necessary for general government expenses. The point at which that will require access to more than 75% of the fund's earnings is problematical.

The tax consequences of an annuity program warrant detailed discussion. As noted previously, the Internal Revenue Service may well rule that permanent fund cash distributions are taxable. Conversely, if credits to an annuity account equal to the permanent fund dividend are not tax exempt, the real economic value and perceived political worth of an annuity option is substantially lessened.

The annuity program envisioned by this report is not employer/employee related, and therefore would not qualify as an exempt plan under the Internal Revenue Code.[45] Nor was serious consideration given to qualifying this annuity option as an Individual Retirement Account -- because (1) the state is not a qualified financial institution to administer such an account; (2) the required terms of an IRA were not compatible with the option considered; and (3) any "state required" IRA -- even if possible -- would severly impinge on the tax planning flexibility of individual Alaskans.[46]

Nonetheless, it is our opinion that the annuity option should result in the deferral of both the permanent fund

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[45]cf. 26 U.S.C. §401-404

[46]See 26 U.S.C. §408.

dividend contributions and accrued interest under the Internal Revenue Code. The courts and the IRS have generally ruled that contributions to an unqualified "annuity," "retirement" or "deferred compensation" plan are nonetheless tax deferred if the individual is not in "constructive receipt" of the annuity contributions, and the contributions do not represent a present "economic benefit."[47]

Combining the standards of that doctrine with the attributes of the proposed annuity program, the program should be taxed deferred for the following reasons:

1. If the State were to purchase individual annuities with each permanent fund dividend, with each resident being the beneficiary, the resident would have a vested and secured interest in the contribution, and would thus have received a current "economic benefit." If, however, the State were to merely give the annuitant an unsecured promise of payment, purchasing an annuity account with itself as the beneficiary in order to provide a funding source for that promise, there would be no "current economic benefit" and taxation would be deferred.[48] This is one customary means by which employers obtain tax deferral of an unqualified plan;

2. A person is in "constructive receipt" of an annuity contribution if he has current access to the

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[47] U.S. v. Goldsmith, 586 F.2d 810 (Ct.Cl. 1978).

[48] Id.

contributions without substantial terms and limitations.[49] Under this report's option, under no circumstances would an annuitant be entitled to withdraw anything until annuities are actually distributed;

3. To underscore the contingent nature of the annuity -- such that the IRS could not reasonably conclude that it represents a "current economic benefit" -- the annuity will only be received if the person is an Alaska resident at the time of the pertinent distribution.

Our only hesitancy in this regard is the February 27, 1981 ruling of the IRS that even if an individual chooses to defer receipt of his permanent fund dividend, it is taxable in the year that it could have been received. The ruling, however, "may not be used or cited as precedent," and, even if of precedential value, is distinguishable from this situation. The ruling is consistent with the proposition that the individual cannot have unfettered discretion in choosing the year in which income will be taxed. While an individual does have unbridled choice in determining when to take a permanent fund dividend, he will have no choice as to the time of receipt of his annuities. Moreover, where a person would have an absolute right to a deferred dividend, he will have no right to annuity distribution unless he is an Alaska resident at the time.

For tax reasons, then, the annuity option must be carefully structured. The former permanent fund dividend must

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[49] Id.

be used by the State to purchase an annuity for its own account, with itself as the beneficiary. The annuity income received by the State will then be used as the funding source for the annuity payments -- although technically and necessarily the annuity income could be used for any fiscal purpose.

A far closer question arises with respect to the effect of this option on other public assistance programs. Generally, annuity income is included in the calculation of income for various assistance programs.[50] If, however, this option can be characterized as a continuation of the longevity bonus program, then the existing longevity bonus income exclusion[51] may persist. If -- consistent with tax considerations -- the only "annuity" is the one purchased by the State as a funding source, then the existing longevity bonus program can be retained in both name and substance, with the amount of the bonus still dependent upon residency history. After all, under the option, (1) a person must be a six month resident in order to obtain a single PFD, and must be eligible for the annuity at the time of distribution;[52] (2) the amount of annuity is dependent upon the number of PFD's credited to the individual's account; and (3) the "grandfathered" class of existing elderly would presumably be required to meet a one-year durational residency requirement.

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[50] See, 42 U.S.C. §1382(a)(a)(2)(B).

[51] See 42 U.S.C. §1382(a)(b)(2)(B).

[52] See n. 8, ante.

The above, of course, is an argument -- it is not necessarily the law, which in final measure will be largely determined by the federal officials involved. The exposure to existing assistance programs -- at least for those not within the grandfathered transition class -- must be considered a risk of this option.

Even if, however, annuity distributions are considered "income" to various assistance programs, the corpus of the annuity account will not be. A person may be disqualified from a federal assistance program not only if his income exceeds a certain level, but as well if he has alternative available resources which he can upon from at any time. However, in this instance, a true "annuity corpus" does not exist -- since the only annuity runs for the benefit of the State. Moreover, even if federal officials were to view the "corpus" as belonging to the individual, it cannot be withdrawn prior to actual distribution.

G. State Social Security System.

In large part because of the need for a lengthy transition period with a self-sustaining annuity plan, this report also considered the possibility of a state social security system funded by a portion of the permanent fund dividends distributed under AS 43.23.

Under this system, a sufficient portion of each resident's permanent fund dividend would be withheld each year

to fund a retirement program designed to pay each Alaska resident of 65 years or older with one-year's residency $250 per month, with a moderate cost of living adjustment each year.

In assessing the feasibility of this option, the most important variable was the projected growth in Alaska's elderly population. The difficulties facing the federal social security system are due in part to an increasingly large percentage of elderly in the population.

For fiscal year 1983, the Alaska Department of Labor projects that there will be some 13,672 elderly in Alaska -- approximately 3% of Alaska's population.[53] The Department has projected that that population, as a percentage of all Alaskans, will remain relatively static through the year 2000, when, out of a population of 831,000 people, there will be 25,158 elderly.[54]

We believe that those projections are overly conservative, and do not take into account the significant nationwide trend of increased elderly population. Nor do those projections include the retirement years of the post World War II "baby boom" generation -- which will begin about the year 2010.

Accordingly, in projecting the long term impact of this option on permanent dividend distribution, we have used the

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[53]Alaska Population Overview, Alaska Department of Labor, 1981

[54]Id.

national growth patterns projected by the federal Social Security Administration, which are as follows:

YEAR	% OF ELDERLY POPULATION
1950	8.1
2000	13.1
2025	19.5
2050	21.8

Using those assumptions, Travelers' Insurance Co., on our behalf, calculated the percentage of permanent fund dividends which would be required to fund a "pay as you go" system.

For fiscal year 1983, the calculations are relatively straight-forward. Given an aggregate distribution of some $169 million in permanent fund dividends this year, approximately 25% would be needed to fund a "pay as you go system."

However, even assuming a 3% cost of living adjustment in the payment each year, the percentage needed to fund the program decreases. This is because permanent fund earnings will increase at a rate substantially higher than inflation. From the year 1983 to 2000, the average funding required would be 15 to 19 percent of the distributions, while, in the years 2000 to 2025 (and assuming continued growth in permanent fund earnings) the funding amount would be 10-12 percent.

Thus, if the withholding remains static at 25% over the course of several years, the resultant excess would begin to build a savings account of substantial magnitude, which at some

point in the future would make the program partially, or perhaps totally self-sustaining.

One obvious advantage of this option is that it frees the general fund from ALB obligations immediately. Conversely, by materially reducing the annual permanent fund dividend, it obviously raises some political difficulties.

Additionally, the social security option could likewise be tied to contribution history -- although not in the precise manner of the annuity option. The federal social security system currently fully covers any individual who had "not less than one quarter of coverage ... for each calender elapsing after 1950 ... except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage."[55] Because, in the future, some portion of the benefits will be paid by the "savings account" resulting from the static 25% contribution, we believe that a similar contribution history requirement could be established in the legislation.

Even more so than the annuity option, there would be no "current economic benefit" from the program. By reducing the permanent fund distribution by 25%, and funding a retirement program from which the individual may or may not ultimately benefit, we believe it extremely unlikely that the IRS would conclude that the reduced sum is in some manner taxable.

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[55] 42 U.S.C. §414(a)(1)

Morever, we believe there is a substantial likelihood that the existing ALB exemption in federal law could be retained. Indeed, stripped to its essense this option does little more than alter the funding source of the ALB program.

The primary risk of the program is all the more apparent in light of the current difficulties with the federal social security system. While option F would be funded by a currently purchased annuity, younger Alaskans would be contributing to this option on the mere hope that the requisite amount of permanent fund earnings would remain available for the program well into the 21st century. The "savings account" created by the static 25% withholding is intended to alleviate that problem; however, regardless of the rate of growth of that account, there is plainly some risk in this option.[56]

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[56]For example, under our population projections, there will be 30,747 elderly in Alaska in the year 2000. The permanent fund distributions for that year under AS 43.23 are estimated by the Department of Revenue to be $792 million, of which, under our static 25% withholding, $198 million would be placed in the social security fund. In that year, with a 3% COLA, the maximum monthly bonus will be approximately $390. Even if every elderly Alaskan is eligible for full benefits under the law's contribution requirements, the maximum payments would be $120 million -- with a savings account deposit being made in that year alone of $70 million. Of course, many of these elderly may not be fully eligible, and some who are eligible may not be residing in Alaska during that year.

Finally, there is some advantage to the existing elderly in this system over the annuity option. The existing elderly would have a net loss of only .25% of their permanent fund dividend, rather than the entirety of the benefit under the annuity approach.

H. Health Insurance For The Elderly.

The state of health insurance for the elderly, and indeed for all Alaskans, has already been the subject of considerable study,[57] and legislative activity.[58] Because of the obvious critical importance of adequate health care coverage for Alaska's elderly, the option of providing comprehensive health insurance for Alaska's older citizens in lieu of the longevity bonus was included in this report as an option.

While the Department of Law report found that health expenses were a major use of the longevity bonus for only 5.5% of its sample, the 1976 longevity bonus study found that 29% of the bonus recipients used at least a portion of the ALB for medical care, while 11% used a portion of the bonus for "insurance of all kinds."[59]

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[57]Alaska Comprehensive Health Care Financing Study, Batelle Human Affair Research Center (1981)

[58]HB 641, 12th Leg. 1st Sess. (1981)

[59]ALB Survey, op. cit. n. 9 at 22

In fact, almost all of Alaska's elderly receive some kind of public or private health coverage assistance -- either through Medicare, Medicaid, public and private retirement programs, Veteran's benefits or the Indian Health Service/Public Health Service.

When assessing the health insurance option, the two obvious questions are: (1) how severe are the gaps in existing coverage; and (2) how much would it cost to fill those gaps?.

The major source of health insurance coverage for the elderly in Alaska is obviously Medicare -- a federal insurance plan which provides hospitalization for those eligible for social security[60] and medical insurance for an additional fee of $12.20 per month.

Both the hospital and medical insurance contain substantial deductibles, i.e. the first $304 of the hospital bill -- and co-payment requirements (20% in the case of medical insurance.)

Nursing home coverage under Medicare is severely limited -- confined to post-hospital care in a "skilled nursing facility" for short periods of time.

It is difficult to determine how many resident Alaskan elderly are on Medicare -- available statistics are bloated by Medicare claims submitted by tourists. There are some 9,323

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[60] 42 U.S.C.§§ 426,1395(c). A person ineligible for Social Security may obtain Medicare hospitalization insurance for $113 per month

retired persons in Alaska receiving social security -- and hence eligible for Medicare.[61]

The largest group of elderly Alaskans ineligible for Medicare are rural residents, primarily Natives, who do not have a sufficient wage earning history to qualify for social security. All Alaska Indians, Aleuts and Eskimos are eligible for IHS -- which provides a broad range of services depending upon available facilities. IHS is, however, primarily a direct provider of facilities -- it does not make cash payments for services such a custodial care in a nursing home. Moreover, it is currently facing severe cutbacks in areas such as reimbursement for health-related travel expenses[62].

The most comprehensive health coverage in Alaska is, of course, Medicaid. To be eligible for Medicaid, one must meet the State public assistance income limitations. As noted previously, there are currently some 2300 elderly Alaska citizens on Medicaid. Medicaid does cover virtually unlimited nursing home residency.

The most glaring deficiency in Alaska health care for the elderly is the lack of coverage for institutionalization in custodial environments such as nursing homes. Nursing home

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[61]Interview, Ms. P. Eubanks, Field Rep. Social Security Admin. (Feb. 24, 1983)

[62]Interview, Ms. P. Roberts IHS, (Feb. 23, 1983)

rates in Alaska run from $90 to $172 per day[63]. The costs are simply prohibitive for anyone not on Medicaid -- indeed, of the 467 elderly Alaskans currently residing in State nursing homes (other than the Pioneers Homes), all but 31 are there under Medicaid, or Alaska's General Relief Medical Assistance.

Conversely, nursing home rates in Washington, for example, have been estimated by the Department of Health & Social Services to vary from $50-$60 per day. It is not known how many elderly Alaskans are institutionalized in lower forty-eight custodial care facilities; however, it is apparent that unless one is eligible for Pioneer Home placement, a nursing home can be afforded if, at all, only by relocating to the lower forty-eight.

Three private organizations were asked to estimate the premium amount required to supplement Medicare and other coverage for Alaska's elderly to provide health insurance equivalent to the existing Public Employees' Retirement System's retiree coverage, and to include comprehensive nursing home coverage. Neither Travelers Insurance, nor Aetna Insurance felt capable of providing an estimate.

However, insurance consultants frequently used by the state for matters such as the public employees Supplemental Benefits System estimated that to provide supplemental coverage

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63Alaska Nursing Home Census, Alaska Department of Health & Social Service, 12/31/82

for Medicare, insurance could be provided at a premium of approximately $70 per individual per month. This would include comprehensive nursing home coverage.

Medicare is currently a primary insurer -- that is, the State could provide for Supplemental coverage without endangering basic Medicare eligibility. Moreover, and in all likelihood, supplemental State coverage could properly provide otherwise uninsured Alaska Natives with those costs not covered by the Indian Health Service.

The major difficulty is Medicaid. Medicaid eligibility is very much contingent upon the unavailability of "resources".[64] Currently, the State only pays 48% of a Medicaid's patient bills. If a State health insurance policy was considered a "resource" the State could find itself footing the entirety of a Medicaid patient's bill.

Of course, the State would hardly need to "supplement" any Medicaid coverage -- Medicaid coverage itself being essentially inclusive. The statute, could simply exempt Medicaid recipients from the coverage of the policy. The issue posed by such an enactment is whether the State would be frustrating the Congressional goals behind Medicaid -- which is to provide a health coverage means of last resort -- thereby running afoul of the Supremecy Clause.[65]

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[64] 42 U.S.C. §1382(a)(1)(B)

[65] Florida Lime & Avocado Growers v. Paul, 373 U.S. 132 (1963)

Assuming that the State could continue to merely supplement Medicare, IHS facilities and existing private and retiree coverages, and that the consultants' figures are accurate, there remain two difficulties with the health insurance option. First, it is of no benefit to Alaska's needy elderly -- who will merely continue with Medicaid coverage at the price of their longevity bonus.

Secondly, there is the potentially severe problem of in-migration. If a year's residency in Alaska[66] were all that were required for free and unlimited nursing home coverage, the potential of in-migration may be severe. There are two potentially justifable components of the program which could mitigate this potential:

1. If a purpose of the health insurance option is to allow Alaska residents to continue to reside in the state even if nursing home coverage is required, nursing home coverage could be limited to Alaska institutions, just as many states

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[66]It is possible, although we believe unlikely, that a court would rule that supplemental health insurance coverage would constitute a "basis necessity of life" -- dropping the maximum possible durational residency requirement to 30 days. The program would be supplemental to a host of existing assistance insurance programs, and would not be based on need. See Memorial Hospital v. Maricopa County, 415 U.S. at 261.

limit resident tuition discounts to in-state universities.[67] The difficulty, obviously, is that existing Alaskan nursing home capacity is limited. Whether unlimited nursing home coverage for all Alaskans would result in the expansion of existing facilities is debatable;

2. For the reasons cited with respect to the annuity and social security options, eligibility for health insurance coverage might properly be based upon contribution history if (a) a portion of the individual's permanent fund dividend is used to help fund the insurance program; and (b) the funding is in excess of current needs, in order to amass the same type of "savings account" envisioned with respect to the social security option.

I. LONGEVITY BONUS PREMISED ON INDIVIDUALIZED RELOCATION HARDSHIP.

As noted in Section II(A), ante, there is some judicial support for the view that it is permissible for Alaska to establish a program intended to benefit those who would suffer the most hardship by financially-coerced relocation from the state, and to measure that hardship in part by duration of residence.

This option relies upon that support, and involves three steps:

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[67]Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), affa mem. 401 U.S. 985 (1971)

1. cataloging those criteria which would differentiate those Alaska elderly who would suffer relatively more hardship by being forced to retire outside the state, and who need financial assistance in order to remain in-state;

2. translation of those subjective criteria to a point system similar to that used by the Alaska Commercial Fisheries Entry Commission; and[68]

3. structuring of that point system such that (a) administrative costs are minimized; and (b) successful applicants are confined to a pool roughly equivalent in number to existing bonus recipients.

Indeed, the structure of this option is similar to the Alaska Limited Entry Act -- which translates certain very subjective criteria -- such as "economic dependence on the fishery" -- into an objective point system. It does so, of course, at a bureaucratic price -- approximately $2.5 million a year for a pool of applicants originally roughly equivalent to those which this option would affect. It also does so at other costs, which will be discussed below.

It is not difficult to catalog the criteria which would set our "relocation hardship" pool aside. Duration and continuity of residence would be one criteria, as would, perhaps:

1. income;

2. location of family;

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[68]See AS 16.43

3. location of property; and

4. ethnic, religious, and cultural ties.

Although income and duration of residency would play a role in determing eligibility, no one factor alone would be dispositive.

It would not be difficult to translate these factors into a point system; nor would it be particularly difficult to structure that point system to limit the class of successful applicants. The proposal, however, does suffer from the following disadvantages:

1. Since most Alaskan elderly have lived here more than 10 years most Alaska elderly will suffer some demonsterable hardship from relocating elsewhere -- although a certain percentage obviously do not require a longevity bonus to remain;

2. The alternative also involves the establishment and funding of a new bureacracy -- an intrisically unworthwhile undertaking, but one which nonetheless would cost far less than simply opening the class to all elderly Alaskans;

3. Perhaps the most obvious disadvantage is the burden that it would place upon elderly Alaskans themselves. There would presumably be a lengthy application form, together with evidentiary requirements, and in some cases, adjudicatory hearings. The Limited Entry Commission is currently involved in some 120 judicial appeals -- a number which is either at or below historic levels. According to the Commission's FY1984

budget presentation, there is a current backload of some 325 administrative adjudications.

Attorneys will be required -- regardless of what efforts are undertaken to make the process simple and informal. The difficulties facing the elderly applicant are thus rather apparent.

J. GRANDFATHERING

This report closes with one of the simpler alternatives -- opening the class of longevity bonus recipients to all elderly Alaskans with one year's residency, and terminating the program for the future. Persons eligible, or becoming eligible this year will be "grandfathered" and will receive a longevity bonus for life. The fiscal impacts of this alternative are, for FY1984, identical to option A, and will obviously decline in the future due to mortality and relocation.

The obvious advantage of this program is that it protects those currently on the longevity bonus program. Equally, it deprives those approaching the age of 65 with any expectation of receiving a bonus.

We believe that this option is constitutionally permissible. The Alaska Supreme Court shares the general view of the constitutionality of grandfathering laws -- as long as the grandfathered class itself is constitutionally defined.[69] Plainly, the state legislatures

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[69]Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d at 1259-61.

have the right to terminate social programs while protecting those who have come to rely on their benefits.

4. CONCLUSION

As noted at the outset, the purpose of this report is merely to provide a threshhold feasibility review of various options for amending the longevity bonus program. Through discussions with administration officials, legislative staff members, consultants and private industry, we have attempted to highlight the major issues surrounding each alternative, and provide at least rough information on each question raised. If, after the Judiciary Committee has identified two or three relatively attractive options, the effort expended over the past three weeks on 10 proposals can be condensed into the pursuit of three, proposed legislation and a more intricate analysis of the preferred options can be promptly transmitted.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT

CONFIDENTIAL

RODNEY G. VEST,

Plaintiff,

v.

MARIAN SCHAFER and STATE OF ALASKA,

Defendants.

Case No. 1JU-82-1103 Civ.

AGREEMENT AND ORDER OF SETTLEMENT

WHEREAS, in 1972 the Alaska Legislature enacted the Alaska Longevity Bonus Program (AS 47.45.010 et. seq.) which currently provides, inter alia, for the payment of $250 for each month of continued residency by bona fide Alaska residents over the age of 65 who were domiciled in Alaska on or before January 3, 1959 and who have maintained a continuous domicile in Alaska for 25 years;

WHEREAS, the purpose of the Alaska Longevity Bonus Program is among other things, to reward elderly Alaskans for their past contributions to the state and territory, and for past hardships suffered during territorial and early statehood days. AS 47.45.170;

WHEREAS, since 1972, the State of Alaska in good faith has administered the Longevity Bonus Program in the belief that

the rewarding of prior residency was a constitutionally permissible purpose;

WHEREAS, in upholding the State's prior Permanent Fund Dividend distribution program, the Alaska Supreme Court ruled that "reward[ing] those Alaska residents who have chosen to stay" is a constitutionally permissible purpose. Williams v. Zobel, 619 P.2d 448, 460 (Alaska 1980);

WHEREAS, Justices Dimond and Matthews, in dissenting in Williams v. Zobel, believed that the Longevity Bonus Program would withstand constitutional scrutiny (619 P.2d at 469, n.13);

WHEREAS, on June 14, 1982, the United States Supreme Court, in invalidating Alaska's prior Permanent Fund Distribution Program, ruled that a statutory purpose of rewarding prior residency was constitutionally impermissible. Zobel v. Williams, ____ U.S. _____, 80-1146;

WHEREAS, because of the U.S. Supreme Court's decision in Zobel v. Williams, it appears the Longevity Program may not be deemed constitutional;

WHEREAS, a serious and good faith disagreement has developed and the Alaska Legislative Council questions whether the appropriate remedy is to expand the class of recipients of monthly longevity bonuses, or alternatively, to invalidate the entire program and cease payment of monthly bonuses to any person;

WHEREAS, this uncertainty regarding the appropriate remedy derives from § 2, Ch. 205, SLA 1972, which provides, with respect to the Longevity Bonus Program:

> If any provision of this Act, or the application of a provision of this Act to any person or circumstances is held invalid, this entire act shall be considered invalid.

WHEREAS, unless and until the question of appropriate remedy is resolved by this court, or a settlement of this controversy is achieved, it is reasonable and prudent that the State of Alaska continue to administer the Longevity Bonus Program in the manner provided by statute;

WHEREAS, on July 6, 1982, Plaintiff Rodney Vest filed the above-captioned action, seeking as relief his inclusion in the Longevity Bonus Program of "any . . . bona fide Alaska resident who is 65 years or older....". Complaint, Prayer for Relief, para. 2;

WHEREAS, ON July 23, 1982, Plaintiff Vest filed an amended complaint seeking to have this case certified as a class action under Alaska Rule of Civil Procedure 23 on behalf of all bona fide Alaskans of the age of 65 or older, and further seeking as alternative relief the invalidation of the Longevity Bonus Program, or the payment of retroactive bonuses "in amount equal to what they would have been entitled to obtain under the program had the unconstitutional criteria never been in place or

enforced." First Amended Complaint, Prayer for Relief, paras. 4-6.

WHEREAS, there are currently 9,124 recipients of monthly longevity bonuses, and many of these recipients are of modest means, and depend upon the monthly bonus for sustenance, and the termination of the longevity bonus payments to these individuals could cause great and irreparable harm;

WHEREAS, because of the uncertainty with respect to the appropriate remedy, the parties are desirous of settling this litigation in a manner which affords meaningful relief to Plaintiff Vest and others similarly situated, but which also ensures the continuation of monthly bonus payments to existing recipients;

WHEREAS, the parties are further desirous of achieving a settlement which will finalize and constitute a full and final accord of the rights and liabilities of the parties hereto;

WHEREAS, there may be as many as 4,000 persons who are similarly situated with Plaintiff Vest -- to wit, bona fide Alaskans of the age of 65 or over -- who are not currently receiving longevity bonus payments because of the residency requirements of the statute;

WHEREAS, the parties agree that, because of the nature of the rights of recipients involved in this litigation, a one-year residency requirement is reasonable, necessary and appropriate in order to demonstrate bona fide Alaskan residency;

WHEREAS, a full and final settlement of the parties' rights and liabilities hereto cannot be achieved until all persons similarly situated with Plaintiff Vest are certified as a class under Alaska Rule of Civil Procedure 23(c);

WHEREAS, the settlement envisioned by the parties includes the retroactive payment of longevity bonuses to plaintiff class commencing and including July 1, 1982;

WHEREAS, the payment of such retroactive bonuses to an expanded class of recipients would require the appropriation of sums above the amount currently appropriated for the longevity bonus program for fiscal year 1982-83. Moreover, and because of the Alaska Legislative Council's view of the non-severability clause, quoted above (effecting the expansion of the class of longevity bonus recipients), such payments may require the enactment of curative legislation;

WHEREAS, it is therefore necessary, in order to effectuate this settlement, for appropriate legislation to be enacted;

WHEREAS, the Alaska Legislature is a coordinate branch of government of the State of Alaska, and is represented in this action by the Attorney General;

WHEREAS, notwithstanding the above, the Attorney General cannot in any manner bind or compel the Alaska Legislature in the exercise of its legislative powers;

WHEREAS, on July 16, 1982, the Alaska Legislative Council moved to participate in the above-captioned action as amicus curiae, it is agreed that the Alaska Legislative Council may participate in all negotiations of any settlement, the filing of briefs and may participate in oral arguments; however, the Alaska Legislative Council agrees that it will not be involved in discovery proceedings in the event the case is ultimately litigated and will not become otherwise involved in accordance with the terms of this settlement agreement;

WHEREAS, and while the Alaska Legislative Council cannot bind the Alaska Legislature in the exercise of its legislative powers, the Alaska Legislative Council can and is willing to commit its best efforts to the enactment of appropriate legislation during the first regular session of the 13th Alaska Legislature;

WHEREAS, and subject to (1) the certification of plaintiff class, (2) the Superior Court's approval of a settlement proposal herein, and (3) the commitment of the Alaska Legislative Council to use its best efforts in the enactment of appropriate legislation, plaintiff class is agreed that such action will provide full and adequate consideration for the promise and agreement of plaintiff class not to seek relief in any form with respect to the Longevity Bonus Program through and including the adjournment of the first regular session of the

13th Alaska Legislature or June 30, 1983, whichever ever event comes first in time;

WHEREAS, nothing herein is to be construed as an admission by the State of Alaska as to the unconstitutionality of the Longevity Bonus Program;

WHEREAS, except with respect to the good faith of the State and its agents, nothing herein is to be construed as an admission by either party in the event the settlement agreed to here is not consummated;

NOW THEREFORE THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. All actions and proceedings in the above-captioned case, other than:

(a) the certification of plaintiffs class

(b) the approval by the Superior Court for the State of Alaska, First Judicial District of this proposed settlement agreement, and

(c) any further approval by the court necessary to consummate the settlement agreement after the certification of plaintiffs class,

are stayed through and including the date of adjournment of the first regular session of the 13th Alaska Legislature or June 30th, 1983, whichever event occurs first in time. Procedures for class certification shall be submitted to the Court for review no later than September 10, 1982, and the parties will request the

Court to render its order with respect to the notice procedures forthe said class no later than September 24th, 1982. Notice to the class shall be transmitted, along with the proposed settlement and the conditions necessary to affectuate the settlement, on or before October 11th, 1982. The State of Alaska will undertake reasonable efforts to assist Plaintiff to locate those persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents in the state of Alaska for one year immediately prior to that date. In the event this settlement agreement is not consummated for whatever reason, but the class certification has been certified by the court as set forth above, the Plaintiff shall not be precluded from seeking an enlargement of the class and a certification thereof so as to include other persons having a shorter residential duration within the State and may also seek a greater retroactive recovery.

2. The Alaska Legislative Council shall utilize its best efforts to secure the enactment, during the first regular session of the 13th Alaska Legislature, of the following legislation;

(a) Legislation which treats equally all bona fide Alaska residents of the age of 65 or older with respect to their residential qualifications to receive any "longevity bonus payments" or any substitute benefits from July 1, 1982 and thereafter for as long as the legislature may determine to continue such a program. Bona fide Alaska residents are those

who continuously resided in the state for one year immediately prior to the date of eligibility; and

(b) Any appropriation which might be required to fund the legislation described in paragraph (a), including the retroactive payment of bonuses.

3. If the Alaska Legislature passes legislation described in 2(a)-(b) above at any time during the first regular session of the 13th Alaska Legislature and the Governor signs the said legislation or otherwise allows 2(a)-(b) to become law so that 2(a)-(b) will be effective no later than Ninety days after enacted, the above action shall be dismissed with prejudice, subject only to the determination of attorney fees by the Court.

4. If the above-captioned action is dismissed under paragraph 3 above, all claims or rights of any class member (except those class members who exercise their right to opt out under Rule 23 of the Alaska Rules of Civil Procedure), with respect to the Longevity Bonus Program, shall be merged into the judgment of dismissal and extinguished;

5. If the Legislation described in 2(a)-(b) above is not enacted during the first regular session of the 13th Alaska Legislature or in any event no later than June 30, 1983, then this agreement shall be null and void, except that the Plaintiff and the class certified, together with any additional members, if there is an enlargement of the class, may prosecute this case as

if this agreement had not been entered into, it being the intent of the parties that certification of the plaintiff class, or the enlargement thereof, shall not be affected if this agreement becomes null and void;

6. The obligation of the Alaska Legislative Council under 2 herein is contingent upon certification of plaintiff class under Alaska Rule of Civil Procedure 23(c), which class shall include each and every individual of the age of 65 or older who, as of July 1, 1982, had continuously resided one year immediately preceding that date within the State of Alaska, and in the event that a class is certified which is less inclusive than as above described, the State of Alaska has reserved the right to waive the protections of this paragraph in whole or in part. Nothing in this paragraph is intended to modify or affect the certification of the class or the right of the Plaintiff to enlarge the class if this agreement becomes null and void.

DATED this __ day of _____, 1982.

DATED: August 9, 1982 Wilson L. Condon by DJS
Attorney for Defendants
Marian Schaefer and
State of Alaska

WILSON L. CONDON
ATTORNEY GENERAL

DATED: August 6, 1982 Henry J. Camarot
Attorney for Plaintiff

Henry J. Camarot
Camarot, Sandberg & Hunter

DATED: 8/16/82

Attorney for Alaska
Legislative Council
Amicus Curiae

FJK William Ruddy
Robertson, Monagle,
Eastaugh & Bradley

O R D E R

IT IS SO ORDERED.

DATED: _____

Hon. Walter Carpeneti
Superior Court Judge

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	(Number of Persons) 1	2	3	4	ALB EXCLUDED	ELDERLY ALASKANS	MEAN BENEFIT	ELDERLY AT RISK
Medicaid - Nursing Home	Provides payments on behalf of needy persons in nursing homes for cost of care 48% federal 52% state funds	Vendor Payments	852.90	n/a	n/a	n/a	Yes	up to $450/mo.	$3600/mo.	app. 275* *includes app. 120 who are included in the 500 at risk for SSI
Medicaid - Regular	Provides payment for necessary medical care on behalf of recipients of Old Age Assistance federal, 52% state funds, 48%	Vendor Payment	546	802 (net)	n/a	n/a	Yes	app. 2300 eligible, of whom app. 943 use benefits each month	$1027/ useage	app. 1200* *includes 500 at risk in SSI program

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	(Number of Persons) 1	2	3	4	ALB EXCLUDED	NUMBER OF ELDERLY ALASKANS	MEAN BENEFIT	NUMBER OF ELDERLY AT RISK
Old Age Assistance	Payments to needy	Monthly Cash	546	802	n/a	n/a	Yes	app 2300	246.70/mo.	app 1200* *includes 500 at risk in SSI
Food Stamp Program	A federally funded program designed to promote the health of the nation's population by raising the levels of nutrition among low-income households	Food coupons that are used in place of money	490	650	810	970 This is net monthly income	No	1700	$32 per person (random sampling of 10-elderly cases.)	-0-
Supplemental Security Income(SSI)	Federally funded & administered program providing assistance to needy persons who are aged or disabled 100% federal funds	Monthly Cash	284.30	426.40	n/a	n/a	Yes	app 900	app $228 mo.	500
Energy Assistance	Grants to low-income households to offset energy costs	Vendor home energy credit	$851	$1113	$1375	$1637 (net)	Yes	app. 1400	$475	300-400
General Relief (Medical)	100% state-funded, provides medical assistance on behalf of needy persons. For elderly, primarily provides drugs for Medicaid eligible persons on OAA and SSI	Vendor Payment	$300 or same as SSI and/or OAA (net)	$400			Yes, for elderly	2750 eligibles app. 30% of whom use benefits	$50/mo. useage	app. 1475

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.:
Title: 10-year Longevity Bonus phaseout
Sponsor:
Requestor:

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected: Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		58.4	26.7	26.7	26.7	26.7
200 TRAVEL						
300 CONTRACTUAL		43.5	26.5	27.0	27.5	28.0
400 COMMODITIES		1.6	1.0	1.0	1.0	1.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		16,913.1	(177.6)	(5427.6)	(11,318.4)	(17,850.0)
TOTAL OPERATING		17,016.6	(123.4)	(5,372.9)	(11,263.2)	(17,794.3)
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		17,016.6	(123.4)	(5,372.9)	(11,263.2)	(17,794.3)
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME		1.5	~~0~~	~~0~~	~~0~~	~~0~~
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: George T. Michael, Admin. Officer Phone: 465-4401
Division: Pioneers' Benefit Date: 3/30/83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Extended Fiscal Impact

10-year phase out

Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93
100 PERSONAL SERVICES	26.7	26.7	26.7	26.7	159.4
200 TRAVEL					4.7
300 CONTRACTUAL	28.5	29.0	29.5	30.0	112.4
400 COMMODITIES	1.0	1.0	1.0	1.0	3.7
500 EQUIPMENT					
600 LAND & STRUCTURES					
700 GRANTS, CLAIMS, ETC	25,022.4	32835.6	44,289.6	50,384.4	60,120.0
TOTAL OPERATING	24,966.2	32,778.9	44,232.4	50,384.4	60,400.2
CAPITAL					
REVENUE					

FUNDING: (Thousands of Dollars)

GENERAL FUND	24,966.2	32,778.9	44,232.4	50,384.4	60,400.2
FEDERAL FUNDS					
OTHER (Specify Source)					

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	.0
PART-TIME	~~0~~	~~0~~	~~0~~	~~0~~	~~0~~
TEMPORARY					

IV. ANALYSIS. This bill changes the eligibility requirements for recipients of Alaska's Longevity Bonus and would phase the program out entirely ~~in ten~~ ~~years~~ over a ten year period.

ASSUMPTIONS

1. Residency would be changed from 25 years to 12 consecutive months.

Residence on or before Jan. 3, 1959 would be

2. ~~State residency eligibility~~ eliminated from eligibility requirements.

3. Beginning ~~Jan. 1, 1984,~~ July 1, 1983, the monthly bonus would be reduced $25 each year.

4. All persons now receiving the bonus would continue as long as they ~~remain~~ domiciled in Alaska.

5. Retroactive bonus payments may be paid to persons who ~~were eligible under the new statutes~~ would have been eligible as of July 1, 1982, had the new statutes then been in effect.

6. The $25 per month reduction in Longevity Bonus funds would be offset by a like increase in Old Age Assistance payments made under AS 47.25.430 Longevity Bonus

7. The program would be phased out and cease on ~~January 1, 1995.~~ July 1, 1992.

Clerk V PFT (1 position) $26,730
Clerk II PPT (3 positions 31,680
$58,410 Personal Services (FY84)

As a result of the Zobel case, state benefits which are based on length of residency have come under scrutiny. In order to meet the constitutional requirement for treating all residents equally, the Alaska Longevity Bonus Program should be modified to allow benefits to all qualifying Alaskan residents. This means elimination of the existing 25 year residency requirement and for establishing Alaskan domicile on or before January 3, 1959.

Assuming that a one year Alaskan residence would be constitutionally acceptable, many people would immediately become eligible for the Bonus who do not now qualify. Also, it is believed that some people from the lower 48 over age 65 may move to Alaska in order to receive the Bonus when their one-year residence is completed.

The actual number of additional people who would receive the Bonus is not known. However, estimates by the Department of Administration indicate that approximately 13,228 persons aged 65 and older presently live in Alaska, and it is assumed that a majority of these people have lived in Alaska for at least one year.

The Longevity Bonus program has been growing under existing regulations at the rate of approximately 60 persons each month. After the increase of 3,803 applications expected by the liberalization of residency requirements, the program is expected to grow at the net rate of 89 persons per month as a growing number of Alaskans reach age 65 and remain in the state for retirement.

An increase in the Longevity Bonus staff will be needed to handle the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program.

This fiscal note offers an option which would gradually decrease the drain on the State treasury, while allowing Longevity Bonus recipients the opportunity to plan for future decreased income from State sources. The plan is basically to reduce the amount of the Longevity Bonus monthly payments by $25 each year, until the program is phased out entirely ~~at the beginning of fiscal year 1993.~~ ~~on July 1, 1993.~~ on July 1, 1992.

The Longevity Bonus was originally designed to be phased cut by making only those who were Alaskan residents on or before January 3, 1959 eligible. The new plan presented here escalates that phase-out process, while meeting all the legal and constitutional tests, and at the same time will affect the existing Longevity Bonus recipients in a minimal way. A loss of only $25 per month could be accommodated by oldsters with insufficient monthly income by applying for assistance from ~~other sources such as~~ the Old Age Assistance program of the Department of Health and Social Services. Increasing the income floor of this program ~~would~~ provides a humanitarian level of support for less affluent oldsters. This increase is dealt with in a separate fiscal note submitted by the Department of Health and Social Services.

may receive payments

Included in the above estimate of additional cost is $11,409,000 which will be needed in FY84 to pay retroactive benefits to ~~[redacted]~~ as many as 3,803 Alaskans who ~~[redacted]~~ will under the clause which would allow payments back to July 1, 1982, ~~for~~ those who would have been eligible had the new law then been in effect.

The plan would result in monthly Longevity Bonus payments as follows:

FY 84 - $225 per month
FY 85 - $200 per month
FY 86 - $175 per month
FY 87 - $150 per month
FY 88 - $125 per month
FY 89 - $100 per month
FY 90 - $ 75 per month
FY 91 - $ 50 per month
FY 92 - $ 25 per month
FY 93 - Phased Out

Grants Budget
if L.B. program is unchanged

FY84 (from Budget Submission)	10,428 persons		$30,211.5 + 16
FY85 (growth assumed @ 89/mo.)	11,496 persons		34,488.0 − 177
FY86	"	"	37,692.0
FY87	"	"	40,896.0
FY88	"	"	44,100.0
FY89	"	"	47,304.0
FY90	"	"	50,508.0
FY91	"	"	53,712.0
FY92	"	"	56,916.0
FY93	"	"	60,120.0

(Retro payments, if any, not included)

Grants Computation
Longevity Bonus
10-year phase-out

Following is a table showing how grant funds were computed under this ~~option.~~ plan:

	Expected Number of Recipients		Amount Longevity Bonus		Total Longevity Bonus Grants
FY 84	13,228	x	$2,700/year	=	$35,715,600
FY 85	14,296	x	$2,400/year	=	$34,310,400
FY 86	15,364	x	$2,100/year	=	$32,264,400
FY 87	16,432	x	$1,800/year	=	$29,577,600
FY 88	17,500	x	$1,500/year	=	$26,250,000
FY 89	18,568	x	$1,200/year	=	$22,281,600
FY 90	19,636	x	$ 900/year	=	$17,672,400
FY 91	20,704	x	$ 600/year	=	$12,422,400
FY 92	21,772	x	$ 300/year	=	$ 6,531,600
Fy 93	Program phased out.				

SUMMARY: HB 36 "An Act relating to the longevity bonus program; and providing for an effective date."

The legislation would change the residency requirements of the Alaska Longevity Bonus Program (47.45), in keeping with the recent Supreme Court decision on the Permanent Fund. Currently the ALB Program gives $250 monthly bonus to persons 65 years of age or over who were living in the Territory of Alaska on or before January 3, 1959 and who have maintained a continuous domicile in the Territory or State for 25 years.

This bill would change those requirements, providing a person who is 65 years of age or over, who is a state resident and who has been a resident for not less than one year immediately preceding the date of application may apply to the Commissioner of Administration for qualification to receive the monthly $250 bonus.

Section 3 of the bill defines "resident" with new language. The replaced language of this section defined "domicile" as(the place with which a person has a settled connection for determination of his civil status or other legal purposes because it is actually or legally his permanent and principal home.")

The bill also provides a retroactive clause to July 1, 1982, and states that a person who was eligible to receive the bonus as of that date is entitled to receive accrued retroactive bonuses from 7/1/82, and a person reaching the age of 65 after 7/1/82 is entitled to receive the bonus payments beginning on the date of eligibility.

Immediate effective date clause.

There are currently three bills introduced in regard to the Longevity Bonus Program:

1) HB 36 by Malone - House HESS Committee - changes residency from 25 years to one year.

2) SB 200 by Rodey - AD Hoc Committee on Residency- repeals ALB for all but those who are 65 or over and who have lived continuously in Alaska for one year before the effective date of the bill.

3) SB 215 by Ray - Senate Judiciary - Sets up an "Equal Retirement Benefit Program". Establishes a separate account within the Ak. Perm. Fund. and also takes 12.5% of the income of the perm. fund earned during a fiscal year that is available for distribution and transfers that money to the Longevity Bonus Account. Establishes one year residency.

(Senate Judiciary staff and Mr. Jon Tillinghast will be in attendance to explain this legislation and other proposals under review by the Senate.)

folder content:

left:
P.L. 94 602
Ak. Statutes/ALB
HB 36

right:
HB 36 fiscal note
~~CSHB 36 fiscal note~~
memo to Rep. Fritz 2/8/83
Research Report/Logenbaugh

additional enclosures:
SB 215 & sectional
SB 200
Report/Tillinghast

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 18, 1983

MEMORANDUM

TO: Representative Milo Fritz

FROM: Leslie Longenbaugh, Research Staff

RE: Residency Requirement for Longevity Bonus Program
Research Request Number 83-51

Linda Otey asked that we research the rationale behind Governor Sheffield's consideration of a one-year residency requirement for recipients of State longevity bonuses. I have listed the major components of the administration's reasoning below.

- A residency requirement of much more than one year might not be found constitutional in court, where the State's intent would be subject to some scrutiny. A longer residency requirement could imply that the intent is to discriminate between elderly Alaskans of many years' residency and those who have arrived more recently. The U. S. Supreme Court decision in Zobel makes it clear that such a distinction is constitutionally impermissible.

- Constitutionally, the State can require that recipients of the bonuses be "bona fide residents," meaning that they are currently residents who intend to stay. For the elderly, for whom moving is often a greater ordeal than it is for the general population, courts would probably view one year's residency as an adequate demonstration of the intent to stay. A residency requirement of very much less than one year (e.g., thirty days) could be insufficient to establish bona fide residency.

- A one-year residency requirement was part of the accord reached by the State and Rodney Vest last summer when Mr. Vest agreed to wait for a legislative change in the longevity bonus statute that might obviate the necessity for his suit.

I spoke with Rebecca Burch in the Department of Administration[1], who noted that the Governor is considering several options for legislation

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[1]Rebecca Burch, Special Assistant to the Commissioner, Department of Administration, Juneau; telephone: 465-2200.

to amend the longevity bonus program. Each of the options includes a residency requirement of one year.

The U. S. Supreme Court in July 1982 struck down a distribution scheme for the Alaska Permanent Fund dividends that was based on a schedule of larger payments for the length of past residency in the state. The Court declared the distribution unconstitutional when it found that favoring residents of longer residency over relative newcomers did not pass the test of "rationally furthering a legitimate state interest," and so violated the equal protection clause of the Fourteenth Amendment.[2]

The Court's opinion in Zobel clearly limits the State's ability to require longevity bonus recipients to have been resident in the state not only for the preceding twenty-five years but before Statehood (AS 47.45.010):

> Alaska's reasoning could open the door to state apportionment of other rights, benefits and services according to length of residency. It would permit the states to divide citizens into expanding numbers of permanent classes. Such a result would be clearly impermissible.
>
> .....
>
> The Court today reaffirms the important principle that, at least with respect to durational-residency discrimination, a State's desire to "reward citizens for past contributions" is "clearly not a legitimate state purpose." (Emphasis added; footnotes omitted.)[3]

Since June 1982, when the U. S. Supreme Court handed down the Zobel decision, the State Attorney General's office, both on its own and at the instigation of civil suits, has examined the residency requirements of several State programs. Assistant Attorney General Debra Vogt[4] emphasized that the courts would consider each such program differently. The maximum allowable durational residency requirement would vary depending upon the participants in the program and the intended result of the legislation, among other considerations.

In 1982, Rodney Vest filed suit against the State, alleging that his constitutional rights had been violated by the residency requirement

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[2]Zobel v. Williams, ____ U. S. ____, 72 L.Ed.2d 672 (1982).

[3]Ibid.

[4]Debra Vogt, Assistant Attorney General, Juneau; telephone: 465-3600.

fixed by statute for the longevity bonus program. Having moved to the state shortly after Statehood, Mr. Vest was ineligible for benefits under the requirement that recipients date their residency in the state from on or before January 3, 1959. The Department of Law, certain that the challenged residency requirement would not hold up in court, persuaded Mr. Vest to suspend his suit until the 1983 legislative session could amend the residency requirement.

In studying the constitutionality of durational residency requirements, the Attorney General's office has used criteria that derive from the Supreme Court's decision in Zobel and from other State and federal case law. In an opinion of July 14, 1982, Assistant Attorney General Ken Vassar traced the evolution of the tests used by the U. S. Supreme Court in determining the constitutionality of durational residency requirements.[5]

> ...it appears that the [U. S. Supreme] Court had arrived at a three-step analysis: (1) durational residency requirements necessarily involve classifications which call into issue the equal protection clause; (2) a durational residency requirement which penalizes the exercise of the right to travel requires strict scrutiny under the compelling state interest test; and (3) a penalty can be found either through infringement of a fundamental right (in addition to the right to travel), such as voting, or through denial of a basic necessity of life, such as welfare or medical services. (Emphasis in original.)

If a durational residency requirement is found to infringe upon or deny a basic necessity of life or a fundamental right, the burden of justifying the continued existence of the requirement falls on the State. The State must show not only that the infringement furthers some legitimate state interest, but that it furthers that interest directly and expediently.[6]

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[5]1982 Alaska Opinion Attorney General Number 7, July 14, 1982.

[6]The federal Court in Zobel found that the Permanent Fund dividend distribution plan favored long-time residents in a manner that was not connected to the stated intent of the legislation, i.e., keeping residents in the state and encouraging their active interest in the well-being of the Permanent Fund. Because it found that the means did not pass the first test of being rationally related to the stated purposes, the Court did not go on to address the question of whether the ends (the legislative purposes) were compelling enough to permit a distinction among residents on the basis of the length of their residency.

Assistant Attorney General Debra Vogt has participated in the administration's discussions about the future of the longevity bonus program. She and others have concluded informally that a one-year residency requirement for the longevity bonus program would almost certainly pass the federal tests described above. According to their analysis, a delay of one year before receiving longevity bonuses does not infringe a fundamental right. Moreover, she feels that the longevity bonus of $250 per month, which is not based on need, would not be found by a court to be a "basic necessity of life."[7]

Ms. Vogt stated that the courts would be most likely to uphold a State statute requiring one year's residency if the legislative intent were to ensure that only "bona fide" residents participate in the program. The elderly tend to be less mobile than other population groups; for this reason, a court would probably consider a requirement of one year's residency, rather than two years' or longer, to be adequate assurance of their bona fide status. Ms. Vogt emphasized the importance of a statute's intended result when a court scrutinizes any legislation.

For your information, the following are a few of the Sheffield administration's many ideas regarding the future of the longevity bonus program, as described by Ms. Vogt:

1) phasing out the program altogether, over several months or years;

2) gradually discontinuing the longevity bonus program and strengthening the Old Age Assistance program, which is based on need;

3) opening the program to all Alaskans over 65 years old;

4) devising a two-part program, one portion to provide longevity bonuses (much smaller than the present payments) to all Alaskans over 65 years old, and the other part, with larger payments, to be based on need; and

5) providing medical care or insurance for the elderly in order to mitigate one of the most expensive components of remaining in Alaska.

* * *

If you have questions or additional needs for research, please call on us.

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[7]Ms. Vogt noted that transferring State funds to persons over 65 is considered by courts to be clearly constitutional because of the diminished capacity for earning, the increased health costs, and other liabilities that are endemic among the elderly.

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM February 8, 1983

To: Rep. Milo Fritz, Co-Chair
House HESS Committee

From: Linda Otey, Committee Assistant
House HESS Committee

The following is an update with regard to the status of Alaska's Longevity Bonus program and its constitutionality.

As you know, the State is under court order, through the case of VEST vs. SCHAFFER & STATE OF ALASKA, to secure the enactment of legislation that treats equally all persons of the age of 65 or older, who have been residents of the State of Alaska for one year or longer with respect to their residential qualifications to receive any longevity bonus payments or substitute benefits from July 1, 1982.

Since this case was filed during the Legislative Interim, the Legislative Council was specifically ordered to see that the inequitable situation is remedied.

To date, there is only one bill in the House, HB 36 by Malone, dealing with this issue. The legislation simply deletes the "25-year residency requirement" and inserts a "one-year residency requirement". The effects of HB 36, if enacted, would be an expanded extension of benefits from the current number of approximately 9000 recipients to an additional 4000 recipients. This idea appears to be unpopular (especially in the Senate) for two reasons:

1. The State cannot afford fiscal impact.

   a. Current law - $250 x 12 mo. = $3,000 x 9000 recipients
   = $27 mill annually ± 4000
   = recipients = 39 mill.
   annually

2. The State would prefer not to promote "transient residency" for purposes of collecting Alaska Longevity Bonus (ALB).

Therefore, the basis question is: Can a program be enacted which does not extend benefits to all persons 65 or over who are and have been residents for a period of not less than one year?

Another major question is: What effect does receipt of the Bonus have on an individual's receipt of social security and other old age benefits, state and federal?

In speaking to the later question, a briefing was held today with the Division of Public Assistance personnel. Explanations of various programs were presented. A few important facts disclosed were:

1) If the ALB program were to be repealed and re-enacted, rather than amended from its current form, a social security income exemption on the federal level that applies only to Alaska's Longevity Bonus program, will no longer be in effect, allowing for the Bonus to become taxable. (P.L. 94602) Copies available.

2) A possible change in the program with the criteria for eligibility being based on need rather than residency:

a. programs of the "need" status are also exempt from SSI
b. the definition of the "need" could be specific and not necessarily tied to other statute definitions
c. need status is less likely to effect other adult public assistance programs

3) Grandfathering clause for present recipients by showing a reliance on the State in relation to an applicant's current living standard.

4) Criteria perhaps utilized when looking at other program receipts being utilized by applicant.

5) Strong feelings for continuing ALB under the Department of Administration. It was noted that is is politically unpopular to place the elderly benefitting from the bonus program under a "welfare system" as in those categories under the Division of Public Assistance.

There was a request for a complete list of "needs" programs obtainable on both State and Federal levels. Once received, a more in-depth review of their effects on ALB recipients will be available.

As a bottom line, the Legislative Council has set a March 1 completion date by which to choose a workable route and introduce legislation accordingly. Various methods (listed above) are in the reviewing process as alternatives to the constitutionality problem in regards to the Alaska Longevity Bonus program.

The Durational Residency Requirement, which is in need of resolve, is cited in 54 sections of Alaska's statutes. Four other citations with potential for controversy are also included under Special Old Age Programs and exist because of the length of the residency requirement. Consequently, the following programs must also be resolved:

1. Alaska Longevity Bonus - 25-year requirement
2. Pioneer's Home Program - 15-year requirement
3. Senior Citizens Special Assessment Exemption - 12-month reqmt.
4. Senior Citizens Exemption from Fishing License Requirement - 30-year requirement

cc: Rep. Tischer
Longevity Bonus File

LO/hb

FEB 23 1983

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: H.B. 36 Date on Bill: January 17, 1983
Title: An Act relating to the longevity bonus program
Sponsor: Malone
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital							
Operating			-0-	12,037.5	12,060.4	12,626.4	
Total			-0-	12,037.5	12,060.4	12,626.4	

b. Revenues:

Revenue							

2. Source of funds to offset fiscal impact of bill:

General Fund

3. Assumptions: (a) Residence requirements would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated. (b) An estimated 3,803 additional persons would immediately become eligible under the new regulations. (c) Retroactive payments in a total amount of $525,000 would become due to approximately 324 persons.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: George T. Michael Phone: 465-4401
Division: Pioneers' Benefits Date: February 23, 1983

Approved by Commissioner: [signature] Date: 3/1/83
Department: Admin.

5. Distribution:
Original to Legislative Finance
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2/8/83

2/0223-11-1/BDGSF1

HB

39

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(7)
1/17/83

Date: _____

Mr. Speaker:

The Committee on MXM HESS has had HB 39

Relating to services for pregnant women; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for HB 37 Do Pass [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible]	Mae Tischer - no Recommendation
M.W. Miller Do Pass	
[illegible] Do Pass	
[illegible] Do Pass(s)	
[illegible]	

Mae Tischer

CHAIRMAN

H 60

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No.: House Bill No. 39 Date on Bill: January 17, 1983
Title: "An Act relating to services to pregnant women."
Sponsor: M. Mike Miller
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-0-	-0-	-0-		
Operating				1,737.1	1,841.3	1,907.6		
Total				1,737.1	1,841.3	1,907.6		

b. Revenues:

Revenue				-0-	-0-	-0-		

2. Source of funds to offset fiscal impact of Bill:

Responsibility for the identification of funding is that of the author of the Bill.

3. Assumptions:

This Bill provides for expansion of pregnancy related health and social services and authorizes State funding of the cost of non-medical service for pregnant women experiencing social and economic difficulties during the prenatal and postpartum periods.

In 1981 there were 10,081 births to Alaskan residents. 1,642, or 16%, were births to unmarried women.

1981 Births to Unmarried Women

Age of Mother	Number of Births
13 - 19	542
20 - 24	621
25 - 29	335
30 - 34	106
35 - 39	30
40 - 45	8
	1,642

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Division of Family and Youth Services Phone: 465-3170
Division: Date: 2/14/83
Approved by Commissioner: Robert Loudon Smith Date: 2/15/83
Department: HSS

5. Distribution:
Original to Legislative Finance
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2/8/83

The Department assumes that the services delineated in this Bill would be utilized mostly by unmarried women. Using this pool as the target group, the Department would further assume that the more youthful unmarried women (ages 13-24) would be more more likely to utilize maternity and foster home care; whereas the older group (ages 25-45) would utilize the community services, such as counseling and adoption assistance.

The younger age group consists of 1,163 women. The Department estimates that approximately 190 of this group would avail themselves of the services of a maternity home or foster home (30 maternity and 160 foster), and a total of 300 would utilize available counseling and adoption assistance.

The Department recommends that the entire range of services be contracted out to local community providers. This would reduce the amount of administrative costs. However, it is recommended that an Associate Coordinator (Range 18) be established to initiate the program on a statewide basis. This individual would be responsible for planning, program development, preparation of requests for proposals and contracts, and contract monitoring and program evaluation for the initial two years only, and would then be phased out with duties being assumed by the regional offices of the Division.

Estimated costs are as follows (700 Benefits to Individuals):

Foster Home Care			
160 persons x $502/mo x 6/mos		=	$ 481,920
Maternity Home Care			
30 persons x $146/day x 6/mos		=	$ 788,400
Counseling/Adoption Assistance			
300 persons x $75/hr x 15/hrs		=	$ 337,500
Transportation to and From Placement			
150 persons x $600/average trip		=	$ 90,000
		Subtotal	$1,697,820
Associate Coordinator (Range 18):			
100	Personal Services	$35,037	
200	Travel	1,200	
300	Contractual	2,600	
400	Commodities	400	
			$ 39,237
		TOTAL	$1,737,057

The costs for the Associate Coordinator position includes: Travel - two trips of three days each to perform program reviews; Contractual - telephone rental and long distance of $678, postage of $300, copier usage of $120, printing and advertising of $500, and office space rent of $1,002; and Commodities - $400 for general office supplies.

A 6% inflation rate has been added to future years' estimated costs. Medical costs will be borne by the Division of Public Assistance.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 39

For a Bill entitled: "An Act relating to services for pregnant women; and providing for an effective date."

This Bill provides for expansion of pregnancy related health and social services and authorizes State funding of the cost of non-medical service for pregnant women experiencing social and economic difficulties during the prenatal and postpartum periods. These services are to include adoption assistance, counseling, transportation, care received in maternity and foster homes and training in parenting skills, as well as birthing centers, midwife services, and postnatal care.

Although the Department offers a wide range of public services, many women experience difficulties and hardships in obtaining timely and adequate pregnancy care. These difficulties are associated with economic barriers to private care and unavailability of many services in rural communities. These gaps in pregnancy related services may be summarized as follows:

1. financial inability of many low income and adolescent women to pay for travel outside of their communities for medically necessary care;

2. fragmentation of the pregnancy care delivery system, that inhibits provision of education, counseling, referral, medical, and follow-up services required by many women;

3. unavailability of many pregnancy-related services in rural communities;

4. lack of appropriate housing near major medical centers, where women from rural communities may stay while obtaining out-patient maternal care services; and

5. insufficient adoption counseling and placement services.

This Bill will expand the types of services available to maternal clients who are experiencing social and economic difficulties associated with childbearing. Medical care services included in this Bill include birthing centers, midwife services, and postnatal care. Since pregnancy related medical services for low income women are already covered by the Division of Public Assistance, the Department assumes the intent of this Bill is to provide the social services related to pregnancy. Therefore, the cost of this program is anticipated to be in the area of social services which come under the Division of Family and Youth Services.

Social services offered will include counseling, placement in a maternity home or foster home, transportation between the client's home and the foster or maternity home, training in parenting skills, and adoption assistance. The Department anticipates that the social services would be contracted out to local community providers, thereby reducing the costs within the Department.

This Bill offers transportation, counseling, adoption assistance, and maternity or foster home care to women experiencing economic and social difficulties associated with childbearing. The Bill at the present time does not include specific definitions of "economic and social difficulties associated with childbearing," but allows the Department to adopt regulations to define those terms. As part of the adoption of regulations process, the Department would plan to conduct public hearings to assist in formulating appropriate standards on which to determine eligibility for services. At this point, it is perceived that draft regulations would define economic need to be up to 200% of the Federal Community Services Administration's Alaska Non-Farm Poverty Guideline (attached), and social needs to include those individuals who are having psychological, emotional, and family problems associated with the pregnancy.

RECOMMENDATION

It is the Department's interpretation that the intent of this Bill is to provide non-medical pregnancy related services to women experiencing social and economic difficulties. Since medical care is available to beneficiaries of the Aid to Families With Dependent Children (AFDC) Program, the Department recommends that reference to medical services (birthing centers, midwife, and postnatal care) be deleted. If the legislative intent is to provide additional medical services beyond the scope of current Public Assistance programs, then the Department recommends that reference to other than medical services be deleted.

If this Bill is not adequately funded, the complete services as described in Section 2 cannot be provided to all of those who need and qualify for these services. With reduced fiscal support, the Department recommends that only counseling services be included in Section 2 until a time when sufficient funds are available.

POSITION PAPER/Department of Health & Social Services

POSITION

The Department recognizes the value of the needed pregnancy-related services that will become available to certain women. We endorse the health promotion concepts of this Bill and feel that it will contribute to the comprehensiveness of pregnancy-related services throughout Alaska, if fully funded.

RECOMMENDED BY: Michael L Price
Michael L. Price, Director
Division of Family and Youth Services

DATE: February 14, 1983

RECOMMENDED BY: E S Rabeau, M.D.
E.S. Rabeau, Director
Division of Public Health

DATE: 2-14-83

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

DATE: 2/15/83

Community Services Administration
Non-Farm Poverty Income Levels for Alaska

March 5, 1981

Size of Family	Poverty Income	200% Poverty Income
1	$5,410	$10,820
2	7,130	14,260
3	8,850	17,700
4	10,570	21,140
5	12,290	24,580
6	14,010	28,020

3/11/83

Bishop Michael Kenny

Bob Denny - Catholic Services

Betty Lauritzen - citizen + Pregnancy aid
Abortion Promotes -

Dr. David Spence
$1,176,000 - revised fiscal note
over $2,000,000
$1,400 per pregnant woman.

John Tindell - Pastor -

Delsey Kenny -

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

POUCH H-DS
JUNEAU, ALASKA 99811-9976

PHONE:

February 25, 1983

DOCUMENT NO. 83-98

The Honorable Milo Fritz, M.D.
Co-Chairman
House HESS Committee
Pouch V
Juneau, Alaska 98911

Dear Dr. Fritz:

I would like this opportunity to respond to the Health Education and Social Services Committee request for additional information concerning House Bill No. 39, "An Act relating to services to pregnant women." At the February 16, 1983 hearing, the committee requested clarification concerning the following items:

1) The committee requested a budgetary estimate for providing pregnancy related medical care to women addressed by this bill.

Assuming that the intent of this service would be to provide medical care to women who do not have access to other resources, (i.e., Medicaid, General Relief Medical, private pay, Public Health Service or other insurance) an estimated cost would be $1,176,000 for FY 84. This estimate is based upon utilization experience by a similar service provided through a pilot project at the Fairbanks Health Center. During 1981-1982, the project provided medical care financial assistance to approximately 7 percent of the total births in the North Star Borough. Assuming that the total number of births in FY 84 will be approximately 12,000, it is estimated that 840 women would qualify for this service at an average cost of $1,400 per client. Additional state staff would not be required if the Division of Public Assistance would perform the bill paying, and the Division of Public Health would provide client intake and eligibility certification.

2) The committee requested information concerning the state expenditures for abortions, the number provided and the criteria for those receiving state assistance.

The number of abortions provided by the General Relief Medical program during calendar year 1982 is estimated to be 276, with an approximate total expenditure of $269,354. The criteria for General Relief Medical assistance is $300 monthly income for one adult, plus $100 for each additional in adult only households; and $350 for parent plus 1 child with $50 for each additional child in parent/child households.

3) The committee requested identification of possible budget reductions in the social services fiscal note to be investigated.

Based upon conversations with staff for Representative Miller and Representative Martin, comments of the Booth Memorial Home staff, and Division of Family and Youth Services, the fiscal note could be reduced by a total $587,700 in FY 84. The suggested modifications are as follows:

Line 700 - Benefits for Individuals	Original	Reduction	Total
Foster Home Care 160 persons x $520/mo x 6 mos.	$481,920	<0>	$481,920
Maternity Home Care 30 persons - $73/day x 6 mos. (50% reduction of daily cost)	788,400	<394,200>	394,200
Counseling/Adoption Assistance 300 persons x $75/hr. x 8 hr. (7 hr. reduction of counseling)	377,500	<157,500>	180,000
Transportation to and from Placement 150 persons x $360/average trip ($240 per trip reduction)	90,000	<36,000>	54,000
Subtotal	1,697,820	<587,700>	1,110,120
Associate Coordinator, Range 18			
Line 100 Personal Services	35,037	<0>	35,037
Line 200 Travel	1,200	<0>	1,200
Line 300 Contractual	2,600	<0>	2,600
Line 400 Commodities	400	<0>	400
Subtotal			39,237
Total	$1,737,057	<587,000>	$1,149,357

I hope this information will be of assistance. Please advise us if you have additional concerns on this matter.

Sincerely,

E.S. Rabeau, M.D.
Director

cc: Representative Terry Martin
Representative M. Mike Miller

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 39 Date on Bill: 1/17/83
Title: "An Act relating to services for pregnant women;"
Sponsor: M.M. Miller, Martin, Zharoff, Koponen, and Fritz
Requestor: House HESS Committee

1. Estimated fiscal impacts on: Total Expenditure

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			0	2,325.4	2,416.4	2,554.2		
Total			0	2,325.4	2,416.4	2,554.2		

B. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Responsibility of identification of funding is that of the authors of this bill.

3. Assumptions:

Provision of pregnancy related medical care and social services to low income women during prenatal and post partum periods.

4. Disclaimer:
This statement has not been reviewed by OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared by: Dwayne Peeples, Coordinator Phone: 465-3105
Division: Public Health Date: 3/3/83

Approved by Commissioner: Robert Lamb Smith, M.D. Date: 3/4/83
Department: Health and Social Services

5. Distribution:
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2/8/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 39 Date on Bill: 1/17/83
Title: "An Act relating to services for pregnant women;"
Sponsor: M.M. Miller, Martin, Zharoff, Koponen, and Fritz
Requestor: House HESS Committee

1. Estimated fiscal impacts on: Medical Services

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			0	1,176.0	1,243.0	1,313.9		
Total			0	1,176.0	1,243.0	1,313.9		

B. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Responsibility of identification of funding is that of the authors of this bill.

3. Assumptions:

Approximately 840 women during FY 84 will be eligible to utilize this service at an average cost of $1,400 per client for pregnancy related medical care.

4. Disclaimer:
This statement has not been reviewed by OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared by: Dwayne Peeples, Coordinator Phone: 465-3105
Division: Public Health Date: 3/3/83

Approved by Commissioner: Robert Loeb Smith Date: 3/4/83
Department: Health and Social Services

5. Distribution:
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2/8/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 39 Date on Bill: 1/17/83
Title: "An Act relating to services for pregnant women;"
Sponsor: M.M. Miller, Martin, Zharoff, Koponen, and Fritz
Requestor: House HESS Committee

1. Estimated fiscal impacts on: Social Services

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			0	1,149.4	1,173.4	1,240.3		
Total			0	1,149.4	1,173.4	1,240.3		

B. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Responsibility of identification of funding is that of the authors of this bill.

3. Assumptions:

Line 700 - Benefits for Individuals

Foster Home Care	
160 persons - $73/day x 6 mos.	$481,920
Maternity Home Care	
30 persons - $73/day x 6 mos. (50% reduction of daily cost)	$394,200
Counseling/Adoption Assistance	
300 persons x $75/hr. x 8 hrs. (7 hr. reduction of counseling)	$180,000
Transportation to and from Placement	$ 54,000
150 persons x $360/average trip	
Subtotal	$1,110,120
TOTAL	$1,149,357

Associate Coordinator, Range 18

Line 100 Personal Services	$35,037
Line 200 Travel	$ 1,200
Line 300 Contractual	$ 2,600
Line 400 Commodities	$ 400
	$39,237

4. Disclaimer:
This statement has not been reviewed by OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared by: Dwayne Peeples, Coordinator Phone: 465-3105
Division: Public Health Date: 3/3/83

Approved by Commissioner: Robert London Smith, Ph.D. Date: 3/4/83
Department: Health and Social Services

5. Distribution:
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STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

POUCH H-05
JUNEAU, ALASKA 99811
PHONE: (907) 465-3170

DOCUMENT NO. 83-61

February 18, 1983

David Palmer, Legislative Aide
Representative Mae Tischer's
Office
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Palmer:

Per your questions of February 18, 1983 pertaining to State-funded abortions, I have obtained the following information from the Division of Public Assistance. Between January 1, 1982 and June 30, 1982, one hundred and fifteen (115) abortions were paid for through the State funded General Relief Medical program for a total cost of $112,231. In annualizing these figures, the Division of Public Assistance projected 276 State funded abortions in calendar year 1982 for a total estimated cost of $269,354.

lune, 1982, the Division of Public Assistance converted from a r ual to an automated payment system. Because of time lags in processing payments through the new system, Public Assistance felt it would be more accurate to make projections based on the five month period than to use information from the new system which may contain distortions attendant to system start-up.

Please contact me should you have additional questions.

Sincerely,

Michael L. Price
Director

MLP:FH:kk

06-F111LH

DMN TO NK
3/11/83

PREGNANCY ASSISTANCE BILL - ELIGIBILITY FOR MEDICAL CARE

→ FEDERAL POVERTY STANDARD FOR ALASKA (ONE [PREGNANT] PERSON)
$5868/YR

→ STANDARD FOR MEDICAID ELIGIBILITY FOR 1 PREGNANT PERSON AS OF 4/1/83

INCOME LESS THAN $382/MO
I.E. $4584/YR

ASSETS LESS THAN $1000 (HOME EXCLUDED $150000 CAR OR BOAT EXC.

THAT IS 22% BELOW FEDERAL POVERTY LEVEL.

NO OTHER WAY TO GET STATE-PAID MEDICAL.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 39
PAGE 1

For a Bill entitled: "An Act relating to services for pregnant women; and providing for an effective date."

This Bill provides for expansion of pregnancy related health and social services and authorizes State funding of the cost of non-medical service for pregnant women experiencing social and economic difficulties during the prenatal and postpartum periods. These services are to include adoption assistance, counseling, transportation, care received in maternity and foster homes, and training in parenting skills, as well as birthing centers, midwife services, and postnatal care.

Although the Department offers a wide range of public services, many women experience difficulties and hardships in obtaining timely and adequate pregnancy care. These difficulties are associated with economic barriers to private care and unavailability of many services in rural communities. These gaps in pregnancy related services may be summarized as follows:

1. financial inability of many low income and adolescent women to pay for travel outside of their communities for medically necessary care;

2. fragmentation of the pregnancy care delivery system, that inhibits provision of education, counseling, referral, medical, and follow-up services required by many women;

3. unavailability of many pregnancy-related services in rural communities;

4. lack of appropriate housing near major medical centers, where women from rural communities may stay while obtaining out-patient maternal care services; and

5. insufficient adoption counseling and placement services.

This Bill will expand the types of services available to maternal clients who are experiencing social and economic difficulties associated with childbearing. Medical care services included in this Bill include birthing centers, midwife services, and postnatal care. Since pregnancy related medical services for low income women are already covered by the Division of Public Assistance, the Department assumes the intent of this Bill is to provide the social services related to pregnancy. Therefore, the cost of this program is anticipated to be in the area of social services which come under the Division of Family and Youth Services.

Social services offered will include counseling, placement in a maternity home or foster home, transportation between the client's home and the foster or maternity home, training in parenting skills, and adoption assistance. The Department anticipates that the social services would be contracted out to local community providers, thereby reducing the costs within the Department.

This Bill offers transportation, counseling, adoption assistance, and maternity or foster home care to women experiencing economic and social difficulties associated with childbearing. The Bill at the present time does not include specific definitions of "economic and social difficulties associated with childbearing," but allows the Department to adopt regulations to define those terms. As part of the adoption of regulations process, the Department would plan to conduct public hearings to assist in formulating appropriate standards on which to determine eligibility for services. At this point, it is perceived that draft regulations would define economic need to be up to 200% of the Federal Community Services Administration's Alaska Non-Farm Poverty Guideline (attached), and social needs to include those individuals who are having psychological, emotional, and family problems associated with the pregnancy.

RECOMMENDATION

It is the Department's interpretation that the intent of this Bill is to provide non-medical pregnancy related services to women experiencing social and economic difficulties. Since medical care is available to beneficiaries of the Aid to Families With Dependent Children (AFDC) Program, the Department recommends that reference to medical services (birthing centers, midwife, and postnatal care) be deleted. If the legislative intent is to provide additional medical services beyond the scope of current Public Assistance programs, then the Department recommends that reference to other than medical services be deleted.

If this Bill is not adequately funded, the complete services as described in Section 2 cannot be provided to all of those who need and qualify for these services. With reduced fiscal support, the Department recommends that only counseling services be included in Section 2 until a time when sufficient funds are available.

POSITION PAPER/Department of Health & Social Services

POSITION

The Department recognizes the value of the needed pregnancy-related services that will become available to certain women. We endorse the health promotion concepts of this Bill and feel that it will contribute to the comprehensiveness of pregnancy-related services throughout Alaska, if fully funded.

RECOMMENDED BY: Michael L Price
Michael L. Price, Director
Division of Family and Youth Services

DATE: February 14, 1983

RECOMMENDED BY: E.S. Rabeau, M.D.
E.S. Rabeau, Director
Division of Public Health

DATE: 2-14-83

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

DATE: 2/15/83

Community Services Administration
Non-Farm Poverty Income Levels for Alaska

March 5, 1981

Size of Family	Poverty Income	200% Poverty Income
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The Department assumes that the services delineated in this Bill would be utilized mostly by unmarried women. Using this pool as the target group, the Department would further assume that the more youthful unmarried women (ages 13-24) would be more more likely to utilize maternity and foster home care; whereas the older group (ages 25-45) would utilize the community services, such as counseling and adoption assistance.

The younger age group consists of 1,163 women. The Department estimates that approximately 190 of this group would avail themselves of the services of a maternity home or foster home (30 maternity and 160 foster), and a total of 300 would utilize available counseling and adoption assistance.

The Department recommends that the entire range of services be contracted out to local community providers. This would reduce the amount of administrative costs. However, it is recommended that an Associate Coordinator (Range 18) be established to initiate the program on a statewide basis. This individual would be responsible for planning, program development, preparation of requests for proposals and contracts, and contract monitoring and program evaluation for the initial two years only, and would then be phased out with duties being assumed by the regional offices of the Division.

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300 persons x $75/hr x 15/hrs		=	$ 337,500
Transportation to and From Placement			
150 persons x $600/average trip		=	$ 90,000
		Subtotal	$1,697,820
Associate Coordinator (Range 18):			
100	Personal Services	$35,037	
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400	Commodities	400	
			$ 39,237
		TOTAL	$1,737,057

The costs for the Associate Coordinator position includes: Travel - two trips of three days each to perform program reviews; Contractual - telephone rental and long distance of $678, postage of $300, copier usage of $120, printing and advertising of $500, and office space rent of $1,002; and Commodities - $400 for general office supplies.

A 6% inflation rate has been added to future years' estimated costs. Medical costs will be borne by the Division of Public Assistance.

Introduced: 1/17/83
Referred: Health,Education & Social Services and Finance

IN THE HOUSE

BY M.M.MILLER,MARTIN,ZHAROFF KOPONEN AND FRITZ

HOUSE BILL NO. 39

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to services for pregnant women; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that there are insufficient maternal and infant care services available to women experiencing social and economic difficulties associated with child-bearing. As a result of these inadequate services, some children may develop health conditions that require state-supported services throughout their lives. In order to promote healthier generations of Alaskans, the legislature wishes to invest in the state's future by providing prenatal care and social services to pregnant women.

* Sec. 2. AS 47 is amended by adding a new chapter to read:

CHAPTER 42. PURCHASE OF SERVICES FOR PREGNANT WOMEN.

Sec. 47.42.010. PURCHASE OF SERVICES FOR PREGNANT WOMEN. The Department of Health and Social Services shall pay the cost of prenatal services other and than medical services for a pregnant woman experiencing social and economic difficulties, including the costs of birthing centers, midwife services, and transportation to and from a maternity home or a foster home, counseling, adoption assistance, maternity home and foster home care, postnatal care, and parenting skills.

Sec. 47.42.020. LICENSING AND SUPERVISION. A person provid-ing services purchased by the Department of Health and Social Services under this chapter shall, if required to be licensed under AS 47.35,

be licensed and supervised in the same manner as foster homes, boarding homes, maternity homes, and other agencies and institutions under AS 47.35.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No.: House Bill No. 39 Date on Bill: January 17, 1983
Title: "An Act relating to services to pregnant women."
Sponsor: M. Mike Miller
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-0-	-0-	-0-		
Operating				1,737.1	1,841.3	1,907.6		
Total				1,737.1	1,841.3	1,907.6		

b. Revenues:

Revenue				-0-	-0-	-0-		

2. Source of funds to offset fiscal impact of Bill:

Responsibility for the identification of funding is that of the author of the Bill.

3. Assumptions:

This Bill provides for expansion of pregnancy related health and social services and authorizes State funding of the cost of non-medical service for pregnant women experiencing social and economic difficulties during the prenatal and postpartum periods.

In 1981 there were 10,081 births to Alaskan residents. 1,642, or 16%, were births to unmarried women.

1981 Births to Unmarried Women

Age of Mother	Number of Births
13 - 19	542
20 - 24	621
25 - 29	335
30 - 34	106
35 - 39	30
40 - 45	8
	1,642

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Division of Family and Youth Services Phone: 465-3170
Division: Michael L. Price Date: 2/14/83
Approved by Commissioner: Robert Landon Smith Date: 2/15/83
Department: HSS

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

Mike (Juneau) Miller - relates to abortion

58,000 per person

$300 \overline{)1,7^{2}37,100}$.

Terry Miller

Nina Keeler - DHSS

"The Dept shall pay" for services

Gene Regan - Salvation Army - Booth Memorial

Ann Matson - Pregnancy Aide, Pres.

HB
43

STATE OF ALASKA
DEPARTMENT OF EDUCATION
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
1982-83

School District	Debt Service at 100% Prior 7-1-77	Debt Service at 90% After 7-1-77	90% of Debt Service	Cash Payments 1980-81	90% of Cash Payment	Debt Service Plus Cash Payment	Less Cig. Tax FY 80-81	Total Entitlement Due	Prorated 882.6919%
Anchorage	10,978,437	1,595,620	1,436,058	319,027	287,124	12,701,619	855,623	11,845,996	9,795,679
Bristol Bay	-0-	320,071	288,064	-0-	-0-	288,064	10,449	277,615	229,565
Cordova	120,528	-0-	-0-	-0-	-0-	120,528	17,693	102,835	85,036
Craig	-0-	-0-	-0-	-0-	-0-	-0-	9,494	-0-	-0-
Dillingham	-0-	-0-	-0-	377,929	340,136	340,136	16,323	323,813	267,767
Fairbanks	4,663,659	-0-	-0-	-0-	-0-	4,663,659	240,689	4,422,970	3,657,437
Galena	-0-	-0-	-0-	58,766	52,889	52,889	9,420	43,469	35,945
Haines	95,106	-0-	-0-	-0-	-0-	95,106	16,561	78,545	64,950
Hoonah	-0-	-0-	-0-	-0-	-0-	-0-	11,480	-0-	-0-
Hydaburg	-0-	-0-	-0-	-0-	-0-	-0-	6,451	-0-	-0-
Juneau	774,901	-0-	-0-	-0-	-0-	774,901	108,394	666,507	551,147
Kake	-0-	-0-	-0-	-0-	-0-	-0-	10,047	-0-	-0-
Kenai	2,550,949	2,604,449	2,344,004	923,757	831,381	5,726,334	164,826	5,561,508	4,598,916
Ketchikan	521,722	-0-	-0-	218,513	196,662	718,384	71,198	647,186	535,169
King cove	-0-	-0-	-0-	-0-	-0-	-0-	8,174	-0-	-0-
Klawock	-0-	-0-	-0-	-0-	-0-	-0-	5,793	-0-	-0-
Kodiak	433,521	-0-	-0-	99,863	89,877	523,398	65,784	457,614	378,409
Mat-Su	2,783,850	1,577,127	1,419,414	-0-	-0-	4,203,264	125,290	4,077,974	3,372,154
Nenana	21,980	-0-	-0-	-0-	-0-	21,980	10,547	11,433	9,454
Nome	-0-	-0-	-0-	60,000	54,000	54,000	28,441	25,559	21,139
North Slope	7,656,975	3,508,038	3,157,234	-0-	-0-	10,814,209	47,123	10,767,086	8,903,907
Pelican	-0-	-0-	-0-	-0-	-0-	-0-	4,779	-0-	-0-
Petersburg	495,174	-0-	-0-	142,089	127,880	622,994	20,332	602,662	498,360
Sand Point	-0-	-0-	-0-	-0-	-0-	-0-	7,684	-0-	-0-
Sitka	436,950	-0-	-0-	388,560	349,704	786,654	50,873	735,781	608,431
Skagway	34,906	-0-	-0-	-0-	-0-	34,906	9,164	25,742	21,286
St. Mary's	-0-	-0-	-0-	-0-	-0-	-0-	8,424	-0-	-0-
Tanana	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Unalaska	-0-	-0-	-0-	-0-	-0-	-0-	9,145	-0-	-0-
Valdez	1,474,175	1,670,546	1,503,491	94,574	85,117	3,062,783	27,429	3,035,358	2,509,995
Wrangell	-0-	98,233	88,410	-0-	-0-	88,410	17,111	71,299	58,958
Yakutat	-0-	-0-	-0-	-0-	-0-	-0-	8,473	-0-	-0-
TOTALS	33,042,773	11,374,084	10,236,675	2,683,078	2,414,770	45,694,218	2,003,200	43,780,962	36,203,300

pd. 1/9/82

STATE OF ALASKA
Department of Education
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
1981-82

School District	Debt Service at 100% Prior 7-1-77	Debt Service at 80% After 7-1-77	80% Debt Service	Credit for Cash Pymt. Prior FY 72	50% Cash Pmt. Prior FY 79	Cash Pymt. 1979-80	80% of Cash Pymt. 1979-80	Debt Svc. Plus Cash Pymt.	Less Cig Tax 1979-80	Total Entitlements Paid
Anchorage	9,763,865	1,050,347	840,278	-0-	-0-	225,045	180,036	10,784,179	869,367	9,914,812
Bristol Bay	21,551	-0-	-0-	14,298	7,149	-0-	-0-	28,700	10,667	18,033
Cordova	125,298	-0-	-0-	-0-	-0-	-0-	-0-	125,298	17,704	107,594
Craig	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	9,615	-0-
Dillingham	-0-	-0-	-0-	-0-	-0-	90,856	72,685	72,685	16,441	56,244
Fairbanks	4,464,576	-0-	-0-	76,508	38,254	-0-	-0-	4,502,830	238,191	4,264,639
Galena	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,861	-0-
Haines	92,897	-0-	-0-	-0-	-0-	-0-	-0-	92,897	16,082	76,815
Hoonah	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	11,940	-0-
Hydaburg	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	7,234	-0-
Juneau	831,696	-0-	-0-	-0-	-0-	-0-	-0-	831,696	115,566	716,130
Kake	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	10,243	-0-
Kenai	2,510,104	2,620,400	2,102,726	54,807	27,444	1,022,364	817,891	5,466,245	161,198	5,305,047
Ketchikan	603,752	-0-	-0-	-0-	-0-	372,438	297,950	901,702	72,149	829,553
King Cove	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	7,904	-0-
Klawock	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	5,517	-0-
Kodiak	434,737	-0-	-0-	14,563	7,282	318,197	254,558	696,577	62,086	634,491
Mat-Su	2,127,263	2,341,895	1,073,516	1,496	748	-0-	-0-	4,001,527	115,431	3,886,096
Nenana	21,400	-0-	-0-	2,583	1,292	-0-	-0-	22,692	10,172	12,520
Nome	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	28,100	-0-
North Slope	8,041,575	1,502,028	1,201,622	-0-	-0-	-0-	-0-	9,243,197	45,473	9,197,724
Pelican	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	4,535	-0-
Petersburg	493,243	-0-	-0-	38,150	19,075	-0-	-0-	512,318	20,623	491,695
Sand Point	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,001	-0-
Sitka	437,106	-0-	-0-	830	.415	330,035	271,068	700,589	50,831	657,758
Skagway	26,050	-0-	-0-	-0-	-0-	-0-	-0-	26,050	9,831	16,219
St. Marys	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,406	-0-
Unalaska	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,203	-0-
Valdez	1,520,025	577,771	462,217	3,901	1,951	36,670	29,336	2,021,529	27,598	1,993,931
Wrangell	21,291	90,233	70,506	-0-	-0-	-0-	-0-	99,077	17,022	82,055
Yakutat	-0-	-0-	-0-	-0-		-0-	-0-	-0-	8,049	-0-
TOTALS	31,592,509	8,198,602	6,550,945	207,216	109,610	2,404,405	1,923,524	40,138,508	2,003,200	38,262,156

pd 11/9/81

STATE OF ALASKA
Department of Education
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
FY 1980-81

School District	Debt Service at 100% Prior 7-1-77	Debt Service at 80% After 7-1-78	80% Debt Service After 7-1-78	Credit for Cash Pymt. Prior FY 72	50% Cash Pymt. Prior FY 72	Cash Pymt. 1978-79	80% of Cash Pmt. 1978-79	Debt Svc. Plus Cash Pymt.	Less Cig Tax 1978-79	Total Entitlements Paid
Anchorage	11,768,534	568,789	455,031	17,372	8,686	136,112	108,890	12,341,141	894,332	11,446,809
Bristol Bay	86,953	-0-	-0-	15,104	7,552	-0-	-0-	94,505	10,571	83,934
Cordova	119,271	-0-	-0-	-0-	-0-	-0-	-0-	119,271	19,099	100,172
Craig	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,870	-0-
Dillingham	-0-	-0-	-0-	-0-	-0-	51,403	41,122	41,122	15,349	25,773
Fairbanks	4,803,233	-0-	-0-	172,938	86,469	34,635	27,708	4,917,410	234,631	4,682,779
Galena	-0-	-0-	-0-	-0-	-0-	35,416	28,333	28,333	8,742	19,591
Haines	95,698	-0-	-0-	-0-	-0-	-0-	-0-	95,698	16,351	79,347
Hoonah	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	12,648	-0-
Hydaburg	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	6,641	-0-
Juneau	867,413	-0-	-0-	-0-	-0-	-0-	-0-	867,413	116,822	750,591
Kake	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	10,044	-0-
Kenai	2,518,962	2,646,077	2,116,862	176,031	88,016	707,520	566,016	5,289,856	152,261	5,137,595
Ketchikan	601,757	-0-	-0-	-0-	-0-	129,823	103,858	705,615	72,615	633,000
King Cove	-0-	-0-	-0-	-0-	-0-	1,937	1,550	1,550	8,032	-0-
Klawock	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	5,250	-0-
Kodiak	441,226	-0-	-0-	15,388	7,694	282,793	226,234	675,154	59,046	616,108
Mat-Su	2,769,211	767,000	614,240	1,663	832	112,691	90,153	3,474,436	107,802	3,366,634
Nenana	21,820	-0-	-0-	2,730	1,365	29,634	23,707	46,892	9,847	37,045
Nome	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	28,617	-0-
North Slope	8,921,475	-0-	-0-	-0-	-0-	-0-	-0-	8,921,475	47,016	8,874,459
Pelican	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	4,539	-0-
Petersburg	417,846	-0-	-0-	40,310	20,155	-0-	-0-	438,001	20,803	417,198
Sand Point	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Sitka	430,178	-0-	-0-	877	439	26,990	21,592	452,209	51,348	400,861
Skagway	25,186	-0-	-0-	-0-	-0-	-0-	-0-	25,186	10,598	14,588
St. Mary's	-0-	-0-	-0-	-0-	-0-	63,704	50,963	50,963	7,000	43,963
Unalaska	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,364	-0-
Valdez	1,577,590	-0-	-0-	4,121	2,061	67,223	53,778	1,633,429	28,963	1,604,466
Wrangell	22,409	52,100	41,686	-0-	-0-	-0-	-0-	64,095	18,834	45,261
Yakutat	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,165	-0-
	35,408,762	4,034,774	3,227,819	446,534	223,269	1,679,881	1,343,904	40,203,754	2,003,200	38,380,174

7/1/81

STATE OF ALASKA
Department of Education
Chapter 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
FY 1979-80

District	100% Debt Service 1977-78	Credit for Cash Payment Prior to FY72	50% of Cash Payment Prior to FY72	Cash Payment 1977-78	80% of 1977-78 Cash Payment	Debt Service @100% Plus Cash Payment	Cigarette Tax 1977-78	Total Entitlement	Actual Payment Prorated @ 78.1263%
Anchorage	11,937,028	18,355	9,177	1,847,090	1,477,672	13,423,877	957,931	12,465,946	9,739,183
Bristol Bay	89,995	15,914	7,957	-0-	-0-	97,912	12,581	85,331	66,668
Cordova	123,171	-0-	-0-	-0-	-0-	123,171	21,063	102,108	79,775
Dillingham	-0-	-0-	-0-	105,000	84,000	84,000	16,766	67,234	52,529
Fairbanks	3,729,102	304,684	152,342	172,972	138,378	4,019,822	243,812	3,776,010	2,950,058
Galena	-0-	-0-	-0-	10,184	8,147	8,147	8,900	-0-	-0-
Haines	98,497	-0-	-0-	-0-	-0-	98,497	18,778	79,719	62,283
Juneau	955,679	-0-	-0-	409,474	327,579	1,283,258	123,502	1,159,756	906,075
Kake	-0-	-0-	-0-	41,130	32,904	32,904	10,067	22,837	17,844
Kenai	2,482,776	458,533	229,266	1,208,356	966,685	3,678,727	155,772	3,522,955	2,752,355
Ketchikan	609,012	-0-	-0-	96,959	77,567	686,579	79,297	607,282	474,448
King Cove	-0-	-0-	-0-	83,460	66,768	66,768	8,291	58,477	45,688
Kodiak	415,125	16,212	8,106	56,570	45,261	468,492	61,969	406,523	317,602
Matanuska-Susitna	2,507,513	1,753	876	215,118	172,094	2,680,483	102,808	2,577,675	2,013,843
Nenana	21,180	2,676	1,438	11,762	9,409	32,027	10,819	21,208	16,571
Nome	-0-	-0-	-0-	37,475	29,980	29,980	29,694	286	225
North Slope	3,098,000	-0-	-0-	-0-	-0-	3,098,000	44,783	3,053,217	2,385,366
Petersburg	344,680	42,470	21,235	-0-	-0-	365,915	21,970	343,945	268,712
Sitka	428,415	924	462	215,576	172,460	601,337	50,515	550,822	430,338
Skagway	29,203	-0-	-0-	-0-	-0-	29,203	10,387	18,816	14,702
Valdez	1,912,425	4,342	2,171	20,237	16,190	1,930,786	30,981	1,899,805	1,484,248
Wrangell	23,537	-0-	-0-	-0-	-0-	23,537	20,356	3,181	2,487
TOTAL	28,805,298	866,063	433,030	4,531,369	3,625,094	32,863,422	2,041,042	30,823,133	24,081,000

State of Alaska
Department of Education
Chapt. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1978-79

1-29-79

	100% of Debt Service 1976-77	Credit for Cash Payment Prior to FY72	50% of Cash Payment Prior to FY72	Cash Payment 1976-77	80% of 1976-77 Cash Payment	Debt Service @ 100% Plus Cash Payment	Cigarette Tax 1976-77	Total Entitlement	Actual Payment Prorated @ 79.9238%
Anchorage	11,969,389	19,338	9,669	1,942,254	1,553,803	13,532,861	1,090,725	12,442,136	9,944,227
Bristol Bay	149,585	16,723	8,361	--	--	157,946	13,180	144,766	115,702
Cordova	122,825	--	--	16,020	12,816	135,641	24,469	111,172	88,853
Fairbanks	3,959,632	321,065	160,532	573,180	458,544	4,578,708	295,209	4,283,499	3,423,535
Galena	--	--	--	76,812	61,449	61,449	9,560	51,889	41,471
Haines	95,948	--	--	--	--	95,948	21,902	74,046	59,180
Juneau	985,298	--	--	435,214	348,171	1,333,469	142,967	1,190,502	951,494
Kake	--	--	--	45,072	36,057	36,057	10,751	25,306	20,225
Kenai	2,300,759	483,758	241,879	1,624,771	1,299,817	3,842,455	169,044	3,673,411	2,935,928
Ketchikan	650,498	--	--	--	--	650,498	92,628	557,870	445,87[illegible]
Kodiak	419,413	17,036	8,518	1,097	877	428,808	73,508	355,300	283,96[illegible]
Mat-Su	2,085,979	1,842	921	189,120	151,296	2,238,196	108,207	2,129,989	1,702,369
Nenana	21,540	3,022	1,511	11,329	9,063	32,114	10,038	22,076	17,643
North Slope	1,828,748	--	--	--	--	1,828,748	42,576	1,786,172	1,427,575
Petersburg	343,855	44,629	22,314	--	--	366,169	25,602	340,567	272,194
Sitka	410,390	971	485	94,214	75,371	486,246	61,516	424,730	339,460
Skagway	26,784	--	--	--	--	26,784	11,592	15,192	12,142
St. Mary's	--	--	--	128,448	102,758	102,758	6,968	95,790	76,559
Unalaska	--	--	--	12,248	9,798	9,798	8,418	1,380	1,102
Valdez	135,188	4,563	2,281	27,832	22,265	159,734	30,856	128,878	103,004
Wrangell	24,651	--	--	15,000	12,000	36,651	23,140	13,511	10,798
Totals	25,530,482	912,947	456,471	5,192,611	37,254,085	30,141,038	2,272,856	27,868,182	22,273,300

State of Alaska
Department of Education
Chapt. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1977-78

1-17-78

	Debt Service 1975-76	Cash Payment 1975-76	Credit for Cash Payment Prior to FY72	Total Debt Service	Debt Service @ 50%/75%	Cigarette Tax 1975-76	Entitlement	Advance Payment 10-5-77	Final Payment
Anchorage	12,016,750	533,000	20,322	12,570,072	116,131* 6,285,036	802,369	5,598,798	2,799,399	2,799,399
Bristol Bay	156,258	-	29,016	185,274	92,637	10,913	81,724	40,862	40,862
Cordova	126,128	22,870	-	148,998	74,499	18,791	55,708	44,177	11,531
Fairbanks	1,851,910	-	339,528	2,191,438	1,095,719	216,979	878,740	439,370	439,370
Galena	-	189,681	-	189,681	94,840	8,123	86,717+10/00	47,787	38,930
Haines	98,397	-	-	98,397	49,198	16,923	32,275	16,137	16,138
Juneau	934,232	337,782	-	1,272,014	636,007	109,009	[5,616]** 526,998	249,746	271,636
Kake	-	50,000	-	50,000	12,500* 25,000	8,688	28,812	14,406	14,406
Kenai	1,847,998	1,081,110	508,982	3,438,090	14,708* 1,719,045	128,264	1,605,489	802,744	802,745
Ketchikan	609,395	65,729	-	675,124	337,562	74,672	262,890	165,144	97,746
Kodiak	418,325	30,473	17,861	466,659	233,329	59,628	173,701	86,850	86,851
Mat-Su	1,892,447	71,537	1,931	1,965,915	982,957	77,029	905,928	469,734	436,194
Nenana	21,900	11,329	3,168	36,397	18,198	9,226	8,972	4,638	4,334
North Slope	1,428,450	201,968	-	1,630,418	815,209	27,724	787,485	393,742	393,743
Petersburg	124,250	-	46,788	171,038	85,519	20,646	64,873	32,436	32,437
Sitka	412,414	118,964	1,018	532,396	26,438* 5,350* 266,198	49,573	248,413	110,987	137,426
Skagway	27,821	-	-	27,821	13,910	10,128	3,782	1,891	1,891
St. Mary's	-	110,318	-	110,318	55,159	6,280	48,879	24,439	24,440
Valdez	-	58,125	4,784	62,909	31,454	17,718	13,736	-	13,736
Wrangell	25,856	4,605	-	30,461	15,230	19,908	-	-	-
Totals	21,992,531	2,887,491	973,398	25,853,420			11,408,304	5,744,489	5,663,815

* 25% additional for Vocational Education Construction

** Title III, NDEA Federal Funds

State of Alaska
Department of Education
Chapter 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
FY 1976-77

	Debt Service 1974-75	Credit for Cash Payments Prior to FY 72	Cash Payments 1974-75	Total Debt Service	Debt Service @50/75%	Cigarette Tax 1974-75	Entitlemen
Anchorage	12,010,341	21,305	477,398	12,509,044	6,254,522	820,018	5,43
Bristol Bay	157,450	30,475	1,293	189,218	94,609	11,410	
Cordova	128,645	--	10,339	138,984	69,492	18,294	
Dillingham	--	--	76,686	76,686	38,343	15,312	
Fairbanks	1,248,701	353,823	42,617	1,645,141	822,570	210,199	
Galena	--	--	4,795	4,795	2,397	7,782	
Haines	95,498	--	--	95,498	47,749	17,143	
Hoonah	18,000	--	--	18,000	9,000	12,910	
Juneau	896,040	--	359,896	1,255,936	627,968	112,879	
					15,390 *		
Kenai	1,167,614	533,926	2,150,293	3,851,833	1,925,916	133,193	
Ketchikan	612,075	--	185,093	797,168	398,854	78,231	
Klawock	30,802	--	--	30,802	15,401	5,057	
Kodiak	330,070	18,685	130,485	479,240	239,620	63,835	
Mat-Su	1,118,342	2,020	116,848	1,237,210	618,605	75,054	
Nenana	21,200	3,314	31,199	55,713	27,856	8,939	
Nome	--	--	74,493	74,493	37,246	25,590	
North Slope	--	--	146,985	146,985	73,492	11,859	
Petersburg	134,394	48,948	--	183,342	91,671	21,975	
					5,330 *		
Sitka	365,392	1,065	70,736	437,193	218,596	51,002	
Skagway	28,858	--	--	28,858	14,429	9,353	
Unalaska	--	--	53,907	53,907	26,953	7,048	
					6,886 *		
Valdez	--	5,005	123,154	128,159	64,079	13,231	
Wrangell	26,960	--	37,899	64,859	32,429	19,907	
					25,724 *		
Yakutat	6,000	--	96,895	102,895	51,447	8,042	
Total	18,396,382	1,018,566	4,191,011	23,605,959			

* 25% added for Voc. Ed. Construction.

State of Alaska
Department of Education
Chapt. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1975-76

	Debt Service 1973-74	Credit for Cash Payments Prior to FY 72	Total Debt Service	Debt Service @50/75%	Cigarette Tax 1973-74	Entitlement	Jan '76 Advance Payment	Entitlement Prorated @ 95.3279%	Net Final Payment
nchorage	11,274,905	22,288	11,297,193	5,648,596	770,776	4,877,820	2,439,156	4,649,923	2,210,767
ristol Bay	178,165	31,934	210,099	105,049	13,176	91,873	45,936	87,580	41,644
ordova	100,087	-	100,087	50,043	18,299	31,744	15,872	30,260	14,388
raig	10,899	-	10,899	5,449	8,235	-	-	-	-
illingham	355	-	355	177	19,326	-	-	-	-
airbanks	2,215,399	370,203	2,585,602	1,292,801	202,606	1,090,195	545,097	1,039,264	494,167
aines	72,828	-	72,828	36,414	15,707	20,707	10,353	19,739	9,386
oonah	18,450	-	18,450	9,225	12,839	-	-	-	-
ydaburg	4,854	-	4,854	2,427	4,854	-	-	-	-
uneau	1,229,780	-	1,229,780	614,890	111,314	503,576	251,788	480,048	228,260
				16,077 *					
enai	2,316,598	559,162	2,875,760	1,437,880	120,609	1,333,348	666,674	1,271,054	604,380
etchikan	574,372	-	574,372	287,186	76,691	210,495	105,247	200,660	95,413
lawock	47,426	-	47,426	23,713	5,001	18,712	9,356	17,837	8,481
odiak	558,340	19,509	577,849	288,924	62,659	226,265	113,132	215,693	102,561
t-Sus.	1,184,910	2,000	1,186,910	593,455	70,394	523,061	261,530	498,623	237,093
enana	47,951	3,500	51,451	25,725	9,952	15,773	7,886	15,036	7,150
ome	148,245	-	148,245	74,122	25,590	48,532	24,266	46,264	21,998
etersburg	132,888	51,250	184,138	92,069	21,880	70,189	35,094	66,909	31,815
				6,000 *					
itka	332,230	1,050	333,280	166,640	48,373	124,267	62,133	118,461	56,328
agway	29,894	-	29,894	14,947	9,679	5,268	2,634	5,021	2,387
rangell	29,280	-	29,280	14,640	20,387	-	-	-	-
				19,278 *					
kutat	77,111	-	77,111	38,555	7,346	50,487	45,383	48,128	2,745
TALS	20,584,967	1,060,896	21,645,863			9,242,312	4,641,537	8,810,500	4,168,963

25% added for Voc. Ed. Construction.

State of Alaska
Department of Education
Chapt. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1974-75

3/12/75

	Debt Service 1972-73	Credit for Cash Paymts. Prior to FY 73	Cash Payments 1972-73	Total Debt Service	Debt Service @50/75%	Cigarette Tax 1972-73	Entitlement	Dec '75 Advance Payment	Final Entitlement Prorated @97.0299%
Anchorage	8,980,767	23,271	20,910	9,024,948	4,512,474	730,430	3,782,044	1,891,022	1,778,692
Bristol Bay	155,066	33,393	49,973	238,432	119,216	11,721	107,495	53,747	50,555
Cordova	69,971	--	--	69,971	34,985	17,595	17,390	8,695	8,178
					6,770 *				
Dillingham	--	--	108,317	108,317	54,158	14,884	46,044	23,022	21,654
Fairbanks	1,034,505	386,582	1,213,991	2,635,078	1,317,539	206,622	1,110,917	555,458	522,464
Haines	51,349	--	--	51,349	25,674	15,264	10,410	5,205	4,896
Juneau	874,944	--	295,842	1,170,786	585,393	100,779	484,614	219,757	250,463
					16,754 *				
Kenai	1,293,712	585,658	139,265	2,018,635	1,009,317	127,688	898,383	449,196	422,504
Ketchikan	765,624	--	--	765,624	382,812	73,472	309,340	154,670	145,482
Kodiak	182,050	20,334	392,122	594,506	297,253	67,427	229,826	114,913	108,087
Mat-Su	877,766	2,198	144,345	1,024,309	512,154	66,075	446,079	223,039	209,791
Nenana	21,800	3,607	33,858	59,265	29,632	10,200	19,432	9,716	9,139
Petersburg	136,231	53,265	14,828	204,324	102,162	21,201	80,961	40,480	38,076
					8,101 *				
Sitka	283,921	1,159	--	285,080	142,540	49,031	101,610	50,805	47,787
Skagway	30,700	--	--	30,700	15,350	9,365	5,985	2,992	2,815
TOTALS	14,758,406	1,109,467	2,413,451	18,281,324	9,172,284	1,521,754	7,650,530	3,802,717	3,620,583

@ 97.0299 =
7,423,300.

*25% added for Voc. Ed. Construction.

State of Alaska
Department of Education
CHAPT. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1973-74

5/16/74

	Debt Service 1971-72	Credit for Cash Paymts. Prior to FY-71	Cash Payments 1971-72	Total Debt Service	Debt Service @ 50/75%	Cigarette Tax 1971-72	Entitlement	Final Entitlement Prorated @ 81.3074%
Anchorage	7,665,050	24,255	38,136	7,727,441	3,863,720	682,987	3,180,733	2,586,171
Bristol Bay	91,538	34,853	226,435	352,826	176,413	11,122	165,291	134,394
Cordova	71,591	--	--	71,591	35,795	16,068	19,727	16,040
Dillingham	--	--	129,750	129,750	8,109* 64,875	13,186	59,798	48,621
Fairbanks	1,072,120	402,962	603,147	2,078,229	1,039,115	199,248	839,867	682,874
Juneau	669,073	--	412,940	1,082,813	541,406	94,431	446,975	363,424
Kenai	1,211,319	609,883	819,933	2,641,135	17,437* 1,320,567	124,958	1,213,046	986,297
Ketchikan	718,618	--	--	718,618	359,309	67,939	291,370	236,906
Kodiak	96,694	21,158	427,647	545,499	272,750	65,416	207,334	168,578
Mat-Su	884,032	2,287	100,864	987,183	493,591	58,951	434,640	353,395
Menana	22,100	3,753	20,362	46,215	23,107	9,911	13,196	10,730
Petersburg	124,100	55,426	15,411	194,937	97,468	19,633	77,835	63,286
Sitka	284,476	1,204	--	285,680	6,042* 142,840	46,136	102,746	83,540
Skagway	31,465	--	--	31,465	15,732	8,952	6,780	5,513
Valdez	--	5,667	48,178	53,845	26,422	11,380	15,042	12,231
Wrangell	22,350	--	--	22,350	11,175	17,751	--	--
	12,964,526	1,161,448	2,842,803	16,969,577	8,515,873	1,448,069	7,074,380	5,752,000

*25% added for Voc. Ed. facilities.

State of Alaska
Department of Education
CHAPT. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
Final Payment FY -73

4/19/73

	Debt Service 1970-71	Credit for Cash Paymts.	Total Debt Service	Debt Service @ 50/75%	Cigarette Tax 1970-71	FY-73 Entitlement	Prorated Entitlement @ 96.4939%	Advance Payment	Balance of Entitlement Paymt.
Anchorage	4,788,358	25,238	4,813,596	2,406,798	648,480	1,758,318	1,696,669	637,500	1,059,169
Bristol Bay	91,535	35,312	127,847	63,923	10,554	53,369	51,498	23,762	27,736
Cordova	68,325	---	68,325	34,163	15,475	18,688	18,033	5,178	12,855
Fairbanks	1,111,367	419,343	1,530,710	765,355	190,598	574,757	554,605	235,404	319,201
Juneau	717,714	---	717,714	358,857	90,038	268,819	259,394	109,703	149,691
Kenai	686,093	635,107	1,321,200	(18,119* (660,600	118,923	559,796	540,169	247,149	293,020
Ketchikan	514,992	---	514,992	257,496	66,447	191,049	184,351	78,166	106,185
Kodiak	96,939	21,982	118,921	59,461	50,692	8,769	8,462	---	8,462
Mat-Su	84,119	2,376	86,495	43,248	50,516	----	---	---	---
Nenana	22,400	3,899	26,299	13,150	9,063	4,087	3,944	---	3,944
Petersburg	105,600	57,586	164,186	82,093	18,722	63,371	61,149	26,549	34,600
Sitka	238,706	1,252	239,958	119,979	46,155	73,824	71,236	25,382	45,854
Skagway	17,660	---	17,660	8,830	8,322	508	490	---	490
Valdez	---	5,888	5,888	2,944	10,823	----	---	---	---
Wrangell	22,238	---	22,238	11,119	17,373	----	---	---	---
	8,567,046	1,208,983	9,776,029	4,906,135	1,352,180	3,575,355	3,450,000	1,388,793	2,061,207

*25% Credit for Voc. Ed. Construction

State of Alaska
Department of Education
CHAPT. 249, STATE AID FOR RETIREMENT
OF SCHOOL CONSTRUCTION DEBT
Advance Payment on FY-73 Entitlement

3/8/73

Dist.	Debt Service 1970-71	Cigarette Tax 1970-71	Net Debt Service	Credit for Cash Payments	Total	Debt Service @ 50/75%	Cigarette Tax 1971-72	Entitlement	Advance Payment
Anchorage	4,788,358	648,480	4,139,878.	25,238	4,165,116	2,082,558	682,987	1,399,571	637,500
Bristol Bay	91,535	10,554	80,981	36,312	117,293	58,646	11,122	47,524	23,762
Cordova	68,325	15,475	52,850	----	52,850	26,425	16,068	10,357	5,178
Fairbanks	1,111,367	190,598	920,769	419,343	1,340,112	670,056	199,248	470,808	235,404
Juneau	717,714	90,038	627,676	----	627,676	313,838	94,431	219,407	109,703
Kenai	686,093	118,923	567,170	635,107	1,202,277	18,119* 601,138	124,958	494,299	247,149
Ketchikan	514,992	66,447	448,545	----	448,545	224,272	67,939	156,333	78,166
Kodiak	96,939	50,692	46,247	21,982	68,229	34,114	65,416	-----	-----
Mat-Su	84,119	50,516	33,603	2,376	35,979	17,989	58,951	-----	-----
Nenana	22,400	9,063	13,337	3,899	17,236	8,618	9,911	-----	-----
Petersburg	106,600	18,722	87,878	57,586	145,464	72,732	19,633	53,099	26,549
Sitka	238,706	46,155	192,551	1,252	193,803	96,901	46,136	50,765	25,382
Skagway	17,660	8,322	9,338	-----	9,338	4,669	8,952	-----	-----
Valdez	-----	10,823	(10,823)	5,888	-----	-----	11,380	-----	-----
Wrangell	22,238	17,372	4,866	-----	4,866	2,433	17,751	-----	-----
Totals	8,567,046	1,352,180	7,214,866	1,208,983	8,428,784	4,232,508	1,434,883	2,902,163	1,388,793

*25% Credit for Voc. Ed. Construction.

State of Alaska
Department of Education
CHAPT. 249, STATE AID FOR RETIREMENT
OF SCHOOL CONSTRUCTION DEBT

6/21/72
Supersedes recap
dated 2/[illegible]/72

Dist.	Debt Service 1969-70	Cig. Tax Incl. in Debt Serv.	Net Debt Serv.	1968-69 Cash Payments	1969-70 Cash Payments	1/10 of 68-69 Cash @ 6% Int.	1/10th of 69-70 Cash @ 6% Int.	Debt Service @ 50%	Cig. Tax FY-71	FY-72 Entitlement
Anch.	4,302,729	568,375	3,734,354	--	163,888	--	26,221	1,880,287	[illegible]	[illegible]
Br. Bay	88,200	9,501	78,699	--	--	--	--	39,349	10,554	[illegible]
Cordova	69,847	14,916	54,931	--	--	--	--	27,465	15,47[illegible]	[illegible]
Fairbanks	1,150,643	158,695	991,948	1,139,311	868,862	176,889	139,018	653,927	190,5[illegible]	[illegible]3.3
Juneau	736,219	85,530	650,689	--	--	--	--	325,344	90,033	[illegible]
Kenai	452,605	105,278	347,327	2,572,776	1,113,539	396,208	178,166	460,851	118,[illegible]23	[illegible]
Ketchikan	241,918	62,484	179,434	--	--	--	--	89,717	65,447	[illegible]
Kodiak	106,562	49,058	57,504	--	--	--	--	28,752	50,682	--
Mat-Su	111,781	44,256	67,525	--	--	--	--	33,762	50,516	--
Nenana	22,550	8,630	13,920	--	--	--	--	6,960	9,610	--
Petersburg	103,969	7,963	96,006	--	--	--	--	48,003	18,722	29,2[illegible]
Sitka	157,259	43,951	113,316	--	--	--	--	56,658	46,155	10,[illegible]
Skagway	8,850	32,500	--	--	--	--	--	--	8,322	--
								3,651,075	1,324,522	2,376,[illegible]
					1966-67 Cash Payment		1/10 of 1966-67 Cash @ 6% Int.			
Bristol Bay					108,373		15,383.89	7,692	---	7,692
								3,658,767	1,324,522	2,[illegible]

June 1971

DEBT SERVICE WITHOUT CREDIT FOR CASH

PAYMENTS

District	Debt Service Payments	Cash Payments	Cigarette Tax	Net Payment	50% Entitlement	Prorata Entitlement	Payment	Over Payment
Anchorage	3,406,517		590,475	2,816,042	1,408,021	1,035,164	1,036,535	1,371
Bristol Bay	79,363		11,246	68,117	34,059	25,040	25,073	33
Cordova	72,119		16,533	55,586	27,793	20,433	20,461	28
Fairbanks	1,061,792		173,611	888,181	444,091	326,491	324,535	1,956
Juneau	650,842		94,415	556,427	278,214	204,540	204,812	272
Kenai	203,982		101,349	102,633	51,317	37,728	37,778	50
Ketchikan	232,939		70,132	162,807	81,404	59,847	59,927	80
Kodiak	109,068		54,520	54,568	27,284	20,059	20,086	27
Mat-Su	113,778		51,451	62,327	31,164	22,911	22,942	31
Nenana	23,500		9,401	14,099	7,050	5,183	5,190	7
Petersburg	80,206		20,163	60,043	30,022	22,072	22,101	29
Sitka	103,978		48,122	55,856	27,928	20,532	20,560	28
TOTAL					2,448,347	1,800,000	1,800,000	3,913

Additional amounts paid - credit for cash payments

		Annual Pay.	Interest	Total	50% Entitlement
Fairbanks	900,000	90,000	54,000	144,000	72,000
Kenai	2,572,776	257,278	154,366	411,644	205,822
Total					277,822

STATE OF ALASKA
DEPARTMENT OF EDUCATION

Chapter 249 Debt Service Payments 1970

[illegible]	Debt Service Payments	Cigarette Tax	Net Payments	50% Entitlements	1st Payment	Final Payment	Total Payments	Balance Entitlement
[illegible]	3406503	590475	2816033	1408017	709121	327414	1036535	371482
[illegible]	79263	11246	68117	34059	17030	8043	25073	8986
[illegible]	[illegible]	16533	55586	27793	13897	6564	20461	7332
[illegible]	[illegible]	173611	881691	440845	220423	104112	324535	116310
[illegible]	650842	94415	556427	278214	139107	65705	204812	73402
[illegible]	[illegible]	101349	102633	51317	25659	12119	37778	13539
[illegible]	[illegible]	70132	162807	81404	40702	19225	59927	21477
[illegible]	[illegible]	54520	54568	27284	13642	6444	20086	7198
[illegible]	[illegible]	51451	62327	31164	15582	7360	22942	8222
[illegible]	[illegible]	9401	14099	7050	-	5190	5190	1860
[illegible]	[illegible]	20163	60043	30122	16741	5360	22101	8021
[illegible]	[illegible]	48122	55856	27928	13964	6596	20560	7368
[illegible]	[illegible]	1241418	4890187	2445197	1225868	574132	1800000	645197

RECEIVED
FEB 2, 1983
LEGISLATIVE FINANCE

Room 114

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE Revised 1/27/83

I. REQUEST
Bill/Resolution No. HB-43
Title An Act...
Requested by House HESS Date 1/27/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary & Secondary Education
BRU, Program, Or Subprogram(s) Affected Debt Retirement Local
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		5,044.1	5,336.0	5,845.5		

FUNDING (Thousands of Dollars)

GENERAL FUND		5,044.1	5,336.0	5,845.5		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Assumptions: Any decreases in pre-1981, bond payments will be offset by increases in cash payments and post-1981 bond payments. FY-84 appropriations for cigarette tax will be at the executive budget request level.

IV. DATE 1/27/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2890

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

33-001 (Rev. 12/82)

OMB Reviewed by: Jerry Bryant JMB

Chapter 92/82

Allocation for Debt Retirement (AS. 43.18.100) @ 90%

District	FY-84	FY-85	FY-86	FY-87	FY-88
Anchorage	8201495 -	8109020 -	8715657 -	9461757 -	9494495 -
Mat-Su	2077920 -	2071800 -	2061360 -	2051100 -	2040300 -
North Slope	3952619 -	3952619 -	8175828 -	7575885 -	6966936 -
Juneau	2719528 -	2796998 -	2785388 -	2791851 -	2797200 -
Kodiak	1198800 -	1198800 -	1198800 -	1198800 -	1198800 -
Kenai	11237345 -	11218895 -	11268395 -	11284820 -	11335670 -
Fairbanks	3894075 -	5424075 -	5750100 -	6015375 -	6050025 -
Totals	33295782 -	35372207 -	39955528 -	40179594 -	39883426 -

Sta 92/82

Entitlement for debt retirement (45.43.18100) at 100%

District	FY-84	FY-85	FY-86	FY-87	FY-88
Anchorage	9119433	9676632	9684063	10513063	10549433
Mat-Su	2308800	2302000	2296400	2279000	2267000
North-Slope	4391798	4391799	9084253	8417649	7741640
Juneau	3019475	3107775	3004875	3102063	3105000
Kodiak	1332000	1332000	1332000	1332000	1332000
Kenai	12485938	12465433	12520738	12538688	12595188
Fairbanks	4326750	6026750	6359000	6683750	6722250
Total:	36534199	39302450	44395729	44566213	44314916

	FY 84 No Change		FY 85 No Change	
Pre 12-31-81	45,694.2		45,694.2	
Post 12-31-81	33,285.8 (est)		35,372.2 (est)	
Subtotal	78,980.0		81,066.4	
Less Cigarette Tax	(2,500.0)		(7,000.0)	
TOTAL		76,480.0		74,066.4

	FY 84 This Bill		FY 85 This Bill	
Pre 12-31-81	47,099.9		47,099.9	
Post 12-31-81	36,884.2 (est)		39,302.5 (est)	
Subtotal	83,984.1		86,402.4	
Less Cigarette Tax	(2,500.0)		(7,000.0)	
TOTAL		81,484.1		79,402.4
FY 84 Impact		5,004.1	FY 85 Impact	5,336.0

	FY 86 No Change	
Pre 12-31-81	45,694.2	
Post 12-31-81	39,955.5 (est)	
Subtotal	85,649.7	
Less Cigarette Tax	(2,500.0	
TOTAL		83,149.7

	FY 86 This Bill	
Pre 12-31-81	47,099.9	
Post 12-31-81	44,395.3 (est)	
Subtotal	91,495.2	
Less Cigarette Tax	(2,500.0)	
TOTAL		88,995.2
FY 86 Impact		5,845.5

STATE OF ALASKA
DEPARTMENT OF EDUCATION
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
1982-83

School District	Debt Service at 100% Prior 7-1-77	Debt Service at 90% After 7-1-77	90% of Debt Service	Cash Payments 1980-81	90% of Cash Payment	Debt Service Plus Cash Payment	Less Cig. Tax FY 80-81	Total Entitlement Due	Prorated @82.6919%
Anchorage	10,978,437	1,595,620	1,436,058	319,027	287,124	12,701,619	855,623	11,845,996	9,795,679
Bristol Bay	-0-	320,071	288,064	-0-	-0-	288,064	10,449	277,615	229,565
Cordova	120,528	-0-	-0-	-0-	-0-	120,528	17,693	102,835	85,036
Craig	-0-	-0-	-0-	-0-	-0-	-0-	9,494	-0-	-0-
Dillingham	-0-	-0-	-0-	377,929	340,136	340,136	16,323	323,813	267,767
Fairbanks	4,663,659	-0-	-0-	-0-	-0-	4,663,659	240,689	4,422,970	3,657,437
Galena	-0-	-0-	-0-	58,766	52,889	52,889	9,420	43,469	35,945
Haines	95,106	-0-	-0-	-0-	-0-	95,106	16,561	78,545	64,950
Hoonah	-0-	-0-	-0-	-0-	-0-	-0-	11,480	-0-	-0-
Hydaburg	-0-	-0-	-0-	-0-	-0-	-0-	6,451	-0-	-0-
Juneau	774,901	-0-	-0-	-0-	-0-	774,901	108,394	666,507	551,147
Kake	-0-	-0-	-0-	-0-	-0-	-0-	10,047	-0-	-0-
Kenai	2,550,949	2,604,449	2,344,004	923,757	831,381	5,726,334	164,826	5,561,508	4,598,916
Ketchikan	521,722	-0-	-0-	218,513	196,662	718,384	71,198	647,186	535,169
King cove	-0-	-0-	-0-	-0-	-0-	-0-	8,174	-0-	-0-
Klawock	-0-	-0-	-0-	-0-	-0-	-0-	5,793	-0-	-0-
Kodiak	433,521	-0-	-0-	99,863	89,877	523,398	65,784	457,614	378,409
Mat-Su	2,783,850	1,577,127	1,419,414	-0-	-0-	4,203,264	125,290	4,077,974	3,372,154
Nenana	21,980	-0-	-0-	-0-	-0-	21,980	10,547	11,433	9,454
Nome	-0-	-0-	-0-	60,000	54,000	54,000	28,441	25,559	21,135
North Slope	7,656,975	3,508,038	3,157,234	-0-	-0-	10,814,209	47,123	10,767,086	8,903,507
Pelican	-0-	-0-	-0-	-0-	-0-	-0-	4,779	-0-	-0-
Petersburg	495,114	-0-	-0-	142,089	127,880	622,994	20,322	602,672	498,360
Sand Point	-0-	-0-	-0-	-0-	-0-	-0-	7,684	-0-	-0-
Sitka	436,950	-0-	-0-	388,560	349,704	786,654	50,873	735,781	608,431
Skagway	34,906	-0-	-0-	-0-	-0-	34,906	9,164	25,742	21,286
St. Mary's	-0-	-0-	-0-	-0-	-0-	-0-	8,424	-0-	-0-
Tanana	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Unalaska	-0-	-0-	-0-	-0-	-0-	-0-	9,145	-0-	-0-
Valdez	1,474,175	1,670,546	1,503,491	94,574	85,117	3,062,783	27,425	3,035,358	2,509,995
Wrangell	-0-	98,233	88,410	-0-	-0-	88,410	17,111	71,299	58,958
Yakutat	-0-	-0-	-0-	-0-	-0-	-0-	8,473	-0-	-0-
TOTALS	33,042,773	11,374,084	10,236,675	2,683,078	2,414,770	45,694,218	2,003,200	43,780,962	36,203,300

pd. 12/9/82

STATE OF ALASKA
Department of Education
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
1981-82

School District	Debt Service at 100% Prior 7-1-77	Debt Service at 80% After 7-1-77	80% Debt Service	Credit for Cash Pymt. Prior FY 72	50% Cash Pmt. Prior FY 79	Cash Pymt. 1979-80	80% of Cash Pymt. 1979-80	Debt Svc. Plus Cash Pymt.	Less Cig Tax 1979-80	Total Entitlements Paid
Anchorage	9,763,865	1,050,347	840,278	-0-	-0-	225,045	180,036	10,784,179	869,367	9,914,812
Bristol Bay	21,551	-0-	-0-	14,298	7,149	-0-	-0-	28,700	10,667	18,033
Cordova	125,298	-0-	-0-	-0-	-0-	-0-	-0-	125,298	17,704	107,594
Craig	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	9,615	-0-
Dillingham	-0-	-0-	-0-	-0-	-0-	90,856	72,685	72,685	16,441	56,244
Fairbanks	4,464,576	-0-	-0-	76,508	38,254	-0-	-0-	4,502,830	238,191	4,264,639
Galena	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,861	-0-
Haines	92,097	-0-	-0-	-0-	-0-	-0-	-0-	92,097	16,082	76,815
Hoonah	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	11,940	-0-
Hydaburg	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	7,234	-0-
Juneau	831,696	-0-	-0-	-0-	-0-	-0-	-0-	831,696	115,566	716,130
Kake	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	10,243	-0-
Kenai	2,518,184	2,620,400	2,102,726	54,807	27,444	1,022,364	817,891	5,466,245	161,198	5,305,047
Ketchikan	603,752	-0-	-0-	-0-	-0-	372,438	297,950	901,702	72,149	829,553
King Cove	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	7,904	-0-
Klawock	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	5,517	-0-
Kodiak	434,737	-0-	-0-	14,563	7,282	318,197	254,558	696,577	62,086	634,491
Mat-Su	2,127,263	2,341,895	1,873,516	1,496	748	-0-	-0-	4,001,527	115,431	3,886,096
Nenana	21,400	-0-	-0-	2,583	1,292	-0-	-0-	22,692	10,172	12,520
Nome	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	28,100	-0-
North Slope	8,041,575	1,502,020	1,201,622	-0-	-0-	-0-	-0-	9,243,197	45,473	9,197,724
Pelican	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	4,535	-0-
Petersburg	493,243	-0-	-0-	38,158	19,075	-0-	-0-	512,318	20,623	491,695
Sand Point	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,081	-0-
Sitka	437,106	-0-	-0-	830	415	338,835	271,068	708,589	50,831	657,758
Skagway	26,050	-0-	-0-	-0-	-0-	-0-	-0-	26,050	9,831	16,219
St. Marys	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,486	-0-
Unalaska	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,203	-0-
Valdez	1,528,025	577,771	462,217	3,901	1,951	36,670	29,336	2,021,529	27,598	1,993,931
Wrangell	21,291	98,233	78,586	-0-	-0-	-0-	-0-	99,877	17,022	82,855
Yakutat	-0	-0-	-0-	-0-		-0-	-0-	-0-	8,049	-0-
TOTALS	31,552,509	8,190,682	6,558,945	207,216	103,610	2,404,405	1,923,524	40,130,588	2,003,200	38,262,156

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STATE OF ALASKA
Department of Education
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
FY 1980-81

School District	Debt Service at 100% Prior 7-1-77	Debt Service at 80% After 7-1-78	80% Debt Service After 7-1-78	Credit for Cash Pymt. Prior FY 72	50% Cash Pymt. Prior FY 72	Cash Pymt. 1978-79	80% of Cash Pmt. 1978-79	Debt Svc. Plus Cash Pymt.	Less Cig Tax 1978-79	Total Entitlements Paid
Anchorage	11,768,534	568,789	455,031	17,372	8,686	136,112	108,890	12,341,141	894,332	11,446,809
Bristol Bay	86,953	-0-	-0-	15,104	7,552	-0-	-0-	94,505	10,571	83,934
Cordova	119,271	-0-	-0-	-0-	-0-	-0-	-0-	119,271	19,099	100,172
Craig	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,870	-0-
Dillingham	-0-	-0-	-0-	-0-	-0-	51,403	41,122	41,122	15,349	25,773
Fairbanks	4,803,233	-0-	-0-	172,938	86,469	34,635	27,708	4,917,410	234,631	4,682,779
Galena	-0-	-0-	-0-	-0-	-0-	35,416	28,333	28,333	8,742	19,591
Haines	95,698	-0-	-0-	-0-	-0-	-0-	-0-	95,698	16,351	79,347
Hoonah	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	12,648	-0-
Hydaburg	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	6,641	-0-
Juneau	867,413	-0-	-0-	-0-	-0-	-0-	-0-	867,413	116,822	750,591
Kake	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	10,044	-0-
Kenai	2,518,962	2,646,077	2,116,862	176,031	88,016	707,520	566,016	5,289,856	152,261	5,137,595
Ketchikan	[illegible]757	-0-	-0-	-0-	-0-	129,823	103,858	705,615	72,615	633,000
King Cove	-0-	-0-	-0-	-0-	-0-	1,937	1,550	1,550	8,032	-0-
Klawock	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	5,250	-0-
Kodiak	441,226	-0-	-0-	15,388	7,694	282,793	226,234	675,154	59,046	616,108
Mat-Su	2,769,211	767,800	614,240	1,663	832	112,691	90,153	3,474,436	107,802	3,366,634
Nenana	21,820	-0-	-0-	2,730	1,365	29,634	23,707	46,892	9,847	37,045
Nome	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	28,617	-0-
North Slope	8,921,475	-0-	-0-	-0-	-0-	-0-	-0-	8,921,475	47,016	8,874,459
Pelican	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	4,539	-0-
Petersburg	417,846	-0-	-0-	40,310	20,155	-0-	-0-	438,001	20,803	417,198
Sand Point	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Sitka	430,178	-0-	-0-	877	439	26,990	21,592	452,209	51,348	400,861
Skagway	25,186	-0-	-0-	-0-	-0-	-0-	-0-	25,186	10,598	14,588
St. Mary's	-0-	-0-	-0-	-0-	-0-	63,704	50,963	50,963	7,000	43,963
Unalaska	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,364	-0-
Valdez	1,577,590	-0-	-0-	4,121	2,061	67,223	53,778	1,633,429	28,963	1,604,466
Wrangell	22,409	52,108	41,686	-0-	-0-	-0-	-0-	64,095	18,834	45,261
Yakutat	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	8,165	-0-
	35,488,762	4,034,774	3,227,819	446,534	223,269	1,679,881	1,343,904	40,283,754	2,003,200	38,380,174

7/1/81

STATE OF ALASKA
Department of Education
Chapter 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
FY 197[illegible]80

District	100% Debt Service 1977-78	Credit for Cash Payment Prior to FY72	50% of Cash Payment Prior to FY72	Cash Payment 1977-78	80% of 1977-78 Cash Payment	Debt Service @100% Plus Cash Payment	Cigarette Tax 1977-78	Total Entitlement	Actual Payment Prorated @ 78.1263%
Anchorage	11,937,028	18,355	9,177	1,847,090	1,477,672	13,423,877	957,931	12,465,946	9,739,183
Bristol Bay	89,955	15,914	7,957	-0-	-0-	97,912	12,581	85,331	66,668
Cordova	123,171	-0-	-0-	-0-	-0-	123,171	21,063	102,108	79,775
Dillingham	-0-	-0-	-0-	105,000	84,000	84,000	16,766	67,234	52,529
Fairbanks	3,729,102	304,684	152,342	172,972	138,378	4,019,822	243,812	3,776,010	2,950,058
Galena	-0-	-0-	-0-	10,184	8,147	8,147	8,900	-0-	-0-
Haines	98,497	-0-	-0-	-0-	-0-	98,497	18,778	79,719	62,283
Juneau	955,679	-0-	-0-	409,474	327,579	1,283,258	123,502	1,159,756	906,075
Kake	-0-	-0-	-0-	41,130	32,904	32,904	10,067	22,837	17,844
Kenai	2,482,776	458,533	229,266	1,208,356	966,685	3,678,727	155,772	3,522,955	2,752,355
Ketchikan	609,012	-0-	-0-	96,959	77,567	686,579	79,297	607,282	474,448
King Cove	-0-	-0-	-0-	83,460	66,768	66,768	8,291	58,477	45,698
Kodiak	415,125	16,212	8,106	56,576	45,261	460,492	61,969	406,523	317,607
Matanuska-Susitna	2,507,513	1,753	876	215,118	172,094	2,680,483	102,808	2,577,675	2,013,843
Nenana	21,180	2,876	1,438	11,764	9,409	32,027	10,819	21,208	16,571
Nome	-0-	-0-	-0-	37,475	29,980	29,980	29,694	286	224
North Slope	3,098,000	-0-	-0-	-0-	-0-	3,098,000	44,783	3,053,217	2,385,360
Petersburg	344,680	42,470	21,235	-0-	-0-	365,915	21,970	343,945	268,712
Sitka	428,415	924	462	215,576	172,460	601,337	50,515	550,822	430,338
Skagway	29,203	-0-	-0-	-0-	-0-	29,203	10,387	18,816	14,702
Valdez	1,912,425	4,342	2,171	20,237	16,190	1,930,786	30,981	1,899,805	1,484,248
Wrangell	23,537	-0-	-0-	-0-	-0-	23,537	20,356	3,181	2,487
TOTAL	28,805,298	866,063	433,030	4,531,369	3,625,094	32,863,422	2,041,042	30,823,133	24,081,000

State of Alaska
Department of Education
Chapt. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1978-79

1-29-79

	100% of Debt Service 1976-77	Credit for Cash Payment Prior to FY72	50% of Cash Payment Prior to FY72	Cash Payment 1976-77	80% of 1976-77 Cash Payment	Debt Service @ 100% Plus Cash Payment	Cigarette Tax 1976-77	Total Entitlement	Actual Payment Prorated @ 79.9238%
Anchorage	11,969,389	19,338	9,669	1,942,254	1,553,803	13,532,861	1,090,725	12,442,136	9,944,227
Bristol Bay	149,585	16,723	8,361	--	--	157,946	13,180	144,766	115,702
Cordova	122,825	--	--	16,020	12,816	135,641	24,469	111,172	88,853
Fairbanks	3,959,632	321,065	160,532	573,180	458,544	4,578,708	295,209	4,283,499	3,423,535
Galena	--	--	--	76,812	61,449	61,449	9,560	51,889	41,471
Haines	95,948	--	--	--	--	95,948	21,902	74,046	59,180
Juneau	985,298	--	--	435,214	348,171	1,333,469	142,967	1,190,502	951,494
Kake	--	--	--	45,072	36,057	36,057	10,751	25,306	20,225
Kenai	2,300,759	483,758	241,879	1,624,771	1,299,817	3,842,455	169,044	3,673,411	2,935,928
Ketchikan	650,498	--	--	--	--	650,498	92,628	557,870	445,870
Kodiak	419,413	17,036	8,518	1,097	877	428,808	73,508	355,300	283,969
Mat-Su	2,085,979	1,842	921	189,120	151,296	2,238,196	108,207	2,129,989	1,702,369
Nenana	21,540	3,022	1,511	11,329	9,063	32,114	10,038	22,076	17,643
North Slope	1,828,748	--	--	--	--	1,828,748	42,576	1,786,172	1,427,575
Petersburg	343,855	44,629	22,314	--	--	366,169	25,602	340,567	272,194
Sitka	410,390	971	485	94,214	75,371	486,246	61,516	424,730	339,460
Skagway	26,784	--	--	--	--	26,784	11,592	15,192	12,142
St. Mary's	--	--	--	128,448	102,758	102,758	6,968	95,790	76,559
Unalaska	--	--	--	12,248	9,798	9,798	8,418	1,380	1,102
Valdez	135,188	4,563	2,281	27,832	22,265	159,734	30,856	128,878	103,004
Wrangell	24,651	--	--	15,000	12,000	36,651	23,140	13,511	10,798
Totals	25,530,482	912,947	456,471	5,192,611	37,254,085	30,141,038	2,272,856	27,868,182	22,273,300

State of Alaska
Department of Education
Chapt. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1977-78

1-17-78

	Debt Service 1975-76	Cash Payment 1975-76	Credit for Cash Payment Prior to FY72	Total Debt Service	Debt Service @ 50%/75%	Cigarette Tax 1975-76	Entitlement	Advance Payment 10-5-77	Final Payment
					116,131*				
Anchorage	12,016,750	533,000	20,322	12,570,072	6,285,036	802,369	5,598,798	2,799,399	2,799,399
Bristol Bay	156,258	-	29,016	185,274	92,637	10,913	81,724	40,862	40,862
Cordova	126,128	22,870	-	148,998	74,499	18,791	55,708	44,177	11,531
Fairbanks	1,851,910	-	339,528	2,191,438	1,095,719	216,979	878,740	439,370	439,370
Galena	-	189,681	-	189,681	94,840	8,123	86,717+10/00	47,787	38,930
Haines	98,397	-	-	98,397	49,198	16,923	32,275	16,137	16,138
Juneau	934,232	337,782	-	1,272,014	636,007	109,009	[5,616]**	249,746	271,636
							526,998		
Kake	-	50,000	-	50,000	12,500*	8,688	28,812	14,406	14,406
					25,000				
Kenai	1,847,998	1,081,110	508,982	3,438,090	14,708*	128,264	1,605,489	802,744	802,745
					1,719,045				
Ketchikan	609,395	65,729	-	675,124	337,562	74,672	262,890	165,144	97,746
Kodiak	418,325	30,473	17,861	466,659	233,329	59,628	173,701	86,850	86,851
Mat-Su	1,892,447	71,537	1,931	1,965,915	982,957	77,029	905,928	469,734	436,194
Nenana	21,900	11,329	3,168	36,397	18,198	9,226	8,972	4,638	4,334
North Slope	1,428,450	201,968	-	1,630,418	815,209	27,724	787,485	393,742	393,743
Petersburg	124,250	-	46,788	171,038	85,519	20,646	64,873	32,436	32,437
Sitka	412,414	118,964	1,018	532,396	26,438*	49,573	248,413	110,987	137,426
					5,350*				
					266,198				
Skagway	27,821	-	-	27,821	13,910	10,128	3,782	1,891	1,891
St. Mary's	-	110,318	-	110,318	55,159	6,280	48,879	24,439	24,440
Valdez	-	58,125	4,784	62,909	31,454	17,718	13,736	-	13,736
Wrangell	25,856	4,605	-	30,461	15,230	19,908	-	-	-
Totals	21,992,531	2,887,491	973,398	25,853,420			11,408,304	5,744,489	5,663,815

* 25% additional for Vocational Education Construction

** Title III, NDEA Federal Funds

State of Alaska
Department of Education
Chapter 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
FY 1976-77

	Debt Service 1974-75	Credit for Cash Payments Prior to FY 72	Cash Payments 1974-75	Total Debt Service	Debt Service @50/75%	Cigarette Tax 1974-75	Entitlement
Anchorage	12,010,341	21,305	477,398	12,509,044	6,254,522	820,018	5,434
Bristol Bay	157,450	30,475	1,293	189,218	94,609	11,410	
Cordova	128,645	--	10,339	138,984	69,492	18,294	
Dillingham	--	--	76,686	76,686	38,343	15,312	
Fairbanks	1,248,701	353,823	42,617	1,645,141	822,570	210,199	
Galena	--	--	4,795	4,795	2,397	7,782	
Haines	95,498	--	--	95,498	47,749	17,143	
Hoonah	18,000	--	--	18,000	9,000	12,910	
Juneau	896,040	--	359,896	1,255,936	627,968	112,879	
					15,390 *		
Kenai	1,167,614	533,926	2,150,293	3,851,833	1,925,916	133,193	
Ketchikan	612,075	--	185,093	797,168	398,854	78,231	
Klawock	30,802	--	--	30,802	15,401	5,057	
Kodiak	330,070	18,685	130,485	479,240	239,620	63,835	
Mat-Su	1,118,342	2,020	116,848	1,237,210	618,605	75,054	
Nenana	21,200	3,314	31,199	55,713	27,856	8,939	
Nome	--	--	74,493	74,493	37,246	25,590	
North Slope	--	--	146,985	146,985	73,492	11,859	
Petersburg	134,394	48,948	--	183,342	91,671	21,975	
					5,330 *		
Sitka	365,392	1,065	70,736	437,193	213,596	51,002	
Skagway	28,858	--	--	28,858	14,429	9,353	
Unalaska	--	--	53,907	53,907	26,953	7,048	
					6,886 *		
Valdez	--	5,005	123,154	128,159	64,079	13,231	
Wrangell	26,960	--	37,899	64,859	32,429	19,907	
					25,724 *		
Yakutat	6,000	--	96,895	102,895	51,447	8,042	
Total	18,396,382	1,018,566	4,191,011	23,605,959			

* 25% added for Voc. Ed. Construction.

State of Alaska
Department of Education
Chapt. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1975-76

	Debt Service 1973-74	Credit for Cash Payments Prior to FY 72	Total Debt Service	Debt Service @50/75%	Cigarette Tax 1973-74	Entitlement	Jan '76 Advance Payment	Entitlement Prorated @ 95.3279%	Net Final Payment
nchorage	11,274,905	22,288	11,297,193	5,648,596	770,776	4,877,820	2,439,156	4,649,923	2,210,767
ristol Bay	178,165	31,934	210,099	105,049	13,176	91,873	45,936	87,580	41,644
ordova	100,087	-	100,087	50,043	18,299	31,744	15,872	30,260	14,388
raig	10,899	-	10,899	5,449	8,235	-	-	-	-
illingham	355	-	355	177	19,326	-	-	-	-
airbanks	2,215,399	370,203	2,585,602	1,292,801	202,606	1,090,195	545,097	1,039,264	494,167
aines	72,828	-	72,828	36,414	15,707	20,707	10,353	19,739	9,386
oonah	18,450	-	18,450	9,225	12,839	-	-	-	-
ydaburg	4,854	-	4,854	2,427	4,854	-	-	-	-
uneau	1,229,780	-	1,229,780	614,890	111,314	503,576	251,788	480,048	228,260
				16,077 *					
enai	2,316,598	559,162	2,875,760	1,437,880	120,609	1,333,348	666,674	1,271,054	604,380
etchikan	574,372	-	574,372	287,186	76,691	210,495	105,247	200,660	95,413
lawock	47,426	-	47,426	23,713	5,001	18,712	9,356	17,837	8,481
odiak	558,340	19,509	577,849	288,924	62,659	226,265	113,132	215,693	102,561
t-Sus.	1,184,910	2,000	1,186,910	593,455	70,394	523,061	261,530	498,623	237,093
enana	47,951	3,500	51,451	25,725	9,952	15,773	7,886	15,036	7,150
ome	148,245	-	148,245	74,122	25,590	48,532	24,266	46,264	21,998
etersburg	132,888	51,250	184,138	92,069	21,880	70,189	35,094	66,909	31,815
				6,000 *					
itka	332,230	1,050	333,280	166,640	48,373	124,267	62,133	118,461	56,328
agway	29,894	-	29,894	14,947	9,679	5,268	2,634	5,021	2,387
rangell	29,280	-	29,280	14,640	20,387	-	-	-	-
				19,278 *					
ukutat	77,111	-	77,111	38,555	7,346	50,487	45,383	48,128	2,745
TALS	20,584,967	1,060,896	21,645,863			9,242,312	4,641,537	8,810,500	4,168,963

25% added for Voc. Ed. Construction.

3/12/75

State of Alaska
Department of Education
Chapt. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1974-75

	Debt Service 1972-73	Credit for Cash Paymts. Prior to FY 72	Cash Payments 1972-73	Total Debt Service	Debt Service @50/75%	Cigarette Tax 1972-73	Entitlement	Dec '75 Advance Payment	Final Entitlement Prorated @97.0299%
Anchorage	8,980,767	23,271	20,910	9,024,948	4,512,474	730,430	3,782,044	1,891,022	1,778,592
Bristol Bay	155,066	33,393	49,973	238,432	119,216	11,721	107,495	53,747	50,555
Cordova	69,971	--	--	69,971	34,985	17,595	17,390	8,695	8,178
					6,770 *				
Dillingham	--	--	108,317	108,317	54,158	14,884	46,044	23,022	21,654
Fairbanks	1,034,505	386,582	1,213,991	2,635,078	1,317,539	206,622	1,110,917	555,458	522,464
Haines	51,349	--	--	51,349	25,674	15,264	10,410	5,205	4,896
Juneau	874,944	--	295,842	1,170,786	585,393	100,779	484,614	219,757	250,463
					16,754 *				
Kenai	1,293,712	585,658	139,265	2,018,635	1,009,317	127,688	898,383	449,196	422,504
Ketchikan	765,624	--	--	765,624	382,812	73,472	309,340	154,670	145,482
Kodiak	182,050	20,334	392,122	594,506	297,253	67,427	229,826	114,913	108,087
Mat-Su	877,766	2,198	144,345	1,024,309	512,154	66,075	446,079	223,039	209,791
Nenana	21,800	3,607	33,858	59,265	29,632	10,200	19,432	9,716	9,139
Petersburg	136,231	53,265	14,828	204,324	102,162	21,201	80,961	40,480	38,076
					8,101 *				
Sitka	283,921	1,159	--	285,080	142,540	49,031	101,610	50,805	47,787
Skagway	30,700	--	--	30,700	15,350	9,365	5,985	2,992	2,815
TOTALS	14,758,406	1,109,467	2,413,451	18,281,324	9,172,284	1,521,754	7,650,530	3,802,717	3,620,583

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*25% added for Voc. Ed. Construction.

State of Alaska
Department of Education
CHAPT. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
FY 1973-74

5/16/74

	Debt Service 1971-72	Credit for Cash Paymts. Prior to FY-71	Cash Payments 1971-72	Total Debt Service	Debt Service @ 50/75%	Cigarette Tax 1971-72	Entitlement	Final Entitlement Prorated @ 81.3074%
Anchorage	7,665,050	24,255	38,136	7,727,441	3,863,720	682,987	3,180,733	2,586,171
Bristol Bay	91,538	34,853	226,435	352,826	176,413	11,122	165,291	134,394
Cordova	71,591	--	--	71,591	35,795	16,068	19,727	16,040
Dillingham	--	--	129,750	129,750	8,109* 64,875	13,186	59,798	48,621
Fairbanks	1,072,120	402,962	603,147	2,078,229	1,039,115	199,248	839,867	682,874
Juneau	669,073	--	412,940	1,082,813	541,406	94,431	446,975	363,424
Kenai	1,211,319	609,883	819,933	2,641,135	17,437* 1,320,567	124,958	1,213,046	986,297
Ketchikan	718,618	--	--	718,618	359,309	67,939	291,370	236,906
Kodiak	96,694	21,158	427,647	545,499	272,750	65,416	207,334	168,578
Mat-Su	884,032	2,287	100,864	987,183	493,591	58,951	434,640	353,395
Nenana	22,100	3,753	20,362	46,215	23,107	9,911	13,196	10,730
Petersburg	124,100	55,426	15,411	194,937	97,468	19,633	77,835	63,286
Sitka	284,476	1,204	--	285,680	6,042* 142,840	46,136	102,746	83,540
Skagway	31,465	--	--	31,465	15,732	8,952	6,780	5,513
Valdez	--	5,667	48,178	53,845	26,422	11,380	15,042	12,231
Wrangell	22,350	--	--	22,350	11,175	17,751	--	--
	12,964,526	1,161,448	2,842,803	16,969,577	8,515,873	1,448,069	7,074,380	5,752,000

*25% added for Voc. Ed. faciljties.

State of Alaska
Department of Education
CHAPT. 249, SLA 1970
STATE AID FOR RETIREMENT OF SCHOOL CONSTR. DEBT
Final Payment FY -73

4/19/73

	Debt Service 1970-71	Credit for Cash Paymts.	Total Debt Service	Debt Service @ 50/75%	Cigarette Tax 1970-71	FY-73 Entitlement	Prorated Entitlement @ 96.4939%	Advance Payment	Balance of Entitlement Paymt.
Anchorage	4,788,358	25,238	4,813,596	2,406,798	648,480	1,758,318	1,696,669	637,500	1,059,169
Bristol Bay	91,535	35,312	127,847	63,923	10,554	53,369	51,498	23,762	27,736
Cordova	68,325	---	68,325	34,163	15,475	18,688	18,033	5,178	12,855
Fairbanks	1,111,367	419,343	1,530,710	765,355	190,598	574,757	554,605	235,404	319,201
Juneau	717,714	---	717,714	358,857	90,038	268,819	259,394	109,703	149,691
Kenai	686,093	635,107	1,321,200	(18,119* (660,600	118,923	559,796	540,169	247,149	293,020
Ketchikan	514,992	---	514,992	257,496	66,447	191,049	184,351	78,165	106,186
Kodiak	96,939	21,982	118,921	59,461	50,692	8,769	8,462	---	8,462
Mat-Su	84,119	2,376	86,495	43,248	0,516	----	---	---	---
Nenana	22,480	3,899	26,299	13,150	9,063	4,087	3,944	---	3,944
Petersburg	105,600	57,586	164,186	82,093	18,722	63,371	61,149	26,549	34,600
Sitka	238,706	1,252	239,958	119,979	46,155	73,824	71,236	25,382	45,854
Skagway	17,660	---	17,660	8,830	8,322	508	490	---	490
Valdez	---	5,888	5,888	2,944	10,823	----	---	---	---
Wrangell	22,238	---	22,238	11,119	17,378	----	---	---	---
	8,567,046	1,208,983	9,776,029	4,906,135	1,352,180	3,575,355	3,450,000	1,388,793	2,061,297

*25% Credit for Voc. Ed. Construction

State of Alaska
Department of Education
CHAPT. 249, STATE AID FOR RETIREMENT
OF SCHOOL CONSTRUCTION DEBT
Advance Payment on FY-73 Entitlement

3/8/73

Dist.	Debt Service 1970-71	Cigarette Tax 1970-71	Net Debt Service	Credit for Cash Payments	Total	Debt Service @ 50/75%	Cigarette Tax 1971-72	Entitlement	Advance Payment
Anchorage	4,788,358	648,480	4,139,878	25,238	4,165,116	2,082,558	682,987	1,399,571	637,500
Bristol Bay	91,535	10,554	80,981	36,312	117,293	58,646	11,122	47,524	23,762
Cordova	68,325	15,475	52,850	----	52,850	26,425	16,068	10,357	5,178
Fairbanks	1,111,367	190,598	920,769	419,343	1,340,112	670,056	199,248	470,808	235,404
Juneau	717,714	90,038	627,676	----	627,676	313,838	94,431	219,407	109,703
Kenai	686,093	118,923	567,170	635,107	1,202,277	18,119* 601,138	124,958	494,299	247,149
Ketchikan	514,992	66,447	448,545	----	448,545	224,272	67,939	156,333	78,166
Kodiak	96,939	50,692	46,247	21,982	68,229	34,114	65,416	-----	-----
Mat-Su	84,119	50,516	33,603	2,376	35,979	17,989	58,951	-----	-----
Nenana	22,400	9,063	13,337	3,899	17,236	8,618	9,911	-----	-----
Petersburg	106,600	18,722	87,878	57,586	145,464	72,732	19,633	53,099	26,549
Sitka	238,706	46,155	192,551	1,252	193,803	96,901	46,136	50,765	25,382
Skagway	17,660	8,322	9,338	-----	9,338	4,669	8,952	-----	-----
Valdez	-----	10,823	(10,823)	5,888	-----	-----	11,380	-----	-----
Wrangell	22,238	17,372	4,866	-----	4,866	2,433	17,751	-----	-----
Totals	8,567,046	1,352,180	7,214,866	1,208,983	8,428,784	4,232,508	1,[illegible],883	2,902,163	1,388,793

*25% Credit for Voc. Ed. Construction.

State of Alaska
Department of Education
CHAPT. 249, STATE AID FOR RETIREMENT
OF SCHOOL CONSTRUCTION DEBT

6/21/72
Supersedes recap
dated 2/8/72

Dist.	Debt Service 1969-70	Cig. Tax Incl. in Debt Serv.	Net Debt Serv.	1968-69 Cash Payments	1969-70 Cash Paymehts	1/10 of 68-69 Cash @ 6% Int.	1/10th of 69-70 Cash @ 6% Int.	Debt Service @ 50%	Cig. Tax FY-71	FY-72 Entitlement
Anch.	4,302,729	568,375	3,734,354	--	163,888	--	26,221	1,880,287	642,469	1,237,818
Br. Bay	88,200	9,501	78,699	--	--	--	--	39,349	10,554	28,795
Cordova	69,847	14,916	54,931	--	--	--	--	27,465	15,475	11,990
Fairbanks	1,150,643	158,695	991,948	1,139,311	868.862	176,889	139,018	653,927	190,598	463.329
Juneau	736,219	85,530	650,689	--	--	--	--	325,344	90,038	235,306
Kenai	452,605	105,278	347,327	2,572,776	1,113,539	396,208	178,166	460,851	118,023	342,828
Ketchikan	241,918	62,484	179,434	--	--	--	--	89,717	66,447	23,270
Kodiak	106,562	49,058	57,504	--	--	--	--	28,752	50,682	--
Mat-Su	111,781	44,256	67,525	--	--	--	--	33,762	50,516	--
Nenana	22,550	8,630	13,920	--	--	--	--	6,960	9,610	--
Petersburg	103,969	7,963	96,006	--	--	--	--	48,003	18,722	29,281
Sitka	157,259	43,951	113,316	--	--	--	--	56,658	46,155	10,503
Skagway	8,330	32,500	--	--	--	--	--	--	8,322	--
								3,651,075	1,324,522	2,376,269

	1966-67 Cash Payment	1/10 of 1966-67 Cash @ 6% Int.			
Pribilof Bay	108,373	15,383.89	7,692	---	7,692
			3,658,767	1,324,522	2,383,961

June 1971

DEBT SERVICE WITHOUT CREDIT FOR CASH PAYMENTS

District	Debt Service Payments	Cash Payments	Cigarette Tax	Net Payment	50% Entitlement	Prorata Entitlement	Payment	Over Payment
Anchorage	3,406,517		590,475	2,816,042	1,408,021	1,035,164	1,036,535	1,371
Bristol Bay	79,363		11,246	68,117	34,059	25,040	25,073	33
Cordova	72,119		16,533	55,586	27,793	20,433	20,461	28
Fairbanks	1,061,792		173,611	888,181	444,091	326,491	324,535	1,956
Juneau	650,842		94,415	556,427	278,214	204,540	204,812	272
Kenai	203,982		101,349	102,633	51,317	37,728	37,778	50
Ketchikan	232,939		70,132	162,807	81,404	59,847	59,927	80
Kodiak	109,088		54,520	54,568	27,284	20,059	20,086	27
Mat-Su	113,778		51,451	62,327	31,164	22,911	22,942	31
Nenana	23,500		9,401	14,099	7,050	5,183	5,190	7
Petersburg	80,206		20,163	60,043	30,022	22,072	22,101	29
Sitka	103,978		48,122	55,856	27,928	20,532	20,560	28
TOTAL					2,448,347	1,800,000	1,800,000	3,913

Additional amounts paid - credit for cash payments

		Annual Pay.	Interest	Total	50% Entitlement
Fairbanks	900,000	90,000	54,000	144,000	72,000
Kenai	2,572,776	257,278	154,366	411,644	205,822
Total					277,822

STATE OF ALASKA
DEPARTMENT OF EDUCATION

Chapter 249 Debt Service Payments 1970

[illegible]	Debt Service Payments	Cigarette Tax	Net Payments	50% Entitlements	1st Payment	Final Payment	Total Payments	Balance Entitlement
[illegible]	3406508	590475	2816033	1408017	709121	327414	1036535	371482
[illegible]	79363	11246	68117	34059	17030	8043	25073	8986
[illegible]	[illegible]	16533	55586	27793	13897	6564	20461	7332
[illegible]	[illegible]	173611	881691	440845	220423	104112	324535	116310
[illegible]	650842	94415	556427	278214	139107	65705	204812	73402
[illegible]	[illegible]	101349	102633	51317	25659	12119	37778	13539
[illegible]	[illegible]	70132	162807	81404	40702	19225	59927	21477
[illegible]	[illegible]	54520	54568	27284	13642	6444	20086	7198
[illegible]	[illegible]	51451	62327	31164	15582	7360	22942	8222
[illegible]	[illegible]	9401	14099	7050	-	5190	5190	1860
[illegible]	[illegible]	20163	60043	30122	16741	5360	22101	8021
[illegible]	[illegible]	48122	55856	27928	13964	6596	20560	7368
[illegible]	[illegible]	1241413	4890187	2445197	1225868	574132	1800000	645197

[illegible] 7000* [illegible]
[illegible] 205822* " " "

* [illegible]

Introduced: 1/17/83
Referred: Health, Education & Social Services, Community & Regional Affairs and Finance

IN THE HOUSE BY LACHER

HOUSE BILL NO. 43

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to state aid to municipalities for school construction; and providing for an effective date."

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

* Section 1. AS 43.18.100(a) is repealed and reenacted to read:

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

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

(2) 90% payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness incurred after June 30, 1977, and before July 1, 1978, to pay costs of school construction projects approved under AS 14.07.020(11);

(3) 90% of cash payments made after June 30, 1978, and before July 1, 1982, by the municipality during the fiscal year two years earlier to pay costs of school construction projects approved under AS 14.07.020(11);

(4) subject to (h) and (i) of this section,

(A) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness incurred after

December 31, 1981, to pay costs of school construction, additions to schools, and major rehabilitation projects exceeding $25,000 and approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1982, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects exceeding $25,000 and approved under AS 14.07.020(11).

* Sec. 2. This Act takes effect July 1, 1983.

HB
56

(7)

COMMITTEE REPORT

HOUSE

FURTHER: HOUSE SPECIAL COMMITTEE ON STATE LOANS
FINANCE

2/25/83

Date: 3/30/83

Mr. Speaker:

The Committee on H.E.S.S. has had SSHB 56

An Act relating to scholarship loans.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for SSHB 56 [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [✓] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Bill Tuckie - with amendments

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Richard DO PASS - AMENDED

M.W. Miller NO REC.

Mike Davis NO REC

Bill Tuckie
CHAIRMAN

H 60

Offered: 4/30/83
Referred: Rules

Original sponsors: Lindauer, Uehling, Furnace and Wendte

Billie Jean Hall Kerry Romesburg

HB 56 + SB 209 Governors Bill in FCC no doubt

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 56 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to scholarship loans; and providing for an effective date."

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

* Section 1. AS 14.43.120(f) is amended to read:

(f) Interest on a loan made [GIVEN] under AS 14.43.090 - 14.43.-160 is at the rate of eight [FIVE] percent a year.

* Sec. 2. AS 14.43.120(k)(2) is amended to read:

(2) serving a first enlistment period of up to four years on active duty as a member of the armed forces of the United States;

* Sec. 3. AS 14.43.125 is repealed and reenacted to read:

Sec. 14.43.125. ELIGIBILITY OF STUDENTS. A person may apply for and obtain a scholarship loan if the person

(1) is

(A) enrolled as a full-time student in a career education, or associate, or baccalaureate, or graduate degree program; or

(B) a graduate of a high school, or the equivalent, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university;

(2) is not delinquent or in default on a previously awarded scholarship loan; and

(3) is a resident of the state at the time of application for the loan. For purposes of this section, a person qualifies as a

resident of the state if at the time of application for the loan the person

(A) has been physically present in the state for at least two years;

(B) is dependent on a parent or guardian for care, and the parent or guardian has been present in the state for at least two years; or

(C) has been physically present in the state for at least two years immediately before being absent from the state and the absence is due solely to

(i) military service;

(ii) volunteer service under the Peace Corps Act;

(iii) volunteer service under the Domestic Volunteer Service Act of 1973;

(iv) attending a school as a full-time student;

(v) full-time employment by the state or its congressional delegation; or

(vi) required medical care for the applicant or the applicant's immediate family.

* Sec. 4. AS 14.43.130 is repealed and reenacted to read:

Sec. 14.43.130. SELECTION CRITERIA. (a) The selection committee shall grant loans based on total point accumulations under this section with priority going to those applicants with the highest point accumulations, except as provided in (b) of this section. Points shall be awarded according to the following schedule:

(1) Alaska high school graduates and continuing undergraduate and graduate students with existing Alaska scholarship loans .....4 points

(2) continuing undergraduate and graduate students without existing Alaska scholarship loans .....3 points

(3) first year undergraduate students .....2 points

(4) new graduate students without existing Alaska scholarship loans .....1 point

(5) students attending Alaska colleges or universities .....1 point

(b) The selection committee shall award loans to applicants based upon the earliest date of completed applications if the applicant has filed a completed application not later than May 15 of the year for which the loan is requested.

* Sec. 5. AS 14.43 is amended by adding a new section to read:

Sec. 14.43.132. FEDERALLY INSURED LOANS ENCOURAGED. Whenever possible scholarship loans made under AS 14.43.090 - 14.43.160 shall be federally insured.

* Sec. 6. AS 14.43.160 is amended by adding a new paragraph to read:

(9) "committee" means the student financial aid committee of the Alaska Commission on Postsecondary Education.

* Sec. 7. If the two-year residency requirement for scholarship loans provided by AS 14.43.125 is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, the Commission on Postsecondary Education shall adopt regulations to impose the most stringent residency requirement allowable under the Constitution of the State of Alaska and the United States Constitution on scholarship loan applicants.

* Sec. 8. This Act takes effect July 1, 1984.

HB 174 is in SB 209

1) Jan 1 deadline date -
2) 8%
3) forgiveness?
4) point system - selection - not in 209

Summer - on 82-83 app's

Voc Tech after July 1

1) tentative award - will be awarded @ same time

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CSSS HB 56
Title: An Act Re: Scholarship Loans
Sponsor: Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Postsecondary Comm.
BRU, Program of Subprogram(s) Affected:
Student Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING						
CAPITAL	N.A.	52.5	(1,572.7)	(2,190.6)	(3,364.8)	(11,861.9)
REVENUE	N.A.	-0-	1,647.2	2,066.2	2,955.4	11,061.8

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	52.5	(1,572.7)	(2,190.6)	(3,364.8)	(11,861.9)
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	N.A.					
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Commission on Postsecondary Education Date: 3/29/83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

CSSSHB56

IV Analysis:

(a) Increasing interest from 5% to 8%

FY84	$0	FY87	$(372.5)
FY85	$0	FY88	$(1,562.8)
FY86	$(93.5)	FY89	$(3,210.2)

(b) Reducing forgiveness to 20%

FY84	$0	FY87	$(520.2)
FY85	$0	FY88	$(930.0)
FY86	$(214.2)	FY89	$(1,491.0)

(c) Allowing for borrowing actual amount of tuition (based upon attendance of 0.35% of total borrowers)

FY84	$52.5	FY87	$110.8
FY85	$74.5	FY88	$129.9
FY86	$89.8	FY89	$145.0

(d) Reducing grace year to grace period of 120 days (assuming 13.2% seniors, 12.7% vocational)

FY84	$0	FY87	$(2,582.9)
FY85	$(1,647.2)	FY88	$(9,499.0)
FY86	$(1,972.7)	FY89	$(13,419.6)

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 28, 1983

TO: Representative Mae Tischer

FROM: Representative John Lindauer JL/ea

RE: House Bill #56: "An Act relating to scholarship loans."

The committee amendments, reported to me by my aide who was in attendance at the March 25th House HESS meeting, are excellent. They protect the ability of the students to get sufficient funds while going a long way towards making the loans into legitimate income-earning state investments instead of remaining just another expensive give away program.

Specifically, I agree:

Section 3 → 1. That the interest rate become 8%;
Section 1 & 2 → 2. That the loan maximums stay at the current $6000 and $7000;
Section 4 → 3. That repayment begin at 120 days;
Section 5 → 4. That 20% be forgiven if student return to the state;
Section 2 → 5. That the graduate school limit be left at $7000 with higher levels if needed to cover tuition and fees.

Section 1 → The only further addition which would seem appropriate and consistent would be to allow undergraduates to get more than the current $6000 if needed to cover their tuition, fees and room. Since undergraduates traditionally can work in the school cafeterias for their food, this would insure that every student can afford to go to school and, more importantly, let the maximum size of the loans increase enough to cover the most basic costs in the years ahead if there is another inflation. The inflation-proofing feature is important as its absence would eventually put pressure on the future legislatures to increase the top dollar amounts and, depending on who is in control, possibly increase them beyond the basic minimum costs again. This way we can both remove the need to periodically rewrite the legislation as well as insure that the loans will only be granted as needed to cover the basic minimum expenses.

3/6 Req. fiscal note DOE = called Postsecondary Educ. - Romesburg.
3/13 Called Romesburg's Office: Past year's funding levels
Copy of Student Loan Reg's

3/7 Summarize Issues Outlined by the Committee
& incorporate into Memo for review & draft

SUMMARY: SSHB 56 "AN Act relating to scholarship loans."
(Lindauer)

Section 1.	14.43.110	UNDERGRADUATE LOANS repealed and reenacted. New language has the effect of raising the undergraduate loan award maximum above $6,000 under certain circumstances to be approved by the financial aid committee. Current law mandates the maximum loan award is $6,000 with no provisions for raising the limit.
Secion 2.	14.43.115	GRADUATE LOANS repealed and reenacted with provisions of section 1 included. Removes loan maximum with the approval of the financial aid committee.
Section 3.	14.43.120	CONDITIONS OF LOAN amended to include "other necessary student expenses as determined by committee." Current statutes provide for loan awards to be used only for books & supplies, tuition, required fees, room & board.
Section 4.	14.43.120	CONDITIONS OF LOAN (f) amended by raising interest rates from 5% to 7%. (see fiscal note for impact).
Section 5.	14.43.120	CONDITIONS OF LOAN (g) amended by requiring repayment of loan to begin one year after studies are terminated. Removes the [no later than] provision.
Section 6.	14.43.132	New Section added to encourage the use of the Guaranteed Student Loan program. (Federal student loan program)
Section 7.	14.43.160	New definition added to clarify the review of loan applications by the student financial aid committee, cited in 14.43.095.

Fiscal Note Information: The fiscal note is calculated in throusands, for example under 'Assumptions" (a), the FY 86 figure is $62,300.00.

The amounts calculated by the Commission on Postsecondary Education would be an additional expense to the fiscal requests for FY 84. The FY 84 funding level through the Governor's budget is 65million.

Attachments:

left

Scholarship Loan Statutes
Dept. Regulations for Loan Program

right :

fiscal note
Loan Pymts.
Default Rates
Undergraduate Loans
Graduate Loans
All Student Loans

Article 3. Free Tuition and Fees for Dependents.

Section

80. Free tuition and fees at state-supported educational institutions

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Revisor's notes. — This article derived from AS 14.40.920 and was renumbered by the revisor of statutes under AS 01.05.031.

Collateral references. — 15A Am.Jur.2d Colleges and Universities, §§ 19, 20.

14 C.J.S. Colleges and Universities, §§ 27, 28.

Sec. 14.43.080. Free tuition and fees at state-supported educational institutions. (a) Any dependent of a bona fide Alaska resident who, while serving during the hostilities involving the United States forces in Southeast Asia, was listed by the United States Department of Defense as a prisoner of war or missing in action in Southeast Asia may attend any state-supported educational institution without payment of tuition and fees.

(b) As used in this section, "dependent" means a dependent spouse or child. (§ 1 ch 176 SLA 1972; AS 14.40.920)

Article 4. Scholarship Loan Program.

Section

90. Scholarship revolving loan fund
95. Financial aid committee
100. Applications
105. Administration of program
110. Undergraduate loans
115. Graduate loans
120. Conditions of loans
125. Eligibility of students
130. Selection criteria
135. Discrimination prohibited
140. Enforceability of certain contracts with minors
160. Definitions

Revisor's notes. — This article derived from AS 14.40.751 — 14.40.806 and was renumbered by the revisor of statutes under AS 01.05.031.

Collateral references. — 15A Am.Jur.2d Colleges and Universities, §§ 19, 20.

14 C.J.S. Colleges and Universities, §§ 27, 28.

Absence from, or inability to attend, school or college as affecting liability for, or right to recover back payments on account of, tuition or board. 69 ALR 714.

Validity and application of provisions governing determination of residency for purposes of fixing fee differential for out-of-state students in public college. 56 ALR3d 641.

Increase in tuition as actionable in suit by student against college or university. 99 ALR3d 885.

Absence from, or inability to attend, school or college as affecting liability for, or right to recover back payments on account of, tuition or board. 69 ALR 714.

Sec. 14.43.090. Scholarship revolving loan fund. (a) There is created a scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.090 — 14.43.160. All repayments of principal and interest on scholarship loans shall be paid into the scholarship revolving fund shall be used to make new scholarship loans. If estimated funds available from scholarship loan repayments are inadequate to fully fund estimated scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) Repealed by § 31 ch 59 SLA 1982.

(c) Repealed by § 31 ch 59 SLA 1982. (§ 1 ch 98 SLA 1971; am § 1 ch 156 SLA 1972; am §§ 1, 2 ch 136 SLA 1974; am § 1 ch 136 SLA 1975; am § 31 ch 59 SLA 1982; AS 14.40.751)

Revisor's notes. — In subsection (a), AS 14.43.090 — 14.43.160 was substituted for a reference to AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1982 amendment repealed subsection (b), which provided for a tuition grant fund, and subsection (c), which provided for the transfer of unobligated funds in the tuition grant fund to the scholarship revolving loan fund.

Legislative history reports. — For report on ch. 98, SLA 1971 (CSHB 415 [Finance] am S), see 1971 House Journal, p. 935.

Sec. 14.43.095. Financial aid committee. (a) The student financial aid committee is composed of the members of the Alaska Commission on Postsecondary Education. The commission may delegate its functions under AS 14.43.090 — 14.43.160 to a committee of its members, with augmented membership as the commission considers appropriate. The executive officer of the commission is the executive secretary of the committee. The Alaska Commission on Postsecondary Education shall administer the program established by AS 14.43.090 — 14.43.160.

(b) Members of the committee serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(c) The committee shall make an annual report reviewing the work of the committee to the governor, the legislature and the private colleges and universities where students receiving tuition grants are enrolled.

(d) The committee shall meet at least once a year. The meetings shall be held at the call of the chairman or upon petition by two members. (§ 1 ch 98 SLA 1971; am § 2 ch 156 SLA 1972; am § 5 ch 78 SLA 1974; am § 3 ch 136 SLA 1974; AS 14.40.753)

Revisor's notes. — The amendments of AS 14.43.095(a) by § 5, ch. 78, SLA 1974 and § 3, ch. 136, SLA 1974, are in conflict, the first act rewriting the subsection to provide that the Alaska Commission on Postsecondary Education will act as the financial aid committee, the second act changing the name and term of members of the existing financial aid selection committee. It is considered, on the basis of the legislative history, apparent legislative intent, and later effective date of the first act, that the re-enactment by ch. 78, SLA 1974 should prevail.

The last part of subsection (c) of this section is obsolete since the tuition grant program was repealed by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

In subsection (a), AS 14.43.090 — 14.43.160 was substituted for a reference to AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Sec. 14.43.100. Applications. (a) Applications shall be submitted to the executive secretary of the committee.

(b) A person whose loan or grant application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application. (§ 1 ch 98 SLA 1971; am § 3 ch 156 SLA 1972; am § 4 ch 136 SLA 1974; AS 14.40.755)

Revisor's notes. — The reference to "grant application" in subsection (b) of this section is obsolete in light of the repeal of the tuition grant program by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

Sec. 14.43.105. Administration of program. The executive secretary shall administer the programs subject to review by the committee and in accordance with the regulations prescribed by the committee. The promulgation of these regulations is subject to the Administrative Procedure Act (AS 44.62), and a summary of the regulations shall be distributed to each applicant. (§ 1 ch 98 SLA 1971; am § 5 ch 136 SLA 1974; AS 14.40.757)

Sec. 14.43.110. Undergraduate loans. The committee may make a loan, not to exceed $6,000 in any one school year, to an undergraduate student eligible under AS 14.43.125. (§ 1 ch 98 SLA 1971; am § 6 ch 136 SLA 1974; am § 1 ch 153 SLA 1978; am § 1 ch 89 SLA 1981; AS 14.40.759)

Revisor's notes. — AS 14.43.125 was substitued for AS 14.40.765 to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1978 amendment increased the maximum amount of the loan from $2,500.00 to $3,000.00.

The 1981 amendment substituted "$6,000" for "$3,000" following "not to exceed."

Sec. 14.43.115. Graduate loans. The committee may make a loan, not to exceed $7,000 in any one school year, to a graduate student who is eligible under AS 14.43.125 and is pursuing an advanced degree. (§ 1 ch 98 SLA 1971; am § 7 ch 136 SLA 1974; am § 2 ch 89 SLA 1981; AS 14.40.761)

Revisor's notes. — AS 14.43.125 was substituted for AS 14.40.765 to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1981 amendment substituted "$7,000" for "$5,000" following "not to exceed."

Sec. 14.43.120. Conditions of loans. (a) Proceeds from scholarship loans may only be used for books, tuition and required fees, and for room and board.

(b) The loans may only be used to attend a career education program or a college or university approved by the commission, and, if the loans are federally insured, by the United States Commissioner of Education.

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a career education program, college or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

(d) Scholarship loans may not be made to a student

(1) for more than five years of undergraduate study;

(2) for more than five years of graduate study;

(3) for more than a total of eight years of undergraduate and graduate study.

(e) Loans are interest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (k) of this section; however, a student is entitled to have a portion of the interest paid in accordance with (1) of this section.

(f) Interest on a loan given under AS 14.43.090 — 14.43.160 is at the rate of five per cent a year.

(g) Repayment of the principal and interest on the loan begins no later than one year after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection.

(h) Security may not be required for the loans; however, provision shall be made for payment of attorney fees and costs of court if either or both are incurred in collection of the amount owed on the loan.

(i) If a loan is in default, the commission shall notify the borrower that repayment of the remaining balance is accelerated and due by sending the borrower a notice by registered or certified mail.

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 50 percent of the total loan:

(1) two — three years residence in the state, 10 percent;

(2) three — four years residence in the state, an additional 10 percent;

(3) four — five years residence in the state, an additional 10 percent;

(4) five — six years residence in the state, an additional 10 percent;

(5) over six years residence in the state, an additional 10 percent.

(k) Periodic installments of principal shall be deferred, but interest shall accrue and be paid unless the student is eligible for interest payment benefits under (1) of this section during any of the following:

(1) return to student status as provided in (c) of this section;

(2) serving on active duty as a member of the armed forces of the United States;

(3) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;

(4) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(5) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or

(6) if the borrower becomes 50 percent or more disabled as certified by competent medical authority.

(l) The state will pay the interest on that portion of a loan that is not federally insured during

(1) the period before the beginning of the repayment period of the loan; and

(2) deferments under (k) of this section.

(m) In case of hardship, the committee may extend repayment of a loan for an additional period of up to five years in increments no longer than 12 months each.

(n) Repealed by § 11 ch 89 SLA 1981.

(o) The provisions of (j) of this section do not apply to a loan to a borrower named in a complaint as a defendant in an action by the state or by the commission to secure payment of the unpaid balance of a loan made under AS 14.43.110 or 14.43.115.

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service. (§ 1 ch 98 SLA 1971; am § 4 ch 156 SLA 1972; am § 6 ch 78 SLA 1974; am § 8 ch 136 SLA 1974; am §§ 1—4 ch 99 SLA 1977; am §§ 3 — 8 ch 87 SLA 1979; am §§ 3 — 9, 11 ch 89 SLA 1981; AS 14.40.763)

Revisor's notes. — In ch. 98, SLA 1971, AS 14.43.120(j)(2) read "four — five years ...." This was a typographical error occurring for the first time in the enrolled version of the bill (CSHB 415 [Finance am S] and has been corrected here.

Effect of amendments. — The 1979 amendment deleted "approved by the commission" following "career education program" and substituted the language

beginning "approv
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graduate study" foll
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"shall" for "may"
"student." In subsec
ment substituted "1
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section (n) which re

Sec. 14.43.12
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(3) is

(A) enrolled as
or baccalaureate

(B) a graduate
high school withi
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(b) In addition
scholarship loan
least two years at

beginning "approved by the commission" for "accredited by the accreditation association for the region in which the college or university is located" in subsection (b), substituted "interest" for "non-interest" in subsection (e), added the language beginning "however, a student shall be entitled" to the end of subsection (e), rewrote subsection (g) and in subsection (j), substituted "paid on behalf of the borrower by the state" for "considered a grant," "borrower" for "grantee," and "three years" for "two years" in the first sentence, substituted "paid by the state" for "regarded as a grant" and "interest for up to a total of 40 percent" for "accrued interest" in the introductory language of the second sentence, and substituted "an additional 10 percent" for "20 percent" in paragraph (2), for "30 percent" in paragraph (3), and for "40 percent" in paragraph (4). The amendment also rewrote subsection (k) and added subsections (*l*), (m), and (n).

The 1981 amendment, added the second sentence of subsection (c). In subsection (d), the amendment added paragraphs (1) and (2) and in paragraph (3), substituted "a total of eight" for "six" preceding "years" and added "of undergraduate and graduate study" following "years." In subsection (i), the amendment substituted "shall" for "may" and "borrower" for "student." In subsection (m), the amendment substituted "12" for "six" preceding "months" and deleted "within the 15-year requirement of (g) of this section" following "months each." The amendment also rewrote subsections (g) and (j), added subsections (o) and (p) and repealed subsection (n) which read "Each year spent attending a college or university in Alaska qualifies as a year of employment and residency under (j) of this section, if the borrower resides no less than three years in Alaska after completion of the course for which the loan was granted, and has a total Alaskan residency of ten years time."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.-5.031(c) and § 4, Chapter 58, SLA 1982.

Section 8, ch. 99, SLA 1977 provides: "The change in the repayment period of student loans set out in AS 14.40.763(g) [now 14.43.120(g)] as amended by sec. 3 of this Act and the additional basis for granting a deferment of repayment of a student loan set out in AS 14.40.763(k) [now 14.43.120(k)] as enacted by sec. 4 of this Act shall, upon request of the loan recipient, be applied retroactively to the outstanding balance of principal of and accrued interest on loans made under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] as they read before the effective date of this Act."

Section 12 of ch. 89, SLA 1981, provides: "The reenactment of AS 14.40.763(j) [now 14.43.120(j)] in sec. 7 of this Act applies to any student who has obtained a scholarship loan under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] since July 1, 1971."

Legislative history reports. — For a report of legislative intent concerning the loan forgiveness provisions of ch. 89, SLA 1981 (FCCSSB 120), see 1981 Senate Journal p. 1560, 1580; 1981 House Journal p. 2289.

Sec. 14.43.125. Eligibility of students. (a) A person may apply for and obtain a scholarship loan if the person

(1) is a resident of the state at the time of application for a scholarship loan;

(2) meets the requirements of (b) of this section; and

(3) is

(A) enrolled as a full-time student in a career education or associate or baccalaureate or graduate degree program; or

(B) a graduate of a high school, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university.

(b) In addition to the requirements of (a) of this section, to obtain a scholarship loan a person must have been a resident of the state for at least two years at the time of application for the loan. For purposes of

this subsection, a person qualifies as a resident of the state if at the time of application for the loan the person

(1) has been present in the state for at least two years unless an absence from the state during any part of the two years was due to military service; or

(2) is a person who is dependent on a parent or guardian for care, and the parent or guardian has been present in the state for at least two years. (§ 1 ch 98 SLA 1971; am § 10 ch 89 SLA 1981; AS 14.40.765)

Effect of amendments. — The 1981 amendment rewrote this section.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Sec. 14.43.130. Selection criteria. (a) The selection committee shall grant loans based on total point accumulations under the subsection with priority going to those applicants with the highest point accumulations, except as provided in (b) of this section for loan applications completed before May 15 of each year. Points shall be awarded to applicants based upon student status and continuous Alaskan residency, according to the following schedule:

(1) student status:

(A) continuing undergraduate and graduate students with existing Alaska scholarship loans . . . . . 4 points

(B) continuing undergraduate and graduate students without existing Alaska scholarship loans . . . . . 3 points

(C) freshmen . . . . . 2 points

(D) new graduate students without existing Alaska scholarship loans . . . . . 1 point

(2) continuous Alaskan residency:

(A) students with continuous Alaskan residency of 10 years or more . . . . . 3 points

(B) students with continuous Alaskan residency of at least 5 years and less than 10 years . . . . . 2 points

(C) students with continuous Alaskan residency of more than 2 years and less than 5 years . . . . . 1 point

(3) students attending Alaska colleges or universities . . 1 point

(b) In awarding loans the selection committee shall award loans to applicants based upon the earliest date of completed applications if

(1) the applicant has accumulated at least 5 points under (a) of this section; and

(2) the applicant has filed a completed application not later than May 15 of the year for which the loan is requested. (§ 1 ch 98 SLA 1971; am § 2 ch 87 SLA 1979; AS 14.40.767)

Effect of amendments. — The 1979 amendment rewrote this section.

Editor's notes. — Section 1, ch. 87, SLA 1979 provides: "The legislature determines that

"(1) there are no incentives in the

student loan program for residents of Alaska to attend colleges and universities in Alaska as compared with colleges and universities outside Alaska;

"(2) the result of this lack of incentives is that 64.9 per cent of all undergraduate student loans and 92.9 percent of graduate student loans go to students attending colleges and universities outside Alaska;

"(3) the amount of the average loan to undergraduate students attending colleges and universities in Alaska is lower than the average of similar loans in all but one of the 10 western states and the amount of the average loan for graduate students is the lowest in the West;

"(4) the funds spent on education in Alaskan colleges and universities go further than when the funds are spent out of state; and

"(5) it would be an aid to the Alaskan economy if the funds in the student loan program were spent for education in Alaskan colleges and universities."

Sec. 14.43.135. Discrimination prohibited. The student loan program shall be carried out without regard to the race, creed, sex, color, ancestry, national origin, or membership in fraternal or political organizations of the student applying for the loan. (§ 1 ch 98 SLA 1971; AS 14.40.769)

Sec. 14.43.140. Enforceability of certain contracts with minors. A written obligation entered into by a minor at least 16 years of age, evidencing a loan or other assistance received by the minor from any person for the purpose of furthering the minor's education in a career education program or an institution of higher learning, is enforceable against the minor with the same effect as if the minor were, at the time of its execution, 19 years of age, if the person making the loan has before making the loan a certification from the institution that the minor is enrolled in the institution or has been accepted for enrollment. (§ 1 ch 98 SLA 1971; AS 14.40.771)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Sec. 14.43.160. Definitions. In AS 14.43.090 — 14.43.160

(1) "career education" means a course or program in vocational-technical training or education approved by the commission;

(2) "full-time student" means an undergraduate or career education student who is enrolled and is in regular attendance at classes for at least 12 semester hours of credit or the equivalent during the semester or a graduate student who is enrolled and is in regular attendance at classes for at least nine semester hours of credit or the equivalent; any combination of semester hours of credit, or the equivalent, aggregating to the requisite number of semester hours and undertaken during a semester at two or more public or private institutions of higher education operating under a consortium constitutes full-time student status;

(3) "part-time student" means a student who is enrolled and is in regular attendance at classes for at least three but less than the semester hours of credit required for full-time student status under (2) of this section during the semester;

(4) Repealed by § 11 ch 89 SLA 1981.

(5) "school year" means the period from September 1 of one year through August 31 of the following year;

"commission" means the Alaska Commission on Postsecondary Education;

(7) Repealed by § 7 ch 246 SLA 1976.

(8) "federally insured" means a loan covered by the provisions of the Guaranteed Student Loan Program of Title IV, Part B, of the Higher Education Act of 1965 (P.L. 89-329), as amended. (§ 5 ch 156 SLA 1972; am § 8 ch 78 SLA 1974; am §§ 18 — 20 ch 136 SLA 1974; am § 5 ch 136 SLA 1975; am § 7 ch 246 SLA 1976; am §§ 5 — 7 ch 99 SLA 1977; am § 9 ch 87 SLA 1979; am § 11 ch 89 SLA 1981; AS 14.40.806)

Revisor's notes. — Part-time student is defined in paragraph (3) above but is not used in the statutes.

AS 14.43.090 — 14.43.160 was substituted for AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1979 amendment added paragraph (8).

The 1981 amendment repealed paragraph (4) which defined "resident."

Editor's notes. — Title IV, Part B of the Higher Education Act of 1965, referred to in paragraph (8), may be found in 20 U.S.C. §§ 1071 et seq.

Article 5. Memorial Scholarship Revolving Loan Fund.

Section
250. Declaration of purpose
255. Fund created
300. Limits on, conditions of loans
305. Repayment of loans
310. Selection
315. Discrimination prohibited
320. Administering authority
325. Funding

Revisor's notes. — This article derived from AS 14.40.810 — 14.40.845 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 14.43.250. Declaration of purpose. (a) The legislature may pay tribute to the memory of Alaskans who, by the example of their lives, or by their distinguished contribution and service to this state, their community or their profession, exemplified the best that is the challenge of "The Great Land" by the creation of memorial scholarships as a part of a general memorial scholarship revolving loan fund, setting out the purpose for which each is created, and the conditions applicable to each scholarship.

CHAPTER 15.
STUDENT FINANCIAL AID

Article
1. Scholarship Loans
(20 AAC 15.010–20 AAC 15.085)

ARTICLE 1.
SCHOLARSHIP LOANS

Section
10. Purpose of scholarship loan program
15. Administration
20. Filing dates
25. Priority ranking of applicants
30. Computation of authorized loan awards
35. Limitations on granting authorized loan awards
40. Conditions of loans
45. Disbursement of loan awards
50. Repayment of loans
55. Deferment of payments
60 Grants
65. Default
70. Appeals to the executive secretary
75. Appeals to the committee
80. Complaint file
85. Definitions

20 AAC 15.010 PURPOSE OF SCHOLARSHIP LOAN PROGRAM The scholarship loan program provides low cost educational loans to Alaskan students enrolled in undergraduate, graduate, or career degree programs. (Eff. 2/3/77, Reg. 61)

Authority: AS 14.40.757

20 AAC 15.015. ADMINISTRATION. The executive secretary of the student financial aid committee shall appoint, subject to approval of the committee, a director of student financial aid. The director reviews all applications for scholarship loans and determines an applicant's eligibility and amount of award, subject to review by the executive secretary and the committee. (Eff. 2/3/77, Reg. 61)

Authority: AS 14.40.757

Editor's Note: Applications for scholarship loans are available from the Alaska Commission on Postsecondary Education, Director of Student Financial Aid, Pouch F, Juneau, Alaska 99811.

20 AAC 15.020. FILING DATES. (a) The application deadline for loan applications is May 15 preceding the school year for which the loan is requested.

(b) An application will be considered timely filed only if it is postmarked on or before the applicable deadline, contains all information required to make a determination of the applicant's eligibility and the amount of the loan award, and is accompanied by four signed verification forms.

(c) An incomplete application will be returned to the applicant with a request for further information. No further action will be taken on an incomplete application until it is resubmitted.

(d) Repealed 12/7/80.

(e) Except for good cause shown, as determined by the director, an application will not be accepted from a person who has attended more than two weeks of the school term for which the loan is requested. (Eff. 2/3/77, Reg. 61; am 12/7/80, Reg. 76; am 7/9/82, Reg. 83)

Authority: AS 14.40.757

20 AAC 15.025. PRIORITY RANKING OF APPLICANTS. (a) Upon receipt of a completed application, an applicant will be assigned priority points based upon the schedule set out in AS 14.40.767(a).

(b) Those completed applications received by the deadline set out in 20 AAC 15.020 which have a priority point accumulation of at least five points, as determined under (a) of this section, will be processed based upon the earliest date of completed application.

(c) Completed applications, other than those covered by (b) of this section, will be grouped according to those received by May 15th and then monthly thereafter and will be processed in that monthly grouping according to priority point accumulation. Those applicants receiving the highest priority point accumulation within a grouping will be processed first and those receiving the lowest priority point accumulation within a grouping will be processed last. In the case of equal point accumulation within a group, priority will be based upon the earliest date of a completed application. (Eff. 2/3/77, Reg. 61; am 12/7/80, Reg. 76)

Authority: AS 14.40.757
AS 14.40.767

20 AAC 15.030. COMPUTATION OF AUTHORIZED LOAN AWARDS. (a) Repealed 7/9/82.

(b) The maximum authorized loan for an applicant enrolled for less than a full school year, as defined by the enrolling institution and as approved by the director, is determined by prorating the maximum authorized loan award based upon the actual period of attendance, unless the period of attendance encompasses the entire program of study, in which case the award will be based upon computation of financial need.

(c) Subject to the limitations of (b) of this section, an applicant's authorized loan award will be based on the director's computation of the applicant's financial need. Financial need will be computed as the diference between the required fees, tuition, room, board, books and supplies, as appl ble, charged by the institution for the course of study for which the applicant has been accepted or is enrolled in full-time status and the amount of funds available to the applicant from other sources to meet those expenses. The amount of the authorized loan award will be the next lower multiple of $50 below the computed financial need.

(d) Married students applying for separate loans may apportion those expenses listed on their applications which are for common use or commonly held property as they see fit. However, the total of commonly shared expenses listed on both applications may not exceed 100 percent of the actual expense.

(e) An applicant who elects to live off campus when room or board is available from the institution may list as an expense only the cost of the room or board available from the institution, unless it can be demonstrated that any additional expense for living off campus is reasonable and necessary.

(f) The director may require an applicant to furnish copies of financial records and other relevant information to verify statements on his application.

(g) An applicant who has been awarded a loan based on his admission to a particular institution must notify the director immediately if he elects to attend a different institution. The applicant must then resubmit a loan application based on his admission at the new institution. The applicant will not lose his priority category status, as determined under 20 AAC 15.020(a), but must give 60 days' notice of the change in institutions to insure the timely receipt of funds. (Eff. 2/3/77, Reg. 61; am 7/9/82, Reg. 83)

Authority: AS 14.40.757
AS 14.40.759
AS 14.40.761

20 AAC 15.035. LIMITATIONS ON GRANTING AUTHORIZED LOAN AWARDS. Repealed 12/7/80.

20 AAC 15.040. CONDITIONS OF LOANS. (a) The recipient of a scholarship loan shall report to the director any changes which affect the conditions of his loan or his repayment schedule, including any change of address, withdrawal or dismissal from his full-time course of study, change in schools, or state residency status, or change in financial status.

(b) Money received for scholarship loan may be used only for books and supplies, tuition, required fees, room and board.

(c) A promissory note in full amount of the loan award must be signed by the recipient, or by the recipient's parent or legal guardian if the recipient is under 16 years of age. However, liability for the loan is limited to the actual amount of the loan funds disbursed to the recipient, plus interest and collection fees as necessary.

(d) The provisions of this chapter will be incorporated by reference into each promissory note.

(e) Loans will not be granted for more than five full undergraduate school years, or more than five full graduate years, or more than a total of eight full school years of combined undergraduate and graduate study.

(f) The costs incurred in the collection of a defaulted loan, including attorney fees and court costs, shall be borne by the recipient.

(g) Interest on a loan begins to accrue on the date of intitial loan disbursement. However,

interest will be paid for a student during the period before the repayment period of the loan begins and during a period of deferment provided under 20 AAC 15.055.

(h) Interest shall be computed at the annual rate of five percent of the outstanding balance of the loan.

(i) At the time the promissory note is mailed to the recipient, the director will provide him with an anticipated repayment schedule for the total amount of the current loan and any loans received in prior consecutive years. The repayment schedule will be computed from the date the recipient anticipates the completion of his full-time course of study. The schedule will include: a 12-month optional deferment period, the number and amount of payments, including interest, over the 10 succeeding years, and the annual percentage rate of interest.

(j) For non-collegiate postsecondary programs, the commission applies the standard of good standing used by the institution of attendance. For collegiate programs the commission applies the cumulative grade point average (G.P.A.) based upon the following minimums, computed annually:

Student Level	Minimum Requirement
Undergraduate	2.00 cumulative G.P.A.
Graduate	3.00 cumulative G.P.A.

(k) In addition to the requirements established in (j) of this section, a borrower in a collegiate program must complete all course work in which he is enrolled up to the required full-time enrollment in each term of enrollment and must maintain a grade point average of at least 1.50 for each term. If a borrower fails to meet good-standing requirements the borrower is ineligible to receive further loans or loan disbursements until he or she successfully completes a term of full-time study and meets the minimum grade-point average.

(l) A borrower whose cumulative grade point average falls below the requirements established in (j) and (k) of this section may request a waiver of the requirements in writing from the director. The request for waiver must set forth good cause, as determined by the director, and the director may require documentation. In his discretion, the director shall grant or deny the request for waiver. (Eff. 2/3/77, Reg. 61; am 5/10/78, Reg. 66; am 12/7/80, Reg. 76; am 7/9/82, Reg. 83)

Authority: AS 14.40.757
AS 14.40.763
AS 14.40.771

20 AAC 15.045. DISBURSEMENT OF LOAN AWARDS. (a) The loan will be disbursed in equal or proportionate installments, with each installment issued before the school term which the recipient has indicated he will attend.

(b) A warrant for the appropriate amount of the loan disbursement and a record of disbursement and receipt form will be mailed to the recipient in care of the financial aid officer of the institution which the recipient is attending.

(c) Before delivering the warrant to the borrower, the financial aid officer shall certify, on a form to be provided by the commission, that the borrower is a full-time student in good standing at the institution.

(d) At the time the warrant is delivered to him, the recipient must certify its receipt on the record of disbursement and receipt form.

(e) The recipient is responsible for the return of the record of disbursement receipt form to the director. Failure to return a completed form will result in no futher warrants being issued to the recipient. (Eff. 2/3/77, Reg. 61; am 12/7/80, Reg. 76; am 7/9/82, Reg. 83)

Authority: AS 14.40.757

20 AAC 15.050. REPAYMENT OF LOANS. (a) The repayment period of a loan begins 12 months after the date the loan recipient ends full-time student status. The first payment becomes due on the first day of the 13th month after the date the recipient ends full-time student status.

(b) At the time the recipient first ends his full-time student status, he must contact the director and establish a repayment schedule satisfactory to the director.

(c) Payments for all loans granted to a recipient may be consolidated into single monthly payments.

(d) Subject to the deferment provisions of 20 AAC 15.055 and the hardship provisions of (e) and (f) of this section, a loan must be fully repaid within 10 years from the date first payment is due.

(e) In cases of hardship and based on such factors as the seriousness of the hardship, its anticipated duration and the expectation of increased earnings in later years, the director may, in his discretion, alter the repayment schedule by extending the period of repayment, subject to the deferment provisions of 20 AAC 15.055, to a maximum term of 11 years, or weight the regular payments to ease payment in the first years and require larger payments in later years, or both.

(f) A recipient whose repayment schedule has been modified as a result of hardship must certify annually to the director the continued existence of the conditions under which the hardship determination was made. At the time the conditions no longer exist, the recipient must notify the director and renegotiate his payment schedule, based on the loan's outstanding balance and accrued interest, over a term acceptable to the director.

(g) If a recipient chooses to make a payment in an amount larger than that required by the repayment schedule, the difference will be applied to the remaining principal of the loan unless otherwise specified by the recipient. (Eff. 2/3/77, Reg. 61; am 5/10/78, Reg. 66; am 12/7/80, Reg. 76)

Authority: AS 14.40.757
AS 14.40.763

20 AAC 15.055. DEFERMENT OF PAYMENTS. (a) Periodic installments of principal will be deferred, but interest accrues and must be paid unless the loan recipient is eligible for interest payment benefits under 20 AAC 15.040(g) during any of the following:

(1) return to full-time student status;

(2) active duty as a member of the armed forces of the United States;

(3) service for up to three years as a full-time volunteer under the Peace Corps Act;

(4) service for up to three years as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(5) for a one-time period of up to 12 months in which the loan recipient is seeking and unable to find employment in the United States;

(6) a period of disability of the loan recipient if the loan recipient is at least 50 percent disabled as certified by competent medical authority; or

(7) an internship or residency which is required as part of the program of study if the internship or residency does not exceed 24 months.

(b) A recipient who desires a deferment of payments under this section must inform the director of his request to be considered for a deferment. Upon receipt of this notification, the director will send the recipient a form by certified mail, return receipt requested, which must be completed by the recipient describing the conditions under which he requests the deferment. A failure to return the form within 30 days of the date it is received without good cause will result in the continuation of interest accrual and required payments, if applicable.

(c) Repealed 12/7/80.

(d) A recipient who has received a payment deferment must notify the director immediately when the conditions under which the deferment was granted no longer exist. When the director receives this notification, he will redetermine the recipient's payment schedule and notify the recipient of the number and amount of the payments required to retire the loan. (Eff. 2/3/77, Reg. 61; am 5/10/78, Reg. 66; am 12/7/80, Reg. 76)

Authority: AS 14.40.757
AS 14.40.763

20 AAC 15.060. GRANTS. (a) Under AS 14.40.763(j), a borrower is eligible to have up to 50 percent of his total loans and accrued interest paid by the state if he continues his Alaskan residency after the successful completion of his course of sudy, is awarded an appropriate degree, diploma or certificate, and he remains, except for brief periods, in the state during the period for which he claims the state forgiveness.

(b) In order to qualify for state forgiveness payments under AS 14.40.763(j), a borrower must, within one year after the last day of the school year in which the borrower completed full-time sutdy or an extension of that period by deferment under AS 14.40.763(k), return to Alaska to live.

(c) Repealed 7/9/82.

(d) State forgiveness payments under AS 14.40.763(j) will be provided to the borrower in the form of annual refunds as eligibility is established and confirmed; however, no refund will exceed the amount received by the commission in actual loan payments for the 12 months before state forgiveness payment eligibility. If the eligible state forgiveness payment exceeds the amount received in loan payments for that 12-month period, a refund equalling the school loan payments during the 12-month period will be issued and the remaining state forgiveness payment balance will be applied to the outstanding loan balance.

(e) In order to receive a grant, the recipient must notify the director of his eligibility and complete a form available from the director certifying that the recipient has satisfied the appropriate residency and employment requirements.

(f) A recipient who ceases to be a resident of Alaska during the period he is eligible for a grant loses his eligibility for any further grants under this section.

(g) A recipient whose loan is completely repaid before becoming entitled to the maximum grant available to him may notify the director of his eligibility for a grant in the manner provided in (e) of this section each time he qualifies for a recomputation of his grant. Upon verification of the recipient's eligibility, the director will issue a warrant payable to the recipient in the amount to which he is entitled. (Eff. 2/3/77, Reg. 61; am 12/7/80, Reg. 76; am 7/9/82, Reg. 83)

Authority: AS 14.40.757
AS 14.40.763

20 AAC 15.065. DEFAULT. (a) A recipient's loan will be considered in default if he fails to make three consecutive monthly payments or two consecutive quarterly payments, fails to comply with the reporting requirements of 20 AAC 15.040(a), or is determined by the director to have falsified any document required by this chapter.

(b) When a loan is found to be in default by the director, the recipient will be notified of that fact by certified mail, return receipt requested. The recipient has 30 days from the receipt of the notification to cure the default or otherwise respond in writing to the director's finding. Failure to cure the default or otherwise respond to the default notification within this time period will result in the director forwarding the recipient's file to the executive secretary for appropriate action. (Eff. 2/3/77, Reg. 61)

Authority: AS 14.40.757
AS 14.40.763(i)

20 AAC 15.070. APPEALS TO THE EXECUTIVE SECRETARY. (a) A decision or other determination of the director under this chapter may be appealed in writing to the executive secretary of the committee, Alaska Commission on Postsecondary Education, Pouch F, Juneau, 99811. The appeal must be postmarked within 30 days of the date the decision or determination being appealed was mailed, must clearly state the objections to that decision or determination, and must set out justification for any alternative action sought.

(b) The executive secretary shall acknowledge receipt of an appeal by certified mail, return receipt requested, within 30 days. The executive secretary shall render his decision, in writing, as expeditiously as possible after receipt of the appeal and send it to the appellant by certified mail, return receipt requested.

(c) At the appellant's request, the executive secretary shall afford the appellant or his designated representative the opportunity to present his appeal in person. (Eff. 2/3/77, Reg. 61).

Authority: AS 14.40.757

20 AAC 15.075. APPEALS TO THE COMMITTEE. (a) A decision of the executive secretary may be appealed to the chairman of the committee. The appeal must be made within 30 days of the receipt of the executive secretary's decision, must clearly state the objections to that decision, and must set out justification for any alternative action sought.

(b) The chairman of the committee will place an appeal on the agenda for the committee's next meeting and notify the appellant of the time and location of the meeting and that he or his designated representative may present his appeal in person to the committee at that time.

COMPARISON OF PROPOSED STUDENT LOAN LEGISLATION

	CSHB 56 HESS	SB 197 Josephson	SB 185 Fischer	SB 118 Sackett	SB 209 Governor	SB 210 Governor
Residency:	2 years	selection criteria pt.system residency	2 years	1 year	1 year	Sets up guaranteed student loan financing in line with AK Industrial Develop. Authority; addresses financing structure rather than requirements and specifics of SB 209. Implementation of guaranteed student loan program thru Higher Education Act of 1965 PL 89 - 329 to federally insure loans for bonding purposes.
Eligibility:	retains current law	adds part-time students in more than 1 institution as = to full-time	retains current law and not addressed	high school sr. or graduation 6 mo. prior to application	retain current law	
Loan amounts:	$6000 undergrad $7000 grad w/provisions for fees & tuition	$6000 undergrad $7000 grad	$8000 undergrad $8000 grad	$6000 undergrad $7000 grad	$6000 undergrad $7000 grad	
Interest:	8%	8%	retains 5%	retains 5%	9%	
Forgiveness:	30%	retains 50%	retains 50%	retains 50%	retains 50%	
Limit on number of loan awards:	none	100 per vocational field annually subject to review under 14.43.150	none	none	none	
Deferment:	1 yr after studies terminate or earlier (by choice)	retain current law 1 yr after study terminates	retain current law not addressed	up to 5 yrs from date of approval	not addressed	
Application date:	not addressed current law May 15	filing date no later than Jan 1 of year for which application is made	not addressed	application filed while applicant is enrolled in high school	Jan. 1 preceeding year for which loan is requested	
Federally insured:	new section added as encouragement	not addressed	not addressed	not addressed		

Levy
3-29-83

Original sponsor: Lindauer

IN THE HOUSE

BY THE HEALTH, EDUCATION, AND SOCIAL SERVICES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 56 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to scholarship loans."

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

* Section 1. AS 14.43.110 is repealed and reenacted to read:

Sec. 14.43.110. UNDERGRADUATE LOANS. The committee may make a loan for a school year to an undergraduate student eligible under AS 14.43.125. A loan under this section may not exceed $6,000 except when necessary to cover the actual cost of tuition, room and board and required fees.

* Sec. 2. AS 14.43.115 is repealed and reenacted to read:

Sec. 14.43.115. GRADUATE LOANS. The committee may make a loan for a school year to a graduate student eligible under AS 14.43.125. A loan under this section may not exceed $7,000 except when necessary to cover the actual cost of tuition, room and board and required fees.

* Sec. 3. AS 14.43.120(f) is amended to read:

(f) Interest on a loan <u>made</u> [GIVEN] under AS 14.43.090 - 14.43.-160 is at the rate of <u>eight</u> [FIVE] percent a year.

* Sec. 4. AS 14.43.120(g) is amended to read:

(g) Repayment of the principal and interest on the loan begins no later than <u>120 days</u> [ONE YEAR] after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than

required by this subsection.

* Sec. 5. AS 14.43.120(j) is amended to read:

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 20 [50] percent of the total loan:

(1) two - three years residence in the state, 10 percent;

(2) over three [- FOUR] years residence in the state, an additional 10 percent [;

(3) FOUR - FIVE YEARS RESIDENCE IN THE STATE, AN ADDITIONAL 10 PERCENT;

(4) FIVE - SIX YEARS RESIDENCE IN THE STATE, AN ADDITIONAL 10 PERCENT;

(5) OVER SIX YEARS RESIDENCE IN THE STATE, AN ADDITIONAL 10 PERCENT].

* Sec. 6. AS 14.43 is amended by adding a new section to read:

Sec. 14.43.132. FEDERALLY INSURED LOANS ENCOURAGED. Whenever possible scholarship loans made under AS 14.43.090 - 14.43.160 shall be federally insured.

* Sec. 7. AS 14.43.160 is amended by adding a new paragraph to read:

(9) "committee" means the student financial aid committee of the Alaska Commission on Postsecondary Education.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CSSS HB 56
Title: An Act Re: Scholarship Loans
Sponsor: -Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Postsecondary Comm.
BRU, Program of Subprogram(s) Affected:
Student Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING						
CAPITAL	N.A.	52.5	(1,572.7)	(2,190.6)	(3,364.8)	(11,861.9)
REVENUE	N.A.	-0-	1,647.2	2,066.2	2,955.4	11,061.8

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	52.5	(1,572.7)	(2,190.6)	(3,364.8)	(11,861.9)
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	N.A.					
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Commission on Postsecondary Education Date: 3/29/83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

CSSSHB56

IV Analysis:

(a) Increasing interest from 5% to 8%

FY84	$0	FY87	$(372.5)
FY85	$0	FY88	$(1,562.8)
FY86	$(93.5)	FY89	$(3,210.2)

(b) Reducing forgiveness to 20%

FY84	$0	FY87	$(520.2)
FY85	$0	FY88	$(930.0)
FY86	$(214.2)	FY89	$(1,491.0)

(c) Allowing for borrowing actual amount of tuition (based upon attendance of 0.35% of total borrowers)

FY84	$52.5	FY87	$110.8
FY85	$74.5	FY88	$129.9
FY86	$89.8	FY89	$145.0

(d) Reducing grace year to grace period of 120 days (assuming 13.2% seniors, 12.7% vocational)

FY84	$0	FY87	$(2,582.9)
FY85	$(1,647.2)	FY88	$(9,499.0)
FY86	$(1,972.7)	FY89	$(13,419.6)

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 28, 1983

TO: Representative Mae Tischer

FROM: Representative John Lindauer JL/ea

RE: House Bill #56: "An Act relating to scholarship loans."

The committee amendments, reported to me by my aide who was in attendance at the March 25th House HESS meeting, are excellent. They protect the ability of the students to get sufficient funds while going a long way towards making the loans into legitimate income-earning state investments instead of remaining just another expensive give away program.

Specifically, I agree:

Section 3 → 1. That the interest rate become 8%;
Section 1 & 2 → 2. That the loan maximums stay at the current $6000 and $7000;
Section 4 → 3. That repayment begin at 120 days;
Section 5 → 4. That 20% be forgiven if student return to the state;
Section 2 → 5. That the graduate school limit be left at $7000 with higher levels if needed to cover tuition and fees.

Section 1 → The only further addition which would seem appropriate and consistent would be to allow undergraduates to get more than the current $6000 if needed to cover their tuition, fees and room. Since undergraduates traditionally can work in the school cafeterias for their food, this would insure that every student can afford to go to school and, more importantly, let the maximum size of the loans increase enough to cover the most basic costs in the years ahead if there is another inflation. The inflation-proofing feature is important as its absence would eventually put pressure on the future legislatures to increase the top dollar amounts and, depending on who is in control, possibly increase them beyond the basic minimum costs again. This way we can both remove the need to periodically rewrite the legislation as well as insure that the loans will only be granted as needed to cover the basic minimum expenses.

Goll - open cap for grad. students for tuition & fees OK

(4) 8% OK

~~(1) - Retain 6,000 - 7,000 (current law)~~

(2) Adjust foregiveness X

(3) Retain Residency @ 2 years.

Goll

8% - 20% forg 6% move back to State
(30%) foregiveness

Kop

25% - 50% tie to Federal Rate
interest pegged to Fed

Cato

8% - 40% forgiveness
Pay on loan immediately

Davis

tie interest to Federal Rate
foregiveness 25% - 50%

Miller

8% - 30% foregiveness
Do not tie to Fed interest rates / immediate payback

Tishen

Ø foregiveness 8% - w/ 1 yr. deferment

Bill Jean Hale & Julie Bennett

Sackett's Bill

Kopenen - Letter of Intent or Resolution to ask Commission to tighten program

Tischer - Would mandate legis. to obligatory funding May 15 move to Jan 1

Miller - Problem even having date in theirs. Students can't comply w/ Date.

Interest
Proprietary
Residency

Goll – Educ Statutes
CSSSHB 56

Lindauer – insert 'room' line 12 & line 17

Motion – Miller moves CSSSHB 56 w/changes of l 12 & 17 w/Ind Rec

Davis – Comment on Motion – any witnesses
no obj to motion – will vote no rec.
1) 120 days – should be 6 months.

Tischer/Moves Bill ..

HB 36 –

Dept Rep

SB 209

graduate 1973

Tuition
R & B
books & supplies

4290 - tuition
1800 - R & B
450 - books
800 -
400 - personal

start July 3 / school - Dec of 83

Laramey, Wyo

Wrangel - spring semester - applied
awarded tentative -
rec'd - 2/2/83

Box 1673
Wrangel

undergrads 5,000
83-84 - rec'd ↑ tentative award made 6,000 grads

Dnot end off funds

Dale Rasler - Heidi 541-56-1808 / #4300 - tuition
874-3229 900 - room / board
900 - board
-

Loan Repayments

The student loan program is based upon a revolving fund with the students' loan repayments being re-utilized for future student loans. Since 1971-72 (actually 1974-75, since there were no repayments received the first few years), Alaskans have repaid over $11 million on their educational loans. The volume of these revolving funds now contribute a significant portion of the loan account, and as can be seen in Figure 6, these repayments are rapidly increasing each year.

Also presented in Figure 6 is a representation of the partial cancellation (forgiveness) history of the student loan program. Students who reside in Alaska after completion of their course of study are eligible to have up to 50 percent of their loans cancelled. Beginning with the first such partial cancellation in 1974-75, the total amount of loan funds (including interest) which the State of Alaska has cancelled has generally shown large annual increases, with the exception of 1979-80 when partial cancellations temporarily leveled. Increases are projected to continue over the next few years as larger numbers of students complete their educational programs.

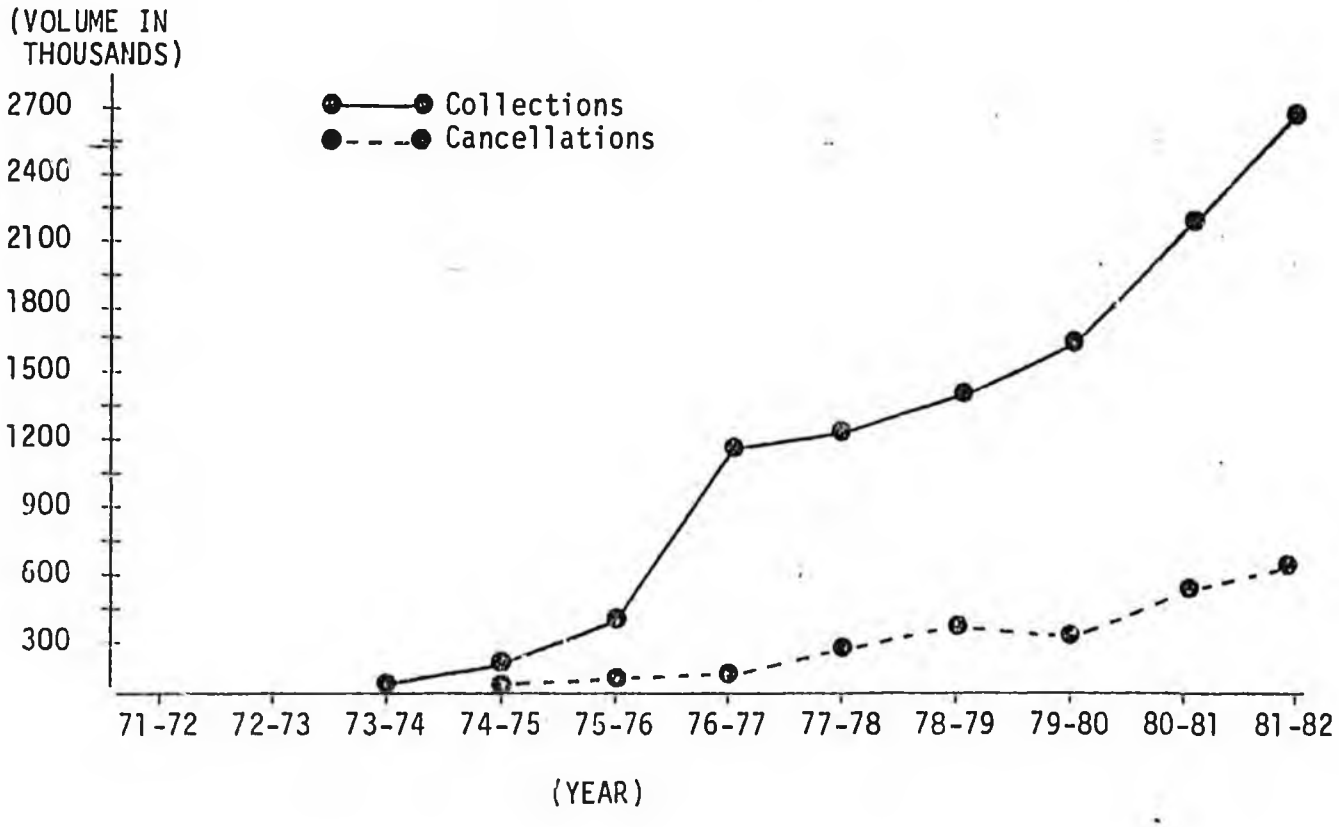


FIGURE 6
STUDENT LOAN COLLECTIONS
AND CANCELLATIONS

Default

Nationally, student loans have a notoriously high default rate, and, unfortunately, Alaska's program also has experienced problems with loan collections. Although the Alaska program is now doing considerably better than the federal loan programs, the default rate still remains at an unacceptable level. As can be seen in Table 4, the default rate has been steadily decreasing since the concerted effort began in 1975-76 to pursue these bad debts. During the 1981-82 loan year, the State of Alaska filed court action against 93 persons involving student loan default. To date, all judgments have been in the favor of the State.

TABLE 4
ANNUAL DEFAULT RATES OF
ALASKA STATE STUDENT LOANS
1971-72 through 1981-82

LOAN YEAR	DEFAULT RATE* (June 30)
1971-72	N.A.
1972-73	N.A.
1973-74	N.A.
1974-75	80.0%
1975-76	44.6%
1976-77	24.9%
1977-78	22.3%
1978-79	19.3%
1979-80	14.5%
1980-81	11.5%
1981-82	9.2%

*Default is 120+ days past due.

Statistical Data

In Appendix A are Tables 9-13 containing data on the Alaska Student Loan Program from 1971-72 through 1981-82. Information on the number and amounts of loans made annually to undergraduate and graduate students attending in-state and out-of-state is presented in Tables 9-12. Table 13 contains summaries of the average size loan awarded each year.

TABLE 10
YEARLY SUMMARY
OF
UNDERGRADUATE STUDENT LOANS

	STUDENTS ATTENDING IN-STATE				STUDENTS ATTENDING OUT-OF-STATE				TOTAL	
ACADEMIC YEAR	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Loan Amount
1971-72	570	57.6	$ 680,351	50.1	470	42.4	$ 666,536	49.5	990	$ 1,346,887
1972-73	761	48.7	965,274	42.1	801	51.3	1,326,975	57.9	1,562	2,292,249
1973-74	585	40.1	913,284	38.8	874	59.9	1,438,990	61.2	1,459	2,352,274
1974-75	528	41.5	764,872	36.4	745	58.5	1,336,279	63.6	1,273	2,101,151
1975-76	456	30.5	747,112	27.9	1,041	69.5	1,927,334	72.1	1,497	2,674,446
1976-77	561	33.1	858,139	28.6	1,132	66.9	2,143,458	71.4	1,693	3,001,597
1977-78	713	35.9	1,211,203	32.7	1,272	64.1	2,496,063	67.3	1,985	3,707,266
1978-79	861	35.1	1,664,246	31.7	1,591	64.9	3,581,002	68.3	2,452	5,245,248
1979-80	1,245	36.1	2,469,354	32.2	2,203	63.9	5,191,236	67.8	3,448	7,660,590
1980-81	2,606	45.3	5,568,580	41.8	3,145	54.7	7,766,597	58.2	5,751	13,335,177
1981-82	4,225	47.3	15,846,331	44.6	4,710	52.7	19,688,486	55.4	8,935	35,534,817
TOTAL	13,111	42.2	$31,688,746	40.0	17,934	57.8	$47,562,956	60.0	31,045	$79,251,702

TABLE 11
YEARLY SUMMARY
OF
GRADUATE STUDENT LOANS

	STUDENTS ATTENDING IN-STATE				STUDENTS ATTENDING OUT-OF-STATE				TOTAL	
ACADEMIC YEAR	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Loan Amount
1971-72	31	34.1	$ 74,613	29.1	60	65.9	$ 181,658	70.9	91	$ 256,271
1972-73	48	25.8	113,990	19.7	138	74.2	464,145	80.3	186	578,135
1973-74	37	18.0	107,988	17.0	169	82.0	525,914	83.0	206	633,902
1974-75	31	16.8	86,266	15.4	153	83.2	472,390	84.6	184	558,656
1975-76	25	11.3	61,424	8.7	197	88.7	647,127	91.3	222	708,551
1976-77	23	10.1	69,833	8.2	205	89.9	779,077	91.8	228	848,910
1977-78	27	9.6	63,919	7.1	253	90.4	832,982	92.9	280	896,901
1978-79	41	12.0	108,130	9.2	302	88.0	1,063,024	90.8	343	1,171,154
1979-80	58	12.3	168,519	9.8	412	87.7	1,544,840	90.2	470	1,713,359
1980-81	127	17.9	391,885	14.8	582	82.1	2,264,218	85.2	709	2,656,103
1981-82	229	23.8	1,060,365	21.1	734	76.2	3,964,317	78.9	963	5,024,682
TOTAL	677	17.4	$2,306,825	15.3	3,205	82.6	$12,739,692	84.7	3,882	$15,046,364

TABLE 12
YEARLY SUMMARY
OF
ALL STUDENT LOANS

	STUDENTS ATTENDING IN-STATE				STUDENTS ATTENDING OUT-OF-STATE				TOTAL	
ACADEMIC YEAR	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Loan Amount
1971-72	601	55.6	$ 754,964	47.1	480	44.4	$ 848,194	52.9	1,081	$ 1,603,158
1972-73	809	46.3	1,079,264	37.6	939	53.7	1,791,120	62.4	1,748	2,870,384
1973-74	622	37.4	1,021,272	34.2	1,043	62.6	1,964,904	65.8	1,665	2,986,176
1974-75	559	38.4	851,138	32.0	898	61.6	1,808,669	68.0	1,457	2,659,807
1975-76	481	28.0	808,536	23.9	1,238	72.0	2,574,461	76.1	1,719	3,382,997
1976-77	584	30.4	927,972	24.1	1,337	69.6	2,922,535	75.9	1,921	3,850,507
1977-78	740	32.7	1,275,122	27.7	1,525	67.3	3,329,045	72.3	2,265	4,604,167
1978-79	902	32.3	1,772,376	27.6	1,893	67.7	4,644,026	72.4	2,795	6,416,402
1979-80	1,303	33.3	2,637,873	28.1	2,615	66.7	6,736,076	71.9	3,918	9,373,949
1980-81	2,733	42.3	5,960,465	37.3	3,727	57.7	10,030,815	62.7	6,460	15,991,280
1981-82	4,454	45.0	16,906,695	41.7	5,444	55.0	23,652,804	58.3	9,898	40,559,499
TOTAL	13,788	39.5	$34,005,677	36.1	21,139	60.5	$60,302,649	63.9	34,927	$94,298,326

Levy
3/28/83

Original sponsor: Lindauer

IN THE HOUSE

BY THE HEALTH, EDUCATION, AND SOCIAL SERVICES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 56 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to scholarship loans."

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

* Section 1. AS 14.43.115 is repealed and reenacted to read:

Sec. 14.43.115. GRADUATE LOANS. The committee may make a loan for a school year to a graduate student eligible under AS 14.43.125. A loan under this section may not exceed $7,000 except when necessary to cover the actual cost of tuition and required fees.

* Sec. 2. AS 14.43.120(a) is amended to read:

(a) Proceeds from scholarship loans may only be used for books, tuition and required fees, ~~[AND FOR]~~ room and board, and other necessary student expenses as determined by the committee.

* Sec. 3. AS 14.43.120(f) is amended to read:

(f) Interest on a loan made [GIVEN] under AS 14.43.090 - 14.43.-160 is at the rate of eight [FIVE] percent a year.

* Sec. 4. AS 14.43.120(g) is amended to read:

(g) Repayment of the principal and interest on the loan begins [NO LATER THAN] one year after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection.

* Sec. 5. AS 14.43.120(j) is amended to read:

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 30 [50] percent of the total loan:

(1) two - three years residence in the state, 10 percent;

(2) three - four years residence in the state, an additional 10 percent,

(3) over four [- FIVE] years residence in the state, an additional 10 percent [;

(4) FIVE - SIX YEARS RESIDENCE IN THE STATE, AN ADDITIONAL 10 PERCENT;

(5) OVER SIX YEARS RESIDENCE IN THE STATE, AN ADDITIONAL 10 PERCENT].

* Sec. 6. AS 14.43 is amended by adding a new section to read:

Sec. 14.43.132. FEDERALLY INSURED LOANS ENCOURAGED. Whenever possible scholarship loans made under AS 14.43.090 - 14.43.160 shall be federally insured.

* Sec. 7. AS 14.43.160 is amended by adding a new paragraph to read:

(9) "committee" means the student financial aid committee of the Alaska Commission on Postsecondary Education.

** Indicates first public hearing

HOUSE
DAILY COMMITTEE ANNOUNCEMENTS

DATE: FRIDAY, MARCH 25, 1983
Prepared by the Chief Clerk's Office

COMMUNITY & REGIONAL AFFAIRS 465-4894

Capitol 205 - 3:15 - 5pm, M - F

CSSB 21(C&RA)am - (grants/water supply, sewerage & solid waste facilities)

JUDICIARY 465-4990

Capitol 124 - 1:30 pm

JOINT HOUSE/SENATE JUDICIARY MEETING, CAP. 205

SB 20 (authorizing participation by magistrates in the judicial retirement system)

RULES 465-3789

Capitol 204

NO MEETING SCHEDULED

FINANCE 465-3706

Capitol 519

1:30pm - House Finance Committee
HB 19 (repealing the certificate of need program)
HCR 15 (Est./Joint House and Senate Committee on Oil and Gas)
HCR 18 (displaying the flags of the U.S. and the State of Alaska)

LABOR & COMMERCE 465-3892

Behrends Conf. Rm. 209 - 8:45 - 10:00am

HB 51 (limiting the adjustment of retirement benefits)

HB 236 (definition for 'trade or commerce' in the Unfair Trade Practice Act.)

STATE AFFAIRS 465-4963

Capitol 102 - 1:00pm

SSHB 34 (succession in the office of Lt. Governor)
HB 164 (distribution/Alaska permanent fund income to municipalities and unincorporated communities; repealing (AS 43.23)
HB 201 (permanent fund dividends)
HB 245 (authorizing an advisory vote on the continuation of the permanent fund dividend program)

HEALTH, EDUCATION & SOCIAL SERVICES

Capitol 112 - MWF - 1-3pm 465-3777

**HB 257 (certain limitations & exclusions in health insurance policies)

**HJR 35 (payment for health services provided by the Alaska Area Native Health Service)

SSHB 56 (student loans)

~~HB 177 (sexual abuse of a minor)~~

RESOURCES 465-3715

Capitol 118 - 3-5pm

**HJR 28 (processing of Native Allotments)

SB 105 (amending an appropriation made in ch. 90, SLA 1981, making an appropriation to the Alaska Power Authority for Snettisham power project)

TRANSPORTATION 465-4858

Capitol 112, 8:30am

WORKSESSION

Alaska State Legislature

HOUSE CALENDAR

OFFICIAL BUSINESS OF THE HOUSE

SIXTY-EIGHTH DAY

Friday

CHAPLAIN:
Vicar Peter Debartolo
Resurrection Lutheran Church

Convenes: 10:00 a.m.
March 25, 1983

SECOND READING OF HOUSE RESOLUTIONS

HCR 15 Establishing a Joint House and Senate Committee on Oil and Gas.
-Resources report w/Amendment, p. 320
Fiscal Note, House Supplement No. 15
-Finance report w/CS(Finance), same title, p. 590
Zero Fiscal Note

CITATIONS

*Honoring - Paul Lincoln by Representative Fuller; Senator Ferguson

*Honoring - Ketchikan High School Students by Representatives Wendte and McBride; Senator Ziegler

*Honoring - Close-up Students by Senator Ferguson and all other members of the Senate; all members of the House

*In Memoriam William J. Lyons by Senators Paul Fischer and Gilman

Standing Committee Announcements on back -- subject to change

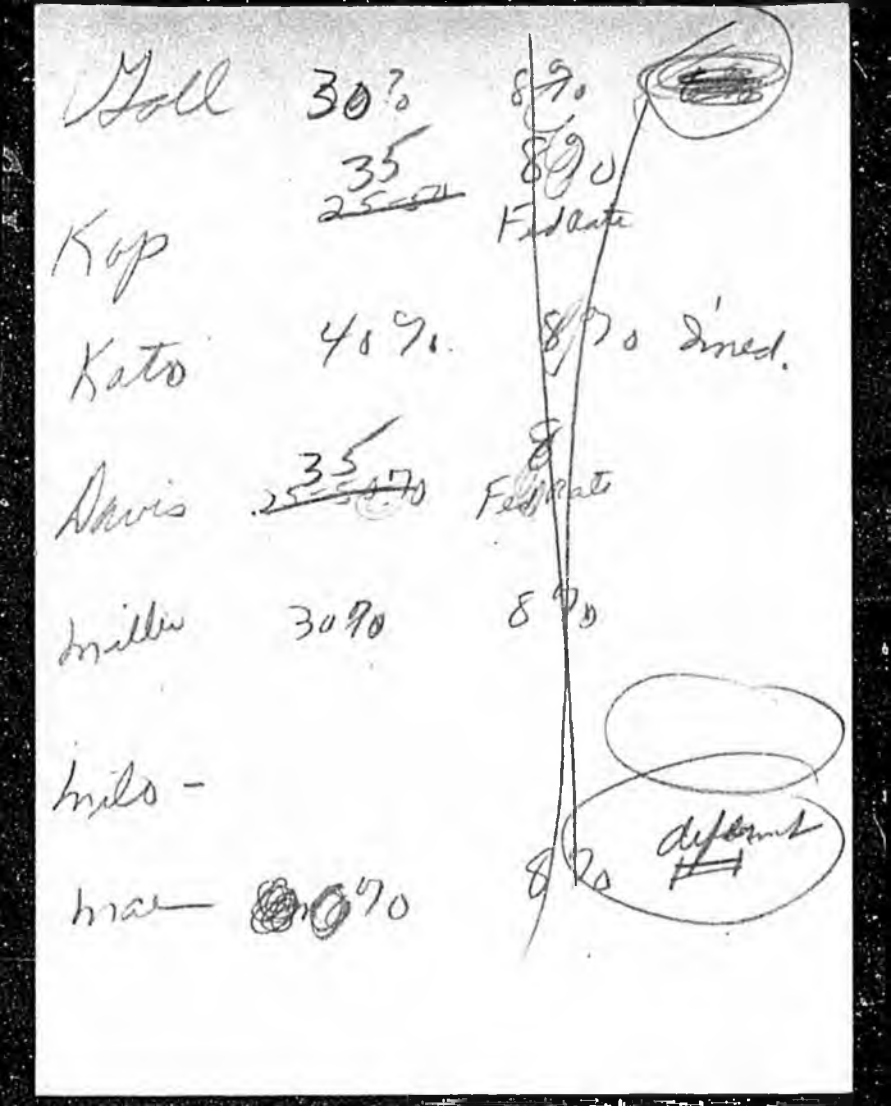
1. Deal with Forgiveness of 50%

2. Residency of 2 yrs

3. Interest Rate (7%) Fed is 9%, & most other States is 8%

4. Needs Test

5. Repayment.



Goll	30%	8%	
Kop	35 ~~25-50~~	8% Fed rate	
Kato	40%	8%	Imed.
Davis	35 ~~25-50~~ 70	8 Fed rate	
Miller	30%	8%	
Milo -			
Mae	0%	8%	deferment

SAMPLE STUDENT BUDGETS
(1982-83)*

Budget Item	UAF On-Campus	UAF Off-Campus	UAA	UAJ	ACC	Kenai Penn. C.C.	APU On-Campus	SJC On-Campus
Tuition & Fees	$ 738	$ 788	$ 648	$ 624	$ 632	$ 632	$3,190	$3,100
Room & Board	2,100	4,800	4,096	4,650	4,608	4,608	3,050	3,000
Books & Supplies	400	400	270	300	270	270	270	250
Subtotal	$3,288	$5,988	$5,014	$5,574	$5,510	$5,510	$6,510	$6,350
Transportation	1,000	1,000	640	600	720	1,080	1,080	100
Personal	800	800	768	775	864	864	768	630
Total	$5,088	$7,788	$6,422	$6,949	$7,094	$7,454	$8,358	$7,080

Budget Item	Oregon State U On-Campus	U of Oregon On-Campus	Willamette U On-Campus	Linfield College On-Campus	Lewis & Clark College On-Campus	U of Washington On-Campus	Western Washington U On-Campus
Tuition & Fees	$4,050	$4,020	$5,570	$ 5,555	$6,444	$3,255	$3,210
Room & Board	2,100	2,250	2,350	2,550	2,603	2,601	2,100
Books & Supplies	300	285	250	290	225	300	300
Subtotal	$6,450	$6,555	$8,170	$ 8,395	$9,272	$6,156	$5,610
Transportation	1,240	1,126	1,800	1,850	1,560	1,525	1,500
Personal	1,320	990	530	715	575	1,041	600
Total	$9,010	$8,671	$10,500	$10,960	$11,407	$8,722	$7,710

Budget Item	Washington State U On-Campus	Pacific Lutheran U On-Campus	U Puget Sound On-Campus	Gonzaga U On-Campus	Seattle U On-Campus	Arizona State U On-Campus	Northern Arizona U On-Campus
Tuition & Fees	$3,256	$ 5,280	$ 5,480	$ 4,700	$ 4,725	$3.250	$2,750
Room & Board	2,200	2,370	2,580	2,420	2,493	2,320	1,770
Books & Supplies	330	330	400	330	330	288	275
Subtotal	$5,786	$ 7,980	$ 8,460	$ 7,450	$ 7,548	$5,858	$4,795
Transportation	1,664	1,600	1,225	1,660	1,736	1,200	1,200
Personal	900	900	700	900	900	1,040	650
Total	$8,350	$10,480	$10,385	$10,010	$10,184	$8,098	$6,645

*All budgets are for single full-time undergraduate students for a full academic year.

SAMPLE STUDENT BUDGETS
(1982-83)*

Budget Item	U of Hawaii On-Campus	U of Idaho On-Campus	U of Montana On-Campus	Colorado State U On-Campus	U of Colorado On-Campus	U of Denver On-Campus	Stanford U On-Campus
Tuition & Fees	$ 481	$2,516	$2,241	$4,109	$ 4,711	$ 5,790	$ 8,220
Room & Board	2,837	1,870	2,000	2,700	2,286	2,649	3,423
Books & Supplies	316	300	200	300	230	375	350
Subtotal	$3,634	$4,686	$4,441	$7,109	$ 7,227	$ 8,814	$11,993
Transportation	1,099	1,450	1,044	1,675	1,716	1,746	1,990
Personal	688	600	500	150	1,417	690	745
Total	$5,421	$6,736	$5,985	$8,934	$10,360	$11,250	$14,728

Budget Item	Boston U On-Campus	Purdue U On-Campus	Northwestern U On-Campus	Dartmouth College On-Campus	Brigham Young U On-Campus
Tuition & Fees	$ 7,275	$3,800	$ 8,085	$ 8,190	$1,100
Room & Board	3,400	2,200	3,060	3,255	1,740
Books & Supplies	310	270	350	1,033	340
Subtotal	$10,985	$6,270	$11,495	$12,478	$3,180
Transportation	1,540	1,880	1,560	1,865	1,100
Personal	600	760	650	1,600	200
Total	$13,325	$8,910	$13,705	$15,943	$4,480

*All budgets are for single full-time undergraduate students for a full academic year.

(c) The committee's decision on an appeal is final. (Eff. 2/3/77, Reg. 61)

Authority: AS 14.40.757

20 AAC 15.080. COMPLAINT FILE. (a) A written complaint regarding the administration of the scholarship loan program must be answered within 30 days of its receipt.

(b) The director shall maintain a separate complaint file.

(c) At the committee's first meeting of the calendar year the director shall provide the committee with a synopsis of all written complaints received during the prior 12 months and a description of the action taken on each complaint. (Eff. 2/3/77, Reg. 61)

Authority: AS 14.40.757

20 AAC 15.085. DEFINITIONS. In this chapter and AS 14.40.751 – 14.40.771, unless the context requires otherwise

(1) "accredited school" means an institution which

(A) is accredited by a national accreditation association, or the regional accreditation association for the area in which the school is located; or

(B) offers a career education degree approved by the commission;

(2) "career education degree program" means a full-time course of study in a recognized occupation leading to a degree, diploma or comparable certificate of completion;

(3) "commission" means the Alaska Commission on Postsecondary Education;

(4) "committee" means the student financial aid committee of the commission;

(5) "director" means the director of student financial aid;

(6) repealed 7/9/82;

(7) repealed 7/9/82;

(8) "full-time course of study" means

(A) a course of study which consists of the completion of a minimum of 24 semester or 36 quarter hours within one school year by an undergraduate student or, when enrollment commences after the first term, the completion of that portion of the hourly requirements which equals the portion remaining of the school year;

(B) a course of study which consists of the completion of a minimum of 18 semester or 27 quarter hours within one school year by a graduate student or, when enrollment commences after the first term, the completion of that portion of the hourly requirements which equals the portion remaining of the school year;

(C) a course of study by a career education student which

(i) consists of the completion of a minimum of 1,080 clock hours, as clock hours is defined in subparagraph (9)(c) of this section, within one school year;

(ii) consists of the completion of that portion of the hourly requirements of (i) of this subparagraph which equals the portion remaining of the school year when enrollment commences after the first term of the school year; or

(iii) consists of the completion of that portion of the hourly requirements of (i) of this subparagraph which equals the portion of the school year represented by the length of the career education program when the career education program does not last for the entire school year.

(9) "full-time student" means

(A) an undergraduate student, not on academic or other probation, who is enrolled in any combination of courses, work experience, research, or special studies which the school requires of the student to consider him as being engaged in full-time study and which amount to the equivalent of 12 semester or 12 quarter hour systems;

(B) a graduate student, not on academic or other probation, who is enrolled in any combination of courses, work experience, research, or special studies which the school requires of the student to consider him as being engaged in full-time study and which amount to the equivalent of nine semester or nine quarter hours per academic term for institutions utilizing trimester, semester, or quarter hour system; or

(C) a student enrolled in a career education program for at least 30 clock hours per week, a clock hour being a period of time which is equivalent of

(i) a 50- to 60- minute class, lecture, or recitation;

(ii) two hours of laboratory, shop training or internship requiring outside preparation;

(iii) two hours of outside preparation related to the activities specified in (i) and (ii) of this subparagraph; or

(iv) three hours of laboratory, shop training, or internship not requiring outside preparation;

(10) "graduate degree program" means an educational program for which a master's degree, doctorate, or other degree requiring study beyond that necessary for a bachelor's degree is awarded;

(11) "hardship" means being unable to meet the obligation to repay a scholarship loan over the term or in the amount determined by the director;

(12) "prospective graduate" means a high school student who will graduate within six months of the submission date of his application for a scholarship loan;

(13) repealed 7/9/82;

(14) "total loan" means the total amount of all loans received by a recipient;

(15) "undergraduate degree program" means

(A) an educational program for which a bachelor's degree is awarded; or

(B) an educational program for which an associate degree, or comparable certificate is awarded, and which is acceptable, upon transfer, for full credit towards a bachelor's degree;

(16) "good cause shown" means duress, major medical disability, death in the immediate family, or administrative error. (Eff. 2/3/77, Reg. 61; am 12/7/80, Reg. 76; am 7/9/82, Reg. 83)

Authority: AS 14.40.757

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

STATE OF ALASKA

STUDENT FINANCIAL AID PROGRAMS

ANNUAL REPORT 1981-1982

Alaska Commission on Postsecondary Education

Pouch FP, 400 Willoughby Avenue

Juneau, Alaska 99811

83-1

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: House HESS Committee DATE: March 21, 1983

FROM: Linda Otey, HESS Staff

RE: Student Loans/HB 56/For Your Review

At the 3/7/83 HESS meeting regarding SSHB 56, staff was directed to summarize the issues under debate regarding the student loan program. A list of those issues follows:

1. Amount of loan awards - line 16, page 1, subsection (4) removes the lid on loan awards.

   a. Previous testimony pointed out that this change, cited in sections 1,2 & 3, would increase the cost of the program to approximately 73 million dollars in the first year.

2. Interest rate - current law sets the rate at 5% - SSHB 56 proposes an increase to 7%.

   a. The Postsecondary Commission recommends raising the rate to 9% (see attached comparisons).

   b. Rep. Lacher's recommendation sets the rate at 8%.

   c. The Federal Student Loan Program is presently set at 9% and will probably drop to 8% this year. In this event, the State may not retain higher rates than the federal program if it wishes to comply with federal requirements for participation in the GSLA.

   d. Floating rates were also recommended. Apparently, this was previously avoided because of the administrative difficulties it would involve.

   e. Another suggestion was to retain current interest rates while elimating forgiveness. Figures reflecting this type of change were requested from the Postseconcary Commission.

3. Forgiveness - current law sets the forgiveness rate at 50%, a 10% increase from the 40% level in 1981 - SSHB 56 retains current 50% forgiveness statutes without changes.

   a. One recommendation would set forgiveness at 30% which would total a 1986 savings of $143,000 increasing to 1 million in 1989.

   b. The Postsecondary Commission recommends deleting the forgiveness clause (see attachment based on 9% interest and no forgiveness).

4. Residency - residency requirement is 2 years under current law - SSHB 56 does not address this issue.

   a. Deborah Vogt, Assistant Attorney General, testified in regards to decreasing the requirement to 1 year. The Attorney General's Office believes that the 2-year statute is defensible and recommends retaining this requirement. A case contesting the 2-year residency requirement is currently before the court but is not scheduled for oral arguement.

   b. Consider the possible ramifications if the 2-year residency requirement is not upheld in court.

   c. Dr. Romesburg encourages leaving the current statutes unchanged because the change to 1 year would financially burden the program. Fiscal note estimate forthcoming.

5. Eligibility - current statute requirement for eligibility is 14.43.120 Conditions of Loan - "full-time" student is defined by regulation AAC 15.085 Definitions and requires 12 credit hours - SSHB 56 does not address this issue.

   a. An amendment was offered by the Alaska Statewide Student Assoc. to include part-time students in good standing in more than one institution for a total number of credits equivalent to a full-time student 14.43.120(c) amendment (see attachment).

   b. The "needs basis" for eligibility is suggested in Section 6 of SSHB 56. In order to comply with the GSLA and receive federal insurance, the State must comply with the federal needs test which is currently at a level far below the average Alaskan income. Because the federal needs test is based on a "Lower 48" average, Alaska has been unable to comply with or meet the federal standards. Consequently, it appears unnecessary to retain Section 6 in SSHB 56.

   c. Another factor in the Alaska Student Loan Program which does not comply with the federal program is the State requirement for "full-time" status. The federal program requires half-time status. However, this regulatory change on the part of the State has financially benefited the program by approximately 10 million dollars since its inclusion into the structure of the loan program.

6. Regulatory changes - not addressed in SSHB 56.

   a. It was suggested that the Postsecondary Commission submit recommendations concerning regulation changes instead of statutory changes to tighten the program and reduce costs.

   b. The deadline for filing applications for the preceeding school year is currently May 15. It was suggested that moving this date to January would give the legislature a more accurate account of necessary funds to accomodate applicants in the budget process.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

POUCH FP
JUNEAU, ALASKA 99811
PHONE: (907) 465-2854

M E M O R A N D U M

TO: Linda Odie
Legislative Assistant to House HESS

FROM: Kerry Romesburg, Executive Director
Alaska Commission on Postsecondary Education

DATE: March 21, 1983

As you requested, the fiscal impacts of changing interest rates and forgiveness rates are listed below. Please note, these impacts are compared to the current program of 5% interest and 50% forgiveness.

Year	5% Interest	30% Forgiveness	Total Impact
FY84	$ 0	$ 0	$ 0
FY85	0	0	0
FY86	0	214,200	214,200
FY87	0	520,200	520,200
FY88	0	930,000	930,000
FY89	0	1,491,000	1,491,000

Year	8% Interest	30% Forgiveness	Total Impact
FY84	$ 0	$ 0	$ 0
FY85	0	0	0
FY86	93,450	214,200	307,650
FY87	372,450	520,200	892,650
FY88	1,562,775	930,000	2,492,775
FY89	3,210,225	1,491,000	4,701,225

5% - 50% forgiveness

STATE STUDENT LOAN ACTIVITY
Projected to 1988-89
(Current Program)

Year	Loan Awards	Loan Volume	Cumulative Total	Average Loan	Loan Collections	Federal Funds	Forgiveness	General Fund
1971-72	1,081	$ 1,603,158	$ 1,603,158	$1,483	$ -0-	$ -0-	$ -0-	$ 1,603,158
1972-73	1,748	2,870,384	4,473,542	1,642	-0-	-0-	-0-	2,870,384
1973-74	1,665	2,986,176	7,459,718	1,793	-0-	-0-	-0-	2,986,176
1974-75	1,457	2,659,807	10,119,525	1,826	235,476	-0-	703	2,424,331
1975-76	1,719	3,382,997	13,502,522	1,968	465,530	-0-	44,233	2,977,467
1976-77	1,921	3,850,507	17,353,029	2,004	1,141,461	-0-	64,746	2,709,046
1977-78	2,265	4,604,167	21,957,196	2,033	1,191,851	-0-	314,306	3,412,316
1978-79	2,795	6,416,402	28,373,598	2,296	1,391,643	-0-	445,985	5,024,758
1979-80	3,918	9,373,949	37,747,547	2,393	1,603,436	-0-	409,501	7,770,513
1980-81	6,460	15,957,717	53,705,264	2,475	2,225,388	-0-	555,494	13,732,329
1981-82	9,898	40,559,499	94,264,763	4,098	2,779,900	1,000,000	785,769	36,819,599
1982-83*	12,500	56,250,000	150,514,763	4,500	4,604,046	1,200,000	(1,367,555)	54,563,309
1983-84	15,000	73,500,000	224,014,763	4,900	7,591,895	850,000	2,311,210	65,058,105
1984-85	17,741	99,349,600	323,364,363	5,600	11,187,099	675,000	3,458,423	87,487,501
1985-86	19,000	112,100,600	435,464,963	5,900	15,871,653	500,000	4,750,002	95,728,947
1986-87	21,100	124,490,000	559,954,963	5,900	20,742,025	350,000	6,432,819	103,397,975
1987-88	22,489	133,809,550	693,764,513	5,950	24,787,158	225,000	8,113,038	108,797,392
1988-89	24,365	144,971,750	838,736,263	5,950	28,423,931	150,000	10,617,441	116,397,819

*1982-83 through 1988-89 are projections

Revised 3/3/83

STATE STUDENT LOAN ACTIVITY
Projected to 1988-89
(Current Maximums)
(9% Interest)
(No Forgiveness)

Year	Loan Awards	Loan Volume	Cumulative Total	Average Loan	Loan Collections	Federal Funds	Forgiveness	General Fund
1971-72	1,081	$ 1,603,158	$ 1,603,158	$1,483	$ -0-	$ -0-	$ -0-	$ 1,603,158
1972-73	1,748	2,870,384	4,473,542	1,642	-0-	-0-	-0-	2,870,384
1973-74	1,665	2,986,176	7,459,718	1,793	-0-	-0-	-0-	2,986,176
1974-75	1,457	2,659,807	10,119,525	1,826	235,476	-0-	703	2,424,331
1975-76	1,719	3,382,997	13,502,522	1,968	465,530	-0-	44,233	2,977,467
1976-77	1,921	3,850,507	17,353,029	2,004	1,141,461	-0-	64,746	2,709,046
1977-78	2,265	4,604,167	21,957,196	2,033	1,191,851	-0-	314,306	3,412,316
1978-79	2,795	6,416,402	28,373,598	2,296	1,391,643	-0-	445,985	5,024,758
1979-80	3,918	9,373,949	37,747,547	2,393	1,603,436	-0-	409,501	7,770,513
1980-81	6,460	15,957,717	53,705,264	2,475	2,225,388	-0-	555,494	13,732,329
1981-82	9,898	40,559,499	94,264,763	4,098	2,779,900	1,000,000	785,769	36,819,599
1982-83*	12,500	56,250,000	150,514,763	4,500	4,604,046	1,200,000	(1,367,555)	51,813,509
1983-84	15,000	73,500,000	224,014,763	4,900	7,591,895	850,000	2,311,210	65,058,105
1984-85	17,741	99,349,600	323,364,363	5,600	11,187,099	675,000	3,458,423	87,487,501
1985-86	19,000	112,100,600	435,464,963	5,900	15,996,253	500,000	4,393,002	95,604,347
1986-87	21,100	124,490,000	559,954,963	5,900	21,238,625	350,000	5,565,819	102,901,375
1987-88	22,489	133,809,550	693,764,513	5,950	26,870,858	225,000	6,563,038	106,713,692
1988-89	24,365	144,971,750	838,736,263	5,950	32,704,231	150,000	8,132,441	112,117,537

*1982-83 through 1988-89 are projections

Revised 3/1/83

Alaska Statewide Student Association
P.O. BOX 548
DOUGLAS, ALASKA 99824
REPRESENTING STUDENTS OF THE UNIVERSITY OF ALASKA STATEWIDE SYSTEM

ASSA requests that the following section be added to SPONSOR SUBSTITUTE FOR HOUSE BILL 56:

AS 14.43.120(c) is amended to read:

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing or as a part-time student in good standing in more than one institution for a total number of credits equivalent to a full-time student in a career education program, college, or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

At present, students enrolled at both UAF and TVCC, UAA and ACC, or Sitka CC and Sheldon Jackson may not receive scholarship loans unless they have a total of twelve credit hours at one or the other institution. This amendment would allow these perfectly legitimate, full-time students to be eligible for the loans.

Thank you.

KCK

ASSA

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

POUCH FP
JUNEAU, ALASKA 99811
PHONE: (907) 465-2854

M E M O R A N D U M

TO: Representative Mae Tischer
Co-Chairman, House HESS

FROM: Kerry D. Romesburg, Executive Director
Alaska Commission on Postsecondary Education

DATE: March 10, 1983

At the recent HESS Committee hearing on HB 56, you requested information on administration costs of student loans. Listed below are the actual costs for FY82 and the budgeted costs for FY83.

	FY82-Actual	FY83 Budgeted
100	$ 835,400	$1,467,900
200	11,800	7,800
300	438,500	667,200
400	17,100	19,800
500	80,800	153,000
TOTAL	$1,383,600	$2,315,700

In FY82 we made 9,898 finalized loans, and in FY83 we estimate 12,500. At mid-year FY82 we had 8,718 loan accounts in repayment, and at mid-year FY83, we had 14,128 accounts in repayment. Therefore, in FY82 we handled (either in awards or repayment and collections) 18,616 loan accounts, and in FY83, we handled 26,628 loan accounts. Dividing this into the administrative expense, one finds a straight administrative cost in FY82 of $74.32 per loan account handled, and $86.96 per loan account handled in FY83.

Pro-rating our administrative expenses between loan awards and loan collections, we can get a better estimate of costs to make loans and costs to collect loans. This break-out includes a lot of estimates and assumptions, but at least it can serve as a guide.

	Awards-82	Repayment-82	Awards-83	Repayment-83
100	$389,389	$446,011	$ 667,842	$ 800,058
200	5,497	6,303	3,548	4,252
300	244,170	194,330	303,552	363,648
400	7,971	9,129	9,008	10,792
500	37,662	43,138	69,609	83,391
TOTAL	$684,689	$698,911	$1,053,559	$1,262,141

05-[illegible]4LH

Again, simply dividing by the number of accounts handled, one gets an administrative cost in FY82 of $69.17 per loan award finalized and $80.17 per loan account in repayment, and $84.28 per loan award finalized and $89.34 per loan account in repayment in FY83.

A third way of looking at administrative cost is to compare it as a percentage of loan volume. Using this approach, in FY82 we find that award administration cost 1.69% of loan award volume, and repayment administration cost 15.31% of loan funds collected and/or forgiven. In FY83, award administration costs 1.87% of loan award volume, and repayment administration cost 17.60% of loan funds collected and/or forgiven. (It should be noted that these percentages already have default totals factored out.)

I am not certain that this is exactly what you were asking for in terms of administrative costs per loan. If not, please let me know and I will re-work the figures.

cc: Representative Terry Martin
Representative Rick Uehling
Representative Walt Furnace

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: March 7, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

SSHB 56 An act relating to scholarship loans.

Dr. Romesberg is scheduled to speak in the first part of the meeting, and a work session is planned for the rest of the afternoon.

Other notes or reminders:

Wednesday, March 9

HB 125 An act relating to emergency closure days in response to a threat to the health or safety of students.

HB 196 An act relating to provision of adequate housing for public school teachers in rural areas.

Terry - Repeal Forgiveness
% up interest to 9%
leave 2yr residency

Kerry Romesburg: 9%
fed. - ~~[illegible]~~ Job related

Debra Vogt -

Robert Jensen - Sen Moss RSVP

Forty - Period after 6 + 7000 $ line 12 + 21

Kapenon - Death Clause insurance
Change Regs. instead of Law
Closed loan applic. Dec or Jan.
Tighten down Post-sec Commission - to local inquiry

Mike Miller - Forgiveness

Goll - Raise % interest, Keep forgiveness
Retain % " + remove forgiveness
Give $ only to Schools.

STATE STUDENT LOAN ACTIVITY
Projected to 1988-89
(Current Maximums)
(9% Interest)
(No Forgiveness)

Year	Loan Awards	Loan Volume	Cumulative Total	Average Loan	Loan Collections	Federal Funds	Forgiveness	General Fund
1971-72	1,081	$ 1,603,158	$ 1,603,158	$1,483	$ -0-	$ -0-	$ -0-	$ 1,603,158
1972-73	1,748	2,870,384	4,473,542	1,642	-0-	-0-	-0-	2,870,384
1973-74	1,665	2,986,176	7,459,718	1,793	-0-	-0-	-0-	2,986,176
1974-75	1,457	2,659,807	10,119,525	1,826	235,476	-0-	703	2,424,331
1975-76	1,719	3,382,997	13,502,522	1,968	465,530	-0-	44,233	2,977,467
1976-77	1,921	3,850,507	17,353,029	2,004	1,141,461	-0-	64,746	2,709,046
1977-78	2,265	4,604,167	21,957,196	2,033	1,191,851	-0-	314,306	3,412,316
1978-79	2,795	6,416,402	28,373,598	2,296	1,391,643	-0-	445,985	5,024,758
1979-80	3,918	9,373,949	37,747,547	2,393	1,603,436	-0-	409,501	7,770,513
1980-81	6,460	15,957,717	53,705,264	2,475	2,225,388	-0-	555,494	13,732,329
1981-82	9,898	[illegible]559,499	94,264,763	4,098	2,779,900	1,000,000	785,769	36,819,599
1982-83*	12,500	5[illegible],250,000	150,514,763	4,500	4,604,046	1,200,000	(1,367,555)	51,813,509
1983-84	15,000	73,500,000	224,014,763	4,900	7,591,895	850,000	2,311,210	65,058,105
1984-85	17,741	99,349,600	323,364,363	5,600	11,187,099	675,000	3,458,423	87,487,501
1985-86	19,000	112,100,600	435,464,963	5,900	15,996,253	500,000	4,393,002	95,604,347
1986-87	21,100	124,490,000	559,954,963	5,900	21,238,625	350,000	5,565,819	102,901,375
1987-88	22,489	133,809,550	693,764,513	5,950	26,870,858	225,000	6,563,038	106,713,692
1988-89	24,365	144,971,750	838,736,263	5,950	32,704,231	150,000	8,132,441	112,117,537

*1982-83 through 1988-89 are projections

Revised 3/1/83

1982-83 ALASKA STUDENT LOANS
(January 18, 1983)

1. Program Status

Student Level	Number	Amount
Freshman	4,232	$17,566,996
Sophomore	2,808	12,391,975
Junior	2,019	9,044,064
Senior	1,734	7,639,369
Vocational	1,581	7,986,925
Undergraduate	12,374	54,629,329
Graduate	1,182	6,522,647
TOTAL	13,556	$61,151,976

SEE UPDATE

2. In-State/Out-of-State Attendance by Level

Student Level	Alaska	%	Out-of-State	%
Freshman	2,377	56.2	1,855	43.8
Sophomore	1,404	50.0	1,404	50.0
Junior	947	46.9	1,072	53.1
Senior	822	47.4	912	52.6
Vocational	1,155	73.1	426	26.9
Undergraduate	6,705	54.2	5,669	45.8
Graduate	302	25.6	880	74.4
TOTAL	7,007	51.7	6,549	48.3

3. Percent In-State Previous Year

Year	Undergraduate	Graduate	All Loans
1981-82	47.3	23.8	45.0
1980-81	45.3	17.9	42.3
1979-80	36.1	12.3	33.3
1978-79	35.1	12.0	32.3

4. States of Attendance by Student Level

Freshman	Sophomore	Junior	Senior	Vocational	Undergraduate	Graduate
AK-2,377	AK-1,404	AK- 947	AK- 822	AK-1,155	AK-6,705	AK- 302
WA- 402	WA- 307	WA- 270	WA- 239	CO- 133	WA-1,307	WA- 160
OR- 298	OR- 260	OR- 174	OR- 147	WA- 89	OR- 921	CA- 178
CA- 203	CA- 142	CA- 94	CA- 89	CA- 45	CA- 573	OR- 128
ID- 126	AZ- 83	AZ- 62	AZ- 51	OR- 42	CO- 389	MA- 33
HA- 121	HA- 74	HA- 55	HA- 38	AZ- 42	AZ- 357	HA- 25
AZ- 119	ID- 73	UT- 52	ID- 43	OK- 19	HA- 320	TX- 21
CO- 111	CO- 71	ID- 36	CO- 35	FL- 7	ID- 285	UT- 21
UT- 57	UT- 60	CO- 35	UT- 34	HA- 7	UT- 204	MO- 19
MT- 45	TX- 40	MT- 35	TX- 27	MN- 5	TX- 148	NY- 18
ZZ- 373	ZZ- 294	ZZ- 259	ZZ- 209	ZZ- 37	ZZ-1,165	ZZ- 277
4,232	2,808	2,019	1,734	1,581	12,374	1,182

5. Age Distribution of Borrowers

Age	Number
60+	24
50-59	163
40-49	618
30-39	2,421
20-29	8,479
16-19	1,851
	13,556

Age Range: 16-72
Median Age: 22.6

6. Residency

Student Level	2-Years	3-5	6-10	10+	Total
Freshman	243	763	913	2,313	4,232
Sophomore	82	445	604	1,677	2,808
Junior	78	289	461	1,191	2,019
Senior	61	279	385	1,009	1,734
Vocational	87	339	305	850	1,581
Undergraduate	551	2,115	2,668	7,040	12,374
Graduate	177	293	308	404	1,182
TOTAL	728	2,408	2,976	7,444	13,556

% Breakdown

2 Years	5.4%	6-10 Years	21.9%
3-5 Years	17.8%	10+ Years	54.9%

Default: (Computed on June 30)

1[illegible] 1-72	N.A.
1[illegible]2-73	N.A.
19[illegible]3-74	N.A.
19[illegible]4-75	80.0%
1975-76	44.6%
1976-77	24.9%
1977-78	22.3%
1978-79	19.3%
1979-80	14.5%
1980-81	11.5%
1981-82	9.2%

10. Loan Volumes, Collections, Forgiveness (see attached table)

STATE STUDENT LOAN ACTIVITY
Projected to 1988-89
(Current Program)

Year	Loan Awards	Loan Volume	Cumulative Total	Average Loan	Loan Collections	Federal Funds	Forgiveness	General Fund
1971-72	1,081	$ 1,603,158	$ 1,603,158	$1,483	$ -0-	$ -0-	$ -0-	$ 1,603,158
1972-73	1,748	2,870,384	4,473,542	1,642	-0-	-0-	-0-	2,870,384
1973-74	1,665	2,986,176	7,459,718	1,793	-0-	-0-	-0-	2,986,176
1974-75	1,457	2,659,807	10,119,525	1,826	235,476	-0-	703	2,424,331
1975-76	1,719	3,382,997	13,502,522	1,968	465,530	-0-	44,233	2,977,467
1976-77	1,921	3,850,507	17,353,029	2,004	1,141,461	-0-	64,746	2,709,046
1977-78	2,265	4,604,167	21,957,196	2,033	1,191,851	-0-	314,306	3,412,316
1978-79	2,795	6,416,402	28,373,598	2,296	1,391,643	-0-	445,985	5,024,758
1979-80	3,918	9,373,949	37,747,547	2,393	1,603,436	-0-	409,501	7,770,513
1980-81	6,460	15,957,717	53,705,264	2,475	2,225,388	-0-	555,494	13,732,329
1981-82	9,898	40,559,499	94,264,763	4,098	2,779,900	1,000,000	785,769	36,819,599
1982-83*	12,500	56,250,000	150,514,763	4,500	4,604,046	1,200,000	(1,367,555)	54,563,309
1983-84	15,000	73,500,000	224,014,763	4,900	7,591,895	850,000	2,311,210	65,058,105
1984-85	17,741	99,349,600	323,364,363	5,600	11,187,099	675,000	3,458,423	87,487,501
1985-86	19,000	112,100,600	435,464,963	5,900	15,871,653	500,000	4,750,002	95,728,947
1986-87	21,100	124,490,000	559,954,963	5,900	20,742,025	350,000	6,432,819	103,397,975
1987-88	22,489	133,809,550	693,764,513	5,950	24,787,158	225,000	8,113,038	108,797,392
1988-89	24,365	144,971,750	838,736,263	5,950	28,423,931	150,000	10,617,441	116,397,819

*1982-83 through 1988-89 are projections

Revised 3/3/83

TABLE 1

DISTRIBUTION OF YEAR-TO-DATE ALASKA STATE LOANS
FOR STUDENTS ATTENDING IN ALASKA
(February, 1983)

Institution	1982-83	
	No.	Amount
U of Alaska, Fairbanks	2,266	$ 6,975,068
U of Alaska, Anchorage	1,560	4,611,230
Anchorage Community College	1,353	4,538,244
U of Alaska, Juneau	340	1,053,425
Kenai Peninsula Community College	326	1,191,593
Alaska Pacific U	198	680,400
Alaska Business College	198	943,887
Alaska Vocational-Technical Center	197	348,741
Tanana Valley Community College	195	731,450
Testing Institute of Alaska	167	761,361
Sheldon Jackson College	138	465,953
Matanuska-Susitna Community College	130	547,800
New Anchorage Beauty School	115	549,450
Gordon Aviation, Inc.	110	549,764
Aero Technical Flight School	80	409,000
Wilburs Flight Operation	53	286,300
Fort Richardson Flying Club	49	249,000
Ketchikan Community College	46	124,250
Trend Setter School of Beauty	42	191,500
Sitka Community College	36	114,400
Headquarters Barber & Beauty Academy	35	171,000
Hutchison Career Center	35	131,200
Flight Training Devices	33	136,800
Academy of Hair Design	32	126,600
Alaska Native Training Institute	29	112,200
A.1.R. Center	24	129,000
Alaska Computer Training Center	21	97,150
Anchorage Alaska School of Barbering	20	96,000
Elmendorf Aero Club	20	90,871
St. Herman's Theological Seminary	19	62,000
Kotzebue Technical Center	19	44,250
Kodiak Community College	15	44,050
North Pacific Business Institute	14	55,050
Alaska Bible College	12	40,950
Fairbanks Beauty School	14	58,100
Peninsula Institute of Welding Technology	11	44,950
Peninsula Hair Styling Academy	11	43,750
Prince William Sound Community College	8	21,531
Kuskokwim Community College	8	18,550
Alaska Piper Sales, Inc.	6	35,900
Birchwood Air Service	4	24,000
University of LaVerne	3	12,750
Chapman College	2	3,000
Far North Bible College	2	2,450
T&M Real Estate Institute	1	6,000
Northwest Community College	1	5,000
Charismatic Bible College	1	4,500
Bar Review	1	4,000
Delta Greely Rural Educational Center	1	3,000
Alaska Media Workshop	1	550
TOTAL	8,002	$26,648,006

INSTITUTIONS AT WHICH AT LEAST FIFTY ALASKA
STUDENT LOAN BORROWERS ATTENDED 1982-83
(as of February, 1983)

Institution	No.	Amount
*University of Alaska, Fairbanks	2,266	$6,975,068
*University of Alaska, Anchorage	1,560	4,011,230
*Anchorage Community College	1,353	4,538,244
*University of Alaska, Juneau	340	1,053,425
*Kenai Peninsula Community College	326	1,191,593
Oregon State University	241	1,189,956
University of Oregon	233	1,026,136
University of Washington	205	935,667
*Alaska Business College	198	943,887
*Alaska Pacific University	198	680,400
*Alaska Vocational-Technical Center	197	348,741
*Tanana Valley Community College	195	731,450
Western Washington University	177	767,542
*Testing Institute of Alaska	167	761,311
Brigham Young University (UT)	160	498,630
*Sheldon Jackson College	138	465,953
Arizona State University	135	615,025
*Matanuska-Susitna Community College	130	547,800
Washington State University	124	551,776
University of Hawaii, Manoa	124	381,811
*New Anchorage Beauty School	115	549,450
Gonzaga University (WA)	113	596,450
*Gordon Aviation, Inc.	110	549,764
University of Puget Sound (WA)	103	512,200
University of Hawaii, Hilo	100	276,175
University of Idaho	99	364,950
Willamette University (OR)	95	481,675
Northern Arizona University	90	308,942
Pacific Lutheran University (WA)	87	406,950
University of Arizona	86	329,600
*Aero Technical Flight Service	80	409,000
Seattle Pacific University (WA)	77	344,550
Central Washington University	77	334,900
American Diesel & Automotive School (CO)	77	320,573
Seattle University (WA)	73	333,134
Montana State University	69	254,088
Linfield College (OR)	67	305,100
Colorado State University	60	306,050
Ricks College (OR)	58	139,181
Denver Institute of Technology (CO)	56	204,056
*Wilbur's Flight Service	53	286,300
Eastern Washington University	53	255,267
University of Colorado	52	231,400

*Alaskan School

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

POUCH FP
JUNEAU, ALASKA 99811
PHONE: (907) 465-2854

STATEMENT ON ALASKA STUDENT LOANS

The State of Alaska can make no better commitment of resources than investing in the education of its citizens. Direct support of Alaska's public elementary, secondary, and postsecondary school systems is vital to the state's continued growth and development. It is in the best interest of the state to provide access to these educational resources for the citizens of Alaska.

The best method of assuring access and opportunity is through the direct provision of educational services, but this is not always practical or possible, particularly at the postsecondary level. Therefore, the most effective and efficient method of attaining these goals of access and opportunity is through a system of low interest loans which allow the students to choose the educational setting most appropriate for their particular needs.

The Commission endorses and recommends the continuation and full-funding of the Alaska State Student Loan Program. Amendments which restrict access by denying loans to groups of Alaskans, either by design or by default, are vigorously opposed. However, the fiscal climate of the state, as well as increasing costs because of increased demand require that some modifications be made in the present program. Therefore, the Commission recommends:

1. interest rates be increased to 9%, and
2. forgiveness provisions be eliminated.

Additionally, the Commission will, by regulation, eliminate the practice of providing refunds for forgiveness benefits and will revert to the method of crediting the account.

3/2/83

REPORT R01-ESA-1420
PROGRAM ESA-1420 COMPILED 11.38.04
DATE 03/03/83
TIME 22:59:16

STATE OF ALASKA: COMM ON POST SECONDARY EDUCATION
DIVISION OF STUDENT FINANCIAL AIDS
STUDENT FINANCIAL AID SYSTEM
CLASS INFORMATION BY STATE
FOR SCHOOL YEAR 82 - 83

STATE : R E P O R T T O T A L

STUDENT LEVEL	STUDENT COUNT	AMOUNT AWARDED	MEAN
FRESHMAN	3,865	15,547,012.28	4,022.51
SOPHOMORE	2,641	11,305,076.85	4,280.60
JUNIOR	1,919	8,396,199.58	4,375.29
SENIOR	1,679	7,302,342.25	4,349.22
FIFTH YEAR	21	57,300.00	2,728.57
VOCATIONAL	1,560	7,878,118.15	5,050.07
UNDERGRADUATE TOTAL	11,685	50,486,049.11	4,320.58
GRADUATE	1,142	6,149,590.00	5,384.92
STATE TOTAL	12,827	56,635,639.11	4,415.34

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

FEB 25 1983

M E M O R A N D U M February 24, 1983

TO: Representative Mae Tischer

FROM: Representative Barbara Lacher

SUBJECT: Student Loan Program

HESS Staff

I am writing you in support of the following proposed changes in the student loan program:

1. Retaining existing loan maximums ($6000 undergraduate, $7000 graduate).

2. Retaining the existing good standing requirements.

3. Changing forgiveness from 50% to 30%.

4. Raising interest rates from 5% to 8%.

5. Maintain the existing loan period.

6. Reduce residency requirement from 2 years to 1 year.

Sincerely,

Barbara Lacher
Representativer
District 16

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 28, 1983

TO: Representative Mae Tischer

FROM: Representative John Lindauer JL/ba

RE: House Bill #56: "An Act relating to scholarship loans."

The committee amendments, reported to me by my aide who was in attendance at the March 25th House HESS meeting, are excellent. They protect the ability of the students to get sufficient funds while going a long way towards making the loans into legitimate income-earning state investments instead of remaining just another expensive give away program.

Specifically, I agree:

Sec 3 — 1. That the interest rate become 8%;
Sec 1 & 2 — 2. That the loan maximums stay at the current $6000 and $7000;
Sec 4 — 3. That repayment begin at 120 days;
Sec 5 — 4. That 20% be forgiven if student return to the state;
Sect 2 — 5. That the graduate school limit be left at $7000 with higher levels if needed to cover tuition and fees.

The only further addition which would seem appropriate and consistent would be to allow undergraduates to get more than the current $6000 if needed to cover their tuition, fees and room. Since undergraduates traditionally can work in the school cafeterias for their food, this would insure that every student can afford to go to school and, more importantly, let the maximum size of the loans increase enough to cover the most basic costs in the years ahead if there is another inflation. The inflation-proofing feature is important as its absence would eventually put pressure on the future legislatures to increase the top dollar amounts and, depending on who is in control, possibly increase them beyond the basic minimum costs again. This way we can both remove the need to periodically rewrite the legislation as well as insure that the loans will only be granted as needed to cover the basic minimum expenses.

Introduced: 2/25/83
Referred: Health, Education and
Social Services, House Special
Committee on State Loans and Finance

IN THE HOUSE BY LINDAUER

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to scholarship loans."

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

* Section 1. AS 14.43.110 is repealed and reenacted to read:

Sec. 14.43.110. UNDERGRADUATE LOANS. The committee may make a loan for a school year to an undergraduate student eligible under AS 14.43.125. A loan made under this section may not exceed $6,000, except when necessary to cover the actual cost of

(1) books;

(2) tuition and required fees;

(3) room and board; and

(4) other necessary student expenses as determined by the committee.

* Sec. 2. AS 14.43.115 is repealed and reenacted to read:

Sec. 14.43.115. GRADUATE LOANS. The committee may make a loan for a school year to a graduate student eligible under AS 14.43.125. A loan under this section may not exceed $7,000, except when necessary to cover the actual cost of

(1) books;

(2) tuition and required fees;

(3) room and board; and

(4) other necessary student expenses as determined by the committee.

* Sec. 3. AS 14.43.120(a) is amended to read:

(a) Proceeds from scholarship loans may only be used for books,

tuition and required fees, [AND FOR] room and board, and other necessary student expenses as determined by the committee.

* Sec. 4. AS 14.43.120(f) is amended to read:

(f) Interest on a loan given under AS 14.43.090 - 14.43.160 is at the rate of seven ~~[FIVE]~~ percent a year.

* Sec. 5. AS 14.43.120(g) is amended to read:

(g) Repayment of the principal and interest on the loan begins [NO LATER THAN] one year after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection.

* Sec. 6. AS 14.43 is amended by adding a new section to read:

Sec. 14.43.132. FEDERALLY INSURED LOANS ENCOURAGED. Whenever possible scholarship loans made under AS 14.43.090 - 14.43.160 shall be federally insured.

* Sec. 7. AS 14.43.160 is amended by adding a new paragraph to read:

(9) "committee" means the student financial aid committee of the Alaska Commission on Postsecondary Education.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SSHB 56 Date on Bill: 2/25/83
Title: An Act relating to scholarship loans
Sponsor: Lindauer
Requestor: House HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital				34,195.3	40,656.2	43,845.6	46,943.7	49,273.5
Operating								
Total			N.A.					

b. Revenues:

Revenue			N.A.	0	0	62.3	248.3	1,041.8

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

a. Raising interest to 7%:

FY 84	$ 0	FY 87	$ 248.3
FY 85	0	FY 88	$1,041.8
FY 86	$62.3	FY 89	$2,140.1

b. Removing loan maximum:

FY 84	$34,195	FY 87	$46,943
FY 85	$40,656	FY 88	$49,273
FY 86	$43,845	FY 89	$51,949

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Commission on Postsecondary Education Date: 3/1/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Loan Repayments

The student loan program is based upon a revolving fund with the students' loan repayments being re-utilized for future student loans. Since 1971-72 (actually 1974-75, since there were no repayments received the first few years), Alaskans have repaid over $11 million on their educational loans. The volume of these revolving funds now contribute a significant portion of the loan account, and as can be seen in Figure 6, these repayments are rapidly increasing each year.

Also presented in Figure 6 is a representation of the partial cancellation (forgiveness) history of the student loan program. Students who reside in Alaska after completion of their course of study are eligible to have up to 50 percent of their loans cancelled. Beginning with the first such partial cancellation in 1974-75, the total amount of loan funds (including interest) which the State of Alaska has cancelled has generally shown large annual increases, with the exception of 1979-80 when partial cancellations temporarily leveled. Increases are projected to continue over the next few years as larger numbers of students complete their educational programs.

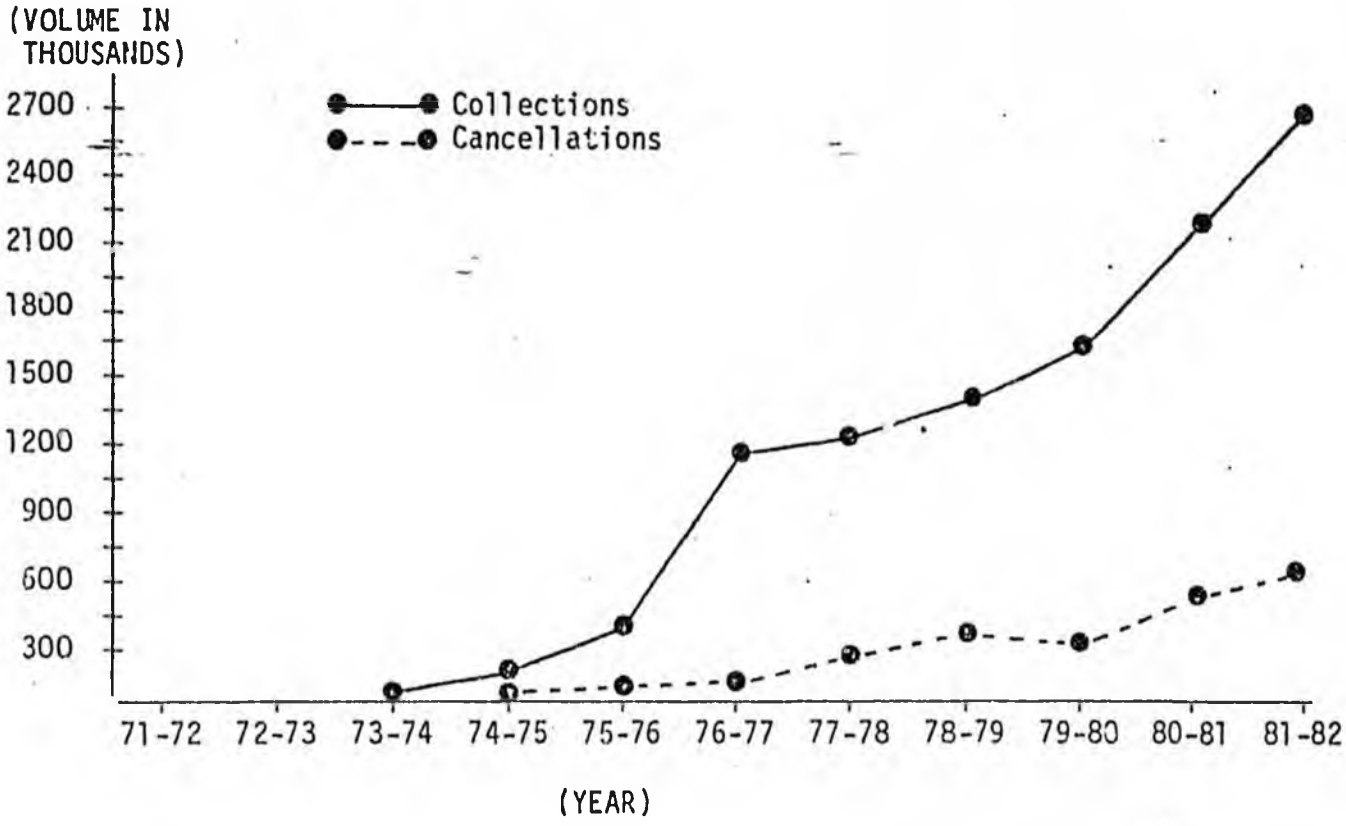


FIGURE 6
STUDENT LOAN COLLECTIONS
AND CANCELLATIONS

Default

Nationally, student loans have a notoriously high default rate, and, unfortunately, Alaska's program also has experienced problems with loan collections. Although the Alaska program is now doing considerably better than the federal loan programs, the default rate still remains at an unacceptable level. As can be seen in Table 4, the default rate has been steadily decreasing since the concerted effort began in 1975-76 to pursue these bad debts. During the 1981-82 loan year, the State of Alaska filed court action against 93 persons involving student loan default. To date, all judgments have been in the favor of the State.

TABLE 4
ANNUAL DEFAULT RATES OF
ALASKA STATE STUDENT LOANS
1971-72 through 1981-82

LOAN YEAR	DEFAULT RATE* (June 30)
1971-72	N.A.
1972-73	N.A.
1973-74	N.A.
1974-75	80.0%
1975-76	44.6%
1976-77	24.9%
1977-78	22.3%
1978-79	19.3%
1979-80	14.5%
1980-81	11.5%
1981-82	9.2%

*Default is 120+ days past due.

Statistical Data

In Appendix A are Tables 9-13 containing data on the Alaska Student Loan Program from 1971-72 through 1981-82. Information on the number and amounts of loans made annually to undergraduate and graduate students attending in-state and out-of-state is presented in Tables 9-12. Table 13 contains summaries of the average size loan awarded each year.

TABLE 10
YEARLY SUMMARY
OF
UNDERGRADUATE STUDENT LOANS

	STUDENTS ATTENDING IN-STATE				STUDENTS ATTENDING OUT-OF-STATE				TOTAL	
ACADEMIC YEAR	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Loan Amount
1971-72	570	57.6	$ 680,351	50.1	470	42.4	$ 666,536	49.5	990	$ 1,346,887
1972-73	761	48.7	965,274	42.1	801	51.3	1,326,975	57.9	1,562	2,292,249
1973-74	585	40.1	913,284	38.8	874	59.9	1,438,990	61.2	1,459	2,352,274
1974-75	528	41.5	764,872	36.4	745	58.5	1,336,279	63.6	1,273	2,101,151
1975-76	456	30.5	747,112	27.9	1,041	69.5	1,927,334	72.1	1,497	2,674,446
1976-77	561	33.1	858,139	28.6	1,132	66.9	2,143,458	71.4	1,693	3,001,597
1977-78	713	35.9	1,211,203	32.7	1,272	64.1	2,496,063	67.3	1,985	3,707,266
1978-79	861	35.1	1,664,246	31.7	1,591	64.9	3,581,002	68.3	2,452	5,245,248
1979-80	1,245	36.1	2,469,354	32.2	2,203	63.9	5,191,236	67.8	3,448	7,660,590
1980-81	2,606	45.3	5,568,580	41.8	3,145	54.7	7,766,597	58.2	5,751	13,335,177
1981-82	4,225	47.3	15,846,331	44.6	4,710	52.7	19,688,486	55.4	8,935	35,534,817
TOTAL	13,111	42.2	$31,688,746	40.0	17,934	57.8	$47,562,956	60.0	31,045	$79,251,702

TABLE 11
YEARLY SUMMARY
OF
GRADUATE STUDENT LOANS

	STUDENTS ATTENDING IN-STATE				STUDENTS ATTENDING OUT-OF-STATE				TOTAL	
ACADEMIC YEAR	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Loan Amount
1971-72	31	34.1	$ 74,613	29.1	60	65.9	$ 181,658	70.9	91	$ 256,271
1972-73	48	25.8	113,990	19.7	138	74.2	464,145	80.3	186	578,135
1973-74	37	18.0	107,988	17.0	169	82.0	525,914	83.0	206	633,902
1974-75	31	16.8	86,266	15.4	153	83.2	472,390	84.6	184	558,656
1975-76	25	11.3	61,424	8.7	197	88.7	647,127	91.3	222	708,551
1976-77	23	10.1	69,833	8.2	205	89.9	779,077	91.8	228	848,910
1977-78	27	9.6	63,919	7.1	253	90.4	832,982	92.9	280	896,901
1978-79	41	12.0	108,130	9.2	302	88.0	1,063,024	90.8	343	1,171,154
1979-80	58	12.3	168,519	9.8	412	87.7	1,544,840	90.2	470	1,713,359
1980-81	127	17.9	391,885	14.8	582	82.1	2,264,218	85.2	709	2,656,103
1981-82	229	23.8	1,060,365	21.1	734	76.2	3,964,317	78.9	963	5,024,682
TOTAL	677	17.4	$2,306,825	15.3	3,205	82.6	$12,739,692	84.7	3,882	$15,046,364

TABLE 12
YEARLY SUMMARY
OF
ALL STUDENT LOANS

	STUDENTS ATTENDING IN-STATE				STUDENTS ATTENDING OUT-OF-STATE				TOTAL	
ACADEMIC YEAR	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Percent of Total	Loan Amount	Percent of Total	Loan Recipients	Loan Amount
1971-72	601	55.6	$ 754,964	47.1	480	44.4	$ 848,194	52.9	1,081	$ 1,603,158
1972-73	809	46.3	1,079,264	37.6	939	53.7	1,791,120	62.4	1,748	2,870,384
1973-74	622	37.4	1,021,272	34.2	1,043	62.6	1,964,904	65.8	1,665	2,986,176
1974-75	559	38.4	851,138	32.0	898	61.6	1,808,669	68.0	1,457	2,659,807
1975-76	481	28.0	808,536	23.9	1,238	72.0	2,574,461	76.1	1,719	3,382,997
1976-77	584	30.4	927.972	24.1	1,337	69.6	2,922,535	75.9	1,921	3,850,507
1977-78	740	32.7	1,275,122	27.7	1,525	67.3	3,329,045	72.3	2,265	4,604,167
1978-79	902	32.3	1,772,376	27.6	1,893	67.7	4,644,026	72.4	2,795	6,416,402
1979-80	1,303	33.3	2,637,873	28.1	2,615	66.7	6,736,076	71.9	3,918	9,373,949
1980-81	2,733	42.3	5,960,465	37.3	3,727	57.7	10,030,815	62.7	6,460	15,991,280
1981-82	4,454	45.0	16,906,695	41.7	5,444	55.0	23,652,804	58.3	9,898	40,559,499
TOTAL	13,788	39.5	$34,005,677	36.1	21,139	60.5	$60,302,649	63.9	34,927	$94,298,326

HB

73

COMMITTEE REPORT

HOUSE

[illegible]

FURTHER: FINANCE

Date: _____

Mr. Speaker:

The Committee on [illegible] has had HB 73

An Act making a supplemental appropriation to the Department of Education for payments to school districts under the public school foundation program (AS 14.17); and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 73 [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible]	
Michael W. Miller	
[illegible]	
Mae Fischer	

Mae Fischer
CHAIRMAN

H 60

Mr Speaker,

I want to express my concern with increasing the funding proposal which passed out of my Committee with unanimous approval. The investigations the HESS committee accomplished ~~a board~~ ~~the~~ substantiated the claims for funding of School Districts, that there had been unanticipated enrollment increases, that the BIA schools which were absorbed by existing districts did impact those districts, that there was need to correct a $2 million deficiency to the School Foundation. The committee addressed these unanticipated expenditures and funded accordingly.

It should be noted here, Mr Speaker that other claims for funds

in the budget process. Highly paid
+ skilled lobbyist, offensive, administrative travel,
funded positions which are intentionally
left unfilled, are only a few of
the problems we found Mr Speaker.

Mr Speaker in a recent article
in the Anchorage Times, Common Sense
of Alaska, a watch dog organization
which monitors fiscal policies in
Alaska, reported on 12 of our largest
cities + boroughs about municipal
spending + debt, population statistics,
+ school budgets. Common Sense
member Millet Keller said in that article.
I + I
quote "School Boards can hire
lobbyists, paid out of budget moneys,
but lobbyist don't have printing Presses."

were specifically not recognized as appropriate requests, such as implementing new programs, + school district reorganizing + administrative changes designed primarily to enhance the school districts revenue picture for budgetary purposes for Fy 84

Mr Speaker, the trusting public expects from the Legislature, and rightfully so, fiscal responsibility. They expect decent roads, safe neighborhoods, and the best education for themselves + their children.

Little does the trusting public know that there are vultures at the educational trough, as we discovered. And Mr Speaker that money for the classroom is not all that is included

I submit to you that this body Mr Speaker also does not have printing presses to crank out money either.

Mr. Speaker the die will be cast today with this major bill as we deliberate. The spending habits of the past must come to a halt. I support Education. but

Mr Speaker this State can no longer be pressured into succombing to unjustified expeditures.

Today Mr. Speaker I speak against the politics of the moment. I regret that I will cast my affirmative vote in protest.

The additional 3. 2 mil is a message to the School administrators that they may conduct business as usual + that they can expect to do so in the future. The money no matter which pocket it comes from, is still money.

CSHB 73 (Finance)

Enrollment	6407.7
BIA Schools	7901.6 (FBIF)
Tanana City School District	855.4
Separate Count - Junior High	1808.4
Special Education	2558.5
Adjustment for 97.25% funding	6010.7
	25,542.3

Letter of Intent regarding 7901.6 for BIA Schools shall be allocated from the Federal Budget Impact Fund

General Fund:	17,640.7
FBIF:	7,901.6

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 3, 1983

Honorable Albert P. Adams
Chairman
House Finance Committee
House of Representatives
Juneau, AK 99801

Dear Representative Adams:

To help the education supplement, the amount of $7,901.6 million can be used from the Federal Budget Impact Funds to help alleviate the education shortfall.

I am very pleased to extend our cooperation and am hopeful that this will help to clear the way for the Legislature to advance the supplemental funding to the school districts in a timely fashion.

Sincerely,

Bill Sheffield

Bill Sheffield
Governor

COMPARISON OF FOUNDATION PROGRAM AMOUNTS
(IN MILLIONS)

DISTRICT	FY 82	FY 83	FY 83 + HESS SUPP.	FY 83 + FINANCE SUPP.
Anchorage	93,338.9	108,074.7	114,281.9	115,158.8
Cordova	2,067.3	2,067.0	2,185.7	2,202.5
Craig	1,174.8	967.0	1,022.4	1,030.3
Fairbanks	28,093.7	32,668.0	34,544.3	34,809.3
Haines	1,997.1	2,316.4	2,448.4	2,468.2
Hoonah	1,295.9	1,395.9	1,476.1	1,487.4
Hydaburg	709.0	799.7	845.7	852.1
Juneau	12,310.2	14,471.0	15,302.1	15,419.5
Kake	1,165.8	1,387.6	1,467.3	1,478.5
Ketchikan	7,444.7	7,553.4	7,987.3	8,048.5
King Cove	1,093.4	1,064.6	1,125.8	1,134.4
Klawock	600.9	1,058.0	1,113.7	1,127.3
Kodiak	9,844.5	11,036.8	11,670.7	11,760.3
Nenana	1,434.0	1,262.1	1,334.6	1,344.8
Nome	4,934.2	5,096.4	5,389.1	5,430.5
Mat Su	15,339.1	18,289.4	19,339.8	19,488.2
Pelican	378.1	607.0	641.8	646.7
Petersburg	2,099.3	2,181.0	2,306.2	2,323.9
Sand Point	1,013.5	956.1	1,011.0	1,018.8
Sitka	5,530.5	5,599.6	5,921.2	5,966.7
Skagway	958.4	893.4	944.7	951.9
Unalaska	1,447.1	1,394.5	1,474.6	1,485.9
Valdez	3,861.0	3,875.4	4,098.1	4,129.5
Wrangell	2,075.5	2,150.7	2,274.2	2,291.7
Yakatat	1,054.0	1,163.4	1,230.2	1,239.7
Galena	1,456.9	1,332.0	1,408.5	1,419.3
N. Slope	8,613.4	8,825.8	9,332.7	9,404.3
Bristol Bay	1,860.3	1,927.0	2,037.6	2,053.3
Dillingham	2,946.2	3,076.4	3,253.1	3,278.1
Kenai	21,380.3	24,724.1	26,144.1	26,344.7
Tanana	N/A	1,153.5	1,219.8	1,229.1
St. Mary's	1,506.2	1,570.9	1,661.1	1,673.9
N.W. Artic	11,496.1	13,126.2	13,880.1	13,986.7
Bering St.	7,029.4	9,859.5	10,425.8	10,505.8
Low Yukon	9,301.0	11,251.9	11,898.2	11,989.4
Low Kuskokwim	17,363.1	23,059.8	24,384.2	24,571.3
Kuspuk	4,600.7	4,579.0	4,841.9	4,879.1
Southwest	5,602.8	5,968.0	6,310.8	6,359.2
Lake & Penin.	4,650.7	4,817.0	5,093.7	5,132.7
Aleutian	1,723.3	1,889.2	1,997.7	2,013.1
Pribilof	1,312.4	1,569.3	1,659.4	1,672.1
Adak	2,761.2	3,056.5	3,232.0	3,256.9
Iditarod	3,791.6	4,263.7	4,508.6	4,543.2
Yukon Koy	5,648.8	6,191.9	6,547.5	6,597.8
Yukon Flats	3,992.5	4,263.3	4,508.1	4,542.7
Railbelt	2,685.1	2,871.3	3,036.3	3,059.6

Delta/Greely	4,131.1	4,856.0	5,134.9	5,174.3
Ak. Gateway	3,485.2	3,580.3	3,785.9	3,815.0
Copper River	3,678.4	3,740.5	3,955.3	3,985.6
Chatham	1,440.2	2,027.4	2,143.9	2,160.3
Southeast	3,506.5	3,551.5	3,755.4	3,784.3
Annette	1,280.6	1,549.4	1,638.4	1,651.0
Chugach	623.9	799.1	845.0	851.5
Central Corresp.	1,698.0	1,859.3	1,966.1	1,981.2
TOTAL	340,826.4	389,668.6	412,049.2	415,210.9

SOURCE: Department of Education

BACKGROUND INFORMATION

SCHOOL DISTRICT FUNDING

Prepared by:

Laraine L. Glenn

Office of Research and Planning

Department of Education

February 1, 1983

Date: January 19, 1983

To: Representative Sam Pestinger
Chairman, Education Subcommittee

From: Alison Elgee, Fiscal Analyst
Division of Legislative Finance

Subject: Supplemental Appropriation for FY 83 School Foundation Program

---

The Department of Education has estimated a fiscal year 1983 shortfall in foundation support to the districts of $33,746,700. Title 14 of the Alaskan statutes governing Public Education provides that when a shortfall exists in the foundation funding, it is the commissioner of Education's responsibility to notify the Governor of the shortfall and to prorate the available funding to the districts. In considering funding of a FY 83 supplemental, the following needs to be addressed:

1) The 1982 Legislature was aware that the federal government was going to begin a phased transfer of the BIA schools in Alaska to the state. However, at the time the Education budget was under consideration the number of schools to be transferred to the state was unknown. Therefore, the legislature included the following intent statement in the 1983 general appropriations act: "This appropriation does not provide for student adm support for BIA schools which may transfer to school districts or new schools or programs which may be established during FY 83. It is the intent of the legislature that the Department of Education fund any such transfers or additions out of this appropriation and present to the legislature a request for a supplemental appropriation to accommodate the costs of any BIA transfers or establishment of new schools or programs, no later than the 15th day of the 1983 legislative session." Essentially, consideration of a supplemental for this need was promised. As one legislature cannot bind another legislature, consideration was all that could be promised. The BIA school transfer affects only a few districts. The cost of the school transfer is borne by all districts because any shortfall in funding is prorated statewide. Further increases for BIA school transfers should be anticipated in the Governor's FY 84 foundation request.

2) The existing foundation statutes provides districts the ability to separately count junior high school students for purposes of generating instructional units whether or not those students were housed in a separate facility. The Department of Education was aware of the potential fiscal impact of this "loophole" in the law and proposed corrective legislation during the 1982 legislative session. The legislation was amended during the course of the

session to become a substitute for the foundation formula while the entire formula was reviewed through a major financing study. The bill failed in the House during the final days of the session, so the Department is continuing to operate under the existing statutes. Again the impact of the organizational changes which generate the additional instructional units to some districts is felt by all because of proration. While it benefits a district which was not previously counting junior highs separately because of added instructional units (even if the extra dollars generated are reduced somewhat by the proration affect), it tends to hurt those districts without the flexibility to make "paper changes" in their reporting practices. Under the existing statutes, there is no way for the Department to choose not to recognize or not to fund the additional entitlements within the dollar limitations. In discussions with both House and Senate Finance Committees, the Department of Education emphasized the problems in anticipating and budgeting for this type of change. It was hoped at that time that an interim solution would be handled through the legislation then under consideration suspending the foundation formula. Until some determination is made as to the future of the existing foundation formula, this unanticipated increase in entitlements due to organizational changes will continue to be a problem in budgeting.

3) Districts must anticipate enrollments for budget consideration a full year in advance of the start of the school year. Alaskan school districts have been experiencing increases in enrollment over the past several years. However, the growth has been slow and projections have been fairly accurate. It became apparent during the spring of 1982 that enrollment projections for FY 83 had been underestimated by the districts when revised reports began coming into the Department for the 1981-82 school year. The Department and the State Board of Education chose at that time to make no attempt to acquire any additional funding for FY 83 based upon increasing enrollments. Therefore, the 1982 legislature made their decision to underfund the foundation formula without the knowledge that a potential underfunding situation already existed, due to an increase in projected enrollments.

4) The 1982 legislature chose to reduce the appropriation request for the foundation formula by $14,431,800. This reduction was made as part of an overall effort to reduce the size of the state's general fund operating budget. It was the feeling of the legislature that the school districts should have to bear a portion of the reduction that was to be felt by all of state government. The school districts were informed in a letter from Representative Montgomery and Senator Terry Stimson in March, 1982, not to anticipate full funding of the foundation request, so they would have sufficient lead time to revise their FY 83 operating budgets at the district level. While the reduction was significant, two important factors need to be kept in mind to keep the reduction in perspective:

   a) A 10% increase in the dollar value of the instructional unit became effective in FY 83 generating additional funds to the school districts for the same number of students and ongoing operations. In addition, the 1981 legislature revised the statutes relating to computation of instructional units for special education, almost doubling the amount of funds available to districts in the special education component in FY 83.

b) The Governor and the Division of Budget and Management prepared an amended budget and presented it for consideration to the Senate Finance Committee. The Governor's amended recommendation for the school foundation formula was $8,000,000 less than the figure finally appropriated for FY 83.

The school districts should have had sufficient time to build their budgets around a reduced level of funding from their original request. Even with the reduction the district budgets were increased almost 7% over FY 82 plus any additional funds generated by the special education component change. Districts did not experience a real reduction in FY 83, but an increase in dollars available for operations.

The foundation formula was not changed between FY 83 and FY 84. Because there was no change in the dollar value of the instructional unit, all things being the same, the dollars available to the districts in FY 84 will be the same as FY 83 (were FY 83 fully funded). The districts will have to absorb within those dollars any inflationary increases they are experiencing. Should the legislature choose to fully fund FY 83 and then find there are not enough dollars available, given the constraints of the spending limitation and other state needs, to fully fund FY 84, the school districts will be in a position of having to absorb not only inflationary increases but an actual reduction in total dollars available for FY 84 operations. Should the legislature decide not to fund a FY 83 supplemental, or to fund only a portion of the supplemental, and then fully fund FY 84, there will be some increase in dollars available to the school districts.

It is my opinion that the worst possible thing that could happen would be for the legislature to fully fund FY 83 through a supplemental and then find that it is not possible to fully fund the FY 84 request. For that reason, I would urge that the two budgets (FY 83 supplemental and FY 84 request) not be considered as independent from each other but one decision. The school districts are already being asked to absorb inflationary increases in FY 84. This alone will cause them difficulties. To raise expectations, to provide districts with new funds to begin new programs, add additional personnel, etcetera, and then to take away the dollars necessary to make those things ongoing would create a great deal more hardship to the districts than if they never had the dollars and the associated expectations in the first place.

cc: Al Adams, Chairman
House Finance Committee

John Sackett, Co-Chairman
Senate Finance Committee

AE/ck

Alaska State Legislature

House of Representatives

COMMITTEE ON FINANCE

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

3/3/82

MEMORANDUM

TO: All School Superintendents
All School Board Presidents

FROM: Representative Albert P. Adams, Chairman
House Finance Committee

Representative Joe Montgomery, ~~Vice-Chairman~~
House Finance Committee

Senator Terry Stimson, Chairman
Senate Finance Subcommittee on Education

SUBJECT: FY 83 Education Budget

As the Legislature continues to work on an FY 83 operating budget, the projection for the state's revenues continues to fall. As a result, close scrutiny is required on all appropriations -- including education.

As we're sure all of you recall, SB 23 authorized an increase in the base instructional unit from $38,590 in FY 82 to $42,450 in FY 83. Any increase, of course, is contingent upon approval of sufficient funding which in turn, is dependent upon available revenues.

The Legislature is faced with difficult decisions and we wanted to take this opportunity to share our dilemma with you. The "fiscal fact of life" is that we are looking at over 50% less in revenues for next year than what we have for this current fiscal year. Because of this bleak picture, it is possible that funding for instructional units may be at a lower level than that authorized in SB 23. Every attempt is being made to preclude this action. However, we felt it important that you be advised of this possibility at the earliest possible date.

No decisions have yet been reached. It's tough being the ones who have to tighten the belt a few more notches but the state's financial picture dictates such. We would welcome each of your comments and suggestions on how we might accomplish this task.

cc: Governor's Office
Marshall Lind - (hand delivered)

MAIL 11-Mar-82 16:31

FOR: COMMISSIONER
FROM: COMMISSIONER
MSG #: 27450
ATTN: SUPT'S. & BD. PRES.
DATE: 11-Mar-82
SUBJ: RESEND OF MSG 27442
TIME: 16:29

SENATOR STIMSON, CHAIRMAN OF THE SENATE EDUCATION BUDGET SUBCOMMITTEE HAS ASKED THE SENATE FINANCE COMMITTEE TO FULLY FUND THE GOVERNOR'S FY-83 REQUEST FOR THE FOUNDATION PROGRAM. HE HAS ASKED THE DEPARTMENT TO SOLICIT YOUR VIEWS ON THE LIKELY EFFECTS OF THE 3.8% CUT IN THE FOUNDATION PROGRAM PROPOSED BY THE HOUSE. RESPOND DIRECTLY TO SENATOR STIMSON AT POUCH V, JUNEAU, ALASKA 99811, AND CIRCULATE THIS MESSAGE TO ANYONE YOU FEEL APPROPRIATE.

SINCERELY,

MARSHALL L. LIND
COMMISSIONER OF EDUCATION
CC: COMMISSIONER

STATE OF ALASKA
DEPARTMENT OF EDUCATION
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND
GOVERNOR

POUCH F
STATE OFFICE BUILDING
JUNEAU, ALASKA 99811
PHONE:

June 11, 1982

MEMORANDUM NUMBER 82-37

TO: All Local School Boards & School Dist. Superintendents

FROM: Marshall L. Lind, Commissioner

SUBJECT: FY 83 Public School Foundation Program Appropriations

---

The Public School Foundation Program appropriation for the 1982-83 school year is well below the estimated level of district entitlements. It is the purpose of this memorandum to explain how the Department plans to implement the pro rata distribution of State aid as required by AS 14.17.225(b).

The appropriation for FY 83 is $389,668,600. Current school district estimates of entitlements, less BIA school transfers, total $418,539,500. The estimated State aid required for BIA schools is $7,297,700. The shortfall in appropriation, not including BIA schools, is $28,870,900. The shortfall, BIA schools included, is $36,168,600.

Due to the size of the shortfall, we will pro rate entitlements beginning July 1, 1982 by reducing monthly payments for the first 7 months of FY 83 by 4%. Based on the revised foundations reports due at the end of the first nine weeks of school (AS 14.17.170), we will recompute entitlements, and the amount of pro rata reduction required for payments from February 1 through June 30, 1983.

We believe this plan best meets the following conditions affecting school districts:

1) Eliminates the extreme impacts of a total pro rata reduction during the last five months of the fiscal year.

2) Reduces the adverse impacts on cash flow to districts by limiting the percentage of initial reductions.

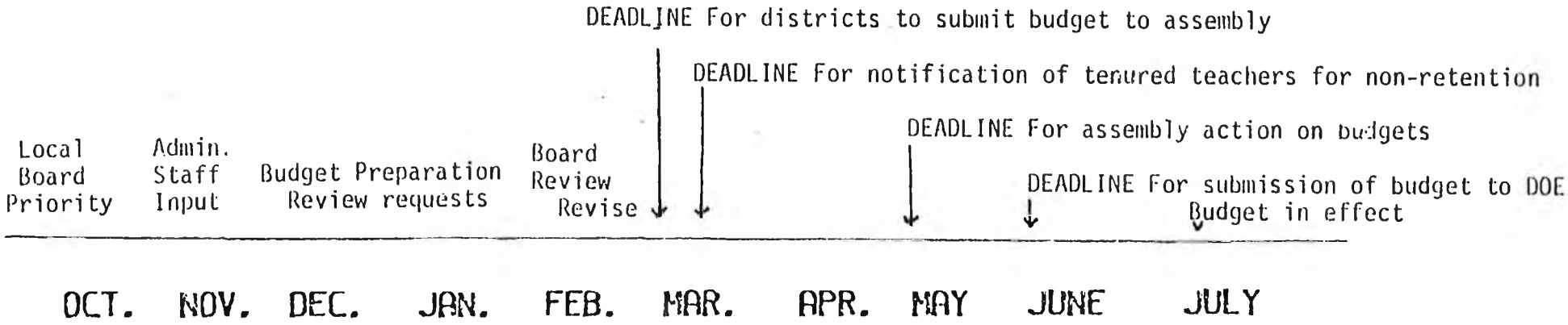
3) Permits districts time to make operating budget decisions which accommodate a lower amount of revenues, including the 35% requirement.

4) Provides for a more accurate determination of the shortfall and pro rata amount when actual ADM and instructional unit counts become available in November.

Senate Bill 649, which proposed to change the system of State aid to an amount per pupil base, did not pass. Title 14, Chapter 17 of the statute continues in effect as now written; changes in instructional units, and supplemental equalization aid will occur when your revised foundation reports are received in November. As required by AS 14.17.170, the Governor will be advised of the additional appropriation necessary to fully fund the foundation program in FY 1983. Monthly payments will be adjusted as of February 1, 1983, to reflect the revised reports and recomputation of the percent of shortfall in appropriation which must be pro rated.

BIA schools will be included in payments made to the school districts affected. The legislative appropriation requires this by intent language, and stipulates that this amount be submitted for supplemental appropriation.

It is important districts recognize that this plan for pro rata reduction of State aid in FY 1983 can still result in a percentage reduction in the last five months of the year even more severe than the four percent initially applied. It is critical that early budget adjustments be made by districts to control expenditures from the start of the year. You should consider that the decrease in State aid revenues could be at least 8.5% over the full year, if a supplemental is not forthcoming.


DEADLINE For districts to submit budget to assembly
DEADLINE For notification of tenured teachers for non-retention
DEADLINE For assembly action on budgets
DEADLINE For submission of budget to DOE
Budget in effect
Local Board Priority
Admin. Staff Input
Budget Preparation Review requests
Board Review Revise
OCT.
NOV.
DEC.
JAN.
FEB.
MAR.
APR.
MAY
JUNE
JULY

BUDGET CYCLE

There are several steps in the budget cycle for school districts, with some variations between city and borough and Regional Education Attendance Area (REAA) districts. These are:

1. October. Determination of local board priorities for the ensuing fiscal year.

2. Late October. Budget instructions provided to administrative staff.

3. November - December 15. Budget preparation by administrative units.

4. December 15-January 15. Review of administrative unit requests.

5. February 1. Preliminary budget completed. and board review.

6. Late February. Budget revision and board approval.

7. March 1. Deadline for city and borough districts to submit budgets to city council or borough assembly, as per AS 14.14.060 (c).

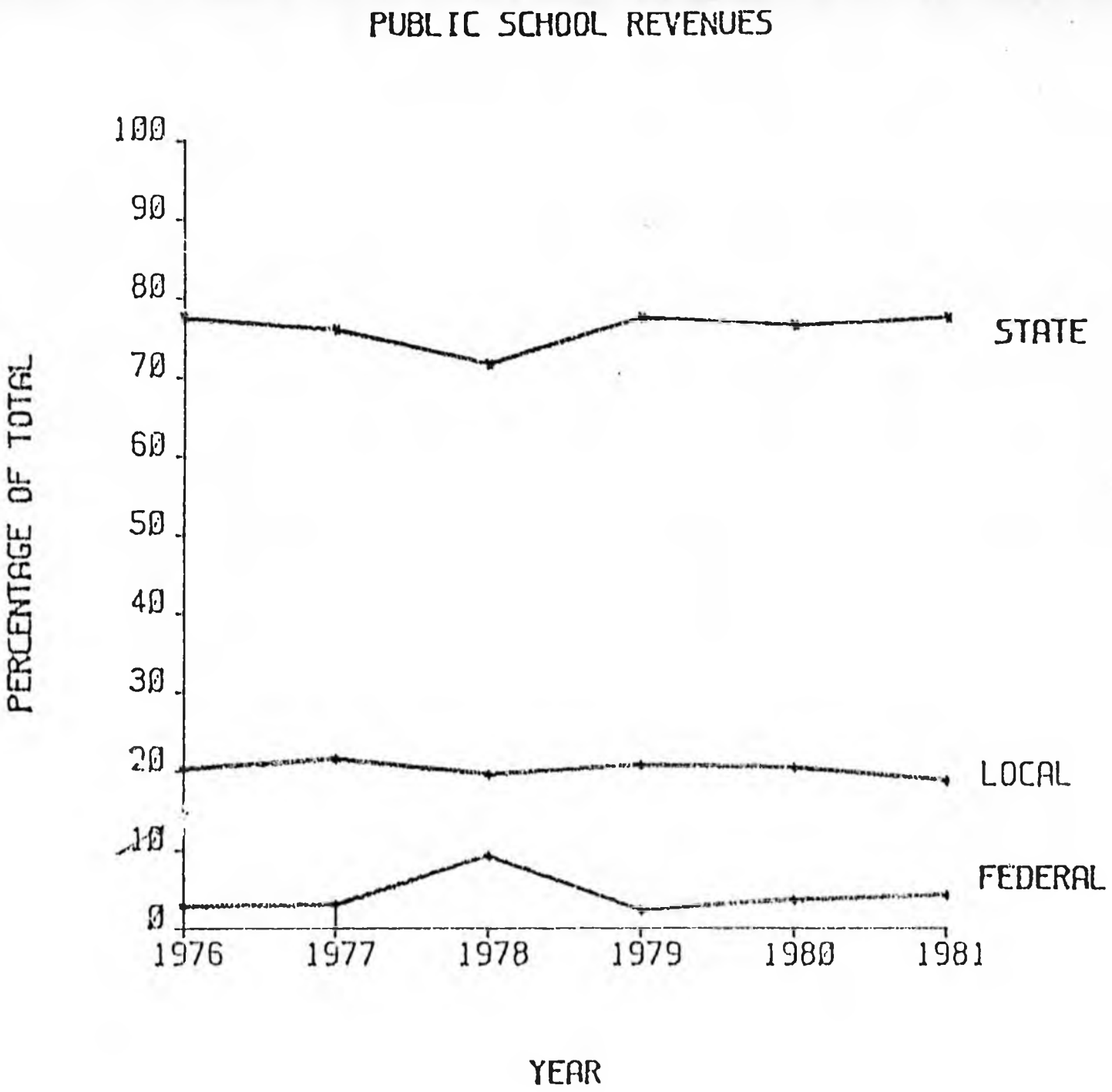
8. March 16. Deadline for notification of tenured teachers of nonretention. As per AS 14.20.175, tenured teachers may be nonretained only in cases of incompetency; immorality; substantial noncompliance with school laws, regulations, district bylaws or written rules of the superintendent; or a reduction in staff occasioned by a decrease in school attendance.

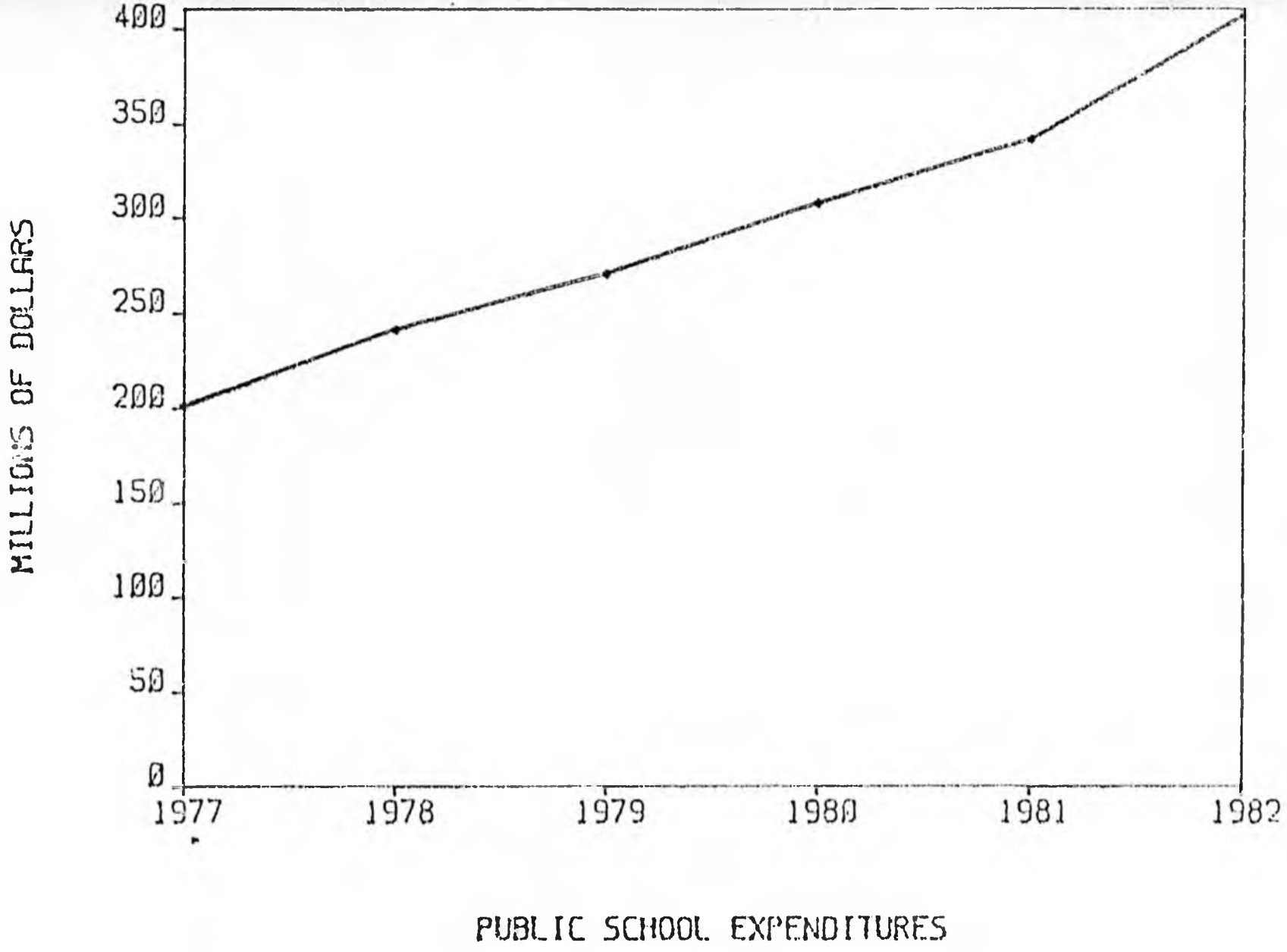
   Nontenured teachers must be notified of nonretention on or before the last school day of the contract year, which varies by district from early May to early June.

9. May 1. Deadline for assembly or council action on budgets of city or borough districts.

10. May 31. Deadline for submission of district budgets to the Department of Education.

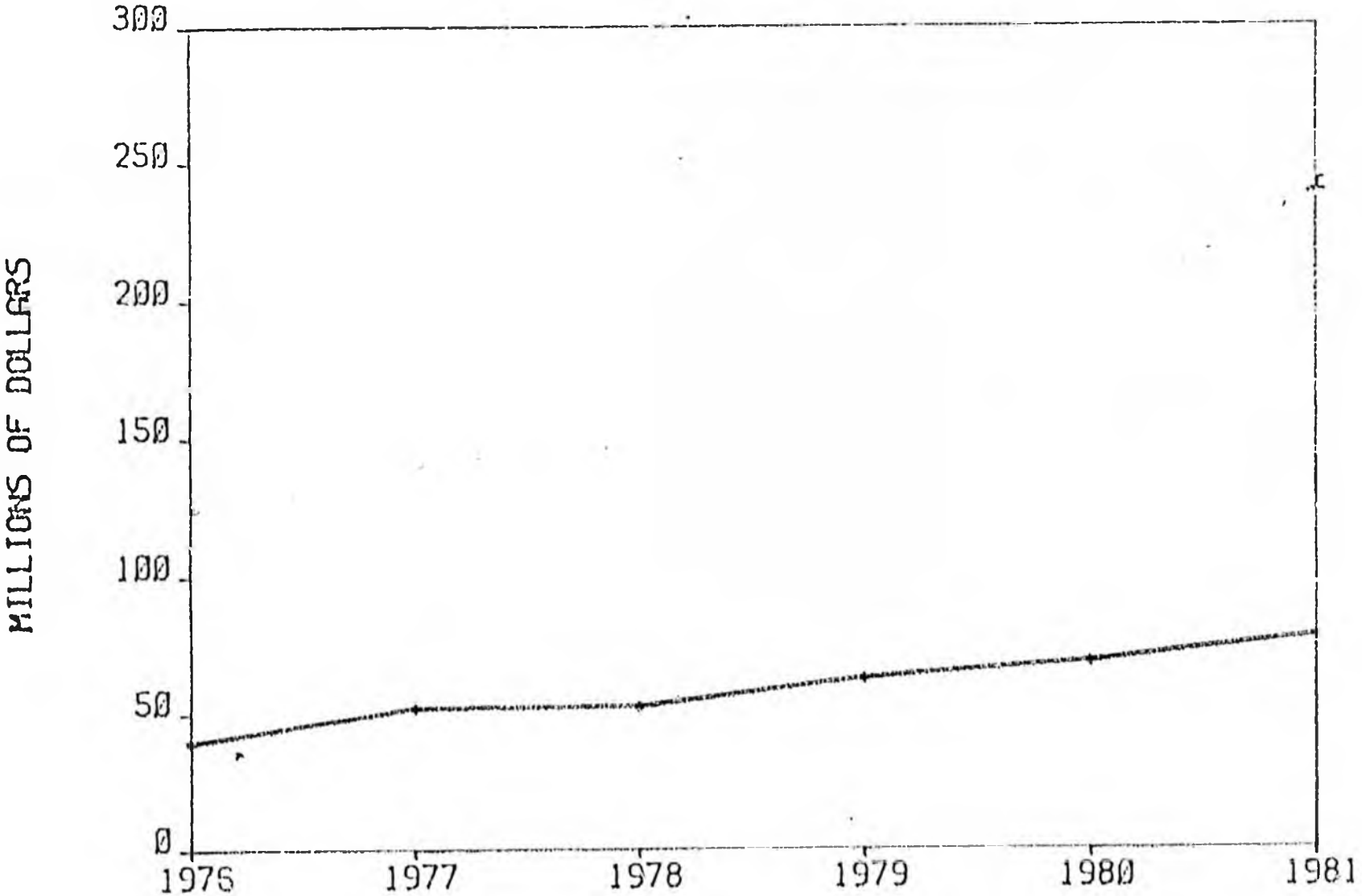
11. July 1. Effective date of budget.


PUBLIC SCHOOL REVENUES
PERCENTAGE OF TOTAL
100
90
80
70
60
50
40
30
20
10
0
1976
1977
1978
1979
1980
1981
STATE
LOCAL
FEDERAL
YEAR

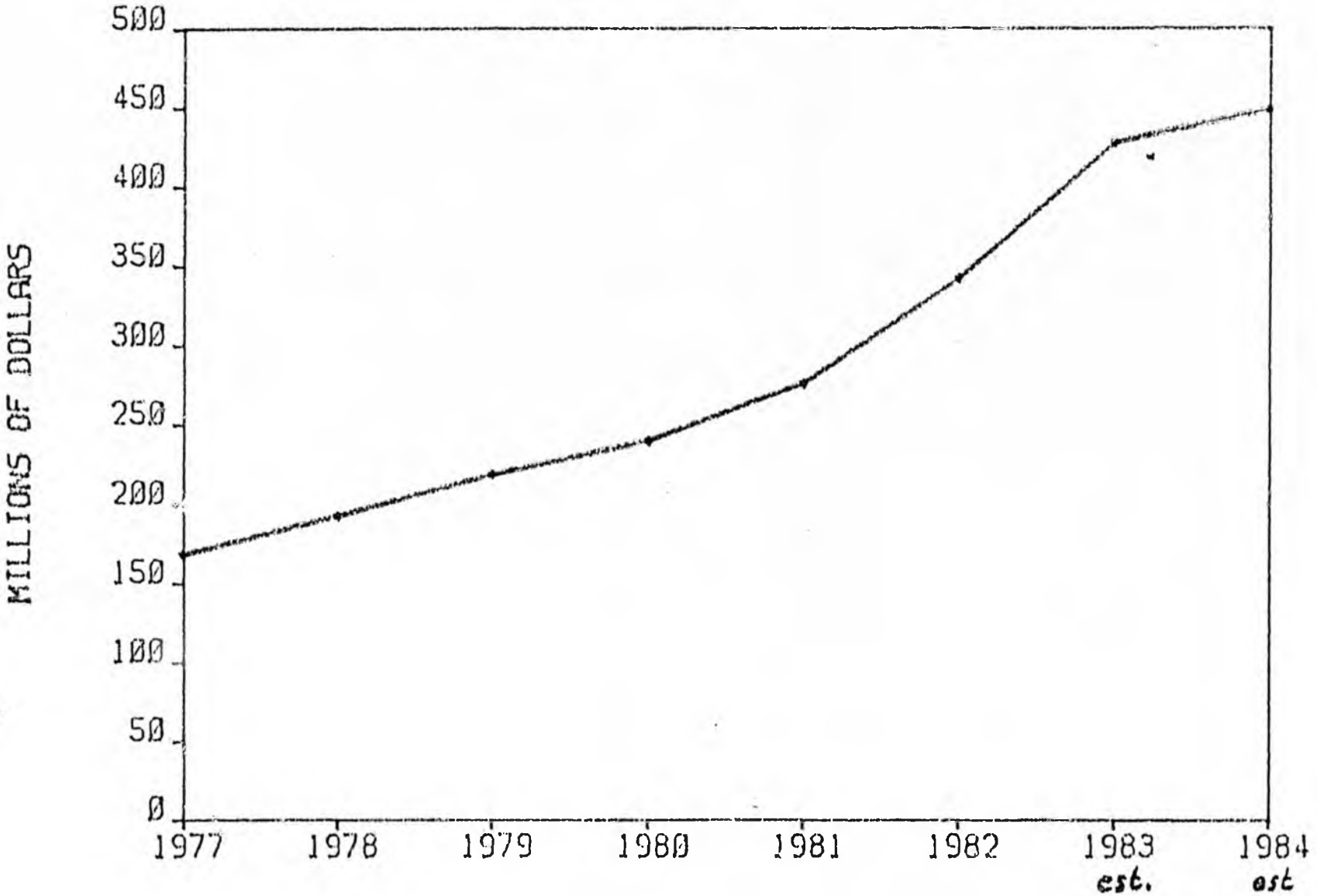


PUBLIC SCHOOL EXPENDITURES

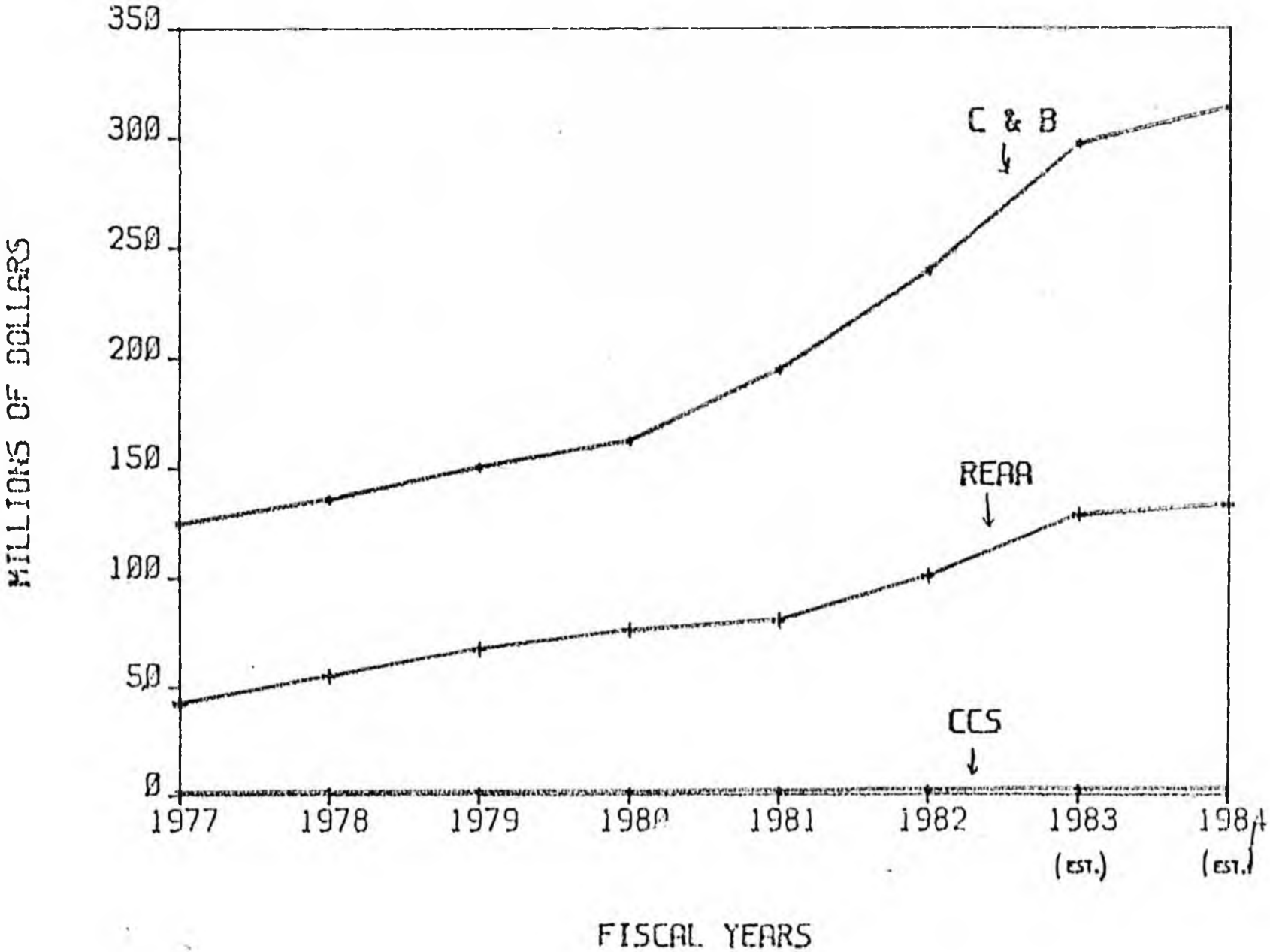
LOCAL CONTRIBUTIONS



TOTAL ENTITLEMENT MONIES

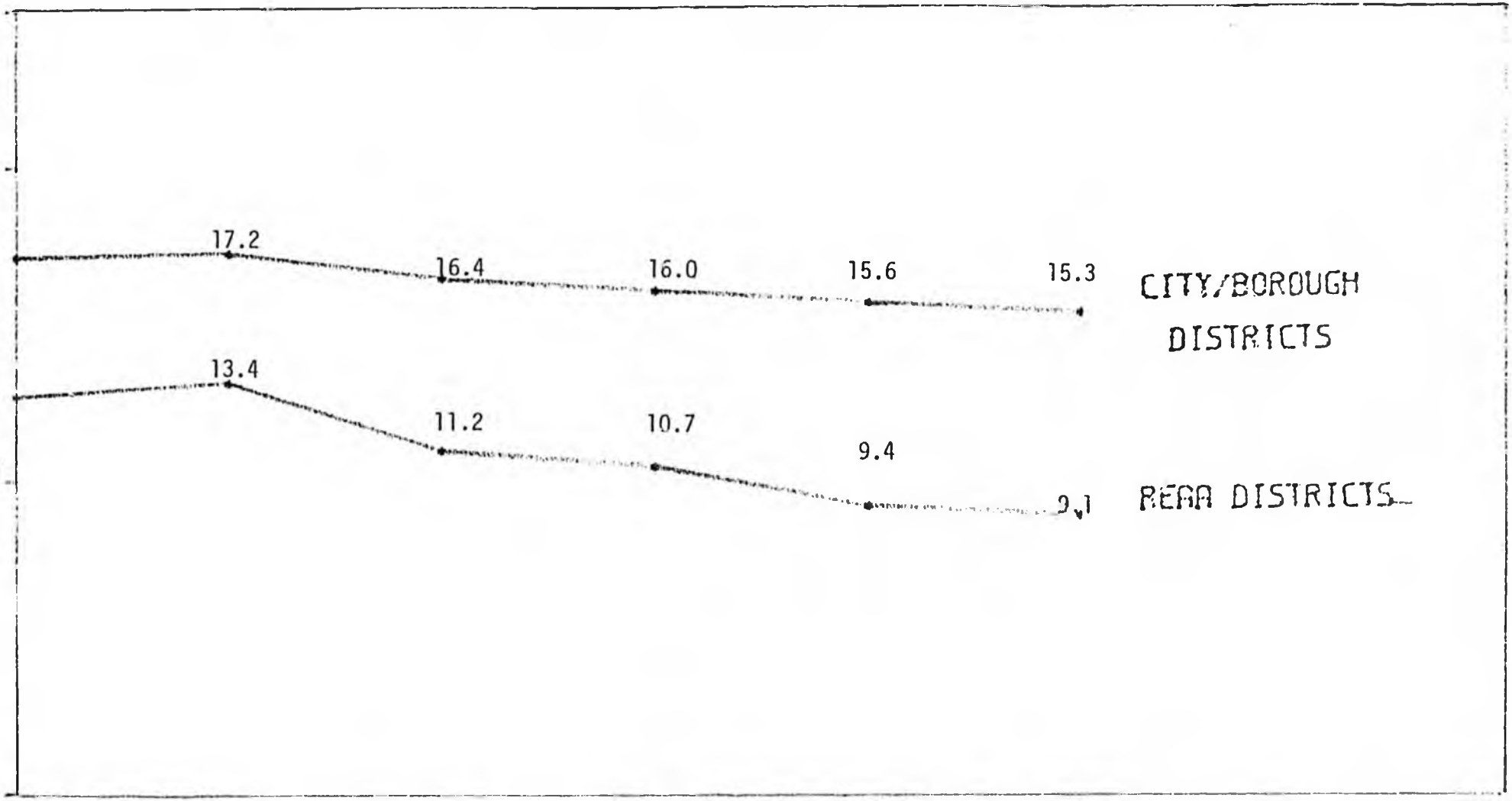


DISTRICT ENTITLEMENTS



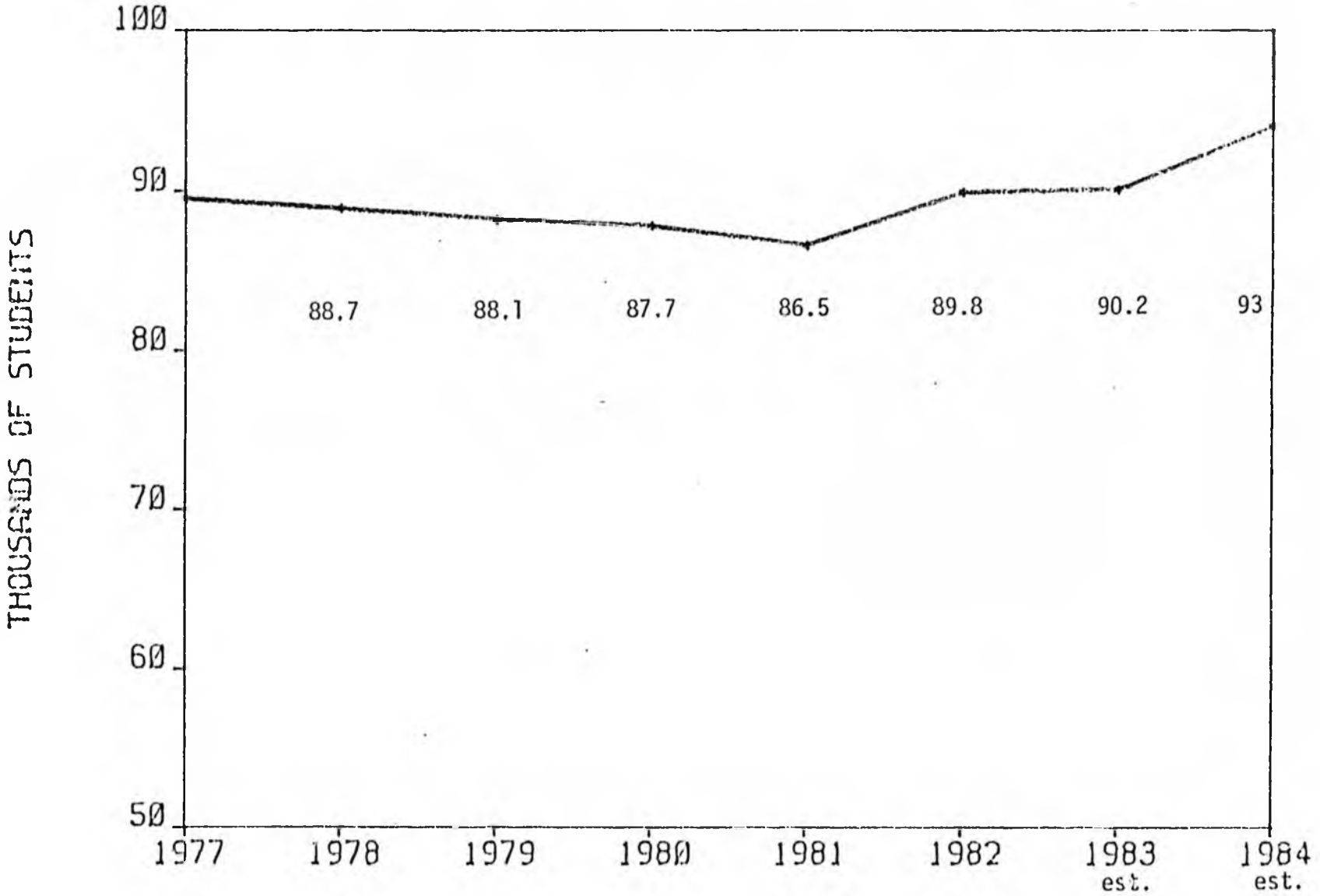
District Entitlements
(millions of dollars)

Fiscal Year	Cities & Boroughs	REAA's	Central. Corresp. Studies	TOTAL
1977	123.8	42.3	.5	166.8
1978	135.1	54.8	.9	190.8
1979	149.4	67.2	1.0	217.6
1980	161.5	75.6	1.2	238.3
1981	193.7	80.1	1.4	275.2
1982	239.0	100.2	1.7	340.9
1983(est.)	296.9	128.	2.0	427.0
1984(est.)	313.1	132.9	2.1	448.1



PUPIL TEACHER RATIO

ENROLLMENT


THOUSANDS OF STUDENTS
100
90
80
70
60
50
88.7
88.1
87.7
86.5
89.8
90.2
93
1977
1978
1979
1980
1981
1982
1983 est.
1984 est.

Catagories included in the fiscal note to the Committee Substitute to HB 73:

1.	Enrollment Increases (estimate)	6,407.7
2.	BIA School Transfers	7,901.6
3.	New Tanana City School District	855.4
4.	Shortfall (reduction in FY 83 budget)	7,215.9
	Total Request for CSHB 73.....	22,380.6

Catagories deleted from the fiscal note attached to the original HB 73 include an appropriation for 'New Secondary Programs' $1,808.4, and 'Special Education Program Increases' $2,558.5. Also deleted from the original request of $33,964.4 was half of the amount requested to cover the reduction appearing in the final FY 83 budget.

Analysis of FY-83 Foundation Supplemental

Revised through CSHB 73

Fiscal Analysis

	Funded through CSHB 73	HB 73
1. Enrollment Increases (estimate)	6,407.7	same..... $6,407.7
See Attachment A & A-1 Comparison figures of 1st qtr '82 and '83, enrollment vs. ADM .		
2. New Secondary Programs...	.00	..... [$1,808,364]
See Attachment B This item has been deleted as per the letter of intent regarding the new fiscal note attached to CSHB 73.		
3. BIA School Transfers.....	7,901.6	same.....7,901.6
See Attachment C & C-1 (C) is catagorized into the effected REAA's and C-1 is a list of the individual schools in transfer.		
4. New Tanana City School District..	855.4	same..... 855.4
See Attachment D New District funded @65,797 per instructional unit (13).		
5. Speical Education Program Increases.....	.00	.....[$2,550,5]
See Attachment E & E-1 Amount included in BIA transfer impacting 4 districts (deleted in CS)		
6. Funding of reduction of FY 83 shortfall with respect to Legislative Intent at 50% level.....	7,215.9	.....[14,431.8]
See Attachment F . $14,431.8 cut by 50%		
Total for CSHB 73	$22,380.6	Total,HB 73 $33,746.700

Fiscal note total = $33,963.4 (DOE)

PROJ.CONTROL 5 #
005.00009

REVISED

DEPARTMENT OF EDUCATION
PRORATA PROJECTION SUMMARY

DISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT AT 0.96490641000000
ANCHORAGE	34,797	2,627	42,450	111,516,150	6,922,194	0	118,438,344	114,281,91
CORDOVA	438	46	48,817	2,245,582	19,592	0	2,265,174	2,185,681
CRAIG	153	19	45,846	871,074	188,553	0	1,059,627	1,022,441
FAIRBANKS (N.STAR)	9,441	753	47,544	35,800,632	0	0	35,800,632	34,544,2
HAINES	389	52	48,817	2,538,484	0	0	2,538,484	2,449,5
HOONAH	239	27	47,544	1,283,688	246,083	0	1,529,771	1,476,0
HYDABURG	93	17	45,846	779,382	97,033	0	876,415	845,6
JUNEAU	4,258	372	42,450	15,791,400	67,245	0	15,858,645	15,302,1
KAKE	208	29	45,846	1,329,534	191,097	0	1,520,631	1,467,2
KETCHIKAN GATEWAY	2,368	195	42,450	8,277,750	0	0	8,277,750	7,987,5
KING COVE	121	16	63,675	1,018,800	147,916	0	1,166,716	1,1
KLAWOCK	152	23	45,846	1,054,458	104,967	0	1,159,425	1,118,7
KODIAK	2,143	216	49,242	10,636,272	1,458,909	0	12,095,181	11,670,7
NENANA	128	23	50,940	1,171,620	211,484	0	1,383,104	1,334,5
NOME	758	73	65,797	4,803,181	781,933	0	5,585,114	5,389,1
MATANUSKA-SUSITNA	5,562	454	44,148	20,043,192	0	0	20,043,192	19,339,8
PELICAN	52	13	47,544	618,072	47,089	0	665,161	641,8
PETERSBURG	574	50	44,148	2,207,400	182,683	0	2,390,083	2,306,2
SAND POINT	123	14	63,675	891,450	156,334	0	1,047,784	1,011,0
SITKA	1,608	139	44,148	6,136,572	0	0	6,136,572	5,921,2
SKAGWAY	177	18	45,846	825,228	153,820	0	979,048	944,6
UNALASKA	181	24	63,675	1,528,200	0	0	1,528,200	1,474,5
VALDEZ	863	87	48,817	4,247,079	0	0	4,247,079	4,098,0
WRANGELL	485	48	44,148	2,119,104	237,835	0	2,356,939	2,274,2
YAKUTAT	160	22	50,940	1,120,680	154,305	0	1,274,985	1,230,2
GALENA	142	19	65,797	1,250,143	209,543	0	1,459,686	1,408,4
NORTH SLOPE	1,022	147	65,797	9,672,159	0	0	9,672,159	9,332,7
BRISTOL BAY	211	28	65,797	1,842,316	269,436	0	2,111,752	2,037,6
DILLINGHAM	378	43	65,797	2,829,271	542,188	0	3,371,459	3,253,1
KENAI	6,756	591	45,846	27,094,986	0	0	27,094,986	26,144,1
TANANA	92	17	65,797	1,118,549	145,590	0	1,264,139	1,219,7
ST. MARY'S	112	24	65,797	1,579,128	142,425	0	1,721,553	1,661,1
NORTHWEST ARCTIC	1,500	208	65,797	13,685,776	2,338,940	1,639,750	14,384,966	13,880,1
BERING STRAIT	918	161	65,797	10,593,317	922,599	710,916	10,805,000	10,425,0
LOWER YUKON	1,392	186	65,797	12,238,242	1,883,179	1,790,533	12,330,888	11,896,1
LOWER KUSKOKWIM	2,416	372	65,797	24,476,484	2,937,126	2,142,535	25,271,075	24,381,2
KUSPUK	324	75	65,797	4,934,775	522,226	438,956	5,018,045	4,841,9
SOUTHWEST	532	99	65,797	6,513,903	765,932	739,531	6,540,304	6,310,7
LAKE & PENINSULA	363	80	65,797	5,263,760	514,314	499,163	5,278,911	5,093,6
ALEUTIAN	129	32	63,675	2,037,600	174,586	141,794	2,070,392	1,997,3
PRIBILOF	168	27	63,675	1,719,225	263,410	262,897	1,719,738	1,659,0
ADAK	594	54	59,430	3,209,220	849,039	708,631	3,349,628	3,232,0
IDITAROD	327	69	65,797	4,539,993	495,324	362,753	4,672,564	4,508,5
YUKON KOYUKUK	556	101	65,797	6,645,497	897,279	757,128	6,785,648	6,547,5
YUKON FLATS	316	69	65,797	4,539,993	496,906	364,798	4,672,101	4,508,1
RAILBELT	327	55	50,940	2,801,700	410,430	65,449	3,146,681	3,036,2
DELTA/GREELY	919	92	50,940	4,686,480	1,086,720	451,513	5,321,687	5,134,9
ALASKA GATEWAY	473	71	50,940	3,616,740	585,628	278,754	3,923,614	3,785,9
COPPER RIVER	582	71	50,940	3,616,740	679,966	197,564	4,099,142	3,955,3
CHATHAM	272	48	45,846	2,200,608	228,248	207,005	2,221,851	2,143,8

DISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT AT 0.9649064100000
SOUTHEAST	434	84	45,846	3,851,064	463,112	422,156	3,892,020	3,755,435
ANNETTE	336	43	44,148	1,898,364	372,695	573,066	1,697,993	1,638,404
CHUGACH	75	16	50,940	815,040	91,887	31,161	875,766	845,032
CENTRAL CORRESPOND	790	48	42,450	2,037,600	0	0	2,037,600	1,966,093
CITY/BOR. TOTAL:	74,184	6,226		284,241,536	12,678,254	0	296,919,790	286,499,808
R.E.A.A. TOTAL:	12,983	2,013		123,884,521	16,979,546	12,786,053	128,078,014	123,583,296
CENTRAL CORRES.:	790	48		2,037,600	0	0	2,037,600	1,966,093
GRAND TOTALS:	87,957	8,287		410,163,657	29,657,800	12,786,053	427,035,404	412,049,197

* * * * * DEPARTMENT OF EDUCATION * * * * *

SHORT FORM PAGE	BUDGET COMPONENT	FY82 ACT	FY83 ATH	CONT.	REQUEST	GOVERNOR	GOVERNOR - FY83 ATH COMPARISON	
	EDUCATION							
	K-12 FOUNDATION SUPPORT							
2	STUDENT ADM SUPPORT	256527.7	279114.2	307888.7	307888.7	292494.3	13380.1	4.7%
4	SPECIAL EDUCATION ADJUSTMENTS	25988.5	45545.7	53640.7	53640.7	50958.7	5413.0	11.8%
6	VOCATIONAL EDUC. ADJUSTMENTS	21321.5	22294.5	23664.3	23664.3	22481.1	186.6	0.7%
8	CORRESPONDENCE STUDY -STATE			2080.1	2080.1	1976.1	1976.1	100.0%
10	CORRESPONDENCE STUDY-LOCAL	4775.9	5151.2	5793.6	5793.6	5503.9	352.7	6.7%
12	BILINGUAL PROGRAM ADJUSTMENT	9849.4	10389.5	12408.6	12408.6	11788.2	1398.7	13.5%
14	SUPPLEMENTAL EQUALIZATION AID	26924.4	27173.5	31993.6	31993.6	30393.9	3220.4	11.8%
	*** PROGRAM TOTAL ***	345387.4	389668.6	437469.6	437469.6	415596.2	25927.6	6.6%
	OTHER K-12 SUPPORT							
18	PUPIL TRANSPORTATION	20065.6	20300.0	21118.0	21118.0	20062.1	-237.9	-1.1%
20	STUDENT LUNCH PROGRAM	7449.7	6000.0	6000.0	6000.0	6000.0		
22	CIGARETTE TAX DISTRIBUTION	2500.0	7000.0	7000.0	7000.0	2500.0	-4500.0	-64.2%
24	FEDERAL PROGRAMS	13257.9	14756.2				-14756.2	-100.0%
26	TUITION STUDENTS	3693.4	3558.2	3584.0	3584.0	3404.8	-153.4	-4.2%
28	BOARDING HOME GRANTS	416.9	840.0	630.0	630.0	598.5	-241.5	-28.7%
30	STATE CONTRACT PROGRAMS	25340.1	26829.1	27718.8	27718.8	26874.6	45.5	0.1%
32	VOC TECH ED DEL - K-12				642.0			
36	DEBT RETIREMENT	39453.9	49669.7	49669.7	49669.7	49669.7		
38	KOTZEBUE TECHNICAL CENTER	1000.0	1090.0	1155.4	1155.4	1090.0		
40	RURAL SCHOOL VOC EDUC PGM	712.7	789.1	836.4	836.4	730.4	-58.7	-7.3%
42	DESIGNATED GRANTS	300.0						
44	FINE ARTS CAMPS	106.0						
46	REGIONAL RESOURCE CENTERS	300.0						
	*** PROGRAM TOTAL ***	116596.2	130832.3	117712.3	118354.3	110930.1	-19902.2	-15.1%
	EDUCATION PROGRAM ADMIN							
50	--MANAGEMENT AND MONITORING SERV			177.4	277.4	177.4	177.4	100.0%
52	DISTRICT SUPPORT SERVICES	883.4	922.0	870.8	969.5	946.5	24.5	2.6%
54	DEPARTMENT ADMINISTRATIVE SERV	908.6	908.3	948.1	948.1	917.7	9.4	1.0%
56	DEPARTMENT OVERHEAD EXPENSES	386.4	777.0	973.6	973.6	864.7	87.7	11.2%
58	CAREER & VOCATIONAL EDUCATION	974.7	1010.4	2475.2	3360.1	2457.2	1446.8	143.1%
60	SPECIAL EDUCATION	456.8	488.3	665.8	665.8	663.2	174.9	35.7%
62	FEDERAL PROGRAMS ADMIN	770.2	1178.7	14607.5	14607.5	14607.5	13428.8	1139.2%
64	EDUCATION PROGRAM DEVELOPMENT	1829.7	2135.1	2130.8	2718.8	1925.4	-209.7	-9.7%
66	COMMISSIONER	699.3	781.0	805.3	821.7	776.8	-4.2	-0.5%
68	DESIGNATED GRANTS	100.0						
	*** PROGRAM TOTAL ***	7201.1	8200.8	23654.5	25342.5	23336.4	15135.6	184.5%
	CIP OVERHEAD & ASSOC. COSTS							
72	CIP OVERHEAD & ASSOC. COSTS		361.4	330.0	330.0	330.0	-31.4	-8.6%
	EDUCATION DESIGN & DELIVERY							
76	PLANNING INFO & RESEARCH	1143.0	1918.3	1226.9	1352.6	1131.3	-787.0	-41.0%
78	EDUC TECH & TELECOMM	3858.9	2381.0	2507.8	2650.3	2353.9	-27.1	-1.0%
80	CORRESPONDENCE STUDY-DOE	1823.8	2084.7	2338.1	2338.1	2230.1	145.4	7.0%
	*** PROGRAM TOTAL ***	6825.7	6384.0	6072.8	6341.0	5715.3	-668.7	-10.5%
	EDUC BOARDS COMM & ASSOC.							
84	STATE BOARD OF EDUC.	121.4	130.0	136.7	136.7	130.0		

* * * * * DEPARTMENT OF EDUCATION * * * * *

SHORT FORM PAGE	BUDGET COMPONENT	FY82 ACT	FY83 ATH	CONT.	REQUEST	GOVERNOR	GOVERNOR - FY83 ATH COMPARISON	
86	OTHER COMM & ASSOC	118.0	163.6	169.4	705.2	165.4	1.8	1.0%
88	PROFESSIONAL TEACHING PRACTICE	81.6	114.4	121.7	121.7	121.7	7.3	6.3%
	*** PROGRAM TOTAL ***	321.0	408.0	427.8	963.6	417.1	9.1	2.1%
	ADULT & POSTSECONDARY SUPPORT							
92	ADULT BASIC EDUCATION	3284.9	3557.8	3755.8	4005.8	3557.8		
94	COMMUNITY SCHOOLS ADJUSTMENTS	3141.1	3690.2	4237.3	4237.3	4025.4	335.2	9.0%
96	FIRE SERVICE TRAINING	90.8	82.4	87.3	87.3	82.4		
98	ADULT VOCATIONAL EDUCATION	69.0	133.7	138.2	488.2	133.7		
100	OTHER VOC ED GRANTS		100.0	100.0	100.0	100.0		
102	GRANTS ADMIN.	1123.1	965.2	1066.8	1130.5	1088.9	123.7	12.7%
104	YOUTH EMPLOYMENT SERVICES	543.5	492.4	521.9	521.9	472.4	-20.0	-4.0%
106	DESIGNATED GRANTS	931.9						
108	SPECIAL GRANTS		74.0				-74.0	-100.0%
	*** PROGRAM TOTAL ***	9184.3	9095.7	9907.3	10621.0	9460.6	364.9	4.0%
	AK VOC TECH CTR							
112	SEWARD CENTER	3904.9	4571.1	4705.8	5205.8	4513.1	-58.0	-1.2%
	VOCATIONAL REHABILITATION							
116	COUNSELING & PLACEMENT	2622.3	2957.9	3276.1	3372.1	3239.0	281.1	9.5%
118	SERVICES TO CLIENTS	2289.4	2967.7	3022.3	3072.9	2867.7	-100.0	-3.3%
120	INDEPENDENT LIVING REHABIL	541.2	755.0	717.0	867.0	717.0	-38.0	-5.0%
122	ADMINISTRATION	719.0	749.5	770.4	770.4	762.3	12.8	1.6%
124	SPECIALIZED FACILITIES	477.0	451.8	474.8	474.8	451.8		
126	STATE SUPPORTED FAC	45.0	48.0	50.9	50.9	44.2	-3.8	-7.8%
128	DISABILITY DETERMINATION	1130.3	1508.3	1547.8	1547.8	1547.8	39.5	2.5%
130	EMPLOYMENT OF THE HANDICAPPED	140.1	196.1	203.7	203.7	199.4	3.3	1.6%
132	DESIGNATED GRANTS	85.8						
	*** PROGRAM TOTAL ***	8050.1	9634.3	10063.9	10359.6	9829.2	194.9	2.0%
	STUDENT FINANCIAL AID							
136	SCHOLARSHIP LOAN PROGRAM	31440.9						
138	WICHE-STUDENT EXCHANGE PROG	1239.7	1592.5	1797.5	1797.5	1708.6	116.1	7.2%
140	STUDENT INCENTIVE GRANT PROG	235.1	244.0	240.0	240.0	234.0	-10.0	-4.0%
	*** PROGRAM TOTAL ***	32915.7	1836.5	2037.5	2037.5	1942.6	106.1	5.7%
	AK. POSTSECONDARY COMMISSION							
144	AK STUDENT LOAN ADMIN.	1383.6	2315.7	2617.6	4801.1	2486.2	170.5	7.3%
148	WICHE-ADMINISTRATION	64.2	55.1	58.4	58.4	55.4	0.3	0.5%
152	GENERAL ADMINISTRATION	939.8	1005.4	1062.7	1492.7	1026.2	20.8	2.0%
	*** PROGRAM TOTAL ***	2387.6	3376.2	3738.7	6352.2	3567.8	191.6	5.6%
	ALASKA HISTORICAL COMMISSION							
156	ALASKA HISTORICAL COMMISSION	467.0	580.8	605.4	605.4	579.4	-1.4	-0.1%
	ALASKA ST COUNCIL ON THE ARTS							
160	ADMINISTRATION & SUPPORT	5361.5	5815.1	5906.3	6417.7	5626.1	-189.0	-3.2%
	ALASKA STATE LIBRARY & MUSEUMS							
164	LIBRARY OPERATIONS	4779.1	4518.1	4583.7	4983.7	4376.4	-141.7	-3.0%
166	MUSEUM OPERATIONS	1702.5	1029.2	976.9	1020.0	946.1	-83.1	-8.0%
168	BLUE BOOK	7.2	45.3	15.9	15.9	15.1	-30.2	-66.6%
	*** PROGRAM TOTAL ***	6488.8	5592.6	5576.5	6019.6	5337.6	-255.0	-4.5%
	*** CATEGORY TOTAL ***	543091.3	576357.4	628207.5	636419.8	597181.5	20824.1	3.5%

What is meaning of Prof. Sec. ?

Actual increase relative to G's Proposed increase

* * * * * DEPARTMENT OF EDUCATION * * * * *

SHORT FORM PAGE	BUDGET COMPONENT	FY82 ACT	FY83 ATH	CONT.	REQUEST	GOVERNOR	GOVERNOR - FY83 ATH COMPARISON	
**********	TOTAL AGENCY EXPENDITURES	543091.3	576357.4	628207.5	636419.8	597181.5	20824.1	3.5%
**********	AGENCY FUNDING							
	FED. RECEIPT	29445.9	30270.2	29985.7	29985.7	29964.4	-305.8	-1.0%
	GENERAL FUND	492674.8	522836.7	575751.3	583413.6	549350.6	26513.9	5.0%
	OTHER FUNDS	20970.6	23250.5	22470.5	23020.5	17866.5	-5384.0	-23.1%

Mac.

Steve Hole, coming with a message from the Governor.

He (the Governor) wanted you to know that at 12:00 today he will make an announcement concerning the supplemental appropriation.

22.6 million will be the figure.

He also left the briefing material for you

Anne

COMPARISON OF FOUNDATION PROGRAM AMOUNTS
(IN MILLIONS)

DISTRICT	FY 82	FY 83	FY 83 + HESS SUPP.	FY 83 + FINANCE SUPP.
Anchorage	93,338.9	108,074.7	114,281.9	115,158.8
Cordova	2,067.3	2,067.0	2,185.7	2,202.5
Craig	1,174.8	967.0	1,022.4	1,030.3
Fairbanks	28,093.7	32,668.0	34,544.3	34,809.3
Haines	1,997.1	2,316.4	2,448.4	2,468.2
Hoonah	1,295.9	1,395.9	1,476.1	1,487.4
Hydaburg	709.0	799.7	845.7	852.1
Juneau	12,310.2	14,471.0	15,302.1	15,419.5
Kake	1,165.8	1,387.6	1,467.3	1,478.5
Ketchikan	7,444.7	7,553.4	7,987.3	8,048.5
King Cove	1,093.4	1,064.6	1,125.8	1,134.4
Klawock	600.9	1,058.0	1,113.7	1,127.3
Kodiak	9,844.5	11,036.8	11,670.7	11,760.3
Nenana	1,434.0	1,262.1	1,334.6	1,344.8
Nome	4,934.2	5,096.4	5,389.1	5,430.5
Mat Su	15,339.1	18,289.4	19,339.8	19,488.2
Pelican	378.1	607.0	641.8	646.7
Petersburg	2,099.3	2,181.0	2,306.2	2,323.9
Sand Point	1,013.5	956.1	1,011.0	1,018.8
Sitka	5,530.5	5,599.6	5,921.2	5,966.7
Skagway	958.4	893.4	944.7	951.9
Unalaska	1,447.1	1,394.5	1,474.6	1,485.9
Valdez	3,861.0	3,875.4	4,098.1	4,129.5
Wrangell	2,075.5	2,150.7	2,274.2	2,291.7
Yakatat	1,054.0	1,163.4	1,230.2	1,239.7
Galena	1,456.9	1,332.0	1,408.5	1,419.3
N. Slope	8,613.4	8,825.8	9,332.7	9,404.3
Bristol Bay	1,860.3	1,927.0	2,037.6	2,053.3
Dillingham	2,946.2	3,076.4	3,253.1	3,278.1
Kenai	21,380.3	24,724.1	26,144.1	26,344.7
Tanana	N/A	1,153.5	1,219.8	1,229.1
St. Mary's	1,506.2	1,570.9	1,661.1	1,673.9
N.W. Artic	11,496.1	13,126.2	13,880.1	13,986.7
Bering St.	7,029.4	9,859.5	10,425.8	10,505.8
Low Yukon	9,301.0	11,251.9	11,898.2	11,989.4
Low Kuskokwim	17,363.1	23,059.8	24,384.2	24,571.3
Kuspuk	4,600.7	4,579.0	4,841.9	4,879.1
Southwest	5,602.8	5,968.0	6,310.8	6,359.2
Lake & Penin.	4,650.7	4,817.0	5,093.7	5,132.7
Aleutian	1,723.3	1,889.2	1,997.7	2,013.1
Pribilof	1,312.4	1,569.3	1,659.4	1,672.1
Adak	2,761.2	3,056.5	3,232.0	3,256.9
Iditarod	3,791.6	4,263.7	4,508.6	4,543.2
Yukon Koy	5,648.8	6,191.9	6,547.5	6,597.8
Yukon Flats	3,992.5	4,263.3	4,508.1	4,542.7
Railbelt	2,685.1	2,871.3	3,036.3	3,059.6

Delta/Greely	4,131.1	4,856.0	5,134.9	5,174.3
Ak. Gateway	3,485.2	3,580.3	3,785.9	3,815.0
Copper River	3,678.4	3,740.5	3,955.3	3,985.6
Chatham	1,440.2	2,027.4	2,143.9	2,160.3
Southeast	3,506.5	3,551.5	3,755.4	3,784.3
Annette	1,280.6	1,549.4	1,638.4	1,651.0
Chugach	623.9	799.1	845.0	851.5
Central Corresp.	1,698.0	1,859.3	1,966.1	1,981.2
TOTAL	340,826.4	389,668.6	412,049.2	415,210.9

SOURCE: Department of Education

SB 649 - AS

<u>suspend</u> the law

In its place a funding pattern, in its place an ADM formula put in its place.

which will give full entitlement for the student.

~~admin - You only get them what the leg. fund~~

then start changing the formulas to better reflect the problem/solution.

EFS135

Budget Calculations

10-Jun-03

PAGE 1

1 / 0
PROJ.CONTROL *
005.00050

REVISED

STATE OF ALASKA
DEPARTMENT OF EDUCATION
PROJECTION SUMMARY

DISTRICT NAME	ACTUAL FOUNDATION ADM	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL 874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PER A.D.M.
ANCHORAGE	34,800	34,800	2,620	42,450	111,550,600	5,825,394	0	117,383,994	3,373
CORDOVA	438	438	46	48,817	2,240,382	7,347	0	2,453,729	5,141
CRAIG	153	153	19	45,846	871,024	182,471	0	1,053,495	6,886
FAIRBANKS (N.STAR)	9,441	9,441	753	47,544	35,800,632	0	0	35,800,632	3,793
HAINES	389	389	52	48,817	2,538,184	0	0	2,538,184	6,526
HOONAH	239	239	27	47,544	1,283,688	248,286	0	1,532,671	6,413
HYDABURG	93	93	17	45,846	779,382	93,883	0	873,265	9,390
JUNEAU	4,258	4,258	372	42,450	15,791,400	0	0	15,791,400	3,709
KAKE	208	208	29	45,846	1,329,534	184,411	0	1,513,945	7,278
KETCHIKAN GATEWAY	2,368	2,368	195	42,450	8,277,750	0	0	8,277,750	3,496
KING COVE	121	121	16	63,675	1,010,800	141,326	0	1,160,126	9,588
KLAWOCK	152	152	23	45,846	1,054,158	181,518	0	1,235,676	7,695
KODIAK	2,143	2,143	216	49,242	10,636,272	1,386,806	0	12,023,078	5,610
NENANA	128	128	23	50,940	1,171,620	203,502	0	1,375,122	10,743
NOME	758	758	73	65,797	4,803,161	746,714	0	5,549,875	7,322
MATANUSKA-SUSITNA	5,562	5,562	454	44,148	20,043,192	0	0	20,043,192	3,604
PELICAN	52	52	13	47,544	618,072	45,288	0	663,360	12,755
PETERSBURG	574	574	50	44,148	2,207,100	163,642	0	2,371,042	4,131
SAND POINT	123	123	14	63,675	891,450	151,098	0	1,042,548	8,476
SITKA	1,608	1,608	139	44,148	6,136,272	0	0	6,136,272	3,816
SKAGWAY	177	177	18	45,846	825,228	147,063	0	972,291	5,493
UNALASKA	181	181	24	63,675	1,528,200	0	0	1,528,200	8,443
VALDEZ	863	863	69	48,817	4,247,075	0	0	4,247,075	4,921
WRANGELL	485	485	48	44,148	2,119,104	221,225	0	2,340,329	4,825
YAKUTAT	160	160	22	50,940	1,120,680	148,298	0	1,268,978	7,931
GALENA	142	142	19	45,797	1,250,143	202,562	0	1,452,705	10,239
NORTH SLOPE	1,022	1,022	149	65,797	9,803,253	0	0	9,803,253	9,593
BRISTOL BAY	211	211	28	65,797	1,842,316	258,819	0	2,101,135	9,959
DILLINGHAM	378	378	43	65,797	2,829,271	523,201	0	3,352,472	8,869
KENAI	6,756	6,756	592	45,846	27,140,832	857,301	0	27,998,133	4,144
TANANA	93	93	17	65,797	1,118,549	110,894	0	1,229,443	13,220
ST. MARY'S	112	112	24	65,797	1,579,128	137,832	0	1,716,960	15,330
NORTHWEST ARCTIC	1,500	1,500	208	65,797	13,685,776	2,263,501	1,630,250	14,309,527	9,540
BERING STRAIT	918	918	161	65,797	10,591,707	822,842	710,916	10,773,633	11,736
LOWER YUKON	1,392	1,392	178	65,797	11,711,866	1,822,140	1,790,532	11,744,274	8,437
LOWER KUSKOKWIM	2,416	2,416	372	65,797	24,474,184	2,942,393	2,142,535	25,274,041	10,121
KUSPUK	324	324	75	65,797	4,934,775	505,382	438,956	5,001,201	15,436
SOUTHWEST	532	532	99	65,797	6,513,903	741,228	739,531	6,515,600	12,247
LAKE & PENINSULA	363	363	80	65,797	5,243,760	427,725	429,163	5,242,322	14,397
ALEUTIAN	129	129	32	63,675	2,037,600	151,255	141,784	2,047,071	14,006
PRIBILOF	168	168	27	63,675	1,719,225	254,911	262,897	1,711,239	10,186
ADAK	194	194	54	50,430	3,209,220	831,654	709,631	3,331,243	5,593
IDITAROD	327	327	69	65,797	4,535,993	479,348	362,753	4,652,588	14,219
YUKON KOYUKUK	556	556	101	65,797	5,645,197	868,339	757,138	5,756,398	12,158
YUKON FLATS	317	317	69	65,797	4,539,273	480,879	364,798	4,656,074	14,688
RAILBELT	327	327	55	50,940	2,801,700	327,192	65,419	3,063,473	9,382
DELTA/GREELY	949	949	92	50,940	4,606,480	1,051,670	451,515	5,206,635	5,521
ALASKA GATEWAY	473	473	71	50,940	3,618,240	546,240	270,251	3,894,229	8,255
COPPER RIVER	582	582	71	50,940	3,618,240	658,035	197,564	4,077,211	7,006
CHATHAM	272	272	48	45,846	2,200,608	220,886	207,005	2,214,489	8,142

REVISED

DISTRICT NAME	ACTUAL FOUNDATION ADM	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL 874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PER A.D.M.
SOUTHEAST	434	434	84	45,846	3,851,064	448,175	422,156	3,877,083	8,933
ANNETTE	336	336	43	44,148	1,898,364	360,674	523,066	1,685,772	5,018
CHUGACH	75	75	16	50,940	815,040	88,924	31,121	872,863	11,637
CENTRAL CORRESPOND	790	790	48	42,450	2,037,600	0	0	2,037,600	2,579
CITY/BOR. TOTAL:	74,183	74,187	6,230		284,461,426	12,119,591	0	296,581,017	3,998
R.E.A.A. TOTAL:	12,984	12,984	2,005		123,356,535	16,431,896	12,786,053	127,002,378	9,781
CENTRAL CORRES.:	790	790	48		2,037,600	0	0	2,037,600	2,579
GRAND TOTALS:	87,957	87,961	8,283		409,855,561	28,551,487	12,786,053	425,620,995	1,839

Amendment to CS HB 73

The School Foundation funding formula program is suspended until February 15, 1984. Funding for school districts during this period will be based on 95% of the ADM of the most recent existing quarterly report of the school district upon the enactment of this section. This provision well remain in effect for not less than one year and no more than two years from February 15, 1983, during which time the Legislature is mandated to enact a new funding system for school districts.

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4431

TONY KNOWLES,
MAYOR

OFFICE OF THE MAYOR

February 1, 1983

Commissioner Mark Lewis
State of Alaska
Department of Community and Regional Affairs
Pouch B
Juneau, AK 99811

Dear Commissioner Lewis:

As requested in your letter of January 13, which was received on January 25, I am submitting Anchorage's 1983 state capital grant funding requests for your department's review. I wholeheartedly concur with the Governor's request for Municipalities to present their capital priorities to the administration so that they may be rationally integrated with State departmental projects.

The projects I am presenting represent my philosophy of "back to basics" and will, if accomplished, stimulate our economy, guide desired growth as well as insure a uniquely superior quality of life. They also represent a balanced approach to meeting the overall, critical needs of Anchorage.

The attached package contains a prioritized list of Anchorage's capital projects with brief project descriptions. It is followed by detailed descriptions of each project which specifically answer the criteria requested in your letter. To facilitate the coordination and review of these projects, we have simultaneously provided to various State departments copies of the 1983 State capital grant funding requests which align most closely with their program area responsibilities. This distribution is indicated on the right-hand margin of the priority list.

We have two areas of concern which are not addressed in the priority list. The first area involves four projects which have been included by Governor Sheffield in the State's capital package:

1. Accelerated Road Improvement Program, representing a massive three-year upgrade of Anchorage's surface transportation;

2. Two-year funding of the Eklutna Water Project;

3. A supplemental for DEC water and wastewater grants; and

4. Mandatory vehicle inspection and maintenance for Anchorage and Fairbanks.

All four projects are critically important to Anchorage. In fact, the Accelerated Road Improvement Program, which includes State and local roads, is our highest overall priority for state funding in 1983. It does not overstate the situation to say that our transportation concerns go beyond matters of convenience and economics. Deteriorating road conditions have become an issue of public safety, and underscore the importance of the Accelerated Road Improvement Program to the general welfare of our citizens.

The second area of concern not addressed in the prioritized list is capital funding requests for non-profit corporations. Because of delayed receipt of your January 13 letter, there has not been adequate time for non-profit corporations to submit their requests through the Municipality. But more importantly, our prioritized capital projects have been through an extensive 9-month development, review, and public input process. It would be unreasonable within a one-week period to review non-profit requests and to adequately integrate them in the ranking. To meet non-profit needs as well as insure an integrated community plan, we urge you to use a block grant approach to funding non-profit capital requirements. This approach would allow time to develop an orderly process for soliciting, evaluating and awarding capital grants to non-profits which fit in with the Governor's criteria of economic development as well as community priorities.

We look forward to working with you. If we can be of further assistance, we urge you to contact the Executive Manager responsible for each project or the Municipal staff contact listed on the detailed project description forms.

Sincerely,

Barbara Stechil

for Tony Knowles,
Mayor

Attachments:
1. State 1983 Capital Appropriations Request
2. Detailed Project Description Forms
3. Projects in the State Capital Package

MUNICIPALITY OF ANCHORAGE

STATE 1983 CAPITAL APPROPRIATIONS REQUEST

There are four items of crucial importance involving capital grants to State departments included in the Governor's Capital Budget which the Municipality fully supports. They are as follows:

1. Accelerated Road Improvement Plan will provide for construction and improvement of arterials and collectors within the Anchorage Bowl, Eagle River-Eklutna and Turnagain Arm. The Plan is being finalized by the Municipality and the State Department of Transportation and will be available shortly.* — * TBD

2. Elkutna Water Supply Project - Phase III of 6-year project which will eventually provide 70 million gallons per day of treated water to Eklutna, Chugiak, Eagle River, and the Anchorage Bowl. — $35,000,000

3. Department of Environmental Conservation Supplemental Appropriation for numerous water and wastewater capital projects applications currently filed with DEC. — $28,000,000

4. Mandatory Vehicle Inspection and Maintenance for Anchorage and Fairbanks. — $ 4,000,000

Projects for which the Municipality is requesting funding from the legislature cover immediate, basic community needs.

1. Traffic Improvements throughout Anchorage include: — $ 1,538,000 — DOTPF

   a. Signal system coordination and upgrade - repair computer controlled system of approximately 100 intersections and add approximately 40 signalized intersections.

   b. Signalization/channelization.

   c. Traffic circulation improvements.

2. Ship Creek Water Treatment Plant Expansion will double the capacity to 24M gallons per day and provide additional water necessary to support growth in the Anchorage Bowl until the Eklutna Water Project is complete in 1983. — $ 6,000,000 — DEC

3.	Dimond Fire Station constructs and equips a two company fire station, improving the response time in this rapidly developing area.	$ 1,703,000	DPS
4.	Road and Drainage Improvements is comprised of the following projects:	$ 9,716,000	DOTPF
	a. Street illumination - arterials/ collectors.		
	b. Miscellaneous utility relocations.		
	c. Denali Street, 36th to 40th, road improvement.		
	d. Lake Otis Parkway, Abbott Road to O'Malley road improvement.		
	e. Arctic Boulevard, 53rd to Raspberry road improvement.		
5.	Pt. Woronzof Wastewater Treatment Plant Expansion Phase II will provide design and partial construction of this project. The expected project completion in 1986 will double plant capacity just as the current plant reaches maximum capacity.	$ 3,300,000	DEC
6.	Police Headquarters Facility constructs and equips centrally located facility.	$10,000,000	DPS
7.	Transit providing local match for a federal UMTA grant to construct a $19 million Transit Maintenance and Storage facility to accommodate a 100-bus fleet.	$ 2,000,000	DOTPF
8.	ARDSA Road Construction to supplement the construction revolving funds for prefinancing the construction of special assessment district streets within the Anchorage Road Service Area.	$ 3,000,000	DOTPF
9.	Road Service Areas Outside ARDSA funds construction improvements to collector roads in South Anchorage and Eagle River following formation of service areas.	$ 2,250,000	DOTPF
10.	New Mears Jr. High School to construct a 1,008 student capacity facility in the South Anchorage area.	$37,314,000	DOE

11.	Roads and Drainage Improvements is comprised of the following additional projects:	$ 4,710,000	DOTPF
	a. Industrial Park, International to 36th, storm drainage improvement.		
	b. West Dimond Trunk drainage improvements.		
	c. Bragaw, Tudor to 48th road improvement.		
	d. Road and drainage repair and rehabilitation.		
12.	Replacement Medic Units/Pumpers provides for programmed replacement of two older medic units presently in service and replacement of two older pumpers in the Anchorage and Chugiak Fire Service Areas.	$ 436,000	DPS
13.	Eagle River/Chugiak Water continues implementation of a Municipal water system in the Eagle River/Chugiak area which will provide the same quality water service that exists in the Anchorage Bowl.	$ 1,850,000	DEC
14.	Road and Drainage Improvements is comprised of the following projects:	$ 5,611,000	DOTPF
	a. Third Avenue, Elmendorf to Post Road road improvement.		
	b. Subdivision reconstruction - roads.		
	c. Eagle River Drainage Study.		
	d. 76th, Old Seward Highway to King Street, road improvement.		
	e. Miscellaneous street improvements.		
	f. Water Quality Control, Chester/Campbell Creeks.		
	g. Northern Lights Beautification, Muldoon to Earthquake Park.		
	h. Little Rabbit Creek/Potter Valley Storm Drainage Study.		

15. Park and Trail Development is comprised of the following community-wide park and trail development projects: $ 4,930,000 DNR

a. Completion of current development projects:

Mulcahy
Chester Creek Sports Complex Parking
Ben Boeke Ice Arena
Wolverine Park

b. On-going programs:

Handicapped Adaptations
Tree Planting
Park Upgrading
Landscape Improvements

c. Community Parks Development:

Storck Park
Sitka Street Park

d. Oceanview Bluff Community Park Development.

e. Special Facilities:

Playfield Development
Beach and Dock Improvements

f. Neighborhood Park Development:

Valley Street Park
Miller Memorial Park
Shady Birch Park

g. Completion of current trail projects.

h. Stubs, Curb Cuts and Striping.

i. Purchase Trail R.O.W.

j. Footpaths Construction.

k. Baxter Road Bike Trail.

l. Chugiak/Eagle River Old Glenn (Mile 19) Park Development.

16.	Heavy Equipment Purchase required for start up of the new Klatt Road Satellite street maintenance stations serving South Anchorage.	$ 515,000	DOTPF
17.	Parking Garage results in construction of a parking facility on the block bounded by 6th and 7th Avenues and "G" and "H" Streets.	$ 7,000,000	DOTPF
18.	Street Lighting to install residential lighting in areas where it is deficient.	$ 1,500,000	DOTPF
19.	Pedestrian Safety provides an undercrossing of Lake Otis Parkway between Abbott Road and O'Malley Road.	$ 750,000	DOTPF
20.	Street Maintenance Facilities is for acquisition and construction of the following facility:	$ 1,200,000	DOTPF
	a. Two Sand Storage Buildings.		
21.	Port Expansion to meet the immediate and continued need of ocean carriers for additional cargo staging property. Three projects are included:		
	a. Construction of Lot 12-B.		
	b. Engineering for Transit Area D.		
	c. Engineering for Development of Leased U.S. Government Property.	$ 5,800,000	DOTPF
22.	Road Service Areas Outside ARDSA funds construction improvements to collector roads in South Anchorage and Eagle River following formation of service areas.	$ 2,000,000	DOTPF
23.	Park and Trail Development is comprised of the following additional community-wide park and trail development projects:	$ 2,205,000	DNR
	a. Neighborhood Park Development:		
	Nadine Park Pleasant Drive Park University Park Oceanview Park		

23.	Park and Trail Development (continued)		
	b. Oceanview Bluff Community Park Development		
	c. Hillside Ski-Hike Trail.		
	d. O'Malley Equestrian Trail.		
	e. Seward Highway Bike Trail.		
	f. Campbell Creek Greenbelt Development near Tudor Lake.		
24.	Book Purchases to begin acquisition of library materials for the new Headquarters Library.	$ 1,000,000	DOE
25.	Street Maintenance Facilities is for acquisition and construction of the following facilities:	$ 2,310,000	DOTPF
	a. Sign Shop Facilities.		
	b. Snow Disposal Site Acquisition.		
	c. Railroad Crossing Reconstruction.		
26.	Areawide Communications installs the final phase in the areawide communications network and purchases a mobile communications repair van.	$ 215,000	DOTPF
27.	Heavy Equipment Purchase to replace existing old road maintenance equipment.	$ 565,000	DOTPF
28.	Solid Waste Resource Recovery investigates alternatives to existing solid waste operations which would establish recycling facilities and an alternate energy source as well as a potential land savings of up to 650+ acres in the next 20 years.	$ 2,000,000	DEC
29.	Roads and Drainage Improvements is comprised of the following additional projects:	$ 4,162,000	DOTPF
	a. Miscellaneous Alley Improvements.		
	b. 34th Avenue, Wisconsin to Tanglewood, road improvements.		
	c. Water Quality Storm Drainage Project-design and construction.		
	d. Miscellaneous Street Improvements.		
	e. Artillary Road, Glenn Highway to Sewage Plant.		

30.	Debt Retirement to offset increasing debt requirement which burdens the community property owners.	$15,000,000	C&RA
31.	Land Trust Fund establishes a fund to assure acquisition and continued public ownership of community-interest land.	$ 5,000,000	C&RA
32.	Capital Reserve Funds to offset unanticipated shortfalls in our current capital program so that projects can be completed in a timely manner and put into service to the community.	$ 5,000,000	C&RA
33.	Ship Creek Water Treatment Plant Expansion will double the capacity to 24M gallons per day and provide additional water necessary to support growth in the Anchorage Bowl until the Eklutna Water Project is complete in 1988. This is an additional funding requirement if the Department of Environmental Conservation does not receive funding from supplemental appropriation for grant projects currently filed with them.	$ 6,000,000	DEC
34.	Pt. Woronzof Wastewater Treatment Plant Expansion Phase II will provide design and partial construction of this project. The expected project completion in 1986 will double plant capacity just as the current plant reaches maximum capacity. This is an additional funding requirement if the Department of Environmental Conservation does not receive funding from supplemental appropriation for grant projects currently filed with them.	$ 3,300,000	DEC
35.	Eagle River/Chugiak Water continues implementation of a Municipal water system in the Eagle River/Chugiak area which will provide the same quality water service that exists in the Anchorage Bowl. This is an additional funding requirement if the Department of Environmental Conservation does not receive funding from supplemental appropriation for grant projects currently filed with them.	$ 1,850,000	DEC

Part of Dept Educ fiscal note

Revised 1/24/83

Analysis of FY-83 Foundation Supplemental

FY-83 Request (estimate)	406,089.5
FY-83 Appropriation	391,753.3
FY-83 Shortfall	(14,431.8)

FY-83 Revised Reports Increases by Categories:

1. Enrollment Increases (estimate)	6,407.7
2. New Secondary Programs	1,808.4
3. BIA School Transfers	7,901.5
4. New Tanana City School District	855.4
5. Special Education Program Increases	2,558.5
Total Increases	19,531.6
Add Original Shortfall	14,431.8
Total Shortfall	33,964.4*

+ 1,106.2
2000 - short funded
19,531.6
23,637.8

Out of seven Department supplemental requests transmitted to the Governor, the State Board of Education has prioritized the $19,531.6 request first, and the $14,431.8 portion of this supplemental sixth.

*For the record, a January 7, 1983, hearing officer's recommended decision on the way the Department calculates supplemental equalization aid under AS 14.17.023 has resulted in an additional shortfall of of $1,106.2. We have been advised by the Attorney General to accept the hearing officer's recommended decision.

note: March '82
A letter went out from the
Dept + from House Finance
re: decrease in funding levels
from their proposed increase request.
MS

Wish list tops $800 million

Juneau Empire 2/1/83
Og #1

By BRUCE SCANDLING
Empire Staff Reporter

With a wish list topping $800 million and still growing, Gov. Bill Sheffield is laying plans to decide which capital projects sought by communities around the state should be funded.

At a Cabinet meeting this morning, Community and Regional Affairs Commissioner Mark Lewis told the governor more than 480 capital project requests from about 60 communities have already been submitted.

More are on the way, he said.

Under Sheffield's plan to screen wish lists from around Alaska, communities were asked to submit all requests for capital projects by today.

Construction, repair or renovation projects are typically part of the annual capital budget.

Sheffield's plan has been criticized by some legislators, who charge the governor is taking away the chance for lawmakers to endorse and obtain funds for local projects.

Before the capital budget is finished this year, lawmakers have vowed, they'll have their say.

Still, to decide which requests the governor's office should fund, a priority committee will be appointed by Sheffield, Chief of Staff Larry Crawford told Cabinet members. That group will include various commissioners and Sheffield aides, he said.

"We'll need to be able to tell the governor why these projects are on the list, and I'm sure he'll want to ask us why some aren't on the list," Crawford said.

The screening committee, he said, will ask two questions in reviewing every project requested: Is it an appropriate use of state funds, and is the project feasible?

"If the answer is 'no' to either of these, it doesn't go any further," Crawford said.

Sheffield's 1984 capital spending plan, described by staffers as a "working budget" so far, includes $1.2 billion for capital projects next year. But Crawford said the governor's office is expecting between $5 billion and $10 billion in community requests.

Paring those requests will hopefully be an "equitable and fair" process, he said, with projects OK'd for all areas of the state.

In Juneau, the city-borough assembly has submitted a wish list topping $50 million.

On other budget matters, Sheffield said he will appoint Crawford, Attorney General Norm Gorsuch, Budget Director

Continued on Page 2

Petersburg says no thanks to hydro project

News Miner 2/29/83 Pg 5

PETERSBURG (AP)—Faced with the prospect that electricity from the Tyee Lake hydroelectric project will cost twice as much as what residents pay now, Petersburg is telling the Alaska Power Authority thanks, but no thanks.

The project is scheduled to begin generating electricity to Petersburg and Wrangell in early 1984. A recent rough draft by APA of a contract to sell wholesale power to municipal utilities in both communities pegged the price at 17.5 cents per kilowatt hour.

That's what the utilities would have to pay the state. The utilities then would have to raise the price to cover the costs of distribution, maintenance and management.

Petersburg City Manager Richard Underkofler said that would bring the cost of electricity to more than 26 cents per kwh. Residents now pay about 12.5 cents per kwh.

"It's simple economics," said Underkofler. "At the prices they offered us it will be cheaper to burn diesel for the next decade or so. We're not buying at that rate."

Eric Yould, director of APA, said the city's response to the draft document was premature. He also said the city could reduce its administrative costs by 2-3 cents per kwh once Tyee is on line.

"I think the Legislature will make a conscientious effort to make sure Wrangell and Petersburg don't pay significantly more than they're paying now," said Yould.

The cost to residents of the two cities would shrink if the state picks up more of the construction cost, now estimated at $112 million. In 1979, the projected cost of the project was $40 million.

The state has appropriated about $82 million for the facility, about 40 miles southeast of Wrangell. The difference will have to be made up by ratepayers unless more money is appropriated.

Letters to the Editor

(Readers of the Daily News-Miner are encouraged to write to the editor. Space limitations require that letters be limited to 450 words. Each letter must carry the full address of the writer and be signed. Unsigned letters will not be published, and names will not be withheld as a general policy. The News-Miner reserves the right to edit or reject letters that fail to comply with these requirements, that are deemed libelous or in poor taste.)

End the Federal Reserve

Jan. 25, 1983
1421 Mary Ann
Fairbanks, AK 99701

To the Editor:

The best kept secret of this century, is, who is the Federal Reserve, who owns it and why hasn't it ever had an audit? I think the main answer is finally out in the open—it's owned by approximately 300 people who hold stock or shares. This international cartel controls "wealth beyond comprehension." It's mostly the big banking families from around the world. Here are the main ones according to the "Spotlight" newspaper: Rothchild Banks of London and Berlin; Lazard Bros. of Paris; Israel Moses Seif Banks of Italy; Warburg Bank of Amsterdam and Hamburg; Lehman Bros. of N.Y.; Kuhn, Loeb Bank of N.Y.; Goldman, Sacks of N.Y.; David Rockefeller's Chase Manhattan of N.Y.

Here's the opinion of several well-known Americans about the Federal Reserve President James A. Garfield, and I quote "whoever controls the volume of money, in any country, is absolute master of all industry and commerce."

The following opinion by Congressman Louis T. McFadden states "The Federal Reserve (banks) are one of the most corrupt institutions the world has ever seen."

Thomas A. Edison, Horace Greely mention its usury (interest rates). Thomas Jefferson said it all, when he said "If the American people ever allow private banks to control the issue of their money, first by inflation and then deflation, the banks and corporations that will grow up around the banks, will deprive the people of their property until their children will wake up homeless on the continent their fathers conquered."

Let's give a thought to the national debt. Just the interest on that debt, will be a giant burden on our kids and grand kids. International bankers are bleeding this whole world dry! They caused great hardship in the last depression—foreclosed on vast amounts of land, farms and businesses. It wasn't long ago interest rates were 22 percent. Talk about usery! And our spineless elected officials could stop the giant ripoff but don't!

No wonder there's been no audit since 1913. What a field day for crooks! Bankers produce no usable product of any "wealth" yet their quasi-legal robbery, tripled their net assets (wealth) in only 20 years. This should be called a "debt system"—Jefferson was right! Congress alone should have the right to mint money—not print money—if $50,000 is borrowed, $263,941 must be paid back at 17½ percent for 30 years—outrageous! End the Federal Reserve.

T.M. Carson

It is the intent of the House HESS Committee to provide for, with this supplemental appropriation, only those unanticipated contingencies occassioned by unanticipated enrollment increases, the BIA transfer of schools to Alaska school districts and unforseen complications of the legislative mandate to scale down education spending because of reduced state revenues.

It is not the intent of the HESS Committee to provide additional funds to enhance program expansion, school district reorganizing and other programs or procedures designed primarily to enhance the school district revenue picture.

Catagories included in the fiscal note to the Committee Substitute to HB 73:

1.	Enrollment Increases (estimate)	6,407.7
2.	BIA School Transfers	7,901.6
3.	New Tanana City School District	855.4
4.	Shortfall (reduction in FY 83 budget)	7,215.9
	Total Request for CSHB 73.....	22,380.6

Catagories deleted from the fiscal note attached to the original HB 73 include an appropriation for 'New Secondary Programs' $1,808.4, and 'Special Education Program Increases' $2,558.5. Also deleted from the original request of $33,964.4 was half of the amount requested to cover the reduction appearing in the final FY 83 budget.

Title An Act...SUpplemental Appropriation to the Dept. of Education

Requested by House HESS Date 1/25/83

II. FISCAL DETAIL

Agency Affected Education

Program Category Affected Elementary & Secondary

BRU, Program, or Subprogram(s) Affected Foundation Support Districts

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.			22,380.6			
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND			22,380.6			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

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

See Attached

IV. DATE January 26, 1983 PREPARED BY House HESS

AGENCY Legislature

PHONE 465-3777

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

		1	2	3	4	5	6
		ENRLMNT FY82 1ST Qtr.	ENRLMNT FY83 1ST Qtr.	INCREASE OR DECREASE	ADM FY82 1ST Qtr.	ADM FY83 1ST Qtr.	INCREASE OR DECREASE
1	ADAK	606	594	(12)	611	592	(19)
2	ALASKA GATEWAY	492	439	(53)	476	473	(3)
3	ALEUTIAN CHAIN	118	129	11	111	127	16
4	ANNETTE ISLAND	352	325	(27)	348	336	(12)
5	* BERING STRAITS	609	927	318	582	917	335
6	* CHATHAM	220	278	58	196	271	75
7	CHUGACH	75	66	(9)	68	76	8
8	COPPER RIVER	577	514	(63)	563	582	19
9	DELTA/GREELY	914	909	(5)	595	649	54
10	IDITAROD	319	323	4	311	326	15
11	KUSPUK	333	318	(15)	324	323	(1)
12	LAKE & PENINSULA	329	333	4	321	362	41
13	* LOWER KUSKOKWIM	1899	2493	594	1865	2429	564
14	* LOWER YUKON	1173	1406	207	1183	1391	208
15	NORTHWEST ARCTIC	1530	1496	(34)	1495	1499	4
16	PRIBILOF	175	164	(11)	174	167	(7)
17	RAILBELT	351	323	(28)	353	325	(28)
18	SOUTHEAST ISLANDS	337	351	14	432	432	-
19	SOUTHWEST REGION	490	531	41	476	524	48
20	YUKON FLATS	316	341	25	299	315	16
21	YUKON/KOYUKUK	590	619	29	569	557	(12)
22							
23	SUB-TOTALS	11819	12877	1058	11657	12975	1318
24							
25	City & Borough	73234	76645	3409	70437	74005	3568
26	Centralized Correspondence	688	683	(5)	712	790	69
27							
28	STATEWIDE TOTALS	85743	90205	4462	82865	87770	4905
29							
30							
31							
32							
33							
34							
35	* SEF RTA						
36							
37							
38							
39							
40							

Attachment D

Junior Highs - New FY83

		TU	
Kuspuk	Kobuk JH	4	263,188
Yukon Flats	FY JH	4	263,188
Yupiit/Kg	Ayg JH	4	263,188
Craig JH		4	183,384
Fbks - alt JH		6	285,264
Kake JH		6	275,076
Klawock	SH	6	275,076
		34	1,808,364

COMPUTATION:

FY83 Revised (less categorical TU) TU x TUA = $

FY82 Enrol (" " ") TU x TUA = $

Increase - 83 over 82 from Enrol/ADM = $

Deduct - JH increases

Deduct - Tanana - new sch.

Deduct BIA Enrol/ADM increase

Enrollment/ADM - related increase

I.U. CHANGES RELATED TO ENROLLMENT & ADM INCREASES

	1	2	3	4	5	6
			LCS	LCS	LCS	
	$		IU	IU	IU	
	Increase		INIT	REV	+/-	
ADAK	59,407					
ALASKA GATEWAY	101,807		4	4	-	
ALEUTIAN CHAIN	12,350					
ANNETTE ISLAND	44,148		10	13	3	132,444
BERING STRAITS	171,722		3	3	-	
CHATHAM	458,460					
CHUGACH	101,880					
COPPER RIVER	—		5	6	1	50,940
DELTA/GREELY	152,820		6	5	(1)	(50,940)
IDITAROD	263,188		3	3	-	
KUSPUK	192,391		3	3	-	
LAKE & PENINSULA	131,594		3	3	-	
LOWER KUSKOKWIM	381,626					
LOWER YUKON	184,346					
NORTHWEST ARCTIC	131,594		4	4	-	
PRIBILOF	25,188		3	3	-	
RAILBELT	—		3	3	-	
SOUTHEAST ISLANDS	191,690		7	8	1	458,448
SOUTHWEST REGION	65,797					
YUKON FLATS	65,797		3	3	-	
YUKON/KOYUKUK	328,985		6	6		
Subtotal	3,245,146	442,075				
City & Boro	1,099,660					
Cent Csp	66,980					
Statewide Total	19,290,974					
Total	19,290,974					
— Anchorage	1,155,717					173,290
— FS	276,784					
— BIA	7,901,400					
— DEC	1,909,400					
— Tanana	855,400					
Subtotal	7,293,073					
Demograph Adjustment 12%						
Net Estimate	6,407,700					

BIA School Transfers - FY1983

	1 ENRL 1st Qtr	2 ADM 1st Qtr	3 Instructional Units ~~Unite~~ Elem.	4 SPED	5 Bil/Bic	6 Total IU $ Dollars
Bering Straits REAA			21	4	3	28
Gambell	70	69	6			1,842,316
Golovin	18	14	3			
St. Michael	52	56	5			
Stebbins	83	82	7			
Chatham REAA			3	-	-	3
Klukwan	19	19	3			137,538
Lower Kuskokwim REAA			147	6	17	170
Goodnews Bay	31	20	3			4,605,790
Kwethluk	69	65	6			
Kwillingok	43	43	4			
Mekoryuk	34	32	4			
Napakiak	55	56	5			
Napaskiak	74	73	6			
Nightmute	29	29	3			
Oscarville	13	12	2			
Quinhagak	89	85	7			
Tuntutuliak	64	63	6			
Lower Yukon REAA			15	2	3	20
Alakanuk	140	141	10			3,159,440
Scammon Bay	65	51	5			
Sub-Totals	946	906	86	12	23	121
						9,794,584

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BIA Operating Instructional Costs Breakdown of the 17 Schools Transferring to State Operation and Management:

		ADM	EDUC. FUNDS	FAC. MGMT. FUNDS	
1.	Alakanuk	140	440,589	212,300	
2.	Gambell	99	337,348	259,200	
3.	Golovin	21	77,364	102,600	
4.	Goodnews Bay	29	148,375	151,800	
5.	Kwethluk	91	336,246	189,400	
6.	Kwigillingok	42	194,225	161,100	
7.	Klukwan	16	46,510	55,100	
8.	Mekoryuk	28	109,208	168,300	
9.	Napakiak	50	212,108	178,600	
10.	Napaskiak	67	234,315	148,200	
11.	Nightmute	29	146,462	106,100	
12.	Quinhagak	50	339,407	210,700	
13.	Oscarville	15	70,835	85,200	
14.	Scammon Bay	64	205,641	158,800	
15.	St. Michael	60	203,832	214,300	
16.	Stebbins	90	293,868	168,800	
17.	Tununak	54	241,720	155,300	
		945	$3,638,053	$2,725,800	
				GRAND TOTAL	$6,363,853.00

FY83 REVISED COMPUTATIONS — Attachment D

I.U. CHANGES BY COMPONENT - FY82 FINAL to FY83 REVISED

	ELEM	SEC	COMB E/S	VOED	SPED	Bil/Bic	Local Corresp	Total I.U. Increas	I.U. Value	$ Increase
ANCHORAGE	22	73	(1)	2	203	2	—	301	42,450	12,777,450
BRISTOL BAY					1			1	65,797	65,797
CORDOVA	1			(1)	2			2	48,817	97,634
CRAIG	1	(1)		(1)	(1)		(3)	(5)	45,846	-229,230
DILLINGHAM		1		1				2	65,797	131,594
FAIRBANKS	9	23		(3)	71		3	103	47,544	4,897,032
GALENA				(1)		(1)		(2)	65,797	-131,594
HAINES	2	(1)			3		3	7	48,817	341,719
HOONAH	1			1				2	47,544	95,088
HYDABURG	1				1			2	45,846	91,692
JUNEAU	4	8		1	40	1	(1)	53	42,450	2,249,850
KAKE	1	3			1			5	45,846	229,230
KENAI	19	7		(5)	58			79	45,846	3,621,834
KETCHIKAN	2	(2)	(4)	1	8		1	6	42,450	254,700
KING COVE	(1)							(1)	63,675	-63,675
KLAWOCK		6		1	1		3	11	45,846	504,306
KODIAK	3	3		1	9		1	17	49,242	837,114
MAT-SU	25	19	1	(1)	35		(2)	77	44,148	3,399,396
NENANA	(2)	(2)						(4)	50,940	-203,760
NOME	1			1	1	(2)	3	4	65,797	263,188
NORTH SLOPE	3	5	(5)	3	4	(5)		5	65,797	328,985
PELICAN		4			1			5	47,544	237,720
PETERSBURG				(1)	2			1	44,148	44,148
SANDPOINT				(1)				(1)	63,675	-63,675
SITKA	(4)	(4)		(1)	11			2	44,148	88,296
SKAGWAY	(1)			(1)				(2)	45,846	-91,692
ST. MARY'S				1	1	(1)		1	65,797	65,797
UNALASKA		(2)			1			(1)	63,675	-63,675
VALDEZ	(4)	3			1			-	48,817	0
WRANGELL	1	(1)			1			1	44,148	44,148
YAKUTAT				1	1			2	50,940	101,880
TANANA	4	6		1	2	1	3	17	65,797	1,118,549
Sub-Totals	88	148	(9)	(1)	458	(5)	11	690		30,796,598
CENT.CORRESP.SDY.	4							4	42,450	169,800

Tanana = Total I.U.'s (13) X I.U. Value = 855,361

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Attachment E

IU - SPED

Instructional Units = Special Education

		1 FINAL FY82	2 INIT FY83	3 REV FY83	4	5 CHANGE $ INIT 83 TO REV 83	6
1	ANCHORAG.	185	398	388		(424500)	1
2	BRISTOL BAY	1	2	2		-	2
3	CORDOVA	4	5	4		48817	3
4	CRAIG	2	2	1		(45846)	4
5	DILLINGHAM	4	4	4		-	5
6	FAIRBANKS	55	144	129		(713160)	6
7	GALENA	2	1	2		65797	7
8	HAINES	5	3	8		244085	8
9	HOONAH	3	3	3		-	9
10	HYDABURG	2	2	3		45846	10
11	JUNEAU	28	58	68		424500	11
12	KAKE	3	4	4		-	12
13	KENAI	36	90	94		183384	13
14	KETCHIKAN	19	27	27		-	14
15	KING COVE	2	1	2		63675	15
16	KLAWOCK	2	3	3		-	16
17	KODIAK	20	28	29		49242	17
18	MAT-SU	29	67	64		(132444)	18
19	NENANA	3	3	3		-	19
20	NOME	7	8	8		-	20
21	NORTH SLOPE	11	12	15		197391	21
22	PELICAN	0	1	1		-	22
23	PETERSBURG	6	9	8		(44148)	23
24	SANDPOINT	1	1	1		-	24
25	SITKA	13	22	24		88276	25
26	SKAGWAY	2	2	2		-	26
27	ST. MARY'S	3	2	4		131594	27
28	UNALASKA	2	3	3		-	28
29	VALDEZ	12	9	13		195268	29
30	WRANGELL	4	2	5		132444	30
31	YAKUTAT	2	3	3		-	31
32	TANANA			2		131594	32
33							33
34	Sub-Total	471	912	929		6418835	34
35							35
36	CENT. CORRESP. SDY.						36
37							37
38							38
39							39
40							40

IU - SPED

	FINAL FY80	INIT FY82	REV FY83	CHANGE $ INIT 83 TO REV 83
ADAK	4	7	7	—
ALASKA GATEWAY	5	7	8	50947
ALEUTIAN CHAIN	2	1	2	63675
ANNETTE ISLAND	4	5	5	—
BERING STRAITS	6	12	13	65797
CHATHAM	2	4	4	—
CHUGACH	0	0	1	50940
COPPER RIVER	5	3	6	152820
DELTA/GREELY	11	8	18	509400
IDITAROD	2	3	4	65797
KUSPUK	2	2	3	65797
LAKE & PENINSULA	3	2	3	65797
LOWER KUSKOKWIM	18	27	28	65797
LOWER YUKON	9	8	12	263188
NORTHWEST ARCTIC	11	10	22	789564
PRIBILOF	3	3	3	—
RAILBELT	3	2	5	152820
SOUTHEAST ISLANDS	4	2	4	91692
SOUTHWEST REGION	5	3	6	197391
YUKON FLATS	3	1	4	197391
YUKON/KOYUKUK	5	9	7	(131594)
REAA SUB-TOTAL	107	119	165	2706212
CITY & BOROUGH	471	919	929	641835
STATEWIDE TOTAL	578	1033	1094	3348047

Deduct 12 units @ 65,487 ea. for BIA Special education - already included under transfer figure = 2,562,203

MEMORANDUM State of Alaska

TO: Ron Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: December 20, 1982

FILE NO:

TELEPHONE NO: 465-2875

FROM: Marshall L. Lind
Commissioner
Department of Education

SUBJECT: Request for Restoration of Budget Request

The Department of Education requests consideration be given by the Governor to support full funding of the $406,185.1 FY 83 departmental budget request for Financial Support BRU by restoring the $14,431.8 reduction appearing in the final FY 83 budget. Distribution by component of the restored appropriation is as follows:

Component	Amount
Student ADM Support	$7,779.1
Special Education Adjustment	2,650.8
Vocational Ed. Adjustment	1,297.6
Correspondence Study - DOE	96.6
Correspondence Study - Local	299.8
Bilingual Program Adjustment	604.7
Supplemental Equalization Aid	1,703.2
TOTAL	$14,431.8

$14,431.8 × 50% = 7,215.9

February 2, 1983

Mae -

The subcommittee on HB 73 (Flood, Duncan, Adams) will meet again in Adam's office at 4 p.m. today.

Adams briefed committee on progress so far. They are attempting to reach a compromise now so the bill will not have to go through a conference committee.

Tentatively:

enrollment	6,407.7
BIA schools	7,901.6
Tanana	855.4
separate Jr. High count	1,808.4
special education	2558.5
adjustment for 97.25%	6,010.7
	25,542.3

Will send letter of intent to governor advising that only $17,640.7 should come out of general fund; $7,901.6 will come out of federal budget impact funds.

New State Board of Ed

Rec'd from Steve Hole 10:50 a.m. 8/24/83

YEAS	NAYS
Sam Kito	
William Eubank	
Don Gray	
Mary Schaeffer	
Barney Gottstein	
Sue Hull	
Ernestine Griffin	

MOTION CARRIED 7-0.

The audioconference was scheduled for Monday, January 10, 1983, at 6:30 p.m. Anchorage time, and the Board directed the department to advise the members of the Screening Committee regarding the time and place in their individual communities to enable members of the State Board to seek further information regarding the selection process.

Don Gray moved and Sue Hull seconded the motion to list the Commissioner Selection Process as an action item for the next regular meeting.

MOTION CARRIED UNANIMOUSLY.

83-89 REVIEW OF FOUNDATION PROGRAM SUPPLEMENTAL REQUEST

Commissioner Lind addressed the Board regarding the Supplemental Request for Foundation Support for FY-83 to cover the shortfall resulting from the decision of the Legislature to not fund full entitlement for the school districts, and asked Steve Hole to explain 83-89.1, Debt Retirement Supplemental Request for pre December 31, 1981, Indebtedness; 83-89.2, post December 31, 1981, Indebtedness; and 83-89.3, Miscellaneous FY-83 Supplemental Appropriation Requests.

The Board recessed for lunch at 12:05 p.m. and returned at 1:35 p.m. with the exception of Mr. Kito, who was delayed and arrived at 1:45 p.m.

President Griffin called for continuance of the explanation and discussion of the foundation program, and the Board listed the items in order of priority.

Sue Hull moved and Don Gray seconded the motion to list the supplemental requests by priority as follows:

(1) Foundation support in the sum of $19,314.9;

(2) Prior year claims in the amount of $7.0;

(3) Health insurance costs in the amount of $253.7;

(4) School Activities Association for student travel in the amount of $300.0;

(5) Dept retirement in the amounts of $5,522.0 and $7,577.7

(6) 4% Foundation support in the sum of $14,431.8;

(7) Capital project fund balance transfer of $253.6.

Roll call vote was taken:

YEAS	NAYS
Sam Kito	
Mary Schaeffer	
Ernestine Griffin	
Barney Gottstein	
Don Gray	
William Eubank	
Sue Hull	

MOTION CARRIED 7-0.

83-88 COMMISSIONER SELECTION PROCESS

Diane LeResche explained the operation of the audioconference equipment to the Board in preparation for its conference with members of the Commissioner Selection Screening Committee on Monday, January 10, 1983.

83-90 REVIEW OF EDUCATION FINANCE STUDY

Laraine Glenn, Project Director for the Finance Study, reviewed the process for the study used thus far in the school finance study. This study was put on hold by request of Governor Sheffield pending the appointment of a new State Board of Education.

Dr. Van Slyke explained that policy issues will need to be addressed that will impact school finance, and suggested some options available to the Board. He stated that it is important for the Board to consider the composition of the policy group and the department would have some additional recommendations at a subsequent meeting.

Following discussion by the Board, it was suggested that the department develop internally an alternative plan that could replace the current study.

Don Gray moved and Sue Hull seconded the motion to place the Finance Study on the agenda as an action item at the next meeting.

MOTION CARRIED UNANIMOUSLY.

MEMORANDUM State of Alaska

File HESS

TO: Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Foundation Support

3892 - Steve Lewis

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all school district foundation entitlements.

ISSUE

The legislature appropriated $391,753.3 for FY 83 foundation support; recent final review of district entitlements indicate the total amount needed to fully fund the foundation program will be approximately $425,500.0, leaving a projected shortfall of $33,746.7. Much of the shortfall is a result of the legislature's decision to make the rescission through the budget process rather than through substantive legislation reducing the instructional unit value. In other words, if the legislature had reduced the Instructional Unit value by 3.6%, then the entitlements would be lower. As it is, however, the entitlements are in excess of the money appropriated to pay them.

BACKGROUND AND/OR PERTINENT INFORMATION

The last legislature appropriated funds for foundation support in an amount less than our request. The intent behind the reduction was 1) to appropriate less than the law required, and 2) for the department to request a supplemental appropriation to cover the BIA school transfer impact and new program and new school costs, so that districts would not be required to absorb those demands as well. When the 33 million dollar difference between the appropriation and entitlements is analyzed, it can be explained as follows:

1.	Deliberate underappropriation: Our request minus appropriation	=	14,431.8
2.	BIA Transfer Schools (estimated)	=	7,300.0
3.	Enrollment Increases (estimated)	=	6,700.0
4.	New programs, organizational changes, corrections to the initial report upon which our FY 83 request was based.	=	5,314.9
	TOTAL	=	33,746.7

We have notified the Governor's office of the scope of the shortfall, and requested him to introduce a supplemental appropriation for $19,314.9, and further, to consider a supplemental appropriation for the $14,431.8 the legislature chose not to appropriate.

I have asked legal services to prepare a CS for HB 73. This normally takes 2 days which implies that it will be ready by Friday if need be.

L.

Catagories included in the fiscal note to the Committee Substitute to HB 73:

1.	Enrollment Increases (estimate)	6,407.7
2.	BIA School Transfers	7,901.6
3.	New Tanana City School District	855.4
4.	Shortfall (reduction in FY 83 budget)	7,215.9
Total Request for CSHB 73.....		22,380.6

Catagories deleted are:

1. The 'deliberate underappropriation' of FY 82 at 14,431.8 was cut in half to 7,215.9.

2. New programs, organizational changes, corrections to the initial report upon which the FY 83 request was based was deleted in full, at 5,314.9.

FOR IMMEDIATE RELEASE
JANUARY 28, 1983

Contact: Linda Otey
465-3777

Representative Mae Tischer today criticized members of the House Minority for trying to force a bill from the Health, Education and Social Services Committee which she co-chairs. The bill relates to the proposed $33 million supplemental appropriation for school districts.

Tischer said, "The amount requested in the original bill is more than I believe is required. The committee substitute to be proposed reduces the amount to $22,380,600. This will provide for unanticipated enrollment increases, transfer of BIA schools from the federal government to the state and the unforesenn complications of the legislative mandate to scale down education spending because of reduced state revenues. It will not, however, provide additional funding to enhance program expansion."

Tischer noted that during the January 10th meeting of the State Board of Education, Commissioner Marshall Lind recommended that the Board ask for $19.3 million for a foundation program supplemental.

Tischer added, "I was sent to Juneau to do a job based on a philosophy of fiscal responsibility and reducing government growth. We cannot afford to rubber stamp requests for millions of dollars without completely examining the need for the money. I intend to conduct a thorough study of every bill that comes to my committee despite actions by other House members who do not feel this is necessary. Such study is the only way to ensure passage of sound legislation. I support aid for the school districts, but this study has shown that a smaller amount of aid than originally requested is needed to maintain our school districts' viability."

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# # # # # # # #

1/24/83
10:20 a.m.

TO: Mae and Milo

FROM: Linda

RE: optional funding of supplemental appropriation monies in HB 73 (33.6 million)

In contacting another attorney for another opinion regarding the supplemental mentioned above: the following options appear to be appropriate as different methods of funding the shortfalls:

1). Under the title of the bill before the committee today (HB 73) there would be a problem in earmarking the funds to specific districts who prove shortfalls. Any money that is appropriate to the foundation fund must be pro-rated (paid to to all districts accross the board).

If the committee chooses to simply cut the amount requested and still pro-rate the funds, the existing title of the bill is sufficient to do this and a committee substitute would suffice.

2). If the committee wishes to catagorize funds and supplementally appropriate to specific districts, a new bill, introduced by the HESS Committee should be re-writte with funds being designated to individual districts for specific purposes.

Mr. Bob Greene was correct in stating that funds must be provided for on a pro-rata basis only if the foundation fund is the account earmarked for the appropriation, consequently, there is a way of writing the legislation to get around that across-the-board mechanism.

More "Buy" for Your School Bucks

By Claire Safran

School-budget cuts are forcing administrators, parents and local businesses to find creative ways to make better scholars with fewer dollars

In Rocky Ford, Colo., new shadows lengthen in school hallways. Light bulbs have been removed from every other fixture to cut electricity costs. With fewer and fewer dollars for school budgets, every penny has to count.

▶ In the hills of Kanawha County, West Virginia, students in shop classes are building some of the portable classrooms that the district needs but cannot afford to buy. Among the people teaching them to use hammer and saw are retired craftsmen, hired at minimum wage to stretch the teaching staff.

▶ A sharp-eyed visitor to Portland, Ore., schools may spot paper scraps and chalk dust on classroom floors. By reducing custodial services—cleaning the classrooms only every other day, for one thing—city schools will save more than a million dollars this year.

The "new math" that America's public schools are struggling with these days is mostly subtraction. Federal education budget cuts have taken effect this fall; most states and many local school districts are providing less money. At every level, this financial crunch is becoming as familiar as the screech of chalk on a blackboard.

In a tight-money situation the most tempting cut may be the "frills"—music, art, physical education, math and English electives, a choice of foreign languages, driver education. But one child's "frill" may be another child's "basic."

Worried that their children may be shortchanged on learning, mothers and fathers are poring over school budgets, doing their homework, searching for better answers. And better answers do exist. A survey of schools around the country revealed many new and

imaginative strategies for making dollars stretch further and work harder for good education.

When money is the problem, people may be the solution. In Montgomery County, Maryland, the third-grade reading tutor is a volunteer, recruited from a nearby home for the aged. A bilingual factory worker helps with the English-as-a-Second-Language adult-education program. In vocational classes, construction engineers and real-estate agents give their time to supervise students as they build a home and then sell it—for $200,000. The profits cover supplies for new projects.

More than 12,000 citizens of Montgomery County devote an average of 2½ hours a week to the schools. They don't replace teachers, but they do support and supplement them, and if a dollar value were attached to their services it would equal more than $4 million a year.

Around the nation, the story is repeated with local variations. "Our money never sleeps," says George N. Smith, superintendent of the Mesa, Ariz., public schools. Instead, his dollars are wide-awake, clicking off the highest interest he can find. Every school dollar—bond proceeds, tax money, operating funds, payrolls, adult-education tuitions, rentals of school facilities, student-activity fees and club dues—goes into certificates of deposit or Treasury bills until needed. Last year, with this

simple strategy, Smith turned a neat profit of more than $5 million for his taxpayers.

Mesa's administrative costs are 36-percent less than the state average. An energy-conservation program and a computerized bus schedule save money on heating and transportation. Like a number of other districts, Mesa has a self-insurance program. The premiums paid by teachers and other employees are placed in an insurance trust fund, a fund that fattens in high-interest Treasury bills. With self-insurance savings, Mesa schools have been able to add benefits, such as a dental plan, without increasing premiums.

"A large public-school system is like a large public corporation, with the citizens as stockholders," says Smith. His stockholders seem happy. In a national Gallup poll, only 36 percent of those asked said they would give their schools a grade of A or B. In a poll of Mesa citizens, the percentage soared to 72 percent.

Some schools are finding help by going into partnership with big business. In Oakland, Calif., through the Adopt-a-School program, many high schools and junior highs have been taken under a corporate wing. On the theory that a well-educated work force is good for business, the Kaiser Aluminum & Chemical Corp. "adopted" Oakland High. Kaiser Aluminum executives surveyed school needs and found that one-fourth of the students were reading below grade level. They provided dollars and

people for a reading lab and for Success on the Move, a work-study program designed to place students in paying jobs.

As the community reaches into the school, schools are beginning to reach out. In West Dunbar, W.Va., for instance, a road was badly needed. The vocational schools made it their project. The students' labor and the schools' heavy equipment made the difference between the gravel road that federal money would have paid for and the paved road that was put in.

Typically four of every five dollars in a school budget go to pay salaries—mostly teachers' salaries—but budget slashers tread carefully in the classroom. Fewer teachers can be a false economy; it can cheapen education. Still, even here, there are ways to save.

A number of schools are proposing cash bonuses for older teachers who decide to retire early. These schools then save the annual difference between the top-step salary an older teacher earns and the first-step salary at which a new young teacher can be hired. Recognizing that senior teachers often have priceless experience, schools in San Francisco and in Jacksonville, Ill., are offering those who do retire a chance to continue to earn money as part-time school consultants.

Syosset, N.Y., has come up with an alternative to expensive substitute teachers. When a teacher is absent for a day or two, students can attend sessions of an enrichment program—which can offer anything from a guest lecture by a visiting writer, artist or politician to a demonstration of the Moog Synthesizer.

Many school systems, forced by budget cuts to lay off teachers, have provided special training programs for the teachers who are left. Such training can pay big dividends. School officials in Coventry, R.I., went to their local bank and asked for a $5000 grant for a teacher-

training program called Mastery Learning. Math and English scores climbed so high at the Coventry junior high and other schools using this program that a national magazine identified them as "The Schools Where Everyone Gets A's."

Desperate over the rising costs of heating, electricity and transportation, a dozen rural Colorado school districts put their schools on a four-day week of approximately 7½-hour days. On average, the districts cut bus maintenance and gasoline costs by 20 percent and utilities costs by 7 to 25 percent. What's more, longer class periods meant less "getting organized" time and more teaching time. The result: higher student-achievement scores. Attendance improved too. At the end of the first year, the program was providing so many bonuses that ten new districts also decided

to try it; six additional districts have been approved for the 1982-83 school year.

In San Antonio, Texas, a School Watch program was set up to help curb theft and vandalism. Ten thousand cards telling how to spot suspicious goings-on and where to call for help were distributed to people who live near schools. The program paid for itself in the first week, when two burglaries were stopped by timely phone calls.

"Does every school have to have a computer program or an advanced-placement program?" asks John Green. "Or can they make better use of space, personnel and money by sharing?"

Green is executive director of the Education Collaborative for Greater Boston (EDCO), a cooperative agency helping Boston and 14 neighboring school districts to save money by sharing programs rather than duplicating them. Within EDCO, if one school has empty spaces in, say, a class for the hearing-impaired, another district can send its students there. The district pays tuition for its exchange students, but that costs far less than setting up a separate program.

In a number of states, small school districts are joining hands when they go shopping, to take advantage of the discounts that come with large, joint purchases. Schools in Holyoke, Colo., found they could provide enrichment programs for gifted youngsters for less money by contracting with a nearby community college.

Americans have always thought of public schools as free schools, and the idea of giving money to them takes some getting used to. Still, more and more public schools are turning to fund-raising techniques that have worked well for private schools and colleges. California's Acalanes Union High School District appeals to its alumni for donations, just as universities have always done. In Phoenix, Ariz., state school superintendent Carolyn Warner is urging public schools to borrow a college idea and ask alumni and local businesses to endow a chair (provide the funds for a teaching position) in math, science, industrial arts or English.

WHICH IDEAS will work for your child's school? Less money for education seems to be the writing on the blackboard, and some schools have read it sooner than others. Parents and school administrators cannot erase the hard economic facts, but they can work together to find creative ways out of the school daze.

For information on reprints of this article, see page 297

DRINK CHAMPAGNE for defeats as well as for victories. It tastes the same, and you need it more. —Edmund Ward, *The Main Chance* (Coward, McCann & Geoghegan)

GRAND CAMP Alaska Native Brotherhood Organized 1912
INCORPORATED

JAN 28 1983

TESTIMONY BEFORE THE HEALTH & SOCIAL SERVICES COMMITTEE

Madam Chairperson and members of this committee.
I appreciate this opportunity to speak before this committee.

My name is Ron Williams, President of the Grand Camp of the Alaska Native Brotherhood. The Alaska Native Brotherhood has local camps in all of the communities in Southeast Alaska. The local ANB camps are very concerned about the financial status of the schools in their communities.

It is our understanding that some of these schools have already cut back on their programs and staff due to lack of funds for their school year. We also understand that even with these cut backs, there still are not enough funds to maintain the level of programs and for the balance of this school year. Should additional funds not be obtained, these schools would end up with only classroom instructions and all additional programs would have to be eliminated. This would be very sad, as you would have to wonder in the future if you did the right thing by not allowing the schools to have additional funds.

The lower "48" schools have various educational opportunities available to them. The school boards and teachers have available to them right in their backyards cultural activities, all sports activities and depending on their own imagination, the teachers

can design their classroom instructional material so that their students can see for themselves why it is education is important. Not so with the schools in Southeast Alaska, because of their isolation. At best, these students' exposure to education is their teachers, textbooks and extra curricular activities. Should any of these be eliminated, the quality of exposure declines to the point where these students cannot compete in the real world.

Since its inception 71 years ago, the Alaska Native Brotherhood has always been concerned about education in Alaska. We feel that education is the only investment that cannot be lost. We urge this committee to recommend passage of HB-73.

Thank you.

Mac –

question: must supplemental approp. be pro-rated (across the board) or is it possible to fund at district level (ear-marked funding)?

– Title 14 – statutory guidelines attached.

– I asked Dick Bradley of legal services this question (he was the only atty. available to assist briefly in interpreting statutes) – his reply:

The legislature may ~~supplementally approp.~~ funds to any district they choose – it is possible to (write legislation) in this manner – however politically unpopular! Supp. Approp, of course, are "one time laws" and do not remain in statutes. This allows for the ~~reduced~~ sections regarding the basic aid & population funding formulas to be unchanged.

One attorney's opinion!

I will run this question by the legal services atty assigned to educ. in the a.m. (not avail at this time)

– Suggestion – the committee may take 'public testimony' at tomorrow's meeting ~~today~~ on HB 73/35:3 – hold the bill over for a "mark up" session at the next committee meeting at which time we can have a CS before the

committee for possible approval. (After you've spoken w/ them individually.

CS options

1) 22 million - as you proposed

2) Draft for mark up session after obtaining individual district needs — with approp. earmarked specifically.

dinner

NOTES TO DECISIONS

Legislative decides what types of education are to be publicly supported. — In Alaska the power of deciding what types of education are to be publicly supported, either under the School Foundation Act or by tax exemption, is vested with the legislature. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

Sec. 14.17.020. State aid.

Repealed by § 1 ch 238 SLA 1970.

Editor's notes. — The repealed section derived from § 1.03, ch. 164, SLA 1962.

Sec. 14.17.021. Basic state aid. (a) The amount of basic state aid for which each district is eligible is calculated by multiplying the instructional unit allotment of the district as established under AS 14.17.051 by the number of allowable instructional units in the district as established under AS 14.17.041.

(b) If permitted under § 5(d)(2) of P.L. 81-874, as amended, (20 U.S.C. 240(d)) and the regulations adopted under it (45 C.F.R. 115.60 — 115.66), the amount of basic state aid to a district may be reduced by up to 80 percent of the entitlement of the district to federal financial assistance under P.L. 81-874, as amended, (20 U.S.C. 236 — 244), for the prior fiscal year. (§ 4 ch 238 SLA 1970; am §§ 1, 2 ch 81 SLA 1975; am §§ 1, 2 ch 173 SLA 1976; am §§ 2, 3 ch 90 SLA 1977; am §§ 3, 4 ch 26 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

NOTES TO DECISIONS

That the legislature has seen fit to delegate certain educational functions to local boards in order that Alaska schools might be adapted to meet the varying conditions of different localities does not diminish constitutionally mandated state control over education under Alaska Const., art. VII, § 1. Macauley v. Hildebrand, Sup. Ct. Op. No. 741 (File No. 1550), 491 P.2d 120 (1971).

Sec. 14.17.022. Funds for centralized correspondence study. Funds for providing centralized correspondence study programs for students not enrolled in an approved school district correspondence study program shall include an appropriation from the public school foundation account in an amount calculated by multiplying the base instructional unit by the total number of instructional units as determined by applying the number of correspondence students to AS 14.17.041(a). (§ 3 ch 190 SLA 1975)

Legislative history reports. — ort on ch. 190, SLA 1975 (HCS C ; see 1975 House Journal, p. 12

Sec. 14.17.023. Supplem basic state aid under AS supplemental equalization ai section.

(b) The amount of supplem calculated by mutiplying the prior fiscal year under AS 14 lated in (c) of this section. Thi of the average local tax contr bership for school operating c or in the fiscal year ending J

(c) The amount per ADM c lated as the amount equal t pupil in average daily membe and borough school districts

(d) The amount of supple determined in (b) of this se instructional unit allotment SLA 1980)

Sec. 14.17.030. Require

Repealed by § 11 ch 95 S

Editor's notes. — The repealed derived from § 1.07, ch. 164, SLA 1 amended by § 1, ch. 70, SLA 1963.

Sec. 14.17.031. Instruct instructional units within e

(1) the number of units f units for secondary schools a or (d);

(2) the number of units fo 14.17.041(e) as approved by

(3) the number of units f 14.17.041(f) as approved by

(4) if the district has five an approved district corre units for correspondence pu correspondence pupils to A

(5) the number of units f 14.17.041(g) as approved b

(b) A school district s allowable instructional un schools except as provided

Legislative history reports. — For report on ch. 190, SLA 1975 (HCS CSSB 98), see 1975 House Journal, p. 1277.

Sec. 14.17.023. Supplemental equalization aid. (a) In addition to basic state aid under AS 14.17.021, each district is entitled to supplemental equalization aid, as determined in (b), (c) and (d) of this section.

(b) The amount of supplemental equalization aid for a district is calculated by mutiplying the ADM of the district as reported for the prior fiscal year under AS 14.17.180 by the amount per ADM calculated in (c) of this section. This amount shall be reduced by the amount of the average local tax contributions per pupil in average daily membership for school operating costs in that district in the prior fiscal year or in the fiscal year ending June 30, 1979, whichever is higher.

(c) The amount per ADM of supplemental equalization aid is calculated as the amount equal to the average local tax contributions per pupil in average daily membership for school operating costs in the city and borough school districts in the prior fiscal year.

(d) The amount of supplemental equalization aid for each district determined in (b) of this section shall be adjusted by the district's instructional unit allotment established in AS 14.17.051. (§ 5 ch 26 SLA 1980)

Sec. 14.17.030. Required local effort.

Repealed by § 11 ch 95 SLA 1969.

Editor's notes. — The repealed section derived from § 1.07, ch. 164, SLA 1962, as amended by § 1, ch. 70, SLA 1963.

Sec. 14.17.031. Instructional units. (a) The total number of instructional units within each school district is the sum of

(1) the number of units for elementary schools and the number of units for secondary schools as determined from AS 14.17.041(a), (b), (c), or (d);

(2) the number of units for vocational education determined from AS 14.17.041(e) as approved by the department;

(3) the number of units from special education determined from AS 14.17.041(f) as approved by the department;

(4) if the district has five or more correspondence pupils enrolled in an approved district correspondence study program, the number of units for correspondence pupils determined by applying the number of correspondence pupils to AS 14.17.041(a); and

(5) the number of units for bilingual education determined from AS 14.17.041(g) as approved by the department.

(b) A school district shall compute separately the number of allowable instructional units for each of its elementary and secondary schools except as provided in (c) of this section.

Sec. 14.17.075. Supplemental allocation.

Repealed by § 1 ch 238 SLA 1970.

Editor's notes. — The repealed section derived from § 2, ch. 125, SLA 1968, and § 11, ch. 95, SLA 1969.

Article 2. Preparation of Public School Foundation Budget.

Section
- 80. Computation by district
- 81. Minimum expenditure for instruction
- 82. Fund balance changes in school operating fund
- 90. Estimated average daily membership
- 100 — 130. [Repealed]
- 140. Determination of full and true value by Department of Community and Regional Affairs
- 150. Duty of commissioner to examine and tabulate computations

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Collateral references. — 68 Am. Jur. 2d Schools, §§ 91-108.

75 C.J.S. Schools and School Districts, §§ 83, 90; 79 C.J.S. Schools and School Districts, §§ 325-331.

Sec. 14.17.080. Computation by district. By October 30 of the pre-fiscal year each district shall submit to the commissioner a preliminary report of computations for the following fiscal year of the district's basic need as defined in AS 14.17.021; the amount which it expects to match under the provisions of AS 14.17.071; and the amount for supplemental programs which has been approved for funding consideration by the commissioner. Each district shall make the computations in the manner prescribed by AS 14.17.080 — 14.17.150. The computations are the basis for requesting legislative appropriations and for making preliminary payments under the public school foundation program. (§ 2.01 ch 164 SLA 1962; am § 5 ch 238 SLA 1970)

Revisor's notes. — As a result of the amendments in Chapter 26, SLA 1980, "basic need" is no longer defined in AS 14.17.021. Rather, that section defines "basic state aid." AS 14.17.071 mentioned in this section was repealed by SLA 1980, ch. 26, § 21.

Sec. 14.17.081. Minimum expenditure for instruction. (a) Each district shall budget for and spend a minimum of 55 percent of its school operating expenditures in each fiscal year on the instructional component of the district budget.

(b) The commissioner shall reject a district budget which does not comply with (a) of this section and, unless a waiver has been granted by the board under (d) of this section, shall withhold payments of state aid from that district, beginning with the payment for the second full

month after rejection and continuing until the school board of the district revises the district budget to comply with (a) of this section.

(c) The commissioner shall review the annual audit of each district for compliance with the expenditure requirements of (a) of this section. If the commissioner determines that a district does not meet those requirements, the commissioner shall advise the district of the determination and calculate the percentage of deficiency in required expenditure and deduct that percentage from state aid paid to the district for the current fiscal year, beginning with the payment for the second full month after the determination, unless a waiver has been granted by the board under (d) of this section.

(d) A district which has been determined by the commissioner to be out of compliance with the requirements of this section may, within 20 days of the commissioner's determination, request a waiver by the board of the imposition by the commissioner of any reduction in state aid payments under (b) or (c) of this section. The request must be submitted to the Legislative Budget and Audit Committee and must be in writing and include an analysis of the reasons and causes for the district's inability to comply with the requirements of this section. The Legislative Budget and Audit Committee shall review the district's request and forward it, along with the committee's recommendations on it, to the board which shall either grant or deny the waiver.

(e) The commissioner shall submit an annual report on actions taken by the commissioner or the board under this section to the Legislative Budget and Audit Committee by April 15 of each year. (§ 15 ch 26 SLA 1980)

Revisor's notes. — Throughout the section, the word, "board" was substituted for "state board of education" by the revisor of statutes under the authority of AS 01.05.031 and to conform to AS 14.60.010.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Sec. 14.17.082. Fund balance changes in school operating fund. (a) Each district having at least 400 instructional units under AS 14.17.031(a) may accumulate a fund balance in the school operating fund of seven percent of its expenditures. Each district having less than 400 instructional units may accumulate a fund balance of 10 percent of its expenditures.

(b) The commissioner shall review the annual audit of each district to ascertain changes in the year-end operating fund balance of the districts, and notify districts and the board, through a written report, of any fund balance accumulation greater than that permitted under (a) of this section.

(c) The board shall review the reports submitted to it under (b) of this section and submit a report making recommendations with respect to the legislative treatment of the fund balances of those districts to the

Legislative Budget and Audit Commi
(§ 15 ch 26 SLA 1980)

Revisor's notes. — The word "board" rev
was substituted for "state board of AS
education" in subsections (b) and (c) by the

Sec. 14.17.090. Estimated averag
trict shall prepare an estimate of its a
fiscal year. In making this estimate
average daily membership in precedin
decline in preceding years, and other
to the district. The result of this estima
membership. (§ 2.02 ch 164 SLA 196

Secs. 14.17.100 — 14.17.120. Co
allotment, average daily members
center allotment.

Repealed by § 2 ch 238 SLA 1970.

Editor's notes. — The repealed sections derived from §§ 2.03 — 2.05, ch. 164, SLA 1962.

Sec. 14.17.130. Computation o

Repealed by § 11 ch 95 SLA 1969

Editor's notes. — The repealed section derived from § 2.06, ch. 164, SLA 1962.

Sec. 14.17.140. Determination
ment of Community and Regio
equalized percentage to be applied
and the matching ratio for required
Department of Community and Re
the assessor for each district, sha
taxable real and personal prope
granted under ch. 129, SLA 1957
Incentive Act (AS 43.25.010 — 43.
no local assessor or current local
Department of Community and Re
mination of full value from informa
mination, the Department of Comm
guided by AS 29.53.060. The deter
before October 1 and sent by cert
before that date to the president
Duplicate copies shall be sent to th

Education

Editor's notes. — This section was recrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Article 3. Procedure for Payment of Public School Foundation Funds to Districts.

Section

160. Allocation of funds on preliminary computations
170. Payment under adjusted computations
180. Payment under final computation
190. Restrictions governing receipt and expenditure of money from public school foundation account

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Collateral references. — 79 C.J.S Schools and School Districts, §§ 423-427.

Right of school district to maintain action based on misapportionment of school money. 105 ALR 1273.

Determination of school attendance, enrollment, or pupil population for purpose of apportionment of funds. 80 ALR2d 953.

Sec. 14.17.160. **Allocation of funds on preliminary computations.** The commissioner shall determine the state aid for each school district on the basis of the pre-fiscal year computations. Beginning July 15 of the fiscal year and on the 15th day of each month, for seven successive months, one-twelfth of each district's state aid shall be distributed. (§ 3.01 ch 164 SLA 1962; am § 3 ch 95 SLA 1969; am § 8 ch 238 SLA 1970)

Sec. 14.17.170. **Payment under adjusted computations.** Each district shall make a report at the end of the first nine weeks of school, which contains a new estimate of its average daily membership for the fiscal year and other information which will aid the commissioner in making a more accurate determination of each district's state aid. This new estimate and information of average daily membership shall be the basis for the computation and distribution of each district's state aid for the balance of the fiscal year. The commissioner shall, on the basis of this new estimate and information, make a recomputation of each district's state aid. Before December 2, the commissioner shall notify each district of changes made in its state aid. The commissioner shall also determine whether the money in the public school foundation account is sufficient to meet each district's state aid for the fiscal year, and, if the money is not sufficient, the commissioner shall immediately inform the governor of the amount of additional appropriation the commissioner estimates will be necessary to carry out the public school foundation program for the rest of the fiscal year. Beginning February 15 and on the 15th of each subsequent month, one-fifth of the

recomputed balance of each district's state aid shall be distributed. However, one-half of the June payment shall be withheld pending a final determination of the district's state aid. (§ 3.02 ch 164 SLA 1962; am § 1 ch 169 SLA 1968; am § 4 ch 95 SLA 1969; am § 9 ch 238 SLA 1970; am § 1 ch 135 SLA 1975)

Editor's notes. — In the fifth sentence, the words "the commissioner" were substituted for "he" by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.17.180. Payment under final computation. Before June 16 each district shall transmit to the commissioner a final computation of the district's state aid. The commissioner shall process each district's computation in the manner provided by AS 14.17.150(a). However, in no event may the entitlement of a school district to state aid under AS 14.17.021 be less than that computed under this section for the preceding year, except as otherwise provided in AS 14.17.031, or under AS 14.17.170, whichever is greater. Additional state aid shall be obligated by the commissioner before June 30. If the district received more state aid money than it was entitled to under this chapter, it shall immediately, after notice from the commissioner of the overpayment, remit the amount of overpayment to the commissioner to be returned to the public school foundation account. (§ 3.03 ch 164 SLA 1962; am § 5 ch 95 SLA 1969; am § 10 ch 238 SLA 1970; am § 2 ch 135 SLA 1975; am § 16 ch 26 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the third sentence.

Sec. 14.17.190. Restrictions governing receipt and expenditure of money from public school foundation account. (a) The public school foundation money distributed to a district during a year shall be received, held, and expended by the district subject to the provisions of law and regulations promulgated by the department.

(b) Each district shall maintain financial records of the receipt and disbursement of public school foundation money and money acquired from local effort. The records must be in the form required by the commissioner and are subject to audit by the commissioner or the board at any time. (§ 3.04 ch 164 SLA 1962; am § 5 ch 98 SLA 1966; am § 6 ch 95 SLA 1969)

Revisor's notes. — The reference in subsection (b) to "local effort" is apparently obsolete in light of the repeal of AS 14.17.030 and AS 14.17.071.

Article 4. General Pr

Section
200. Regulations
205. State aid to districts operating approved school food service programs
210. State aid to newly established district schools

Sectio
215. (
220. P
225. C
230 —
250. D

Collateral references. — What are educational bodies or schools within contemplation of tax exemption provision. 95 ALR 62.

Extent of area within tax exemption extended to property used for educational, religious, or charitable purposes. 134 ALR 1176.

Tax exemption of educational institutions as extending to athletic fields or property used for social or recreation purposes. 143 ALR 274.

Tax exemption of property of religious, educational, or charitable body as extending to property or income thereof used in publication or sale of literature. 154 ALR 895.

Validity of legislative delegation of taxing power to school districts in absence of express constitutional provision authorizing such delegation. 113 ALR 1416.

Rescission of vote authorizing school dis-

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Sec. 14.17.200. Regulations. The
regulations to implement this chapter.
6 ch 98 SLA 1966)

Sec. 14.17.205. State aid to dist
school food service programs. A scho
provides free and reduced-price lunches
the Federal Nutrition Act shall receive
free or reduced-price meal equal to the
by the school district's area differentia
SLA 1977)

Sec. 14.17.210. State aid to newly
(a) A regional educational attendance a
or borough district school is considere
dance area school for purposes of financ
of a complete fiscal year after the date
city or borough district school. This sub
government from spending money to

Com Pind 1/24/82 Mtg

Need Sam Pestinger's packet from Com. Pind

7/12's of $7,300 mil from existing Foundat fund

Walt Furnace

Given the fact: We rec'd fiscal note just before Mtg

Lack of time to review

Need for each Dist Breakdown of Extra enrollment

not planned for.

Dr Davis - Dist by Dist Breakdown

Anch Dist 4

F Rks

Juneau

Ketch

Mat Sue

N. Slope _____

Bob Manners - NEA

Steve Holtz -

FY/1982 - $

FY/1983 $

10.4% Increase

Foundat. - 426 Mil State Gen Funds

Fed $. - 30 Mil = 80% goes to State. Only 20% goes to REAA

Mil. REAA - ↗ ↓ reduces Gen Fund

Block Grants - } $8-10 Mil

Indian Ed - }

Johnson Smalley - } $7-10 Mil

Bi Lingual Ed - }

Don Mackinnon - Ak Council of School admin.

Mr. Bob Greene

Provide School dist student increase list

CODE UPGRADE ESTIMATES
BIA SCHOOL CLOSURES IN 1982

	SITE EST. TOTAL @ FY 83	LESS BIA UFC PRIORITY #1 FY 82 CONTR.	LESS BIA FY 82 CIP FUNDS	NET. EST. FY 83	PRO RATED. @ .9769
140 Alakanuk	63,260	264	-0-	62,996	61,545
99 Gambell	471,316	20,378	-0-	450,938	440,541
21 Golovin	259,769	2,404	-0-	257,365	251,432
29 Goodnews Bay	359,718	17,043	-0-	342,675	334,775
16 Klukwan	461,310	978	-0-	460,332	449,720
91 Kwethluk	997,204	23,514	-0-	973,690	951,238
42 Kwigllingok	930,450	30,862	-0-	889,588	878,845
28 Mekoryuk	974,267	4,566	-0-	969,701	947,342
50 Napakiak	1,527,333	46,928	-0-	1,480,405	1,446,268
67 Napaskiak	1,302,798	11,236	302,164	989,398	966,584
29 Nightmute	799,627	25,153	-0-	774,474	756,616
15 Oscarville	836,573	3,680	-0-	832,893	813,688
50 Quinhagak	675,420	39,556	-0-	635,864	621,202
60 St. Michael	1,495,355	4,508	-0-	1,490,847	1,456,470
64 Scammon Bay	407,206	18,232	-0-	388,974	380,006
90 Stebbins	532,499	3,749	431,664	97,086	94,850
54 Tununak	258,845	4,094	-0-	254,751	248,878
TOTALS	12,352,950	257,145	733,828	11,361,977	11,100,000



Bottom Line figure to be reimbursed to the state after improvements are made to schools. Actual funds per school costs may vary slightly. Funding was implemented through Congressional legislation of last session.

All unit 4 school list.

BIA Operating Instructional Costs Breakdown of the 17 Schools Transferring to State Operation and Management:

K thru 8th grade

		ADM	EDUC. FUNDS	FAC. MGMT. FUNDS
1.	Alakanuk	140	440,589	212,300
2.	Gambell	99	337,348	259,200
3.	Golovin	21	77,364	102,600
4.	Goodnews Bay	29	148,375	151,800
5.	Kwethluk	91	336,246	189,400
6.	Kwigillingok	42	194,225	161,100
7.	Klukwan	16	46,510	55,100
8.	Mekoryuk	28	109,208	168,300
9.	Napakiak	50	212,108	178,600
10.	Napaskiak	67	234,315	148,200
11.	Nightmute	29	146,462	106,100
12.	Quinhagak	50	339,407	210,700
13.	Oscarville	15	70,835	85,200
14.	Scammon Bay	64	205,641	158,800
15.	St. Michael	60	203,832	214,300
16.	Stebbins	90	293,868	168,800
17.	Tununak	54	241,720	155,300
		945	$3,638,053	$2,725,800

GRAND TOTAL $6,363,853.00

Prepared January 21, 1983

COMMITTEE FOR ESSENTIAL EDUCATION FUNDING (CEEF)
LOCAL IMPACT OF REVENUE SHORTFALL (1982-1983)

School District	FINANCIAL: Total Budget	FINANCIAL: Total Shortfall	IMPACT OF SHORTFALL: Number of staff that were not hired or cutback during the school year. Staff Certif.	Staff Classif.	Comments	How many students in your district would be affected by the reduction or delay of these programs? No.	Comments
Adak	$5,591,923	$323,147	0	0	If supplemental fails: cut 2 certif. cut 3 classif., cut spec.ed.& voc.ed. and capital outlay, travel and student activity program.	150	Offset 150 spec.ed., voc.ed. and enrichment.
Anchorage	$166,389,832	$11,200,000	28.5	22.5	The staff reduction has adversely affected the instructional program offerings and class sizes. It has also reduced the custodial and maintenance programs in the school buildings. Included in the more than 100 reductions were the ff: the elem. general music program was eliminated; school activities were significantly reduced; needed replacement equipment was not purchased; and 23 sched. major maintenance projects were eliminated.	39,325	Reductions were necessary on a districtwide basis and therefore included a broad spectrum of programs and services directly related to the instruction of every student in the District.
Annette Island (Metlakatla)	$2,546,542	$194,286	2	1	$113,610 of budget for FY83 put on hold. Teaching supplies equipment, travel, support services, and activity funds have either been cut or put on hold. Remainder of shortfall would have to be taken from FY82 carryover which in FY84 would seriously cut programs.	338	Considering current budgeting our FY84 programs are in serious jeopardy. We will have less than 2% carryover if the shortfall is not corrected.
Chatham	$2,113,598	$81,504	0	0	We have continued as is - largely based on the fact that we anticipate additional funding and we have had a fund balance to bail us out.	0	
Copper River REAA #17	$4,763,539	$603,063	1	2	The lack of a viable working capital reserve will also seriously impact interest income that is counted as local revenue.	569	The "real" impact will be in FY84 since we had a much needed area differential increase last year that we accrued and are spending this year to minimize the negative impacts of these shortfalls.
Delta/Greely	$6,100,057	$319,142	2	1	One reading teacher and one elem. teacher were not hired as planned in the preliminary budget.	All	Our first cutback would be in the area of custodial service and then in clerical service. Lunch programs might go also!
Dillingham	$3,900,000	$275,000	0	0	None.	0	None.
Fairbanks	$55,434,070	$2,934,167	8	13	On June 22, the Fairbanks North Star Borough S.D. cut 1.5 million from its approved operating budget. Cuts included: reduction of secretarial help at Central Office, 2) elimination of 2 admin. positions (director of program, planning & evaluation and internal auditor), reduction of temporary salaries, secondary gifted/talented program reduction (2), reduction in boiler operators, elimination of a bus-aide program (10), and the elimination of various reserve accounts. In addition to those cuts all necessary personnel have not been hired as a result of increased enrollment and consequently classrooms are more crowded than usual (5). These steps were taken in order to absorb the impact of the initial 4% reduction in foundation funding and to control ongoing costs in view of further potential reductions.		Impact of the shortfall is not readily definable. 12,000 district students are going to be affected to some degree or other. To address the problem, a freeze has been placed on the purchase of new equipment and the implementation of budgeted maintenance projects which do not affect health and life-safety of district students and personnel. Contingency plans are being developed and the Board of Education will meet in a work session on Tuesday, Jan. 25, to consider specific plans to cover the approximately $1.7-M problem which exists as a result of the foundation reduction.

COMMITTEE FOR ESSENTIAL EDUCATION FUNDING (CEEF)

LOCAL IMPACT OF REVENUE SHORTFALL (1982-1983)

	FINANCIAL		IMPACT OF SHORTFALL				
			Number of staff that were not hired or cutback during the school year.			How many students in your district would be affected by the reduction or delay of these programs?	
School District	Total Budget	Total Shortfall	Staff Certif.	Staff Classif.	Comments	No.	Comments
Galena	$1,675,177	$152,513	0	0	There were no programs reduced because of the shortfall either before the start of school nor during school. However, if there is not a supplemental bill passed for the 33.7-M, we will have to reduce current year spending. The deadline for this decision will be January 28, 1983. No programs delayed until 1983-84 school year. We will have to cut back both certif. and classif. for 1983-84. Since we will have to use other district funds for the remainder of the current year, if supplemental funding is not forthcoming.	57	Since we have a 3-yr teacher agreement and there are 2 yrs to go if the shortfall and forward funding are not handled all 140 of our students will be affected by the Board's inability to provide a quality education opportunity to its students.
Haines	(See attached)		.5	0	We had an October resignation. We did not fill the vacancy and will not until we see the financial picture.	-	None.
Iditarod Area	$5,055,018	$454,922	1	0	One top admin. position has been left vacant. Several teacher aides would have been terminated but we were able to pick them up under a new Title VII grant.	All (327)	Reduced itinerant teacher travel. Reduction or elimination of educ. field trips. Reduction in after schc student and community use of school facilities.
Juneau	$19,725,688	$1,263,312	10	6	None	4400	All are affected one way or another.
Kenai Penin.	$36,079,553	$2,407,151	0	0	Programs reduced prior to start of school as a result of reduced foundation funding $954,697. Further cuts required if supplemental is not forthcoming $715,533 (including 33.5 teacher aides).	7,000	All are affected including communities as a whole. We have attempted to make our reductions in areas that would least affect the basic education of the student. However, the magnitude of the reduction has forced us to make some reductions affecting the basics.
Ketchikan	$11,846,667	$915,222	1	7	We have not revised the budget to fully reflect the shortfall. We are considering much more staff reduction.	2476	All students are affected.
Lake & Penn	$5,609,989	$537,890 (based on 10%)		8	Voc. ed. reduced prior to start of year. Programs reduced during school year: Voc. ed, purch, cont. svs of spc st fld exper & st act fund.	All (360 ADM)	None.
Mat-Su *revised as of 11/30/82.	$27,455,691*	$1,707,424	18.5	7.5	(See attached)	2,800 of 5,600.	Probably at least 1/2 of our students were/are being adversely affected in one way or another.
Nenana	$2,137,630	$398,725	0	0		0	We are using our reserves to carry through this year. Next year will be the problem, unless we receive more money.
North Slope	$23,500,000	$1,200,000	10	10-25 total support positions.	Curr. center - Maintenance	1,250	Indirectly
Northwest Arctic	$15,115,250	$1,116,838	0	0	Shortfall antic during budget prep. Spec. ed., voc. ed. & bilingual moved up to offset shortfall.	None	No adverse this year - but could next year.
Pelican City	$632,673	$60,000	0	0	This is very difficult to do as we only hire 1 custodian & 1 bookkeeper/ secretary. We do not plan to cut contracted teachers, but will cut 1.5 positions next year if this continues.	55	We have cut back on library purchases, student travel (ie. educ. field trips and athletic), teaching supplies & bldg. maint.
Pribilof	$2,400,000	5% or whatever % becomes.	1	1	None.	165	All students

COMMITTEE FOR ESSENTIAL EDUCATION FUNDING (CEEF)

LOCAL IMPACT OF REVENUE SHORTFALL (1982-1983)

School District	FINANCIAL: Total Budget	FINANCIAL: Total Shortfall	IMPACT OF SHORTFALL: Number of staff that were not hired or cutback during the school year. Staff Certif.	Staff Classif.	Comments	How many students in your district would be affected by the reduction or delay of these programs? No.	Comments
Railbelt	$3,786,770	$257,997	0	0	No program reduced prior to start of this year, nor during year. No program delayed. Basically we will be able to use all of our carryover monies to do so.	-	None this year, however, all will be affected.
Southeast Isl.	$4,623,020	$154,225	2	4.5(FTE)	The negative effects of the shortfall (actual & potential) have included the ff: 1. Little or less than anticipated improvement in programs or curric. areas we consider to be below standard for a district such as this one, including devel. of school libraries, improv. of our voc. ed. and computer educ. programs, & ability to provide necessary inservice programs to our teachers. In Maintenance/Operations we have been forced to postpone some basic improvements to our bldgs. and shelve plans to replace some teacher housing badly in need of same. If the shortfall is much greater than the 4%, we would n only lose our ability to provide and maintain teacher housing in logging communities as well as to prevent high teacher turnover), but would also lose our ability to move state-owned sch bldgs when a logging camp moves (as we do once or twice per year at great cost). The above represent some examples, as there would be prog/staff cuts in other areas in the event of a 5-10% shortfall.		All students in the district would be affected by further cuts.
Southwest Region					On the short-term basis, the Southwest Region School Board has approved postponement of physical plant improvement projects, curtailed preventative maintenance, and eliminated scheduled improvement in teacher housing.		
Valdez	$8,100,000	$361,002			Reprioritizing of programs. If a supplemental appropriation is not forthcoming in FY 83 our effective schooling program will be delayed for 2 years.	-	None
Wrangell	$2,637,777	$85,000			At this time no programs or staff have been reduced. However, if supplemental is not available then programs such as activities, classroom aides, art etc. will be reduced or deleted.	350 approx.	No comment.
Yukon Flats	$4,559,682	$182,387	3	1	Did not hire 1 f t - voc ed no P.E. & counselor position 1 non-cert village counselor. Cut back std act & staff travel. Freeze bal yr all purchases except emergency.	All 331 125 HS incl.	High scl w/lack of counselors.
Yukon Koyukuk	$8,576,637	$834,745	5*	4.5 FTE	Anticipating a 4% reduction, the above positions were cut prior to the start of school. If reduction is 11%, additional positions or hours will have to be cut.	556	11% of the total district budget has been placed on hold as of this point. This essentially placed a stop to the following areas: 1. supplies, 2. equipment, 3. textbooks, 4. student activities, 5. student travel, 6. staff inservice, 7. staff travel. Basically we are heating heating and meeting emergency repairs, teaching classes and paying employees.

* to this date

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STATE OF ALASKA
DEPARTMENT OF EDUCATION
PRORATA PROJECTION SUMMARY

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DISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT AT 0.918041317000
ANCHORAGE	34,800	2,628	42,450	111,558,600	6,922,194	0	118,480,794	108,770,264
CORDOVA	438	46	48,817	2,245,582	19,592	0	2,265,174	2,079,593
CRAIG	153	19	45,846	871,074	108,553	0	1,059,627	972,781
FAIRBANKS (N.STAR)	9,441	753	47,544	35,000,632	0	0	35,800,632	32,866,459
HAINES	389	52	48,817	2,538,484	0	0	2,538,484	2,330,133
HOONAH	239	27	47,544	1,283,688	246,083	0	1,529,771	1,404,393
HYDABURG	93	17	45,846	779,382	92,033	0	876,415	804,585
JUNEAU	4,258	372	42,450	15,791,400	67,245	0	15,858,645	14,558,891
KAKE	203	29	45,846	1,329,534	191,097	0	1,520,631	1,396,002
KETCHIKAN GATEWAY	2,368	195	42,450	8,277,750	0	0	8,277,750	7,599,317
KING COVE	121	16	48,675	1,018,800	147,916	0	1,166,716	1,071,093
KLAWOCK	152	23	45,846	1,054,450	104,967	0	1,159,425	1,064,400
KODIAK	2,143	216	49,242	10,636,272	1,458,909	0	12,095,181	11,103,876
KENAMA	128	23	50,940	1,171,620	211,484	0	1,383,104	1,269,747
NOME	750	73	48,797	4,803,181	701,933	0	5,505,114	5,127,365
MATANUSKA-SUSITNA	5,562	454	44,140	20,042,192	0	0	20,043,192	18,400,470
PELICAN	52	13	47,544	610,072	47,089	0	665,161	610,645
PETERSBURG	574	50	44,140	2,207,400	182,683	0	2,390,083	2,194,195
SAND POINT	123	14	48,675	891,450	156,334	0	1,047,784	961,909
SITKA	1,600	139	44,140	6,136,572	0	0	6,136,572	5,633,637
SKAGWAY	177	10	45,846	825,228	153,820	0	977,048	890,807
UNALASKA	181	24	48,675	1,528,200	0	0	1,528,200	1,402,951
VALDEZ	863	87	48,817	4,247,079	0	0	4,247,079	3,890,994
WRANGELL	485	48	44,140	2,119,104	237,835	0	2,356,939	2,163,767
YAKUTAT	160	22	50,940	1,120,680	154,305	0	1,274,985	1,170,489
GALENA	142	19	48,797	1,250,142	209,543	0	1,459,686	1,340,052
NORTH SLOPE	1,022	149	48,797	9,003,253	0	0	9,803,753	9,000,250
BRISTOL BAY	211	20	48,797	1,842,316	269,436	0	2,111,752	1,938,676
BILLINGHAM	378	43	48,797	2,829,271	542,188	0	3,371,459	3,095,139
KENAI	6,756	592	45,846	27,140,032	0	0	27,140,032	24,916,405
TANANA	92	17	48,797	1,110,549	145,590	0	1,264,139	1,160,532
ST. MARY'S	112	24	48,797	1,579,128	142,425	0	1,721,553	1,580,457
NORTHWEST ARCTIC	1,500	200	48,797	13,685,776	2,338,940	1,439,750	14,384,966	13,205,993
BERING STRAIT	918	161	48,797	10,591,707	922,599	710,916	10,603,390	9,912,958
LOWER YUKON	1,392	170	48,797	11,711,866	1,083,179	1,790,533	11,004,512	10,837,030
LOWER KUSKOKWIM	2,416	372	48,797	24,476,484	2,937,126	2,142,535	25,271,075	23,199,021
KUSPUK	324	75	48,797	4,934,775	922,226	438,956	5,018,045	4,606,773
SOUTHWEST	532	99	48,797	6,513,903	765,532	739,531	6,540,804	6,004,269
LAKE & PENINSULA	363	80	48,797	5,263,760	514,314	499,163	5,278,911	4,846,850
ALEUTIAN	129	32	48,675	2,037,600	174,506	141,794	2,070,392	1,900,705
PRIBILOF	160	27	48,675	1,719,225	263,410	269,097	1,712,738	1,570,791
ANAK	594	54	59,430	3,209,220	849,039	708,631	3,349,620	3,075,097
IDITAROD	327	69	48,797	4,532,993	495,324	362,753	4,422,564	4,059,607
YUKON KOYUKUK	556	101	48,797	6,645,487	897,279	757,120	6,705,646	6,229,505
YUKON FLATS	316	69	48,797	4,539,993	494,906	364,798	4,672,101	4,289,102
RAILBELT	327	55	50,940	2,801,700	410,430	65,442	3,146,681	2,888,203
DELTA/GREELY	949	92	50,940	4,686,480	1,086,720	451,513	5,321,687	4,885,539
ALASKA GATEWAY	473	71	50,940	3,616,740	585,620	278,754	3,923,614	3,602,040
COPPER RIVER	582	71	50,940	3,616,740	679,966	122,564	4,099,142	3,763,102
CHATHAM	272	48	45,846	2,200,608	228,248	207,005	2,221,851	2,039,751

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STATE OF ALASKA
DEPARTMENT OF EDUCATION
PRORATA PROJECTION SUMMARY

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DISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT AT 0.918041317000
SOUTHEAST	434	84	45,846	3,851,064	443,112	422,156	3,892,020	3,573,035
ANNETTE	336	43	44,140	1,890,364	372,695	573,066	1,697,993	1,558,820
CHUGACH	75	16	50,940	819,040	91,082	31,161	825,766	803,989
CENTRAL CORRESPOND	790	48	42,450	2,037,600	0	0	2,037,600	1,870,401
CITY/BOR. TOTALS	74,107	6,230		284,441,424	12,673,254	0	297,139,680	272,784,507
N.S.B.O. TOTALS	12,903	2,005		124,356,535	14,929,546	12,206,054	122,550,028	112,494,139
	220	48		2,012,400	0	0	2,012,400	1,847,000

STATE OF ALASKA
DEPARTMENT OF EDUCATION
PUBLIC SCHOOL FOUNDATION PROGRAM COMPUTATIONS
FINAL REPORTS RECAPITULATION
1981-82 FISCAL YEAR

8/25/82

School District	1981-82 Revised 1st Qtr. ADM	1981-82 Final ADM	Instr. Units	Instr. Unit Allotment	Basic Need	Suppl. Equal Aid 924.63	Final Computation Entitlement	Per ADM
Anchorage	33,279	33,307	2,326	38,590	89,760,340	3,578,601	93,338,941	2,802
Bristol Bay	203	208	27	59,815	1,615,005	245,252	1,860,257	8,943
Cordova	415	413	44	44,379	1,952,676	114,606	2,067,282	5,005
Craig	188	171	*24,21	41,677	1,000,248	174,552	1,174,800	6,870
Dillingham	364	372	41	59,815	2,452,415	493,805	2,946,220	7,920
Fairbanks	8,024	8,851	650	43,221	28,093,650	-0-	28,093,650	3,174
Galena	132	135	21	59,815	1,256,115	200,759	1,456,874	10,792
Haines	375	371	*45/44	44,379	1,997,055	-0-	1,997,055	5,383
Hoonah	228	225	25	43,221	1,080,525	215,402	1,295,927	5,760
Hydaburg	89	88	*15/14	41,677	625,155	83,882	709,037	8,057
Juneau	4,080	3,979	*319/310	38,590	12,310,210	-0-	12,310,210	3,094
Kake	194	188	24	41,677	1,000,248	165,545	1,165,793	6,201
Kenai	6,262	6,289	513	41,677	21,380,301	-0-	21,380,301	3,400
Ketchikan	2,354	2,331	*189/187	38,590	7,293,510	151,146	7,444,656	3,194
King Cove	136	132	*17/16	57,885	984,045	109,358	1,093,403	8,283
Klawock	95	97	12	41,677	500,124	100,743	600,867	6,194
Kodiak	2,057	2,026	*199/197	44,764	8,906,036	936,460	9,844,496	4,859
Mat-Su	4,808	4,835	*377/376	40,134	15,130,518	208,538	15,339,056	3,172
Nenana	214	202	*27/26	46,308	1,250,316	183,691	1,434,007	7,099
Nome	729	690	*69/68	59,815	4,127,235	806,993	4,934,228	7,151
North Slope	1,061	1,041	144	59,815	8,613,360	-0-	8,613,360	8,274
Pelican	47	51	8	43,221	345,768	32,356	378,124	7,414
Petersburg	561	556	*49/48	40,134	1,966,566	132,747	2,099,313	3,776
Sand Point	141	106	*15/13	57,885	868,275	145,177	1,013,452	9,561
Sitka	1,683	1,634	*137/134	40,134	5,498,358	32,154	5,530,512	3,385
Skagway	109	190	20	41,677	833,540	124,879	958,419	5,044
St. Mary's	96	90	*23/22	59,815	1,375,745	130,419	1,506,164	16,735
Unalaska	191	177	*25/22	57,885	1,447,125	-0-	1,447,125	8,176
Valdez	848	830	*87/86	44,379	3,860,973	-0-	3,860,973	4,652
Wrangell	490	485	*47/46	40,134	1,886,298	189,241	2,075,539	4,279
Yakutat	154	152	20	46,308	926,160	127,856	1,054,016	6,934
TOTALS	70,487	70,222	5,539		230,339,895	8,684,162	239,024,057	3,404
Centralized Corres.	721	714	44	38,590	1,697,960	-0-	1,697,960	2,378

*Sec. 14.17.180

FINAL ADM 1981-1982

8/25/82

School District	Elem.	Sec.	Comb. Dist.	Voc Ed Non Add	Spec Ed Non Add	Bil/Bic Non Add	Corres.	Total ADM	Elem.	Sec.	Comb. Dist.	Voc Ed	Spec Ed	Bil Bic Ed	Corres.	Total Instr. Units
Anchorage	17,146	16,132	29	1,605	4,659	525	-0-	33,307	1,041	979	5	92	185	24	-0-	2,326
Bristol Bay	106	102	-0-	16	22	-0-	-0-	208	10	14	-0-	2	1	-0-	-0-	27
Cordova	218	195	-0-	69	69	-0-	-0-	413	14	21	-0-	5	4	-0-	-0-	44
Craig	77	89	-0-	14	19	-0-	5	171	6	*11	-0-	2	2	-0-	3	24
Dillingham	195	177	-0-	31	59	28	-0-	372	13	18	-0-	3	4	3	-0-	41
Fairbanks	4,700	4,024	-0-	493	1,484	77	127	8,051	288	257	-0-	33	58	5	9	650
Galena	70	65	-0-	11	32	1	-0-	135	6	10	-0-	2	2	1	-0-	21
Haines	182	189	-0-	30	104	-0-	-0-	371	16	*21	-0-	3	5	-0-	-0-	45
Hoonah	112	113	-0-	19	44	-0-	-0-	225	8	12	-0-	2	3	-0-	-0-	25
Hydaburg	45	43	-0-	10	33	9	-0-	88	4	6	-0-	*2	2	1	-0-	15
Juneau	2,110	1,652	-0-	273	667	37	17	3,979	*133	*133	-0-	*18	28	3	*4	319
Kake	92	96	-0-	28	46	-0-	-0-	188	7	11	-0-	3	3	-0-	-0-	24
Kenai	3,473	2,709	28	327	1,063	208	79	6,289	230	201	5	25	36	10	6	513
Ketchikan	1,104	1,129	11	176	374	4	87	2,331	*68	78	*4	12	19	1	7	189
King Cove	88	44	-0-	9	32	-0-	-0-	132	7	6	-0-	*2	2	-0-	-0-	17
Klawock	68	29	-0-	-0-	21	-0-	-0-	97	6	4	-0-	-0-	2	-0-	-0-	12
Kodiak	1,146	826	16	139	387	42	38	2,026	80	*77	4	11	20	3	4	199
Mat-Su	2,558	2,084	16	311	693	4	177	4,835	164	*147	4	20	29	1	12	377
Nenana	116	86	-0-	15	47	3	-0-	202	*9	12	-0-	2	3	1	-0-	27
Nome	406	284	-0-	56	122	80	-0-	690	25	*28	-0-	4	7	5	-0-	69
North Slope	519	485	30	149	208	290	7	1,041	43	53	5	15	11	14	3	144
Pelican	37	14	-0-	-0-	-0-	-0-	-0-	51	4	4	-0-	-0-	-0-	-0-	-0-	8
Petersburg	389	167	-0-	39	29	-0-	-0-	556	24	15	-0-	*4	6	-0-	-0-	47
Sand Point	61	45	-0-	9	16	-0-	-0-	106	*6	6	-0-	*2	1	-0-	-0-	15
Sitka	1,126	508	-0-	121	391	31	-0-	1,634	*77	*36	-0-	8	13	3	-0-	137
Skagway	108	82	-0-	11	12	-0-	-0-	190	8	8	-0-	2	2	-0-	-0-	20
St. Mary's	70	20	-0-	21	50	31	-0-	90	6	8	-0-	2	3	*4	-0-	23
Unalaska	95	82	-0-	14	38	3	-0-	177	*8	*12	-0-	2	2	1	-0-	25
Valdez	437	393	-0-	78	208	-0-	-0-	830	*32	36	-0-	7	12	-0-	-0-	87
Wrangell	269	216	-0-	37	80	-0-	-0-	485	17	22	-0-	*4	4	-0-	-0-	47
Yakutat	87	65	-0-	8	38	-0-	-0-	152	7	10	-0-	1	2	-0-	-0-	20
TOTALS	37,210	32,345	130	4,119	11,047	1,373	537	70,222	2,367	2,256	27	290	471	80	48	5,539
Cent. Corres.	559	155	-0-	22	-0-	-0-	-0-	714	42	-0-	-0-	2	-0-	-0-	-0-	44

*Sec. 14.17.180

8/25/82

REAA	1981-82 Revised 1st Qtr. ADM	1981-82 Final ADM	Instr. Units	Instr. Units Allotment	Basic Need	Supp. Equal Aid.	Less P.L. 874	Final Computation of Entitlement	Per ADM
Adak	611	594	52	54,026	2,809,352	772,806	821,007	2,761,151	4,648
Alaska Gateway	476	478	*71/70	46,308	3,207,868	522,601	325,313	3,435,156	7,291
Aleutian Region	111	114	30	57,885	1,736,550	151,177	164,415	1,723,312	15,117
Annette Island	348	351	40	40,134	1,605,360	338,488	663,271	1,280,577	3,648
Bering Strait	582	583	*121/118	59,815	7,237,615	616,266	824,496	7,029,385	12,057
Chatham	196	207	36	41,677	1,500,372	104,741	244,887	1,440,226	6,958
Chugach	68	75	13	46,308	602,004	58,806	36,950	623,860	8,318
Copper River	566	555	*71/70	46,308	3,207,868	650,200	259,655	3,678,413	6,628
Delta Greely	895	887	*82/81	46,308	3,797,256	934,246	600,399	4,131,103	4,657
Iditarod	311	313	*63/62	59,815	3,768,345	444,285	421,056	3,791,574	12,114
Kuspuk	324	330	77	59,815	4,605,755	503,045	508,052	4,600,748	13,942
Lake & Peninsula	321	325	80	59,815	4,785,200	470,082	604,609	4,650,673	14,310
Lower Kuskokwim	1,865	1,856	290	59,815	17,346,350	2,558,220	2,541,464	17,363,106	9,355
Lower Yukon	1,183	1,190	*163/159	59,815	9,749,845	1,625,222	2,074,092	9,300,975	7,816
Northwest Arctic	1,495	1,478	*190/183	59,815	11,364,850	2,035,111	1,903,910	11,496,051	7,778
Pribilof	174	172	24	57,885	1,389,240	227,459	304,279	1,312,420	7,630
Railbelt	353	335	53	46,308	2,454,324	363,934	133,144	2,685,114	8,015
Southeast Island	432	420	86	41,677	3,584,222	412,422	490,134	3,506,510	8,349
Southwest Region	476	484	98	59,815	5,861,070	643,496	902,564	5,602,002	11,576
Yukon Flats	299	314	67	59,815	4,007,605	408,455	423,606	3,992,454	12,715
Yukon Koyukuk	569	567	95	59,815	5,682,425	844,141	877,800	5,648,766	9,962
TOTALS	11,657	11,628	1,802	-0-	100,464,276	14,765,203	15,125,103	100,104,376	8,609

*Sec. 14.17.180

8/25/82

FINAL ADM 1981-1982

REAA	Elem.	Sec.	Comb. Dist.	Voc Ed Non Add	Spec Ed Non Add	Bil/Bic Non Add	Corres.	Total ADM	Elem.	Sec.	Comb. Dist.	Voc Ed	Spec Ed	Bil Bic Ed	Corres.	Total Instr. Units
Adak	398	196	-0-	32	106	-0-	-0-	594	24	21	-0-	3	4	-0-	-0-	52
Alaska Gateway	234	178	29	37	95	20	37	478	23	26	5	*5	5	3	[illegible]	71
Aleutian Region	30	12	72	5	20	3	-0-	114	3	4	19	1	2	1	-0-	30
Annette Island	184	167	-0-	27	87	-0-	-0-	351	15	18	-0-	3	4	-0-	-0-	40
Bering Strait	247	292	24	64	125	129	20	583	25	62	5	*13	6	7	3	121
Chatham	103	67	31	14	40	-0-	6	207	12	10	7	2	2	-0-	3	36
Chugach	48	7	20	-0-	-0-	-0-	-0-	75	5	4	4	-0-	-0-	-0-	-0-	13
Copper River	257	228	9	44	95	2	61	555	24	29	3	4	5	1	*6	71
Delta Greely	535	287	-0-	51	253	-0-	65	887	*34	27	-0-	4	11	-0-	6	82
Iditarod	102	115	81	26	49	15	15	313	*13	22	17	4	2	2	3	63
Kuspuk	144	149	27	29	40	22	10	330	24	36	5	4	2	3	3	77
Lake & Peninsula	170	91	52	26	37	22	12	325	34	20	13	4	3	3	3	80
Lower Kuskokwim	716	1,125	15	208	341	813	-0-	1,856	53	150	4	29	18	36	-0-	290
Lower Yukon	608	582	-0-	112	147	228	-0-	1,190	*51	*77	-0-	*15	9	11	-0-	163
Northwest Arctic	795	648	-0-	122	217	112	35	1,478	66	*86	-0-	*16	11	*7	4	190
Pribilof	93	52	27	9	36	15	-0-	172	7	6	5	1	3	2	-0-	24
Railbelt	169	157	-0-	27	75	-0-	9	355	17	26	-0-	4	3	-0-	3	53
Southeast Island	145	60	116	12	54	-0-	99	420	23	18	31	2	4	-0-	8	86
Southwest Region	220	186	78	34	90	254	-0-	484	27	32	17	5	5	12	-0-	98
Yukon Flats	117	67	113	20	49	35	17	314	15	14	26	3	3	3	3	67
Yukon Koyukuk	221	156	110	55	115	33	80	567	25	26	20	9	5	3	6	95
TOTALS	5,536	4,822	804	954	2,071	1,703	466	11,628	521	713	181	131	107	94	55	1,802

*Sec. 14.17.180

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

		1	2	3	4	5	6
		ENRLMNT FY82 1ST Qtr.	ENRLMNT FY83 1ST Qtr	INCREASE OR DECREASE	ADM FY82 1ST Qtr	ADM FY83 1ST Qtr.	INCREASE OR DECREASE
1	ADAK	609	594	(15)	611	594	(15)
2	ALASKA GATEWAY	442	439	(3)	476	473	(3)
3	ALEUTIAN CHAIN	118	129	11	111	127	16
4	ANNETTE ISLAND	353	329	(24)	348	336	(12)
5	* BERING STRAITS	609	927	318	582	917	335
6	* CHATHAM	220	278	58	196	271	75
7	CHUGACH	75	66	(9)	68	76	8
8	COPPER RIVER	577	514	(63)	568	582	14
9	DELTA/GREELY	914	909	(5)	895	949	54
10	IDITAROD	319	323	4	311	326	15
11	KUSPUK	333	318	(15)	324	323	(1)
12	* LAKE & PENINSULA	329	333	4	321	362	41
13	* LOWER KUSKOKWIM	1899	2493	594	1365	2429	564
14	* LOWER YUKON	1193	1400	207	1183	1391	208
15	NORTHWEST ARCTIC	1530	1496	(34)	1495	1499	4
16	PRIBILOF	175	164	(11)	174	167	(7)
17	RAILBELT	351	323	(28)	353	325	(28)
18	SOUTHEAST ISLANDS	337	351	14	432	432	-
19	SOUTHWEST REGION	490	531	41	476	524	48
20	YUKON FLATS	316	341	25	299	315	16
21	YUKON/KOYUKUK	590	619	29	569	557	(12)
22							
23	SUB-TOTALS	11819	12877	1058	11657	12975	1318
24							
25	City & Borough	73236	76645	3409	70487	74005	3518
26	Centralized Correspondence	688	683	(5)	721	790	69
27							
28	STATEWIDE TOTALS	85743	90205	4462	82865	87770	4905

* SEE RIA

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

		1	2	3	4	5	6
		ENRLMNT FY82 1st Qtr	ENRLMNT FY83 1ST QTR	INCREASE OR DECREASE	ADM FY82 1st Qtr	ADM FY83 1ST Qtr	INCREASE OR DECREASE
1	ANCHORAGE	34546	36243	1697	33279	34797	1518
2	BRISTOL BAY	215	221	6	203	210	7
3	CORDOVA	407	440	33	415	438	23
4	CRAIG	178	160	[18]	185	152	[36]
5	DILLINGHAM	380	398	18	364	378	14
6	FAIRBANKS	9320	9844	524	8824	9440	616
7	GALENA	140	150	10	132	142	10
8	HAINES	378	397	19	375	388	13
9	HOONAH	226	242	16	228	239	11
10	HYDABURG	92	85	[7]	89	93	4
11	JUNEAU	4267	4448	181	4080	4258	178
12	KAKE	211	218	7	194	207	13
13	KENAI	6528	6930	402	6262	6754	492
14	KETCHIKAN	2455	2367	[88]	2354	2369	15
15	KING COVE	137	113	[24]	136	120	[16]
16	KLAWOCK	95	133	38	95	151	56
17	KODIAK	2144	2189	45	2057	2141	84
18	MAT-SU	5055	5676	621	4805	5558	750
19	NENANA	198	119	[79]	214	127	[87]
20	NOME	716	734	18	729	750	21
21	NORTH SLOPE	1053	1018	[35]	1061	1021	[40]
22	PELICAN	48	53	5	47	52	5
23	PETERSBURG	589	608	19	561	574	13
24	SANDPOINT	118	120	2	141	123	[18]
25	SITKA	1742	1666	[76]	1683	1607	[76]
26	SKAGWAY	191	173	[18]	187	177	[12]
27	ST. MARY'S	113	109	[4]	96	110	14
28	UNALASKA	187	185	[2]	191	181	[10]
29	VALDEZ	845	857	12	848	863	15
30	WRANGELL	508	504	[4]	490	485	[5]
31	YAKUTAT	154	157	3	154	159	5
32	TANANA (New FY83)		88	88		92	92
33							
34		73236	76643	3409	70487	74005	3518
35							
36	CENT. CORRESP. SDY.	688	683	(5)	721		
37							
38							
39	SUB-TOTALS						
40							

CSHB 73

[redacted] - Every reason to believe that Gov's is coming in w/a new fiscal note of approx. 19 mil based on the fact that the 14 mil deliberately deducted from last years budget will not be supplementally refunded.

Office of Budget & Mgt cannot release policy yet.

Considering a ½ of 1% contingency allowed on a budget of 425 mill to cover additional enrollment increases that will undoubtedly occur from Nov to June that are not yet even counted - an additional 2 mil. could be added to the basic need of 19 million.

STATE OF ALASKA
DEPARTMENT OF EDUCATION
OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH F
STATE OFFICE BUILDING
JUNEAU, ALASKA 99811
PHONE:

December 23, 1982

Rob Lehr, Director
Division of Budget & Management
Office of the Governor
Pouch AM
Juneau, Alaska 99811

Dear Mr. Lehr:

The Department of Education requests a $19,314.9 FY 83 general fund supplemental appropriation for Financial Support BRU. This supplemental will be used to fund Foundation Program requirements that exceed the FY 83 continuation level funding requested by the department.

FY 83 Foundation Program Requirements	$425,500.0
FY 83 Department Budget Request	406,185.1
This Supplemental Request	$ 19,314.9

Distribution by component of this supplemental appropriation is as follows:

Component	Amount
Student ADM Support	17,196.5
Special Education Adjustment	4,044.0
Vocational Ed. Adjustment	(2,609.4)
Correspondence Study - DOE	(143.7)
Correspondence Study - Local	830.3
Bilingual Program Adjustment	322.4
Supplemental Equalization Aid	(325.2)
TOTAL	19,314.9

Sincerely,

Marshall L. Lind
Commissioner

1/27/83, JUNE, ANC LIO, MSG 4342

TO: REPRESENTATIVES ABOOD AND [redacted]

FROM: JIM GRAHM, 4411 WORONZOFF, ANCHORAGE, AK 99503
(H) 248-4411 (W) 243-3226

I STRONGLY ENCOURAGE YOUR INFLUENTIAL SUPPORT FOR HB73 ANDRELEASE OF THOSE FUNDS TO MAINTAIN CURRENT BUDGETED EDUCATIONAL PROGRAMS.

/S/ PRINCIPAL OF TURNAGAIN ELEMENTARY SCHOOL
JIM GRAHM

28 Feb, '83

Rep. Mae Tischer,

I applaud what you are doing with the supplemental appropriation. Hold firm, our prayers are with you today!

Respectfully,

Gerri Biborski

FOR IMMEDIATE RELEASE

CONTACT: Linda Otey

January 28, 1983

465-3777

The hottest issue in the House of Representatives this week is HB 73, a bill which would make a supplemental appropriation of $33,746,700 to the Public School Foundation Program. The bill was heard in the Health, Education and Social Services Committee on Monday and held for further review.

According to Rep. Mae Tischer, co-chair of the HESS committe, the amount designated in the original bill is more than required. The committee substitute (which appropriates $22,380,600) would provide for contingencies due to unanticipated enrollment increases, the BIA transfer of schools to Alaskan school districts and unforeseen complications of the legislative mandate to scale down education spending because of reduced state revenues. It will not, however, provide additonal funding to enhance program expansion.

The move to hold HB 73 in committee for additional hearings prompted strong opposition from several members of the House. Rep. Tischer responded to this saying, "I was sent to Juneau to do a job based on a philosophy of fiscal responsibility and reducing government growth; if that means being on the hot seat, then I'll just have to take it."

Tischer pointed out that those members who wanted to pass the bill out of committee Monday would have done so before the Committee had the opportunity to adequately examine the fiscal information and back-up material provided by the Department of Education.

HT

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: January 24, 1983

TIME: _____

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

HB 3 Supplemental Appropriations to Dept. of Educ.

HB 35 " " "

HB 73 " " "

Other notes or reminders:

Wednesday, January 26, 1-3^{00} pm, Room 112

Joint House/Senate HESS Committee Meeting

EO 54 Creation of a Dept. of Corrections

* Please leave your folders on the table. They are available on a check out basis.

Ramona - 586 - 2204
Joe Hayes - 364 - 3486

$$2\overline{)14431.8} = 7,215.9$$

34,797
33,307
1,490 students

$7,215.9 = \frac{1}{2}$ of
7300
6700
21,215.9

1. Call Stevens office in Wash DC
on status of B.I.A. funding.
& how much he's asking for

Convey a message
Leg intent

Bob has:
Computer runs

10,49

$$34\overline{)7,000} = 200$$
42
200
84,000

ADM Anchorage
June '82 = 33,307
Nov '82 = 34,797
Actual Total Increase = 1,490 students

What was Projected =

$42,250 = One Instructional Units

3 units per under 32 students
4 " " 32-36 ".

Mr Speaker. Speak to the subject

the subject of Supp funding before the H E. S.S. Committee has req'd the Committee's immediate attention:

1. Upon Referral it was immediately Scheduled for hearing - 5 day notice.

2. Because of Gravity - request for fiscal breakout Dept of Ed & others.

3. This important info was not avail. until the opening of Hearing

Policy Committee

More "Buy" for Your School Bucks

By Claire Safran

School-budget cuts are forcing administrators, parents and local businesses to find creative ways to make better scholars with fewer dollars

In Rocky Ford, Colo., new shadows lengthen in school hallways. Light bulbs have been removed from every other fixture to cut electricity costs. With fewer and fewer dollars for school budgets, every penny has to count.

▶ In the hills of Kanawha County, West Virginia, students in shop classes are building some of the portable classrooms that the district needs but cannot afford to buy. Among the people teaching them to use hammer and saw are retired craftsmen, hired at minimum wage to stretch the teaching staff.

▶ A sharp-eyed visitor to Portland, Ore., schools may spot paper scraps and chalk dust on classroom floors. By reducing custodial services—cleaning the classrooms only every other day, for one thing—city schools will save more than a million dollars this year.

The "new math" that America's public schools are struggling with these days is mostly subtraction. Federal education budget cuts have taken effect this fall; most states and many local school districts are providing less money. At every level, this financial crunch is becoming as familiar as the screech of chalk on a blackboard.

In a tight-money situation the most tempting cut may be the "frills"—music, art, physical education, math and English electives, a choice of foreign languages, driver education. But one child's "frill" may be another child's "basic."

Worried that their children may be shortchanged on learning, mothers and fathers are poring over school budgets, doing their homework, searching for better answers. And better answers do exist. A survey of schools around the country revealed many new and

imaginative strategies for making dollars stretch further and work harder for good education.

When money is the problem, people may be the solution. In Montgomery County, Maryland, the third-grade reading tutor is a volunteer, recruited from a nearby home for the aged. A bilingual factory worker helps with the English-as-a-Second-Language adult-education program. In vocational classes, construction engineers and real-estate agents give their time to supervise students as they build a home and then sell it—for $200,000. The profits cover supplies for new projects.

More than 12,000 citizens of Montgomery County devote an average of 2½ hours a week to the schools. They don't replace teachers, but they do support and supplement them, and if a dollar value were attached to their services it would equal more than $4 million a year.

Around the nation, the story is repeated with local variations. "Our money never sleeps," says George N. Smith, superintendent of the Mesa, Ariz., public schools. Instead, his dollars are wide-awake, clicking off the highest interest he can find. Every school dollar—bond proceeds, tax money, operating funds, payrolls, adult-education tuitions, rentals of school facilities, student-activity fees and club dues—goes into certificates of deposit or Treasury bills until needed. Last year, with this

simple strategy, Smith turned a neat profit of more than $5 million for his taxpayers.

Mesa's administrative costs are 36-percent less than the state average. An energy-conservation program and a computerized bus schedule save money on heating and transportation. Like a number of other districts, Mesa has a self-insurance program. The premiums paid by teachers and other employees are placed in an insurance trust fund, a fund that fattens in high-interest Treasury bills. With self-insurance savings, Mesa schools have been able to add benefits, such as a dental plan, without increasing premiums.

"A large public-school system is like a large public corporation, with the citizens as stockholders," says Smith. His stockholders seem happy. In a national Gallup poll, only 36 percent of those asked said they would give their schools a grade of A or B. In a poll of Mesa citizens, the percentage soared to 72 percent.

Some schools are finding help by going into partnership with big business. In Oakland, Calif., through the Adopt-a-School program, many high schools and junior highs have been taken under a corporate wing. On the theory that a well-educated work force is good for business, the Kaiser Aluminum & Chemical Corp. "adopted" Oakland High. Kaiser Aluminum executives surveyed school needs and found that one-fourth of the students were reading below grade level. They provided dollars and

people for a reading lab and for Success on the Move, a work-study program designed to place students in paying jobs.

As the community reaches into the school, schools are beginning to reach out. In West Dunbar, W.Va., for instance, a road was badly needed. The vocational schools made it their project. The students' labor and the schools' heavy equipment made the difference between the gravel road that federal money would have paid for and the paved road that was put in.

Typically four of every five dollars in a school budget go to pay salaries—mostly teachers' salaries—but budget slashers tread carefully in the classroom. Fewer teachers can be a false economy; it can cheapen education. Still, even here, there are ways to save.

A number of schools are proposing cash bonuses for older teachers who decide to retire early. These schools then save the annual difference between the top-step salary an older teacher earns and the first-step salary at which a new young teacher can be hired. Recognizing that senior teachers often have priceless experience, schools in San Francisco and in Jacksonville, Ill., are offering those who do retire a chance to continue to earn money as part-time school consultants.

Syosset, N.Y., has come up with an alternative to expensive substitute teachers. When a teacher is absent for a day or two, students can attend sessions of an enrichment program—which can offer anything from a guest lecture by a visiting writer, artist or politician to a demonstration of the Moog Synthesizer.

Many school systems, forced by budget cuts to lay off teachers, have provided special training programs for the teachers who are left. Such training can pay big dividends. School officials in Coventry, R.I., went to their local bank and asked for a $5000 grant for a teacher-

training program called Mastery Learning. Math and English scores climbed so high at the Coventry junior high and other schools using this program that a national magazine identified them as "The Schools Where Everyone Gets A's."

Desperate over the rising costs of heating, electricity and transportation, a dozen rural Colorado school districts put their schools on a four-day week of approximately 7½-hour days. On average, the districts cut bus maintenance and gasoline costs by 20 percent and utilities costs by 7 to 25 percent. What's more, longer class periods meant less "getting organized" time and more teaching time. The result: higher student-achievement scores. Attendance improved too. At the end of the first year, the program was providing so many bonuses that ten new districts also decided

to try it; six additional districts have been approved for the 1982-83 school year.

In San Antonio, Texas, a School Watch program was set up to help curb theft and vandalism. Ten thousand cards telling how to spot suspicious goings-on and where to call for help were distributed to people who live near schools. The program paid for itself in the first week, when two burglaries were stopped by timely phone calls.

"Does every school have to have a computer program or an advanced-placement program?" asks John Green. "Or can they make better use of space; personnel and money by sharing?"

Green is executive director of the Education Collaborative for Greater Boston (EDCO), a cooperative agency helping Boston and 14 neighboring school districts to save money by sharing programs rather than duplicating them. Within EDCO, if one school has empty spaces in, say, a class for the hearing-impaired, another district can send its students there. The district pays tuition for its exchange students, but that costs far less than setting up a separate program.

In a number of states, small school districts are joining hands when they go shopping, to take advantage of the discounts that come with large, joint purchases. Schools in Holyoke, Colo., found they could provide enrichment programs for gifted youngsters for less money by contracting with a nearby community college.

Americans have always thought of public schools as free schools, and the idea of giving money to them takes some getting used to. Still, more and more public schools are turning to fund-raising techniques that have worked well for private schools and colleges. California's Acalanes Union High School District appeals to its alumni for donations, just as universities have always done. In Phoenix, Ariz., state school superintendent Carolyn Warner is urging public schools to borrow a college idea and ask alumni and local businesses to endow a chair (provide the funds for a teaching position) in math, science, industrial arts or English.

WHICH IDEAS will work for your child's school? Less money for education seems to be the writing on the blackboard, and some schools have read it sooner than others. Parents and school administrators cannot erase the hard economic facts, but they can work together to find creative ways out of the school daze.

For information on reprints of this article, see page 297

DRINK CHAMPAGNE for defeats as well as for victories. It tastes the same, and you need it more. —Edmund Ward, *The Main Chance* (Coward, McCann & Geoghegan)

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

ASD MEMORANDUM #236 (82-83) REVISED December 20, 1982

TO: SCHOOL BOARD

FROM: OFFICE OF THE SUPERINTENDENT

SUBJECT: PLANNED COST REDUCTIONS TO OFFSET STATE REVENUE REDUCTIONS

PERTINENT FACTS:

There is a revenue shortfall in the State Public School Foundation Program. Based upon the District's full entitlement for the projected 1982-83 enrollment the full shortfall was first estimated to be up to $13,000,000 but now appears to be approximately $11,700,000.

At the time the budget was developed the shortfall was thought to be about $5,225,000. At that time it was considered appropriate to provide the expected level of services without seriously impacting local taxes by using almost all of the fund balance, and eliminating most of the reserve incorporated into the original state and other revenue projections. The first revenue reduction of $5,225,000 was therefore provided for in the Adopted Version of the 1982-83 budget.

Because of a student enrollment in excess of that originally planned, the School Board on September 20, 1982 approved a reallocation of up to $1,782,000 from several accounts, including the general music program, to provide for the necessary teachers.

On November 22, 1982, the Board received for discussion purposes further reductions which at that time totaled $4,379,879 to cover an anticipated shortfall from State revenues. The Board also requested an additional million dollars be located to ensure an appropriate fund balance.

Based on current revenue information available from the State and using actual enrollment from the first quarter Foundation Program report, the shortfall from full entitlement is estimated to be approximately $11,700,000. Since there still remains a significant degree of uncertainty, there has been an effort at every level of the District to identify potential cost reductions which could be implemented. Each division has had cost reduction meetings and a total of $7,013,079 of cost reductions have now been identified. The following schedule summarizes these cost reductions.

Division/Units	General Fund Total Budget	Identified Reductions	% Reduction	Number of Positions
Superintendent/School Board	$ 612,831	$ 113,000	18.44%	-0-
Business Management	5,958,295	286,100	4.80	.5
Auxiliary Services	22,024,738	1,520,300	6.90	36
School Management	128,582,975	1,798,000	1.40	28.5
Planning and Development	5,308,940	349,779	6.59	1
Communications	2,759,485	74,800	2.71	1
Labor Relations	130,002	-0-	-0-	-0-
Personnel Services	857,118	20,100	2.35	-0-
Vocational Education	155,448	8,000	5.15	-0-
	$ 166,389,832	4,170,079	2.50	65.0
Other District-Wide Reductions		2,843,000	1.71	-0-
Total Reductions		$ 7,013,079	4.21%	69.0

The effect of these reductions is to cover the revenue shortfall and to leave additional funds of approximately $921,000 available to provide for any further financial contingency. The following schedule summarizes this.

Projected revenue (shortfall)			$ (11,700,000)
Revenue revisions in ASD Adopted Budget			5,225,000
Cost reductions - See prioritized attachment			
	Original	Revised	
1. September 20, 1982	1,782,000	1,717,000	
2. November 22, 1982	4,379,879	4,253,779	
3. December 20, 1982	-0-	1,042,300	
	6,161,879	7,013,079	7,013,079
			538,079
Fund Balance - Beginning of year			383,256
Additional funds projected to be available			$ 921,335

The attached schedules describe in further detail the cost reductions identified, as well as the anticipated impact of the significant cost reductions of $2,000 or more. These cost reductions have been prioritized in five categories A, B, C, D, and E. Category A items are those which would be reinstated first should funds become available. Category B and C items are of intermediate reinstatement priority and category D items would be reinstated last. Category E items would not be reinstated.

RECOMMENDATION:

It it recommended that the School Board authorize the Administration to take the necessary operational steps to effect immediately the cost reductions totaling $7,013,079 which are described in further detail in the attachment to this memorandum.

EED/MJG/dap

Attachments

1+2 now
3 3-4-15

Superintendent and School Board
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
First Reduction - September 1982			
School Board Contingency Fund	$ 65,000	B	Reduced contingency response
Superintendent's Management Account	38,000	C	Reduced contingency response
	103,000		
Second Reduction - November 1982			
School Board			
Extra Help	250	D	
Travel-Out-of-District	3,000	A	Limited inservice and recruiting
Office Supplies	200	D	
	3,450		
Superintendent			
Extra Help	550	D	
Insurance Other	500	D	
Contractual Services - Attorney	2,000	C	Reduced legal analysis ability
Travel-Out-of-District	2,000	A	Reduced travel
Reimbursable Expense	1,000	D	
Office Supplies	500	D	
	6,550		
	10,000		
Total Reductions	$ 113,000		

RP - Reinstatement Priority

The attached schedules describe in further detail the cost reductions identified, as well as the anticipated impact of the significant cost reductions of $2,000 or more. These cost reductions have been prioritized in five categories A, B, C, D, and E. Category A items are those which would be reinstated first should funds become available. Category B and C items are of intermediate reinstatement priority and category D items would be reinstated last. Category E items would not be reinstated.

RECOMMENDATION:

It it recommended that the School Board authorize the Administration to take the necessary operational steps to effect immediately the cost reductions totaling $7,013,079 which are described in further detail in the attachment to this memorandum.

EED/MJG/dap

Attachments

1+2 now
3 3/4:5

Business Management Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Fixed asset accounting system - defer	$ 165,000	D	Deferred acquisition of mandated accounting system
Fidelity bond	1,000	D	
New equipment	6,000	D	Deferred purchase of equipment
Replacement equipment	2,000	D	Deferred purchase of equipment
Sick Leave Bank	71,200	D	Through careful management deferred or eliminated expenditures and cost controls on the other Business Management accounts for the remainder of the year the funds for this account will be provided.
Extra Help	5,000	D	Reduced clerical assistance
Internal Audit Budget - Defer replacement until 3/01/83	15,800	A	Reduction in functional area audits and internal audit response capability
	266,000		
Third Reduction - December 1982			
Internal Audit Budget - Defer replacement until 7/01/83	20,100	A	Reduced assistance in analysis for independent accountants
Total Reductions	$ 286,100		

RP - Reinstatement Priority

Auxiliary Services Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
First Reduction - September 1982			
Freeze 3 maintenance positions	$ 136,000	A	Reduced level of building maintenance - affects repairs of heating, electrical, and ice rinks
Second Reduction - November 1982			
Defer or reduce selected major maintenance repair and remodeling projects	750,300	D	Deferred maintenance and remodeling (see list of projects in following attachment)
Facilities building rental	100,000	D	Will remain in condemned building until new facility is obtained
Mail delivery - reduce to one delivery per day and reduce supply delivery and truck transfer requests from once every 5 days to once every 7-10 days. Eliminate 3 positions.	90,000	D	Reduced mail delivery frequency and reduction in communication effectiveness and timelines
Freeze 15 Custodial positions - part of year	222,000	D	Reduced level and frequency of building cleaning - sweeping, vacuuming, and cleaning chalkboards would be done on a rotating basis
	1,162,300		
Third Reduction - December 1982			
Freeze 15 custodial positions part of year	222,000	A	Reduced level and frequency of building cleaning - sweeping, vacuuming, and cleaning chalkboards would be done on a rotating basis
Total Reductions	$ 1,520,300		

RP - Reinstatement Priority

School Management Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
First Reduction - September 1982			
Music Teachers (18 FTE) and supplies	$ 800,000	C	No elementary general music program. Reduced teacher planning time
Second Reduction - November 1982			
Unassigned additional (9.5 FTE) teaching positions	302,000	D	Larger classes and increased PTR
IEP Grades 3,6,8	20,000	D	Program will not be developed
Summer School (Special Education and Secondary)	20,000	B	Eliminate 1983 Summer School - approximately 600 students affected
School Activity Trips (Elementary)	10,000	C	Eliminate jamborees
Added duty (Librarians)	17,000	B	Library will close two days early; missed opportunity for children
No Assistant Coaches	20,000	B	Limits student participation in sports
School Activities (Elementary)	50,000	B	Fewer after school learning experiences for elementary students - approximately 5,000 students affected
Equipment (Elementary and Secondary)	100,000	B.	Emergency needs will not be met
Supplies (Special Education and Special Services)	15,000	B	Emergency needs will not be met
Contracts and Addenda (Spec. Ed. and Spec. Services)	15,000	B	No inservice for staff and eliminate evaluations
Fine Arts Camp and High School Festival	30,000	B	Eliminate programs for secondary students - approximately 500 students affected

RP - Reinstatement Priority

School Management Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Extra Help	10,000	B	Reduced clerical assistance and response to parents slowed
Ice Maintenance	30,000	B	Rough or unusable ice rinks - affects student and community activities
Special Education position - do not staff	44,000	A	Reduced psychological evaluation and counseling services - approximately 100 students affected
	683,000		
Third Reduction - December 1982			
Teaching Assistants - Para Professionals	100,000	A	Eliminate nurses aides, library aides, counseling aides, reduce special education aides; work transferred to certificated staff, individual service to students reduced
Student Travel	50,000	A	Elimination of student participation in ASAA Championship events out of Anchorage
Pupil Activity Expense	50,000	A	Elimination of supplemental funding for sports uniforms, equipment; affects student morale
School Activities - Elementary	60,000	A	Fewer after school activities for elementary students - approximately 5,000 students affected
After School Activities and Trips - Secondary	30,000	A	Eliminate some competitive, athletic and student learning experiences for secondary students
Field Trips - Secondary	25,000	A	Eliminate secondary field trips - approximately 3,000 students affected
	315,000		
Total Reductions	$ 1,798,000		

RP - Reinstatement Priority

Planning and Development Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Extra Help - Management Academy Alternative School Seminar Anchorage Writing Project, June Institute	$ 3,139	A	Eliminates extra help except for work study students
Extra Help - Bilingual	2,000	B	Deletes inventory of Bilingual materials
Added Duty and Added Days Drug/Alcohol Training	19,000	A	Delays training
Science Revision	5,000	C	Delays junior high revisions
Library/Media Scope and Sequence	4,500	D	Delays development of support materials
Management Academy, Alternative School Seminar, Anchorage Writing Project, June Institute, In-service Manual Development	28,489	A	Eliminates addenda for participation in June training. Eliminates development of in-service leader manuals
Bilingual/Addenda:Summer School and Curriculum Work	3,000	C	Reduces teachers at summer school and materials control
Substitutes - Bilingual Teachers	5,000	D	Delays secondary HILT standardization to 1983-84
Math Scope and Sequence Correlations	2,600	D	Eliminates correlations for new texts
Math in-service	5,600	D	Eliminates development of new packets
Management Academy, Alternative School Seminar, Anchorage Writing Project, June Institute	2,435	A	Eliminates clerical assistance with in-service leader manuals

RP - Reinstatement Priority

Planning and Development Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Contracted Services			
Curtail Microfilming of Permanent Records	1,000	D	
Contracted services for CIP	1,000	D	
Multicultural Evaluation	2,000	A	Minimal program evaluation
Eliminate Follow-up Survey of 1982 Graduates	5,000	A	No data on 1982 graduates
Make spring competency test totally machine scorable	5,200	D	Test not revised to totally machine scorable
Bilingual Parent Committee	500	D	
Training Consultants/Career Ladder	5,000	D	Deletes Courses for Tutors
Evaluation of Program	5,000	A	Limited Program Evaluation
Peer Led Smoking Evaluation	2,000	A	Eliminates Pilot for drug/ alcohol program
Math Scope and Sequence Correlations	400	D	
Math In-service preparation	1,600	D	
Outdoor Education Curriculum	5,000	D	Eliminates curriculum development
Management Academy Alternative School Seminar Anchorage Writing Project, June Institute	13,900	A	Reduces consultant services for Management Academy. Eliminates June teacher training institute. Reduces consultant services for state released time.

RP - Reinstatement Priority

Planning and Development Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Field Trips Bilingual Language Experience Field Trips	2,000	D	Deletes all Field Trips
Data Processing Eliminate all special requests and unscheduled jobs except emergency requirements	50,000	D	Requests from schools and departments for special data processing, such as test data, labels, or data analysis, would be eliminated
Postpone scoring and reporting of 82-83 standardized testing results after July 1, 1983	50,000	D	Test will not be scored until late summer
Office Supplies - Expendable	379	D	
Teaching Supplies - Expendable	633	D	
Testing Eliminate 8th Grade Cognitive Abilities Test	1,260	A	
Eliminate 12th Grade Tests of Achievement and Proficiency	1,260	A	
Bilingual Bilingual Instructional Materials	5,000	B	No new materials for pilot Learning Center
New Equipment - file cabinets, typewriters	1,073	D	
New Equipment	611	D	
Postpone Hire - P.E. Curriculum Specialist	44,000	D	Postpone all P.E. curriculum development and support in elementary and secondary schools
	284,579		

RP - Reinstatement Priority

Planning and Development Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Third Reduction - December 1982			
Clerical - Bilingual Tutors/ Secretaries	20,000	A	Deletes all Bilingual summer school
Extra Help - Bilingual	1,100	A	
Added Days - Staff Development	7,500	A	Eliminates addenda for June teacher training institute
Curriculum - film review	3,000	A	Eliminates support for film preview
Bilingual Summer School	2,000	A	Deletes summer school
Substitute Teachers			
Physical Education in-service	800	A	
Physical Education observations	3,000	A	Eliminates observations
Bilingual Teacher Substitutes	2,000	A	Totally defers HILT development to 1983-84
Contracted Services - Staff Development	4,500	A	Reduces consultant services for classified training and state released time
Peer Led Smoking Pilot	8,400	A	Eliminates pilot for drug/ alcohol program
Bilingual Parent Committee	150	A	
Career Ladder	1,500	A	
Data Processing	6,000	A	Computer membership reports will be reduced to 1 or 2 per month instead of weekly
Library/AV Supplies	2,500	A	Defer purchase of supplies
Teaching Supplies - Peer Led Smoking Pilot	1,750	A	
Bilingual Instructional Materials	1,000	A	
	65,200		
Total Reductions	$ 349,779		

RP - Reinstatement Priority

Communications Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Communications and Media			
Cancel Compugraphic lease/ purchase (Locke machine) est.	$ 1,600	D	
Mileage	2,000	D	No impact due to reorganization
Extra Help	8,500	C	Limited impact due to reorganization
	12,100		
Instructional Media			
Clerical Salary	4,000	D	Savings from unfilled vacancy
Office supplies and library materials	2,500	B	Reduced instructional reference and support
	6,500		
Library Resources			
Clerical Salary	5,000	D	Savings from unfilled vacancy
Equipment repair	1,000	B	
Library of Congress card order	700	D	
Replacement equipment	1,000	B	
	7,700		
Audio-Visual Services			
Clerical Salary	5,000	D	Savings from unfilled vacancy
Instructional Television Materials	5,000	B	Deferred material acquisition
Postpone acquisition of films, cassettes, software, etc.	15,000	A	Deferred material acquisition. Reduction in A.V. instructional support
	25,000		

RP - Reinstatement Priority

Communications Division
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Publications			
Clerical Salary	5,800	D	Savings from unfilled vacancy
Graphic Artist P-1	17,700	A	Eliminated graphic production and instructional support capability
	23,500		
	$ 74,800		

RP - Reinstatement Priority

Personnel Department
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Clerical - Delayed hiring	$ 1,550	B	
Substitute Teachers	1,500	D	
Advertising	1,000	B	
Out of District Travel	10,100	B	Reduction of recruiting capability
Reimbursable Expense (recruiting)	3,400	D	Reduction of recruiting capability
Replacement Equipment	600	D	
New Equipment	1,950	D	
	$ 20,100		

RP - Reinstatement Priority

Vocational Education Department
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Second Reduction - November 1982			
Added Duty	$ 3,000	C	No scope and sequence developed for Industrial Education and Home Economics
Contractual Services - Instruction	5,000	C	Reduction in amount of Voc. Ed. curriculum developed will affect students served
	$ 8,000		

RP - Reinstatement Priority

District-Wide
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
First Reduction - September 1982			
Certificated Retirement (TRS)	$ 375,000	E	Rate reduced after budget was approved
Classified Retirement (PERS)	205,000	E	Rate reduced after budget was approved
Pending Negotiations	98,000	E	Contract negotiations complete after budget was approved
	678,000		
Second Reduction - November 1982			
Medical insurance - negotiated lower cost per employee	540,000	E	Rate reduced after budget was approved
Expected savings from normal District-wide employee turnover and unit cost controls	500,000	E	Limited impact - close cost control and review by managers will be necessary
Delayed certificated staff hiring	160,000	E	Increased PTR and class sizes. Reduced educational effectiveness
Restricted hiring practices - initiated 10/26/82	300,000	D	General reduction in level of District delivered services due to vacant positions
Electricity - controlled reduction	135,000	E	Limited impact - some rescheduling of custodial hours, reductions in lighting levels
Heat - controlled reduction	110,000	E	Limited impact - closer thermostat control and lower "off hour" heat levels
	1,745,000		

RP - Reinstatement Priority

District-Wide
Proposed Budget Reductions
1982-83

Description	Amount	RP	Impact
Third Reduction - December 1982			
* Electricity - close schools at least 2 hours earlier in evening	145,000	A	Reduced community and after school use of schools
* Electricity - turn off hockey rink lights at 5:00 p.m.	185,000	A	Elimination of evening use of hockey rinks thereby reducing community use
* Electricity - turn off school outside lighting at 5:00 p.m.	50,000	A	Potentially reduced safety and increased vandalism
Travel Out-of-District - further limit travel	40,000	A	Significant reduction in travel resulting in reduced administrative in-service
	420,000		
Total Reductions	$ 2,843,000		

* Community Organizations Affected by Early Closure

Municipality/Community Schools	Boys Club
Anchorage Community College	Junior Achievement
University of Alaska	Private athletic groups
Municipality/Parks & Recreation	Various Non-profit service organizations i.e., Special Olympics, Crisis Resolution Center, Anchorage Hockey Association, Campfire, etc.
Concerts - benefit and commercial	
Community Council meetings	

District Programs Affected

Dances and social functions	Staff Development
P.T.A. meetings	Evening High School
Music Department programs	Athletic competition

Other Information

There are currently 18 Municipality of Anchorage Community Schools, each with a coordinator and assistant coordinator, using District facilities. These changes would represent a significant cutback in Community Education programs.

All 61 gymnasiums are in use through 10:00 or 11:00 p.m., full time, Monday through Saturday. An early building closure would significantly reduce available gym time for public use.

RP - Reinstatement Priority

Attachment

Auxiliary Services Division
Proposed Budget Reductions
1982-83
Deferred Major Maintenance and Remodeling Projects

Description	Amount
I. ELEMENTARY SCHOOLS:	
Airport Heights	
Replace Roof	$ 230,000
Aurora	
Curtain	5,000
Birchwood	
Exterior Painting - building	16,000
Campbell	
Exterior Painting - building	16,000
Chester Valley	
Ice rink	7,000
Chugach	
Replace chalkboards	4,000
Government Hill	
Blackout curtains	11,000
Lake Otis	
Chalkboards	3,500
North Star	
Exterior Painting - building	16,000
Rabbit Creek	
Replace clock & bell system	7,500
Taku	
Install basketball goals	2,500
Ursa Major	
Ventilators	8,000
Ursa Minor	
Upgrade heating system	8,000
Gladys Wood	
Replace window Shades	4,000
ELEMENTARY	338,500

Attachment

Auxiliary Services Division
Proposed Budget Reductions
1982-83

Description	Amount
II. SECONDARY SCHOOLS:	
Central	
Replace telephone switch board	25,000
Bartlett	
Install lighting - Football field	65,000
Install Auto Hoist	7,000
Career Center	
Carpet	6,500
Dimond	
Install tile locker rooms in pool area	8,500
West	
Remodel Ladies Faculty restroom	11,800
Remodel band room	28,000
Upgrade heating system	230,000
SECONDARY	381,800
III. ADMINISTRATION	
Swimming Pools Study	30,000
ADMINISTRATION	30,000
TOTAL	$ 750,300

Title An Act...Supplemental Appropriation to the Dept. of Education

Requested by House HESS Date 1/25/83

II. FISCAL DETAIL

Agency Affected Education

Program Category Affected Elementary & Secondary

BRU, Program, or Subprogram(s) Affected Foundation Support Districts

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.			22,380.6			
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND			22,380.6			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

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

See Attached

IV. DATE January 25, 1983 PREPARED BY House HESS

AGENCY Legislature

PHONE 465-3777

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

Catagories included in the fiscal note to the Committee Substitute to HB 73:

1.	Enrollment Increases (estimate)	6,407.7
2.	BIA School Transfers	7,901.6
3.	New Tanana City School District	855.4
4.	Shortfall (reduction in FY 83 budget)	7,215.9
Total Request for CSHB 73.....		22,380.6

Catagories deleted from the fiscal note attached to the original HB 73 include an appropriation for 'New Secondary Programs' $1,808.4, and 'Special Education Program Increases' $2,558.5. Also deleted from the original request of $33,964.4 was half of the amount requested to cover the reduction appearing in the final FY 83 budget.

Analysis of FY-83 Foundation Supplemental
Revised through CSHB 73

Fiscal Analysis

	Funded through CSHB 73	HB 73
1. Enrollment Increases (estimate)	6,407.7	same..... $6,407.7
See Attachment A & A-1 Comparison figures of 1st qtr '82 and '83, enrollment vs. ADM .		
2. New Secondary Programs...	.00	..... [$1,808,364]
See Attachment B This item has been deleted as per the letter of intent regarding the new fiscal note attached to CSHB 73.		
3. BIA School Transfers.....	7,901.6	same.....7,901.6
See Attachment C & C-1 (C) is catagorized into the effected REAA's and C-1 is a list of the individual schools in transfer.		
4. New Tanana City School District..	855.4	same..... 855.4
See Attachment D New District funded @65,797 per instructional unit (13).		
5. Speical Education Program Increases.....	.00	.....[$2,558,5]
See Attachment E & E-1 Amount included in BIA transfer impacting 4 districts (deleted in CS)		
6. Funding of reduction of FY 83 shortfall with respect to Legislative Intent at 50% level.....	7,215.9	.....[14,431.8]
See Attachment F $14,431.8 cut by 50%		
Total for CSHB 73	$22,380.6	Total,HB 73 $33,746.700

Fiscal note total = $33,963.4 (DOE)

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

		1	2	3	4	5	6
		ENRLMNT FY82 1ST Qtr.	ENRLMNT FY83 1ST Qtr	INCREASE OR DECREASE	ADM FY82 1ST Qtr	ADM FY83 1ST Qtr.	INCREASE OR DECREASE
	ADAK	609	594	(15)	611	594	(15)
	ALASKA GATEWAY	492	439	(53)	476	473	(3)
	ALEUTIAN CHAIN	118	129	11	111	127	16
	ANNETTE ISLAND	353	329	(24)	348	336	(12)
*	BERING STRAITS	609	927	318	582	917	335
*	CHATHAM	226	278	58	196	271	75
	CHUGACH	75	66	(9)	68	76	8
	COPPER RIVER	577	514	(63)	568	582	14
	DELTA/GREELY	914	909	(5)	895	949	54
	IDITAROD	319	323	4	311	326	15
	KUSPUK	333	318	(15)	324	323	(1)
	LAKE & PENINSULA	329	333	4	321	362	41
*	LOWER KUSKOKWIM	1899	2493	594	1865	2429	564
*	LOWER YUKON	1193	1400	207	1183	1391	208
	NORTHWEST ARCTIC	1530	1496	(34)	1495	1499	4
	PRIBILOF	175	164	(11)	174	167	(7)
	RAILBELT	351	323	(28)	353	325	(28)
	SOUTHEAST ISLANDS	337	351	14	432	432	-
	SOUTHWEST REGION	490	531	41	476	524	48
	YUKON FLATS	316	341	25	299	315	16
	YUKON/KOYUKUK	590	619	29	569	557	(12)
	SUB-TOTALS	11819	12877	1058	11657	12975	1318
	City & Borough	73236	76645	3409	70487	74005	3518
	Centralized Corrs	688	683	(5)	721	790	69
	STATEWIDE TOTALS	85743	90205	4462	82865	87770	4905

* SEE BTA

Attachment

I.U. CHANGES RELATED TO ENROLLMENT & ADM INCREASES

	$ Increase	LCS IU INIT	LCS IU REV	LCS IU +/-	
ADAK	[59,430]				
ALASKA GATEWAY	[101,880]	4	4	-	
ALEUTIAN CHAIN	127,350				
ANNETTE ISLAND	44,148	0	3	3	132,444
BERING STRAITS	1,710,722	3	3	-	
CHATHAM	458,460				
CHUGACH	101,880				
COPPER RIVER	—	5	6	1	50,940
DELTA/GREELY	152,820	6	5	(1)	(50,945)
IDITAROD	263,188	3	3	-	
KUSPUK	[1,973,917]	3	3	-	
LAKE & PENINSULA	131,594	3	3	-	
LOWER KUSKOKWIM	3,816,226				
LOWER YUKON	1,184,346				
NORTHWEST ARCTIC	131,594	4	4	-	
PRIBILOF	255,188	3	3	-	
RAILBELT	—	3	3	-	
SOUTHEAST ISLANDS	[91,692]	7	8	1	45,846
SOUTHWEST REGION	65,797				
YUKON FLATS	65,797	3	3	-	
YUKON/KOYUKUK	328,985	6	6		
Sub-total	8,245,14	142,075			
City & Boro	10,996,660				
Cent Csp	169,800				
Statewide Total	19,290,974				

Total 19,290,974
— Anomalies 1,155,717
— CS 276,784
— BIA 7,901,600
— SCC 1,908,400
— Tanana 855,400
Subtotal 7,293,073
Demographic Adjustment 12%
Det Estimate 6,407,700

Attachment A-1

Attachment B

Junior Highs - New FY83

		IU	
Kuspuk	Kolokog JH	4	263,188
Yukon Flats	FY JH	4	263,188
Yukon Koy	Hoy JH	4	263,188
Craig JH		4	183,324
Fort - alt JH		6	285,264
Kake JH		6	275,076
Klawak SH		6	275,076
		34	1,808,364

COMPUTATION:

FY83 Revised (less categorical IU) IU x IUA = $

FY82 Final (" " ") IU x IUA = $

Increase - 83 over 82 from Enrl/ADM = $

Deduct - JH increases

Deduct - Tanana - new sch.

Deduct BIA Enrl/ADM increase

Enrollment/ADM - related increase

BIA School TRANSFERS - FY1983

	1 ENRL 1st QTR	2 ADM 1st QTR	3 INSTRUCTIONAL UNITS ELEM.	4 SPED	5 Bil/Bic	6 Total IU $ $ Dollars
BERING STRAITS REAA			21	4	3	28
Gambell	70	66	6			$1,842,356
Golovin	18	14	3			
St. Michael	52	50	5			
Stebbins	83	82	7			
CHATHAM REAA			3	1	-	3
Klukwan	119	119	3			$157,535
LOWER KUSKOKWIM REAA			47	6	17	70
Goodnews Bay	311	260	3			$1,605,994
Kwethluk	69	65	5			
Kwillingok	412	413	4			
Mekoryuk	34	32	4			
Napakiak	55	55	5			
Napaskiak	74	73	5			
Nightmute	29	29	3			
Oscarville	13	12	3			
Quinhagak	89	85	7			
Tununak	64	63	6			
LOWER YUKON REAA			15	2	3	20
Alakanuk	170	141	10			$3,159,440
Scammon Bay	65	51	5			
SUB-TOTALS	946	906	86	12	23	121
						$791,584

Attachment C

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BIA Operating Instructional Costs Breakdown of the 17 Schools Transferring to State Operation and Management:

		ADM	EDUC. FUNDS	FAC. MGMT. FUNDS
1.	Alakanuk	140	440,589	212,300
2.	Gambell	99	337,348	259,200
3.	Golovin	21	77,364	102,600
4.	Goodnews Bay	29	148,375	151,800
5.	Kwethluk	91	336,246	189,400
6.	Kwigillingok	42	194,225	161,100
7.	Klukwan	16	46,510	55,100
8.	Mekoryuk	28	109,208	168,300
9.	Napakiak	50	212,108	178,600
10.	Napaskiak	67	234,315	148,200
11.	Nightmute	29	146,462	106,100
12.	Quinhagak	50	339,407	210,700
13.	Oscarville	15	70,835	85,200
14.	Scammon Bay	64	205,641	158,800
15.	St. Michael	60	203,832	214,300
16.	Stebbins	90	293,868	168,800
17.	Tununak	54	241,720	155,300
		945	$3,638,053	$2,725,800
			GRAND TOTAL	$6,363,853.00

Attachment C-1

FY83 REVISED COMPUTATIONS — Attachment D

I.U. CHANGES BY COMPONENT - FY82 FINAL to FY83 REVISED

	ELEM	SEC	COMB E/S	VOED	SPED	Bil/Bic	Local Corresp	Total I.U. Increase	I.U. Value	$ Increase
ANCHORAGE	22	73	(1)	2	203	2	-	301	42,450	12,777,450
BRISTOL BAY					1			1	65,797	65,797
CORDOVA	1			(1)	2			2	48,817	77,634
CRAIG	1	(1)		(1)	(1)		(3)	(5)	45,846	-229,230
DILLINGHAM		1		1				2	65,797	131,594
FAIRBANKS	9	23		(3)	71		3	103	47,544	4,877,032
GALENA				(1)		(1)		(2)	65,797	-131,594
HAINES	2	(1)			3		3	7	48,817	341,719
HOONAH	1			1				2	47,544	95,088
HYDABURG	1				1			2	45,846	91,692
JUNEAU	4	8		1	40	1	(1)	53	42,450	2,249,850
KAKE	1	3			1			5	45,846	229,230
KENAI	19	7		(5)	58			77	45,846	3,621,734
KETCHIKAN	2	(2)	(4)	1	8		1	6	42,450	254,700
KING COVE	(1)							(1)	63,675	-63,675
KLAWOCK		6		1	1		3	11	45,846	504,306
KODIAK	3	3		1	9		1	17	48,242	837,114
MAT-SU	25	17	1	(1)	35		(2)	77	44,148	3,399,396
NENANA	(2)	(2)						(4)	50,940	-203,760
NOME	1			1	1	(2)	3	4	65,797	263,188
NORTH SLOPE	3	5	(5)	3	4	(5)		5	65,797	328,985
PELICAN		4			1			5	47,544	237,720
PETERSBURG				(1)	2			1	44,148	44,148
SANDPOINT				(1)				(1)	63,675	-63,675
SITKA	(4)	(4)		(1)	11			2	41,148	82,296
SKAGWAY	(1)			(1)				(2)	45,846	-91,692
ST. MARY'S				1	1	(1)		1	65,797	65,797
UNALASKA		(2)			1			(1)	63,675	-63,675
VALDEZ	(4)	3			1			-	48,817	0
WRANGELL	1	(1)			1			1	44,148	44,148
YAKUTAT				1	1			2	50,940	101,880
TANANA	4	6		1	2	1	3	17	65,797	1,118,549
Sub-Totals	83	145	(9)	(1)	458	(5)	11	690		10,796,558
CENT. CORRESP. SDY.	4							4	42,450	169,800

Tanana = Total I.U.'s (3) X I.U. Value = 855,361

Attachment D

IU - SPED

Instructional Units = Special education

	FINAL FYR2	INIT FYR3	REV FYR3	CHANGE $ INIT 83 TO REV 83
ANCHORAGE	185	398	388	(424500)
BRISTOL BAY	1	2	2	-
CORDOVA	4	5	6	48817
CRAIG	2	2	1	(45846)
DILLINGHAM	4	4	4	-
FAIRBANKS	58	144	129	(713160)
GALENA	2	1	2	65797
HAINES	5	3	8	244085
HOONAH	3	3	3	-
HYDABURG	2	2	3	45846
JUNEAU	28	58	68	424500
KAKE	3	4	4	-
KENAI	36	90	94	183384
KETCHIKAN	19	27	27	-
KING COVE	2	1	2	63675
KLAWOCK	2	3	3	-
KODIAK	20	28	29	49242
MAT-SU	29	67	64	(132444)
NENANA	3	3	3	-
NOME	7	8	8	-
NORTH SLOPE	11	12	15	197391
PELICAN	0	1	1	-
PETERSBURG	6	9	3	(44148)
SANDPOINT	1	1	1	-
SITKA	13	22	24	88276
SKAGWAY	2	2	2	-
ST. MARY'S	3	2	4	131594
UNALASKA	2	3	3	-
VALDEZ	12	9	13	195268
WRANGELL	4	2	5	132444
YAKUTAT	2	3	3	-
TANANA			2	131594
S.U. - Total	471	919	929	641835
CENT.CORRESP.SDY.				

Attachment E

TU - SPED

		1 FINAL FY82	2 INIT FY83	3 REV FY83	4	5 CHANGE $ INIT 8370 REV 83	6
1	ADAK	4	7	7		—	
2	ALASKA GATEWAY	6	7	8		509447	
3	ALEUTIAN CHAIN	2	1	2		63275	
4	ANNETTE ISLAND	4	5	5		—	
5	BERING STRAITS	6	12	13		457997	
6	CHATHAM	2	4	4		—	
7	CHUGACH	0	0	1		50940	
8	COPPER RIVER	5	3	6		152820	
9	DELTA/GREELY	11	8	15		509420	
10	IDITAROD	2	3	4		65797	
11	KUSPUK	2	2	3		65797	
12	LAKE & PENINSULA	3	2	3		65797	
13	LOWER KUSKOKWIM	18	27	28		657997	
14	LOWER YUKON	9	9	12		263183	
15	NORTHWEST ARCTIC	11	10	22		789564	
16	PRIBILOF	3	3	3		—	
17	RAILBELT	3	3	5		152820	
18	SOUTHEAST ISLANDS	4	2	4		91692	
19	SOUTHWEST REGION	5	3	6		197391	
20	YUKON FLATS	3	1	4		197391	
21	YUKON/KOYUKUK	5	9	7		(131594)	
22							
23	RBAA SUB-TOTAL	107	119	165		2706212	
24							
25	CITY & BOROUGH	471	919	929		641835	
26							
27	STATEWIDE TOTAL	578	1033	1094		3348047	
28							
29	Deduct VR units @ 65,487 ea adj. BVA						
30	Skeleton Educ. Assn — adj. Educ.						
31	Nikiski Jr. unified Homer Unified = 2,562,203						
32							
33							
34							
35							
36							
37							
38							
39							
40							

Attachment E-1

MEMORANDUM State of Alaska

TO: Ron Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: December 20, 1982

FILE NO:

TELEPHONE NO: 465-2875

FROM: Marshall L. Lind
Commissioner
Department of Education

SUBJECT: Request for Restoration of Budget Request

The Department of Education requests consideration be given by the Governor to support full funding of the $406,185.1 FY 83 departmental budget request for Financial Support BRU by restoring the $14,431.8 reduction appearing in the final FY 83 budget. Distribution by component of the restored appropriation is as follows:

Component	Amount
Student ADM Support	$7,779.1
Special Education Adjustment	2,650.8
Vocational Ed. Adjustment	1,297.6
Correspondence Study - DOE	96.6
Correspondence Study - Local	299.8
Bilingual Program Adjustment	604.7
Supplemental Equalization Aid	1,703.2
TOTAL	$14,431.8 x 50% = 7,215.9

Alaska State Legislature

House of Represeniatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 1, 1983

MEMORANDUM

To: All House Members

From: Mae Tischer, Co-Chairperson, House HESS MT

RE: CS for HB 73, Supplemental Appropriations to D.O.E.

The new fiscal note of CS HB 73 reduces the amount of the original bill by approximately 11.4 million dollars. The attached documents are for your reference.

A brief history of the legislation shows that D.O.E. presented a fiscal note of 33.9 million with the original HB 73 requesting a supplemental in the amount of 33.7 million. Comparing D.O.E.'s fiscal note and breakdown with the 22.3 million requested in CSHB 73:

1. Last session, there was a deliberate shortfall from the requested full funding entitlement which totaled 14.4 million. The intent of this deliberate action taken by the Finance Committee and the Department was to send an urgent message to all school districts, asking them, as in all other state operated categories, to take necessary steps in cutting back costs due to a drastic reduction in State revenues.

2. As predicted, a 38.5% decrease in State revenues occured from Dec. 81 to Dec. 82. Comparing revenues for the first six months of the current fiscal year with the revenues of the first six months of the previous year, the impact on the State has been a decrease of 21.17% thus far.

3. Consequently, the underfunding of last year's request was necessary. CS HB 73 protects the integrity of the '82 legislation.

4. The major validation for the supplemental request is to cover unforeseen costs, such as those earmarked specifically for enrollment increases.

5. Once again, the HESS Committee did not intend to provide additional funds for school district reorganization, as in the 1.8 million dollar category for new junior high schools (attachment B) or to enhance program expansion as in the special education program increases of 2.5 million dollars (attachment E and E-1).

6. These two categories were excluded from the CS for HB 73 because the revised figures produced by the school districts as mandated in AS 14.17.170 by November 1982 showed expanded adjustments and increases.

7. In review, the formula funding levels on which the school district budgets are based can be increased or decreased by various categories. For example, in the case of the 1.8 million category, a secondary (junior high) student allotment is higher than an elementary student allotment, thereby enhancing a district's revenue picture.

8. In regards to the newly created junior high levels cited in attachment B, there is little justification for the revised figures as no new secondary education buildings have been constructed to justify the new junior high levels requested in the FY 83 supplemental.

9. There is great concern over the deletion of special education in the appropriation and its impact on across the board cuts. There is no cause for concern. As testified to by a D.O.E. fiscal analyst, funding will continue at 96% of the full entitlement formula with th 22 million dollar supplemental, as has been the case since the beginning of FY 83, continuing the 4% decrease mandated by last year's Legislature and Finance Committee.

10. As with secondary students, special education students receive a greater allotment than general students. Revisions in this area can also increase a school district's revenue picture and entitlement. Attachment E-1 shows that revised figures impacted special education by 12 units.

11. An average cost of educating a child in the REAA areas (transferred from the BIA) is $65,000. Therefore, 2.5 million is included in the BIA transfer request of 7.9 million dollars.

In responding to the school districts of our respective areas, these concerns can be laid to rest with the help of this explanation. It is certainly not the intent of the committee to force school districts to lay-off teachers or deny our children their rights to public education, nor will this be necessary under present funding formulas. For our childrens' future, we must be fiscally responsible immediately, and not pass the burden of cumulative debt to future generations.

This CS is an attempt to do just that, fill an immediate need based on increased enrollments and separate category and reorganization increases on their own merits.

Fischer

Alaska State Legislature

HOUSE CALENDAR

OFFICIAL BUSINESS OF THE HOUSE

NINETEENTH DAY

SUPPLEMENTAL CALENDAR

February 4, 1983

SECOND READING OF HOUSE BILLS

HB 73 "An Act making a supplemental appropriation to the Department of Education for payments to school districts under the public school foundation program (AS 14.17); and providing for an effective date."
-HESS report w/CSHB 73(HESS) (same title), p. 145
-Zero fiscal note
-Finance report w/CSHB 73(Fin) (same title), w/letter of intent, attached to calendar

LETTER OF INTENT
FOR
CSHB 73 (FINANCE)

It is the intent of the House Finance Committee that in addition to the $17,640,700 appropriated in CSHB 73 (Finance) in general funds for payments to school districts under the public school fundation program (AS 14.17), that $7,901,600 be allocated from the Federal Budget Impact Fund established in Chapter 127, SLA 1982, to cover the cost of transfer of Alaskan B.I.A. day schools from the federal government to the state government. Both amounts shall be for payments to school districts under the public school foundation program (AS 14.17).

Respectfully submitted,

_____
Albert P. Adams, Chairman
House Finance Committee

17 640,700
7,901 600
25,542,300

Chapter 17. Public School Foundation Program.

Article

1. State Aid to Local School Districts (Sec. 14.17.010—14.17.075)
2. Preparation of Public School Foundation Budget (Sec. 14.17.080—14.17.150)
3. Procedure for Payment of Public School Foundation Funds to Districts (Sec. 14.17.160—14.17.190)
4. General Provisions (Sec. 14.17.200—14.17.250)

Article 1. State Aid to Local School Districts.

Section

10. Public school foundation account
20. Repealed
21. Basic state aid
22. Funds for centralized correspondence study
23. Supplemental equalization aid
30. Repealed
31. Instructional units
40. Repealed
41. Table of allowable instructional units
50. Repealed
51. Instructional unit allotment
56. Base instructional unit
60. Repealed
61. Supplemental programs
70. Repealed
71. Repealed
75. Repealed

Sec. 14.17.010. Public school foundation account. (a) The public school foundation account is established. The account consists of appropriations for distribution to districts or for centralized correspondence study programs under this chapter.

(b) The money of the account may be used only in aid of public schools or for centralized correspondence study programs as provided by this chapter. (Sec. 1.08 ch 164 SLA 1962; Sec. (c) repealed Sec. 11 ch 95 SLA 1969; am Sec. 2 ch 190 SLA 1975)

Sec. 14.17.020. Repealed. (Sec. 1 ch 238 SLA 1970)

Sec. 14.17.021. Basic state aid. (a) The amount of basic state aid for which each district is eligible is calculated by multiplying the instructional unit allotment of the district as established under AS 14.17.051 by the number of allowable instructional units in the district as established under AS 14.17.041.

(b) If permitted under section 5(d)(2) of PL 81-874, as amended, (20 USC 240(d) and the regulations adopted under it (45 CFR 115.60—115.66), the amount of basic state aid to a district may be reduced by up to 80 percent of the entitlement of the district to federal financial assistance under PL 81-874, as amended, (20 USC 236-244), for the prior fiscal year. (Repealed and re-enacted by Sec. 4 ch 26 SLA 1980)

Sec. 14.17.022. Funds for centralized correspondence study. Funds for providing centralized correspondence study programs for students not enrolled in an approved school district correspondence study program shall include an appropriation from the public school foundation account in an amount calculated by multiplying the base instructional unit by the total number of instructional units as determined by applying the number of correspondence students to section 41(a) of this chapter. (Sec. 3 ch 190 SLA 1975)

Sec. 14.17.023. Supplemental equalization aid. (a) In addition to basic state aid under AS 14.17.021, each district is entitled to supplemental equalization aid, as determined in (b), (c) and (d) of this section.

(b) The amount of supplemental equalization aid for a district is calculated by multiplying the ADM of the district as reported for the prior fiscal year under AS 14.17.180 by the amount per ADM calculated in (c) of this section. This amount shall be reduced by the amount of the average local tax contributions per pupil in average daily membership for school operating costs in that district in the prior fiscal year or in the fiscal year ending June 30, 1979, whichever is higher.

(c) The amount per ADM of supplemental equalization aid is calculated as the amount equal to the average local tax contributions per pupil in average daily membership for school operating costs in the city and borough school districts in the prior fiscal year.

(d) The amount of supplemental equalization aid for each district determined in (b) of this section shall be adjusted by the district's instructional unit allotment established in AS 14.17.051. (Added by Sec. 5 ch 26 SLA 1980)

Sec. 14.17.030. Repealed. (Sec. 11 ch 95 SLA 1969)

Sec. 14.17.031. Instructional units. (a) The total number of instructional units within each school district is the sum of

(1) the number of units for elementary schools and the number of units for secondary schools as determined from sec. 41(a), (b), (c), or (d) of this chapter;

(2) the number of units for vocational education determined from section 41(e) of this chapter as approved by the department;

(3) the number of units from special education determined from section 41(f) of this chapter as approved by the department; and

(4) if the district has five or more correspondence pupils enrolled in an approved district correspondence study program, the number of units for correspondence pupils determined by applying the number of correspondence pupils to section 41(a) of this chapter.

(5) the number of units for bilingual education determined from sec. 41(g) of this chapter as approved by the department. (am Sec. 1 ch 115 SLA 1978)

(b) A school district shall compute separately the number of allowable instructional units for each of its elementary and secondary schools except as provided in (c) of this section. (Sec. 6 FCCS SB 199 4/18/80)

(c) The commissioner shall authorize any school in a remote location to establish an associated secondary school when the sum of the average daily membership in grades five through eight is greater than 20. Notwithstanding section 41 of this chapter, any school or school district operating a remote elementary school with 20 or fewer total average daily membership in grades five through eight may conduct a secondary program subject to approval of the commissioner and use the following table to calculate the number of allowable instructional units for the combined elementary and secondary program of the remote school:

ADM	No. Instructional Units
under 12	3
12—20	4
21—32	5

(Sec. 4 ch 238 SLA 1970; am Sec. 3 ch 81 SLA 1975; am Sec. 4 ch 190 SLA 1975; repealed and re-enacted Sec. 5 ch 90 SLA 1977)

(d) If the instructional units which a school district is entitled to under (a) of this section decrease by 10 percent or more from one year to the next, the school district may use the last year before the reduction as a base year and offset its reduction according to the following schedule: (1) for the first year after the base year, the school district is entitled to the instructional units determined under (a)(1) of this section plus 75 percent of the difference in instructional units between the base year and the first year; (2) for the second year after the base year, the school district is entitled to the instructional units determined under (a)(1) of this section plus 50 percent of the difference in instructional units between the base year and the second year; (3) for the third year after the base year, the school district is entitled to the instructional units determined under (a)(1) of this section plus 25 percent of the difference in instructional units between the base year and the third year. The schedule established in this subsection is available to a school district for the three years following the base year only so long as the entitlement to instructional units under (a)(1) of this section for each year is less than the entitlement in the base year. This subsection does not apply to a decrease in instructional units resulting from a loss of enrollment which occurs as a result of a boundary change under AS 29. (Sec. 7 FCCS SB 199 4/18/80)

(e) The commissioner may authorize a school district operating a school in a remote area to calculate the number of instructional units to which the remote school would be entitled if that school were a separate school district and to include that number of instructional units in the total number of instructional units for the district. (Sec. 8 FCCS SB 199 4/18/80)

Sec. 14.17.040. Repealed. (Sec. 1 ch 238 SLA 1970)

Sec. 14.17.041. Table of allowable instructional units. (a) Elementary Schools:

ADM	No. Instructional Units
under 32	3
32--46	4
47—62	5
63—80	6
81 & over	6 plus 1 for each 18 pupils in ADM or fraction of 18

(Sec. 9 FCCS SB 199 4/18/80)

(b) Repealed. (Sec. 20 FCCS SB 199 4/18/80)

(c) Secondary schools:

ADM	No. Instructional Units
under 30	4
30—59	6
60—89	8
90 & over	10 plus 1 for each 18 pupils or fraction of 18

(Sec. 10 FCCS SB 199 4/18/80; am Sec. 11 ch 26 SLA 1980)

(d) Repealed. (Sec. 20 FCCS SB 199 4/18/80)

(e) Vocational education schedule:

ADM Full-Time Equivalent	No. Instructional Units
5—10	1
11--25	2
26—40	3
41 & over	3 plus 1 for each 20 pupils or fraction of 20 pupils in Full-Time Equivalent ADM

(f) Special education schedule:

(1) in districts with ADM of less than 3,000, one instructional unit for each 15 special education pupils or fraction of 15 pupils in ADM;

(2) in districts with ADM of 3,000 or more, one instructional unit for each 11 special education pupils or fraction of 14 pupils in ADM. (repealed and reenacted Sec. 1 ch 119 SLA 1981)

The amendment to AS 14.17.041(f) made by this Act may not be applied to reduce the number of allowable instructional units for special education below the number of units allowed during the school term ending in the calendar year in which this Act takes effect. (Sec. 3 ch 119 SLA 1981)

Notwithstanding section 1 of this Act, in computing the state aid for special education under AS 14.17 for the fiscal year beginning July 1, 1981, a school district or a regional educational attendance area has the same number of allowable instructional units for special education that it had during the fiscal year beginning July 1, 1980. (Sec. 4 ch 119 SLA 1981)

(g) Bilingual education schedule:

Weighted ADM	No. Instructional Units
1—12	1
13—18	2
19—42	3
43 and over	3 plus 1 for each 24 weighted ADM or fraction fo 24 weighted ADM

(am Sec. 2 ch 115 SLA 1978)

(Sec. 4 ch 238 SLA 1970; am Sec. 1 ch 137 SLA 1972; am Sec. 4 ch 81 SLA 1975; am Sec. 7 ch 90 SLA 1977)

Sec. 14.17.050. Repealed. (Sec. 1 ch 238 SLA 1970)

Sec. 14.17.051. Instructional unit allotment. The instructional unit allotment for each school district or regional educational attendance area is as follows:

(1) for Gateway Borough School District, City and Borough of Juneau School District, and Anchorage School District, the district is entitled to receive the base instructional unit allotment;

(2) for Annette Island School District, Petersburg City School District, Wrangell City School District, Sitka Borough School District, and Matanuska-Susitna Borough School District, the district or area is entitled to receive 104 percent of the base instructional unit allotment; (am Sec 3 ch 115 SLA 1978)

(3) for Craig City School District, Hydaburg City School District, Klawock City School District, Kake City School District, Chatham School District, Skagway City School District, Southeast Island School District, and Kenai Peninsula Borough School District, the district or area is entitled to receive 108 percent of the base instructional unit allotment; (am Sec. 4 ch 115 SLA 1978)

(4) for Pelican City School District, Hoonah City School District, and North Star Borough School District, the district or area is entitled to receive 112 percent of the base instructional unit allotment; (am Sec. 5 ch 115 SLA 1978)

(5) for Copper River School District Cordova City School District, Valdez City School district, and Haines Borough School District, the district or area is entitled to receive 115 percent of the base instructional unit allotment;

(6) for Nenana City School District, Delta School District, Alaska Gateway School District, Upper Railbelt Regional School District, Yakutat City School District, Chugach School District, and Copper River School District, the district or area is entitled to receive 120 percent of the base instructional unit allotment; (am Sec. 6 ch 119 SLA 1981)

(7) for Adak Regional School District the area is entitled to receive 140 percent of the base instructional unit allotment;

(8) for Pribilof Islands School District, Aleutian Chain School District, King Cove City School District, Sand Point City School District, and Unalaska City School District, the district or area is entitled to receive 150 percent of the base instructional unit allotment; (am Sec. 12 ch 26 SLA 1980)

(9) for Yukon Flats School District, Dillingham City School District, Bristol Bay Borough School District, Southwest Regional School District, Lake Peninsula School District, Lower Kuskokwim School District, Galena City School District, Kuspuk School District, Yukon-Koyukuk School District, Northwest Arctic School District, Selawik City School District, Nome City School District, Bering Straits School District, Iditarod Area School District, North Slope Borough School District, Lower Yukon School District, and St. Marys City School District, the district or area is entitled to receive 155 percent of the base instructional unit allotment.

(10) for Kodiak Island School District, the district is entitled to receive 116 percent of the base instructional unit allotment. (am Sec. 6 ch 115 SLA 1978)

(am Sec. 8 ch 90 SLA 1977)

Notwithstanding the provisions of AS 14.17.051, as re-enacted by section 8 of this Act, the value of the instructional unit allotment for any school district or regional educational attendance area is not less than it would have been for the fiscal year beginning July 1, 1977 if section 8 of this Act had not been enacted. (Sec. 9 ch 90 SLA 1977)

Sec. 14.17.056. Base instructional unit value. The base instructional unit value for fiscal years beginning on or after July 1, 1981 is $38,590. The base instructional unit value for fiscal years beginning on or after July 1, 1982 is $42,450. (Repealed and reenacted Sec. 7 ch 115 SLA 1978; am Sec. 13, 14 ch 26 SLA 1980; am Sec. 6 ch 119 SLA 1981)

Sec. 14.17.060. Repealed. (Sec. 1 ch 238 SLA 1970)

Sec. 14.17.061. Supplemental programs. (a) In addition to the amounts authorized to be paid to school districts under this chapter, funding of supplemental programs on the same basis as determined in the computation of state aid for the applicable districts, may be recommended by the commissioner.

(b) Applications for supplemental program funds shall be submitted by each school district to the commissioner by September 30 of the pre-fiscal year in the form prescribed by the commissioner.

(c) Federal funds available for aid to local school districts will be included with the state's share in applying the matching ratio. (Sec. 4 ch 238 SLA 1970)

Sec. 14.17.071. Repealed. (Sec. 21 ch 26 SLA 1980)

Sec. 14.17.075. Repealed. (Sec. 1 ch 238 SLA 1970)

Article 2. Preparation of Public School Foundation Budget

Section
80. Computation by district
81. Minimum expenditure for instruction
82. Fund Balance changes in school operating fund
90. Estimated average daily membership
140. Determination of full and true value by Department of Community and Regional Affairs
150. Duty of commissioner to examine and tabulate computations

Sec. 14.17.080. Computation by district. By October 30 of the prefiscal year each district shall submit to the commissioner a preliminary report of computations for the following fiscal year of the district's basic need as defined in sec. 21 of this chapter; the amount which it expects to match under the provision of sec. 71 of this chapter; and the amount for supplemental programs which has been approved for funding consideration by the commissioner. Each district shall make the computations in the manner prescribed by secs. 80—150 of this chapter. The computations are the basis for requesting legislative appropriations and for making preliminary payments under the public school foundation program. (Sec. 2.01 ch 164 SLA 1962; am Sec. 5 ch 238 SLA 1970)

Sec. 14.17.081. Minimum expenditure for instruction. (a) Each district shall budget for and spend a minimum of 55 percent of its school operating expenditures in each fiscal year on the instructional component of the district budget.

(b) The commissioner shall reject a district budget which does not comply with (a) of this section and, unless a waiver has been granted by the state Board of Education under (d) of this section, shall withhold payments of state aid from that district, beginning with the payment for the second full month after rejection and continuing until the school board of the district revises the district budget to comply with (a) of this section.

(c) The commissioner shall review the annual audit of each district for compliance with the expenditure requirements of (a) of this section. If he determines that a district does not meet those requirements, the commissioner shall advise the district of this determination and calculate the percentage of deficiency in required expenditure and deduct that percentage from state aid paid to the district for the current fiscal year, beginning with the payment for the second full month after his determination, unless a waiver has been granted by the state Board of Education under (d) of this section.

(d) A district which has been determined by the commissioner to be out of compliance with the requirements of this section may, within 20 days of the commissioner's determination, request a waiver by the state Board of Education of the imposition by the commissioner of any reduction in state aid payments under (b) or (c) of this section. The request must be submitted to the Legislative Budget and Audit Committee and must be in writing and include an analysis of the reasons and causes for the district's inability to comply with the requirements of this section. The Legislative Budget and Audit Committee shall review the district's request and forward it, along with the committee's recommendations on it, to the state Board of Education which shall either grant or deny the waiver.

(e) The commissioner shall submit an annual report on actions taken by him or the state Board of Education under this section to the Legislative Budget and Audit Committee by April 15 of each year.
(am Sec. 15 ch 26 SLA 1980)

Sec. 14.17.082. Fund Balance changes in school operating fund. (a) Each district having at least 400 instructional units under AS 14.17.031(a) may accumulate a fund balance in the school operating fund of seven percent of its expenditures. Each district having less than 400 instructional units may accumulate a fund balance of 10 percent of its expenditures.

(b) The commissioner shall review the annual audit of each district to ascertain changes in the year-end operating fund balance of the districts, and notify districts and the state Board of Education, through a written report, of any fund balance accumulation greater than that permitted under (a) of this section.

(c) The state Board of Education shall review the reports submitted to it under (b) of this section and submit a report making recommendations with respect to the legislative treatment of the fund balances of those districts to the Legislative Budget and Audit Committee by April 15 of each year.
(am Sec. 15 ch 26 SLA 1980)

Sec. 14.17.090. Estimated average daily membership. Each district shall prepare an estimate of its average daily membership for the fiscal year. In making this estimate, the district shall consider its average daily membership in preceding years, the pattern of growth or decline in preceding years, and other pertinent information available to the district. The result of this estimate is the estimated average daily membership. (Sec. 2.02 ch 164 SLA 1962)

Sec. 14.17.100—14.17.120. Repealed. (Sec 2 ch 238 SLA 1970)

Sec. 14.17.130. Repealed. (Sec. 11 ch 95 SLA 1969)

Sec. 14.17.140. Determination of full and true value by Department of Community and Regional Affairs. (a) To determine the equalized percentage to be applied to basic need under sec. 21 of this chapter, and the matching ratio for required local effort under sec. 71 of this chapter, the Department of Community and Regional Affairs, in consultation with the assessor for each district, shall determine the full value of the taxable real and personal property in each district. Exemptions granted under ch. 129, SLA 1957, known as the Alaska Industrial Incentive Act (AS 43.25), shall be honored. If there is no local assessor or current local assessment for a district, then the Department of Community and Regional Affairs shall make the determination of full value from information available. In making the determination, the Department of Community and Regional Affairs shall be guided by AS 29.53.060. The determination of full value shall be made before October 1 and sent by certified mail, return receipt requested, before that date to the president of the school board in each district. Duplicate copies shall be sent to the commissioner. The governing body of the borough or city which is the district may obtain judicial review of the determination by filing a motion in the superior court of the judicial district in which the district is located within 30 days after receipt of the determination. The superior court may modify the determination of the Department of Community and Regional Affairs only upon a finding of abuse of discretion or upon a finding that there is no substantial evidence to support the determination.

(b) Motor vehicles subject to the motor vehicle registration tax under AS 28.10.255 shall be treated as taxable property for purposes of (a) of this section. (Sec. 2.07 ch 164 SLA 1962; am Sec. 2 ch 95 SLA 1969; am Sec. 6 ch 238 SLA 1970; am Sec. 9 ch 200 SLA 1972; am Sec. 1 ch 218 SLA 1976; am Sec. 2 ch 256 SLA 1976)

(c) To determine the debt-to-valuation ratio to be applied to the determination of state aid for school construction under AS 43.18.105 — 43.18.135, the Department of Community and Regional Affairs, in consultation with the responsible financial officer of each municipality which is a school district, shall annually determine the debt of the municipality and report the determination to the mayor of the municipality and the commissioner of the Department of Education. The determination shall be made by October 1 of each year and shall report the outstanding debt as of July 1 each year. (am Sec. 14 ch 147 SLA 1978)

Sec. 14.17.150. Duty of commissioner to examine and tabulate computations. (a) The commissioner shall examine the preliminary reports submitted by each district to determine that they are correctly computed. If the allotments are incorrectly computed, the commissioner shall either (1) obtain a correct computation from the district, or (2) make a correct computation based on information available to him, and give notice of the corrected computation to the district. The commissioner shall review supplemental program applications and notify the district whether its supplemental program is approved for inclusion in its foundation program computations.

(b) The commissioner shall reduce these computations to a report in tabular form or another form helpful in examining the computations of the districts and shall transmit the report to the governor. The commissioner shall maintain additional copies of this report in his office as a matter of public record. This report shall be entitled "Public School Foundation Program Computations." (Sec. 2.08 ch 164 SLA 1962; am Sec. 7 ch 238 SLA 1970)

Article 3. Procedure for Payment of Public School Foundation Funds to Districts

Section
160. Allocation of funds on preliminary computations
170. Payment under adjusted computations
180. Payment under final computations
190. Restrictions governing receipt and expenditure of money from public school foundation account

Sec. 14.17.160. Allocation of funds on preliminary computation. The commissioner shall determine the state aid for each school district on the basis of the pre-fiscal year computations. Beginning July 15 of the fiscal year and on the 15th of each month, for seven successive months, one-twelfth of each district's state aid shall be distributed. (Sec. 3.01 ch 164 SLA 1962; am Sec. 3 ch 95 SLA 1969; am Sec. 8 ch 238 SLA 1970)

Sec. 14.17.170. Payment under adjusted computations. Each district shall make a report at the end of the first nine weeks of school, which contains a new estimate of its average daily membership for the fiscal year and other information which will aid the commissioner in making a more accurate determination of each district's state aid. This new estimate and information of average daily membership shall be the basis for the computation and distribution of each district's state aid for the balance of the fiscal year. The commissioner shall, on the basis of this new estimate and information, make a recomputation of each district's state aid. Before December 2, the commissioner shall notify each district of changes made in its state aid. The commissioner shall also determine whether the money in the public school foundation account is sufficient to meet each district's state aid for the fiscal year, and, if the money is not sufficient, he shall immediately inform the governor of the amount of additional appropriation he estimates will be necessary to carry out the public school foundation program for the rest of the fiscal year. Beginning February 15 and on the 15th of each subsequent month, one-fifth of the recomputed balance of each district's state aid shall be distributed. However, one-half of the June payment shall be withheld pending a final determination of the district's state aid.

(Sec. 3.02 ch 164 SLA 1962; am Sec. 1 ch 169 SLA 1968; am Sec. 4 ch 95 SLA 1969; am Sec. 9 ch 238 SLA 1970; am Sec. 1 ch 135 SLA 1975, effective July 1, 1975)

Sec. 14.17.180. Payment under final computation. Before June 16 each district shall transmit to the commissioner a final computation of the district's state aid. The commissioner shall process each district's computation in the manner provided by AS 14.17.150(a). However, in no event may the entitlement of a school district to state aid under AS 14.17.021 be less than that computed under this section for the preceding year, except as otherwise provided in AS 14.17.031, or under AS 14.17.170, whichever is greater. Additional state aid shall be obligated by the commissioner before June 30. If the district received more state aid money than it was entitled to under this chapter, it shall immediately, after notice from the commissioner of the overpayment, remit the amount of overpayment to the commissioner to be returned to the public school foundation account.

(Sec. 3.03 ch 164 SLA 1962; am Sec. 5 ch 95 SLA 1969; am Sec. 10 ch 238 SLA 1970; am Sec. 2 ch 135 SLA 1975, effective July 1, 1975; am Sec. 16 ch 26 SLA 1980)

Sec. 14.17.190. Restrictions governing receipt and expenditure of money from public school foundation account. (a) The public school foundation money distributed to a district during a year shall be received, held, and expended by the district subject to the provisions of law and regulations promulgated by the department.

(b) Each district shall maintain financial records of the receipt and disbursement of public school foundation money and money acquired from local effort. The records must be in the form required by the commissioner and are subject to audit by the commissioner or the board at any time. (am Sec. 6 ch 95 SLA 1969)

Article 4. General Provisions.

Section		Section	
200.	Regulations	220.	Purpose
205.	State aid to districts operating approved school food service programs	225.	Construction and implementation of chapter
210.	State aid to newly established district schools	230.	Repealed
215.	Repealed.	240.	Repealed
		250.	Definitions

Sec. 14.17.200. Regulations. The department shall promulgate regulations to implement this chapter. (Sec. 4.01 ch 164 SLA 1962; am Sec. 6 ch 98 SLA 1966)

Sec. 14.17.205. State aid to districts operating approved school food service programs. A school district that qualifies for and provides free and reduced-price lunches to students who qualify under the Federal Nutrition Act shall receive state aid in an amount for each free or reduced-price meal equal to the federal allowances multiplied by the school district's area differential in sec. 51 of this chapter. (am Sec 11 ch 90 SLA 1977)

Sec. 14.17.210. State aid to newly established district schools. (a) A regional educational attendance area school which becomes a city or borough district school is considered a regional educational attendance area school for purposes of financial support until the expiration of a complete fiscal year after the date on which the school becomes a city or borough district school. This subsection does not prevent a local government from spending money to contribute to the financial support of a regional educational attendance area school which becomes a city or borough district school.

(b) For each subsequent fiscal year, the state shall disburse to the city or borough school district only the money to which the district is entitled under the public school foundation program.

(c) [deleted]

(Sec. 5.02 ch 164 SLA 1962; am Sec. 25 ch 53 SLA 1973; am Sec. 13 ch 124 SLA 1975)

Sec. 14.17.215. Repealed. (am Sec. 20 ch 26 SLA 1980)

Sec. 14.17.220. Purpose. It is the intention of the legislature, in enacting this public school foundation program, to assure an adequate level of educational opportunities for those in attendance in the public schools of the state. This chapter shall not be interpreted as preventing a public school district from providing educational services and facilities beyond those assured by the foundation program. (Sec. 1.01 ch 164 SLA 1962)

Sec. 14.17.225. Construction and implementation of chapter. (a) This chapter may not be construed so as to create a debt of the state.

(b) Funds to carry out the provisions of secs. 10 — 190 of this chapter may be appropriated annually by the legislature into the public school foundation account. If amounts in the account are insufficient to meet the allocations authorized under secs. 10 — 190 of this chapter, such funds as are available shall be distributed pro rata among each district based upon the district's basic need.

(c) (Repealed Sec. 1 ch 79 SLA 1971)

(d) The average daily membership allotment supplemental account is established. Funds to carry out the provisions of sec. 215 of this chapter may be appropriated annually by the legislature to the account. If amounts in the account are insufficient to meet the allocations authorized under sec. 215 of this chapter, such funds as are available shall be distributed pro rata among eligible districts based upon sec. 215 of this chapter.

(e) (Sec. 8 ch 95 SLA 1969; am Sec. 1 ch 79 SLA 1971; Repealed Sec. 1 ch 79 SLA 1971)

(f) Funds necessary to carry out the provisions of sec. 205 of this chapter may be appropriated annually to the Department of Education. If amounts appropriated are insufficient to meet the allocations authorized under sec. 205 of this chapter, such funds as are available shall be distributed pro rata among eligible districts. (am Sec 12 ch 90 SLA 1977)

Sec. 14.17.230. Repealed. (Sec. 2 ch 71 SLA 1972)

Sec. 14.17.240. Repealed. (Sec. 2 ch 71 SLA 1972)

Sec. 14.17.250. Definitions. In this chapter, unless the context otherwise requires

(1) "average daily membership" means the aggregate days of membership of pupils divided by the actual number of days in session for the school term;

(2) "commissioner" means the commissioner of the Department of Education;

(3) "district" means any city or borough school district or regional educational attendance area. (am Sec. 17 ch 26 SLA 1980)

(4) "elementary school" means a school consisting of grades one through eight, kindergarten through eight, or an appropriate combination of grades within this range;

(5) "fiscal year" means the year beginning July 1 and ending June 30 for which allotments and entitlements are computed or distributed;

(6) "pre-fiscal year" means the year immediately before the fiscal year;

(7) Repealed. (Sec. 3 ch 238 SLA 1970)

(8) "public school foundation account" means the account created by section 10 of this chapter for use in financing education in public elementary and secondary schools;

(9) "secondary school" means a school of grades seven through twelve, or an appropriate combination of grades within that range; when grades seven, eight, nine, or ten are organized separately as a middle or junior high school, or grades ten through twelve are organized separately as a senior high school, each school is considered a separate secondary school for the purposes of this chapter if

(A) the school is conducted in a separate school plant facility;

(B) the school is accredited by the Northwest Accrediting Association;

(C) the school, if a middle or junior high school, includes a minimum ADM of 10 students in any combination of grades seven, eight or nine, if the school was in operation before July 1, 1980; or

(D) the school, if a middle or junior high school, includes a minimum ADM of 20 students in any combination of grades seven, eight or nine, if the school first began operation on or after July 1, 1980;

(Repealed and reenacted Sec. 18 ch 26 SLA 1980)

(10) Repealed. (Sec. 3 ch 238 SLA 1970)

(11) "taxable real and personal property" means all real and personal property taxable under the laws of the state, but does not include household goods and personal effects;

(12) Repealed. (Sec. 3 ch 238 SLA 1970)

(13), (14), (15), and (16) Repealed. (Sec. 2 ch 40 SLA 1971)

(17) "ADM full-time equivalent" means the quotient of the aggregate periods of pupil membership per day in specified classes, divided by the number of class periods in the school day;

(18) "instructional unit" means the aggregate of all direct and indirect services necessary to provide a standard level of instruction for a group of pupils;

(A) "direct services" include, but are not limited to supplying teacher services, textbooks, reference materials, pupil and teacher supplies, as well as utilities and custodial services;

(B) "indirect services" are those auxiliary or supporting functions that complement direct services and include, but are not limited to administration, transportation, food, attendance and activities;

(C) "instructional unit" does not include items of community service, capital outlay or debt service.

(Sec. 4.02 ch 164 SLA 1962; am Sec. 7, 8 ch 98 SLA 1966; am Sec. 3 ch 153 SLA 1966; am Sec. 18 ch 69 SLA 1970; am Sec. 3 & 11 ch 238 SLA 1970; sections repealed Sec. 2 ch 40 SLA 1971; am Sec. 14 ch 124 SLA 1975)

(19) "weighted ADM" means the number of students in average daily membership in an educational program, adjusted to reflect the level of service required by them in that program as determined by the department. (am Sec. 8 ch 115 SLA 1978)

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 1, 1983

MEMORANDUM

To: All House Members

From: Mae Tischer, Co-Chairperson, House HESS MT

RE: CS for HB 73, Supplemental Appropriations to D.O.E.

The new fiscal note of CS HB 73 reduces the amount of the original bill by approximately 11.4 million dollars. The attached documents are for your reference.

A brief history of the legislation shows that D.O.E. presented a fiscal note of 33.9 million with the original HB 73 requesting a supplemental in the amount of 33.7 million. Comparing D.O.E.'s fiscal note and breakdown with the 22.3 million requested in CSHB 73:

1. Last session, there was a deliberate shortfall from the requested full funding entitlement which totaled 14.4 million. The intent of this deliberate action taken by the Finance Committee and the Department was to send an urgent message to all school districts, asking them, as in all other state operated categories, to take necessary steps in cutting back costs due to a drastic reduction in State revenues.

2. As predicted, a 38.5% decrease in State revenues occured from Dec. 81 to Dec. 82. Comparing revenues for the first six months of the current fiscal year with the revenues of the first six months of the previous year, the impact on the State has been a decrease of 21.17% thus far.

3. Consequently, the underfunding of last year's request was necessary. CS HB 73 protects the integrity of the '82 legislation.

4. The major validation for the supplemental request is to cover unforeseen costs, such as those earmarked specifically for enrollment increases.

5. Once again, the HESS Committee did not intend to provide additional funds for school district reorganization, as in the 1.8 million dollar category for new junior high schools (attachment B) or to enhance program expansion as in the special education program increases of 2.5 million dollars (attachment E and E-1).

6. These two categories were excluded from the CS for HB 73 because the revised figures produced by the school districts as mandated in AS 14.17.170 by November 1982 showed expanded adjustments and increases.

7. In review, the formula funding levels on which the school district budgets are based can be increased or decreased by various categories. For example, in the case of the 1.8 million category, a secondary (junior high) student allotment is higher than an elementary student allotment, thereby enhancing a district's revenue picture.

8. In regards to the newly created junior high levels cited in attachment B, there is little justification for the revised figures as no new secondary education buildings have been constructed to justify the new junior high levels requested in the FY 83 supplemental.

9. There is great concern over the deletion of special education in the appropriation and its impact on across the board cuts. There is no cause for concern. As testified to by a D.O.E. fiscal analyst, funding will continue at 96% of the full entitlement formula with th 22 million dollar supplemental, as has been the case since the beginning of FY 83, continuing the 4% decrease mandated by last year's Legislature and Finance Committee.

10. As with secondary students, special education students receive a greater allotment than general students. Revisions in this area can also increase a school district's revenue picture and entitlement. Attachment E-1 shows that revised figures impacted special education by 12 units.

11. An average cost of educating a child in the REAA areas (transferred from the BIA) is $65,000. Therefore, 2.5 million is included in the BIA transfer request of 7.9 million dollars.

In responding to the school districts of our respective areas, these concerns can be laid to rest with the help of this explanation. It is certainly not the intent of the committee to force school districts to lay-off teachers or deny our children their rights to public education, nor will this be necessary under present funding formulas. For our childrens' future, we must be fiscally responsible immediately, and not pass the burden of cumulative debt to future generations.

This CS is an attempt to do just that, fill an immediate need based on increased enrollments and separate category and reorganization increases on their own merits.

It is the intent of the House HESS Committee to provide for, with this supplemental appropriation, only those unanticipated contingencies occassioned by unanticipated enrollment increases, the BIA transfer of schools to Alaska school districts and unforseen complications of the legislative mandate to scale oown education spending because of reduced state revenues.

It is not the intent of the HESS Committee to provide additional funds to enhance program expansion, school district reorganizing and other programs or procedures designed primarily to enhance the school district revenue picture.

Requested by House HESS Date 1/25/83

II. FISCAL DETAIL

Agency Affected Education

Program Category Affected Elementary & Secondary

BRU, Program, or Subprogram(s) Affected Foundation Support Districts

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.			22,380.6			
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND			22,380.6			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

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

See Attached

IV. DATE January 26, 1983 PREPARED BY House HESS

AGENCY Legislature

PHONE 465-3777

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

Catagories included in the fiscal note to the Committee Substitute to HB 73:

1.	Enrollment Increases (estimate)	6,407.7
2.	BIA School Transfers	7,901.6
3.	New Tanana City School District	855.4
4.	Shortfall (reduction in FY 83 budget)	7,215.9
	Total Request for CSHB 73.....	22,380.6

Catagories deleted from the fiscal note attached to the original HB 73 include an appropriation for 'New Secondary Programs' $1,808.4, and 'Special Education Program Increases' $2,558.5. Also deleted from the original request of $33,964.4 was half of the amount requested to cover the reduction appearing in the final FY 83 budget.

Analysis of FY-83 Foundation Supplemental

Revised through CSHB 73

Fiscal Analysis

	Funded through CSHB 73	HB 73
1. Enrollment Increases (estimate)	.....6,407.7	same.....$6,407.7
See Attachment A & A-1 Comparison figures of 1st qtr '82 and '83, enrollment vs. ADM .		
2. New Secondary Programs...	.00	..... [$1,808,364]
See Attachment B This item has been deleted as per the letter of intent regarding the new fiscal note attached to CSHB 73.		
3. BIA School Transfers.....	7,901.6	same.....7,901.6
See Attachment C & C-1 (C) is catagorized into the effected REAA's and C-1 is a list of the individual schools in transfer.		
4. New Tanana City School District..	855.4	same..... 855.4
See Attachment D New District funded @65,797 per instructional unit (13).		
5. Speical Education Program Increases.....	.00	.....[$2,558,5]
See Attachment E & E-1 Amount included in BIA transfer impacting 4 districts (deleted in CS)		
6. Funding of reduction of FY 83 shortfall with respect to Legislative Intent at 50% level.....	7,215.9	.....[14,431.8]
See Attachment F $14,431.8 cut by 50%		
Total for CSHB 73	$22,380.6	Total,HB 73 $33,746.700

Fiscal note total = $33,963.4 (DOE)

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

		1	2	3	4	5	6
		ENRLMNT FY82 1ST Qtr.	ENRLMNT FY83 1ST Qtr	INCREASE OR DECREASE	ADM FY82 1ST Qtr	ADM FY83 1ST Qtr.	INCREASE OR DECREASE
1	ADAK	624	599	(25)	611	592	(19)
2	ALASKA GATEWAY	492	439	(53)	476	473	(3)
3	ALEUTIAN CHAIN	118	129	11	111	127	16
4	ANNETTE ISLAND	352	328	(24)	348	336	(12)
5	* BERING STRAITS	609	927	318	552	917	365
6	* CHATHAM	220	278	58	196	271	75
7	CHUGACH	75	66	(9)	68	76	8
8	COPPER RIVER	577	514	(63)	545	682	137
9	DELTA/GREELY	914	909	(5)	895	949	54
10	IDITAROD	319	323	4	311	326	15
11	KUSPUK	333	318	(15)	324	323	(1)
12	LAKE & PENINSULA	329	333	4	321	362	41
13	* LOWER KUSKOKWIM	1879	2493	594	1365	2029	564
14	* LOWER YUKON	1193	1400	207	1183	1391	208
15	NORTHWEST ARCTIC	1530	1496	(34)	1495	1499	4
16	PRIBILOF	175	164	(11)	174	167	(7)
17	RAILBELT	351	323	(28)	353	325	(28)
18	SOUTHEAST ISLANDS	337	351	14	432	432	-
19	SOUTHWEST REGION	790	531	41	476	524	48
20	YUKON FLATS	316	341	25	269	315	46
21	YUKON/KOYUKUK	590	619	29	569	557	(12)
22							
23	SUB-TOTALS	11519	12877	1058	11657	12975	1318
24							
25	City & Borough	7323	7664	341	7048	7410	362
26	Centralized Correspondence	688	683	(5)	721	790	69
27							
28	STATEWIDE TOTALS	85743	90205	4462	82865	87770	4905
29							
30							
31							
32							
33							
34							
35	* SEE RTA						
36							
37							
38							
39							
40							

I.U. CHANGES RELATED TO ENROLLMENT & ADM INCREASES

	1	2	3	4	5	6
	$ Increase		LCS IU INIT	LCS IU REV	LCS IU +/-	
ADAK	[594307]					
ALASKA GATEWAY	[101,884]		4	4	-	
ALEUTIAN CHAIN	127350					
ANNETTE ISLAND	44148		0	3	3	132444
BERING STRAITS	1710722		3	3	-	
CHATHAM	458460					
CHUGACH	101880					
COPPER RIVER	—		5	6	1	50940
DELTA/GREELY	152820		6	5	(1)	(50940)
IDITAROD	263188		3	3	-	
KUSPUK	[1973917]		3	3	-	
LAKE & PENINSULA	131594		3	3	-	
LOWER KUSKOKWIM	3816226					
LOWER YUKON	1184346					
NORTHWEST ARCTIC	131594		4	4	-	
PRIBILOF	255188		3	3	-	
RAILBELT	—		3		-	
SOUTHEAST ISLANDS	[91692]		7	8	1	45846
SOUTHWEST REGION	65797					
YUKON FLATS	65797		3	3	-	
YUKON/KOYUKUK	328985		6	6		
Sub-total	8,245,14	42,075				
CITY & BORO	10,996,660					
CENT CSP	169800					
Statewide Total	19,290,974					
Total	19,290,974					
— Anomalies	1,155,717					178,290
— CS	276,754					
— BIA	7,901,600					
— SCC	1,808,400					
— Tanana	855,400					
Subtotal	7,293,073					
Demograph Adjustment	12%					
Net Estimate	6,407,700					

Junior Highs - New FY83

		IU	
Kuspuk	Kolokog JH	4	263,188
Yukon Flats	FY JH	4	263,188
Yukon/Kog	Hwy JH	4	263,188
Craig JH		4	183,384
Fbks - alt JH		6	285,264
Kake JH		6	275,076
Klawek	SH	6	275,076
		34	1,808,364

COMPUTATION:

FY83 Revised (less categorical IU) IU x IUA = $

FY82 Final (" " ") IU x IUA = $

Increase - 83 over 82 from Enrl/ADM = $

Deduct - JH increases

Deduct - Tanana - new sch

Deduct BIA Enrl/ADM increase

Enrollment/ADM - related increase

BIA School Transfers - FY 1983

	1 ENR 1st Qtr	2 ADM 1st Qtr	3 Instructional Units Elem.	4 SPED	5 Bil/Bic	6 Total IU $ Dollars
Bering Straits REAA			24	4	3	25
Gambell	70	69	6			$1,842,316
Golovin	18	14	3			
St. Michael	52	56	5			
Stebbins	83	57	7			
Chatham REAA			3	1	1	3
Klukwan	119	119	3			137,535
Lower Kuskokwim REAA			47	6	17	70
Goodnews Bay	31	20	3			$1,605,790
Kwethluk	69	65	6			
Kwillingok	43	43	4			
Mekoryuk	34	32	4			
Napakiak	55	55	5			
Napaskiak	74	73	6			
Nightmute	29	29	3			
Oscarville	13	12	3			
Quinhagak	89	85	7			
Tununak	64	63	6			
Lower Yukon REAA			15	2	3	20
Alakanuk	140	141	10			$315,940
Scammon Bay	68	51	5			
Sub-Totals	946	906	86	12	23	121
						$7,901,584

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BIA Operating Instructional Costs Breakdown of the 17 Schools Transferring to State Operation and Management:

		ADM	EDUC. FUNDS	FAC. MGMT. FUNDS	
1.	Alakanuk	140	440,589	212,300	
2.	Gambell	99	337,348	259,200	
3.	Golovin	21	77,364	102,600	
4.	Goodnews Bay	29	148,375	151,800	
5.	Kwethluk	91	336,246	189,400	
6.	Kwigillingok	42	194,225	161,100	
7.	Klukwan	16	46,510	55,100	
8.	Mekoryuk	28	109,208	168,300	
9.	Napakiak	50	212,108	178,600	
10.	Napaskiak	67	234,315	148,200	
11.	Nightmute	29	146,462	106,100	
12.	Quinhagak	50	339,407	210,700	
13.	Oscarville	15	70,835	85,200	
14.	Scammon Bay	64	205,641	158,800	
15.	St. Michael	60	203,832	214,300	
16.	Stebbins	90	293,868	168,800	
17.	Tununak	54	241,720	155,300	
		945	$3,638,053	$2,725,800	
				GRAND TOTAL	$6,363,853.00

FY 83 REVISED COMPUTATIONS — Attachment D

I.U. CHANGES BY COMPONENT - FY82 FINAL to FY83 REVISED

	ELEM.	SEC.	COMB E/S	VOED	SPED	Bil/Bic	Local Corresp.	Total I.U. Increase	I.U. Value	$ Increase
ANCHORAGE	22	73	(1)	2	203	2	—	301	42,450	12,777,450
BRISTOL BAY					1			1	65,797	65,797
CORDOVA	1			(1)	2			2	48,917	97,634
CRAIG	1	(1)		(1)	(1)		(3)	(5)	45,846	-229,230
DILLINGHAM		1		1				2	65,797	131,594
FAIRBANKS	9	23		(3)	71		3	103	47,544	4,897,032
GALENA				(1)		(1)		(2)	65,797	-131,594
HAINES	2	(1)			3		3	7	48,817	341,719
HOONAH	1			1				2	47,544	95,088
HYDABURG	1				1			2	45,846	91,692
JUNEAU	4	8		1	40	1	(1)	53	42,450	2,249,850
KAKE	1	3			1			5	45,846	229,230
KENAI	19	7		(5)	58			77	45,846	3,621,734
KETCHIKAN	2	(2)	(4)	1	8		1	6	42,450	254,700
KING COVE	(1)							(1)	63,675	-63,675
KLAWOCK		6		1	1		3	11	45,846	504,306
KODIAK	3	3		1	9		1	17	49,242	837,114
MAT-SU	25	17	1	(1)	35		(2)	77	44,148	3,399,396
NENANA	(2)	(2)						(4)	50,940	-200,760
NOME	1			1	1	(2)	3	4	65,797	263,188
NORTH SLOPE	3	5	(5)	3	4	(5)		5	65,797	328,985
PELICAN		4			1			5	47,544	237,720
PETERSBURG				(1)	2			1	44,148	44,148
SANDPOINT				(1)				(1)	63,675	-63,675
SITKA	(4)	(4)		(1)	11			2	44,148	88,296
SKAGWAY	(1)			(1)				(2)	45,846	-91,692
ST. MARY'S				1	1	(1)		1	65,797	65,797
UNALASKA		(2)			1			(1)	63,675	-63,675
VALDEZ	(4)	3			1			—	48,817	0
WRANGELL	1	(1)			1			1	44,148	44,148
YAKUTAT				1	1			2	50,940	101,880
TANANA	4	6		1	2	1	3	17	65,797	1,118,549
SUB-Totals	88	148	(9)	(1)	458	(5)	11	690		30,796,348
CENT. CORRESP. SDY.	4							4	42,450	169,800

Tanana = Total I.U.'s (13) X I.U. Value = 855,361

IU - STED

Instructional Units = Special Education

		1	2	3	4	5	6
		FINAL FY82	INIT FY83	REV FY83		CHANGE $ INIT 83 TO REV 83	
1	ANCHORAGE	1855	3985	3888		(112450)	
2	BRISTOL BAY	1	2	2		-	
3	CORDOVA	4	5	4		48817	
4	CRAIG	2	2	1		(45846)	
5	DILLINGHAM	4	4	4		-	
6	FAIRBANKS	55	114	129		(713160)	
7	GALENA	2	1	2		65797	
8	HAINES	5	3	8		244085	
9	HOONAH	3	3	3		-	
10	HYDABURG	2	2	3		45846	
11	JUNEAU	28	58	68		424500	
12	KAKE	3	4	4		-	
13	KENAI	36	90	94		183384	
14	KETCHIKAN	19	27	27		-	
15	KING COVE	2	1	2		63675	
16	KLAWOCK	3	3	3		-	
17	KODIAK	20	28	29		49242	
18	MAT-SU	29	67	64		(132441)	
19	NENANA	3	3	3		-	
20	NOME	7	8	8		-	
21	NORTH SLOPE	11	12	15		187391	
22	PELICAN	0	1	1		-	
23	PETERSBURG	6	9	3		(4414 8)	
24	SANDPOINT	1	1	1		-	
25	SITKA	13	22	24		88296	
26	SKAGWAY	2	2	2		-	
27	ST. MARY'S	3	2	4		131594	
28	UNALASKA	2	3	3		-	
29	VALDEZ	12	9	13		195265	
30	WRANGELL	4	2	5		132444	
31	YAKUTAT	2	3	3		-	
32	TANANA			2		131594	
33							
34	S.U. - Total	471	919	929		641835	
35							
36	CENT. CORRESP. SDY.						
37							
38							
39							
40							

14 - SPED

		1 FINAL FY82	2 INIT FY83	3 REV FY83	4	5 CHANGE $ INIT 83 to REV 83	6
1	ADAK	4	7	7		-	
2	ALASKA GATEWAY	5	7	8		5,621	
3	ALEUTIAN CHAIN	2	1	2		63,675	
4	ANNETTE ISLAND	4	5	5		-	
5	BERING STRAITS	6	12	13		65,797	
6	CHATHAM	2	4	4		-	
7	CHUGACH	10	10	11		50,940	
8	COPPER RIVER	5	3	6		15,282	
9	DELTA/GREELY	11	15	18		509,400	
10	IDITAROD	2	3	4		65,797	
11	KUSPUK	2	2	3		65,797	
12	LAKE & PENINSULA	3	2	3		65,797	
13	LOWER KUSKOKWIM	18	27	28		65,797	
14	LOWER YUKON	9	8	12		262,188	
15	NORTHWEST ARCTIC	11	10	22		789,564	
16	PRIBILOF	3	3	3		-	
17	RAILBELT	3	5	5		15,282	
18	SOUTHEAST ISLANDS	4	2	4		9,169	2
19	SOUTHWEST REGION	5	3	6		197,391	
20	YUKON FLATS	3	1	4		197,391	
21	YUKON/KOYUKUK	5	9	7		(131,594)	
22							
23	REAA SUB-TOTAL	107	119	165		2,706,212	
24							
25	CITY & BOROUGH	47	49	92		641,835	
26							
27	STATEWIDE TOTAL	578	1033	1094		3,348,047	
28							
29	Deduct 12 units @ 65,487 ea for BIA						
30	Student Education Fund						
31	Needed under Hamilton Plan						= 2,562,203
32							
33							
34							
35							
36							
37							
38							
39							
40							

MEMORANDUM State of Alaska

TO: Ron Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: December 20, 1982

FILE NO:

TELEPHONE NO: 465-2875

FROM: Marshall L. Lind
Commissioner
Department of Education

SUBJECT: Request for Restoration of Budget Request

The Department of Education requests consideration be given by the Governor to support full funding of the $406,185.1 FY 83 departmental budget request for Financial Support BRU by restoring the $14,431.8 reduction appearing in the final FY 83 budget. Distribution by component of the restored appropriation is as follows:

Component	Amount
Student ADM Support	$7,779.1
Special Education Adjustment	2,650.8
Vocational Ed. Adjustment	1,297.6
Correspondence Study - DOE	96.0
Correspondence Study - Local	299.8
Bilingual Program Adjustment	604.7
Supplemental Equalization Aid	1,703.7
TOTAL	$14,431.8

$14,431.8 x 50% = 7,215.9

Memo DATE

To All House Members

From M.T. Co-Chair. House HEMS.

Re CS for HB 73, Supplemental Approp to DOE

→ In an attempt to explain ~~the~~ the new fiscal note of CS HB 73 which reduced the amt. of the original bill by approx 11.4 million dollars, the attached documents for reference are being circulated. ~~and discussed as follows~~

→ ~~The original~~ A brief history of the legislation shows that D.O.E. presented a fiscal note of 33.9 million with the original HB 73 requesting a supp in the amt of 33.7 million. ~~In comparing the Dep~~ D.O.E. fiscal note & breakdown with the 22.3 mill requested in CS HB 73; the following explanations by catagory ~~cause~~ was derived when comparing

~~First of all~~. Last session there was a deliberate shortfall from the full funding entitlement ~~requested~~ which totaled 14.4 mill. This deliberate ~~shortfall~~ action was intended to send ~~sent by the Governor as well as the Finance Committees and~~ taken by the Finance Committee & the Dept. an urgent message to all school districts, asking them, as in all other state operated catagories, to take the necessary steps in cutting back costs due to a drastic reduction in State Revenues. As predicted, ~~for example~~, a 38.5% decrease in State revenues ~~in comparing Dec 82 totals w/ Dec 81 totals~~ occured ~~by Dec 8 of 82~~ from Dec 81 to Dec of 82. ~~For the first 6 months of the current fiscal year~~ In comparing revenues

for the 1st 6 months of the current fiscal year with the revenues of the 1st 6 months of the previous year, the state has been ~~impacted by~~ a decrease of 21.17% ~~from last~~ directly. Consequently, the shortfall of last years request was a necessary step.

The major thrust and validation for the supplemental request must be to cover unforseen costs, such as those earmarked specifically for enrollment increases. Once again, it was not the intent of the HESS Committee to provide any additional funds for school district reorganization ~~to enhance program expansion~~ as in the case of the 1.8 mill dollar catagory for new junior high schools (attachment B) or to enhance program expansion as in the spec. educ. program increase of 2.5 mill (attachment E & E-1).

These two ~~compound~~ catagories were excluded from the CS for HB 73 because the revised figures ~~provided~~ which were produced by the school districts as mandated in AS 14.17.170 by Nov of 82, showed ~~unprecedented~~ expanded adjustments and increases. In ~~explanation~~ review, the formula funding levels for which the school districts budgets are based, can be increased ~~by those two~~ proposed by various catagories. As in the case of the 1.8 million, a secondary (Junior/Sr) student allotment is higher than an elementary ~~ratio~~ student allotment ~~thereby~~ ~~making it~~ thereby enhancing a districts revenue picture.

In the case of the newly created junior high levels cited in Attachment B, there could be little justification for the revised figures as there have been no new secondary education bldgs constructed to justify the new junior high levels requested in the FY83 supplemental.

In the area of special education there has been much concern over its allocation and impact on cost cuts. This is not the case. As testified to by a DOE fiscal analyst, with the 22 mill dollar supplemental, funds will be certain at 96% of the full entitlement formula; continuing the 4% decrease mandated by last years finance committee and Legislature. As in the manner described above, spec educ. students receive more of an allotment than general students. Revisions in this area can also increase a school districts revenue picture & entitlement. Attachment E-1 shows that revised figures imported special educ by 12 units. An average cost of educating a child in the REAA areas (transfered from the BIA) is $65,500. Therefore 2.5 million is included in the BIA Transfer request of 7.9 million.

In responding to the school districts & our respective areas, hopefully some of these concerns can be laid to rest with the help of this explanation. It was certainly not the intent of the committee

force school districts [redacted] into massive lay-offs of teachers or deny our school children their right to public education. For our children's future, we must be fiscally ~~responsible~~ responsible immediately, and not pass on the burden of ~~debt~~ cumulative debt to future generations. This CS is an attempt to do just that; fill an immediate need based on increased enrollments and seperate catagory increases and reorganizations on their own merits.

February 1, 1983

MEMORANDUM

To: All House Members

From: Mae Tischer, Co-Chairman, House HESS

RE: CS for HB 73, Supplemental Appropriations to D.O.E.

In an attempt to explain the new fiscal note of CS HB 73 which reduced the amount of the original bill by approximately 11.4 million dollars, the attached documents are being circulated for reference.

A brief history of the legislation shows that D.O.E. presented a fiscal note of 33.9 million with the original HB 73 requesting a supplemental in the amount of 33.7 million. The following explanations by category were derived when comparing D.O.E.'s fiscal note and breakdown with the 22.3 million requested in CS HB 73:

Last session, there was a deliberate shortfall from the requested full funding entitlement which totaled 14.4 million. The intent of this deliberate action taken by the Finance Committee and the Department was to send an urgent message to all school districts, asking them, as in all other state opeated categories, to take necessary steps in cutting back costs due to a drastic reduction in State revenues. As predicted, a 38.5% decrease in State revenues occured from Dec. 81 to Dec. 82. Comparing revenues for the first six months of the current fiscal year with the revenues of the first six mnonths of the previous year, the impact on the State has been a decrease of 21.17% thus far. Consequently, the underfunding last year's request was necessary.

The major validation for the supplemental request is to cover

unforeseen costs, such as those earmarked specifically for enrollment increases. Once again, the HESS Committee did not intend to provide additional funds for school district reorganization, as in the 1.8 million dollar category for new junior high schools (attachment B) or to enhance program expansion as in the special education program increases of 2.5 million dollars (attachment E & E-1).

These two categories were excluded from the CS for HB 73 because the revised figures produced by the school districts as mandated in AS 14.17.170 by November 1982 showed expanded adjustments and increases. In review, the formula funding levels on which the school district budgets are based can be increased or decreased by various categories. For example, in the case of the 1.8 million category, a secondary (junior high) student allotment is higher than an elementary student allotment, thereby enhancing a district's revenue picture.

In regards to the newly created junior high levels cited in attachment B, there is little justification for the revised figures as no new secondary education buildings have been constructed to justify the new junior high levels requested in the FY 83 supplemental.

There is great concern over the deletion of special education in the appropriation and its impact on across the board cuts. There is no cause for concern. AS testified to by a D.O.E. fiscal analyst, funding will continue at 96% of the full entitlement formula with the 22 million dollar supplemental; continuing the 4% decrease mandated by last year's Legislature and Finance Committee. As with secondary students, special education students receive a greater allotment than general students. Revisions in this are can also increase a school district's revenue picture and entitlement. Attachment E-1 shows

that revised figures impacted special education by 12 units. An average cost of educating a child in the REAA areas (transferred from the BIA) is $65,000. Therefore, 2.5 million is included in the BIA transfer request of 7.9 million dollars.

In responding to the school districts of our respective areas, hopefully some of these concerns can be laid to rest with the help of this explanation. It was certainly not the intent of the committee to force school districts to lay-off teachers or deny our school children their rights to public education. For our children's future, we must be fiscally responsible immediately, and not pass on the burden of cumulative debt to future generations. This CS is an attempt to do just that, fill an immediate need based on increased enrollments and separate category and reorganization increases on their own merits.

Sent copy to Milo also.

1/24/83
10:20 a.m.

TO: Mae and Milo

FROM: Linda

RE: optional funding of supplemental appropriation monies in HB 73 (33.6 million)

In contacting another attorney for another opinion regarding the supplemental mentioned above: the following options appear to be appropriate as different methods of funding the shortfalls:

1). Under the title of the bill before the committee today (HB 73) there would be a problem in earmarking the funds to specific districts who prove shortfalls. Any money that is appropriate to the foundation fund must be pro-rated (paid to to all districts accross the board).

If the committee chooses to simply cut the amount requested and still pro-rate the funds, the existing title of the bill is sufficient to do this and a committee substitute would suffice.

2). If the committee wishes to catagorize funds and supplementally appropriate to specific districts, a new bill, introduced by the HESS Committee should be re-written with funds being designated to individual districts for specific purposes.

Mr. Bob Greene was correct in stating that funds must be provided for on a pro-rata basis only if the foundation fund is the account earmarked for the appropriation, consequently, there is a way of writing the legislation to get around that across-the-board mechanism.

7 am mtg w/ Tuskin Fritz Palmer

1) Seperate school districts budgets.

2) BIA ~~Rep~~ to mtg.

3) legal services - gues to atty re HB 73
new programs ? 6.7 mill enrollment increases -
which schools - how much in each school.
- underapprop of 14.4
new legis.
- BIA = schools & students
= Schultz - map of REAA's
= 2 mill not reported on new program-legis
Bottom line per Bob Greene - 21 million
6.3
7.-
x 2 of underfunding
21.2 mill

4) Schedule ~~of~~ all House Members -
Agenda's to Mae & Milo

API - Marshall - physciatrist - MD - diseases of the mind
physcologist - tests. human functions PHD
not being reappt - Graff (PHD) to head API
MF - Wants a mtg w/ Gov - inform Governor

my notes

1) EMS ops. shortfall = Raboe fired from PHS
Follow up on EMS,

2) Longevity Bonus

HB 73

STEVE LEVY

shortfall expected after all Fed $ income.

HB 73

APPROPRIATION consists of: 1) BIA FUNDS 7.1 when do FED

2) NEW ENROLLMENTS 6.9

3) NEW PROGRAMS 5.1

19.1 MAINTENANCE PROGRAMS

4) 100% funding NOT made - 14 mill CUT

Each district got 4.4% less - CUT SPREAD ACROSS BOARD

Bill miles has details on cuts

SOME districts spend as if no CUT in effect so - short now.

1/24 - contacted Mr. Koalchuk } BIA folks -
" Mr. Brady } re/HB73 BIA Schools taken over by state - Copr. costs

11.1 mill.

733,000 - Reimbursable

281,000 - "

12 mill Congressional Legis.

1/24 called Nancy Dunn & OMB re fiscal note for HB 73

1 - get Copy of Memo from to Pestinger re/73

WEA Backup

1/26 Rec'd C.S. in amt

21.215.9

Memo: Re Backup — To Comm. Members.

Point out concerns (highlighted)

from Hoee
- FY83 Initial (Dec 82)
- FY83 Special Revised of April 82

Arch. Inc June to Nov 82 — 1490

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

COLUMN - WRITE ©

		1	2	3	4	5	6
		ENRLMNT FY82 1ST Qtr.	ENRLMNT FY83 1ST Qtr	INCREASE OR DECREASE	ADM FY82 1ST Qtr	ADM FY83 1ST Qtr.	INCREASE OR DECREASE
1	ADAK	609	594	(15)	611	594	(15)
2	ALASKA GATEWAY	492	439	(53)	476	473	(3)
3	ALEUTIAN CHAIN	118	129	11	111	127	16
4	ANNETTE ISLAND	353	329	(24)	348	336	(12)
5	* BERING STRAITS	609	927	318	582	917	335
6	* CHATHAM	220	278	58	196	271	75
7	CHUGACH	75	66	(9)	68	76	8
8	COPPER RIVER	577	514	(63)	568	582	14
9	DELTA/GREELY	914	909	(5)	895	949	54
10	IDITAROD	319	323	4	311	326	15
11	KUSPUK	333	318	(15)	324	323	(1)
12	* LAKE & PENINSULA	329	333	4	321	362	41
13	* LOWER KUSKOKWIM	1899	2493	594	1365	2429	564
14	* LOWER YUKON	1193	1400	207	1183	1391	208
15	NORTHWEST ARCTIC	1530	1496	(34)	1495	1499	4
16	PRIBILOF	175	164	(11)	174	167	(7)
17	RAILBELT	351	323	(28)	353	325	(28)
18	SOUTHEAST ISLANDS	337	351	14	432	432	-
19	SOUTHWEST REGION	490	531	41	476	524	48
20	YUKON FLATS	316	341	25	299	315	16
21	YUKON/KOYUKUK	590	619	29	564	557	(12)
22							
23	SUB-TOTALS	11819	12877	1058	11657	12975	1318
24							
25	City & Borough	73236	76645	3409	70487	74005	3518
26	Centralized Correspondence	688	683	(5)	721	790	69
27							
28	STATEWIDE TOTALS	85743	90205	4462	82865	87770	4905
29							
30							
31							
32							
33							
34							
35	* SEF BTA						
36							
37							
38							
39							
40							

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

	1 ENRLMNT FY82 1st Qtr	2 ENRLMNT FY83 1st Qtr	3 INCREASE OR DECREASE	4 ADM FY82 1st Qtr	5 ADM FY83 1st Qtr	6 INCREASE OR DECREASE
ANCHORAGE	34546	36243	1697	33279	34797	1518
BRISTOL BAY	215	221	6	203	210	7
CORDOVA	407	440	33	415	438	23
CRAIG	178	160	[18]	188	152	[36]
DILLINGHAM	380	398	18	364	378	14
FAIRBANKS	9320	9844	524	8824	9440	616
GALENA	140	150	10	132	142	10
HAINES	378	397	19	375	388	13
HOONAH	226	242	16	228	239	11
HYDABURG	92	85	[7]	89	93	4
JUNEAU	4267	4448	181	4080	4258	178
KAKE	211	218	7	194	207	13
KENAI	6528	6930	402	6262	6754	492
KETCHIKAN	2455	2367	[88]	2354	2369	15
KING COVE	137	113	[24]	136	120	[16]
KLAWOCK	95	133	38	95	151	56
KODIAK	2144	2189	45	2057	2141	84
MAT-SU	5055	5676	621	4808	5558	750
NENANA	198	119	[79]	214	127	[87]
NOME	716	734	18	729	758	21
NORTH SLOPE	1053	1018	[35]	1061	1021	[40]
PELICAN	48	53	5	47	52	5
PETERSBURG	589	608	19	561	574	13
SANDPOINT	118	120	2	141	123	[18]
SITKA	1742	1666	[76]	1683	1607	[76]
SKAGWAY	191	173	[18]	189	177	[12]
ST. MARY'S	113	109	[4]	96	110	14
UNALASKA	187	185	[2]	191	181	[10]
VALDEZ	845	857	12	848	863	15
WRANGELL	508	504	[4]	490	485	[5]
YAKUTAT	154	157	3	154	159	5
TANANA (New FY83)		88	88		92	92
	73236	76645	3409	70487	74005	3518
CENT.CORRESP.SDY.	688	683	(5)	721		

SUB-TOTALS

Revised 1/24/83

Analysis of FY-83 Foundation Supplemental

FY-83 Request (estimate)	406,089.5
FY-83 Appropriation	391,753.3
FY-83 Shortfall	(14,431.8)

FY-83 Revised Reports Increases by Categories:

1. Enrollment Increases (estimate)	6,407.7
2. New Secondary Programs	(1,808.4)
3. BIA School Transfers	7,901.6
4. New Tanana City School District	855.4
5. Special Education Program Increases	(2,558.5)
Total Increases	19,531.6
Add Original Shortfall	14,431.8
Total Shortfall	33,964.4*

Out of seven Department supplemental requests transmitted to the Governor, the State Board of Education has prioritized the $19,531.6 request first, and the $14,431.8 portion of this supplemental sixth.

*For the record, a January 7, 1983, hearing officer's recommended decision on the way the Department calculates supplemental equalization aid under AS 14.17.023 has resulted in an additional shortfall of of $1,106.2. We have been advised by the Attorney General to accept the hearing officer's recommended decision.

EFS136

STATE OF ALASKA

DEPARTMENT OF EDUCATION

PRORATA PROJECTION SUMMARY

30-Jan-82

PROJ.CONTROL 264286
005.00009

REVISED

22 million entitlements @ 96%

DISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT AT 0.964906410000
ANCHORAGE	34,797	2,627	42,450	111,516,150	6,922,194	0	118,438,344	[illegible]
CORDOVA	438	46	48,817	2,245,582	19,592	0	2,265,174	[illegible]
CRAIG	153	19	45,846	871,074	188,553	0	1,059,627	[illegible]
FAIRBANKS (N.STAR)	9,441	753	47,544	35,800,632	0	0	35,800,632	[illegible]
HAINES	389	52	48,817	2,538,484	0	0	2,538,484	[illegible]
HOONAH	239	27	47,544	1,283,688	246,083	0	1,529,771	[illegible]
PETERSBURG	93	17	45,846	779,382	97,033	0	876,415	[illegible]
JUNEAU	4,258	372	42,450	15,791,400	67,245	0	15,858,645	[illegible]
KAKE	208	29	45,846	1,329,534	191,097	0	1,520,631	[illegible]
KETCHIKAN GATEWAY	2,368	195	42,450	8,277,750	0	0	8,277,750	[illegible]
KING COVE	121	16	63,675	1,018,800	147,916	0	1,166,716	[illegible]
KLAWOCK	152	23	45,846	1,054,458	104,967	0	1,159,425	[illegible]
KODIAK	2,143	216	49,242	10,636,272	1,458,909	0	12,095,181	[illegible]
KENAMA	128	23	50,940	1,171,620	211,484	0	1,383,104	[illegible]
NOME	750	73	65,797	4,803,181	781,933	0	5,585,114	[illegible]
MATANUSKA-SUSITNA	5,562	454	44,148	20,043,192	0	0	20,043,192	19,339,800
PELICAN	52	13	47,544	618,072	47,089	0	665,161	[illegible]
PETERSBURG	574	50	44,148	2,207,400	182,683	0	2,390,083	[illegible]
SAND POINT	123	14	63,675	891,450	156,334	0	1,047,784	[illegible]
SITKA	1,608	139	44,148	6,136,572	0	0	6,136,572	[illegible]
SKAGWAY	177	18	45,846	825,228	153,820	0	979,048	[illegible]
UNALASKA	181	24	63,675	1,528,200	0	0	1,528,200	[illegible]
VALDEZ	863	87	48,817	4,247,079	0	0	4,247,079	[illegible]
WRANGELL	485	48	44,148	2,119,104	237,835	0	2,356,939	[illegible]
YAKUTAT	160	22	50,940	1,120,680	154,305	0	1,274,985	[illegible]
GALENA	142	19	65,797	1,250,143	209,543	0	1,459,686	[illegible]
NORTH SLOPE	1,022	147	65,797	9,672,159	0	0	9,672,159	[illegible]
BRISTOL BAY	211	28	65,797	1,842,316	269,436	0	2,111,752	[illegible]
DILLINGHAM	378	43	65,797	2,829,271	542,188	0	3,371,459	[illegible]
KENAI	6,756	591	45,846	27,094,986	0	0	27,094,986	[illegible]
TANANA	92	17	65,797	1,118,549	145,590	0	1,264,139	[illegible]
ST. MARY'S	112	24	65,797	1,579,128	142,425	0	1,721,553	[illegible]
NORTHWEST ARCTIC	1,500	208	65,797	13,685,776	2,338,940	1,[illegible]750	14,384,966	[illegible]
BERING STRAIT	918	161	65,797	10,593,317	922,599	71[illegible]916	10,805,000	[illegible]
LOWER YUKON	1,392	186	65,797	12,238,242	1,883,179	1,790,533	12,330,888	[illegible]
LOWER KUSKOKWIM	2,416	372	65,797	24,476,484	2,937,126	2,142,535	25,271,075	[illegible]
LOCHUK	324	75	65,797	4,934,775	522,226	438,956	5,018,045	[illegible]
SOUTHWEST	532	79	65,797	6,513,903	765,932	739,531	6,540,304	[illegible]
LAKE & PENINSULA	363	80	65,797	5,263,760	514,314	499,163	5,278,911	[illegible]
ALEUTIAN	129	32	63,675	2,037,600	174,586	141,794	2,070,392	[illegible]
PRIBILOF	168	27	63,675	1,719,225	263,410	262,897	1,719,738	[illegible]
ADAK	594	54	59,430	3,209,220	849,039	708,631	3,349,628	[illegible]
IDITAROD	327	69	65,797	4,539,993	495,324	362,753	4,672,564	[illegible]
YUKON KOYUKUK	556	101	65,797	6,645,497	897,279	757,128	6,785,648	[illegible]
YUKON FLATS	315	69	65,797	4,539,993	496,906	364,798	4,672,101	[illegible]
PAIPELI	327	55	50,940	2,80[illegible]	410,430	65,449	3,146,681	[illegible]
DELTA/GREELY	949	92	50,940	4,686,480	1,086,720	451,513	5,321,687	[illegible]
ALASKA GATEWAY	473	71	50,940	3,616,740	585,628	278,754	3,923,614	[illegible]
COPPER RIVER	582	71	50,940	3,616,740	679,966	197,564	4,099,142	[illegible]
CHATHAM	272	48	45,846	2,200,608	220,248	207,005	2,221,851	[illegible]

STATE OF ALASKA

DEPARTMENT OF EDUCATION

REVISED

PRORATA PROJECTION SUMMARY

DISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT AT 0.964906410000
SOUTHEAST	434	84	45,846	3,851,064	463,112	422,156	3,892,020	3,755,435
ANNETTE	336	43	44,148	1,898,364	372,695	573,066	1,697,993	1,638,404
CHUGACH	75	16	50,940	815,040	91,887	31,161	875,766	845,032
CENTRAL CORRESPOND	790	48	42,450	2,037,600	0	0	2,037,600	1,966,093
CITY/BOR. TOTAL:	74,184	6,226		284,241,536	12,678,254	0	296,919,790	286,499,808
R.E.A.A. TOTAL:	12,983	2,013		123,884,521	16,979,546	12,786,053	128,078,014	123,583,296
CENTRAL CORRES.:	790	48		2,037,600	0	0	2,037,600	1,966,093
GRAND TOTALS:	87,957	8,287		410,163,657	29,657,800	12,786,053	427,035,404	412,049,197

It is the intent of the House HESS Committee to provide for, with this supplemental appropriation, only those unanticipated contingencies occassioned by unanticipated enrollment increases, the BIA transfer of schools to Alaska school districts and unforseen complications of the legislative mandate to scale down education spending because of reduced state revenues.

It is not the intent of the HESS Committee to provide additional funds to enhance program expansion, school district reorganizing and other programs or procedures designed primarily to enhance the school district revenue picture.

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 1, 1983

MEMORANDUM

To: All House Members

From: Mae Tischer, Co-Chairperson, House HESS MT

RE: CS for HB 73, Supplemental Appropriations to D.O.E.

The new fiscal note of CS HB 73 reduces the amount of the original bill by approximately 11.4 million dollars. The attached documents are for your reference.

A brief history of the legislation shows that D.O.E. presented a fiscal note of 33.9 million with the original HB 73 requesting a supplemental in the amount of 33.7 million. Comparing D.O.E.'s fiscal note and breakdown with the 22.3 million requested in CSHB 73:

1. Last session, there was a deliberate shortfall from the requested full funding entitlement which totaled 14.4 million. The intent of this deliberate action taken by the Finance Committee and the Department was to send an urgent message to all school districts, asking them, as in all other state operated categories, to take necessary steps in cutting back costs due to a drastic reduction in State revenues.

2. As predicted, a 38.5% decrease in State revenues occured from Dec. 81 to Dec. 82. Comparing revenues for the first six months of the current fiscal year with the revenues of the first six months of the previous year, the impact on the State has been a decrease of 21.17% thus far.

3. Consequently, the underfunding of last year's request was necessary. CS HB 73 protects the integrity of the '82 legislation.

4. The major validation for the supplemental request is to cover unforeseen costs, such as those earmarked specifically for enrollment increases.

5. Once again, the HESS Committee did not intend to provide additional funds for school district reorganization, as in the 1.8 million dollar category for new junior high schools (attachment B) or to enhance program expansion as in the special education program increases of 2.5 million dollars (attachment E and E-1).

6. These two categories were excluded from the CS for HB 73 because the revised figures produced by the school districts as mandated in AS 14.17.170 by November 1982 showed expanded adjustments and increases.

7. In review, the formula funding levels on which the school district budgets are based can be increased or decreased by various categories. For example, in the case of the 1.8 million category, a secondary (junior high) student allotment is higher than an elementary student allotment, thereby enhancing a district's revenue picture.

8. In regards to the newly created junior high levels cited in attachment B, there is little justification for the revised figures as no new secondary education buildings have been constructed to justify the new junior high levels requested in the FY 83 supplemental.

9. There is great concern over the deletion of special education in the appropriation and its impact on across the board cuts. There is no cause for concern. As testified to by a D.O.E. fiscal analyst, funding will continue at 96% of the full entitlement formula with th 22 million dollar supplemental, as has been the case since the beginning of FY 83, continuing the 4% decrease mandated by last year's Legislature and Finance Committee.

10. As with secondary students, special education students receive a greater allotment than general students. Revisions in this area can also increase a school district's revenue picture and entitlement. Attachment E-1 shows that revised figures impacted special education by 12 units.

11. An average cost of educating a child in the REAA areas (transferred from the BIA) is $65,000. Therefore, 2.5 million is included in the BIA transfer request of 7.9 million dollars.

In responding to the school districts of our respective areas, these concerns can be laid to rest with the help of this explanation. It is certainly not the intent of the committee to force school districts to lay-off teachers or deny our children their rights to public education, nor will this be necessary under present funding formulas. For our childrens' future, we must be fiscally responsible immediately, and not pass the burden of cumulative debt to future generations.

This CS is an attempt to do just that, fill an immediate need based on increased enrollments and separate category and reorganization increases on their own merits.

Title An Act...Supplemental Appropriation to the Dept. of Education

Requested by House HESS Date 1/25/83

II. FISCAL DETAIL

Agency Affected Education

Program Category Affected Elementary & Secondary

BRU, Program, or Subprogram(s) Affected Foundation Support Districts

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.			22,380.6			
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND			22,380.6			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

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

See Attached

IV. DATE January 26, 1983 PREPARED BY House HESS

AGENCY Legislature

PHONE 465-3777

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

Catagories included in the fiscal note to the Committee Substitute to HB 73:

1.	Enrollment Increases (estimate)	6,407.7
2.	BIA School Transfers	7,901.6
3.	New Tanana City School District	855.4
4.	Shortfall (reduction in FY 83 budget)	7,215.9
Total Request for CSHB 73.....		22,380.6

Catagories deleted from the fiscal note attached to the original HB 73 include an appropriation for 'New Secondary Programs' $1,808.4, and 'Special Education Program Increases' $2,558.5. Also deleted from the original request of $33,964.4 was half of the amount requested to cover the reduction appearing in the final FY 83 budget.

Analysis of FY-83 Foundation Supplemental

Revised through CSHB 73

Fiscal Analysis

	Funded through CSHB 73	HB 73
1. Enrollment Increases (estimate)	.....6,407.7	same.....$6,407.7
See Attachment A & A-1 Comparison figures of 1st qtr '82 and '83, enrollment vs. ADM .		
2. New Secondary Programs...	.00	..... [$1,808,364]
See Attachment B This item has been deleted as per the letter of intent regarding the new fiscal note attached to CSHB 73.		
3. BIA School Transfers.....	7,901.6	same.....7,901.6
See Attachment C & C-1 (C) is catagorized into the effected REAA's and C-1 is a list of the individual schools in transfer.		
4. New Tanana City School District..	855.4	same..... 855.4
See Attachment D New District funded @65,797 per instructional unit (13).		
5. Speical Education Program Increases.....	.00	.....[$2,558.5]
See Attachment E & E-1 Amount included in BIA transfer impacting 4 districts (deleted in CS)		
6. Funding of reduction of FY 83 shortfall with respect to Legislative Intent at 50% level.....	7,215.9	.....[14,431.8]
See Attachment F $14,431.8 cut by 50%		
Total for CSHB 73	$22,383.6	Total, HB 73 $33,746.700

Fiscal note total = $33,963.4 (DOE)

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

		1	2	3	4	5	6
		ENRLMNT FY82 1ST Qtr.	ENRLMNT FY83 1ST Qtr	INCREASE OR DECREASE	ADM FY82 1ST Qtr	ADM FY83 1ST Qtr.	INCREASE OR DECREASE
	ADAK	609	594	(15)	611	594	(15)
	ALASKA GATEWAY	492	439	(53)	476	473	(3)
	ALEUTIAN CHAIN	118	129	11	111	127	16
	ANNETTE ISLAND	353	329	(24)	348	336	(12)
*	BERING STRAITS	609	927	318	582	917	335
*	CHATHAM	220	278	58	196	271	75
	CHUGACH	75	66	(9)	68	76	8
	COPPER RIVER	577	514	(63)	568	582	14
	DELTA/GREELY	914	909	(5)	895	949	54
	IDITAROD	319	323	4	311	326	15
	KUSPUK	333	318	(15)	324	323	(1)
	LAKE & PENINSULA	329	333	4	321	362	41
*	LOWER KUSKOKWIM	1899	2493	594	1865	2429	564
*	LOWER YUKON	1193	1400	207	1183	1391	208
	NORTHWEST ARCTIC	1530	1496	(34)	1495	1499	4
	PRIBILOF	175	164	(11)	174	167	(7)
	RAILBELT	351	323	(28)	353	325	(28)
	SOUTHEAST ISLANDS	337	351	14	432	432	-
	SOUTHWEST REGION	490	531	41	476	524	48
	YUKON FLATS	316	341	25	299	315	16
	YUKON/KOYUKUK	590	619	29	569	557	(12)
	Sub-Totals	11819	12877	1058	11657	12975	1318
	City & Borough	73236	76645	3409	70457	74005	3518
	Centralized Corrs	688	683	(5)	721	790	69
	STATEWIDE TOTALS	85743	90205	4462	82865	87770	4905

* SEE BTA

Attachment (A)

I.U. CHANGES RELATED TO ENROLLMENT & ADM INCREASES

	$ Increase		LCS IU INIT	LCS IU REV	LCS IU +/-	
ADAK	594307					
ALASKA GATEWAY	101880		4	4	-	
ALEUTIAN CHAIN	127350					
ANNETTE ISLAND	44148		0	3	3	132444
BERING STRAITS	1710722		3	3	-	
CHATHAM	458460					
CHUGACH	101880					
COPPER RIVER	—		5	6	1	50940
DELTA/GREELY	152820		6	5	(1)	(50946)
IDITAROD	263188		3	3	-	
KUSPUK	1973917		3	3	-	
LAKE & PENINSULA	131594		3	3	-	
LOWER KUSKOKWIM	3816226					
LOWER YUKON	1184346					
NORTHWEST ARCTIC	131594		4	4	-	
PRIBILOF	255188		3	3	-	
RAILBELT	—		3	3	-	
SOUTHEAST ISLANDS	91692		7	8	1	45846
SOUTHWEST REGION	65797					
YUKON FLATS	65797		3	3	-	
YUKON/KOYUKUK	328985		6	6		
Sub-total	8,245,14	442,075				
CITY & BORO	10,996,660					
CENT CSP	169800					
Statewide Total	19,290,974					
Total	19,290,974					
— Anomalies	1,155,717					178,290
— CS	276,784					
— BIA	7,901,400					
— SCC	1,908,400					
— Tanana	855,400					
Subtotal	7,293,073					
Dendrograph Adjustment 12%						
Net Estimate	6,407,700					

Attachment A-1

Attachment B

Junior Highs - New FY 83

		TU	
Kuspuk	Kobuk JH	4	263,188
Yukon Flats	FY JH	4	263,182
Yukon/Koy	Koy JH	4	263,188
Craig JH		4	183,384
Fbks - alt JH		6	285,264
Kake JH		6	275,076
Klawock	SH	6	275,076
		34	1,808,364

COMPUTATION:

FY 83 Revised (less categorical TU) TU x TU A = $

FY 82 Final (" " ") TU x TU A = $

Increase - 83 over 82 from Enrl/ADM = $

Deduct - JH increases

Deduct - Tanana - new sch

Deduct BIA Enrl/ADM increase

Enrollment/ADM - related increase

BIA School Transfers - FY 1983

	1 ENRL 1st QTR	2 ADM 1st QTR	3 Instructional Units ~~Suite~~ Elem.	4 SPED	5 Bil/Bic	6 Total IU $ $ Dollars
Bering Straits REAA			24	11	3	25
Gambell	70	67	6			$842,316
Golovin	18	14	3			
St. Michael	52	50	5			
Stebbins	83	82	7			
Chatham REAA			3	1		3
Klukwan	19	19	3			$37,535
Lower Kuskokwim REAA			47	6	17	70
Goodnews Bay	31	20	3			$440,790
Kwethluk	69	65	6			
Kwillingok	43	43	4			
Mekoryuk	34	32	4			
Napakiak	55	55	5			
Napaskiak	74	73	6			
Nightmute	29	29	3			
Oscarville	13	12	2			
Quinhagak	89	85	7			
Tununak	64	63	6			
Lower Yukon REAA			15	2	3	20
Alakanuk	144	141	10			$315,940
Scammon Bay	65	51	5			
Sub-Totals	946	906	86	(12)	23	121
						$790,584

Attachment C

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BIA Operating Instructional Costs Breakdown of the 17 Schools Transferring to State Operation and Management:

		ADM	EDUC. FUNDS	FAC. MGMT. FUNDS
1.	Alakanuk	140	440,589	212,300
2.	Gambell	99	337,348	259,200
3.	Golovin	21	77,364	102,600
4.	Goodnews Bay	29	148,375	151,800
5.	Kwethluk	91	336,246	189,400
6.	Kwigillingok	42	194,225	161,100
7.	Klukwan	16	46,510	55,100
8.	Mekoryuk	28	109,208	168,300
9.	Napakiak	50	212,108	178,600
10.	Napaskiak	67	234,315	148,200
11.	Nightmute	29	146,462	106,100
12.	Quinhagak	50	339,407	210,700
13.	Oscarville	15	70,835	85,200
14.	Scammon Bay	64	205,641	158,800
15.	St. Michael	60	203,832	214,300
16.	Stebbins	90	293,868	168,800
17.	Tununak	54	241,720	155,300
		945	$3,638,053	$2,725,800
			GRAND TOTAL	$6,363,853.00

Attachment C-1

FY83 REVISED COMPUTATIONS — Attachment D

I.U. CHANGES BY COMPONENT - FY82 FINAL to FY83 REVISED

	ELEM	SEC	COMB E/S	VOED	SPED	Bil/Bic	Local Corresp	Total I.U. Increase	I.U. Value	$ Increase
ANCHORAGE	22	73	(1)	2	203	2	-	301	42,45[illegible]	777,450
BRISTOL BAY					1			1	65,797	65,797
CORDOVA	1			(1)	2			2	48,917	97,634
CRAIG	1	(1)		(1)	(1)		(3)	(5)	45,846	= 229,230
DILLINGHAM		1		1				2	65,797	131,594
FAIRBANKS	9	23		(3)	71		3	103	47,544	897,032
GALENA				(1)		(1)		(2)	65,797	= 131,594
HAINES	2	(1)			3		3	7	48,217	341,719
HOONAH	1			1				2	47,544	95,088
HYDABURG	1				1			2	45,846	91,692
JUNEAU	4	8		1	40	1	(1)	53	42,450	2,249,850
KAKE	1	3			1			5	45,846	229,230
KENAI	19	7		(5)	58			[illegible]	45,846	3,621,734
KETCHIKAN	2	(2)	(4)	1	8		1	6	42,450	254,700
KING COVE	(1)							(1)	63,675	= 63,675
KLAWOCK		6		1	1		3	11	45,846	501,306
KODIAK	3	3		1	9		1	17	49,242	837,114
MAT-SU	25	17	1	(1)	35		(2)	77	44,148	3,399,396
NENANA	(2)	(2)						(4)	50,940	= 203,760
NOME	1			1	1	(2)	3	4	65,797	263,188
NORTH SLOPE	3	5	(5)	3	4	(5)		5	65,797	326,985
PELICAN		4			1			5	47,544	237,720
PETERSBURG				(1)	2			1	44,148	44,148
SANDPOINT				(1)				(1)	63,675	= 63,675
SITKA	(4)	(4)		(1)	11			2	41,198	82,396
SKAGWAY	(1)			(1)				(2)	45,846	= 91,692
ST. MARY'S				1	1	(1)		1	65,797	65,797
UNALASKA		(2)			1			(1)	63,675	= 63,675
VALDEZ	(4)	3			1				48,217	0
WRANGELL	1	(1)			1			1	44,148	44,148
YAKUTAT				1	1			2	50,940	101,880
TANANA	4	6		1	2	1	3	17	65,797	1,118,549
SUB-Totals	58	146	(4)	(1)	458	(5)	11	670		10,786,598
CENT. CORRESP. SDY	4							4	42,450	169,800

Tanana = Total I.U. (13) X I.U. Value = 855,361

Attachment D

Attachment E

IU - SPED

Instructional Units = Special Education

	FINAL FY83	INIT FY83	REV FY83		CHANGE $ INIT 83 TO REV 83
ANCHORAGE	155	398	388		(424500)
BRISTOL BAY	1	2	2		-
CORDOVA	4	5	6		48817
CRAIG	2	2	1		(45846)
DILLINGHAM	4	4	4		-
FAIRBANKS	58	144	129		(713160)
GALENA	2	1	2		65797
HAINES	5	3	8		244085
HOONAH	3	3	3		-
HYDABURG	2	2	3		45846
JUNEAU	28	58	68		124500
KAKE	3	4	4		-
KENAI	36	90	94		183384
KETCHIKAN	19	27	27		-
KING COVE	2	1	2		63675
KLAWOCK	2	3	3		-
KODIAK	20	28	29		49242
MAT-SU	29	67	64		(132444)
NENANA	3	3	3		-
NOME	7	8	8		-
NORTH SLOPE	11	12	15		197391
PELICAN	2	1	1		-
PETERSBURG	6	9	8		(44148)
SANDPOINT	1	1	1		-
SITKA	13	22	24		88296
SKAGWAY	2	2	2		-
ST. MARY'S	3	2	4		131594
UNALASKA	2	3	3		-
VALDEZ	12	9	13		195268
WRANGELL	4	2	5		132444
YAKUTAT	2	3	3		-
TANANA			2		131594
S.U. - Total	471	919	929		641535
CENT.CORRESP.SDY.					

Attachment E

IU - 5 PED

		1	2	3	4	5	6
		FINAL FY82	INIT FY83	REV FY83		CHANGES INIT 83 TO REV 83	
1	ADAK	4	7	7		—	
2	ALASKA GATEWAY	6	7	8		50,940	
3	ALEUTIAN CHAIN	2	1	2		63,675	
4	ANNETTE ISLAND	5	5	5		—	
5	BERING STRAITS	6	12	13		45,797	
6	CHATHAM	2	4	4		—	
7	CHUGACH	10	10	11		50,940	
8	COPPER RIVER	5	3	6		152,820	
9	DELTA/GREELY	11	8	13		509,400	
10	IDITAROD	2	3	4		45,797	
11	KUSPUK	2	2	3		65,797	
12	LAKE & PENINSULA	3	2	3		65,797	
13	LOWER KUSKOKWIM	18	27	28		65,797	
14	LOWER YUKON	9	8	12		261,188	
15	NORTHWEST ARCTIC	11	10	22		718,956	
16	PRIBILOF	2	3	3		—	
17	RAILBELT	3	2	5		152,820	
18	SOUTHEAST ISLANDS	4	2	4		91,692	
19	SOUTHWEST REGION	5	3	6		191,391	
20	YUKON FLATS	3	1	4		191,391	
21	YUKON/KOYUKUK	5	9	7		(131,594)	
22							
23	REAA SUB-TOTAL	107	119	165		2706,212	
24							
25	CITY & BOROUGH	47	49	92		641,000	
26							
27	STATEWIDE TOTAL	578	1033	1094		(23,480,47)	
28							
29		Deduct VR units @ 65,487 add dod, BIA					
30		Skokiak Education Aide Academy					
31		Nicholoi Dorm under Hamilton, Wasilla = 2,562,200					
32							
33							
34							
35							
36							
37							
38							
39							
40							

Attachment E-1

MEMORANDUM State of Alaska

TO: Ron Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: December 20, 1982

FILE NO:

TELEPHONE NO: 465-2875

FROM: Marshall L. Lind
Commissioner
Department of Education

SUBJECT: Request for Restoration of Budget Request

The Department of Education requests consideration be given by the Governor to support full funding of the $406,185.1 FY 83 departmental budget request for Financial Support BRU by restoring the $14,431.8 reduction appearing in the final FY 83 budget. Distribution by component of the restored appropriation is as follows:

Component	Amount
Student ADM Support	$7,779.1
Special Education Adjustment	2,650.8
Vocational Ed. Adjustment	1,297.6
Correspondence Study - DOE	96.6
Correspondence Study - Local	299.8
Bilingual Program Adjustment	604.7
Supplemental Equalization Aid	1,703.2
TOTAL	$14,431.8

$14,431.8 x 50% = 7,215.9

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 1, 1983

MEMORANDUM

To: All House Members

From: Mae Tischer, Co-Chairperson, House HESS MT

RE: CS for HB 73, Supplemental Appropriations to D.O.E.

The new fiscal note of CS HB 73 reduces the amount of the original bill by approximately 11.4 million dollars. The attached documents are for your reference.

A brief history of the legislation shows that D.O.E. presented a fiscal note of 33.9 million with the original HB 73 requesting a supplemental in the amount of 33.7 million. Comparing D.O.E.'s fiscal note and breakdown with the 22.3 million requested in CSHB 73:

1. Last session, there was a deliberate shortfall from the requested full funding entitlement which totaled 14.4 million. The intent of this deliberate action taken by the Finance Committee and the Department was to send an urgent message to all school districts, asking them, as in all other state operated categories, to take necessary steps in cutting back costs due to a drastic reduction in State revenues.

2. As predicted, a 38.5% decrease in State revenues occured from Dec. 81 to Dec. 82. Comparing revenues for the first six months of the current fiscal year with the revenues of the first six months of the previous year, the impact on the State has been a decrease of 21.17% thus far.

3. Consequently, the underfunding of last year's request was necessary. CS HB 73 protects the integrity of the '82 legislation.

4. The major validation for the supplemental request is to cover unforeseen costs, such as those earmarked specifically for enrollment increases.

5. Once again, the HESS Committee did not intend to provide additional funds for school district reorganization, as in the 1.8 million dollar category for new junior high schools (attachment B) or to enhance program expansion as in the special education program increases of 2.5 million dollars (attachment E and E-1).

6. These two categories were excluded from the CS for HB 73 because the revised figures produced by the school districts as mandated in AS 14.17.170 by November 1982 showed expanded adjustments and increases.

7. In review, the formula funding levels on which the school district budgets are based can be increased or decreased by various categories. For example, in the case of the 1.8 million category, a secondary (junior high) student allotment is higher than an elementary student allotment, thereby enhancing a district's revenue picture.

8. In regards to the newly created junior high levels cited in attachment B, there is little justification for the revised figures as no new secondary education buildings have been constructed to justify the new junior high levels requested in the FY 83 supplemental.

9. There is great concern over the de'etion of special education in the appropriation and its impact on across the board cuts. There is no cause for concern. As testified to by a D.O.E. fiscal analyst, funding will continue at 96% of the full entitlement formula with th 22 million dollar supplemental, as has been the case since the beginning of FY 83, continuing the 4% decrease mandated by last year's Legislature and Finance Committee.

10. As with secondary students, special education students receive a greater allotment than general students. Revisions in this area can also increase a school district's revenue picture and entitlement. Attachment E-1 shows that revised figures impacted special education by 12 units.

11. An average cost of educating a child in the REAA areas (transferred from the BIA) is $65,000. Therefore, 2.5 million is included in the BIA transfer request of 7.9 million dollars.

In responding to the school districts of our respective areas, these concerns can be laid to rest with the help of this explanation. It is certainly not the intent of the committee to force school districts to lay-off teachers or deny our children their rights to public education, nor will this be necessary under present funding formulas. For our childrens' future, we must be fiscally responsible immediately, and not pass the burden of cumulative debt to future generations.

This CS is an attempt to do just that, fill an immediate need based on increased enrollments and separate category and reorganization increases on their own merits.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB-73
Title An Act...Supplemental appropriation to the Department of Education
Requested by House HESS Date 1/24/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary & Secondary
BRU, Program, Or Subprogram(s) Affected Foundation Support Districts
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.	33,746.7					
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	33,746.7					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See Attached

IV. DATE 1-24-83 PREPARED BY [signature]
AGENCY Department of Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

Analysis of FY-83 Foundation Supplemental

FY-83 Request (estimate)	406,089.5
FY-83 Appropriation	391,753.3
FY-83 Shortfall	14,431.8 ~~(14,336.2)~~

FY-83 Revised Reports Increases by Categories:

1. Enrollment Increases (estimate)	6,407.7
2. New Secondary Programs	1,808.4
3. BIA School Transfers	7,901.6
4. New Tanana City School District	855.4
5. Special Education Program Increases	2,558.5
Total Increases	19,531.6
Add Original Shortfall	14,431.8 ~~14,336.2~~
Total Shortfall	~~33,867.8*~~ 33,964.4

Out of seven Department supplemental requests transmitted to the Governor, the State Board of Education has prioritized the $19,531.6 request first, and the $14,336.2 portion of this supplemental sixth.

*For the record, a January 7, 1983, hearing officer's recommended decision on the way the Department calculates supplemental equalization aid under AS 14.17.023 has resulted in an additional shortfall of of $1,106.2. We have been advised by the Attorney General to accept the hearing officer's recommended decision.

426,000,000 - FY83 General funds

30,000,000 Come to the State from the Federal Govt.

YEAS NAYS

Sam Kito
William Eubank
Don Gray
Mary Schaeffer
Barney Gottstein
Sue Hull
Ernestine Griffin

MOTION CARRIED 7-0.

The audioconference was scheduled for Monday, January 10, 1983, at 6:30 p.m. Anchorage time, and the Board directed the department to advise the members of the Screening Committee regarding the time and place in their individual communities to enable members of the State Board to seek further information regarding the selection process.

Don Gray moved and Sue Hull seconded the motion to list the Commissioner Selection Process as an action item for the next regular meeting.

MOTION CARRIED UNANIMOUSLY.

83-89 REVIEW OF FOUNDATION PROGRAM SUPPLEMENTAL REQUEST

Commissioner Lind addressed the Board regarding the Supplemental Request for Foundation Support for FY-83 to cover the shortfall resulting from the decision of the Legislature to not func full entitlement for the school districts, and asked Steve Hole to explain 83-89.1, Debt Retirement Supplemental Request for pre December 31, 1981, Indebtedness; 83-89.2, post December 31, 1981, Indebtedness; and 83-89.3, Miscellaneous FY-83 Supplemental Appropriation Requests.

The Board recessed for lunch at 12:05 p.m. and returned at 1:35 p.m. with the exception of Mr. Kito, who was delayed and arrived at 1:45 p.m.

President Griffin called for continuance of the explanation and discussion of the foundation program, and the Board listed the items in order of priority.

Sue Hull moved and Don Gray seconded the motion to list the supplemental requests by priority as follows:

(1) Foundation support in the sum of $19,314.9;

(2) Prior year claims in the amount of $7.0;

(3) Health insurance costs in the amount of $253.7;

(4) School Activities Association for student travel in the amount of $300.0;

(5) Debt retirement in the amounts of $5,522.0 and $7,577.7

(6) 4% Foundation support in the sum of $14,431.8;

(7) Capital project fund balance transfer of $253.6.

Roll call vote was taken:

YEAS	NAYS
Sam Kito	
Mary Schaeffer	
Ernestine Griffin	
Barney Gottstein	
Don Gray	
William Eubank	
Sue Hull	

MOTION CARRIED 7-0.

83-88 COMMISSIONER SELECTION PROCESS

Diane LeResche explained the operation of the audioconference equipment to the Board in preparation for its conference with members of the Commissioner Selection Screening Committee on Monday, January 10, 1983.

83-90 REVIEW OF EDUCATION FINANCE STUDY

Laraine Glenn, Project Director for the Finance Study, reviewed the process for the study used thus far in the school finance study. This study was put on hold by request of Governor Sheffield pending the appointment of a new State Board of Education.

Dr. Van Slyke explained that policy issues will need to be addressed that will impact school finance, and suggested some options available to the Board. He stated that it is important for the Board to consider the composition of the policy group and the department would have some additional recommendations at a subsequent meeting.

Following discussion by the Board, it was suggested that the department develop internally an alternative plan that could replace the current study.

Don Gray moved and Sue Hull seconded the motion to place the Finance Study on the agenda as an action item at the next meeting.

MOTION CARRIED UNANIMOUSLY.

Adjusted Entitlements - Pro-Rata; Supplemental Appropriation; District Line Ov

DUE 1-24-83

	DISTRICT	AS OF 1.17.1700 Adjusted State Aid	PRO RATA Reduction @ 8.195857%	Estimated Shortfall
1	ANCHORAGE	118453794	108776264	9710530
2	BRISTOL BAY	2111752	1938676	173076
3	CORDOVA	2026174	2079523	185651
4	CRAIG	1059627	972781	86846
5	DILLINGHAM	2271459	3095139	276320
6	FAIRBANKS	32706127	32864459	2934173
7	GALENA	1255686	1340552	119634
8	HAINES	2282484	2330445	208051
9	HOONAH	1529771	1404392	125378
10	HYDABURG	876415	896555	79830
11	JUNEAU	14565645	14558831	1297754
12	KAKE	1386131	1396602	124629
13	KENAI	27140832	34916405	3122447
14	KETCHIKAN	8277750	7559317	674843
15	KING COVE	1166716	1071093	95623
16	KLAWOCK	1159402	1064400	95025
17	KODIAK	12255181	11102876	991305
18	MAT-SU	20023193	18408479	1642714
19	NENANA	1229210	1269742	113357
20	NOME	5226114	5127364	457749
21	NORTH SLOPE	9806753	9006250	803503
22	PELICAN	665161	610645	54516
23	PETERSBURG	2190082	2019495	170588
24	SANDPOINT	1054784	961909	85875
25	SITKA	6105572	5612677	502895
26	SKAGWAY	956048	898207	80241
27	ST. MARY'S	7225513	6580417	644096
28	UNALASKA	1552200	1402951	125249
29	VALDEZ	4247079	3898994	348085
30	WRANGELL	2369219	2161717	193172
31	YAKUTAT	1252985	1150459	102526
32	Tanana	1261139	1160532	103607
33				
34		2077396780	1907765021	169631759
35				
36	CENT.CORRESP.SCH.	1827100	1676141	150959
37				
38				
39				
40				

[illegible] PROGRAM

Adjusted Entitlements; Pro-Rata; Supplemental Appropriation Distribution

DoE 1-24-83

DISTRICT	As 14.17.170 Adjusted State Aid	Pro-Rata Reduction @ 8.19585%	Estimated Shortfall
ADAK	3349628	3075097	274531
ALASKA GATEWAY	3923614	3602040	321574
ALEUTIAN CHAIN	2070392	1900705	169687
ANNETTE ISLAND	1697993	1558828	139165
BERING STRAITS	10803390	9917958	885432
CHATHAM	2221851	2039751	182100
CHUGACH	975766	803989	71777
COPPER RIVER	4099142	3763182	335960
DELTA/GREELY	5321687	4885529	436158
IDITAROD	4672564	4289607	382957
KUSPUK	5018045	4606773	411272
LAKE & PENINSULA	6540304	6004269	536035
LOWER KUSKOKWIM	25271075	23199891	2071184
LOWER YUKON	11804512	10837030	967482
NORTHWEST ARCTIC	14384966	13205993	178973
PRIBILOF	1719738	1578791	140947
RAILBELT	3146681	2888793	257898
SOUTHEAST ISLANDS	3892020	3572035	318985
SOUTHWEST REGION	6540304	6004269	536035
YUKON FLATS	4672101	4289182	322919
YUKON/KOYUKUK	6785648	6229505	556143
SUB-TOTAL	128811421	117954267	10857214
CITY & BOROUGH	297139680	272786502	24353178
CENT. CORRESP.	2037600	1870601	166999
STATEWIDE TOTALS	427988701	392611310	35377391

MEMORANDUM State of Alaska

TO: Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-69.1

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Debt Retirement Supplemental Request for pre December 31, 1981 Indebtedness

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all claims for reimbursement under AS 43.18.100 (school construction debt retirement payments).

ISSUE

The department requested $44,103.3 for FY 83 debt retirement reimbursement claims under AS 43.18.100(a)(1)-(3), the two year lag reimbursement program. The legislature appropriated 36,203.3, assuming that that amount, in conjunction with the $7,000.0 appropriated in the Cigarette Tax category, would comprise a total sufficient to meet all claims. Actual claims for reimbursement for FY 83 total $43,781.0, and since the Cigarette Tax appropriation must be separate from the debt retirement appropriation, the debt retirement appropriation is $7,577.7 short.

BACKGROUND AND/OR PERTINENT INFORMATION

Because Cigarette Tax revenues are dedicated for school rehabilitation and renovation projects, there is a tendency to confuse them with school construction debt service payments reimbursement. However, debt retirement reimbursement is made on the basis of claims for payment, and Cigarette Tax revenues are disbursed on an entitlement basis, e.g., not every city and borough district has bonds eligible for debt retirement reimbursement, but all city and borough districts are entitled to receive Cigarette Tax payments. Therefore, the two appropriations must be distributed separately. Because of this distinction, only the actual appropriation for debt retirement could be used to pay the claims for reimbursement leaving a shortfall of 7,577.7 in that account.

COMMISSIONER'S RECOMMENDATION

It is recommended that the Board concur with this request.

MEMORANDUM State of Alaska

TO: Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89.2

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Debt Retirement Supplemental Request for post December 31, 1981 Indebtedness

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all claims for reimbursement under AS 43.18.100(a)(4), (current year reimbursement of school construction debt retirement payments).

ISSUE

Last year the legislature enacted legislation, (Chapter 92, SLA 1982), which provided for reimbursement to municipalities for school construction debt retirement payments in the same year in which they are made, rather than two years after they are made. The appropriation, based on the Alaska Municipal League estimate of FY 83 claims under this new program, was $13,466.4. Actual claims total $18,988.4, leaving the account $5,522.0 short.

COMMISSIONER'S RECOMMENDATION

It is recommended that the Board concur with this request.

MEMORANDUM State of Alaska

TO: Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89.3

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: Miscellaneous FY 83 Supplemental Appropriation Requests

ABSTRACT

The department is requesting various supplemental appropriations, in addition to those covered by separate attached memos, totaling $814.3.

ISSUE

1. Every year claims for payment are submitted after the close of the fiscal year, and after all fund balances have been lapsed to the general fund. To pay those claims, a supplemental appropriation must be secured because current year appropriations cannot be used to pay for prior year obligations. This year that total of prior year claims is $7.0.

2. Health insurance costs for employees in the department were raised effective July 1, 1982, after the FY 83 budget had been signed. The cost associated with the increase is $253.7, which was not appropriated for this year.

3. One of the school districts has a capital project fund balance of $253.6 left over from an appropriation for roof repairs. The district would like to use the balance to purchase a building it is presently renting, but legislative concurrence is required.

4. For the past two years, either by special or supplemental appropriations, the Alaska School Activities Association has received $300.0 for student travel to state championships at various locations throughout the state. That amount was not included in the FY 83 appropriation, and we are, therefore, requesting it in the form of a supplemental.

COMMISSIONER'S RECOMMENDATION

It is recommended that the Board concur with these requests.

STATE OF ALASKA
DEPARTMENT OF EDUCATION
OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH F
STATE OFFICE BUILDING
JUNEAU, ALASKA 99811
PHONE:

December 23, 1982

Ron Lehr, Director
Division of Budget & Management
Office of the Governor
Pouch AM
Juneau, Alaska 99811

Dear Mr. Lehr:

The Department of Education requests a $19,314.9 FY 83 general fund supplemental appropriation for Financial Support ERU. This supplemental will be used to fund Foundation Program requirements that exceed the FY 83 continuation level funding requested by the department.

FY 83 Foundation Program Requirements	$425,500.0
FY 83 Department Budget Request	406,185.1
This Supplemental Request	$ 19,314.9

Distribution by component of this supplemental appropriation is as follows:

Component	Amount
Student ADM Support	17,196.5
Special Education Adjustment	4,044.0
Vocational Ed. Adjustment	(2,609.4)
Correspondence Study - DOE	(143.7)
Correspondence Study - Local	830.3
Bilingual Program Adjustment	382.4
Supplemental Equalization Aid	(325.2)
TOTAL	19,314.9

Sincerely,

Marshall L. Lind
Commissioner

MEMORANDUM State of Alaska

TO: Ron Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: December 20, 1982

FILE NO:

TELEPHONE NO: 465-2875

FROM: Marshall L. Lind
Commissioner
Department of Education

SUBJECT: Request for Restoration of Budget Request

The Department of Education requests consideration be given by the Governor to support full funding of the $406,185.1 FY 83 departmental budget request for Financial Support BRU by restoring the $14,431.8 reduction appearing in the final FY 83 budget. Distribution by component of the restored appropriation is as follows:

Component	Amount
Student ADM Support	$7,779.1
Special Education Adjustment	2,650.8
Vocational Ed. Adjustment	1,297.6
Correspondence Study - DOE	96.6
Correspondence Study - Local	299.8
Bilingual Program Adjustment	604.7
Supplemental Equalization Aid	1,703.2
TOTAL	$14,431.8

clarify differences

26.130 = total for Instruct. Unit / Feb. 82 to 1st Q Revised actual numbers

Comparison of projected vs actual ADM & costs

		ADM	$	
Anchorage	diff.	1493	= $1.443.644	unanticipated Inc.
Fbks.	diff.	109	= 413,328	
Juneau	diff.	229	= 849,361	
Ketch	"	92	= 321,632	
Mat-Su	"	603	= 2.173,212	
Kodiak	"	25	= 140,250	
Kenai	"	169	= 700,336	1949
		2720	6,041,763	

* BIA out of REAA's = little impact in $ needs

74183 $
12741 =
1,442 =

12,078 = Basic Fact (–) BIA
11,947 = proj.
131 =

Svcr
17,119 1st Elem. x formula
17,228 2nd x "

REVISED

DEPARTMENT OF EDUCATION
PRORATA PROJECTION SUMMARY

ISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT 0.964906416
CHORAGE	34,797	2,627	42,450	111,516,150	6,922,194	0	118,438,344	114,281,9
DOVA	438	46	48,817	2,245,582	19,592	0	2,265,174	2,185,4
IG	153	19	45,846	871,074	188,553	0	1,059,627	1,022,4
RBANKS (N.STAR)	9,441	753	47,544	35,800,632	0	0	35,800,632	34,543,3
NES	389	52	48,817	2,538,484	0	0	2,538,484	2,449,3
NAN	239	27	47,544	1,283,688	246,083	0	1,529,771	1,476,0
ABURG	93	17	45,846	779,382	97,033	0	876,415	845,6
EAU	4,258	372	42,450	15,791,400	67,245	0	15,858,645	15,302,1
E	208	29	45,846	1,329,534	191,097	0	1,520,631	1,467,2
CHIKAN GATEWAY	2,368	195	42,450	8,277,750	0	0	8,277,750	7,987,3
G COVE	121	16	63,675	1,018,800	147,916	0	1,166,716	1,125,7
WOCK	152	23	45,846	1,054,458	104,967	0	1,159,425	1,118,7
TAK	2,143	216	49,242	10,636,272	1,458,909	0	12,095,181	11,670,7
ANA	128	23	50,940	1,171,620	211,484	0	1,383,104	1,334,5
E	758	73	65,797	4,803,181	781,933	0	5,585,114	5,389,1
ANUSKA-SUSITNA	5,562	454	44,148	20,043,192	0	0	20,043,192	19,339,8
ICAN	52	13	47,544	618,072	47,089	0	665,161	641,8
ERSBURG	574	50	44,148	2,207,400	182,683	0	2,390,083	2,306,2
D POINT	123	14	63,675	891,450	156,334	0	1,047,784	1,011,0
KA	1,608	139	44,148	6,136,572	0	0	6,136,572	5,921,2
GWAY	177	18	45,846	825,228	153,820	0	979,048	944,8
LASKA	181	24	63,675	1,528,200	0	0	1,528,200	1,474,5
EZ	863	87	48,817	4,247,079	0	0	4,247,079	4,098,0
NGELL	485	48	44,148	2,119,104	237,835	0	2,356,939	2,274,2
UTAT	160	22	50,940	1,120,680	154,305	0	1,274,985	1,230,2
ENA	142	19	65,797	1,250,143	209,543	0	1,459,686	1,408,4
TH SLOPE	1,022	147	65,797	9,672,159	0	0	9,672,159	9,332,7
STOL BAY	211	28	65,797	1,842,316	269,436	0	2,111,752	2,037,6
LINGHAM	378	43	65,797	2,829,271	542,188	0	3,371,459	3,253,1
AI	6,756	591	45,846	27,094,984	0	0	27,094,986	26,144,1
ANA	92	17	65,797	1,118,549	145,590	0	1,264,139	1,219,7
MARY'S	112	24	65,797	1,579,128	142,425	0	1,721,553	1,661,1
THWEST ARCTIC	1,500	208	65,797	13,685,776	2,338,940	1,639,750	14,384,966	13,880,1
ING STRAIT	918	161	65,797	10,593,317	922,599	710,916	10,805,000	10,425,8
ER YUKON	1,392	186	65,797	12,238,242	1,883,179	1,790,533	12,330,808	11,896,1
ER KUSKOKWIM	2,416	372	65,797	24,476,484	2,937,126	2,142,535	25,271,075	24,384,2
PUK	324	75	65,797	4,934,775	522,226	438,956	5,018,045	4,841,9
THWEST	532	99	65,797	6,513,903	765,932	739,531	6,540,304	6,310,7
E & PENINSULA	363	80	65,797	5,263,760	514,314	499,163	5,278,911	5,093,6
UTIAN	129	32	63,675	2,037,600	174,586	141,794	2,070,392	1,997,7
BILOF	168	27	63,675	1,719,225	263,410	262,897	1,719,738	1,659,0
K	594	54	59,430	3,209,220	849,039	708,631	3,349,628	3,232,0
TAROD	327	69	65,797	4,539,993	495,324	362,753	4,672,564	4,508,5
N KOYUKUK	556	101	65,797	6,645,497	897,279	757,128	6,785,648	6,547,5
IN FLATS	316	69	65,797	4,539,993	496,906	364,798	4,672,101	4,508,1
BELT	327	55	50,940	2,801,700	410,430	65,449	3,146,681	3,036,2
IA/GREELY	949	92	50,940	4,686,480	1,086,720	451,513	5,321,687	5,134,9
SKA GATEWAY	473	71	50,940	3,616,740	585,628	278,754	3,923,614	3,785,9
ER RIVER	582	71	50,940	3,616,740	679,966	197,564	4,099,142	3,955,2
THAM	272	48	45,846	2,200,608	228,248	207,005	2,221,851	2,143,8

REVISED

PRORATA PROJECTION SUMMARY

ISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT A -0.964906410C
ITHEAST	434	84	45,846	3,651,064	463,112	422,156	3,892,020	3,755,4
'E TIE	336	43	44,148	1,898,364	372,695	573,066	1,697,993	1,638,4
JGACH	75	16	50,940	815,040	91,887	31,161	875,766	845,0
ITRAL CORRESPOND	790	48	42,450	2,037,600	0	0	2,037,600	1,966,0
IY/BOR. TOTAL:	74,184	6,226		284,241,536	12,678,254	0	296,919,790	286,499,6
E.A.A. TOTAL:	12,983	2,013		123,884,521	16,979,546	12,786,053	128,078,014	123,583,2
ITRAL CORRES.:	790	48		2,037,600	0	0	2,037,600	1,966,0
GRAND TOTALS:	87,957	8,287		410,163,657	29,657,800	12,786,053	427,035,404	412,049,1

MEMORANDUM State of Alaska

File HESS

TO: Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Foundation Support

3892 - Steve Lewis

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all school district foundation entitlements.

ISSUE

The legislature appropriated $391,753.3 for FY 83 foundation support; recent final review of district entitlements indicate the total amount needed to fully fund the foundation program will be approximately $425,500.0, leaving a projected shortfall of $33,746.7. Much of the shortfall is a result of the legislature's decision to make the rescission through the budget process rather than through substantive legislation reducing the instructional unit value. In other words, if the legislature had reduced the Instructional Unit value by 3.6%, then the entitlements would be lower. As it is, however, the entitlements are in excess of the money appropriated to pay them.

BACKGROUND AND/OR PERTINENT INFORMATION

The last legislature appropriated funds for foundation support in an amount less than our request. The intent behind the reduction was 1) to appropriate less than the law required, and 2) for the department to request a supplemental appropriation to cover the BIA school transfer impact and new program and new school costs, so that districts would not be required to absorb those demands as well. When the 33 million dollar difference between the appropriation and entitlements is analyzed, it can be explained as follows:

1.	Deliberate underappropriation: Our request minus appropriation	=	14,431.8
2.	BIA Transfer Schools (estimated)	=	7,300.0
3.	Enrollment Increases (estimated)	=	6,700.0
4.	New programs, organizational changes, corrections to the initial report upon which our FY 83 request was based.	=	5,314.9
	TOTAL	=	33,746.7

We have notified the Governor's office of the scope of the shortfall, and requested him to introduce a supplemental appropriation for $19,314.9, and further, to consider a supplemental appropriation for the $14,431.8 the legislature chose not to appropriate.

PRELIMINARY

CSHB 73 (Finance)

Enrollment	6407.7
BIA Schools	7901.6 (FBIF)
Tanana City School District	855.4
Separate Count - Junior High	1808.4
Special Education	2558.5 out per G
Adjustment for 97.25% funding	6010.7
	1016.2 in G
	[illegible] in G
	25,542.3

3106.2
1954.
22,6 G

Letter of Intent regarding 7901.6 for BIA Schools shall be allocated from the Federal Budget Impact Fund

General Fund: 17,640.7
FBIF: 7,901.6

95% holdharmless of FY83 funding

School Foundation Formula Fund [illegible] levels

~~[illegible] method~~ is suspend until Feb. 15, 1984.

If a new system of funding is not enacted by Feb 15, 1984 then the 95% funding will continue until Feb 15, 1985. By Feb 15 of 1985 the legislature must enact a new system of funding for school districts in AK.

PROPOSED LANGUAGE FOR A LETTER OF INTENT FOR CH HB 73 (FINANCE)

IT IS THE INTENT OF THE HOUSE FINANCE COMMITTEE THAT IN ADDITION TO THE $ _____ APPROPRIATED IN CS HB 73 (FINANCE) IN GENERAL FUNDS FOR PAYMENTS TO SCHOOL DISTRICTS UNDER THE PUBLIC SCHOOL FOUNDATION PROGRAM (AS 14.17), THAT $ 7,901,600 BE ALLOCATED FROM THE FEDERAL BUDGET IMPACT FUND ESTABLISHED IN CHAPTER 125, SLA 1982, TO COVER THE COST OF TRANSFER OF ALASKAN BIA DAY SCHOOLS FROM THE FEDERAL GOVERNMENT TO THE STATE GOVERNMENT. BOTH AMOUNTS SHALL BE FOR PAYMENTS TO SCHOOL DISTRICTS UNDER THE PUBLIC SCHOOL FOUNDATION PROGRAM (AS 14.17).

It is the intent of the House Finance Committee that in addition to the $17,640,700 appropriated in CSHB 73 (Finance) in general funds for payments to school districts under the public school fundation program (AS 14.17), that $7,901,600 be allocated from the Federal Budget Impact Fund established in Chapter 127, SLA 1982, to cover the cost of transfer of Alaskan B.I.A. day schools from the federal government to the state government. Both amounts shall be for payments to school districts under the public school foundation program (AS 14.17).

Respectfully submitted,

Albert P. Adams, Chairman
House Finance Committee

Anchorage ADM

FY82 final - 33,307

FY83 Initial - 34,372

FY83 Revised Init - 34,372

FY83 Revised Report - 34,797

IM. Instructional Units

FY82 final - 2,326

FY83 Initial - 2,605

FY83 Rev Init - 2,605

FY83 Rev Rpt. - 2,627

22 additional Instr. Units

Attachment A & [redacted]

detailed ~~figures~~ count ~~showing~~ comparing all [redacted] school districts and REAA's Enrollment ~~and~~ vs. ave. daily membership ~~figures~~ figures.

1) note - attachment A-1 @ Bottom of page.

enrollment	6,407·700+
BIA	7,901·600+
Tanana	-855·400+
Shortfall	7,215·900+
	22,380·600*+

1) A-1
Why decrease of S.E. Islands
what is LCS -

2) Gov - 19 mill
CSDB73 · 22 mill. } why 3 mill difference where's it going?

Kenai Peninsula Borough School District

Classified Association

AFT Local No. 3255C
P.O. Box 1221
Homer, AK 99603

January 2,1983

State Representative Milo Fritz
P.O. Box 158
Anchor Point, AK 99556

Dear Representative Fritz,

The members of our bargaining group are requesting your active support for the necessary Supplemental Appropriation of State Funding for Education. We believe we are addressing the FUTURE of our State!

The impact of the overwhelming enrollment increases, coupled with the turnover of 17 BIA schools to our local districts, has now created a heavy financial burden to our school district,as well as many other school districts in our State for this school year.

The status of the economic picture for the KPBSD, without the necessary appropriations, looks bleak!

Shortfall (already reduced from the original budget)	$ 1,072,796
Dollars normally acquired as the result of 82-83 ADM increase	$ 779,382
Subtotal	$ 1,852,178
Additional revenue lost if BIA school supplemental is not approved by the legislature	$ 1,183,747
Total Deficit	$ 3,035,925

Your timely implementation of these necessary funds early in the 1983 legislative session is imperative. The Kenai Peninsula Borough School District Classified Association genuinely feels it is our State legislature's moral obligation to establish this need as a high priority.

If you need any assistance for this pertinent financial endeavor, the members of our bargaining unit would be honored to assist. You can reach me at 235-8186(work) or 235-8846(home).

Most sincerely,

Gail M. Gibson

NOTES TO DECISIONS

Legislative decides what types of education are to be publicly supported. — In Alaska the power of deciding what types of education are to be publicly supported, either under the School Foundation Act or by tax exemption, is vested with the legislature. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

Sec. 14.17.020. State aid.

Repealed by § 1 ch 238 SLA 1970.

Editor's notes. — The repealed section derived from § 1.03. ch. 164, SLA 1962.

Sec. 14.17.021. Basic state aid. (a) The amount of basic state aid for which each district is eligible is calculated by multiplying the instructional unit allotment of the district as established under AS 14.17.051 by the number of allowable instructional units in the district as established under AS 14.17.041.

(b) If permitted under § 5(d)(2) of P.L. 81-874, as amended, (20 U.S.C. 240(d)) and the regulations adopted under it (45 C.F.R. 115.60 — 115.66), the amount of basic state aid to a district may be reduced by up to 80 percent of the entitlement of the district to federal financial assistance under P.L. 81-874, as amended, (20 U.S.C. 236 — 244), for the prior fiscal year. (§ 4 ch 238 SLA 1970; am §§ 1, 2 ch 81 SLA 1975; am §§ 1, 2 ch 173 SLA 1976; am §§ 2, 3 ch 90 SLA 1977; am §§ 3, 4 ch 26 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

NOTES TO DECISIONS

That the legislature has seen fit to delegate certain educational functions to local boards in order that Alaska schools might be adapted to meet the varying conditions of different localities does not diminish constitutionally mandated state control over education under Alaska Const., art. VII, § 1. Macauley v. Hildebrand, Sup. Ct. Op. No. 741 (File No. 1550), 491 P.2d 120 (1971).

Sec. 14.17.022. Funds for centralized correspondence study. Funds for providing centralized correspondence study programs for students not enrolled in an approved school district correspondence study program shall include an appropriation from the public school foundation account in an amount calculated by multiplying the base instructional unit by the total number of instructional units as determined by applying the number of correspondence students to AS 14.17.041(a). (§ 3 ch 190 SLA 1975)

Legislative history reports. - ...port on ch. 190, SLA 1975 (HCS ...t, see 1975 House Journal, p. 1...

Sec. 14.17.023. Supplen... basic state aid under AS ... supplemental equalization a... section.

(b) The amount of supple... calculated by mutiplying th... prior fiscal year under AS ... lated in (c) of this section. Th... of the average local tax cont... bership for school operating ... or in the fiscal year ending ...

(c) The amount per ADM ... lated as the amount equal t... pupil in average daily memb... and borough school districts...

(d) The amount of supple... determined in (b) of this s... instructional unit allotmen... SLA 1980)

Sec. 14.17.030. Requir...

Repealed by § 11 ch 95 S...

Editor's notes. — The repealed ... derived from § 1.07, ch. 164, SLA ... amended by § 1, ch. 70, SLA 1963

Sec. 14.17.031. Instruct... instructional units within ...

(1) the number of units ... units for secondary schools a... or (d);

(2) the number of units fo... 14.17.041(e) as approved by...

(3) the number of units f... 14.17.041(f) as approved by...

(4) if the district has five... an approved district corre... units for correspondence pu... correspondence pupils to A...

(5) the number of units f... 14.17.041(g) as approved b...

(b) A school district sh... allowable instructional uni... schools except as provided...

Legislative history reports. — For report on ch. 190, SLA 1975 (HCS CSSB [illegible]), see 1975 House Journal, p. 1277.

Sec. 14.17.023. Supplemental equalization aid. (a) In addition to basic state aid under AS 14.17.021, each district is entitled to supplemental equalization aid, as determined in (b), (c) and (d) of this section.

(b) The amount of supplemental equalization aid for a district is calculated by mutiplying the ADM of the district as reported for the prior fiscal year under AS 14.17.180 by the amount per ADM calculated in (c) of this section. This amount shall be reduced by the amount of the average local tax contributions per pupil in average daily membership for school operating costs in that district in the prior fiscal year or in the fiscal year ending June 30, 1979, whichever is higher.

(c) The amount per ADM of supplemental equalization aid is calculated as the amount equal to the average local tax contributions per pupil in average daily membership for school operating costs in the city and borough school districts in the prior fiscal year.

(d) The amount of supplemental equalization aid for each district determined in (b) of this section shall be adjusted by the district's instructional unit allotment established in AS 14.17.051. (§ 5 ch 26 SLA 1980)

Sec. 14.17.030. Required local effort.

Repealed by § 11 ch 95 SLA 1969.

Editor's notes. — The repealed section derived from § 1.07, ch. 164, SLA 1962, as amended by § 1, ch. 70, SLA 1963.

Sec. 14.17.031. Instructional units. (a) The total number of instructional units within each school district is the sum of

(1) the number of units for elementary schools and the number of units for secondary schools as determined from AS 14.17.041(a), (b), (c), or (d);

(2) the number of units for vocational education determined from AS 14.17.041(e) as approved by the department;

(3) the number of units from special education determined from AS 14.17.041(f) as approved by the department;

(4) if the district has five or more correspondence pupils enrolled in an approved district correspondence study program, the number of units for correspondence pupils determined by applying the number of correspondence pupils to AS 14.17.041(a); and

(5) the number of units for bilingual education determined from AS 14.17.041(g) as approved by the department.

(b) A school district shall compute separately the number of allowable instructional units for each of its elementary and secondary schools except as provided in (c) of this section.

Sec. 14.17.075. Supplemental allocation.

Repealed by § 1 ch 238 SLA 1970.

Editor's notes. — The repealed section derived from § 2, ch. 125, SLA 1968, and § 2, ch. 95, SLA 1969.

Article 2. Preparation of Public School Foundation Budget.

Section

80 Computation by district
81 Minimum expenditure for instruction
82 Fund balance changes in school operating fund
90 Estimated average daily membership
100 — 130. [Repealed]
140. Determination of full and true value by Department of Community and Regional Affairs
150. Duty of commissioner to examine and tabulate computations

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Collateral references. — 68 Am. Jur. 2d Schools, §§ 51-108.
78 C.J.S. Schools and School Districts, §§ 83, 90; 79 C.J.S. Schools and School Districts, §§ 325-331.

Sec. 14.17.080. Computation by district. By October 30 of the pre-fiscal year each district shall submit to the commissioner a preliminary report of computations for the following fiscal year of the district's basic need as defined in AS 14.17.021; the amount which it expects to match under the provisions of AS 14.17.071; and the amount for supplemental programs which has been approved for funding consideration by the commissioner. Each district shall make the computations in the manner prescribed by AS 14.17.080 — 14.17.150. The computations are the basis for requesting legislative appropriations and for making preliminary payments under the public school foundation program. (§ 2.01 ch 164 SLA 1962; am § 5 ch 238 SLA 1970)

Revisor's notes. — As a result of the amendments in Chapter 26, SLA 1980, "basic need" is no longer defined in AS 14.17.021. Rather, that section defines "basic state aid." AS 14.17.071 mentioned in this section was repealed by SLA 1980, ch. 26, § 21.

Sec. 14.17.081. Minimum expenditure for instruction. (a) Each district shall budget for and spend a minimum of 55 percent of its school operating expenditures in each fiscal year on the instructional component of the district budget.

(b) The commissioner shall reject a district budget which does not comply with (a) of this section and, unless a waiver has been granted by the board under (d) of this section, shall withhold payments of state aid from that district, beginning with the payment for the second full

month after rejection and continuing until the school board of the district revises the district budget to comply with (a) of this section.

(c) The commissioner shall review the annual audit of each district for compliance with the expenditure requirements of (a) of this section. If the commissioner determines that a district does not meet those requirements, the commissioner shall advise the district of the determination and calculate the percentage of deficiency in required expenditure and deduct that percentage from state aid paid to the district for the current fiscal year, beginning with the payment for the second full month after the determination, unless a waiver has been granted by the board under (d) of this section.

(d) A district which has been determined by the commissioner to be out of compliance with the requirements of this section may, within 20 days of the commissioner's determination, request a waiver by the board of the imposition by the commissioner of any reduction in state aid payments under (b) or (c) of this section. The request must be submitted to the Legislative Budget and Audit Committee and must be in writing and include an analysis of the reasons and causes for the district's inability to comply with the requirements of this section. The Legislative Budget and Audit Committee shall review the district's request and forward it, along with the committee's recommendations on it, to the board which shall either grant or deny the waiver.

(e) The commissioner shall submit an annual report on actions taken by the commissioner or the board under this section to the Legislative Budget and Audit Committee by April 15 of each year. (§ 15 ch 26 SLA 1980)

Revisor's notes. — Throughout the section, the word, "board" was substituted for "state board of education" by the revisor of statutes under the authority of AS 01.05.031 and to conform to AS 14.60.010.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Sec. 14.17.082. Fund balance changes in school operating fund. (a) Each district having at least 400 instructional units under AS 14.17.031(a) may accumulate a fund balance in the school operating fund of seven percent of its expenditures. Each district having less than 400 instructional units may accumulate a fund balance of 10 percent of its expenditures.

(b) The commissioner shall review the annual audit of each district to ascertain changes in the year-end operating fund balance of the districts, and notify districts and the board, through a written report, of any fund balance accumulation greater than that permitted under (a) of this section.

(c) The board shall review the reports submitted to it under (b) of this section and submit a report making recommendations with respect to the legislative treatment of the fund balances of those districts to the

Legislative Budget and Audit Comm
(§ 15 ch 26 SLA 1980)

Revisor's notes. — The word "board" r
was substituted for "state board of A
education" in subsections (b) and (c) by the

Sec. 14.17.090. Estimated avera
trict shall prepare an estimate of its
fiscal year. In making this estimat
average daily membership in precedi
decline in preceding years, and othe
to the district. The result of this estim
membership. (§ 2.02 ch 164 SLA 19

Secs. 14.17.100 — 14.17.120. Co
allotment, average daily member
center allotment.

Repealed by § 2 ch 238 SLA 197

Editor's notes. — The repealed sections derived from §§ 2.03 — 2.05, ch. 164, SLA 1962.

Sec. 14.17.130. Computation

Repealed by § 11 ch 95 SLA 196

Editor's notes. — The repealed section derived from § 2.06, ch. 164, SLA 1962.

Sec. 14.17.140. Determination
ment of Community and Regio
equalized percentage to be applied
and the matching ratio for required
Department of Community and Re
the assessor for each district, sha
taxable real and personal prope
granted under ch. 129, SLA 195
Incentive Act (AS 43.25.010 — 43.
no local assessor or current local
Department of Community and R
mination of full value from inform
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guided by AS 29.53.060. The dete
before October 1 and sent by cert
before that date to the president
Duplicate copies shall be sent to t

Education

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Article 3. Procedure for Payment of Public School Foundation Funds to Districts.

Section

160. Allocation of funds on preliminary computations
170. Payment under adjusted computations
180. Payment under final computation
190. Restrictions governing receipt and expenditure of money from public school foundation account

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Collateral references. — 79 C.J.S. Schools and School Districts, §§ 423-427.

Right of school district to maintain action based on misapportionment of school money. 105 ALR 1273.

Determination of school attendance, enrollment, or pupil population for purpose of apportionment of funds. 80 ALR2d 953.

Sec. 14.17.160. Allocation of funds on preliminary computations. The commissioner shall determine the state aid for each school district on the basis of the pre-fiscal year computations. Beginning July 15 of the fiscal year and on the 15th day of each month, for seven successive months, one-twelfth of each district's state aid shall be distributed. (§ 3.01 ch 164 SLA 1962; am § 3 ch 95 SLA 1969; am § 8 ch 238 SLA 1970)

Sec. 14.17.170. Payment under adjusted computations. Each district shall make a report at the end of the first nine weeks of school, which contains a new estimate of its average daily membership for the fiscal year and other information which will aid the commissioner in making a more accurate determination of each district's state aid. This new estimate and information of average daily membership shall be the basis for the computation and distribution of each district's state aid for the balance of the fiscal year. The commissioner shall, on the basis of this new estimate and information, make a recomputation of each district's state aid. Before December 2, the commissioner shall notify each district of changes made in its state aid. The commissioner shall also determine whether the money in the public school foundation account is sufficient to meet each district's state aid for the fiscal year, and, if the money is not sufficient, the commissioner shall immediately inform the governor of the amount of additional appropriation the commissioner estimates will be necessary to carry out the public school foundation program for the rest of the fiscal year. Beginning February 15 and on the 15th of each subsequent month, one-fifth of the

recomputed balance of each district's state aid shall be distributed. However, one-half of the June payment shall be withheld pending a final determination of the district's state aid. (§ 3.02 ch 164 SLA 1962; am § 1 ch 169 SLA 1968; am § 4 ch 95 SLA 1969; am § 9 ch 238 SLA 1970; am § 1 ch 135 SLA 1975)

Editor's notes. — In the fifth sentence, the words "the commissioner" were substituted for "he" by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58 SLA 1982.

Sec. 14.17.180. Payment under final computation. Before June 16 each district shall transmit to the commissioner a final computation of the district's state aid. The commissioner shall process each district's computation in the manner provided by AS 14.17.150(a). However, in no event may the entitlement of a school district to state aid under AS 14.17.021 be less than that computed under this section for the preceding year, except as otherwise provided in AS 14.17.031, or under AS 14.17.170, whichever is greater. Additional state aid shall be obligated by the commissioner before June 30. If the district received more state aid money than it was entitled to under this chapter, it shall immediately, after notice from the commissioner of the overpayment, remit the amount of overpayment to the commissioner to be returned to the public school foundation account. (§ 3.03 ch 164 SLA 1962; am § 5 ch 95 SLA 1969; am § 10 ch 238 SLA 1970; am § 2 ch 135 SLA 1975; am § 16 ch 26 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the third sentence.

Sec. 14.17.190. Restrictions governing receipt and expenditure of money from public school foundation account. (a) The public school foundation money distributed to a district during a year shall be received, held, and expended by the district subject to the provisions of law and regulations promulgated by the department.

(b) Each district shall maintain financial records of the receipt and disbursement of public school foundation money and money acquired from local effort. The records must be in the form required by the commissioner and are subject to audit by the commissioner or the board at any time. (§ 3.04 ch 164 SLA 1962; am § 5 ch 98 SLA 1966; am § 6 ch 95 SLA 1969)

Revisor's notes. — The reference in subsection (b) to "local effort" is apparently obsolete in light of the repeal of AS 14.17.030 and AS 14.17.071.

Article 4. General Pr

Sectio

Section
200. Regulations
205. State aid to districts operating approved school food service programs
210. State aid to newly established district schools

215. [illegible]
220. F
225. C
230 —
250. I

Collateral references. — What are educational bodies or schools within contemplation of tax exemption provision. 95 ALR 62.

Extent of area within tax exemption extended to property used for educational, religious, or charitable purposes. 134 ALR 1176.

Tax exemption of educational institutions as extending to athletic fields or property used for social or recreation purposes. 143 ALR 274.

Tax exemption of property of religious, educational, or charitable body as extending to property or income thereof used in publication or sale of literature. 154 ALR 895.

Validity of legislative delegation of taxing power to school districts in absence of express constitutional provision authorizing such delegation. 113 ALR 1416.

Rescission of vote authorizing school dis-

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Sec. 14.17.200. Regulations. The regulations to implement this chapter. 6 ch 98 SLA 1966)

Sec. 14.17.205. State aid to dis school food service programs. A sch provides free and reduced-price lunche the Federal Nutrition Act shall receive free or reduced-price meal equal to th by the school district's area differenti SLA 1977)

Sec. 14.17.210. State aid to newly (a) A regional educational attendance or borough district school is considere dance area school for purposes of finan of a complete fiscal year after the dat city or borough district school. This su government from spending money to

Gail this is good ammunition for the pending ff of the involves. Circulate cc's to HESS staff.

A
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ER
BILL SHEFFIELD, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

ary 26, 1983

I am enclosing a copy of a monthly report prepared by the Alaska Department of Revenue concerning tax collections and interest income.

The statement entitled "Cumulative Summary of Revenue Collected July 1, 1982, through December 31, 1982" discloses gross receipts, refunds, net receipts, estimated total year collections, and percent of estimate realized. It covers receipts of all taxes and licenses administered by the Department of Revenue and interest income accounted for on a cash basis. It does not cover all items of state revenue.

The estimated total year collections have been adjusted to coincide with FY 1983 revenue estimates appearing in the publication entitled "Revenue Sources FY 1982 - 1985 - January 1983".

The net collections of taxes and license fees, exclusive of interest income, collected by the Department of Revenue for December, 1982, was $174,892,278.03. This is a decrease of 38.45 percent as compared to $284,124,783.39 collected in December, 1981.

For the first six months of the current fiscal year, total collections of net taxes and license fees, exclusive of interest income, amounted to $951,597,051.53, compared to $1,207,183,497.34 collected during the first six months of the previous year, a decrease of 21.17 percent.

Sincerely,

Joseph K. Donohue

Joseph K. Donohue
Deputy Commissioner, Taxation

JKD:RDS:jas

Enclosure

CUMULATIVE SUMMARY OF REVENUE
COLLECTED 07/01/82 THRU 12/31/82
06/12 OR 50%

CODE NO	TYPE OF TAX	GROSS RECEIPTS	REFUNDS	NET RECEIPTS	ESTIMATE	NET RECEIPTS % OF ESTIMATE
001	OIL & GAS PROPERTY TAX	$ 3,812,290.02	$ 682,061.65	$ 3,130,228.37	$148,600,000.00	2.11
016	ALCOHOLIC BEVERAGE EXCISE TAX	5,958,431.38	0.00	5,958,431.38	12,000,000.00	49.65
017	CIGARETTE TAX (GF)	1,098,402.40	25.00	1,098,377.40	2,000,000.00	54.92
018	CIGARETTE TAX (SF)	1,830,670.62	0.00	1,830,670.62	3,500,000.00	52.30
020	ELECTRIC & TELEPHONE	0.00	0.00	0.00	1,300,000.00	0.00
021	HIGHWAY MOTOR FUEL TAX	21,191,048.94	7,498,244.19	13,692,804.75	21,000,000.00	65.20
022	AVIATION MOTOR FUEL TAX	5,499,755.44	0.00	5,499,755.44	5,100,000.00	107.84
023	MARINE MOTOR FUEL TAX	2,913,539.65	0.00	2,913,539.65	3,800,000.00	76.67
036	INDIVIDUAL INCOME TAX	711,121.14	146,768.81	564,352.33	0.00	0.00
037	FIDUCIARY INCOME TAX	1.00	(80.00)	81.00	0.00	0.00
038	CORPORATION INCOME TAX	127,044,241.52	15,244,649.31	111,799,592.21	235,000,000.00	47.57
046	BUSINESS LICENSE	1,810,820.47	276,534.00	1,534,286.47	5,800,000.00	26.45
052	ESTATE TAX	310,836.13	12,769.66	298,066.47	500,000.00	59.61
057	SCHOOL TAX	0.00	0.00	0.00	0.00	0.00
060	SALMON ENHANCEMENT TAX	2,348,369.49	6,235.16	2,342,134.33	2,400,000.00	97.59
061	MINES & MINING TAX	87,394.87	0.00	87,394.87	200,000.00	43.70
062	SALMON CANNERY-SHORE BASED TAX	3,537.22	5,332.29	(1,795.07)	5,000,000.00	0.00
063	SHORE-BASED FISHERIES TAX	1,883,536.84	47,735.71	1,835,801.13	9,000,000.00	20.40
064	FLOATING FISHERIES TAX	283,939.31	13,719.13	270,220.18	5,500,000.00	4.91
065	OIL PRODUCTION TAX	789,489,941.89	15,090.00	789,474,851.89	1,520,200,000.00	51.93
066	OIL & GAS CONSERVATION	174,843.92	0.00	174,843.92	800,000.00	21.86
067	GAS FLARING PENALTY	0.00	0.00	0.00	0.00	0.00
068	GAS PRODUCTION TAX	4,027,659.55	0.00	4,027,659.55	8,600,000.00	46.83
096	PREPAID TAX	0.00	24,135.00	(24,135.00)	0.00	0.00
106	LIQUOR LICENSE APPLICATION	11,150.00	0.00	11,150.00	86,000.00	12.97
107	PUB LIQUOR LICENSE	0.00	0.00	0.00	0.00	0.00
108	BREWERY LICENSE	0.00	0.00	0.00	0.00	0.00
109	DISTILLERY LICENSE	0.00	0.00	0.00	0.00	0.00
110	BEVERAGE DISPENSARY LICENSE	38,750.00	1,950.00	36,800.00	777,500.00	4.73
111	CLUB LICENSE	3,000.00	0.00	3,000.00	40,000.00	7.50
112	COMMON CARRIER LICENSE	2,200.00	0.00	2,200.00	28,000.00	7.86
113	RESTAURANT LICENSE	10,200.00	450.00	9,750.00	70,000.00	13.93
114	ROAD HOUSE LICENSE	0.00	0.00	0.00	0.00	0.00
115	RETAIL LICENSE	27,000.00	4,350.00	22,650.00	336,000.00	6.74
116	RETAIL STOCK SALE LICENSE	0.00	0.00	0.00	0.00	0.00
117	WHOLESALE GENERAL LICENSE	0.00	1,000.00	(1,000.00)	160,000.00	0.00
118	WHOLESALE MALT BEV. LICENSE	0.00	0.00	0.00	24,000.00	0.00
119	MISC. LIQUOR LICENSE	17,235.75	0.00	17,235.75	40,000.00	43.09
145	COIN OPER. AMUSE. & GAM. DVC. TAX	10,845.38	20.00	10,825.38	120,000.00	9.02
146	GAMES OF CHANCE & SKILL FEES	5,894.64	0.00	5,894.64	50,000.00	11.79
402	MISCELLANEOUS REVENUE	725.00	40.00	685.00	8,000.00	8.56
692	REDISTRIBUTED REVENUE	107.71	0.00	107.71	0.00	0.00
	TOTAL	$970,607,490.28	$23,981,029.91	$946,626,460.37	$1,992,039,500.00	47.52
135	DUPLICATE COMM. FISH	$ 578.35	$ 0.00	$ 578.35	$ 0.00	0.00
343-126	VESSELS & GEAR	$ 0.00	$ 0.00	$ 0.00	$ 0.00	0.00
137-844	COMM. FISH LIC.-RES.	233,637.36	50.00	233,587.36	200,700.00	116.39
138-845	COMM. FISH LIC.-N-RES.	75,294.12	30.00	75,264.12	409,900.00	18.36
140	COMMER. FISH. EXT. FEE	45.00	0.00	45.00	3,400.00	1.32
120-230	SPORT FISH., HUNT & TRAP LIC.	4,663,931.08	2,714.75	4,661,116.33	6,833,300.00	68.21
	SUB-TOTAL	$ 4,973,385.91	$ 2,794.75	$ 4,970,591.16	$ 7,447,300.00	66.74
	TOTAL TAXES	$ 975,580,876.19	$23,983,824.66	$ 951,597,051.53	$1,999,486,800.00	47.59
	INTEREST					
575	INTEREST ON LOANS	$ 1,551,896.62	$ 0.00	$ 1,551,896.62	$ 3,000,000.00	51.73
576	INTEREST ON INVESTMENTS	119,434,403.22	0.00	119,434,403.22	197,000,300.00	60.63
	TOTAL INTEREST	$ 120,986,299.84	$ 0.00	$ 120,986,299.84	$ 200,000,200.00	60.49
	TOTAL REVENUE	$1,096,567,176.03	$23,983,824.66	$1,072,583,351.37	$2,199,486,800.00	48.77

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REVISED

STATE OF ALASKA
DEPARTMENT OF EDUCATION
PRORATA PROJECTION SUMMARY

AREAS: SUPP. EQ. AID AND ADDITIONAL IU FOR Arch

14-Jan-83
PAGE 1

DISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT AT 0.918041 3170000
ANCHORAGE	34,800	2,628	42,450	111,558,600	5,922,194	0	113,480,794	108,770,264
CORDOVA	438	46	48,817	2,245,582	19,592	0	2,265,174	2,079,533
CRAIG	153	19	45,846	871,074	188,553	0	1,059,627	972,781
FAIRBANKS (N.STAR)	9,441	753	47,544	35,800,632	0	0	35,800,632	32,866,459
HAINES	389	52	48,817	2,538,484	0	0	2,538,484	2,330,433
HOONAH	239	27	47,544	1,283,680	246,083	0	1,529,771	1,404,393
HYDABURG	93	17	45,846	779,382	92,033	0	876,415	804,585
JUNEAU	4,258	372	42,450	15,791,400	67,245	0	15,858,645	14,558,091
KAKE	200	29	45,846	1,329,534	191,097	0	1,520,631	1,396,002
KETCHIKAN GATEWAY	2,368	195	42,450	8,277,750	0	0	8,277,750	7,599,317
KING COVE	121	16	43,675	1,018,800	147,916	0	1,166,716	1,071,093
KLAWOCK	152	23	45,846	1,054,458	104,967	0	1,159,425	1,064,400
KODIAK	2,143	216	49,242	10,636,272	1,458,909	0	12,095,181	11,103,376
NENANA	128	23	50,940	1,171,620	211,484	0	1,383,104	1,269,747
NOME	758	73	45,797	4,803,181	781,933	0	5,585,114	5,127,365
MATANUSKA-SUSITNA	5,562	454	44,148	20,043,192	0	0	20,043,192	18,400,470
PELICAN	52	13	47,544	610,072	47,089	0	665,161	610,645
PETERSBURG	574	50	44,148	2,207,400	182,683	0	2,390,083	2,194,195
SAND POINT	123	14	43,675	871,450	155,334	0	1,047,784	961,909
SITKA	1,608	139	44,148	6,138,572	0	0	6,138,572	5,633,607
SKAGWAY	177	18	45,846	628,228	153,820	0	779,048	898,807
UNALASKA	181	24	63,675	1,528,200	0	0	1,528,200	1,402,951
VALDEZ	863	87	48,817	4,247,079	0	0	4,247,079	3,898,994
WRANGELL	405	48	44,148	2,119,104	237,835	0	2,356,939	2,163,767
YAKUTAT	160	22	50,940	1,120,680	154,305	0	1,274,985	1,170,489
GALENA	142	19	65,797	1,250,142	209,343	0	1,459,486	1,340,052
NORTH SLOPE	1,022	149	65,797	9,003,753	0	0	9,003,753	9,000,250
BRISTOL BAY	211	28	65,797	1,842,316	269,436	0	2,111,752	1,938,676
DILLINGHAM	378	43	65,797	2,829,271	542,188	0	3,371,459	3,095,139
KENAI	6,756	592	45,846	27,140,032	0	0	27,140,032	24,916,405
TANANA	92	17	65,797	1,118,549	145,590	0	1,264,139	1,160,532
ST. MARY'S	112	24	65,797	1,579,128	142,425	0	1,721,553	1,580,457
NORTHWEST ARCTIC	1,500	208	65,797	13,685,776	2,330,940	1,439,750	14,384,966	13,205,993
BERING STRAIT	918	161	65,797	10,591,707	922,695	710,916	10,803,390	9,917,958
LOWER YUKON	1,392	178	65,797	11,711,866	1,003,179	1,720,533	11,004,512	10,037,030
LOWER KUSKOKWIM	2,416	372	65,797	24,474,404	2,937,126	2,142,535	25,271,078	23,199,091
KUSPUK	324	75	63,797	4,934,775	522,226	438,956	5,018,045	4,606,773
SOUTHWEST	532	99	65,797	6,513,903	765,532	739,531	6,540,304	6,004,369
LAKE & PENINSULA	363	80	65,797	5,263,760	514,314	499,163	5,278,911	4,844,358
ALEUTIAN	129	32	63,675	2,037,600	174,506	141,794	2,070,392	1,900,705
PRIBILOF	168	27	63,675	1,719,225	243,410	242,097	1,719,738	1,578,791
ADAK	594	54	59,430	3,209,220	849,039	708,631	3,349,628	3,075,097
IDITAROD	327	69	65,797	4,532,993	495,324	362,753	4,622,564	4,289,607
YUKON KOYUKUK	556	101	65,797	6,645,497	897,279	757,120	6,785,646	6,229,505
YUKON FLATS	316	69	65,797	4,539,993	994,906	364,798	5,172,101	4,289,182
RAILBELT	327	55	50,940	2,001,700	410,430	65,449	3,146,681	2,888,203
DELTA/GREELY	949	92	50,940	4,606,480	1,085,720	451,513	5,331,687	4,895,539
ALASKA GATEWAY	473	71	50,940	3,616,740	585,628	278,754	3,923,614	3,602,040
COPPER RIVER	502	71	50,940	3,616,740	672,966	122,564	4,099,142	3,763,102
CHATHAM	272	48	45,846	2,200,608	220,248	207,005	2,221,851	2,039,751

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.918041 / .5
PROJ.CONTROL #
005.00056

REVISED

STATE OF ALASKA
DEPARTMENT OF EDUCATION
PRORATA PROJECTION SUMMARY

14-Jan-83
PAGE 2

DISTRICT NAME	PROJ. ADM	INSTR. UNITS	INSTR. UNIT ALLOTMENT	BASIC NEED	SUPPLEMENTAL EQUALIZATION AID	PL874	PRELIMINARY COMPUTATION OF ENTITLEMENT	PRORATED ENTITLEMENT AT 0.918041 3170000
SOUTHEAST	434	84	45,846	3,851,064	443,112	422,156	3,892,020	3,573,035
ANNETTE	336	43	44,148	1,898,364	372,695	573,066	1,692,993	1,553,620
CHUGACH	75	16	30,940	815,040	91,082	31,161	825,766	803,909
CENTRAL CORRESPOND	790	48	42,450	2,037,600	0	0	2,037,600	1,870,601
CITY/BOR. TOTAL:	74,107	5,230		284,441,424	12,678,254	0	297,139,680	272,784,502
R.E.A.A. TOTAL:	12,983	2,005		133,356,535	16,979,546	12,786,054	137,550,028	117,026,154
CENTRAL CORRESP.:	790	48		2,037,600	0	0	2,037,600	1,870,601

STATE OF ALASKA
DEPARTMENT OF EDUCATION
PUBLIC SCHOOL FOUNDATION PROGRAM COMPUTATIONS
FINAL REPORTS RECAPITULATION
1981-82 FISCAL YEAR

8/25/82

School District	1981-82 Revised 1st Qtr. ADM	1981-82 Final ADM	Instr. Units	Instr. Unit Allotment	Basic Need	Suppl. Equal Aid 924.63	Final Computation Entitlement	Per ADM
Anchorage	33,279	33,307	2,326	38,590	89,760,340	3,578,601	93,338,941	2,802
Bristol Bay	203	208	27	59,815	1,615,005	245,252	1,860,257	8,943
Cordova	415	413	44	44,379	1,952,676	114,606	2,067,282	5,005
Craig	188	171	*24,21	41,677	1,000,248	174,552	1,174,800	6,870
Dillingham	364	372	41	59,815	2,452,415	493,805	2,946,220	7,920
Fairbanks	8,824	8,851	650	43,221	28,093,650	-0-	28,093,650	3,174
Galena	132	135	21	59,815	1,256,115	200,759	1,456,874	10,792
Haines	375	371	*45/44	44,379	1,997,055	-0-	1,997,055	5,383
Hoonah	228	225	25	43,221	1,080,525	215,402	1,295,927	5,760
Hydaburg	89	88	*15/14	41,677	625,155	83,882	709,037	8,057
Juneau	4,080	3,979	*319/310	38,590	12,310,210	-0-	12,310,210	3,094
Kake	194	188	24	41,677	1,000,248	165,545	1,165,793	6,201
Kenai	6,262	6,289	513	41,677	21,380,301	-0-	21,380,301	3,400
Ketchikan	2,354	2,331	*189/187	38,590	7,293,510	151,146	7,444,656	3,194
King Cove	136	132	*17/16	57,885	984,045	109,358	1,093,403	8,283
Klawock	95	97	12	41,677	500,124	100,743	600,867	6,194
Kodiak	2,057	2,026	*199/197	44,764	8,908,036	936,460	9,844,496	4,859
Mat-Su	4,808	4,835	*377/376	40,134	15,130,518	208,538	15,339,056	3,172
Nenana	214	202	*27/26	46,308	1,250,316	183,691	1,434,007	7,099
Nome	729	690	*69/68	59,815	4,127,235	806,993	4,934,228	7,151
North Slope	1,061	1,041	144	59,815	8,613,360	-0-	8,613,360	8,274
Pelican	47	51	8	43,221	345,768	32,356	378,124	7,414
Petersburg	561	556	*49/48	40,134	1,966,566	132,747	2,099,313	3,776
Sand Point	141	106	*15/13	57,885	868,275	145,177	1,013,452	9,561
Sitka	1,683	1,634	*137/134	40,134	5,498,358	32,154	5,530,512	3,385
Skagway	189	190	20	41,677	833,540	124,879	958,419	5,044
St. Mary's	96	90	*23/22	59,815	1,375,745	130,419	1,506,164	16,735
Unalaska	191	177	*25/22	57,885	1,447,125	-0-	1,447,125	8,176
Valdez	848	830	*87/86	44,379	3,860,973	-0-	3,860,973	4,652
Wrangell	490	485	*47/46	40,134	1,886,298	189,241	2,075,539	4,279
Yakutat	154	152	20	46,308	926,160	127,856	1,054,016	6,934
TOTALS	70,487	70,222	5,539		230,339,895	8,684,162	239,024,057	3,404
Centralized Corres.	721	714	44	38,590	1,697,960	-0-	1,697,960	2,378

*Sec. 14.17.180

FINAL ADM 1981-1982

8/25/82

School District	Elem.	Sec.	Comb. Dist.	Voc Ed Non Add	Spec Ed Non Add	Bil/Bic Non Add	Corres.	Total ADM	Elem.	Sec.	Comb. Dist.	Voc Ed	Spec Ed	Bil Bic Ed	Corres.	Total Instr. Units
Anchorage	17,146	16,132	29	1,605	4,659	525	-0-	33,307	1,041	979	5	92	105	24	-0-	2,326
Bristol Bay	106	102	-0-	16	22	-0-	-0-	208	10	14	-0-	2	1	-0-	-0-	27
Cordova	218	195	-0-	69	69	-0-	-0-	413	14	21	-0-	5	4	-0-	-0-	44
Craig	77	89	-0-	14	19	-0-	5	171	6	*11	-0-	2	2	-0-	3	24
Dillingham	195	177	-0-	31	59	20	-0-	372	13	18	-0-	3	4	3	-0-	41
Fairbanks	4,700	4,924	-0-	493	1,484	77	127	8,851	288	257	-0-	33	58	5	9	650
Galena	70	65	-0-	11	32	1	-0-	135	6	10	-0-	2	2	1	-0-	21
Haines	182	189	-0-	30	104	-0-	-0-	371	16	*21	-0-	3	5	-0-	-0-	45
Hoonah	112	113	-0-	19	44	-0-	-0-	225	8	12	-0-	2	3	-0-	-0-	25
Hydaburg	45	43	-0-	10	33	9	-0-	88	4	6	-0-	*2	2	1	-0-	15
Juneau	2,110	1,852	-0-	273	667	37	17	3,979	*133	*133	-0-	*18	28	3	*4	319
Kake	92	96	-0-	28	46	-0-	-0-	188	7	11	-0-	3	3	-0-	-0-	24
Kenai	3,473	2,709	28	327	1,063	208	79	6,289	230	201	5	25	36	10	6	513
Ketchikan	1,104	1,129	11	176	374	4	87	2,331	*68	78	*4	12	19	1	7	189
King Cove	88	44	-0-	9	32	-0-	-0-	132	7	6	-0-	*2	2	-0-	-0-	17
Klawock	68	29	-0-	-0-	21	-0-	-0-	97	6	4	-0-	-0-	2	-0-	-0-	12
Kodiak	1,146	826	16	139	307	42	38	2,026	80	*77	4	11	20	3	4	199
Mat-Su	2,558	2,084	16	311	693	4	177	4,835	164	*147	4	20	29	1	12	377
Nenana	116	86	-0-	15	47	3	-0-	202	*9	12	-0-	2	3	1	-0-	27
Nome	406	284	-0-	56	122	80	-0-	690	25	*28	-0-	4	7	5	-0-	69
North Slope	519	485	30	149	208	290	7	1,041	43	53	5	15	11	14	3	144
Pelican	37	14	-0-	-0-	-0-	-0-	-0-	51	4	4	-0-	-0-	-0-	-0-	-0-	8
Petersburg	309	167	-0-	39	29	-0-	-0-	556	24	15	-0-	*4	6	-0-	-0-	49
Sand Point	61	45	-0-	9	16	-0-	-0-	106	*6	6	-0-	*2	1	-0-	-0-	15
Sitka	1,126	508	-0-	121	391	31	-0-	1,634	*77	*36	-0-	8	13	3	-0-	137
Skagway	108	82	-0-	11	12	-0-	-0-	190	8	8	-0-	2	2	-0-	-0-	20
St. Mary's	70	20	-0-	21	50	31	-0-	90	6		-0-	2	3	*4	-0-	23
Unalaska	95	82	-0-	14	38	3	-0-	177	*8	2	-0-	2	2	1	-0-	25
Valdez	437	393	-0-	78	208	-0-	-0-	830	*32	36	-0-	7	12	-0-	-0-	87
Wrangell	269	216	-0-	37	80	-0-	-0-	485	17	22	-0-	*4	4	-0-	-0-	47
Yakutat	87	65	-0-	8	38	-0-	-0-	152	7	10	-0-	1	2	-0-	-0-	20
TOTALS	37,210	32,345	130	4,119	11,047	1,373	537	70,222	2,367	2,256	27	290	471	80	48	5,539
Cent. Corres.	559	155	-0-	22	-0-	-0-	-0-	714	42	-0-	-0-	2	-0-	-0-	-0-	44

*Sec. 14.17.180

8/25/82

REAA	1981-82 Revised 1st Qtr. ADM	1981-82 Final ADM	Instr. Units	Instr. Units Allotment	Basic Need	Supp. Equal Aid.	Less PL 874	Final Computation of Entitlement	Per ADM
Adak	611	594	52	59,026	2,809,352	772,806	821,007	2,761,151	4,648
Alaska Gateway	476	478	*71/70	46,308	3,207,068	522,601	325,313	3,485,156	7,291
Aleutian Region	111	114	30	57,885	1,736,550	151,177	164,415	1,723,312	15,117
Annette Island	348	351	40	40,134	1,605,360	338,488	663,271	1,280,577	3,648
Bering Strait	582	583	*121/110	59,815	7,237,615	616,266	824,496	7,029,385	12,057
Chatham	196	207	36	41,677	1,500,372	184,741	244,887	1,440,226	6,958
Chugach	68	75	13	46,308	602,004	58,806	36,950	623,860	8,318
Copper River	568	555	*71/70	46,308	3,207,068	650,280	259,655	3,678,413	6,628
Delta Greely	895	887	*82/81	46,308	3,797,256	934,246	600,399	4,131,103	4,657
Iditarod	311	313	*63/62	59,815	3,768,345	444,285	421,056	3,791,574	12,114
Kuspuk	324	330	77	59,815	4,605,755	503,045	508,052	4,600,748	13,942
Lake & Peninsula	321	325	80	59,815	4,785,200	470,082	604,609	4,650,673	14,310
Lower Kuskokwim	1,865	1,856	290	59,815	17,346,350	2,558,220	2,541,464	17,363,106	9,355
Lower Yukon	1,183	1,190	*163/159	59,815	9,749,045	1,625,222	2,074,092	9,300,975	7,816
Northwest Arctic	1,495	1,478	*190/183	59,815	11,364,850	2,035,111	1,903,910	11,496,051	7,778
Pribilof	174	172	24	57,885	1,389,240	227,459	304,279	1,312,420	7,630
Railbelt	353	335	53	46,308	2,454,324	363,934	133,144	2,685,114	8,015
Southeast Isl.	432	420	86	41,677	3,504,222	412,422	490,134	3,506,510	8,349
Southwest Region	476	484	98	59,815	5,861,070	643,496	902,564	5,602,002	11,576
Yukon Flats	299	314	67	59,815	4,007,605	408,455	423,606	3,992,454	12,715
Yukon Koyukuk	569	567	95	59,815	5,682,425	844,141	877,800	5,648,766	9,962
TOTALS	11,657	11,628	1,802	-0-	100,464,276	14,765,203	15,125,103	100,104,376	8,609

*Sec. 14.17.180

8/25/82

FINAL ADM 1981-1982

REAA	Elem.	Sec.	Comb. Dist.	Voc Ed Non Add	Spec Ed Non Add	Bil/Bic Non Add	Corres.	Total ADM	Elem.	Sec.	Comb. Dist.	Voc Ed	Spec Ed	Bil Bic Ed	Corres.	Total Instr. Units
Adak	398	196	-0-	32	106	-0-	-0-	594	24	21	-0-	3	4	-0-	-0-	52
Alaska Gateway	234	178	29	37	95	20	37	478	23	26	5	*5	5	3	4	71
Aleutian Region	30	12	72	5	20	3	-0-	114	3	4	19	1	2	1	-0-	30
Annette Island	184	167	-0-	27	87	-0-	-0-	351	15	18	-0-	3	4	-0-	-0-	40
Bering Strait	247	292	24	64	125	129	20	583	25	62	5	*13	6	7	3	121
Chatham	103	67	31	14	40	-0-	6	207	12	10	7	2	2	-0-	3	36
Chugach	48	7	20	-0-	-0-	-0-	-0-	75	5	4	4	-0-	-0-	-0-	-0-	13
Copper River	257	228	9	44	95	2	61	555	24	28	3	4	5	1	*6	71
Delta Greely	535	287	-0-	51	253	-0-	65	887	*34	27	-0-	4	11	-0-	6	82
Iditarod	102	115	81	26	49	15	15	313	*13	22	17	4	2	2	3	63
Kuspuk	144	149	27	29	40	22	10	330	24	36	5	4	2	3	3	77
Lake & Peninsula	170	91	52	26	37	22	12	325	34	20	13	4	3	3	3	80
Lower Kuskokwim	716	1,125	15	208	341	813	-0-	1,856	53	150	4	29	18	36	-0-	290
Lower Yukon	608	582	-0-	112	147	228	-0-	1,190	*51	*77	-0-	*15	9	11	-0-	163
Northwest Arctic	795	648	-0-	122	217	112	35	1,478	66	*86	-0-	*16	11	*7	4	190
Pribilof	93	52	27	9	36	15	-0-	172	7	6	5	1	3	2	-0-	24
Railbelt	169	157	-0-	27	75	-0-	9	335	17	26	-0-	4	3	-0-	3	53
Southeast Island	145	60	116	12	54	-0-	99	420	23	18	31	2	4	-0-	8	86
Southwest Region	220	186	78	34	90	254	-0-	484	27	32	17	5	5	12	-0-	98
Yukon Flats	117	67	113	20	49	35	17	314	15	14	26	3	3	3	3	67
Yukon Koyukuk	221	156	110	55	115	33	80	567	26	26	20	9	5	3	6	95
TOTALS	5,536	4,022	804	954	2,071	1,703	466	11,628	521	713	181	131	107	94	55	1,802

*Sec. 14.17.180

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

		1 ENRLMNT FY82 1ST Qtr.	2 ENRLMNT FY83 1ST Qtr.	3 INCREASE OR DECREASE	4 ADM FY82 1ST Qtr.	5 ADM FY83 1ST Qtr.	6 INCREASE OR DECREASE
1	ADAK	609	594	(15)	611	534	(115)
2	ALASKA GATEWAY	492	439	(53)	476	473	(3)
3	ALEUTIAN CHAIN	118	129	11	111	127	16
4	ANNETTE ISLAND	353	329	(24)	348	336	(12)
5	* BERING STRAITS	609	927	318	582	917	335
6	* CHATHAM	220	278	58	196	271	75
7	CHUGACH	75	66	(9)	68	76	8
8	COPPER RIVER	577	514	(63)	568	582	14
9	DELTA/GREELY	914	909	(5)	895	949	54
10	IDITAROD	319	323	4	311	326	15
11	KUSPUK	333	318	(15)	324	323	(1)
12	* LAKE & PENINSULA	329	333	4	321	362	41
13	* LOWER KUSKOKWIM	1899	2493	594	1865	2429	564
14	* LOWER YUKON	1193	1400	207	1183	1391	208
15	NORTHWEST ARCTIC	1530	1496	(34)	1495	1499	4
16	PRIBILOF	175	164	(11)	174	167	(7)
17	RAILBELT	351	323	(28)	353	325	(28)
18	SOUTHEAST ISLANDS	337	351	14	432	432	-
19	SOUTHWEST REGION	490	531	41	476	524	48
20	YUKON FLATS	316	341	25	299	315	16
21	YUKON/KOYUKUK	590	619	29	569	557	(12)
22							
23	SUB-TOTALS	11819	12877	1058	11657	12975	1318
24							
25	City & Borough	73236	76645	3409	70487	74005	3518
26	Centralized Correspondence	688	683	(5)	721	790	69
27							
28	STATEWIDE TOTALS	85743	90205	4462	82865	87770	4905

* SEF BTA

ENROLLMENTS & ADM - FY1982 & FY1983 FIRST QUARTER

COLUMN - WRITE ⑤

		1	2	3	4	5	6	
		ENRLMNT FY82 1st Qtr	ENRLMNT FY83 1st Qtr	INCREASE OR DECREASE	ADM FY82 1st Qtr	ADM FY83 1st Qtr	INCREASE OR DECREASE	
1	ANCHORAGE	34546	36243	1697	33279	34797	1518	1
2	BRISTOL BAY	215	221	6	203	210	7	2
3	CORDOVA	407	440	33	415	438	23	3
4	CRAIG	178	160	[18]	188	152	[36]	4
5	DILLINGHAM	380	398	18	364	378	14	5
6	FAIRBANKS	9320	9844	524	8824	9440	616	6
7	GALENA	140	150	10	132	142	10	7
8	HAINES	378	397	19	375	388	13	8
9	HOONAH	226	242	16	228	239	11	9
10	HYDABURG	92	85	[7]	89	93	4	10
11	JUNEAU	4267	4448	181	4080	4258	178	11
12	KAKE	211	218	7	194	207	13	12
13	KENAI	6528	6930	402	6262	6754	492	13
14	KETCHIKAN	2455	2367	[88]	2354	2369	15	14
15	KING COVE	137	113	[24]	136	120	[16]	15
16	KLAWOCK	95	133	38	95	151	56	16
17	KODIAK	2144	2189	45	2057	2141	84	17
18	MAT-SU	5055	5676	621	4805	5558	750	18
19	NENANA	198	119	[79]	214	127	[87]	19
20	NOME	716	734	18	729	758	21	20
21	NORTH SLOPE	1053	1018	[35]	1061	1021	[40]	21
22	PELICAN	48	53	5	47	52	5	22
23	PETERSBURG	589	608	19	561	574	13	23
24	SANDPOINT	118	120	2	141	123	[18]	24
25	SITKA	1742	1666	[76]	1683	1607	[76]	25
26	SKAGWAY	191	173	[18]	189	177	[12]	26
27	ST. MARY'S	113	109	[4]	96	110	14	27
28	UNALASKA	187	185	[2]	191	181	[10]	28
29	VALDEZ	845	857	12	848	863	15	29
30	WRANGELL	508	504	[4]	490	485	[5]	30
31	YAKUTAT	154	157	3	164	159	5	31
32	TANANA (New FY83)		88	88		92	92	32
33								33
34		73236	76645	3409	70487	74005	3518	34
35								35
36	CENT. CORRESP. SD.	688	683	(5)	721			36
37								37
38								38
39	SUB-TOTALS							39
40								40

Revised 1/24/83

Analysis of FY-83 Foundation Supplemental

FY-83 Request (estimate)	406,089.5
FY-83 Appropriation	391,753.3
FY-83 Shortfall	(14,431.8)

FY-83 Revised Reports Increases by Categories:

1. Enrollment Increases (estimate)	6,407.7
2. New Secondary Programs	1,808.4
3. BIA School Transfers	7,901.6
4. New Tanana City School District	855.4
5. Special Education Program Increases	2,558.5
Total Increases	19,531.6
Add Original Shortfall	14,431.8
Total Shortfall	33,964.4*

Out of seven Department supplemental requests transmitted to the Governor, the State Board of Education has prioritized the $19,531.6 request first, and the $14,431.8 portion of this supplemental sixth.

*For the record, a January 7, 1983, hearing officer's recommended decision on the way the Department calculates supplemental equalization aid under AS 14.17.023 has resulted in an additional shortfall of of $1,106.2. We have been advised by the Attorney General to accept the hearing officer's recommended decision.

school dist w/inc enrollment w/ projections

Dept has FY83 proj enroll Cg district

1st quarter reports - act enroll in Nov

next 1st mat. Cunils - ets $1 & 1st q. dollars =

1st q from last year compared w 1st q of this year

Linda -

Attached is the summary of 27 areas, individual shortfalls, personnell cuts, program cuts, that was assembled by the statewide committee Dr. Davis mentioned. If you want other info, just let me know.

Bill Wile

586-2660

Anch School Dist.

P.S.: Steve Levi said you wanted this.

Revenues to Sa

Found ent 426 mill - state general fund exclusively

30 mill
- PL 81-874 - Feds = military bases - no local prop taxes
- REAA's - substantial amt of impact aid from Feds - exempt ares for prop. tax

- 81-313 - Handicapped
- T6B & Block Grant programs in addition to 30 mill
- TI Reading Programs

Fed. budget Impact Fund - Balance Remaining - exec branch can designate these funds.

Ruled Cats out of order.

Prepared January 21, 1983

COMMITTEE FOR ESSENTIAL EDUCATION FUNDING (CEEF)
LOCAL IMPACT OF REVENUE SHORTFALL (1982-1983)

	FINANCIAL		IMPACT OF SHORTFALL				
			Number of staff that were not hired or cutback during the school year.			How many students in your district would be affected by the reduction or delay of these programs?	
School District	Total Budget	Total Shortfall	Staff Certif.	Staff Classif.	Comments	No.	Comments
Adak	$5,591,923	$323,147	0	0	If supplemental fails: cut 2 certif. cut 3 classif., cut spec.ed.& voc.ed. and capital outlay, travel and student activity program.	150	Offset 150 spec.ed., voc.ed. and enrichment.
Anchorage	$166,389,832	$11,200,000	28.5	22.5	The staff reduction has adversely affected the instructional program offerings and class sizes. It has also reduced the custodial and maintenance programs in the school buildings. Included in the more than 100 reductions were the ff: the elem. general music program was eliminated; school activities were significantly reduced; needed replacement equipment was not purchased; and 23 sched. major maintenance projects were eliminated.	39,325	Reductions were necessary on a districtwide basis and therefore included a broad spectrum of programs and services directly related to the instruction of every student in the District.
Annette Island (Metlakatla)	$2,546,542	$194,786	2		$113,610 of budget for FY83 put on hold. Teaching supplies equipment, travel, support services, and activity funds have either been cut or put on hold. Remainder of shortfall would have to be taken from FY82 carryover which in FY84 would seriously cut programs.	338	Considering current budgeting our FY84 programs are in serious jeopardy. We will have less than 2% carryover if the shortfall is not corrected.
Chatham	$2,113,998	$81,504	0	0	We have continued as is - largely based on the fact that we anticipate additional funding and we have had a fund balance to bail us out.	0	
Copper River REAA #17	$4,763,539	$603,063	1	2	The lack of a viable working capital reserve will also seriously impact interest income that is counted as local revenue.	569	The "real" impact will be in FY84 since we had a much needed area differential increase last year that we accrued and are spending this year to minimize the negative impacts of these shortfalls.
Delta/Greely	$6,100,057	$319,142	2	1	One reading teacher and one elem. teacher were not hired as planned in the preliminary budget.	All	Our first cutback would be in the area of custodial service and then in clerical service. Lunch programs might go also!
Dillingham	$3,900,000	$275,000	0	0	None.	0	None.
Fairbanks	$55,434,070	$2,934,167	8	13	On June 22, the Fairbanks North Star Borough S.D. cut 1.5 million from its approved operating budget. Cuts included: reduction of secretarial help at Central Office, 2] elimination of 2 admin. positions (director of program, planning & evaluation and internal auditor), reduction of temporary salaries, secondary gifted/talented program reduction (2), reduction in boiler operators, elimination of a bus-aide program (10), and the elimination of various reserve accounts. In addition to those cuts all necessary personnel have not been hired as a result of increased enrollment and consequently classrooms are more crowded than usual (5). These steps were taken in order to absorb the impact of the initial 4% reduction in foundation funding and to control ongoing costs in view of further potential reductions.		Impact of the shortfall is not readily definable. 12,000 district students are going to be affected to some degree or other. To address the problem, a freeze has been placed on the purchase of new equipment and the implementation of budgeted maintenance projects which do not affect health and life-safety of district students and personnel. Contingency plans are being developed and the Board of Education will meet in a work session on Tuesday, Jan. 25, to consider specific plans to cover the approximately $1.7-M problem which exists as a result of the foundation reduction.

COMMITTEE FOR ESSENTIAL EDUCATION FUNDING (CEEF)

LOCAL IMPACT OF REVENUE SHORTFALL (1982-1983)

	FINANCIAL		IMPACT OF SHORTFALL				
			Number of staff that were not hired or cutback during the school year.			How many students in your district would be affected by the reduction or delay of these programs?	
School District	Total Budget	Total Shortfall	Staff Certif.	Classif.	Comments	No.	Comments
Galena	$1,675,177	$152,513	0	0	There were no programs reduced because of the shortfall either before the start of school nor during school. However, if there is not a supplemental bill passed for the 33.7-M, we will have to reduce current year spending. The deadline for this decision will be January 28, 1983. No programs delayed until 1983-84 school year. We will have to cut back both certif. and classif. for 1983-84. Since we will have to use other district funds for the remainder of the current year, if supplemental funding is not forthcoming.	57	Since we have a 3-yr teacher agreement and there are 2 yrs to go if the shortfall and forward funding are not handled all 140 of our students will be affected by the Board's inability to provide a quality education opportunity to its students.
Haines	(See attached)		.5	0	We had an October resignation. We did not fill the vacancy and will not until we see the financial picture.	-	None.
Iditarod Area	$5,055,018	$454,922	1	0	One top admin. position has been left vacant. Several teacher aices would have been terminated but we were able to pick them up under a new Title VII grant.	All (327)	Reduced itinerant teacher travel. Reduction or elimination of educ. field trips. Reduction in after school student and community use of school facilities.
Juneau	$19,725,688	$1,263,312	10	6	None	4400	All are affected one way or another.
Kenai Penin.	$36,079,553	$2,407,151	0	0	Programs reduced prior to start of school as a result of reduced foundation funding $954,697. Further cuts required if supplemental is not forthcoming $715,533 (including 33.5 teacher aides).	7,000	All are affected including communities as a whole. We have attempted to make our reductions in areas that would least affect the basic education of the student. However, the magnitude of the reduction has forced us to make some reductions affecting the basics.
Ketchikan	$11,846,667	$915,222	1	7	We have not revised the budget to fully reflect the shortfall. We are considering much more staff reduction.	2476	All students are affected.
Lake & Penn	$5,609,989	$537,890 (based on 10%)		8	Voc. ed. reduced prior to start of year. Programs reduced during school year: Voc. ed, purch, cont. svs of spc st fld exper & st act fund.	All (360 ADM)	None.
Mat-Su *revised as of 11/30/82.	$27,455,691*	$1,707,424	18.5	7.5	(See attached)	2,800 of 5,600.	Probably at least 1/2 of our students were/are being adversely affected in one way or another.
Nenana	$2,137,630	$398,725	0	0		0	We are using our reserves to carry through this year. Next year will be the problem, unless we receive more money.
North Slope	$23,500,000	$1,200,000	10	10-25 total support positions.	Curr. center - Maintenance	1,250	Indirectly
Northwest Arctic	$15,115,258	$1,116,838	0	0	Shortfall antic during budget prep. Spec. ed., voc. ed. & bilingual moved up to offset shortfall.	None	No adverse this year - but could next year.
Pelican City	$632,673	$60,000	0	0	This is very difficult to do as we only hire 1 custodian & 1 bookkeeper/ secretary. We do not plan to cut contracted teachers, but will cut 1.5 positions next year if this continues.	55	We have cut back on library purchases, student travel (ie. educ. field trips and athletic), teaching supplies & bldg. maint.
Pribilof	$2,400,000	5% or whatever % becomes.	1	1	None.	165	All students

COMMITTEE FOR ESSENTIAL EDUCATION FUNDING (CEEF)

LOCAL IMPACT OF REVENUE SHORTFALL (1982-1983)

	FINANCIAL		IMPACT OF SHORTFALL				
			Number of staff that were not hired or cutback during the school year.			How many students in your district would be affected by the reduction or delay of these programs?	
School District	Total Budget	Total Shortfall	Staff Certif.	Staff Classif.	Comments	No.	Comments
Railbelt	$3,786,770	$257,397	0	0	No program reduced prior to start of this year, nor during year. No program delayed. Basically we will be able to use all of our carryover monies to do so.	-	None this year, however, all will be affected.
Southeast Isl.	$4,623,020	$154,225	2	4.5(FTE)	The negative effects of the shortfall (actual & potential) have included the ff: 1. Little or less than anticipated improvement in programs or curric. areas we consider to be below standard for a district such as this one, including devel. of school libraries, improv. of our voc. ed. and computer educ. programs, & ability to provide necessary inservice programs to our teachers. In Maintenance/Operations we have been forced to postpone some basic improvements to our bldgs. and shelve plans to replace some teacher housing badly in need of same. If the shortfall is much greater than the 4%, we would not only lose our ability to provide and maintain teacher housing in logging communities as well as to prevent high teacher turnover), but would also lose our ability to move state-owned sch bldgs when a logging camp moves (as we do once or twice per year at great cost). The above represent some examples, as there would be prog/staff cuts in other areas in the event of a 5-10% shortfall.		All students in the district would be affected by further cuts.
Southwest Region					On the short-term basis, the Southwest Region School Board has approved postponement of physical plant improvement projects, curtailed preventative maintenance, and eliminated scheduled improvement in teacher housing.		
Valdez	$8,100,000	$361,002			Reprioritizing of programs. If a supplemental appropriation is not forthcoming in FY 83 our effective schooling program will be delayed for 2 years.	-	None
Wrangell	$2,637,777	$85,000			At this time no programs or staff have been reduced. However, if supplemental is not available then programs such as activities, classroom aides, art etc. will be reduced or deleted.	350 approx.	No comment.
Yukon Flats	$4,559,682	$182,387	3	1	Did not hire 1 f t - voc ed no P.E. & counselor position 1 non-cert village counselor. Cut back std act & staff travel. Freeze bal yr all purchases except emergency.	All 331 125 HS incl.	High scl w/lack of counselors.
Yukon Koyukuk	$8,576,637	$834,745	5*	4.5 FTE	Anticipating a 4% reduction, the above positions were cut prior to the start of school. If reduction is 11%, additional positions or hours will have to be cut.	556	11% of the total district budget has been placed on hold as of this point. This essentially placed a stop to the following areas: 1. supplies, 2. equipment, 3. textbooks, 4. student activities, 5. student travel, 6. staff inservice, 7. staff travel. Basically we are heating heating and meeting emergency repairs, teaching classes and paying employees.

* to this date

426 - entitlement
391 - approp
8 - new students

2100 more students over 81-82
1000 more students rec 82-83 projections

DEC 20 1982

Enclosure D.1.e.

1) BIA 8.5
New 8.0
Foundation 14.0 underfunding
DEC Programs 11.0
11.5

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

ASD MEMORANDUM #236 (82-83) REVISED December 20, 1982

2) Sep Bill
3) 5% = $28 million
4) Debt Svce 82.7% not 90%
5) Endowment Fund Study

TO: SCHOOL BOARD

E. E (Gene) Davis

FROM: OFFICE OF THE SUPERINTENDENT

SUBJECT: PLANNED COST REDUCTIONS TO OFFSET STATE REVENUE REDUCTIONS

Debt Svce 82.7% (not 90%)

PERTINENT FACTS:

5% new cuts = $28 million

There is a revenue shortfall in the State Public School Foundation Program. Based upon the District's full entitlement for the projected 1982-83 enrollment the full shortfall was first estimated to be up to $13,000,000 but now appears to be approximately $11,700,000.

$29.6 to $50.2 (?)

3.42 th
4.27 mill

this was the 4% notified by D.26.

At the time the budget was developed the shortfall was thought to be about $5,225,000. At that time it was considered appropriate to provide the expected level of services without seriously impacting local taxes by using almost all of the fund balance, and eliminating most of the reserve incorporated into the original state and other revenue projections. The first revenue reduction of $5,225,000 was therefore provided for in the Adopted Version of the 1982-83 budget.

Held this trend

Because of a student enrollment in excess of that originally planned, the School Board on September 20, 1982 approved a reallocation of up to $1,782,000 from several accounts, including the general music program, to provide for the necessary teachers.

On November 22, 1982, the Board received for discussion purposes further reductions which at that time totaled $4,379,879 to cover an anticipated shortfall from State revenues. The Board also requested an additional million dollars be located to ensure an appropriate fund balance.

14 pg 18

Do 236 public?

(1) Joe Hayes - next week
(2) write position paper
... ; - memo to Hayes early + others
... $ million

Press - assume no knowledge

(1) keyout
a) Entitlement + hearings
b) Appropriation
c) Problems
1) B.I.A.
2) NEW
3) Underfunding
(2) Cuts
a) $5.2 → 82-83
b) $11.7

(1) budget supp.
(2) new law - being over-run
a) Travel only state
(3) Push down to grass roots - Parents, Teachers, Admin, interest groups
(1) other shortfalls - yes, but
(1) ... - we will

MEMORANDUM State of Alaska

File HESS

TO Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Foundation Support

3892 - Steve Lenz

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all school district foundation entitlements.

ISSUE

The legislature appropriated $391,753.3 for FY 83 foundation support; recent final review of district entitlements indicate the total amount needed to fully fund the foundation program will be approximately $425,500.0, leaving a projected shortfall of $33,746.7. Much of the shortfall is a result of the legislature's decision to make the rescission through the budget process rather than through substantive legislation reducing the instructional unit value. In other words, if the legislature had reduced the Instructional Unit value by 3.6%, then the entitlements would be lower. As it is, however, the entitlements are in excess of the money appropriated to pay them.

BACKGROUND AND/OR PERTINENT INFORMATION

The last legislature appropriated funds for foundation support in an amount less than our request. The intent behind the reduction was 1) to appropriate less than the law required, and 2) for the department to request a supplemental appropriation to cover the BIA school transfer impact and new program and new school costs, so that districts would not be required to absorb those demands as well. When the 33 million dollar difference between the appropriation and entitlements is analyzed, it can be explained as follows:

1.	Deliberate underappropriation: Our request minus appropriation	=	14,431.8
2.	BIA Transfer Schools (estimated)	=	7,300.0
3.	Enrollment Increases (estimated)	=	6,700.0
4.	New programs, organizational changes, corrections to the initial report upon which our FY 83 request was based.	=	5,314.9
	TOTAL	=	33,746.7

We have notified the Governor's office of the scope of the shortfall, and requested him to introduce a supplemental appropriation for $19,314.9, and further, to consider a supplemental appropriation for the $14,431.8 the legislature chose not to appropriate.

HB

76

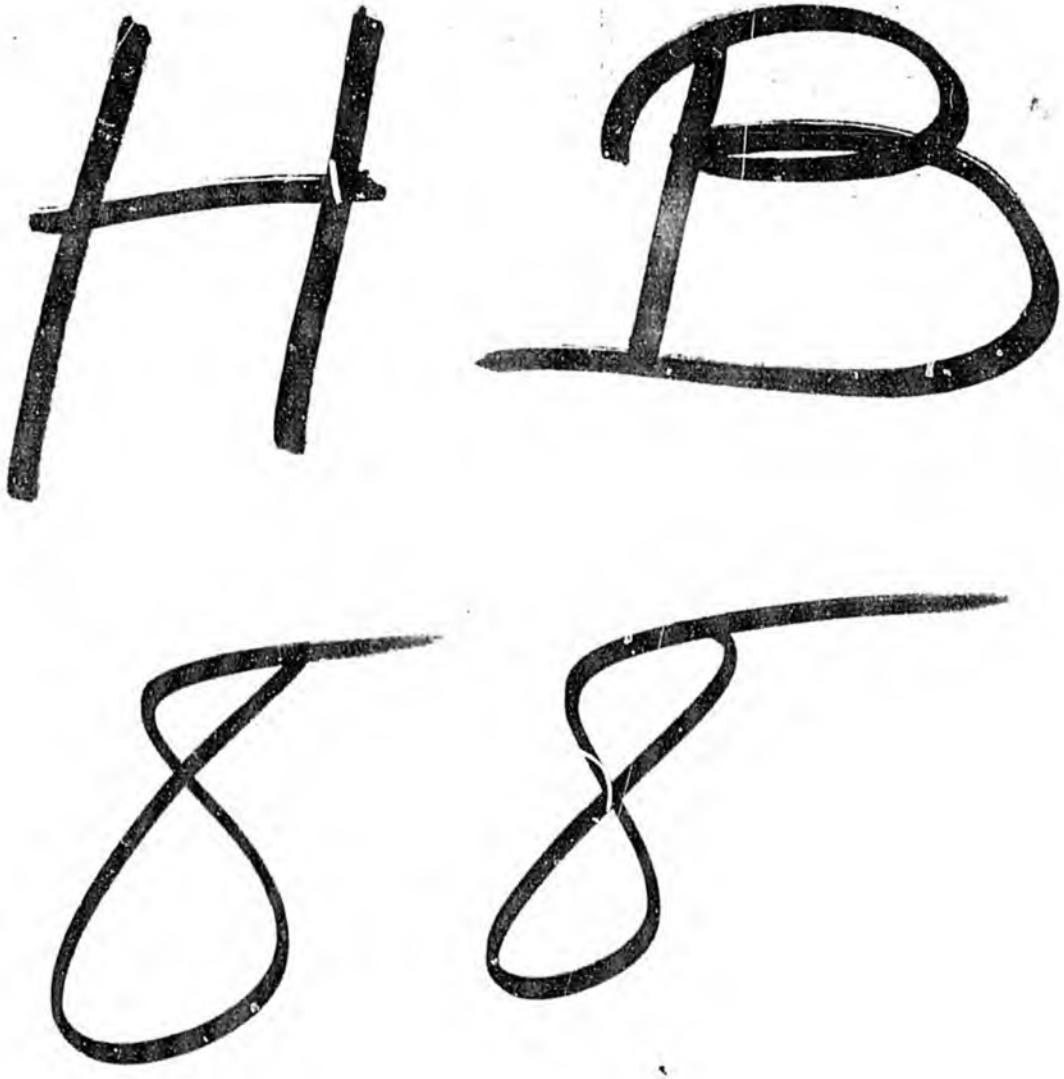
H 1/20/82

Shorter term for REGENTS - RICK UEHLING
789-2101 UAJ

Board of Regents
FAIRBANKS
ROGER HARMS Ass't to President & Univ. STAFF

Board of Regents (11)
JEFF COOK Mildred Banfield
Don Able
Today & Tomorrow Tom Miklautsch - FBKS
DR Hugh FATE - FBKS
SARA HANNAN - FBKS - STUDENT REGENT
Don Able - JNO
JOAN RAMBERG - FBKS
ANN PARRISH - Anchorage
Gordon EVANS - JNEAU
Roy Hendorf Anchorage
EDDIE RASMUSSEN - Achorage
John Shively - Anch.

Regents - NOT REALLY CONCERNED AS long AS terms RUN longer than GOVERNOR



(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/20/83

Date: _____

Mr. Speaker:

The Committee on HESS has had HB 88

An Act making special appropriations to the Department of Health and Social Services for the acquisition, improvement, and operation of certain property for use as correctional facilities; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with ~~CS~~ SS for HB 88 [ ] same title [✓] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	[signature]
Mae Tracker	Mike Dennis No rec
M.W. Miller Do Pass	Mike Hertz No rec

Mae Tracker
CHAIRMAN
Mike Hertz

H 60

4/11

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

(7)

4/7/83

Date: April 11, 1983

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SS HB 88

An Act making a special appropriation to the Department of Health and Social Services for the acquisition and improvement of the Buchner Building in Whittier as a correctional facility; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
M.W. Miller Do Pass	[illegible] No rec
[illegible]	[illegible] NO REC
	[illegible]

Co- [illegible]

CHAIRMAN

Co- [illegible]

H 60

Olympic, inc.
171 MULDOON ROAD, SUITE 114
ANCHORAGE, ALASKA 99504
PHONE: (907) 337-1546

PATRICIA A. ZAMARELLO
President

PETER G. ZAMARELLO
General Manager

March 14, 1983

State of Alaska
Proposal for Buckner Building - Whittier, Alaska

FIRST OPTION: The State will purchase the Buckner Building at $7,500,000.00 eminent domain.

SECOND OPTION: Olympic, Inc. will remodel the building and rent it to the State at $1.50 per square foot. The State will have the option to purchase the building at appraisal after five (5) years. This will require a letter of intent from the State to lease the building for twenty (20) years, with the option to buy after five (5) years.

THIRD OPTION: The State will purchase the building and Olympic, Inc. will remodel it for a maximum of $25,000,000.00 to accommodate a minimum of 1,000 people, including all facilities.

OLYMPIC, INC.

PETER ZAMARELLO
President



INTERSTATE COMPANY, INC.
GENERAL CONTRACTORS

P.O. BOX 4-1438, ANCHORAGE, ALASKA 99509
TELEPHONE: 276-2212
TELEX: (090) 26-531

March 9, 1983

Olympic, Inc.
171 Muldoon Rd.
Anchorage, AK 99504

Attn: Mr. Zamarillo

Re: Restoration of the Buckner Bldg. Wittier, AK

Gentlemen:

This letter is in reference to your request to review the plans as well as the above named facility located in Whittier Alaska.

According to our conversation, it may be your intent to completely refurbish the 274,000 S.F. Buckner Building and to change this building into a correctional facility. In order to to so, it appears that an entire new heating and ventilating plant plus electrical system will be necessary. Our cost review includes a sixteen bed hospital, six lane bowling alley, and complete commercial food preparation and dining facility.

The exterior needs total restoration with new windows and a new roof system. Also, in this review we have included exterior security fencing and security at all exterior openings and windows.

This is a brief overview as to the possible requirements to change the Buckner Building into a correctional facility.

Our best estimate would indicate that the complete change can be accomplished for approximately $18,700,000.00.

We thank you for this opportunity to work with you on this project.

If you have any additional questions please feel free to contact us.

Very truly yours,

INTERSTATE COMPANY, INC.

Josef Ressel
Secretary/Treasurer

jr:/ap

BUILDERS & CONTRACTORS SERVICE

2124 Hillcrest Place
Anchorage, Alaska 99503
(907) 276-4618

Contractor Claims
Construction Management
Appraisal Estimates

Quantity Surveys
Estimates
Bid Preparation

March 9, 1983

Olympic Inc.
171 Muldoon Road
Anchorage, Alaska

ATTENTION: Mr. Pete Zamarello

REFERENCE: Buckner Building - Whittier, AK

SUBJECT: Preliminary Project Review - Cost Estimate

Gentlemen:

At your request, per the commisson given us, we have made a complete review, on a preliminary basis, of the above reference structure.

Our commission, as we understand it, is to provide you with cost figures in two parts, as follow:

1. Remodeling and conversion of the exsisting building, to be used as a correctional facility.

2. A remodeling of the exsisting facility, including new ventilation and heating systems and electrical systems. In addition, new elevators, new roofing, new flooring, new ceiling systems and a number of new partitions. Additionally,, per your instructions, we have included costs for restoration of the building exterior, as well as, additions for a six lane bowling alley and bakery, a sixteen bed hospital and a new dining area/kitchen facility.

Our review anticipates that any and all work which would be done would meet exsisting state and local codes.

The figures we have arrived at, are based upon the preliminary sketches, pictures and numerous meetings with your company.

Due to the fact that we did not have definitive, exact drawings from which to work, our price must be considered preliminary and in this regard, we are providing you a cost range for each item. Our estimates are as follows:

1. For remodel and conversion to a correctional facility, our cost estimate range is $23,725,000 to $25,100,000.

2. For remodeling and additions as noted above, our cost estimate range is $18,650,000 to $19,800,000.

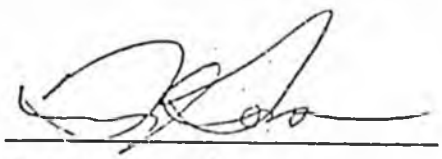
If we can be of further assistance or should you wish a more exact cost estimate after development of drawings, we would be pleased to provide them for you.

Attached is our billing, which we forward with this report, for payment.

Thank you for using our services.

Very truly yours,

BUILDERS AND CONTRACTORS SERVICE



Terry Gorsuch

TG:jw

Enc.

INTERSTATE COMPANY, INC.
GENERAL CONTRACTORS

P.O. BOX 4-1438, ANCHORAGE, ALASKA 99509
TELEPHONE 276-2212
TELEX: (090) 26-531

March 9, 1983

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The exterior needs total restoration with new windows and a new roof system. Also, in this review we have included exterior security fencing and security at all exterior openings and windows.

This is a brief overview as to the possible requirements to change the Buckner Building into a correctional facility.

Our best estimate would indicate that the complete change can be accomplished for approximately $18,700,000.00.

We thank you for this opportunity to work with you on this project.

If you have any additional questions please feel free to contact us.

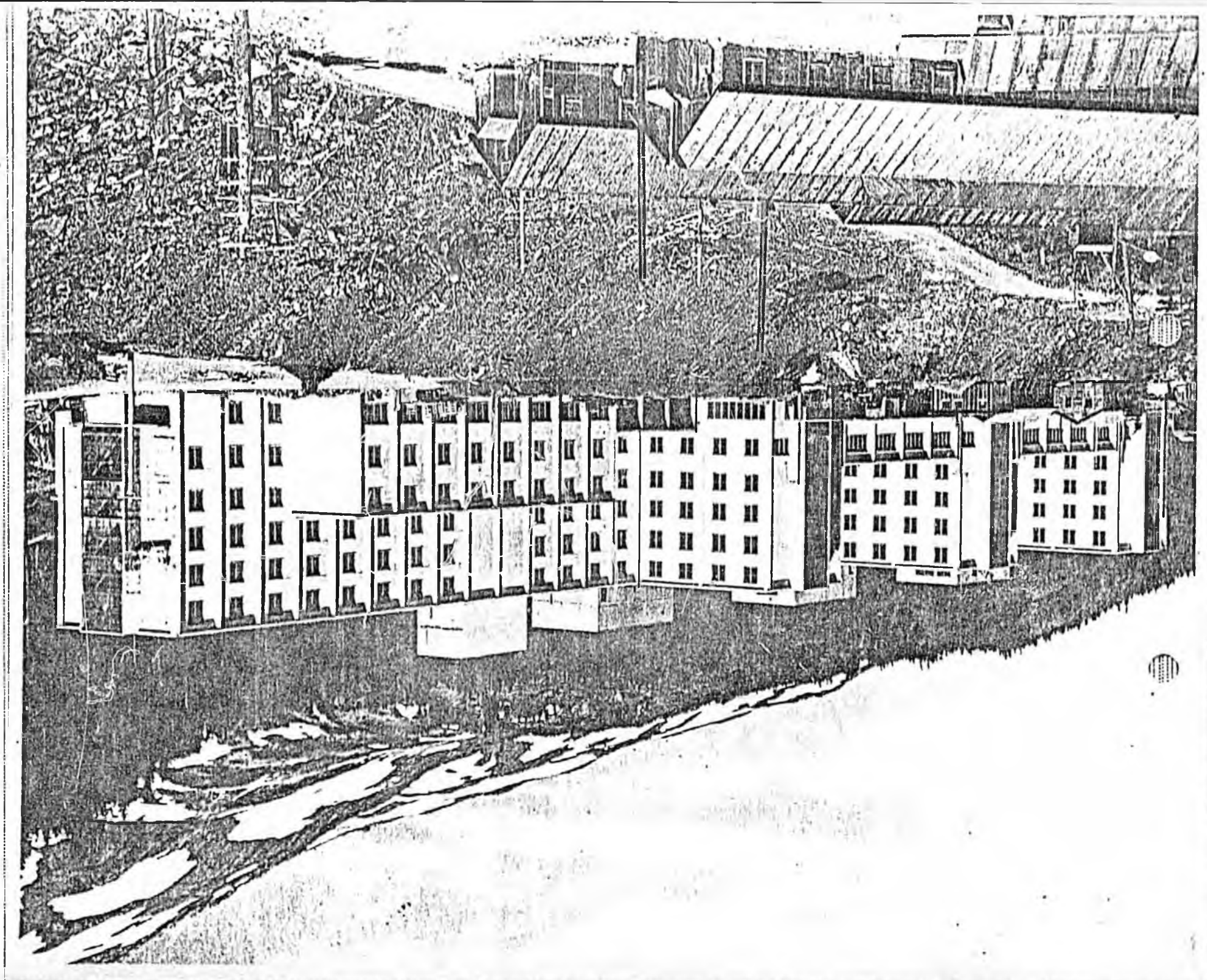
Very truly yours,

INTERSTATE COMPANY, INC.

Jim Ressel
Secretary/Treasurer

JR/ap





POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 88

"An Act making special appropriations to the Department of Health and Social Services for the acquisition, improvement, and operation of certain property for use as correctional facilities; and providing for an effective date."

Description of Property

Camp Isabel is located on state leased land at Mile Post 197 off the Richardson Highway, approximately 269 miles from Anchorage and 167 miles from Fairbanks. The camp is composed of 64 metalsided modular buildings. There are 33 barracks, 16 warehouses, four office structures, an 11,000 square foot kitchen, two recreational buildings, a laundry, first aid station and various other ancillary buildings and equipment. Camp capacity was 1,500 persons. The camp was built in the early 1970's and closed in the late 1970's. All buildings are listed in good to poor condition. They consist mainly of plywood and light gauge metal modular buildings which would be difficult and costly to make secure. Buildings would probably have to be removed to provide space for Uniform Building Code. The camp is very large and its configuration does not lend itself to partial use. If it could be used in part, the labyrinth of empty buildings would pose a security and fire risk.

The Buchner Building in Whittier is located on private land 59 miles from Anchorage. There is no direct road access to Whittier, and limited service by the Alaska Railroad from Portage. Chronic high winds make flying marginal much of the time. The building is a 273,000 square foot concrete and masonry structure built shortly after World War II to house 2,500 military personnel. It was abandoned in 1965. In 1977, the concrete shell was rated in excellent condition. All other features, including internal partitions, finishes, plumbing, mechanical and electrical equipment and systems were rated for replacement. A 1982 estimate by DOT/PF says $42,152,000 would be needed to make the building functional and a total of $62,394,000 would be required to make it suitable for correctional use. These figures do not include acquisition of the property, which may or may not be available. Because of the concrete-bearing wall construction of the Buchner Building, it would be difficult and costly to recess the many plumbing, electrical and ventilation systems unique to prison construction. In order to establish a high security facility on the Whittier site, it would be necessary to tear down the existing facility and start over, or construct a new facility within the existing shell. Either option would be extremely costly and would far exceed $7 million identified as the acquisition and improvement cost. Over the past several years the Whittier site has been evaluated by administrators of the Division of Corrections, DOT/PF and the CCC/HOK architectural firm in Anchorage. Results consistently indicated the facility would not be suitable for housing either sentenced or unsentenced prisoners. With its capacity for 2,500 persons, the Buchner Building is far too large by national standards. Paragraph 4149 of the American Correctional Standards states that a facility's design should accommodate no more than 500. We believe this to be a sound recommendation from an operational

POSITION PAPER/Department of Health & Social Services

standpoint. Last year a telegram from the city manager of Whittier (copy attached) expressed strong objection to selection of Whittier as a location for a correctional facility.

Cost effectiveness is an important consideration in both Camp Isabel and Whittier. The higher costs of an inaccessible location affect not only construction costs, but operational costs throughout the life of its use.

Departmental Consideration

The Department of Health and Social Services does not support House Bill No. 88 because it would not meet needs for prisoner housing in Alaska.

Neither Camp Isabel nor the Buchner Building at Whittier complies with essential correctional standards as noted in paragraph 4147 of the American Correctional Standards. (Copy attached)

The following are deficiencies shared by both sites:

- Fire/Life Safety. All inmates must be assured adequate protection from fire and life-threatening situations, both within the buildings and supported by emergency service operations. Both facilities will require significant life safety systems to meet minimum code requirements. Emergency service operations are most efficiently and effectively provided by local community public service departments. Whittier has a small volunteer fire department, but the nearest major fire fighting equipment and personnel are in Anchorage, with no current road access. Closest volunteer fire departments to Camp Isabel are at Glennallen, 82 miles away, and Delta Junction, 70 miles.

- Outside Support. Both sites fail to meet correctional standards noted in paragraph 4147 of the American Correctional Standards. In event of an internal disturbance, staff from nearby institutions, State Troopers and the National Guard must be readily available to help restore perimeter security and insure safety of all persons inside the institutions as well as those outside. An inaccessible location makes this impossible. Closest trooper detachment to Whittier is in Anchorage. There is one trooper in Girdwood. Major trooper detachment for Camp Isabel is in Anchorage, with six troopers in Glennallen. There are three troopers in Delta Junction from the Fairbanks detachment.

- Medical and Dental Care. This is normally provided on contact by physicians, dentists and medical specialists within a community. Camp Isabel is 82 miles from the nearest physician at Glennallen which also has a six-bed hospital, and 158 miles from medical help in Fairbanks. Whittier has no resident health professionals and no supply of medication (see attached resolution). Lack of access to community hospitals is in violation of paragraph 4257 (attached) of the American Correctional Standards. Providing full-time medical professionals on the prison staff is prohibitively expensive and they are nearly impossible to recruit.

- Staffing/Housing. Recruiting, training and retaining correctional staff is costly and difficult under the best of circumstances. Due to the virtual non-existence of adequate private housing in conjunction with the

isolated surroundings, a high turnover of employees would be anticipated. The State may have to provide staff housing at further expense.

- Legal Access. Inmates frequently have interaction with the court system, and they have the right to legal counsel. Transporting prisoners from an inaccessible location to court and counsel would be both costly and time consuming. Inmates at Whittier would have to travel to Anchorage; from Camp Isabel they would go to Fairbanks.

- Community Ties. Regardless of the offense of length of sentence, nearly every prisoner will eventually return to the community. It is unrealistic to believe a person can live in isolation, without community ties, then suddenly be returned and make a successful adjustment. Opportunities for restitution and work release, which could lessen the tax burden, would be limited to non-existent in an inaccessible location.

- Family Ties. Imprisonment strains the family under any circumstances. Lack of opportunity for visits increases the likelihood the family unit will be destroyed and limits opportunities for the offender to successfully reenter the community.

- Programming. The statewide chaplaincy program coordinates services in prisons and arranges individual religious services in any denomination, calling on clergy in the community. The educational programs draw on University staff in nearby communities. Counseling dealing with sex offenses, family abuse, alcohol and drug abuse and other psychological and emotional programs all draw upon various programs existing within a community. Few if any of these programs could be offered in isolated settings such as Camp Isabel or Whittier. Rehabilitation efforts offer the best hope for protection of society against repeat offenders, since virtually all inmates will eventually be released.

In Alaska, the courts and regulatory bodies are getting more and more involved in setting limits on institution capacity, fire/life safety codes, and imposing correctional standards. There is court action pending against institutions in all regions of the state. Although existing regional institutions are being renovated and expanded, they will not meet the security needs or space requirements for housing long-term offenders. The most recent projected security classification of prisoners indicate that 450 close to maximum security beds for sentenced prisoners will be needed by 1985.

In closing, the Department wishes to re-emphasize the need for a new high security institution for sentenced offenders. Existing facilities, due to their operation, configuration, and limited space are unsatisfactory for housing long-term offenders. The facilities described in House Bill No. 88 do not meet standards for prison construction. Consequently, they could not

POSITION PAPER/Department of Health & Social Services

be used to house high security sentenced prisoners without presenting a constant danger to society, staff, and other prisoners and would also commit the State to huge ongoing operating costs.

Recommended by: _____

Roger V. Endell
Director
Division of Adult Corrections

Date: 3-30-83

Approved by: _____

Robert London Smith, Ph.D.
Commissioner

Date: 3/30/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: House Bill No. 88
Title:"..acquisition..certain prop..
Sponsor: Rep: Bettisworth
Requestor: HESS Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES	11,000.0	62,398.0				
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	*	*	*	*
CAPITAL	11,000.0	62,598.0				
REVENUE	-0-	-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	11,000.0	62,398.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

*Cannot be estimated at this time.

POSITIONS:

FULL-TIME	-0-	-0-	-0-			
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the bill sponsor other than coming from the State General Fund ($11,000,000.).

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: March 30, 1983

Approved by Commissioner: Date: 3/30/83
Department: Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

A. Assumptions

1. The acquisition costs identified in the bill are correct ($4,000,000 for Camp Isabel and $7,000,000 for the Buchner Building, Whittier).

2. Some funding may be available from the $4,000,000 appropriation to improve the facilities at Camp Isabel. The amount still available may not be sufficient to rehabilitate the facilities for correctional use.

3. The Department of Transportation/Public Facilities estimated in 1982 that an additional $62,394,000 would be required to rehabilitate the Buchner Building to be suitable as a correctional facility. It is assumed this figure is still valid.

4. No funding would be available for the operation of either Camp Isabel or the Buchner Building from the $.1,000,000 appropriation.

5. A new source of electrical power will probably be needed in Whittier to accommodate a correctional facility.

B. Program Summary

It is impossible to estimate the operational costs without knowing the number of inmates which could be housed at each facility and the number of correctional officers required to staff the facilities (this requirement varies with facility design).

C. Economic Impact

There will be a significant impact on the State budget if these two facilities are opened as correctional centers. However, in this period of growth of the inmate population, staff and costs related to inmate care will be experienced without respect to a particular facility.

D. Impact on Local Governments

Any impact on local governments are assumed to be beneficial because of the increased stable salary base and limited local purchase practices of correctional centers.

Making Good[s] Behind Bars

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Entrepreneurship threatened to rehabilitate Maine's prisoners—but the authorities couldn't handle it.

By Jeffrey Shedd

By 5:00 A.M., April 16, 1980, trained snipers lined the perimeter walls of Maine State Prison, home for 365 inmates. Nearby, at the local headquarters of the Maine state police, approximately 150 riot-prepared police and national guardsmen awaited the order to move. So complete had been the secrecy surrounding the upcoming maneuver that only hours before had they been informed of their mission: a "lockdown" of the prison, with all inmates confined to their cells 24 hours a day and an extensive search and seizure operation carried out.

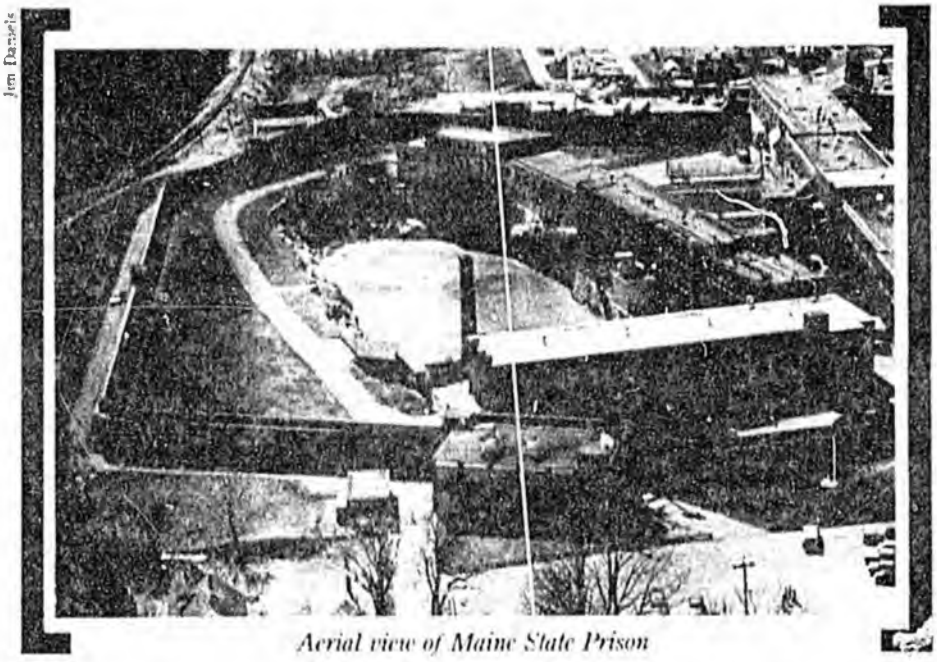
Outside the prison, a tense director of the Bureau of Corrections, Donald Allen, coordinated affairs via walkie-talkie. Shortly before the lockdown began, Allen persuaded a local television crew, who had somehow gotten wind of the impending move, to leave off their camera lights near the prison. Such lights, Allen warned, could alert the inmates behind the walls and cost lives.

At 6:00 A.M. the troops began their move, crossing first through the administrative area before fanning out through the rest of the prison. The 10-week lockdown of Maine State Prison had begun.

And what was the dramatic lockdown designed to accomplish? The end of a riot? The freeing of hostages?

No, the answer to that question is far less dramatic and far more fascinating.

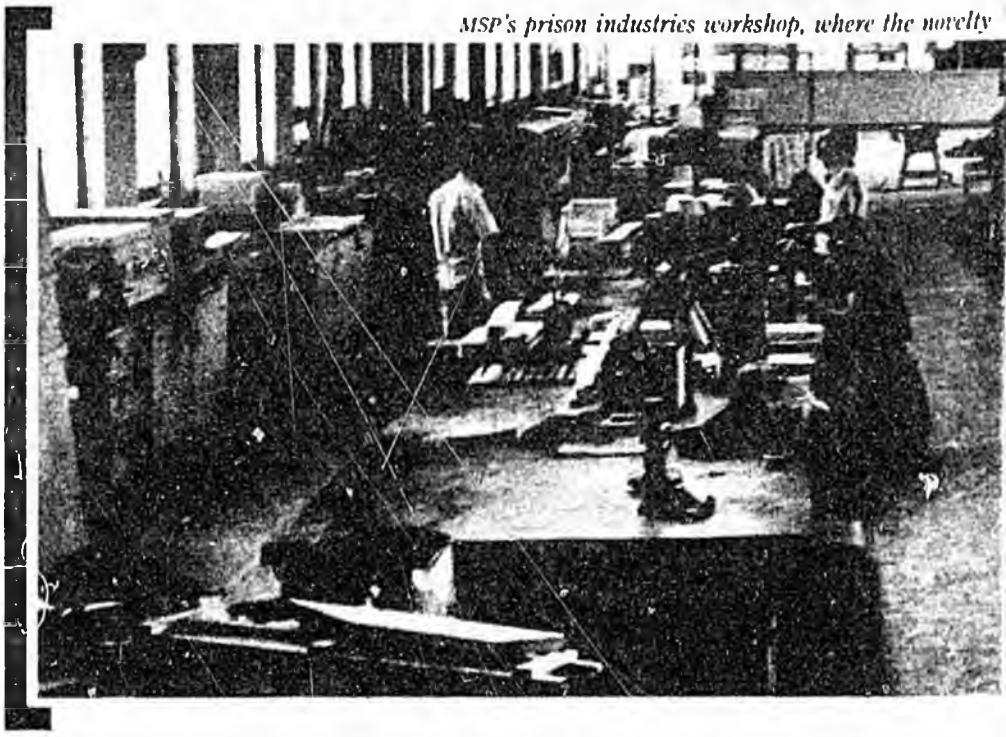
Jim Daniels



Aerial view of Maine State Prison

The lockdown of Maine State Prison, planned and prepared for months, was designed to impose state control over a market economy operating behind prison bars, controlled by the inmates, and centered around the production and sale to the public of wooden crafts and novelties. When the riot troops moved into the prison, what they found was not a life-threatening situation—all the prisoners had been locked in their cells overnight, and most were just waking up when the invading army arrived—but prisoner-made novelties, stacks and stacks of them, some finished and some unfinished, piled into every bit of spare space in the prison; in the cells, in the industrial shops, in the recreation room, in the laundry, everywhere.

All told, the lockdown and changes wrought during the period destroyed entrepreneurial inmates' thriving businesses, some of which may have been netting their bosses in excess of $30,000 a year; threw hundreds of inmates out of work; imposed idleness on a large portion of Maine State prison's inmate population; and cost Maine's taxpayers at least $700,000. Worse than any of its other accomplishments, however, the lockdown represented a triumph of mainstream, paternalistic, costly bureaucratic correctional thinking and a failure of imagination on the part of Maine's correctional and political establishment. It wasn't called that, but Maine State Prison had a rehabilitation program that was *working*. And it could have pointed the way to a far better arrangement of who pays for crime in our society. But Maine officials were unable to see the situation as an exciting, if imperfect, glimpse of what today's troubled prisons could be.



MSP's prison industries workshop, where the novelty

There are not nearly enough jobs in the traditional state-run industries to keep more than a tiny fraction of the inmates busy.

THE PRISON PICTURE

There are approximately 320,000 convicted criminals behind bars in the United States. Over half of them reside in maximum-security prisons that are enormously expensive to build, maintain, and operate.

The total correctional bill footed by taxpayers in 1978, the latest year for which data are available, was $5.5 billion. With a climbing prison population and inflation, it is likely that that figure now exceeds $7.5 billion annually. Indications from a study of the New York State correctional system in 1978 are that about 50 percent of prison budgets are spent on security; 15 percent on food, medical care, and recreation for inmates; and 10 percent on services—education, psychological counseling, libraries, etc. (In the New York program, another 6 percent of the prison budget went to subsidize the state's prison industry.)

And the returns for all these tax dollars? Increasing violence behind bars, a failure of the rehabilitative ideal, and a prison population in which repeat offenders continue to outnumber first-timers by almost three-to-one.

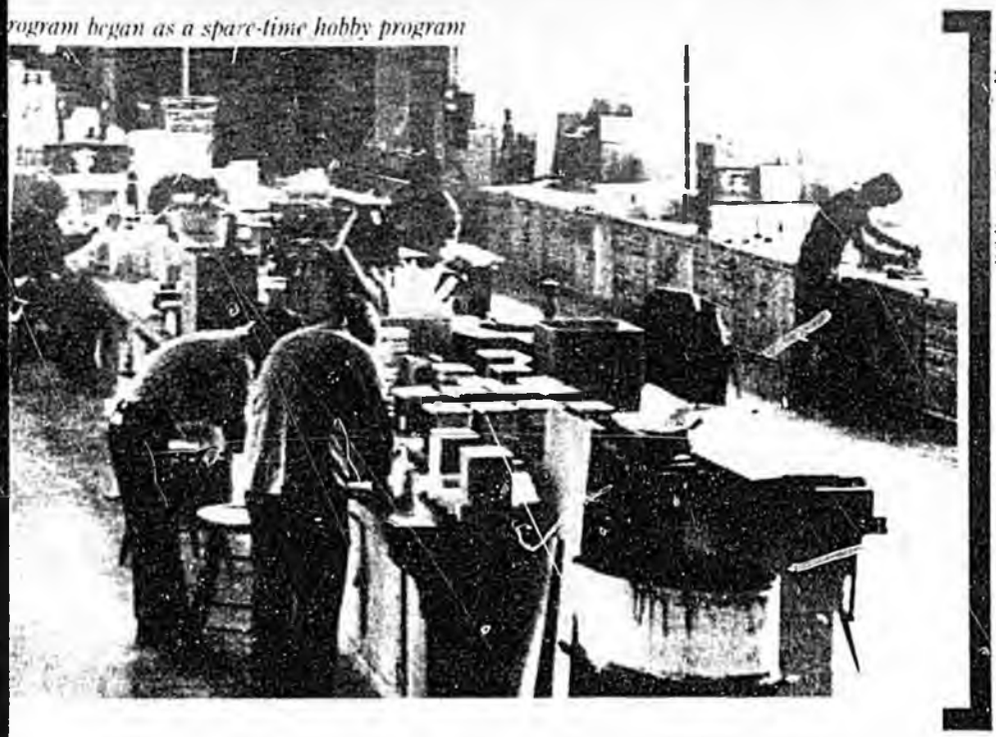
Despite all the money spent to keep America's prisoners behind bars and to "rehabilitate" them while they're there, life in prison is far from the country club existence occasionally painted by critics. True, many prisoners now have their own televisions, stereos, or radios in their cells. On the other hand, today's prisoners are locked into those cells a greater number of hours per day than was true just a few years ago. Overcrowding in prisons is a well-documented problem, though it may well take more than its share of the blame for the troubles that plague our prisons.

Anyone who reflects on the situation must recognize that a bigger problem is this: that prisoners are regularly denied virtually every outlet for constructive expression of their identities, energies, and creativity. Visitation rights are severely circumscribed. Recreational and athletic facilities are limited. In most prisons there are not nearly enough jobs in the traditional state-run industries to keep more than a tiny fraction of the inmates busy. Moreover, there is almost no incentive to participate in those industries, because wages are either nonexistent or absolutely nominal—seldom topping $1 per hour.

When combined with the general character of many inmates, idleness caused by the lack of constructive outlets makes prison a fearsome, and oftentimes violent, place. The incidence of violent deaths behind prison walls has climbed to about one per thousand per year. Stories of homosexual abuse are unfortunately commonplace. In recent years the level of violence in prisons has been exacerbated by gang warfare among inmates, particularly in the larger urban state prisons. Less well known but possibly more important on a day-to-day basis is the fact that lower levels of violence, particularly beatings and nonfatal stabbings, occur sufficiently frequently to create a pervasive atmosphere of suspicion, tension, danger, and unease in most prisons. It is widely acknowledged that much lower-level violence goes unreported.

Violence is an outlet for some prisoners; drugs, for others—and they are available, even if not readily or

rogram began as a spare-time hobby program



Bill Pierce/Courtesy Time Magazine

cheaply so, behind the walls. Black-market operations exist in virtually every American prison to supply the common but illicit wants of prisoners, drugs and weapons included.

This bleak picture of America's prisons should hardly startle anyone. What is disconcerting is the way prison officials attempt to deal with their charges.

While correctional experts seek clues in criminals' past lives and in socio-economic conditions on the outside as a basis for rehabilitation, they ignore the single biggest positive change that could be made in prisoners' lives on the inside: allowing inmates to put their lives to constructive use. Meanwhile, prison officials must establish some sense of order and peacefulness behind the walls. There is little doubt that prison security staffs are undermanned and unable to solve problems by applying traditional, limited police methods. The result: with pressure to achieve both rehabilitation and security, prisons are almost universally run on a system of (usually) benevolent despotism that combines aspects of the welfare state and the Gulag Archipelago, with prison experts shrinking from any untraditional alternatives. This, I was to discover, is what the lockdown at Maine State Prison was all about.

ENTERPRISING CHANGES

Maine State Prison (MSP) is a red-brick fortress located in Thomaston, Maine—a town of 2,000-3,000—along Interstate Route 1. Originally built in the late 19th century, MSP is Maine's only maximum-security prison. Less than a mile beyond its easternmost wall is the shimmering Atlantic Ocean, an appropriate symbol of the freedom of which those behind the wall have been legitimately deprived.

MSP's crafts and novelties program dates back almost 40 years. At that time, prison administrators, seeking to encourage inmate participation in the zero-paying state-run prison industries (chiefly license-plate and furniture manufacturing) offered inmates who worked in those industries the opportunity to use state-owned machinery in their spare time to produce hobby and craft items. Many prisons have a hobby and craft program, but MSP's novelty program went beyond those in other prisons in two important respects.

First—unlike their counterparts elsewhere, who are hampered by restrictive laws—MSP inmates have easy access to an excellent market for their goods. Inmates can sell their products at a prison-owned store located about 60 yards up the road from MSP on Maine's heavily traveled summer tourist route. Crafts sales to tourists are an important part of the region's economy, and many tourists seem not to mind paying the premium prices charged at the prison store. After all, how many people can say their living rooms are decorated with lamps, wooden ships, or anchors built by conmen, armed robbers, or murderers? Tour buses frequently make it a point to stop at the prison store.

Second, MSP inmates may hire one another to perform work, allowing for specialization. Until the lockdown, there was a legitimate, transferable currency with which inmates could pay one another for finished work: canteen coupons, which could either be spent at the prison canteen or banked in the prison's business office. In most prisons, on the other hand, an inmate may sell only those goods that are entirely self-produced, and there is no legalized currency (though prisoners inevitably create their own currencies—often cigarettes).

Until the last half of the '70s, the craft and novelty program remained a constant but minor feature of MSP life, providing spending money for many inmates but little more. Prison administrators limited both inmate earnings and productivity. In the early '70s, a single inmate could take in no more than $4,500 annual gross revenue through the sale of a maximum of four designs of crafts or novelties.

With the appointment of Richard Oliver as MSP warden in 1976 (Oliver later resigned rather than carry out the lockdown), the novelty program was transformed. Oliver appointed a Novelty Committee, dominated by inmates, to oversee the program. By the time of the lockdown, it had evolved into a group of inmates elected by MSP's "residents." To protect individual novelty makers, the committee awarded "patents" that gave the designers of novelty patterns the exclusive right to produce items according to those designs. The committee also collected a five percent surcharge on the price of all novelty items sold. The proceeds went into an Inmate Benefit Fund that was used to purchase goods or services not provided by the prison administration, including, among others, recreational and athletic equipment and a huge TV antenna to serve all the inmates, and new equipment for novelty production.

More important than the Novelty Committee, however, under Oliver the caps on inmates' economic activities were significantly raised in an effort to reduce idleness at the prison and to create a constructive outlet for their energy. From $5,000 and 5 patterns in 1976, the caps increased to $10,000 and 10 patterns in 1977 and again to $15,000 and 15 patterns in 1978.

With Oliver's changes, crafts and novelties production at Maine State Prison took off. In the year prior to the lockdown, $550,000 worth of inmate-produced items were sold through the prison store. Nearly two-thirds of all MSP inmates were participating in the novelty program as employers, employees, or occasionally both. With abundant work and income opportunities, there had developed inside the prison a miniature economy.

THE NOVELTY KINGS

There were people who excelled as entrepreneurs. A group of five or six of the largest novelty operators came to be known as the "novelty kings." To a man, they had arrived at MSP without business experience. The novelty program tapped their latent talents.

Probably the most successful, and certainly the most flamboyant, of the novelty kings was Aaron M. "Jack the Griz" Harrelson (so named because while in college he wrestled a circus grizzly bear to earn tuition money). Convicted of aggravated assault in 1975, Harrelson turned to the novelty business in 1977 in order to, in his words, "give the inmates something to do."

Harrelson proved himself a quick study in the business. He bought up patents on patterns from inmates leaving prison and, along with his talented stepson and fellow inmate, André Beaudoin, invented new patterns. A number of these were put in the name of other inmates (in exchange for a share of the profits) in order to avoid the official limits on novelty production. To make items under his many patterns, Harrelson hired a work force that numbered (estimating conservatively) between 30 and 50 inmates at the time of the lockdown.

Harrelson soon diversified his business. One of his operations, a TV rental business, was discovered at the time of the lockdown, when state officials confiscated over 100 Harrelson-owned television sets from cells all over the prison.

Another of his endeavors was management of the prison canteen, originally a state-run money-loser. Harrelson turned the operation around and by the time of the lockdown, Maine's taxpayers were no longer subsidizing inmate purchases of candy, cigarettes, and razor blades. It was from the canteen, too, that Harrelson ran another of his businesses: money lending.

The P. T. Barnum of Maine State Prison, Harrelson's finest hour came when, following prison administrators' announcement that they intended to tax novelty sales in order to subsidize the unprofitable prison-run industries, he offered to buy out the state operations and state-owned equipment, to employ inmates to produce prison-industry goods on a profit-sharing basis (at the time, inmates working in these industries were paid nothing for their work), and even to pay the salaries of the shop's supervisory staff! Although prison administrators



Jeffrey Sheld

"Novelty King" Harrelson, who now runs a wholesale novelty business on the outside

didn't doubt Harrelson's ability to keep his promise—one called him the "most brilliant businessman I've ever seen"—they rejected his offer.

Shortly after the lockdown, Jack Harrelson was transferred to a federal penitentiary in Indiana, where he served out the remaining months of his sentence. Currently, he operates a lucrative wholesale novelty business several miles from MSP. His factory is a small, two-story house in Waldoboro, Maine, stocked from floor to ceiling with woodworking equipment and novelties in every stage of completion. He hires former inmates to perform most of the work. In a true ironic touch, one of the directors of his business is a former prison guard—making him, he says, an "equal opportunity employer." Harrelson's business is accredited by Maine's Better Business Bureau.

The one subject about which Harrelson is reticent to speak is the amount of money he earned from his several businesses. Published estimates ranged between $30,000 and $100,000. Harrelson himself told me, "Only me and God knows what I made," but, he quickly added, "I made more than the governor and the warden put together."

Another of the novelty kings was a convicted murderer who arrived at MSP in 1975 with $20 in his pocket and no useful skills. The $20, says Richard Freeman, he quickly blew on junk food and cigarettes. Broke, he began rolling cigarettes for other inmates to earn spending money. The business gained Freeman a reputation for honesty.

When Warden Oliver made the changes that catalyzed the novelty program, Freeman's reputation paid off. Another inmate already heavily engaged in producing novelties had more ideas for patterns than he could legitimately produce under prison rules. He turned to Freeman, who agreed to apply for rights to the other inmate's patterns under his own name; in return, Freeman would receive a share of the profits on the novelties' sales. Through this and similar deals, he gained both experience in the business and capital for later investment.

In 1978 the former spendthrift began his own business. Like other novelty kings, he bought up patents belonging to inmates about to be released from the prison. He hired a work force—numbering at least 30 at the time of the lockdown—that he paid on a piece-work basis to maximize productivity.

Unlike Harrelson, Freeman was a behind-the-scenes operator, a fact that may have kept him from being transferred to a federal prison after the authorities made their move against MSP's enterprises. Since the lockdown, Freeman has refused to participate in the restructured novelty program.

Like Harrelson, Freeman will not disclose how much he made in his novelties business. He does admit that he did well enough to hire a well-respected attorney to file suit against prison administrators, charging them with property losses suffered as a result of the lockdown. Moreover, he put aside enough to pay for a college education when he is finally released from prison.



Bill Powers, Correctors Magazine

MSP inmates at work on novelties, which foun

ECONOMIC OPPORTUNITIES

Other novelty makers ran smaller operations. Among them was André Beaudoin, who, in addition to contributing to Harrelson's efforts, owned several patterns of his own. Described by other inmates as the best craftsman behind MSP's bars, Beaudoin emphasized quality rather than quantity. He eschewed the assembly-line techniques of the novelty kings, choosing instead to hold an individual inmate responsible for building a novelty item from beginning to end. That way, Beaudoin told me, a worker takes greater pride in his work and produces a better-quality product.

Beaudoin spoke to me animatedly about the technical details of craftwork—about the best woods and lacquers to use for particular jobs, for example. But he has curtailed his operations since the lockdown, he said, because of low-grade materials, overregulation, and red tape under the restructured novelty program.

The range of employee participation in the novelty program is illustrated by two cases:

- Thomas Mitchell, recently released from MSP after serving time for an assault conviction, worked for Jack Harrelson behind bars. Mitchell was one of the hardest workers among inmate employees; he took in, he says, around $200 per week prior to the lockdown. Currently, Mitchell works in Harrelson's free-world novelty business.
- John Roberts (not his real name), convicted of armed robbery, was one of the more sporadic inmate employees. He worked, he says, so that he could buy the drugs that "helped the time go by." Nevertheless, he earned nearly $4,000 the year prior to the lockdown.

As the novelty program flourished, other entrepreneurial talents were tapped. There arose inmate barbers who charged other inmates for style cuts. For the right price, an inmate could get his personal clothing laundered. For many of the prisoners, it was no doubt the first time they'd seen that individuals can profit by providing a good or service desired by others.

Nearly two-thirds of MSP inmates were participating in the novelty program as employers, employees, or both.

The novelty program was quite a success from the inmates' point of view. Every one of those I interviewed, from sporadic employees to novelty kings, agreed that the vast majority of inmates benefited greatly from the program. Some, it is true, were the targets of retaliatory action by the larger novelty operators, who, having gained considerable influence among the inmates, acted to counteract theft, the breaking of agreements between employers and employees, and general thuggism. Inmates who minded their own business, however, and refrained from violating the rights of others could freely take advantage of the economic opportunities created by the novelty program, earn wages determined by a competitive labor market, and escape the regimen of enforced idleness that characterizes most American prisons. Perhaps most important of all, they had control over and were permitted to take responsibility for an important aspect of their lives.

It was a unique program with unique results. It went a significant step further than any other prisoner work program in the history of U.S prisons.



a ready market among Maine's tourists

PRISONERS' WORK HISTORY

Since at least the time Robert Stroud—the famous Birdman of Alcatraz—built his first canary cage while confined in prison, it has been generally understood that work can be a creative outlet and pastime for prison inmates. (Indeed, had Stroud been confined at Maine State Prison in the late 1970s, my guess is that he would have been a major inmate entrepreneur.) Stroud and others like him, however, have for years labored under the burden of stifling rules and anti-competitive laws.

It wasn't always thus. Inmate labor once played a central role in the American correctional scene. Prisons were originally intended to be self-supporting, and, as a 1940 Department of Justice report noted, "the success or failure of many wardens depended on their ability to meet this test, and many of them met it successfully, even though they may have failed in all else."

The early self-supporting prison, however, succeeded not by granting economic liberty to prisoners but by making slaves of them. The unfair competition created by the exploitation of prisoner labor generated political opposition from unions and businesses. As early as 1801, New York passed legislation restricting the use of convict labor and the goods that it could be used to produce. Similar restrictive laws became increasingly common following the Civil War.

Not until the Great Depression, however, was the blanket of restrictive laws limiting the market for prisoner labor completed. Nearly every state now has laws or even constitutional provisions controlling the sale and marketing of all but a few types of prisoner-made items. A common arrangement is to permit such goods to be sold only to state agencies.

The federal government has restrictive laws of its own. The most significant of these complements the state laws by prohibiting interstate commerce in prisoner-made articles where the recipient state has local laws against commerce in those same goods. Other federal laws prevent private industries from using prisoner labor to fulfill government contracts and require careful labeling of prisoner-made items as such.

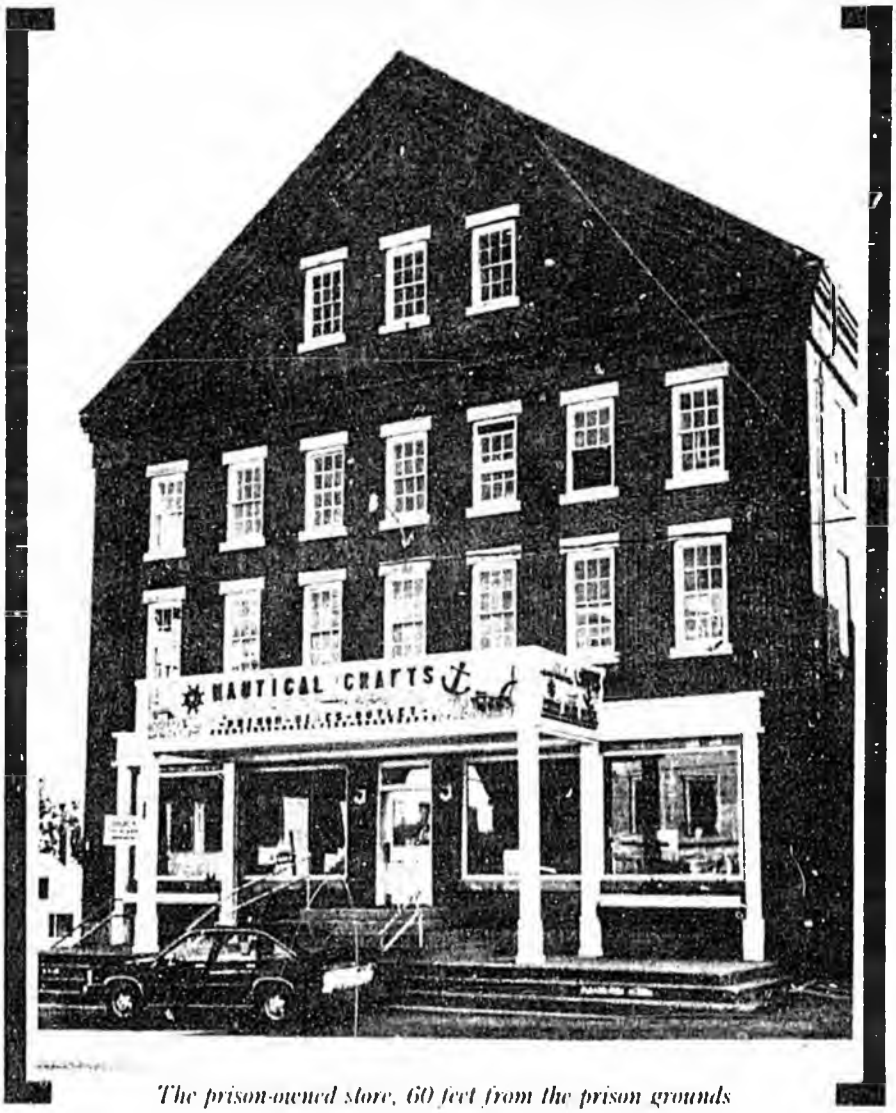
The effect of all these statutes was virtually to wipe out the market for prisoner labor and for prisoner-made goods. Even if such a market existed, it would be difficult to satisfy it; prison regulations typically permit prisoners to sell only those goods that they themselves have

produced in their entirety.

An interesting demonstration of the untapped productivity of convict labor occurred during World War II, when many of the federal restrictions on the sale and transport of prisoner-made goods were lifted by executive order in order to get prison industries to help the war effort. Statistics available for the period 1942-43 show that state prison industries produced nearly $10 million worth of war matériel—mostly clothing—during that year. Not coincidentally, it is reported that prison morale rose significantly during the war years. But when the war ended the restrictions on prisoner-made goods were reinstated.

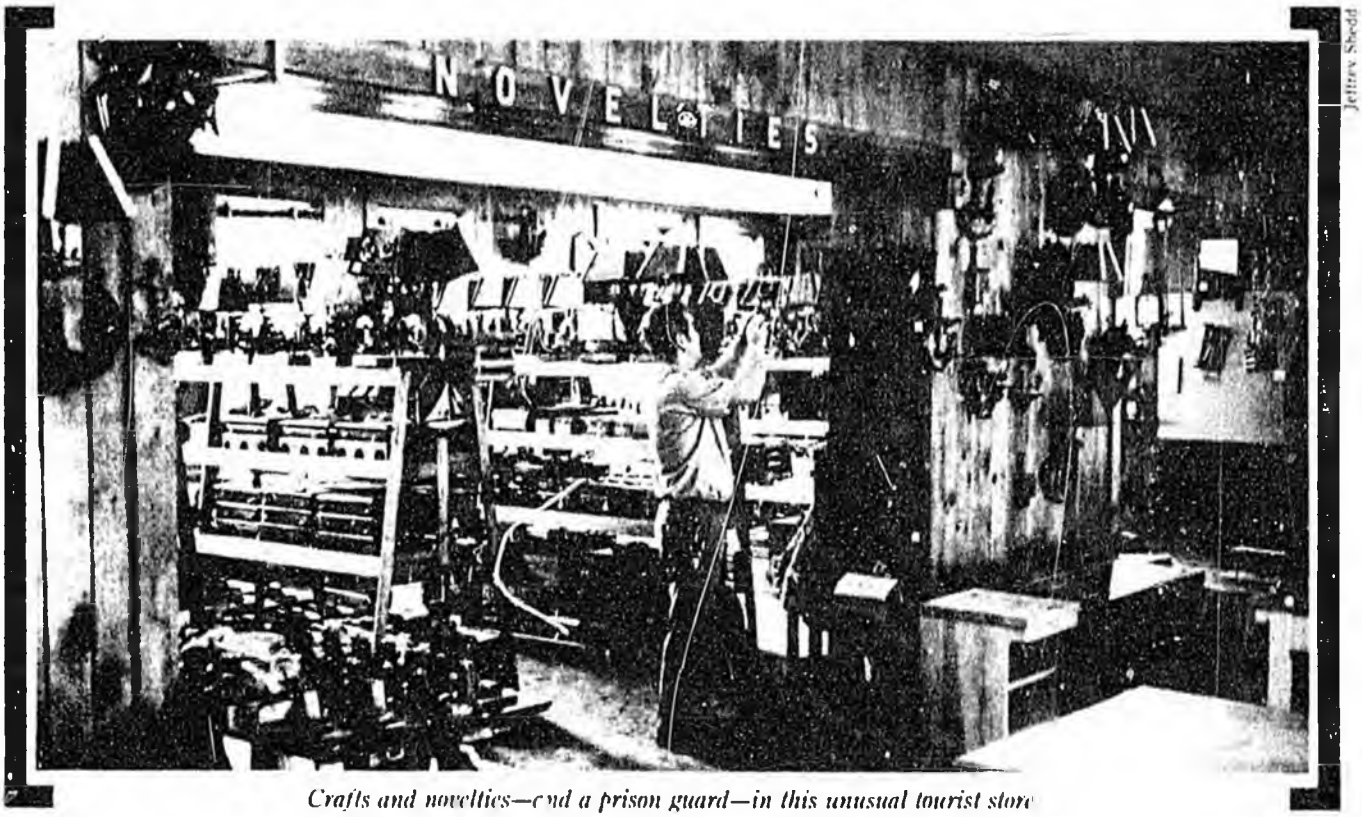
As a result of the anticompetitive laws and regulations, in virtually every prison the only work opportunities are in the traditional prison industries—the making of license plates being, of course, the classic example—and in prison maintenance and custodial work. In almost every case these positions are low-paying, and in spite of that the industries involved are almost everywhere money-losers. Few prisons have sufficient facilities to permit more than a small fraction of their inmates to participate.

A program that emerged during the '60s and '70s and expanded work opportunities for some prisoners is work release. Most states now have such a program, whereby minimum-security prisoners are permitted to work outside the walls of the prison part-time for private enterprises at market wages and



Jeffrey Shedd

The prison-owned store, 60 feet from the prison grounds



Jeffrey Shedd

Crafts and novelties—and a prison guard—in this unusual tourist store

under competitive business conditions. Importantly, work release participants are usually required to pay out of the wages they earn the costs of transportation to and from prison, room and board expenses, and taxes. By most accounts, work release programs are successes, but they are clearly inappropriate for most inmates.

A promising experiment to improve job opportunities and the incentives to work inside prison is Free Venture, until recently funded by the federal Law Enforcement Assistance Administration. Free Venture programs seek to upgrade state-run prison industries. Occasionally, the state-run industry will, under Free Venture, act as a contractor or subcontractor for a private business.

The impetus behind Free Venture came from a study commissioned by the LEAA and published in 1978. The study examined typical prison industry programs and found they suffered from, among other things, low wages and productivity, short work days, overstaffing of shops, high overhead, poor financial controls and record-keeping, failure to teach useful skills, limited marketing efforts, and a lack of managerial capability. The solution? New prison industries designed to emulate the outside world of work—"not busy work, but productive labor with outside-world efficiency, outside-world wages, and outside-world relevance."

Free Venture's practical achievements have been promising. LEAA helped to fund pilot projects in seven states. Prisoners chosen to participate in the program work in print shops, furniture shops, computer programming businesses, and farm machinery production businesses, among others. Wages are higher than in traditional prison industries, topping out at about $4 per hour, but not as high as originally hoped.

Initial results suggest that many prisoners in Free Venture programs develop positive attitudes toward work and that participation often aids a prisoner's reintegration into society upon release. Most importantly, Free Venture programs channel inmate energies into constructive outlets. Moreover, prisoners who are adequately rewarded often turn out to be unusually productive workers.

Free Venture is not without problems, however. First, the industries are rarely self-supporting, and some require heavy taxpayer subsidization. Reagan administration cutbacks in LEAA funding call into question the continued viability of Free Venture.

Second, some significant innovative features of the program as originally proposed have been dropped. These include requirements that participating prisoners turn over a portion of their earnings to help pay for the cost of their imprisonment—otherwise borne by taxpayers—and to provide some form of restitution to their victims. Both deductions were originally proposed to force the prisoner to absorb a greater portion of the social costs of his or her crime. After all, there is no reason to punish taxpayers any more than necessary for criminality. Both pay-back schemes have, however, been dropped in the face of prisoner complaints and administrative inconvenience.

Finally, Free Venture, despite its promise, can usually offer jobs for only a tiny fraction of the total inmate population. The problem of idleness is thus reduced, but not significantly.

Free Venture has demonstrated the potential productivity of prison inmates and the benefits of tapping it. If the Maine State Prison novelty program under Warden Oliver is any indication, the way to release that productivity without the tremendous cost to taxpayers is to encourage not just prisoner *work* but prisoner *entrepreneurship*. But the fate of the MSP program also indicates the hurdles that such an innovation faces.

WHY THE LOCKDOWN?

Why, despite the tremendous success of the novelty program in channeling inmates' energies into constructive activities, was the prison locked down? Donald Allen, director of Maine's Bureau of Corrections, admitted to me that for every example of problems with the situation at MSP there were undoubtedly numerous examples of benefits. So why did he personally, with the approval of the governor, plan, order, and coordinate the lockdown?

Lockdowns at prisons are not uncommon. Relatively frequently, prisoners will be locked in their cells while prison guards comb through the cells searching for and seizing contraband, usually weapons and drugs. Occasionally, lockdowns are used to foil rumored or suspected riots.

What was extraordinary about the lockdown of Maine State Prison was not the painstaking searches of the cells—which resulted in 50 dump-truck loads of inmates' personal property being carted away, inventoried, and stored. Nor was it the fact that three inmates were transferred to federal penitentiaries in connection with the lockdown. Though one can quibble with the choice of those relocated, such transfers often occur in conjunction with lockdowns.

Rather, what was extraordinary about the lockdown was its duration—10 weeks—and the complete about-face in prison policies during that period. Warden Richard Oliver had resigned in protest. Donald Allen took his position on an interim basis. A classification committee was set up, and each and every prisoner was reviewed so that his security risk could be assessed and his living situation and privileges designed accordingly. Lock-up time increased from about 10 hours per day prior to the lockdown to an average of about 17 now.

The biggest changes, though, were made in the prison's economy. Permitted levels of novelty activity were cut almost in half; from a high of $15,000 in 1980, the cap on an individual's gross income was slashed to $8,000. More important than this change (since inmates had always before found their ways around the caps), state control over intra-inmate economic activity became much tighter. Prison canteen coupons were declared nontransferable; thus, the only legitimate form of currency in the prison—individual prisoners' accounts in the prison's business office—rested under state control.

Moreover, to add red tape to inefficiency, inmates who wish to hire other inmates to perform novelty work must now sign a staff-approved contract with the intended employee. Staff must approve wage levels and determine that the intended employer has sufficient funds to pay the promised wages *even before work on any novelties has begun*! Thus, employers cannot promise to pay inmates out of expected profits from sale of the novelties. Too risky, say the authorities; the employee may never get paid. Better, they implicitly say, that he remain unemployed.

The conclusion is unavoidable that, at best, MSP's novelty program is now viewed as it originally was—a way to provide inmates a little spending money and to relieve a little of the idleness at the prison. The "preferred" means to reduce idleness at MSP is by provision of traditional rehabilitative services: since the lockdown, Maine's taxpayers have funded improvements in MSP's library and a significant increase in nonsecurity personnel, including social workers and psychologists.

At worst, prison administrators are out to destroy the novelty program. Though they deny the charge, their actions speak louder. Particularly significant is the fact that, for the first time, MSP's state-run prison industries pay for work per-

formed. (Of course, the industries still lose money; the taxpayers fund the losses). Although the cap on inmate earnings in the prison industry program is lower than in the novelty program—$5,000 compared to $8,000—the returns are more certain. Clearly, administrators are seeking to encourage greater participation in the traditional prison industries. The only possible loser from such a policy is the novelty program, particularly since inmates must now choose between participation in novelties and industries; they may no longer do both.

Whether the aim is to undercut the program's unique success or to completely destroy it the question remains: Why the lockdown and attendant changes at Maine State Prison? One possible explanation is political. In the view of inmates and former inmates with whom I spoke—Jack Harrelson most vociferously—the lockdown was a ploy to get more money from the state for the Bureau of Corrections and to have the bureau elevated to cabinet-level rank.

On the face of it, there is some evidence to back up the inmates' belief. For several years prior to 1980, Maine's legislature had repeatedly turned down requests from the Corrections Bureau for budget increases. Following the lockdown, and enormous accompanying publicity, budget increases were finally approved. Moreover, in September 1981 the Bureau of Corrections finally made it to the big time by being elevated to cabinet level. According to a newspaper account, a switch by a key legislator, Barbara Gill (R), who had earlier voted against such a move, was prompted by the lockdown.

In fact, however, there's not enough evidence to back the political motivation theory. It's no doubt true that, after the fact, Maine's correctional administrators took excellent political and bureaucratic advantage of the lockdown. But an afternoon spent with Donald Allen and other staff members at what was then the Bureau of Corrections convinced me that the reasons for the lockdown lie elsewhere: a failure of imagination. The situation at Maine State Prison before the lockdown simply did not fit within the traditional American model of corrections in which Maine's prison administrators are trained. It frightened them.

Some inmates think the lockdown was a ploy to get more money from the state for the Bureau of Corrections.

CORRECTIONAL ORTHODOXY

In the early days of the prisons—which were first used widely as the principal means of criminal punishment in both England and America shortly after the American Revolution—brute force was the predominant mode of dealing with inmates. Shackles, irons, whippings, torture—all these were used and even accepted. And in some more "progressive" prisons, such as the Cherry Hill Penitentiary in Philadelphia, near total isolation (intended to allow the convict time to reflect upon the evils of his past ways) solved many security problems.

Brute force is, however, as former *Fortune* editor and author of *Criminal Justice, Criminal Violence* Charles Silberman puts it, a grossly inefficient way to maintain order. And prison administrators did develop more sophisticated techniques.

Patronage provided part of the answer. Prison officials promoted some inmates above the rest by giving them special jobs within the administration. Essentially, the system was based on the ancient notion of divide and conquer. The favored inmates, who by the fact of their promotion gained a stake in maintaining the status quo, exerted influence over other inmates to keep the peace.

In some instances, this proved a highly effective means of control. In others, it amounted to an official sanction of violence by the favored few against the unfavored masses. Under the so-called trustee form of this approach, prisoners called trustees actually became responsible for guarding other prisoners; in some instances the trustees were armed. Stories abound of trustee inmates coaxing others to attempt to escape, shooting those inmates sucker enough to make the attempt, and then claiming additional favor from prison officials for their heroics. As a result of exposure of these and less dramatic abuses of the divide-and-conquer system, it is rarely used nowadays.

Shortly after the Civil War, there emerged another order within prisons, based on the premise that behind prison walls everything is a privilege. Good behavior is then rewarded by the grant of privileges; bad behavior discouraged by the revocation of previously granted privileges.

Until very recently—since the beginning of the '70s—prison administrators



Maine State Police moving in on MSP to impose control over its miniature

had virtually unchecked power to dish out privileges, including work opportunities, furlough, decreased cell time, increased recreational time, and "good time" (which brings forward an inmate's release date). The parole system, whereby parole boards were established to grant early release to well-behaved criminals, was a particularly effective means of controlling inmate behavior.

This benevolent despotism behind bars was justified on rehabilitative grounds; essentially, the view was that inmates were being "trained" to behave well. In fact, of course, the system taught no such thing: prisoners behaved only so long as they were rewarded for doing so. Once on the outside, these ex-cons, no longer institutionally rewarded for good behavior, often returned to their former criminal paths.

To many prison administrators, though, the fact that the system was a rehabilitative sham was irrelevant; it served the purpose of maintaining a semblance of order. When combined with more overt security practices—lock-ups, searches, seizures, isolation, etc.—the reward system guaranteed that prison would remain a despotic place despite the benevolent ideology.

In the 1970s, three developments coincided to reduce the power of administrators to deal with prisoners by traditional means. First, the courts began to involve themselves in problems behind the walls recognizing certain legal rights of prisoners. Though the scope of recognized rights has been comparatively modest, the change in attitude has been drastic; no longer are prison officials looked upon as courts of last resort for prisoners, and no longer can they look upon themselves as such. Second, the national trend toward determinate sentencing—and concomitantly, in some cases, eliminating or limiting the powers of parole boards—has reduced the effectiveness of traditional order-maintaining devices. In Maine and several other states, the parole system has been undergoing a gradual phase-out since the mid-1970s. Third, new arrivals in prison are not only younger but, it is widely acknowledged, more prone to violence and nihilistic. Combined with racial animosity and overcrowding, this factor has resulted in a greater problem with violence behind the walls.



Jim Harris

market economy

The response of prison administrators, guards, guard unions, academic penologists, and occasionally the courts to increasing levels of tension and danger in the prisons has been mixed. One reaction has been to decrease inmate freedom and step up the extent of intrusion into prisoners' lives. Lock-up time has increased in many prisons over the past few years. Another example: more and more, electronic surveillance is used to keep closer tabs on even the minutiae of inmate activity. The other response has been to provide improved living environments for and more services to prisoners. The theory is that such improvements will eliminate the causes of violence and vandalism inside prisons and contribute to prisoners' rehabilitation.

The American Correctional Association—a private, influential, prison-accrediting group—regularly adjusts its prison standards upward. In capsule, ACA standards represent the prevailing view of correctional experts regarding the conditions that must exist at a prison in order for it to be minimally satisfactory. For example, ACA standards require prison cells to be of certain minimum dimensions, require a minimum level of access to psychological counseling for inmates, require food to be of a certain quality and temperature, etc., etc. ACA standards do not, significantly, allow for inmates hiring one another to perform work or, obviously, paying wages for such work; indeed, virtually all inmate economic activity outside the context of state-run prison industries is unrecognized by the ACA.

The ACA prescription for maintaining order within prison and attempting rehabilitation is essentially a modernized—and, unfortunately, more expensive—version of the benevolent despotism that has prevailed for years. If prisoners are legitimately imprisoned in the first place, it is because they are responsible for their actions. Yet the accepted mode of dealing with prisoners, reflected in the ACA standards, is to pay great attention to the "causes" of criminality on the outside and violence on the inside, while denying inmates any opportunity to assume responsibility for their own lives.

A MISSED OPPORTUNITY

In 1979 Maine's Corrections Bureau dedicated itself to achieving compliance with the standards of the American Correctional Association. The same year it applied for and received a grant from the federal Law Enforcement Assistance Administration to begin compliance measures. (Incidentally, the LEAA had subsidized the ACA standards-creating process in the first place.)

As a first step toward ACA compliance, the Bureau of Corrections commissioned a team from the Philadelphia-based American Institute for Criminal Justice (which, by the way, administers the Free Venture program for the LEAA) to study the conditions at Maine State Prison. It is hardly surprising that the team's report on conditions at the prison was overwhelmingly negative. "The prison was the worst I've ever seen," says George Sexton, the study team's leader.

According to the team's summary of the situation:

Current operations at the Maine State Prison violate nearly every accepted principle of prudent correctional management as practiced in this country today. The overriding reason for this is the fact that the staff do not control the prison. On the contrary, the prison is virtually controlled and operated at the whim of the inmates. The inmate economy generated by the novelty program dominates the entire social structure and operation of the prison. It is this economy which has enabled a few powerful inmates to exploit (through fear and intimidation) the labor of a larger, less powerful group of inmates. This same inmate economy has created and fostered an atmosphere in which the potential for staff corruption is too great to be ignored. The general conditions under which both staff and inmates are living and working at the Maine State Prison are so unsafe as to constitute a serious danger to the safety, health, and life of both groups.

It is true enough that the flourishing economy inside MSP shaped the social

structure. At the top were the so-called novelty kings. Next came the lesser entrepreneurs, from inmate barbers and launderers to the smaller novelty operators. Beneath these entrepreneurs in terms of power and usually of economic well-being were the novelty employees, ranging from the sporadic worker who wished nothing more than to earn enough to keep himself supplied with the amenities of prison life to the more enterprising inmate who worked virtually all his spare time in the novelty program. Finally, on the lowest rung of MSP's social ladder there were two groups: the drug pushers and the strong-armers. (Another group, made up mostly of old-timers, chose not to get involved in the novelty program and remained effectively outside the prison's social structure.)

Yet in every prison there are powerful inmates and weak inmates. In most of them, the social differentiation is farther underground than it was at MSP before the lockdown, but there is little evidence that the more powerful inmates exploited all the rest through fear and intimidation.

The inmate workers I spoke to said that employees chose to work; no one forced them to do so. Usually, they worked on the basis of oral agreements with their bosses. Occasionally arguments—and, infrequently, minor violence—would ensue when an employee failed to perform promised work or when employers couldn't or wouldn't pay for work performed. By and large, however, work proceeded peacefully. According to James McCamant, prison industry supervisor, "We rarely had any problems in terms of fights or disturbances."

Since wages were not set by administrative fiat, as they are in most other prison work programs, the novelty operators paid wages dictated by the amount and quality of work and the availability of inmate labor. Some novelty employees at MSP earned as much as $50 a day, compared to the $0-$10 typical in traditional prison industries. Certainly the orthodox correctional model, consisting of low-paying or non-paying state-run industries and closed markets for prisoner-made products, much more clearly exploits the labor of inmates.

In one area, however, the more powerful inmates did use fear and intimidation. According to Donald Allen, who took over at the prison with the lockdown and went on to become commissioner of the newly formed Corrections Department, a state of near war existed between the thugs and drug pushers on the one hand—the "young turks," as he calls them—and the "novelty kings" and their henchmen on the other.

Certainly the novelty kings recognized the young Turks for what they were: threats to the economic status quo. Nothing would more surely lead prison administrators to cut back on the newly won freedoms of inmates than would an escalation of drug pushing and violence and theft behind bars. So the novelty kings sometimes turned vigilante—usually, as far as I could determine, with the tacit approval of substantial portions of the remainder of the inmate population.

Now vigilantism is vigilantism, whether inside or outside a prison. Yet the fact is that the intimidation and violence involved was aimed at maintaining order within the prison. It was not the mindless violence that plagues so many prisons, where violence is engaged in because prisoners are denied other, constructive avenues of self-expression.

Moreover, although prison administrators claim the level of violence has fallen since the lockdown, they are understandably unable to document their claims. It is a simple fact of prison life that most attacks and beatings behind bars go unreported. To a man, the inmates with whom I spoke at the prison denied, however, that the lockdown led to reduced levels of violence; one said that what violence there was at MSP has simply gone farther underground.

In spite of the power of some inmates to impose some sort of order within the prison, the staff, contrary to the experts' report, *remained in control* of the prison. The prison watch towers were manned by staff, not inmates; prisoners were locked in their cells every night; they regularly appeared for head counts; they were not free to walk out the prison's front door.

Did the income flowing throughout MSP's internal economy pose the danger of staff corruption? If so, it hardly seems just to punish the inmates for that potential. That's not how police departments deal with this omnipresent problem.

Nor was the drastic lockdown warranted by safety problems discovered at the prison by the team of experts. Fire and disease hazards there were; cracking down on the placement of flammable materials and on the maintenance of food preparation areas would seem to have been an adequate response.

In the final analysis, Maine State Prison was locked down because it didn't fit into the correctional experts' picture of prison life. There is simply no place in ACA standards for inmates roaming around more or less freely within a prison or for prisoner-made products to be stacked haphazardly throughout it. Even more telling, there is no place for ambitious and talented individuals finding a way around bureaucratic restrictions on their activities, for prison workers' wages being determined other than by administrative fiat, for some inmates benefiting from others' desires for haircuts, laundry services, loans, or anything else. In short, the MSP lockdown occurred, not because authorities did not have control over the prison, but because they did not have control over the *economic lives* of the inmates.

Had the authorities responsible for MSP's lockdown realized that they were sitting on a potential gold mine, would they have carried it out with such dispatch? Had they seen the possibilities for making their prison into a showcase, might they have thumbed their noses at the tradition-bound experts and done all in their power to improve the freed-up novelty program instead of scaling it back?

When Chief Justice Warren E. Burger made a news-breaking speech in December 1981 calling for converting the nation's prisons into "factories with fences," MSP's administrators could have stepped forward with a real-world demonstration of the potential productivity of America's 320,000 prisoners under a program with real-world economic incentives. They could have pointed out the importance of a ready market for prisoner-made goods, thus backing up Burger's injunction to federal and state lawmakers to abolish all the existing restrictions on the production and sale of prisoner-made items. And they could have offered living proof of his claim that a program for prison production offers "a better chance to release from prison a person able to secure gainful employment."

What they could not have done, of course, is nodded their heads in agreement with Burger's promise that his proposal could take soaring prison costs "off the backs of the American taxpayers." For Maine's correctional authorities never tapped the financial bonanza that lay before them. While MSP's inmates reaped the benefits of their economic liberty, they never had to pay, nor even contribute toward, the costs of their crimes. Had their miniature economy included that eminently justifiable feature, perhaps it would have been more palatable to the bureaucrats, and on that day in April 1980, no riot troops would have gathered outside the prison walls to put a lock on a unique experience with business behind bars. ☐

Jeffrey Shedd is a law student at Boston University. This article is a project of the Reason Foundation Investigative Journalism Fund.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 88

"An Act making special appropriations to the Department of Health and Social Services for the acquisition, improvement, and operation of certain property for use as correctional facilities; and providing for an effective date."

Description of Property

Camp Isabel is located on state leased land at Mile Post 197 off the Richardson Highway, approximately 269 miles from Anchorage and 67 miles from Fairbanks. The camp is composed of 64 metalsided modular buildings. There are 33 barracks, 16 warehouses, four office structures, an 11,000 square foot kitchen, two recreational buildings, a laundry, first aid station and various other ancillary buildings and equipment. Camp capacity was 1,500 persons. The camp was built in the early 1970's and closed in the late 1970's. All buildings are listed in good to poor condition. They consist mainly of plywood and light gauge metal modular buildings which would be difficult and costly to make secure. Buildings would probably have to be removed to provide space for Uniform Building Code. The camp is very large and its configuration does not lend itself to partial use. If it could be used in part, the labyrinth of empty buildings would pose a security and fire risk.

The Buchner Building in Whittier is located on private land 59 miles from Anchorage. There is no direct road access to Whittier, and limited service by the Alaska Railroad from Portage. Chronic high winds make flying marginal much of the time. The building is a 273,000 square foot concrete and masonry structure built shortly after World War II to house 2,500 military personnel. It was abandoned in 1965. In 1977, the concrete shell was rated in excellent condition. All other features, including internal partitions, finishes, plumbing, mechanical and electrical equipment and systems were rated for replacement. A 1982 estimate by DOT/PF says $42,155,000 would be needed to make the building functional and a total of $62,394,000 would be required to make it suitable for correctional use. These figures do not include acquisition of the property, which may or may not be available. Because of the concrete-bearing wall construction of the Buchner Building, it would be difficult and costly to recess the many plumbing, electrical and ventilation systems unique to prison construction. In order to establish a high security facility on the Whittier site, it would be necessary to tear down the existing facility and start over, or construct a new facility within the existing shell. Either option would be extremely costly and would far exceed $7 million identified as the acquisition and improvement cost. Over the past several years the Whittier site has been evaluated by administrators of the Division of Corrections, DOT/PF and the CCC/HOK architectural firm in Anchorage. Results consistently indicated the facility would not be suitable for housing either sentenced or unsentenced prisoners. With its capacity for 2,500 persons, the Buchner Building is far too large by national standards. Paragraph 4149 of the American Correctional Standards states that a facility's design should accommodate no more than 500. We believe this to be a sound recommendation from an operational

standpoint. Last year a telegram from the city manager of Whittier (copy attached) expressed strong objection to selection of Whittier as a location for a correctional facility.

Cost effectiveness is an important consideration in both Camp Isabel and Whittier. The higher costs of an inaccessible location affect not only construction costs, but operational costs throughout the life of its use.

Departmental Consideration

The Department of Health and Social Services does not support House Bill No. 88 because it would not meet needs for prisoner housing in Alaska.

Neither Camp Isabel nor the Buchner Building at Whittier complies with essential correctional standards as noted in paragraph 4147 of the American Correctional Standards. (Copy attached)

The following are deficiencies shared by both sites:

- Fire/Life Safety. All inmates must be assured adequate protection from fire and life-threatening situations, both within the buildings and supported by emergency service operations. Both facilities will require significant life safety systems to meet minimum code requirements. Emergency service operations are most efficiently and effectively provided by local community public service departments. Whittier has a small volunteer fire department, but the nearest major fire fighting equipment and personnel are in Anchorage, with no current road access. Closest volunteer fire departments to Camp Isabel are at Glennallen, 82 miles away, and Delta Junction, 70 miles.

- Outside Support. Both sites fail to meet correctional standards noted in paragraph 4147 of the American Correctional Standards. In event of an internal disturbance, staff from nearby institutions, State Troopers and the National Guard must be readily available to help restore perimeter security and insure safety of all persons inside the institutions as well as those outside. An inaccessible location makes this impossible. Closest trooper detachment to Whittier is in Anchorage. There is one trooper in Girdwood. Major trooper detachment for Camp Isabel is in Anchorage, with six troopers in Glennallen. There are three troopers in Delta Junction from the Fairbanks detachment.

- Medical and Dental Care. This is normally provided on contact by physicians, dentists and medical specialists within a community. Camp Isabel is 82 miles from the nearest physician at Glennallen which also has a six-bed hospital, and 158 miles from medical help in Fairbanks. Whittier has no resident health professionals and no supply of medication (see attached resolution). Lack of access to community hospitals is in violation of paragraph 4257 (attached) of the American Correctional Standards. Providing full-time medical professionals on the prison staff is prohibitively expensive and they are nearly impossible to recruit.

- Staffing/Housing. Recruiting, training and retaining correctional staff is costly and difficult under the best of circumstances. Due to the virtual non-existence of adequate private housing in conjunction with the

isolated surroundings, a high turnover of employees would be anticipated. The State may have to provide staff housing at further expense.

- Legal Access. Inmates frequently have interaction with the court system, and they have the right to legal counsel. Transporting prisoners from an inaccessible location to court and counsel would be both costly and time consuming. Inmates at Whittier would have to travel to Anchorage; from Camp Isabel they would go to Fairbanks.

- Community Ties. Regardless of the offense of length of sentence, nearly every prisoner will eventually return to the community. It is unrealistic to believe a person can live in isolation, without community ties, then suddenly be returned and make a successful adjustment. Opportunities for restitution and work release, which could lessen the tax burden, would be limited to non-existent in an inaccessible location.

- Family Ties. Imprisonment strains the family under any circumstances. Lack of opportunity for visits increases the likelihood the family unit will be destroyed and limits opportunities for the offender to successfully reenter the community.

- Programming. The statewide chaplaincy program coordinates services in prisons and arranges individual religious services in any denomination, calling on clergy in the community. The educational programs draw on University staff in nearby communities. Counseling dealing with sex offenses, family abuse, alcohol and drug abuse and other psychological and emotional programs all draw upon various programs existing within a community. Few if any of these programs could be offered in isolated settings such as Camp Isabel or Whittier. Rehabilitation efforts offer the best hope for protection of society against repeat offenders, since virtually all inmates will eventually be released.

In Alaska, the courts and regulatory bodies are getting more and more involved in setting limits on institution capacity, fire/life safety codes, and imposing correctional standards. There is court action pending against institutions in all regions of the state. Although existing regional institutions are being renovated and expanded, they will not meet the security needs or space requirements for housing long-term offenders. The most recent projected security classification of prisoners indicate that 450 close to maximum security beds for sentenced prisoners will be needed by 1985.

In closing, the Department wishes to re-emphasize the need for a new high security institution for sentenced offenders. Existing facilities, due to their operation, configuration, and limited space are unsatisfactory for housing long-term offenders. The facilities described in House Bill No. 88 do not meet standards for prison construction. Consequently, they could not

POSITION PAPER/Department of Health & Social Services

be used to house high security sentenced prisoners without presenting a constant danger to society, staff, and other prisoners and would also commit the State to huge ongoing operating costs.

Recommended by: for Roger C. Seage

Roger V. Endell
Director
Division of Adult Corrections

Date: 3-30-83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date: 3/30/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: House Bill No. 88
Title:"..acquisition..certain prop..
Sponsor: Rep. Bettisworth
Requestor: HESS Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES	11,000.0	62,394.0				
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	*	*	*	*
CAPITAL	11,000.0	62,394.0				
REVENUE	-0-	-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	11,000.0	62,394.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

*Cannot be estimated at this time.

POSITIONS:

FULL-TIME	-0-	-0-	-0-			
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the bill sponsor other than coming from the State General Fund ($11,000,000.).

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: March 30, 1983

Approved by Commissioner: Date: 3/30/83
Department: Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
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Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

A. Assumptions

1. The acquisition costs identified in the bill are correct ($4,000,000 for Camp Isabel and $7,000,000 for the Buchrer Building, Whittier).

2. Some funding may be available from the $4,000,000 appropriation to improve the facilities at Camp Isabel. The amount still available may not be sufficient to rehabilitate the facilities for correctional use.

3. The Department of Transportation/Public Facilities estimated in 1982 that an additional $62,394,000 would be required to rehabilitate the Buchner Building to be suitable as a correctional facility. It is assumed this figure is still valid.

4. No funding would be available for the operation of either Camp Isabel or the Buchner Building from the $11,000,000 appropriation.

5. A new source of electrical power will probably be needed in Whittier to accommodate a correctional facility.

B. Program Summary

It is impossible to estimate the operational costs without knowing the number of inmates which could be housed at each facility and the number of correctional officers required to staff the facilities (this requirement varies with facility design).

C. Economic Impact

There will be a significant impact on the State budget if these two facilities are opened as correctional centers. However, in this period of growth of the inmate population, staff and costs related to inmate care will be experienced without respect to a particular facility.

D. Impact on Local Governments

Any impact on local governments are assumed to be beneficial because of the incareased stable salary base and limited local purchase practices of correctional centers.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 797

"An Act making special appropriations to the Department of Health and Social Services for the acquisition, improvement, and operation of certain property for use as correctional facilities; and providing for an effective date."

Description of Property

Camp Isabel is located on state leased land at Mile Post 197 off the Richardson Highway, approximately 269 miles from Anchorage and 167 miles from Fairbanks. The camp is composed of 64 metalsided modular buildings. There are 33 barracks, 16 warehouses, four office structures, an 11,000 square foot kitchen, two recreational buildings, a laundry, first aid station and various other ancillary buildings and equipment. Camp capacity was 1,500 persons. The camp was built in the early 1970's and closed in the late 1970's. All buildings are listed in good to poor condition. They consist mainly of plywood and light gauge metal modular buildings which would be difficult and costly to make secure. Buildings would probably have to be removed to provide space for construction of a high security institution built to comply with the 1979 Uniform Building Code. The camp is very large and its configuration does not lend itself to partial use. If it could be used in part, the labyrinth of empty buildings would pose a security and fire risk.

The Buchner Building in Whittier is located on private land 59 miles from Anchorage. There is no direct road access to Whittier, and limited service by the Alaska Railroad from Portage. Chronic high winds make flying marginal most of the time. It is a 273,000 square foot concrete and masonry structure built shortly after World War II to house 2,500 military personnel. It was abandoned in 1965. In 1977, the concrete shell was rated in excellent condition. All other features, including internal partitions, finishes, plumbing, mechanical and electrical equipment and systems were rated for replacement. A 1982 estimate by DOT/PF says $42,155,000 would be needed to make the building functional and a total of $62,394,000 would be required to make it suitable for correctional use. These figures do not include acquisition of the property, which may or may not be available. Because of the concrete-bearing wall construction of the Buchner Building, it would be difficult and costly to recess the many plumbing, electrical and ventilation systems unique to prison construction. In order to establish a high security facility on the Whittier site, it would be necessary to tear down the existing facility and start over, or construct a new facility within the existing shell. Either option would be extremely costly and far exceed $7 million. Over the past several years the Whittier site has been evaluated by administrators of the Division of Corrections, DOT/PF and the CCC/HOK architectural firm in Anchorage. Results consistently indicated the facility would not be suitable for housing either sentenced or unsentenced prisoners. With its capacity for 2,500 persons, the Buchner Building is far too large by national standards. Paragraph 4149 of the American Correctional Standards states that a facility's design should accommodate no more than 500. A telegram from the city manager of Whittier (copy attached) expresses strong objection to selection of Whittier as a location for a correctional facility. Cost effectiveness is an important consideration in both Camp Isabel and Whittier. The higher costs of an inaccessible location affect not only construction costs, but operational costs throughout the life of its use.

POSITION PAPER/Department of Health & Social Services

Departmental Consideration

The Department of Health and Social Services does not support House Bill No. 797 because it would not meet needs for prisoner housing in Alaska.

Neither Camp Isabel nor the Buchner Building at Whittier complies with essential correctional standards as noted in paragraph 4147 of the American Correctional Standards. (Copy attached)

The following are deficiencies shared by both sites:

- Fire/Life Safety. All inmates must be assured adequate protection from fire and life-threatening situations, both within the buildings and supported by emergency service operations. Both facilities will require significant life safety systems to meet minimum code requirements. Emergency service operations are most efficiently and effectively provided by local community public service departments. Whittier has a small volunteer fire department, but the nearest major fire fighting equipment and personnel are in Anchorage, with no current road access. Closest volunteer fire departments to Camp Isabel are at Glennallen, 82 miles away, and Delta Junction, 70 miles.

- Outside Support. Both sites fail to meet correctional standards noted in paragraph 4147 of the American Correctional Standards. In event of an internal disturbance, staff from nearby institutions, State Troopers and the National Guard must be readily available to help restore perimeter security and insure safety of all persons inside the institutions as well as those outside. An inaccessible location makes this impossible. Closest trooper detachment to Whittier is in Anchorage. There is one trooper in Girdwood. Major trooper detachment for Camp Isabel is in Fairbanks, with seven troopers in Glennallen and three troopers in Delta Junction.

- Medical and Dental Care. This is normally provided on contract by physicians, dentists and medical specialists within a community. Camp Isabel is 82 miles from the nearest physician at Glennallen which also has a six-bed hospital, and 158 miles from medical help in Fairbanks. Whittier has no resident health professionals and no supply of medication. (See attached resolution) Lack of access to community hospitals is in violation of paragraph 4257 (attached) of the American Correctional Standards. Providing full-time medical professionals on the prison staff is prohibitively expensive and they are nearly impossible to recruit.

- Staffing. Recruiting, training and retaining correctional staff is costly and difficult under the best of circumstances. High turnover is disruptive and very cost ineffective. Few employees may be willing to live in isolated surroundings for more than a short time. Because of the hardship imposed on families, we do not expect much success in recruiting and retaining a staff for Isabel Pass or Whittier. We may have to provide staff housing at further expense.

- Legal Access. Inmates frequently have interaction with the court system, and they have the right to legal counsel. Transporting prisoners from an inaccessible location to court and counsel would be both costly and dangerous. Inmates at Whittier would have to travel to Anchorage; from Camp Isabel they would go to Fairbanks.

POSITION PAPER/Department of Health & Social Services

- Community Ties. Regardless of the offense or length of sentence, nearly every prisoner will eventually return to the community. It is unrealistic to believe a person can live in isolation, without community ties, then suddenly be returned and make a successful adjustment. Opportunities for restitution and work release, which could lessen the tax burden, would be limited to non-existant in an inaccessible location.

- Family Ties. Imprisonment strains the family under any circumstances. Lack of opportunity for visits increases the likelihood the family unit will be destroyed and limits opportunities for the offender to successfully reenter the community. This can also lead to more families on welfare.

- Programming. The statewide chaplaincy program coordinates services in prisons and arranges individual religious services in any demonination, calling on clergy in the community. The University Within Walls program draws on University staff in nearby communities. Counseling dealing with sex offenses, family abuse, alcohol and drug abuse and other psychological and emotional programs all draw upon various programs existing within a community. Few if any of these programs could be offered in isolated settings such as Camp Isabel or Whittier. Rehabilitation efforts offer the best hope for protection of society against repeat offenders, since virtually all inmates will eventually be released.

In Alaska, the courts and regulatory bodies are getting more and more involved in setting limits on institution capacity, fire/life safety codes, and imposing correctional standards. There is court action pending against institutions in all regions of the state. Although existing regional institutions are being renovated and expanded, they will not meet the security needs or space requirements for housing long-term offenders. The projected security classification of prisoners indicate that 330 close to maximum security beds for sentenced prisoners are needed by 1985.

In closing, the Department wishes to re-emphasize the need for a new high security institution for sentenced offenders. Existing facilities, due to their operation, configuration, and limited space are unsatisfactory for housing longterm offenders. The facilities described in House Bill No. 797 do not meet standards for prison construction. Consequently, they could not be used to house high security sentenced prisoners without presenting a constant danger to society, staff, and other prisoners.

Recommended by: Walter B. Jones, Jr.

Walter B. Jones, Jr.
Acting Director
Division of Adult Corrections

Date: 3-8-82

Approved by: Helen D. Beirne

Helen D. Beirne, Commissioner
Department of Health and
Social Services

Date: 3-8-82

REGARDING: HOUSE BILL 797

DEAR REP. CATO:

THE CITY OF WHITTIER, ALASKA, STANDS VEHEMENTLY OPPOSED TO A STATE CORRECTIONAL FACILITY BEING LOCATED IN WHITTIER.

1. THE PEOPLE OF THE CITY OF WHITTIER HAVE NEVER BEEN CONSULTED CONCERNING THEIR WISHES EGARDING LOCATING A PRISON IN THE CITY OF WHITTIER. IT IS INAPPROPRIATE THAT A HOUSE BILL BE INTRODUCED ABSENT PRIOR SOLICITATION OF GUIDANCE, INTEREST OR OPPOSITION FROM THE PERSONS EFFECTED SO MATERIALLY AND SO SUBSTANTIALLY BY THE LEGISLATION. A PRISON IN WHITTIER WOULD COMPLETELY ALTER AND UNDERMINE IF NOT FULLY DETERMINE THE CHARACTER AND CONCEPT OF THE COMMUNITY OF WHITTIER.

2. THE PEOPLE OF THE CITY OF WHITTIER ARE ADAMANTLY OPPOSED TO THE LOCATION OF PRISON FACILITIES IN WHITTIER. A PRISON DOES NOT FIT IN WITH THE ETHOS, CHARACTER, CONCEPT OR PLAN DEVELOPMENT ENVISIONED FOR THE CITY OF WHITTIER. WHITTIER ENVISIONS ITSELF AS A COMMUNITY RESURRECTED FROM MILITARY ABANDONMENT, AS AN UP AND COMING COMMERCIAL PORT, AS A RAIL COMMERCE CENTER, AS A CITY HOUSING MILITARY FACILITY OPERATION, AS A COMMUNITY FOR CHILDREN, AS A COMMUNITY FOR RETIRING ALASKANS, AS A PLACE FOR FOCUS UPON FISHERIES ACTIVITIES, AND AS A GATEWAY FOR TOURISM AND OTHER RECREATION FROM ANCHORAGE AND OTHER PLACES IN ALASKA. PEOPLE IN WHITTIER DID NOT MOVE TO WHITTIER TO LIVE IN A PRISON COMMUNITY, AND THEY HAVE THE RIGHT NOT TO HAVE A PRISON RAMMED DOWN THEIR THROATS BY THE STATE AS IT HAS NOT BEEN ABLE TO FIND

A PRISON IN WHITTIER WOULD NOT BE COMPATIBLE WITH THE ABOVE GOALS TAKEN AS A WHOLE AND COULD VIRTUALLY RUIN THE COMMUNITY AS A RECREATIONAL CENTER AND GATEWAY TO THE MAGNIFICENT PRINCE WILLIAM SOUND RECREATIONAL AREA.

3. MAKING A PRISON OUT OF THE BUCKNER BUILDING IN WHITTIER WOULD NOT BE THE HIGHEST AND BEST USE OF THE REGION AND PROPERTY IN QUESTION. THE FACILITY HAS BEEN DERELICT FOR A NUMBER OF YEARS AND WAS NOT DESIGNED AS A PRISON. MOLDING THE BUILDING INTO A PRISON FACILITY COULD RESULT IN CUTTING THE CITY OF WHITTIER IN HALF AND IN MAKING THE GREAT PART OF THE CITY N ARMED CAMP. THE SPECIAL AND UNIQUE CHARACTER OF WHITTIER, THE HARSH WEATHER, THE RUGGED LANDSCAPE AND THE SHADED SUNLIGHT IN WINTER WOULD MAKE THE ISOLATION IN PRISON LIFE MORE PSYCHOLOGICALLY BURDENSOME ON BOTH THE TOWN AND PRISON POPULATION.

4. THE CITY OF WHITTIER POSSESS RIGHTS UNDER ITS CONTRACT OF SALE OF THE BUCKNER BUILDING TO C.B.S. REAL ESTATE IN 1977. AMONG THE MATERIAL CONDITIONS OF THE SALE WAS A REQUIREMENT THAT THE BUILDING BE COMPLETED IN LATE 1982. THIS REQUIREMENT DOES NOT APPEAR AS IF IT WILL BE MET, AND THE CITY OF WHITTIER NOTIFIED THAT STATE OF ALASKA HEREIN THAT IT RESERVES ALL RIGHTS UNDER ITS CONTRACT FOR THE SALE OF THE BUILDING TO C.B.S. REAL ESTATE, INCORPORATED.

IT IS IRONIC THAT WHITTIER WOULD HAVE BEEN WILLING IN 1976 OR 1977 TO ALLOW THE STATE OF ALASKA TO ACQUIRE THE BUILDING FOR A NOMINAL PRICE (ABOUT DLRS200,000) FOR A SUITABLE PURPOSE, AND THAT NOW THE STATE PROPOSES TO PURCHASE THE BUILDING FOR MILLIONS FROM THE PRIVATE INTERESTS WHO CONDITIONALLY BOUGHT THE BUILDING AT THE NOMINAL PRICE.

OTHER DEVELOPMENTS WILL BE REPORTED THROUGH OUR STATE REPRESENTATIVE SENATOR J KERTTULA AND REPRESENTATIVE BETTE CATO, BUT THOUGHTFUL CONSIDERATION AND ASSISTANCE IS REQUESTED FROM ALL OF YOU WHO RECEIVE THIS MESSAGE.

THANK YOU FOR YOUR TIME AND CONSIDERATION. SINCERELY

GEORGE E. WEISS, CITY MANAGER

ON BEHALF OF THE MAYOR, CITY COUNCIL AND THE

PEOPLE OF THE CITY OF WHITTIER

D HESS C

Asper
3/18/83

Original sponsor: Bettisworth

Note: 3/18 - advised Ward/Bettisworth this must be a sponsor substitute. Will schedule hearing for 3/28 with that understanding MT

Funding Information

General Fund	$27,000,000
Other Funds	-0-
	$27,000,000

IN THE HOUSE S.S.

BY ~~THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE~~

~~CS~~ FOR HOUSE BILL NO. 88 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Health and Social Services for the acquisition and improvement of the Buchner Building in Whittier as a correctional facility; and providing for an effective date."

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

* Section 1. The sum of $27,000,000 is appropriated from the general fund to the Department of Health and Social Services for the acquisition and improvement of the Buchner Building in Whittier as a correctional facility.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect July 1, 1983.

RHB

FN 2/15/83

Request from sponsor for info.

Backup 3/28 (mostly position paper + 3/10/83 letter from Olympic Inc.

= Ralph HB88

Sch Apr 4

City Hall Whittier 472-2337

4/5 PASSED OUT 3-2

SSHB 88 Roger Endell

VISITED FACILITY LAST WEEK

NOT APPROPRIATE -

1) COST

2) INACCESSABILITY

SERVICES, STAFFING

CITIZENS OPPOSED

$2,000,000 to CONVERT

ENDELL - PREFERS WILDWOOD FACILITY

LISKA WARD - Bottom fishing plant

f

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST SS for
Bill/Resolution No.: House Bill No. 88
Title:"..acquisition..certain prop..
Sponsor: Rep. Bettisworth
Requestor: HESS Committee

II. FISCAL DETAIL
Agency Affected: Health & Social Services
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected:
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	*	*	*	*
CAPITAL	-0-	27000.0				
REVENUE	-0-	-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	27000.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

*Cannot be estimated at this time.

POSITIONS:

FULL-TIME	-0-	-0-	-0-	*	*	*
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the bill sponsor other than coming from the State General Fund ($11,000,000.).

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: April 18, 1983

Approved by Commissioner: Robert Loeb Smith, M.D. Date: 4/21/83
Department: Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

A. Assumptions

1. The acquisition cost identified in the bill is correct.

2. The Department of Transportation/Public Facilities estimated in 1982 that an additional $62,394,000 would be required to rehabilitate the Buchner Building to be suitable as a correctional facility. It is assumed the present owner would remodel to Corrections' specifications to stay within the $27,000,000 appropriation. It is alleged that the present owner has stated that he would do the required remodeling and sell the structure for $27,000,000 to the State.

3. A new source of electrical power will probably be needed in Whittier to accommodate a correctional facility.

B. Program Summary

It is impossible to estimate the operational costs without knowing the number of inmates which could be housed at each facility and the number of correctional officers required to staff the facilities (this requirement varies with facility design).

C. Economic Impact

There will be a significant impact on the State budget if this proposed facility is opened as a correctional center. However, in this period of growth of the inmate population, staff and costs related to inmate care will be experienced without respect to any particular facility.

D. Impact on Local Governments

Any impact on local governments are assumed to be beneficial because of the increased salary base and local purchase practices of correctional centers.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 88

"An Act making special appropriations to the Department of Health and Social Services for the acquisition, improvement, of the Buchner Building in Whittier as a correctional facility; and providing for an effective date.

Description of Property

The Buchner Building in Whittier is located on private land 59 miles from Anchorage. There is no direct road access to Whittier, and limited service by the Alaska Railroad from Portage. Chronic high winds make flying marginal much of the time. The building is a 273,000 square foot concrete and masonry structure built shortly after World War II to house 2,500 military personnel. It was abandoned in 1965. In 1977, the concrete shell was rated in excellent condition. All other features, including internal partitions, finishes, plumbing, mechanical and electrical equipment and systems were rated for replacement. A 1982 estimate by DOT/PF says $42,155,000 would be needed to make the building functional and a total of $62,394,000 would be required to make it suitable for correctional use. These figures do not include acquisition of the property, which may or may not be available. Because of the concrete-bearing wall construction of the Buchner Building, it would be difficult and costly to recess the many plumbing, electrical and ventilation systems unique to prison construction. In order to establish a high security facility on the Whittier site, it would be necessary to tear down the existing facility and start over, or construct a new facility within the existing shell. Either option would be extremely costly and would far exceed $7 million identified as the acquisition and improvement cost. Over the past several years the Whittier site has been evaluated by administrators of the Division of Corrections, DOT/PF and the CCC/HOK architectural firm in Anchorage. Results consistently indicated the facility would not be suitable for housing either sentenced or unsentenced prisoners. With its capacity for 2,500 persons, the Buchner Building is far too large by national standards. Paragraph 4149 of the American Correctional Standards states that a facility's design should accommodate no more than 500. We believe this to be a sound recommendation from an operational standpoint. Last year a telegram from the city manager of Whittier (copy attached) expressed strong objection to selection of Whittier as a location for a correctional facility.

Cost effectiveness is an important consideration. The higher costs of an inaccessible location affect not only construction costs, but operational costs throughout the life of its use.

Departmental Consideration

The Department of Health and Social Services does not support House Bill No. 88 because it would not meet needs for prisoner housing in Alaska.

The Buchner Building at Whittier does not comply with essential correctional standards as noted in paragraph 4147 of the American Correctional Standards. (Copy attached)

POSITION PAPER/Department of Health & Social Services

The following are deficiencies of the site:

- Fire/Life Safety. All inmates must be assured adequate protection from fire and life-threatening situations, both within the buildings and supported by emergency service operations. The facility will require significant life safety systems to meet minimum code requirements. Emergency service operations are most efficiently and effectively provided by local community public service departments. Whittier has a small volunteer fire department, but the nearest major fire fighting equipment and personnel are in Anchorage, with no current road access.

- Outside Support. The site fails to meet correctional standards noted in paragraph 4147 of the American Correctional Standards. In event of an internal disturbance, staff from nearby institutions, State Troopers and the National Guard must be readily available to help restore perimeter security and insure safety of all persons inside the institutions as well as those outside. An inaccessible location makes this impossible. Closest trooper detachment to Whittier is in Anchorage and there is one trooper in Girdwood.

- Medical and Dental Care. This is normally provided on contact by physicians, dentists and medical specialists within a community. Whittier has no resident health professionals and no supply of medication (see attached resolution). Lack of access to community hospitals is in violation of paragraph 4257 (attached) of the American Correctional Standards. Providing full-time medical professionals on the prison staff is prohibitively expensive and they are nearly impossible to recruit.

- Staffing/Housing. Recruiting, training and retaining correctional staff is costly and difficult under the best of circumstances. Due to the virtual non-existence of adequate private housing in conjunction with the isolated surroundings, a high turnover of employees would be anticipated. The State may have to provide staff housing at further expense.

- Legal Access. Inmates frequently have interaction with the court system, and they have the right to legal counsel. Transporting prisoners from an inaccessible location to court and counsel would be both costly and time consuming; inmates at Whittier would have to travel to Anchorage.

- Community Ties. Regardless of the offense of length of sentence, nearly every prisoner will eventually return to the community. It is unrealistic to believe a person can live in isolation, without community ties, then suddenly be returned and make a successful adjustment. Opportunities for restitution and work release, which could lessen the tax burden, would be limited to non-existent in an inaccessible location.

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- Programming. The statewide chaplaincy program coordinates services in prisons and arranges individual religious services in any denomination, calling on clergy in the community. The educational programs draw on University staff in nearby communities. Counseling dealing with sex

offenses, family abuse, alcohol and drug abuse and other psychological and emotional programs all draw upon various programs existing within a community. Few if any of these programs could be offered in isolated setting such as Whittier. Rehabilitation efforts offer the best hope for protection of society against repeat offenders, since virtually all inmates will eventually be released.

In Alaska, the courts and regulatory bodies are getting more and more involved in setting limits on institution capacity, fire/life safety codes, and imposing correctional standards. There is court action pending against institutions in all regions of the state. Although existing regional institutions are being renovated and expanded, they will not meet the security needs or space requirements for housing long-term offenders. The most recent projected security classification of prisoners indicate that 450 close to maximum security beds for sentenced prisoners will be needed by 1985.

In closing, the Department wishes to re-emphasize the need for a new high security institution for sentenced offenders. Existing facilities, due to their operation, configuration, and limited space are unsatisfactory for housing long-term offenders. The facility referred to in SS for House Bill No. 88 does not meet standards for prison construction. Consequently, it could not be used to house high security sentenced prisoners without presenting a constant danger to society, staff, and other prisoners and would also commit the State to huge ongoing operating costs.

Recommended by: for Roger C. Lange

Roger V. Endell
Director
Division of Adult Corrections

Date: 4/18/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date: 4/21/83

DEC 1? '72

02292 NL TDA WHITTIER ALASKA 616 02-16 0537P AST

PMS REP BETTE CATO

JUN 2669

REGARDING: HOUSE BILL 797

DEAR REP. CATO:

THE CITY OF WHITTIER, ALASKA, STANDS VEHEMENTLY OPPOSED TO A STATE CORRECTIONAL FACILITY BEING LOCATED IN WHITTIER.

1. THE PEOPLE OF THE CITY OF WHITTIER HAVE NEVER BEEN CONSULTED CONCERNING THEIR WISHES EGARDING LOCATING A PRISON IN THE CITY OF WHITTIER. IT IS INAPPROPRIATE THAT A HOUSE BILL BE INTRODUCED ABSENT PRIOR SOLICITATION OF GUIDANCE, INTEREST OR OPPOSITION FROM THE PERSONS EFFECTED SO MATERIALLY AND SO SUBSTANTIALLY BY THE LEGISLATION. A PRISON IN WHITTIER WOULD COMPLETELY ALTER AND UNDERMINE IF NOT FULLY DETERMINE THE CHARACTER AND CONCEPT OF THE COMMUNITY OF WHITTIER.

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A CITY HOUSING MILITARY FACILITY OPERATION, AS A COMMUNITY FOR CHILDREN, AS A COMMUNITY FOR RETIRING ALASKANS, AS A PLACE FOR FOCUS UPON FISHERIES ACTIVITIES, AND AS A GATEWAY FOR TOURISM AND OTHER RECREATION FROM ANCHORAGE AND OTHER PLACES IN ALASKA. PEOPLE IN WHITTIER DID NOT MOVE TO WHITTIER TO LIVE IN A PRISON COMMUNITY, AND THEY HAVE THE RIGHT NOT TO HAVE A PRISON RAMMED DOWN THEIR THROATS BY THE STATE AS IT HAS NOT BEEN ABLE TO FIND

ANOTHER COMMUNITY WHICH WOULD ACCEPT A PRISON. A BETTER SOLUTION FOR THE STATE WOULD BE TO START A NEW COMMUNITY AS A PRISON IN SOME ISOLATED AREA OF THE INTERIOR OR ON SOME UNHABITATED ISLAND. A PRISON IN WHITTIER WOULD NOT BE COMPATIBLE WITH THE ABOVE GOALS TAKEN AS A WHOLE AND COULD VIRTUALLY RUIN THE COMMUNITY AS A RECREATIONAL CENTER AND GATEWAY TO THE MAGNIFICENT PRINCE WILLIAM SOUND RECREATIONAL AREA.

3. MAKING A PRISON OUT OF THE BUCKNER BUILDING IN WHITTIER WOULD NOT BE THE HIGHEST AND BEST USE OF THE REGION AND PROPERTY IN QUESTION. THE FACILITY HAS BEEN DERELICT FOR A NUMBER OF YEARS AND WAS NOT DESIGNED AS A PRISON. MOLDING THE BUILDING INTO A PRISON FACILITY COULD RESULT IN CUTTING THE CITY OF WHITTIER IN HALF AND IN MAKING THE GREAT PART OF THE CITY N ARMED CAMP. THE SPECIAL AND UNIQUE CHARACTER OF WHITTIER, THE HARSH WEATHER, THE RUGGED LANDSCAPE AND THE SHADED SUNLIGHT IN WINTER WOULD MAKE THE ISOLATION IN PRISON LIFE MORE PSYCHOLOGICALLY BURDENSOME ON BOTH THE TOWN AND PRISON POPULATION.

4. THE CITY OF WHITTIER POSSESS RIGHTS UNDER ITS CONTRACT OF SALE OF THE BUCKNER BUILDING TO C.B.S. REAL ESTATE IN 1977. AMONG THE MATERIAL CONDITIONS OF THE SALE WAS A REQUIREMENT THAT THE BUILDING BE COMPLETED IN LATE 1982. THIS REQUIREMENT DOES NOT APPEAR AS IF IT WILL BE MET, AND THE CITY OF WHITTIER NOTIFIED THAT STATE OF ALASKA HEREIN THAT IT RESERVES ALL RIGHTS UNDER ITS CONTRACT FOR THE SALE OF THE BUILDING TO C.B.S. REAL ESTATE, INCORPORATED.

IT IS IRONIC THAT WHITTIER WOULD HAVE BEEN WILLING IN 1976 OR 1977 TO ALLOW THE STATE OF ALASKA TO ACQUIRE THE BUILDING FOR A NOMINAL PRICE (ABOUT DLRS200,000) FOR A SUITABLE PURPOSE, AND THAT NOW THE STATE PROPOSES TO PURCHASE THE BUILDING FOR MILLIONS FROM THE PRIVATE INTERESTS WHO CONDITIONALLY BOUGHT THE BUILDING AT THE NOMINAL PRICE.

OTHER DEVELOPMENTS WILL BE REPORTED THROUGH OUR STATE REPRESENTATIVE SENATOR J KERTTULA AND REPRESENTATIVE BETTE CATO, BUT THOUGHTFUL CONSIDERATION AND ASSISTANCE IS REQUESTED FROM ALL OF YOU WHO RECEIVE THIS MESSAGE.

THANK YOU FOR YOUR TIME AND CONSIDERATION. SINCERELY

GEORGE E. WEISS, CITY MANAGER

ON BEHALF OF THE MAYOR, CITY COUNCIL AND THE

DISCUSSION: Sensory deprivation should be reduced by providing variety in terms of space, surface textures and colors. Natural lighting should be available from a source within 20 feet of the room or cell. The bed should be off the floor with a clean, covered mattress and blankets provided as needed. Adequate shower facilities should be provided so that each inmate can bathe daily.

4144 Where used, dormitories house no more than 50 inmates each, and have:

- At least 10 cubic feet of fresh or purified and recirculated air per minute for each person occupying the dormitory;
- Access to hot and cold running water;
- Adequate toilet and shower facilities;
- Locker for each individual;
- Lighting of at least 20 footcandles;
- A minimum floor area of 60 square feet per inmate and a clear floor-to-ceiling height of eight feet;
- Noise levels low enough so as not to interfere with normal human activities;
- No double or triple bunking; and
- Clear observation/supervision lines of sight for staff. (Important)

DISCUSSION: Where dormitory housing cannot be avoided, the number of inmates per dormitory should be kept low. Living conditions may be enhanced by placing partitions between beds or by increasing the space between beds as much as possible. Chairs and desks should be provided for reading and writing.

4145 Staff offices are located so that they are readily accessible to inmates and there is a minimum of physical barriers separating inmates from staff. (Essential)

DISCUSSION: Isolation of staff members reduces their effectiveness as professional personnel by discouraging interpersonal relationships.

4146 The institution has a written plan for preventive maintenance of the physical plant that it reviews and updates annually. (Essential)

DISCUSSION: A specific plan for preventive maintenance, implemented by qualified staff or professionals, is necessary for safe and efficient operation. Regular care and inspection of equipment is essential.

New Plants Only

4147 The facility is located within 50 miles of a civilian population center that can provide services to support correctional goals. (Essential)

DISCUSSION: Proximity to a civilian population center provides community services to support correctional goals, such as social services, schools, hospitals, colleges and universities, and employment opportunities. It also allows for recruitment of personnel having racial and ethnic origins similar to those of inmates. Proximity to a civilian population center also allows the institution to procure maintenance services more efficiently and at less cost.

4148 New prison planning precludes the use of dormitories as part of the mainline population housing. (Essential)

FOR TODAY

March 28, 1983
Mae, Milo:

Since we're hearing from a contractor and owner of the Buchner Building, I have attached a position paper from last year's DHSS on the building. This was provided to me as backup by the sponsor of SSHB 88, Rep. Bettisorth. However, there isn't much to back up the bill. The position paper lists several major problems with the facility and the location and strongly opposes the purchase or use of the building for a prison.

There is a memo from the City Manager of Whittier, George Weiss, that suggests that the owners of the Buchner facility bought it for $200,000. SSHB 88 appropriates 27 million dollars, but there is no breakdown as to how much is for the facility and how much is for the improvements.

It seems to me that the approach to the correctional facility is just backwards. Instead of talking to the property owner and a contractor who may have a significant financial interest in the project, shouldn't the Division of Corrections first identify a site, develop a plan, call for bids nd award bids based on the best price? How can a contractor or land owner propose to build a facility for any amount without looking at the plans and without knowing what will be expected? Don't forget too, that the statutes require bidding and award to the lowest bid.

I'll have more on this for the hearing next Tuesday. State offices are all closed today.

Dave

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 797

"An Act making special appropriations to the Department of Health and Social Services for the acquisition, improvement, and operation of certain property for use as correctional facilities; and providing for an effective date."

Description of Property

Camp Isabel is located on state leased land at Mile Post 197 off the Richardson Highway, approximately 269 miles from Anchorage and 167 miles from Fairbanks. The camp is composed of 64 metalsided modular buildings. There are 33 barracks, 16 warehouses, four office structures, an 11,000 square foot kitchen, two recreational buildings, a laundry, first aid station and various other ancillary buildings and equipment. Camp capacity was 1,500 persons. The camp was built in the early 1970's and closed in the late 1970's. All buildings are listed in good to poor condition. They consist mainly of plywood and light gauge metal modular buildings which would be difficult and costly to make secure. Buildings would probably have to be removed to provide space for construction of a high security institution built to comply with the 1979 Uniform Building Code. The camp is very large and its configuration does not lend itself to partial use. If it could be used in part, the labyrinth of empty buildings would pose a security and fire risk.

The Buchner Building in Whittier is located on private land 59 miles from Anchorage. There is no direct road access to Whittier, and limited service by the Alaska Railroad from Portage. Chronic high winds make flying marginal most of the time. It is a 273,000 square foot concrete and masonry structure built shortly after World War II to house 2,500 military personnel. It was abandoned in 1965. In 1977, the concrete shell was rated in excellent condition. All other features, including internal partitions, finishes, plumbing, mechanical and electrical equipment and systems were rated for replacement. A 1982 estimate by DOT/PF says $42,155,000 would be needed to make the building functional and a total of $62,394,000 would be required to make it suitable for correctional use. These figures do not include acquisition of the property, which may or may not be available. Because of the concrete-bearing wall construction of the Buchner Building, it would be difficult and costly to recess the many plumbing, electrical and ventilation systems unique to prison construction. In order to establish a high security facility on the Whittier site, it would be necessary to tear down the existing facility and start over, or construct a new facility within the existing shell. Either option would be extremely costly and far exceed $7 million. Over the past several years the Whittier site has been evaluated by administrators of the Division of Corrections, DOT/PF and the CCC/HOK architectural firm in Anchorage. Results consistently indicated the facility would not be suitable for housing either sentenced or unsentenced prisoners. With its capacity for 2,500 persons, the Buchner Building is far too large by national standards. Paragraph 4149 of the American Correctional Standards states that a facility's design should accommodate no more than 500. A telegram from the city manager of Whittier (copy attached) expresses strong objection to selection of Whittier as a location for a correctional facility. Cost effectiveness is an important consideration in both Camp Isabel and Whittier. The higher costs of an inaccessible location affect not only construction costs, but operational costs throughout the life of its use.

POSITION PAPER/Department of Health & Social Services

Departmental Consideration

The Department of Health and Social Services does not support House Bill No. 797 because it would not meet needs for prisoner housing in Alaska.

Neither Camp Isabel nor the Buchner Building at Whittier complies with essential correctional standards as noted in paragraph 4147 of the American Correctional Standards. (Copy attached)

The following are deficiencies shared by both sites:

- Fire/Life Safety. All inmates must be assured adequate protection from fire and life-threatening situations, both within the buildings and supported by emergency service operations. Both facilities will require significant life safety systems to meet minimum code requirements. Emergency service operations are most efficiently and effectively provided by local community public service departments. Whittier has a small volunteer fire department, but the nearest major fire fighting equipment and personnel are in Anchorage, with no current road access. Closest volunteer fire departments to Camp Isabel are at Glennallen, 82 miles away, and Delta Junction, 70 miles.

- Outside Support. Both sites fail to meet correctional standards noted in paragraph 4147 of the American Correctional Standards. In event of an internal disturbance, staff from nearby institutions, State Troopers and the National Guard must be readily available to help restore perimeter security and insure safety of all persons inside the institutions as well as those outside. An inaccessible location makes this impossible. Closest trooper detachment to Whittier is in Anchorage. There is one trooper in Girdwood. Major trooper detachment for Camp Isabel is in Fairbanks, with seven troopers in Glennallen and three troopers in Delta Junction.

- Medical and Dental Care. This is normally provided on contract by physicians, dentists and medical specialists within a community. Camp Isabel is 82 miles from the nearest physician at Glennallen which also has a six-bed hospital, and 158 miles from medical help in Fairbanks. Whittier has no resident health professionals and no supply of medication. (See attached resolution) Lack of access to community hospitals is in violation of paragraph 4257 (attached) of the American Correctional Standards. Providing full-time medical professionals on the prison staff is prohibitively expensive and they are nearly impossible to recruit.

- Staffing. Recruiting, training and retaining correctional staff is costly and difficult under the best of circumstances. High turnover is disruptive and very cost ineffective. Few employees may be willing to live in isolated surroundings for more than a short time. Because of the hardship imposed on families, we do not expect much success in recruiting and retaining a staff for Isabel Pass or Whittier. We may have to provide staff housing at further expense.

- Legal Access. Inmates frequently have interaction with the court system, and they have the right to legal counsel. Transporting prisoners from an inaccessible location to court and counsel would be both costly and dangerous. Inmates at Whittier would have to travel to Anchorage; from Camp Isabel they would go to Fairbanks.

POSITION PAPER/Department of Health & Social Services

- Community Ties. Regardless of the offense or length of sentence, nearly every prisoner will eventually return to the community. It is unrealistic to believe a person can live in isolation, without community ties, then suddenly be returned and make a successful adjustment. Opportunities for restitution and work release, which could lessen the tax burden, would be limited to non-existant in an inaccessible location.

- Family Ties. Imprisonment strains the family under any circumstances. Lack of opportunity for visits increases the likelihood the family unit will be destroyed and limits opportunities for the offender to successfully reenter the community. This can also lead to more families on welfare.

- Programming. The statewide chaplaincy program coordinates services in prisons and arranges individual religious services in any demonination, calling on clergy in the community. The University Within Walls program draws on University staff in nearby communities. Counseling dealing with sex offenses, family abuse, alcohol and drug abuse and other psychological and emotional programs all draw upon various programs existing within a community. Few if any of these programs could be offered in isolated settings such as Camp Isabel or Whittier. Rehabilitation efforts offer the best hope for protection of society against repeat offenders, since virtually all inmates will eventually be released.

In Alaska, the courts and regulatory bodies are getting more and more involved in setting limits on institution capacity, fire/life safety codes, and imposing correctional standards. There is court action pending against institutions in all regions of the state. Although existing regional institutions are being renovated and expanded, they will not meet the security needs or space requirements for housing long-term offenders. The projected security classification of prisoners indicate that 330 close to maximum security beds for sentenced prisoners are needed by 1985.

In closing, the Department wishes to re-emphasize the need for a new high security institution for sentenced offenders. Existing facilities, due to their operation, configuration, and limited space are unsatisfactory for housing longterm offenders. The facilities described in House Bill No. 797 do not meet standards for prison construction. Consequently, they could not be used to house high security sentenced prisoners without presenting a constant danger to society, staff, and other prisoners.

Recommended by: Walter B. Jones, Jr.

Walter B. Jones, Jr.
Acting Director
Division of Adult Corrections

Date: 3-8-82

Approved by: Helen D. Beirne

Helen D. Beirne, Commissioner
Department of Health and
Social Services

Date: 3-8-82

JUN 2013

REGARDING: HOUSE BILL 797

DEAR REP. CATO:

THE CITY OF WHITTIER, ALASKA, STANDS VEHEMENTLY OPPOSED TO A STATE CORRECTIONAL FACILITY BEING LOCATED IN WHITTIER.

1. THE PEOPLE OF THE CITY OF WHITTIER HAVE NEVER BEEN CONSULTED CONCERNING THEIR WISHES EGARDING LOCATING A PRISON IN THE CITY OF WHITTIER. IT IS INAPPROPRIATE THAT A HOUSE BILL BE INTRODUCED ABSENT PRIOR SOLICITATION OF GUIDANCE, INTEREST OR OPPOSITION FROM THE PERSONS EFFECTED SO MATERIALLY AND SO SUBSTANTIALLY BY THE LEGISLATION. A PRISON IN WHITTIER WOULD COMPLETELY ALTER AND UNDERMINE IF NOT FULLY DETERMINE THE CHARACTER AND CONCEPT OF THE COMMUNITY OF WHITTIER.

2. THE PEOPLE OF THE CITY OF WHITTIER ARE ADAMANTLY OPPOSED TO THE LOCATION OF PRISON FACILITIES IN WHITTIER. A PRISON DOES NOT FIT IN WITH THE ETHOS, CHARACTER, CONCEPT OR PLAN DEVELOPMENT ENVISIONED FOR THE CITY OF WHITTIER. WHITTIER ENVISIONS ITSELF AS A COMMUNITY RESURRECTED FROM MILITARY ABANDONMENT, AS AN UP AND COMING COMMERCIAL PORT, AS A RAIL COMMERCE CENTER, AS

A CITY HOUSING MILITARY FACILITY OPERATION, AS A COMMUNITY FOR CHILDREN, AS A COMMUNITY FOR RETIRING ALASKANS, AS A PLACE FOR FOCUS UPON FISHERIES ACTIVITIES, AND AS A GATEWAY FOR TOURISM AND OTHER RECREATION FROM ANCHORAGE AND OTHER PLACES IN ALASKA. PEOPLE IN WHITTIER DID NOT MOVE TO WHITTIER TO LIVE IN A PRISON COMMUNITY, AND THEY HAVE THE RIGHT NOT TO HAVE A PRISON RAMMED DOWN THEIR THROATS BY THE STATE AS IT HAS NOT BEEN ABLE TO FIND

FOR THE STATE WOULD BE TO START A NEW COMMUNITY AS A PRISON IN SOME ISOLATED AREA OF THE INTERIOR OR ON SOME UNHABITATED ISLAND. A PRISON IN WHITTIER WOULD NOT BE COMPATIBLE WITH THE ABOVE GOALS TAKEN AS A WHOLE AND COULD VIRTUALLY RUIN THE COMMUNITY AS A RECREATIONAL CENTER AND GATEWAY TO THE MAGNIFICENT PRINCE WILLIAM SOUND RECREATIONAL AREA.

3. MAKING A PRISON OUT OF THE BUCKNER BUILDING IN WHITTIER WOULD NOT BE THE HIGHEST AND BEST USE OF THE REGION AND PROPERTY IN QUESTION. THE FACILITY HAS BEEN DERELICT FOR A NUMBER OF YEARS AND WAS NOT DESIGNED AS A PRISON. MOLDING THE BUILDING INTO A PRISON FACILITY COULD RESULT IN CUTTING THE CITY OF WHITTIER IN HALF AND IN MAKING THE GREAT PART OF THE CITY N ARMED CAMP. THE SPECIAL AND UNIQUE CHARACTER OF WHITTIER, THE HARSH WEATHER, THE RUGGED LANDSCAPE AND THE SHADED SUNLIGHT IN WINTER WOULD MAKE THE ISOLATION IN PRISON LIFE MORE PSYCHOLOGICALLY BURDENSOME ON BOTH THE TOWN AND PRISON POPULATION.

4. THE CITY OF WHITTIER POSSESS RIGHTS UNDER ITS CONTRACT OF SALE OF THE BUCKNER BUILDING TO C.B.S. REAL ESTATE IN 1977. AMONG THE MATERIAL CONDITIONS OF THE SALE WAS A REQUIREMENT THAT THE BUILDING BE COMPLETED IN LATE 1982. THIS REQUIREMENT DOES NOT APPEAR AS IF IT WILL BE MET, AND THE CITY OF WHITTIER NOTIFIED THAT STATE OF ALASKA HEREIN THAT IT RESERVES ALL RIGHTS UNDER ITS CONTRACT FOR THE SALE OF THE BUILDING TO C.B.S. REAL ESTATE, INCORPORATED.

IT IS IRONIC THAT WHITTIER WOULD HAVE BEEN WILLING IN 1976 OR 1977 TO ALLOW THE STATE OF ALASKA TO ACQUIRE THE BUILDING FOR A NOMINAL PRICE (ABOUT DLRS200,000) FOR A SUITABLE PURPOSE, AND THAT NOW THE STATE PROPOSES TO PURCHASE THE BUILDING FOR MILLIONS FROM THE PRIVATE INTERESTS WHO CONDITIONALLY BOUGHT THE BUILDING AT THE NOMINAL PRICE.

OTHER DEVELOPMENTS WILL BE REPORTED THROUGH OUR STATE REPRESENTATIVE SENATOR J KERTTULA AND REPRESENTATIVE BETTE CATO, BUT THOUGHTFUL CONSIDERATION AND ASSISTANCE IS REQUESTED FROM ALL OF YOU WHO RECEIVE THIS MESSAGE.

THANK YOU FOR YOUR TIME AND CONSIDERATION. SINCERELY

GEORGE E. WEISS, CITY MANAGER

ON BEHALF OF THE MAYOR, CITY COUNCIL AND THE

PEOPLE OF THE CITY OF WHITTIER



THE CITY OF WHITTIER



26 January 1982

Dr. Helen Beirne
Pouch H-01
Juneau, Alaska 99811

Re: The Absence Of Health Care In Whittier

Dear Dr. Beirne:

I am writing to you to express the concern of the permanent residents of Whittier regarding the absence of health care in the City of Whittier.

Whittier has no direct road access and only limited service by the Alaska Railroad. Flying is marginal most of the time, [even in summer because of chronic high winds], and delays are encountered in obtaining rail track use clearances for the rail equipped ambulance.

Whittier does not have a physician at any time.

When a medical emergency occurs, the patient must be transported to Anchorage. Under the most ideal conditions, this is a two hour trip. Several hours would be a more reasonable expectation. There are no health professionals in Whittier presently authorized to administer emergency medication to ease pain amnd suffering. In fact, Whittier is without any supply of medications whatsoever.

A minor illness such as an earache, sore throat, etc. has to be treated in Anchorage at high personal expense to the individual. If the illness occurs on a day other than a day when the passenger trains are scheduled, treatment can be

delayed up to three days; otherwise the only recourse is travel by the rail ambulance.

Whittier's goal is to establish a clinic where a professional physician extender can give primary health care in Whittier. (See copy of Resolution 01-21-82 attached.)

Mr. Denny DeGross, from South Central Health & Planning Development, Inc., shall be meeting with the people of Whittier on 28 January 1982. Mr. DeGross will be in Whittier for two days to meet and talk with people and to assess and evaluate needs and problems and to assist in organizing.

This letter is Whittier's outreach to you seeking your advice, suggestions and referrals to state programs including assistance in procuring state loans and grants.

Whittier's problems may be unique, but surely some of the parameters of our problems must have been experienced to greater and lesser degrees in other areas within Alaska.

Sincerely,

George E. Weiss, Whittier City Manager

enc: Copy of Resolution 01-21-82

cc: Whittier City Council

CITY OF WHITTIER

Resolution No. 01-21-82

A RESOLUTION SUPPORTING THE ESTABLISHMENT OF A FACILITY AND THE PROVISION OF A PROFESSIONAL PHYSICIAN EXTENDER SO AS TO PROVIDE PRIMARY HEALTH CARE IN WHITTIER.

WHEREAS, the City of Whittier holds first and foremost the health and well being of its citizens; and

WHEREAS, the presently exists a genuine need for primary health care in Whittier, which is not presently being provided by any agency; such care includes, without limitation, the diagnosis and treatment of physical injuries and illness which c dinarily would not require hospitalization, psychological intervention, and follow-up treatment for chronic and other conditions;

NOW THEREFORE BE IT RESOLVED that the City of Whittier supports the following:

1. That a feasibility study be undertaking by an appropriate health provider or health planning agency of the State of Alaska to determine the extent of primary care health needs in Whittier and to investigate ways and means of funding such needs.

2. The placement of a physician extender in Whittier for purposes of providing primary health care.

3. And the establishment of a clinical health care facility in Whittier.

SO RESOLVED this 21st day of January 1982.

Cecil Triplett
Mayor

ATTEST:

Ann M.C.
City Clerk

BUILDERS & CONTRACTORS SERVICE
2124 Hillcrest Place
Anchorage, Alaska 99503
(907) 276-1618

Contractor Claims
Construction Management
Appraisal Estimates

Quantity Surveys
Estimates
Bid Preparation

March 9, 1983

Olympic Inc.
171 Muldoon Road
Anchorage, Alaska

ATTENTION: Mr. Pete Zamarello

REFERENCE: Buckner Building - Whittier, AK

SUBJECT: Preliminary Project Review - Cost Estimate

Gentlemen:

At your request, per the commisson given us, we have made a complete review, on a preliminary basis, of the above reference structure.

Our commission, as we understand it, is to provide you with cost figures in two parts, as follow:

1. Remodeling and conversion of the exsisting building, to be used as a correctional facility.

2. A remodeling of the exsisting facility, including new ventilation and heating systems and electrical systems. In addition, new elevators, new roofing, new flooring, new ceiling systems and a number of new partitions. Additionally,, per your instructions, we have included costs for restoration of the building exterior, as well as, additions for a six lane bowling alley and bakery, a sixteen bed hospital and a new dining area/kitchen facility.

Our review anticipates that any and all work which would be done would meet existing state and local codes.

The figures we have arrived at, are based upon the preliminary sketches, pictures and numerous meetings with your company.

Due to the fact that we did not have definitive, exact drawings from which to work, our price must be considered preliminary and in this regard, we are providing you a cost range for each item. Our estimates are as follows:

1. For remodel and conversion to a correctional facility, our cost estimate range is $23,725,000 to $25,100,000.

2. For remodeling and additions as noted above, our cost estimate range is $18,650,000 to $19,800,000.

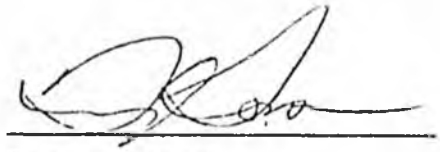
If we can be of further assistance or should you wish a more exact cost estimate after development of drawings, we would be pleased to provide them for you.

Attached is our billing, which we forward with this report, for payment.

Thank you for using our services.

Very truly yours,

BUILDERS AND CONTRACTORS SERVICE



Terry Gorsuch

TG:jw

Enc.

ENGINEERS CONTRACTORS

J.B. WARRACK COMPANY, ONE

24 February 1983

Olympic Inc.
171 Muldoon Road
Anchorage, AK

Attention: Mr. Zamarello

Reference: 276,000 S.F. Buckner Building in Whittier, AK.
February 10, 1983 review

Dear Sir:

In response to your request for an estimate regarding the above referenced building, we offer the following.

To meet all existing state and local codes, remodeling should include: new partitions, ceiling system, floors, new heating and ventilation systems, electrical system, new elevators and a new roof. Also in this survey is a new commercial dining room and kitchen, a sixteen bed hospital, six lane bowling alley, a complete bakery and complete restoration of the exterior. It is our opinion that the above can be accomplished for a cost of approximately $13,800,000.00.

To convert the building to a correctional facility the above stated amount will have to be increased by a minimum of 25%.

If you need additional information or if you are interested in a design proposal, please do not hesitate to call us.

We thank you for this opportunity to submit this proposal and are looking forward to working with you on this project.

Very sincerely yours,

Georg Janssen
President

ANCHORAGE, ALASKA
1530 Post Road • P.O. Box 2080 Federal Station 99501 • Telephone 277-1547 telex 25-129
ESTABLISHED 1917

INTERSTATE COMPANY, INC.
GENERAL CONTRACTORS

P.O. BOX 4-1438, ANCHORAGE, ALASKA 99509
TELEPHONE: 276-2212
TELEX: (090) 26-531

March 9, 1983

Olympic, Inc.
171 Muldoon Rd.
Anchorage, AK 99504

Attn. Mr. Zamarillo

Re: Restoration of the Buckner Bldg. Wittier, AK

Gentlemen:

This letter is in reference to your request to review the plans as well as the above named facility located in Whittier Alaska.

According to our conversation, it may be your intent to completely refurbish the 274,000 S.F. Buckner Building and to change this building into a correctional facility. In order to to so, it appears that an entire new heating and ventilating plant plus electrical system will be necessary. Our cost review includes a sixteen bed hospital, six lane bowling alley, and complete commercial food preparation and dining facility.

The exterior needs total restoration with new windows and a new roof system. Also, in this review we have included exterior security fencing and security at all exterior openings and windows.

This is a brief overview as to the possible requirements to change the Buckner Building into a correctional facility.

Our best estimate would indicate that the complete change can be accomplished for approximately $18,700,000.00.

We thank you for this opportunity to work with you on this project.

If you have any additional questions please feel free to contact us.

Very truly yours,

INTERSTATE COMPANY, INC.

Jeff Ressel
Secretary/Treasurer

JR/ap

INTERSTATE COMPANY, INC.
GENERAL CONTRACTORS

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If you have any additional questions please feel free to contact us.

Very truly yours,

INTERSTATE COMPANY, INC.

Roger Ressel
Secretary/Treasurer

GR/ap

Bette Cato

3/30

Whittier City Manager 472-2337
↳ Mary Brown - ADAMANT !!!

INTERIOR DEMOLISHED

OPPOSED

IN CENTER of TOWN

ACCESS - 2 TRAINS/DAY 3 DAYS/WEEK
FLIGHT OUT 85%

City bought all in GSA SALE

City TAXES $250,000

INTERSTATE COMPANY, INC.
GENERAL CONTRACTORS

P.O. BOX 4-1438, ANCHORAGE, ALASKA 99509
TELEPHONE: 276-2212
TELEX: (090) 26-531

March 9, 1983

Olympic, Inc.
171 Muldoon Rd.
Anchorage, AK 99504

Attn: Mr. Zamarillo

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If you have any additional questions please feel free to contact us.

Very truly yours,

INTERSTATE COMPANY, INC.

Jay Ressel
Secretary/Treasurer

JR/ap

ENGINEERS . CONTRACTORS

J.B. WARRACK COMPANY, INC.

APR 5 1983

Pertaining to SSHB 88 re HESS?

4-4-83

31 March 83

Representatives Bob Bettisworth and Mae Tischer
State Capital Building
Pouch V
Juneau, Alaska 99811

Reference: Housebill 88
Buchner Building, Whittier Alaska

Dear Representatives,

My name is George Janssen and I am the President and Owner of the J.B. Warrack Company, Inc. We are a locally owned and operated construction company with a long record of completed projects within the State of Alaska as well as in the Anchorage Area. A list of projects performed by the Firm is hereby attached.

The purpose of this letter is to urge that a yes vote be given to Housebill 88, whereby the Buchner Building located in Whittier Alaska be rehabilitated and be rebuilt into a correctional facility. We were asked by Mr. Pete Zamarello (present owner) of this property to review and evaluate the cost to rebuild this facility. After careful review we feel that the building can be rebuilt into a correctional facility for a cost of approximately $18-$20 million dollars.

I feel that utilization of this facility can and will save the State and the tax payer at least $20-$25 million dollars.

We thank you for this opportunity to have our comments presented.

Sincerely,

George Janssen
President, J.B. Warrack Company, Inc.

GJ/tb

attachment

ANCHORAGE, ALASKA
1530 Post Road • P.O. Box 2080 Federal Station 99501 • Telephone 277-1547 telex 25-129
ESTABLISHED 1917

EXPERIENCE

J.B. Warrack Company has been in the General Contracting business constructing buildings continuously throughout the State of Alaska since 1917. We have extensive building experience in all types of buildings: schools, heavy industrial railroad shops, commercial shopping centers, government and institutional building, high rise hotel and apartment buildings and hospitals. We live with the varied logistical and weather restraints encountered throughout this state on a day to day basis. We have bid and successfully completed two small projects on the North Slope.

Our technical staff is well qualified to handle any type of construction as can be perceived by a review of our listing or projects we have already completed.

Our administrative personnel have extensive experience processing the normal construction records, payroll, subcontracts, purchasing, change orders as well as scheduling reports and graphs for progress updates.

In summary, our record of continuous successful operation of our building construction company pre-eminently qualifies J.B. Warrack Company, Inc., to bid and construct any project in the future.

EXPERIENCE
J.B. Warrack Company

PROJECTS 1982

PROJECT NAME	CONTRACT AMOUNT	
City of Anchorage Convention Center	$17,950,000.	30%
City of Palmer Swimming Pool	$ 3.100,000.	55%
City of Anchorage Phase 6 Convention Center	$ 1,000,000.	Complete
Mulcahy Park Turf	$ 1,083,700.	Complete
Anchorage School District Handicap Remodel	$ 1,046,000.	Complete
Lake & Peninsula School District	$ 2,600,000.	Complete

PROJECTS 1981

PROJECT NAME	CONTRACT AMOUNT
Alyeska Valdez Terminal Buildings	$10,030,600.
Nanilchik School Addition	$ 1,700,000.
Sohio Pre-Fab Maintenance Buildings	$ 1,107,192.
Kodiak Housing (A Joint Venture)	$ 3,800,000.
Tower Club	$ 500,000.
Pioneer Home Addition	$ 1,417,000.

PROJECTS 1980

PROJECTS NAME	CONTRACT AMOUNT
Wasilla Junior High School	$6,100,000.
Wasilla Senicr High School	$6,735,160.
Seward Skill Center	$1,370,000.
Law Buildings	$ 213,300.
Electric Sub-Station	$ 130,000.
Federal Building, Interior Finish	$ 494,700.
8th Avenue Remodel	$ 270,000.
City Hall Remodel	$ 475,810.
Valdez Boardwalk	$ 184,900.

PROJECTS 1979

Beluga Power Plant	$ 649,200.
Old Harbor School	$ 982,000.
Port Lions School	$1,112,380.
Galena School	$ 773,960.
Valdez Municipal Buildings	$5,623,000.







PATRICK M. RODEY
3271 MONTCLAIRE CT.
ANCHORAGE, AK 99503

DURING SESSION:
POUCH V
JUNEAU, AK 99811
(907) 465-3717

ALASKA STATE SENATE

February 11, 1983

TO : Representative Bob Bettisworth

FROM: Senator Patrick Rodey Pat

RE : Whittier as proposed prison site

Just a note to let you know I am interested in this proposal and would appreciate you keeping me posted on any developments or information you have on it.

Thanks for your cooperation.

Olympic, inc.
171 MULDOON ROAD, SUITE 114
ANCHORAGE, ALASKA 99504
PHONE: (907) 337-1546

PATRICIA A. ZAMARELLO
President

PETER G. ZAMARELLO
General Manager

The Honorable Robert H Bettisworth
Alaska State Representative
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

RECEIVED
3-14-83

March 10, 1983

Dear Representative Bettisworth,

DOT - X3900

In responee to Mr. John C. Bates, Deputy Commissioner's letter dated March 2, 1983. Please find enclosed a proposal from J.B. Warrack Company, Inc., and Interstate Company, Inc., which are two of the largest and most respectable contracting companies in Alaska. They each have completed several large projects a year in Alaska. The prices they gave us will be negotiated down some what, with the Interstate Company being the highest, but still only $18,700,000.00.

Olympic, Inc. has completed several re-modeling projects, and we have, ourselves, excellant experience in estimating a job. In order to bring the building to code compliences, we will need to upgrade the electrical, install sprinklers throughout the whole building, corridors, etc., install handicap accessories to the elevators and restrooms. When we finish the building will pass any inspection and meet any standards. The structure is in excellant condition, and our estimate includes all the costs as in paragraph 1 of Mr. Bates letter.

In answer to paragraph 2, the building is served with public water and sewerage, the electric is through Chugach Electric. In addition in our estimate, we include the cost of an emergency generator to take care of the whole building in case of a power failure, and a smaller one in the remote possibility the first should fail.

Regarding the number of bedspaces referred to in paragraph 3. The building will be able to hold a minimum of 1,000 beds, plus dining rooms, a 16 bed Hospital, Dental facilities, Theater, etc. (The Army used this building to house 2,500 people with all the facilities).

Sincerely,

Pete Zamarello
President

PZ/sh

enclosure

ENGINEERS CONTRACTORS

J.B. WARRACK COMPANY, ONE

24 February 1983

Olympic Inc.
171 Muldoon Road
Anchorage, AK

Attention: Mr. Zamarello

Reference: 276,000 S.F. Buckner Building in Whittier, AK.
February 10, 1983 review

Dear Sir:

In response to your request for an estimate regarding the above referenced building, we offer the following.

To meet all existing state and local codes, remodeling should include: new partitions, ceiling system, floors, new heating and ventilation systems, electrical system, new elevators and a new roof. Also in this survey is a new commercial dining room and kitchen, a sixteen bed hospital, six lane bowling alley, a complete bakery and complete restoration of the exterior. It is our opinion that the above can be accomplished for a cost of approximately $13,800,000.00.

To convert the building to a correctional facility the above stated amount will have to be increased by a minimum of 25%.

If you need additional information or if you are interested in a design proposal, please do not hesitate to call us.

We thank you for this opportunity to submit this proposal and are looking forward to working with you on this project.

Very sincerely yours,

Georg Janssen
President

ANCHORAGE, ALASKA
1530 Post Road • P.O. Box 2080 Federal Station 99501 • Telephone 277-1547 telex 25-129
ESTABLISHED 1917

INTERSTATE COMPANY, INC.
GENERAL CONTRACTORS

P.O. BOX 4-1438, ANCHORAGE, ALASKA 99509
TELEPHONE: 276-2212
TELEX: (090) 26-531

March 9, 1983

Olympic, Inc.
171 Muldoon Rd.
Anchorage, AK 99504

Attn: Mr. Zamarillo

Re: Restoration of the Buckner Bldg. Wittier, AK

Gentlemen:

This letter is in reference to your request to review the plans as well as the above named facility located in Whittier Alaska.

According to our conversation, it may be your intent to completely refurbish the 274,000 S.F. Buckner Building and to change this building into a correctional facility. In order to to so, it appears that an entire new heating and ventilating plant plus electrical system will be necessary. Our cost review includes a sixteen bed hospital, six lane bowling alley, and complete commercial food preparation and dining facility.

The exterior needs total restoration with new windows and a new roof system. Also, in this review we have included exterior security fencing and security at all exterior openings and windows.

This is a brief overview as to the possible requirements to change the Buckner Building into a correctional facility.

Our best estimate would indicate that the complete change can be accomplished for approximately $18,700,000.00.

We thank you for this opportunity to work with you on this project.

If you have any additional questions please feel free to contact us.

Very truly yours,

INTERSTATE COMPANY, INC.

Robert Ressel
Secretary/Treasurer

JR/ap

BUILDERS & CONTRACTORS SERVICE
2124 Hillcrest Place
Anchorage, Alaska 99503
(907) 276-4618

Contractor Claims
Construction Management
Appraisal Estimates

Quantity Surveys
Estimates
Bid Preparation

March 9, 1983

Olympic Inc.
171 Muldoon Road
Anchorage, Alaska

ATTENTION: Mr. Pete Zamarello

REFERENCE: Buckner Building - Whittier, AK

SUBJECT: Preliminary Project Review - Cost Estimate

Gentlemen:

At your request, per the commisson given us, we have made a complete review, on a preliminary basis, of the above reference structure.

Our commission, as we understand it, is to provide you with cost figures in two parts, as follow:

1. Remodeling and conversion of the exsisting building, to be used as a correctional facility.

2. A remodeling of the exsisting facility, including new ventilation and heating systems and electrical systems. In addition, new elevators, new roofing, new flooring, new ceiling systems and a number of new partitions. Additionally,, per your instructions, we have included costs for restoration of the building exterior, as well as, additions for a six lane bowling alley and bakery, a sixteen bed hospital and a new dining area/kitchen facility.

Our review anticipates that any and all work which would be done would meet exsisting state and local codes.

The figures we have arrived at, are based upon the preliminary sketches, pictures and numerous meetings with your company.

Due to the fact that we did not have definitive, exact drawings from which to work, our price must be considered preliminary and in this regard, we are providing you a cost range for each item. Our estimates are as follows:

1. For remodel and conversion to a correctional facility, our cost estimate range is $23,725,000 to $25,100,000.

2. For remodeling and additions as noted above, our cost estimate range is $18,650,000 to $19,800,000.

If we can be of further assistance or should you wish a more exact cost estimate after development of drawings, we would be pleased to provide them for you.

Attached is our billing, which we forward with this report, for payment.

Thank you for using our services.

Very truly yours,

BUILDERS AND CONTRACTORS SERVICE



Terry Gorsuch

TG:jw

Enc.

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

P.O. BOX 80288
COLLEGE, ALASKA 99708

March 10, 1983

M E M O R A N D U M

To: Mr. Roger Endell, Director, Division of Adult Corrections
From: Representative Robert Bettisworth

Subject: Estimate and survey of costs for renovation of the Buckner Building.

The following estimate and survey of costs involved in renovation of the Buckner Building in Whittier, Alaska is provided for your information. I look forward to continued discussions as to options for housing our incarcerated population.

Robert H Bettisworth

attachments:

RHB/rob

Olympic, inc.
171 MULDOON ROAD, SUITE 114
ANCHORAGE, ALASKA 99504
PHONE: (907) 337-1546

PATRICIA A. ZAMARELLO
President

PETER G. ZAMARELLO
General Manager

February 23, 1983

RECEIVED
2-28-83

The Honorable Robert Bettisworth
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Mr. Bettisworth:

Enclosed is an estimate and survey listing the total cost of remodeling the Buckner Building in Whittier, Alaska. You can see for yourself that the Department of Transportation does not spend its money in the most cost effective manner.

Sincerely,

Pete (E.C.S)

PETE ZAMARELLO

PZ/ecs

Encl.

cc

ENGINEERS CONTRACTORS

J.B. WARRACK COMPANY, INC.

24 February 1983

Olympic Inc.
171 Muldoon Road
Anchorage, AK

Attention: Mr. Zamarello

Reference: 276,000 S.F. Buckner Building in Whittier, AK.
February 10, 1983 review

Dear Sir:

In response to your request for an estimate regarding the above referenced building, we offer the following.

To meet all existing state and local codes, remodeling should include: new partitions, ceiling system, floors, new heating and ventilation systems, electrical system, new elevators and a new roof. Also in this survey is a new commercial dining room and kitchen, a sixteen bed hospital, six lane bowling alley, a complete bakery and complete restoration of the exterior. It is our opinion that the above can be accomplished for a cost of approximately $13,800,000.00.

To convert the building to a correctional facility the above stated amount will have to be increased by a minimum of 25%.

If you need additional information or if you are interested in a design proposal, please do not hesitate to call us.

We thank you for this opportunity to submit this proposal and are looking forward to working with you on this project.

Very sincerely yours,

Georg Janssen
President

ANCHORAGE, ALASKA
1530 Post Road • P.O. Box 2080 Federal Station 99501 • Telephone 277-1547 telex 25-129
ESTABLISHED 1917

March 28, 1983
Mae, Milo:

Since we're hearing from a contractor and owner of the Buchner Building, I have attached a position paper from last year's DHSS on the building. This was provided to me as backup by the sponsor of SSHB 88, Rep. Bettisorth. However, there isn't much to back up the bill. The position paper lists several major problems with the facility and the location and strongly opposes the purchase or use of the building for a prison.

There is a memo from the City Manager of Whittier, George Weiss, that suggests that the owners of the Buchner facility bought it for $200,000. SSHB 88 appropriates 27 million dollars, but there is no breakdown as to how much is for the facility and how much is for the improvements.

It seems to me that the approach to the correctional facility is just backwards. Instead of talking to the property owner and a contractor who may have a significant financial interest in the project, shouldn't the Division of Corrections first identify a site, develop a plan, call for bids and award bids based on the best price? How can a contractor or land owner propose to build a facility for any amount without looking at the plans and without knowing what will be expected? Don't forget too, that the statutes require bidding and award to the lowest bid.

I'll have more on this for the hearing next Tuesday. State offices are all closed today.

Dave

HB

90

s:0521820905

SENATE FINANCE COMMITTEE
May 21, 1982
9:05 a.m.

SFC-82 #33, Side 1 (573-end)
SFC-82 #33, Side 2 (000-411)

CALL TO ORDER

Co-chairman Ed Dankworth convened the meeting at approximately 9:05 a.m.

PRESENT

All committee members were present with the exception of Senators Eliason and Ferguson. Also attending were Senators Kerttula and Gilman; Allen Korhonen, Deputy Commissioner of Health & Social Services; Steve Hole, representing the Dept. of Education; John Bates, Deputy Commissioner of Dept. of Transportation; Ginny Chitwood, representing the Alaska Municipal League; Lee Sharp, Attorney for the City and Borough of Juneau; Bill Miles, representing the Anchorage School District; Fiscal Analyst Alison Pigee; and administrative assistant to Senate Finance Judy Johnston.

HB 279

Co-chairman Dankworth moved that SCS for HB 279 (Finance) an (ACT RELATING TO SCHOOL CONSTRUCTION AND TRANSFERRING THE ADMINISTRATION OF THE SCHOOL CONSTRUCTION GRANT PROGRAM FROM THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES TO THE DEPARTMENT OF EDUCATION) be brought on for discussion.

Senator Stimson directed committee attention to a proposed SCS for CSHB 279 (Finance) (AN ACT RELATING TO SCHOOL CONSTRUCTION AND TRANSFERRING THE ADMINISTRATION OF SCHOOL OR EDUCATION-RELATED FACILITY CONSTRUCTION FROM THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES TO THE DEPARTMENT OF EDUCATION). Responding to questions from Co-chairman Dankworth concerning Section 3, Senator Stimson stated that the intention is to allow municipal, city or borough school districts, access to the Governor's capital budget. At present the only schools able to come to the legislature through the budgeting process are REAA's. This bill would develop a process whereby all school districts have access to the capital budget. The section is permissive in that a school district does not have to use this budgetary process, yet it is available should the district decide to take this route. Small school districts incapable of bonding need a process which allows them access to this budget.

Senator Stimson acknowledged that the Anchorage School District "has concerns" regarding the legislation. He added that he had attempted to address those concerns in the proposed SCS. He concluded, however, that the legislation could not be "stretched"

much further without doing disservice to other districts statewide.

John Cates and Steve Hole jointly appeared before committee. Mr. Hole advised that at this time the only access to the Governor's capital budget is through Chapter 8 of Title 14 which speaks specifically to REAA's. There is no statutory provision for municipalities to gain accesss to this budget for public school construction other than through Section 7 (the debt retirement section) of the proposed SCS. Any municipality, however, through its legislator can get into a capital budget. Districts cannot, however, get into the capital budget the Governor submits to the legislature.

Co-chairman Dankworth raised questions concerning priority ranking provisions contained on page 2 of the proposed bill. Mr. Hole responded that the ranking process gives the Department of Education a list of education construction projects based on critical need. When funding resources are limited, the most critical needs can be met first. Co-chairman Dankworth asked if the process would create a master statewide list of school construction needs. Mr. Hole responded that to the extent that school districts choose to submit requests under the bill a master list would be compiled. He added, however, that some REAA's and municipalities might not submit requests. As an example, Senator Sturgulewski stated that Anchorage, which just offered $70 million in bonds, would not need to be involved in a priority listing unless it chose to do so since it enjoys local autonomy in its bonding capability. Should Anchorage choose to become involved in the priority listing and seek state funding, it can do so. She attested to the fact that priority lists are viewed as guidelines and the political process generally takes over when projects are actually funded. There is nothing mandatory about the list. Senator Kertula advised that in his experience, political control goes to the urban areas. At that stage, priority lists never include rural areas. In effect, the list works against rural needs. Senator Sturgulewski states that the Anchorage School Board is concerned that the list would have the opposite effect. Senator Stimson advised that ranking will be accomplished based strictly on educational criteria. Co-chairman Dankworth expressed concern that the priority list might encroach upon legislative authority to appropriate school funding. Mr. Hole responded that at the present time the Governor could prepare a priority listing. The Department feels extremely comfortable with the list since it gives the Department "clear legislative policy direction . . . ." He acknowledged that the larger municipalities (Anchorage, Fairbanks, Mat-su) can take care of themselves. Actual need for the list is evidenced through the inability of Nenana, Kake, Klawock, Hoonah, Galena--small communities--to gain access to the list for rural areas. Once the list is submitted to the legislature, the legislature does as it chooses. The list simply provides clear executive recommendations based on educational criteria.

Senator Stimson requested that Messrs. Bates and Hole address transfer provisions of the bill. John Bates stated that at present the Dept. of Transportation handles REAA construction grants. Mr. Bates added that last year's funding for this function was RSA'd to the Dept. of Education. DOT now wishes to formalize the process by transferring the grant process to DOE in order that REAA's will not have to deal with both departments. This transfer relates to the granting process only. The four REAA's still requesting the state to build projects for them would continue to work with DOT for construction of their projects.

Senator Kerttula asked Senator Sackett if he (Sackett) was satisfied that REAA's are better cared for under the proposed bill. Senator Sackett responded, "Yes."

Directing committee attention to Page 1, Line 12 of the proposed draft, Senator Stimson advised that Senator Ferguson had requested the date be changed from July 1, 1978 to July 1, 1982. Mr. Bates advised that DOT has no problem with the date change. Senator Stimson moved to make the change. Senator Gilman advised that the prior date relates to the time when DOE began regulating payments on a square foot per student basis. Some school districts built facilities which are not eligible for repayment. If the date is changed to 1982, any school built after July 1, 1978, which does not meet department approval, would be "grandfathered in" and repaid. Mr. Hole advised that no loophole is created by the date change since Department regulations remain in effect under either date. Regulations affecting entitlement at the time of construction remain in effect. Senator Stimson stated that the request for the date change came from Senator Ferguson at the request of one of his constituents. Co-chairman Dankworth suggested that in Senator Ferguson's absence the change not be made, and Senator Ferguson given the latitude of offering such an amendment on the Senate floor.

Senator Stimson moved for adoption of the following technical amendments:

Page 3, Line 3, delete "ordinance" and insert "resolution."

Page 4, Line 2, delete "three" and insert "two."

No objection to the foregoing amendments having been raised, they were adopted.

Referring to Section 3, Senator Kerttula asked if local districts (from their own resources) must contribute toward school construction projects. Do they definitely have to pay their 10% raised from local tax levies? Senator Stimson advised of his understanding that such a requirement is not absolutely clear in the proposed bill. Steve Hole advised of his understanding that there is nothing in the proposed bill or Title 43 to guarantee that what is contributed by the municipality comes from a local tax. Co-chairman Dankworth suggested adding language requiring

that no more than 30% of the project could be constructed with state funds. Senator Gilman attested to difficulties involved in tracing the source of municipal moneys. Steve Cole advised that the Department's concern is not who pays the 10% but rather limitation on "Taj Mahal" construction. Department regulations stipulate that the state will pay a portion of construction costs based on the number of students and the square footage needed to provide for them. A school district could build a 100,000 square foot school, but if the student population only entitled the district to 20,000 square feet, the state would only participate up to and authorize reimbursement for 20,000 square feet.

Senator Gilman noted that the bonding capacity of individual municipalities also limits the size of school construction. The more school bonds sold, the less available for sewer and water and other needs. This serves as an internal limitation on oversized construction.

Senator Sturgulewski suggested that the committee not attempt to address the foregoing in the current session. The legislature has discussed revenue sharing and municipal assistance. One of the intents in the municipal assistance program is to use state money to reduce local taxes. Local taxes included debt service.

Bill Miles, representing the Anchorage School Board, next appeared before committee. He stated that Anchorage has concerns regarding the proposed statewide master list. Nothing currently prohibits the administration from creating such a list should it choose to do so. The proposed SCS adds another layer of bureaucracy with which districts must comply. Additionally, creation of a statewide list based on standardized criteria, reduces the legislature's ability to fund projects not on the list. A future governor may be heavy handed and use the list to cut legislative projects. Anchorage finds itself in a "Catch-22" position. If the district requests a particular project be put on the list, more than likely, because of evaluation criteria, it will appear very low on the list. If the district does not request that the project be put on the list, when negotiations begin concerning school projects to be funded, the district will be left out because it's not listed.

Mr. Miles suggested that Commissioner Lind's proposed study of operational expenses of school districts be expanded to include methods of capital appropriation.

Sinny Caitwood, representing the Alaska Municipal League, next appeared before committee, advising that while the Municipal League did not request provisions relating to a master list, it does not object to such language. Municipal school districts other than Anchorage do not view the list as a threat. Larger school districts which have bonding capacity are willing to put up their 10% share and comply with procedures in Section 8, whereby the district bonds and is then reimbursed by the state. Smaller school districts which do not have bonding capacity would have another opportunity to obtain funding under the proposed

legislation. Mrs. Chitwood advised that she had spoken with "some people from Anchorage" and determined that the position represented by Mr. Miles is not unanimous.

Senator Stimson directed committee attention to the fiscal note for $13466.4 dated April 1, 1982. Senator Gilman stated that although the fiscal note was prepared before the municipalities actually sold their bonds and represents Department estimates of bond payments, actual sale costs to this date result in essentially the same figures as listed on the note. Total costs will not be known until all bonds have closed (approximately July 15). Although there may be need for adjustment or proration over the first year, Senator Gilman recommended the committee adopt the Department fiscal note. Senator Sturgulewski moved for adoption of the April 1, 1982, fiscal note.

Senator Stimson moved for passage of the proposed SCS for CSHB 279 (Finance) with individual recommendations and the April 1, 1982, fiscal note. Upon a show of hands, the bill passed from committee--all members present signing do pass.

ADJOURNMENT

There being no further matters to come before committee at this time, Co-chairman Dankworth announced that the committee would convene at 2:00 p.m. to consider HB 148 (the Senate Budget). The meeting was adjourned at approximately 10:00 a.m.

SFC-82 #33, Side 1 (597-end)
SFC-82 #33, Side 2 (000-411)

SENATE FINANCE COMMITTEE
April 6, 1982
8:35 a.m.

(Recorder malfunction, no recording for this meeting.)

CALL TO ORDER

Co-chairman Don Bennett convened the meeting at approximately 8:35 a.m.

PRESENT

All committee members were present. Also attending were Steve Hole from the Department of Education; Vern Roberts, Finance Director for the Matanuska-Susitna Borough; Lee Sharp, Attorney for the City and borough of Juneau; Ginny Chitwood representing the Alaska Municipal League; Ron Lind, Deputy Commissioner of the Department of Transportation, Administration; John Bates, Deputy Commissioner of the Department of Transportation, Planning & Programming; Bob Cooksey, Representing NEA/Alaska, Inc.; Fiscal Analysts Elmer Lindstrom and Alison Elgee; administrative assistants to Senate Finance Judy Johnston and David Rogers, and representatives from the press.

SB 772

Co-chairman Bennett moved that SB 772 (ACT MAKING A SPECIAL APPROPRIATION TO THE DEPARTMENT OF NATURAL RESOURCES FOR CONSTRUCTION OF A PLANT QUARANTINE STATION AT THE PLANT MATERIALS CENTER (AS 03.22) OPERATED IN COOPERATION WITH THE INSTITUTE OF AGRICULTURAL SCIENCES) be brought on for discussion. He directed committee attention to backup material provided by Senator Kerttula.

Senator Ferguson moved that a zero fiscal note be attached to the bill. No objection to the new fiscal note having been voiced, it was approved for attachment.

Co-chairman Dankworth moved that SB 772 pass from committee with individual recommendations. No objection having been raised, SB 772 passed from Senate Finance--all members present signing do pass with the exception of Senators Dankworth and Stimson who signed no recommendation.

HB 279

Co-chairman Bennett moved that CSHB 279(Fin)am (AN ACT RELATING TO SCHOOL CONSTRUCTION AND TRANSFERRING THE ADMINISTRATION OF THE SCHOOL CONSTRUCTION GRANT PROGRAM FROM THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES TO THE DEPARTMENT OF EDUCATION) be brought on for discussion.

Senator Stimson directed committee attention to a proposed SCS for HB 279 (Finance) (ACT RELATING TO SCHOOL CONSTRUCTION AND

TRANSFERRING THE ADMINISTRATION OF SCHOOL OR EDUCATION-RELATED FACILITY CONSTRUCTION FROM THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES TO THE DEPARTMENT OF EDUCATION), a Sectional Analysis of the committee substitute, and a new fiscal note dated April 1, 1982. He advised that the proposed substitute would accomplish three things:

1. Transfer responsibility for administration of school construction grants from DOT to DOE.

2. Provide mechanism whereby all REAA and municipal school district project may be included in the governor's capital budget.

3. Increase the percentage of reimbursement to municipalities for school construction to 90% and reduce the two-year lag on payment of reimbursement.

Vern Roberts, Finance Director for the Matanuska-Susitna Borough, next appeared before committee, speaking in support of the proposed Committee Substitute. He advised of current problems at the municipal level due to the "saw tooth" pattern of fluctuating tax collection and the two year lag on state reimbursement for school construction costs. He advised that an increase in the percentage of reimbursement is not so important as elimination of the two-year delay in reimbursement.

Ginny Chitwood, representing the Alaska Municipal League next appeared before committee, stating that the legislation would have minimal fiscal impact to the state since it basically represents a shift of reimbursement payments from one year to another. The state currently reimburses 80% of school construction costs two years after the money was expended. The subject legislation would raise reimbursement to 90% and provide for current year repayment.

Mrs. Chitwood advised that the proposed committee substitute provides adequate protection against "Builders of Taj Mahals" since approval by DOE is required prior to reimbursement to a municipality.

Mrs. Chitwood concluded her remarks by advising that current-year reimbursement to municipalities would eliminate the "bulge" now plaguing tax levies.

Lee Sharp, Attorney for the City and Borough of Juneau, next appeared before committee. He stated that of all legislation under consideration during the current session, none is more significant and important to municipalities than the proposed committee substitute. He advised that given the problems surrounding the issuance of bonds, and the saw tooth mill rate, in approximately two and a half years the City and Borough of Juneau will require a 6.5 mill tax increase in order to service its school bonds. Moving reimbursement for school construction

costs to current year status will assist in providing stability to tax levies.

Steve Hole, representing the Department of Education, next appeared before committee, advising that Section 1 through 7 and 9 were included in the Governor's bill. He next gave a brief section-by-section analysis of the proposed substitute:

> Section 1 and 2 describe responsibilities of the Department of Education with respect to review of construction plans, determination and approval of eligibility for state aid, and administration of construction grants.
>
> Section 3 includes city and borough school districts in the hierarchy of school construction projects in the Governor's budget. It also provides for DOE to administer grants currently handled by DOT.
>
> Section 4 contains cleanup language for Chapter 9.
>
> Sections 5, 6, and 7 are amendments to DOT's statutes which reflect the shift in administrative responsibilities from DOT to DOE.
>
> Section 8 is the only section having financial impact since it raises the reimbursement percentage from 80 to 90% and eliminates the two year lag in reimbursements.
>
> Section 9 amends Title 43, limiting uses to which debt retirement appropriations can be made.
>
> Section 10 repeals AS 14.28.151 and 43.18.100(b)(2) relating to REAA school construction projects.

Responding to concerns expressed by Senator Dankworth that removing control of design and construction of school projects from DOT might lead to cost overruns due to lack of local expertise, Mr. Hole advised that the bill provides for certification that local individuals are qualified to perform the work. In audition, the work must conform to state requirements, or construction funds will not be released. Following construction, an audit is performed to ensure that funds were spent for the purposes intended.

Referring to $13 million in cost overruns on the Lower Kuskokwim School, Co-chairman Dankworth asked if the state is financially liable for such costs. Mr. Hole responded that since REAA's have no ability to generate revenue, cost overruns "come back to the state." This situation will not change under the proposed legislation. Municipalities, however, represent a different situation--one to which Mr. Hole did not wish to speak.

Responding to a question from Senator Ferguson concerning construction management contracts and costs, Mr. Hole directed committee attention to Page 3, Line 24 of the committee

substitute, advising that that section limits (in terms of the size of the school construction project) the amount that can be spent for management. Senator Ferguson attested to the importance of such a provision, since management contracts have previously gone to individuals with "no construction ability."

Responding to questions from Senator Sackett comparing sections of the House version of the bill with the proposed committee substitute, Mr. Hole advised that concern was expressed that the House version gave DOE too much control over municipalities, and that the Department might preempt municipal ability to construct schools, interfere with approval of plans and placement in the Governor's capital budget, and the issuance of grants.

Section 2 limits Department involvement to REAA's and relates to grant administration rather than construction oversight. John Bates, Deputy Commissioner of the Department of Transportation appeared before committee advising that approximately 4 REAA's currently construct projects through DOT while remaining REAA's construct their own. Mr. Hole advised that responsibility for administering construction grants is being transferred to DOE rather than being placed back in DOT.

Senator Sackett again raised questions concerning the difference between House and Senate committee substitute language, advising that House language appears to transfer construction responsibilities from DOT to DOE. Mr. Hole responded that the intent was to limit DOE involvement to grant administration rather than the "actual nail pounding construction"--that remains with DOT. Mr. Bates concurred, advising that the intent was to transfer administrative not construction authority.

Senator Sackett advised that he had no problem transferring it all to DOE. He next raised question concerning the two fiscal notes in the file, asking what had caused the increase from the earlier note of $3.1 to the recent note of $13.4. Mr. Hole explained that the recent note is based on current entitlements under Title 43. Since the bill would eliminate the two year lag in reimbursement costs, the Department sought information on proposed bond sales for school construction from the Alaska Municipal League. The earlier fiscal note does not take into account FY 82 bond sales, assumes elimination of the Cigarette Tax offset, and does not take into account elimination of the two year lag in reimbursement. Mr. Hole added that the earlier (January) fiscal note represents a "guess" at the financial impact of the bill while the later (April) note is based on firmer figures.

Co-chairman Dankworth raised questions concerning design and construction of state schools in terms of what types of construction state grants would and would not cover. Mr. Hole responded that the same formula is applied to both REAA and municipal schools. Chapter 31 of DOE regulations determines eligibility. When asked if the regulations favor one type of school over another, Mr. Hole responded that determination of

entitlement is "as uniform as it can be." The Department does not treat schools of like size differently in rural areas than it does in municipalities.

Directing committee attention to Page 7, Section 9, Mr. Hole read a sampling of construction items which are not reimbursable under state grants. While residential construction, hockey rinks, and Olympic-sized pools would not be eligible for state aid, schools can construct a reasonable-sized pool for teaching water safety.

Co-chairman Dankworth requested that he be furnished a copy of the formula used for determining eligibility. Mr. Hole responded that he would do so, emphasizing that the Department uses the same formula for municipalities and REAA's alike. The only difference between the two entities is that municipalities can go elsewhere for funding, while REAA's must rely on the state.

Senator Stimson asked that Mr. Hole speak to provisions allowing municipalities access to the Governor's capital budget. Mr. Hole advised that under present language contained in Title 14, only REAA school construction is eligible for inclusion. The proposed committee substitute would allow any school district, municipality or REAA to submit a request for school construction to the Department. The Department would then prioritize the list, and transmit the requests to the Governor along with the priority list. The Governor would decide which projects should be funded in the capital budget, and the legislature could add or subtract as it deems necessary. For the first time, however, the legislature would have before it a list of all school projects that have been requested. The above process would especially accommodate school districts which do not have "the horsepower" to lobby the legislature for a special appropriation for school funding (e.g. Hoonah, Klukwan).

When asked by Senator Dankworth if there is currently anything which prevents the Governor from including a new school for Anchorage in his budget, Mr. Hole responded, "No, but this would establish a process for him to do so. Right now there is only a process for REAA's."

John Bates advised that DOT has been working with DOE since 1977 or 1978 on REAA grant programs. The process in the past has required REAA's to switch back and forth between the two departments in the course of obtaining plan approval, eligibility determination, and grant distribution. School construction must be on state property and in accordance with state statutes. Over the past five years increasing numbers of REAA's have asked "to do their own buildings" (DOT only constructs one or two REAA schools per year). In order to make the grant process more efficient, administration of grants is being transferred to DOE.

When asked by Senator Stimson if there is a method to "tighten up grant programs" in order to deal with REAA cost overruns, Mr. Bates responded that, aside from the state, there is no one else to whom REAA's can turn when cost overruns occur. Grants can be

safeguarded by disbursing only certain amounts at progressive stages of construction. Most claims, however, result in supplemental appropriations through the legislature. DOT makes sure plans are as good as possible and attempts to see that, administratively, construction programs do not "get into trouble." Further oversight by the Department would require additional staff. Mr. Bates advised that aside from one REAA currently involved in litigation, overruns have not been "that much out of line" given the difficulties and expenses of rural construction.

When asked about Department costs in providing oversight, Mr. Bates responded that at present the Department takes 3%. One percent is given to DOE and the other two percent provides for administration of the project.

Co-chairman Bennett advised that SCS for CSHB 279 (Finance) would be returned to committee files for further discussion at a later time.

ADJOURNMENT

There being no further matters to come before committee at this time, the meeting was adjourned at approximately 9:35 a.m.

Recorder malfunction, no tape for this meeting.

Chapter 92

AN ACT

Relating to school construction and transferring the administration of school or education-related facility construction from the Department of Transportation and Public Facilities to the Department of Education; and providing for an effective date.

---

* Section 1. AS 14.07.020(11) is amended to read:

(11) review plans for construction of [AND] new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include [A "PLAN" INCLUDES] educational specifications, schematic designs, and final contract documents;

* Sec. 2. AS 14.07.020 is amended by adding a new paragraph to read:

(13) administer the grants awarded under AS 14.07.190.

* Sec. 3. AS 14.07 is amended by adding new sections to read:

ARTICLE 3. CONSTRUCTION, REHABILITATION, AND IMPROVEMENT OF SCHOOLS AND EDUCATION-RELATED FACILITIES.

Sec. 14.07.180. RECOMMENDATIONS AND EVALUATIONS OF PROJECTS. (a) The assembly or council of a municipality that is a school district or a regional school board may submit a request to the department for a school or education-related facility construction, rehabilitation, or

improvement project together with a report evaluating the condition of school or education-related facilities in the municipality or regional educational attendance area and a determination of the need for the project.

(b) With regard to projects requested under (a) of this section the department shall

(1) rank each project in the order of priority that serves the best interests of the state;

(2) prepare an estimate of the amount of money needed to finance each project approved by the department and recommend to the governor appropriations for projects to be included in the budget submitted to the legislature;

(3) provide the governor with a copy of the report of the assembly, council, or regional school board that requested each project approved by the department;

(4) provide to the legislature within the first 10 days of each regular session a summary of the projects requested by each assembly, council, or regional school board.

(c) In establishing priorities among requested projects the department shall evaluate at least the following factors:

(1) priorities assigned by the assembly, council, or school board to the projects requested;

(2) emergency requirements;

(3) the number of students without classroom space;

(4) new local elementary or secondary programs;

(5) existing regional, community, and school facilities and the condition of the facilities;

(6) the economic and social stability of the municipality or region.

(d) The provisions of this section do not affect a municipality's eligibility for reimbursement under AS 43.18.100.

Sec. 14.07.190. ASSUMPTION OF RESPONSIBILITIES. (a) The assembly or council of a municipality that is a school district or a regional school board may, by resolution or majority vote of the body, assume the responsibilities relating to the planning, design, and construction of a school or an education-related facility located within the boundaries or operating area of the municipality or regional educational attendance area. After receipt of a request by an assembly or council under this subsection, the department shall provide for the assumption of the responsibilities requested. After receipt of a request by a regional school board under this subsection, the department may provide for the assumption of the responsibilities requested.

(b) If a municipality that is a school district or a regional educational attendance area assumes the responsibilities under this section, the department shall grant to the municipality or regional educational attendance area money appropriated for the school or education-related facility. The department may transfer the appropriations to a special construction account in the state treasury. Under the fiscal control of the department, a municipality or regional educational attendance area that assumes responsibilities for the project as provided in this section may draw on the account for costs of the project.

(c) The construction management costs of a project assumed under this section may not exceed four percent of the amount of appropriations for the facility if the amount of appropriations is $500,000 or less. The construction management costs of a project assumed under this section may not exceed three percent of the amount of appropriations for the facility if the amount of appropriations is over $500,000 but less than $5,000,000. The construction management costs of a project assumed

under this section may not exceed two percent of the amount of appropriations for the facility if the amount of appropriations is $5,000,0[illegible] or more. For purposes of this subsection "construction management" means management of the project's schedule, quality, and budget during any phase of the planning, design, and construction of the facility by a private contractor engaged by the municipality or regional educational attendance area.

(d) The commissioner shall adopt necessary regulations implementing this section, and setting out the requirements for agreements between the department and a municipality or regional educational attendance area relating to the assumption by the municipality or regional educational attendance area of responsibilities for the planning, design, and construction of a project.

* Sec. 4. AS 14.08.101(7) is repealed and reenacted to read:

(7) recommend to the department projects for construction, rehabilitation, and improvement of schools and education-related facilities as specified in AS 14.07.180(a), and plan, design, and construct the project when the responsibility for it is assumed under AS 14.07.190;

* Sec. 5. AS 35.15.080(a) is amended to read:

(a) A municipality [OR, IF THE PUBLIC WORK IS AN EDUCATIONAL FACILITY, A REGIONAL EDUCATIONAL ATTENDANCE AREA ESTABLISHED UNDER AS 14.08] may, by resolution of its governing body, request the assumption of all or part of the department's responsibilities relating to the planning, design, and construction of a public works project of the state that [WHICH] is to be located within the boundaries [OR OPERATING AREA] of the municipality [OR REGIONAL EDUCATIONAL ATTENDANCE AREA] and that [WHICH] would otherwise be constructed in the manner provided in AS 35.15.010. After receipt of the request, the department

[(1) SHALL PROVIDE FOR THE ASSUMPTION BY THE MUNICIPALITY OR REGIONAL EDUCATIONAL ATTENDANCE AREA OF ALL OF THE DEPARTMENT'S RESPONSIBILITIES RELATING TO THE PLANNING, DESIGN AND CONSTRUCTION OF AN EDUCATIONAL FACILITY;

(2)] may provide by agreement for transfer to and assumption by the municipality of the department's responsibilities relating to the [PLANNING, DESIGN, AND CONSTRUCTION OF A PUBLIC WORKS] project, unless the commissioner determines that assumption of responsibilities by the municipality is not practicable or not in the best interests of the state.

* Sec. 6. AS 35.15.080(c) is amended to read:

(c) A municipality may request joint assumption of responsibilities with the department relating to the planning, design, and construction of a public works project. [A REGIONAL EDUCATIONAL ATTENDANCE AREA MAY REQUEST JOINT ASSUMPTION OF RESPONSIBILITIES WITH THE DEPARTMENT RELATING TO THE PLANNING, DESIGN AND CONSTRUCTION OF AN EDUCATIONAL FACILITY.] Two or more municipalities [OR REGIONAL EDUCATIONAL ATTENDANCE AREAS] may by [MUTUAL] agreement provide for cooperative assumption of responsibilities relating to the planning, design, and construction of a public works project. If two or more municipalities [OR REGIONAL EDUCATIONAL ATTENDANCE AREAS] request assumption of responsibilities for a project and meet the standard of practicability set out in [it] [(a)(2)] of this section, the commissioner shall determine which municipality [OR REGIONAL EDUCATIONAL ATTENDANCE AREA] is best able to direct planning, design, and construction of the project and enter into an agreement with that municipality [OR REGIONAL EDUCATIONAL ATTENDANCE AREA,] or provide for joint or cooperative administration, as the parties may agree or the commissioner may determine. Decisions of the commissioner under this subsection are final.

* Sec. 7. AS 35.15.090 is amended to read:

Sec. 35.15.090. USE OF APPROPRIATED FUNDS. Upon [ASSUMPTION BY A MUNICIPALITY OR REGIONAL EDUCATIONAL ATTENDANCE AREA OF THE DEPARTMENT'S RESPONSIBILITIES UNDER AS 35.15.080(a)(1), OR UPON] execution of an agreement under AS 35.15.080(a) [AS 35.15.080(a)(2)], state funds appropriated for a public works project which is the subject of the [ASSUMPTION OR THE] agreement shall be transferred to a special account in the state treasury. A municipality [OR REGIONAL EDUCATIONAL ATTENDANCE AREA] administering the project under the [ASSUMPTION OR] agreement may draw on the account for costs of the project, under fiscal control of the department. If an agreement provides for joint or cooperative administration of the project, payment of costs shall be made to the party incurring the costs.

* Sec. 8. AS 43.18.100(a) is amended to read:

(a) During each fiscal year, the state shall allocate to a municipality that [AN ORGANIZED BOROUGH OR A CITY WHICH] is a school district, the following sums:

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

(2) 90 [80] percent of

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

(B) cash payments made after June 30, 1976 and before July 1, 1978 by the municipality [BOROUGH OR CITY] during the

fiscal year two years earlier to pay costs of school construction;

(3) 90 [80] percent of

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

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

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

(A) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after December 31, 1981 to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed $25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1982 by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed $25,000 and are approved under AS 14.07.020(11).

* Sec. 9. AS 43.18.100 is amended by adding new subsections to read:

(h) An allocation under (a)(4) of this section for school construction begun after July 1, 1982, shall be reduced by the amount of money used for the construction of residential space, hockey rinks, planetariums, saunas, and other facilities for single purpose sporting or recrea

HB

91

(7)

COMMITTEE REPORT

HOUSE

1/20/83

FURTHER: JUDICIARY

Date: Mar 4 1983

Mr. Speaker:

The Committee on HESS has had HB 91

An Act relating to disclosure of vital statistics records and information; and providing for an effective date.

under consideration and reports it back as follows:

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

DUPLICATE

CHAIRMAN

H 60

February 24, 1983

House Health, Education and
Social Services Committee
Room 112, Capitol Building
Pouch V
Juneau, AK 99811

attn: Mr. Dave Palmer

Although I earnestly wish to testify in person on HB91, I am unable to postpone a trip on March 4th and, therefore, am submitting the following testimony in favor of the bill:

I am both a family and professional genealogist (Alaskan Records Research, Business License number BL000201); hold a BLA with history emphasis from the University of Alaska, Juneau; am a full-time student in the Master of Arts in Teaching program at Alaska Pacific University; am employed half-time at the UAJ library; tutor history, english, geography, and logic at UAJ; am Alumni Representative on the UAJ Assembly; have published a family history and am currently working (in my spare time) on an historical novel.

With this variety of efforts underway, you can understand why I have little time to spend writing back and forth to prospective clients to obtain the written permissions required before I can access vital statistics data as my client's personal representative.

As it stands now, individuals can obtain vital statistics on their own ancestors but professionals or those working on far distant lateral relatives may not easily do so. A business must be cost-effective. Repeated correspondence is not (unless I raised my fees to cover it, which would price me out of the market). Thus, I simply refer many inquiries to the office of Vital Statistics and so lose the fees I could obtain for doing the research myself.

Passage of this bill will help all who are searching for long-lost relatives who "went up north to the goldrush and were never heard of again."

Being the first of my family to reside in Alaska, I have no family interest in opening Alaska's records. However, I would personally like to see my state on a par with the rest of the country. After tracing several thousand of my own ancestors, lateral, and collateral relatives through most of the northern states and Ontario, and collecting hundreds of official documents dated from 1738 to 1978, I have never been refused a record because of access restrictions except hospital patient records. I feel that this bill is a step in the right direction but could go further. People researching in Alaska should meet with no more roadblocks than I have experienced in other states. I would like to see the time limits of 100 and 50 years reduced to about 30 years, if the purpose is genealogical research. The most persuasive argument against opening birth records is the problem of illegitimacy. Besides the fact that it no longer carries the stigma it once did, a professional genealogist couldn't care less what the records say, all he or she is interested in

is locating them for the client. The client or individual researcher is a member of the illegitimate child's family and thus has a personal interest in keeping the fact of illegitimacy within the family.

I feel a person's right to know about their own heritage outweighs any "right to privacy" of their ancestors and this includes a person's right to hire a researcher if unable or unwilling to travel to Juneau to do their own research. Therefore, I highly recommend passage of this bill, preferably with an amendment allowing disclosure to genealogists of those vital records not made public by AS 18.50.310(f).

Sincerely

Kit Stewart

Kit Stewart
9119 Nagoon Lane
Juneau, AK 99801
789-9411

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: HOUSE MAJORITY CAUCUS

FROM: REP. RAMONA L. BARNES
HOUSE MAJORITY LEADER

DATE: April 19, 1983

RE: CS HB 91 (Judiciary); "An Act relating to disclosure of vital statistics records and information; and providing for an effective date."

Current law permits vital statistics to become public only under very limited circumstances. This bill would allow vital statistics to be used for historical research or genealogy after specific time limitations which are designed to protect the persons involved while making information available for those purposes.

Time limitations are as follows: When 100 years have elapsed after the date of birth, or 50 years have elapsed after the date of death, marriage, or divorce, dissolution of marriage, or annullment, the records of these matters become public.

CN/rv

HB 91

BILL HB0091
PAGE 00069
DATE 01/20/83
CHAMBER HOUSE
TEXT HOUSE BILL NO. 91 by Bettisworth, entitled:
"An Act relating to disclosure of vital statistics records and information; and providing for an effective date."
was read the first time and referred to the Health, Education & Social Services and Judiciary Committees.

BILL HB0091
PAGE 00418
DATE 03/07/83
CHAMBER HOUSE
TEXT The Health, Education & Social Services Committee has had HOUSE BILL NO. 91 (relating to disclosure of vital statistics records and information; effective date) under consideration, recommends it do pass, and attaches a zero fiscal note. Concurring: Fritz (Co-Chairman), Goll, Koponen, Cato and Davis.
HB 91 was referred to the Judiciary Committee.

BILL HB0091
PAGE 00857
DATE 04/14/83
CHAMBER HOUSE
TEXT The Judiciary Committee has had HOUSE BILL NO. 91 (relating to disclosure of vital statistics records and information; effective date) under consideration, recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 91 (Judiciary) (same title), and reports it back as follows: Bussell (Chairman), Liska and Hayes recommend do pass; Wendte and Clocksin have no recommendation. A zero fiscal note was attached.
HB 91 was referred to the Rules Committee for placement on the calendar.

Vital Statistics (disclosure of records)

HOUSE BILL NO. 91, by Bettisworth. Adds new section to AS 18.50.310 (Vital Statistics Act. Disclosure of Records) that would allow disclosure of certain records: "When 100 years have elapsed after the date of death, marriage, or divorce, disso lution of marriage, or annulment, the records of these events in the custody of the state registrar become public records subject to the provisions of AS 09.25.110 - 09.25.125." (AS 09.25.110 - 125, Evidence. Inspection and copies of public records; Inspection and copying of public records; Copies of public records for veterans; Enforcement: Injunctive relief.). Provides Act takes effect immediately.

HOUSE BILL NO. 91, (see pages 57;299). Reported back to the House April 14 by Judiciary recommending it be replaced with a Judiciary substitute and that it do pass. Concurring: Bussell, Chairman, Liska and Hayes. Not concurring: Wendte and Clocksin had no recommendation. To Rules.

The Judiciary substitute adds two new sections. Provides the Bureau may permit the use of data contained in vital statistics records for research purposes ". . . other than genealogical or historical research." Would not allow for information in vital statistics records indicating that a birth occurred out of wedlock to be disclosed as provided by regulations (currently allowed).

HB 91

"Vital statistics" refers to records of birth, death, fetal death, marriage, divorce, adoption and related data. With specific exceptions, vital statistics are not available for inspection.

The language of HB 91, taken from the 'Model State Vital Statistics Act' published by the Public Health Service, opens records to the public: birth records - 100 years after date of birth; and marriage, death, divorce, dissolution of marriage or annulment records - after 50 years.

Passage of HB 91 will make public approximately 33,000 of the 675,000 records held by the State Registrar of Vital Statistics. The bill addresses the concerns of geneological researchers. A zero fiscal note is attached to the bill. Committee of next referral is the Judiciary Committee.

Dave Palmer
March 4, 1983

POSITION PAPER/Department of Health & Social Service

POSITION PAPER

HOUSE BILL 91

"An Act relating to disclosure of vital statistics records"

The amendment to AS 18.50.310 to add a new subsection under (f) is similar to a provision in the Model State Vital Statistics Act which is endorsed by the Council of State Governments.

By making public, birth records after 100 years, and death, marriage, and divorce records after 50 years, it will satisfy the need expressed by many who desire to research their "roots". Because of the model law, many states have enacted this provision, with success, because, those vital records relating to the living and next of kin, are still primarily protected.

Passage of H. B. 91 would make public about 33,000 of the 675,000 records in the custody of the State Registrar of Vital Statistics.

It is acknowledged that care must be exercised in providing a place for the public review of these records, while assuring the continued safekeeping of the documents. The existing staff can monitor the record review.

The Department of Health and Social Services recommends passage of House Bill Number 91.

RECOMMENDED BY: Joan P. Brooks

JOAN P. BROOKS
STATE REGISTRAR
BUREAU OF VITAL STATISTICS

Date: February 8, 1983

APPROVED BY: Robert London Smith

ROBERT LONDON SMITH, Ph.D.
COMMISSIONER
DEPARTMENT OF HEALTH &
SOCIAL SERVICES

Date: 2/11/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill Number 91 · Date on Bill:
Title: "An Act Relating to disclosure of vital statistics records"
Sponsor:
Requestor: Representative Bettisworth

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			0	0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Responsibility for identification of funding is that of the author of the bill

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Joan Brooks by Lucy D. Lee 19th. Phone: 465-3391
Division: Planning, Policy and Evaluation/Vital Statistics Date: February 22, 1983

Approved by Commissioner: Robert London Smith Date: 2/22/83
Department: H & SS

5. Distribution:
Original to Legislative Finance
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Copy to Sponsor

AS18.50.310 DOCUMENT= 1 OF 1 PAGE = 1 OF 2

CHAPTER = 18.50
SECTION = 18.50.310
TITLE = 18

HEADINGS TITLE 18.
HEALTH AND SAFETY.
CHAPTER 50.
VITAL STATISTICS ACT.
ARTICLE 4.
RECORDS.

CITATION SEC. 18.50.310.

CATCH LINE
DISCLOSURE OF RECORDS.

TEXT (A) TO PROTECT THE INTEGRITY OF VITAL STATISTICS RECORDS, TO INSURE THEIR PROPER USE, AND TO INSURE THE EFFICIENT AND PROPER ADMINISTRATION OF THE VITAL STATISTICS SYSTEM, IT IS UNLAWFUL FOR A PERSON TO PERMIT INSPECTION OF, OR TO DISCLOSE INFORMATION CONTAINED IN VITAL STATISTICS RECORDS, OR TO COPY OR ISSUE A COPY OF ALL OR PART OF A RECORD, EXCEPT AS AUTHORIZED BY REGULATIONS ISSUED UNDER THIS CHAPTER.

(B) THE BUREAU MAY PERMIT THE USE OF DATA CONTAINED IN VITAL

AS18.50.310 DOCUMENT= 1 OF 1 PAGE = 2 OF 2

STATISTICS RECORDS FOR RESEARCH PURPOSES.

(C) INFORMATION IN VITAL STATISTICS RECORDS INDICATING THAT A BIRTH OCCURRED OUT OF WEDLOCK SHALL NOT BE DISCLOSED EXCEPT UPON ORDER OF A SUPERIOR COURT OR AS PROVIDED BY REGULATIONS.

(D) APPEALS FROM DECISIONS OF THE CUSTODIANS OF LOCAL RECORDS REFUSING DISCLOSURE UNDER (A) AND (B) OF THIS SECTION SHALL BE MADE TO THE STATE REGISTRAR, WHOSE DECISION IS BINDING UPON THE CUSTODIAN OF LOCAL RECORDS.

(E) THE DEPARTMENT MAY BY REGULATION PROVIDE FOR THE RELEASE OF INFORMATION TO AUTHORIZED REPRESENTATIVES OF ORGANIZATIONS OR FOUNDATIONS THAT COUNSEL THE NEXT OF KIN OF VICTIMS OF INFANT SUDDEN DEATH SYNDROME.

HISTORY (SEC. 27 CH 118 SLA 1960; AM SEC. 1 CH 132 SLA 1978)

0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill Number 91 Date on Bill:
Title: "An Act Relating to disclosure of vital statistics records"
Sponsor:
Requestor: Representative Bettisworth

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			0	0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Responsibility for identification of funding is that of the author of the bill.

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Joan Brooks by P. Lee [illegible] Phone: 465-3391
Division: Planning, Policy and Evaluation/Vital Statistics Date: February 22, 1983

Approved by Commissioner: Robert Pandan Smith Date: 2/22/83
Department: H & SS

5. Distribution:
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2/8/83

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL 91

"An Act relating to disclosure of vital statistics records"

The amendment to AS 18.50.310 to add a new subsection under (f) is similar to a provision in the Model State Vital Statistics Act which is endorsed by the Council of State Governments.

By making public, birth records after 100 years, and death, marriage, and divorce records after 50 years, it will satisfy the need expressed by many who desire to research their "roots". Because of the model law, many states have enacted this provision, with success, because, those vital records relating to the living and next of kin, are still primarily protected.

Passage of H. B. 91 would make public about 33,000 of the 675,000 records in the custody of the State Registrar of Vital Statistics.

It is acknowledged that care must be exercised in providing a place for the public review of these records, while assuring the continued safekeeping of the documents. The existing staff can monitor the record review.

The Department of Health and Social Services recommends passage of House Bill Number 91.

RECOMMENDED BY: Joan P. Brooks

JOAN P. BROOKS
STATE REGISTRAR
BUREAU OF VITAL STATISTICS

Date: February 8, 1983

APPROVED BY: Robert London Smith

ROBERT LONDON SMITH, Ph.D.
COMMISSIONER
DEPARTMENT OF HEALTH &
SOCIAL SERVICES

Date: 2/11/83

HB 91

Kit Stewart 789-9411
wants to testify

D.A.R.?

VITAL STATISTICS MEANS RECORDS of birth, death, fetal death MARRIAGE, divorce, adoption and related data.

~~COPY 18.50.310~~

2/28

John Patterson - National center for health statistics - Hyattsville, MD.

Before '77 edition - vital statistics were not avail to public - new edition added 50/100 yr provision. Some states use ~~50/75~~ yr provision
75/100

Tennessee adopted model statute
Georgia 75/100 -
Moded language done for genealogicial folks -
12 states have "open" vital statistics records.

50 yrs, 100 yrs - most folks dead. ~~survivors~~

Census data avial after 100 yrs

ng a false status, occupation, membership, license, privilege, or identity or himself or another person shall be fined not more than $[ ] or imprisoned not more than [ ] years, or both.

(c) Any person who uses any such document to commit a crime shall be punished by fine or imprisonment or both equal to that required by statute for the accompanying offense. Such sentence shall be served consecutively with that of the accompanying offense.

Section 4. [*Severability.*] [Insert severability clause.]

Section 5. [*Repeal.*] [Insert repealer clause.]

Section 6. [*Effective Date.*] [Insert effective date.]

Model State Vital Statistics Act (1977 Revision)

The Model State Vital Statistics Act is a document designed to be used by state registrars of vital statistics and state legislators when considering revision of the vital statistics laws. The main objectives of the 1977 revision of the model act are (1) to incorporate current social customs and practices and current technology into the policies and procedures of the vital statistics system in the states, (2) to promote the uniformity of these policies and procedures to the end that all vital records will be readily acceptable in all places as prima facie evidence of the facts therein recorded, (3) to enhance the level of comparability of vital statistics data among the states, and (4) to minimize duplication within the vital statistics system and thereby achieve maximum administrative economy.

The historical philosophy of the vital statistics systems in the United States is that vital events be registered only in the state in which they occur. This concept is maintained in this revision of the model act. The jurisdiction of the state registrar extends only to boundaries of his state, and standards for registration may be set and enforced only for those events occurring within those boundaries. This is a very important concept in maintaining the validity of vital records in their use for legal purposes. If it is to be respected, the appropriate procedures for recording birth and death information for United States citizens born or dying in foreign countries and certification of birth information for aliens adopted by United States citizens must continue to be the responsibility of those federal agencies which retain jurisdiction over recording these events.

While this revision of the model act does not constitute an abrupt departure from earlier acts, there are several modifications that should be noted. The most significant change relates to the establishment of a centralized system for the collection, processing, registration, and certification of vital records in each state, whereby all vital events are reported directly to the State Office of Vital Statistics. However, the model act contains authorization for local offices to perform those functions the state registrar may direct, including the receipt and processing of vital records and the issuance of certified copies, when such offices can be shown to be an aid to efficient and effective operation of the system. The model act further provides for the options of allowing such local offices to work with records only for their designated geographic area or to be given access to the entire state file and allowing them to issue certified copies without regard to where the event occurred within the state. The important concept, however, is that these offices are part of the State Office of Vital Statistics and are under the direct control of the state registrar.

The recommendation for a change from a locally oriented vital statistics system to a centralized system is based on several considerations: (1) a centralized system produces more timely registration of the records, thereby improving the timeliness of all operations, including publication of statistical data as well as fulfillment of citizens' needs for vital records services; (2) it decreases duplication and cost since many activities presently performed at local vital records offices are repeated at the state office; (3) it reduces the opportunity for fraudulent use of certified copies because amendments to the records will be easier to control and certified copies will

...cords of each [divorce, dissolution of marriage, or annulment] decree granted during the preceding calendar month.

[(c) [Provision for a recording fee may be added here if desired.]]

Section 22. [*Amendment of Vital Records.*]

(a) A certificate or report registered under this act may be amended only in accordance with this act and regulations adopted by the state agency to protect the integrity and accuracy of vital records.

(b) A certificate or report that is amended under this section shall be marked "Amended," except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The state agency shall prescribe by regulation the conditions under which additions or minor corrections may be made to certificates or records within one year after the date of the event without the certificate or record being marked "Amended."

(c) Upon written request of both parents and receipt of a sworn acknowledgment of paternity signed by both parents of a child born out of wedlock, the state registrar shall amend the certificate of birth to show such paternity if paternity is not already shown on the certificate of birth. Such certificate shall not be marked "Amended."

(d) Upon receipt of a certified copy of an order of [court of competent jurisdiction] changing the name of a person born in this state and upon request of such person or his or her parents, guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name.

(e) Upon receipt of a certified copy of an order of [court of competent jurisdiction] indicating the sex of an individual born in this state has been changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended [as prescribed in Regulation 10.8(a)(5)] to reflect such changes.

(f) When an applicant does not submit the minimum documentation required in the regulations for amending a vital record or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and shall further advise the applicant of the right of appeal to [court of competent jurisdiction].

(g) When a certificate or report is amended under this section, the state registrar shall report the amendment to any other custodians of the vital record and their record shall be amended accordingly.

Section 23. [*Reproduction of Vital Records.*] To preserve vital records, the state registrar is authorized to prepare typewritten, photographic, electronic, or other reproductions of certificates or reports in the [Office of Vital Statistics]. Such reproductions when certified by the state registrar shall be accepted as the original records. The documents from which permanent reproductions have been made and verified may be disposed of as provided by regulation.

Section 24. [*Disclosure of Information from Vital Records.*]

(a) To protect the integrity of vital records, to ensure their proper use, and to ensure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records, or copy or issue a copy of all or part of any such record except as authorized by this act and by regulation or by order of [court of competent jurisdiction]. Regulations adopted under this section shall provide for adequate standards of security and confidentiality of vital records.

(b) The state agency may authorize by regulation the disclosure of information contained in vital records for research purposes.

(c) Appeals from decisions of custodians of vital records, as designated under authority of Section 6(b), who refuse to disclose information, or to permit inspection or copying of records as prescribed by this section and regulations issued hereunder, shall be made to the state registrar whose decisions shall be binding upon such custodians.

(d) When 100 years have elapsed after the date of birth, or 50 years have elapsed after the date of death, marriage, or [divorce, dissolution of marriage, or annulment], the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations which shall provide for the continued safekeeping of the records.

Section 25. [*Copies or Data from the System of Vital Statistics.*] In accordance with Section 24 and the regulations adopted pursuant thereto:

(1) The state registrar [and other custodian(s) of vital records authorized by the state registrar to issue certified copies] shall upon receipt of a written application issue a certified copy of a vital record in his or her custody or a part thereof to any applicant having a direct and tangible interest in the vital record. Each copy issued shall show the date of registration and copies issued from records marked "Delayed" or "Amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the state shall be provided or approved by the state registrar.

(2) A certified copy of a vital record or any part thereof, issued in accordance with Section 25(1), shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill Number 798 from '82
Title "An Act relating to disclosure of vital statistics records"
Requested by Representative Kettisworth Date

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Division of Administrative Services
BRU, Program, Or Subprogram(s) Affected Bureau of Vital Statistics
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	.4	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	.4	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	.4	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

1. 8 foot table $225.00
2. Chairs (2) $175.00

$400.00

IV. DATE Feb. 23, 1982 PREPARED BY Paul P. Brooks
AGENCY Dept. of Health & Social Services
PHONE 465-3391

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Genealogical Society ?

3777 Archives x 2200

2276

2270

By → Chuck Stewart @ 2270 - interested in genealogy

Kit Stewart

Alaskan Roots Research

Court Records?

Census Available 80 years

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

NCHS

U.S. DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
Public Health Service
National Center for Health Statistics

Model State Vital Statistics Act

AND

Model State Vital Statistics Regulations

1977 REVISION

HB
95

Sherman Carter
Executive Vice President

UNIVERSITY OF ALASKA
FAIRBANKS ALASKA 99701

March 18, 1983

OFFICE OF
MANAGEMENT & BUDGET
BUDGET REVIEW

Ms. Doroty Pede
Office of Representative Lindauer
Pouch V
Juneau. AK 99811

Dear Ms. Pede:

This submission is to respond to the request you made to me for a fiscal note from the University of Alaska for House Bills 95 and 96.

If other information is desired or if I can be of help in any way, please let me know.

Sincerely,

Sherman Carter

SFC/man

Enclosures

cc: Legislative Finance
Office of Management & Budget
President Jay Barton
Chancellor Ed Biggerstaff
Chancellor David Outcalt

March 18, 1983

STATEMENT OF FISCAL IMPACT
HB 95

ASSUMPTIONS

1. Rental Space in Anchorage is approximately $2.50/square foot per month including all utilities, electricity and janitorial services.

2. Lease escalation costs will increase ten percent annually.

3. Moving expenses for ACC will be approximately $40,000.

4. Continuancy costs for the move period will be approximately $10,000.

5. Cost to remove existing, condemned buildings which this rental space would replace, cap utilities and restore area on ACC campus - $100,000.

6. No costs are included for additional equipment required. (Some administrative functions must remain on campus to be available to students.)

PROGRAM SUMMARY

The following costs would be associated with the move to additional lease space for ACC administrative headquarters and faculty office space.

	Estimated FY84 Cost
Lease Space of 32,000 square feet	$ 960,000
Moving Costs	40,000
Continuancy Costs	10,000
Removal of existing buildings	100,000
	$ 1,110,000

Note - All expenditures are considered contractual in nature.

March 18, 1983

STATEMENT OF FISCAL IMPACT
HB95

AGENCY COMMENTS

The FY84 capital budget request for the University of Alaska submitted by the Board of Regents includes $10.6 million for a classroom/administration building for Anchorage Community College as priority #12 of 19 priorities submitted. This appropriation is favored to meet ACC's classroom/administration building need rather than moving ACC administrative staff and faculty offices to off-campus leased space for the following reasons:

1. As part of the educational process, students need substantial interaction with faculty. Moving faculty offices off-campus would isolate the faculty from students during non-class hours and inhibit the educational process.

2. Moving faculty offices off-campus would require commuting time to and from campus for faculty. Depending on the lease location, travel time to and from classes could be extreme and would reduce faculty efficiency.

3. Students require access to several of the functions provided by the administrative staff and these functions must remain on the campus. Moving the administrative headquarters off-campus would increase the administrative costs by requiring coordination, supervision and commuting between staff located on campus and off-campus.

4. Lease expenses for administrative and faculty office space for seven years equate to the cost of a new facility of approximately the same number of square feet. In addition, a facility constructed on-campus would be expected to last 50 years.

5. Having ACC provide one square foot of space to UAA for each two square feet of newly leased space is unnecessary as UAA will have a 52,000 square foot classroom and administration building completed this summer. UAA also has another $25.3 million building included in the FY84 capital request.

6. In the face of declining oil revenues, continuing funding to cover ACC's need for an "administrative headquarters and faculty office building" through the operating budget in subsequent fiscal years, even if provided in FY84, is not assured, and most probably, if provided, would tend to cause comparable reductions in needed operating funds for ACC. Given the state's revenue picture, the university feels it would be unwise to make a commitment of this nature.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 198

I. REQUEST

Bill/Resolution No.: HB95
Title: ACC Office Space
Sponsor: Rep. Lindauer
Requestor: Rep. Lindauer

II. FISCAL DETAIL

Agency Affected: University of Alas
Program Category Affected: Education
SRU, Program of Subprogram(s) Affect
Anchorage Community College and
University of Alaska, Anchorage

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						-
200 TRAVEL						
300 CONTRACTUAL		1.110.0	1.056.0	1.161.6	1.277.8	1.405
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	1.110.0	1.056.0	1.161.6	1.227.8	1.405
CAPITAL						
REVENUE		1.110.0	1.056.0	1.161.6	1.227.8	1.405

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1.110.0	1.056.0	1.161.6	1.227.8	1.405
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank Spargo — Phone: 474-7593
Division: Statewide Budget Office — Date: March 18, 19
Approved by Commissioner: Executive Vice President Sherman Carter — Date: March 18, 19
Department: University of Alaska

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB96
Title: ACC Office Space
Sponsor: Rep. Lindauer
Requestor: Rep. Lindauer

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected: Education
BRU, Program of Subprogram(s) Affected: Anchorage Community College and University of Alaska, Anchorage

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		1.110.0	1.056.0	1.161.6	1.277.8	1.405.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	1.110.0	1.056.0	1.161.6	1.227.8	1.405.5
CAPITAL						
REVENUE		1.110.0	1.056.0	1.161.6	1.227.8	1.405.5

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1.110.0	1.056.0	1.161.6	1.227.8	1.405.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank Spargo Phone: 474-7593
Division: Statewide Budget Office Date: March 18, 1983
Approved by Commissioner: Executive Vice President Sherman Carter Date: March 18, 1983
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Distribution:
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Copy to Office of Management and Budget (for Legislature introduced bills)
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Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/

March 18, 1983

STATEMENT OF FISCAL IMPACT
HB 96

ASSUMPTIONS

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Removal of existing buildings	100,000
	$ 1,110,000

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March 18, 1983

STATEMENT OF FISCAL IMPACT
HB 96

AGENCY COMMENTS

The FY84 capital budget request for the University of Alaska submitted by the Board of Regents includes $10.6 million for a classroom/administration building for Anchorage Community College as priority #12 of 19 priorities submitted. This appropriation is favored to meet ACC's classroom/administration building need rather than moving ACC administrative staff and faculty offices to off-campus leased space for the following reasons:

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2. Moving faculty offices off-campus would require commuting time to and from campus for faculty. Depending on the lease location, travel time to and from classes could be extreme and would reduce faculty efficiency.

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5. In the face of declining oil revenues, continuing funding to cover ACC's need for an "administrative headquarters and faculty office building" through the operating budget in subsequent fiscal years, even if provided in FY84, is not assured, and most probably, if provided, would tend to cause comparable reductions in needed operating funds for ACC. Given the state's revenue picture, the university feels it would be unwise to make a commitment of this nature.

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

February 22, 1983

TO: House Health, Education & Social Services Committee

FROM: Representative John Lindauer JHL.

RE: House Bill #95: "An Act relating to office space for the Anchorage Community College; and providing for an effective date."

The intent of HB 95 is to provide a separate distinct administrative headquarters and faculty office building for Anchorage Community College.

Anchorage Community Collete is a growing school. They currently occupy several "temporary" (trailer type) office buildings.

The appropriation of $1,000,000 would provide an additional 41,666.66 square feet of space (computed at $2.00 per square foot per month for prime office space). With a long term lease or lease/purchase agreement, further capital funding for ACC administrative headquarters and faculty office space will be unnecessary.

Section 2 also provides for ACC to release space back for UAA thus easing UAA's space demands. It specifies that ACC will give up one foot of office space to UAA for each two feet it is able to lease.

HB

96

From The

SENATE
FINANCE COMMITTEE

Permanent Fund

Hold Harmless -

$ 2,152,100

Marcia Hubbard
DHSS - 3/7/83
9 A.M.

Offered: 3/1/83
Referred: Rules

Original sponsor: Sackett

Funding Information
General Fund $250,000
Other Funds -0-
$250,000

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 96 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act reducing a fiscal year 1983 appropriation and making a special appropriation to the Department of Health and Social Services for inoculations for hepatitis B; and providing for an effective date."

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

* Section 1. The sum of $250,000 is appropriated from the general fund to the Department of Health and Social Services for inoculations for hepatitis B.

* Sec. 2. Section 14, ch. 139, SLA 1982, page 14, line 11 is amended to read:

	APPROPRIATION ITEMS	GENERAL FUND	OTHER FUNDS
SB 842 Providing for Permanent Fund Dividends - Appropriated to the Department of Health and Social Services	12,616,500 [12,866,500]	12,548,200 [12,798,200]	68,300

* Sec. 3. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1984.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Monday, March 14, 1983

M E M O R A N D U M

To: Rep. MAE TISCHER, Co-Chair, House HESS
Rep. MILO FRITZ, Co-Chair, House HESS

From: Sen. JOHN SACKETT JCS

Subject: CSSB-96, appropriation for hepatitis B inoculations

I would appreciate your scheduling CSSB-96, before the House HESS Committee for action as soon as possible. Expeditious handling of this measure is important to the Department of Health so they will be able to stay on schedule with the detection and inoculation program.

Please feel free to call upon myself, or my assistant, Max Gifford, if you need additional information.

Thank you for your consideration.

JCS/mg

POSITION PAPER

SENATE BILL NO. 96

"An Act making a special appropriation to the Department of Health and Social Services for innoculations for hepatitis B; and providing for an effective date."

Sponsor: Sackett

This bill appropriates $250,000 SGF to the Department of Health and Social Services for innoculations for hepatitis B and provides for an immediate effective date.

Background

A. The Disease

Hepatitis B is a disease caused by a virus. Disease severity can range from inapparent infection to a fulminating process leading quickly to death. There is currently no specific treatment against the virus.

Once infected, individuals may become chronic carriers of the virus, i.e., continue to be infected and to be able to spread infection to others. Moreover, chronic carriers of hepatitis B virus (HBV) are subject to complications including primary liver cancer with a nearly 100% mortality rate unless detected early or polyarteritis nodosa, a serious inflammatory disease of arteries with a 30% mortality rate. It is estimated that 20-25% of chronic HBV carriers will develop chronic active hepatitis with cirrhosis.

B. Prevalence

Both the rates of infection and the rates of chronic HBV carriers are known to be very high in certain Native groups in Alaska, particularly the Yupik-speaking groups in the Bethel area. In some villages which have been surveyed, the infection rate has been found to be as high as 73.1%.

Less is known about prevalence in other Native groups but there are reasons to suggest that rates are probably higher than among non-natives.

Other groups at high risk of HBV infection include: health and hospital care providers; hemodialysis patients; recipients of blood products, laboratory workers; dentists and allied dentist personnel; homosexuals; illicit users of injected drugs; staff and residents in institutions for the mentally retarded; sexual and household contacts of HBV carriers; newborn infants whose mothers are HBV carriers; and immigrants from geographic areas with a high incidence of HBV such as Southeast Asian refugees.

C. Vaccine

In November, 1981 a vaccine against hepatitis B was licensed for use in individuals 3 months of age or older. Vaccine is administered to high risk groups in three doses over a six month period. The vaccine is estimated to be 80-95% effective in protecting susceptible individuals. Duration of protection, and consequently the need for booster doses, is not known.

The vaccine is expensive (current cost is $95.55 for sufficient vaccine for the three-dose course for one individual). Because of the high vaccine cost and because the vaccine is of no value to individuals already infected, pre-vaccination blood testing of potential recipients is recommended. Cost of blood testing is estimated at $10-15 per test. To these costs must be added cost of vaccine distribution and administration plus data processing.

D. Existing programs

In the current fiscal year, DHSS undertook screening and vaccination of high risk groups in state institutions including Harborview Developmental Center, The Alaska Psychiatric Institute and State Correctional Centers.

The Alaska Native Health Service (ANHS) in cooperation with the federal Center for Disease Control has undertaken a vaccination program in the Bethel area villages where prevalence studies have been conducted. They have also used federal fiscal year-end monies ($500,000 for FFY 1982) to purchase additional vaccine.

Proposed program

The proposed activities during FY 83 involve close correlation with the Alaska Native Health Service hepatitis B program. Emphasis will be placed on screening of the highest risk population who will not be reached by the ANHS. Susceptibles will receive vaccine.

Position

The Department is strongly supportive of funding in FY 83 which would permit intensification of the program in the current fiscal year. However, the Governor's Office is submitting a delete-add supplemental for $250.0 utilizing funds already appropriated for Permanent Fund Hold Harmless. Thus, costs of HBV program activities in FY 83 could be absorbed without additional appropriation.

Recommended by: E.S. Rabeau M.D./DB
E. S. Rabeau, M.D., Director
Division of Public Health

Date: Feb 3, 1982

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 2/7/83

COPY FOR PARTY/Department of Health and Social Servic

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

1/31/83

Date: 2/7/83

Mr. President:

The Committee on HESS has had SENATE BILL NO. 96

Special appropriation to the Department of Health and Social Services for inoculations for hepatitis B; eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[/] do ~~pass~~ may [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Carl Josephson

1 V. Fischer

1 Carl Fischer

MEMBERS HAVING OTHER RECOMMENDATIONS:

2 Rick Halford No Rec.

1 Carl Josephson

CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

SENATOR
John C. Sackett
CO-CHAIRMAN
SENATE FINANCE COMMITTEE

MEMBER
COMMUNITY & REGIONAL AFFAIRS COMMITTEE
LABOR & COMMERCE COMMITTEE
BUDGET & AUDIT COMMITTEE
REGULATION REVIEW COMMITTEE

Senate

HOME ADDRESS
P.O. BOX 11
RUBY, ALASKA 99768

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

March 4, 1983

The Honorable Ted Stevens
United States Senate
147 Russel Office Building
Washington, D.C. 20510

Dear Senator Stevens:

As you are aware Alaska faces a very serious problem because of the increasing numbers of people who either have or are susceptible to hepatitis. The State Department of Health and Social Services in conjunction with the Alaska Native Health Service has outlined a detection, surveillance and control program which will be administered by the State over the next four-five years. The program includes inoculation for those determined to have a high risk of contracting the disease. By 1987 the State Department of Health expects to have the problem under control and will continue monitoring the population as part of their regular programming.

The joint venture will cost an estimated $5.75 million over the life of the program. The State anticipates providing $2.75 million in funds and the Alaska Native Health Service will request federal funds of $2 million through FY84 and FY85, in addition to $500,000 which has already been received through ANHS, and another $500,000 of FY82 year-end ANHS funds which were used to purchase vaccine for the inoculation program.

This letter is to call your attention to the fact it appears only $500,000 has been proposed in the federal FY84 budget. (See attachment). It is important every effort be made to secure the full $1 million in funds to augment state funding so the detection and inoculation program may continue on schedule.

Funding of $250,000 from the state is in the process of being authorized by the State Legislature and the Governor for FY83, and an additional $500,000 is expected to be approved for FY84. State health officials note it is vitally important that the program be kept on schedule so the "chain of infection" will be broken reducing the high-risk factor that faces so many Alaskans, particularly Native Alaskans.

Your help in securing the needed funds from the federal government for the coming fiscal year would be greatly appreciated. Please feel free to contact me, or my assistant, Max Gifford, if more information is needed. We can be reached in Juneau at: 465-3753.

Thank you very much for your attention to this important matter.

Very Sincerely,

JOHN C. SACKETT
State Senator

JCS/mg
enclosures
cc: The Honorable Frank Murkowski
The Honorable Don Young

also: Governor
Robert
Alaska
Tundra Times
KUAC

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 17, 1983

Gene Dusek, Associate Director
Office of Management and Budget
Office of the Governor

Dear Gene:

Attached is a copy of the proposed committee substitute for SB 96, reducing the Permanent Fund hold-harmless appropriation by $250,000 and reappropriating those funds to the Department of Health and Social Services to fund the hepatitis B inoculations program.

Senator Sackett, the original sponsor of the legislation, would very much appreciate a letter from you or the appropriate spokesperson in the Governor's office acknowledging that this approach for funding the inoculation program meets with the Governor's approval.

Use of the committee substitute for SB 96, as opposed to introducing new legislation, should expedite the bill through the legislative process so that it can be transmitted to the Governor quickly.

Although no date for hearing the substitute in committee has been set your participation at the hearing would be appreciated.

Thanks for your help. Please call me if you have any questions.

Sincerely,

Max Gifford
Administrative Aide

attachment: CSSB 96 (Finance)

FEB 23 1983

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 24, 1983

The Honorable John C. Sackett
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Sackett:

The proposed approach for funding the hepatitis B inoculations program contained in CSSB 96 should expedite approval of the funding for this important program. Accordingly, we will delete this item from the FY 83 appropriations transfer bill the Administration is preparing.

The identification of the funding sources for appropriation bills is a vital element in our State government's demonstration of fiscal responsibility. Thank you for your help.

Sincerely,

Bill Sheffield
Governor

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

February 22, 1983

TO: House Health, Education & Social Services Committee

FROM: Representative John Lindauer JHL

SUBJECT: House Bill #96: "An Act making a special appropriation to the University of Alaska to lease a headquarters and faculty office building to be used by the Anchorage Community College; and providing for an effective date."

The intent of HB 96 is to provide the funds to accomplish the goals of HB 95 (see attached).

$100,000 will provide 41,666.66 square feet of prime office space for 1 year.

Attachment

HB

103

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY
FINANCE

1/21/83 Date: Feb 11, 1983

Mr. Speaker:

The Committee on HESS has had HB 103 103
An Act establishing a Department of Corrections and transferring certain functions of the Department of Health and Social Services to the Department of Corrections; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 103(HESS) [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Peter Jose	
[illegible]	
[illegible]	
Michael W. Miller	
MILO H [illegible]	
[illegible]	

[illegible]
CHAIRMAN
MILO H [illegible]

H 60

1/25 1/24 Fiscal NOTE JOANNE CLARK 3331

REQUESTED committee substitute adding 33.15.010 RE: PAROLE

Also asked that 12.20.220 (L)

Drafter Linn Aspee

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M June 20, 1983

SUBJECT: Establishment of a Department of Corrections (SCS CSHB 103 (Judiciary))

TO:

FROM: Linn H. Asper
Legislative Counsel

You have asked for a comparison between CSHB 103 (Judiciary), passed by the House and SCS CSHB 103 (Judiciary), passed by the Senate. The two versions of the bill contain similar provisions except that the Senate version deletes all references to the transfer of juvenile corrections functions to the proposed Department of Corrections. Therefore, under the Senate version the jurisdiction of the Department of Corrections would extend only to the adult corrections functions.

The specific differences between the two versions of the bill are as follows:

Section 1 is identical in each version except that the Senate version, on line 17, page 1, adds the term "adult" to make that section apply only to adult corrections.

Sections 2 - 33 are identical in the two versions.

Section 34 of the Senate version adds the word "adult" to make the section apply only to adult correctional institutions.

Section 35 is identical in the two versions.

Sections 36 - 64 in the House version, dealing with the transfer of the juvenile corrections function to the Department of Corrections, have been deleted in the Senate version.

Section 65 in the House version is identical to Sec. 36 in the Senate version.

Section 66 in the House version corresponds to Sec. 37 in the Senate version, but the Senate version retains certain juvenile jurisdiction in the Department of Health and Social Services while the House version transfers that jurisdiction to the Department of Corrections.

Sections 67 - 70 in the House version are identical to Secs. 38 - 41 of the Senate version.

Section 71 of the House version, stating provisions for the transfer of the juvenile corrections function to the Department of Corrections, has been deleted in the Senate version.

Sections 72 and 73 in the House version, establishing different effective dates for adult and juvenile corrections provisions have been merged into an immediate effective date in the Senate version.

LHA:ljb
14/032

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

CS FOR HOUSE BILL NO. 103
PAGE 1

"An Act establishing a Department of Corrections and transferring certain functions of the Department of Health and Social Services to the Department of Corrections; and providing for an effective date."

The Committee substitute for House Bill No. 103 would accomplish the creation of the Department of Corrections which would include those functions pertaining to the administration of State programs dealing with State prisons and prisoners, probation and parole, extraditions and detainers and would also include State programs dealing with accused and adjudicated delinquent minors.

Departmentalization of the Adult Corrections System is an essential step in dealing with the current crisis and more longstanding problems.

The Governor and the Department of Health and Social Services support the creation of a Department of Corrections which would contain those functions dealing with adults accused or adjudged guilty of criminal offenses. The administration and the Department of Health and Social Services oppose the inclusion within such a Department of those functions pertaining to accused or adjudicated delinquent minors.

The Adult Corrections System within the State of Alaska is presently in an acknowledged crisis circumstance. It is beset with problems stemming from dramatic growth in prisoner population and forced capital expansion. In attempting to deal with an array of problems it is limited by outdated management structure it has long since outgrown.

Departmentalization of Corrections will ensure an increased focus on the problems besetting the correctional system and allow for altered management structure to deal with those problems. In addition, removal of the correctional system from the Department of Health and Social Services will decrease the drain on other vital human services programs.

Increased focus on correctional issues resulting from Departmentalization would enable the needs and problems of corrections to be routinely presented to the Governor and the Legislature. The alteration in management structure would allow for additional administrative support, the development of a more comprehensive corrections plan and in general a more effective administration of corrections programs. The ultimate result would be an increase in the effectiveness of the criminal justice system as a whole.

Juvenile delinquents differ significantly from adult criminals and should not be a part of an Adult Corrections Department.

The Administration opposes the inclusion of those functions dealing with accused and adjudicated delinquent minors for a variety of reasons.

There is a very real difference between adult and juvenile offenders which is verified by national research and Alaskan data and reflected in the philosophical approaches of adult corrections and juvenile services programs. National research shows that juvenile crime is less serious than adult crimes in three ways. First, juveniles commit primarily property crimes - thefts. Second, juveniles are far less successful at such crimes than are adults and thefts committed by juveniles result in less financial loss. Last, but most importantly, juveniles commit far fewer crimes of violence than do adults, they use weapons less frequently and guns rarely, and cause less frequent and less serious injuries to victims than do adults. National research also indicates that a very small group of juveniles is responsible for a large number of the serious, particularly violent, crimes committed by juveniles. This group and the publicity given to their offenses is largely responsible for an erroneous public perception that juvenile crime is widespread and serious. It is not. Studies conclude that efforts should be made to identify those few exceptional juveniles who commit violent crimes and deal with them selectively in different ways than other juveniles are treated. (This is a policy supported by the Governor and embodied in legislation proposed by both the legislature - HB 109 - and the executive.)

Alaskan statistics verify that National trends hold true here also. Of 6,128 juveniles arrested in 1981 only 60 were arrested for serious, violent crimes (unclassified or Class A felony's). However, 33% or 2,047 juvenile arrests were for essentially non-criminal or status offenses (alcohol consumption, curfew, or runaway.) The vast majority of the 4,081 criminal arrests of juveniles during 1981, 42% or 1,749 were for theft offenses. Of all juveniles arrested during 1981 only 648 committed offenses serious enough to require formal adjudication by the court and only 95 of these were ordered by the Court to be placed in secure youth services institutions.

Adult Corrections deals with the end result of the crime problem. Youth Services controls the problem and focuses on the cause.

It is clear that juvenile crime and delinquents differ significantly from adult crime and criminals. This is reflected in the differing philosophies and approaches of adult corrections and youth services. Adult corrections efforts are directed at controlling the problems resulting from individual and societal failure. Juvenile services are directed at eliminating the causes of the problems and preventing the failures. The approach of adult corrections in dealing with offenders has increasingly been focused on incarceration as a result of legislation establishing a stricter determinate sentencing scheme, dramatic increases in prisoner population, and forced capital expansion. Rehabilitation has been a secondary consideration. In dealing with juveniles youth serving agencies are attempting to resolve problems of families and youth to prevent or reduce individual failure and

delinquency, and ultimately prevent the development of adult criminals. This approach focuses equally on protecting the public and rehabilitating the individual. Services are designed to both control and supervise the individual and strengthen the juvenile and the family. The approach is comprehensive and aim is to achieve prevention, intervention, control and rehabilitation.

National research is showing increasingly that the primary cause of delinquency is the failure of families. As a result of this research there is an increasing understanding of the direct link between abuse and neglect of children and the development of juvenile delinquency, and even adult crime. Alaska is at the forefront of national thought in recognizing these important links and designing services to deal with the causes of delinquency in a comprehensive, coordinated way to prevent the development of adult criminals. Services for abused, neglected and delinquent children are presently organized in one agency which can more effectively address the causes rather than simply attempting to patch up the results of delinquency.

A comprehensive approach to youth and family problems is more effective and more cost efficient.

The placement of services for delinquent youths as well as services for those youths who are abused or neglected within a single comprehensive youth and family serving agency resulted from the recognition within Alaska of several important facts: 1) that there are real differences between adult offenders and juvenile delinquents, and 2) that a link exists between family breakdown, abuse and neglect of children, and juvenile delinquency. However, equally important was several years of study within the executive branch and a legislative audit report each of which concluded that combining all services for youth and families within one agency would result in more cost effective provision of services.

The benefits resulting from the present organization include:

1. increased focus and attention to juveniles and juvenile problems,

2. better coordination of services and reduced duplication of effort,

3. improved coordination in the development and implementation of policies and procedures affecting services for youth,

4. improved and more cost effective training for social workers and juvenile corrections personnel focusing specifically on juvenile services without unnecessary attention to adult issues,

5. more efficient administration and comprehensive planning efforts for all youth services,

6. more effective utilization of resources, and

7. a comprehensive approach to the development of additional resources.

Of particular importance is the management by a single agency of the residential child care system - foster home, group home, and larger private treatment facilities - which includes recruitment, licensing, payment and assessment of effectiveness. Single agency administration of this system is of acute importance given the complexity of the issues relating to its operation, the level of fiscal resources required for the purchase of these services ($16.4 million FY 84), and the fact that a study of method of operation and possible alternatives to the present system of determining costs of these services has been authorized by the legislature and is in progress.

A comprehensive approach is particularly important to rural Alaska.

The comprehensive approach to providing all youth and family services from within one agency has proven particularly beneficial in rural Alaska where traditionally services have been more expensive and less cost effective in terms of simple numbers. The comprehensive approach of the existing service structure allows a greater variety and higher levels of services to be provided in rural areas without significantly greater costs. The more effective utilization of resources in rural areas made possible by a comprehensive approach to Youth Services also allows greater effort to be expended to provide culturally relevant/sensitive services to Native Alaskans.

Transfer of Youth Services would disrupt the comprehensive approach to youth and family problems. Inclusion of services to delinquent youth within a Department of Corrections focusing on adult criminals and adult correctional programs would violently disrupt the comprehensive approach to youth and families. This disruption would inevitably result in a return to the previous duplication and lack of coordination, and would result in a greater expense, which were among the reasons services to delinquents were originally removed from the Division of Corrections. Disruption of the comprehensive approach of youth services would prove particularly detrimental to rural Alaska where the Division of Family and Youth Services is the primary social service resource and the benefits resulting from the increased coordination within a single agency is most apparent.

Creation of a Department of Corrections is vital but youth services must not be included.

Although the Department and the Governor view the creation of a Department of Corrections as an essential step in resolving the present crisis in the adult correctional system, inclusion within such a Department of services for accused and adjudicated delinquent youth is adamantly opposed. Such an inclusion would be a regressive "step backward" in terms of philosophy and what has been demonstrated about the causes, nature and extent of juvenile delinquency. It would also be an important "step backward" in a fiscal sense because it would result in less efficient and less effective services and undoubtedly greater expenses in a time of decreasing resources.

The problems besetting the adult corrections system require the full attention of top administrators. Their time and efforts must not be diverted to other matters as would necessarily occur if youth services were included in a Department of Corrections. Under such a structure neither adult corrections problems nor youth services receive adequate attention or resources.

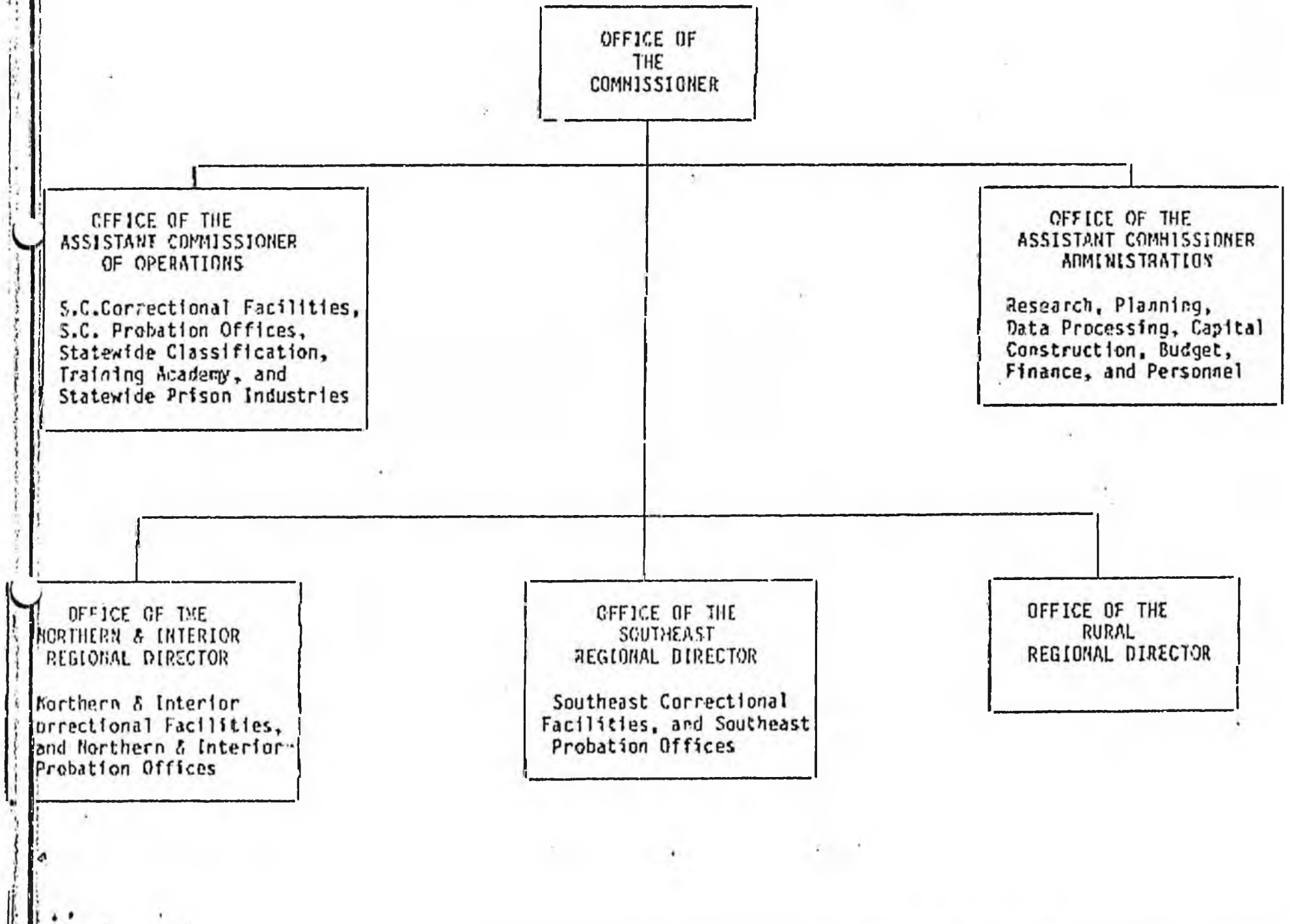
RECOMMENDED: Michael L. Price
Michael L. Price, Director
Division of Family and
Youth Services

DATE: March 21, 1983

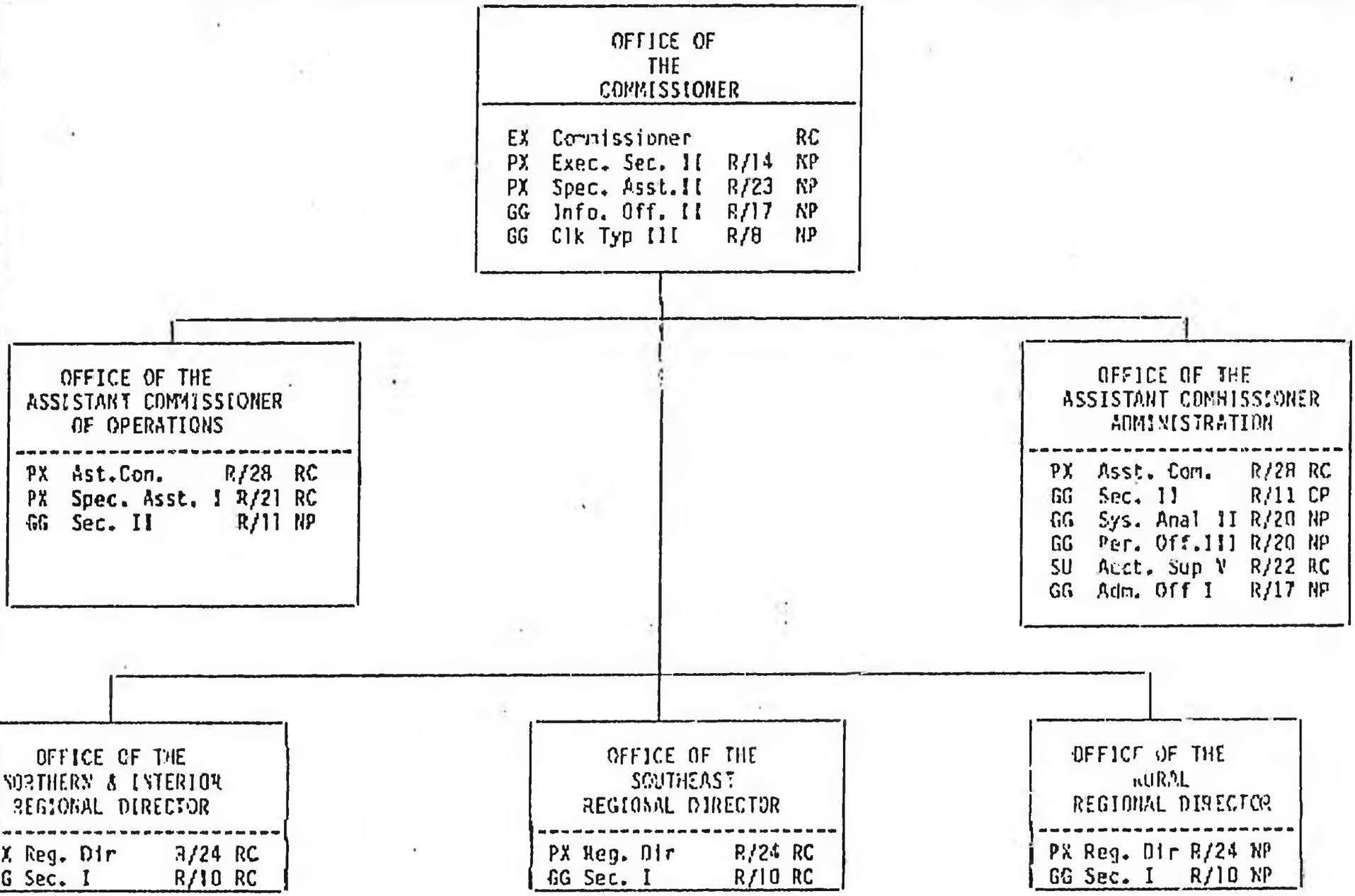
APPROVED BY: _____
Robert London Smith, Ph.D.
Commissioner

DATE: _____

DEPARTMENT OF CORRECTIONS



DEPARTMENT OF CORRECTIONS



TYPE OF ACTION NECESSARY

RC - Reclassification of Current Position
NP - New Position
CP - Current Position

BARGAINING UNIT

E Exempt
PX Partially Exempt
GG General Government
SU Supervisory Unit

Range	Title	Loc	Monthly Salary	Temporary Benefits	Supp Benef	Health Insur	Total	Pos 3 mos	Pos 12 mos
14 X	Exec Secretary II	AWA	2241	383	137	240	3001	9003	36012
11	Secretary II	EBA	1862	318	114	240	2534	7602	30408
23 X	Spec. Asst. II	AWA	4149	709	254	240	5352	16056	64224
17	Info. Officer	AWA	2757	471	169	240	3637	10911	43644
8	Clerk Typist III	AWA	1553	265	95	240	2153	6459	25836
24 X	Reg'l Dir.-Rural	AWA	4936	844	303	240	6323	18969	75876
20	Pers. Officer	AWA	3469	593	213	240	5122	15366	61464
17	Admin. Officer I	AWA	2824	483	173	240	4720	11160	44640
20	Systems Anal. II	AWA	3394	580	208	240	4422	13266	53064
9	Secretary I	EBA	1803	308	111	240	2462	7386	29544
							SUBTOTAL	116,178	464,712

Reclassifications

PCN	From	To	Net Change: 3 mos	12 mos
4001	Director, Div of Corrections	Commissioner, Dept of Corrections	1380	5520
4840	Dep. Director Operations	Asst. Comm. Operations	3210	12840
4613	Dep. Director Administration	Asst. Comm. Administration	3210	12840
4813	Internal Mgmt. Administrator	Accounting Supervisor V	-0-	-0-
4159	Asst. Superintendent	Regional Director (Fbks)	7032	28128
4036	Probation/Parole Admin.	Regional Director (Juneau)	-0-	-0-
4513	Clerk Typist III	Secretary I (Juneau)	759	3036
4679	Clerk Typist III	Secretary I (Anchorage)	759	3036
4510	Asst. Director Corrections	Special Assistant I	-0-	-0-
		SUBTOTAL	16,350	65,400
		GRAND TOTAL	132,528	530,112

DEPARTMENT OF HEALTH AND SOCIAL SERVICE POSITIONS WHICH ARE TRANSFERING TO THE NEW DEPARTMENT OF CORRECTIONS OFFICE OF ASSISTANT COMMISSIONER OF ADMINISTRATION

FROM DIVISION OF MANAGEMENT AND BUDGET

Title	Range	PCN	Loc
Program Budget Analyst III	R/19	0004	AWA
Public Facilities Planner II	R/21	0501	AWA
Public Facilities Planner I	R/20	0503	EBA
Public Facilities Planner I	R/20	0502	EBA
Accounting Clerk I	R/8	0504	AWA
Clerk Typist II (PPT)	R/7	0505	EBA

FROM DIVISION OF ADMINISTRATIVE SERVICES

Title	Range	PCN	Loc
Personnel Officer I	R/16	0056	EBA
Clerk IV	R/9	0095	AWA
Accounting Clerk I	R/8	0046	EBA
Clerk Typist III	R/8	0058	EBA
Acct. Clerk II	R/9	0020	AWA
Acct. Clerk II	R/9	0016	AWA
Acct. Clerk II	R/9	0049	AWA

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSHB 103 (Jud) Date on Bill:
Title: "An Act establishing a Department of Corrections . . ."
Sponsor: Reps. Fritz, Koponen, Furnace, Goll, and Davis
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			-0-	-0-	-0-	-0-		
Operating			*	951.6	1008.7	1069.3		
Total			*	951.6	1008.7	1069.3		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Funding source for FY 83 is add/delete in SB 158 submitted by the Governor.

3. Assumptions:

House Bill No. 103 will create the Department of Corrections necessitating the transfer of the Division of Corrections and Parole Board from the Department of Health & Social Services to the new department, creation of ten new positions, the reclassification of nine Dividion of Corrections positions and the transfer of 13 positions from the Department of Health & Social Services Division of Management and Budget and Administrative Services to the new Department.

Transfer of Juvenile Corrections will delete 220 employees and 11 million dollars from DHSS and add the same amount to the Department of Corrections. The additional cost for 4 positions may be necessary to cover the administrative and personnel responsibilities associated with the transfer of the 220 positions to the Department of Corrections.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: David R. Palmer Phone: 465-3777
Division: House HESS Committee Date: 3/17/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

AGENCY: DEPARTMENT OF HEALTH & SOCIAL SERVICES PROGRAM: YOUTH CORRECTIONAL SERVICES
CATEGORY: ADMINISTRATION OF JUSTICE

COMPONENT DESCRIPTION	FY83 ATH	FY83 SUP	CONT.	REQUEST	GOV AMD	GOVERNOR	HOUSE	SENATE	F.C.C.	BILLS	LEG.REC
ADMINISTRATION	178.5		226.7	226.7		178.5					
FIRST DISTRICT	498.1		527.1	591.2		527.1					
THIRD DISTRICT	1126.5		1164.2	1260.8		1164.2					
SECOND & FOURTH DISTRICT	890.5		907.6	956.7		907.6					
MCLAUGHLIN YOUTH CENTER	5956.6		6062.7	6327.8		6062.7					
FAIRBANKS YOUTH FACILITY	1319.0		1379.8	1499.6		1379.8					
NOME YOUTH FACILITY	975.4		987.3	987.3		902.3					
JUNEAU WOMEN'S & JUVENILE FAC.	151.0		148.7	156.8		148.7					
KETCHIKAN FACILITY	180.0										
** TOTAL	11275.6		11404.1	12006.9		11270.9					
** CHANGE VERSUS FY83 ATH				6.4%	-100.0%		-100.0%	-100.0%	-100.0%		
OBJECT DESCRIPTION											
PERS. SERV.	8895.1		9112.6	9581.6		9066.2					
TRAVEL	177.3		176.9	176.9		165.1					
CONTRACTUAL	1114.4		1084.0	1084.0		1009.0					
COMMODITIES	574.9		569.0	584.1		569.0					
EQUIPMENT	85.4		12.7	47.7		12.7					
GRANTS, CLMS	428.5		448.9	532.6		448.9					
FUNDING SUMMARY											
GENERAL FUND	11275.6		11404.1	12006.9		11270.9					
** GENERAL FUND CHANGE VS. FY83 ATH				6.4%	-100.0%		-100.0%	-100.0%	-100.0%		
POSITIONS											
FULL TIME	222.0		222.0	222.0		221.0					
PART TIME	1.0		1.0	1.0		1.0					
STAFF MONTHS	2857.0		2847.0	2847.0		2835.0					

HB 103, ESTABLISHING A DEPARTMENT OF CORRECTIONS

The proposal to change the division of corrections within the Department of Health and Social Services to departmental status is one that is supported by the Governor's office, correctional professionals, and the House HESS committee.

Elimination of the correctional crisis in this state is of primary concern to me, and I know that members of the Judiciary committee are keenly aware of the problems facing the correctional system. The overcrowding, the mismanagement, the poor conditions and lack of alternatives to incarceration, are all challenges that face us in the current legislative session. You have heard the briefing on the Cleary case and know that the problems are real and that cooperation between all branches of government will be necessary.

With proper administration, budgeting, and organization, the problems can be solved. Proper management is the beginning. The new Department of Corrections and a responsive management team will be the first step. By creating a Department, a commissioner and executive staff can be appointed who answer directly to the commissioner. The existing division of corrections has been plagued with inconsistent management within the division and within the Department of Health and Social Services. The division has placed a disproportionate load on several Department of Health and Social Services programs, and the goal of the division of corrections is not necessarily consistent with the

goals of the Department of Health and Social Services,which are oriented toward public health, public assistance, mental health, and family and youth services.

The proposal to create a new department, as presented to the HESS committee, it to retain 9 existing positions and transfer them to the new department. One existing position in corrections will be retained and ten new positions will be created. Mr. Endell and his staff can speak better to the fiscal and administrative makeup of the department, so I will leave that to him.

The issue of juvenile corrections was discussed by the committee. The consensus of the committee was that juvenile corrections should be included within the new department, but the transition should occur after the new department is established and has been able to correct some of the immediate problems at hand.

The lack of specific information regarding the department of corrections has been frustrating for those of us who must evaluate the proposal. However, in this instance, considering the scope of the problem and the urgency of the problem, I am willing to give the Governor the benefit of the doubt and trust his office to implement an effective corrections program.

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HB

107

(7(

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

1/21/83

Date: 4/30/83

Mr. Speaker:

The Committee on HESS has had HB 107

An Act relating to the right to a natural death.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Milo H Fritz	M W Miller No Rec
[illegible]	
Adelbert Bommarin Do Pass	
Mike [illegible]	
[illegible]	

M W Fischer
CHAIRMAN
MILO H FRITZ

H 60

REPRESENTATIVE DON CLOCKSIN

Alaska House of Representatives

ASSISTANT MINORITY LEADER

1527 H STREET
ANCHORAGE, ALASKA 99501
(907) 278-4188

WHILE IN JUNEAU:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3704

SUMMARY OF HOUSE BILL 107

RIGHT TO NATURAL DEATH

Purpose: Recognizes the fundamental right of adults in Alaska to control the decision to have artifical life - sustaining procedures withheld or withdrawn in the case of a terminal condition.

Declaration Form: An adult may sign a written statement expressing his or her desire that artificial means should not be used to prolong the dying process.

Revocation: Explains how a person can revoke the written declaration.

Physician's Responsibility: An attending physician must certify that the patient's condition is terminal in order for the patient to qualify under the statute.

Immunity: A physician, health facility, or licensed professional acting under the direction of a physician is immune from any liability if they act in accordance with the provision of the bill.

Penalties: Penalizes persons who conceal or falsify a declaration of another, and submits a physician to civil liability for failure to comply with the declaration of his or her patient.

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board
Ronald A. Pavelitas
Humana Hospital Alaska
Anchorage

Chairman-Elect
Mark Hawkins
Sitka Community Hospital
Sitka

Immediate Past Chairman
Tom Mingen
Fairbanks Memorial
Hospital
Fairbanks

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Cordova

Delegate to the American
Hospital Association
Al M. Camosso
Providence Hospital
Anchorage

Alternate Delegate to the
American Hospital Assoc.
Michael Lockwood
Central Peninsula Hospital
Soldotna

Delegate to the American
Health Care Association
Jack Buck
St. Ann's Nursing Home
Juneau

Alternate Delegate to the
American Health Care
Association
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Wrangell

Delegate to the Association
of Western Hospitals
Michael Herring
South Peninsula Hospital
Homer

Alternate Delegate to the
Association of Western
Hospitals
Daniel Van Wieringen
Kodiak Island Hospital
Kodiak

Trustee Delegate to the
American Hospital Assoc.
Moe Kadish
Trustee, Providence
Hospital
Anchorage

Alternate Trustee Delegate
to American Hospital
Association
Robert Jensen
Central Peninsula Hospital
Soldotna

Physician Member of
the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

January 25, 1983

The Honorable Don Clocksin
Alaska House of Representatives
State Capitol
Pouch V
Juneau, AK 99811

Dear Representative Clocksin:

The Alaska State Hospital Association is pleased to offer our support for HB 107, An Act Relating to the Right for a Natural Death. This is a responsible approach to resolving a critical, ethical and legal medical problem.

A question does come to mind as to what would happen to a physician and/or a health facility when care is withheld pursuant to a "valid" declaration, but subsequent to death a discovery is made that a revocation existed.

We look forward to working with you on this measure.

Sincerely,

Dennis L. DeWitt
President

cc: House HESS
House Judiciary

POSITION PAPER/Department of Health and Social Services

POSITION PAPER

HOUSE BILL NO. 107

"An Act relating to the right to a natural death."

The right of a competent individual to decide whether life-sustaining procedures should be used in the face of a terminal illness or injury has received increasing attention in recent years as medical technology has expanded and individual cases have received media attention.

This Bill provides a process through which competent individuals can participate in decisions regarding their care when afflicted with a terminal condition. "Terminal condition" is restricted to situations in which two physicians determine that death will occur whether or not life-sustaining procedures are used. These procedures would only apply when a competent individual makes a positive decision to forego life-sustaining intervention and not in circumstances such as occurred in the much publicized Quinlan case.

The Bill appears to address the interests of the declarant, the health care providers and the heirs of the dying person. The Department of Health and Social Services supports the intent of this Bill. It is assumed the Department of Law is also reviewing it for adequacy of legal safeguards for participants as well as the penalty provisions.

Recommended by: _____
E. S. Rabeau, M.D., Director
Division of Public Health

Date: _____

Approved by: _____
Robert London Smith, Ph.D.
Commissioner
Department of Health & Social Services

Date: 2/2/83

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 107
Title "An Act relating to the right to a natural death."
Requested by House HESS Committee Date 2/1/83

II. FISCAL DETAIL
Agency Affected Health and Social Services
Program Category Affected Health
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		0	0	0		

FUNDING (Thousands of Dollars)

GENERAL FUND		0	0	0		
FEDERAL FUNDS						
OTHER (Specify Source)						
		0	0	0		

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This Bill prescribes procedures to allow adult persons to control decisions relating to the withholding or wirhdrawal of life-sustaining procedures when they suffer from a terminal illness or injury.

IV. DATE 2/1/83 PREPARED BY Dean F. Tirador, M.D.
AGENCY Health and Social Services
PHONE 465-3150

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

33-001 (Rev. 12/82) OMB REVIEWED BY: NANCY DUNN

ALASKA

STATE LEGISLATURE

MEMORANDUM

To the committee:

The following position paper was prepared by the office of the Executive Director of the Older Alaskans Commission (OAC) for review and approval by the commission. The commission will consider the legislation at their meeting on February 17, 1983.

Rep. Don Clocksin

Position Paper

OLDER ALASKANS COMMISSION

HB 107 "Right to a Natural Death" February 15, 1983

We recommend that the OAC support the passage of HB 107 "An act relating to the right of a natural death".

With two insignificant word changes HB 107 is the same as HB 855 introduced by Rep. Clocksin and Rogers in the 12th legislature second session, February 16, 1982. The first change is found on page 3 line 29 under section 18.12.020. "Become" in the old bill is now "is" ("...the revocation IS effective on communication..." rather than ..."the revocation becomes effective...). The second change is found on page 5 line 29 under section 18.12.050. In the old bill the penalty for falsifying or forging a declaration which directly causes life sustaining procedures to be withheld or withdrawn and death to be hastened "commits the crime of murder in the first degree." In HB 107 the penalty is the same except that it reads "death to be hastened violates AS 11.41.100". The sentence for conviction of murder in the first degree is "at least 20 years and not more than 99 years" (AS 12.55.125).

The concept in HB 855 was supported for passage by the 1981 Alaska White House Conference on Aging, March 15, 1981. The delegates to the White House Conference on Aging supported passage of HB 855 in a meeting of February 24, 1982 and reported that action to the Older Alaskans Commission February 25, 1982 and asked for OAC support . There appears to be no

action taken by the OAC in meetings on that date or later on April 28 or 29, 1982 or June 2, 3, or 4, 1982.

The most significant discussion on the merits of HB 107 will center on the exact definition of "life sustaining procedures" and "the performance of medical procedure considered necessary to provide for the comfort of a qualified patient."

The nursing profession considers intravenous fluids and feeding as providing "comfort of a qualified patient." To withhold iv fluids and feeding in the view of the nursing profession is to promote dehydration and starvation.

The problem is that to provide fluids and feeding prolongs life, in some cases for years, when there is absolutely no hope for recovering and death is inevitable. Presently a comatose patient at Nakoya health center in Anchorage who has brain damage and was expected by doctors to die soon after admission has been sustained by fluids and food administered intravenously for over three years. The intravenous feeding and food might be considered to provide comfort but they thwart the intention of the right to a natural death. Furthermore, the question of a comatose person being comfortable or not from starvation or dehydration is moot if he has no feeling. The degree of comfort or discomfort from the process of withholding fluids and food is subject to the administration of other pain killers. It would appear that when a patient is unable to take fluids and food orally and there is no hope of recovery, administering them intravenously is a life sustaining procedure and thwarts the intention of a

right to a natural death. We recommend that section 18.12.120 definitions on page 7 be changed to add under section 3 "life sustaining procedures" subsection (a)...means a medical procedure or intervention(, INCLUDING INTRAVENOUS FEEDINGS AND FLUIDS,) ....

Impact on agencies: If this bill were authorized and passed it might result in less expense to the tax payers of Alaska for whom this bill would provide some relief at the point of not having to sustain a number of people in a comatose condition that is otherwise hopeless. That is the greatest impact.

A similar impact on nursing homes would reduce the population in nursing homes where people are now being sustained. If they had their will they might not themselves wish to be so.

HB107 3/14/83 Teleconference

Sen. Wilson
Sen - Opposes bill as written
1. opens up the well before death.

Anch - H. Print Dascaway - South addition
AARP member + other Sr. citizens groups
Speaks in Favor of the bill
1. Basic Freedom
2. wants to make the own decisions.
3. Compliments Teleconference.

⊗ Delay Kenny - Res Nurse - Rights to life
Opposes the Bill
1. unnecessary Already has a right to this.
2. undercut the rights of the majority.
⊗ 3. dangerous precidence authority of dr over patient.
⊗ 4. Abuse issues be handled by existing laws.
5. could be undertreated.
6. How about the people who do not sign a living will. Extraordinary measures may be interpretted as being needed (over-treatment.)
7.

Florence Orr – O.P.A.G. (600 members) Senior voice

1. Priority of O.P.A.G. – Speaks for the Bill
2. Has a bright to be kept alive on machines
3. Has better wants.

Irene Headstrom – Pioneer Homes – State Employee

1. Resident asks for something to sign not prolonging life.
2. Doesn't want to be burden.
3. Clocksin constituents.

Mr Elis Veach – none

Pola Reed – 831 W. 19th (Private) Cook Inlet Memorial Society

1. Parents were adament about natural Death.
2. Doctor cooperated

Theodore ~~Bro~~ Graham – Project Director Chugiak Sn. Citizens Center

1. In Favor the bill
2.

Pasquel Bedigno – Juneau citizen

1. Opposes Bill.
2. we already have the rights
3. State doesn't have the right to intervene. Leave it to family + Dr.
4. State didn't regulate his birth + shouldn't regulate / intervene in death

Virginia Blanchard - For

1. Everyone doesn't have to participate in this living will.

Dr Rabeau

Mrs Dove Kull - Older Alaskan Commission

1. Speaks for the Bill
2. Right to die with Dignity
3.

Mary Horton - for herself

(+) 1. Speaks Against the Bill

2. Father in coma for 7 days. life support signed release & pull the plug.

3. mother - in coma - life support - " " " " ". no family physician attended terminate, of life support equip.

Lee Oxman - an older person Pioneer home for the bill?

Mary Jane Abbott

ALASKANS FOR LIFE
Incorporated
P. O. Box 2186
Juneau, Alaska 99803

March 14, 1983

TO: Members of the House HESS Committee - Alaska Legislature

Subject: H.B. 107, "An Act relating to the right to a natural death"

INTRODUCTION:

House Bill No. 107, an act relating to the right to a natural death, is "living will" legislation similar to so-called "death with dignity" and "natural death acts" proposed in many State Legislatures across the country. We are opposed to legislation of this kind.

We do not argue with the stated goals of the bill. We recognize the basic right of the patient to refuse the use of devices to prolong life when death is imminent. We also believe it is healthy for people to think about their death and to prepare for it.

Our opposition to this kind of legislation stems from the manner in which it attempts to achieve its goals. We are opposed to the concept of the living will because of the havoc it will cause in the physician-patient relationship and other potential harm that legislation of this kind may bring with it.

OBJECTIONS:

In general, the following summarizes our thoughts about this bill:

1. Living will legislation is unnecessary; patients already have those rights that this bill seeks to convey to the patient.

2. Superimposing a "legalism" into the decision surrounding the natural death process will hinder and interfere with good medical practice rather than help it.

3. This bill, if passed, will undercut the presently recognized rights of the majority who will not sign a living will.

4. The bill promotes uninformed consent to a future decision, the circumstances and details of which are unknown at the time of the decision.

5. The bill involves a dangerous precedent in implying that the physician has rights over the patient and that the State confers those rights.

ALTERNATIVE LEGISLATION

What does this legislation seek to do? Presumeably it is the desire of the supporters of this kind of legislation to protect the rights of either the patient or the physician or both. While we do not accept the need for this bill its goals could be accomplished without also jeopardizing the rights of non-signing patients and physicians.

We suggest a direct approach. Pass a law acknowledging the fundamental rights of the patient to make decisions affecting their care and restate the principle that extra-ordinary life sustaining measures may be withdrawn by the attending physician when done in his best judgement under the usual and customary standards of medicine following approval of the patient and/or family.

This approach would avoid the difficulty of definitions. There would be no requirement for signing a directive affirming one's rights and consequently no injury to those who do not sign and there would be no pitfalls and potential for serious abuse that exists in living will legislation.

CONCLUSION

We have chosen not to comment on specific provisions of H.B. 107. We believe this bill, in any form which gives legal status to a written directive, is not in the best interest of society. We urge you to preserve the rights of all patients by rejecting the concept of the living will.

Sidney Heidersdorf

Sidney Heidersdorf
ALASKANS FOR LIFE, INC.

I fear the power of choice over life or death at human hands. I see no human being whom I could ever trust with such a power – not myself or any other.

Pearl S. Buck, Nobel Laureate

A society is measured by the way it treats its young, its old, and its helpless. We recognize that the emphasis today is on "quality of life", but we must not let our concern for quality overpower our concern for LIFE itself.

We must safeguard the valuable tool we now have to determine each and every case individually — not by legislation but by HUMAN RIGHTS. Now that medical technology has advanced to the point where we no longer have a uniform "definition of death" to rely on, we must rely on human rights for our ethics — for we can no more justify prolonging the dying process by the application of abusive technology when there is no possible hope of recovery than we can justify burying the "doubtfully dead".

OUR CHALLENGE IS CLEAR.

We must:

- take a more realistic and accepting approach to aging, disability, dying, and death.
- re-evaluate hospitals and institutions and restructure them, if necessary, to meet their vital and difficult tasks. Much CAN be done to meet the needs of the disabled and dying. One such successful program is the HOSPICE concept, which offers loving, compassionate and skilled care for the dying.
- build caring and concerned communities which will preserve and defend human life, rights and dignity.
- become better informed on today's life issues so that we might help others understand them.

THE QUESTION IS: ARE WE GOING TO SAY, "I'M SORRY YOUR LIFE IS DIFFICULT. I WILL KILL YOU," OR ARE WE WILLING TO SAY, "I'M SORRY YOUR LIFE IS DIFFICULT. WHAT CAN I DO TO MAKE IT BETTER"?

Revised 6/77



eu·tha·na·sia \ˌyü-thə-'nā-zhē(-)ə\ *n* [Gk, easy death, fr. *eu-* + *thanatos* death — more at THAN] : the act or practice of killing individuals (as persons or domestic animals) that are hopelessly sick or injured for reasons of mercy — **eu·tha·na·sic** \-zik, -sik\ *adj*

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EUTHANASIA

You've heard this word on TV. You've seen it in the newspapers. What does it mean to you? Does it mean that to **everyone**?

The **real** meaning of the word EUTHANASIA is muddled, because it conjures up images of everything from the senseless slaughter of millions in Nazi Germany, to mercy killings, to "pulling the plug" on old Uncle Charlie when there is no more hope of recovery.

Usually we hear about euthanasia in terms of positive/active euthanasia (**forcing** a person to die), or negative/passive euthanasia ("doing nothing," **allowing** death to come naturally). But as medical science rapidly changes, these distinctions become engulfed in a "rhetorical smokescreen", and it becomes increasingly important for us to "clear the air" so that we might fully understand this LIFE and DEATH issue that **may well affect us**.

Today, the word euthanasia has been stretched to include three quite different concepts:

- Death with Dignity
- Mercy Killing
- Death Selection

1 **DEATH WITH DIGNITY,** in the truest sense, means **allowing a terminally ill patient to die naturally,** without the mechanized desperation that often turns death into an inhumane ordeal (e.g. not using, or discontinuing, **extraordinary** means when a person has irrevocably entered the process of dying — in some instances called "pulling the plug").

EACH OF US HAS THE RIGHT TO EXPECT AND TO DEMAND TO DIE WITH DIGNITY, JUST AS WE HAVE THE RIGHT TO EXPECT AND TO DEMAND TO LIVE WITH DIGNITY.

This is not to say that we should neglect the dying person. The dying person, like any human being, is entitled to medical care that is reasonable and prudent under the circumstances involved, allowing him to *live with dignity* until the moment of death.

No church or medical group disapproves of Death with Dignity; no legislation is necessary to clarify this. What *is* necessary is education and support for dying persons and their families.

We must continue to CARE, even when there is no hope for CURE.

2 **MERCY KILLING** is positive, direct euthanasia, either voluntary or involuntary. As opposed to Death with Dignity, which permits the dying to die naturally, Mercy Killing employs **active means to cause death,** or at least to speed up death (such as a lethal injection).

Mercy Killing also includes the **abandonment or withdrawal of *ordinary* medical care** — those medical and surgical procedures commonly used to relieve sufferings and problems due to injuries and/or illnesses, based on the *individual* patient, the *individual* circumstances, and the available medical technology. (An example of this second type of Mercy Killing would be the denial of necessary surgery to a child who is retarded, when, if needed by a "normal" person, the identical care would not be questioned.)

WE MUST MAINTAIN A CLEAR DISTINCTION BETWEEN "LET HIM DIE" and "KILL HIM OFF".

3 **DEATH SELECTION** (involuntary or even mandatory euthanasia) involves the killing of persons who are "no longer considered socially useful" or who are judged to be a "burden" on society. This type of euthanasia, more aptly called MANAGERIAL EUTHANASIA, is rooted in a hard-core utilitarianism which sees no value beyond social utility, and balances life solely on a cost/benefit scale. Death Selection — the "sleeper" in this debate — poses a real threat to many groups in our society, especially the aged, the severely handicapped, and the retarded.

THE INTENT IS WHAT WE MUST KEEP UPPERMOST IN OUR MINDS:

- Are we merely allowing nature to take its course when there is no more hope, while making the patient as comfortable as possible? (Death with Dignity)
- Or, is the intention to HELP THE INDIVIDUAL TO DIE, either by **direct killing** or by **doing nothing, when help and support is possible,** even though circumstances might be difficult? (Mercy Killing)
- Or, is the intention to DESTROY A HUMAN INDIVIDUAL OR GROUPS OF HUMAN INDIVIDUALS **because they are unwanted, imperfect, or inconvenient?** (Death Selection)



Each of us should be concerned about euthanasia because **pro-euthanasia societies are alive *and* growing,** both in numbers and in influence. Among the most active are the Euthanasia Society of America (recently renamed the Society for the Right to Die, Inc., because the word "euthanasia" hurt lobbying efforts), the Euthanasia Educational Council, and the American Humanist Society.

Another organization, the Good Death Fellowship, wrote in its quarterly publication "Euthanasia News" (Vol. 1, No. 1) that the fellowship "is designed, in essence, to help people to achieve a good death". The same issue states: "Several major industries are poised and ready to make available not merely "another pill" but a wide and colorful range of products and methods to meet the needs of those who have lived their lives and are about ready for a good death."

The philosophies of these organizations have spread widely — into the classrooms, into public policy, and into the legislatures.

Over three-fourths of our states have introduced and/or passed euthanasia or death-related bills — ranging from "Death with Dignity and "Natural Death Acts" to registration allowing for direct killing.

- The 1975 Montana bill HB256 would allow a doctor to **administer euthanasia,** or to instruct a nurse to do so, or to provide lethal drugs to the family. Any individual over 18 could sign a statement, revocable only once, to qualify for medicated death.
- The 1975 Wisconsin Assembly Bill 1207 proposed that anyone over the age of seven could make an oral or written death request, and that anyone over the age of fourteen could carry out those wishes without fear of prosecution.
- In Florida, "Death with Dignity" legislation has been introduced every session since 1968. The 1973 bill (HB407) would have allowed a competent person to sign a paper instructing doctors to let him die if he becomes terminally ill or injured. Relatives of an "incompetent" person could prescribe death providin two physicians agreed. But for an irreversibly ill patient with no relatives, the simple signatures of three physicians approved by a judge are all that is needed to sign the death contract. Former Representative Sackett suggested that the the state of Florida could save five billion dollars in the next half century if 90% of the state's severely retarded and mentally ill were allowed to die. (The National Association for Retarded Citizens vigorously opposed HB407.)

Keeping in mind that Death with Dignity, as defined earlier, is acceptable to most people, euthanasia bills must be questioned for their underlying purpose. Are they paving the way for future legislation for Mercy Killing or Death Selection?

- In Maryland, when state Senator Julian L. Lapides introduced his 1974 euthanasia bill to the legislature, he was asked whether the bill would provide a wide-open door for Mercy Killing in the future. He replied, "Well, not a wide-open door, but maybe it opens it a crack."

> *Only "viable" human beings who have the "capability of meaningful life" may, but need not, be protected by the state.*
>
> United States Supreme Court
> Decision on Abortion, January 22, 1973
> (Roe vs Wade page 48)

LIFE IS A CONTINUUM. At one end of the spectrum, life is being destroyed before birth. And now, **legalized euthanasia is a genuine possibility.** AND WHY NOT?

A society that accepts the right to kill infants in the womb because they might be unwanted, imperfect, or merely inconvenient, should have no difficulty in accepting the right to kill other human beings who might be *judged* unwanted, imperfect, or merely inconvenient.

Several influential leaders of the pro-abortion and pro-euthanasia movements have suggested that next logical step. The following statements reflect their pro-death philosophy:

- Nobel Laureate Dr. James D. Watson, who cracked the genetic code, said that abortion is permissible when a child is determined to be defective in utero, but . . . "most defects are not discovered until birth. If a child were not declared alive until three days after birth, then all parents could be allowed the choice . . . the doctor could allow the child to die if the parents so chose and save a lot of misery and suffering". (AMA Prism. May 1973)
- Abortion advocate Dr. Glanville Williams, in his book **The Sanctity Of Life And The Criminal Law,** asks for "humanitarian infanticide" and "euthanasia for handicapped children".
- Dr. Robert H. Williams, professor of endocrinology, wrote that "planning to prevent overpopulation of the earth must also include euthanasia, either negative or positive". (Northwest Medicine, July 1970) He also suggests killing "potential suicides" and "hopelessly criminal individuals" as well as the terminally ill in discomfort or pain. (Seattle Times, March 7, 1973)
- Dr. Joseph Fletcher, professor of medical ethics, wrote that there must be quality control in the terminating of life as in its initiating. "What has taken place in birth control is equally imperative in death control." ("Ethics and Euthanasia", **To Live and To Die: When, Why, and How,** ed Robert H. Williams)

WHO IS TO SET THIS PRICE TAG ON HUMAN LIFE? WHAT IS TO PREVENT THE NEXT AUTHORITY FROM CHANGING THAT PRICE TAG?

HB
108

COMMITTEE REPORT

HOUSE

FURTHER:

Date: March 9, 1983

Mr. Speaker:

The Committee on [illegible] has had HB 135

An Act relating to 'emergency closure days' in response to a threat to the health or safety of students.

under consideration and reports it back as follows:

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

M. W. Miller,

[illegible]

[illegible]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[illegible]

CHAIRMAN

H 60

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/21/83

Date: _____

Mr. Speaker:

The Committee on HESS has had HB 108

An Act relating to the inclusion in the state exempt service of licensed physicians employed by the division of mental health and developmental disabilities, Department of Health and Social Services

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Mel Teeter

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Mel Teeter
CHAIRMAN

H 60

Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

FACT SHEET

FROM: Cherie Shelley, Executive Director
Alaska Public Employees Association (APEA)

TO: Representatives Milo Fritz and Mae Tischer
Co-Chairpersons, HESS House Committee

SUBJECT: House Bill No. 108

DATE: February 4, 1983

APEA position concerning HB 108

APEA favors the passage of HB 108.

Employees groups referred to in HB 108

Classified - are those employees who meet state requirements and can be fired only for "just cause".

Exempt - are those employees in the state political hierarchy and can be fired without "just cause".

Physicians affected by HB 108

Physicians in "Exempt" group - are those physicians employed by the Division of Mental Health and Developmental Disabilities, Department of Health and Social Services. This group is comprised of psychiatrists and one medical physician, working mainly out of API in Anchorage. They have been and still are in the "Exempt" group.

Physicians in "Classified" group - are five medical physicians, Department of Health and Social Services, (not psychiatrists) working throughout the state. There are two Public Health Medical Specialists, a Medical Specialist, Child Development Services, a Regional Medical Officer and a Regional Health Officer in Fairbanks who is a veterinarian. They have been and still are in the "Classified" group.

Salary Schedule for "Exempt" group - the one medical physician is in range 27. The psychiatrists are in ranges 28 and 29. The Director is a range 30. Their salary is based on the F step plus five percent.

Salary Schedule for "Classified" group - the five medical physicians are in ranges 26 and 27.

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825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
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227 4th Street
Juneau, AK 99801
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Note" "Exempt" group wages are higher than "Classified" group.

Legislation background

Last year SB 193, sponsored on behalf of the Blue Ribbon Commission of which I am a member, proposed the following as part of an effort to clarify the State Personnel Rules: "(15) Licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services..."

SB 193 was amended by the Senate State Affairs Committee. The portion amended was AS 39.25.110, which lists the membership of the exempt service to include: "(13) all licensed physicians as defined in AS 47.30.340(9) employed by the state...."

The amendment was merely a means to shorten the language content. AS 47.30 is entitled "Mentally Ill and Insane Persons". AS 47.30.340(9) referred to physicians (psychiatrists) working for Division of Mental Health. Therefore it was redundant to state "employed by the division of mental health and development disabilities, Department of Health and Social Services..." However, AS 47.30.340(9), when read out of context with AS 47.30, entitled "Mentally Ill and Insane Persons" with articles dealing with the mental health program - could be interpreted to mean all physicians working for the state and not just the psychiatrists.

HB 108

HB 108 corrects the unintentional implication of the amendment language change. The intent of the legislation was not to move all physicians from the "Classified" to the "Exempt" group. The intent was to leave those physicians (medical) in the "Classified" group and to leave those physicians (psychatrists) in the "Exempt" group.

Reason for APEA's involvement

Physicians that could be affected if this legislation does not pass are the medical doctors (not psychiatrists), employed by the Division of Public Health. As APEA members, they have contacted the Association to voice their concern about the amendment last session of the State Personnel Act (SB 193). APEA has spoken with three of the five physicians. They wish to remain in the "Classified" employee group. It is our understanding that the physicians (psychiatrists) in the "Exempt" employee group wish to remain there as set forth in the legislation.

Passage of Bill

Would satisfy physicians (medical and psychiatrists) now working for the state - would not cost the state anything as salary schedules would remain the same - and would appear to be the most practical and expedient method of correcting an inadvertent language error in the amendment.

SELECT - QUERY
00002 ALL SECTION EQ 39.25.110

AS39.25.110 DOCUMENT= 1 OF 1

CHAPTER = 39.25
SECTION = 39.25.110
TITLE = 39

HEADINGS TITLE 39.
PUBLIC OFFICERS AND EMPLOYEES.
CHAPTER 25.
STATE PERSONNEL ACT.
ARTICLE 2.
COVERAGE OF PERSONNEL.

CITATION SEC. 39.25.110.

CATCH LINE
EXEMPT SERVICE.

TEXT UNLESS OTHERWISE PROVIDED BY LAW, THE FOLLOWING POSITIONS IN THE STATE SERVICE CONSTITUTE THE EXEMPT SERVICE AND ARE EXEMPT FROM THE PROVISIONS OF THIS CHAPTER AND THE RULES ADOPTED UNDER IT:

(1) PERSONS ELECTED TO PUBLIC OFFICE BY POPULAR VOTE OR APPOINTED TO FILL VACANCIES IN ELECTED OFFICES;

(2) JUSTICES, JUDGES, MAGISTRATES, AND EMPLOYEES OF THE JUDICIAL BRANCH INCLUDING EMPLOYEES OF THE JUDICIAL COUNCIL;

(3) EMPLOYEES OF THE STATE LEGISLATURE AND ITS AGENCIES;

(4) THE HEAD OF EACH PRINCIPAL DEPARTMENT IN THE EXECUTIVE BRANCH;

(5) OFFICERS AND EMPLOYEES OF THE UNIVERSITY OF ALASKA;

(6) CERTIFICATED TEACHERS AND NONCERTIFICATED EMPLOYEES EMPLOYED BY A REGIONAL EDUCATIONAL ATTENDANCE AREA ESTABLISHED AND ORGANIZED UNDER AS 14.08.031 - 14.08.041 TO TEACH IN, ADMINISTER, OR OPERATE SCHOOLS UNDER THE CONTROL OF A REGIONAL EDUCATIONAL ATTENDANCE AREA SCHOOL BOARD;

(7) CERTIFICATED TEACHERS EMPLOYED BY THE DEPARTMENT OF

CENTERS OPERATED BY THE DEPARTMENT OF EDUCATION;

(8) PATIENTS AND INMATES EMPLOYED IN STATE INSTITUTIONS;

(9) PERSONS EMPLOYED IN A PROFESSIONAL CAPACITY TO MAKE A TEMPORARY OR SPECIAL INQUIRY, STUDY OR EXAMINATION AS AUTHORIZED BY THE GOVERNOR;

(10) MEMBERS OF BOARDS, COMMISSIONS, OR AUTHORITIES;

(11) THE OFFICERS AND EMPLOYEES OF THE FOLLOWING BOARDS, COMMISSIONS, AND AUTHORITIES:

(A) ALASKA GAS PIPELINE FINANCING AUTHORITY;

(B) ALASKA PERMANENT FUND CORPORATION;

(C) ALASKA ENERGY CENTER;

(D) ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY;

(E) ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION;

(F) ALASKA COMMISSION ON POSTSECONDARY EDUCATION;

(12) THE EXECUTIVE SECRETARY AND LEGAL COUNSEL OF THE ALASKA MUNICIPAL BOND BANK AUTHORITY;

(13) LICENSED PHYSICIANS, AS DEFINED IN AS 47.30.340(9), EMPLOYED BY THE STATE;

(14) PETROLEUM ENGINEERS AND PETROLEUM GEOLOGISTS EMPLOYED IN A PROFESSIONAL CAPACITY BY THE DEPARTMENT OF NATURAL RESOURCES AND BY THE OIL AND GAS CONSERVATION COMMISSION, EXCEPT FOR THOSE EMPLOYED IN THE DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS IN THE DEPARTMENT OF NATURAL RESOURCES;

(15) OFFICERS, AGENTS, AND EMPLOYEES OF THE ALCOHOLIC BEVERAGE CONTROL BOARD GRANTED LIMITED PEACE OFFICER POWERS BY THE ALCOHOLIC BEVERAGE CONTROL BOARD UNDER AS 04.06.110;

(16) PERSONS EMPLOYED BY THE DIVISION OF MARINE TRANSPORTATION AS MASTERS AND MEMBERS OF THE CREWS OF VESSELS WHO OPERATE THE STATE FERRY SYSTEM AND WHO ARE COVERED BY A COLLECTIVE BARGAINING AGREEMENT PROVIDED IN AS 23.40.040;

(17) OFFICERS AND EMPLOYEES OF THE STATE WHO RESIDE IN FOREIGN COUNTRIES;

(18) EMPLOYEES OF THE ALASKA SEAFOOD MARKETING INSTITUTE;

(19) FIREFIGHTERS EMPLOYED BY THE DEPARTMENT OF NATURAL RESOURCES FOR A FIRE EMERGENCY;

(20) EMPLOYEES OF THE OFFICE OF THE GOVERNOR AND THE OFFICE OF THE LIEUTENANT GOVERNOR, INCLUDING THE STAFF OF THE GOVERNOR'S MANSION; LIMITED EFFECTIVE DATE

(21) -REPEALED JUNE 30, 1989- EMPLOYEES OF THE CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS IN ALASKA (AS 41.37.010).

HISTORY (SEC. 5 CH 144 SLA 1960; AM SEC. 1 CH 48 SLA 1961; AM SEC. 1 CH 133 SLA 1961; AM SEC. 3 CH 93 SLA 1962; AM SEC. 3 CH 24 SLA 1966; AM SEC. 31 CH 46 SLA 1970; AM SEC. 65 CH 69 SLA 1970; AM SEC. 12 CH 113 SLA 1970; AM SEC. 3 CH 78 SLA 1971; AM SEC. 18 CH 78 SLA 1974; AM SEC. 42 CH 127 SLA 1974; AM SEC. 2 CH 32 SLA 1975; AM SEC. 2 CH 79 SLA 1975; AM SEC. 37 CH 124 SLA 1975; AM SEC. 1 CH 157 SLA 1976; AM SEC. 3 CH 90 SLA 1978; AM SEC. 7 CH 18 SLA 1980; AM SEC. 43 CH 106 SLA 1980; AM SEC. 10 CH 131 SLA 1980; AM SEC. 4 CH 148 SLA 1980; AM SEC. 4 CH 106 SLA 1981; AM SECS. 2, 3 CH 37 SLA 1982; AM SEC. 7 CH 112 SLA 1982)

1970

1975 39.25.110 No Ref to physicians

OCT 80 — SAME ↓ DHSS

OCT 81 exempts licensed phy defined 47.30.340(9) employed by mental health DHSS

OCT 82 → licensed physicians ⟨def 47.30.340-9⟩ employed by the state
8

4 CH 148 SLA 1980
4 CH 106 SLA 1981
2, 3 Ch 37 SLA 82

7 ch 112 SLA 82

... Lange
Gillespie Dr. Smith
Art Peterson - AG.

1/26

Joint H/S Hearing E054

ENDELL, ROGER

1500 prisoners space for 900
Executive level mgt within Dept.

Juveniles - ~~[illegible]~~ intact now but move to new Dept of Corrections later - through
Gillespie - uncertain of timing of fiscal note
10 new positions in new dept.
Corrections is 1/4 of
Correctional Industries - Corrections

Penal institutions not correctional institutions
Capital budget - 102 million

John Taber
$250,000 - Lapsed funds to fund first FY83 allocation
Authority of dept to

Parole goes with D.O.C.

789-9561
ICOM

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: House Health, Education & Social Services Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: HB 108, Licensed Physicians in the Department of Health and Social Services

An unintended change created by an amendment to the State Personnel Act last session has caused some question in the Department of Health and Social Services. Prior to the amendment, licensed physicians employed by the Division of Mental Health and Developmental Disabilities were placed in the exempt service. Other physicians working for the department were members of the classified service. This system worked well. The exception for those working in the mental health field was necessary in order to attract and pay qualified staff.

The amendment placed all licensed physicians, as defined in AS 47.30.340(9), employed by the state into the exempt service. Title 47.30 addresses mentally ill and insane persons but the definition section defined "licensed physician" in general terms. The department brought to the commission's attention an unforeseen situation. There were two employees in the Division of Public Health serving as Regional Health Officers. One was a medical doctor and the other a licensed veterinarian. Under the amended version of the State Personnel Act, the doctor could be placed in the exempt service and the veterinarian would remain in the classified service. Both have the same duties, though in different locations.

The commission recommends that legislation be adopted to return all medical doctors except those employed by the Division of Mental Health and Developmental Disabilities to the classified service.

Bill Analysis

The bill amends the section of the State Personnel Act which lists membership in the exempt service to place only those physicians employed by the Division of Mental Health and Developmental Disabilities in the exempt service.

TBC:lmk
Attachment

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 14, 1982

The Honorable Bill Ray, Chairman
Blue Ribbon Commission on the State Personnel Act
Pouch YG, Mail Station 3123

Attention: Terry Cramer, Adminstrative Assistant

Subject: Licensed Physicians - Department of Health & Social Services

Dear Senator Ray:

Subsequent to the December 7 meeting of the Blue Ribbon Commission, and at its direction, the Department of Health & Social Services considered the circumstances surrounding the statutory language relating to licensed physicians employed by the state. The original purpose for the inclusion of licensed physicians in the exempt service under AS 39.25.0110 (19) was to provide for recruitment and retention of qualified and competent staff within the Division of Mental Health & Developmental Disabilities. That situation has worked well since that time.

The amendments to that statute as adopted under HCS CSSB 193 in 1982 eliminated that particular distinction. As presently written, that statute could be interpreted to include licensed physicians in the Division of Public Health. That action is not adjudged to be in the best interests of the state and those employees. It should be noted that in 1981, AS 47.30.340 was repealed in its entirety and AS 47.30.915 was added. That section again defined "licensed physician" in the legislative reference to mental health programs.

It is therefore respectfully requested that the language in AS 39.25.110 (13) be amended to read as follows: "licensed physicians, as defined in AS 47.30.915 (11), employed by the Division of Mental Health & Developmental Disabilities, Department of Health & Social Services.

Thank you for your consideration of this matter.

Sincerely,

Allen K. Korhonen
Acting Commissioner

06-F38LH

CHAPTER = 39.25
SECTION = 39.25.110
TITLE = 39

HEADINGS TITLE 39.
PUBLIC OFFICERS AND EMPLOYEES.
CHAPTER 25.
STATE PERSONNEL ACT.
ARTICLE 2.
COVERAGE OF PERSONNEL.

CITATION SEC. 39.25.110.

CATCH LINE
EXEMPT SERVICE.

TEXT UNLESS OTHERWISE PROVIDED BY LAW, THE FOLLOWING POSITIONS IN THE STATE SERVICE CONSTITUTE THE EXEMPT SERVICE AND ARE EXEMPT FROM THE PROVISIONS OF THIS CHAPTER AND THE RULES ADOPTED UNDER IT:

(1) PERSONS ELECTED TO PUBLIC OFFICE BY POPULAR VOTE OR APPOINTED TO FILL VACANCIES IN ELECTED OFFICES;

(2) JUSTICES, JUDGES, MAGISTRATES, AND EMPLOYEES OF THE JUDICIAL BRANCH INCLUDING EMPLOYEES OF THE JUDICIAL COUNCIL;

(3) EMPLOYEES OF THE STATE LEGISLATURE AND ITS

AGENCIES;

(4) THE HEAD OF EACH PRINCIPAL DEPARTMENT IN THE EXECUTIVE BRANCH;

(5) OFFICERS AND EMPLOYEES OF THE UNIVERSITY OF ALASKA;

(6) CERTIFICATED TEACHERS AND NONCERTIFICATED EMPLOYEES EMPLOYED BY A REGIONAL EDUCATIONAL ATTENDANCE AREA ESTABLISHED AND ORGANIZED UNDER AS 14.08.031 - 14.08.041 TO TEACH IN, ADMINISTER, OR OPERATE SCHOOLS UNDER THE CONTROL OF A REGIONAL EDUCATIONAL ATTENDANCE AREA SCHOOL BOARD;

(7) CERTIFICATED TEACHERS EMPLOYED BY THE DEPARTMENT OF EDUCATION AS CORRESPONDENCE TEACHERS OR TEACHERS IN SKILL CENTERS OPERATED BY THE DEPARTMENT OF EDUCATION;

INSTITUTIONS;

(9) PERSONS EMPLOYED IN A PROFESSIONAL CAPACITY TO MAKE A TEMPORARY OR SPECIAL INQUIRY, STUDY OR EXAMINATION AS AUTHORIZED BY THE GOVERNOR;

(10) MEMBERS OF BOARDS, COMMISSIONS, OR AUTHORITIES;

(11) THE OFFICERS AND EMPLOYEES OF THE FOLLOWING BOARDS, COMMISSIONS, AND AUTHORITIES:

AS39.25.110 DOCUMENT= 1 OF 1 PAGE = 3 OF 5

(A) ALASKA GAS PIPELINE FINANCING AUTHORITY;

(B) ALASKA PERMANENT FUND CORPORATION;

(C) ALASKA ENERGY CENTER,

(D) ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY;

(E) ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION;

(F) ALASKA COMMISSION ON POSTSECONDARY EDUCATION;

(12) THE EXECUTIVE SECRETARY AND LEGAL COUNSEL OF THE ALASKA MUNICIPAL BOND BANK AUTHORITY;

(13) LICENSED PHYSICIANS, AS DEFINED IN AS 47.30.340(9), EMPLOYED BY THE STATE;

(14) PETROLEUM ENGINEERS AND PETROLEUM GEOLOGISTS EMPLOYED IN A PROFESSIONAL CAPACITY BY THE DEPARTMENT OF NATURAL RESOURCES AND BY THE OIL AND GAS CONSERVATION COMMISSION, EXCEPT FOR THOSE EMPLOYED IN THE DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS IN THE DEPARTMENT OF NATURAL RESOURCES;

(15) OFFICERS, AGENTS, AND EMPLOYEES OF THE ALCOHOLIC BEVERAGE CONTROL BOARD GRANTED LIMITED PEACE OFFICER POWERS BY THE ALCOHOLIC BEVERAGE CONTROL BOARD UNDER AS 04.06.110;

(16) PERSONS EMPLOYED BY THE DIVISION OF MARINE

AS39.25.110 DOCUMENT= 1 OF 1 PAGE = 4 OF 5

TRANSPORTATION AS MASTERS AND MEMBERS OF THE CREWS OF VESSELS WHO OPERATE THE STATE FERRY SYSTEM AND WHO ARE COVERED BY A COLLECTIVE BARGAINING AGREEMENT PROVIDED IN AS 23.40.040;

(17) OFFICERS AND EMPLOYEES OF THE STATE WHO RESIDE IN FOREIGN COUNTRIES;

(18) EMPLOYEES OF THE ALASKA SEAFOOD MARKETING INSTITUTE;

(19) FIREFIGHTERS EMPLOYED BY THE DEPARTMENT OF NATURAL RESOURCES FOR A FIRE EMERGENCY;

(20) EMPLOYEES OF THE OFFICE OF THE GOVERNOR AND THE OFFICE OF THE LIEUTENANT GOVERNOR, INCLUDING THE STAFF OF THE GOVERNOR'S MANSION; LIMITED EFFECTIVE DATE

(21) -REPEALED JUNE 30, 1988- EMPLOYEES OF THE CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS IN ALASKA (AS 41.37.010).

HISTORY (SEC. 5 CH 144 SLA 1960; AM SEC. 1 CH 48 SLA 1961; AM SEC. 1 CH 133 SLA 1961; AM SEC. 3 CH 93 SLA 1962; AM SEC. 3 CH 24 SLA 1966; AM SEC. 31 CH 46 SLA 1970; AM SEC. 65 CH 69 SLA 1970; AM SEC. 13 CH 113 SLA 1970; AM SEC. 3 CH 78 SLA 1971; AM SEC. 18 CH 78 SLA 1974; AM SEC. 42 CH 127 SLA 1974; AM SEC. 2 CH 32 SLA 1975; AM

AN39.25.110 DOCUMENT= 1 OF 1 PAGE = 2 OF 3

SECTION AS AMENDED BY CH. 112, SLA 1982.

THE SECOND 1982 AMENDMENT, EFFECTIVE JULY 1, 1982, REWROTE THIS SECTION.

EDITOR'S NOTES.

AS 47.30.340, REFERRED TO IN PARAGRAPH (13) WAS REPEALED BY SEC. 7, CH. 84, SLA 1981.

LEGISLATIVE HISTORY REPORTS.

FOR REPORT ON CH. 69, SLA 1970 (HB 564), SEE 1970 HOUSE JOURNAL SUPPLEMENT NO. 2, P. 7 (2/10/70). FOR REPORT ON CH. 127, SLA 1974 (SCSHB 817 AM S), SEE 1974 HOUSE JOURNAL, P. 657. FOR REPORT ON CH. 157, SLA 1976 (SCS CSHB 887 AM S), SEE 1976 HOUSE JOURNAL, P. 1449.

NOTES TO DECISIONS.

THE THRUST OF THE EXEMPTIONS IN THIS CHAPTER, THE PUBLIC EMPLOYEES RETIREMENT SYSTEM, FORMER AS 39.35.680(5)(C), AND THE STATUTORY LEAVE PROVISIONS FOR STATE EMPLOYEES, AS 39.20.310, IS TO PROVIDE FOR THOSE PUBLIC EMPLOYEES WHO ARE NOT SUSCEPTIBLE TO ORDINARY RECRUITING AND EXAMINING PROCEDURES. HAFLING V. INLANDBOATMEN'S UNION, SUP. CT. OP. NO. 1743 (FILE NO. 3438), 585 P.2D 870 (1978).

NO INCONSISTENCY BETWEEN FERRY CREW EXEMPTION OF THIS SECTION AND INCLUSION OF SUCH PERSONNEL WITH PUBLIC EMPLOYMENT RELATIONS ACT, AS

Thomas Branton x3370

All mental health employees in exempt for salary purposes - psychiatry

State pay bill for exempt employees - inadvertently included all physicians

Psych were

Range 30 not enough

easier to

legislative act or bargaining agreement sets salary

Fully exempt - pleasure of ~~governor~~ Governor

⇒ All physicians are exempt now

⇒ classified

⇒ Physicians - API

HB 108

House bill 108 changes the current statute back to the original wording of the statute in 1980. AS 39.25.110 (19), in October, 1980, included as exempt employees the licensed physicians employed by the division of health and developmental disabilities, Department of Health and Social Services.

The October, 1982 revision of the statute changed the wording to include all licensed physicians employed by the state as exempt employees.

The language of HB 108 returns licensed physicians to the classified service, except for those working within the division of health and developmental disabilities, of the DHSS.

This affects psychiatrists,primarily, but also includes other specialists within the Alaska Psychiatric Institute. the justification for placing psychiatrists in the exempt category is that they demand salaries in excess of the established salary range for the classified service. Rather than change the salary range, the proposal is to revert to the previous exempt status. Those people categorized as exempt serve at the pleasure of the governor, and are not subject to the personnel rules.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: House Health, Education & Social Services Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: HB 108, Licensed Physicians in the Department of Health and Social Services

An unintended change created by an amendment to the State Personnel Act last session has caused some question in the Department of Health and Social Services. Prior to the amendment, licensed physicians employed by the Division of Mental Health and Developmental Disabilities were placed in the exempt service. Other physicians working for the department were members of the classified service. This system worked well. The exception for those working in the mental health field was necessary in order to attract and pay qualified staff.

The amendment placed all licensed physicians, as defined in AS 47.30.340(9), employed by the state into the exempt service. Title 47.30 addresses mentally ill and insane persons but the definition section defined "licensed physician" in general terms. The department brought to the commission's attention an unforeseen situation. There were two employees in the Division of Public Health serving as Regional Health Officers. One was a medical doctor and the other a licensed veterinarian. Under the amended version of the State Personnel Act, the doctor could be placed in the exempt service and the veterinarian would remain in the classified service. Both have the same duties, though in different locations.

The commission recommends that legislation be adopted to return all medical doctors except those employed by the Division of Mental Health and Developmental Disabilities to the classified service.

Bill Analysis

The bill amends the section of the State Personnel Act which lists membership in the exempt service to place only those physicians employed by the Division of Mental Health and Developmental Disabilities in the exempt service.

TBC:lmk
Attachment

THIRTEENTH LEGISLATURE

FISCAL NOTE

FEB 3

I. REQUEST
Bill/Resolution No. House Bill 108/Senate Bill 64
Title Inclusion in state exempt service of licensed physicians
Requested by Commissioner's Office Date 1/24/83 FINANCE

II. FISCAL DETAIL
Agency Affected Health & Social Services
Program Category Affected Mental Health & Developmental Disabilities
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No cost impact is foreseen to the Department of Health & Social Services as a result of this legislation.

Thomas E. Brandon

IV. DATE 1/25/83 PREPARED BY Robert W. Marshall, M.D., Director

AGENCY Health & Social Services/Mental Health & DD

PHONE 465-3370

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

33-001 (Rev. 12/82)

OMB Reviewed by: Nancy Dunn

All licensed physicians currently in exempt category 39.25.110 (13).

~~WAS RESTRICTED to licensed~~

HB 108

Summary:

OCTOBER 1980 STATUTE 39.25.110 (19) included as EXEMPT employees licensed physicians employed by the division of mental health and developmental disabilities, Department of Health and Social Services

October 1982, 39.25.110 (13) included <u>All</u> physicians employed by the STATE as exempt.

HB 108 RETURNS to EXEMPT SERVICE only physicians within the division of mental health and developmental disability, Dept of H&SS.

AFFECTS psychiatrists, primarily but also other specialists within ALASKA Psychiatric Institute

Also, by deleting reference to <u>All</u> physicians, RETURNS other physicians to classified service.

Justification for placing psychiatrists in EXEMPT category is that they demand a SALARY IN EXCESS of the RANGE ESTABLISHED for classified service. Rather than change the SALARY RANGE, the proposal is to REVERT to

previous legislation. Also- those working under exempt status serve at the pleasure of governor.

1/25

PURPOSE: to (PLACE psych INTO SERVICE) EXEMPT ~~psychiatrists~~ from CLASSIFIED SERVICE to allow PAYMENT IN EXCESS of PAY SCALE SINCE going RATE is higher THAN pay scale allows -

QUESTION: Why not adjust PAY SCALE?
AT PLEASURE of GOVERNOR

AFFECTS ONLY PHYSICIANS - NOT OTHER EMPLOYEES

ARE THERE OTHER PHYSICIANS IN CLASSIFIED SERVICE within DHSS? ALL CLASSI EXEMPT NOW!
Why HAVE them ~~EXEMPT~~ CLASSIFIED AND MENTAL HEALTH EXEMPT

ARE there other PSYCHIATRISTS in DHSS NOT IN MENTAL Health? DIRECTOR ALASKA PSYCHIATRIC INSTITUTE
- ALREADY EXEMPT - STAFF? No.

Norm

FISCAL NOTE

FEB 3 9

I. REQUEST
Bill/Resolution No. House Bill 108/Senate Bill 64
Title Inclusion in state exempt service of licensed physicians
Requested by Commissioner's Office Date 1/24/83 FINANCE

II. FISCAL DETAIL
Agency Affected Health & Social Services
Program Category Affected Mental Health & Developmental Disabilities
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No cost impact is foreseen to the Department of Health & Social Services as a result of this legislation.

Thomas R. Brad Fo

IV. DATE 1/25/83 PREPARED BY Robert W. Marshall, M.D., Director
AGENCY Health & Social Services/Mental Health & DD
PHONE 465-3370

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

33-001 (Rev. 12/82)

OMB Reviewed by: Nancy Dunn

HB 108

House bill 108 changes the current statute back to the original wording of the statute in 1980. AS 39.25.110 (19), in October, 1980, included as exempt employees the licensed physicians employed by the division of health and developmental disabilities, Department of Health and Social Services.

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The language of HB 108 returns licensed physicians to the classified service, except for those working within the division of health and developmental disabilities, of the DH3S.

This affects psychiatrists,primarily, but also includes other specialists within the Alaska Psychiatric Institute. the justification for placing psychiatrists in the exempt category is that they demand salaries in excess of the established salary range for the classified service. Rather than change the salary range, the proposal is to revert to the previous exempt status. Those people categorized as exempt serve at the pleasure of the governor, and are not subject to the personnel rules.

HB

112

SECTION = 29.90.010
TITLE = 29
HEADINGS TITLE 29.
MUNICIPAL GOVERNMENT.
CHAPTER 90.
STATE AID FOR HOSPITAL AND HEALTH FACILITY CONSTRUCTION.
CITATION SEC. 29.90.010.
CATCH LINE
STATE AID FOR HOSPITAL AND HEALTH FACILITY CONSTRUCTION.
TEXT IF CONSTRUCTION OF A HOSPITAL BEGAN AFTER JANUARY 1, 1968, OR IF CONSTRUCTION OF A HEALTH FACILITY BEGAN AFTER JANUARY 1, 1960, AND BEFORE JULY 1, 1980, AND STATE MATCHING AID FOR CONSTRUCTION APPROVED FOR PAYMENT TO THE MUNICIPALITY OR OTHER HOSPITAL OR HEALTH FACILITY SPONSOR CONSTITUTES LESS THAN 25 PERCENT OF THE TOTAL PROJECT COST, THE DEPARTMENT SHALL PAY TO THE MUNICIPALITY OR OTHER HOSPITAL OR HEALTH FACILITY SPONSOR EACH FISCAL YEAR $2,500 A BED FOR THE MAXIMUM NUMBER OF BEDS PROVIDED FOR IN THE CONSTRUCTION DESIGN OF THE HOSPITAL OR HEALTH FACILITY OR FIVE PERCENT OF THE TOTAL PROJECT COST, WHICHEVER IS GREATER. STATE

AID PROVIDED FOR IN THIS SECTION SHALL CONTINUE UNTIL THE MUNICIPALITY OR OTHER HOSPITAL OR HEALTH FACILITY SPONSOR HAS RECEIVED AN AMOUNT WHICH, COMBINED WITH STATE MATCHING MONEY FOR CONSTRUCTION OF THE HOSPITAL OR HEALTH FACILITY, EQUALS 25 PERCENT OF THE TOTAL PROJECT COST. MONEY RECEIVED FOR CONSTRUCTION MAY NOT BE USED FOR ANY OTHER PURPOSE.
HISTORY (SEC. 4 CH 155 SLA 1980; AM SEC. 3 CH 103 SLA 1981; AM SEC. 65 CH 59 SLA 1982)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

AS29.90.020 DOCUMENT= 1 OF 1 PAGE = 1 OF 1
CHAPTER = 29.90
SECTION = 29.90.020
TITLE = 29
HEADINGS TITLE 29.
MUNICIPAL GOVERNMENT.
CHAPTER 90.
STATE AID FOR HOSPITAL AND HEALTH FACILITY CONSTRUCTION.
CITATION SEC. 29.90.020.
CATCH LINE
HOSPITAL AND HEALTH FACILITY CONSTRUCTION ASSISTANCE ACCOUNT.
TEXT THE HOSPITAL AND HEALTH FACILITY CONSTRUCTION ASSISTANCE ACCOUNT IS ESTABLISHED. MONEY TO CARRY OUT THE PROVISIONS OF AS 29.90.010 - 29.90.030 SHALL BE ALLOCATED BY THE DEPARTMENT TO THE ACCOUNT IN ACCORDANCE WITH AS 29.90.010. IF AMOUNTS IN THE ACCOUNT ARE INSUFFICIENT TO PAY EACH RECIPIENT'S SHARE AUTHORIZED UNDER THIS CHAPTER, THE AMOUNTS WHICH ARE AVAILABLE SHALL BE DISTRIBUTED PRO RATA AMONG ELIGIBLE RECIPIENTS.
HISTORY (SEC. 4 CH 155 SLA 1980; AM SEC. 4 CH 103 SLA 1981)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

AS29.90.030 DOCUMENT= 1 OF 1 PAGE = 1 OF 1
CHAPTER = 29.90
SECTION = 29.90.030
TITLE = 29
HEADINGS TITLE 29.
MUNICIPAL GOVERNMENT.
CHAPTER 90.
STATE AID FOR HOSPITAL AND HEALTH FACILITY CONSTRUCTION.
CITATION SEC. 29.90.030.

DEFINITIONS.

TEXT IN AS 29.90.010 - 29.90.030

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS;

(2) "HOSPITAL" MEANS A LICENSED HOSPITAL DETERMINED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES TO BE A GENERAL HOSPITAL; THE TERM EXCLUDES A FACILITY OPERATED OR WHOLLY SUPPORTED BY THE STATE OR THE FEDERAL GOVERNMENT;

(3) "TOTAL PROJECT COST" MEANS

(A) COSTS DIRECTLY RELATED TO THE PROJECT; AND

(B) THE TOTAL OF ALL COSTS OF FINANCING AND

AS29.90.030 DOCUMENT= 1 OF 1 PAGE = 2 OF 3

CARRYING OUT THE PROJECT, INCLUDING BUT NOT LIMITED TO,

(I) THE COSTS OF ALL NECESSARY STUDIES, SURVEYS, PLANS AND SPECIFICATIONS, ARCHITECTURAL, ENGINEERING OR OTHER SPECIAL SERVICES, ACQUISITION OF REAL PROPERTY, SITE PREPARATION AND DEVELOPMENT, PURCHASE, CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENT OF REAL PROPERTY, AND THE ACQUISITION OF MACHINERY AND EQUIPMENT AS MAY BE NECESSARY IN CONNECTION WITH THE PROJECT;

(II) AN ALLOCABLE PORTION OF THE ADMINISTRATIVE AND OPERATING EXPENSES OF THE MUNICIPALITY OR OTHER HOSPITAL SPONSOR;

(III) THE COST OF FINANCING THE PROJECT, INCLUDING INTEREST ON BONDS ISSUED TO FINANCE THE PROJECT; AND

(IV) THE COST OF OTHER ITEMS, INCLUDING ANY INDEMNITY AND SURETY BONDS AND PREMIUMS ON INSURANCE, LEGAL FEES, FEES AND EXPENSES OF TRUSTEES, DEPOSITARIES, FINANCIAL ADVISORS, AND PAYING AGENTS FOR THE BONDS ISSUED AS THE ISSUER

AS29.90.030 DOCUMENT= 1 OF 1 PAGE = 3 OF 3

CONSIDERS NECESSARY;

(4) "HEALTH FACILITY"

(A) MEANS A FACILITY THAT IS LICENSED, WHEN REQUIRED, BY THE STATE UNDER AS 18.20.010 - 18.20.130 AND THAT IS OWNED OR OPERATED OR BOTH BY A MUNICIPALITY OR BY A NONPROFIT CORPORATION OR OTHER NONPROFIT SPONSOR;

(B) INCLUDES A PUBLIC HEALTH CENTER, MATERNITY HOME, COMMUNITY MENTAL HEALTH CENTER, FACILITY FOR THE MENTALLY OR PHYSICALLY HANDICAPPED, NURSING HOME, OR CONVALESCENT CENTER.

(C) EXCLUDES A FACILITY OPERATED OR WHOLLY SUPPORTED BY THE STATE OR THE FEDERAL GOVERNMENT.

HISTORY (SEC. 4 CH 155 SLA 1980; AM SEC. 5 CH 103 SLA 1981)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

1. Senator Josephson (Senate HESS Committee) ~~will~~ may recommend approval of SB 85 which will repeal the CON law (note lines 16 and 17 on the attached bill where brackets indicate deletion from the bill).

   Senate Josephson will do this providing we also ask for repeal of Alaska Statute 29.90.010 through 030. This statute provides for the State's participation on Certificate of Need approved projects and it is referred to as construction revenue sharing funds. We are in agreement with the repeal of this statute.

Note: In lieu of the construction revenue sharing funds, we are asking for passage of HB (House Bill) 112 -- which is outlined in # 2.

2. HB 112 "An Act relating to the maintenance and improvement of health facilities" is a bill that must be passed for both bills to work.

   What makes this bill special is that any facility wanting state funding consideration will have to present their project to the MEDICAL CARE ADVISORY COMMITTEE (see definition of committee on page 1 of HB 112) for approval.

   The committee, using criteria and guidelines as outlined in the bill, will prioritize those projects seeking funding and make their recommendations to the Commissioner of Health & Social Services.

   The Commissioner will, in turn and after department review, pass on his recommendations to the Governor for inclusion in the Governor's budget.

3. In addition, we understand that some legislators are also concerned about the potential increase in operating revenue sharing funds as outlined in Alaska Statute 29.89. 030.

   The Alaska State Hospital Association is in favor of recommending to the legislature that a maximum CAP of $250,000 per year be the maximum amount given to any facility.

   This item is not directly related to items 1 and 2, but is a concern of some members of the legislative body.

HB 112

Actions

last session enrolled bill report
HB 844 - like HB 112

Definition of facilities: broad?
hosp. nursing homes rural health centers
mental, convalescent homes -
clinics? 8-450K

November too late - March 83 for FY85

HB

113

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 113
Title Special Appropriation for Student Loans
Requested by House HESS Date 1/27/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Postsecondary Commission
BRU, Program, Or Subprogram(s) Affected Student Loans
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	3,500.0	N.A.	N.A.			

FUNDING (Thousands of Dollars)

GENERAL FUND	3,500.0					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE January 27, 1983 PREPARED BY [signature]
AGENCY Commission on Postsecondary Education
PHONE 465-2864

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

33-001 (Rev. 12/82)

OMB Reviewed by: Liz Blecker

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

STATE OF ALASKA

STUDENT FINANCIAL AID PROGRAMS

ANNUAL REPORT
1981-1982

Alaska Commission on Postsecondary Education

Pouch FP, 400 Willoughby Avenue

Juneau, Alaska 99811

83-1

HB 113

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

POUCH FP
JUNEAU, ALASKA 99811
PHONE: (907) 465-2854

M E M O R A N D U M

TO: The Honorable Barbara Lacher
Alaska State Representative

FROM: Kerry Romesburg, Executive Director
Alaska Commission On Postsecondary Education

DATE: January 19, 1983

As you requested, I am forwarding the latest estimates on the Alaska Student Loan Program for 1982-83. The Legislature originally appropriated $59 million for 1982-83 loans, and as of January 14, 1983, we reached our account maximum (which was actually $65 million - allowing for $6 million in loan refunds and cancelled awards). Loans were made to 13,556 Alaskans.

We estimate that about 1,400 more persons may wish to apply for a loan (largely for vocational or summer programs) between now and June 30. The average loan requested will be around $2,500, so that makes us $3.5 million short of full-funding. With refund rates at present, $3 million would probably be sufficient to actually fund all applicants.

Students wishing to attend school beginning after June 30 need to apply on our 1983-84 applications, and their awards will be dependent upon legislative action taken this session.

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

M E M O R A N D U M

TO: Rep. Mae Tischer, Chairman
House HESS Committee

FROM: Rep. Barbara Lacher

DATE: February 3, 1983

SUBJECT: Hearing on HB113, "a supplemental appropriation for the scholarship revolving loan fund"

I would like to postpone the hearing on HB113 until at least next Friday, February 11th. The reason is that we are in the process of determining how much money will be needed to fully fund the spring and summer terms; the amount needed will be lower than initially requested because of AS 14.43.120(c) which requires that a student "must continue to be enrolled as a full time student in good standing..." (emphasis added) to maintain a loan. The Commission has defined a "full time student in good standing" by regulation to mean that a student must carry at least 12 credit hours per term and maintain at least a 2.0 cumulative grade point average. To date, we can bring into the system approximately $1 million in funds from students whose G.P.A. fell below the minimum or who were not enrolled as full time students as required by statute and regulation. Because final determination of student's "full time/good standing" has not yet been made at the University of Alaska-Fairbanks, the exact dollar amount that will be brought back into the system -- and therefore not requested in the supplemental -- cannot yet be determined. The final, firm numbers will be available by next Friday. I would hope we could delay hearing on this bill until we can determine the actual dollar amount that will be needed to fund the spring and summer terms.

I certainly appreciate your consideration and patience in postponing the hearing scheduled for this Friday. I'm sure you'll agree that the best interests of the state will be served by delaying action on the bill until the final need for state funds is determined.

Thank you.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

February 1, 1983

SUBJECT: Members of the State Board of Education

TO: Senator Paul Fischer

FROM: Billy G. Berrier
Director
Division of Legal Services

You have furnished us a copy of an opinion issued by the Department of Law, dated April 10, 1980, which holds that membership on a local school board is incompatible with membership on the State Board of Education.

You have asked whether in our opinion, the same reasoning would apply to teachers.

In my opinion the conclusion reached by the Attorney General is correct and the same reasoning would apply to teachers.

BGB:ljb

MEMORANDUM State of Alaska

TO: Vicki A. Clayman
Special Assistant to the Governor

DATE: April 10, 1980

FILE NO: J-66-568-80

TELEPHONE NO: 465-3666

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

By:
Rodger W. Pegues
Assistant Attorney General

SUBJECT: Holding of incompatible offices by members of Board of Education

You have asked whether members of the state Board of Education may also be members of local school boards. You have also asked whether a conflict exists where a member of the state board is the spouse of the lobbyist for the state association of school administrators.

The rule is that, as a matter of law, dual membership on the state and local boards creates an impermissible conflict of interest but spousal relations must be treated on a case-by-case basis.

The members of the state board are state officials who, collectively, constitute the head of the Department of Education. AS 14.07.075. The department exercises general supervision over the public schools. AS 14.07.020(1). It enters into contractual agreements with local districts. AS 14.07.030(10). It withholds money from districts which do not comply with the state school laws and regulations. AS 14.07.070. The department has the final authority over local school consolidation. AS 14.08.101(b). It controls school bus contracts. AS 14.09.010. In sum, the state board occupies a supervisory position with respect to the local boards, and it would be improper for a member's impartiality to be influenced by dual membership on a local board.

The principles of law related to holding incompatible offices have been articulated as follows:

> Public policy demands that an officeholder discharge his duties with undivided loyalty. The doctrine of incompatibility is intended to assure performance of that quality. Its applicability does not turn upon the integrity of the person concerned or his individual capacity to achieve impartiality, for inquiries of that kind would be too subtle to be rewarding. The doctrine applies inexorably

> if the offices come within it, no matter how worthy the officer's purpose or extraordinary his talent.

3 McQuillin, MUNICIPAL CORPORATIONS § 12.67 at 295-296 (1973) (citation omitted).

> [I]ncompatibility . . . is not simply a physical impossibility to discharge the duties of the two offices at the same time, it is an inconsistency in the functions of the two offices, as where . . . a contrariety and antagonism would result in an attempt by one person to discharge faithfully and impartially the duties of both. The two offices are said to be incompatible when the holder cannot in every instance discharge the duties of each. Incompatibility arises, therefore, from the nature of the duties of the offices . . . where the nature and duties of the two offices are such as to render it improper from considerations of public policy for one person to retain both. The true test is whether the two offices are incompatible in their nature, in the rights, duties, or obligations connected with or flowing from them.
>
> * * *
>
> Neither is it pertinent to say that the conflict in duties may never arise, it is enough that it may, in the regular operation of the statutory plan. Nor is it an answer to say that if a conflict should arise, the incumbent may omit to perform one of the incompatible roles. The doctrine was designed to avoid the necessity for that choice.

Id., at 297 (citations omitted).

In Anderson v. City of Parsons, 496 P.2d 1333, 1336 (Kan. 1972), the court articulated the rule to be:

> [A] public officer owes an undivided duty to the public whom he serves and is not permitted to place himself in a position that will subject him to conflicting duties . . . .

A member of the state Board of Education places himself in just such a position if he is also an officer of a local district. His duty as the former is to the state at large; */ his duty as the latter is to his district. It makes no difference that the person involved is capable of conscientiously wearing both hats. The public is entitled not only to the actuality of undivided loyalty but also its appearance. People v. Rhodes, 524 P.2d 363 (Cal. 1974); 67 C.J.S. Officers § 27 (1978); cf., Begich v. Jefferson, 441 P.2d 27 (Alaska 1968).

Accordingly, we must conclude that a person may not serve on both the state board and a local board.

Whether the spouse of a lobbyist for an association of school officials may serve on the state board presents a different question. There is no holding of incompatible offices by the member here. Rather, the situation is that each spouse is holding an office which could not be held by the same person. As a matter of law, the existence of the spousal relationship does not, in most instances, disqualify one from offices. **/ A judge's spouse may be an attorney; but the judge could not in ordinary circumstances sit on a case in which the spouse was an attorney of record. In the situation you describe, it seems that the spouses' activities are not so inextricably and continuously interconnected that the appearance of a conflict of interest would be inescapable. If this is so, then the board member is not necessarily disqualified.

Under the legal principles enunciated above, the public is entitled not only to the actuality of the member's undivided loyalty but also its appearance. Accordingly, the board member must be particularly sensitive to any appearance of impropriety and should not hesitate to abstain from participating in matters where there might be a conflict of interest.

RWP/pjg

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*/ Members of the state board are selected on a geographic basis so that all areas of the state are represented. That a member is selected from an area makes him no less responsible to the public as a whole.

**/ Of course, the fact of being married or unmarried can have no bearing legally on one's qualifications for a position. AS 18.80.220.

Rep. Tricker

February 11, 1982

Distributed @ 3:15

To: House HESS Committee Members

From: Linda Otey, Committee Assistant

Re: Confirmation Hearings Scheduled for Monday, 2-14-82
Resume's attached

The attachments are resume's regarding the Governor's appointments to the State Board of Education. This meeting has been scheduled for joint conference with the Senate HESS Committee on Monday, February 14, 1982 in the Senate Finance room.

The only resume' unavailable at this time is that of Mr. Barney Gottstein. Mr. Gottstein is also out of the state presently and will not be able to attend the confirmation hearings scheduled for Monday. The Board of Education is meeting in Jundau on the 14th and 15th of next week; consequently the other appointees will be in attendance at the joint hearing.

8/70 - 5/71	Principal Teacher Belkofski School Belkofski, AK
3/31/71 - 4/2/71	American Freezer Ship Seattle, Salvage F/V Tressa Lee
4/3/71 - 4/6/71	Fred Devine Diving & Salvage, Salvage F/V Tressa Lee
6/71 - 8/71	Student Kansas State Teachers College, twelve credits
8/71 - 5/72	Teacher- Gr. 3-4-5 St. George School, St. George, AK
6/72 - 8/72	Labor, carpenter, National Marine Fisheries Service in St. Paul Island, AK 1st full summer in Alaska!
9/72 - 5/73	Principal teacher St. George School, Gr 4-5-6
6/73 - 8/73	Ottawa Police Department, Last full summer out of Alaska
8/73 - 5/74	Elementary & Secondary Teacher , Sand Point School, Sand Point,
6/74 - 9/74	General help Aleutian Commercial Co., Sand Point, AK
6/74 - 2/75	City Clerk - Treasurer City of Sand Point
9/74 - 5/75	Elementary: Gr. 5-6; Secondary - Social Science Sand Point School, Sand Point, AK
1/75 - 6/76	City Treasurer City of Sand Point
6/75 - 3/76	Carpenter - Bookkeeper Shumagin Homes Construction
8/75 - 5/76	Teacher Elementary: Gr. 6-7 and Secondary Social Science Sand Point School, Sand Point, AK
Summer 1976	Aleutian Commercial Company, clerk, bookkeeper
8/76 - 5/77	Teacher- Assistant Principal Sand Point Schools
Summer 1977	Aleutian Commercial Company, clerk, bookkeeper
7/77 - 5/78	Builder-owner of Development One, 5 plex 4,600 sq ft Sand Point, AK
6/78 - 8/78	Builder, foundation of new Aleutian Commercial Company Store in Sand Point
8/78 - 6/79	Designer- Builder-owner of Harborview Apartments, 8 units, 6,000 sq ft., Sand Point, AK
7/80 - 4/81	Builder-owner of Oceanview Apartments, 10 units, 7,500 sq ft., Sand Point, AK
7/80 - 4/81	Builder-owner of Westview Apartments, 6 units, 5,000 sq ft., Sand Point, AK
4/81 - 8/82	Consultant-Assistant Manager Aleutian Commercial Company Sand Point, AK
8/82 - present	Manager, Aleutian Commercial Company Sand Point, AK

PROFESSIONAL ORGANIZATION

Member of Lions Club, Sand Point Chapter

R E S U M E

SAM KITO, JR.

2550 Denali Street
Suite 1606
Anchorage, Alaska 99503

PRESENT POSITION:

President
Sam Kito, Jr. & Associates

EDUCATION:

Petersburg High School
Petersburg, Alaska
Graduated: 1955

Western Washington College of Education
Undergraduate

MILITARY HISTORY:

February 11, 1957 - November 21, 1960
United States Marine Corps
Served as an Electronics Technician
Honorably Discharged

MILITARY SCHOOL:

Electronics Fundamental "P" School - 1957
Communications Electronics "A" School - 1957-58

TECHNICAL SCHOOL:

Industrial Communications Electronics Course
RCA Institutes, New York
1961 and 1962
Graduated

MANAGEMENT SCHOOL:

RCA Management Training Seminar - 1967

LICENSES HELD:

FCC Radiotelephone First Class

RGANIZATIONS:

Commissioner--Rural Affairs Commission (State of Alaska)
Past Commissioner--Alaska Educational Broadcasting Commission
Past President--Fairbanks North Star Borough Board of Education
Past President--Fairbanks Native Association
Past Director---Alaska Federation of Natives, Inc.
Past Director--Tundra Times
Past Vice President--Fairbanks Montessori Association
Executive Committee--Tanana Valley Economic Development Corp.
Member--Board of Regents, University of Alaska
Member--Governor's Advisory Committee on Telecommunications
Member--Board of Directors, Organ. for Management of Alaska's Resources
Member--Board of Directors, Arts Alaska
Member--Governor's Vocational Advisory Board
Member--Fairbanks Native Association
Past Member--State Vocational Education Advisory School Board

SULTANT:

University of Alaska Biomedical Satellite Communications Program
University of Alaska BIA School Board Training Program

LOYMENT HISTORY:

June 1977 to Present

President, Sam Kito, Jr. & Associates. I have provided services as a consultant/lobbyist to corporations and organizations providing expertise in cultural, social and economic development in the rural areas of the State. I have served as a consultant to the following companies: ALASCOM, Inc., Alaska 100 Insurance, Inc., Morrison-Knudsen Company, Inc., Doyon, Ltd., Goldbelt, Inc., Alaska Federation of Natives, Arctic Slope Regional Corporation, Alaska 1984, Cook Inlet Region, Inc., Sealaska, Inc.

June 16, 1975 to June, 1977:

President, Alaska Federation of Natives, Inc., Anchorage, Alaska. My duties were overall administrative responsibility for all employees of AFN, Inc. I had under my direction all departments of AFN, Inc., which included Land Claims, Human Resources, Technical Assistance, Alaska Student Higher Education Services, Health Careers, Bush Justice, Accounting and the Office of Minority Business Enterprises.

March 1973 to June 15, 1975

Executive Vice President of Doyon, Ltd.; Fairbanks, Alaska. My duties were overall administrative responsibility for all employees of Doyon, Limited. Under my direction were the departments of Land, Community Services, Finance, Legal, Administrative and Economic Development.

PLOYMENT HISTORY: (cont.)

February 1972 to March 1973

Executive Director of the Tanana Chiefs Conference, Fairbanks, Alaska. My duties were overall administrative responsibility for all employees in all programs contracted by the Tanana Chiefs Conference. There were 30 full-time employees under my direction. During this period, Doyon, Limited, contracted all implementation functions of the Alaska Native Claims Settlement Act to the Tanana Chiefs Conference.

June 1971 to February 1972

Executive Director of the Fairbanks Native Association, Fairbanks, Alaska. My duties were overall administrative responsibility for all programs administered by the FNA. These included a $193,000 Monel Urban Indian Center Grant, a $284,000 BIA general assistance contract, and a contract for the Boarding Home Program. I was responsible for implementing the programs as outlined by the Model Urban Indian Center grant. There were 18 full-time employees and 6 part-time employees under my direction.

August 1967 to June 1971

Operations Controller for RCA Service Company, Gilmore Creek, Fairbanks. Duties were the overall administative and technical responsibility for group activities. This included delegating work assignments, supervising activities and providing technical assistance when required. Technicians under my direction operated and maintained unique ground equipment for Nimbus weather satellites.

May 1966 to August 1967

Leader Test and Validation Activity, RCA Service Company, Kennedy Space Center Communications Project, Merritt Island, Florida. My duties were the overall administative and technical responsibility for group activities. This included delegating work assignments supervising activities, and providing technical assistance when required. Technicians under my direction were responsible for the operation and maintenance of all voice, data, and A2A video wide band circuits and equipment at the Kennedy Space Center.

August 1962 to May 1966

RCA Service Company, Anchorage, Alaska--White Alice Project. My duties were the operation and maintenance of REL-39 Tropospheric Scatter Transmitters and Receivers and associated carrier equipment and systems.

Prior to my employment in the White Alice Project, I attended school.

STATE OF ALASKA

OFFICE OF THE GOVERNOR
Pouch A
Juneau, Alaska 99811

JAN 27 '83

BOARDS AND COMMISSIONS RESUMÉ

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resumé. The initial determination of whether you qualify for the position specified will be based on this application.

Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Position for which I am applying:
STATE BOARD OF EDUCATION

Please list any other Board or Commission on which you serve:

Name	Previous Name applied under
ERNESTINE J. GRIFFIN	
Mailing Address: BOX 808	Residence Address: 109-HARBOR MT. ROAD
City, State and Zip Code: SITKA, ALASKA 99835	
Home Telephone: 747-3319	Business or Message Telephone: 747-8611

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

AS 39.05.100 requires that a person appointed to a board or commission be a registered voter before the last general election:

Are you a registered voter? ☒ YES ☐ NO

Voter Registration Number (Optional)

Social Security Number (Optional)
531-32-0110

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years? ☐ YES ☒ NO

If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency and relationship to the board position applied for will be evaluated and a determination will be made after a review of all relevant facts.

A policy in the Governor's Office pertaining to boards and commissions is that a member attend at least 75% of the meetings. Are there any circumstances in either your professional or personal life which would prevent you from participating at the required authorized meetings? ☐ YES ☒ NO

If "YES", explain on a separate sheet of paper and attach to this application.

This position may require that the member travel to either urban or rural (or both) areas. Are there any circumstances which would prevent you from participating?

NO

CONFLICTS OF INTEREST: Certain Boards and Commissions require full disclosure of personal financial data under AS 39.50.010. If required for the Board or Commission for which you are applying, are you willing to do so? ☒ YES ☐ NO

Could you or any member of your family be affected financially be decisions to be made by the Board or Commission for which you have applied?
☐ YES ☒ NO If "YES", explain.

The Office of the Governor will not discriminate against an applicant for a Board or Commission based on Sex, Age, National Origin, Marital Status, Pregnancy, Handicap, Religion or Parenthood.

TRAINING & EXPERIENCE: (If résumé attached, it is not necessary to complete items A-D)

A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

B. List both formal and informal education and training experiences: (Use additional paper if necessary)

UNIVERSITY OF WASH. - 1954-56 HOME EC. & BUSINESS ADM.
SEATTLE FIRST NAT'L BANK - MGMT TRAINING - 1955-1961
AMERICAN INSTITUTE OF BANKING — - 1955-1959
UNIVERSITY OF AK - HOTEL MGMT DEGREE -
JAYCEETES MEMBER - 1962-1964
TOASTMISTRESS CLUB MEMBER 1963-1966

C. List any community service positions, municipal government positions, state positions held, and list any awards received. These include both compensated and uncompensated positions (for example, president of a service organization or a mayor). Also include length of time served in the positions.

MEMBER OF SITKA SCHOOL BOARD 1975-1978
PRESIDENT - SITKA CHAMBER OF COMMERCE (1983)
V.P. " " " " 1982
BOARD MEMBER " " " " SINCE 1979 -
BOARD MEMBER SITKA VISITOR BUREAU - SINCE 1982
MANAGER - SITKA CHAMBER OF COMMERCE - JUN 1980 - JUN 1981
MEMBER OF BOARD - VOC. ED, SITKA COMM. COLLEGE

D. Employment work history: paid, unpaid or voluntary: (Use additional paper if necessary)

SEATTLE FIRST NAT'L BANK - 1955-1961
NAT'L BANK OF ALASKA - 1961-1964
COLLECTIONS & ACCOUNTING SERVICE FOR THE FOLLOWING:
WALTER MASSEY, O.D. - SITKA
RUSSELLS MEN'S STORE - SITKA } 1964-1972
TOTEM ELECTRIC - SITKA
MGR: SEA & SKI TRAILER COURT - 1963-1983 — (OWNER)
POTLATCH HOUSE (HOTEL, BAR & RESTAURANT) 1972-1983
BRIAN BLDG - (RENTALS) 1973-1974
OWNER "ERNIE'S CATERING" - 1962-1982
MGR: SITKA CHAMBER OF COMMERCE 1 YR.

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

SEX
☐ Male
☒ Female

ETHNIC BACKGROUND
☒ White ☐ Black ☐ Hispanic ☐ Alaska Native ☐ Asian or Pacific Islander ☐ American Indian

Date of Birth	Military Service (If applicable, give dates)
5/19/35	

CERTIFICATION: I swear that the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates or I may be removed from the position. I agree that the Office of the Governor may contact present or former employers or other persons who know me to obtain additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Ernestine J. Griffin — 1/10/83

Signature In Ink | Date

01-012(1/81) Back

STATE OF ALASKA

OFFICE OF THE GOVERNOR
Pouch A
Juneau, Alaska 99811

BOARDS AND COMMISSIONS RESUMÉ

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resumé. The initial determination of whether you qualify for the position specified will be based on this application.

Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Position for which I am applying:
STATE BOARD OF EDUCATION

Please list any other Board or Commission on which you serve:
NORTHWEST ARCTIC SCHOOL BOARD - MEMBER

Name	Previous Name applied under
MARY J. SCHAEFFER	N/A

Mailing Address	Residence Address
P.O. BOX 106	826 4th St. KOTZEBUE, AK.
City, State and Zip Code: KOTZEBUE, ALASKA 99752	
Home Telephone: (907) 442-3468	Business or Message Telephone: (907) 442-3880

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

AS 39.05.100 requires that a person appointed to a board or commission be a registered voter before the last general election:

Are you a registered voter? ☒ YES ☐ NO

Voter Registration Number (Optional)

Social Security Number (Optional) 574-12-7906

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years? ☐ YES ☒ NO

If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency and relationship to the board position applied for will be evaluated and a determination will be made after a review of all relevant facts.

A policy in the Governor's Office pertaining to boards and commissions is that a member attend at least 75% of the meetings. Are there any circumstances in either your professional or personal life which would prevent you from participating at the required authorized meetings? ☐ YES ☒ NO

If "YES", explain on a separate sheet of paper and attach to this application.

This position may require that the member travel to either urban or rural (or both) areas. Are there any circumstances which would prevent you from participating?

NO

CONFLICTS OF INTEREST: Certain Boards and Commissions require full disclosure of personal financial data under AS 39.50.010. If required for the Board or Commission for which you are applying, are you willing to do so? ☒ YES ☐ NO

Could you or any member of your family be affected financially be decisions to be made by the Board or Commission for which you have applied?

☐ YES ☒ NO If "YES", explain.

The Office of the Governor will not discriminate against an applicant for a Board or Commission based on Sex, Age, National Origin, Marital Status, Pregnancy, Handicap, Religion or Parenthood.

01-012(2/81)

TRAINING & EXPERIENCE: (If résumé attached, it is not necessary to complete items A-D)

A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

3. List both formal and informal education and training experiences: (Use additional paper if necessary)

MANAGEMENT TRAINING - GRID - ON COMMUNICATIONS, SUPERVISION, AND DECISION MAKING.

C. List any community service positions, municipal government positions, state positions held, and list any awards received. These include both compensated and uncompensated positions (for example, president of a service organization or a mayor). Also include length of time served in the positions.

SEE ATTACHED

D. Employment work history: paid, unpaid or voluntary: (Use additional paper if necessary)

SEE ATTACHED

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

SEX
☐ Male
☒ Female

ETHNIC BACKGROUND
☐ White ☐ Black ☐ Hispanic ☒ Alaska Native ☐ Asian or Pacific Islander ☐ American Indian

Date of Birth	Military Service (If applicable, give dates)
6-7-40	

CERTIFICATION: I swear that the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates or I may be removed from the position. I agree that the Office of the Governor may contact present or former employers or other persons who know me to obtain additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature In Ink	Date
Mary J. Schaffer	1-24-83

R E S U M E'

NAME: Mary J. Schaeffer
AGE: 42 (Born at Kotzebue, Alaska 6-7-40
MARITAL STATUS: Married 12-25-59: we have nine children (five own and four foster)

EDUCATION:
Completed High School: 4 years Mt. Edgecumbe High School, Sitka Alaska

LANGUAGE SKILLS: Speaks fluent English and Eskimo (Inupiak)

EMPLOYMENT HISTORY:
1. September 24, 1980 to present
Title: Legislative Information Officer, Division of Public Services.
Duties: Set up and opened the Legislative Information Office. Prepare participants for teleconference and public hearings using the teleconference network. Monitor the IBM, CRT and teleconference equipment. Provide information on legislative activities to the general public and facilitate public participation in the legislative process. Handle all the administrative duties including correspondence, billings, etc. Provide current information on legislative activities to residents in the NANA Region using terminals on site. Supervise one assistant.

EMPLOYMENT HISTORY:
2. May 1, 1978 to September 16, 1979
Title: Director, Kotzebue Senior Citizens Center, Mauneluk Association
Duties: Had overall responsibility for the management, supervision, and administration of the Senior Center. Was responsible for the physical facility, equipment, furniture, supplies and other property therein. Worked with the Senior Center Board in employing, screening, interviewing and recommending names of applicants for either employment or clients. Worked with the Board and maintained a constant supervision of the total operation of the Center to assure the full service as perscribed by the Center for the well-being of all the clientle. Worked with the Board to enter into any agreements with other Agencies or organizations for specific services. Supervised twelve employees, employed in the Center as kitchen staff, housekeeping, janitors and Licensed Practical Nurse or Nurses Aides. Was responsible for arranging regular in-service staff orientation and training programs for the continual proficiency and efficiency in providing the ultimate services, services to the elderly. Maintained liaison and communications with Mauneluk Association, Offices of the State of Alaska, Bureau of Indian Affairs, Indian Health Services, Public Health Services and related organizations to help develope resources and programs for the Elderly including Public relations, Recruitment, consumer education, training, technical assistance and appropriate reporting and accountability of the Center's operation. Performed other duties as they arise.

R E S U M E

Name: Mary J. Schaeffer
Age: 52 (Born at Kotzebue 6-7-40)
Marital Status: Married 12-25-59; we have nine children (five own and four foster)

Education:
Completed High School: 4 years Mt. Edgecumbe High School, Sitka, Ak.

Language Skills:
Speaks fluent English and Eskimo (Inupiak)

Cultural Background:
I was raised in the Village of Noatak until I was 11 years of age. The main language spoken was the Eskimo language. It was not until we moved to Kotzebue that the English language was mandatory. Our means of trasportation was dogsled in the winter months and boats in the summer. We lived in tents from April until last August gathering food for the winter months.

Employment History:

1. Maunaluk Association: promoted as Vice-President for Management and Planning, December, 1976 provides leadership, guidance and coordination in the planning, development, operation and evaluation of the delivery of services in the areas of Health, Education, Manpower and Planning; develops and demonstrates new methods and techniques for community participation in and management of their health programs; provides consultation and technical assistance in the evaluation, design, and implementation of health management and corporations delivery system; and coordinates health development activities within the Northwestern region directed to the improvement of the health of the people.

2. Hired as an "ONAP" Program Director to initiate efforts of increase the amount of self-determination afforded to the natives of Northwest Alaska with the passage of the Indian Self-Determination Act (P.L. 93-638). Maintain close contact with Bureau of Indian Affairs personnel in Juneau and Nome; act in liason role and close communciation with eleven (11) village Tribal Governing Bodies within the Region; attend Contract Managers Committee meetings within the State of Alaska as a representative of the NANA Region; travel to villages attending Tribal Governing Body Meetings in order to facilitate an exchange of information and ideas on program contracting; hold regional workshops with representatives from each Tribal Governing bodies within the region; help develop contract proposals that reflect self-determination for the design and operation of Bureau of Indian Affairs programs that impact the NANA Region.

Bureau of Indian Affairs (Juneau, Alaska)

Was employed as an Employment Assistance Specialist: opened up a Sub-Agency office in Kotzebue; assisted in the development and carrying out of the program which included Adult Vocational Training; Direct employment and Pipeline hire of Natives within the NANA Region. Travelled to eleven (11) villages within the region and had contact with the village governing bodies.

Bureau of Indian Affairs (Kotzebue, Alaska)

Hired as an Administrative Assistant at the Kotzebue Community School and was reponsible for the upkeep and submitting time and attendance for 107 employees; prepared all personnel action forms; GTR's; maintained records of all requisition for the school operation.

Bureau of Indian Affairs (Nome, Alaska)

Was hired as an Employment Assistance Aide. I interviewed, Screened and counseled Adult Vocational Training and Direct Employment Clients interested in securing training or employment. Contracted and made all necessary travel and medical arrangements; compiled all monthly and yearly reports and acted as an Employment Assistance officer in the absence of the officer making decisions based on my knowledge.

Bureau of Indian Affairs (Anchorage, Alaska)

Was hired as a clerk (IMF) in the Realty Branch. Typed documents on Native allotments; townsite lots; homestead, and maintained files on reports; record books on Native allotments, also made decisions in the absence of the Realty Officer based on my knowledge.

Bureau of Indian Affairs (Nome, Alaska)

Was hired as a clerk (IMF) and worked in the clerical field maintaining files on Tribal Operations; Realty and Civil Services records; typed necessary correspondence and helped with draft resolutions for the governing bodies within the Bering Straits and NANA Region.

Public Health Service (Kotzebue, Alaska)

Was hired as a Dental Assistant in Kotzebue on temporary basis. Worked closely the dentist, chairside assisting, patients preparatory work; sterilizing instruments; daily reports and giving as many children as we can flouride treatments.

Voluntary Work:

Helped at the elders workshop sponsored by NANA Region Corporation gathering Eskimo history to preserve our cultural heritage. Helped translate in the Eskimo Language workshop conducted by the NANA Retional Corporation, in village hearings on important issues such as the Caribou Disaster; Alaska Land Claims implementation, Etc.

Civic Organizations:

Secretary, newly organized Regional School Board created under Senate Bill 35.

PAST
Member - State Advisory Council - Vocational Education

Registered agent for the Northwest Inupiat Elders' Conference

Member of Chamber of Commerce
Girls' Scout Leader
Member of Kotzebue Community Youth Council

PAST
Executive Director, Association of School Boards

Panel Member, Native Arts Council

Member, Inupiak Language Commission

Secretary, Statewide Elders Conference

STATE OF ALASKA

OFFICE OF THE GOVERNOR
Pouch A
Juneau, Alaska 99811

BOARDS AND COMMISSIONS RESUMÉ

INSTRUCTIONS

A separate application is required for each position for which you apply. Complete and specific answers will aid in rapid and accurate processing of your resumé. The initial determination of whether you qualify for the position specified will be based on this application.

Please type or print legibly in ink. Forward to the above address. Be sure your answers are true. A willfully false answer may result in your disqualification or removal from office if you are appointed.

Position for which I am applying:

Alaska State Board of Education

Please list any other Board or Commission on which you serve:

Name	Previous Name applied under
Sue T. Hull	
Mailing Address	**Residence Address**
1630 Washington Dr.	same
City, State and Zip Code	
Fairbanks, Ak. 99701	
Home Telephone	**Business or Message Telephone**
479-5729	479-3644

REPORT ADDRESS AND TELEPHONE CHANGES PROMPTLY

AS 39.05.100 requires that a person appointed to a board or commission be a registered voter before the last general election.

Are you a registered voter? ☒ YES ☐ NO

Voter Registration Number (Optional) —

Social Security Number (Optional) 529-80-8187

Have you ever been convicted of a misdemeanor within the past five years or a felony within the past ten years? ☐ YES ☒ NO

If "YES", explain the circumstances on a separate sheet of paper and attach it to this application. A conviction is not necessarily grounds for disqualification. The number of convictions, nature, recency and relationship to the board position applied for will be evaluated and a determination will be made after a review of all relevant facts.

A policy in the Governor's Office pertaining to boards and commissions is that a member attend at least 75% of the meetings. Are there any circumstances in either your professional or personal life which would prevent you from participating at the required authorized meetings? ☐ YES ☒ NO

If "YES", explain on a separate sheet of paper and attach to this application.

This position may require that the member travel to either urban or rural (or both) areas. Are there any circumstances which would prevent you from participating?

No

CONFLICTS OF INTEREST: Certain Boards and Commissions require full disclosure of personal financial data under AS 39.50.010. If required for the Board or Commission for which you are applying, are you willing to do so? ☒ YES ☐ NO

Could you or any member of your family be affected financially be decisions to be made by the Board or Commission for which you have applied?

☐ YES ☒ NO If "YES", explain

The Office of the Governor will not discriminate against an applicant for a Board or Commission based on Sex, Age, National Origin, Marital Status, Pregnancy, Handicap, Religion or Parenthood.

RECEIVED
MILO M. FRITZ, M.D.
FEB 9 2 40 PM '83

RESUME FOR DON IAN GRAY

(as of 1/1/83)

Degrees and Certificates:
A.B. Stanford University -- Anthropology (1966)
M.A. Stanford University -- Secondary Education (1970)
additional coursework--University of Alaska & Alaska Pacific University.
Alaska Administrative credential and teaching credential
California Teaching Credential (Life) and Administrative Credential

Employment:
- American Peace Corps 1966-68 (West Bengal, India)
- Education Officer, Letterman Hospital, San Francisco 1969
- Teacher, Mission San Jose H.S., Fremont, CA. 1969-70
- Teacher, Lathrop High School, Fairbanks, Ak. 1970-present (Asian & European History, Government, Geography)
  (Extracurricular: Varsity Track Coach, Freshman/Sophomore Class Sponsor, Principal's Advisory Committee, Superintendent's Advisory Committee)

Summer Employment:
- Group leader, Experiment in International Living (to Italy) summer 1970
- Driller's Assistant, United Geophysical Corp., Itkilik River & Umiat, Alaska summer 1974
- Tour guide & Bus Driver, Westours Corp., Fairbanks, Ak. summer 1975
- Program Co-ordinator, Alaska Honors Institute for Gifted/Talented; University of Alaska, Fairbanks summer 1981

Honors:
- Fulbright-Hayes Exchange teacher to Great Britain (1978-79)
- National Merit Finalist 1962
- California State Scholarship 1962-66
- National Prospective Teacher Fellowship 1969
- Invitee, NASA Public Service Communications Satellite User Requirements Workshop; Easton, MD 1976
- NEA Pan-Pacific Satellite Project moderator 1975-77 (ATS-6 series)

Organizations and Offices:
- Fairbanks Education Association--Treasurer (1971), Secretary (1972), President (1974), Executive Board
- NEA/Alaska, State Delegate to Representative Assembly (Atlantic City 1972), (Chicago 1974), (Miami 1976), (Minneapolis 1977), (Dallas 1978)
  State delegate to National Resolutions Committee, R.A. 1978
- Phi Delta Kappa education fraternity--President 1981
- National Council for the Social Studies

- Alaska Democratic Party: Precinct chairman, delegate to district and State conventions (1974, 1976, 1978, 1980 & 1982)
- Festival Fairbanks 84 Committee
- Arctic Winter Games-1982 Snowshoe Events Chairman
- Immaculate Conception Catholic Church, Adult Religious Education Advisory Committee, 1979-present

Personal:
- Married to Nalie Carolyn Burgin Gray
- Two daughters: Anne Emily and Julia Gabrielle Gray

R E S U M E'

William R. Eubank
P.O.Box 112
Sand Point, Alaska
383-2377

OCCUPATION:

Manager, Aleutian Commercial Company, Inc.
Owner, Manager: Shumagin Homes, Inc.
Development One Apartments
Harborview Apartments
Oceanview Apartments
Westview Apartments
Propane Services of Sand Point
Island Laundry
Aleutian Cycle-Auto-Truck

EDUCATION:

-Graduate Raytown High School, Raytown, Missouri 1959-1963

-B.A. Sociology-History; Ottawa University, Ottawa, KS 1963-1967

-Masters Secondary Education - History; Kansas State Teachers College, Emporia, KS 1967-68 - Full H.E.W. Fellowship

-Credits Alaska Methodist University
Anchorage Community College
Kansas State Teachers College

CHRONOLOGY:

Summer 1960,61,62	Boy Scouts of America, Camp Osceola, Missouri
9/64 - 5/65	Salesman Ottawa University CAMPUS advertisement
10/64 - 5/65	Teachers aide Lincoln Grade School, Ottawa, Kansas
10/64 - 5/66	Receptionist, Head Receptionist Ottawa U.Union Desk
9/65 - 12/65	Business Manager, Ottawa University CAMPUS
9/63 - 5/67	Student Ottawa University, B.A. Sociology
6/65 - 8/68	Ottawa Police Department - full time dispatcher 10p.m. -6 a.m.
9/67 - 1/68	Adult Education Instructor, Headstart, David Clapsaddle
9/67 - 8/68	H.E.W. Fellowship, Kansas State Teachers College, Emporia KS
9/67 - 8/68	Student K.S.T.C., Masters in Secondary Education
6/68 - 8/68	Student Teacher, Boys Industrial School, Topeka, KS
8/68 - 6/69	Full Time Teacher McLaughlin Youth Center, Anchorage, AK
9/68 - 1/69	Student at A.M.U. three credits - Math
1/69 - 5/69	Student at Anchorage C.C. three credits Elementary Ed.
6/69 - 8/69	Ottawa Police Department - dispatcher
9/69 - 5/70	Principal - teacher Belkofski School, Alaska
1/70 - 3/70	1970 Census Crewleader
5/70 - 8/70	Ottawa Police Department - dispatcher
August 1970	Student University of Alaska one credit

February 11, 1982

To: House HESS Committee Members

From: Linda Otey, Committee Assistant

Re: Confirmation Hearings Scheduled for Monday, 2-14-82
Resume's attached

The attachments are resume's regarding the Governor's appointments to the State Board of Education. This meeting has been scheduled for joint conference with the Senate HESS Committee on Monday, February 14, 1982 in the Senate Finance room.

The only resume' unavailable at this time is that of Mr. Barney Gottstein. Mr. Gottstein is also out of the state presently and will not be able to attend the confirmation hearings scheduled for Monday. The Board of Education is meeting in Jundau on the 14th and 15th of next week; consequently the other appointees will be in attendance at the joint hearing.

R E S U M E'

William R. Eubank
P.O.Box 112
Sand Point, Alaska
383-2377

OCCUPATION:

Manager, Aleutian Commercial Company, Inc.
Owner, Manager: Shumagin Homes, Inc.
Development One Apartments
Harborview Apartments
Oceanview Apartments
Westview Apartments
Propane Services of Sand Point
Island Laundry
Aleutian Cycle--Auto-Truck

EDUCATION:

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-Masters Secondary Education - History; Kansas State Teachers College, Emporia, KS 1967-68 - Full H.E.W. Fellowship

-Credits Alaska Methodist University
Anchorage Community College
Kansas State Teachers College

CHRONOLOGY:

Summer 1960,61,62	Boy Scouts of America, Camp Osceola, Missouri
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9/65 - 12/65	Business Manager, Ottawa University CAMPUS
9/63 - 5/67	Student Ottawa University, B.A. Sociology
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9/68 - 1/69	Student at A.M.U. three credits - Math
1/69 - 5/69	Student at Anchorage C.C. three credits Elementary Ed.
6/69 - 8/69	Ottawa Police Department - dispatcher
9/69 - 5/70	Principal - teacher Belkofski School, Alaska
1/70 - 3/70	1970 Census Crewleader
5/70 - 8/70	Ottawa Police Department - dispatcher
August 1970	Student University of Alaska one credit

8/70 - 5/71	Principal Teacher Belkofski School Belkofski, AK
3/31/71 - 4/2/71	American Freezer Ship Seattle, Salvage F/V Tressa Lee
4/3/71 - 4/6/71	Fred Devine Diving & Salvage, Salvage F/V Tressa Lee
6/71 - 8/71	Student Kansas State Teachers College, twelve credits
8/71 - 5/72	Teacher- Gr. 3-4-5 St. George School, St. George, AK
6/72 - 8/72	Labor, carpenter, National Marine Fisheries Service in St. Paul Island, AK 1st full summer in Alaska!
9/72 - 5/73	Principal teacher St. George School, Gr 4-5-6
6/73 - 8/73	Ottawa Police Department, Last full summer out of Alaska
8/73 - 5/74	Elementary & Secondary Teacher , Sand Point School, Sand Point,
6/74 - 9/74	General help Aleutian Commercial Co., Sand Point, AK
6/74 - 2/75	City Clerk - Treasurer City of Sand Point
9/74 - 5/75	Elementary: Gr. 5-6; Secondary - Social Science Sand Point School, Sand Point, AK
1/75 - 6/76	City Treasurer City of Sand Point
6/75 - 3/76	Carpenter - Bookkeeper Shumagin Homes Construction
8/75 - 5/76	Teacher Elementary: Gr. 6-7 and Secondary Social Science Sand Point School, Sand Point, AK
Summer 1976	Aleutian Commercial Company, clerk, bookkeeper
8/76 - 5/77	Teacher- Assistant Principal Sand Point Schools
Summer 1977	Aleutian Commercial Company, clerk, bookkeeper
7/77 - 5/78	Builder-owner of Development One, 5 plex 4,600 sq ft Sand Point, AK
6/78 - 8/78	Builder, foundation of new Aleutian Commercial Company Store in Sand Point
8/78 - 6/79	Designer- Builder-owner of Harborview Apartments, 8 units, 6,000 sq ft., Sand Point, AK
7/80 - 4/81	Builder-owner of Oceanview Apartments, 10 units, 7,500 sq ft., Sand Point, AK
7/80 - 4/81	Builder-owner of Westview Apartments, 6 units, 5,000 sq ft., Sand Point, AK
4/81 - 8/82	Consultant-Assistant Manager Aleutian Commercial Company Sand Point, AK
8/82 - present	Manager, Aleutian Commercial Company Sand Point, AK

PROFESSIONAL ORGANIZATION

Member of Lions Club, Sand Point Chapter

HB
117

(7)

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY
FINANCE

1/26/83 Date: _____

Mr. Speaker:

The Committee on HESS has had HB 117

An Act relating to sexual abuse of a minor.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

M W. Miller Jr Pa

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

From
Gail Horestoki

COMMENTARY AND SECTIONAL ANALYSIS FOR THE PROPOSED CS FOR HOUSE BILL 117 (HEALTH, EDUCATION AND SOCIAL SERVICES); A BILL RELATING TO SEXUAL ABUSE OF A MINOR

Section 1. AS 11.41.430, Sexual Abuse of a Minor In the First Degree.

This section creates a new classification of offense, Sexual Abuse of a Minor in the First Degree. The section prohibits sexual penetration with a person who is under the age of 13 and at least three years younger than the actor. It also prohibits sexual penetration with a person under 18 who is entrusted to the actor's care by authority of law or because the person is his son or daughter, including illegitimate or adopted children and stepchildren.

Basically, this provision covers conduct which is currently classified as Sexual Assault in the First Degree, but the language here adds the requirement of a three year age difference between the actor and the victim. This requirement is added to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a felony. (Such behavior may in some circumstances be cause for parental concern, but it is not considered appropriate or useful to classify it as a crime.) Forcible sexual penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree (AS 11.41.410), an unclassified felony.

The language in this section addresses a problem which has arisen under the present sexual assault laws by deleting the requirement that the actor be 16 years of age or older. The provisions of the law are thus made applicable to juvenile offenders. This is important; studies of adult sexual offenders indicate that many convicted offenders began to commit sexual assaults in their early teen years. Early identification and treatment of juvenile sexual offenders may ultimately decrease the number of adult offenders.

Sexual Abuse of a Minor in the First Degree is a class A felony offense. It carries a maximum sentence of up to 20 years in prison, and a presumptive term of five years upon conviction for a first offense.

Section 2. AS 11.41.435, Sexual Abuse of a Minor in the Second Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Second Degree. It includes the offenses found in the current Sexual Abuse of a Minor statute (AS 11.41.440), with the addition of the requirement that the

actor be at least three years older than the victim. This language exempts teenagers who have consensual sexual relations with other teens near their own age (a 17-year-old boy and his 15-year-old girlfriend, for example) from prosecution. As in Section 1, above, the amendment deletes the requirement that the actor be 16 years of age or older, thus making the statute applicable to juvenile offenders who assault children much younger than themselves--the babysitter/toddler situation, for example.

Paragraph 3 creates a new offense to address an omission in the current law. Under current law sexual contact by a parent or guardian with his own child is prohibited only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). Since fondling of a child's genitals or breasts by a parent is a serious violation of the trust and authority relationships within a family, and is often the precursor of a more serious assault, this provision raises to the age of 17 those children who are protected under the law. This conduct is a class B felony offense, punishable by up to ten years in prison.

Section 3. AS 11.41.440, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Third Degree. Basically, this is the current Contributing to the Delinquency of a Minor statute raised from its present classification as an A misdemeanor to a class C felony offense. Class C felonies are punishable by up to five years in prison.

Staff Report
House bills 117,127,128
January 27, 1983

HB 117:

11.41.440

Under current statute, sexual abuse of a minor under 16 years of age is a class C felony.

As proposed by HB 117:

1. Sexual abuse of a minor under 13 years of age is a offense in the first degree and is a class B felony.

2. Sexual abuse of a minor aged 13 to 16 is sexual abuse in the second degree and is a class C felony.

HB 127:

12.55.125

Under current statute, the first felony conviction for sexual assault in the first degree, not involving firearms, use of a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 8 years. The proposal will change that sentence to 10 years.

Under current statute, the first felony conviction for sexual assault in the first degree involving firearms, a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 10 years. HB 127 changes that sentence to 12 years.

11.66.110

HB 128:

Under current statute, promoting prostitution is a class B felony. HB 128 provides that inducing or causing a person under 16 years of age to engage in prostitution is a class A felony.

ALASKA NETWORK ON DOMESTIC
VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 809

JUNEAU, ALASKA 99802
586-3650

HB 53

POSITION PAPER
HB117: An Act relating to sexual abuse of a minor

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of twenty-one programs statewide that provide domestic violence, sexual assault, and adult crisis intervention services to members of their respective communities. Network programs are funded in part through grants and contracts awarded by the Council on Domestic Violence and Sexual Assault.

The Network was established in 1978, and has as one of its primary focuses the elimination of domestic violence and sexual assault through provision of shelter, advocacy, and education/prevention services.

The Network maintains that, in cases involving sexual abuse of a minor, sexual contact and penetration are equally serious offenses that should be incorporated in the same felony classification.

The Network would strongly support a comprehensive overview of current statutes governing the prosecution, sentencing, and treatment of persons charged and convicted of sexual abuse of a minor.

Lear
3/14/83

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 117 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act revising the laws relating to sexual abuse of a minor."

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

* Section 1. AS 11.41 is amended by adding new sections to read:

Sec. AS 11.41.435. SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE. (a) A person commits the crime of sexual abuse of a minor in the first degree if

(1) that person engages in sexual penetration with a person who is under 13 years of age and at least three years younger than the offender or aids, induces, causes, or encourages a person who is under 13 years of age and at least three years younger than the offender to engage in sexual penetration with another person; or

(2) being 18 years of age or older, that person engages in sexual penetration with a person who is under 18 years of age and who

(A) is entrusted to that person's care by authority of law; or

(B) is that person's son or daughter, including an illegitimate or adopted child, or a stepchild.

(b) Sexual abuse of a minor in the first degree is a class A felony.

Sec. 11.41.437. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE. (a) A person commits the crime of sexual abuse of a minor in the second degree if

(1) that person engages in sexual contact with a person who

is under 13 years of age and at least three years younger than the offender, or aids, induces, causes, or encourages a person under 13 years of age and at least three years younger than the offender to engage in sexual contact with another person;

(2) being 18 years of age or older, that person engages in sexual contact with a person who is under 18 years of age and who

(A) is entrusted to that person's care by authority of law; or

(B) is that person's son or daughter, including an illegitimate or adopted child or stepchild; or

(3) that person aids, induces, causes, or encourages a person who is 16 years of age or younger to engage in conduct described in AS 11.41.455(a)(2)—(6).

(b) Sexual abuse of a minor in the second degree is a class B felony.

* Sec. 2. AS 11.41.440 is repealed and reenacted to read:

~~Sec. 11.41.440. SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE.~~ (a) ~~A person commits sexual abuse of a minor in the third degree if~~

(1) that person engages in sexual penetration with a person who is aged 13, 14, or 15, and at least three years younger than the offender, or aids, induces, causes, or encourages a person who is aged 13, 14, or 15, and at least three years younger than the offender to engage in sexual penetration with another person;

(b) ~~Sexual abuse of a minor in the third degree is~~ a class C felony.

* Sec. 3. AS 11.41.410(a)(4) is repealed.

DEPT. of LAW
3/25/83

COMMENTARY AND SECTIONAL ANALYSIS FOR THE PROPOSED 1983 AMENDMENTS TO ALASKA'S LAWS RELATING TO SEXUAL ASSAULT AND SEXUAL ABUSE OF A MINOR

Section 1. AS 11.41.410, Sexual Assault in the First Degree.

This section repeals subsections (a)(3) and (4) of the Sexual Assault in the First Degree statute. These subsections are reclassified in section 3, below, as Sexual Abuse of a Minor in the First Degree.

Section 2. AS 11.41.420, Sexual Assault in the Second Degree.

This section accomplishes two things. It amends the current Sexual Assault in the Second Degree statute to define the crime as "sexual contact with another person without consent of that person." The amended language is consistent with that used in the Sexual Assault in the First Degree statute, which prohibits sexual penetration without consent. Under the current Sexual Assault in the Second Degree law the prosecutor must prove that the victim was "coerced" to submit to the sexual contact by the express or implied threat of imminent death, imminent physical injury, or imminent kidnapping. Technically, the defendant's use of force without any threats may not be sufficient to establish this crime; felony charges have been lost through a literal application of these terms.

The second change which this section makes is to raise the current class C felony offense of Sexual Assault in

the Third Degree, penetration with a person who is suffering from a mental defect or is incapacitated, to Sexual Assault in the Second Degree, a class B felony punishable by up to ten years in prison.

Section 3. AS 11.41.430, Sexual Abuse of a Minor In the First Degree.

This section creates a new classification of offense, Sexual Abuse of a Minor in the First Degree. This new crime prohibits sexual penetration with a person who is under the age of 13 and at least three years younger than the actor. It also prohibits sexual penetration with a person under 18 who is entrusted to the actor's care by authority of law or because the person is his son or daughter, including adopted, illegitimate or stepchildren. Basically, this provision covers conduct which is currently classified as Sexual Assault in the First Degree, but the language here adds the requirement of a three year age span between the actor and the victim. This requirement is added to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a felony. Such behavior may in certain circumstances be cause for parental concern, but it is not considered appropriate or useful to classify it as a crime. Forcible sexual penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree, an unclassified felony.

These amendments address a serious omission in the present sexual assault laws by deleting the requirement that the actor be 16 years of age or older. The section is thus made applicable to juvenile offenders. This is an important consideration, as some studies of adult sexual offenders indicate that the offenders began to sexually assault in their early teen years. Early identification and treatment of juvenile sexual offenders may ultimately decrease the number of adult offenders. Sexual Abuse of a Minor in the First Degree is a class A felony offense. It carries a maximum sentence of up to 20 years in prison, and a presumptive term of five years upon conviction for a first offense.

Section 4. AS 11.41.435, Sexual Abuse of a Minor in the Second Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Second Degree. This includes the offenses found in the current Sexual Abuse of a Minor statute (AS 11.41.440), with the addition of the requirement that the actor be at least three years older than the victim. This language exempts teenagers who have consensual sexual relations with other teens near their own age (a 17 year old boy and his 15 year old girlfriend, for example) from prosecution for a felony. As in Section 3, above, the amendment deletes the requirement that the actor be 16 years of age or older, thus

making the statute applicable to juvenile offenders who assault children much younger than themselves--the babysitter/toddler situation, for example.

Subsection 3 creates a new offense to address an omission in the current law. Under current law sexual contact by a parent or guardian with his own child is prohibited only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). Since fondling of a child's genitals or breasts by a parent is a serious violation of the trust and authority relationships within a family, and is often the precursor of more serious sexual conduct, this provision raises the age of children covered to 17, and makes this conduct a class B felony offense punishable by up to ten years in prison.

Section 5. AS 11.41.440, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Third Degree. Basically, this is the current Contributing to the Delinquency of a Minor statute raised from its current classification as an A misdemeanor to a class C felony offense. Class C felonies are punishable by up to five years in prison.

Section 6. AS 11.51.130(a)(4), Contributing to the Delinquency of a Minor.

Section 6 repeals the "sexual contact" subsection of the present Contributing to the Delinquency of a Minor statute. The seriousness of this conduct has been increased in Section 5, above, to Sexual Abuse of a Minor in the Third Degree, a class C felony.

Section 7. AS 11.41.460, Indecent Exposure.

This section creates a new crime entitled Indecent Exposure, which is the intentional exposure of a person's genitals, buttock, anus or female breast to another person with reckless disregard for the offensive, insulting or frightening effect that the exposure that might have on the other person. Under current law this conduct is considered "Disorderly Conduct", a class B misdemeanor offense with a maximum penalty of ten days in jail. Some recent studies indicate that exposure is sometimes the first step for sex offenders who later increase the seriousness of their conduct to sexual contact or penetration. The current law treats this behavior much too leniently. This section raises the classification of Indecent Exposure to an A misdemeanor level if the object of the exposure is a child under the age of 16. The offense

remains a B misdemeanor if the witness to the exposure is an adult.

Section 8. AS 11.61.110(a)(7), Disorderly Conduct.

Section 8 repeals the current "exposure" subsection of the Disorderly Conduct statute. This conduct is included in the Indecent Exposure provisions set out in section 7.

Section 9. AS 12.10.020, Specific Time Limitation.

This section creates an exception to the general five year statute of limitations (AS 12.10.010) to allow prosecution for a sexual offense against a child to be commenced within one year after the child reaches the age of 16, or reports the crime to a law enforcement officer, whichever occurs first. The period of limitation cannot be extended by more than ten years, however. This change is necessary because sexual offenses against young children (especially intrafamilial abuse) are frequently not discovered until the child reaches sufficient maturity to realize the wrongfulness of the conduct and to identify those adults to whom the conduct may safely be reported. A child of 12, 13 or 14 will often report for the first time sexual abuse which has been occurring since he or she was 4 or 5 years old. While the most recent assaults may be prosecuted, these offenses may be classified as less serious

than the earlier ones, because of the child's older age. In those situations where the sexual abuse has been a continuing course of conduct which spans several years of a child's life the trier of fact should be entitled to reach and consider all aspects of the adult's conduct.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 117 Date on Bill: 1/26/83
Title: An Act Relating to sexual abuse of a minor
Sponsor: Representative Pestinger
Requestor: House HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

				FY 83	FY 84	FY 85	FY 86			
Capital										
Operating										
Total				-0-	-0-	-0-	-0-			

b. Revenues:

Revenue										

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/28/83

Approved by Commissioner: [signature] Date: 2/28/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

HB 117, 127, 128

Dave Palmer

Brenda Stephens
Box 699
Soldotna, Ak. 99669
262-4643

FEB 21 1983

I would like to see stronger support for changes in our state statutes regarding sexual abuse of minors.

I realize that statistics can be used in a variety of ways. This is a problem that I see first-hand, not as statistics in my local paper. I work as a crisis volunteer for the women's center in Soldotna and see a need for more teeth in our laws protecting our young people from abusive adults.

I urge you to consider the recommendations made by Gayle Horetski to the House Health, Education and Social Services Committee.

Please, let's protect our young people.

Brenda Stephens

cc: Don Gilman, Paul Fischer, Hugh Malone, Nels Fritz, Bette Cato

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 117
Title "An Act relating to sexual abuse of a minor"
Requested by Representative Pestinger Date Jan. 26, 1983

II. FISCAL DETAIL

Agency Affected Health & Social Services
Program Category Affected Offender Confinement Reformation & Supervision
BRU, Program or Subprogram(s) Affected Adult Confinement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS ETC.						
	TOTAL	2044.0	-0-	64.1	370.0		

FUNDING (Thousands of Dollars)

GENERAL FUND	2044.0	-0-	64.1	370.0		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill relates to the crime of sexual abuse of a minor in the first and second degrees.

IV. DATE February 4, 1983 PREPARED BY Roger C. Lange
AGENCY Division of Adult Corrections
PHONE 465-3376

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

33-001 (Rev. 12/79)

BILL NUMBER House Bill No. 117

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES				261.2		
200	TRAVEL				1.8		
300	CONTRACTUAL			14.0	50.0		
400	COMMODITIES			45.9	48.7		
500	EQUIPMENT				2.0		
600	LAND & STRUCTURES	2044.0					
700	GRANTS, CLAIMS ETC.			4.2	6.3		
	TOTAL	2044.0		64.1	370.0		

FUNDING (Thousands of Dollars)

GENERAL FUND	2044.0		64.1	370.0		
FEDERAL FUNDS						
OTHER(Specify Fund Source)						

POSITIONS

FULL TIME				5.6		
PART TIME						
TEMPORARY						

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

The enactment of House Bill No. 117 will result in changing the offense of sexual abuse of a minor who is under 13 years of age from a Class C to a Class B felony. Conviction for this offense will result in longer sentences.

For purposes of this fiscal analysis, the following information was used:

1. There have been approximately 45 convictions annually for the crime of sexual abuse of a minor.
2. An assumption is made that 22 (approximately 50%) of the current convictions would be for the crime of sexual assault of a minor under 13 years of age.
3. Sentencing data for Class B and C felonies is not available by offense. Therefore, the data available for sentencing by class has been applied in this note. Therefore:

    a. There will be an increase in time served by convicted offenders of 1.08 years, the current difference between Class B and Class C average length of sentence served.

b. The effect would begin near the end of the first year the law is in effect as the average time sewed for a Class C felony is .8 years.
c. 60% of the persons convicted of a Class B felony actually serve time.

Therefore, the impact on the state correctional system will be the need for approximately 14 additional beds. (22 convictions x 60% receiving jail sentences x 1.08 additional years = 14.2 beds.) The cost of the beds is estimated to be: 14 x $146,000 (medium security bed cost) = $2,044,000.

It is assumed these beds would be added to those identified in other fiscal notes. Also, because of construction time, they would not be available for occupancy until FY 1986. Personnel Service costs are not identified until that time.

In estimating personal services costs, it is assumed 1 staff person will be required for every 2.5 inmates. Fourteen beds would require 5.6 positions. An average FY 1984 position cost of $44,000 (plus inflation) was used to project personal services costs. The final staffing of a correctional facility cannot be determined until it has been designed, and the staffing would be influenced by such factors as total bed capacity, floor plan for security, and programs to be provided as a part of rehabilitation.

FROM: Paula Halley, exec. director

Vol. 1 No. 7, January/February, 1983

S.T.A.R.

BUSINESS
276-7279
24-HR. CRISIS
276-RAPE

CHILD PORNOGRAPHY

Q. What is the history behind the development of child pornography?

A. Throughout history children were exploited, sold and even killed. Sex between male adults and children had been sanctioned, or at the very least, tolerated as seen in institutions of slavery, prostitution and pornography. In the late 19th and early 20th centuries, western society was obsessed with the image of the pure, innocent, sexless little girl. The Arts were used to make the sexual use of children more acceptable. Florence Rush, noted author of a book on child sexual abuse, believes the frequent use of child sexuality by nineteenth-century authors contributed to the real use, abuse and sexual manipulations of children.

Q. What is the situation today? Certainly we have protection from the exploitation of children.

A. Today we expect the adult world to protect the young from sexual exploitation. Meanwhile, this society normalizes and accepts the exploitation of women in all forms of media. The last few years have brought much needed attention to the growing problem of child pornography, and fairly quick action has been taken by legislatures in our country. It is easier for us to become outraged by what is happening to young children than by what happens to grown women. We forget that young girls grow up to be women. About the time they re_h the age of consent, what protection there is stops and the legalized exploitation starts again.

Q. What exactly is happening in the child pornography industry? What do they do with these kids?

A. Until recently, much of child porn sold in America was smuggled from abroad, but now most of it originates here.

Robin Lloyd, reporter and author of *For Money or Love*, a book on boy prostitution, collected 264 different child-porn magazines, each costing an average of seven dollars. *Where the Young Ones Are*, a sex guide for pedophiliacs (pedophilia: sexual perversion in which children are the preferred sexual object), contains a listing of 378 places in fifty-nine cities where the young (sexual partners) can be found, and has sold over 70,000 copies. Also, publications advertise films entitled "Infant Love," "Children and Sex," "Little Girls," etc., in which one can see spread shots of children from 6 to 13 as they perform oral sex.

With little difficulty one can obtain *Lollitots*, which introduced Patti, "the most erotic ten-year-old you'll ever meet," or *Little Girls*, which offers pictures of ten and twelve-year-olds in intercourse with adult males. For $45 one can purchase a film in living color and see a nine-year-old in a variety of sex acts with two Arab boys, then with an adult.

Yes, child pornography is very big business. According to researchers and reporters, child models are not difficult to recruit. Many magazine publishers and film producers use their own children; others advertise to parents.

In the book "Take Back the Night – Women on Pornography" we are told, "A recent advertisement in Al Goldstein's magazine *Screw* offered $200 for young girl-child models. It brought dozens of responses from parents with female children.

A writer who followed up the ad reports: "Some parents appeared in the movie with their children; others merely allowed their children to have sex. One little girl, age 11, who ran crying from the bedroom after being told to have sex with a man of 40 protested, 'I can't do it.' 'You have to do it,' her parent answered. 'We need the money.' And, of course the little girl did."

Q. Exactly, how big is child pornography and why don't we know more about it?

A. The kiddy-porn industry is extremely clandestine – secretive, illegitimate and sly. Most statistics therefore are a loose approximation. In the opinion of Florence Rush, former social worker and author of a book on child sexual abuse, *The Best Kept Secret* – the numbers I quote here "represent only the tip of the iceberg."

FACT: Of the $2.5 billion porn industry, about $1 billion is from kiddy porn.

FACT: In 1975, Houston police uncovered a warehouse filled with child pornography, and among the collection were 15,000 color slides of children, 1,000 magazines, and thousands of reels of film.

FACT: At Crossroads Store in New York City, a group of investigators found, among the usual displays of *Lollitots, Moppets*, and other kiddy porn magazines, nineteen films on kiddy porn, and an additional sixteen on incest alone.

FACT: One and half million children under sixteen are used annually in commercial sex (prostitution or pornography).

FACT: Most runaways can survive only as prostitutes or by posing for pornography. Each year there are one million runaways, children whose ages range from eight through eighteen.

FACT: Covenant House in New York City shelters 5,000 runaways each year. Over 2,000 are involved in pornography and prostitution, and of this number, 1,000 are under 12.

FACT: Los Angeles police have estimated that 30,000 children are sexually exploited in Los Angeles alone every year.

(Taken from Section II "Child Pornography" of PORNOGRAPHY; MEDIA VIOLENCE TOWARD WOMEN AND CHILDREN – An Education Packet – Developed/compiled by Jean Felicia Cracium, Director of Education Service.)

Letter From The Editor

ANTI-PORNOGRAPHY AS A MOVEMENT

Diane E.H. Russell, Associate Professor of Social Science at Mills College, and a founding member of Women Against Violence in Pornography and Media, expresses a short-circuiting process that has plagued the issue of pornography. She states "In the case of pornography many people, including feminists, don't allow themselves to contemplate – is pornography a problem? Why does this problem exist? They simply say, 'I'm against censorship of any kind!' And the meaning of the First Amendment becomes the topic of discussion. In this way the freedom of speech issue has been used, not always consciously, to freeze us into saying and doing nothing against pornography." She addresses the need to end the short-circuiting in our thinking and feeling.

There are four distinct and important steps in dealing with any social problem:

First, we need to recognize it, define it, see it.

The second step involves *feeling about the problem* once it is recognized. To simply acknowledge rape, woman-battering, child pornography, and not feel outraged is one kind of unhealthy short-circuiting that goes on.

Third, we need to try to understand the *cause of the problem*, to analyze it, before we collectively take action.

And, finally, there is the question of *what to do about it.*

In the case of pornography, in skipping the first three steps and starting at step four the issue of the pros and cons of censorship or banning comes up, and this is only one of many, many questions.

The anti-pornography movement now realizes that obscenity laws and government control of the pornography industry is not the way to go. Pornography cannot flourish on a mass-marketed, industrial scale without two basic conditions. A culture which crushes human eroticism into the distorted and abusive framework of dominance and submission, creating a demand for pornography rather than erotica ("erotica" is rooted in eros or passionate love, and thus in the idea of positive choice, free will, the yearning for a particular person, from "Erotica and Pornography" article in MS., Nov., 1978 by Gloria Steinem); and free-enterprise capitalism, which will sell anything – even pain – for a profit.

Twentieth century capitalism supplies the means of mass production: efficient media technology, enormous profits for producers, and the freedom to market anything. And in enterprising capitalist nations, the law often follows the profits. Largely free of technological or legal constraints, mass-market pornography has now hit its stride. At $7 billion a year, pornography is not merely a thriving industry, it is an utterly predictable product of free-market capitalism in a technologically advanced sexist society.

What it boils down to is the fact that media affects the way men and women view themselves and each other. *Individually* then we decide if we agree with the images and messages that the media and pornography convey to us. If we don't like what we see, the media violence toward women and children, then we need to understand the established cultural and sexual attitudes that have allowed this to flourish and change them *together!*

The Anchorage Crime Commission – Chamber of Commerce subcommittee on Child Abuse is researching among other things statutes on Commercial Sale to personal consumption of pornography. [Paula M. Haley, Exec. Dir. of S.T.A.R. and Angela M. Rinaldo, past Exec. Dir. are serving on this committee.]



Pornography and the First Amendment

"Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."
–First Amendment of the United States Constitution

Q. How does the First Amendment affect pornography?

A. Under this amendment, all speech (whether written or oral) is protected from governmental restriction unless proven to be one of the few categories of unprotected speech. Two types of unprotected speech relate to pornography: first, obscenity and second, child pornography.

There is no objective legal test for obscenity. Basically material is obscene if the average person, applying community standards, would find that such material as a whole appeals to prurient, i.e., lustful interests and lacks serious artistic, political or scientific value. There must be a court hearing first to determine if the material is obscene. If the court finds the material to be obscene, it will be removed from the stores and theaters. Just because one issue of a magazine is proven to be obscene does not mean that future issues of the magazine cannot be sold. Every new magazine issue, book or movie requires a separate court determination of obscenity.

In 1982, the United States Supreme Court added a new category of unprotected speech – child pornography, i.e., material that visually depicts sexual conduct by children. The legal procedure would be similar to the obscenity cases. The material cannot be forcibly removed from stores and theaters until it is proven.

Because of the importance of the First Amendment freedoms to our society, there can be no prior censorship by the government of anyone's speech. While the First Amendment legal procedure to remove pornography appears cumbersome because it must be repeated for every new pornographic item, the First Amendment also serves as a shield to the anti-pornography movement to protect its right to organize politically and to protest pornography.

–Mary Southard
Legal Advocate

CHILD SEX RINGS

The Anchorage media has recently grabbed on a theme known only to a few: child and adolescent sex rings. In separate accounts we have heard about attempts to extradite an alleged sex ring organizer from Florida to Anchorage; a Boys Club executive was charged with sexual abuse of minors; and a 19-year-old male charged with larceny claims in his defense that abuse in a prostitution and pornography ring contributed to his delinquent lifestyle. The police officer in charge of these investigations informed the press that only the "tip of the iceberg" has been exposed.

Research is beginning to shed some light on the dynamics of child sex rings. Among the information recently yielded are the following themes:

1) Runaways and kids with vulnerable lifestyles are especially susceptible.

2) Rings involve male victims approximately 3 to 1 over females.

3) Ann Burgess (the researcher who first defined the Rape Trauma Syndrome) has facilitated much recent research and has characterized three different types of sex rings. Two types involve primarily pre-pubecent children, the third and most sophisticated type involves those from puberty through age 18 or 19.

4) Many subtle (and a few not so subtle) methods are used to get victims involved and to force them to maintain secrecy about the rings.

5) The reporting of male victims (at all age levels) of sexual assault is increasing nationwide.

6) Ann Burgess suggests that these male children may be at an equal risk with females for sexual victimization.

Some features of the situations reported in Anchorage raise perplexing questions. In particular, it is noteworthy that disclosures of this victimization are not coming through the typical reporting channels. Instead, most disclosures are coming from a few adolescents already identified or in the custody of juvenile justice authorities. Others have come to light through police investigations resulting from the disclosures of other adolescents. The following are some tough questions that the Anchorage community should be asking itself:

1) Are we asking the right questions in looking at the lifestyles of "kids in trouble?"

2) Are we looking for sexual abuse in the right places?

3) What are the barriers keeping boys from talking about sexual victimization and human service systems from being receptive to hearing it?

4.) What are we doing to give permission to adolescents to talk about this kind of victimization?

5) What have we been doing in the socialization of our male children which keeps them (and us) blind to the risk of their sexual victimization?

–Ralph Brower
Male Education Project Director

JANUARY'S Volunteer of the Month

January's volunteer of the month, Linda Ambrosia, is a familiar face at all volunteer meetings. Linda has been an active S.T.A.R. volunteer for the last 3 years. She consistently takes a high number of hotline hours per month and she is always available to pinch hit for us. Linda is also eligible to be an advocate.

Linda said, "I chose to volunteer for S.T.A.R. because it is a big problem in Alaska. I've been doing crisis work off and on since 1968. I originally joined to work in prevention and when I saw the needs of the victim – I chose to work with hotline. I would like to see this become a **past problem!"**

She also always manages to make the long trek from her home in Eagle River to S.T.A.R. for meetings. Linda works as a substitute teacher. She's married and has one daughter.

Congratulations Linda! ! !

–Deb Wilson-Neagle
Volunteer Coordinator

SEXUAL ASSAULT

1982 STATISTICS

The Direct Services unit of S.T.A.R. will be spending time this month compiling S.T.A.R.'s 1982 statistics on sexual assault. The final results will be in your next newsletter and should be interesting.

Special Contributors

Thanks to the following person for her generous donation to S.T.A.R.

Robin Ridder

HOLIDAY THANKS

The entire S.T.A.R. staff would like to thank each of the volunteers who took hotline shifts on Christmas and New Year's. Thanks to you we had 100% volunteer phone coverage. The following volunteers took Christmas and New Year's shifts:

DIANNE TOEBE SUSAN SACALOFF
MARTY KENNEDY JUDY PEACOCK
MARY RUSH DAWN RASMUSSEN
JEANNETTE MORIN
PAM CRAWFORD

We'd also like to thank all of the volunteers who took hotline during the busy month of December. We realize that people have a lot of social engagements during the holidays, and again we had 100% volunteer phone coverage. Thanks!!

–Deb Wilson-Neagle
Volunteer Coordinator

Any members interested in information on legislation concerning sexual assault, please call the S.T.A.R. office.
* 276-7279 *

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Co-Editor: Gloria Halle.

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S.T.A.R. MEMBERSHIP FORM

_____ Yes, I want to stand with S.T.A.R against Rape. Enclosed are my tax deductible annual membership dues.

_____ No, I do not wish to become a member of S.T.A.R. at this time, but please add my name to your mailing list.

_____$5.00 Limited Income _____$10.00 Individual _____$25.00 Friend of S.T.A.R. _____$50.00 Agency _____$200.00 Corporation

Name _____ Date _____

Mailing Address _____

_____ Signature _____

_____Please check here if you would like a receipt.

REMEMBER: SEXUAL ASSAULT IS A PROBLEM TO TALK ABOUT.

S.T.A.R., Inc.
P.O. Box 3356
Anchorage, Alaska 99510

THIS IS YOUR LAST NEWSLETTER! MEMBERSHIPS EXPIRED JAN. 1, 1983. . . . PLEASE RENEW YOUR MEMBERSHIP NOW!!!

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3/24/83

TO HESS COMMITTEE

C SHB 117 - SEXUAL ABUSE OF A MINOR IS ON THE CALENDAR FOR TOMORROW'S MEETING. IT MAY BE WITHDRAWN - PENDING DISCUSSION BETWEEN THE SPONSOR AND THE DEPT. OF LAW

BUT NO ONE KNOWS FOR SURE YET.

DAVE PALMER
x 3777

	dept of Law	Rep. Goll	HB 117
Sexual abuse 1st degree	1. Penetration w/ person under 13 and 3 yrs younger 2. Being 18 yrs or older, penetration w/ person under 18 & in care Class A felony	1. penetration w/ person 13 yrs. and 3 yrs younger 2. Being 18 yrs or older, penetration w/ minor under 18 and in care Class A felony	1. Sexual contact w/ person under 13. 2. inducing person under 16 to engage in sexual activities in 11.41.455 a 2-6 Class B felony
Sexual abuse 2nd degree	1. penetration w/ person 13,14,15,16 and 3 yrs. younger 2. Sexual contact w/ person under 13 and 3 yrs. younger 3. Being 18 yrs or older, sexual contact w/ person under 18 and in care 4. Inducing a person 16 yrs or younger conduct in 11.41.455 (a) 2-6. Class B Felony	1. Sexual contact w/ person under 13 and 3 yrs younger 2. penetration w/ person 13,14,15 and 3 yrs younger 3. being 18 yrs. or older, penetration w/ person under 18 yrs and in care Class B felony	1. Being 16 yrs or older penetration w/ person under 16 but over 13 Class C felony
Sexual abuse 3rd degree	1. Sexual contact w/person 13,14,15,16 and 3 yrs younger. Class C felony		
Sexual assault 2nd degree	Class b felony		
Indecent exposure			

AS11.41.455 DOCUMENT= 1 OF 1 PAGE = 1 OF 2

CHAPTER = 11.41
SECTION = 11.41.455
TITLE = 11

HEADINGS TITLE 11.
CRIMINAL LAW.
CHAPTER 41.
OFFENSES AGAINST THE PERSON.
ARTICLE 4.
SEXUAL OFFENSES.

CITATION SEC. 11.41.455.

CATCH LINE
UNLAWFUL EXPLOITATION OF A MINOR.

TEXT (A) A PERSON COMMITS THE CRIME OF UNLAWFUL EXPLOITATION OF A MINOR IF, IN THIS STATE AND WITH THE INTENT OF PRODUCING FOR ANY COMMERCIAL PURPOSE A LIVE PERFORMANCE, FILM, PHOTOGRAPH, NEGATIVE, SLIDE, BOOK, NEWSPAPER, OR MAGAZINE THAT DEPICTS SUCH CONDUCT, HE KNOWINGLY INDUCES OR EMPLOYS A CHILD UNDER 16 YEARS OF AGE TO ENGAGE IN, OR PHOTOGRAPHS, FILMS, OR TELEVISES A CHILD UNDER 16 YEARS OF AGE ENGAGED IN

(1) SEXUAL PENETRATION;

AS11.41.455 DOCUMENT= 1 OF 1 PAGE = 2 OF 2

(2) THE OBSCENE TOUCHING OF ANOTHER PERSON'S GENITALS, ANUS, OR FEMALE BREAST;

(3) THE OBSCENE TOUCHING BY ANOTHER PERSON OF THE CHILD'S GENITALS, ANUS, OR FEMALE BREAST;

(4) MASTURBATION;

(5) BESTIALITY, OR

(6) THE OBSCENE EXHIBITION OF THE CHILD'S GENITALS.

(B) UNLAWFUL EXPLOITATION OF A MINOR IS A CLASS B FELONY.

HISTORY (SEC. 3 CH 166 SLA 1978)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CRIME	LAW	117	DRAFT
Pen-13-15	C	C	B
Pen-under 13	C	B	A
contact - 13-15	NOT COVERED Contrib to D. of M. misdemeanor	not covered misdemeanor	C
contact under 13	C	B	B
exploitation -	C	B	B
contact under 18 in custody over 16	not covered	not covered	B
13-16	misdemeanor	misdemeanor	B
under 13	C	C	B
penetration over 16	not covered	not covered	A
13-16	C	C	A
under 13	C		A

MARCH 14, 1983 MEMORANDUM

TO: COMMITTEE ON HEALTH EDUCATION AND SOCIAL SERVICES
ALASKA HOUSE OF REPRESENTATIVES
FROM: PETER GOLL
SUBJECT: HB 117

1 SEXUAL ABUSE OF MINORS SUBJECT TO CUSTODIAL RELATIONSHIP

Currently, sexual abuse of a minor in one's legal custody (step-child, etc.) is not covered by statute unless that minor is under 16 (Class A misdemeanor) or under 13 (Class C felony). A minor between 16 and 18, in the custody of an adult is not protected from sexual contact by the guardian unless there is a close blood relationship (incest).

This is a problem in Alaska, especially for the retarded or socially backward child who fins himself in a no-escape situation under the legal control of an adult.

The matter is omited from HB117. It is addressed on page one (line 20) of the Dept. of Law's draft, and on page two (line 11) of that draft. Wording is inserted in HB117 draft committee subsitute, attached.

On the recommendation of the Department, penetration of a minor in custody is changed from an unclassified felony to a Class A felony.

2 CRIMES COMMITED BY MINORS AGAINST YOUNG CHILDREN NOT ADDRESSED

In HB 117, a person must be 16 years of age or older to be guilty of a violation. Nowhere is the six year old child protected from abuse by a 15 year old baby sitter or his or her friends. Nor is the 6 year old child protected from penetration by one under 16.

To remedy this, one could apply the language found on line 18 of page one of the Department of Law's draft (ie. "at least three years younger"). This would make a crime to commit sexual abuse of a minor three years younger than the offender.

It will also respond to problems of making felons of consenting adolescents.

3. THE DIVISION OF LEGAL SERVICES FINDS INEQUITIES IN SENTENCING IN HB 117

The wording of HB 117 groups sexual penetration of a minor under 13 with sexual contact of a minor under 13. Contact with one under 13 is therefore considered more serious (B felony) than penetration of a minor under 16 (C felony). The Department of Law version separates these offences, making penetration of a minor under 13 a class A felony, and contact with a minor under 13 a B felony as in HB117. The attached draft substitute corrects this problem per recommendation of Department of Law.

Palmer

Dept of Law
3/25/83

COMMENTARY AND SECTIONAL ANALYSIS
FOR THE PROPOSED 1983 AMENDMENTS TO ALASKA'S LAWS
RELATING TO SEXUAL ASSAULT AND SEXUAL ABUSE OF A MINOR

Section 1. AS 11.41.410, Sexual Assault in the First Degree.

This section repeals subsections (a)(3) and (4) of the Sexual Assault in the First Degree statute. These subsections are reclassified in section 3, below, as Sexual Abuse of a Minor in the First Degree.

Section 2. AS 11.41.420, Sexual Assault in the Second Degree.

This section accomplishes two things. It amends the current Sexual Assault in the Second Degree statute to define the crime as "sexual contact with another person without consent of that person." The amended language is consistent with that used in the Sexual Assault in the First Degree statute, which prohibits sexual penetration without consent. Under the current Sexual Assault in the Second Degree law the prosecutor must prove that the victim was "coerced" to submit to the sexual contact by the express or implied threat of imminent death, imminent physical injury, or imminent kidnapping. Technically, the defendant's use of force without any threats may not be sufficient to establish this crime; felony charges have been lost through a literal application of these terms.

The second change which this section makes is to raise the current class C felony offense of Sexual Assault in

the Third Degree, penetration with a person who is suffering from a mental defect or is incapacitated, to Sexual Assault in the Second Degree, a class B felony punishable by up to ten years in prison.

Section 3. AS 11.41.430, Sexual Abuse of a Minor In the First Degree.

This section creates a new classification of offense, Sexual Abuse of a Minor in the First Degree. This new crime prohibits sexual penetration with a person who is under the age of 13 and at least three years younger than the actor. It also prohibits sexual penetration with a person under 18 who is entrusted to the actor's care by authority of law or because the person is his son or daughter, including adopted, illegitimate or stepchildren. Basically, this provision covers conduct which is currently classified as Sexual Assault in the First Degree, but the language here adds the requirement of a three year age span between the actor and the victim. This requirement is added to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a felony. Such behavior may in certain circumstances be cause for parental concern, but it is not considered appropriate or useful to classify it as a crime. Forcible sexual penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree, an unclassified felony.

These amendments address a serious omission in the present sexual assault laws by deleting the requirement that the actor be 16 years of age or older. The section is thus made applicable to juvenile offenders. This is an important consideration, as some studies of adult sexual offenders indicate that the offenders began to sexually assault in their early teen years. Early identification and treatment of juvenile sexual offenders may ultimately decrease the number of adult offenders. Sexual Abuse of a Minor in the First Degree is a class A felony offense. It carries a maximum sentence of up to 20 years in prison, and a presumptive term of five years upon conviction for a first offense.

Section 4. AS 11.41.435, Sexual Abuse of a Minor in the Second Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Second Degree. This includes the offenses found in the current Sexual Abuse of a Minor statute (AS 11.41.440), with the addition of the requirement that the actor be at least three years older than the victim. This language exempts teenagers who have consensual sexual relations with other teens near their own age (a 17 year old boy and his 15 year old girlfriend, for example) from prosecution for a felony. As in Section 3, above, the amendment deletes the requirement that the actor be 16 years of age or older, thus

making the statute applicable to juvenile offenders who assault children much younger than themselves--the babysitter/toddler situation, for example.

Subsection 3 creates a new offense to address an omission in the current law. Under current law sexual contact by a parent or guardian with his own child is prohibited only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). Since fondling of a child's genitals or breasts by a parent is a serious violation of the trust and authority relationships within a family, and is often the precursor of more serious sexual conduct, this provision raises the age of children covered to 17, and makes this conduct a class B felony offense punishable by up to ten years in prison.

Section 5. AS 11.41.440, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Third Degree. Basically, this is the current Contributing to the Delinquency of a Minor statute raised from its current classification as an A misdemeanor to a class C felony offense. Class C felonies are punishable by up to five years in prison.

Section 6. AS 11.51.130(a)(4), Contributing to the Delinquency of a Minor.

Section 6 repeals the "sexual contact" subsection of the present Contributing to the Delinquency of a Minor statute. The seriousness of this conduct has been increased in Section 5, above, to Sexual Abuse of a Minor in the Third Degree, a class C felony.

Section 7. AS 11.41.460, Indecent Exposure.

This section creates a new crime entitled Indecent Exposure, which is the intentional exposure of a person's genitals, buttock, anus or female breast to another person with reckless disregard for the offensive, insulting or frightening effect that the exposure that might have on the other person. Under current law this conduct is considered "Disorderly Conduct", a class B misdemeanor offense with a maximum penalty of ten days in jail. Some recent studies indicate that exposure is sometimes the first step for sex offenders who later increase the seriousness of their conduct to sexual contact or penetration. The current law treats this behavior much too leniently. This section raises the classification of Indecent Exposure to an A misdemeanor level if the object of the exposure is a child under the age of 16. The offense

remains a B misdemeanor if the witness to the exposure is an adult.

Section 8. AS 11.61.110(a)(7), Disorderly Conduct.

Section 8 repeals the current "exposure" subsection of the Disorderly Conduct statute. This conduct is included in the Indecent Exposure provisions set out in section 7.

Section 9. AS 12.10.020, Specific Time Limitation.

This section creates an exception to the general five year statute of limitations (AS 12.10.010) to allow prosecution for a sexual offense against a child to be commenced within one year after the child reaches the age of 16, or reports the crime to a law enforcement officer, whichever occurs first. The period of limitation cannot be extended by more than ten years, however. This change is necessary because sexual offenses against young children (especially intrafamilial abuse) are frequently not discovered until the child reaches sufficient maturity to realize the wrongfulness of the conduct and to identify those adults to whom the conduct may safely be reported. A child of 12, 13 or 14 will often report for the first time sexual abuse which has been occurring since he or she was 4 or 5 years old. While the most recent assaults may be prosecuted, these offenses may be classified as less serious

than the earlier ones, because of the child's older age. In those situations where the sexual abuse has been a continuing course of conduct which spans several years of a child's life the trier of fact should be entitled to reach and consider all aspects of the adult's conduct.

IN THE _____

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act revising the laws relating to sexual assault and sexual abuse of a minor."

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

* Section 1. AS 11.41.410(a)(3) and (4) are repealed.

* Sec. 2. AS 11.41.420 is repealed and reenacted to read:

Sec. AS 11.41.420. SEXUAL ASSAULT IN THE SECOND DEGREE. (a) A person commits the crime of sexual assault in the second degree if he engages in

(1) sexual contact with another person without consent of that person; or

(2) sexual penetration with a person who he knows

(A) is suffering from a mental disorder or defect which renders him incapable of appraising the nature of the conduct under circumstances in which a person who is capable of appraising the nature of the conduct would not engage in sexual penetration; or

(B) is incapacitated.

(b) Sexual assault in the second degree is a class B felony.

* Sec. 3. AS 11.41.430 is repealed and reenacted to read:

Sec. AS 11.41.430. SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE. (a) A person commits the crime of sexual abuse of a minor in the first degree if THAT PERSON

(1) he engages in sexual penetration with a person who is under 13 years of age and at least three years younger than he THE OFFENDER or

aids, induces, causes or encourages a person who is under 13 years of age and at least three years younger than he to engage in sexual penetration with another person; or

(2) being 18 years of age or older, he engages in sexual penetration with a person who is under 18 years of age and who

(A) is entrusted to his care by authority of law; or

(B) is his son or daughter, including adopted, illegitimate, or stepchildren.

(b) Sexual abuse of a minor in the first degree is a class A felony.

* Sec. 4. AS 11.41 is amended by adding a new section to read:

Sec. 11.41.435. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE. (a) A person commits the crime of sexual abuse of a minor in the second degree if

(1) he engages in sexual penetration with a person who is aged 13, 14, 15 or 16, and at least three years younger than he, or aids, induces, causes or encourages a person who is aged 13 14, 15 or 16, and at least three years younger than he to engage in sexual penetration with another person,

(2) he engages in sexual contact with a person who is under 13 years of age and at least three years younger than he, or aids, induces, causes or encourages a person under 13 years of age and at least three years younger than he to engage in sexual contact with another person;

(3) being 18 years of age or older, he engages in sexual contact with a person who is under 18 years of age and who

(A) is entrusted to his care by authority of law; or

(B) is his son or daughter, including adopted, illegitimate, or stepchildren; or

(4) he aids, induces, causes or encourages a person who is 16 years of age or younger to engage in conduct described in AS 11.41.455(a)(2) -- (6).

(b) Sexual abuse of a minor in the second degree is a class B felony.

* Sec. 5. AS 11.41.440 is repealed and reenacted to read:

Sec. 11.41.440. SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE. (a) A person commits sexual abuse of a minor in the third degree if he engages in sexual contact with a person who is aged 13, 14, 15 or 16, and at least three years younger than he.

(b) Sexual abuse of a minor in the third degree is a class C felony.

* Sec. 6. AS 11.51.130(a)(4) is repealed.

* Sec. 7. AS 11.41 is amended by adding a new section to read:

Sec. 11.41.460. INDECENT EXPOSURE. (a) A person commits the crime of indecent exposure if he intentionally exposes his genitals, buttock, anus or female breast to another with reckless disregard for the offensive, insulting or frightening effect the act may have on that person.

(b) Indecent exposure is a class A misdemeanor if the person before whom the exposure is made is under 16 years of age; otherwise it is a class B misdemeanor.

* Sec. 8. AS 11.61.110(a)(7) is repealed.

* Sec. 9. AS 12.10.020 is amended to add a new subsection to read:

(c) Even if the general time limitation has expired, a prosecution under AS 11.41.410 -- 455 for an offense committed against a person under the age of 18 may be commenced within one year after the crime is reported to a law enforcement official or the person reaches

the age of 16, whichever occurs first. In no case shall this provision extend the period of limitation by more than ten years.

Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While in Juneau
Pouch V
Juneau, Alaska
(907) 465-3759

Representative Mae Tischer

May 3, 1983

Jill Bottrell, Member
Fairbanks Inter-Agency Child
Sexual Abuse Task Force
c/o Fairbanks Community Mental Health
209 40 Mile Avenue
Fairbanks, Alaska 99701

Dear Ms. Bottrell:

Thank you for your extensive comments on CSHB 117.

The House Health, Education and Social Services Committee passed the original HB 117 out of committee at the request of the bill's sponsor.

If House Bill 117 passes both houses it will become law.

Presently the bill is in the House Judiciary Committee and I will forward your comments to Chairman Bussell for the Committee's consideration.

Thank you again for your comments.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

MEMBER: Rules
CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Correc

The Honorable Mae Tischer
The Honorable Milo Fritz
Co-Chairpersons, House Health,
Education, & Social Services
Committee
State Capitol, Pouch V
Juneau, Alaska 99811

21 April 1983

Dear Representatives Tischer and Fritz:

This letter is written in support of CS for House Bill No. 117 (HESS) on behalf of the Fairbanks Inter-Agency Child Sexual Abuse Task Force.

The Task Force is composed of representatives from nearly every agency in this community with any responsibility for dealing with the problem of sexual abuse of our children, including the Fairbanks police department, Alaska State Troopers, Division of Family & Youth Services, WIC-CA, District Attorney's office, Attorney General's office, Family Focus, Community Mental Health, Resource Center for Parents and Children, Tanana Chiefs, and various other community groups who participate on an ad hoc basis. The goal of the Task Force is to promote co-operation and co-ordination among the various agencies who become involved with families where sexual abuse may be occurring. We have been functioning for nearly two years and have seen tremendous changes in the way these cases are handled by the various member agencies.

After reviewing a variety of legislation proposed this session on the subject of sexual abuse of children, the Task Force would like to voice its support for this bill, suggesting only the addition of another group of people to which it should apply. Our collective experience shows that children are often abused by members of their household who are not technically legal custodians or step-parents, but who have assumed the same parenting or caretaking role and who are, therefore, in a position of natural authority over the child.

If the intent of Secs. 11.41.435(a)(2) and 11.41.440(a)(3) is to cover conduct by those persons who abuse this position of trust and authority, then it should not be limited to those with legal authority only. From the child's perspective, it is irrelevant whether the abuser is legally married to the mother or not.

These sections properly cover the situation where the caretaker can substitute this natural authority for the use of force, and the legislation appropirately addresses the seriousness of such abuse. The Task Force proposes, however, that an additional subsection be added to the above sections to include any "caretaker or adult household member in a position of authority or control over the child."

This recommendation is in accordance with the guidelines proposed by the National Legal Resource Center for Child Advocacy and Protection of the

American Bar Association, as set out in their recent publication, "Recommendations for Improving Legal Intervention in Intrafamily Child Sexual Abuse Cases," October, 1982. (It should be pointed out that this position paper has not been voted on by the Board of Governors and thus does not constitute an official policy statement of the ABA)

The proposed provision specifically limits the offender to an adult person in a caretaker position in the home. Older siblings or adult relatives not residing in the home are covered under different statutes. It does, however, address the large category of live-in boyfriends or other caretakers who are in a position to exercise and exploit the same type of parental authority which this legislation already addresses.

Although it is not directly related to this piece of legislation, the Task Force members would also like to take this opportunity to voice concern about the application of the present Statute of Limitations to child sexual abuse cases, and suggest that it be changed so that the State is not legally barred from prosecuting a case just because the offense is more than five years past.

Given that a prominent feature of in-family abuse is that it may not be disclosed for a long period of time, there will be many, many cases where the victim does not even tell anyone until more than five years has passed. Children are legally disabled in so many ways because of their immaturity and inexperience; it would make sense not to impose upon them the legal obligation to report sexual abuse until they are of an age when they can reasonably be expected to report.

The Task Force supports a statutory provision that would toll the Statute of Limitations until the child is of legal age, or some other agreed-upon "age of responsibility" such as 16. Of course, many cases would be, as a practical matter, too stale to prosecute, but the legal bar should not be there, where it is unreasonable to expect reporting. Many of the member agencies would be able to document a significant number of instances where disclosure of abuse came more than five years later, but where the offender was still known to the victim, possibly still in a position to commit other offenses, and where the victim's memory is quite clear.

Thank you for your consideration of the above matters, particularly as it relates to the proposed amendment.

Sincerely,

Jill Bottrell
Member, Fairbanks Inter-Agency Child
Sexual Abuse Task Force
c/o Fairbanks Community Mental Health
209 40 Mile Avenue
Fairbanks, Alaska 99701

AS11.41.440 DOCUMENT= 1 OF 1 PAGE = 1 OF 2

CHAPTER = 11.41
SECTION = 11.41.440
TITLE = 11

HB117

HEADINGS TITLE 11.
Criminal Law.
CHAPTER 41.
Offenses Against the Person.
ARTICLE 4.
Sexual Offenses.

CITATION Sec. 11.41.440.

CATCH LINE

SEXUAL ABUSE OF A MINOR.

TEXT (a) A person commits the crime of sexual abuse of a minor if, being 16 years of age or older, he

(1) engages in sexual penetration with a person who is under 16 years of age but 13 years of age or older or aids, induces, causes or encourages a person under 16 years of age but 13 years of age or older to engage in sexual penetration with another person;

(2) engages in sexual contact with a person who is

AS11.41.440 DOCUMENT= 1 OF 1 PAGE = 2 OF 2

under 13 years of age or aids, induces, causes or encourages a person under 13 years of age to engage in sexual contact with another person; o.

(3) aids, induces, causes or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455(a)(2) - (6).

(b) Sexual abuse of a minor is a class C felony.

HISTORY (Sec. 3 ch 166 SLA 1978; am sec. 9 ch 102 SLA 1980)

F01 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SECTION = 12.55.125
TITLE = 12

HB127

HEADINGS TITLE 12.
Code of Criminal Procedure.
CHAPTER 55.
Sentencing and Probation.
CITATION Sec. 12.55.125.
CATCH LINE
SENTENCES OF IMPRISONMENT FOR FELONIES.
TEXT (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. LIMITED EFFECTIVE DATE
(b) -EFFECTIVE UNTIL JANUARY 1, 1983- A defendant convicted of murder in the second degree or kidnapping shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.
POSTPONED EFFECTIVE DATE
-EFFECTIVE JANUARY 1, 1983- A defendant convicted of murder in the second degree, kidnapping, or misconduct involving a

..copy d
E1001 ENTER COMMAND IN CORRECT FORMAT OR RETURN TO CONTINUE

controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.
(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;
(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, seven years;
(3) if the offense is a second felony conviction, 10 years;
(4) if the offense is a third felony conviction, 15 years.
(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10

years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
(1) if the offense is a second felony conviction, four years;
(2) if the offense is a third felony conviction, six years.
(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
(1) if the offense is a second felony conviction, two years;
(2) if the offense is a third felony conviction, three

years.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under

AS 12.55.085;

(3) imprisonment for the prescribed minimum term may not be otherwise reduced.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) of this section, except to the extent permitted under AS 12.55.155 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided.

(i) A defendant convicted of sexual assault in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and

does not involve circumstances described in (2) of this subsection, eight years;

(2) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(3) if the offense is a second felony conviction, 15 years;

(4) if the offense is a third felony conviction, 25 years.

HISTORY (Sec. 12 ch 166 SLA 1978; am sec. 18 ch 45 SLA 1982; am secs. 28-30 ch 143 SLA 1982)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SELECT - QUERY
00003 ALL SECTION EQ 11.66.110

AS11.66.110 DOCUMENT= 1 OF 1

HB128

CHAPTER = 11.66
SECTION = 11.66.110
TITLE = 11
HEADINGS TITLE 11.
CRIMINAL LAW.
CHAPTER 66.
OFFENSES AGAINST PUBLIC HEALTH AND DECENCY.
ARTICLE 1.
PROSTITUTION AND RELATED OFFENSES.
CITATION SEC. 11.66.110.
CATCH LINE
PROMOTING PROSTITUTION IN THE FIRST DEGREE.
TEXT (A) A PERSON COMMITS THE CRIME OF PROMOTING PROSTITUTION IN THE FIRST DEGREE IF HE
(1) INDUCES OR CAUSES A PERSON TO ENGAGE IN PROSTITUTION THROUGH THE USE OF FORCE;
(2) AS OTHER THAN A PATRON OF A PROSTITUTE, INDUCES OR CAUSES A PERSON UNDER 16 YEARS OF AGE TO ENGAGE IN PROSTITUTION; OR
(3) INDUCES OR CAUSES A PERSON IN HIS LEGAL CUSTODY TO ENGAGE IN PROSTITUTION.
(B) IN A PROSECUTION UNDER (A)(2) OF THIS SECTION, IT IS NOT A DEFENSE THAT THE DEFENDANT REASONABLY BELIEVED THAT THE PERSON HE INDUCED OR CAUSED TO ENGAGE IN PROSTITUTION WAS 16 YEARS OF AGE OR OLDER.
(C) PROMOTING PROSTITUTION IN THE FIRST DEGREE IS A CLASS B FELONY.
HISTORY (SEC. 8 CH 166 SLA 1978)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

ALASKA NETWORK ON DOMESTIC
VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 809

JUNEAU, ALASKA 99802
586-3650

HB 55

POSITION PAPER
HB117: An Act relating to sexual abuse of a minor

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of twenty-one programs statewide that provide domestic violence, sexual assault, and adult crisis intervention services to members of their respective communities. Network programs are funded in part through grants and contracts awarded by the Council on Domestic Violence and Sexual Assault.

The Network was established in 1978, and has as one of its primary focuses the elimination of domestic violence and sexual assault through provision of shelter, advocacy, and education/prevention services.

The Network maintains that, in cases involving sexual abuse of a minor, sexual contact and penetration are equally serious offenses that should be incorporated in the same felony classification.

The Network would strongly support a comprehensive overview of current statutes governing the prosecution, sentencing, and treatment of persons charged and convicted of sexual abuse of a minor.

Staff Report
House bills 117,127,128
January 27, 1983

HB 117:

Under current statute, sexual abuse of a minor under 16 years of age is a class C felony.

As proposed by HB 117:

1. Sexual abuse of a minor under 13 years of age is a offense in the first degree and is a class B felony.

2. Sexual abuse of a minor aged 13 to 16 is sexual abuse in the second degree and is a class C felony.

HB 127:

Under current statute, the first felony conviction for sexual assault in the first degree, not involving firearms, use of a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 8 years. The proposal will change that sentence to 10 years.

Under current statute, the first felony conviction for sexual assault in the first degree involving firearms, a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 10 years. HB 127 changes that sentence to 12 years.

HB 128:

Under current statute, promoting prostitution is a class B felony. HB 128 provides that inducing or causing a person under 16 years of age to engage in prostitution is a class A felony.

TERMS OF IMPRISONMENT

OCTOBER 1, 1982

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
MURDER I	[20] -- 99	[20] -- 99	[20] -- 99
MUR. II & KIDNAP. & M. I. C. S. I	[5] -- 99	[5] -- 99	[5] -- 99
SEXUAL ASSAULT 1ST **	5 --(10)-- 30 HB127 (12)	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
SEXUAL ASSAULT 1ST	HB127 4 --(8)-- 30 (10)	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
A FELONY **	3 1/2 --(7)-- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
A FELONY HB128 ↑	2 1/2--(5) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
B FELONY HB117 ↑	0 -- 10	0 -- (4) -- 10	3 -- (6) -- 10
C FELONY	0 -- 5	0 -- (2) -- 5	0 -- (3) -- 5

**APPLIES WHEN A DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY EXCEPT FOR MANSLAUGHTER.

NUMBERS IN (BRACKETS ARE) PRESUMPTIVE SENTENCES. NUMBERS ENCLOSED BY [BOXES] ARE MANDATORY MINIMUM SENTENCES. NUMBERS TO LEFT OF BRACKETS ARE LOWEST MITIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

HB 117

Current statute: Sexual abuse of a minor under 16 years of age is a class C felony

Proposed by HB 117

1) Sexual abuse of a minor under 13 years of age is an offense in the first degree and is a class B felony

2) Sexual abuse of a minor aged 13 to 16 ~~is~~ is sexual abuse in the second degree and is a class C felony.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 117 Date on Bill: 1/26/83
Title: An Act Relating to sexual abuse of a minor
Sponsor: Representative Pestinger
Requestor: House HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue	

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/28/83

Approved by Commissioner: [signature] Date: 2/28/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

MARCH 14, 1983 MEMORANDUM

TO: COMMITTEE ON HEALTH EDUCATION AND SOCIAL SERVICES
ALASKA HOUSE OF REPRESENTATIVES
FROM: PETER GOLL
SUBJECT: HB 117

1 SEXUAL ABUSE OF MINORS SUBJECT TO CUSTODIAL RELATIONSHIP

Currently, sexual abuse of a minor in one's legal custody (step-child, etc.) is not covered by statute unless that minor is under 16 (Class A misdemeanor) or under 13 (Class C felony). A minor between 16 and 18, in the custody of an adult is not protected from sexual contact by the guardian unless there is a close blood relationship (incest).

This is a problem in Alaska, especially for the retarded or socially backward child who fins himself in a no-escape situation under the legal control of an adult.

The matter is omited from HB117. It is addressed on page one (line 20) of the Dept. of Law's draft, and on page two (line 11) of that draft. Wording is inserted in HB117 draft committee subsitute, attached.

On the recommendation of the Department, penetration of a minor in custody is changed from an unclassified felony to a Class A felony.

2 CRIMES COMMITED BY MINORS AGAINST YOUNG CHILDREN NOT ADDRESSED

In HB 117, a person must be 16 years of age or older to be guilty of a violation. Nowhere is the six year old child protected from abuse by a 15 year old baby sitter or his or her friends. Nor is the 6 year old child protected from penetration by one under 16.

To remedy this, one could apply the language found on line 18 of page one of the Department of Law's draft (ie. "at least three years younger"). This would make it a crime to commit sexual abuse of a minor three years younger than the offender.

It will also respond to problems of making felons of consenting adolescents.

3. THE DIVISION OF LEGAL SERVICES FINDS INEQUITIES IN SENTENCING IN HB 117

The wording of HB 117 groups sexual penetration of a minor under 13 with sexual contact of a minor under 13. Contact with one under 13 is therefore considered more serious (B felony) than penetration of a minor under 16 (C felony). The Department of Law version separates these offences, making penetration of a minor under 13 a class A felony, and contact with a minor under 13 a B felony as in HB117. The attached draft substitute corrects this problem per recommendation of Department of Law.

HB

125

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

Date: March 9, 1983

1/26/83

Mr. Speaker:

The Committee on HESS has had HB 125

An Act relating to 'emergency closure days' in response to a threat to the health or safety of students.

under consideration and reports it back as follows:

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	
[signature]	
[signature]	
M. W. Miller	
MILO HERTZ	
Mae Tischer	

Mae Tischer
CHAIRMAN
MILO HERTZ

H 60

Introduced: 1/26/83
Referred: Health, Education &
Social Services and Finance

Voted Do pass

IN THE HOUSE BY LARSON

HOUSE BILL NO. 125

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to 'emergency closure days' in response to a threat to the health or safety of students."

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

* Section 1. AS 14.03.030 is amended to read:

Sec. 14.03.030. SCHOOL TERM. The school term begins and ends on the dates fixed by the governing body of the school district. However, the term shall include not less than 180 days in session, except that, subject to the approval of the commissioner [,]

(1) a day used for in-service training of teachers may be substituted for a day in session, up to a maximum of 10 days; and

(2) an "emergency closure day" may be substituted for a day in session because of conditions posing a threat to the health or safety of students.

I would consider an emergency (icy Roads, 100 mi hr winds) of more consequence & reason for substituting than in service teacher training to substitute

Bob Greene - define emergency - enough time to prepare — (no prior knowledge) not enough time to prepare - for closure.

i.e. - frozen pipes during school versus icy roads

Don MacKinnon - School administrators

Bob Manners - NEA.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 125
Title An Act relating to 'emergency closure days'...
Requested by House HESS Date 2/22/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected K-12 Foundation Support
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact.

IV. DATE 2/22/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

Nat Cole - Reads Business Administration of Schools in Juneau

HB125 / HB196 HB

BO 900,000

Ave.

① Busing Contract — 500,000

② Teacher Contract - Salary per day — 500,000

③ non certificated staff Non-Teachers - Sec Aides etc Average — 500,000

1st day since 1975 - arrangement w/ Teachers - granted another in service day.

definition of "emergency"

- Act of God days - Superin could petition Com for A of G days - REAA's

- 3 day leway - average suitable for state
- Goll - move this bill ask unan. consent.
- Obj. by Tischer
- Mat-Su uses full 10 - in service days.
- Steve Hale - Dept & Board Support Bill.
  4 yrs. ago - ~~Commissioner~~ A G said regulation repealed - didn't have statutory authority.
- Argue against limit of days. DOE could define in regs.
- Bob Greene - Support of Bill - differentiate ① adequate & ② inadequate time to prepare.

SCHOOL CLOSURE DAYS

Having been an active teacher in Alaska for the past 23½ years, I have personally seen many days when schools have remained opened simply to meet the mandate of "student in session days", when it was clearly obvious that in doing so, the health and safety of many individual students were being compromised.

The superintendent of school districts needs to be able, at least on a limited basis, to provide school closure days, when in their opinion the health and safety of students may be jeopardized by requiring student attendance. (Example: days with extreme weather conditions, breakdown of school heating system, loss of electrical power, possible bomb threats, or other unforseen threats to health and safety conditions).

I might note that as a classroom teacher, I found that classroom procedures and general learning experiences are best retained by using normal procedures for missed work, instead of trying to make up missed work by holding school on Saturdays or extending school days on the end of the regular school year.

A personal example I might cite is: during one such day last year, I know of five automobile accidents involving students trying to get to school under extreme icy road conditions. School was held all that day with only 15-20% of the students present, and therefore, no regular classroom type instruction took place. The only purpose or value in holding school that day was to satisfy a requirement under State law. I might also add that the Matanuska-Susitna Borough is also being sued at this time over a bus accident that took place on a day when road conditions were extremely icy.

From: Rep Larson

Summary: Hb 125 by Larson

"An Act relating to 'emergency closure days' in response to a threat to the health or safety of students."

Section 1 AS 14.03.030- Public Schools Generally, School Term

THis section is amended by adding a new subsection providing for "(2) an 'emergency closure day' may be substituted for a day in session because of conditions posing a threat to the health or safety of students."

Substitution of an emergency closure day would be subject to the approval of the Commissioner of Education, and the proposed new law does not specify a maximum allowable number of days.

The law currently requires that the school term in Alaska include at least 180 days in session, except that subject to approval of the Commissioner, up to 10 days of in-service teacher training may be substituted for required school days.

This legislation does not provide for an effective date, therefore, the bill would be effective 90 days after the Governor's signature.

folder content

left	right
summary	bill
statutes	back-up from Rep. Larson
fiscal note DOE = Ø	
fiscal note HSS = Ø	

Disc w/B Greene. Re/ his suggested Congress

Do they have to make it up — if not its like blowing a day's pay — ~~paid holiday~~.

current - advance notice & you shut school down - add it on the end of the year.

Mat-Su - ~~Don't~~ want to start before Labor Day & get out

Contract Jnu School District -

① Contract w/transp (buses) $ annually? = 5,000
- ave. daily costs

③ 35 will get ave. teacher salary = figure cost to school dist on daily bases? _____

Introduced: 1/26/83
Referred: Health, Education & Social Services and Finance

dist.

Fiscal note to State Ø
however - local school dist expense.

Bob Greene

Statewide average teachers salary

Jmu

IN THE HOUSE BY LARSON

HOUSE BILL NO. 125

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to 'emergency closure days' in response to a threat to the health or safety of students."

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

* Section 1. AS 14.03.030 is amended to read:

Sec. 14.03.030. SCHOOL TERM. The school term begins and ends on the dates fixed by the governing body of the school district. However, the term shall include not less than 180 days in session, except that, subject to the approval of the commissioner [,]

(1) a day used for in-service training of teachers may be substituted for a day in session, up to a maximum of 10 days; and

(2) an "emergency closure day" may be substituted for a day in session because of conditions posing a threat to the health or safety of students.

INSERT:

...providing, however, that such conditions that pose a threat to the health or safety of students commenced or occurred after school has commenced for the day.

Cromo B. Greene

RATIONALE: The rationale has been forwarded that the district, once having started the day with kids in classes, would have double expenses; expenses for the day just started and expenses for the make up day and yet the state will reimburse only for one day.

In reality there is no significant expense to a district if school is shut down prior to busses moving and kids coming to the school.

Introduced: 1/26/83
Referred: Health,Education &
Social Services and Finance

IN THE HOUSE BY LARSON

HOUSE BILL NO. 125

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to 'emergency closure days' in response to a threat to the health or safety of students."

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

* Section 1. AS 14.03.030 is amended to read:

Sec. 14.03.030. SCHOOL TERM. The school term begins and ends on the dates fixed by the governing body of the school district. However, the term shall include not less than 180 days in session, except that, subject to the approval of the commissioner [,]

(1) a day used for in-service training of teachers may be substituted for a day in session, up to a maximum of 10 days; and

(2) an "emergency closure day" may be substituted for a day in session because of conditions posing a threat to the health or safety of students.

Public Health ✓ — requested position paper
DOE ✓

Chapter 03. Public Schools Generally.

Section
10. Establishment of school system
20. School year
30. School term
40. Day in session
50. School holidays
60. Elementary, junior high, and secondary schools
70. School age
80. Free education
83. Contracting for services
90. Sectarian or denominational doctrines prohibited
100. Use of school facilities
110. Questionnaires and surveys administered in public schools
130. Display of flag
140. Emergency drills

Collateral references. — 68 Am. Jur. 2d Schools § 1 et seq.

78 C.J.S. Schools and School Districts, §§ 1, 2, 12 et seq.

Equivalence of educational facilities extended by public school system to members of white and members of colored race. 103 ALR 713.

Residence for purpose of admission to public school. 83 ALR2d 497.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Noncustodial parent's rights as respects education of child. 36 ALR3d 1093.

Tort liability of public schools and institutions of higher learning for educational malpractice. 1 ALR4th 1139.

Sec. 14.03.010. Establishment of school system. There is established in the state a system of public schools to be administered and maintained as provided in this title. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

This title was enacted pursuant to Alaska Const., art. VII, § 1. Hootch v. Alaska State-Operated School Sys., Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

History of public education in Alaska. — See Hootch v. Alaska State-Operated School Sys., Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Collateral references. — Incorporated educational body as an institution belonging to the state. 65 ALR 139.

What is common or public school within contemplation of constitutional or statutory provisions. 113 ALR 697.

Sec. 14.03.020. School year. The school year begins on the first day of July and ends on the 30th day of June. (§ 1 ch 98 SLA 1966)

Sec. 14.03.030. School term. The school term begins and ends on the dates fixed by the governing body of the school district. However, the term shall include not less than 180 days in session, except that, subject to the approval of the commissioner, a day used for in-service training of teachers may be substituted for a day in session, up to a maximum of 10 days. (§ 1 ch 98 SLA 1966; am § 1 ch 65 SLA 1972; am § 1 ch 137 SLA 1976; am § 1 ch 24 SLA 1979)

Effect of amendments. — The 1979 amendment deleted the former third sentence providing for approval of school schedules for a school term of less than 180 days in session.

Sec. 14.03.040. Day in session. Each day within the school term is a day in session except Saturdays, Sundays, and days designated as holidays by or according to AS 14.03.050. A school board may approve Saturdays as a day in session. The day in session in every school shall be at least four hours long, exclusive of intermissions, for the first, second, and third grades and five hours, exclusive of intermissions, for all other grades. The commissioner may approve a shorter day in session for any grade. The period of the day in session shall be devoted to the instruction of pupils or to study periods for the pupils. (§ 1 ch 98 SLA 1966; am § 2 ch 137 SLA 1976)

Sec. 14.03.050. School holidays. (a) Public schools shall not be in session on school holidays which are Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Christmas Day, New Years Day, Memorial Day, and the Fourth of July. If one of these holidays falls on a Saturday, the Friday immediately preceding is a school holiday. If one of these holidays falls on a Sunday the Monday immediately following is a school holiday. A teacher shall not be required to perform employment services on these holidays, nor may the salary of a teacher be diminished because the teacher does not perform employment services on a school holiday.

(b) The public schools shall be in session on all other holidays falling upon school days and shall conduct appropriate exercises in recognition of the day.

(c) The governing body of the school district may declare additional holidays. (§ 1 ch 98 SLA 1966)

Editor's notes. — In the last sentence of subsection (a), "the teacher" was substituted for "he" by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.03.060. Elementary, junior high, and secondary schools. (a) An elementary school consists of grades kindergarten through grade eight or any appropriate combination of grades within this range.

(b) A secondary school consists of grades seven through 12 or any appropriate combination of grades within this range. The establishment of one or two grades beyond the 12th grade is optional with the governing body of the school district.

(c) Grades seven through eight, nine, and ten or any appropriate combination of grades within this range may be organized as a junior high school.

(d) This section does not prevent a high school from issuing a diploma to a student who has completed the 12th grade. (§ 1 ch 98 SLA 1966)

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 125 Date on Bill: 1/26/83
Title: "An Act relating to 'emergency closure days 'in response to a threat to the health and
Sponsor: Representative Larson safety of students."
Requestor:

1. Estimated fiscal impacts on: Department of Health & Social Services

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	0	0	0		
Operating			0	0	0	0		
Total			0	0	0	0		

B. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Responsibility for identification of funding is that of the author of the bill.

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared by: Dean Tirador, M.D. Phone: 465-2113
Division: Public Health Date: 2/8/83

Approved by Commissioner: Date: 2/22/83
Department: Health and Social Services

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

POSITION PAPER / Department of Health and Social Services

POSITION PAPER

HOUSE BILL NO. 125

"An Act relating to 'emergency closure days' in response to a threat to the health or safety of students."

This Bill amends AS 14.03.030 by adding a provision that an "emergency closure day" may be substituted for a day in session because of conditions posing a threat to the health or safety of students.

The Department of Health and Social Services cannot comment on the educational impact of the new provision. Emergency closures for strictly health or safety reasons are a relatively uncommon event and can be kept at a minimum by strict enforcement of existing statutes and regulations relating to immunization requirements and building and safety codes. In the past year, there have been no instances in which the Division of Public Health has recommended closure of a school due to health reasons. The most likely reasons for closure would probably relate to environmental considerations due to failure of utilities such as heating, water or sewerage systems.

Recommended by: E. S. Rabeau

E. S. Rabeau, M.D., Director
Division of Public Health

Date: 1-6-83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 2/9/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 125
Title An Act relating to 'emergency closure days'...
Requested by House HESS Date 2/22/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected K-12 Foundation Support
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS.ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact.

IV. DATE 2/22/83 PREPARED BY Steve Hole
AGENCY Education
Original: Legislative Finance PHONE 465-2865
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/82)

HB

127

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: November 29, 1983

REQUEST:
Bill/Resolution No.: House Bill No. 127
Title: "An Act to increase the punishment for sexual assault in the first degree."
Sponsor: Reps. Lindauer, Hurlbert, Pestinger
Requestor: Governor Sheffield
Date of Request: September 15, 1983

FISCAL DETAIL:
Agency Affected: ADULT CORRECTIONS AGENCY
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Administration & Support, Northern, Southcentral & Southeastern Regions

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	24705.0	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	24705.0	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	-0-	-0-	-0-	24705.0	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the bill sponsor.

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Administrative Services Date: November 29, 1983

Approved by Commissioner: William W. Lading for Roger V. Endell Date: December 16, 1983
Department: ADULT CORRECTIONS AGENCY

Distribution:
Legislative Finance ✓
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency (ies)

12/1/83

IV. ANALYSIS

The current conviction rate for sexual assault in the first degree (rape) is 110 persons per year. Of this number, approximately 90 are first convictions.

House Bill No. 127 increases the presumptive sentence for first felony convictions only. The sentences for second and third convictions are unchanged from existing law. The increase in presumptive sentence length for first time offenders of sexual assault is two years.

It is assumed for purposes of this fiscal note that every offender earns all good time available. Since one day of good time is earned for every three days served, the increase in time served by each of the 90 persons convicted would be one and one-half years. This will result in the need for 135 additional bed spaces within the Alaska correctional system.

The impact on the system will not be experienced until six (6) years after passage of the proposed legislation since that is the minimum time served to under a presumptive sentence of eight (8) years. Considering the passage of time involved from the appropriation of funds to the completion of construction, the capital funds are requested for FY 1988, with a projected date of July 1, 1990 for opening the new facility. The cost for construction is estimnated to be $183,000. This is based on an estimated cost per bed of $183,100 (FY 1984 costs, plus 10% inflation for each of four years) times 135 beds: 135 x $183,000 = $24,705,000.

No operating costs are identified in the fiscal note as they will not be experienced until FY 1991. Approximately 34 staff positions would be needed at that time, as well as funding for all areas related to the care and custody of the additional inmates.

WHILE YOU WERE AWAY

FOR Dorothy Peavey DATE _____ TIME _____ A.M. P.M.

M Rep Lindauer

OF

PHONE 3709
AREA CODE NUMBER EXTENSION

MESSAGE – Can contact her if you have any questions about this info that will be passed out to HESS committee members

SIGNED

- [ ] TELEPHONED
- [ ] RETURNED YOUR CALL
- [ ] PLEASE CALL
- [ ] WILL CALL AGAIN
- [ ] CAME TO SEE YOU
- [ ] WANTS TO SEE YOU

TOPS FORM 4002

HB127

SECTION = 12.55.125
TITLE = 12
HEADINGS TITLE 12.
Code of Criminal Procedure.
CHAPTER 55.
Sentencing and Probation.
CITATION Sec. 12.55.125.
CATCH LINE
SENTENCES OF IMPRISONMENT FOR FELONIES.
TEXT (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. LIMITED EFFECTIVE DATE
(b) -EFFECTIVE UNTIL JANUARY 1, 1983- A defendant convicted of murder in the second degree or kidnapping shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.
POSTPONED EFFECTIVE DATE
-EFFECTIVE JANUARY 1, 1983- A defendant convicted of murder in the second degree, kidnapping, or misconduct involving a

..copy d
E1001 ENTER COMMAND IN CORRECT FORMAT OR RETURN TO CONTINUE
AS12.55.125 DOCUMENT= 1 OF 1 PAGE = 2 OF 5

controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.
(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;
(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, seven years;
(3) if the offense is a second felony conviction, 10 years;
(4) if the offense is a third felony conviction, 15 years.
(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10

AS12.55.125 DOCUMENT= 1 OF 1 PAGE = 3 OF 5

years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
(1) if the offense is a second felony conviction, four years;
(2) if the offense is a third felony conviction, six years.
(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:
(1) if the offense is a second felony conviction, two years;
(2) if the offense is a third felony conviction, three

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under

AS 12.55.085;

(3) imprisonment for the prescribed minimum term may not be otherwise reduced.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) of this section, except to the extent permitted under AS 12.55.155 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided.

(i) A defendant convicted of sexual assault in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and

does not involve circumstances described in (2) of this subsection, eight years;

(2) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(3) if the offense is a second felony conviction, 15 years;

(4) if the offense is a third felony conviction, 25 years.

HISTORY (Sec. 12 ch 166 SLA 1978; am sec. 18 ch 45 SLA 1982; am secs. 28-30 ch 143 SLA 1982)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 127 Date on Bill: 1/26/83
Title: An Act to increase the punishment for sexual assault in the first degree
Sponsor: Representative Lindauer
Requestor: House Health Education & Social Services Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

				FY 83	FY 84	FY 85	FY 86			
Capital										
Operating										
Total				-0-	-0-	-0-	-0-			

b. Revenues:

Revenue										

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/28/83

Approved by Commissioner: [signature] Date: 2/28/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 127
Title An Act to increase the punishment for sexual assault in the 1st degree
Requested by House HESS Date Jan. 26, 1983

II. FISCAL DETAIL

Agency Affected Health & Social Services
Program Category Affected Offender Confinement Reformation & Supervision
BRU, Program or Subprogram(s) Affected Adult Confinement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS ETC.						
	TOTAL					24718.5	

FUNDING (Thousands of Dollars)

GENERAL FUND					24718.5	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The enactment of this proposed bill will increase the sentence length for the crime of sexual assault in the first degree.

IV. DATE February 3, 1983 PREPARED BY Roger C. Lange
AGENCY Division of Adult Corrections
PHONE 465-3376

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

33-001 (Rev. 12/79)

BILL NUMBER House Bill No. 127

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES					24718.5	
700	GRANTS, CLAIMS ETC.						
	TOTAL	-0-	-0-	-0-	-0-	24718.5	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	24718.5	-0-
FEDERAL FUNDS						
OTHER(Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

The current conviction rate for sexual assault in the first degree (rape) is 110 persons per year. Of this number, approximately 90 are first convictions.

House Bill No. 127 increases the presumptive sentence for first felony convictions only. The sentences for second and third convictions are unchanged from existing law. The increase in presumptive sentencing for first time offenders of sexual assault is two years.

It is assumed for purposes of this fiscal note that every offender earns all good time available. One day of good time is earned for every three days served. Therefore the increase in time served by each of the 90 persons convicted would be one and one-half years. This will result in the need for 135 additional bed spaces within the Alaska correctional system.

The impact on the system will not be experienced until six (6) years after passage of the proposed legislation since that is the minimum time served under a presumptive sentence of eight (8) years. Considering the time involved from appropriating funds to completion of buildings, the capital costs are requested

for FY 1987, with a projected date of July 1, 1989, for opening the new facility. The cost for construction is estimated to be $24,718,500. This is based on an estimated cost per bed of $183,100 (FY 1985 costs, plus 12% inflation for each of two (2) years) times 135 beds: 135 x $183,100 = $24,718,500.

No operating costs are identified in the fiscal note as they will not be experienced until FY 1990. Staff positions would be needed at that time, as well as funding for all areas related to the care and custody of the additional inmates.

ALASKA ACTION TRUST
c/o SRA Box 1553Z
Anchorage, AK 99507

March 28, 1983

MAR 30 1983

The Honorable Mae Tischer
Pouch V
Mail Stop 3100
Juneau, AK 99811

Dear Representative Tischer:

The Alaska Action Trust is a statewide organization composed of attorneys actively involved in trial practice. The Trust has and seeks membership from attorneys practicing in all parts of Alaska and is supported by voluntary contributions from its members. The Trust members feel that their experience and background on specific legislation may assist you as a member of the House Health, Education & Social Services Committee of the Thirteenth Alaska Legislature.

The Trust therefore requests that you advise us of committee meetings and public hearings on the following bill presently before your committee: HB 127. By separate letter we are also requesting this information from other members of the committee.

If we can be of assistance to you by submitting written or oral testimony, please do not hesitate to contact us.

Sincerely,

ALASKA ACTION TRUST

Joanne F. Routh

Joanne F. Routh,
Executive Secretary
Telephone 345-5543

JFR:jff

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 127 Date on Bill: 1/26/83
Title: An Act to increase the punishment for sexual assault in the first degree
Sponsor: Representative Lindauer
Requestor: House Health Education & Social Services Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue	

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/28/83

Approved by Commissioner: [signature] Date: 2/28/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Senior Scholastic 2/8/79

The Tragedy of Teenage Prostitution

by FATHER BRUCE RITTER with BOB WEINSTEIN

We must face the shocking facts, says a Catholic priest, and care enough to try to change them.

"I am not going to make it. I am going to die out there. The streets are going to kill me."

He was 17 years old. We'll call him Louis. He was talking to one of the co-authors of this article, the Reverend Bruce Ritter, a 52-year-old Franciscan priest. Two years ago, Father Ritter started Covenant House. It is a shelter for teenagers, most of them runaways, who roam the sinful streets around Times Square in midtown New York.

Wherever there are large numbers of runaways, teenage prostitution is a fact. The problem is already very bad—and getting worse—in cities such as New York, Los Angeles, Miami, and Houston. But it's not just a big-city problem. Those runaways come from almost every corner of the United States. Fleeing or kicked out of their homes, they come to the cities with dreams of glamor and fun.

The Federal Bureau of Investigation keeps statistics on runaways. Between 600,000 and one million young people run away from home every year, the FBI reports. Not all of these, of course, end up in prostitution. In fact, quite a few return home very soon. But almost all teenage prostitutes start out as runaways.

These teenage runaways cannot get honest work. They have not finished school. Rightly or wrongly, they don't want to go home. Or maybe they don't have a home, or parents, anymore. Or maybe their parents don't want them to come home.

Over the past 18 months, 8,000 homeless young people have come to Covenant House. There, they can get a good night's sleep, eat nourishing meals, and clean up. Perhaps most important of all, they can talk about their lives with the volunteers who work there. Like Louis, who fears "the streets are going to kill me," 60 percent of the young people who show up at Covenant House are involved in prostitution.

At 17, Louis has been a hustler for three years. He didn't finish school and can't write very well. He's an alcoholic. He drinks every day, he says, to try to forget what he has to do to survive. He is a naturally bright person who, maybe, could have led a more "normal" life. But his chances, now, of leading anything like a normal life are just about zero.



Teenage runaways head for cities — and ruined lives. Father Ritter fights to save them.

What do volunteer workers say to teenagers like Louis who come to Covenant House and similar shelters around the country? The volunteers have only one hope: to try to convince a teenager that he or she has other choices in life. Maybe (a volunteer may suggest) going back home is better than staying

Few things get Father Ritter to put aside his work for Covenant House—even for a little while. This article was one of them. We are grateful to Father Ritter and to his co-author, Bob Weinstein, a frequent contributor to this magazine.

Senior Scholastic 1/8/79

on the streets. But many of these teenagers just can't believe that they can change their lives, that they have any choices at all.

So, they go back on the streets. Hundreds of them have been held prisoner, tortured, raped. Some of them have been murdered. One 16-year-old girl—we'll call her Alice—was held prisoner for a week, after a pimp picked her up in New York's Port Authority Bus Terminal. Alice was drugged, raped repeatedly, but finally escaped. Her pimp found her again and told her he had to have her back. He said he owned her. Besides, Alice was worth thousands of dollars a month to him.

Police have identified about 1,000 pimps in just the New York City midtown area. Each one usually controls between two and four girls like Alice. The prostitute is the "property" of the pimp. Each girl is expected to bring the pimp a certain amount of money a day, usually around $200. She has to. If she doesn't, a brutal beating is about the best she can hope for.

Prostitution has been called a "victimless crime." That means a crime that doesn't hurt anybody. But that leaves out all the young people who are beaten, tortured, held prisoner. And what about those who are murdered? What about the ones who commit suicide out of hopelessness and desperation?

These are the victims. But who, really, are they? Here are some statistics from Covenant House. Fifty percent of the teenage prostitutes are black; 18 percent are Spanish-speaking; 25 percent are white. The rest are of mixed ethnic backgrounds. Seventy-five percent are boys. The median age of both boys and girls is about 17. Almost one-half of them are 17 or younger. Nineteen out of 20 come from one-parent families. If they come from two-parent families, there is almost always alcoholism in the family.

Seventy-five percent of teenage prostitutes are children of the poor. Most of them have suffered child abuse. They have either been thrown out or walked out of homes that have broken up, or homes where there seems to be no love or understanding left.

To an experienced pimp, these needs for attention and security are easy to spot—and easy to prey on. A lot of scared young girls, for example, want to believe that the smooth, expensively dressed young men who seem to fall for them really care. The rude awakening often comes when the girl is asked to prove her love by repaying the man for his generosity. She can repay him, he tells her, by selling her body and making money for them both. For her, it can seem like her only option.

Meanwhile, the "sex industry" is booming. And teenage prostitution and pornography, too, get bigger every day. Business has never been better. Why? There are probably just two answers. They are two of the seven deadly sins—greed and lust. There is big money in selling sex. Greed makes people go after that money. The money comes from other people who lust after children and teenagers. And, of course, the greedy ones want to make sure money keeps rolling in. They are for the most part linked to what we know as organized crime. They have a big stake in being deadly efficient—for them, sex is a $4-billion-dollar-a-year industry. □

Father Bruce Ritter— On Stopping Teenage Prostitution

Senior: With all you've seen—all the pain and suffering—do you think it's possible to end the problem?

Father Ritter: I do. It seems, though, that very few people really want to do anything.

Senior: Do what? You make it sound as if individuals—young individuals—can do something. But is that realistic? What have adults, politicians, the police been able to do?

Ritter: Very little. But I think that's because they've only given lip service to the problem. But they've made little effort to stop it. The problem grows worse every day. But young people can care. Caring is a good way to start. If their sister or brother or close friend were on a street corner, it wouldn't be so hard to care. Caring is the first step in accepting responsibility—for yourself and for others.

Senior: That sounds good. But it also sounds like a lot of other things people have said before about love and caring making things all right....

Ritter: Wait a minute. That's only a beginning. The caring makes people *act*. And that's what it takes to make them realize they have power.

Senior: What kind of power?

Ritter: The power to put people into office—and to take them out. Politicians respond to the people who write them—people who care, people who vote. Letters are a good way for your readers to start. And before long, they'll be voting. They can vote against the uncaring politicians and judges and the do-nothing district attorneys.

Senior: But statistics show that not many young people actually vote.

Ritter: I know! That's immoral and irresponsible. I hear young people say that their vote doesn't count. But they don't even try to find out if that's true. They may shake their heads over a problem like teenage prostitution, but they don't try to *do* anything.

Senior: But why should they *really* care—about a problem that seems so far away?

Ritter: I thought I already gave them some good reasons. But here's another. Some day, they will have children of their own. And they have to decide if they want those children growing up in a world where young people are bartered like sacks of potatoes. They can't afford to wait until then... until those children are teenagers and maybe thinking of running away. That will be too late. The problem can't be—won't be—stopped overnight. It's going to take time. And the time to start is *now*. □

Society November/December, 1979

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Teen-Age Prostitutes

Adolescent prostitution has been receiving a great deal of attention in Minnesota, and particularly in the Twin Cities area of Minneapolis-St. Paul. The area is notorious as the home of many young girls who are now working as prostitutes in New York City, Chicago, and California; so notorious that one section of New York with numerous adolescent prostitutes has become known as the "Minnesota Strip."

Based on 3 years of direct fieldwork, Michael Baizerman, Jacquelyn Thompson, Kimaka Stafford-White, and "An Old, Young Friend"—an 18-year-old woman with five years' experience in prostitution—have written of this problem in *Children Today*.

In the Twin Cities area, girls of all races are involved in prostitution; their ages range from 13 to 18. Some have a male pimp, others do not, and many make a transition from working independently to working for a pimp. Generally speaking, most of the young prostitutes work "the street"—both actual city blocks and other specific locations, such as shopping malls and the areas around some bars and after-hours clubs. Most sex acts take place in cars, although some girls use apartments and, more rarely, motel and hotel rooms.

Many of the girls practice birth control; pills, followed by the IUD, are the two most popular forms. Since girls may begin using the pill at an early age, they may be at risk of resultant medical complications. Use of the IUD could lead, through violence during the sex act, to such serious problems as perforation of the cervix. Condoms seem to be used less as a pregnancy prophylactic than as a preventive for venereal disease.

Many girls do not know much about venereal disease, and what information they do have seems to be obtained from "the street." Some learn from experience that one consequence might be scar tissue on the fallopian tubes, which could prevent pregnancy. Generally, pimps take care of the medical and health expenses of their girls.

Many pimps working in neighborhoods and the metropolitan area do not use hard drugs and do not allow their girls to use them—hard drug use raises the risk of arrest and the cost of the pimp's operation. Hard drugs also compete with a pimp for the girl's dependency. This is not to say that many girls do not have a history of drug use or that some girls may not be intentionally introduced to drugs as a way to secure and control them. However, this latter pattern is more characteristic of interstate than of local patterns.

All of the pimps are male and most of the younger ones are black. Those who live in the neighborhood where the girls work—"popcorn" or "bubblegum" pimps, or "players"—are about 17, 18 and 19 years old, while those who come from outside the state are usually older, having moved up the "career ladder" from neighborhood pimp to small businessman. Black pimps tend to work on the street while white pimps, usually older, are more likely to be involved with more formally organized action such as call girls, saunas, and massage parlors.

In general, the younger pimps come from disadvantaged neighborhoods; they have relatively poor formal education, lack basic skills, and have few opportunities to obtain legitimate work. As a result, they are likely to be frustrated, angry, resentful, and unsure of themselves. They tend to use force to control their girls and may attempt to hurt a girl or someone who tries to interfere with their operation. It is likely, however, that many of these young men will move out of pimping if other possibilities are found. Those who stay in it do so partly because there are few work opportunities. Most do not stay out of any great pathological or perverse need.

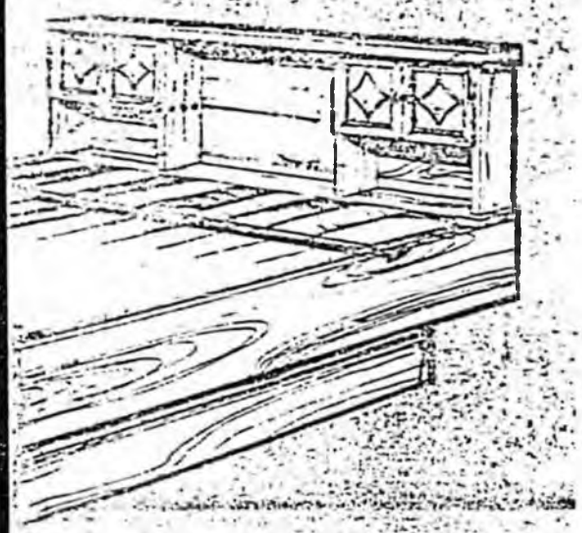
Older and more sophisticated pimps rarely use physical force on their women. Their method of control is psychological and emotional, with the goal of having the girls become totally dependent upon them.

The local buyers or Johns seem to be white men over 25 years of age, both married and single. We know that many have families of their own—and that some men ask for girls of their daughters' age.

Although a wide variety of sex acts are performed, most men seem to want oral sex or intercourse. The price varies according to the act and the time involved. For ordinary oral sex or intercourse, it is about $25. Other factors—whether the girl works for a pimp, the location of the pick-up, the nature of the sex act, and whether or not there is a big convention in town—also influence the cost.

Most of the action seems to take place from lunchtime to late afternoon, and then later in the evening. These afternoon times fit well within typical male working schedules and allow married men the opportunity to be home in the evening and still engage in—and protect—their activities.

Business hours are also determined by the girls' schedules. Since they may also be students in junior and senior high school, the girls may choose to work only after school. Afternoon hours are convenient for girls who live at home and work at prostitution part time, without parental knowledge.



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SIERRA
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thermostat, fill kit.

sentence of 3 years

By TERRY CARR
Daily News reporter

A 29-year-old father of five was sentenced to three years in prison Wednesday for running a prostitution ring of teen-age girls.

Willie B. Bell, who has been in jail since he was arrested on pimping charges in May, is the first person to be convicted and sentenced to prison under a 1980 law outlawing the promotion of prostitution among juveniles, prosecutors said.

Superior Court Judge Milton Souter said he added one year to Bell's sentence because of testimony Wednesday by another jail inmate, William Smith. Smith told the court Bell Wednesday morning threatened to harm him and his daughter unless Smith gave testimony favorable to Bell.

Bell denied making the threat.

Souter ordered Bell to prison despite pleas from defense attorney Peter Mysing, who called his client's offenses "a detour in his life" and said Bell was an "adoring father."

If Souter gave him probation, Bell told the judge, "you'll never see me in another courtroom for anything."

Souter called the crimes for which Bell was convicted in October a "dirty business."

"This sentence has to serve as a deterrent" to Bell and others engaged in prostitution, he said.

Souter also said he was influenced heavily by trial testimony and evidence that the Bell used violence and the threat of violence to control the girls in his prostitution ring.

Teen-agers who worked for Bell testified during the trial that Bell often beat them and threatened to kill them.

Souter said "the great majority of women would not engage in prostitution" unless threatened with violence, lured with the promise of narcotics, or by other means of persuasion.

"Here, the powerful persuasion was threats of violence and, on at least one occasion, the use of violence," he said.

Bell, who sat silently throughout most of Wednesday's sentencing, spoke only to plead for probation and to contest the testimony of Smith, the inmate who claimed Bell had threatened him.

"I've been in jail," Bell said. "I learned my lesson in jail. I don't need to spend any more time in jail."

Smith, who was arrested here in December on an Arkansas theft charge, said he became friendly with Bell in jail. "You better get me out of this," Smith quoted Bell as telling him.

Smith, who at first refused to testify but relented under Souter's order, said Bell also threatened Smith's 14-year-old daughter unless Smith testified favorably.

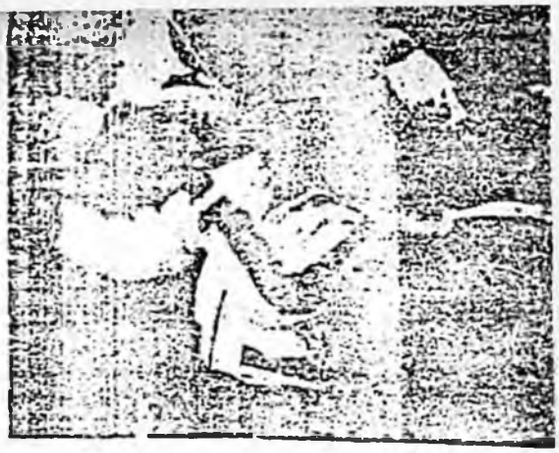
Bell denied he threatened Smith or his daughter.

"All I told him was to come to court and testify and tell the truth," Bell said.

Souter, however, said he believed Smith and that he added a year to the sentence because of the threats.

"I think Mr. Bell needs to sit in jail and think about that. We're not going to tolerate that sort of behavior," Souter said.

Souter gave Bell credit for the 240 days he has already spent in jail. Bell will be eligible for parole after serving one-third of his sentence.



The joy of snow

With fresh white stuff falling in their faces, winter, students at Lake Otis Elementary School rejoiced Wednesday in the first major snowfall of the [illegible] Anchora[illegible]er Servi[illegible]

3 consulting firms

Plans to build a huge, centralized state office building in Anchorage will move a step closer to fruition next week with the selection of a local consultant to assist in site selection and design.

But at least two Anchorage lawmakers say they have major reservations about the structure.

Rep. Russ Meekins, recalling the construction of the new Federal Building here a few years ago, voiced fears that the addition of the massive complex to house state offices could depress the private market for office space here. Sen. Ed Dankworth said he is not convinced the project is needed.

Guided by Department of Administration Commissioner Bill Hudson, the office project is moving rapidly toward actual construction. Hudson says he hopes for an August groundbreaking.

Tuesday, the Anchorage Assembly backed the concept of locating a central state office building downtown. Hudson said the endorsement is [illegible]ble signal that we're on

If the building is bui[illegible] would like it to locate [illegible] meetings of the full state

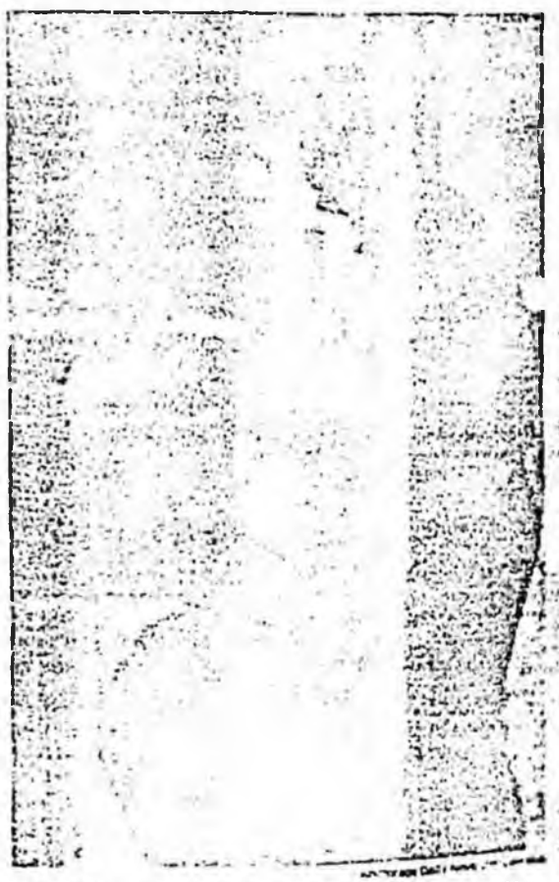
Hudson will meet to[illegible]day with officials fr[illegible] agencies and the mana[illegible] a consultant from the [illegible]Mc[illegible]mard and Pierce, [illegible]ociates, and [illegible] and Planners Alliance An[illegible]

"We will hear pre[illegible] from each of the three [illegible] the week, and the ma[illegible] promote final, specific [illegible] selection," Hudson said. [illegible]

He currently envisi[illegible] would ask a private d[illegible]nance and build the offic[illegible] a guarantee the state will [illegible]

That scenario, Hudso[illegible] popular with lawmakers.

"So far, every legi[illegible]



Neither rain, nor sleet, nor snow

Despite the snow, mail[illegible]man Roberto Lucola was on the [illegible] Wednesday, delivering mail [illegible] delivery on I Street.

Greene, who cooperated with the government during the investigation, will testify at the trial.

Reed, Burk, McDaniel and Smith have pleaded not guilty to all charges against them.

The first indictment was dismissed, without government objection, after defense attorneys [illegible] government's charges.

Federal agents used Greene and Billy Ray Helverton, a government informant who was not charged, to surreptitiously tape record conversations with defendants in the arson investigation.

The recordings are expected to play a substantial role in the government's case.

Anchorage Daily News-Matt Olson

Footprints in the snow

A snow covered bench in the downtown park strip went untouched today by passersby.

Willie Bell convicted in teen-ager prostitute case

By JULIE ANNE GOLD
Daily News reporter

Willie B. Bell, accused as a Fourth Avenue pimp, was convicted of inducing a 14-year-old girl into a life of prostitution by a Superior Court jury Thursday.

The 29-year-old Bell faces up to 10 years for the first-degree felony charge.

In a complex reading of six separate verdicts, the jury found Bell innocent of forcing two other girls, ages 15 and 16, into prostitution, but guilty of promoting them to become prostitutes.

These lesser, third-degree charges carry possible prison sentences of up to a year and 90 days.

Delivering its sixth verdict in the case, the jury found Bell guilty of managing and supervising a prostitution enterprise, other than in a place of prostitution. The felony offense holds a maximum sentence of five years in prison.

Bell, nervously looking around the nearly empty courtroom Thursday, buried his heads in his hands after the clerk read the first "guilty" verdict.

"We plan to appeal," said Peter Mysing, Bell's attorney.

"All three ladies' testimony was damaging against Bell," Mysing said. "The issue was who was the jury going to believe."

Even though Bell admitted taking money that he knew came from prostitution from the 16-year-old, according to Msying, Bell never "caused" or "induced" the 14-year-old to become a prostitute.

However, the jury thought otherwise.

"There was definite evidence to support she was forced into prostitution," one juror said Thursday. "The photos showed she was beaten and bruised."

Prosecutor Martha Beckwith said the 14-year-old's testimony and a tape-recorded confrontation between Bell and the three girls probably were the most damaging evidence against Bell.

"He beat me real bad," a voice — identified by the state as belonging to the 14-year-old — said on the tape.

A series of color snapshots, passed from juror to juror, depicted the teen-ager with cuts and bruises on her face and arms.

However, the testimony of the older girls apparently did not convince the jury that Bell "forced" or "attempted to force" them into prostitution.

One of the girls, who admitted to being a prostitute before she met Bell, told the jury she was his lover for several months before his arrest.

"In her case, it was hard to tell what was a lovers' fight from a business fight," another juror said.

Another juror agreed, saying "there was just not enough evidence for a first-degree conviction" in connection with the two other girls.

But the jurors, gathered around Judge Milton Souter's third-floor jury room for the last time, all agreed there was plenty of evidence to convict Bell of the state's last charge — pimping for the three girls.

"The facts showed he drove them around" Fourth Avenue, one juror said, and "then waited and picked them up."

Mysing called his conviction a "surplus charge." The only way his client could be convicted of inducing the 14-year-old to become a prostitute, Mysing said Thursday, would be by pimping for her.

If Bell is sentenced to both charges the state will be guilty of double jeopardy, Mysing claimed.

Beckwith disagreed, saying she "was pleased" with the verdicts.

It was the first time "in at least four or five years" the state has successfully prosecuted someone for street pimping, she said.

Items — direct from Liverpool — go on Hohman's



Forums on aging set

Community forums on aging — meetings at which the elderly look at issues affecting their lives — are scheduled here through December.

Concerns expressed at the forums will be developed at the [illegible]

• Nov. 1, Tudor Community School at St. Mary's Church, 4502 Cassin Drive, 1 p.m. to 4 p.m.

• Nov. 17, Sand Lake Community School, 3933 Patterson, 7 p.m. to 9 p.m.

Jury deliberates pimp case

By JULIE ANNE GOLD
Daily News reporter

The fate of Willie B. Bell, an Anchorage man accused of setting up three teenage girls in lives of prostitution, was being contemplated Wednesday night by a jury of six men and six women.

Closing arguments brought an end Wednesday to the eight-day trial in which three former teen-age prostitutes explained the ins and outs of working the streets of Anchorage to the jury.

Bell was arrested in May for allegedly forcing two of the girls, and attempting to induce the third, to engage in prostitution. He was also indicted on a fourth charge of illegally running a prostitution business.

If convicted, Bell, who has pleaded innocent to all the charges, could face up to 25 years in jail, according to the district attorney's office.

The case is the first time in many years the state has brought an alleged pimp to trial on felony charges, the district attorney's office said.

Prosecutor Martha Beckwith relied heavily Wednesday on the testimony of the three teenagers to prove the state's case against Bell.

Under oath the girls, ages 15, 16 and 17, pointed to the defendant — usually slouched in his chair — as their former pimp who often beat them and threaten to kill them for not making more money from "johns" or "dates."

Bell's lawyer, Peter Mysing, claimed Bell never agreed to be their pimp and that



they were free to leave him any time, but decided live with him while they — on their own —engaged in prostitution.

Mysing acknowledged Bell on occasion drove the girls downtown, accepted money from them and slapped them during "domestic" quarrels. However, he denied his client ever "induced or forced" them to be prostitutes.

In order to convict Bell on first-degree pimping charges, the state must prove he intended to cause or force the girls to engage in prostitution.

In an effort to discredit the girls' testimony, Mysing recounted Bell's testimony of driving one of the girls to the Big Timbers motel for a "date."

The room cost $37 and the girl received $20, Mysing said. Bell would have to be an "extremely bad pimp" if he had set up the meeting.

Beckwith defended the testimony of the girls. "She basically went through the wringer to come in and testify candidly," Beckwith said, defending the veracity of one of the girl's statements.

That girl admitted under cross-examination to being a prostitute and living with several men for a few months at a time before agreeing to live and work for Bell in January.

"Ladies and gentlemen, ask yourselves why Mr. Bell was involved with these young girls, these juveniles," Beckwith said. "Why did he give them rides" downtown, wait for them and pick them up.

"If it were not like men like Mr. Bell, perhaps juveniles would not run to the street. Bell performed a function on that street," Beckwith claimed.

If the jury reaches a verdict Wednesday, one court source said, the results would be sealed and not made public until this morning.

Stevens tells oil leaders state has good potential

By NANCY SHUTE
States News Service

WASHINGTON, D.C. — Sen. Ted Stevens, R-Alaska, told a meeting of oil and gas industry representatives exactly what they wanted to hear this week, promising Alaska energy reserves will rescue the United States from dependence on foreign oil.

Stevens, addressing the Garmen's Roundtable here Tuesday, made the occasion a dress rehearsal for his upcoming stump of the West in support of Republican presidential candidate Ronald Reagan's energy policy.

"Gov. Reagan was absolutely right when he said that Alaska has the oil potential of Saudi Arabia," Steven said. "But I think he was too conservative. Alaska has the potential of becoming several Saudi Arabias."

Stevens also called for a renewed effort to pass an Alaska lands bill when Congress returns for a post-election lame duck session Nov. 12, advocating defeat of the bill proposed by Rep. Morris Udall, D-Ariz., a week ago in the final moments of the session.

"I am going to ask members to demand that the Udall bill be changed — that leasing begin on the Arctic Wildlife Range in 1981. That should be the goal of the lame duck session."

Stevens lambasted President Jimmy Carter's energy policy, terming it the "moral equivalent of surrender." He accused Carter of having gone one step further than previous presidents in locking up Alaskan oil leases, particularly in the Arctic Wildlife Range.

"There hasn't been a single onshore lease in Alaska's federal lands since 1965," the senator said. "Carter went one step further. He used the Antiquities Act to withdraw 100 million acres, and has fought to prevent any leasing or even seismic testing of the Arctic Wildlife Range."

The Department of Energy, created by Carter, has "virtually bogged down" domestic oil and gas production, Stevens claimed.

Not an original Reagan suppporter, Stevens said his only quarrel with the candidate's energy policy was over synthetic fuels.

"I disagree with Reagan on the Synfuels Corporation," he said. "I support it so long as it is mandated to depend on private enterprise to develop new technology." Reagan opposes the federally-funded development of synthetic fuels production.

State pamphlets mailed to voters

The Associated Press

JUNEAU — More than 250,000 state election pamphlets have been mailed to registered voters in Alaska, Lt. Gov. Terry Miller said Wednesday.

The pamphlets contain biographical information and state-

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Anchorage Times 2/2/82

Prostitutes' survival — old but tricky business

"Oh, the Sisters of Mercy, they are not departed or gone."
— Leonard Cohen

by Krys Holmes
and Ellis E. Conklin
Times Writers

Under the neon lights of the Scandanavian Club, Denise, a 22-year-old hooker, stood alone Monday night.

After a deep yawn, she lit up a cigarette, kicked the slush from her maroon leather boots and ambled down The Avenue.

Few people walked by her. And those who did didn't seem to notice. Denise is a Fourth Avenue fixture like the drunks and the hot chili at the Panhandle Cafe.

At $50 a crack and several "tricks" a night, Denise can make as much as $600 to $1,000 a week. All the money, however, goes to her pimp. And, as one police officer put it: "They all say they work alone, but there isn't one girl out there who doesn't have a pimp."

The pimp takes care of her room and board, clothing, and the modest accessories necessary to perform nightly in this ancient profession.

"Things are quiet now," she said. "They (police) made the big bust and there ain't nothing left for 'em, 'cept for me and couple of other girls.

"I think they want to get the streets clean for Fur Rondy," Denise said bitterly.

She quickened her pace, turned the corner at Fourth and Barrow, and decided she "don't want to talk no more."

There aren't many prostitutes talking right now. After a crackdown last weekend, most of them are scared. Others are in hiding "until the heat cools down." And many of them are still in jail dressed in blue jump suits, waiting for their pimps to post bail.

In the past 72 hours, Anchorage police, dressed in street clothes, have made 54 arrests for loitering and solicitation. Some of the women were collared as many as three times during the weekend. Chief Brian Porter said he can't remember seeing that much jail activity in several years here.

During the weekend, Porter said, the streets were thick with prostitutes, and competition among the women was fierce. Some actually tried to stop traffic or climb into cars, Porter said. A police officer walking down the street discovered a prostitute with her "trick" having sex in the man's car. She got her $50 for the deal — and was arrested on the spot. One local woman said her husband was propositioned as they walked to a restaurant in the Sunshine Mall.

There were no customers arrested, and not a single pimp.

Police say many of the women now working the streets came from Canada, Hawaii and the West Coast. Some came for more money; some because Anchorage has long

See Trick, page A-4

Trick

(Continued from page A-1)

been a part of the prostitutes' migration pattern between Honolulu, Seattle, San Francisco and Los Angeles.

And for others, it is the promise of making a bundle during the Fur Rendezvous celebration that begins next weekend, and the military's Brim Frost maneuvers, that bring some 60,000 potential customers to Alaska to play war games in the Interior and see the sights of Anchorage afterward.

Tim Casper, a veteran on the vice squad, said the number of prostitutes on The Avenue rises and falls in a pattern. "It's something you can really count on," he said. "In January, they're all over, and they'll be that way until we put the pressure on them."

The "pressure" starts when the public outcry rises above a tolerant grumble. Until then, police are encouraged to spend the taxpayers' money going after the less visible crimes: robberies, rapes and burglaries.

But prostitution takes its toll on Anchorage's streets. Customers are rolled. Men are robbed by the women they willingly pay for, as the girls try to make more money for their "men."

Of the 23 murders that occurred in Anchorage in 1982, three of them were directly related to prostitution, police say. In two of the homicides, it was the hooker who killed. In the third, a pimp shot a girl's customer.

Caspar said 30 to 40 percent of all the robberies and at least 60 percent of the pickpocketing in Anchorage is related to prostitution and street people on Fourth Avenue.

"We could put a lot of man hours into trying to build a felony theft case against one guy, and get very poor results. Or we could use the same number of officers and drag a few of the prostitutes off the streets and clean it up for a while," he said.

"My theory is to arrest them on loitering charges, and enforce their (probation) restrictions. Let them know Anchorage isn't going to tolerate it. Maybe then they'll leave, and with them the pimps will go, and the crime will go, too."

Most of the women are charged with loitering for purposes of prostitution, a misdemeanor. Because state laws about prostitution are ambiguous, and because a woman will almost always say she works alone, men are seldom arrested, and rarely prosecuted.

In this business, men may pay the money, but the women pay the price.

Joanne Baker, 26, is six months pregnant. She was arrested for soliciting Sunday night. It was her second arrest for prostitution since coming to Anchorage from Miami last year.

There were no extra beds at the Sixth Avenue Jail Sunday night; she slept on the floor.

Looking haggard as she gazed through the plexiglass window in the vistor's room, Joanne scratched her stringy blonde hair. Her blue eyes were watery and her arms were speckled with small red blotches. She didn't want to talk, especially to a reporter.

She said she turned to selling her body after she couldn't find work as a bar maid. Asked about the weekend sweep, Joanne said, "Police, they told us it was because of Fur Rondy. That's why. That's why they're hitting on us."

And when she gets out on the streets again? "Well, we'll just move to a different area. There's always a different area to go to," she replied.

However, Joanne isn't sure how she is going to make bail. She appeared panicky. She says she has no pimp to fork out the $300. "I don't know how I'm going to get it. I don't know. I don't know. Maybe, I'll call a friend."

Joanne and 20 other women were arraigned Monday before District Court Judge John D. Mason. They sat in the courtroom chained together.

Most of them were given bail and a court date, with the provision that they no longer sell their wares in the downtown area between Third and Sixth, from D Street to Barrow.

But most of them will. And many will go to jail. For the second, third, even seventh and eighth times.

Scott Sidell, a municipal prosecutor, said he has seen the same faces and names over and over again. Their names and ages are usually phony. But those arrested are all too often teen-agers posing as adults. Girls, posing as women, selling off their childhood bit by bit in exchange for an allowance, or a home, for a man who says he loves them.

It's shortly before midnight and Veronica stood in the doorway of an adult book store. She pulled her rabbit fur coat tighter around her. Her eyes searched for a possible customer. But no one was around.

During a brief conversation, Veronica said she's not worried about the police clampdown on her livelihood. "We'll be trickling back out again. The cops do this a couple of times a year. No big deal."

Standing alone again later, she spotted a man wearing an Army fatigue jacket, walking slowly near the Elbow Room. She waited until he passed right in front of her before she said, "Hey, you want to party?"

Her breath formed a tiny white cloud as she spoke.

They walked quickly together, neither of them speaking.

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 809

JUNEAU, ALASKA 99802

586-3650

POSITION PAPER

HB127: An Act to increase the punishment for sexual assault in the first degree

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of twenty-one programs statewide that provide domestic violence, sexual assault, and adult crisis intervention services to members of their respective communities. Network programs are funded in part through grants and contracts awarded by the Council on Domestic Violence and Sexual Assault.

The Network was established in 1978, and has as one of its primary focuses the elimination of domestic violence and sexual assault through provision of shelter, advocacy, and education/prevention services.

While the Network is supportive of the diligent prosecution of persons charged with sexual assault, it is our strong feeling that a comprehensive, mandatory treatment and rehabilitation program, provided in conjunction with sufficiently lengthy jail terms, most effectively addresses the issues of protecting the victim and facilitating prevention.

Towards that end, the Network would strongly urge the Alaska State Legislature to consider conducting a comprehensive overview of the extent of prosecution, the impact of sentencing, and the quality of rehabilitative treatment in cases of sexual assault.

TERMS OF IMPRISONMENT

OCTOBER 1, 1982

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELON CONVICTION
MURDER I	[20] -- 99	[20] -- 99	[20] -- 99
MUR. II & KIDNAP. & M. I. C. S. I	[5] -- 99	[5] -- 99	[5] -- 99
SEXUAL ASSAULT 1ST **	5 --(10)-- 30 HB127 (12)	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
SEXUAL ASSAULT 1ST	4 --(8)-- 30 HB127 (10)	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
A FELONY **	3 1/2 --(7)-- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
A FELONY HB128 ↑	2 1/2--(5) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
B FELONY HB117 ↑	0 -- 10	0 -- (4) -- 10	3 -- (6) -- 10
C FELONY	0 -- 5	0 -- (2) -- 5	0 -- (3) -- 5

**APPLIES WHEN A DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY EXCEPT FOR MANSLAUGHTER.

NUMBERS IN (BRACKETS ARE) PRESUMPTIVE SENTENCES. NUMBERS ENCLOSED BY [BOXES] ARE MANDATORY MINIMUM SENTENCES. NUMBERS TO LEFT OF BRACKETS ARE LOWEST MITIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

A -
B -
C -

MIKE STARK
DEAN GUANELI 3460

Introduced: 1/26/83
Referred: Health, Education and Social Services, Judiciary and Finance

Triette 3384

comment sen on ??

ask for Dept. Law comment & copy of statute as is and as it will be

BY PESTINGER, COWDERY, AND BARNES

IN THE HOUSE

HOUSE BILL NO. 117

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

- ask for stats on conviction rate based on sentence length

For an Act entitled: "An Act relating to sexual abuse of a minor."

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

* Section 1. AS 11.41.440 is amended to read:

Sec. 11.41.440. SEXUAL ABUSE OF A MINOR. (a) A person commits the crime of sexual abuse of a minor <u>in the first degree</u> if, being 16 years of age or older, <u>that person</u> [HE]

(1) [ENGAGES IN SEXUAL PENETRATION WITH A PERSON WHO IS UNDER 16 YEARS OF AGE BUT 13 YEARS OF AGE OR OLDER OR AIDS, INDUCES, CAUSES OR ENCOURAGES A PERSON UNDER 16 YEARS OF AGE BUT 13 YEARS OF AGE OR OLDER TO ENGAGE IN SEXUAL PENETRATION WITH ANOTHER PERSON;]

(2) engages in sexual contact with a person who is under 13 years of age or aids, induces, causes or encourages a person under 13 years of age to engage in sexual contact with another person; or

(3) aids, induces, causes or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455-(a)(2) - (6).

(b) Sexual abuse of a minor <u>in the first degree</u> is a class <u>B</u> [C] felony.

* Sec. 2. AS 11.41 is amended by adding a new section to read:

Sec. 11.41.442. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE. (a) A person commits the crime of sexual abuse of a minor in the second degree if, being 16 years of age or older, that person engages in sexual penetration with a person who is under 16 years of age but 13 years of age or older or aids, induces, causes, or encourages a

HB 127

CURRENT STATUTE: FOR A FIRST FELONY CONVICTION for SEXUAL ASSAULT in the FIRST DEGREE, NOT involving FIREARMS, SERIOUS ~~physica~~ physical INJURY or use of A dangerous INSTRUMENT, the PRESUMPTIVE SENTENCE is 8 YEARS.
HB 127 changes the presumptive sentence to 10 YEARS

FOR the first felony CONVICTION for SEXUAL ASSAULT in the first degree involving a FIREARM, SERIOUS physical injury or use of a dangerous instrument, the presumptive sentence is 10 YEARS
HB127 changes the presumptive sentence to 12 YEARS

TERMS OF IMPRISONMENT

OCTOBER 1, 1982

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
MURDER I	[20] -- 99	[20] -- 99	[20] -- 99
MUR. II & KIDNAP. & M. I. C. S. I	[5] -- 99	[5] -- 99	[5] -- 99
SEXUAL ASSAULT 1ST **	5 --(10)-- 30 (12)	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
SEXUAL ASSAULT 1ST	4 --(8)-- 30 (10)	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
A FELONY **	3 1/2 --(7)-- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
A FELONY	2 1/2--(5) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
B FELONY	0 -- 10	0 -- (4) -- 10	3 -- (6) -- 10
C FELONY	0 -- 5	0 -- (2) -- 5	0 -- (3) -- 5

**APPLIES WHEN A DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY, EXCEPT FOR MANSLAUGHTER.

NUMBERS IN (BRACKETS ARE) PRESUMPTIVE SENTENCES. NUMBERS ENCLOSED BY [BOXES] ARE MANDATORY MINIMUM SENTENCES. NUMBERS TO LEFT OF BRACKETS ARE LOWEST MITIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

TERMS OF IMPRISONMENT

JANUARY 1, 1980 THRU SEPTEMBER 30, 1982

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
MURDER I	[20] -- 99	[20] -- 99	[20] -- 99
U R, H & K I D N A P.	[5] -- 99	[5] -- 99	[5] -- 99
A FELONY **	3 --(6)-- 20	5--(10)-- 20	7 1/2 --(15)-- 20
A FELONY	0--20	5--(10)--20	7 1/2 --(15)-- 20
B FELONY	0--10	0--(4)--10	3--(6)-- 10
C FELONY	0--5	0--(2)--5	0--(3)--5

**APPLIES WHEN ADEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY, EXCEPT FOR MANSLAUGHTER.

NUMBERS IN (BRACKETS) ARE PRESUMPTIVE SENTENCES. NUMBERS IN [BOXES] ARE MANDATORY MINIMUM SENTENCES. NUMBERS TO LEFT OF BRACKETS ARE LOWEST MITTIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

BILL NUMBER House Bill No. 127

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES					24718.5	
700	GRANTS, CLAIMS ETC.						
	TOTAL	-0-	-0-	-0-	-0-	24718.5	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	24718.5	-0-
FEDERAL FUNDS						
OTHER(Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

The current conviction rate for sexual assault in the first degree (rape) is 110 persons per year. Of this number, approximately 90 are first convictions.

House Bill No. 127 increases the presumptive sentence for first felony convictions only. The sentences for second and third convictions are unchanged from existing law. The increase in presumptive sentencing for first time offenders of sexual assault is two years.

It is assumed for purposes of this fiscal note that every offender earns all good time available. One day of good time is earned for every three days served. Therefore the increase in time served by each of the 90 persons convicted would be one and one-half years. This will result in the need for 135 additional bed spaces within the Alaska correctional system.

The impact on the system will not be experienced until six (6) years after passage of the proposed legislation since that is the minimum time served under a presumptive sentence of eight (8) years. Considering the time involved from appropriating funds to completion of buildings, the capital costs are requested

for FY 1987, with a projected date of July 1, 1989, for opening the new facility. The cost for construction is estimated to be $24,718,500. This is based on an estimated cost per bed of $183,100 (FY 1985 costs, plus 12% inflation for each of two (2) years) times 135 beds: 135 x $183,100 = $24,718,500.

No operating costs are identified in the fiscal note as they will not be experienced until FY 1990. Staff positions would be needed at that time, as well as funding for all areas related to the care and custody of the additional inmates.

Staff Report
House bills 117,127,128
January 27, 1983

HB 117:

Under current statute, sexual abuse of a minor under 16 years of age is a class C felony.

As proposed by HB 117:

1. Sexual abuse of a minor under 13 years of age is a offense in the first degree and is a class B felony.

2. Sexual abuse of a minor aged 13 to 16 is sexual abuse in the second degree and is a class C felony.

HB 127:

Under current statute, the first felony conviction for sexual assault in the first degree, not involving firearms, use of a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 8 years. The proposal will change that sentence to 10 years.

Under current statute, the first felony conviction for sexual assault in the first degree involving firearms, a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 10 years. HB 127 changes that sentence to 12 years.

HB 128:

Under current statute, promoting prostitution is a class B felony. HB 128 provides that inducing or causing a person under 16 years of age to engage in prostitution is a class A felony.

Introduced: 1/26/83
Referred: Health, Education & Social Services, Judiciary and Finance

IN THE HOUSE

BY LINDAUER, HURLBERT, PESTINGER, TISCHER AND M.W.MILLER

HOUSE BILL NO. 127

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act to increase the punishment for sexual assault in the first degree."

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

* Section 1. AS 12.55.125(i) is amended to read:

(i) A defendant convicted of sexual assault in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, 10 [EIGHT] years;

(2) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 12 [10] years;

(3) if the offense is a second felony conviction, 15 years;

(4) if the offense is a third felony conviction, 25 years.

HB

128

(7)

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY
FINANCE

Date: _____

1/26/83

Mr. Speaker:

The Committee on HESS has had HB 128

An Act raising the penalties for promoting child prostitution.

under consideration and reports it back as follows:

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Mae Fischer	
M. W. Miller	
Mike Davis	
[illegible]	
[illegible]	
[illegible]	
[illegible]	

CHAIRMAN

Mae Fischer

H 60

Senior Scholastic 2/8/79

The Tragedy of Teenage Prostitution

by FATHER BRUCE RITTER with BOB WEINSTEIN

We must face the shocking facts, says a Catholic priest, and care enough to try to change them.

"I am not going to make it. I am going to die out there. The streets are going to kill me." He was 17 years old. We'll call him Louis. He was talking to one of the co-authors of this article, the Reverend Bruce Ritter, a 52-year-old Franciscan priest. Two years ago, Father Ritter started Covenant House. It is a shelter for teenagers, most of them runaways, who roam the sinful streets around Times Square in midtown New York.

Wherever there are large numbers of runaways, teenage prostitution is a fact. The problem is already very bad—and getting worse—in cities such as New York, Los Angeles, Miami, and Houston. But it's not just a big-city problem. Those runaways come from almost every corner of the United States. Fleeing or kicked out of their homes, they come to the cities with dreams of glamor and fun.

The Federal Bureau of Investigation keeps statistics on runaways. Between 600,000 and one million young people run away from home every year, the FBI reports. Not all of these, of course, end up in prostitution. In fact, quite a few return home very soon. But almost all teenage prostitutes start out as runaways.

These teenage runaways cannot get honest work. They have not finished school. Rightly or wrongly, they don't want to go home. Or maybe they don't have a home, or parents, anymore. Or maybe their parents don't want them to come home.

Over the past 18 months, 8,000 homeless young people have come to Covenant House. There, they can get a good night's sleep, eat nourishing meals, and clean up. Perhaps most important of all, they can talk about their lives with the volunteers who work there. Like Louis, who fears "the streets are going to kill me," 60 percent of the young people who show up at Covenant House are involved in prostitution.

At 17, Louis has been a hustler for three years. He didn't finish school and can't write very well. He's an alcoholic. He drinks every day, he says, to try to forget what he has to do to survive. He is a naturally bright person who, maybe, could have led a more "normal" life. But his chances, now, of leading anything like a normal life are just about zero.



Teenage runaways head for cities —and ruined lives. Father Ritter fights to save them.

What do volunteer workers say to teenagers like Louis who come to Covenant House and similar shelters around the country? The volunteers have only one hope: to try to convince a teenager that he or she has other choices in life. Maybe (a volunteer may suggest) going back home is better than staying

Few things get Father Ritter to put aside his work for Covenant House—even for a little while. This article was one of them. We are grateful to Father Ritter and to his co-author, Bob Weinstein, a frequent contributor to this magazine.

Senior Scholastic 9/8/79

on the streets. But many of these teenagers just can't believe that they can change their lives, that they have any choices at all.

So, they go back on the streets. Hundreds of them have been held prisoner, tortured, raped. Some of them have been murdered. One 16-year-old girl—we'll call her Alice—was held prisoner for a week, after a pimp picked her up in New York's Port Authority Bus Terminal. Alice was drugged, raped repeatedly, but finally escaped. Her pimp found her again and told her he had to have her back. He said he owned her. Besides, Alice was worth thousands of dollars a month to him.

Police have identified about 1,000 pimps in just the New York City midtown area. Each one usually controls between two and four girls like Alice. The prostitute is the "property" of the pimp. Each girl is expected to bring the pimp a certain amount of money a day, usually around $200. She has to. If she doesn't, a brutal beating is about the best she can hope for.

Prostitution has been called a "victimless crime." That means a crime that doesn't hurt anybody. But that leaves out all the young people who are beaten, tortured, held prisoner. And what about those who are murdered? What about the ones who commit suicide out of hopelessness and desperation?

These are the victims. But who, really, are they? Here are some statistics from Covenant House. Fifty percent of the teenage prostitutes are black; 18 percent are Spanish-speaking; 25 percent are white. The rest are of mixed ethnic backgrounds. Seventy-five percent are boys. The median age of both boys and girls is about 17: Almost one-half of them are 17 or younger. Nineteen out of 20 come from one-parent families. If they come from two-parent families, there is almost always alcoholism in the family.

Seventy-five percent of teenage prostitutes are children of the poor. Most of them have suffered child abuse. They have either been thrown out or walked out of homes that have broken up, or homes where there seems to be no love or understanding left.

To an experienced pimp, these needs for attention and security are easy to spot—and easy to prey on. A lot of scared young girls, for example, want to believe that the smooth, expensively dressed young men who seem to fall for them really care. The rude awakening often comes when the girl is asked to prove her love by repaying the man for his generosity. She can repay him, he tells her, by selling her body and making money for them both. For her, it can seem like her only option.

Meanwhile, the "sex industry" is booming. And teenage prostitution and pornography, too, get bigger every day. Business has never been better. Why? There are probably just two answers. They are two of the seven deadly sins—greed and lust. There is big money in selling sex. Greed makes people go after that money. The money comes from other people who lust after children and teenagers. And, of course, the greedy ones want to make sure money keeps rolling in. They are for the most part linked to what we know as organized crime. They have a big stake in being deadly efficient—for them, sex is a $4-billion-dollar-a-year industry. □

Father Bruce Ritter— On Stopping Teenage Prostitution

Senior: With all you've seen—all the pain and suffering—do you think it's possible to end the problem?

Father Ritter: I do. It seems, though, that very few people really want to do anything.

Senior: Do what? You make it sound as if individuals—young individuals—can do something. But is that realistic? What have adults, politicians, the police been able to do?

Ritter: Very little. But I think that's because they've only given lip service to the problem. But they've made little effort to stop it. The problem grows worse every day. But young people can care. Caring is a good way to start. If their sister or brother or close friend were on a street corner, it wouldn't be so hard to care. Caring is the first step in accepting responsibility—for yourself and for others.

Senior: That sounds good. But it also sounds like a lot of other things people have said before about love and caring making things all right....

Ritter: Wait a minute. That's only a beginning. The caring makes people *act*. And that's what it takes to make them realize they have power.

Senior: What kind of power?

Ritter: The power to put people into office—and to take them out. Politicians respond to the people who write them—people who care, people who vote. Letters are a good way for your readers to start. And before long, they'll be voting. They can vote against the uncaring politicians and judges and the do-nothing district attorneys.

Senior: But statistics show that not many young people actually vote.

Ritter: I know! That's immoral and irresponsible. I hear young people say that their vote doesn't count. But they don't even try to find out if that's true. They may shake their heads over a problem like teenage prostitution, but they don't try to *do* anything.

Senior: But why should they *really* care—about a problem that seems so far away?

Ritter: I thought I already gave them some good reasons. But here's another. Some day, they will have children of their own. And they have to decide if they want those children growing up in a world where young people are bartered like sacks of potatoes. They can't afford to wait until then... until those children are teenagers and maybe thinking of running away. That will be too late. The problem can't be—won't be—stopped overnight. It's going to take time. And the time to start is *now*. □

Society November/December, 1979

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Teen-Age Prostitutes

Adolescent prostitution has been receiving a great deal of attention in Minnesota, and particularly in the Twin Cities area of Minneapolis-St. Paul. The area is notorious as the home of many young girls who are now working as prostitutes in New York City, Chicago, and California; so notorious that one section of New York with numerous adolescent prostitutes has become known as the "Minnesota Strip."

Based on 3 years of direct fieldwork, Michael Baizerman, Jacquelyn Thompson, Kimaka Stafford-White, and "An Old, Young Friend"—an 18-year-old woman with five years' experience in prostitution—have written of this problem in *Children Today*.

In the Twin Cities area, girls of all races are involved in prostitution; their ages range from 13 to 18. Some have a male pimp, others do not, and many make a transition from working independently to working for a pimp. Generally speaking, most of the young prostitutes work "the street"—both actual city blocks and other specific locations, such as shopping malls and the areas around some bars and after-hours clubs. Most sex acts take place in cars, although some girls use apartments and, more rarely, motel and hotel rooms.

Many of the girls practice birth control; pills, followed by the IUD, are the two most popular forms. Since girls may begin using the pill at an early age, they may be at risk of resultant medical complications. Use of the IUD could lead, through violence during the sex act, to such serious problems as perforation of the cervix. Condoms seem to be used less as a pregnancy prophylactic than as a preventive for venereal disease.

Many girls do not know much about venereal disease, and what information they do have seems to be obtained from "the street." Some learn from experience that one consequence might be scar tissue on the fallopian tubes, which could prevent pregnancy. Generally, pimps take care of the medical and health expenses of their girls.

Many pimps working in neighborhoods and the metropolitan area do not use hard drugs and do not allow their girls to use them—hard drug use raises the risk of arrest and the cost of the pimp's operation. Hard drugs also compete with a pimp for the girl's dependency. This is not to say that many girls do not have a history of drug use or that some girls may not be intentionally introduced to drugs as a way to secure and control them. However, this latter pattern is more characteristic of interstate than of local patterns.

All of the pimps are male and most of the younger ones are black. Those who live in the neighborhood where the girls work—"popcorn" or "bubblegum" pimps, or "players"—are about 17, 18 and 19 years old, while those who come from outside the state are usually older, having moved up the "career ladder" from neighborhood pimp to small businessman. Black pimps tend to work on the street while white pimps, usually older, are more likely to be involved with more formally organized action such as call girls, saunas, and massage parlors.

In general, the younger pimps come from disadvantaged neighborhoods; they have relatively poor formal education, lack basic skills, and have few opportunities to obtain legitimate work. As a result, they are likely to be frustrated, angry, resentful, and unsure of themselves. They tend to use fear to control their girls and may attempt to hurt a girl or someone who tries to interfere with their operation. It is likely, however, that many of these young men will move out of pimping if other possibilities are found. Those who stay in it do so partly because there are few work opportunities. Most do not stay out of any great pathological or perverse need.

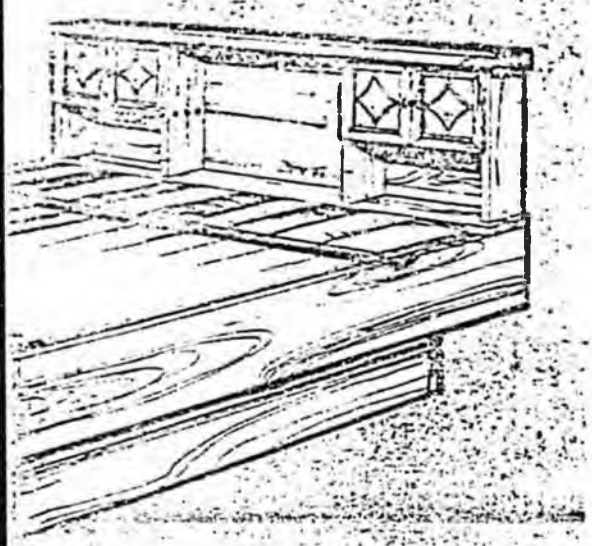
Older and more sophisticated pimps rarely use physical force on their women. Their method of control is psychological and emotional, with the goal of having the girls become totally dependent upon them.

The local buyers or Johns seem to be white men over 25 years of age, both married and single. We know that many have families of their own—and that some men ask for girls of their daughters' age.

Although a wide variety of sex acts are performed, most men seem to want oral sex or intercourse. The price varies according to the act and the time involved. For ordinary oral sex or intercourse, it is about $25. Other factors—whether the girl works for a pimp, the location of the pick-up, the nature of the sex act, and whether or not there is a big convention in town—also influence the cost.

Most of the action seems to take place from lunchtime to late afternoon, and then later in the evening. These afternoon times fit well within typical male working schedules and allow married men the opportunity to be home in the evening and still engage in—and protect—their activities.

Business hours are also determined by the girls' schedules. Since they may also be students in junior and senior high school, the girls may choose to work only after school. Afternoon hours are convenient for girls who live at home and work at prostitution part time, without parental knowledge.



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complete
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sentence of 3 years

By TERRY CARR
Daily News reporter

A 29-year-old father of five was sentenced to three years in prison Wednesday for running a prostitution ring of teen-age girls.

Willie B. Bell, who has been in jail since he was arrested on pimping charges in May, is the first person to be convicted and sentenced to prison under a 1980 law outlawing the promotion of prostitution among juveniles, prosecutors said.

Superior Court Judge Milton Souter said he added one year to Bell's sentence because of testimony Wednesday by another jail inmate, William Smith. Smith told the court Bell Wednesday morning threatened to harm him and his daughter unless Smith gave testimony favorable to Bell.

Bell denied making the threat.

Souter ordered Bell to prison despite pleas from defense attorney Peter Mysing, who called his client's offenses "a detour in his life" and said Bell was an "adoring father."

If Souter gave him probation, Bell told the judge, "you'll never see me in another courtroom for anything."

Souter called the crimes for which Bell was convicted in October a "dirty business."

"This sentence has to serve as a deterrent" to Bell and others engaged in prostitution, he said.

Souter also said he was influenced heavily by trial testimony and evidence that the Bell used violence and the threat of violence to control the girls in his prostitution ring.

Teen-agers who worked for Bell testified during the trial that Bell often beat them and threatened to kill them.

Souter said "the great majority of women would not engage in prostitution" unless threatened with violence, lured with the promise of narcotics, or by other means of persuasion.

"Here, the powerful persuasion was threats of violence and, on at least one occasion, the use of violence," he said.

Bell, who sat silently throughout most of Wednesday's sentencing, spoke only to plead for probation and to contest the testimony of Smith, the inmate who claimed Bell had threatened him.

"I've been in jail," Bell said. "I learned my lesson in jail. I don't need to spend any more time in jail."

Smith, who was arrested here in December on an Arkansas theft charge, said he became friendly with Bell in jail. "You better get me out of this," Smith quoted Bell as telling him.

Smith, who at first refused to testify but relented under Souter's order, said Bell also threatened Smith's 14-year-old daughter unless Smith testified favorably.

Bell denied he threatened Smith or his daughter.

"All I told him was to come to court and testify and tell the truth," Bell said.

Souter, however, said he believed Smith and that he added a year to the sentence because of the threats.

"I think Mr. Bell needs to sit in jail and think about that. We're not going to tolerate that sort of behavior," Souter said.

Souter gave Bell credit for the 240 days he has already spent in jail. Bell will be eligible for parole after serving one-third of his sentence.



The joy of snow

With fresh white stuff falling in their faces, students at Lake Otis Elementary School rejoiced Wednesday in the first major snowfall of the winter. Anchorage Daily News photo by Bill Roth

3 consulting firms

Plans to build a huge, centralized state office building in Anchorage will move a step closer to fruition next week with the selection of a local consultant to assist in site selection and design.

But at least two Anchorage lawmakers say they have major reservations about the structure.

Rep. Russ Meekins, recalling the construction of the new Federal Building here a few years ago, voiced fears that the addition of the massive complex to house state offices could depress the private market for office space here. Sen. Ed Dankworth said he is not convinced the project is needed.

Guided by Department of Administration Commissioner Bill Hudson, the office project is moving rapidly toward actual construction. Hudson says he hopes for an August groundbreaking.

Tuesday, the Anchorage Assembly backed the concept of locating a central state office building downtown. Hudson said the endorsement is [illegible] signal that we're on

If the building is bui[lt] would like it to locate [illegible] meetings of the full state

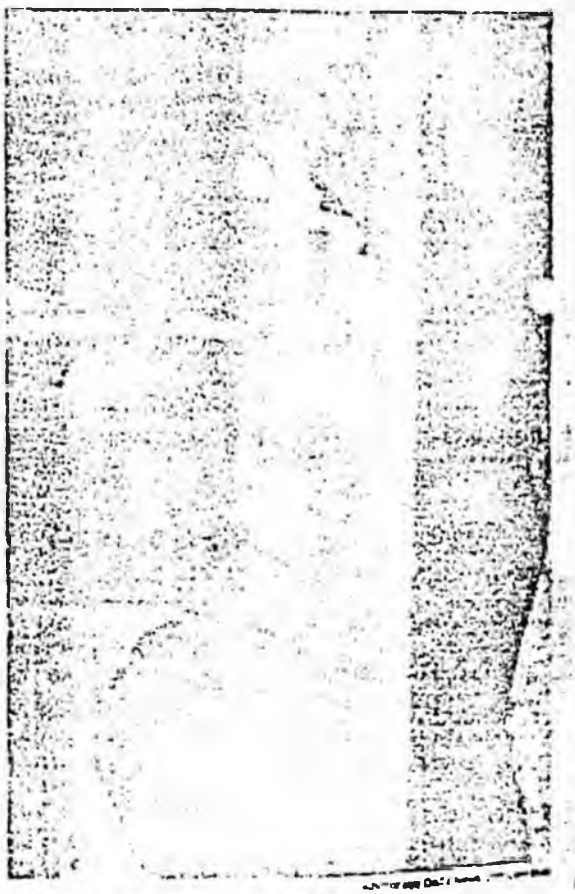
Hudson will meet to[day] with officials fr[om] agencies and the mana[ger] a consultant from the Marmaro and Associates, and CCC- and Planners. All are Ar[e]

"We will hear pre[sen]t from each of the three the week, and the re[com]mend one promote final consul[t] selection," Hudson said.

He currently envisi[ons] would ask a private d[e]veloper and build the offi[ce] a sign that the state was

That scenario, Hud[son] popular with lawmakers.

"So far, every leg[is]



Neither rain, nor sleet, nor snow

Despite the snow, mail carrier Ronnie Escola was on the job Wednesday, delivering mail on F Street.

[illegible] federal grand jury [illegible] June 5.

Greene, who cooperated with the government during the investigation, will testify at the trial.

Reed, Burk, McDaniel and Smith have pleaded not guilty to all charges against them.

The first indictment was dismissed, without government objection, after defense attorneys [illegible] government's charges.

Federal agents used Greene and Billy Ray Helvestun, a government informant who was not charged, to surreptitiously tape record conversations with defendants in the arson investigation.

The recordings are expected to play a substantial role in the government's case.

Anchorage Daily News/Mark Orsen

Footprints in the snow

A snow covered bench in the downtown park strip went untouched today by passersby.

Willie Bell convicted in teen-ager prostitute case

By JULIE ANNE GOLD
Daily News reporter

Willie B. Bell, accused as a Fourth Avenue pimp, was convicted of inducing a 14-year-old girl into a life of prostitution by a Superior Court jury Thursday.

The 29-year-old Bell faces up to 10 years for the first-degree felony charge.

In a complex reading of six separate verdicts, the jury found Bell innocent of forcing two other girls, ages 15 and 16, into prostitution, but guilty of promoting them to become prostitutes.

These lesser, third-degree charges carry possible prison sentences of up to a year and 90 days.

Delivering its sixth verdict in the case, the jury found Bell guilty of managing and supervising a prostitution enterprise, other than in a place of prostitution. The felony offense holds a maximum sentence of five years in prison.

Bell, nervously looking around the nearly empty courtroom Thursdny, buried his heads in his hands after the clerk read the first "guilty" verdict.

"We plan to appeal," said Peter Mysing, Bell's attorney.

"All three ladies' testimony was damaging against Bell," Mysing said. "The issue was who was the jury going to believe."

Even though Bell admitted taking money that he knew came from prostitution from the 16-year-old, according to Msying, Bell never "caused" or "induced" the 14-year-old to become a prostitute.

However, the jury thought otherwise.

"There was definite evidence to support she was forced into prostitution," one juror said Thursday. "The photos showed she was beaten and bruised."

Prosecutor Martha Beckwith said the 14-year-old's testimony and a tape-recorded confrontation between Bell and the three girls probably were the most damaging evidence against Bell.

"He beat me real bad," a voice — identified by the state as belonging to the 14-year-old — said on the tape.

A series of color snapshots, passed from juror to juror, depicted the teen-ager with cuts and bruises on her face and arms.

However, the testimony of the older girls apparently did not convince the jury that Bell "forced" or "attempted to force" them into prostitution.

One of the girls, who admitted to being a prostitute before she met Bell, told the jury she was his lover for several months before his arrest.

"In her case, it was hard to tell what was a lovers' fight from a business fight," another juror said.

Another juror agreed, saying "there was just not enough evidence for a first-degree conviction" in connection with the two other girls.

But the jurors, gathered around Judge Milton Souter's third-floor jury room for the last time, all agreed there was plenty of evidence to convict Bell of the state's last charge — pimping for the three girls.

"The facts showed he drove them around" Fourth Avenue, one juror said, and "then waited and picked them up."

Mysing called this conviction a "surplus charge." The only way his client could be convicted of inducing the 14-year-old to become a prostitute, Mysing said Thursday, would be by pimping for her.

If Bell is sentenced to both charges the state will be guilty of double jeopardy, Mysing claimed.

Beckwith disagreed, saying she "was pleased" with the verdicts.

It was the first time "in at least four or five years" the state has successfully prosecuted someone for street pimping, she said.

Items — direct from Liverpool — go on Hohman's



Forums on aging set

Community forums on aging — meetings at which the elderly look at issues affecting their lives — are scheduled here through December.

Concerns expressed at the forums will be developed at the [illegible]

munity School, 3933 Patterson, 7 p.m. to 9 p.m.

• Nov. 1, Tudor Community School at St. Mary's Church, 4502 Cassin Drive, 1 p.m. to 4 p.m.

• Nov. 17, Sand Lake Com-

Jury deliberates pimp case

By JULIE ANNE GOLD
Daily News reporter

The fate of Willie B. Bell, an Anchorage man accused of setting up three teenage girls in lives of prostitution, was being contemplated Wednesday night by a jury of six men and six women.

Closing arguments brought an end Wednesday to the eight-day trial in which three former teen-age prostitutes explained the ins and outs of working the streets of Anchorage to the jury.

Bell was arrested in May for allegedly forcing two of the girls, and attempting to induce the third, to engage in prostitution. He was also indicted on a fourth charge of illegally running a prostitution business.

If convicted, Bell, who has pleaded innocent to all the charges, could face up to 20 years in jail, according to the district attorney's office.

The case is the first time in many years the state has brought an alleged pimp to trial on felony charges, the district attorney's office said.

Prosecutor Martha Beckwith relied heavily Wednesday on the testimony of the three teenagers to prove the state's case against Bell.

Under oath the girls, ages 15, 16 and 17, pointed to the defendant — usually slouched in his chair — as their former pimp who often beat them and threaten to kill them for not making more money from "johns" or "dates."

Bell's lawyer, Peter Mysing, claimed Bell never agreed to be their pimp and that



they were free to leave him any time, but decided live with him while they — on their own —engaged in prostitution.

Mysing acknowledged Bell on occasion drove the girls downtown, accepted money from them and slapped them during "domestic" quarrels. However, he denied his client ever "induced or forced" them to be prostitutes.

In order to convict Bell on first-degree pimping charges, the state must prove he intended to cause or force the girls to engage in prostitution.

In an effort to discredit the girls' testimony, Mysing recounted Bell's testimony of driving one of the girls to the Big Timbers motel for a "date."

The room cost $37 and the girl received $20, Mysing said. Bell would have to be an "extremely bad pimp" if he had set up the meeting.

Beckwith defended the testimony of the girls. "She basically went through the wringer to come in and testify candidly," Beckwith said, defending the veracity of one of the girl's statements.

That girl admitted under cross-examination to being a prostitute and living with several men for a few months at a time before agreeing to live and work for Bell in January.

"Ladies and gentlemen, ask yourselves why Mr. Bell was involved with these young girls, these juveniles," Beckwith said. "Why did he give them rides" downtown, wait for them and pick them up.

"If it were not like men like Mr. Bell, perhaps juveniles would not run to the street. Bell performed a function on that street," Beckwith claimed.

If the jury reaches a verdict Wednesday, one court source said, the results would be sealed and not made public until this morning.

Stevens tells oil leaders state has good potential

By NANCY SHUTE
States News Service

WASHINGTON, D.C. — Sen. Ted Stevens, R-Alaska, told a meeting of oil and gas industry representatives exactly what they wanted to hear this week, promising Alaska energy reserves will rescue the United States from dependence on foreign oil.

Stevens, addressing the Gasmen's Roundtable here Tuesday, made the occasion a dress rehearsal for his upcoming stump of the West in support of Republican presidential candidate Ronald Reagan's energy policy.

"Gov. Reagan was absolutely right when he said that Alaska has the oil potential of Saudi Arabia," Steven said. "But I think he was too conservative. Alaska has the potential of becoming several Saudi Arabias."

Stevens also called for a renewed effort to pass an Alaska lands bill when Congress returns for a post-election lame duck session Nov. 12, advocating defeat of the bill proposed by Rep. Morris Udall, D-Ariz., a week ago in the final moments of the session.

"I am going to ask members to demand that the Udall bill be changed — that leasing begin on the Arctic Wildlife Range in 1981. That should be the goal of the lame duck session."

Stevens lambasted President Jimmy Carter's energy policy, terming it the "moral equivalent of surrender." He accused Carter of having gone one step further than previous presidents in locking up Alaskan oil leases, particularly in the Arctic Wildlife Range.

"There hasn't been a single onshore lease in Alaska's federal lands since 1965," the senator said. "Carter went one step further. He used the Antiquities Act to withdraw 100 million acres, and has fought to prevent any leasing or even seismic testing of the Arctic Wildlife Range."

The Department of Energy, created by Carter, has "virtually bogged down" domestic oil and gas production, Stevens claimed.

Not an original Reagan suppporter, Stevens said his only quarrel with the candidate's energy policy was over synthetic fuels.

"I disagree with Reagan on the Synfuels Corporation," he said. "I support it so long as it is mandated to depend on private enterprise to develop new technology." Reagan opposes the federally-funded development of synthetic fuels production.

State pamphlets mailed to voters

The Associated Press

JUNEAU — More than 250,000 state election pamphlets have been mailed to registered voters in Alaska, Lt. Gov. Terry Miller said Wednesday.

The pamphlets contain biographical information and state-

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Anchorage Times 2/6/83

Prostitutes' survival — old but tricky business

"Oh, the Sisters of Mercy, they are not departed or gone."
— Leonard Cohen

by Krys Holmes
and Ellis E. Conklin
Times Writers

Under the neon lights of the Scandanavian Club, Denise, a 22-year-old hooker, stood alone Monday night.

After a deep yawn, she lit up a cigarette, kicked the slush from her maroon leather boots and ambled down The Avenue.

Few people walked by her. And those who did didn't seem to notice. Denise is a Fourth Avenue fixture like the drunks and the hot chili at the Panhandle Cafe.

At $50 a crack and several "tricks" a night, Denise can make as much as $600 to $1,000 a week. All the money, however, goes to her pimp. And, as one police officer put it: "They all say they work alone, but there isn't one girl out there who doesn't have a pimp."

The pimp takes care of her room and board, clothing, and the modest accessories necessary to perform nightly in this ancient profession.

"Things are quiet now," she said. "They (police) made the big bust and there ain't nothing left for 'em, 'cept for me and couple of other girls.

"I think they want to get the streets clean for Fur Rondy," Denise said bitterly.

She quickened her pace, turned the corner at Fourth and Barrow, and decided she "don't want to talk no more."

There aren't many prostitutes talking right now. After a crackdown last weekend, most of them are scared. Others are in hiding "until the heat cools down." And many of them are still in jail dressed in blue jump suits, waiting for their pimps to post bail.

In the past 72 hours, Anchorage police, dressed in street clothes, have made 54 arrests for loitering and solicitation. Some of the women were collared as many as three times during the weekend. Chief Brian Porter said he can't remember seeing that much jail activity in several years here.

During the weekend, Porter said, the streets were thick with prostitutes, and competition among the women was fierce. Some actually tried to stop traffic or climb into cars, Porter said. A police officer walking down the street discovered a prostitute with her "trick" having sex in the man's car. She got her $50 for the deal — and was arrested on the spot. One local woman said her husband was propositioned as they walked to a restaurant in the Sunshine Mall.

There were no customers arrested, and not a single pimp.

Police say many of the women now working the streets came from Canada, Hawaii and the West Coast. Some came for more money; some because Anchorage has long

See Trick, page A-4

Trick

(Continued from page A-1)

been a part of the prostitutes' migration pattern between Honolulu, Seattle, San Francisco and Los Angeles.

And for others, it is the promise of making a bundle during the Fur Rendezvous celebration that begins next weekend, and the military's Brim Frost maneuvers, that bring some 60,000 potential customers to Alaska to play war games in the Interior and see the sights of Anchorage afterward.

Tim Casper, a veteran on the vice squad, said the number of prostitutes on The Avenue rises and falls in a pattern. "It's something you can really count on," he said. "In January, they're all over, and they'll be that way until we put the pressure on them."

The "pressure" starts when the public outcry rises above a tolerant grumble. Until then, police are encouraged to spend the taxpayers' money going after the less visible crimes: robberies, rapes and burglaries.

But prostitution takes its toll on Anchorage's streets. Customers are rolled. Men are robbed by the women they willingly pay for, as the girls try to make more money for their "men."

Of the 23 murders that occurred in Anchorage in 1982, three of them were directly related to prostitution, police say. In two of the homicides, it was the hooker who killed. In the third, a pimp shot a girl's customer.

Caspar said 30 to 40 percent of all the robberies and at least 60 percent of the pickpocketing in Anchorage is related to prostitution and street people on Fourth Avenue.

"We could put a lot of man hours into trying to build a felony theft case against one guy, and get very poor results. Or we could use the same number of officers and drag a few of the prostitutes off the streets and clean it up for a while," he said.

"My theory is to arrest them on loitering charges, and enforce their (probation) restrictions. Let them know Anchorage isn't going to tolerate it. Maybe then they'll leave, and with them the pimps will go, and the crime will go, too."

Most of the women are charged with loitering for purposes of prostitution, a misdemeanor. Because state laws about prostitution are ambiguous, and because a woman will almost always say she works alone, men are seldom arrested, and rarely prosecuted.

In this business, men may pay the money, but the women pay the price.

Joanne Baker, 26, is six months pregnant. She was arrested for soliciting Sunday night. It was her second arrest for prostitution since coming to Anchorage from Miami last year.

There were no extra beds at the Sixth Avenue Jail Sunday night; she slept on the floor.

Looking haggard as she gazed through the plexiglass window in the vistor's room, Joanne scratched her stringy blonde hair. Her blue eyes were watery and her arms were speckled with small red blotches. She didn't want to talk, especially to a reporter.

She said she turned to selling her body after she couldn't find work as a bar maid. Asked about the weekend sweep, Joanne said, "Police, they told us it was because of Fur Rondy. That's why. That's why they're hitting on us."

And when she gets out on the streets again? "Well, we'll just move to a different area. There's always a different area to go to," she replied.

However, Joanne isn't sure how she is going to make bail. She appeared panicky. She says she has no pimp to fork out the $300. "I don't know how I'm going to get it. I don't know. I don't know. Maybe, I'll call a friend."

Joanne and 20 other women were arraigned Monday before District Court Judge John D. Mason. They sat in the courtroom chained together.

Most of them were given bail and a court date, with the provision that they no longer sell their wares in the downtown area between Third and Sixth, from D Street to Barrow.

But most of them will. And many will go to jail. For the second, third, even seventh and eighth times.

Scott Sidell, a municipal prosecutor, said he has seen the same faces and names over and over again. Their names and ages are usually phony. But those arrested are all too often teen-agers posing as adults. Girls, posing as women, selling off their childhood bit by bit in exchange for an allowance, or a home, for a man who says he loves them.

It's shortly before midnight and Veronica stood in the doorway of an adult book store. She pulled her rabbit fur coat tighter around her. Her eyes searched for a possible customer. But no one was around.

During a brief conversation, Veronica said she's not worried about the police clampdown on her livelihood. "We'll be trickling back out again. The cops do this a couple of times a year. No big deal."

Standing alone again later, she spotted a man wearing an Army fatigue jacket, walking slowly near the Elbow Room. She waited until he passed right in front of her before she said, "Hey, you want to party?"

Her breath formed a tiny white cloud as she spoke.

They walked quickly together, neither of them speaking.

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

TO: House Health, Education & Social Services Committee

FROM: Representative John Lindauer

RE: HB 128 "An Act raising the penalties for promoting child prostitution."

Child prostitution is a growing problem within the United States as well as within Alaska. Those who promote young people in prostitution commit a heinous crime and need to be punished to the fullest extent possible.

This bill raises the penalty for those who promote individuals under 16 years of age. The minimum penalty would change from four to seven years with the maximum sentence going from ten to twenty years.

Attached are a group of articles detailing areas of concern within the national and local press.

Children Today September/October 1979

ADOLESCENT PROSTITUTION

by Michael Baizerman, Jacquelyn Thompson, Kimaka Stafford-White and "An Old, Young Friend"

Adolescent prostitution is a topic of public and professional concern in many areas throughout the nation. It has been receiving a great deal of attention in Minnesota, and particularly in the Twin Cities area of Minneapolis-St. Paul. We are aware of our area's notoriety as the home of many young girls who are now working as prostitutes in New York City, Chicago and California. We could not help but be aware of the "Minnesota Strip" in New York City after the news coverage given to efforts of two local policemen to bring home some of the young people involved in prostitution there.

We are concerned, too, that sophisticated pimps are coming into Minnesota from other cities. Compared to many states, Minnesota is rich and until recently it has been an untapped resource as far as organized crime is concerned.

In response, public hearings have been held at city and state levels, and groups have been formed by government agencies and youth workers to study the situation and recommend actions. Programs have begun and legislation has been introduced at the state level.[1] Training sessions have been held for youth workers at the University of Minnesota and elsewhere, and public meetings have been called to present issues to parents and young people.

Michael Baizerman, Ph.D., is Associate Professor, Center for Youth Development and Research, and Associate Professor, Maternal and Child Health, University of Minnesota, Minneapolis. Jacquelyn Thompson and Kimaka Stafford-White are youth counselors with a Twin Cities youth agency. "An Old, Young Friend" is an 18-year-old woman with five year's experience in fee-for-service sex in Minneapolis-St. Paul and other cities.

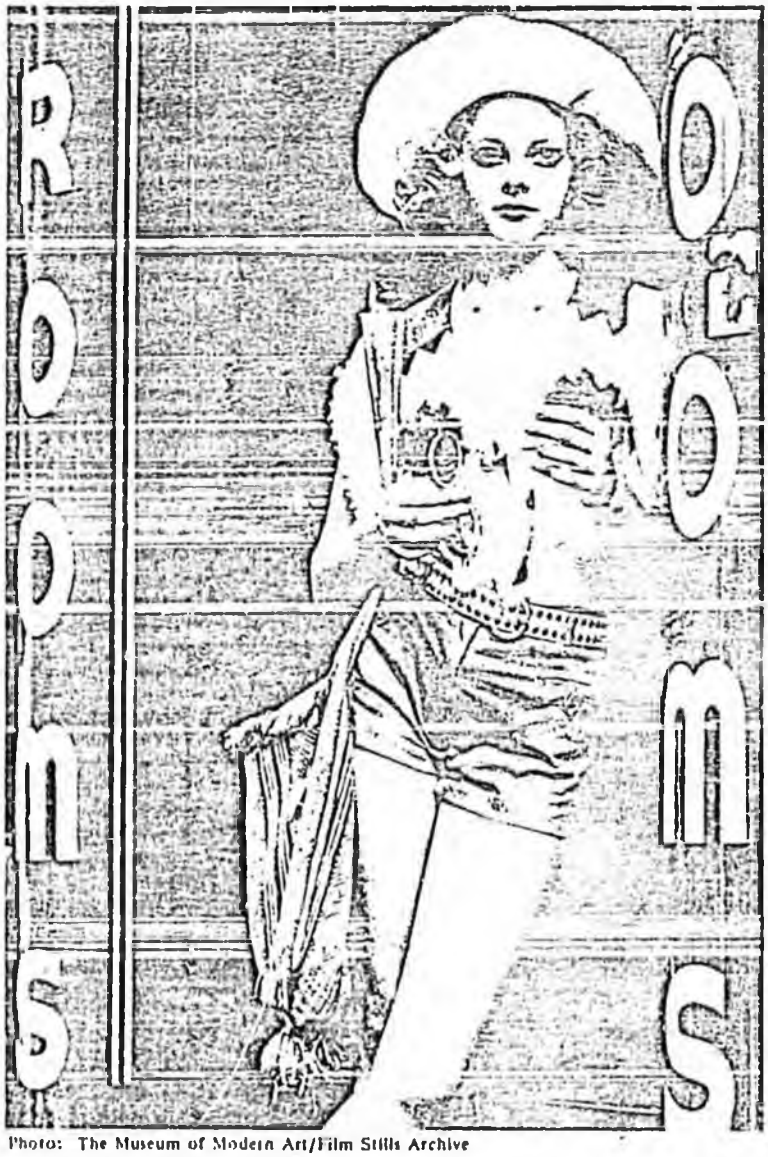


Photo: The Museum of Modern Art/Film Stills Archive

Jodie Foster as a runaway teenage prostitute in the recent film "Taxi Driver."

Taken together, these activities have contributed to the Twin Cities becoming a center of inquiry and action on adolescent female prostitution. (Although there is certainly male prostitution in the Twin Cities area, it is apparently not as prevalent as it is in some other cities and not yet of the same public concern.)

Over a 3-year period, two of us have done direct fieldwork—casefinding, counseling and referral—with more than 300 young prostitutes in the Twin Cities area, including one of the coauthors of this article, "An Old, Young Friend." Most of these girls were native-born, from the Twin Cities or rural areas in the state, and about 70 percent had run away at some time. And, as part of a field study of the Center for Youth Development and Research at the University of Minnesota, three of us have interviewed the youth workers and some of these girls and their pimps. From them we have gathered observations and gained some understanding of the current phenomena of adolescent fee-for-service sex. This article is an introduction to our findings and observations.

A Brief History

Prostitution has been a fact of life in most of recorded history and children and youth have been sellers of sex for almost as long. Only since the early 1900s has youth been considered a separate stage of life; thus we can assume that many young people we now term youths were previously considered to be adults, whether they were involved in prostitution or in other, more conventional activities.

Prostitution by the young has been a form of slavery and of child labor. Young people worked as prostitutes to earn money for their families. Some of this activity was regulated by law—in England, for example, legislation set the minimum age for prostitution at 12 until 1874, at 13 in 1875 and at 16 in 1885.

Is the incidence of adolescent prostitution higher now than in the recent past? We don't know for sure, but we think that it is. We are also hearing more about it now. Some girls may become aware of prostitution as an "easy" way of earning money and decide to try it. Increased public awareness of adolescent fee-for-service sex often results in increased public pressure for police action, which in turn usually results in more arrests and prosecutions and, usually, "convictions." (These young people would be seen in juvenile court where there are hearings and depositions, not convictions.)

In addition, since young prostitutes work "the street" as opposed to working out of bars, hotels or parlors, they are more visible because they tend to congregate on the same streets.

Adolescent prostitution has also been linked to other contemporary youth problems: running away, physical and sexual abuse, incest and child pornography. Federal legislation passed last year, P.L. 95-225, is designed to protect children against sexual exploitation. It also extends the provisions of the Mann Act to apply to boys.

Prostitution in the Twin Cities

In the Twin Cities area, girls of all races are involved in prostitution; their ages range from 13 to 18. Some have a male pimp, others do not, and many make a transition from working independently to working for a pimp. As we have noted, most of the young prostitutes work "the street"—both actual city blocks and other specific locations, such as shopping malls and the areas around some bars and after-hours clubs. Most sex acts take place in cars, although some girls use apartments and, more rarely, motel and hotel rooms.

Many of the girls practice birth control; pills, followed by the IUD, are the two most popular forms. Since girls may begin using the pill at an early age, they may be at risk of resultant medical complications. Use of the IUD could lead, through violence during the sex act, to such serious problems as perforation of the cervix. Condoms seem to be used less as a pregnancy prophylactic than as a preventive for venereal disease.

Many girls do not know much about venereal disease, and what information they do have seems to be obtained from "the street." Some learn from experience that one consequence might be scar tissue on the fallopian tubes, which could prevent pregnancy. Generally, pimps take care of the medical and health expenses of their girls.

Many pimps working in neighborhoods and the metropolitan area do not use hard drugs and do not allow their girls to use them—hard drug use raises the risk of arrest and the cost of the pimp's operation. Hard drugs also compete with a pimp for the girl's dependency. This is not to say that many girls do not have a history of drug use or that some girls may not be intentionally introduced to drugs as a way to secure and control them. However, from what we have observed, this latter pattern is more characteristic of interstate than of local patterns.

All of the pimps are male and most of the younger ones are black. Those who live in the neighborhood where the girls work—"popcorn" or "bubblegum" pimps, or "players"—are about 17, 18 and 19 years old, while those who come from outside the state are usually older, having moved up the "career ladder" from neighborhood pimp to small businessman. Black pimps tend to work on the street while white pimps, usually older, are more likely to be involved with more formally organized action such as call girls, saunas and massage parlors.

In general, the younger pimps come from disadvantaged neighborhoods; they have relatively poor formal education, lack basic skills and have few opportunities to obtain legitimate work. As a result, they are likely to be frustrated, angry, resentful and unsure of themselves. They tend to use fear to control their girls and may attempt to hurt a girl or someone who tries to interfere with their operation. In our experience, however, many of these young men will move out of pimping if other possibilities are found. Those who stay in it do so partly because there are few work opportunities. We do not believe that most stay out of any great pathological or perverse need.

Older and more sophisticated pimps rarely use physical force on their women. Their method of control is psychological and emotional with the goal of having the girls become totally dependent upon them.

The local buyers or Johns seem to be white men over 25 years of age, both married and single. We know that many have families of their own—and that some men ask for girls of their daughter's age.

Although a wide variety of sex acts are performed, most men seem to want oral sex or intercourse. The price varies according to the act and the time involved. For ordinary oral sex or intercourse, it is about $25. Other factors—whether the girl works for a pimp, the location of the pick-up, the nature of the sex act, and whether or not there is a big convention in town—also influence the cost.

Most of the action seems to take place from lunchtime to late afternoon, and then later in the evening. These afternoon times fit well within typical male working schedules and allow married men the opportunity to be home in the evening and still engage in—and protect—their activities.

Business hours are also determined by the girls' schedules. Since they may also be students in junior and senior high

school, the girls may choose to work only after school. Afternoon hours are convenient for girls who live at home and work at prostitution part time, without parental knowledge.

Becoming A Teenage Prostitute

One pathway to prostitution is recruitment by a pimp. Why are some girls vulnerable to a pimp's advances? We believe that the risk of a girl being open to recruitment by a pimp increases with the following factors:

She may have a poor self-image. She is unattractive, possibly overweight and a "loner." She lacks knowledge of normal teenage boy-girl relationships, and she desires acceptance and attention. Aware of this, a pimp will take her to nice restaurants, buy her gifts and make her feel desirable.

She may be a runaway. Girls leave home for a variety of reasons, many of which reflect "healthy" or normal feelings of adolescents—the desire for adventure, to explore something new, to meet new people. Others, however, run away from problems, including physical and sexual abuse, family violence, other intrafamilial tensions and crises and problems with school, work or friends.

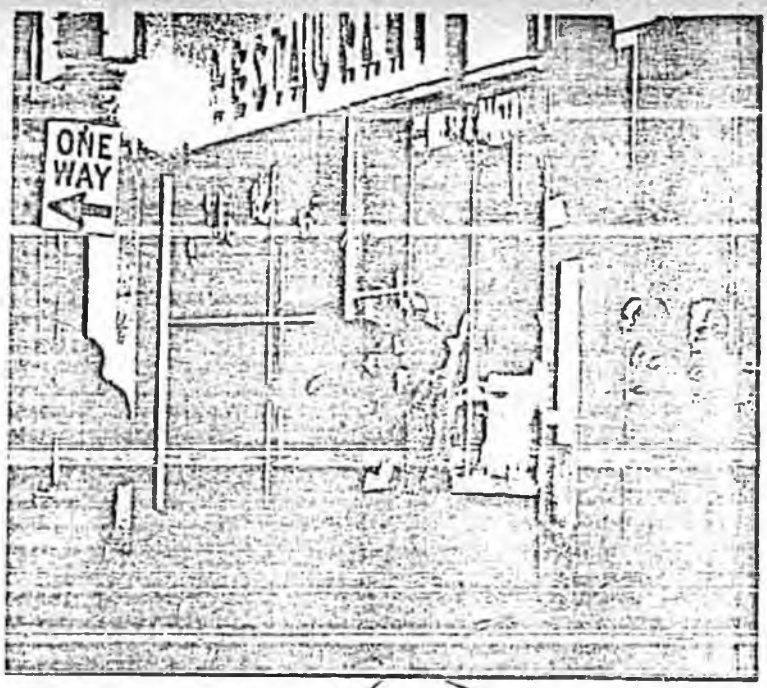
In our experience, it is the girl who runs away from abuse and/or family crises, who urgently wants and needs friendship, security and affection, who is most responsive to the solicitations of a pimp.

The need for money also makes a runaway—who is lonely, tired and hungry and has no place to go—vulnerable to such advances. Working for a pimp may seem to her to be a safe way to organize her work life—she sees him as offering protection against abuse and violence by the "trick," help with the police and the court and offering material and physical security.

To understand why and when these girls leave home is to understand a part of why they are vulnerable to a pimp. What is important here is not only the kind and severity of the incidents but the girl's experiences and understanding of these and her learned behaviors about being in her family. It is important to remember, however, that not all girls who run away from home respond to a pimp and go into prostitution.

Other girls who do not run away from home, but who experience similar personal and family problems, may also be vulnerable to a pimp's advances.

She may have friends in prostitution. She wants to be accepted by her peers, and she is impressed with the clothes, gifts and other material goods that a pimp provides.



She may be seeking . . . Some girls may be looking for a husband or a man to depend upon; others may seek material goods—expensive clothes, a big car, a luxurious apartment—which the pimp provides.

The girls described here usually do not know that they are being recruited for prostitution. In the first stage of the prostitution "career," a girl is picked out, or put at actual risk of "conversion," by others—other girls working for a pimp, a teenage boy who "fingers" or points her out to a pimp for money or status, or by others in the prostitution system. (In some cases, a girl may ask another prostitute to bring her into "the life.")

The pimp contacts the girl, begins dating her and, playing upon her normal interest in men and dating, works carefully to gain her love and trust—he gives her presents, takes her to parties and night spots and introduces her to sex with him. Because of her relative lack of normal girl-boy relationships—and, often, also because of less than ideal family relationships—she is responsive to him. Friends are probably as impressed with the pimp as she is and most likely will encourage her to see him.

During this time the girl, if she is living at home, begins staying out late or even all night, and family arguments arise from her behavior. The pimp reassures her that he wants and needs to see her more often; he tells her that her parents are interfering with their happiness, that they don't understand their love.

At this point the girl's ties to home are severely stretched or broken, and she may run away to live with her pimp. He introduces her to his friends and his other women and she finds a new "family" with them. When he asks her to perform sex with others for a fee, she agrees. She continues to show her love by working.

We believe that the "love approach" used by many pimps is a newer pattern in prostitution. Formerly, prostitution seems to have been more straightforward—the girl knew that she was a prostitute. Several of the girls we have talked with say that they are working to make a better life for themselves and their future husband.

From this stage, several "career lines" may be pursued. The girl may be promoted to another level in the prostitution system—moving from working on the street to working indoors, moving to another city or working for a more professional or full-time pimp.

Another line may lead to a change in the girl's status. She becomes pregnant. She may want to become a mother, or she may use her pregnancy as a way of getting out of the life. She may also see pregnancy as a way to keep her man.

Finally, the girl, as "business material," may be "used up" due to hard work, illness, violence, lack of physical stamina and use of drugs.

Working Independently

What about the girl who begins selling sex on her own? How does she learn about this "career," and why does she choose to try prostitution?

In our experience, most of the independent teenage prostitutes are poor, black and live in communities where they see other teenagers and women living at home and "working" as prostitutes. A girl is aware early of this social role and at some time may choose to try prostitution—and then decide to either stop or continue. Of course, most girls do not take this first step.

Within this perspective, the answer to why she decides to try prostitution is unique to each girl and could involve all of the personal, familial and situational factors described for girls who are recruited by pimps. However, the questions one would ask of a girl who began prostitution independently about why she chose to continue or take on a "manager" would be quite different from those one would ask of girls who were recruited by pimps.

Some girls simply need or want the money and think that prostitution provides an "easy" way of earning it. Because of the publicity given to runaways who engage in prostitution, this is a well-know pathway.

A girl who begins prostitution by working independently may "progress" to working for a pimp. Or, she may just experiment with prostitution for a short time and decide to stop. This is not an unusual pattern.

"Love" and Prostitution

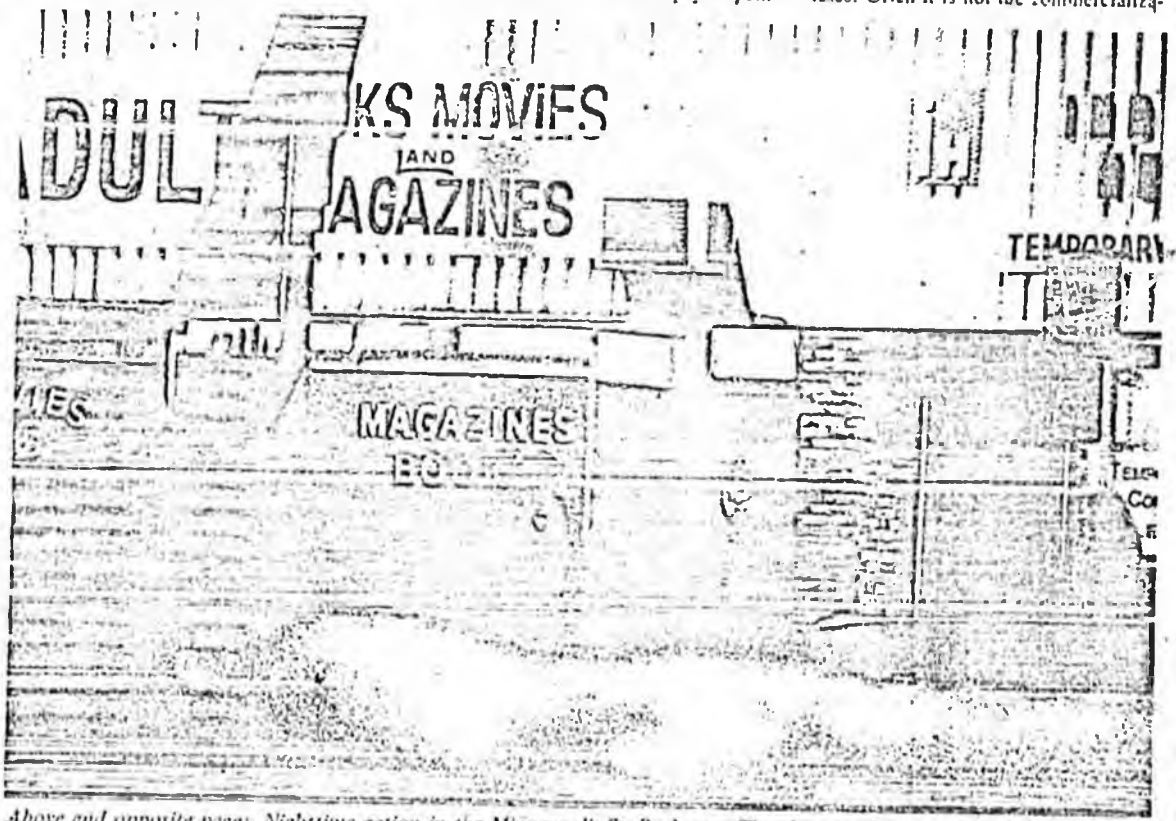
Many adolescent prostitutes and youth workers believe that the main difference between many young prostitutes now and in the recent past is that the girls who now go into prostitution and stay in it do so because they are in love with their pimp.

We think that there is more to it than this, and believe it is useful to distinguish between using the word "love" to describe a total feeling and experience and using it to answer such questions as "Why did you get into prostitution?" and "Why do you stay in it?"

"Love" may be a good answer to these questions: it has the capability of changing the moral and/or psychopathological interpretation of a girl's status and behavior from something that is "bad" or "sick" to something only "sad" and "naive." "Love" is a culturally acceptable reason or explanation for feelings and behavior with which one may be uncomfortable, or which one may dislike or think will be unacceptable to others.

When asked to interpret what love means to them, young prostitutes have used such phrases as "feeling secure," "feeling cared for" and "being paid attention to." What we understand from these responses is that for some girls "prostitution" is not a reality. For them, what is real is that they are the pimp's "lady" or "woman"; this is what love means. (Girls in a "stable" compete with their "sisters" to be the pimp's "main woman" and work together to produce a good living for the pimp—and, thus, for themselves.)

It is precisely this reality which confounds many who seek to understand adolescent prostitution and which makes it so difficult to accept love as the answer to why young girls become prostitutes. Often it is not the commercializa-



Above and opposite page: Nighttime action in the Minneapolis-St. Paul area. The photographs were made from a special type of film used in police surveillance.

tion of sex which is at the root of our discomfort, nor is it the "immorality" of prostitution. Rather, it is the fraudulent manipulation of affection—the "con"—which outrages us. This is "puppy love" twisted and mauled for money and social status.

What Can Be Done?

To begin with a practical point, it should be noted that the involvement of some girls and young male pimps in fee-for-service sex is likely to continue. Efforts should be directed at controlling and keeping the phenomenon relatively small.

We see no simple or single way to control, reduce and/or prevent the phenomenon. No one social institution is solely responsible for action: police and courts alone are no more likely to achieve relative control and prevention than are education, counseling or "treatment." In most jurisdictions, no juvenile prostitution statutes exist. One could use petitions citing incorrigibility to hold the girls (the status offense group, or PINS) in detention homes until their cases are presented in juvenile court. However, in Minnesota, most of the depositions will not be to secure facilities, and the girl is able to return to the pimp.

A law enforcement approach directed toward the pimp will probably be futile. In our experience, attacks on the pimp only serve to bring the girl who loves him closer to him, and they simply move away or "go underground."

We have very little hope of discouraging pimping at the neighborhood level. Too many boys and men see the very few pimp "jobs" as the only ones open to them.

To arrest the buyers is an impossible task, given the size of a typical police force and the mobility of the pimps and girls. Laws focused on the buyer could be effective in raising the risk of going to a young prostitute, but it is likely that differential and selective enforcement of such laws would be seen. It may be easier to turn these men toward older prostitutes—assuming that their interest is in sex with a prostitute, not in sex with a teenager.

Regular customers can usually be spotted, since the girls stay in a relatively well-defined area. Reporters and photographers in the area and the threat of publicity could discourage some action. Community action could also be effective in keeping some men out of the area where young girls are working; however, this might be risky for those involved for some retaliation by pimps could be expected.

A better approach, we think, is to examine the pathways described earlier which lead to adolescent prostitution and to use the insights gained to design multiple ways of intervening. For example, in public meetings or in discussions in schools, community centers and social and youth agencies, adolescent girls could be informed about how pimps recruit, train and supervise girls. They should have opportunities to meet and learn from girls who have engaged in prostitution. Parents, too, should be involved in these meetings. Rather than using a "scare" approach, however, in our work we focus on the larger topics of dating and sexuality, making the point that dating is a normal adolescent activity, one which is fun and necessary to healthy development. Prostitution is presented as a distortion and manipulation of this normal activity. This approach could also be used in high risk neighborhoods and specifically with girls considered at high risk of becoming teenage prostitutes.

Also, the more parents and young people are aware of teenage prostitution and its patterns, the more likely it is that opposition to pimp activity in an area or school will develop.

Education, however, must be coupled with other approaches and actions. For girls who are already involved with a pimp, education is probably not effective. For very young prostitutes, those aged 12 to 15, a law enforcement approach may be the only viable way to achieve temporary separation of the girl from the pimp. However, we believe that many girls who are pulled away by police will try to return to their man.

For all young prostitutes, shelters must be available so that those who want to leave can do so at once, with the knowledge that they will be secure and protected from reprisals by pimps, parents or police. Shelters, or "safe houses," modeled after shelters for battered women, may be a home, a hotel room or part of a runaway house.[2] There girls have opportunities to talk about their experiences and to receive medical help and psychological and vocational counseling. Youth workers can spread the word "on the street" that options to leave do exist and will continue to be available. The girls must know that shelters can be used more than once, and that they will not have to pay—with money or with loss of self-respect—for going there. Getting this information to the girls and creating and sustaining such a service, however, are not simple tasks. In addition, there must be adequate protection—for both the girls and the workers—from retaliation by the pimp.

In the Twin Cities area, we are also making extensive use of street workers from youth agencies, who are available in the areas where the girls work to talk over feelings or problems, mediate crises with their families and pimps, and help them get to a safe house or obtain other assistance.

If all of these actions were undertaken simultaneously in a large city, it is likely that adolescent prostitution still would *not* disappear. Fewer young recruits might enter the life, but adolescent prostitution would probably continue on a lower level of activity and visibility. A community might be able to push out street prostitution, but it is much more difficult and dangerous to attack citywide, statewide and interstate organizations. To control these, Federal law enforcements powers are needed.

However, we do believe that effective action, in the form of public education, the provision of safe houses and the use of street workers, can be taken to reduce the number of young prostitutes. Clearly, there is no easy solution to adolescent prostitution, and we are only now beginning to address another problem: how to orient young girls, who may make as much as $200 a day in prostitution, toward a limited number of legitimate jobs in which they may be expected to earn, at best, a minimum wage. (Although girls working for a pimp turn their "earnings" over to him they receive, in return, support, lavish gifts and recognition from him.) And we must face the fact that there are few jobs for girls aged 12 to 16.

We emphasize that prostitution is, indeed, a dead-end job and provide vocational counseling and training to help them acquire skills for jobs which hold more promise for the future. ◘

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[1] A metropolitan task force has recommended various legislation, including changes in laws which would increase time in prison for pimps and make it easier to convict them, and new legislation which would create service programs for the girls.

[2] In Minneapolis, for example, one shelter for young prostitutes and their children is funded by the Youth Development Bureau ACYF, as part of the Minneapolis Bridge runaway project.

Anchorage Times 2/2/82

Prostitutes' survival — old but tricky business

"Oh, the Sisters of Mercy, they are not departed or gone."
— Leonard Cohen

by Krys Holmes
and Ellis E. Conklin
Times Writers

Under the neon lights of the Scandanavian Club, Denise, a 22-year-old hooker, stood alone Monday night.

After a deep yawn, she lit up a cigarette, kicked the slush from her maroon leather boots and ambled down The Avenue.

Few people walked by her. And those who did didn't seem to notice. Denise is a Fourth Avenue fixture like the drunks and the hot chili at the Panhandle Cafe.

At $50 a crack and several "tricks" a night, Denise can make as much as $600 to $1,000 a week. All the money, however, goes to her pimp. And, as one police officer put it: "They all say they work alone, but there isn't one girl out there who doesn't have a pimp."

The pimp takes care of her room and board, clothing, and the modest accessories necessary to perform nightly in this ancient profession.

"Things are quiet now," she said. "They (police) made the big bust and there ain't nothing left for 'em, 'cept for me and couple of other girls.

"I think they want to get the streets clean for Fur Rondy," Denise said bitterly.

She quickened her pace, turned the corner at Fourth and Barrow, and decided she "don't want to talk no more."

There aren't many prostitutes talking right now. After a crackdown last weekend, most of them are scared. Others are in hiding "until the heat cools down." And many of them are still in jail dressed in blue jump suits, waiting for their pimps to post bail.

In the past 72 hours, Anchorage police, dressed in street clothes, have made 54 arrests for loitering and solicitation. Some of the women were collared as many as three times during the weekend. Chief Brian Porter said he can't remember seeing that much jail activity in several years here.

During the weekend, Porter said, the streets were thick with prostitutes, an competition among the women was fierce Some actually tried to stop traffic or clim into cars, Porter said. A police officer wal ing down the street discovered a prostitut with her "trick" having sex in the man' car. She got her $50 for the deal — and wa arrested on the spot. One local woman sai her husband was propositioned as the walked to a restaurant in the Sunshine Mall.

There were no customers arrested, an not a single pimp.

Police say many of the women now work ing the streets came from Canada, Hawai and the West Coast. Some came for mor money; some because Anchorage has lon

See Trick, page A-

Trick

(Continued from page A-1)

been a part of the prostitutes' migration pattern between Honolulu, Seattle, San Francisco and Los Angeles.

And for others, it is the promise of making a bundle during the Fur Rendezvous celebration that begins next weekend, and the military's Brim Frost maneuvers that bring some 60,000 potential customers to Alaska to play war games in the Interior and see the sights of Anchorage afterward.

Tim Casper, a veteran on the vice squad, said the number of prostitutes on The Avenue rises and falls in a pattern. "It's something you can really count on," he said. "In January, they're all over, and they'll be that way until we put the pressure on them."

The "pressure" starts when the public outcry rises above a tolerant grumble. Until then, police are encouraged to spend the taxpayers' money going after the less visible crimes: robberies, rapes and burglaries.

But prostitution takes its toll on Anchorage's streets. Customers are rolled. Men are robbed by the women they willingly pay for, as the girls try to make more money for their "men."

Of the 23 murders that occurred in Anchorage in 1982, three of them were directly related to prostitution, police say. In two of the homicides, it was the hooker who killed. In the third, a pimp shot a girl's customer.

Caspar said 30 to 40 percent of all the robberies and at least 60 percent of the pickpocketing in Anchorage is related to prostitution and street people on Fourth Avenue.

"We could put a lot of man hours into trying to build a felony theft case against one guy, and get very poor results. Or we could use the same number of officers and drag a few of the prostitutes off the streets and clean it up for a while," he said.

"My theory is to arrest them on loitering charges, and enforce their (probation) restrictions. Let them know Anchorage isn't going to tolerate it. Maybe then they'll leave, and with them the pimps will go, and the crime will go, too."

Most of the women are charged with loitering for purposes of prostitution, a misdemeanor. Because state laws about prostitution are ambiguous, and because a woman will almost always say she works alone, men are seldom arrested, and rarely prosecuted.

In this business, men may pay the money, but the women pay the price.

Joanne Baker, 26, is six months pregnant. She was arrested for soliciting Sunday night. It was her second arrest for prostitution since coming to Anchorage from Miami last year.

There were no extra beds at the Sixth Avenue Jail Sunday night; she slept on the floor.

Looking haggard as she gazed through the plexiglass window in the vistor's room, Joanne scratched her stringy blonde hair. Her blue eyes were watery and her arms were speckled with small red blotches. She didn't want to talk, especially to a reporter.

She said she turned to selling her body after she couldn't find work as a bar maid. Asked about the weekend sweep, Joanne said, "Police, they told us it was because of Fur Rondy. That's why. That's why they're hitting on us."

And when she gets out on the streets again? "Well, we'll just move to a different area. There's always a different area to go to," she replied.

However, Joanne isn't sure how she is going to make bail. She appeared panicky. She says she has no pimp to fork out the $300. "I don't know how I'm going to get it. I don't know. I don't know. Maybe, I'll call a friend."

Joanne and 20 other women were arraigned Monday before District Court Judge John D. Mason. They sat in the courtroom chained together.

Most of them were given bail and a court date, with the provision that they no longer sell their wares in the downtown area between Third and Sixth, from D Street to Barrow.

But most of them will. And many will go to jail. For the second, third, even seventh and eighth times.

Scott Sidell, a municipal prosecutor, said he has seen the same faces and names over and over again. Their names and ages are usually phony. But those arrested are all too often teen-agers posing as adults. Girls, posing as women, selling off their childhood bit by bit in exchange for an allowance, or a home, for a man who says he loves them.

It's shortly before midnight and Veronica stood in the doorway of an adult book store. She pulled her rabbit fur coat tighter around her. Her eyes searched for a possible customer. But no one was around.

During a brief conversation, Veronica said she's not worried about the police clampdown on her livelihood. "We'll be trickling back out again. The cops do this a couple of times a year. No big deal."

Standing alone again later, she spotted a man wearing an Army fatigue jacket, walking slowly near the Elbow Room. She waited until he passed right in front of her before she said, "Hey, you want to party?"

Her breath formed a tiny white cloud as she spoke.

They walked quickly together, neither of them speaking.

Jury deliberates pimp case

By JULIE ANNE GOLD
Daily News reporter

The fate of Willie B. Bell, an Anchorage man accused of setting up three teenage girls in lives of prostitution, was being contemplated Wednesday night by a jury of six men and six women.

Closing arguments brought an end Wednesday to the eight-day trial in which three former teen-age prostitutes explained the ins and outs of working the streets of Anchorage to the jury.

Bell was arrested in May for allegedly forcing two of the girls, and attempting to induce the third, to engage in prostitution. He was also indicted on a fourth charge of illegally running a prostitution business.

If convicted, Bell, who has pleaded innocent to all the charges, could face up to 25 years in jail, according to the district attorney's office.

The case is the first time in many years the state has brought an alleged pimp to trial on felony charges, the district attorney's office said.

Prosecutor Martha Beckwith relied heavily Wednesday on the testimony of the three teenagers to prove the state's case against Bell.

Under oath the girls, ages 15, 16 and 17, pointed to the defendant — usually slouched in his chair — as their former pimp who often beat them and threaten to kill them for not making more money from "johns" or "dates."

Bell's lawyer, Peter Mysing, claimed Bell never agreed to be their pimp and that



they were free to leave him any time, but decided live with him while they — on their own — engaged in prostitution.

Mysing acknowledged Bell on occasion drove the girls downtown, accepted money from them and slapped them during "domestic" quarrels. However, he denied his client ever "induced or forced" them to be prostitutes.

In order to convict Bell on first-degree pimping charges, the state must prove he intended to cause or force the girls to engage in prostitution.

In an effort to discredit the girls' testimony, Mysing recounted Bell's testimony of driving one of the girls to the Big Timbers motel for a "date."

The room cost $37 and the girl received $20, Mysing said. Bell would have to be an "extremely bad pimp" if he had set up the meeting.

Beckwith defended the testimony of the girls. "She basically went through the wringer to come in and testify candidly," Beckwith said, defending the veracity of one of the girl's statements.

That girl admitted under cross-examination to being a prostitute and living with several men for a few months at a time before agreeing to live and work for Bell in January.

"Ladies and gentlemen, ask yourselves why Mr. Bell was involved with these young girls, these juveniles," Beckwith said. "Why did he give them rides" downtown, wait for them and pick them up.

"If it were not like men like Mr. Bell, perhaps juveniles would not run to the street. He performed a function on that street," Beckwith claimed.

If the jury reaches a verdict Wednesday, one court source said, the results would be sealed and not made public until this morning.

Pimp gets sentence of 3 years

By TERRY CARR
Daily News reporter

A 25-year-old father of five was sentenced to three years in prison Wednesday for running a prostitution ring of teen-age girls.

Willie B. Bell, who has been in jail since he was arrested on pimping charges in May, is the first person to be convicted and sentenced to prison under a 1969 law outlawing the promotion of prostitution among juveniles, prosecutors said.

Superior Court Judge Milton Souter said he added one year to Bell's sentence because of testimony Wednesday by another jail inmate, William Smith. Smith told the court Bell Wednesday morning threatened to harm him and his daughter unless Smith gave testimony favorable to Bell.

Bell denied making the threat.

Souter ordered Bell to prison despite pleas from defense attorney Peter Myaing, who called his client's offense "a detour in his life" and said Bell was an "adoring father."

If Souter gave him probation, Bell told the judge, "you'll never see me in another courtroom for anything."

Souter called the crimes for which Bell was convicted in October a "dirty business."

"This sentence has to serve as a deterrent" to Bell and others engaged in prostitution, he said.

Souter also said he was influenced heavily by trial testimony and evidence that the Bell used violence and the threat of violence to control the girls in his prostitution ring.

Teen-agers who worked for Bell testified during the trial that Bell often beat them and threatened to kill them.

Souter said "the great majority of women would not engage in prostitution" unless threatened with violence, lured with the promise of narcotics, or by other means of persuasion.

"Here, the powerful persuasion was threats of violence and, on at least one occasion, the use of violence," he said.

Bell, who sat silently throughout most of Wednesday's sentencing, spoke only to plead for probation and to contest the testimony of Smith, the inmate who claimed Bell had threatened him.

"I've been in jail," Bell said. "I learned my lesson in jail. I don't need to spend any more time in jail."

Smith, who was arrested here in December on an Arkansas theft charge, said he became friendly with Bell in jail. "You better get me out of this," Smith quoted Bell as telling him.

Smith, who at first refused to testify but relented under Souter's order, said Bell also threatened Smith's 14-year-old daughter unless Smith testified favorably.

Bell denied he threatened Smith or his daughter.

"All I told him was to come to court and testify and tell the truth," Bell said.

Souter, however, said he believed Smith and that he added a year to the sentence because of the threats.

"I think Mr. Bell needs to sit in jail and think about that. We're not going to tolerate that sort of behavior," Souter said.

Souter gave Bell credit for the 240 days he has already spent in jail. Bell will be eligible for parole after serving one-third of his sentence.

ADN 10/10/80

Willie Bell convicted in teen-ager prostitute case

By JULIE ANNE GOLD
Daily News reporter

Willie B. Bell, accused as a Fourth Avenue pimp, was convicted of inducing a 14-year-old girl into a life of prostitution by a Superior Court jury Thursday.

The 29-year-old Bell faces up to 10 years for the first-degree felony charge.

In a complex reading of six separate verdicts, the jury found Bell innocent of forcing two other girls, ages 15 and 16, into prostitution, but guilty of promoting them to become prostitutes.

These lesser, third-degree charges carry possible prison sentences of up to a year and 90 days.

Delivering its sixth verdict in the case, the jury found Bell guilty of managing and supervising a prostitution enterprise, other than in a place of prostitution. The felony offense holds a maximum sentence of five years in prison.

Bell, nervously looking around the nearly empty courtroom Thursday, buried his heads in his hands after the clerk read the first "guilty" verdict.

"We plan to appeal," said Peter Mysing, Bell's attorney.

"All three ladies' testimony was damaging against Bell," Mysing said. "The issue was who was the jury going to believe."

Even though Bell admitted taking money that he knew came from prostitution from the 16-year-old, according to Maying, Bell never "caused" or "induced" the 14-year-old to become a prostitute.

However, the jury thought otherwise.

"There was definite evidence to support she was forced into prostitution," one juror said Thursday. "The photos showed she was beaten and bruised."

Prosecutor Martha Beckwith said the 14-year-old's testimony and a tape-recorded confrontation between Bell and the three girls probably were the most damaging evidence against Bell.

"He beat me real bad," a voice — identified by the state as belonging to the 14-year-old — said on the tape.

A series of color snapshots, passed from juror to juror, depicted the teenager with cuts and bruises on her face and arms.

However, the testimony of the older girls apparently did not convince the jury that Bell "forced" or "attempted to force" them into prostitution.

One of the girls, who admitted to being a prostitute before she met Bell, told the jury she was his lover for several months before his arrest.

"In her case, it was hard to tell what was a lovers' fight from a business fight," another juror said.

Another juror agreed, saying "there was just not enough evidence for a first-degree conviction" in connection with the two other girls.

But the jurors, gathered around Judge Milton Souter's third-floor jury room for the last time, all agreed there was plenty of evidence to convict Bell of the state's last charge — pimping for the three girls.

"The facts showed he drove them around" Fourth Avenue, one juror said, and "then waited and picked them up."

Mysing called this conviction a "surplus charge." The only way his client could be convicted of inducing the 14-year-old to become a prostitute, Mysing said Thursday, would be by pimping for her.

If Bell is sentenced to both charges the state will be guilty of double jeopardy, Mysing claimed.

Beckwith disagreed, saying she "was pleased" with the verdicts.

It was the first time "in at least four or five years" the state has successfully prosecuted someone for street pimping, she said.

Society November/December, 1979

grams for prevention and treatment. Their paper is the first to address adolescent abuse from the standpoint of a combination of factors, involving parents, children and social stresses, and is intended to guide future work on the subject.

Teen-Age Prostitutes

Adolescent prostitution has been receiving a great deal of attention in Minnesota, and particularly in the Twin Cities area of Minneapolis-St. Paul. The area is notorious as the home of many young girls who are now working as prostitutes in New York City, Chicago, and California; so notorious that one section of New York with numerous adolescent prostitutes has become known as the "Minnesota Strip."

Based on 3 years of direct fieldwork, Michael Baizerman, Jacquelyn Thompson, Kimaka Stafford-White, and "An Old, Young Friend"—an 18-year-old woman with five years' experience in prostitution—have written of this problem in *Children Today*.

In the Twin Cities area, girls of all races are involved in prostitution; their ages range from 13 to 18. Some have a male pimp, others do not, and many make a transition from working independently to working for a pimp. Generally speaking, most of the young prostitutes work "the street"—both actual city blocks and other specific locations, such as shopping malls and the areas around some bars and after-hours clubs. Most sex acts take place in cars, although some girls use apartments and, more rarely, motel and hotel rooms.

Many of the girls practice birth control; pills, followed by the IUD, are the two most popular forms. Since girls may begin using the pill at an early age, they may be at risk of resultant medical complications. Use of the IUD could lead, through violence during the sex act, to such serious problems as perforation of the cervix. Condoms seem to be used less as a pregnancy prophylactic than as a preventive for venereal disease.

Many girls do not know much about venereal disease, and what information they do have seems to be obtained from "the street." Some learn from experience that one consequence might be scar tissue on the fallopian tubes, which could prevent pregnancy. Generally, pimps take care of the medical and health expenses of their girls.

Many pimps working in neighborhoods and the metropolitan area do not use hard drugs and do not allow their girls to use them—hard drug use raises the risk of arrest and the cost of the pimp's operation. Hard drugs also compete with a pimp for the girl's dependency. This is not to say that many girls do not have a history of drug use or that some girls may not be intentionally introduced to drugs as a way to secure and control them. However, this latter pattern is more characteristic of interstate than of local patterns.

All of the pimps are male and most of the younger ones are black. Those who live in the neighborhood where the girls work—"popcorn" or "bubblegum" pimps, or "players"—are about 17, 18 and 19 years old, while those who come from outside the state are usually older, having moved up the "career ladder" from neighborhood pimp to small businessman. Black pimps tend to work on the street while white pimps, usually older, are more likely to be involved with more formally organized action such as call girls, saunas, and massage parlors.

In general, the younger pimps come from disadvantaged neighborhoods; they have relatively poor formal education, lack basic skills, and have few opportunities to obtain legitimate work. As a result, they are likely to be frustrated, angry, resentful, and unsure of themselves. They tend to use force to control their girls and may attempt to hurt a girl or someone who tries to interfere with their operation. It is likely, however, that many of these young men will move out of pimping if other possibilities are found. Those who stay in it do so partly because there are few work opportunities. Most do not stay out of any great pathological or perverse need.

Older and more sophisticated pimps rarely use physical force on their women. Their method of control is psychological and emotional, with the goal of having the girls become totally dependent upon them.

The local buyers or Johns seem to be white men over 25 years of age, both married and single. We know that many have families of their own—and that some men ask for girls of their daughters' age.

Although a wide variety of sex acts are performed, most men seem to want oral sex or intercourse. The price varies according to the act and the time involved. For ordinary oral sex or intercourse, it is about $25. Other factors—whether the girl works for a pimp, the location of the pick-up, the nature of the sex act, and whether or not there is a big convention in town—also influence the cost.

Most of the action seems to take place from lunchtime to late afternoon, and then later in the evening. These afternoon times fit well within typical male working schedules and allow married men the opportunity to be home in the evening and still engage in—and protect—their activities.

Business hours are also determined by the girls' schedules. Since they may also be students in junior and senior high school, the girls may choose to work only after school. Afternoon hours are convenient for girls who live at home and work at prostitution part time, without parental knowledge.

Senior Scholastic 2/8/79

The Tragedy of Teenage Prostitution

by FATHER BRUCE RITTER with BOB WEINSTEIN

We must face the shocking facts, says a Catholic priest, and care enough to try to change them.

"I am not going to make it. I am going to die out there. The streets are going to kill me." He was 17 years old. We'll call him Louis. He was talking to one of the co-authors of this article, the Reverend Bruce Ritter, a 52-year-old Franciscan priest. Two years ago, Father Ritter started Covenant House. It is a shelter for teenagers, most of them runaways, who roam the sinful streets around Times Square in midtown New York.

Wherever there are large numbers of runaways, teenage prostitution is a fact. The problem is already very bad—and getting worse—in cities such as New York, Los Angeles, Miami, and Houston. But it's not just a big-city problem. Those runaways come from almost every corner of the United States. Fleeing or kicked out of their homes, they come to the cities with dreams of glamor and fun.

The Federal Bureau of Investigation keeps statistics on runaways. Between 600,000 and one million young people run away from home every year, the FBI reports. Not all of these, of course, end up in prostitution. In fact, quite a few return home very soon. But almost all teenage prostitutes start out as runaways.

These teenage runaways cannot get honest work. They have not finished school. Rightly or wrongly, they don't want to go home. Or maybe they don't have a home, or parents, anymore. Or maybe their parents don't want them to come home.

Over the past 18 months, 8,000 homeless young people have come to Covenant House. There, they can get a good night's sleep, eat nourishing meals, and clean up. Perhaps most important of all, they can talk about their lives with the volunteers who work there. Like Louis, who fears "the streets are going to kill me," 60 percent of the young people who show up at Covenant House are involved in prostitution.

At 17, Louis has been a hustler for three years. He didn't finish school and can't write very well. He's an alcoholic. He drinks every day, he says, to try to forget what he has to do to survive. He is a naturally bright person who, maybe, could have led a more "normal" life. But his chances, now, of leading anything like a normal life are just about zero.



Teenage runaways head for cities — and ruined lives. Father Ritter fights to save them.

What do volunteer workers say to teenagers like Louis who come to Covenant House and similar shelters around the country? The volunteers have only one hope: to try to convince a teenager that he or she has other choices in life. Maybe (a volunteer may suggest) going back home is better than staying

Few things get Father Ritter to put aside his work for Covenant House—even for a little while. This article was one of them. We are grateful to Father Ritter and to his co-author, Bob Weinstein, a frequent contributor to this magazine.

Senior Scholastic 2/8/79

on the streets. But many of these teenagers just can't believe that they can change their lives, that they have any choices at all.

So, they go back on the streets. Hundreds of them have been held prisoner, tortured, raped. Some of them have been murdered. One 16-year-old girl—we'll call her Alice—was held prisoner for a week, after a pimp picked her up in New York's Port Authority Bus Terminal. Alice was drugged, raped repeatedly, but finally escaped. Her pimp found her again and told her he had to have her back. He said he owned her. Besides, Alice was worth thousands of dollars a month to him.

Police have identified about 1,000 pimps in just the New York City midtown area. Each one usually controls between two and four girls like Alice. The prostitute is the "property" of the pimp. Each girl is expected to bring the pimp a certain amount of money a day, usually around $200. She has to. If she doesn't, a brutal beating is about the best she can hope for.

Prostitution has been called a "victimless crime." That means a crime that doesn't hurt anybody. But that leaves out all the young people who are beaten, tortured, held prisoner. And what about those who are murdered? What about the ones who commit suicide out of hopelessness and desperation?

These are the victims. But who, really, are they? Here are some statistics from Covenant House. Fifty percent of the teenage prostitutes are black; 18 percent are Spanish-speaking; 25 percent are white. The rest are of mixed ethnic backgrounds. Seventy-five percent are boys. The median age of both boys and girls is about 17: Almost one-half of them are 17 or younger. Nineteen out of 20 come from one-parent families. If they come from two-parent families, there is almost always alcoholism in the family.

Seventy-five percent of teenage prostitutes are children of the poor. Most of them have suffered child abuse. They have either been thrown out or walked out of homes that have broken up, or homes where there seems to be no love or understanding left.

To an experienced pimp, these needs for attention and security are easy to spot—and easy to prey on. A lot of scared young girls, for example, want to believe that the smooth, expensively dressed young men who seem to fall for them really care. The rude awakening often comes when the girl is asked to prove her love by repaying the man for his generosity. She can repay him, he tells her, by selling her body and making money for them both. For her, it can seem like her only option.

Meanwhile, the "sex industry" is booming. And teenage prostitution and pornography, too, get bigger every day. Business has never been better. Why? There are probably just two answers. They are two of the seven deadly sins—greed and lust. There is big money in selling sex. Greed makes people go after that money. The money comes from other people who lust after children and teenagers. And, of course, the greedy ones want to make sure money keeps rolling in. They are for the most part linked to what we know as organized crime. They have a big stake in being deadly efficient—for them, sex is a $4-billion-dollar-a-year industry. □

Father Bruce Ritter— On Stopping Teenage Prostitution

Senior: With all you've seen—all the pain and suffering—do you think it's possible to end the problem?

Father Ritter: I do. It seems, though, that very few people really want to do anything.

Senior: Do what? You make it sound as if individuals—young individuals—can do something. But is that realistic? What have adults, politicians, the police been able to do?

Ritter: Very little. But I think that's because they've only given lip service to the problem. But they've made little effort to stop it. The problem grows worse every day. But young people can care. Caring is a good way to start. If their sister or brother or close friend were on a street corner, it wouldn't be so hard to care. Caring is the first step in accepting responsibility—for yourself and for others.

Senior: That sounds good. But it also sounds like a lot of other things people have said before about love and caring making things all right....

Ritter: Wait a minute. That's only a beginning. The caring makes people *act*. And that's what it takes to make them realize they have power.

Senior: What kind of power?

Ritter: The power to put people into office—and to take them out. Politicians respond to the people who write them—people who care, people who vote. Letters are a good way for your readers to start. And before long, they'll be voting. They can vote against the uncaring politicians and judges and the do-nothing district attorneys.

Senior: But statistics show that not many young people actually vote.

Ritter: I know! That's immoral and irresponsible. I hear young people say that their vote doesn't count. But they don't even try to find out if that's true. They may shake their heads over a problem like teenage prostitution, but they don't try to *do* anything.

Senior: But why should they *really* care—about a problem that seems so far away?

Ritter: I thought I already gave them some good reasons. But here's another. Some day, they will have children of their own. And they have to decide if they want those children growing up in a world where young people are bartered like sacks of potatoes. They can't afford to wait until then... until those children are teenagers and maybe thinking of running away. That will be too late. The problem can't be—won't be—stopped overnight. It's going to take time. And the time to start is *now*. □

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 809

JUNEAU, ALASKA 99802

586-3650

POSITION PAPER

HB128: An Act raising the penalties for promoting child prostitution

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of twenty-one programs statewide that provide domestic violence, sexual assault, and adult crisis intervention services to members of their respective communities. Network programs are funded in part through grants and contracts awarded by the Council on Domestic Violence and Sexual Assault.

The Network was established in 1978, and has as one of its primary focuses the elimination of domestic violence and sexual assault through provision of shelter, advocacy, and education/prevention services.

The Network supports the intent of HB128 in its efforts to discourage the perpetration of abusive behavior towards minors.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 128 Date on Bill: 1/26/83
Title: An Act raising the penalties for promoting child prostitution
Sponsor: Rep. Lindauer
Requestor: House HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No fiscal impact.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/16/83

Approved by Commissioner: [signature] Date: 2-22-83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 117 Date on Bill: 1/26/83
Title: An Act Relating to Sexual Abuse of a Minor
Sponsor: Rep. Pestinger
Requestor: House HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue	

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/18/83

Approved by Commissioner: [signature] Date: 2/23/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
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2/15/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 127 Date on Bill: 1/26/83
Title: An Act to increase the punishment for sexual assault
Sponsor: Rep. Lindauer
Requestor: House HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No fiscal impact.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/16/83

Approved by Commissioner: [signature] Date: 2-22-83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
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2/15/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 128
Title "An Act raising the penalties for promoting child prostitution"
Requested by Representative Lindauer Date Jan. 26, 1983

II. FISCAL DETAIL

Agency Affected Health & Social Services
Program Category Affected Offender Confinement, Reformation & Supervision
BRU, Program or Subprogram(s) Affected Adult Confinement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Enactment of House Bill No. 128 would raise the penalties for promoting child prostitution from a Class B felony to a Class A felony.

* (Unable to determine fiscal impact with data available.)

IV. DATE February 4, 1983 PREPARED BY Roger C. Lauge
AGENCY Division of Adult Corrections
PHONE 465-3376

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

33-001 (Rev. 12/79)

BILL NUMBER House Bill No. 128

EXPENDITURES (Thousands of Dollars)

		FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS ETC.						
	TOTAL	*	*	*	*	*	*

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER(Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

If enacted, House Bill No. 128 would raise the penalties for promoting child prostitution from a Class B felony to a Class A felony.

* No data is available to indicate the frequency of this crime, the number of arrests or convictions. Therefore, no estimate can be made as to the fiscal impact if this legislation enacted. Since statistical data is not available, it is assumed that this offense is rarely encountered and any potential fiscal impact would be minimal, particularly since the bill is only raising an existing crime to a classification with longer sentences.

re HB 127

① - could you find if there are any statistics on actual deterent effect of increasing sentences by 1/5

② - what effect would these bills (117, 127, 128) have on # of prisoners in jail or under authority of corrections over a 5 year period (average)

TERMS OF IMPRISONMENT

OCTOBER 1, 1982

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELON CONVICTION
MURDER I	[20] -- 99	[20] -- 99	[20] -- 99
KIDNAP. II & KIDNAP. & M. I. C. S. I	[5] -- 99	[5] -- 99	[5] -- 99
SEXUAL ASSAULT 1ST **	5 --(10)-- 30	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
SEXUAL ASSAULT 1ST	4 --(8)-- 30	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
A FELONY **	3 1/2 --(7)-- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
A FELONY	2 1/2--(5) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
B FELONY	0 -- 10	0 -- (4) -- 10	3 -- (6) -- 10
C FELONY	0 -- 5	0 -- (2) -- 5	0 -- (3) -- 5

**APPLIES WHEN A DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY EXCEPT FOR MANSLAUGHTER.

NUMBERS IN (BRACKETS ARE) PRESUMPTIVE SENTENCES. NUMBERS ENCLOSED BY [BOXES] ARE MANDATORY MINIMUM SENTENCES. NUMBERS TO LEFT OF BRACKETS ARE LOWEST MITIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

Staff Report
House bills 117,127,128
January 27, 1983

HB 117:

Under current statute, sexual abuse of a minor under 16 years of age is a class C felony.

As proposed by HB 117:

1. Sexual abuse of a minor under 13 years of age is a offense in the first degree and is a class B felony.

2. Sexual abuse of a minor aged 13 to 16 is sexual abuse in the second degree and is a class C felony.

HB 127:

Under current statute, the first felony conviction for sexual assault in the first degree, not involving firearms, use of a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 8 years. The proposal will change that sentence to 10 years.

Under current statute, the first felony conviction for sexual assault in the first degree involving firearms, a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 10 years. HB 127 changes that sentence to 12 years.

HB 128:

Under current statute, promoting prostitution is a class B felony. HB 128 provides that inducing or causing a person under 16 years of age to engage in prostitution is a class A felony.

TERMS OF IMPRISONMENT

OCTOBER 1, 1982

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
MURDER I	$\boxed{20}$ -- 99	$\boxed{20}$ -- 99	$\boxed{20}$ -- 99
MUR. II & KIDNAP. & M. I. C. S. I	$\boxed{5}$ -- 99	$\boxed{5}$ -- 99	$\boxed{5}$ -- 99
SEXUAL ASSAULT 1ST **	5 --(10)-- 30 HB 127 (12)	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
SEXUAL ASSAULT 1ST	4 --(8)-- 30 HB 127 (10)	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
A FELONY **	3 1/2 --(7)-- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
A FELONY ↑ HB 128	2 1/2--(5) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
B FELONY HB117 <13YOA	0 -- 10	0 -- (4) -- 10	3 -- (6) -- 10
C FELONY	0 -- 5	0 -- (2) -- 5	0 -- (3) -- 5

**APPLIES WHEN A DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY EXCEPT FOR MANSLAUGHTER.

NUMBERS IN (BRACKETS ARE) PRESUMPTIVE SENTENCES. NUMBERS ENCLOSED BY $\boxed{\text{BOXES}}$ ARE MANDATORY MINIMUM SENTENCES. NUMBERS TO LEFT OF BRACKETS ARE LOWEST MITIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

2/9/83

No Fiscal NOTES

HB117

Gail Haretski Dept of Law

SUGGEST: 1) Sex ABUSE of minor - B FELONY

2) OFFENDER 3-4 yrs older

CONTROLLED SUBSTANCES bill - deals with

AGE, MINOR furnishing d- to PERSON

3 yrs younger.

HB 127 No Fiscal NOTE

NO SUPPORT by Dept of LAW - REVISION of CRIMINAL code IN 79 made UNIFORM, SENTENCES No deterant value to increasing PRES SENTENCE

HB128 No Fiscal Note

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 128 Date on Bill: 1/26/83
Title: An Act raising the penalties for promoting child prostitution
Sponsor: House HESS
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

	(Thousands of Dollars)				
	FY 83	FY 84	FY 85	FY 86	
Capital					
Operating					
Total	-0-	-0-	-0-	-0-	

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/28/83

Approved by Commissioner: Date: 2/25/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

TO: House Health, Education & Social Services Committee

FROM: Representative John Lindauer

RE: HB 127 " An Act to increase the punishment for sexual assault in the first degree."

The scope of this bill is to increase the punishment for those convicted of sexual assault in the first degree.

First degree sexual assault includes rape of any person, attempted rape with serious physical injury to the victim, any sexual involvement with a person under 13 years of age, and incest.

The specific punishment increases are outlined within HB 127.

Dave -
Rep. Lindauer dropped these off for the hearing on Wed.

HB

SELECT - QUERY
00003 ALL SECTION EQ 11.66.110

AS11.66.110 DOCUMENT= 1 OF 1

HB128

CHAPTER = 11.66
SECTION = 11.66.110
TITLE = 11

HEADINGS TITLE 11.
CRIMINAL LAW.
CHAPTER 66.
OFFENSES AGAINST PUBLIC HEALTH AND DECENCY.
ARTICLE 1.
PROSTITUTION AND RELATED OFFENSES.

CITATION SEC. 11.66.110.

CATCH LINE
PROMOTING PROSTITUTION IN THE FIRST DEGREE.

TEXT (A) A PERSON COMMITS THE CRIME OF PROMOTING PROSTITUTION IN THE FIRST DEGREE IF HE
(1) INDUCES OR CAUSES A PERSON TO ENGAGE IN PROSTITUTION THROUGH THE USE OF FORCE;
(2) AS OTHER THAN A PATRON OF A PROSTITUTE, INDUCES OR CAUSES A PERSON UNDER 16 YEARS OF AGE TO ENGAGE IN PROSTITUTION; OR
(3) INDUCES OR CAUSES A PERSON IN HIS LEGAL CUSTODY TO ENGAGE IN PROSTITUTION.
(B) IN A PROSECUTION UNDER (A)(2) OF THIS SECTION, IT IS NOT A DEFENSE THAT THE DEFENDANT REASONABLY BELIEVED THAT THE PERSON HE INDUCED OR CAUSED TO ENGAGE IN PROSTITUTION WAS 16 YEARS OF AGE OR OLDER.
(C) PROMOTING PROSTITUTION IN THE FIRST DEGREE IS A CLASS B FELONY.

HISTORY (SEC. 8 CH 166 SLA 1978)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

HB
137

(7)

COMMITTEE REPORT

HOUSE

FURTHER: LAR
FINANCE

Date: March 8 1983

1/28/83

Mr. Speaker:

The Committee on HESS has had HB 137

An Act making a supplemental appropriation to the Department of Education for the retirement of school construction debts; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

SUMMARY: HB 137 "AN Act making a supplemental appropriation to the Department of EDucation for the retirement of school construcion debts; and providing for an effective date."

Section 1. THe supplemental appropriation requested is broken down further as two requests:

1. $5,522.0 - This amount is the difference between the 'estimated' and 'actual' claims from the municipalities under the new program as enacted last year. HB 279 (Chp. 92 SLA 82) removed the two year lag time for state reimbursement of the municipal debt retirement. It also raised the reimbursement rate from 80% to 90%.

43.18.100 - STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT.(copy attached) This section outlines the formula used for the state reimbursement.

$7,577.7 - Shortfall due to an attempt by last year's Legislature to utilize the Cigarette Tax Revenues to fund a portion of the entitlement.

Section 2. Immediate effective date clause.

enclosures in file:

<u>left</u>

STatutes: 43.18.100 School Const. Aid
43.50.150 Tobacco Tax (distribution)
4AAC 36-010 Dept. Reg's re/Cig. Tax

<u>right</u>

Dept. Educ. Explanation/ actual vs estimated claims - $5,522.0
Dollar Differences - Chart ($5,522.0)
Dept. of Educ. Explanation/ Shortfall - Use of Tobacco Tax - $7,577.7
Chart - Formula showing Shortfall - $7,577.7
Distribution of $ under HB 137
DOE Fiscal Note

Article
1. Aid for Miscellaneous Municipal Purposes (Repealed)
2. Aid for School Construction (§§ 43.18.100 — 43.18.135)
5. Cultural Facilities (§ 43.18.500)

Article 1. Aid for Miscellaneous Municipal Purposes.

Section
10—45. [Repealed]

Secs. 43.18.010 — 43.18.045.

Repealed by § 11 ch 155 SLA 1980.

Cross references. — For programs of municipal assistance, see AS 29.88.010 — 29.88.045, 29.89.010 — 29.89.100, 29.90.010 — 29.90.030 and 29.95.010 — 29.95.030.

Editor's notes. — The repealed article derived from § 10, ch. 95, SLA 1969; §§ 1 — 5, ch. 194, SLA 1970; § 3, ch. 84, SLA 1971; §§ 1, 2, ch. 127, SLA 1971; § 43, ch. 71, SLA 1972; §§ 3, 4, ch. 200, SLA 1972; § 6, ch. 32, SLA 1973; §§ 1, 2, ch. 87, SLA 1973; §§ 1, 2, ch. 43, SLA 1974; § 1, ch. 96, SLA 1974; §§ 44, 45, ch. 127, SLA 1974; § 1, ch. 45, SLA 1975; § 1, ch. 100, SLA 1976; §§ 1, 2, ch. 208, SLA 1976; §§ 1, 2, ch. 265, SLA 1976; §§ 4, 5, ch. 120, SLA 1977; § 24, ch. 168, SLA 1978; § 3, ch. 171, SLA 1978.

Article 2. Aid for School Construction.

Section
100. State aid for retirement of school construction debt
105. Public school facilities construction advance account
110. Eligibility
115. State aid
120. Application for aid
125. Conditions of state aid
130. Construction and implementation
135. Definitions

Sec. 43.18.100. State aid for retirement of school construction debt. (a) During each fiscal year, the state shall allocate to a municipality that is a school district, the following sums:

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

(2) 90 percent of

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

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

(3) 90 percent of

[illegible] the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1978 and before January 1, 1982 to pay costs of school construction projects approved under AS 14.07.020(11);

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

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

(A) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after December 31, 1981 to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed $25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1982 by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed $25,000 and are approved under AS 14.07.020(11).

(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall

(1) offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140;

(2) Repealed by § 10 ch 92 SLA 1982.

(c) The school construction account is established. Funds to carry out the provisions of this section may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of providing the share to which a borough or city is entitled under this section, those funds that are available shall be distributed pro rata among the eligible local governments.

(d) Money in the school construction account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this section reverts to the general fund.

(e) The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section, including but not limited to, the amount of state aid paid on a per capita and per student basis and the resultant effect on the rate of levy of taxes by the municipality for educational purposes.

(f) Repealed by § 17 ch 147 SLA 1978.

(g) In this section, unless the context requires otherwise,

(1) "commissioner" means the commissioner of education;

(2) "costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping or furnishing of public elementary and secondary school buildings and includes the sum total of all costs of financing and carrying out the project; these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary.

(h) An allocation under (a)(4) of this section for school construction begun after July 1, 1982, shall be reduced by the amount of money used for the construction of residential space, hockey rinks, planetariums, saunas, and other facilities for single purpose sporting or recreational uses that are not suitable for other activities. An allocation under (a)(1) of this section may not be reduced by the amount of money used for construction of a small swimming pool, tank, or water storage facility used for water sports. However, an allocation shall be reduced by the difference between the amount of money used to construct a swimming pool that is competition size or larger and the amount of money that would have been used to construct a small swimming pool, tank, or water storage facility, as determined by the commissioner.

(i) For the purposes of (a)(4) of this section

(1) an indebtedness for bonds is incurred after the bonds are sold;

(2) reimbursement for a cash payment may only be made after the payment is made to a vendor; and

(3) payments may not be made for costs that are incurred under a contract after the contract has been released. (§ 1 ch 249 SLA 1970; am § 1 ch 93 SLA 1971; am § 2 ch 137 SLA 1972; am § 1 ch 28 SLA 1973; am § 47 ch 127 SLA 1974; am §§ 1 — 3 ch 120 SLA 1977; am §§ 12, 17 ch 147 SLA 1978; am § 25 ch 168 SLA 1978; am §§ 8 — 10 ch 92 SLA 1982)

Effect of amendments. — The 1977 amendment, beginning "including but not limited to" in paragraph (2) of subsection (g), substituted "the sum total of all costs of financing and carrying out the project" for "but is not limited to the costs of acquisition of sites, legal, engineering, fiscal, architectural and other fees of specialists or consultants, costs of labor, materials, equipment and supplies, costs of authorization, issuance and sale of bonds, notes, or other evidences of debt" at the end of the first sentence and added the second sentence.

The 1978 amendment, effective July 1, 1978, substituted "80 per cent" for "50 per cent" at the beginning of paragraph (2), substituted "June 30, 1978 and before June 30, 1978" for "July 1, 1977" in subparagraphs (A) and (B) of paragraph (2), and added paragraph (3). The amendment also repealed subsection (f), which read "The provisions of (a)(2) of this section apply only to payments made before July 1, 1971. The provisions of (a)(3) of this section apply to payments made after June 30, 1971."

The second 1978 amendment, in paragraph (2) of subsection (g), substituted "the sum total of all costs of financing and carrying out the project" for "but is not limited to the costs of acquisition of sites, legal, engineering, fiscal, architectural and other fees of specialists or consultants, costs of labor, materials, equipment and supplies, costs of authorization, issuance and sale of bonds, notes, or other evidences of debt" at the end of the first sentence and added the second sentence.

The 1982 amendment, effective July 1, 1982, substituted "a municipality that" for "an organized borough or a city which" in the introductory language of subsection (a), substituted "the municipality" for "the borough or city" in paragraphs (1), (2)(A) and (B), and (3)(A) and (B), substituted "90 percent" for "80 percent" in the introductory language of paragraphs (2) and (3), inserted "and before January 1, 1982" in paragraph (3)(A) and (B), and added paragraph (4). The amendment also repealed paragraph (2) of subsection (b), which read "required the borough or city to provide, with its application, a certified copy of the notice to taxpayers required by AS 43.18.030," and added subsections (h) and (i).

Editor's notes. — AS 43.18.030, referred to in paragraph (2) of subsection (b), was repealed by § 11, ch. 155, SLA 1980. For programs of municipal assistance, see AS 29.88.010 — 29.95.030.

Sec. 43.18.105. Public school facilities construction advance account. The public school facilities construction advance account is established. The account consists of appropriations for distribution under AS 43.18.105 — 43.18.135 to boroughs and cities which are school districts to assist in paying the costs of public school facilities projects approved under AS 14.07.020(10) for which construction is commenced after June 30, 1978 and for which no bonding, notes, or other indebtedness was incurred before July 1, 1978. (§ 13 ch 147 SLA 1978)

Sec. 43.18.110. Eligibility. Eligibility of a proposed construction project for funding assistance under AS 43.18.105 — 43.18.135 shall be determined by the department based on standards and criteria established by regulation. The standards and criteria to be considered in determining eligibility include the following:

(1) emergency requirements;

(2) number of unhoused students;

(3) new elementary or secondary programs;

(4) existing community and school facilities and their condition; and

(5) economic and social stability of the community. (§ 13 ch 147 SLA 1978)

Sec. 43.18.115. State aid. (a) The [illegible]

Chapter 50. Tobacco Tax.

Tax Act (§§ 43.50.010 — 43.50.180)
al Cigarette Tax (§ 43.50.190)

Article 1. Cigarette Tax Act.

Section
90. Tax imposed
100. Civil penalties
110—120. [Repealed]
130. Records
140. Disposition of proceeds
150. Administration
160. Criminal penalties
170. Definitions
180. Short title

43.50.010. License. (a) No person may sell, purchase, possess, acquire cigarettes as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer without a license.

(b) The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer. The department shall make reasonable regulations which it considers necessary in respect to the application for and the issuance of licenses.

(c) The department may refuse to issue a license if there is reasonable cause to believe that the applicant has wilfully withheld information requested of him to determine his eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.

(d) A license required by §§ 10—180 of this chapter is in addition to any other license required by law. (§ 3 ch 187 SLA 1955)

Am. Jur. and C.J.S. references. — 33
Am. Jur. Licenses, §§ 17, 20, 54, 57, 79.
C.J.S. Licenses §§ 6, 22, 44.

43.50.020. Separate licenses. If a person operates more than one place of business, the person must obtain a separate license for each place of business, except that a person operating one or more cigarette vending machines is considered to have only one place of business for the purpose of a license under §§ 10—180 of this chapter. A person licensed only as a manufacturer, distributor, direct-buying retailer, vending machine operator, or buyer may not operate in another capacity unless the appropriate license for it is first secured. Each license shall be exhibited at the place of business for which it is issued and in the manner prescribed by the department. (§ 4 ch 187 SLA 1955)

reference. — For present covering the subject matter of section, see AS 43.05.240.

Editor's note. — The repealed section derived from § 13, ch. 187, SLA 1955.

43.50.120. Lien.
ded by § 4 ch 94 SLA 1976.

reference. — For present covering the provisions of the section, see AS 43.10.035.

Editor's note. — The repealed section derived from § 14, ch. 187, SLA 1955.

43.50.130. Records. (a) Every licensee shall keep a complete and e record of all cigarettes manufactured, purchased, or acquired. rds, except in the case of a manufacturer, shall include a written nt containing the name and address of the seller and the er, the date of delivery, the quantity of cigarettes, the trade nd brand, and the price paid for each brand of cigarettes ed. The licensee shall keep such other records as the department es. All statements and records required by this section shall be rm prescribed by the department, shall be preserved for three and shall be offered for inspection upon demand by the ent.

licensee may issue or accept a written statement which falsely the name of the customer, the type of merchandise, the price, ounts, or the terms of sale.

here an invoice is given or accepted by a licensee (1) a statement akes the invoice a false record of the transaction may not be in the invoice; and (2) a statement which should be included in ce may not be omitted from the invoice if the invoice does not he transaction involved without the statement.

invoice for the sale of cigarettes given or accepted by a licensee 10 — 180 of this chapter shall state whether the tax imposed — 180 of this chapter has been paid. (§ 15 ch 187 SLA 1955)

ference. — 53 C.J.S. Licenses

43.50.140. Disposition of proceeds. The proceeds derived from ent of taxes, fees, and penalties, provided for under §§ 10 — s chapter, and the license fees received by the department shall nto a state fund entitled "School Fund," and shall be used ly to rehabilitate, construct, and repair the state's school and for costs of insurance on buildings comprising school during the rehabilitation, construction, and repair, and for the e buildings. (§ 16 ch 187 SLA 1955)

ules to expenditure of tobacco — In order to insure that funds are used most effectively part of major rehabilitation, and major repair projects, the that expenditures from such funds be made only after study and concurrence by the city school board, the city council, and the commissioner of education (now Department of Education). 1962 Op. Att'y Gen., No. 24.

CHAPTER 36.
CIGARETTE TAX ADMINISTRATION

Section
10. Cigarette tax distribution

4 AAC 36.010. CIGARETTE TAX DISTRIBUTION. (a) The term "rehabilitation, construction, and repair" of school facilities, as used in the Cigarette Tax Act, refers to major repair projects, and cigarette tax funds may not be used for projects which are properly considered as normal operating and maintenance expenses of the school districts. The commissioner has discretion to disapprove expenditures which he determines should not be made from cigarette tax funds.

(b) Purchase of equipment shall not be approved unless it is in connection with a construction or major repair or rehabilitation project. Prior approval, by the commissioner, of the projects shall be obtained if reasonable question appears as to whether or not they may be approved.

(c) For distribution, cigarette tax moneys are divided into two major divisions

(1) the regional educational attendance area districts' share is determined by the ratio between the average daily membership in all regional educational attendance area districts and the average daily membership for all school districts in the state;

(2) the share for city and borough school districts is determined by deducting the regional educational attendance area districts' share, determined under (1) of this subsection, from the total tax. Each district will receive a portion of this share in accordance with the following formula:

$$Ca = \frac{Cs - Es}{2}$$

$$Cp = \frac{Cs - Es}{2}$$

$$Cl = \frac{Ca}{At} \times Al + \frac{Cp}{Pt} \times Pl + El$$

C Cigarette tax
s Participating school districts
A Average daily membership
E Basic allotment or equalization fund
l Any individual school district
Cs Total state cigarette tax allocated to school districts
Cl Any individual district's share of cigarette tax
At Total ADM in participating school districts
Pt Total professional workers in participating district schools
Cp Portion of total tax to be allotted on basis of professional workers
Pl Number professional workers in any individual school district
El Basic allotment of $3,000 per year to each participating school district
Ca Portion of cigarette tax to be allotted on basis of ADM

(d) Other conditions:

(1) Collection periods run from July 1 to June 30, inclusive, of each year. Distribution is based on the total sum available in each collection period;

(2) To be eligible to participate in a distribution for a given collection period, the applicant shall meet the following requirements:

(A) A district must have been in operation as a district school for the entire collection period for which distribution is sought;

(B) Within 21 days following the closing of the collection period, all participating districts must submit to the commissioner a "Letter of Application" on forms to be provided by the commissioner. The "Letter of Application" shall include a full explanation of the intended use of cigarette tax funds or justification of the need of the funds;

(C) All district which have had a previous distribution shall submit within 45 days following the closing of the collection period, a complete "Statement of Expenditures," on forms to be provided by the commissioner. Assurance must be given that state and local sales taxes, and federal transportation, long distance, or telegram taxes were not paid;

(D) Income derived from the investment of cigarette tax funds shall become cigarette tax funds and shall be accounted for in the same manner;

(E) All districts shall submit any other reports on cigarette tax funds as may be prescribed from time to time by the commissioner;

(3) Repealed 5/10/78;

(4) All cigarette tax disbursements shall be made only upon the specific authorization of the local school board and the minutes of the board shall include a listing of the expenditures as approved. Custody of cigarette tax funds is the responsibility of the school board and funds shall not be turned over to any other body unless a specific obligation must be met;

(5) Each district school shall maintain a separate bank account for cigarette tax moneys and shall file with the commissioner the name of the cigarette tax account and the name of the bank in which the account is kept;

(6) If a district school disincorporates, any unobligated balance owed to or remaining in their cigarette tax account shall be forwarded to the commissioner to be deposited to the cigarette tax fund and shall be included in the funds of the collection period in which returned;

(7) The average daily membership of schools operated under contract for the department is not included for the purpose of determining a district's cigarette tax share. (In effect before 7/28/59; rewrite (no changes made concerning intent) 4/17/68, Reg. 24; am 5/10/78, Reg. 66)

Authority: AS 43.50.140
AS 14.07.020(1)

CHAPTER 39.
DIPLOMAS UNDER SPECIAL CONDITIONS

Article
1. Eighth Grade and Adult Education Diplomas (4 AAC 29.010–4 AAC 29.040)
2. High School Equivalency Test (4 AAC 29.110–4 AAC 29.190)

ARTICLE 1.
EIGHTH GRADE AND ADULT EDUCATION DIPLOMAS

Section
10. (Repealed)
20. (Repealed)
30. (Repealed)
40. Delegation of authority to issue diplomas in connection with adult education programs

4 AAC 39.010. VETERANS. Repealed 12/30/77.

4 AAC 39.020. SPECIAL EXAMINATIONS. Repealed 3/1/78.

4 AAC 39.030. EIGHTH GRADE DIPLOMAS. Repealed 5/10/78.

4 AAC 39.040. DELEGATION OF AUTHORITY TO ISSUE DIPLOMAS IN CONNECTION WITH ADULT EDUCATION PROGRAMS. District school boards offering secondary education programs for adults may issue certificates of completion or diplomas provided the program standards for graduation meet those prescribed by the commissioner. (In effect before 7/28/59; am 9/24/65, Reg. 24; am 10/14/68, Reg. 27)

Authority: AS 14.07.060
AS 44.27.020(1)

ARTICLE 2.
HIGH SCHOOL EQUIVALENCY TEST

Section
110. High school equivalency test
120. Eligibility
130. Official test sites
140. State GED program office

FEB 2 8 1983

Matanuska-Susitna Borough

BOX B. PALMER, ALASKA 99645 • PHONE 745-4801

DEPARTMENT OF ADMINISTRATION

February 24, 1983

Mae Tischer, Chairman
House Committee on Health & Social Services
Pouch V
Juneau, AK 99811

RE: HB 137 Supplemental Appropriation for School Debt Reimbursement

Dear Ms. Tischer:

I appreciate the opportunity to spend time with you on HB 137 providing for a supplemental appropriation for debt reimbursement. Would you share this letter with the members of your committee.

The Matanuska-Susitna Borough will have a school bond election on April 12, 1983 for a $20 million bond issue for construction of a new elementary school north and west of Wasilla and for renovation of the Palmer Junior High School, which was constructed in 1954.

We want to tell the voters how much this bond issue will cost them assuming that they have a $100,000 house, assuming a 10 or 20 year term, assuming present day interest rates, and assuming State reimbursement of school debt principal and interest at 90% as provided in HB 279, passed by the last session of the Legislature.

We believe that the voters are entitled to know how much the State will be paying for construction of schools in organized school districts and how much local taxpayers will be paying. We have always given voters this type of information with the expectation that it could be relied upon and, up until this last year, we have given voters information upon the basis of which they could make an informed choice. We thought we gave the voters reliable information on the last bond issue of about $15 million, but as it turned out we were pretty far off.

There was a sudden unexpected and unprecedented change in State policy toward school construction for this current fiscal year, which I think was based upon mistaken projections of school debt reimbursement requirements. The effect of this short-funding with respect to the recently incurred $15 million of school bonded indebtedness is $605,249 and the effect on previously incurred debt is $705,820 for a total shortfall of $1,311,069. The new debt, which will cause an unexpected increase in mill levy of about .6 mills, was funded at approximately 64% instead of the statutory 90%, and the old debt was funded at about 70% instead of the statutory 80%. The total effect of the short-funding on

our mill levy is approximately 1.3 mills since 1 mill raises about one million dollars in this Borough. Our current areawide mill levy is 4.9 so an unexpected 1.3 mill increase due to shortfunding affects our mill levy by about 25%.

I think that we were honest and reasonable in telling the voters what to expect when the last bond issue was put to a vote. I have been familiar with a history of state support for education going back into territorial days. Even though new State programs and other State programs have been phased out or reduced, there has been a consistency of support for education among the territorial legislatures and the State legislatures which I think we can be very proud of. I have seen the number of Anchorage schools increase from four in 1951 to 64 today, with very little double shifting over the years. In this Borough, we are going to have to build an average of about 1.5 schools a year if we are going to continue to see an 800 plus increase in students per year. We don't want to complain about the rapid increase in population in students that we have been experiencing. We want to solve these problems of growth in a responsible and consistent manner and we want to know what the ground rules are. We have not asked for 100% financing of new school buildings, because we are willing to shoulder a portion of the burden ourselves. So we are not asking for special treatment, or, for that matter, even treatment equal to that received by those who obtain 100% financing of new schools. We are asking for consistency and predictability in State school financing and believe that this ought to be a bedrock of State fiscal policy.

So, we do believe that HB 137 is a bill that fiscal conservatives ought to support as a matter of principle. We want to make good on our word because we think property taxpayers are entitled to accurate information.

I hope that the State HESS Committee will report out the bill with a strong and unanimous yes vote. Please let me know if you will have a teleconference on the bill.

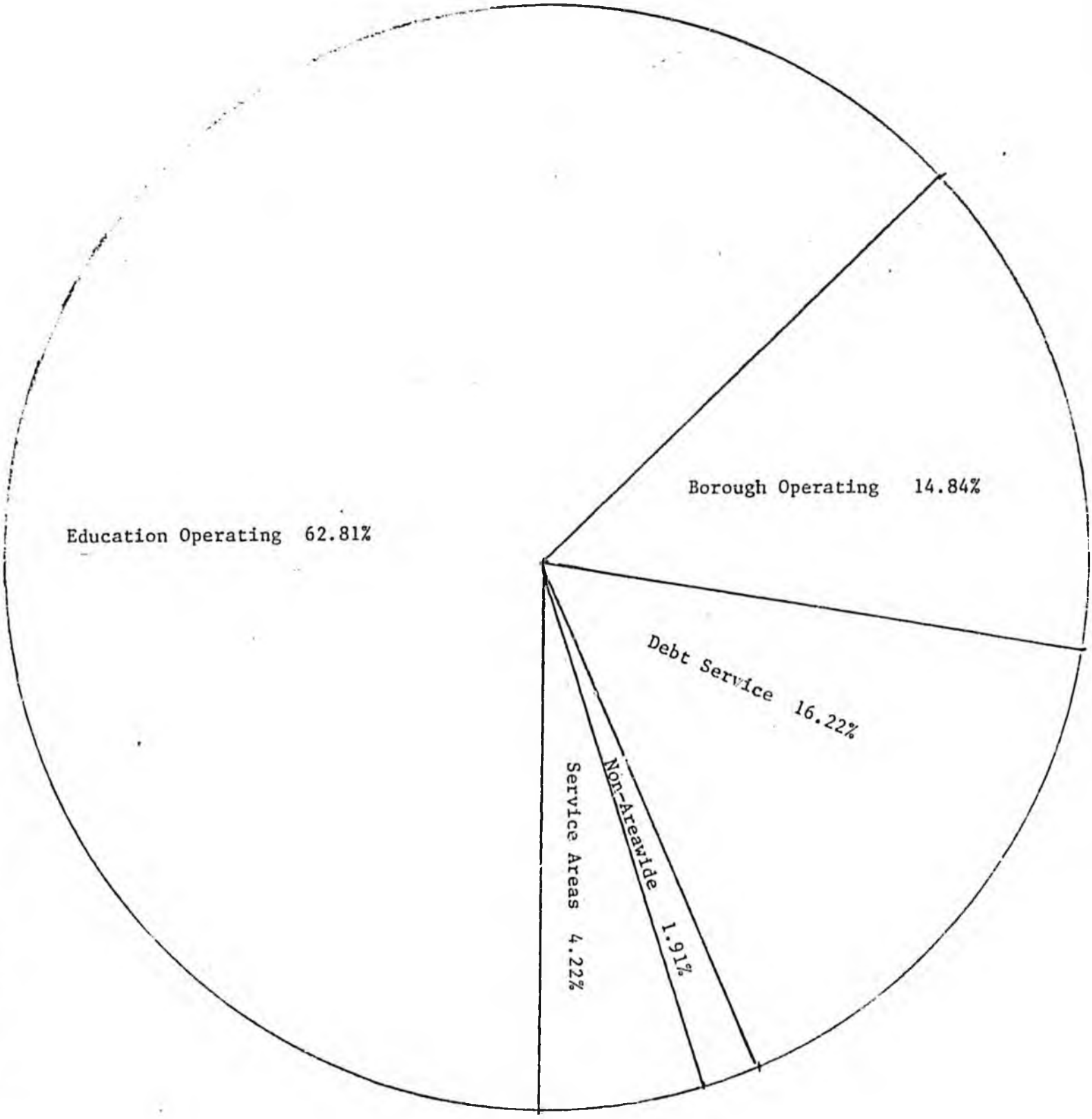
Sincerely,

Gary Thurlow
Borough Manager

GT/clm

BUDGETED EXPENDITURES

FISCAL YEAR 1983



Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

March 2, 1983

to: House HESS Committee

from: Ginny Chitwood, AML Executive Director G.C.

re: HB 137 - School Debt Supplemental Funding

The Alaska Municipal League supports HB 137 - Supplemental Appropriation for State Aid for the Retirement of School Construction Debt.

Several years ago the Legislature developed this program to reduce the inequities between the REAA's, where the state pays 100% of school construction costs and the municipal school districts, where the local taxpayers were footing the bill. The original program provided for a 80% reimbursement on a two-year time delay. Over the years, changes have been made, including giving the Department of Education plan approval authority and raising the percentage of reimbursement to 100% for payments on debt issued before July 1, 1977.

Last session, two other changes were made to the program. In order to partially alleviate the cash flow problems in rapidly growing areas that were caused by the two-year time delay in reimbursements, the program was modified last year to phase in a current year reimbursement program, providing for current year reimbursements of payments on debt issued after December 31, 1981. The other change made last year raised the percentage of reimbursement from 80% to 90% on debt issued after July 1, 1977.

The shortfall in FY 83 funding for this program was the result of two factors: incorrect application of tobacco tax receipts to this program and underestimation of the funding requirements for the current year reimbursement program. These problems should not reoccur because the tobacco tax issue has been clarified and the bugs should be worked out implementing the new section of the program.

MEMORANDUM State of Alaska

TO: Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89.2

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Debt Retirement Supplemental Request for post December 31, 1981 Indebtedness

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all claims for reimbursement under AS 43.18.100(a)(4), (current year reimbursement of school construction debt retirement payments).

ISSUE

Last year the legislature enacted legislation, (Chapter 92, SLA 1982), which provided for reimbursement to municipalities for school construction debt retirement payments in the same year in which they are made, rather than two years after they are made. The appropriation, based on the Alaska Municipal League estimate of FY 83 claims under this new program, was $13,466.4. Actual claims total $18,988.4, leaving the account $5,522.0 short.

COMMISSIONER'S RECOMMENDATION

It is recommended that the Board concur with this request.

Approp. 13,466,400	100 %	90 %	Prorated @ 70.9190 Paid	Paid	Difference in Thousands
Anchorage	4559719	4103747	2910335	2910336	1193.4
Fairbanks	3198250	2878425	2041350		837.1
[illegible]	1881375	1693237	1200826		492.4
[illegible]	4754612	4279151	3034731	901010	1244.4
Mat-Su	2312500	2081250	1476001	672578	605.2
North Slope	4391798	3952618	2803157		1149.5
					$5,522,000
Totals	21098254	18988428	13466400	4483924	

State aid for school construction debt retirement.

Chp. 92 SLA 82

(HB 279)

MEMORANDUM State of Alaska

TO: Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89.1

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Debt Retirement Supplemental Request for pre December 31, 1981 Indebtedness

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all claims for reimbursement under AS 43.18.100 (school construction debt retirement payments).

ISSUE

The department requested $44,103.3 for FY 83 debt retirement reimbursement claims under AS 43.18.100(a)(1)-(3), the two year lag reimbursement program. The legislature appropriated 36,203.3, assuming that that amount, in conjunction with the $7,000.0 appropriated in the Cigarette Tax category, would comprise a total sufficient to meet all claims. Actual claims for reimbursement for FY 83 total $43,781.0, and since the Cigarette Tax appropriation must be separate from the debt retirement appropriation, the debt retirement appropriation is $7,577.7 short.

BACKGROUND AND/OR PERTINENT INFORMATION

Because Cigarette Tax revenues are dedicated for school rehabilitation and renovation projects, there is a tendency to confuse them with school construction debt service payments reimbursement. However, debt retirement reimbursement is made on the basis of claims for payment, and Cigarette Tax revenues are disbursed on an entitlement basis, e.g., not every city and borough district has bonds eligible for debt retirement reimbursement, but all city and borough districts are entitled to receive Cigarette Tax payments. Therefore, the two appropriations must be distributed separately. Because of this distinction, only the actual appropriation for debt retirement could be used to pay the claims for reimbursement leaving a shortfall of 7,577.7 in that account.

COMMISSIONER'S RECOMMENDATION

It is recommended that the Board concur with this request.

a Sample - retirement

STATE OF ALASKA
DEPARTMENT OF EDUCATION
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT
1982-83

difference (shortage) 7,577,662

(1) + (2) × (3) + (5) = (6) − (7) = (8) − (9)

l District	Debt Service at 100% Prior 7-1-77	Debt Service [redacted] After 7-1-77	90% of Debt Service	Cash Payments 1980-81	90% of Cash Payment	Debt Service Plus Cash Payment	Less Cig. Tax FY 80-81	Total Entitlement Due	Prorated @82.6919%
rage	10,978,437	1,595,620	1,436,058	319,027	287,124	12,701,619	855,623	11,845,996	9,795,67
ol Bay	-0-	320,071	288,064	-0-	-0-	288,064	10,449	277,615	229,56
va	120,528	-0-	-0-	-0-	-0-	120,528	17,693	102,835	85,03
	-0-	-0-	-0-	-0-	-0-	-0-	9,494	-0-	-0-
ngham	-0-	-0-	-0-	377,929	340,136	340,136	16,323	323,813	267,76
anks	4,663,659	-0-	-0-	-0-	-0-	4,663,659	240,689	4,422,970	3,657,43
a	-0-	-0-	-0-	58,766	52,889	52,889	9,420	43,469	35,94
s	95,106	-0-	-0-	-0-	-0-	95,106	16,561	78,545	64,95
h	-0-	-0-	-0-	-0-	-0-	-0-	11,480	-0-	-0-
rg	-0-	-0-	-0-	-0-	-0-	-0-	6,451	-0-	-0-
u	774,901	-0-	-0-	-0-	-0-	774,901	108,394	666,507	551,14
	-0-	-0-	-0-	-0-	-0-	-0-	10,047	-0-	-0-
	2,550,949	2,604,449	2,344,004	923,757	831,381	5,726,334	164,826	5,561,508	4,598,91
ikan	521,722	-0-	-0-	218,513	196,662	718,384	71,198	647,186	535,16
cove	-0-	-0-	-0-	-0-	-0-	-0-	8,174	-0-	-0
ck	-0-	-0-	-0-	-0-	-0-	-0-	5,793	-0-	-0-
k	433,521	-0-	-0-	99,863	89,877	523,398	65,784	457,614	378,40
u	2,783,850	1,577,127	1,419,414	-0-	-0-	4,203,264	125,290	4,077,974	3,372,15
a	21,980	-0-	-0-	-0-	-0-	21,980	10,547	11,433	9,45
	-0-	-0-	-0-	60,000	54,000	54,000	28,441	25,559	21,13
Slope	7,656,975	3,508,038	3,157,234	-0-	-0-	10,814,209	47,123	10,767,086	8,903,50
an	-0-	-0-	-0-	-0-	-0-	-0-	4,779	-0-	-0-
nburg	495,114	-0-	-0-	142,089	127,880	622,994	20,322	602,672	498,36
Point	-0-	-0-	-0-	-0-	-0-	-0-	7,684	-0-	-0-
	436,950	-0-	-0-	388,560	349,704	786,654	50,873	735,781	608,43
	34,906	-0-	-0-	-0-	-0-	34,906	9,164	25,742	21,28
.'s	-0-	-0-	-0-	-0-	-0-	-0-	8,424	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-	-C	-0-	-0-
ka	-0-	-0-	-0-	-0-	-0-	-0-	9,145	-0-	-0-
z	1,474,175	1,670,546	1,503,491	94,574	85,117	3,062,783	27,425	3,035,358	2,509,09
ll	-0-	98,233	88,410	-0-	-0-	88,410	17,111	71,299	58,95
t	-0-	-0-	-0-	-0-	-0-	-0-	8,473	-0-	-0-
	33,042,773	11,374,084	10,236,675	2,683,078	2,414,770	45,694,218	2,003,200	43,780,962	36,203,30

entitlement (1) + pymts. made (2) × 90% of actual pymt. (3) + Cash pymt (4) × 90% of pymt (5) = (6) − (7) = (8) − (9)

FY-83

HB-137 DISTRIBUTION

	Pre 12-31-81	Post 12-31-81	Total
Anchorage	2,050,317	1,193,412	3,243,729
Bristol Bay	48,050	-0-	48,050
Cordova	17,799	-0-	17,799
Craig	-0-	-0-	-0-
Dillingham	56,046	-0-	56,046
Fairbanks	765,533	837,075	1,602,608
Galena	7,524	-0-	7,524
Haines	13,595	-0-	13,595
Hoonah	-0-	-0-	-0-
Hydaburg	-0-	-0-	-0-
Juneau	115,360	492,411	607,771
Kake	-0-	-0-	-0-
Kenai	962,592	1,244,420	2,207,012
Ketchikan	112,017	-0-	112,017
King Cove	-0-	-0-	-0-
Klawock	-0-	-0-	-0-
Kodiak	79,205	-0-	-0-
Mat-Su	705,820	605,249	1,311,069
Nenana	1,979	-0-	1,979
Nome	4,424	-0-	4,424
North Slope	1,863,579	1,149,461	3,013,040
Pelican	-0-	-0-	-0-
Petersburg	104,312	-0-	104,312
Sand Point	-0-	-0-	-0-
Sitka	127,350	-0-	127,350
Skagway	4,456	-0-	4,456
St. Mary's	-0-	-0-	-0-
Tanana	-0-	-0-	-0-
Unalaska	-0-	-0-	-0-
Valdez	525,363	-0-	525,363
Wrangell	12,341	-0-	12,341
Yakutat	-0-	-0-	-0-
TOTAL	7,577,662	5,522,028	13,099,690

↓ Shortfall from unavailability of Cig. tax revenues

↓ FY83 estimate was 13,466.4 – actual was 18,988 = difference of 5.522. (Claims for debt Retirement)

↓ Total Request HB 137 = 13.1 mill

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB-137
Title An Act making a supplemental appropriation to the...
Requested by House HESS Date 2/8/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary and Secondary
BRU, Program, Or Subprogram(s) Affected Debt Retirement, Local
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.	13,100.0					
TOTAL	13,100.0					

FUNDING (Thousands of Dollars)

GENERAL FUND	13,100.0					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 2/8/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

SELECT - QUERY

00001 ALL SECTION EQ 43.18.100

AS43.18.100 DOCUMENT= 1 OF 1

CHAPTER = 43.18
SECTION = 43.18.100
TITLE = 43

HEADINGS TITLE 43.
REVENUE AND TAXATION.
CHAPTER 18.
STATE AID TO LOCAL GOVERNMENTS.
ARTICLE 2.
AID FOR SCHOOL CONSTRUCTION.

CITATION SEC. 43.18.100.

CATCH LINE
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT.

TEXT (A) DURING EACH FISCAL YEAR, THE STATE SHALL ALLOCATE TO A MUNICIPALITY THAT IS A SCHOOL DISTRICT, THE FOLLOWING SUMS:

(1) PAYMENTS MADE BY THE MUNICIPALITY DURING THE FISCAL YEAR TWO YEARS EARLIER FOR THE RETIREMENT OF PRINCIPAL AND INTEREST ON OUTSTANDING BONDS, NOTES OR OTHER INDEBTEDNESS INCURRED BEFORE JULY 1, 1977 TO PAY COSTS OF SCHOOL CONSTRUCTION;

(2) 90 PERCENT OF

(A) PAYMENTS MADE BY THE MUNICIPALITY DURING THE FISCAL YEAR TWO YEARS EARLIER FOR THE RETIREMENT OF PRINCIPAL AND INTEREST ON OUTSTANDING BONDS, NOTES OR OTHER INDEBTEDNESS INCURRED AFTER JUNE 30, 1977 AND BEFORE JULY 1, 1978 TO PAY COSTS OF SCHOOL CONSTRUCTION;

(B) CASH PAYMENTS MADE AFTER JUNE 30, 1976 AND BEFORE JULY 1, 1978 BY THE MUNICIPALITY DURING THE FISCAL YEAR TWO YEARS EARLIER TO PAY COSTS OF SCHOOL CONSTRUCTION;

(3) 90 PERCENT OF

(A) PAYMENTS MADE BY THE MUNICIPALITY DURING THE FISCAL YEAR TWO YEARS EARLIER FOR THE RETIREMENT OF PRINCIPAL AND INTEREST ON OUTSTANDING BONDS, NOTES OR OTHER INDEBTEDNESS INCURRED AFTER JUNE 30, 1978 AND BEFORE JANUARY 1, 1982 TO PAY COSTS OF SCHOOL CONSTRUCTION PROJECTS APPROVED UNDER AS 14.07.020(11);

(B) CASH PAYMENTS MADE AFTER JUNE 30, 1978 AND BEFORE JULY 1, 1982 BY THE MUNICIPALITY DURING THE FISCAL YEAR TWO YEARS EARLIER TO PAY COSTS OF SCHOOL CONSTRUCTION PROJECTS APPROVED UNDER AS 14.07.020(11);

(4) SUBJECT TO (H) AND (I) OF THIS SECTION 90 PERCENT OF

(A) PAYMENTS MADE BY THE MUNICIPALITY DURING THE CURRENT FISCAL YEAR FOR THE RETIREMENT OF PRINCIPAL AND INTEREST ON OUTSTANDING BONDS, NOTES OR OTHER INDEBTEDNESS INCURRED AFTER DECEMBER 31, 1981 TO PAY COSTS OF SCHOOL CONSTRUCTION, ADDITIONS TO SCHOOLS, AND MAJOR REHABILITATION PROJECTS THAT EXCEED $25,000 AND ARE APPROVED UNDER AS 14.07.020(11); AND

(B) CASH PAYMENTS MADE AFTER JUNE 30, 1982 BY THE MUNICIPALITY DURING THE FISCAL YEAR TWO YEARS EARLIER TO

PAY COSTS OF SCHOOL CONSTRUCTION, ADDITIONS TO SCHOOLS, AND MAJOR REHABILITATION PROJECTS THAT EXCEED $25,000 AND ARE APPROVED UNDER AS 14.07.020(11).

(B) THE COMMISSIONER SHALL ADMINISTER THE PROGRAM OF REIMBURSEMENT AUTHORIZED UNDER THIS SECTION AND SHALL PROVIDE BY REGULATION FOR THE FILING OF APPLICATIONS FOR REIMBURSEMENT, THE FORM OF PROOF OF COSTS FOR WHICH APPLICATION FOR REIMBURSEMENT IS MADE, AND OTHER REGULATIONS NECESSARY TO ADMINISTER THE PROGRAM. THE COMMISSIONER SHALL EXCLUDE FROM THE TOTAL SCHOOL CONSTRUCTION COST OF THE LOCAL DISTRICT ALL STATE AND FEDERAL FUNDS INCLUDED IN THESE COSTS EXCEPT FUNDS PROVIDED UNDER THIS SECTION AND AS 43.50.140. IN APPROVING APPLICATIONS FOR REIMBURSEMENT, THE COMMISSIONER SHALL

(1) OFFSET AGAINST THE AMOUNT OF REIMBURSEMENT AUTHORIZED THE AMOUNT OF ANY FUNDS DISTRIBUTED TO THE BOROUGH OR CITY IN THE SECOND PRECEDING FISCAL YEAR FROM THE SCHOOL FUND PROVIDED FOR IN AS 43.50.140;

(2) REPEALED BY SEC. 10 CH 92 SLA 1982.

(C) THE SCHOOL CONSTRUCTION ACCOUNT IS ESTABLISHED. FUNDS TO CARRY OUT THE PROVISIONS OF THIS SECTION MAY BE APPROPRIATED ANNUALLY BY THE LEGISLATURE TO THE ACCOUNT. IF AMOUNTS IN THE ACCOUNT ARE INSUFFICIENT FOR THE PURPOSE OF PROVIDING THE SHARE TO WHICH A BOROUGH OR CITY IS ENTITLED UNDER THIS SECTION, THOSE FUNDS THAT ARE AVAILABLE SHALL BE DISTRIBUTED PRO RATA AMONG THE ELIGIBLE LOCAL GOVERNMENTS.

(D) MONEY IN THE SCHOOL CONSTRUCTION ACCOUNT WHICH, AT THE END OF THE FISCAL YEAR FOR WHICH THE MONEY IS APPROPRIATED, EXCEEDS THE AMOUNT REQUIRED FOR THE ALLOCATIONS AUTHORIZED IN THIS SECTION REVERTS TO THE GENERAL FUND.

(E) THE COMMISSIONER SHALL ANNUALLY PROVIDE A REPORT TO THE LEGISLATURE ON ALLOCATIONS OF STATE AID MADE UNDER THIS SECTION, INCLUDING BUT NOT LIMITED TO, THE AMOUNT OF STATE AID PAID ON A PER CAPITA AND PER STUDENT BASIS AND THE RESULTANT EFFECT ON THE RATE OF LEVY OF TAXES BY THE MUNICIPALITY FOR EDUCATIONAL PURPOSES.

(F) REPEALED BY SEC. 17 CH 147 SLA 1978.

(G) IN THIS SECTION, UNLESS THE CONTEXT REQUIRES OTHERWISE,

(1) "COMMISSIONER" MEANS THE COMMISSIONER OF EDUCATION,

(2) "COSTS OF SCHOOL CONSTRUCTION" MEANS THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, REPAIRING, REMODELING, EQUIPPING OR FURNISHING OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL BUILDINGS AND INCLUDES THE SUM TOTAL OF ALL COSTS OF FINANCING AND CARRYING OUT THE PROJECT; THESE INCLUDE, BUT ARE NOT LIMITED TO, THE COSTS OF ALL NECESSARY STUDIES, SURVEYS, PLANS AND SPECIFICATIONS, ARCHITECTURAL, ENGINEERING OR OTHER SPECIAL SERVICES, ACQUISITION OF REAL PROPERTY, SITE PREPARATION AND DEVELOPMENT, PURCHASE, CONSTRUCTION, RECONSTRUCTION AND IMPROVEMENT OF REAL PROPERTY AND THE ACQUISITION OF MACHINERY AND EQUIPMENT AS MAY BE NECESSARY IN CONNECTION WITH THE PROJECT, AN ALLOCABLE PORTION OF THE ADMINISTRATIVE AND OPERATING EXPENSES OF THE GRANTEE, THE COST OF FINANCING THE PROJECT, INCLUDING INTEREST ON BONDS ISSUED TO FINANCE THE PROJECT, AND THE COST OF OTHER ITEMS, INCLUDING ANY INDEMNITY AND SURETY BONDS AND PREMIUMS ON INSURANCE, LEGAL FEES, FEES AND EXPENSES OF TRUSTEES, DEPOSITARIES, FINANCIAL ADVISORS, AND PAYING AGENTS FOR THE

BONDS ISSUED AS THE ISSUER CONSIDERS NECESSARY.

(H) AN ALLOCATION UNDER (A)(4) OF THIS SECTION FOR SCHOOL CONSTRUCTION BEGUN AFTER JULY 1, 1982, SHALL BE REDUCED BY THE AMOUNT OF MONEY USED FOR THE CONSTRUCTION OF RESIDENTIAL SPACE, HOCKEY RINKS, PLANETARIUMS, SAUNAS, AND OTHER FACILITIES FOR SINGLE PURPOSE SPORTING OR RECREATIONAL USES THAT ARE NOT SUITABLE FOR OTHER ACTIVITIES. AN ALLOCATION UNDER (A)(4) OF THIS SECTION MAY NOT BE REDUCED BY THE AMOUNT OF MONEY USED FOR CONSTRUCTION OF A SMALL SWIMMING POOL, TANK, OR WATER STORAGE FACILITY USED FOR WATER SPORTS. HOWEVER, AN ALLOCATION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE AMOUNT OF MONEY USED TO CONSTRUCT A SWIMMING POOL THAT IS COMPETITION SIZE OR LARGER AND THE AMOUNT OF MONEY THAT WOULD HAVE BEEN USED TO CONSTRUCT A SMALL SWIMMING POOL, TANK, OR WATER STORAGE FACILITY, AS DETERMINED BY THE COMMISSIONER.

(I) FOR THE PURPOSES OF (A)(4) OF THIS SECTION

(1) AN INDEBTEDNESS FOR BONDS IS INCURRED AFTER THE BONDS ARE SOLD;

(2) REIMBURSEMENT FOR A CASH PAYMENT MAY ONLY BE MADE AFTER THE PAYMENT IS MADE TO A VENDOR; AND

(3) PAYMENTS MAY NOT BE MADE FOR COSTS THAT ARE INCURRED UNDER A CONTRACT AFTER THE CONTRACT HAS BEEN RELEASED.

HISTORY (SEC. 1 CH 249 SLA 1970; AM SEC. 1 CH 93 SLA 1971; AM SEC. 2 CH 137 SLA 1972, AM SEC. 1 CH 28 SLA 1973; AM SEC. 47 CH 127 SLA 1974; AM SECS. 1 - 3 CH 120 SLA 1977; AM SECS. 12, 17 CH 147 SLA 1978; AM SEC. 25 CH 168 SLA 1978; AM SECS. 8 - 10 CH 92 SLA 1982)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

Linda please send a message to the Finance with HB 137 + indicate there is a potential problem that I foresee + that is accelerated rate payback of indebtedness i.e. — Presently the payback may range from 10-20 years. there is a trend for a shorter payback schedule like 3-6 years, which may increase the problem we are addressing ~~in~~ in HB 137. I hasten to point out that interest ~~[redacted]~~ payments would drop significantly + would therefore save money but that short payback schedule would require larger funds in shorter period of time.

Do you want this to go as a letter of intent - if so - the Committee must vote on it. no, just a regular memo to al. as a comment of concern.

MEMORANDUM

TO: Rep. Al Adams, Chairman
House Finance Committee

DATE: March 3,1983

FROM: Rep. Mae Tischer, Co-Chairperson
House HESS Committee

RE: HB 137

The House HESS Committee has passed out HB 137 with a do pass recommendation. During the discussion in regard to the supplemental appropriation for state aid for the retirement of school construction debt, the Committee focused briefly on the concern of a potential problem in the acclerated rate of reimbursements for indebtedness annually. Presently the payback may range from 10 to 20 years. There is a trend for a shorter payback schedule, possibly 3 to 6 years, which may increase the problem we are attempting to resolve in HB 137. I hasten to point out that interest payments would drop significantly and would therefore save money. However, the same short payback schedule would require larger appropriations in a shorter period of time.

March 2, 1982

Marilyn Kimmick - Kenai Boro — endorses passage
shortfall will cost 1.3 mill
2% sales tax for oper. costs of school budget

Rep Larsen - 14 B Dist. Correcting deficiency in approp bill of last year
① disparity - org & unorg areas of state
② Responsibility @ local level
③ Contains shortfalls of HB 73
④ Pre 1978 - 80-20 / Post 1978 90-10

Bill Allen — Fbks Boro. Mayor - Supp would help protect bond rating.

Harry Case — Pres. AML - Dep. Mayor of Juneau & Chair of Jnu Finance Comm.
① Mill levy - 5.2 / not included debt service @ 3.4 mills
② HB 137 = 3/4 of a mill rate to Jnu
③ Debt Service - 82 - 745,900 / 83 - 2,800 + / 84 - 5,290,
④ Sell bonds in excess of 22 mill -
⑤ May recv 8% interest rate

Vern Roberts - Finance - Mat - Su

AML - G. Chitwood - last yr. legis intent = fully funded. Mistakes ① tobacco tax
② estimates vs. actuals

Steve Hole - DOE
Craig - Klawock - const w/ direct state approp - no local debt incurred
① Pymts - July 77-78 - after 78 - dept regs & act amended
① sq. footage & kinds of facilities -
Chp 92 - ① Excludes hockey rinks v/le ranges - sgle purpose types of space

AML. G. Chitwood - Goll asked ques - pro-ration of avail funds - less able to retire debts - any plans to deal with future lack of funding for debt retirement

— Davis - move bill out —
- Discussion - Larsen - 88 mill for supp approp - Consti mandate to fund education
① local munis need to know forward funding
② Organized & Unorganized areas of state
- Davis - move out w/ ind rec.

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

March 2, 1983

to: House HESS Committee

from: Ginny Chitwood, AML Executive Director G.C.

re: HB 137 - School Debt Supplemental Funding

The Alaska Municipal League supports HB 137 - Supplemental Appropriation for State Aid for the Retirement of School Construction Debt.

Several years ago the Legislature developed this program to reduce the inequities between the REAA's, where the state pays 100% of school construction costs and the municipal school districts, where the local taxpayers were footing the bill. The original program provided for a 80% reimbursement on a two-year time delay. Over the years, changes have been made, including giving the Department of Education plan approval authority and raising the percentage of reimbursement to 100% for payments on debt issued before July 1, 1977.

Last session, two other changes were made to the program. In order to partially alleviate the cash flow problems in rapidly growing areas that were caused by the two-year time delay in reimbursements, the program was modified last year to phase in a current year reimbursement program, providing for current year reimbursements of payments on debt issued after December 31, 1981. The other change made last year raised the percentage of reimbursement from 80% to 90% on debt issued after July 1, 1977.

The shortfall in FY 83 funding for this program was the result of two factors: incorrect application of tobacco tax receipts to this program and underestimation of the funding requirements for the current year reimbursement program. These problems should not reoccur because the tobacco tax issue has been clarified and the bugs should be worked out implementing the new section of the program.

FEB 2 8 1983

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

DEPARTMENT OF ADMINISTRATION

February 24, 1983

Mae Tischer, Chairman
House Committee on Health & Social Services
Pouch V
Juneau, AK 99811

RE: HB 137 Supplemental Appropriation for School Debt Reimbursement

Dear Ms. Tischer:

I appreciate the opportunity to spend time with you on HB 137 providing for a supplemental appropriation for debt reimbursement. Would you share this letter with the members of your committee.

The Matanuska-Susitna Borough will have a school bond election on April 12, 1983 for a $20 million bond issue for construction of a new elementary school north and west of Wasilla and for renovation of the Palmer Junior High School, which was constructed in 1954.

We want to tell the voters how much this bond issue will cost them assuming that they have a $100,000 house, assuming a 10 or 20 year term, assuming present day interest rates, and assuming State reimbursement of school debt principal and interest at 90% as provided in HB 279, passed by the last session of the Legislature.

We believe that the voters are entitled to know how much the State will be paying for construction of schools in organized school districts and how much local taxpayers will be paying. We have always given voters this type of information with the expectation that it could be relied upon and, up until this last year, we have given voters information upon the basis of which they could make an informed choice. We thought we gave the voters reliable information on the last bond issue of about $15 million, but as it turned out we were pretty far off.

There was a sudden unexpected and unprecedented change in State policy toward school construction for this current fiscal year, which I think was based upon mistaken projections of school debt reimbursement requirements. The effect of this short-funding with respect to the recently incurred $15 million of school bonded indebtedness is $605,249 and the effect on previously incurred debt is $705,820 for a total shortfall of $1,311,069. The new debt, which will cause an unexpected increase in mill levy of about .6 mills, was funded at approximately 64% instead of the statutory 90%, and the old debt was funded at about 70% instead of the statutory 80%. The total effect of the short-funding on

our mill levy is approximately 1.3 mills since 1 mill raises about one million dollars in this Borough. Our current areawide mill levy is 4.9 so an unexpected 1.3 mill increase due to shortfunding affects our mill levy by about 25%.

I think that we were honest and reasonable in telling the voters what to expect when the last bond issue was put to a vote. I have been familiar with a history of state support for education going back into territorial days. Even though new State programs and other State programs have been phased out or reduced, there has been a consistency of support for education among the territorial legislatures and the State legislatures which I think we can be very proud of. I have seen the number of Anchorage schools increase from four in 1951 to 64 today, with very little double shifting over the years. In this Borough, we are going to have to build an average of about 1.5 schools a year if we are going to continue to see an 800 plus increase in students per year. We don't want to complain about the rapid increase in population in students that we have been experiencing. We want to solve these problems of growth in a responsible and consistent manner and we want to know what the ground rules are. We have not asked for 100% financing of new school buildings, because we are willing to shoulder a portion of the burden ourselves. So we are not asking for special treatment, or, for that matter, even treatment equal to that received by those who obtain 100% financing of new schools. We are asking for consistency and predictability in State school financing and believe that this ought to be a bedrock of State fiscal policy.

So, we do believe that HB 137 is a bill that fiscal conservatives ought to support as a matter of principle. We want to make good on our word because we think property taxpayers are entitled to accurate information.

I hope that the State HESS Committee will report out the bill with a strong and unanimous yes vote. Please let me know if you will have a teleconference on the bill.

Sincerely,

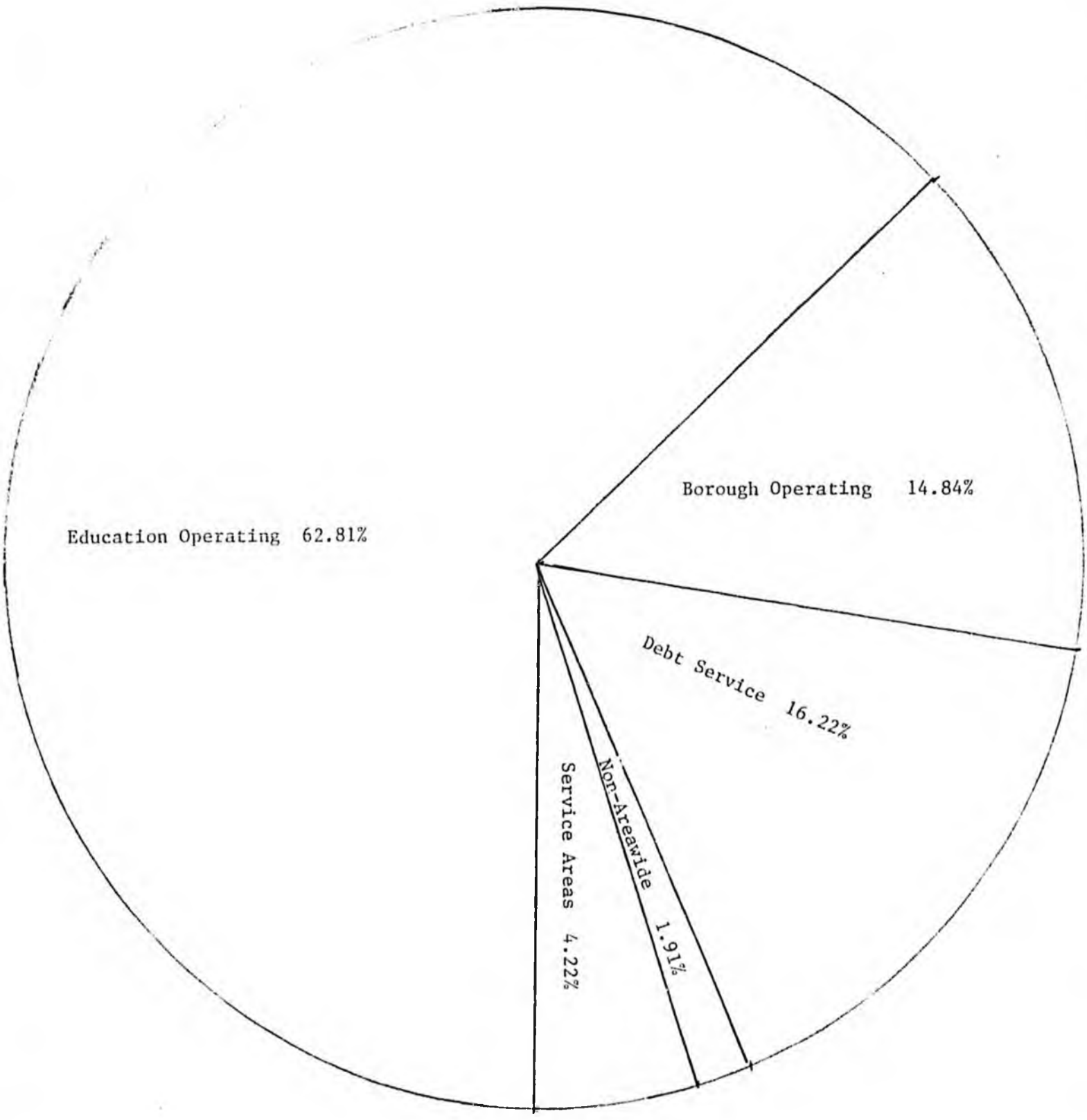
Gary Thurlow

Gary Thurlow
Borough Manager

GT/clm

BUDGETED EXPENDITURES

FISCAL YEAR 1983



MEMORANDUM State of Alaska

TO Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89.2

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Debt Retirement Supplemental Request for post December 31, 1981 Indebtedness

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all claims for reimbursement under AS 43.18.100(a)(4), (current year reimbursement of school construction debt retirement payments).

ISSUE

Last year the legislature enacted legislation, (Chapter 92, SLA 1982), which provided for reimbursement to municipalities for school construction debt retirement payments in the same year in which they are made, rather than two years after they are made. The appropriation, based on the Alaska Municipal League estimate of FY 83 claims under this new program, was $13,466.4. Actual claims total $18,988.4, leaving the account $5,522.0 short.

COMMISSIONER'S RECOMMENDATION

It is recommended that the Board concur with this request.

Approp. 13,466,400	100%	90%	Prorated @ 70.9190 Paid	Paid	Difference in Thousands
Anchorage	4559719	4103747	2910335	2910336	1193.4
Fairbanks	3198250	2878425	2041350		837.1
Juneau	1881375	1693237	1200826		492.4
Kenai	4754612	4279151	3034731	901010	1244.4
Mat-Su	2312500	2081250	1476001	672578	605.2
North Slope	4391798	3952618	2803157		1149.5
					$5,522,000
Totals	21098254	18988428	13466400	4483924	

State aid for school construction debt retirement.

Chp. 92 SLA 82

(HB 279)

MEMORANDUM State of Alaska

TO: Members, State Board of Education

DATE: December 30, 1982

FILE NO: 83-89.1

TELEPHONE NO: 465-2800

FROM: Office of the Commissioner

SUBJECT: FY 83 Debt Retirement Supplemental Request for pre December 31, 1981 Indebtedness

ABSTRACT

Funds appropriated by the last legislature are insufficient to cover all claims for reimbursement under AS 43.18.100 (school construction debt retirement payments).

ISSUE

The department requested $44,103.3 for FY 83 debt retirement reimbursement claims under AS 43.18.100(a)(1)-(3), the two year lag reimbursement program. The legislature appropriated 36,203.3, assuming that that amount, in conjunction with the $7,000.0 appropriated in the Cigarette Tax category, would comprise a total sufficient to meet all claims. Actual claims for reimbursement for FY 83 total $43,781.0, and since the Cigarette Tax appropriation must be separate from the debt retirement appropriation, the debt retirement appropriation is $7,577.7 short.

BACKGROUND AND/OR PERTINENT INFORMATION

Because Cigarette Tax revenues are dedicated for school rehabilitation and renovation projects, there is a tendency to confuse them with school construction debt service payments reimbursement. However, debt retirement reimbursement is made on the basis of claims for payment, and Cigarette Tax revenues are disbursed on an entitlement basis, e.g., not every city and borough district has bonds eligible for debt retirement reimbursement, but all city and borough districts are entitled to receive Cigarette Tax payments. Therefore, the two appropriations must be distributed separately. Because of this distinction, only the actual appropriation for debt retirement could be used to pay the claims for reimbursement leaving a shortfall of 7,577.7 in that account.

COMMISSIONER'S RECOMMENDATION

It is recommended that the Board concur with this request.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB-137
Title An Act making a supplemental appropriation to the...
Requested by House HESS Date 2/8/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary and Secondary
BRU, Program, Or Subprogram(s) Affected Debt Retirement, Local
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.	13,100.0					
TOTAL	13,100.0					

FUNDING (Thousands of Dollars)

GENERAL FUND	13,100.0					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 2/8/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

HB 279 - removed 2 yr. lag
& raised school debt retirement to 90%

Shortfalls
- cig tax - [2 memos from DOE]

dedicated funds that go to school debt retirement & construction costs - last year Finance used this $ for something else?

① - Position Paper from G. Chitwood

② - Copy 43.18.100 (a) (4) (1-3)

③ - Copy Chp. 92 SLA 82 - provided for reim to munis for school const - debt retirement, in some years - Rather than 2 yr. league 790% - post 81?

④ - Find out intentions of Legis. Finance last year - in regard to Chp 92 SLA 82 -

4AAC 36 140 43.50.100 43.18.100 only dedicated tax

⑤ - legal opinion - division of debt retirement paybacks & dedicated cig tax distribution. (Revenue)
- Can the Cig Tax be used for debt retirement -

⑥ - Shortfall - $5,522.0 based on claims
43,780 - claims for reimbursement.
appropriated 36,203.3 for FY83
7,583 - short approp for 83.
why mis-calculations? ← 5,522 - diff of League est & actuals
$13,105 - supp bill.

⑦ Bond Bank - prospective on bonding attorneys

⑧

FY-85

HB-137 Distribution

	Pre 12-31-81	Post 12-31-81	Total
Anchorage	2050317	1193,412	3243,729
Bristol Bay	48,050	—	48,050
Cordova	17,799	—	17,799
Craig	—	—	—
Dillingham	56,046	—	56,046
Fairbanks	765,533	837,075	1,602,608
Galena	7,524	—	7,524
Haines	13595	—	13,595
Hoonah	—	—	—
Hydaburg	—	—	—
Juneau	115,360	492,411	607,771
Kake	—	—	—
Kenai	962,592	1,244,420	2,207,012
Ketchikan	112,017	—	112,017
King Cove	—	—	—
Klawock	—	—	—
Kodiak	79,205	—	—
Mat-Su	705,920	605,249	1,311,069
Nenana	1,979	—	1,979
Nome	4,424	—	4,424
North Slope	1,863,579	1,149,461	3,013,040
Pelican	—	—	—
Petersburg	104,312	—	104,312
Sand Point	—	—	—
Sitka	127,350	—	127,350
Skagway	4,456	—	4,456
St. Mary's	—	—	—
Tenakee	—	—	—
Wrangell	—	—	—

Valdez	525,363	–	525,363
Wrangell	12,341	–	12,341
Yakutat	–	–	–
Total	7,577,662	5,522,028	13,099,690

HB

159

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 159
Title Achievement Scholarships
Requested by House HESS Date 2/7/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Commission on Postsecondary Education
BRU, Program, Or Subprogram(s) Affected Student Financial Aid Admin/Grants & Loans
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	N.A.	812.5	1,622.6	2,432.8	3242.9	

FUNDING (Thousands of Dollars)

GENERAL FUND	N.A.	812.5	1,622.6	2,432.8	3242.9	
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

RECEIVED
FEB 07 1983
LEGISLATIVE FINANCE

IV. DATE February 7, 1983 PREPARED BY Kerry D. Romesburg
AGENCY Commission on Postsecondary Education
PHONE 465-2854

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

33-001 (Rev. 12/82) OMB Reviewed by: Jerry Bryant

HB

160

(7)

COMMITTEE REPORT

HOUSE

FURTHER: cFINANCE

2/4/83

Date: [illegible]

Mr. Speaker:

The Committee on HESS has had HB 160

An Act making a special appropriation to the Department of Education for development of a training program for Alaska Aviation; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
M.W. Miller	
Milo Fritz	
[illegible]	
[illegible]	
[illegible]	
[illegible]	
[illegible]	

[illegible]

CHAIRMAN

Milo Fritz

H 60

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 160
Title "An Act.. special approp. to DOE for development of a training program.
Requested by House HESS COmmittee Date Feb. 15, 1983

II. FISCAL DETAIL
Agency Affected DOE
Program Category Affected
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		753,000				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE February 15, 1983 PREPARED BY House HESS Committee
AGENCY Legislative AFfairs Agency
PHONE 465-3777

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

33-001 (Rev. 12/82)

ALASKA AVIATION SAFETY FOUNDATION

PROPOSED

AVIATION SAFETY TRAINING PROGRAMS

CONTENT AND BUDGET
SUMMARY

1. Develop and validate the curriculum in the form of 25 lesson plans including instructor ("How to Teach") and student manuals for use by experienced Alaskan aviation operators (pilots, managers, etc.) when training both private and commercial operators to fly aircraft safely in Alaska generally and in specific regions of Alaska. The lesson plans will cover the following most hazardous of aviation operations:

   a. Gathering weather information

   b. Interpreting weather information and trends

   c. Landings and take-offs:
      1. Gravel and sand bars 2. Lakes 3. Tundra 4. Mud 5. Ice
      6. Beaches 7. Airstrips 8. Runways 9. Snow 10. Glaciers

   d. Flight techniques in adverse weather:
      1. Vertigo 2. Whiteouts/depth perception 3. Turbulence 4. Icing

   e. Navigation/Pilotage

   f. Mountain flying, general and specific pass flying

   g. Flight techniques - area specific

   h. Fuel management and handling

   i. Cold weather operations

   APPROXIMATE COST $573,400

2. Prepare one or two exemplary audio-visual presentations for use in teaching specific validated lesson plans.

   APPROXIMATE COST $180,000

   TOTAL ESTIMATE $753,400

It is anticipated that Department of Education will issue Request for Proposal bids based on the attached proposal and the Definition of Alaskan Aviation Training Requirements previously completed by the Foundation.

The cost estimates (detailed on next page) are Foundation estimates based on a single preliminary survey of potential contractors. Actual bids may be more or less than the estimate.

Lance Wells, Executive Director
Alaska Aviation Safety Foundation
301 West Northern Lights Blvd., Suite 600
Anchorage, Alaska 99503

ALASKAN AVIATION SAFETY FOUNDATION PROPOSAL

BUDGETARY PRICE ESTIMATES

1983-1984

Proposed Start Work Date:	September 1, 1983
Personnel:	
Training Specialists (2.5 man-years)	$250,000.
Contract Secretarial Support (2.0 man-years)	50,000.
Alaskan Subject Matter Experts (9 man-months)	80,000.
Staff Project Support	25,000.
Per Diem: 540 days @ $150 per day	81,000.
Communications: Telephone and Postage	3,000.
Office Equipment: (Data Support)	20,000.
Office Supplies: @ $200 per month	2,400.
Office Space/Training Center:	24,000.
Printing: Progress and Final Reports	3,000.
Air Travel:	
Intrastate (via passes to extent possible)	10,000.
Leased Aircraft (donated to extent possible)	25,000.
Media Production: (Sample AV Programs)	180,000.
TOTAL:	$753,400.

Air carriers seek state-funded pilot training

Alaska Daily News 1-1-83

By CHUCK KLEESCHULTE
Daily News business reporter

Prompted by the promise of reductions in current sky-high insurance rates, Alaska air carriers are pushing hard to get a new pilot training program off the ground.

Air carriers over the weekend voted unanimously to seek $780,000 from the state's Legislature to fund the second stage of a proposed training program. It is designed so air taxi operators can offer courses for pilots and ground personnel tailor-made for Alaska weather and flying conditions.

"There is just no question that the aviation industry in this state needs more training. By additional training we can improve safety, cut accidents and reduce the rates air carriers pay for insurance," said Jim Dodson, an official of the newly formed Alaska Aviation Safety Foundation, sponsor of the new training program.

The Alaska Air Carriers Association in 1980, fresh on the heels of a National Transportation Safety Board report critical of air taxi operations in Alaska, hired American Airlines Training Corp. of Texas to study possible improvements in air carrier operations.

The American report completed last year stressed that Alaska's nation-leading air accident rate could be cut if pilots uniformly would be trained to handle Alaska aviation problems and be educated in safety practices so they would avoid wreckless behavior.

"We discovered when we studied Alaskan pilots that most needed more training to learn how to handle many uniquely difficult flying conditions. Flying in white-out conditions and flying where navigation is much more difficult make it important for Alaska pilots to be better trained than those in the Lower 48," says Michael K. Mitchell, an official of American Airlines Training Corp. "Flying out of Bethel daily requires more skill than a commercial 747 pilot ever needs," said Mitchell.

He says Alaska pilots, unlike those in the Lower 48, frequently have to fly by "dead reckoning" and by pilotage, using surface maps and landmarks to determine locations, rather than naglvational aides.

Mitchell said Alaska pilots especially face the danger of over-confidence prompting poor judgment in flight decisions, the so-called "Bush Syndrome."

To overcome such problems Mitchell proposes drafting pilot lessons especially tailored to Alaska problems, course manuals which Alaska air taxi operators will then use to satisfy Civil Aeronautics Board required refresher training.

Such training manuals, Mitchell said, could be written and in use by the end of 1984, provided funding for the safety program is found by this summer.

Lance Wells, executive director of the AACA, says the expenditure to fund the training program would ultimately benefit all air users through lower air fares, possible because of lower insurance liability premiums.

Dodson said several insurance firms have already promised to provide discounts to air taxi operators who complete the proposed safety program. He said the course also might attract other insurance firms to write policies for Alaskan air carriers.

At present only Lloyds of London underwrites aviation insurance given Alaska's high-risk loss history.

The possibility of lower rates is good news to an industry which already has seen nearly a dozen smaller operators go out of business during the past several years because of rapidly escalating insurance rates — the direct result of the state's high accident rate.

Alaska has a rate of non-fatal air accidents five times the rate of the Lower 48, a rate of fatal accidents twice the national average, says Alan L. Crawford, an NTSB regional investigator in Los Angeles.

Crawford during the carrier's annual convention in Anchorage Saturday urged Alaska officials to find funding for the safety program. Wells says carriers have received a commitment from the Sheffield administration to provide at least part of the amount needed for the program in the state's FY '84 budget now under development.

Wells, however, urged carriers to contact lawmakers to try to obtain full funding for the drafting of the training program.

Katherine Fanning
Editor and Publisher

Howard Weaver
Managing Editor

Gerald E. Grilly
General Manager

Steve Lindbeck
Editorial Page Editor

Lawrence Fanning, Editor and Publisher 1967 to 1971
Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

Jan 31, 1983

Upgrade pilot training programs in Alaska

Alaska's air carriers have improved their aim considerably in efforts to shoot down the high cost of flying insurance. The target this legislative season is improved pilot training, and there is at least some chance of success.

Last year the industry sought help from Juneau in the form of legal limits to the financial liability facing air carriers in Alaska. Reducing the carriers' (and thus the underwriters') liability, it was thought, would translate into reduced insurance rates. But the legislation went nowhere — presumably because it pinpointed the wrong problem.

The problem with aviation and insurance coverage in Alaska is the high rate of accidents — not the legal responsibilities arising from them. And the high rate of accidents stems too often from human error arising from the combination of harsh weather, natural hazards, navigational difficulties and unwarranted overconfidence known as "the Bush syndrome."

Industry representatives tacitly admit as much in pressing for a state-funded pilot training program tailored to the special demands of Alaska flying conditions. "There is just no question that the aviation industry in this state needs more training," says Jim Dodson, an official of the Alaska Aviation Safety Program. "By additional training we can improve safety, cut accidents and reduce the rates air carriers pay for insurance."

There may be a battle over who will pay for the training. Air carriers have asked the legislature for $780,000 to fund the second stage of a proposed training program pitched to the needs of Alaska air taxi operators. The Sheffield administration apparently has expressed interest in picking up part of the tab, though a case also could be made for funding the program through a special levy on the industry.

There is little doubt of the pressures, challenges and risks associated with flying in Alaska. But the crucial factor in safely confronting those challenges is the human judgment of pilots who must know their profession better in Alaska than anywhere else in the country. "Flying out of Bethel daily requires more skill than a commercial 747 pilot ever needs," says an official of a company hired to study air carrier operations in Alaska.

That realization alone is enough to justify upgrading pilot training programs in our state. Aviation is a crucial lifeline to every corner of Alaska, and high insurance costs ultimately raise the cost of living throughout the Bush. Working to improve the competence and training of thousands of Alaska pilots can greatly improve the quality of life in dozens of communities that depend on them.

National Transportation Safety Board
Washington, D.C. 20594

Safety Information

FOR IMMEDIATE RELEASE

Tuesday
September 16, 1980

SB 80-78/3052
(202) 472-6100

Air taxis in Alaska have far higher accident rates than air taxis in the rest of the United States, the National Transportation Safety Board reported today in a special study.

Alaska's rate of nonfatal air taxi accidents per hour flown has been almost five times higher, and its fatal accident rate per hour more than twice, that of the rest of the country, the Board found.

The Board attributed the high rates to:

— The "bush syndrome," nourished by legends of Alaskan bush pilots, and other factors which today sometimes prompts air taxi pilots and passengers alike to take unwarranted risks to complete flights in the face of the state's unique environmental hazards.

— Inadequate airport facilities and pilots' frequent inability to obtain accurate information on airport conditions.

— Insufficient ground aids to navigation.

In 1974-78, Alaskan air taxi operators had a rate of 15.2 nonfatal accidents in every 100,000 hours, as compared with 3.3 in the rest of the country. The Alaskan rate of fatal accidents per 100,000 hours was 2.57; in the other states it was 1.11.

Sampling of Safety Board accident data showed that the pilot was cited as a causal or contributing factor in 85 percent of Alaskan air taxi accidents studied, as compared with 70 percent of similar accidents in the other states. The data also showed that most Alaskan accident pilots were experienced -- almost all had logged more than 1,000 hours, and 80 percent had more than 2,000 pilot hours.

The Board said Alaska air taxi operators believe the inadequacy of airport facilities and information on airport conditions are a significant factor in the state's air taxi accidents. And there is "virtual unanimity of opinion among

operators and pilots that runway conditions present a problem in much of rural Alaska" the Board reported.

Operators and pilots flying in the more rural areas also repeatedly cited the lack of navigation aids, inadequate observation of en route and destination weather, and inadequate dissemination of weather information when observations are made.

The Safety Board described as unprecedented for this or any other state a fiscal 1981 Alaska appropriation package totaling more than $51 million for further development of state aviation facilities. In combination with the Federal Aviation Administration's 10-year development plan for the state, improvements which the appropriation would finance could have a substantial impact on the safety of Alaska's aviation system, the Board said.

A series of 11 safety recommendations are incorporated in the Board's special study. Addressed to the State of Alaska, the FAA, and the Alaska Air Carriers Association, their goals include:

— Rapid completion of aviation projects to be funded by the $51 million appropriation.

— Centralization of authority and responsibility for planning operating and maintaining the State's aviation facilities.

— A comprehensive aviation system plan for Alaska.

— Permanent assignment of FAA operations and maintenance inspectors to Nome, Bethel and Ketchikan, and to "as many other regional hubs as possible."

— Continued development of weather data gathering and transmission facilities, including such new technology as weather observation by television and "meteor burst" communication which would transmit data from a single observation point in an Alaskan village simultaneously to all of the state's regional aviation hubs.

— Extension of the Alaska air carriers' safety program to specifically combat the "bush pilot syndrome."

The Safety Board's special study - "Air Taxi Safety in Alaska" will be available in approximately three weeks. Single copies may be obtained without charge by writing to the Publications Branch, National Transportation Safety Board, Washington, D.C. 20594. Multiple copies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161.

—oOo—

WASHINGTON, D.C.

ISSUED: September 25, 1980

Forwarded to:
Honorable Jay Hammond
Governor
State of Alaska
Juneau, Alaska 99801

SAFETY RECOMMENDATION(S)
A-80-96 through -100

The National Transportation Safety Board has studied the air taxi accidents which occurred in Alaska from 1974 through 1978. Accident data from the Safety Board's automated aviation accident data system for that period were analyzed by means of frequency distributions. Safety Board staff also visited Alaska to see the conditions under which the air taxi community operates, to discuss the community's attitudes and needs, and to examine the community's interaction with Federal and State agencies. While in Alaska, the Safety Board staff met with officials of the Federal Aviation Administration (FAA), the National Weather Service (NWS), the Alaska Department of Transportation and Public Facilities (DOT/PF), the Alaska Air Carriers Association, and 17 air taxi operators. 1/

The State of Alaska is heavily dependent on its air taxi industry to transport food, medicine, mail, and many other necessities of life to rural villages. Alaska, however, has an air taxi safety problem. During the 5-year period 1974-1978, there were 311 air taxi accidents in Alaska, of which 266 were nonfatal and 45 were fatal, compared with 753 air taxi accidents in the rest of the United States, of which 562 were nonfatal and 191 were fatal. More importantly, the nonfatal air taxi accident rate (per 100,000 flying hours) in Alaska is almost five times higher than the nonfatal air taxi accident rate in the rest of the United States, and the fatal air taxi accident rate in Alaska is more than double the fatal air taxi accident rate in the rest of the United States.

The Safety Board study concluded that there are three major factors responsible for the high air taxi accident rate in Alaska: (1) the "bush syndrome," (2) inadequate airfield facilities and inadequate communications of airfield conditions, and (3) inadequate weather observations, inadequate communications of the weather information, and insufficient navigation aids. The "bush syndrome" is an attitude on the part of air taxi operators, pilots, and passengers in Alaska that ranges from a casual acceptance of risks to a willingness to take unwarranted risks. Most of the active airports in Alaska are State owned and maintained, and many of their runways are inadequately maintained. Whiteouts, very rapid weather changes, and a scarcity of navigation aids cause pilots to make many off-airport takeoffs and landings in float-equipped and ski-equipped aircraft. The collection and dissemination of weather information and current runway condition information is hampered by a shortage of trained personnel and an inadequate communications system in rural Alaska.

1/ For more detailed information read "Special Study--Air Taxi Safety in Alaska" (NTSB-AAS-80-3).

The relationship between the State's air taxi operators and the FAA appears to be strained. Further, because of a lack of permanent FAA inspectors at the rural aviation transportation hubs, there is insufficient opportunity for the FAA to provide guidance to the air taxi operators.

The State of Alaska has recently appropriated, through Chapter 50, SLA 1980, substantial funds for the improvement of the State aviation system, including upgrading of runways and the installation of navigation aids, and weather reporting and communications equipment. A comprehensive State aviation system plan, adequate to implement the intent of Chapter 50, SLA 1980, does not appear to exist. Further, centralized control over, and authority for, developing such a plan does not appear to exist within the current State DOT/PF structure. Cooperation among the State, the FAA, the NWS, and the air taxi operators must be increased if the State is to develop and implement the plan.

Based on the results of this study, the National Transportation Safety Board recommends that the State of Alaska:

Coordinate with the Federal Aviation Administration and the National Weather Service to facilitate the rapid implementation of the air transportation projects contained in Chapter 50, SLA 1980. (Class I, Urgent Action) (A-80-96)

Improve the level of maintenance of the runway facilities at the rural villages within the State airport system. (Class II, Priority Action) (A-80-97)

Centralize authority and responsibility for planning, operating, and maintaining the State's aviation facilities. (Class II, Priority Action) (A-80-98)

Develop, in cooperation with the Federal Aviation Administration and the system users, a comprehensive aviation system plan and a program for the implementation of the plan. (Class II, Priority Action) (A-80-99)

Establish, in cooperation with the Federal Aviation Administration and the air taxi operators, a program to impress upon the public, particularly those living in rural villages, the importance of respecting and properly maintaining airfield facilities. (Class II, Priority Action) (A-80-100)

KING, Chairman, GOLDMAN and BURSLEY, Members, concurred in these recommendations. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

By: James B. King
Chairman

WASHINGTON, D.C.

ISSUED: September 25, 1980

Forwarded to:
Honorable Langhorne M. Bond
Administrator
Federal Aviation Administration
Washington, D.C. 20591

SAFETY RECOMMENDATION(S)
A-80-101 through -104

The National Transportation Safety Board has studied the air taxi accidents which occurred in Alaska from 1974 through 1978. Accident data from the Safety Board's automated aviation accident data system for that period were analyzed by means of frequency distributions. Safety Board staff also visited Alaska to see the conditions under which the air taxi community operates, to discuss the community's attitudes and needs, and to examine the community's interaction with Federal and State agencies. While in Alaska, the Safety Board staff met with officials of the Federal Aviation Administration (FAA), the National Weather Service (NWS), the Alaska Department of Transportation and Public Facilities (DOT/PF), the Alaska Air Carriers Association, and 17 air taxi operators. 1/

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1/ For more detailed information read "Special Study--Air Taxi Safety in Alaska" (NTSB-AAS-80-3).

3052

The relationship between the State's air taxi operators and the FAA appears to be strained. Further, because of a lack of permanent FAA inspectors at the rural aviation transportation hubs, there is insufficient opportunity for the FAA to provide guidance to the air taxi operators.

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Based on the results of this study, the National Transportation Safety Board recommends that the Federal Aviation Administration:

Evaluate, in cooperation with the State of Alaska and the National Weather Service, the feasibility of equipping its flight service stations and the NWS-certified weather observers in rural villages with high-frequency transceivers that have the appropriate frequencies to facilitate the ground-to-ground communication of weather and runway conditions. (Class II, Priority Action) (A-80-101)

Locate and maintain permanently a Principal Operations Inspector and a Principal Maintenance Inspector at Nome, Bethel, Ketchikan, and at as many other regional aviation hubs as possible. (Class II, Priority Action) (A-80-102)

Continue to develop, in cooperation with the National Weather Service, the concept of "meteor burst" technology for transmission of weather observations from rural villages to regional aviation hubs in Alaska. (Class II, Priority Action) (A-80-103)

Continue to develop and improve, in cooperation with the National Weather Service, the technology of the television weather observation system in Alaska. (Class II, Priority Action) (A-80-104)

KING, Chairman, GOLDMAN and BURSLEY, Members, concurred in these recommendations. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

By: James B. King
Chairman

WASHINGTON, D.C.

ISSUED: September 25, 1980

Forwarded to:
Ms. Tulinda Deegan
President
Alaska Air Carriers Association
Box 6469
Anchorage, Alaska 99502

SAFETY RECOMMENDATION(S)

A-80-105

The National Transportation Safety Board has studied the air taxi accidents which occurred in Alaska from 1974 through 1978. Accident data from the Safety Board's automated aviation accident data system for that period were analyzed by means of frequency distributions. Safety Board staff also visited Alaska to see the conditions under which the air taxi community operates, to discuss the community's attitudes and needs, and to examine the community's interaction with Federal and State agencies. While in Alaska, the Safety Board staff met with officials of the Federal Aviation Administration (FAA), the National Weather Service (NWS), the Alaska Department of Transportation and Public Facilities (DOT/PF), the Alaska Air Carriers Association, and 17 air taxi operators. 1/

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Based on the results of this study, the National Transportation Safety Board recommends that the Alaska Air Carriers Association:

> Extend its safety program to reiterate the hazards of air taxi operations in Alaska and to overcome, in particular, the "bush pilot syndrome." (Class II, Priority Action) (A-80-105)

KING, Chairman, GOLDMAN and BURSLEY, Members, concurred in this recommendation. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

By: James B. King
Chairman

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

ISSUED: September 10, 1980

Forwarded to:

Honorable Langhorne M. Bond
Administrator
Federal Aviation Administration
Washington, D.C. 20591

SAFETY RECOMMENDATION(S)

A-80-86 through -89

The National Transportation Safety Board is investigating the presumed crash of a Cessna 340, N110RA, in the water near Petersburg, Alaska, on August 20, 1980. The aircraft, pilot, and three passengers are still missing.

The aircraft had been cleared for the approach to Petersburg when the pilot radioed that he was having control difficulties in the pitch axis. He requested and received clearance to climb to altitude and stated that his intentions were to return to Ketchikan, Alaska. Shortly thereafter, the pilot reported that the aircraft was breaking up.

The Safety Board's review of the maintenance records of the accident aircraft revealed a history of empennage structural problems dating back to 1977 when the aircraft had less than 100 hours total time. There were recurrent reports of in-flight empennage vibrations and recurrent findings of stabilizer and elevator structural cracks. Attempted corrective action had included installation of a new horizontal stabilizer at 174 hours and reskinning of the stabilizer at 893 hours. The left outboard elevator hinge bracket was found cracked and was replaced 8 days before the accident. Total time on the aircraft was 1,035 hours.

The Safety Board is aware of the special inspection requirements issued initially in December 1979, by the manufacturer in Cessna Multi-Engine Service Information Letter, ME-79-44, and the two subsequent revisions to the letter. The Board is also aware of Airworthiness Directive 80-16-06, dated August 23, 1980, which made Revision 2 of the Service Letter mandatory.

Recently, the Safety Board was informed by an FAA inspector in a General Aviation District Office that compliance with AD 80-16-06 has disclosed several instances of cracked structure in the elevator hinge area. In one case, a precautionary inspection on an aircraft with less than 40 hours total time revealed a crack in the elevator gusset.

The Safety Board is concerned that, at this time, the problem which is causing the empennage structural cracking on these particular models is not well defined. The service problems have been associated with those aircraft models with the larger

engines installed (greater than 285 maximum continuous horsepower) which were manufactured or modified before a structural change which strengthened the empennage was incorporated in the design. Additionally, the Safety Board is concerned that the 100-hour total time requirement for initial inspection and the 100-hour recurring inspection interval may not be adequate to detect potential failures. Also, structural cracks in low-time aircraft could be indicative of an unpredicted vibratory mode, a production line quality control deficiency, or both.

Therefore, the National Transportation Safety Board recommends that the Federal Aviation Administration:

Revise Airworthiness Directive 80-16-06, dated August 23, 1980, to require an initial inspection before further flight, regardless of the aircraft's total time, and restrict the performance envelope of those Cessna models affected by the AD to that of the basic Cessna model 335/340 until the empennage structural cracking problem is resolved. (Class I, Urgent Action) (A-80-86)

Evaluate the 100-hour recurring inspection interval now required in AD 80-16-06 to ascertain the need for a shorter interval, and amend the AD as appropriate. (Class I, Urgent Action) (A-80-87)

Evaluate the design certification data of the Cessna 335/340 empennage structure to ascertain if all possible vibratory modes and structural loads to which it can be exposed have been considered and require retrofit modification to aircraft affected by AD 80-16-06 as indicated to be necessary. (Class II, Priority Action) (A-80-88)

Evaluate the results of the initial inspections performed in compliance with the revised Airworthiness Directive, to ascertain the need for a Quality Assurance Systems Analysis Review (QASAR) of the Cessna 335/340 manufacturing process. (Class II, Priority Action) (A-80-89)

KING, Chairman, GOLDMAN and BURSLEY, Members, concurred in these recommendations. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

By: James B. King
Chairman

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FUNDING REQUEST

TO

IMPLEMENT AND CONTINUE DEVELOPMENT

OF

ALASKAN AVIATION SAFETY TRAINING PROGRAMS

PREPARED BY:

ALASKA AVIATION SAFETY FOUNDATION
301 W. Northern Lights Blvd.
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Suite 600
Anchorage, Alaska 99503
(907) 279-7684

Rex Bishop, Chairman
ALASKA HELICOPTERS

EXECUTIVE DIRECTOR & COUNSEL:

Lance Wells & Associates

DATE: January, 1983

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EXECUTIVE SUMMARY

PURPOSE: What follows is a proposed plan to develop and implement Alaskan aviation safety lesson plans and safety training programs along with sample training media appropriate for advance safety training of Alaskan aviators in all aspects of private and commercial aviation operations. Piloting, ground operations, maintenance and management are examples of the areas covered with first emphasis on piloting.

BACKGROUND: In 1981 the Alaska Aviation Safety Foundation (Foundation) received funding from the State of Alaska to design a training program for Alaskan aviators. American Airlines Training Corporation won the contract for that study which was Phase I of the development of a "Total Training System". The study, in which experienced Alaskan aviators throughout the state were interviewed, produced a set of training objectives which was published in a 175 page report titled Definition of Alaskan Aviation Training Requirements. Copies are available.

The National Transportation Safety Board and the FAA have reviewed the study and found it to be excellent. Implementation of the training program suggested in the study will have a dramatic positive impact on safety in Alaska. Numerous insurance

underwriters have indicated the same with respect to insurance rates due to the lower risk they face in a more safety conscious market. This translated to significantly lower costs to intra-Alaska travelors since over 20% of air fares within Alaska at the present time are attributable to air carrier's insurance costs.

METHODS AND DELIVERABLES: The results of the above study are the basis of Phase II in the development and implementation of this "Total Training System" which consists of 4 phases. The Second Phase will be the development of lesson plans suitable for use by experienced Alaskan aviation operators for use when training others to operate safely in specific regions of Alaska. In addition, the Foundation will develop a sample audio-visual training program for one of the Phase II lesson plans as a sample of what will be used in Phase III of the "Total Training System."

The development of these detailed lesson plans anticipate the efforts of experienced education/ training specialists on site in Alaska working with highly experienced Alaskan pilots, managers and opinion leaders selected by the industry itself and the Foundation directors. The training specialists have selected several lesson plan formats for use

when processing the information from the Alaskan aviators into instructional materials for use throughout the Alaskan aviation cc mmunity. In addition to the aviation lesson plans, the Foundation will develop lessons for potential trainers specifying "how to teach" using current methods and media.

FURTHER PHASES: (Not included in current proposal costs.) Following the completion of Phase II, the F undation proposes to convert each lesson plan selected by Alaskan operators into an appropriate training system using audio-visual media. This will be Phase III of a planned four-phase effort. Phase IV efforts may require the construction of sophisticated aviation simulation training devices which can result in a "Total Training System" specifically and regionally designed for the unique Alaskan aviation environment. This Total Training System can have a significant effect by reducing the exposure to risk when flying throughout Alaska.

FUTURE FUNDING: The Alaska Air Carriers Association and Aviation Safety Foundation are working hard to minimize, if not avoid all together, future requests for funding from the State for these projects and on-going safety training programs. Private funding mechanisms are being developed and it is anticipated

that these will supply the on-going needs of the Foundation. Some of the mechanisms are already in place and others are soon to be implemented:

a. Group Insurance Dividends and Savings.
b. Captive Insurance Reserve Earnings
c. Standard Charitable Fund raising from major aviation users.
d. Fund raising events (safety conferences, etc.)

The present request is, in effect, seed money which will allow the Foundation to start producing fruits and attract more private money. Future State monies may be needed, however, for transition into more sophisticated training modes.

ANALOGY

The following section is included to explain and clarify the process of Total Training System development. The development of a Total Training System for Alaskan aviation is analogous to the development of a complete housing community. The phases are ANALYSIS, DESIGN, DEVELOPMENT, and IMPLEMENTATION.

PHASE I - ANALYSIS

In developing a housing community, the investors and builders need to now what type of houses the purchasers want and need. An ANALYSIS will determine the location of the community, type of structure, appropriate number of rooms, etc. A similar "needs analysis" is required in the development of a Total Training System.

The ANALYSIS, Phase I, has been done by the Alaska Aviation Safety Foundation during interviews and observations in Alaska. The training objectives so developed have been reported in the Phase I final report titled Definition of Alaskan Training Requirements. Copies of the 175 page document are available. Requests should be submitted to the Foundation whose address is on the cover of the proposal.

PHASE II - DESIGN

The second phase in developing a housing community will result in a set of detailed plans for use by a competent builder when building the houses described in Phase I. In addition, the designer usually builds a model home which represents to the buyer and to investors the capability to

produce a quality product in Phase III.

This proposal for Phase II is to develop usable lesson plans and an audio-visual program as part of the Total Training System for private and commercial Alaskan aviators.

PHASE III - DEVELOPMENT

Using the plans prepared in Phase II, the housing developers can select all or part of the dwellings which they feel are appropriate for construction. The model home can serve as a standard against which subsequent buildings can be measured.

In Phase III of the development of a Total Training System for Alaska Aviation, the Foundation has the option of selecting as many lessons as wanted and can be afforded for audio-visual and hands-on training programs.

PHASE IV - TOTAL IMPLEMENTATION

Finally, the housing project can be completed by building those facilities which create a community, such as completion of paved streets, building of community centers, development of planned support systems, etc.

Phase IV of the plan to develop a Total Training System for Alaskan aviators will need to be tied into an organized instructional delivery network; for example, a television

satellite with the final evaluation performed in simulated settings, preferably at central locations. Regional training centers will be opened throughout Alaska which provide general training as well as "region specific" training.

CHAPTER I

INTRODUCTION

This proposal describes a process for the development of a set of lesson plans. These plans will be appropriate for use by experienced Alaskan aviators to use in teaching courses designed to make the learners safer pilots and managers. In addition, the Alaska Aviation Safety Foundation proposes to develop a sample audio-visual training program. This A/V program will demonstrate sophisticated training programs and devices which might be used as the training programs become more sophisticated.

This paper describes the background leading up to the proposed effort in Chapter II. This includes a review of relevant studies by Parker Associates, the National Transportation Safety Board, and a description of the Definition of Alaskan Aviation Training Requirements prepared by the Foundation in 1981 and 1982. Chapter III describes the proposed method for transforming the previously defined training objectives into lesson plans relevant to the unique needs and conditions in Alaska. A description of the deliverables available at the completion of the proposed work is included in Chapter III. Chapter IV describes proposed future efforts which might be expected in the ongoing process of creating a "Total Training System" for private and commercial Alaskan aviation.

CHAPTER II

BACKGROUND

Alaska's dependence on the air taxi industry for delivery of needed goods and services and the safety problems besetting the air taxi operators have been documented in previous studies such as Parker Associates' study, Air Service to Rural Alaska: A Study in Inadequacy and a 1980 National Transportation Safety Board Special Study entitled Air Taxi Safety in Alaska. The NTSB study reported that, "...about 30 percent of all air taxi accidents in the United States occurred in Alaska, and their rate of occurrence was four times that of the accident rate for air taxi operators in the rest of the United States." This accident rate among Alaskan air taxi operators has resulted in a tragic loss of life and injuries sustained, in addition to skyrocketing insurance costs. A recent letter dated January 4, 1983 from the NTSB to the Air Carriers Association points out that the problem identified in 1980 continues to manifest itself in recent accidents. The NTSB urges early implementation of the program proposed by the Foundation in the "Final Report on Definition of Alaskan Aviation Training Requirements." A copy of the letter is attached as Exhibit "A".

The Parker and NTSB studies prompted a search for solutions to serious problem. An unsuccessful effort was made to identify and obtain an existing Arctic training program.

Inquiries were made of training personnel in the United States Air Force, the Canadian United Forces, and several Scandinavian countries. Existing training programs which were being conducted in Alaska were found to be designed to meet recertification requirements of the Federal Aviation Administration (FAA) and were not responsive to the unique Alaskan operational environment. "Advanced" safety training is necessary for Alaska flying conditions.

The decision was made to develop a specifically designed training program suited to the needs of Alaskan aviators. This training program could be based on accident records compiled by the FAA or the National Transportation Safety Board (NTSB). However, such records were often incomplete and, in fact, represented a list of failures. Instead, it was decided to discover how experienced Alaskan pilots, maintenance and managerial personnel learned to cope with the many challenging problems regularly faced by private and commercial Alaskan aviators. The process of discovery was developed and validated by John Flanagan and reported in Psychological Bulletin in 1954. Flanagan's critical incident methodology, in conjunction with traditional job analysis procedures, is the basis for the interviewing process used in this study.

After careful consideration, the State of Alaska provided

funding for the study. The funds were included with those to be administered by the Alaska State Department of Education. American Airlines Training Corporation won the contract and assisted the Foundation with the study.

The goal of the Foundation is to provide effective, advanced flight, operations and management training in Alaska, based on information gathered from experienced Alaskan aviators with excellent safety records.

This training will produce highly-qualified, professionally oriented pilots, mechanics and managers and will result in a lower accident rate. The Air Carriers Association has worked with insurance underwriters attempting to obtain insurance premium reductions for individuals and commercial operators who participate in the proposed Alaskan aviation training programs offered by the Association and the Foundation. Several underwriters have expressed support for the concept of reducing insurance premiums and making direct contributions to the Foundation (a charitable institution) if the Foundation starts producing fruits in the near future. Two underwriters already are, based on assurances that training programs will be forthcoming soon.

During the course of the study, the investigators travelled to 58 locations (cities, towns, villages) throughout Alaska; interviewed approximately 177 air taxi operators and pilots;

visited numerous aviation facilities; and attended several aviation related seminars and lectures.

The questionnaire used in the interviews was designed by the research team and modified in response to changes suggested by the Foundation Board of Directors, and to respondents' comments and answers during the first interviews. The interviews were conducted on a one-to-one basis and lasted an average of two hours. Background information, flight techniques and operational conditions in the Alaskan environment were collected from the interviews. Respondents provided a variety of specific techniques which have helped them to prevent hazardous situations from becoming serious accidents. The information in the completed questionnaires was organized into an outline form using a computer. This outline of information provided a data base from which the training objectives were synthesized. The final report contains the unvalidated information from the questionnaires and the training objectives.

The Alaskan aviation training objectives indicate what needs to be taught, the instructional media and devices appropriate for presenting the information, and how to evaluate mastery of the objectives. The training objectives will serve as the basis for further development of an Alaskan aviation training program.

REGIONALIZED APPROACH

Based on information collected in formal pilot interviews and informal conversations with many other Alaskans interested in aviation, a complete Alaskan training system would have to be regionally oriented. There are sufficient differences in flying conditions among geographic regions to warrant training that addresses specific regions in which a pilot operates. Such a regionalized approach would also enable pilots to spend as little time as possible away from their home base to complete a training program. In addition, aviation training in Alaska will emphasize the development and improvement of judgment and decision-making skills rather than the manipulative skills associated with aircraft operation.

In addition to identifying training requirements that address piloting, mechanical and managerial skills and competencies, the study also investigated the management of air taxi operations. It became obvious to the research team that some operators in Alaska manage safe, profitable air taxi services. Those factors that contribute to such an operation were identified and serve as training requirements for air taxi management training.

GENERAL FINDINGS: The information collected from the interviews showed that, although some training requirements and the

training objectives to meet those requirements were applicable to Alaskan aviation in general, the majority were specific to different geographical areas in the state and also to different types and configurations of aircraft (single engine, ski, helicopter, multi-engine, float, etc.). It was also recognized that the primary emphasis of an Alaskan training system should be the development of decision making skills on the part of the pilot rather than manipulative flying skills. For example, the training emphasis should be on when to make a 180° turn to escape adverse weather or leave a mountain pass, and include specific operational procedures to be performed on the basis of such a decision.

PRELIMINARY RESULTS: The study identified several factors that had to be considered in the design of an Alaskan aviation training system:

PRIVATE AND COMMERCIAL

1. The primary objective of the training system should be acceptable and applicable to private and commercial aviation operators conducting flight operations in a uniquely stressful environment due to weather, geographic, and other adverse operational conditions.

REGIONALLY SPECIFIC

2. The training system should be tailored to specific

geographical areas of the State and to different types and configurations of aircraft.

LOCALLY AVAILABLE

3. Components of the training system should be accessible to pilots in the community in which they are located. This would avoid, as much as possible, pilots spending time away from their primary job to attend training in a distant geographic location.

PRACTICAL

4. The requirement for training system components for localized on-job-site training could be met by using transportable training devices and interactive audio-visual and print media. These programs should contain instructional components tailored to geographic areas and aircraft types.

EVALUATION

5. Instructional programs would be designed to teach specific decision-making skills and the operational procedures to be performed on the basis of such decisions. Evaluation of student performance must be made by qualified, certified airmen with extensive experience in the given geographical area using structured evaluation methods.

DECISION MAKING SKILLS THEN APPLICATION

6. The training system should be capable of allowing the airmen to first learn the necessary discriminations and decision-making capabilities, and then apply these skills in a simulated or operational environment. Non-transportable training devices could be required for operational training.

TRAINING CENTERS

7. Area training centers should be established for specific geographic regions. These training centers could be co-located with existing Community College facilities. The training system would thus permit the learning of needed decision-making skills and operational procedures through transportable media, and evaluation of student performance by designated airmen for localized job-site training. Support and administration for this training would be provided by the area training center.

CHAPTER III

METHOD AND DELIVERABLES

This chapter describes the process which the Foundation proposes to use to transform the results of their report, Definition of Alaskan Aviation Training Requirements, into usable lesson plans and a sample audio-visual training program lesson.

The Foundation will assign persons with expertise in Alaskan aviation needs and experience in development of aviation training programs to work with Alaskan aviation Subject Matter Experts (SME's) for the duration of the contract resulting from this proposal. The Alaskan Aviation Safety Foundation will identify suitable SME's for each type of lesson.

The Foundation will contract with these SME's for a period of time sufficient to convert their unique knowledge into the content of the lesson plan. One to two weeks per SME will be required. Several elements will assist in the success of this process. First, appropriate lesson plan formats have been identified. Lesson plan formats will be presented to the Foundation Board for approval. The approved formats will be the basis for the information gathered from the SME's. Second, the research team has and will continue to use the recommended operational techniques previously identified

by experienced Alaskan aviators in the study to Definite Alaskan Aviation Training Requirements. These techniques can be evaluated for efficacy and validated during the development of the lesson plans.

The validated list of techniques will become the "Trigger" which can serve to remind the SME of as many techniques as possible. In the development of some lessons, it is anticipated that several SME's will be required. Where SME's cannot agree on techniques or appropriate procedures for a lesson, the training developers will look to the Foundation Board for guidance or will include alternative methods in the lesson plans. Provisions will be made in each plan for the experienced Alaskan aviator designated to teach the courses from these lesson plans to provide specific information appropriate to the geographical area in which the learner will be operating.

A lesson will be selected for development into an audio-visual format. The lesson, which should take approximately 30-40 minutes, may include slide/tapes or video tapes or similar media. It may, for example, train pilots in a subject such as flying through a pass, landing on a beach, checking weather in Alaska or a similar subject. This sample program will demonstrate the use of various media therefore, the cost of this product may not be representative of each training lesson. The sample program will become the standard for transforming all of the lesson plans into

various representative media formats during Phase III of the development of a total training system for Alaskan aviators.

At this time, it appears that the completed lesson plans should number about 25. These would be clustered into the following units:

- Weather in Alaska
- Adverse Weather Flying Techniques
- Takeoff and Landing Techniques for Special Surfaces
- Navigation and Piloting Techniques
- Mountain and Pass Flying
- Area Specific Flying Techniques
- Fuel Management and Handling Techniques
- Cold Weather Operating Techniques
- Hazardous Materials in Alaska
- Survival Training
- Management Training Plans

In addition, a lesson will be developed which will prepare experienced Alaskan pilots and operators to use the plans developed in this project to teach others.

CHAPTER IV

FUTURE PHASES

At the conclusion of the effort described in this proposal, the citizens of the State of Alaska will have a usable product which can have a significant effect on aviation safety in the State. However, although the production of a set of lesson plans is useful and desirable, they do not represent a Total Training System. The lesson plans are a second, but necessary, step in the continuing process of providing safer aviation activities in Alaska through improved training.

The next step is to professionally prepare all of the lessons in an audio-visual, computer assisted and satellite transmittable aviation training program. Even though some Alaskan opinion leaders would prefer that the automated audio-visual programs be produced this year, we believe it is better to prepare the lesson plans and let experienced Alaskan aviators validate their effectiveness before committing the resources to automate them. Then, the Alaska Aviation Safety Foundation can define and build the training media required to produce the best trained arctic pilots possible. Therefore, the Foundation is proposing that each step be taken sequentially and proven before committing to a total training system. We believe that this approach will result in the ultimate goal of maximum safety through a "Total Training System" that effectively meets the Alaskan aviation training requirements.

National Transportation Safety Board

Washington, D.C. 20594

January 4, 1983

Office of the Chairman

[illegible]
N 1/20/83

Mr. Lance Wells
Executive Director
Alaska Air Carriers Association
Box 6469
Anchorage, Alaska 99502

Dear Mr. Wells:

As a result of its special study 1/ of air taxi safety in Alaska, the National Transportation Safety Board recommended on September 25, 1980, that the Alaska Air Carriers Association, "Extend its safety program to reiterate the hazards of air taxi operations in Alaska and to overcome, in particular, the 'bush pilot syndrome'" (A-80-105). The Safety Board later classified the recommendation "Closed-Acceptable Action" as a result of your organization's efforts in launching the Alaska Aviation Safety Foundation to promote a safer air transportation environment in Alaska.

The concerns which prompted the Safety Board to conduct the special study of Alaska air taxi operators in 1980 reappeared during a recent investigation. On May 16, 1982, a Gifford Aviation, Inc., deHavilland DHC-6, operated as Wein Air Alaska Flight 517 under the provisions of 14 CFR Part 135, crashed at Hooper Bay, Alaska. 2/ The investigation revealed a casual attitude on the part of the pilots regarding adherence to weight and balance regulations and operating procedures which led to the airplane operating with a center of gravity considerably aft of the published limit. Additionally, the investigation revealed poor maintenance practices regarding the condition of seatbelts in the accident airplane as well as two other DHC-6's operated by Gifford Aviation, Inc. These unsafe practices were precisely the same type noted during the Safety Board's special study and which generated the Safety Board's earlier recommendation to your organization.

Our staff has recently reviewed the "Final Report on Definition of Alaskan Aviation Training Requirements" prepared by American Airlines Training Corporation under the auspices of the Alaska Aviation Safety Foundation. The Safety Board is pleased with the program's content, objectives, and goals and urges its early implementation as soon as funds become available.

Respectfully yours,

Patricia A. Goldman for

Jim Burnett
Chairman

1/ Special Study--"Air Taxi Safety in Alaska" (NTSB-AAS-80-3).
2/ For more detailed information, read Aircraft Accident Report--"Gifford Aviation, Inc., deHavilland DHC-6, N103AQ, Hooper Bay, Alaska, May 16, 1982" (NTSB-AAR-82-14).

17B 160

Jim Dodson

Les Wills - Air Carriers

Charles Weir

Introduced: 2/8/83
Referred: Health, Education and Social Services and Finance

Funding Information
General Fund $753,000
Other Funds -0-
$753,000

IN THE SENATE BY JOSEPHSON

SENATE BILL NO. 114

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Education for development by the Alaskan Aviation Safety Foundation of an Alaskan Aviation Training System; and providing for an effective date."

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

* Section 1. The sum of $753,000 is appropriated from the general fund to the Department of Education for implementation development by the Alaskan Aviation Safety Foundation of an Alaskan Aviation Training System as outlined in the Final Report on the "Definition of Alaskan Aviation Training Requirements" from American Airlines Training Corporation to the Alaskan Aviation Safety Foundation, July 1982.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1984.

* Sec. 3. This Act takes effect July 1, 1983.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB-160
Title An Act making a special appropriation to the Department of Education for...
Requested by House HESS Date 2/8/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary & Secondary
BRU, Program, Or Subprogram(s) Affected State Contract Programs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.		753.0				
TOTAL		753.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		753.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 2/8/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

HESS STAFF REPORT

February 15, 1983

Summary: HB 160 by Hurlbert: An act making a special appropriation to the Department of Education for development of a training program for Alaska aviation; and providing for an effective date.

Section 1: A one time appropriation from the general fund to the Department of Education.

Section 2: Lapse date clause - June 30, 1984.

Section 3: Effective date clause - July 1, 1983

Bill Intent:
1) Reduce loss of life
2) Reduce insurance rates for commercial air carriers

Explanation:

1) In response to the National Transportation Safety Board's recommendations regarding Alaska's high air taxi accident rate (known as 'bush syndrome') the Legislature appropriated funds in HB 60 of FY 82 to DOE to conduct a study. See attachment.

2) The FY 82 appropriation of $300,000 was a dedicated grant to the Alaska Aviation Safety Foundation (of the Alaska Air Carriers Assoc.) which in turn subcontracted with American Airlines Training Corporation for the study. See manual and copies or proposal in Section H attached.

3) Reportedly, the $300,000 was "seed" money and the Alaska Air Carriers also contributed funds to the project. Amount unkown and not yet verified.

4) Proposal directed at commercial pilots and their respective insurance underwriters. Consequently, legislation will not effect the private pilot and their insurance rates. Presently, Lloyds of London underwrites approximately 90% of the Alaska air taxi operations.

5) Assurance of insurance rate reduction is not incorporated into legislation. Currently, the annual cost of insurance for aviation in Alaska is approximately $30 - $40 million.

6) An evaluation of product proficiency (curriculum for training program) should be done as assurance of the program's effectiveness with respect to the fiscal expense of this legislation.

7) Similar legislation (SB 114 by Senator Josephson) is in the Senate HESS Committee. Copy included. The fiscal note is identical to that of HB 160; however, funds are not appropriated to DOE for distribution through the contract-bidding process as in HB 160. SB 114 directs the funds as a pass-through grant. DOE administers the funds to the Alaska Aviation Safety Foundation in conjunction with the American Airlines Training Corporation.

Enclosures:

Left side of folder	Right side of folder
HB 160	summary
fiscal cost breakdown	SB 114
fiscal note (Hess staff)	news articles
	proposal - Section H

SECTION H

This section presents a proposal for the specification of curriculum and instructional content for an Alaskan aviation training system. Initial findings and preliminary results are discussed in reference to the on-going development of the training program. The activities for the proposed follow-on contract are described and the deliverables specified.

General Findings

The information collected from the interviews showed that although some training requirements and the training objectives to meet those requirements were applicable to Alaskan aviation in general, the majority were specific to different geographical areas in the state and also to different types and configurations of aircraft (single engine ski, helicopter, multi-engine, float, etc.) It was also recognized that the primary emphasis of an Alaskan training system should be the development of decision-making skills on the part of the pilot rather than manipulative flying skills. For example, the training emphasis should be on when to make a 180° turn to escape adverse weather or leave a mountain pass, and include specific operational procedures to be performed on the basis of such a decision.

Preliminary Indicated Results

The study identified several factors that had to be considered in the design of an Alaskan aviation training system:

1. The primary objective of the training system should be acceptable and applicable to airmen conducting flight operations in a uniquely stressful environment due to weather, geographic, and other operational conditions.

2. The training system should be tailored to specific geographical areas of the State and to different types and configurations of aircraft.

3. Components of the training system should be accessible to pilots in the community in which they are located. This would avoid, as much as possible, pilots spending time away from their primary job to attend training in a distant geographic location.

4. The requirement for training system components for localized on-job-site training could be met by using transportable training devices and interactive audio-visual and print media. These programs should contain instructional components tailored to geographic areas and aircraft types. Instructional programs would be designed to teach specific decision-making skills and the operational procedures to be performed on the basis of such decisions. Evaluation of student performance must be made by qualified, certified airmen with extensive experience in the given geographical area using structured evaluation methods.

5. The training system should be capable of allowing the airmen to first learn the necessary discriminations and decision-making capabilities, and then apply these skills in an operational environment.
   Non-transportable training devices could be required for operational training.

6. Area training centers should be established for specific geographic regions. These training centers could be co-located with existing Community College facilities. The training system would thus permit the learning of needed decision-making skills and operational procedures through transportable media, and evaluation of student performance by designated airmen for localized job-site training. Support and administration for this training would be provided by the area training center.

7. Area training centers would be used to provide additional training, practice, and evaluation through training devices located at the regional facility. Evaluation of student performance at the area training centers would

again be made by qualified, certified airmen with extensive experience in the given geographical region using structured evaluation methods.

8. A centralized administrative facility would be required for the administration, standardization, and evaluation of area training centers and job-site training activities. This facility would probably be located in Anchorage.

PROPOSED FOLLOW-ON CONTRACT

AATC proposes to begin work on a continuation contract depending on fund availability. AATC will conduct an in-depth analysis of the Alaskan aviation training objectives, and will develop curriculum and instructional content specifications. This effort will be based upon the data obtained from the initial study discussed above. Two specific activities are proposed: analysis of training objectives and development of curriculum and instructional content specifications.

Analysis of Alaskan Aviation Training Objectives

The study for the Alaskan Aviation Safety Foundation resulted in the identification of training requirements for various geographical areas, different types of aircraft, and diverse types of operational conditions. In addition, training requirements were defined that are applicable to all Alaskan aircraft operations. These training requirements were synthesized into training objectives that included operational conditions and standards of performance.

In order to define an Alaskan aviation training system, each training objective must be translated into effective instructional components that will enable a student to meet the operational task performance standards specified in the training objective. AATC will conduct an in-depth analysis of each operational task specified in the training objectives.

Each operational task must be analyzed in terms of the specific behavior that must be learned. AATC will define the following components for operational tasks:

1. The task-related knowledge that must be learned. This knowledge includes the operational procedures, rules and concepts that must be learned.

2. The operational cues that must be perceived.

3 The decisions that must be derived from cue perception and based upon appropriate applications of learned knowledge, procedures, rules, and concepts.

4. The action that is required based upon a specific decision. These instructional components will be defined for the different operational conditions under which a task could be performed, such as different aircraft types and configurations.

Development of Curriculum and Instructional Content Specifications

An important step in the formulation of a training system is the sequencing of instructional components into instructional segments. These segments must be sequenced into curricula that are learning and cost-effective for each type of student population. AATC will accomplish the following activities:

1. Define training tracks based on geographical area and aircraft type and configuration.

2. Sequence instructional components into instructional segments.

3. Specify performance assessment methodology for instructional segments.

4. Specify specific learning activities for instructional segments.

5. Specify instructional strategies for instructional segments.

6. Generate instructional segment content specifications.

7. Sequence instructional segments into curricula for each training track.

The output of these steps will be instructional content specifications for each instructional segment, and the sequencing of instructional segments into curricula for each training track.

DELIVERABLES

The following items will be deliverable as a portion of the proposed contract as defined above.

Preliminary Specifications

AATC will deliver a description of the Alaskan Aviation Training System curriculum. AATC will provide the following document:

Curricula and Instructional Content Specifications

Curricula will be developed for each training track. The instructional segments will be specified and sequenced for each curriculum. An instructional content specification will be provided for each instruction segment.

Sample Training System Components

AATC will deliver a completely portable and self-contained component of the Alaskan aviation training system. This component will consist of the following items:

1. An audiovisual (sound/slide) program that is applicable to all Alaskan aircraft operators. A typical program would be:

   Subject: Navigation-Pilotage and Dead Reckoning Techniques

   Content:

   a. Approximately 160 slides with audio narration. The program will contain an instructional component of approximately 120 slides and an interactive evaluation component of approximately 40 slides.

   b. Carousels and binders for the program.

   c. Student programmed text materials for the program. These materials will include evaluation components.

   d. Instructor test evaluation guide for the program.

   e. Presentation device for audiovisual programs. This device will be a programmed learning device, using rear-screen projection with self-contained audio components. A student response feature will be included to permit correct/incorrect answer feedback to questions inserted anywhere in the program.

These deliverables will provide the basis upon which an Alaskan aviation training system can be produced.

Development Of Specified System Components and Operational Metholodogy

The development of specifications for training system components and operational methodology can be initiated at anytime after the initial specification determination activity is essentially complete. As a practical matter, however, the availability of funds probably will be the pacing factor.

Guidance of the Alaskan Aviation Safety Foundation and the Alaskan Air Carriers Association will be sought throughout the intervening time period as well as during the actual implementation. AATC will be pleased to discuss these concepts and to attempt to clarify any uncertainties at the convenience of the customer.

National Transportation Safety Board
Washington, D.C. 20594

Safety Information

FOR IMMEDIATE RELEASE

Tuesday
September 16, 1980

SB 80-78/3052
(202) 472-6100

Air taxis in Alaska have far higher accident rates than air taxis in the rest of the United States, the National Transportation Safety Board reported today in a special study.

Alaska's rate of nonfatal air taxi accidents per hour flown has been almost five times higher, and its fatal accident rate per hour more than twice, that of the rest of the country, the Board found.

The Board attributed the high rates to:

— The "bush syndrome," nourished by legends of Alaskan bush pilots, and other factors which today sometimes prompts air taxi pilots and passengers alike to take unwarranted risks to complete flights in the face of the state's unique environmental hazards.

— Inadequate airport facilities and pilots' frequent inability to obtain accurate information on airport conditions.

— Insufficient ground aids to navigation.

In 1974-78, Alaskan air taxi operators had a rate of 15.2 nonfatal accidents in every 100,000 hours, as compared with 3.3 in the rest of the country. The Alaskan rate of fatal accidents per 100,000 hours was 2.57; in the other states it was 1.11.

Sampling of Safety Board accident data showed that the pilot was cited as a causal or contributing factor in 85 percent of Alaskan air taxi accidents studied, as compared with 70 percent of similar accidents in the other states. The data also showed that most Alaskan accident pilots were experienced -- almost all had logged more than 1,000 hours, and 80 percent had more than 2,000 pilot hours.

The Board said Alaska air taxi operators believe the inadequacy of airport facilities and information on airport conditions are a significant factor in the state's air taxi accidents. And there is "virtual unanimity of opinion among

operators and pilots that runway conditions present a problem in much of rural Alaska" the Board reported.

Operators and pilots flying in the more rural areas also repeatedly cited the lack of navigation aids, inadequate observation of en route and destination weather, and inadequate dissemination of weather information when observations are made.

The Safety Board described as unprecedented for this or any other state a fiscal 1981 Alaska appropriation package totaling more than $51 million for further development of state aviation facilities. In combination with the Federal Aviation Administration's 10-year development plan for the state, improvements which the appropriation would finance could have a substantial impact on the safety of Alaska's aviation system, the Board said.

A series of 11 safety recommendations are incorporated in the Board's special study. Addressed to the State of Alaska, the FAA, and the Alaska Air Carriers Association, their goals include:

— Rapid completion of aviation projects to be funded by the $51 million appropriation.

— Centralization of authority and responsibility for planning operating and maintaining the State's aviation facilities.

— A comprehensive aviation system plan for Alaska.

— Permanent assignment of FAA operations and maintenance inspectors to Nome, Bethel and Ketchikan, and to "as many other regional hubs as possible."

— Continued development of weather data gathering and transmission facilities, including such new technology as weather observation by television and "meteor burst" communication which would transmit data from a single observation point in an Alaskan village simultaneously to all of the state's regional aviation hubs.

— Extension of the Alaska air carriers' safety program to specifically combat the "bush pilot syndrome."

The Safety Board's special study - "Air Taxi Safety in Alaska" will be available in approximately three weeks. Single copies may be obtained without charge by writing to the Publications Branch, National Transportation Safety Board, Washington, D.C. 20594. Multiple copies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161.

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WASHINGTON, D.C.

ISSUED: September 25, 1980

Forwarded to:
Honorable Jay Hammond
Governor
State of Alaska
Juneau, Alaska 99801

SAFETY RECOMMENDATION(S)
A-80-96 through -100

The National Transportation Safety Board has studied the air taxi accidents which occurred in Alaska from 1974 through 1978. Accident data from the Safety Board's automated aviation accident data system for that period were analyzed by means of frequency distributions. Safety Board staff also visited Alaska to see the conditions under which the air taxi community operates, to discuss the community's attitudes and needs, and to examine the community's interaction with Federal and State agencies. While in Alaska, the Safety Board staff met with officials of the Federal Aviation Administration (FAA), the National Weather Service (NWS), the Alaska Department of Transportation and Public Facilities (DOT/PF), the Alaska Air Carriers Association, and 17 air taxi operators. 1/

The State of Alaska is heavily dependent on its air taxi industry to transport food, medicine, mail, and many other necessities of life to rural villages. Alaska, however, has an air taxi safety problem. During the 5-year period 1974-1978, there were 311 air taxi accidents in Alaska, of which 266 were nonfatal and 45 were fatal, compared with 753 air taxi accidents in the rest of the United States, of which 562 were nonfatal and 191 were fatal. More importantly, the nonfatal air taxi accident rate (per 100,000 flying hours) in Alaska is almost five times higher than the nonfatal air taxi accident rate in the rest of the United States, and the fatal air taxi accident rate in Alaska is more than double the fatal air taxi accident rate in the rest of the United States.

The Safety Board study concluded that there are three major factors responsible for the high air taxi accident rate in Alaska: (1) the "bush syndrome," (2) inadequate airfield facilities and inadequate communications of airfield conditions, and (3) inadequate weather observations, inadequate communications of the weather information, and insufficient navigation aids. The "bush syndrome" is an attitude on the part of air taxi operators, pilots, and passengers in Alaska that ranges from a casual acceptance of risks to a willingness to take unwarranted risks. Most of the active airports in Alaska are State owned and maintained, and many of their runways are inadequately maintained. Whiteouts, very rapid weather changes, and a scarcity of navigation aids cause pilots to make many off-airport takeoffs and landings in float-equipped and ski-equipped aircraft. The collection and dissemination of weather information and current runway condition information is hampered by a shortage of trained personnel and an inadequate communications system in rural Alaska.

1/ For more detailed information read "Special Study--Air Taxi Safety in Alaska" (NTSB-AAS-80-3).

The relationship between the State's air taxi operators and the FAA appears to be strained. Further, because of a lack of permanent FAA inspectors at the rural aviation transportation hubs, there is insufficient opportunity for the FAA to provide guidance to the air taxi operators.

The State of Alaska has recently appropriated, through Chapter 50, SLA 1980, substantial funds for the improvement of the State aviation system, including upgrading of runways and the installation of navigation aids, and weather reporting and communications equipment. A comprehensive State aviation system plan, adequate to implement the intent of Chapter 50, SLA 1980, does not appear to exist. Further, centralized control over, and authority for, developing such a plan does not appear to exist within the current State DOT/PF structure. Cooperation among the State, the FAA, the NWS, and the air taxi operators must be increased if the State is to develop and implement the plan.

Based on the results of this study, the National Transportation Safety Board recommends that the State of Alaska:

Coordinate with the Federal Aviation Administration and the National Weather Service to facilitate the rapid implementation of the air transportation projects contained in Chapter 50, SLA 1980. (Class I, Urgent Action) (A-80-96)

Improve the level of maintenance of the runway facilities at the rural villages within the State airport system. (Class II, Priority Action) (A-80-97)

Centralize authority and responsibility for planning, operating, and maintaining the State's aviation facilities. (Class II, Priority Action) (A-80-98)

Develop, in cooperation with the Federal Aviation Administration and the system users, a comprehensive aviation system plan and a program for the implementation of the plan. (Class II, Priority Action) (A-80-99)

Establish, in cooperation with the Federal Aviation Administration and the air taxi operators, a program to impress upon the public, particularly those living in rural villages, the importance of respecting and properly maintaining airfield facilities. (Class II, Priority Action) (A-80-100)

KING, Chairman, GOLDMAN and BURSLEY, Members, concurred in these recommendations. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

By: James B. King
Chairman

WASHINGTON, D.C.

ISSUED: September 25, 1980

Forwarded to:
Honorable Langhorne M. Bond
Administrator
Federal Aviation Administration
Washington, D.C. 20591

SAFETY RECOMMENDATION(S)
A-80-101 through -104

The National Transportation Safety Board has studied the air taxi accidents which occurred in Alaska from 1974 through 1978. Accident data from the Safety Board's automated aviation accident data system for that period were analyzed by means of frequency distributions. Safety Board staff also visited Alaska to see the conditions under which the air taxi community operates, to discuss the community's attitudes and needs, and to examine the community's interaction with Federal and State agencies. While in Alaska, the Safety Board staff met with officials of the Federal Aviation Administration (FAA), the National Weather Service (NWS), the Alaska Department of Transportation and Public Facilities (DOT/PF), the Alaska Air Carriers Association, and 17 air taxi operators. 1/

The State of Alaska is heavily dependent on its air taxi industry to transport food, medicine, mail, and many other necessities of life to rural villages. Alaska, however, has an air taxi safety problem. During the 5-year period 1974-1978, there were 311 air taxi accidents in Alaska, of which 266 were nonfatal and 45 were fatal, compared with 753 air taxi accidents in the rest of the United States, of which 562 were nonfatal and 191 were fatal. More importantly, the nonfatal air taxi accident rate (per 100,000 flying hours) in Alaska is almost five times higher than the nonfatal air taxi accident rate in the rest of the United States, and the fatal air taxi accident rate in Alaska is more than double the fatal air taxi accident rate in the rest of the United States.

The Safety Board study concluded that there are three major factors responsible for the high air taxi accident rate in Alaska: (1) the "bush syndrome," (2) inadequate airfield facilities and inadequate communications of airfield conditions, and (3) inadequate weather observations, inadequate communications of the weather information, and insufficient navigation aids. The "bush syndrome" is an attitude on the part of air taxi operators, pilots, and passengers in Alaska that ranges from a casual acceptance of risks to a willingness to take unwarranted risks. Most of the active airports in Alaska are State owned and maintained, and many of their runways are inadequately maintained. Whiteouts, very rapid weather changes, and a scarcity of navigation aids cause pilots to make many off-airport takeoffs and landings in float-equipped and ski-equipped aircraft. The collection and dissemination of weather information and current runway condition information is hampered by a shortage of trained personnel and an inadequate communications system in rural Alaska.

1/ For more detailed information read "Special Study--Air Taxi Safety in Alaska" (NTSB-AAS-80-3).

The relationship between the State's air taxi operators and the FAA appears to be strained. Further, because of a lack of permanent FAA inspectors at the rural aviation transportation hubs, there is insufficient opportunity for the FAA to provide guidance to the air taxi operators.

The State of Alaska has recently appropriated, through Chapter 50, SLA 1980, substantial funds for the improvement of the State aviation system, including upgrading of runways and the installation of navigation aids, and weather reporting and communications equipment. A comprehensive State aviation system plan, adequate to implement the intent of Chapter 50, SLA 1980, does not appear to exist. Further, centralized control over, and authority for, developing such a plan does not appear to exist within the current State DOT/PF structure. Cooperation among the State, the FAA, the NWS, and the air taxi operators must be increased if the State is to develop and implement the plan.

Based on the results of this study, the National Transportation Safety Board recommends that the Federal Aviation Administration:

Evaluate, in cooperation with the State of Alaska and the National Weather Service, the feasibility of equipping its flight service stations and the NWS-certified weather observers in rural villages with high-frequency transceivers that have the appropriate frequencies to facilitate the ground-to-ground communication of weather and runway conditions. (Class II, Priority Action) (A-80-101)

Locate and maintain permanently a Principal Operations Inspector and a Principal Maintenance Inspector at Nome, Bethel, Ketchikan, and at as many other regional aviation hubs as possible. (Class II, Priority Action) (A-80-102)

Continue to develop, in cooperation with the National Weather Service, the concept of "meteor burst" technology for transmission of weather observations from rural villages to regional aviation hubs in Alaska. (Class II, Priority Action) (A-80-103)

Continue to develop and improve, in cooperation with the National Weather Service, the technology of the television weather observation system in Alaska. (Class II, Priority Action) (A-80-104)

KING, Chairman, GOLDMAN and BURSLEY, Members, concurred in these recommendations. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

By: James B. King
Chairman

WASHINGTON, D.C.

ISSUED: September 25, 1980

Forwarded to:
Ms. Tulinda Deegan
President
Alaska Air Carriers Association
Box 6469
Anchorage, Alaska 99502

SAFETY RECOMMENDATION(S)

A-80-105

The National Transportation Safety Board has studied the air taxi accidents which occurred in Alaska from 1974 through 1978. Accident data from the Safety Board's automated aviation accident data system for that period were analyzed by means of frequency distributions. Safety Board staff also visited Alaska to see the conditions under which the air taxi community operates, to discuss the community's attitudes and needs, and to examine the community's interaction with Federal and State agencies. While in Alaska, the Safety Board staff met with officials of the Federal Aviation Administration (FAA), the National Weather Service (NWS), the Alaska Department of Transportation and Public Facilities (DOT/PF), the Alaska Air Carriers Association, and 17 air taxi operators. 1/

The State of Alaska is heavily dependent on its air taxi industry to transport food, medicine, mail, and many other necessities of life to rural villages. Alaska, however, has an air taxi safety problem. During the 5-year period 1974-1978, there were 311 air taxi accidents in Alaska, of which 266 were nonfatal and 45 were fatal, compared with 753 air taxi accidents in the rest of the United States, of which 562 were nonfatal and 191 were fatal. More importantly, the nonfatal air taxi accident rate (per 100,000 flying hours) in Alaska is almost five times higher than the nonfatal air taxi accident rate in the rest of the United States, and the fatal air taxi accident rate in Alaska is more than double the fatal air taxi accident rate in the rest of the United States.

The Safety Board study concluded that there are three major factors responsible for the high air taxi accident rate in Alaska: (1) the "bush syndrome," (2) inadequate airfield facilities and inadequate communications of airfield conditions, and (3) inadequate weather observations, inadequate communications of the weather information, and insufficient navigation aids. The "bush syndrome" is an attitude on the part of air taxi operators, pilots, and passengers in Alaska that ranges from a casual acceptance of risks to a willingness to take unwarranted risks. Most of the active airports in Alaska are State owned and maintained, and many of their runways are inadequately maintained. Whiteouts, very rapid weather changes, and a scarcity of navigation aids cause pilots to make many off-airport takeoffs and landings in float-equipped and ski-equipped aircraft. The collection and dissemination of weather information and current runway condition information is hampered by a shortage of trained personnel and an inadequate communications system in rural Alaska.

1/ For more detailed information read "Special Study--Air Taxi Safety in Alaska" (NTSB-AAS-80-3).

The relationship between the State's air taxi operators and the FAA appears to be strained. Further, because of a lack of permanent FAA inspectors at the rural aviation transportation hubs, there is insufficient opportunity for the FAA to provide guidance to the air taxi operators.

The State of Alaska has recently appropriated, through Chapter 50, SLA 1980, substantial funds for the improvement of the State aviation system, including upgrading of runways and the installation of navigation aids, and weather reporting and communications equipment. A comprehensive State aviation system plan, adequate to implement the intent of Chapter 50, SLA 1980, does not appear to exist. Further, centralized control over, and authority for, developing such a plan does not appear to exist within the current State DOT/PF structure. Cooperation among the State, the FAA, the NWS, and the air taxi operators must be increased if the State is to develop and implement the plan.

Based on the results of this study, the National Transportation Safety Board recommends that the Alaska Air Carriers Association:

> Extend its safety program to reiterate the hazards of air taxi operations in Alaska and to overcome, in particular, the "bush pilot syndrome." (Class II, Priority Action) (A-80-105)

KING, Chairman, GOLDMAN and BURSLEY, Members, concurred in this recommendation. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

By: James B. King
Chairman

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

ISSUED: September 10, 1980

Forwarded to:

Honorable Langhorne M. Bond
Administrator
Federal Aviation Administration
Washington, D.C. 20591

SAFETY RECOMMENDATION(S)

A-80-86 through -89

The National Transportation Safety Board is investigating the presumed crash of a Cessna 340, N110RA, in the water near Petersburg, Alaska, on August 20, 1980. The aircraft, pilot, and three passengers are still missing.

The aircraft had been cleared for the approach to Petersburg when the pilot radioed that he was having control difficulties in the pitch axis. He requested and received clearance to climb to altitude and stated that his intentions were to return to Ketchikan, Alaska. Shortly thereafter, the pilot reported that the aircraft was breaking up.

The Safety Board's review of the maintenance records of the accident aircraft revealed a history of empennage structural problems dating back to 1977 when the aircraft had less than 100 hours total time. There were recurrent reports of in-flight empennage vibrations and recurrent findings of stabilizer and elevator structural cracks. Attempted corrective action had included installation of a new horizontal stabilizer at 174 hours and reskinning of the stabilizer at 893 hours. The left outboard elevator hinge bracket was found cracked and was replaced 8 days before the accident. Total time on the aircraft was 1,035 hours.

The Safety Board is aware of the special inspection requirements issued initially in December 1979, by the manufacturer in Cessna Multi-Engine Service Information Letter, ME-79-44, and the two subsequent revisions to the letter. The Board is also aware of Airworthiness Directive 80-16-06, dated August 23, 1980, which made Revision 2 of the Service Letter mandatory.

Recently, the Safety Board was informed by an FAA inspector in a General Aviation District Office that compliance with AD 80-16-06 has disclosed several instances of cracked structure in the elevator hinge area. In one case, a precautionary inspection on an aircraft with less than 40 hours total time revealed a crack in the elevator gusset.

The Safety Board is concerned that, at this time, the problem which is causing the empennage structural cracking on these particular models is not well defined. The service problems have been associated with those aircraft models with the larger

engines installed (greater than 285 maximum continuous horsepower) which were manufactured or modified before a structural change which strengthened the empennage was incorporated in the design. Additionally, the Safety Board is concerned that the 100-hour total time requirement for initial inspection and the 100-hour recurring inspection interval may not be adequate to detect potential failures. Also, structural cracks in low-time aircraft could be indicative of an unpredicted vibratory mode, a production line quality control deficiency, or both.

Therefore, the National Transportation Safety Board recommends that the Federal Aviation Administration:

Revise Airworthiness Directive 80-16-06, dated August 23, 1980, to require an initial inspection before further flight, regardless of the aircraft's total time, and restrict the performance envelope of those Cessna models affected by the AD to that of the basic Cessna model 335/340 until the empennage structural cracking problem is resolved. (Class I, Urgent Action) (A-80-86)

Evaluate the 100-hour recurring inspection interval now required in AD 80-16-06 to ascertain the need for a shorter interval, and amend the AD as appropriate. (Class I, Urgent Action) (A-80-87)

Evaluate the design certification data of the Cessna 335/340 empennage structure to ascertain if all possible vibratory modes and structural loads to which it can be exposed have been considered and require retrofit modification to aircraft affected by AD 80-16-06 as indicated to be necessary. (Class II, Priority Action) (A-80-88)

Evaluate the results of the initial inspections performed in compliance with the revised Airworthiness Directive, to ascertain the need for a Quality Assurance Systems Analysis Review (QASAR) of the Cessna 335/340 manufacturing process. (Class II, Priority Action) (A-80-89)

KING, Chairman, GOLDMAN and BURSLEY, Members, concurred in these recommendations. DRIVER, Vice Chairman, and McADAMS, Member, did not participate.

LaVanne Bursley

By: James B. King
Chairman

HB

174

(7)

COMMITTEE REPORT

HOUSE

FURTHER: HOUSE SPECIAL COMMITTEE ON STATE LOANS
FINANCE

Date: 5/11/83

2/3/83

Mr. Speaker:

The Committee on H.E.S.S. has had HB 174

An Act relating to student loan eligibility.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] reports it back without recommendation individual [ ] Zero Fiscal Note Attached

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Student Loan Bills

HB 56	State Loans
HB 113	withdrawn
HB 159	H HESS
HB 174	H HESS
SB 118	S HESS
SB 135	S HESS
SB 185	S HESS
SB 197	S HESS
SB 209	S HESS
SB 210	S HESS

ALASKA STATE LEGISLATURE

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
JOINT OIL AND GAS
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis
House District 19

I Material from Kathleen Smoyer

A) Letter of student loan denial

B) UAF & TVCC Grade Report

C) Financial Aid Statement

D) Postsecondary Regulations

Summary: Ms. Smoyer earned a 3.5 GPA at UAF while taking 10 credits during the Fall, 1982 semester, and she earned a 4.0 GPA at TVCC which she was attending concurrently. Because of present legislation, however, she was denied a student loan for the following semester.

II TVCC Letter from Campus President Rodney Enos

TVCC "supports the bill."

III JDCC Letter from Dean Richard Lee

"I feel that this is a constructive amendment which will allow greater flexibility for students in designating programs that will meet their educational goals."

IV UAJ Letter from Financial Aid Officer Dianne Schmitt

"This bill is acceptable and also beneficial to many of the students in Southeast Alaska

V Alaska Statewide Student Association

"This amendment would allow these perfectly legitimate, full-time students to be eligible for the loans."

VI UAF 1982-83 Alaska Student Loan Information Sheet

"Courses in the following areas cannot be counted toward the full-time financial aid requirement: Tanana Valley Community College, correspondence, extension, or television."

VII ACC Letter from Dean Roger Worsley

A) "I believe that students should be allowed to count credits from more than one institution toward fulfilling the requirement for eligibility for the student loan program."

B) Suggests that 75 percent or 9 credits be taken from the parent institution.

Summary: 75 percent or 9 credits will soon be included in Postsecondary Commission regulations.

VIII UAF Letter from Financial Aid Officer Carol Thompson

A) "We would also be required to include UA correspondence work and any other accredited school's correspondence study.

1) This information is incorrect, since the parent institution decides whether or not correspondence courses may be applied toward student loan eligibility. This statement also contradicts the information supplied in the UAF Student Loan Information Sheet included in this packet.

B) "Our primary concern at UAF is that the collection of the information needed to certify good academic standing and satisfactory progress would be so cumbersome and time consuming that our students would experience a considerable delay in actually receiving their state loan checks.

1) According to Dr. Romesberg, this problem only exists for the Spring semester. We are presently working with Dr. Romesberg and the Postsecondary Commission to improve this situation.

ALASKA STATE LEGISLATURE

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
JOINT OIL AND GAS
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis
House District 19

HOUSE BILL 174

The purpose of House Bill 174 is to allow students to combine credits from the postsecondary schools which they are concurrently attending in order to be eligible for student loans.

This bill primarily addresses a problem in Fairbanks, in which students attending either the University of Alaska or Tanana Valley Community College cannot combine their total number of credits in order to reach the number of credits necessary to achieve full-time student status.

The greater purpose of this bill is to allow students more flexibility in determining which courses they will take while attending college. This legislation in effect acknowledges the close interrelationship between community colleges and universities, and the healthy diversity of programs and courses in both of these institutions. In all cases, a student must be enrolled full-time in a degree program from an accredited school in order to be eligible for a student loan.

The provisions of HB 174 are already partially in effect in both Anchorage and Juneau. In Anchorage, a consortium agreement exists between the University of Alaska and Anchorage Community College in which an undergraduate student taking a total of 12 credits between both schools is eligible for a student loan. In Juneau, the relationship between the University of Alaska and Juneau-Douglas Community College is such that there is again no difficulty in a student being able to receive a loan while taking a combined full-time credit load.

No opposition to this dual enrollment was voiced by the administration at UAA, ACC, UAJ, or JDCC. Indeed, the feelings from these schools are extremely positive toward such a program. Verification of student grades is facilitated in these university-community college arrangements in that each school is able to directly access the student records of the companion school.

Dean Roger Worsley of ACC suggested that a student take 75 percent of the course load, or nine credits, from the parent institution in order to clarify which school is ultimately responsible for maintaining a student's complete academic records and for issuing student loan checks. According to Dr. Kerry Romesberg, a regulation within the Postsecondary Commission is expected to be enacted soon which will stipulate that this condition be followed. This regulation will also limit the amount of paperwork that financial aid officers will have to deal with for dual enrollment students.

A question has been posed several times as to whether or not credits from correspondence courses could be applied toward student loan eligibility under provisions of this bill. Under present regulations, students are allowed to apply these courses toward loan eligibility requirements at the discretion of the parent institution. These courses must be approved by the parent institution, and they must be administered by an accredited school.

The language of this bill differs slightly from the wording in Senate Bill 197 in that HB 174 refers to applying only credits, not credits or hours, toward student loan eligibility requirements. By accepting only credits, financial aid officers would not be subject to the time-consuming procedure of converting hours to credits.

The purpose of this bill, again, is simply to allow those students who are in financial need the opportunity to take full advantage of the academic programs offered at the schools in their area.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
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REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House HESS Committee DATE: 5/9/83

FROM: Linda Otey, Committee Aide

RE: Summary/ HB 174 "An Act relating to student loan eligibility"

Section 1: Amends 14.43.120(c) Conditions of Loans.

1). Allows students enrolled part-time in more than one institution for a total number of credits equivalent to a full-time student to be eligible to receive a loan from the Alaska Student Loan program.

2). Student must be in 'good standing' in all schools in which he or she is enrolled.

note: The definition of 'good standing' is established through regulation as:

1) maintaining 12 credit hours per semester; and
2) maintaining a 2.0 average.

Similar language has been proposed and included in the Senate version of the Student Loan Program revision legislation, SB 209 (HESS) which is currently in the Senate Finance Committee.

This legislation does not provide for an effective date, therefore, the bill becomes effective 90 days after the Governor's signature.

folder content

left	right
bill	Summary
statutes	Back-up provided by Rep. Davis:
fiscal note & analysis from Post Secondary Educ.	Community Colleges & University branches in support of legislation
SB 209(HESS)	Support letter from Ak. Statewide Student Ass

February 17, 1983

Representative Mike Davis
P.O. Box 81435
College, Alaska 99708

Dear Mike:

In regards to HB 174, Tanana Valley Community College supports the bill relative to students who "in total" are enrolled in 12 credits or more which makes them a full-time student within the system.

Sincerely,

Rodney Enos
Campus President

RE/dac

April 19, 1983

Rep. Mike Davis
Pouch V
Juneau, AK 99811

Dear Representative Davis:

Thanks for sending me a copy of House Bill No. 174 (An Act relating to student loan eligibility). I feel that this is a constructive amendment which will allow greater flexibility for students in designating programs that will meet their educational goals.

Sincerely,

Richard S. Lee, Dean
Juneau Douglas Community College

RSL:cs

University of Alaska, Juneau
11120 Glacier Highway
Juneau. Alaska 99801 (907) 789-2101

To: Chancellor Paradise

From: Dianne Schmitt, Financial Aid Officer

Date: February 15, 1983

RE: LEGISLATION REGARDING THE ALASKA STUDENT LOAN PROGRAM

FEB 1 1 1983
Chancellor
University of Alaska, Juneau

Senate Bill # 118 reduces the time a student must be in the state before applying for a loan, but also limits loans to students who apply before graduation from high school. The one year residency requirement (reduced from two years) will put a stop to litigation in that area. However, the requirement for all loan applicants to apply while still in high school will be a detriment to the spirit of the loan program and establish a new justification for litigation.

As the UAJ Financial Aid Officer, I must oppose this bill for several reasons. 1) It is sometimes difficult for high school students to decide if they want to go to college. I know there will be many young people who will neglect to fill out the application before high school graduation and later decide to go to college. This bill is asking all seventeen year old students in Alaska to decide their life goal without experiencing life beyond the academic setting. 2) Many students do not consciously choose a career path until several years after high school and after many life experiences. This bill would not afford this type of student the same opportunity as that provided for students who begin college shortly after high school. 3) Many students wait several years after graduation from a baccalaureate program before persuing graduate study. This bill does not mention graduate study; therefore, I am assuming that it could also be interpreted to eliminate loans for post-baccalaureate students.

House Bill # 56 asks for the loan interest rate to be raised to 7% and for the loan to be limited to the cost of tuition, room and board. This bill is acceptable.

House Bill # 174 says that a student may attend classes at two institutions to accumulate the 12 credits required for the loan program. This bill is acceptable and also beneficial to many of the students in Southeast Alaska.

Alaska Statewide Student Association
P.O. BOX 548
DOUGLAS, ALASKA 99824
REPRESENTING STUDENTS OF THE UNIVERSITY OF ALASKA STATEWIDE SYSTEM

ASSA requests that the following section be added to SPONSOR SUBSTITUTE FOR HOUSE BILL 56:

AS 14.43.120(c) is amended to read:

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing or as a part-time student in good standing in more than one institution for a total number of credits equivalent to a full-time student in a career education program, college, or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

At present, students enrolled at both UAF and TVCC, UAA and ACC, or Sitka CC and Sheldon Jackson may not receive scholarship loans unless they have a total of twelve credit hours at one or the other institution. This amendment would allow these perfectly legitimate, full-time students to be eligible for the loans.

Thank you.

KCK

ASSA

FINANCIAL AID OFFICE

UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

1982-83 ALASKA STUDENT LOAN INFORMATION

As a result of recent action by the Alaska Commission on Postsecondary Education, schools are no longer required to complete Part B of the Alaska Student Loan Application.

You may submit your application (two white copies) directly to the State Loan Office, retaining the yellow student copy, the cover sheets and this letter.

BE SURE THAT YOUR APPLICATION IS COMPLETELY FILLED OUT -- over 50% of the Alaska Student Loan applications are returned to the student because of omissions. When your application is received in Juneau, you will receive a blue post card with the date received indicated. This does not mean your application is complete; only that it has been received. You will next receive a promissory note in triplicate. Sign and date the note, list the dates of disbursement (8-20-82 for Fall 1982 semester and 1-1-83 for Spring 1983 semester), keep the marigold copy, and return the white and pink copies to Juneau.

Normally, the Financial Aid Office receives Alaska Student Loan checks in time to release funds at Registration. Before releasing checks, we must determine academic eligibility for each recipient. If you are currently enrolled at the University of Alaska-Fairbanks, you must be in good standing (2.0 semester and cumulative grade point average for undergraduates and 3.0 semester and cumulative grade point average for graduate students) to be eligible for your Fall 1982 check. Entering and transfer students must be admitted IN GOOD STANDING to a program leading toward a degree or certificate. Recipients must be full-time (12 credits for undergraduate, 9 credits for graduate students) and must complete 12 and 9 respectively each semester they receive a loan to be eligible for the following term.

Courses in the following areas cannot be counted toward the full-time financial aid requirement: Tanana Valley Community College, correspondence, extension, or television.

The eligibility requirements listed above reflect current Alaska State laws and regulations. NO EXCEPTIONS CAN BE MADE BY THE UNIVERSITY OF ALASKA-FAIRBANKS FINANCIAL AID OFFICE.

Any questions regarding the status of your application should be directed to the Alaska Student Loan Office in Juneau, since the Financial Aid Office acts only as a disbursing and certifying agency.

April 13, 1983

Representative Mike Davis
Pouch V
Juneau, Alaska 99811

Dear Representative Davis:

I am writing at the request of Kerry Howard to indicate my support of HB174 in concept. I believe that students should be allowed to count credits from more than one institution toward fulfilling the requirement for eligibility for the state student loan program.

However, I believe that there should be in place a consortium agreement between the two institutions as is now in existence between ACC/UAA. This agreement should require that 75 percent of the credits required for qualification should be taken at the parent institution. The parent institution is the institution which is disbursing the aid.

In the past, we have had problems in federal programs with students receiving aid from more than one institution. This is not the problem with the state loan, as there is only one check in this case. However, there is a lot of paperwork and staff time required in handling the state loan program. If a student were required to take 75 percent or nine credits from the parent institution, there would be an inherent commitment on the part of that student to attend that particular institution.

Another reason for this requirement is the necessity to certify academic eligibility between semesters. If a student is taking credits from more than one institution, a parent institution is required to obtain grade reports from all other institutions prior to certifying eligibility. This is simpler if consortium agreements are in effect. The time between semesters is short and the grade reporting process is lengthy. Reciprocal agreements between institutions for the release of grades is a complicated process covered by the privacy acts.

In summary, consortium agreements between cooperating institutions, with a parent institution requirement of 75 percent of the credits required for eligibility, would be a good addition to your bill in my view. Another desired addition would be for the parent institution to receive some support costs for facilitating the state loan program. Federal aid programs provide a percentage of dollars distributed to be used to administer their funds. The Alaska State Loan Program requires a lot of work on the part of our staff, but no funds are appropriated for this purpose. Our success in acquiring additional staff

through the University budget process has not been good. A five or ten percent overhead distribution to institutions handling a large volume of state loan checks would certainly be beneficial.

Sincerely,

Roger L. Worsley, Dean
Educational Services

RLW:cb

cc: Dr. Ed Biggerstaff, Chancellor
Clay Walker, ACCSA

UNIVERSITY OF ALASKA FAIRBANKS
Fairbanks, Alaska 99701

March 9, 1983

Representative Mike Davis
Alaska State Office Building
Pouch V
Juneau, AK 99811

Dear Representative Davis:

This letter is in response to your request that I provide information regarding any administrative problems that colleges and universities might encounter should House Bill 174 be enacted.

As you probably know, the loan regulations already permit schools to combine credits provided a consortium or formal transfer agreement exists between the schools involved. This permits schools to voluntarily combine credits for loan recipients. However, it is my impression that HB 174 would require that schools accept concurrent enrollment from other schools in addition to their own for the purposes of establishing academic eligibility for the Alaska Student Loan.

Our primary concern at UAF is that the collection of the information needed to certify good academic standing and satisfactory progress would be so cumbersome and time consuming that our students would experience a considerable delay in actually receiving their state loan checks. I am attaching a sample copy of the "Record of Disbursement and Receipt" form which accompanies each state loan check and which the school's Financial Aid Officer must sign before disbursing the check to the student. Please note that the school must certify that the student is/was enrolled in a degree or diploma or certificate program as a full time student and is maintaining satisfactory progress as determined by school policy. HB 174 would put schools in the position of making this certification only after a lengthy and cumbersome administrative process of 1.) collecting certification of enrollment and fee statements from each school the student is attending, 2.) collecting official transcripts at the end of each term from each school the student is attending, 3.) official evaluation of transfer credits at the end of each term by the home institution's registrar, and 4.) a combining of credits earned together with a revision of the semester and cumulative g.p.a. Even large schools with sophisticated computer capability would have to do most of this work by hand and on a student by student basis. We expect that the enactment of this bill would cause a delay in delivering ASL checks to all students of at least three to four weeks after registration. In addition, all of the certification activity would take place at the time of registration when we are most heavily involved with getting students registered for classes and assisting students with various financial aid problems.

I would also like to mention that under HB 174, our students would not be limited to a TVCC/UAF dual enrollment. We would also be required to include UA correspondence work and any other accredited school's correspondence study. There is even the possibility that an out-of-state school would offer a special extension course in Fairbanks. Chapman College did just that a few years ago when it offered MBA coursework in the Fairbanks area.

A student attending school out of state in a large metropolitan area could easily enroll in a three credit course at each of four schools. It would be very time consuming to combine those credits at one school if all of the schools had a different starting and ending date. There is also the very real possibility that there could be a combination of quarter and semester credits to evaluate. There are some schools outside that have discussed the possibility of withdrawing themselves from eligibility for the Alaska Student Loan because the regulations are so different then accepted financial aid standards for the aid their school offers. I believe there is a real risk that other schools may simply choose to not accept another state's imposition of academic regulation on their institution and opt out of participation in the Alaska Student Loan program. It is extremely difficult to serve student's needs in a timely manner when faced with a variety of conflicting financial aid standards.

Finally, I would like to confirm that UAF Financial Aid applicants for the current academic year were advised well ahead of time that they would be required to carry a minimum of 12 UAF credits per semester (undergraduates) in order to be eligible for the loan at this school. We accomplished this by publishing news releases in the student newspaper, and by attaching an instruction sheet to each Alaska Student Loan application form that was given out from this office. Because ASL regulations require a minimum of 12 credits to maintain eligibility, we suggest to students that they carry those 12 credits with UAF, then take any desired coursework from other schools in addition to that minimum course load. This gives them the flexibility of exploring other schools and subjects while maintaining their eligibility for the loan at UAF.

I hope this information is useful to you. Please call us if you have further questions. Our office phone number is 474-7256. We appreciate this opportunity to express our views and we look forward to working with you.

Sincerely,

Carol M. Thomson
Financial Aid Advisor

/ct
enclosure

cc: Members of the Fairbanks Legislative Delegation

STATE OF ALASKA
ALASKA COMMISSION ON POSTSECONDARY EDUCATION
ALASKA STUDENT LOAN PROGRAM

RECORD OF DISBURSEMENT AND RECEIPT

LOAN RECORD TO DATE FOR [illegible] LOAN YEAR

FOR STUDENT [redacted] SS# [redacted]

WARRANT NO 145525 WARRANT DATE [illegible]

DATE MAILED [illegible]

SCHOOL ADDRESS

/A/

WARRANT AMOUNT [illegible]
AMOUNT APPROVED [illegible]
PRIOR PAYMENTS [illegible]
TOTAL DISBURSED [illegible]

UNIVERSITY OF ALASKA-FAIR
FAIRBANKS AK [illegible]

THIS WARRANT IS FOR FULL-TIME ATTENDANCE FOR SPRING SEMESTER TERM ONLY. IF YOU CAN NOT CERTIFY THAT THIS STUDENT IS (WAS) ENROLLED DURING THE TERM INDICATED THIS WARRANT MUST BE RETURNED IMMEDIATELY.

THIS WARRANT SHOULD NOT BE RELEASED TO THE ABOVE NAMED STUDENT UNTIL THE SIGNATURE OF A SCHOOL OFFICIAL APPEARS BELOW AND SHOULD BE SIGNED BY THE ABOVE NAMED STUDENT WHEN DISBURSED. ALSO, FAILURE TO SIGN AND RETURN THIS FORM WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS WARRANT WILL RESULT IN NO FURTHER WARRANTS BEING ISSUED AND NO FURTHER LOANS BEING AUTHORIZED.

SCHOOL OFFICIAL'S CERTIFICATION:

As the authorized school official for this borrower, I certify that s/he is enrolled in a degree, diploma or certificate program during the above specified term. I certify that this student is making satisfactory progress and remaining satisfactorily enrolled as defined by school policy.

DURING THIS SCHOOL TERM THIS STUDENT IS PAYING (PLEASE [illegible] DURING THIS SCHOOL TERM THIS STUDENT IS (PLEASE CHECK ONE)

[illegible] Undergraduate Graduate

[illegible]

[illegible]

DATE TITLE SIGNATURE

STUDENT'S CERTIFICATION:

I [illegible] a student in good standing and am making satisfactory academic progress as determined by the school I am presently in which is an eligible institution.

DATE SIGNATURE

RETURN THIS COMPLETED FORM TO

THIS WARRANT IS NOT NEGOTIABLE. IT MUST BE ENDORSED BY THE ALASKA STUDENT LOAN OFFICE.

ORIGINAL—RETURN TO ALASKA STUDENT LOAN OFFICE

CANCELLED

STATE OF ALASKA
FISCAL NOTE

Revision Date 5-5 , 1983

I. REQUEST

Bill/Resolution No.: HB174
Title: Act: Student Loan Eligibility
Sponsor: Davis, et al
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Postsecondary Comm.
BRU, Program of Subprogram(s) Affected:
Student Loan Admin, Student Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL	N.A	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kerry D. Rohnesburg Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: 5-5-83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

May 5, 1983

Analysis (HB174):

Allowing multiple enrollments should enable additional people to apply, but we have no way of determining what that number would be. We also have indication that some schools will require such cross-documentation that those students will face weeks and months of delays in receiving funds. Therefore, we have left the fiscal impact at zero.

5/11/83 - House HESS
Tischer Kopenen
Fritz Herrmann
Davis Goll

HB174:
Davis - testified on behalf of his bill - Dist 19 - As a comm college instructor this bill came to pass.
Constituent - backup in file

- Credits interchangeable but not for purposes of receiving a student loan.

Tischer - hold true for Univ of Oreg - etc?

Davis - Yes - must get 12 credits @ the same campus. Consortium agreement in Anch but not in Fbks. Suggestion by Worsley that 75% OR 9 credits should be taken at the parent institution. I believe DR Romesburg can address this. Fbks sees administrative problems - records from too many institutions. Has been worked out in Anch - could be remedied in Fbks as well.

Goll: Concern - career education - under 14.43 - if you allow them to break up the credit load would you be breaking up their program. Intent - courses must contribute to degree program?

Davis. Further explained bill - example - Freshman level = 6 credits specifically must be taken but they don't necessarily count towards student loan eligibility.

Koppenen - Required courses & electives - this bill could address the elective courses?

Romesburg - Addresses FH's only. Not the law or regs restricting the students it exists solely with the Admin of the University.
Anchorage Campus uses contractual arrangement. Hiks additional burden.
Proposed regs - if enrolled in more than one inst. - 75% of courses @ mother institute

Tischer - TVCC to UAF doesn't want to agree?

Romesburg } Are Regents involved
} No autonomous decision by UAF

Dall - 14.43.125 - follows 120 - seems as the eligibility & continuation be the same - should we amend 43.125 -

Romesburg - No - @ no need for amendment.
Transfer guide avail (this year) to see if & how the class can transfer.
Consumer Protection role in state.

Hermann - Why if we're all one college aren't these transferrable?

KR decided by the dept as to which courses may transfer.

Davis – Gail's scenario is different than this bill addresses.

Herrmann – How many people will this effect.

Davis – Major impact on TVCC – students can't afford the disallowance. TVCC enrollment decreasing.

Gail – force UHF to recog Student as part time in good standing –

– Real Issue – acceptance of credits being transferred –

– Move out w/ Ind rec !

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
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REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House HESS Committee DATE: 5/9/83

FROM: Linda Otey, Committee Aide

RE: Summary/ HB 174 "An Act relating to student loan eligibility"

Section 1: Amends 14.43.120(c) Conditions of Loans.

1). Allows students enrolled part-time in more than one institution for a total number of credits equivalent to a full-time student to be eligible to receive a loan from the Alaska Student Loan program.

2). Student must be in 'good standing' in all schools in which he or she is enrolled.

note: The definition of 'good standing' is established through regulation as:

1) maintaining 12 credit hours per semester; and
2) maintaining a 2.0 average.

Similar language has been proposed and included in the Senate version of the Student Loan Program revision legislation, SB 209 (HESS) which is currently in the Senate Finance Committee.

This legislation does not provide for an effective date, therefore, the bill becomes effective 90 days after the Governor's signature.

folder content

left

bill
statutes
fiscal note & analysis from
Post Secondary Educ.
SB 209(HESS)

right

Summary
Back-up provided by Rep. Davis:
Community Colleges & University branches
in support of legislation
Support letter from Ak. Statewide Student Assoc

Alaska Student Loan Program
Pouch FP, 400 Willoughby
Juneau, Alaska 99811
ATTN: Director

January 19, 1983

This is to appeal the loss of my Alaska Student Loan for spring semester, 1983. It was denied on the grounds that I no longer meet the eligibility requirements. Fall semester, 1982 I took 12 credits at the University of Alaska-Fairbanks, earned 10 of those credits, for a semester GPA of 3.0. I also took 4 credits at T.V.C.C., earned those 4 credits, for a semester GPA of 4.0. I therefore, earned a total of 14 credits for the fall semester of 1982, with my total GPA being somewhere between 3.0 and 4.0

When I went to see the UAF Financial Aid officer, the explanation was I did not complete 12 credits to be classified as a full time student and therefore, could not receive my A.S.L.P. loan this semester. They stated UAF and T.V.C.C. are different and the credit I earn at T.V.C.C. does not count. It is true that I registered at two different places and received two seperate grade reports. However, I paid only one tuition (that at UAF). This implies to me they are part of the same system.

With some research, I found that this division between UAF and T.V.C.C. is fairly recent and was told that notices of this were sent to all students, though I never received one. When I called the A.S.L.P. office in Juneau, I was told that they could do nothing unless the UAF Financial Aid office authorized me to receive the check. But when I went to Financial Aid they told me

they (UAF) didn't have the power to change the decision but that A.S.L.P. did. All I have encountered so far is this type of beaurocratic run-around and it is most confusing to me as a student. So I went to see George Winford (advisor and head of UAF Journalism department) who, by the way, supports my appeal. He informed me I could have my T.V.C.C. classes transfered to my UAF transcript, which I have done. It will now show that I have completed 14 credits for the fall semester of 1982.

Under Borrower's Responsibilities on my promissory note it states:

> I must maintain good standing, as defined for this program, in order to receive disbursement of my loan under the Alaska Student Loan Program. Good standing is defined as enrolling and completing at least a full-time student load while maintaining a grade-point-average of at least a "C" for an undergraduate or "B" for a graduate student.

It is my interpretation that I did comply with this regulation as worded in Item #8 of promissory note signed 9/7/82, and as my transcript will show.

I have had to borrow the money to pay my fees for this semester but must pay that person back and have no money on which to live. I am an earnest college student and I need my A.S.L.P. loan to continue my education. Therefore, I request that you reinstate my Alaska Student Loan for the spring semester of 1983 on the grounds that I <u>did</u> meet the requirements: completion of 14 credits at a 3.0+ GPA in fall of 1982.

Please review my appeal and let me know immediately of your decision.

Thank you very much for your consider[illegible]n...

KATHLEEN P. SPOTH (574-34-9200)

UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

Smoger, Kathleen

We are sorry to inform you that you are academically ineligible to receive the following financial aid at the University of Alaska-Fairbanks for the coming semester for the reason listed below:

TYPE OF AID

___	Pell Grant	X	Alaska Student Loan
___	UAF Scholarship/Grant	___	State Educational Incentive Grant
___	McIntosh Estate Grant	___	Tuition/Fee Waiver
___	Alaska Native Scholarship	___	BIA Grant-In-Aid
___	State Room Scholarship	___	Guaranteed Student Loan
___	Athletic Grant	___	_____

REASON

___ You were admitted/readmitted on academic probation.

X You did not meet program requirements for continued eligibility. (Since there are different requirements for various programs, you may be eligible for one type of aid and ineligible for another.)

___ You received incomplete or deferred grade(s). These must be removed within 60 days after Registration or the aid will be cancelled.

Please contact our office in writing at least one week prior to Registration if you feel that an error has been made.

Sincerely,

Ida Greiner
Director, Financial Aid

ig

UNIVERSITY OF ALASKA

SMOYER KATHLEEN M
574-34-9200

OFFICIAL GRADE REPORT FOR FALL 82
COLLEGE OF ARTS & SCIENCES

12/29/82

COURSE NUMBER:			COURSE TITLE	CREDITS	GRADE
J-B	102	001	BROADCASTING AND SOCIETY	3.0	A
J-B	203	001	BASIC PHOTOGRAPHY	3.0	B
J-B	215	001	AUDIO PRODUCTION	3.0	A
MUS	151MF	001	CLASS LESSONS - VOICE	1.0	B
MUS	161N	101	PRIVATE LESSONS - PERCUSSION	2.0	F
			TOTAL	12.0	

EXPLANATION OF GRADING

GRADE		POINTS PER HOUR
A	SUPERIOR	4
B	ABOVE AVERAGE	3
C	AVERAGE	2
D	LOWEST PASSING GRADE	1
F	FAILURE	0
AU	AUDIT	0
P	PASSING	0
S	SATISFACTORY	0
DF	DEFERRED	0
I	INCOMPLETE	0
WP	WITHDREW PASSING	0
WF	WITHDREW FAILING	0
NS	GRADE NOT SUBMITTED	0
W	WITHDRAW	0

ADVISOR- D GOTTEHRER
MAJOR- JOUR CLASS LEVEL- JUNR

SMOYER KATHLEEN M
P O BOX 2652
FAIRBANKS AK 99707

	HRS ATT	HRS ERN	HRS GPA	PTS	GPA
SEMESTER	12.0	10.0	12.0	36.0	3.00
UA CUM	12.0	10.0	12.0	36.0	3.00

TANANA VALLEY COMMUNITY COLLEGE

SMOYER KATHLEEN M
574-34-9200

OFFICIAL GRADE REPORT FOR FALL 82
TANANA VALLEY COMM COLLEGE

01/15/83

COURSE NUMBER			COURSE TITLE	CREDITS	GRADE
D M	183	AT 901	CLASSICAL BALLET, BEG I	1.0	P
0 0	146	902	FUNDAMENTALS DATA PROCESSING	3.0	A
			TOTAL	4.0	

EXPLANATION OF GRADING

GRADE		POINTS PER HOUR
A	SUPERIOR	4
B	ABOVE AVERAGE	3
C	AVERAGE	2
D	LOWEST PASSING GRADE	1
F	FAILURE	0
AU	AUDIT	0
P	PASSING	0
DF	DEFERRED	0
I	INCOMPLETE	0
NS	GRADE NOT SUBMITTED	0
W	WITHDRAW	0
NCR	NO CREDIT RECEIVED	0
CEU	CONTINUING EDUCATION UNIT	0

SMOYER KATHLEEN M
PO BOX 2652
FAIRBANKS AK 99707

CLASS LEVEL- UCS

	HRS ATT	HRS ERN	HRS GPA	PTS	GPA
SEMESTER	4.0	4.0	3.0	12.0	4.00
UA CUM	4.0	4.0	3.0	12.0	4.00
TOT CUM	4.0	4.0	3.0	12.0	4.00

SMOYER KATHLEEN M
574-34-9200

SPRING 83
COLLEGE OF ARTS & SCIENCES
12/29/82

FREN	102	001	ELEMENTARY FRENCH II	5.0	0910-1010AM	MWF	GRUN	302	24473
					0940-1040AM	TR	GRUN	302	
J-B	303	001	INTERMEDIATE PHOTOGRAPHY	3.0	0400-0600PM	R	BUNL	014	27651
J-B	316	001	TELEVISION PRODUCTIONS	3.0	0150-0350PM	M	BUNL	15	27715
					0130-0530PM	W	KUAC		
J-B	400	001	ADVANCED MEDIA PRACTICUM	3.0	0100-0200PM	T	BUNL	14	27839
MUS	123 X	001	APPRECIATION OF MUSIC	3.0	0700-1000PM	W	MUS	309	31496
MUS	151MF	001	CLASS LESSONS - VOICE	1.0	HOURS ARR				31763
MUS	161N	001	PRIVATE LESSONS - PERCUSSION	2.0	HOURS ARR				32123

20.0 ADVISOR- D GOTTEHRER
MAJOR- JOUR CLASS LEVEL- JUNR

SMOYER KATHLEEN M
P O BOX 2652
FAIRBANKS AK 99707

University of Alaska
STATEMENT OF FEES

1-19-83

Date Registered 1/15

SPRING 1983

Name SMOKER KATHLEEN M (LAST) (FIRST) U. of A. ID Number 576-34-9200 Birth Date 04/11/62

Residency ALASKA-RESIDENT Type 2 Major LOUR Campus FAIRBANKS CAMPUS

Phone _____

FEES

Type of Fee		Code No.	Amount
Meal Ticket			
Residence Hall			
Graduate Fee Hours			
Credit Hour Fee Hours	20	Am	300
Non-Resident Tuition Yes ( ) No (✓)			
Health Insurance Premium	Ann		
Health Center Fee	Ann		
Campus Activity Fee		AS	24
Parking Fee			
Music Fee		60	25
		62	75
Material/Lab Fee	Chem	77	20
TVCC Material Fee			
Deferred Payment Charge			
Late Registration Charge		VI	13.00

AS
Assessor

Total Fees ~~444.00~~ 457.00 (BC)

SCHOLARSHIP AND OTHER CREDITS

	Description	*Account Number					Amount
1	005000	00000	0774	103010	4	00000	50
2							
3							
4							
5							

*Must be an FAS no. or an Agency ARID

Total Scholarships 50.00

Net Fee Due 407.00

Total Deferred Payment or (check requested) _____

Cash Received or (disbursed) 407.00

DEFERRED PAYMENT SCHEDULE

	Date Due	Amount
1		
2		
3		

CHECK REQUEST MADE

	( )

Date Check Request Processed

By

MEMO	
Cash ☐	
Checks ☑	[illegible]
Total	445.00
Net Fee Due	407.00
Overpayment	38.00
Change	(38.00)

Fee Statement Auditor

[illegible]
SIGNATURE OF STUDENT

[illegible] AK [illegible]
CURRENT MAILING ADDRESS

Dtc
Cashier

54
No.

I agree to pay in advance, cash noted above and to pay remaining sum in accordance with the deferred payment schedule until the total principal sum of this obligation has been discharged. Although no interest accrues, I understand, and agree, that in the event of default of payment of any installment upon the date due, a further service charge will be charged against me, and that if I continue in default longer than five (5) days, I will surrender any meal ticket and student activity cards in my possession, relinquish any dormitory room and rights to continue instruction, and forfeit such portions of deposits

STATEMENT OF BORROWER'S RIGHTS AND RESPONSIBILITIES

A STUDENT LOAN IS A SERIOUS LEGAL OBLIGATION. IT IS EXTREMELY IMPORTANT THAT YOU UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES. WHEN YOU, THE STUDENT BORROWER, SIGN THE REVERSE SIDE OF THIS NOTE IT MEANS THAT (1) YOU UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES, AND THAT (2) YOU AGREE TO HONOR THEM.

BORROWER'S RIGHTS:

1. The lender must provide me a copy of the completed Promissory Note no later than the time the loan is disbursed and by retaining the Borrower's Copy of this note, I indicate that this right has been fulfilled. The lender must return the original Promissory Note to me when I have paid the loan in full.
2. My yearly and cumulative maximum Alaska Student Loan amounts are:

Category of Borrower	Annual Loan Limit	Aggregate Loan Limit
Undergraduate student	$6,000	May receive loans up to 5 undergraduate academic school years.
Graduate student	$7,000	May receive loans up to 5 graduate academic school years. (Total years may not exceed 8)

3. I am not required to provide security for this loan. The lender may require an endorser to sign the Promissory Note only if an endorsement is necessary —because I am under sixteen years of age — to make the Promissory Note a binding obligation under State law.
4. Each loan check must be payable to me. The lender will mail the check to me in care of the Student Financial Aid Office at the school I will be attending and the check will require my endorsement.
5. I have a right to a 12 month "grace period" before the repayment period begins. The grace period starts the first day after I leave school or cease to attend an eligible educational institution on a full-time basis. My first payment will be due no later than the first of the thirteenth month after I leave school or cease to attend school on a full-time basis.
6. The lender is to provide me with a repayment schedule before the repayment period begins. The provisions of this schedule must conform to the provisions under REPAYMENT in the Promissory Note.
7. I will repay this loan in monthly installments within 10 years of the date of commencing repayment. However, the following exceptions to these rules apply:
   A. If, during the grace period I request a shorter repayment period, the lender may grant me a shorter period.
   B. Any period described under **DEFERMENT** in this Promissory Note will not be included in determining the 10 year period mentioned above.
8. I have a right to prepay the whole loan or any portion of the loan at any time without penalty.
9. If I meet certain requirements, I have a right to defer payment on the loan as set forth under **DEFERMENT** in the Promissory Note. Also, I have a right to a six month post-deferment grace period after each period of authorized deferment.
10. The Alaska Student Loan Program normally will pay the interest that accrues on the loan both before the repayment period, during any authorized deferment period, and during the six month period following deferment. In that event, the lender may not collect or attempt to collect this interest from me. The interest on the loan may not exceed five percent (5%) per year.
11. My loan obligation will be cancelled if I become fifty percent (50%) or more permanently disabled or if I die.
12. If I am willing, but financially unable to make payments under my repayment schedule, I may request the lender to allow any of the following (forbearance or hardship status):
    A. A short period during which I make no payments;
    B. An extension of time for making payment; or
    C. The making of smaller payments than were scheduled originally.
    However, the lender is not required to approve my request.
13. If the lender sells the loan or otherwise transfers the right to receive payment, I must be sent a clear notification which spells out my obligations to the party to which my loan was sold.
14. Default occurs when I fail to make an installment payment when due, or to meet other terms of the Promissory Note under circumstances where the Alaska Student Loan Program finds it reasonable to conclude that I no longer intend to honor the obligation to repay, provided that my failure persists for (a) 120 days if I repay in monthly installments, or (b) 180 days if I repay in installments due less frequently than monthly. If I default, I will owe the entire balance of the loan plus accrued interest. If I am able, but unwilling to repay my loans, the Alaska Student Loan Program may institute legal action to force me to repay my loans. If I am named in such a legal action, I will forfeit all partial cancellation benefits for which I am otherwise eligible.
15. The lender must keep on file a copy of the State laws and regulations that govern the Alaska Student Loan Program. I have a right to examine these materials if I wish.
16. I should investigate the availability of other forms of financial aid with the school's financial aid administrator. It may be to my benefit to determine my eligibility for grant, work-study and other sources of assistance before applying for a student loan. I understand that receipt of an Alaska Student Loan may eliminate any awards that I may receive from other programs.
17. If I meet the eligibility requirements listed under **PARTIAL CANCELLATION** in the Promissory Note, I may be entitled to up to 50% partial cancellation of the principal which was actually advanced to me, plus accrued interest of this loan through the Alaska Student Loan Program, subject to the restriction noted in item 14 in this statement.

BORROWER'S RESPONSIBILITIES:

1. I must use care in choosing a school. Each school must provide a prospective student with information about the school and its programs. I will consider this information carefully before deciding to attend a specific school. I understand that the State Government does not vouch for the quality of a school or its programs.
2. I must repay the loan in accordance with the repayment schedule that the lender will give me.
3. I must notify the lender promptly, in writing, if any of the following events occur before the loan is repaid:
   A. My failure to enroll in school for the period for which the loan was intended.
   B. My withdrawal from school or my attendance in school on less than a full-time basis.
   C. My transfer from one school to another school.
   D. My graduation from school.
   E. A change in my name (e.g., maiden name to married name).
   F. A change in my address.
   G. A change in my Alaska residency status.
4. If I qualify for a deferment of repayment, I must (a) provide the lender with written evidence of my eligibility, and (b) notify the lender as soon as the condition for which the deferment was granted no longer exits.
5. I must use the proceeds that I receive from this loan for tuition, room and board, fees, books and supplies to attend the school named, for the period indicated on the loan application.
6. I must maintain my Alaska residency status in order to receive disbursements of my loan under the Alaska Student Loan Program.
7. I must maintain full-time student status in order to receive disbursements of my loan under the Alaska Student Loan Program.
8. I must maintain good standing, as defined for this program, in order to receive disbursements of my loan under the Alaska Student Loan Program. Good standing is defined as enrolling and completing at least a full-time student load while maintaining a grade point average of at least a "C" for an undergraduate or "B" for a graduate student.
9. I must request an application form from the Alaska Student Loan Program Office in each year which I wish to apply for a loan under the program.
10. I must submit my complete and correct Alaska Student Loan Program application form to the Alaska Student Loan Program office by May 15 in order to receive priority processing of my application.

ALASKA STUDENT LOAN PROGRAM

REQUEST FOR WAIVER OF GOOD STANDING

Requirements (20 AAC 15.010)

A. Student: Kathleen M. Smoyer | Social Security Number: 574-34-9200

Current Mailing Address: Street: P.O. Box 2652 | City: Fairbanks | State: Alaska | Zip Code: 99707

Institution: University of Alaska-Fairbanks

B. I hereby request, for the reasons stated below, waiver of the good standing requirement for an Alaska Student Loan, as provided for in 20 AAC 15.040 (j), (k), and (l).

C. My loan was denied because of my failure to (please check):

- ☐ 1. maintain a cumulative C.P.A. of 2.0, undergraduate, or 3.0, graduate
- ☐ 2. maintain a term G.P.A. of 1.5, and/or
- ☒ 3. successfully complete a full-time student load the last term I borrowed under this program.

D. Reason for request (please check):

- ☐ Medical disability
- ☐ Death in the immediate family
- ☐ Administrative error
- ☐ Duress
- ☐ Record upon which ineligibility is based is from an attendance period five or more years in the past
- ☒ Other (Please explain)

Explanation attached.

E. Detailed explanation. Attach a detailed explanation of your justification for a waiver. Be specific. If you are appealing on a grade point average basis, include what your cumulative average is and how you have performed in the last couple of years (by term). If you are appealing for less than full-time attendance, include how many hours you did complete, how many you failed to successfully complete, and explain. If you are offering a time argument, include why you feel you are now more prepared for school than you were when you established your "ineligible" record. Include documentation. Transcripts may be required, doctor's certification will be required, evidence of adminstrative error will need verification.

F. SIGNATURE: My signature below certifies that in the absence of a Notary Public or other official authorized to administer an oath, I personally certify under penalty of perjury that the foregoing and accompanying documentation are true.*

Signed: Kathleen M. Smoyer | Date: Jan. 19, 1983

Location: (City and State) Fairbanks, Alaska

G. Keep one copy for your files, give one copy to your Financial Aid Office, and mail original to:

Alaska Commission on Postsecondary Education
Division of Student Financial Aid
Pouch FP
400 Willoughby Avenue
Juneau, Alaska 99811

* Under AS 09.63.020(b), a person who makes false sworn certification which he does not believe to be true, under penalty of perjury is guilty of perjury.

ALASKA STUDENT LOAN APPLICATION

This application to be used for the 1982-83 year only. If you will be attending a Voc-Tech school, attendance must begin on or after JULY 1, 1982. If you will be attending a college or university, to be used from Fall 1982 through Summer 1983.

ALASKA STUDENT LOAN PROGRAM, POUCH FP, 400 WILLOUGHBY AVENUE, JUNEAU, ALASKA 9981[illegible] AMENDMENT

WARNING: This assistance applied for herein may be provided by the State of Alaska. Any person who knowingly makes a false or misleading statement on this form shall be subject to prosecution under provision of Alaska Statute.

PART A — TO BE COMPLETED BY STUDENT BORROWER "IMPORTANT" READ THE INSTRUCTIONS CAREFULLY. Student Borrower should complete Part A and forward the application to the school for completion of Part B.

1. Student Borrower's Last Name	First Name	Middle Name	2. Social Security No.	3. Date of Birth
Smoyer	Kathleen	Marie	574-34-9200	Mo. 4 Day 14 Yr. 62

4. Permanent Mailing Address	City or Town	State	Zip Code
P.O. Box 2652	Fairbanks	Alaska	99707

5. Current Mailing Address	City or Town	State	Zip Code
SAME 1164 0 Mile Ave Apt 3	Fairbanks [illegible]	Alaska	99701

6. State of Permanent Residence:	7. Area Code / Home Telephone Number
Alaska Since: Mo. August Year 1977	(907) 456-7250

8. References: You must provide four references. They must be of legal age with whom you have periodic contact.

	Parent/Guardian	Other Parent, adult relative or friend at different address	Adult relative or friend at different address	Adult relative or friend at different address
Name:	Ric Smoyer	Patricia Egan	Sheron Smoyer	Pati Hemm
Address:	P.O.Box 2652	1593 Avenida Selva	116 40-Mile Ave.	733-A Kamoku
City, State:	Fbks.,Alaska	Fullerton, Calif.	Fbks.,Alaska	Honolulu, Hawaii
Telephone #:	(907, 456-7250	(714, 879-1664	(907, 456-6496	(808, 947-5293
Relationship to you:	Father	Mother	Step-Mother	Friend

9. Academic year of study for which this loan applies (check one): UNDERGRADUATE: Freshman _____ Sophomore _____ Junior XX Senior _____ 5th Year _____ or GRADUATE YEAR: 1st _____ 2nd _____ 3rd _____ 4th _____

10. List all student loans received from any source. Attach separate sheet if necessary.

NAME AND LOCATION OF LENDER	DATE & TYPE OF LOAN	UNPAID BALANCE
A.S.L.P.	80-81	$ 3000.
A.S.L.P.	81-82	$ 5000.
		$
		$
		$

11. Are you (check one — see instructions): Dependent XX Independent ☐

12. Enter the total number of your dependents (see instructions): # 0 List ages: _____

13. Number of terms you will attend during year for which loan applies (specify number): Quarters: _____ Trimester/Semester: 2 Summer: _____ If Voc-Tech student, specify number of: Weeks: _____ Months: _____

14. While in school, will you live (check one): With Relatives ☐ On Campus ☐ Off Campus XX

15. Major course of study. Specify: Communication Jour/Broad.

16. Degree or Certificate being sought (Associate, B.S., M.A., PhD, Diploma, etc.): Bachelor's

17. Estimated cost of education for the loan period:		Institution use only:	18. Financial aid & other sources for loan period:		Institution use only:
Tuition Fees	$ 612.	$ 788	BEOG, SEIG	$	$
Room & Board	$ 4000.	$ 1096 2014	Parents, Savings, Etc.	$	$
Books & Supplies	$ 300.	$ 400	Other Educ. Loans	$	$
Transportation	$ 494.	$ 1000	Other Scholar. & Grants	$	$
Personal	$ 774.	$ 800	WICHE	$	$
TOTAL	$ 6350.	$ 3422 ✓	TOTAL	$ 0	$

19. Date of attendance for which loan is requested:	20. Amount of loan requested	21. Estimated date of graduation	22. List any prior degrees and date(s) received:
From: Mo 8 Yr 82 To: Mo 5 Yr 83	$ 6000.	Mo 6 Yr 84	none

23. Type of tuition you will pay for loan period (see instructions)			24. Student Status during loan period		25. Have you/will you apply during the loan period for:
XX Resident	☐ Non-Resident	☐ No Differential	[illegible]	XX Part-time ☐	WICHE: Yes ☐ No X SEIG: Yes ☐ No XX (Date applied)

26. Name and address of school you will be attending: Name: [illegible] Address: Fairbanks, Alaska 99701

27. My signature below certifies that I have read, understand and agree to the conditions and authorizations stated in the Student Certification and Statement of Educational Purpose printed on the reverse side of this application. I declare under penalty of perjury that the foregoing is true and correct.

Signed: Kathleen Smoyer (Signature of Student Borrower) Dated: _____

PART B — TO BE COMPLETED BY SCHOOL. When School Official completes and signs Part B., the blue copy of the application should be retained for the school records. The instruction sheet, the two white copies and the yellow copy should be sent to the applicant — see instruction sheet for further information.

28. Name and Address of Educational Institution:	29. OE School Code:
Name: _____ Address: _____	30. Area Code and Telephone Number ( )

My signature below certifies that I have read, understand, and agree to the conditions regarding the student named above in the School Certification Statement printed on the reverse side of the application.

31. Signature of Authorized School Official	32. Type or Print Name and Title	33. Date
RECEIVED JUN 22 1982		

PART C — FOR ALASKA STUDENT LOAN OFFICE USE ONLY

Loan Approved: 5-9-50 $ 2000 Total $ 2000 8/4 Application Incomplete: Item(s) _____ Application Denied: Reason(s) _____ Prior Alaska Student Loan(s)? Yes ☐ No ☐ If yes, have any entered repayment? Yes ☐ No ☐

STUDENT FINANCIAL AID

Account # _____

ENTERED [illegible] 1982

05-007-80SE (Rev. 1/82) RETURN TO THE ALASKA STUDENT LOAN OFFICE ACCESS NUMBER: _____

STUDENT BORROWER CERTIFICATION AND STATEMENT OF EDUCATION PURPOSE

I, the student borrower, certify that the information contained in Part A of this application is true, complete and correct to the best of my knowledge and belief and is made in good faith. I hereby authorize the educational institution to pay to the Alaska Student Loan Office any refund which may be due me up to the amount of this loan. I further authorize any educational institution that I may attend to release to the Alaska Student Loan Office or subsequent holder or their agents, any requested information pertinent to this loan (e.g. employment, enrollment status, current address). I certify that I will use any funds I receive under the Alaska Student Loan Program solely for the expenses related to attendance at the educational institution named on this form for the academic period covered by this application. I understand that I am responsible for repaying any funds I receive which cannot reasonably be attributed to meeting my educational expenses at the educational institution named on this form. I further understand that the amount of any repayment is based on regulations published by the Alaska Student Loan Office. I certify that I am not now in default on an Alaska Student Loan (ASL). I authorize the Alaska Student Loan Program to issue warrants necessary to cover the proceeds of my loan, in full or in part, made payable to me and sent in care of the student financial aid office at the educational institution named on this application form.

SCHOOL CERTIFICATION STATEMENT

I hereby certify that the student borrower named on this application form is neither in default nor owes a refund with respect to previous loans or grants received for attendance at this institution based on available records. I further certify that I have reviewed the information in Part A of this application, have noted any amendments to items #17 and #18 in the institutional columns, and that the information provided is true, complete, and correct to the best of my knowledge and belief.

PROMISSORY NOTE

PER: ALASKA STUDENT LOAN PROGRAM
POUCH FP, 400 WILLOUGHBY
JUNEAU, ALASKA 99811

ANNUAL PERCENTAGE RATE AFTER THE BEGINNING OF THE REPAYMENT PERIOD	5%

NOTE ISSUE DATE: 08/01/82

FOR ATTENDANCE AT: [redacted] FAIRBANKS
C/O STUDENT FINANCIAL AID OFFICE
FAIRBANKS AK 99701
FOR ATTENDANCE FROM: 08/82 TO: 05/83

BORROWER: KATHLEEN MARIE SNUYER
ADDRESS: P.O. BOX 2652
FAIRBANKS AK
99707
SOCIAL SECURITY NUMBER: 574-[redacted]

DISBURSEMENT SCHEDULE —

DATES SHOWN ARE THE STANDARD DISBURSEMENT DATES FOR A SCHOOL USING YOUR CALENDAR SYSTEM. WARRANTS WILL BE MAILED TO THE FINANCIAL AID OFFICE.

	MONTH	DAY	YEAR	
1st Disbursement	09	20	82	$ 2,975.00 — ISSUED 9-1-82
2nd Disbursement	12	15	82	$ 2,975.00
3rd Disbursement	XX	XXX	XXX	$ 0.00
4th Disbursement	XX	XXX	XXX	$ 0.00
TOTAL LOAN AMOUNT				$ 5,950.00

PLEASE READ CAREFULLY THIS THE TERMS AND CONDITIONS OF THIS PROMISSORY NOTE AND THE STATEMENT OF BORROWER'S RIGHTS AND RESPONSIBILITIES.

YOUR REQUEST FOR A STUDENT LOAN HAS BEEN APPROVED FOR THE TOTAL LOAN AMOUNT INDICATED ABOVE. THE TERMS OF THIS PROMISSORY NOTE WILL BE INTERPRETED ACCORDING TO ALASKA STATUTE (14.40.751 to .806) AND ALASKA REGULATIONS (20 ACC 15.010 to .410) GOVERNING THE ALASKA STUDENT LOAN PROGRAM.

I, the borrower, promise to pay to the Alaska Student Loan Program, Pouch FP, 400 Willoughby Avenue, Juneau, Alaska 99811, the lender, all of the principal sum totaled above to the extent it is advanced to me, plus an amount equivalent to simple interest on this sum at the rate of five percent per year. If I fail to pay any of these amounts when they are due, I will also pay costs—including attorney's fees—that are permitted by State Regulations and are necessary for the collection of these amounts.

The lender and I understand th[illegible] the following terms apply to this loan:

REPAYMENT:
1. I will repay this loan in monthly installments during a repayment period that will begin no later than the 1st of the thirteenth month (the "grace period") after I either leave school or cease to carry a full-time academic workload at an eligible educational institution (the "school"). I may, however, choose to have the repayment period begin earlier. 2. I will repay this loan within ten (10) years from the date that the repayment period begins. If, during the grace period, I request a shorter repayment period, the lender may grant me a shorter period. In that event, I may, later choose to have the repayment period extended to the number of months remaining in the original 10 year repayment cycle at the time the extension is requested. Any approved period of deferment listed under DEFERMENT will not be included in determining the 10 year repayment period. 3. The particular terms and conditions of repayment that apply to this loan will be set forth in a separate document, known as a repayment schedule or a statement of loan terms, that the lender is to provide to me before the repayment period begins.

PREPAYMENT:
I may, at my option and without penalty, prepay all or any part of the principal and accrued interest of this loan at any time. If I do so, I will be entitled to a rebate of any unearned interest that I have paid. Any rebate I am entitled to will be calculated by multiplying the number of months the loan had been prepaid by the amount of the monthly interest charge listed on the repayment schedule or the statement of loan terms less any earned, unpaid interest listed on the repayment schedule or statement of loan terms.

DEFERMENT:
My loan payment will be deferred after the repayment period begins, provided I comply with the procedural requirments set forth in the regulations governing the Alaska Student Loan Program, in any of these circumstances:
1. While I am enrolled in full-time study at an eligible educational institution (12 semester or quarter hours for an undergraduate student, 9 semester or quarter hours for a graduate student, or 30 clock hours per week for a career education program student);
2. For a single period not to exceed one year while I am conscientiously seeking but unable to find full-time employment in the United States;
3. For a period not to exceed three years while I am serving as a full-time volunteer under the Peace Corps Act;
4. For a period not to exceed three years while I am serving as a full-time volunteer under the Domestic Service Act of 1973 (action programs);
5. For a period not to exceed two years while I am serving a first required internship/residency as part of the program of study;
6. For a period not to exceed three years while (a) I am fifty percent (50%) or more disabled as certified by a qualified physician or (b) I am unable to secure employment by reason of the care required by a spouse who is temporarily totally disabled;
7. For any period while I am serving on active duty in the Armed Forces of the United States.

I am also entitled to a six month grace period following any period of authorized deferment under this section before repayment is required to resume.

INTEREST:
1. The Alaska Student Loan Program will normally pay the interest that accrues on this loan prior to the repayment period, during any post-deferment grace period, and during any deferment period as specified under DEFERMENT in this promissory note. Prior to the loan repayment period, during any post-deferment grace period, and during any deferment period, the lender may not attempt to collect the interest from me. I may, however, choose to pay this interest myself.
2. Once the repayment period begins, I will be responsible for payment of all the interest that accrues on this loan, except for interest that accrues during any period described under DEFERMENT in this promissory note.
3. The Lender may add any interest that is not paid when it is due to the unpaid balance of this loan, in accordance with Alaska Regulations.

DEFAULT:
If I default on this loan, the lender may declare the entire unpaid amount of the loan, including interest, immediately due and payable. A default may also make me ineligible for the benefits described under DEFERMENT, INTEREST, and PARTIAL CANCELLATION in this promissory note. Under the Regulations governing this program, any of the following events could be considered a default: my failure to make a payment when it is due, my failure to notify the lender of a change in my name, address, withdrawal for full-time student status, change of schools, residency status, my failure to maintain Alaska residency, or if I falsify any document in connection with the making of this loan, whether by omission or commission.

DISABILITY OR DEATH:
If I become fifty percent (50%) or more permanently disabled, or if I die, my obligation to pay any amount owed to this loan will be cancelled as specified under the regulations governing the Alaska Student Loan Program.

RECEIVED
SEP 10 1982
FINANCIAL AID
ACCOUNT #

PARTIAL CANCELLATION:
If I receive the appropriate degree, diploma or certificate for which this loan was made, and if I reside in Alaska within one year from the time I am awarded my degree, diploma or certificate, then upon my providing proof of graduation to the lender, I may receive partial cancellation of up to fifty percent (50%) of the original principal of this loan, plus all actual amounts advanced to me, and accrued interest when the following requirements have been satisfied:
1. I have completed over two but less than three consecutive years of Alaska residency, 10% of the principal and interest of this loan will be cancelled upon request in writing by me;
2. I have completed over three but less than four consecutive years of Alaska residency, 10% of the principal and interest of this loan will be cancelled upon request in writing by me;
3. I have completed over four but less than five consecutive years of Alaska residency, 10% of the principal and interest of this loan will be cancelled upon request in writing by me;
4. I have completed over five but less than six consecutive years of Alaska residency, 10% of the principal and interest of writing by me;
5. I have completed over six consecutive years of Alaska residency, 10% of the principal and interest of this loan will be cancelled upon request in writing by me.

I understand that if I cease to be a resident of Alaska during the period of the eligibility for partial cancellation, I lose my eligibility for any further partial cancellation benefits.

GENERAL:
1. The lender must provide me with a copy of this promissory note. By signing and dating this note below, I have indicated that I have retained the borrower's copy for my records. The terms of this promissory note will be interpreted according to the Regulations and Statutes governing the Alaska Student Loan Program as listed in bold print.
2. I will use all of the proceeds that I receive from this loan solely for tuition, books, required fees, room and board.
3. I am not required to provide any security for this loan. The lender may require my parent or legal guardian to sign the promissory note only if an endorser is necessary — because I am under sixteen years of age — to make the promissory note a binding obligation under Alaska Law.
4. I will promptly notify the lender, in writing, if any of the following events occur before the loan is repaid, change of my name, change of address, change of school enrollment status or change from Alaska residency status.
5. I understand that I will not be granted ASLP loans for more than five years of undergraduate study, or five years of graduate study, or for a total of eight years of combined study. Intervening years in which a loan was not received are not counted toward the total years permitted.
6. This loan will be disbursed to me in the amounts listed above and will be disbursed in accordance with the disbursement schedule on this form.

ACCEPTANCE:
I have read this promissory note, including the terms and conditions on the reverse side and agree to abide by these conditions.

[redacted]
SIGNATURE OF BORROWER

P.O. Box 2652, Fbks. (mailing)
ADDRESS OF BORROWER

Sept. 7 1982
DATE SIGNED

ENTERED SEP 1 3 1982

NAME OF ENDORSER, IF ANY (PLEASE PRINT)

SIGNATURE OF ENDORSER

ENTERED SEP 1 3 1982
DATE SIGNED

05-002A-80SI (Rev. 4/82)

ORIGINAL - RETURNED TO ASLP OFFICE

STATEMENT OF BORROWER'S RIGHTS AND RESPONSIBILITIES

A STUDENT LOAN IS A SERIOUS LEGAL OBLIGATION. IT IS EXTREMELY IMPORTANT THAT YOU UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES. WHEN YOU, THE STUDENT BORROWER, SIGN THE REVERSE SIDE OF THIS NOTE IT MEANS THAT (1) YOU UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES, AND THAT (2) YOU AGREE TO HONOR THEM.

BORROWER'S RIGHTS:

1. The lender must provide me a copy of the completed Promissory Note no later than the time the loan is disbursed and by retaining the Borrower's Copy of this note, I indicate that this right has been fulfilled. The lender must return the original Promissory Note to me when I have paid the loan in full.
2. My yearly and cumulative maximum Alaska Student Loan amounts are:

Category of Borrower	Annual Loan Limit	Aggregate Loan Limit
Undergraduate student	$6,000	May receive loans up to 5 undergraduate academic school years.
Graduate student	$7,000	May receive loans up to 5 graduate academic school years. (Total years may not exceed 8)

3. I am not required to provide security for this loan. The lender may require an endorser to sign the Promissory Note only if an endorsement is necessary —because I am under sixteen years of age — to make the Promissory Note a binding obligation under State law.
4. Each loan check must be payable to me. The lender will mail the check to me in care of the Student Financial Aid Office at the school I will be attending and the check will require my endorsement.
5. I have a right to a 12 month "grace period" before the repayment period begins. The grace period starts the first day after I leave school or cease to attend an eligible educational institution on a full-time basis. My first payment will be due no later than the first of the thirteenth month after I leave school or cease to attend school on a full-time basis.
6. The lender is to provide me with a repayment schedule before the repayment period begins. The provisions of this schedule must conform to the provisions under REPAYMENT in the Promissory Note.
7. I will repay this loan in monthly installments within 10 years of the date of commencing repayment. However, the following exceptions to these rules apply:
   A. If, during the grace period I request a shorter repayment period, the lender may grant me a shorter period.
   B. Any period described under **DEFERMENT** in this Promissory Note will not be included in determining the 10 year period mentioned above.
8. I have a right to prepay the whole loan or any portion of the loan at any time without penalty.
9. If I meet certain requirements, I have a right to defer payment on the loan as set forth under **DEFERMENT** in the Promissory Note. Also, I have a right to a six month post-deferment grace period after each period of authorized deferment.
10. The Alaska Student Loan Program normally will pay the interest that accrues on the loan both before the repayment period, during any authorized deferment period, and during the six month period following deferment. In that event, the lender may not collect or attempt to collect this interest from me. The interest on the loan may not exceed five percent (5%) per year.
11. My loan obligation will be cancelled if I become fifty percent (50%) or more permanently disabled or if I die.
12. If I am willing, but financially unable to make payments under my repayment schedule, I may request the lender to allow any of the following (forbearance or hardship status):
    A. A short period during which I make no payments;
    B. An extension of time for making payment; or
    C. The making of smaller payments than were scheduled originally.
    However, the lender is not required to approve my request.
13. If the lender sells the loan or otherwise transfers the right to receive payment, I must be sent a clear notification which spells out my obligations to the party to which my loan was sold.
14. Default occurs when I fail to make an installment payment when due, or to meet other terms of the Promissory Note under circumstances where the Alaska Student Loan Program finds it reasonable to conclude that I no longer intend to honor the obligation to repay, provided that my failure persists for (a) 120 days if I repay in monthly installments, or (b) 180 days if I repay in installments due less frequently than monthly. If I default, I will owe the entire balance of the loan plus accrued interest. If I am able, but unwilling to repay my loans, the Alaska Student Loan Program may institute legal action to force me to repay my loans. If I am named in such a legal action, I will forfeit all partial cancellation benefits for which I am otherwise eligible.
15. The lender must keep on file a copy of the State laws and regulations that govern the Alaska Student Loan Program. I have a right to examine these materials if I wish.
16. I should investigate the availability of other forms of financial aid with the school's financial aid administrator. It may be to my benefit to determine my eligibility for grant, work-study and other sources of assistance before applying for a student loan. I understand that receipt of an Alaska Student Loan may eliminate any awards that I may receive from other programs.
17. If I meet the eligibility requirements listed under **PARTIAL CANCELLATION** in the Promissory Note, I may be entitled to up to 50% partial cancellation of the principal which was actually advanced to me, plus accrued interest of this loan through the Alaska Student Loan Program, subject to the restriction noted in item 14 in this statement.

BORROWER'S RESPONSIBILITIES:

1. I must use care in choosing a school. Each school must provide a prospective student with information about the school and its programs. I will consider this information carefully before [redacted] I understand that the State Government does not vouch for the quality of a school or its programs.
2. I must repay the loan in accordance with the repayment schedule that the lender will give me.
3. I must notify the lender promptly, in writing, if any of the following events occur before the loan is repaid:
   A. My failure to enroll in school for the period for which the loan was intended.
   B. [redacted]
   C. My transfer from one school to another school.
   D. My graduation from school.
   E. A change in my name (e.g., maiden name to married name).
   F. A change in my address.
   G. A change in my Alaska residency status.
4. If I qualify for a deferment of repayment, I must (a) provide the lender with written evidence of my eligibility, and (b) notify the lender as soon as the condition for which the deferment was granted no longer exists.
5. I must use the proceeds that I receive from this loan for tuition, room and board, fees, books and supplies to attend the school named, for the period indicated on the loan application.
6. I must maintain my Alaska residency status in order to receive disbursements of my loan under the Alaska Student Loan Program.
7. I must maintain full-time student status in order to receive disbursements of my loan under the Alaska Student Loan Program.
8. I must maintain good standing, as defined for this program, in order to receive disbursements of my loan under the Alaska Student Loan Program. Good standing is defined as enrolling and completing at least a full-time student load while maintaining a grade-point-average of at least a "C" for an undergraduate or "B" for a graduate student.
9. I must request an application form from the Alaska Student Loan Program Office in each year which I wish to apply for a loan under the program.
10. I must submit my complete and correct Alaska Student Loan Program application form to the Alaska Student Loan Program office by May 15 in order to receive priority processing of my application.

Article 9. Scholarship Loans and Tuition Grants.

Section		Section	
751.	Loan and tuition funds created	771.	Enforceability of certain contracts with minors
753.	Financial aid committee	773.	Repealed
755.	Applications	776.	Tuition grants
757.	Administration of program	781.	Limitation on grants
759.	Undergraduate loans	786.	Conditions of grants
761.	Graduate loans	791.	Eligibility of students
763.	Conditions of loans	796.	Application and certification
765.	Eligibility of students	801.	Fiscal and business management practices
767.	Selection criteria	806.	Definitions
769.	Discrimination prohibited		

Sec. 14.40.751. Loan and tuition funds created. (a) There is created a scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under Secs. 751—806 of this chapter. All repayments of principal and interest on scholarship loans shall be paid into the scholarship revolving loan fund and shall be used to make new scholarship loans. If estimated funds available from scholarship loan repayments are inadequate to fully fund estimated scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) There is created a tuition grant fund as an account in the general fund. The funds shall be used to make tuition grants to students selected under Secs. 751—806 of this chapter.

(c) On March 1 of each fiscal year, if there is a balance of appropriated but unobligated funds in the tuition grant fund created under (b) of this section, that sum shall be automatically transferred to the scholarship revolving loan fund created under (a) of this section to make additional scholarship loans during that fiscal year.

(Sec. 1 ch 98 SLA 1971; am Sec. 1 ch 156 SLA 1972; am Secs. 1,2 ch 136 SLA 1974; am Sec. 1 ch 136 SLA 1975, retroactive to February 1, 1975)

Sec. 14.40.753. Financial aid committee. (a) The student financial aid committee is composed of the members of the Alaska Commission on Postsecondary Education. The commission may delegate its functions under Secs. 751—806 of this chapter to a committee of its members, with augmented membership as the commission considers appropriate. The executive officer of the commission is the executive secretary of the committee. The Alaska Commission on Postsecondary Education shall administer the program established by Secs. 751—806 of this chapter.

(b) Members of the committee serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(c) The selection committee shall make an annual report reviewing the work of the committee to the governor, the legislature and the private colleges and universities where students receiving tuition grants are enrolled.

(d) The committee shall meet at least once a year. The meetings shall be held at the call of the chairman or upon petition by two members. (Sec. 1 ch 98 SLA 1971; am Sec. 2 ch 156 SLA 1972; am Sec. 5 ch 78 SLA 1974; am Sec. 3 ch 136 SLA 1974)

Sec. 14.40.755. Applications. (a) Applications shall be submitted to the executive secretary of the committee.

(b) A person whose loan or grant application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application. (Sec. 1 ch 98 SLA 1971; am Sec. 3 ch 156 SLA 1972; am Sec. 4 ch 136 SLA 1974)

Sec. 147.40.757. Administration of program. The executive secretary shall administer the programs subject to review by the committee and in accordance with the regulations prescribed by the committee. The promulgation of these regulations is subject to the Administrative Procedure Act (AS 44.62), and a summary of the regulations shall be distributed to each applicant. (Sec. 1 ch 98 SLA 1971; am Sec. 5 ch 136 SLA 1974)

Sec. 14.40.759. Undergraduate loans. The committee may make a loan, not to exceed $6,000 in any one school year, to an undergraduate student eligible under AS 14.40.765. (am Sec. 1 ch 89 SLA 1981)

Sec. 14.40.761. Graduate loans. The committee may make a loan, not to exceed $7,000 in any one school year, to a graduate student who is eligible under AS 14.40.765 and is pursuing an advanced degree. (am Sec. 2 ch 89 SLA 1981)

Sec. 14.40.763. Conditions of loans. (a) Proceeds from scholarship loans may only be used for books, tuition and required fees, and for room and board

(b) The loans may only be used to attend a career education program or a college or university approved by the commission, and, if the loans are federally insured, by the United States Commissioner of Education. (Sec. 1 ch 99 SLA 1977; am Sec. 3 ch 87 SLA 1979)

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a career education program, college or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection. (am Sec. 3 ch 89 SLA 1981)

(d) Scholarship loans may not be made to a student

(1) for more than five years of undergraduate study;

(2) for more than five years of graduate study;

(3) for more than a total of eight years of undergraduate and graduate study (am Sec. 4 ch 89 SLA 1981)

(e) Loans are interest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (k) of this section; however, a student shall be entitled to have a portion of the interest paid on his behalf and for his account in accordance with (l) of this section. (am Sec. 2 ch 99 SLA 1977; am Sec. 4 ch 87 SLA 1979)

(f) Interest on a loan given under sections 751—806 of this chapter is at the rate of five percent a year.

(g) Repayment of the principal and interest on the loan begins no later than one year after the borrower terminates his studies. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection. (repealed and reenacted Sec. 5 ch 89 SLA 1981)

(h) Security may not be required for the loans; however, provision shall be made for payment of attorney fees and costs of court if either or both are incurred in collection of the amount owed on the loan.

(i) If a loan is in default, the commission shall notify the borrower that repayment of the remaining balance is accelerated and due by sending the borrower a notice by registered or certified mail. (am Sec. 6 ch 89 SLA 1981)

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 50 percent of the total loan:

(1) two—three years residence in the state, 10 percent;

(2) three—four years residence in the state, an additional 10 percent;

(3) four—five years residence in the state, an additional 10 percent;

(4) five—six years residence in the state, an additional 10 percent;

(5) over six years residence in the state, an additional 10 percent.

(Sec. 1 ch 98 SLA 1971; am Sec. 4 ch 156 SLA 1972; am Sec. 6 ch 78 SLA 1974; am Sec. 8 ch 136 SLA 1974; am Sec. 6 ch 87 SLA 1979; repealed and reenacted Sec. 7 ch 89 SLA 1981)

The reenactment of AS 14.40.763(j) in section 7 of this Act applies to any student who has obtained a scholarship loan under AS 14.40.751—14.40.806 since July 1, 1971. (Sec. 12 ch 89 SLA 1981)

(k) Periodic installments of principal shall be deferred, but interest shall accrue and be paid unless the student is eligible for interest payment benefits under (l) of this section during any of the following:

(1) return to student status as provided in (c) of this section;

(2) serving on active duty as a member of the armed forces of the United States;

(3) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;

(4) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(5) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or

(6) if the borrower becomes 50 percent or more disabled as certified by competent medical authority. (repealed and reenacted Sec. 7 ch 87 SLA 1979)

(l) The state will pay the interest on that portion of a loan that is not federally insured during

(1) the period before the beginning of the repayment period of the loan; and

(2) deferments under (k) of this section.

(m) In case of hardship, the committee may extend repayment of a loan for an additional period of up to five years in increments no longer than 12 months each. (am Sec. 8 ch 89 SLA 1981)

(n) repealed. (Sec. 11 ch 89 SLA 1981)

(o) The provisions of (j) of this section do not apply to a loan to a borrower named in a complaint as a defendant in an action by the state or by the commission to secure payment of the unpaid balance of a loan made under AS 14.40.759 or 14.40.761. (am Sec 9 ch 89 SLA 1981)

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service. (am Sec. 9 ch 89 SLA 1981)

Sec. 14.40.765. Eligibility of students. (a) A person may apply for and obtain a scholarship loan if the person

(1) is a resident of the state at the time he applies for a scholarship loan;

(2) meets the requirements of (b) of this section; and

(3) is

(A) enrolled as a full-time student in a career education or associate or baccalaureate or graduate degree program; or

(B) a graduate of a high school, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university.

(b) In addition to the requirements of (a) of this section, to obtain a scholarship loan a person must have been a resident of the state for at least two years at the time he applies for the loan. For purposes of this subsection, a person qualifies as a resident of the state if at the time he applies for the loan the person

(1) has been present in the state for at least two years unless his absence from the state during any part of the two years was due to military service; or

(2) is a person who is dependent on a parent or guardian for his care, and the parent or guardian has been present in the state for at least two years. (repealed reenacted Sec. 10 ch 89 SLA 1981)

Sec. 14.40.767. Selection criteria. (a) The selection committee shall grant loans based on total point accumulations under this subsection with priority going to those applicants with the highest point accumulations, except as provided in (b) of this section for loan applications completed before May 15 of each year. Points shall be awarded to applicants based upon student status and continuous Alaskan residency, according to the following schedule:

(1) student status:

(A) continuing undergraduate and graduate students with existing Alaska scholarship loans ..... 4 points

(B) continuing undergraduate and graduate students without existing Alaska scholarship loans ..... 3 points

(C) freshmen ..... 2 points

(D) new graduate students without existing Alaska scholarship loans ..... 1 point

(2) continuous Alaskan residency:

(A) students with continuous Alaskan residency of 10 years or more ..... 3 points

(B) students with continuous Alaskan residency of at least 5 years and less than 10 years ..... 2 points

(C) students with continuous Alaskan residency of more than 2 years and less than 5 years ..... 1 point

(3) students attending Alaska colleges or universities ..... 1 point.

(b) In awarding loans the selection committee shall award loans to applicants based upon the earliest date of completed applications if

(1) the applicant has accumulated at least 5 points under (a) of this section; and

(2) the applicant has filed a completed application not later than May 15 of the year for which the loan is requested. (repealed and reenacted Sec. 2 ch 87 SLA 1979)

Sec. 14.40.769. Discrimination prohibited. The student loan program shall be carried out without regard to the race, creed, sex, color, ancestry, national origin, or membership in fraternal or political organizations of the student applying for the loan. (Sec. 1 ch 98 SLA 1971)

Sec. 14.40.771. Enforceability of certain contracts with minors. A written obligation entered into by a minor at least 16 years of age, evidencing a loan or other assistance received by him from any person for the purpose of furthering his education in a career education program or an institution of higher learning, is enforceable against the minor with the same effect as if he were, at the time of its execution, 19 years of age, if the person making the loan has in his records before making the loan a certification from the institution that the minor is enrolled in the institution or has been accepted for enrollment. (Sec. 1 ch 98 SLA 1971)

Sec. 14.40.773. Repealed. (Sec. 6 ch 156 SLA 1972)

Sec. 14.40.776. Tuition grants. (a) The executive secretary of the committee shall award a tuition grant to a student in an amount up to the difference between (1) the cost, in a city where there is both a four-year state university and a four-year private university or in a city where there is both a two-year state community college and a two-year private college, for the operation of the state institution on a full-time student per academic year basis, and (2) the tuition or fees paid by the student at the state institution in those locations, but in no case may the amount exceed $2,500 plus a cost-of-living adjustment. Subject to the approval of the committee and to the availability of appropriated funds, the executive secretary may adjust the maximum grant based on a cost-of-living factor comparable to that employed in making adjustments to the state employee pay plan under AS 39.27.015. The tuition grant paid to a student may not be in an amount that would result in a student paying less in tuition or fees at a private college or university than would be required for a similar enrollment at the state institution in the same city. The grant shall be applied by the student toward his tuition at the private university or college in which he enrolls. (am Sec. 1 ch 246 SLA 1976)

(b) The computation of the cost for the operation of the state institution on a full-time student per academic year basis under (a) of this section may not include construction or capital improvement costs, debt service and expenditures for research and public service functions.

(c) The computation under (a) of this section shall be made by the executive secretary. He shall publish the accounting procedures employed in making the computation, including, but not limited to, the time period on which the computation is based and the cost figures used. This cost data shall be made available for information purposes to the officers or administrators of the state institution whose cost of operations is the basis for the computation and to the officers or administrators of the private colleges and universities in which students receiving tuition grants are enrolled. A committee consisting of a qualified member of the staff of the division of budget and management of the Department of Administration designated by the commissioner, a qualified member of the staff of the Legislative Budget and Audit Committee designated by the chairman of the committee, and one other specially qualified person in the field of accounting, business management or institutional finance appointed by the governor, shall review, and may hear an appeal from, the determination of the computation by the executive secretary. No officer, administrator or other member of the staff of a state institution whose cost of operations is under review or an officer, administrator, or other member of the staff of the private college or universities in which students receiving tuition grants are enrolled may be a member of that committee.

(Sec. 5 ch 156 SLA 1972; am Secs. 9, 10 ch 136 SLA 1974; am Sec. 2 ch 136 SLA 1975)

Sec. 14.40.781. Limitation on grants. (a) No grants may be made under sec. 776 of this chapter for any portion of tuition which would otherwise be paid under the terms of a federal grant program.

(b) The amount of the tuition grant under sec. 776 of this chapter that may be awarded to a student who is also the recipient of a federal grant for tuition is computed according to the formula G equals P minus S minus F, in which

(1) G = the grant awarded;

(2) P = the tuition and fees charged by the private college or university in which the student is enrolled;

TANANA VALLEY COMMUNITY COLLEGE
Fairbanks, Alaska 99701

February 17, 1983

Representative Mike Davis
P.O. Box 81435
College, Alaska 99708

Dear Mike:

In regards to HB 174, Tanana Valley Community College supports the bill relative to students who "in total" are enrolled in 12 credits or more which makes them a full-time student within the system.

Sincerely,

Rod

Rodney Enos
Campus President

RE/dac

University of Alaska, Juneau
11120 Glacier Highway
Juneau, Alaska 99801 (907) 789-2101

April 19, 1983

Rep. Mike Davis
Pouch V
Juneau, AK 99811

Dear Representative Davis:

Thanks for sending me a copy of House Bill No. 174 (An Act relating to student loan eligibility). I feel that this is a constructive amendment which will allow greater flexibility for students in designating programs that will meet their educational goals.

Sincerely,

Richard S. Lee, Dean
Juneau Douglas Community College

RSL:cs

University of Alaska, Juneau
11120 Glacier Highway
Juneau, Alaska 99801 (907) 789-2101

To: Chancellor Paradise

From: Dianne Schmitt, Financial Aid Officer

Date: February 15, 1983

FEB 15 1983
Chancellor
University of Alaska, Juneau

RE: LEGISLATION REGARDING THE ALASKA STUDENT LOAN PROGRAM

Senate Bill # 118 reduces the time a student must be in the state before applying for a loan, but also limits loans to students who apply before graduation from high school. The one year residency requirement (reduced from two years) will put a stop to litigation in that area. However, the requirement for all loan applicants to apply while still in high school will be a detriment to the spirit of the loan program and establish a new justification for litigation.

As the UAJ Financial Aid Officer, I must oppose this bill for several reasons. 1) It is sometimes difficult for high school students to decide if they want to go to college. I know there will be many young people who will neglect to fill out the application before high school graduation and later decide to go to college. This bill is asking all seventeen year old students in Alaska to decide their life goal without experiencing life beyond the academic setting. 2) Many students do not consciously choose a career path until several years after high school and after many life experiences. This bill would not afford this type of student the same opportunity as that provided for students who begin college shortly after high school. 3) Many students wait several years after graduation from a baccalaureate program before persuing graduate study. This bill does not mention graduate study; therefore, I am assuming that it could also be interpreted to eliminate loans for post-baccalaureate students.

House Bill # 56 asks for the loan interest rate to be raised to 7% and for the loan to be limited to the cost of tuition, room and board. This bill is acceptable.

House Bill # 174 says that a student may attend classes at two institutions to accumulate the 12 credits required for the loan program. This bill is acceptable and also beneficial to many of the students in Southeast Alaska.

Alaska Statewide Student Association
P.O. BOX 548
DOUGLAS, ALASKA 99824
REPRESENTING STUDENTS OF THE UNIVERSITY OF ALASKA STATEWIDE SYSTEM

ASSA requests that the following section be added to SPONSOR SUBSTITUTE FOR HOUSE BILL 56:

AS 14.43.120(c) is amended to read:

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing or as a part-time student in good standing in more than one institution for a total number of credits equivalent to a full-time student in a career education program, college, or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

At present, students enrolled at both UAF and TVCC, UAA and ACC, or Sitka CC and Sheldon Jackson may not receive scholarship loans unless they have a total of twelve credit hours at one or the other institution. This amendment would allow these perfectly legitimate, full-time students to be eligible for the loans.

Thank you.

KCK

ASSA

FINANCIAL AID OFFICE

UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

1982-83 ALASKA STUDENT LOAN INFORMATION

As a result of recent action by the Alaska Commission on Postsecondary Education, schools are no longer required to complete Part B of the Alaska Student Loan Application.

You may submit your application (two white copies) directly to the State Loan Office, retaining the yellow student copy, the cover sheets and this letter.

BE SURE THAT YOUR APPLICATION IS COMPLETELY FILLED OUT -- over 50% of the Alaska Student Loan applications are returned to the student because of omissions. When your application is received in Juneau, you will receive a blue post card with the date received indicated. This does not mean your application is complete; only that it has been received. You will next receive a promissory note in triplicate. Sign and date the note, list the dates of disbursement (8-20-82 for Fall 1982 semester and 1-1-83 for Spring 1983 semester), keep the marigold copy, and return the white and pink copies to Juneau.

Normally, the Financial Aid Office receives Alaska Student Loan checks in time to release funds at Registration. Before releasing checks, we must determine academic eligibility for each recipient. If you are currently enrolled at the University of Alaska-Fairbanks, you must be in good standing (2.0 semester and cumulative grade point average for undergraduates and 3.0 semester and cumulative grade point average for graduate students) to be eligible for your Fall 1982 check. Entering and transfer students must be admitted IN GOOD STANDING to a program leading toward a degree or certificate. Recipients must be full-time (12 credits for undergraduate, 9 credits for graduate students) and must complete 12 and 9 respectively each semester they receive a loan to be eligible for the following term.

Courses in the following areas cannot be counted toward the full-time financial aid requirement: Tanana Valley Community College, correspondence, extension, or television.

The eligibility requirements listed above reflect current Alaska State laws and regulations. NO EXCEPTIONS CAN BE MADE BY THE UNIVERSITY OF ALASKA-FAIRBANKS FINANCIAL AID OFFICE.

Any questions regarding the status of your application should be directed to the Alaska Student Loan Office in Juneau, since the Financial Aid Office acts only as a disbursing and certifying agency.

Anchorage Community College A Unit of the University of Alaska System

April 13, 1983

Representative Mike Davis
Pouch V
Juneau, Alaska 99811

Dear Representative Davis:

I am writing at the request of Kerry Howard to indicate my support of HB174 in concept. I believe that students should be allowed to count credits from more than one institution toward fulfilling the requirement for eligibility for the state student loan program.

However, I believe that there should be in place a consortium agreement between the two institutions as is now in existence between ACC/UAA. This agreement should require that 75 percent of the credits required for qualification should be taken at the parent institution. The parent institution is the institution which is disbursing the aid.

In the past, we have had problems in federal programs with students receiving aid from more than one institution. This is not the problem with the state loan, as there is only one check in this case. However, there is a lot of paperwork and staff time required in handling the state loan program. If a student were required to take 75 percent or nine credits from the parent institution, there would be an inherent commitment on the part of that student to attend that particular institution.

Another reason for this requirement is the necessity to certify academic eligibility between semesters. If a student is taking credits from more than one institution, a parent institution is required to obtain grade reports from all other institutions prior to certifying eligibility. This is simpler if consortium agreements are in effect. The time between semesters is short and the grade reporting process is lengthy. Reciprocal agreements between institutions for the release of grades is a complicated process covered by the privacy acts.

In summary, consortium agreements between cooperating institutions, with a parent institution requirement of 75 percent of the credits required for eligibility, would be a good addition to your bill in my view. Another desired addition would be for the parent institution to receive some support costs for facilitating the state loan program. Federal aid programs provide a percentage of dollars distributed to be used to administer their funds. The Alaska State Loan Program requires a lot of work on the part of our staff, but no funds are appropriated for this purpose. Our success in acquiring additional staff

2533 Providence Avenue • Anchorage, Alaska 99508-4670 • Telephone 907/263-1200

through the University budget process has not been good. A five or ten percent overhead distribution to institutions handling a large volume of state loan checks would certainly be beneficial.

Sincerely,

Roger L. Worsley, Dean
Educational Services

263-1200

RLW:cb

cc: Dr. Ed Biggerstaff, Chancellor
Clay Walker, ACCSA

UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

March 9, 1983

Representative Mike Davis
Alaska State Office Building
Pouch V
Juneau, AK 99811

Dear Representative Davis:

This letter is in response to your request that I provide information regarding any administrative problems that colleges and universities might encounter should House Bill 174 be enacted.

As you probably know, the loan regulations already permit schools to combine credits provided a consortium or formal transfer agreement exists between the schools involved. This permits schools to voluntarily combine credits for loan recipients. However, it is my impression that HB 174 would require that schools accept concurrent enrollment from other schools in addition to their own for the purposes of establishing academic eligibility for the Alaska Student Loan.

Our primary concern at UAF is that the collection of the information needed to certify good academic standing and satisfactory progress would be so cumbersome and time consuming that our students would experience a considerable delay in actually receiving their state loan checks. I am attaching a sample copy of the "Record of Disbursement and Receipt" form which accompanies each state loan check and which the school's Financial Aid Officer must sign before disbursing the check to the student. Please note that the school must certify that the student is/was enrolled in a degree or diploma or certificate program as a full time student and is maintaining satisfactory progress as determined by school policy. HB 174 would put schools in the position of making this certification only after a lengthy and cumbersome administrative process of 1.) collecting certification of enrollment and fee statements from each school the student is attending, 2.) collecting official transcripts at the end of each term from each school the student is attending, 3.) official evaluation of transfer credits at the end of each term by the home institution's registrar, and 4.) a combining of credits earned together with a revision of the semester and cumulative g.p.a. Even large schools with sophisticated computer capability would have to do most of this work by hand and on a student by student basis. We expect that the enactment of this bill would cause a delay in delivering ASL checks to all students of at least three to four weeks after registration. In addition, all of the certification activity would take place at the time of registration when we are most heavily involved with getting students registered for classes and assisting students with various financial aid problems.

I would also like to mention that under HB 174, our students would not be limited to a TVCC/UAF dual enrollment. We would also be required to include UA correspondence work and any other accredited school's correspondence study. There is even the possibility that an out-of-state school would offer a special extension course in Fairbanks. Chapman College did just that a few years ago when it offered MBA coursework in the Fairbanks area.

A student attending school out of state in a large metropolitan area could easily enroll in a three credit course at each of four schools. It would be very time consuming to combine those credits at one school if all of the schools had a different starting and ending date. There is also the very real possibility that there could be a combination of quarter and semester credits to evaluate. There are some schools outside that have discussed the possibility of withdrawing themselves from eligibility for the Alaska Student Loan because the regulations are so different then accepted financial aid standards for the aid their school offers. I believe there is a real risk that other schools may simply choose to not accept another state's imposition of academic regulation on their institution and opt out of participation in the Alaska Student Loan program. It is extremely difficult to serve student's needs in a timely manner when faced with a variety of conflicting financial aid standards.

Finally, I would like to confirm that UAF Financial Aid applicants for the current academic year were advised well ahead of time that they would be required to carry a minimum of 12 UAF credits per semester (undergraduates) in order to be eligible for the loan at this school. We accomplished this by publishing news releases in the student newspaper, and by attaching an instruction sheet to each Alaska Student Loan application form that was given out from this office. Because ASL regulations require a minimum of 12 credits to maintain eligibility, we suggest to students that they carry those 12 credits with UAF, then take any desired coursework from other schools in addition to that minimum course load. This gives them the flexibility of exploring other schools and subjects while maintaining their eligibility for the loan at UAF.

I hope this information is useful to you. Please call us if you have further questions. Our office phone number is 474-7256. We appreciate this opportunity to express our views and we look forward to working with you.

Sincerely,

Carol M. Thomson
Financial Aid Advisor

/ct
enclosure

cc: Members of the Fairbanks Legislative Delegation

PLEASE REPLY BY AIRMAIL

STATE OF ALASKA
ALASKA COMMISSION ON POSTSECONDARY EDUCATION
ALASKA STUDENT LOAN PROGRAM

EXAMPLE

RECORD OF DISBURSEMENT AND RECEIPT

LOAN RECORD TO DATE FOR 83 LOAN YEAR

FOR STUDENT [redacted] [redacted] SSN [redacted]

WARRANT NO. 145525 WARRANT DATE 02/09/83

DATE MAILED 02/14/83

SCHOOL ADDRESS

WARRANT AMOUNT:	$2,000.00
AMOUNT APPROVED:	$2,000.00
PRIOR PAYMENTS:	$0.00
TOTAL DISBURSED:	$2,000.00

UNIVERSITY OF ALASKA-FAIR
FAIRBANKS AK 99701

THIS WARRANT IS FOR FULL-TIME ATTENDANCE FOR SPRING SEMESTER TERM ONLY. IF YOU CANNOT CERTIFY THAT THIS STUDENT IS/WAS ENROLLED DURING THE TERM INDICATED, THIS WARRANT MUST BE RETURNED IMMEDIATELY.

THIS WARRANT SHOULD NOT BE RELEASED TO THE ABOVE NAMED STUDENT UNTIL THE SIGNATURE OF A SCHOOL OFFICIAL APPEARS BELOW AND SHOULD BE SIGNED BY THE ABOVE NAMED STUDENT WHEN DISBURSED ALSO. FAILURE TO SIGN AND RETURN THIS FORM WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS WARRANT WILL RESULT IN NO FURTHER WARRANTS BEING ISSUED AND NO FURTHER LOANS BEING AUTHORIZED.

SCHOOL OFFICIAL'S CERTIFICATION

As the authorized school official, I certify that the above named student is/was enrolled in a degree or diploma or certificate program during the term indicated. I further certify that the student is/was enrolled in good standing as a full-time student for this period and is maintaining satisfactory progress as determined by school policy

DURING THIS SCHOOL TERM THIS STUDENT IS PAYING (PLEASE CHECK ONE):

_____ Resident tuition at this school

_____ Non-resident tuition at this school

_____ No differential in tuition at this school

DURING THIS SCHOOL TERM THIS STUDENT IS (PLEASE CHECK ONE):

_____ Undergraduate _____ Graduate

DATE TITLE SIGNATURE

STUDENT'S CERTIFICATION

I have this date received the above listed State of Alaska warrant and certify that it will be spent only for the legal items listed on the Promissory Note which I signed regarding this loan. I further certify that any change in my residency status, address, name, full-time student status, or finances has been reported to the Alaska Student Loan Office. I understand that if I do not maintain satisfactory academic progress as determined by the school I am attending, I will not be eligible for future loan disbursments.

DATE STUDENT'S SIGNATURE

RETURN SIGNED ORIGINAL TO:

ALASKA STUDENT LOAN OFFICE
POUCH F, STATE OFFICE BUILDING
JUNEAU, ALASKA 99811

THE STUDENT IS RESPONSIBLE FOR RETURNING THE ORIGINAL COPY OF THIS COMPLETED FORM TO THE ALASKA STUDENT LOAN OFFICE. FAILURE TO RETURN THE FORM WILL RESULT IN NO FURTHER WARRANTS BEING ISSUED.

ORIGINAL—RETURN TO ALASKA STUDENT LOAN OFFICE

05-005-80SL (Rev. 3/81)

Revisor's notes. — AS 14.43.125 was substituted for AS 14.40.765 to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1981 amendment substituted "$7,000" for "$5,000" following "not to exceed."

Sec. 14.43.120. Conditions of loans. (a) Proceeds from scholarship loans may only be used for books, tuition and required fees, and for room and board.

(b) The loans may only be used to attend a career education program or a college or university approved by the commission, and, if the loans are federally insured, by the United States Commissioner of Education.

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a career education program, college or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

(d) Scholarship loans may not be made to a student

(1) for more than five years of undergraduate study;

(2) for more than five years of graduate study;

(3) for more than a total of eight years of undergraduate and graduate study.

(e) Loans are interest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (k) of this section; however, a student is entitled to have a portion of the interest paid in accordance with (1) of this section.

(f) Interest on a loan given under AS 14.43.090 — 14.43.160 is at the rate of five per cent a year.

(g) Repayment of the principal and interest on the loan begins no later than one year after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection.

(h) Security may not be required for the loans; however, provision shall be made for payment of attorney fees and costs of court if either or both are incurred in collection of the amount owed on the loan.

(i) If a loan is in default, the commission shall notify the borrower that repayment of the remaining balance is accelerated and due by sending the borrower a notice by registered or certified mail.

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 50 percent of the total loan:

(1) two — three years residence in the state, 10 percent;

(2) three — four years residence in the state, an additional 10 percent;

(3) four — five years residence in the state, an additional 10 percent;

(4) five — six years residence in the state, an additional 10 percent;

(5) over six years residence in the state, an additional 10 percent.

(k) Periodic installments of principal shall be deferred, but interest shall accrue and be paid unless the student is eligible for interest payment benefits under (l) of this section during any of the following:

(1) return to student status as provided in (c) of this section;

(2) serving on active duty as a member of the armed forces of the United States;

(3) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;

(4) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(5) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or

(6) if the borrower becomes 50 percent or more disabled as certified by competent medical authority.

(*l*) The state will pay the interest on that portion of a loan that is not federally insured during

(1) the period before the beginning of the repayment period of the loan; and

(2) deferments under (k) of this section.

(m) In case of hardship, the committee may extend repayment of a loan for an additional period of up to five years in increments no longer than 12 months each.

(n) Repealed by § 11 ch 89 SLA 1981.

(o) The provisions of (j) of this section do not apply to a loan to a borrower named in a complaint as a defendant in an action by the state or by the commission to secure payment of the unpaid balance of a loan made under AS 14.43.110 or 14.43.115.

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service. (§ 1 ch 98 SLA 1971; am § 4 ch 156 SLA 1972; am § 6 ch 78 SLA 1974; am § 8 ch 136 SLA 1974; am §§ 1—4 ch 99 SLA 1977; am §§ 3 — 8 ch 87 SLA 1979; am §§ 3 — 9, 11 ch 89 SLA 1981; AS 14.40.763)

Revisor's notes. — In ch. 98, SLA 1971, AS 14.43.120(j)(2) read "four — five years . . ." This was a typographical error occurring for the first time in the enrolled version of the bill (CSHB 415 [Finance am S] and has been corrected here.

Effect of amendments. — The 1979 amendment deleted "approved by the commission" following "career education program" and substituted the language

beginning "approved by the commission" for "accredited by the accreditation association for the region in which the college or university is located" in subsection (b), substituted "interest" for "non-interest" in subsection (e), added the language beginning "however, a student shall be entitled" to the end of subsection (e), rewrote subsection (g), and in subsection (j), substituted "paid on behalf of the borrower by the state" for "considered a grant," "borrower" for "grantee," and "three years" for "two years" in the first sentence, substituted "paid by the state" for "regarded as a grant" and "interest for up to a total of 40 percent" for "accrued interest" in the introductory language of the second sentence, and substituted "an additional 10 percent" for "20 percent" in paragraph (2), for "30 percent" in paragraph (3), and for "40 percent" in paragraph (4). The amendment also rewrote subsection (k) and added subsections (*l*), (m), and (n).

The 1981 amendment, added the second sentence of subsection (c). In subsection (d), the amendment added paragraphs (1) and (2) and in paragraph (3), substituted "a total of eight" for "six" preceding "years" and added "of undergraduate and graduate study" following "years." In subsection (i), the amendment substituted "shall" for "may" and "borrower" for "student." In subsection (m), the amendment substituted "12" for "six" preceding "months" and deleted "within the 15-year requirement of (g) of this section" following "months each." The amendment also rewrote subsections (g) and (j), added subsections (o) and (p) and repealed subsection (n) which read "Each year spent attending a college or university in Alaska qualifies as a year of employment and residency under (j) of this section, if the borrower resides no less than three years in Alaska after completion of the course for which the loan was granted, and has a total Alaskan residency of ten years time."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.-5.031(c) and § 4, Chapter 58 SLA 1982.

Section 8, ch. 99, SLA 1977 provides: "The change in the repayment period of student loans set out in AS 14.40.763(g) [now 14.43.120(g)] as amended by sec. 3 of this Act and the additional basis for granting a deferment of repayment of a student loan set out in AS 14.40.783(k) [now 14.43.120(k)] as enacted by sec. 4 of this Act shall, upon request of the loan recipient, be applied retroactively to the outstanding balance of principal of and accrued interest on loans made under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] as they read before the effective date of this Act."

Section 12 of ch. 89, SLA 1981, provides: "The reenactment of AS 14.40.763(j) [now 14.43.120(j)] in sec. 7 of this Act applies to any student who has obtained a scholarship loan under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] since July 1, 1971."

Legislative history reports. — For a report of legislative intent concerning the loan forgiveness provisions of ch. 89, SLA 1981 (FCCSSB 120), see 1981 Senate Journal p. 1560, 1580; 1981 House Journal p. 2289.

Sec. 14.43.125. Eligibility of students. (a) A person may apply for and obtain a scholarship loan if the person

(1) is a resident of the state at the time of application for a scholarship loan;

(2) meets the requirements of (b) of this section; and

(3) is

(A) enrolled as a full-time student in a career education or associate or baccalaureate or graduate degree program; or

(B) a graduate of a high school, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university.

(b) In addition to the requirements of (a) of this section, to obtain a scholarship loan a person must have been a resident of the state for at least two years at the time of application for the loan. For purposes of

STATE OF ALASKA
FISCAL NOTE

Revision Date 5-5 , 1983

I. REQUEST

Bill/Resolution No.: HB174
Title: Act: Student Loan Eligibility
Sponsor: Davis, et al
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Postsecondary Comm.
BRU, Program of Subprogram(s) Affected:
Student Loan Admin, Student Loan Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL	N.A	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: 5-5-83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

May 5, 1983

Analysis (HB174):

Allowing multiple enrollments should enable additional people to apply, but we have no way of determining what that number would be. We also have indication that some schools will require such cross-documentation that those students will face weeks and months of delays in receiving funds. Therefore, we have left the fiscal impact at zero.

University of Alaska, Juneau
11120 Glacier Highway
Juneau, Alaska 99801 (907) 789-2101

To: Chancellor Paradise

From: Dianne Schmitt, Financial Aid Officer

Date: February 15, 1983

RE: LEGISLATION REGARDING THE ALASKA STUDENT LOAN PROGRAM

Senate Bill # 118 reduces the time a student must be in the state before applying for a loan, but also limits loans to students who apply before graduation from high school. The one year residency requirement (reduced from two years) will put a stop to litigation in that area. However, the requirement for all loan applicants to apply while still in high school will be a detriment to the spirit of the loan program and establish a new justification for litigation.

As the UAJ Financial Aid Officer, I must oppose this bill for several reasons. 1) It is sometimes difficult for high school students to decide if they want to go to college. I know there will be many young people who will neglect to fill out the application before high school graduation and later decide to go to college. This bill is asking all seventeen year old students in Alaska to decide their life goal without experiencing life beyond the academic setting. 2) Many students do not consciously choose a career path until several years after high school and after many life experiences. This bill would not afford this type of student the same opportunity as that provided for students who begin college shortly after high school. 3) Many students wait several years after graduation from a baccalaureate program before persuing graduate study. This bill does not mention graduate study; therefore, I am assuming that it could also be interpreted to eliminate loans for post-baccalaureate students.

House Bill # 56 asks for the loan interest rate to be raised to 7% and for the loan to be limited to the cost of tuition, room and board. This bill is acceptable.

House Bill # 174 says that a student may attend classes at two institutions to accumulate the 12 credits required for the loan program. This bill is acceptable and also beneficial to many of the students in Southeast Alaska.

HB

181

2/11 MET w/ STAFF - BACK-UP PROMISED for MONDAY
2/17 JOANN Clerk - Fiscal Note
2/22 WAIT to SEE if this is Refer to Labor & Commerce
3/5 Refer to Labor & Commerce

DALE PORTER 2/18

Attached is the back-up you requested for HB 181. It may be transferred to Labor & Commerce, but you may need it in the event their docket changes. Edie

An Act Relating to The Board of Psychologist and Psychological Associate Examiners

by the Senate HESS Committee

Sec. 08.86.070 is repealed and reenacted to read:

Duties of the Board. (a) The Board shall

(1) establish examination requirements for eligible applicants for licensure to practice psychology;

(2) examine, or cause to be examined, eligible applicants for licensure or registratic

(3) approve the issuance of licenses to qualified applicants;

(4) establish standards for the practice of Psychology by regulation;

(5) conduct disciplinary proceedings in accordance with AS 08.86.010 - 08.86.230;

(6) adopt regulations requiring proof of continued competency before a license is renewed;

(7) prepare and submit an annual report to the department containing information concerning board activities, the number of examinations held, the number of applicants for examination, the number of persons who pass and the number who fail each examination, financial data, including receipts and expenditures, and other information the department may require;

(8) as requested by the department, monitor the standards and availability of psychological services provided in the state and report its findings to the department;

(9) collect, or cause to be collected, data concerning the practice of psychology by Psychologists and Psychological Associates in the state and submit the data to the department for maintenance;

(10) establish, by regulation, educational and training requirements for Psychological Associates licensed under As 08.86.010 - 08.86.230;

(11) the board may adopt regulations or do any act necessary to carry out its duties under AS 08.86.010 - 08.86.230

Sec 08.86.150 (1) is amended to read:

he holds a doctoral degree with primary emphasis on psychology from an accredited school <u>with an approved program</u>;

Sec 08.86.180 (a) Delete:

"Psychotherapy", "Psychotherapeutic", "Psychotherapist"

Sec 08.86.180 (b) (3) Delete:

"Psychotherapist"

Continue the existence of the Board for four years.

Board of Psychologist&
Psycholigical Assiciate Examiners
Goals & Objectives

Objectives:

It is the board's purpose to ensure that quality plychological care is available to the public and to upgrade the standards of mental health care available in the state.

Goals:

1) Develop CE requirements for relicensure to become effective in the next renewal period. (1981, June 30)

2) Implement Psychological Associate Regulations to facilitate entry of qualified Master's level psychologists into the professional field.

3) Further refine the state portion of the exam with future goal to develop work sample type examination.

4) Continuous refining of the examination procedure & materials.

5) Increase the availability of Psycholotical services to the public by supporting legislation to include such services under 2nd party reimbursement by Medicaid & Medicare.

6) Act to increase public awareness of Board activities via news letters or newspaper articals, also to educate the public of the purpose & and function of of the Board & of the types of services available in the practice of psychology in Alaska.

7) Clarify the Board's role in developing our Agressive Investigative Policy.

8) The Board would like to meet four times per year. Once in Juneau, twice in Anchorage, and once in Fairbanks, as well as offer two examinations. The Board would also like for one person to attend the National meetings.

FY '80 Performance Report

Board of Psychologist & Psychological Associate Examiners

This report is submitted to the Department of Commerce and Economic Development, Division of Occupational Licensing, in an attempt to assist them in evaluating the activities of the board.

1. OVERVIEW

A great deal of the board's effort during FY '80 was directed toward the matter of the Sunset legislation which had placed continuation of the board in question.

Two board members travelled to Juneau twice to testify before legislative hearings and met with legislators and the Health Coalition representative. Large amounts of support in both time and dollars were contributed to this effort by both the American Psychological Association and the Alaska Psychological Association. Members of the ALPA as well as members of the Alaska Community Mental Health Directors organization met in support of board continuation and provided contact and testimony to legislators. The State and national support of the Health Coalition representative provided an important means of educating board members and professionals within the State on the necessity of their involvement in the legislative process. This was also a crucial link in providing legislators with knowledge regarding the issues involved in the delivery of high quality psychological services to the public.

A large number of the board's legislative objectives were achieved through passage of SB 583 which substantially revised and expanded the Psychology Practice Act. Passage of SB 583 was a major accomplishment in that it clarified many issues and questions arising from the original legislation governing the board and the Psychological profession in the State.

At each meeting of the board, a division investigator presented any complaints which might come under the purview of the board. Progress has been achieved in increased participation of the board in investigative matters.

Mr. Jim Parsons attended the American Association of State Psychology Boards (AASPB) national meeting in August and served as a liaison between the national organization and the State board.

understanding the practice of psychology in its various facets and has been unable to provide adequate assistance in some areas. The board received an unfavorable review by the auditors, and was discredited by the legislature. The board has had confrontations with the Department of Law, the Ombudsmans Office, and several applicants. Through it all the board has taken some positive steps to correct the problems without compromising their standards and the best interests of the public.

It should be recognized that the professional practice of psychology is still developing at the national level. Without the historical background other professions are priviledged to have, it can be expected that certain problems will arise in the process. The board is doing its best with the resource at hand.

II. BOARD ACTIVITIES

The board held a total of three meetings in FY 1979. One, September 11-12, 1978 in Anchorage, another October 20, 1978, also in Anchorage, and the third March 30, 1979 in Juneau. The board had scheduled a fourth meeting, but due to budgetary constraints, it was rescheduled for July 5-6, 1979, in FY 80. The board also held one conference call meeting April 19, 1979.

In addition to these meetings, several members were able to participate in other meetings at the State and National Level. Pam Baglien, Ph.D., and Robert Bowers met twice with the Governor's Advisory Council on Mental Health. Jim Parsons and Dorothy Whitmore, Ed.D. reported on the boards activities to the Alaska Psychological Association. Finally, Mr. Parsons attended the annual American Association of State Psychology Boards in September, 1978.

III. EXAMINATIONS

The board administered two examinations during the period, one October 20, 1978 and the other April 20, 1979. There were four candidates for the October exam. All passed and were subsequently licensed.

There were 10 candidates for the April Examination. The exam consists of a National Multiple choice part and an essay part. One must pass both parts to be licensed. Of the 10 candidates seven passed the national exam. Of those seven, four passed the essay exam and were licensed. Two of the three who failed the National exam passed the essay portion; three who passed the National Portion failed the essay portion. Only one person failed both the essay and the National portion. A person must retake only those portions of the exam they did not pass.

FY 79 Performance Report

Board of Psychologist & Psychological Associate Examiners

This report is submitted to the Department of Commerce and Economic Development, Division of Occupational Licensing in an attempt to assist them in evaluating the activities of the Board.

I. OVERVIEW

In an overview, the boards primary objective for this past year was to develop and implement equitable regulations to carry out the provisions of the Alaska Statutes governing the practice of psychology. The board's failure to do this at an earlier date had led to conflicting policy and charges of arbitrary and capricious judgement on the part of the board. The board accomplished this for psychologist when their regulations became effective December 24, 1978. Regulations for Psychological Associates were brought up in the spring and should be ready for public hearing in the fall.

A secondary objective of the board has been to develop a more comprehensive State essay examination for licensure purposes. Alaska Statutes do not permit oral exams or interviews in the course of evaluating applicants, making it necessary for such an exam. The board opted to use the exam administered by the Florida Board for its Spring exam. The exam is comprehensive in nature with an established record and set answer key. The board did have difficulties with grading, however, taking over four months to grade and report scores to candidates.

A final concern during this year has been that of Sunset Legislation. Dan Allen of the Division of Legislative Audit was present to discuss with the board the nature of Sunset at its September 11 and 12, meeting. The board did not seriously consider the implications until its March 30, 1979 meeting. Several members had been present to testify before the House Commerce Committee via teleconference in February but the session was cancelled and never rescheduled. The board has taken several steps to remedy the problems noted in the audit report, and has defined some goals and objectives for the coming year. The board is working on Psychological Associate Regulations, has asked the division to prepare regulations requiring continuing education for relicensure, and has revised their application forms to eliminate impertinent data. The board is also seeking to define minimum competency standards for admittance to practice psychology in case the board is sunsetted and the division is called upon to make these decisions.

In summary, it has been an active year. The board has been hampered in its activities by the lack of definitive regulations, which should be alleviated with their recent passage. The division has had difficulty

IV. STATISTICAL DATA

There were 12 psychologist licenses issued during this period, five by exam and seven by endorsement. In addition, the board issued five temporary permits. Two of those will lapse because the candidates did not pass the April examination.

V.

Expenditures for Fiscal Years 1978 and 1979*
Board of Psychologist & Psychological
Associate Examiners

Travel	FY '78	FY '79
In-State transportation	$1,195.00	$2,851.00
In-State per diem	2,285.00	2,127.00
Outside transportation	9.00	--
Outside per diem	200.00	--
TOTAL TRAVEL	$4,419.00	$4,978.00
Contractual Services		
Long distance telephone	$ 163.00	$ 637.00
Postage and mailing	13.00	83.00
Printing and binding	190.00	390.00
Advertising	484.00	277.00
Professional Services	532.00	746.00
Membership dues/fees	--	320.00
TOTAL CONTRACTUAL SERVICES	$1,382.00	$2,453.00
Supplies and Material		
Office/library supplies	$ 20.00	$ --
GRAND TOTAL	$5,821.00	$7,431.00

*Total revenues for corresponding periods: $2,680.00 and $4,435.00
Average yearly revenues were $3,557.00.

Respectfully Submitted,

Byron Perkins, Licensing Examiner

Dorothy G. Whitmore

Dorothy Whitmore, Ed.D., Chairman
Board of Psychologist and
Psychological Associate examiners

V EXPENDITURES FOR FISCAL YEARS 1979 AND 1980
BOARD OF PSYCHOLOGIST AND PSYCHOLOGICAL ASSOCIATE EXAMINERS

TRAVEL			
In-State transportation (Examiner)	$1,195.00	$2,851.00	$ 960.51
In-State per diem (Examiner)	2,285.00	2,127.00	509.85
In-State transportation (Board)	9.00	--	1,430.00
In-State per diem (Board)	200.00	--	1,020.54
TOTAL TRAVEL	$4,419.00	$4,978.00	$3,920.90
CONTRACTUAL SERVICES			
Long Distance Telephone	$ 163.00	$ 637.00	$ 724.97
Postage and Mailing	13.00	83.00	22.97
Photo Processing	--	--	137.47
Printing and Binding	190.00	390.00	98.00
Advertising	484.00	277.00	269.53
Professional Services	532.00	746.00	692.50
Membership Dues/Fees	--	320.00	169.00
TOTAL CONTRACTUAL SERVICES	$1,382.00	$2,453.00	$2,114.00
SUPPLIES AND MATERIALS			
Office/Library Supplies	$ 20.00	$ --	$ 91.00
GRAND TOTAL	$5,821.00	$7,431.00	$6,125.90
Receipt	--	--	865.00

Board or Commission	Appointee	Term

BOARD OF PSYCHOLOGISTS AND PSYCHOLOGICAL ASSOCIATE EXAMINERS
AS 08.86 - 5 members; 3 year terms; serves at the pleasure of the Governor.

	Dorothy Whitmore, Ed.D. 207 Northern Lights Suite 202 Anchorage, Alaska 99503	July 1, 1980
	Dick L. Madson Suite D, Nerland Building 543 Third Avenue Fairbanks, Alaska 99701	July 1, 1980
	Pam Delys-Baglien, Ph.D. Kodiak/Aleutian Mental Health Center Kodiak, Alaska 99615	July 1, 1981
	Charles C. Bovee, Ed.D. P.O. Box 479 Sitka, Alaska 99835	July 1, 1980
	Paul E. Turner, Ph.D. Box 247 Kenai, Alaska 99611	July 1, 1982

Dr. Mueller Continues His Media Effectiveness on Behalf of Psychology: Dr. Kenneth Mueller of the East Anchorage Psychiatric Group has continued his outstanding contribution to the advancement of Psychology as a science and profession in Alaska through his frequently occuring columns in the Living and Leisure section of the Anchorage Daily News. In early March Dr. Mueller, (a recent candidate for AlPA President-Elect) published a column that effectively synopsized some of the key concerns in support of continued licensure of Alaskan psychologists. The text of his article is reproduced below. The Executive Committee of AlPA expresses its sincere thanks to Dr. Mueller for his continued active contribution to our profession here in "The Great Land".

When shopping for a therapist, look for the license



dr. ken mueller

Finding a qualified therapist in Anchorage is no easy matter. There is a confusing array of services offered by practitioners who have a wide range of training and approaches.

As a consumer of health services, you can't be expected to evaluate the credentials of health service practitioners. However, the state can legally act in the public interest by licensing professional health practice.

If your therapist is a psychologist or a clinical social worker, here are 10 reasons why he or she should be licensed:

• This assures that when you engage a therapist, that person has had high levels of education, training and supervised experience. Licensed providers have been screened and evaluated carefully in terms of specific standards before they are allowed independently to provide services to you. The license also assures you that those standards are uniform from state to state, so if you are in therapy when you move, it is very likely the therapy can continue without major disruption.

• It provides a requirement that your therapist must continue his/her education and stay up to date on recent developments.

• It ensures privileged communications between you and your therapist (confidentiality).

• It discourages the use of fads and untested or experimental forms of therapy.

• Insurance reimbursement is possible. If your therapist is licensed, your insurance company has a standard for recognition and payment of this important health benefit to its subscribers.

• It ensures an enforceable code of professional conduct. The license can be denied, suspended or revoked to counter a threat to the public welfare.

• It assures you that your therapist is a member of a profession that will police itself. For example, the ethical standards of psychologists are stricter than any other set of standards regarding independent practice.

• It demonstrates respectability and accountability. Your therapist voluntarily applies for licensure. By so doing, he/she is making an effort to upgrade the quality of professional services. Your therapist should also be active with a state association. Submitting to peer review is an act of good faith.

• It provides an opportunity for you to press for redress of grievances without costly litigation.

• It helps consumers identify reputable therapists. Licensure makes qualified therapists more accessible by making it easier to find them. According to Will Bukland of the American Psychological Association, this results in increased competition in economic terms among professionals licensed in the same category, resulting in stability of fees and lower costs.

When licensing boards are under public review, grievances often emerge about their performance. Of course, the value of licensure to you, as a potential consumer of such services, clearly outweighs the problems that occasionally result from board performance. The bath water may need changing, but the baby is worth saving.

Clinical social workers are presently working toward a licensure bill so they can more effectively police themselves. This should directly benefit those who turn to them for help.

Licensure isn't a guarantee that you and your therapist will work effectively together, but it does increase the probability of a positive outcome by assuring that your therapist has met rigorous standards.

■ Dr. Mueller is an Anchorage psychologist.

Sunset Update: Bills to continue the licensing Board were submitted in late February. The Health, Education and Social Services Committees of both houses are reportedly in favor of a four year continuation. Hearings are to be held in Juneau on the 8th of March at 3PM. Members are urged to express their support of House Bill 856 and Senate Bill 823 as soon as possible; especially if any of the following committee members are your representatives/senators: Senators Parr, Stimson, Fischer, Colletta and Kelly; Representatives Bierne, Martin, Cato, Smith and Malone.

Treasurer's Perspective: With the receipt of the Psychology Defense Fund Grant of $5000 AlPa will be financially solvent for 1982 and able to meet the major aspects of its 1982 program, lobbying and Executive Officer costs states Treasurer Hal Post. However, very few of the membership cam through with donations in execess of the bsic $65 dues assessment for 1982. This result occured despite the resolution of the general membership at the 1981 meeting that "Members are encouraged to make additional voluntary dues contributions up to an amount equal to one day's pay." Thusfar only four members have made contributions in excess of the mandatory dues. Special appreciation is expressed to Dr. Jane Krauss, Dr. Cheryl Frair, & Dr. Boy Collier for their generous contributions as well as to Dr. Joel Wieman, each of these members paid dues in a manner consistent with the spirit of the resolution made at the 1981B meeting. Other members are encouraged to consider additional payments isofar as AlPA is not likely to receive further PDF grants if licensure is continued. We'll need to carry the full burden of continuing development of our state association by ourselves.

President-Elect Frair Accepts Position:(Dr. Cheryl Frair our newly elected President-Elect responded to the Executive Committee's request for an acceptance message with the following.)

Thank-you for your support in my becoming President-Elect of AlPA. With the major issues facing psychologists in Alaska at this time we need to remember AlPA, as our professional association, can be far stronger than any one of us alone. Over the years of my association with AlPA I have been dismayed at the factionalism and the attitude of "them" against "us". As professionals we need each others support in being better able to function as a psychologist, be it in a university or college classroom, a mental health clinic in Ketchikan, a school in Anvik, a private office in Fairbanks or at API. The development of the regional groups with representatives on the Executive Committee and the liason with the Alaska School Psychologists Association are a start toward developing a stronger statewide association. Please join together in supporting your profession and colleagues through AlPA.

Cheryl Frair, PhD

AlPA Executive Officer Invited to Address 1982 APA Convention: AlPA EO Dr. Dennis Scholl recently received and accepted an invitation from Division 31 of APA, Division of State Psychological Association Affairs, to participate in a State Pscyhological Association Affairs panel at the 1982 APA convention in Washington D.C.. The panel, chaired by Dr. James Lindeman the Division 31 president-elect and faculty of the U. of Oregon Health Sciences Center, will be entitled "Perils and Plusses of the Small State Psychological Association". EO Scholl is very interested in receiving letters, records or comments from Alaskan psychologists that will broaden the data base and validate his historical perspective on AlPA. If you have information on the hisotroy of AlPA or can otherwise contribute to the breadth and accuracy of Dr. Scholl's presentation please send in your information as soon as possible to the AlPA address. It is worthwhile to note that the Division 31 officers as well as APA see AlPA's support of the EO position as a model for all small population state associations.

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 856 "An Act continuing the existence of
Title the Board of Psychology and Psychological Associate Examiners: ..."
Requested by House Labor & Commerce Committee Date 3-8-82

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Regulation & licensing of professions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Funding of the Board of Psychology and Psychological Associate Examiners is already included in the department's detail budget for FY'83.

IV. DATE March 8, 1982 PREPARED BY Marjorie Odland
AGENCY Division of Occupational Licensing
PHONE 465-2535

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

FY '82 GOALS AND OBJECTIVES

Board of Psychologist & Psychological Associate Examiners

Goals:

It is the purpose and function of the board to ensure that quality psychological care is available to the public by assuring only qualified persons are admitted to practice psychology independently in the State; by actively enforcing the psychology practice act; and by promoting high standards within the profession throughout the State.

Objectives:

1) Promulgate psychological associate regulations to facilitate entry of qualified master's level psychologists into the professional field.

2) Promulgate regulations governing relicensure based on continued competency.

3) Refine the State portion of the licensing and explore the possibility of developing an examination committee.

4) Act to increase public awareness of board activities, and to educate the public of the purposes and function of the board, and of types of services available from psychologists in Alaska.

5) Meet four times this year and conduct two examinations.

6) Send a representative from the board to the national or regional AASPB meeting.

Dr. Turner and Dr. Baglien attended the meetings of the Governor's Advisory Council on Mental Health in February and May.

Dr. Paul Turner and Dr. Charles Bovee were new appointees during this year.

II BOARD ACTIVITIES

The board held a total of three meetings in FY 1980. One, July 5-6, 1979 in Anchorage, another September 18-19, 1979, in Anchorage, and the third on March 24-25, 1980, also in Anchorage. The board held two conference calls, August 30, 1979, and October 11, 1979.

III EXAMINATIONS

The board administered two examinations during the period. One, October 19, 1979 and the other, April 11, 1980, both held in Anchorage. There were five candidates for the October exam.

There were five candidates for the April examination. The exam consists of a national multiple choice part and an essay part. One must pass both to be licensed. A person may retake only those portions of the exam they did not pass.

IV STATISTICAL DATA

Licensed Issued:

	FY '78	FY '79	FY '80
Examination	9	5	12
Endorsement	5	8	3
Psychological Associate (Exam)	0	0	3
Temporary Permits	2	4	1

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 181 Date on Bill: 2/09/83
Title: Continuing the existence of the Board of Psychologist and Psych. Association Exam.
Sponsor:
Requestor: Commissioner's Office

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			-0-	-0-	-0-	-0-		
Operating			-0-	-0-	-0-	-0-		
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No cost is foreseen to the Department of Health and Social Services as a result of this legislation.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It do not represent the policy of the Sheffield Administration or the final estimate of fis impact.

Prepared By: Thomas R. Branton, Deputy Director Phone: 465-3370
Division: Mental Health and DD Date: 2/17/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
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2/8/83

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 181

"An Act relating to regulation of the practice of psychology and continuing the existence of the Board of Psychologist and Psychological Associate Examiners; and providing for an effective date."

Discussion:

The Division of Mental Health and Developmental Disabilities supports the continuation of the Board of Psychologist and Psychological Associate Examiners. We believe a board composed of licensed psychologists is important to insure that persons applying for licenses have the proper qualifications and experience necessary to provide a high quality of service. Also, the board plays an important role in developing standards of service for licensed psychologists and psychological associates.

The utilization of boards such as this is common practice in the area of licensing and overseeing service delivery, especially in the area of health care. For example, the nursing profession, medical doctors, and other fields of health providers have similar boards composed of their peers.

The continuation of this board will help to insure that Alaska's growing public and private mental health system will provide a high quality of service by competent and qualified mental health professionals. The development and enforcement of standards is considered extremely important in an area such as this and should continue in order to insure the safety of the consumers of mental health care.

Recommendation:

The Department of Health and Social Services supports the passage of this bill.

Recommended by: James L. Hooks for
T. R. Branton
Deputy Director
Division of Mental
Health and Developmental
Disabilities

Date: 2/17/82

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 2/22/83

HB

182

STATE OF ALASKA
FISCAL NOTE

Revision Date Original, 1983

I. REQUEST

CS for House
Bill/Resolution No.: Bill 182 (HESS)
Title: "...residential drug abuse..."
Sponsor: Representative Barnes
Requestor: Health, Education, and Social Services

II. FISCAL DETAIL

Agency Affected: Labor
Program Category Affected: Worker Protection
BRU, Program of Subprogram(s) Affected: Labor Standards and Safety

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		65.0	68.9	73.0	77.4	82.0
200 TRAVEL		12.4	13.1	13.9	14.7	15.6
300 CONTRACTUAL		23.2	24.6	26.1	27.7	29.4
400 COMMODITIES		2.5	2.7	2.9	3.1	3.3
500 EQUIPMENT		4.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		107.1	109.3	115.9	122.9	130.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		107.1	109.3	115.9	122.9	130.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not available.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Robert J. Bacolas, Sr. Phone: 465-4870
Division: Labor Standards and Safety Date: April 26, 1983

Approved by Commissioner: Jim Robison Date: April 26, 1983
Department: Labor

LEG:A:12

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
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Copy to Requestor (if different from Sponsor)

3/8/83

Detail Bill Analysis House Bill 182

Under this bill a large segment of the work force currently entitled to full coverage for minimum wage would no longer be covered, and as a result the Department of Labors' work load to ensure workers are not abused and unfair trade practices do not occur would be increased.

The Department will require one Wage and Hour Investigator located in Anchorage to handle the additional workload. In addition, a Clerk Typist II will be necessary to lend the investigator support and free the position to make field calls.

Assumptions:

Effective date of July 1, 1983
6% per annum inflation rate
Equipment cost in FY 1984 is a one-time item

Potential for 22 separate programs that will require monitoring (13 currently operati ; with an average monthly capacity of 350 clients).

LEG:A:12

1.	POSITION TITLE			RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
	Wage and Hour Investigator I			16A	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER / PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	12	HB 182		Anchorage				

3. CONTINUATION LEVEL | ADDITION . XX

4. TYPE OF EXPENDITURE	1	2	AMOUNT 3
	PERSONAL SERVICES		
5.	Salary	30,886	
6.	Benefits	4,902	
7.	Supplemental Benefits	1,893	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	40,561
10.	Travel	02	12,400
11.	Contractual	03	12,460
12.	Commodities	04	1,000
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		67,921

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	67,921
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will determine compliance with work therapy wage requirements; perform onsite inspection of facilitlies; interview patients and staff; re-review case records for determinations and personnel actions for wage rates.

The incumbent will be required to travel extensively throughout the State, therefore, $12,400 has been requested for in-state travel.

Contractual services includes $4,068 for indirect support services, $3,400 in rent, and $5,000 for basic operating expenses.

The equipment line items includes $1,500 to purchase basic office equipment for this position.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage and Hour

Revised Date

FY 84

01-1156 (7/82) - 13

1.	POSITION TITLE Clerk Typist II				RANGE/STEP 7A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER HB 182	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION	XX						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	17,657	
6.	Benefits	2,802	
7.	Supplemental Benefits	1,082	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES 01		24,421
10.	Travel 02		
11.	Contractual 03		10,725
12.	Commodities 04		1,500
13.	Equipment 05		2,500
14.	Other		
15.	TOTAL COST		39,146

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.	100	General Funds 1004	39,146
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will lend clerical support to the Wage and Hour Investigator. Type correspondence for signature of composer; including preparation of technical or legal documents, complex material (i.e. regulations, form layouts and masters), transcribe from dictation, tape recording or draft. Compile Wage and Hour activity data, type statistical and/or investigative documentary reports.

Contractual services include $2,325 for indirect support services, $3,400 in rent, and $5,000 for other normal operating costs.

The equipment line items include $2,500 to purchase basic office equipment for this position.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage and Hour

Revised Date

FY 84

MEMORANDUM State of Alaska

TO: Robert L. Cole
Coordinator
Office of Alcoholism/Drug Abuse

DATE: April 12, 1982

FILE NO: J66-484-82

TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By: LS
Linda Scoccia
Assistant Attorney General

SUBJECT: Payment of Wages in Therapeutic Work Program

You have asked several questions regarding payment of wages to clients of Nugen's Ranch, a long-term alcohol treatment facility, for work that they do while residing at the Ranch. You state that a component of the program at Nugen's Ranch is work therapy, and that the program will develop a farm, with the clients engaging in such activities as harvesting crops, tending a greenhouse, and doing general housekeeping at the Ranch, as well as assisting nearby farmers with their crops. You also state that any proceeds in food or money will go back into facility operations.

You pose a series of questions regarding coverage of the client-workers for the above-mentioned activities under state and federal law; essentially, three issues are raised by your questions: (1) are the clients employees?; (2) if yes, are they working in covered employment?; and (3) if yes, are they exempt by virtue of their disability?

The state and federal laws which cover questions of minimum wage and overtime are, respectively, the Alaska Wage and Hour Act, AS 23.10.050-.150, and the Federal Labor Standards Act (FLSA), 29 USC §§201-219, and the regulations adopted thereunder. AS 23.10.065 /1 provides in pertinent part:

> MINIMUM WAGES. An employer shall pay to each of his employees wages at a rate of not less than 50 cents an hour greater than the prevailing Federal Minimum Wage Law or $2.60 an hour, whichever is greater, for hours worked in a pay period, whether the work is measured by time, piece, commission or otherwise.

/1 The federal counterpart is 29 USC §206. Since both federal and state law seem to apply, and state law is based on the federal law, see McGinnis v. Stevens, 543 P.2d 1221 (Alaska 1975), and, for purposes of this inquiry, they are virtually interchangeable, I shall not focus exclusively on either.

Both state and federal law have provisions exempting certain categories of workers from payment of the minimum wage /2 and providing, instead, for payment of less than the minimum wage. AS 23.10.070 provides in pertinent part:

> Sec. 23.10.070. EXEMPTIONS FROM MINIMUM WAGE. To the extent necessary to prevent curtailment of opportunies of employment, the commissioner may by regulations or orders provide for the employment at wages lower than the minimum wage prescribed in AS 23.10.050--23.10.150 or
>
> (1) an individual whose earning capacity is impaired by physical or mental deficiency, age, or injury, at the wages and subject to the restrictions and for the period of time which is fixed by the commissioner . . . /3

Under state regulation, however, persons participating in alcohol rehabilitation are specifically excluded /4 from the application of this statute. /5

/2 AS 23.10.070 and 29 USC §214, respectively.

/3 The federal exemption is similar, applying to those "whose earning capacity or productive capacity is impaired by age or physical or mental deficiency or injury", 29 USC §214(c)(1).

/4 Federal regulations, 29 CFR 529.1-529.17, discussed below, exclude such persons if their earning or productive capacity is so impaired that they are not able to earn the statutory minimum wage.

/5 8 AAC 15.120 provides in part:

> MINIMUM WAGE EXEMPTION FOR HANDICAPPED PERSONS.
>
> . . .
>
> (f) Persons undergoing rehabilitation treatment or therapy relating to narcotics or alcoholism are not considered handicapped for the purposes of AS 23.10.070 and this section.

Nor is the characterization of the work as "therapeutic" determinative; the question is whether the patient/client is an employee, that is, whether he or she is employed by the program. The FLSA simply defines "employ" /6 as "to suffer or permit to work". 29 USC §203(g). The test adopted by the federal courts looks to the "economic reality" of the situation in determining the existence of an employment relationship. In Souder v. Brennan, 367 F. Supp. 808 (D.C. Cir. 1973), patient-workers in state hospitals for the mentally ill and mentally retarded sought a determination that the provisions of the FLSA applied to them. The court found in their favor, and stated:

> [T]he reality is that many of the patient-workers perform work for which they are in no way handicapped and from which the institution derives full economic benefit. So long as the institution derives any consequential economic benefit the economic reality test would indicate an employment relationship rather than mere theraputic exercise. To hold otherwise would be to make therapy the sole justification for thousands of positions as dishwashers, kitchen helpers, messengers and the like.

367 F. Supp. at 813 (footnotes omitted).

After this decision, the U.S. Department of Labor promulgated, in 1975, new regulations /7 implementing the holding of this case. The regulations expressly apply to "patient-workers" in "residential centers for drug addicts or alcoholics". /8 The regulations define "employment relationship" as follows:

/6 The Alaska Wage and Hour Act does not define "employ", but AS 23.10.145 provides:

> DEFINITIONS. Terms used in AS 23.10.-050--23.10.150 shall be defined, where applicable, as they are defined in the federal Fair Labor Standards Act of 1938, as amended, or the regulations adopted under it.

/7 29 CFR 529.1-529.17

/8 29 CFR 529.2(b) and (c)

"Employment relationship" generally arises whenever a patient is suffered or permitted to work. The toal facts surrounding a given situation, other than those factors specifically excluded in this subsection, determine whether the test is satisfied. A major factor in determining whether or not an employment relationship exists under this Part is whether the work performed is of any consequential economic benefit to the institution. Generally, work shall be considered to be of consequential economic benefit if it is of the type that nonhandicapped workers normally perform, in whole or in part, in the institution or elsewhere. A patient does not, however, become an employee merely if he or she performs personal housekeeping chores, such as maintaining his or her own quarters, or receives a token remuneration for his or her services. Nor does the patient become an employee if engaged in such activities as making craft products, where the patient voluntarily engages in such activity and the products become the property of the patient making them, or the funds resulting from the sale of the products are divided among the patients participating in that program or are used for purposes of purchasing materials consumed in making the craft products. On the other hand, determination of an employment relationship does not depend on the level of performance of the patient or whether the work is of theraputic value to the patient. /9

/9 29 CFR 529.2(d). Emphasis added.

Thus, the critical factor in determining the existence of an employment relationship is whether the program derives any "consequential economic benefit" from the work done by the clients or patients. As the regulation further states, such a benefit usually is found if the work is of the type that is usually performed by nonhandicapped workers. In the context of your program and the therapeutic purpose of the activities enumerated above, this question is not quite as susceptible of an easy answer as it is in the case of an institution such as a mental hospital which employs its patient as "dishwashers, kitchen helpers, messengers and the like". It does not seem as likely that at Nugen's Ranch a client tending a garden, for example, would be displacing or impairing the employment opportunities of another potential employee that the program would otherwise hire to perform that task. However, this question need not be decided, with respect to the activities you have described, because the final issue raised (I have saved the best for last) resolves the problem.

AS 23.10.055 lists employees who are exempt from the provisions of the Alaska Wage and Hour Act. Subsections (1) and (2) are dispositive. Subsection (1) provides:

> (1) an individual employed in agriculture which includes farming in all its branches and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including forestry and lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with the farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

Subsection (2) provides:

> (2) an individual employed in the catching, trapping, cultivating or farming, netting or taking of any kind of fish, shellfish, or other aquatic forms of animal and vegetable life;

Thus under Alaska law, Nugen's Ranch is not required to pay minimum wages to individuals engaged in general housekeeping /10, harvesting crops /11, tending a greenhouse, caring for animals, or fishing; nor is it required to do so under federal law. /12 It must be emphasized, however, that the inquiry is a factual one, and therefore each situation must be individually examined to determine whether the minimum wage laws apply. If clients of Nugen's Ranch were to engage in activities other than those you have described, the questions regarding applicability of the minimum wage laws would have to be looked at anew.

LS/jf

cc: Don Wilson
Wage & Hour Divison
Department of Labor

/10 See 29 CFR 2(d), quoted above.

/11 Whether they perform this activity for the Ranch or for other farmers.

/12 29 USC 213(a)(5) and (6).

ployer and, where appropriate, the apprenticeship agency or responsible school official, setting out that representative's findings of specific pertinent facts and conclusions and that representative's order concerning the proposed annulment or withdrawal. In proceedings instituted for annulment, the order may provide for withdrawal instead of annulment if the proof warrants such withdrawal but fails to support adequately the annulment. Such an order shall be deemed issued and effective according to its terms when mailed.

(Secretary's Order No. 16-75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No. 76-2, dated Feb. 23, 1976 (41 FR 9016))

[43 FR 28469, June 30, 1978]

§ 528.6 Review.

Any employer and, when appropriate, any apprenticeship agency or responsible school official, who expressed timely objection to the proposed action prior to issuance of an order of annulment or withdrawal may obtain review, limited to the question of whether the findings of fact support the order under the regulations in this part. Application for such review shall be in writing addressed to the Administrator and mailed within 15 days after the order is issued. The Administrator may affirm, modify, or reverse the order, or may remand it for further proceedings. The order under review shall not be stayed in effect pending such review. Any aggrieved person may obtain such review of an order entered in proceedings instituted under paragraph (c) of § 528.3.

[21 FR 5316, July 17, 1956, as amended at 22 FR 5683, July 18, 1957]

§ 528.7 Effect of order of annulment or withdrawal.

Except as otherwise expressly provided in such order, any order of annulment or withdrawal under paragraph (a) or (b) of § 528.3 shall be effective to terminate all certifications to which the regulations in this part apply in effect at the establishment where the cause for withdrawal arose or where the annulled certificate had effect. After such annulment or withdrawal, such employer shall be ineligible to obtain or exercise the privileges granted in such a certificate until he satisfies the issuing officer that he will not again give cause for annulment or withdrawal if a certificate is issued.

(Secretary's Order No. 16-75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No 76-2, dated Feb. 23, 1976 (41 FR 9016))

[43 FR 28469, June 30, 1978]

PART 529—EMPLOYMENT OF PATIENT WORKERS IN HOSPITALS AND INSTITUTIONS AT SUBMINIMUM WAGES

Sec.

529.1 Statutory language and scope of regulations.
529.2 Definitions.
529.3 Advisory Committee on Sheltered Workshops.
529.4 Wage payments.
529.5 Application for certificates.
529.6 Criteria for consideration in issuance of certificates.
529.7 Issuance of certificates.
529.8 Terms and conditions of certificates.
529.9 Renewal of certificates.
529.10 Records to be kept.
529.11 Cancellation of a certificate.
529.12 Review.
529.13 Submission of information, investigations, and hearings.
529.14 Relation to other laws.
529.15 Issuance of certificates for experimental purposes.
529.16 Amendment of this part.
529.17 Review of regulations.

AUTHORITY: Sec. 14, 52 Stat. 1068, as amended (29 U.S.C. 214).

SOURCE: 40 FR 5776, Feb. 7, 1975, unless otherwise noted.

§ 529.1 Statutory language and scope of regulations.

(a) The Fair Labor Standards Act as amended, among other things, makes provision for the employment of handicapped persons at subminimum wages under certificate. This provision is now designated as section 14(c) of the Act. It reads as follows:

(c) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment

under special certificates of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age or physical or mental deficiency or injury at wages which are lower than the minimum wage applicable under section 6 of this Act but not less than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

(2) The Secretary, pursuant to such regulations as he shall prescribe and upon certification of the State agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates for the employment of—

(A) handicapped workers engaged in work which is incidental to training or evaluation programs, and

(B) multihandicapped individuals and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment, at wages which are less than those required by this subsection and which are related to the worker's productivity.

(3) (A) The Secretary may by regulation or order provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimum applicable under section 6 of this Act or prescribed by paragraph (1) of this subsection and which constitute equitable compensation for such clients in work activities centers.

(B) For purposes of this section, the term "work activities centers" shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

(b) Authority to promulgate the regulations and issue the certificates referred to in section 14(c) has been delegated by the Secretary to the Administrator of the Wage and Hour Division (Secretary's Orders 13-71 and 15-71 (36 FR 8755 and 8756)).

(c) Patient workers whose earning or productive capacity is not impaired shall be paid at least the statutory minimum wage. For patient workers whose earning or productive capacity is impaired to the extent that they are not able to earn the statutory minimum wage, the regulations in this Part 529 govern certificates authorizing special minimum wages for patient workers in hospitals and institutions for the sick, the aged, and the mentally ill or defective with the following exceptions which are covered by Parts 524 and 525 of this chapter as appropriate:

(1) Patients of hospitals or institutions working for employers other than hospital or institution.

(2) Patients working in sheltered workshops, including work activities centers, as defined in Part 525, operated by the hospital or institution.

§ 529.2 Definitions.

(a) "Administrator" means the Administrator of the Wage and Hour Division, U.S. Department of Labor, the Administrator's authorized representative.

(b) "Patient worker" or "resident worker," hereafter referred to as "patient worker," means a sick, aged, mentally ill or defective individual who receives treatment or care by a hospital or institution, whether he or she is a resident or not, and has an employment relationship with such establishment, other than in a sheltered workshop program.

(c) "Hospital or institution," hereafter referred to as "institution," is a public or private, nonprofit or profit facility primarily engaged in (1) more than 50 percent of the income attributable to) providing residential care for the sick, the aged, or the mentally ill or defective, including but not limited to nursing homes, intermediate care facilities, rest homes, convalescent homes, homes for the elderly or infirm, halfway houses, residential centers for drug addicts or alcoholics and the like, whether licensed or unlicensed.

(d) "Employment relationship" generally arises whenever a patient is suffered or permitted to work. The totality of facts surrounding a given situation, other than those factors specifically excluded in this subsection, determine whether the test is satisfied. A major factor in determining whether or not an employment relationship exists under this Part is whether the work performed is of any consequential economic benefit to the institution. Generally, work shall be considered to be of consequential economic benefit if it is of the type that nonhandicapped workers normally perform, in whole or

In part, in the institution or elsewhere. A patient does not, however, become an employee merely if he or she performs personal housekeeping chores, such as maintaining his or her own quarters, or receives a token remuneration for his or her services. Nor does the patient become an employee if engaged in such activities as making craft products, where the patient voluntarily engages in such activity and the products become the property of the patient making them, or the funds resulting from the sale of the products are divided among the patients participating in that program or are used for purposes of purchasing materials consumed in making the craft products. On the other hand, determination of an employment relationship does not depend on the level of performance of the patient or whether the work is of therapeutic value to the patient.

(e) "Evaluation and training" means a program, authorized pursuant to section 14(c)(2)(A) of the Act, which provides competent instruction and supervision and is designed to determine a worker patient's potential and to teach adjustment to a work environment or the skills related to one or more types of work. The duration of the evaluation and training depends on the total facts of the situation, but in no case shall exceed 12 months. Time spent in an employment relationship in the institution prior to the effective date of these regulations shall be counted in determining the duration a patient worker is in evaluation and training. (Any workweek during which there was regular and recurrent engagement in work, even though small in amount, which gave rise to an employment relationship, shall be considered as a week spent in evaluation and training.)

(f) "Group minimum wage" means the minimum wage authorized pursuant to section 14(c)(1) of the Act which shall apply to all patient workers who have completed the evaluation and training program, if one has been authorized for the institution under this part (where no such program has been authorized, the group minimum wage applies immediately upon a patient's entering into an employment relationship with the institution), except for patient workers who are: Entitled to a commensurate wage higher than the group minimum wage; subject to an individual exception; or subject to a work activities center certificate, as defined in this part.

(g) "Individual exception" means authorization, pursuant to section 14(c)(2)(B) of the Act, to pay a particular patient worker whose earning or productive capacity is severely impaired less than the group minimum wage.

(h) "Work activities center" is an administrative classification given to a facility which has an approved program (other than a work activities center program as defined in Part 525), authorized pursuant to section 14(c)(3) of the Act, which is planned and designed exclusively to provide work activities for patients whose physical or mental impairment is so severe as to render their productive capacity inconsequential. The work activities shall be part of a recorded plan of therapy or care for such patients. Such activities need not, however, be restricted to a particular physical or program area of the institution, nor to a particular type of work. No program shall qualify for a work activities center certificate under this part unless the productive capacity of each individual in the program is so severely impaired as to make that person incapable of earning as commensurate pay at least 25 percent of the minimum wage under section 6 of the Act, and the patient workers are participating in the program as a part of planned therapy.

(i) "Commensurate pay" (the term used in these regulations) is intended to have the same meaning as "equitable compensation" and "wages related to the worker's productivity," which terms are used in the statute, and means wages which are commensurate with those paid nonhandicapped workers in the institution or in industry maintaining acceptable labor standards in the vicinity for essentially the same type, quality, and quantity of work. So for example, the commensurate pay of a patient worker who is 75 percent as productive, considering quality and quantity, as the average

nonhandicapped worker performing essentially similar work in the institution would be at least 75 percent of the wage paid to such nonhandicapped worker.

(j) "State agency" means the agency within the State which administers or supervises the administration of vocational rehabilitation services in any State of the United States, the District of Columbia, or any territory or possession of the United States.

(k) "The Act" means the Fair Labor Standards Act of 1938, as amended.

§ 529.3 Advisory Committee on Sheltered Workshops.

(a) The Advisory Committee on Sheltered Workshops, appointed periodically by the Secretary of Labor, shall advise and make recommendations to the Administrator concerning the administration and enforcement of this part and the need for amendments thereto and for such other purposes as may be desired by the Administrator.

(b) The Administrator may consult with the Advisory Committee on Sheltered Workshops prior to any action taken under this part and may afford the Committee 15 days, or such additional time as may be allowed, to present its views. The Administrator may also afford the Committee an opportunity to present its views in connection with any petition for review filed, any hearing held, and any petition for amendment of these regulations, or any proposed legislation by the Secretary of Labor pertaining to the problems dealt with in these regulations.

§ 529.4 Wage payments.

(a) A patient worker whose earning or productive capacity is not impaired shall be paid at least the statutory minimum wage. A patient worker whose earning or productive capacity is impaired to the extent that the individual is unable to earn at least the statutory minimum wage may be paid a subminimum wage but only after a certificate authorizing payment of such lower wage has been obtained from the Wage and Hour Division.

(b) Four types of certificates authorizing subminimum wages are available for patient workers in institutions: Evaluation and training, group minimum wage, individual exception, work activities center. All but the individual exception are group certificates. Under a group certificate, the patient is certificated and not the individual patient worker. In the case of the individual exception, authority to pay a subminimum wage must be obtained for each individual.

(c) Evaluation and training: Patient workers subject to an evaluation and training certificate shall receive at least commensurate pay; no minimum wage guarantee is required unless the Administrator, shall determine it is in the best interest of the patient workers that a minimum wage guarantee be set.

(d) Group minimum wage: Patient workers subject to a group minimum wage certificate shall receive at least the minimum wage authorized in the certificate or commensurate pay, whichever is higher. The group minimum wage shall not be less, and may be more, than 50 percent of the minimum wage under section 6 of the Act.

(e) Individual exception: A patient worker subject to an individual exception shall receive not less than the minimum wage authorized in the individual exception certificate issued for that patient worker or commensurate pay, whichever is higher. An individual exception shall not be less, and may be more, than 25 percent of the minimum wage under section 6 of the Act.

(f) Work activities center: Patient workers subject to a work activities center certificate shall receive at least commensurate pay; no minimum wage guarantee is required unless the Administrator, shall determine it is in the best interest of the patient workers that a minimum wage guarantee be set.

(g) Compensable time for a patient worker starts when the individual begins to perform work involving an employment relationship.

(h) Each patient worker's work performance shall be reviewed by the institution at three month intervals during the first 6 months in an employment relationship, and at least every 6 months thereafter and his or her wages adjusted accordingly. The review shall relate the patient wor

er's quantity and quality of performance to that of nonhandicapped workers receiving the prevailing wage in the institution for similar work or work requiring similar skills. If similar work or work requiring similar skills is not performed by nonhandicapped workers in the institution the prevailing wage paid nonhandicapped workers in the vicinity in industry maintaining acceptable labor standards shall be used. The review shall be made by a staff member or members who observe the patient worker(s) being rated on a continuing basis and who are familiar with appropriate nonhandicapped production standards.

(f) No part of the minimum wage and overtime earned by a patient worker can be deducted for the cost of room, board or services. The patient worker must receive his or her wages free and clear, except for legal payroll deductions. It is not the intention of these regulations, however, to preclude the institution thereafter from assessing or collecting the reasonable cost of room, board and other services actually provided to a patient worker to the extent permitted by applicable Federal or State law and on the same basis as it assesses and collects from nonworking patients.

§ 529.5 Application for certificates.

(a) Application for a certificate for an evaluation and training program, a group minimum wage, an individual exception, or a work activities center may be filed by any institution with the Regional Office or Caribbean Director of the administrative region or area of the Wage and Hour Division, U.S. Department of Labor, in which the institution is located. Application forms may be obtained from the appropriate Office.

(b) An application for an evaluation and training certificate and for an individual exception certificate for payment of a wage below 50 percent of the minimum wage under section 6 of the Act shall also be filed with the State agency. Before the Wage and Hour Division can act on such an application, the State agency must certify that the evaluation and training program meets the standards defined in § 529.2 or, in the case of an individual exception, that the individual's earning capacity is so severely impaired that he or she is unable to earn at least 50 percent of the minimum wage under section 6 of the Act.

(c) An institution initially applying for a certificate, other than an individual exception certificate, which does not have the information called for in the application, may be issued a temporary certificate if it meets the requirements of, and provides assurance of compliance with, this Part.

(d) Application for an individual exception certificate may be filed at the time of applying for a group minimum wage certificate or during the life of the certificate. The application must show, among other things, that the patient worker is unable to earn the minimum wage authorized in the group minimum wage certificate.

(e) An application for an individual exception filed before the patient worker has completed evaluation and training shall be considered timely. In such case, if action on the application is not completed before the expiration of the evaluation and training period, the minimum wage requested in the application by the institution (not less than 25 percent of the minimum wage) shall be the interim minimum wage.

§ 529.6 Criteria for consideration in issuance of certificates.

The following criteria will be considered by the Administrator in determining the necessity of issuing a certificate or certificates and the conditions to be specified therein:

(a) The present and previous earnings of the patient workers.

(b) Whether the patient workers are receiving commensurate pay.

(c) The nature and extent of the disabilities of the patient workers and the degree to which these factors affect earning or productive capacity of the patient workers.

(d) Whether the conditions required for certification under this part have been met.

(e) Whether the certification by the State agency has been made in accordance with this part.

§ 529.7 Issuance of certificates.

(a) Upon consideration of criteria specified in § 529.6, the Administrator may issue a certificate or certificates, as appropriate.

(b) If a certificate is issued, a copy shall be sent to the institution. If denied, the institution shall be notified in writing of the denial and the reasons therefor.

(c) A group minimum wage certificate may be issued for the entire institution or a department or departments of the institution.

§ 529.8 Terms and conditions of certificates.

(a) A certificate shall specify the terms and conditions under which it is granted.

(b) A certificate shall apply to every patient worker in the program for which the certificate is granted.

(c) A certificate shall be effective for a period to be designated by the Administrator, generally for a period of 1 year. Patient workers may be paid wages lower than the statutory minimum only during the effective period of a certificate.

(d) A group minimum wage certificate shall set a special minimum wage of not less than 50 percent of the minimum wage under section 6 of the Act. An individual exception certificate shall set a special minimum wage not less than 25 percent of the minimum wage under section 6 of the Act.

(e) An evaluation and training certificate and a work activities center certificate need not set a special minimum wage other than that required by paragraph (f) of this section or provided for by § 529.4.

(f) All patient workers subject to a certificate shall be paid wages commensurate with those paid nonhandicapped workers in the institution in which they are patients or in the vicinity in industry maintaining acceptable labor standards for essentially the same type, quality, and quantity of work, but not less than the certificate rate applicable if such a rate has been authorized.

(g) Patient workers shall be paid not less than one and one-half times the regular rate for all hours worked in excess of the maximum workweek applicable under section 7 of the Act.

(h) No patient worker shall be newly-employed under a certificate issued under these regulations while abnormal labor conditions, such as a strike, a lock-out, or other similar condition, exist in the institution.

(i) Each patient worker and his or her parent or guardian shall be informed promptly orally and in writing of his or her rights under the Act.

(j) The terms of any certificate may be amended for cause, upon request of the institution, or a patient worker or his or her parent or guardian, or upon the initiative of the Administrator.

§ 529.9 Renewal of certificates.

(a) Application may be filed for renewal of any certificate.

(b) If an application for renewal has been properly and timely filed prior to the expiration date of a certificate, the certificate shall remain in effect until the application for renewal has been granted or denied.

(c) Patient workers may be paid wages less than the statutory minimum after notice that the application for renewal has been denied, if review of such denial is requested in accordance with § 529.12: *Provided, however*, That if the denial is affirmed on review, the institution shall reimburse any person covered by the certificate in an amount equal to the difference between the applicable minimum wage and any lower wage paid such person subsequent to the effective date of denial.

§ 529.10 Records to be kept.

Every institution shall maintain and have available for inspection by the Administrator records of:

(a) Disability, which show the nature of each patient worker's disability.

(b) Productivity, which show the productivity of each patient worker on a continuing basis or at periodic intervals as defined in § 529.4(b).

(c) Prevailing wage, which show the prevailing wages paid nonhandicapped workers in the institution or in industry in the vicinity for essentially sim-

lar work to that performed by the patient workers.

(d) Production standards for an average nonhandicapped worker for each job being performed by a patient worker in the institution (for use as a norm in measuring patient worker productivity.)

(e) When an evaluation and training program is authorized by certificate, records showing which patient workers are in the evaluation and training program, and the total period of time each worker has been in such a category.

(f) When an institution holds both a work activities center certificate and a group minimum wage certificate, records showing which patient workers are under each certificate.

(g) Records showing the patient [illegible] tions have been authorized.

(h) In addition, the records required under all the applicable provisions of Part 516 of this chapter.

(i) Every institution having patient workers who are entitled to benefits under the Act shall at all times display a poster, as prescribed by the Administrator, in a conspicuous place in the institution where it may be observed readily by the patient workers and other workers in the institution.

(j) Records required by this section shall be kept for the periods specified in Part 516 of this chapter.

§ 529.11 Cancellation of a certificate.

(a) The Administrator may cancel any certificate for cause. A certificate may be canceled (1) as of the date of issuance, if it is found that fraud has been utilized in obtaining the certificate or in permitting a patient worker to be employed thereunder; (2) as of the date of violation, if it is found that any of the provisions of the Act or of the terms of the certificate have been violated; or (3) as of the date of notice of cancellation, if it is found that the certificate is no longer necessary in order to prevent curtailment of opportunities for employment, or that the requirements of this part have not been complied with.

(b) If a petition for review is filed under § 529.12, the effective date of the cancellation shall be postponed until action is taken thereon: *Provided, however,* That if the cancellation order is affirmed on review, the institution shall reimburse any person covered by the certificate in an amount equal to the difference between the applicable minimum wage and any lower wage paid such person subsequent to the effective date of cancellation.

(c) Except in cases of willfulness or those in which the public interest requires otherwise, before any certificate shall be canceled, facts or conduct which may warrant such action shall be called to the attention of the institution in writing and it shall be afforded an opportunity to demonstrate or achieve compliance with all lawful requirements.

[illegible]

Any person aggrieved by any action of an authorized representative of the Administrator taken pursuant to this part may, within 60 days or such additional time as the Administrator may allow, file with the Administrator a petition for review. Such review, if granted shall be made either by the Administrator or by an authorized representative who took no part in the action under review, who may, to the extent it is deemed appropriate, afford other interested persons an opportunity to present data and views.

§ 529.13 Submission of information, investigations, and hearings.

The Administrator may require at any time the submission of such information, other than that specified elsewhere in this part, as is deemed appropriate, or may conduct an investigation, which may include a hearing, prior to taking any action pursuant to this part. To the extent it is deemed appropriate, the Administrator may provide an opportunity to other interested persons to present data and views.

§ 529.14 Relation to other laws.

No provision of this part, or of any certificate issued under this part, shall excuse noncompliance with any other Federal or State law or municipal ordinance establishing higher standards

§ 529.15 Issuance of certificates for experimental purposes.

In addition to the issuance of certificates as provided in §§ 529.1 to 529.14, the Administrator may authorize the issuance of certificates to permit employment of patient workers in institutions at less than the applicable minimum wage under section 6 of the Act as part of experimental programs to increase employment opportunities for such persons. Such certificates shall be issued in such types of cases and on such terms and conditions within the scope of section 14 of the Act as the Administrator shall determine will best further any such experimental programs. Certificates issued under this section shall be limited to an effective period of not more than 1 year.

§ 529.16 Amendment of this part.

The Administrator may at any time upon his or her own motion or upon written request of any interested person setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the terms of this part.

§ 529.17 Review of regulations.

Approximately six months after the effective date of this part, the Wage and Hour Division will undertake a review of its program for administration and enforcement of this Part in consultation with the Advisory Committee on Sheltered Workshops.

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

Sec.
530.1 Definitions.
530.2 Restriction of homework.
530.3 Limitation on official forms.
530.4 Terms and conditions for the issuance of certificates.
530.5 Certification.
530.6 Termination of certificates.
530.7 Revocation and cancellation.
530.8 Presentation of certificates.
530.9 Records and reports.
530.10 Delegation of authority to grant, [illegible] certificate.
530.11 Petition for review.
530.12 Special provisions.
530.13 Petition for amendment of regulations.

AUTHORITY: Sec. 11, 52 Stat. 1066; U.S.C. 211, unless otherwise noted.

SOURCE: 24 FR 729, Feb. 3, 1959, unless otherwise noted.

§ 530.1 Definitions.

(a) The meaning of the terms "person," "employ," "employer," "employee," "goods," and "production," used in this part, is the same as in the Fair Labor Standards Act of 1938, as amended.

(b) "Industrial homeworker" and "homeworker," as used in this part mean any employee employed or suffered or permitted to perform industrial homework for an employer.

(c) "Industrial homework," as used in this part, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment of goods for an employer who suffers or permits such production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homeworker in such production.

(d) The women's apparel industry is defined as follows: The production of women's, misses' and juniors' dresses, washable service garments, blouses and neckwear from woven or purchased knit fabric; women's, misses' children's and infants' underwear, nightwear, and negligees from woven fabrics; corsets and other body supporting garments from any material; other garments similar to the foregoing; and infants; and children's outerwear.

(e) The jewelry manufacturing industry is defined as follows:

(1) (i) The manufacturing, processing, or assembling, wholly or partially from any material, of jewelry, commonly or commercially so known. Jewelry as used herein includes without limitation, religious, school, college, and fraternal insignia; articles of ornament or adornment designed to be worn on apparel or carried on or about the person, including, without limitation, cigar and cigarette cases, holders, and lighters; watch cases; metal mesh bags and metal watch bracelets; and chain, mesh, and parts for use in the

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 19, 1983

SUBJECT: Minimum wage
(CSHB 182 (HESS))

TO: Representative Ramona L. Barnes

FROM: Russ Josephson
Legislative Counsel

The following is the sectional analysis that you requested:

Section 1 adds a new section to AS 23.10, providing that a participant in a residential drug abuse or alcoholism treatment program may be paid less than the minimum wage for work therapy performed by the patient.

Subsection (a) stipulates that the rate of pay must be approved by the commissioner of labor and that the rate must be in compliance with federal law.

Subsection (b) provides for the adoption of regulations by the commissioner of labor regarding the payment of wages for work therapy. Several factors are to be considered in the adoption of the regulations:

(1) Is the work the type that a participant in this type of program would do ordinarily and is the work for the mutual benefit of the patient and the program?

(2) Would the work ordinarily be done by full-time employees?

(3) Will the work produce income to the patient other than wages?

(4) What is the therapeutic benefit of the work, the skill required, and the role of work therapy in the patient's treatment plan?

(5) What is the impact of the wage scale on the program?

Section 2 adds a section to AS 47.37. Subsection (a) of this new section provides that the payment of wages for work therapy is an allowable cost, payable by a grantee with grant funds.

Subsection (b) provides that the wages may not be used for the costs of room, board or services, although reasonable costs of treatment may be assessed and collected, if done on the same basis as for non-working patients.

Subsection (c) provides that wages earned by a patient may be held in trust for the benefit of the patient and disbursed in several ways that are enumerated.

Section 3 adds a definition of "work therapy" to AS 47.-37.270.

RJ:ljb
15/013

CS HB 182

Phillip Volland - atty for Synanon Ranch + other abuse programs

1) Speaks for the Bill
2) drafted lengthy legal opinion
3) work important to recovery rehabilitate.
4) treatment centers become warehouses without
5) small non profit don't have work.
the financial advantages that larger can
6) Synanon Ranch work clients
$100,000 — 9-10 hrs per week for one year

7) Sec 14 Fed Law
precedent to appl for Certificate
rate paid on level of disability
Problem - State law - regs -
Alcohol + Drug clients can't be identified
as handicapped workers.
8) Certificate applicant
requires no less than 50% or $
min wage.

Present law doesn't allow grantees to apply for wages for worker / client. This bill allows for this

Proposed CSHB 182 (HESS)
Dave Palmer
April 4, 1983

Section 1: (a) Authorization is given for exemption to the State minimum wage (AS 23.10.050 - 50 cents per hour greater than prevailing Federal minimum wage or $2.60/hour whichever is greater) for participants in work therapy programs.

(b) The Commissioner is required to adopt regulations regarding payment for work therapy while considering specific criteria indluded in the bill.

Section 2: (a) Wages paid for work therapy are considered allowable operational costs and are eligible for reimbursement by grants.

(b) No part of wages earned may be deducted for room, board or services.

(c) Wages may be held in trust and disbursed, with consent for specific purposes.

Section 3: Work therapy is defined.

No effective date.

The impetus for HB 182 is the Nugen Ranch, a treatment facility for chronic and debilitation alcoholics. A component of the treatment program is work on the ranch in exchange for minimal compensation. With the intent on establishing lost work habits, developing self esteem, and rekindling positive work attitudes, work as therapy is used at the ranch. However, Federal and State minimum wage laws apply. HB 182 provides an exemption from the State minimum wage, which exceeds the Federal minimum wage.

Exemptions to the State minimum wage currently exist (AS 23.10.070) for:

1. Individuals whose earning capacities are reduced by physical or mental deficiencies, age or injuries.

2. Apprentices (approved by the Commissioner)

3. A learner, subject to conditions set by the Commissioner.

DHSS Position: The position paper relates to HB 182, not proposed CSHB 182. it is relevant. The DHSS asks that the exemption apply to programs designed to last over 120 days. Short-term programs would be required to pay prevailing minimum wage.

Fiscal Note: The fiscal note for HB 182 is zero. However, the CSHB 182 requires the development of regulations and implies that review of programs would be necessary to assure compliance with those regulations. If not done before the hearing, the fiscal note requires revision.

You might WELCOME Phillip Volland AT AN APPROPRIAK time - Let the committee KNOW he's here.

Ask Volland - I think this bill is AN EXEMPTION to STATE MIN. WAGE ONLY.

POSITION PAPER/Department of Health & Social Service

MAR 8 1983

POSITION PAPER

HOUSE BILL 182

"An Act exempting participants in residential drug abuse and alcoholism treatment programs from Alaska's minimum wage provisions, and providing a wage scale."

The Department of Health and Social Services is supportive of this legislation.

The issues and remedies surrounding this proposed legislation arose with the advent of a long term care program for the chronic and significantly debilitated alcoholic. The individuals to be served by these programs have long histories of unemployment, skill depreciation, loss of positive employment experiences and loss of positive life experiences. Long term care is defined as treatment lasting from a minimum 120 days to a maximum of 2 years with an average length of 1 year.

One of the intents of long term care treatment program is to have clients engage in a form of work therapy as part of their overall treatment regime. Such work therapy will be designed to help the client re-establish or re-learn basic learning, life and employment skills. It is the intent of the long term care treatment program to be more than a warehouse for the most severely afflicted casualties of the disease alcoholism.

The Department is also concerned that clients' rights be protected. The Department is also concerned that short term treatment programs provide intensive therapy to appropriate clients. To this end the Department of Health and Social Services would recommend the following.

House Bill No. 182, lines 12 through 14 be amended to read:

> (b) Participants in residential drug and alcoholism treatment programs [designed to exceed 120 days in length,] may be paid less than the minimum wage prescribed in AS 23.10.050-23.10.150 for work therapy, as defined in AS 47.37.270.

House Bill No. 182, lines 16 through 19 be amended to read:

> Sec. 47.37.245. Wages of Patients. Participants in residential drug abuse and alcoholism treatment programs, [designed to exceed 120 days in length,] shall be paid for work therapy, as defined in AS 47.37.270, at the rates established under AS 33.32.050. [AS 33.32.050(a)].

These recommended changes would have the effect of limiting the applicability of the exemption from the minimum wage law. It is the Department's position that only long term care treatment programs (designed to exceed 120 days) be exempted.

POSITION PAPER/Department of Health & Social Service

Recommended by: George E. Mundell

George E. Mundell
Acting Coordinator
Office of Alcoholism/
Drug Abuse

Date: 3/1/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Dept. of Health &
Social Services

Date: 3/4/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 182 Date on Bill: 2/9/83
Title: "An Act exempting participants in residential drug abuse and alcoholism treatment
Sponsor: Barnes, Clocksin, Bussell, Liska, Larson
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue			-0-	-0-	-0-	-0-		

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It do not represent the policy of the Sheffield Administration or the final estimate of fis impact.

George E. Mundell

Prepared By George E. Mundell, Acting Coordinator AAA Phone: 586-6201
Division: Office of Alcoholism/Drug Abuse Date: 3/1/83

Approved by Commissioner: Robert Fowler Smith, Ph.D. Date: 3/4/83
Department: 3/1/83 Health & Social Services

5. Distribution:
Original to Legislative Finance
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Copy to Sponsor

POSITION PAPER/Department of Health & Social Service

MAR 6 1984

POSITION PAPER

HOUSE BILL 182

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POSITION PAPER/Department of Health & Social Service

Recommended by: George E. Mundell

George E. Mundell
Acting Coordinator
Office of Alcoholism/
Drug Abuse

Date: 3/1/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Dept. of Health &
Social Services

Date: 3/1/83

STATE OF ALASKA
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a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
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Total			-0-	-0-	-0-	-0-		

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Revenue			-0-	-0-	-0-	-0-		

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It do not represent the policy of the Sheffield Administration or the final estimate of fis impact.

Prepared By George E. Mundell, Acting Coordinator George E. Mundell AAA Phone: 586-6201
Division: Office of Alcoholism/Drug Abuse Date: 3/1/83

Approved by Commissioner: [illegible] Date: 3/2/83
Department: [illegible]

5. Distribution:
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[illegible]

2/8/83

4/20/83

Sect 2 TITLE 47 A.S. provides for work therapy as allowable cost

(b) language similar to fed language. FED REGS prohibit automatic deductions. This sec. would be rejd by fed's ANYWAY.

(c) Reflects what already exists in MOST D'ALC. programs. Reduces possibility of institutional theft & Removes READY cash from client.

Impact on STATE - minimal

AGRICULTURAL EXEMPTION - NOT PRIMARY DUTY of RANCH.

STATE LAW / FEDERAL LAW - Remove BARRIER

Pay 50% of AK MINIMUM WAGE would be least that could be paid.

See: 29 CFR 529 → AVAILABLE to RESIDENTS of drug & treatment centers

8AAC 10.120(F) → Residents of drug & treatment ctrs may

More

4/20/93

Phillip Volland teleconference

WORK THERAPY

1) WORK INCREASES SELF ESTEEM, EMPLOYMENT SKILLS
2) ELIMINATES WAREHOUSING - PRODUCTIVE WORK

COST - limited public funds

PRESENT LAW:

pay AK MIN. WAGE 3.85/hr

50 clients = $100,000 WAGE COSTS/YR

FEDERAL MIN. LAW SECT. 14 HANDICAPPED - CERTIFICATE MAY ALLOW for PATIENT WORKER. RATE PAID BASED ON disability.

STATE LAW ALCOHOL or DRUG treatment NOT clients. CONSIDERED HANDICAPPED

Reg. change IN STATE LAW to ALLOW to APPLY for APPLICATION to FED to PAY less than MIN. WAGE Minimum here is 50% of FED MIN. WAGE.

SECT. 1. EXEMPTS from STATE LAW MIN. WAGE 8 AAC 15.120 - DRUG & ALCOHOL handicapped NOT ~~handicapped~~

29 CFR 529 - PATIENT WORKER EXEMPTION

(b) FACTORS taken from WAGE & HOUR OPINIONS, FED REGULATIONS, or CASES except (5)

HB182

FEB 23 1983

LAW OFFICES OF
REESE, RICE AND VOLLAND
A PROFESSIONAL CORPORATION

JOHN REESE
WILSON A. RICE
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211 H STREET
ANCHORAGE, ALASKA 99501
(907) 276-5231

February 18, 1983

Representative Barbara Lacher
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: House Bill 182

Dear Representative Lacher:

I would like to take this opportunity to comment on H.B. 182 and, in particular, address the issue of possible conflict between the proposed legislation and the federal Fair Labor Standards Act.

As you may recall, I represent Alaska Alcoholism Rehabilitation Services, Inc., the nonprofit corporation which owns and operates a long-term residential treatment center for alcoholics in Wasilla, Alaska. Last year, on behalf of my client, I advised the State Office of Alcoholism and Drug Abuse of my opinion that state and federal law required the payment of a minimum wage to patients at residential treatment centers who are engaged in work therapy. I suggested that legislation be adopted to lessen the economic impact of this problem, and sought the assistance of various legislators last year; however, the session was too far along to yield results. I presume that you have copies of my original opinion letter to SOADA, dated February 23, 1982, and my letters to Representatives Donald E. Clocksin, Patrick J. Carney, and Senator Jalmar Kerttula, dated April 2, 1982.

Since the session began this year, I have been in frequent contact with Russ Josephson of the Law Division, and this week with your aide, Joan Matthews. I am aware of your concern about possible conflict between H.B. 182 and the Fair Labor Standards Act and hope that my comments may assist you in evaluating the proposed legislation. You may feel free to share this letter with the named sponsors of the bill.

FEB 23 1983

Let me begin by saying there are certain defects in H.B. 182 that I feel need correction, and that my opinion about possible solutions has changed since last year as a result of recent developments in case law. I have also proposed changes in H.B. 182 to address some problems which are not covered by the bill. Before explaining these issues in detail, let me first discuss my prior recommendations and the somewhat confusing legal principles that are involved in the state law/federal law conflict.

In my letter to SOADA of last year, I suggested that the application of the Fair Labor Standards Act (hereafter F.L.S.A.) to state-funded residential treatment centers could be avoided by adding language to state legislation which was keyed to the decision of the U.S. Supreme Court in National League of Cities v. Usery, 426 U.S. 833 (1976) (hereafter National League). This was because the National League decision held that the F.L.S.A. did not apply to wage and hour determinations which involve functions which state and local governments are created to provide, including those services which the states have traditionally afforded to their citizens. Among the services enumerated by the Supreme Court in National League was the field of "health care." The holding in National League was based on the application of the Tenth Amendment to the Constitution -- the constitutional provision which prohibits federal control over functions traditionally reserved to the states. Although the decision in National League was limited to states and their political subdivisions, the broad language used by the court suggested that the decision might also apply to state-funded, private organizations which deliver state services such as health care, and which are heavily regulated by the state.

Subsequent to the decision in National League, two federal courts specifically addressed the applicability of the holding in National League to local health care programs involving private nonprofit residential treatment centers funded by states. These two cases, Williams v. Eastside Mental Health Center, Inc., 509 F.Supp. 579 (N.D. Ala., S.D., 1980), and Richland County Assn. for Retarded Citizens v. Marshall, 660 F.2d 388 (9th Cir. 1981), were divided on the issue. Although the Richland County decision held that National League did not prohibit the application

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of the Fair Labor Standards Act to a private nonprofit corporation which operated a residential home for mentally retarded adults, the Williams case reached the opposite conclusion under nearly identical circumstances. When I originally wrote my opinion letter, it appeared possible that well drafted legislation, which recognized the state's interest in treating drug addicts and alcoholics as an essential state function and which met this function through the provision of funding to private nonprofit corporations, could provide the necessary protection established under the National League decision, and therefore render such treatment centers exempt from the minimum wage requirement of the F.L.S.A.

However, after speaking with Russ Josephson last month, I updated my research on the subject. Decisions issued during the last year in federal district courts as well as the United States Supreme Court now indicate that the protection originally thought available under the National League decision is no longer applicable to private nonprofit organizations which receive state funding, regardless of whether or not they are involved in administering services otherwise provided by the state.

Since my original letter to SOADA last February, two decisions were rendered by the United States Supreme Court which involved the application of National League. These cases, Hodel v. Virginia Surface Mining and Reclamation Association, ____ U.S. ____, 101 S.Ct. 2352 (1981), and United Transportation Union v. Long Island Railroad Company, ____ U.S. ____, 102 S.Ct. 1349 (1982), set out a three-pronged test to be applied in evaluating the Tenth Amendment protection announced in National League. To claim that a federal statute would not apply under the National League principle, the challenging party would have to establish that: (1) the challenged statute regulates the "states as states"; (2) the federal regulation addresses matters that are indisputably "attributes of state sovereignty"; and (3) the states' compliance with the federal law would directly impair their ability "to structure integral operations in areas of traditional functions."

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Although in National League the Supreme Court first cited fire protection, police protection, sanitation, public health, and parks and recreation as examples of services that are within the area of traditional operations of state and local governments, subsequent decisions of the U.S. district courts have refined these areas in far greater detail. See, e.g., N.L.R.B. v. Highview, Inc., 590 F.2d 174 (5th Cir. 1979) enforcement modified, 595 F.2d 339 (1979) (the care of the aged, sick and indigent); Enrique Molina-Estrada v. Puerto Rico Hwy. Auth., 680 F.2d 841 (1st Cir. 1982) (highway construction); Bonnette v. California Health & Welfare Agency, 525 F.Supp. 128 (N.D. Cal. 1981) (in-home support services for the blind, aged and disabled); Amersbach v. City of Cleveland, 598 F.2d 1033 (6th Cir. 1979) (operation of a municipal airport); and Alewine v. Cit, Council of Augusta, 505 F.Supp. 880 (S.D. Georgia 1981) (operation of a municipal transit system). The most significant development, however, has been the result of appeals in Williams v. Eastside Mental Health Center, supra, and Richland County Assn. for Retarded Citizens v. Marshall, supra, the two cases on which I based my earlier opinion.

The original Ninth Circuit decision in Richland County, which held that the Fair Labor Standards Act was applicable to private nonprofit residential treatment centers, was vacated by the Supreme Court on jurisdictional grounds in January of 1982, sub nom. Donovan v. Richland County Assn. for Retarded Citizens, ____ U.S. ____, 102 S.Ct. 713 (1982). Although the practical effect of the vacated judgment was to restore the district court's decision apparently holding the F.L.S.A. inapplicable to the treatment center, that opinion is unpublished and has little legal significance.

Of importance, however, is the chain of appeals on Williams. As you will recall, that decision held that the Fair Labor Standards Act was not applicable to a nonprofit treatment center because of its close relationship to the state via funding and regulations, and because the center served an essential state function in providing health care to citizens. The district court decision was reversed by the Eleventh Circuit on March 5, 1982 in a well-reasoned

FEB 23 1983

decision. Williams v. Eastside Mental Health Center, 669 F.2d 671 (1982) (copy enclosed). The court held that the protection accorded by National League was not available to nonprofit corporations receiving funding from the state, even though they may provide health care services on behalf of the state. I encourage you to read this decision thoroughly because of the very close analogy it presents to nonprofit corporations in Alaska which provide services through state funding in the health care, drug abuse, and alcoholism fields. In August of 1982 the decision was appealed to the United States Supreme Court, and on November 2, 1982 the petition for certiorari was denied by the Supreme Court, Eastside Mental Health Center v. Williams, ____ U.S. ____, 51 U.S.L.W. 3340. The effect of the denial of certiorari is to uphold the Eleventh Circuit's decision. It is therefore clear that the Fair Labor Standards Act does apply to private nonprofit residential treatment centers in Alaska, even though those programs receive state funding, are regulated by the state and deliver services the state might otherwise choose to provide on its own. Thus, I recommend that it is futile to try to adopt legislation stating that the treatment of alcoholics and drug addicts through private nonprofit corporations serves an important state function in an attempt to pass valid legislation that will enable those programs to pay a minimum wage less than that provided under the F.L.S.A. Because it is now clear that federal law will apply to residential treatment centers, H.B. 182 must be drafted in such a way that it is consistent with the Fair Labor Standards Act.

To fully understand the issue of conflict between state and federal law, let me briefly explain two legal doctrines that come into play in this area -- "supremacy" and "preemption."

Supremacy is a constitutional principle, based on Article IV of the U.S. Constitution, that state laws are void to the extent that they actually conflict with a valid federal statute, that is, they present an obstacle to the purposes and objectives of the federal statute. It is a doctrine often confused with a similar principle based on the supremacy clause, the doctrine of preemption.

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Preemption is a legal doctrine that prohibits the application of state statutes (whether in conflict with or consistent with federal statutes), if the federal legislative scheme evidences a congressional purpose to "occupy the field." Supremacy and preemption should not be confused. The preemption principle prohibits the states from legislating in a particular area; the principle of supremacy only prohibits the states from adopting legislation in conflict with federal legislation.

In the labor law area, the distinction between these two doctrines can be easily understood. The Fair Labor Standards Act did not preempt the field of labor law, Webster v. Bechtel, 621 P.2d 890 (Alaska 1980); see also 29 U.S.C. §218(a) (1975). Thus Alaska can adopt (and has adopted) its own laws governing the rates of pay for workers in the state. Nonetheless, the doctrine of supremacy prohibits this legislation from being in conflict with the Fair Labor Standards Act. Thus, Alaska cannot adopt a law that sets a lower rate of pay for workers in the state than is established under federal law. Therefore, the provisions of H.B. 182 cannot conflict with analagous provisions of the Fair Labor Standards Act.

This brings me to my analysis of H.B. 182 as presently drafted.

I have no problems with Section 1 insofar as it amends AS 23.10.070. The effect of the proposed amendment is to invalidate 8 AAC 15.120(f) which presently states that drug addicts and alcoholics are not handicapped workers with respect to AS 23.10.070. Because of problems with Section 2 of H.B. 182, however, and because of the need to address problems not covered by the proposed legislation, I have suggested some major additions to Section 1 of H.B. 182 (see discussion below).

AS 23.10.070 is analogous to Section 14 of the Fair Labor Standards Act, 29 U.S.C. 214, the "handicapped worker" provisions of the act. Thus it will be interpreted consistent with the F.L.S.A. and the regulations adopted thereunder. These regulations, codified at 29 C.F.R. 529 (copy enclosed), already provide a mechanism for the approval of the payment of subminimum wages to patient workers at "intermediate care facilities ... halfway houses, residential centers for drug addicts or alcoholics and the like whether licensed or not licensed." The practical effect

of amending AS 23.10.070 will be that affected treatment programs will have to apply for and obtain a certificate authorizing the payment of subminimum wages pursuant to the procedure set forth in 29 CFR 529.

Section 14 of the F.L.S.A. only permits the payment of subminimum wages, upon application and approval by the Department of labor, of not less than 50 percent of the prevailing minimum wage. In other words, the provision of federal law analogous to the amendment to AS 23.10.070 proposed by H.B. 182 does not allow the payment of any wage less than 50 percent of the prevailing minimum wage in Alaska, which is now $3.85 per hour.

Because of this fact, there is a conflict between H.B. 182 and the F.L.S.A. Section 2 of H.B. 182 sets the wages for work therapy "at the rates established under AS 33.32.050." If you refer to AS 33.32.050 you will note that the wage rate authorized therein may not exceed 50 percent of the minimum wage established under AS 23.10.065. In other words the bill, as presently written, authorizes the payment of wages less than what is required by federal law. This difference is fatal to the proposed legislation; if passed as presently written it will not survive a legal challenge based on the conflict with Section 14 of the Fair Labor Standards Act.

Another problem created by tying the wage rate to AS 33.32.050 is that AS 33.32.050 will automatically repeal in 1987. I suggest that it is imprudent to tie H.B. 182 to a law that will automatically expire four years from now. This will only mean that AS 47.37.245 would have to be amended again in 1987.

I have suggested additional amendments to Section 2 regarding the assessment of treatment fees to patient workers. My proposed subsection (b) is consistent with 29 C.F.R. 529.4(i). I have also added as subsection (c), somewhat similar to AS 33.83.50(c), clarifying a program's authority to hold wages in trust and disburse funds for appropriate purposes. As a practical matter, most residential treatment programs must hold money in trust in order to control the likelihood of intra-institutional

theft, and allocate money to the client consistent with his or her financial needs and other obligations.

I have no major problems with the definition of work therapy as defined in Section 3 of H.B. 182. I feel, however, that the present definition implies that work therapy will involve more formal "training" than actually occurs. I have suggested some minor changes in language which, I believe, more accurately reflect the concept of work therapy.

Any statutory definition of work therapy will, however, be incomplete. Litigation about this issue over the years, as well as opinions generated by the Wage and Hour Division of the Department of Labor, have only indicated the complexity of the concept. [See, e.g., Wyatt v. Stickney, 344 F.Supp. 373 (M.D. Ala. 1972), aff'd sub nom. Wyatt v. Aderholt, 503 F.2d 1305 (5th Cir. 1974); Opinion WH-375, signed by Wage Hour Administrator Ronald J. Jones, March 1, 1976; Opinion WH-334, signed by Acting Wage Hour Administrator Warren D. Landes, April 18, 1975. For instance, personal housekeeping chores are not considered work therapy under any definition, but regular building maintenance responsibilities would be considered work requiring compensation. There remains a question of whether wages need be paid for work therapy which produces saleable items from which the patients themselves profit.] Lest AS 47.37.270(14) itself be subject to future litigation, I suggest that H.B. 182 mandate the Department of Labor to adopt regulations implementing H.B. 182. Presumably, these regulations will be consistent with 29 C.F.R. 529, and reflect input from programs utilizing work therapy concepts for their clients. The end result will give programs better guidance on when wages are required to be paid.

My proposed changes in Section 1 of H.B. 182 include a mandate for the development of regulations. The guidelines I have suggested are consistent with case law as it has developed under Section 14 of the F.L.S.A.

FEB 23

Finally, the impact of having to pay patients engaged in work therapy at least 50 percent of the minimum wage will be a slightly higher cost to the state than presently exists under the proposed terms of H.B. 182. Although it is now clear that the law requires the payment of wages, I am not convinced that influential members of SOADA and the legislature will meet this responsibility by budgeting sufficient funds for programs to meet this obligation without curtailing services. Last year, for instance, the Governor's Review Board on Alcoholism -- fully aware that clients would have to be paid wages for work therapy -- recommended a cut in the Nugen's Ranch budget exactly equivalent to the funds budgeted for client wages. It would be anomalous if the Legislature adopted H.B. 182, but residential treatment programs were not awarded sufficient increases in grant funds to pay even the subminimum wage. I have therefore proposed amendments in Section 2 to meet this concern.

In summary, I therefore make the following recommendations:

1. There is no need to add a purpose clause to H.B. 182, as I originally suggested, since it is now clear that the Fair Labor Standards Act, as amended, 29 U.S.C. 201, et seq., will apply to residential drug and alcohol treatment programs in light of the U.S. Supreme Court's denial of certiorari in Williams v. Eastside Mental Health Center, 669 F.2d 671 (11th Cir. 1982), cert. den., ____ U.S. ____, 51 U.S.L.W. 3340 (Nov. 2, 1982).

2. Amend Section 1 of H.B. 182 to read as follows:

> (b) (1) Participants in residential drug and alcoholism treatment programs may be paid less than the minimum wage prescribed in AS 23.10.050 - 23.10.150 for work therapy, as defined in AS 47.37.270, and at rates approved by the commission pursuant to this section.

FEB 23

(2) The commissioner shall promulgate relgulations regarding the payment of wages for work therapy. In establishing these regulations, the commissioner shall be guided by the following standards:

(A) Whether the work performed by the patient is that which is ordinarily carried on by patients in a residential treatment program and is not for the economic benefit of the program, but solely for the mutual benefit of the participants;

(B) Whether the work performed by the patient would ordinarily be performed by full-time employees of the program;

(C) Whether the work performed by the patient is work which may produce income to the patient, other than wages;

(D) The therapeutic benefit of the work to the patient, the skill required to perform the work, and the role work therapy plays in the patient's treatment plan;

(E) The impact of the wage scale on the program, considering its size, level of funding, and the therapeutic treatment services to be provided.

3. Amend Section 2 of H.B. 182 so that it reads:

Sec. 47.37.245 WAGES OF PATIENTS.

(a) Participants in residential drug abuse and alcoholism treatment programs shall be paid wages for work therapy, as defined in AS 47.37.270. The coordinator shall make sufficient grant-in-aid funds available to programs for this purpose.

(b) No part of the wage earned by the patient worker can be deducted for the cost of room, board or services. The program, however, after the payment of wages, may assess and collect the reasonable cost of treatment according to rates established in accordance with AS 47.37.240, and on the same basis as it assesses and collects from non-working patients.

(c) Wages earned by the patient worker may be held in trust by the program for the benefit of the patient, and disbursed by the program, with the patient's consent

(1) for the support of the patient's dependents,

(2) to pay a civil judgment,

(3) for the purchase of gifts, clothing, and items of personal use,

(4) to pay restitution or a fine,

(5) for other purposes deemed appropriate by the treatment program.

4. Amend Section 3 of H.B. 182 to read as follows:

Work therapy means an activity that involves a patient in basic employment skills and assists the patient in reintegration into a community, but does not include such activities as personal housekeeping chores or cooperative responsibilities ecpected of each patient in the program.

FEB 2

Finally, on behalf of my clients I want to thank you for all of your efforts in getting the legislation introduced. Your attention to the problems faced by many drug and alcohol treatment programs reflects your conscientious attitude toward your constituents.

I hope that my comments have been helpful. Please keep me apprised of developments with H.B. 182 and feel free to call if I can be of further assistance.

Sincerely,

REESE, RICE AND VOLLAND, P.C.

P. R. Volland

Philip R. Volland

Enclosures

cc: Board of Directors, AARS
Mr. and Mrs. Leonard Nugen

Revised, July 1, 1982
Read at A. Like 12/16/82
Revised 2/14/83
FEB 23 1983

tive shall, after considering all pertinent matters presented, mail a letter to the employer and, where appropriate, to the apprenticeship agency or the responsible school official, setting out that representative's findings of specific pertinent facts and conclusions and that representative's order concerning the proposed annulment or withdrawal. In proceedings instituted for annulment, the order may provide for withdrawal instead of annulment if the proof warrants such withdrawal but fails to support adequately the annulment. Such an order shall be deemed issued and effective according to its terms when mailed.

(Secretary's Order No. 16-75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No. 76-2, dated Feb. 23, 1976 (41 FR 9016))

[43 FR 28469, June 30, 1978]

§ 528.6 Review.

Any employer and, when appropriate, any apprenticeship agency or responsible school official, who expressed timely objection to the proposed action prior to issuance of an order of annulment or withdrawal may obtain review, limited to the question of whether the findings of fact support the order under the regulations in this part. Application for such review shall be in writing addressed to the Administrator and mailed within 15 days after the order is issued. The Administrator may affirm, modify, or reverse the order, or may remand it for further proceedings. The order under review shall not be stayed in effect pending such review. Any aggrieved person may obtain such review of an order entered in proceedings instituted under paragraph (c) of § 528.3.

[21 FR 5316, July 17, 1956, as amended at 22 FR 5683, July 18, 1957]

§ 528.7 Effect of order of annulment or withdrawal.

Except as otherwise expressly provided in such order, any order of annulment or withdrawal under paragraph (a) or (b) of § 528.3 shall be effective to terminate all certifications to which the regulations in this part apply in effect at the establishment where the cause for withdrawal arose or where the annulled certificate had effect. After such annulment or withdrawal, such employer shall be ineligible to obtain or exercise the privileges granted in such a certificate until he satisfies the issuing officer that he will not again give cause for annulment or withdrawal if a certificate is issued.

(Secretary's Order No. 16-75, dated Nov. 25, 1975 (40 FR 55913); Employment Standards Order No 76-2, dated Feb. 23, 1976 (41 FR 9016))

[43 FR 28469, June 30, 1978]

PART 529—EMPLOYMENT OF PATIENT WORKERS IN HOSPITALS AND INSTITUTIONS AT SUBMINIMUM WAGES

Sec.

529.1 Statutory language and scope of regulations.
529.2 Definitions.
529.3 Advisory Committee on Sheltered Workshops.
529.4 Wage payments.
529.5 Application for certificates.
529.6 Criteria for consideration in issuance of certificates.
529.7 Issuance of certificates.
529.8 Terms and conditions of certificates.
529.9 Renewal of certificates.
529.10 Records to be kept
529.11 Cancellation of a certificate.
529.12 Review.
529.13 Submission of information, investigations, and hearings.
529.14 Relation to other laws.
529.15 Issuance of certificates for experimental purposes.
529.16 Amendment of this part.
529.17 Review of regulations.

AUTHORITY: Sec. 14, 52 Stat. 1068, as amended (29 U.S.C. 214).

SOURCE: 40 FR 5776, Feb. 7, 1975, unless otherwise noted.

§ 529.1 Statutory language and scope of regulations.

(a) The Fair Labor Standards Act as amended, among other things, makes provision for the employment of handicapped persons at subminimum wages under certificate. This provision is now designated as section 14(c) of the Act. It reads as follows:

(c) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection the Secretary of Labor, to the extent necessary in order to prevent curtailment of op

Chapter V—Wage and

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under special certificates o
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subsection and which are
worker's productivity.

(3) (A) The Secretary m
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Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 21,1983

MEMO TO: Ramona Barnes

FROM: Dave Palmer House HESS Committee x3777

SUBJECT: HB 182

The attached opinion from Nugen's attorney states that due to recent decisions of the courts, it is clear that HB 182 will not withstand a legal challenge. Do you want to direct legal services to redraft HB 182 as a sponsor substitute or should we schedule hearings on the bill as it is presently written?

sent persons in *Haas* and *Schutten*, has absolutely no interest in the subject matter of the suit, i.e., the lease. Hence judgment against GNCC for cancellation of the lease and an accounting would have no effect, practical or otherwise, on Lowell Kramer. As a result, we conclude that his interest in this suit would not be prejudiced by his absence as a party.

The final consideration is whether, given Lowell Kramer's interest in the litigation, GNCC might be subject to multiple or inconsistent liability. As we noted above, only Challenge and GNCC have any interest in the lease; thus GNCC's liability can extend only to Challenge and in any case will be finally resolved in this suit. *Cf. Haas, supra* (judgment in favor of Haas without Glueck as a party could leave bank open to double liability should Glueck later win a separate suit against the bank). The only other possible prejudice to GNCC would arise if the corporation claimed indemnity from Lowell Kramer for all or part of its liability. Because, as explained above, Kramer would not be legally bound by a judgment in this case, GNCC could theoretically lose a later suit for indemnity against Kramer. GNCC, however, may protect itself against this possibility by impleading Lowell Kramer under Rule 14.[5] Consequently, GNCC also suffers no prejudice by the absence of Lowell Kramer. *See Smith v. State Farm Fire & Casualty Co.*, 633 F.2d 401, 405 (5th Cir. 1980).

Because Lowell Kramer does not fit any of the Rule 19(a) tests for persons who should be joined if feasible, he *a fortiori* is not an indispensable party under Rule 19. Accordingly, we reverse the district court's dismissal order.

REVERSED.



5. Such joinder would come under the ancillary jurisdiction of the court, so that the case could go forward despite lack of complete diversity. *E.g., Revere Copper & Brass, Inc. v. Aetna Casualty & Surety Co.*, 426 F.2d 709, 715 (5th Cir. 1970). The plaintiff, however, may not assert any claims against the third-party defendant which do not have an independent jurisdictional basis. *Owen Equipment & Erection Co. v. Kroger*, 437 U.S. 365, 98 S.Ct. 2396, 57 L.Ed.2d 274 (1978).

David R. WILLIAMS, Plaintiff-Appellant,

v.

EASTSIDE MENTAL HEALTH CENTER, INC., a corporation, Defendant-Appellee.

No. 81-7284.

United States Court of Appeals, Eleventh Circuit.

March 5, 1982.

Former employee of mental health institution brought action against employer to recover an award of back pay allegedly owed under the minimum wage provisions of the Fair Labor Standards Act. The United States District Court for the Northern District of Alabama, J. Foy Guin, Jr., J., 509 F.Supp. 579 entered judgment in favor of former employer and former employee appealed. The Court of Appeals, Tuttle, Circuit Judge, held that: (1) not-for-profit mental health institution created by a statutory mental health authority was not a state or political subdivision and thus not exempt from the Fair Labor Standards Act on that basis, and (2) even if state had chosen to operate the institution as a state agency, the institution was not performing an integral function of the state and it thus would not be exempt from the Act.

Reversed.

James C. Hill, Circuit Judge, filed a special concurring opinion.

1. States ⇐4.16

In determining whether a state sovereignty has been unduly and unconstitutionally impaired by federal regulations, court

should look to the nature of the entity being regulated, the extent of control which the state maintains over the activities and administration of the entity in question, the function of the entity being regulated, and the nature of the federal regulation involved.

2. Labor Relations ⇐1248

In determining whether the Fair Labor Standards Act may constitutionally be applied to the activities of governmental entity, principles established in NLRB cases involving the issue of whether a particular entity is a political subdivision and thus exempt from the provisions of the National Labor Relations Act are applicable. National Labor Relations Act, § 2(2) as amended 29 U.S.C.A. § 152(2); Fair Labor Standards Act of 1938, § 6, 29 U.S.C.A. § 206.

3. Labor Relations ⇐1249

Not-for-profit mental health institution created by a statutory health authority was not a state or political subdivision and thus not exempt from the Fair Labor Standards Act because, although it was subject to substantial state regulation, it was analogous to a normal nonprofit institution in its basic corporate structure. Fair Labor Standards Act of 1938, § 6, 29 U.S.C.A. § 206.

4. Labor Relations ⇐1249

Even if state had chosen to operate not-for-profit mental health institution as a state agency, that institution was not performing an integral function of the state and thus would not be exempt from the Fair Labor Standards Act. Fair Labor Standards Act of 1938, § 6, 29 U.S.C.A. § 206.

5. Labor Relations ⇐1248

The type of integral state functions which are exempt from Fair Labor Standards Act are those which a state performs for or in relation to the society at large or the state as a whole. Fair Labor Standards Act of 1938, § 6, 29 U.S.C.A. § 206.

Reeves & Still, Edward Still, Birmingham, Ala., for plaintiff-appellant.

Beate Bloch, Associate Sol., Gregory O'Duden, Atty., U. S. Dept. of Labor, Div. of Fair Labor Standards, Washington, D. C., for Secretary of Labor amicus curiae.

Frank O. Hanson, Jr., Birmingham, Ala., for defendant-appellee.

J. Fairley McDonald, III, Asst. Atty. Gen., Ala. Dept. of Mental Health, Montgomery, Ala., for Ala. Dept. of Mental Health amicus curiae.

Before TUTTLE, HILL and JOHNSON, Circuit Judges.

TUTTLE, Circuit Judge:

This appeal involves a suit brought by the plaintiff-appellant against his employer for an award of back pay allegedly owed pursuant to the minimum wage provisions of the Fair Labor Standards Act [FLSA], 29 U.S.C.A. § 206 (1978). The district court, 509 F.Supp. 579, held that under the principles set out in *National League of Cities v. Usery*, 426 U.S. 833, 96 S.Ct. 2465, 49 L.Ed.2d 245 (1976), the defendant-appellee was exempt from the FLSA's minimum wage provisions. For the reasons that follow, we reverse.

I.

The plaintiff David R. Williams was an employee at the Eastside Mental Health Center [Eastside] from February, 1977 until May, 1979. Williams worked in Eastside's Transitional Home Program. This program operates as a type of halfway house, providing psychological rehabilitation services for individuals recently released from state mental hospitals or persons who might otherwise be heading for commitment to a state mental hospital. Eastside hired Williams as a live-in home manager. He was required to work in 96-hour shifts, residing at the home for four days, followed by four days off. Eastside paid Williams a fixed salary, and considered him to be on duty 24 hours per day for the four working days. In fact he was required to be at the home during the four working days only from 5 p. m. until 8 a. m. the following morning.

During the day he was allowed to leave the home if he was not needed. As a home manager Williams' primary function was to oversee and assist the training of residents in basic socialization skills and some routine daily activities.

Sections 206 and 207 of the FLSA require all employers subject to the Act to pay employees a certain minimum wage for the first 40 hours worked in a given week, and one and one-half times the regular wage for any time worked over the 40-hour base. *See* 29 U.S.C.A. §§ 206, 207 (1978). There is some dispute in the record from the court below regarding the number of hours Williams worked during his employment at Eastside. Assuming the facts as alleged by the plaintiff, the losing party in the district court's summary judgment order, the salary Williams received during his entire employment at Eastside was about $27,000 short of the minimum required under the FLSA.

II.

We must begin by describing the development and character of the defendant-appellee in this case, the Eastside Mental Health Center.[1] The state of Alabama first began treating mental patients in its state hospitals in 1861. Up through the 1960's Alabama provided comprehensive mental health services in state institutions such as Bryce Hospital, Searcy Hospital, and Partlow State School. In addition the state helped fund some smaller community mental health centers.

In 1965 the State Department of Public Health completed a two-year, federally financed study to plan for statewide provision of mental health services. This study recommended the establishment of a network of smaller, but comprehensive mental health centers throughout the state. Subsequently the state passed legislation creating the Department of Mental Health [the Department], *see* Ala.Code § 22-50-1 (1977), and enacted specific legislation to govern the creation and operation of regional authorities to administer a network of community mental health centers. *See* Ala.Code § 22-51-1 (1977). All boards and corporations established pursuant to the provisions of this Act are statutorily designated as public corporations. Ala.Code § 22-51-2 (1977). The Department then divided the state into mental health regions, and established mental health authorities under section 22-51-2 to organize and administer the provision of services for each region.

In 1969 the Jefferson-Blount-St. Clair Mental Health Authority [hereinafter "the Authority" or "the Jefferson Authority"] was incorporated as a public corporation under section 22-51-2 as the Authority for coordinating mental health services in the three named counties. The Authority divided its region into four catchment areas each with a population of roughly 185,000 persons, and determined that adequate services could be provided if there were established one comprehensive mental health center in each catchment area. Three such centers were in fact created, one of which was Eastside Mental Health Center, the defendant-appellee in this case. The other two were the Western Mental Health Center and the University Mental Health Center. These latter centers were established as public corporations under section 22-51-2.

Eastside opened its doors as a community mental health center on July 15, 1974. It operated out of a building purchased with state, county and city funds. Unlike its counterpart centers operating within the three-county region, Eastside was initially opened as an unincorporated service unit for the Jefferson Authority wholly owned and operated by the Authority. The Western and University Centers subsequently lodged a complaint that there was a conflict of interest in the Authority operating a center that was competing for funds with

1. For reasons that are made clear below, see pp. 676-678 *infra*, the issue of state sovereignty upon which the case turns requires a consideration of the nature of the entity claiming sovereignty, as well as the nature of its chief functions.

the other two centers.[2] In response to this complaint, the Authority then incorporated Eastside as a separate, non-profit entity under the Alabama non-profit statute. *See* Ala.Code § 10-3-1 (1977).[3]

As a non-profit corporation, Eastside is structured similarly to most private, non-profit institutions. Eastside has its own articles of incorporation and set of by-laws. These govern the general structure and management of the center, including appointment of its administrative board of directors. This board is responsible for seeing that adequate funds, staff and equipment are provided for the Center. The board also sets all major policies of the Center. Finally the board selects, hires, and fires the administrative staff of the Center.

Under the by-laws there are 14 separate agencies responsible for appointing the 18 members of Eastside's board of directors. Four directors are appointed by the Jefferson Authority; the other fourteen directors are appointed by a mix of state or public agencies and private, non-profit organizations.[4] The parties in the present controversy stipulated in the district court that 10 of the appointing organizations should be considered as state or public entities and six as private, non-profit groups. The status of the remaining two was to be determined by the district court. The by-laws also provide that the Jefferson Authority must ratify the appointment of all board members, including those appointed by private organizations. There is no indication in the by-laws that any of the appointing agencies or the Jefferson Authority has the power to remove a board member once appointed.

So far as disclosed by the record, all board members are to be motivated solely by what they believe is best for the Center and its clientele. They are not expected to represent or vote for policies favoring their appointing agency. Thus as long as state regulations are not violated, the administration of the institution is not subject to the legal dictates of any "official" state agency or officer.

Eastside's relationship to the Jefferson Authority and to the State of Alabama in general is controlled partially by provisions in the by-laws and articles of incorporation, partially by state licensing standards, and partially by the contracts it maintains with various state agencies for the provision of mental health services to its catchment area. In addition, federal regulations prescribe certain of the Center's activities, as Eastside receives about 38 percent of its funds from the federal government.

All mental health centers in Alabama, including Eastside, are subject to considerable state monitoring. Eastside must comply with the state's Standards for Community Mental Health Centers or be subject to revocation of its certification. Changes in the Center's articles of incorporation or by-laws must be approved by the Jefferson

2. Although the record is not clear on this point, it appears that the Jefferson Authority had some control over the dispersal of state funds to the three mental health centers in its region.

3. The court below determined that Eastside could not be established as a public corporation under section 22-51-2 because the community mental health centers statute allows only one public facility per county, and another center had already filed for incorporation "in the three-county area of Jefferson, Blount and St. Clair." *See* Mem. Op. filed March 24, 1981. Admittedly it is not clear how the statutory maximum had been reached if only one center had applied in a three-county area. Apparently each of the three entities, the Authority, and Western and University Mental Health Centers, had filled the statutory quota for each of the three counties.

4. The Health Departments of Jefferson, Blount, and St. Clair counties appoint one member of the board in rotation; similarly, the three counties' Departments of Pensions and Security, and the three counties' Associations for Retarded Citizens, each appoints one member in rotation. In addition the three County Commissions each appoints a member, the three appointees serving concurrently. Finally, the following agencies and organizations each appoints one board member: the Birmingham City Council, the Council for Exceptional Children, the Baptist Medical Center, the Hill Crest Foundation, Inc., the East End Memorial Hospital Association, the Mental Health Association of Jefferson County, the Occupational Rehabilitation Center, and the Birmingham Regional Health Systems Agency.

Authority. The Authority must also approve the Center's budget. Eastside is subject to auditing by both state and federal officials, and state examiners conduct frequent site visits to inspect its operations. Eastside also participates in Alabama's State Retirement System, and is exempt from state sales taxes. Finally, upon dissolution of the corporation, the articles of incorporation provide that all of Eastside's assets are to vest in the Jefferson Authority.

Eastside's general purpose is to provide comprehensive mental health and mental retardation services to a prescribed geographic area. The Center provides both inpatient and outpatient care, emergency care, consultation and educational services, as well as specialized services for children, elderly persons, and persons with alcohol or drug-related problems. In addition the Center runs the Transitional Home Program for people going to or about to return from a state hospital. The Center assists the local probate court in screening persons for state institutions. Finally, the Center provides some services for adult mentally retarded individuals. Some of these programs involve psychotherapeutic counseling, as well as prescribed medicine treatments. Eastside provides each of the services through contracts with schools, hospitals, nursing homes, or some other state facility or agency.

At present there are 25 community mental health centers in the State of Alabama. Twenty of these Centers are public corporations under Ala.Code § 22-51-2; two are operated directly by local governmental bodies. The remaining three are section 10-3-1 nonprofit corporations such as Eastside Mental Health Center.

III.

The defendant-appellee Eastside Mental Health Center claims exemption from the minimum wage provisions of the FLSA under the principles set out in the case of *National League of Cities v. Usery*, 426 U.S. 833, 96 S.Ct. 2465, 49 L.Ed.2d 245 (1976). Appellee asserts that the *Usery* case requires FLSA exemption for all state or public agencies performing traditional government functions. The appellee argues that because Eastside is so thoroughly allied with the State of Alabama, and furthermore because it is engaged in an ordinarily governmental function, namely, the provision of mental health services to the public, the *Usery* test has been satisfied and exemption is appropriate. We disagree with appellee's understanding of *Usery* and its corollary principles, and for the reasons that follow we hold that Eastside should not be exempt from the FLSA.

The overriding constitutional concern faced by the court in *Usery*, and thus by this Court in the present case, is the problem of affixing a clear and workable boundary between the two sovereignties in our federal system. The problem is amplified as always by the necessity that the result adhere to the facts before us while at the same time serve as a clear guide for future applications. And most importantly we are faced with the task of reaching a determination that is consonant with constitutional precedents.

The existing precedents make clear that the notion of state sovereignty is as important to a truly federal system of government as it is hard to define, let alone pigeonhole into any one constitutional provision. At least since the case of *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 410, 4 L.Ed. 579 (1819), the Court has recognized that state and federal powers must be preserved in a delicate equipoise in a federal system such as we have. The need for this balancing of state and federal power "rests on the conviction that each government, in order that it may administer its affairs within its own sphere, must be left free from undue interference by the other." *Metcalf & Eddy v. Mitchell*, 269 U.S. 514, 523, 46 S.Ct. 172, 174, 70 L.Ed. 384 (1926) (citing *McCulloch v. Maryland*, 17 U.S. (4 Wheat) 316, 4 L.Ed. 579 (1819)). There exist certain constitutional provisions that emphatically, though perhaps ambiguously, address the necessity of protecting the sovereignty and power of the individual state

governments. *See Hans v. Louisiana*, 134 U.S. 1, 21, 10 S.Ct. 504, 509, 33 L.Ed. 842 (1890) (Eleventh Amendment protects states against unconsented suits even if they arise under the Federal Constitution or laws of the United States); *Hodel v. Virginia Surface Min. & Rec. Ass'n*, 452 U.S. 264, 101 S.Ct. 2352, 69 L.Ed.2d 1 (1981) (Tenth Amendment contains limits on federal power to regulate states as states).[5]

Resort to specific constitutional provisions, or even individual case precedents, is nevertheless inadequate to a determination of the proper balance to be struck between the state and federal sovereignties. "Experience has shown that there is no formula by which the line may be plotted with precision in advance." *Metcalf & Eddy v. Mitchell*, 269 U.S. at 523, 46 S.Ct. at 174 (1926). Indeed such an approach is apparently inappropriate. In the most recent judicial attempt to determine the appropriate state-federal relationship, the Court in the *Usery* case relied upon a wealth of case precedents involving issues ranging from intergovernmental tax immunity, to federal regulation of commerce, to state control over the location of its state capitol. *See Metcalf & Eddy v. Mitchell*, 269 U.S. 514, 46 S.Ct. 172, 70 L.Ed. 384 (1926); *United States v. California*, 297 U.S. 175, 56 S.Ct. 421, 80 L.Ed. 567 (1936); *United States v. Darby*, 312 U.S. 100, 61 S.Ct. 451, 85 L.Ed. 609 (1941); *Coyle v. Oklahoma*, 221 U.S. 559, 31 S.Ct. 688, 55 L.Ed. 853 (1911). In line with the *Usery* precedent, we thus feel it appropriate, indeed constitutionally incumbent upon us, to look to a range of case sources interpreting a variety of constitutional provisions and penumbras in determining how to strike the proper balance in the present case.

[2] In determining whether a state's sovereignty has been unduly and unconstitutionally impaired by federal regulation, the courts have in the past considered several factors. First, they have looked to the nature of the entity being regulated. In *Usery* the Court acknowledged that attributes of state sovereignty emanating from the federal structure of our government put the states on a different footing from purely private entities with respect to federal regulation of their activities. Citing *Coyle v. Oklahoma*, 221 U.S. 559, 31 S.Ct. 688, 55 L.Ed. 853 (1911), the Court in *Usery* declared that even some affirmative grants of constitutional power to the federal government must be limited when national regulations directly affect a state or its political subdivisions in carrying out normal governmental activities. *National League of Cities v. Usery*, 426 U.S. at 845, 855–56 n.20, 96 S.Ct. at 2471, 2475–76 n.20 (1976).

Of course the determination that a regulation affects a state or its political subdivision is not always a simple one to make. There exist many public or quasi-public agencies the status of which, for purposes of determining a state sovereignty question,

5. The ambiguity of Tenth Amendment case law is merely coextensive with the ambiguity of its language. *Compare United States v. Darby*, 312 U.S. 100, 61 S.Ct. 451, 85 L.Ed. 609 (1941) (Tenth Amendment states but a truism), *with Fry v. United States*, 421 U.S. 542, 547 n.7, 95 S.Ct. 1792, 1795 n.7, 44 L.Ed.2d 363 (1975) (Tenth Amendment declares policy that Congress may not exercise power so as to impair the states' integrity or their ability to function effectively in a federal system), *National League of Cities v. Usery*, 426 U.S. 833, 842, 96 S.Ct. 2465, 2470, 49 L.Ed.2d 245 (1976) (relying on Tenth Amendment case precedents to strike down FLSA as applied to state and municipal governments), *and Hodel v. Virginia Surface Min. & Rec. Ass'n*, 452 U.S. 264, 289, 101 S.Ct. 2352, 2366, 69 L.Ed.2d 1 (1981) (citing Tenth Amendment as embodying certain limits on federal Commerce Clause regulations).

Even Eleventh Amendment jurisprudence suffers from substantial confusion and complexity. For example, the principle of state immunity from unconsented suits has been qualified or at least restricted by a countervailing principle distinguishing suits against a state from suits against an individual officer of the state. The latter type of suits, at least in some circumstances, is not barred by the Eleventh Amendment. *Compare Ex Parte Young*, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908) (establishing equitable cause of action against state officers in their individual capacities notwithstanding Eleventh Amendment) *with Edelman v. Jordan*, 415 U.S. 651, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974) (qualifying Ex Parte Young in situations where remedy requires payment of state funds as compensation for past damages).

is not easy to characterize. Frequently the courts have faced similar classification problems when deciding cases in the areas of state action doctrine, *see, e.g., Evans v. Abney*, 396 U.S. 435, 90 S.Ct. 628, 24 L.Ed.2d 634 (1970), § 1983 litigation, *see, e.g., Adickes v. Kress & Co.*, 398 U.S. 144, 90 S.Ct. 1598, 26 L.Ed.2d 142 (1970), and Eleventh Amendment sovereign immunity questions, *see, e.g., Edelman v. Jordan*, 415 U.S. 651, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974).[6]

At issue in *Usery* was the constitutionality of the Fair Labor Standards Act when applied to wages paid by state and subordinate political subdivisions to their employees. The Court held that this would seriously impair the right of the state to carry out its normal functions. It was only the payment of wages by *state or subordinate political bodies* that was involved there.[7] The Court in *Hodel v. Virginia Surface Min. & Rec. Assn., supra*, interpreted *Usery* as requiring that, *inter alia*, the federal regulation in question must address the "States as States" in order for there to be an infringement of state sovereignty. *Hodel v. Virginia Surface Min. & Rec. Assn.*, 101 S.Ct. at 2366 (1981).

[2] Beyond that we think the relevant inquiry is the extent of control the states maintain over the activities and administration of the entity in question. Indeed it seems to us appropriate to borrow from principles established by the court in NLRB cases involving the issue of whether a particular entity is a political subdivision and is therefore exempt from the provisions of the National Labor Relations Act, 29 U.S.C.A. § 152(2) (1973). *See NLRB v. Natural Gas Utility Dist.*, 402 U.S. 600, 91 S.Ct. 1746, 29 L.Ed.2d 206 (1971).[8] In *NLRB v. Natural Gas*, the Court in a close case considered relevant whether the entity seeking exemption was administered by individuals responsible to public officials or to the general electorate. *Id.* at 605, 91 S.Ct. at 1749–50. Although these cases turn on the construction of the Labor Relations Act and not on constitutional considerations of state sovereignty, we find them helpful in our inquiry, and until the Court holds otherwise we will adopt this approach.

Second, in deciding cases involving possible federal infringement of state sovereignty, the courts have assessed the function of the entity being regulated. In *Usery* the Court repeatedly emphasized that the FLSA directly affected a function that was traditionally a governmental activity, namely, the structuring of wage and hour policies. *National League of Cities v. Usery*, 426 U.S. at 845–46, 851–52, 96 S.Ct. at 2471–72, 2474 (1976). The Court alternately characterized this function as traditional, essential, fundamental, and integral. *Id.* at 845, 851, 96 S.Ct. at 2471, 2474. The Court listed several other functions that could be so characterized, including fire prevention, police protection, sanitation, public health, and parks and recreation. *Id.* at 851, 96 S.Ct. at 2474. Moreover, in overruling *Maryland v. Wirtz*, 392 U.S. 183, 88 S.Ct. 2017, 20 L.Ed.2d 1020 (1968), the Court

6. The Court in neither the *Usery* nor the *Hodel* case had to face this issue, as the nature of the regulated entities was not disputed in either case. In *Usery* many states were party to the suit, and the issue was whether the FLSA as applied directly to the states was within Congress' powers. *National League of Cities v. Usery*, 426 U.S. at 854, 96 S.Ct. at 2475 (1976). Similarly in *Hodel* the states were parties, and the Court did not question their status as states, but rather doubted that the states were being directly regulated by the federal government. *Hodel v. Virginia Surface Min. & Rec. Assn.*, 101 S.Ct. at 2366 (1981).

7. That subordinate bodies are included in the *Usery* exemption is a principle which derives from explicit language in the opinion, as well as by implication, at least insofar as the term relates to "such areas as fire protection, police protection, sanitation, public health, and parks and recreation." *National League of Cities, supra*, 426 U.S. at 851, 96 S.Ct. at 2474. The opinion specifically included "political subdivisions" as entities for which classification of sovereignties is appropriate. *Id.* at 855, n.20, 96 S.Ct. at 2476, n.20. Additionally, the Court mentioned state schools, hospitals, and other "subordinate arms of state government" as properly labelled sovereigns. *Id.*

8. We base our analogy to the labor cases on the simple fact that the precise term "political subdivision" is used in both the *Usery* case and the NLRB cases.

implicitly included the operation of public schools and hospitals as traditional functions of the states. 426 U.S. at 855, 96 S.Ct. at 2476. In *Hodel*, the Court listed the traditional nature of the function involved as the second condition precedent to a finding that a state's sovereignty has been constitutionally infringed by federal regulation. *Hodel v. Virginia Surface Min. & Rec. Ass'n*, 101 S.Ct. at 2366 (1981).

The third and final indicium of state sovereignty frequently considered by the courts is the nature of the federal regulation involved. The Court in *Usery* discussed at length the effects on state government operations that would result from application of the FLSA. The Court focused on the significant costs, both in terms of money and in terms of necessary restructuring of employment operations, that states would have to bear if forced to comply with the FLSA. *National League of Cities v. Usery*, 426 U.S. at 846–51, 96 S.Ct. at 2471–74 (1976). Similarly in *Fry v. United States*, the Court cited the unintrusive nature of the Economic Stabilization Act as a primary reason for upholding its application to state employees. *Fry v. United States*, 421 U.S. at 548, 95 S.Ct. at 1796 (1975). Finally, in the intergovernment tax immunity cases, the Court has been guided by an assessment of the interference with state government functioning. *See Helvering v. Gerhardt*, 304 U.S. 405 at 419–20, 58 S.Ct. 969 at 974–75, 82 L.Ed. 1427 (1938).

IV.

Before applying the foregoing principles to the facts of the case before us, we may well benefit from a quick study of Immanuel Kant's On the Old Saw: That May be Right in Theory but it Won't Work in Practice (E. B. Ashton trans. 1974). Precise legal guidelines easily applicable to particular fact situations do not exist in cases such as this involving broad constitutional concepts such as that of sovereignty. As will become clear shortly, our job is compounded in this case by the borderline nature of the facts before us. Nevertheless we are convinced that upon a consideration of all the factors, on balance it seems clear that Eastside is not and should not be treated as a sovereign entity in our federal system.

[3] The determinative fact in this case is simply that the entity with which we are dealing is not a state or a political subdivision of a state as defined by the Court in *Usery* and in other cases involving similar issues. Eastside Mental Health Center is not the State of Alabama, nor is it an agency or department of the State of Alabama. Indeed no party contends otherwise.

Moreover as it currently exists under Alabama state law, Eastside is not a public agency or corporation. As was noted earlier, the Center is incorporated as a non-profit institution under section 10–3–1, rather than as a public corporation under section 22–51–2 of the Alabama Code. The Center is in fact distinct from many of the other community mental health centers operating in the State of Alabama in precisely this regard. For whatever reason, Alabama did not elect to operate Eastside as a state institution with state employees; instead it set up a not for profit corporation with a separate, independent board of directors to administer it. Whatever may have been the state's reason for doing it this way, it must live with the consequences. It cannot claim an immunity based on a condition which it itself sought to avoid.

Here, then, lies the greatest difference between *Usery* and the facts of this case. Here we are concerned with application of the FLSA wages paid by a not for profit corporation which operates by contract with a public corporation of the State of Alabama and by contract with other entities. There is thus no impact on the state in its relation with its own employees. Thus, the FLSA does not affect the "States as States."

For such reasons as were satisfactory to it, the State of Alabama elected not to employ any persons to operate institutions performing such services as are performed by Eastside. By making this election it removed the agency from the protection of the Tenth Amendment as delineated in

Usery and *Hodel*. Instead, certain individuals organized a corporation under the general legislative authorization used by other citizens to organize all educational, religious and other eleemosynary institutions, which thereafter contracted with Jefferson, itself an independent corporation, to carry out these functions.

For purposes of the sovereignty issue before us, Eastside is thus best characterized as a private, non-profit corporation, licensed in the State of Alabama to perform the services of a community mental health center, and carrying out such services by means of ordinary contracts with various state and local agencies and institutions. It is thus analogous to a normal nonprofit institution in its basic corporate structure, while at the same time analogous to a private business doing contracting work for the state in its basic business operations.

Although the Center is subject to substantial state regulation, this fact does not change our characterization. With respect to the state licensing regulations, we find it difficult to distinguish Eastside from a variety of private corporations and professional individuals that are subject to similar state control pursuant to licensing statutes. Such controls are normal means by which states effectuate public policies through the regulation of private entities. These licensing controls do not, however, somehow magically transform the fundamental nature of the licensed entity into a public agency or official.

The additional control exerted by the Jefferson Authority over Eastside's budget, board of directors, and residual assets upon dissolution, are not so significant as to justify characterizing the Center as an arm of the state. With respect to the board of directors, not only does the State of Alabama not have control over the appointment of nearly one-half of the board membership, in addition it has no power whatsoever to dismiss any of the board appointments. Members of the board do not serve as representatives of the state or any of its agencies. For this latter reason it is clear that no member of the administrative board is directly responsible to a public official or to the general electorate. Under the test set out in *NLRB v. Natural Gas Utility Dist.*, 402 U.S. 600, 91 S.Ct. 1746, 29 L.Ed.2d 206 (1971), this factor indicates that Eastside is not a political subdivision of the State of Alabama. The other controls, while perhaps uncommon in the context of normal private corporations contracting with the states, must be viewed simply as stringent licensing standards necessary to the effective implementation of the state's police power in the mental health arena.

If the State of Alabama chooses to foster the provision of mental health services by allowing Eastside and similar mental health centers certain fringe benefits, including sales tax exemption and participation in the State Retirement System, this does not mean that Eastside should be viewed as an arm of the state. Alabama either provides or legally may provide similar benefits to entities that are declaredly not public agencies.[9]

[4] Our conclusion that the Eastside Mental Health Center is not a state agency or a political subdivision of the state is sufficient under the *Hodel* test for us to hold that it may not be exempt from the FLSA. Just as in *Hodel*, we need not reach the other factors in the sovereignty test if we initially find, as we do here, that the entity with which we are dealing is not a state. *See Hodel v. Virginia Surface Min. & Rec. Ass'n*, 101 S.Ct. at 2369 (1981). For this reason it is not necessary for us to consider the extent of the FLSA's effect on Eastside's function of granting mental health services, nor need we decide whether such function is traditional or essential. In

9. The State of Alabama does in fact grant sales tax exemption to many other private businesses. *See* Ala.Code § 40 23-4 (1975). In addition, membership in the State Retirement System is not limited to state agencies, as it is also available to employees of a "public or quasi-public organization." *See* Ala.Code § 36-27-6 (1975). Assuming Eastside is considered a quasi-public organization, it may participate in the retirement system and yet still not be a state or public agency within the meaning of the term as used in the *Usery* case.

view of the significance of the term "integral" used in the *Usery* opinion, however, we think it important to briefly discuss the application of this concept to the facts of this case. In short we believe that even if the State of Alabama had chosen to operate Eastside as a state agency, the Center is not performing an "integral" function and thus the *Usery* exemption would not apply.

In *Usery* the Court used the term "integral" to define the nature of a state operation that is protected by considerations of sovereignty. "We hold that insofar as the challenged amendments [of the FLSA] operate to directly displace the States' freedom to structure integral operations in areas of traditional governmental functions, they are not within the authority granted Congress by Art. 1, § 8, cl. 3." 426 U.S. at 852, 96 S.Ct. at 2474 (1976) (footnotes omitted).[10]

[5] Dictionary definitions indicate that the adjective "integral" signifies something that is a part of or is in itself a whole. *See Webster's New International Dictionary* 1290 (1936). We think an integral function is in this context one that a state performs for or in relation to the society at large, the state as a whole. One such function is the state's taxing power; another is the state's function of enacting laws for the public good through its legislative body. For purposes of determining whether a particular function is "integral" in the context of sovereignty decisions such as the one before us, we think it therefore helpful to look at whether the federal regulation in question affects a state function in a way that reverberates throughout the society as a whole.[11] For example, any interference with a state's provision of police protection to its citizenry, or its ability in general to pass laws in its legislature, clearly affects all people in the state. Such integral functions may be contrasted with those that, while perhaps traditional, are nevertheless not functions which relate to the entire state populace. An example of a non-integral function is a state's enactment of particular regulations addressing specific problems such as water usage, farming, railroads, utilities, etc. Even though such functions may have been traditionally carried out by the state, federal regulation thereof is not prohibited because the functions do not produce significant consequences affecting all persons in the state and thus are not, in our definition of the term, "integral" functions.[12]

With these principles in view, we find that Eastside's function of providing mental health services to the citizens of Alabama is

10. We believe that the term "integral" relates to the nature of the state function to be given sovereign protection. Admittedly the Court in *Usery* appears in the quoted passage to differentiate an "operation" from a "function." It may be said that the phrase "integral operation" refers to the manner in which the state chooses to carry out its traditional function, including the state's structuring of its wage policies for those employees carrying out such functions. Here the term "integral" would refer both to the fact that the setting of wage policies is *crucial* to the state's ability to carry out effectively a particular function, and to the fact that such policies affect the *whole* of the state's operations, in this case, all employees of the state. Under this view, it is of course true that any case such as the one before us involving the application of the FLSA to what is arguably a state entity involves an interference with the state's ability to structure its *integral* operations. In our opinion, however, the term "integral" also applies to the type of governmental function that is to be protected under a concept of state sovereignty.

At least one commentator agrees that the term "integral" is used in *Usery* to modify the type of state function involved. *See* Note, Taking Federalism Seriously: Limiting State Acceptance of National Grants, 90 Yale L.J. 1694, 1708 (1981). *See also, National League of Cities v. Usery*, 426 U.S. at 851, 855, 96 S.Ct. at 2476, (using phrase "integral governmental functions").

11. It bears noting that in this respect a determination of whether a function is integral requires an assessment of the effect of the federal regulation, which is in fact the third factor which the courts have considered in making sovereignty determinations. *See* pp. 678–679 *supra*.

12. Under our test regarding integral functions, the Court in *Hodel* could have easily found that the function of regulating the mining industry, while perhaps traditional, as the state parties argued, was nevertheless nonintegral because the federal interference did not affect the entire state citizenry.

comparitively inexpensive cost for establishing the long term alcoholism rehabilitation program so desperately needed in this state.

Secondly, the program may confront increased operational costs because of an obligation to pay clients at the facility a minimum wage while engaged in what is called "work therapy." The therapeutic design for Nugen's Ranch involved a scheme whereby clients, as part of their daily routine, would be involved in gardening, raising livestock, greenhouse activities, minor renovations on the facility, and the like. The program feels strongly that chronic alcoholics get no benefit from simply being "warehoused" at an institution for a period between six months and two years. Clients must be actively engaged in activities which will increase their health, occupy some of their time, and train them in minimal employment skills that can be helpful with their eventual reintegration into their community. This work therapy, when combined with traditional forms of counseling, should result in a high rate of success in treating chronic alcoholism.

But my analysis of state and federal law indicates that the program may be under an obligation to pay clients at least a minimum wage while engaged in the work therapy. For reasons that are not clear, state regulations pursuant to the Alaska Wage and Hour Act specifically exclude alcoholism and drug treatment programs from provisions which would otherwise enable the program to pay less than a minimum wage to clients. None of the specific exclusions of the Alaska Wage and Hour Act provide exceptions for long-term treatment facilities to pay clients less than a minimum wage. Because Alaska has not specifically identified this area of labor law as an issue of particular state concern, it is likely that federal law, in addition to state law, will require the payment of minimum wages. I have already provided SOADA with a detailed legal analysis of this problem, and am willing to provide you with a copy if you wish.

The impact on the program and the state is significant. Even with clients working only a few hours per day, the yearly cost of the program to pay a minimum wage to clients engaged in work therapy is estimated to be in excess of $230,000 per year. This adds a substantial cost to the operation of the program on a yearly basis.

The solution to this problem may be in a legislative amendment to the Alaska Wage and Hour Act exempting patient workers in residential drug and alcoholism treatment programs from the coverage of the statute, and an amendment to the Uniform Alcoholism Intoxication and Treatment Act

which would permit the payment of a sub-minimum wage to clients who are engaged in work therapy projects. I do not know whether legislation of this nature could be accomplished this session, and we look for your direction on this issue.

All of this is to say that the program needs your continued support on alcoholism monies this session, and assistance in possible legislative solutions to some of the problems already identified. The Ranch has been receiving strong and continued support from residents and organizations in the Mat-Su Valley, and we urge your continued support also.

You are more than welcome to call or write me if you have any questions.

Sincerely,

REESE, RICE & VOLLAND, P.C.

Philip R. Volland

PRV/kkr

cc: Leonard & Henrietta Nugen

The second problem with the current scheme is that it has no provisions for addressing the problem of the Department withholding a decision with respect to a pending grant application. In The Studio Club's situation, the grant for FY '82 had not yet been awarded. Therefore, the program had not entered into a contractual relationship with the agency, and there was no grant to suspend, nor was the pending grant ever denied. All that happened was that SOADA decided to "put on hold" any transactions related to the FY '82 grant application.

Undoubtedly, the program could have pursued remedies in court to secure certain protections during the process of review. But that is an illusory remedy for a non-profit organization that depends entirely on state funding. The program simply had no funds to finance the litigation that would have been necessary to prevent the kind of administrative abuse that the program never expected to happen in the first place.

It would appear to me that regulations could be adopted pursuant to 7 AAC 78.010 et seq. to provide the kind of procedural protections that I have listed above. This would certainly happen if the legislature amended AS 47.37 to mandate the appropriate regulations.

B. The Payment of Wages to Patient Workers

An entirely separate and unique issue to the program is the question of its legal obligation to pay clients a minimum wage for activities performed during "work therapy." As you recall, the scheme of Nugen's Ranch involves client activities in gardening, greenhouse work, housecleaning, and renovation work on the facility.

Although the question seems straightforward, the answer is not. I have enclosed with this letter my legal memorandum to SOADA outlining the results of my research. I encourage you to read it so that you can get a complete understanding of the various issues involved.

Current state and federal law clearly suggests that patient workers be paid a minimum wage. This is understandable in light of the fact that the case law developed from wholesale institutional abuses of clients in mental institutions who were required to perform work of questionable therapeutic value. But viewed from the program's perspective, this obligation makes little sense. First of all, the economic impact on the program is tremendous. Our estimates are that the increased operational costs for Nugen's Ranch for paying minimum wages to 48 clients

for only a few hours of work per day amounts to $230,000 annually. This is without an analysis of fringe, overhead costs, and the possible necessity to add additional clerical help to handle the administrative burden related to the payroll.

But the more important concern is the therapeutic value of the work to clients at the Ranch. It is in this area where the work therapy program planned for the Ranch differs from the activities normally required of patient workers in other institutions.

The program's treatment philosophy starts from the premise that it makes no sense to have clients sit around for two years while going through a long period of sobriety. The health of a chronic alcoholic has often deteriorated, and physical activity is necessary to restore this health. Equally true is the fact that a typical long-term inebriate has become a public pariah who lacks self-esteem, motivation, self-worth, and the most minimal of job skills. Work therapy can enable that individual to regain self-confidence and acquire some skills. And anyone in the treatment field will tell you that an alcoholic who has just recently stopped drinking needs something to occupy the time and energy that was once spent drinking. If nothing else, the work therapy helps keep the alcoholic from drinking by keeping him busy.

Unfortunately, the law does not address the different therapeutic values that work therapy holds for recovering alcoholics and drug addicts compared to patient workers in other kinds of institutions. The law simply applies an "economic reality test" as the rubric for when clients are to be paid the minimum wage. By definition, however, almost any form of work therapy will arguably meet the economic reality test and therefore require the payment of wages.

The options open to the program are not especially attractive. If the work therapy concept is scrapped because of the economic cost to the program, the Ranch will find itself stripped of a treatment technique which is critical to the success of the program. If the Ranch is compelled to divert substantial operational funds each year for the payment of client wages, other equally important aspects of the program - renovation, staff salaries, administration, etc. - will suffer.

The legal authority for the program to recoup wages paid to clients by charging them a higher fee for their cost of care amounts to a scam that has no practical or therpeutic value. The program would simply be "paying" clients with one hand, and taking it back with the other. This kind of charade to meet the requirements of the law would only serve to generate client resentment toward the program.

The program is not suggesting that the clients be paid no wages at all. Rather, it hopes to pay the clients some form of compensation so that each client can have his or her own money to use for the purchase of incidentals and gifts during treatment, and also be able to build up a reserve fund to be used at the time of release from treatment. All the program is asking for is relief from the obligation to pay each client $3.85 per hour.

I believe that this can be accomplished by an amendment to the Alaska Wage and Hour Act which would exempt drug and alcoholism centers from the obligation to pay a minimum wage to patient workers. I also believe it would be appropriate to amend the Uniform Alcoholism and Intoxication Treatment Act by adding a new section which would authorize the Department to fund programs for work therapy projects, including monies to pay a certain minimal compensation to clients (less than $1.00 per hour I would think). HL 194 currently contemplates an analogous institutional employment scheme for state prisoners and it might be possible to pay residents in long-term treatment centers at the same rate.

If these amendments are considered, it would be essential to include language stating that the legislation serves an important and exclusive state function (the treatment of alcoholism through funding to private, non-profit programs). This language, I believe, would protect the program from the application of the Fair Labor Standards Act by virtue of the holding in National League v. Usury.

Unfortunately, this entire problem regarding the payment of wages to clients just recently surfaced. I realize the practical problems of seeking these amendments this late in the legislative session. Please let me know if you see any way of obtaining the relief before the session ends.

LAW OFFICES OF
REESE, RICE AND VOLLAND
A PROFESSIONAL CORPORATION

JOHN REESE
WILSON A. RICE
PHILIP R. VOLLAND
VIRGINIA BONNIE LEMBO

920 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 276-5231

MEMORANDUM

TO: Governor's Review Board on Alcoholism

FROM: Philip R. Volland, Attorney for
Alaska Alcoholism Rehabilitation Services, Inc.

DATE: May 25, 1982

RE: Payment of Wages to Clients
Engaged in Work Therapy at Nugen's Ranch

In the program's FY '83 grant application, and SOADA's review of the funding request, reference has been made to the allocation of funds for clients engaged in work therapy at Nugen's Ranch. This memorandum has been prepared in order to assist you in evaluating the projected costs of work therapy at the facility.

As you are aware, an essential component of the treatment philosophy at Nugen's Ranch is to have clients there engage in a form of "work therapy." The work therapy is designed to provide clients with basic learning, life, and employment skills; to enhance the clients' sense of belonging at the facility; and to prevent the "warehousing" of clients over a long period of time. Work therapy projects for each client will be tailored to the client's individual treatment plan. Originally, the work therapy project was designed to involve clients in the final renovation of the facility (painting, laying carpet, etc.), as well as to involve them in gardening activities, the raising of livestock, etc.

The work therapy plan that was proposed for the Ranch raised a legal question of whether or not clients should be paid for their work. After a review of this question by my office, and the office of the Attorney General, it was concluded that the Alaska Wage and Hour Act (AS 23.10.050-150) and the the Fair Labor Standards Act, (29 USC 201 et seq.), required that clients be paid the statutory minimum wage ($3.85) per hour) for certain work (e.g., renovations), but not for other work (such as general housekeeping). Although I disagreed with the Assistant Attorney General's conclusion about paying clients for "farming" activities, it was clear that the program would have to budget monies for the payment of clients engaged in work therapy, particularly if the work resulted in any consequential economic benefit to the

program. Without discussing the legal aspects of this particular problem in detail, I will simply note that the issue presents some far-reaching implications for residential drug and alcoholism treatment programs which involve clients in work therapy. I have at my disposal and will provide to any interested Review Board members copies of the legal opinions prepared on the issue by myself and by Linda Scocsia, Assistant Attorney General.

The uncertainty surrounding this issue presented a unique planning problem for the program this year. Because of the original plan to engage clients in a variety of work therapy, including renovation of the facility, and because the legal questions about payment were yet unresolved, the program submitted a grant request sufficient to cover the payment of wages for all anticipated work therapy. At the same time, the program pursued the alternative of complete renovation of the facility by a general contractor and the elimination of renovation work from the client work therapy plan. Both alternatives had to be pursued while awaiting a response from the Attorney General's office. As a consequence, the FY '83 grant request includes approximately $235,000 for client wages even though the renovation contract for the facility calls for the completion of all finish work in the main building. Nonetheless, a sufficient amount of grant funds need to be allocated to the program to cover those work therapy activities which do require the payment of wages.

The program hopes to redesign its work therapy program so as to involve clients in activities which can provide the benefits of personal labor, but which will not require the payment of the statutory minimum wage. For instance, it is anticipated that clients could raise crops and bedding plants in a greenhouse for sale to the community, not be paid an hourly wage for this work, but yet retain the proceeds from sale in a special fund reserved exclusively for the benefit of clients. The program also intends to pursue legislative amendments to the Alaska Wage and Hour Act next year in order to provide a clarification of the current state of the law and enable drug and alcohol programs to fully fund work therapy projects.

None of this is to suggest that the program is opposed to paying clients a wage for the work they perform during work therapy. Rather, the payment of wages to clients has its own inherent therapeutic value -- it assists in the enhancement of personal pride and dignity and permits clients to manage their own finances. But the payment of a statutory minimum wage for all work therapy presents a significant economic cost to the program that threatens the development of successful work therapy projects unless adequate funds are provided. Hopefully, the problem can be resolved during the coming year.

Your evaluation of the program's request for grant funds to cover client wages should be made in recognition of the fact that this issue is yet unresolved, and that the work therapy program employed at Nugen's Ranch may not incur the expenses originally estimated by the grant request.

STATE OF ALASKA
FISCAL NOTE

Revision Date Original, 1983

I. REQUEST

CS for House
Bill/Resolution No.: Bill 182 (HESS)
Title: "...residential drug abuse..."
Sponsor: Representative Barnes
Requestor: Health, Education, and Social Services

II. FISCAL DETAIL

Agency Affected: Labor
Program Category Affected: Worker Protection
BRU, Program of Subprogram(s) Affected: Labor Standards and Safety

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		65.0	68.9	73.0	77.4	82.0
200 TRAVEL		12.4	13.1	13.9	14.7	15.6
300 CONTRACTUAL		23.2	24.6	26.1	27.7	29.4
400 COMMODITIES		2.5	2.7	2.9	3.1	3.3
500 EQUIPMENT		4.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		107.1	109.3	115.9	122.9	130.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		107.1	109.3	115.9	122.9	130.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not available.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Robert J. Bacolas, Sr. Phone: 465-4870
Division: Labor Standards and Safety Date: April 26, 1983

Approved by Commissioner: Jim Robison Date: April 26, 1983
Department: Labor

LEG:A:12

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Detail Bill Analysis House Bill 182

Under this bill a large segment of the work force currently entitled to full coverage for minimum wage would no longer be covered, and as a result the Department of Labors' work load to ensure workers are not abused and unfair trade practices do not occur would be increased.

The Department will require one Wage and Hour Investigator located in Anchorage to handle the additional workload. In addition, a Clerk Typist II will be necessary to lend the investigator support and free the position to make field calls.

Assumptions:

Effective date of July 1, 1983
6% per annum inflation rate
Equipment cost in FY 1984 is a one-time item

Potential for 22 separate programs that will require monitoring (13 currently operating with an average monthly capacity of 350 clients).

LEG:A:12

1.	POSITION TITLE Wage and Hour Investigator I			RANGE/STEP 16A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV. DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER HB 182	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.

3.	CONTINUATION LEVEL		ADDITION	XX

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	30,886	
6.	Benefits	4,902	
7.	Supplemental Benefits	1,893	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES 01		40,561
10.	Travel 02		12,400
11.	Contractual 03		12,460
12.	Commodities 04		1,000
13.	Equipment 05		1,500
14.	Other		
15.	TOTAL COST		67,921

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.	100	General Funds 1004	67,921
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER ___ - ___ - ___ - ___ - ___

JUSTIFICATION

This position will determine compliance with work therapy wage requirements; perform onsite inspection of facilitlies; interview patients and staff; re-review case records for determinations and personnel actions for wage rates.

The incumbent will be required to travel extensively throughout the State, therefore, $12,400 has been requested for in-state travel.

Contractual services includes $4,068 for indirect support services, $3,400 in rent, and $5,000 for basic operating expenses.

The equipment line items includes $1,500 to purchase basic office equipment for this position.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage and Hour

Page 1 of 2

Revised Date

FY 84

1.	POSITION TITLE: Clerk Typist II			RANGE/STEP: 7A	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV. / DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: HB 182	PCN NUMBER	BRU PRIORITY	LOCATION: Anchorage	ELECTION DISTRICT	LEG.

3.	CONTINUATION LEVEL		ADDITION: XX	
4.	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
	PERSONAL SERVICES			
5.	Salary		17,657	
6.	Benefits		2,802	
7.	Supplemental Benefits		1,082	
8.	Fixed Benefits		2,880	
9.	TOTAL PERSONAL SERVICES	01		24,421
10.	Travel	02		
11.	Contractual	03		10,725
12.	Commodities	04		1,500
13.	Equipment	05		2,500
14.	Other			
15.	TOTAL COST			39,146

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	39,146
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR O&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will lend clerical support to the Wage and Hour Investigator. Type correspondence for signature of composer; including preparation of technical or legal documents, complex material (i.e. regulations, form layouts and masters), transcribe from dictation, tape recording or draft. Compile Wage and Hour activity data, type statistical and/or investigative documentary reports.

Contractual services include $2,325 for indirect support services, $3,400 in rent, and $5,000 for other normal operating costs.

The equipment line items include $2,500 to purchase basic office equipment for this position.

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage and Hour

Page 2 of 2

Revised Date

FY 84

01-1136 (7/82) - 13

LEG-A-13

***** BROWSE FILE IN BILL ORDER *****

BILL NUMBER	STATUTE	ACTION
HB 180	18.56.098	REFERENCE
HB 180	18.56.101	ADDED
HB 180	18.56.101	AMENDED
HB 181	01.10.070	REFERENCE
HB 181	08.03.010	AMENDED
HB 181	08.86.010	REFERENCE
HB 181	08.86.070	REPL&REIN
HB 181	08.86.150	AMENDED
HB 181	08.86.180	AMENDED
HB 182	23.10.050	REFERENCE
HB 182	23.10.055	REFERENCE
HB 182	23.10.060	REFERENCE
HB 182	23.10.065	REFERENCE
HB 182	23.10.070	ADDED
HB 182	23.10.070	REFERENCE
HB 182	23.10.075	REFERENCE
HB 182	23.10.080	REFERENCE
HB 182	23.10.085	REFERENCE
HB 182	23.10.090	REFERENCE

SELECT A BILL NUMBER AND HIT ENTER BILL NUMBER HB 182 STATUTE 2310090

RETURN TO MAIN MENU ?

***** BROWSE FILE IN BILL ORDER *****

BILL NUMBER	STATUTE	ACTION
HB 182	23.10.090	REFERENCE
HB 182	23.10.095	REFERENCE
HB 182	23.10.100	REFERENCE
HB 182	23.10.105	REFERENCE
HB 182	23.10.110	REFERENCE
HB 182	23.10.115	REFERENCE
HB 182	23.10.120	REFERENCE
HB 182	23.10.125	REFERENCE
HB 182	23.10.130	REFERENCE
HB 182	23.10.135	REFERENCE
HB 182	23.10.140	REFERENCE
HB 182	23.10.145	REFERENCE
HB 182	23.10.150	REFERENCE
HB 182	33.32.050	REFERENCE
HB 182	47.37.245	ADDED
HB 182	47.37.270	ADDED
HB 182	47.37.270	REFERENCE
HSCR 1	24.30.130	REFERENCE
SB 1	01.10.060	ADDED

SELECT A BILL NUMBER AND HIT ENTER BILL NUMBER SB 1 STATUTE 0110060

RETURN TO MAIN MENU ?

***** BROWSE FILE IN BILL ORDER *****

BILL NUMBER	STATUTE	ACTION
HB 180	18.56.098	REFERENCE
HB 180	18.56.101	ADDED
HB 180	18.56.101	AMENDED
HB 181	01.10.070	REFERENCE
HB 181	08.03.010	AMENDED
HB 181	08.86.010	REFERENCE
HB 181	08.86.070	REPL&REIN
HB 181	08.86.150	AMENDED
HB 181	08.86.180	AMENDED
HB 182	23.10.050	REFERENCE
HB 182	23.10.055	REFERENCE
HB 182	23.10.060	REFERENCE
HB 182	23.10.065	REFERENCE
HB 182	23.10.070	ADDED
HB 182	23.10.070	REFERENCE
HB 182	23.10.075	REFERENCE
HB 182	23.10.080	REFERENCE
HB 182	23.10.085	REFERENCE
HB 182	23.10.090	REFERENCE

SELECT A BILL NUMBER AND HIT ENTER BILL NUMBER HB 182 STATUTE 2310090

RETURN TO MAIN MENU ?

Proposed CSHB 182 (HESS)
Dave Palmer
April 4, 1983

Section 1: (a) Authorization is given for exemption to the State minimum wage (AS 23.10.050 - 50 cents per hour greater than prevailing Federal minimum wage or $2.60/hour whichever is greater) for participants in work therapy programs.

(b) The Commissioner is required to adopt regulations regarding payment for work therapy while considering specific criteria indluded in the bill.

Section 2: (a) Wages paid for work therapy are considered allowable operational costs and are eligible for reimbursement by grants.

(b) No part of wages earned may be deducted for room, board or services.

(c) Wages may be held in trust and disbursed, with consent for specific purposes.

Section 3: Work therapy is defined.

No effective date.

The impetus for HB 182 is the Nugen Ranch, a treatment facility for chronic and debilitation alcoholics. A component of the treatment program is work on the ranch in exchange for minimal compensation. With the intent on establishing lost work habits, developing self esteem, and rekindling positive work attitudes, work as therapy is used at the ranch. However, Federal and State minimum wage laws apply. HB 182 provides an exemption from the State minimum wage, which exceeds the Federal minimum wage.

Exemptions to the State minimum wage currently exist (AS 23.10.070) for:

1. Individuals whose earning capacities are reduced by physical or mental deficiencies, age or injuries.

2. Apprentices (approved by the Commissioner)

3. A learner, subject to conditions set by the Commissioner.

DHSS Position: The position paper relates to HB 182, not proposed CSHB 182. it is relevant. The DHSS asks that the exemption apply to programs designed to last over 120 days. Short-term programs would be required to pay prevailing minimum wage.

Fiscal Note: The fiscal note for HB 182 is zero. However, the CSHB 182 requires the development of regulations and implies that review of programs would be necessary to assure compliance with those regulations. If not done before the hearing, the fiscal note requires revision.

POSITION PAPER/Department of Health & Social Service

MAR 8 1983

POSITION PAPER

HOUSE BILL 182

"An Act exempting participants in residential drug abuse and alcoholism treatment programs from Alaska's minimum wage provisions, and providing a wage scale."

The Department of Health and Social Services is supportive of this legislation.

The issues and remedies surrounding this proposed legislation arose with the advent of a long term care program for the chronic and significantly debilitated alcoholic. The individuals to be served by these programs have long histories of unemployment, skill depreciation, loss of positive employment experiences and loss of positive life experiences. Long term care is defined as treatment lasting from a minimum 120 days to a maximum of 2 years with an average length of 1 year.

One of the intents of long term care treatment program is to have clients engage in a form of work therapy as part of their overall treatment regime. Such work therapy will be designed to help the client re-establish or re-learn basic learning, life and employment skills. It is the intent of the long term care treatment program to be more than a warehouse for the most severely afflicted casualties of the disease alcoholism.

The Department is also concerned that clients' rights be protected. The Department is also concerned that short term treatment programs provide intensive therapy to appropriate clients. To this end the Department of Health and Social Services would recommend the following.

House Bill No. 182, lines 12 through 14 be amended to read:

> (b) Participants in residential drug and alcoholism treatment programs [designed to exceed 120 days in length,] may be paid less than the minimum wage prescribed in AS 23.10.050-23.10.150 for work therapy, as defined in AS 47.37.270.

House Bill No. 182, lines 16 through 19 be amended to read:

> Sec. 47.37.245. Wages of Patients. Participants in residential drug abuse and alcoholism treatment programs, [designed to exceed 120 days in length,] shall be paid for work therapy, as defined in AS 47.37.270, at the rates established under AS 33.32.050. [AS 33.32.050(a)].

These recommended changes would have the effect of limiting the applicability of the exemption from the minimum wage law. It is the Department's position that only long term care treatment programs (designed to exceed 120 days) be exempted.

POSITION PAPER/Department of Health & Social Service

Recommended by: George E. Mundell

George E. Mundell
Acting Coordinator
Office of Alcoholism/
Drug Abuse

Date: 3/1/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Dept. of Health &
Social Services

Date: 3/4/83

Loren Jones

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 182 Date on Bill: 2/9/83
Title: "An Act exempting participants in residential drug abuse and alcoholism treatment
Sponsor: Barnes, Clocksin, Bussell, Liska, Larson
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue			-0-	-0-	-0-	-0-		

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It do not represent the policy of the Sheffield Administration or the final estimate of fis impact.

George E. Mundell

Prepared By George E. Mundell, Acting Coordinator Phone: 586-6201
Division: Office of Alcoholism/Drug Abuse Date: 3/1/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor

2/8/83

HB

191

5/24/83 HESS Mtg. Notes

Entertain Motion — none

Jan Krause — Teacher @ Wasilla High School. Testified against a bill. Don't work on bill any longer.

Tischer — In favor of concept / problem w/ bill

Krause — Reward'd: Sabbatical leave program w/certain standards

[redacted] — Currently, any school board may introduce this language

Tichen — Moves CS for SSHB 191 HESS

Chair —

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
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POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

To: House HESS Committee Date: 5/16/83

From: Linda Otey, Committee Aide
HESS Committee

Re: Summary/ HB 291 "An Act providing for tuberculosis exams and quarantines"

This bill adds new sections to the Health & Safety Statutes, Article 3, Tuberculosis. Sec. 18.15 is amended which applies to Disease Control.

Sec 1.

18.15.135- Tuberculosis Exams

a) An individual must submit to an exam, whenever in the opinion of a medical officer of the Div. of Public Health, there is a public threat.

b) Exam shall be by written order with the individual's name and the time and place of the exam. The individual shall be served with a copy of the order.

c) Examination by licensed physician of the individuals choice as long as the exam complies with specific conditions approved by the medical officer

18.15.136- Quarantines (new section)

a) Maximum of 6 month quarantine allowed by medical officer of the Division of Public Health.

b) Written notice of quarantine as in provisions for order for examination. Expires on dates specified in the order or at the opinion of the medical officer of the Division.

18.15.137- Reporting Violations (new section)

Medical Officers must report violation to nearest law enforcement agency.

18.15.138- Penalty (new section)

Violation of terms of order constitutes a Class A misdemeanor subject to a maximum imprisonment of one year and a maximum fine of $5,000 or both.

City of Galena

Antoski Hall • P.O. Box 149 • Galena, Alaska 99741 • Telephone (907) 656-1281

December 20, 1982

Re/ HB 291, Quarantine

Rep. Vernon Hurlbert
Pouch V
Mailing Stop 3100
Juneau, AK 99811

Dear Rep. Hurlbert,

The City Council of Galena is very concerned about the lack of legislation to control communicable disease in Alaska. Here in Galena we have currently and have had in the recent past outbreaks of tuberculosis. The problem becomes particularly serious when an individual refuses treatment. This individual can then infect others, and the community has no protection as there is currently no law to force the individual to seek treatment (according to our attorney, Mary Nordale, and as we understand it from the opinions of the State Attorney General's office).

Tuberculosis is a disease that can be eliminated if infected individuals follow-through on treatment. We urge the State to provide legislation to give the necessary basis to force individuals with communicable diseases, particularly tuberculosis, to seek treatment.

Enclosed is a resolution from the Galena City Council supporting this issue.

We appreciate your attention to this problem and interest.

Sincerely,

Pat Myers

Pat Myers
City Manager

City of Galena
Antoski Hall • P.O. Box 149 • Galena, Alaska 99741 • Telephone (907) 656-1281

Resolution 82-22

A RESOLUTION ENCOURAGING LEGISLATION SUPPORTING ENFORCEMENT OF TREATMENT OF COMMUNICABLE DISEASES, PARTICULARLY TUBERCULOSIS, IN ALASKA.

WHEREAS, the City Council of Galena is the duly authorized governing body of the City of Galena, and;

WHEREAS, the City of Galena has experienced an ongoing problem with tuberculosis and a recent outbreak of the disease, and;

WHEREAS, the City is experiencing an incident where one individual who has active tuberculosis is refusing treatment, and;

WHEREAS, the nature of the tuberculosis disease is that it can be highly contagious and endanger a whole community, and;

WHEREAS, the disease can be prevented with adequate treatment, and;

WHEREAS, there is no legislation to enforce treatment, and;

WHEREAS, the City of Galena has a strong committment to protect the citizens, and;

NOW, THEREFORE, Be It Resolved That the City Council of Galena requests the legislators to enact legislation to require individuals to obtain treatment for tuberculosis and other communicable disease.

PASSED AND APPROVE this 16th day of December ,1982

ATTEST:

Vernon White
Mayor

Pat Myers
City Manager

Article 2. Physical Examination of Nonresident Employees.

Section

60—110. [Repealed]

Secs. 18.15.060—18.15.110. Physical examinations of employees transported into state; certificate of health; return to place of residence; penalty for violations; exceptions.

Repealed by § 1 ch 130 SLA 1976.

Editor's notes. — The repealed article derived from §§ 1 — 5, ch. 103, SLA 1949.

Article 3. Tuberculosis.

Section

120. Tuberculosis control program authorized
130. Department to cooperate with other agencies
140. Title to and inventory of equipment allotted to private institutions

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Collateral references. — 39 Am. Jur. 2d, Health, §§ 22, 23, 27-30.

39A C.J.S., Health and Environment, §§ 7-13, 18-22, 26, 27.

Right of one detained pursuant to quarantine to habeas corpus. 2 ALR 1542.

Pesthouse or contagious disease hospital as nuisance. 4 ALR 995; 18 ALR 122; 48 ALR 518.

General delegation of power to guard against spread of contagious disease. 8 ALR 836.

Liability for committing, or aiding commitment, to contagious disease hospital of one not suffering from contagious disease. 54 ALR 656.

Power of municipal or school authorities to prescribe vaccination or other health measure as a condition of school attendance. 93 ALR 1413.

Malpractice in diagnosis or treatment of tuberculosis. 75 ALR2d 814.

Sec. 18.15.120. Tuberculosis control program authorized. The department may establish a comprehensive program for the control of tuberculosis in the state, and may

(1) arrange means by which persons in the state may be X-rayed to determine the presence of tuberculosis;

(2) establish necessary out-patient clinics for the care of tuberculosis;

(3) encourage and promote the establishment of adequate sanatorium facilities within the state to care for persons suffering from tuberculosis and allied conditions;

(4) obtain, by purchase or donation from surplus federal property or otherwise, medical supplies and equipment useful in carrying out this program and to allot or resell these supplies and equipment to private institutions engaged by the department to carry out this program;

(5) contract with hospitals, associations, or sanatoria qualified and equipped to give adequate care inside or outside the state;

(6) employ necessary and trained personnel to carry out the purposes of AS 18.15.120 — 18.15.140;

(7) pay the costs of care and incidental expenses for residents of the state, in whole or in part, depending on the ability of each patient to pay, and the temporary costs of care and transportation for nonresidents on the same basis until they can be transferred to their residence;

(8) enlist the cooperation of state and federal agencies operating in the state for the furtherance of this program;

(9) establish standards in accordance with department procedure for the care of tuberculars receiving treatment under AS 18.15.120 — 18.15.140. (§ 40-2-11 ACLA 1949)

Sec. 18.15.130. Department to cooperate with other agencies. The department, in conducting a study and case finding survey of the tuberculosis problem, shall cooperate with state and federal agencies operating in the state, and obtain as much information and data as possible from them. (§ 40-2-12 ACLA 1949)

Insert HB 291 → Sec. 18.15.135 – 138

Sec. 18.15.140. Title to and inventory of equipment allotted to private institutions. Equipment purchased for the purposes of carrying out AS 18.15.120 — 18.15.140 which is allotted to private institutions remains the property of the state. Before February 2 in each year, each allottee shall file a complete inventory of the equipment with the department. (§ 40-2-13 ACLA 1949)

Article 4. Prenatal Blood Tests.

Section	Section
150. Taking of blood sample	170. Report of birth
160. Test for syphilis	180. Penalty

Collateral references. — 39 Am. Jur. 2d, Health, §§ 22, 26, 27.

39A C.J.S., Health and Environment, §§ 7-15, 47.

Sec. 18.15.150. Taking of blood sample. Each licensed physician and in absence of a licensed physician each licensed graduate nurse who attends a pregnant woman for conditions relating to her pregnancy during the period of gestation or at delivery shall take, or have taken, a sample of the blood of the woman at the time of her first professional visit or within 10 days after the visit, unless the serological test is contrary to the tenets or practice of the religious creed of which she is an adherent. The blood specimen shall be sub-

POSITION PAPER/Department of Health and Social Services

POSITION PAPER
HOUSE BILL NO. 291

For an Act entitled: "An Act providing for tuberculosis examinations and quarantines."

This Bill provides the Department of Health and Social Services with authority to require an individual suspected of having an active case of pulmonary tuberculosis to submit to an examination and to order the quarantine of a person with active pulmonary tuberculosis for a period of six months when such action is necessary to preserve and protect public health.

While tuberculosis is not the enormous health problem it was in the 1950s, a large number of persons infected in earlier years are at risk of reactivation of their disease and of being capable of spreading the disease to others. Over the past ten years, new active cases have numbered between 75 and 100 cases per year, placing Alaska among the five states with highest incidence.

Most persons with active tuberculosis are highly motivated to comply with treatment recommendations intended to render them non-infectious and to inactive their infections. A very few people, however, refuse to submit to examination or to accept treatment recommendations. Such individuals are a hazard to themselves, their families, communities and the general public.

The existing authority of the Department to require examination, isolation or treatment of individuals with communicable disease who may threaten the health of the public is not clear.

It is expected that the authority contained in this Bill would be exercised infrequently. Based on past experience, the estimate is that orders for examination may be required three times per year. Quarantine orders would be used even less frequently, perhaps not even one per year as the public becomes aware of a statutory provision which could compel quarantine.

The Department anticipates that on the rare occasions when quarantine may be required, it would be accomplished by restricting the individual's movements within his or her own home.

The Department supports passage of this Bill. Over the past few years, many cases of tuberculosis could have been avoided, including one near-fatal infection, had the source of infection been prevented from spreading the disease to others.

Recommended by: E. S. Rabeau
E. S. Rabeau, M.D., Director

Date: March 31, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health & Social Services

Date: 4/4/83

I. REQUEST

Bill/Resolution No.: House Bill No. 291
Title: "Tuberculosis examinations & quarantines"
Sponsor: Hurlbert
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Health
BRU, Program of Subprogram(s) Affected: Communicable Disease Control

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dean F. Tirador, M.D. [signature] Phone: 465-2113
Division: Public Health Date: 3/30/83

Approved by Commissioner: Robert Hodson Smith Date: 4/4/83
Department: Health and Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FEB 23 1983

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 191
Title An act relating to school board negotiations with certificated...
Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING. (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

Summary: HB 191 by Rep. Hurlbert

"An act relating to school board negotiations with certificated employees."

Section 1. AS 14.20.550 - Negotiation with Certificated Employees

1. Adds a new subsection under Article 6, Negotiation and Mediation.

2. Mandates that negotiations on or after July 1, 1984 must include criteria based on performance and merit in determing pay increases.

Suggested Amendment - by Bob Greene, School Board Association

line 14 pg. 1 = delete "above" and insert "when determining".

folder content:

left	right
fiscal note Ø	back-up provided by Rep. Hurlbert
summary	bill

Sofo
5/20/83

Original sponsors: Hurlbert, Lindauer,
Fuller, et al

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 191 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to school board negotiations with certificated employees."

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

* Section 1. AS 14.20.550 is amended by adding a new subsection to read:

(b) Salary schedules or other pay provisions negotiated under this section that take effect on or after July 1, 1984, shall include performance and merit criteria, among others, that shall determine pay increases for individual certificated employees.

ASSBA - in support of this CS

1) Dale - Change shall to may pg 1 l 13

2) Davis - Could support some monitor award for an exceptional teacher

Proposed HESS committee substitute for HB 191

Change Section 1 .... new subsection s ....

Add the following paragraphs

(c) The parties may agree to waive the requirement that pay scales for certificated employees include criteria based upon performance and merit.

(d) In the event a negotiations dispute between the parties is not resolved through mediation either party may submit the issues in dispute to last best offer arbitration, item by item, according to the interest arbitration procedures of the American Arbitration Association. The decision of the arbitrator will be final and binding on the parties.

Binding Arbitration

(e) The objective criteria used to evaluate performance and award merit pay increases and class size and pupil/teacher ratios shall be established by the parties through the collective bargaining process.

NEA proposal not

Bob Cooksey

Del-Phi - Technique - Copies to Committee

SS. ~~CS~~ 191 -
Hurlbert - no way to implement it - School Districts will implement this. Reagan' encourages - merit & confidence rather than tenure.

David Weaver - 30 yr Fed Personnel Officer - last stent - BIA Perf evaluation - Ø history in Federal gov't. Good intentions but doesn't work. Worked hard @ trying to make this work - come down to not, but an opinion & they were no better from having standards.
Negotiations - must be perf evaluation standards before this can come to the table. Save this effort - try to legislate something w/no framework of knowledge to implement. Syracuse N.Y. - inverse relationship of Superintendents &

Davis - Fed's still use merit Pay.

Weaver - 1971 Retired doesn't know answer.

Goll - Opinion - Test for competency prior to certification
Any rep rec as a personnel

Weaver - Rather than having someone in authority deciding merit - importance most come from ind. himself - create a climate where employees want to do better.

2890

SS HB 191

M. Miller — Conflict of Interest - wife is school teacher.
Davis — objected
Ball — Bonus System? How do you feel about replacing this w/ boards granting bonus w/o eliminating standardized salary structure.
Hurlbert — agrees w/ intent to get teachers to excel.
Kelly - When one is better
Hurlbert - Sponsor Sub.

Elizabeth Morris: - from Kbks (Parent) agrees w/ SSHB 191 Sends children to private school. Kbks. 50% drop out rate w/ Native children. 1500 Native kids & 11,900 Caucasian children in Kbks. Drop out rate is effected by teachers. Johnson O'Malley program. Good Program. 70% drop-out rate in Anchorage.

~~Jack Hebert~~ —

Bob Greene - In favor of Sponsor Substitute
Total Merit System in one shot - not feasible.
- dissension to teachers & education. Done from indiv approach to salary schedule which is complex.
1) Experience 5% per yr
2) additional educ component = 5%
3) annual negotiation = 7%
Your teacher could have 17% pay raise.

B. Greene continued.

① Put Merit component in there. Must improve.

② Can't pay for it = Salary in Pac N.W - 12,000 - 26,000
Engineers in Pac N.W. Ln @ 26,000. - Brain drain from Educ to other occupations.

Evaluation System is a farce. Reqs regarding evaluation annually. So then the exercise for no reason.

Gall - Why did so many teachers quit in Hydaburg. Last year? - Salary - no - not one person has left Ln of # - Ln of bad management.

★ Merit pay could be used to punish teachers - What kind of safeguards to insure against this? Don't dispute intent of 191 C this is too loose!

Greene - Futuristic legislation. 1st year that we have attention w/problem of funding education. Alot of work to put this together administratively. Local group will ★ set up criteria - this is a guarantee. So long as item is mentioned in

★ - binding arbitration that is in statutes for grievance procedures

Can negotiate anything you want now w/o this bill. - Merit or otherwise.

Fritz - Short of teachers? - Greene Bush yes - Urban - no

Steve Hole — opposes bill - concerns deal w/ criteria established & who makes determination & due process rights under this type of salary schedule -
* l 12 "shall include criteria" - worrisome language.
Miller — SS & HB 191 - l 14 difference "above" vs "when determining" - dept opposed to both?
Hole - Original bill was in form of bonus - not as much problem as in the spon. sub "when determining."
Tischer - Are you suggesting we set down criteria
Hole - Not suggesting anything - All negotiated agreements must include . . . . Based on performance and merit
Tischer Any objective criteria by which you can judge a teacher
Hole - Yes possibly - difficult to isolate on classroom characteristics. Did not mean to lead you to believe that the confrontations will occur everywhere.
Dodd - agree to benefits to higher achievers & still concerned about the exceptions. School Boards can back off w/binding arbitration. Does not specify what we are doing.
Tischer Maybe we have to define merit & performance
Hole - Pertains to a process that is on going. - a ✓ will also accompany HB 191.

Jean Krause. Pres of NEA – Teacher salaries. – also Principles (administrative groups)

1. Force out incompetent educators?
2. Evaluation procedures.
3. Support written evaluation procedures @ the beginning of the school years.
4. Certification, teacher – not a merit proposal
5. Is the intent to lower salaries – 55% rule – Teacher salaries are included under 55% not administrators.
6. Boards can hire & fire.
7. None has statewide merit pay plan thru out states.
8. Merit pay abandoned in Ariz for Principles & favoritism, harassment, beholdey to supervisors decrease idea of sharing – promotes competitiveness.
9. Supports Very Strong evaluation procedures
10. " Teacher preparation plans @ Universities
11. Talent Bank – should be used in teacher preparation curriculum.

Take Care of Evaluation System

↔ Held until a later date —

↔ Davis – to Krause Jean Available Articles re/ Merit Pay.

New task force pushes rewarding good teachers

RESEARCH TRIANGLE PARK, N.C. (AP) — A task force on education says states must begin giving rewards to teachers for doing a good joo.

"No public school system in America pays one teacher one penny more for doing a good job," Tennessee Gov. Lamar Alexander lamented. "They can make a little more for going back to school. They can make a little more for going into administration."

Alexander and seven other governors and 31 business and education leaders met here Wednesday as the National Task Force on Education for Economic Growth. They recommended that each state find ways to give "extraordinary rewards for extraordinary teachers."

The task force was convened because of what it called an emergency in American education. Its report will be issued early in the summer.

IBM Corp. Chairman Frank Cary, the co-chairman of the task force, said the draft agrees with a 29-page report released last week by the federal government's Commission on Excellence in Education, which put responsibility for improving education with school boards and state officials.

Alaska State Legislature

HOUSE MAJORITY LEADER
MEMBER
RULES COMMITTEE
JUDICIARY COMMITTEE
LEGISLATIVE COUNCIL
POLICY COMMITTEE
ALASKA REPRESENTATIVE
STATES RIGHTS COORDINATING COUNCIL
WESTERN LANDS TASK FORCE
CITIZENS ADVISORY COMMISSION
ON ALASKA LANDS

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES

ANCHORAGE
2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7904

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3718

April 13, 1983

To: Representatives Tischer, Fritz, Co-Chairs
Health and Social Services Committee

From: Representative Barnes
Majority Leader Ramona

Subj: Priority Bill
SSHB 191

The above referenced bill is a personal priority of Representative Vern Hurlburt. I would appreciate your moving it out of committee.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM May 23, 1983

SUBJECT: Education of exceptional children (CSHB 194 (HESS))

TO: Representative Milo Fritz
Chairman, House Health, Education, and Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have asked whether CSHB 194 (HESS) requires a school district to provide special education and related services to an exceptional child whose parent refuses to consent to the transfer of the child to another school district that already offers an appropriate special education program. In my opinion, the bill does not necessarily require this and an amendment is necessary to make it clear.

Sections 5 and 6 of the committee substitute amend AS 14.30.186 to provide that school districts and regional educational attendance areas shall provide special education and related services in a school in the district for exceptional children residing in the district. Sec. 13 of the committee substitute amends AS 14.30.285(b) to provide that an exceptional child may be sent to a school outside the child's school district under certain circumstances. AS 14.30.285(f) provides that a child may not be transferred out of the district without the consent of the child's parent.

Thus, the school district has an obligation to provide special education and related services unless the child is transferred, but the child cannot be transferred unless the parent consents. The argument could be made that if the school district offers to transfer the child and the parent refuses to consent, the district has fulfilled its obligation to provide special education. To foreclose this possibility, I would recommend the following addition to the bill:

* Sec. . AS 14.30.285(f) is amended to read:

(f) No child may be transferred to a school outside the district in which the child resides without the consent of the parent or guardian. The withholding of consent to transfer an exceptional child by a parent does not relieve a school district or regional educational attendance area of the obligation to provide special education and related services to an exceptional child under AS 14.30.186.

This amendment would make it clear that the school district must provide special education and related services even if the parent refuses to allow the child to be transferred to a school outside of the district.

KBL:ljb
21/021

Proposed HESS committee substitute for HB 191

Change Section 1 .... new subsection s ....

Add the following paragraphs

(c) The parties may agree to waive the requirement that pay scales for certificated employees include criteria based upon performance and merit.

(d) In the event a negotiations dispute between the parties is not resolved through mediation either party may submit the issues in dispute to last best offer arbitration, item by item, according to the interest arbitration procedures of the American Arbitration Association. The decision of the arbitrator will be final and binding on the parties.

binding arbitration question

(e) The objective criteria used to evaluate performance and award merit pay increas[illegible] and class size and pupil/teacher ratios shall be established by the parties through the collective bargaining process.

d & e Add to the NEA's STATURE in the NEGOTIATION PROCESS. (d) sets up last best offer ARBITRATION to ALL NEGOTIATION items UNLESS somehow RESTRICTED to JUST MERIT PAY — it APPLIES to EVERY ISSUE which is NOT

(e) ALLOWS REQUIRES the district to NEGOTIATE CLASS SIZE AND TEACHER RATIO. Items that MANAGEMENT TRIES to KEEP AS A MANAGEMENT Right. These AMENDMENTS DO MORE than AFFECT MERIT PAY. (d) & (e) NOT GERMANE to the MERIT PAY BILL.

Introduced: 2/25/83
Referred: Health, Education &
Social Services and Finance

BY HURLBERT, LINDAUER, FULLER, ABOOD, BARNES, BETTISWORTH, BUSSELL, COWDERY, FLOOD, HAYES, LISKA, MARTIN, M.W. MILLER, PESTINGER, TISCHER AND WARD

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 191

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to school board negotiations with certificated employees."

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

* Section 1. AS 14.20.550 is amended by adding a new subsection to read:

(b) An agreement negotiated under this section that takes effect on or after July 1, 1984, shall include criteria based on performance and merit which govern pay increases for individual certificated employees when determining the general pay scale established for all employees.

mandatory - in negotiations

Above the

apply to negotiations prior to contract.

Pretty Ambiguous - SAYS you MUST use individual Performance & merit criteria when establishing GENERAL SCALE for ALL employees. How does he RECONCILE using merit when determining A Scale for All ?

Introduced: 2/25/83
Referred: Health, Education &
Social Services and Finance

BY HURLBERT, LINDAUER, FULLER, ABOOD, BARNES, BETTISWORTH, BUSSELL, COWDERY, FLOOD, HAYES, LISKA, MARTIN, M.W. MILLER, PESTINGER, TISCHER AND WARD

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 191

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to school board negotiations with certificated employees."

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

* Section 1. AS 14.20.550 is amended by adding a new subsection to read:

(b) An agreement negotiated under this section that takes effect on or after July 1, 1984, shall include criteria based on performance and merit which govern pay increases for individual certificated employees (when determining above) the general pay scale established for all employees.

Legislative history reports. — For report on ch. 18, SLA 1970 (HB 391 am S), see 1970 Senate Journal, p. 296.

Opinions of attorney general. — While these provisions waive the state's sovereign immunity and that of its political subdivisions from having to bargain collectively with teachers in the public schools, they do not address, expressly or even impliedly, any right to strike on the part of teachers of school districts. May 19, 1977, Op. Att'y Gen.

Teachers of school districts do not presently have the right to strike because the state has not waived its or its political subdivisions' immunity from strikes by teachers. May 19, 1977, Op. Att'y Gen.

Collateral references. — 48A Am. Jur. 2d Labor and Labor Relations, §§ 1727 — 1775.

51A C.J.S. Labor Relations, § 402.

Right of school authorities to make membership or nonmembership in teachers' association or other organization a condition of employment as a teacher. 72 ALR 1225.

Bargainable or negotiable issues in state public employment labor relations. 84 ALR3d 242.

Union security arrangements in state public employment. 95 ALR3d 1102.

Sec. 14.20.550. Negotiation with certificated employees. Each city, borough and regional school board, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties. (§ 1 ch 18 SLA 1970; am § 3 ch 71 SLA 1972; am § 21 ch 124 SLA 1975)

NOTES TO DECISIONS

Constitutionality. — This section and AS 14.20.610 state two goals which apparently conflict, but since the supreme court construes this section fairly narrowly, it finds no constitutional infirmity in this section and AS 14.20.610. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Requirements of section. — This section merely requires a school board to negotiate with a union. It does not require a board to accept any particular proposal a union might offer. It does not require [illegible] probably does not permit, a board to delegate to a union the sole power to make any decision. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

As to matters which affect educational policy and are, therefore, not negotiable, there is nevertheless implicit in the Alaska Statutes the intention that the school boards meet and confer with the unions. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Negotiable items. — Salaries, fringe benefits, the number of hours worked, and the amount of leave time are negotiable. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

The salary of teachers is a proper subject of collective bargaining under Alaska's statutes. Rouse v. Anchorage School Dist., Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Nonnegotiable items. — Such items as (1) relief from nonprofessional chores, (2) elementary planning time, (3) paraprofessional tutors, (4) teacher specialists, (5) teacher's aides, (6) class size, (7) pupil-teacher ratio, (8) a teacher

ANCHORAGE
SCHOOL DISTRICT
4600 DeBarr Avenue
Pouch 6-614
Anchorage, Alaska 99502
[907] 333-9561

HOOL BOARD

PRESIDENT
Lee Gorsuch

E-PRESIDENT
Jean Buchanan

CLERK
Myce Hanley

ERK PRO TEM
ent Wadsworth

TREASURER
l Schellenberg

ST. TREASURER
AST PRESIDENT
Jim Robinson

RLIAMENTARIAN
Bettye Davis

(Gene) Davis, Ed. D.

April 15, 1983

Ms. Jean Krause
President, NEA-AK
174 South Franklin, #201
Juneau, AK 99801

Dear Jean:

I am aware that you testified before the Legislature last week on merit pay for administrators. What you are probably not aware of is the fact that I was involved in merit pay for principals for two years when I previously served as supervisor for elementary principals in the Anchorage School District. For your information, this provision was included in the negotiated agreement between the principals and the District.

It is interesting to note that while the concept seems to be worthwhile and would probably provide equity in compensation for our administrators, you should also note that the administration of a merit pay plan is cumbersome, inequitable and subjective. I would not recommend merit pay for teachers or administrators now or in the near future.

Should you need further information on the provisions of our merit pay plan, please call me.

Sincerely,

Rita R. Strachan

Rita R. Strachan
Director of Personnel Services

ms

Anchorage Principals' Association

ANCHORAGE, ALASKA 99501

April 15, 1983

APR 19 1983

Ms. Jean Krause, President
NEA-Alaska
147 S. Franklin #201
Juneau, Alaska 99801

Dear Ms. Krause:

The Anchorage Principals' Association strongly opposes merit pay. We experienced three years of merit pay during the tenure of our previous negotiated agreement with the Anchorage School District. As a result of this experience, the principals had as their number one priority, during negotiations for our present agreement, the elimination of all merit pay items.

Merit pay drove a wedge between supervisors and staff at all levels. It interferred with effective employee evaluation, making it extremely difficult to maintain a trusting, working relationship between supervisor and subordinates.

In theory, merit pay sounds like a great way to provide incentive and reward for top performance. In practice, it is a means to favor those who follow, without question, and it divides the ranks, causing an atmosphere of mistrust and non-sharing of good, innovative, successful educational and managerial practices.

Respectfully yours,

William Frick

William Frick
President

jm

(b) Salary schedules or other pay provisions negotiated into an agreement under the provisions of this section that take effect on or after July 1, 1984, shall include performance and merit as one criteria, among others, which shall determine pay increases for individual certificated employees.

Summary: HB 191 by Rep. Hurlbert

"An act relating to school board negotiations with certificated employees."

Section 1. AS 14.20.550 - Negotiation with Certificated Employees

1. Adds a new subsection under Article 6, Negotiation and Mediation.

2. Mandates that negotiations on or after July 1, 1984 must include criteria based on performance and merit in determing pay increases.

Suggested Amendment - by Bob Greene, School Board Association

line 14 pg. 1 = delete "above" and insert "when determining".

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fiscal note Ø	back-up provided by Rep. Hurlbert
summary	bill

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FEB 23 1983

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 191
Title An act relating to school board negotiations with certificated...
Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

Introduced: 2/11/83
Referred: Health, Education &
Social Services and Finance

BY HURLBERT, LINDAUER, FULLER, ABOOD, BARNES, BETTISWORTH, BUSSELL, COWDERY, FLOOD, HAYES, LISKA, MARTIN, M.W. MILLER, PESTINGER, TISCHER AND WARD

IN THE HOUSE

HOUSE BILL NO. 191

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to school board negotiations with certificated employees."

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

* Section 1. AS 14.20.550 is amended by adding a new subsection to read:

(b) An agreement negotiated under this section that takes effect on or after July 1, 1984, shall include criteria based on performance and merit which govern pay increases for individual certificated employees [above] when determing the general pay scale established for all employees.

Yukon Flats School District
P.O. Box 359
Fort Yukon, Alaska 99740

February 16, 1983

Vernon L. Hurlbert
House of Representatives
State Capitol
Pouch V
Juneau, AK 99811

I am pleased to hear of your interests on Merit Pay for Teachers. For accountability purposes and to ensure full involvement on the part of students, I certainly support this effort. We at Yukon Flats are very concerned on the low achievement of students and lack of student motivation. The District has taken steps by developing a Teacher Incentive Plan (see attached), High School Requirements (see attached) and curriculum development district wide. We are also establishing eligibility criteria of "C" for any travel on school related activities as well as an incentive plan for students on academic achievement and attendance.

We have been negotiating a teachers contract for the past nine months. We are at impasse. I did recommend a Merit Pay System for teachers. Our professional negotiator did not recommend it due to difficulty we have had in negotiating a reasonable contract that we can live with. Also, because this would be introducing a new concept in Alaska which may not be acceptable. I am enclosing my idea for your review. I encourage you to pursue this effort. I look forward to seeing you next week.

Beatriz Apodaca

Beatriz Garcia de Apodaca, Ph.D.
Superintendent

Enclosures

BA:lk

Yukon Flats School District
P.O. Box 359
Fort Yukon, Alaska 99740

MERIT PAY FOR TEACHERS

Teacher Initiative The District will award two of a possible eight merit points for teacher initiative, i.e. projects of activities that the teachers themselves choose to carry out. Teachers may earn their points in the basic curriculum; others may prefer to create new elective courses in area of interest. For example a teacher with a Master's Degree in Music may elect to teach music to junior high school students during her preparation period.

Teacher Cooperation The District will award four of a possible eight merit points for group efforts, in which teachers join forces to focus on a common goal. High school teachers, for example, unite to develop and implement a consistent disciplinary program, and they will receive merit points according to the degree of their success. Others may work to establish writing, health and physical education programs across the curriculum. Others may earn points for their cooperative efforts to organize contests and extra curricular activities.

The Principal's Role Only three points of the possible eight merit points may a teacher earn dependent on the principal's evaluation.

The Role of the School Board The Board draws up annual guidelines for teachers' proposals and then negotiates through a committee--discussing possible objectives, activities and methods of evaluation.

Merit Points	Dollars
1	$320
2	320
3	320
4	320
5	320
6	320
7	320
8	320

February 1, 1983

Yukon Flats School District
P.O. Box 359
Fort Yukon, Alaska 99740

MEMORANDUM

TO: Teaching Staff

FROM: Beatriz Apodaca, Superintendent Beatriz

SUBJECT: 1983-84 YFSD Teacher Incentive Plan

To encourage excellence in teaching and to improve student learning the following incentives will be offered by YFSD.

Plan A. Participating in the Alaska State Writing Consortium
Mary Morris and Debbie Drong-Bjork participated in the Writing Consortium last summer in Fairbanks. Attached see Mary's enthusiastic remarks about this program. YFSD will again be able to send two teachers to the Consortium.

The consortium is made up of 13 Alaskan Districts which have joined together to help children learn how to write. The consortium offers a four-week course for teachers of all subject areas and all grades who want to see students write better. This also will provide you with the opportunity to earn five graduate credits.

Attached is selection criteria and how to apply, as well as other literature in the Alaska State Writing Consortium that may influence your decision.

Plan B. The District will award $400 to any two teachers in the District to purchase classroom materials, visit other programs in the state or observe other teachers in our District. Awards will be based on teacher initiative, student motivation and excellence in teaching.

1. Teachers may choose to carry out a project or activities within the basic curriculum Language Arts, Health, Science, Math or Computer Literacy.

2. Teachers may prefer to create new elective courses grounded in personal interests. For example, an elementary teacher with a masters in English may elect to teach a course in publications.

3. Teachers may join forces to focus on a common goal. For example, developing and successfully implementing a consistent disciplinary program, organizing contests and extra-curricular activities.

4. Administrative & Program staff will identify exampleary programs by March of 1984. If you are initiating any programs and would like YFSD staff to observe let us know in advance.

cc: Estelle TaFoya, Assistant Superintendent
Charlotte Conner, Curriculum Specialist

enclosure:

BA:dgc

YUKON FLATS SCHOOL DISTRICT
HIGH SCHOOL REQUIREMENTS

To earn a high school diploma from the Yukon Flats School District, a a student must satisfactorily complete 21 required credits as shown below:

SUBJECT	CREDITS REQUIRED
*English I, II, III and IV, required: To include speech, reading, comprehension, vocabulary building, grammar, written communications, content analysis, literature, leadership, critical thinking and applied skills.	4 credits
Mathematics, required, select from: General Math, Pre-Algebra, Algebra I, Algebra II, Geometry, Trigonometry, and/or Calculus or computer literacy.	3 credits
Social Studies, select from or add to: Alaska History with focus on Native cultures ½, 1 unit US History, US Government ½, World History ½, Geography ½, Economics ½.	2½ credits
Science, select from or add to: General Science, Biology, Physics and/or Chemistry.	2½ credits
Physical Education, possible courses are: Gymnastics ¼, Skiing ¼, Roller Skating ¼, Ice Skating ¼, Basketball ¼, Track ¼, Wrestling ¼.	1 Credit
Health & Family Living, required: To include alcohol and drug abuse in an integrated approach.	½ credit
Fine Arts, select from or add to: Music, Drama, Art, Photography.	1 credit
College Careers, required: Vocational and Academic	½ credit
Business and Finance, required: Native Land Claims and Corporate Structure.	½ credit
Electives, select from: Vocational Education courses (Business, Trades and Industry, i.e. Business Math, Consumer Math, Economics, Aviation Science, Foreign Languages, Native Language or others.)	5½ credits
	21 TOTAL CREDITS

*English must be taken in each year of the 9-12 program.
Credits: One credit is defined as 130 clock hours of instruction.
Note: As the curriculum is developed, specific courses in a specific sequence will be adopted in math, social studies, science & fine arts.

ADOPTED: AUGUST 1982 Applicable to incoming Freshmen.

YUKON FLATS SCHOOL DISTRICT
HIGH SCHOOL COURSE OF STUDY PLAN

STUDENT'S NAME _____ GRADE _____ DATE _____

Instructions: Circle or write in courses from attached requirements as needed.

Requirements	Units	Credits Earned	Credits Needed	Date Approved	Supervisor's Signature
Freshmen					
- English I	1				
- General Math or Pre-albebra/ Algebra I	1				
- Social Studies	½				
- Native Land Claims	½				
- Science	½				
- P.E.	½				
- Electives (Gwitch'n)	1				
TOTALS	5				
Sophomore					
- English II	1				
- Algebra I or II	1				
- Social Studies	½				
- Science	1				
- P.E.	½				
- Health & Family Living	½				
- Electives (Gwitch'n)	½				
TOTALS	5				
Junior					
- English III	1				
- Algebra I, II or Geometry	1				
- Social Studies	½				
- Science or Computer Literacy	½				
- Fine Arts	½				
- Electives	2				
TOTALS	5½				
Senior					
- English IV	1				
- Social Studies	1				
- Science	½				
- Fine Arts	½				
- Careers	½				
- Electives	2				
TOTALS	5½				

GRAND TOTAL _____

THE
LAKE AND PENINSULA
SCHOOL BOARD

SARA HORNBERGER, President 1976-1981
~~Port Alsworth, Alaska 99653~~
P.O. Box69, Iliamna, AK. 99606



Dear Representative Hurlburt:

Thank you for your letter of information about the bill to allow districts to give merit pay to exceptional teachers. I do support the bill with one reservation. It is not always easy to administer such a program. It is often difficult to draw the line as to where merit pay is warranted and where it is not. At this time, many school districts are paying bonuses to teachers of science and math often without regard to the ability of the teacher in the discipline and/or ability as a teacher. The teachers' unions also make it difficult to give merit pay. They protect the teachers no matter what their abilities just because they are teachers and pay their union dues (and I say this as a life member of the National Education Association and an honorary member of NEA-Alaska). However, a bill such as yours is good because it forces us to take time to face the issue and come up with guidelines, etc.

As a teacher of 17 years and a rural board member of seven years, I oppose binding arbitration in any form and I also oppose giving teachers the right to strike. Several times when I was teaching, our union tried to pull a strike and I always refused to strike (and my refusal sparked other refusals so the strike always failed). It is my opinion that public employees do not have the right to strike and if a person doesn't like that, go get another job. Back to binding arbitration. The taxpayers are the ultimate authority in the schools and if we give away binding arbitration, we might just as well disband publically elected school boards of directors and let the teachers elect a committee to run the schools.

Best wishes,

Sara Hornberger

Sara Hornberger

What's Wrong With Our Teachers

Low prestige and few rewards are discouraging top students from entering the profession. Result: Too many instructors who don't measure up to the challenge.

A Texas elementary-school teacher gave a reading lesson under her hand-printed sign: "Patient is a virtue."

A Salt Lake City English teacher renowned for his excellence quit the classroom to earn twice as much in another job—driving a truck.

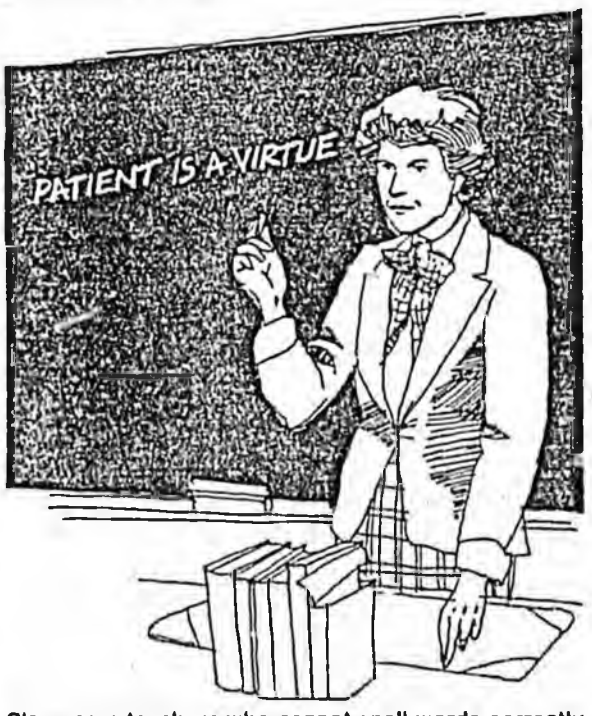
These cases illustrate two sides of a growing crisis in America's public schools: On the one hand, too many classrooms are burdened with teachers improperly prepared for their work. On the other, thousands of competent instructors are being lured from their jobs by more rewarding work elsewhere.

Educators insist that teachers don't deserve all the blame for the decay in American education as evidenced, for example, by the decline of Scholastic Aptitude Test (SAT) scores to a national average of 893 in 1982, from 958 in 1967. Factors such as budget cuts, curricula changes, classroom violence and competition for students' interest from TV and other outside forces also are cited for causing poor performances.

Increasingly, however, leading scholars insist that reform of the nation's schools—crucial to maintaining America's technological leadership—must start with teachers.

In a major study of the American teacher to be released in mid-March by a panel of top educators, project director Emily Feistritzer concludes: "The real crisis in teaching today is in who is entering the profession. And if we don't do something about that now, it will hurt America's competitive standing in the future."

ILLUSTRATION BY HAROLD BAER, JR.



Classroom teachers who cannot spell words correctly are a source of concern about incompetence.

Many remedies are being undertaken to reverse the situation. Colleges of education are raising their admissions standards, and beginning teachers are being tested to weed out incompetence. Higher pay is being considered in some areas.

To relieve a teacher shortage in math and science, the House of Representatives on March 2 approved a 425-million-dollar program designed to put more qualified instructors in the classroom. The bill, which awaits approval by the Senate, includes 250 million dollars in grants to the states and to local school districts to update the math and science skills of current teachers and to retrain teachers of other subjects to qualify them to teach math and science.

An intense immediate concern is the fact that most of the nation's brightest college students are rejecting careers as teachers at a time when enrollment increases are expected to create serious teacher shortages by 1990. Shortages already are appearing in some areas.

Fewer than 5 percent of the freshmen entering college last fall said they planned to become teachers—down from nearly 22 percent in 1966. Their low numbers were matched only by their low academic performances. The 1982 SAT scores for students entering education were 80 points below the national average in math and verbal skills—a combined score of 813 out of a possible 1,600. Future teachers ranked 26th in 29 academic fields surveyed.

Alarming Decline in Quality

Educators say many of the problems are traceable to a surge in public-school enrollment in the early '60s that put pressure on colleges of education to train thousands of teachers quickly. The boom also caused many states to certify new instructors who were not adequately prepared.

"They were just trying to get warm bodies into the classroom," recalls Samuel Sava, executive director of the National Association of Elementary School Principals.

Since then, educators note, the women's-liberation movement also has encouraged females to aspire to their highest goals of employment. As a result, many young women have decided that the teaching profession, for decades one of the best jobs available to them, did not have enough prestige and chose other careers.

The result has been an alarming decline in the quality of teachers entering many classrooms. While school officials claim that 95 percent of their teachers perform adequately, they also concede that cases of incompetence have become all too common:

- An elementary-school teacher in South Carolina was downgraded to a substitute after parents complained about the bad grammar and misspelled words she used in correcting students' papers.
- A California teacher stood with her back to the class while youngsters pelted her with spitballs, the noise becoming so intense that another teacher came to investigate. After other incidents of behavior that were judged to detract from her teaching, she was put on notice to improve or risk dismissal.
- A mathematics teacher in a Creve Coeur, Mo., high school was discovered by administrators to be "completely incompetent." Her problem: "Inability to read the chemistry of the kids. She wasn't capable of responding to the class. She'd miss the puzzled look on kids' faces."

Sufficient knowledge of the subject matter is only one of the criteria for successful teaching. Being able to communicate that information to large classes with both talented students and slow learners presents problems for some otherwise competent teachers. A Pasadena, Calif., teacher with a firm grasp on her subject matter "had no control of

her class. She was literally afraid of her gifted and accelerated students," says the superintendent. The district paid a settlement of $78,000 to terminate her services.

A study conducted for the National Institute of Education, which looked at college graduates who entered teaching in the late '70s, found that those with the highest academic ability were much more likely to leave their jobs than those who were lower achievers. Among high-achieving students, only 26 percent intended to teach at age 30, as compared with approximately 60 percent of those with the lowest academic ability.



Teachers find that part-time jobs in places such as a gas station make them vulnerable to students' taunts and jeers.

Many Americans worry about the damage that such experiences cause to impressionable young people. Mike Barnicle, columnist for the *Boston Globe*, received a letter from a high-school English teacher that included such comments as: "I get sick and tired of the vandalism and all the drinking, too much of it. I have been a teacher for eight years and I try and tell the kids. They have been a big increase in public drinking." Barnicle noted in his column: "For all practical purposes, she is a 31-year-old functional illiterate."

Educators blame the colleges of education that have turned out such barely literate instructors. A recent graduate of an Alabama college included the following note when applying for a local teaching job in 1980: "Students should be abble to, count two ten." He was not hired. Another alarming indication: One third of the nearly 7,000 prospective teachers who took California's first minimum-competency test failed to meet the most basic skill requirements.

Notes Dan Alexander, president of the Mobile County, Ala., school board: "If the current test-failure rate is, say, 20 percent, then you have to figure that 20 percent of the people who would have failed in the past are still teaching in the system."

Teachers "Are Beaten Down"

One of the worst effects of the crisis is the lowering of teachers' morale. A 1981 survey of the nation's 2.2 million public-school teachers by the National Education Association found that 24 percent of the teachers polled "probably would not" choose teaching as a career again. In 1961, fewer than 8 percent said they would reconsider.

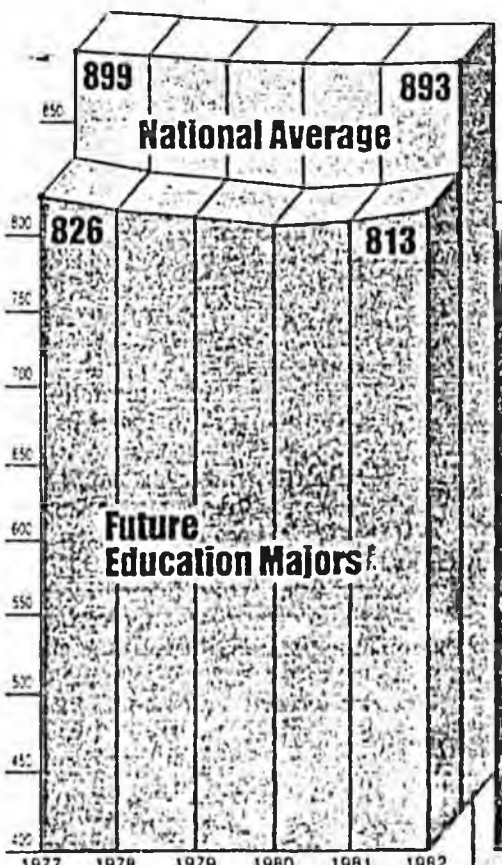
What has happened over the past two decades to make teaching so unpopular? Responds Ernest C. Smith, a Los Angeles industrial-arts teacher with 15 years of experience: "Teachers economically and morally are beaten down."

Low pay is the top complaint. The National Center for Education Statistics estimates that the average current salary for classroom teachers is $17,644—up from $9,269 in 1971. However, in constant 1980-81 dollars, teachers have lost money, dropping from the 1971 equivalent of $20,168.

The outlook for the future is equally bleak. The center

When It Comes to Tests, Future Teachers Rank Low

Combined Math and Verbal Scores of College-Bound Seniors
(1,600 is perfect)





Scores from the same Scholastic Aptitude Test for 1982 were ranked according to the students' intended areas of study after graduation

Test Score		Test Score
1. Physical sciences 1,054	15. Health and medical	886
2. Mathematics 1,024	National average	893
3. English, literature 995	16. Communications	892
4. Engineering 986	17. Music	890
5. Biological sciences 976	18. Psychology	882
6. History and cultures 960	19. Theater arts	878
7. Foreign languages 955	20. Forestry, conservation	876
8. Philosophy and religion 945	21. Geography	868
9. Social sciences 936	22. Business and commerce	847
10. Library science 932	23. Agriculture	838
11. Undecided 925	24. All other fields	832
12. Military science 908	25. Art	822
13. Computer science, systems analysis, architecture, environmental design 906, 904, 898	26. Education	813
	27. Home economics	792
	28. Ethnic studies	744
	29. Trade and vocational	739

USN&WR—Basic data, College Entrance Examination Board

expects salaries in 1991 to have risen to $20,113—still $55 below the 1971 mark.

"Looking down the way 20 years, I wouldn't want to support my family on a teacher's salary," says Patricia Nipper, a Latin teacher in Little Rock. With seven years' experience and a master's degree in English, Nipper earned $16,000 last year.

Many teachers are forced to take part-time jobs to supplement their salaries. Twenty-nine percent of the teachers surveyed in Texas last year had outside jobs, up from 22 percent in 1980. The experience can be humiliating. A Salt Lake City teacher finds his job at a gas station makes him the target of student ridicule: "Students that I had bring in their cars and ask for a dollar's worth of gas. They enjoy taunting me as their teacher who now has to wait on them."



Some instructors who know their subject matter are unable to provide adequate discipline for students unwilling to learn.

Teachers don't have to go far to find better-paying jobs, and many are doing so. The average starting salary for teachers is $12,800, compared with $16,200 for accountants and $20,364 for computer scientists. A master's degree may raise a starting teacher to $14,079, but engineers holding master's degrees receive $11,000 more as starting pay.

As a result, many college students, most often math and science majors, are seeking more lucrative careers. In Iowa, the number of graduates in mathematics education fell to 38 in 1981, down from 234 in 1970. The state needed 102.

Experienced teachers are joining the exodus from the classroom. Richard Ong, 25, recently left a computer teaching job in Los Angeles to program videogames for Mattel. The transfer instantly raised his salary 50 percent, from $16,000 to $24,000. If teachers such as Ong continue to leave at their current rate, more than a third of the nation's qualified secondary-school math and science instructors will be gone by 1992.

Many areas faced with these shortages have had to use teachers certified in other subject areas to teach math and science. In Pacific Coast states, 84 percent of the new math and science teachers were trained in other fields.

Educators as Baby-Sitters

Other reasons for leaving include problems of discipline in overcrowded classrooms that are filled with handicapped youngsters, children who speak little English, and the products of broken homes.

Says one suburban Washington, D.C., elementary-school teacher: "I have children who have been with a baby-sitter since they were 3 months old. They are demanding from me the individual attention, concern and caring they haven't gotten from their parents. I just can't give enough with 25 students in the room."

Thirty-four-year-old Gay Maise left her teaching position in a St. Louis suburb because of discipline problems: "I spent the entire first three months of school on discipline and classroom order. Forget about teaching subjects."

Teachers in many urban school districts live with the fear of violence. In February, an Atlanta teacher was cut in the neck during a robbery attempt while walking during school hours from the main school building to an annex. In

Teachers' Test—Can You Answer?

Six states use the National Teacher Examinations produced by the Educational Testing Service for teacher certification. Prospective teachers take a battery of tests on communications skills, general and professional knowledge and their specific field of study. Here are sample questions from those tests—

1. If the sum of two numbers is 18, which cannot be true of the numbers?

[A] Their sum is 0.
[B] Their product is 0.
[C] One number is twice the other number.
[D] One number is 8 times the other number.
[E] One number is greater than 18.

2. During a recession in the United States, unemployment is likely to be highest among which of the following groups?

[A] Public-school teachers.
[B] Army officers.
[C] Office managers.
[D] Automobile-assembly workers.
[E] Dairy farmers.

3. The maximum size of particles that can be moved by a river is related most directly to the:

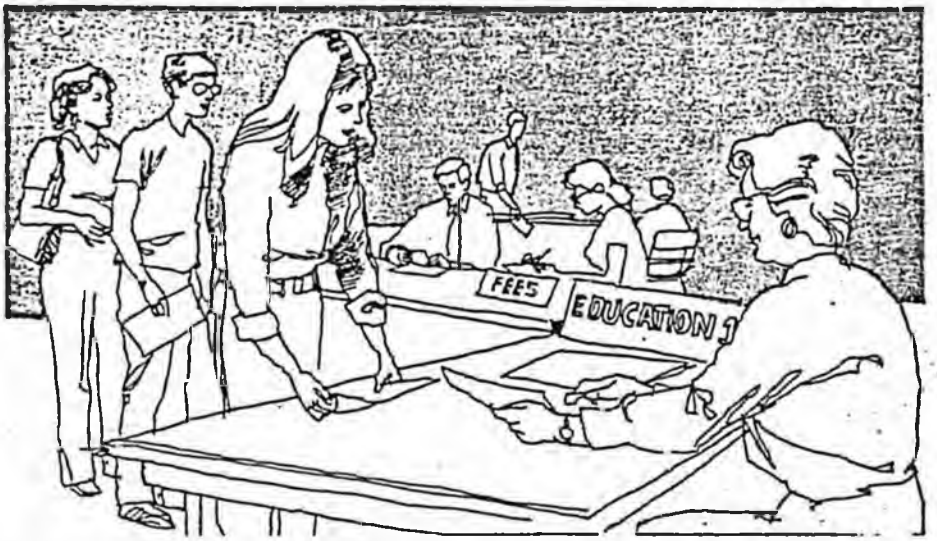
[A] Length of the river.
[B] Speed of water in the river.
[C] Cross-sectional area of the river.
[D] Amount of salt dissolved in the river water.
[E] Number of waterfalls along the river's course.

4. Tom had a party for some friends and relatives, and 40 people came. If twice as many relatives had come, the number of people at the party would have been:

[A] Exactly 60.
[B] Exactly 80.
[C] Exactly 81.
[D] Between 40 and 80, but not necessarily 60.
[E] More than 40, but no maximum can be set.

Answers: 1. A, 2. D, 3. B, 4. D.

Questions are reprinted by permission of Educational Testing Service.



Incentives such as higher pay and tougher academic courses are being tried to encourage better-quality students to enroll in teacher-training programs.

Dade County, Fla., public schools reported 84 student assaults on school personnel during the first half of the past school year.

Tight budgets in many school districts have meant coping with inadequate supplies. In Prince George's County, Md., no new textbooks were purchased this year. As a result, many English teachers can't use favorites such as *The Great Gatsby* or *The Scarlet Letter* because there aren't enough books to go around. A poll of Louisiana teachers found nearly a third spend more than $100 of their own money annually to buy classroom materials.

"We're being asked to do more and more with less and less," notes Marty Berger, a Prince George's County psychology teacher who makes do with a 1974 text. "That forces you to be more creative, but it also makes it harder to maintain your enthusiasm."

Why, then, do so many teachers remain in the classroom? Because, they say, there are priceless rewards such as the moment when a child suddenly understands a math problem or discovers the joy of Shakespeare's plays.

Explains California industrial-arts teacher Ernest Smith: "It's a great feeling to meet a former student who says: 'You gave me a tough time, but now my life is bett-- ' "

For some individuals, these rewards were sufficiently attractive to lure them from higher-paying jobs in private industry. Wynetta McNeil, 31, left previous positions in finance and consulting to teach math and social sciences in Atlanta. She says: "I found that my skills were strong as a motivator. A lot of kids I work with have the talents that just have to be tapped. When I see the little light bulbs click on over their heads, I feel satisfied."

Melissa Lane, 16, a junior at North Hollywood High School, says good teachers are easy to identify: "They are excited about the subjects they teach. They're available at lunchtime if you need them. They always have plans and projects."

Screening Out Incompetents

Efforts are under way in many places to upgrade the quality of teachers while attracting more intelligent newcomers. By 1985, half of the 50 states will require new teachers to take a basic-skills test before they can operate in a classroom.

The tests screen out incompetent teachers and help pinpoint weak teacher-preparation programs. Since Louisiana began testing its future teachers in 1978, the passage rate has risen from an initial 53 percent to 75 percent last year.

In Florida, 84 percent of all t
who took the exam last Oct
passed. However, only 37 perce
the black students in education pa
which has raised concerns about
worsening of an already serious de
in the number of black teachers.
American Association of College
Teacher Education and other gr
are discussing ways to recruit top-q
ty black students and offer better p
aration programs.

Some areas also have tightene
procedures for determining how w
teacher controls a class or impart
or her knowledge to students.
states have begun delaying cert
tion for new teachers until they
completed a one-to-three-year in
ship on the job. During that time,
teachers are evaluated by admini
tors and other instructors.

Improvements also are under way in many of the 1
colleges offering teacher-education programs—only 5
which are approved by the National Council for Accre
tion of Teacher Education. Concern has generally foc
on the teaching-methods courses that critics say are bo
and are driving away many bright, ambitious students.

Now many colleges of education are raising their ad
sions standards and stressing more liberal-arts cou
Some are combining classes in teaching methods with r
fieldwork in local schools. The University of Kansa
among a handful of schools that have expanded their f
year programs to five years to cover all the new issues
today's teachers must know.

More programs also are being designed to assist exp
enced teachers already in the classroom. About 600 c
munity work sites, known as teachers centers, have spr
up around the country to enable teachers to help e
other solve academic and emotional problems.

"Master teacher"—a solution? The most critical p
lem still to be solved is how much teachers should be p
A 1981 study for the National Institute of Education
cluded that the U.S. "gets approximately what it pays
The bottom one third of the college-going population
seeking positions paying salaries in the bottom one thi
the economy."

Several states, including Florida and Texas, have
posed raising all teacher salaries significantly. Secretar
Education Terrel Bell favors creating a position of
"master teacher," which would command a salary sev
thousand dollars higher than a regular teacher's pay.
nessee Governor Lamar Alexander has proposed suc
program that would pay master teachers an average sa
of $26,873, which is 60 percent more than the salary
regular teacher.

While such a program would reward excellence, m
administrators say any type of merit-pay system would
hard to administer and might prove divisive. Says elem
tary-school Principal Elizabeth Decker of Loudoun Cou
Va.: "If every teacher is out for herself, the sharing
materials, ideas and talents tends to stop."

The question of how much teachers are worth ultima
boils down to how much students are learning. Notes
Angeles parent Annie Richardson: "Teachers will hav
rededicate themselves to produce better products or t
will never get the support of the public."

By LUCIA SOLORZANO with the magazine's domestic bureaus

Interview With Albert Shanker, President, American Federation of Teachers

Want Better Teachers? Raise Pay, Stop Classroom Violence

A well-known educator says that a vital part of the effort to improve the quality of instruction in our schools depends on the public—including a willingness to spend more.



Q. Mr. Shanker, why are teachers under so much fire now?

A. Not so long ago, many people in the general public were uneducated. Teachers were among the educated elite. But very quickly we've educated so many of our people that the gap between the general public and the teacher is no longer there. That makes teachers easier to criticize.

Also, we no longer have an elite student body, and we're not educating the masses as well as we used to educate the few. What teachers can do with children who are relatively advantaged is very different from what can be done with the kids who used to be pushed out of school. To some extent, teachers are blamed for that.

In addition, it is getting more difficult to find teachers of acceptable or high quality.

Q. What makes that so difficult?

A. A big part of it is the money—or lack of it. If somebody is asked to go into teaching at $12,000 a year but can become a trainee for some business at $20,000, you're not going to get very many candidates.

Also, 30 years ago about the highest profession that most women could aspire to was teaching. Now all sorts of other professions have opened up to them.

Q. How can better students be attracted to a teaching career?

A. The economic incentives have to be improved. You also have to solve the problem of violence and disruption. A person who is primarily interested in mathematics or Shakespeare loves that subject and feels that it is important enough to spend a lifetime imparting this knowledge to others. That person does not want to spend his or her time telling Johnny to put away his knife or to stop shrieking.

In many schools a teacher cannot get satisfaction from the job because of a small percentage of students who are sick, who are violent, who are not learning. Instead they are preventing other children from learning and are driving out competent and capable teachers.

A good teacher does not want to be a policeman, a psychiatrist or a jailer. The schools must come to grips with this.

Q. What about improving the teaching environment?

A. A lot of corporations are talking about "quality circles"—increasing productivity by increasing the participation and happiness of all who are involved. Schools have to develop in that direction, too.

In schools today, teachers are very often treated pretty much the way the children are. If they're absent for a day, they're asked to bring a doctor's note. Most people with intellectual self-respect and some accomplishment are not going to thrive in an atmosphere like that. Schools have to make teachers an equal partner in the educational endeavor.

Q. How do you define a competent teacher?

A. A teacher should have a relatively high level of literacy and should be competent in his or her own subject matter. Everyone who enters teaching ought to be tested on those skills. There also must be performance characteristics related to the interaction between teacher and students, but those have to be observed by people over a period of time.

There ought to be an internship period similar to what a doctor goes through. This should be done in a regular school setting over a two or three-year period of time in which the new person gets a good deal of help and is able to try out different things. It also ought to be a time after which, if the person isn't really good, you can say, "Goodbye—this is not for you."

Q. What are the characteristics of an excellent teacher?

A. The excellent teacher is a great artist. Greatness implies a certain creativity. Probably most adults have had at least one or two teachers who would have inspired them to come back to classes even on Saturday or Sunday. But you can't have all of your teachers at that level any more than you can expect every singer to be a Pavarotti. There's nothing wrong with being competent. Most teachers *are* competent, and what we need to do now is constantly to raise that level a bit. If we can do that, our schools will be in pretty good shape.

Q. Would it help to pay higher salaries to the best teachers?

A. If we could find a scheme that rewarded merit on some measurable and commonly accepted basis, there'd be nothing wrong with it. But wherever this has been tried, the majority of colleagues became demoralized because they felt it was not the meritorious person who was being rewarded. The money was being used to accomplish other purposes.

Q. Would it raise educational standards to pay more to teachers in fields where there is a shortage, such as math or science?

A. How much more are you going to pay them? Are you going to pay $1,000 or $2,000 more to a college graduate normally starting at $11,000 or $12,000? Industry will pay a science major $24,000. Do I hear anybody bidding $24,000? No.

Suppose that next year we have a shortage of English or kindergarten teachers. Will the public say: "Well, math and science are superior subjects. So when they're in short supply, we'll pay extra money. But anybody can teach English or kindergarten." Then you begin to teach children that it's not as important to learn English, that it's not as important to be able to understand or work with children who are younger.

Q. What can be done to improve or fire incompetent teachers presently in the classroom?

A. With people who are not making it, you first give them all the help you can. Then you do what any other employer does: You build a case against them. Tenure doesn't mean you keep your job. It just means that the boss has to go before somebody and give a reason for removing you. If you've got a good reason, there's no judge in the world who's going to uphold that teacher's right to stay there.

It is also important to stimulate teachers constantly. Teachers are locked up with children for almost their entire lives. They spend very little time with their colleagues. We need to develop ways for teachers to have a chance to read great literature, to discuss ideas, to be in an adult environment where they are respected by others. Getting excited about something and learning something new will generate the kind of enthusiasm we need to make teaching a really desirable profession again. □

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Kerttula questions UA salary proposal

Associated Press

Juneau — Plans to increase staff salaries at the University of Alaska by 7.5 percent drew concern today during a Senate Finance Committee hearing on UA's proposed $174.28 million operating budget for fiscal 1984.

The package represents a 17 percent increase over UA spending this fiscal year.

Senate President Jay Kerttula, D-Palmer, who sat in during the fourth day of hearings on UA's proposed spending package, said he wondered why salaries were climbing in the midst of a recession.

"Salaries Outside are going down," Kerttula told UA-Anchorage Chancellor David Outcault.

Pay raises based on merit "are justified," Kerttula hastened to add, but he questioned the practice of issuing automatic pay raises in the face of hard times that bring "competition for jobs."

Contained in the UA request is a 3 percent "step" increase in pay, and a 4.5 percent cost-of-living increase for UA staff.

UA-Anchorage is requesting a total operating budget of $35.56 million.

In a separate matter, George P. Melican, chancellor of UA's Division of Community Colleges and Rural Education and Extension, decried the fact that tuition at Alaska's 10 community colleges is the highest in the nation among such institutions.

He said he is recommending that community college tuition not be increased at the same rate as university tuition, which, according to Sen. Jan Faiks, R-Anchorage, is 300 percent lower than the national average for state universities.

Melican had no figures immediately available showing how community college tuition compares with the national average.

White House Favors Civil-Service Pay Tied to Performance

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON—The Reagan administration wants to place greater emphasis on job performance in determining the salaries of federal white-collar employees and the order of layoffs when furloughs are necessary.

Under a proposal being considered by the administration, a performance-based pay system would replace the current procedure under which these workers get increases based mostly on seniority. The proposal would retain the across-the-board yearly increases federal workers usually receive to keep their pay comparable to private-sector workers'. Further, the plan would make performance more important than seniority in determining which workers lose their jobs during layoffs.

The plan, which doesn't require Congressional approval, has been agreed to at the cabinet level. President Reagan is expected to give final approval.

The plan would bring about 1.4 million federal workers under a merit-pay system that currently includes about 125,000 senior federal executives.

Donald Devine, director of the Office of Personnel Management, said the proposed changes would "reform the system so it makes more sense from a management perspective." He added, at a briefing yesterday for a small group of reporters, that government decisions on the pay and laying off of personnel "are made with very little consideration given to how well they perform."

In the past, rumors of such proposals have been greeted with howls of protest from federal employee groups. Yesterday the American Federation of Government Employees, which represents about 700,000 workers, called the plan "a return to the spoils system." A spokeswoman said the government's performance-appraisal system, which has been used for senior executives since 1981, is "too new and too subjective to be an adequate criterion" for determining pay raises.

The latest proposal is another dose of harsh medicine for federal workers. Mr. Reagan's 1984 budget proposes that federal workers' pay be frozen next year and that workers' contributions to the pension system be raised. On Oct. 1, federal workers received a 4% increase. Further, the administration has proposed that the age at which civilian workers can retire with full benefits be increased, over a 10-year phase-in period, to 65 from 55.

Dunkin' Donuts, Franchisees To Raise Advertising Outlays

RANDOLPH, Mass.—Dunkin' Donuts Inc. disclosed in its annual report that the company and its franchisees plan to increase spending for advertising to $100 million in the five years ending 1987, from $43 million

Philips Unit Settles Suit Against Mattel Over TV-Game Patent

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—North American Philips Corp. said it agreed to settle a television-game patent lawsuit it had filed against Mattel Inc.

Under the settlement, Magnavox Consumer Electronics Co., a unit of North American Philips, releases Mattel from all claims of patent infringement and grants Mattel a license for its television-game patents. An official of North American Philips declined to specify the amount of the licensing fees to be paid by Mattel, but he said: "We think it was a very satisfactory settlement for Magnavox."

In Hawthorne, Calif., Mattel also declined to disclose the amount of the royalties. The toy maker, publishing and entertainment concern said it had made adequate provision for payment, but wouldn't comment further.

The settlement involves a 1980 suit that contended that Mattel infringed Magnavox's patent on "Odyssey 2," a programmable television-video game, by introduction of Mattel's "Intellivision." At issue was the electronic circuitry that converts electrical impulses to images on the screen.

Last July, a federal judge in Chicago ruled that Mattel had infringed Magnavox's patent for certain television-video games, and Mattel later appealed the decision.

North American Philips has interests in consumer products, electrical and electronic parts, and professional equipment. It is a unit of Philips N.V. of the Netherlands.

Nissan Motor in USA Is Sued by Wisconsin Over Pickup Truck Ads

By a WALL STREET JOURNAL Staff Reporter

MILWAUKEE—The Wisconsin Attorney General sued Nissan Motor Corp. in USA, charging the unit of the Japanese auto maker with deceptive television commercials.

The suit, filed in Milwaukee County Civil Court, cites two 30-second television advertisements that ran last fall, featuring Datsun King Cab pickup trucks. The commercials said Datsun pickup truck prices "start at $5,858." King Cab models usually cost at least $7,000, according to the suit.

The ads included a disclaimer that the $5,858 price applied only to another model. The attorney general's suit charges that the disclaimer appeared too briefly to be read by viewers.

"We viewed it over and over and it really is impossible to read that disclaimer," said Jonathan P. Siner, an assistant attorney general.

The suit asks for penalties of as much as $500 for each time the ad is aired. It also seeks restitution for customers who shopped for King Cabs at $5,858 but paid more. Mr.

Shultz Sc... To Need... Are Cut T...

By a WALL STREET...

WASHINGTON ... George Shultz said ... fearful of an intern... cutting back too fa... derdeveloped coun...

"I think mysel... have been drawin... fact, in internatio... desirable," Mr. Sh... eign Relations Co... something that if i... fast will be dama...

He said that he... developing world s... rate from the firs... half of 1982. But i... year, he said, est... "precipitous drop"... give any figures.

Mr. Shultz wa... tinue to scale back... undercut chances... less-developed cou... work out from... loads.

Reagan admi... warned before o... might overreact ... tional debt and c... But Mr. Shultz we... that bankers act... back too much.

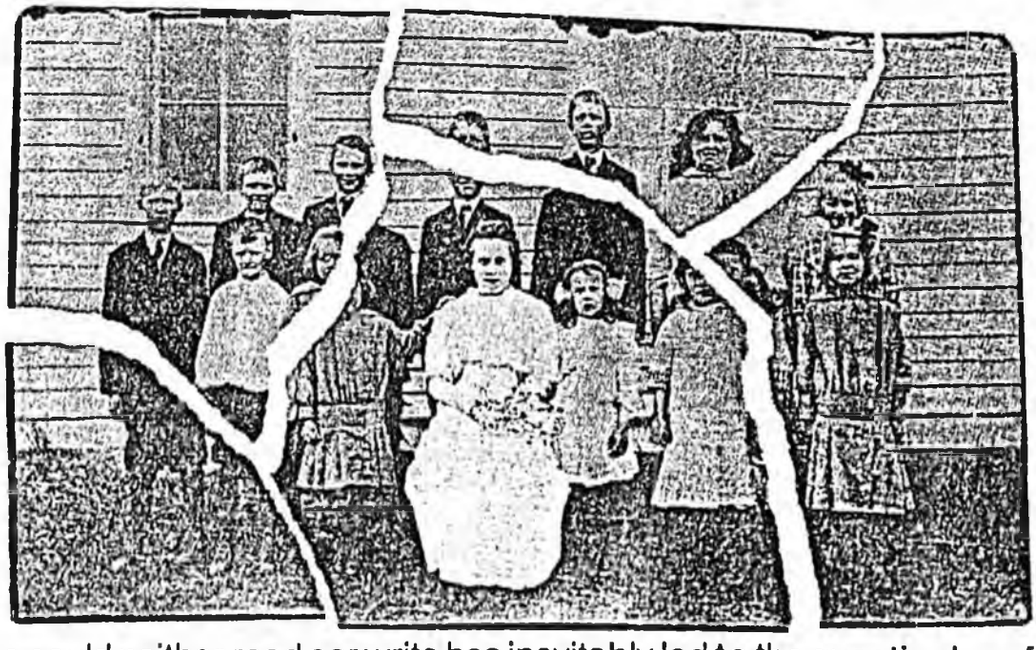
Mr. Shultz m...



Lisa Berland

Basic verbal and mathematical skills don't make a good teacher, but the lack of them will surely make a bad one—and bad teachers mean inadequate education. Confronted with the fact that too many teachers do lack basic skills, the states are responding with a variety of remedies.

Teachers: A Question of Competence



"Why should we be able to read and write if our students can't?" a grade-school teacher commented sarcastically when asked about teacher competency. Needless to say, teachers don't appreciate being scapegoats for the failures of public education. Nevertheless, revelations about a generation of high school students who could neither read nor write has inevitably led to the questioning of teacher quality in America.

The mid-1970s was filled with press accounts of plummeting test scores and functionally illiterate high school graduates. The minimum competency movement was born and, when the dust settled, 40 states had enacted laws requiring basic skills tests in the public schools.

The teacher competency movement followed not far behind. "We started out testing the students," says House Speaker Frank Kelley of Arizona. "That's like measuring your body temperature to find out you're sick. So we found out that we were a

Teachers

little bit sick. Now we're looking at the education of teachers and the testing of those teachers before they can be certified to teach in Arizona."

The public, fueled again by press reports of teachers failing basic skills tests, garbled notes to parents, and incomprehensible homework assignments, began now demanding teacher accountability. In a 1979 Gallup Poll, a whopping 85 percent of respondants agreed that teachers should have to pass state exams in their subject areas.

Over the last several decades, the teaching profession has suffered some severe blows to its prestige. Whereas in the past, teachers were well-respected and generally had more education than the general public, today the public is often as well-educated, if not more educated, than teachers. "Teachers are surrounded by parents who feel that they could do as good a job teaching their children if they weren't too busy making more money," once commented Albert Shanker, president of the American Federation of Teachers (AFT).

Low salaries haven't helped attract qualified applicants to teaching. The 1981-82 average teaching salary was $18,976, according to the National Education Association (NEA), the country's largest teacher union. The low status and pay of the profession—not to mention the problems of violence, discipline and apathy in the classroom—is turning away many who in the past would have taught.

"We are no longer seeing the first cut of people who would have entered the profession 10 years ago," says Rich Hollhan of the Florida Education Standards Commission. "Those people are now in industry and other professions." Shortages of mathematics and science teachers are becoming especially acute because of the competition of higher-paying private-sector jobs. The exodus of women and minorities from teaching to new job opportunites offering more pay and status has also contributed to the decline in teacher quality.

Recent studies confirm that teaching does not attract the "best and brightest." In a study for the National Institute of Education, Phillip C. Schlechty and Victor S. Vance concluded from a review of Scholastic Aptitude Test (SAT) scores that teaching attracts and retains those with low measured academic ability while failing to attract or retain those with high measured academic ability. Thirty percent of all teachers are drawn from the lower 20 percent of academic achievement. And 34 percent of teachers committed to remain in teaching come from the lower 20 percent—61 percent from the lower 40 percent.

The nation's schools of education have also come under fire. Teacher preparatory schools have been criticized for minimal entrance requirements and low standards for graduation. The curricula has been scored for emphasis on teaching theory rather than on subject matter and actual student teaching experience.

But in most states, graduation from a school of education is all that is necessary for teacher certification. "Certification in most states is verification," says Lester Solomon, director of Georgia's performance-based certification program. That is, the state basically accepts the recommendation of a college.

Solomon does not consider such a system as setting standards. "Only when [the state] sets standards for a test or on-the-job assessment is the state really taking its responsibility of establishing standards for certification as opposed to just accepting a recommendation from the college."

State response to the public pressure for teacher accountability has initially been quite similar to demands for student competency. Twenty states now require, or will require in the future, that applicants for teacher certification be tested (see chart on page 13). In at least half of these states, the tests have been mandated by the legislature—the rest have been authorized by the state board or department of education.

Testing does not mean the same thing in all states: Some have developed their own tests, others use the Educational Testing Service's National Teacher Exam (NTE), South Carolina uses a combination; some states test the basic skills of reading, writing and mathematics, others test subject matter or professional teaching skills, some test a combination of these; in some states prospective teachers are tested before entrance to teacher preparatory programs, others test after graduation.

Is testing the answer to teacher competency? Critics argue that it is a "band-aid" approach that has no power to treat the causes of poor teaching and that testing alone cannot predict who will be an effective teacher. Many different qualities go into good teaching—and high measured academic ability may not necessarily be one of them. According to Schlecty and Vance, much research has been devoted to studying what makes a good teacher—without conclusive results.

Those who support testing of basic verbal and mathematical skills agree that a test will not tell you who will be a good teacher. But, they argue, the lack of such minimal skills will surely make a bad one. "We feel very strongly," says Florida's Hollhan, "that if teachers cannot demonstrate that level of competency, we don't need them."

Testing has been opposed in some states by minorities and teacher unions. Minorities argue that testing perpetuates past discrimination and also that standardized tests

are often culturally biased. Blacks in Florida maintain that that state's requirements for certification will eliminate blacks from the teaching profession. According to Holihan, Florida law requiring that applicants to teacher colleges be in the 40th percentile on the SAT is making a significant impact on the number of blacks admitted to teacher programs. After reviewing results just in from California's new proficiency test for teachers, officials projected in January that two-thirds of minority candidates failed the test, compared to a one-third overall failure rate.

NEA, with 1.6 million members, has also gone on record against testing. Last year, Massachusetts witnessed a battle over a bill that would have required a basic skills test of all teachers, including those already certified. According to a legislative aide, the Senate tabled the bill—after it was amended in the House to apply only to new teacher applicants—because of the volatility of the issue. The Massachusetts Teachers Association (MTA), a division of NEA and the state's largest teacher union, lobbied heavily against the bill. In the November elections, the union ranked candidates according to their position on the issue of competency testing.

Richard Durkin, lobbyist for the MTA, calls the type of testing Massachusetts was considering "punitive" rather than constructive. NEA does not consider testing a valid method of evaluating teachers and is opposed to its use as a sole condition for employment, especially after students have invested heavily in four years of education. Durkin and NEA support what they term more constructive approaches to teacher competency such as improved teacher education and provisional certification after graduation when a teacher can receive feedback and assistance. "I think evaluation is the key," says Durkin.

AFT, the smaller teacher union with a half million members, has come out in favor of testing, but both NEA and AFT vigorously oppose testing of teachers already or

States Requiring Testing for Certification

State	Authority	Year Enacted	Year Effective	Test Used	Areas to be Tested
Alabama	SBE[1]	1980	1981	State	Professional knowledge/subject matter areas[2]
Arizona	SBE/Legislature	1980	1980	State	Basic skills/professional knowledge
Arkansas	Legislature	1979	1983	NTE[3]	Commons and area examinations[4]
California	Legislature	1981	1982	State	Basic skills
Colorado	Legislature	1981	1983	State	Basic skills[5]
Connecticut	SBE	1982	1985	State	Professional knowledge/subject matter areas[6]
Delaware	SBE	1982	1983	State[7]	Basic skills
Florida	Legislature	1978	1980	State	Basic skills/professional knowledge
Georgia	SBE	1979	1979	State	Subject matter areas
Louisiana	Legislature	1977	1979	NTE	Commons and area examinations
Mississippi	SBE	1977	1977	NTE	Commons and area examinations
New Mexico	SBE	1981	1983	State	Basic skills/professional knowledge/subject matter areas[8]
New York	Board of Regents	1980	1984	State	Basic skills/professional knowledge/subjec matter areas
North Carolina	SBE	1979	1981	State	Basic skills/subject matter areas[9]
Oklahoma	Legislature	1980	1982	State	Subject matter areas
South Carolina	Legislature	1979	1982	NTE/State	Areas examinations (NTE)/basic skills (state developed)
Tennessee	SBE	1980	1981	NTE	Commons examinations
Texas	SBE/Legislature	1980/1981	1985	State	Basic skills/subject matter areas
Virginia	Legislature	1980	1981	NTE	Commons and area examinations
West Virginia	SBE	1982	1985	State[10]	Basic skills/subject matter areas

[1]State board of education.

[2]English proficiency test required for admission to professional sequence.

[3]National Teacher Examination (developed by Educational Testing Service)

[4]NTE commons examination tests general knowledge from a liberal arts education; area examinations test subject matters areas

[5]Required of applicants to professional sequence

[6]Basic skills test required of applicants to professional sequence.

[7]Developed by the Educational Testing Service in cooperation with the s

[8]Basic skills test required of applicants to professional sequence.

[9]Basic skills test required of applicants to professional sequence.

[10]Developed by Educational Testing Service in cooperation with the state

Source: Education Commission of the States, Denver, Colorado.

the job for purposes of retention or salary decisions. Although several have tried, no states have succeeded in enacting such legislation.

A number of states have recognized that testing alone will not assure quality teaching in the classroom. "Testing doesn't tell you that much," says Speaker Kelly of Arizona. "It's the training and the follow-through, making sure that measurable standards of competency are set and followed." Several states have broadened their testing programs to include a period of provisional certification and on-the-job training.

In states that have recently instituted or are experimenting with such programs, there is a high level of optimism and support. "We are very excited about the program," says Holihan. "This is a program we are very anxious to have succeed." Dr. Everett Howerton, associate superintendent of public instruction in Virginia, says that he cannot "recall two legislative items for which there was more widespread support" than for Virginia's plan for testing and assessment.

One of the more extensive programs is in Georgia, which has a three-year period of provisional certification—the longest of any state. The first part of Georgia's program is a state-developed diagnostic test. Administrators in Georgia felt the NTE, like most standardized tests, did little to provide clear objectives to applicants and feedback to those who fail.

The main focus of effort and money in Georgia is on-the-job training and development. Solomon believes that legislators should look at the whole process as not simply setting standards and weeding people out but as provi for growth and development. "Four years of college c not a finished teacher make," Solomon frequently legislators.

Since the mid-1970s, the state board of educatio Georgia has developed a sophisticated assessment gram. For certification, a teacher must master 14 c petencies, each measured by two to five indicators assessment team, made up of an administrator, a p teacher and someone external to the school sys evaluates the teacher. Seventeen regional centers, fur by the legislature, provide 50-hour training program those who serve on an assessment team.

To Solomon, the training centers are one of the bes vestments a legislature can make. Although the trainir a means to an end, i.e., the assessment of new teach both experienced teachers and administrators report ing profited greatly from the training. While it is costing state $3 million to run the training centers, Solomon siders this a small investment for such a high return or $900 million the state invests in teacher salaries. Howe the evaluation process can be done less expensively, s Solomon, by omitting the training centers and by using NTE rather than developing a new test.

Georgia has an 86 percent cumulative pass rate o test. Solomon estimates that approximately 2,100 pote teachers—out of the 15,000 applicants that have t tested since 1978—have been excluded from teachir Georgia. The assessment program is in its third year a has seen a steadily improving pass rate: 60 percent first year; 70 percent the second; and 80 percent expe this year. Solomon attributes the improving pass rat college and universities using the feedback from the and assessment process to better prepare students. teacher preparatory programs have begun to use Georgia assessment system in their student teaching grams.

Other states with comprehensive teacher progr in place include South Carolina, Florida, Virg Oklahoma, New York and Louisiana. S Carolina, Florida, Oklahoma and Louisiana screen plicants to teacher preparatory programs with eith basic skills examination or a certain high school g point average or score on standardized tests like the South Carolina requires student teaching in the junior senior year of the teacher program; Louisiana requires spective teachers to maintain a 2.5 grade point avera a preparatory program. These states require testing graduation and a one- tc two-year period of provisional tification when a teacher is evaluated and assisted.

Arizona instituted a basic skills test in 1980 and is

Twenty states now require, or will require, that applicants for teacher certification be tested. In at least half of the states, the tests have been mandated by the legislature.



experimenting with a pilot program in several school districts that provides for a one-year residency program before certification. Speaker Kelley believes "the key to the whole thing" is to require that competency in the classroom be demonstrated before certification is granted. He hopes the pilot project will demonstrate the program's value so that the legislature will provide funding. "I'm high on it," Kelley says. "I think this is the route to go."

In addition to setting certification standards, there are other steps states are taking to improve teachers. For example, state boards of education can work directly with schools of education to improve curricula, as Arizona is currently doing. A few states—California, New York and Oklahoma—have implemented programs for on-the-job teachers. Legislation in California in 1981 provided for professional teacher development centers to conduct basic skills training for teachers, and 1982 legislation provided funds for training programs for school administrators. Teacher preparatory programs themselves have begun to tighten standards and improve curricula. The impetus comes in part from the tightening of state standards and student failure to meet certification requirements.

Funding is an issue that most states are concerned with in this era of scarce fiscal resources. While testing is not an expensive program, especially if the NTE is used, the more extensive programs increase the costs. Many administrators and legislators are expressing concern about funding of current programs—and new ones. Utah is interested in a teacher competency program and is awaiting a report from the board of education. "We felt that Georgia had a good system but it set up a completely new bureaucracy within the state," says Senator William T. Barton, chairman of the Senate Public Education Committee, "so we're trying to come up with a way our existing state board can handle it with existing funds and personnel."

The availability of funds also has a bearing on teacher salaries. Legislators and administrators are very aware that setting standards and being selective must be balanced with attracting and retaining qualified teachers. Shortages of mathematics and science teachers will increase as well as in other fields if teaching is not competitive with other professions. Teachers' unions generally favor raising salaries before raising standards and requirements; legislators tend to favor raising standards, which would then justify higher salaries.

Some states are raising salaries as they implement new regulations. Florida, for example, aims to raise its salaries to the top 25 percent in the country within the next five years; Georgia is providing additional pay for its new teachers who go through the three-year assessment procedure.

Another means of raising the status and professionalism of teaching is to recognize different levels of teaching. Some states may move in this direction. Speaker Kelley in Arizona hopes to eventually "get into different levels of certification, including master teacher and so forth." Teachers should be rewarded for their competence so that a "'a teacher is a teacher is a teacher' just doesn't stand anymore."

Georgia is interested in providing the option to experienced teachers of going through the test and assessment procedure. Such teachers would then receive a performance-based teacher certificate and additional pay. States must move away from overall pay increases, Solomon thinks, and move toward performance-based increases—in part because there just isn't enough money to go around.

The "bottom line" of teacher competency, of course, is improved student learning. Because state programs to improve teacher quality are new, there is yet no data to assess the effects on learning. There is much room in the future for research that will correlate student achievement with what states are doing to improve teacher competency. And there is still room for further discovery and refinement of what makes for effective teaching.

Lisa Berland is assistant editor of State Legislatures.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
April 13, 1983
1:06 p.m.

Members Present: Rep. Tischer, Co-Chair
Rep. Fritz, Co-Chair
Rep. M.W. Miller, Vice-Chair
Rep. Goll
Rep. Davis

Members Absent: Rep. Koponen
Rep. Cato

COMMITTEE CALENDAR

HB 257: "An Act relating to certain limitations and exclusions in health insurance policies."

HJR 35: Relating to payment for health services provided by the Alaska Area Native Health Service.

SSHB 191: "An Act relating to school board negotiations with certificated employees."

WITNESS REGISTER

Rep. Ward
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-4939
Position Statement: Introduced a Committee Substitute for HB 257 which deleted Lines 16, 17 and 18 of the original bill; said he did not agree with the necessity of the deletion but would agree to it in order to expedite the bill's passage.

Martin Tirador
Blue Cross of Washington and Alaska
808 Doyon
Juneau, Alaska 99811
586-2142
Position Statement: Agreed to the changes made in the Committee Substitute; questioned the legal obligation of Native Health Service beneficiaries to pay; suggested a word change in Section 2, [illegible] 18 of CSHB 257.

Rep. Hurlbert
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3799
Position Statement: Supported passage of SSHB 191; contended that good teachers are not paid enough because of the pay scale must also contend with incompetent teachers.

Elizabeth Morris
141 Denkel #3
Fairbanks, Alaska 99701
452-3053
Position Statement: Testified in support of SSHB 191; agreed with the intent to reward good teachers and get rid of incompetent teachers; commented on the high drop out rate for native students in public schools.

Bob Green
Association of Alaska School Boards
326 4th Street
Juneau, Alaska 99801
586-1083
Position Statement: Supported SSHB 191 if the merit scale was only one of the ingredients used to determine teacher pay; stated the need for an incentive to keep good teachers in education; contended that teachers are not paid fairly.

Steve Hole
Department of Education
Pouch F
Juneau, Alaska 99811
465-2890
Position Statement: Opposed SSHB 191; stated concern about the criteria to be used, who would determine criteria, to what extent performance would determine pay; pointed out the nebulous language in SSHB 191; contented that SSHB 191 could lead to conflicts of interest.

Jean Krause
National Education Association - Alaska
147 S. Franklin, #207
Juneau, Alaska 99801
586-3090
Position Statement: Pointed out that other groups besides teachers negotiate their salaries; opposed the bill's intent to lower teacher salaries and control the local bargaining process; cited states where merit pay plans were

tried and rescinded due to failure; contended that merit pay scale would engender many problems including harassment, favoritism, and competitiveness, and discourage cooperation among educators; supported strong evaluation procedures.

PREVIOUS ACTION

HB 257: 3/11/83 - First Reading.

Committee referrals - HESS, Labor & Commerce and Rules Committees.

See HESS minutes of March 25, 1983.

HJR 35: 3/11/83 - First Reading.

Committee referrals - HESS and Rules Committees.

See HESS minutes of March 15, 1983.

SSHB 191: 2/11/83 - First Reading.

Committee referrals - HESS and Finance Committees.

No previous action in HESS Committee.

ACTION NARRATIVE

TAPE#28
Recording
Number 0001 Co-Chair Tischer called the meeting to order at 1:06 p.m. Representatives Fritz, Goll and Miller were present. Representative Davis arrived at 1:18 p.m. Co-Chair Tischer announced the committee calendar and the Chair's intent to move HB 257 and HJR 35 out of committee.

Number 0045 Co-Chair Tischer informed the committee that the CS for HB 257 was now available for review, and called the sponsor to the witness stand.

Number 0064 Rep. Ward claimed that the CS was written to clear up some alleged problems with HB 257 and expedite the bill's passage out of committee.

Number 0083 — Discussion regarding the difference between CSHB 257 and SB 257. Rep. Tischer pointed out that Lines 16, 17 and 18 of original bill were deleted in the committee substitute.

Number 0097 — Rep. Ward stated he still was not certain the lines needed to be deleted but would agree to the change in order to ensure the bill's passage.

Number 0104 — Martin Tirador, Blue Cross of Washington and Alaska, agreed with the Division of Insurance concerns presented at a previous hearing on HB 257. Mr. Tirador said the CS draft seemed to resolve most of the problems, but whether or not the beneficiary of Native Health Services had a legal obligation to pay was still questionable. Mr. Tirador was also concerned about where the money would go.

Number 0142 — Mr. Tirador stated that Indian Health Services had no mechanism to bill 3rd party payers; consequently, the companion resolution HJR 35 would be necessary for HB 257 to have any impact.

Number 0165 — Mr. Tirador recommended deleting the wording of Section 2, Line 18 and adding "is effective January 1, 1984 and applies to all policies issued on or upon renewal on or after that date," in order to prevent excess paperwork for insurance companies.

Number 0205 — Rep. Goll vocalized his understanding of Mr. Tirador's intent and then clarified the wording of the suggested amendment.

Number 0245 — Rep. Tischer said the intent of the bill was to create a mechanism to make hospitals more accountable for their services and encourage consumer responsibility.

Number 0270 — Mr. Tirador informed the committee of Blue Cross' policy which requires direct billing from the hospital.

Number 0290 — General discussion regarding billing procedures.

Number 0300 — Discussion about federal involvement in the implementation of the bills.

Number 0334 — Rep. Tischer contended that the bills will help hospitals create a cost effective balance.

Number 0350 — Mr. Tirador pointed out that while 9,000 hospitals have billing processes, the federal government is not a part of any of them.

Number 0358 — Co-Chair Tischer indicated that she would appreciate a motion to move the bills out of committee. Discussion followed regarding federal involvement and the lack of hospital representation during hearings of the two bills.

Number 0380 — In regards to HJR 35, Martin Tirador recommended encouraging the federal government to contract with 3rd party payers when appropriate.

Number 0401 — Rep. Goll moved the amendment of Section 2 of HB 257 to read "The act takes effect January 1, 1984, and applies to all policies issued or renewed on or after that date." Discussion followed.

Number 0414 — Rep. Goll withdrew his previous motion and moved to accept the corrected version of CSHB 257 in place of HB 257, and to pass CSHB 257 out of committee.

Number 0436 — Rep. Davis pointed out the cumbersome wording of the effective date clause. The committee agreed to let the drafter of the corrected CS for HB 257 word the clause in the appropriate manner.

Number 0445 — Co-Chair Tischer called for the previous question. There being no objections, the motion passed.

Number 0476 — Rep. Fritz moved to pass HJR 35 out of committee with individual recommendations. There being no objection, the motion passed.

Number 0495 — Co-Chair Tischer announced SSHB 191 as the next item on the committee calendar, and introduced the prime sponsor of the bill.

Number 0513 — Rep. Hurlbert, District 24, explained the rationale behind the changes in SSHB 191; stated his conviction that certificated employees should be payed according to

merit. Rep. Hurlbert argued that good teachers presently are not payed enough because the wage scale also includes the incompetent teachers. Rep. Hurlbert contended that SSHB 191 is conceptual because it is an attempt to quit paying teachers as if they are all doing a good job.

Number 0543 — Rep. Miller argued that line 14 of the sponsor substitute changes the intent of the original bill. According to Rep. Miller, HB 191 allowed for the addition of a bonus based on merit to an already established pay scale; whereas, SSHB 191 uses merit as the basis for a teacher's total pay.

Number 0560 — Rep. Tischer read both versions of the bill aloud.

Number 0575 — Rep. Miller stated a possible conflict of interest because his wife is a teacher; and asked to be excused from voting.

Number 0582 — Rep. Davis objected.

Number 0585 — Rep. Hurlbert explained that SSHB 191 mandates that performance and merit be the criteria for raises.

Number 0595 — Rep. Tischer contended that HB 191 encouraged raises above and beyond the regular pay; whereas, SSHB 191 would allow school boards to increase pay for some while keeping it the same for others.

Number 0620 — Rep. Goll suggested implementing a bonus system instead of eliminating a standardized pay structure.

Number 0632 — Rep. Hurlbert supported the bonus system idea and other ways to reward those who excel in teaching. He stated that good teachers should be payed better in order to keep them in education.

Number 0658 — Elizabeth Morris, Fairbanks citizen, agreed with SSHB 191; stated that some teachers should not be in the school system and that good teachers should be rewarded. Ms. Morris said that she sent her children to private schools because of the poor quality education in public schools especially with regards to native children.

Number 0675 — Ms. Morris described the problem native students encounter in public schools.

Number 0688 — In response to committee members' questions, Ms. Morris stated that the drop out rate for native students is 50% in Fairbanks, and 70% in Anchorage. According to Ms. Morris, a greater number of native teachers would benefit native students.

Number 0723 — Bob Greene, Association of Alaska School Boards, testified in favor of SSHB 191 as long as the merit scale was one component in the method of determining teacher pay. Mr. Greene said he would not approve if the merit scale was the only measure used to determine teacher pay. Mr. Greene contended that teachers are not payed fairly presently, and suggested adding a merit component to the experience, additional education, and annual components presently used. Mr. Greene said he was unsure how the system would work or be implemented, but that it was worth a try.

Number 0801 — Mr. Greene contended that teachers in Juneau are presently well payed, but anticipated that salaries would decline in the future. Mr. Greene argued that an incentive will be necessary to keep good teachers in education, but stated he was opposed to giving higher salaries to all teachers regardless of performance. Mr. Greene also predicted a nationwide shortage of teachers.

Number 0856 — Rep. Goll asked Mr. Greene for his explanation of why 90% of the teachers in Hydaburg quit last year. Mr. Greene answered that it was partly due to salary. Rep. Goll responded that the teachers he knew left not for money but because of poor management.

Number 0870 — Rep. Goll suggested that teachers could be manipulated and punished if SSHB 191 were enacted; questioned what would safeguard against teacher manipulation.

Number 0907 — Mr. Greene agreed that teachers presently leave the state for reasons other than money, and stated that SSHB 191 was futuristic legislation because 10 years from now teachers might leave for more money.

Mr. Greene concluded that SSHB 191 did not include a mechanism to determine criteria for merit in order to allow individual boards the opportunity to do so. Mr. Greene asserted that the statute for binding arbitration on grievance procedures would automatically protect staff members to some degree.

Number 0948 — Rep. Goll suggested replacing "shall" with "may" on Line 12 of SSHB 191 so that agreements would not be forced.

Number 0955 — Bob Greene opposed Rep. Goll's statement; contended that the bill would be unnecessary.

Number 0958 — Discussion regarding the shortage of physical sciences teachers in the lower '48. Bob Greene contended that the same proportion of teachers exists in Alaska, but that there was only a shortage of teachers in Bush areas.

Number 0976 — General discussion about incentives to teach in the Bush and Bush teachers pay scales.

Number 0999 — Steve Hole, Department of Education, said the department opposes SSHB 191. Mr. Hole stated concern about the lack of criteria and questioned who would determine merit, as well as do process rights under SSHB 191. Mr. Hole also questioned the meaning of "shall include criteria" on Line 12; asked to what extent performance would determine merit and pay.

Number 1014 — Rep. Miller asked if the department opposed both the original bill and the sponsor substitute. Mr. Hole responded that the department was less concerned about HB 191 than SSHB 191 because of the nebulous language in SSHB 191.

Number 1032 — Rep. Tischer said she presumed teachers would have input into determining the criteria on a local level.

Number 1037 — Steve Hole agreed that it would be up to each locality to enact the criteria, but pointed out that under SSHB 191 it would be mandatory to include a merit provision in all negotiated agreements regarding salary.

Number 1059

Mr. Hole suggested a scenario where teachers come with some criteria suggestions and the board comes with a set of criteria which meets their own needs, and the two parties are unable to negotiate. Mr. Hole testified that as a teacher he had been evaluated in part on the length of his hair, his style of dress, and the way he voted on bond issues. Mr. Hole asked how such impasses would be resolved equitably.

Number 1090

Rep. Tischer said that she hesitated to believe that negotiations between teachers and boards were actually that low.

Number 1113

Rep. Fritz commented that people are human, and asked Steve Hole if he had any recommendations for a set of objective criteria by which to judge the quality of teachers.

Number 1132

Mr. Hole responded that quality is often in the eye of the beholder, and that what is good in the way of teachers in one school is different for another.

Number 1156

Rep. Goll recognized that conflict exists between school boards and teachers and stated that if SSHB 191 were enacted it would need to provide for instances where people do not follow the law. Rep. Goll stated that the criteria would have to be worded carefully as it could be used negatively to punish those who do not perform according to the school board's wishes.

Number 1197

Jean Krause, National Education Association, Alaska reminded the committee and previous witnesses that groups other than teachers also negotiate their salaries, such as principals. Mr. Krause contended that SSHB 191 was a poor vehicle for forcing out incompetent teachers, and opposed the hidden intent of SSHB 191 to lower teacher salaries and control local bargaining procedures. Ms. Krause stated that NEA supports written, consistent evaluation procedures, and agrees that the best educators ought to be payed more but did not agree that merit pay was the appropriate means to that end. Ms. Krause also argued that the anticipated teacher shortage was not a good reason for the bill, and stated that many other factors

than money deter people from teaching in the Bush. Ms. Krause pointed out that no state in the USA has a statewide merit pay plan for teachers, and indicated that states which had tried the plan has rescinded them soon after.

Number 1230 — In addition, Ms. Krause contended that SSHB 191 would engender problems in education such as increased harassment, favoritism, bureaucracy, more "yes people", and competitiveness among teachers. Ms. Krause said that the merit pay plan would discourage cooperation among teachers, and affect the morale of all certificated staff members.

Number 1264 — Ms. Krause stated her support for strong evaluation procedures, changes in teacher preparation programs, and the creation of a talent bank of teachers to teach preparatory classes for prospective teachers.

Number 1273 — In response to Rep. Tischer's questions regarding the present use of teacher evaluations, Ms. Krause stated that the philosophy behind evaluations was to improve teacher performance and aid in decisions about future employment for specific teachers.

Number 1300 — Discussion regarding teacher evaluations and recent changes in education.

Number 1347 — Rep. Tischer asked why merit pay programs were rescinded in other states. Ms. Krause responded that they were rescinded because they did not work.

Number 1358 — Rep. Miller commented that evaluations in Fairbanks were conducted by principals, and that what one principal liked, the other disliked because they had different ideas of quality.

Number 1372 — Rep. Davis agreed with Ms. Krause's comments regarding the fallacies of the merit pay system, and the need to revise evaluation procedures. Rep. Davis also requested written material on the failure of merit system in other states.

Number 1386 — Co-Chair Tischer adjourned the meeting at 3:10 p.m.

Sofo
5/20/83

Original sponsors: Hurlbert, Lindauer,
Fuller, et al

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 191 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to school board negotiations with certificated employees."

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

* Section 1. AS 14.20.550 is amended by adding a new subsection to read:

(b) Salary schedules or other pay provisions negotiated under this section that take effect on or after July 1, 1984, shall include performance and merit criteria, among others, that shall determine pay increases for individual certificated employees.

B. Brune:
"Evaluation System" for tenured & non-tenured teachers requirement is in place.

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: May 31, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

HB 347 An act relating to the licensing of practitioners of naturopathic medicine; and providing for an effective date.

HB 194 An act relating to the education of exceptional children; and providing for an effective date.

SSHB 191 An act relating to school board negotiations with certificated employees.

Other notes or reminders:

ED FUNDS SET AT $15 BILLION

Appropriations for the Dept. of Education have been set at $15 billion for the remainder of fiscal 1983 (to Sept. 30). This is the Senate version of ED funding, about $700 million higher than the House voted. It also is more than $5 billion over President Reagan's initial request for ED.

In the MX missile and jobs program debates that dominated the continuing resolution, little attention was paid to issues in ED funding, with the sentiment in both the House and Senate obviously against the administration's $9.8 billion request for education funding.

Within the ED figure, there are some ups and downs. Chapter I (compensatory education) will receive $3.2 billion, up from $2.74 billion in the 1982 budget (also a continuing resolution). State grants for the handicapped increase from $931 million for 1982 to $970 million.

Chapter II, the block grants, didn't do as well, however, confirming fears that block grants become an easy target for cuts. The House would have held the appropriation at the 1982 figure of $483 million. The Senate amount prevailed, however, which allocates $475 million for the consolidated programs.

Although the House would have been slightly more generous, the new continuing resolution, nevertheless, gives vocational and adult education a big boost--from $743 million in 1982 to $823 million.

Because of protracted budget debates, ED has not had a formal appropriation since 1979, existing instead on a series of continuing resolutions. ED funding is part of the health and human resources appropriation measures, the largest in the federal budget after defense.

BELL KEEPS PUSHING TEACHERS' MERIT PAY

In at least two speeches this month, ED Secy. Terrel Bell has called for a new version of merit pay--an executive-level salary for "master teachers."

Speaking at Teachers College of Columbia U. (N.Y.) and again at the Southern Assn. of Colleges and Schools in Atlanta, the secretary said "we need to bring about the death of teacher salary schedules that allow no deviation or change."

He proposed that elementary schools establish "endowed chairs," like higher education institutions, for outstanding teachers, supplementing their salaries with donations from businesses and other sources. In New York, Bell mentioned a figure of a salary of $40,000 and up for the master teachers.

Bell admitted, however, that such a plan would be difficult to get by the teachers' unions, which have opposed merit pay plans because they say they fear favoritism in such a system.

The reaction of Georgia teacher groups to the proposal when it was made there, for example, was unanimously negative. Merit pay, said a Georgia Assn. of Educators spokesperson, could be used "to punish people who are not cooperative with the administration."

BRIEFLY STATED

- The Dept. of Justice says it will support the Boston Firefighters Union suit to overturn a federal court order requiring dismissal of white employees and retention of blacks with less seniority. A similar order forced Boston to lay off more than 1,000 teachers, but a Boston Teachers Union appeal of the order was rejected by the U.S. Supreme Court.
- The acting administrator of the Office of Juvenile Justice and Delinquency Prevention, Alfred Regnery, assured a House subcommittee hearing last week that he supported his agency's programs. Youth advocates fear that the former aide to conservative Sen. Paul Laxalt (R-Nev.) will seek to end the $70-million program.
- The National Science Foundation will begin a training program for high school math and science teachers next month.

Good teachers deserve a sweeter deal

By David R. Carlin Jr.

A FEW YEARS back, when I was a member of my local school board, I overheard one of our administrators explain that although he had loved being a classroom teacher, his family responsibilities—and his desire for more professional esteem—eventually required that he seek a more lucrative position as a school administrator.

"I was an excellent classroom teacher," he said, "and very much enjoyed my work. Administration, on the other hand, was never my cup of tea. Yet when the chance to become an administrator came along, I had to take it. After all, the pay was so much better than a teacher's pay. As a man with family responsibilities, how could I turn it down?"

It's a classic dilemma many talented and dedicated public school teachers have had to face: Either advance into a managerial position—and cease teaching forever—or remain in the classroom doing the thing you love best and watch others vault over you to positions of higher esteem, influence, and income. This strikes me as a no-win career advancement system. More to the point, I think this promotion system hurts the image of schools, and I suggest we revise it. Here's why:

The image we attempt outwardly to promote about our public school priorities is at odds with the subliminal message we foster. The official line is that the teacher is the key person in the system, the one performing the schools' most important function—helping kids learn from day to day, on a face-to-face basis—with administrators supplying necessary, though perhaps less noble, support.

But our two-tier structure, with administrators above and teachers below, belies this carefully crafted image. When school administrators outrank classroom teachers in prestige, power, and pay, you'd have to be simpleminded, indeed, to believe that teachers belong to the more important group. And I doubt many *teachers* are fooled when we tell them that we regard them, and not their more privileged administrators, as the most important group in the schools.

David R. Carlin Jr., a member of the Rhode Island state senate, teaches sociology at the University of Rhode Island and is a former member of the school board in Newport, R.I.

More significant than any affront or dilemma our two-tier structure causes for teachers, however, is this bilevel system's implied depreciation of teaching. When any social system ranks one group above another, it sends a message that the characteristic activity of one group is considered more valuable than the characteristic activity of the other group. In other words, the structure of our school system implies—regardless of our earnest protestations to the contrary—that we consider the act of teaching inferior to the act of administering.

What follows is worse yet. If the act of teaching is a second-rank activity, then what of teaching's correlate, the act of learning? It, too, our subliminal message says, is an inferior or second-class activity. And don't imagine that students—with those invisible antennae that give them their marvelous capacity for picking up unspoken signals—fail to get this message.

Here's an article you might find controversial. Let us—and your colleagues on school boards across North America—know what you think. Jot down your thoughts about the article on a piece of paper and mail it to *The American School Board* JOURNAL, 1055 Thomas Jefferson St. N.W., Washington, D.C. 20007. We'll peruse your responses and publish a roundup in a future issue.

What can be done to remedy the situation? Surely, we can't eliminate administrators (although inevitably there are moments, usually hours into a difficult board meeting, when every school board member has the ephemeral wish that this could be done). And we probably can't cut administrators' pay and prestige radically, to equalize their lot with that of teachers. Nor, I suppose, can most school systems afford to give teachers radical increases in pay, to raise them to the salary level of administrators.

One solution we might try, however, has proven successful in industries involved in manufacturing high technology products. Some research-and-development people employed by these firms, though committed to advancing in their careers, have no desire to become managers; they prefer to stick with their first loves, science and engineering. Many firms consequently have created two-track systems for career advancement: one track for those who want to abandon research-and-development work to become managers, the other track for those who want to continue being scientists and engineers.

I suggest that public schools try a similar two-track system. In addition to the traditional track, in which a teacher is promoted into administration, we could develop a career track in which a regular classroom teacher would advance to become a "master" teacher, with pay, prestige, and perhaps even influence as great as those of administrators. Not only would a two-track system be a boon to teachers who want to stay in the classroom, but—more significantly—it would broadcast the message that we don't regard teaching and learning as second-rank activities in our schools.

Let me assure you that I'm under no illusion that putting this rather simple idea into practice will be easy. Some tradition-bound taxpayers will resist paying higher salaries to a new class of master teachers, saying, "They didn't have them in my day, and look at me—I turned out just fine."

Teacher unions are likely to be more skeptical of my proposal. They have tended to oppose using any criterion other than seniority to grant advancement, privileges, or extra pay to teachers, and they probably would object to a two-track system on the ground that favoritism, not merit, might determine who moves ahead and who doesn't. To short-circuit this fear, any plan along the lines I've suggested naturally would have to be worked out together with teachers and their unions; it could not be imposed from above. An innovation of this magnitude has no chance of working unless it's supported by teachers, administrators, and board members.

The difficulties inherent in implementing a two-track promotion system are not insurmountable. Considering the probable outcome—retaining creative, motivated, and dedicated classroom teachers and encouraging only the best of the management-oriented teachers to administer schools—we would be remiss *not* to try to narrow the gap between the official doctrine and employment practices. Teachers must be allowed to become first-class citizens in their own school systems. □

BELL SUPPORTS EXTRA PAY FOR "MASTER TEACHERS"

Education Secretary Terrel Bell this week called on states and local schools to upgrade the teaching profession by rewarding outstanding teachers, whom he dubbed "master teachers," with higher pay.

At a news briefing Tuesday afternoon, Bell acknowledged that the prospect of a low salary discourages many would-be teachers, who turn instead to more lucrative professions or trades.

(more)

13-YEAR-OLD COMPUTER WHIZ TURNS TABLES ON TEACHERS

That creeping suspicion that students know more about computers than their teachers do is true in Havre, Mont., at least for eighth-grade computer whiz Mike Hamaoka.

The school district has hired Hamaoka, 13, to teach three in-service sessions on computer literacy. He is the only student on the four-member teaching team.

Assistant Superintendent Jim Longin said that in planning the courses he found he had three teachers who were knowledgeable enough about computers to train their peers, but that he needed one more. So he turned to Hamaoka. "I was afraid Mike might be threatened by working with adults or that adults might not like to have stuff laid on them by a kid. We really went through that."

But everything turned out fine in the one session held so far, with "very positive" reactions coming from the teachers, he said. "Mike has the kind of personality that's not at all arrogant. He's a very disciplined kind of guy. The teachers thought it was neat that he was willing to participate."

Everybody Learns Hamaoka is being paid about minimum wage for each of the six-hour sessions, said Longin. He added that, although the salary is less than regular in-service teachers get, the experience is a learning one for Hamaoka.

In an interview between classes at Havre Junior High this week, Hamaoka said he began to study computers in the sixth grade and that he "just kept reading more and more" about them. He also practices on friends' home computers, and finally, he said, "it got to the point where I knew more than most of my teachers."

Longin agreed with that assessment, saying, "He's taken a lot of work with his instructor at the junior high, but he's beyond that." Hamaoka, who has a straight A average and wants to make a career out of computers, also has been researching the subject at the nearby Northern Montana College library and is seeking access to the college's computer system--so far, without luck.

Hamaoka seemed unfazed by the idea of teaching a group of adults, some of whom are his former teachers. He merely said of the ones who had taught him: "We knew each other better." In general, he said, teaching adults is "pretty good, because adults learn faster than kids." --RW

BELL SUPPORTS EXTRA PAY FOR "MASTER TEACHERS" (Cont.)

"We're not attracting the desired numbers of bright and talented people into the teaching profession," he said. Unlike the ranking of college faculty, "we don't have anything in our system beyond the single salary schedule, and we don't have a method of rewarding our truly outstanding teachers."

Master teachers, as Bell conceives them, would be chosen by their peers and would serve as mentors for other teachers and for student teachers. Their rank would enable them to earn "significantly more" than other teachers, perhaps as much as $40,000 a year, Bell said.

Teacher salaries now range from about $11,000 for beginning teachers to top pay of between $20,000 and $25,000, according to Education Department staff. The graduated salary schedule is based on academic credentials and time in the field.

Bell said he had "floated" the idea to two education groups at recent meetings in Atlanta and New York and had got mixed reactions. His plan drew similarly mixed responses from the education community yesterday.

Unions Opposed Teachers unions, which have staunchly defended the existing salary system, were predictably opposed to Bell's notion. "To take a whole occupation that's severely depressed and offer a bonus to a mere handful is just silly," said Albert Shanker, president of the American Federation of Teachers.

Shanker said various schemes for merit pay have been tested in school districts, but all have been abandoned "because they just didn't work. We haven't seen any scheme that would not create more problems than it would solve."

Sharon Robinson, director of instruction and professional development for the National Education Association, called the master teacher idea "a grandstand ploy" and took issue with the ED secretary's model of college ranking and promotion.

In academe, "the tradition of peer review goes hand in hand with faculty participation in governance," Robinson said. "That opportunity has been denied at the elementary and secondary level. If teachers are qualified to decide who is most able, why shouldn't they be part of other policy decisions?"

Some Distinction Needed But a representative of another teachers' group saw things differently. "There needs to be some distinction for teachers who distinguish themselves; I'm all for it," said Jane Christensen, associate executive director of the National Council of Teachers of English and a former Denver schoolteacher. The question, said Christensen and others, is who decides, and on what basis?

The National School Boards Association is generally supportive of the idea "as a way of attracting the most qualified academicians and teachers," although it opposes a national mandate, according to Michael Resnick, NSBA assistant executive director of congressional/government relations. "If well-designed incentives could be instituted equitably, I would support them," agreed William Aldridge, executive director of the National Science Teachers Association.

Nevertheless, education representatives were not as sanguine as Bell that already-strapped states would rush to allocate additional funds for master teachers. Bell Tuesday urged states to make changes in school finance formulas to do so.

Said one disgruntled education association official, who asked not to be identified, "It's just another instance where they [federal officials] want to give advice and not provide any money. They're squeezing the hell out of state and local governments. And now they want them to fork out more?" --HH

NORTH CAROLINA, FLORIDA MOVE TOWARD REFORMS

The North Carolina and Kentucky state boards of education have voted to increase high school graduation requirements to 20 credits, an addition of two.

Beginning next year, North Carolina seniors must complete the extra courses. The board also voted to endorse "in principle" a scholars program to recognize students who earn at least 22 credits and maintain a "B" average.

In Kentucky, the board decided the extra credits should be in English and math. It also will ask the legislature to require beginning teachers to pass a competency test and serve a one-year internship before being certified.

Meanwhile, the Florida Dept. of Education reported it might need a 2% hike in the state sales tax to implement changes proposed by a blue-ribbon panel. The money raised--$1 billion--would be needed to upgrade equipment, update curriculum, recruit and train new math and science teachers and pay them better salaries, it said. But the panel's chairperson said the department was using the report to "pry loose more money.... Ninety percent of our report requires courage, not money," said B. Frank Brown of the Kettering Foundation.

MASTER TEACHER PLAN PROPOSED IN TENNESSEE

Tennessee Gov. Lamar Alexander has been traveling the state urging support for a $210-million, 10-point plan to improve public education, including a master teacher plan with incentive pay.

The plan would set up four career stages--apprentice, professional, senior and master teacher. The first two steps would remain the same as currently. For the third, the state would pay 30% more, and for a master teacher, 60% more. A master teacher would have at least 13 years of experience and additional duties, such as evaluating teachers.

The State Dept. of Education said about 60% of current teachers would be eligible for the master teachers category. They would have to renew their licenses every five years and be recommended by a new Master Teacher Certification Commission. Alexander announced a similar plan for principals which would focus on instructional skills.

STUDENT STRESS SAID NEARLY INTOLERABLE

High school students are under nearly intolerable levels of stress, research presented to the National Assn. of Secondary School Principals annual meeting last week shows.

Beth Jackson, principal of Kentridge Senior High School in Kent, Wash., said a survey of 1,200 10th-to-12th graders turned up as many as 350 "stresspoints," while 140-150 are about normal. The stresses, she said, come from worries about nuclear war, pressure from parents for good grades, peer pressures about drugs and sex and family problems, such as illness or divorce.

As many as one-half of the students reported frequent cases of depression or "blue days" and health problems such as back pain, colds, hives and stomach irritations, Jackson said. She urged educators to help students deal with abnormal amounts of stress through changing diets, increasing exercise and rest, learning relaxation techniques, developing more positive attitudes toward life and learning problem-solving skills.

BEST STUDENTS LOST, WHILE OTHERS GAINED, NAEP SAYS

The better students lost ground academically in the 1970s, while the less-able students made the biggest gains, the National Assessment of Educational Progress reported last week.

In a comparison of assessment scores five years apart, NAEP found the gap between high-achieving and low-achieving students is narrowing. Blacks were more likely to gain although they still remain behind whites.

For example, 9-year-olds in the

American Education's Newspaper of Record Volume II, Number 25 · March 16, 1983

Tenn. Governor Presses Master-Teacher Proposal

N.E.A. Affiliate Opposes Concept, Offers Alternative

By Thomas Toch

Correspondent Jim O'Hara contributed to this report.

Gov. Lamar Alexander of Tennessee is mounting a carefully crafted, eclectic lobbying effort to win state legislative approval for his bold plan to introduce a statewide merit-pay system for teachers.

His initiative has attracted the close attention of the two leading national teachers' unions, whose leaders say the passage of the Tennessee plan may kindle similar moves in other states.

After announcing the so-called "master teacher" plan in January, the Governor began touring the state to promote it among civic clubs, parent-teacher associations, and school administrators; he even made the plan the topic of an address to the state manufacturers' association—which has since endorsed it.

12-Person Task Force

A 12-person task force of officials "on loan" from the Governor's office and other state agencies—six of whom have worked on Mr. Alexander's two successful gubernatorial campaigns—has been set up to push the plan. It has established a speakers' bureau and toll-free telephone hotlines, and has spent $17,000 printing and mailing a four-page flier on the 45 most-asked questions about the plan. Some Tennessee state legislators have dubbed the task-force members "Alexander's political operatives."

The Governor also made an unprecedented appearance before a joint meeting of the state's House and Senate education committees in a hearing room packed with supporters of the master-teacher plan, many of whom sported buttons reading "Master Teacher Now."

And Governor Alexander, seeking support beyond the education community, wooed a dozen of Tennessee's top lobbyists with a reception at his executive residence. Representatives of the state's beer, liquor, insurance, grocery, and real-estate industries were among those who heard the Governor's pitch on master teachers.

Local political observers said lobbyists have not been personally courted like that since the days of the administrations of Gov. Frank Clement in the 1950's and 1960's. The reception occasioned quips in the hallways of the state capitol about "master lobbyists."

The Governor's efforts have apparently already paid off. The master-teacher plan, which would replace the state's current two-tier teacher-certification system with a four-level plan designed to identify and reward top-level experienced teachers, has been endorsed by the Tennessee School Boards Association, the Tennessee Principals Study Council, the Tennessee Superintendents Study Council, the Memphis Board of Education, and the Tennessee Children's Services Commission, as well as by the manufacturers' group.

In addition, Mr. Alexander, a Republican, has won support for the master-teacher plan from the leadership of both chambers of the Democratically controlled Tennessee Legislature, and from other influential

Continued on Page 16

Tenn. Governor Presses for Master-Teacher Idea

Continued from Page 1

Democratic legislators.

One prominent Democratic representative, Stephen Cobb, who supported Governor Alexander's unsuccessful Democratic opponent in last November's gubernatorial election, said, "If the Governor is willing to go out on the limb for this one, I'll sit there with him."

Legislation containing Mr. Alexander's master-teacher proposal, as well as nine other less-controversial school-improvement provisions that he is urging, has been submitted by both Democratic and Republican sponsors in both houses of the Tennessee legislature, where they will be referred to the education committees.

Recertification Based on Ability

The Governor's master-teacher plan is based on the principles that better teachers should be paid higher salaries and that teacher certification—in particular, re-certification—should be based on proven ability rather than on academic credentials.

The plan would allow teachers to assume, over a period of years, progressively more responsibility, increased prestige, and considerably higher pay if they meet its standards.

About 15,000 (35 percent) of the state's 46,000 teachers would receive higher salaries under the plan by time it is fully implemented in 1986-87. The estimated cost for the pay supplements is $116.4 million annually.

Governor Alexander has proposed a 1-percent increase in the state's 4.5-percent sales tax to fund the program. And he has promised to veto any general tax increase that is not used to fund the master-teacher plan.

Incentive-Pay Plan

The master-teacher plan, according to Commissioner of Education Robert L. McElrath, began to evolve in January, 1981, when Governor Alexander told the newly appointed commissioner to develop some kind of incentive-pay plan.

The formulation of the plan began last spring, Mr. McElrath said, and was done by Donald England, the state's director of teacher certification; Carol Furtwengler, director of research in the state education department; John Folger and Chester E. Finn Jr. of Vanderbilt University's Institute for Public Policy Studies; and Keel Hunt, an aide to Mr. Alexander.

The group presented the Governor with a general outline of the plan in October.

The committee's support for the potentially controversial certification structure and pay scale was reinforced, according to Mr. McElrath, when members learned that the Carnegie Foundation for the Advancement of Teaching, which will publish a two-year study on public schooling this fall, was considering a recommendation calling for the adoption of similar merit-pay scales in every state.

Mr. McElrath said the four-tier system is similar to the ranking of university faculty.

Outright Rejection

The National Education Association's (N.E.A.) Tennessee affiliate, which represents over 80 percent of the state's 46,000 teachers, is vehemently opposed to the master-teacher section of Mr. Alexander's 10-point school-improvement plan. But, though politically powerful, the union has been almost alone in its outright rejection of the Governor's proposal.

The leaders of the Tennessee Education Association (T.E.A.) have been in daily telephone contact with N.E.A. officials in Washington, according to Sharon Robinson, director of professional development for the N.E.A. Caught off guard by the Governor's initiative, the T.E.A. in less than two weeks drafted an alternative bill, which will be considered by legislative committees this week.

The proposal calls for an across-the-board pay raise of 10 percent for every teacher in the state with a minimum of three years' experience and five years of college education. It would retain the current two-tier teacher-licensing procedure, except that a teacher would be granted the second, more permanent license by a proposed professional certification board controlled by teacher members of N.E.A.

N.E.A. Spent $200,000

The N.E.A. has spent close to $200,000 in the past several months to promote the establishment of similar N.E.A.-dominated certification boards in nine other states—Virginia, Indiana, Michigan, Texas, Arizona, Montana, Kansas, Alabama, and Iowa.

The T.E.A. bill, which also calls for more rigorous admission and graduation standards for teacher-training programs, does not mention incentive pay.

Ms. Robinson said that the N.E.A. is providing technical assistance, but not direct political support, to the T.E.A.'s efforts to defeat the Alexander bill.

Both the N.E.A. and the American Federation of Teachers (A.F.T) are paying close attention to the fate of Governor Alexander's plan.

"Whatever happens in Tennessee will have implications for the rest of the country, so we are watching the situation very carefully," said Marilyn Rauth, director of educational issues for the A.F.T.

The Tennessee Federation of Teachers, which represents a small number of Tennessee teachers, and the Tennessee Federation of Labor have adopted resolutions rejecting Governor Alexander's master-teacher plan.

The A.F.T., Ms. Rauth said, is not opposed to "exploring" the idea of paying superior, experienced teachers higher salaries. Both unions say their fundamental objection to past incentive-pay plans and to Governor Alexander's plan is what they describe as the plans' lack of sufficiently defined, objective criteria for deciding why one teacher should be paid more than another.

The Tennessee plan seeks to address this concern.

It calls for the evaluation of teachers who want to be considered for a higher-grade certificate by master teachers from outside their school system using an "observation instrument" based on research on effective schools now being developed by the state's education department. These master teachers will be appointed by one of three regional certification commissions, which will each have nine members: four master teachers, two master principals, one master supervisor, one person from a higher-education institution in the region, and one lay person.

The regional commissions will in turn report to a 13-member state certification system appointed by the Governor and confirmed by the state Senate and House. Three members of this body will be "distinguished lay persons" and four will be master teachers.

In addition, there will be two master administrators, one master supervisor, two "distinguished" representatives of higher education, and the commissioner of education.

State Commission

Decisions on an applicant for a master-teacher certificate will be made by the state commission. The regional commissions will make the initial recommendations for certification in the cases of apprentice, professional, and senior teachers.

Other procedures for certifying teachers under the master-teacher law would also include a review of evaluations by supervisors and others in authority, a personal interview, consideration of pupil performance, an examination of inservice and other professional-development activities undertaken by applicants, proficiency tests of the teachers' knowledge where applicable, and an assessment of additional criteria for the senior and master candidates.

$1-Billion Scheme for 'Efficient' Schools Accepted by W.Va. Judge

Continued from Page 1

among counties, and orders extensive renovations and new construction of school buildings.

sociated with education in this state should not be interpreted as an abdication of judicial responsibility, but instead as a good-faith attempt to allow these branches the opportunity

partment in developing legislative support.

The judge "hasn't threatened us with dates, but he has called upon us to make an honest effort to provide

mit the state board of education—which was a defendant in the case—but declined to appeal after it lost—to draw up the master plan.

Linda Martin, director of the citizens' group, has charged that the

Maine School Management Association

NEWSLETTER

MSMA MAINE SCHOOL MANAGEMENT ASSOCIATION AUGUSTA

MSBA MSSA

EXECUTIVE DIRECTOR
Paul E. Brunelle

ASSOCIATE EXECUTIVE DIRECTOR
H. Sawin Millett, Jr.

ASSISTANT EXECUTIVE DIRECTOR
LABOR RELATIONS/INSURANCE
Paul S. Burlburt

LR823-7 LABOR RELATIONS February 1983

PAY TEACHERS ACCORDING TO PERFORMANCE

A public school teacher's pay should be tied to classroom performance and not just college credits and seniority, recommends a commission set up by the Maryland State Board of Education to study ways to attract, train and keep high-quality teachers in the Maryland schools.

The panel, which included leaders of the state legislature and county school superintendents as well as parents and teachers, also called for rigorous licensing exams and a two-year internship for new teachers, higher pay for fields where there is a shortage of teachers, and tougher standards in college teacher training programs.

"Teachers in Maryland are under-prepared, under-managed, and under-rewarded," said Stephen W. McNierney, a Baltimore business executive who headed the commission. "No one believes that every teacher does an equally good job. Stop paying them as though you believe that. Above all, clearly and visibly reward superior effort and [teacher] performance."

Its recommendations, which come after 18 months of study, hearings and debate, drew warm praise from the state school Superintendent David Hornbeck but stiff criticism from the state's largest teachers union, the 36,000 member Maryland State Teachers Association.

Hornbeck said the recommendations will lead to better teaching and better learning, and said he would make specific proposals to the state board in December for carrying them out. "In almost any other profession that exists, evaluation is done and those who are superior are paid more," Hornbeck said. "Why should the schools be different? I don't understand that. They do it in colleges every day."

But Janice A. Piccinini, president of MSTA, declared that the proposals were unfair and discriminatory."

"There should be equal pay for equal work," Piccinini said. "There's no objective criteria for determining who is better than whom. We think only good teachers should be in the classroom."

The MSTA is an affiliate of the National Education Association, which has strongly opposed merit pay and licensing exams throughout the country.

One version of such a pay plan was endorsed by the District of Columbia Board of Education a decade ago as part of a school improvement proposal by Psychologist Kenneth B. Clark. Another plan was tried briefly by Montgomery County schools. Both plans were eventually scrapped after being strongly opposed by teacher groups.

Teacher licensing exams, however, have been adopted during the past five years in about 18 states, including Virginia. In Maryland briefer tests in basic reading and mathematic skills are now required in Montgomery and Prince George's counties.

Last winter the Virginia State Board of Education, under prodding from the state legislature, adopted a plan requiring all new teachers to get satisfactory ratings after a two-year provisional period, which is similar to the internship proposal in the Maryland panel's plan.

Only three members of the panel filed a dissenting report - Daniel Collins, Carol Miller and Beverly Stonestreet, all leaders of MSTA.

"It's just mildly outrageous," McNierney, senior vice president of Black and Decker said, "for people in a profession that specializes day after day in grading and evaluating people to say that teachers themselves can't be graded and evaluated."

- Educators Negotiating Service, 11/82

TEACHER QUALITY, DIFFERENTIAL PAY

A five-year program to upgrade standards for all employees in Houston includes pay differentials for teachers in critical shortage subject areas like math and science, "compressed" salary schedules, tests for new teachers and new evaluation procedures to grade teachers in such areas as use of instructional time, ability to motivate students, discipline, classroom management and student test scores.

The district is also developing specified competencies for every job category from custodian to superintendent and testing procedures for existing employees. Those who fail to meet the criteria will be offered extensive training to upgrade their skills.

Under the salary system, teachers who meet proficiency requirements will be placed on an "enhanced" salary schedule, while others will have their salaries frozen. Moreover, the district hopes to "grow its own teachers" by opening two magnet high schools for the teaching profession by the fall of 1983.

- School Administrator, 1/83

NEA - ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

For my HESS File

Jean Krause, President

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Frank Holmes
Director at Large
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Haines, Alaska 99827

To: Representatives Mae Tischer, Milo Fritz, Co-Chairmen, members of the House HESS Committee

April 14, 1983

Re: SSHB191 "An Act Relating to School Board Negotiations with Certificated Employees."

I. NEA-Alaska has several concerns and questions regarding SSHB191.

A. Questions:

1. Is it the intent of the bill to cover all educators or just teachers?

   a). If to cover all educators then a means must be found to include administrative groups and individuals who do not bargain collectively.

   b). If intent to cover only teachers it is inequitable.

2. Is it the intent to find a means to force out incompetent educators? If so it is unnecessary because:

   a). There is in the Department of Education Regulations (Chapter 19) specific statements regarding purpose, scope, method, use and development of evaluation procedures as well as training in the use of those evaluation procedures. The stated purpose of evaluation is to improve the quality of instruction, to facilitate the learning process and "serve as a method for gathering data relevant to subsequent employment status decisions pertaining to the person evaluated (4AAC 19.010)."

   b). Local Boards of Education currently have statutory authority to hire and fire and tenure does not protect incompetent ed-

ucators (AS 14.20.030) (AS 14.20.175).

c). There currently exists in statute clearly defined language for non-retention and dismissal procedings. (AS 14.20.170; 14.20.175; 14.20.180; 14.20.205; 14.20.207).

d). There currently exists in statute provision for a Professional Teaching Practices Act (Section 14 Article 5 and AS 14.20.030) that allows the revocation of certificates held by incompetent educators.

3. Is it the intent to lower education salaries by paying only a few? If so I would point out:

a). AS 14.17.081 requires a minimum expenditure of 55% of its school operating expenditures in each fiscal year on the instructional component of the district budget. The 55% rule includes classroom teachers' salaries in its computation and excludes administrative and classified salaries.

b). 16 school districts were granted waivers in February by the State Board of Education (30.769% of the districts in the state spend less than 55% of their budget on teacher salaries benefits, text books and teaching supplies).

c). Based on the FY 82 audit the most any school district spent on its, instructional component was Juneau at 69.8%.

d). Teacher salaries are not a disporpotionate share of the districts' budgets; they are not comprising even 1/2 of most of the school district' costs.

4. Is it the intent to direct local bargaining? If so I find it ironic that those who cry out for local control in all other matters are so supportive of this bill since it does interfere with local control.

5. What is meant by a general pay scale for all employees?

6. Have the sponsors considered that school districts currently have the right to introduce this concept and relevant language to the bargaining table? It may be significant that the only district to

have bargained the concept and language (Anchorage) has since abandoned it.

B. Concerns:

1. This concept has been tried and rejected in other parts of the country as well as Anchorage:

   a). There is not a single state in the country that has a statewide merit pay plan for teachers in existence today. It was mandated for all school districts in Florida; however, it was later rescinded by the state legislature. The legislature enacted a merit pay plan in the State of New York and later rescinded it. Similar experiences occurred in Delaware, and South Dakota. Studies were conducted in North Carolina in pilot school systems; however, it was concluded that merit pay for teachers should not be implemented statewide.

   b). Experience with merit pay shows that morale is lower; team spirit is lost; competition becomes vicious; joint efforts, team efforts and mutual support disappear; suspicions run rampant; distrust increases; paper work increases; and politics are evident or at least believed to be evident.

2. We believe this concept will distort and diminish the positive uses of evaluation procedures in that it will provide more opportunity for subjectivity, favoritism, harrassment, punishment for personality differences and sycophantic behavior.

3. Opinions vary widely about what constitutes a "good" teacher and what constitutes a "bad" teacher. No one personality is going to please or be effective with all other personalities in any setting and that includes schools.

4. Teachers do not control most of the factors in education generally or in their classrooms. For example we do not control:

   - which students and how many of them are put into our classrooms;

   - access to all of the teaching materials we need (particularly media);

   - who is administrating the schools and districts in which we teach;

- the quality of reliable administrative supports for our efforts;

- support services (secretarial/clerical);

- community support/parental support;

- funds available to the school district;

- and frequently we do not control what classes or grades we will teach.

5. Finally, one might think that "good" teachers would be demanding a merit pay proposal; they are not. Teachers do not support the concept because they recognize the inherent divisiveness, subjectivity, and political ramifications of merit pay. They also recognize that their salaries become dependent on the whims of powerfully placed individuals.

C. Recommendations:

1. NEA-Alaska has long advocated:

a. Evaluation procedures implemented in every district that are:

(1). clearly written;

(2). developed jointly with the teaching staff;

(3). applied equitably;

(4). provide training in their use;

(5). available to the public; and

(6). recorded with the Department of Education.

b. Strengthening teacher training programs:

(1). Earlier and more extensive exposure to classroom experiences for persons aspiring to become teachers;

(2). More rigorous criteria for admission and graduation; and

(3). application of standards to teacher preparation programs and the initial certification of teachers should be governed by the teaching profession.

We believe there are many ways to improve and enhance education and the teaching profession, but we do not believe merit pay is one of those ways. Indeed, we believe and experience has shown, merit pay to impact negatively the educational process and professional relationships. We urge you not to support this concept or this bill.

Respectfully submitted,

Jean Krause

Jean Krause
President

JK/mj

Proposed HESS committee substitute for HB 191

Change Section 1 .... new subsection s ....

Add the following paragraphs

(c) The parties may agree to waive the requirement that pay scales for certificated employees include criteria based upon performance and merit.

(d) In the event a negotiations dispute between the parties is not resolved through mediation either party may submit the issues in dispute to last best offer arbitration, item by item, according to the interest arbitration procedures of the American Arbitration Association. The decision of the arbitrator will be final and binding on the parties.

~~(e)~~ The objective criteria used to evaluate performance and award merit pay increases and class size and pupil/teacher ratios shall be established by the parties through the collective bargaining process.

Alaska State Legislature

HOUSE MAJORITY LEADER
MEMBER
RULES COMMITTEE
JUDICIARY COMMITTEE
LEGISLATIVE COUNCIL
POLICY COMMITTEE
ALASKA REPRESENTATIVE
STATES RIGHTS COORDINATING COUNCIL
WESTERN LANDS TASK FORCE
CITIZENS ADVISORY COMMISSION
ON ALASKA LANDS

House of Representatives

REPRESENTATIVE
RAMONA L. BARNES

ANCHORAGE
2230 PAXSON
ANCHORAGE, ALASKA 99504
(907) 337-7904

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3718

April 13, 1983

To: Representatives Tischer, Fritz, Co-Chairs
Health and Social Services Committee

From: Representative Barnes
Majority Leader Ramona

Subj: Priority Bill
SSHB 191

The above referenced bill is a personal priority of Representative Vern Hurlburt. I would appreciate your moving it out of committee.

ANCHORAGE
SCHOOL DISTRICT
4600 DeBarr Avenue
Pouch 6-614
Anchorage, Alaska 99502
[907] 333-9561

HOOL BOARD

PRESIDENT
ee Gorsuch

E-PRESIDENT
an Buchanan

CLERK
Alyce Hanley

LERK PRO TEM
rvit Wadsworth

TREASURER
M Schellenberg

ST. TREASURER
AST PRESIDENT
Jim Robinson

RLIAMENTARIAN
Bettye Davis

(Gene) Davis, Ed. D.

April 15, 1983

Ms. Jean Krause
President, NEA-AK
174 South Franklin, #201
Juneau, AK 99801

Dear Jean:

I am aware that you testified before the Legislature last week on merit pay for administrators. What you are probably not aware of is the fact that I was involved in merit pay for principals for two years when I previously served as supervisor for elementary principals in the Anchorage School District. For your information, this provision was included in the negotiated agreement between the principals and the District.

It is interesting to note that while the concept seems to be worthwhile and would probably provide equity in compensation for our administrators, you should also note that the administration of a merit pay plan is cumbersome, inequitable and subjective. I would not recommend merit pay for teachers or administrators now or in the near future.

Should you need further information on the provisions of our merit pay plan, please call me.

Sincerely,

Rita R. Strachan

Rita R. Strachan
Director of Personnel Services

ms

Anchorage Principals' Association

ANCHORAGE, ALASKA 99501

April 15, 1983

APR - 9 1983

Ms. Jean Krause, President
NEA-Alaska
147 S. Franklin #201
Juneau, Alaska 99801

Dear Ms. Krause:

The Anchorage Principals' Association strongly opposes merit pay. We experienced three years of merit pay during the tenure of our previous negotiated agreement with the Anchorage School District. As a result of this experience, the principals had as their number one priority, during negotiations for our present agreement, the elimination of all merit pay items.

Merit pay drove a wedge between supervisors and staff at all levels. It interferred with effective employee evaluation, making it extremely difficult to maintain a trusting, working relationship between supervisor and subordinates.

In theory, merit pay sounds like a great way to provide incentive and reward for top performance. In practice, it is a means to favor those who follow, without question, and it divides the ranks, causing an atmosphere of mistrust and non-sharing of good, innovative, successful educational and managerial practices.

Respectfully yours,

William Frick

William Frick
President

jm

HB

192

STAFF REPORT

HB 192, PROTECTION OF THE ELDERLY

MARCH 10,1983

Purpose: To protect the elderly from abuse by requiring those working with elderly to report to the Department of Health and Social Services, evidence of abuse when it is observed.

The bill specifies numerous health professionals, and others, who are required to report evidence of abuse. "Abuse" means the infliction of physical pain, injury, or mental anguish, or the deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person.

The Department of Health and Social Services suggests a change to add the word "willful" before the word "deprivation". The drafter of the bill suggests that since the bill is directed at the reporting of abuse, not the prosecution of those inflicting the abuse, the determination of intent should not be left up to the reporter. Thus, the addition is not necessary.

Failure by those obligated by the bill to report abuse is classed as a "violation" (AS 11.81.900). A violation is a non-criminal offense punishable by fine, but not imprisonment of other penalty. No jury trial or public defender is authorized. In the event that immediate harm seems imminent, the report of abuse must be made to a police officer who must act to protect the subject.

A person making a report of abuse in good faith is immune from civil or criminal liability.

The DHSS must investigate and report on each case of abuse brought to it. The DHSS must provide protective services as are available to the elderly. The Department is authorized to implement regulations to carry out the act. The regulations must be approved by the Older Alaskans Commission.

POSITION PAPER/Department of Health & Social Services

"An Act relating to protection of the elderly."

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical harm to elderly persons, investigation of reports of harm by the Department of Health and Social Services, and the offering of appropriate protective services to elderly persons in an effort to prevent or alleviate physical harm.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation including Alaska, of the problems of elder abuse and neglect, as well as those elderly persons who are unable to protect or care for themselves. In 1981 an Elder Abuse Task Force was created in Anchorage and a pilot project grant was awarded to the Anchorage Community Mental Health Clinic Geriatric Unit to address the issue of elder abuse. In 1982, Elder Abuse Task Forces were created in Fairbanks and Juneau.

Elderly Alaskans in need of protective services are served by the Division of Family and Youth Services under its Adult Protective Service program which serves adults age 18 and over. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act. Division social workers respond to voluntary reports of harm, investigate the circumstances of abuse, neglect, and exploitation, and offer appropriate protective services. If an adult client does not consent to services and is not incapacitated as defined under AS 13.26.005, the guardianship statute, the Division has no legal authority to intervene. If, however, an investigation indicates that an adult is incapacitated, the Division may petition the court for a guardian.

Division of Family and Youth Services' staff have actively participated in the Elder Abuse Task Forces. As a part of the Division's Fiscal Year 1983 Adult Protective Services Training Program, the issues of elder abuse, guardianship and conservatorship have been addressed. Community agencies, including programs serving older Alaskans, were invited and participated in these sessions which were conducted in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome.

Since reporting of abuse or physical harm to elderly persons is not mandatory, not all known cases are reported to a single agency. As a result, the actual extent of the problem is not known. Should the number of cases reported under the mandatory requirement significantly impact caseloads, the Division will include necessary documentation to

POSITION PAPER/Department of Health & Social Services

support the need for additional staff and service dollars in the FY 85 budget. If additional staff and service dollars become necessary but not available, the Division may not be able to meet the intent of the legislation.

RECOMMENDATION

The Department strongly endorses efforts to promote the independence and well-being of those elderly persons in need of protection. The procedures outlined in the Bill for action on reports, provision of protective services, review and referral, and confidentiality are in accordance with procedures established by the Department of Health and Social Services.

The Department recommends an amendment to Section 47.24.100(2), the definition of abuse. The Department recommends that the definition be amended as follows:

> "abuse" means the infliction of physical pain, injury, or mental anguish, or the willful deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person.

RECOMMENDED: Michael L. Price

Michael L. Price, Director
Division of Family and
Youth Services

DATE: 3/2/83

APPROVED BY: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

DATE: 3/4/83



AOAP

ASSOCIATION OF
OLDER
ALASKANS
PROGRAMS

APR 7 1983

Office of the Senior Citizen Ombudsman

April 1, 1983

Representative Mae Tischer
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Ms. Tischer,

Thank you for the time you spent last week listening to my concerns regarding HB-192. Not only was I interested to learn of your views regarding this piece of legislation but as a constituent of yours from Turnagain, I was very interested in hearing your philosophies regarding state government.

As we discussed, I am forwarding some statistics from the Anchorage study which indicates the real need for favorable passage of HB-192 by the Alaska State Legislature.

In 1981 the Anchorage Community Mental Health completed an informal survey of 75 documented cases of Elder Abuse in Anchorage. Conclusions of their study find the abused elder usually is a woman over 70 who lives with an adult child or family member. An abused person in Anchorage is usually more physically independent than on the national level, (40% in Anchorage and 25% nationally.)

Alcohol is more often the cause of abuse in Anchorage than nationally, (49 % in Anchorage and 28% nationally.) Stress caused by medical, psychological and economic factors are statistically comparable.

Two major differences surfaced regarding repeated abuse and the attempt to report abuse. In Anchorage, 90% of abusers repeat abuse whereas, nationally, 58% repeat the abuse. In Anchorage, 53% attempted to seek help versus 95% nationally sought to notify an agency or authority.

Furthermore, the study documented 43.3% of physical abuse compared to other kinds of abuse.

The Anchorage Task Force on Elder Abuse feels that this law will discourage repeated abuse (which we have shown is much more frequent in Anchorage than nationally.) Additionally

1577 "C" Street, Anchorage, Alaska 99501, 279-2232

the Task Force believes that reporting will occur because of the protection of the reporter. (The study also shows that fewer reports are made in Anchorage than are made nationally).

As you know, Alaska has laws which protect children and spouses from abuse but until recently it has not specifically addressed the hidden problem - the problem of elder abuse.

I urge you to vote favorably on the passage of this bill when the opportunity arises. If I can offer further assistance please contact me.

Sincerely,

Lois Pillifant

Lois Pillifant
Senior Citizen Ombudsman

Chair, Elder Abuse Task Force

LP:tp

cc: Ted Graham, President Association of Older Alaskans Programs
Jon Wolfe, Executive Director, Older Alaskans Commission
Senator Vic Fischer
Senator Joe Josephson
Representative Milo Fritz

HB 192 Teleconference

Margo Dick – Juneau Elder Abuse Task Force

Charles Mundorff – Geriatric Unit
75 cases –
Phycological abuse
(*) Not clear on investigation

Elizabeth Sectarian – HSS
1.

* Tom Scott – Ex Dir – EMS
Include → in Bill

Theodore Graham

Dennis Dewitt
1. Delete line 10-13 Pg 5
2. Multi recording of abuse – more than one person in institution – suggest deleting that each person generate a report

Barbara McPherson – Staff Older Alaskans Commission
1. Speaks for Passage
2. Recommends: D "Willfull" insert Pg 5
Pg 3 ~~[illegible]~~ Sec 47.24.020 as in Senate Substitute
3. Delete as Dewitt suggests.

(over)

Request Statistics

HESS - How many abused Reported in 1982
A. Mental
B. Physical

⊗ I want to hear specific cases demonstrated + the conclusion of the investigations.

Findings?
Reason for the abuse
Who does the abusing

JUNEAU ELDER ABUSE TASK FORCE
419 6th. St., C.C.S. Wing
Juneau, AK. 99801

Position Paper
House Bill 192
3/14/83

The Juneau Elder Abuse Task Force is an organization formed in response to the recognition of elder abuse as a serious problem nationwide and in the Juneau area. We organized in September of 1982 after a comprehensive training on Elder Abuse sponsored by the Older Alaskans Commission. The Task Force is comprised of representatives from 19 agencies in the Juneau area which provide a wide range of services including: social services, substance abuse prevention, health care, nursing home care, law enforcement, domestic violence and sexual assault programs, legal services, senior services and homemaker services.

Agencies represented on the Task Force have had comprehensive experience working with elders in the Juneau area and in outlying communities. Many agencies have specific experience in cases of elder abuse and neglect. Most agencies' staff provide direct service, in one form or another, to elders. All agencies have knowledge and expertise as well as sensitivity regarding the needs of elders.

Based on our experience and expertise in the field of elder abuse, the Juneau Elder Abuse Task Force offers the following comments and recommendations regarding HB 192.

1. In Chapter 24, Sec. 47.24.010 (a)(6), page 2, line 5, we recommend that Village Public Safety Officers (VPSOs) be specifically included with police officers and that the definition of "police officers" be broadened by referencing to AS 01.10.060(6) rather than the narrow definition in AS 18.65.290(2). The reason for this is that in rural areas, law enforcement officers are usually not formal police officers and are instead VPSOs or other officers of lesser authority. This change will encourage maximum reporting of elder harm.

2. In Chapter 24, Sec. 47.24.010(7), page 2, line 6 we recommend that home health aides and homemakers be included with village health aides. Again, our purpose here is to cover all professionals working with elders and to encourage maximum reporting.

3. In Chapter 24, Sec. 47.24.010(e) on page 3 at line 1 we recommend that VPSO be inserted after police officer and that the definition of police officer be referenced to AS 01.10.060(6). (See our #1 recommendation for rationale). Further, we recommend that there be only one sentence rather than two and that the word "and" be inserted between the statute and "The police" so that it is clear that the police must take immediate action to protect the elder from imminent physical harm.

4. In Chapter 24, Sec. 47.24.020(a) on page 3, at lines 13 and 14 we recommend that the words "make a reasonable effort to..." be deleted and that on line 15 the words "unless the elderly person refuses to participate in the interview" be added. We feel that unless the elderly person does not wish to participate in the interview, the department should personally interview the elderly person during an investigation of abuse. This is recommended because an investigation would be ineffectual and superficial if the victim was not interviewed.

5. In Chapter 24, Sec. 47.24.030(b), on page 4 at lines 7 through 11 we recommend that language be inserted to the effect that the Department of Law will assist the elder in securing an injuction against a caretaker who is interfering with the provision of protective services. This is recommended because otherwise, the section is vague and it is unclear as to how the Department could assist the elder in legal proceedings. An alternative to inserting this language would be to address this issue in the regulations that will be drafted under Sec. 47.24.070 of this bill. Whether through the regulations or in this bill, the Task Force felt that the Department should have instructions as to how elders will be assisted.

6. In Chapter 24, Sec. 47.24.040 on page 4 at line 13 we recommend that 45 days be inserted and 90 days be deleted unless this will create undue fiscal burden. We make this recommendation because 90 days is an awfully long time to wait before reviewing a case and may allow for inadequate monitoring of protection provided to an elder.

7. In Chapter 24, Sec. 47.24.070 on page 5 at lines 7 through 9 we strongly support the requirement that the Older Alaskans Commission approve regulations to implement Chapter 24.

8. In Chapter 24, Sec. 47.24.100(2) on page 5 at lines 22 through 25 we recommend that the words "...by a caretaker" on line 23 be deleted. We make this recommendation based on the direct experience of many Task Force members that persons other than caretakers often deprive elders of money, food, possessions, etc. It has come to our attention that the Department of Health and Social Services and the Older Alaskans Commission may recommend that the word "willful" be inserted in line 23 between "the" and "deprivation". We are opposed to this addition because adding "willful" will create significant proof problems in any case of illegal elder abuse. Rather, to address the issues of unintentional abuse or harm caused to an elder due to poverty of caretakers, we recommend that language addressing the problem of poverty and consequent harm to elders be inserted as an exception to "abuse".

9. In Chapter 24, Sec. 47.24.100(7) on page 6, line 10 we recommend that the words "...an elderly person or ..." be deleted so that neglect is only actionable when it is caused by an elderly person's caretaker. We recommend this to protect the freedom of choice regarding lifestyle and the right to privacy of elderly persons.

In general, the Task Force supports the purpose, intent and principle of HB192. We only offer the few preceding comments to make the proposed legislation as good and as effective as it can possibly be. Thank you for considering our comments.

OLDER ALASKANS COMMISSION
POSITION PAPER

Senate Bill 122 / House Bill 192
"An Act relating to protection of the elderly"

The Older Alaskans Commission urges passage of this legislation in order to provide protection and assistance to older persons who are unable to care for themselves.

Twenty other states currently have mandatory reporting laws for elderly abuse. During the past year both Delaware and New Mexico have passed this type of legislation. The Commission feels that mandatory reporting is essential in order to reach vulnerable persons who may be physically, psychologically or financially unable to help themselves.

Historically elder abuse has been a hidden social problem but it is one that is encounterered statewide by Commission funded senior projects. The Commissions senior ombudsman program received sixteen reports of abuse during FY 1982.

In 1981 the Administration on Aging funded a study of elder abuse in Anchorage through the Commission. Twenty agencies surveyed by the Anchorage Community Health Center for this study reported contacts with elder abuse cases. Seventy-five cases of elder abuse were reported in all. In 75% of these cases, the abuse had been going on for some time. In 53% of the cases the victims did seek help. The remaining victims who did not seek help are significant to the passage of this legislation.

The Commission recommends that "willful" be inserted before "deprivation" under Definitions, Sec. 47.24.100, (2) line 25. The purpose of this insertion is to ensure that poverty and other circumstances beyond a caretaker's control will not be considered as abuse. Staff also questions the intent of line 13 in Section 47.24.020 which states "The Department shall make every reasonable effort to personally interview the elderly person during the investigation". This could be construed to imply that the Department could make decisions about an abused person without contacting him.

The Commission is aware that a major criticism of elderly abuse mandatory reporting laws is that the necessary services may not be in place to meet the demand for them. The Commission does not concur. Elder abuse is not a problem that can denied or ignored. We hope to work closely with DFYS to assist in putting those necessary services in place.

We ask your support of this bill and in making the health and dignity of our elderly a major state priority.

3/14/83



Elder Abuse in Anchorage, Alaska

A Survey of Service Providers

Teri B. Spires B.S.
Charles R. Mundorff M.S.

October, 1981

Project of Anchorage Community Mental Health Center Geriatric Unit

Annex 1020 East 4th Avenue 99501 (907) 276-5400

ELDER ABUSE IN ANCHORAGE, ALASKA

ELDER ABUSE IN ANCHORAGE, ALASKA

Teri Spires, B.S. and Charles Mundorff, M.S.

Anchorage Community Mental Health Center, Anchorage, Alaska

This study was done in response to the phenomenon of elder abuse in the State of Alaska. This particular study, focused in the Anchorage area, was designed to assist in establishing perameters to the problem. Thirty agencies, 16 physicians, and four medical clinics were contacted. Seventy-five cases of elder abuse were documented. There were 34 cases of physical abuse, 53 cases of psychological abuse, 43 cases of material abuse and 18 cases of violation of rights.

Introduction

Abuse of the elderly by their spouse, family or caretaker is a problem often observed by service providers in the Anchorage area. Elder abuse in the past has not been addressed as a specific issue in Anchorage until the last year. Previous to this study, no research had been done in Alaska, but nationally a few studies have been conducted. These studies provide a good data base that exposes the incidence of elder abuse and the need for concern in our society. Unfortunately, elder abuse has not been addressed in Alaskan domestic violence programs. Consequently, the Region X Office on Aging targeted Anchorage as a pilot city for study and community planning in elder abuse.

In November 1980 a meeting of representatives from Alaska, Idaho, Washington and Oregon was called by Chisato Kawabori (Ph.D.), Director of Region X Aging Network, and Willard Mollerstrom (Ph.D.), Region X Director of N.I.M.H. Charles Mundorff of Anchorage Community Mental Health Center (A.C.M.H.C.) attended this meeting in Seattle. At this meeting, A.C.M.H.C. was considered a focal point for the problem of elder abuse in the State of Alaska.

At this time, A.C.M.H.C. was given the opportunity to receive a VISTA (Volunteer in Service to America) to research the problem and make recommendations for mental health programming for abused elders. The following study is a result of the VISTA's effort. These findings are compared to national results in order to lend a clear picture to service providers. This procedure will help determine any differences between Alaska and other states.

National Findings

Three major elder abuse studies have been done since 1979. They are from Boston, The University of Maryland and the University of Michigan. The latter were partially funded by the federal government. In June of 1979 there was a briefing by the House of Representatives Select Committee on Aging entitled Elder Abuse: The Hidden Problem. This briefing was held in Boston, Massachusetts. On April 28, 1980, a briefing on the same subject, domestic abuse of the elderly, was held in Union, New Jersey. The early research findings of these efforts are remarkably consistent, despite great differences in research approaches and settings.

The major studies of elder abuse point out the tentativeness of their results. Yet, the completed studies provide an excellent approach to the problem, and a profile of the victim and the abuser emerges.

The Massachusetts study, Block's Battered Elder Syndrome, and the Lau-Kosberg study points out the victim tends to be an older elderly person. The Massachusetts survey finds 55% of the citings are persons older than 75 years. All three studies agree that abuse is observed to be of elderly women (87% in Lau-Kosberg, 80% in Massachusetts, and 81% in The Battered Elder Syndrome. The majority of victims live with an adult child or other family members who become the abuser.

Usually the victims suffer from one or more disabilities which place them in a vulnerable position. Of the Massachusetts study respondents, 75% said the victim had physical or mental disabilities which kept him or her from meeting basic daily needs. Marilyn Block finds 62% of the victims could not prepare food, 54% could not self-medicate, and 62% needed help with personal hygiene. Besides physical impairment Lau and Kosberg report 41% are either partially or totally confused or senile. It is easy to imagine from the research that a victim of abuse is usually a person who may need constant attention and skilled care. These two factors can and do cause stress for the caretaker, who is at risk of becoming an abuser.

The Massachusetts survey finds in 75% of the abuse cases, the abuser lives with the victim; 86% of the abusers are relatives of the victim. The Battered Elder Syndrome finds close correlation: 81% of the abusers are related to the victim. Block also finds women, more often than men, are abusers. The figure cited is 58% of abusers are female. The Massachusetts study finds sons (24%), husbands (20%), and daughters (15%), make up the largest categories of abusive relatives. Lau and Kosberg find 30% of abusers are daughters, 14% are sons, 14% are grand-daughters, 12% are spouses, and 12% are siblings (usually a sister).

The Massachusets study finds the abuser is usually experiencing stress when the abuse occurs. The study finds 28% suffer from alcoholism or drug addiction, 18% complain of long-term medical problems, 16% struggle with long-term financial stress and 9% suffered from lack of needed services. The Battered Elder Syndrome points to psychological (58%) and economic (31%) factors leading to abuse. The Massachusetts survey finds 63% of respondents feel that the vulnerable elder,

requiring a high level of emotional and financial support, is a source of stress. In 58% of cases studied, abusers tend to repeat the abuse, according to Block.

One of the most remarkable statistics to come out of these studies has to do with the attempt to make cases of abuse known. Block finds in 95% of the cases studied, some attempt was made to communicate the existence of neglect or abuse to some authority. This fact points to the poor communication skills of the abuser and to the low self-esteem he or she may feel. After a failed attempt to get needed services, the abuser may give up. After a failed attempt to get help, the victim may, out of fear of reprisal, or removal from the home, resolve to live with the situation. This fact also points out the failure of social services systems to recognize cries for help from both the victim and the abuser.

Methods and Designs

From March 1, 1980 to June 30, 1981, A.C.M.H.C. conducted a survey of service providers concerning elder abuse. Thirty agencies, four clinics and 16 physicians were contacted.

Those who said they had seen cases were further contacted. They were asked to relate cases they had seen from January 1, 1980 to June 30, 1981. They were asked to give the first name and last initial of each person in every case. This was done to prevent duplication of information from agency to agency.

The cases were recorded on the form used by Marilyn Block and Janice Davidson in their study, The Battered Edler Syndrome. All questions were asked for each case (see Appendix A). One additional question was asked of each respondent concerning every case: is alcohol a problem in the situation?

The definition of elder abuse used in this study is the one used by Marilyn Block and Janice Davidson in their study.

Abuse refers to one or more of the following acts:

> physical abuse, including direct beatings, lack of food, lack of medical care, and lack of supervision;
>
> psychological abuse, including verbal assault, threat, fear, and isolation;
>
> material abuse, including theft or misuse of money or property and;
>
> violation of rights, including forced removal from home, or forced entry into a nursing home.

We are concerned with people who are 60 years or older. These are people who are in some way dependent on a son, daughter, other relatives or caretaker.

There is a high degree of interviewer reliability since only one person conducts the interviews. Agency contacts, mailings and interviews were all done by the same person.

The data obtained from the survey is summed and the percentages calculated. Thus the data is descriptive in nature and not intended to be baseline data. It must be stressed that the figures obtained from the agency contacts are estimates of what the professional feels are abusive situations. Estimated are based on second-hand knowledge so these results cannot be generalized beyond the agencies cooperating.

Results

Two major groups were contacted for this study. First, 30 agencies who showed an interest in senior citizens or are service providers were initially interviewed in order to assess which agencies had seen cases

they were willing to relate. The following is the contact list and some preliminary information about each (see below).

Agency Contacted	a.	b.	c.
1. Salvation Army	11	yes	yes
2. Nakoyia	2	yes	yes
3. Adult and Aging Services	5	yes	yes
4. Mable T. Caverly	3	yes	yes
5. Studio Club	2	no	yes
6. Municipality Senior Programs	1	yes	yes
7. Providence Hospital	6	yes	yes
8. Older Persons Action Group	5	yes	yes
9. Legal Services	2	yes	no
10. Home Health Agency	5	yes	yes
11. Chugiak Senior Citizens Center	2	yes	yes
12. Senior Companion/Foster Grandparent	1	yes	yes
13. Alaska Hospital	2	yes	yes
14. S.T.A.R. Standing Together Against Rape	2	yes	yes
15. R.S.V.P. Retired Senior Volunteer Program	1	yes	yes
16. C.I.N.A. Cook Inlet Native Association	2	yes	yes
17. Anchorage Police Department	1	yes	1*
18. Catholic Social Services	1	yes	yes
19. A.W.A.I.C. Abused Women's Aid in Crisis	3	yes	yes
20. Women's Resource Center	1	yes	no
21. Public Health Nurses	11	yes	yes
22. State Senior Citizen Ombudsman	1	yes	yes
23. Easter Seals Homemakers	2	yes	yes
24. Alaska Native Hospital	7	yes	yes
25. A.C.M.H.C.	6	yes	yes
26. Equal Rights Commission	1	yes	no
27. Palmer Pioneer Home	1	yes	yes
28. Palmer Senior Nutrition Site	2	yes	yes
29. University Justice Center	1	yes	no
30. AK. Public Interest Research Group	2	yes	no

Key to Headings:

a. Number of persons contacted.
b. Does agency feel that elder abuse is a problem in Anchorage at this time?
c. Has agency seen any abuse cases since January, 1980?

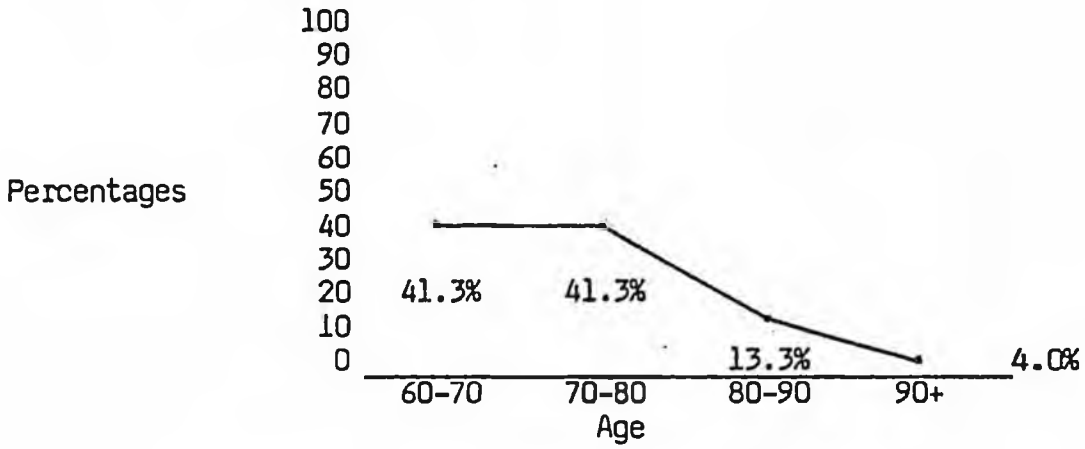
*1. No record-keeping methods.

The second group contacted were physicians and clinics. A letter (see Appendix B) was sent to 16 physicians and four medical clinics. The names of 12 of the physicians were given to A.C.M.H.C. by the Municipal Senior Citizens Division. These physicians treat many older people or have expressed an interest in aging patients. The letter asked the physician or clinic to relate any cases of elder abuse they may have seen. Of the twenty contacted, none responded.

Twenty agencies related elder abuse cases. Seventy-five in all were related to the interviewer. This breaks down to an average of 3.75 cases per agency. The most cases in one agency was eight, the least was one. Of the 75 cases reported, 34 or 43.3% had some element of physical abuse. The most common physical abuse is not violent in nature. Lack of personal care constitutes 17.3%, bruises and welts 13.3% and lack of food 10.7%. The remaining percentage in all categories are found in Appendix C. Psychological abuse is found in 53 cases or 70%. Material abuse occurs in 43 cases or 57.3%. There is violation of rights in 18 cases or 24%.

The age of the abused elder in the Anchorage area is younger than in the Lower 48. Unlike the national studies, the exact ages of the victims can not be determined. Most professionals know only the general range of their client's age. Of the 75 cases, 82.6% were under 80 years. This statistic is not surprising considering the general youth of the Anchorage population. The abuser in our area is also younger than in other urban areas. The abuser is under 50 years old in 65.4% of the cases related to the interviewer.

Figure I. Percentage of Abused by Age



The abused elder is most likely to be female. In 76% of the cases the victim is a woman. This percentage is comparable to the national statistics. Also similar to the national statistic is the sex of the abuser. In Anchorage 53.4% of the abusers are women. In Marilyn Block's study 58% of the abusers are women. Daughters are first on the list at 22.7%, sons second at 21.3%, husbands are third at 10.7% and daughters-in-law are fourth at 9.3%.

The abused elder is most often observed to be White (69.3%). The statistic for the Native population is 18.7%; the Black population figure is 9.3%; and the Hispanic figure is 1.3%. Because the elder in most cases lives with a spouse or family member (55%), the statistic concerning the ethnic group of the abuser is almost exactly the same as the victim.

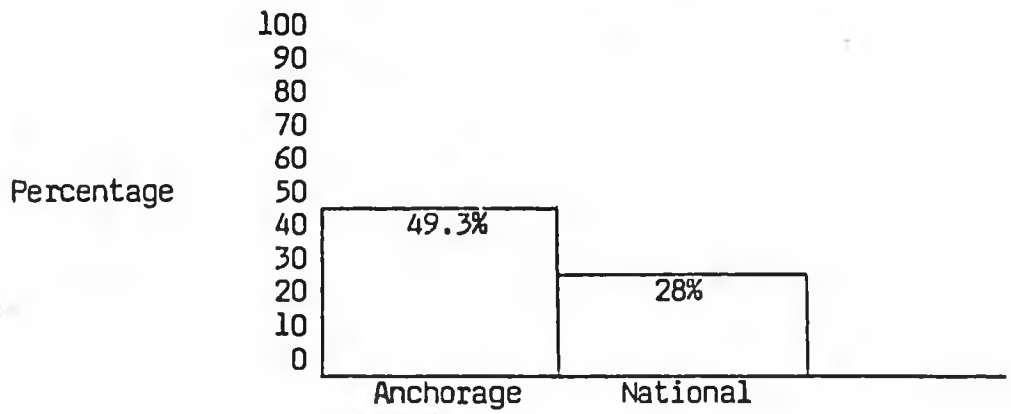
In most cases given to us, both the victim and abuser are low-income. Of the 75 cases, 54% of the victims and 44% of the abusers fit this category.

A question concerning the impairment of the victim was asked of all respondents. In 38.7% of the cases the abused elder is physically or mentally disabled to a great degree. In 21.3% of the cases the person

needed assistance with the Activities of Daily Living. In 40% of the cases the victim is physically self-sufficient.

Alcohol as a contributing factor in elder abuse seems to be a much greater problem in Anchorage than other areas. The national statistic is 28%, and in Anchorage it is 49.3%.

Figure II. Percentage of Alcohol as a Contributing Factor



In most of the cases observed (74.7%) the abuse had been going on for a long time. In some cases the abuse continued for years. In 53% of the cases the victim did seek help. But, just as significantly, 41.3% of the cases had not asked for assistance. The agencies responding found out about the abuse in any number of ways. The most common way was from the client (49.3%). Other reporting sources were hospitals or clinics (27.2%), private physicians (5.3%) and public or private social service agencies (12%). The agencies, when contacted by a reporting source, in most cases, responded to the victim with the services that the agency provides. In some cases the agency referred the clients to other agencies that could respond to other areas of need. Case studies are an excellent way to better understand how cases were being handled at the time of the survey.

Abuse Report Form

M. W.

First Name Last

I. Information on Victim

A. Age at time of incident 82

Sex M

Race or ethnic group caucasion

Religion unknown

Economic status high

Who resides at the same address girlfriend

B. Physical Abuse Sustained

X none	___bone fracture
___bruises, welts	___direct beating
___sprains dislocations	___lack of personal care
___malnutrition	___lack of food
___freezing	___medicine withheld
___burns, scalding	___no medicine purchased when prescribed
___abrasions, lacerations	___no false teeth when needed
___wounds, cuts, punctures	___no hearing aid when needed
___internal injuries	___no glasses when needed
___dismemberment	

Comments

C. Psychological Abuse Sustained

X verbal assault

X threat

X fear

D. Material Abuse Sustained

___theft of money or property

X misuse of money or property

X other trying to get him to sell his property

E. Violation of Rights

____forced from home
____forced into nursing home
____forced social isolation
____other_____

F. Rating of Environment

__X__dirt in house
____vermin in house
____inadequate heat
____smell of urine
____no food in house
____other_____
____none

G. Degree of Physical Impairment

____bedridden
____cannot perform basic personal hygeine without help, bathing, toilet
____cannot prepare own food
____cannot take own medicine
__X__none

II. Information on Abuser

A. Relationship to victim girlfriend
Age at time of incident 62
Sex
Religion unknown
Race or ethnic group caucasion
Economic status low
Occupation on disability
Does the abuser live with the victim? Yes X No

B. What led to this mistreatment as far as you know?
She wants his money

1. Is alcohol a problem in this situation? no

C. Has this mistreatment happened before?

____no ____4 or more times

____once

__X__2 or 3 times

III. Reporting of Incident

A. How did you know about the case?

____self report

____private medical M.D.

____hospital or clinic

____police

____public social service agency

____private social service agency (nursing home)

____public health

__X__other by ongoing therapy

B. Did the victim ever attempt to seek help? no

What help?

C. Action taken (what did you do for this case?)

Provide mental health services

D. Additional comments:

Abuse Report Form

I. Unknown

First Name Last

I. Information on Victim

A. Age at time of incident 65

Sex F

Race or ethnic group caucasion

Religion

Economic status low-income

Who resides at the same address husband

B. Physical Abuse Sustained

___none	___bone fracture
X bruises, welts	___direct beating
___sprains dislocations	___lack of personal care
___malnutrition	___lack of food
___freezing	___medicine withheld
___burns, scalding	___no medicine purchased when prescribed
___abrasions, lacerations	___no false teeth when needed
___wounds, cuts, punctures	___no hearing aid when needed
___internal injuries	___no glasses when needed
___dismemberment	

Comments

C. Psychological Abuse Sustained

X verbal assault

___threat

X fear

D. Material Abuse Sustained

___theft of money or property

___misuse of money or property

___other

E. Violation of Rights

____forced from home

____forced into nursing home

____forced social isolation

____other_____

F. Rating of Environment

____dirt in house

____vermin in house

____inadequate heat

____smell of urine

____no food in house

____other_____

G. Degree of Physical Impairment

____bedridden

____cannot perform basic personal hygeine without help, bathing, toilet

____cannot prepare own food

____cannot take own medicine

_X_ none

II. Information on Abuser

A. Relationship to victim husband

Age at time of incident 62

Sex_____

Religion unknown

Race or ethnic group native

Economic status middle

Occupation laborer

Does the abuser live with the victim? Yes X No____

B. What led to this mistreatment as far as you know?

Gets angry when drinking, fighting.

1. Is alcohol a problem in this situation? yes

C. Has this mistreatment happened before?

____no

____once

____2 or 3 times

__X__ 4 or more times

III. Reporting of Incident

A. How did you know about the case?

__X__self report

____private medical M.D.

____hospital or clinic

____police

____public social service agency

____private social service agency (nursing home)

____public health

____other_____

_____

B. Did the victim ever attempt to seek help? __yes_____

What help? __Admission to Pioneer Home._____

C. Action taken (what did you do for this case?)

Helping her to get a divorce and assist with Pioneer Home admission.

D. Additional comments:

Conclusions and Recommendations

From the study done by A.C.M.H.C. several conclusions and recommendations can be made. Most results are similar to the national statistics, but there are some differences.

The abused elder in the Anchorage area is most likely to be a White, low-income woman over 70. She lives with an adult child or family member. A person in Anchorage is more likely to be physically independent than the national counterpart. The abuser is apt to be a middle aged White, low-income woman. In a sense, she is a victim of her situation. In many cases she is experiencing stress due to crowded living conditions, inadequate income, health problems, ignorance about services and feeling as if she is parenting a parent.

These stresses can result in many kinds of abuse. Physical mistreatment is clearly acknowledged as abuse. The results of physical abuse are more obvious and often deemed more serious than the results of other types of abuse. Psychological abuse may be less obvious but it is no less damaging to the elderly person. Cases of psychological abuse were sited far more frequently than other types. All 20 agencies reported cases involving some form of psychological abuse. Of the 75 cases of elder abuse, 70% involved this abuse.

The dependence of elderly people on others leaves their financial affairs open to misuse and theft. Because some elderly feel as if they are a burden or they may be left alone, they do not always move to remedy a case of economic abuse. In Alaska, the existence of the longevity bonus, native claims settlement payments and a high incidence of alcohol abuse make elders prime candidates for financial exploitation by caretakers.

Alcohol as a contributing factor to elder abuse is much greater than in other areas of the United States. Alcohol abuse is not limited to the

abuser. In some cases the elder abuse victim misuses alcohol and in other situations it is family-wide. A.C.M.H.C. as well as other service providers feel that this possibility should be considered when providing services to abused elders and caretakers.

Agencies surveyed believe that there are some things that can be done that would help them deal more effectively with the problem of elder abuse. A list of these actions follows:

1. An elder abuse mandatory reporting law.
2. Improving low-income housing opportunities for the elderly.
3. Beginning an adult day care center in the Anchorage area.
4. Some provisions for in-home respite care.
5. More staff for protective services.

There was one major problem in doing a study of this nature in Alaska. The group studies is age 60 and older. The older native population has a gap in that age group because many of that generation died during the tuberculosis epidemic. There is a lack of information concerning elder native Alaskans because of this factor.

Though some conclusions about abusers and victims can be made, these people come from any race, social or income group. The elder abuse cases given to the A.C.M.H.C. are only a few of the cases that enter the social service system. The real numbers are still to be discovered. Through a pilot project, A.C.M.H.C. is launching a concentrated program of public education. We hope to encourage a public awareness that will foster voluntary reporting by service providers and the general public. We are far from solving the problems of elder abuse, but by using some of the same methods used by child abuse researchers in the 1960's we hope to gain a better understanding of and form a methodology for dealing with the serious social problem of elder abuse.

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APPENDIX A

ELDER ABUSE REPORTING FORM

Abuse Report Form

_____

First Name Last

I. Information on Victim

A. Age at time of incident_____

Sex_____

Race or ethnic group_____

Religion_____

Economic status_____

Who resides at the same address_____

_____

B. Physical Abuse Sustained

____none	____bone fracture
____bruises, welts	____direct beating
____sprains dislocations	____lack of personal care
____malnutrition	____lack of food
____freezing	____medicine withheld
____burns, scalding	____no medicine purchased when presented
____abrasions, lacerations	____no false teeth when needed
____wounds, cuts, punctures	____no hearing aid when needed
____internal injuries	____no glasses when needed
____dismemberment	

Comments_____

C. Psychological Abuse Sustained

____verbal assault

____threat

____fear

D. Material Abuse Sustained

____theft of money or property

____misuse of money or property

____other_____

E. Violation of Rights

____forced from home

____forced into nursing home

____forced social isolation

____other_____

F. Rating of Environment

____dirt in house

____vermin in house

____inadequate heat

____smell of urine

____no food in house

____other_____

G. Degree of Physical Impairment

____bedridden

____cannot perform basic personal hygeine without help, bathing, toilet

____cannot prepare own food

____cannot take own medicine

____none

II. Information on Abuser

A. Relationship to victim_____

Age at time of incident_____

Sex_____

Religion_____

Race or ethnic group_____

Economic status_____

Occupation_____

Does the abuser live with the victim? Yes____ No____

B. What led to this mistreatment as far as you know?

_____

_____

_____

1. Is alcohol a problem in this situation?_____

C. Has this mistreatment happened before?

____no
____once
____2 or 3 times
____4 or more times

III. Reporting of Incident

A. How did you know about the case?

____self report
____private medical M.D.
____hospital or clinic
____police
____public social service agency
____private social service agency (nursing home)
____public health
____other_____

_____

B. Did the victim ever attempt to seek help?_____
What help?_____

C. Action taken (what did you do for this case?)

D. Additional comments:

APPENDIX B

LETTER TO PHYSICIANS AND CLINICS



Dear Doctor:

During the last few months Anchorage Community Mental Health Center has been researching the problem of elder abuse in the Anchorage area. We are very interested in any experience you may have had with your patients or their families. The information is purely for research purposes. Names are not necessary and all reports are confidential.

We are using the definition used by Marilyn R. Block and Janice L. Davidson in their study The Battered Elder Syndrome.

Abuse refers to one or more of the following acts:

physical abuse, including direct beatings, lack of food, lack of medical care, and lack of supervision;

psychological abuse, including verbal assault, threat, fear and isolation;

material abuse, including theft or misuse of money or property and

violation of rights, including forced removal from home, or forced entry into a nursing home.

When you are searching your mind for cases that you believe may qualify as elder abuse, keep in mind that the age we are referring to is 60 or older. These are people who are in some way dependent on a son, daughter, or other relative or caretaker.

Any response or comment by you is considered essential to this study. Please call me by August 21, 1981 at A.C.M.H.C. 276-5400.

Teri Spires
Research Specialist

3944 Spenard Road, Anchorage, Alaska 99503 (907) 243-5411

MAE - (Monday)

CSHB 192 - PROTECTION of Elderly is READY - WE could squeeze it in NEXT FRIDAY MARCH 25th if you WANT to schedule it

ANNOUNCE today & I'll hand out copies

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
March 21, 1983
1:11 p.m.

Members Present: Rep. Tischer, Co-Chair
Rep. Fritz, Co-Chair
Rep. M. Miller, Vice-Chair
Rep. Koponen
Rep. Davis

Members Absent: Rep. Cato
Rep. Goll

COMMITTEE CALENDAR

CSSB 96: "An Act reducing a FY 83 appropriation and making a special appropriation to the Department of Health and Social Services for hepatitis-B inoculations; and providing for an effective date."

HB 192: "An Act relating to protection of the elderly.
WORKSESSION

WITNESS REGISTER

Dr. E.S. Rabeau
Director
Division of Health & Social Services
Pouch H-06
Juneau, Alaska 99811
465-3090
Position Statement: Stated the Department's support for CSSB 96; urged quick passage of the bill.

Rep. Clocksin
District 12-B
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3704
Position Statement: Testified in favor of HB 192; proposed numerous amendments to HB 192.

PREVIOUS ACTION

CSSB 96: First Reading - 3/9/83

Committee Referrals - HESS and Finance Committees.

No previous action in HESS.

HB 192: First Reading - 2/11/83

Committee Referrals - HESS and Finance Committees.

See HESS minutes of March 14, 1983.

ACTION NARRATIVE

TAPE#20
Recording
Number 0001 Co-Chair Tischer called the meeting to order at 1:11 p.m. Representatives Fritz, M. Miller and Koponen were present. Representative Davis arrived at 1:22 p.m. Representatives Cato and Goll were excused due to illness. Co-Chair Tischer announced the committee calendar and then called for testimony on CSSB 96.

Number 0038 Dr. E.S. Rabeau, Department of Health & Social Services, said the the Department supports CSSB 96, which causes a delete-add appropriation from the surplus funds. Dr. Rabeau urged quick passage of the bill in order to prevent pulling money from other funds to cover testing and vaccinating activities which have already begun.

Number 0070 Dr. Rabeau explained that the money involved in implementing CSSB 96 would come from surplus funds not the permanent fund.

Number 0121 Rep. Fritz moved to pass CSSB 96 out of committee with a do pass recommendation. There being no objection, the motion passed.

Number 0137 General discussion regarding Hepatitis-B vaccinations and testing.

Number 0155 Co-Chair Tischer read the names of individuals available for questioning during the work session on HB 192 and invited Rep. Clocksin, sponsor of HB 192, to address the committee.

Number 0180 Rep. Clocksin testified in favor of HB 192; spoke to proposed HB 192 amendments. Rep.

Clocksin supported deleting the word "employees" on Page 2, Line 2 and adding subsections (11) Village Public Safety Officers, (12) Emergency Medical Technicians and Mobile Intensive Care Paramedics, (13) persons under Homemaker and Home Health Aide Programs to Page 2 after Line 9.

Number 0227 — Rep. Tischer questioned the inclusion of "conservators" on Page 2, Line 4. Rep. Clocksin explained that conservators are appointed and thereby responsible by law for the protection and care of one unable to care for him or herself.

Number 0254 — Rep. Clocksin reported that physicians assistants are also required to report elder abuse under HB 192.

Number 0263 — Rep. Clocksin pointed out the necessity of carrying over previous amendments to Page 3, Section (e) to include "Village Public Safety Officers". Rep. Clocksin also favored eliminating the requirement of a "reasonable effort" on Page 3, Line 13 and substituting the following language change: The department shall personally interview the elderly person during the investigation unless the person is unconscious or otherwise physically or mentally impaired to such an extent as to be unable to respond to questions.

Number 0290 — Rep. Clocksin recommended deleting the phrase "that is certified by the state" on Page 5, Line 1.

Number 0332 — After discussion regarding the question of privilege, Rep. Clocksin responded that privilege is designed for doctor-patient confidentiality and informed the committee that the Senate deleted the entire privilege section (47.24.075). Rep. Clocksin suggested adding the following language instead: The physician-patient privilege and psychotherapist-patient privilege are waived to the extent that AS 47.24.010 and 020 require reporting of abuse, neglect or abandonment. Dr. Fritz agreed with the intention to waive the privilege for the purpose of reporting the abuse only.

Number 0362 — Discussion regarding child abuse laws and reporting mandates. Rep. Tischer suggested

comparing child abuse laws with HB 192 in order to promote uniformity.

Number 0370 — Rep. Clocksin spoke in favor of changing the definition of abuse by inserting "requiring medical treatment" after "anguish" and deleting the phrase "by a caretaker" on Page 5, Line 23.

Number 0436 — Rep. Clocksin's amendment was submitted with the intent that "requiring medical treatment" apply only to "mental anguish".

Number 0454 — Rep. Clocksin supported deleting "by an elderly person or" on Page 6, Line 10.

Number 0470 — Rep. Clocksin testified in opposition to a proposed amendment which would add "willful" before the word "deprivation" on Page 5, Line 23. Rep. Clocksin explained that the purpose of that definition relates to reporting abuse not determining its criminal nature.

Number 0509 — According to Rep. Clocksin, there are 3 possible courses of action under HB 192; criminal prosecution, investigation by the department and subsequent provision of protection services, and the decision that the claim is unfounded.

Number 0553 — In response to Rep. Tischer's stated concerns with unnecessary program expansion and false reports of abuse, Rep. Clocksin explained the bill's minimal fiscal impact and stated that new services will be provided only when justified by statistics. As such, he asserted that HB 192 requires and provides for documentation.

Number 0580 — Discussion regarding the need for HB 192. Rep. Clocksin cited an Anchorage study on elder abuse and the many unreported cases.

Number 0600 — Rep. Clocksin mentioned a Senate proposal which mandates reporting all elder abuse to the prosecutor in the Department of Law. Rep. Clocksin said he had no position on the proposal; however, he expressed concern with unnecessarily burdening the prosecutor with too many reports.

Number 0650 — General discussion about regulation changes.

number 0672	Rep. Davis moved to amend HB 192 as proposed by Rep. Clocksin. Co-Chair Tischer asked Rep. Davis to withdraw his motion and suggested letting staff members draw up a Committee Substitute for the committee's review. Rep. Davis withdrew the motion.
Number 0696	Rep. M. Miller moved to insert "willful" before "deprivation" on Page 5, Line 23, and then withdrew his motion. Rep. M. Miller then moved to insert "intentional" before "deprivation" on Page 5, Line 23. Rep. Davis objected.
Number 0708	Rep. Tischer called for a roll call vote on the motion. The motion to insert "intentional" passed by a vote of 3 to 2. HESS Committee staff was then instructed to draft a Committee Substitute for HB 192 to address amendments proposed by Rep. Clocksin.
Number 0725	Discussion regarding Section 47.24.075.
Number 0750	General discussion about the definition of an elderly person on Page 6, Line 3.
Number 0790	Rep. M. Miller moved to amend the 60-year age requirement to 65 years of age. Discussion followed.
Number 0851	Co-Chair Tischer moved the previous question. The motion to change "60" to "65" on Page 6, Line 3 passed by a 3 to 2 vote.
Number 0874	Rep. Tischer commented on definitions of mental health and read the definition of neglect under child abuse laws.
Number 0891	Rep. M. Miller expressed concern over the definition of mental anguish.
Number 0944	Rep. Fritz requested information on elder abuse laws in other states.
Number 0980	The committee discussed the fiscal note for HB 192.
Number 1013	Rep. Tischer commented on reasonable cause. Discussion led to the conclusion that reasonable cause is already identified by law, consequently it is not necessary to include it in HB 192.

Number 1023 The meeting adjourned at 2:45 p.m.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
March 14, 1983
1:00 p.m.

Members Present: Rep. Fritz, Co-Chair
Rep. Tischer, Co-Chair
Rep. M.W.Miller, Vice-Chair
Rep. Cato
Rep. Goll
Rep. Davis

Members Absent: Rep. Koponen

COMMITTEE CALENDAR

HB 117: "An Act relating to sexual abuse of a minor."

HB 107: "An Act relating to the right to a natural death."

HB 192: "An Act relating to protection of the elderly."

WITNESS REGISTER

Rep. Clocksin
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3704
Position Statement: Sponsor of HB 107 and HB 192.

Dr. Rodmar Wilson
Department of Health & Environmental Protection
Box 6-650
Anchorage, Alaska 99502
264-4621
Position Statement: Agreed with the concept of not prolonging death; said that HB 107 would be meddlesome; disapproved of HB 107 because of the possibility of a patient changing his/her mind.

Prent Gazaway
1521 W. 14th
Anchorage, Alaska 99501
277-2073
Position Statement: Urged quick passage of HB 107; stated support for HB 192.

Delcey Kinny
Alaskans for Life
9118 Nagoon
Juneau, Alaska 99801
789-0683
Position Statement: Testified against HB 107; explained her opposition to the living will concept.

Florence Orr
3000 E. 15th Avenue
Anchorage, Alaska 99501
279-3001
Position Statement: Said the living will has been a legislative priority of the Older Persons Action Group for 2 years.

Irene Hedstrom
1521 N. Street
Anchorage, Alaska 99501
Position Statement: Supported HB 107; disagreed with prolonging life when no hope for recovery exists.

Lola Reed
831 W. 19th
Anchorage, Alaska 99503
279-3006
Position Statement: Testified in favor HB 107; asserted that HB 107 grants people the right to choose a natural death.

Theodore Grahm
Chugiak Senior Center
Chugiak, Alaska
688-2677
Position Statement: Stated that Chugiak senior citizens support HB 107; endorsed the passage of HB 192.

Pasquale M. Benigno
9715 Trapper's Lane
Juneau, Alaska 99801
Position Statement: Spoke against HB 107; argued that people already have the right to a natural death.

Virginia Blanchard
923 W. 11th Avenue
Anchorage, Alaska 99501
276-3075
Position Statement: Supported HB 107; reminded previous witnesses that participation in the program is voluntary.

Dr. E.S. Rabeau
Division of Public Health
Department of Health & Social Services

Pouch H-06
Juneau, Alaska 99811
465-3090
Position Statement: Testified that the Department supports the intent of HB 107; agreed that the bill addresses patients' rights.

Dove M. Kull
Older Alaskans Commission
326 4th Street
Juneau, Alaska 99801
586-2670
Position Statement: Supported passage of HB 107;testified to the immediate need for HB 192.

Mary Horton
2516 Scott Drive
Juneau, Alaska 99801
789-9222
Position Statement: Contested the need for HB 107.

Lou Osmond
Pioneers Home
923 W. 11th Avenue
Anchorage, Alaska 99501
276-3414
Position Statement: Spoke in favor of HB 107.

Leona Pfisterer
Pioneers Home
923 W. 11th Avenue
Anchorage, Alaska 99501
276-3414
Position Statement: Approved HB 107; testified to the emotional and practical costs of keeping people alive with extraordinary means.

Margot Dick
Juneau Elder Abuse Task Force
419 6th Street
C.C.S. Wing
Juneau, Alaska 99801
586-6233
Position Statement: Supported HB 192; presented an overview of Task Force recommendations.

Charles Mundorf
Alaska Community Mental Health Center
120 E. 4th Street
Anchorage, Alaska 99501
276-5400
Position Statement: Testified to the need for HB 192.

Elizabeth Muktarian

Department of Health & Social Services
Pouch H05
Juneau, Alaska 99811
465-3208
Position Statement: Spoke for the Department in favor of passing HB 192; recommended amending the definition of abuse on Page 5, Lines 22-25 of Sec. 47.24.100.

Tom Scott
1135 W. 8th, #7
Anchorage, Alaska 99501
274-3651
Position Statement: Recommended amending the list of health care providers in HB 192.

Dennis Murray
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615
486-6181
Position Statement: Supported HB 192; said it heightens awareness of elder abuse and provides a mechanism for dealing with the problem.

Dennis DeWitt
Alaska State Hospital Association
319 Seward
Juneau, Alaska 99801
Position Statement: Presented recommendations for possible amendments to HB 192; called attention to possible problems with multiple reporting and the privilege clause.

Barbara McPherson
Older Alaskans Commission
Pouch C
Juneau, Alaska 99803
465-3250
Position Statement: Stated the commission's support for passage of HB 192; recommended adding the word "willful" to the definition of abuse; supported previous comments on multiple reporting and the privilege clause.

Beth Bishop
Southeast Senior Services
4181 6th Street
C.C.S. Wing
Juneau, Alaska 99801
586-6233
Position Statement: Supported HB 192 and language changes addressing the possibility of multiple reporting; disapproved of adding "willful"

to the definition of abuse.

Rosemary Haffner
615 H Street
Anchorage, Alaska 99501
272-9431
Position Statement: Conveyed support of the Ombudsman for HB 192; opposed adding "willful" to the definition of abuse; stated that multiple reporting could be addressed through regulations.

PREVIOUS ACTION

HB 117: 1/26/83 - First Reading.

Committee referrals - HESS, Judiciary, Finance and Rules Committees.

See HESS minutes of February 9 and 28, and March 11, 1983.

HB 107: 1/21/83 - First Reading.

Committee referrals - HESS, Judiciary and Rules Committees.

No previous action in HESS Committee.

HB 192: 2/11/83 - First Reading.

Committee referrals - HESS, Finance and Rules Committees.

No previous action in HESS Committee.

ACTION NARRATIVE

TAPE#18
Recording
Number 0001 Co-Chair Fritz called the meeting to order at 1:00 p.m. Representatives Tischer, M.W. Miller, Cato and Goll were present. Representative Davis arrived at 1:25 p.m. Co-Chair Fritz announced the committee calendar and cited HB 117 as the first order of business.

Number 0030 Rep.M.W. Miller moved to postpone action on HB 117 until further notice. There being no objection, the motion passed.

Number 0035

Co-Chair Fritz opened the floor to testimony on HB 107. Rep. Clocksin, sponsor of HB 107, explained that HB 107 gives legal recognition to the rights of the terminally ill and establishes a procedure for the declaration of will form. Rep. Clocksin dispelled possible arguments about the religious significance of the bill; stated that all surveyed religions support the right to a natural death.

Number 0100

Rep. Clocksin then testified as the sponsor of HB 192. Rep. Clocksin explained that the bill applies only to physical abuse of the elderly and requires the victim's consent before beginning an investigation. Rep. Clocksin informed the committee about elder abuse in Alaska and referred to the limited fiscal implications of HB 192.

Number 0162

Dr. Rodmar Wilson, Department of Health and Environmental Protection, spoke against HB 107; stated that the bill was meddlesome. Dr. Wilson expressed sympathy with the concept of not prolonging death, but disagreed with HB 107 because doctors can not accurately predict when death will occur and patients may change their minds after signing living wills.

Number 0291

Rep. Goll pointed out that patients can revoke their statements.

Number 0377

Prent Gazaway, Anchorage citizen, stated his belief that HB 107 meets the wishes of senior citizens associations and gives people freedom. Mr. Gazaway urged a quick passage of HB 107 and also stated his approval of HB 192.

Number 0426

Delcey Kinny, Alaskans for Life, stated AFL's opposition to HB 107 and the living will concept. Ms. Kinny argued that the right to a natural death already exists, and that living wills cause havoc in the doctor - patient relation and underwrite the rights of those who do not sign. In addition, Ms. Kinny spoke against State involvement with a person's decision regarding death.

Number 0546

Florence Orr, Older Persons Action Group, stated that the living will has been a APAG legislative priority for 2 years; asserted that the previous witness was confused about

peoples' rights.

Number 0582 — Irene Hedstrom, Pioneers Home, supported HB 107; said that most people at the Pioneers Home are not afraid of death, but are afraid of prolonging death through the use of machines especially when no hope for recovery exists; cited the burden to the individual, family and Medicare.

Number 0632 — Lola Reed testified in favor of HB 107; stated that the right to a natural death is an issue of personal choice. Ms. Reed asserted that HB 107 grants people that choice.

Number 0662 — Theodore Grahm, Chugiak Senior Center, stated that Chugiak senior citizens support HB 107.

Number 0678 — Pasquale Benigno spoke against HB 107; argued that people already have the right to die without the use of extraordinary means.

Number 0701 — Rep. Goll asserted that currently doctors who "pull the plug" in response to a patient's request can be charged with a criminal offense.

Number 0736 — Virginia Blanchard supported the right to a natural death; stated that people do not have to participate in the program; asserted her intention to sign a living will if the bill passes.

Number 0755 — Dr. Rabeau, Department of Health & Social Services, stated that the Department supports the intent of HB 107; said that the bill addresses the rights and wishes of patients.

Number 0779 — Dove M. Kull, Older Alaskans Commission, said she believes in the right to die with dignity and wants for the world to let her go when she is ready; supported passage of HB 107.

Number 0797 — Mary Horton contested the need for HB 107; said the right to a natural death is already an inalienable right under the constitution.

Number 0851 — Lou Osmond supported HB 107; said she does not wish to use a life support system nor to wait around for relatives to decide whether

or not she will be allowed to die.

Number 0893 — Leona Pfisterer spoke in favor of approving HB 107; testified that keeping people alive with extraordinary means is too costly in terms of emotions as well as money.

Number 0917 — There being no further witnesses to testify on HB 107; Co-Chair Fritz opened the floor to testimony on HB 192.

Margot Dick, Juneau Elder Abuse Task Force, supported HB 192 for the Task Force; presented an overview of their recommendations for amending HB 192.

Number 1020 — Charles Mundorf, Alaska Community Mental Health Center, testified to the need for HB 192. Mr. Mundorf informed those present of the recent documentation of 75 cases of physical abuse of elders in Anchorage and the widespread problem of psychological abuse of the elderly. He also stated that currently reporting of abuse is poor.

Number 1068 — Discussion regarding the verification of psychological abuse.

Number 1084 — Elizabeth Muktarian, Department of Health & Social Services, conveyed the Department's recommendation to pass HB 192. Ms. Muktarian acknowledged the growing awareness of elder abuse and asserted that the procedures outlined in HB 192 are in accordance with departmental policies. Ms. Muktarian said the Department recommends amending the definition of abuse on Page 5, Lines 22-25 of Section 47.24.100 to read the "willful deprivation".

Number 1130 — Tom Scott, Emergency Medical Services in Anchorage, recommended amending the HB 192 list of health care providers to include EMS paramedics and Emergency Medical Technicians.

Number 1145 — Theodore Grahm, Chugiak Senior Center, endorsed the passage of HB 192.

Number 1150 — Dove Kull, Older Alaskans Commission, stated her awareness of the psychological and economic abuse of elders; said she knows of people who are in need of the bill's protection now.

Number 1173 — Dennis Murray, Senior Citizens of Kodiak; supported HB 192 as an individual; said the bill heightens awareness of the problem and gives a mechanism to deal with the problem. Mr. Murray stated he sees more psychological and economic abuse as a professional than physical abuse, but agreed that HB 192 is at least a beginning.

Number 1187 — Dennis DeWitt, Alaska State Hospital Association, recommended requiring only those who are trained to report abuse under the law, further defining "verifying", and preventing the possibility of multiple reporting. Mr. DeWitt also suggested that the patient-physician privilege clause is open to misinterpretation and should therefore be reviewed.

Number 1266 — Barbara McPherson, Older Alaskans Commission, said the commission urges passage of HB 192 to provide protection for the elderly; recommended inserting the word "willful", and mandating that the victim be contacted before beginning an investigation. Ms. McPherson also stated support for the previous remarks on the privilege clause and multiple reporting.

Number 1297 — Rep. Tischer requested statistics on abuse of the elderly. Ms. McPherson said accurate statistics are not available because of the lack of mandatory reporting in Alaska.

Number 1314 — Beth Bishop, Southeast Senior Services, supported HB 192 and language changes to address the possibility of multiple reporting; informed the committee that 90% of abusers repeat and that reporting abuse is very difficult especially in small towns. Ms. Bishop supported the Juneau Task Force recommendations; however, she disagreed with adding "willful" before "deprivation", suggesting it would be too difficult to prove.

Number 1347 — Rosemary Haffner, Alaska Legal Services - Attorney for Seniors, conveyed the support of the Ombudsman for HB 192; stated opposition to adding "willful"; suggested addressing the issue of poverty in some manner. Ms. Haffner asserted that multiple reporting could be addressed through regulations.

Number 1377

Co-Chair Fritz thanked the witnesses and observers for their participation and patience.

The meeting adjourned at 3:03 p.m.

SENATE JUDICIARY COMMITTEE

Meeting Minutes
May 9, 1983

The meeting was called to order by Chairman Ray at 1:35 p.m. All members were present.

The first order of business was the Committee Substitute (HESS) for Senate Bill 122--Protection of the elderly, as to which Senator Ray announced that the bill was in the Senate Rules Committee when a problem arose with the term "mental anguish" in the definitions section, at page 5, line 27. Senator Josephson, one of the bill's prime sponsors, explained that he is fully aware of the problem and has no objections to deleting that term. Senator Ray concurred and then suggested that the term "economic exploitation" be added to cover the type of exertion of undue influence and economic coercion that was involved in the Groucho Marx case in California. Senator Pettyjohn, however, questioned the inclusion of this new term and concept and stated that it may create an unduly heavy burden in trying to enforce the legislation. Senator Pettyjohn also raised some questions about the procedures set forth in the bill and a discussion was had on these points with Senators Ray and Josephson joining therein.

Dove M. Kull, a member of the Older Alaskans Commission, testified in favor of the bill, emphasizing that the lack of statutory authority is the biggest hindrance to states being able to assist abused elderly persons and that many other states have enacted or are considering enacting similar legislation.

Beth Bishop, with Southeast Senior Services, testified in favor of the bill, focusing on the types of problems encountered and the other types of programs that are also needed to adequately protect the abused elderly.

John Wolfe, Executive Director of the Older Alaskans Commission, testified in favor of the bill and offered to answer any questions the members of the Committee may have. Senator Eliason asked a question about the language at page 3, line 29, of the bill and Mr. Wolfe responded by explaining the basic purpose and intent of the language.

By concurrence of a majority of the members of the Committee, it was agreed that the bill will be amended (and the amendments will be incorporated into a new committee substitute) so that the term "economic harm" will be inserted wherever appropriate and will be defined as "intentional economic exploitation by theft, fraud and coercion." Also, as previously agreed, the term "mental anguish" will be deleted from the definitions section, at page 5, line 27.

Senator Eliason asked a question about the language at page 3, line 8, regarding immunity for reporting instances of harm to the elderly and why these provisions are necessary. A discussion was had on this point

with Senator Josephson joining therein and pointing out that the provisions in question merely parallel what has been done in the child abuse area and only provide a qualified immunity because a good faith requirement is built into the bill.

Senator Pettyjohn asked why mentally and physically handicapped persons aren't included in the bill and a discussion was had on this point with Senators Ray, Josephson and Ziegler joining therein, whereupon Senator Josephson moved that the bill, as amended (with the amendments incorporated into a new committee substitute) pass out with individual recommendations. Senators Ray, Josephson, Ziegler and Eliason voted Do Pass. Senator Pettyjohn voted No Recommendation.

The second order of business was the proposed committee substitute (Berrier draft dated 5/7/83) for Senate Bill 257--Legislative ethics, as to which Senator Ziegler stated that it is the worst piece of legislation he has ever seen and that he has the following specific objections to it regarding which discussion was had wherein all Committee members participated:

> The provisions starting on page 3, line 21 relating to fundraisers;
>
> The provisions of section 24.60.080 on page 6 relating to gifts;
>
> The provisions of section 24.60.100 on page 7 relating to representation;
>
> The provisions of section 24.60.110 on page 7 relating to having to resign a conflicting position as it applies to an attorney legislator who is under an ethical duty not to withdraw from a case unless his client consents.

Senator Josephson concurred with Senator Ziegler's concerns about the fundraisers provisions and pointed out that they shouldn't apply to a legislator who is trying to raise funds for anything other than legislative campaigns; i.e., the prohibition shouldn't apply to a legislator who wants to run for statewide or congressional office. Therefore, Senator Josephson suggested that the word "legislative" be added in front of the phrase "campaign purposes" on page 3, line 24, of the proposed committee substitute.

Senator Pettyjohn stated that forcing legislators to hold fundraisers in their own district during session is too restrictive; therefore, he moved that the proposed committee substitute be amended to only prohibit fund raisers in Juneau during session. In his motion Senator Pettyjohn also incorporated Senator Josephson's prior suggested language addition. The motion passed after a vote was taken wherein Senators Josephson, Ziegler and Pettyjohn voted in favor and Senators Ray and Eliason voted against.

Senator Fahrenkamp testified and raised serveral concerns about the bill in its present form, including:

Subsection (g) on page 3, relating to fundraisers; and

Section 24.60.080 on page 6, relating to gifts, as to which a lengthy discussion was had wherein all Committee members participated and Senator Josephson suggested that the language of that section be changed to alleviate Senator Fahrenkamp's concerns.

Senator Mulcahy then testified and also expressed concerns similar to Senator Fahrenkamp's regarding the gifts section, explaining that travel to remote areas to attend conferences and meetings regarding matters of legislative concern is very important to bush legislators, whereupon Senator Pettyjohn moved--and the motion passed without objection--that the following sentence be added at the end of section 24.60.080:

"A gift of travel and hospitality received by a member of the legislature in obtaining information on matters of legislative concern is not prohibited by this section."

Senator Ferguson then testified and proposed that the following language be page 3, line 17, of the proposed committee substitute:

"Food or foodstuffs indigenous to the state that are generally shared as a cultural or social norm."

A motion was made to adopt Senator Ferguson's suggested amendment and the motion passed without objection.

Senator Ray moved that in subsection (f) of section 20.60.030, dealing with conflicts of interest, the words "with approval of the legislature" be added immediately before the word "establish" on page 3, line 18 of the proposed committee substitute. The motion passed without objection.

Senator Josephson moved that CSSB 257, as amended (with the amendments incorporated into a new committee substitute) pass out with individual recommendations. Senators Ray, Josephson and Pettyjohn voted Do Pass. Senators Ziegler and Eliason voted No Recommendation.

The third and final order of business was the following new subcommittee assignments:

SB 26	Civil immunity for rendering services in response to hazardous materials emergencies	Eliason
SB 290	Transfer of forfeited aircraft to Alaska Wing, Civil Air Patrol	Ray
CSHB 290	Harming a police dog	Ziegler

There being no further business the meeting adjourned at 2:50 p.m.

COMMITTEE REPORT

SENATE

FURTHER:

4/28/83

Date: 5/9/83

Mr. President:

The Committee on JUDICIARY has had SB 122

Relating to the protection of the elderly.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for SB 122 [X] same title [ ] new title

and recommends

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

no rec

Chairman

DO PASS

1-1655

MAR 7 1983

ANALYSIS OF SB 122 - RELATING TO PROTECTION OF THE ELDERLY

SECTION 1 PURPOSE

SECTION 2 a) LISTS PROFESSIONAL PEOPLE REQUIRED TO REPORT CASES OF SUSPECTED ABUSE, NEGLECT OR ABANDONMENT OF AN ELDERLY PERSON

b) LISTS INFORMATION TO BE PROVIDED TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES WHEN REPORTING.

c) "VIOLATION" IS A NONCRIMINAL OFFENSE PUNISHABLE BY A FINE, BUT NOT BY IMPRISONMENT OR OTHER PENALTY; CONVICTION OF A VIOLATION DOES NOT GIVE RISE TO ANY DISABILITY OR LEGAL DISADVANTAGE BASED ON CONVICTION OF A CRIME; A PERSON CHARGED WITH A VIOLATION IS NOT ENTITLED:

(A) TO A TRIAL BY JURY; OR

(B) TO HAVE A PUBLIC DEFENDER OR OTHER COUNSEL APPOINTED AT PUBLIC EXPENSE TO REPRESENT HIM;

d) THE BILL DOES NOT PRECLUDE A PERSON NOT LISTED, OR A PERSON LISTED WHEN IN A NON-PROFESSIONAL CAPACITY, FROM REPORTING.

e) REPORTS CAN BE MADE TO A PEACE OFFICER IF IMMEDIATE ACTIO IS NECESSARY.

f) IMMUNITY FROM LIABILITY TO THE REPORTING PERSON IS GRANTED.

SEC. 47.24.020

a) REQUIRES PROMPT INVESTIGATION BY THE DEPARTMENT TO ASSESS THE NEED FOR ACTION AND SERVICES.

b) REQUIRES TO DEPARTMENT TO PREPARE A WRITTEN REPORT ON FINDINGS, RECOMMENDATIONS AND DETERMINATION OF ACTION. REPORTER MAY RECEIVE A COPY ON REQUEST.

c) INVESTIGATION WILL TERMINATE UPON REQUEST OF THE ELDER PERSON UNLESS THEY ARE INCAPACITATED, WHEREBY THE DEPARTMENT MAY PETITION THE COURT TO HAVE A GUARDIAN APPOINTED.

SEC. 47.24.030

a)THE DEPARTMENT SHALL PROVIDE PROTECTIVE SERVICES AT THE CONSENT OF THE ELDER PERSON, OR IF THAT PERSON IS INCAPACITATED, THE DEPARTMENT MAY PETITION THE COURT TO APPOINT A GUARDIAN.

b) THE DEPARTMENT MAY DISCLOSE THE REPORT AT THE REQUEST OF THE ELDER PERSON, AND , ON REQUEST, DISCLOSE REPORTS OF HARM AT AN INSTITUTION CERTIFIED BY THE STATE.

SEC. 47.24.060 - LISTS ACTIONS AVAILABLE TO THE DEPARTMENT TO SAFEGUARD AN ELDERLY PERSON.

ANALYSIS OF SB 122 - RELATING TO PROTECTION OF THE ELDERLY

SECTION 1 PURPOSE

SECTION 2 a) LISTS PROFESSIONAL PEOPLE REQUIRED TO REPORT CASES OF SUSPECTED ABUSE, NEGLECT OR ABANDONMENT OF AN ELDERLY PERSON

b) LISTS INFORMATION TO BE PROVIDED TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES WHEN REPORTING.

c) "VIOLATION" IS A NONCRIMINAL OFFENSE PUNISHABLE BY A FINE, BUT NOT BY IMPRISONMENT OR OTHER PENALTY; CONVICTION OF A VIOLATION DOES NOT GIVE RISE TO ANY DISABILITY OR LEGAL DISADVANTAGE BASED ON CONVICTION OF A CRIME; A PERSON CHARGED WITH A VIOLATION IS NOT ENTITLED:

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Missouri Gerontology Institute

Guide on AGING

Protective Services Legislation for the Elderly

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and Center on Aging Studies
University of Missouri-Columbia

- *An 89-year-old woman lives alone in a trailer court outside a southern Missouri town. She is blind and has become too weak to lift a jug of water.*
- *A man in his sixties, who was once left bound hand and foot in a car by his caretakers, signs over his pension check to them each month because he is afraid they otherwise would turn him out.*
- *A 77-year-old man is chronically depressed and disoriented from the interaction of excessive dosages of medication being given to him by another person charged with his care.*



These are only three of the estimated 19,000 elderly Missourians who need protection from abuse, neglect, or exploitation. This guide will describe forms of abuse and situations in which it is likely to occur, and summarize the provisions of Missouri law to deal with abuse.

The law

In response to public concern, the Protective Services Law for the Elderly was passed by the Missouri General Assembly and signed by the Governor in 1980. This law is designed to assist and protect persons age 60 or older who are unable to perform or obtain essential services or to protect their own interests. The protective services provided by this law consist of visits by social workers supplemented by such community functions as visiting nurses services, homemaker services, hot meal delivery, and telephone checks. Legal intervention may also enter the picture in the form of guardianship, commitment, emergency service delivery, and protective placement.

Missouri is one of only thirteen states that has a law specifically designated to help prevent abuse and neglect of the elderly. This law establishes a system for reporting instances of abuse and neglect and provides for assistance to be given to the victims.

The Missouri Gerontology Institute develops and coordinates instruction, research and extension activities on aging among the University of Missouri campuses (Columbia, Kansas City, Rolla and St. Louis), Lincoln University, and the Missouri Cooperative Extension Service

How to report abuse or neglect

If you have reasonable cause to suspect that an elderly person is suffering serious physical harm and is in need of protective services, use the Elderly Abuse and Neglect Hotline maintained by the Department of Social Services Division of Aging. The hotline number is 1-800-392-0210.

Or, if you prefer, write the Department at:

Central Registry Unit
Division of Aging
P.O. Box 1337
Jefferson City, MO 65102

When making your report include the following information:

1. Name, age, and address of the older person in need.
2. Names and addresses of any individuals responsible for the older person.
3. The nature and extent of the older person's condition.

You are not required to give your name when making a report. If you are uncertain of how to proceed or have any questions, call the toll-free hotline number mentioned above.

Types of abuse

To assist you in identifying cases of abuse, the law describes four basic situations in which serious harm is likely to come to an individual:

1. **Self-neglect.** This situation is indicated by the elderly person's failure or inability to provide for his or her own essential needs, resulting in substantial risk that physical harm will ensue.
2. **Self-abuse.** In this situation there is reason to believe that an elderly person will inflict physical harm upon himself, as evidenced by his own actions or threats to do so.
3. **Abuse to others by an elderly person.** This situation is one in which there is a substantial risk that an elderly person will inflict physical harm upon another, as evidenced by his own actions or behavior.
4. **Abuse to elderly by others.** In this situation there is a substantial risk that further physical harm will occur to an older person who has already suffered physical injury, neglect, sexual or emotional abuse, other forms of maltreatment, or the wasting of his financial resources by another person.

The following discussion will focus on abuse to the elderly by others.

Abuse by others

A study by the Office on Aging in Bergen County, New Jersey has shown that there are four main categories of abuse to the elderly by other persons:

1. **Physical abuse.** This may take various forms, including shaking or shoving, tying the elderly person to a chair so "he won't hurt himself" while others are gone, and encouragement by the family or a physician for the elderly person to be given drugs to make him or her "manageable."
2. **Deprivation.** This is withholding life's necessities, such as food, clothing, shelter, and medical care.
3. **Financial abuse.** This involves the removal of money or real estate from the older person's control when it is not necessary for the good of the individual to do so.
4. **Emotional abuse.** This includes such things as verbal abuse (excessive criticism or unrealistic demands), forcing the elderly person to change his or her residence, and infantilization (denying the older person the right to be treated as an adult, to be informed about his or her own health condition, to participate in family and social situations, and so forth). Emotional abuse is covered by the Protective Services Law only when there is evidence of physical harm resulting from the emotional abuse. Such problems as ulcers and high blood pressure are evidence of such physical harm.

What happens after you report

If you make a report of abuse or neglect, a local social service worker will visit the older person's residence to evaluate the situation. In emergency cases this visit will be made within twenty-four hours; in less severe cases a maximum of thirty days is permitted.

By reporting abuse or neglect you will not be forcing an older person to accept services he or she does not want. The Protective Services Law states that if an elderly person does not consent to receive protective services, those services will not be given; and if the elderly person withdraws consent previously given, the services will be discontinued. The only exceptions are those cases in which there is reason to believe that the older person lacks the capacity to consent. In such instances the director of the Department of Social Services may seek a court order.

Abusers cannot interfere

In some abuse cases, an abuser may refuse to allow anyone to visit the person being abused. In such instances the Department of Social Services may petition the court for a warrant. The Department may also petition the court to forbid anyone from interfering with the delivery of services to the elderly person.

If an older person is unable to give consent

If a case is one of self-neglect or self-abuse and the older person is unable to give consent for assistance, the Department of Social Services may initiate proceedings to provide the necessary protective services.

When the police are involved

In some instances it is necessary for the police to become involved in protective cases. If a police officer believes that an older person is in immediate danger, he or she may arrange for that person to be taken to a medical facility for emergency treatment. If the police officer is barred from entering by someone in the home, the officer may apply for a court warrant to enter and remove the elderly person to the medical facility.

When medical treatment is necessary

Sometimes when an elderly person has been admitted to the hospital as a result of abuse, the relative or guardian refuses to give consent for medical treatment and the elderly person himself is unable to give consent. In these cases the head of the medical facility may file a court petition for authorization of treatment, and the court may appoint a temporary guardian to oversee the treatment. In life-threatening situations in which immediate medical treatment is needed, such treatment may be given by the facility before a court hearing is held.

Once again, it should be emphasized that the rights of the competent elderly person shall be maintained—and these rights include the right to refuse medical care on the basis of religious faith or conviction.

Characteristics of abusers and abused

To prevent incidents of abuse it is necessary to understand the common characteristics of abusers, the abused, and situations in which abuse is most likely to occur.

The abused and their situations

The older the individual the more likely he or she is to be abused; reported cases of abuse are most common among people over 75 years of age. Persons become not only physically weaker with age but also more psychologically dependent due to such aging-related changes as loss of usefulness, loss of social standing, and loss of contact with friends. Since some older persons are not only weak but also physically or mentally impaired, they are sometimes treated as children or, even worse, as less than human. It is in such situations that abuse is most likely to occur.

Abused elderly usually are living with relatives and the most frequent abusers are the offspring. A situation in which the elderly person lives with his or her child can bring out deep-seated emotional responses in the offspring who may find it difficult to accept the parent's dependency. The parent may in turn sense this stress on the offspring's part and try to demonstrate his strength and independence by taking on tasks beyond his ability. The result is often failure, tension, and frustration. Additionally, if grandchildren are in the family, the elder may attempt to parent them, causing conflicts over discipline, household procedures, and lifestyles.

In our society, for complex and diverse reasons, abuse of the elderly is most common in white families, and females tend to be abused more than males.

While abused older persons are found among all income levels, middle-class elderly experience more abuse than upper or lower-class elderly. This can be attributed to the emphasis which the middle-class puts on the work ethic and the resultant tendency of retired persons to view themselves as useless and unproductive—a view which may be subconsciously or consciously shared by other family members. Moreover, middle-class family members are more likely to separate and live long distances from each other as the children marry and move away, often to other cities.

If elderly parents eventually come to live with their children it is often a shock for the children to observe the changes that have occurred since they last visited. To observe these changes all at once and to have to cope with them daily puts stress on both parents and children. By contrast, if a parent is living with or near the child as old age approaches, as is not uncommon in lower-class families, there can be gradual adjustments made as changes occur in the parent.

The abusers

Abusers tend to be middle-aged offspring who are looking forward to freedom and relax-

ation in the form of retirement and the departure of their own children from the home. An elderly parent moving into the household represents an intrusion into their plan, and the economic drain can be extremely stressful if there are still dependent children living at home.

Abusers tend to be female, since the responsibility of caring for an elderly parent typically falls upon a daughter. Because middle-aged women are likely to be working, many find it difficult to fit caregiving into their schedules, thus adding to the personal as well as financial pressures.

Many abusers were abused as children. On the other hand, abused elderly tend to deny that they are abused because they are ashamed to admit that their own children are abusers. They also may fear that they will be compelled to move to another setting if they report abuse, or that any complaint will lead to further abuse.

Guidelines for action

Being alert to potential abuse situations, and being willing to report abuse incidents, are two good ways to help curtail abuse in Missouri. However, further preventive measures can be taken on a community basis which would go far in this regard. The following measures are both possible and essential for the well-being of many older persons and their families.

1. Education projects should be established for the families of elderly persons, particularly middle-aged offspring who either now take care of their parents or are likely to in the future. Middle-aged children must be educated on the physical and psychological changes that come about with the aging process and the best ways of dealing with them.
2. Training projects for social service personnel should be initiated to increase their effectiveness in dealing with abuse and neglect. The training should instruct them in recognizing the signs of a potential abuse situation, and train them in early intervention and in helping both the elderly and families. Such sensitivity and alertness is especially needed in cases of frail elderly persons living alone. Service personnel in a position to observe the condition of such frail elderly include visiting nurses, county health nurses, homemaker aides, physicians, clergymen, meals-on-wheels drivers, friendly visitors, outreach workers from community ag ies and county councils on aging, and so forth.
3. Networks of supportive services should be established for families and elderly who live in situations where abuse or neglect has already occurred. Such services would strive to prevent further abuse by alleviating the problems which led to the abuse.

A detailed copy of the legislation itself may be obtained by writing to the Division of Aging, P.O. Box 1337, Jefferson City, MO 65102.

Through adult education and the strengthening of community voluntary support systems, we may minimize the occasions when the law must be used. Always, but particularly in this area, an ounce of prevention is worth a pound of legal care.

"Elder Abuse in Anchorage, Alaska" October, 1981

FINDINGS OF A.C.M.H.C. - 1981 - Anchorage, Alaska

In the study conducted by A.C.M.H.C. of 75 cases documented, 34 cases (43.3%) of physical abuse were found. A breakdown of the abuse sustained follows:

lack of personal care	17.3% *
bruises and welts	13.3%
lack of food	10.7%
medicines withheld	8.0%
freezing	6.7%
malnutrition	6.7%
direct beatings	5.3%
abrasions and lacerations	2.6%
bone fractures	2.6%
sexual assault	1.3%
imprisonment	1.3%

Psychological abuse was sustained by 53 elders (70%)

fear	46.7% *
verbal assault	28.7%
threat	18.7%

Material abuse occurred in 43 cases (57.3%)

misuse of money or property	45.3% *
theft of money or property	26.7%

* categories are not mutually exclusive

There was violation of rights in 18 cases (24%)

forced social isolation	16.0% *
forced from home	6.7%
forced into nursing home	5.3%

STATISTICS ON VICTIM

Age of abused elder at the time of the abuse

60 - 70	41.3%
70 - 80	41.3%
80 - 90	13.3%
90 +	4.0%

Sex of Victim

Female	76.0%
Male	22.7%
Couple	1.3%

Race or Ethnic Group

White	69.3%
Native	18.7%
Black	9.3%
Hispanic	1.3%
Unknown	1.3%

STATISTICS ON ABUSER (continued)

Ethnic Group of Abuser

White	65.3%
Native	20.0%
Black	8.0%
Hispanic	1/3%
Unknown	5.3%

Economic Status of Abuser

Low	44.0%
Middle	22.7%
High	16.0%
Unknown	17.3%

Does the Abuser Live With the Victim?

Yes	69.0%
No	22.7%
Unknown	1.3%

OTHER INFORMATION

Is alcohol a factor in this situation?

Yes	49.3%
No	41.3%
Unknown	9.3%

Has this mistreatment happened before?

No	2.7%
Once	9.3%
2 - 3 times	8.0%
4 or more	74.7%
Unknown	5.3%

How did you know about it?

Self report	49.3%
Private M.D.	5.3%
Hospital	22.7%
Police	0
Public Social Service Agency	5.3%
Private Social Service Agency	6.7%
Public Health	2.7%
Neighbor	1.3%
Professionals Observation	6.7%

Did the victim seek help?

Yes	53.3%
No	43.7%
Unknown	4.0%

STAISTICS ON VICTIM (continued)

Economic Status of Victim

Low	54.7%
Middle	29.3%
High	12.0%
Unknown	4.0%

Degree of Physical or Mental Impairment

Physically or mentally disabled to a great degree	38.7%
Need some assistance with Activities of Daily Living (ADL's)	21.3%
Physically self-sufficient	40.0%

Resides at the same address as victim

Alone	17.3%
Family member(s)	41.3%
Husband/wife	14.7%
Girl/boyfriend	8.0%
Boarding home	4.0%
Nursing home	4.0%
Housekeeper	5.3%
Friend(s)	4.0%
Unknown	1.3%

STATISTICS ON ABUSER

Relationship to victim

Daughter	22.7%
Son	21.3%
Husband	10.7%
Grandaughter	1.3%
Grandson	1.3%
Girlfriend	4.0%
Boyfriend	1.3%
Son-in-law	1.3%
Daughter-in-law	9.3%
Hired caretaker/housekeeper	6.7%
Entire family	5.3%
Boarding home	4.0%
Friend	10.7%

Age of abuser

20's	6.7%
30's	22.7%
40's	36.0%
50's	12.0%
60's	14.7%
70's	2.7%
80's	1.3%
Unknown	4.0%

AN ANALYSIS OF LAWS CONCERNING ELDER ABUSE: LRSE SUMMARY
(Alaskan statutory provisions substituted)

The following is a summary of the above referenced publication which was prepared by Legal Research and Services for the Elderly of Boston. Alaskan statutory provisions have been substituted to assist the reader to understand what legal remedies are available in Alaska.

The problem of elder abuse requires social service and legal remedies. In LRSE's view, the response models of child and spouse abuse are limited because they "have not necessarily been effective and because the elderly raise distinct issues."

The abuse elderly person is typically in a vulnerable and dependent position. The primary caretaker is often also the abuser.

I. TWO CLIENT GROUPS

a. Those who are willing and eager to pursue on their own initiative, service provisions or a legal (criminal or civil) remedy;

b. those who cannot or do not seek assistance and who enter the system through intervention procedures

   1. some form of State intervention may be an alternative

   2. the primary consideration is the individual's capacity to make the needed decisions.

II. RESPONSES

a. "Responses must make available and provide accessible, effective social services, alternative housing, health care, emotional support, etc. The parameters of these options must be expanded beyond what is currently available."

b. "Legislation, drafted to include a means for providing social and health services to the abused, must set forth the framework for procedures which can establish surrogate authority in cases where the abused elderly person lacks the capacity to consent to services or manage his/her own life and property. Concurrent with these procedures there must be protection of the due process rights of the elderly individual."

III. CRIMINAL REMEDY

a. Filing of criminal complaint, e.g., assault; blackmail.

b. If pursued, it should be in conjunction with a civil remedy or inclusion of protective orders during the criminal proceeding.

c. Linkage with service provision is necessary.

IV. CIVIL REMEDY

a. Under AS 9.55.600, "a person subjected to domestic violence may petition a superior court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent." (Domestic violence means a crime under AS 11.41.100 - 11.41.530 committed against a spouse, former spouse, or a member of the social unit comprised of those living together in the same dwelling as the respondent.) The order may include provisions which:

1. restrain the respondent from subjecting the petitioner to domestic violence;

2. direct the respondent to vacate the home of the petitioner;

3. restrain the respondent from communicating directly or indirectly with the petitioner;

4. direct the respondent to pay medical expenses incurred by the petitioner as a result of the domestic violence.

The court must send a copy of the order to the appropriate local law enforcement agency. Peace officers shall use every reasonable means to enforce an order.

AS 9.55.610 provides for emergency injunctive relief.

b. According to LRSE the degree of protection provided under such statutes depends on enforcement provisions. "...if protective orders are violated, the abused individual must return to court for further remedy. This not only makes the process more cumbersome, but also fails to address the need for immediate and effective protection and enforcement by the police. Particularly (sic) cases of elderly abuse, reliance on this procedure would significantly increase the difficulty on the part of any infirm individual to rely on the remedy of the law."

V. ISSUES RE LEGAL REMEDIES

"Often the elderly person will not agree to go to seek a legal remedy. Even if the individual is willing and eager to go to court, removing the caretaker from the home will require the social service system be able and willing to compensate for the lost support and assistance. Furthermore, shelters, which have been established to provide alternative housing for abuse victims often cannot meet the needs of the infirm or more dependent elder."

VI. PROTECTIVE SERVICES

The "social service agency must seek and obtain the consent of the individual before making a referral, discussing a case inter-agency, or instituting a case plan" in order to ensure the individual's right to privacy. LRSE also points out that this right which is fundamental to our legal system cannot be rationalized by the notion of the "best interests" of the client.

a. Non-judicial alternatives for elderly persons who need assistance but who do not lack capacity:

1. managing finances or access to resources

a. joint bank accounts, restricted bank accounts, direct deposit

b. representative payee for Social Security

2. Power of Attorney

3. Trusts

b. Judicial Alternatives

There are three judicial alternatives in Alaska: conservatorship, guardianship and civil commitment

1. Conservatorship

A. AS 13.26.165 states that a conservator may be appointed in relation to the estate and affairs of a person if the court determines that:

i. the person is unable to manage his property and affairs effectively for reasons such as mental illness, mental deficiency, advanced age, chronic use of drugs, chronic intoxications, confinement, detention by a foreign power, or disappearance and

ii. the person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by him and that protection is necessary or desirable to obtain or provide funds

B. This may be an appropriate course of action in a case of exploitation if the elderly person lacks the capacity to manage his property.

2. Guardianship

A. Under AS 13.26 a guardian may be appointed for an "incapacitated person," i.e., "a person whose ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that he lacks the ability to provide for himself the essential requirements for his physical health or safety without court-ordered assistance."

B. AS 13.26.090 states:

Guardianship for an incapacitated person shall be used only as is necessary to promote and protect the well-being of the person, shall be designed to encourage the development of

maximum self-reliance and independence of the person, and shall be ordered only to the extent necessitated by the person's actual mental and physical limitations. An incapacitated person for whom a guardian has been appointed is not presumed to be incompetent and retains all legal and civil rights except those which have been expressly limited by court order or have been specifically granted to the guardian by the court.

C. LRSE points out that this is a "drastic remedy" and "rarely constitutes the needed and least restrictive option which is required by the large class of persons in need of protective services. Agencies often look to a guardianship as a means of getting decisions made that the elderly person refuses to make. Thus, it becomes a tool to enforce the service agencies' notions of (supposedly) the 'best interests' of the client."

3. Civil Commitment

AS 47.30.655 - 47.30.915 outlines the procedure for involuntary commitment procedures for a person alleged to be mentally ill and, as a result of that condition, alleged to be gravely disabled or to present a likelihood of serious harm to himself or others.

VII. STATE INTERVENTION AND PROTECTIVE LEGISLATION

"Elder Abuse in Massachusetts: A Survey of Professionals and Paraprofessionals" conducted by LRSE indicated "that in a majority of the reported cases of abuse the elderly client is unable or unwilling to pursue a legal remedy on his/her own behalf. The survey results indicate that in a large proportion of cases a barrier to service provisions existed. The greatest percentage reported that this barrier was the refusal of the victim to acknowledge the problem or take action about it."

"The abuse, exploitation, neglect and abandonment of persons sixty and older often affects individuals who are infirm, confused and dependent. These persons may lack the physical ability or mental capacity to seek services or to consent to assistance. In such cases, remedies which require the initiation of the client are insufficient."

The issues of how and when to intervene in elder abuse cases in such cases poses a dilemma.

"Thus, is raised the classic conflict between the right of the individual to privacy and self-determination in opposition to the power of the state to intervene where state interests of protection of vulnerable persons exist.

Basic to our legal system is the individuals' right of self-determination and right to privacy. This constitutional right is an expression of the sanctity of individual free choice and self-determination as fundamental constituents of life. The individual's civil rights are not absolute or without limit. The state can and does intervene by regulation and prohibiting certain behavior. Intervention by the state results from a balancing of the state's interests against the interests of the individual to be left alone. The

parameters of state intervention are often unclear, reflecting historical and social trends.

Theoretically, state intervention occurs pursuant to two legal concepts:

a. the police power gives the state authority to regulate activities that involve the health and safety of society;

b. parens patriae gives the state authority to act in a parental capacity for persons who cannot care for themselves or who are dangerous to themselves.

While the state's exercise of its police powers has theoretically always been limited by the strictest of procedural safeguards in order to protect the individual from deprivation of his/her constitutional rights, the exercise of the parens patriae power has traditionally been marked by an atmosphere of informality. These informal procedures have been justified by the impression that the court's determination was to be based solely on the individual's 'best interest,' thus, eliminating the need for an adversarial process. This reasoning, although still adhered to, conflicts with reality in that the exercise of parens patriae often includes serious limitations on individual rights in the form of involuntary placement or institutionalization. Although clearly an infringement of the individual's rights, this rationale continues to enable the state to act in the supposed 'best interests' of the individual, often with minimal due process safeguards."

"The issues raised by this legislation are controversial, as well as complicated. Any discussion involves complex questions of a legal, medical and psychological nature. To these questions one brings the need for the intricate and delicate balance between the principle that society has the duty to protect those unable to protect or provide for themselves, and the constitutionally assured right of personal choice and individual freedoms.

The critical provisions of an abuse reporting and protective services law are those which determine and define how this conflict, between individual rights and state intervention, is resolved. These provisions primarily center around the definition of persons covered by the law, the standards for reporting and investigation as they affect rights of privacy and confidentiality, the right of access into private homes to investigate and to provide services, and due process safeguards in the determination and provision of involuntary services. In addition, there is the critical issue whether such laws are linked with service provision systems capable of meeting the needs of persons under the purview of the law. Further, the payment procedures for these services causes administration and legal difficulties.

Persons Covered

The premise of the protective services legislation is that persons exist in society who are unable to care for and/or protect themselves. Society, in the form of the State, as parens patriae, assumes the responsibility of this care and protection. The criteria for State intervention should clearly be one linked to the existence of abuse, neglect, exploitation and/or abandonment and a functional, mental or physical, inability to care for or protect oneself. The scope of the law and the determination of need on the part of persons covered should be defined according to this premise to

assure that vulnerable persons who are abuse victims are protected and reached by services."

VIII. LRSE STATUTORY RECOMMENDATIONS

The following are the LRSE recommendations for a protective services and abuse reporting statute:

1. The law should apply to persons sixty and over who are abused, neglected, exploited or abandoned, and to persons 18 and older who lack the physical or mental capacity to care for their basic needs and/or protect themselves.

2. Abuse includes, but is not limited to, the willful infliction of physical pain, injury or mental anguish, or the willful deprivation by a caretaker of services which are necessary to maintain physical or mental health.

   Neglect refers to an elderly or incapacitated person who is either living alone and not able to provide for him/herself the services which are necessary to maintain physical and mental health, or is not receiving the said necessary services from the responsible caretaker.

   Exploitation refers to the act or process of taking advantage of an elderly or incapacitated person by another person or caretaker whether for monetary, personal, or other benefit, profit or gain.

   Abandonment refers to the desertion or willful foresaking of an elderly or incapacitated person by a caretaker and obligations owed an elderly or incapacitated person by a caretaker or other person.

   All other terms used should be clearly defined in the statute.

3. One State agency shall be responsible for developing an adult protective services program for all citizens. This designated agency or department shall provide services to persons covered by this statute.

4. A report should be required to be made by certain categories of persons, including physician, nurses, social workers, coroners, medical examiners, dentists, hospital staff, nursing home staff, home health agency and staff, home care corporation (staff and homemakers), clergy, adult foster care facility, police officers, pharmacists, etc.

   Anyone of the above categories who has reasonable cause to believe or suspect that an elderly or incapacitated person has been abused, neglected, exploited or abandoned, or is in a condition which is the result of such treatment shall make a report to the appropriate agency withing 24 hours.

5. Anyone else who has 'reasonable cause to believe or suspect' may report this information to the appropriate agency.

6. The identity of the reporting person should be confidential and be disclosed only with the consent of that person or by judicial process.

A person acting in good faith who makes a report should be immune from civil and criminal liability.

7. A person required to report, but who fails to do so, should be liable for a fine of $500 to $1,000.

8. One State agency should be responsible for receiving and investigating all reports. Each report received should be registered by the agency with all available information from the reporter.

   The agency chosen to receive and investigate reports should have a system and personnel to:

   A. receive reports 7 days a week, 24 hours a day;

   B. keep records;

   C. have knowledge of services available;

   D. have access to services;

   E. have a statewide mandate;

   F. have the ability and staff (trained) to respond quickly.

   A centralized intake system should be geared into a regional response system if possible.

   The investigating agency should also either provide services or coordinate service provision by subcontracting and referral. This should be determined according to existing State service systems.

9. The initial investigation should be conducted by persons trained in human services.

10. Upon receiving a report made in accord with the law, the agency should commence an investigation. This investigation should include a home visit and consultation with service agencies, and persons with knowledge of the case, (including the reporter for further information if possible and necessary). The initial investigation for verification and assessment should be completed within 72 hours. The investigator should have access to a multi-disciplinary geriatric team for consultation.

    A. If the report is not verified, the case is closed.

    B. If the report is verified, an assessment of the individual's functional capacity, the situation and the resources available to the person should be made by a multi-disciplinary team with expertise in the particular field of disability.

11. In conducting the investigation, the agency may seek the assistance of law enforcement officials and the courts. If access is denied to the investigator, either by the elderly or incapacitated person or a caretaker, the agency may petition for a court order to enjoin intervention with access to investigate. Such an order shall be issued upon specific facts shown that: 1) there is a reasonable cause

to suspect that the person in question is or has been abused, neglected, exploited or abandoned; and 2) access has been denied to the representatives of the agency required to investigate such reports.

12. Regulations should be promulgated which assure continuity of case management for investigation, assessment, case plan development and service provision.

13. Voluntary services shall be provided for the least restrictive alternative, client self-determination, and continuity of care.

    A fair hearing procedure should be developed and implemented so that any service plan can be appealed on denial of application for specific services or for failure to provide the least restrictive alternative.

14. The department/agency should establish by regulation a sliding fee scale to be used in determining fees for services provided on a voluntary basis.

    The department should maximize all available Federal reimbursements for such services. There should be no charge to the individual in question for the cost of the investigation, assessment, etc. These costs are to be borne by the State.

15. If an adult refuses services or withdraws consent, the agency must terminate intervention proceedings. This is consistent with the right of the adult to refuse treatment. The case is closed unless the department seeks to provide services pursuant to involuntary provision procedures.

16. Standards of non-emergency involuntary intervention and services provision must include the following:

    A. Assessment of need and eligibility

       adult refuses services
       lacks capacity to consent
       no one else can/willing to consent (See #22)

    B. Clear and convincing evidence

    C. Least restrictive alternative; non-institutional placement where possible

    D. a geriatric/clinical assessment by social worker, physician, mental health practitioner, lawyer to assure appropriate case plan and placement should be required to any court order.

    E. Placement shall not be made in a mental institution, nor will any proceeding be a determination of incompetency.

17. Any voluntary service provision or placement shall only be authorized pursuant to a court order after a hearing on the merits.

    The adult in question shall be assured the right to counsel; if she/he is indigent, the court shall appoint counsel. The adult shall also

have the right to be present and to cross-examine the parties involved. If counsel is waived, the court shall appoint a guardian ad litem to act in the interest of the adult in question.

18. Adequate notice should be assured. At least 14 days prior to the hearing, the court should order served upon the person and any interested party, a copy of the petition and notice including an explanation of the proceedings, the date, time and location; the proposed service plan; and the rights of the adult in question at said hearing to counsel, to be present, etc.

19. The court order for any protective placement must be specific as to such placement, including reasons for finding it necessary and that it is the least restrictive alternative. This should be stated in the court record.

20. The initial care plan submitted to the court should specify details of services, medical treatment, and relocation. The court order issued should be specific as to services, treatment, placement approved.

    Any modification can only be made pursuant to court order.

21. The court should limit the order to six months or less; upon court review, it can be extended for another period of time (up to six months).

22. The determination of 'lacks the capacity to consent' should be made according to the following:

    > the adult bases decisions on delusions or hallucinations, is unable to make or implement decisions, or is unable to comprehend a decision's effect. The decision itself for refusing services cannot be the sole evidence for finding the person lacks capacity to consent.

23. Involuntary services should be borne by the State unless a court, after a determination of financial ability, orders the client to pay or the client agrees to pay.

24. Standards of emergency involuntary intervention and service provision must include the following:

    Emergency means that an elderly or incapacitated person is living in conditions which present a substantial risk of death or immediate and serious physical harm to him/herself or others:
    a finding based on clear an convincing evidence that the adult in question is incapacitated and in need of services,
    an emergency exists,
    the individual lacks the capacity to consent, no one else can/is willing to consent,
    the proposed order is substantially supported by the findings.

25. In issuing an emergency order, the court shall adhere to the following limitations:

A. The court should specifically order those services necessary to remove the conditions creating the emergency.

B. Hospitalization or change of residence shall not be included unless specifically ordered by the court upon a finding that such action is necessary.

C. Emergency intervention should be limited to a period of 72 hours, renewable for 72 hours upon a showing to court of necessity to remove emergency conditions.

D. Court should appoint a temporary guardian with responsibility for the person's welfare and authority to give consent for emergency services (as ordered by the court) for the duration of the order.

E. Court should provide that the elderly person is assured all rights except those limitations provided for in the order.

F. Access to the premises will be ordered by the court to carry out the order in cases where voluntary access has been denied.

26. Notice shall be provided (including relevant and factual information of the basis of the petition) to the person, his/her spouse, children, next of kin, or guardian at least 24 hours prior to the hearing.

This notice may be waived upon a showing that: 1) immediate and reasonable forseeable physical harm will result from the delay; and 2) reasonable attempts have been made to give notice to the above parties.

27. Emergency placement: If it appears probable from the personal observation of a police officer that an elderly person will suffer immediate and irreparable physical injury or death if medical care is not provided, and that person is incapable of giving consent, and that it is not possible to follow the hearing procedures, that office should be able to transport the person to an appropriate medical facility for medical treatment.

Notice of this action shall be given to persons listed in #26 within four hours. A petition for emergency medical intervention should be required to be filed within 24 hours of this action and a hearing should be held with all due process guarantees with 48 hours of the transfer.

28. In all cases, the drafting and adoption of adult protective service provisions should be linked with the developing of extensive service systems which emphasize alternatives to institutional care."

Alaska Statutes

Title 47. Welfare, Social Services and Institutions.

Chapter

05. Administration of Welfare, Social Services and Institutions (§§ 47.05.010 — 47.05.060)
07. Medical Assistance for Needy Persons (§§ 47.07.010 — 47.07.080)
08. Catastrophic Illness Assistance (§§ 47.08.010 — 47.08.140)
10. Delinquent Minors and Children in Need of Aid (§§ 47.10.010 — 47.10.290)
15. Uniform Interstate Compact on Juveniles (§§ 47.15.010 — 47.15.080)
17. Child Protection (§§ 47.17.010 — 47.17.070)
20. Exceptional Children (§§ 47.20.005 — 47.20.050)
21. Adventure-Based Education (§§ 47.21.010 — 47.21.020)
23. Child Support Enforcement Agency (§§ 47.23.010 — 47.23.280)
25. Destitute and Needy Persons (§§ 47.25.010 — 47.25.990)
30. Mentally Ill and Insane Persons (§§ 47.30.010 — 47.30.620)
35. Private Institutions (§§ 47.35.010 — 47.35.100)
37. Uniform Alcoholism and Intoxication Treatment Act (§§ 47.37.010 — 47.37.270)
40. Purchase of Services (§§ 47.40.010 — 47.40.080)
45. Alaska Longevity Bonus (§§ 47.45.010 — 47.45.170)
50. Office of Child Advocacy (§§ 47.50.010 — 47.50.050)
60. Multi-Purpose Senior Centers (§§ 47.60.010 — 47.60.090)
70. Interstate Compact on the Placement of Children (§§ 47.70.010 — 47.70.080)
75. Social Services Planning (§§ 47.75.010 — 47.75.060)
80. Persons with Handicaps (§§ 47.80.010 — 47.80.900)

Chapter 05. Administration of Welfare, Social Services and Institutions.

Section

10. Duties of department
20. Confidential character of public assistance records
30. Misuse of public assistance lists and records
40. Consent to conditions of federal programs
50. Policy
60. Purpose and policy relating to children

Sec. 47.05.010. Duties of department. The Department of Health and Social Services shall

(11) "mental health professional" means a psychiatrist or physician who is licensed to practice in this state or employed by the federal government; a clinical psychologist licensed by the state Board of Psychologists and Psychological Associate Examiners; a psychological associate with a clinical psychology or counseling specialty licensed by the Board of Psychologists and Psychological Associate Examiners; a registered nurse with a master's degree in psychiatric nursing, licensed by the State Board of Nursing; and a social worker with a master's degree in social work and experience in the field of mental illness;

(12) "mental illness" means an organic, mental, or emotional impairment that has substantial adverse effects on an individual's ability to exercise conscious control of his actions or ability to perceive reality or to reason or understand; mental retardation, epilepsy, drug addiction, and alcoholism do not per se constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness;

(13) "peace officer" includes a state police officer, municipal or other local police officer, state, municipal, or other local health officer, public health nurse, United States marshal or deputy United States marshal, or a person authorized by the court;

(14) "provider of outpatient care" means a mental health professional or hospital, clinic, institution, center, or other health care facility designated by the department to accept for treatment patients who are ordered to undergo involuntary outpatient treatment by the court or who are released early from inpatient commitments on condition that they undergo outpatient treatment;

(15) "screening investigation" means the investigation and review of facts which have been alleged to warrant emergency examination or treatment, including interviews with the persons making the allegations, any other significant witnesses who can readily be contacted for interviews, and if, possible, the respondent, and an investigation and evaluation of the reliability and credibility of persons providing information or making allegations;

(16) "state" means a state of the United States, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico, and, with the approval of the United States Congress, Canada;

(17) "professional person in charge" means the senior mental health professional at a facility or his designee; in the absence of a mental health professional it means the chief of staff or a physician designated by the chief of staff. (§ 1 ch 84 SLA 1981)

(51) "sexual contact" means

(A) the intentional touching, directly or through clothing, by the defendant of the victim's genitals, anus, or female breast; or

(B) the defendant's intentionally causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;

(52) "sexual penetration" means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body; each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;

(53) "solicits" includes "commands";

(54) "threat" means a menace, however communicated, to engage in conduct described in (1) — (7) of AS 11.41.520(a) but under (1) of that subsection includes all threats to inflict physical injury on anyone;

(55) "violation" is a noncriminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; a person charged with a violation is not entitled

(A) to a trial by jury; or

(B) to have a public defender or other counsel appointed at public expense to represent him;

(56) "voluntary act" means a bodily movement performed consciously as a result of effort and determination, and includes the possession of property if the defendant was aware of his physical possession or control for a sufficient period to have been able to terminate it. (§ 10 ch 166 SLA 1978; am §§ 29 — 32 ch 102 SLA 1980; am §§ 12 — 14 ch 45 SLA 1982; am §§ 12 — 15 ch 143 SLA 1982)

Effect of amendments. — The 1980 amendment, in subsection (b), inserted "any deadly weapon or" preceding "anything which" near the beginning of paragraph (11), and deleted "'dangerous instrument' includes 'deadly weapon'" at the end of paragraph (11); inserted "or pointing" preceding "a firearm" near the middle of paragraph (12), and added "and intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument" at the end of paragraph (12); rewrote paragraph (21); and substituted "body member or" for "bodily" preceding "organ" near the end of paragraph (49).

The first 1982 amendment, effective January 1, 1983, in subsection (b), substituted "AS 11.71.900(10), (11), and (14)" for "AS 17.12.150" in paragraph (4) and rewrote paragraphs (6) and (16).

The second 1982 amendment, in subsection (a), added the language beginning "when intentionally causing a particular result" to the end of paragraph (1), and in subsection (b), inserted "government" in paragraph (37), inserted "including data or information stored in a computer program, system, or network," "a domestic pet or livestock regardless of value," and "a" preceding "public utility" in paragraph (44), added the subparagraph (A) and (B) designations in paragraph (49), substituted "caused by an act performed under circumstances that create" for "which creates" in subparagraph (49)(A), and substituted "physical injury that" for "which" and "that unlawfully terminates" for "physical injury which unlawfully terminates" and deleted "or" preceding "protracted loss" in subparagraph (49)(B).

Editor's notes. — For declaration for legislative purpose, see § 1, ch. 45, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

(Title effective January 1, 1973)

Sec. 13.21.065. Service on foreign personal representative. (a) Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to his last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first-class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or his decedent immediately before death.

(b) If service is made upon a foreign personal representative as provided in (a) of this section, he shall be allowed at least 30 days within which to appear or respond. (§ 1 ch 78 SLA 1972)

Article 4. Judgments and Personal Representative.

Section
75. Effect of adjudication for or against personal representative

Sec. 13.21.075. Effect of adjudication for or against personal representative. An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if he were a party to the adjudication. (§ 1 ch 78 SLA 1972)

Chapter 26. Protection of Persons Under Disability and Their Property.

Article
1. General Provisions (§§ 13.26.005—13.26.020)
2. Guardians of Minors (§§ 13.26.030—13.26.085)
3. Guardians of Incapacitated Persons (§§ 13.26.095—13.26.155)
4. Protection of Property of Persons Under Disability and Minors (§§ 13.26.165—13.26.315)
5. Powers of Attorney (§§ 13.26.325—13.26.330)

Article 1. General Provisions.

Section
05. Definitions and use of terms
10. Jurisdiction of subject matter; consolidation of proceedings
15. Facility of payment or delivery
20. Delegation of powers by parent or guardian

Sec. 13.26.005. Definitions and use of terms. Unless otherwise apparent from the context, in this code:

(1) "incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient

utory period depends on the character of the property. One test is whether the adverse possessor has used and enjoyed the land as "an average owner of similar property would use and enjoy it." Alaska Nat'l Bank v. Linck, Sup. Ct. Op. No. 1372 (File No. 2754), 559 P.2d 1049 (1977).

Applied in Classen v. State, Dep't of Hwys., Sup. Ct. Op. No. 2246 (File No. 4332), 621 P.2d 15 (1980).

Sec. 09.25.060. Sale or transfer of personal property.

NOTES TO DECISIONS

This section establishes, etc.

In accord with original. See Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

And this presumption is rebuttable.

In accord with original. See Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

The presumption serves, etc.

In accord with 1st paragraph in original. See Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

In accord with 2nd paragraph in original. See Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Once the presumption is established the opposing party has the burden of proving that the non-existence of the presumed fact is more probable than its existence. Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

The only effect resulting from a presumption of fraud being a statutory presumption is that the party asserting fraud does not have to introduce evidence of fraudulent intent. He still must plead and prove the conditions necessary to invoke the presumption. Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Presumption of prima facie fraud construed as affirmative defense. — The presumption of prima facie fraud established by this section should be construed as an affirmative defense in the same manner as actual fraud. Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

A statutory presumption of fraud, similar to fraud, falls within the definition of an adverse defense since a simple denial of the complaint would not raise such a defense. Rollins v. Leibold, Sup Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Which must be specially pleaded. — A statutory presumption of fraud thus should be considered an affirmative defense, subjecting the party to the requirement of Civ. R. 8(c) that such a defense be specially pleaded. Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Or be waived. — Civil R. 8(c) requires a party to plead affirmatively fraud as a defense, and failure to so plead results in a waiver of the defense. Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Party not prejudiced by raising issue of fraud at trial. — Where a party was on notice that the defense that the sale was ineffective due to the lack of delivery and change of possession of the property would be raised at trial, since these are the factual bases for the statutory presumption of fraud, it does not appear that he was prejudiced by the raising of the issue and the resulting instruction of the court, even though the defense was not affirmatively pleaded. Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Review where issue of fraud not raised in pleadings. — Even if the issue of fraud has not been raised in the pleadings of the parties, a party is still entitled to review of the issue on appeal if the issue was tried by the express or implied consent of the parties, under Civ. R. 15(b). Rollins v. Leibold, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Quoted in First Nat'l Bank v. Enzler, Sup. Ct. Op. No. 1170 (File No. 2181), 537 P.2d 517 (1975).

Sec. 09.25.110. Inspection and copies of public records.

NOTES TO DECISIONS

For discussion of the history of this section, see City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Broad policy. — This section and AS 09.25.120 articulate a broad policy of open records. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The "agencies and departments" language used in this section must be read as referring to the agencies and departments of the governments to which the statute applies, but that language itself does not define what the applicable level of government is. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The word "public" as used in this section and AS 09.25.120 with "officer" refers both to state and local officials. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Application to municipalities. — The provisions of this section are applicable to municipalities. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

In light of the common law rule, legislative history, and the court's reading of the sections, the state supreme court will construe this section and AS 09.25.120 as that court would have construed them prior to 1957, which is as a strong legislative declaration that records in the possession of municipalities shall be available for public inspection, subject to exceptions based on need. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Disclosure of applications for public posts. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular, requires public disclosure and inspection of applications for posts having substantial discretionary authority. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Sec. 09.25.120. Inspection and copying of public records.

NOTES TO DECISIONS

For discussion of the history of this section, see City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Broad policy. — AS 09.25.110 and this section articulate a broad policy of open records. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Effect of "in the state" language. — When the legislature chose to say "in the state," and not "of the state" in the first sentence of this section, they were conscious of the fact that they were defining scope and had it been intended to limit the application of this section to state agencies and departments, it could easily and clearly have done so. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The word "public" as used in AS 09.25.110 and this section with "officer" refers both to state and local officials. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Application to municipalities. — The provisions of AS 09.25.110 and this section are applicable to municipalities. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

In light of the common law rule, legislative history, and the court's reading of the sections, the state supreme court will construe AS 09.25.110 and this section as that court would have construed them prior to 1957, which is as a strong legislative declaration that records in the possession of municipalities shall be available for public inspection, subject to exceptions based on need. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op.

No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Disclosure of applications for public posts. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular requires public disclosure and inspection of applications for posts having substantial discretionary authority. City of Kenai v. Kenai Peninsula Newspapers, Inc., Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Sec. 09.25.121. Copies of public records for veterans. When a copy of a public record is required by the division of veterans' affairs, Department of Commerce and Economic Development or by the United States Veterans' Administration to be used in determining the eligibility of a person to participate in benefits, the official custodian of the public record shall, without charge, provide the applicant for the benefits, a person acting on his behalf, or an authorized representative of the division of veterans' affairs or the United States Veterans' Administration with a certified copy of the record. (AS 09.25.123; § 1 ch 35 SLA 1981)

Cross references. — As to records of veterans of the armed forces, see AS 26.10.070.

Editor's notes. — This section was enacted as AS 09.25.123 but was renumbered by the revisor of statutes pursuant to AS 01.05.031.

Sec. 09.25.125. Enforcement: Injunctive relief. A person having custody or control of a public record who obstructs or attempts to obstruct, or a person not having custody or control who aids or abets another person in obstructing or attempting to obstruct, the inspection of a public record subject to inspection under AS 09.25.110 or 09.25.120 may be enjoined by the superior court from obstructing, or attempting to obstruct, the inspection of public records subject to inspection under AS 09.25.110 or 09.25.120. (§ 1 ch 74 SLA 1975)

Sec. 09.25.160. Challenge of privilege.

NOTES TO DECISIONS

Cited in Allred v. State, Sup. Ct. Op. No. 1304 (File No. 2343), 554 P.2d 411 (1976).

Sec. 09.25.220. Definitions. In AS 09.25.150 — 09.25.220, unless the context otherwise requires,

(1) "privilege" means the conditional privilege granted to public officials and reporters to refuse to testify as to a source of information;

(2) "public official" means a person elected to a public office created by the Constitution or laws of this state, whether executive, legislative or judicial, and who was holding that office at the time of the communication for which privilege is claimed;

18.50.380; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees. (§ 3.23 ch 101 SLA 1962)

Cross references.—See Civ. R. 44(b)(4). As to management and preservation of public records, see AS 40.21.

Sec. 09.25.130. Effect of private seals and scrolls. Private seals and scrolls as a substitute for seals are abolished. They are not required to an instrument, but when used their effect remains unchanged. (§ 3.10 ch 101 SLA 1962)

Sec. 09.25.150. Claiming of privilege by public official or reporter. Except as provided in §§ 150—220 of this chapter, no public official or reporter may be compelled to disclose the source of information procured or obtained by him while acting in the course of his duties as a public official or reporter. (§ 1 ch 115 SLA 1967)

Editor's note.—Section 2, ch. 115, SLA 1967, provides: "This bill changes Rule 43(h) of the Supreme Court Rules [of Civil Procedure] by adding to the privileges there listed, the conditional privilege for public officers and reporters as to sources of information."

Sec. 09.25.160. Challenge of privilege. (a) When a public official or reporter claims the privilege in a cause being heard before the supreme court or a superior court of this state, a person who has the right to question him in that proceeding, or the court on its own motion, may challenge the claim of privilege. The court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made instanter by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may

by other departments of the executive branch when the commissioner determines that the needs of the other departments will be best served by the authorization. Nothing in this section precludes the department from obtaining necessary contractual assistance for automatic data processing activities. Nothing in this section precludes the legislature or judicial system from recruiting and employing data processing personnel or from obtaining necessary contractual assistance for automatic data processing activities.

(f) The division of data processing shall coordinate with the divisions of telecommunications in providing for the effective transfer of information by telecommunications through the establishment of compatible systems and common standards. (§ 2 ch 170 SLA 1972; am Executive Order No. 50, § 8 (1981))

Effect of amendments. — The 1981 amendment added subsection (f).

Article 4. Older Alaskans Commission.

Section	Section
200. Older Alaskans Commission	230. Powers, duties, and limitations
210. Meetings	240. Definitions
220. Compensation	

Sec. 44.21.200. Older Alaskans Commission. (a) The Older Alaskans Commission is established in the Department of Administration. The members of the commission include

(1) the commissioner of the Department of Administration or the commissioner's designee;

(2) the commissioner of the Department of Community and Regional Affairs or the commissioner's designee;

(3) the commissioner of the Department of Health and Social Services or the commissioner's designee;

(4) the chairman of the Pioneers' Homes Advisory Board appointed under AS 44.21.100 — 44.21.130; and

(5) seven Alaskans selected on the basis of their knowledge and demonstrated interest in the concerns of older Alaskans, appointed by the governor in accordance with (b) of this section.

(b) After requesting from senior citizens organizations the names of persons who are qualified for and interested in serving on the commission, the governor shall appoint the members of the commission under (a)(5) of this section. Appointments shall be made by the governor to assure representation of low-income persons and minorities, and representation from rural and urban areas of the state, and to secure statewide geographical representation on the commission. At least six of the persons appointed by the governor shall be 60 years of age or

older. At least two of these persons shall be 65 years of age or older. Each member appointed by the governor shall be a resident of the state.

(c) The persons appointed under (a)(5) of this section serve overlapping four-year terms, and serve at the pleasure of the governor. A member may be reappointed, but no member appointed under (a)(5) of this section may serve more than two consecutive terms or eight consecutive years, whichever is longer.

(d) If a person appointed under (a)(5) of this section fails to attend three consecutive meetings of the commission, a majority of the members of the commission may request the governor to terminate the membership of the member and to fill the vacancy.

(e) A vacancy in the membership of persons appointed under (a)(5) of this section shall be filled by appointment by the governor. The person appointed shall serve for the unexpired portion of the term. (§ 2 ch 79 SLA 1981)

Editor's notes. — Section 13, ch. 79, SLA 1981, provides: "INITIAL MEMBERSHIP AND MEETING OF COMMISSION (a) Of the seven public members first appointed by the governor to the Older Alaskans Commission under AS 44.21.200(a)(5),

(1) three shall serve a term of two years;

(2) two shall serve a term of three years;

(3) two shall serve a term of four years.

(b) In making appointments of the first public members of the Older Alaskans Commission under AS 44.21.200(a)(5), the governor shall designate an expiration date of the terms of members first appointed in accordance with (a) of this section.

(c) The governor shall determine the date and place of the first meeting of the Older Alaskans Commission; however, that meeting shall be held not later than 60 days after the effective date of this Act.

Sec. 44.21.210. Meetings. (a) The commission shall meet at the call of the chairperson, at the request of a majority of the members, or at a regularly scheduled time as determined by a majority of the members. The commission shall meet at least six times each year.

(b) The members of the commission listed in AS 44.21.200(a)(1) — (4) may not vote on matters before the commission. A majority of the members of the commission listed in AS 44.21.200(a)(5) constitutes a quorum for conducting business and exercising the powers of the commission.

(c) The commission shall elect one of its members as chairperson, and may select other officers it considers necessary. (§ 2 ch 79 SLA 1981)

Sec. 44.21.220. Compensation. Members of the commission receive no compensation for their services, but are entitled to per diem and travel allowances authorized by law for other boards and commissions under AS 39.20.180. (§ 2 ch 79 SLA 1981)

Sec. 44.21.230. Powers, duties, and limitations. (a) The commission shall

Sec. 18.65.270. Applicability of Administrative Procedure Act. AS 18.65.150 — 18.65.290 shall be administered in compliance with the Administrative Procedure Act (AS 44.62). (§ 1 ch 178 SLA 1972)

Sec. 18.65.280. Exemptions. (a) The commissioner and deputy commissioner of public safety and the chief administrative officers of local police departments are exempt from the requirements of AS 18.65.240. However, a person appointed chief of a local police department after July 1, 1981, who performs any operational duties, shall meet the requirements of AS 18.65.240(a)(1).

(b) A political subdivision with an established police training program meeting the requirements of AS 18.65.220(2) and (3) may exclude itself from the requirements of AS 18.65.240 by ordinance. The exclusion has no effect on eligiblity to receive federal or state grants. (§ 1 ch 178 SLA 1972; am § 9 ch 19 SLA 1981)

Revisor's notes. — The words "a political subdivision" were substituted for "any local government" in subsection (b) by the revisor of statutes pursuant to AS 01.05.031.

Effect of amendments. — The 1981 amendment rewrote this section.

Sec. 18.65.290. Definitions. In AS 18.65.130 — 18.65.290

(1) "council" means the Alaska Police Standards Council;

(2) "police officer" means a full-time employee of the state or a local police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations of and enforce criminal laws, regulations and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; carry a concealed weapon; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace;

(3) "chief administrative officer" means a chief of police or other official who is head of a police department in a political subdivision. (§ 1 ch 178 SLA 1972; am §§ 10, 11 ch 19 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote paragraph (2) and added paragraph (3).

Opinions of attorney general. — To be a police officer within the meaning of this statute, an officer must be currently working full time for a police department, that is an organized civil force whose basic purpose and function is to maintain peace and order and to prevent and investigate criminal offenses. September 18, 1977, Op. Att'y Gen.

As applied to the coverage of AS 18.65.130 — 18.65.290, the term "police officer" is more restrictively defined than the definition in AS 01.10.060(6) to include all those full-time employees of police departments administered by the state or one of its political subdivisions, who have full police duties and the authority to enforce all of the laws of the State of Alaska which carry a penalty for their violation. September 18, 1977, Op. Att'y Gen.

Comparing the classification of "peace officer" in AS 01.10.060(6) with that of "police officer," it is apparent that police officers, as defined in paragraph (2), are always peace officers since they have full police duties that are exercised on a full-time basis. However, the converse of

has statute info already

HB 197

83

ammendment

background for ammendment

15th

"protection of the elderly"

Kathy Nieto

344-0056 ux ch.

pamphlets explaining purpose of

CHAPTER = 47.17
SECTION = 47.17.070
TITLE = 47

HEADINGS TITLE 47.
WELFARE, SOCIAL SERVICES AND INSTITUTIONS.
CHAPTER 17.
CHILD PROTECTION.

CITATION SEC. 47.17.070.

CATCH LINE
DEFINITIONS.

TEXT IN AS 47.17.010 - 47.17.070

(1) "CHILD ABUSE OR NEGLECT" MEANS THE PHYSICAL INJURY OR NEGLECT, SEXUAL ABUSE, SEXUAL EXPLOITATION, OR MALTREATMENT OF A CHILD UNDER THE AGE OF 18 BY A PERSON WHO IS RESPONSIBLE FOR THE CHILD'S WELFARE UNDER CIRCUMSTANCES WHICH INDICATE THAT THE CHILD'S HEALTH OR WELFARE IS HARMED OR THREATENED THEREBY;

(2) "CHILD" MEANS A PERSON UNDER 18 YEARS OF AGE;

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES;

(4) "INSTITUTION" MEANS A PRIVATE OR PUBLIC HOSPITAL OR OTHER FACILITY PROVIDING MEDICAL DIAGNOSIS, TREATMENT, OR CARE;

(5) "NEGLECT" MEANS THE FAILURE TO PROVIDE NECESSARY FOOD, CARE, CLOTHING, SHELTER, OR MEDICAL ATTENTION FOR A CHILD;

(6) "PRACTITIONER OF THE HEALING ARTS" INCLUDES CHIROPRACTORS, DENTISTS, HEALTH AIDES, NURSES, OPTOMETRISTS, OSTEOPATHS, PHYSICAL THERAPISTS, PHYSICIANS, PSYCHIATRISTS, PSYCHOLOGISTS, RELIGIOUS HEALING PRACTITIONERS, AND SURGEONS;

(7) "SEXUAL EXPLOITATION" MEANS

(A) PERMISSION OR ENCOURAGEMENT TO A CHILD FOR PROSTITUTION PROHIBITED BY AS 11.66.100 - 11.66.150 BY A PERSON RESPONSIBLE FOR THE CHILD'S WELFARE;

(B) PERMISSION, ENCOURAGEMENT, OR ACTIVITY INVOLVED IN THE UNLAWFUL EXPLOITATION OF A MINOR PROHIBITED BY AS 11.41.455 BY A PERSON RESPONSIBLE FOR THE MINOR'S WELFARE.

HISTORY (SEC. 1 CH 100 SLA 1971; AM SEC. 6 CH 104 SLA 1971; AM SEC. 3 CH 222 SLA 1976; AM SECS. 56, 57 CH 94 SLA 1980; AM SECS. 8, 9 CH

STAFF REPORT

HB 192, PROTECTION OF THE ELDERLY

MARCH 10,1983

Purpose: To protect the elderly from abuse by requiring those working with elderly to report to the Department of Health and Social Services, evidence of abuse when it is observed.

The bill specifies numerous health professionals, and others, who are required to report evidence of abuse. "Abuse" means the infliction of physical pain, injury, or mental anguish, or the deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person.

The Department of Health and Social Services suggests a change to add the word "willful" before the word "deprivation". The drafter of the bill suggests that since the bill is directed at the reporting of abuse, not the prosecution of those inflicting the abuse, the determination of intent should not be left up to the reporter. Thus, the addition is not necessary.

Failure by those obligated by the bill to report abuse is classed as a "violation" (AS 11.81.900). A violation is a non-criminal offense punishable by fine, but not imprisonment of other penalty. No jury trial or public defender is authorized. In the event that immediate harm seems imminent, the report of abuse must be made to a police officer who must act to protect the subject.

A person making a report of abuse in good faith is immune from civil or criminal liability.

The DHSS must investigate and report on each case of abuse brought to it. The DHSS must provide protective services as are available to the elderly. The Department is authorized to implement regulations to carry out the act. The regulations must be approved by the Older Alaskans Commission.

(F) 1155

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 192 Date on Bill: 2-11-83
Title: An Act relating to protection of the elderly
Sponsor: Clocksin
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 2-16-83

Approved by Commissioner: [signature] Date: 2/25/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 192 Date on Bill: 3/3/83
Title: "An Act relating to protection of the elderly"
Sponsor: Rep. Clocksin
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-			

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Jon B. Wolfe, Executive Director Phone: 465-3250
Division: Older Alaskans Commission Date: 3/3/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
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2/8/83

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Administration	Rep. Clocksin	HB 192

Department Position

The Older Alaskans Commission supports the enactment of elderly protection legislation and the mandatory reporting of physical abuse of elderly persons.

Division Director	Date	Commissioner	Date
Jon B. Wolfe	3/3/83		

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
SB 122 Sens. Josephson & Fischer	Division of Family and Youth Services, DHSS
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**
1. Anchorage Elder Abuse Task Force 2. Office of Senior Citizen Ombudsman 3. Alaska White House Conference Delegates	Unknown

3. Program Effects of Bill

The responsibilities assigned to the Commission under this legislation are consistent with current responsibilities and functions and will not require additional staff or expenditures. Under AS 44.21.230 the Commission is authorized to make recommendations with respect to regulations for services that benefit older Alaskans and to receive reports from state agencies concerned with the conditions and needs of older Alaskans.

4. Fiscal Impact: ☒ None ☐ Fiscal Note Attached

5. Amendments Proposed:

Commission staff recommends that "willful" be inserted before "deprivation" under Definitions, Sec. 47.24.100, (2) line 23.

6. Comments:

This legislation is consistent with AS 44.21 and the legislative mandates of the Older Alaskans Commission which seek to ensure health and dignity for the State's elderly. Historically elder abuse is a hidden social problem but one that is encountered by Commission funded senior programs statewide. These programs and the Commission will welcome specific procedures and services for handling these critical problems.

	CODE	EXPENDITURE CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	600	TOTAL LAND, BUILDING, NON-STRUCTURAL IMPROVEMENTS						
2.	600	Land, Building, Etc. (Excluding ASHA Pay)						
3.	628	ASHA Payment						
4.	960	INTER-AGENCY TRANSFERS (NON-ADD)						
5.	700	TOTAL ASSISTANCE GRANTS AND BENEFITS				10.0	10.0	
6.	720	Local Assistance, State Sources						
7.	730	Benefits To Individuals				10.0	10.0	
8.	740	Grants and Awards To Individuals						
9.	750	Grants, Other Agencies						
10.	760	Health Benefits						
11.	970	INTER-AGENCY TRANSFERS (NON-ADD)						
12.	800	TOTAL MISCELLANEOUS						
13.	810	Debt Service						

CODE	EXPLANATION	CONT. $	ADDITION $
730	Special Needs Special needs required for adult clients such as fuel supply and transportation to necessary services. 10,000	10.0	

18 LANDS, GRANTS, AND MISCELLANEOUS

AGENCY Health and Social Services

PROGRAM Social and Economic Assistance for the General Population

BRU Program Services

COMPONENT Adult Services

Page 1 of 1

Revised Date

FY 84

01-1156 (7/82) - 18

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 192 Date on Bill: February 11, 1983
Title: "An Act relating to protection of the elderly."
Sponsor: Clocksin
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				17.5	19.3	21.2		
Total				17.5	19.3	21.2		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

The funding source was not identified by the authors of the Bill.

3. Assumptions:

Passage of this Bill in its present form would necessitate educating the public through the news media and handouts. Regulations would need to be promulgated. These functions would be performed by existing staff. Without historical data for reporting abuse, neglect or abandonment, the assumption is made that one-half again as many situations reported would result in placement, and counseling with both the individual and the family.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It not represent the policy of the Sheffield Administration or the final estimate of impact.

Prepared By: Michael L Price AAA Phone: 465-3170
Division: Family and Youth Services Date: 3/2/83

Approved by Commissioner: [signature], M.D. Date: 3/4/83
Department: Health and Social Services

5. Distribution:

Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

TITLE OF INCREMENT

1 Protection of the elderly.

EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.

2

Objective: Provide social services in the least restrictive setting to adults who are victims of abuse, neglect, or exploitation.

Effect: Reports of abuse, neglect, or abandonment of an elderly person will be investigated and appropriate services provided. Service may include information and referral, case assessment, case planning, authorizing and arranging for appropriate services and placement.

BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.

3

Costs for printing of regulations and for news media public educational announcements and costs for special needs for adult clients.

4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services	7.5	
400	Commodities		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.	10.0	
800	Miscellaneous		
	TOTAL	17.5	
	I-A Transfer (NON-ADD)		
	Federal Receipts - Code:		
	General Fund	17.5	
	Other		
5. POSITION INFORMATION	PFT		
	Staff Months		
	FTE		

6. INCREMENT PRIORITY

BRU Level: _____ or _____

Agency Level: _____ of _____

7. CHECK ONE OR BOTH

☐ Currently Existing Service

☒ New Service

8. IMPACT FROM CAPITAL PROJECT (NAME)

_____

Chapter _____ SLA _____ Page/Line _____

6 INCREMENT REQUEST

AGENCY Health and Social Services

PROGRAM Social and Economic Assistance for the General Population

BRU Program Services

COMPONENT Adult Services

Page 1 of 1

Revised Date _____

FY 84

01-1122(7/82)-0

	CODE	CONTRACTUAL SERVICES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	300	TOTAL CONTRACTUAL				7.5	7.5	
2.	310	Communications						
3.	320	Printing and Advertising				7.5	7.5	
4.	330	Space Expense and Fees						
5.	340	Repair and Maintenance						
6.	350	Utilities Other Than Space						
7.	360	Equipment Rental - Other Than HWCF and WP						
8.	364	Equipment Rental - Word Processing						
9.	368	Equipment Rental - Highway Working Capital Fund						
10.	370	Judicial Expense						
11.	390	Professional Fees & Services-Excluding Data Processing						
12.	382	Professional Fees & Services-Data Processing						
13.	382a	Data Processing Chargeback						
14.	390	Other Fees or Expenses						
15.	930	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION		CONT. $	ADDITION $
320	Printing and Advertising			
	Design and developing TV and radio public education announcements.	5,000		
	Printing of handouts and regulations.	2,500		
		7,500	7.5	

15 CONTRACTUAL SERVICES

AGENCY Health and Social Services

PROGRAM Social and Economic Assistance for the General Population

BRU Program Services

COMPONENT Adult Services

Page 1 of 1

Revised Date

FY 84

01-1150 (7/82) - 15

MAE

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

CSHB 192

HESS COMMITTEE:

This draft INCORPORATES THE changes REQUESTED EXCEPT the definition of "NEGLECT" P.6, line 23 WAS NOT changed after consultation with the drafter. "CARETAKER" MEANS A PERSON with a legal RESPONSIBILITY to provide CARE. Changing the definition, he felt, would HARM the bill.

DAVE PALMER

Introduced: 2/11/83
Referred: Health, Education &
Social Services and Finance

IN THE HOUSE BY CLOCKSIN

HOUSE BILL NO. 192

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to protection of the elderly."

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

* Section 1. PURPOSE. In order to protect elderly persons from physical harm resulting from abuse, neglect, and abandonment and to assist elderly persons who are unable to protect or care for themselves, the legislature requires the reporting to the state by health professionals and others of cases involving elderly persons who have been or are being physically harmed. It is the intent of the legislature that these reports of harm be investigated and that appropriate protective services be offered in an effort to prevent or alleviate physical harm to the elderly persons of the state. It is further the intent of the legislature to provide immunity from civil or criminal liability to persons making good faith reports of physical or other harm to an elderly person.

* Sec. 2. AS 47 is amended by adding a new chapter to read:

CHAPTER 24. PROTECTION OF THE ELDERLY.

Sec. 47.24.010. REPORTS OF HARM. (a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that an elderly person has suffered physical harm as a result of abuse, neglect, or abandonment shall, not later than 24 hours after first having cause for the belief, report the harm to the Department of Health and Social Services:

(1) a physician or other licensed health care provider;

(2) a mental health professional as defined in AS 47.30.-915(11);

(3) a pharmacist;

(4) an administrator or employee of a nursing home, residential care or health care facility;

(5) a guardian or conservator;

(6) a police officer as defined in AS 18.65.290(2);

(7) a village health aide;

(8) a social worker;

(9) a member of the clergy;

(10) a staff employee of a project funded by the Older Alaskans Commission.

(b) A report of harm made under this section may include the name and address of the person reporting the harm and shall include

(1) the name and address of the elderly person;

(2) information relating to the nature and extent of the abuse, neglect, or abandonment;

(3) other information that the person reporting the harm believes might be helpful in an investigation of the case or in providing protection for the elderly person.

(c) A person who fails to comply with this section is guilty of a violation as defined in AS 11.81.900(55).

(d) This section does not prohibit a person listed in (a) of this section from reporting cases of physical or other harm to an elderly person that have come to the person's attention in a nonprofessional capacity, nor does it prohibit any other person from reporting physical or other harm to an elderly person that the person has reasonable cause to believe is a result of abuse, neglect, or abandonment.

(e) If immediate action is necessary to protect the elderly person from imminent physical harm, the person shall make the report

of harm to a police officer as defined in AS 18.65.290(2). The police officer shall take immediate action to protect the elderly person and shall, at the earliest opportunity, notify the department.

(f) A person who, in good faith, makes a report of physical or other harm to an elderly person under this chapter, or who participates in judicial proceedings related to the submission of reports under this chapter, is immune from any civil or criminal liability that might otherwise be incurred or imposed.

Sec. 47.24.020. ACTION ON REPORTS. (a) Upon receiving a report of physical harm, the department shall promptly initiate an investigation to determine the physical condition of the elderly person named in the report and whether action or services are needed for the protection of the elderly person. The department shall ~~make a reasonable effort to~~ personally interview the elderly person during the investigation.

(b) The department shall prepare a written report of the investigation, including findings, recommendations, and a determination of whether and what kind of protective services are to be offered to the elderly person. Upon request, the person who reported harm to the elderly person shall be notified of the status of the investigation.

(c) The department shall immediately terminate an investigation under this section upon the request of an elderly person who is the subject of a report of harm. However, if the department has reasonable cause to believe that the elderly person is incapacitated, the department may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent to continue the investigation.

Sec. 47.24.030. PROTECTIVE SERVICES. (a) The department shall provide available protective services to a harmed elderly person if

and to the extent to which the elderly person consents. If the department has reasonable cause to believe that the elderly person lacks the capacity to consent to receiving protective services, it may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent.

(b) If an elderly person who has consented to receiving protective services is prevented by a caretaker from receiving the services, the department may assist the elderly person to petition the superior court for an injunction restraining the caretaker from interfering with the provision of protective services to the elderly person.

Sec. 47.24.040. REVIEW AND REFERRAL. The department shall, not later than 90 days after initiating the provision of protective services to an elderly person, initiate a review of the case to determine whether continuation or modification of protective services that are being provided is warranted. The department shall reevaluate the case every 90 days thereafter until the case is closed.

Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation reports and reports of harm filed under this chapter are confidential and are not subject to public inspection and copying under AS 09.25.110 - 09.25.125. However, in accordance with this chapter and department regulations issued under this chapter, investigation reports may be used by appropriate governmental agencies inside and outside the state, in connection with investigations or judicial proceedings involving abuse, neglect, or abandonment of an elderly person.

(b) The department shall disclose a report of harm if the elderly person who is the subject of the report consents in writing. The department shall, upon request, disclose the number of verified reports of harm that occurred at an institution for care of the elderly.

that is certified by the state.

Sec. 47.24.060. AUTHORITY OF THE DEPARTMENT. In performing its duties under this chapter, the department may, subject to the person's consent, initiate actions necessary to assure the health, safety and welfare of an elderly person, including the transfer of the elderly person from a nursing home, residential care or health care facility.

Sec. 47.24.070. REGULATIONS. Regulations to implement this chapter shall be approved by the Older Alaskans Commission (AS 44.21.-200) before adoption by the department.

Sec. 47.24.075. EVIDENCE NOT PRIVILEGED. Neither the physician-patient nor the husband-wife privilege is a ground for excluding evidence regarding an elderly person's harm, or its cause, in a judicial proceeding related to a report made under this chapter.

Sec. 47.24.080. QUARTERLY REPORT. The department shall submit to the Older Alaskans Commission each quarter a statistical report of the department's activities related to the protection of elderly persons in the state. The report may not disclose the identity of victims or perpetrators of the abuse, neglect, or abandonment.

Sec. 47.24.100. DEFINITIONS. In this chapter

(1) "abandonment" means desertion of an elderly person by a caretaker;

(2) "abuse" means the infliction of physical pain, injury, or mental anguish, or the deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person;

(3) "caretaker" means a person who is responsible for the care of an elderly person as a result of family relationship, or who has assumed responsibility for the care of an elderly person voluntarily, by contract, or by court order;

(4) "department" means the Department of Health and Social Services;

(5) "elderly person" means a resident of Alaska who is 60 years of age or older;

(6) "incapacitated" means a person's ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that the person lacks the ability to obtain the essential requirements for physical health or safety without court-ordered assistance;

(7) "neglect" means the failure by ~~an elderly person or~~ a caretaker to provide services necessary to maintain the physical and mental health of the elderly person;

(8) "protective services" means services intended to prevent or alleviate harm resulting from abuse, neglect, exploitation, or abandonment.

Introduced: 2/11/83
Referred: Health, Education &
Social Services and Finance

IN THE HOUSE BY CLOCKSIN

HOUSE BILL NO. 192

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

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* Sec. 2. AS 47 is amended by adding a new chapter to read:

CHAPTER 24. PROTECTION OF THE ELDERLY.

Sec. 47.24.010. REPORTS OF HARM. (a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that an elderly person has suffered physical harm as a result of abuse, neglect, or abandonment shall, not later than 24 hours after first having cause for the belief, report the harm to the Department of Health and Social Services:

(1) a physician or other licensed health care provider;

(2) a mental health professional as defined in AS 47.30.-915(11);

(copy)

ADD: (11) VPSO
(12) EMT or mobile intensive care PARAMEDICS
(13) HOMEMAKER program or HEALTH AID

(3) a pharmacist;

(4) an administrator ~~or employee~~ of a nursing home, residential care or health care facility; & DELETE

(5) a guardian or conservator;

(6) a police officer as defined in AS 18.65.290(2);

(7) a village health aide;

(8) a social worker;

(9) a member of the clergy;

(10) a staff employee of a project funded by the Older Alaskans Commission.

(b) A report of harm made under this section may include the name and address of the person reporting the harm and shall include

(1) the name and address of the elderly person;

(2) information relating to the nature and extent of the abuse, neglect, or abandonment;

(3) other information that the person reporting the harm believes might be helpful in an investigation of the case or in providing protection for the elderly person.

(c) A person who fails to comply with this section is guilty of a violation as defined in AS 11.81.900(55).

(d) This section does not prohibit a person listed in (a) of this section from reporting cases of physical or other harm to an elderly person that have come to the person's attention in a non-professional capacity, nor does it prohibit any other person from reporting physical or other harm to an elderly person that the person has reasonable cause to believe is a result of abuse, neglect, or abandonment.

(e) If immediate action is necessary to protect the elderly person from imminent physical harm, the person shall make the report

Refer to VPSO

of harm to a police officer as defined in AS 18.65.290(2) or VPSO. The police officer shall take immediate action to protect the elderly person and shall, at the earliest opportunity, notify the department.

(f) A person who, in good faith, makes a report of physical or other harm to an elderly person under this chapter, or who participates in judicial proceedings related to the submission of reports under this chapter, is immune from any civil or criminal liability that might otherwise be incurred or imposed.

Sec. 47.24.020. ACTION ON REPORTS. (a) Upon receiving a report of physical harm, the department shall promptly initiate an investigation to determine the physical condition of the elderly person named in the report and whether action or services are needed for the protection of the elderly person. The department shall [make a reasonable effort to] personally interview the elderly person during the investigation. Unless person is unconscious or otherwise impaired and can not respond.

(b) The department shall prepare a written report of the investigation, including findings, recommendations, and a determination of whether and what kind of protective services are to be offered to the elderly person. Upon request, the person who reported harm to the elderly person shall be notified of the status of the investigation.

(c) The department shall immediately terminate an investigation under this section upon the request of an elderly person who is the subject of a report of harm. However, if the department has reasonable cause to believe that the elderly person is incapacitated the department may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent to continue the investigation.

Sec. 47.24.030. PROTECTIVE SERVICES. (a) The department shall provide available protective services to a harmed elderly person if

and to the extent to which the elderly person consents. If the department has reasonable cause to believe that the elderly person lacks the capacity to consent to receiving protective services, it may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent.

(b) If an elderly person who has consented to receiving protective services is prevented by a caretaker from receiving the services, the department may assist the elderly person to petition the superior court for an injunction restraining the caretaker from interfering with the provision of protective services to the elderly person.

Sec. 47.24.040. REVIEW AND REFERRAL. The department shall, not later than 90 days after initiating the provision of protective services to an elderly person, initiate a review of the case to determine whether continuation or modification of protective services that are being provided is warranted. The department shall reevaluate the case every 90 days thereafter until the case is closed.

Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation reports and reports of harm filed under this chapter are confidential and are not subject to public inspection and copying under AS 09.25.110 - 09.25.125. However, in accordance with this chapter and department regulations issued under this chapter, investigation reports may be used by appropriate governmental agencies inside and outside the state, in connection with investigations or judicial proceedings involving abuse, neglect, or abandonment of an elderly person.

(b) The department shall disclose a report of harm if the elderly person who is the subject of the report consents in writing. The department shall, upon request, disclose the number of verified reports of harm that occurred at an institution for care of the elderly.

[that is certified by the state.]

Sec. 47.24.060. AUTHORITY OF THE DEPARTMENT. In performing its duties under this chapter, the department may, subject to the person's consent, initiate actions necessary to assure the health, safety and welfare of an elderly person, including the transfer of the elderly person from a nursing home, residential care or health care facility.

Sec. 47.24.070. REGULATIONS. Regulations to implement this chapter shall be approved by the Older Alaskans Commission (AS 44.21.-200) before adoption by the department.

Sec. 47.24.075. EVIDENCE NOT PRIVILEGED. Neither the physician-patient nor the husband-wife privilege is a ground for excluding evidence regarding an elderly person's harm, or its cause, in a judicial proceeding related to a report made under this chapter.

Sec. 47.24.080. QUARTERLY REPORT. The department shall submit to the Older Alaskans Commission each quarter a statistical report of the department's activities related to the protection of elderly persons in the state. The report may not disclose the identity of victims or perpetrators of the abuse, neglect, or abandonment.

Sec. 47.24.100. DEFINITIONS. In this chapter

(1) "abandonment" means desertion of an elderly person by a caretaker;

(2) "abuse" means the infliction of physical pain, injury, or mental anguish, or the deprivation [by a caretaker] of services that are necessary to maintain the physical and mental health of an elderly person;

(3) "caretaker" means a person who is responsible for the care of an elderly person as a result of family relationship, or who has assumed responsibility for the care of an elderly person voluntarily, by contract, or by court order;

(4) "department" means the Department of Health and Social Services;

(5) "elderly person" means a resident of Alaska who is ~~60~~ 65 years of age or older;

(6) "incapacitated" means a person's ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that the person lacks the ability to obtain the essential requirements for physical health or safety without court-ordered assistance;

(7) "neglect" means the failure [DELETE ~~by an elderly person~~ or] a caretaker to provide services necessary to maintain the physical and mental health of the elderly person;

(8) "protective services" means services intended to prevent or alleviate harm resulting from abuse, neglect, exploitation, or abandonment.

HB192

DRAFT CSHB192

P. 2 line 2 DELETE ... OR EMPLOYEE ...

P. 2 line 10 ADD:

(11) Village Public Safety Officer

(12) EMERGENCY MEDICAL TECHNICIAN or mobile intensive care paramedic

(13) AN EMPLOYER OF A HOMEMAKER PROGRAM or home health aide PROGRAM

P3 line 1 ADD REFERENCE to Village Public Safety officer after ... AS 18.65.290(2).

P. 3 line 13 Delete "... MAKE A REASONABLE effort to ...

After ... INVESTIGATION, ADD COMMA and " UNLESS the PERSON is UNCONSCIOUS or otherwise physically or mentally IMPAIRED to such AN EXTENT AS to be UNABLE to RESPOND to QUESTIONS.

(SENATE VERSION)

Page 4 line 29 add period after "... Elderly."

P 5 line 1 Delete "that is certified by the STATE."

HB192

P. 5 line 10

Neither the physician-patient nor the Psychotherapist patient nor the the husband wife privilege, to the extent REQUIRED by AS 47.24.010 - 47.24.020 IS A GROUND for...

* CHANGES COURT RULE 504 EVIDENCE

P. 5 line 23 after MENTAL ANGUISH, DELETE COMMA AND ADD " REQUIRING MEDICAL TREATMENT, OR the ~~DEPRIVATION~~ INTENTIONAL DEPRIVATION of SERVICES that are NECESSARY to MAINTAIN. . . ."

P6 line 3 change "60" to "65"

P6 line 10 Delete "AN Elderly Person"

Original sponsors: Josephson and V.Fischer

IN THE SENATE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 122 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to protection of the elderly."

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

* Section 1. PURPOSE. In order to protect elderly persons from physical harm resulting from abuse, neglect, and abandonment and to assist elderly persons who are unable to protect or care for themselves, the legislature requires the reporting to the state by health professionals and others of cases involving elderly persons who have been or are being physically harmed. It is the intent of the legislature that these reports of harm be investigated and that appropriate protective services be offered in an effort to prevent or alleviate physical harm to the elderly persons of the state. It is further the intent of the legislature to provide immunity from civil or criminal liability to persons making good faith reports of physical or other harm to an elderly person.

* Sec. 2. AS 47 is amended by adding a new chapter to read:

CHAPTER 24. PROTECTION OF THE ELDERLY.

Sec. 47.24.010. REPORTS OF HARM. (a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that an elderly person has suffered physical harm as a result of abuse, neglect, or abandonment shall, not later than 24 hours after first having cause for the belief, report the harm to the Department of Health and Social Services:

(1) a physician or other licensed health care provider;

(2) a mental health professional as defined in AS 47.30.-915(11);

(3) a pharmacist;

(4) an administrator of a nursing home, residential care or health care facility;

(5) a guardian or conservator;

(6) a police officer as defined in AS 18.65.290(2);

(7) a village public safety officer;

(8) a village health aide;

(9) a social worker;

(10) a member of the clergy;

(11) a staff employee of a project funded by the Older Alaskans Commission;

ADD: → (12) an employee of a homemaker program or home health aide program.

(b) A report of harm made under this section may include the name and address of the person reporting the harm and shall include

(1) the name and address of the elderly person;

(2) information relating to the nature and extent of the abuse, neglect, or abandonment;

(3) other information that the person reporting the harm believes might be helpful in an investigation of the case or in providing protection for the elderly person.

(c) A person who fails to comply with this section is guilty of a violation as defined in AS 11.81.900(55).

(d) This section does not prohibit a person listed in (a) of this section from reporting cases of physical or other harm to an elderly person that have come to the person's attention in a non-professional capacity, nor does it prohibit any other person from reporting physical or other harm to an elderly person that the person has reasonable cause to believe is a result of abuse, neglect, or

abandonment.

(e) If immediate action is necessary to protect the elderly person from imminent physical harm, the person shall make the report of harm to a police officer as defined in AS 18.65.290(2) or a village public safety officer. The police officer or village public safety officer shall take immediate action to protect the elderly person and shall, at the earliest opportunity, notify the department.

(f) A person who, in good faith, makes a report of physical or other harm to an elderly person under this chapter, or who participates in judicial proceedings related to the submission of reports under this chapter, is immune from any civil or criminal liability that might otherwise be incurred or imposed.

Sec. 47.24.020. ACTION ON REPORTS. (a) Upon receiving a report of physical harm, the department shall promptly initiate an investigation to determine the physical condition of the elderly person named in the report and whether action or services are needed for the protection of the elderly person. The department shall personally interview the elderly person during the investigation, unless the person is unconscious or otherwise physically or mentally impaired to such an extent as to be unable to respond to questions.

(b) The department shall prepare a written report of the investigation, including findings, recommendations, and a determination of whether and what kind of protective services are to be offered to the elderly person. Upon request, the person who reported harm to the elderly person shall be notified of the status of the investigation. The department shall provide to the Department of Law a copy of each report of an investigation of harm to an elderly person that resulted from abuse.

(c) The department shall immediately terminate an investigation

under this section upon the request of an elderly person who is the subject of a report of harm. However, if the department has reasonable cause to believe that the elderly person is incapacitated, the department may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent to continue the investigation.

Sec. 47.24.030. PROTECTIVE SERVICES. (a) The department shall provide available protective services to a harmed elderly person if and to the extent to which the elderly person consents. If the department has reasonable cause to believe that the elderly person lacks the capacity to consent to receiving protective services, it may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent.

(b) If an elderly person who has consented to receiving protective services is prevented by a caretaker from receiving the services, the department may assist the elderly person to petition the superior court for an injunction restraining the caretaker from interfering with the provision of protective services to the elderly person.

Sec. 47.24.040. REVIEW AND REFERRAL. The department shall, not later than 90 days after initiating the provision of protective services to an elderly person, initiate a review of the case to determine whether continuation or modification of protective services that are being provided is warranted. The department shall reevaluate the case every 90 days thereafter until the case is closed.

Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation reports and reports of harm filed under this chapter are confidential and are not subject to public inspection and copying under AS 09.25.-110 - 09.25.125. However, in accordance with this chapter and

department regulations issued under this chapter, investigation reports may be used by appropriate governmental agencies inside and outside the state, in connection with investigations or judicial proceedings involving abuse, neglect, or abandonment of an elderly person.

(b) The department shall disclose a report of harm if the elderly person who is the subject of the report consents in writing. The department shall, upon request, disclose the number of verified reports of harm that occurred at an institution for care of the elderly.

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Sec. 47.24.075. QUARTERLY REPORT. The department shall submit to the Older Alaskans Commission each quarter a statistical report of the department's activities related to the protection of elderly persons in the state. The report may not disclose the identity of victims or perpetrators of the abuse, neglect, or abandonment.

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(3) "caretaker" means a person who is responsible for the care of an elderly person as a result of family relationship, or who has assumed responsibility for the care of an elderly person voluntarily, by contract, or by court order;

(4) "department" means the Department of Health and Social Services;

(5) "elderly person" means a resident of Alaska who is 60 years of age or older;

(6) "incapacitated" means a person's ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that the person lacks the ability to obtain the essential requirements for physical health or safety without court-ordered assistance;

(7) "neglect" means the failure by the caretaker of an elderly person to provide services necessary to maintain the physical and mental health of the elderly person;

(8) "protective services" means services intended to prevent or alleviate harm resulting from abuse, neglect, exploitation, or abandonment.

3/21

Dept shall personally interview

47.24.075 Thus the phy-PAT PRIV is waived

24 010 i 020 to the extent REPORTING

is REQUIRED

Child Abuse laws REQUIRE REPORTING?

5.22 Add REQ MEDICAL TREATMENT
DELETE
INTENT ABUSE something that has physical
evidence

"willful" NOT appropriate

The Dept

77 STATE

HB 192

PURPOSE: PROTECT Elderly from ABUSE by REQUIRING those working with elderly to REPORT to DHSS evidence of ABUSE when observed.

those REQUIRED to MAKE NOTIFICATION:

1) A physician or other licensed health care provider
2) A MENTAL health professional
3) A PHARMACIST
4) AN Administrator or employee of A NURSING home, reg. dental care or health care facility
5) A GUARDIAN or CONSERVATOR
6) A police officer AS defined by 18.65.290(2)
7) A village health aide
8) A SOCIAL worker
9) A member of the clergy
10) A STAFF employee of A project funded by the

Copy 18.65.290
01.10.060
11.81.900(55) Older Alk. Commission

FAILURE to comply is A "VIOLATION" (AS 11.81.900 55)
- A VIOLATION is A NON-CRIMINAL offense punishable by fine, NOT imprisonment or other penalty.

NO jury trial or
NO public defender

IN the event that immediate harm seems eminent. Report must go to police officer who must act to protect the subject

A person making a report of abuse in good faith is immune from civil or criminal liability

DHSS must prepare investigation and review each 90 days.

DHSS must provide available protective services to harmed elderly.

Regulations adopted by DHSS to implement must be approved by Older AK Comm.

Elderly person - AK resident 60yrs of age-older

Q for Drafter - "willful"

Bill applies to "Reporter" NOT offender

HB 192

MARGO DICK JUNEAU Elder Abuse Task Force
POLICE OFFICER . VPSO . PEACE OFFICER
Charles Mundorff AK MENTAL HEALTH CTR. FOR BILL
- Physical & psychological abuse
INVESTIGATIONS - through ward of mouth
Elizabeth MUKTARIAN - DHSS X 3208
CURRENTLY W/O CONSENT DHSS CAN NOT intervene if adult is NOT INCAPACITATED.
1984 Budget - NO EXPANSION $ for INCREASED SERVICES
Tom Scott - Anch EX DIR South Region EMS
Add to list - Emergency MEDICAL technicians & licensed mobile technicians -
Theodore Graham FOR
Dove Kull older AK commission
Dennis Murray Kodiak SR Citizens & Kodiak Support
FINANCIAL Abuse -
Dennis Dewitt - AK. ST. HOSP. ASSN.
1) Delete Reference to employee & hospital
2) p 4 li 28, 29 - what is verified?
3) p5 li 10-13 question & privilege
4) consider way to prevent multiple reporting -
several individuals obligated to REPORT -
within Agency.

HB192

BARBARA McPherson OLDER AK Commission
ADD "willful" IN DEFINITION

line 13, p. 3
Senate Committee Substitute!
STATISTICS of ABUSE IN AK
Beth Bishop - S.E. Sr Services
wording to eliminate multiple reports
oppose "willful" addn
Rosemary Haffner Atty for Seniors Sr Services
- Support by Ombudsman -
- oppose "willful"
- Multiple reporting can be dealt with by Regulation
- include VPSO
include EMTs
- Dr-Patient - physician can not withhold testimony

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 192 Date on Bill: February 11, 1983
Title: "An Act relating to protection of the elderly."
Sponsor: Clocksin
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating				17.5	19.3	21.2		
Total				17.5	19.3	21.2		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:
The funding source was not identified by the authors of the Bill.

3. Assumptions:

Passage of this Bill in its present form would necessitate educating the public through the news media and handouts. Regulations would need to be promulgated. These functions would be performed by existing staff. Without historical data for reporting abuse, neglect, or abandonment, the assumption is made that one-half again as many situations reported would result in placement, and counseling with both the individual and the family.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It not represent the policy of the Sheffield Administration or the final estimate of f impact.

Prepared By: Michael L Price AAT Phone: 465-3170
Division: Family and Youth Services Date: 3/2/83

Approved by Commissioner: [illegible] Date: 3/4/83
Department: Health and Social Services

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

POSITION PAPER/Department of Health & Social Services

"An Act relating to protection of the elderly."

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical harm to elderly persons, investigation of reports of harm by the Department of Health and Social Services, and the offering of appropriate protective services to elderly persons in an effort to prevent or alleviate physical harm.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation, including Alaska, of the problems of elder abuse and neglect, as well as those elderly persons who are unable to protect or care for themselves. In 1981 an Elder Abuse Task Force was created in Anchorage and a pilot project grant was awarded to the Anchorage Community Mental Health Clinic Geriatric Unit to address the issue of elder abuse. In 1982, Elder Abuse Task Forces were created in Fairbanks and Juneau.

Elderly Alaskans in need of protective services are served by the Division of Family and Youth Services under its Adult Protective Service program which serves adults age 18 and over. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act. Division social workers respond to voluntary reports of harm, investigate the circumstances of abuse, neglect, and exploitation, and offer appropriate protective services. If an adult client does not consent to services and is not incapacitated as defined under AS 13.26.005, the guardianship statute, the Division has no legal authority to intervene. If, however, an investigation indicates that an adult is incapacitated, the Division may petition the court for a guardian.

Division of Family and Youth Services' staff have actively participated in the Elder Abuse Task Forces. As a part of the Division's Fiscal Year 1983 Adult Protective Services Training Program, the issues of elder abuse, guardianship and conservatorship have been addressed. Community agencies, including programs serving older Alaskans, were invited and participated in these sessions which were conducted in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome.

Since reporting of abuse or physical harm to elderly persons is not mandatory, not all known cases are reported to a single agency. As a result, the actual extent of the problem is not known. Should the number of cases reported under the mandatory requirement significantly impact caseloads, the Division will include necessary documentation to

POSITION PAPER/Department of Health & Social Services

support the need for additional staff and service dollars in the FY 85 budget. If additional staff and service dollars become necessary but not available, the Division may not be able to meet the intent of the legislation.

RECOMMENDATION

The Department strongly endorses efforts to promote the independence and well-being of those elderly persons in need of protection. The procedures outlined in the Bill for action on reports, provision of protective services, review and referral, and confidentiality are in accordance with procedures established by the Department of Health and Social Services.

The Department recommends an amendment to Section 47.24.100(2), the definition of abuse. The Department recommends that the definition be amended as follows:

> "abuse" means the infliction of physical pain, injury, or mental anguish, or the willful deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person.

RECOMMENDED: Michael L. Price

Michael L. Price, Director
Division of Family and
Youth Services

DATE: 3/2/83

APPROVED BY: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

DATE: 3/4/83

TITLE OF INCREMENT

1 Protection of the elderly.

EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.

2

Objective: Provide social services in the least restrictive setting to adults who are victims of abuse, neglect, or exploitation.

Effect: Reports of abuse, neglect, or abandonment of an elderly person will be investigated and appropriate services provided. Service may include information and referral, case assessment, case planning, authorizing and arranging for appropriate services and placement.

BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.

3

Costs for printing of regulations and for news media public educational announcements and costs for special needs for adult clients.

4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services	7.5	
400	Commodities		
500	Equipment		
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.	10.0	
800	Miscellaneous		
	TOTAL	17.5	
	I-A Transfer (NON-ADN)		
	Federal Receipts - Code:		
	General Fund	17.5	
	Other		
5. POSITION INFORMATION	PFT		
	Staff Months		
	FTE		

6. INCREMENT PRIORITY

BRU Level: _____ or _____

Agency Level: _____ of _____

7. CHECK ONE OR BOTH

☐ Currently Existing Service

☒ New Service

8. IMPACT FROM CAPITAL PROJECT (NAME)

_____ _____

Chapter _____ SLA _____ Page/Line _____

6 INCREMENT REQUEST

AGENCY Health and Social Services

PROGRAM Social and Economic Assistance for the General Population

BRU Program Services

COMPONENT Adult Services

Page 1 of 1

Revised Date

FY 84

01-1122 (7/81)-B

	CODE	CONTRACTUAL SERVICES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	300	TOTAL CONTRACTUAL				7.5	7.5	
2.	310	Communications						
3.	320	Printing and Advertising				7.5	7.5	
4.	330	Space Expense and Fees						
5.	340	Repair and Maintenance						
6.	350	Utilities Other Than Space						
7.	360	Equipment Rental - Other Than HWCF and WP						
8.	364	Equipment Rental - Word Processing						
9.	368	Equipment Rental - Highway Working Capital Fund						
10.	370	Judicial Expense						
11.	380	Professional Fees & Services-Excluding Data Processing						
12.	382	Professional Fees & Services-Data Processing						
13.	382a	Data Processing Chargeback						
14.	390	Other Fees or Expenses						
15.	930	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION		CONT. $	ADDITION $
320	Printing and Advertising			
	Design and developing TV and radio public education announcements. Printing of handouts and regulations.	5,000 2,500 7,500	7.5	

15 CONTRACTUAL SERVICES

AGENCY Health and Social Services

PROGRAM Social and Economic Assistance for the General Population

BRU Program Services

COMPONENT Adult Services

Page 1 of 1

Revised Date

FY 84

01-1138 (7/82) - 15

	CODE	EXPENDITURE CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84 AGENCY CONTINUATION	AGENCY ADDITION	AGENCY REQUEST	GOVERNOR'S BUDGET
	1	2	3	4	5	6	7	8
1.	600	TOTAL LAND, BUILDING, NON-STRUCTURAL IMPROVEMENTS						
2.	600	Land, Building, Etc. (Excluding ASHA Pay)						
3.	628	ASHA Payment						
4.	960	INTER-AGENCY TRANSFERS (NON-ADD)						
5.	700	TOTAL ASSISTANCE GRANTS AND BENEFITS				10.0	10.0	
6.	720	Local Assistance, State Sources						
7.	730	Benefits To Individuals				10.0	10.0	
8.	740	Grants and Awards To Individuals						
9.	750	Grants, Other Agencies						
10.	760	Health Benefits						
11.	970	INTER-AGENCY TRANSFERS (NON-ADD)						
12.	800	TOTAL MISCELLANEOUS						
13.	810	Debt Service						

CODE	EXPLANATION		CONT. $	ADDITION $
730	Special Needs Special needs required for adult clients such as fuel supply and transportation to necessary services.	10,000	10.0	

18 LANDS, GRANTS, AND MISCELLANEOUS

AGENCY Health and Social Services

PROGRAM Social and Economic Assistance for the General Population

BRU Program Services

COMPONENT Adult Services

Page 1 of 1

Revised Date

FY 84

01-1156 (7/82) - 18

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Administration	Rep. Clocksin	HB 192

Department Position

The Older Alaskans Commission supports the enactment of elderly protection legislation and the mandatory reporting of physical abuse of elderly persons.

Division Director	Date	Commissioner	Date
Jon B. Wolfe	3/3/83		

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
SB 122 Sens. Josephson & Fischer	Division of Family and Youth Services, DHSS
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**
1. Anchorage Elder Abuse Task Force 2. Office of Senior Citizen Ombudsman 3. Alaska White House Conference Delegates	Unknown

3. Program Effects of Bill

The responsibilities assigned to the Commission under this legislation are consistent with current responsibilities and functions and will not require additional staff or expenditures. Under AS 44.21.230 the Commission is authorized to make recommendations with respect to regulations for services that benefit older Alaskans and to receive reports from state agencies concerned with the conditions and needs of older Alaskans.

4. Fiscal Impact: ☒ None ☐ Fiscal Note Attached

5. Amendments Proposed:

Commission staff recommends that "willful" be inserted before "deprivation" under Definitions, Sec. 47.24.100, (2) line 23.

6. Comments:

This legislation is consistent with AS 44.21 and the legislative mandates of the Older Alaskans Commission which seek to ensure health and dignity for the State's elderly. Historically elder abuse is a hidden social problem but one that is encountered by Commission funded senior programs statewide. These programs and the Commission will welcome specific procedures and services for handling these critical problems.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 192 Date on Bill: 3/3/83
Title: "An Act relating to protection of the elderly"
Sponsor: Rep. Clocksin
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-			

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Jon B. Wolfe, Executive Director Phone: 465-3250
Division: Older Alaskans Commission Date: 3/3/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

(F) HESS

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 192 Date on Bill: 2-11-83
Title: An Act relating to protection of the elderly
Sponsor: Clocksin
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 2-16-83

Approved by Commissioner: [signature] Date: 2/25/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

MSG 83-00012568 PRTY 1 03/03/83 11:47:42 ORIG: LA0 IN= 0006 OUT= 0050
FROM: SHIRLEE, ANC LIO TO: POMS, JUNEAU INFO
TARGET: LJHL SUBJ: POM

3/3/83, SHIRLEE ANC LIO, 12568

TO: REPRESENTATIVES TISCHER, FRITZ, CLOCKSIN, M. W. MILLER, KOPONEN, GOLL, CATO AND DAVIS

FROM: IRENE HEDSTROM
1521 "N" STREET, ANCHORAGE, AK 99501
(H) 277-6001 (W) 276-3414

I STRONGLY SUPPORT DON CLOCKSIN'S BILL (HB 192) REQUIRING REPORTING OF ALL ABUSE OF THE ELDERLY TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

****

response sent
3/9

MSG 83-00012555 PRTY 1 03/03/83 11:33:15 ORIG: LA01 IN= 0004 OUT= 0045
FROM: SHIRLEE, ANCH LIO TO: POMS, JUNEAU INFO
TARGET: LJHL SUBJ: POM

3/3/83, SHIRLEE ANC LIO 12555

TO: REPRESENTATIVES FISCHER, FRITZ, CLOCKSIN, M. W. MILLER, KOPONEN, GOLL, CATO AND DAVIS

FROM: EDWARD J. ANDERSON, PIONEERS' HOME, ANCHORAGE 99501
POUCH 7-027, 99510 (P) 276-3414

I STRONGLY SUPPORT DON CLOCKSIN'S BILL (H5192) REQUIRING REPORTING OF ALL ABUSE OF THE ELDERLY TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

****

response sent
3/9

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 128 Date on Bill: 1/26/83
Title: An Act raising the penalties for promoting child prostitution
Sponsor: House HESS
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

	(Thousands of Dollars)			
	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
Division: Administrative Services Date: 2/28/83

Approved by Commissioner: [signature] Date: 2/28/83
Department: Public Safety

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

HB192

(B) the defendant's intentionally causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;

(52) "sexual penetration" means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body; each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;

(53) "solicits" includes "commands";

(54) "threat" means a menace, however communicated, to engage in conduct described in (1) (7) of AS 11.41.520(a) but under (1) of that subsection includes all threats to inflict physical injury on anyone;

(55) "violation" is a noncriminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; a person charged with a violation is not entitled

(A) to a trial by jury; or

(B) to have a public defender or other counsel appointed at public expense to represent him;

(56) "voluntary act" means a bodily movement performed consciously as a result of effort and determination, and includes the possession of property if the defendant was aware of his physical possession or control for a sufficient period to have been able to terminate it.

HISTORY (Sec. 10 ch 166 SLA 1978; am secs. 29 - 32 ch 102 SLA 1980; am secs. 12 - 14 ch 45 SLA 1982; am secs. 12 - 15 ch 143 SLA 1982)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CHAPTER = 18.65
SECTION = 18.65.290
TITLE = 18
ADINGS TITLE 18.
HEALTH AND SAFETY.
CHAPTER 65.
POLICE PROTECTION.
ARTICLE 2.
ALASKA POLICE STANDARDS COUNCIL.
CITATION SEC. 18.65.290.
CATCH LINE
DEFINITIONS.
TEXT IN AS 18.65.130 - 18.65.290
(1) "COUNCIL" MEANS THE ALASKA POLICE STANDARDS COUNCIL;
(2) "POLICE OFFICER" MEANS A FULL-TIME EMPLOYEE OF THE STATE OR A LOCAL POLICE DEPARTMENT WITH THE AUTHORITY TO ARREST AND ISSUE CITATIONS; DETAIN A PERSON TAKEN INTO CUSTODY UNTIL THAT PERSON CAN BE ARRAIGNED BEFORE A JUDGE OR MAGISTRATE; CONDUCT INVESTIGATIONS OF VIOLATIONS OF AND ENFORCE CRIMINAL LAWS, REGULATIONS AND TRAFFIC LAWS; SEARCH WITH OR WITHOUT A WARRANT PERSONS, DWELLINGS, AND OTHER FORMS OF PROPERTY FOR EVIDENCE OF A CRIME; CARRY A CONCEALED WEAPON; AND TAKE OTHER ACTION CONSISTENT WITH EXERCISE OF THESE ENUMERATED POWERS WHEN NECESSARY TO MAINTAIN THE PUBLIC PEACE;
(3) "CHIEF ADMINISTRATIVE OFFICER" MEANS A CHIEF OF POLICE OF OTHER OFFICIAL WHO IS HEAD OF A POLICE DEPARTMENT IN A POLITICAL SUBDIVISION.
HISTORY (SEC. 1 CH 178 SLA 1972; AM SECS. 10, 11 CH 19 SLA 1981)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SELECT - QUERY
00002 ALL SECTION EQ 01.10.060

AS01.10.060 DOCUMENT= 1 OF 1

CHAPTER = 01.10
SECTION = 01.10.060
TITLE = 01
HEADINGS TITLE 1.
GENERAL PROVISIONS.
CHAPTER 10.
LAWS AND STATUTES.
ARTICLE 2.
GENERAL RULES OF STATUTORY CONSTRUCTION.
CITATION SEC. 01.10.060.
CATCH LINE
DEFINITIONS.
TEXT IN THE LAWS OF THE STATE, UNLESS THE CONTEXT OTHERWISE REQUIRES,
(1) "ACTION" INCLUDES ANY MATTER OR PROCEEDING IN A COURT, CIVIL OR CRIMINAL;
(2) "DAYTIME" MEANS THE PERIOD BETWEEN SUNRISE AND SUNSET;
(3) "MONTH" MEANS A CALENDAR MONTH UNLESS OTHERWISE EXPRESSED;
(4) "NIGHTTIME" MEANS THE PERIOD BETWEEN SUNSET AND SUNRISE;
(5) "OATH" INCLUDES AFFIRMATION OR DECLARATION;
(6) "PEACE OFFICER" MEANS ANY OFFICER OF THE STATE TROOPERS, MEMBERS OF THE POLICE FORCE OF ANY INCORPORATED CITY OR BOROUGH, UNITED STATES MARSHALS AND THEIR DEPUTIES, AND OTHER OFFICERS WHOSE DUTY IT IS TO ENFORCE AND PRESERVE THE PUBLIC PEACE;
(7) "PERSON" INCLUDES A CORPORATION, COMPANY, PARTNERSHIP, FIRM, ASSOCIATION, ORGANIZATION, BUSINESS TRUST, OR SOCIETY, AS WELL AS A NATURAL PERSON;
(8) "PERSONAL PROPERTY" INCLUDES MONEY, GOODS, CHATTELS, THINGS IN ACTION, AND EVIDENCES OF DEBT;
(9) "PROPERTY" INCLUDES REAL AND PERSONAL PROPERTY;
(10) "REAL PROPERTY" IS COEXTENSIVE WITH LAND, TENEMENTS, AND HEREDITAMENTS;
(11) REPEALED BY SEC. 2 CH 66 SLA 1965.
(12) "SIGNATURE" OR "SUBSCRIPTION" INCLUDES THE MARK OF A PERSON WHO CANNOT WRITE, WITH THE NAME OF THAT PERSON WRITTEN NEAR THE MARK BY A WITNESS WHO WRITES THE WITNESS'S OWN NAME NEAR THE NAME OF THE PERSON WHO CANNOT WRITE; BUT A SIGNATURE OR SUBSCRIPTION BY MARK CAN BE ACKNOWLEDGED OR CAN SERVE AS A SIGNATURE OR SUBSCRIPTION TO A SWORN STATEMENT ONLY WHEN TWO WITNESSES SO SIGN THEIR OWN NAMES TO THE SWORN STATEMENT;
(13) "STATE" MEANS THE STATE OF ALASKA UNLESS APPLIED TO THE DIFFERENT PARTS OF THE UNITED STATES AND IN THE LATTER CASE IT INCLUDES THE DISTRICT OF COLUMBIA AND THE TERRITORIES;
(14) "WRITING" INCLUDES PRINTING.
HISTORY (SEC. 4 CH 62 SLA 1962; AM SEC. 2 CH 66 SLA 1965; AM SEC. 10 CH 117 SLA 1968)

HB 192

2/25 Alaska Nurses
=7 David Walker 586-3537

2 Medical Assn Union
3/2/87 APEA 586-2334 no answer - Shelby
Clergy
Police 586-3300
Pharmacies
Older AK Comm

sqft.

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

FOR RELEASE: March 7, 1983 CONTACT: Dave Palmer, 465-3777

THE HOUSE HESS COMMITTEE WILL ACCEPT TESTIMONY FROM TELECONFERENCE SITES AT THE LEGISLATIVE INFORMATION OFFICE AND PIONEER HOME IN ANCHORAGE ON MARCH 14, 1983 AT 1:00 PM JUNEAU TIME, 11:00 AM ANCHORAGE TIME ON HOUSE BILL 107 WHICH DEALS WITH THE RIGHT TO A NATURAL DEATH AND HOUSE BILL 192 REGARDING PROTECTION OF THE ELDERLY THROUGH ESTABLISHING REPORTING REQUIREMENTS FOR CERTAIN HEALTH CARE PROFESSIONALS WHO WORK WITH THE ELDERLY.

####

HB

194

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

2/11/83

Date: 5/24/83

Mr. Speaker:

The Committee on H.E.S.S. has had HB 194

An Act relating to the education of exceptional children; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 194 [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note [ ] Zero Fiscal Note Attached

[✓] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House HESS Committee Date: May 24, 1983

FROM: Linda Otey, Committee Aide

RE: Revision of the Proposed Draft/
CS for HB 194 (HESS)

The following changes have been made from the direction of the Committee at the May 23rd. H.E.S.S meeting:

1). Page 3, Line 28 to Page 4, Lines 1&2:

Sec. 14.30.191, with the advice of the draftor, was repealed and re-enacted for ease of legibility. This amendment was suggested by the Dept. of Education to include the participation of the Dept. of H & S S (see position paper attached by DH&SS).

2). Page 5, Lines 9-28:

Reinserted Section 12 pertaining to the transfer of exceptional children. This language now excludes the 'cost to the sending district' provision of the original bill but retains the necessary language of the revision. The cost remains with the state in this CS, consequently, a new fiscal note of $700,000 is attached.

3). Page 6, Lines 14-22:

Reinserts current law revisions with the exclusion of the 5% cap on ADM for Special Education. (See attached May 23 proposed amendments by Rick Robertson, Asst. A.G.)

4). Page 3 Lines 15-19:

14.30.191(b) was previously repealed. At the direction of the Committee, this section has been retained to allow for parental participation before completion of the evaluation, rather than relying on the regulation process for this input. Sec. 20 (repealer section) now excludes 14.30.191(b).

5). Page 7, Lines 14-24:

Sec. 18 AS 14.30.347 was previously repealed. The draft retains this section with a minor revision on line 15 of page 7. Repealer section (Section 20) excludes 14.30.347 in this version.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMBERS:
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VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

M E M O R A N D U M

TO: House H.E.S.S. Committee

FROM: Linda Otey, Committee Aide

SUBJ: Proposed CS for HB 194

DATE: May 23, 1983

At the last H.E.S.S. meeting on Saturday, May 21, the Committee asked the following questions in regard to the Draft of CSHB 194:

Rep. Herrmann: 1. Effects of AS 14.30.191(d) removing coordination between Department of Health and Social Services and Department of Education. The new language directs Department of Education to establish regulations or require the school districts to establish standards and procedures for the identification and classification of exceptional children.

2. The Department of Health and Social Services will be in attendance and will provide the Committee with a position paper.

Rep. Davis: 1. Asked staff to check on repealers in the proposed CS:

Sec. 20; Pg 9.
14.30.186(c) & (d) -
14.30.191(b) -
14.30.260 -
14.30.280 -
14.30.330
14.30.340
14.30.347

Rick Robertson, Assistant Attorney General will also be available to address these repealers. (Statutes attached)

Rep. Tischer: 1. Requested that Department of Education be present to address "Regulations" currently "on hold" for enabling legislation.

2. Also requested Department of Education to address 5% Cap for special education. The Department currently does this by regulation.

Note: Assistant Attorney General Rick Robertson was not present at the last meeting. In speaking with him earlier today, he suggested that the committee cannot simply delete Sections 12 and 15 in their entirety; but only the changes from current law. He will prepare amendments with the committee's intent allowing for current law to remain through these sections of the bill.

Note: New fiscal note attached by Dept. of Educ.

Article 3. Education for Exceptional Children

Section
180. Purpose
185. Repealed
186. Coverage
190. Repealed
191. Educational assessment
200. Repealed
230. Repealed
231. Advisory committee
240. Repealed
250. Teacher qualifications
260. Exception to qualifications
270. Substitutes
280. Psychologist qualifications
285. Transfers of exceptional children
295. Repealed
300. Repealed
305. Children hospitalized or confined to their homes
310. Repealed
320. Repealed
330. Application for enrollment
340. When not required to enroll
345. Repealed
347. Transportation of exceptional children
350. Definitions

Sec. 14.30.180. Purpose. It is the purpose of sections 180—350 of this chapter to provide competent education services for the exceptional children in the state who are at least three years of age and for whom the regular school facilities are inadequate or not available. (Sec. 1 ch 120 SLA 1959; am Sec. 1 ch 144 SLA 1970; am Sec. 1 ch 79 SLA 1974)

Sec. 14.30.185. Repealed. (Sec. 59 ch 98 SLA 1966)

Sec. 14.30.186. Coverage. (a) A borough or city school district shall provide for special services for exceptional children represented by not less than five children residing in the district.

(b) The board of a regional educational attendance area shall provide for special services in a school in the area for exceptional children represented by not less than five children residing in the area served by the school.

Repealed by CSHB 194 ← (c) Nothing in this section shall prevent special services from being offered to classifications represented by less than five children. ← CS removed "less than five"

Repealed by CSHB 194 ← (d) A school district or a regional educational attendance area required by secs. 10—305 of this chapter to provide special services for exceptional children may cooperate with one or more school districts or regional educational attendance areas in providing special classes. If, under the cooperative agreement, there are no special classes offered within a school district or regional educational attendance area, exceptional children may attend special classes in the cooperating school district or regional educational attendance area providing the special classes. } meaning unclear

(Sec. 2 ch 81 SLA 1965; am Sec. 1 ch 46 SLA 1966; am Sec. 46 ch 98 SLA 1966; am Sec. 22 ch 46 SLA 1970; am Secs. 2, 3 ch 144 SLA 1970; am Secs 23, 24 ch 124 SLA 1975)

Sec. 14.30.190. Repealed. (Sec. 4 ch 144 SLA 1970)

Sec. 14.30.191. Educational assessment. (a) Before placement in a special education program and not less than once a year for as long as the child is assigned to a special education program, an exceptional child shall receive an educational assessment for the identification and classification of the learning, mental and physical status of the child.

Repealed by CSHB 194 ← (b) ~~Upon~~ completion of the assessment and before placement, the school district shall provide to the parent or guardian of each exceptional child, an opportunity for consultation about the assessment. A consultation will be available after each reevaluation of the condition and placement of the exceptional child. } addressed in regs & procedures naturally - parent already participa

(c) If a parent or guardian believes that the educational assessment of his child is in error, he may request an independent examination and evaluation of the child. If a substantial discrepancy exists between the educational assessment of the school district and the independent evaluation, and if the parent or guardian so requests, a hearing shall be held before a hearing officer in order to resolve the discrepancy between evaluations and to determine the appropriate educational program placement for the exceptional child. The Department of Education shall adopt regulations for the conduct of hearings authorized by this section, for the appointment and qualifications of the hearing officer. Regulations adopted and proceedings conducted under this section are subject to the Administrative Procedure Act.

(d) The Department of Education and the Department of Health and Social Services shall cooperatively establish by regulation diagnostic standards for the identification and classification of the learning, mental and physical status of exceptional children. Standards relating to special education programs, individual or general, shall remain the responsibility of the Department of Education in conjunction with the local education agency. (Sec. 5 ch 144 SLA 1970; am Sec. 6 ch 104 SLA 1971; am Sec. 2 ch 79 SLA 1974)

Sec. 14.30.200—14.30.220. Repealed. (Sec. 5 ch 70 1963)

Sec. 14.30.230. Repealed. (Sec. 6 ch 144 SLA 1970)

Sec. 14.30.231. Advisory committee. The commissioner of education and the commissioner of health and social services shall establish an advisory committee, the function of which is to provide information and guidance for the development of appropriate special education programs and services for exceptional children. Membership of the advisory committee shall include, but not be limited to, persons representing local education agencies, state agencies, parent groups and organizations concerned with programs and services for exceptional children. (Sec. 7 ch 144 SLA 1970; am Sec. 6 ch 104 SLA 1971)

Sec. 14.30.240. Repealed. (Sec. 5 ch 70 SLA 1963)

Sec. 14.30.250. Teacher qualifications. No person shall be employed to teach a class for exceptional children unless he possesses a valid teacher certificate, and, in addition, such training as the department may require by regulations. (Sec. 9 ch 120 SLA 1959; am Sec. 47 ch 98 SLA 1966)

Repealed by CSHB 194 ←

Sec. 14.30.260. Exception to Qualifications. The school board for a district or regional educational attendance area may waive part of the qualifications for teachers as set out in section 250 of this chapter, if necessary, during the first school year special services are offered in the district or area.

(Sec. 10 ch 120 SLA 1959; am Sec. 6 ch 125 SLA 1961; am Sec. 48 ch 98 SLA 1966; am Sec. 23 ch 46 SLA 1970; am Sec. 25 ch 124 SLA 1975)

Sec. 14.30.270. Substitutes. Section 250 of this chapter does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a teacher of a class for exceptional children. (Sec. 12 ch 120 SLA 1959; am Sec. 49 ch 98 SLA 1966)

Repealed by CSHB 194 ←

Sec. 14.30.280. Psychologist qualifications. The minimum standards for a psychologist are the minimum standards set out in the state classification plan for a psychologist, and such additional requirements as the department prescribes by regulation. (Sec. 11 ch 120 SLA 1959; am Sec. 2 ch 125 SLA 1961; am Sec. 50 ch 98 SLA 1966)

Sec. 14.30.285. Transfers of exceptional children. (a) The Department of Education shall institute a statewide program for the education of exceptional children, to insure that whenever possible children are educated in the state at locations in or near their resident school district.

(b) The identified exceptional child may be sent to another school district or in-state educational program if the child resides in a district or school attendance area where an adequate program of education for an exceptional child is not available and if the commissioner of education determines that another school district or in-state educational program is adequate to meet his needs. If the school district approves the enrollment of the exceptional child in another school district or in-state institution and the child is enrolled, the child's education expenses shall be paid as follows:

(1) the sending school district shall pay the receiving district or institution an amount of money equal to the sending district's local cost-per-pupil rate;

(2) the Department of Education shall pay the remainder of the annual cost of the child's education above that provided for in (1) of this subsection.

(c) The identified exceptional child may be sent out of the state for special education if the child resides in a district or school attendance area where the educational program offered is not appropriate for the needs of the child and if the commissioner of education determines it is not feasible for the child to be enrolled in a special program in the state. If the Department of Education approves the enrollment of an exceptional child in an out-of-state institution and the child is enrolled in the institution, the child's education expenses shall be paid by the Department of Education.

(d) For the purposes of this section a child's education expenses are limited to the actual cost of necessary care, transportation and instruction, including room and board, while attending the designated institution.

(e) The educational assessment of an exceptional child which indicates that the educational program which is locally available is inappropriate for the needs of the child shall conform to the standards set out in section 191 of this chapter.

(f) No child may be transferred to a school outside the district in which the child resides without the consent of the parent or guardian. (Sec. 2 ch 46 SLA 1966; am Secs. 8, 9, ch 144 SLA 1970; am Sec. 6 ch 71 SLA 1972; am Sec. 3 ch 79 SLA 1974)

Sec. 14.30.295. Repealed. (Sec. 4 ch 79 SLA 1974)

Sec. 14.30.300. Repealed. (Sec. 5 ch 70 SLA 1963)

Sec. 14.30.305. Children hospitalized or confined to their homes. Special instructional services for exceptional children who are hospitalized or confined to their homes may be provided by a school district. A child who receives at least 10 hours of instruction per week may be counted as a pupil in average daily membership when computing state support under the public school foundation program. (Sec. 2 ch 46 SLA 1966)

Sec. 14.30.310. Repealed. (Sec. 5 ch 70 SLA 1963)

Sec. 14.30.320. Repealed. (Sec. 5 ch 70 SLA 1963)

Rejected by CSHB194

Sec. 14.30.330. Application for enrollment. (a) The parent or guardian of an exceptional child, or the school administrator, for exceptional children residing in the district or area in which the administrator is employed, shall make application for the enrollment of the child. If the administrator makes the application, it shall be with the full knowledge and consent of the parent or guardian.

(b) The application shall be on forms provided by the department and shall be submitted to the governing body of the district in which the child resides. When an application is submitted to a school board, it shall be forwarded to the commissioner.

(c) Final certification of a student for special services is the responsibility of the commissioner. The child shall undergo evaluation as defined by regulation of the department by qualified personnel for the purpose of determining whether or not the child is capable of receiving benefit from enrollment in a special education program. If determined eligible and capable of receiving benefit, and upon approval of the application by the commissioner, the child shall be recommended for enrollment. (Sec. 17 ch 120 SLA 1959; am Sec. 4 ch 125 SLA 1961; am Sec. 51 ch 98 SLA 1966; am Sec. 12 ch 144 SLA 1970)

Repeal

Sec. 14.30.340. When not required to enroll. No handicapped child may be required to enroll in a special education program if the parent or guardian of the child certifies to the satisfaction of the school board of the public school system where the child resides that the child is receiving adequate educational advantages. A child shall be excused from the compulsory education requirements if a physician certifies in writing that the child's bodily, mental or emotional condition does not permit his attendance at school. (Sec. 18 ch 120 SLA 1959; Sec. 6 ch 125 SLA 1961)

Sec. 14.30.345. Repealed. (Sec. 59 ch 98 SLA 1966)

related services

Repeal

Sec. 14.30.347. Transportation of exceptional children. When transportation is required to be provided as part of special services, exceptional children shall be carried with other children, except when the nature of their physical or mental handicaps is such that it is in the best interest of the exceptional children, as determined by the school district, that they be transported separately. State reimbursement for transportation of exceptional children shall be as provided for transportation of all other pupils except that eligibility for reimbursement shall not be subject to restriction based on the minimum distance between the school and the residence of the exceptional child. (am Sec. 1 ch 52 SLA 1976)

Sec. 14.30.350. Definitions. (1) "exceptional children" means children who differ markedly from their peers to the degree that they are better served by placement in a special learning program designed to serve their particular exceptionality; these children may be identified in the following categories:

POSITION PAPER/Department of Health & Social Services

HCS HOUSE BILL NO. 194 (HESS)

For an Act entitled: "An Act relating to the education of exceptional children; and providing for an effective date."

This Department is generally supportive of HB 194 but has one specific suggestion for improvement: on page 4, lines 2-5 retaining a consultation role for the Department of Health and Social Services in establishing the standards and procedures for identification and classification etc., would ensure the best efforts of both departments in this process. Specifically, on line 2, after department, add "in consultation with the Department of Health and Social Services."

There are several important improvements that will occur in special education programming as a result of this bill's passage; therefore, the Department of Health and Social Services supports this bill with the change discussed above.

RECOMMENDED BY: E.S. Rabeau

E.S. Rabeau, M.D., Director
Division of Public Health

DATE: May 23, 1983

APPROVED BY: _____

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

DATE: _____

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House H.E.S.S. Committee

FROM: Linda Otey, Committee Aide

SUBJ: Proposed CS for HB 194

DATE: May 23, 1983

At the last H.E.S.S. meeting on Saturday, May 21, the Committee asked the following questions in regard to the Draft of CSHB 194:

Rep. Herrmann: 1. Effects of AS 14.30.191(d) removing coordination between Department of Health and Social Services and Department of Education. The new language directs Department of Education to establish regulations or require the school districts to establish standards and procedures for the identification and classification of exceptional children.

2. The Department of Health and Social Services will be in attendance and will provide the Committee with a position paper.

Rep. Davis: 1. Asked staff to check on repealers in the proposed CS:

Sec. 20; Pg 9.
14.30.186(c) & (d) -
14.30.191(b) -
14.30.260 -
14.30.280 -
14.30.330
14.30.340
14.30.347

Rick Robertson, Assistant Attorney General will also be available to address these repealers. (Statutes attached)

Rep. Tischer: 1. Requested that Department of Education be present to address "Regulations" currently "on hold" for enabling legislation.

2. Also requested Department of Education to address 5% Cap for special education. The Department currently does this by regulation.

Note: Assistant Attorney General Rick Robertson was not present at the last meeting. In speaking with him earlier today, he suggested that the committee cannot simply delete Sections 12 and 15 in their entirety; but only the changes from current law. He will prepare amendments with the committee's intent allowing for current law to remain through these sections of the bill.

Note: New fiscal note attached by Dept. of Educ.

Article 3. Education for Exceptional Children

Section
180. Purpose
185. Repealed
186. Coverage
190. Repealed
191. Educational assessment
200. Repealed
230. Repealed
231. Advisory committee
240. Repealed
250. Teacher qualifications
260. Exception to qualifications
270. Substitutes
280. Psychologist qualifications
285. Transfers of exceptional children
295. Repealed
300. Repealed
305. Children hospitalized or confined to their homes
310. Repealed
320. Repealed
330. Application for enrollment
340. When not required to enroll
345. Repealed
347. Transportation of exceptional children
350. Definitions

Sec. 14.30.180. Purpose. It is the purpose of sections 180—350 of this chapter to provide competent education services for the exceptional children in the state who are at least three years of age and for whom the regular school facilities are inadequate or not available. (Sec. 1 ch 120 SLA 1959; am Sec. 1 ch 144 SLA 1970; am Sec. 1 ch 79 SLA 1974)

Sec. 14.30.185. Repealed. (Sec. 59 ch 98 SLA 1966)

Sec. 14.30.186. Coverage. (a) A borough or city school district shall provide for special services for exceptional children represented by not less than five children residing in the district.

(b) The board of a regional educational attendance area shall provide for special services in a school in the area for exceptional children represented by not less than five children residing in the area served by the school.

Repealed by CSHB 194 ← (c) Nothing in this section shall prevent special services from being offered to classifications represented by less than five children.

Repealed by CSHB 194 ← (d) A school district or a regional educational attendance area required by secs. 10—305 of this chapter to provide special services for exceptional children may cooperate with one or more school districts or regional educational attendance areas in providing special classes. If, under the cooperative agreement, there are no special classes offered within a school district or regional educational attendance area, exceptional children may attend special classes in the cooperating school district or regional educational attendance area providing the special classes.

(Sec. 2 ch 81 SLA 1965; am Sec. 1 ch 46 SLA 1966; am Sec. 46 ch 98 SLA 1966; am Sec. 22 ch 46 SLA 1970; am Secs. 2, 3 ch 144 SLA 1970; am Secs 23, 24 ch 124 SLA 1975)

Sec. 14.30.190. Repealed. (Sec. 4 ch 144 SLA 1970)

Sec. 14.30.191. Educational assessment. (a) Before placement in a special education program and not less than once a year for as long as the child is assigned to a special education program, an exceptional child shall receive an educational assessment for the identification and classification of the learning, mental and physical status of the child.

Repealed by HB 194 ← (b) Upon completion of the assessment and before placement, the school district shall provide to the parent or guardian of each exceptional child, an opportunity for consultation about the assessment. A consultation will be available after each reevaluation of the condition and placement of the exceptional child.

(c) If a parent or guardian believes that the educational assessment of his child is in error, he may request an independent examination and evaluation of the child. If a substantial discrepancy exists between the educational assessment of the school district and the independent evaluation, and if the parent or guardian so requests, a hearing shall be held before a hearing officer in order to resolve the discrepancy between evaluations and to determine the appropriate educational program placement for the exceptional child. The Department of Education shall adopt regulations for the conduct of hearings authorized by this section, for the appointment and qualifications of the hearing officer. Regulations adopted and proceedings conducted under this section are subject to the Administrative Procedure Act.

(d) The Department of Education and the Department of Health and Social Services shall cooperatively establish by regulation diagnostic standards for the identification and classification of the learning, mental and physical status of exceptional children. Standards relating to special education programs, individual or general, shall remain the responsibility of the Department of Education in conjunction with the local education agency. (Sec. 5 ch 144 SLA 1970; am Sec. 6 ch 104 SLA 1971; am Sec. 2 ch 79 SLA 1974)

Sec. 14.30.200—14.30.220. Repealed. (Sec. 5 ch 70 1963)

Sec. 14.30.230. Repealed. (Sec. 6 ch 144 SLA 1970)

Sec. 14.30.231. Advisory committee. The commissioner of education and the commissioner of health and social services shall establish an advisory committee, the function of which is to provide information and guidance for the development of appropriate special education programs and services for exceptional children. Membership of the advisory committee shall include, but not be limited to, persons representing local education agencies, state agencies, parent groups and organizations concerned with programs and services for exceptional children. (Sec. 7 ch 144 SLA 1970; am Sec. 6 ch 104 SLA 1971)

Sec. 14.30.240. Repealed. (Sec. 5 ch 70 SLA 1963)

Sec. 14.30.250. Teacher qualifications. No person shall be employed to teach a class for exceptional children unless he possesses a valid teacher certificate, and, in addition, such training as the department may require by regulations. (Sec. 9 ch 120 SLA 1959; am Sec. 47 ch 98 SLA 1966)

Repealed by CSHB 194

Sec. 14.30.260. Exception to Qualifications. The school board for a district or regional educational attendance area may waive part of the qualifications for teachers as set out in section 250 of this chapter, if necessary, during the first school year special services are offered in the district or area.

(Sec. 10 ch 120 SLA 1959; am Sec. 6 ch 125 SLA 1961; am Sec. 48 ch 98 SLA 1966; am Sec. 23 ch 46 SLA 1970; am Sec. 25 ch 124 SLA 1975)

Sec. 14.30.270. Substitutes. Section 250 of this chapter does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a teacher of a class for exceptional children. (Sec. 12 ch 120 SLA 1959; am Sec. 49 ch 98 SLA 1966)

Repealed by CSHB 194

Sec. 14.30.280. Psychologist qualifications. The minimum standards for a psychologist are the minimum standards set out in the state classification plan for a psychologist, and such additional requirements as the department prescribes by regulation. (Sec. 11 ch 120 SLA 1959; am Sec. 2 ch 125 SLA 1961; am Sec. 50 ch 98 SLA 1966)

Sec. 14.30.285. Transfers of exceptional children. (a) The Department of Education shall institute a statewide program for the education of exceptional children, to insure that whenever possible children are educated in the state at locations in or near their resident school district.

(b) The identified exceptional child may be sent to another school district or in-state educational program if the child resides in a district or school attendance area where an adequate program of education for an exceptional child is not available and if the commissioner of education determines that another school district or in-state educational program is adequate to meet his needs. If the school district approves the enrollment of the exceptional child in another school district or in-state institution and the child is enrolled, the child's education expenses shall be paid as follows:

(1) the sending school district shall pay the receiving district or institution an amount of money equal to the sending district's local cost-per-pupil rate;

(2) the Department of Education shall pay the remainder of the annual cost of the child's education above that provided for in (1) of this subsection.

(c) The identified exceptional child may be sent out of the state for special education if the child resides in a district or school attendance area where the educational program offered is not appropriate for the needs of the child and if the commissioner of education determines it is not feasible for the child to be enrolled in a special program in the state. If the Department of Education approves the enrollment of an exceptional child in an out-of-state institution and the child is enrolled in the institution, the child's education expenses shall be paid by the Department of Education.

(d) For the purposes of this section a child's education expenses are limited to the actual cost of necessary care, transportation and instruction, including room and board, while attending the designated institution.

(e) The educational assessment of an exceptional child which indicates that the educational program which is locally available is inappropriate for the needs of the child shall conform to the standards set out in section 191 of this chapter.

(f) No child may be transferred to a school outside the district in which the child resides without the consent of the parent or guardian. (Sec. 2 ch 46 SLA 1966; am Secs. 8, 9, ch 144 SLA 1970; am Sec. 6 ch 71 SLA 1972; am Sec. 3 ch 79 SLA 1974)

Sec. 14.30.295. Repealed. (Sec. 4 ch 79 SLA 1974)

Sec. 14.30.300. Repealed. (Sec. 5 ch 70 SLA 1963)

Sec. 14.30.305. Children hospitalized or confined to their homes. Special instructional services for exceptional children who are hospitalized or confined to their homes may be provided by a school district. A child who receives at least 10 hours of instruction per week may be counted as a pupil in average daily membership when computing state support under the public school foundation program. (Sec. 2 ch 46 SLA 1966)

Sec. 14.30.310. Repealed. (Sec. 5 ch 70 SLA 1963)

Sec. 14.30.320. Repealed. (Sec. 5 ch 70 SLA 1963)

Repealed by CSHB 194

Sec. 14.30.330. Application for enrollment. (a) The parent or guardian of an exceptional child, or the school administrator, for exceptional children residing in the district or area in which the administrator is employed, shall make application for the enrollment of the child. If the administrator makes the application, it shall be with the full knowledge and consent of the parent or guardian.

(b) The application shall be on forms provided by the department and shall be submitted to the governing body of the district in which the child resides. When an application is submitted to a school board, it shall be forwarded to the commissioner.

(c) Final certification of a student for special services is the responsibility of the commissioner. The child shall undergo evaluation as defined by regulation of the department by qualified personnel for the purpose of determining whether or not the child is capable of receiving benefit from enrollment in a special education program. If determined eligible and capable of receiving benefit, and upon approval of the application by the commissioner, the child shall be recommended for enrollment. (Sec. 17 ch 120 SLA 1959; am Sec. 4 ch 125 SLA 1961; am Sec. 51 ch 98 SLA 1966; am Sec. 12 ch 144 SLA 1970)

Repealed

Sec. 14.30.340. When not required to enroll. No handicapped child may be required to enroll in a special education program if the parent or guardian of the child certifies to the satisfaction of the school board of the public school system where the child resides that the child is receiving adequate educational advantages. A child shall be excused from the compulsory education requirements if a physician certifies in writing that the child's bodily, mental or emotional condition does not permit his attendance at school. (Sec. 18 ch 120 SLA 1959; Sec. 6 ch 125 SLA 1961)

Sec. 14.30.345. Repealed. (Sec. 59 ch 98 SLA 1966)

Repealed

Sec. 14.30.347. Transportation of exceptional children. When transportation is required to be provided as part of special services, exceptional children shall be carried with other children, except when the nature of their physical or mental handicaps is such that it is in the best interest of the exceptional children, as determined by the school district, that they be transported separately. State reimbursement for transportation of exceptional children shall be as provided for transportation of all other pupils except that eligibility for reimbursement shall not be subject to restriction based on the minimum distance between the school and the residence of the exceptional child. (am Sec. 1 ch 52 SLA 1976)

Sec. 14.30.350. Definitions. (1) "exceptional children" means children who differ markedly from their peers to the degree that they are better served by placement in a special learning program designed to serve their particular exceptionality; these children may be identified in the following categories:

HB 194

BILL HB0194
PAGE 00228
DATE 02/11/83
CHAMBER HOUSE
TEXT HOUSE BILL NO. 194 by the Rules Committee by request of the governor, entitled:

"An Act relating to the education of exceptional children; and providing for an effective date."

was read the first time and referred to the Health, Education & Social Services and Finance Committees.
HB 194 was accompanied by two zero fiscal notes and the following transmittal letter:

BILL HB0194
PAGE 00229
DATE 02/11/83
CHAMBER HOUSE
TEXT Dear Mr. Speaker:
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bil l relating to the education of exceptional children. This bill updates existing statutes which require special services for gifted and handicapped children.
Alaska law has required that special services be provided exceptional children since 1965. Through enactment of the Education for all Handicapped Children Act (P.L. 93-142) in 1975, Congress made federal funds available for the education of handicapped children and established various requirements to be met by participating states. This bill amends existing statutes to assure that Alaska is in compliance with those requirements.
In addition, this bill makes minor changes in the method by which certain services are funded. The bill requires schools to pay for the services provided to children who are transferred for the purpose of receiving adequate services and places a ceiling on the number of gifted students for whom special state funds are available. These changes are made to encourage local responsibility and effective use of state funds.

Sincerely,
/s/Bill Sheffield
Bill Sheffield
Governor

BILL HB0194
PAGE 01526
DATE 05/25/83
CHAMBER HOUSE
TEXT The Health, Education and Social Services Committee has had HOUSE BILL NO. 194 (education of exceptional children; effective date) under consideration, recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 194 (Health, Education and Social Services) (same title) and reports it back as follows: Fritz (Co-Chairman), Tischer (Co-Chairman), Goll, Koponen, Davis, and Herrmann recommend do pass. A Fiscal note was attached.
HB 194 was referred to the Finance Committee.
Fiscal note appears in House Journal Supplement No. 68.

COMMITTEE REPORT

HOUSE

3/12

(11) FURTHER: Rules

5/25/83 Date: 2-7-84

Mr. Speaker:

The Committee on FINANCE has had HB 194

"An Act relating to the education of exceptional children; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 194 (Fin) [X] same title [ ] new title

and recommends DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached 3-7-84

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Albert P. Adams

R P Bettisworth

T. H. Martin

W. Furmare

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

MEMBERS HAVING OTHER RECOMMENDATIONS:

Albert P. Adams

CHAIRMAN

H 60

Exceptional Children (education of)

HOUSE BILL NO. 194, by the Rules Committee by request of the Governor. Relates to education of exceptional children. Updates statutes in order to conform with federal law (see accompanying letter from the Governor). Sections of the bill provide the following:

—in cases involving enrollment of an exceptional child in another school district, the sending school district shall pay the child's educational expenses (currently the sending district pays an amount equal to its local cost-per-pupil rate and the Dept. of Education pays the remainder of the annual cost of the child's education);

—deletes reference to school districts providing special instructional services for exceptional children who are hospitalized or confined to their homes. Provides for state support of such programs.

--provides for state support of programs for gifted children, stating that support under the Public School Foundation Program for special education and related services is limited to not more than five percent of the average daily membership of the district or educational attendance area.

--adds section allowing the Dept. of Education, by regulation, to provide for the appointment of surrogate parents to represent exceptional children in matters relating to the provision of an appropriate public education.

--rewrites section defining "exceptional children", adding categories for the deaf, deaf-blind, hard of hearing, learning disabled, orthopedically impaired, other health impaired, seriously emotionally disturbed, speech impaired, and visually handicapped children. Also defines "school district" and "special education".

Repealers include: AS 14.30.186(c) (relates to coverage of special services for exceptional children, and states that nothing prevents special services from being offered to classifications represented by less than five children in a school district or REAA); AS 14.30.186(d) (relates to cooperation between school districts and REAA's in providing special services); AS 14.30.191(b) (relates to consultation with parents on the educational assessment of a child); AS 14.30.260 (Exception to qualifications--waiver by school district of teacher qualifications); AS 14.30.280 (relates to minimum standards for psychologists); AS 14.30.330 (Application for enrollment); and AS 14.30.347 (Transportation of exceptional children).

Provides Act takes effect July 1, 1983.

Introduced February 11 and referred to Health, Education & Social Services, then to Finance.

In his message transmitting the bill to the House for consideration, Governor Sheffield stated:

> Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the education of exceptional children. This bill updates existing statutes which require special services for gifted and handicapped children.
>
> Alaska law has required that special services be provided exceptional children since 1965. Through enactment of the Education for all Handicapped Children Act (P.L. 93-142) in 1975, Congress made federal funds available for the education of handicapped children and established various requirements to be met by participating states. This bill amends existing statutes to assure that Alaska is in compliance with those requirements.

Exceptional Children (education of)

HOUSE BILL NO. 194, (see page 157). Reported back to the House on May 25 by Health, Education & Social Services with the committee recommending it be replaced with a HESS Committee Substitute and that it do pass. Concurring: Fritz (Co-Chairman), Tischer (Co-Chairman), Goll, Koponen, Davis and Herrmann. To Finance.

The HESS CS makes the following changes:

--Adds new language to AS 14.30: "Sec. 14.30.337. ATTENDANCE REQUIRED. The parent or guardian of an exceptional child shall ensure that the child attends a program of special education and related services provided under AS 14.30.180 - 14.30.350 unless the parent or guardian demonstrates to the satisfaction of the school district that the child is receiving an appropriate education." New Secs. 1 through 3 amend portions of AS 14.30 to make violation of the above a misdemeanor, punishable by a fine of between $50 and $200, plus the cost of prosecution (amends AS 14.30.020); to require the chief administrative officer to report all apparent violations to the governing body of the district (amends AS 14.30.030); and to provide that if it is not practical for an existing law enforcement agency to enforce AS 14.30.337, the governing body of the school district or the B.I.A. may appoint the necessary truent officers to enforce the law (amends AS 14.30.050).

--Eliminates amendment to AS 14.30.285(b) that would have required a school district that sends an exceptional child for placement in another district to assume the child's education expenses (see p. 157).

--Deletes (b) from new section on state support of programs for gifted children: "State support under the public school foundation program for special education and related services for gifted children is available for not more than five percent of the average daily membership of the district or educational attendance area."

--Adds new Sec. 19 that amends AS 14.30.347, "Transportation of Exceptional Children," to read: "When transportation is required to be provided as <u>related</u> [PART OF SPECIAL] services, exceptional children shall be carried with other children, except when the nature of their physical or mental handicaps is such that it is in the best interest of the exceptional children, as determined by the school district, that they be transported separately. . . . "

--Deletes language from new definition of "seriously emotionally disturbed" children: ". . . the term includes children who are schizophrenic but does not include children who are only socially maladjusted [, UNLESS IT IS DETERMINED THAT THEY ARE SERIOUSLY EMOTIONALLY DISTURBED]."

--Repeals AS 14.30.340, "When not Required to Enroll." Provides that no handicapped child may be required to enroll in a special education program if the parent or guardian demonstrates that the child is receiving adequate educational advantages. Further provides that the child must be excused from the compulsory education requirements if a physician certifies in writing that the child's bodily, mental or emotional conditions does not permit attendance at school."

—Rewrites AS 14.30.191 relating to evaluation of exceptional children. Incorporates the same amendments as the original, except also requires the Dept. of Education to consult with the Dept. of Health and Social Services when adopting regulations that establish, or require school districts to establish, standards and procedures for the identification and classification of exceptional children.

—Deletes repeal of AS 14.30.191(b) and AS 14.30.347 (see p. 158).

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

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House of Representatives
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MEMBERS:
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REP. PETER GOLL
REP. NIILO KOPONEN

M E M O R A N D U M

TO: H.E.S.S. Committee

FROM: Linda Otey, Committee Aide

SUBJ: CS for HB 194 "An act relating to the education of exceptional children and providing for an effective date."

DATE: May 19, 1983

The proposed draft has deleted two controversial issues from the original legislation with the intent of maintaining the bill's purpose as a technical revision in order to bring State Statutes into conformity with Public Law 94-142 and thus securing federal receipts for Alaska's Special Education Programs. The federal receipts for FY 83 were as follows:

1. PL 94-142: Provided special education to cities and boroughs in the amount of $1,431,670.

2. PL 89-313: Provided funds for the handicapped to Rural Education Attendance Areas in the amount of $1,842,910.

Total dollars received in special education categories for FY 83 = 3,274,580.

The two sections that have been deleted are:

1. Section 12 - payments of transfer costs will be paid by the school districts rather than the Department as under current law; and

2. Section 15 - a limit of 5% of the average daily membership of the district or rural education attendance area will be provided for by the public school foundation program for special education.

needs to be back in but re-written

proposed regs

current regs & proposed regs

In previous testimony it has been explained that the actual wording of this bill has been patterned very closely to Federal Law (PL 94-142) in order to insure continued federal funding. Currently, there are proposed regulations "on hold" by the revisors of the Attorney General's Office until passage of this legislation. Current law prohibits the enactment of the proposed regulations.

There appears to be public concern in regard to the definition section of the bill. Even though most of the language is taken from the Public Law, there is local concern as to its effects in services rendered to school age children. The question of whether or not "similar" language keeping with the intent of the Federal Law would be sufficient to receive the $1.4 million (FY 83) for special education.

Levy
5/19/83

Original sponsor: Rules/Governor

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 194 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the education of exceptional children; and providing for an effective date."

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

* Section 1. AS 14.30.020 is amended to read:

Sec. 14.30.020. VIOLATION. A person violating AS 14.30.010 or AS 14.30.337 is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than $50 nor more than $200, plus the cost of prosecution, and may be imprisoned until the fine and costs are paid or until the convicted person has served one day for every $2 of the fine and costs, at which time the fine and costs are automatically discharged. Each unlawful absence is a violation and if an absence is extensive there is a new violation each time five consecutive days of the absence elapse. The court may suspend sentence, stay or postpone enforcement of execution, or release from custody a person found guilty upon the conditions which are in the best interests of the child. In any event, at the expiration of the school year, the person shall be released and discharged from all penalties provided by this section.

* Sec. 2. AS 14.30.030 is amended to read:

Sec. 14.30.030. REPORT OF VIOLATIONS AND PROCEDURES. The chief administrative officer of a district or state-operated school shall report all apparent violations of AS 14.30.010 or AS 14.30.337 to the governing body of the district. The governing body shall, on receiving the report or on the complaint of any person, provide for a full

and impartial investigation of all charges of violation. In private or federal schools, the chief administrative officer shall make a full and impartial investigation of all apparent violations. If it reasonably appears upon investigation that a person has violated AS 14.30.010 or AS 14.30.337, the governing body of a district or state-operated school, or the chief administrative officer of a private or federal school, shall make and file with the district court a complaint against the person, charging the violation. The judge or magistrate may issue a warrant for the arrest of the person and may act upon the complaint.

* Sec. 3. AS 14.30.050 is amended to read:

Sec. 14.30.050. TRUANT OFFICERS. (a) If it is not practical for an existing law enforcement agency to enforce AS 14.30.010 or AS 14.30.337, the governing body of the school district or the Bureau of Indian Affairs may appoint the necessary truant officers to enforce AS 14.30.010 or AS 14.30.337. The state shall not contribute to the expenses of an officer appointed by the Bureau of Indian Affairs.

(b) A truant officer may arrest and bring before any district court judge or magistrate, a person violating AS 14.30.010 or AS 14.30.337 upon a warrant issued by the district court judge or magistrate.

* Sec. 4. AS 14.30.180 is amended to read:

Sec. 14.30.180. PURPOSE. It is the purpose of AS 14.30.180 - 14.30.350 to provide an appropriate public [COMPETENT] education [SERVICES] for [THE] exceptional children in the state who are at least three years of age [AND FOR WHOM THE REGULAR SCHOOL FACILITIES ARE INADEQUATE OR NOT AVAILABLE].

* Sec. 5. AS 14.30.186(a) is amended to read:

(a) A borough or city school district shall provide [FOR]

special education and related services for exceptional children [REPRESENTED BY NOT LESS THAN FIVE CHILDREN] residing in the district.

* Sec. 6. AS 14.30.186(b) is amended to read:

(b) The board of a regional educational attendance area shall provide [FOR] special education and related services in a school in the area for exceptional children [REPRESENTED BY NOT LESS THAN FIVE CHILDREN] residing in the area served by the school.

* Sec. 7. AS 14.30.191(a) is amended to read:

Sec. 14.30.191. EDUCATIONAL EVALUATION [ASSESSMENT]. (a) Before placement in a [SPECIAL EDUCATION] program of special education and related services and not less than once every three years [A YEAR] for as long as the child is assigned to the [A SPECIAL EDUCATION] program, an exceptional child shall receive an educational evaluation [ASSESSMENT] for the identification and classification of exceptional children [THE LEARNING, MENTAL AND PHYSICAL STATUS OF THE CHILD].

* Sec. 8. AS 14.30.191(c) is amended to read:

(c) If a parent or guardian believes that the educational evaluation [ASSESSMENT] of the child is in error, the parent or guardian may request an independent [EXAMINATION AND] evaluation of the child. If a substantial discrepancy exists between the educational evaluation [ASSESSMENT] of the school district and the independent evaluation, and if the parent or guardian so requests, a hearing shall be held before a hearing officer in order to resolve the discrepancy between evaluations and to determine the appropriate educational program [PLACEMENT] for the exceptional child. [THE DEPARTMENT OF EDUCATION SHALL ADOPT REGULATIONS FOR THE CONDUCT OF HEARINGS AUTHORIZED BY THIS SECTION AND FOR THE APPOINTMENT AND QUALIFICATIONS OF THE HEARING OFFICER. REGULATIONS ADOPTED AND PROCEEDINGS CONDUCTED UNDER THIS SECTION ARE SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT.]

* Sec. 9. AS 14.30.191(d) is amended to read:

(d) The department [DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES] shall [COOPERATIVELY ESTABLISH] by regulation establish, or require school districts to establish, [DIAGNOSTIC] standards and procedures for the identification and classification of [THE LEARNING, MENTAL AND PHYSICAL STATUS OF] exceptional children. [STANDARDS RELATING TO SPECIAL EDUCATION PROGRAMS, INDIVIDUAL OR GENERAL, SHALL REMAIN THE RESPONSIBILITY OF THE DEPARTMENT OF EDUCATION IN CONJUNCTION WITH THE LOCAL EDUCATION AGENCY.]

* Sec. 10. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.195. HEARINGS. (a) The department shall by regulation provide for administrative hearings to be conducted under AS 14.30.180 - 14.30.350.

(b) The agency conducting a hearing under this section may issue subpoenas under AS 44.62.430 and may petition the superior court for adjudications of contempt under AS 44.62.590.

* Sec. 11. AS 14.30.231 is amended to read:

Sec. 14.30.231. ADVISORY COMMITTEE. The Governor's Council for the Handicapped and Gifted established under AS 47.80 shall serve as [THE COMMISSIONER OF EDUCATION AND THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES SHALL ESTABLISH] an advisory committee, the function of which is to provide information and guidance for the development of appropriate [SPECIAL EDUCATION] programs of special education and related services for exceptional children. [MEMBERSHIP OF THE ADVISORY COMMITTEE SHALL INCLUDE, BUT IS NOT LIMITED TO, PERSONS REPRESENTING LOCAL EDUCATION AGENCIES, STATE AGENCIES, PARENT GROUPS AND ORGANIZATIONS CONCERNED WITH PROGRAMS AND SERVICES FOR EXCEPTIONAL CHILDREN.]

* Sec. 12. AS 14.30.250 is amended to read:

Sec. 14.30.250. TEACHER QUALIFICATIONS. A [NO] person may not

[SHALL] be employed as a teacher of [TO TEACH A CLASS FOR] exceptional children unless that person possesses a valid teacher certificate [,] and, in addition, such training as the department may require by regulation.

* Sec. 13. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.255. ADMINISTRATOR QUALIFICATIONS. A person may not be employed as an administrator of a program of special education and related services unless that person possesses a valid administrative certificate and, in addition, such training as the department may require by regulation.

* Sec. 14. AS 14.30.270 is amended to read:

Sec. 14.30.270. SUBSTITUTES. AS 14.30.250 does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute teacher of [A CLASS FOR] exceptional children.

* Sec. 15. AS 14.30.285(d) is amended to read:

(d) For the purposes of this section a child's education expenses are limited to the actual cost of necessary care, transportation, and special education and related services [INSTRUCTION], including room and board [, WHILE ATTENDING THE DESIGNATED INSTITUTION].

* Sec. 16. AS 14.30.305 is amended to read:

Sec. 14.30.305. STATE SUPPORT OF PROGRAMS FOR CHILDREN HOSPITALIZED OR CONFINED TO THEIR HOMES. [SPECIAL INSTRUCTIONAL SERVICES FOR EXCEPTIONAL CHILDREN WHO ARE HOSPITALIZED OR CONFINED TO THEIR HOMES MAY BE PROVIDED BY A SCHOOL DISTRICT.] A child who is hospitalized or confined to home and who receives at least 10 hours of special education and related services [INSTRUCTION] per week may be counted as a pupil in average daily membership when computing state support under the public school foundation program.

* Sec. 17. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.325. SURROGATE PARENTS. (a) The department may by regulation provide for the appointment of surrogate parents to represent exceptional children in matters relating to the provision of an appropriate public education.

(b) A surrogate parent is not liable for civil damages as a result of an act or omission committed in the surrogate parent's official capacity, except that a surrogate parent may be liable for civil damages as a result of gross negligence or intentional misconduct.

* Sec. 18. AS 14.30 is amended by adding new sections to read:

Sec. 14.30.335. ELIGIBILITY FOR FEDERAL FUNDS. Notwithstanding any other provision of AS 14.30.180 - 14.30.350, the department may do all things necessary to qualify for federal funds that are available to the state for the education of exceptional children.

Sec. 14.30.337. ATTENDANCE REQUIRED. The parent or guardian of an exceptional child shall ensure that the child attends a program of special education and related services provided under AS 14.30.180 - 14.30.350 unless the parent or guardian demonstrates to the satisfaction of the school district that the child is receiving an appropriate education.

* Sec. 19. AS 14.30.350 is repealed and reenacted to read:

Sec. 14.30.350. DEFINITIONS. In AS 14.30.180 - 14.30.350,

(1) "department" means the Department of Education;

(2) "exceptional children" means children who differ markedly from their peers to the degree that special facilities, equipment, or methods are required to make their educational program effective; these children may be identified in the following categories:

(A) "deaf" children exhibit a hearing impairment that hinders the child's ability to process linguistic

information through hearing, with or without amplification, and that adversely affects educational performance;

(B) "deaf-blind" children exhibit concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in a special education program solely for deaf or blind children;

(C) "gifted" children exhibit outstanding intellect, ability, or creative talent as determined in accordance with regulations of the department;

(D) "hard of hearing" children exhibit a hearing impairment, whether permanent or fluctuating, that adversely affects educational performance but that is not within the meaning of (A) of this paragraph;

(E) "learning disabled" children exhibit a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations; the term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia; this category does not include children who have learning problems that are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage;

(F) "mentally retarded" children score two or more standard deviations below the national norm on an individual standarized test of intelligence and exhibit deficits in adaptive behavior manifested during the developmental period, that

adversely affect the child's educational performance;

(G) "multihandicapped" children exhibit two or more of the conditions described in (A), (B), (D) - (F) and (H) - (L) of this paragraph, the combination of which causes such severe educational problems that they cannot be accommodated in a special education program for any one of the conditions;

(H) "orthopedically impaired" children exhibit a severe orthopedic impairment, including impairments caused by congenital anomaly, disease, or other causes, that adversely affects educational performance;

(I) "other health impaired" children exhibit an autistic condition that is manifested by severe communication and other developmental and educational problems or exhibit limited strength, vitality, or alertness due to chronic or acute health problems such as heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophelia, epilepsy, lead poisoning, leukemia, or diabetes, that adversely affects educational performance;

(J) "seriously emotionally disturbed" children exhibit one or more of the following characteristics over a long period of time and to a marked degree, that adversely affects educational performance: (i) an inability to learn that cannot be explained by intellectual, sensory, or health factors; (ii) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; (iii) inappropriate types of behavior or feelings under normal circumstances; (iv) a general pervasive mood of unhappiness or depression; or (v) a tendency to develop physical symptoms or fears associated with personal or school problems; the term includes children who are schizophrenic

but does not include children who are only socially maladjusted;

(K) "speech impaired" children exhibit a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects educational performance;

(L) "visually handicapped" children exhibit a visual impairment that, even with correction, adversely affects educational performance;

(3) "related services" means transportation and developmental, corrective, and other supportive services required to assist a handicapped or gifted child to benefit from special education, and includes but is not limited to speech pathology and audiology, psychological services, physical and occupational therapy, counseling services, and medical services for diagnostic or evaluation purposes;

(4) "special education" means specially designed instruction to meet the unique needs of a handicapped or gifted child, and includes but is not limited to classroom instruction, instruction in physical education, instruction in vocational education, home instruction, instruction in a hospital or institution, and summer school;

(5) "school district" means a borough school district, a city school district, or a regional educational attendance area.

* Sec. 20. AS 14.30.186(c) and (d), 14.30.191(b), 14.30.260, 14.30.280, 14.30.330, 14.30.340, and 14.30.347 are repealed.

* Sec. 21. This Act takes effect July 1, 1983.

-

Sec 18 pg 6 – 14.30.337 – transfers in Amendment
– question – should the district make a program
available. " Dept says that a provision
for. Leaves this
(3) lang. thru-out literature The lang is
"an appropriate education"
340 - Potentially, indicates

285 (f) – intention there that provide the
service

14.30.186 –

existing statute problem – only 1 child in the
district – 186 (c) & (d) repealed –

– intent - to force districts to offer - special programs –
"law across country – subsection (f) of 285 –
problems if parents refuse to let them go
elsewhere.

– Herrman - RSAA district had services in one school
Service available w/in the dist & in
another community? Any costs associated
with that? Transfers w/in district

Roberts on
Repealers – 186 (c) (d) – not 5 kids

Tischer = def of approp & adequate
More @ issue here than

• House HESS — 5/23/83
Goll / Herman / Miller / Fritz / Tischer / Davis

CSHB 194:

S. Hale - New fiscal note - reflects deletion of 2 provisions of orig. bill -
Sect 12 - costs of transfers -
Sect 15 - limit of spec educ -

— Reinsert lang - Dept will continue to
Pg 5 - l 9 - all of Sect 15 - deleted -
Reinsert Subsect. (A) & (C) of old section 15.

Tischer
— Regs presently address 5% as a cap. Regs will have to be changed.
— Re evaluate - characteristics of gifted & talented children at least funding
— If limit were removed - impact would be ↑ 4 or 6 mi
— impose either by 5% arbitrary # or more approp. definitions to be counted for state aide.
If possible - deal with this based on criteria

① Request minor amendment Pg 4 l 3 after shall
" a — DOE makes final decision —
Pg 4 of orig bill - transfer - sending dist would pay
proposed amendment - (1) & (2) costs split ↑ sending & dept.
no change in subsec (f).

Hess Mtg.

Rick Robertson -

Hole - Position Paper / Repealers
Regulations / Cap on special educ.

Gillespie -

Herrmann Sec 9 AS 14.30.191(d) -
Question: Removes DH&SS -

Davis: Checked on repealers -

Goll: Encourage "enabling legislation" - need position papers.

Tischer: DOE - Speak to Regulations before Committee

: Definitions -
"

Greene - Transfer within districts - not covered under current law - We can transport to another district to Anch for example. "If we have to change their residence then we need to amend this bill."

Tischer - ADM's for ea. dist - designed to cover costs of transfers - does the receiving district pay the additional costs

Greene - Cap on funding entitlement but they should be able to offer to as many children as possible - In lieu of 5% Cap.

Changes to ~~CS HB~~ 194

(1) – Holes amendment to include consultation w/ Dept H&SS

(2) – Insert Sect 12 & 15 as written

(3) – Re-word repealer & retain – 14.30.191(6)

(4) 14.30.347 Transport of Except. children.

Appeals ch.

DOE – Ask 5% question regarding this section

Alaska State Legislature

Representative Mae Tischer
District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

House of Representatives

MAE TISCHER

March 28, 1983

Mary Tonkovich, M.S., C.C.C.
Speech-language pathologist
8295 Garnet
Juneau, Alaska 99801

Dear Mary:

Thank you for your specific comment on HB 194. I will advise the Health, Education and Social Services Committee of your comments when we next deliberate on this bill.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/gnt

MAR 2 4 1983

8295 Garnet
Juneau, AK 99801
March 24, 1983

Dear Rep. Tischer,

Regarding House Bill No. 194, Sec. 14.30.350, page 9, line 3, I strongly urge deletion of the phrase "which adversely affects educational performance."

This might deny treatment to children who stutter, have voice disorders, those under age six and many mild or moderate speech and language impaired children. The development and well-being of these individuals would be adversely affected.

Thank you for your consideration.

Sincerely Yours,

Mary Jonkovich, M.A., C.C.C.
Speech-language pathologist

March 24, 1983

Mae Tasker
House HESS
Alaska Legislature
Juneau, Alaska

Dear Ms Tasker:

I would like to voice concern over a section of House Bill 194, specifically Page 4, line 4 of section 14.30.350 Definitions. The phrase "which adversely affects educational performance" should be deleted or at least changed to read "not necessarily affects educational performance. By professional definition, school performance is not even an indicator of specific speech impairments. A child's educational performance may reflect a problem in area of communication, but not necessarily. If this phrase is left in, I fear that many children will be excluded from speech services they need, just because their educational performance does not show

Bill Mulnix 5-2910

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ADAK REGION SCHOOL DISTRICT
Adak Alaska

NAVSTA BOX 34 • ADAK, ALASKA
F.P.O. SEATTLE, WA. 98791
PHONE: 907-592-3188

ADMINISTRATIVE STAFF
DR. JOHN E. SAVEL
Superintendent
LEON F. VINES
Administrative Assistant
BRADLEY A. RAPHEL
Director of Administrative Services
VERNELL C. PINSON
Secondary Principal
GARY L. JACKSON
Elementary Principal
LOIS GANTNER
Director of Community Services
DR. PAULINE SLEMKEWICZ
Director of Reading

Mar. 29. 1983

Chairperson
House HESS Committee
Pouch V
Juneau, AK 99811

Dear Chairperson:

It has come to my attention that regulations pertaining to the eligibility of speech impaired children in the public schools are in the process of being adopted by the Department of Education. These regulations evidently were adopted by the State Board in Fall, '82. I am concerned about the implications of these regulations with respect to service to the communicatively handicapped children. Under the pending regulations, only children whose communication disorder adversely affects their educational performance will be allowed service. This may deny treatment to children who stutter, those under six years of age, those with voice disorders, and many mild to moderate speech and language impaired children. The total development and well-being of these individuals will be adversely affected.

Another area of concern is the designation of responsibility for diagnosing these children. We believe that speech/language pathologists are the only qualified professionals to do this.

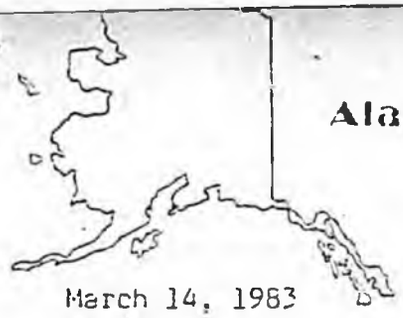
I urge you to consider changes in these items of the regulations.

Sincerely,

Duane R. Gray
Speech Therapist

HB 194

RECEIVED
MILO H. FRITZ, M.D.
MAR 16 5 11 PM '83



Alaska Speech - Language - Hearing Association

March 14, 1983

Harold J. Raynolds, Commissioner
Alaska Department of Education
Pouch F
Juneau, AK 99811

Dear Commissioner Raynolds:

It has come to the attention of the Alaska Speech-Language-Hearing Association that regulations pertaining to the eligibility of speech impaired children in the public schools are in the process of being adopted by the Department of Education. These regulations evidently were adopted by the State Board in the Fall of 1982. We are deeply concerned about the implications of these regulations with respect to service to communicatively handicapped children. Under the pending regulations, only children whose communication disorder adversely affects their educational performance will be allowed service. This may deny treatment to children who stutter, those under six years of age, those with voice disorders, and many mild to moderate speech and language impaired children. The total development and well-being of these individuals will be adversely affected.

Another area of concern is the designation of responsibility for diagnosing these children. We believe that speech/language pathologists are the only qualified professionals to do this.

A third area of concern is lack of information we received regarding the development and promulgation of these regulations. In this case, it was crucial that we be made aware of developments regarding the regulations. The Office of Exceptional Children did not provide such information. We would like redress for this error by having the above concerns addressed at this time with additional public hearings preceeded by proper notification of impacted parties, including parents and speech/language pathologists.

Please reply as soon as possible regarding pending changes in state regulations pertaining to the eligibility of speech impaired children in the public schools and the above areas of concern.

Sincerely,

Monica Ferguson Shirley

Monica Ferguson Shirley, M.S., C.C.C.
President
Alaska Speech Language Hearing Association
83 Slater Drive, Apt. 16
Fairbanks, Alaska 99701



Alaska Speech - Language - Hearing Association

March 14, 1983

Chairperson
House HESS Committee
Pouch V
Juneau, AK 99811

Dear Chairperson:

It has come to the attention of the Alaska Speech-Language-Hearing Association that legislation has been submitted to modify statutes regarding special education in the form of House Bill 194. We are deeply concerned about the implications of these proposed changes in statutes with respect to service to communicatively handicapped children. Under these proposed changes, only children whose communication disorder adversely affects their educational performance will be allowed service. This may deny treatment to children who stutter, those under six years of age, those with voice disorders, and many mild to moderate speech and language impaired children. The total development and well-being of these individuals will be adversely affected.

Another area of concern is the designation of responsibility for diagnosing these children. We believe that speech/language pathologists are the only qualified professionals to do this.

We do not support House Bill 194 and urge you to reconsider this bill. We request a letter be forwarded at your earliest convenience indicating the status of House Bill 194 and further measures that we may take as an association to stop this legislation.

Sincerely,

Monica Ferguson Shirley

Monica Ferguson Shirley, M.S., C.C.C.
President
Alaska Speech-Language-Hearing Association
83 Slater Drive, Apt. 16
Fairbanks, AK 99701

STATE OF ALASKA
DEPARTMENT OF EDUCATION
DIVISION OF EDUCATIONAL PROGRAM SUPPORT

JAY S. HAMMOND, GOVERNOR

POUCH F
STATE OFFICE BUILDING
JUNEAU, ALASKA 99811
PHONE.

October 21, 1982

TO: Special Education Directors

FROM: William Mulnix, Administrator
Office for Exceptional Children
Department of Education

RE: 4AAC 52, Education for Exceptional Children

At the October 7, 1982 meeting in Haines, the State Board of Education adopted regulations 4AAC 52.010-4AAC 52.920. Attached is a copy of the regulations for your information. An effective date has not yet been determined by the Office of the Attorney General and the Office of the Lieutenant Governor.

X (j) To be eligible for special education and related services as a speech impaired child, a child must

(1) exhibit a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects educational performance;

---

(2) require special facilities, equipment, or methods to make his educational program effective;

(3) be diagnosed by a physician, speech pathologist, or speech therapist as speech impaired; and

(4) be certified by a multidisciplinary team as qualifying for and needing special education services for the speech impaired.

(k) To be eligible for special education and related services as an other health impaired child, a child must

(1) exhibit an autistic condition which is manifested by severe communication and other developmental and educational problems, or exhibit limited strength, vitality, or alertness due to chronic or acute health problems such as a heart condi-

PUBLIC INPUT RE: HB 194

From: George Toriano - Speech and Hearing Therapist

1.) I favor fully funding HB 194

2.) I favor the following word changes in HB 194:

a. in the section regarding those people able to diagnose children as speech impaired, please eliminate 'physicians' as they are not qualified to diagnose such impairments. The others in that section are okay.

b. in Section 1 (j) the child's impairment must adversely affect educational performance in order to be eligible for services. Please add 'and/or social or emotional performance' to the section.

Testimony taken over the phone on 5/17/83.

Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

TO: HESS Committee Members

FROM: Linda Otey, HESS Committee Aide

RE: Staff Summary HB 194 "An act relating to the education of exceptional children; and providing for an effective date."

A sectional analysis was provided by the Department of Education.

Mr. Rick Roberton, Assistant Attorney General, drafted the bill and is unable to attend today's meeting due to a prior engagement.

The purpose of HB 194 is to bring state statutes into conformity with Public Law 94-142. The revision was written using the Federal Special Education Handbood as a guide. Currently, the Attorney General's Office is revamping the regulatory provisions regarding special education. Consequently, several special education regulations are under review.

Most of HB 194 involves technical changes. The substantive changes are as follows:

1) Section 12 - payments of transfer costs will be provided for by the district rather than the Department as under current law.

2) Section 15 - a limit of 5% of the average daily membership of the district or rural education attendance area will be provided for by the public school foundation program for special education.

POSITION PAPER/Departme

Secondly, establishment of standards and procedures for the identification and classification of exceptional children is a difficult task which would be beyond the capabilities of school districts. Furthermore, if school districts were required to set such standards and develop such procedures, there would be no statewide uniformity. This would result in widely varying programs, would make technical assistance and quality assurance more difficult, and would splinter the activities and effectiveness of statewide protection and advocacy efforts. Unless there is a compelling reason to change, it is recommended that line 20 of page 2 omit "or require school districts to establish."

Dr. Shapiro

Third, on page 8, lines 16 through 26, the following wording would be preferable since it better reflects the recent deliberations of experts in the field of childhood emotional disturbance: "Severe mental disorder" means an illness, disease, organic brain syndrome or other condition which substantially impairs thought, perception of reality, emotional process, judgement, or behavior such that (1) educational performance is adversely effected or (2) there is an inability to build or maintain satisfactory interpersonal relations with peers or teachers."

Finally, on page 9 the definition (K) would be better stated "communicatively disordered" children exhibit a disorder such as ....." This definition would be more in line with the current nomenclature in this field of special services.

Norman Lang, 3030

Dept of Education

SPECIAL ED BILL 377-015-83

Location	Change
Section 1-5	Amendments bring statutory language into conformity with federal requirements. Deletion of last sentence in section 5 is picked up in section 6 and 7.
Section 6	This change makes it clear that where appropriate, the Department will require school districts to establish local standards for program eligibility, and procedures for testing or other forms of eligibility determination, and classification of exceptionality.
Section 7	Makes more clear the burden and process for administrative resolution of disputes arising from this chapter.
Section 8	Clarifies the advisory role of the Governor's Council for the Handicapped and Gifted.
Section 9	Clean up.
Section 10	Requires directors of special education programs to be administratively certificated..
Section 11	Clean up.
Out — Section 12	In addition to general language clean up, this section would require school districts which do not provide appropriate special education services to pay the costs associated with transferring students to wherever the services are available.
Section 13	Clean up.
Section 14	Clean up.
Out — Section 15	Places in statute a previously regulatory restriction on the number of pupils who may be claimed for state aid purposes in the classification of gifted/talented. The purpose of this restriction is to enable districts to use their own criteria for defining gifted/talented students and designing appropriate programs and services for those students, while at the same time applying a uniform limit on what the state will pay for those programs. This does not limit the number of students who may be served in gifted/talented programs, it only limits what the state will pay for them.
Section 16	Enacts a state statute in conformity with federal requirements.

Location	Change
Section 17	Standard language for programs with dual federal - state responsibilities and financial support.
Section 18	Clean up.
Section 19	Brings definitions into conformity with federal provisions.
Section 20	Repeals citations no longer applicable, or obviated by this bill.
Section 21	Effective date section.

BILL SHEFFIELD, GOVERNOR

GOVERNORS' COUNCIL FOR THE HANDICAPPED AND GIFTED

UNIVERSITY PLAZA OFFICES WEST · SUITE C · 600 UNIVERSITY AVENUE · FAIRBANKS, ALASKA 99701
PHONE (907) 479-6507

1655

MAR 25 1983

COMMENTS ON HB 194

"An Act relating to the education of exceptional children; and providing for an effective date."

BACKGROUND:

The purpose of this bill appears to be a revision or "clean up" of existing state special education laws to make them consistent with current practices in special education, compatible with the federal law P.L. 94-142, and to provide a sufficient statutory basis for comprehensive special education programs and regulations in Alaska.

While the bill generally meets this purpose, several sections need revision and additional items need to be included.

SUGGESTIONS FOR IMPROVEMENTS:

1. Sec. 5. A.S.14.30.191c (page 2)

   An independent evaluation must be provided at school district expense unless the district goes to hearing and shows why an independent evaluation is not warranted. This is the federal rule, included in our state regulations, and should be included in law.

2. Sec. 12 A.S. 14.30.285(b) (page 4)

* We suggest deletion of the word "institution" on line 6, line 12, and line 15, and addition of the words educational program or residential school as the Council does not support institutionalization of children for educational purposes.

* Out-of-district placement should only occur if an appropriate educational program cannot reasonably be made available locally. Please delete "is not" on lines 9-10 and add this phrase. It is not reasonable to allow local educational agencies to send children away without a requirement and Departmental monitoring to make sure that the local district makes every effort to establish a program.

* The Department should approve the placement and pay the local district for the cost of the educational expenses which are above the local cost-per-pupil rate for special education. This would keep the focus on local district responsibility to make the payment, monitor the placement, make sure the IEP is developed and implemented, arrange for visits home, and communicate with parents. It would also provide an incentive to the local district to develop and provide the program locally if it could obtain state funding to do so. Why are we willing for the state to pay $50,000 to send a child out of state and to pay nothing to keep the child at home? Under the present arrangement

Summary

As the state's special education advisory board comprised of parents, teachers, and administrators of education and social service programs across the state, the Council is required to take a close look at and comment on laws and regulations for special education. We support enactment of a strong state law for special education which has all the strengths and protections of P.L. 94-142 which has now been in effect nationwide since 1975 and has withstood the tests of implementation and political changes. Revisions and additions as suggested above would go far toward insuring a strong and reasonable state statutory framework.

We also support continuation of categorical funding and improvements in fiscal accountability for special education.

Thank you for this opportunity to comment.

Jane White

Jane White
Chairperson

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
9115 Minor Ct. Juneau, Alaska 99801

an organization of Alaskan School Administrators

March 23, 1983

MAR 24 1983

The Honorable Mae Tischer
The Honorable Milo Fritz
State Capitol Building
Pouch V
Juneau, AK 99811

Dear Representatives Tischer & Fritz:

Please accept this letter as written testimony relative to H.B. 194.

The Alaska Council of School Administrators wishes to express concern about the provisions of section twelve of the bill that would transfer the fiscal responsibility for placing low incidence handicapped students in an educational program outside the school district from the Alaska Department of Education to the placing district.

At the present time, these costs are borne by the Department of Education through grants to the larger districts, namely Anchorage.

To change this method of operation at this time would place a rather heavy burden on small districts of the state. Individual costs could exceed $35 to $40 thousand dollars and the state-wide cost could near or exceed one million dollars.

Alaska's Department of Education has indicated that this bill is necessary in order for D.O.E. to curb the outside placing of students unnecessarily. I submit that there are other, less drastic, means of obtaining the same objective.

Please investigate this provision with great care before giving it consideration.

Respectfully,

Don MacKinnon

Don MacKinnon
Executive Secretary

~~HB224~~ HB194

Debra Keller - GDU's Handicapped & Gifted
Additional typed comments

Jean Krause NEA
PL 91-142 meet w/ Dept of Ed & Go-to draft
CS p. 4 out of state
p. 2 L: 16 APA
hearings comply with A.P.A.?

Bob Greene
Sec. 12 concerned w/ Holt's amendments
Transfer costs from State to Districts
Read Statement by Larry Feeney.

Linda
Want list of amendments proposed
Legal opinions necessary

MEMORANDUM State of Alaska

TO: Bruce Botelho
Assistant Attorney General
Human Services-Juneau

DATE: March 11, 1983

FILE NO: 377-015-83

TELEPHONE NO: 465-3603

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: HB 194

By: Thomas H. Robertson
Assistant Attorney General
Human Services-Juneau

This memorandum is written in response to your recent request on the above subject. My reaction to Larry Feeney's comments is set out below.

1. The reference to "handicapped child" seems to be an oversight. I checked with Steve Hole who agrees that this section should address enrollment of an "exceptional child".

2. The language of AS 14.30.330 seems to focus on the process of enrollment. However, in order to eliminate any lack of clarity concerning the requirement of enrollment, I suggest that this section be amended as set out in the appendix.

3. This section does not specify the entity to whom one must "demonstrate" that a child is receiving an appropriate education because at the time it was drafted the Department of Education did not have a clear preference. This lack of specificity could be eliminated by regulation. However, Steve Hole indicated that the determination should be made by the district. This is accomplished in the appendix.

I understand that the Department of Education is considering at least one other amendment. If you have additional questions, please let me know.

THR:jal
Attachment

cc: Steve Hole

* Sec. ___. AS 14.30.020 is amended to read:

Sec. 14.30.020. VIOLATION. A person violating AS 14.30.010 or AS 14.30.340 is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than $50 nor more than $200, plus the cost of prosecution, and may be imprisoned until the fine and costs are paid or until the convicted person has served one day for every $2 of the fine and costs, at which time the fine and costs are automatically discharged. Each unlawful absence is a violation and if an absence is extensive there is a new violation each time five consecutive days of the absence elapse. The court may suspend sentence, stay or postpone enforcement of execution, or release from custody a person found guilty upon the conditions which are in the best interests of the child. In any event, at the expiration of the school year, the person shall be released and discharged from all penalties provided by this section.

* Sec. 18. AS 14.30.340 is amended to read:

Sec. 14.30.340. WHEN [NOT] REQUIRED TO ATTEND [ENROLL]. (a) The parent, guardian, or other person having responsibility for or control of an exceptional child shall insure that the child attends a [NO HANDICAPPED CHILD MAY BE REQUIRED TO ENROLL IN A SPECIAL EDUCATION] program of special education and related services provided under AS 14.30.180 -- 14.30.330 unless [IF] the parent, [OR] guardian, or other person [OF THE CHILD] demonstrates [CERTIFIES] to the satisfaction of the school district [BOARD OF THE PUBLIC SCHOOL SYSTEM WHERE THE CHILD RESIDES] that the child is receiving an appropriate education [ADEQUATE EDUCATIONAL ADVANTAGES. A CHILD SHALL BE EXCUSED FROM THE COMPULSORY EDUCATION REQUIREMENTS IF A PHYSICIAN CERTIFIES IN WRITING THAT THE CHILD'S BODILY, MENTAL OR EMOTIONAL CONDITION DOES NOT PERMIT ATTENDANCE AT SCHOOL].

(b) Violation of this section is punishable under AS 14.30.020.

Sec 12. Add: However, A DISTRICT MAY SEEK A WAIVER FROM THE REQUIREMENTS THAT A DISTRICT IN THE [illegible]

APR 4 1983

ALASKA STATE LEGISLATURE

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
JOINT OIL AND GAS
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis
House District 19

March 30, 1983

Mary Tonkovich
8295 Garnet
Juneau, AK 99801

Dear Ms. Tonkovich,

Thank you for your recent letter concerning HB 194.

This bill is currently in the House HESS Committee. We have already heard some testimony on this bill. We are now looking at ways of improving this legislation. In this regard, your suggestions are quite helpful. I will see that they are taken into consideration before the bill passes from the committee.

I am taking the liberty of forwarding your comments to Rep. Tischer, who is co-chair of the House HESS committee.

Thank you again for writing.

Sincerely,

Mike

Rep. Mike Davis

md/kh

cc: Rep. Tischer

8295 Garnet
Juneau, AK 99801
March 24, 1983

Dear Rep. Davis,

Regarding House Bill No. 94, Sec. 14.30.350, Page 9, line 3, I strongly urge deletion of the phrase "which adversely affects educational performance."

This might deny treatment to children who stutter, have voice disorders, are under six years of age, and many mild and moderate speech and language impaired children. The development and well-being of these individuals would be adversely affected.

Thank you for your consideration.

Sincerely yours,
Mary Bonkovich, M.A., C.C.C.
Speech-language pathologist

Tischer Hermann
Miller Davis
Kopen Fritz

Sherman Welsch - DOE
Tom Robertson - AG

HB 194 / 5/4 - Teleconference

Mary
Mrs. Arnold · 24 families & Board of 6 - support HB194 - concerned about 5% - are funds avail to support bill.

Sherman Welsh - DOE - anticip that $ would be allocated on proportionate basis - Have to be prorated - Foundation $ = ADM. If the funding is insufficient @100% - then it has to be prorated. This bill would inc the

Jerry Chilkot - Kotz Funding level? will vary equally - gifted - talented or handicapped.

Lola Williams - Kivilina - More $ for a multi-handicapped as for an [illegible] -
Welsch - Yes it would [illegible] same Under SB23 effort to adjust for all exceptional funding

Fbks NSB Phillip Antle HB 194 - clean up - Kept w/ intent - but exceeded
Sec 5 - line 7 pg. 2 - Same as existing statute

Sec 6 - DOE develops classification standards.
pg. 2 i 20 -
"l 20 - Reg. est Classification Standards

Pg 3 l 1 Sect 7 · Confused - whom supoena power is given - Clarify!

Pg 4 l 4 Sect 12 - out of dist placement in hands of DOE - put Dist of REAA is fiscally responsible.
"if we receive fully funded SB23 - then they could meet this obligation

Pg 4 l 25 Sect 13 - locally funded to provide room & board - double funding possibility

Task force to establish

Two Elements - 1) ~~Est~~ Eligibility Standards must be developed
2) funding - all students should be served - namely, a % of standards -
1st address Standards - remove %'s -

l 7 pg 6 Sect 18 - Unenforceable / retain current law -

pg 7 l 5 Sect 19 - No regulations

Milo - Send comments in writing - will be sent to the Committee

Ann Rogers - Solicitor KPen. Ak Speech lang & hear Assoc. audiologists or other areas

Sect K - under definitions - delete "speech impaired" use ~~communicatively disabled~~ communicatively handicapped

John Holmes - Ak legal services Barrow -

1) Sect 14.30.191 - re-evaluates not less than once every 3 years - should evaluate every year.

2) Sect 12 - 14.30.285 6) appropriate not defined in definition section - very necessary: case in which school dist would prefer to place outside district - lang. should thoroughly exhaust all options before transfering children.

Unalakleet Mary Rubado - Spec Educ Dir - Bering Straits.

1) 5% cap in HB 194 - caps on emotional disturbed - disabled etc - where do we draw the line?

Carolyn Henderson / Mat-Su

Harriett Hall - Cordova - Spec Educ Co-Ord - Eligibility ruling in mentally retarded - from 1.23 below to 2 - below - some reg's for exceptions.

Kotzebue - Cathy Stramley - Co-ord Gifted & talented
pg 5 l. 10 - ref to Flks recommendations -
oppose because of cultural difference around
the state - in favor of local school dist
making their own regulations.

Gov Council - Handicapped & Gifted - Dot Coran - submitted
testimony

Mary Arnold Mat-Su - Don't limit to 5% -

Sect 12(B) - Adversary relationship for transfers - no
lang to include parents decision.

Unalakleet - Mary Rubado - Support full funding for AK
Resources program.

Peavey from Lidaner's Min

Pg 1 l 11:12 "& related services" should be included

Pg 4 l 12 - following approp - "and obtains the consent of the childs parent or guardian"

Pg 9 l 22 - 14.30.191(b) - leave in statute - 14.30.280 Retained.

Risk
Tom Robertson - Asst AG

Housekeeping St & Fed law -

1) 5%
2) inter dist transfers

} policy suggestions by DOE.

3 sources of the law:

PL 94-142 - Fed law
Fed reg's
State Statute

# of potential conflicts b/w existing st law & Fed law

State - enacted before Fed Uniform Natl Standards.

1) Catagories of exceptionalities in existing st are not same under required Fed law. - Maybe even Fed law becoming out of date.

2) St - enrollment by Commissioner - never been done before - delegated to districts. Potential Problem

3) Actual coverage of bill - St ref to 5 kids

4) Subpoena power in Admin hearing to sort out program for kids - no state law.

State regs do not give Subpoena power.

atty from Barrow "appropriate" Rally vs. Bd & Educ that
began to litigate

Offers help to Committee to prepare

~~today~~

Ms. Susan M. Baldwin
P.O. Box 3584
Homer, Alaska 99603

Dear Ms. Baldwin:

Thank you for your letter in regard to HB 194, "An Act relating to the education of exceptional children." To date, the HESS Committee has had one hearing on the legislation. It is not my intention to reschedule the bill at this time. In the event that the Governor insists on moving this legislation (he is the sponsor of the bill) I would have to insist on further public testimony and input, perhaps through the teleconferencing network. Your letter will be copied to all the members of the Committee and my staff will notify you if and when this bill is rescheduled.

As I understand it, the legislation basicly 'cleans - up' Alaska's special education statuates in bringing them into conformity with Federal law. However, I am aware of the suggested substantive changes that you and others have mentioned that raise important questions in regard to the true intent of the legislation.

Sincerely,

milo

lo

physician..." This is entirely inappropriate. Speech therapists receive 5 to 6 years of training at the university level to be able to handle this responsibility and are the only ones qualified to do this.

Thank you for your consideration of these concerns.

Sincerely yours,
Susan M. Baldwin, M.A., C.C.C
Speech/Language Pathologist

Susan M. Baldom
P.O. Box 3584
Homer, Alaska 99603

March 25, 1983

Chairperson
House HESS Committee
Pouch V
Juneau, Alaska 99811

linda
pls respond

Dear Chairperson:

Please let me express my concerns to this committee, as I understand you are hearing HB 194 dealing with regulations governing the eligibility of communicatively handicapped children in the public schools. As a speech therapist employed in the Alaska public school system and author of a book entitled, A Child Learns to Speak, ~~and~~ I feel qualified to comment on two serious errors in these regulations. First, the regulation reads that only children whose communication problems adversely affect their "educational" performance will be allowed service in the public schools. This would deny services to preschool speech handicapped children right at a time when correction is most critical and beneficial. It would deny services to children whose social and emotional skills are affected by a communication handicap. Good oral communication skills are a prerequisite to successful teaching of reading, writing, and social skills to children.

Second, the regulations read that a child which is communicatively impaired "...be diagnosed by a

FEB 23 1983

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 194
Title An Act relating to the education of exceptional children; and...
Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
Original: Legislative Finance PHONE 465-2865
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/82)

HB 194
HESS

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No._____
Title "An Act relating to the education of exceptional children; and
Requested by The Governor's Office Date 1/24/83
providing for an effective date."

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected Legal Services
BRU, Program, Or Subprogram(s) Affected Legal Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	Ø	Ø	Ø	Ø		

FUNDING (Thousands of Dollars)

GENERAL FUND	Ø	Ø	Ø	Ø		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This Act will not have a fiscal impact on the Department of Law, except that the potential for future litigation will be reduced by its enactment. The proposed legislation brings state law into conformance with U.S. Department of Education regulations dealing with the availability of education services for exceptional children. Although Alaska has never experienced difficulties in this government program area, some other states' provisions for the education of exceptional children has caused considerable litigation in these jurisdictions. This bill is intended to lessen the potential for such litigation.

IV. DATE January 24, 1983 PREPARED BY Richard I. Pegues, Dir.Adm.Svcs.Div.
AGENCY Department of Law
PHONE 465-3672

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

33-001 (Rev. 12/82)

Office of Management and Budget
Reviewed by: Mike Mahoney Program Budget Analyst
Division of Budget Review

RECEIVED
FEB 14 1983
LEGISLATIVE FINANCE

HB 194
FCSS

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No.
Title An Act relating to Special Education
Requested by Governor's Office Date 1/27/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary & Secondary Education
BRU, Program, Or Subprogram(s) Affected State Contract Programs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill has no fiscal impact on this department. The potential savings in present out of district transfer costs has already been cut form the FY-84 executive budget request for this component as part of the overall 5% reduction.

IV. DATE 1/27/83 PREPARED BY Steve Hole
AGENCY Education
Original: Legislative Finance PHONE 465-2890
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/82)

OMB Reviewed by: Jerry Bryant

RECEIVED
FEB 14 1983

LEGISLATIVE FINANCE

HB

196

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

Date: 4/6/83

2/14/83

Mr. Speaker:

The Committee on H.E.S.S has had HB 196

An Act relating to provision of adequate housing for public school teachers in rural areas.

under consideration and reports it back as follows:

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

APPENDIX B

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Aleutian Region

	Housing Arrangement					Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Cold Bay		X X		$285 285	$285	X X			
DISTRICT TOTALS: 1 village, 2 respondents		2		$285	$285 50% rec'd Subsidy	2	-0-	-0-	-0-

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from results of 1981 NEA Alaska Teacher Survey

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Bering Strait

	Housing Arrangement						Housing Quality		
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Nome			Private Owner	$450			X		
			Private Owner	350			X		
		X		250			X		
		X		250			X		
			Private Owner	600		X			
			Private Owner	500			X		
			Regional Corp.	750			X		
	X			200			X		
Gambell			Private Owner	100	$100		X		
			Church	-0-				X	
			Church	-0-					X
			Private Owner	500	230			X	
			Private Owner	770	500		X		
Shishmaref		X		420				X	
			Private Owner	190					X
		X		270				X	
			Private Owner	210	Yes			X	
			Private Owner	200					X
	X							X	
		X		270		X			
			Private Owner	420				X	
		X		270				X	
Koyuk	X			-0-					X
		X		270			X		
		X		270		X			
		X		270			X		

SCHOOL DISTRICT: Bering Strait (continued)

Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
White Mountain		X		270			X		
	X								X
			Private Owner	150					X
Golovin		X		276				X	
Elim			Village Corp.	$270			X		
Teller		X		200	Yes			X	
		X		270				X	
DISTRICT TOTALS: 8 villages, 33 respondents	4	13	16	$100-770	$100-500, 15% rec'd subsidy	3	13	11	6

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

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PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Chatham

	Housing Arrangement					Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Angoon			Regional Corp.	$484	$125		X		
			City Govern.	50				X	
DISTRICT TOTALS: 1 village, 2 respondents	-0-	-0-	2	$50-484	$125 50% rec'd subsidy	-0-	1	1	-0-

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

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PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Galena

	Housing Arrangement				Housing Quality				
Community	Own Home	Rent from District	Rent from Other	District Cost/Mo.	Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent like[4]
Galena			Private Owner	$300					X
	X				$100			X	
DISTRICT TOTALS: 1 village, 2 respondents	1	-0-	1	$300	$100 50% rec'd subsidy	-0-	-0-	1	1

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from
results of 1981 NEA-Alaska Teacher Survey

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Hydaburg

		Housing Arrangement					Housing Quality		
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Hydaburg		X		$110			X		
		X					X		
		X		115				X	
DISTRICT TOTALS									
1 Village 3 respondents	-0-	3	-0-	$110-115	-0-	-0-	2	1	-0-

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from
results of 1981 NEA-Alaska Teacher Survey

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Kodiak

	Housing Arrangement					Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Port Lions			Private Owner	$400	$295	X			
DISTRICT TOTALS: 1 village, 1 respondent	-0-	-0-	1	$400	$295 100% rec'd subsidy	1	-0	-0-	-0-

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

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PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Kuspuk

	Housing Arrangement					Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/mo.	District subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Red Devil	X			$500	$200				X
		X		450	200		X		
			Private Owner	450	200				X
Chuathbaluk		X		450	200			X	
Lower Kalskag			Private Owner	450			X		
Kalskag			Private Owner	450	200			X	
Sleetmute		X		200			X		
			Private Owner	515			X		
			Private Owner	200					X
			Private Owner	200	200				X
			Private Owner	120	200				X
			Private Owner	585	200		X		

SCHOOL DISTRICT: Kuspuk (continued)

	Housing Arrangement					Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Aniak			Private Owner	525	200	X			
	X			100					X
			Private Owner	650	200			X	
			Private Owner	625	200		X		
			Private Owner	650	200		X		
			Private Owner	550	200		X		
			Private Owner	400	200		X		
			Private Owner	400	200		X		
			Private Owner	-0			X		
Crooked Creek			Private Owner	100	200				X
		X		450	200		X		
Stony River			Private Owner	250	200				X
		X		450	200		X		
			Private Owner	150	200				X

8 villages 26 respondents	2	5	19	$100-650	$200 77% rec'd subsidy	1	13	3	9

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from results of 1981 NEA-Alaska Teracher Survey

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Lower Kuskokwim

	Housing Arrangement					Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Bethel		X		$640			X		
		X		620			X		
Atmautluak			Private Owner	175					X
			Private Owner	175					X
Tuntutuliak		X		250				X	
Goodness Bay		X		250				X	
			Private Owner	250					X
			Corporation	200				X	
DISTRICT TOTALS: 4 villages, 8 respondents	-0-	4	4	$175-640	-0-	-0-	2	3	3

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from results of 1981 NEA-Alaska Teacher Survey

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Lower Yukon

		Housing Arrangement					Housing Quality			
	Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
	Pitkas Point		X		$456+	Yes		X		
DISTRICT TOTALS	1 village 1 respondent	-0-	1	-0-	$456+	$unknown 100% rec'd subsidy	-0-	1	-0-	-0-

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from
results of 1981 NEA-Alaska Teacher Survey

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: North Slope Borough

	Housing Arrangement					Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Barrow		X		$720	$250	X			
		X		695	225		X		
		X		750	250		X		
		X		750	250		X		
		X					X		
			Private Owner	-0-	Yes		X		
			City Govern.	720	500	X			
Atkasuk		X		500	310		X		
Wainwright		X		400	270		X		
Pt. Hope		X		180				X	
DISTRICT TOTALS: 4 villages, 10 respondents	-0-	8	2	$180-750	$225-500 80% rec'd subsidy	2	7	1	-0-

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from results of 1981 NEA-Alaska Teacher Survey

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Northwest Arctic

		Housing Arrangement				Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Kiana		X		$475			X		
Selawik		X		444			X		
Ambler			Private Owner	250					X
DISTRICT TOTALS: 3 villages, 3 respondents	-0-	2	1	$250-475	-0-	-0-	2	-0-	1

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from results of 1981 NEA-Alaska Teacher Survey

PRELIMINARY RESULTS OF NEA-ALASKA SURVEY OF RURAL TEACHERS
ON HOUSING ARRANGEMENTS AND HOUSING QUALITY

SCHOOL DISTRICT: Sand Point

	Housing Arrangement					Housing Quality			
Community	Own Home	Rent from District	Rent from Other	Cost/Mo.	District Subsidy	Luxury[1]	Rural Standard[2]	Rural Substandard[3]	Tent-like[4]
Sand Point			Private Owner	$275			X		
DISTRICT TOTALS: 1 village, 1 respondent	-0-	-0-	1	$275	-0-	-0-	1	-0-	-0-

[1]Luxury: Everything you would normally find in an Anchorage apartment.

[2]Rural Standard: Hot/cold running water, toilet, shower or tub, electricity, stove, refrigerator, non-wood heat.

[3]Rural Substandard: Most, but not all of the amenities listed above for Rural Standard Housing.

[4]Tent-like: Wood heat, haul water, honeybucket, etc.

Compiled by the House Research Agency (10/81) from results of 1981 NEA-Alaska Teacher Survey

APPENDIX C

REAA OVERSIGHT COMMITTEE SURVEY
OF REAA CONCERNS REGARDING TEACHER HOUSING
(COMPLETED IN 1980)

CONCERN #2 - SCHOOL DISTRICT INVOLVEMENT IN TEACHER HOUSING

CHUGACH REAA	---	A teacher apartment is included in the school at Tatitlek. As the new school is completed and the anticipated students arrive, additional housing must be secured. There is not now any additional housing available in Tatitlek. Whittier has sufficient rental units available.
DELTA GREELY REAA	---	the District does not provide or subsidize teacher housing.
LOWER KUSKOKWIM REAA	---	there is some District-owned housing in Bethel, Atmautluak, Kongiganak, Eek, Platinum. In Kwethluk, Napaskiak, Akiachak, the District is negotiating with local village councils for the construction of units to be leased to the District and subleased to teachers. In the remaining villages, teachers are required to live in whatever is available. The District is intending to create an enterprise fund this year.
LAKE & PENINSULA REAA	---	Housing is provided for the principal teacher in 13 villages, with three extra units in Nondalton and 1 being completed in Kokhanok. Village residents have been encouraged to come up with housing, but the expense is considerable.
NORTHWEST ARCTIC REAA	---	The District maintains a total of 40 units for teacher housing. These units were turned over to the District in 1976 and have been used for teacher housing ever since. The estimated revenue generated by the rents from these units is $200,000. The estimated M & O expense is in excess of $500,000. Some of the alternatives the District is doing to get out of teacher housing is leasing the management of existing units to a third party who is presently planning on building additional housing units in some of the villages, closing down the housing units and using them for various educational purposes, and encouraging village residents to build housing for teachers. It is the intent of the District to close down and be out of teacher housing within four (4) years.
RAILBELT REAA	---	the District presently owns 5 trailers and 3 teacherages. The District is slowly phasing out of teacher housing at the rate of 2 or 3 places a year to make sure that the communities local housing market can pick up the slack.

#2 - TEACHER HOUSING (cont.)

SOUTHEAST ISLAND REAA --- Due to the unique nature and economic base of logging camps and small fishing villages, it is generally necessary for the school district to furnishing housing trailers to its teachers. It is doubtful that housing will ever be available through private sources in most of these communities. Per the master contract with the teachers, teachers are not charged for living in district-owned trailers, but are responsible for utility and heating costs. In addition, teachers who rent private housing are reimbursed up to $200 for rental costs. Teacher housing for trailer purchase alone cost $82,000 in FY 80 and $54,000 in FY 79.

SOUTHWEST REAA --- The District policy requires that the professional staff to live in district-owned or leased housing units unless provided a waiver by the Superintendent. In 7 of th 11 villages, all of the certificated staff live in district-owned housing. In the remaining villages, there is a combination of district-owned housing units (15), district leased housing units (8) and a few homes owned by teachers (3). In Dillingham, there are 2 district-owned housing units, 6 district-leased housing units, and 3 owned by certificated staff.

YUKON FLATS REAA --- $20,000 has been budgeted for maintenance and operation of teacher housing for 1980-81. This is a 66% reduction from FY 1979-80 when the furniture in District wide housing was brought up to standard. Rentals average $250 - $300 per month, which is consistent with rentals in the region. Although the District intends to get out of teacher housing, there is no clear-cut plan on how to do this.

YUKON/KOYUKUK REAA --- In most situations in the District there is a combination of district-operated rental units and privately owned houses and rental units. Where the district rents units, the occupant pays a rental fee plus all utility costs. The District Board within its' policies has expressed a desire not to be in the housing business. At the present time, however there does not seem to be any alternative to providing rental units in some locations.

CONCERN #2 - SCHOOL DISTRICT INVOLVEMENT IN TEACHER HOUSING

KUSPUK REAA	---	Lack of teacher housing which contributes to turnover in staff. The apartment in Aniak rents for approximately $750 per month and electricity is extra. The School Board has approached the village corporation and asked for help regarding construction of housing. Housing allowance for teachers is $200 per month.
ADAK REAA	---	Some of the teachers use the BOQ housing. Seven teachers are wives of military personnel. BOQ housing is used for workers in the summer, after the second week of August teachers have the use of the BOQ.
CHATHAM REAA	---	Not able to house all of employees and there's a great need for more teacher housing as no other local housing is available. We've been able to get some housing at our local motels and we are forced to subsidize the rent when the rate exceeds the district rental rates.
ALASKA GATEWAY REAA	---	Not involved in teacher housing at the present time, with the exception of some potential contract provisions which should have little or no expense to the district.
COPPER RIVER REAA	---	Have at all the sights except Glenallen. At Kinney Lake two trailers were brought in when housing was critical occupants have until the end of the school year housing in the area. Maintain list of rental units.
BERING STRAITS REAA	---	Do not furnish teacher housing. Not part of the negotiated agreement. Staff housing is a major problem, other employers in the area furnish housing for their employees. Banks are reluctant to make home loans because surveying is not complete. Housing in the area are not adequate (poor insulation, no running water). Five of the schools have apartments.
RIBILOF REAA	---	The school district wants to stay out of the housing business. We currently rent from the National Marine Fisheries. This provides good housing with inconvenience. Specifically, within two days after school lets out, teachers must vacate their home and make them available to federal employees. The district has built a house for the superintendent.

CONCERN #2 - SCHOOL DISTRICT INVOLVEMENT IN TEACHER HOUSING

IDITAROD REAA --- The district has been gradually getting out of owning and providing employee housing since 1976, this has been difficult since there is a shortage of adequate rental units. A rent and utility subsidy was initiated in fairness to teachers who had high rent but this is the last year of this program. Housing is also needed for classified and administrative personnel. 39 units are needed to house personnel.

ANNETTE ISLAND SCHOOLS --- Teacher housing is a real problem, local tribal laws have stopped most commercial housing plans of local people. Ten teachers live at base housing located 7 miles from the school. The district would prefer to have private or town provided teacher housing. Teacher recruitment is difficult when housing is not guaranteed.

LOWER YUKON --- The Lower Yukon School District is one of the few districts in the state where the regional School Board has made a committment to district personnel in this regard. Each certified teacher is subsidized approximately $200 per month, this costs the district approximately $250,000 per year. The only viable alternative the Board has is to adjust rents on the housing units so that the housing units are self supporting. And the Board is doing this.

APPENDIX D

RESULTS OF ALASKA ANALYSTS/DITTMAN RESEARCH SURVEY WHICH PERTAIN TO TEACHER HOUSING

SURVEY OF TEACHERS
WITHIN THE
REGIONAL EDUCATION ATTENDANCE AREA
PROGRAM

COMPLETED

FOR

THE ALASKA STATE HOUSE OF REPRESENTATIVES

HEALTH, EDUCATION AND SOCIAL SERVICES
INTERIM COMMITTEE

NOVEMBER, 1979

BY

ALASKA ANALYSTS/DITTMAN RESEARCH
ALASKA BANK OF COMMERCE BUILDING
3230 C STREET
ANCHORAGE, ALASKA

INTRODUCTION AND BACKGROUND

The purpose of the survey was to provide an effective means of evaluating the Regional Education Attendance Area's teacher placement program in terms of bringing quality education and educators to the Bush.

The study was undertaken for the Alaska State House of Representatives by the Health, Education and Social Services interim committee under the leadership of Representative Thelma Buchholdt.

FOCUS

The focus was on the teachers themselves; how and where they were recruited, the type of orientation for teaching in the bush they received, what kind of teaching and living conditions they encounter, why they are teaching in the bush, and how long they plan to remain teaching in the bush. Additionally, it was important to learn whether the teachers felt there was a certain "productive" period of time for teaching in the bush after which teacher effectiveness is lowered, what makes teachers stay in the bush, and what makes them decide to leave. Also, a general forum was provided for teachers to confidentially and candidly describe their thoughts concerning the questionnaire, teaching in the bush, or anything else they felt should be examined.

METHODOLOGY

It was determined that a questionnaire could be mailed to each of the approximately 900 teachers in the REAA, and that total confidentiality could be assured the respondents. The questionnaire instrument was developed by the staff of Alaska Analysts/Dittman Research to include questions requested by the House HESS interim committee and others as considered necessary for an effective questionnaire design.

Prior to the mailing of the questionnaire, each superintendent received an "alert letter" notifying him of the survey and requesting his assistance in encouraging the teachers to respond. In addition, each questionnaire included a cover letter describing the purpose of the survey, and a self-addressed, stamped envelope was provided.

The returned questionnaires were reviewed for completeness, edited and coded for transfer to IBM cards, keypunched and verified, and data-processed featuring the Statistical Package for the Social Sciences (SPSS). The SPSS package is one of the most advanced data-processing systems available and was designed specifically for use in processing survey research findings.

In total, nearly half of the REAA teachers responded to the questionnaire -- 392 questionnaires were returned before the cut-off date for processing, and an additional 39 were received following the cut-off date.

FOREWORD

In order to provide for the most valuable and candid replies, total confidentiality was assured each respondent. Teacher names and teaching locations were not requested.

The results described in this report are presented as totals from teachers throughout all REAA districts, and unless volunteered by the respondent, no effort was made to list or identify specific districts or schools. In evaluating the results, it should be noted that although all respondents were REAA teachers, not all teachers taught in a remote village. The totals include teachers from Adak (U.S. Naval Station), Delta Junction, Glennallen and Whittier as well a bush districts and regions.

For the most full and complete understanding of the REAA teacher program (from the teacher's point of view), it is recommended the reader thoroughly review the GENERAL COMMENTS section included in this report (Volume I), and VERBATIM COMMENTS included in Volume II. The statements included in Volume II include responses to the following questions:

"Why did you choose to teach in the bush?"

"How do you feel the orientation might be improved -- what do you wish had been covered?"

"Do you feel the teachers in your village generally stay too long or not long enough?"

"Are you welcome in the homes of the villagers-- why is that?"

"What type of expenses are a burden on your budget?" and "Essentials that are not available".

Question:

How would you describe your housing?

Answer:

MORE 27%

ADEQUATE 53%

LESS 16%

Question:

Do you own or rent?

Answer:

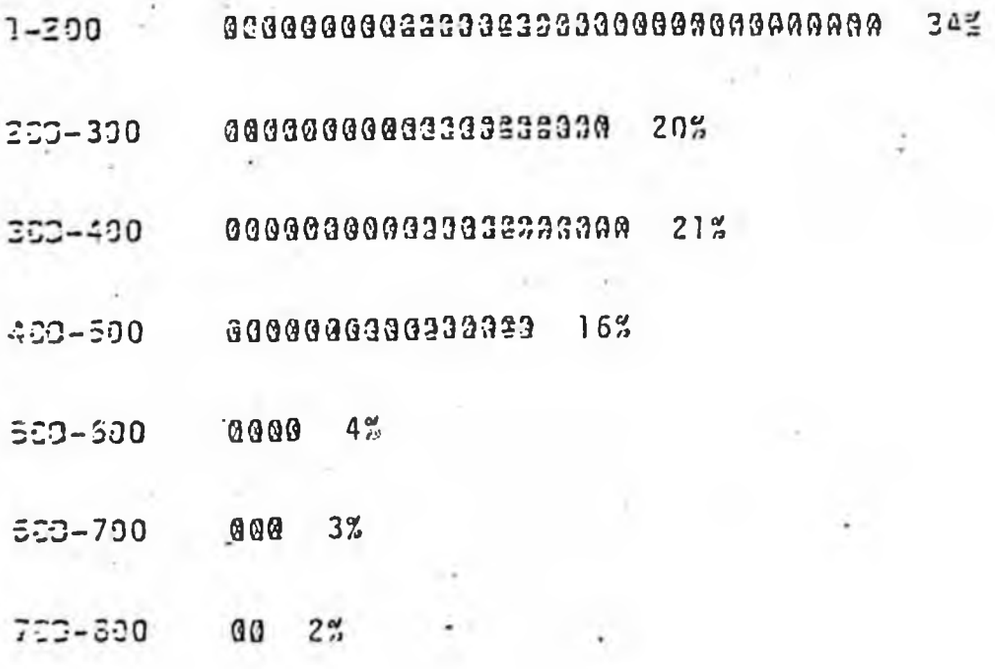
OWN 23%

RENT 72%

Question:

Please indicate monthly rental rate.

Answer:

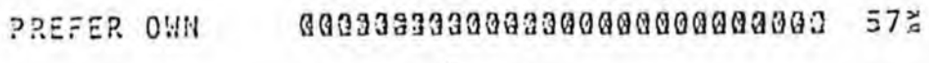


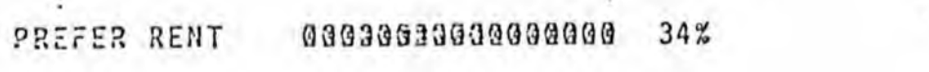
Alaska Analysts/Dittman Research/November '79

Question:

Would you prefer to own or rent?

Answer:



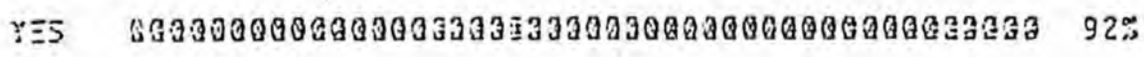


Alaska Analysts/Dittman Research/November '79

Question:

Do you have electricity in your home?

Answer:



NO 8% 5%

Question:

Please indicate monthly electricity rate.

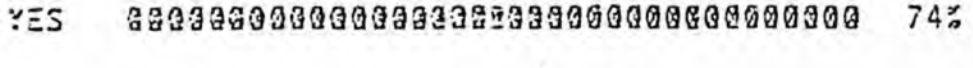
Answer:

IN RENT	@@@@

Question:

Do you have plumbing in your home?

Answer:





Question:

How is water supplied to your home?

Answer:

ON SITE	ØGØ3ØØØ

Question:

Please indicate monthly rate for water.

Answer:

IN RENT	@@@@

Question:

How is your home heated?

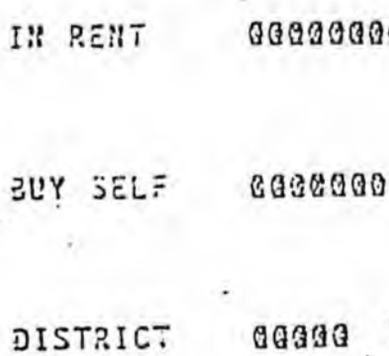
Answer:

ELECTRIC	@@@@@	10%
WOOD	@@@	5%
GAS	@	1%
OIL	@@@@@

Question:

How is fuel for your home provided?

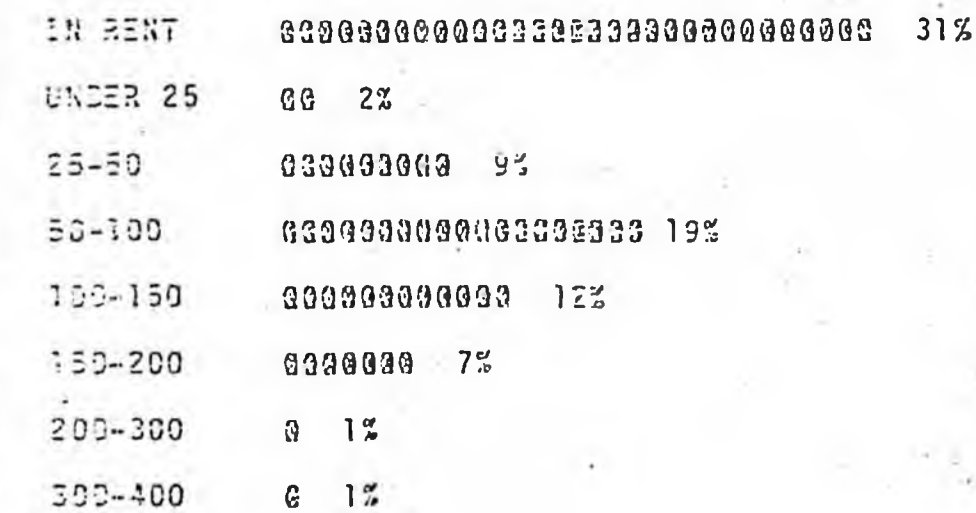
Answer:



Question:

What is your average monthly fuel cost for heating?

Answer:



MAR 14 1983

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

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P.O. Box 333
Kotzebue, Alaska 99752
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1024 W. 6th
Anchorage, Alaska 99501
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Official Business

March 11, 1983

MEMORANDUM

TO: Mae Tischer, Co-Chairman
Milo Fritz, Co-Chairman
House Health, Education and Social Services Committee

FROM: Representative Al Adams AAA

SUBJECT: HB 196 - Teacher Housing in Rural Areas

I appreciate the committee's deliberations over House Bill 196 and its interest in teacher housing in the rural areas of our state. I want to take this opportunity to share with you a study House Research completed in 1981 on the subject, as well as address some of the questions raised during the committee hearing.

First, I want to make it very clear that it is not my intent to obligate school districts, in any way, to provide teacher housing. I believe sections 2 and 3 of the legislation are very clear in stressing this point and am comfortable that they can not be construed, over the years, to mean otherwise. Section 1 adds to the powers of regional school boards that they may, not shall, provide housing through various arrangments. It is very clear that this is an option, not a requirement.

I also understand the committee expressed concern that a district may encounter financial liabilities as a result of the bill's provisions. By way of some background, in testimony before the REAA Budget Oversight Committee, REAA's from around the state indicated that they were attempting to get of the teacher housing business. Instead, their preference was that individuals or village corporations build housing, and some suggested a preference for lease

agreements. Unfortunately some banks are reluctant to make loans in rural Alaska to build multi-family housing without some guarantees. If, however, the individual seeking the loan has assurances, such as a lease agreement with a school district, I understand a bank is more inclined to favorably consider the loan application. As a result, if a district can offer such a commitment, a district can get out of the housing business, teachers can have improved housing, the private sector can create jobs and possibly make some money. Without this bill, a regional school board can not make that necessary commitment.

Currently school districts handle annual budgets totaling millions of dollars. If a district should chose to enter into a housing lease arrangement, I believe each district can locally determine the fiscal implications of that contract and evaluate the district's ability, or inability, in meeting such an obligation. I hope this explains my approach to allowing a school district to decide locally if and how it wants to approach teacher housing. I trust they have the judgement to enter into such agreements. If they don't, there are certainly other areas which we had better also examine.

As to the status of land and the amount available in rural Alaska, I have requested the Department of Community and Regional Affairs to put together available information. I will forward it to committee members as soon as it is received.

Again, thank you for the committee's attention to the bill.

cc: House Health, Education and Social Services Committee Members

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

December 14, 1981

MEMORANDUM

TO: Representative Al Adams

FROM: Christine Johnson, Research Staff

SUBJECT: Rural Teacher Housing
Research Request No. 81-162

This memorandum is in response to your request for alternative solutions to the problem of housing for teachers in rural parts of the state. Our findings are presented in this memorandum under the following three headings:

I. Background
II. Present Housing Problems
III. Options for Legislative Consideration

Summary

- Problems with teacher housing are not the same in each rural community. In some communities, the problem is a shortage of housing, with neither school district housing nor privately owned rental housing available. In other communities there is rental housing available, but it is very poor quality, sometimes below the standards of other homes in the community. The high cost of housing and utilities in some rural communities may also present a problem. These costs may impose a financial burden on teachers living in this housing or on local school districts which try to absorb some portion of the costs.

- It is difficult to document the extent to which teacher housing is a problem based on the information which is readily available at this time. Although there have been four surveys pertaining to teacher housing in the last two years, one of them is incomplete and the other three are not sufficiently detailed.

- It is particularly difficult to determine where there is a shortage of housing. In a 1980 survey, 10 of the 21 Regional Educational Attendence Areas (REAA's) in the state reported that more housing for teachers was needed in their area. Three other REAA's were already arranging for construction or lease of additional units. Additional housing may have been needed in the other REAA's as well, but they did not specifically report it in their reponses.

- Roughly one-fifth of rural teachers responding to two statewide surveys said they lived in housing that was "less than adequate" or "tent-like." (For the purposes of the survey, "tent-like" housing was defined as

housing which has wood heat, a honeybucket, and no running water.) There is no indication from the results of the surveys how the teachers' housing compared to other homes in the community.

- Both teachers and school district officials who responded to the surveys noted the high cost of teacher housing in some communities. One set of survey results shows roughly one-quarter of the respondents paying housing costs of at least $500 per month during the 1980-81 school year. It was unclear from the responses to the survey whether these figures included monthly utility costs as well. The largest portion of the respondents - approximately one-half - pay monthly costs of less than $300. A significant number of these teachers were living in housing provided by the local school district, however, and may have been paying less market value ~~costs~~ rent.

- In another survey, 27 (52%) of the state's 52 school districts reported that they provide housing benefits of some kind to at least two of their employees. These benefits include accommodations in living quarters owned or leased by the school district, monthly housing subsidies, salary adjustments, and/or assistance in locating rental units.

- Eighteen of the school districts estimated that they spent a total of $2.6 million on housing benefits during the last school year. Six of these districts reported spending at least $100,000. Most of the districts which provided estimates of their costs felt that they were somewhat low because their accounting procedures were not sufficiently sophisticated to break down all of their expenditures.

- Alternative solutions to the problem of teacher housing might include:

  - reversing current State policy so that school districts may use capital construction funds they receive from the State to build, purchase, and renovate teacher housing units;

  - reinstituting the 1980 grant program through which rural school districts received funds to purchase mobile housing units or construct housing for teachers;

  - increasing the availability of loan money to private individuals and local private entities, such as the regional non-profit corporations, so that they can construct or renovate housing for lease to school districts or teachers;

  - offering a State subsidy to offset a portion of teachers' housing costs;

  - requiring school districts to tell prospective teachers about housing costs and conditions so that they can negotiate salaries and benefits with this information in mind.

I. BACKGROUND

Until the early nineteen-seventies, living quarters for teachers were built along with schools in rural parts of Alaska. Both the Bureau of Indian Affairs (BIA) and the State of Alaska regularly constructed teacher housing units whenever housing was not available locally.

The State stopped providing teacher housing in approximately 1974. This change in policy was the result of a decision by members of the Legislature that housing for teachers should be a local responsibility. According to Bud Saylors, who was serving in the Legislature at the time and who is now in charge of the employee housing program for the State, creation of the Regional Educational Attendance Areas was under consideration and the mood in the Legislature was to transfer responsibilities for education from the State to the local level.

The landmark Molly Hootch case had been filed when construction of teacher housing was halted but a settlement had not yet been reached. (The case was settled out of court in 1976.) Consequently, there was no housing for teachers provided with the schools which were built as a result of that case.

According to Bud Saylors, it was never clear precisely who at the local level the Legislature expected would begin to provide living quarters for teachers when the State stopped doing so. It appears that at least some members of the Legislature assumed that teacher housing would continue to be a public responsibility. According to Saylors, a number of legislators supported the proposal that the State stop building teacher housing because they thought that by transferring obligations of this kind to the local level, the State might compel residents of the Unorganized Borough to form local governments and begin levying taxes.

In fact, very little teacher housing has been built since the Legislature's decision. School districts have assumed some responsibilities pertaining to the provision of teacher housing. For example, they are the landlords for the teacher housing units built by the BIA and the State prior to 1974. (Title to the property generally rests with the State, although the districts may own the units outright, if they choose.) In communities where living quarters have not been constructed, the districts frequently lease housing for teachers from private owners or assist teachers in finding rental housing. The districts have little, if any, funds with which they are permitted to build or purchase additional teacher housing, however. As a result, they are very limited in their ability to provide assistance in communities where there is no rental housing available locally or where the housing is substandard.

To obtain funding for construction, repair, and improvement projects, each year school districts which are REAA's must submit requests to the State Department of Education (AS 14.08.161). Requests for teacher housing units are routinely vetoed by the Department of Education and the Governor because of their understanding of the Legislature's intent that the State not fund construction of teacher housing.

Similarly, municipal school districts are entitled to State aid for 80% of the amount they must pay to retire outstanding bonds for contruction of schools, renovations, additions, and other capital projects (AS 43.18.100). However, they are specifically prohibited by a Department of Education regulation from receiving this aid to retire bonds used for construction of staff housing (4 AAc 31.090(8)).

It is possible for school districts to use a portion of the money they receive through the public school foundation program to provide teacher housing. These funds are earmarked for operational costs; however, money which remains at the end of a fiscal year may be used at the school districts' discretion. These "carry over" funds have been used in the past by a few districts to buy or construct teacher housing units.

Previous Attempts to Address the Teacher Housing Problem

The shortage of teacher housing has been brought to the attention of the Legislature and State officials on several occasions in the past. Two programs have been developed specifically to remedy the problem: the Non-Owner Occupied Rural Mortgage Purchase Program and the Mobile Housing Grant Program.

To date, the effect of these two programs has been somewhat limited. The Non-Owner Occupied Rural Mortgage Purchase Program has only issued loans since 1979, and until recent public information efforts by the Alaska Housing Finance Corporation, which administers the program, it was not widely known in rural Alaska, particularly in small and more remote communities. Consequently, the program has not had much effect to date on the availability of rental housing in rural Alaska.

The Mobile Housing Grant Program, which was a one-time effort unlike the housing loan program, had far less impact on the teacher housing problem than the Legislature expected. The program received a $1 million appropriation which the Legislature anticipated would be sufficient to purchase 30 to 40 mobile housing units for rural communities. The actual costs of purchasing and delivering a mobile unit turned out to be almost three times what the Legislature had

expected. As a result, only 12 units could be purchased instead of 30 to 40.

The Department of Education estimated to us this fall that there was a demand for roughly three to four times as many housing units as were provided through the housing grant program, i.e., between 36 and 48 units, based on the response of rural school districts. If the price per mobile unit had been what the Legislature expected it to be, the Mobile Housing Grant Program could have satisfied a large portion of this total demand for housing units and perhaps significantly alleviated the shortage of teacher housing. As it was, the program relieved the housing problem in only 6 rural communities.

The Mobile Housing Grant Program and Rural Non-Owner Occupied Housing Loan Programs are described in more detail below.

Non-Owner Occupied Rural Housing Loan Program. In 1979, the Alaska Housing Finance Corporation developed the Rural Non-Owner Occupied Housing Loan Program specifically to increase the availability of rental housing for teachers in rural parts of the state. The program makes long-term financing available for single family rental units and multi-family units as large as eight-plexes. The current interest rate is 9.5%.

The program was initially funded by means of a loan for $2.6 million from the State Department of Revenue. An additional $5 million was appropriated during the 1981 Legislative session to continue the program. AHFC expects that this money will be depleted by the end of the current fiscal year, and intends to request additional funding during the next legislative session. According to a spokesperson for AHFC, interest in the program has been steadily increasing. This is due in part to the efforts which AHFC made this year to inform residents of rural areas about the program.

Mobile Housing Grant Program. In 1980, the Legislature allocated $1 million from a $64 million bond sale to provide teacher housing units throughout the state. This was the first direct State expenditure for teacher housing since approximately 1974.

In a letter discussing the legislative intent for the appropriation, Representative Brian Rogers, the chair of the Free Conference Committee for the bill, said the funding was intended for mobile housing units which could be purchased relatively inexpensively for $25,000 - $30,000, and moved into villages by barge, ferry, or large helicopter. The units would not provide housing for teachers which was significantly better than other homes in the community. They were to be

located on school property and connected to school utilities. Local school districts were expected to assume the cost of installing the units, which were to become property of the districts once they were in place.

The appropriation for the mobile housing units was given to the Department of Transportation and Public Facilities (DOTPF) to administer. DOTPF found that the cost of placing a mobile housing unit in rural communities was significantly above the per unit cost anticipated by the Legislature. According to DOTPF, the cost of a unit FOB in Seattle was between $25,000 - $30,000; however, the cost of transporting a unit from Seattle to a rural site was roughly twice that amount, resulting in a total delivered price of approximately $82,000 per unit. Consequently, a maximum of 12 housing units could be purchased with the appropriation rather than 30 - 40 units as the Legislature had anticipated.

Instead of purchasing the mobile housing units, the Department of Transportation and Public Facilities developed a teacher housing grant program in cooperation with the Department of Education (DOE). DOTPF and DOE notified each rural school district that they were offering 12 grants of $82,000 each. Districts which were awarded the grant money could use it to purchase mobile housing units from Seattle, or they could use it to build housing, buy modular HUD housing, or purchase existing homes. The only requirement for districts which elected not to buy one of the mobile home units was that they provide housing with at least two bedrooms, so that a minimum of two teachers could be accommodated.

Because it was too difficult to determine where the greatest need for teacher housing existed, DOTPF and DOE offered housing grants to communities according to their ranking on the priority list developed for construction of schools as a result of the settlement in the Molly Hootch case. (As noted previously, none of the Molly Hootch schools had teacher housing, as they were built by the State following its decision not to provide living quarters for teachers.) There were several communities on the priority list which turned down the offer of a housing unit. According to Lee Hayes, who heads Planning and Facilities for DOE, these communities generally felt that the housing already available for teachers was sufficient.

A total of nineteen school districts requested a housing grant and met the qualifications. (To qualify, DOTPF and DOE required that the school district provide a resolution from the community where the housing unit would be placed demonstrating the community's approval.) However, only three of these school districts and a total of six communities received grants. At the request of the school districts,

DOTPF and DOE awarded grants for more than one housing unit to several communities. The districts argued that the teacher housing needs in a community should be fully met, rather than providing adequate housing for some but not all of the teachers. Grant recipients are shown on the following table below.

The housing units were scheduled to be shipped to the communities or constructed during the 1981 construction season so that they would be ready for occupation during the present school year.

TABLE I
School Districts and Communities
Awarded Grants for Teacher Housing
1980-81

School District	Community	No. of Grants
Lower Kuskokwim	Quinhagak	2
	Tununik	1
	Napakiak	2
	Goodnews Bay	2
Southwest REAA	Manokotak	3
Bering Straits REAA	Brevig Mission	2
TOTAL 3 districts	6 communities	12 grants

Source: Alaska Department of Education.

II. PRESENT HOUSING PROBLEMS

In the past two years, there have been four surveys of housing arrangements for teachers in rural parts of Alaska. Unfortunately, from the results of these surveys it is difficult to determine what current housing arrangements are and what problems exist.

Existing Housing Arrangements

Rural school districts, particularly the REAA's, generally have an assortment of housing arrangements for their teachers. In some communities, there is school district housing. Generally, this is the housing which was built by the BIA and the State prior to 1974. As noted earlier, when the State Operated School System was dismantled and the BIA school program phased out, responsibility for the housing units was transferred to the local school districts.[1]

In communities where there is no teacher housing or where there is not enough housing for all the teachers, some school districts lease housing from local residents to sublet to teachers. The districts may charge a subsidized rental rate for this housing, or pay the costs of teachers' utilities. Alternatively, districts may ask that teachers find and rent their own housing from local residents. When the cost of renting from private owners is high, districts frequently provide monthly housing stipends or inflate teachers' salaries to reflect local housing costs.

In a survey conducted by the Association of Alaska School Boards (AASB) during the 1980-81 school year, 27 (52%) of the state's 52 school districts reported that they provide housing benefits of some kind to at least two of their employees.[2] These benefits include accommodations

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[1]REAA's hold most of this housing on a "use permit" basis. Actual title to the property generally rests with the State. AS 14.08.151 originally prohibited REAA's from owning land and buildings. This was amended in 1978 so that the State could transfer ownership of property to the REAA's at their request. As yet, none of REAA's have requested that title to the teacher housing units be tranferred to them, possibly because they must assume full maintenance costs for the units if they do so.

[2]The school districts which provide housing for two or more employees are: Adak REAA, Aleutian Chain REAA, Annette Island REAA, Bering Strait REAA, Chatham REAA, Copper River REAA, Craig City, Galena City, Hydaburg City, Iditarod REAA, Kenai Borough, Klawock City, Kodiak Island Borough, Kuspuk REAA, Lake and Peninsula REAA, Lower Kuskowkim REAA, Lower Yukon REAA, North Slope Borough, Northwest Arctic REAA, Pribilof Islands REAA, Railbelt REAA, Southeast Island REAA, Saint Mary's City, Southwest Region REAA, Yakutat City, Yukon Flats REAA, Yukon Koyukuk REAA.

in living quarters owned or leased by the school district, monthly housing stipends, salary adjustments, and/or assistance in locating rental units. Four districts offer housing benefits to only one employee.[3] The AASB survey is attached as Appendix A.

It is not possible to determine the specific housing arrangements in each rural school district from the results of the surveys. NEA-Ak, the largest teachers' union in the state, initiated a survey during the 1980-81 school year which provides some information in this regard; however, the survey is not yet complete. Preliminary results are summarized on the table on the following page. (See Appendix B for a more detailed breakdown of the preliminary results.) As the table shows, responses were received from teachers in only 12 of the 52 Alaska school districts. Additionally, the number of teachers who responded from most districts is very small, with the exception of the Kuspuk District and the Bering Strait District.

Of the 92 teachers who responded to the survey, 38 (41%) live in housing owned or leased to them by the school district. Forty-seven teachers (51%) rent housing from some other source. According to the information in Appendix B, most of these teachers, 41 rent from private individuals; however, 2 rent housing from the city, and 4 rent housing from the local regional or village corporation.

Thirty-eight teachers (41%) reported that they received a monthly housing stipend from their school district. The amount of the stipend ranged from $100 to $500 per month. Only 29 of the respondents (32%) said they received neither housing nor a housing stipend from their school district. However, compensation for the local cost-of-living may have been included in the salaries of these teachers.

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[3]The districts which provide housing for only one employee are: Bristol Bay Borough, Chugach REAA, Hoonah City, Sitka Borough.

TABLE II
Summary of Preliminary Results of 1980-81 NEA-Alaska Survey of
Rural Teacher Housing Arrangements and Housing Quality

School District	No. of Communities Responding/Total	No. of Teachers Responding/Est.Total	Housing Arrangements				No. Who Receive Housing Subsidy	% of Respon-dents	Amount of Subsidy Per Mo.
			Own Home	Rent from District	Rent from Other	Housing Cost/Mo.			
Aleutian Region	1/7	2/ 10		2		$285	1	50%	$285
Bering Strait	8/11	33/ 55	4	13	16	100-770	5	15	100-500
Chatham	1/5	2/ 20			2	50-484	1	60	126
Galena City	1/1	2/ 15	1		1	300	1	50	100
Hydaburg City	1/1	3/ 10		3		110-115	None		
Kodiak Island	1/8	1/140			1	400	1	100	295
Kuspuk	8/8	26/ 50	2	5	19	0-650	20	77	200
Lower Kuskowim	4/23	8/150*		4	4	175-640	None		
Lower Yukon	1/12	1/100		1		456+	1	100	$ Unknown
North Slope Bor.	4/8	10/120		8	2	180-760	8	80	225-500
Northwest Arctic	3/11	3/130		2	1	250-476	None		
Sand Point	1/1	1/ 15			1	275	None		
TAL 12 districts	34 communities	92 respondents	7	38	47	$ 0-770	38	41%	$ 0-500

* Does not include teachers at Bethel Elementary School.

Source: House Research Agency, 12/14/81, from preliminary results of 1980-81 NEA-Alaska survey of rural teachers.

Housing Problems

Based on the responses to the surveys, it appears that the teacher housing problem generally takes one of three forms in rural communities:

1. There is no school district housing or private rental housing available. As a result, teachers must camp out in the school, in an abandoned cabin, in the church, or rely on someone in the village to take them in.

2. In some communities, there is rental housing available, but it is of very poor quality, often below the standards of other homes in the community. This creates both physical and psychological hardships for the teachers.

3. The housing which is available is expensive. The school districts must frequently pay teachers increased wages to offset the high rents or directly subsidize a portion of their rent or utility costs.

Teachers who responded to the surveys also cited the following secondary issues:

- the lack of reliable information from the school districts about the housing situation in communities where teachers are being placed;

- inconsistent treatment by school districts which provide housing units and housing/utility subsidies for some but not all of their teachers;

The three primary problems are discussed in more detail below.

Housing shortage. From the results of the surveys, it is impossible to determine precisely where there is a shortage of housing, and the number of housing units which are needed. At least on a school district basis, the best indication of where there is a housing shortage comes from a survey of the twenty-one REAA's, conducted by the Legislature's REAA Budget Oversight Committee in the fall of 1980. Of the 20 REAA's which responded (the Aleutian Islands REAA did not respond), 7 specifically noted that more housing for teachers was needed in their area. These REAA's were: Chugach, Chatham, Bering Strait, Pribilof Islands, Iditarod, and Annette Island. Three other REAA's - Lower Kuskokwim, Lake and Peninsula, and Northwest Arctic - reported that they were already trying to arrange for the construction or lease of more teacher housing units. Additional teacher housing may have been needed in the other 10 REAA's as well, but they did not report it in their responses. A copy of the survey results is attached as Appendix C.

Substandard housing. The NEA-Alaska survey contains some data regarding the percentage of rural teachers living in substandard housing. As noted earlier, survey results are only available from 92 teachers at this time. In response to questions regarding the quality of their housing, 9 (10%) of the respondents said they live in luxury housing and have everything which one would expect to find in an Anchorage apartment. Forty-two teachers (46%) described their accomodations as "rural standard", with hot and cold running water, toilet facilities, a shower or bathtub, electricity, a stove, and a refrigerator. Twenty-one respondents (23%) said they had most but not all of these amenities, and characterized their housing as "rural substandard." Twenty teachers (22%) reported that their housing was "tent-like" with wood heat, a honeybucket, and no running water. These teachers lived in Sambell (1), Shishmaref (2), Koyuk (1), White Mountain (2), Galena (1), Red Devil (2), Sleetmute (3), Aniak (1), Crooked Creek (1), Stony River (2), Atmautluak (2), Goodnews Bay (1), and Ambler (1). Teachers were not asked how their housing compared to other homes in the community.

These results regarding the quality of teacher housing correspond roughly to the results of an earlier, more comprehensive survey of REAA teachers conducted by Alaska Analysts/Dittman Research in 1979. Approximately 400 of the 900 teachers employed by the REAA's responded. Sixteen percent (16%) of these teachers reported that their housing was less than adequate. This compares to 22% of the respondents in the NEA-Alaska survey who said that their housing was "tent-like." A larger percentage of the teachers who responded to the Alaska Analysts/Dittman Research survey described their housing as more than adequate or luxury, i.e., 27% compared to 10% of the respondents in the NEA-Alaska survey. Ninety-two percent (92%) of the respondents in the Alaska Analysts/Dittman Research survey said they had electricity in their home. Seventy-four percent (74%) had plumbing and 63% had oil heat. A copy of this survey is enclosed as Appendix D.

A number of teachers who responded to the NEA-Alaska survey reported that the condition of their housing caused them physical and psychological hardships. Some respondents were concerned that it reduced their efficiency as teachers as they took time away from teaching and after-school activities to chop wood, haul water, make extensive repairs, insulate, etc. Others said that living below the standards of everyone else in the village reinforced their feelings of being an outsider and made them feel as though they weren't wanted in the community. A significant number of respondents felt that housing quality contributed to the high degree of teacher turnover in Bush communities.

High costs. Both teachers and school district officials who responded to the surveys noted the high cost of teacher housing in some communities. The table on the following page summarizes monthly housing costs of teachers who responded to the NEA-Alaska survey of teacher housing.[4] Based on this information, almost half of the respondents (49%) reported monthly housing costs of less than $300. However, a significant portion of these people were living in school district housing, which may have been rented to them at less than the market value. Twenty-two percent (22%) of the respondents were paying between $300 and $499, while 23% paid $500 per month or more. Most (67%) of the teachers paying more than $500 per month were living in housing provided by a private owner, either a private individual, regional or village corporation, or a local government, rather than in housing provided by the school district.

It is unclear from the results of the NEA-Alaska survey whether the figures for monthly housing costs include monthly utility costs as well as monthly rents and mortgage payments. Monthly utility costs may be significant. For example, respondents from the Kuspuk School District and the Bering Strait School District reported that the monthly cost for household electricity ranged between $25 - $230 and oil costs were between $60 and $300 per month. Two-thirds to three-quarters of the teachers who responded to the Alaska Analysts/Dittman Research survey, conducted in 1979, reported that they paid utility costs in addition to their monthly rent.

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[4]It is should be reiterated that although the NEA-Alaska survey represents the best information available about rural teachers' housing costs and conditions, its results should be used with some care because of the small size of the sample.

TABLE III
Monthly Housing Costs of Teachers Who Responded to NEA-Alaska Survey
1980-81 School Year

Housing Arrangement

	Rent from District	Rent from Private Individual(s)	Rent from Village or Regional Corp.	Rent from Municipality	Own Home	TOTAL	
$ 0		4				4	
$ 1 - 199	3	8		1	1	13	(49%)
$200 - 299	17	8	2		1	28	
$300 - 399		2				2	
$400 - 499	9	8	1			18	(22%)
$500 - 599	1	6			1	8	
$600 - 699	3	4				7	(23%)
$700 - 799	3	1	1	1		6	
Unknown	2				4	6	(6%)
TOTAL	38	41	4	2	7	92	(100%)

Source: House Research Agency, 12/15/81, from preliminary results of the NEA-Alaska teacher housing survey.

Based on the information on Table IV on the following page, school districts were providing direct housing subsidies to 38 (41%) of the 92 respondents to the NEA-Alaska survey. This included subsidies to 22% of the respondents whose housing costs were less than $300 per month, 40% of the respondents paying $300 - 499 per month, and 90% of the respondents who paid more than $500 per month. As the table shows, most of these teachers received subsidies covering 25 - 49% of their monthly housing costs. The exceptions to this were generally teachers paying less than $300 per month all of whom had at least 75% of their housing costs subsidized. (This suggests that school districts provided the same amount of money to all the teachers they subsidized regardless of the teachers' monthly housing costs. A $200 subsidy, for example, represents roughly a 70% subsidy for teachers with housing costs of less than $300, but at most a 40% subsidy for teachers with housing costs over $500.)

TABLE IV
No. of Respondents Who Received Housing Subsidies
By Portion of Housing Payment Which Is Subsidized

Monthly Housing Costs	Portion of Monthly Housing Payment Which Is Subsidized: Under 25%	25-49%	50-74%	75-100%	Over 100%	% Unknown	Total No. of Respondents W/ Subsidy
Under $300				4	4	2	10 (26%)
$300 - 499		3	4			1	8 (21%)
$500 or more		15	4				19 (50%)
Unknown						1	1 (3%)
		18	8	4	4	4	38 (100%)

Source: House Research Agency, 12/16/81, from preliminary results of NEA-Alaska teacher housing survey for 1980-81 school year.

Rural teachers who responded to the Alaska Analysts/Dittman Research survey said that the primary burden on their household budget was travel (including air freight) costs. While housing was cited as both a burden on household budgets and an essential which was not readily available, travel and health care were cited more frequently.

Costs to the school districts. According to the survey of all 52 Alaska school districts conducted by the Association of Alaska School Boards (AASB), every school district which currently provides teacher housing benefits said it would like to discontinue its benefit program and not be involved in the housing business (see Appendix C). There appear to be three principal reasons for this sentiment:

- the current cost to the district of maintaining housing units and providing monthly housing stipends and subsidies;
- the problems inherent in being a landlord;
- the desire of school boards, in particular, not to compete with the private housing market.

It is unclear from the responses to this survey whether those districts which cited high costs, for example, as the primary reason they wanted to end their involvement with teacher housing would feel differently if their costs could be reduced.

The AASB survey asked the school districts to estimate "the total annual cost to the district for teacher (staff) housing, i.e., expenses for maintenance and operation, utilities, rent subsidies to staff, and etc., that are not covered by the revenues generated by teacher housing, for example, rent collected by the district." These results are shown on Table V on the following page.

Only 18 districts responded to the question. A significant number of districts, including some of those who provided an estimate, said that their accounting procedures were not sophisticated enough for them to break down all their expenditures for teacher housing. For example, when one generator supplies both the school and the adjoining teacher housing unit, they were uncertain how much of the cost of running the generator should be applied against the teacher housing unit. A similar situation exists with regard to maintenance costs. A maintenance person may do repair work on both the school and the teacher's living quarters during a trip to the village. In most instances, the districts do not distinguish between the amount of time spent on repair work for the school and the amount of time spent on the housing unit. As a result, most of the districts which provided estimates felt they were somewhat low.

As the table shows, the 18 districts who responded estimated that they spent a total of $2.6 million on staff housing during the last year. The North Slope Borough accounted for approximately 35% of that amount. Six of the districts spent at least $100,000.

TABLE V
School District Expenditures for Teacher Housing
1980-81 School Year

District	Expenditure
Aleutian Chain REAA	$ 52,000+
Bering Strait REAA	190,825
Chatham REAA	48-50,000
Copper River REAA	25,000
Craig City	1-2,000
Galena City	100,000
Hydaburg City	8,000+
Klawock City	5,000
Kodiak Island Borough	47,579+
Lake & Peninsula REAA	90,000+
Lower Yukon REAA	256,790
North Slope Borough	904,200
Northwest Arctic REAA	475,000
Pribilof Islands REAA	28,000+
Southeast Island REAA	127,366
Saint Mary's City	86,400
Yukon Flats REAA	27,000
Yukon Koyukuk REAA	110,000
TOTAL	$2,585,160+

Source: " Association of Alaska School Boards Staff (Teacher) Housing Survey of All School Districts in Alaska," March 1981.

III. OPTIONS FOR LEGISLATIVE CONSIDERATION

There are a number of ways in which the Legislature might address the problem of teacher housing in rural areas. One significant factor in identifying an appropriate approach is that the problem is not the same in all parts of the state. In some communities, the problem is a shortage of housing, either housing provided by the school district or privately owned rental housing. In other communities, rental housing is available, but it is of extremely poor quality. Alternatively, there are some school districts which are making significant expenditures each year to provide housing benefits in some form to their teachers and staff. In other areas, the high costs of housing and utilities are being absorbed by the teachers themselves.

We have identified five alternative solutions for your consideration. Some address the shortage of available housing, others the condition of existing rental units, and others current housing costs.

- Permit districts to use monies allocated to them under AS 14.08.161 and AS 43.18.100 for the construction, purchase and rehabilitation of teacher housing units. This would require that the State reverse its policy of not providing funding for teacher housing units.

- Expand the 1980 $1 million mobile housing grant program.

- Increase the availability of loan money to private individuals, and local private entities such as regional non-profit corporations so that they can construct and renovate housing for lease to the school districts.

- Subsidize teacher housing costs.

- Require that school districts tell prospective teachers about housing costs and conditions so that they can negotiate salaries and benefits with this information in mind.

Each of these options is discussed briefly below, with the exception of the final one, as it is a proposal which you introduced during the last legislative session.

State Construction Monies. One means of addressing the teacher housing problem would be to reverse current State policy and permit school districts to use the capital construction monies they receive from the State to build, purchase, and renovate teachers' housing units.

As noted earlier in this memorandum, the State had been constructing teachers' housing along with schools in rural areas until 1973 or 1974. This policy was reversed by the Legislature which felt teacher housing should be a local responsibility. Because it had been only a policy of the State to provide teacher housing prior to 1973-1974, and not a requirement of State law, it was not necessary for the Legislature to enact legislation in order to restrict further housing construction. Consequently, the State is not currently prohibited by statute from furnishing teacher housing units. Bud Saylors, who was serving in the Legislature at the time, recalled that the initial restriction had been expressed through legislative intent, although he wasn't certain of this. Lee Hayes, who heads Planning and Facilities for the Department of Education, believes it was a verbal agreement between the Legislature and the Administration. Therefore, the current policy concerning teacher housing could probably be changed by means of another expression of legislative intent, through resolution, or a budgetary footnote.

Expand Mobile Housing Grant Program. A housing grant program offers one means of funding construction of additional teacher housing units. This approach to providing housing units is described on pages 5-7 in the first section of this memorandum; the mechanism which was developed for dispensing grant money could probably be expanded and/or revised.

To accommodate school districts which would like to phase out their teacher housing programs, it may be possible to change the guidelines of the 1980 grant program so that money for housing units could be awarded either to school districts or directly to other local entities, such as village councils or the regional non-profit corporations.

Ms. Radei of your staff has raised the question of whether a grant program would be equitable, as it would benefit school districts which had not taken the initiative to build or purchase teacher housing on their own. Based on our research, very few school districts have bought or built teacher housing units at their own expense (possibly because their funds for this have been restricted). The districts have relied on the housing units which were built by the BIA and the State prior to 1974. When there have not been enough of these units, districts have generally leased housing from private owners to sublet to teachers or required the teachers to find housing on their own.

It may be possible to expand the housing grant program to include money for renovation of teacher housing units. This could benefit the few school districts which have constructed or purchased housing at their own expense, as well as the districts which own BIA or SOS units which have fallen into disrepair.

Loans For Privately Constructed Housing. Another possible means of relieving the shortage of rental housing for teachers is to increase the availability of loan money for non-owner occupied (i.e., rental) housing units. This alternative has the potential advantage of increasing the involvement of the private sector in providing housing for teachers, which all of the rural school districts have said they desire.

At present, there are three State housing loan programs which specifically serve the rural parts of the state. These are: the Non-Owner Occupied Rural Mortgage Purchase Program and the Rural Housing Mortgage Purchase Program, which are administered by the Alaska Housing Finance Corporation, and the Non-Conforming Housing Loan Program which is administered by the Division of Housing Assistance of the Department of Community and Regional Affairs.

It is possible to obtain financing for rental housing through all three of these programs. The Non-Owner Occupied Housing Loan Program finances rental housing exclusively, as explained earlier in this report. The other two loan programs are restricted to making loans for housing which will be owner-occupied. Both programs may lend money for duplexes, however. Although the borrower himself/herself must occupy one of the units in the duplex, the other unit may be used for rental purposes.

It is important to note that the three rural housing loan programs are relatively new programs. AHFC developed its two programs in 1979. The Non-Conforming Housing Loan Program purchased its first loan in February of this year. Given time, the three programs, as they are currently structured, could significantly increase the availability of rental housing in rural communities. The two owner occupied housing programs are somewhat limited in their direct contribution to the supply of rental housing; however, as current homeowners use loan money from either program to buy or build new homes for themselves, some of their existing housing may be turned into rental units.

The Legislature could take two additional steps to increase the supply of loan money for rental housing in rural areas. The first would be to maintain or increase the amount of money which each of the existing rural housing loan programs has to lend. Both AHFC and the Department of Community and Regional Affairs will be requesting additional appropriations for their programs during the next legislative session. The Legislature could also: 1) expand the scope of the Non-Conforming Housing Loan Program so that it includes loans for non-owner occupied housing; or 2) keep the owner-occupied provision but permit the program to make loans for larger units (e.g., tri-plexes or four-

plexes where the owner lives in one of the units). The Non-Conforming Housing Loan Program differs from AHFC's rural housing loan programs in several ways. These differences generally make it easier for rural residents to qualify for a home loan through the Non-Conforming Housing Loan Program than through AHFC, even though the interest rates charged by AHFC are slightly lower. The major ways in which the Non-Conforming Housing Loan Program differs from the AHFC rural loan programs are:

- Less stringent financial qualifications for loan recipients. To qualify for a loan through AHFC, principal and interest payments may not be more than 25% of the borrower's gross income, and the borrower's total indebtedness may not total more than 33% of his/her gross income. The Non-Conforming Housing Loan Program considers only the borrower's total indebtedness, which may not be more than 35% of his/her gross earnings. An individual with annual gross earnings of $25,000, for example, could have mortgage payments as high as $8,750 per year ($729 per month) and still qualify for a loan through the Non-Conforming Housing Loan Program. To qualify for an AHFC loan, his/her annual payments would have to be less than $6,250 ($521 per month). The higher indebtedness allowance makes it somewhat easier for individuals with low incomes to obtain a home loan in areas where housing costs are high.

- Slightly lower standards for construction. To qualify for AHFC financing, a home must at least meet the standards of other houses in the area. The Non-Conforming Housing Loan Program permits significantly more variation, requiring only "structural integrity." This means that the building and the foundation must be of sufficient quality to last for the duration of the loan, and the property must not present any health or safety hazards. The program has no stipulations regarding the amount of living space necessary per household member.

- Special mortgage payment provisions. To accomodate seasonal workers and individuals who do not have steady employment, mortgage payments can be made quarterly, semi-annually, or annually rather than on a monthly basis.

- Direct lending capability. To date, the Non-Conforming Housing Loan Program has been a mortgage purchase program. During this fiscal year, the program will begin to make loans directly to borrowers in some instances. This will assist people who live in areas where there are no local lenders, or those who cannot qualify for short-term construction financing from local banks.

State Housing Subsidy. One solution to the problem of high housing costs might be some form of State housing subsidy or housing assistance payment, such as some school districts already pay. This could be paid directly to teachers to lower their monthly housing expenditures.

Alternatively, it could be paid to the school districts to enable them to offer teacher housing subsidies, or as reimbursement for subsidies they already provide. Subsidies currently provided by districts are in the form of: 1) direct cash payments; 2) low rents in housing owned or leased by the district; and 3) salaries adjusted for local housing costs. The net effect should be the same regardless of who receives the payments.

Senate Bill 176, introduced last session by Senators Ferguson and Stimson, provides for housing subsidies through the creation of a rental housing assistance program. In areas where there is a shortage of rental housing for teachers, the REAA's may establish rental housing assistance programs, make payments to teachers living in rental units, and request reimbursement of those payments from the State Department of Education.

Two points should be made concerning this legislation. First, it applies only to REAAs. It excludes city and borough school districts, several of which currently face teacher housing problems. Secondly, the formula used to calculate the amount each teacher will receive under the program may be difficult to use. The bill currently reads as follows:

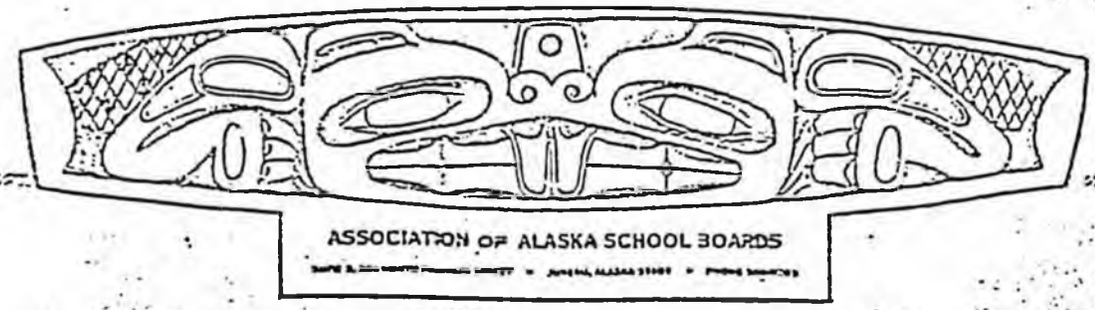
> The monthly rental housing assistance payment made to a teacher shall be that amount by which (1) the monthly rent necessary to provide the owner of the rental unit an annual gross rental income of 15 percent of the assessed value of the property exceeds (2) an index figure determined by the average monthly rent charged for approximately equivalent rental housing for the three most populous municipalities in the state.

The first portion of the formula presents problems in that the assessed value of the property may be difficult to determine. Generally, property is only assessed in areas where there are property taxes. As you know, this excludes much of rural Alaska. According to the State Assessor, Terry Earley, only 2 out of approximately 110 second class cities currently levy property taxes and assess local property. Earley estimated that the cost of assessing property in rural communities would be roughly $80 per lot, provided every lot in the community was included. He thought the cost of getting an appraisal for a single piece of property might be $500-600 at minimum.

If you would like us to evaluate any of these alternatives further, or if there other alternatives you would like us to examine, please let us know.

CJ/dp

Attachments
AASB Survey
Preliminary Results of NEA Survey
Legislative REAA Budget Oversight Committee Survey
Alaska Analysts/Dittman Research Survey



APPENDIX A

ASSOCIATION OF ALASKA SCHOOL BOARDS

STAFF (TEACHER) HOUSING SURVEY

OF ALL SCHOOL DISTRICTS

IN ALASKA

MARCH, 1981

SCHOOL DISTRICT STAFF (TEACHER) HOUSING

A. Definition of the Problem:

Before addressing what has commonly been referred to as the "Teacher Housing Problem," some definitions must be cleared up first. For example, as the Iditarod School District stated in their response to our questionnaire, "All staff housing is a problem, not just teacher housing." Principals, highly skilled maintenance personnel, and central office administrators have also found it difficult to obtain housing and several districts have also provided these employees with housing, over 90% of the housing provided is for teachers, however.

Attempting to define each district's involvement in staff housing is often a confusing exercise. Some districts actually own housing units, some lease housing from local residents for staff, some simply subsidize staff members by paying them so much per month to find and rent their own housing, and many use a combination of all three. Consequently, for the purposes of this study, AASB defined "staff housing" as any housing and/or housing related benefits , i.e. actual housing, subsidies or stipends, payment of utilities and other costs, payment of part or all of rent, any maintenance and operation, and/or any other related costs and/or benefits involved with staff housing.

B. Scope of the Problem:

Of the 52 school districts in the State of Alaska, 21 school districts do not provide any housing related benefits to employees, and 31 school districts provide some housing benefit(s) to at least one employee. Only 27 school districts actually provide housing benefits to more than one employee. Of those 27 districts, 18 are REAAS and 9 are municipal school districts.

In providing housing benefits to employees, school districts, almost without exception, absorb some or all of the costs in providing such benefits. These costs must come out of the districts' educational budgets. Trying to determine how much districts are spending in this area is again a very difficult task to define and determine. For example, many of the REAAS inherited BIA constructed schools where the teachers' quarters are part of the school building, a school building that has its own generator plant. How does the district estimate the cost of the heating, maintenance, and electricity for teacher housing in such cases? In addition, when a maintenance person goes out to a

village to work on school facilities, he/she will often work on the teachers' quarters. Unless the district has a fairly sophisticated work order system of maintenance, then trying to determine how much the district is spending on staff housing maintenance is guesswork, at best. Consequently, in responding to our survey, almost all of the districts remarked that the figures they put down for staff housing were actually estimates and the actual costs were undoubtedly much higher.

For our survey we defined the "actual cost" of staff housing to the district as:

> The total annual cost to the district for teacher (staff) housing, i.e., expenses for maintenance and operation, utilities, rent, subsidies to staff, and etc., that are not covered by the revenues generated by teacher housing, for example, rent collected by the district. In other words, the actual costs that the district must absorb for teacher (staff) housing.

Different districts estimated different annual costs for staff housing. The North Slope School District estimated spending $904,200 per year on staff housing. This is probably a fairly accurate estimate as the district has a very sophisticated maintenance and general accounting system. Some districts, however, reported that they had just begun to break these costs out and really had no way of determining costs for staff housing at this time.

The total for all the districts who could report actual costs was $2,585,160 state-wide. This two and a half million dollars is recognized as being a very low figure. The actual costs are much higher. Thus, the actual total annual state-wide cost for teacher (staff housing--which does not include costs for capital construction and renovation to provide new housing--is well over 2.6 million dollars per year for providing present housing.

C. Future of the Problem:

In our survey we asked each district if they would wish to discontinue their involvement in providing staff housing if a workable alternative became available. All 27 responses from the 27 school districts providing housing stated a definite preference for getting out of the housing business. Seven of those 27 district responses stated that the district was already phasing

out of the business of providing staff housing. Of those, all but one was turning over the staff housing to private enterprise. The other district, Copper River, was providing mobile home trailer hook-ups on school sites so that teachers could purchase their own trailers. (This district is on a road system.) Thus, by 1983, only 21 districts will be providing staff housing as private enterprise is slowly replacing school district involvement.

D. Possible Solutions to the Problem:

Each district was also asked what alternatives to district owned housing they had tried in the past and/or anticipated using in the future. Five districts reported purchasing trailers and two districts reported they had built teacher housing. With varying degrees of success, 19 districts reported renting privately owned housing in smaller communities. In some districts, the district leased the housing year around and sub-leased it to teachers. (Several districts reported problems with district owned and/or leased housing in that some staff, particularly single teachers, did not want to live in the more expensive district housing if they could rent a cabin for much less money.) In other districts, teachers rent their own housing.

Eight districts reported entering into long-term leases with village corporations and private individuals. Thus, the owners could get financing to build housing and the district was assured of obtaining housing.

Almost all districts reported having periodic housing shortages. No single solution seemed to work best as one solution might work well in one community and be totally disfunctional in another -- all in the same school district.

E. Closing Remarks:

All of the school districts that provide staff housing in the state want to get out of the staff housing business. Seven districts, or over one quarter of the 27 districts now providing housing, will be phased out of the housing business by 1983. Private enterprise is taking over that function.

For the other 21 school districts, phasing out of the housing business is <u>not</u> a realistic alternative at this time, however, that day may come. The key may be to allow districts to make that determination for and by themselves, otherwise, school districts and the State

may assume that responsibility for an unduly long time period, thus, monopolizing and thwarting the gradual involvement of private enterprise.

Association of Alaska School Boards

Staff (Teacher) Housing Survey 1981

DISTRICT	Does the District pro and/or housing subsidi	Board & Administra like to get out of business?	District would get ou workable alternative available?	Annual Actual Cost to District?	Is the District phasi the housing business?	If so, timeline?	Phasing out to what?
1. Adak	Yes	Yes	Yes	-0-?	No		
2. AK Gateway	No						
3. Aleutian Region	Yes	No	Yes	52,000+	?		
4. Anchorage	No						
5. Annette Island	Yes	Yes	Yes	-0-?	No		
6. Bering Strait	Yes	No	Yes	190,825	No		
7. Bristol Bay *	Yes						
8. Chatham	Yes	Yes	Yes	48-50,000	No		
9. Chugach *	Yes						
10. Copper River	Yes	Yes	Yes	25,000	Yes	ASAP	M.Home hook-up/sc
11. Cordova	No						
12. Craig	Yes	No	Yes	1-2,000	No		
13. Delta/Greely	No						
14. Dillingham	No						
15. Fairbanks	No						
16. Galena	Yes	Yes	Yes	100,000	Yes	by 1982	
17. Haines	No						
18. Hoonah *	Yes						
19. Hydaburg	Yes	Yes	Yes	8,000+	No		
20. Iditarod	Yes	Yes	Yes	?	Yes	by 1982	Private Rentals
21. Juneau	No						
22. Kake	No						
23. Kenai Peninsula***	Yes	Yes	Yes	?	No		
24. Ketchikan	No						
25. King Cove **	No						
26. Klawock	Yes	Yes	Yes	5,000	No		
27. Kodiak Island ***	Yes	Yes	Yes	47,579+	No		
28. Kuspuk	Yes	Yes	Yes	?	Yes	--	Local Private Ren
29. Lake-Peninsula	Yes	No	Yes	90,000+	No		
30. Lower Kuskokwim	Yes	No	Yes	-0-?	No		
31. Lower Yukon	Yes	No	Yes	256,790	No		
32. Mat-Su	No						
33. Nenana	No						
34. Nome	No						
35. North Slope	Yes	Yes	Yes	904,200	No		
36. Northwest Arctic	Yes	Yes	Yes	475,000	Yes	--	Private Enterprise
37. Pelican **	No						
38. Petersburg	No						
39. Pribilof Island	Yes	No	Yes	28,000+	No		
40. Railbelt	Yes	Yes	Yes	?	Yes	82-83	Local Private Rent
41. Sand Point	No						
42. Sitka *	Yes						
43. Skagway	No						
44. SE Island	Yes	No	Yes	127,366	No		
45. ST Marys	Yes	No	Yes	85,400	No		
46. SW Region	Yes	No	Yes	?	No		
47. Unalaska	No						
48. Valdez	No						
49. Wrangell	No						
50. Yakutat	Yes	Yes	Yes	?	No		
51. Yukon Flats	Yes	Yes	Yes	27,000	No		
52. Yukon Koyukuk	Yes	Yes	Yes	110,000	Yes		
TOTALS	21	31 ****	17 -Yes 10-No	27 or 100%-Yes	≈2,585,160 for 18 dists. *****	20-No 7-Yes 1-?	

* Only one unit for one teacher or Superintendent
** City provides housing
*** Housing provided in small communities only
**** 27 actually provide it on any [illegible]
***** [illegible]

Summary: HB 196, By Adams etal.

"An Act relating to provisions of adequate housing for public school teachers in rural areas."

Chapter 08. Education in the Unorganized Boroughs

Section 1. AS 14.08.101 - Powers

A regional school board may... 10) enter into leases to provide rental housing for teachers.

Section 2. AS 14.08.111 - Duties

A regional school board shall..10) inform prospective employees of the housing situation where they will be working and assist them (when possible) in securing housing.

Chapter 14. Local Administration of Schools

Section 3. AS 14.14.090 - Additional Duties (to Municipal School Districts)

A school board shall...(9) applies to municipalities in adding duty of informing and assisting prospective employees of the housing situation should they be assigned to rural areas.

folder content

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Summary
STatutes cited above
fiscal note = Ø

right:
Bill
Back-up provided by Rep. Adams
(1) memo
(2) rural housing survey
(3) DOE memo

office, each school board member shall take and sign the oath or affirmation prescribed by AS 14.12.090.

(b) The officer of the board responsible for the custody of regional educational attendance area funds shall execute a bond of $50,000 with the commissioner. (§ 2 ch 124 SLA 1975)

Sec. 14.08.101. Powers. A regional school board may

(1) sue and be sued;

(2) contract with the department, the Bureau of Indian Affairs, or any other school district, agency, or regional board for the provision of services, facilities, supplies or utilities;

(3) determine its own fiscal procedures including but not limited to policies and procedures for the purchase of supplies and equipment; the regional school boards are exempt from the Fiscal Procedures Act (AS 37.05);

(4) appoint, compensate and otherwise control all school employees in accordance with this title; these employees are not subject to the State Personnel Act (AS 39.25);

(5) adopt regulations governing organization, policies and procedures for the operation of the schools;

(6) establish, maintain, operate, discontinue and combine schools subject to the approval of the commissioner;

(7) recommend to the department projects for construction, rehabilitation, and improvement of schools and education-related facilities as specified in AS 14.11.010(a), and plan, design, and construct the project when the responsibility for it is assumed under AS 14.11.020;

(8) exercise those other functions that may be necessary for the proper performance of its responsibilities;

(9) by resolution adopted by a majority of all the members of the board and provided to the commissioner of the department, assume ownership of all land and buildings used in relation to the schools in the regional educational attendance area. (§ [illegible] 124 SLA 1975; am § 2 ch 57 SLA 1976; am § 1 ch 147 SLA 1[illegible] § 4 ch 92 SLA 1982)

→ 10)

Effect of amendments. — The 1978 amendment added paragraph (9).

1982 amendment rewrote paragraph (7).

NOTES TO DECISIONS

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Applied in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Section 1) HB 194

Collateral references. — Power to require construction or repair of school buildings. 1 ALR 1559.

Power of school authorities to employ physicians, nurses, oculists, and dentists. 12 ALR 922.

Extent of legislative power with respect to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Kindergartens or specialized departments, power and duty of school authorities to maintain. 70 ALR 1313.

Power of school or local authorities as to granting leases of school property. 111 ALR 1051.

Sec. 14.08.111. Duties. A regional school board shall:

(1) provide, during the school term of each year, an educational program for each school age child who is a resident of the district;

(2) develop a philosophy of education, principles and goals for its schools;

(3) employ a chief school administrator and approve the employment of the professional administrators, teachers and noncertificated personnel necessary to operate its schools;

(4) establish the salaries to be paid its employees;

(5) designate the employees authorized to direct disbursements from the school funds of the board;

(6) submit the reports prescribed for all school districts;

(7) provide for an annual audit in accordance with AS 14.14.050;

(8) provide custodial services and routine maintenance of school buildings and facilities; and

(9) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060. (§ 2 ch 124 SLA 1975; am § 2 ch 17 SLA 1981)

10)

Effect of amendments. — The 1981 amendment added paragraph (9).

NOTES TO DECISIONS

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees see note following chapter analysis. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Applied in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 14.08.115. Advisory school boards in regional educational attendance areas. A regional school board may establish advisory school boards, and by regulation shall prescribe their manner of selection and organization, and their powers and duties. (§ 2 ch 24 SLA 1979)

Section 2) HB 196

declare the position vacant and shall notify the ex-member by registered mail. The vacancy shall be filled as provided by AS 14.12.070. (§ 1 ch 98 SLA 1966)

Sec. 14.14.090. Additional duties. In addition to other duties, a school board shall

(1) determine and disburse the total amount to be made available for compensation of all school employees and administrative officers;

(2) provide for, during the school term of each year, an educational program for each school age child who is a resident of the district;

(3) withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted all summaries, statistics, and reports which the school board may require by bylaws;

(4) transmit, when required by the assembly or council but not more often than once a month, a summary report and statement of money expended;

(5) keep the minutes of meetings and a record of all proceedings of the school board in a pertinent form;

(6) keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours;

(7) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060. (§ 1 ch 98 SLA 1966; am § 3 ch 17 SLA 1981)

→ 8)

Effect of amendments. — The 1981 amendment added paragraph (7).

NOTES TO DECISIONS

Stated in Tunley v. Municipality of Anchorage School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.14.100. Bylaws and administrative rules. (a) The school board policies relating to management and control of the district shall be expressed in written bylaws formally adopted at regular school board meetings.

(b) Administrative rules which do not embody school district policy need not be promulgated as bylaws; however, the rules shall be in written form and readily available to all school personnel. (§ 1 ch 98 SLA 1966)

Section 3) HB 196

MAR 3 1983

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

Official Business

March 2, 1983

MAR 1 1983

MEMORANDUM

TO: Representative Mae Tischer, Co-Chairman
Representative Milo Fritz, Co-Chairman
House Health, Education and Social Services Committee

FROM: Representative Al Adams AA

SUBJECT: House Bill 196 - Provision of Adequate Housing for Public School Teachers in Rural Areas

HB 196 is pending in your committee and I would appreciate an opportunity for a hearing at your earliest convenience.

Basically the bill does three things:

Section 1. Adds to the powers of regional school boards the ability to enter into leases to provide rental housing for teachers;

Section 2. Adds to the duties of regional school boards the requirement to inform all employees of the housing situation where they will be working and to assist them in securing housing. (The bill does not require school boards to provide housing or subsidize housing; and

Section 3. Adds additional duties to school boards in municipalities which are the same as those in section 2. (Municipalities already have the general power to provide housing).

For your further information, enclosed is a copy of the recently completed Rural Housing Survey completed by the National Education Association. I hope the committee members will find it helpful in understanding the housing conditions in rural Alaska.

Should the committee require any additional information or have further questions, please let me know.

NEA - ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

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Anchorage Office

Dianne Anderson
Field Staff
Anchorage Office

Steve Pulkkinen
Field Staff
Anchorage Office

Mary Ann Eininger
Deputy Executive Secretary
Fairbanks Office

January 17, 1983

TO: Delegate Assembly Participants

FROM: Steve Pulkkinen
NEA-Alaska Field Specialist

RE: COMPILATION OF RESULTS FROM THE 1982-83 RURAL HOUSING SURVEY

Pursuant to NBI 82-28 NEA-Alaska with the support and assistance of NEA-Research sent housing status surveys to nearly 1100 members in 39 local associations. Distribution of surveys was through local site or building representatives or through the local president. Approximately 305 completed surveys from 81 sites were returned from 23 local associations. It should be noted that all teachers living in a single household were instructed to complete only one survey. The survey consisted of four parts, the first three of which lent themselves to computer compilation and analysis by NEA-Research which will be provided in a separate report. The fourth part consisted of seven open ended questions which required hand compilation. Each response to each question was assigned to a like statement, multiple responses were allowed. Attached you'll find the summation by region.

1. If you plan to teacher in rural Alaska indefinitely, why?

		Costal	Interior	Kodiak Aleutian	Southeast	Total
	TOTAL # RESPONDING	87	20	14	7	128
	REASONS GIVEN					
a)	Teaching Environment: small size, students, flexibility, freedom, experiences, equipment.	40	20	6	4	60
b)	Lifestyle: Environment, pace, size, outdoor, activities, no urban problems.	35	13	5	3	56
c)	Community: people, own home, family, acceptance.	31	7	3	3	44
d)	Financial: good pay, benefits, work with spouse, able to save.	15	0	2	3	20
e)	Enjoy: "I like it"	9	5	2	0	16
f)	Near Retirement:	6	0	3	1	10
g)	Poor job market everywhere:	3	1	3	0	7
h)	Challenge/adventure	4	1	0	1	6
i)	Supportive Administration	1	0	0	1	2
j)	Good Housing	0	1	0	0	1

2. If you plan to resign from teaching in rural Alaska as soon as possible, why?

		Costal	Interior	Kodlak Aleutian	Southeast	Total
	TOTAL # RESPONDING	16	7	3	3	29
	REASONS GIVEN					
a)	Isolation lack of amenities, universities, social or recreational activities, small size opportunities for spouse.	6	1	2	0	9
b)	Family: babysitting, broader exposure for teenage children, away from friends/family.	6	0	1	1	8
c)	Retiring:	5	0	0	1	6
d)	Administration: non-supportive, combative	3	2	1	0	6
e)	Housing: bad, unavailable, or too costly	3	2	1	1	7
f)	Hostility: internal district politics, community hostility, fear.	3	2	0	0	5
g)	Housing: no land available to teachers.	2	0	1	1	4
h)	Other: return to school, get back to teaching in area, medical, climate, high costs, (no more than 2 for each item).	7	2	1	0	10

3. If you are not sure how long you will teach in this area (village/district), what are the positive aspects of rural living and teaching that weigh in favor of your remaining:

		Costal	Interior	Kodiak Aleutian	Southeast	Total
	TOTAL # RESPONDING	114	19	24	12	169
	REASONS GIVEN					
a)	Teaching Environment: small size, students, flexibility, freedom, experiences, equipment.	68	12	13	5	98
b)	Lifestyle: Environment, pace, size, outdoor, activities, no urban problems.	57	11	12	8	88
c)	Community: people, own home, family, acceptance.	45	8	3	1	57
d)	Financial: good pay, benefits, work with spouse, able to save.	30	3	10	3	46
e)	Good Housing	11	0	3	0	14
f)	Near Retirement:	2	0	0	0	2
g)	Challenge/adventure	5	2	0	0	7
h)	Supportive Administration	3	1	1	0	5

3a. What are the negative aspects that weigh against your remaining?

		Costal	Interior	Kodiak Aleutian	Southeast	Total
	TOTAL # RESPONDING	117	21	22	11	171
a)	Isolation: lack of amenities, universities, social or recreational activities, small size, opportunities for spouse.	46	3	11	1	61
b)	Housing: availability, quality, cost.	23	4	4	3	34
c)	Housing: no land available to teachers	10	3	2	5	20
d)	Administration: not supportive, combative.	16	5	2	1	24
e)	Cost of travel: difficulty and expense	11	1	11	0	23
f)	Cost & availability of goods and services:	12	1	5	4	22
g)	Teaching Conditions: attitude, crowding, load, dissention.	14	7	1	1	23
h)	Climate: dark, cold, wet.	14	1	3	0	18
i)	Personal:					
	1) Distrance from family/ friends	8	0	2	0	10

3a Continued

2) Medical needs	9	1	0	0	10
3) Lifestyle change	7	0	1	0	8
4) "Fish bowl"	4	2	2	1	9
5) Physical/mental drain	5	3	0	0	8

J) Community:

1) "Outsider" stigma	14	4	2	0	20
2) Village politics	7	4	1	0	12
3) Alcohol abuse	2	2	2	0	6
4) Fear of attack	4	0	0	1	5
5) School Board politics	2	7	0	1	10

4. IN WHAT WAY DO YOU FEEL NEA-ALASKA OR YOUR LOCAL ASSOCIATION CAN HELP TO "SOLVE" THE TEACHER HOUSING PROBLEM?

5. WHAT ARE YOUR PERSONAL IDEAS FOR ARRIVING AT SOLUTIONS TO THE TEACHER HOUSING PROBLEM?

The responses received to the above two questions did not lend themselves to simple groupings. In general, the responses fell into five categories summarized below:

1. Legislative: District should be required to provide teacher housing; District should be encouraged to be involved in teacher housing; legislature should establish standards for teacher housing; land should be made available to teachers to build their own housing; legislature should fund teacher housing; loans should be available to teachers to build; require districts to be truthful in describing housing; protect teachers from retallation if they break their contract because of bad housing; and require housing as a condition of opening school.

2. NEA-Alaska: Go public with the problem and its impact on instruction; become the provider/landlord; research and document; support local bargainers; keep trying; stop trying; and work with regional corporations to supply housing.

3. Local Associations: Help locate and list available housing (or make district do it); bargain hard; negotiate equitable rents; policies and procedures; build units; stay out of housing; and address the unique problems of single teachers.

4. Responsibility: District should provide all housing; district should provide housing when individuals, villages, or corporations do not; teachers and villages should independently (from the district) arrive at a solution; take housing away from district to avoid it being used as a threat.

5. Independence: Housing should not be mandatory, get out and stay out of housing, teachers should live under same conditions as villages.

The overwhelming majority of responses fell in the first 4 categories.

A conclusion that can be drawn from the responses is that no one solution will work in all districts or even among all villages within a district. The message was clear; keep trying and be flexible.

6. Is there an alternative housing unit available to you at your site?

In general multiple respondents from the same site concurred on the answer to this question, wherever there was a difference of opinion the majority response was recorded with the minority response noted below.

	Costal	Interior	Aleutian Kodiak	Southeast	Total
Number of sites responding	53	14	9	5	81
Number of sites with alternative housing available	11	5	2	0	18
Number of sites without alternative housing available	42	9	7	5	64

Notes: Many of the respondents who indicated that there were alternative units available described them as being too costly, abandoned village housing, available only for short periods of time, or too far away from the school (7 miles in one location).

Responses were received from the following districts (by region):

Costal were from: Nome, N.W. Arctic, North Slope, Bering Straits, Lower Yukon, Chevak, Lower Kuskokwim, S.W. Region, Mid-Kuskokwim, and Lake and Peninsula.

Interior Responses were received from: Yukon Koyukuk, Yukon Flats, Railbelt, Iditarod, Tanana.

Kodiak/Aleutian Responses were from: Kodiak, Unalaska, King Cove, Aleutian.

Southeast Responses were received from: Metlakatla, Craig, Klawock, and S.E. Island.

MEMORANDUM State of Alaska

TO: Marshall L. Lind, Commissioner
Department of Education

DATE: November 17, 1982

FILE NO.:

TELEPHONE NO.: 465-2890

FROM: Steve Hole, Education Administrator
Management, Law and Finance
Department of Education

SUBJECT: November 10, 1982 Teacher Housing Meeting held in Fairbanks

As you requested, I attended the above meeting. Also present were Jim Elliott and Bob Davis for the department, Mary Ann Einenger, Steve Pulkkinen, Bob Cooksey, Ray Virg-in, Jean Robb and Jean Krause for NEA-Alaska and Patsy Aamodt for the State Board.

As a result of the meeting, the department representatives agreed to recommend to you the following:

That the department recommend to the State Board that it:

a) officially acknowledge that teacher housing is, to an indeterminate extent, a problem that does impact the quality of instruction provided to students;

b) request the Governor's office to request an appropriation for the requests for teacher housing submitted by school districts in the FY 84 CIP budget;

c) support NEA-Alaska efforts to compile data substantiating the scope and degree of teacher housing problems statewide;

d) direct the department to assist appropriate groups, to the extent practicable, in resolving immediate teacher housing problems;

e) continue to work with the Teacher Housing Liaison Committee to try to come up with workable solutions to problems associated with this issue.

cc: J. Elliott
J. Krause
P. Aamodt

Summary Data

NEA-ALASKA'S

1982-83

RURAL TEACHER PERCEPTIONS

and

HOUSING SURVEY

Part One: Demographic
Part Two: Quality
Part Three: Cost Information
Part Four: Miscellaneous open ended attitudinal questions.

Introduction

In late November 1982 NEA-Alaska mailed nearly 1,100 Rural Housing Surveys to the teachers in 39 school district, in 193 rural villages or cities. By January 31, 1983, 360 teachers from 90 villages or cities of 23 districts had returned the survey. Approximately 65% of the responses were filled out jointly by teaching couples bringing the percentage of respondents to better than 50% of potential. (344 responses were received in time for computer coding and analysis in Parts 1, 2 and 3. All responses were included in Part 4.)

PART 1: Demographic

1. Years teaching - Total/District/Village:

	Years In Teaching	%	Years In District	%	Years In Village	%	Years In Village If own own home
1 year	12	(3.6)	81	(24.7)	105	(31.9)	1 (3%)
2 years	25	(7.6)	61	(18.6)	57	(17.3)	1 (3%)
3 years	36	(10.9)	67	(20.4)	68	(20.7)	8 (24.2%)
4 years	32	(9.7)	46	(14.0)	35	(10.6)	5 (15.2%)
5 years	29	(8.8)	20	(6.1)	23	(7.0)	3 (9.1%)
6 years	32	(9.7)	17	(5.2)	16	(4.9)	4 (12.1%)
7 years	19	(5.8)	13	(4.0)	8	(2.4)	3 (9.1%)
8 years	21	(6.4)	4	(1.2)	2	(.6)	1 (3%)
9 years	9	(2.7)	2	(.6)	0	(.0)	0 (0)
10 years	22	(6.7)	2	(.6)	2	(.6)	2 (6.1%)
10+years	93	(28.2)	15	(4.6)	13	(4.0)	5 (15.2%)
Total	330		328		329		33
No Response	4		6		5		0

2. Marital Status

Married 219 (65.8%)
Single 114 (34.2%)

3. Teaching outside of major/minor fields.

138 (41.3%) are teaching an average of 2 subjects each outside of their major/minor field.

Part 2: Housing Quality

1. Housing best described as fine/adequate.

	Fine		Adequate		Poor	
W/Sewer/Septic	28	(8.4%)	151	(45.3%)	0	(0)
W/Humus/Chemical	38	(11.4%)	10	(3.0%)	0	(0)
W/Honeybucket	12	(3.6%)	90	(27.0%)	0	(0)
Other	4	(1.2%)	0	(0.%)	0	(0)

2. District's efforts to describe/accuracy and perceptions of housing situation.

	Did District Accurately Describe Housing		Could District Have Accurately Described Housing		Would you Have Believed It	
Yes	168	(52.8%)	244	(83.3%)	230	(80.7%)
No	150	(47.2%)	49	(16.7%)	55	(19.3%)

3. Amenities/necessities/luxuries available in home: by provider (percentage).

	Total	Dist. Owned	Village Owned	State/Fed Owned	Private Landlord	Yourself
Running Water	75.4	89.6	87.9	86.7	49.5	71.9
Hot Running Water	71.5	88.0	87.9	86.7	41.1	68.8
Electricity	93.4	95.2	100.0	80.0	90.5	93.8
Refrig.	88.6	100.	90.9	100.	69.5	93.8
Freezer	55.9	68.8	66.7	53.3	27.4	84.4
Washer	55.3	61.6	66.7	80.0	33.7	75.0
Dryer	55.0	67.2	66.7	80.0	30.5	59.4
Tables/Couch/ Chairs	84.7	93.6	84.8	80.0	73.7	90.6
Adequate Storage	63.7	58.	75.8	86.7	48.4	75.0
Total Respondents Each Provider:	333	125	33	15	95	32

4. How does your housing compare to other housing in the village by provider:

	Total	District Owned	Village Owned	State Federal Owned	Private Landlord	Yourself
Better	140 (44%)	65 (53.7%)	14 (42.4%)	11 (73.3%)	25 (27.2%)	15 (46.9%)
About the Same	117 (36.8%)	35 (28.5%)	16 (48.5%)	4 (26.7%)	38 (41.3%)	13 (40.6%)
Worse	48 (15.1%)	18 (14.6%)	3 (9.1%)	0	24 (26.1%)	2 (6.3%)
Total (Don't knows omitted)	305	119	33	15	87	30

5. Time spent surviving by activity by owner of dwelling. Summarized by type of activity only (time ranged from one hour per week to 10 hours per week per activity).

	Total	Yourself	School District	Village	Feds/ State	Private	Other
Hauling Water	88 (26.3)	10	19	5	1	45	6
Hauling Wood	38 (11.4)	8	3	2	0	22	1
Hauling Oil	31 (9.3)	5	1	0	0	23	1
Repairs	93 (27.8)	12	32	10	2	34	1
Other #1	31 (9.3)	4	8	2	1	10	4
Other #2	11 (3.3)	3	3	0	1	3	1

(Percent is based on the number of respondents who indicated time spent on a task divided by the total number of respondents).

PART 3: Costs

1. Do you own or rent your own home? If rented, who owns it and who do you pay the rent to:

Own 33 (10.3%)
Rent 286 (89.7%)

	RENT PAID TO: Owner of Home	School District	Corporation	Landlord	Not Applicable
School District	125 (43.7%)	125	0	0	0
Village	33 (11.5%)	22	6	3	2
State or Feds	15 (5.2%)	12	1	1	1
Private Landlord	95 (33.2%)	20	3	72	0
Other	18 (6.3%)	13	3	1	1
TOTALS	286	192 (67.1%)	13 (4.5%)	77 (26.9%)	4 (1.4%)

2. Monthly rent/mortgage with utility costs included. Percentage figures by vertical column shown in brackets. (No responses now shown).

OWNER OF UNIT BY CATAGORY

	Total	Yourself	School District	Village	Feds/ State	Private	Other
Less than 300	90 (29.7)	5 (21.7)	22 (18.0)	5 (16.1)	8 (57.1)	45 (47.4)	5 (29.4)
301-450	67 (22.1)	6 (26.1)	27 (22.1)	11 (35.5)	3 (21.4)	19 (20.0)	1 (5.9)
451-600	56 (18.5)	3 (13.0)	34 (27.9)	4 (12.9)	0	10 (10.5)	4 (23.5)
601-750	28 (9.2)	6 (26.1)	11 (9.0)	1 (3.2)	2 (14.3)	6 (6.3)	2 (11.8)
751-900	33 (10.9)	1 (4.3)	16 (13.1)	5 (16.1)	0	9 (9.5)	2 (11.8)
More than 900	29 (9.6)	2 (8.7)	12 (9.8)	5 (16.1)	1 (7.1)	6 (6.3)	3 (17.6)
TOTAL	303	23	122	31	14	95	17

PART 4: Positive negative aspects of rural teacher/living.

1. 141 or 39% of the respondents indicated that they intended to remain in rural Alaska indefinitely. The reasons given included:

Lifestyle	48%
Teaching Environment	46%
Community/People	35%
Financial	16%
"Enjoy It"	12%
Near Retirement	7%
Poor Job market	6%
Challenge	4%
Supportive Administration	1%
Good Housing	1%

2. 31 or 9% of the respondents planned to leave rural Alaska as soon as possible. The reasons given included:

Housing	39%
Admin/Community	35%
Isolation	29%
Family Needs	29%
Retiring	6%
Other	3% to 6%

(Return to school, teacher in subject area, medical, climate, costs each was named on 3% to 6% of the returns.)

3. 184 or 51% of the respondents offered comments on the positive aspects of rural living/teaching that would tend to keep them in rural Alaska. The comments given included:

Teaching Environment	60%
Lifestyle	55%
Community/People	37%
Financial	26%
Good Housing	8%
Challenge	4%
Administration	3%
Near Retirement	1%

4. 192 or 53% of the respondents offered comments on the negative aspects of rural living/teaching that would tend to cause them to leave rural Alaska. The comments included:

Isolation	35%
Housing	32%
Community	29%
Cost/Availability of travel/Goods/Services	24%
Administration	22%
Personal	21%
Teaching Conditions	15%
Climate	10%

5. The question was asked, "Is there an alternative housing unit available to you at your site?" The respondents from the 90 villages/cities indicated that at 18 or 20% of the sites alternative housing was available while at 72 or 80% of the sites there is no alternative housing.

Conclusions:

"Of the 4 most frequently cited positive aspects only "lifestyle" is completely personal. The remaining three "teaching environment", "Community/People", and "financial" are dependent on a multitude of factors, that can be nurtured.

"Of the negative aspects only "personal" needs and "climate" are beyond the control of anyone other than the individual or Mother Nature. "Isolation", "housing", "cost", and "administration" can be addressed through negotiations and/or political action. "Teaching Conditions", "Administration", and "community" can be addressed through community organizing, political action and professional developments.

"A conclusion that can be drawn from the data is that when the positive aspects of rural living/teaching are present to a greater degree than their corresponding negative, teachers will stay. At what point on the see-saw of positives-negatives the individual teacher falls/gets off is clearly a unique to each individual. There is however a communal effect present: for example, if the major positives for a teacher are the comradery of the staff (teaching environment), skiing/fishing (lifestyle and community) and using traditional teaching methods (teaching environment), what happens when the district involuntarily transfers half the team out of the village (administration), or the village puts pressure on to stop fishing (community then isolation), or the district adopts a rigid (or loose) curriculum (teaching environment) or a new principal is put in (administration)? Depending on the individual the negatives may reach the point where he/she leaves, causing a change in someone elses balance.

"Lastly, while housing in and of itself is not a significant factor in the teachers list of "positives" it is a major factor in the lists of "negatives" and reasons given for leaving an area. The conclusion drawn from the data is that housing may become the proverbial "straw that broke the camel's back." That is, if the positive/negative balance of other factors is near the threshold of causing a teacher to leave, housing becomes the tie breaker. Put another way, a teacher <u>may</u> be more tolerant of isolation or a heavy workload or a hostile administration or a hostile community if they can go to an adequate home at the end of a day.

TO: Rep. Mae Tischer March 9,1983

FROM: Heidi H. Borson
HESS Committee Staff

RE: Partial transcript of 3/9/83 House HESS meeting on HB 196

Rep. Goll: What is the status of the ability of a REAA district to purchase and operate housing? I know in Angoon, for example, they have done so. I'd like to clear up the question as to who is owning this housing which is owned by either the municipality or the school system right now.

Steve Hole: Under 14.08, I believe it's in the chapter on REAA's, unless the REAA/the regional board has petitioned the State for ownership and title to all school and education related facilities operated by the district, ownership is vested with the State notwithstanding who purchased it.

Rep. Goll: So it is possible now in every community in the State for the school system, via the State, to own and operate housing for teachers. Is that correct?

Steve Hole: At least in the unorganized borough, it is possible. I believe the ability of a borough of any class or a first class city which is also a school district would be subject to ordinance.

Rep. Goll: So the law provides for the availability of housing owned by every school district or municipality encompassing a school district to... What I'm trying to find out here - there is no need to address the problem of ownership of housing. If the school system or a city or the State wishes to own and provide housing for teachers, it can do so. Is that correct?

Steve Hole: I believe technically that's correct. But there is a reason to address that issue, Representative.

Rep. Goll: Thank you. Maybe we could take that up in the future.

Sheryl Krasko

Land Status is a problem
(Hana Region)

Mr Hole - "Liability would not fall on State if loan defaults." !!

Lower
Kuskokwim
School
District

P.O. Box 305 • Bethel, Alaska 99559
907 543-3611

February 2, 1983

Ms. Pam Neal
2757 John Street 1st
Juneau, Alaska 99801

Dear Pam:

Mike Franks has passed on to me your request for information regarding the Lower Kuskokwim School District's present teacher housing program. I will provide a brief overview and appropriate documents that will hopefully assist you in your lobbying efforts.

Many of the REAA's inherited various numbers of housing units when they were formed. Some of these had been former Bureau of Indian Affairs houses, other had been established under the Division of State supported schools, ASPOS, and PUBSD respectively. Lower Kuskokwim School District was primarily a real exception in this regard. Sixteen (16) new high schools were completed in two (2) years, with no provisions made (by legislative mandate) for teacher housing. Extremely poor living conditions were available for our teachers at many sites.

As a means of attempting to remedy the situation, the Lower Kuskokwim Education Association and the Lower Kuskokwim School District negotiated an agreement relative to the active pursuit of teacher housing by the District. An aggressive stance has been taken by the District, and 22 housing units have been constructed in the past two (2) years. Additionally, various warehouses and other buildings have been semi-converted to make at least substandard housing available.

The District further inherited a number of housing units from the Bureau of Indian Affairs with the recent transfer of Bureau of Indian Affairs schools. A number of staff equal to or greater than the available housing was also, of course, inherited.

The present District housing program is truly a joint venture between the teachers association and the District. A Housing Review Board consisting of two (2) teachers and one (1) administrator is very involved in over-seeing the program. The Superintendent is an ex-officio member of this group. The program is operated as an Enterprise Fund, with rents paid by the teachers designed to cover maintenance and operating costs as well as some of the refurbishing of units. Various difficulties have become apparent during this first year ofoperation. A number of these have recently been resolved, and some major steps taken toward program improvement.

A detailed needs assessment is now being completed at each site, with general results available in approximately ten (10) days. This assessment is made under the auspices of the local Advisory School Board, with administration and teacher input.

At some sites we still have teachers living in warehouses and even in parts of the school. At a number of sites the old Bureau of Indian Affairs housing is also in very serious need of refurbishing. The needs assessment will be sent to you. Within 45 days of its completion we will also have available a scope of work, including material and labor costs, for needed major maintenance. Also available will be an assessment of capital construction needs.

A draft of the housing program activity plan recently developed is enclosed for your reference, along with a draft revision of the housing program regulations. Article XXIV of the negotiated agreement also provides insight into the operation of the housing program, particularly the needs assessment process mentioned above.

If you have specific questions after reviewing this material, please call me at the Lower Kuskokwim School District. Jim Kass and/or Mike Franks should be able to provide you with specific information regarding the needs assessment in my absence.

Sincerely,

Lin Laughy, Administrative Consultant

LL/adt

CC: Jim Kass, Director of Plant Facilities
Mike Franks, Director of Capital Projects
Carl Peterson, Superintendent
Joe Caldarera, Assn't Sup't for Educational Support Services

MODEL HOUSING RESOLUTION

WHEREAS, there are not sufficient and/or adequate teacher housing units in the community of _____ and;

WHEREAS, the lack of sufficient and/or adequate teacher housing units impairs the ability of the community to recruit and maintain teaching staff, and;

WHEREAS, it is the desire of the community to provide sufficient and/or adequate teacher housing units in order that teaching staff may be recruited and retained, and;

WHEREAS, the community has identified the following land upon which teacher housing units may be located,

(place land description here including map)

BE IT THEREFORE RESOLVED, that the Advisory School Board of _____ requests the Lower Kuskokwim School District to provide (put in type and size of unit desired) _____ to be funded by the enterprise fund. If other source of funding is desired so designate.

Ratified this _____ day of _____, 19__.

Lease Guidelines

1. LKSD has a commitment to certified staff to provide housing with specified standards at specified rents. When housing doesn't meet those standards then tenants pay less ~~or nothing~~ until those standards are met.

2. The rents teachers pay provide the sole income for LKSD housing. There is no other place to get monies to pay for lease costs and/or repairs.

3. Teacher rents are set by negotiated agreements and become part of the contract existing between teachers and LKSD.

4. The rental amounts are determined by reviewing costs of the past and projecting construction and maintenance costs into the future.

5. LKSD and LKEA review the cost figures monthly and average them throughout the district to determine contract revisions necessary. Then a comparison of costs at village owned housing to LKSD produced housing is made.

6. Those sites that can provide housing at costs equal to or less than LKSD produced housing get lease contracts on a long-term basis to assure the village landlords of the continued tenant with assurances of care and concern for the property.

7. If possible and with agreement of the property owner, LKSD would like to maintain, repair, and/or remodel leased property with the site administrator selecting the workers for such services. The hlpe being that this would give work to village people and provide quicker service to tenants. Those times when local expertise wasn't available, outside aide would come in and provide the service.

8. Alaska law provides that the owner will assume adequate maintenances and LKSD realizes that owners often can't provide ready money to pay for unexpected costs. To solve this problem the lease could provide for maintenance and upgrade costs to be deducted from rents owed and at no time would owner have to provide cash to maintain or repair the property.

9. Any repairs or fixed replacements would become the property of the owner. This would not include items that were portable or not permanently affixed to the building.

10. The terms of the lease could be up to five (5) years with rents payed January through June in six (6) monthly installments. Payment would be accompanied by the past six months expense list by item.

Bob G McNeill's Calculated
Housing Review Budget List

Site & Real Rent Class Rate	Sep '82	Oct '82	Nov '82	Dec '82	Jan '83	Feb '83	Mar '83	Apr '83	May '83	Jun '83	Jul '83	Aug '83	Total 12 Mo
Rental Incomes													
Tenants													
Adelson Steve 125 b 453	0.00	611	611	611	611	489	489	489	489	489	489	489	5864
Appel Howard 609 a 647	0	0	960	960.00	960	785	785	785	785	785	785	785	8376
Baldwin Gary 039 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
Balgenorth Richard 729 a- 324	0	0	0	667	667	408	408	408	408	408	408	408	4189
Barker Henry 459 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
Barth Scott 339 b- 227	0	0	0	373	373	312	312	312	312	312	312	312	2932
Bates Cliff 125 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
Bentz Charlene 125 b 453	0	0	1680.00	560	560	438	438	438	438	438	438	438	5864
Botkin Warren 180 b 453	560	560	560	560	560	438	438	438	438	438	438	438	5864
Bowlin Robert 519 a 647	0	873	873	873	873	680	680	680	680	680	680	680	8250
Bruce Mary Helen 121 b 453	0	0	0	747	747	624	624	624	624	624	624	624	5864
Burr Tony 729 b- 227	0	0	0	280	280	219	219	219	219	219	219	219	2092
Buschbaum Joseph 729 a 647	0	0	0	1067	1067	892	892	892	892	892	892	892	8376
Cary Richard 300 b 453	0	0	1680	560	560	438	438	438	438	438	438	438	5864
Chilgren Paul 729 b- 227	0	0	0	280	280	219	219	219	219	219	219	219	2092
Condon Michael 339 b- 227	0	0	0	373	373	312	312	312	312	312	312	312	2932
Culbertson Dave 090 b 453	0	1600	800	480	480	350	350	350	350	350	350	350	5864
Dammerall Doug 339 b- 227	0	0	0	373	373	312	312	312	312	312	312	312	2932
Druyvestein Don 129 b 453	0	1120	560	560	560	438	438	438	438	438	438	438	5864
Evon Pauline 339 a 647	0	0	0	800	1067	892	892	892	892	892	892	892	8110
Ferringer Kenneth 609 a 647	0	0	960	960	960	785	785	785	785	785	785	785	8376
Forwalt Mark 125 b- 227	0	0	0	373	373	373	373	373	373	373	373	373	3360
Frederick Richard 339 b- 227	0	0	0	373	373	312	312	312	312	312	312	312	2932
Giedd-Clark Jack 639 b 453	0	0	0	224	560	438	438	438	438	438	438	438	3848

Gross Duane 369 b 453	0	0	0	747	747	624	624	624	624	624	624	624	5864
Groves Kenneth 339 a 647	0	873	873	873	873	698	698	698	698	698	698	698	8376
Hare Sue 800 b moved out	0	611	51	51	51	51	51	51	51	51	51	51	1120
Hostetler Dale 609 a 647	0	0	960	960	960	785	785	785	785	785	785	785	8376
Hoyt Dennis 219 a 647	0	873	873	873	475	698	698	698	698	698	698	698	7978
Hulse Gene 560 a 647	800	800	800	800	800	625	625	625	625	625	625	625	8376
Hyska James 549 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
Izzola James 549 b 453	0	1120	560	560	560	438	438	438	438	438	438	438	5864
Jennings Terry 240 b 453	560	560	560	312	312	381	381	381	381	381	381	381	4969
Korpela Susan * 180 c 224	0	$100 reduced		327	327	240	240	240	240	240	240	240	2337
Leonard Karen * 669 c 224	0	$100 reduced		300	300	213	213	213	213	213	213	213	2092
Lewis Greg 090 b 453	0	436	436	650	650	482	482	482	482	482	482	482	5544
Marble Steve 240 b 453	560	560	560	312	312	381	381	381	381	381	381	381	4971
Matoush Leonard 219 a 647	0	873	873	873	873	698	698	698	698	698	698	698	8376
McCarthy Terrence 489 c 324	0	0	0	533	533	446	446	446	446	446	446	446	4192
McGrath Michael 559 a 647	0	873	873	873	873	660	660	660	660	660	660	660	8110
Mclaughlin Thomas 060 c 324	0	436	436	436	436	274	274	274	274	274	274	274	3662
McMurdie Shane 240 b 453	0	0	672	424	424	492	492	492	492	492	492	492	4967
Medinger Robert 609 b 453	0	0	672	672	672	550	550	550	550	550	550	550	5864
Moore Donna 609 b 453	0	0	672	672	672	550	550	550	550	550	550	550	5864
Moore Patrick 180 b 453	0	0	672	672	672	550	550	550	550	550	550	550	5864
Mordine Glen 339 c 324	0	0	400	400	500	413	413	413	413	413	413	413	4192
Murphy Donna 219 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
O'Brien Stephen 219 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
O'Neill Joseph 669 c 324	400	400	400	400	400	313	313	313	313	313	313	313	4192
Pauly Douglas 369 b- 227	0	0	0	1120	280	219	219	219	219	219	219	219	2932
Philbrick Donna 729 a 647	0	373	0	1920	800	598	598	598	598	598	598	598	7283
Potrzucki Robert * 180 c 224	0	$100 reduced		327	327	240	240	240	240	240	240	240	2337
Raines Velma 429 a 647	0	873	873	873	873	698	698	698	698	698	698	698	8376
Rasco Don 429 a 647	0	873	873	873	873	698	698	698	698	698	698	698	8376

Heidinger-Nap Mar 339 a 647	0	0	960	960	960	785	785	785	785	785	785	785	8378
Sattler Ward * 699 c 292	0	10% single		533	533	387	387	387	387	387	387	387	3773
Schadler Cliff 125 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
Schoch Janice 125 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
Sheehan Daniel 129 b 453	560	560	560	560	560	438	438	438	438	438	438	438	5864
Slats Joseph 039 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
Smith Michael 369 b- 227	0	0	0	373	373	312	312	312	312	312	312	312	2932
Strohmer James 489 --Refunded*	0	Collected $1513.16 and refunded in March					0	0	0	0	0	0	0
Sullivan Walter 129 b 453	0	1120	560	560	560	438	438	438	438	438	438	438	5864
Swanson Marc 125 b- 227	0	0	0	373	373	312	312	312	312	312	312	312	2932
Takagi Patrick 129 b 453	713	407	560	560	560	438	438	438	438	438	438	438	5864
Taylor Richard 300 b 453	0	1120	560	560	560	438	438	438	438	438	438	438	5864
Tung Lawrence 240 b 453	560	560	560	312	312	381	381	381	381	381	381	381	4969
Turcotte Oliver 429 b 453	0	0	0	747	747	624	624	624	624	624	624	624	5864
Vollan William 729 a- 324	0	0	0	400	400	313	313	313	313	313	313	313	2988
Wallace Shirley 339 a 647	0	0	0	1067	1067	892	892	892	892	892	892	892	8376
Weatherford Sharon 459 a 647	0	729	729	729	729	689	689	689	689	689	689	689	7741
Williams Lloyd 129 b 453	0	1120	560	560	560	438	438	438	438	438	438	438	5864
Wolfe Stanley 800 b 453	0	611	611	611	611	489	489	489	489	489	489	489	5864
Ziegler Robert 039 b 453	0	1120	560	560	560	438	438	438	438	438	438	438	5864
	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
Ronsse Dennis 369 b 453	0	0	0	0	840	718	718	718	718	718	718	718	5864
Wimmer Heidi 125 b 453	0	0	0	0	625	500	500	500	500	500	500	500	4120
Hebel Amy 459 b 453	0	0	0	0	840	578	578	578	578	578	578	578	4884
Semore Gordon 459 b 453	0	0	0	0	840	718	718	718	718	718	718	718	5864
Brown Bruce 459 c 324	0	0	0	0	600	513	513	513	513	513	513	513	4192
Waugh Julie 399 a 647	0	0	0	0	1200	1025	1025	1025	1025	1025	1025	1025	8376
Stafford-Hawker S* 399 a 518	0	B unit+10% of A unit			960	820	820	820	820	820	820	820	6702
Szymoniak Glen 399 a 647	0	0	0	0	1200	1025	1025	1025	1025	1025	1025	1025	8376
Fleming Suzanne 609 b 453	0	0	0	0	610	487	487	487	487	487	487	487	4018
Dodd Gene 609 b 453	0	0	0	0	610	487	487	487	487	487	487	487	4018

Dodd Michael 609 b 453	0	0	0	0	610	487	487	487	487	487	487	487	4018
Winters Lon 129 b 453	0	0	0	0	0	838	838	838	838	838	838	838	5864
	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
Gilila-Kussel D 060 c 324	0	0	0	0	0	469	469	469	469	469	469	469	3286
Brown Kathy 060 c Moved out	0	0	0	0	0	53	53	53	53	53	53	53	374
Rounsaville Steve 090 b 453	0	0	0	0	0	614	614	614	614	614	614	614	4296
Thorson Raymond 090 b 453	0	0	0	0	0	614	614	614	614	614	614	614	4296
Hall Cindy 240 c 324	0	0	0	0	0	599	599	599	599	599	599	599	4192
Ritter Brian 180 c 324	0	0	0	0	0	370	370	370	370	370	370	370	2592
Wilkinson Claire 339 c 324	0	0	0	0	0	599	599	599	599	599	599	599	4192
Alava Eric 429 a 647	0	0	0	0	0	1197	1197	1197	1197	1197	1197	1197	8376
Weber Colleen 429 a 647	0	0	0	0	0	1197	1197	1197	1197	1197	1197	1197	8376
Meinhold Brad 429 a 647	0	0	0	0	0	1197	1197	1197	1197	1197	1197	1197	8376
Brown Mo 459 --Moved out	0	0	0	0	0	80	80	80	80	80	80	80	560
Lafferty Nancy 459 --Moved out	0	0	0	0	0	80	80	80	80	80	80	80	560
Cronberg Terry * 570 a 582	0	10% single		0	0	982	982	982	982	982	982	982	6871
Magoon Duane * 570 b 408	0	10% single		0	0	524	524	524	524	524	524	524	3665
Birch Doug 639 a 647	0	0	0	0	0	797	797	797	797	797	797	797	5576
Rainsweber Steve 729 --Moved out	0	0	0	0	0	343	343	343	343	343	343	343	2400
Gilluly Mike 729 --Moved out	0	0	0	0	0	171	171	171	171	171	171	171	1200
Thygeson Mari 729 --Moved out	0	0	0	0	0	171	171	171	171	171	171	171	1200
Power Michell 129 --Moved out	0	0	0	0	0	213	213	213	213	213	213	213	1493
Ellsworth Robert 125 b 453	0	0	0	0	0	608	608	608	608	608	608	608	4259
Bruce Julie 180 b 457	0	0	0	0	0	490	490	490	490	490	490	490	3420
	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
Oltonon Steve 699 ?	.....	.....	.....	.....	.....	6 Feb	.....	.....	.....	.....	.....	.....	0
Mason Charles 150 b	.....	.....	.....	.....	.....	10 Feb	.....	.....	.....	.....	.....	.....	0
Perry Cindy 090 ?	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
Mitchell Jim 279 ?	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
Total Income:	4713	28142	33499	44050	52129	54946	54946	54946	54946	54946	54946	54946	547944

Expenses: 40-000-545-935-000													
310 Admin	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
320 Certi	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
330 Class	.....	.....	.....	.....	49934	.....	.....	.....	.....	.....	.....	.....	49934
351 L & H	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
353 Unemp	.....	.....	.....	.....	826	.....	.....	.....	.....	.....	.....	.....	826
354 Worl	.....	.....	.....	.....	1687	.....	.....	.....	.....	.....	.....	.....	1687
355 Fica	.....	.....	.....	.....	3329	.....	.....	.....	.....	.....	.....	.....	3329
357 Pers	.....	.....	.....	.....	682	.....	.....	.....	.....	.....	.....	.....	682
Trs.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0
366 Ter.A	.....	.....	.....	.....	53	.....	.....	.....	.....	.....	.....	.....	53
367 Ter.S	.....	.....	.....	.....	53	.....	.....	.....	.....	.....	.....	.....	53
415 Ins.	.....	.....	.....	.....	16918	.....	.....	.....	.....	.....	.....	.....	16918
420 Rent	.....	.....	.....	.....	13137	.....	.....	.....	.....	.....	.....	.....	13137
426 Tra P	.....	.....	.....	.....	1549	.....	.....	.....	.....	.....	.....	.....	1549
431 Elect	.....	.....	.....	.....	9825	.....	.....	.....	.....	.....	.....	.....	9825
432 Fuel	.....	.....	.....	.....	66822	.....	.....	.....	.....	.....	.....	.....	66822
435 Water	.....	.....	.....	.....	2410	.....	.....	.....	.....	.....	.....	.....	2410
440 Purch	.....	.....	.....	.....	17700	.....	.....	.....	.....	.....	.....	.....	17700
452 Main	.....	.....	.....	.....	30342	.....	.....	.....	.....	.....	.....	.....	30342
510 Equip	.....	.....	.....	.....	42820	.....	.....	.....	.....	.....	.....	.....	42820
562	.....	.....	.....	.....	7973	.....	.....	.....	.....	.....	.....	.....	7973
.....													
Total Expenses	0	0	0	0	266059	0	0	0	0	0	0	0	266059
Total Net Inflow	4713	28142	33489	44850	-213930	54946	54946	54946	54946	54946	54946	54946	281885
Beginning Cash	.....	4713	32855	66344	111194	-102736	-47790	7156	62102	117048	171993	226939	0
Ending Cash	4713	32855	66344	111194	-102736	-47790	7156	62102	117048	171993	226939	281885	281885

Dmcn

Net Inflow = Income less expenses Beginning cash = Last month's ending cash

Ending Cash = net inflow + beginning cash

There are three catagories of housing: A,B,C. @ has different minimum specifications & rent.

We predict a negative balance in August of +100,000 dollars, even though as can be seen, teachers are paying considerable amounts.

Summer rent reductions are to be the real rent rate less 1/3.

LOCATION	NEW UNITS REQUESTED	RELATED REQUESTS	COMMENTS
AKIAK	(1) 2 BR Unit	That LKSD lease the 2 Corporation owned houses which teachers now live in.	No more then 2 Bedrooms in the new unit.
AKIACHAK	0	Purchase a duplex, trailer and house from Akiachak limited.	Teachers presently live in these units.
ATMAUTLUAK	0	0	The Trailer unit is in need of new furniture (very poor condition)
CHEFORNAK	(1) 2 BR (1) 3 BR	0	The request has not yet been reviewed by the ASB - such review take place Feb. 10. Trailers are mentioned in the staff report as the desired units.
KASIGLUK		Enter lease with the Kasigluk Corporation for the construction of a duplex containing a (1) BR unit and (2) BR unit.	Descision needed immediately so that corporation could order materials
KIPNUK	(1) Class C (2) Class B	Contact KugKakrlik Corp. for a price in materials; also in transportation	Land for site is a negotiable. Term with local corp.
KONGIGANAK	2 BR units	Releveling of the existing 2 units -see maintenance.	No indication of Review by ASB
NAPASKIAK	2 Units		Village Corporation is in the process of completing two new units.

LOCATION	NEW UNITS REQUESTED	RELATED REQUESTS	COMMENTS
NIGHTMUTE	0	Dependent upon staff increases	
NELSON ISLAND	0	Connect sewer to converted warehouse	
NEWTOK	(1) duplex each 2 BR	Alternative - considerable refurbishing of warehouses	Recognized as high priority
OSCARVILLE	?		The information provided does not make clear what the housing situation presently is in Oscarville.
MEKORYUK	0	See Maintenance	
TUNUNAK	0	A long term lease be negotiated with Emma Albert or guarantee the availability of this privately owned unit.	

RESIDENTIAL TEACHER LEASE

BY THIS AGREEMENT made and entered into on this _____ day of _____, 19__, between the LOWER KUSKOKWIM SCHOOL DISTRICT, herein referred to as the Lessor, and _____, herein referred to as Lessee, Lessor leases to the undersigned Lessee, subject to the terms and conditions enumerated herein, the premises located in _____, State of Alaska, and more particularly described as follows:

together with all appurtenances, for one year, to commend on the ____ day of _____, 19__, and to continue until the ____ day of _____, 19__. Upon written application this lease may be extended consistent with District and Advisory School Board housing regulations.

The particular terms and conditions of this lease are as follows:

1. RENT - Lessee agrees to pay the Lessor as rent for the leased premises the sum of _____ Dollars per annum. Lessee agrees to pay by means of payroll deduction in equal installments

to start with the _____ paycheck.

2. LEASE TERMINATION - If Lessee should at any time be dismissed from the service of Lessor, be transferred to another site during the term of this lease, be non-retained, or voluntarily quit the service of Lessor, Lessor shall have the right to terminate this lease and reenter upon, and take possession of, said premises upon ten (10) days written notice to vacate said premises, either given to the Lessee in person, by leaving a copy of such notice upon the premises, or by mailing a copy to the Lessee at the address for the premises, or at such other address provided by Lessee in writing to Lessor.

   Upon such termination of the lease, subject to the other provisions of this lease relating to damage, and reports, Lessee shall only be liable for the rent to the date of the termination of the lease, and if rent has been collected beyond that date, it shall be refunded to the Lessee, provided he/she vacates said premises according to the written notice.

3. SECURITY FOR DAMAGE - Lessor may deduct from Lessee's final paycheck up to $300.00 or the

actual cost of replacement or repair, whichever is higher, where damages to the premises result from the following:

a. Failure by the Lessee during the tenancy to maintain the premises, or failure after the termination of the tenancy to leave the in as clean and orderly condition as when he/she found it, normal wear and tear excepted.

b. Failure of the Lessee to dispose from the leased premises of all ashes, rubbish, garbage and other waste in an appropriate manner.

c. Failure of the Lessee to keep all plumbing fixtures on the leased premises as clean as their condition reasonably permits.

d. Abuse by the Lessee of any electrical, plumbing, sanitary, heating, ventilating, kitchen and other facilities and appliances so as to damage same.

e. Deliberate or negligent destruction, defacement, damage, impairment, removal or alteration, without the consent of the Lessor, of any part of the premises by the Lessee.

f. Damage by pets.

Where Lessee is scheduled to leave the premises after a period of occupancy, but his/her final paycheck is issued in May or June, Lessor may deduct $300.00

as security deposit from the last of the payments he or she is to receive under his or her contract. Lessor will inspect the premises at Lessee's departure for damage listed above which may signal the right to retain an appropriate part of the deposit. As used herein, the term "Lessee" shall include not only the individual or individuals signing this lease agreement, but also all children relatives, agents, guests, and others who are either under the control of the undersigned Lessee or who are knowingly permitted by the undersigned Lessee to engage in any of the actions or failures to act described in this paragraph, or who are present on the premises under Lessee's actual or implied consent. However, where Lessee accomodates Lessor by allowing school district employees, job applicants, or other guests or invitees shelter at the premises, the Lessee shall not be responsible for any damage caused by such school district guests or invitees.

4. ALTERATIONS AND IMPROVEMENTS - Lessee shall make no alterations to the buildings and appurtenances on the leased premises or construct any building or make other improvements on the leased premises without the prior, written consent of the Lessor. All alterations,

changes and improvements built, constructed or placed on the leased premises by the Lessee, with the exception of fixtures, improvements and/or amenities removable without structural damage to the premises and movable personal property, shall, unless otherwise provided by another written agreement between Lessor and Lessee, become the property of the Lessor, at no cost to Lessor, and remain on the leased premises at the termination of the lease.

5. DESTRUCTION OF PREMISES - In the event that the leased premises, or any part thereof, shall be rendered untenantable by fire, snow, storm or other casualty or deterioration not the fault of the Lessee, this lease agreement at the option of the Lessor, may terminate for that part of the premises rendered untenantable. Thereupon, Lessor shall where possible place Lessee in suitable alternate housing including any time while repairing the premises. If the premises are rendered untenantable by any action or omission of the Lessee, Lessee's obligation to pay rent shall continue. However, Lessor shall, where available, place Lessee in suitable alternate housing. In lieu of terminating this lease in whole or in part because all or part of the premises are rendered untenantable by

fire, snow, storm or other casualty or deterioration, Lessor may, at its option, but without prejudice to its other remedies, repair the premises to a tenantable condition and maintain this lease in effect, though the rent shall be diminished in proportion to the fraction of the premises which are temporarily untenantable, or for the period of time when the entire premises are untenantable.

6. UTILITIES - Lessor will pay for water, sewer, gas or other fuel, and electricity required on the premises except that utilities shall not be provided during the summer months if provision of such utilities is dependent upon the operation of the school plant or the employment of persons normally on vacation.

7. STATUTES, ORDINANCES, ETC. - Lessee shall comply with all applicable statutes, ordinances, rules, orders, regulations and requirements of Federal, State and local governments relating to the premises.

8. EMERGENCY REPAIRS - In the event of sudden damage or leaking of the roof, breaking or cracking of windows or doors, bursting or leaking of water pipes, or water heaters or any other sudden emergency which renders the leased premises or its contents or occupants liable to imminent harm or other damage or

destruction, Lessee shall promptly make all repairs, reasonably necessary and possible to prevent future damage, destruction or injury to the leased premises, contents therein or occupants thereof.

However, where Lessee is not competent by dint of lack of experience, training, proper equipment, or physical ability, Lessee is required to do only what he or she reasonably can to retard damage to the premises. Once done, Lessor is responsible to provide suitable competent persons and necessary material and equipment at the earliest possible time to reconstruct the damaged premises, providing the damage has not rendered the premises untenantable. (See Paragraph 5).

In the event that said sudden, emergency damage was not the responsibility of the Lessee, Lessee may submit to Lessor receipts, invoices and other documents evidencing cost of materials used by Lessee in said repairs, and Lessor will reimburse Lessee at the actual cost to Lessee.

9. USE OF PREMISES - Lessee agrees that the leased premises are to be used primarily for residential purposes and incidentally for

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activity related to Lessee's performance of his/her employment obligations with Lessor. Lessee may not use the premises as a retail or wholesale location for goods and/or services. However, nothing here is intended to limit Lessee's conduct of hobbies or othr activities which do not result in abusive use of the premises.

10. APPLICATION OF LEASE - This lease applies regardless of whether the leased premises are owned by the Lessor or leased by the Lessor from other entities.

11. CONDITION OF PREMISES AND FURNISHINGS - Lessee hereby acknowledges receipt and acceptance of the leased premises with the particular items of furniture and appliances contained therein. Lessee further acknowledges that he/she has examined the premises and said furniture and applicances and that he/she finds the premises and said furniture and a plicances in good order and co dition except as noted on attached Appendix "A". At the termination of this lease, Lessee will yield to Lessor the premises and all such furniture and appliances in as good order and condition as at the date of this lease, ordinary wear and tear expected, and

extraordinary loss due to fire, storm and other causes beyond the Lessee's control excepted. Lessee shall neither remove nor permit to be removed any of said furniture or appliances from the leased premises, not permit any part of said furniture or appliances to be exposed to the weather.

At the termination of the lease and any renewals thereof, the Lessor shall indicate in writing on Exhibit "A" its acceptance or rejection of Lessee's representation that furniture and applicances are returned in as good order and condition as at the date of this lease, ordinary wear and tear excepted and extraordinary loss due to fire, storm, and other causes beyond the Lessee's control excepted. Any rejection of that representation will be fully explained thereon.

12. INSURANCE - Lessee may, at his or her option, maintain fire, hazard, theft or other insurance on Lessee's personal belongings kept in or upon the leased premises. Lessor shall not act as insuror of Lessee's personal property kept in or upon the leased premises. However, if loss of Lessee's goods is due to negligence of Lessor either in its duty to provide a safe and habitable

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dwelling or as a result of acts of commission or omission of its agents, employees, guests, or invitees, Lessee excepted, Lessor shall be responsible.

13. ACCESS - The Lessee shall not unreasonably withhold consent to the Lessor or its agents to enter into or upon the leased premises at reasonable times and in a reasonable unobtrusive manner in order to inspect the premises, make necessary or agreed repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the leased premises to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.

Except in case of emergency, or unless it is impractical to do so, the Lessor shall give the Lessee at least twenty-four (24) hours advance notice of its intent to enter into the premises.

The Lessor or its agents may enter into the leased premises without the consent of the Lessee in case of emergency.

14. EXTENDED ABSENCE - The Lessee shall notify the local unit administrator of any anticipated, extended absence by the Lessee from the premises

in excess of seven (7) days. Said notice shall be in writing delivered prior to the beginning of the absence.

15. CONDEMNATION - If the leased property, or any part thereof, is taken by eminent domain, this lease shall expire on the date when the leased premises shall be so taken, and the rent shall be apportioned as of tnat date. No part of any condemnation award shall belong to the Lessee.

16. JOINT AND SEVERAL OBLIGATION - If more than one person is the Lessee of the premises, or if more than one person occupies the leased premises even though not all occupants have signed this lease, the undersigned Lessees shall be jointly and severally liable for all damages and rent unless a defaulting occupant is an employee of Lessor in which case the non defaulting tenant shall be responsible only for his/her proportionate part of the rent and only for damages he/she actually caused, or knowingly permitted.

17. NOTICE - All notices required to be given by Lessee to Lessor pursuant to this agreement or law, shall be delivered or mailed, postage prepaid, to the Lower Kuskokwim School District,

Attention: Superintendent, unless Lessor notifies Lessee in writing of another address to be used.

All notices required to be given by Lessor to Lessee may be delivered or mailed to Lessee at the leased premises described herein, and any such delivery or mailing to the Lessee at the leased premises shall constitute sufficient notice to the Lessee, unless Lessee has previously provided a written notice to the Lessor of a different address for Lessee's receipt of notice.

18. WAIVER - Neither the acceptance of rent nor any other act or omission of Lessor at any time or times after the happening of any event which would enable Lessor to cancel this lease or declare Lessee's interest hereunder forfeited, shall operate as a waiver of any past or future violation, breach or failure to keep or perform any covenant, agreement, term or condition hereof or to deprive Lessor of his/her right to cancel or terminate this lease at any time that cause for cancellation or termination may exist, or be construed so as to at any future time estop Lessor from promptly exercising any

any other option, right or remedy that it may have under any term or provision of this lease.

19. RENT REDUCTION - Units which will be occupied the following year by the Lessee but vacant during the summer months shall have the rental rate reduced by 33% during months or part thereof when the unit is not occupied by the Lessee. If not due to negligence on part of the Lessee a unit loses electricity, water, sewer or heat for more than ten (10) days in a calendar month the Lessee may petition the Housing Review Board for a 33% rent reduction for that month.

DATED this ____ day of _____, 19, __, at _____, Alaska.

LOWER KUSKOKWIM SCHOOL DISTRICT

LESSOR: LESSEE:

_____ _____

Newtok-Review of Housing Needs

Housing in Newtok is critical. The present staff of 2½ teachers lives in construction warehouses. These warehouses are less than the "C" class quality stipulated in the negotiated agreement. They are not "houses, apartments or trailers". Additional housing is urgently needed in Newtok.

At present, the local A.S.B., principal/teacher, and staff have submitted to Michael Franks a housing resolution. It calls for the building of one, two unit duplex, each unit having 2 bedrooms. A map has also been included indication the site location of said duplex.

However, many complications remain. On three separate occasions (inservice and 2 principal meetings) the Superintendent has expressed a possibility that there may not be money available to construct new housing as had been done in the 1981-1982 school year. He has also orally assured me that the seriousness of Newtok's housing starts.

Thus the dilemma. Our staff struggles living in the present housing. If we wait for new housing and it is not forthcoming we must remain in sub-standard housing. If we try to refurbish our existing housing and then do get new housing, the result is needless expenditure of limited enterprise fund monies.

Any refurbishing or maintenance will be quite expensive. Jim Strohmer's shelter needs the following:

a) since it is sinking it must be raised above ground level
b) level the floor
c) put in cupboards and other storage areas (shelves)
d) interior walls and floors need to be sealed
e) interior painting
f) running water
g) proper electrical wiring-at present all wiring is exposed and fixtures are "naked"
h) additional heating units
i) improved sanitation-presently using a honey bucket without ventilation
j) improved ventilation-presently there is only one small window in the shelter
k) addition of floor coverings
l) addition of another entrance-at present there is only one entrance/exit
m) improved kitchen facilities
n) leaky roof needs repair

Terry and Barbara McCarthy's shelter needs:

a) interior painting
b) linoleum
c) repairs on front door closurers
d) addition of another entrance
e) honey bucket ventilation
f) running water
g) 2 closets plus additional storage shelving
h) cupboards
i) firewall around cook stove

Continued

j) repair of porch and roof leaks
k) checkout of electrical wiring in overhead florescent lights.

It has been abvious to all that have viewed our housing that we need assistance in Newtok. We hope that others would concur and the end result would be construct of the teacher duplex our community desires.

Resprectfully Yours,

Terrence McCarthy

Terrence McCarthy
P/T

HB 196

1) Teachers - problem w/ accomodations

Hall

1) No provision for REAA w/ regard to taking up leasing.

2) Provide for amendment - structure as to not infer any cost to the school district - Prohibit Schist from expenditures

~~Davis~~

Davis - ① Some State employs in the bush are provided housing

Kop - ① How many communities have land or housing available for housing. - Cheryl will find out

② Status of land available - land disposal

Two Studies - NEA & REAA Budget Oversight

Unorganized Borough - own & operate housing

Re Schedule:

1) Housing that is provided by the State for State Employees.

2) Notify Furnace

3) Pam Neal - Lower Kuskokwim 586-1997

Dam Neal:
lease or owns 92 housing units in lower Kuskokwim district

negotiated agreement last year w/teacher assoc - set up corp to run teacher housing.
3 Grades of houses
① Grade A - 1646 per mo - lights sewer water
② " B - 453 - no sewer > 320 sq. ft
③ " C - 324 shelter house, no water sewer or
First Year - intention to make self sustaining $55,000 per mo inc in rent - self supporting pays expenses - Expenses overrun income
① around $100,000 in debt this year

Bethel needs 35 additional Units
- Exploring w/changes to allow district to participate in already established programs

Bill Chilmers - Teacher Akiak/Lower Kuskokwim
K-12 school - 43 students - 6 certified + 1 Administrator
① Renting from private individuals present problems - owners won't sign leases
② Corporate housing more sufficient
③ Encourages enforcement of Sect 2 of bill
Peter Goll
Lake - Pt Baker Cr; Klawock - Hydaburg -

Ralph Steves - ~~Kuspuk~~ Mid Kuskokwim
Encourage Bill even tho its soft
Stan Chilers - N.W. Arctic
Phil Brady - Lower Yukon

HB

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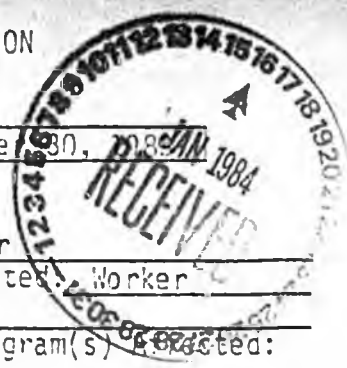
STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE



Revision Date: November 30, 1983

REQUEST
Bill/Resolution No.: HB 216
Title: "Labor relations between school boards"
Sponsor: Representative Koponen
Requestor: Social Svcs;Labor & Com.
Date of Request: February 21, 1983

FISCAL DETAIL
Agency Affected: Labor
Program Category Affected: Worker Protection
BRU, Program or Subprogram(s) Affected: Labor Standards & Safety

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	0	134.7	132.2	76.8	81.4	86.3
200 TRAVEL	0	30.9	32.4	22.8	24.2	25.7
300 CONTRACTUAL	0	84.2	89.3	80.0	84.8	89.9
400 SUPPLIES	0	1.5	1.6	1.0	1.1	1.2
500 EQUIPMENT	0	4.8	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	246.1	255.5	180.6	191.5	203.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	246.1	255.5	180.6	191.5	203.1
FEDERAL FUNDS						
OTHER						
TOTAL	0	246.1	255.5	180.6	191.5	203.1

POSITIONS:

FULL-TIME	0	3	3	1	1	1
PART-TIME	0	0	0	1	1	1
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert J. Bacolas, Sr. Phone: 465-4870
Division: Labor Standards & Safety Date:

Approved by Commissioner: Jim Robison Date: 12/1/83
Agency: Labor
LEG:A:23

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE
BILL/RESOLUTION NO: HB 216
TITLE: "An Act relating to labor relations between school boards."
AGENCY AFFECTED: Department of Labor
Page 2

Under this bill the Department of Labor will act as the Labor Relations Agency for all school districts and be responsible for investigation of representation petitions; determination of appropriate units for collective bargaining purposes; investigation of unfair labor practices charges; monitoring elections; and holding representation and unfair labor practices hearings.

Two investigators (located in Anchorage) are required to conduct the investigations, monitor the elections, and hold informal hearings. One clerical position will be required to provide support to the investigators.

In addition to the costs associated with the two Wage and Hour Investigators and one clerical support position are costs to contract for a hearing officer on 26 occasions ($20,700) and court reporting services including transcripts ($11,300), plus printing ($5,000) and legal costs ($12,000). A total of $10,296 has been included in travel for the hearing officer's transportation and per diem (12 trips of 4 days each) = [$513 + ($85) 4] 12 = $10,296.

Of these costs, only the equipment costs of $4,800 are one-time items.

For Fiscal Year 1985 a variable inflation rate, by line item (average 3.5 percent), is used and in Fiscal Year 1986 through Fiscal Year 1989 a 6 percent inflation rate is used.

Please note Fiscal Year 1987 has an anticipated reduction of one investigator and three months of the clerical support position. After two years this labor relations activity is expected to stabilize.

LEG:A:28

1.	POSITION TITLE: Wage & Hour Investigator II				RANGE/STEP: 18A	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: HB 216	PCN NUMBER: New	BRU PRIORITY	LOCATION: Anchorage	ELECTION DISTRICT: 99	LEG.		
3.	CONTINUATION LEVEL		ADDITION							

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	37,359	
6.	Benefits	6,265	
7.	Supplemental Benefits	2,290	
8.	Fixed Benefits	2,724	
9.	TOTAL PERSONAL SERVICES	01	48,638
10.	Travel	02	10,296
11.	Contractual	03	10,083
12.	Commodities	04	500
13.	Equipment	05	1,600
14.	Other		
15.	TOTAL COST		71,117

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	71,117
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER ___ - ___ - ___ - ___ - ___

JUSTIFICATION

This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The position will be responsible for monitoring school district representation elections and assisting school districts in complying with state and federal labor relation laws. The investigator will travel extensively throughout the state performing these investigations, hearings, and monitoring functions.

Personal Services calculations are based on the current salary schedule plus five percent inflation.

Travel funds allow for 12 (4-day) trips costing an average of $518 for transportation and per diem of $340.

Contractual Services costs are comprised of telephone charges, equipment rent, management services support of $4,483 and $3,600 for space rent.

The equipment costs for a desk, file, partitions, and bookcase are one-time charges.

3 REQUEST FOR NEW POSITION

AGENCY: Department of Labor

PROGRAM: Worker Protection

BRU: Labor Standards & Safety

COMPONENT: Wage & Hour

LEG:A:30

Page 1 of 3

Revised Date

FY 84

1156 (7/82) - 15

	POSITION TITLE			RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
1.	Wage & Hour Investigator II			18A	GGU				
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: HB 216	PCN NUMBER: New	BRU PRIORITY:	LOCATION: Anchorage	ELECTION DISTRICT: 99	LEG.		
3.	CONTINUATION LEVEL	ADDITION							

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	37,359	
6.	Benefits	6,265	
7.	Supplemental Benefits	2,290	
8.	Fixed Benefits	2,724	
9.	TOTAL PERSONAL SERVICES 01		48,638
10.	Travel 02		10,296
11.	Contractual 03		10,083
12.	Commodities 04		500
13.	Equipment 05		1,600
14.	Other		
15.	TOTAL COST		71,117

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		C.F. Match	1003	
18.	100	General Funds	1004	71,117
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR BAM USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The position will be responsible for monitoring school district representation elections and assisting school districts in complying with state and federal labor relation laws. The investigator will travel extensively throughout the state performing these investigations, hearings, and monitoring functions.

Personal Services calculations are based on the current salary schedule plus five percent inflation.

Travel funds allow for 12 (4-day) trips costing an average of $518 for transportation and per diem of $340.

Contractual Services costs are comprised of telephone charges, equipment rent, management services support of $4,483 and $3,600 for space rent.

The equipment costs for a desk, file, partitions, and bookcase are one-time charges.

3 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU: Labor Standards & Safety

COMPONENT Wage & Hour

LEG:A:30

Revised Date

FY 84

3156(7/83)-15

	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
1.	Clerk Typist III				8B	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	12	HB 216	New		Anchorage	99			
3.	CONTINUATION LEVEL		ADDITION							

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	20,135	
6.	Benefits	3,377	
7.	Supplemental Benefits	1,234	
8.	Fixed Benefits	2,724	
9.	TOTAL PERSONAL SERVICES 01		27,470
10.	Travel 02		0
11.	Contractual 03		15,016
12.	Commodities 04		500
13.	Equipment 05		1,600
14.	Other		
15.	TOTAL COST		44,586

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.	100	General Funds 1004	44,586
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR OMB USE ONLY
4A KEY NUMBER ____ - ____ - ____ - ____ - ____

JUSTIFICATION

This position will provide clerical support (typing, answering telephone, mail handling, etc.) for two Wage and Hour Investigators.

Personal Services calculations are based on the current salary schedule plus five percent inflation.

Contractual Services costs are comprised of telephone charges, equipment rent, management services support of $2,416 and $3,600 for space rent.

The equipment costs for a desk, chair, file, and bookcase are one-time charges.

3 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour

LEG:A:39

Revised Date

FY 84

1156 (7/82) - 15

HB

217

Staff Report
HB 217 relating to Prison Facilities
Dave Palmer
April 18, 1983

HB 217 mandates that after July 1, 1983, all newly maximum security prisons be constructed in the vicinity of Seward.

The position paper from Department of Health and Social Services adamantly opposes the bill, and requests that the decision on correctional facility locations be based on criminal justice criteria.

The fiscal note is zero based on lack of information.

Next referral is to Judiciary Committee

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

House Bill No. 217

"An Act relating to the establishment of prison facilities."

House Bill No. 217 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities within the vicinity of Seward.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: for Roger C. Large
Roger V. Endell, Director
Division of Adult Corrections

Date: 3-16-83

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 3/30/83

RECEIVED
MAR 30 6 25 PM '83
MILO W. FRITZ, M.D.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: House Bill No. 217
Title: "An Act relating to estab. of pris. fac.
Sponsor: Reps. Cato & Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: March 29, 1983

Approved by Commissioner: Date: 3/30/83
Department: Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

V. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Seward.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

House Bill No. 275

"An Act relating to the establishment of prison factilities."

House Bill No. 275 modifies AS 33.30.020 by making that section subject to the provisions cf AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities within the vicinity of Palmer, Wasilla, and Sutton.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: Roger V. Endell

Roger V. Endell, Director
Division of Adult Corrections

Date: 3/25/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date: 3/30/83

I. REQUEST

Bill/Resolution No.: House Bill No. 275

Title: "An Act relating to estab. of prison fac.

Sponsor: Reps. Larson & Lacher

Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services

Program Category Affected: Admin. of Justi

BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange, LAO Phone: 465-3376

Division: Adult Corrections Date: March 23, 1983

Approved by Commissioner: Robert Loeb Smith, M.D. Date: 3/30/83

Department: Health & Social Services

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
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3/8/

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Palmer, Wasilla, and Sutton.

POSITION PAPER/Department of Health & Social Service

POSITION PAPER

CS for House Bill No. 217 (HESS)

"An Act relating to the establishment of prison facilities."

House Bill No. 217 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate the next maximum security prison facility within the vicinity of Seward.

The Department of Health and Social Services ~~and the Division of Adult Corrections~~ totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: for Roger C. Endell

Roger V. Endell, Director
Division of Adult Corrections

Date: May 11, 1983

Approved by: Robert London Smith 5/14/83

Robert London Smith, Ph.D.
Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CS for HB 217(HESS)
Title: "An Act relating to estab. of pris. fac.
Sponsor: Reps. Cato & Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: May 11, 1983

Approved by Commissioner: Robert Loudon Smith, PhD Date: 5/14/83
Department: Health & Social Services

Distribution:
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3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate the next constructed maximum security prison facility within the vicinity of Seward.

POSITION PAPER/Department of Health & Social Service

POSITION PAPER

CS for House Bill No. 217 (HESS)

"An Act relating to the establishment of prison facilities."

House Bill No. 217 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate the next maximum security prison facility within the vicinity of Seward.

The Department of Health and Social Services ~~and the Division of Adult Corrections~~ totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: for Roger C. Lange
Roger V. Endell, Director
Division of Adult Corrections

Date: May 11, 1983

Approved by: Robert London Smith 5/14/83
Robert London Smith, Ph.D.
Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CS for HB 217(HESS)
Title: "An Act relating to estab. of pris. fac.
Sponsor: Reps. Cato & Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange — Phone: 465-3376
Division: Adult Corrections — Date: May 11, 1983

Approved by Commissioner: Robert Loudon Smith, PhD — Date: 5/14/83
Department: Health & Social Services

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3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate the next constructed maximum security prison facility within the vicinity of Seward.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

CS for House Bill No. 217 (HESS)

"An Act relating to the establishment of prison facilities."

House Bill No. 217 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate the next maximum security prison facility within the vicinity of Seward.

The Department of Health and Social Services ~~and the Division of Adult Corrections~~ totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: for Roger C. Lange
Roger V. Endell, Director
Division of Adult Corrections

Date: May 11, 1983

Approved by: Robert London Smith 5/14/83
Robert London Smith, Ph.D.
Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CS for HB 217(HESS)
Title: "An Act relating to estab. of pris. fac.
Sponsor: Reps. Cato & Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: May 11, 1983

Approved by Commissioner: Robert Loudon Smith, PhD Date: 5/14/83
Department: Health & Social Services

Distribution:
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3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate the next constructed maximum security prison facility within the vicinity of Seward.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

CS for House Bill No. 217 (HESS)

"An Act relating to the establishment of prison facilities."

House Bill No. 217 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate the next maximum security prison facility within the vicinity of Seward.

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Recommended by: for Roger C. Lange
Roger V. Endell, Director
Division of Adult Corrections

Date: May 11, 1983

Approved by: Robert London Smith 5/14/83
Robert London Smith, Ph.D.
Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CS for HB 217(HESS)
Title: "An Act relating to estab. of pris. fac.
Sponsor: Reps. Cato & Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange II Phone: 465-3376
Division: Adult Corrections Date: May 11, 1983

Approved by Commissioner: Robert London Smith, PhD Date: 5/14/83
Department: Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate the next constructed maximum security prison facility within the vicinity of Seward

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

CS for House Bill No. 217 (HESS)

"An Act relating to the establishment of prison facilities."

House Bill No. 217 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate the next maximum security prison facility within the vicinity of Seward.

The Department of Health and Social Services ~~and the Division of Adult Corrections~~ totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: for Roger C. Lange
Roger V. Endell, Director
Division of Adult Corrections

Date: May 11, 1983

Approved by: Robert London Smith 5/14/83
Robert London Smith, Ph.D.
Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CS for HB 217(HESS)
Title: "An Act relating to estab. of pris.
Sponsor: Reps. Cato & Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
fac. Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected:
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: May 11, 1983

Approved by Commissioner: Robert Loudon Smith, PhD Date: 5/14/83
Department: Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate the next constructed maximum security prison facility within the vicinity of Seward.

Alaska State Legislature

REPRESENTATIVE
BETTE CATO
DISTRICT 6
BOX 775
VALDEZ, ALASKA 99686
(907) 835-4568
WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4858
(907) 586-2660

House of Representatives

COMMITTEES

CHAIRMAN
HOUSE TRANSPORTATION

MEMBER
COALITION POLICY COMMITTEE
HOUSE HEALTH EDUCATION
AND
SOCIAL SERVICES

M E M O R A N D U M

TO: Representative Milo Fritz, Co-Chairman
HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

FM: Representative Bette Cato

RE: HB 217

DT: April 5, 1983

Dear Milo,

Attached is a copy of the fiscal note for HB 217, a bill which I have sponsored and is presently with House HESS.

Thank you.

Best,

Bette

Bette Cato

attachment (1)

RECEIVED
MILO M. FRITZ, M.D.
MAR 30 3 26 PM '83

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

House Bill No. 217

"An Act relating to the establishment of prison facilities."

House Bill No. 217 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities within the vicinity of Seward.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: for Roger C. Endell

Roger V. Endell, Director
Division of Adult Corrections

Date: 3-16-83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date: 3/30/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: House Bill No. 217
Title: "An Act relating to estab. of pris. fac.
Sponsor: Reps. Cato & Lindauer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: March 29, 1983

Approved by Commissioner: Robert London Smith, Ph.D Date: 3/30/83
Department: Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

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No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Seward.

Alaska State Legislature

APR 7 1983

REPRESENTATIVE
BETTE CATO
DISTRICT 6
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House of Representatives

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HOUSE TRANSPORTATION

MEMBER
COALITION POLICY COMMITTEE
HOUSE HEALTH EDUCATION
AND
SOCIAL SERVICES

M E M O R A N D U M

TO: Representative Mae Tischer, Co-Chairman
HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

FM: Representative Bette Cato

RE: HB 217

DT: April 5, 1983

Dear Mae,

Attached is a copy of the fiscal note for HB 217, a bill which I have sponsored and is presently with House HESS.

Thank you.

Best,

Bette

Bette Cato

attachment (1)

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

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Recommended by: for Roger C. Lange
Roger V. Endell, Director
Division of Adult Corrections

Date: 3-16-83

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 3/30/83

STATE OF ALASKA
FISCAL NOTE

Revision Date. , 1983

I. REQUEST

Bill/Resolution No.: House Bill No. 217
Title:"An Act relating to estab. of pris.
Sponsor: Reps. Cato & Lindauer
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II. FISCAL DETAIL

Agency Affected:Health & Social Services
fac.Program Category Affected:Adm. of Just.
BRU, Program of Subprogram(s) Affected:
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

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CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS --						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone:465-3376
Division: Adult Corrections Date: March 29, 1983

Approved by Commissioner: Robert London Smith, Ph.D Date: 3/30/83
Department: Health & Social Services

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3/8/83

. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Seward.

REPRESENTATIVE
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Alaska State Legislature

House of Representatives

COMMITTEES

CHAIRMAN
HOUSE TRANSPORTATION

MEMBER
COALITION POLICY COMMITTEE
HOUSE HEALTH EDUCATION AND SOCIAL SERVICES

M E M O R A N D U M

TO: Representative Mae Tischer, Co-Chairman
HOUSE HEALTH & SOCIAL SERVICES COMMITTEE

FM: Representative Bette Cato

RE: HB 217

DT: March 28, 1983

HESS

Dear Mae,

HB 217 establishes a maximum security facility in Seward and is presently sitting with House HESS. This bill, of which I am the original sponsor, is one of my top priorities for the session.

Mae, I respectfully request the committee's consideration of HB 217 at the earliest possible date. Naturally, my office will be most cooperative in providing you with back-up material.

Thank you.

Best regards,

OK
bT

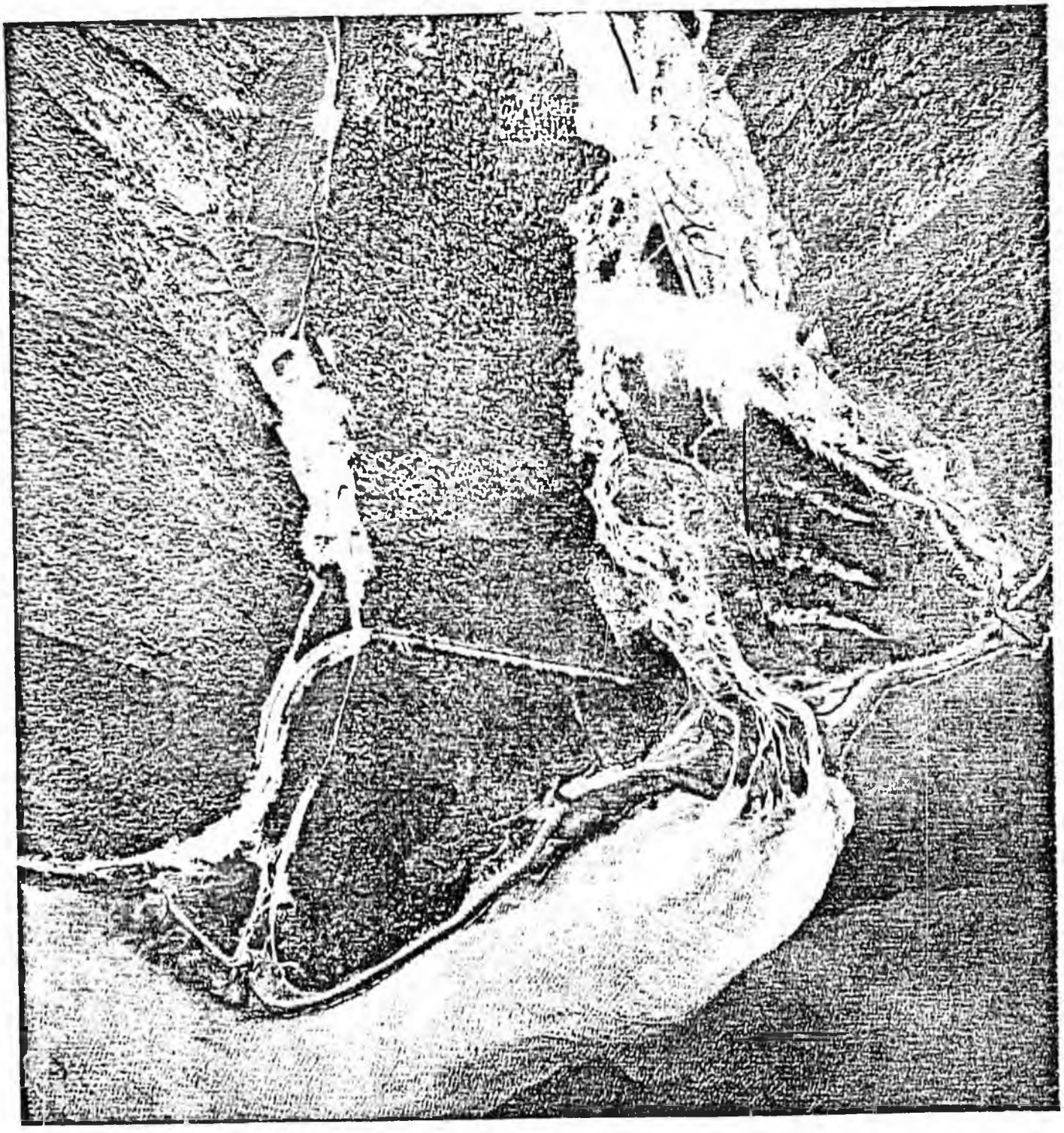
Bette

Bette Cato

Week of Apr 18

SEWARD, ALASKA CORRECTIONAL

FACILITY SITE ASSESSMENT



PREPARED BY

FEBRUARY 1983

WILLIAMS • KUEBELBECK & Associates, Inc.

Real Estate Economic, Financial and Management Consultants

CITY OF SEWARD

ADMINISTRATIVE OFFICES
P.O. BOX 167
SEWARD, ALASKA 99664

Main Office	907-224-3331
Harbor	224-3341
Police	224-3338 or 3339
Public Works	224-5449
Fire Dept	224-3445
Telecopier	224-3248

February 16, 1983

Roger Endell
Director Division of Corrections
Alaska Department of Health & Social Services
2200 East 42nd Avenue
Anchorage, Alaska 99508

Dear Mr. Endell:

As you know the City of Seward has invited the State of Alaska to seriously consider placing a Long Term Correctional Facility on its Spring Creek area property. The purpose of this report is to present the assets of Seward and the Spring Creek Site for such a facility. If you concur with this assessment the City of Seward will hold a public hearing to verify local support for the placement of this facility in Seward.

At this time and after examining the project impacts from all sides I feel Seward has a positive attitude towards this facility and will accept it and welcome the associated employees and their families.

While Seward is offering free land for this facility we also recognize that there are several options available to use in construction. One method we feel would benefit the state is for Seward to build the facility, with state appropriated funds, and then lease it back to the state for $1.00 a year. Seward has management capability for a project this size. We feel we could bring it "on line" sooner and cheaper to the state than by using the existing state process.

Seward is a full service community with good multi-modal transportation access that is offering a compatable safe and secure Long Term Correctional Facility site. We urge you to give serious consideration to our offer and this assessment report.

Should you have any questions or need additional information please let me know.

Sincerely,

Ron Garzini
Seward City Manager

RG:bk

SEWARD, ALASKA
CORRECTIONAL FACILITY
SITE ASSESSMENT

FEBRUARY 1983

PREPARED FOR THE CITY OF SEWARD

BY

WILLIAMS-KUEBELBECK & ASSOCIATES, INC.
750 WEST SECOND AVENUE, SUITE 101
ANCHORAGE, ALASKA 99501

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PURPOSE OF REPORT

The State of Alaska is seeking a site for a long term correctional facility.

The City of Seward has proposed a site within its boundaries. The 100 acres is located across Resurrection Bay approximately eight miles from the center of Seward. The site is publicly owned and would be provided to the State at no cost.

The purpose of this report is to assess the suitability of the site and the community as a location for a correctional facility of this type. Often times a large public facility project such as this long term correctional facility only includes the immediate facility funding as part of the project. This often necessitates a second level of funding to complete the support services necessary for it to function as it was intended. This assessment attemts to address the availability and suitability of those support facilities and services.

It lists all the major community facilities and support services found in the service area. This information was obtained by an on site examination and through interviews with the facility/service managers or directors.

Location of a long term correctional facility in Seward will create certain impacts. These will be both positive and negative depending on a particular point of view. For example, the local labor force will change - employment in construction and support services will increase. About 300 jobs will be created. This may also bring pressure for higher wages.

School enrollment will increase, while downtown parking space will be harder to find. Additional medical facilities may become available as will retail stores. More traffic will appear on the streets and delivery of some service may decrease as costs increase.

During the collection of data for this report it was recognized that the placement of any correctional facility should consider the impact

of that facility and all its support requirements on that area in which it is to be located. This means that not only the States concern for inmate security and other requirements must be met, but those of the employees, their families, inmate families and community acceptance must also be considered.

One factor that cannot be assessed in a report of this nature is community attitiude. That will occur at a later date through public comment period and action by the City Council.

ORGANIZATION OF REPORT

The report is organized in two major sections to recognize the direct requirements for facility construction as well as the requirement for the supporting facilities and services.

- Site Assessment - address site requirements and characteristics.

- Community Assessment - address the facilities and services in the community necessary to support the correction facility.

These two sections are preceded by a summary and followed by a list of acknowledgements.

FINDINGS
AND
SUMMARY
OF
ASSESSMENT

The City of Seward has selected a site for consideration by the State of Alaska for the placement of a long term correctional facility. The site is within the Seward City limits and there are over 100 acres of available public and vacant land at the site.

The following are summary statements relative to the Seward area and the Spring Creek area suggested for placement of the State Long Term Correctional facility:

Site Assets

- Well drained - level - partially cleared having good construction and foundation material.

- Remote yet accessable and within a City offering a full range of community services.

- Meets all state locational requirements for SIZE - ACCESSABILITY - NO ENCUMBRANCES - SERVICE AVAILABILITY.

- Land available at no cost.

- Required acreage for facility, expansion, buffers and support services.

- Compatible use with assurance of continued compatibility and non outside encroachments.

- Only minimum changes in land use plans and zoning would be needed.

- Site assessment/feasibility work completed with adjacent Industrial Park assessment.

- Utilities readily available to the site.

- Utility costs could be shared with existing industrial uses.

Community Assets

- Within a fully serviced community.

- No additional community capital expense for correctional impact.

- City has expansion capability with minimum or no impact in:
  - Fire and Police Protection
  - Sewer and Water Service
  - Schools
  - Electrical Service
  - Transportation
  - Employment
  - Recreation
  - Communication
  - Land Availability

- Available services reduce need for inmate transport to other areas.

- Visitor, legal support housing capabilities exist.

- Secure location with ease of security enforcement.

- Choice of rural or urban living environment for employees and families.

- Existing in place emergency and backup support provided by Seward services.

- Retail and speciality services in place and available for use by the correctional facility employees and their families.

- Long distance employee commuting will not be necessary. Will add to security.

- In place Vocational Technical Center for inmate and employee use/education: Will be asset to prison industries.

- Counseling service; Seward Life Action Council (SLAC).

- Hospital and medical and emergency services in place and available for inmates and employees.

- Court system - easily expanded to Superior Court level.

- Support security via United States Coast Guard and Alaska Fish and Game patrol vessel.

- Regional library.

- Reduced total costs as site has access and is ready for construction thus saving time and reducing loss to inflation.

- Use of port will provide long term savings in operation costs. Direct shipment of operational supplies and heating fuel in bulk quantity.

- Use of port will provide savings in costs for Prison Industries materials.

SITE REQUIREMENTS AND SUITABILITY

SITE CHARACTERISTICS

The suggested location for this Alaska Long Term Correctional Facility is at the Spring Creek area adjacent to the Fourth of July Creek and the Seward Marine Industrial Center. It is approximately eight miles by paved road from Seward's town center to the site, but only three miles across Resurrection Bay.

The size of the site is approximately 100 acres. It is rectangular in shape and all areas would be adequate for location of a large facility. The land is in public ownership and is surrounded by other land owned by the U.S. Forrest Service. Some private land borders the site nearest the Seward Marine Industrial Center. This area is well buffered by trees and does not create any land use conflicts.

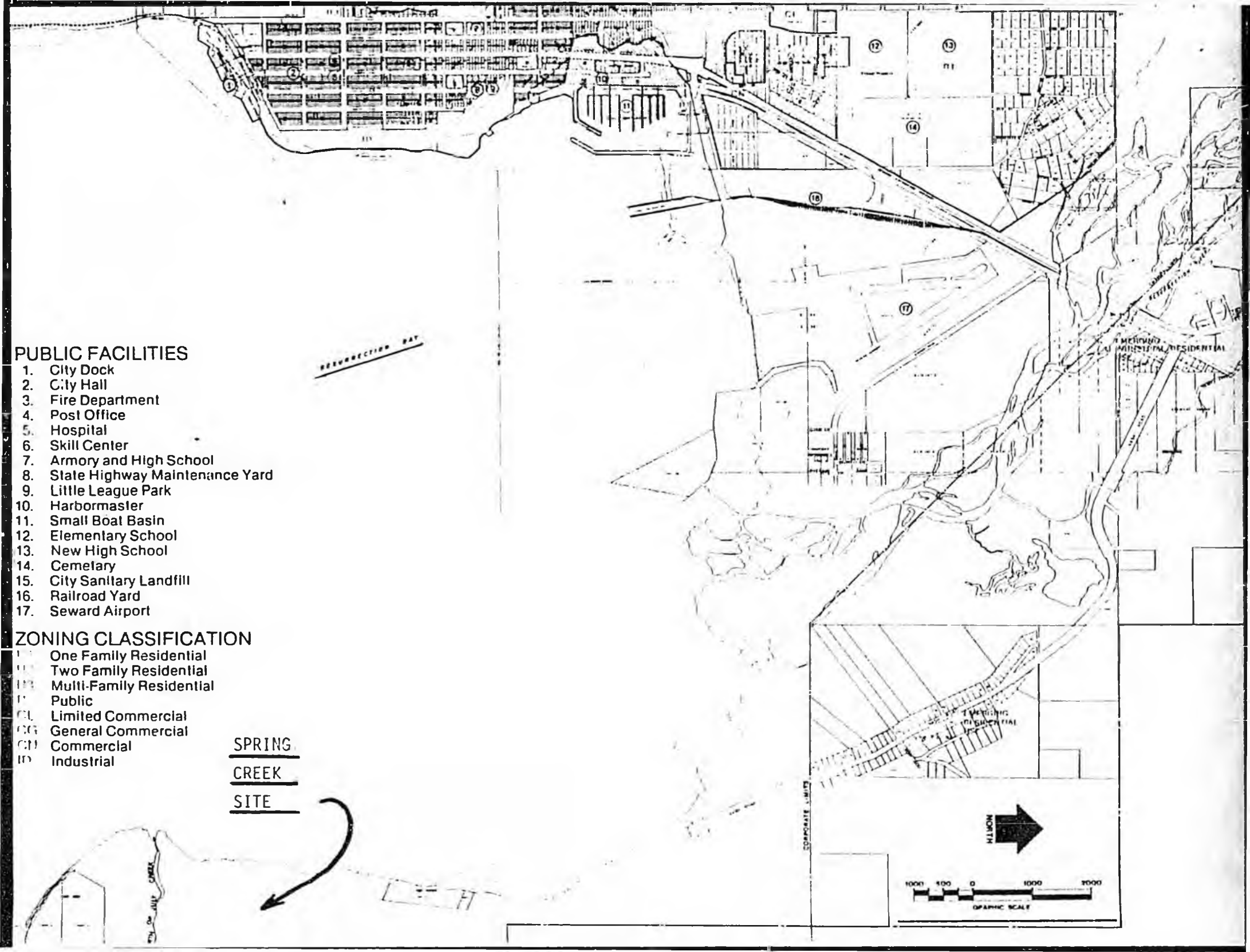
The site is level and well drained. On one side, however, there is a small hill that, if included within the 40 plus acre selection, would make an ideal observation area. Surrounding land uses are vacant/forest. The only development in the area is the Seward Marine Industrial Center.

SITE/LOCATION REQUIREMENTS

The following is a discussion of the assumed site/location requirements desired by the State of Alaska in placement of Long Term Correctional Facility.

Regional Location: To meet American Correctional Association Standard 4147 for Adult Correctioanl Institutions, the South Central Regional Long Term Facility should be located within 50 miles of a civilian population center of at least 10,000 people, to accommodate access to the courts, a hospital and public transportation.

If this requirement were to be met in Alaska, all prisons would be in the Anchorage, Fairbanks and Juneau areas. Obviously, the population requirement does not strictly apply to Alaska. However, other criteria should be met. This criteria is access to courts, hospitals, public transportation, etc. All of these criteria are now met or will soon be available, as incidental services to the proposed correctional site in Seward.



PUBLIC FACILITIES

1. City Dock
2. City Hall
3. Fire Department
4. Post Office
5. Hospital
6. Skill Center
7. Armory and High School
8. State Highway Maintenance Yard
9. Little League Park
10. Harbormaster
11. Small Boat Basin
12. Elementary School
13. New High School
14. Cemetary
15. City Sanitary Landfill
16. Railroad Yard
17. Seward Airport

ZONING CLASSIFICATION

- One Family Residential
- Two Family Residential
- Multi-Family Residential
- Public
- Limited Commercial
- General Commercial
- Commercial
- Industrial

Site Availability: The site should be owned by the State of Alaska or available without cost and should not be committed to an incompatible land use. Designated public parks, recreational areas, wildlife preserves and other uses that are not fully compatible should be avoided if possible.

The suggested Seward site has over 100 acres of public owned land. The area is within an identified industrial development park. Land uses are compatible. There is no other development in the area.

A full range of support services are available to the site. It is secluded yet accessible and, because of surrounding land use and ownership patterns, will not become an incompatible use in the future.

Site Size: A site of from 30 to 75 acres, unencumbered by leases, easements or rights-of-way is desirable in order to allow flexibility in site planning and an additional buffer.

The suggested site has over 100 acres of level easily developable land. Buffers exist in the form of natural features and land ownership patterns. Sufficient acreage exists to allow for facility support and expansion purposes. There are no easements, rights-of-way or other encumbrances on this site.

Physical Site Characteristics: The development site should have a topographic slope of less than 20 per cent; it should not be within a designated 100 year or 500 year flood plain, or other area seasonally flooded by lake, pond or stream; and it should have well drained soils that are generally suitable for construction and on-site development of sewage disposal facilities.

The suggested site is level, well drained and partially cleared, thus facilitating easy development. Activity associated with the Seward Marine Industrial Center altered the natural flow of the Fourth of July Creek, thus removing this area from the 100 and 500 year flood plains. The soils are well drained and are considered to be excellent for construction and foundation purposes. Disposal of wastewater and general soils conditions are discussed elsewhere in this report.

Site Accessibility: The site must be accessible by an existing public road or be within two miles of a public road with reasonable assurance that access to the site can be obtained.

An existing paved road now provides access to within one mile of the site. The final mile of road accessing the site is a gravel road suitable for construction needs.

Utilities are available or could be easily developed.

SITE SUITABILITY

The suggested Seward Spring Creek Correctional Facility location is in an ideal place for such a facility. The site itself also has many attributes as a building site. These features can be listed as:

- Within a fully serviced community.
- Not generally visible or having a high public profile.
- Ample land for buffers, support services and expansion
- Level, good soils, partially cleared and ready for construction.
- Access, utilities, and service available to the site.
- Multi-modal access.
- No, or few, community support facility expenses.
- Proximity to Port facilities reduce construction and supply costs.
- Remote, for security purposes, location with easily implemented security measures.

COMMUNITY ASSETS

- Proximity to all support service thus reducing need to transport inmates.

- Community service capability to meet impact with minimum disruption.

These and other benefits mean not only short term immediate saving to the state, but long term savings in operational costs and social disruption.

GENERAL SETTING

Seward, located on Resurrection Bay, is Alaska's only natural ice-free, deep-water port with year round rail, highway and road service. It is approximately 120 miles by highway from Anchorage, 114 by rail and 35 minutes by air. It has well maintained docks, complete marine services, dockside rail facilities and community support services.

Founded in 1903, Seward has more of a planned townsite and appears more "orderly" than most of the small towns in Alaska. Most streets are paved and have sidewalks. Most of the businesses are located in a downtown area. These include grocery, hardware, drug store, men and family clothing department stores, fabric and gift shops, beauty salons, barber shop, restaurants, hotels, offices, etc. The post office, library, hospital and ferry terminal are all within easy walking distance of the town center.

The population of Seward is approximately 1850 with another 1600 persons living within the area of trade influence. Employment for this population is concentrated in the following sectors or employers:

- Alaska Railroad
- Port of Seward
- Fishing
- Logging
- Government and Service

At present, 18% of the workforce is unemployed.

Two new schools were constructed in the 1970's. They serve all students in grades K through 12 in Seward and high school students from Moose Pass and Cooper Landing. The new high school includes a gymnasium and swimming pool, widely used by the community schools program and local swimmers.

Many clubs and recreational opportunities are available for any interest from bird watching to sailing to baseball, skiing, bowling and basketball.

Seward is a home rule city with an elected Mayor and Council and a hired City Manager. Seward provides electricity, sewer, water, garbage pickup and several T.V. stations via satellite for a nominal rate.

There is a 1% City sales tax and a 2% borough sales tax. The City property tax rate is 5 mills. The borough assesses 2.5 mills The Cities bonded indebtedness is only 4.62% of assessed valuation.

For the past several years the City has concentrated in the development and construction of an industrial center combining harbor, ship lift and marine industrial development.

The University of Alaska has a facility in Seward in the Institute of Marine Science research. These facilities add to the cultural and educational opportunities to a degree unusual in such a small city.

Two traditional summer events drawing hundreds of visitors to Seward are the 4th of July Mt. Marathon race and the 10 day Silver Salmon derby in August. Boating and sailing enthusiasts whose boats are moored in Seward small boat harbor converge on Seward every weekend during the summer. The Seward small boat harbor has 550 slips and plans call for an additional 1000 slips in the near future.

Thus, Seward is a complete community with a full range of community facilities and services.

These facilities and services are discussed in detail below.

PUBLIC SAFETY / HEALTH

Police

The Seward Police Department consists of nine full time employees with three auxiliary members.

Four State Troopers also serve the area from Seward to Hope. This lineal positioning would be a benefit for road security/blockade purposes in the event of inmate escape. The Seward jail can house 14 prisoners in 6 cells, 5 in a dormitory type cell and 8 in maximum security cells equipped with electric doors. There are two separate

cells for women and juveniles. The City of Seward employs six jailers, all trained at Federal and State competency levels. This facility is equipped with T.V. monitors, freezers, micro wave oven, and feeds prisoners with food prepared at the Seward General Hospital.

A full range of emergency and communication equipment is in place. This includes radio communication, compatability with the Alaska Railroad, State Troopers and U.S. Coast Guard. There is a fully equipped police boat and the Alaska Department of Fish and Game also has a new boat that could, if needed, also provide security patrol assistance in Resurrection Bay.

Fire Protection

The City of Seward has a Fire Class rating of 5. Service is provided by 31 volunteers and a full time chief. Presently, two pumper trucks are the major equipment items. Funding requests for a new bay and ladder truck have been submitted to the legislature.

Another fire service district area is located at Bear Creek just outside Seward. An existing agreement between the City and Bear Creek station calls for back up service in case of extreme emergencies.

In relation to the proposed long term correctional facility it is approximately 8 miles to both the Bear Creek and Seward fire stations. The response time from both of these stations to the site is 13 minutes.

The suggested site is also less than one mile from the existing Seward Marine Industrial Center. This center will have its own (additional to that of the City and Bear Creek) fire protection facility consisting of a building and support trucks and equipment. It is scheduled for completion in 1985. It will be manned on a volunteer basis by the Marine Center employees and the other Seward volunteers.

By utilizing this facility and proper planning, the correctional facility fire protection service costs can be reduced greatly. With the City's current fire rating and in place wells, mains and

water system it will be able to accept the growth of correctional employees, their families and secondary growth without a reduction in their Class 5 rating or additional capital facilities expenses.

Seward Life Action Council

The Seward Life Action Council (SLAC) is a non-profit corporation formed to provide quality community based mental health, alcoholism, drug abuse and general counseling services to residents of Seward and the surrounding area. SLAC is governed by a Board of Directors comprised of people from the community.

Funding for SLAC is provided through grants from the State Office of Alcoholism and Drug Abuse and Division of Mental Health and Development Disabilities and by support from the City of Seward and other local contributions.

SLAC personnel consists of qualified professionals in the fields of mental health and substance abuse. A full-time licensed Ph.D. Psychologist and certified masters level Chemical Dependancy Therapist offer a comprehensive approach in a variety of treatment modalities. A community outreach worker conducts prevention and education programs and coordinates special community projects. These qualifications make their services eligible for insurance coverage by some firms.

SLAC maintain regular office hours Monday through Friday, except authorized holidays. An on-call counselor is available 24 hours a day seven days per week.

Fee for services are assessed on a sliding scale based on the ability to pay. Services are never denied due to inability to pay. In addition to providing service for state correctional employee families, it is anticipated that this service could also contract with the state to provide inmate counseling.

SLAC owns its facility and could accomodate additional staff with only minimum modifications. In fact, the current organizational structure and SLAC administration is set up to expand its staff with no interruption of service.

Seward Hospital

The Seward General Hospital is a general acute care hospital providing all general services; general surgery, internal medicine, cardiology, orthopedic surgery, radiology and pathology through the addition of visiting specialist physicians. Current occupancy is about 14%. The following, in part, was taken from the state DOT/PF Inventory and Conditions Survey reports.

Seward General Hospital is a 31-bed acute care center constructed in 1955. Currently it serves a population of about 3,500 in Seward and the surrounding area, but the community is now experiencing substantial population growth. The hospital is centrally located in Seward, adjacent to a nursing home and a doctors' clinic.

With only minor modifications for room security purposes, the Seward Hospital could be used to provide major medical service to the correctional inmates.

Court System

Seward is now served by a Magistrate who is also fully qualified and has on occasion served as District Court Judge.

The present court room has space for approxiamtely 50 spectators and prospective jurors. It has a jury room, washroom facilities, attorneys work rooms and judges chambers. This facility is located in the existing City Hall where the City Police and jail are also located.

While these facilities are adequate for todays needs, continued growth in Seward and the Kenai Peninsula, coupled with a continued heavy court case load in Anchorage and elsewhere in southcentral Alaska, indicate that some upgrading will be needed.

It is anticipated that this will occur with or without a long term correctional facility being located in Seward. It is also anticipated that any court facility upgrading would be designed to accommodate correctional court needs thus enabling a sharing of facility uses and saving of capital and operating expense to the state.

Assuming upgrade work would occur within the existing facility, only the jury and security functions would need immediate alterations.

EDUCATION

Schools

The City of Seward elementary and high schools are part of the Kenai Peninsula Borough School District.

The high school, serving grades 9 - 12, was completed in the late 1970's and has a designed capacity of 300 students. It now serves approximately 160 students, leaving an expansion capacity of 140 students. These additional students could be absorbed with no change in the facility and only minor changes to service and office accomodations.

The elementary school serves grades K - 8 and has a designed capacity for 450 students. Approximately 300 students are now enrolled, leaving an expansion capacity of 150.

Based on an average size of three persons per household, approximately 300 additional families and their children could be absorbed into the existing school facilities now located in Seward.

Some of the facilities and services existing in these adjacent buildings include:

- Theater
- Swimming Pool
- Gymnasium
- Full Service Lunch Room
- Exercise Room
- Racquet Ball Court
- Outside Track, Soccer and Play area

An extensive Community Schools program is provided with an average of 12 courses being offered by the Kenai Peninsula Community College.

Day care facilities also exist in the community and it is assumed that additional services would be provided by the private sector as demand dictated.

Vocational Technical Center

The following is taken directly from the Alaska Vocational Technical Center catalog of 1983:

The Alaska Vocational Center is an adult post-secondary educational institution dedicated to offering quality vocational/technical education to residents throughout the State of Alaska.

Educational programs at AVTEC provide the student with sufficient occupational skills to both benefit from and contribute to the economic growth of Alaska. This may include the development of basic occupational skills and/or upgrading of present skills.

At AVTEC the comprehensive instruction, counseling, residential student services and job placement contribute to the students' development of acceptable attitudes, work habits and technical knowledge to enter the job market.

Programs are offered to Alaskans whose knowledge and skills are appropriate to the programs selected and who can benefit from them, regardless of educational, cultural, or economic background. The Alaska Vocational Technical Center offers students training and instruction to help them meet minimal competencies established for skill areas based upon an analysis of occupations for which they are being prepared. This effort is supported by extensive vocational counseling, testing, supporting learning resources and open-exit scheduling. The Center maintains flexible curricula and programs that may truly reflect and respond to the needs and demands of the Alaskan job market, and the people seeking a place in that market.

The current Vocational Departments and Center Services are:

VOCATIONAL DEPARMENTS
- Food Service
- Office Occupations
- Building Maintenance
- Mechanics
  - Heavy Equipment
  - Power Plant
  - Diesel Mechanics
  - Welding
  - Auto
- Oil Technology
- Forestry
- Emergency Medical Services
- Marine Navigation

STUDENT SERVICES
- Counseling
- Job Development

CENTER SERVICES
- Student Housing
- Family Housing
- Food Service Facility
- Library
- Medical
- Recreation

The vocational departments could be expanded to serve the long-term correctional facility without need of capital expenditures, except for specified tools or equipment associated with particular classes. The services would also be available for employees and their families.

The Port and Railroad also provide good access to raw materials needed to support a prison industries program, which in turn could be assisted by the Vocational Education Center.

Library

Seward has a large "regional center" library unique for a city this size. A private endowment has enhanced the facilities and services of the library. The library space was recently remodeled to accommodate the increased demands on its use. This library with its close proximity to the suggested correctional facility could provide service to that facility. It would also benefit its employees and their families.

TRANSPORTATION

Seward is the only community in the state with a deep year round ice-free port having road, railroad and air service transportation available to it. As such there are many options available that would make both the construction of a correctional facility and its operation very efficient.

The proximity of the correctional facility to the port would mean cheaper construction and operations in that:

- on site material storage is available,
- a reduction in handling and transfer of material would be realized,
- the short distance between area where material is received and construction site means less transportation costs,
- there would be less material handling as supplies - food, prison industries materials and heating oil could be purchased in bulk quantities with direct delivery.

The railroad offers yet another access alternative. The Alaska Railroad is now providing mixed use (freight and passenger) service, which could be used by the correctional facility. The establishment of daily coal trains to Seward and mixed use service will provide economical and secure transportation, when needed, between Seward, Anchorage and Fairbanks.

The surrounding terrain and only one road access add additional security means to deter escapes and facilitate capture in the event an escape should occur.

The following is a general presentation of the various transportation modes now serving Seward:

Highway

Seward is connected to Anchorage and Kenai via the Seward Highway. Anchorage is approximately 125 miles away and Soldotna, 95 miles. The Seward Highway is part of the Federal Aid Primary Road System with an estimated capacity of 14,000 vehicles per day. The annual daily traffic now averages 800 to 3,000 vehicles per day. The State of Alaska Six Year Capital Improvement Program lists numerous reconstruction projects for upgrading the Seward Highway to a 40-foot wide section consisting of two 12-foot traffic lanes and two 8-foot paved shoulders.

Bus transportation is available on a year round basis, with two lines operating in the summer. Bus service is provided by 15 and 45 passenger buses. All of the above haul freight into and out of Seward.

Railroad

Seward is the southern terminus of the federally owned Alaska Railroad. The railroad operates a break-bulk port which handles equipment, palletized material and other large items. The railroad reserve, 100 acres, can for the most part be considered an industrial area with shipping support facilities and storage areas. This could serve as a material staging area during constuction as well as a shipping center for the prison industry products.

At present the railroad has only chartered passenger service to Seward, but the advent of coal shipments scheduled for the fall of 1984 could permit a regular passenger service in conjunction with coal and regular freight trains.

Ports

Seward has several major docks: the Alaska Railroad dock (2-600 foot berths, 1-200 foot berth, 35 feet deep), the City dock (berth for 100 foot vessels, 13 feet deep) and the Fourth Avenue dock (berth for 400 foot vessels, 80 feet deep). The Alaska Railroad east berth has two cranes with capacity of 45 short tons and 105 foot radius reach.

The state ferry serves Homer, Seldovia and Kodiak on a regual basis and Valdez and Cordova on weekends in the summer. This could facilitate transfer of inmates and family visits from these communities.

Airport

Seward is served by a general aviation airport constructed and maintained by the Alaska Department of Transportation, Division of Aviation. There are two asphalt runways, the primary one is 4750 feet long and 100 feet wide while the secondary is 2300 feet long and 75 feet wide. A small asphalt apron exists just west of the secondary strip. No navigation or approach aids exist so

the airport is closed when conditions fall below those required by Visual Flight Rules operation. The addition of a microwave landing system, which is feasible, would permit instrument approach.

Charter air service is available with four aircraft of varying sizes which are available for medical evacuation, or other special transporation requirements.

UTILITIES & SERVICES

Electrical

Seward's electrical power is purchased from Chugach Electric via a tranmission line which generally parallels the Seward Highway. Seward owns three diesel generators with 5,500 KW capacity for emergency and peak load. The present mainline transformer has a capacity of 5,000 kW.

The capacity of the present system is adequate to meet current demands. A major upgrading of the power delivery system within the city was completed in the fall of 1979. These improvements included a new transformer and new feeder voltage regulators to increase capacity to 7500 KVA.

The City is currently negotiating a new ten year contract with Chugach Electric. In addition approximately 14 miles of transmission line outside of Seward have been identified to be upgraded for increased local (Seward) consumption. This upgraded line is needed by Seward, with or without the correctional facility.

At present a 69 KV line is available to the suggested prison site. This is more than enough power needed to serve both the prison and the Seward Marine Industrial Center. A substation is planned as part of the Industrial Center Complex. Thus, power would also be available at minimal cost to the correctional facility.

Ample power is presently available to the site to meet construction needs. Additional power sources will be available with the completion of the Bradley Lake Dam Hydroelectric project and delivery grid.

Water

Seward has an excellent water system with high volume capacity drawing from a combination of wells and surface supplies. Two high elevation storage tanks provide 600,000 gallons of water storage. The existing system has been expanded and improved under the guidance of a comprehensive water system plan developed in 1975. Additional mains into industrial areas and more storage capacity were included. The system as upgraded can accommodate a population of 10,000.

Adequate water supplies have been identified, wells drilled and water available to the Seward Marine Industrial Center. There is more than adequate water volume to extend service to the adjacent Spring Creek site.

Wastewater

Seward is served by a gravity sewer system throughout the community. The City adopted a Comprehensive Wastewater Facility Plan to meet current Federal Regulations requiring secondary treatment. An aerated lagoon system is located at Lowell Point, south of the City. The intercepter system is designed for a saturation population of 20,500 while the treatment lagoon was initially constructed to meet the requirements of 5,000 with future expansion to accommodate a population of 10,000.

The previously referenced feasibility study for the Fourth of July Creek Industrial Development prepared by Arctic Environmental Engineers found the following:

> The Fourth of July Creek is well suited to conventional wastewater collection, treatment and disposal techniques. No unusual conditions exist that would require specialized or extremely advanced practices. Resurrection Bay can be used as the receiving water for wastewater effluent and is located adjacent to the site. The types of sewage

treatment that can be utilized at Fourth of July Creek are limited by current technology and agency regulations and not by site limitations.

Essentially three basic sources of sewage need to be considered. These are domestic, industrial and fisheries wastes. Domestic wastes can be futher broken down into low density industrial complexes or residential development on one hand and the same type of waste but in large quantities on the other.

A large development, such as a prison, would require a central sewage treatment facility. A collection system would be required to bring the wastes to the facility. One of the many package treatment plants on the market today would handle a fair sized development easily. Another method of treating this type waste is an aerated lagoon similar to the type the City has selected for Lowell Point. Lagoons are simple to construct and operate and are relatively inexpensive. It is anticipated that the correctional facility and the Seward Marine Industrial Center would share a common facility. This could produce a savings in both construction and operation.

Fuel

Presently two bulk fuel plants serve the Seward area: Chevron and Texaco. Each handles gasoline, diesel and related products. Natural gas is not available in the area.

A 22,000 gallon per hour pipeline is available for fueling large vessels at the end of the Alaska Railroad dock. The fishing fleet is supplied by tank trucks at the small boat harbor.

The Chevron distributer receives his fuel from Nikiski (Kenai), while Texaco is supplied from Anchorage via rail car.

With the installation of the Seward Marine Industrial Center direct bulk heating oil shipments could be made to within a mile of the proposed correctional facility. This direct delivery added to a bulk heat oil storage facility would provide substantial cost savings during the life of the facility.

Telephone

The General Telephone Company of Alaska serves Seward and currently operates about 1,500 stations for 900 customers. Long distance communication facilities consist of trunk lines tied to the Anchorage exchange. During normal business hours they are used at near capacity. The utility indicates it is capable of expanding the system to meet the type of demand that would be associated with a correctional facility, with a lead time of only six to nine mont .

LIVING QUARTERS

Housing

At present Seward has a very low housing vacancy rate. However, ample fully serviced and developable land exists within the City as well as the area immediately outside Seward.

One such area is the Gateway Subdivision. The City is now developing this 135 acre lost subdivision adjacent to the High School. It has plotted single family and multi-family lots. These lots will be fully developed with all utilities and roads in place. This will help insure that land is available for new housing construction that will be needed for the correctional facility employees and support personnel. The City has authorized a five million dollar bond to develop the Gateway subdivision, so its availability is assured. This, plus the existing developable lots provide an ample choice of housing accommodations.

Visitor Accommodations

Seward has served as a recreational center for many years. As such, it has developed a visitor/transient support industry with motels, camper parks and restaurants.

These facilities are now in place and available to serve correctional facility visitors as well as visiting lawyers, parole board members or other providers of service. The multi-modal access to Seward also provides visitor accessability.

ACKNOWLEDGEMENTS

Acknowledgements

The information contained in this report was provided by many individuals in Seward. In some cases this was in the form of a written program or facility report and was retyped for use in this report.

Other reports prepared for Seward projects were also used to gain background information. The individuals consulted and the reports used are listed below.

Ron Garzini - City Manager, City of Seward
Dennis Dooley - City of Seward, City Engineer and Utilities Manager
Darryl Schafermeyer - Assistant City Manager, City of Seward
Louis Bencardino - Police Chief, City of Seward
John Gage - Fire Chief, Seward Fire Department
Keith Campbell - Seward General Hospital
Robert Booher - Alaska Vocational Technical Center
Willard Dunham - Alaska Department of Labor
Dennis M. School, Ph.D. - Staff Psychologist, S.L.A.C.
Ronald Reding - Executive Director, S.L.A.C.
Greg Moo - Principal, Seward High School
Elizabeth Richardson - Principal, Seward Elementary School

Feasibility Study - Fourth of July Creek Industrial Development - Seward, Alaska; prepared by Arctic Environmental Engineers, March 1979

Introduced: 2/21/83
Referred: Health, Education &
Social Services and Judiciary

IN THE HOUSE BY CATO AND LINDAUER

HOUSE BILL NO. 217

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the establishment of prison facilities."

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

* Section 1. AS 33.30.020 is amended to read:

Sec. 33.30.020. COMMISSIONER TO ESTABLISH AND ADMINISTER PRISON FACILITIES. Subject to the provisions of AS 33.30.025, the [THE] commissioner shall establish prison facilities and classify the prisoners in prison facilities. The commissioner shall provide for the safety, subsistence, proper government, and discipline of prisoners. The commissioner shall establish programs for the treatment, care, rehabilitation and reformation of prisoners.

* Sec. 2. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.025. LOCATION OF FACILITIES. After July 1, 1983, the commissioner shall locate ~~all~~ a ~~new~~ly constructed maximum security prison facilities within the vicinity of Seward.

Willard Dunham - Co-Chm Task Force Seward
Louis Bencardino - Chief of Police Seward
Roger Lange - Financial

COMMITTEE REPORT

HOUSE

JUDICIARY

FURTHER:

2/21/83

Date: _____

Mr. Speaker:

The Committee on H.E.S.S. has had HB 217

An Act relating to the establishment of prison facilities.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 217 [✓] same title [ ] new title

and recommends pass out with [illegible]

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [✓] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
	[illegible]
	[illegible]
	[illegible]
	M.W. Miller No Rec
	[illegible]
	[illegible] No Rec

[illegible]

CHAIRMAN

[illegible]

H 60

HB

219

3/11 – Req. fiscal from Carol Deffner's Office – Barb Hartley Boards & Comm's Gov's Office. – They don't handle fiscal work – Call Allan Blume – prepared by U of A – Finance Officer – DR. Sherman Carter – or Roger Harms. Exec. Sec to Board of Regents.

3/11 – Called Carter – left request of fiscal note.

3/14 – Sherman Carter returned call – difficult to prepare fiscal work – possibly unconstitutional – will forward info asap.

4/5 Phoned Carter – sending someone for mtg 4/11.

Introduced: 2/21/83
Referred: Health, Education & Social Services and Finance

BY LINDAUER, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DUNCAN, FLOOD, FRITZ, FULLER, FURNACE, GRUSSENDORF, HURLBERT, ILISKA, M.M.MILLER, PESTINGER, PHILLIPS, TISCHER, UEHLING, WARD AND HAYES

IN THE HOUSE

HOUSE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

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

* Section 1. AS 14.40 is amended by adding new sections to read:

ARTICLE 5. LOCAL CITIZEN ADVISORY BOARDS.

Sec. 14.40.700. LOCAL CITIZEN ADVISORY BOARDS ESTABLISHED. There are established Local Citizen Advisory Boards to consider certain decisions of the Board of Regents of the University of Alaska.

Sec. 14.40.710. APPOINTMENT OF BOARD MEMBERS. The governor shall appoint the members of the Local Citizen Advisory Boards [subject to confirmation by a majority of all the members of the legislature in joint session.] The names of those appointed shall be sent to the legislature within five days after the opening of the session, [for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after the rejection. If the legislature adjourns without confirming the nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment.]

Sec. 14.40.720. TERM OF OFFICE. The term of office of a member of a Local Citizen Advisory Board is four years. A member may not

Showing Sponsor's proposed amendments in brackets.

serve more than two terms. The term of office begins on the first Monday in February of the year in which the appointment is made. Each member serves until a successor is appointed and qualifies.

Sec. 14.40.730. BOARD OF REGENTS TO ESTABLISH SERVICE AREAS. The Board of Regents shall divide the state into the following three separate geographic university service areas: the University of Alaska at Anchorage, the University of Alaska at Fairbanks, and the University of Alaska at Juneau, and two geographic community college service areas: the Anchorage Community College, and all other community colleges. Each geographic service area shall be served by a Local Citizen Advisory Board and each Local Citizen Advisory Board shall have nine members.

Sec. 14.40.740. DUTIES OF LOCAL CITIZEN ADVISORY BOARDS. (a) A decision of the board pertaining to budget transfers and requests, building construction, academic programs, and student activities, and the sharing of facilities and services between geographic service areas and institutions shall be submitted to the Local Citizen Advisory Boards affected by the decision for consideration.

(b) Within 30 days after a decision of the board is submitted to a Local Citizen Advisory Board for consideration, the Local Citizen Advisory Board shall notify the board if it wishes to make a recommendation concerning that decision.

(c) If a Local Citizen Advisory Board notifies the board within 30 days that it wishes to make a recommendation concerning a decision of the board, the board may not implement that decision until the Local Citizen Advisory Board makes its recommendations, or until 60 days after the notification, whichever is first.

(d) If the board rejects the recommendation of a Local Citizen Advisory Board it must file a written report specifying the reasons

for rejection with the governor and both houses of the legislature 60 days prior to implementing the decision affected by the recommendation.

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature

House of Representatives

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

March 21, 1983

TO: House Health, Education, and Social Services Committee

FROM: Representative John Lindauer

RE: House Bill #219: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

The purpose of this bill is to give more stature to the local citizen advisory boards so that their recommendations on local matters will be given more weight.

House Bill #219 statutorially establishes the existing local citizen advisory boards. The major difference is that the members of the local boards would be appointed by the Governor instead of the University as they are now. The Citizen Advisory Boards would continue to review and make recommendations on decisions of the University of Alaska's administration and the Board of Regents which impact their local areas.

The advisory board members would serve four year terms with two terms the maximum number.

The bill requires the Board to Regents to establish a minimum of five local advisory boards. The Regents could create more and might well do so for each of the community colleges. The basic five are: the University of Alaska at Anchorage, the University of Alaska at Fairbanks, the University of Alaska at Juneau, the Anchorage Community College and the rest of the community colleges as a group.

Each advisory board will continue to make recommendations to the Board of Regents only on decisions related to their institutions. The Regents keep all of their current power and remain totally free to accept or reject any advisory board recommendation.

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature

House of Representatives

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

March 21, 1983

TO: House Health, Education, and Social Services Committee

FROM: Representative John Lindauer

RE: Proposed Amendment to House Bill #219

I request that the House Health, Education, and Social Services Committee make the following amendment to House Bill #219 when it considers House Bill #219:

1. Delete beginning on page 1, line 15: . . .subject to confirmation by a majority of all the members of the legislature in joint session. . .

2. Delete beginning on page 1, line 18: . . .for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after rejection. If the legislature adjourns without confirming a nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment.

3. Delete on page 2, line 3: and qualifies.

TO: HESS Committee Members April 7, 1983

FROM: Linda Otey, Committee Aide

RE: Summary of HB 219

Summary - HB 219 "An act relating to Local Citizen Advisory Boards of the University of Alaska."

New Sections Added to 14.40 "The University of Alaska and the Community Colleges."

Section 1 14.40.700 - The legislature would establish Local Citizen Advisory Boards (LCAB's) to consider certain decisions by the Board of Regents of the University of Alaska.

14.40.710 - Governor would appoint members of LCAB's subject to confirmation the legislature. (See proposed amendments by sponsor.)

14.40.720 - Sets up a 4-year term of office for LCAB members and forbids serving more than 2 terms. (See proposed sponsor amendments.)

14.40.730 - Establishes three geographic university service areas - University of Alaska at Anchorage, Fairbanks, and Juneau; and two community college service areas - Anchorage Community College and all others. Each service area would be served by a LCAB and each board would consist of 9 members.

14.40.740 - Outlines duties of boards:

1) Board of Regent decisions pertaining to budget transfers and requests, building construction, academic programs, student activities, and sharing of facilities and services between geographic service areas and institutions must be submitted for consideration to the LCAB effected by the decision.

2) If LCAB wishes to make a recommendation after the first 30 days of review, the Board of Regents is prohibited from acting on the decision until the recommendation is made or until 60 days after the notification, whichever is first.

3) If the Board of Regents rejects the recommendation it must file a written report specifying the reasons for the

rejection with the Governor and the legislature 60 days prior to implementing the decision.

No effective date clause - consequently effective 90 days after the Governor's signature.

folder content

left

summary
fiscal note/Post Secondary Educ
fiscal note/University
Universtiy Program Summary
Agency Comments (Univ.)

right

bill (showing proposed amendments)
Sponsor Explanation/memo
Sponsor's proposed amendments/memo

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 219
Title: Re: Citizen Advisory Board - U of A
Sponsor: Lindauer, Abood, Barnes, et al
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected:
BRU, Program of Subprogram(s) Affected:
Statewide Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Intend is for boards to replace existing advisory councils.

Prepared By: Kerry D. Romesburg
Phone: 465-2854
Division: Commission on Postsecondary Education
Date: 3/30/83

Approved by Commissioner:
Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 219
Title: "An Act relating to Local Citizens Advisory Boards of the UA."
Sponsor: Lindauer, Abood, Hayes
Requestor: Lindauer

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected: Education
BRU, Program of Subprogram(s) Affected: Statewide Programs & Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		67.9	72.7	77.8	83.2	89.1
200 TRAVEL		54.0	57.7	61.8	66.2	70.6
300 CONTRACTUAL		15.0	16.0	17.2	18.4	19.7
400 COMMODITIES		5.0	5.4	5.7	6.1	6.6
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		141.9	151.8	162.5	173.9	186.0
CAPITAL						
REVENUE		141.9	151.8	162.5	173.9	186.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		141.9	151.8	162.5	173.9	186.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME		5	5	5	5	5
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank R. Sparoo, Director of Budget Development Phone: 474-7593
Division: Statewide Budget Office Date: March 21, 1983

Approved by Commissioner: Sherman F. Carter, Executive Vice President Date: March 22, 1983
Department: University of Alaska

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

March 21, 1983

HB219

ASSUMPTIONS

1. Each Local Citizen Advisory Board will meet the same number of times as the full Board of Regents and its major working committees. During FY83 the Board of Regents scheduled eight meetings. It is assumed that this number of meetings will remain constant each year during the projection period.

2. It is assumed each member of the Local Citizen Advisory Board will serve without compensation other than reimbursement for reasonable and necessary travel expenses in accordance with standard University policy and regulations. Further, it is assumed each board member will be compensated one day's per diem per meeting. For cost projections meetings are assumed to be convened in the respective cities of the Chancellor's offices for the region for which the board serves.

3. Coordination of meetings, travel and clerical support for each Local Citizen Advisory Board is estimated to require a permanent half-time administrative secretary. FY84 cost for five half-time administrative secretaries is projected to be $67,900.

4. Support operating expenses for office space, utilities and other overhead costs for each advisory board are assumed to be shared with the respective Chancellor's office. These costs are estimated to be $3,000 per board for FY84. Supplies necessary to fulfill the mission of the boards are projected at $1,000 for FY84 for each board.

5. Inflation for calculation of operating costs for FY85 through FY88 is assumed to be 7 percent annually.

PROGRAM SUMMARY

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Anchorage CC	Anchorage	9 members	-
Community Colleges	Anchorage	-	Juneau Ketchikan Bethel Nome Fairbanks Kotzebue Palmer Kenai Valdez

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Anchorage CC	-	60.00	5,760
Community Colleges	225.00	85.00	22,320
			$ 54,000

Total FY84 estimated cost of implementation of HB219 for the five Local Citizen Advisory Boards:

Personal Services	$ 67,900
Travel and Per diem	54,000
Contractual Services	15,000
Commodities	5,000
Total	$ 141,900

AGENCY COMMENTS

1. The University of Alaska believes the creation of Local Citizen Advisory Boards would add redundancy to the University's decision-making process which would reduce the efficiency of governance of the university and generate additional expense. Currently under university policy 02.04.01, Community College Councils, which include between 9 and 15 members for each of the community colleges, review and recommend approval or disapproval of new programs, annual proposed operating and capital budget requests, annual community college plans, and statewide policies and regulations before their submission to the Board of Regents. Having Local Citizen Advisory Board review Board of Regents' decisions which have included the review and input of the Community College Councils would create duplication and unnecessary waste.

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JOB DESCRIPTION

Local Citizen Advisory Board — Date: March 21,1983

TITLE: Administrative Assistant I
Range 74

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1. Makes arrangements for LCAB meetings by announcing meetings; preparing travel and travel reimbursement requests as necessary; collecting, compiling, typing and mailing agenda.

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EXPERIENCE

Experience demonstrating the knowledge, skills and abilities required to fulfill the major job duties, as described above.

rejection with the Governor and the legislature 60 days prior to implementing the decision.

No effective date clause - consequently effective 90 days after the Governor's signature.

folder content

left

summary
fiscal note/Post Secondary Educ
fiscal note/University
Universtiy Program Summary
Agency Comments (Univ.)

right

bill (showing proposed amendments)
Sponsor Explanation/memo
Sponsor's proposed amendments/memo

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 219
Title: Re: Citizen Advisory Board - U of A
Sponsor: Lindauer, Abood, Barnes, et al
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected:
BRU, Program of Subprogram(s) Affected:
Statewide Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Intend is for boards to replace existing advisory councils.

Prepared By: Kerry D. Romesburg
Phone: 465-2854
Division: Commission on Postsecondary Education
Date: 3/30/83

Approved by Commissioner:
Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 219
Title: "An Act relating to Local Citizens Advisory Boards of the UA."
Sponsor: Lindauer, Abood, Haves
Requestor: Lindauer

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected: Education
BRU, Program of Subprogram(s) Affected: Statewide Programs & Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		67.9	72.7	77.8	83.2	89.1
200 TRAVEL		54.0	57.7	61.8	66.2	70.6
300 CONTRACTUAL		15.0	16.0	17.2	18.4	19.7
400 COMMODITIES		5.0	5.4	5.7	6.1	6.6
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		141.9	151.8	162.5	173.9	186.0
CAPITAL						
REVENUE		141.9	151.8	162.5	173.9	186.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		141.9	151.8	162.5	173.9	186.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME		5	5	5	5	5
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank R. Spargo, Director of Budget Development Phone: 474-7593
Division: Statewide Budget Office Date: March 21, 1983

Approved by Commissioner: Sherman F. Carter, Executive Vice President Date: March 22, 1983
Department: University of Alaska

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

ASSUMPTIONS

1. Each Local Citizen Advisory Board will meet the same number of times as the full Board of Regents and its major working committees. During FY83 the Board of Regents scheduled eight meetings. It is assumed that this number of meetings will remain constant each year during the projection period.

2. It is assumed each member of the Local Citizen Advisory Board will serve without compensation other than reimbursement for reasonable and necessary travel expenses in accordance with standard University policy and regulations. Further, it is assumed each board member will be compensated one day's per diem per meeting. For cost projections meetings are assumed to be convened in the respective cities of the Chancellor's offices for the region for which the board serves.

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Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

To: Rep. Davis
Rep. Kopenen

Date: 4/15/83
3:50 p.m.

From: Linda Otey, Committee Staff
House HESS Committee LO

Re: SSHB 219

In response to the questions you raised during the committee meeting of 4/15/83 regarding SSHB 219:

1. The sponsor of the legislation is having the bill re-drafted to clarify his intent of the definition of service area to be based on geographical areas as opposed to school specialization areas. The new draft of the bill will incorporate the distinction using 'geographical'.

2. A copy of the 'new' draft with the amended language clarifying 'geographical' service areas is being teletyped to the University of Alaska, Fairbanks to Dr. Sherman Carter. A new fiscal note has been requested in considering this version of the bill.

A copy of the current bill (SSHB 219 final) is attached for your review.

cc: All Committee Members

WORKING WITH A MAXIMUM SECURITY PRISON IN SEWARD, ALASKA

A Seward group is proposing a new concept to show how the bottomfishing industry, the City of Seward, and the State of Alaska can work together to be a great benefit to a State Prison.

Our preliminary studies have made known some very interesting facts:

1. There is a tremendous supply of bottomfish and fish of all depths within a 12 hour sailing time from Seward port. Tests by fisheries experts have been made through the years and estimated quantities are on record. Russian, Japanese, Korean, and Polish ships have been fishing and harvesting our fish for many years.

2. U.S. involvement in bottomfishing is gaining in importance but does not compare with progress made by other countries. Bottomfish consumption in the domestic markets of the United States has been low, particularly in inland areas of the country, but better in the coastal states. However, in the last three to four years, a new acceptance has been identified and people are more aware of fish food as a low-cost healthy food need. Costs generally for domestically-produced fish are higher than similar imported fish and this presents a definite problem. Higher labor costs in catching and final preparations have exhibited real growth in the industry.

3. A joint venture operation in Seward between Seward, private industry, and the State of Alaska could place within the prison compounds a fish fillet and packing plant to process bottomfish into marketable packaging according to the particular needs of the market. The product can be sold fresh in the Alaska market, flown to nearby markets, or frozen and shipped to any available market as needed. The advantages are numerous. It could employ prison employees on a year-around basis. It would give to the industry a stable, experienced adult work force that is not subject to change of jobs; i.e. one which cannot find a place to live, is subject to unsatisfactory working conditions, bad weather, and a host of other problems that make conditions difficult for on-shore processors. It could help stabilize the production costs and at the same time return wages to prisoners and an on-going net back to the prison system to help defray operating costs. A fish reduction plant is nearby to utilize any fish waste as a by-product of this operation.

4. It presents then an opportunity for rehabilitation of prisoners. Here is their chance to learn the fundamentals of a rapidly-growing fishing industry. Opportunities in catching, processing, mechanical functions, and transportation that could provide steady jobs at good wages when the prisoner exits the system. Classes can be provided in their non-working hours to give them the fundamental knowledge to compete in the labor market. This background and job-learning opportunity could keep them gainfully employed and from returning to the prison system.

5. General manufacturing is very difficult to attract to Alaska which rates fiftieth on a scale of desirability to manufacturers. Therefore we must work harder than ever to be competitive in any manufacturing endeavors. Any product produced in Alaska and shipped to other markets has a tendency to reduce the very high costs of shipping to Alaska.

PACIFIC BUSINESS NEWS

JONES—25
LEMBECK—16
MASON—4
MATHEWS—26
MOSKOWITZ—5
RIESEL—4
SARGENT—8

20th Year, No. 51 HONOLULU, HAWAII • MONDAY, MARCH 7, 1983 40 Pages — 75 cents

State ranks next to last in luring manufacturers

By Mark Segami

First it was Inc. magazine, then it was the Forbes magazine article.

Now, perhaps a more telling blow to Hawaii's business climate has been delivered by the public accounting firm Alexander Grant & Co.

In its 1982 study of general manufacturing business climates in the U.S., Alexander Grant places Hawaii 49th overall in degree of attractiveness to manufacturers.

Hawaii and Alaska were not included in the original study, which measured only the 48 contiguous states.

However, a follow-up summary on Alaska and Hawaii, using the same 22 weighted factors, puts Alaska dead last with an overall "business climate" score of minus 219.

Hawaii, next to last, had a score of plus 6. The next lowest state was Michigan, with a score of 16.

Florida, for the second straight year, captured the No. 1 spot as the state most attractive to manufacturers. Its score was 85.

Jim Watts, partner in charge of Alexander Grant's Hawaii office, said too much emphasis shouldn't be placed on the rankings.

"In factors that the state or county has control over, where do we rank?" is the question that should be posed, Watts suggested.

Of the 22 factors, 12 were deemed controllable by government: taxes; change in taxes; expenditures versus revenue growth; debt per capita; welfare expenditures; unemployment compensation benefits; unemployment compensation net worth; maximum workers' compensation benefits; workers' comp rates; vocational education enrollment (as a percentage of population); high school educated adults; and environmental controls.

Hawaii ranked 49th or 50th for change in taxes and workers' compensation rates. It was between 40th and 48th on taxes, debt per capita, welfare expenditures, union membership, and a non-government controlled factor—energy costs.

Areas where Hawaii did rather well were: government expenditures versus revenue growth; change in average wages; and change in union membership.

Hawaii ranked no. 2, behind Alaska, in expenditures versus revenue growth, which indicates how well a state was able to match expenditures with revenues and the attitude of the legislatures in balancing budgets.

Hawaii also was second in average wages, which indicates a favorable trend in the cost of labor. The state was third overall in rate of change in union membership, which indicates a declining trend in unionization of the workforce and its resulting impact.

Hawaii was dead last in workers' compensation rates, however. News reports peg the increase in the rates for Hawaii's businesses to be 29 percent in 1983.

But, as Watts noted, perhaps the study's greatest value lies in its pinpointing of weaknesses in each state.

It is the fourth year of the study and it is conducted with the assistance of the Conference of State Manufacturers' Associations.

Still a headache, but—

Uncle Sam pays bills to businesses faster

By Mark Coleman

Thanks to a new law, late payments by government agencies to private vendors are becoming less of a headache for businesses nationally and in Hawaii.

Overdue bills owed by Uncle Sam once cost companies hundreds of millions of dollars. The cost is less now with prompter payments, but the problem hardly has evaporated.

In Hawaii, overdue bills owed by government to businesses still probably involve hundreds of thousands of dollars a year, according to Dick Waidzunas, Honolulu complaints against federal agencies still abound, but not as much as before.

"We're not getting as many complaints as we used to because most of the federal contracting officers now are aware of the new law and are trying to comply," Waidzunas said last week.

He said that since the Prompt Payment Act became effective in October, "all federal contracting officers are running like hell to get things paid."

Where complaints have been registered, he said, "it was just a matter of contracting the top contracting offi-



Lourdes Estores, a Playboy magazine playmate, is shown with (from left) Ran Ostrander, Gaspar Patrico, and Richard Blu, whose new firm won a Pele advertising award for a TV spot with Estores for Spats restaurant and the Hyatt Regency.

Industrial condos planned near airport

By Greg Wiles

Hadley-Pruyn Developers, Inc., wants to convert its lier proposed an $80 million industrial and hotel complex for the site, would like to di- buildings, plus a new 7,200-square-foot structure for repair and maintenance activ- 65-year lease from Loyalty Investments, Inc., in 1981. There had been talk at that

The Anchorage Times

Editorials

A prison at Seward

FOR MANY reasons, Seward should be selected as the site of the state's new maximum security prison.

Because the town has no honest-to-goodness representation in the Legislature, it faces an uphill battle in its effort. The Matanuska Valley and Haines are also in contention.

But Seward's offering, a 100-acre site eight miles from the center of town in the Spring Creek area, offers the most advantages.

NO LAND purchase would be required in Seward. The site under consideration is already in public ownership. It is commodious and can accommodate future expansion.

The surrounding terrain provides maximum security at minimum cost or concern. There are mountains on two sides and water on a third, and there is only one exit.

The site is accessible to the rest of Alaska by car, train or airplane.

And numerous support facilities already exist in Seward, including the infrastructure for urban services and professions: doctors, dentists, health services, municipal and borough governments, hospital, schools, police and fire protection, banks, stores, communications facilities, churches, social and cultural facilities and programs as well as recreation possibilities unequaled in other parts of the world.

Also, a court system is in place in Seward.

BEST OF ALL, the people of Seward want the prison and have asked for it. The state corrections director has described the business and government leadership there as being outright enthusiastic over the prospect.

In the Matanuska Valley, businessmen are pushing for Sutton as a location, but the people in that community have voted almost unanimously that they don't want the prison.

Seward in some ways is an orphan. Those who are supposed to look out for its interests in the Legislature are all residents of other towns. The Matanuska Valley, on the other hand, has powerful representation in Juneau, including the president of the Senate, Jay Kerttula.

Seward recently lost an $8 million grain terminal when the new state administration shut down the project before construction was completed.

Alaska's federal representatives are working against the town as they try to effect changes in the Jones Act. The changes, if they occur, would quash Seward's hopes of becoming the port for a shipping line that wants to start Alaska service.

Seward wants the prison, it needs it and it has a great deal to offer. That is where it should be located.

Freight rates

ALASKANS are still waiting for Sen. Ted Stevens to produce on a statement he has made that he will review changes in law that would reduce overall freight rates for Alaska.

The senator, in a speech to the Legislature in February, said he intended to do that. He mentioned it again in the March newsletter that was sent to Alaskans from his Washington office.

What is Mr. Stevens doing about freight rates? What does he mean when he says he will review changes in the law?

Those are good questions to ask the senator next time he comes to the state.

4/15/83

PROPOSED CHANGES TO HOUSE BILL #219

Page 1	Line 12	delete	"to consider certain decisions of the Board of Regents of the University of Alaska."
		after	"Boards"
		insert	"for each postsecondary education service area established under AS 14.40.730. A Local Citizen Advisory Board shall make recommendations to the Board of Regents concerning activities of the University of Alaska that affect the service area the advisory board serves."
Page 1	Line 15	delete	"subject to confirmation by a majority of all the members of the legislature in joint session. The names of those appointed shall be sent to the legislature within five days after the opening of the session, for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after the rejection. If the legislature adjourns without confirming the nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment."
		after	"Local Citizen Advisory Boards"
		insert	". A member shall reside within the area that is served by the Local Citizen Advisory Board to which that member is appointed. The names of those appointed shall be sent to the legislature within five days after the opening of the legislative session following appointment."
		after	"appoint"
		insert	"between nine and 21 members to each"
		delete	"the members of the"

PROPOSED CHANGES TO HB 219
CONTINUED, PAGE 2

Page 2	Line 3	delete	"and qualifies."
Page 2	Line 4	after	"ESTABLISH"
		insert	"POSTSECONDARY EDUCATION"
Page 2	Line 5	delete	"divide the state into the following three geographic university"
		insert	"establish the following postsecondary education"
Page 2	Line 6	after	"Juneau, and"
		insert	"a service area for each community college."
Page 2	Line 8	delete	"two geographic community college service areas: the Anchorage Community College, and all other community colleges."
		insert	"a service area for each community college."
Page 2	Line 10	delete	"Each geographic service area shall be served by a Local Citizen Advisory Board and each Local Citizen Advisory Board shall have nine members."
Page 2	Line 13	delete	all of (a), (b), (c), and (d).
		after	"DUTIES OF LOCAL CITIZEN ADVISORY BOARDS."
		insert	"A Local Citizen Advisory Board shall (1) advise the Board of Regents and the president of the University of Alaska on all matters of concern to the postsecondary education service area served by the Local Citizen Advisory Board; and (2) inform the governor and the legislature when at least two-thirds of the members of a Local Citizen Advisory Board vote to reject or oppose a decision of the Board of Regents or the president of the University of Alaska affecting the postsecondary education service area served by the Local Citizen Advisory Board."
		add	"Sec. 2. AS 14.40.700 - 14.40.740 enacted by sec. 1 of this Act are repealed July 1, 1988."

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		insert	"for each postsecondary education service area established under AS 14.40.730. A Local Citizen Advisory Board shall make recommendations to the Board of Regents concerning activities of the University of Alaska that affect the service area the advisory board serves."
Page 1	Line 15	delete	"subject to confirmation by a majority of all the members of the legislature in joint session. The names of those appointed shall be sent to the legislature within five days after the opening of the session, for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after the rejection. If the legislature adjourns without confirming the nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment."
		after	"Local Citizen Advisory Boards"
		insert	". A member shall reside within the area that is served by the Local Citizen Advisory Board to which that member is appointed. The names of those appointed shall be sent to the legislature within five days after the opening of the legislative session following appointment."
		after	"appoint"
		insert	"nine"
		delete	"the"
		change	"of the" to "to each"

PROPOSED CHANGES TO HB 219
CONTINUED, PAGE 2

Page 2	Line 3	delete	"and qualifies."
Page 2	Line 4	after insert	"ESTABLISH" "POSTSECONDARY EDUCATION"
Page 2	Line 6	after insert delete insert	"Juneau, and" "a service area for each community college." "geographic university" "postsecondary education"
Page 2	Line 8	delete	"and two geographic community college service areas: the Anchorage Community College, and all other community colleges."
Page 2	Line 10	delete	"Each geographic service area shall be served by a Local Citizen Advisory Board and each Local Citizen Advisory Board shall have nine members."
Page 2	Line 13	delete	"A"
Page 2	Line 14	change change after insert	"decision" to "Decisions" "board" to "Board of Regents" "pertaining to" "a local service area in the areas of"
Page 2	Line 17	change	"submitted" to "made available"
Page 2	Line 19	change change	"board" to "Board of Regents" "submitted" to "available"
Page 2	Line 21	change	"board" to "Board of Regents"
Page 2	Line 23	change	"board" to "Board of Regents"
Page 2	Line 25	change	"board" to "Board of Regents"
Page 2	Line 28	change change	"board" to "Board of Regents" "rejects" to "reject"

Linda,

Enclosed is the memo regarding the constitutionality of HB 219 that you requested. Dorothy Peavey of Representative Lindauer's office informs me that they have also released the latest version of the bill to your office. My memo concludes that the bill as originally written is probably not unconstitutional. The revised bill is clearly not unconstitutional. In it, the power of the Local Citizen Advisory Boards to tie up the Board of Regents is removed, and they become truly advisory boards without any real power other thanthat of making recommendations. Therefore, the constitutional concern of usurping power from the Board of Regents is removed.

Keith

4/13/83

STATE OF ALASKA COPY

THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 9, 1983

SUBJECT: Citizen Advisory Boards
(Work Order No. 13-0201)

TO: Representative John Lindauer

FROM: Keith B. Levy
Legislative Counsel

You have requested an opinion as to the constitutionality of Work Order No. 13-0201, "An Act relating to Local Citizen Advisory Boards of the University of Alaska." The constitutional issue raised by this bill has to do with the constitutional autonomy of the board of regents of the university. As you know, Article VII, section 3 of the state constitution provides:

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

Accordingly, the board of regents is the constitutionally mandated governing body of the university. However, there is some authority to the effect that the constitution does allow the legislature to exercise a certain amount of control over the university. Although the extent of that control has not been precisely defined, it is my opinion that the citizen advisory board bill, as currently drafted, does not exceed the legislature's power to control the university.

In University of Alaska v. National Aircraft Leasing, Ltd., 536 P.2d 121 (Alaska 1975), the state Supreme Court held that the university's constitutional and statutory autonomy does not mean that the university is exempt from a statute prohibiting trial by jury in suits against the state.

Furthermore, in an Opinion of the Attorney General, February 28, 1977, the attorney general suggested that the Fiscal Procedures Act and the Executive Budget Act probably apply to the university. Although neither of these authorities is directly on point, they do affirm the principle that the legislature can exercise some authority over the university and the board of regents.

It seems certain that the legislature has the power to create local boards to advise the board of regents as long as those boards are not used to usurp the governing authority given the board of regents by the constitution. The citizen advisory board bill, as drafted, does not appear to do that. Of course, the question is still open and subject to judicial interpretation. However, as long as the citizen advisory boards remain truly advisory, there is probably no constitutional problem with the bill.

KBL:ljb

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature

House of Representatives

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

April 12, 1983

TO: Representative Mae Tischer
Representative Milo Fritz

FROM: Representative John Lindauer JL

RE: House Bill #219

Attached please find a final draft of a sponsor substitute for House Bill #219. After consulting with Representative Tischer this morning, I would like to have this introduced as a committee substitute rather than as a sponsor substitute.

If this presents a problem, or if you have any other changes or additions please let me know.

Introduced: 2/21/83
Referred: Health, Education & Social Services and Finance

Board of regents

Proposed changes by Rep. Cato

BY LINDAUER, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DUNCAN, FLOOD, FRITZ, FULLER, FURNACE, GRUSSENDORF, HURLBERT, LISKA, M.M.MILLER, PESTINGER, PHILLIPS, TISCHER, UEHLING, WARD AND HAYES

IN THE HOUSE

HOUSE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to Local Citizen Advisory ~~Boards~~ councils of the University of Alaska."

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

* Section 1. AS 14.40 is amended by adding new sections to read:

ARTICLE 5. LOCAL CITIZEN ADVISORY ~~BOARDS~~ Councils

. Sec. 14.40.700. LOCAL CITIZEN ADVISORY ~~BOARDS~~ councils ESTABLISHED. There are established Local Citizen Advisory ~~Boards~~ Councils to consider certain decisions of the Board of Regents of the University of Alaska.

Sec. 14.40.710. APPOINTMENT OF BOARD MEMBERS. The governor shall appoint the members of the Local Citizen Advisory ~~Boards~~ Councils subject to confirmation by a majority of all the members of the legislature in joint session. The names of those appointed shall be sent to the legislature within five days after the opening of the session, for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after the rejection. If the legislature adjourns without confirming the nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment.

Sec. 14.40.720. TERM OF OFFICE. The term of office of a member of a Local Citizen Advisory Council is four years. A member may not

serve more than two terms. The term of office begins on the first Monday in February of the year in which the appointment is made. Each member serves until a successor is appointed and qualifies.

Sec. 14.40.730. BOARD OF REGENTS TO ESTABLISH SERVICE AREAS. The Board of Regents shall divide the state into the following three separate geographic university service areas: the University of Alaska at Anchorage, the University of Alaska at Fairbanks, and the University of Alaska at Juneau, and ~~two geographic community college service areas: the Anchorage Community College, and all other community colleges~~. Each geographic service area shall be served by a Local Citizen Advisory ~~Board~~ Council and each Local Citizen Advisory ~~Board~~ Council shall have nine members.

Sec. 14.40.740. DUTIES OF LOCAL CITIZEN ADVISORY ~~BOARDS~~ COUNCILS. (a) A decision of the board pertaining to budget transfers and requests, building construction, academic programs, and student activities, and the sharing of facilities and services between geographic service areas and institutions shall be submitted to the Local Citizen Advisory ~~Boards~~ Councils affected by the decision for consideration.

(b) Within 30 days after a decision of the ~~board~~ BOARD is submitted to a Local Citizen Advisory ~~Board~~ Council for consideration, the Local Citizen Advisory ~~Board~~ Council shall notify the board if it wishes to make a recommendation concerning that decision.

(c) If a Local Citizen Advisory ~~Board~~ Council notifies the board within 30 days that it wishes to make a recommendation concerning a decision of the board, the board may not implement that decision until the Local Citizen Advisory ~~Board~~ Council makes its recommendations, or until 60 days after the notification, whichever is first.

(d) If the board rejects the recommendation of a Local Citizen Advisory ~~Board~~ Council it must file a written report specifying the reasons

for rejection with the governor and both houses of the legislature 60 days prior to implementing the decision affected by the recommendation.

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508



While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

April 12, 1983

TO: Representative Mae Tischer
Representative Milo Fritz

FROM: Representative John Lindauer JL

RE: House Bill #219

Attached please find a final draft of a sponsor substitute for House Bill #219. After consulting with Representative Tischer this morning, I would like to have this introduced as a committee substitute rather than as a sponsor substitute.

If this presents a problem, or if you have any other changes or additions please let me know.

TELECOPY COVER SHEET Rep Koponen

Rep Fritz, Rep Fischer, Rep M Miller, Rep Hermann, Rep Goll, Rep Davis

TO: House, H.E.S.S. PHONE: 474 7448

Exec V. Pres. Office UAF / Sherman (Carter)

FROM: FAIRBABKS L.I.O. PHONE: 452-4448

INSTRUCTIONS: please call immediately

RECEIVED: DATE: 4/18/83 TIME: 11:22 AM

SENT: DATE: _____ TIME: _____

BY: (YOUR OFFICE AND PHONE NO.)

DISPOSAL OF ORIGINAL: _____ THROW AWAY

✓ HOLD FOR PICK UP

NUMBER OF PAGES: 5 (NOT COUNTING THIS COVER SHEET)

474-7248

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST
Bill/Resolution No.: SSHB219
Title: UA - Citizen Advisory Boards
Sponsor: Lindauer et. al.
Requestor: Dorothy Peavey

II. FISCAL DETAIL
Agency Affected: University of Alaska
Program Category Affected: Education
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		31.7	33.9	36.3	38.8	41.6
200 TRAVEL		13.0	13.9	14.9	15.9	17.0
300 CONTRACTUAL		16.0	17.1	18.3	19.6	21.0
400 COMMODITIES		12.0	12.8	13.7	14.7	15.7
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		72.7	77.7	83.2	89.0	95.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		72.7	77.7	83.2	89.0	95.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY		14	14	14	14	14
man-months		14	14	14	14	14

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank Spargo
Phone: 474-7593
Division: U/A Statewide Budget Office
Date: March 18, 1983

Approved by Commissioner: Sherman Carter
Date: March 18, 1983
Department: Executive Vice President

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

(2)

SSHB219
FISCAL NOTE

ASSUMPTIONS

1. Each Local Citizens Advisory Board will average eight meetings per year.

2. The annual inflation rate for future fiscal years FY85 through FY88 is assumed to be approximately 7%.

3. Members of the Local Citizens Advisory Board will not receive per diem allowances unless they travel to the meetings held away from their place of residence.

4. The University of Alaska, Fairbanks and the University of Alaska, Juneau will have a service area which is larger than the local municipality. The University of Alaska, Fairbanks has a statewide service area and the University of Alaska, Juneau has a regional service area for southeast Alaska. Accordingly, for the University of Alaska, Fairbanks, it is assumed that seven (7) members of the Advisory Board will be from outside the Fairbanks area and for the University of Alaska, Juneau, it is assumed that four (4) members will be from outside the municipality of Juneau.

5. It is assumed that this revised bill no longer envisions prior approval of actions by the Board of Regents before actions can be initiated, which provision was contained in the earlier version of HB219, but that now the local citizen advisory boards' review would not delay action being initiated. However, this point is not completely clear since wording in the proposed bill, section 14.40.740 (2) indicates that the local citizen advisory boards would inform the governor and legislature when the boards "vote to reject or oppose" decisions by the Board of Regents or the university president. Perhaps words such as "disagree with" should be substituted for the words "reject or oppose" as stated in the substitute bill.

(3)

SSHB219
FISCAL NOTE

COST ANALYSIS

1. Assume seven members of the UA/Fairbanks advisory board will need to travel, and assume four members of the UA/Juneau board will need to travel. Then their travel costs are as follows:

Local Citizen Advisory Board	Average Travel per Member	Per Diem per Traveling Member	Total Per Diem and Travel for 8 Meetings in FY84
UA/Fairbanks	$ 80	$ 90	$ 9,520
UA/Anchorage	-	-	-
UA/Juneau	30	80	3,520
Community Colleges	-	-	-
Total			$13,040

The purpose for calculating travel for UA/Fairbanks and UA/Juneau, is because their service areas are not restricted to the local community. UA/Fairbanks has a statewide function with elements funded by UA/Fairbanks in numerous places throughout the state. Therefore, any board, in order properly to review functions pertaining to UA/Fairbanks should not be simply drawn from Fairbanks. Similarly, UA/Juneau generally has a service area including all of southeast Alaska and a statewide function with respect to its status as a Sea Grant activities. As a result of this, some board members are assumed to live outside the immediate community where these schools are located. It is reasonable to assume that their travel costs and per diem should be paid by the state.

2. It is estimated that each Local Citizens Advisory Board would require one man-month per year of clerical support as follows:

Cost per man-month for clerical support	$ 2,263
Number of services areas	x 14
Total cost (14 x $2,263)	$ 31,682

The purpose for clerical support would be to collect materials relating to decisions made by the Board of Regents and the President and distribute those materials to all members of their respective boards. The person should attend Board meetings and record votes, prepare letters for transmittal to the Governor and Legislature and send requests for information to University officials. Additionally, the person would have to schedule meetings and notify participants of meeting times and places and insure that facilities are available.

(4)

SSHB219
FISCAL NOTE

3. Additional support costs are estimated to include, for each Local Citizens Advisory Board, approximately $2,000 for the copying of materials, postage, and general office supplies in order to provide copies of decisions and actions to each board member. Since there are 14 services areas, this cost is $28,000 per year.

Statewide Budget Office April 18, 1983

5

SSHB219
FISCAL NOTE

AGENCY COMMENTS

1. The University of Alaska believes the creation of Local Citizens Advisory Boards would add redundancy, reduce efficiency and generate additional expense. Currently under university policy 02.04.01, Community College Councils, which include between nine and 15 members for each of the community colleges, review and recommend approval or disapproval of new programs, annual proposed operating and capital budget requests, annual community college plans, and statewide policy and regulations before their submission to the Board of Regents. Having additional Citizens Advisory Boards would create duplication and unnecessary waste of people's time and effort.

2. The Advisory Boards proposed by the bill could not replace existing advisory councils, since the existing councils are appointed through the authority of the Board of Regents to guide the board before it takes actions, whereas the proposed citizen advisory boards which would be established by House Bill 219 have a different function, namely reviewing actions which have been taken.

3. In addition to the Community College Councils' input into the University's decision making process, every meeting of the Board, its committees and subcommittees is open to the public for comments and input. Members of the community are welcome to provide input to the Board of Regents' decisions and policies being considered by the University.

4. The Board of Regents is a constitutionally established authority with the responsibility to govern the University system. The Board of Regents is held accountable to citizens of the state, students, legislators and faculty to govern properly and provide postsecondary education in an efficient and effective manner. All decisions made by the Board of Regents are open to public scrutiny and are reported on a timely basis to virtually everyone in the state.

5. Regents' actions are preceded by hours of discussion, testimony and study. That information is needed for reviewing the propriety of specific regents' actions to understand the reasons for actions taken and implications. One primary problem with instituting local advisory boards as proposed in SSHB219 is the fact that the needs of various areas simply cannot be considered in isolation. Individually, on their own merits, numerous proposals are entirely valid. However, a local advisory board has no way of knowing whether or not its proposals are more or less urgent than those being considered for other elements of the university in other locations.

Sherman Carter
Executive Vice President
474 7446

April 6, 1983

University of Alaska
Fairbanks, Alaska 99701

Received 4/13/83

Ms. Dorothy Peavey
Administrative Aide
Office of Representative John Lindauer
Pouch V
Juneau, AK 99811

Dear Ms. Peavey:

This is to reply to papers which I received from you today pertaining to HB 219, copies of which are shown as the first attachment, for convenient reference. The university's fiscal note on HB 219 which I submitted on 22 March is shown as the second attachment to this letter.

Current advisory boards are appointed by the authority of the Board of Regents and receive staff administrative support from the university. The proposed statutory mandated boards to be appointed by the governor would be external to the university and would indeed require some support to get administration processed and require the incurring of some additional cost. As one small example, if the cost is zero, as you apparently maintain, how are you going to pay for phone bills, and postage and meeting rooms? Since the proposed boards would be drawn from larger geographical areas than most of the current advisory boards used for elements of the university, such as the respective community colleges, I concluded that operations of the boards would require that travel costs be incurred.

The most significant fiscal impact of HB 219, however, would not be in direct operating costs for the new citizen advisory boards but would be in the indirect cost which would result from requirements imposed by the bill. It would require lengthy delays in implementing regents' actions pertaining to budget transfers and requests, building construction, academic programs, student activities, and the sharing of facilities and services between geographical service areas and institutions, as regents' actions in all these areas would require review by the new advisory boards before the university administration could implement regents' directives. Have you ever seen a regents' agenda? Do you have any idea what resulting delays would mean if no action could be implemented after virtually any regents' action until after reviews proposed by HB 219? To take advantage of construction seasons and for numerous reasons of operational necessity, there is a need promptly to initiate actions after the Board of Regents authorizes or instructs the university administration to do so. Customarily, the regents make their actions effective on the day that they are passed, thus allowing the university administration then immediately to sign contracts and otherwise to proceed.

The advisory boards proposed by the bill could not possibly replace existing advisory councils, in spite of the stated intent, since the existing councils are appointed through the authority of the Board of Regents to guide the board before it takes actions, whereas the proposed citizen advisory boards which would be established by House Bill 219 have a completely different function, namely reviewing regents actions which have been taken.

With specific reference to the "several inaccuracies" which your attached letter claims are included in my fiscal note --

1. It is improper to conclude that the advisory boards which House Bill 219 would cause to be appointed can be strictly local. For example, UAF has a statewide function with elements funded by UAF in numerous places throughout the state. So any board, properly to review functions pertaining to UAF, should not simply be drawn from Fairbanks. Further, my assumption was that with the responsibilities which these review boards would hold, board members should receive per diem similar to that which is provided to members of the Board of Regents. If this assumption is false, and the advisory boards would receive no per diem, that direct cost can certainly be deleted. This and other assumptions I made are clearly stated and can be discounted or ignored if any reader of my fiscal note wishes to do that.

2. With respect to the difference in inflation rates, your letter to me cites -- while the House Finance Committee currently is using a 3.9 annual inflation rate for FY84 funding considerations, I personally expect inflation in the future again to rise. Legislation tells us what money the university will get for expected inflation, if any, but not what cost the university must incur for actual increased air fares and such. My fiscal note was not just for FY84 but also for years into the future. Thus, I stated an assumed 7 percent inflation rate. If any reader of my note wishes to assume that future years' inflation will be 3.9 percent or less, he or she certainly may do that. The whole point is that whatever the precise inflation rate for direct cost in this case makes no decisive difference in decisions which now need to be made on HB 219. Direct costs imposed by the bill are minuscule compared with the indirect cost which the bill would cause by increasing administration and by snarling university operations, since the bill would

cause the university not to be able to take various needed actions for months while regents' actions were in the process of being reviewed.

3. Again, I assumed there would be non-local members of the advisory boards for reasons partially explained above. If there is going to be one such board appointed for all community colleges other than ACC, which colleges are located all over the state, I do not understand how you can assume that such a board can come from one local community.

You are right, I do find the fiscal note you sent me on HB 219 written by Kerry Romesberg interesting. I also find it wrong; I find it curious that he was asked to write it on 30 March, when the university was the unit effected and had been asked to and did write a fiscal note on this bill on 22 March; and I find it amazing that Dr. Romesberg felt that he could and should write a zero fiscal note on the bill without even conferring with the university, since he was and is in no position to assess the impact or cost of the bill on the university's actual operations. I would be flabbergasted if anybody could read HB 219 and conclude that it would result in absolutely zero increase cost.

My own final comments are these:

1. Advisory boards proposed by HB 219 could not possibly function. Each regents' action is preceded by hours of discussion and testimony and such. That information is needed for some board reviewing the propriety of any specific regents' action to understand the reasons for it and the implications of it. We could not possibly just mail regents' actions to the new advisory councils for review. They could not possibly make such reviews on any informed basis without knowing related background information. To do their job, they would need to talk with and have presentations by dozens of university people. How would they get all around the state with zero increased cost, to submit needed information to the new councils?

2. I do have the authority to speak for the University of Alaska administration on the fiscal note and the one I wrote stands. I cannot now give you a legal opinion of the constitutionality of HB 219, but my own personal opinion is that the bill would interfere illegally with

the regents' constitutional authority and responsibility to govern the university, and I have no idea what the regents would do about that if the bill were passed.

3. Since I was earlier instructed to submit copies of my fiscal note on HB 219 to the House HESS Committee and did that, I shall send copies of these papers to persons listed below who may wish to consider these points, and both the university's fiscal note I submitted and the Postsecondary Commission's fiscal note which Dr. Romesberg submitted.

4. For reasons explained above and in my fiscal note, my personal views on the bill may very well be biased, as you claim. However, I believe that my assumptions were clearly and fairly stated, and I resent the accusation in your letter to me that the conclusions in my fiscal note were "deliberately erroneous."

Sincerely,

Sherman Carter

SFC/pe

Attachments

cc: Members of the House HESS Committee ✔
Members of the Board of Regents
President Jay Barton
Dr. Kerry Romesberg
Legislative Finance
Office of Management and Budget

First Attachment

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 30, 1983

Rec'd 4-6-83

Dr. Sherman Carter
Executive Vice-President
University of Alaska
101 Bunnell Building
303 Tanana Drive
Fairbanks, Alaska 99701

Dear Dr. Carter:

Thank you for the fiscal note on HOuse Bill #219 which statutorially mandates Local Citizen Advisory Boards. After reviewing your fiscal note, I was surprised at your conclusions which appear to be deliberately erroneous and biased.

The University currently has Citizen Advisory Boards which are appointed by the University and which have no funds allocated to them. I find no rationale which would indicate that in transferring to the Governor the power to appoint members to the boards there would be a need for staff, contractual services, commodities, and travel funds.

There also are several inaccuracies in your assumptions on the fiscal note:

1. In assumption #2, you cite a need for "reasonable and necessary travel expenses." With a "local" advisory board, with an emphasis on local, I question that travel expenses would be "reasonable and necessary". You also assume per diem compensation would be necessary. However, in no way does HB 219 authorize this assumption.

2. In assumption #5, you cite a 7% annual inflation. The House Finance Committee is currently using a 3.9% annual inflation rate.

3. In your program summary, you cite a need for non-local members of the local citizen advisory boards — four non-local members for the UA/Fairbanks board, and two non-local members for the UA/Juneau board.

I am enclosing a fiscal note prepared by Dr. Kerry D. Romesburg of the Postsecondary Commission which I think you will find interesting. I look forward to your response to these comments, or to receiving a revised fiscal note.

Sincerely,

Dorothy L Peavey

Dorothy Peavey
Administrative Aide

Enclosure

DPV:jv

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 219
Title: Re: Citizen Advisory Board - U of A
Sponsor: Lindauer, Abood, Barnes, et al
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected:
BRU, Program of Subprogram(s) Affecte
Statewide Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Intend is for boards to repla
existing advisory councils.

Prepared By: Kerry D. Romesburg
Division: Commission on Postsecondary Education
Phone: 465-2854
Date: 3/30/83

Approved by Commissioner:
Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

Second Attachment

Sherman Carter
Executive Vice President

UNIVERSITY OF ALASKA
FAIRBANKS ALASKA 99701

March 22, 1983

Ms. Doroty Pede
Office of Representative Lindauer
Pouch V
Juneau, AK 99811

Dear Ms. Pede:

This submission is to respond to the request you made to me for a fiscal note from the University of Alaska for House Bill 219.

If other information is desired or if I can be of help in any way, please let me know.

Sincerely,

Sherman Carter

SFC/man

Enclosures

cc: Legislative Finance
Office of Management & Budget
President Jay Barton
Chancellor Ed Biggerstaff
Chancellor David Outcalt

STATE OF ALASKA
FISCAL NOTE

Revision Date , 198

I. REQUEST

Bill/Resolution No.: HB 219

Title: "An Act relating to Local Citizens Advisory Boards of the UA."

Sponsor: Lindauer, Abood, Hayes

Requestor: Lindauer

II. FISCAL DETAIL

Agency Affected: University of Alask

Program Category Affected: Education

BRU, Program of Subprogram(s) Affecte Statewide Programs & Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		67.9	72.7	77.8	83.2	89.1
200 TRAVEL		54.0	57.7	61.8	66.2	70.6
300 CONTRACTUAL		15.0	16.0	17.2	18.4	19.7
400 COMMODITIES		5.0	5.4	5.7	6.1	6.6
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		141.9	151.8	162.5	173.9	186.0
CAPITAL						
REVENUE		141.9	151.8	162.5	173.9	186.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		141.9	151.8	162.5	173.9	186.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME		5	5	5	5	5
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank R. Sparco, Director of Budget Development Phone: 474-7593

Division: Statewide Budget Office Date: March 21, 19

Approved by Commissioner: Sherman F. Carter, Executive Vice President Date: March 22, 19

Department: University of Alaska

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

ASSUMPTIONS

1. Each Local Citizen Advisory Board will meet the same number of times as the full Board of Regents and its major working committees. During FY83 the Board of Regents scheduled eight meetings. It is assumed that this number of meetings will remain constant each year during the projection period.

2. It is assumed each member of the Local Citizen Advisory Board will serve without compensation other than reimbursement for reasonable and necessary travel expenses in accordance with standard University policy and regulations. Further, it is assumed each board member will be compensated one day's per diem per meeting. For cost projections meetings are assumed to be convened in the respective cities of the Chancellor's offices for the region for which the board serves.

3. Coordination of meetings, travel and clerical support for each Local Citizen Advisory Board is estimated to require a permanent half-time administrative secretary. FY84 cost for five half-time administrative secretaries is projected to be $67,900.

4. Support operating expenses for office space, utilities and other overhead costs for each advisory board are assumed to be shared with the respective Chancellor's office. These costs are estimated to be $3,000 per board for FY84. Supplies necessary to fulfill the mission of the boards are projected at $1,000 for FY84 for each board.

5. Inflation for calculation of operating costs for FY85 through FY88 is assumed to be 7 percent annually.

PROGRAM SUMMARY

The FY84 estimated cost for travel and per diem is based on the following schedule of meeting locations and travel mix of local members (those not requiring air travel) and non-local members requiring air travel (and their hypothetical origins) to attend the advisory board meetings.

Local Citizen Advisory Board	Meeting Location	Local Attendance	Non-local Attendance Air Transportation Point of Origin
UA/Fairbanks	Fairbanks	5 members	Nome Anchorage (two members) Galena
UA/Anchorage	Anchorage	9 members	-
UA/Juneau	Juneau	7 members	Sitka Ketchikan
Anchorage CC	Anchorage	9 members	-
Community Colleges	Anchorage	-	Juneau Ketchikan Bethel Nome Fairbanks Kotzebue Palmer Kenai Valdez

Based on the transportation schedule listed above, estimated average travel costs per board member for each meeting, per diem per board member and total annual costs for each advisory board are provided below:

Local Citizen Advisory Board	Average Travel Per Member	Per Diem Per Member	Total Per Diem and Travel For 9 Members Attending 3 Meetings in FY84
UA/Fairbanks	$ 80.00	$ 90.00	$ 12,240
UA/Anchorage	-	80.00	5,760
UA/Juneau	30.00	80.00	7,920
Anchorage CC	-	80.00	5,760
Community Colleges	225.00	85.00	22,320
			$ 54,000

Total FY84 estimated cost of implementation of HB219 for the five Local Citizen Advisory Boards:

Personal Services	$ 67,900
Travel and Per diem	54,000
Contractual Services	15,000
Commodities	5,000
Total	$ 141,900

AGENCY COMMENTS

1. The University of Alaska believes the creation of Local Citizen Advisory Boards would add redundancy to the University's decision-making process which would reduce the efficiency of governance of the university and generate additional expense. Currently under university policy 02.04.01, Community College Councils, which include between 9 and 15 members for each of the community colleges, review and recommend approval or disapproval of new programs, annual proposed operating and capital budget requests, annual community college plans, and statewide policies and regulations before their submission to the Board of Regents. Having Local Citizen Advisory Board review Board of Regents' decisions which have included the review and input of the Community College Councils would create duplication and unnecessary waste.

2. In addition to the Community College Councils' input into the university's decision-making process, every meeting of the Board, its committees, and subcommittees is open to the public for comments and input. Members of the community are welcome to provide input to every Board of Regents' decision and policy considered by the university.

3. Creation of the Local Citizen Advisory Boards could cause delays in the implementation of critical Board of Regents' decisions of up to six months. The university is required to meet several deadlines by the State for the continuance of its operations, for example, submission of the annual operating and capital budget requests. Adding the Advisory Boards to the university's decision-making process could jeopardize either meeting critical and/or mandatory deadlines or failure to fulfill the requirements of the law regarding the advisory board process.

4. Additional indirect costs are associated with the additional time necessary for the Board of Regents' consideration and response to Local Citizen Advisory Boards' recommendation and/or the implementation of the Board of Rgents' original or modified decision. In addition to the actual costs of responding to Advisory Boards' recommendations, significant expense could be incurred through delay of construction of capital projects. Depending on timing, an entire construction season could be missed resulting in an additional year's inflation being added to the cost of a university construction project. It is the University's position that the potential additional expense is unwarranted.

JOB DESCRIPTION

Local Citizen Advisory Board — Date: March 21,1983

TITLE: Administrative Assistant I
Range 74

JOB SUMMARY

Under the general supervision of the Chairperson, assembles and distributes the LCAB agenda; attends LCAB meetings for the purpose of taking, transcribing, and distributing the minutes and recommendations; makes arrangements for board meetings and official functions and other assignments as may be prescribed.

MAJOR DUTIES

1. Makes arrangements for LCAB meetings by announcing meetings; preparing travel and travel reimbursement requests as necessary; collecting, compiling, typing and mailing agenda.

2. Attends all LCAB meetings; takes, transcribes and distributes minutes of all meetings to the board and appropriate others.

3. Types, copies and distributes minutes and recommendations to the University Board of Regents and LCAB members.

4. Assists in collection, indexing and maintaining files and official records of the LCAB, assumes responsibility for the maintenance and security of confidential documents.

5. Serves as telephone and walk-in receptionist at LCAB office.

6. Maintains soft ledger of LCAB budget and expenditures.

7. Makes travel and accommodations arrangements for members of the board and others, schedules meetings and conferences as needed.

8. Prepares correspondence.

KNOWLEDGE, SKILLS AND ABILITIES

Working knowledge of filing systems; office procedures and standard office machines required; familiarity with soft ledgers and general admainistrative procedures desirable.

Skills in typing and transcription from mechanical dictating equipment accurately and at a rapid rate required; strong human relations and interpersonal skills desired.

Ability to learn to format of agenda and minutes; to maintain confidentiality, and to provide mature and sensitive professional services to members of the board, the University community and the public.

EXPERIENCE

Experience demonstrating the knowledge, skills and abilities required to fulfill the major job duties, as described above.

TO: HESS Committee Members April 7, 1983

FROM: Linda Otey, Committee Aide

RE: Summary of HB 219

Summary - HB 219 "An act relating to Local Citizen Advisory Boards of the University of Alaska."

New Sections Added to 14.40 "The University of Alaska and the Community Colleges."

Section 1 14.40.700 - The legislature would establish Local Citizen Advisory Boards (LCAB's) to consider certain decisions by the Board of Regents of the University of Alaska.

14.40.710 - Governor would appoint members of LCAB's subject to confirmation the legislature. (See proposed amendments by sponsor.)

14.40.720 - Sets up a 4-year term of office for LCAB members and forbids serving more than 2 terms. (See proposed sponsor amendments.)

14.40.730 - Establishes three geographic university service areas - University of Alaska at Anchorage, Fairbanks, and Juneau; and two community college service areas - Anchorage Community College and all others. Each service area would be served by a LCAB and each board would consist of 9 members.

14.40.740 - Outlines duties of boards:

1) Board of Regent decisions pertaining to budget transfers and requests, building construction, academic programs, student activities, and sharing of facilities and services between geographic service areas and institutions must be submitted for consideration to the LCAB effected by the decision.

2) If LCAB wishes to make a recommendation after the first 30 days of review, the Board of Regents is prohibited from acting on the decision until the recommendation is made or until 60 days after the notification, whichever is first.

3) If the Board of Regents rejects the recommendation it must file a written report specifying the reasons for the

Included
1 Legal Opinion
2 "New Sponsor Sub"

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

2/21/83

Date: _____

Mr. Speaker:

The Committee on R.E.S.S. has had HB 219

An Act relating to Local Citizen Advisory Boards of the University of Alaska.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Mae Tucker

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M.J. Miller DO NOT Pass

Mae Tucker
CHAIRMAN

H 60

Introduced: 2/21/83
Referred: Health, Education & Social Services and Finance

BY LINDAUER, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DUNCAN, FLOOD, FRITZ, FULLER, HUDDACE, GRUSSENDORF, HURLBERT, KLISKA, M.M.MILLER, PESTINGER, PHILLIPS, TISCHER, UEHLING, WARD AND HAYES

IN THE HOUSE

HOUSE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

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

* Section 1. AS 14.40 is amended by adding new sections to read:

ARTICLE 5. LOCAL CITIZEN ADVISORY BOARDS.

Sec. 14.40.700. LOCAL CITIZEN ADVISORY BOARDS ESTABLISHED. There are established Local Citizen Advisory Boards to consider certain decisions of the Board of Regents of the University of Alaska.

— Sec. 14.40.710. APPOINTMENT OF BOARD MEMBERS. The governor shall appoint the members of the Local Citizen Advisory Boards [subject to confirmation by a majority of all the members of the legislature in joint session.] The names of those appointed shall be sent to the legislature within five days after the opening of the session, [for confirmation or rejection: If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after the rejection. If the legislature adjourns without confirming the nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment.]

Sec. 14.40.720. TERM OF OFFICE. The term of office of a member of a Local Citizen Advisory Board is four years. A member may not

Showing Sponsor's proposed amendments in brackets.

serve more than two terms. The term of office begins on the first Monday in February of the year in which the appointment is made. Each member serves until a successor is appointed [and qualifies.]

Sec. 14.40.730. BOARD OF REGENTS TO ESTABLISH SERVICE AREAS. The Board of Regents shall divide the state into the following three separate geographic university service areas: the University of Alaska at Anchorage, the University of Alaska at Fairbanks, and the University of Alaska at Juneau, and two geographic community college service areas: the Anchorage Community College, and all other community colleges. Each geographic service area shall be served by a Local Citizen Advisory Board and each Local Citizen Advisory Board shall have nine members.

Sec. 14.40.740. DUTIES OF LOCAL CITIZEN ADVISORY BOARDS. (a) A decision of the board pertaining to budget transfers and requests, building construction, academic programs, and student activities, and the sharing of facilities and services between geographic service areas and institutions shall be submitted to the Local Citizen Advisory Boards affected by the decision for consideration.

(b) Within 30 days after a decision of the board is submitted to a Local Citizen Advisory Board for consideration, the Local Citizen Advisory Board shall notify the board if it wishes to make a recommendation concerning that decision.

(c) If a Local Citizen Advisory Board notifies the board within 30 days that it wishes to make a recommendation concerning a decision of the board, the board may not implement that decision until the Local Citizen Advisory Board makes its recommendations, or until 60 days after the notification, whichever is first.

(d) If the board rejects the recommendation of a Local Citizen Advisory Board it must file a written report specifying the reasons

for rejection with the governor and both houses of the legislature 60 days prior to implementing the decision affected by the recommendation.

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature

House of Representatives

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

March 21, 1983

TO: House Health, Education, and Social Services Committee

FROM: Representative John Lindauer

RE: House Bill #219: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

The purpose of this bill is to give more stature to the local citizen advisory boards so that their recommendations on local matters will be given more weight.

House Bill #219 statutorially establishes the existing local citizen advisory boards. The major difference is that the members of the local boards would be appointed by the Governor instead of the University as they are now. The Citizen Advisory Boards would continue to review and make recommendations on decisions of the University of Alaska's administration and the Board of Regents which impact their local areas.

The advisory board members would serve four year terms with two terms the maximum number.

The bill requires the Board to Regents to establish a minimum of five local advisory boards. The Regents could create more and might well do so for each of the community colleges. The basic five are: the University of Alaska at Anchorage, the University of Alaska at Fairbanks, the University of Alaska at Juneau, the Anchorage Community College and the rest of the community colleges as a group.

Each advisory board will continue to make recommendations to the Board of Regents only on decisions related to their institutions. The Regents keep all of their current power and remain totally free to accept or reject any advisory board recommendation.

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

Alaska State Legislature

House of Representatives

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

March 21, 1983

TO: House Health, Education, and Social Services Committee

FROM: Representative John Lindauer

RE: Proposed Amendment to House Bill #219

I request that the House Health, Education, and Social Services Committee make the following amendment to House Bill #219 when it considers House Bill #219:

1. Delete beginning on page 1, line 15: . . .subject to confirmation by a majority of all the members of the legislature in joint session. . .

2. Delete beginning on page 1, line 18: . . .for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after rejection. If the legislature adjourns without confirming a nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment.

3. Delete on page 2, line 3: and qualifies.

TO: HESS Committee Members April 7, 1983

FROM: Linda Otey, Committee Aide

RE: Summary of HB 219

Summary - HB 219 "An act relating to Local Citizen Advisory Boards of the University of Alaska."

New Sections Added to 14.40 "The University of Alaska and the Community Colleges."

Section 1 14.40.700 - The legislature would establish Local Citizen Advisory Boards (LCAB's) to consider certain decisions by the Board of Regents of the University of Alaska.

14.40.710 - Governor would appoint members of LCAB's subject to confirmation the legislature. (See proposed amendments by sponsor.)

14.40.720 - Sets up a 4-year term of office for LCAB members and forbids serving more than 2 terms. (See proposed sponsor amendments.)

14.40.730 - Establishes three geographic university service areas - University of Alaska at Anchorage, Fairbanks, and Juneau; and two community college service areas - Anchorage Community College and all others. Each service area would be served by a LCAB and each board would consist of 9 members.

14.40.740 - Outlines duties of boards:

1) Board of Regent decisions pertaining to budget transfers and requests, building construction, academic programs, student activities, and sharing of facilities and services between geographic service areas and institutions must be submitted for consideration to the LCAB effected by the decision.

2) If LCAB wishes to make a recommendation after the first 30 days of review, the Board of Regents is prohibited from acting on the decision until the recommendation is made or until 60 days after the notification, whichever is first.

3) If the Board of Regents rejects the recommendation it must file a written report specifying the reasons for the

rejection with the Governor and the legislature 60 days prior to implementing the decision.

No effective date clause - consequently effective 90 days after the Governor's signature.

folder content

left

summary
fiscal note/Post Secondary Educ
fiscal note/University
Universtiy Program Summary
Agency Comments (Univ.)

right

bill (showing proposed amendments)
Sponsor Explanation/memo
Sponsor's proposed amendments/memo

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 219
Title: Re: Citizen Advisory Board - U of A
Sponsor: Lindauer, Abood, Barnes, et al
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected:
BRU, Program of Subprogram(s) Affected:
Statewide Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Intend is for boards to replace existing advisory councils.

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Commission on Postsecondary Education Date: 3/30/83

Approved by Commissioner: Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 219
Title: "An Act relating to Local Citizens Advisory Boards of the UA."
Sponsor: Lindauer, Abood, Hayes
Requestor: Lindauer

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected: Education
BRU, Program of Subprogram(s) Affected: Statewide Programs & Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		67.9	72.7	77.8	83.2	89.1
200 TRAVEL		54.0	57.7	61.8	66.2	70.6
300 CONTRACTUAL		15.0	16.0	17.2	18.4	19.7
400 COMMODITIES		5.0	5.4	5.7	6.1	6.6
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		141.9	151.8	162.5	173.9	186.0
CAPITAL						
REVENUE		141.9	151.8	162.5	173.9	186.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		141.9	151.8	162.5	173.9	186.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME		5	5	5	5	5
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank R. Spargo, Director of Budget Development Phone: 474-7593
Division: Statewide Budget Office Date: March 21, 1983

Approved by Commissioner: Sherman F. Carter, Executive Vice President Date: March 22, 1983
Department: University of Alaska

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

March 21, 1983

HB219

ASSUMPTIONS

1. Each Local Citizen Advisory Board will meet the same number of times as the full Board of Regents and its major working committees. During FY83 the Board of Regents scheduled eight meetings. It is assumed that this number of meetings will remain constant each year during the projection period.

2. It is assumed each member of the Local Citizen Advisory Board will serve without compensation other than reimbursement for reasonable and necessary travel expenses in accordance with standard University policy and regulations. Further, it is assumed each board member will be compensated one day's per diem per meeting. For cost projections meetings are assumed to be convened in the respective cities of the Chancellor's offices for the region for which the board serves.

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5. Inflation for calculation of operating costs for FY85 through FY88 is assumed to be 7 percent annually.

PROGRAM SUMMARY

The FY84 estimated cost for travel and per diem is based on the following schedule of meeting locations and travel mix of local members (those not requiring air travel) and non-local members requiring air travel (and their hypothetical origins) to attend the advisory board meetings.

Local Citizen Advisory Board	Meeting Location	Local Attendance	Non-local Attendance Air Transportation Point of Origin
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UA/Anchorage	Anchorage	9 members	-
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Anchorage CC	Anchorage	9 members	-
Community Colleges	Anchorage	-	Juneau Ketchikan Bethel Nome Fairbanks Kotzebue Palmer Kenai Valdez

Based on the transportation schedule listed above, estimated average travel costs per board member for each meeting, per diem per board member and total annual costs for each advisory board are provided below:

Local Citizen Advisory Board	Average Travel Per Member	Per Diem Per Member	Total Per Diem and Travel For 9 Members Attending 8 Meetings in FY84
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Total FY84 estimated cost of implementation of HB219 for the five Local Citizen Advisory Boards:

Personal Services	$ 67,900
Travel and Per diem	54,000
Contractual Services	15,000
Commodities	5,000
Total	$ 141,900

AGENCY COMMENTS

1. The University of Alaska believes the creation of Local Citizen Advisory Boards would add redundancy to the University's decision-making process which would reduce the efficiency of governance of the university and generate additional expense. Currently under university policy 02.04.01, Community College Councils, which include between 9 and 15 members for each of the community colleges, review and recommend approval or disapproval of new programs, annual proposed operating and capital budget requests, annual community college plans, and statewide policies and regulations before their submission to the Board of Regents. Having Local Citizen Advisory Board review Board of Regents' decisions which have included the review and input of the Community College Councils would create duplication and unnecessary waste.

2. In addition to the Community College Councils' input into the university's decision-making process, every meeting of the Board, its committees, and subcommittees is open to the public for comments and input. Members of the community are welcome to provide input to every Board of Regents' decision and policy considered by the university.

3. Creation of the Local Citizen Advisory Boards could cause delays in the implementation of critical Board of Regents' decisions of up to six months. The university is required to meet several deadlines by the State for the continuance of its operations, for example, submission of the annual operating and capital budget requests. Adding the Advisory Boards to the university's decision-making process could jeopardize either meeting critical and/or mandatory deadlines or failure to fulfill the requirements of the law regarding the advisory board process.

4. Additional indirect costs are associated with the additional time necessary for the Board of Regents' consideration and response to Local Citizen Advisory Boards' recommendation and/or the implementation of the Board of Rgents' original or modified decision. In addition to the actual costs of responding to Advisory Boards' recommendations, significant expense could be incurred through delay of construction of capital projects. Depending on timing, an entire construction season could be missed resulting in an additional year's inflation being added to the cost of a university construction project. It is the University's position that the potential additional expense is unwarranted.

JOB DESCRIPTION

Local Citizen Advisory Board — Date: March 21,1983

TITLE: Administrative Assistant I
Range 74

JOB SUMMARY

Under the general supervision of the Chairperson, assembles and distributes the LCAB agenda; attends LCAB meetings for the purpose of taking, transcribing, and distributing the minutes and recommendations; makes arrangements for board meetings and official functions and other assignments as may be prescribed.

MAJOR DUTIES

1. Makes arrangements for LCAB meetings by announcing meetings; preparing travel and travel reimbursement requests as necessary; collecting, compiling, typing and mailing agenda.

2. Attends all LCAB meetings; takes, transcribes and distributes minutes of all meetings to the board and appropriate others.

3. Types, copies and distributes minutes and recommendations to the University Board of Regents and LCAB members.

4. Assists in collection, indexing and maintaining files and official records of the LCAB, assumes responsibility for the maintenance and security of confidential documents.

5. Serves as telephone and walk-in receptionist at LCAB office.

6. Maintains soft ledger of LCAL budget and expenditures.

7. Makes travel and accommodations arrangements for members of the board and others, schedules meetings and conferences as needed.

8. Prepares correspondence.

KNOWLEDGE, SKILLS AND ABILITIES

Working knowledge of filing systems; office procedures and standard office machines required; familiarity with soft ledgers and general admainistrative procedures desirable.

Skills in typing and transcription from mechanical dictating equipment accurately and at a rapid rate required; s[illegible]ng human relations and interpersonal skills desi[illegible].

Ability to learn to format of agenda and minutes; to maintain confidentiality, and to provide mature and sensitive professional services to members of the board, the University community and the public.

EXPERIENCE

Experience demonstrating the knowledge, skills and abilities required to fulfill the major job duties, as described above.

Committee / Sponsor. Sub.

Introduced: 2/21/83
Referred: Health, Education & Social Services and Finance

BY LINDAUER, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DUNCAN, FLOOD, FRITZ, FULLER, FURNACE, GRUSSENDORF, HURLBERT, LISKA, M.M.MILLER, PESTINGER, PHILLIPS, TISCHER, UEHLING, WARD AND HAYES

IN THE HOUSE

HOUSE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

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

* Section 1. AS 14.40 is amended by adding new sections to read:

ARTICLE 5. LOCAL CITIZEN ADVISORY BOARDS.

Sec. 14.40.700. LOCAL CITIZEN ADVISORY BOARDS ESTABLISHED. There are established Local Citizen Advisory Boards to ~~consider certain decisions of the Board of Regents~~ make recommendations on the Local Activities of the University of Alaska.

Sec. 14.40.710. APPOINTMENT OF BOARD MEMBERS. The governor shall appoint the members of the Local Citizen Advisory Boards subject to confirmation by a majority of all the members of the legislature in joint session. The names of those appointed shall be sent to the legislature within five days after the opening of the session, for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after the rejection. If the legislature adjourns without confirming the nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment.

Sec. 14.40.720. TERM OF OFFICE. The term of office of a member of a Local Citizen Advisory Board is four years. A member may not

serve more tha, two terms. The term of office begins on the first Monday in Feb:uary of the year in which the appointment is made. Each member serves until a successor is appointed and qualifies.

Sec. 14.40.730. BOARD OF REGENTS TO ESTABLISH SERVICE AREAS. The Board of Regents shall divide the state into the following ~~three~~ one for each community college plus one each for separate geographic university service areas: the University of Alaska at Anchorage, the University of Alaska at Fairbanks, and the University of Alaska at Juneau, ~~and two geographic community college service areas: the Anchorage Community College, and all other community~~ lleges. Each geographic service area shall be served by a Local Citizen Advisory Board and each Local Citizen Advisory Board shall have nine members.

Sec. 14.40.740. DUTIES OF LOCAL CITIZEN ADVISORY BOARDS. (a) ~~A~~ Regents' decision of the ~~board~~ pertaining to, budget transfers and requests, building construction, academic programs, and student activities, and the sharing of facilities and services between geographic service areas and institutions shall be ~~submitted~~ made available to the Local Citizen Advisory Boards affected by the decision for consideration.

(b) Within 30 days after a decision of the board is submitted to a Local Citizen Advisory Board for consideration, the Local Citizen Advisory Board shall notify the board if it wishes to make a recommendation concerning that decision.

(c) If a Local Citizen Advisory Board notifies the board within 30 days that it wishes to make a recommendation concerning a decision of the board, the board may not implement that decision until the Local Citizen Advisory Board makes its recommendations, or until 60 days after the notification, whichever is first.

(d) If the board rejects the recommendation of a Local Citizen Advisory Board it must file a written report specifying the reasons

for rejection with the governor and both houses of the legislature 60 days prior to implementing the decision affected by the recommendation.

BY LINDAUER, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DUNCAN, FLOOD, FRITZ, FULLER, FURNACE, GRUSSENDORF, HURLBERT, LISKA, M.M.MILLER, PESTINGER, PHILLIPS, TISCHER, UEHLING, WARD AND HAYES

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 219

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

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

* Section 1. AS 14.40 is amended by adding new sections to read:

ARTICLE 5. LOCAL CITIZEN ADVISORY BOARDS.

Sec. 14.40.700. LOCAL CITIZEN ADVISORY BOARDS ESTABLISHED. There is established a Local Citizen Advisory Board for each postsecondary education service area established under AS 14.40.730. A Local Citizen Advisory Board shall make recommendations to the Board of Regents concerning activities of the University of Alaska that affect the service area the advisory board serves.

Sec. 14.40.710. APPOINTMENT OF BOARD MEMBERS. The governor shall appoint nine members to each Local Citizen Advisory Board. A member shall reside within the area that is served by the Local Citizen Advisory Board to which that member is appointed. The names of those appointed shall be sent to the legislature within five days after the opening of the legislative session following appointment.

Sec. 14.40.720. TERM OF OFFICE. The term of office of a member of a Local Citizen Advisory Board is four years. A member may not serve more than two terms. The term of office begins on the first Monday in February of the year in which the appointment is made. Each member serves until a successor is appointed.

Sec. 14.40.730. BOARD OF REGENTS TO ESTABLISH POSTSECONDARY EDUCATION SERVICE AREAS. The Board of Regents shall establish the

following postsecondary education service areas: the University of Alaska at Anchorage, the University of Alaska at Fairbanks, the University of Alaska at Juneau, and a service area for each community college.

Sec. 14.40.740. DUTIES OF LOCAL CITIZEN ADVISORY BOARDS. (a) A decision of the Board of Regents pertaining to a postsecondary education service area concerning budget transfers and requests, building construction, academic programs, student activities, and the sharing of facilities and services between postsecondary education service areas shall be made available to each Local Citizen Advisory Board affected by the decisior for consideration.

(b) Within 30 days after a decision of the Board of Regents is available to a Local Citizen Advisory Board for consideration, the Local Citizen Advisory Board shall notify the Board of Regents if it wishes to make a recommendation concerning that decision.

(c) If a Local Citizen Advisory Board notifies the Board of Regents within 30 days that it wishes to make a recommendation concerning a decision, the Board of Regents may not implement that decision until the Local Citizen Advisory Board makes its recommendations, or until 60 days after the notification, whichever is first.

(d) If the Board of Regents rejects the recommendation of a Local Citizen Advisory Board, the Board of Regents must file a written report specifying the reasons for rejection with the governor and both houses of the legislature 60 days prior to implementing the decision affected by the recommendation.

* Sec. 2. AS 14.40.700 - 14.40.740 enacted by sec. 1 of this Act are repealed July 1, 1986.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Resolution No.: HB 219
Re: Citizen Advisory Board - U of A
: Lindauer, Abood, Barnes, et al
or: House HESS

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected:
BRU, Program of Subprogram(s) Affected:
Statewide Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Intend is for boards to replace existing advisory councils.

Prepared By: Kerry D. Romesburg
Phone: 465-2854
Division: Commission on Postsecondary Education
Date: 3/30/83

Approved by Commissioner:
Date:
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HED - 4/15/83 @ 1:22pm

Tischer Miller

Davis Kopenen

HB 243

Davis - Proposed Changes? -

Palmer - No - special interest folks

Davis - Move HB 243 -

Tisher - No Objections

HB 219 -

Lindauer - ① change of 9 to 21 members

② ③ Advisory role for Constitutional

Tischer - Entertain Motion

Davis - Object - want to run by people before voting on bill

Tisher - Have had since Wednesday to look @ bill.

Miller - move SS for HB w/ 2nd. rec.

Davis - Object again

Kopenen - Definition of service areas - ① Some colleges operate based on areas of specialization or geographical areas? ②

- Has Lindauer approached the question I have raised.

② - Fiscal note - ⅓ of State each - should be provision for meetings - should be a-

fiscal note!

- Salary & members of Post Secondary Commission

Tischer - Motion on Floor - w/ Ind Rec.
Tischer - In favor - 2 against 2 -
- Motion failed
Kopenen - Objection to 2 pts - ① geographical or specialized servi areas & ② fiscal note. (Define service area)
feels that a geographical divisn would lead to duplication. Request fiscal note - forewarn Univ of changes in sponsor Sub.
Tischer - Not willing do more today - will hear it Monday - Staff will provide by Sunday @ 2pm.
Davis - Conceptual problems - will not move bill.

ALASKA

STATE LEGISLATURE

4/11

MEMORANDUM

HB 219 - ① Constitutional Problems w/ Board confirmations by Legislature

② (Taken out of original bill
Powers to Boards Advisory Re/ Constitution
duties to Regents.

SSHB219 - ① out of Sponsor Sub

② Requested Legal Opinion by Legal Services

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 21, 1983

TO: House Health, Education, and Social Services Committee

FROM: Representative John Lindauer

RE: Proposed Amendment to House Bill #219

I request that the House Health, Education, and Social Services Committee make the following amendment to House Bill #219 when it considers House Bill #219:

1. Delete beginning on page 1, line 15: . . .subject to confirmation by a majority of all the members of the legislature in joint session. . .

2. Delete beginning on page 1, line 18: . . .for confirmation or rejection. If a person appointed is not confirmed by a majority vote of all the members of the legislature, the appointment ceases and the name of another person shall be submitted within three days after rejection. If the legislature adjourns without confirming a nominee, or if an interim vacancy occurs, the governor may appoint a qualified person to fill the vacancy. However, the person who has failed to be confirmed may not be appointed. The term of office of the appointee expires on the fifth day of the session of the legislature following the appointment.

3. Delete on page 2, line 3: and qualifies.

HB

225

UPDATING THE ALASKA OPTOMETRY LAW

Alaska Board of Examiners
in Optometry

Alaska Optometric Association

TABLE OF CONTENTS

1. Proposed revisions to AS 08.72, Alaska Optometry Law

2. Explanatory notes to the bill

3. Exhibits

   A. Guidelines for pharmacology training in optometry

   B. Comparison of optometry and medical school training in ocular anatomy, physiology, pathology, general and ocular pharmacology

   C. States authorizing drug utilization in the practice of optometry

4. Public benefits of the legislation

5. Criticism of the legislation by ophthalmologists, and answers to the criticism

6. Appendix: Full curricula of optometry and medical schools compared in Exhibit B

Explanatory Notes to the Bill

Section 1

Addition of the phrase, "or other procedures taught by schools and colleges of optometry", in the definitions is designed for maximum flexibility, so the statute will not have to be revised in the future as optometric education changes.

Deletion of the phrase, "other than by the use of drugs", is the core element of this proposal. The private sector of optometry is the only sector that cannot use drugs, due to this provision.

Section 2

In approving undergraduate and post graduate programs in theoretical and applied pharmacology, the board has access to uniform guidelines (Exhibit A).

Optometry and medical school training programs in the eye and eye medicine are compared in Exhibit B. This is to show that relatively little emphasis is placed upon the eye in medical schools despite the fact that generalists in medicine can and do use eye medications.

Section 3

This revises the pharmaceutical section of the Alaska Statutes to allow pharmacists to sell drugs to optometrists.

EXHIBIT A

Guidelines for Pharmacology Training

in Optometry

Major Points

1. Uniform standards exist for training programs in the schools and colleges of optometry

(4)

ASSOCIATION of SCHOOLS and COLLEGES of OPTOMETRY



SPECIAL ISSUE OF ASCOPE

Vol. 2 Number 9 June 6, 1975

Pharmacology Curriculum Guidelines for Continuing Education Courses

Prepared by the Council on Academic Affairs of the Association of Schools and Colleges of Optometry, Richard Hazlett, O.D., Chairman

These guidelines have been prepared for distribution throughout the optometric profession and education system.

Before final adoption of these guidelines, consideration was given to comments received from a wide professional audience.

Adopted
March 13 1975

Guidelines for Pharmacology Continuing Education

I. Purpose: To establish guidelines for continuing education courses in pharmacology for practicing optometrists.

II. Course objectives: to increase the optometrist's knowledge of:
- A. the systemic effects of systemic medications from a mechanistic, diagnostic and therapeutic standpoint,
- B. the ocular effects of systemic medications from a mechanistic, diagnostic and therapeutic standpoint,
- C. the ocular effects of ocular drugs from a mechanistic, diagnostic and therapeutic standpoint,
- D. the systemic effects of ocular drugs from a mechanistic, diagnostic and therapeutic standpoint, and
- E. diagnostic ocular pharmaceutical agents (DPA) --- theory and practice.

III. Guidelines for the course content.

A. General Pharmacology
1. Principles of Drug Actions
   a. Dosage forms
   b. Routes of administration
   c. Pharmacodynamics
      (1) absorption
      (2) distribution
      (3) fate (metabolism)
   d. Mechanisms of action
      (1) agonists and antagonists
      (2) receptors and acceptors
      (3) synergism, additivity and competitive antagonism
2. Host Factors and Placebos
3. Drug Categories (to include adverse ocular and systemic effects)
   a. Neuropharmacologic agents
      (1) anesthetics
      (2) CNS depressants (general)
      (3) effects of drugs on synaptic transmission
      (4) major and minor tranquilizers
      (5) antidepressants
      (6) CNS stimulants (general)
      (7) analgesics (selective CNS drugs)
   b. Cardiovascular agents
      (1) hemopoietics
      (2) antihypertensives
      (3) anticoagulants
      (4) cardiac glycosides
      (5) antiarrhythmics
      (6) vasolidators

c. Renal agents
d. Gastro-intestinal agents (especially anticholinergics)
e. Endocrine drugs (including steroids and the birth control pills)
f. Antiallergic agents
g. Antibiotic-chemotherapeutic agents
h. Antifungal agents
i. Disinfectants
j. Vitamins
k. Antiviral agents
l. Cancer chemotherapeutics
m. over-the-counter (OTC) agents

4. Drug abuse
5. Drug contraindications during pregnancy

B. Ocular Pharmacology

1. Principles of Drug Actions
   a. Dosage forms
   b. Routes of administration
   c. Pharmacodynamics
      (1) absorbtion
      (2) distribution
      (3) fate (metabolism)
2. Drug Categories, to include adverse ocular and systemic effects, and
   a. Neuropharmacoligic agents (autonomics)
      (1) review of nervous systems
      (2) autonomic drugs
         ((a)) sympathomimetics
         ((b)) parasympathomimetics
         ((c)) sympatholytics
         ((d)) parasympatholytics
      (3) ocular anesthetics
   b. Agents affecting trans-membrane fluid transport
   c. Antibacterial agents
   d. Antinflammatory agents
      (1) antihistamines
      (2) steroids
      (3) sympathomimetics
      (4) parasympatholytics
   e. Antiviral agents
   f. Antifungal agents
3. Differential Diagnosis of Ocular Neuromuscular Disorders
4. Review of Ocular Side Effects of Systemic Drugs
5. Review of Systemic Side Effects of Ocular Drugs
6. Review of Ocular Side Effects of Ocular Drugs
7. Ocular Urgencies and Emergencies, including glaucoma management
8. Drug Contraindications During Pregnancy
9. Medical Urgencies and Emergencies
10. Malpractice and Jurisprudence

IV. Teaching/Learning Activities

1. patient history
   a. Medical history
   b. Patient's current drug regimen, and the effects of thes drugs on ocular structure and function
2. Sterile technique--proper instillation of "drops"
3. Refractive examination and fundus examination
   a. pre-medication procedures
      (1) advice to patients (effects of DPAs)
      (2) tonometry
      (3) angle evaluation
   b. Application of mydriatic/cycloplegic and related examination procedures
   c. Post-medication procedures
      (1) corneal examination
      (2) tonometry
      (3) advice to patient (i.e., return of pupil to normal, etc.)
   d. Diagnostic techniques and instrumention
      (1) tonometry, including Goldmann applanation
      (2) angle evaluation with the biomicroscope, including genioscopy
      (3) stain analysis
      (4) monocular and binocular fundus examination, including indirect ophthalmoscopic and biomicroscopic procedures
4. Clinical competency

A. comprehensive examination procedure will be established to evaluate each student as to his skill and competency in the use of DPAs and relevant instrumentation, and

B. the effect of systemic medication on ocular structure

C. the effect of ocular instillations on systemic sturcute and function.

EXHIBIT B

Comparison of optometry and medical school training in ocular anatomy, physiology, pathology, general and ocular pharmacology

Major Points

1. Optometric training far exceeds medical school training in the eye and eye medicine.

2. Medical school graduates can prescribe over 2000 drugs, including all eye drugs, under the principle of unlimited licensure.

3. Doctors of optometry use some of the eye drugs, approximately 15-20 in number.

Southern College of Optometry

Course	Quarter Credits
Required Courses	
BIOMED 110-130 Human Anatomy & Physiology (special emphasis on eye, related structures)	18
BIOMED 133 Vegetative Physiology: Ocular Biochemistry	3
BIOMED 213 Principles of Pharmacology & Therapeutics	2
BIOMED 220 Principles of Medicine II: Clinical Pathology and Pharmacology	4
BIOMED 221 Physiological Optics II: Monocular Sensory and Motility	4
BIOMED 224 Ophthalmic Pathology I	6
BIOMED 230 Principles of Medicine III: Clinical Pathology and Pharmacology	4
BIOMED 231 Physiological Optics III: Monocular Sensory & Binocular Vision	
BIOMED 234 Ophthalmic Pathology II	6
BIOMED 310 Principles of Medicine IV: Pediatrics and Pediatric Optometry	3
BIOMED 313 Advanced Principles of Pharmacology and Therapeutics	2
BIOMED 320 Principles of Medicine V: Gerontology & Geriatrics	3
BIOMED 323 Pharmacology: Ocular and Systemic Pharmacology	4
BIOMED 330 Principles of Medicine VII: Dermatology	2
BIOMED 333 Pharmacology: Clinical Pharmacology	4
CLINIC 310-431 General and Special Clinics	43

University of Minnesota Medical School

Course	Quarter Credits
Required Courses	
Phcl 5110-5111 Pharmacology	8
InMd 5229 Eye	2
Elective Courses	
8101 Clinical Ophthalmology	not specifie
8102 External Diseases	"
8103 Medical Ophthalmology	"
8104 Radiology of the Eye, Orbit and Head	"
8105 Motility	"
8107 Ocular Anatomy	"
8122 Physiologic Optics	"
8141 Ocular Pathology Conference	"
8142 Ophthalmic Pathology Laboratory	"
8143 Pathology of the Eye	"
8151 Basic and Applied Ophthalmology	"
8152 Ophthalmology Laboratory	"
8154 Seminar in Ophthalmology	"
8155 Special Topics in Ophthalmology	"

EXHIBIT C

States Authorizing Drug Utilization

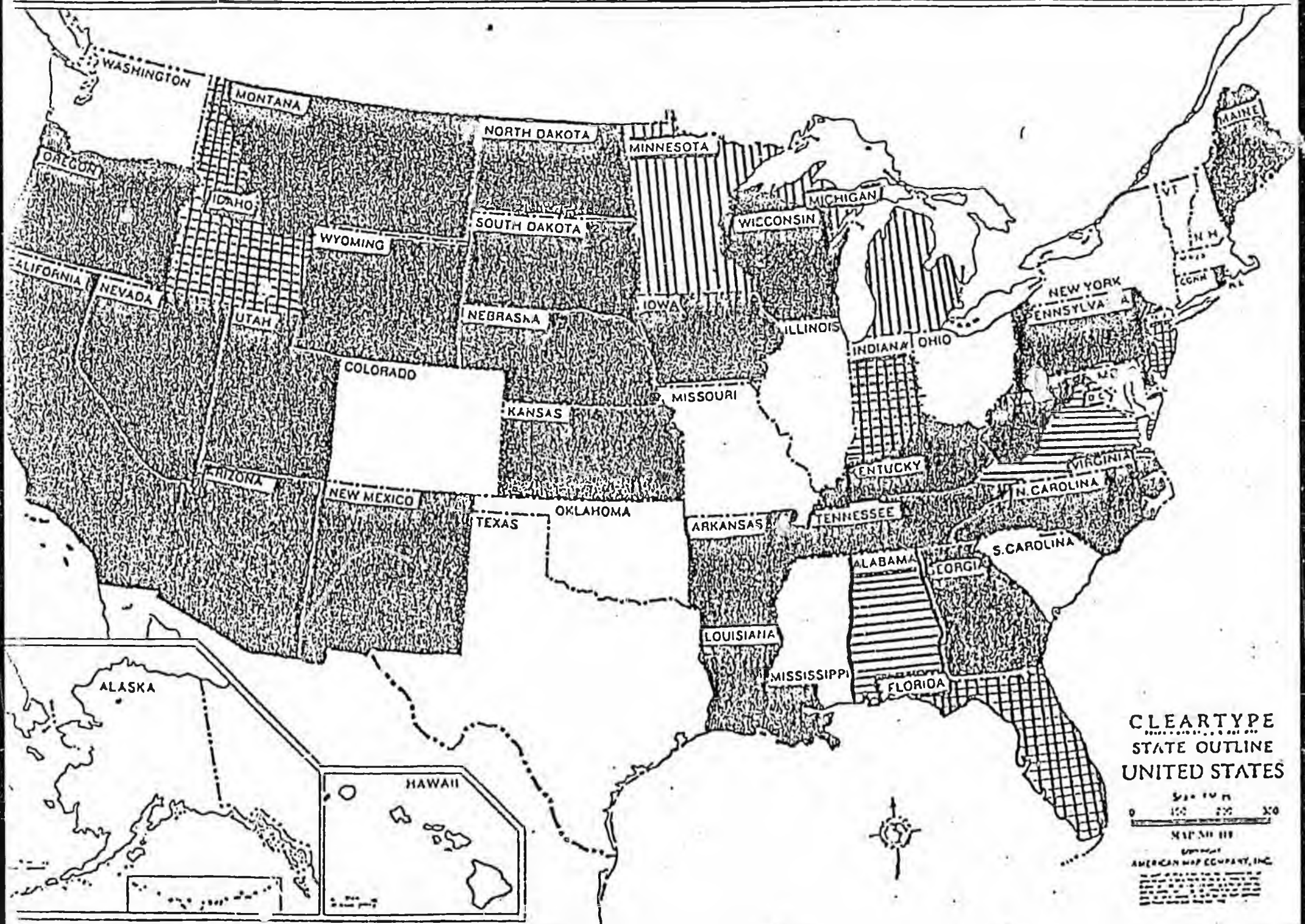
in the Practice of Optometry

Major Points

A majority of states have passed drug legislation, despite political opposition by ophthalmologists.

UTILIZATION OF PHARMACEUTICAL AGENTS BY OPTOMETRISTS

JUNE 8, 1979



UTILIZATION OF PHARMACEUTICAL AGENTS BY OPTOMETRISTS

NAME	DATE OF ENACTMENT
Rhode Island	July 16, 1971
Pennsylvania	March 1, 1974
Tennessee	May 8, 1975
Oregon	May 20, 1975
Maine	June 24, 1975
Louisiana	July 6, 1975
Delaware	July 10, 1975
*West Virginia	March 4, 1976
California	July 9, 1976
Wyoming	February 17, 1977
New Mexico	March 4, 1977
Montana	April 12, 1977 (at 10:10 a.m.)
Kansas	April 12, 1977 (at 2:00 p.m.)
*North Carolina	June 3, 1977
Kentucky	March 29, 1978
Wisconsin	April 29, 1978
Nebraska	February 13, 1979
South Dakota	March 15, 1979
Utah	March 21, 1979
North Dakota	March 22, 1979
Arkansas	April 2, 1979
Nevada	May 25, 1979
Iowa	June 8, 1979
Georgia	February 14, 1980
Arizona	April 1980

*both diagnostic and therapeutic

[In addition, there are eight (8) other states that do not statutorily prohibit the use of DPAs by optometrists; several of these states have attorney general opinions (+favorable) (-unfavorable) on this point: Alabama (AG-), Florida (AG+), Idaho (State Board Statement +), Indiana (AG+), Michigan (AG-), Minnesota, New Jersey (AG+), Virginia (AG-).]

For your information we are including an updated map showing geographically the utilization of pharmaceutical agents by optometrists.

Public Benefits of the Legislation

1. Availability of Services

Ophthalmologists are located in only 5 Alaskan cities: Anchorage, Fairbanks, Juneau, Ketchikan and Soldotna. Optometrists are located at the following cities not served by ophthalmologists: Sitka, Kodiak, Bethel, North Pole, Wasilla, Palmer, Kenai. In most of these cities, a patient with minor eye disease has no practical recourse but to see a general physician, who does not have the optometrist's degree of training in differential diagnosis or the instruments with which to accomplish the diagnosis. Since optometrists make trips to many rural and bush areas, they can provide basic eye health services to villages now principally served by health aides, with 6 to 24 weeks of training and having only radio contact for doctor consultation.

2. Quality of Services

Besides their obvious value to the health aide system, optometrists can serve as a valuable resource to physicians in cities not served by an ophthalmologist. This occurs with the optometrist employed by the native health corporation in Bethel (not bound by the drug restrictions of the Alaska optometry law). General physicians, to their credit, tend to refer patients to the most qualified practitioner in their area. It is not surprising therefore, that MDs in Kodiak have endorsed previous drug usage bills in optometry.

3. Cost of Services

Just as a general practitioner charges a lower fee (typically half) than does a specialist for doing similar work (obstetrics, pediatrics, etc.), so an optometrist (a generalist and primary care provider with respect to the eye) can be expected to charge less for treating minor eye diseases than does the ophthalmologist (the specialist).

Criticism of the Legislation by Ophthalmologists,

and Answers to the Criticism

1. The legislation is not necessary. The present system of ophthalmologists, general practitioners and health aides handles the eye care needs of Alaskans quite well.

Doctors of optometry are an underutilized resource. They can deliver services of higher quality, at greater availability and lower cost than can the existing system alone. This is detailed in the section entitled, Public Benefits of the Legislation.

2. Optometrists claim competancy, but their training programs are inadequate, particularly as to qualifications of faculty, and clinical experiences available to their students.

Optometry schools receive state and federal funds, and are accredited by both regional and professional accrediting organizations. It is not in the interest of schools or the profession at large to allow inadequate programs to exist in this sensitive area, for the sake of saving money. All optometric faculties include MDs, and PhDs in such specialized fields as physiology, pharmacology, biochemistry and microbiology. Many are present or past members of medical school faculties. With drugs, as in other areas of the professional curriculum, optometrists are trained well beyond the level at which they must function in day to day practice. While it is impossible to have too much clinical experience, optometry students enjoy more than adequate exposure to the common eye diseases they must deal with. In their two years of clinic experience, they see much more eye pathology than general medical students, but less than residents (trainees) in ophthalmology. Many rare eye diseases will not be seen in a three year residency in ophthalmology.

3. Optometrists can detect abnormalities but cannot diagnose. Treatment requires, first of all, an accurate diagnosis.

Optometrists can diagnose some eye diseases; definitive diagnosis of others requires specialized examination by the ophthalmologist. At still other times, consultation with the specialist will allow a diagnosis to be made. The same is true for a general physician or for a specialist whose case lies partly in the province of another specialist. No practitioner is going to be foolish enough to treat a case if he isn't sure what it is, if more competant authority is reasonably available.

4. Optometrists study the eye but they are not trained in broad medical principles. The general physician knows the entire body and can generalize certain principles to the eye even though he may not have as many hours of study specifically in the eye as the optometrist.

Optometrists study general anatomy, physiology, pathology and pharmacology precisely because certain general principles need to be understood before considering a particular organ system like the eye. The educational model is similar to dentistry. In both professions, the body as a whole is studied in less detail than is done by medical students, because neither are treating kidney disease or setting broken legs. Yet the necessary general principles are learned. Both dentists and optometrists are medically trained, in ways that are appropriate to their respective fields of work.

5. Given drugs for diagnosis and some treatment, ODs would go in over their heads, attempt to be ophthalmologists.

This is not the case in other fields and there is no evidence that it has happened or will happen in optometry. Malpractice insurance rates are no higher in drug states than in non-drug states. Besides a basic conservatism common to all professionals, optometrists are constrained by the knowledge that their malpractice insurance coverage does not extend to activities that are outside their recognized scope of practice.

6. Defining procedures "as taught by schools and colleges of optometry" is too general, could allow the optometry board to do almost anything.

"As taught" is purposely general, to allow the board to react to continuing changes in the education of the profession. It is the responsibility of the board, as an agency of the State of Alaska, to know the areas in which optometrists are trained and educated, to examine them for competance and license or fail to license them accordingly. Most board members are also practitioners. It is not in their interest to license fellow practitioners to do procedures that could bring discredit to the profession or raise malpractice insurance rates. This is also true of other health care regulatory boards.

7. Drug usage by optometrists constitutes competition in the historical province of ophthalmology.

Ophthalmologists, nationally and in Alaska, tend to concentrate in urban areas, where they spend a majority of their time practicing optometry. In the last 15 years they have entered the field of contact lenses, an area pioneered by optometry. Much earlier, their predecessors (oculists), entered the optometrists' field of refraction after abandoning the belief, common among Victorian era physicians, that glasses weakened the eyes. Competition both ways is appropriate. It is not in the public interest to exclude a qualified bidder from the marketplace.

APPENDIX

Full curricula of optometry and medical schools compared in Exhibit B

Southern College of Optometry

Catalog 1979-80

FOURTH PROFESSIONAL YEAR (CONTINUED) SPRING QUARTER			HOURS CREDIT
Optometry	430	Optometry Seminar: Curent Problems (3 HRS. LEC.)	3
Optometry	431	Clinical Case Analysis III (2 HRS. LEC.)	2
Biomedical	432	Vision Science Seminar: Current Problems (2 HRS. LEC.)	2
Clinic	430	General Clinic Practice VII (1 HR. LEC., 16 HRS. LAB)	5*
Clinic	431	**Specialty Clinics (Two required, each for 1 Qtr. Hr. of credit) (8 HRS. LAB)	2
		TOTAL	14

*Credit will be reduced by 1 quarter hour after 1979-80.

**A minimum of two quarter hours of credit each must be completed in Contact Lenses and in Orthoptics & Vision Training, during the fourth year, as well as a minimum of one quarter hour of credit in Pathology. Additional clinic rotations may be selected from Geriatrics, Low Vision, Dermatology, Neurology, Pediatrics, Neurophysiology, or any other approved clinical area.

COURSE DESCRIPTIONS

Courses numbered in the 100 series are for first professional year students, 200 for second professional year students, 300 for third professional year students, and 400 for fourth professional year students. The letter E following a course number indicates that the course is offered for college credit through the Continuing Education Program. The four-year program provides more than 4000 clock hours of instruction in optometric science and clinical optometry and carries a minimum of 232 quarter hours of credit.

The curriculum is organized for administrative purposes into three departments: Biomedical Sciences, Optometry and Clinic. The Biomedical Sciences Department is inter-disciplinary, offering sequences in anatomy and physiology, chemistry, physics, physiological optics and psychology. The Optometry Department offers diversified instruction in all phases of optometric theory and practice. The Clinic Department offers extensive experience in out-patient vision care.

BIOMEDICAL SCIENCES DEPARTMENT

110 HUMAN ANATOMY & PHYSIOLOGY I: STRUCTURE & FUNCTION (6 quarter hours)
Five hours of lecture and one two-hour laboratory per week. A course covering basic cell biology, general human embryology, ocular embryology and histology, with detailed emphasis on the tissue structure of the eye and ocular adnexa. The gross anatomy of the human body is studied, particularly the skull, circulatory system of the orbit, orbital contents, and ocular adnexa. The course also includes general physiology of the organ systems.

111 VISUAL OPTICS I: PHYSICAL AND GEOMETRICAL OPTICS (5 quarter hours)
Three hours of lecture and one two-hour laboratory. A detailed study of the variations in light rays between different optical media. Includes the theory of rectilinear propagation, reflection and refraction at plane, spherical, and cylindrical surfaces, and thin lenses.

120 HUMAN ANATOMY AND PHYSIOLOGY II: STRUCTURE AND FUNCTION (6 quarter hours)
Five hours of lecture and one two-hour laboratory per week. Continuation of 110.

121 VISUAL OPTICS II: PHYSICAL AND GEOMETRICAL OPTICS (4 quarter hours)
Three hours of lecture and one two-hour laboratory. A continuation of Bio 111. Includes the Gaussian system, the schematic eye and its applications, selected optical instruments, common aberrations, and the effect of apertures. Prerequisite: Bio. 111.

122 VISUAL PERCEPTION: PSYCHOPHYSIOLOGICAL OPTICS (5 quarter hours)
Four hours of lecture and one two-hour laboratory per week. An introduction to Vision Science, which involves the behavior-scientific approach to understanding vision and visual perception. Special emphasis is placed on monocular visual function and on the theories and data relevant to visual perceptions.

130 HUMAN ANATOMY AND PHYSIOLOGY III: STRUCTURE AND FUNCTION (6 quarter hours)
Five hours of lecture and one two-hour laboratory per week. Continuation of 120.

131 VISUAL OPTICS III: PHYSICAL AND GEOMETRICAL OPTICS (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. Physical Optics comprises those phenomena bearing on the nature of light, including processes which involve the interaction of light with matter. Some topics considered are nature and propagation of light, photometry, dispersion, interference, diffraction, polarization, and spectra.

133 VEGETATIVE PHYSIOLOGY: OCULAR BIOCHEMISTRY (3 quarter hours)
Three hours of lecture per week.
Analysis of the intraocular fluids, aqueous chemistry and flow; secretory mechanism, intraocular pressure; vitreous structure and protein; lens and its function related to its composition. Lens proteins, metabolism cataract. The cornea and sclera; metabolism, nutrition and growth processes; retinal metabolism, glycolysis.

210 PRINCIPLES OF MEDICINE I: GENERAL PATHOLOGY (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. An introduction to reaction of the body as a whole to disease. Injuries including genetic, metabolic, infectious, immunologic degenerative, hemorrheologic and neoplastic processes are reviewed.

211 PHYSIOLOGICAL OPTICS I (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. A study of the eye as an optical system including the dioptric and physiological components, and the functioning of the visual system.

212 NEUROANATOMY AND NEUROPHYSIOLOGY I (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. Embryological development, structure, and function of the nervous system are studied. Functional components of the nervous system with special reference to modifications are studied.

* 213 PRINCIPLES OF PHARMACOLOGY AND THERAPEUTICS (2 quarter hours)
Two hours of lecture per week. The course covers basic principles of pharmacology, including drug absorption, distribution, metabolism, and excretion. The autonomic nervous system will be covered and an introduction to drug dosage forms and drug dosage regimens.

* 220 PRINCIPLES OF MEDICINE II: CLINICAL PATHOLOGY AND PHARMACOLOGY (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. The study of the etiology, pathophysiology, treatment and ocular complications of systemic diseases. An organ system modular approach will be adop

221 PHYSIOLOGICAL OPTICS II (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. A stud monocular sensory aspects of vision and the physiology of ocular mot

224 OPHTHALMIC PATHOLOGY I (6 quarter hours)
Five hours of lecture and one two-hour laboratory per week. A thoro consideration of diseases of the eye, its adnexa, and the visual pathv and of pathologically induced changes in the visual fields. Techniques instrumentation for detection, measurement, and diagnosis of eye orders are studied intensively.

* 230 PRINCIPLES OF MEDICINE III: CLINICAL PATHOLOGY AND PH/ MACOLOGY (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. A contin tion of Bio. 220.

231 PHYSIOLOGICAL OPTICS III: MONOCULAR SENSORY AND BINOCUL VISION (3 quarter hours)
Two hours of lecture and one two-hour laboratory per week. A continuat of monocular sensory aspects of vision, color vision and binocular visi

234 OPHTHALMIC PATHOLOGY II (6 quarter hours)
Five hours of lecture and one two-hour laboratory per week. Continuati of Bio. 224.

235 APPLIED PSYCHOLOGY: PATIENT BEHAVIOR (1 quarter hour)
One hour of lecture per week. The psychology of patient handling, wi respect to refractive error and numerous ocular and visual anomalie Patient management with respect to age (infancy to the elderly) a counseling, generally. Special attention is given to how the doctor explai and informs the patient of clinical entities, particularly "referral typ cases. Emphasis will be given to the commonest conditions met with practice, including cataract, glaucoma, retinal separation, multip sclerosis, strabismus, and refractive error.

* 310 PRINCIPLES OF MEDICINE IV: PEDIATRICS AND PEDIATRIC OPTOMETR (3 quarter hours)
Three hours of lecture per week. The course will be concerned with growt and development of the young; childhood diseases; hereditary and geneti disorders of the eye and adnexa in pediatric ophthalmic medicin emotional components in pediatrics; disease processes and therapeutic of the eye and adenxa. The ophthalmic examination of infants an children; ophthalmic optics and dispensing for refractive errors and th correction of refractive errors, the correction of low vision problems i children.

312 NEUROANATOMY & NEUROPHYSIOLOGY II (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. A laboratory course dealing with the electrical properties of the body and the means of measuring and interpreting electrical activity of the ner[illegible]stem and the muscular system: EEG, EMG, ERG, EOG.

* 313 ADVANCED PRINCIPLES OF PHARMACOLOGY & THERAPEUTICS (2 quarter hours)
Two hours of lecture per week. The course covers principles of phar-

macology, including drug absorption, distribution, metabolism, and excretion. The autonomic nervous system will be covered and an introduction to drug dosage forms and drug dosage regimens.

320 PRINCIPLES OF MEDICINE V: GERONTOLOGY & GERIATRICS (3 quarter hours)
Three hours of lecture per week. The processes of aging; diseases of the elderly. Disease processes and therapeutics of the aging eye and adnexa. Ophthalmic optics and correction of refractive errors in the geriatric patients, aphakia, correction of low vision problems in the elderly.

321 PRINCIPLES OF MEDICINE VI: NEUROLOGY (2 quarter hours)
Two hours of lecture per week. Introduction to neurology, including the peripheral nervous system, diseases of the spinal cord and brain; clinical examination of the nervous system; special senses; neurological symptoms; diseases of the cranial nerves; common psychiatric disorders, neurosis, psychosis, alcoholism, anxiety, etc.

323 PHARMACOLOGY: OCULAR & SYSTEMIC PHARMACOLOGY (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. A course covering basic concepts of current ocular pathological problems. Included are consideration of local and systemic treatment of ocular pathologies, use of diagnostic agents, and ocular side effects of non-ocular drugs.

330 PRINCIPLES OF MEDICINE VII: DERMATOLOGY (2 quarter hours)
Two hours of lecture per week. Appreciation of skin disorders with emphasis on ocular or adnexa implications. Topics will include collagen diseases, pre-cataract skin changes, psoriasis, facial tumors, tumors of eyelid, eyelashes, eyebrows, eczemas; Seborrheic, atropic and allergic dermatitis; Steven-Johnson and dry eye syndrome; Xeroderma, Lipoid Storage Diseases, Xanthalasma; Seborrheic exfoliation. Viral diseases of skin with ocular manifestation, including Vaccinia, Herpes Simplex, Herpes Zoster, Chickenpox, measles, Verrucae; Bullous Dermatoses, disturbances of pigmentation, nutritional disturbances and drug reactions.

333 PHARMACOLOGY: CLINICAL PHARMACOLOGY (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. An advanced course designed to integrate the student's knowledge of pathology and pharmacology. Special emphasis will be placed on further developing differential diagnostic skills, the skills necessary to manage and/or monitor patients who manifest diagnosed ocular conditions and/or systemic conditions with ocular and visual complications, and in addition, to develop further screening techniques for detecting high incidence general health problems.

432 VISION SCIENCE SEMINAR: CURRENT PROBLEMS (2 quarter hours)
Two hours of lecture per week. Various topics concerning aspects of vision science are discussed in terms of current problems.

OPTOMETRY DEPARTMENT

110 BASIC OPTOMETRY (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. Introduction to the use of the trial frame, trial case, retinoscope, ophthalmoscope, ophthalmometer and other instruments used in the visual analysis. Normal refractive states and deviations are studied along with common visual anomalies. Techniques of taking the principal optometric data and the case history are introduced, followed by the evaluation of single findings and the inference of deviant processes from patterns of findings.

111 PREVENTATIVE AND COMMUNITY OPTOMETRY: EPIDEMIOLOGY AND RESEARCH METHODOLOGY (4 quarter hours)
Four hours of lecture per week. Statistical methods as applied to data obtained in optometric examinations and visual science. Measures of central tendency, variability, correlation, standard errors, and tests of significance of commonly used statistics including introduction to the analysis of variance. Experimental design and logic of controlled experimentation, reliability of observations, statistical versus experimental means of controlled experimentation, analysis, interpretation and communication of experimental results.

120 INTERMEDIATE OPTOMETRY I (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. A continuation of 110.

121 PREVENTATIVE AND COMMUNITY OPTOMETRY: JURISPRUDENCE (2 quarter hours)
Two hours of lecture per week. Prevailing statutory and common laws relevant to rights and responsibilities of the optometrist are presented and the legal principles with which an optometrist should be familiar are discussed.

130 INTERMEDIATE OPTOMETRY II (5 quarter hours)
Four hours of lecture and one two-hour laboratory per week. A continuation of 120.

131 HISTORY OF OPTOMETRY (1 quarter hour)
One hour of lecture per week. The development of the profession of optometry from antiquity to the present is surveyed. The role of certain optometric organizations, as well as noted figures in the history of vision science and optometry are studied for perspective.

210 ADVANCED OPTOMETRY I (4 quarter hours)
Three hours of lecture and one two-hour laboratory. The procedures and rationales of graphical, normative and functional visual analysis are studied and compared. Selected optometrics are compared in relation to the diagnosis and treatment of various visual problems.

220 ADVANCED OPTOMETRY II (4 quarter hours)
Three hours of lecture and one two-hour laboratory. A continuation of 210.

222 OPHTHALMIC OPTICS I (2 quarter hours)
Two hours of lecture per week. Fundamentals of ophthalmic mechanics, pertinent mathematics, practical training in the fabrication of common types of ophthalmic lenses and spectacles. Dispensing procedures of fit-

ting and adjusting of spectacles to various facial contours are included. Tool kits are required.

230 ADVANCED OPTOMETRY III (5 quarter hours)
Four hours of lecture and one two-hour laboratory. A continuation of 220.

232 OPHTHALMIC OPTICS II (2 quarter hours)
One hour of lecture and one two-hour laboratory per week. A continuation of Opt. 222. Tool kits are required.

310 CONTACT LENS PRACTICE I (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. The history and development of contact lenses, lectures on the anatomy and physiology of the cornea and eyelids, optics, instrumentation, and lens design. Symptomatology with emphasis on differential diagnosis is presented. Flurorescein analysis of diagnostic lens/cornea relationships is emphasized. Material concerning lens modification procedures, verification of lenses, and fitting techniques is presented in the laboratory.

311 ORTHOPTICS & VISION TRAINING I (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. A study of the influence of vision on human potential, performance, and behavior at various levels of development.

320 CONTACT LENS PRACTICE II (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. Advanced optics, bifocal lenses, scleral lenses, and contact lens telescopic systems are presented. Prerequisite: Optometry 310.

321 ORTHOPTICS & VISION TRAINING II (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. Fundamental principles and modern concepts of vision training and orthoptic procedures are presented as they apply to improvement of vision function, reestablishment of efficient binocular vision, and modification of behavior through performance and achievement gains in the individual.

331 PREVENTATIVE & COMMUNITY OPTOMETRY: ENVIRONMENTAL VISION (3 quarter hours)
Three hours of lecture per week. An analysis of the role of the optometrist and the practice of optometry in industry and other public, military, and educational settings where large groups of individuals are sharing a common environment.

332 VISION SCIENCE LABORATORY (2 quarter hours)
A group of courses from which the student elects one. Each course includes two hours of lecture or one hour of lecture and one two-hour laboratory per week and is research oriented, with classroom activity devoted to clarifying and discussing laboratory techniques. Offered to appeal to student interests in pursuing special research topics in greater depth in areas such as Physical Optics, Geometrical Optics, Physiological Optics, Psychological Optics, and Experimental Optometry.

333 LIMITED VISION (PARTIAL SIGHT) (4 quarter hours)
Three hours of lecture and one two-hour laboratory per week. Differential procedures of evaluation of patients with severe and intractable visual deficits. Anatomical, physiological, and psychological aspects are integrated in considering the most suitable optic compensation.

401 PREVENTATIVE & COMMUNITY OPTOMETRY: ECONOMICS & PRACTICE MANAGEMENT (4 quarter hours)
Four hours of lecture per week. Professional and economic aspects of the ethical practice of optometry are studied in detail. Special attention is given to selection of a practice location, planning and equipping the office, fee structures, office and personnel management, records systems, and effective communications at the professional level. The basic concepts of ethical professional conduct and their application to standards of practice are considered from the points of view of the individual optometrist, the patient, the profession, and the public.

402 PREVENTATIVE & COMMUNITY OPTOMETRY: PUBLIC HEALTH (2 quarter hours)
Two hours of lecture per week. A general introduction to the principles of public health, the concepts of epidemiology, and the structure and functioning of local, state, and federal health departments and agencies.

410 OPTOMETRY SEMINAR: CURRENT PROBLEMS (3 quarter hours)
Three hours of lecture per week. Modern techniques used in various aspects of optometry, including contact lenses, general refraction, pathology, etc.

411 CLINICAL CASE ANALYSIS I (2 quarter hours)
Two hours of lecture per week. Analysis of patient cases, including general, and various specialty areas.

420 OPTOMETRY SEMINAR (2 quarter hours)
Two hours of lecture per week. A continuation of 410.

421 CLINICAL CASE ANALYSIS II (2 quarter hours)
Two hours of lecture per week. A continuation of 411.

430 OPTOMETRY SEMINAR: CURRENT PROBLEMS (3 quarter hours)
Three hours of lecture per week. A continuation of 420.

431 CLINICAL CASE ANALYSIS III (2 quarter hours)
Two hours of lecture per week. A continuation of 421.

CLINIC DEPARTMENT.

Satisfactory completion of all course work in the Optometry Department (excluding History of Optometry) and Clinic Department in the First and Second Professional Years is prerequisite to the Third Professional Year Clinic Department work. Additionally, the three-quarter, Second Professional Year general and ocular pathology series; the Second Professional Year course in Pharmacology and Therapeutics; and the Second Professional Year course in Applied Psychology, all in the Biomedical Department, are prerequisites for Third Professional Year clinic assignments.

110 CLINIC ORIENTATION (1 quarter hour)
One two-hour laboratory per week. An orientation to the clinic by means of participation in school screenings and external clinics, to the extent of recording and assisting upper classmen in performance of clinical routines. This one-hour course is extended over the first three quarters of the optometry program and is designed to afford the beginner an appreciation of the social aspects of vision care.

210 CLINICAL PROCEDURES (1 quarter hour)
One two hour clinic laboratory per week. This course is an introduction to clinical procedures, emphasizing patient handling, case histories, record keeping, preliminary testing, and instrumentation. This one-hour course is extended over the Fall, Winter and Spring quarters of the Second Professional Year.

* 310 CLINICAL PRACTICE I (3 quarter hours)
↓ One hour of lecture and two four-hour laboratories per week. Extensive familiarization with clinical facilities and procedures and individually supervised experience in the coordination and application of various theories and techniques of optometry in the out-patient clinic. The taking of case histories, measurement of visual skills, refractive status, status of accommodation and convergence and their coordination, pathology and visual fields examination, subnormal vision, eikonometry, prescribing and dispensing.

320 CLINICAL PRACTICE II (4 quarter hours)
One hour of lecture and three four-hour laboratories per week. A continuation of 310.

330 CLINICAL PRACTICE III (4 quarter hours)
One hour of lecture and three four-hour laboratories per week. A continuation of 320.

331 SPECIALTY CLINICS (2 quarter hours)
Two four-hour laboratories per week. Introduction to clinical procedures in Contact Lenses and in Orthoptics and Vision Training.

400 CLINICAL PRACTICE IV (5 quarter hours)
One hour of lecture and four four-hour laboratories per week. A continuation of 330.

401 SPECIALTY CLINIC (2 quarter hours)
A topic selected from a wide variety of subjects. A minimum of two quarter hours of credit each must be completed in Contact Lenses and in Orthoptics and Vision Training, during the fourth year, as well as a minimum of one quarter hour of credit in Pathology. Additional clinic rotations may be selected from Geriatrics, Low Vision, Dermatology, Neurology, Pediatrics, Neurophysiology, or any other approved clinical area.

410 GENERAL CLINIC PRACTICE V (5 quarter hours)
One hour of lecture and four four-hour laboratories per week. A continuation of 400.

411 SPECIALTY CLINICS (2 quarter hours)
Two four-hour laboratories per week. A continuation of 401.

420 GENERAL CLINIC PRACTICE VI (6 quarter hours)
One hour of lecture and five four-hour laboratories per week. A continuation of 410.

421 SPECIALTY CLINICS (3 quarter hours)
Three four-hour laboratories per week. A continuation of 411.

430 GENERAL CLINIC PRACTICE VII (5 quarter hours)
† One hour of lecture and four four-hour laboratories per week. A continuation of 420.

* 431 SPECIALTY CLINICS (2 quarter hours)
Two four-hour laboratories per week. A continuation of 421.

FOURTH-YEAR EXTERNSHIPS. The externship program is designed for fourth-year clinicians in optometry to broaden and supplement their experience in evaluating, diagnosing, and treating conditions of the eye and visual system. Externships are five weeks in duration, and they may be scheduled during any of the four quarters of the fourth professional year. Fourth-year students are required to take at least one externship prior to graduation. A student who is unable to participate in an assigned externship for exceptional reasons must consult with the Dean of Faculty.

It is permissible for a fourth-year student to participate in more than one externship, or in an externship of longer than five weeks in duration. No more than one quarter may be spent in any one location.

The externship program provides a wide range of geographical locations in hospital, private clinic, and private practice settings. In all cases the extern serves under the direct supervision of optometric, osteopathic, or medical physicians who hold at least temporary appointments to the adjunct faculty of the College.

Eligibility requirements for externship participation are as follows:

1. The student must be in good standing (i.e., not subject to termination for disciplinary reasons); and
2. Not on probation (either academic or disciplinary); and
3. Be a regular student (i.e., pursuing a course of study leading to certification or to a degree offered by the College); and
4. Must have satisfactorily completed all courses in the O.D. degree curriculum through the spring quarter of the third year; and
5. Must have passed clinical competency evaluation.

EXTERNAL STUDIES PROGRAM COURSES

133E VEGETATIVE PHYSIOLOGY: OCULAR BIOCHEMISTRY (3 quarter hours)
Three hours of lecture per week. Analysis of the intraocular fluids, aqueous chemistry and flow; secretory mechanism, intraocular pressure; vitreous structure and protein; lens and its function related to its composition. Lens proteins, metabolism cataract. The cornea and sclera; neurological aspects of sensation; metabolism, nutrition and growth processes; retinal metabolism, glycolysis.

316E GENERAL PHARMACOLOGY (3 quarter hours)
Three hours of lecture per week. A comprehensive course covering contemporary therapeutic principles and agents. Included are origins, chemical nature, mechanism of actions and interactions, major effects, and absorption and fate of the most commonly used drugs.

326E OCULAR PHARMACOLOGY (3 quarter hours)
Three hours of lecture per week. A course covering basic concepts of current ocular pathological problems. Included are consideration of local and systemic treatment of ocular pathologies, use of diagnostic agents, and ocular side effects of non-ocular drugs.

336E CLINICAL PHARMACOLOGY (3 quarter hours)
Two hours lecture and one two-hour laboratory per week. An advanced course designed to integrate the student's knowledge of pathology and

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UNIVERSITY OF MINNESOTA

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Medical School

UNIVERSITY OF MINNESOTA

Medical Student Government and Student Societies

The Medical Student Council, the student governing body, is composed of representatives from each class and from several minority groups that are elected each year. Council members meet regularly and frequently to discuss problems common to the student body and to plan a variety of projects and service activities. The council represents the interests of the medical students to the administration and the faculty. The medical students, through the council, have adopted an honor code covering examination procedures. Upon admission to the Medical School, each student, after suitable briefing, signs a statement indicating that he or she is well acquainted with the provisions of this code and agrees to abide by it. The Ethics Committee of the Medical Student Council is responsible for investigating reports of any suspected violations of this code.

There are several medical fraternities available for men and one medical sorority available for women. These organizations play a major role in the social life of many medical students.

The national medical scholastic society, Alpha Omega Alpha, selects academically high-ranking students from the junior and senior classes for election to membership. The James Moore Society is composed of 25 students elected by the membership on the basis of research interest and achievement. The group meets monthly at the home of one of several faculty members for discussions of medical subjects and other topics of current interest. The Cyrus P. Barnum, Jr., Society, an organization of students working toward the combined M.D.-Ph.D. degree, meets regularly for scientific and informative evening discussions to which speakers are invited.

The American Medical Student Association (AMSA), an integral part of the Medical Student Council, is incorporated as one of the major activities of the council. The association chairperson acts as local AMSA chapter president. This group sponsors certain school-wide functions through the student council. The membership fee is nominal, and members receive monthly copies of the national periodical.

The wives of many medical students are active in the Women's Auxiliary of the Student American Medical Association (WA-SAMA). This group holds monthly meetings featuring speakers who discuss topics of interest.

IV. M.D. PROGRAM

The Medical School provides the faculty and facilities for instruction of students in the course in medicine. The primary goal of medical education is to produce good physicians possessing sound training in quantitative human biology. Beyond the Medical School and the award of the M.D. degree, all graduates are obliged, by requirements for specialization and/or licensure, to undertake additional formal education or training. And beyond these formal programs are the continuing education activities that individuals in practice must demand of themselves. Much of the success of the sequence of undergraduate-graduate-continuing education, called the continuum of medical education, is dependent on individual responsibility and initiative. Therefore, to encourage such development in medical students, the concept of the student as learner is emphasized in the curriculum.

The course of study for the M.D. degree consists of a core program of 8 academic quarters and a track (option, elective) program of 5 academic quarters. Within the core program, the first 4 quarters, termed Phase A, include course work in basic medical sciences, behavioral science, and introductory experiences with patients. The next 4 academic quarters of the core program, termed Phase B, consist of integrated interdepartmental courses organized and taught along organ, system, and topical lines. In the Phase D portion of the curriculum students, with the help of an adviser, plan a program of elective courses. All students must include in this program experience in both medicine and surgery that will be suitable preparation for advanced clinical responsibilities in subsequent training after completion of work for the M.D. degree. Students making satisfactory progress may, after adviser, track, and special committee review, be approved to complete Phase D in less than 5 academic quarters (minimum 3 quarters of study) providing they make arrangement for a first year of graduate study in a teaching hospital. Alternatively, students may complete Medical School in 5 quarters in Phase D with no restriction or requirement as to type of graduate program activity. Students are required to take and pass parts I and II of the National Board Examinations as a requirement for graduation and the M.D. degree.

Phase A

In the first 4 quarters of the Medical School program, studies cover the structure and function of the human organism and the emotional, social and psychological development of the individual. In Phase A, the student begins clinical activities through tutorial assignments and clinical correlation sessions in Introduction to Clinical Medicine. The Phase A program is intended to involve the student physician in individual synthesis and correlation of the basic sciences with clinical applications and in direct, personal confrontation with human illness and patient care. The required program in Phase A consists of the following courses:

Fall Quarter and Winter Quarter (A-1 and A-2)

- Gross Anatomy (Anat 5100-5101)
- Human Histology (Anat 5103-5104)
- Embryology (Anat 5106-5107)
- Medical Biochemistry (MdBc 5100-5101)
- Introduction to Clinical Medicine (InMd 5100-5101)
- Behavioral Science (AdPy 5107-5108)

Spring Quarter and Summer Quarter (A-3 and A-4)

- Medical Physiology (Phsl 5110-5111)
- Pathology (Path 5101)
- Neuroanatomy (Anat 5111)

Introduction to Clinical Medicine (InMd 5002-5003)
Microbiology (MicB 5205-5206)
Pharmacology (Phcl 5110-5111) 8 cr. See p 56

In both fall and winter quarters, students may elect to attend one of several weekly small group meetings at which topics of personal concern, current interest, or medical importance are brought up for discussion.

Phase B

The 4-quarter sequence of Phase B begins in the fall and consists of integrated, interdepartmental courses designed to highlight fundamental principles in clinical medicine and to emphasize pathophysiologic concepts. The courses are organized in relation to organs, systems, or topics. Two courses in the Phase B sequence, Student as Physician and Human Behavior, are designed, respectively, to increase the student's clinical skills and knowledge and to enhance the student's awareness of psychopathology and psychological factors related to illness.

Core activities in some courses consist of small group discussions, with lectures and other formal presentations optional. Extensive syllabi and reference lists are provided for each student. The student is encouraged to exercise independent and mature judgment in the learning process by arranging her or his own activities. The student may utilize this time for study in the Learning Center, participation in additional clinical experiences, or completion of elective courses available to students in Phase B. The formal Medical School activities in Phase B are divided into three categories:

1. Core Time—Lectures or small group discussions related to a specific organ, system, or topic, and weekly clinical tutorials. Attendance is expected.
2. Optional Activities—Supplementary scheduled activities, such as lectures that expand material offered in the core or, in some cases where lectures are optional, films, additional clinical experiences, laboratories, demonstrations, clinical rounds, teaching rounds, or clinical-pathological conferences. Attendance is voluntary.
3. Electives—Courses offered throughout the year covering various topics of interest to medical students but not necessarily related to the core program.

The required program in Phase B consists of the following courses:

REQUIRED PHASE B COURSES

InMd 5110—Medical Genetics	2 cr
InMd 5220—Cardiovascular	3 cr
InMd 5221—Respiratory	3 cr
InMd 5228—Ear, Nose, and Throat	2 cr
InMd 5212—Human Behavior	5 cr
InMd 5231—Gut	4 cr
InMd 5234—Biometry and Epidemiology	1 cr
InMd 5226—Blood	3 cr
InMd 5222—Fluid and Electrolytes	3 cr
InMd 5223—Kidney and Urinary Tract	3 cr
InMd 5230—Nervous System and Muscle Disorders	5 cr
InMd 5232—Bones, Joints, and Connective Tissue	4 cr
InMd 5224—Endocrine and Metabolism	4 cr
InMd 5225—Reproduction	4 cr
InMd 5227—Skin	2 cr

InMd 5229 Eye 2 cr
InMd 5233 Human Sexuality 3 cr

Student as Physician Tutorials

Medicine Tutorial	Cr ar
Pediatrics Tutorial	Cr ar
Obstetrics-Gynecology Tutorial	Cr ar
Psychiatry Tutorial	Cr ar
Surgery Tutorial	Cr ar
Family Practice and Community Health	Cr ar
Physical Medicine and Rehabilitation	Cr ar
Laboratory Medicine	Cr ar

Phase D

Phase D is designed to extend the curriculum goals of relevance, flexibility, and the student as learner. Prior to completion of Phase B, students select a track and an adviser within that track for the balance of the Medical School program. Students are reminded not to confuse the selection of a track at this point with their eventual need to choose a practice specialty. The six broadly defined career pathways or tracks, encompassing all disciplines and providing varied options for all students, are the following:

Track 1—Medicine, Pediatrics, Medical Specialties including Obstetrics
Track 2—Surgical Specialties
Track 3—Psychiatry and Behavioral Sciences
Track 4—Neurological Sciences
Track 5—Family Practice
Track 6—Medical Investigation and Special Programs

The student, with the help of an adviser, develops an individualized elective program of study related to personal interests and career goals. Each student's program is approved and progress monitored by the appropriate track committee.

There are electives strongly recommended for the several tracks. In general, and as a logical extension of the core material and tutorial format in Phase B, each student is advised to spend 12 to 18 weeks in externship-type electives such as those offered in medicine, neurology, obstetrics, pediatrics, psychiatry, and surgery. The balance of the individual program is drawn from the extensive elective courses offered by each Medical School department. Students may consider elective work in other medical schools, in the United States or elsewhere. Up to 1 quarter of credit for such activities may be approved by the adviser and track committee. The flexibility of the elective program and the general nature of the pathways provide an opportunity for creative and interested students to avail themselves of the widest possible spectrum of educational activities to further their professional growth.

Students are eligible to begin Phase D on completion of Phases A and B and after taking part I of the national boards. Students with deficiencies in Phase A or B or who have taken but not passed part I are reviewed by the Scholastic Standing Committee for a decision as to arrangement of their continuing academic program. The content of Phase D, approved by the adviser and Phase D track committee, is determined by a review of each student's educational needs in light of his or her projected career goals. There are no restrictions on the type of internship or first-year training program for students graduating in 4 years. In the standard 13-quarter curriculum, in the case of 3-quarter programs, students must provide evidence that they will spend their first postdoctoral year (internship or first year of graduate training) in a university or other major affiliated teaching hospital.

Lydia Nerbergs, M.D.
Thomas O'Hare, M.D.
Richard T. Olson, M.D.
Charles Ostrow, M.D.
Rene Pelletier, M.D.
Charles Roach, M.D.
Robert Sigelman, M.D.
James Standafer, M.D.
Alfred Steidl, M.D.
Richard Student, M.D.
Byron Teska, M.D.
James Thompson, M.D.
Jon Tierney, M.D.
Elliot Troup, M.D.
Paul Wicklund, M.D.

Clinical Instructor

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Emmett Carpel, M.D.
Richard Carroll, M.D.
David Chirek, M.D.
Raymond Croissant, M.D.
Mickie Haddad, M.D.
David Hendrickson, M.D.
Donald Herrick, M.D.
George O. Hilgerman, M.D.
Herbert T. Hobday, M.D.
Douglas Holmen, M.D.
James Householder, M.D.
Martin Kaplan, M.D.
Aaron Nathanson, M.D.
Mark Norman, M.D.
Robert Ostrow, M.D.
Jerome Poland, M.D.
Thomas Purcell, M.D.
Wesley Sondreal, M.D.
Robert Warshawsky, M.D.

ELECTIVE COURSES

5180. EXTERNSHIP IN OPHTHALMOLOGY. (Cr ar; prereq regis med)

5190. OPHTHALMOLOGY RESEARCH PROBLEMS. (Cr ar; prereq regis med)

ADVANCED CREDIT COURSES

8101. CLINICAL OPHTHALMOLOGY
8102. EXTERNAL DISEASES
8103. MEDICAL OPHTHALMOLOGY
8104. RADIOLOGY OF THE EYE, ORBIT, AND HEAD
8105. MOTILITY
8106. STRABISMUS MANAGEMENT
8107. OCULAR ANATOMY
8121. REFRACTION
8122. PHYSIOLOGIC OPTICS
8131. PRACTICAL OCULAR SURGERY
8132. DIDACTIC OCULAR SURGERY
8141. OCULAR PATHOLOGY CONFERENCE
8142. OPHTHALMIC PATHOLOGY LABORATORY
8143. PATHOLOGY OF THE EYE
8151. BASIC AND APPLIED OPHTHALMOLOGY
8152. OPHTHALMOLOGY LABORATORY
8153. RESEARCH IN OPHTHALMOLOGY
8154. SEMINAR IN OPHTHALMOLOGY
8155. SPECIAL TOPICS IN OPHTHALMOLOGY
8701. NEUROOPHTHALMOLOGY

Medical student may take any or none of these courses

Orthopaedic Surgery (OrSu)

Roby C. Thompson, Jr., M.D., professor and head

Professor

David S. Bradford, M.D.
Robert B. Winter, M.D.

Clinical Professor

Ramon B. Gustilo, M.D.
Harry B. Hall, M.D.
Sheldon M. Lagaard, M.D.

Associate Professor

Thomas H. Comfort, M.D.
James H. House, M.D., M.S.
Robert F. Premer, M.D.

Clinical Associate Professor

Robert M. Barnett, M.D.
Lester W. Carlander, M.D.
Frederick D. Drill, M.D.
Arnold L. Hamel, M.D.
Walter Indock, M.D.
Richard H. Jones, M.D.
Lowell Kleven, M.D.
Lowell Lutter, M.D.
Harvey E. O'Phelan, M.D.
Wayne W. Thompson, M.D.

Assistant Professor

Alfred F. Behrens, M.D.
John E. Lonstein, M.D.
Jack K. Mayfield, M.D.
Theodore R. Oegema, Jr., Ph.D.

Clinical Assistant Professor

Richard J. Aadalen, M.D.
Gordon Aamoth, M.D.
Paul Arneson, M.D.
Frank S. Bibb, M.D., M.S.
Vincent E. Eilers, M.D.
David W. Florence, M.D.
Daniel Gailhore, M.D.
John A. Hartwig, M.D.
Edward H. Kelly, M.D.
Charles C. Lai, M.D.
Donald R. Lennin, M.D., M.S.
Lloyd Leider, M.D.
Edward McEllistrem, M.D.
John E. McMahon, M.D.
Joseph M. Tamborrino, M.D.

Instructor

Khalid B. Ahmed, M.D.
John H. Scarpino, M.D.

Clinical Instructor

John J. Beer, M.D.
Roland Birsebak, M.D.
Joseph Bocklage, M.D.
Charles J. Cooley, M.D.
Michael W. Davis, M.D.
Leo DeSouza, M.D.
Richard B. Edwards, M.D.
Philip Haley, M.D.
James E. Johanson, M.D.
Richard J. Johnson, M.D.
Stephen Kusiach, M.D.
John Larkin, M.D.
Dick R. Lavender, M.D.
Thomas Lyman, M.D.
Donald Madsen, M.D.
James D. Pugh, M.D.
Jerry Reese, M.D.
George E. Ressler, M.D.
Richard Stimmel, M.D.
Ivan Scholl, M.D.
Peter Strand, M.D.
Warren S. Strehlow, M.D.
Francis J. Trost, M.D.
John Wilson, M.D.

The major goals of the orthopedic surgery courses are to provide the medical student with the foundation necessary for performing a basic neuromusculoskeletal examination of the patient, for correlating the clinical expressions of disease with basic science knowledge, and for recognizing those patient problems that require immediate appraisal and resolution. In a number of clinical electives the student experience has the option of participating in the diagnostic and therapeutic management of patients with orthopedic and traumatic disabilities; this advanced experience provides an understanding of fundamental orthopedic principles, the scope of orthopedic surgery, and the opportunities for both clinical and basic investigation in orthopedic surgery.

ELECTIVE COURSES

5180. ORTHOPEDICS I. (Cr ar; prereq regis med)

5185. ORTHOPEDICS II—EXTERNSHIP IN ORTHOPEDIC SURGERY. (Cr ar; prereq regis med)

5186. RESEARCH PROBLEMS IN ORTHOPEDIC SURGERY. (Cr ar; prereq regis med)

5187. EXTERNSHIP IN ORTHOPEDIC SURGERY AND FRACTURES—St. Paul-Ramsey Hospital. (Cr ar; prereq regis med)

5188. EXTERNSHIP IN ORTHOPEDIC SURGERY AND FRACTURES—Gillette State Hospital, St. Paul. (Cr ar; prereq regis med)

5189. EXTERNSHIP IN ORTHOPEDIC SURGERY AND FRACTURES—Fairview-St. Mary's Hospitals. (Cr ar; prereq regis med)

5190. EXTERNSHIP IN ORTHOPEDIC SURGERY AND FRACTURES—Veterans Hospital. (Cr ar; prereq regis med)

5191. ORTHOPEDIC EXTERNSHIP AT HENNEPIN COUNTY GENERAL HOSPITAL. (Cr ar; prereq regis med)

E. E. BACH, O.D.
PHILLIP W. BACH, O.D., PH.D.
OPTOMETRY
SUITE 204 DENALI PROFESSIONAL CENTER
3401 DENALI STREET
ANCHORAGE, ALASKA 99503

HESS

January 29, 1984

The Honorable Mae Tischer
Chairman, Health, Education and
Social Services Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

The attached draft committee substitute for HB 225 incorporates the following changes requested by your committee:

1. Specific exclusion of controlled substances and surgery (Sections 4 and 5)

2. Listing of categories of drugs that will be permitted (Sec. 1)

3. Specific requirements for certification, with mandated continuing education after certification (Section 1)

Previous versions of the bill had changes in AS 08.64 (medical practice act) that appear no longer necessary, since the 1983 revision of the medical practice act adds language (AS 08.64.170(a)(4)) stating that "A person who is licensed or authorized under another chapter of this title may engage in a practice that is authorized under that chapter."

In Section 1, we have added the further limitation that drugs be topically applied only. (In North Carolina and Florida, optometrists can use systemic drugs. The topical limitation will effectively restrict Alaskan optometrists to mild cases of anterior eye pathology.)

In Section 2, we have revised AS 08.72.240(9) (Grounds for imposition of disciplinary sanctions) to make it consistent with the intent of the bill.

Section 3 adds non-compliance with certification provisions as grounds for disciplinary sanctions.

The attached article from the Journal of Medical Education shows the contrast between the median 15 hours of eye medicine received by general physicians (who can and do use these drugs) and the 200 hours required of optometrists under this draft substitute. This understates the comparison, for the 200 hours does not include the detailed courses in ocular anatomy, physiology and pathology which form a portion of the basic medical science training received by the optometrist.

Please let me know if we can provide further information.

Very truly yours,

Phillip W. Bach

Phillip W. Bach, O.D., Ph.D.
FOR THE LEGISLATIVE COMMITTEE
ALASKA OPTOMETRIC ASSOCIATION

PWB/lr

2 Attach

Original sponsors: Hurlbert and Martin

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 225 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the practice of optometry and authorizing the use of certain drugs by optometrists."

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

* Section 1. AS 08.72 is amended by adding a new section to read:

Sec. 08.72.277. USE OR PRESCRIPTION OF LEGEND DRUGS. (a) A licensee may not use, dispense or prescribe legend drugs under this chapter without a license endorsement issued by the board, certifying his competance to use such drugs.

(b) A licensee may not use, dispense or prescribe any drug identified by the United States Drug Enforcement Administration as a controlled substance.

(c) A licensee may not use, dispense or prescribe a legend drug that is not prepared and marketed for topical application to the human eye or eyelid. Topical drugs which may be used under this section shall be limited to the following categories:

(1) Anesthetics;

(2) Antihistamines;

(3) Anti-infectives

(4) Anti-glaucoma agents;

(5) Antivirals;

(6) Corticosteroids;

(7) Cycloplegics;

(8) Decongestants;

(9) Hyperosmotics;

(10) Mydriatics.

(d) An applicant for certification under (a) of this section shall furnish transcript credits or other evidence, acceptable to the board, showing that he has completed not less than 200 hours of didactic instruction, practical training and supervised experience devoted exclusively to the subjects specified in (1) - (3) of this subsection, given by an accredited school or college of optometry or medicine, and indicating that he has passed written and practical examinations in these subjects. The subjects are

(1) general and ocular pharmacology;

(2) review of ocular pathology and differential diagnosis;

(3) treatment of pathology of the eye and its adnexa, including the use of legend drugs.

(e) An endorsement issued under (a) of this section shall expire with the license to which it attaches and may be renewed upon evidence of satisfactory completion of continuing education specified by regulation of the board for holders of such an endorsement.

* Sec. 2. AS 08.72.240(9) is amended to read:

(9) failed to refer a patient to the appropriate health care practitioner [AFTER ASCERTAINING THE POSSIBLE PRESENCE OF OCULAR DISEASE.] <u>for conditions beyond the scope of his training;</u>

* Sec. 3. AS 08.72.240 is amended by adding a new paragraph to read:

(10) used, dispensed or prescribed a legend drug except as provided under AS 08.72.277.

* Sec. 4. AS 08.72.300(2) is amended to read:

(2) "optometry" is the examination [, OTHER THAN BY THE USE OF DRUGS,] of the human eyes and the visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye; or the diagnosis and treatment, including the use of drugs but excluding the use of surgery, of inflammations, infections and injuries of the eyes and eyelids; [,] or the prescription or application of lenses, prisms or ocular exercises for the correction or relief of the human eye;

* Sec. 5. AS 08.72.300(3) is amended to read:

(3) "practicing optometry" is an examination [, OTHER THAN BY THE USE OF DRUGS,] of the human eyes and visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye; or the diagnosis and treatment, including the use of

drugs but excluding the use of surgery, of inflammations, infections and injuries of the eyes and eyelids; [,] or the prescription or application of lenses, prisms or ocular exercises for the correction or relief of the human eye; [,] or the holding of oneself out as being able to do so;

* Sec. 6. AS 08.72.300 is amended by adding a new paragraph to read:

(7) "legend drugs" means drugs whose containers must bear a label prohibiting dispensing without a prescription.

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notion and has emphasized to trainees that the hospital does not endorse them as being competent to engage in family practice. However, since state laws permit an M.D. licensee to do any type of practice he wishes, it is the feeling of the director that the public would be better served by potential family practitioners having some rather than no additional training. Since there are a number of physicians seeking some training to change their specialty, consideration should be given to longer hospital training periods or a return to specially designed preceptorships to accommodate them.

With respect to those family doctors in retraining, the program would be improved by a more specific set of goals and more careful monitoring of achievements than has as yet been accomplished. The author is aware of two other programs offering similar training. At Creighton University School of Medicine rural family doctors are trained in a specific area, for example, cardiology techniques such as Swan-Ganz catheter insertion. At the Medical College of Pennsylvania inactive physicians or physicians in administrative positions are being trained in primary care.

Conclusions

A pilot miniresidency in family practice has been in operation at Santa Monica Hospital Medical Center since 1979. Many of the applicants were practicing in other specialties and seeking to make a change to family practice. It is unrealistic to expect that the available two- to six-week period can accomplish this objective, and there is a need for a different kind of program to accommodate such circumstances. Training goals for family doctor residency refresher training must be more specific and evaluations more formal than is now the case in the Santa Monica experience.

Ophthalmology Teaching in Medical Schools

Robert E. Kalina, M.D., Henry J. L. Van Dyk, M.D., and George W. Weinstein, M.D.

The Association of University Professors of Ophthalmology (AUPO) was founded in 1965 and is made up of the chairmen of all departments or divisions of ophthalmology in U.S. medical schools (1). A major interest of the body, individually and collectively, is medical student education.

Some members of the AUPO believe that recent medical school graduates are less well prepared in ophthalmology than those of the more distant past. Also reduced familiarity with ophthalmology by physicians in future generations has been cited as a potential problem in the legislative and legal arenas (2).

The results of two AUPO surveys of ophthalmology teaching are reported here.

Survey Techniques

Questionnaires were mailed in 1974 and again in 1979 to the members of the AUPO. Each member was asked to complete the form or to forward it to the individual in his unit most responsible for medical student education. Confidentiality was optional and was elected by some.

The survey document used in 1979 duplicated the questions of 1974 and in addition

This survey was supported in part by a grant to the University of Washington from Research to Prevent Blindness, Inc.

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inquired about the usage and usefulness of the *Ophthalmology Study Guide for Students and Practitioners of Medicine*, a joint publication of the AUPO and the American Academy of Ophthalmology and Otolaryngology (AAOO) which first appeared in 1976 and now is in its third edition (3). This guide is based upon seven objective areas thought to represent essential knowledge requirements for all physicians. These objectives were developed as a result of a survey of 1,600 respondents representing medicine at undergraduate and graduate levels of general and specialty orientation (4, 5).

Results

Responses were received from 74 of 102 member schools in 1974 (73 percent) and from 81 of 110 schools in 1979 (74 percent) (Figure 1). There was a decline in mean required curriculum hours from 25 in 1974 to 20 in 1979, while the median declined from 18 to 15. Hours actually assigned to the department or division of ophthalmology decreased proportionately from a mean of 22 in 1974 to 20 in 1979. Assigned hours were used most frequently for lectures or demonstrations.

All responding institutions offered medical student electives in ophthalmology in 1979, but only a minority of students chose them (mean 25 percent, median 15 percent). Use of audiovisual self-instruction units rose from 66 percent in 1974 to 82 percent in 1979.

The study guide, not available in 1974, had been adopted as a syllabus by 58 percent of institutions in 1979, while 28 percent used another syllabus, usually prepared locally. In most cases the study guide was purchased by the student and used for self-instruction and as a supplement to lectures. The microfiche illustrations, newly added in the third edition (1978), had been found useful by students in 67 percent of schools using the study guide.

Discussion

The surveys reported here were prompted in part by suspicion among the AUPO members that curriculum time devoted to ophthalmology had suffered during the widespread curriculum revisions which have taken place in U.S. medical schools during recent years.

Although data are not available from the preceding era, the results of the study reported here indicate that currently assigned time for

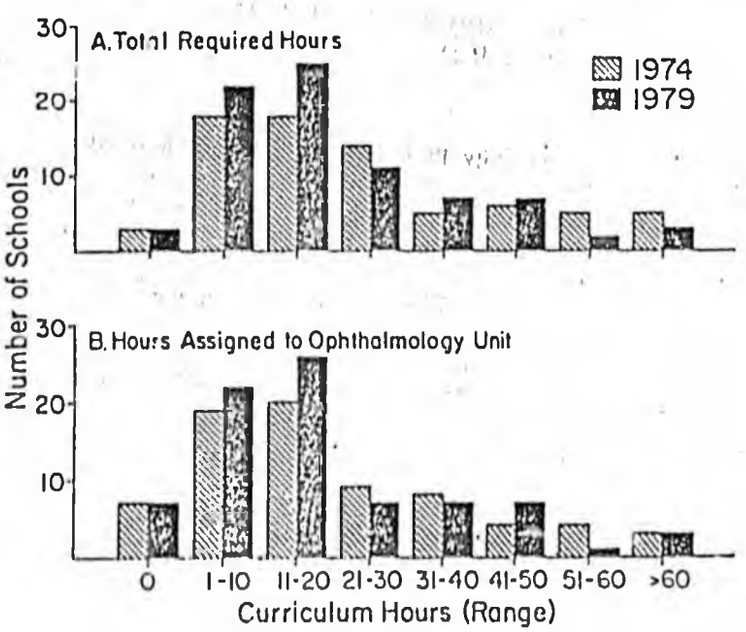

FIGURE 1
Minimum requirements for ophthalmology in U.S. medical schools.

teaching ophthalmology is limited and gradually declining. One logical extension might be a declining ability for appropriate diagnosis, management, or referral of patients with eye disorders, who form a significant segment of those seeking primary care.

The results of these surveys may not include ophthalmology teaching done in the primary care clinical setting. It seems likely that such on-site instruction would be effective and appear relevant to students in that the patient-problem-teacher loop is shortest there; but the authors believe that such teaching events are rare, often unscheduled, and likely to be the first to suffer from time constraints.

Knowledge that curriculum time was limited and that competition for it was keen was one of the prime motivating factors for the development of the AAOO/AUPO study guide. Standardization of objectives to be achieved was presumed then as now to be a laudatory goal. However, the availability of clearly defined objectives has coincided with apparent duced national curricular emphasis upon ophthalmology.

Not only is the curricular time available to ophthalmology small, but also surprisingly few students (25 percent) choose ophthalmology electives. The reasons for limited elective participation may range from the influence of counselors to lack of available electives. Whatever the cause, the effect must be negative upon student appreciation for what the specialty offers. In view of the excess of candidates for the limited number of ophthalmology residency positions, a main concern is that students who will practice other specialties, especially primary care, learn proper diagnosis and treatment of some ophthalmic disorders so that they may avoid inappropriate referral to medical or nonmedical practitioners.

References

1. Cogan, D. G. Association of University Professors of Ophthalmology. *Arch. Ophthalmol.*, 74:740, 1965.
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5. Spivey B. E. Ophthalmology for Medical Students: Content and Comment. *Arch. Ophthalmol.*, 84:368–375, 1970.

To be published in "Medical Aspects of Human Sexuality"
90 Park Avenue
New York, N.Y. 10016

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People do not decide voluntarily what will arouse them sexually. Rather, in maturing, they discover the nature of their own sexual orientation and interests. Persons differ from one another in terms of a) the types of partners whom they find to be erotically appealing and b) the types of behaviors that they find to be erotically appealing. They also differ in intensity of sexual drive, the degree of difficulty that they experience in trying to resist sexual temptations, and in their attitudes about whether or not such temptations should be resisted.

When persons experience strong erotic desires to engage in types of sexual behaviors that could cause themselves or others harm (eg; sadistic, coercive or masochistic sexual involvements), or when they experience strong erotic attractions toward unacceptable sexual partners (eg; children), psychiatric help may become a consideration. This is particularly so when a person reports an inability to successfully resist sexual temptations through "will power" alone, even though in terms of conscience and intellect he may want to resist, and in addition may have been trying very hard to do so.

Some psychiatric diagnoses can be made then, simply by asking cooperative persons about the range of behaviors that they find to be erotically appealing, and about the difficulty they experience in trying to resist succumbing to such sexual temptations. This line of questioning can identify persons who meet the DSM-III diagnostic criteria for sexual exhibitionism, sexual sadism, sexual masochism, transvestism, and compulsive voyeurism.[1] Each of these represents an unconventional form of sexual appetite. Such questioning can also identify the compulsive paraphilic rapist. These men, unlike the average man, often experience great difficulty resisting erotic temptations to repeatedly expose themselves, to repeatedly have themselves beaten, to repeatedly peep in windows, or to repeatedly rape, depending upon the nature of their particular sexual compulsion. Masturbation cannot fully satisfy these cravings because what they crave is not just sexual release, but a specific type of sexual activity.

Another way in which sexual problems, possibly requiring psychiatric assistance, can be identified is by inquiring about the types of sexual partners that a person finds to be erotically appealing, and about how difficult it is to resist the temptation to become involved sexually with such partners. Some men, for example, report that they are attracted sexually to both children and adults, but that when they have a satisfying adult relationship they are able to resist the temptation of becoming sexually intimate with a child. Some such men, however, during periods of time in their lives when they do not have a satisfying adult relationship, do become involved sexually with children. Nicholas Groth has referred to men who find both adults and children to be erotically appealing as regressed pedophiles.[2] There are other men who experience absolutely no erotic attraction whatsoever towards adults, but who have a great deal of difficulty resisting the sexual temptations that they experience towards children. Nicholas Groth has referred to these men as fixed pedophiles. Some men who experience pedophilic desires report feeling sexually driven to repeatedly seek out intimate relationships with children whereas others

seem most vulnerable primarily in situations where a child is already easily and readily available.

Pedophilia, then, is simply a term used to indicate that an adult finds children to be sexually appealing. This condition, for unknown reasons, seems to occur almost exclusively in men. If it is only children and not adults that a man finds to be sexually appealing then the term fixed pedophilia can be used. If a man is attracted sexually only to boys, a diagnosis of homosexual pedophilia can be made, whereas, if he is attracted only to girls a diagnosis of heterosexual pedophilia may be in order. If gender is not a factor, the appropriate diagnosis is bi-sexual pedophilia.

Some men who are attracted sexually to children desire not to be, and would like to change. Under such circumstances, their sexual attraction to children is said to be ego-dystonic. If a man's sexual attraction towards children does not conflict with his conscience and personal moral convictions, then his pedophilic desires are said to be ego-systonic. In very rare instances, some men experience erotically sadistic desires towards children. Under such circumstances a diagnosis of sexual sadism should also be made.

Following is a brief verbatim quote from a man whose sexual orientation can be characterized as fixated, ego-dystonic, homosexual pedophilic. This man was also found, on chromosomal analysis, to have Klinefelter's Syndrome. Normally persons are erotically attracted to members of the opposite sex. In Klinefelter's Syndrome, in several ways, it is unclear which sex is the opposite sex.[3] Klinefelter's patients manifest a 47 XXY chromosomal karyotype pattern. Thus, genetically, Klinefelter's patients can be thought of either as males (XY) with an extra X chromosome, or as females (XX) with an extra Y chromosome. That some patients with Klinefelter's syndrome experience ambiguity regarding sexual or gender preference at a psychological level is not incongruous with the gender ambiguity manifested at the genetic level. The comments of this homosexual pedophilic Klinefelter's patient give some sense of how tortured and conflicted he feels by the sexual lusts and cravings that he experiences towards young boys.

> "What starts a person like myself doing what I do? Why me? Why can't I be normal like everybody else? You know, did God put this as a punishment or something towards me. I am ashamed. Why can't I just go out and have a good time with girls. I feel empty when a female is present. An older "gay" person would turn me off. I have thought about suicide. I think after this long period of time I have actually seen where I have an illness. It is getting uncontrollable to the point where I can't put up with it anymore. Its a sickness, I know its a sickness, but as far as society is concerned you are a criminal and should be punished. Even if I go to jail for 12 or 15 years, or whatever, I am still going to be the same when I get out."

This last statement was not meant to be defiant.

Etiology of Pedophilic Sexual Desires

How is it that sexual orientation and interests are acquired? It appears that both life experience and constitution play a role. Many years ago, Dr. John Money reported a tragic case in which one of two genetically identical male twins was so severely damaged at the time of circumcision several months after birth that a total penectomy was required. That child was then reared as a girl. The child's chromosomal pattern, of course, remained unchanged and she has now reached her teenaged years. She has developed breasts by virtue of having been administered estrogens and surgically an artificial vagina has been created. According to Diamond, however, she nevertheless experiences considerable difficulty adjusting as a female, and she is in some ways ambivalent about her status.[4] This has led him to conclude that although social forces can indeed play some role in the development of gender identity and sexual orientation, this is so only within the very circumscribed limits set by biological heritage. Still, at age 19 this twin raised as a female apparently feels herself to be a women in terms of gender identity and also experiences at least some level of sexual attraction towards age appropriate males. Thus, although she is a woman with an XY rather than an XX chromosomal karyotype, as a consequence presumably of how she had been raised, she feels herself to be a woman and she finds men to be sexually appealing.

There are many additional examples showing that environment and life experience can play at least some role in the development of gender identity and in the development of sexual orientation and interest. Nicholas Groth and others have shown that many men who experience pedophilic erotic urges as adults were themselves sexually involved with adults when they were children.[2] Why sexual involvements with an adult during childhood seems to put one at risk of experiencing pedophilic sexual urges later on in life is unknown.

Biology, too, can play a role in the development of sexual orientation and interest. In most species of birds, for example, only the male sings. Such songs are ones of courtship, apparently designed to attract females. However, if a female zebra finch is given testosterone at crucial times during early development she too will sing.[5] There are numerous other similiar examples.

In humans, sexual behavior is often a response to subjectively experienced erotic desires and fantasies. Although it appears that specific sexual tastes or preferences may sometimes be modified by virtue of early life experiences, the phenomenon of sexual desire itself is apparently unlearned and rooted deeply in biology. Males do not have to be taught, for example, how to attain an erection. Furthermore, just as is true of language and dialect, once acquired sexual desires are not readily modified. There is no reason to believe that it is any easier for the fixated homosexual pedophile to lose his interest in children and to become sexually aroused by females, than it would be for the average male to lose his interest in women and to instead begin lusting for young boys.

It is just as reasonable to ask whether one might be put at risk of developing unconventional sexual interests such as pedophilia by virtue of

the presence of certain biological abnormalities, as it is reasonable to ask whether one can be put at such risk by being exposed early on in life to certain environmental events. One way of addressing this issue would be to determine whether or not there is an increased prevalence of biological abnormalities of the sort thought to be related to human sexuality, amongst a group of men who experience unconventional sexual interests.

Table 1 shows the frequency of various sorts of biological abnormalities in a group of 41 men, all of whom met the DSM-III diagnostic criteria for some form of paraphilia, ("sexual deviation disorder").[3] The majority of these men were either pedophiles or exhibitionists. As documented in Table 1, and confirmed by statistical analysis, there does appear to be an association between certain kinds of biological abnormalities and the presence of unconventional kinds of sexual interests such as pedophilia.

Recently, as shown in Figure I, Dr. Gary Gaffney of the Johns Hopkins Hospital in a soon to be published study, documented an abnormal pattern of leutinizing hormone (LH) release over time in response to the intravenous administration of a bolus of leutinizing-hormone-releasing-factor (LHRF) in a group of pedophilic patients. The development of new technologies such as positron emission tomography may help document which areas of the brain become metabolically active during sexual arousal.[4] Such techniques may also be able to determine whether the brains of men who experience pedophilic sexual urges differ in regional metabolism from the brains of men who experience more conventional sexual attractions.

Assessing the "Sex Offender": The distinction between (1) diminished mental capacities, (2) personality traits, and (3) sexual orientation

Sexual involvements with children are against the law. Thus, a person may be defined as a "sex offender" by virtue of having behaved in a particular way. Many such men are referred for psychiatric evaluation following legal transgressions. However, a diagnosis such as pedophilia cannot be made simply by considering behavior alone. Rather, for purposes of diagnosis and for proper treatment, the physician must try to appreciate the state of mind which contributed to the individuals behavior.

Like any behavior, sexual behavior with a child can occur for a variety of reasons. For example, a person with schizophrenia may behave in a particular way in response to hallucinations "telling him to do so," whereas the alcoholic's behavior may be a reflection of diminished judgement secondary to intoxication. A mentally retarded individual may become involved sexually with a child (who incidently, may be of the same approximate mental age as he) because of the lack of availability of adult partners and the lack of capacity to fully appreciate and understand the wrongful nature of his actions. In none of these instances would a primary diagnosis of pedophilia necessarily apply.

In DSM-II, conditions such a pedophilia used to be considered sub-categories of a specific personality type (ie; the so-called antisocial personality disorder). DSM-III acknowledges that this is by no means necessarily so. Diagnosing a person as a pedophile says something about

the nature of his sexual desires. It says nothing whatsoever, however, about temperment, or about traits of character such as kindness versus cruelty, caring versus uncaring, sensitive versus insensitive, conscientious versus lacking in conscience, and so on. Thus, a diagnosis of pedophilia does not necessarily mean that a person is lacking in conscience, diminished in cognitive capabilities, or somehow "characterologically flawed." Rather, he may be a concerned person dealing less than successfully with sexual temptations of a sort which are very foreign to most men.

It is easy for a non-smoker to argue that any smoker could stop if he or she really wanted to; in the case of the pregnant smoker, if not for her own sake than surely for the sake of not damaging her unborn child. It is easy for a non-obese person to argue that successful dieting can be accomplished through will power alone. Patients on kidney dialysis made thirsty by the procedure often have great difficulty maintaining necessary fluid restrictions even though not doing so can be life threatening to them.[7] The more thirsty they are made by the procedure, the more difficulty they experience in limiting fluid intake. The researchers who documented this finding concluded that limits to fluid intake set by physicians may not suffice because they differ from those set by the patients own physiology. It is easy however, for a person who is not thirsty to argue that such patients could resist the temptation to consume excessive amounts of fluid if they really wanted to do so. Similarly, it is easy for a person who is not tempted sexually by children to argue that any pedophile could stop having sex with children if he really wanted to, and would simply make up his mind to do so. When it comes to appetites, or drives, such as hunger, thirst, pain, the need for sleep, or sex, however, biological regulatory systems may exist that can cause an individual to experience desires to satisfy those hungers in ways that cannot invariably be successfully resisted by "will-power" alone. Persons can become so discomforted by cravings related to such appetites that they feel compelled to act in ways that diminish their discomfort. Thus, in each of the above instances, professional assistance is often required.

Professional assistance may be extremely crucial in the case of the pedophile because it is imperative that he stop his prior behavioral patterns immediately, one hundred percent of the time, and forever. Though necessary, this can nevertheless be a very formidable goal to have to achieve. It is a goal made possibly even more difficult if the individual in question does not believe that sexual involvements with children are morally wrong (ie; if he finds his pedophilic desires to be ego-syntonic). It may also be more difficult to achieve, if in addition to desiring sex with children, the individual in question is one for whom the children in his life form the sole basis for love, affection, companionship, intimacy and other deeply rooted human needs.

When a person falls deeply in love with another person, be it a child or an adult, it becomes easy for that person to convince himself that the relationship is good and healthy and not harmful or wrong. One of the major issues in trying to understand human behavior relates to where the line should be drawn between considering a person to be the passive product of life experience and constitution versus considering him by virtue of his

having subjective consciousness to be an active agent capable of transcending prior determinants. Most of us feel a strong emotional bond with children. Why some men experience intense erotic feelings in the context of their otherwise healthy relationships with children, in a way that is not so for most men, and why in the absence of professional assistance it is so difficult for some such men to change is not fully understood.

Treatment of Pedophilia

Four major modalities have been proposed for the treatment of pedophilia. They are psychotherapy, behavior therapy, surgery and medication. Classical psychodynamic theory assumes that all men would ordinarily develop conventional erotic attractions towards age appropriate partners of the opposite sex, but that this does not occur in some instances because unhealthy early life experiences interfere with the normal process of psychological maturation. Therapy utilizes the process of introspection to try to figure out what went wrong, with the expectation that newly acquired insights will then facilitate the problem being rectified.

It is doubtful that persons can come to fully understand the basis of their own sexual interests through the process of introspection alone. The average man probably cannot figure out simply by thinking about it, why he prefers women rather than men. Similarly, it is not certain that the pedophile can figure out the basis of his own sexuality. Furthermore, even if he could, knowing why one is hungry, be it for food or for children, doesn't make one any less hungry. Nor does it make it any easier for one to resist the temptations experienced by virtue of one's own appetites. Finally, there is little convincing evidence showing that the traditional psychotherapies alone are an invariably effective means for treating pedophilia.

Behavior therapies tend to be less concerned with the historical anticedents of pedophilia than with the question of what can be done about it. The feature common to most behavioral approaches is an attempt to extinguish erotic feelings associated with children, while simultaneously teaching an individual to become sexually aroused by formerly non-arousing age appropriate partners. Although in laboratory situations behaviorists have shown that some pedophilic men no longer demonstrate physiological evidence of sexual arousal when looking at pictures of naked children, and that they can begin to show arousal to age appropriate stimuli, it has not been well established that such changes invariably carry over into the non-laboratory situation. Most of us can appreciate how difficult it would be to try to stop feeling the sexual attractions that we have experienced as natural throughout our lives.

Two types of surgery have been proposed as a treatment for pedophilia, (1) stereotactic neurosurgery and (2) removal of the testes. Neurosurgery for this purpose is still investigational and will not be discussed here, but its rationale has been explored in an excellent review article by Dr. Kurt Freund.[8]

Removal of the testes (castration) has been suggested as a treatment for pedophilia because the testes are the major source of testosterone production in the body. There has been much confusion about castration, a procedure which does not remove the male genitals, but which instead is simply intended to lower testosterone. Lowering testosterone is one way of lowering sexual libido. The idea of lowering testosterone in the case of the pedophile is to try to decrease the intensity of his sexual cravings for children. Some critics have argued that castrating the "sex offender" is like cutting off the hand of the thief. This is in no way so. Cutting off the penis would be analogous to cutting off the hand of the thief. Removal of the testes lowers testosterone, which in turn can lower the intensity of consciously experienced erotic desires. In human beings such desires constitute a motivating basis for sexual behavior.

Testosterone is an extremely powerful hormone. If the testes of a male fail to produce adequate amounts in early embryonic life he will be born with the external anatomical appearance of a female. Thus, testosterone causes external anatomical masculinization of the fetus and also produces certain changes in the endocrinological functioning of the male brain. The marked increase in testosterone level which occurs at the time of puberty in males is associated with the development of increased pubic and facial hair, deepening of the voice, an increase of muscle mass, and a marked increase in sexual libido.

In animals, lowering testosterone by means of removing the testes usually eventually leads to total cessation of virtually all sexual behavior, although sometimes this may take as long as two years to occur.[8] In humans, the relationship between very low testosterone levels and low sexual libido is fairly well established. This evidence comes from a variety of sources including studies on hypogonadal men, data from persons with adreno-genital disorders, studies on drugs which lower testosterone as a side effect, and from several well controlled studies looking at the effects of administering testosterone in an attempt to increase sexual libido.[9-11]

In an article entitled, "Therapeutic Sex Drive Reduction" Dr. Kurt Freund reviewed data regarding removal of the testes in humans as a method of lowering testosterone.[8] Several studies with long followup periods from a variety of European and Scandinavian countries documented that lowering testosterone in this way did indeed frequently lower both sexual libido, and subsequent frequencies of improper sexual activities. In one study in Denmark, for example, Sturup reported upon a 30 year investigation on 900 castrated "sex offenders" involving over 4,000 followup examinations documenting less than a 3% recidivism rate.[12] Ficher Van Rossum, in Holland, Kinmark and Oster in Sweden and Cornu in Switzerland reported comparable findings, as did several other investigators.[13-15] The study in Holland involved 237 men with a 1.3% recidivism rate. The Swedish studies with similarly low recidivism rates, evaluated 307 men. In the Swiss study there was a 5.8% recidivism rate among 121 men following castration contrasted with 52% recidivism in the non-castrated control group. Followups ranged from 5 to 30 years. Bremer reported a 58% recidivism rate in the 5 years prior to treatment in a group of men who showed only a 7.3% recidivism rate during the 5 years post-surgery.[16] Thus the surgical

method of lowering testosterone did seem to enable many men to better control their sexual behaviors. Furthermore, many of these men did not lose the capacity to perform sexually following castration. Perhaps this finding seems somewhat less surprising if one considers the analogy of suppressing hunger. In being less hungry a person may feel less driven to seek out food, thereby making dieting easier, but under such circumstances he would not lose the ability to eat.

Today it is no longer necessary to perform castration in order to reduce testosterone levels. Rather, this can now be done pharmacologically in a graduated way without the physical or psychological trauma of surgery. In Europe and the Scandinavian countries cyproterone acetate has been used for this purpose and there are several "blind" as well as non-blind studies supporting its effectiveness.[17,18] In the United States, since Dr. John Money first began doing so in 1967 the drug most often employed as a pharmacological method for lowering testerone has been medroxyprogesterone acetate (Depo-Provera).[19-23]

Depo-Provera can be injected intramuscularly once per week. There it binds to the muscle from which it is then gradually released over the course of several days into the blood stream. At this time the initial starting dosage used in the Hopkins clinic has been 500 mgs IM once per week of the 100 mg per cc concentration. No more than 250 cc is given into a single injection site. Major side effects have been weight gain and in some cases hypertension. The drug, which is not feminizing, may cause an increased incidence of breast cancer in female beagle dogs, and of uterine cancer in monkeys. It has been used in over 80 countries of the world as a female contraceptive; supported in its use for this purpose by the World Health Organization. No studies showing an increased risk of cancer in males (either humans or animals) have been reported.

There is no doubt that Depo-Provera consistently decreases serum testosterone levels significantly. This can be confirmed by means of a simple blood test. Lowering testosterone can in turn lower sexual libido, which in turn seems to enable some men to more appropriately control their sexual behaviors. The idea of using Depo-Provera in the case of the pedophile is to try to decrease the intensity of his sexual cravings, thereby hopefully making it easier for him to successfully resist unwanted temptations.

Most pedophiles receiving Depo-Provera also attend group counseling sessions similiar to the type often used with alcoholics. That is, men are expected to acknowledge being tempted to something that they realize they must not do. They then discuss amongst themselves strategies intended to help enable them to resist such temptations successfully (ie; whom to call, what situations to avoid, early warning signs, and so on). The medication is intended to make resisting such temptations somewhat easier.

What is not yet fully established regarding the use of Depo-Provera is optimal dosage, which of the paraphilias will respond most adequately, long term side effects, compliance rates, and precise long term recidivism percentages. There is little reason to believe, however, that recidivism rates should be any higher than those low rates documented when surgical

removal of the testes was used as a method for lowering testosterone. It is not clear why in some cases Depo-Provera fails to be of help. Like any effective medication, Depo-Provera seems to help some men, fails to help some for whom it had been considered appropriate, and for others should not even be considered appropriate in the first place.

Of over 130 men treated at Hopkins over the past year for some form of paraphilia (mostly pedophilia and exhibitionism) less than 5% have relapsed. In addition, compliance rates have been better than 90%. There has been some concern about whether Depo-Provera should be given to men who are on legal probation. If it is not an effective drug then it should not be used at all. If it is effective as it often seems to be, then it is difficult to see why a person should be denied the opportunity to take it just because he is on probation, or perhaps even incarcerated. Some incarcerated men report that Depo-Provera frees them from intrusive obsessional sexual preoccupations.

It appears then that Depo-Provera can be used to help some men help themselves. Some pedophiles report being unable to successfully resist sexual temptations through "will-power" alone even with the assistance of professional counseling. Such individuals should be afforded the opportunity to see whether or not Depo-Provera confers upon them an increased capacity for self control, thereby enabling their behavior to be more a reflection of their intellectual desires and conscience than of their lusts and passions.

Some critics have argued that psychotrophic drugs such as Depo-Provera may in some way be "mind controlling". No drugs used in psychiatry are capable of "mind control" in the sense of being able to transform a conservative into a liberal, a Democrat into a Republican, a Jewish person into a Catholic, and so on. The only medical indications for which psychotrophic drugs are used is (a) to decrease suffering (as in the case of antidepressant medications), (b) to restore function (as in the case of "antipsychotic medications"), or (c) to increase, rather than decrease, a persons capacity to successfully exercise self-control (as in the case of Depo-Provera).[24]

Pedophilia refers to a particular type of sexual orientation. By virtue of experiencing such desires, desires that many pedophiles wish they did not have, professional assistance is often needed. When such men seek help, understanding, empathy, and professional competence is required, not stigmatization or unenlightened scorn.

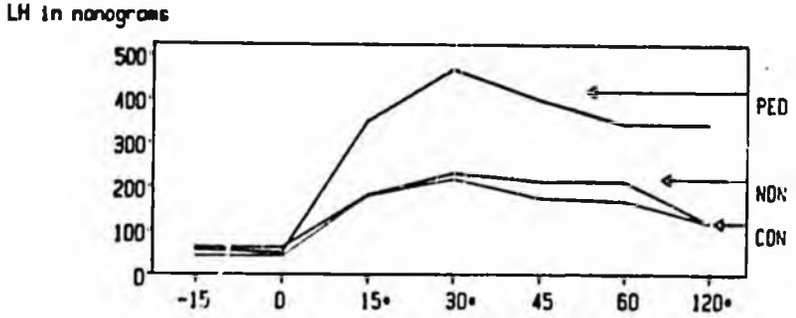
Table 1

Biological abnormalities in a group of 41 Consecutively Assessed Paraphilic Male Patients

	Abnormality	*Number of Patients Showing this type of abnormality
1.	Chromosomal Anomalies	7 (most common = XXY)
2.	Hormone Abnormalities	
	A. Testosterone	18 (4 low) (14 high)
	B. FSH	8 (high)
	C. LH	14 (2 low) (12 high)
3.	Abnormality of Brain Structure (on CT Scan)	7
4.	Abnormal Electrical Activity of Brain (on EEG)	4
5.	Abnormal Neurological Examination	5
		N = 63
6.	"NC" Abnormalities Detected (excludes dyslexia, schizophrenia, and learning disorders)	

*Some patients had more than one type of abnormality.

LH RESPONSE TO LH-RH IN PEDOPHILIA



PED: Pedophilic (7)
NON: Non-pedophilic paraphilic (5)
CON: Control (5)

100 mcg. LH-RH given at Time = 0

*p < 0.05 H-test

Figure 1. Abnormal release of leutenizing hormone (LH) over time in response to the intraveneous injection of a bolus of 100 micrograms of leutenizing hormone releasing factor (LHRF) in a group of 7 male pedophilic patients. The control groups consisted of (a) 5 men with conventional sexual interests, and (b) 5 men with unconventional sexual interests (paraphilias) other than pedophilia. LHRF was injected at time zero.

* = statistically significant at the .05 level

Ped = pedophiliacs

Non = nonpedophilic paraphilics

Con = conventional sexual interests

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Psychiatric Clinics at The Johns Hopkins Hospital

Larry E. Tune, editor

Sexual Deviation Syndromes

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CASE PRESENTATION (VOYEURISM)*

The patient, a white man in his early forties, entered hospital in the fall of 1980 to begin treatment for voyeurism. Although he had experienced the urge to spy upon naked or partially clad women as early as age 6, it was not until his late teens that this interest became a consuming preoccupation. Since his late teens, he had spent as many as five or six evenings a week "peeping" through windows at women disrobing, usually masturbating himself while doing so. Never desiring further contact with any of them, he never attempted entry into a home, nor had he wished to be observed while watching.

The patient found voyeurism more erotically arousing than sexual intercourse with a consenting partner. Voyeuristic urges were with him much of the time, and he reported frequently having to make an effort to inhibit erection when in the presence of an attractive female.

Voyeurism, usually performed alone, but occasionally with a group of other men, caused him numerous problems over the years. While in college, the amount of time consumed "peeping" caused decreased academic performance, and similar activities during his second term in the Navy led to a less than honorable discharge.

His first wife committed suicide, possibly in part as a response to discovery of his sexual predilections. His second wife obtained a legal separation after discovering that he had been masturbating while watching his daughter sleeping, a behavior that troubled him a great deal afterwards, once his sexual desires had been relieved by orgasm. Although arrested twice for voyeurism, once in 1967 and again in 1976, he had never broken the law in any other way; he is responsibly employed; and he is otherwise a pleasant and conscientious person. A devout man of above average intelligence, he had often prayed for "divine inspiration to help solve his problem." In spite of compulsory court-ordered psychotherapy following each of his arrests, he continued experiencing voyeuristic urges until hospitalization. Upset about the recent separation from his wife, the patient had referred himself for hospitalization. He had not been apprehended recently and was facing no legal charges at the time of admission.

Family history was unremarkable except that his father was 69 years old when the patient was born, and during childhood the patient had been separated from his mother for five years after she contracted tuberculosis. Physical examination was essentially normal, but his luteinizing hormone (LH) level was 98 ng/ml (normal, 36–64).

While still hospitalized the patient began treatment with weekly intramuscular injections of 500 mg of medroxyprogesterone acetate, which suppressed his serum testosterone to below normal levels. For the last seven months he has continued weekly injections on an outpatient basis. Since the third week of treatment he has been reporting relief from incessant voyeuristic urges and thoughts, along with cessation of related behaviors. He and his wife have reunited, and he has been speaking to church groups and other interested organizations about his apparent success in treatment.

* Case discussed at Psychiatric Grand Rounds, February 2, 1981.

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DISCUSSION

According to the Diagnostic and Statistical Manual of Mental Disorders (DSM III), voyeurism involves the repetitive seeking out of situations in which an individual observes unsuspecting women who are either naked, in the act of disrobing, or engaging in sexual activity (1). The act of looking ("peeping") is accompanied by sexual excitement, frequently with orgasm, usually produced concurrently by masturbation, or later in response to the memory of what was witnessed. Further sexual contact does not occur, with the memory or act of looking, rather than intercourse, constituting the final basis for sexual gratification.

Approximately 25% of known voyeurs are married, dramatizing the desire of these men to spy upon women who do not know they are being observed. Although voyeuristic behavior usually begins around puberty, related fantasies may be experienced much earlier. Untreated, the behavior is ordinarily chronic, which is not surprising since it is sexually motivated, and the sex drive does not cease. Factors predisposing to development of voyeurism are unknown, with associated complications usually resulting from discovery or arrest. The prevalence of voyeurism in the general population has not been ascertained, but thus far it has been reported only in men. Visual stimulation can be an integral part of conventional sexual activity, but in those instances optimal sexual arousal does not require that the observed partner be unsuspecting, nor is observing the final desired act.

Rationale for Treatment

Voyeurism is classified as one of the paraphilias (sexual deviation disorders). Other paraphilias include pedophilia (sexual craving for children), exhibitionism, transvestism (cross dressing for erotic pleasure), zoophilia (sexual attraction towards animals), erotic masochism, and raptophilia (paraphilic, or compulsive, rape). Behaviors engaged in by persons manifesting one of these syndromes can bring them into conflict with the law, raising the issue of whether punishment or treatment is more appropriate. In considering the possibility of treatment one must try to determine whether the behavior in question was an expression of a recognizable and treatable psychiatric syndrome (2). Not all sex offenses (a legal term) are committed by persons manifesting a sexual deviation disorder, or paraphilia (a medical term). Sex offenses can be committed for a variety of reasons depending upon the state of mind that led the offender to act.

Some sex offenders may be treatable even when their behavior is not the manifestation of a sexual deviation disorder, but rather the reflection of another psychiatric condition. For example, rape could be perpetrated by a deluded person out of touch with reality, responding to the auditory hallucinations of schizophrenia. In this case, phenothiazine medication might be helpful, whereas lithium carbonate might aid the person responding in a sexually inappropriate manner to the heightened erotic appetite of mania. Treatment with antabuse and counseling might benefit the alcoholic who becomes sexually disinhibited when intoxicated, and education might be useful to the mentally retarded individual who must learn to express his sexual urges appropriately.

In contrast to the examples just cited, some sexual offenses are enacted as a response to intense and persistent unconventional sexual cravings, that is, secondary to a sexual deviation disorder. Most men with conventional heterosexual interests have no desire for erotic intimacy with a seven-year-old boy (as does the homosexual pedophile), or to expose themselves repeatedly on a street corner (as does the exhibitionist). In addition, few men experience an overwhelming desire to peek in windows—a desire sufficiently intense to lead to repeated risk to job, reputation, family, and possibly encarceration. Thus, the belief that exhibitionists, paraphilic rapists, pedophiles, or voyeurs are simply "normal, self-indulgent men" with conventional sexual interests, men who are merely misbehaving (requiring punishment rather than treatment) seems incorrect, as well as rehabilitatively ineffectual.

Diagnosis

Diagnosis of a sexual deviation syndrome can be made by examining a person's thoughts, feelings, and behavior. Persons with sexual deviation syndromes such as pedophilia or voyeurism experience repeated persistent fantasies about unconventional sexual activities. The homosexual pedophile (often impotent with women), repeatedly fantasizes about young boys, whereas the voyeur is preoccupied with thoughts of "peeping." Asking an individual about his masturbatory fantasies can give a clue regarding his sexual interests, because erotic arousal and erection for the purpose of masturbation may be difficult in the absence of sexually stimulating mental imagery.

Accompanying the unconventional sexual fantasies experienced by persons with sexual deviations are intense erotic cravings. These cravings lead to a discomforting feeling when frustrated; a discomfort which can be relieved temporarily if deviant fantasies are enacted. Thus, the temptation to act can become difficult to resist. If a person experiences a strong desire to engage in illegal sexual involvements, there is considerable risk he may get into trouble repeatedly because his unconventional sexual drive keeps reoccurring. The paraphilic rapist who craves coercive sexual activities may repeatedly rape in spite of incarceration because punishment does little to reduce his intense unconventional sexual drive. Although many men can become sexually aroused by descriptions or scenes of coercive sexual acts, most do not have the constant ruminations that characterize a craving, and most do not have to resist repeatedly the temptation to rape in order to stay out of trouble. Groth reported that although about 25% of child molesters re-

ferred to his clinic were "first offenders" according to the law, first conviction rarely constituted the first such incident in the offender's life (3).

Rape, sexual involvement with children, public exposure of genitals, and "peeping" are behaviors, and in and of themselves do not allow one to make the diagnosis of a sexual deviation syndrome. Men with conventional sexual desires, for instance, may occasionally look through a window at a partially clad woman; an occasional incident of this sort does not make one a voyeur. However, when such behaviors are a reflection of ongoing sexual preoccupations and cravings to act repeatedly in those ways, a diagnosis of paraphilia can be made. Karl Jaspers described deviant sexual cravings as intolerable states, similar to addictions, that demand action in order to be alleviated (4).

Individual paraphilic syndromes tend to be relatively stable, just as is conventional heterosexuality. Voyeurs do not become transformed into pedophiles, transvestites or exhibitionists. Sexual behavior seems to be a relatively stereotyped response to one's erotic interests, and these appear to be relatively stable throughout an individual's adulthood.

Types of Treatment

Conventional heterosexuality can be conceptualized as a syndrome, comprising erotic thoughts, feelings, and associated behaviors, just as is exhibitionism or voyeurism. Thus, use of the term "treatment" involves making a value judgment. Some (e.g., NAMBLR—The National Association for Man-Boy Love Relationships) have argued that sexual involvement with children causes no harm, and should not be considered sick or bad. Most persons in our culture disagree. Those who do use the term "treatment" feel that it should become a consideration when one's sexual behaviors compromise the rights of well-being of others. Four general types of treatment have been proposed: psychotherapy, behavior therapy, surgery and medication.

Psychodynamic therapies usually assume that sexually deviant behaviors are the result of unconscious conflicts, and that "uncovering" these conflicts allows a person to better understand himself. However, it seems doubtful whether persons can really come to fully understand the basis of their own sexual interests. Eicher, for example, discovered that feelings of gender identity may be related to the presence or absence of H-Y antigen (5). In addition, understanding the etiology of one's sexual urges doesn't necessarily change them. There is little evidence that traditional psychotherapies are consistently effective in treating paraphilic syndromes.

Behavior therapies are less concerned with the historical antecedents of unconventional sexual behaviors than with the question of what can be done about them. A variety of techniques have been attempted. A common feature involves efforts to diminish the appeal of previously erotic deviant stimuli (such as children), while at the same time teaching an individual to become sexually aroused by a more appropriate partner, or sexually satisfied in a more appropriate way. This is clearly a formidable task, analogous to trying to teach a man with conventional heterosexual interests to become erotically attracted to boys. Most of the literature on behavioral treatment of sexual deviation consists of anecdotal case reports without proper controls. However, Marks was able to document good results at two-year follow-up with behavioral treatment of transvestites (men who dress in women's clothing for erotic pleasure), but he obtained poor results using the very same behavioral technique with transsexuals (men who feel themselves to be women trapped in the body of the wrong sex) (6). A recent review by Blair and Lanyon suggests that exhibitionism may sometimes respond well to a behavioral approach (7).

Two types of surgery, neurosurgery and orchidectomy, have been used to treat paraphiliacs, often when violent physical assault has been a significant component of the sexual syndrome. A recent article by Freund reviewed the literature dealing with the effects of such surgery on animals and humans (8). For humans undergoing neurosurgery to try to decrease deviant sexual desires the population size is too small to allow generalization of results, but in animals specific brain areas seem to be important contributors to sexual behavior. While castration is an unacceptable form of treatment in the United States, its use as an option to incarceration in other countries dramatically decreased the recidivism rate of deviant sexual acts (though not to zero), sometimes without causing total impotence (9).

Two medications used to treat sexual deviations are cyproterone acetate, which is unavailable in this country, and medroxyprogesterone acetate. Both decrease levels of serum testosterone. The intent is to try to decrease the intensity and frequency of sexual fantasies and preoccupations, making self-control easier. Neither drug acts specifically on deviant urges, but rather each appears to be a suppressant of sexual desire in general. Counseling is ordinarily given in conjunction with medication to help the patient cope with difficulties resulting from his deviant sexual needs.

Associated Biological and Characterological Pathologies: Questions of Etiology

Goy and McEwen, at a conference at The Massachusetts Institute of Technology, suggested that biological factors may contribute more than previously recognized to human sexual behavior (11). Recently, an entire issue of *Science* (Vol. 211, No 4488) addressed this topic, as well as related issues. Biological factors in animals significantly influence sexually related activities. In some species of birds, normally only males sing, but if a female zebra finch that has been administered estradiol while just an embryo is given androgen hormones as an adult, she will do so also, and will have an increased number of cells in the nucleus robustus archistraitalis and other brain areas (12). She will also display distinctly male courtship behavior. Adult female rats who were exposed to testosterone at a specific time *in utero* will show sexual mounting behavior that normally predominates in male rats (13). In humans, there is evidence that some women initiate sexual activity most often during the ovulatory period of the menstrual cycle (14). Because sexual behavior is so intimately related to biology and species preservation, as well as to psychological and experiential factors, it is reasonable to look for organic pathologies in men experiencing unconventional sexual cravings.

Table 1 lists associated pathologies found in a group of 22 consecutively assessed paraphilic patients. Most were referred to Hopkins by their attorneys, or by the courts, though a few were self-referred. Eighteen of the twenty-two evidenced a variety of abnormalities that included structural brain damage, elevated testosterone levels, genetic anomalies, seizure disorders, and pituitary hormone dysfunctions. As a safeguard against selection bias, appropriate control group data are needed for comparison purposes, especially regarding the variance of testosterone levels in "normal" men. "Normal" laboratory values of testosterone are based on small sample sizes, and conceivably could be in error. However, it is clear that many sex offenders seen here at Hopkins have evidenced significant organic pathology. This finding makes plausible the hypothesis that biological vulnerabilities in some individuals may predispose them to develop unconventional sexual desires (15). As the data presented are preliminary this is only a hypothesis, and further research is planned.

Factors contributing to the development of normal, as well as unconventional, sexual desires are poorly understood. In addition to the possible role of biogenic elements, there is evidence that particular sorts of early life experiences (e.g., being a victim of child abuse), may also sometimes be relevant (16). Many pedophiles have been sexually molested themselves as children (3).

Expression of sexual desire can be influenced by many aspects of a person's character. Thus, whether a pedophile is physically assaultive toward children may depend not only upon his sexual feelings, but also upon whether he is assaultive in general. There is no evidence that persons with deviant sexual cravings are more assaultive (except for paraphilic sadists and rapists) than persons with more conventional orientations. A study in Detroit of over 1,252 sex offenses against children, for

TABLE 1

Associated Findings in 22 Consecutively Referred Male Patients with Sexual Disorders

Patient	Diagnosis	Associated Findings	
1	Exhibitionism	Elevated testosterone: 912 ng/ml	History of head injury in auto accident, grand mal seizures
2	Homosexual pedophilia	905 ng/ml	
3	Heterosexual pedophilia	1263 ng/ml	Mild ventriculomegaly. Cortical atrophy most pronounced in area of right sylvian fissure. 24 hour urine pregnanetriol = 3.1 ng
4	Raptophilia	916 ng/ml	Grand mal seizures
5	Homosexual pedophilia	1230 ng/ml	
6	Hypersexuality	880 ng/ml	Family history of adrenogenital syndrome
7	Voyeurism	Elevated LH: 98 ng/ml	
8	Homosexual pedophilia	77 ng/ml	Generalized muscular hypotonia
9	Homosexual pedophilia	Cortical atrophy (on CAT scan, secondary to auto accident)	Grand mal seizures, recurrent slow delta wave and sharp activity over frontal anterior region (more pronounced on right)
10	Hypersexuality		Cortical blindness, mild mental retardation
11	Homosexual pedophilia		Cortical blindness
12	Heterosexual pedophilia		Visual spatial defects. Right sided partial hemiparesis of upper extremity with spasm
13	Homosexual pedophilia	Dyslexia	
14	Homosexual pedophilia	Dyslexia	Childhood lisp requiring speech therapy
15	Homosexual pedophilia	Childhood learning disorder	Strabismus
16	Homosexual pedophilia	Kleinfelter's syndrome	90% mosaic (previously undiagnosed). Elevated FSH and LH
17	Sexual sadism	Basal ganglion dysfunction	Oculomotor abnormality. Gait disturbance
18	Homosexual pedophilia	Schizophrenia	
19	Homosexual pedophilia	No abnormalities detected	
20	Voyeurism		
21	Voyeurism		
22	Homosexual pedophilia		

Testosterone was considered elevated if blood levels were more than 2 standard deviations above the mean (mean = 575 ± 15[illegible] SD). Ordinarily 2.5% of men would be expected to have such an elevation. In this sample 27% (6 of 22) had elevations. Normal 24 hour urine pregnanetriol = <2.5 ng

example, found that the great majority did not result in physical injury (3). Although outdated psychiatric classification schemes listed sexual deviation as a form of sociopathy, persons with unconventional sexual desires may show no other evidence of antisocial character traits.

Pharmacological Treatment With Medroxyprogesterone Acetate

Medroxyprogesterone acetate can be injected intramuscularly, usually weekly, frequently at an initial dosage of 500 mg. It is then slowly absorbed into the blood stream and carried to receptor sites, reducing circulating levels of testosterone by decreasing testicular output. It does not appear to affect testosterone production by the adrenal gland, but does prevent the compensatory elevation of follicle-stimulating hormone (FSH) and LH ordinarily expected as a response to decreased testicular output. Dosage can be titrated to obviate total impotence, and the medication is not feminizing. Major side effects are weight gain and mild lethargy, but cold sweats, nightmares, myalgia, dyspnea, hyperglycemia, azospermia, hypertension, and breast cancer (in dogs) have all been reported. Most effects seem fully reversible when medication is discontinued, although long-term follow-up in excess of ten years has not yet been possible. The 100 mg/ml concentration has greater bioavailability and is less painful than the 400 mg/ml solution. No more than 250 mg should be administered into a single injection site.

A number of carefully documented studies conducted by Dr. John Money suggest that administration of this drug decreases the frequency of erotic imagery and the intensity of erotic cravings, as well as the frequency of erection and masturbation (17). Following treatment, a number of paraphilic patients have stopped deviant behavior entirely, reporting relief from pressure to enact troublesome sexual urges, while still maintaining the capacity for intercourse.

Table II summarizes changes in sexual behavior in 20 chronic paraphilic patients treated with medroxyprogesterone acetate. These data suggest that the drug can be helpful in a high proportion of cases, provided the patient is compliant in taking it. Compliance may depend partially upon the nature and intensity of the deviant cravings themselves, and also upon other aspects of a person's character and behavior such as his tendency to abuse alcohol, his capacity to form affectionate relationships, his temperament, and his attitude about treatment. Certain syndromes such as pedophilia may be more or less difficult to treat than others such as exhibitionism.

When patients stop taking the medication, their hunger for deviant sexual activities seems to return, putting them at risk of again engaging in behaviors which satisfy that hunger. Thus, the treatment seems to work by suppressing sexual appetite, rather than by acting as a temporary catalyst until psychological counseling can become effective. Although psychological counseling may not diminish erotic cravings, some patients report that it does help them in their efforts to establish a more appropriate sexual pattern. Brief psychiatric hospitalization for three or four weeks at the beginning of treatment may aid subsequent compliance.

Future Research

Medroxyprogesterone acetate has not yet been subjected to a double-blind clinical trial. This should be done, possibly using intramuscular injections of fluphenazine decanoate (a medication with similar side effects that does not reduce testosterone) as a pharmacologically active control. This should provide additional information regarding the effects of testosterone levels upon sexual feelings and thoughts.

Further advances toward understanding the relationship between biology and sexual experience should come about as a result of development of the position emission scanner (PET scanner). Rather than showing brain structure, this device provides a picture which varies in color depending upon the rate of metabolic activity in various brain areas. It will be informative to learn what regions of the brain are metabolically active during sexual arousal; whether these areas differ in persons experiencing unconventional sexual desires; and what the effects of treatment with medroxyprogesterone acetate are upon brain activity.

Only by learning more about what motivates "sex offenders" will it be possible to find out how to prevent voyeurism and other improper sexual acts. Present approaches, including incarceration, have not proven helpful, and it is important to meet the need that exists within the community to deal effectively with these kinds of problems. It is hoped that the Hopkins program for studying and treating these conditions will continue to prove useful. Treating such patients can present difficulties because of stigma and prejudice sometimes directed toward persons and institutions doing so, but it is clear that many of these people, such as the patient under discussion, legitimately need and deserve help. More than 50 centers in the United States treat such patients (18).

Medicolegal Issues

The topic of sexual deviation and its treatment raises a number of medicolegal and ethical concerns. In a recent editorial in *The American Journal of Psychiatry* Seymour Halleck questioned whether a person facing incarceration can provide truly voluntary consent to receive treatment, knowing that refusal will lead to imprisonment (19). Admittedly, such decisions can be difficult. However, a person does not lose the capacity to choose just because a decision is difficult. Cancer patients sometimes have to choose between taking unpleasant chemical agents or dying. Furthermore, there is legal precedent for requiring individuals to take medication (e.g., measles vaccine), when not doing so threatens the well-being of others. Were persons incarcerated, or facing incarceration, to be denied access to antiandrogenic medications, based upon the idea that they are incapable

TABLE II

Changes in Sexually Deviant Behaviors in 20 Chronic Paraphilic Male Patients Treated With Medroxyprogesterone Acetate*

Patient	Diagnosis	Average frequency of sexually deviant behaviors before treatment†	Length of drug treatment‡	Occurrence of Deviant Behaviors	
				During treatment	After treatment
1	Homosexual pedophilia	once/week	5 years, 9 months	None	No relapse
2	Homosexual pedophilia	twice/month 1 known arrest	1 year	None	Relapsed
3	Heterosexual exhibitionism	2 times/week	10 months	None	Relapsed
4	Homosexual masochism	4 times/week	3 months	None	Relapsed
5	Bisexual pedophilia	2 times/week	3 months	None	Relapsed
6	Transvestism homosexual incest	7 times/week 2 known incidents	1 year, 4 months	None	Relapsed
7	Heterosexual sadism	once every 2 weeks for 25 years	3 years, 3 months	None	Still in treatment
8	Homosexual pedophilia	2 times/week 6 arrests in 6 years	10 months	None	Relapsed
9	Homosexual pedophilia	Once every 2 months 4 arrests in 6 years	2 years	None	Still in treatment
10	Homosexual pedophilia	once/week 14 arrests in 29 years	3 years, 9 months	Relapsed	Treatment continue
11	Homosexual pedophilia	2 times/week 7 known arrests	4 years, 2 months	None	Still in treatment
12	Voyeurism heterosexual pedophilia	2 times/week (pedophilia) 5–8 arrests	5 years, 3 months	None	Relapsed
13	Homosexual pedophilia	2 times/week since age 10	5 years, 9 months	None	No relapse
14	Homosexual pedophilia	once/month numerous arrests, 4 convictions, 4 parole violations	3 years, 8 months	Relapsed	Treatment continue
15	Homosexual pedophilia, exhibitionism	probably several incidents/year	3 years, 9 months	None	No relapse
16	Homosexual pedophilia	once/week	1 year, 1 month	None	Relapsed
17	Heterosexual voyeurism	once/month	1 year	Relapsed (while intoxicated)	Treatment continue (in prison)
18	Heterosexual exhibitionism	5 times/day since age 11 numerous arrests	2 years, 2 months	None	Relapsed
19	Heterosexual exhibitionism	2 times/week	2 years, 1 month	None	Relapsed
20	Heterosexual exhibitionism	4 times/week binges of 20/day	2 years, 3 months	None	Still in treatment

Adapted from Reference 10

* Deviant behavior was considered to have occurred if the patient was accused of having it, or admitted to it, even if it did not come to the attention of the law

† Based on institutional records and patients' statements

‡ Patients who stopped medication did so against advice, except in the cases of patients 13 and 15

of voluntary consent, it is likely that civil libertarians would protest. It can be argued that administering medication to a willing convicted person (even as part of an investigative study, provided it may directly benefit him) is very different from using him to study the effects of a drug (e.g., rabies vaccine) unrelated to his potential benefit.

Another medicolegal issue raised in considering the matter of sexual deviation relates to the concept of "free will," a concept whose meaning has been pondered by philosophers for centuries. Society, through its laws, needs to hold individuals accountable for their own behavior. Some persons are able to control their sexual behavior without help, but persons are likely to differ in the intensity and quality of their erotic desires. Many paraphilic men, prior to treatment with medication, report that their desires are so intense that they are unable to resist temptation successfully. Many of the same men report that their desires become sufficiently diminished while taking medication that they are able to stop deviant activity (and they do). Some state that while taking medication they feel for the first time that they have a choice about whether or not to act. There are other psychiatric syndromes as well (e.g., compulsive handwashing) in which, prior to treatment, persons seem to lack the capacity to stop certain behaviors on their own. Such data clearly present difficult legal and ethical dilemmas.

The psychiatric literature is sometimes misleading to guiding the law about the topic of sexual deviation. Many psychiatric texts, for example, state that rape

not a sexually motivated crime, but rather an act of anger and hostility directed toward women. While it is true that some rapists have hostile motives, and that some suffer from sexual dysfunctions such as premature ejaculation, the motivation to rape can be sexual rather than hostile. Furthermore, to argue that rape is not at least partially a sexually motivated act makes little sense when a man has obtained an erection and forces intercourse. The following verbatim excerpts from letters written by a convicted paraphilic rapist document that rape is sometimes very much a sexually motivated act (which is not to suggest that rape is nonassaultive).

> Sir, I am 32 years old and in the penitentiary for several rapes. All my life I've felt I wasn't normal ... being the sex maniac I've been ... messed up in sexual thought and behavior for God only knows how long. Since I was 4 or 5 years old, sex has been 90% of my thoughts. After I was married I would have sex with my wife every night, then I would go masturbate. Sex was all I could think of. The rapes started when I [saw] a naked woman through a window. Since that time it's been 8 or 10, maybe more. The only way to stop the thoughts was to have sex or ejaculate. Sometimes I masturbated. After (each rape) I felt ashamed. I tried to stop and could for a month or longer, but ended up doing it again. It was as if I was being driven. I know it [doesn't] sound true or logical, but at a certain point, I could not control myself. The important thing to me now is getting relief from sexual thoughts. My wife said I could have come to her with this. How could I tell a woman I have something this bad? She never denied me sex. When I was arrested, I was so glad it was finally over. The only things against the law I've ever done is because of sex. I don't like to hurt people. Some people have told me I'm just a dirty person, and I did those things because I wanted to and enjoyed it. This is not true. Maybe I did want to in a way, subconsciously or something. But I did not enjoy being that kind of a person. I have cried and hated myself. At a certain point understanding fails me. I can't comprehend. What makes a person want to do these things?

Summary

Sexual deviation syndromes (paraphilias) are diagnosable psychiatric syndromes manifested by 1) recurrent persistent deviant fantasies, 2) intense erotic cravings that are noxious when frustrated, and 3) relatively stereotyped behaviors in the sense that exhibitionists expose themselves, whereas voyeurs "prep." These syndromes follow a predictable course, often respond to biological treatments, and may have associated organic pathologies, but their etiologies are poorly understood. Sexual offenses, as defined legally, may or may not be perpetrated by persons with one of these syndromes. When offending behavior is related to such a syndrome, medroxyprogesterone acetate may be helpful, provided the patient is compliant. It is not known whether this medication can help when such behavior is unrelated to deviant sexual cravings, as when rape is committed in response to anger and hostility—something which may occur more rarely than many psychiatric texts suggest. Legal demands for justice and safety as well as medical concerns for understanding care must both be considered, because each is important. When a person seeks help, as did the patient presented, his difficulties should be appreciated rather than scorned as perversions.

ACKNOWLEDGMENT

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THE BIOSEXUAL PSYCHOHORMONAL CLINIC
EVALUATION SERVICES

Before a patient can be accepted into the treatment program of the Biosexual Psychohormonal Clinic an evaluation appointment is necessary.

Evaluations before possible admission into the program are performed through the outpatient services, Meyer Building, of the Johns Hopkins Hospital. Appointments are made through Ms. Maggie Rider, (301) 955-6292. The service is ordinarily performed only on Wednesday mornings beginning at 8:30 a.m., and will generally be completed by noon.

The cost of this visit is currently $160 for the evaluation, plus $120 for lab fees (blood will be drawn and a number of lab tests will be performed). Payment is expected at the time of the visit. However, insurance may cover part or all of the fees. You will be expected to file a claim for reimbursement. Medical Assistance is accepted. However, if your Medical Assistance originates from another state we will need prior confirmation that your home state will cover our costs. When a service is not available in one state but is available in another the home state will frequently allow this cost to be paid from their funds. Should you have major medical insurance coverage please be sure to bring the necessary forms at the time of the appointment. If documented financial need can be provided sometimes a deferred payment plan can be arranged. A deposit is required to hold an appointment date.

Inpatient evaluations are often done for those patients who reside outside the state of Maryland. This type of evaluation consists of an in hospital stay of approximately three to four weeks. Treatment plans are formulated and begun during this time, as well as plans for continuing care after discharge, based on the individual needs and circumstances.

In some cases emergency evaluations can be arranged, performed on an outpatient basis. Costs are based on the time spent with a physician, plus the lab fees. An approximate fee would be in the vicinity of $200, plus the $120 lab fee.

Currently the waiting time before being seen for these services is approximately:

_____for outpatient evaluation, _____for inpatient evaluation, and

_____for emergency evaluation.

Below is a suggested reading list of references from the medical journals regarding the treatment of sexual disorders. On request (there is a charge of $10) we will supply reprints of the articles by Dr. Berlin).

Berlin, FS and Coyle, GS: Sexual Deviation Syndromes, Johns Hopkins Medical Journal, 149, 119-125 (1981).

Berlin, FS and Meinecke, CF: Treatment of sex offenders with antiandrogenic medication: Conceptualization, review of treatment modalities, and preliminary findings. American Journal of Psychiatry 138:601-607, 1981.

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THE BIOSEXUAL PSYCHOHORMONAL CLINIC EVALUATION SERVICES
Request for Services Information Sheet

THE JOHNS HOPKINS HOSPITAL
BALTIMORE, MARYLAND

NAME_____ ADDRESS_____

PHONE (work)_____(home)_____ _____

DATE OF BIRTH_____ S.S.#_____ MARITAL STATUS_____

FATHER'S NAME_____MOTHER'S MAIDEN NAME_____

EDUCATIONAL LEVEL_____ MEDICATIONS_____

NAMES AND ADDRESSES (If appropriate) _____

ATTORNEY:_____PHONE_____

PAROLE OFFICER:_____PHONE_____

PSYCHIATRIST (or mental health professional):
_____PHONE_____

FAMILY PHYSICIAN_____PHONE_____

WHO REFERRED YOU TO THIS PROGRAM?_____

REASON YOU WANT TO BE SEEN HERE_____
(Name specific behavior)

INSURANCE COMPANY:_____ POLICY NUMBER:_____

DO YOU WISH AN APPOINTMENT FOR ___OUTPATIENT EVALUATION, ___INPATIENT EVALUATION, OR

___ EMERGENCY APPOINTMENT (see other side of sheet for expected time of appointment)

A copy of your legal history and current charges must be forwarded to us in advance of your appointment. (If applicable) Your appointment may be cancelled if not received.

Additionally, a report from any psychiatrist or mental health professional who may have treated you in the past is required. You will need to provide a release of information to the appropriate person in order for them to forward this background to us. Please have the materials sent to the address below.
All of the information received is held in strictest confidence. It will be used to give the examiner as full a picture as possible ahead of time about what has taken place in your life before coming to us.

An appointment will be sent to you at the address listed above unless you indicate otherwise._____

Please return this sheet to:

Ms. Maggie Rider, Appointments Secretary
Meyer Building, 4-181
Johns Hopkins Hospital
600 North Wolfe Street
Baltimore, Maryland 21205

Mail this sheet back as soon as possible. Psychiatric and legal history may be forwarded under separate cover, along with a deposit of $50.

FEE SCHEDULE

CLINIC EVALUATION	$160
LAB - BLOOD WORK	135
CONSULTATIONS	90 (per hour)
RE-EVALUATION	75
GROUP THERAPY SESSION	65
DEPO-PROVERA INJECTION	27.50 (only)

(Fees are subject to change. Please inquire. Deferred payment plans considered with documented financial need.)

Treatment of Sex Offenders with Antiandrogenic Medication: Conceptualization, Review of Treatment Modalities, and Preliminary Findings

BY FRED S. BERLIN, M.D., PH.D., AND CARL F. MEINECKE

Sexual deviation disorders, or paraphilias, are diagnosable psychiatric syndromes manifested by 1) recurrent fantasies about deviant sex, 2) intense associated cravings, and 3) stereotypic behavioral responses. Pedophiles seek out children in response to their erotic thoughts and urges, whereas exhibitionists expose themselves. Paraphiliac syndromes ordinarily follow a chronic course and may be associated with biological pathology, but etiological factors are poorly understood. Treatment becomes a consideration when the well-being or rights of others are compromised. Proposed treatments have included psychotherapy, behavior therapy, surgery, and medication. Medroxyprogesterone acetate, which reduces testosterone, may diminish sexual preoccupation and urges, making self-control easier.

The sexual deviation disorders, or paraphilias, include voyerism, exhibitionism, erotic sadism, and pedophilia (sexual attraction to children). They are considered psychiatric syndromes by the medical profession and are listed as diagnostic categories in the official psychiatric nomenclature. However, persons who manifest the behaviors characteristic of these syndromes often come into conflict with society, which considers them criminal offenders. This paper examines the rationale for treating these conditions medically rather than punitively and reviews the treatments available, especially use of the antiandrogenic agent medroxyprogesterone acetate (Depo-Provera). It also alludes briefly to some of the medicolegal implications of providing treatment. Rather than detailing data from any single study, this paper will present an overview of relevant issues plus some case reports and preliminary findings.

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Address reprint requests to Dr. Berlin, Henry Phipps Psychiatric Clinic, 1401 North Wolfe St., Baltimore, MD 21205.

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DIAGNOSIS OF A PARAPHILIAC SYNDROME

One way of arriving at a diagnosis is to appreciate the presence of a syndrome, which is a cluster of features that appear together consistently. Historically, it has proven helpful to identify and label such syndromes. Mania, for example, can be diagnosed by recognizing a syndrome that includes delusions of grandeur, sustained mood change, hyperactivity, and prolonged insomnia. Disease syndromes such as these tend to follow a relatively predictable course and often respond in a predictable way to treatment.

According to *DSM-III*, a diagnosis of paraphilia can be made by identifying such a syndrome. This is done by examining a person's cognitive, emotional, and behavioral state. Cognitive examination reveals recurrent persistent fantasies about deviant sex. Examination of the feeling state discloses erotic cravings perceived as noxious when frustrated. The frustration can be relieved temporarily if deviant fantasies are carried out. Behavioral examination shows relatively stereotyped sexual activity because erotic pleasure is maximized only when deviant fantasies are enacted precisely. The exhibitionist, therefore, exposes himself in response to his fantasies and urges on repeated occasions, often in a stereotypic manner. The pedophile, frequently impotent in adult sexual relationships, seeks out young children, sometimes of a particular age, sex, and appearance, in keeping with his fantasies. One would not ordinarily expect a pedophile to develop some other paraphiliac syndrome, such as exhibitionism or erotic sadism, any more than one would expect an adult with conventional heterosexual desires to suddenly begin fantasizing about and seeking out young children. The expression of deviant sexual desires can be modified depending on the character traits of the individual experiencing them. Paraphiliac syndromes typically manifest themselves initially at puberty and follow a chronic course that may, however, be altered by treatment. At present their etiology is unknown, although certain types of early life experiences are thought to be possible contributory factors in some instances. The etiology of erotic desires and fantasies that influence conventional heterosexual behavior, as well as knowledge about what makes a stimulus sexually appealing, is also poorly understood.

TABLE 1
Associated Findings in 17 Consecutively Referred Male Patients with Sexual Disorders

Patient*	Sexual Disorder	Associated Findings
1	Sexual sadism	Oculomotor abnormality suggestive of basal ganglion dysfunction; unexplained gait disturbance
2	Homosexual pedophilia	Dyslexia; childhood lisp requiring speech therapy
3	Homosexual pedophilia	Cortical atrophy (history of head injury secondary to automobile accident); grand mal seizures; recurrent runs of slow delta waves and sharp activity over frontal anterior brain regions (more pronounced on right side)
4	Homosexual pedophilia	No associated abnormalities detected
5	Hypersexuality	Family history of adrenogenital syndrome; elevated testosterone (1040 ng/100 ml)†
6	Voyeurism	No associated abnormalities detected
7	Homosexual pedophilia	Klinefelter's syndrome (previously undiagnosed); XXY present in 90% of cells; elevated FSH and LH; decreased testosterone; XXY genotype
8	Homosexual pedophilia	Strabismus; childhood learning disorder (originally misclassified as mental retardation)
9	Heterosexual pedophilia	Schizophrenia
10	Homosexual pedophilia	No associated abnormalities detected
11	Exhibitionism	Elevated testosterone (912 ng/100 ml); head injury in automobile accident, comatose several months; grand mal seizures
12	Heterosexual pedophilia	Brain damage secondary to automobile accident at age four; right-sided partial hemiparesis of upper extremity with spasm
13	Homosexual pedophilia	Elevated testosterone (905 ng/100 ml)
14	Heterosexual pedophilia	Near total blindness secondary to brain damage in an automobile accident
15	Heterosexual pedophilia	Elevated testosterone (1263 ng/100 ml); mild generalized ventriculomegaly and cortical atrophy most pronounced in area of the right sylvian fissure (by CT scan); elevated 24-hour urine pregnanetriol (3.1 mg; normal<2.5 mg)
16	Homosexual pedophilia	Elevated LH (77 ng/ml; normal range is 36 to 64); generalized muscular hypotonia
17	Paraphiliac rape	Elevated testosterone (916 ng/100 ml); grand mal seizures

*Patient 2 was seen at the Maudsley Hospital in London; the others were seen at the Johns Hopkins Hospital in Baltimore.
†Testosterone was considered elevated if blood levels were more than 2 standard deviations above the mean (mean = 575 ± 130). Ordinarily, 2½% of men would be expected to have such an elevation; in this sample 29% of the men (5 of 17) had elevated testosterone.

In addition to the triad of cognitive, emotional, and behavioral findings, physical and laboratory examinations may reveal associated organic pathologies. Preliminary data from our center suggest that there may be an unusually high frequency of genetic, hormonal, or neurological anomalies (see table 1). It may be that biological vulnerabilities in some individuals predispose them to develop unconventional sexual desires (1). However, this hypothesis requires further confirmation by comparison with a control population.

Diagnosis of a paraphiliac syndrome cannot be made on the basis of sexual behavior alone because similar behaviors can occur for a variety of reasons. For example, rape could be committed in response to recurrent urges and fantasies about having coercive sex; in such cases the diagnosis of paraphilia would be appropriate. However, rape could also be initiated by a hallucinating person in response to voices telling him to do so, by a mentally retarded person with conventional rather than deviant sexual desires who "doesn't know any better," or by a hostile, angry individual to humiliate a woman. Such differential diagnosis is important because treatment may be different for a hallucinating, retarded, or impulsive angry person than it is for a paraphiliac. Not all sex offenses (a legal term) are committed by persons manifesting a sexual deviation disorder or paraphilia (a medical term).

METHODS FOR TREATING PARAPHILIAC PATIENTS

Our review of the relevant literature revealed over 230 references pertaining to treatment of sexual deviations. In addition to the medication therapies, psychodynamic therapy, behavior modification, and surgery have been tried.

Psychodynamic theory generally assumes that sexually deviant behaviors occur because of unresolved unconscious conflicts, and treatment is directed at uncovering such conflicts (2–4). To our knowledge there have been no well-controlled clinical trials to demonstrate that any of the individual or group psychodynamic methods result in sustained behavioral change in these conditions, and achieving insight into how they may have developed does not necessarily alter them. In point of fact, most of us have little understanding about why particular things arouse us sexually (5, 6). The causes of sexual cravings are probably multifactorial and are often unknown. Lichen and associates (7), for example, have shown that feelings of gender identity in some transsexuals may be correlated with the presence or absence of H-Y antigen.

Behavior therapists are often less concerned with the antecedent causes of unconventional sexual be-

havior than with what can be done about it (8–10). A number of techniques, including hypnosis and biofeedback, have been advocated. Usually the principle is to try to make an unacceptable erotic stimulus less appealing while the person is trained to become sexually aroused by a formerly neutral, or aversive, stimulus. This can be done in the case of pedophilia by following erotic thoughts about children with a mild electric shock and by instructing the patient to masturbate while looking at pictures of a nude, age-appropriate partner. Although this approach is occasionally successful, results are more often disappointing. Most of the literature on psychodynamic or behavioral treatment of sex offenders has consisted of uncontrolled individual case reports without long-term follow-up. It appears that brief changes in behavior are relatively easy to accomplish, but long-term maintenance of such change is achieved far less frequently. Nevertheless, behavior therapy has on occasion been helpful, and it should not be dismissed entirely as a form of treatment. Marks and associates (11), for example, showed good results at two-year follow-up in the treatment of transvestites but poor results with transsexuals.

Biological therapies have included surgical castration, intramuscular injections of medroxyprogesterone acetate, or oral administration of cyproterone acetate (the latter is currently unavailable in the United States) (12–14). Forced castration is clearly not acceptable as treatment in this country but has met with some success elsewhere (15–17). Castration in animals leads to a reduction of sexual behaviors and often causes total impotence. Brain surgery has also been attempted as a treatment for sexually deviant behaviors, presumably with the idea of ablating pathways thought to be involved in sexual desire, but this approach has met with only limited success (18).

When medication has been used to try to reduce sexual cravings, efforts have been made to titrate the dosage so as not to cause total impotence. The medication currently in use investigatively in the United States is medroxyprogesterone acetate (19). It is an antiandrogenic agent that can be administered once or twice per week intramuscularly to be gradually absorbed into the bloodstream, causing a reduction in circulating levels of the male sex hormone, testosterone. Effects appear to be fully reversible within a few months after the medication is stopped, although it has not yet been used widely enough for us to be sure this is entirely true. Major side effects are weight gain and mild lethargy; cold sweats, nightmares, dyspnea, hyperglycemia, hypogonadism, and leg cramps have also been reported. High doses can cause breast cancer in female beagle dogs, but the drug does not appear to do so in humans, and it does not cause men to become feminized in appearance (20). The 100 mg/ml concentration of medroxyprogesterone acetate has a higher bioavailability and is less painful when injected than the 400 mg/ml concentration. Besides decreasing testosterone secretion by the testes, the medication appears to act centrally on the brain as well. This hypothesis is supported by two observations. First, increasing doses of medication seem to decrease erotic fantasies even when serum testosterone levels remain unchanged. Second, there is no compensatory elevation of FSH or LH production by the pituitary gland as a response to lowered levels of testicular testosterone production. Because medroxyprogesterone acetate is given by injection, it is easy to monitor treatment compliance. Psychiatric counseling is ordinarily given in conjunction with the medication to help patients cope with the difficulties encountered as a consequence of their unconventional sexual desires. Most men are hospitalized during the initial phase of treatment.

EVIDENCE THAT MEDICATION CAN BE HELPFUL

Because of difficulties in carrying out research with persons whose behaviors, if untreated, can cause others distress, a controlled double-blind study on the use of medication has not been done. This is necessary before firm conclusions about therapeutic efficacy, or mode of action, can be made. Recently the Evaluation Research Group, a private corporation, was funded by the National Center for the Prevention and Control of Rape to formulate a model to evaluate the relative effectiveness of various sex offender treatment programs (21). In the meantime, there are some data available in support of the hypothesis that medroxyprogesterone acetate can reduce the intensity of deviant sexual urges and the frequency of accompanying erotic fantasies. Evidence from some of the major studies conducted at this center will be reviewed briefly.

In one study (22) conducted at Johns Hopkins Hospital under the direction of Dr. John Money, 10 paraphiliac men were given medroxyprogesterone acetate intramuscularly approximately once per week. Data were gathered from structured personal interviews with patients and family members who made themselves available and from social agencies and institutional records. Evaluations made before and after treatment suggested that medroxyprogesterone acetate decreased the reported frequency of erotic imagery, as well as the frequency of erection and ejaculation. In addition, some men stopped offensive sexual behavior entirely, sometimes for as long as a couple of years, reporting relief from the psychological pressure to act on their paraphiliac urges. Presumably the decreased frequency of erotic thoughts comes about, at least in part, as a consequence of lowered levels of testosterone.

In a follow-up study to the one just cited, 20 men with histories of chronically recurrent paraphiliac be-

TABLE 2
Changes in Sexually Deviant Behaviors in 20 Chronic Paraphiliac Male Patients Treated with Medroxyprogesterone Acetate[a]

Patient	Age (years)	Diagnosis	Average Frequency of Sexually Deviant Behaviors Before Treatment[b]	Drug Treatment[c]: Length	Drug Treatment[c]: Maximum Dosage	Occurrence of Sexually Deviant Behaviors: During Treatment	Occurrence of Sexually Deviant Behaviors: After Treatment
1	34	Homosexual pedophilia	Once/week	5 years, 9 months	500 mg/week	None	Treatment dropout; no relapse less than 1 year after treatment
2	31	Homosexual pedophilia	Twice/month; 1 known arrest	1 year	300 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
3	30	Heterosexual exhibitionism	Twice/week	10 months	250–300 mg/week	None	Treatment dropout; relapsed more than 1 year after treatment
4	34	Homosexual masochism	4 times/week	3 months	200 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
5	27	Bisexual pedophilia	Twice/week	3 months	400 mg/week	None	Treatment dropout; relapsed more than one year after treatment
6	43	Transvestism; homosexual incest	7 times/week; 2 incidents	1 year, 4 months, intermittently	150 mg every other week	None	Relapsed less than 1 year after treatment
7	52	Heterosexual sadism	Once every 2 weeks for 25 years	3 years, 5 months	600 mg/week	None	Treatment continues; no relapses
8	29	Homosexual pedophilia	Twice/week; 6 arrests in 6 years	10 months	500 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
9	36	Homosexual pedophilia	Once every 2 months; 4 arrests in 6 years	2 years	500 mg/week	None	Treatment continues; no relapses
10	56	Homosexual pedophilia	Once/week; 14 arrests in 29 years	3 years, 9 months	300 mg/week	Relapsed	Treatment continues
11	40	Homosexual pedophilia	Twice/week; 7 known arrests	4 years, 2 months	400 mg/week	None	Treatment continues; no relapses
12	45	Voyeurism; heterosexual pedophilia	— Twice/week; 5–8 arrests; numerous institutionalizations	5 years, 3 months	300 mg/week	None	Relapsed less than 1 year after treatment; treatment now resumed
13	27	Homosexual pedophilia	Twice/week since age 10	5 years, 9 months	200 mg/week	None	Treatment completed; no relapse more than 1 year after treatment
14	41	Homosexual pedophilia	Once/month; numerous arrests; 4 convictions; 4 reported parole violations	3 years, 8 months	500 mg/week	Relapsed	Treatment continues
15	37	Homosexual pedophilia; exhibitionism	Record unclear; probably several incidents/year	3 years, 9 months	350 mg/week	None	Treatment completed; no relapse less than 1 year after treatment
16	26	Homosexual pedophilia	Once/week	1 year, 1 month	200 mg/week	None	Treatment dropout; relapsed more than 1 year after treatment
17	24	Heterosexual voyeurism	Once/month	1 year	400 mg/week	Relapsed after alcohol consumption	Treatment continues; in prison
18	40	Heterosexual exhibitionism	Five times/day since age 11; first arrest at age 21; numerous others	2 years, 2 months	200 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
19	29	Heterosexual exhibitionism	Twice/week	2 years, 1 month	250 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
20	46	Heterosexual exhibitionism	Four times/week; binges of 20/day	2 years, 3 months	300 mg/week	None	Treatment continues; no relapses

[a]Sexually deviant behavior was considered to have occurred if the patient was accused of having or admitted having a deviant sexual contact (for example, an episode of public genital exposure). Any occurrence of such behavior was scored as a relapse once treatment had been initiated, even if it did not come to the attention of the law as an official complaint.
[b]Based on institutional records and patients' statements.
[c]Study participants who stopped taking medroxyprogesterone acetate did so against medical advice, except in the cases of patients 13 and 15. Some patients were irregularly compliant with medication even during the period [illegible] was being prescribed.

havior were placed on medroxyprogesterone acetate for varying lengths of time. Details of the study protocol itself are described elsewhere (23). Additional data obtained by subsequent interview and review of the records of the same 20 men who participated in that study are detailed here for the first time (see table 2). Only 3 of the 20 patients showed recurrences of sexually deviant behavior while taking medication, in

one such case, relapse was clearly related to alcohol abuse. The recidivism rate jumped dramatically when patients discontinued their medication regimen. Of the 11 patients who discontinued medroxyprogesterone acetate against medical advice, 10 relapsed. Two who discontinued treatment with approval have thus far not relapsed. Whether the marked number of patients in this study who eventually relapsed would have remained symptom free had they been required to continue taking medication (perhaps, for example, as a condition of parole) is not known. Reasons for the high attrition rate have yet to be analyzed, although it is clear that some patients found the routine of weekly injections and frequent investigational blood tests burdensome.

The preliminary impression based on these data and other cases now being analyzed is that in general, these men appear to do well in response to antiandrogenic medication as long as they continue taking it and as long as their problems are rather clearly confined to unconventional sexual cravings. They seem to do less well if they have been noncompliant about taking the medication or if in addition to having such cravings they abuse drugs and alcohol, are sexually impulsive, or have a history of other sorts of sociopathy or violence. Some paraphiliacs are concerned about the consequences to others of their unconventional cravings, whereas some are not. Thus, prognosis may depend not only on the effects of medication on the deviant thoughts and cravings comprising the syndrome, but also on other features of the person manifesting the syndrome, such as his attitude about treatment and commitment to it.

Although anecdotal clinical reports are of limited research value, three brief case examples are presented here to help illustrate the types of patients who have been receiving medication.

CASE REPORTS

Case 1 (sadistic paraphilia). Mr. A, a 47-year-old man, complained of being unable to obtain sexual satisfaction unless he hurt his wife. His preoccupation with sadistic fantasies made it difficult for him to concentrate, even at work. He believed his actions to be wrong and consistently felt disgusted and remorseful afterward, often working overtime to avoid the opportunity to harm her. However, every few weeks his cravings would build up to a point where he could not control them. During 25 years of marriage, he had frequently handcuffed his wife, shaved her head, stuck pins in her back, and struck her—although never so forcefully as to require medical or legal attention. Alternative means of obtaining sexual satisfaction such as masturbation led to erection, but ejaculation could not be achieved unless he hurt her. Neurological examination showed evidence of nonprogressive basal ganglia dysfunction, and he had a mild gait disturbance.

Mr. A began treatment voluntarily 4 years ago after he became frightened he might seriously harm or even kill his wife. Since that time there has not been even a single recurrence of the sexual sadism that had occurred previously for nearly 25 years. Conventional sexual activities have become a regular part of Mr. A's marriage, and as before, there has been no extramarital involvement. He believes he can control his paraphiliac desires, which he said have become much less intense, only with help from antiandrogenic medication. He has found considerable relief from the obsessive erotic urges that he had previously experienced as noxious rather than pleasurable. With treatment his serum testosterone has been maintained at below-normal levels.

Case 1 was an example of sadistic sexual desire qualitatively deviant from accepted cultural norms. Case 2 is an example of quantitative deviance, that is, of significantly heightened sexual drive.

Case 2 (hypersexuality). Mr. B, a 17-year-old, stated that he was preoccupied with erotic fantasies to such a degree that they interfered with work and family relationships. His wife confirmed his report that he sometimes demanded intercourse as often as 15 times in a single day. There was a family history of andrenogenital syndrome, and his mother had taken thyroid medication when pregnant. The patient's serum testosterone level was 880 ng/100 ml, above the normal (i.e., more than 2 SD) postpubertal range of 225–875 ng/100 ml as reported by the laboratory performing the assay. No cause could be detected, although receptor site sensitivity to testosterone has not yet been tested (24). Treatment with 400 mg per week of medroxyprogesterone acetate reduced the elevated testosterone level to a prepubertal value of 70 ng/100 ml. The patient reported relief from intrusive fantasies, as well as improved work and interpersonal relationships.

Case 3 (paraphiliac rape). Mr. C, a 32-year-old man with adult-onset idiopathic epilepsy since age 19 but seizure free for the past 3 years, was referred for treatment after committing two rapes. Although never charged previously, he admitted to a lengthy history of similar behavior satisfying legal criteria for rape, beginning at age 20. His first sexual experience was at the age of 6 or 7 with a 14-year-old babysitter who had asked him to watch her masturbate while clothed in her undergarments. Since then, he has fantasized several times daily about similar encounters, often masturbating while doing so. At the age of 15 he broke into the office of a gynecologist who had been dating his sister to steal textbooks to "learn more about the female body." He had a steady girlfriend at the time of hospital admission but he had never found sexual activities with her sufficiently satisfying. He usually masturbated about four or five times per day while fantasizing about various women performing autoerotic acts. In his fantasies he would always imagine forcing a woman previously unknown to him to masturbate while clad in her undergarments. He had been too embarrassed to ever tell any of his regular girlfriends about his erotic preoccupation, and he rarely sought a second encounter with any women whom he had forced to have sex, feeling compelled instead to repeat the episode with a fresh partner.

The patient maintained an apartment separate from his girlfriend. Three or four times per week he would try to meet a new woman (preferably slim and wearing pants rather than a skirt) whom he would persuade to join him at his apartment to smoke marijuana; he never used threats up to that point. Subsequently, however, he would threaten to harm the woman unless she removed all the clothing from below her waist except her panties and masturbated while he watched and masturbated himself. On some occasions he would have intercourse, but this was the exception rather than the rule. Each episode invariably followed this same pattern: he estimated that there had been more than 60 such episodes since he was age 20. On some occasions he would threaten his victim with a knife as well as verbally, but in those instances when she refused to be intimidated, he always allowed her to leave without becoming physically assaultive. As far as we could determine, on no occasion did he injure a woman physically, and none of his erotic fantasies was sadistic in the sense of wanting to inflict pain. After each episode he would escort the woman out, "trying to be kind, apologizing, and making sure she was okay," with no further threats. He reported that he would then invariably vomit, feeling "disgusted, sick, and remorseful" and vow never again to act in such a manner. However, in a few days his fantasies and urges would recur with renewed intensity and the whole pattern would be repeated.

Mr. C believed coercion of another person was wrong. Worried about the troubles his actions could cause him, and appeared to have some concern for his victims. Nevertheless, he stated that his erotic thoughts and cravings consistently proved to be more than he could resist. In his words, "It's like an insatiable drive, like a pressure that is always on me. Sometimes I can push it off by masturbating, but eventually I feel driven to repeat this thing over and over." His serum testosterone level was found to be 916 ng/100 ml (well above the reported normal 3 SD range of 275 to 875). Because we are only now beginning a careful, rigorously supervised treatment protocol, it is too soon to know whether success can be achieved.

DISCUSSION

Persons who engage in dangerous or offensive sexual behaviors pose a variety of medicolegal problems, especially if juveniles or nonconsenting adults are involved. Some persons undoubtedly misuse other people with little concern for them and may require quarantine or punishment. Others (just as is true of some drug addicts, cigarette smokers, or overeaters) may be in a sense victims of intense cravings that are quite resilient and therefore difficult, if not impossible, to resist. Such persons must still assume responsibility for their own actions, but when they seek medical help they should be treated with an appreciation for their difficulties rather than with stigmatization, scorn, or contempt (25). This requires that helping professionals be able to deal with their own feelings. Although many treatments, including psychodynamic and behavioral therapies, have been tried in the past, only recently has the potential for help in the form of medication become available. Some might argue that in a way paraphiliac behavior is no more a reflection of disease than is conventional sexual activity. In a nonjudgmental sense, this may be true. However, syndromes are often labeled diseases when they impair functioning or cause suffering. Since paraphiliac behaviors can infringe on the rights and well-being of nonconsenting persons, causing suffering, it seems proper to make a value judgment about them, that is, that they must stop and because the cravings associated with such behavior can often be alleviated by medication, the term "treatment" still seems appropriate. Unconventional sexual activities between consenting adults that cause no harm do not ordinarily require psychiatric care.

Preliminary data on the use of medroxyprogesterone acetate to treat sex offenders clearly suggest that a means must be found to ensure continued compliance with the treatment regimen before one can feel relatively confident about efficacy. There is precedent, however, for solving compliance problems by requiring persons to take medication by legal mandate (e.g., smallpox vaccine), when not doing so poses a threat to the well-being of others. Exploration of such a solution, should it be considered, would have to be done with due care so as not to infringe on human rights by imposing treatment. Nonetheless, one would not want to deny a convicted offender the right to receive treatment, when this could be done safely, as an option to imprisonment. In trying to provide treatment to patients, protection of potential victims must be considered. However, society as well as the sex offender will likely benefit if the offender can be treated successfully rather than being imprisoned and then released unchanged. There is no evidence, except in the case of the paraphiliac sadist or rapist, that having a paraphiliac syndrome increases the probability of physical violence, and some paraphiliacs seem reasonably well adjusted at work and in other spheres of social endeavor (26).

People do not decide voluntarily what will arouse them sexually. Data presented here suggest that nonlearned biological as well as learned environmental factors may play an etiological role in the development of sexually deviant behaviors. Better understanding of causal factors may eventually lead to more specific forms of treatment. At a symposium at the Massachusetts Institute of Technology Goy and McEwen (27) reviewed evidence suggesting that nonlearned biological factors may be more important determinants of human sexual behavior than is generally appreciated. Improved understanding of possible genetic, hormonal, or neurochemical bases for human sexual pathology should be sought in pursuing further the rationale for treatment with medication. The new positron emission tomographic scanner may help provide additional clues regarding brain functioning during sexual arousal. Currently, treatment with medroxyprogesterone acetate involves using it as a suppressant of sexual desire in general. It seems to decrease the intensity of sexual urges but does not change them qualitatively. If there is an unlearned biological basis for deviant

sexual activity, an ideal medication might suppress deviant sexual cravings alone without affecting more conventional erotic interests. When medroxyprogesterone acetate is discontinued, allowing the sexual appetite to heighten or return, behaviors engaged in to satisfy that appetite are also likely to be reinstituted. Thus, when not taking medication, many paraphiliac men report being unable to use willpower to stop deviant sexual behaviors, and do not. While receiving injections, many of the very same men report that they are then able to stop, and do.

Given our present level of knowledge of the paraphilias, it is still too soon to predict with confidence the future of hormonal treatment programs. It is unclear whether the compliance problems evidenced by some patients can indeed be solved. It is possible that even with improved compliance, future results may yet fail to support preliminary impressions of good therapeutic efficacy. Certainly many more data are needed. Even so, it is already clear that several patients have experienced marked reductions in sexually deviant activity and fantasy while taking medroxyprogesterone acetate. This suggests that the idea of considering at least some sexual offenses to be a behavioral manifestation of intense aberrant drives, possibly related to a dysfunction in brain and representing a condition that is potentially treatable with medication, merits continued investigation. It is hoped that legal demands for justice can be reconciled with medical concerns for understanding care.

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Antiandrogenic and Counseling Treatment of Sex Offenders

RATIONALE FOR DEPO-PROVERA TREATMENT OF SEX OFFENDERS (PARAPHILIACS)

Studies begun at Johns Hopkins in 1963 have shown that sex offenders or paraphiliacs, for example, pedophiliacs, treated with the antiandrogenic hormone, Depo-Provera, plus counseling have gained in self-regulation of sexual behavior. Depo-Provera suppresses or lessens the frequency of erection and ejaculation and also lessens the feeling of libido and the mental imagery of sexual arousal. To illustrate: for the pedophiliac there will be a decreased erotic "turn-on" to children. Metaphorically, this medication can be thought of as an appetite suppressant for the sex drive, intended to make self-governancy easier, usually with the help of adjunctive individual or couple counseling.

ANTIANDROGENIC EFFECT OF DEPO-PROVERA

Depo-Provera, a long-acting, injectable form of medroxyprogesterone acetate manufactured by Upjohn, is a synthetic progestin which is classified pharmacologically as an antiandrogen. Antiandrogen inhibits the release of androgen, the so-called male hormone, from the testicles. Some progestinic hormone is normally present in the male body but at a very low level. Increasing the level allows progestin to compete with androgen and to take over. Androgen is a sexual activator. Progestin is sexually inert. It therefore induces a period of sexual quiescence in which the sex drive is at rest.

MODE OF ENDOCRINE ACTION

In terms used by endocrinologists, Depo-Provera inhibits, through its effect upon neural pathways in the brain, the release of luteinizing hormone (LH) from the pituitary gland. LH is the chemical messenger which normally stimulates the testicles to produce androgen. Hence, the ultimate effect of Depo-Provera is to reduce the level of androgen, especially testosterone, in the blood stream. Typically, in the adult male, Depo-Provera reduces the blood level of testosterone to that of a normal prepubertal boy (from approximately 575 nanograms/100milliliters to 125/nanograms/100 milliliters).

BRAIN EFFECT

In addition to lowering the level of testosterone, Depo-Provera like all progestinic hormones, acts on the brain. In small doses, as in the treatment of sex offenders, the influence on sexual pathways in the brain, though mild, has the great advantage of being sexually calming or tranquilizing. The patient feels relief from an urge that was formerly insistent, commanding, and not subject to voluntary control.

PERIPHERAL PHYSIOLOGICAL EFFECTS

Depo-Provera, through decreasing the testosterone level, temporarily decreases penile erection and ejaculation, and the production of sperm (spermatogenesis). This means that a man probably could not father a child while taking the medication. The medicine is not feminizing (men do not grow breasts). In addition, the sexual

accessory organs, the prostate and seminal vesicles, temporarily shrink. Increased drowsiness, and weight gain, as well as increased blood pressure can occur. Other occasional side effects are discussed in papers published as a result of work in this clinic. Those papers are available.

REVERSIBILITY OF CHANGES — The changes attributed to the medication are reversible upon cessation of treatment; within 7 - 10 days erectile and ejaculatory capacity begin to return, along with the subjective experience of more sexual drive. However, as use of this medication is still relatively new for sex offenders (first use was in 1966), the possibility of irreversible or more long-term side effects cannot be completely excluded.

DOSAGE LEVEL — Tailored for the specific patient, intramuscular injections of Depo-Provera range from 100 milligrams to 800 milligrams every seven days. The typical weekly maintenance dosage of Depo-Provera for sex offenders is 500 milligrams.

HORMONAL MONITORING — Hormonal measures of testosterone and LH (Luteinizing Hormone) initially can be monitored periodically to gauge the effectiveness of the dosage. The recent application of radioimmunological techniques to the assay of testosterone and LH has made such endocrine monitoring precise, reliable, rapid, and relatively inexpensive, as compared to prior methods.

NO INCREASED TOLERANCE — Most patients do not require a progressively increasing dosage, because there is no tolerance build-up to Depo-Provera. However, some may require dosage changes.

COMPARISON WITH SURGICAL CASTRATION — Prior to the discovery, manufacture, and medical use of antiandrogen, the method of reducing the level of testosterone in men was surgical castration. Used in many societies throughout history, castration is disfavored in contemporary American legal-medical management of sex offenders. Obviously, surgical castration is irreversible. It is also less effective than hormonal antiandrogenic therapy. Castration also increases levels of LH from the brain whereas medication lowers these levels.

BEHAVIORAL EFFECTS OF DEPO-PROVERA TREATMENT — In some cases, it is possible for patients to be weaned off Depo-Provera. Since the weaning is a step-by-step lowering of the hormone dosage, it is possible for the patient to discover how completely he has become relieved of the tendency to engage in the sex offending behavior, both in actuality and imagination. In some cases, there is long-lasting remission, so that the patient is no longer compelled to commit sex offenses, but is enabled to have a sex life with a socially suitable consenting partner instead. Some patients prefer to continue on a low, maintenance dosage of the medication so as to ensure a maximal guarantee of no relapse. Those patients who establish a strongly pair-bonded relationship with a permanent partner appear to be additionally guaranteed against relapse. The counseling component of treatment facilitates this achievement and is essential. If for some patients the medication aids only as a sexual appetite suppressant, then stopping the medication would increase the risk of relapse. If the person should again become tempted to repeat his strong, unconventional sexual compulsion (eg; for children, or to expose publicly), then resumption of treatment would be advised.

COMPLIANCE — Some patients, as in all specialties of medicine, are more faithful than others in adhering to medication schedules. Some overly confident patients drift into non-compliance. Other patients neglect specific instructions about their medication schedule. For this reason, it is advisable that as a condition of probation or parole, supervision be legally required so as to ensure strict compliance in adhering to the treatment schedule.

STATISTICAL ASSESSMENT — Sex offenders treated with Depo-Provera at Johns Hopkins are kept in long-term follow-up. Twenty have now been followed for between 5 months and 15 years. Of this group, 17 have proved able to self-regulate their sexual behavior while receiving the medication, and 3 have had relapses. Almost all who stopped medication against medical advise subsequently relapsed.

COUNSELING THERAPY — Counseling sessions are provided weekly, at first, and then may be tailored to individual needs. These sessions are intended to help the patient to establish a new life-style. They are also intended to help the patient cope with problems that have developed as a consequence of his prior life style. Therapy may occur either individually or with groups.

BIOSEXUAL PSYCHOHORMONAL CLINIC
Department of Psychiatry and Behavioral Sciences
The Johns Hopkins University School of Medicine

John Money, PhD
Professor of Medical Psychology
Associate Professor of Pediatrics
Co-Director, Biosexual Psychohormonal Clinic

Fred S. Berlin, MD, PhD
Assistant Professor of Psychiatry
Co-Director, Biosexual Psychohormonal Clinic

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Head Nurse
Co-Director, Biosexual Psychohormonal Clinic

Melinda Stein, RN
Clinical Coordinator,
Biosexual Psychohormonal Clinic

THE BIOSEXUAL PSYCHOHORMONAL CLINIC
EVALUATION SERVICES

Before a patient can be accepted into the treatment program of the Biosexual Psychohormonal Clinic an evaluation appointment is necessary.

Evaluations before possible admission into the program are performed through the outpatient services, Meyer Building, of the Johns Hopkins Hospital. Appointments are made through Ms. Maggie Rider, (301) 955-6292. The service is ordinarily performed only on Wednesday mornings beginning at 8:30 a.m., and will generally be completed by noon.

The cost of this visit is currently $160 for the evaluation, plus $120 for lab fees (blood will be drawn and a number of lab tests will be performed). Payment is expected at the time of the visit. However, insurance may cover part or all of the fees. You will be expected to file a claim for reimbursement. Medical Assistance is accepted. However, if your Medical Assistance originates from another state we will need prior confirmation that your home state will cover our costs. When a service is not available in one state but is available in another the home state will frequently allow this cost to be paid from their funds. Should you have major medical insurance coverage please be sure to bring the necessary forms at the time of the appointment. If documented financial need can be provided sometimes a deferred payment plan can be arranged. A deposit is required to hold an appointment date.

Inpatient evaluations are often done for those patients who reside outside the state of Maryland. This type of evaluation consists of an in hospital stay of approximately three to four weeks. Treatment plans are formulated and begun during this time, as well as plans for continuing care after discharge, based on the individual needs and circumstances.

In some cases emergency evaluations can be arranged performed on an outpatient basis. Costs are based on the time spent with a physician, plus the lab fees. An approximate fee would be in the vicinity of $200, plus the $120 lab fee.

Currently the waiting time before being seen for these services is approximately:

_____for outpatient evaluation, _____for inpatient evaluation, and

_____for emergency evaluation.

Below is a suggested reading list of references from the medical journals regarding the treatment of sexual disorders. On request (there is a charge of $10) we will supply reprints of the articles by Dr. Berlin).

Berlin, FS and Coyle, GS: Sexual Deviation Syndromes. Johns Hopkins Medical Journal, 149, 119-125 (1981).

Berlin, FS and Meinecke, CF: Treatment of sex offenders with antiandrogenic medication: Conceptualization, review of treatment modalities, and preliminary findings. American Journal of Psychiatry 138:601-607, 1981.

Berlin, FS: Sex Offenders: A Biomedical Perspective and a Status Report on Biomedical Treatment, in "The Sexual Aggressor: Current Perspectives on Treatment", Greer, JG and Stuart, IR, eds. Van Nostrand Reinhold Co., New York 1983.

Freund, K: Therapeutic sex drive reduction. Acta Psychiatrica Scandinavica, 62, suppl. 287, 1-39, 1980.

THE BIOSEXUAL PSYCHOHORMONAL CLINIC EVALUATION SERVICES
Request for Services Information Sheet

THE JOHNS HOPKINS HOSPITAL
BALTIMORE, MARYLAND

NAME _____ ADDRESS _____

PHONE (work) _____ (home) _____

DATE OF BIRTH _____ S.S.# _____ MARITAL STATUS _____

FATHER'S NAME _____ MOTHER'S MAIDEN NAME _____

EDUCATIONAL LEVEL _____ MEDICATIONS _____

NAMES AND ADDRESSES (If appropriate)

ATTORNEY: _____ PHONE _____

PAROLE OFFICER: _____ PHONE _____

PSYCHIATRIST (or mental health professional):
_____ PHONE _____

FAMILY PHYSICIAN _____ PHONE _____

WHO REFERRED YOU TO THIS PROGRAM? _____

REASON YOU WANT TO BE SEEN HERE _____
(Name specific behavior)

INSURANCE COMPANY: _____ POLICY NUMBER: _____

DO YOU WISH AN APPOINTMENT FOR ___OUTPATIENT EVALUATION, ___INPATIENT EVALUATION, OR

___ EMERGENCY APPOINTMENT (see other side of sheet for expected time of appointment)

A copy of your legal history and current charges must be forwarded to us in advance of your appointment. (If applicable) Your appointment may be cancelled if not received.

Additionally, a report from any psychiatrist or mental health professional who may have treated you in the past is required. You will need to provide a release of information to the appropriate person in order for them to forward this background to us. Please have the materials sent to the address below.
All of the information received is held in strictest confidence. It will be used to give the examiner as full a picture as possible ahead of time about what has taken place in your life before coming to us.

An appointment will be sent to you at the address listed above unless you indicate otherwise. _____

Please return this sheet to:

Ms. Maggie Rider, Appointments Secretary
Meyer Building, 4-181
Johns Hopkins Hospital
600 North Wolfe Street
Baltimore, Maryland 21205

Mail this sheet back as soon as possible. Psychiatric and legal history may be forwarded under separate cover, along with a deposit of $50.

FEE SCHEDULE

CLINIC EVALUATION	$160
LAB - BLOOD WORK	120
CONSULTATIONS	90 (per hour)
RE-EVALUATION	75
GROUP THERAPY SESSION	35
DEPO-PROVERA INJECTION	27.50

(Fees are subject to change. Please inquire. Deferred payment plans considered with documented financial need.)

THE SEXUAL AGGRESSOR

Current Perspectives on Treatment

JOANNE G. GREER, Ph.D.
Office of the Inspector General
Department of Health and Human Services
Washington, D.C.
formerly, Deputy Chief,
National Center for Prevention and Control of Rape
National Institute of Mental Health
Rockville, Maryland

IRVING R. STUART, Ph.D.
Department of Psychology
Lehman College of the City University of New York
New York, New York

VAN NOSTRAND REINHOLD COMPANY
NEW YORK CINCINNATI TORONTO LONDON MELBOURNE

5

Sex Offenders: A Biomedical Perspective and a Status Report on Biomedical Treatment*

Fred S. Berlin, M.D., Ph.D.

Individuals may be considered sex offenders if they behave in particular ways, for example, by becoming sexually intimate with a child. In general, behavior, whether sexual or nonsexual, is a reflection of one's state of mind, as persons tend to act in response to their thoughts and feelings. Some states of mind can be considered pathological, for example, when an individual loses the capacity to determine whether heard voices are coming from the environment or are imaginary. This type of psychological impairment can occur in a variety of psychiatric syndromes such as schizophrenia, dementia, delirium, or manic depressive illness–each of which requires a different form of treatment. Persons mentally ill in these ways sometimes commit sex offenses. On the other hand, some persons commit sex offenses in response to intense, unconventional sexual hungers (e.g., for children). Individuals with deviant or unconventional sexual orientations may also require psychiatric help. Properly diagnosing whether a sex offense is the manifestation of a specific psychiatric syndrome such as schizophrenia, dementia, mania, exhibitionism, or pedophilia can be important in trying to provide optimal care. The etiological determinants of conventional, as well as of unconventional, erotic interests are undoubtedly multiple, but there is evidence that biological factors such a hormone levels or chromosomal makeup sometimes play a major contributory role with respect to the nature of an individual's sexual desires. Biological treatments which alter the physical milieu of the brain, for example, by decreasing the amount of the "male sex hormone" testosterone that is present, may sometimes be able to facilitate better self-control of sexual behavior. This, might be the case, for instance, if treatment that lowers testosterone levels results in a pedophile experiencing a decrease in the subjective intensity of his unconventional sexual appetite. There may be implications regarding how society through its laws should view some sex offenders if (a) it is the case that biological factors, such as

*The author gratefully acknowledges the kind and invaluable assistance of Ms. Maggie Rider, Ms. Claudia Halko, Ms. Deborah Holifield, Ms. Nancy Mace, Mr. Timothy Rider, and Dr. Phillip Slavney in the preparation of this manuscript.

chromosomal abnormalities, contribute to the development of unconventional erotic desires that may tempt persons to want to commit sex offenses, and if (b) it is also the case that surgical or antiandrogenic medication treatments can result in biological and psychological changes that provide such individuals with an increased capacity for self-control not previously present.

PART I: SYNDROMES AND THE IMPORTANCE OF DIFFERENTIAL DIAGNOSIS

Introduction

The present chapter discusses the importance of making a proper differential diagnosis in assessing "sex offenders" for potential treatment. It also explores the relationship between biological factors, such as hormone levels or chromosomal anomalies, and sexual phenomenology (i.e., the mental experiences, thoughts, lusts, and fantasies that constitute states of erotic desire). Currently available treatments are briefly reviewed from a biomedical perspective, with a particular emphasis on the use of surgery and medications. The idea of using pharmacological agents to treat sex offenders is relatively modern, although surgical procedures such as castration which, like some medications, diminish androgen levels have been employed for this purpose for quite a while. The following is a brief case vignette which serves as an example of the type of patient for whom medication treatment may be appropriate, as well as a basis for the subsequent discussion of the various issues and considerations, diagnostic and otherwise, which must be reflected upon in trying to provide optimal understanding and care.

Case Presentation

Mr. A., a 40-year-old white male, was referred by his attorney for assessment as a consequence of the patient's sexual involvement with a 13-year-old boy. Having been charged five years earlier with a similar offense, at the time of his assessment the patient was on court-mandated probation. Though apprehended only once before, he had been sexually active almost exclusively with young males, most ranging between the ages of 14 and 17 (but some as young as age 8), since he himself was 7 years old.

Sexual activity, which included undressing, fondling, mutual masturbation, and oral-genital contact occurred frequently with a variety of partners, sometimes as often as several times per month. In almost all cases the children were persuaded rather than coerced, but in two instances, while intoxicated, Mr. A. threatened the victims with a paring knife. The patient indicated that he had begun to drink frequently "to get up the courage to approach potential partners."

After each incident the patient felt ashamed and guilty, vowing that he would try not to act similarly in the future. However, in time, as his sexual urges began once again to intensify, he would give in to temptation. The mere happenstance of watching young boys in television commercials would sometimes elicit a strong urge to focus his attention towards the child's genital area. In describing the mental experiences that led him to act in these ways, the patient, in an interview with Dr. John Money, made the following comments:

> If I have seen an exceptionally nice looking boy I get aroused. I want to go over there, but then again I don't. I see him, and I want to get out of there because I know I am going to start fantasizing. I have noticed that the first thing is I drop my eyes to his genitals. It gets more intense, the fantasies, that is. I dream about a South Sea island, nothing but boys on the island. It is kind of like a fight between the good side and the bad side, like Dr. Jekyll and Mr. Hyde. Sometimes the way to cure it is to masturbate, and that takes care of it. There are other times when I get so aroused I just have to get it sexually together. It worries society. It worries me very much. I know it is wrong. I know what the legal issues are, but at the time I am not thinking of legal issues. All I can think about is getting the boy. I want to keep doing it, and doing it, and doing it. No matter how. Getting the boy. Sometimes I think, "Hey, what are you doing? I don't want to hurt anyone." I really do not want to hurt these children, but I am very afraid that I might.

In attempting to understand his condition, the patient made the following comments:

> What starts a person like myself doing what I do? Why me? Why can't I be normal like everybody else? You know. Did God put this as a punishment or something towards me? I am ashamed. Why can't I just go out and have a good time with girls? I feel edgy when a female is present. An older "gay" person would turn me off. I have thought about suicide. I think after this long period of time I have actually seen where I have an illness. It is getting uncontrollable, to the point where I can't put up with it anymore. It is a sickness. I know it's a sickness, but as far as they [society] is concerned, you are a criminal and should be punished. Even if I go to jail for 12 or 15 years, or whenever, I am still going to be the same when I get out.

This last statement was not meant to be defiant.

Physical and laboratory examination of the patient revealed a number of biological pathologies (see Table 5-1). These findings suggest that the patient has Klinefelter's syndrome, the significance of which will be discussed subsequently.

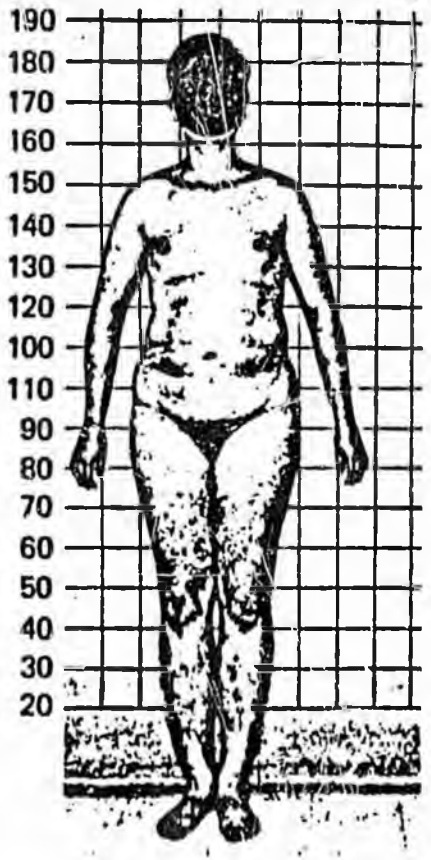
Table 5-1. Abnormal Physical and Laboratory Findings on Mr. A.

Physical Findings:

1. Scars on chest from previously performed bilateral mastectomies, done because of gynecomastia (enlarged breasts) which developed at puberty
2. Hypogonadism (small testicles)
3. Abnormally long arms and fingers

Laboratory Findings:

1. Low sperm count
2. Elevated luteinizing hormone (148 ng/ml); normal LH in adult males = 36–64 ng/ml
3. Elevated follicle stimulating hormone (638 ng/ml); normal FSH in adult males = 98–276 ng/ml
4. Low testosterone (153 ng/100 ml); normal (s.d. = 2) range in adult males = 275–875 ng/ml
5. 47 XXY chromosome pattern; normal male pattern = 46 XY



Typical patient with Klinefelter's syndrome. Note the gynecomastia and female distribution of adipose tissue. (Photo courtesy of Dr. John Money.)

Pedophilia as an Example of a Diagnosable Sexual Deviation Syndrome

The case just presented is an example of homosexual ephebophilia, which means that the patient is a man whose sexual orientation, interests, and preferences are directed predominantly towards postpubertal boys. Were he interested mostly in prepubertal boys, a diagnosis of pedophilia, rather than ephebophilia, would be more accurate. For purposes of the present discussion, the term pedophilia will be used when referring to persons sexually oriented towards children, regardless of whether the children are pre- or postpubertal.

According to the 3rd edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM III), there are three criteria which must be satisfied in order to make such a diagnosis.[1] First, it is necessary to establish that the patient becomes erotically excited by the act or fantasy of engaging in sexual activities with children. Secondly, if the patient is an adult, rather than an adolescent, the children must be at least ten years his junior. Finally, it must be clear that any sexual acts engaged in with children are not either due to other mental disorders such as schizophrenia, dementia, or drug intoxication, or due to lack of an suitable age-appropriate partner, which occurs in some cases of incarceration or incest.

As is true of persons with conventional heterosexual interests, the onset of sexual behavior in persons with unconventional, or "deviant," erotic desires usually begins around the time of puberty. Related fantasies, however, may have been experienced much earlier. In the absence of appropriate treatment, the course of such syndromes tends to be chronic, which is not surprising because the sex drive is maintained over time.

In terms of reported cases, pedophilia appears to be almost exclusively a male problem, although its exact prevalence is unknown. The majority of cases in the literature have involved heterosexual pedophilia (men attracted towards little girls), but more recently some centers have reported a higher frequency of homosexual involvements.[2] In ancient Greece, homosexual pedophilic behavior was considered acceptable. Socrates, for example, wrote, "A valued company might be composed of boys and their lovers . . . for of all men they would be ashamed to desert one another."[3] Judeo-Christian beliefs, however, based in part upon the biblical story of Sodom and Gomorrah (hence, the term sodomy), clearly consider it to be immoral.[4–6] In some states, a possible legal sentence for engaging in sex with a minor is the death penalty.[7] Although in American society a child can clearly become quite distressed by involvement with a pedophile (hence the importance of applying effective interventions to stop such behavior), it is also the case that some children become even more upset by the reactions of well-intentioned adults who find out about their sexual involvements.[8] Tragically, sometimes children also feel guilty and responsible for any punishment imposed upon a former partner, a person (perhaps even a relative) whom they may actually like a great deal.

Sexual activity by pedophiles with children rarely involves physical assaultiveness and is usually the result of persuasion rather than coercion, although the series of brutal slayings in Atlanta, Georgia, during 1980 and 1981 represented an exception.[9] A study in Detroit, Michigan, of over 1752 sex offenses against children found that physical injury occurred in less than 9% of the cases.[10] When a pedophile craves sadistic sexual involvement with children, a second diagnosis of erotic sadism should also be made. Though most children are warned to be leery of strangers, the victims of pedophiles, unlike the victims of exhibitionists, usually know their partners well, and sexual activity (which is often mutual fondling and masturbation rather than intercourse) frequently occurs in the home of either the victim or the perpetrator.[1,8] Whereas some pedophiles merely lust after children, some seem to fall in love with them, which may make treatment more difficult.

Why persons differ from one another in sexual orientation and in the nature and intensity of their erotic desires is unknown. It is unclear why most men find women sexually appealing whereas some are erotically attracted towards young boys. Nor is it clear why still others experience recurring urges to expose themselves publicly or to rape repeatedly. In some instances, certain types of early childhood experiences seem to play a contributory factor in determining adult sexual interests. Many pedophiles, for example, were themselves sexually involved with adults as youngsters.[11] In other cases, biological pathologies such as structural brain damage, hormonal dysfunctions, genetic anomalies, or electrical disturbances of the brain seem to play a role.[2,12] Persons who meet the diagnostic criteria for a sexual deviation syndrome, of which pedophilia is an example, may be appropriate candidates for treatment with antiandrogenic medications.

Diagnosing a Sexual Deviation Syndrome

The term used in DSM III to categorize sexual deviation syndromes is paraphilia, which means attraction to deviance.[1] Diagnosis of a sexual deviation syndrome can be made by inquiring about a person's thoughts, feelings, and behaviors. Individuals with deviant sexual interests ordinarily experience repeated erotic fantasies about engaging in unconventional forms of sexual activity. Asking an individual about his masturbatory fantasies can be revealing in this respect because erotic arousal for the purpose of masturbation may be difficult in the absence of erotic mental imagery.[13,14] The homosexual pedophile frequently fantasizes about young boys, whereas the heterosexual exhibitionist has recurring thoughts about exposing himself to women. The male transvestite is preoccupied with the idea of cross-dressing in female clothing. Rather than depending solely upon introspective reports, Dr. Gene Abel of the New York State Psychiatric Institute suggests that the rate of change in the diameter of the pupil of the eye can also be used as a means of determining whether a particular stimulus, such as the picture of a nude child, is sexually arousing (see Figure 5-1). Measures of penile tumescence and other forms of polygraphic data have also been used to try to document unconventional sexual interests.[13]

Accompanying the unconventional sexual fantasies experienced by persons who can be diagnosed as having a sexual deviation syndrome are intense erotic cravings. These cravings are experienced as frustrating and discomforting when deviant fantasies cannot be enacted. Karl Jaspers, the eminent German phenomenologist (who was probably influenced in his thinking by Krafft-Ebing and Havelock Ellis), characterized deviant sexual cravings as intolerable states, similar to addictions, that demand action in order to be alleviated.[16] However, many persons with conventional heterosexual interests can also feel discomforted if sexually frustrated; such frustration may motivate a person to seek out a consensual sexual partner. The individual with a pedophilic sexual orientation, however,

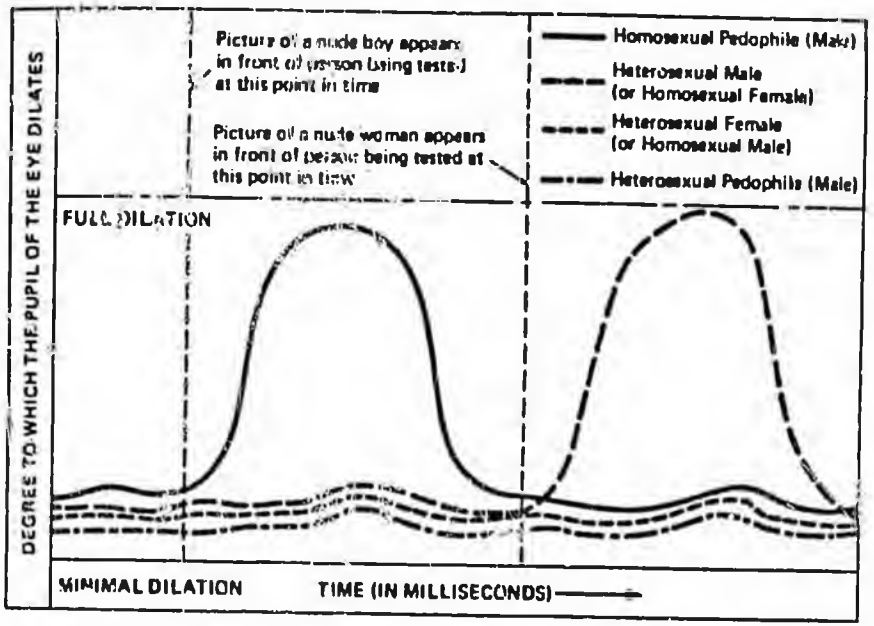


Figure 5-1 Schematic representation of the pupillary responses of four persons with different sexual orientations.

faces much greater difficulties in the sense that all those whom he may find naturally appealing (i.e., children) are forbidden as partners. Living in a world where all those who are sexually appealing are forbidden as partners must be difficult—a situation heterosexual adults can, perhaps, empathize with by imagining living in a world where one was expected to have sex only with children.

People do not decide voluntarily what will arouse them sexually. Rather, they discover within themselves what sorts of persons and activities are sexually appealing to them. Sexual behavior in general tends to be in part a response to one's erotic desires and fantasies. Thus a man with conventional heterosexual interests tends to seek out adult women, just as the homosexual pedophile (who may be impotent with women) seeks out boys. The heterosexual voyeur repeatedly seeks out situations where he can "peep" upon unsuspecting naked or partially clad females in response to his sexual cravings, whereas the male transvestite repeatedly cross-dresses.

DSM III lists nine major diagnostic subcategories of paraphilia (see Table 5-2).[1] In earlier, outdated classification schemes, sexual deviation syndromes were often considered to be a subdivision of the so-called sociopathic personality type. It is important to appreciate that sexual orientation can be assessed independently of character traits. Some men with unconventional sexual orientations show no other evidence of "sociopathic personality traits," such as disrespect for authority, other

kinds of criminal behaviors, truancy, vocational irresponsibility, or lack of concern for others. On the contrary, men with unconventional sexual orientations such as pedophilia can manifest a range of character traits, just as is true of persons with conventional heterosexual orientations."[17] Thus, terms such as pedophilia refer to the nature of a person's sexual orientation or to the nature of his sexual desires, and not to his traits of character. A paraphiliac man who has been consistently nonviolent in temperament would not ordinarily be expected to undergo a sudden change in personality so as to become a physical danger to others.

Table 5-2. Major Diagnostic Subcategories of Paraphilia.

1. Pedophilia
2. Exhibitionism
3. Transvestism
4. Voyeurism
5. Zoophilia
6. Fetishism
7. Erotic sadism
8. Erotic masochism
9. Other (includes paraphiliac or compulsive rape)

Differential Diagnosis as a Basis for Determining Appropriate Psychiatric Treatment

Many persons are referred for psychiatric assessment and possible treatment by virtue of the fact that they have behaved in a particular way (e.g., by having sexual involvement with a child) and, thus, they carry the label "sex offender." Not all sex offenses (a legal term), however, are the reflection of a sexual deviation disorder or paraphilia (a medical term). In assessing a sex offender for possible treatment, the psychiatrist or evaluator must try to ascertain (1) the state of mind the individual was experiencing that led him to act in a particular way, and (2) whether the behavior in question was the manifestation of a diagnosable and potentially treatable psychiatric syndrome.

A sex offense could represent the expression of any of a number of psychiatric conditions. Schizophrenia, for example, is a syndrome comprised of (1) delusions, which are rigidly held, idiosyncratic, false beliefs that cannot be corrected by reason (e.g., the belief that one has a bomb inside one's head); (2) auditory hallucinations ("hearing" voices when no one is speaking); (3) disorganized thinking (in both logic and syntax); (4) insomnia; (5) agitation; (6) emotional apathy; (7) loss of initiative; and (8) bizarre behavior.[18] The term schizophrenia refers to the cluster of associated features comprising the syndrome and not to the person manifesting the condition.[19] Schizophrenia must be differentiated from other psychiatric syndromes such as dementia, delirium, and affective illness because delusions, hallucinations, and bizarre behavior may occur in these disorders as well. In dementia and delirium, however, delusions and hallucinations when present are accompanied by disorientation and intellectual decline, whereas in affective illness these symptoms occur within the setting of a sustained mood change. The age of initial onset of schizophrenia is almost always in the late teens or early twenties, and like a variety of other medical conditions (such as juvenile onset diabetes), its course is chronic. There is evidence that this form of mental illness, in which persons lose the capacity to perceive accurately whether heard voices are real or imaginary, may be associated with a genetic predisposition.[18] Thus, schizophrenia seems to occur most frequently within certain families. An associated biological pathology may be the presence of heightened levels of various chemical neurotransmitter substances (such as dopamine) in the brain.[20]

Mr. B. was a patient who developed the delusion that he needed to drink the blood of women in order to remain alive. Initially, in response both to this rigid false belief and to "voices telling him to do so," he sacrificed several animals and drank their blood. Subsequently, he physically assaulted several women in an effort to obtain blood from them, which resulted in his being charged with a second degree sex offense. In this case, the offense in question was clearly a behavioral manifestation of his schizophrenic condition, and his sexual orientation and erotic desires were apparently quite conventional. Appropriate treatment for the symptoms of schizophrenia includes the use of phenothiazine medications or other sorts of neuroleptic drugs.[21] However, just as is the case when insulin is employed to treat diabetes, present-day pharmacological therapy does not represent a complete cure for this illness.

Sex offenses can also be a reflection of other psychiatric conditions such as manic-depressive illness.[22] In addition to delusions of grandeur (e.g., the belief that one is Christ) and elated mood, one of the other symptoms of the manic syndrome is often an increase in sexual appetite. Mr. C. is a 54-year-old man who would repeatedly expose himself to middle-aged women only when in the midst of such an episode. At other times, when his mood was stable and his capacity to perceive reality intact, he would never act in such a fashion. The appropriate treatment in his case, as a prophylaxis against future recurrences of this psychiatric illness (whose natural course, like asthma, is episodic rather than chronic), is lithium carbonate. When well, this patient experienced perfectly conventional erotic interests and, thus, would not satisfy the diagnostic criteria of a sexual deviation syndrome.

Sex offenses can be perpetrated by persons with conventional sexual desires and orientations while intoxicated with drugs or alcohol. Here psychological counseling (plus, perhaps, Antabuse—a medication that makes a person feel physically ill if he consumes alcohol while taking it) would likely be the treatment of choice. A mentally retarded person with conventional erotic interests who "didn't know any

better" might also commit a sex offense and possibly require counseling plus sex education. Mr. D. is an intelligent man with conventional sexual interests who began an incestuous relationship with his sister before either of them was old enough to appreciate the implications of such behavior. Here, counseling to help them deal with their guilt and family concern was the treatment employed. Finally, a self-centered, self-indulgent person with conventional sexual desires, but with no concern for the well-being of others, might also commit a sex offense. An example would be the criminal who rapes a woman in the midst of a robbery because he feels he can get away with it. Such a person might well have no diagnosable psychiatric illness, and a proper disposition might include quarantine in the form of incarceration.

Rationale for Treatment When a Sex Offense Is the Manifestation of a Sexual Deviation Syndrome

Based upon the preceding discussion it should be clear that some sex offenses are committed by men who are not simply self-indulgent individuals with conventional erotic interests misbehaving. Unlike the homosexual pedophile, most men (including homosexual men) experience absolutely no desire to engage repeatedly in sexual involvements with young boys.[23] Rather, the average man would be repulsed by such an idea. Whereas the exhibitionist lusts for the opportunity to repeatedly expose himself publicly, most men would be embarrassed or humiliated at the prospect of behaving in such a fashion. Though many men might indeed turn their gaze towards a partially clad woman visible through a nearby window, few experience recurrent urges to "peep" repeatedly at the risk of job, reputation, family, and incarceration as does the voyeur.[24,25] The average man would feel foolish dressed in woman's clothing, whereas the male transvestite finds this erotically arousing. Although many men find themselves capable of being sexually stimulated by descriptions or scenes of coercive sexual acts, the average man certainly does not experience repeated ruminations and cravings to rape. Nor, as is the case with the paraphiliac (or compulsive) rapist, does he repeatedly have to resist the temptation to rape in order to remain out of trouble.[2] Thus, the assumption that paraphiliac behavior is little more than misbehavior is a conceptually invalid oversimplification. This kind of oversimplification leads to interventions that are rehabilitatively ineffectual. The recidivism rate is extremely high when punishment is the "treatment" of choice, as punishment does virtually nothing to make it any easier for a man to resist deviant sexual cravings. One hears of numerous instances in which a paraphiliac rapist, recently freed from prison on work release, has already raped again repeatedly. Quarantine, as opposed to punishment, may indeed be necessary so long as an individual poses a threat to others (as is sometimes true of some persons with contagious diseases), but if effective treatment that assures public safety can be applied, the need for isolation from the community may be obviated.

PART II: BIOLOGICAL PATHOLOGIES AND ETIOLOGIES

Klinefelter's Syndrome as an Example of a Biological Condition Possibly Predisposing towards Sexual Deviation

Mr. A., whose case was discussed earlier, was found to have Klinefelter's syndrome. Dr. Harry Klinefelter and his colleagues described this condition for the first time in 1942 in the *Journal of Clinical Endocrinology*.[26] Klinefelter's syndrome is a condition characterized by (1) the development of gynecomastia (enlarged breasts) at the time of puberty, (2) aspermatogenesis (low sperm production), and (3) an increased excretion of follicle stimulating hormone (FSH) by the pituitary gland in the brain.

Normally a person without Klinefelter's syndrome has 23 pairs, or a total of 46, chromosomes—each of which contains millions of genes. One-half of each chromosome pair is obtained from the mother, and the other half from the father, at the moment of conception. Twenty-two of the 23 chromosome pairs are termed autosomes, and as far as is known they are not directly related to the determination of the body's gender appearance.

In most cases, every cell in a person's body contains a replica of all 46 chromosomes. Any cell can be obtained from an individual, prepared in a special way, and then looked at under a microscope, to actually visualize them. When this is done, ordinarily by looking at a white blood cell, the chromosomes can be lined up and numbered as shown in Figure 5-2. Usually these chromosomes look the same in every cell. When this is not so, as when some cells contain 46 chromosomes but others 45, this is known as a mosaic pattern. The top part of each chromosome pair is called the p-section, and the lower part the q-section. If a chromosome abnor-

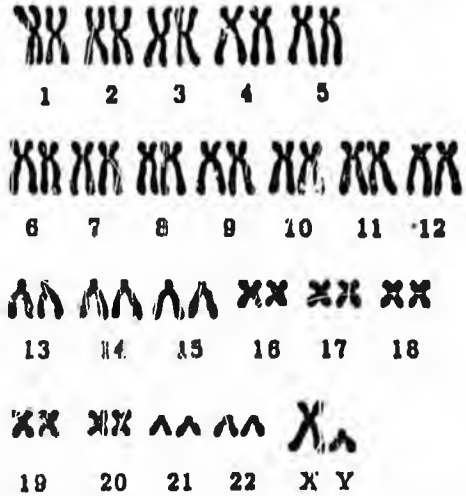


Figure 5-2. Normal male (46 XY) chromosome pattern.

mality were to consist of extra genetic material being present on the top part of chromosome pair number 9, this would be indicated by the notation 9 (p+).

If one of the 23 pairs of chromosomes looks like a small X matched with another small X, a person will look like a female at birth (barring certain medical complications).[27] On the other hand, if that chromosome pair looks like a small X matched with a small Y, the person will usually look like a male because the presence of a Y-shaped chromosome ordinarily instructs the body to take on a male appearance. On rare occasions, a woman may be found to have an XY rather than an XX chromosome pattern, if chemical receptors in the cells in her body lack the capacity to respond to genetic messages sent out via hormones from the Y chromosome.[28]

In Klinefelter's syndrome, instead of having 23 pairs of chromosomes for a total of 46, 47 chromosomes are present, one of which is an extra X. Thus, although due to the presence of a Y chromosome, the Klinefelter's child ordinarily appears to be a boy at birth; genetically speaking, the child can be thought of either as a male (XY) with an extra X chromosome or as a female (XX) with an extra Y chromosome. Although most Klinefelter's patients have only one extra X chromosome and are therefore said to have a 47 XXY karyotype pattern, some have even greater numbers of additional X chromosomes present.

Besides the XX or XY pattern, other physical indices have been used to try to ascertain biological gender. Although most women have two X chromosomes in every cell, one of these two is ordinarily partially inactivated.[29,30] As a result, if a cell is taken from a woman, by gently scraping the buccal surface of her tongue, and it is then properly prepared and looked at under a microscope, a clump of stained chromatin will be seen within this cell's nucleus. Lyon was the first to suggest that this "chromatin positive material," also known as a Barr body, is actually a partially inactivated and clumped up extra X chromosome.[31] Since the "normal" (XY) male has only one rather than two X chromosomes, he has no extra one present to clump, and thus he will test chromatin negative. The Klinefelter's male, however, because he does have two X chromosomes will stain chromatin positive and thus, on the basis of this test, appear to be a female.

Another test sometimes used to identify biological gender involves looking at neutrophils, a type of white blood cell, under a microscope. Ordinarily the nucleus inside a neutrophil obtained from a woman contains a drumstick-like appendage (see Figure 5-3).[31] This "drumstick" is not seen in neutrophils obtained from "normal" (46XY) males, but it is seen in Klinefelter's patients.

As early as 1957, Money and Hampson suggested that sex differences can be looked at in a variety of ways besides physical appearance (see Table 5-3).[32] When this is done using Klinefelter's patients as an example, it becomes clear that questions as to whether an individual is a man or a woman, and questions about what sexual orientation and gender identity should be, become much more difficult to answer than is ordinarily appreciated. Because Klinefelter's patients are born looking like males, their parents naturally enough routinely assign them a male sex role, and they are raised as boys. However, in terms of gender identity, some of

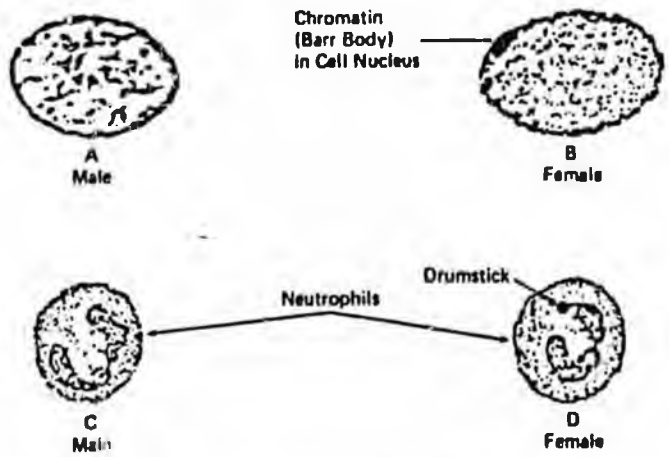
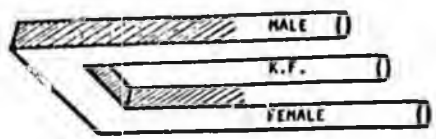


Figure 5-3. (A) Cell nucleus from buccal smear of "normal" male. (B) Cell nucleus from buccal smear of "normal" female. (C) Neutrophil from "normal" male. (D) Neutrophil from "normal" female.

Table 5-3. Male versus Female Sexual Characteristics in Klinefelter's Patients.

	IN KLINEFELTER'S SYNDROME (K.F.)
1. Sex of assignment and rearing	*Male*
2. Feelings of gender identity	May be *male* or *female*
3. (a) Sexual orientation (b) Sexual behavior	May be towards members of the same or opposite sex (which sex is the opposite sex in K. F. syndrome?)
4. External anatomical sex (phenotype)	*Male* at birth; then becomes both *male* and *female* (e.g., enlarged breasts) at puberty
5. Hormonal sex	Hormonal profile (of testosterone, FSH, and LH) is similar to postmenopausal *females*
6. Gonadal (and internal anatomical) sex	Male, but *hypogonadal*
7. Chromosomal sex (genotype)	*Male/female* — karyotype (XXY) *Female* — Barr body *Female* — neutrophilic drumstick



them, as early as age 7, have felt themselves psychologically to be girls.[33] Dr. John Money described the case of an otherwise normal 8-year-old boy brought for psychiatric assessment by his frustrated parents because he insisted he felt more comfortable dressed in girls' clothing. Chromosomal analysis revealed that he had Klinefelter's syndrome. As demonstrated by the case of Mr. A. discussed earlier, a number of Klinefelter's patients are sexually attracted to little boys rather than to members of the opposite sex, but in some ways it is unclear which sex is the opposite sex when it comes to Klinefelter's syndrome. Why some Klinefelter's patients find children rather than adults appealing is unclear. It is clear, however, that the sight of an infant usually elicits some feeling (albeit asexual) in most people. The possibility that feelings towards children (including the so-called maternal instinct) may be at least partially influenced by genetic factors cannot be excluded.[34] Although body phenotype is masculine during childhood, 80% of Klinefelter's patients grow large breasts and develop a "female distribution of adipose tissue" at the time of puberty (see Table 5-1).[35,36] The "hormonal sex" of these patients as measured by levels of FSH, LH, and testosterone is somewhat similar to that of a postmenopausal woman. Although Klinefelter's patients have testes rather than ovaries, their testes are very small, and produce little testosterone and virtually no sperm. As noted earlier, in terms of (1) chromosomal karyotyping, (2) Barr body testing, and (3) assessment of neutrophils for the presence of "drumsticks," Klinefelter's males produce the same test results as females. Thus, perhaps it should come as no surprise when one discovers that a patient like Mr. A. who has Klinefelter's syndrome also has problems in terms of sexual orientation and in terms of the nature of his erotic desires.

Although Klinefelter's patients have been well studied medically, little epidemiological data surveying the prevalence of sex-related disturbances in the Klinefelter's population as a whole are available.[37] In many studies, pertinent questions regarding sexual phenomenology and experience were never asked.[38] Furthermore, the prevalence of sexual deviation, gender dysphoria, and related phenomena amongst the general public has not been well documented and therefore is unavailable for comparison purposes. For these reasons, in spite of the case of Mr. A. presented earlier, conclusions regarding the relationship between Klinefelter's syndrome and sexual deviation must be evaluated cautiously. Nevertheless, review of the literature (despite some disagreements[35,39,40]) suggests that the prevalence of sexual deviation syndromes in Klinefelter's patients may indeed be higher than it is amongst non-Klinefelter's men.[41–50] Baker and Stoller, for example, reviewed over 100 pertinent articles and arrived at such a conclusion.[33] Since most Klinefelter's patients appear to be essentially normal boys until puberty, it is difficult to account for this apparently high prevalence of sexual deviation on the basis of child rearing practices or other types of early life experiences.

Not all patients with Klinefelter's syndrome show evidence of sexual deviation; rather some are hyposexual instead. In such cases, testosterone has sometimes been administered to increase rather than decrease sexual capacity. When this has been done, these patients have reported a heightening of erotic desire, which again demonstrates the apparent relationship between testosterone levels and sexual phenomenology.[51–53]

Although most Klinefelter's patients have low testosterone levels, often the levels are not so low as to obliterate sexual desire significantly. Therefore, when sexual desires are deviant, as is the case with pedophilia, attempts to further reduce sexual appetite may still be warranted. This highlights the fact that the rationale for utilizing testosterone-depleting methods to treat paraphiliacs is based upon appreciation of the nature and intensity of the individual's erotic cravings, and not upon documentation of a biological abnormality. However, just as lung cancer is more likely to occur if a person smokes than if he does not, the likelihood of sexually deviant urges may be greater in the presence of certain kinds of biological abnormalities than in their absence.

Etiology of Conventional and Unconventional Sexual Desires—Associated Biological Pathologies

Mr. A., whose case of homosexual pedophilia was discussed earlier, was also diagnosed as having Klinefelter's syndrome. This, coupled with the fact that medications may sometimes be used in treatment, raises the question of whether one should routinely look for possible biological contributors to sexual behavior. In animal species other than man, biological factors clearly contribute significantly to such behavior. Female dogs, for example, become sexually responsive to male dogs only while in heat (estrus). At such times, in response to the odor of chemical substances emitted from the females, the males themselves become sexually much more assertive. In many species of birds, only the male sings. If a female zebra finch is given estradiol as an embryo, plus androgen hormones as an adult, she will sing a male courtship song without having heard it previously.[54] In addition, she will display typically male mating behavior and, like normal males (but unlike normal females), will have an increased number of cells in the nucleus robustus archistratialis and other brain regions (see Figure 5-4a).

In most species of rat, normally only males mount. "Mounting" is a behavior that involves placing the forepaws on the back of another animal while posturing the body in a fashion conducive to intercourse. Adult female rats given testosterone at a specific time in utero will also show this behavior which normally predominates in males.[55] Male rats do not normally build nests or care for their young, but they will build nests and show other kinds of "maternal behavior" if electrical stimulation is applied to certain brain areas.[56] Male Siamese fighting fish are preprogrammed genetically to respond aggressively to the sight of another male. Tinbergen described in great detail how specific configurations of visual stimuli can elicit (or "release") specific sexual behaviors in stickleback fish.[57] The same is true of spiders and blowflies[58] (see Figure 5-4b). In some cases, animals are pre-

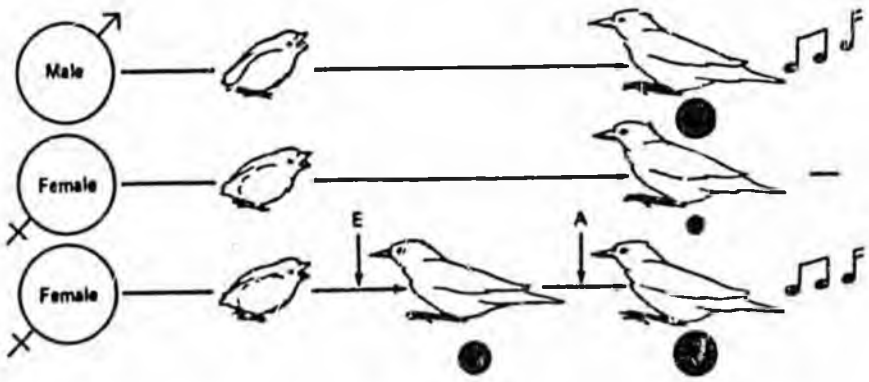


Figure 5-4a. Sex differences in male and female finches. Male birds sing; females do not. However, females treated with estradiol (E) just after hatching, and with androgen (A) in adulthood, do sing and exhibit other male behavior. Shaded disks represent the relative size of one brain region involved in song production. (From reference 54.)

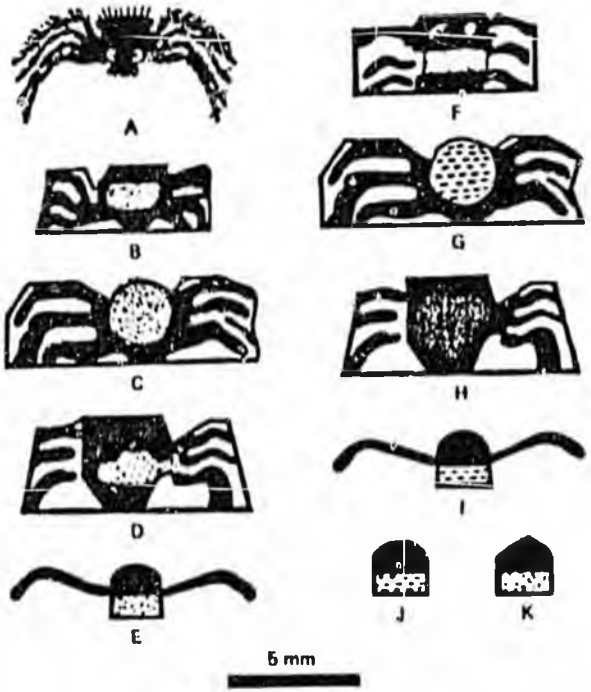


Figure 5-4b. Visual specificity of the sexual responsiveness of spiders. Male spiders with no prior sexual experience may attempt to mate (or attack) moving colored objects shaped like those on the left, but they will not do so with those on the right. (From reference 58.)

programmed genetically to respond sexually to sounds rather than vision. The sound of the wing beat of the female is the stimulus which attracts male crickets and mosquitos.[58] Some animals have an innate predisposition to follow, and become psychologically attached to, the first large object they see moving during a "critical time period" in early life. Attractions acquired in this fashion are said to be "imprinted."[59] Lorenz described young ducks who became so imprinted towards him that they tried to feed him live worms—a drive apparently so strong that they would try to force them into his ears if he closed his mouth.[60] Early life imprinting can influence the nature of an adult animal's sexual attractions.

In 1978, researchers reported a study in the *New England Journal of Medicine* documenting the observation that some women initiate sexual behavior most frequently during the ovulatory period (days 12 through 17) of their menstrual cycles.[61] This is a time in the cycle when the androgenic hormone androstenedione is ordinarily at its peak.[62] When estrogen and progesterone hormones were given to these women in the form of birth control pills, the result was a suppression of the ovulatory peak of female-initiated sexual behavior. Since regular menstrual cycling, including monthly menstruation, continued normally, this decrease in the frequency of female-initiated sexual behavior around the time of ovulation was apparently attributable, either directly or indirectly, to the altered hormonal status of the women in question.

Human males do not have to be taught how to obtain an erection. Instead, at some time in their lives, presumably because they are genetically preprogrammed to do so, they begin to have erections in response to specific kinds of tactile, mental, olfactory, or visual stimuli (such as the sight of a shapely female) Even human infants seem to respond instinctively in specific ways to certain stimuli such as a loud sound (which causes a startled reaction), the visual perception of height (which causes hesitation), or the sight of a familiar face (which causes smiling).[58] Goy and McEwen at a symposium at the Massachusetts Institute of Technology in 1977 suggested that biological factors may contribute more than previously appreciated to human social and sexual experience.[63] Recently, Pillard and co-workers summarized data suggesting that there may be a genetic predisposition towards male homosexuality.[64]

In humans (as well as in animals), structural and functional differences in the brain between males and females seem to depend upon exposure to various "sex hormones" during particular phases of embryonic development.[65–70] Females exposed prenatally to high doses of androgens tend, as adults, to show patterns of psychosexual development more typically seen in males.[71,72] Prenatal exposure to progesterone may have a "feminizing effect."[73,74] Exposing a male human fetus to medications containing estrogen may lead to a pattern of adult psychosexual behavior more frequently seen in women.[75,76] Oral administration of 10 mg per day of testosterone to adult women can increase sexual responsiveness and libido without causing masculinizing bodily changes.[77]

Because it seemed possible that biological factors might contribute significantly to human sexual behavior, a variety of laboratory tests were performed on a group of paraphiliac patients.[2] These data, which have recently been updated, are presented in Table 5-4. Although it will be important to perform similar tests on an appropriately matched group of persons with conventional sexual desires, for comparison purposes, there does appear to be a very high frequency of biological pathologies in these patients. These pathologies include structural brain damage, hormonal abnormalities, electroencephalographic dysfunctions, and chromosomal anomalies (such as Klinefelter's syndrome).

Thus far, the possible role of biology as an etiological contributor to sexuality has been discussed. However, Stoller hypothesized that whereas biological factors may become a compelling determinant of sexual experience and function in the presence of significant organic anomalies (Stoller's "biological force" hypothesis), sometimes environmental influences such as early life experiences may play a more dominant role.[33] In this connection, Dr. John Money has discussed the case of a pair of genetically identical twins, one of whom required a total penectomy (surgical removal of the penis) a few days after birth, due to trauma suffered during circumcision. Subsequent to that penectomy, plus additional reconstructive surgery (and hormone supplementation at puberty), the child in question was reared as a girl. Although perhaps somewhat "tomboyish" in interests and play during childhood, this 46 XY female, now a teenager, feels herself psychologically to be a woman. Her sexual orientation and interests are directed towards age-appropriate males, and someday she hopes to marry and adopt children. Her genetically identical twin feels himself to be masculine, and he finds females appealing. Thus, it is clear that both biological and environmental factors can influence sexual phenomenology and behavior.

PART III: THERAPIES

Psychotherapy and Behavior Therapy as Treatments—Biological and Syndromal Considerations

Four major types of treatment have been proposed to try to help sex offenders. They are psychotherapy, behavior therapy, medication, and surgery. Unfortunately, recognition that optimal treatment may depend upon proper differential diagnosis has often been unappreciated. Sometimes the goals of therapy are stated explicitly, for example, to help a person gain greater capacity for self-control, but this is not always the case.

Most psychodynamic theories make the assumption that conventional heterosexuality alone is natural, and that other orientations and preferences are pathological variants which only occur when proper development goes awry. These theories see sexual deviation as a reflection of "unconscious" psychological conflicts and postulate that such conflicts come about as a result of unsatisfactory early life experi-

Table 5-4. Associated Findings in a Group of Male Patients with Sexual Disorders.

PATIENT DIAGNOSIS	ASSOCIATED FINDINGS
1. Erotic sadism	Oculomotor abnormality suggestive of basal ganglion dysfunction. Unexplained gait disturbance.
2. Homosexual pedophilia	Dyslexia; childhood lisp requiring speech therapy.
3. Homosexual pedophilia	Cortical atrophy; grand mal seizures; recurrent slow delta waves and sharp activity over frontal brain regions on EEG.
4. Hypersexuality	Elevated testosterone; family history of adrenogenital syndrome.
5. Homosexual pedophilia	Klinefelter's syndrome, mosaic (90% 47 XXY, 10% 46 XY). Elevated FSH and LH. Low testosterone.
6. Homosexual pedophilia	Strabismus; childhood learning disorder.
7. Heterosexual pedophilia	Schizophrenia.
8. Exhibitionism	Elevated testosterone; prior history of coma several months following head trauma; grand mal seizures.
9. Heterosexual pedophilia	Cortical atrophy (2° to trauma); right-sided partial hemiparesis; visual spatial deficits.
10. Homosexual pedophilia	Elevated testosterone.
11. Heterosexual pedophilia	Near total blindness due to brain damage.
12. Heterosexual pedophilia	Elevated testosterone; mild ventriculomegaly and cortical atrophy most pronounced in area of right sylvian fissure (by CAT scan); elevated 24-hour urine pregnanetriol (3.1 mg — normal is less than 2.5 mg).
13. Homosexual pedophilia	Elevated LH. Generalized muscular hypotonia.
14. Paraphiliac rape	Elevated testosterone; grand mal seizures.
15. Homosexual pedophilia	Elevated testosterone.
16. Hypersexuality	Cortical atrophy; cortical blindness; mild mental retardation.
17. Voyeurism	Elevated LH.
18. Homosexual pedophilia	Dyslexia.
19. Homosexual pedophilia	Mosaic chromosomal pattern (97.5% XY, 2.5% XX); large heterochromatic region at centromere of autosome number 19 (polymorphic variant); low LH.
20. Homosexual pedophilia	46 XY, inversion 9(p+ q−) chromosome pattern. High LH.
21. Homosexual pedophilia	47 XYY chromosome pattern. Elevated testosterone, FSH, and LH.
22. Paraphiliac rape	Elevated FSH.
23. Exhibitionism	Elevated LH.
24. Homosexual pedophilia	Low LH.
25. Heterosexual pedophilia	Elevated testosterone, FSH, and LH.
26. Homosexual pedophilia	Klinefelter's syndrome; elevated FSH and LH. Low testosterone.
27. Heterosexual pedophilia	Elevated testosterone.
28. Homosexual pedophilia	Elevated testosterone.
29. Voyeurism	Elevated testosterone and LH.
30. Hypersexuality	Elevated testosterone; structural brain damage.
31. Homosexual pedophilia	Elevated testosterone, FSH, and LH. EEG abnormality.
32. Transsexualism	Klinefelter's syndrome. Low testosterone.
33. Homosexual pedophilia	Elevated testosterone.
34. Homosexual pedophilia	Klinefelter's syndrome. Elevated FSH and LH. Low testosterone.

NOTE: Normal (s.d. = 2) testosterone range in men = 275–875 ng/100 ml. Normal FSH in males = 98–276 ng/ml. Normal LH in males = 36–64 ng/ml. No associated abnormalities were detected in seven other patients with sexual disorders who were also assessed.

ences. However, in the author's opinion, they rarely explain adequately why such experiences should be expected to result in specific problems such as exhibitionism, rather than pedophilia or juvenile delinquency. Usually the intent of therapy is to try to "uncover" conflicts so that an individual can rework his developmental problems. In point of fact, there is reason to doubt whether sex offenders come to fully understand or change their sexuality by such means.

In an investigation published in *Lancet* in 1979, Eicher studied a group of transsexuals (persons who feel themselves to be psychologically "trapped in the body of the wrong sex").[78] He examined the white blood cells of these persons, looking for the presence or absence of a cell surface substance known as H-Y antigen.[28] Ordinarily (as depicted schematically in Figure 5-5), H-Y antigen is present on the surface of cells taken from men, but absent in women. In some transsexuals, Eicher found that the gender the individual felt himself (or herself) to be corresponded with the presence or absence of H-Y antigen, rather than with that individual's bodily appearance. If Eicher's observations can be replicated, this suggests that "sex change operations," which have been performed on some transsexuals, may actually serve to correct body phenotype (external appearance) to conform with H-Y antigen genotype.[79,80] Such knowledge is clearly not accessible via introspective methods alone. Even if a person could come to such an understanding, this would not necessarily make it any easier for him to change his behavior. There is little solid evidence that traditional psychotherapies, when used alone, are consistently effective in treating paraphiliac syndromes.

Behavior therapists tend to be less concerned with the historical antecedents of unconventional sexual behavior than with the question of what can be done about it. The feature common to most behavior therapies is that the therapist prescribes a course of action for the patient to follow which is intended to help decrease his attraction towards previously erotic deviant stimuli, such as children. Often a simultaneous attempt is made either to teach the patient more appropriate ways of achieving sexual satisfaction or to condition him to become sexually arousable by an age-appropriate consensual partner. This is clearly a formidable task.

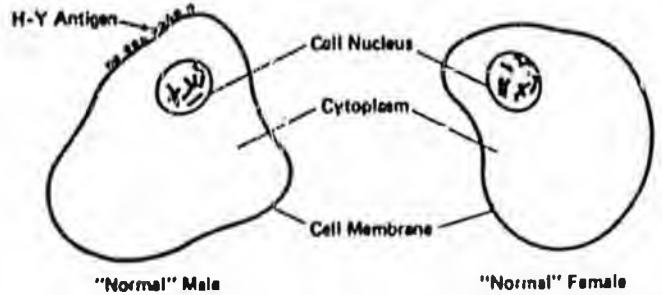


Figure 5-5. H-Y antigen is ordinarily present on the surface of cells taken from men but absent in women, as shown schematically in this figure.

Much of the literature regarding the behavioral treatment of sex offenders is anecdotal. However, Isaac Marks at the Maudsley Insitute in England documented good therapeutic results at two-year follow-up in treating transvestites (men who become erotically aroused by dressing in women's clothing), but the very same behavioral approach failed with transsexuals (men who feel themselves to be women).[81,82] Blair and Lanyon obtained good results in using behavior therapy to treat some exhibitionists.[83] Behavior therapy has not proven consistently effective in treating pedophilia. This suggests that some sexual deviation syndromes may be responsive to behavioral therapy treatments, whereas others may not. Perhaps more attention needs to be paid to differences amongst these syndromes, in addition to studying their common features.

Medication to Treat Sexual Deviation Syndromes

The purpose of utilizing medication to treat sexual deviation syndromes is to try to decrease sexual libido. The rationale for doing this is based upon the assumption that if one experiences sexual hungers of the sort that might cause problems, for example, a hunger for children, one is better off being less hungry. Because the various medications used for this purpose are not intended to make a man impotent and incapable of sexual activity, they may be most helpful in facilitating self-control in cooperative persons whose "offending behavior" is an expression of unconventional sexual tastes. They may be less helpful when the "offending behavior" is a manifestation of diminished intellect, psychosis, personality problems, or drug-induced intoxication—though such as hypothesis requires validation.

In utilizing drugs as a possible treatment method, one can address the issue of the relationship between biological factors, such as testosterone levels, and states of mind, such as those related to sexual desire. It is important to recognize, however, that the use of biological methods to successfully treat a condition does not prove that the condition and the treatment are directly and simply related. Aspirin can be used to treat a fever, but fever is not due to, or precipitated by, aspirin deficiency.

Amongst the drugs that have been used investigatively to try to treat sexual deviation syndromes are certain of the major tranquilizers such as benperidol.[84–86] Initially, use of these drugs for this purpose was based upon the observation that patients taking them for other reasons sometimes reported diminished libido. However, there is little substantive evidence to support the notion that these drugs can be used successfully in the treatment of paraphiliacs.

A class of drugs not yet utilized which may play a future role in treating these conditions are the gonadotropin releasing hormone (Gn-RH) agonists.[87] Again, rationale for their use is based upon the theory that the hormone testosterone "fuels" the sex drive in men. It is the increased production of testosterone by the testes around the time of puberty which correlates with (a) masculinizing bodily

changes such as deepening of the voice and growth of facial hair and (b) an increased psychological interest in sex. Prolonged (as opposed to brief) administration of Gn-RH agonists, for reasons that are poorly understood, paradoxically inhibits the release of follicle stimulating hormone (FSH) and luteinizing hormone (LH) from the anterior pituitary gland in the brain (see Figure 5-6). This, in turn, results in decreased testosterone output by the testes, which require stimulation from FSH and LH in order to produce testosterone. The adrenal gland, which also

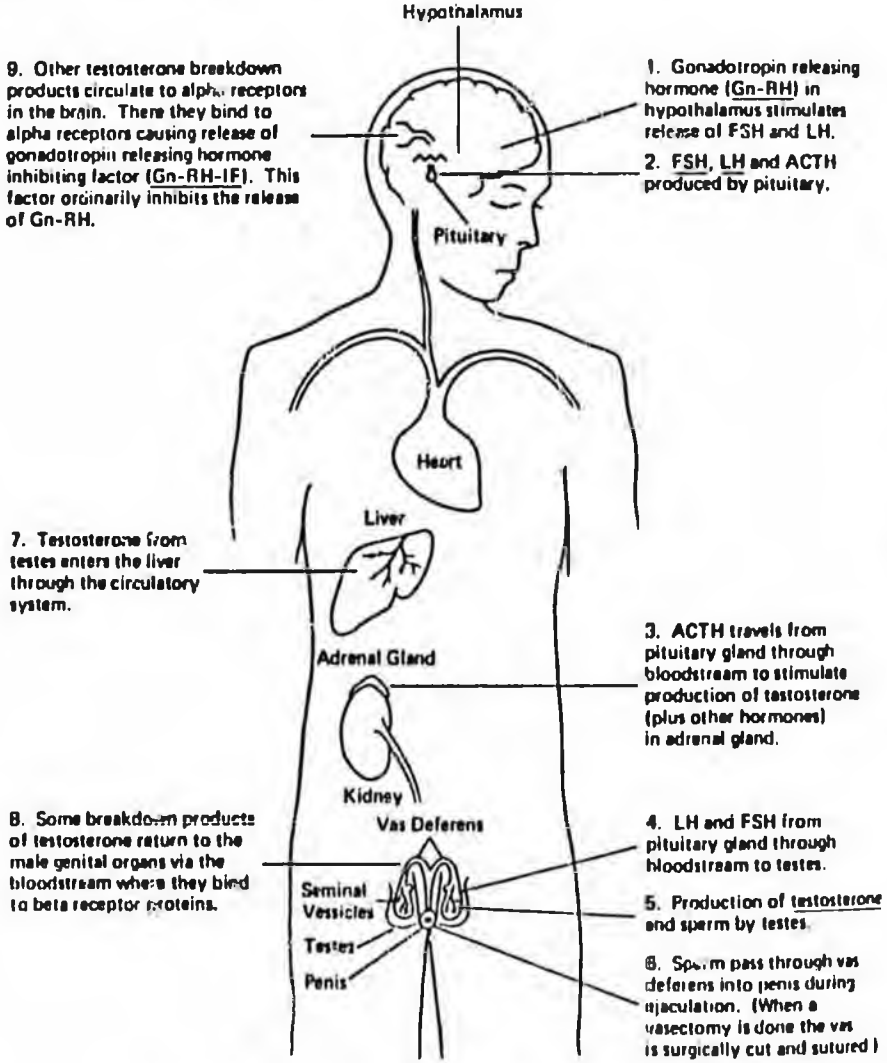


Figure 5-6. Relationships among various "male sex hormones."

produces testosterone in very small amounts, does not depend upon FSH and LH stimulation for this purpose. ACTH, another hormone produced by the pituitary gland, on the other hand, can influence adrenal testosterone output. A recently identified substance, Gn-RH inhibiting factor (see Figure 5-6), which may someday be useful in decreasing sex drive, has not yet been synthesized and therefore is unavailable for therapeutic purposes at present.[88]

Two other drugs that reduce testosterone levels which have been used in an attempt to treat sexual deviation syndromes are cyproterone acetate (CPA) and medroxyprogesterone acetate (MPA). Cyproterone acetate, which must be taken daily in pill form, is currently unavailable in the United States. A controlled double-blind clinical trial performed in Canada concluded that this medication could successfully reduce sexual interest and libido in a group of paraphiliac patients.[89] This investigation did not use a pharmacologically active substance with similar side effects for comparison purposes, however, thereby leaving doubt about whether study participants were indeed "blind" as to when CPA was or was not actually being administered. This raises the possibility that patients may have reported reduced libido as a psychological reaction to feeling "drugged" and that their feelings of diminished sexual interest may not have been attributable entirely to a pharmacologically induced decrease in testosterone levels.

When cyproterone acetate is administered, the pituitary gland does not increase production of FSH in response to decreased testosterone levels as occurs when an individual is castrated. This suggests that the drug has an effect not only upon the testes but upon the brain as well, presumably in areas relevant to sexual phenomenology and function. The same is true of medroxyprogesterone acetate.

None of the drugs used in the treatment of sexual deviation syndromes acts specifically to decrease deviant sexual desires while leaving conventional sexual interests intact. Thus, currently available medications do nothing to change sexual orientation; rather, if successful, they simply suppress sexual appetite in general.

Two major options are possible as a means of trying to reduce the presumed sex drive stimulating effects of testosterone. One is to try to interfere with testosterone production, whereas the other is to try to block the effects of testosterone (or more accurately, of its breakdown products) upon the brain. In the future, it may be possible to block the central effect of testosterone breakdown products upon the brain without interfering with levels of circulating testosterone peripherally. However, this cannot yet be done safely in humans.

The theoretical rationale for using testosterone-depleting medications to treat paraphiliacs would be strengthened if it could be shown empirically that intensity of sexual desire is indeed correlated with testosterone level. Davidson and colleagues showed that administration of testosterone to men whose plasma levels were below 150 ng per 100 ml led to a prompt increase in sexual appetite and activity.[90] However, Brown and others, in a study involving 101 men, demonstrated that variations in testosterone level within the intermediate range (275 to

875 ng per 100 ml in many laboratories) did not necessarily correlate with self-reports of sexual interest.[91] In animal studies, moderate decreases in testosterone level due to CPA administration failed to decrease sexual activity as significantly as had been expected.[92] Thus, in order to achieve therapeutic sex drive reduction, a significant decrease in testosterone level may be essential.

According to Laschet and Laschet, 80% of the men involved in a nonblind clinical trial reported significant reductions in sex drive in response to a daily oral dose of 100 mg of cyproterone acetate.[93] Twenty percent of the men required 200 mg per day orally, or 300 to 600 mg intramuscularly every week to ten days, in order to achieve a comparable effect. Follow-up of over 300 men for periods as long as eight years revealed few serious side effects when these dosages were employed.[94]

Stern and Eisenfeld showed that administration of radioactive-labeled testosterone to castrated rats pretreated with CPA did not result in its being bound to peripheral target tissues such as the seminal vesicles.[95] Thus, CPA appears to prevent the binding of testosterone to peripheral target organs. However, CPA does not block testosterone uptake in central hypothalamic brain regions thought to mediate sexual behavior.[96] In contrast, medroxyprogesterone acetate does, but it does not prevent testosterone binding peripherally. MPA inhibits FSH more than LH, whereas CPA inhibits only LH (see Figure 5-6). Thus, these two antiandrogenic drugs appear to exert an effect in slightly different ways. Both, however, reduce production of testosterone from its chemical precursors.[97,98] Antiandrogens may also exert an effect by preventing the rise in testosterone which ordinarily occurs as a consequence of sexual stimulation.[99]

Medroxyprogesterone Acetate (Depo-Provera). In the United States, medroxyprogesterone acetate is the drug that has been used most frequently to treat paraphiliac patients.[2] This medication is available in depot form, which means that it is prepared in such a fashion that it can bind to muscle, from where it is gradually released into the bloodstream. Injecting a depot drug into muscle accomplishes the same purpose as taking pills daily, in that both keep medication constantly present within the bloodstream so that it can act on appropriate tissue and organ receptors (see Figure 5-7). Some of the medication travels through the circulation bound to carrier proteins, whereas the remainder circulates in an unbound (or free) form. The customary starting dosage of MPA has been 500 mg per week of the 100 mg per ml solution. No more than 250 mg is given into a single injection site. The 100 mg per ml solution has greater bioavailability (i.e., it produces higher blood levels at a given dosage) and is less painful than the 400 mg per ml concentration. Periodic blood tests can be performed to document decreases in serum testosterone levels, and the medication is not feminizing (e.g., it does not cause breast enlargement). Dosage can be titrated so as not to cause total impotence, but studies to determine optimal dosage levels have yet to be performed.

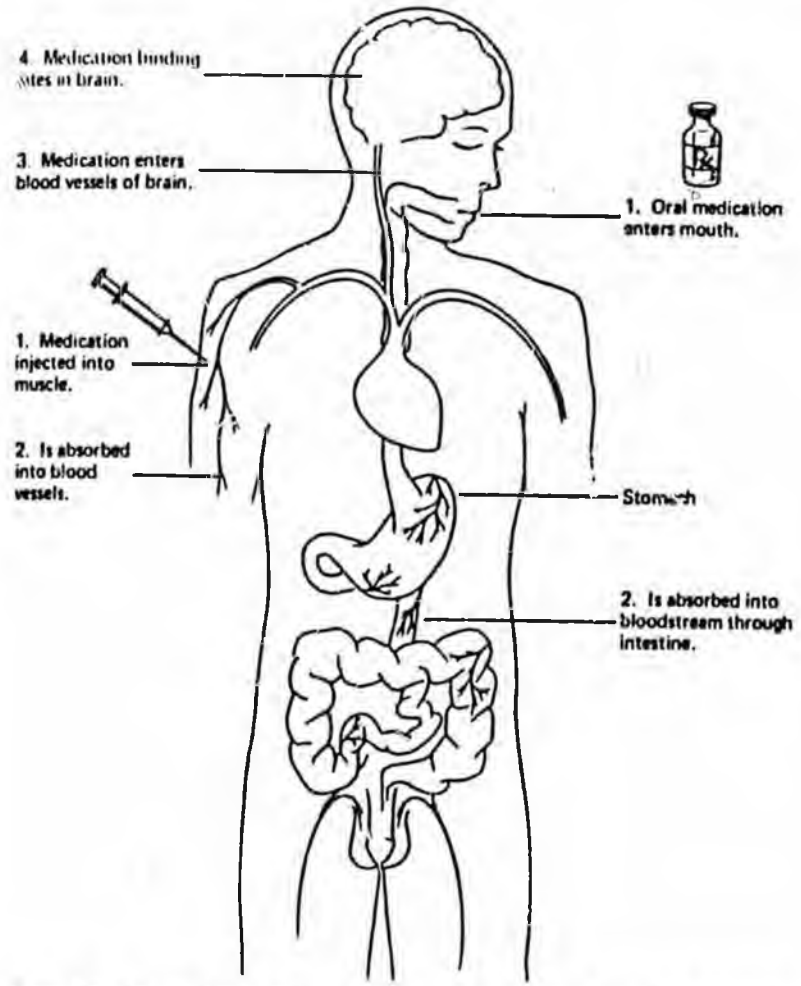


Figure 5-7. Comparability of oral and intramuscularly injected medication treatment.

The major side effects of MPA include weight gain, mild lethargy, cold sweats, nightmares, and hot flashes. Hypertension is common. Elevated blood glucose, dyspnea (shortness of breath), hypogonadism (shrunken testicle size), and malignant breast tumors (in female beagle dogs) have also been reported. The drug causes a decreased sperm count which makes impregnation unlikely, but the remaining sperm can be atypical which suggests that the fetus might be deformed were a man to father a child while taking the drug. It is believed that these major side effects are reversible if medication is stopped.

Table 5-5 shows changes in sexually deviant behavior in a group of 20 chronic paraphiliac patients treated with medroxyprogesterone acetate.[2] Of these patients,

Table 5-5. Changes in Sexually Deviant Behaviors in 20 Chronic Paraphiliac Male Patients Treated with Medroxyprogesterone Acetate.*

PATIENT	AGE (YEARS)	DIAGNOSIS	AVERAGE FREQUENCY OF SEXUALLY DEVIANT BEHAVIORS BEFORE TREATMENT†	DRUG TREATMENT‡		OCCURRENCE OF SEXUALLY DEVIANT BEHAVIORS	
				LENGTH	MAXIMUM DOSAGE	DURING TREATMENT	AFTER TREATMENT
1	34	Homosexual pedophilia	Once/week	7 years, 9 months	500 mg/week	None	Treatment dropout; no relapse less than 1 year after treatment
2	31	Homosexual pedophilia	Twice/month; 1 known arrest	1 year	300 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
3	30	Heterosexual exhibitionism	Twice/week	10 months	250–300 mg/week	None	Treatment dropout; relapsed more than 1 year after treatment
4	34	Homosexual masochism	4 times/week	3 months	200 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
5	27	Bisexual pedophilia	Twice/week	3 months	400 mg/week	None	Treatment dropout; relapsed more than 1 year after treatment
6	43	Transvestism; homosexual incest	7 times/week; 2 incidents	1 year, 4 months, intermittently	150 mg every other week	None	Relapsed less than 1 year after treatment
7	52	Heterosexual sadism	Once every 2 weeks for 25 years	3 years, 5 months	600 mg/week	None	Treatment continues; no relapses
8	29	Homosexual pedophilia	Twice/week; 6 arrests in 6 years	10 months	500 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
9	36	Homosexual pedophilia	Once every 2 months; 4 arrests in 6 years	2 years	500 mg/week	None	Treatment continues; no relapses
10	56	Homosexual pedophilia	Once/week; 14 arrests in 29 years	3 years, 9 months	300 mg/week	Relapsed	Treatment continues
11	40	Homosexual pedophilia	Twice/week; 7 known arrests	4 years, 2 months	400 mg/week	None	Treatment continues; no relapses
12	45	Voyeurism; heterosexual pedophilia	Twice/week; 5–8 arrests; numerous institutionalizations	5 years, 3 months	300 mg/week	None	Relapsed less than 1 year after treatment; treatment now resumed
13	27	Homosexual pedophilia	Twice/week since age 10	5 years, 9 months	200 mg/week	None	Treatment completed; no relapse more than 1 year after treatment
14	41	Homosexual pedophilia	Once/month; numerous arrests; 4 convictions, 4 reported parole violations	3 years, 8 months	500 mg/week	Relapsed	Treatment continues
15	37	Homosexual pedophilia; exhibitionism	Record unclear; probably several incidents/year	3 years, 9 months	350 mg/week	None	Treatment completed; no relapse less than 1 year after treatment
16	26	Homosexual pedophilia	Once/week	1 year, 1 month	200 mg/week	None	Treatment dropout; relapsed more than 1 year after treatment
17	24	Heterosexual voyeurism	Once/month	1 year	400 mg/week	Relapsed after alcohol consumption	Treatment continues; in prison
18	40	Heterosexual exhibitionism	Five times/day since age 11; first arrest at age 21; numerous others	2 years, 2 months	200 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
19	29	Heterosexual exhibitionism	Twice/week	2 years, 1 month	250 mg/week	None	Treatment dropout; relapsed less than 1 year after treatment
20	46	Heterosexual exhibitionism	Four times/week; binges of 20/day	2 years, 3 months	300 mg/week	None	Treatment continues; no relapses

*Sexually deviant behavior was considered to have occurred if the patient was accused of having or admitted having a deviant sexual contact (e.g., an episode of public genital exposure). Any occurrence of such behavior was scored as a relapse once treatment had been initiated, even if it did not come to the attention of the law as an official complaint.

†Based on institutional records and patients' statements.

‡Study participants who stopped taking medroxyprogesterone acetate did so against medical advice, except in the cases of patients 13 and 15. Some patients were irregularly compliant with medication even during the period when it was being prescribed.

15% (3 of the 20) showed recurrences of deviant activity while taking the medication, indicating that it is not 100% effective. On the other hand, 85% of these men were without further legal involvements while receiving medication, sometimes for periods as long as several years. The number of patients reported upon was small, and additional studies with larger numbers of patients need to be conducted. Some of the patients were self-referred and had no legal charges against them.

Most of the patients reported upon in Table 5-5 were not hospitalized to initiate treatment and were not required to take medication as a condition of probation. In time, many became noncompliant, sometimes because they believed themselves cured. Currently, most patients are briefly hospitalized for three or four weeks at the beginning of treatment, and subsequent outpatient compliance has improved dramatically.

The data presented in Table 5-5 show clearly that in most cases, when paraphiliac patients discontinue medications they relapse. This supports the hypothesis that this form of treatment is not a cure or a temporary catalyst to be used until psychotherapy can become effective. Rather, for the majority of patients, the medication appears to act as a sexual appetite suppressant. If deviant hungers are allowed to return, most patients seem again to be at risk of giving into temptation by satisfying those hungers. In a few cases, patients have reported that MPA fails to significantly decrease their sexual drive. Why this should be so is not known.

In the future, it will be important to conduct a controlled double-blind study in which neither the patient nor the evaluator is aware of whether MPA or a placebo with similar side effects has been administered. Fluphenazine, a drug with a similar intramuscular route of administration and similar side effects, which does not lower testosterone could be utilized for this purpose. Such a study could help document that any reduction in the frequency of sexual fantasies and in the intensity of erotic cravings experienced while receiving MPA was indeed related to lowered testosterone levels, rather than to psychological expectation or other factors independent of testosterone level. Such a study is now being planned. If it can be shown conclusively in this way that MPA does indeed decrease sexual appetite, changes in long-term recidivism rates could then also be ascertained amongst sex offenders treated with MPA, whose offending behavior either was, or was not, thought to be the manifestation of a sexual deviation syndrome.

Ancillary Care. Treating patients with antiandrogenic medications involves considerably more than simply providing injections. Although psychological counseling has not been shown to be a method capable of reducing sexual desire, such counseling may well be beneficial in other ways to the person who has been experiencing such desires. Although medication may decrease the lust a homosexual pedophilic man experiences for little boys, it cannot replace feelings of companionship, intimacy, affection, devotion, or love that may previously have been provided by children. Thus, once deviant erotic urges have been diminished by medication, an individual may also find counseling helpful in his effort to adopt a new life-style. For those who fail to respond to medication, supportive therapy and guidance to encourage efforts to resist temptation should be tried.

In initiating medication treatment, a brief period of psychiatric hospitalization lasting three to four weeks may be useful for three reasons, in addition to affording an opportunity for more comprehensive assessment. First, it removes the patient from unsupervised situations in which he might succumb to temptation before medication can begin exerting its anticipated effect. Secondly, many patients seem to develop a stronger alliance with potential help givers when living in hospital than when treatment is initiated on an outpatient basis. It is perhaps for this reason that brief hospitalization has sometimes been found to significantly increase subsequent outpatient compliance. Finally, while hospitalized, patients can speak with a group of other men having similar difficulties, which often brings a sense of relief and of being accepted as a person, thereby opening up the opportunity for greater candor. Many of these men have never before had a chance to talk openly with others without fearing that they would be perceived, and dealt with, in a demeaning way. Although the hospital staff in no way condones their behavior—quite the contrary—they do attempt to appreciate the basis for it, and they treat patients respectfully and kindly. The families of these patients can also be seen at this time, which can be important given the nature of their problems. How does a wife tell the neighbors that her husband has been arrested for exhibitionism or for sexually fondling the child next door? Patient confidentiality is maintained, but noncompliance is reported to the courts when appropriate. Rehospitalization may be required if outpatient treatment, which can include group therapy, is proceeding poorly. It is made clear to patients that a goal of therapy is to try to help them discontinue sexual behavior that violates the rights of others—not to make them feel better or less guilty about continuing it.

Surgery as Treatment for Sexual Deviation

The use of surgery to treat paraphiliac patients is well summarized in an article entitled "Therapeutic Sex Drive Reduction" written in 1980 by Dr. Kurt Freund of the Clark Institute of Psychiatry in Toronto.[100] The two major types of surgical procedures which have been used are (1) orchidectomy (castration) and (2) stereotactic neurosurgery. Stereotactic neurosurgery is performed with the aid of microscopic-sized surgical instruments capable of producing minimal-sized brain lesions. The effects of surgery (and of electrical and chemical stimulation or ablation of potential surgical sites) have been studied in both animals and men. Obviously, surgery should be considered as a therapeutic option for sex offenders only under extraordinary circumstances.

Castration. There are few well-controlled studies assessing the effects of castration upon an animal's tendency to approach a potentially available sexual partner.[100] Nevertheless, there appears to be little doubt that removal of the gonads

eventually decreases sexual interest significantly in most animals. In comparison to the rate of testosterone depletion, however, the corresponding postsurgical fading out of sexual behavior in castrated animals can be very slow. Furthermore, sexual interest may wane more slowly than sexual capacity as evidenced by the observations that (1) ejaculatory capacity often disappears before the animal loses the ability to sustain an erection and (2) the animal may continue attempting to mount receptive females even after erections have become rare.[101]

Individual differences amongst castrated animals are frequent. Pheonix and colleagues observed a substantial overall decline in virtually all aspects of sexual behavior in ten castrated monkeys.[102] However, while some of the animals ceased ejaculations immediately following surgery, others did not do so until over a year later. These postsurgical differences could not be attributed to presurgical differences in frequency of sexual behavior. The causes of individual variations in the rapidity with which various animals cease sexual behavior following orchidectomy are not clear, just as it is unclear why some humans continue to have apparently high libidos even after treatment with testosterone-depleting agents.

A number of studies have looked at the recidivism rate of sex offenses following castration in humans. Sturup and others conducted over 4000 follow-up examinations of 900 castrated sex offenders in Denmark over a 30-year period between 1929 and 1959.[103,104] There was definite recidivism of only 1.1% after castration, and if unclear cases were included, the recidivism rate was 2.2%. Wiffels reported comparable findings.[105] Ficher Van Rossum reported a 1.3% recidivism rate amongst 237 Dutch cases, and Kinmark (and Oster) reported similarly low rates on 307 Swedish patients.[103] Bremer found a 7.3% recidivism rate after five years in a group of 41 castrated sex offenders who, prior to treatment, had a recidivism rate of 58%.[106] Reported recidivism rates of castrated German sex offenders were also low.[107] This study also reported on normal German men forcibly castrated under Hitler.

Comu, in Switzerland, compared 121 castrated sex offenders with 50 offenders who had refused recommended castration.[108] Follow-up ranged between 5 and 30 years. The recidivism rate of castrated offenders was 5.8%, indicating that castration does not make further sexual offenses impossible. However, the recidivism rate of the 50 offenders who had refused castration was 52% (15 committed one additional offense, while 11 others committed between two and seven additional offenses each). Presumably, these differences in recidivism rate were a reflection of whether or not castration had been performed, although the possibility that the voluntarily castrated group contained more patients genuinely motivated to stop offending behavior cannot be entirely excluded. Prior to castration, both groups had a comparable frequency of offending behavior.

Freund pointed out that the degree to which sexual drive decreases after castration appears to depend upon the length of time of testosterone depletion.[100] Thus, if it is the case that some repeat sex offenses occur a short time after surgery, even further lowering of the recidivism rates might be possible by keeping patients in the hospital longer following castration.

Besides documenting changes in recidivism rate, a number of investigators obtained self-reports from sex offenders regarding potency. In many cases following castration, some degree of erotic desire and the capacity to perform sexually remained.[107–109] Hackfield pointed out that this does not present a problem in terms of treatment since the surgery fulfills its intent if it decreases sex drive sufficiently to enable the patient to refrain from acting upon unacceptable erotic urges.[110] Sturup described several cases in which pleasurable intercourse was successfully practiced for many years following castration in response to advances from consensual female partners.[104] Although a castrated man could reverse his condition by undergoing testosterone treatment, few cases have been detected in which this has occurred without medical approval.

Testosterone appears to be a prehormone which is broken down in the liver to form other metabolically active substances. Some of these bind to receptor sites in the brain, presumably stimulating areas related to erotic desire. Other testosterone breakdown products bind to receptors on peripheral tissues likely related to physical capacity to obtain erection and to ejaculate (see Figure 5-6). Freund suggests that someday it may be possible to administer active breakdown products of testosterone to castrated sex offenders, which will enhance their sexual capacity by affecting peripheral receptors without increasing sexual desire (via central brain stimulation) to a level where it becomes difficult to resist temptation.[100]

Neurosurgery. The second type of surgical procedure used in the treatment of sex offenders is stereotactic neurosurgery. In order to try to determine whether such surgery might be feasible in humans, a great deal of animal experimentation has been performed. That work has attempted to identify structures in the brain (1) that accumulate relatively large amounts of sexual hormones, (2) that lead to changes in the output of sexual hormones in response to either stimulation or ablation, or (3) that lead to changes in sexual behavior in response to either stimulation or ablation. Some researchers have also studied "experiments of nature" by looking at alterations in sexual behavior that correlate with human brain pathology.[111]

It is clear from studies done upon animals that lesions in some brain regions can readily decrease the frequency of sexual behavior without affecting either perceptual-motor capacity or circulating testosterone levels.[112,113] The area preoptica in the hypothalamus is one such region.[113] It seems to be particularly rich in sex hormone receptors. Other areas of the brain such as the limbic system accumulate sexual hormones to a lesser degree or not at all.

Exposing various areas of the brains of live animals to sex hormones to see whether sexual behavior will occur is another method used in an attempt to identify potential neurosurgical sites. This has produced some intriguing observations. Estrogen applied locally to specific hypothalamic sites in male rats leads to a lordotic

response—a backward elevation of the pelvis that facilitates intercourse in females.[112] Testosterone implants in certain hypothalamic sites can reactivate mating behavior in castrated male animals, but similar implants in other brain sites cannot.[114] Electrical stimulation in the dorsal part of the lateral area preoptica causes almost uninterrupted mounting and frequent ejaculations in male rats.[115]

In 1939, Kluver and Bucy described a syndrome in cats, produced by bilateral temporal lobectomy, that included intensified indiscriminate sexual behavior.[116] In 1954, Schreiner and Kling showed that this hypersexual activity could be abolished by castration but reinstituted with testosterone replacement therapy—which suggests that the behavior in question was sex hormone related.[117] They demonstrated that lesions to specific sites in the ventromedial nucleus of the hypothalamus could also abolish this hypersexual activity.

In 1966 a team of neurosurgeons performed stereotactic brain surgery on a homosexual pedophile, making a lesion in the ventromedial nucleus of the hypothalamus in the same area that had seemed to decrease hypersexuality when it had been ablated in Kluver-Bucy cats.[118] The patient subsequently indicated that his erotic fantasy life was virtually abolished and that he had lost his pedophilic urges. In 1979, Orthner (and others) reported that substantial therapeutic sex drive reduction had been achieved in 34 sex offenders treated neurosurgically in a similar way.[111,112,119] Although no formal instruments were used to confirm the validity of the patients' self-reports, in many cases follow-up extended over several years with no known rearrests. Major side effects were increased appetite, weight gain, and reported absence of dreaming. Freund feels that this surgical team may have obtained genuine success and that if it can be more conclusively established that neurosurgery appreciably lowers the recidivism rate of sex offenders, none of the reported side effects appeared disproportionate.

Schmidt and Schorsch cautioned that psychosurgery of this sort has sometimes been performed without proper safeguards with poor results.[120] They cited a study by Muller involving ten paraphiliac patients. Three years after surgery, four of the ten patients were lost to follow-up, three were said to be significantly improved, and two unimproved. Of the two unimproved patients, both subsequently underwent castration. The tenth patient in this series, a pedophile with sadomasochistic fantasies, was relased from prison after neurosurgery and was administered antiandrogenic medication until he complained of impotence with an age-appropriate girlfriend, at which time medication was stopped. Several weeks later he was accused of murdering a 10-year-old child.

A recent governmental task force appointed to consider the topic of psychosurgery in the United States concluded that it does hold therapeutic promise but recommended that its use be confined to designated research centers to try to assure proper safeguards.[121,122] Some authorities feel that brain surgery to attempt to decrease troublesome sexual appetites should for the time being be discontinued until further data from animal experimentation become available.[123]

Future Research

Figure 5-8 shows pictures obtained by means of a CAT scan and a PET scan. The term CAT scan is an abbreviation for computer assisted tomography. The equipment involved in producing these X-rays is manufactured by the EMI Corporation; thus, EMI scan is also sometimes employed.

When first marketed, the CAT scan represented a significant improvement over previously available X-ray procedures because not only could it show the presence of hard structures such as bones or tumors, but it was also capable of depicting the details of softer tissues such as kidney, lung, or brain. Furthermore, with the aid of computer analysis it could safely produce pictures of these structures corresponding to various depths within the tissue being X-rayed. X-rays of the brain taken by CAT scan depict structure but not function.

The term PET scan is an abbreviation for positron emission tomography. This test, like thyroid scanning, requires that the patient be administered a small amount of radioactive material—in this case glucose—which emits positrons. A computer attached to Geiger counter type sensors placed around the patient's head then produces a series of cross-sectional pictures of the brain at various depths. These pictures vary in color according to the amount of glucose being utilized as a source of energy at a given anatomical site. In this manner, the PET scanner can provide a picture showing which areas of the brain are most active metabolically at a given time—for example, during sexual arousal. Because the half-life (decay time) of radioactive glucose labeled in this fashion is short, the test is believed to be safe; it is no more dangerous than conventional thyroid scanning procedures which have been used medically for many years.

The PET scanner may help provide answers to the following questions. What areas of the brain are metabolically active during sexual arousal? Do these areas differ in persons with unconventional sexual orientations or interests? Do these areas differ in persons with organic anomalies such as Klinefelter's syndrome? What are the effects of testosterone-diminishing medications, which given in low or higher dosage forms, upon brain activity during sexual arousal?

PART IV: MEDICOLEGAL ISSUES AND SUMMARY

Medicolegal Issues

In considering the treatment of sex offenders with surgery or with antiandrogenic medications, a number of ethical and medicolegal issues must be addressed. Recently, in an editorial in the *American Journal of Psychiatry*, Dr. Seymor Halleck called for the establishment of guidelines regarding the use of antiandrogenic medications.[124] Two issues of concern to him related to (1) maintaining the constitutional rights of citizens, even those convicted of sex offenses and (2) the question

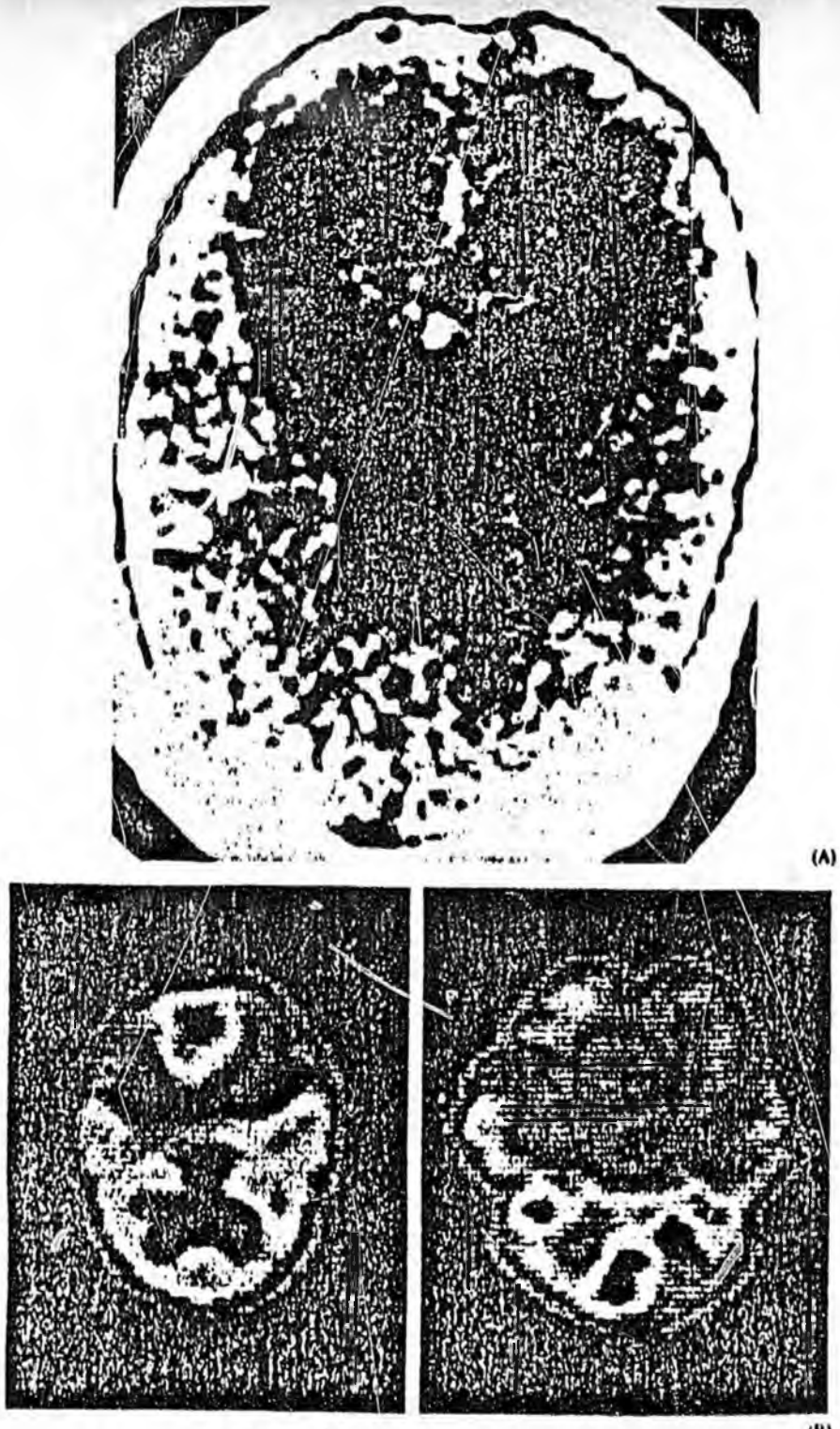


Figure 5-8. (A) CAT scan. (B) PET scan.

of whether persons facing prolonged incarceration are capable of giving informed consent regarding the use of this form of treatment.

In most democratic societies, individuals are generally free to do whatever they choose, as long as in doing so they do not interfere with the rights and well-being of others. When a person's behavior does pose a threat to the well-being of others, as clearly occurs when an individual rapes, for example, his freedom and rights are diminished for the common good. Thus, a convicted sex offender does not possess all the rights of a person who has not violated the law.

When an individual represents a threat to the safety of others, there is legal precedent for requiring him to take medication (e.g., measles vaccine). In this sense, then, requiring a convicted sex offender either to take antiandrogenic medications as a condition of probation or to go to prison may not be an unconstitutional violation of his rights.[125] Admittedly, making such a decision can be difficult, but just because the consequences of a decision may be difficult does not mean that one loses the capacity to choose. Cancer patients often have to choose between taking medication and dying.

Paraphiliac patients should not be denied access to antiandrogenic medications they wish to take which might be helpful in their treatment. Recently, a prisoner in Maryland successfully petitioned the court for the right to receive such treatment. Administering a properly informed, convicted person medication that may directly benefit him is very different from using him to study the effects of a drug, such as rabies vaccine, unrelated to his personal well-being. Paraphiliacs taking antiandrogenic medications can benefit if (1) they gain greater capacity for self-control, (2) they obtain relief from intrusive erotic obsessional fantasies, or (3) they avoid the necessity for quarantine from the community.

The medical profession needs to make clear the nature of the effects of psychiatric medications in general. They are not administered to control attitudes or behaviors such as those relating to political affiliations. They are not "mind controlling." Rather, they are usually given with the intent of increasing the capacity for self-control and restoring function (such as the ability to determine whether "heard" voices are real or imaginary).[126] Antiandrogenic medications are given in an attempt to increase rather than decrease self-control.[126]

Summary

Sexual deviation syndromes (paraphilias) are diagnosable psychiatric conditions manifested by (1) recurrent deviant fantasies, (2) intense erotic cravings, and (3) relatively stereotyped behaviors as a response to those cravings. The behaviors are stereotyped in the sense that exhibitionists expose themselves, whereas pedophiles seek out children and transvestites cross-dress. Paraphiliac syndromes are not necessarily mutually exclusive, but like conventional heterosexuality, their course is chronic. They may respond to biological treatments and may have associated

organic pathologies (such as Klinefelter's syndrome), but their etiologies are poorly understood.

Sexual offenses, as defined legally, may or may not be perpetrated by persons with one of these syndromes. When offending behavior is related to such a syndrome, (1) intramuscularly administered medroxyprogesterone acetate, (2) orchidectomy to diminish testosterone, or (3) cyproterone acetate may be helpful. However, antiandrogenic medication can only help if the patient is compliant. Orally administered medroxyprogesterone (at a daily dosage of 150 mg) has not been shown to be helpful.[128] It is not known whether antiandrogenic medication can help when offending behavior is unrelated to deviant sexual cravings, as when rape is committed opportunistically or in response to anger and hostility. Stereotactic psychosurgery is still a somewhat controversial procedure that is not yet widely enough available to be considered a practical treatment option for sexual deviation syndromes at this time. Behavior therapy may help some patients learn how to better resist their urges, but it may work less well with some paraphiliac syndromes than with others. When a sex offense is the reflection of a psychiatric illness such as schizophrenia or manic-depressive syndrome, medication treatment appropriate to that condition should be instituted. Legal demands for justice and safety as well as medical concerns for understanding care must both be considered, because each is important. When a person seeks help, his difficulties should be appreciated rather than scorned as perversions.

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SOLDOTNA OPTOMETRY CLINIC
JOHN A. DEMSKE, O.D.
DOCTOR OF OPTOMETRY
WOODRUEF BLDG. - SUITE 202, 155 SMITH WAY
SOLDOTNA, AK 99669

TELELPHONE (907) 262-3168

February 2, 1984



Representative Mae Tischer
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer,

Per your request during the teleconference hearing in regard to HB 225, I offered to send you the names of individuals involved with the written national exam for therapeutic drug usage by optometrists. I have spoken with Dr. Norman Wallis, who holds the dual role of president of the International Association of Boards of Optometry(IAB) and the executive director of the National Board of Examiners in Optometry(NBEO). Dr. Wallis informed me that the exam is in the planning stages and that he expects it to be ready for use by Spring of 1985. If you have any further questions, you could contact Dr. Wallis at 5530 Wisconsin Avenue, N.W., Suite 950, Washington, D.C. 20815. PH (301)652-5192.

Dr. Wallis was out of his office until today and that is why it has taken me so long to get this information to you.

Much of the testimony concerned optometrists using drugs with supervision by a physician. Of the 38 states where optometrists use drugs, only North Carolina has any type of regulation regarding supervision, and this supervision is informal where the physician acts as a consultant. Unlike a nurse practicioner or physicians assistant , the North Carolina optometrist is solely responsible for the prescription. That is the way I would want to prescribe drugs and I'm sure that the majority of O.D.s in the state feel the same.

Several times during the teleconference the situation in Bethel was mentioned as an ideal situation regarding supervision. Since I worked there for five years, I think I can shed some light on the conditions. The optometrists have standing orders which specify drugs, their dosages and uages.

The standing orders are approved after a trial period in which the doctor of optometry demonstrates his knowledge and proficiency. After the trial period, the optometrist can use these drugs in-office and write precriptions without consultation or supervision. If the optometrist wishes to use a drug that is not listed on the standing orders, then a consultation is required and the consultants name is noted on the prescription.

In my opinion, the North Carolina law is a far superior model in terms of administration, logistics,and interprofessional communication. If you have any further questions on the North Carolina model, I suggest that you contact Dr. John Robinson, Sec.-Treas.-N.C. State Board of Optometry, P.O. Drawer 609, Wallace, N. C. 28466.

In closing, I apologize for the lateness and length of this letter, but I feel that this is information of which you should be aware. If you have any further questions, don't hesitate to contact me.

Sincerely,

J. A. Jemska OD

1) Dr. Bo[illegible]
272-5353
276-8120
to offer his support to substitute HB 225 - wishes not to have bill "watered down"

2) Dr. Myers - Kodiak
486-5782
486-6117
to raise support for HB 225 in order to increase latitude of eye care to bush areas

3) Dr. McLaughlin - Sitka
an old family friend - called to support HB 225

Dr. Thonepohn
sub HB 225

Dr Curtis Johnson
supports substitute to HB 225

Dr. Maynard Falconer
support sub. bill HB 225
279-8422

Dr. John Shank - Rodeal
supports Rep. Bell's
substitute to HB 225

HB225

OPTOMETRISTS

MAE –

This cut & paste of HB225 makes it internally inconsistent –

Section 1 authorizes prescription & use of legend drugs, but the definition of legend drugs is DELETED on p. 3.

Both DIAGNOSIS & TREATMENT is limited to the ANTERIOR SEGMENT of the eyes & eyelids. Someone would have to explain what is significant about the ANTERIOR PORTION of EYES AND EYELIDS.

⇒ The proposal doesn't limit INJECTIBLES or CONTROLLED SUBSTANCES as the summary suggests.

The CS for Senate bill will be available by the HEARING time. It allows use of DRUGS FOR DIAGNOSTIC NOT TREATMENT purposes and sets out the Rules Board to establish what drugs may be prescribed – They MUST be approved by the Board of Medical Examiners.

I haven't read it yet – That's from Senate HESS STAFF.

10:15 AM

Dave

Tragger - Dept of Econ Development
Opposes "Legend" drugs terms
means Controlled

Dr Graves - Gave written testimony favors
Dr. Gonneson - Substitute Bill: Favors
Dr Harrison - Opthomologists. Opposed
1. Drugs
2. yes
Dr Swarner - Kenai - optometrist - favors
Dr Sam McConkey - physician opposed
1. no pharmacology training
2. failure rate of Hall Board exam very high
3.

Dr. John Cobbitt - Optometrist - favors. North Pole
Tom McLaughlin - Sitka - Optometrist favors
E C Smith - Ketchikan - optometrist - favors
Dr Phil Bach - Optometrist - favors
"Narrowly trained" is not the case
Profession wouldn't ask for something that would endanger their good reputation
John Dempsey - Bethel - Optometrist - favors
has administered drugs & diagnosed diseases
West Virginia has 7 years unmarred track record in Drug admin.
(*) Dr John Weatherby - Clinical - Bethel - Gen Practice
favors bill. Says Bethel has good experience giving optometrist therapeutic authority.

WHILE YOU WERE AWAY

FOR Mac DATE 5-2 TIME ____ A.M. P.M.

FROM Dr. Jim Falkner

OF ____

PHONE 272-2557 (AREA CODE / NUMBER / EXTENSION)

MESSAGE

supports substitute bill to HB 225

Not necessary to call back.

SIGNED

- TELEPHONED
- RETURNED YOUR CALL
- PLEASE CALL
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR _____ DATE 3:25 TIME 3/2 A.M. P.M.

M Dr. Titzel

OF Arch Optometrist

PHONE _____
AREA CODE NUMBER EXTENSION

MESSAGE Please Support Substitute bill 225

X	TELEPHONED
	RETURNED YOUR CALL
	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Mae DATE 5/2 TIME 3:55 A.M. P.M.

M Dr. Bobson

OF Optometrist

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE Please support the substitute bill on optometry that Rep. Hall will introduce tomorrow.

Cathy

SIGNED

X	TELEPHONED
	RETURNED YOUR CALL
	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

TOPS FORM 4002

Dr Deremus Opthomologist
(V. A Hospital patient)

military professionals
mentioned at least twice.

Really not credible

Summary of changes in the substitute bill

1. Excludes injectibles and controlled substances

2. Limits scope of therapeutics practice to anterior segment. Defines anterior segment.

3. Sets specific training requirements (conforms to current educational practice)

Dr Deramus - FBks Optomologist - Obit. Optical Surgeon
Opposed

Dr - Mike Franklin - G.P. Opposes - diagnosis w/ drugs okay but treating injuries, etc not okay.

Dr Richard Perry - Pres. AMA - opposes Page 2 Line 20-22. says there is no need to expand services.

MAY 10 1983

May 5, 1983

Representative Mae Tischer
Co-chairman House HESS Committee
Pouch V
Juneau, AK 99811

Dear Ms. Tischer:

I am writing you in support of the bill which would allow optometrists to use pharmaceutical agents in their clinical practice in the State of Alaska. I know this topic is an emotional issue, however, I feel that careful review of other states, etc. will substantiate the fact that with proper education and training it is safe. As well, in the present day of astronomical health care costs I feel it would be cost efficient. I also feel it can be demonstrated that better and more appropriate referrals to physicians can be made with the use of pharmaceutical agents by optometrists.

I write to you with a personal background of graduating from both optometry school and medical school. I am very comfortable presently and have no axe to grind, rather simply wish to express my personal heart felt opinion.

Let me now address some specific aspects of optometric and medical education by my own first hand experience.

Medical school traditionally prepares the student in general medical and surgical background for post-graduate training programs. Detailed anatomy and physiology of organs such as the eye is not emphasized during medical school. As well, during surgical rotation in medical school it is uncommon to be exposed to ocular surgery. Because heart disease, cancer, and stroke are the biggest killers of the U.S. population, medical school clinical training is heavily devoted to general internal medicine, general surgery, obstetrics--gynecology and pediatrics. There are usually fourth-year electives in 4-12 week blocks where a student may increase his/her exposure to subspecialty medical and surgical areas such as: ophthalmology, ear/nose and throat, urology, pulmonary medicine, cardiology, etc. In my experience a small minority of students choose ophthalmology as a clinical rotation.

By a small personal survey in the area of Oklahoma in which I reside, most primary care physicians (general practitioners, family practice, internists, and pediatricians) state they had from one to three weeks of medical school devoted to ophthalmological care. This includes both didactic coursework and clinical experience. I do not need to remind you that these physicians treat eye diseases on an unrestricted basis.

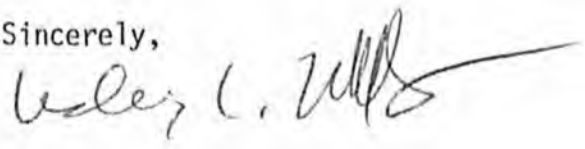
On the other hand, optometry school is mostly devoted to ocular training. There are courses in general pathology and ocular signs of systemic disease because the optometrist is responsible to detect systemic diseases with ocular manifestations and to make appropriate referrals. The detailed ocular anatomy, ocular physiology, ocular pathology, and ocular pharmacology training in optometry school is far superior to the same ocular topics in any general medical school course in the country. This is not to slight medical education, there simply is not enough medical school curriculum time to devote to the eye because of training in vital organ systems such as the heart, lung, vascular system, etc.

Secondly, I will discuss my personal experience with side effects of ocular pharmacologic therapy. This section will be very brief as I have never had a patient with anything other than a very minor side effect from ocular pharmaceutical agents. I have seen a few mild allergic reactions and none of these serious and none had any evidence of systemic reactions such as elevated blood pressure, rapid heart rate, arrhythmias of the heart, etc. None ever required hospitalization and certainly there were no deaths. I saw very few significant side effects and all which did occur were very minor in nature.

In summary I would like to point out that ophthalmologists are vitally needed. The medical profession would be in sad shape without them because of their expertise in the area of ocular trauma, cataract surgery, retinal surgery, serious ocular infections, etc. However, in a rural state the ophthalmologists are primarily in large and medium sized cities with a poor distribution in the rural communities.

I also strongly feel that optometrists are vitally needed. Optometrists are well distributed in rural communities and by definition serve as primary care professionals. In my opinion, the patient, particularly in the rural areas and small town, will be the beneficiary of modern optometric practice. With the use of pharmaceutical agents, disease detection will be facilitated thus making the referral system into medicine more efficient. As well, this will save the patient a lot of inconvenience and time. I feel optometrists should be allowed to practice modern optometry which includes pharmaceutical agents. I believe the key to utilizing these medications by health care professionals is education and training.

Sincerely,



Lesley L. Walls, O.D., M.D.
P.O. Box 78
Glenpool, OK 74033

cc Representative Adelheid Herrmann
Representative Mike Davis
Representative Peter Goll
Representative M.W. Miller
Representative Niilo Koponen

LLW/jjm

Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

Representative Mae Tischer

May 10, 1983

Lesley L. Walls, O.D., M.D.
P.O. Box 78
Glenpool, OK 74033

Dear Lesley:

Thank you for your letter and comments on HB 225 relating to optometrists and authorization for their prescribing ophthalmic drugs. I agree that this authority, properly regulated, would reduce costs and increase service to Alaskan residents. I will support this bill.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

MEMBER: Rules
CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Corrections

Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

To: HESS Committee
From: Dave Palmer
Subject: HB 225, SB 189, Optometrist Diagnostic drugs
Date: April 28, 1983

Attached is a copy of a working draft of a CS for SB 189.
The bill is different from the bill before the committee in several ways:

-The Board of Examiners in Optometry is expanded by one member, who is a physician.

-The Board is authorized to adopt regulations concerning the use of diagnostic drugs.

-The state medical board shall provide "advice and guidance" to the Board of Examiners in Optometry in developing a list of diagnostic druge and their dosages.

-provides for continuing education

-requires an optometrist to advise the patient and refer the patient to a medical specialist if a pathological condition is found.

-When using the term "Dr." or "Doctor", the word Optometrist must be used also,

-specifies requirements for an optometrist to be licensed to prescribe diagnostic drugs.

-optometry is defined to allow the use of diagnostic drugs.

-defines diagnostic drugs: cycloplegic, mydriatic or topical anesthetic....

-

Heard 4/27 Hearing

TESTIMONY IN SUPPORT OF HOUSE BILL 225

Health, Education and Social Services Committee

Alaska State House of Representatives

April 27, 1983

Steve Dobson, O.D.

Gentlemen of the Committee, my name is Steve Dobson. I am an optometrist in private practice in Anchorage. I am a 1980 graduate of the Southern California College of Optometry, and in 1981 completed a one year residency in rehabilitative optometry at an outpatient clinic of the Veterans Administration hospital in Los Angeles.

My testimony will focus on optometric education, for the most frequent charge raised by ophthalmologists in opposing this type of legislation is that optometrists do not have a physician's broad medical background, which they say is necessary in order to do competant diagnosis and treatment.

It so happens, like many propaganda arguments, that this one has a grain of truth in it. What may appear to be a local inflammation can actually be a manifestation of infection or dysfunction elsewhere in the body. Experience in administering a variety of drugs in a variety of modes makes it easier to learn new drugs and new treatment protocols.

However if the argument is carried too far, it begins to break down. One can say that it is useful to be trained as a general physician before treating specific parts of the body. But is it absolutely necessary? Ophthalmologists, who are trained on the physician-specialist model, would say that a physician's background is necessary even to be able to judge when to treat a case and when to refer it for more specialized care. However it takes no special expertize to realize that if that were the case, then dentists and podiatrists, who are not trained as physicians, would be incompetant or only marginally competant.

Let's take a closer look at the alternative model of education, on which dentists, podiatrists and optometrists are trained. For convenience, I will consider just dentistry and optometry, but podiatry follows similar principles. Dentists and optometrists have at least as many hours of training in anatomy as physicians. But that training is structured differently. Their studies in gross human anatomy give somewhat less emphasis to the body below the neck but more emphasis in the head and neck region, as compared with medical students. This is followed by intensive study of organ systems of special interest - the teeth and oral cavity for dentists, the eye and adnexa for optometrists. This is a level of detail that physicians do not encounter until they enter specialty residencies. Other courses, such as general

physiology, microbiology and general pathology, are also slightly less detailed than those given medical students. But again, when corresponding studies in the target organ systems are added in, the hours exceed those of the medical student. If we take the process one step further and add the hours of the medical student and the resident together, the total hours in any given subjedt would now be greater than those for the dentist and optometrist. For optometry and dental students, classroom and laboratory time in these subjects, called basic science, totals about a thousand hours, or 25% of the total clock hours in the curriculum. The remainder is given over to specialized theory and procedures courses, and experience in the clinic.

At this point, let me interject that in case it should be supposed or alleged that optometric courses are not of the same quality as dental courses, I would point out that where optometry and dental schools are co-located, as at the University of Alabama in Birmingham and the University of Houston, optometry and dental students not only take the same courses but sit together in the same classrooms and laboratories whenever there is enough commonality in content to make this practical. For example, general physiology and microbiology in the case of Birmingham. In both optometry and dental schools, physicians are used in their areas of greatest expertise, primarily pathology and therapeutics. Pharmacology is taught by pharmacologists and physiology is taught

by physiologists.

Courses in the whole body emphasize unifying principles, which serve as a foundation for understanding all regions. At the stage of target organ study, specific interrelationships between target organ pathology and systemic pathology are learned. It is also at this stage that the student learns what effects a drug may have on other organs of the body.

Without putting too fine a point on it, it is hopefully evident from this that someone who will be working with a portion of the body and dealing with a specific set of interrelationships between this portion and the rest of the body does not have to have the same kind of whole body training as someone who will be treating many different parts of the body. The specializing physician model of education is a good one, but is it enough better than the dental model to justify the increased costs?

With respect to drugs, however, optometry has differed from dentistry until recent years. When the optometry laws were enacted in the first quarter of the century, restrictions against drug use were inserted into nearly every statute as a compromise with the physicians and oculists of the day, who opposed enactment of the optometry laws. In the succeeding years, optometry developed strong capabilities in the detection and diagnosis of ocular

pathology, but its lack of access to prescription drugs effectively limited its therapeutic services to conditions treatable with over the counter drugs, compresses and mechanical procedures. During the same period, ophthalmology developed from a primitive extension of general medicine into a recognized specialty. In the 1970s general and ocular pharmacology were removed from their positions within other courses in the optometric curriculum, and expanded into full fledged, free standing courses. Concurrently, optometrists introduced bills that would allow them to use drugs to aid in diagnosis, on the theory that such limited legislation would be easier to pass. There began a slow, state by state process of passing legislation, against fierce ophthalmological opposition. As of now, 36 states allow some form of drug use by optometrists. In 1976, West Virginia became the first state to enact legislation allowing optometrists to use drugs for both diagnostic and therapeutic purposes. In 1977, North Carolina passed a similar measure and Florida received an attorney general opinion favorable to the use of therapeutics. In 1980, Oklahoma passed enabling legislation. In support of these states, nearby optometry schools strengthened their programs in therapeutics. At present, drug-based therapeutics is taught at an undergraduate and postgraduate level by Pennsylvania College of Optometry in Philadelphia and Southern College of Optometry in Memphis, and by the University of Alabama at Birmingham School of Optometry on a postgraduate basis. Other schools are planning similar programs. Pennsylvania's therapeutics course was taken by a

majority of Alaska's ODs last year. Opportunities for additional clinical experiences in therapeutics developed quickly and dramatically. Federal law in 1976 formally established Optometry Services within the Veterans Administration hospital system. These Optometry Services provide primary eye care therapeutics, usually under the prescription signing arrangement noted by Dr. Demske. A number of the Services have developed 1 year residency programs for optometrists, such as the one I went through. Opportunities are also available for ODs and undergraduate optometry students to study at these hospitals for shorter periods of time. In Atlanta, there is a three year old optometric clinic that does nothing but treat ocular pathology on referral from physicians and optometrists in the area. Students from four optometry schools do semester rotations there, and similar centers are being planned in other cities. There is thus developing a spectrum of training opportunities, both basic and advanced, for optometrists in therapeutics.

It appears that at long last the quirks of the original optometry laws are being removed and optometry will be allowed to undergo a more natural evolution. Optometry will continue to compete with ophthalmology, as podiatry competes with orthopedic surgery, though in the case of optometry, surgical training is not on the horizon. While the medical branches may not like it, such competition is good for the public. Optometry, like podiatry, can now offer quality, cost effective services in areas where specialists are overtrained

and general practitioners are undertrained. Dentistry has no competition from medicine, but its training is also based on the more cost effective model.

One more thing needs to be said. Ophthalmologists have criticized other aspects of optometric education, saying that there are too few MDs teaching in optometry schools and that clinical experiences are not adequate. In point of fact, ophthalmologists have actively tried to hinder the education of optometrists. There is a great deal of peer pressure on ophthalmologists, and through them, on their colleagues in other branches, not to teach in optometry schools. In 1955, the American Medical Association, at the request of the Section on Ophthalmology, adopted a resolution declaring it unethical for a doctor of medicine to teach in a school or college of optometry. Such resolutions have more than nominal influence upon physicians, for unethical behavior can serve as the basis for denial of hospital privileges by individual hospital medical staffs. Some physicians ignored the directive and continued to teach, and schools filled in the gaps by using osteopaths, who were not affected. The resolution was rescinded 11 years later, in 1966.

Ophthalmology has also opposed virtually every piece of legislation that would facilitate the professional development

of optometry, including funds for construction of optometry school buildings and clinics, Health Professions Student Loans, and capitation grants. Fortunately, most Congressmen and legislators saw the value of optometry to society, and the efforts of ophthalmology to block funding were largely unsuccessful. From 1964 to 1980, ophthalmologists were able to prevent reimbursement to optometric patients for services covered under Medicare. As a result, optometry lost 30% of its patient population over age 65. It also deprived optometry school clinics of a prime source of pathology for teaching purposes. It is not fair to criticize something when you are actively trying to bring about that which you criticize.

In conclusion, I would ask that you allow optometry in Alaska to take full advantage of the educational opportunities that are unfolding, so as to maximally benefit the public which it serves. Overly restrictive compromises will simply result in further legislative battles down the road. The bill in its present form conforms to the framework for decision making that has stood the test of time in other professions. It makes no legislative sense to take a responsible profession out of one box and place it in a slightly larger box. Given the opportunity, optometry will exercize the same good judgment as the other professions. And the public will be the beneficiary.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

May 9, 1983

SUBJECT: Optometry
(HB 225)

TO: Representative Milo Fritz
Co-Chairman, House Health, Education
and Social Services Committee

Representative Mae Tischer
Co-Chairman, House Health, Education
and Social Services Committee

FROM: Russ Josephson
Legislative Counsel

I would like to bring to your attention Sec. 6 of HB 225, as introduced. In this section, AS 08.64.360 is amended by adding the words "an optometrist" to those excepted from practicing medicine without an appropriate license. It is my feeling that the amendment of AS 08.64.360 in Sec. 6 would provide us with a "cleaner" statute if it read, "Except as provided under AS 08.64.170" rather than as it is amended in Sec. 6 of HB 225. You will note that in Sec. 1 of the bill we have excepted those practicing optometry by amending AS 08.64.170(a). Therefore, I would recommend that Sec. 6 of the introduced bill be amended.

If you have any questions about this matter, please do not hesitate to call.

RJ:ljb
18/013

POSITION PAPER/Department of Health and Social Services

POSITION PAPER
HOUSE BILL NO. 225

MAR 0 1983

"An Act relating to the practice of optometry and authorizing the use of prescription drugs by optometrists."

This Bill would permit the use of legend drugs by certain optometrists and would delete from the definition of optometry the restriction against the use of drugs. Legend drugs as defined in Section 5 of the Bill "means drugs whose containers must bear a label prohibiting dispensing without a prescription". The Bill also specifically permits optometrists to engage in the "diagnosis and treatment, including the use of drugs, of inflammations, infections and injuries of the eyes and eyelids".

A majority of states now allow optometrists to use diagnostic topical drugs, either through specific enabling legislation or through the lack of specific prohibitions. Few, if any, permit the use of therapeutic drugs. This Bill, as now written, would apparently permit the use of any drug, whether topical or systemic, in the diagnosis and treatment by an optometrist of inflammations, infections and injuries of the eyes and eyelids. Arguably, the proposed legislation may be construed to permit the practice of opthalmologic surgery by optometrists since surgery is not specifically prohibited.

Even the use of diagnostic topical drugs by optometrists, i.e., drugs which cause the pupil to open or to close down or which paralyze the muscles which control the shape of the lens, has been controversial. Those in favor of the use of drugs by optometrists argue that optometric services are more widely distributed than ophthalmologic services and that the optometrist serves as an entry point for primary eye care. The use of diagnostic drugs is said to expand the ability of the optometrist to recognize eye abnormalities and to increase medical referral for diagnosis and treatment. The optometric group also states that the use of diagnostic drugs rarely causes adverse effects.

Those opposing such legislation argue that the use of drugs would not materially improve the capacity of optometrists to recognize abnormalities. Optometrists are not expected to diagnose diseases of the eye and, if a departure from normal is noted, the patient is expected to be referred to a physician for diagnosis. The concern on the part of the medical community is that the optometrists would be making diagnostic judgements which the physicians do not believe them qualified to make. Moreover, the medical community notes that adverse reactions, while admittedly rare for certain of the diagnostic drugs, can have extremely serious consequences when they do occur. A higher rate of predisposition to a certain type of glaucoma in Alaska Natives is cited. Use of mydriatic drugs could possibly precipitate an attack. The potential use of therapeutic drugs can be expected to raise even greater concern.

Limitations are placed on the use of certain diagnostic drugs by legislation in some states. In Oregon, for example, the Board of Optometry is empowered to designate the diagnostic pharmaceutical agents for topical use, but provides that the designation shall be with the advice and guidance of the Board of Medical Examiners.

POSITION PAPER/Department of Health and Social Services

Some states define the type of training in pharmacology which would be required before an optometrist would be permitted to use even diagnostic drugs. HB 225 contains no such provisions.

The Department of Health and Social Services does not support HB 225 in its present form because of the overly broad definition of the types of drugs which would be authorized, vagueness with regard to the limits of optometric practice and lack of provisions with regard to the educational qualifications required for use of drugs. If the Legislature chooses to authorize use of certain drugs by optometrists, the Department suggests that definitions and restrictions similar to those in use in other states may be advisable and that the professional opinion of the medical and optometric communities should be sought to insure the health and safety of the general public.

Recommended by: E. S. Rabeau

E. S. Rabeau, M.D., Director
Division of Public Health

Date: 2/25/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Dept. of Health & Social Services

Date: 3/1/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 225 Date on Bill: February 23, 1983
Title: "An Act relating to the practice of optometry and authorizing the use of prescription drugs by optometrists."
Sponsor: Hurlbert
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	0	0	0		
Operating			0	0	0	0		
Total			0	0	0	0		

B. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared by: Dean F. Tirador, M.D. Phone: 465-2113
Division: Public Health Date: February 25, 1983

Approved by Commissioner: Robert London Sheffield, Ph.D. Date: 3/1/83
Department: Health & Social Services

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/12 , 1983

I. REQUEST

Bill/Resolution No.: HB 225
Title: "Optometrist - Use of Drugs"
Sponsor: Hurlbert
Requestor: HESS Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Devp.
Program Category Affected: Public Prot.
BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		31.6	33.1	34.6	36.2	37.9
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		1.5	1.6	1.7	1.7	1.8
400 COMMODITIES		0.5	0.5	0.6	0.6	0.6
500 EQUIPMENT		2.7	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING		38.3	37.3	39.1	40.9	42.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		38.3	37.3	39.1	40.9	42.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Darrell Miller
Division: Occupational Licensing
Phone: 465-2535
Date: 4/12/83

Approved by Commissioner: Richard A. Lyon
Department: Commerce & Economic Development
Date: 4/13/83

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HB 225 FISCAL IMPACT

(Note: 5% inflation factor projected for FY '84 through FY '88 for operating cost)

100 PERSONAL SERVICES - (FY '83 salary schedule plus 5% inflation factor)

1 Licensing Examiner, Range 12A, General Government, 12 months, to be located in Juneau	$31,602.00

200 TRAVEL

4 board meetings annually (2 days each @ $80.00/day per diem = $160.00 x 4)	$ 640.00
Transportation - board meetings annually ($350.00 each x 4)	1,400.00
	$ 2,040.00

300 CONTRACTUAL

Postage, telephone, printing, publications and operating costs	$ 1,500.00

400 COMMODITIES

Stationery, typewriter ribbons, pens, pencils, and other miscellaneous desk top supplies	$ 500.00

500 EQUIPMENT (One time cost, FY '84 only)

1 desk, double pedestal, 60" x 30"	$ 427.00
1 chair, swivel w/arms	202.00
1 typewriter, IBM Selectric II	1,129.00
1 typewriter table	94.00
1 chair, side, without arms	104.00
1 desk calculator	332.00
1 book case	138.00
1 file cabinet, 4 drawer, legal with lock	306.00
	$ 2,732.00

One position total:	$38,374.00

SPECIFIC LEGISLATION: 32 States

The list (and dates of enactment) of the 32 states with current legislation specifically authorizing optometrists to utilize pharmaceutical agents is as follows:

STATE	DATE OF ENACTMENT
Rhode Island	July 16, 1971
Pennsylvania	March 1, 1974
Tennessee	May 8, 1975
Oregon	May 20, 1975
Maine	June 24, 1975
Louisiana	July 6, 1975
Delaware	July 10, 1975
West Virginia*	March 4, 1976
California	July 9, 1976
Wyoming	February 17, 1977
New Mexico	March 4, 1977
Montana	April 12, 1977 (at 10:10 a.m.)
Kansas	April 12, 1977 (at 2:00 p.m.)
North Carolina*	June 3, 1977
Kentucky	March 29, 1978
Wisconsin	April 29, 1978
Nebraska	February 13, 1979
South Dakota	March 15, 1979
Utah	March 21, 1979
North Dakota	March 22, 1979
Arkansas	April 2, 1979
Nevada	May 25, 1979
Iowa	June 8, 1979
Georgia	February 14, 1980
Arizona	April 25, 1980
Idaho	March 23, 1981
Oklahoma	April 6, 1981
Washington	April 23, 1981
Missouri	July 24, 1981
Minnesota	March 8, 1982
Mississippi	March 17, 1982
Virginia	February 25, 1983

*both diagnostic and therapeutic use

NOTE: None of these laws has ever been repealed. However, a July 30, 1982 opinion of the Texas state attorney general has rendered that state's unusual provision (an amendment to the medical practice act), which was enacted on August 5, 1981, inoperative.

SOURCE: Dennis Swarner O.D & Robert O'Connell, O.D.

GENERAL LEGISLATION: 4 states

There are four states which authorize the use of pharmaceutical agents by optometrists by extant general law or favorable attorney general opinion:

Alabama	(diagnostic use)
Florida	(diagnostic and therapeutic use)
Indiana	(diagnostic use)
New Jersey	(diagnostic use)

NOTE: In addition, in Michigan, while there is no statutory prohibition of the use of pharmaceutical agents by optometrists, there is a negative opinion of the state attorney general.

For your information we are including an updated map showing, geographically, the utilization of pharmaceutical agents by optometrists.

Note: Section 39, chapter 842, Oregon Laws 1977, is operative July 1, 1986, and provides:

Sec. 39. ORS 683.010, 683.020, 683.030, 683.035, 683.040, 683.050, 683.060, 683.070, 683.080, 683.100, 683.110, 683.120, 683.130, 683.140, 683.155, 683.170, 683.180, 683.190, 683.210, 683.250, 683.260, 683.270, 683.275, 683.280, 683.290 and 683.990 relating to optometrists are repealed.

GENERAL PROVISIONS

683.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Oregon Board of Optometry.

(2) "Practice of optometry" means the employment of any means other than the use of drugs, except diagnostic agents, topically applied, known generically as cycloplegics, mydriatics, topical anesthetics, dyes such as fluorescein, and, for emergency use only, miotics, for the measurement or assistance of the powers or range of human vision or the determination of the accommodative and refractive states of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the aid thereof, subject to the limitations of ORS 683.040.

(3) "Trial frames" or "test lenses" means any frame or lens used in testing the eye which is not sold and not for sale. [Amended by 1971 c.102 §1; 1975 c.175 §1]

683.020 Certificate of registration required to practice optometry. No person shall engage in the practice of optometry or display a sign or in any other way advertise or hold himself out as an optometrist without having first obtained a certificate of registration from the board as provided for in this chapter. In any prosecution for the violation of this section, the use of test cards, test lenses or of trial frames is prima facie evidence of the practice of optometry. [Amended by 1971 c.102 §2]

683.030 Persons and practices not affected. This chapter shall not be construed to prevent any person duly licensed to practice medicine and surgery from treating or fitting glasses to the human eye, nor to prohibit the sale of complete ready-to-wear eye glasses as merchandise from a permanent place of business in good faith and not in evasion of this chapter by any person not holding himself out as competent to examine and prescribe for the human eye.

683.035 Discrimination against optometrists prohibited. No official, board, commission or other agency of the state or of any of its political subdivisions or municipalities shall discriminate between duly licensed optometrists and any other person authorized by law to render professional services which a duly licensed optometrist may render, when such services are required. Such services shall be paid for in the same manner and under the same standards as similar professional services. [1963 c.121 §1]

LICENSING

683.040 Qualifications of applicants. (1) Every person desiring to commence the practice of optometry in this state must show by satisfactory evidence that he is of good moral character and has graduated from a school of optometry which is recognized and approved by the board and which maintains a standard of four school years of at least nine months each.

(2) Every person desiring to commence the practice of optometry after January 1, 1976, or employ the use of diagnostic agents shall in addition to the requirements of subsection (1) of this section have satisfactorily completed a course in pharmacology, as it applies to optometry, by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the National Commission on Accrediting or the United States Commissioner of Education, with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions, approved by the Oregon Board of Optometry. [Amended by 1971 c.102 §3; 1975 c.175 §2]

683.050 Persons licensed in another state. In lieu of the educational requirements of ORS 683.040, it shall be deemed equivalent if an applicant submits satisfactory proof to the board that he:

(1) Has passed an examination in optometry before a state board of examiners in another state of the United States and that the certificate granted in token thereof is then in force; and

(2) Was actually engaged in the practice of optometry in such state for the full period of three years subsequent thereto.

POSITION PAPER/Department of Health and Social Services

Rep Fischer

POSITION PAPER

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 225 (HESS)

MAY 14 1983

"An Act relating to the practice of optometry and authorizing the use of certain drug by optometrists."

The Committee Substitute makes several changes to existing statute and to the original bill: (a) membership in the Board of Examiners in Optometry is expanded to six to include a physician licensed in the state; (b) duties of the board are broadened to include development, with the advice and guidance of the state medical board, of a list of prescription and non-prescription drugsand dosages which may be used in the practice of optometry in the state and requirements for continuing education of optometrists desiring to use drugs; (c) registration or licensure of an optometrist to practice beyond the scope of the individual's training is prohibited; and (d) language is added to require an optometrist to clarify the nature of his or her practice when using the prefix "Dr." or "Doctor".

The Department recommends that the board size remain an odd number by reducing the number of optometrist members to three while retaining the public member and the physician member.

There is a minor difference in the language of the original and committee substitute bills with regard to the types of drugs which would be permitted. The original version uses the adjective "legend" while the substitute refers to "legend", "prescription" and "non-prescription" drugs. It is assumed that "non-prescription" refers to commonly available over-the-counter preparations.

Both versions include in the definition of optometry the "diagnosis and treatment, including the use of drugs, of inflammations, infections, and injuries of the eyes and eyelids". This provision remains the most controversial element of the Bill although the provision for approval of the types of drugs by the optometric board with the advice and guidance of the medical board may reassure, to some extent, those concerned with the apparently unrestricted access to drugs permitted in the original version.

While the committee substitute is an improvement over the original version of the bill, the Department still considers the definition of optometry to be too broad, e.g., it would not prohibit the use of surgery nor the use of systemic drugs. At a minimum the inclusion of surgery within optometric practice should be prohibited and drug use should be limited to topical diagnostic preparations and anesthetics approved by the optometric board with the advice and guidance of the medical board.

question – [illegible] in the bill, [illegible] to be legal [illegible] surgery.

POSITION PAPER/Department of Health and Social Services

While the vast majority of health care practitioners are prudent and sincere, the Department does not believe that individual practitioners should be left entirely free to define the scope of their practices. The Department does not believe a user of health services should have to rely solely on the professioal integrity of the provider for assurance of quality of care. This is one of the functions of the licensing statutes of the state.

The Department is opposed to the use of therapeutic drugs by optometrists. The possibilities of problems because of systemic effects, idiosyncratic or allergic reactions and drug interactions, while not common, require diagnostic and therapeutic responses which cannot be guaranteed though training courses in pharmacology.

Recommended by: E. S. Rabeau

E.S. Rabeau, M.D.
Director
Division of Public Health

Date: May 13, 1983

Approved by: _____

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: _____

STATE OF ALASKA
FISCAL NOTE Revision Date , 1983

I. REQUEST
Bill/Resolution No.: CSHB 225
Title: Practice of Optometry
Sponsor: Hurlbert and Martin
Requestor:

II. FISCAL DETAIL
Agency Affected: Health & Social Services
Program Category Affected: Public Health
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dean F. Tirador, M.D. Phone: 465-3090
Division: Public Health Date: 5/13/83

Approved by Commissioner: Date:
Department: Health and Social Services

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Original to Legislative Finance
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3/8/83

STAFF REPORT

HB 225, Relating to Prescription of
Drugs by Optometrists
April 25, 1983
Dave Palmer

HB 225 authorizes optometrists to use and prescribe legend drugs in diagnosis and treatment of conditions of the eyes and eyelids. It also requires the Board of Examiners in Optometry to provide for continuing education.

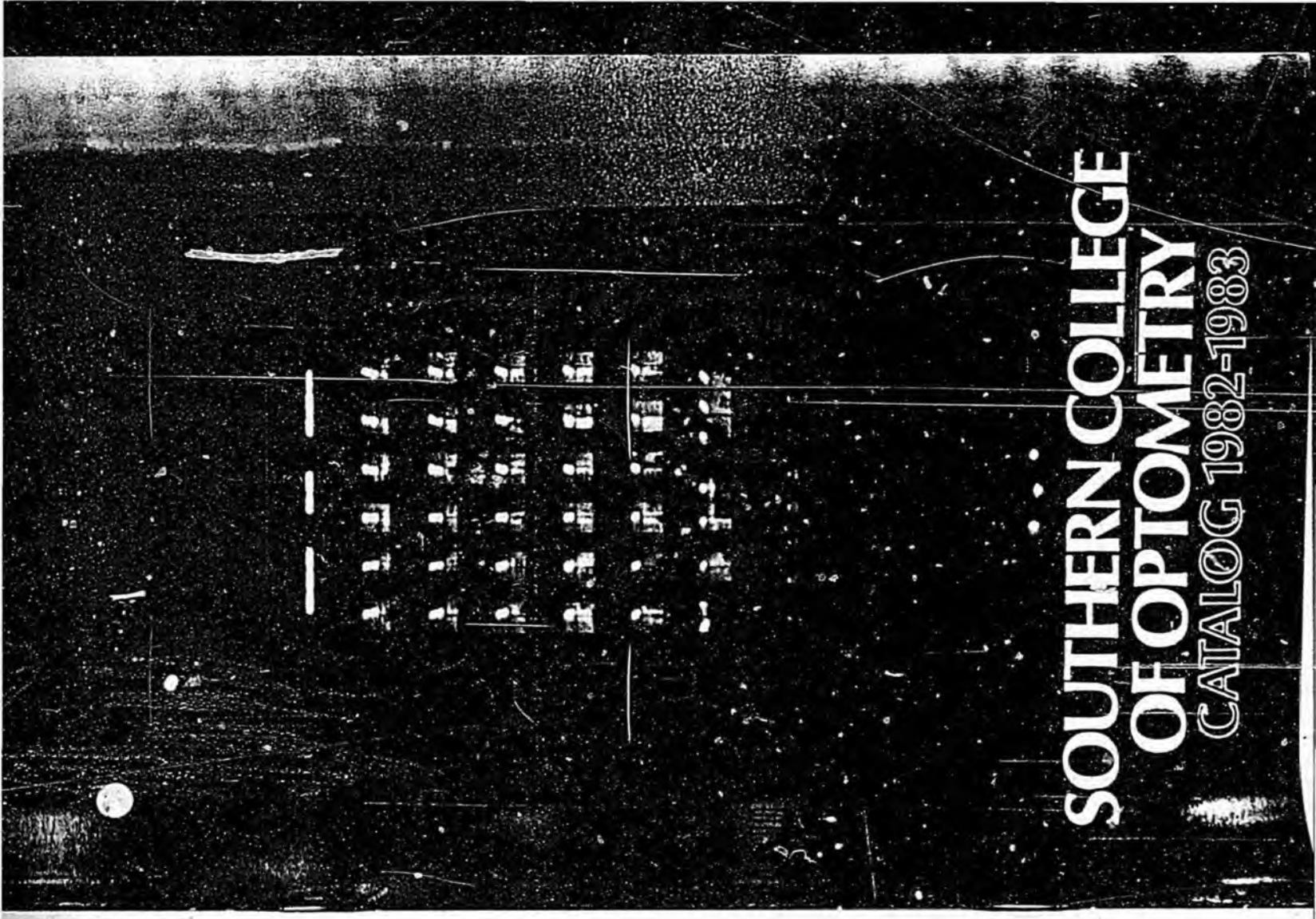
The bill authorizes the optometrist to use legend drugs for both diagnostic and treatment purposes. A majority of states authorize the use of legend drugs for diagnosis, but not for treatment. (See Oregon law attached).

The arguments in favor and in opposition of the bill are presented well in Dr. Rabeau's position paper. In a rural setting, particularly in Alaska where referrals to other professionals are difficult, the authorization to allow optometrists to expand their capabilities may carry more credence than in more populated states.

One method, proposed this session in Oregon, is to allow the use of drugs for treatment purposes by optometrists after they have received an endorsement by the Board of Examiners of Optometry and they are authorized to prescribe or use drugs or treatments that are approved jointly by the Board of Examiners in Optometry and by the Board of Medical Examiners.

The fiscal note from Commerce and Economic Development is $38,300 for FY 84.

The fiscal note from Department of Health and Social Services is zero.



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OF OPTOMETRY
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This edition of the Southern College of Optometry catalog is effective for the academic year 1982-83. Inasmuch as changes may be necessary from time to time, this catalog should not be construed as constituting a contract between the College and any person.

SOUTHERN COLLEGE OF OPTOMETRY

Memphis, Tennessee

1982-83 CATALOG

INFORMATION CURRENT AS OF JUNE, 1982

No person shall, on the basis of race, religion, sex, age, handicap, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity at Southern College of Optometry. The College is an Equal Opportunity Employer. College facilities are accessible by wheelchair, and all College services are available to handicapped students.

CURRICULUM

FIRST PROFESSIONAL YEAR			HOURS CREDIT	Clock Hours*
FALL QUARTER				
Biomedical	110	Human Anatomy & Physiology I: Structure & Function - 1 (5 HRS. LEC., 2 HRS. LAB)	6	70
Biomedical	111	Optics Applied To The Eye I (4 HRS. LEC., 2 HRS. LAB)	5	
Optometry	110	Introduction to Optometry (1 HRS. LEC., 3 HRS. LAB)	4	
Optometry	111	Preventive and Community Optometry Epidemiology & Research Methodology (4 HRS. LEC.)	4	
Clinic	110	Clinic Orientation (2 HRS. LAB.)	1*	
			Total 20	
WINTER QUARTER				
Biomedical	120	Human Anatomy & Physiology II: Structure & Function - 2 (5 HRS. LEC., 2 HRS. LAB)	6	70
Biomedical	121	Optics Applied To The Eye II (3 HRS. LEC., 2 HRS. LAB)	4	
Biomedical	122	Visual Perception: Psycho-Physiological Optics (4 HRS. LEC., 2 HRS. LAB)	5	
Optometry	120	Ophthalmic Diagnostic Principles I (3 HRS. LEC., 3 HRS. LAB)	4	
Optometry	121	Preventive & Community Optometry: Jurisprudence (2 HRS. LEC.)	2	
Clinic	110	Clinic Orientation (2 HRS. LAB)	*	
			Total 21	
SPRING QUARTER				
Biomedical	130	Human Anatomy & Physiology III: Structure & Function - 3 (5 HRS. LEC., 2 HRS. LAB)	6	70
Biomedical	131	Optics Applied To The Eye III (3 HRS. LEC., 2 HRS. LAB)	4	
Biomedical	133	Vegetative Physiology: Ocular Biochemistry (2 HRS. LEC., 2 HRS. LAB)	3	40
Optometry	130	Ophthalmic Diagnostic Principles II (4 HRS. LEC., 3 HRS. LAB)	5	
Optometry	131	History of Optometry (1 HR. LEC.)	1	
Clinic	110	Clinic Orientation (2 HRS. LAB)	*	
			Total 19	

*Note: One quarter hour credit is awarded upon completion of this course in the Spring Quarter

*Clock hours = hrs per week x 10 wk. quarter

SECOND PROFESSIONAL YEAR

				HOURS CREDIT	Clock Hours
FALL QUARTER					
Biomedical	210	Principles of Medicine I: General Pathology (5 HRS. LEC.)		5	50
Biomedical	211	Physiological Optics: Eye As An Optical System (3 HRS. LEC., 2 HRS. LAB)		4	
Biomedical	212	Neuroanatomy and Neurophysiology (3 HRS. LEC., 2 HRS. LAB)		4	50
Biomedical	213	Principles of Pharmacology & Therapeutics I (2 HRS. LEC.)		2	20
Optometry	210	Advanced Optometry I (3 HRS. LEC., 2 HRS. LAB)		4	
Clinic	210	Clinical Procedures (2 HRS. LAB)		1*	
				Total 20	
WINTER QUARTER					
Biomedical	220	Principles of Medicine II: Ophthalmic Pathology I (5 HRS. LEC., 2 HRS. LAB)		6	70
Biomedical	221	Physiological Optics II: Monocular Sensory (3 HRS. LEC., 2 HRS. LAB)		4	50
Biomedical	223	Principles of Pharmacology & Therapeutics II (4 HRS. LEC.)		4	40
Optometry	220	Advanced Optometry II (3 HRS. LEC., 2 HRS. LAB)		4	
Optometry	222	Ophthalmic Optics I (2 HRS. LEC.)		2	
Clinic	210	Clinical Procedures (2 HRS. LAB)		*	
				Total 20	
SPRING QUARTER					
Biomedical	230	Principles of Medicine III: Ophthalmic Pathology II (5 HRS. LEC., 2 HRS. LAB)		6	70
Biomedical	231	Physiological Optics III: Monocular Sensory & Binocular Vision (2 HRS. LEC., 2 HRS. LAB)		3	40
Biomedical	233	Principles of Pharmacology & Therapeutics III (4 HRS. LEC.)		4	40
Optometry	230	Advanced Optometry III (4 HRS. LEC., 2 HRS. LAB)		5	
Optometry	232	Ophthalmic Optics II (1 HR. LEC., 2 HRS. LAB)		2	
Clinic	210	Clinical Procedures (2 HRS. LAB)		*	
				Total 20	

*Note: One quarter hour credit is awarded upon completion of this course in the Spring Quarter.

THIRD PROFESSIONAL YEAR

				HOURS CREDIT	Clock Hours
FALL QUARTER					
Biomedical	310	Principles of Medicine IV: Pediatrics and Pediatric Optometry (2 HRS. LEC., 2 HRS. LAB)		3	40
Biomedical	311	Principles of Medicine V: Neurology (2 HRS. LEC.)		2	20
Biomedical	312	Principles of Medicine VI: Neuro-ophthalmic Disorders (3 HRS. LEC., 2 HRS. LAB)		4	50
Biomedical	313	Principles of Pharmacology & Therapeutics IV (2 HRS. LEC.)		2	20
Optometry	310	Contact Lens Practice: I (3 HRS. LEC., 2 HRS. LAB)		4	
Optometry	311	Orthoptics & Vision Therapy I (3 HRS. LEC., 2 HRS. LAB)		4	
Clinic	310	Clinical Practice I (1 HR. LEC., 8 HRS. LAB)		3	
				Total 22	
WINTER QUARTER					
Biomedical	320	Principles of Medicine VII: Gerontology & Geriatrics (3 HRS. LEC.)		3	
Biomedical	322	Principles of Medicine VIII: Dermatology (2 HRS. LEC.)		2	20
Biomedical	323	Principles of Pharmacology & Therapeutics V (3 HRS. LEC., 2 HRS. LAB)		4	50
Optometry	320	Contact Lens Practice II (3 HRS. LEC., 2 HRS. LAB)		4	
Optometry	321	Orthoptics & Vision Therapy II (3 HRS. LEC., 2 HRS. LAB)		4	
Clinic	320	Clinical Practice II (1 HR. LEC., 8 HRS. LAB)		3	
				Total 20	
SPRING QUARTER					
Biomedical	333	Principles of Pharmacology & Therapeutics VI (3 HRS. LEC., 2 HRS. LAB)		4	50
Optometry	331	Preventive & Community Optometry: Environmental Vision (3 HRS. LEC.)		3	
Optometry	332	Preventive & Community Optometry: Public Health (2 HRS. LEC.)		2	
Optometry	333	Limited Vision (Partial Sight) (3 HRS. LEC., 2 HRS. LAB)		4	
Optometry	334	Preventive & Community Optometry: Economics and Practice Management (3 HRS. LEC.)		3	
Clinic	330	Clinical Practice III (1 HR. LEC., 12 HRS. LAB)		4	
Clinic	331	Contact Lens Clinic (4 HRS. LAB)		1	
Clinic	332	Orthoptics and Vision Therapy Clinic (4 HRS. LAB)		1	
				Total 22	

FOURTH PROFESSIONAL YEAR

A twelve-week externship is required during the fourth year. Externship information appears under COURSE DESCRIPTIONS (Clinic Department) in this catalog.

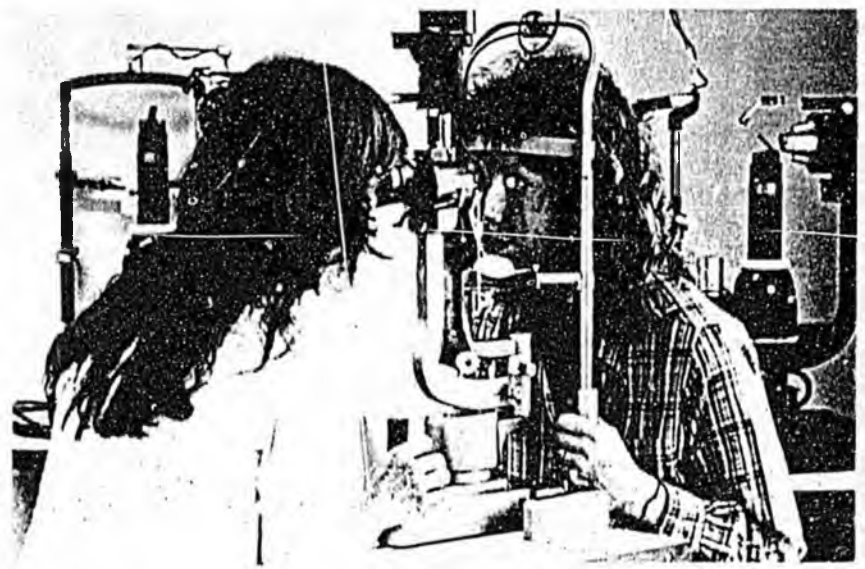
			HOURS CREDIT
SUMMER QUARTER			
Optometry	400	Optometry Seminar	2
Optometry	401	Clinical Case Analysis I (2 HRS. LEC.)	2
Clinic	400	Clinical Practice IV (1 HR. LEC., 20 HRS. LAB)	6
Clinic	401	Contact Lens Clinic (4 HRS. LAB)	1
Clinic	402	Orthoptics and Vision Therapy Clinic (4 HRS. LAB)	1
		OR	Total 12
Clinic	405	Externship	12
FALL QUARTER			
Optometry	410	Optometry Seminar (2 HRS. LEC.)	2
Optometry	411	Clinical Case Analysis II (3 HRS. LEC.)	3
Clinic	410	General Clinic Practice V (1 HR. LEC., 16 HRS. LAB)	5
Clinic	411	Contact Lens Clinic (4 HRS. LAB)	1
Clinic	412	Orthoptics and Vision Therapy Clinic (4 HRS. LAB)	1
		OR	Total 12
Clinic	415	Externship	12
WINTER QUARTER			
Optometry	420	Optometry Seminar (2 HRS. LEC.)	2
Optometry	421	Clinical Case Analysis III (2 HRS. LEC.)	2
Clinic	420	General Clinic Practice VI (1 HR. LEC., 20 HRS. LAB)	6
Clinic	421	Contact Lens Clinic (4 HRS. LAB)	1
Clinic	422	Orthoptics and Vision Therapy Clinic (4 HRS. LAB)	1
		OR	Total 12
Clinic	425	Externship	12

• Total basic science clock hours = 730

SPRING QUARTER

Optometry	430	Optometry Seminar (2 HRS. LEC.)	
Optometry	431	Clinical Case Analysis IV (3 HRS. LEC.)	
Clinic	430	General Clinic Practice VII (1 HR. LEC., 24 HRS. LAB)	
		OR	Total 1
Clinic	435	Externship	1





...ved by the board and embodied in the board's certificate or order of revocation or suspension.

18.54.110 Suspension or revocation of license for unprofessional conduct—Judicial review. Any person whose license has been revoked or suspended may seek judicial review of the board's action or decision under the provisions of chapter 34.04 RCW as amended from time to time.

18.54.120 Reinstatement. Any person whose license has been revoked or suspended may apply to the board for reinstatement at any time; and the board may hold hearings on such petition, may impose such terms or conditions as are appropriate under the circumstances, and may order a reinstatement.

9.04 False advertising.

69.32 Narcotics.

18.54.150 Powers previously vested in director of licenses under RCW 18.53.100 now vested in optometry board.

70.96A Uniform alcoholism and intoxication treatment act.

West Virginia Optometry Law

30-8-1. EVIDENCE OF QUALIFICATION TO PRACTICE AND REGISTRATION REQUIRED.—Any person practicing or offering to practice optometry in this State shall be required to submit evidence that he is qualified so to practice, and shall be registered as hereinafter provided, and it shall be unlawful for any person to practice or offer to practice optometry in this State, except under the provisions of this article.

30-8-2. PRACTICE OF OPTOMETRY DEFINED.—Any one or any combination of the following practices shall constitute the practice of optometry:

(a) The examination of the human eye, with or without the use of drugs, prescribable for the human eye, which drugs may be used for diagnostic or therapeutic purposes for topical application to the anterior segment of the human eye only, and, by any method other than surgery, to diagnose, to treat or to refer for consultation or treatment any abnormal condition of the human eye or its appendages;

(b) The employment without the use of surgery of any instrument, device, method or diagnostic or therapeutic drug for topical application to the anterior segment of the human eye intended for the purpose of investigating, examining, treating, diagnosing, improving or correcting any visual defect or abnormal condition of the human eye or its appendages;

(c) The prescribing and application or the replacement or duplication of lenses, prisms, contact lenses, orthoptics, vision training, vision rehabilitation, diagnostic or therapeutic drugs for topical application to the anterior segment of the human eye, or the furnishing or providing of any prosthetic device, or any other method other than surgery necessary to correct or relieve any defects or abnormal conditions of the human eye or its appendages.

Nothing in this section shall be construed to permit an optometrist to perform surgery, use drugs by injection or to use or prescribe any drug for other than the specific purposes authorized by this section.

30-8-3. BOARD OF OPTOMETRY, DUTIES.

30-8-3a. REGISTRATION OF OPTOMETRIC CORPORATIONS.

30-8-3b. PRACTICE OF OPTOMETRY BY OPTOMETRIC CORPORATIONS.

30-8-4. REGISTRATION PREREQUISITE TO PRACTICE OF OPTOMETRY; EXCEPTIONS.—No person shall practice or offer to practice optometry in this State without first applying for and obtaining a certificate of registration for such purpose from the West Virginia Board of Optometry; but the following persons, firms and corporations are exempt from the operation of this article, except as hereinafter provided:

(a) Persons who have heretofore been registered as optometrists in this State, or who were engaged in the practice of optometry in this State before the passage of any law by this State regulating such practice, and who have heretofore received from the Board of examiners certificates of exemption from examination;

(b) Persons authorized under the laws of this State to practice medicine and surgery or osteopathy;

(c) Persons, firms and corporations who sell eye glasses or spectacles in a store, shop or other permanently established place of business on prescriptions from persons authorized under the laws of this State to practice either optometry or medicine and surgery;

(d) Persons, firms and corporations who manufacture or deal in eye glasses or spectacles in a store, shop or other permanently established place of business, and who neither practice nor attempt to practice optometry.

30-8-5. QUALIFICATIONS OF APPLICANT FOR REGISTRATION, EXAMINATION.—An applicant for registration shall present satisfactory evidence that he is at least eighteen years of age, of good moral character and temperate habits, and has graduated from a high school or secondary school, or has completed an equivalent course of study approved by the West Virginia board of optometry, has satisfactorily completed all preoptometry or premedical college requirements and has graduated from a school or college of optometry approved by said board. No school or college of optometry shall be approved by the West Virginia board of optometry unless at first it has been accredited by a regional or professional accreditation organization which is recognized by the national commission on accreditation or the United States commission of education. Each applicant shall submit to and be examined in all phases of optometry as is provided by the school or college of optometry and shall include, but not be limited to, anatomy and physiology of the human eye, the use of instruments such as the ophthalmoscope, retinoscope, tonometer, slit lamp biomicroscope, the general laws of optics and refraction, general and ocular pharmacology, general and ocular pathology and other such subjects or instrumentation as the board of optometry may deem necessary.

The West Virginia board of optometry shall be responsible to determine the educational training received by the applicant from the schools and colleges of optometry, the educational qualifications of each applicant and the administering of the examination and certifications of each applicant commensurate with his education. No optometrist shall be registered or certified to practice optometry in the state of West Virginia in any area that is beyond the scope of his educational training as determined by the West Virginia board of optometry: Provided, That any optometrist presently registered in the state of West Virginia and who desires to employ the use of pharmaceutical agents must submit to the West Virginia board of optometry evidence of satisfactory completion of all necessary educational requirements as made mandatory by the West Virginia board of optometry: Provided further, That the West Virginia board of optometry shall provide for continuing educational requirements to be completed from time to time by all optometrists desiring to employ the use of pharmaceutical agents.

30-8-6. CERTIFICATE OF REGISTRATION OR EXEMPTION SHALL BE DISPLAYED; BILL OF PURCHASE. Every person practicing optometry shall display his certificate of registration or exemption in a conspicuous place in the principal office wherein he practices optometry, and, whenever required, shall exhibit such certificate to the board of examiners or its authorized representatives. And whenever practicing the profession of optometry outside of or away from said office or place of business, he shall deliver to each customer or person so fitted with glasses a bill of purchase which shall contain his signature, home post-office address, and the number of his certificate of registration or exemption, together with a specification of the lenses furnished.

30-8-7. ANNUAL RENEWAL OF REGISTRATION; RESTORATION OF EXPIRED CERTIFICATE. Every registered optometrist who desires to continue in active practice or service shall, annually, on or before the first day of August, of each year, renew his certificate of registration, and pay an annual renewal fee of twenty dollars. Every certificate of registration which has not been renewed during the month of August in any one year shall expire on the first day of September of that year. A registered optometrist whose certificate of registration has expired may have the same restored only upon payment of the required renewal fee. Any registered optometrist who retires from the practice of optometry for more than five years may renew his certificate of registration upon payment of all lapsed renewal fees.

30-8-8. REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF CERTIFICATE; FALSE AND DECEPTIVE ADVERTISING. The Board may either refuse to issue, or may refuse to renew, or may suspend or revoke any certificate of registration for any one, or any combination, of the following causes: Violation of a rule or regulation governing the ethical practice of optometry promulgated by the Board under the authority granted by this article; conviction of a felony, as shown by a certified copy of the record of the court wherein such conviction was had; the obtaining of, or the attempt to obtain, a certificate of registration, or practice in the profession of optometry, for money, or any other thing of value, by fraudulent misrepresentation; gross malpractice; continued practice by a person knowingly having an infectious disease; habitual drunkenness, or addiction to the use of morphine, cocaine, or other habit-forming drugs; advertising, practicing, or attempting to practice under a name other than one's own; advertising by means of knowingly false or deceptive statements. All advertising, whether by means of newspapers, or in any manner, whatsoever, of the following statements, or statements of similar import, that are "false and deceptive" within the meaning of this law, shall be prohibited. False and deceptive advertising shall include but not be limited to the following: (a) Advertising of complete glasses, that is to say, lenses and frames or mountings, at a stated price, either alone or in conjunction with professional services; (b) advertising "free examination of eyes", or "free consultation", or "free advice", or words of similar import and meaning; (c) advertising frames or mountings for glasses, by advertisement which does not accurately describe the same in all its component parts (all such advertisements shall state clearly, in type equal in size to the price figures given, that such price does not include cost of lenses, or professional services in examining of eyes), and, (d) advertising a particular sum or sums of money required as a "down" or cash payment, or any definite amount or amounts of future payments, or when the same shall be paid.

30-8-9. OFFENSES; PENALTIES; JURISDICTION OF JUSTICES. Each of the following shall constitute a misdemeanor punishable, upon conviction, for the first offense, by a fine of not less than one hundred nor more than two hundred dollars, and, upon conviction for a second or subsequent offense, by a fine not less than two hundred nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment, at the discretion of the court. The practice of, or an attempt to practice optometry, without a certificate of registration as a registered optometrist, except as hereinbefore provided; permitting any person in one's employ, supervision or control, to practice optometry, unless such a person has a certificate of registration as a registered optometrist when such certificate is required by this article; the obtaining of, or an attempt to obtain, a certificate of registration, or practice in the profession, or money, or anything of value, by fraudulent misrepresentation; the making of any willfully false oath or affirmation, whenever an oath or affirmation is required by this article; the violation of the provisions of section six of this article.

Justices of the peace shall have concurrent jurisdiction with circuit and criminal courts for the enforcement of this article.

30-8-10. UNLAWFUL PRACTICE OF OPTOMETRY; PENALTIES.—Any corporation or voluntary association shall not practice, or assume to practice, or in any manner to hold itself out to the public as being entitled to practice the profession of optometry, or advertise the title of optometrist in such a manner as to convey the impression to the public that it is entitled to practice optometry, or furnish optometric advice and services, or advertise that, either alone or together with or by or through any person, whether a duly registered and licensed optometrist or not, it has, owns, conducts or maintains an office or place for practice of optometry. Any duly registered and licensed optometrist shall not associate himself with any corporation or voluntary association for the practice of optometry, or in any manner practice such profession, on a salary or commission basis, for any such corporation or voluntary association. Any corporation or voluntary association violating any of the provisions of this section, or any officer, trustee, director, agent or employee of such corporation or voluntary association who, either directly or indirectly, engages in any of the acts, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred nor more than one thousand dollars. The fact that any such officer, trustee, director, agent or employee shall be a duly registered and licensed optometrist shall not be held to permit or allow any such corporation or voluntary association to do the acts prohibited herein, nor shall such fact be a defense upon the trial of any of the persons hereinbefore mentioned for a violation of this section. Any duly registered and licensed optometrist who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than twenty-five dollars, and each and every day such violation continues shall constitute a separate offense; and in addition to the foregoing penalties, such offending optometrist shall have his license to practice suspended for a period of one year, by the court in which such conviction is had. Provided that this section shall not apply to a partnership of two or more duly registered and licensed optometrists who practice under their own names.

It shall be unlawful for any registered optometrist to practice his profession as an employee, lessee, or sub-lessee of any commercial or mercantile establishment or to practice his profession in connection therewith, or to advertise either in person or through any commercial or merchantile establishment that he is a duly registered practitioner, and is practicing or will practice optometry as an employee, lessee, or sub-lessee of any such commercial or mercantile establishment or in connection therewith. But nothing herein shall be construed to prohibit or prevent the rendering of professional services to the officers and employees of any person, firm or corporation by an optometrist, whether or not the compensation for such services is paid by the officers and employees, or by the employer, or jointly by all or any of them. Any person violating this provision shall be guilty of a misdemeanor, and, upon conviction thereof shall be fined not less than fifty nor more than five hundred dollars, and each and every day such violation continues shall constitute a separate offense.

Wisconsin Optometry Law

Optometry

449.01 (1) Optometry. (a) (1) The practice of optometry is defined as follows: The employment of any means including topical ocular diagnostic pharmaceutical agents under S. 449.17, to determine the visual efficiency of human visual system, including refractive and functional abilities or preliminarily diagnose the presence of ocular disease or ocular manifestations of systematic disease and other departures from normal.

(2) The diagnosis and treatment of the refractive and functional ability of the visual system and enhancement of visual performance by prescribing, furnishing, fitting or employing ophthalmic lenses, con-

ALASKA COURSE SCHEDULE #750B2 OCULAR THERAPY FOR THE OPTOMETRIC PRACTITIONER

WEEKEND #	TIMES & DATES	LOCATION	COURSE CURRICULUM	FACULTY	HOURS LECTURE	HOURS CLINIC	COMMENTS
1	Fri.3/5/82 -9a.-4p. Sat.3/6/82 -9a.-4p. Sun.3/7/82 -9a.-4p. Mon.3/8/82 -9a.-4p.	ANCHORAGE ~~JUNEAU,~~ ALASKA	Principles of Pharmacology Autonomic Drugs Ocular Diagnostic Pharmaceuticals CPR and Emergency Care	Ph.D. Pharmacologist " " " " Alaska, American Heart Ass'n	6 6 6	6	AHA Cert. and/or Re-certification required
2	Fri.3/26/82-7p.-9p. Sat.3/27/82-9a.-4p. Sun.3/28/82-9a.-4p.	ANCHORAGE ~~PORTLAND,~~ ~~OREGON~~ ALASKA	OPA Examination The Pharmacology of Ocular Therapy (Part I) " " " " " (Part II)	PCO Proctor Ph.D. Pharmacologist " "	2 6 6		
3	Fri.4/23/82-9a.-4p. Sat.4/24/82-9a.-4p. Sun.4/25/82-9a.-4p.	ANCHORAGE ~~FAIRBANKS,~~ ALASKA	Systemic Diseases (and Ocular Manifestations) Applied Pharmacology Anterior Segment Eye Disease (Part I)	M.D. (Internist) Pharm.D. O.D.	6 6 6		
4	Fri.5/21/82-8a.-9a. " " " " 9a.-4p. Sat.5/22/82-8a.-9a. " " " " 9a.-4p. Sun.5/23/82-9a.-5p.	ANCHORAGE, ALASKA	Midterm Examination (Part I) Anterior Segment Eye Disease (Part II) Midterm Examination (Part II) Anterior Segment Eye Disease (Part III) Anterior Segment Clinic, Day #1	PCO Proctor O.D. PCO Proctor M.D. (Ophthalmologist) M.D. (Ophthal.) & O.D.	1 6 1 6	7	10-1 Ratio
5	Fri.6/25/82-9a.-4p. Sat.6/26/82-9a.-4p. Sun.6/27/72-8a.-5p.	ANCHORAGE ~~PORTLAND,~~ ~~OREGON~~ ALASKA	Glaucoma (Part I) " (Parts II & III) " Clinic	O.D., Ph.D.(Anatomist) M.D., (Ophthalmologist) O.D. Staff & M.D.(Ophth'l)	6 6	8	8-1 Ratio
6	Fri.9/10/82-9a.-4p. Sat.9/11/82-9a.-4p. Sun.9/12/82-8a.-5p.	ANCHORAGE, ALASKA	Diagnosis & Management of Advanced Eye Diseases Anterior Segment Eye Disease (Part IV) " " " " Clinic, Day #2	M.D. (Ophthalmologist) O.D. O.D. Staff	6 6	8	10-1 Ratio
7	Sun.10/24/82-9a.-12p	ANCHORAGE, etc. JUNEAU, ALASKA	FINAL EXAMINATION	State Board Proctor	3		
7	20 DAYS	4 SITES	TOTALS	21 { 4 Ph.D.'s, 4 M.D.'s, 3 O.D.'s }	91	29	

offered by *Pacific University*
Diane P. Yolton, Ph.D.
Jimmy Bartlett, O.D.
Roland Manthei, Ph.D.
March 27-28-29 UAA
April 24-25-26 UAA

PATHOPHYSIOLOGY AND PHARMACOLOGY: principles of pharmacology, clinical application of ocular pharmacology and ocular toxicology. Pathophysiology of ocular allergy, infection and inflammation. Pharmacologic considerations in ocular steriod therapy, and in glaucoma therapy.

offered by *Pennsylvania College*
Philip Gerbino, Pharm.D.
Mack Lipken, Jr., M.D.
May 1-2 UAA

APPLIED PHARMACOLOGY: administration of drugs, Rx writing, patient management.
SYSTEMIC DISEASE: systemic disease related to ocular disease. Allergic-immunology; cardiovascular-cerebrovascular; endocrine; hematological; infectious and inflammatory; metabolic-chromosomal; musculoskeletal; mucocutaneous-dermatological; neurological nutritional-gastrointestinal

offered by *Pennsylvania College*
Louis Catania, O.D.
Linda Casser, O.D.
May 22-23-24 UAA

ANTERIOR SEGMENT DISEASE: corneal dystrophies, degenerations, infections, inflammations, irritations, injuries. Differential diagnosis, systemic considerations, treatment/management of anterior uveitis. Eyelid/adnexa disorders. Disorders of the lacrimal system, conjunctiva, sclera, and episclera.

offered by *Pacific University*
Tom Lewis, O.D., Ph.D.
Ronald Reed, M.D.
....and clinical staff
June 11-12-13 UAA and clinics

GLAUCOMA: anatomy-pathophysiology review. Epidemiology-risk factors. Examination, differential diagnosis, clinical classification. Medical management, surgical considerations. Concepts and controversies in glaucoma care. Methods of examination and clinical procedures.

offered by *Pennsylvania College*
Theodore Buckner, M.D.
....and clinical staff
September 10-11-12 clinics

ANTERIOR SEGMENT DISEASE CLINIC: examination protocols, techniques in dilitation and irrigation, gland expressing, epilation, cyst drainage, scrapings, cultures, cytology. Foreign body removal. Management of lacerations and corneal abrasions. Techniques for diagnosing systemic disease; exophthalmometry, ophthalmodynamometry. Clinical procedures

REGISTRATION FORM

Advance registration of $100 is required and due by February 24, 1982. Please complete the form below and return with payment to: Alaska Optometric Association, 3401 Denali Street, Suite 204, Anchorage, Alaska 99503

Tuition: $1,550

Payments and Due Dates

$100	February 24, 1982
400	March 17, 1982
400	April 17, 1982
400	May 17, 1982
250	September 1, 1982

NAME _____

ADDRESS _____

City _____ State/Zip _____

I will need the following required textbooks:

_____ Goodman and Gilman, The Pharmacological Basis of Therapeutics $45.00

_____ Fraunfelder & Roy, Current Ocular Therapy $43.00

_____ Deborah Pavon-Langston, Manual of Ocular Diagnosis & Therapy $15.00

FACULTY

Jimmy Bartlett, O.D.
Associate Professor, Director of Continuing Education University of Alabama in Birmingham School of Optometry/ The Medical Center

Theodore Buckner, M.D.
Board Certified Ophthalmologist, Wills Eye Hospital, Philadelphia, Attending Surgeon, Shore Memorial Hospital, Somers Point, New Jersey

Linda C. Casser, O.D.
Assistant Professor, Pennsylvania College of Optometry, Chief, Primary Care Module No. 4, The Eye Institute, Pennsylvania College of Optometry, Philadelphia

Louis J. Catania, O.D.
Director, Center for Continuing and Post-Graduate Education Pennsylvania College of Optometry, Philadelphia; Past Director, Primary Care Optometry Residency Program of the Joseph C. Wilson Health Care Center Medical Group, Rochester, New York

Philip Gerbino, Pharm.D.
Associate Professor of Clinical Pharmacy, Philadelphia College of Pharmacy and Science; Former Director of Drug Information Center of Cornell University

Thomas L. Lewis, O.D., Ph.D.
Doctorate in Anatomy, Jefferson Medical College; Dean of Academic Affairs and Associate Professor, Pennsylvania College of Optometry

Mack Lipkin, Jr., M.D., F.A.C.P.
Graduate of Harvard Medical School; Board Certified in Internal Medicine; Assistant Professor of Medicine, University of Rochester School of Medicine, Rochester, New York

Roland W. Manthei, Ph.D.
Doctorate in Pharmacology, University of Chicago; Professor of Pharmacology, Jefferson Medical College, Philadelphia

Ronald R. Reed, M.D.
Board Certified from Wills Eye Hospital; Adjunct Assistant Clinical Professor, University of Rochester, School of Medicine Strang Memorial Hospital, Department of Ophthalmology

Diane Yolton, Ph.D.
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Clinical Faculty will include experienced clinicians including optometrists and ophthalmologists from various universities and V.A. medical centers in the United States.

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(Typed from microfiche)

FIRST YEAR

Fall Interval

			Clock Hours Lec	Conf	Lab	Clinic	Total	Credit Hours
An	411-2	General Histology	16		32		48	-
An	411-2	Gross Anatomy	29		40		60	-
BCh	411	Biochemistry	40				40	4.0
BeS	411	Omnibus	17				17	1.7
CJT	411	Prevention of Dental Diseases	12		17		29	2.1
DA	411-12	Dental Anatomy Lect	12				12	-
DA	411-12	Dental Anatomy Lab			24		24	-
DM	410-20	Dental Materials	4		9		13	-
FP	411	Fixed Prosthodontics Technic			36		36	1.2
Mb	411	Microbiology	12		12		24	1.7
OD	411	Oral Examination Technic	14		9		23	1.7
Phy	411	Physiology	31	4	5		40	3.5

Winter Interval

			Clock Hours Lec	Conf	Lab	Clinic	Total	Credit Hours
An	411-2	General Histology	3		6		9	3.8
An	411-2	Gross Anatomy	8		16		24	5.6
An	412	Head and Neck Anatomy	22		32		54	3.8
BCh	412-3	Biochemistry	31				31	-
DA	411-2	Dental Anatomy Lect	4				4	1.6
DA	411-2	Dental Anatomy Lab			8		8	1.6
DM	410-20	Dental Materials	4		9		13	-
FP	412	Fixed Prosthodontic Technic			63		63	2.1
Per	412	Periodontics Technic	5		21		26	1.5
Phy	412	Physiology	34	4	4		42	3.8

Spring Interval

			Clock Hours Lec	Conf	Lab	Clinic	Total	Credit Hours
An	413	Neuroanatomy	12		24		36	2.4
An	413	Oral Histology	12		24		36	2.4
BCh	412-3	Biochemistry	17				17	4.8
CJT	413	Biology of Inflammation	16				16	1.6
DM	410-20	Dental Materials	3		9		12	-
FP	413	Fixed Prosthodontics Technic			36		36	1.2
Op	413	Operative Technic Lecture	22				22	2.2
Op	413	Operative Technic Lab			66		66	2.2
Per	613	Periodontics Clinic				15	15	0.5
Phy	413	Physiology	35	4	3		42	3.8
		First Year Total						62.8

SECOND YEAR

Fall Interval

			Clock Hours Lec	Conf	Lab	Clinic	Total	Credit Hours
BeS	421	Personal Adjustment		10			10	1.0
DM	410-20	Dental Materials	3				3	-
FP	421	Fixed Prosthodontics Technic			72		72	2.4
Mb	421	Immunology	25				25	2.5
Op	421	Operative Technic Lecture	11				11	1.1
Op	421	Operative Technic Lab			66		66	2.2
Per	421	Periodontology	12				12	1.2
Per	620	Periodontics Clinic				33	33	-

			Clock Hours Lec	Conf	Lab	Clinic	Total	Credit Hours
PH	421-2	Dentistry & The Health Care System	11				11	-
Phc	421-2	Pharmacodynamics	53		15		68	-
Pth	421-2	Disease Processes	14	31			45	-
RP	421	Removable Prostho-dontics Technic	11		33		44	2.2
Winter Interval								
BeS	422	History of Dentistry	10				10	1.0
CJT	422	Caries	21		7		28	2.5
DM	410-20	Dental Materials	3				3	-
FP	422	Fixed Prosthodontics Technic			33		33	1.1
Mb	422	Pathogenic & Oral Microbiology	26		11		37	2.9
Med	422	Medical Emergency Procedures	8		4		12	1.0
OD	420-30	Oral Diagnisis & Treatment	6				6	-
Op	422	Operative Technic	11				11	1.1
Op	422	Operative Technic Laboratory			33		33	1.1
OS	422-3	Control of Pain & Anxiety	20		6		26	2.6
OS	422	Introduction to Oral Surgery	11				11	1.1
Pedo	422	Child Development	22				22	2.2
Per	620	Periodontics Clinic				15	15	-
PH	421-2	Dentistry & the Health Care System	11				11	2.2
Phc	421-2	Pharmacodynamics	7				7	6.5
Pth	421-2	Disease Processes	4				4	3.5
Pth	422	Inflammatory Disease	18				18	1.8
Ro	422	Oral Radiology	11				11	1.1
RP	422	Removable Prostho-dontics Technic	8		24		32	1.6
Spring Interval								
DM	410-20	Dental Materials	5				5	3.1
Endo	423	Endodontology	11		24		35	2.2
FP	423	Fixed Prosthodon-tics Technic			69		69	2.3
Nu	423	Nutrition	14			1	15	-
Op	623	Operatives Clinic				33	33	0
Ord	423	Orthodontics	9				9	0.9
Ord	423	Orthodontics Technic			27		27	0.9
OS	423	Oral Surgery			12		12	0.6
Pedo	423	Child Development	11				11	1.1
Pedo	423	Pedodontic Technic				44	44	1.1
Per	620	Periodontics Clinic				15	15	2.1
Pth	423	Pathology of Systems	34	24			58	4.6
Ro	423	Oral Radiology Laboratory			15		15	0.5
RP	423	Removable Prostho-dontics Technic		4	33		37	1.5
						Second Year Total		68.2

THIRD YEAR

			Clock Hours Lec	Conf	Lab	Clinic	Total	Credit Hours
Fall Interval								
CJT	431	Oral Pathology - Oral Radiology	20	10			30	3.0
DM	431-2	Dental Materials	22				22	-
Endo	431-2	Endodontology	6				6	-
Endo	630-40	Endodontology Clinic				11	11	-
FP	431-2	Principles of Fixed Prosthodontics	6				6	-
FP	631	Fixed Prosthodon-tics Clinic				33	33	1.1
OD	420-30	Oral Diagnosis & Treatment	7				7	1.3

			Clock Hours Lec	Conf	Lab	Clinic	Total	Credit Hours
Op	631	Operatives Clinic				66	66	2.2
Ord	431	Facial Growth	12				12	1.2
OS	431	Oral Surgery	12				12	1.2
Pedo	631	Pedodontics Clinic				33	33	1.1
Per	431	Periodontology Lecture	12				12	1.2
Per	631	Periodontology Clinic				33	33	1.1
Ro	630	Oral Radiology Clinic				10	10	-
RP	431	Removable Prostho-dontics Technic	9		27		36	1.8
RP	631	Removable Prostho-dontics Clinic				66	66	2.2

Winter Interval

DM	431-2	Dental Materials	13				13	3.5
Endo	431-2	Endodontology	6				6	1.2
Endo	630-40	Endodontology Clinic				11	11	-
FP	431-2	Principles of Fixed Prosthodontics	6				6	1.2
FP	632	Fixed Prostho-dontics Clinic				30	30	1.0
OD	432-3	Clinical Conference		2			2	-
Op	632	Operatives Clinic				60	60	2.0
Ord	432	Orthodontics	11				11	1.1
OS	432	Oral Surgery	11				11	1.1
Pedo	632	Pedodontics Clinic				30	30	1.0
Per	632	Periodontology Clinic				30	30	1.0
Pth	432	Pathology	22		22		44	3.3
Ro	630	Oral Radiology Clinic				10	10	-
RP	432-3	Principles of Remov-able Prosthodontics	11				11	-
RP	632	Removable Prostho-dontics Clinic				60	60	2.0

Spring Interval

Endo	630-40	Endodontology Clinic				11	11	-
FP	633	Fixed Prostho-dontics Clinic				33	33	1.1
Med	433	Principles of Medicine	12				12	1.2
OD	432-3	Clinical Conference		22			22	2.2
OD	630	Oral Diagnosis Clinic				33	33	1.0
Op	433	Principles of Clinical Operatives	12				12	1.2
Op	633	Operative Clinic				66	66	2.2
OS	433	Oral Surgery and Hospital Dentistry	12				12	1.2
OS	630	Oral Surgery Clinic				22	22	1.2
Pedo	633	Pedodontics Clinic				33	33	1.1
Per	633	Periodontology Clinic				33	33	1.1
PP	433	Dental Jurisprudence	12				12	1.2
Pth	433	Comprehensive Exam	12	22			34	2.2
Ro	630	Oral Radiology Clinic				10	10	1.0
RP	432-3	Principles of Remov-able Prosthodontics	12				12	2.3
RP	633	Removable Prostho-dontics Clinic				66	66	2.2
		Third Year Total						58.2

FOURTH Year

Fall Interval

DM	441	Dental Materials	12				12	1.2

			Clock Hours Lec	Conf	Lab	Clinic	Total	Credit Hours
Endo	630-40	Endodontology Clinic				12	12	-
FP	641	Fixed Prosthodontics Clinic				77	77	2.2
Med	441	Principles of Medicine	12				12	1.2
Med	440	Hospital Clinic				6	6	-
OD	441	Oral Diagnosis & Treatment Planning	11				11	1.1
Op	641	Operatives Clinic				154	154	4.4
Pedo	441	Pedodontics Conference		15			15	0.6
Pedo	641	Pedodontics Clinic				44	44	1.1
Per	641	Periodontology Clinic				5	5	0.2
PP	441	Professional Viewpoints	22				22	2.2
Ro	640	Oral Radiology				7	7	-
RP	641	Removable Prosthodontics Clinic				66	66	2.2

Winter Interval

Endo	630-40	Endodontology Clinic				10	10	1.9
FP	442	Principles of Fixed Prosthodontics	11				11	1.1
FP	642	Fixed Prosthodontics Clinic				66	66	2.0
Med	442	Principles of Medicine	11				11	1.1
Med	440	Hospital Clinic				6	6	-
Op	642	Operatives Clinic				143	143	4.0
Pedo	642	Pedodontics Clinic				30	30	1.0
Per	642	Periodontology Clinic				5	5	0.2
DP	442	Dental Psychology	11				11	1.1
Ro	640	Oral Radiology				7	7	-
RP	442	Principles of Removable Prosthodontics	11				11	1.1
RP	642	Removable Prosthodontics				60	60	2.0

Spring Interval

FP	643	Fixed Prosthodontics Clinic				99	99	3.3
Med	440	Hospital Clinic				6	6	0.9
OD	640	Oral Diagnosis Clinic				66	66	2.0
Op	643	Operatives Clinic				154	154	4.4
Ord	443	Orthodontics Conference		11			11	1.1
OS	640	Oral Surgery Clinic				32	32	1.0
Pedo	643	Pedodontics Clinic				33	33	1.1
Per	643	Periodontology Clinic				16	16	0.3
PH	440	Community Dentistry				30	30	1.0
PH	443	Gerodontology	11				11	1.1
Ro		Oral Radiology Clinic				7	7	1.1
RP	643	Removable Prosthodontics Clinic				66	66	2.2
		Fourth Year Total						52.4

Total basic science clock hours = 938

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notion and has emphasized to trainees that the hospital does not endorse them as being competent to engage in family practice. However, since state laws permit an M.D. licensee to do any type of practice he wishes, it is the feeling of the director that the public would be better served by potential family practitioners having some rather than no additional training. Since there are a number of physicians seeking some training to change their specialty, consideration should be given to longer hospital training periods or a return to specially designed preceptorships to accommodate them.

With respect to those family doctors in retraining, the program would be improved by a more specific set of goals and more careful monitoring of achievements than has as yet been accomplished. The author is aware of two other programs offering similar training. At Creighton University School of Medicine rural family doctors are trained in a specific area, for example, cardiology techniques such as Swan-Ganz catheter insertion. At the Medical College of Pennsylvania inactive physicians or physicians in administrative positions are being trained in primary care.

Conclusions

A pilot miniresidency in family practice has been in operation at Santa Monica Hospital Medical Center since 1979. Many of the applicants were practicing in other specialties and seeking to make a change to family practice. It is unrealistic to expect that the available two- to six-week period can accomplish this objective, and there is a need for a different kind of program to accommodate such circumstances. Training goals for family doctor residency refresher training must be more specific and evaluations more formal than is now the case in the Santa Monica experience.

Ophthalmology Teaching in Medical Schools

Robert E. Kalina, M.D., Henry J. L. Van Dyk, M.D., and George W. Weinstein, M.D.

The Association of University Professors of Ophthalmology (AUPO) was founded in 1965 and is made up of the chairmen of all departments or divisions of ophthalmology in U.S. medical schools (1). A major interest of the body, individually and collectively, is medical student education.

Some members of the AUPO believe that recent medical school graduates are less well prepared in ophthalmology than those of the more distant past. Also reduced familiarity with ophthalmology by physicians in future generations has been cited as a potential problem in the legislative and legal arenas (2).

The results of two AUPO surveys of ophthalmology teaching are reported here.

Survey Techniques

Questionnaires were mailed in 1974 and again in 1979 to the members of the AUPO. Each member was asked to complete the form or to forward it to the individual in his unit most responsible for medical student education. Confidentiality was optional and was elected by some.

The survey document used in 1979 duplicated the questions of 1974 and in addition

This survey was supported in part by a grant to the University of Washington from Research to Prevent Blindness, Inc.

Dr. Kalina is professor and chairman, Department of Ophthalmology, University of Washington School of Medicine, Seattle. Dr. Van Dyk is professor, Department of Ophthalmology, Louisiana State University School of Medicine, New Orleans. Dr. Weinstein is professor and chairman, Department of Ophthalmology, West Virginia University School of Medicine, Morgantown.

inquired about the usage and usefulness of the *Ophthalmology Study Guide for Students and Practitioners of Medicine*, a joint publication of the AUPO and the American Academy of Ophthalmology and Otolaryngology (AAOO) which first appeared in 1976 and now is in its third edition (3). This guide is based upon seven objective areas thought to represent essential knowledge requirements for all physicians. These objectives were developed as a result of a survey of 1,600 respondents representing medicine at undergraduate and graduate levels of general and specialty orientation (4, 5).

Results

Responses were received from 74 of 102 member schools in 1974 (73 percent) and from 81 of 110 schools in 1979 (74 percent) (Figure 1). There was a decline in mean required curriculum hours from 25 in 1974 to 22 in 1979, while the median declined from 18 to 15. Hours actually assigned to the department or division of ophthalmology decreased proportionately from a mean of 22 in 1974 to 20 in 1979. Assigned hours were used most frequently for lectures or demonstrations.

All responding institutions offered medical student electives in ophthalmology in 1979, but only a minority of students chose them (mean 25 percent, median 15 percent). Use of audiovisual self-instruction units rose from 66 percent in 1974 to 82 percent in 1979.

The study guide, not available in 1974, had been adopted as a syllabus by 58 percent of institutions in 1979, while 28 percent used another syllabus, usually prepared locally. In most cases the study guide was purchased by the student and used for self-instruction and as a supplement to lectures. The microfiche illustrations, newly added in the third edition (1978), had been found useful by students in 67 percent of schools using the study guide.

Discussion

The surveys reported here were prompted in part by suspicion among the AUPO members that curriculum time devoted to ophthalmology had suffered during the widespread curriculum revisions which have taken place in U.S. medical schools during recent years.

Although data are not available from the preceding era, the results of the study reported here indicate that currently assigned time for

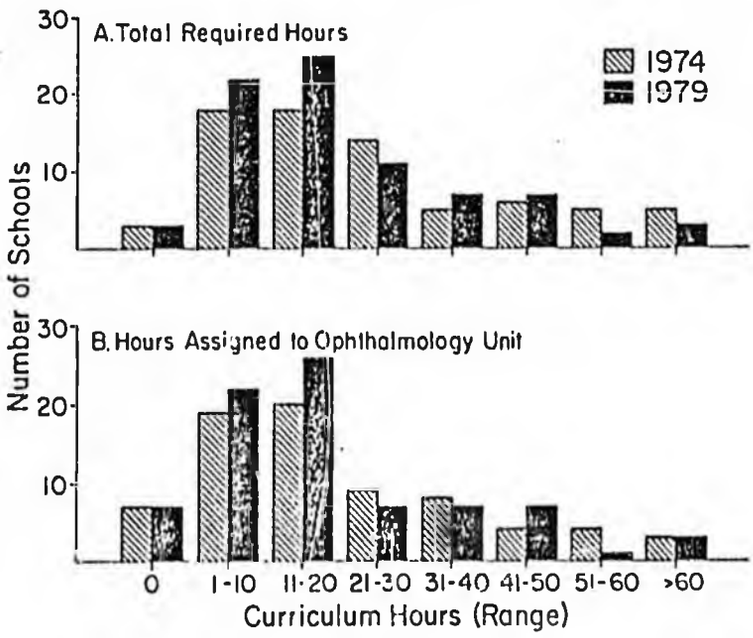

FIGURE 1
Minimum requirements for ophthalmology in U.S. medical schools.

teaching ophthalmology is limited and gradually declining. One logical extension might be a declining ability for appropriate diagnosis, management, or referral of patients with eye disorders, who form a significant segment of those seeking primary care.

The results of these surveys may not include ophthalmology teaching done in the primary care clinical setting. It seems likely that such on-site instruction would be effective and appear relevant to students in that the patient-problem-teacher loop is shortest there; but the authors believe that such teaching events are rare, often unscheduled, and likely to be the first to suffer from time constraints.

Knowledge that curriculum time was limited and that competition for it was keen was one of the prime motivating factors for the development of the AAOO/AUPO study guide. Standardization of objectives to be achieved was presumed then as now to be a laudatory goal. However, the availability of clearly defined objectives has coincided with apparent reduced national curricular emphasis upon ophthalmology.

Not only is the curricular time available to ophthalmology small, but also surprisingly few students (25 percent) choose ophthalmology electives. The reasons for limited elective participation may range from the influence of counselors to lack of available electives. Whatever the cause, the effect must be negative upon student appreciation for what the specialty offers. In view of the excess of candidates for the limited number of ophthalmology residency positions, a main concern is that students who will practice other specialties, especially primary care, learn proper diagnosis and treatment of some ophthalmic disorders so that they may avoid inappropriate referral to medical or nonmedical practitioners.

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4. Spivey, B. E. A Technique To Determine Curriculum Content for Medical Students. *J. Med. Educ.*, 46:269–274, 1971.
5. Spivey, B. E. Ophthalmology for Medical Students: Content and Comment. *Arch. Ophthalmol.*, 84:368–375, 1970.

TO: HESS Committee Members DATE: May 10, 1983
FROM: Heidi H. Borson
RE: HB 225, CSHB 225 Versions 1 and 2

COMPARATIVE ANALYSIS

CSHB 225 Version #2	HB 225
Sec. 1 An optometrist with an endorsed license may use and prescribe legend drugs, and may use nonprescription drugs under this chapter.	Sec. 1 An optometrist with an endorsed license may use and prescribe legend drugs.
Includes the following:	
Sec. 2 Adds one person to the of examiners in optometry.	No alteration to present board statutes.
Sec. 3 Stipulates that the added member will be a licensed physician in Alaska; requires that the public member on the board have no direct or indirect interest in the practice of optometry, opticianry or medicine.	Not included.
Sec. 4 Under powers and duties of the board of examiners in optometry: 3) States that the board, with the guidance of the state medical board, shall develop a list of specific prescription, nonprescription, diagnostic and therapeutic drugs and their dosages that may be used by authorized optometrists. 4) Mandates the provision of continuing education for optometrists who want to use drugs.	Not addressed in HB 225.
Sec. 5 With regards to registration: b) Adds that an optometrist may not be certified to practice optometry beyond the scope of his/her training; stated that the board of examiners in optometry is determine an optometrist's qualifications.	No alteration to present statutes.
Sec. 6 Adds another ground for disciplinary action by the board: 10) Using the prefix 'Dr.' or 'Doctor' before the license holder's name without using the word 'optometrist' in connection with the title.	Not addressed.

Comparison continued:

CSHB 225 - Version #2	HB 225
Sec. 7 Regarding the use or prescription of drugs: Subsections a,b,c,d,e refer to 'drugs'.	Sec. 2 Regarding the use or prescription of drugs: Subsections a,b,c,d,e refer to 'legend drugs'.

In addition:

Definitions for 'optometry', 'practicing optometry', and 'legend drugs' are the same in HB 225 and CSHB 225 - Version #2.

Both bills also include Section 08.64.360 regarding penalties for practicing without a license or in violation the applicable statutes.

CSHB 225 - Version #2 and CSHB 225 - Version #1 differ in one respect only, that being that CSHB 225 - Version #1 adds Section 08.72.278 regarding approved drugs. This section names drugs which may be used in addition to the list of drugs to be developed by the board of examiners of optometry and the state medical board.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 17, 1984

SUBJECT: Optometry
(HB 225)

TO: Representative Mae Tischer
Chairman, House Health, Education,
and Social Services Committee

FROM: Russ Josephson
Legislative Counsel

You have requested a comparison of the introduced version of HB 225 and the committee substitute for your committee dated February 3, 1984. Perhaps it will be easiest to compare the two bills if I begin with a brief sectional analysis of each bill.

HB 225

Section 1 Amends the provision of law governing the practice of medicine by persons other than physicians by adding a new paragraph allowing optometrists to use certain drugs under the provisions of the remainder of the bill.

Section 2 Provides for identification and approval of (1) training programs for the use of drugs and (2) continuing education programs. Also provides for license endorsements certifying completion of required training for drug use, regulations concerning the use or prescription of legend drugs, the loss of license endorsements for violations of those regulations, and the furnishing of the names of holders of license endorsements to the board of pharmacy.

Section 3 Amends the definition of "optometry" reflect the provisions of the bill for the use of drugs.

Section 4 Amends the definition of "practicing optometry" as in Section 3.

Section 5 Adds a definition of "legend drugs".

Section 6 Adds optometrists to those excepted from the provisions of law penalizing the practice of medicine by persons who are not physicians.

CSHB 225 (HESS)

Section 1 Provides an additional ground for the imposition of disciplinary sanctions that the board of examiners in optometry may impose under AS 08.72.240: use, dispensing, or prescription of a drug in violation of the new provision regulating drug use by optometrists (Section 2). In addition, provides a modification of the provision that requires referrals to appropriate health care practitioners.

Section 2 Adds a new section to the statutes, providing for the use of legend drugs, excluding controlled substances and other types of drugs. Lists the categories of topical legend drugs that may be used by an optometrist who has obtained a license endorsement from the board of examiners in optometry. Lists the requirements for a license endorsement, including the required training before and after receiving an endorsement.

Section 3 Contains a new definition, "legend drugs". Also amends the definitions of "optometry" and "practicing optometry" to reflect the provisions of the bill concerning the use of drugs. The definition of "legend drugs" is identical to that in the introduced version of the bill. The amendments of "optometry" and "practicing optometry" differ from those in the introduced version of HB 225 in that they have added a phrase to exclude the use of surgery in diagnosis and treatment. The definitions in the introduced version of the bill do not mention surgery.

As you can see, the two bills accomplish basically the same thing. The major differences are as follows:

HB 225 contains (in Sections 1 and 6) amendments regarding the practice of medicine and providing the necessary exemptions for optometrists using drugs. CSHB 225 (HESS) does not contain these provisions, but it should.

Both bills provide for license endorsements and for the training required before and after receiving an endorsement. HB 225 provides for regulations to handle those requirements; CSHB 225 (HESS) provide more detail in the statute.

CSHB 225 (HESS) provides a new ground for discipline by the board of examiners in optometry; violation of the provisions concerning drugs. It also amends another ground for discipline, failure to refer a patient to the appropriate health care practitioner. Neither of these provisions was in the introduced version of the bill. HB 225 did provide for regulations concerning the use or prescription of legend drugs, and it provided for the suspension or revocation of the license endorsement for violation of the regulations.

CSHB 225 (HESS) is more specific than HB 225 in its detailing of the types of drugs that may be used by optometrists.

The definitions in CSHB 225 (HESS) contain provisions concerning the prohibition of surgery in diagnosis and treatment by optometrists. Similar language does not appear in HB 225.

HB 225 provided for the names of endorsement holders to be submitted to the board of pharmacy. CSHB 225 (HESS) does not contain this provision.

I trust these sectional analyses and this comparison will be useful. If I may be of further service, please call.

RJ:ojb
J3/111

MSG 84-00005682 PRTY 1 01/21/84 13:09:15 ORIG: SOL$ IN= 0007 OUT= 0022
FROM: SOLDOTNA/ TO: JUNEAU T/C
TARGET: LJHV SUBJ: F. STATS H.HESS OPTOMETRY 1/21

****

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

****

SATURDAY, 1/21/84 :DATE
SOLDOTNA, :SITE/LOCATION
H. HESS, REP.TISCHER "HB-225, :SPONSOR/SUBJECT
OPTOMETRY AND PRESCRIPTIONS"

NAME/REPRESENTING	ADDRESS/PHONE	TESTIFY	OBSERVE
1. ROBERT O'CONNELL OPTOMETRY	BOX 3470 SOLDOTNA 99669		X
2. PETER CANNAVA MD	BOX 1629 SOLDOTNA 99669	X	
3. JOHN DEMSKE OD	RT.2 BOX 368 SOLDOTNA AK. 99669	X	
4.			

_____STATS_____
2 ___TESTIFY/ED 10:30 AM T/C STARTED
1 ___OBSERVE/ED 12:50_____T/C ENDED
3 ___TOTAL



MSG 84-00005784 PRTY 1 01/21/84 15:27:47 ORIG: LF20 IN= 0003 OUT= 0013
FROM: LYNDG/TBX TO: JNU T/C
TARGET: LJHV SUBJ: FINAL STATS - HSE HESS 1/21

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LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

****

JANUARY 21, 1984____:DATE
FAIRBANKS_____:SITE/LOCATION
HSE HESS/REP TISCHER HB225_____:SPONSOR/SUBJECT
(OPTOMETRIST & PRESCRIPTIONS)

TESTIFIED/PARTICIPATED:

1. JIM GRAVES, OPTOMETRIST, FBX CLINIC OPTOMETRIC CENTER, 1867 AIRPORT WAY, FBX #452-1761 EXT279

OBSERVED:

_____STATS_____
1_____TESTIFY/ED *****T/C STARTED _____
_____OBSERVE/ED *****T/C ENDED:_____
1_____TOTAL

=====EOM

MSG 84-00005800 PRTY 1 01/21/84 16:15:40 ORIG: LM01 IN= 0006 OUT= 0080
FROM: MATSU TO: PRIMARY MODERATOR & JUNEAU T/C
TARGET: LJHV SUBJ: SIGN IN - MAT-SU ONLY

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LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

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1/21/84 :DATE
MAT-SU :SITE/LOCATION
H. HESS COMMITTEE :SPONSOR/SUBJECT
-1- TESTIFY/ED ********T/C STARTED 10:45AMADT
-0- OBSERVE/ED ********T/C ENDED 1:00AMADT
-1- TOTAL

NAME/REPRESENTING	ADDRESS/PHONE	TESTIFY	OBSERVE
1. DR. DENISE L THANEPOHN,	P O BOX 871700, WASILLA 99687 376-5266		

MSG 84-00005766 PRTY 1 01/21/84 14:57:45 ORIG: LM08 IN= 0015 OUT= 0071
FROM: RING IN ANCHORAGE TO: KEN IN JUNEAU
TARGET: LJHV SUBJ: OMTOMETRISTS AND PRESCRIPTIONS HB225 (H)

****

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

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DATE: JANUARY 21, 1984
SITE: ANCHORAGE
SPONSOR/SUBJECT: (H) HESS OPTOMETRISTS AND PRESCRIPTIONS HB225

...5..TESTIFIED ******T/C STARTED: 10:45AM
...2..OBSERVED ******T/C ENDED: 12:50PM
...7..TOTAL

TESTIFIED
****

1. JAMES H. PATTERSON MD 3500 LATOUCHE ST. ANCH. AK. 99508 562-2969
2. STEVEN DAUBSON OP 8301 BRIARWOOD SUITE 203 ANCH., AK. 99502 349-6932
3. T. SENTER MD 718 K ST. ANCHORAGE, AK. 99501 272-2571
4. CHARLES R. RUSH/BD. OF PLANNING 1345 W. 11TH ANCH., AK. 99501
5. JON NYBOER MD 3300 PORVIDENCE DR. SUITE 302 ANCH. AK. 99508

OBSERVED
****

1. DENNIS BUNKERHOFF OP 1345 W. 5TH AVE. ANCH., AK. 99501 272-2557
2. T. MC LAUGHLIN OP 9750 VAN GUARD ANCH., AK. 99503

****

MSG 84-00005679 PRTY 1 01/21/84 13:04:16 ORIG: LB00 IN= 0006 OUT= 0020
FROM: WALLY IN BETHEL TO: JNUTC
TARGET: LJHV SUBJ: FINAL STATS

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LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET/FINAL STATS

****

DATE: 1-21-84
LIO SITE: BETHEL
SPONSOR/SUBJECT: HOUSE HESS/HB225

NAME/REPRESENTING	ADDRESS/PHONE NUMBER
OBSERVED ONLY	
1. DR. JIM TAYLOR, REPRESENTING HIMSELF	PO BOX 1018, BETHEL 543-3446 (HM) 543-2251 (WK)

****

TIME T/C STARTED: 10:30 AM
T/C ENDED : 12:50 PM
LOCAL MODERATOR : WALLY

TESTIFIED: 0
UNABLE TO: 0
OBSERVED : 1

TOTAL : 1

****

Peninsula Eye Clinic
Peter E. Cannava, M.D., A.P.C.
OPHTHALMOLOGY
P.O. BOX 1629
SOLDOTNA, ALASKA 99669
TELEPHONE 262-4462



January 24, 1984

Representative Mae Tischer
Pouche V
Juneau, Alaska 99811

Dear Representative Tischer,

I felt as though the teleconference which you chaired on HB 225 went very well and I wish to congratulate you on your smoothly run hearing. You raised two points which I felt were exceedingly important and although I touched on the responses I do feel as though they deserve ampliflication.

You were frustrated at the inability of the public to differentiate between optometrists and opthalmologists as they can differentiate between gynecologists and peditricians! We agree with your problem and as a result have started to educate the public as to the vast difference in education between an O.D. vs M.D.! Our cause, however, is frustrated by the trend by O.D.'s who portray themselves to the public as the provider of total eye care! Witness, for example, the name of some of the optometry offices in Anchorage: 'Anchorage Eye and Contact Lens Centre', or Opthalmic Associates'. These titles more than suggest that total medical and surgical eye care is offered at these establishments. With such misleading introduction, you can easily see why our patient education campaign is going slowly!

Your referral to this bill as a "turf" battle is a reasonable conclusion. If it viewed in that sense then imagine the "bag of worm's" that the legislature is getting into if it legislates this group of providers into an entirely new professionbased on a post-graduate 100 hour crash course! How will the legislature handle the myraid of other Alaskans who wish to legislate themselves into a new profession! Will it grant the "born again Professionals" new enriched status based on a 100 hour course or will it refer them back to the appropriate professional school for the time honored educational background?

Your question concerning cost of an office visit is also very important in that you will find the cost of a visit to an O D. is traditionally equal to or more often higher than a comparable visit to an M.D.! If the public were truely informed as you would have them be, would they seek out a optometric office visit when they could buy an M.D. for the same price? This situation poses a dilemma for the O.D.'s and helps to explain their duplicity in advertising their services.

Please let me know if I can answer any more questions for your committee and please notify me of additional hearings you may schedule.

Sincerely,

Peter E Cannava, MD

Peter E. Cannava, M.D.

P.S. Please disperse a copy of this letter to your committee members. Thanks!

Mae, if I remember correctly Dr. Cannava gave testimony at the optometric hearings I promised to send

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 17, 1984

SUBJECT: Optometry
(HB 225)

TO: Representative Mae Tischer
Chairman, House Health, Education,
and Social Services Committee

FROM: Russ Josephson
Legislative Counsel

You have requested a comparison of the introduced version of HB 225 and the committee substitute for your committee dated February 3, 1984. Perhaps it will be easiest to compare the two bills if I begin with a brief sectional analysis of each bill.

HB 225

Section 1 Amends the provision of law governing the practice of medicine by persons other than physicians by adding a new paragraph allowing optometrists to use certain drugs under the provisions of the remainder of the bill.

Section 2 Provides for identification and approval of (1) training programs for the use of drugs and (2) continuing education programs. Also provides for license endorsements certifying completion of required training for drug use, regulations concerning the use or prescription of legend drugs, the loss of license endorsements for violations of those regulations, and the furnishing of the names of holders of license endorsements to the board of pharmacy.

Section 3 Amends the definition of "optometry" reflect the provisions of the bill for the use of drugs.

Section 4 Amends the definition of "practicing optometry" as in Section 3.

Section 5 Adds a definition of "legend drugs".

Section 6 Adds optometrists to those excepted from the provisions of law penalizing the practice of medicine by persons who are not physicians.

CSHB 225 (HESS)

Section 1 Provides an additional ground for the imposition of disciplinary sanctions that the board of examiners in optometry may impose under AS 08.72.240: use, dispensing, or prescription of a drug in violation of the new provision regulating drug use by optometrists (Section 2). In addition, provides a modification of the provision that requires referrals to appropriate health care practitioners.

Section 2 Adds a new section to the statutes, providing for the use of legend drugs, excluding controlled substances and other types of drugs. Lists the categories of topical legend drugs that may be used by an optometrist who has obtained a license endorsement from the board of examiners in optometry. Lists the requirements for a license endorsement, including the required training before and after receiving an endorsement.

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HB 225 provided for the names of endorsement holders to be submitted to the board of pharmacy. CSHB 225 (HESS) does not contain this provision.

I trust these sectional analyses and this comparison will be useful. If I may be of further service, please call.

RJ:ojb
J3/111

The ALASKA OPTOMETRIC ASSOCIATION

AFFILIATED WITH
AMERICAN OPTOMETRIC ASSOCIATION

PRESIDENT

Alaska's doctors of optometry (O.D.) are preparing to introduce legislation that will allow qualified Alaskan ODs to use prescription drugs in the treatment of infections, allergic inflammations and minor injuries of the eyes and lids not requiring the services of a specialist Many such conditions are treated by general practitioners, who have minimal training in this area. However the optometrist, who is considerably better qualified by training, experience and instrumentation than a general practitioner, must refer his patient to an MD (usually an ophthalmologist), at additional expense to the patient. We have estimated, based on the experience of West Virginia, that the elimination of extra visits would save Alaskans $235,000. in the first 3 years, not counting travel and lost time.

A majority of Alaska's ODs have recently completed a 120 hour course of postgraduate education and training in ocular therapy. While 120 hours (and an equal amount of home study) is extensive for working practitioners, it should be considered only against a background of 4000 hours of professional training, much of it in the background medical sciences The combination provides a medical background comparable to dentistry and podiatry. Dentists and podiatrists, like physicians, have unrestricted drug prescribing authority, though in practice they limit themselves to drugs appropriate to their field.

Drug legislation in more restricted form was originally introduced in 1978, when it passed the House. However ophthalmologists, who oppose the bill, have been able to tie it up in one committee or another since that time, despite a two thirds favorable majority in each house. If passage is further delayed, the skills gained or sharpened in this training will begin to deteriorate and problems of "grandfathering" may arise. The bill provides that prescribing authority will be limited to those ODs who have been trained and certified in primary care therapeutics.

Phillip W. Bach, O.D., Ph.D.
Legislative Chairman

HES
Monday
Jan 16, 1984

Commissioner Reynolds:

Questions:
Finance
State Board Ed. study
HB-251

Budget:
Full Funding
+ 30 Mil more
Increase Enrollment C.I.P.
Increase Categoricals
Community Schools
+ 2% Dept. activities = ½ Mil
98% $6.00 Mill. (Inc Debt Serv)
Pass thru to Local Schools

need more explain.
will Produce
a Found. Formula

? Model Curriculum - Mandatory or voluntary participation?

Media Concern

Primary Concerns:
Board: Policy Leadership
Dept asked to develop Model Elementary & Secondary Curriculum

Improve quality of Administrators
Principals Academy
Assessment Center (for Principals)

Dick Luthen -
Alyson Algey - Budget

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
January 21, 1984
10:00 a.m.

Members Present: Rep. Tischer, Chairman
Rep. M.W. Miller, Vice-Chair
Rep. Martin
Rep. Uehling
Rep. Goll
Rep. Koponen
Rep. Davis

COMMITTEE CALENDAR

HB 225 "An Act relating to the practice of optometry and authorizing the use of prescription drugs by optometrists."

HB 347 "An Act relating to the licensing of practitioners of naturopathic medicine; and providing for an effective date."

WITNESS REGISTER

Dr. James Demsky
Soldotna, Alaska
Position Statement: In support of HB 225.

Dr. Peter Cannava
Soldotna, Alaska
Position Statement: In favor of HB 225.

Charles Rush
Anchorage, Alaska
Position Statement: Stated concerns if HB 225 was passed.

Jan Nyboer
Anchorage, Alaska
Position Statement: Strongly opposed HB 225.

Steven Dobson
Anchorage, Alaska
Position Statement: In support of HB 225.

Mr. Center
President
Anchorage Medical Society
Anchorage, Alaska
Position Statement: Stated AMS unanimously opposed HB 225.

James Patterson

Anchorage, Alaska
Position Statement: Opposed HB 225.

Dr. Jim Graves
Anchorage, Alaska
Position Statement: In favor of HB 225.

Denise ...
Mat Su, Alaska
Position Statement: In favor of HB 225.

Shirley...
Fairbanks, Alaska
Position Statement: In support of HB 347.

Harry Treager
Director
Division of Occupational Licensing
Pouch D
Juneau, Alaska
Position Statement: Was present to answer questions on HB 225 and 437.

Stuart Ball
Juneau, Alaska
Position Statement: Against HB 225.

Diane McDermott
Anchorage, Alaska
Position Statement: Supports HB 347.

Julia Reinhar
Anchorage, Alaska
Position Statement: In support of HB 347.

Debra Lucas
Mat-Su, Alaska
Position Statement: Supports HB 347.

Efrin Resume
Fairbanks, Alaska
Position Statement: In support of HB 347.

Steven Cox
Anchorage, Alaska
Position Statement: Supports HB 347.

David...
Anchorage, Alaska
Position Statement: In support of HB 347.

Karen Red Stone
Anchorage, Alaska
Position Statement: In support of HB 347.

Molly Mauline
Mat-Su, Alaska
Position Statement: In support of HB 347.

Scott Jamison
Juneau, Alaska
Position Statement: In support of HB 347.

Joanne Selmar
Anchorage, Alaska
Position Statement: In support of HB 347.

David McGuire
Anchorage, Alaska
Position Statement: Stated concerns on HB 347.

Mark Rierdan
Mat-Su, Alaska
Position Statement: Supports HB 347.

John Ghaddio
Fairbanks, Alaska
Position Statement: Supports HB 347.

Dr. J. Bonner
Anchorage, Alaska
Position Statement: Opposed HB 347.

Virginia Pettyjohn
Anchorage, Alaska
Position Statement: In support of HB 347.

Dr. Patton Pettyjohn
Anchorage, Alaska
Position Statement: In support of HB 347.

Dr. Jasper
Anchorage, Alaska
Position Statement: In support of HB 347.

Georgia ...
Mat-Su, Alaska
Position Statement: Supports HB 347.

Sandra Jay
Anchorage, Alaska
Position Statement: Supports HB 347.

Sherry ...
Anchorage, Alaska
Position Statement: In support of HB 347.

Jean ...
Anchorage, Alaska

Position Statement: In support of HB 347.

Ruby Pettyjohn
Mat-Su, Alaska
Position Statement: In support of HB 347.

Karen Jasper
Anchorage, Alaska
Position Statement: In support of HB 347.

Captain E.P. Pettyjohn
Alaska Airlines
Position Statement: In support of HB 347.

Connie Walker
Anchorage, Alaska
Position Statement: Supports HB 347.

Paul Pettyjohn
Mat-Su, Alaska
Position Statement: Supports HB 347.

Bill ...
Anchorage, Alaska
Position Statement: In support of HB 347.

Tom Pettyjohn
Mat-Su, Alaska
Position Statement: Encourages the passage of HB 347.

Cindy Ziegler
Anchorage, Alaska
Position Statement: Supports HB 347.

Cathy ...
Anchorage, Alaska
Position Statement: Urged passage of HB 347.

PREVIOUS ACTION

HB 225	2/23/83 - First Reading.
	Committee Referrals - HESS and Rules Committees.
	See HESS minutes of April 27, May 16, 17, 18 and 19, 1983.
HB 347	4/12/83 - First Reading.
	Committee Referrals - HESS, Labor & Commerce, Finance and Rules Committees.

See HESS minutes of May 20 and 21, 1983.

ACTION NARRATIVE

TAPE#5, Side 1
Recording
Number 0001

Chairman Tischer: I express my sincerest apology for the delay of 45 minutes of at least beginning this meeting as I said before the meeting should be in Anchorage, however, the members were not able to leave Juneau because of inclement weather, the airplanes weren't flying so we are conducting this hearing from the site here in Juneau.

Chairman Tischer: I'd like to now welcome those who have come to all sites either to observe or testify, there are several members of the public here and I right now don't have their names. I'll call off the names that are listed here on all sites and if there are any others I wish that you would pass the names on to me before we start the hearing process. Those that I have listed to testify from the other parts of the state; John Demsky and Dr. Peter Cannava from Soldotna, in Anchorage; Charles Rush, Jan Nyboer, Steven Dobson, Mr. Center and James Patterson, there is also an observer I understand in Anchorage, Dr. Jim Graves. In addition, we have a witness in Mat Su, Denise ... and please correct me if I'm mis-pronouncing these names, and Dr. Jim Taylor who is an observer at this time from Bethel and who may wish to make comments. In Juneau; we have Harry Treager and Stuart Ball, with that list than I extend an invitation for Mr. James Demsky in Soldotna, if you would like to come forward we would appreciate hearing from you.

Number 0024

James Demsky: My name is John Demsky and I'm an optometrist and practicing in Alaska for 6 years, five of those years with the Yukon-Kuskokwim Health Corporation and recently I've opened a private practice in Soldotna. I gave a lengthy testimony for the hearing in April, I believe and I don't want to repeat myself too much. I'm also a member of the Board of Optometry and I would like to make a few comments as to the Board's position; first of all we do not

intend to have any grandfather, the certification used drugs would be by examination. We plan on increasing the hours of continuing education prior with the percentage related pharmacology and pathology. The advantages that we see are;

1) prevented health care

2) much cost to the consumer

3) provide higher level of care

Number 0041

There is 38 states that can use drugs now, 35 of them diagnostic and 3 with therapeutic, one of the states just passed their therapeutic....last year. North Carolina in 1977 and West Virginia in 1976. There are no drug related complaints against West Virginia optometrists since that time and there have been only two formal complaints against North Carolina's optometrists and there's also been a national study done by the National Association of Insurance Commissioners from July of '75 through December of '78 and that period of time there were 47 claims against the optometrists and 354 claims against ophthalmologist and there is not any significant difference between drugs and non-drug states of optometrists. I believe that since I've said most of my other testimony previously thats all I wish to say today. Thanks.

Number 0055

Chairman Tischer: Thank you very much, Mr. Demsky. Would you be open for questions from the committee? Mr. Demsky: Certainly.

Chairman Tischer: Rep. Martin wishes to ask you a question Mr. Demsky.

Number 0058

Rep. Martin: Yes sir, I'm interested in the continuing education program, I know that if not last summer or the summer before the optometrist profession had an extensive education course during the summer involving many hours. Can you give us an update perhaps as to how many optometrists today would qualify for certification of diagnostic drugs with the latest minimum standards that the profession is putting upon itself?

Mr. Demsky: I could not answer accurately the diagnostic drugs because our pursuit is for therapeutic drugs, I do know from the course that was offered a year ago which had primary emphasis on therapeutic drugs that the majority of MD's from the state passed that took that course and passed the final exam. That course would fulfill all the requirements for using therapeutics and just about all the states, of course the major requirement is being able to pass the exam given by the Board, so all applicants would have to take ours and additional exam for diagnostic. Since your question was about diagnostic, I would just say just guessing that about 75-80% in the state already have the requirements for diagnostic drugs.

Rep. Martin: Thank you for clarifying that difference between therapeutic and diagnostic; we haven't had this bill for awhile and I forgot the difference. I think thats it for right now, Chairman. Thank you.

Number 0080

Chairman Tischer: Let the record show that Rep. Miller of North Pole is now present; and Rep. Davis would like to ask a question.

Rep. Davis: Just a quick question; Dr. Demsky do you have any comments on the bill that is still in the committee?

Dr. Demsky: Are you referring to the Committee Substitute? Rep. Davis: Yes, thats correct CS for HB 225.

Chairman Tischer: I'd like to clarify this for the committee's benefit and for those that are listening, we are hearing the original HB 225 and the reason that we are doing that is because there are three Committee Substitutes all prepared by Sen. Josephson and the sites out there do not have copies of that, so if you are referring to any particular version you must first of all state the version number and the section and line that you are identifying, if you would please, committee members and those who have copies of other bills out on the field you would have to refer to which bill or which version you are complimenting or criticizing and which section. To solve the confusion, the Chair is identifying the

original House Bill only.

Number 0097

Rep. Davis: I'm just curious on what his testimony is on the original bill or if he has an alternative one that he supports, I'd like to know that.

Mr. Demsky: Yes, the original bill was shot down rather excessively for its lack of ... I would say and there are several alternative bills that I would certainly consider, I do not have a copy of the Committee Substitutes in front of me, but I do know that one of the Committee Substitutes included a position on the optometry board and a list of prescription and non-prescription drugs with the advice and guidance of the state Medical Board. In regard to that Committee Substitute I don't see any advantage of having a position on our board, I would be in favor of having a list of different classifications of drugs that we could use, but not a list perse of each individual drugs. That is the only Committee Substitute that I am aware of, also the initial bill does not have any statements about the exam itself or the continuing education that is required and it does not list the drugs. According to the initial bill there are not any limitations whatsoever, according to the bills that we have considered as an alternative the drugs would be limited to topical ophthalmological drugs only with emergency use for systemic drugs in the office only.

Number 0126

Chairman Tischer: Thank you John. I'm looking at a version number 1 and it really doesn't matter which version. I think which version you are referring to is that particular version, which is version 1. It does set out the scope of practice, it does set out the section in section, the list of people who should be sitting on a board, one of which would be a physician and let me just read that to you and see if this meets the qualifications that you wish.

The board will consist of (6) members instead of (5), there should be a change in the original statute, appointed by the Governor the members must serve staggered term years, there will be (4) members and shall be licensed practicing optometrists

who have been residents for at least three years, one board member shall be a public member with no interest, direct or in-direct practicing optometry; one board member shall be a licensed physician in the state. That one provision is provided for in the Committee Substitute and in addition it has another section that is called approved drugs and this is how it reads:

The licensee holding a certificated issued under AS. 08.72.277. The employer prescribe an addition to the drugs approved under another statute, legend drug as follows; and then they identify the actual drugs, subsection topical anesthetics anti-effective which lists the types of drugs underneath it, anti-glaucoma agents and so forth down the list, there are probably 35 different drugs that are listed. You're composing that these drugs not be listed that identify only in categories, is that what you are suggesting?

Number 0156

Dr. Demsky: That is correct.

Chairman Tischer: And how would you ask those drugs to be listed in categories, what categories would you suggest?

Dr. Demsky: I believe the ones that you have listed there, the anesthetic, optometric and anti-glaucomas.

Chairman Tischer: Thank you very much, do you have any comments for us to hear?

Dr. Demsky: I don't believe so.

Number 0163

Chairman Tischer: The next witness that I'd like to call would be Charles Rush from Anchorage.

Charles Rush: Good Morning, I'm sorry that I'm not well prepared on this, this is the first time that I've seen the bill, however, I am on the Board of Pharmacy and I serve as the Secretary and we addressed this bill or a similar one a couple of years or maybe last year and essentially I just want to be sure that that letter was still in the possession of the Legislature and would be considered.

I think essentially, what we said in that letter was that this was a real concern to us, that in pharmacy we have and always had sort of a traditional problem and its a very minor one with dentists who have restricted prescriptive authority in the date prescribed for the mouth, and we have the same type of problem with the veterinarians who are limited to animal, and this sometimes is a problem if they get out of their speciality.

Now we really ran into problem when we got the nurse practitioner and the physician's assistants who were given the authority to prescribe and when they came to us with this we did not see it would be a problem and we said that we thought we could monitor all the NP's and PA's. When it happened all of a sudden we were faced with every NP and every PA that had a different regiment that they could write for, as set up by their collaborating physician. This we soon found that pharmacist could not do, we were not able to keep track of the certain items that each nurse practitioner or PA was allowed to prescribe, so at that time we went to the medical board and the nursing board and we said that there was no way that we could monitor, that we felt that this had to be changed and the responsibility for the PA and nurse practitioner had to be the responsibility of the collaborating physician. Naturally all care was going to be exercised in throwing their prescriptions, but if they got outside of their field than they were allowed to prescribe and that is something the collaborating physician would have to check on and would have to handle. I feel that this optometrist would be a similar category and it would be extremely hard for the pharmacist to first of all would have to identify their prescription so that the pharmacists knew that this was an optometrist and he had limited prescribing authority and then at that time it would have to be very plain what that prescribing authority was. I think thats our main concern, the other thing that we did not address here I would presume and I would hope that you are not planning on having any DEA numbers involved with the optometrist and they would not prescribe for controlled

substance. Has that been considered?

Number 0212

Chairman Tischer: If you are asking the committee that question, is that what you are doing?

Mr. Rush: Yes, I am. I just read through this real quickly, I don't see where its addressed here, the use of prescription or legend drugs.

Chairman Tischer: There is nothing in this proposed piece of legislation that addresses controlled substances as far as I can see.

Mr. Rush: Controlled substances are legend drugs, however, normally they are classified separately, I believe if it were addressed it would save, possibly it should be in the statute, that DEA drugs, controlled substances would not be prescribed and that they would not have DEA number.

Chairman Tischer: Thank you, thats a good suggestion. How do you feel about categorical listing in this proposed piece of legislation, Mr. Rush?

Mr. Rush: I feel that its difficult I don't know, I think its going to be very hard for pharmacist to draw the line or know where the line is drawn at, if thats what you are doing. Maybe it should be like industry, they are limited to diseases of the mouth, maybe the only limitation should be limited to the eye, I don't know, maybe thats too broad a category.

Chairman Tischer: Mr. Rush, if I may, the bill addresses that by virtue of the definitions that are contained within the bill and what the licensing process should be. I have a question, am I given to understand that at the present time the pharmacists are the police force of the prescription industry if you will on all fields of medicine or is that just a policy?

Number 0241

Mr. Rush: I think this is maybe the way it really works, a pharmacist is certainly jointly liable if he fills a prescription for say for instance a dentist, who is prescribing something that is not related to the mouth. In that particular case the

pharmacist I feel is probably under a real obligation, not to fill that prescription.

As far as a doctor of medicine is concerned there is no limitation, there's certainly a limitation if you do something wrong, if its an overdose or something they should catch, but as far as a veterinarian writing a prescription for a human, now the pharmacist fills that, he certainly has some liability.

I think the same thing is true with dentistry and I think that under this, the optometrist, and I don't think we like the word "policeman" but essentially is, yes, you are saying to us, do not fill prescriptions except for the eyes and the eyelids than they are going to give us a specific list. And so, when the prescription comes in it is his determination, it could result in a law suit if he strays away from that.

Number 0261

Chairman Tischer: I think what you are saying to the committee, Mr. Rush, is that the pharmacy industry and profession feels a moral obligation to police that prescription portion of dispensing drugs to the best of their ability. What I would like to know is that if you are mandated by the law to do that and rather than the moral obligation part of it?

Mr. Rush: Well, I certainly think that we are mandated by law, yes, its in the dental statutes that they can only prescribe for diseases of the mouth, under the nurse practitioner they can only prescribe the items or the legend drugs that their collaborating physician allows them to write for. So I think, definitely that means the pharmacists fills the prescription outside of that scope, certainly, its against the law, so I don't think its a moral, I think it is law.

Chairman Tischer: Mr. Rush, I am going to ask for a legal opinion from the Attorney General's office on that account, so that the committee has a clear understanding of whether or not its a policy issue more than it is a statute. What I'm looking at here is a provision within one of the substitutes and it says; "the board shall furnish to the

Board of Pharmacy the names of all holders of endorsements issued under this section", you mean its a policy of one board to supply the pharmaceutical board list of all the holders or allowed to prescribe drugs? But it does not say anything that you are liable to police their actions and I think we need an opinion on that.

Chairman Tischer: Rep. Martin has a question.

Number 0288

Rep. Martin: Thank you Madam Chairman, Good Morning Charles, as you said we have been on this thing for 4 or 5 years now, same thing, no progress. The same questions are being asked and I believe there are answers if we don't try to nit pick this bill to death one way or the other, there's always going to be any if or but. But I feel that the categorizing drugs is probably the best way to go through this as you know in your profession there's always new drugs on the market for new things and its awful hard to keep up with, and thats up to the professional group. Ones to regulation and the ones to educational program, we know in the last two years the optometrist have done a superb job in upgrading everyone's education, making sure they had minimum hours of training for x use to what drugs or what procedures, and rather than tidy all these things in the law itself that we should let the regulation and the education be the guide line of what they are allowed to do. If we get involved in saying that we want drugs only for the eyes we know that anything that enters the body is going to go through the whole body no matter what point of interest, and than we get into the nit picking technologies on that too. What I'm looking for is to allow a professional group and we have to have faith in those professional groups to give the best that they have to offer to the patients. And I feel that in this state we have a lot of top rated optometrists that go out into the remote areas and if they have the expertise they should be allowed to use them and work upon the patients that they suddenly run into that needs it.

Number 0313

Mr. Rush: I don't know if I definitely disagree with what you said there, Terry. I

think our concern on the Board of Pharmacy is that we not put our pharmacist in the position where it is extremely difficult for them to know whether they are allowed where its legal to fill a prescription or not and I think that maybe something should be continued if you are considering that they are going to give us a list, like the list that we got of the nurse practitioner and of the PA's. That has had a few problems, they add new people all the time to the list and then there are people who are taken from the list that are no longer licensed and this gets into a continual need for updating and especially we have in our nurse practitioners and the PA's regulations a part that says if a collaborating physician no longer collaborates with the nurse practitioner, the Pharmacy Board will be let known in 24 hours. Because, if this happens, the collaborating physician has some problem with the nurse practitioner or the PA, than its essential that we get that information quickly so that we can notify the pharmacist and they don't fill the prescription.

Number 0332

Rep. Martin: Thank you, I whole wholeheartedly agree with your problem and personally think the pharmacists have done a number one job around the state in trying to control misuse of drugs whether it comes to doctors or where you are almost forced to at times to accept that prescription when you know darn well that a problem will speculate anyway. And I very much appreciate pharmacists I've known who have conscientiously notified the various departments if they can't get the doctor to rightly consider the prescriptions. I personally appreciate the concerns that you are expressing, I think its a very valid report and maybe the optometrist can work up an easier procedure for the pharmacist, because they want to protect themselves too. They don't want their image tarnished by any weak members.

Number 0345

Chairman Tischer: Thank you.

Chairman Tischer: I'd like to now go to Juneau, we have a Stuart Ball who would like to testify, and for those who are listening or preparing to testify I appreciate very

much if you would as you come to the table announce your name and your affiliation if any.

Number 0354

Stuart Ball: My name is Dr. Stuart Ball, an ophthalmologist, and would initially say that I am opposed to this bill. Let me go through my qualifications through college; pre-medical education, medical school - 4 years, did straight medicine, internship and 3 years of ophthalmology training for the year of specialized training in New York City and glaucoma. I'm opposed to this bill, because it proposes to give the privilege of practicing medical care of the optometrists, it is put forth by some who sincerely, but mistakenly believe that optometrists have the proper training. Fact is, this is not so. It is only recently that any ... attention has been turned to the medical care and diagnosis and treatment of condition of the eye in optometry school.

The majority of practicing optometrist have only accuracy look at this and even recently trained optometrist have certainly not had enough. The lectures they have had in optometry schools do not qualify them to practice as physicians. I maintain that is wrong minded to propose by legislative fiat to give to any professional group the rights and privileges that should have first been earned, to give the optometrist the right to practice and than ask them to return for the education they need, seems to me be both ridiculous and frightening. The fact is, few had the ... education and none had the clinical training to practice and diagnose the treatment of medical conditions of the eye without the supervision of a qualified physician. I implore you the legislature to consider the seriousness of this bill, we are talking here about people, sight and the health of their eyes. National public opinion polls, and I'm sure you'll agree, rank loss of sight, second only to cancer as their greatest fear. You have the responsibility to protect the public, if passed this bill under consideration would only serve the complicated already confusing situation. Most of the public is unaware of the difference between an optometrist and ophthalmologist and the great differences in their capabilities and training. Passages

of this bill would imply to the public both that optometrists have the ability to diagnose and manage eye conditions and a complete understanding of the use of these drugs and the management of their possible complications. None of these conditions are true. Optometrist have claimed they can safely use the medication proposed but during my glaucoma fellowship I personally witnessed three surgical emergencies brought on solely by the use of these drugs and many more which the quick and accurate diagnosis and emergency medical treatment was vital to preserving the sight.

Number 0401

I shudder to think that the bill was passed and the public was further confused about who is the proper provider primary eye care, what needless pain and suffering and loss of sight might be caused. In summary, I feel this bill proposes to give an unearned privilege without corresponding requisite responsibility. It is unearned, because optometrists have had even none or inadequate clinical training, and they propose in this bill to determine among themselves who is competent among them to use the drugs. That frightens me, it should frighten you and would certainly frighten an informed public, also this bill gives the right to "to diagnose" to people who qualify at best only to detect and do so without requiring referral to a qualified physician for diagnosis and care. I think there's room for compromise though, certainly compromise substitute bill as being submitted to both the House and Senate for proposing to give educationally, qualified and tested optometrists the use of a limited list of drugs to assist in their detection of abnormalities of the eye, but it also recognizes their limitations to "to diagnose" as distinct from detect abnormalities of the eye and requires the referred to a qualified physician.

Number 0423

I feel this is the most appropriate to the realities of the situation and the welfare of all concerned and if I could just answer one comment that was made by the optometrist who spoke first. About the realities and the insurance; he mentioned insurance rates from '75 and '78 which were published I think by the National Association Insurance

Adjusters. I want to note that those dates were before those states had drug bills for diagnostic drugs, but were not therapeutic drugs and from '79 to '80; the insurance rates for optometrists went up 38% because of the claims against them, and since then they have gone up dramatically more, but I don't know the percentage.

Number 0435

Chairman Tischer: Thank you very much, Dr. Ball, are there questions from the committee? Rep. Davis?

Rep. Davis: Thank you Madam Chairman. Thank you for your testimony, I'm curious to know if you seen this CS for HB 225 that has been referred to as the compromise bill or is it one of Sen. Josephson's?

Chairman Tischer: Which version?

Rep. Davis: I think the only version that I've seen is Sen. Josephson's.

Chairman Tischer: You will note that some of us have several versions from Sen. Josephson's and at the top of the right hand corner for those who are privy to having a copy, its version number 1, 2 and 3, and each one is different. While you are looking for that, well, I'll let you ask that question first.

Chairman Tischer: I was looking at version number 1 to begin with.

Rep. Davis: The last version is the version the committee was looking at, version number 3.

Chairman Tischer: The real watered down one, is that what you think?

Number 0452

Dr. Ball: The last version is the one thats actually in the other body right now is the one you feel is the compromised one, the one you can live with? Is that what you're saying?

Number 0457

Chairman Tischer: Its going to be real confusing for all those listeners and observers who are testifying to carry on a conversation without documents in front of them, so I caution to the committee to make

sure that when you are identifying anything please refer to a section or a line and identify what document you are looking at. So that even though people who don't have the document in front of them will know what you are talking about.

Chairman Tischer: Rep. Davis, do you have your answer?

Rep. Davis: Yes, thank you Madam Chairman.

Chairman Tischer: Are there any questions from the committee for Dr. Ball?

Chairman Tischer: I have a question Dr. Ball; version number one of Sen. Josephson's bill; identifies a list of approved drugs and they are categorized and under the categories are subsections that list various drugs that could be used by a licensee holding a certificate. In other words the licensed optometrists that is controlled by the optometry board and so forth, would you please look at that list and make comments on it please.

Number 0476

Dr. Ball: Yes, I've been looking at the list and topical anesthetics which I think they can, certainly those who have been properly trained and tested on their recent use and effectives, I think is outside their realm and implies that they have a sufficient clinical understanding and knowledge to diagnose conditions. And I think they can detect when there is an abnormality, but I think it puts too big of a burden on them who have only gone back to learn.

Number 0486

Chairman Tischer: If you were sitting down on an examination for an optometrist who maintain that they had the skill and the education to utilize having effective drugs and demonstrate to you through testing and examination that they had those qualifications, what would you say?

Number 0491

Dr. Ball: If I can set an exam and they passed it, I would still feel there other people, paramedical people who can demonstrate for efficiency and certain limited areas; like intensive care nurses have certain limited specified capabilities

and certain situations, but that even then is still always under the supervision of a physician to re-evaluate and to monitor what they do, and I feel in these situations, where the health of the eye preservation of sight is always a factor. And the other categories is even more important, any glaucoma agents, any inflammatory agents, any virals, the situation comes even more important. I think that in any of these situations, they would first have to demonstrate for efficiency, but always under the guidance of a physician.

Number 0496

Chairman Tischer: I would like to have you first answer my question, if you put the exam to the optometrist and they passed the exam sufficiently to meet your desires and your needs, proving or disapproving one or the other, that they have the ability to do anything; what you are saying to me is that you would still not allow them to do it unless you supervise them, is that correct?

Dr. Ball: Yes.

Chairman Tischer: Thank you doctor. I would also like to have for those who are in the field, if you stay at the sites if you have any questions of the other witnesses through the Chair, I would appreciate you either submitting them, so we can ask them if you are not going to stay or that you direct them yourself. I think this would be a good time to have an exchange of dialog, so if you have a specific question through the Chair to another witness that would clarify for the committee and inform them I would appreciate you doing that. The next witness that we would call is in the Mat Su Valley; Dr. Denise ..., and please correct my pronunciation, if you would please.

Number 0499

My name is Denise ... and I'm an optometrist in private practice here in Mat-Su Valley and I've been here for about two years. I'm testifying in favor of diagnostic and therapeutic drug use by optometrists. You have already heard much on this, so I'll be brief. Dr. Ball seems to feel that none of the optometrists have the proper ... clinical training. I, however, was an optometrist working in Thialand for a year after I graduated and I used both diagnostic

and therapeutic drugs there and I felt that my optometric education adequately prepared me for any type optometric care. The nearest ophthalmologist to me in Thialand was about 8 hours away and I referred all my surgical patients to him, but I felt qualified to do basic diagnostic treatment myself. To be able to provide that same scope of care here in Alaska, I think would be extremely useful, not only to the optometrist but also obviously to the patient. Here in the valley, we don't have an ophthalmologist here all the time, our offices open late on Fridays and also open on Saturdays, and the General Practitioner here in town are open during those particular hours. So if you have a patient that comes with some kind of contact lens over wear or small abrasion and you want to give them some kind of antibiotic just to ....you cannot do that, so you either have to send that patient to the Palmer Emergency Room which is going to cost them a lot of money and time or send them to Anchorage, which is a real hardship on people, especially your older patients who don't like to drive that distance. So, basically,

I see it as an increased inconvenience for the patient, a lot of decrease in cost for patient and especially for people who practice not in Anchorage are a real advantage to the people that you serve.

Chairman Tischer: Does that conclude your testimony?

Denise ...: Yes, it does.

Chairman Tischer: Any questions from the committee?

Chairman Tischer: I have a question for you doctor, there is a proposed list of drugs in version number one of Committee Substitute and identify those in categories, although I did not read the entire list. How do you feel about the legislation proposing listing specific drugs versus categorical drugs or none?

Denise ...: Well I'd be in favor of categorical, however, listing them seems a little bit restrictive just because new

drugs come on the market every so often if you have a certain list and your list will be outdated and you'll have a problem if can you prescribe it and you need to change the bill and that sort of thing.

Chairman Tischer: I also have another question, Doctor, in the proposed legislation. Do you have a copy of the original bill?

Denise ...: Yes, the original bill,

Chairman Tischer: Thank you. Are there any provisions in House Bill 225, original version that you feel needs to be expanded or declarified for the protection of the optometrist as well as to prove your worth, if you will?

Denise: Basically, it seems that everything is really complete, again you have to refer to our legislative committee and again I'm not a part of that, I'm somewhat uninformed as to the various versions.

Chairman Tischer: Thank you. I have another question, will you hold on, I have to look it up. How do you feel about a provision that would require that upon the advice and guidance of state medical board that developing a specific list of prescriptions and non-prescription, diagnostic and therapeutic drugs and their dosages be used in practice of optometry?

Denise: I don't particularly like that for the reason being that with advising consent it means that if you try to get a group of people together to advise and consent to anything, its a very difficult thing to do, you have to get a meeting, you have to get optometrist and ophthalmologist together and you have to get something accomplished. Three things which are all very difficult to do.

Chairman Tischer: The language reads; with advice and guidance, it does not require approval of the medical board, but just the advice and guidance, in my interpretation it means that there be a collaborative effort to ...(end of tape).

Tape 5, Side 2
Recording
Number 0001

Chairman Tischer continues: ... The approval of the Medical Board be secured but that the Board of Optometry and the Board of Medicine collaborate for the best interest of the client.

Denise: ...I don't really see a big problem with that.

Chairman Tischer: Thank you very much. We'll call the next witness; James Patterson, and please indicate yourself and who you are.

James Patterson: My name is Jim Patterson, I'm an ophthalmologist who has been in private practice in Anchorage for the past 12 years; I am testifying as a concerned individual. I'm opposed to HB 225 because I feel that the present level of education and background of practicing Alaskan optometrist in no way qualifies them for using drugs for diagnosis and or treatment or to perform surgery. There are several articles and literature which dramatically demonstrate the educational differences between ophthalmologist and optometrist. One of the better articles by Don Pearson and it appeared in the transaction of the American Academy of Ophthalmology and ...; these articles indicate the present day optometrists, these are the individuals who are practicing in Alaska are sorely lacking in medical and clinic expertise. Another article by Dr. Campbell, he states an accurate and appropriate referral for treatment of eye problem in the effectively performed on the basis of a good history and externally examination...(noise in background). As high as 95% of all eye disorders can be protected and determined in this fashion, all of these procedures can be performed without the use of any diagnostic drugs. I would like to address the categorization of drugs listed in the proposed bill and point out one specific example: Cocaine, in the broad sense of the word is a ... drug, drugs when applied the front surface of the eye can be absorbed systematically within a minute of 7 to 8 seconds, it has a topical effect of numbing the front surface, it was one of the first

agents to use to perform eye surgery, it also dilates the pupils.

Number 0033

This drug included for use by optometrists in present form of legislation, this drug presently requires DEA numbers and approval for physician to prescribe this agent. In summary, if optometrists want to function as ophthalmologist, let us protect the people of the State of Alaska and require them to go back to school through the existing program and gain the necessary clinical and practical experience needed in this field of medicine. For these reasons, I urge you to defeat this proposed legislation in its present form. Thank you.

Number 0042

Chairman Tischer: Thank you, Dr. Patterson, are there questions from the committee? I see none. I have a question, Dr. Patterson, rather a comment, this present legislation that is before the committee is the original House Bill and for the benefit of those who do not have the document before them, I would like to read Sections 2 and 3, actually they are practically the same. One is the "optometry" is the examination of, the other section is; the "practicing optometry" and I would like to read that and have you comment Doctor, if you would please:

"Practicing optometry" is an examination of the human eyes and visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye; or the diagnosis and treatment, including the use of drugs, of inflammations, infections and injuries of the eyes and eyelids; or the prescription or application of lenses, prisms or ocular exercises for the correction or relief of the human eye; or the holding of oneself out as being able to do so.

Number 0060

Chairman Tischer: I heard in your testimony something referring to surgery which this

proposed legislation does not address, but in addition to that, would you comment on that definition and give us some guidance?

Number 0063 Dr. Patterson: I would think that a surgical procedure would be the removal of a foreign body from the surface of the eye or perhaps even the removal of a partially penetrating foreign body. If an individual given an agent which has sufficient power to numb the front surface of the eyes and such a procedure can be performed I would expect that such an individual might be tempted to remove the foreign body after having removed several foreign bodies, perhaps they might be so inclined to remove a growth on the surface of the eye, since they have the agents to perform such. Surgery is not specifically excluded in the bill and I would see problems with possibly extending into the surgical area. I have trouble redefining optometry as a practice in which eye disease is diagnosed as also specific therapeutic and diagnostic procedures are performed.

Number 0078 Chairman Tischer: But there is no identification in that definition at all that deals with disease or any inference even close inference as far as I can see and surgery, Doctor, I wanted to know what you're interpreting that section of the bill correctly.

Number 0081 Dr. Patterson: I'm saying that, yes, I realize that surgery is not specifically addressed in that bill, I think that deficiency, I also am against saying optometrists diagnose and treat diseases of the eye.

Number 0085 Chairman Tischer: Thank you, Doctor, are there any questions from the committee? If not, we will go on to the next witness and that will be Steven Dobson from Anchorage.

Number 0092 Steven Dobson: This is Steven Dobson, I'm an optometrist practicing in Anchorage, I was born and raised in Alaska and attended the local Community College and University and Undergraduate. I received my Doctor of Optometry Degree from Southern California College of Optometry, I also completed a one-year residency at the Veterans Medical

Center in Los Angeles; and first of all I am very grateful for the Alaska Student Loan Program and also the WICHE program that helped finance this study. I decided to return to Alaska to practice optometry at the level of which I've been trained, I guess thats why I'm testifying here before the committee today about the issues that have been brought up by prior testimonies.

I would like to clear one area of confusion, thats the area of professional judgment; if the law requires that I treat any or all eye diseases, I have a difficult time going to my office each morning, needless to say, I utilize the professional judgment every day on every patient, and even with the drug law I still would be referring many of my patients for that secondary and ... eye care, a need whether medical or surgical.

Currently, one of the most significant role models we can use to guide this legislation is that of a West Virginia, they had a therapeutic drug law now since 1976 and I don't have the latest which talks about the success of this bill in terms of decreasing patient care cost and all of the optometric care. I do have a letter in front of me that was written three years ago; they used a total of 72 different drugs for the human eye, they treated some 47,000 individual patients, the distance of these patients would have otherwise traveled to geographical locations. Other than those treated by optometrist were treatment by ophthalmologist or appropriate medical specialist, combined a total of 620,000 average miles, 52 pathological conditions were diagnosed and treated by the West Virginia optometrist and there are 135 West Virginia optometrist that have this traditional privileges for optometric license in that state. Its also noted that there has been no reports to the Board of any adverse reaction to the diagnosis and treatment rendered to patients involved in any West Virginia certified optometrist.

Number 0136

I also have another very brief letter that was written two weeks ago from the Director of Nebraska Department of Social Services and she was responding to Sen. Don Wesley who is in the Nebraska State Legislature and

the comments were as follows:

The department anticipates a decrease in expenditures for these services for the following reasons: (Now Nebraska is also introducing a therapeutic legislation), and her first statement was; the plans will now have to go through the optometrist to an ophthalmologist for this minor treatment, therefore, the department would have to pay for one office visit and instead of two office visits. The medicaid and liable fees for optometry visits are generally less than liable fees paid to ophthalmology.

Number two: This legislation will have a very positive effect on the availability of service to the clients as there are a few ophthalmologists in outside and out state Nebraska.

We have very similar situations here in Alaska, and another issue that has been brought up in prior hearings is that for some reason the bill ends up in the Finance Committee and obviously this must be a stall tactic. The comment made here was the administrative cost of this bill would be minimal, estimated at less than $500. and so I hope that this bill will not be tied up in the Finance Committee again, its absolutely non-productive.

Number 0157

Steven Dobson: Again some restrictions I think may be appropriate on this drug bill and one was brought up earlier by Mr. Rush and that is; controlled substances should be eliminated and therefore, would not require any DEA numbers, also classifications of drugs I think are appropriate. Restricting these specific drugs would be inappropriate because certain patients as you know have sensitivities to certain drugs and also drugs do change. That would require legislative hearings to allow the use of new drugs that do come on the market. In reference to Dr. Patterson's comment that 95% of all eye conditions were diagnosed without drugs, my question is why do most all ophthalmologists dilate the vast majority of their patients for routine eye exams.

Secondly: Foreign body removal, I work on

Saturdays and also have evening appointments in my office and patients who are working in a garage and get dust or piece of rust in the eye and make stick on the cornea, any of these are easily rinsed out with a saline irrigation. We require even a Q-tip or something to superficially take this away and again these patients are referred to the emergency room, especially after hours. And again, a day doesn't go by that a contact lens patient doesn't show up in the office with an over wear or a condition that would require that they have an antibiotic and our decision is to refer them to a general physician who has less expertise and does not have the equipment or again send them to the eye specialist, the ophthalmologist for treatment. And in my conclusion, I urge the support of a diagnostic and therapeutic bill. I will answer any questions at this time.

Number 0188

Chairman Tischer: Thank you Steve, are there any questions from the committee? Rep. Martin.

Rep. Martin: Madam Chairman, I don't have any question except to confirm a couple of things with Dr. Dobson. We have a West Virginia Board of Optometry of 1981 report and someone has conscientiously updated it to department numbers to the various categories of drugs and the number of patients and so on. But what I like about the West Virginia report and also the Nebraska report is that they show in those areas they have similar problems to what we have in Alaska and that is a geographical problem and economic problem, a problem of availability of services needed by the people and its in my mind that the optometrist, because of the way they develop their professional group in this state of reaching people, going out into the rural areas and provide a major access to providing services that people need on small emergency basis.

Number 0201

And to me, we would be very negligent and not do our duty as legislators not to consider these factors and making it possible for people in the remote areas to receive the best medical available. Some day, some age when the ophthalmologists are

willing to travel to the bush, are willing to go out there and make themselves available to the people, than we may be able to reconsider 10 to 20 years down the road. If a person gets a splinter in their eye due to an accident or a hunter is out there and he or she knows they can see an optometrist near by; than we should help them...best, professional expertise to that individual.

Number 0213

Chairman Tischer: Thank you Rep. Martin, I'd like to ask Mr. Dobson and Mr. Patterson who is sitting here with us a couple of questions; Mr. Dobson if I were to come to you with a piece of dust in my eye, how much would charge me?

Dr. Dobson: I wouldn't charge you anything. The average patient ...brings up the issue of the economics and situation. A lot of patients come in for a routine eye examination at the same time they will mention their eyes have been tearing or redness and may have a minor infection in addition to a visual problem, and to treat that at the same time, the additional fees would be nominal. We have not set a fee schedule for that, we don't have those privileges.

Chairman Tischer: No, I'm talking just about, if I came into your office unannounced and you had time, wouldn't you charge me for an office call? Not just because I'm a representative, but because I live Spenard and am walking up to your place and I need some help.

Number 0230

Dr. Dobson: It would probably determine a number of factors; a standard office call would probably be $25.00, but again.

Chairman Tischer: Thats what I wanted to know, what your standard office call was.

Dr. Dobson: Prior patients, we see them for other care, we see them quite often for contact lens, irritation, various questions they have and again we don't charge every time they come into the office, but I would think that an office visit would be appropriate and that fee again would probably depend on type of service.

Chairman Tischer: Thank you and Dr. Patterson, if I came to you with the same problem, how much would you charge me for an office call?

Number 0240

Dr. Patterson: I would have to agree with Dr. Dobson, if you came in, there probably will be no charge. The routine office is run anywhere in my office from $26 to $45 depending upon what services provided. No one is turned away from my office and the fees are negotiated all the way down to nothing, this is what I interpret as the patient's financial status.

Chairman Tischer: Thank you, Dr. Patterson.

Chairman Tischer: Dr. Ball is sitting here with us also, I think he would like to make a comment before we go on to the next witness.

Dr. Ball: Well, I wanted to comment to the third question of the remoteness, which is also an issue, the remoteness of the people in the bush or in little cities or on islands to good medical care for eye problems. I want to say first all, ophthalmologist do travel to some of these remote areas and I in fact have been and we do go to Sitka, Tenakee, Wrangell and Petersburg and Pelican and places like this to give optical care. Secondly: I just joined Dr. Page so we are able to travel to these places more frequently, and to give you the exact frequency I can't right now since we are in the determination stages on how frequent we can do it with other person covering practice in Juneau, and certainly its not there all the time, but there is no optometrist in Pelican either. They were doing it in rotation basis as well. But I think just to use expediency as justification for less then adequate medical care is not I think valid.

Number 0269

Chairman Tischer: Thank you, I have something to clear up with the committee members, I mistakenly saw the name Josephson on the revisions that we have on file as being Sen. Josephson, that happens to be drafter of the revisor, I apologize for my mistake.

Rep. M.W. Miller: Madam Chairman thats correct, but Sen. Josephson is also the original sponsor of the Senate side with this piece of legislation.

Chairman Tischer: Rep. Martin?

Number 0276

Rep. Martin: Thank you. I'm glad to hear what Dr. Ball said, this is my feeling that because the competition in the field and because we had no ophthalmologist in Southeast for a long time. The only resource that people had with eye trouble besides needing a prescription like I do, the only resource they had as to optometrist for help, there was a lot of good optometrist...I know ophthalmologist they can really help you. I'll make a point, I'll call Dr. So and So in Seattle and I'm very pleased to see that we have specialist here in Juneau and Southeast, and I know the professional people here will establish, optometrist will establish a good relationship once they have mutual touch with each other. And that an optometrist will say, hey, I know of an ophthalmologist in Southeast who is really good, you don't have to travel to Juneau or Anchorage anymore, that's the whole idea; where we allow each profession ... in the long run allow the public to know if your professional people work in hand and glove with each other. I don't believe in there needs to be competition.

Number 0293

Chairman Tischer: Rep. Davis.

Rep. Davis: One comment and one question; last year there was a testimony on this piece of legislation and one optometrist made the comment that when he was traveling in the villages, that the health aides had a lot less training, and they could a lot more things with the eye than they could, by law. Which is sort of an interesting observation, and the other question; what percentage of care in your office is treatment of people with over use of contact lenses?

Dr. Dobson: First of all a comment on the policy about the public health service, I am not a member of the public health service.

I serve as an advisement for the health

service, mainly for pediatric ophthalmology problem, I have also done contract work in the villages doing eye screening and ... for the public health service. My understanding and having talks with specifically with the present Director, Dr. Holly Corshion, that all drugs are dispensed under the umbrella and with the full protection of the license of the ophthalmologist and the Public Health Service. The optometrist were working directly for the Public Health Service, function under this umbrella the Health Aides also work under this umbrella, if this policy has been changed I'm not aware of it. The second question as to what percentage of the individuals in my practice are over wearing contact lenses? I see anywhere from 85 to 120 people a week, on the average probably during that week if there would be 1 or 2 contact lens over wearing syndromes. Most of these are minor, heal quite readily, perhaps I don't even need a topical antibiotic to treat them.

Number 0327

Rep. Davis: Yes, thank you Dr. Patterson, I realize that those health aides in the village would be the under the umbrella with somewhat else, but I just meant on sight they have perhaps greater capability of treatment of the eye than the optometrist, its just a comment that someone made. Thank you for the information.

Number 0331

Dr. Patterson: I think the excessibility to additional advice, and consultation is an important factor there. I think thats why the system has worked so well, either through the radio network or through telephone, either with the regional hospital like in Bethel or even contact with the main hospital here in Anchorage. System has worked for ...its an every effective system.

I think that this is the kind of set up that might be looked at very carefully and maybe some of the good points be incorporated in the situation here in private practice here in Alaska.

Chairman Tischer: Dr. Patterson, it comes to mind a question as to all through the process of hearings on this bill and other bills that are proposed pieces of legislation that deal with other term

medical profession and so forth, the legislature is seeing a real tremendous turf battle here. Thats what I have come to realize, its a frustration on the part of the legislators to accommodate the needs of our constituents and the folks in the rural areas. We find it difficult to manage this turf battle, if you will, and I guess a couple of questions; why the heck don't the professions get a little closer together in resolving some of these types of things in the best interest of the general public? And two; why is it that the general public, I'm asking this specifically of the ophthalmologists, why in the world doesn't the public understand what the difference is between an optometrist and ophthalmologist? It seems to me as if though the profession would be the primary folks that would be interested in making sure thats a clarification to the public.

Number 0363

Dr. Patterson: Without the answer to those questions I don't claim to have a particular insight. I myself, an ophthalmologist, presently because of two excellent optometrist that I had the pleasure of serving within the United States Navy. I deal with my fellow ophthalmologists on a personal individual basis, I deal with fellow optometrists on a personal individual basis, realizing that there are some individuals who are highly skilled, some that are not so highly skilled and than some I disagree remarkedly with. I do not interpret this legislation as the turf bill, granted 5 years ago I did. Realistically thinking and trying to study this, this bill will in no way affect my practice, financially, emotionally or any other way.

So I dismiss it as a turf battle, I have no qualms speaking as an individual allowing optometrist to use certain medications that are listed out as prescribed and those that are given preparation for "diagnostic purposes". I have very marked reservations in creating another class of medical providers using prescription type drugs. I've persisted in coming to these hearings and making my presence known as much as I can because of my own personal beliefs on this latter as ...

Number 0392

Chairman Tischer: Thank you Dr. Patterson and could you address the problem that was mentioned here earlier, the general public doesn't really know the difference between ophthalmologist and optometrist?

Everybody knows the difference between a gynecologist and a pediatrician, but apparently very few people know what the difference is between an optometrist and ophthalmologist, so could you tell us how better you could improve that understanding to the public.

Number 0399

Dr. Patterson: I think the way we can improve is through educational programs. During the last 7 to 8 years, ophthalmologist has been behind the times in their political loxy, its taken us 3 to 5 years to catch up. We have national organizations, our present academy is doing TV spots, they are putting editorials in the newspapers in trying to educate the public. Its been my impression that people are smarter than a lot of us would generally like to give them credit for, I get a fair number of my people referred from optometrist, I also get a fair number of my people referred from themselves, because they are smart enough to realize that they have a major ophthalmological problem as opposed to an optometric problem. One other point, if this were such a burning consumer issue, I'm surprised that our legislative hearing this morning isn't just absolutely packed with consumers. I wonder why there are none present.

Number 0419

Chairman Tischer: Thank you doctor, thats why I think its a turf battle. Are there any questions from the committee? If not we'll go on to the next witness and, Rep. Davis?

Rep. Davis: That was one of my concerns too, last year, it didn't seen to be a big out cry by the consumer with this piece of legislation, but I can understand the general public not necessarily knowing the difference between professions. Some don't even know the difference between a democrat and a republican.

Number 0430

Chairman Tischer: Thank you Mr. Davis, Mr.

Harry Treager please, he is here in Juneau and we ask him to come forward to the table.

Harry Treager: Madam Chairman, my name is Harry Treager, I'm the Director of Division of Occupation Licensing for Department of Commerce. I don't not have a formal presentation to you, I can only tell you that as the administrative support for the Board of Pharmacy and for the State Medical Board, their positions are unchanged from last year, they opposed the legislation. I do not have any of the technical answers for you, as far as your questions in regards to the registration factor, if an optometrist is given prescriptive authority and do they answer to the Board of Pharmacy or do they both answer to the Board of Dispensing Opticians or Optometry, the answer would be, the Board of Pharmacy make the report to the Board of Optometry and the Board of Optometry would have the licensing jurisdiction. Other than that, unless there's some questions from the committee.

Number 0448

Chairman Tischer: Thank you Mr. Treager, is there any legal obligation on the part of the pharmacist to be the watch dog of dispensing drugs from the prescription end of it?

Harry Treager: Madam Chairman, In response to your question, I would have to say yes, because if a pharmacist licensed by the Board of Pharmacy is in violation of their statute which is filling prescriptions or over dosing by prescribing health care professionals, than they are responsible to the Board of Pharmacy, so they would be in jeopardy.

Chairman Tischer: A little more clarity on that, what if an optometrist prescribed a drug that was not in one of those categories like over dosing or the frequency of renewal and so forth, but was simply a request by an optometrist who fills the prescription for a client and the client went to the pharmacy and presented the prescription request, is the pharmacist responsible for what kind of drug that optometrist can dispense?

Harry Treager: Yes ma'am, we had one case as Mr. Rush the Secretary of the Pharmacy

Board pointed out.

Chairman Tischer: No, I'm talking specifically about optometry right now.

Number 0466

Harry Treager: Yes, I'm giving you a correlation between the two, if the pharmacist felt that the drug should not be prescribed he would contact a member of the Pharmacy Board. So, the answer to your question is yes, they could refuse to fill a prescription.

Chairman Tischer: And if they did by accident fill a prescription, lets just say accidentally, maybe they didn't look at the list, for whatever reason they dispensed that drug, and someone else knew that drug should not be dispensed on behalf of the optometrist, wouldn't the pharmacist be legally liable?

Harry Treager: Madam Chairman: In response to your hypothetical question, I have to give you a hypothetical answer. So far, all evidence points out that the licensed pharmacists in the State of Alaska are pretty conscientious and they have not to my knowledge or to the investigating agency knowledge fills any unauthorized prescriptions as you pointed out, as scenario.

Number 0483

Chairman Tischer: I'm not questioning the responsibility or the ethics in terms of dedication to their profession at all, I just want to know whether or not by whatever quirk of an imagination, a pharmacist prescribed a drug that they weren't legally privileged to do and the prescription was filled by the pharmacist to the client, if the pharmacist is going to be legally liable or is it the optometrist who is initially and primarily liable for asking for that drug to be dispensed? That is really my question and it has nothing to do with ethics or their dedication to their profession.

Number 0493

Harry Treager: Madam Chairman, I understood your question, but its hard for me to answer both the optometrist and pharmacist would be held liable to their respective boards.

Chairman Tischer: That's more clearer, thank you. Rep. Martin?

Rep. Martin: Perhaps a statement, in relationship to your question about the concern about the pharmacy board, Number one: Over the years I've been involved in medicine there has been a number one agency that really monitors whether by law or their professional standards what medical professions are doing in the misuse or use ...medical services... so there is going to be a potential abuse, they are going to be the first one to stop it. Also, I think we do have a ...in the FDA and the Medicaid Program, Medicare Program that monitors the prescriptions that go out and here again those doctors in the past who have been guilty of over use or abuses that came to the pharmacy and I don't think they'll hesitate to make sure the optometrist are responsible agencies once it is given to them. So it is not written in law, we do have this agency that above all has been controlling the misuse of drugs.

Number 0499

Chairman Tischer: They are to be complimented. Do you have any more comments Mr. Treager?

Mr. Treager: No Madam Chairman.

Chairman Tischer: Thank you very much, if you will stick around, maybe there's somebody else who might have a question.

Chairman Tischer: We have several more witnesses before we break for lunch, so I'd like to with the committee's permission to go ahead since they were patient with us to wait on the beginning of this hearing. We have a doctor Peter Cannava in Soldotna. Is Dr. Cannava available?

Dr. Cannava: Yes, my name is Peter Cannava and I'm an ophthalmologist in Soldotna here and I'd like to address a few points and I'd like to answer some questions which I felt were left unanswered. One point I think is important, is that there is no human cry from the people of the state for this bill to pass and there's several good reasons for it. One of which is that the people desire

stricter drug control laws, not liberalization of the existing drug laws.

The state already spends a lot of money on enforcing drug laws and tracking down drug problems, we don't really don't in any way and the people don't I gather from their attitude desire any more liberalization over it.

Number two: The cost of medicine is high and the people of the state and the country would do anything to try and hold the cost of the way it is or at least reduce it. And this bill is going to increase the cost, for several reasons; one of this is repetition of service and the second reason is, its going to increase the cost of medicine, its for the mis-diagnosis with the implications which will ensue after that.

The third reason; it will increase the cost of medicine in the treatment of disease and injury because there will possibly ...too long without the appropriate treatment being started. The last reason why I feel that it will increase the cost is that this was ... there's very little difference in charge between an optometrist and ophthalmologist for an office visit for similar service and I think if the people can buy an ophthalmologist visit for $25 and an optometrist for $25 there is little reason to suspect they will select the ophthalmological visit that is the same amount, because the money is buying a lot more. There were some questions raised which I don't think were answered, so I would like to mention to Rep. Davis that well it is true that the health aides in the village and even the EMT on ambulance have ... (noise on tape) responsibilities in certain instances than do the optometrists.

I think it should be realized these paramedical people are controlled by physicians and any time they act they do phone in for permission from physician and are very willing to do this.

Optometrists are very reluctant to be under the supervision of the physicians or hospital and as you can see from the wording

on the bill they resent and are very much oppose to having to answer to physicians, and I think thats an important difference because the health aide issue and the EMT issue is raised so frequently. Rep. Tischer said why isn't the public more attuned to the difference between OD and the MD? And I don't think you run around finding medical doctors advertising that they do things that the optometrists does. But the reverse is very true, there use to be a clear difference between the OD and the MD, because our services were advertised differently. The past few years you will notice that the optometrists are advertising that they perform services which traditionally were performed before by physicians and I think is certainly muddying the water.

The last issue you mentioned turf battle; I think you can interpret somewhat a turf battle and it wouldn't be hard to make the analogy of our feeling with those of lawyers for example; if optometrist said, well we had 100 hours of court law, we want to go to court with our clients and practice law, or if an accountant says, we had 100 hours of court law, we want to go to court and represent our clients, how would the lawyers feel if such were to occur? That's all I have to say. Thank you.

Chairman Tischer: Thank you very much, Rep. Davis has a question.

Rep. Davis: Yes, I just have a quick question, I appreciate your comments. My question is; is there some kind of an agreement, lets say an optometrist has someone in his office and its Saturday and he's in a village, is there some kind of an umbrella coverage where he could than, if is possible that he could then contact...and say look and I have this situation in my office or whatever. Is that a practice that is common or is that even permissible by law?

Dr. Cannava: That's a good question, I think the Bethel situation functions very nicely, we hear the Bethel optometrist do ... (end of tape).

Tape 5, Side 2, 2 of 2
Recording
Number 0002

Chairman Tischer: Thank you very much, would you clarify one more thing for the committee, I thought I heard you say in the beginning you favored the legislation, I would like your position made quite clear to us.

Dr Cannava: I favor the legislation, I'm opposed to the legislation, did I hear you correctly?

Chairman Tischer: We are getting a three time around echo here and I presume your getting the same thing, I'm not sure, maybe someone's microphone is broken or something, now I understand you to say that you do oppose the bill, is that correct doctor?

Dr Cannava: Correct.

Chairman Tischer: Thank you very much for your testimony, we have a Jan Nyboer from Anchorage to testify.

Number 0011

Moderator from Anchorage says there is an echo on the line.

Number 0020

Dr.. Jan Nyboer: This is Dr. Jan Nyboer speaking, I'm a forty-one year old ophthalmologist, certified and I have been practicing in Anchorage area for the last 8 years. I might just briefly mention you my background; aside from my degree from college, I have received a Masters Degree in Physiology and Pharmacology, I have aside from the 4 years of medical school have received additional year in internship training at a 4 year residency training in ophthalmology at the Mayo Clinic.

One thing that pressed me about our speciality is that I like optometry, ophthalmology is a branch medicine and I feel optometry since it is not a branch of medicine can just further confuse this matter. Our background has done in training has been closely integrated with clinical experience in knowledge and pursue this knowledge that we are able to gain knowledge which really bring us to day really defending our position as ophthalmologist. We are proud of our profession and realize

what we can do in terms of the public service.

The medical point that I'm opposing is the use of drugs by the optometrists is this; the eye can not be treated apart from the rest of the body, statement by Dr. Patterson earlier mentioned 95% of all the eye problems can be diagnosed and treated by pen light or undilated pupil carefully history .... Yes, we do dilate people's eye in our office but we are interested in giving that last 5%. Now before, ...for a general exam, perhaps you could be surprised what we could tell you about your eyes, and again I mention that we are concerned more than just the eye.

A similar local complaint could indicate that something else is wrong and perhaps I would be able to tell you that you have early signs of diabetes, hypertension, early signs of multiple sclerosis, brain cancer and brain tumors, maybe thyroid ... disorders, or even a surgical problem. Its hard for me to even imagine what my background knowledge without having this intensive integrated clinical experience in the past, even began to guess whats going on with these situations and for this reason, sometimes I have to consult other physicians and colleagues to get further answers.

Number 0054

In short, when I'm looking through the eye, looking at the back of this its not that we are just ...(noise on tape) computer print out of what we see there, its an analytical procedure considering all the possibilities drawn and all the general medical knowledge in training and clinical experience. In terms of the drugs being applied to the eye, it is well known that it enters in the blood stream quickly and ...the problems of some of these drugs have the potential to stop the heart, stop breathing, cause seizures and could even blindness... and what physician is going to want to cope with these types of questions. Now some of the optometrists in Alaska who want the privilege of using diagnostic and therapeutic drugs for their clients and I say some because they are not all in agreement that they want this. It has being denied in the past by all previous Alaskan

Legislators, but it is re-attempted every year. And with this privilege, comes responsibility, but how can one be really responsible without the knowledge, even general physicians here in town and emergency room physicians are aware of their limited knowledge and the potential hazards to the patients.

They are intimidated by a good percentage of these cases they have and so they do call us for consultation immediately, eye sight is too precious and too perishable to laws, however well, their intentions may be that could result in permanent loss or impaired vision. So if I can by my position here against this bill can say that by opposing this bill, I feel that I have won, because I'm a long term thinker and not a short term immediate gratification thinker.

Now, considerations further on this, dilations for treatment of course have certain dangers and we don't need to get into that, how does the optometrist really know what he is treating without that indepth knowledge, when does he decide to refer the case, what if he never does refer the case.

Number 0085

I can tell you from my experience at Mayo Clinic, we saw interesting cases from all over the country, I can go through several horror stories regarding delayed referrals and situations like this and who pays double or suffers...(noise on tape). So, the optometrists have the right to use free enterprise, but there are some things I feel they don't have, basic college degree, medical training, clinical experience, they are not educated primarily by ... they do not have hospital privileges, many of them do not have a follow through program, after the patients referral for which they can learn from the past patients and many of them do not have rapport with other ... for advise. There are some things that I feel the optometrist should not have; I feel they should not receive support in the national campaign to get something for nothing, they want the MD's image without 24 years of schooling. They want to re-educate the public by PR rather than further educating themselves, they want their patient's trust

without taking the responsibility. I am not in favor of any compromise bill, I may sound abrasive, maybe we are dealing with a ego problem or a financial marking problem looking for legal license, but please don't give it to them. Thank you.

Number 0107

Chairman Tischer: Thank you Dr. Nyboer, I would just like to make a comment from some of the comments which you were making. As little similarity to the bill before us in terms of the expansion that you talked about; one of which is the hospital privilege and so forth. I would not want anyone to be misled by the some of the testimony that you have given, although you were justifying the Doctorate that you hold in order to practice medicine. I do have a question; the frequency in which the other states allowed prescription drugs to be dispensed and prescribed by optometrists, can we have approximately 35-38 states who's citizens are now jeopardized if you will, according to the ophthalmologists' position in terms of their eye health. Do you think that is a menace mistake, that 38 states have already made and how do you compare that with those that have not so far, thats about 2/3 of the entire 50 states.

Number 0123

Dr. Nyboer: Well, you know, two wrongs do not make a right, I feel that I can't really in terms of the numbers I'm not prepared to ... those numbers, only to say that, someone would like to give me some testimony from ophthalmologist and basically check the fruit on the tree and talk to the people that are in the middle of the system and namely the ophthalmologist and feel how happy they are with the situation. I really don't know.

Chairman Tischer: Thank you doctor. I think the main concern of this committee is to make sure that there are provisions for the general public for their protection of health and welfare, and also, on the other hand to make sure that there isn't a corner on the market, if you will, on any specific thing. Not just dealing with the paramedical profession. This committee is concerned and will deliberate on those issues as best as we know how and the advise from the professionals and legal

professionals that we are able to garner. We have one more person to testify, unless there are others out there, Mr. Center from Anchorage and is that person still available?

Number 0142

Mr. Center: My name is Thomas Center, M.D., I'm a board certified dermatologist who has been in practice in both Anchorage and Fairbanks, and am going on my third year. I also am informally an emergency room physician, approximately 7,000 hours I've serve in various emergency rooms across the country. I have not practiced that sort of medicine since coming to Alaska. I'm here this afternoon for two reasons; one as an individual physician, and the second; is in my capacity as President elect of the Anchorage Medical Society, the later capacity I would like to inform members of the committee that the Anchorage Medical Society unanimously indorses the resolution firmly opposing this bill. As an individual physician I just have a couple of comments to make and than I will be done.

Number 0156

The first that I have is; I wonder what need there is for this proposed bill, as being pointed out by a couple of the other speakers this morning there are no consumers present in this room and I would be curious to see how many consumer patients are in the other rooms around the state. Secondly: Again to repeat that comment made earlier by both Dr. Patterson and Dr. Nyboer, the 95% of eye complaints can be handled essentially with very little hands on medicine and no drugs, I think is a very good one to keep in mind. However, back in my experience as an emergency room physician, most problems that I saw when I was in the emergency room were referred on to an ophthalmologist, because I felt even with two months of clerk-ship as a medical student and then as a resident in dermatology, I did take a month of ophthalmology because I felt that there was enough correlation between the eye and the skin and that I should broaden my knowledge in that area. Even with those two months I felt I still felt uncomfortable, particularly I worried about the last 5% that Dr. Nyboer so eloquently talked about.

Number 0171

The second concern that I have; is really

related to the first, in addition to the need I wonder about the possible harm that could be brought upon the patients of Alaska by giving a group of people who not really have the training or background to handle some more sophisticated drugs that I can see possibly could be included in this generic list thats been offered. Let me give you a couple specific examples; and again I am not an ophthalmologist. I wonder about someone as an optometrist being allowed to prescribe a drug such as demoral, this is a drug which is a ... blocker, what little I know about the drug and is used in ophthalmology, is that its marvelous, it helps to control glaucoma, however, like any good drug it has side effects.

From my emergency room background, I know that such a drug in that class precipitate a case of asthma, and what would the optometrist do if he were to prescribe this drug if he were in the bush somewhere, (loud noise on tape), even more alarming to me would be an ... reaction, a person could get from topical neosporin, if put in someone's eye rapidly absorb in the system where the patient could suffer from complete cardiac arrest and die. I would like to ask the members of the committee, would you like to have that resting on your conscience, I'm done, thank you.

Number 0189

Chairman Tischer: Thank you Dr. Center, any questions from the committee members? I'll repeat a question that I had for the previous witness. Whats your feeling on the measure of success if you will, by the push if you will, the optometrist throughout the country successfully presenting arguments and obviously new legislation was initiated and about 38 other states regarding the dispensing of prescription drugs. Whats your opinion about that?

Number 0195

Dr. Center: Again, this is my personal opinion, I think that the optometrists in those states must have good lobbyists and I don't think that their legislatures in those states are good as ours, furthermore, thats one of the reasons I came to Alaska, because I felt that the lawmakers were a little more inlightened and would protect the public with far greater expense than the 38 states

where the optometrists are allowed to prescribe drugs.

Chairman Tischer: Thank you very much doctor. Dr. Ball has a comment.

Number 0202

Dr. Ball: I would like to make a comment to your questions, specifically to clarify in those 38 states that have given the optometrists the right to prescribe drugs, it is only three states that optometrists have the right to prescribe drugs, the other 35 states have the use of diagnostic drugs in their office.

Chairman Tischer: Thank you for that clarification, Dr. Ball. Are there any other witnesses out in the field that wish to come forward and testify before we take a recess for our next bill.

Number 0210

Dr. Jim Graves: Hello, this is Jim Graves, optometrist from Fairbanks, Alaska, Fairbanks Medical and Surgical Clinic. I'm back in this year to state my position on this legislation, I went to Pacific University College of Optometry with a grant from the State of Alaska, and this was sponsored in part by WICHE, as with Dr. Dobson. When I went to Pacific University and was also involved in elective for sensor ships, such as, at the Yukon-Kuskokwim Health Corporation and Seattle Indian Health Board, I studied both diagnostic and therapeutic pharmaceutical agents, and much of that study was done in a clinical study. Since my schooling I've come back to Alaska my home to practice, being a resident in Alaska for 15 1/2 years, I wanted to establish an optometric practice in Alaska even though I knew relative to what I learned in school, and being ... to optometry to practice I would still be able to practice limited optometry.

I feel that those who will benefit most by the passage of this legislation would be the patients themselves. When applicable, they'll have the same appropriate services as provided by ophthalmologists, by optometrists without extra expenditures.

I'm not concerning myself right now with the difference between fee amounts, but the fact

is whenever you have to go to a second doctor its going to cost you a second fee. I would also like to mention the importance in the extra time off that a person must take off to go to an ophthalmologist for a second evaluation.

Also, I would like to ask Dr. Patterson before he changed his position on the use of diagnostic drugs, Dr. Nyboer and Dr. Center, what about the other 5%, the extra 5 out of every 100 persons, that may have a serious problem with their eyes that could potentially be blinding. If optometrist are limited to such that they have just those clinical evaluatory tests to make without the use of drugs, would they than, as you mentioned have 5 out of every 100 that could potentially go blind, whenever they could go to that primary health specialist? Thats all, thank you.

Number 0252

Chairman Tischer: Thank you. Are there questions from the committee members? I have a question or comment, and it deals with your educational background, specifically you mentioned in regards to study of dispensing drugs and so forth. I need to have some clarification on that as far as individual's concern, when you go to school and are studying to become an optometrist, how does your education and requirements compare do that of an ophthalmologist in dealing with prescription drugs in dispensing and administering that, please, if you have that information.

Number 0258

Dr. Graves: Ma'am I feel that could be best addressed by a committee member relative to this legislation.

Chairman Tischer: I'm not sure what you mean by that.

Dr. Graves: Thats a committee member meaning an optometrist who is on the committee to follow this legislation through.

Chairman Tischer: You are talking about optometrist committee, you are not talking about the legislative committee, is that correct?

Dr. Graves: Yes ma'am.

Chairman Tischer: Do you have someone in mind?

Dr. Graves: Well, I think Dr. John Demsky is one, Dr. Steven Dobson would be another one.

Chairman Tischer: Thank you, are either one of those gentlemen present yet and if so, would either one of them come forward and try to answer my question?

Number 0270

This is the moderator in Anchorage, Mr. Dobson is no longer present at the Anchorage center.

Chairman Tischer: Is Dr. Demsky in Soldotna available?

Dr. Dobson: Yes I am.

Chairman Tischer: I will restate my question as best as I know how. I'd like to know from somebody when an optometrist or one who is wishing to become one takes their training and scholastic education on drugs and prescription drugs and such as that.

How does that prepare with an ophthalmologist's training, is it optional in terms of what is studied and is there amount of time that must be is mandated for comple[illegible] and certification of your educa[illegible] What is it that is different from optometrist and an ophthalmologist? Co[illegible] you tell me that?

Number 0283

Dr. Dobson: I can try. I graduated over 10 years ago and at that time there was only (1) state that allowed any optometrist to use drugs, so my pharmacology training ends in formal optometry school is very limited.

I had a (2) hour course in most of the training I received and since than its been post-graduate or just about all of it. Now all optometry schools have a minimum of 110 hours of ocular and systemic general pharmacology and courses they also have labs for using those drugs. Ophthalmologists receive their diagnostic training in medical school and they received much more intensive training and clinical use of therapeutic

drugs, most optometrists schools work jointly with other medical schools or with pre-sensorships, inter-ships such as Dr. Graves and Dr. Dobson mentioned, or their therapeutic use of medicine. Did I answer your question?

Number 0299

Chairman Tischer: Yes, you did in part, what it sounds as though, sounds like there is going to be any measure of relaxing, you would have to have examination to decide whether or not an individual qualified and knowledgeable versus their training and their clinical experience in dispensing drugs and application, thereof, am I joined the proper conclusions?

Number 0304

Dr. Dobson: Yes, I would not want any grandfather and if this bill is passed, as a board member we intend to examine everyone who wants to use drugs.

Chairman Tischer: Thank you, Dr. Ball, do you have any comments on that? Could you help us out with that a little bit?

Number 0309

Dr. Ball: Yes, initially I'm a little confused that somebody who admittedly had so little training initially and than only in post-graduate courses later is going to be the person deciding who has adequate training to dispense drugs under the present proposed bill. And to answer your question; as was pointed out just before, in the past optometry schools have not covered pharmacology or only in just a little cursory lectures at present they do require two semesters of pharmacology, as do medical schools require two semesters of pharmacology, but the big difference is after that, thats in second year of medical school for the next 6 years theres the practice of pharmacology in human subjects, it marks the difference between an ophthalmologist and optometrist.

Chairman Tischer: Thank you for your help Dr. Ball. Are there any other witnesses out in the area that would like to testify?

Number 0332

Dr. Demsky: I would like to further clarify that, in regards to Dr. Ball's comment about our limited knowledge, we certainly intend to use all of the resources available for

writing the exam and for giving the exam, as the other three states do, who now use therapeutics. Our national board is in the process of writing a written national exam for pharmacology and pathology for those states who have the use of therapeutics.

Chairman Tischer: Thank you, as that exam is being written, what assistance from the medical profession are you aware of in creating that examination?

Dr. Demsky: I believe there are specialists and authorities, especially in ophthalmology who will be assisting in the writing of the exam, however, since I'm not associated with that board, I cannot answer that, not 100% accurately.

Chairman Tischer: Thank you, would you be able to assist this committee by giving contact that we might secure information that is desirable for committee members regarding that national test? Is there a contact, is there a board, office telephone number or address that you might request that information?

Dr. Demsky: I believe there is, I don't have that with me, but I could send it to your attention, if thats alright with you.

Chairman Tischer: I would appreciate that very much if you could, are there any other witnesses that could wish to testify.

Moderator: Rep. Tischer, this is Anchorage and Dr. Patterson would like to make additional comment at this time.

Number 0348

Dr. Patterson: Rep. Tischer, in one of the references that I alluded to in my original testimony is by Dr. Pearson, specifically looks at the curriculum with the number of hours of study in pharmacology and comparing optometry to ophthalmology, this study was published in '77,

I have included it in my packets that I've sent before, I will do so after this testimony, but Dr. Pearson ... lives 126 hours of pharmacology being standard or average in the optometric schooling contrast to rather marketedly to 200 hours in the

ophthalmological training with additional 3 years of clinical experience with 148 hours of ocular pharmacology. Pathological training; study of pathology, specifically 60 hours optometrist compared to better than 200 hours, so approximately 3 to 1 would be a conservative estimate, difference in hours devoted to study, and like I said earlier, I would be sending you this with the letter, Thank you.

Chairman Tischer: Thank you, Dr. Patterson. What I'm attempting to do here is to secure enough information so that the second bill might be drafted, if that is the wish of the committee, to make sure that guidelines that are provided for in the legislation so that all areas are protected, but all areas are equally addressed and thats the reason for my questions and request for information. It is not the wishes of the Chair that this measure goes unaddressed, on the other hand we are very cognizant of the dangers involved in exercising legislative powers over an area that none of us have the expertise to do, we are hopefully going to garner as much information from the professionals as possible so that we can make an intelligent judgment as to what decisive action can be taken in fairness to all.

I just want to insure those that are still listening that I'm not interested in ram roding this legislation through with eyes closed, on the other hand I'm not interested in preserving a turf that may very well be expanded carefully and with consideration for the benefit of the general public as a whole. So, thank you very much for those of you who have put the time in testifying and again, my apologies for the lateness of the beginning of this hearing, with that we are going to recess for 20 minutes so that committee members can grab a sandwich and be back at 1:15 p.m., to continue the hearing on the next House Bill. Thank you very much. Recess.

Tape #6, Side 1, 1 of 2
Recording
Number 0002

Dr. Jay Bonner: ...well I first can't answer your number of the ones that have been misdiagnosed, the majority of patients that

I am seeing now are referred by another physician because they see my expertise in the field of phrenologist because they either didn't know they had ... problem or they were questioning what type of problem they had. The majority of these are legitimate questions, many of them don't have questions that are being asked; example, they refer a patient to, since we are talking about adrenal problem, does this patient have ... disease. I think that the question that they are asking you is legitimate many times, this is a rare disease many times they don't have it, the question they pose is; legitimate and so that...(loud noise in background). The naturopath owe them one patient that I can think of it not directly referred to me, the patient from the naturopathic physician came on their own. So I just want to be more specific.

Number 0014

Chairman Tischer: Thank you doctor, that answers my question very nicely. I appreciate your comment. Lets see, I think we have, we need to go to Mat-Su now.

Number 0017

(anonymous) ...and I'm a mother of four children and I would first like to make a statement, that I and my husband are in favor of the House Bill 347 for the licensing of naturopathic physicians, and I feel it is our constitutional moral right to chose the kind of doctor and treatment that we feel that is best for ourselves and our family. Naturopathic treatment has helped me in Alaska, Oregon and Utah, when other types of treatment could not.

I feel that highly trained and skilled naturopaths in our state would be an advantage to us in our community, and also to ensure that naturopathic medicine will be practiced responsibly and professionally, so I would urge you to support this bill.

I would also like to say that I've had one child in naturopathic clinic in Oregon and I had two children at home with naturopaths, I had one in the hospital and I have always had very professional care and felt very comfortable and I would also have another child coming and I would definitely want to have it at home and have that choice over

the hospital. I feel that its helped many women who had children at home for the naturopath and they never had complications or problems, and when they had, the naturopath was able to take care of them responsibly and I also like to state that you mentioned before that the reason we didn't have a Board of Naturopath before was there wasn't enough people, there was only 3 or 4 practicing in Alaska.

If this wasn't passed than what would ensure that in the meantime we would be able to practice according to the ...of our conscience ...that there was not a board to regulate this and I would just like to urge you to pass the bill and put my support and my family's support on this bill. Thank you.

Number 0036

Chairman Tischer: Thank you, I have a question, as a mother of 6 children who were born 5 different births, I have twins, you and I can have a private conversation here if you would. One of the doctors in her earlier testimony, I don't know exactly who it was, had indicated that there are times that during childbirth as you and I both know, there is usually surgical procedure to arrest the stretching of the vagina for the child to pass through, sometimes that tear reaches a long way. Have you had that experience in your natural childbirth, whether it be with a naturopath or midwifery? How was that handled, did the naturopath do the surgical stitching or what happened?

Number 0046

...Yes, my first child was 8-lbs, 14-oz and I did not have a surgical for the baby to come through and there is a procedure by messaging and by helping the baby to come through that this is not necessary. I had all four of my children without any risk or care without any surgical tear and I just had a baby that was 9-lbs., 10-oz. also.

Chairman Tischer: Boy, you beat me about 3 oz., there. Thank you, I would like to go to Fairbanks and than we have one witness here in Juneau.

Number 0054

Shirley... in Fairbanks: I would like to speak for Sheila Baker who could not wait,

she had to be back at work, so this is her written statement that I will be reading:

As the former owner of a health food store many people who are not helped by standard medical procedures were helped immensely by a naturopathic doctor in Anchorage. I myself have been, and feel very strongly about being denied my rights to use the type of medical care I want. A woman I know had a tumor on her uterus and the medical doctor wanted to remove the tumor which would result in the abortion of the baby she was carrying, she asked me what to do, and I said, if I were she I would go to the naturopathic doctor in Anchorage, which she did. Not only did the naturopathic doctor dissolve the tumor with treatment, but the woman gave birth to a beautiful, healthy son. And on my own, I strongly support House Bill 347 for my ... for naturopath and I think that one of the important things that we looked at today so far is that keeping these people and other alternatives, health practitioners in the closet will not help people get healthy. All we'll do is help people practice fearfully and without more information in the public and its very important that we let more people know that alternative help is available without leaving the state, and that we make here quality alternative help available to anyone who desires it. Thank you.

Number 006? Chairman Tischer: Thank you very much, and now from Juneau we have Mr. Treager.

Number 0064 Harry Treager: Madam Chairman, my name is Harry Treager and I'm the Director of the Division of Occupational Licensing for Department of Commerce. I am just here to answer any questions the committee might have. I think that possibly I could offer some assistance with a difference of license and ...license activity, without the state license sanction. Its been my experience from the Attorney General's Office that without a license doesn't mean that the practice can't continue.

The license moreless legitimizes the profession, but any profession would carry over to another already licensed profession is where the problem starts to exist. And I

think from hearing some of the testimony this afternoon. (problems on microphone, Anchorage couldn't hear the testifier).

Harry Treager: Again, Rep. Tischer, its the licensing or unlicensing function, its because one occupation or profession is not licensed does not prohibit that occupation from proceeding, its when they carry over areas of those already licensed; such as naturopathic healing to medicine, thats where the problems become complicated. Our position is that we are not restricting anyone from seeking what ever care or treatment they desire. Its just that cross over situation that complicates the issue, and I think one of the things we would have no problem with licensing naturopaths, I think our problem is with defining the scope of practice.

Chairman Tischer: So, its really a turf that we are protecting in a licensed area and a non-license area, isn't that correct?

Its kind of like truckers that in some places they are required to be licensed to do certain things and travel certain places and where somebody else gets into their area there is a complaint, because they are infringing on, I think its the same thing as professions. Am I reading this correctly, Mr. Treager?

Number 0095

Mr. Treager: Madam Chairman, I don't think I'm qualified to on the turf protection issue, you could also say turf protection and try to become licensed also. It sounds to me more like a legal question, but I just encourage the committee to give something in the scope of practice that you would want me or for the state to follow.

Number 0100

Chairman Tischer: Thank you, Rep. Uehling has a question.

Rep. Uehling: One of the questions that I had, do we have an idea to exactly how many naturopaths we have in the state right now and what we are talking about as far as numbers?

Mr. Treager: Rep. Uehling, the last knowledge I had was two; Dr. Pettyjohn in

Anchorage and Dr. Jamison here in Juneau.

Rep. Uehling: A follow-up question, what you're saying is we have a couple of people, it sounds as if have other people to testify, but there is no licensing structure, there is a licensing structure now?

Chairman Tischer: There is no licensing structure, Rep. Uehling, for naturopathic medicine and I add to Mr. Treager's comments that even as of late last year there was testimony and you will see it in your minutes that there were two practicing naturopaths known, there was another naturopathic practitioner that wasn't practicing that medicine because there was no licensing procedure. There are also several chiropractors that are trained as naturopathic physicians, but are practicing under the licensure of chiropractic.

Rep. Uehling: Than I will also follow a question on that, so in other words if we were to license them, what is that potential number that we will actually have, obviously there is a lot of report there from the stand point of people testifying, but what is the potential number that we are going to license?

Chairman Tischer: There has been a request for that information and all that I have been able to determine is that, there are more that would attempt to be licensed if there was a provision for that so that they could legally practice and there has been a request to establish a board for naturopathic medicine and it has been suggested that perhaps we might make a provision within this legislation, that when the numbers reach, lets say (6) that is an automatic trigger to establish a board for examination of licensing. But until that time, although there has been objection by a number of witnesses, that the Department of Commerce and Economic Development be the overseer until that time occurs, but the objection comes from the fact that there is no expertise in that department literally do the licensing and examining, because they don't have the background.

So it would have to be some input from some place or some content within this legislation to establish guidelines by which the department could establish their examination criteria and thats what the original bill attempted to do, to give that guideline and seek that input. Tt is definitely addressed and we might want find ...so that it provides the guidelines for the department of temporarily at least, to do exactly that. I'm sure that the profession itself probably would be instrumental itself in assisting in that and I sure would be glad to and as well as consultation with the medical profession in order to make sure that the general public's protection is at hand.

Number 0140

Chairman Tischer: If there are no further questions from Mr. Treager, than I'd like to go back to Anchorage again and take the next two witnesses.

Diane McDermott: Hello, I'm here to speak in favor of House Bill 347, my husband wrote this editorial and it explains our feelings on this matter. (loud noise on tape) ... my wife and I were informed by our pediatrician that our son would have to be kept on three very strong drugs and a series of allergy shots for several years. (loud noise on tape).

Number 0168

Chairman Tischer: Thank you very much Diane, I wasn't able to hear you as clearly as I'd like to have and I'm going to ask the committee members if they heard. Otherwise we could perhaps ask LIO to transmit your testimony written so we could make it part of the record, just for clarity, if you could do that Diane, we would be very appreciative. Thank you and I would like to have the next witness in Anchorage.

Number 0173

Moderator in Anchorage: Rep. Tischer we have Julia Reinhart from Anchorage next.

Julia Reinhart: I have had a relatively short experience ...very pleased to say that I've experienced. First of all, there's been some questioning of the training that naturopaths receive. In many cases a patient does not even know what to ask the regular physician as far as their training

is concerned, we don't know what to ask a doctor, do you know how to do this medication, all kinds of ways given, will you show me? Do you see what I'm saying, we don't even know what to ask the regular doctor in his training. What it comes down to is the patient's responsibility to establish individual trust in whoever is treating him. There are incompetent physicians, even with all their ...regulations, boards and so forth, licensing or requirements that they have to meet. So I think first of all, I want to continue to be able to go to naturopath,

I'm sorry that there are so many licensing requirements in effects of life, but if this bill is required for my naturopath to continue practicing, I am in favor of it. If someone is concerned about the care that they are receiving whether from a naturopath or from their regular doctor it is up to them to ask questions and establish the trust in their care giver. Thank you.

Number 0195

Chairman Tischer: Thank you very much, Julia. Are there questions of the committee? Hearing none, I'd like to go to Mat-Su and take another of their witnesses please.

Debra Lucas: I'm a patient of Dr. Pettyjohn. When I came up here almost two years ago I was 8 1/2 months pregnant, when I was down in Texas my doctor told me I would have to have a Caesarean. When I got here I couldn't find an OB doctor to take me, so I was referred to Dr. Pettyjohn from my brother-inlaw and he told me that there was no complications why I couldn't have my child naturally and have it at home. I had my son at home and I was in labor for 21 1/2 hours, my son did rip me with his shoulders, Dr. Pettyjohn took care of me and I've been going to him ever since. I'm 6 1/2 months pregnant now and I wouldn't go to an OB doctor if it was the last thing to do, that would be the only way I'd go. I am for this bill and I think it needs to be passed and I agree with everybody that is for this, I think it does need to be passed. It is our opportunity to have the choice of who we want to go to and who we don't want to go to. Thank you.

Number 0213

Chairman Tischer: Thank you Debra, if I may ask you a personal question, can you and if you care to answer tell me why you weren't acceptable as a patient to an OB doctor, under what conditions did you seek one?

Number 0217

Moderator in Mat-Su: Madam Chairman, your coming in very badly and we could not understand your question.

Chairman Tischer: Thank you, I'll try again, please identify if I'm coming through better; Debra, could you tell me if you would please, if you care to answer, why was that you weren't accepted by an OB physician and by what criteria did you try to select one when you first came here?

Debra: Yes, I was referred to three different doctors and I won't give their names, but none of them wanted to take me because I was so far along and didn't want to take the risk. When I left Texas I had my medical records with me, blood tests and everything so that if anything did happen to me or if I had to go through the emergency room I had all my paper work with me.

Number 0231

Chairman Tischer: Are you saying that because of your risk that they didn't want to attend to the birth of your child, is that what you are saying?

Debra: I don't understand that question, please repeat it.

Chairman Tischer: I'm trying to figure out as a mother of (6) how in the heck did a doctor turn you down if you went to them for assistance in the attempt to have your child, if they turned you down and wouldn't accept you as their patient.

Debra: I was told that I was too far along for them to accept me and I don't feel that was right if they are an OB doctor they should be able to take anybody no matter what risk they have.

Number 0242

Chairman Tischer: Thank you very much for your candid remark, Debra. I would like to go to Fairbanks for the next witness.

Efrin Resume: This is Fairbanks and I am Efrin Resume and I have a few points to bring up: One is that I was raised in New York State and at that time the chiropractor profession was not licensed, as a matter of fact it was one of the last states not to be licensed. Now I was raised and my family on chiropractic care and naturopathic care and so we were very involved in what was going on there. At last (the AMA in New York State by the way was very strong), they realized that some licensing was necessary and what they tried to do in my opinion was have chiropractic license with the greatest limit possible and so chiropractors were licensed there even though it did take them a very long time. It seems to me that licensing is the only way that doctors in this state can answer their own questions as to the professionality and still of the naturopath.

The other area I would like to address; that since I've been in Alaska for the last 15 years, I have lived a great amount of time in the bush, as a matter of fact 11 years ago and a couple of days, I delivered my own daughter in a cabin on the Yukon River and I have not had any specific training in any of these areas that we are talking about. But I did try to get as much advise as I could and I have talked to many of the people living in the bush in the Interior of Alaska and I have not found yet one person who was not very interested in naturopathic medicine and was not followed and tried to get advise in those areas.

So I think that there is a great need for when one was in the bush one might have a radio and one may be able to get a plane called in or have a plane, but basically the many situations even in a village, prevented medicine is crucial. This isn't enough time in many circumstances to get to the doctor, so many young people come into Alaska and wanting to be away from the city vendors have had a great need to learn and to get by as far as keeping their health and keeping the health of their families safe where they do not need surgery or do not need to get to a hospital. Naturopathic medicine is that alternative, that helps people learn more about their bodies and do care for

themselves where they will avoid having to have the use of a hospital. So I am very much in support of HB 347. Thank you.

Number 0284

Chairman Tischer: Thank you, are there questions of the committee. Hearing none, I'd like to announce that because there's at least 15 or 16 folks at the Anchorage site still waiting to testify and I am going to take 3 at a time from Anchorage, than alternate to Fairbanks and back to Anchorage or the Mat-Su so that we will give equal time to every one before they decide to leave.

Number 0293

Steven Cox: My name is Steven Cox and I reside here in Anchorage, and I would like to state a few facts; my opinion for passing HB 347, it is my belief that people in the United States are ...(loud noise in background) ... for the American Medical Association and through this we had very little choice as far as what type of medical care or health care we need to have. (loud noise on tape). I feel it is very beneficial and has come a long way ... but I also believe that our nation also needs more emphasis placed on life saving medicine which naturopathic practitioners provide. (loud noise on tape)

Number 0336

Chairman Tischer: Thank you very much and could we have the next witness from Anchorage, please.

Number 0337

David ...: My name is David ... I am speaking for myself and also for my wife, I've been a patient of Dr. Pettyjohn since when he first began his practice in Anchorage and I have never had any cause to regret that my family has been under his care, what I'm basically saying is that I'm very much in favor of this.

Three doctors here have said they have no objection to alternative health practitioners practicing, but they don't want to see any kind of licensing which to my mind is they are going to give us our choice, but they are going to deny the practitioners the right to provide us what we want and thereby, make us incompetent in what is now perceived as a crime, practice of medicine without a license. They are

denying the practitioners the right to provide them with care that they would give us, there seems to be a growing body of evidence that a lot of the practices, methods and really the entire focus of the "traditional medical community" are inappropriate or based on assumptions which have not been proven or just plain don't work. So I think that we really come down to a question of attitude and approach, prevention versus treatment of symptoms helping the body to heal itself versus intervention with drugs, which often have many unpleasant side effects and also often inappropriate and unnecessary surgical procedures.

I feel that naturopaths need to be licensed, I would hope that would be just the beginning, I would like to see a licensing procedure established for mid-wifes. I'd like to point out in Holland the OB courses are taught by the teachers of the national mid-wives' school, the mid-wife in Holland teach the doctors how to do their jobs, because it is perceived in that the country that the mid-wives know more about what they are doing. My own child was born with the services of a mid-wife and I was present there, there were no complications of any kind for which I would say that we were blessed, but the attitude of the mid-wife that dealt with us and the attitude of all the mid-wives that I talked to is one of constant vigilance to possible trouble and they have fairly strict series of guide lines so that if you don't fit within the practice of their requirement they won't do the delivery, they will send you to the doctor or to the hospital. They know what their limitations are and everything that I've seen says they are eager to operate within their limitations. I would say this an attitude that characterizes all the alternatives of practitioners which I dealt with and I recommend that this bill be passed into law.

Number 0401

Chairman Tischer: Thank you very much David, and more witness from Anchorage, hold on just a minute, Rep. Koponen has a question.

Rep. Koponen: Thank you Madam Chair, the

question I have is in regards to mid-wives, do you happen to know how many mid-wives there are in the different categories?

David: I don't understand what you mean by categories.

Rep. Koponen: Well there are nurse mid-wives or plain mid-wives or nurse practitioners who are mid-wives or in other words if there are people who aren't MD's who do attend childbirth and I'm just wondering if you have any notion how many types of mid-wives there are, or how many gentlemen, mid-wives. I heard a number of mid-wives in practice and I was wondering how they were in practice.

Number 0416

David: Well, mid-wives that we dealt with was a nurse mid-wife, her education was in England and she immigrated to the Unites States and she went through a re-accredited program with a college on the east coast, I believe Boston. I've known mid-wives that fall into all three categories, I would say that they are all characterized by the same kind of attitude toward what it is they are doing, they are dedicated people who are trying to see the best done with the least amount of intervention possible, more by allowing nature to do the job, than to force issue.

Number 0428

Rep. Koponen: Do they have difficulty in practicing that you know of?

David: Yes, there is a great deal of difficulty in practicing, I've known several mid-wives who were given good service to their clientele who have been harassed by medical community, have met with open hostility in attempting to make referral.

I've heard of comments from the medical communities if they chose to go the mid-wife that you are stuck with it, we aren't going to help you. And I know thats a ... for me to say, but I have witnessed such a thing to happen.

Rep. Koponen: In light of that, which do you think is the more immediate problem, licensure of mid-wives or licensure of naturopaths?

David: Frankly, I would seem them as equal necessities, there's an immense growing number of community people who are teaching the natural methods of health and the naturopaths and the mid-wives have received ... in the same basic category of health care, it comes down to the question of specialization as you find in the more conditional medical community.

Rep. Tischer: Thank you very much, we have one more witness from Anchorage.

Number 0454

Karen Red Stone: I'm here to testify for this bill, I've looked around at these three doctors that gave their testimony and I must admit admit that I was rather upset by the last, I wished that I had taken enough notes that I would be able to counter some of the claims that she made, and I feel sorry that the women who have gone through .., as she has gone would deny the naturopaths who have also the same amount of college and medical schooling. The doctors I saw here in town were willing to use drugs the first couple of months to help me with the ...to prevent premature labor, none of them wanted to check into the background of why I was so ill for a couple of months except to tell me that it was in my head. And I'm sorry, but I couldn't buy that, I did see a naturopath, I worked with him for 9 months, became pregnant, I was 15 pounds underweight at that time, the first 3 months of pregnancy, I found myself hospitalized both previous pregnancies, this time I did not, I gained 15 pounds, brought my weight up for normal pregnancy and continued on. In the spring I had dilation that occurred at 20 weeks and continued dilating up until I delivered my daughter, who was born 4 days before her due date. She was the only baby that I had that I could carry full term and I must remind you that I lost two besides the two that were premature, both came from going with the medical community.

I have a daughter who is 5 1/2 years, who tends to have nosebleeds, I have medicine for her that says prescribed by naturopath, if she takes two pills every two minutes for about five minutes, her nosebleed will stop, however, the school nurse at her school refuses to give my daughter her medicine,

she would rather let her bleed for 30 minutes, and this woman could not get it stopped and I went to the school to pick up my daughter, I found the blood on the the front of her clothes and the waste paper basket half full of tissues that were bloody. Now that is the kind of standard medical care that these doctors are trying to keep us in line with, and I don't want any part of it, and I would also like to point out, that naturopaths in their naturopathic college have existed before the AMA was started.

After the AMA was started there was so many doctors that were so against the naturopathic route, that the AMA ... and politics managed to close these colleges down, I would suggest that before people condemn the education of naturopaths, they should check in to their education. I would also like to say that naturopaths do use laboratories, they use pathologists, my doctor sent my daughter to the pathologist and he ran laboratory tests on her to make sure that she didn't have a breathing disorder and that would be the cause of her nosebleeds. I know that my mother doesn't necessarily believe in naturopaths and is a little upset because I don't take my children to "the regular doctor", but I would like to point out that my mother is consistently on prescription drugs and must run a bill that is at least $60 a month and has been for the last 10 years and I see her getting no better. I see her staying the same and as far as I'm concerned I don't want my choice taken from me.

I think this licensing is what is needed and I think its good, as far as superficial laceration would be merely a minor cut, I see no reason for these people to be terrible upset that an 8 inch gash is going to taken as a superficial laceration that seems to be taken things a bit too far. I don't know what else I could say, I've been to these teleconferences before, I have gotten a hold of legislators before and I received letters, and I'm just a little tired that we are spending all this time talking about whether or not it should be or not be. If this bill passes it would certainly help us with our medical

insurance, we pay $700 a year insurance and it doesn't cover naturopath and since I don't see a medical doctor and none of my family does, we pay for that extra out of our pocket. If this bill was passed we could get the insurance to cover the naturopathic which would in turn cut down the money that we spend every year, I think thats all I have to say, thank you.

Number 0499

Chairman Tischer: Thank you very much Karen, any questions from the committee? Rep. Koponen?

Rep. Koponen: I'm not entirely certain that licensure makes much different than what the insurance company is willing to sell you on the policy. I know that the policies that we handle cover a great number of medical practices, but not others, it doesn't cover examination and it lists a whole list of things.

Chairman Tischer: Thank you Rep. Koponen, we will now go to the witness in Mat-Su.

Molly Mauline: I am for bill number 347, I have not had a lot of experience with naturopaths, mainly because my family has been blessed with good health and also I don't have much need for any type of doctors, except when I had my babies. But I do believe that we as Alaskans deserve the choice to chose what kind of health care we would like for our family, if maybe that in the future I would need more services of the medical community and I would like to be able to choose, I would like to try the natural method first ...(end of tape)

Tape 6, Side 2, 2 of 2
Recording
Number 0001

Chairman Tischer: In messages which have come in on this particular bill last year, during the last session and I compiled all those and if those that didn't receive them were unware, I provided the message from the public to them and there is a large group of folks out there that not only support this, but wish it to be moved along and we would like to do that. But once it hits the floor for debate and vote, if we don't have your legislature in our pocket, so to speak, for their yes vote, the bill could be voted

down, not only that, but once it passes through the committees, but especially in the other body, and the legislation becomes watered down or practically made in effective. Than you would see perhaps a movement of that particular legislation to the floor of the Senate, and passage may take place and a valueless bill would have become a statute.

What we need is the cooperation of the entire body on both sides of the isle in order to pass this piece of legislation. We have not yet been able to confirm that support, not because of their constituency support, but because of other valid or invalid reasons, whatever, the case may be, so the tough issue here is we need to get the support of the other legislators in order to get their yes vote on both sides of the house, both the Senate and the House.

Along with that we have one more hoop to jump through and that is the legislation has to be signed by the Governor, and as you know the latitude of the Governor is to sign, not sign or veto and many times, especially veto comes under constitutional issues or others issues that are sent down as an opinion by the Attorney General, and the legislacure has to take heed of that. In order for us to move along, in our best interests and yours to garner the support and cooperation from all three areas in order to pass this legislation and I sincerely hope that we can do that before the end of this session, it is my wish to do so. So I appreciate your comments, they are very well taken, thank you. Could we go on to Juneau, we have Dr. Jamison, would you please come forward.

Number 0035

Scott Jamison: I'm a doctor of naturopathic medicine, I am a graduate of the National College of Naturopathic Medicine in Portland, Oregon, currently living and practicing in Juneau, Alaska, and I wish to speak today in favor of the licensing of the naturopathic profession. In previous testimony, I spoken to different points of concern on HB 347, I've spoken to the establishment of a Licensing Board of Naturopathic Examiners, which I would like to see, but at the same time I understand

the financial limitation of such an act, I've spoken to the scope of practice which has come into question and a number of items that have already been in my testimony.

What I would like to say today is simply that our profession has been around for over 150 years and we have been recognized as being valuable in the field of preventive health care and natural health care for that length of time. And that our profession deserves to be recognized legislatively, many of our therapies are simple as common sense itself, as earlier testimony by a woman who stated naturopathic profession goes all the way back to ..., and further.

In addition to these traditional health practices that we learned over the years we have the valuable information of scientific community giving us bio-chemical and molecular information on the functioning of the body, biophysiology, pathology and so on. And naturopathic profession than is a combination of traditionally proven treatment and the latest scientific information in the field, rather than talk any longer, I would simply make myself open to questions from members of the committee. So at this point if there are any questions, I'll be glad to answer them.

Number 0065

Chairman Tischer: Thank you Dr. Jamison, Rep. Davis?

Rep. Davis: I have a question or perhaps a comment, Dr. Jamison, if you could at some later date take a look at the bill, you had some concerns on it, perhaps you could provide that to the committee, last year we were looking at a proposed bill and also a committee substitute so perhaps you could make some comments on that, go through the bill and see what concerns you have and give us your testimony.

Dr. Jamison: I'll be glad to do that.

Number 0075

Rep. M.W. Miller: Dr. Jamison, on April 22, 1983, you testified against this same bill, what has made you change, now that you support, because it is the exact same bill, what has made you change?

Dr. Jamison: The guiding force in making me change my mind on this bill is the committee substitute offered by Dr. Fritz who is no longer a member of the HESS Committee, but apparently his committee substitute is still here.

Rep. M.W. Miller: Are you testifying because you like the committee substitute, we are not discussing the committee substitute we are discussing the original bill, HB 347.

Number 0087

Dr. Jamison: At this point in time I feel that the House Bill currently is the best thing we have going for us, there have been concerns expressed to me, that I have addressed in previous testimony, and as regards to naturopathic professions there are still very few naturopaths practicing in the state and in terms of presenting a united front I want to go along with my profession. Although there are concerns that I would like to see addressed in the bill, I've already mentioned the establishment of the Board of Naturopathic Examiners. In previous testimony I've spoken to our scope of practice. Towards the end of the bill there is a grandfather clause which would was added on to the original bill four years ago when it was first submitted. Neither Dr. Pettyjohn nor myself particularly feel a need for that clause, although it was added and if the committee feels that is not necessary or that is not advantageous, I would personally not be upset if it weren't deleted in the bill.

Chairman Tischer: In other words, Dr. Jamison, the grandfather clause in the existing piece of proposed legislation would allow practicing physicians presently practicing to continue practice and to receive a license without the examination and what you are saying is that there would be no reason for you or any other practicing naturopath to refuse to take or not wanting to take the examination that you would prefer to be able to take that examination, to prove your worth and expertise in order to be licensed under the limitations of the present legislation, or whatever it comes out as. Is that correct?

Number 0112

Dr. Jamison: Thats correct.

Chairman Tischer: Thank you, are there any other questions from the committee?

Number 0114

Moderator in Anchorage: There is some concern in Anchorage that the committee members and witnesses in Juneau are not using their microphones, we hear the exchanges in the committee room in Juneau and there is quite a bit of interest here in what is being said there. We would ask that the people in Juneau to remember that there are listeners here in the North. The next witness is Joanne Selmar.

Number 0121

Joanne Selmar: I want very much to support House Bill 347, I have been a patient of Dr. Pettyjohn for at least 4 years and he has helped me in so many ways in clearing up my digestive problems that I hadn't been able to get help prior to 6 years before that. And through him and following his guidance and advise I now can have a balanced metabolism. And I think very much that he would continue to help people who want to be with him. Thank you.

Chairman Tischer: Thank you very much Ms. Selmar. Could we have one more witness from Anchorage before we go to Mat-Su.

Number 0132

Dr. McGuire: I'm an orthopedic surgeon practicing in Anchorage and I'm a member of the Alaska State Medical Association. I'm speaking from two view points; one from that of a concerned citizen and physician and one of that as a representative from State Medical Society. I'd like to thank you the opportunity to appear before you.

First I would like to point out what we perceive to be certain issues of fact and that is that we have not found this legislation, but it appears that it has been mandated by the Attorney General and that it has been asked for by naturopaths. It is not our position that we would deny to any patient the opportunity to seek whatever medical care they would deem appropriate, however, if the state has licensing care, we are concerned that it be done in a fashion that all who would seek this care have the assurance that they understand what care it

is and what things are included in that scope of practice.

Theoretic stands I would invite your attention on page 5 of the bill and some of these points may be reiterated in the sense that they have been previously mentioned.

There is a concern on our part as to what constitutes superficial lacerations and abrasions, what in fact are benign superficial abrasions and how will this be defined, and further if they are removed is there a standard of care as to their ultimate diagnosis? And I would point out to you that certain lesions which indeed appear very superficial if they are not subjected to appropriate pathological diagnosis may in fact not be that, but may be something far more malignant and I think those are important considerations.

Furthermore, we are concerned about the consultation available in the removal of certain foreign bodies, sometimes what appears to be a simple problem and in fact is not a simple problem and can lead to other serious consequences if not managed to appropriately. For example, foreign body in the ear if not managed appropriately can become impacted, in fact and cause significant difficulties with hearing, etc.

Again we would reiterate if anyone who wants to seek medical care on their own or any fashion, we are certainly not opposed to, we are concerned again that they understand that the understanding is wide spread. What for example, will be the treatment of complications should they occur in the course of ordinary obstetrical problems? Are these individuals in fact trained for neonatal resuscitation and if not should that be something that could be considered.

Certainly any normal childbirth suffers the potential of becoming complicated at any time if the infant in question is having difficulty. What are the procedures that will be followed or to insure the most optimal of outcome?

Number 0172

In paragraph B of that same sentence, we go down subsection 4, in which it would appear

from reading of this, that certain drugs will be allowed to be used by naturopaths, our concern is, as regards to local anesthetics, will these be applied topically or will they be injected or will they be applied to the mucous membranes? There are legitimate concerns I think as to that, for example, if local anesthetics are used in injectable fashion they can be rather severe in immediate and ... reactions to them. Are there provisions for these to be managed and should they be spelled out or should there be some appropriate referral? Once again the difficulty with plants and animals concentrate etc. has been mentioned, certainly many of the drugs we use right now are ... of plants and animal origin, and if such can be very potent medicine, should these be defined further and are they defined further?

Number 0185

Finally, what remedies are available for patients for poor results for pain, will these doctors be subject to the same malpractice problems that the rest of the medicine is subject to or will there be pure review? If so, how will it be accomplished? Who in fact will determine whether or not the individuals have training as outlined in the proposed bill. And finally, what will be the position in regards to the present existing malpractice view panel as to naturopaths, should they be licensed? Once again, I would like to reiterate that the cross for this bill has certainly not come from the medical doctors as a group nor to my knowledge individually, but rather has come from the Attorney General who ruled that these individuals must come under the laws of relating to the medical practice and finally, I think from the individuals themselves. Thank you for the opportunity to present this information, I'll be happy to answer any questions if I can.

Number 0198

Chairman Tischer: Thank you Dr. McGuire, I have before me, this is in regard to the Attorney General remarks that you made. I am aware of the fact that there is one naturopath, Dr. Pettyjohn who has been ordered by the Attorney General to cease and assist in practicing.

I have before me, March 29, 1979, Attorney

General's opinion handed down by Attorney General Gross, on page 2 it reads; given the medical boards posture with respect to naturopathy it is highly unlikely that the state would undertake any action to prosecute or otherwise discipline an individual naturopath for the unlawful practice of medicine. In essence than, the naturopathy within the State of Alaska is an unlicensed activity, and it goes on say in the second paragraph:

It is my understanding from the conversation with your administrative assistant Carlos Mercer, by the way this opinion was directed to Mike Colletta who happened to be at that time, Chairman of Rules in the House, it says; it is my understanding from my conversation with the administrative assistant that you are currently contemplating legislation to regulate the practice of naturopathy in the state. In formulating this legislation, two fundamental issues arise:

1. Does the practice of naturopathy constitute a practice which poses a risk to the health and safety of Alaskans? Such that it should be regulated and,

2. In what manner can the state best control entrance into the occupation and support and enforce standards of practice among licensed practitioners.

Chairman Tischer: Now the two points I think you have addressed properly in terms of questioning the pure review and my question to you in that regard is; would you favor establishing a pure review board, such as the medical profession has the dentistry and so forth, would you favor that there be a professional of state board of naturopaths consisting of a number of profession involved in health care? In order to do this pure review in number 2, I would like to have your reactions on that, on the original Attorney General's opinion.

Number 0230

Dr. McGuire: I'm not sure I'm in the position to speak on the original Attorney General's opinion, certainly I'm not an expert on the law. I would as to the risk and safety of the patient, I think that is a

legitimate concern, and inspite of some contentions on some orders that the Board of Medical establishment is interested only in the well being. I think it is a legitimate concern that we've attempted to present.

Whether or not, the establishment of a pure review board is the best solution to this problem. I don't know I would find myself in sympathy with Mr. Smith's testimony earlier that we find ourselves increasingly saddled with regulations and restrictions and assumingly unending appearance of board and licensing, etc. I wonder whether or not, such a system might be more complicated than productive. I don't have a solution to that problem, as I said earlier, we didn't propose this bill, we are trying to present what we think are legitimate concerns in that regard. I realize I haven't answered your question precisely not because I'm not trying to, but because I can't.

Number 0247

Chairman Tischer: I appreciate that doctor, I'd like to pursue this Board of Examiners or whatever we are going to wind up calling and ask the question in dealing with the established medical profession. What guidelines are you committed to practice and would you prefer that it could be less limited and less regulated and less restrictive?

Dr.McGuire: I think our guidelines for practice are clearly spelled out and there are several stages of redundancy where they have practices beginning in both at the level of the state and local medical societies, continuing on to the hospital based physicians which are subject to privileging credentialing and appear review process which to say the least, are elaborate, and finally, ending with the state division of licensure which has the authority upon sufficient evidence to revoke the license.

One of the problems that we may face in this state, is certainly the medical doctors don't want to be in the position of commenting on whether or not a given naturopath is a good naturopath, certainly it is not our area expertise, it is not our interest to do

I would however, pointout to you that I think we are capable of commenting on whether the result of pain by a particular method of treatment are favorable to the patient and whether or not they should be pursued as a group, and that I'm pointing out to you again does not mean to say that I'm applying that naturopathy isn't useful or should be used, I don't have an opinion on that, I'm expressing a concern as to how if the state takes upon itself the burden of licensing these individuals, how indeed will they ensure that the license so given speaks to the issues raised.

Number 0271

Chairman Tischer: Thank you Doctor, and one more question that I have and I appreciate those comments. Its my understanding that at this time the practitioners of naturopathy are not allowed to, don't have physician's privilege in hospitals that are normally extended to professions such as yours, and is that correct and whats your opinion about that?

Number 0277

Dr. McGuire: To my knowledge that is correct, that I think those apply simply to naturopaths or other alternative health care practitioners who do not have privileges to practice within the hospital.

I think that is a subject upon which we could spend an entire day, but there are several comments that are germaine, at the present time in Anchorage the situation is such that we are in dire shortage of hospital beds for patients who are treated by traditional means, I don't mean to point out words by medical doctors and surgeons if you will.

Providence finds itself in a position frequently of having 99 to 100% occupancy, what I've seen personally is, patients in the halls because there are no beds to put them. Now certainly we are moving in that direction with the recent approval of ... to allow building of such hospital beds and outpatient facilities are helping that burden, but I wonder if we extend these privileges to other practitioners what the practical effect would be. Now I'm concerned if that be the case the individuals who are in dire straight will

not have room for hospitalization.

Thats what I think is the first and most obvious concern, there are other significant concerns on how the practice of surgery, for example, will be regulated, at the present time there are elaborate training of requirements for any surgeon within Anchorage itself general practitioners who are medical doctors who completed medical schools and family practice residency do not have specific free standing ability, capabilities or privileges. We felt that was necessary with our own profession because we felt that the present standard of surgery is so demanding and exacting that is not something that can be practiced casually. But it would seem to me that this would apply across the board to other practitioners, now as to the areas of internal medicine, I would think that as I'm an orthopedic surgeon, particularly confident to comment on those what I would suspect that the same kind of concerns would attain.

Number 0306 Chairman Tischer: Thank you doctor and I have one more question, this is on personal basis, as far as individual physician is concerned. Would you collaborate for the best interest of a patient with a naturopath and treatment of that patient?

Number 0310 Dr. McGuire: Well I personally have not had the occasion to do so, because I've never been consulted by a naturopath nor have I been consulted by a patient with a request that I do so. I'm somewhat at a loss to respond to that for the reason that I do not consider myself an expert in naturopathy and thats why I don't know what the questions would be that would be asked of me. I think I can say this, and this I'm speaking for myself personally and not as a representative of the medical society, as far as I'm concerned my position as a physician is to see those patients for the problems that I considered myself to be expert in dealing with and I'll see those patients whether they are not they were referred by a chiropractor or by anyone else. Now whether or not it is that I collaborate with the care of that treatment by a mutual program of treatment worked out

by the naturopath or chiropractor, I think that that is not something I'm prepared to respond to. I don't know the questions about how that would work and I have a lot of questions about the ultimate benefit to the patient would be, I hope that answers your question.

Number 0325

Chairman Tischer: In part it has doctor, I just wanted to know whether or not you would be reluctant to assist or to collaborate with the treatment of a patient, if they requested that collaboration, for example if I fell down and dislocated my shoulder and my regular physician was naturopath and that I also felt as if though because it was a bone injury I should see an orthopedics, would you be offended or professionally perhaps reluctant to work with my naturopath in treatment of that dislocated shoulder?

Number 0333

Dr. McGuire: Again I'm speaking personally and not as a representative of other physicians, I personally wouldn't have any problems. I would ask the question though, how would we resolve the problem if a recommendation that I thought was important to the patient was in contra distinction to the recommendation of the naturopath had or for that matter, any other alternative health practitioner and who ultimately would hold the responsibility for the treatment outcome if one or the other is preserved.

Again I don't mean to be evasive, but I think these are complicated issues and my saying would be that I am perfectly willing to collaborate with naturopaths so it may lead me to a situation which I wouldn't be willing to. I would say again, emphasize that point I have a certain sense of the ethics of medicine and I believe in it strongly and if I don't that I would be asked to do something that I thought was not in the best interest of the patient. According to my training and experience than I think that I would not be willing to be a party to that no matter who asked me to do that, and for whatever its worth that would apply if it were another physician who wanted to do that. I would say respectfully that my opinion is to the contrary and that my recommendations are due otherwise.

Number 0352

Chairman Tischer: Thank you doctor, I appreciate those comments, its been very helpful and I guess the reason that I ask is it comes right down to what you are directing to me and that is if it were my shoulder and if it was an injury that I've asked you to look at as well as another physician, whether it be an optometrist or a naturopath or what have you, that ultimately don't you believe that it would be my decision as to who's advise I was going to take?

Dr. McGuire: I think thats absolutely true, it should be your advice and I would like to emphasize the comment that I made early on, speaking personally for certain and I thinking speaking for medical establishment as a whole. There is a perception on a part of many people that we are somehow felt that ... and that no one has the opportunity to seek the kind of care they would want and I think thats erroneous. I can say with no question at all thats erroneous as far as I'm concerned. I'm a great believer and all the freedoms that we have and everybody should be free to do whatever it is they want to do. I'm concerned however, when we take upon ourselves as members of society to legislate and to license individuals and with that it carries a responsibility to be certain that we define what in fact those individuals are, what they do and therefore, what the public can reasonably expect from them. But in another way, if we give the stamp of authority of the state to an individual and therefore allow the public to believe ...unwillingly that they are capable of doing next thing in fact they are not, than I would hold that we are amiss with the legislation and our legal responsibility.

Number 0380

Chairman Tischer: Thank you for your testimony. I think the next place is Mat-Su is it not?

Number 0384

Mark Rierdan: Good afternoon, I'm here to voice my support for HB 247. I'm married and have (3) children and the past year we have all been treated by Dr. Pettyjohn, a naturopathic doctor in Anchorage, as a matter of fact he delivered my last child.

I feel that naturopathic medicine is not

only a viable alternative ...(loud noise on tape) medical community in Alaska. Being a natural born skeptic I was at first somewhat apprehensive about being treated by naturopathic means, but after some study and talks with Dr. Pettyjohn, my mind was put at ease and now I'm quite comfortable and now go to Dr. Pettyjohn as our family doctor. In conclusion I feel would be grave judgment if HB 347 did not pass and you would be committing a disservice to this community, if you did not support this bill, thank you.

Number 0396

Chairman Tischer: Thank you very much, I'd like to now go to Fairbanks, is there another witness?

John Ghoddio: I am representing Fairbanks North Star Holistics Network which is a group of 200 concerned citizens who meet monthly for interest in having alternatives for holistic medicine including naturopathic doctors available to us. We strongly support the passage of HB 347, but would also like to say that every person that came here today is in support of HB 347. Thank you.

Rep. Koponen: Thank you Madam Chairman, John, is there a naturopathic practitioner in the Fairbanks area at this time and if so, do you have their name or any information about them?

John Ghoddio: Unfortunately there is none and a lot of people have to travel a long way to get treatment by naturopathic doctors, so we are really in need of one.

Number 0417

Rep. Koponen: Isn't there a place on Eleventh Avenue downtown that advertises naturopathic services? I have a photograph of a store down on Eleventh that advertises or are they just advertising supplies?

John Ghoddio: We have places in Fairbanks where you can get herbal supplies and other alternatives, but not naturopathic doctors.

Number 0425

Chairman Tischer: I would now like to go to Anchorage for the next witnesses.

Dr. Jay Bonner: (loud noise in background)... My first comment is to agree

with the doctor you spoken to before me and the last statement that Dr. McGuire made on the sample of approval that you will be given to the practice of naturopathic medicine by legitimizing the practice through a licensing board, I think its not in the best interest of the public. (am I coming through)? By licensing the naturopath you have given a creditation to their training, I practiced for 17 year in the Southern Mississippi as a teacher in the School of Medicine and the University of Mississippi.

I taught many of these subjects that are outlined on page 2, others that were left out were internal medicine, pediatrics and ... these are left out that are suppose to be included in their training. I am not aware that any particular licensing of these two that is nationwide as there is of medical school. The first part of this century there was a report on the medical indication in this country and it pointed out some of the problems of medical education that there were many licensing boards, many groups that joined together in approving and overlooking the ...I don't think there is that track record with naturopathic medicine in this country.

We had many years of looking into how to practice medicine and how they are taught, many of the subjects that are listed here. By giving a license to these individuals and saying that we are crediting them, we are also crediting their education, we are saying that we know that they passed these particular subjects and I do not believe they have had legitimate training on all these subjects that are listed.

Also, I don't believe that the instructors that are hired by these naturopathic have the doctor's degree in chemistry and anatomy and microbiology, etc., and that the teachers are competent to teach the individuals these particular subjects. I'm not disagreeing that people have the right to chose to go to naturopathic physician if they want to so, but I'm saying that we should not by any means say that we are giving a stamp of approval to any of these training or practice of naturopathic

medicine.

Also, you mentioned that you were going to devise a test, I'm not sure how this test could be devised, to test a naturopathic physician and licensing them. I'd like to additionally express my concern of the medications that they prescribe, animal and plant compounds or extracts and of course as pointed out earlier many of these that we prescribe as insulin, cortisone, thyroid and plant medications, etc. can be very toxic and should go in use under special circumstances. There are other substances that I know the naturopathic physicians are prescribing or they are dispensing to the patient called ...adrenal extract, valid extract and I have seen these in patients that bought these to my office. Almost a 100% of the patients that I've seen in my office that have been seen by naturopathic physicians have been mis-diagnosed and mistreated or treated inappropriately.

I think I'm surrounded by a number of people who have had very positive experience with naturopathic physicians and I'm glad that they have and had no adverse effect. But I'm just telling you the many patients here in Anchorage who had adverse effects on these treatments or negligent in the treatment because they had not seen a physician to correctly treat them early enough. And I have seen complications as a result, probably from some of these substances that are being prescribed although I cannot surmise the investigation to determine exactly whats in these substances that are given to the patients and I would call naturopathic physicians before to try to talk to them to see what is in these substances so I can determine what is the result of what they were taking or the result of something else, and they would not communicate with me. I would just get a list of what they were taking from the office shelf.

I would also like to speak to the consumer, because I have had privilege of having 3 children and I have had obstetrician who been certified in the practice of obstetrics to deliver my children. For millions of years, as long as man has been on this earth

there has been a natural childbirth and I imagine that billions of people who have been born here by far the majority have been by natural childbirth. I think in this day and age in this country that I would not personally select anything but an obstetrician or a family practitioner who's had a lot of experience in delivering children, but for my own safety and for the safety of my newborn child.

Thank you for letting me testify and at this time I would like to answer any questions. If you would propose the same question to me as you did to Mr. McGuire, would I collaborate with a naturopathic physician? I would not collaborate, I have had couple of referrals from naturopathic physicians and well, one that I can remember and I cannot collaborate with that physician. I'm not exactly sure what you mean by collaboration, however, I prescribed what I thought was best for the patient and I don't think any of them have the training that I do to determine what is best for the patient. Now if they would like to carry out or help enforce my prescriptions or my treatment of the patient I would not (loud noise in the background).

Chairman Tischer: Thank you doctor, I have a question and I would like to go back to the instances where you talked about the patients you had, obviously taken ill with some toxic substances, something like that, I'm not sure that I followed your comments, but I'd like to have you be more specific about those particular instances. Can you give me a closer vision of what you were talking about, precisely and how you got to see these patients in the first place, were they referrals and from whom?

Dr. Bonner: My current practice is limited to referrals from physicians, because I'm very busy now, I've been practicing in Anchorage for (4) years, Initially when I came here patients sought my care because they knew I was a phrenologist, there was no other practice in phrenologist in the state at that time. Majority of them were self-referred patients, the ones who had been to naturopath before.

I still do see some patients who have been to naturopaths and if the naturopath were to refer one to me I would probably see the patient, depending on whether or not it was in my field or not, I certainly would not see them for dislocated shoulder. But the ones that I did see that were mis-diagnosed, some of them had mis-diagnoses of thyroid diseases when they did not have a thyroid problem, they were taken some sort of thyroid extract. I've seen patients who had over active thyroid problems who were also taking a thyroid extract which would be against the practice of medicine, if you had an over active thyroid to additionally prescribe thyroid on a long term basis you could try on set basis for what we call suppression care, but not for a long term treatment of that particular individual.

So I do not know as I said earlier what are in these extracts, there is a ... thyroid which is made from animal gland extracts which has been prescribed for many years as a thyroid replacement for people who have under active thyroid which is ... drug approved by the FDA. I don't think any of these substances are extracts that they are using are approved by the FDA. In fact I just don't know what they are and I don't know how to find out exactly what they are, they are what they say they are, thyroid extract, adrenal extract, ... extract and they are not being used properly.

Another case would be adrenal extract, a patient was diagnosed as having an under active adrenal and our terminology would be attitude's disease or ...-adrenal problem and they were getting adrenal extract... the patient was mis-diagnosed as having adrenal insufficiency and did not need cortisone and cortisone if it isn't adrenal extract they are prescribing is ... specific indication for it. And if it is prescribed for certain doses it has very hazardous side effects like ...(loud noise in background and end of tape).

Tape 6, Side 1, 2 of 2
Recording
Number 0003

Chairman Tischer: Thank you for your testimony. There are no questions from the committee, so I would like to go back to

Anchorage to take the next three witnesses from Anchorage.

Number 0005

Virginia Pettyjohn: I'm the wife of Dr. Pettyjohn, I hold a Bachelor of Arts Degree in Physical Education and hold a teaching certificate in the State of Alaska. I feel this is important because I'm not speaking from respective of one who has not been through several years of schooling and thus have an educated approach to this. I'm also the mother of four children all whom were delivered naturally through a clinic and through my home.

It has been brought up by the speakers from the medical profession that have legitimate concerns about training and the specific things that are designated that a naturopath is able to do. The testimony, I feel that they would like to so limit the scope of the practice of naturopath that it would be non-existent and that this is through benefit not only to self, but their profession that they don't have to be in competition with anyone else. It sounds like a major grocery store limiting another alternative of store that would be in competition with him. I would like to point out to few of the legislators that before we had not heard the general public's speak in direct opposition, it has only been those who are in competition with naturopath.

I'd like to say that the general public has been here and several people had to leave and many whom have not been able to stay because of the time factor, and also the factors that this has been filled and there hasn't been a place to sit down. I think that HB 347 needs to be passed specifically because of the posture of the medical board and the Division of Occupational Licensing and ...the law needs some improvement in order for naturopaths to continue their practice. Thank you.

Number 0031

Chairman Tischer: Thank you very much Mr. Pettyjohn. Any questions from the committee? None, could I have the next witness.

Number 0033

Dr. Patton Pettyjohn: I have been practicing in Anchorage for (4) years now.

I'd like to if I may address my issues for the scope of naturopathic practice, a lot of the opposition from the medical profession is in regards to the scope of practice and whether or not have a qualification. The bill that is submitted is very closely resembles the law thats in the State of

Oregon and has been in existence there for since 1927.

Naturopathic physician decides using natural therapy which includes plants and animals, also trained as general practitioners and such. We have training in minor surgery and if we have the particular training prior than we should be allowed to practice for surgery, especially where it involves childbirth, because it would be very inconvenient if we have the quality and expertise to repair a vaginal laceration.

But because of the pressure from the medical community you feel that you do not include this into the law, than we will have to unnecessarily transport every woman who had a laceration to the hospital when its not her desire to do so, when there would be someone right in her home capable to do such.

Also, in regards to superficial lacerations again, this is something which the State of Oregon for the past 50 years had no problem with, with naturopaths. Any qualified physician can suspect malignant lesions and if they are suspicious than they can get a biopsy to exclude whether they are suspicious or not before they would attempt to do any superfluous surgery on that lesion. So it hasn't been a problem in other states and I can't see why it should be a problem in this state as it is written in the law.

There were some questions also regarding plant, animal and mineral substances that some of these products are potentially used as medicine, of course they are, thats what naturopaths are trained to do, use natural animal substances, natural plant substances as medicine. And we realize that some of these are used by the medical profession as well, but that should not exclude us from

using them if we have the training and expertise to use them. So if we feel that fox glove which the lab may ... is in the best interest of the patient than we feel that we have the expertise to treat that patient with that plant, that we feel that our training, we should be allowed to do so.

If we feel however, that a patient needs hospitalization and needs a particular prescription that is out of our field, its out of our expertise and needs to be managed by highly skilled and staff of the hospital, than we will refer that, but see every general practitioner, every family physician has the same dilemma to face. They have to practice within their qualifications, every pilot has to make decisions whether he wants to fly in certain weather and the same thing with physicians, if he does not feel competent with the specific procedure, he refers, but that doesn't necessarily mean that there would be other naturopathic physicians that would feel competent to do minor surgery, because we have been trained to do so. And these are things that would be handled under office procedure.

Number 0082

There was a statement made by one of the doctors that made reference to, she wonders who teaches these classes and wonders if they are qualified to do so. If she had made much investigation she would realize that the basic medical sciences of anatomy and physiology about chemistry, pathology and micro-biology have all been taught in schools by professionals, academic people who have Phd's in those particular basic sciences. Because of the flak that we gotten in the past relating to minor surgery, that it is made sure in our schools we are taught minor surgery by licensed surgeons from one of the medical schools in that community, to make sure that they have no misgivings the kind of qualifications that the training these naturopaths receive concerning minor surgery. The reason why we do minor surgery is to see a complete family practitioner and naturopathic schools have always taught minor surgery, have always taught natural childbirth and obstetrics, its not something new that we are asking for.

Number 0096

Because we are taught and we are trained, we should have the ability to practice our profession as trained, just like the medical doctors have the privilege of practicing as they are trained. At this time I would just like to conclude my remarks and say again that I feel that it is very important that we as naturopaths have constitutional right to practice as we are trained and that patients also can be available to our services.

At the present time there is a problem because the medical board's posture and these are made up of medical doctors, they do not want us to treat the sick anymore in any form whatsoever. It doesn't make any difference if we are using natural therapy or not, they do not want to treat the sick unless this bill is passed. So I urge the passage of this bill and will be open for questions at this time.

Number 0106

Chairman Tischer: Thank you Dr. Pettyjohn, Rep. Koponen has a question and so do I.

Rep. Koponen: Dr. Pettyjohn, during the course of the testimony this afternoon some comment was made about the problems that you have had in continuing your practice, someone mentioned cease and assist order; could you be more specific in what this regarding this disability you have currently in not being licensed?

Number 0114

Dr. Pettyjohn: Certainly, when I first came to Alaska I was told through the Attorney General, that naturopathy was an unlicensed activity and I could practice unharassed.

That was under the Hammond Administration and now we are the Sheffield Administration and there are new people in different departments and divisions. It was brought to the attention of Occupational Licensing that I was diagnosing and treating the sick and so because of that the issue to cease and assist order, saying that was a practice of medicine I needed a license to do that.

My attorney right now, went to court to keep my practice open and we have in fact a restraining order ... against that, cease and assist order, until certain hearings can

be made. After which time, we will proceed into court to declaratory judgment, but this may take several months or even a year to complete the judicial process whether or not I have the constitutional right to practice.

Naturopathy is not a sub-speciality of medicine and should not be under the jurisdiction of the medical board and it appears we need a licensing procedure so that naturopaths can diagnose and treat the sick in Alaska, unless we can go to court and get a declaratory judgment.

Number 0135 — Chairman Tischer: Dr. Pettyjohn, Rep. Davis has a question.

Number 0137 — Rep. Davis: I assume that you've seen the original bill and proposed committee substitute and I'm curious as to what your feelings are on that, and also the licensing board that you admit. There are only two people that are practicing with your profession in the state, I don't know how that would work. My second questions is; would you oppose to have other than naturopathy people on that board, having a medical doctor on that board? Thank you.

Number 0145 — Dr. Pettyjohn: I was opposed to Milo Fritz' committee substitute, because he removed the minor surgery and practice of obstetrics, the use of x-ray diagnosis and many other things that we are trained to do, moreless, said that we could treat with nutritional therapies and that was it. Of course, we do that, but he watered the bill down so much that it took out half the things that I've been trained to do. So I was in opposition to that committee substitute. I want to practice as trained, I want to practice as I'm licensed to do in Oregon and I feel I have that right.

The second question; yes, thats one of the reasons why because they are not allowed naturopaths in Alaska, thats the reason why we felt that naturopathy should first be licensed under the Department of Commerce to the Division of Occupational Licensing. We tried to set out in the legislation, the principle and the regulations which the naturopaths would be licensed, so that the

department would have to follow the law as it is written. They would have to examine the applicants, make sure that they were qualified in the different subjects that naturopaths must be trained and if there were complaints than the Department would have to handle those.

As far as I know know, there are three full-time practicing naturopaths in Alaska, and there are four others who would be qualified to become licensed if they chose to, because they have legitimate degree and these are also practicing as chiropractors in Alaska.

So those are the people that I'm aware of that have the ability to be licensed. I know of two students that want to come to Fairbanks who are graduating this year and I have not too long ago also received some letters from three other naturopathic physicians from Oregon who (one has graduated a year ago, two others that are graduating this year) would like to come to Alaska and I am waiting for this license or bill to pass and to find out the outcome of my court case, whether or not they would like to come to Alaska.

Number 0182 Chairman Tischer: Rep. Davis has one more brief question.

Rep. Davis: In prior testimony, Dr. Jamison mentioned that he learned there would be some kind of peer board versus being licensed and having an oversight by a branch of the State of Alaska at least within the Commerce Department, but do you know who is not practicing that would license in the Fairbanks area?

Number 0189 Dr. Pettyjohn: Yes, Dr. Spaulding and Dr. Hampton, both are chiropractors who have naturopathic degrees and are licensed in other states as naturopaths. And also, theres a Dr. Weaver here in Anchorage who is a chiropractor that would be qualified to be licensed, and there's a Dr. Hammond in Juneau, who is a chiropractor that would be qualified to be licensed as a naturopath.

Number 0196 Chairman Tischer: Dr. Pettyjohn, I have a couple of questions; would you read to me the cease and assist order for the record or

if you send it to me, I would appreciate it. I'm presuming that its written.

Dr. Pettyjohn: Yes, it is and after our conversation after I first received it, I took it into your office there in Anchorage and I told them to hand deliver it to you because you weren't there, but I can certainly send another copy to you.

Number 0202

Chairman Tischer: Well, if you brought it up to me, I'm sure it must have been sent down here to Juneau, the next thing I'd like to ask you is; what is your definition of "minor surgery"?

Number 0206

Dr. Pettyjohn: Minor surgery, we tried to define it as according to the way it was defined in the Oregon Statute, but minor surgery technically means, you do not go into the chest cavity or the abdominal cavity and do surgery. Those are typically referred to major surgery techniques, however, there are many minor surgery techniques that need to be done by a highly skilled surgeon that would be very high risk and should be done in hospitals, and this is the judgment of the physician, where to refer and when it would be the best interest of the patient to refer to a specialist.

Primarily as naturopaths we are interested in the surgical procedures that can be done safely in the office, repairing superficial lacerations, wart removal, hemorrhoid treatment, removing ... and minor surgery techniques related to childhood.

These are common office procedures type of techniques that we are trained to use, and if there was a technique that was under some type of legality permissible as minor surgery and we attempted to do that in our office and had not proper training in that specific technique, than we would be open to the same judicial process as all other family practitioners are, it would be malpractice negligents, or whatever. But this is up to the professionally trained clinician, physician to know when he is not qualified within that particular technique.

We have had 50 hours of professional schooling in minor surgery in school and we

had the clinical intern-ship where we are instructed in the surgical techniques through qualified physicians that are licensed in those states where we received our schooling, and those techniques which we have been trained we feel we should be allowed to use and if there are some minor surgery technique that we are not trained in, than it would be our responsibility to refer them if the case would arise if we feel that patient would be best served by going to a physician thats highly skilled in a particular technique.

Number 0243

Chairman Tischer: So vaginal lacerations under your estimations would be classified as minor surgery, is that correct?

Number 0245

Dr. Pettyjohn: That is correct, however, if there is a particular type of laceration which perhaps involves the tearing of the rectum and a particular naturopathic physician didn't feel competent to repair that, than thats where his judgment comes in, and of course he would refer so that the patient could get the best treatment possible.

Chairman Tischer: Thank you, what I'm trying to get at is, in the list of the original bill of licensure requirements, minor surgery has been a c ate. That is inclusive of the types of instruction that would be included for testing purposes and examination purposes for licensure. And as you well know the debate on what is minor surgery, it has been brought up in testimony today, is likely to be contested again.

I'm trying to the best of my ability outline some kind of a format by which the quality prevails in terms of the testing, and if i is based on the educational procedures that are given to the applicant for licensure based on the norm in terms of naturopathy study, than I think we have some basis to go on. But as you know that has been a basis of objection and I'm trying to maintain some equilibrium on that issue.

Another issue that I would like to expound on a little bit, is prescription drugs and that which was related in terms of natural

elements. Two of them were brought up, you mentioned fox glove or ..., and the other one was cocaine, and the fact that there are physicians dispensing those purity drugs in pure form if you will, under prescription and the naturopaths preference to dispense that in the form of a natural herb.

I have a theoretical question; if you were to prescribe fox glove for me for whatever reason, would I be able to overdose on that prescription in its natural form and if so what provision would be made in the prescriptions that I would not be allowed to overdose?

Number 0278

Dr. Pettyjohn: Yes, with everything that we give a patient, we would give them instructions to follow and after we give that substance to a patient, you know if they don't follow those instructions certainly they could overdose themselves, everything has potential harmful effects if misused and abused. There are some plants that have potentially toxic effects and naturopath physicians are trained to use these non-toxic, non-poisonous dosages and so if the patient wants to overdose themselves and go contrary to the order than, yes, they could potentially overdose themselves on some remedies that have potentially toxic effects, but thats the same with any type of medicines.

Number 0290

Chairman Tischer: Thank you very much Dr. Pettyjohn.

Number 0294

Moderator in Anchorage: Rep. Tischer we have a witness and several had to leave, right now we have Dr. Jasper.

Number 0297

Dr. Jasper: I'm a naturopathic physician, I grew up in Haines, Alaska & am a third generation...(loud noise in background). I feel some of the comments were unnecessary and the question whether or not the practitioners are qualified to practice is an irrelevant question (noise on tape)...

The point is every physician will diagnose a patient that others have not been able to diagnose accurately and every physician will mis-diagnose a patient, who will eventually seek health care elsewhere and they will be

able to make an accurate diagnosis. I think thats a point that should be kept in mind. I urge that this bill be passed and people ought to have that choice for their health care practitioners. I appreciate Dr. ... comments, I was available to talk to him about his feelings to the testimony, he felt that maybe if we had a naturopathic board and have at least one medical doctor on it, and keep a very close eye on our practice maybe that would be acceptable to him. I indicated to him that I didn't think that was necessary. They practice without a naturopathic physician to keep a close eye on them. He felt that was not the same situation, but I feel very much it is, the right of the physician to practice to provide health care to those patients that feel competent in their services. I don't want to be ... in my comments today, but I think that the points that are being brought up here today are largely irrelevant.

Number 0355 — We have nurse practitioners here in this state as well as physician assistants that practice in this state and other states that have wide scope of practice and are able to prescribe many drugs and perform minor surgical procedures and do all of these things. And these are physician assistants who have maybe two years of training, we have nurse practitioners who have gone on for additional training beyond their nursing, but yet we ask for the scope of practice which wouldn't exceed that which they give the nurses or physicians' assistant. Now all of a sudden they call it a question, concern over public's safety. I feel that naturopathic physicians ought to practice, at least in the same scope of a nurse or physician. If there are questions I would be glad to address them.

Number 0369 — Chairman Tischer: Thank you very much, Dr. Jasper. I see no questions coming from the committee members, if we completed the three designated people from Anchorage, we will go to Mat-Su.

Number 0376 — Moderator in Fairbanks: We have no participants left here in Fairbanks, would it be ok for me to disconnect from the teleconference?

Chairman Tischer: Yes, should you have contact with those that weren't able to testify, I would ask you to tell them if they have testimony which is pertinent they are free to send by telecopy to the committee so that we can make their testimony part of the record. I apologize for the lengthy hearings, but since all things weren't equal today, I would like to continue until at least a majority of the people are hear. Thank you Paula.

Number 0388

Georgia ... in Mat-Su: I'm speaking for myself, my husband and my two sons. We support HB 347, we are extremely concerned of the fate of the naturopathic doctor in our state, Dr. Pettyjohn has been our family doctor for four years. We are tired of going to medical doctors who knew practically nothing about nutrition and diet and absolutely nothing about herbs. Dr. Pettyjohn took the time to listen very thoroughly to our symptoms and inquired about the total picture of our health and diet. The herbs and nutritional supplements that we received from Dr. Pettyjohn are superior to others found locally. We resent tremendously the idea that people ignorant to the science of naturopathy and preventive medicine are trying to abolish the science practice in our state and worldwide. We feel it is entirely our right to seek professional (loud noise in background) ... Thank you.

Number 0416

Chairman Tischer: Thank you Georgia, are there questions from the committee? Hearing none, I would like to go back to Anchorage and take couple more testimonies from Anchorage.

Number 0419

Sandra Jay: I'm a chiropractor recently licensed in Anchorage, I'd like to testify in support of HB 347. Because our time is simply growing short, I'd like to say that I agree with the support on the statements made and the only thing that I might add is; there are many people who question the competency of medicine and medical doctors, but that is not a good reason to prevent them from practice and they do practice freely across the nation and world. I don't see any reason why there is a difference between them in that circumstance and the

naturopaths and their circumstance. Other than that, all the reports that I've heard from people who have been treated by Dr. Pettyjohn and Dr. Jasper have been very positive, and I see no reason why they should not continue to practice in the way that serves the public very well. Thank you.

Number 0434 Chairman Tischer: I have a question for you as a chiropractor; if a board of examiners were to be created for naturopathic medicine, what would be your suggestion be as to the types of expertise to sit on that board?

Number 0439 Sandra Jay: They would have to be judged by people that are trained naturopaths and those people would have to have naturopathic education for naturopathic colleges. I would suggest inclusion of a lay member, inclusion of a chiropractic board and I assume they would be included on other boards in the state. At the moment I know most board members are appointed by the Governor, I feel quarrel with that, or possibly even an elected position. Does that answer your question?

Number 0448 Chairman Tischer: Yes, Sandra, thank you very much. The dilemma that we would face at this time in creating that board would be that the same people who would be sitting on the board at this time because of the small numbers of practitioners in naturopathic medicine would also be judging themselves, unless another board outside of state, for example, might suffice until at such a time that we grew in numbers. What would be your opinion on how we would handle that?

Number 0456 Sandra Jay: I have a question in return that must have also risen when the board was first put into practice for any of the professions that are licensed, and I would think that similar guidelines could be followed in those instances.

Number 0460 Chairman Tischer: Thank you, that's a good suggestion. Do you feel that the existing original bill as it now reads at least has provisions that cover the question whether or not there are competent people in the Department of Commerce to administer an

examination? Do you think that we have covered enough basis in the bill to properly examine the potential candidates so that they could prove themselves in their profession to practice here?

Number 0469 — Sandra Jay: I briefly read over the bill that I have in my hand, it seems that the areas examined are quite complete, I don't know who in the division would be qualified to test those, as I do not know if there are professional people trained in those areas employed by the division.

Number 0475 — Chairman Tischer: Thank you for your comments, Sandra. Can we go to the next witness in Anchorage. I would like the audience to recognize that Rep. Ward has now joined the committee as an observer.

Number 0480 — Sherry...(loud noise in background)...There would be great disservice done to the people of Alaska if House Bill 347 were turned down. As a mid-wife I have been in both hospital and home birth and I did much handling of births in the hospital and very much in my personal care of mother and babies. In working with Dr. Jasper, I've seen skill, care and concern during deliveries. He hasn't hesitated to refer patients during pregnancy and during delivery if he felt there was a need to.

Number 0494 — Chairman Tischer: Thank you Sherry, could you explain a little bit further on your role as a mid-wife, are you licensed, how do you practice, do you keep an office, how do you get your referrals and so forth?

Number 0496 — Sherry...: I am what they call a mid-wife, not certified. I practice mainly for home births, do pre-natal for Dr. Jasper, (loud noise in background)... We do very many referrals for people who have been dissatisfied with hospital births and have been very happy with home births. Did I answer your question?

Number 0499 — Chairman Tischer: Yes Sherry, thank you very much, at this time I have to make this comment because you are not present here in the room. Mr. Treagor who earlier testified on behalf of the Department of Commerce and Economic Development in Licensing Division

is sitting here and closed his ears to the fact that you are a lay mid-wife and that you are not licensed, so I sent him away from here. I want to also, go on record that I credit you with the courage to come forward knowing that you may be jeopardizing your position and if anything occurs in the next forseeable future years, I believe the next two, and if you are practicing your mid-wifery that I wish that you would contact me, because I will like to know whether you are going to be harassed or not, because of your testimony. Thank you.

Jean ... from Anchorage: My family and I have been very pleased with the service and good health we enjoyed from our naturopathic doctors during the last four years. We believe so strongly in naturopath that we use Dr. Pettyjohn, even if our Blue Cross does not cover the bill. Our health in all cases have improved much better and faster with the homeopathic remedies, than with the regular antibiotics and drugs that the doctors have prescribed. I have found Dr. Pettyjohn to be conservative in his approach compared to our medical doctors and pediatricians. There have been times that Dr. Pettyjohn has had to refer to specialist and he does not hesitate to say when he (loud noise in background)... I appreciate having a natural alternative to my health care and I feel that I should have the right to chose what kind of health care I receive. Please support HB 347. Thank you.

Chairman Tischer: Thank you very much Jean, we appreciate your comments.

Ruby Pettyjohn in Mat-Su: My name is Ruby Pettyjohn and obviously I'm for HB 347; at this time I would like to make one other comment in regard to what the doctor had to say. At the present time I have been under the care of three specialists with kidney problems. One in Salt Lake, one in a prominent clinic in Seattle and one here in town. They each diagnosed a little differently and the mode of treatment was different. I also of course went to Dr. Pettyjohn and at the same time I also confirmed with a naturopath in Seattle. I think that there comes a time when the patient has the responsibility, I have had

of course had to evaluate all of the information that I've gotten and made my decision as to what I would do. I don't think you can legislate the responsibility of the patient in these matters, but I think that we have a right for a choice in what we do and I would like to support the bill.

Chairman Tischer: Thank you Ms. Pettyjohn. No questions from the committee. Lets go back to Anchorage and take the next three witnesses.

Karen Jasper in Anchorage: I would like to support HB 347, I believe that we live in a free country and that we should have the choice of the physician that tends our family ... (end of tape)

Tape 6, Side 2, 2 of 2

Recording Number 0001 — Karen Jasper continues: I know that naturopaths are qualified and trained properly to handle emergencies and illnesses, I support this bill very much. Thank you.

Number 0005 — Thank you Karen and to the moderators in both Anchorage and Mat-Su can you give us a list or a number of people who are left who would like to be heard before I continue?

Number 0008 — This is the moderator in Anchorage, we have two more witnesses who have not had a chance to testify and Dr. Bonner has an additional comment she would like to make.

Number 0011 — This is the moderator in Mat-Su, we have three people who are waiting to testify.

Number 0013 — Captain E.P. Pettyjohn: I would like to add my support to the licensing of naturopath in Alaska, I am a very strong believer in the benefit of naturopathic medicine. Several years ago my wife was severely ill and we took her to all the best MD's in the Anchorage area, and I honestly believe that she would have died, had we not found a fine naturopathic physician in Seattle who treated her successfully. We need good qualified naturopaths in Alaska and I am Captain E.P. Pettyjohn from Alaska Airlines.

Number 0021 — Chairman Tischer: Thank you Captain, I

wished you would have flown down here today so we could have come back to Anchorage to hold this hearing. Unfortunately, we are isolated from that, thank you.

Number 0024

Connie Walker in Anchorage: I would like the bill put into law, I have gone to Dr. Pettyjohn over the last four years and have found him to be a very confident physician.

I have had some rather bad experiences with the medical society here in Anchorage, but don't wish to go into detail, but this is one of the reasons that I feel that I prefer to go to a naturopath, because my experience with naturopaths has been superior to that of going to a regular medical doctor. Once more I wish to voice my opinion, I am in favor of this bill.

Number 0032

Chairman Tischer: Thank you Connie, I have a question for you, if you would answer please. If you are seeking medical advise from a naturopath, in what way do you feel that you would benefit by the authorization of dispensing the natural drugs for example, in this bill it addresses that it would allow the naturopaths to practice medicine, to practice naturopathic medicine in the manner in which they have been educated and trained to do, have you felt as though you had some restrictions on that delivery of service at this time?

Number 0042

Connie Walker: I don't feel that there has been any restrictions, however I can see what is going to take place if this bill does not become law. The doctors here will probably be asked not to practice, and this would be a disservice to people that depend on them, who do not care to go to a medical doctor. Now, Dr. Pettyjohn has referred me to a regular medical doctor for previous problems and I feel that he would continue to do such in the future and under his guidance I would go to a medical doctor for those problems. As to why I am so interested in this bill, I have always been interested in medical professions until the time I was very small. I also have been interested in all the different alternatives health practices here in Anchorage, I've also been extremely interested in naturopathic doctoring and would honestly

like to be a physician. However, I do have a family and it does require 7 years of study to become a doctor, and at this time I find that is a conflicting thing for me, I could not go to Oregon and become a physician without great difficulty to my family. I hope this answers your question.

Number 0059 Chairman Tischer: Thank you Connie, I appreciate that.

Number 0061 Paula Pettyjohn from Mat-Su: I support HB 347 and I think that it should be passed. I find it interesting to note that each and every doctor who testified earlier, when they were referring to naturopath physicians and their experience and training, they started out by saying; I don't believe and I don't know, and I don't feel, they had no real basis except for their feelings about naturopathic education and the profession itself. How can they be asked to give an expert opinion on something they haven't researched and that they know nothing about.

I doubt that when the laws were passed the license ... of dentists could do oral surgery and chiropractors that the medical profession was consulted into greater detail. Why are they than being consulted now?

The naturopathic view and treatment itself is light years away from the traditional medical profession, the naturopath's views to get the body to heal itself and the traditional medical profession is either treat the symptom and not necessarily the illness itself. They can't take care of the problem then they'll try to cut it out. The doctors and the representatives of the medical society are saying that the ... (loud noise in background). Doctors are making it very difficult for people to bear children and have traditional OB care and they are looking for alternative methods, because they just cannot afford what they are being charged right now. I've seen Dr. Pettyjohn deliver babies and I can assure you that his care is far superior to anything that I've received in the hospital.

If my doctors were even there to begin with, which most of them weren't, the nurses

delivered it. I think we should have the alternative. I completely support this bill, and I hope you guys have been listening to what we've been saying today, I think its very important for our medical care. Thank you.

Number 0114 — Chairman Tischer: Thank you Paula, and I assure you, we have been listening, we have been more than listening, we have been taking notes and we record everything down in a form of minutes for permanent record, so that I want to reassure everyone that, we are not just cursory listening to you. Could we now go back to Anchorage again?

Number 0119 — Moderator in Anchorage: We have three more witnesses and Dr. Bonner who wishes to comment. Our next witness is Bill...

Number 0123 — Chairman Tischer: Before Bill ... testifies, could you indicate if Dr. Pettyjohn is still in the room?

Moderator in Anchorage: Yes. Dr. Pettyjohn is still here.

Chairman Tischer: After the testifying of this one witness, I have one question to ask him.

Number 0127 — Bill ...: I'm a local businessman, and I'd like to go on record in favor of the bill and would like to see it passed. I am representing my wife and family, who have been treated successfully by Dr. Pettyjohn. I'll keep this brief... thank you.

Number 0132 — Chairman Tischer: Thank you Bill, before we go to Mat-Su, Dr. Pettyjohn if you will come forward for just a moment, in the committee substitute that was offered by Dr. Fritz, there is one line that I would like to consult you with and get your reaction on it. It has to do with the disciplinary sanction section, it states that; after a hearing the department may deny, suspend or revoke a license or censor a licensee, if the person;

(1) habitually overusing alcoholic beverages,

(2) impersonating a health care provider,

(3) performs or assists in the performance of abortions,

What is your reaction to that specification?

Number 0146 Dr. Pettyjohn: Well, concerning abortions, as far as I'm concerned you could put in a law that naturopaths are not allowed to do abortions, and that philosophy of naturopathic profession, is to do no harm to the patient, and I feel that personally that, that would be no problem. Naturopaths as far as I know are not licensed to do abortions in any other state and the United States and that it would be a conflict of the philosophy of natural treatment and to do no harm to the patient. So that would be no problem with me personally.

Number 0156 Chairman Tischer: Thank you doctor, now could we hear from the witness.

Number 0158 Tom Pettyjohn in Mat-Su: I'm the brother of Dr. Pettyjohn and I don't have a lot more to add to the comments today, but I do agree with the passage of HB 347. I would just like to add that I am personally acquainted with my brother and his dedication of the well being and the health of his patients and I know that he spent many years of service of trying to gain and educate, and trying to do the best that he can. He can take care of the health of the people and this is one of the true goals in his life, its to provide good health for those people that seek him out and this is my comment.

Number 0172 Chairman Tischer: Thank you very much Tom. There are no questions from the committee members, so lets go back to Anchorage for the next witness there.

Number 0175 Cindy Ziegler in Anchorage: Good afternoon, I'm here to support HB 347, and I would like to say basically that I am as far as for medical care I seek traditionally with the traditional medical establishment probably 90% of the time. I have used naturopath medicine about 2 or 3 occasions and I found it to be very satisfactory when I was at dead end wall with traditional medical help. It did not automatically transfer me over to constantly using the naturopathic way, however, it was very comforting at the time

to know when I reached the dead end at one point that there was an alternative that I could go to and make an intelligent decision of my own.

As near as I can gather from the research that I've done, the study areas and the training of the naturopathic physicians and much of the training is exactly the same or very similar to what the traditional medical physicians receive. If the naturopathic approach and use of that material is different than I'm not too sure why that upsets the many people it seems to upset. I resent very much the idea the medical profession or the legislature or anyone else to come forward in a protective role and concern for my welfare. I am a totally rational, intelligent human being and not someone who doesn't know anybody or doesn't know what she is talking about and that choices should be taken out of my hand because these people are more educated and know what is good or bad for me.

The other question that I would like to mention or address which prompted me to get up and speak; one of the last remarks about the misuse of drugs and their concern that naturopath may in fact misuse drugs. If there hasn't been enough television programs and books on the subject of doctors misusing drugs, and doctors giving out valium prescription and etc., to people who misuse them or handing them out like candy, I really fail to see much difference between the abuse of a prescription under a naturopath is and to the abuse of a prescription under a physician's use. That is a person's choice. It seems to me a person's choice should be something that they can't take away from and should be something that we should be allowed to have a little bit of say in. Thank you.

Number 0202

Chairman Tischer: Thank you Cindy, I appreciate your comments. Now could we go to Mat-Sue and is this the last witness?

Moderator in Mat-Su: Madam Chairman there are no more witnesses.

Chairman Tischer: Thank you, are there any more witnesses in Anchorage that would like

to speak?

Number 0209 — Cathy ...: I'm a registered nurse and I'm very enthusiastic of HB 347, if it passed it would mean the fostering and encouraging the naturopathy in the State of Alaska. Not only would the licensing of naturopathic physicians would be a means of quality control, I believe it would also encourage more naturopaths to relocate to Alaska and making this method of healing available to more Alaskans. I urge you to pass this bill for the benefit of the profession and the health and welfare of all Alaskans.

Number 0219 — Chairman Tischer: Thank you very much Cathy. We appreciate your comments, there are no questions from the committee members, so are there other people who would like to speak in Anchorage?

Number 0225 — Dr. Bonner: Thank you for allowing me to speak again, the main reason that I wanted to speak again; was to say that after listening to many patients here and people who testified about naturopathic medicine, I did want to make a point that a lot of people seem to be confusing the issue of natural childbirth with the practice of naturopathic medicine. Remember I said earlier that billions of people of course we all know have been delivered by natural childbirth or none of us would be here today. And of course natural childbirth, majority of people are able to do very well with natural childbirth, it seems a lot of women confuse natural childbirth with the practice of naturopathic medicine and we are not opposed to natural childbirth of course in the practice of medicine. I would be remiss of course rebutting some of things that were said about my earlier testimony and so I would like to say something about that right now.

Number 0240 — The comments were made that said I did not investigate whether or not the naturopathics were well staffed or whether they were well trained, and there is a position paper that you are pretty well aware of that was put forth last year on HB 347, in which it said, in 1968 studies, U.S. Department of Health, Education & Welfare stated that naturopathic theory and practice are not based upon the

body and basic knowledge relating to health diseases and health care which has been ...of course this division has been willing to unchange today. They are not in the line of the usual customary practice in standard medical practice in the community, and this is where I based some of my comments about that they had mis-diagnosed patients.

I know that physicians do not always make correct diagnosis, but I think the majority of the physicians could pursue a diagnostic or scientific approach through the procedure of the diagnosis and disease that is based on scientific evidence in the scientific community, thats why they accept this throughout the entire medical community in the world. The naturopathic physicians do not use this same methodology, as far as I concerned.

Number 0256

An early comment by the naturopathics today; it was opposed to abortions, and I respect that opinion. I am certain he was sincere in his opposition to abortion, however, the Anchorage Medical Society had a meeting the other night and an obstetrician testified and said someone here locally, practicing naturopathic medicine who used such an abortion in the home and did an episiotomy.

It is unfortunate that the obstetrician could not come this afternoon, because the obstetrician was involved in the delivery of a baby in the hospital, but I don't know whether or not this is hearsay or this is sufficient. I think this physician has actual evidence that this was practiced by someone who says they are practicing naturopathic medicine whether they fall into the same category as these other naturopaths, I do not know. Thats the end of my comment.

Number 0271

Chairman Tischer: Thank you doctor, one thing I would like to make the committee aware is that, if such a statement from the physician although it was a statement, I caution you to understand that that was hearsay and unless those accusations can be proven to us we will strike it from the record, dealing with the abortion issue on the naturopath. I would do the same for any physician, unless they were present and in

the room to answer such an accusation. With that than I believe we had satisfied all the stations in Anchorage who wish to testify as far as I know. We can close the network now.

Number 0280 Moderator in Anchorage: Dr. Jasper did also want to make additional comment to the committee.

Number 0286 Dr. Jasper: I appreciate the opportunity to address the committee again. I made a list of specific points I wanted to address.

The slanderous statement made by Dr. Bonner is typical of ill will among people who make the statement that such a practice is going on in the naturopathic medicine, and than not to substantiate it with a name, date or place is the worst type of dirty politics that I'm aware of. I find it reprehensible that she would make that statement. I feel that the statement was slander in its nature and that she owes an apology.

The people who have come to this hearing in good faith, expecting to have a chance to hear things and not to hear that type of slander or statement.

Going off of that, Dr. Bonner's statement that she supports natural childbirth in the practice of medicine is the medical establishment's idea of natural childbirth and the practice of medicine is in a room located in the hospital which is made up to look like a hotel room, wallpapers, lamps and etc. And if the person did not ...(loud noise on tape) the situation they will have the baby there, otherwise they take them up one flight of stairs in an elevator and have a standard hospital delivery. Many hospitals in the country are now doing this, they only did that in response to the movement, the grass-roots movement to seek out better obstetrical care. There was only mid-wives and naturopathic physicians begin ... and becoming more and more prominent than a competitive measure, the hospitals began trying to offer a service similar to try and regain the market there.

Number 0311 I think the reason people confuse natural

childbirth with the naturopathy is because, by and large, naturopathic physicians are the ones who do natural delivery, the home delivery. So I can see why that confuses what exists, and its not a confusion, its a fact.

Medical doctors by and large don't do natural childbirth today, or were trained in and more appreciative of the medicated standard type of delivery. Its not a confusion, its a fact there. The report that she made in reference to the 1968 report from the U.S. Department of Health, the fact that that report is (16) years old, was also issued by the United States Department of Health which was all staffed by medical doctors. Now this is very similar to, I use these names only as an example, but because the case is similar; that Chevron Gas Company issuing a report that Texico doesn't have good of a gas, that really doesn't mean that Texico doesn't have good gas, but only that Chevron is anxious to sell their product.

As far as our profession that we are pursuing scientific basis in our diagnostic procedures, again I find that to be an error. We pursue the same diagnostic techniques that their profession uses, the terms of radiological work-up, the pathological reports, etc., and for her to say that we don't use that as a basis of our diagnostic work-up, she is in error on that.

Number 0330

I think what's important here is this is a human rights issue, its the right of people to make their own choices in ways that affect their lives. And just because one particular profession does not understand the things that we understand and are not aware of the knowledge we have doesn't make our knowledge any less beneficial. We all know that for over fifty years the treatment of scurvy with vitamin C was considered a quack treatment, because the standard accepted medical society did not accept the treatment of vitamin C, but that story also goes farther. It took fifty years for the Royal British Navy to accept the vitamin C as a treatment for scurvy, it took eighty years for the British Medical Society to accept vitamin C in the treatment of scurvy.

And so, here we have the same thing, the summary of today's hearing is that those of us who are in favor and of the established medical community who are against it. This is why there needs to be a choice in health care through a choice establishing ...certainly both professions have a lot to offer, both professions utilize quite a lot of people when their services or desires are most appropriate. Thank you.

Number 0352 Chairman Tischer: Thank you, Dr. Jasper. Since there are no other witnesses in Anchorage, is that correct?

Moderator in Anchorage: Dr. Center has asked for a minute to testify.

Chairman Tischer: Well, we have the minute but two committee members have already left, because of the bad weather and they are fearful that they won't get home tonight.

We could extend this hearing to another time, may I suggest that Dr. Center perhaps submit a written comment to the committee and we could make it part of the record in that fashion if that's acceptable procedure to him.

Number 0364 Moderator in Anchorage: Dr. Center will forward his comments to you.

Number 0366 Chairman Tischer: Thank you, I also extend that invitation to anyone else that may have additional comments to make or rebuttals to comments that were made and so forth. The committee is open to any type in that way before the deliberations finish on this particular piece of legislation, with that I'll ask the moderators to close down the network.

Number 0375 Chairman Tischer: For the record before we adjourn this meeting, I'd like to indicate that committee has not yet received a fiscal note from the Department of Commerce and Economic Development. We do have a HESS Department fiscal note on this, which is a zero fiscal note. The committee will be asking for a fiscal note from Legislative Finance also. It will be the practice of this Chair to require that the legislative fiscal arm of the Legislature provide us

with fiscal notes. As you well know sometimes fiscal notes that come down are tainted by favoring or disfavoring any particular piece of legislation, and I feel it is necessary to qualify those fiscal notes by an independent fiscal note based on information that we are able to garner or wishes of this committee. So don't be surprised if we recommend a fiscal note passed on with a bill from Legislative Finance. With that than, are there any comments from the committee?

Number 0394 — Rep. Davis: I will be writing to Dr. Hampton and Dr. Spaulding who are chiropractors or naturopaths in Fairbanks, I'll be asking for their comments and will give you a copy.

Number 0398 — Chairman Tischer: Can you do that with rapid haste? I would appreciate that. I will be directing staff and I worked on this personally and have put together and have already developed some language that I think we've already asked the drafter to include.

What I want to do is to bring that draft for you independently so that you will have an opportunity to study it and next time we meet on this, it will be from the limbo file and expect it practically any time. We have taken testimony last year and this year and I think we've exhausted our external differences.

Number 0422 — Chairman Tischer adjourned the meeting.

POSITION PAPER/Department of Health & Social Serv

POSITION PAPER

DRAFT COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 225 (HESS)

For an Act entitled: "An Act relating to the practice of optometry and authorizing the use of certain drugs by optometrists."

This draft Committee Substitute differs from the original Bill in several significant ways:

1. It permits the board of optometry to impose disciplinary sanctions on optometrists who fail to refer a patient to an appropriate health care practitioner for treatment of conditions beyond the scope of the licensee's training.

2. It forbids use of controlled substances.

3. It permits use of topical ophthalmic drugs only in contrast to the original Bill which would have permitted use of systemic drugs.

4. It defines the types of topical drugs which can be used and eliminates a role for the board in determining what drugs can be used.

5. It defines the type of training which must be obtained before a license endorsement can be issued in contrast to the original Bill which required the board to issue regulations prescribing training.

6. It prohibits the practice of surgery by optometrists.

This draft Committee Substitute, in the view of the Department, is a definite improvement over the original Bill. The Department would still prefer to restrict the types of topical drugs which are authorized to diagnostic drugs.

Recommended by: _____

E. S. Rabeau, M.D.
Director
Division of Public Health

Date: _____

Approved by: _____

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: _____

Alaska State Legislature

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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
Wednesday, 22 February 1984

Agenda

Call to Order

Comments by Representative Tischer, Chairman

Consideration of HB 225, "An Act relating to the practice of optometry and authorizing the use of certain drugs by optometrists."

Comments by members

Announcements

Adjournment

Article 2. Licensing.

Section
170. License to practice medicine or osteopathy
180. Application for license
190. Contents of application
200. Qualifications of physician applicants
205. Qualifications for osteopath applicants
207. Qualifications for acupuncture applicants
209. Qualifications for podiatry applicants
210. Examination required
215. [Repealed]
220. Contents of examination and grading
225. Foreign medical graduates
230. License granted
240. License refused
250. Licensure by endorsement
255. Interview required
260. Re-examination
270. Temporary permits
272. Residency and internship
275. Temporary permit for locum tenens practice
280. Record of license
290. Examination fee
300 — 310. [Repealed]
311. Biennial license renewal
312. Continuing education requirements
313. Inactive license
315. Fees
320. Disposition of fees
325. Limits or conditions on license; discipline
330. Grounds for revocation of license
332. Automatic suspension for mental incompetency or insanity
334. Voluntary surrender
336. Duty of physicians to report
340. Statement of grounds of refusal or revocation of license
350. Certification of revocation

Collateral references. — 61 Am. Jur. 2d, Physicians, Surgeons and Other Healers. §§ 5, 19-23, 30-43.

70 C.J.S., Physicians and Surgeons, §§ 11-13.

Pardon as restoring public office or license or eligibility therefor. 58 ALR3d 1191.

Statute of limitations relating to medical malpractice actions as applicable to actions against unlicensed practitioner. 70 ALR3d 114.

Sec. 08.64.170. License to practice medicine or osteopathy. (a) A person may not practice medicine, podiatry, osteopathy or acupuncture in the state unless the person is licensed under this chapter, except that

(1) a physician assistant may examine, diagnose or treat persons under the supervision, control, and responsibility of either a physician licensed under this chapter or a physician exempted from licensure under AS 08.64.370;

(2) a physician-trained mobile intensive care paramedic may render emergency lifesaving service; and

(3) a person licensed under AS 08.36 may perform acupuncture in the regular practice of dentistry, subject to the regulations of the Board of Dental Examiners.

(b) Repealed by § 4 ch 101 SLA 1974.

(c) A chiropodist practicing in the state on May 16, 1972 is exempt from this section.

ment. The statement, together with the written decision of the board, shall remain of record in the department. (§ 35-3-89 ACLA 1949; am § 23 ch 77 SLA 1969)

Sec. 08.64.350. Certification of revocation. When a license is revoked, the fact of revocation shall be certified by the secretary of the board to the clerk of the superior court in the judicial district where the license is on file. The clerk shall endorse the fact of revocation and the date of revocation on the face of the license or a certified copy of it which is on file. The same information shall be noted in the registry book provided for in AS 08.64.280. (§ 35-3-94 ACLA 1949; am § 24 ch 77 SLA 1969)

Article 3. Unlawful Acts.

Section

360. Penalty for practicing without a license or in violation of chapter

Sec. 08.64.360. Penalty for practicing without a license or in violation of chapter. Except for a physician assistant and a physician-trained mobile intensive care paramedic under AS 08.64.170, a person practicing medicine or osteopathy in the state without obtaining and filing an appropriate license is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than $50 nor more than $100, or by imprisonment for not less than 10 days nor more than 90 days, or by both. Evidence that the defendant has failed to file a license with the clerk of the court is prima facie evidence that the defendant is not licensed. Each day of illegal practice is a separate offense. (§ 35-3-93 ACLA 1949; am § 25 ch 77 SLA 1969; am § 2 ch § SLA 1972; am § 11 ch 101 SLA 1974)

Collateral references. — Illegal practice of medicine under statute, ordinance or other measure involving chemical treatment of water supply. 43 ALR2d 453.

Hypnotism as illegal practice of medicine. 85 ALR2d 1128.

Single or isolated transaction as falling within provisions of licensing requirements. 93 ALR2d 129.

Practicing medicine, surgery, dentistry, optometry, podiatry, or other healing art without license as a separate or cocurring offense. 99 ALR2d 654.

Acupuncture as illegal practice of medicine. 72 ALR3d 1257.

Article 4. Miscellaneous Provisions.

Section

365. [Repealed]

366. Liability for services rendered by a physician-trained mobile intensive care paramedic

Section

367. Prescription or administration of laetrile by physicians

368. [Repealed]

Article 1. Board of Examiners in Optometry.

Section
10. Creation and purpose of board of examiners
20. Membership of board and terms of office
25. Removal of board members
30. Vacancies
40. Qualifications
50. Power of board to adopt regulations
60. Miscellaneous powers and duties of board
70—100. [Repealed]

Sec. 08.72.010. Creation and purpose of board of examiners. There is created the Board of Examiners in Optometry to regulate and control the practice of optometry and to protect and promote the public health, welfare, and safety. (§ 35-3-132 ACLA 1949; am § 2 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment added "to regulate and control the practice of optometry and to protect and promote the public health, welfare, and safety."

Sec. 08.72.020. Membership of board and terms of office. The board consists of five persons, appointed by the governor. Members serve staggered terms of four years. (§ 35-3-132 ACLA 1949; am § 23 ch 102 SLA 1976; am § 3 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "four" for "three" and deleted the former third sentence, which read: "The terms of the public members of the board shall be set so that they do not expire at the same time."

Sec. 08.72.025. Removal of board members. A member of the board may be removed from office by the governor for cause. The board may by regulation provide that unexcused absences from meetings constitute cause for removal. (§ 4 ch 75 SLA 1980)

Sec. 08.72.030. Vacancies. The governor shall fill vacancies on the board by appointment for the unexpired term. (§ 35-3-132 ACLA

Sec. 08.72.040. Qualifications. Four board members shall be licensed, practicing optometrists who have been residents for at three years. One board member shall be a public member. A who has served two successive complete terms may not be until four years from the expiration of the second term that served. (§ 35-3-132 ACLA 1949; am § 23 ch 102 SLA 1976; 75 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "Four" for "Three," and the materinl beginning, "One board member" and ending "term that he served" for the former second sentence, which read: "Two shall be have no direct health care industry."

Editor's note. — redrafted by the

remove personal pronou with AS 01.05.031(c) and SLA 1982.

Sec. 08.72.050. shall adopt rules a (1) necessary for (2) governing th (3) for the regis (4) necessary to (5) prescribing chapter must mee (§ 35-3-133 ACLA

Effect of amendm amendment added pa

Sec. 08.72.060 The board or a m administer oaths jurisdiction.

(b) The board (1) adopt a se (2) define pro duct.

(c) The board (1) elect a pr (2) order a li of the licensee' (d) Repealed (e) Repealed (f) Repealed (g). am § 3

...ve personal pronouns in conformity ... AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.72.050. Power of board to adopt regulations. The board shall adopt rules and regulations

(1) necessary for the proper performances of its duties;

(2) governing the applicants and applications for licensing;

(3) for the registration of optometrists;

(4) necessary to govern the practice of optometry;

(5) prescribing requirements which a person licensed under this chapter must meet to demonstrate continued professional competency. (§ 35-3-133 ACLA 1949; am § 6 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment added paragraph (5).

Sec. 08.72.060. Miscellaneous powers and duties of board. (a) The board or a member designated by the board, may issue subpoenas, administer oaths and take testimony concerning any matter within its jurisdiction.

(b) The board may

(1) adopt a seal;

(2) define professional conduct and adopt rules of professional conduct.

(c) The board shall

(1) elect a president and secretary from among its members;

(2) order a licensee to submit to a reasonable physical examination if the licensee's physical capacity to practice safely is at issue.

(d) Repealed by § 3 ch 59 SLA 1966.

(e) Repealed by § 23 ch 75 SLA 1980.

(f) Repealed by § 3 ch 59 SLA 1966. (§§ 35-3-133, 35-3-140 ACLA 1949; am § 3 ch 59 SLA 1966; am §§ 7, 8, 23 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote subsections (b) and (c), and repealed subsection (e), which read "The board may define professional conduct and adopt rules of professional conduct."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.72.070. Applicability of Administrative Procedure Act. Repealed by § 23 ch 75 SLA 1980.

Sec. 08.72.080. Compensation of board and secretary. Repealed by § 3 ch 59 SLA 1966.

Collateral references. — Right of corporation, or individual not himself licensed, to practice optometry through licensed employee. 102 ALR 343; 128 ALR 955.

One who fills prescription under reciprocal arrangement with optometrist, as subject to charge of practice of optometry without license. 121 ALR 1455.

Practicing medicine, surgery, dentistry, optometry, podiatry, or other healing arts without license as a separate or continuing offense. 99 ALR2d 654.

Sec. 08.72.115. Malpractice insurance.
Repealed by § 40 ch 117 SLA 1978.

Editor's notes. — The repealed section derived from § 24, ch. 102, SLA 1976.

As to purpose of repealing act, see § 1, ch. 177, SLA 1978 as amended by § 7, ch. 46, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Sec. 08.72.120. Registration. It is unlawful for a person to practice, or attempt, or offer to practice, optometry without first obtaining a certificate of registration from the board, and without filing the certificate with the clerk of the superior court in each judicial district in which the person practices. (§ 35-3-135 ACLA 1949)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.72.125. Registration of branch offices. (a) The board shall issue a branch office certificate of registration to an Alaskan licensee who maintains a full-time practice in the state but who serves other communities in the state on a part-time basis.

(b) It is unlawful for a person to practice, or to attempt or offer to practice, optometry in communities on a part-time basis without obtaining a branch office certificate of registration from the board, and without filing the certificate with the clerk of the superior court in each judicial district in which the person maintains a branch office.

(c) The board shall prescribe in the regulations the factors to be considered in issuing a branch office certificate of registration. (§ 2 ch 78 SLA 1969; am § 9 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "shall" for "may," and inserted "a branch office certificate of registration" in subsection (a).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.72.130. Optometry register. The clerk of the superior court in each judicial district shall keep a record known as the "Optometry Register" and record the certificate of registration of each optometrist who files a certificate. The clerk shall charge the regular filing fee for registration. When an optometrist dies, or when the

Sec. 08.72.230. Fees and disbursements. The department shall collect all fees and keep a record of each transaction, and shall remit to the Department of Revenue all money received. (§ 35-3-138 ACLA 1949; am § 12 ch 76 SLA 1969)

Sec. 08.72.240. Grounds for imposition of disciplinary sanctions. The board may impose disciplinary sanctions when the board finds after a hearing that a licensee

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

(3) advertised professional services in a false or misleading manner;

(4) has been convicted of a felony or other crime which affects the licensee's ability to continue to practice competently and safely;

(5) intentionally or negligently engaged in or permitted the performance of patient care by persons under the licensee's supervision which does not conform to minimum professional standards regardless of whether actual injury to the patient occurred;

(6) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) failure to keep informed of or use current professional theories or practices;

(C) addiction or severe dependency on alcohol or other drugs which impairs the licensee's ability to practice safely;

(D) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(9) failed to refer a patient to the appropriate health care practitioner after ascertaining the possible presence of ocular disease, (§ 35-3-140 ACLA 1949; am § 32 ch 177 SLA 1978; am § 17 ch 75 SLA 1980)

Effect of amendments. — The 1978 amendment added paragraph (4) of this section as it existed prior to the 1980 amendment.

The 1980 amendment rewrote the section.

Revisor's notes. — This section was renumbered by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 as amended by § 7, ch. 46, SLA 1978, in the 1982 Temporary and Special Acts and Resolves.

Sec. 08.72.250. Disciplinary sanctions. (a) When it finds that a licensee is guilty of an offense under AS 08.72.240, the board may impose the following sanctions singly or in combination:

Sec. 08.72.275. Lenses and frames for eyeglasses and sunglasses. (a) A person may not fabricate, distribute, sell, exchange, deliver or possess with intent to distribute, sell, exchange or deliver eyeglasses or sunglasses unless they are fitted with plastic lenses, laminated lenses, heat-treated glass lenses, or glass lenses made impact resistant by other methods. All plastic and heat-treated glass lenses, before they are mounted in frames, shall be capable of withstanding the impact of a five-eighths inch steel ball dropped on the lens from a height of 50 inches. The impact test shall be conducted at room temperature, with the lens supported by a plastic tube one inch inside diameter, one and one-fourth inch outside diameter, with a one-eighth inch by one-eighth inch neoprene gasket on the top edge.

(b) A person may not fabricate, distribute, sell, exchange, deliver or possess with intent to distribute, sell, exchange or deliver eyeglasses or sunglasses having frames manufactured from cellulose nitrate or other highly flammable materials.

(c) A person who violates this section is punishable by a fine of not less than $50 nor more than $100.

(d) A licensee may sell, exchange or deliver eyeglasses or sunglasses which do not meet the requirements of (a) of this section if the sale, exchange or delivery is authorized in a written request signed by the patient. (§ 1 ch 220 SLA 1968; am § 1 ch 48 SLA 1973; am § 20 ch 75 SLA 1980)

Effect of amendments. — The 1980 amendment added subsection (d).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 34, SLA 1982.

Sec. 08.72.280. Violations. A person may not falsely personate a registered optometrist, or buy, sell or fraudulently obtain a certificate of registration issued to another or advertise the practice of optometry in violation of rules of the board. Practicing or offering to practice optometry is sufficient evidence of a violation of this chapter. (§ 35-3-144 ACLA 1949)

Sec. 08.72.290. Penalty. A person who violates this chapter is guilty of a misdemeanor and is punishable by a fine of not less than $100 nor more than $500, or by imprisonment for a term of not less than 30 days nor more than 90 days, or by both. (§ 35-3-145 ACLA 1949)

Article 4. General Provisions.

Section
300. Definitions
310. Short title

Sec. 08.72.300. Definitions. As used in this chapter

(1) "board" means the Board of Examiners in Optometry;

(2) "optometry" is the examination, other than by the use of drugs, of the human eyes and the visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye, or the prescription or application of lenses, prisms or ocular exercises for the correction or relief of the human eye;

(3) "practicing optometry" is an examination, other than by the use of drugs, of the human eyes and visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye, or the prescription of lenses, prisms or ocular exercises for the correction or relief of the human eye, or the holding of oneself out as being able to do so;

(4) "lenses" means conventional or contact lenses;

(5) "recognized school or college of optometry" is one which is approved by the American Optometric Association or one of its committees;

(6) "department" means the Department of Commerce and Economic Development. (§ 35-3-131 ACLA 1949; am § 2 ch 95 SLA 1966; am § 13 ch 76 SLA 1969, am § 53 ch 218 SLA 1976; am §§ 21, 22 ch 73 SLA 1980)

Cross references. — For professional examination requirements for optometrists, see AS 08.02.010.

Effect of amendments. — The 1980 amendment rewrote paragraphs (2) and (3).

Sec. 08.72.310. Short title. This chapter may be cited as the Optometry Law. (§ 35-3-150 ACLA 1949)

Collateral references. — Optometry, what constitutes practice of. 88 ALR2d 1201.

Fitting of contact lenses as practice of optometry. 77 ALR3d 817.

Chapter 76. Pawnbrokers and Secondhand Dealers.

Sections

Transactions to be entered in book kept at place of business

Manner of recording entry

Section

30. Criminal liability

40. Disposition of unredeemed property

Josephson
5/10/83

Original sponsor: Josephson

IN THE SENATE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 189 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the practice of optometry and authorizing the use of diagnostic drugs by optometrists."

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

* Section 1. AS 08.72.020 is amended to read:

Sec. 08.72.020. MEMBERSHIP OF BOARD AND TERMS OF OFFICE. The board consists of six [FIVE] persons, appointed by the governor. Members serve staggered terms of four years.

* Sec. 2. AS 08.72.040 is amended to read:

Sec. 08.72.040. QUALIFICATIONS. Four board members shall be licensed, practicing optometrists who have been residents for at least three years. One board member shall be a public member with no interest, direct or indirect, in the practices of optometry, opticianry or medicine. One board member shall be a physician licensed in this state. A person who has served two successive complete terms may not be reappointed until four years from the expiration of the second term that the person served.

* Sec. 3. AS 08.72.050 is amended by adding a new paragraph to read:

(6) concerning the use of diagnostic drugs and the educational requirements for a license validation for their use.

* Sec. 4. AS 08.72.060(c) is amended by adding new paragraphs to read:

(3) with the advice and [guidance] consent of the state medical board, develop a list of specific diagnostic drugs and their dosages that may be used in the practice of optometry in this state by a

person licensed and registered by the board and with a license validation for the use of diagnostic drugs; and

(4) provide for continuing education, including an examination, for optometrists desiring to use diagnostic drugs.

* Sec. 5. AS 08.72.120 is amended by adding a new subsection to read:

(b) An optometrist may not be registered or certified to practice optometry in this state beyond the scope of the optometrist's training. The board of optometry shall determine the optometrist's qualifications.

* Sec. 6. AS 08.72 is amended by adding a new section to read:

Sec. 08.72.235. REFERRAL TO MEDICAL SPECIALIST. An optometrist who determines during the examination of a patient that a pathological condition may exist shall

(1) advise the patient of the possible condition; and

(2) refer the patient to an appropriate medical specialist for further evaluation.

* Sec. 7. AS 08.72.240 is amended by adding a new paragraph to read:

(10) has used the prefix "Dr." or "Doctor" before the licensee's name without using the word "optometrist" as a suffix to the licensee's name or in connection with it.

* Sec. 8. AS 08.72 is amended by adding a new section to read:

Sec. 08.72.257. DIAGNOSTIC DRUGS. (a) An optometrist registered and certified to practice in this state who desires to employ the use of diagnostic drugs shall

(1) submit to the board evidence of satisfactory completion of the educational requirements of the board for the use of diagnostic drugs; and

(2) pass an examination administered by the board.

(b) An optometrist seeking to be registered and certified to

practice in this state with a license validation for the use of diagnostic drugs shall

(1) submit to the board at the time of the licensing examination evidence of satisfactory completion of the board's educational requirements for the use of diagnostic drugs; and

(2) pass an examination administered by the board.

(c) Upon a determination that the applicant in (a) or (b) of this section has met the requirements for the use of diagnostic drugs, the board shall validate the license of the optometrist or successful applicant to allow the use of diagnostic drugs.

(d) An optometrist with a license validation for the use of diagnostic drugs shall undertake the continuing education requirements established under AS 08.72.060(4). Failure to fulfill the continuing education requirements shall be grounds for revocation of the license validation for the use of diagnostic drugs.

(e) An optometrist with a diagnostic drug validation may by written order or prescription sell, give away, barter, exchange, or distribute diagnostic drugs.

Orig. Amendment

* Sec. 10. AS 08.72.300(2) is amended to read:

(2) "optometry" is the examination, other than by the use of drugs, except diagnostic drugs, as limited by this Act, of the human eyes and the visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye, or the prescription or application of lenses, prisms or ocular exercises for the correction or relief of the human eye;

* Sec. 10. AS 08.72.300(3) is amended to read:

(3) "practicing optometry" is an examination, other than by the use of drugs, except diagnostic drugs, as limited by this Act. of the human eyes and visual system for the purpose of ascertaining a departure from the normal, ascertaining the status of the human visual system, including refractive and functional abilities, or ascertaining the presence of ocular disease and any other departure from the normal which requires referral to other health care practitioners; or the diagnosis of an optical deficiency or deformity, visual or muscular anomaly of the human eye, or the prescription of lenses, prisms or ocular exercises for the correction or relief of the human eye, or the holding of oneself out as being able to do so;

* Sec. 12. AS 08.72.300 is amended by adding a new paragraph to read:

(7) "diagnostic drug" means a cycloplegic, mydriatic or topical anesthetic that is listed in the official United States Pharmacopoeia, or official National Formulary, or in a supplement to either of them, and approved in accordance with AS 08.72.060(c)(3)

Sec. 9. AS 08.72.290 is repealed and reenacted to read:

Sec. 08.72.290. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN VIOLATION OF CHAPTER. A person practicing optometry in the state without a valid license or permit or who violates this chapter is guilty of a class B misdemeanor. Each day of illegal practice is a separate offense.

Sec. 13. AS 08.64 is amended by adding a new Sec. 08.64.108

Sec. 08.64.108. Regulation of diagnostic drugs as used in the practice of optometry. The board shall adopt regulations necessary to carry into effect the provisions of AS 08.72.060(c)(3).

WEST VIRGINIA BOARD OF OPTOMETRY

JOHN E. CASTO, O.D.
SECRETARY-TREASURER
WEST VIRGINIA BOARD OF OPTOMETRY
611 SIXTH AVE.
P.O. BOX 710
ST. ALBANS, W.VA. 25177

February 27, 1981

(Updated spring 1983, as shown below)

The Honorable Warren R. McGraw
President, Senate of West Virginia
State Capitol Building
Charleston, West Virginia 25305

The Honorable Clyde M. See, Jr.
Speaker, West Virginia House of Delegates
State Capitol Building
Charleston, West Virginia 25305

RE: Report on Enrolled H.B. 1005 of 1976

Dear President McGraw and Speaker See:

The purpose of this letter is to report to each of you and your respective bodies on the Enrolled H.B. 1005 enacted on February 20, 1976 by the Sixty-Second Session of the West Virginia legislature. As you may recall, this law updated the statutory definition of "optometry" to include, among other things, the limited use of drugs prescribable for the human eye for both diagnosis and treatment, under carefully prescribed certification authority delegated to the West Virginia Board of Optometry. This Board has endeavored continuously and faithfully to both certify and monitor the use of drugs by optometrists practicing under the registration of this Board.

Recent information compiled from the one hundred thirty-five ~~(135)~~ 153 West Virginia registered optometrists now certified by this Board for drug usage is as follows:

1. A total of seventy-two ~~(72)~~ 79 different drugs prescribable for the human eye have been employed by these West Virginia certified optometrists since the law was enacted.

2. Forty-seven thousand one hundred twenty-one ~~(47,121)~~ 100,000 individual patients have been seen by these optometrists and conditions such as infectious or allergic conjunctivitis, corneal abrasions and blepharitis (granulated eye lids) have been treated by those certified in the compilation.

3. The distance those patients, who otherwise would have had to travel to geographical locations other than those of the treating optometrists for treatment by ophthalmologists or appropriate medical specialists to whom they formerly were referred, would have had to travel would have required that over ~~620,000~~ 1,800,000 aggregate miles be traveled by the ~~47,121~~ 100,000 patients.

4. Fifty-two ~~(52)~~ 53 different pathological conditions have been diagnosed and treated by these West Virginia certified optometrists.

These ~~135~~ 153 West Virginia optometrists who have been certified in every county of the state are now, faithfully and well, providing updated eye health care benefits to the people of West Virginia.

It should be additionally noted that there has been no report to this Board of any adverse reaction in the diagnosis and treatment rendered to patients involved by any West Virginia certified optometrist.

Please be advised that this Board is quite aware of the full responsibility placed upon it by the legislature in the enactment of this Law, Enrolled H.B. 1005. This data was compiled in a continuing effort to support the trust which has been reposed in it. Each of you are encouraged to call upon this Board for any additional information which may be helpful.

Sincerely yours,

John E. Casto, O.D.

John E. Casto, O.D.
Secretary-Treasurer

JEC/scp

* Sec. 6. AS 08.72 is amended by adding a new section to read:

Sec. 08.72.305. Legend drugs permitted. A licensee holding a certificate issued under AS 08.72.277 may employ or prescribe only those legend drugs specified under the following classifications:

(a) Topical anesthetics

(1) Benoxinate

(2) Proparacaine

(b) Anti-infectives

(1) Bacitracin

(2) Chloramphenicol

(3) Erythromycin

(4) Gentamycin

(5) Polymixin B

(6) Sulfacetamide

(7) Tetracycline

(8) Tobramycin

(c) Anti-glaucoma agents

(1) Acetazolamide

(2) Epinephrine

(3) Pilocarpine

(4) Timolol

(d) Antihistamines

(1) Antazoline

(2) Pyrilamine

(e) Anti-inflammatory agents

(1) Dexamethasone

(2) Flurometha lone

(3) Hydrocortisone

(4) Prednisolone

(f) Antivirals

(1) Idoxuridine

(2) Trifluridine

(3) Vidarabine

(g) Decongestants

(1) Naphazoline

(h) Hyperosmotics

(1) Sodium Chloride 2%, 5%

(2) Glycerin

(i) Mydriatic/Cycloplegics

(1) Cyclopentolate

(2) Homatropine

(3) Phenylephrine 2.5%

(4) Tropicamide

Note: This replaces section 6 in the proposed committee substitute previously submitted and in the original bill. The original section 6 will not be needed if the new medical practice act (Senate CS for Bill 169) is enacted.

Anesthetics	Benoxinate	Fluress	0.4%
	Proparacaine	Ophthaine	0.5%
Antiglaucoma	Acetazolamide	Diamox	250 mg.
	Glycerin	Osmoglyn	50%
	Pilocarpine	Isoptocarpine	1,2,& 4%
	Timolol	Timoptic	0.25 & 0.50%
Antihistamines	Antazoline	Vasocon	1%
Anti-infectives	Sulfacetamide	Isoptocetamide	15%
	Gentamicin	Garamycin	0.3%
	Chloramphenicol	Chloroptic	1%
	Tobramycin	Tobrex	0.3%
	Tetracyline	Achromycin	1%
	Erythromycin	Ilotycin	5 mg/3.5g
	Zinc sulfate	Zincfrin	0.25%
-(Combinations)	Sulfacetamide/Prednisolone	Blephamide	10%/0.2%
	Polymyxin B/Bacatracin	Polysporin	10000/500 units
- Antivirals	IDU	Stoxil	0.5%
	Vidarabine	Vira A	3%
	Trifluridine	Viroptic	1%
- Antifungals	Natamycin	Natacyn	5%
Artificial Tears	Mucomimetics	Hypotears	
	Ointments	Lacrilube	
Corticosteroids	Prednisolone	Pred Forte	1%
	Fluoromethalone	FML	0.1%
	Dexamethasone	Decadron	0.1%
	Hydrocortisone	Hytone	0.5%, 1%
Decongestants	Naphazoline	Vasoclear	0.02%
	Phenylephrine	Prefin	0.12%
-Combination	Naphazoline/Zinc Sulfate	Vasoclear-A	0.02%/0.25%
Dyes	Sodium Fluorescin	Barnes Hind Sterile Strips	0.6 mg.
	Rose Bengal	" " "	1%
Hyperosmotics	Sodium Chloride	Adsorbonac	2, 5%
	" " Oint.	Muro #128	5%
Irrigations	Buffered Solution	Dacriose	0.9%
	" Saline	Eye Stream	0.9%
Mydriatic/Cycloplegias	Cyclopentolate	Cyclogyl	0.5, 1 & 2%
	Homatropine	Isoptohomatropine	2 & 5%
	Tropicamide	Mydriacyl	0.5 & 1%
	Phenylephrine	Neosynephrine	2.5%
	Hydroxyamphetamine	Paradrine	1%

PENNSYLVANIA COLLEGE OF OPTOMETRY 1919

1200 West Godfrey Avenue
Philadelphia, Pa. 19141
215 424 5900

Office of Academic Affairs

Pennsylvania College of Optometry

The Eye Institute
1201 West Spencer Street
Philadelphia, Pa. 19141
215 276 6000

March 3, 1981

Phillip W. Bach, O.D., Ph.D.
Suite 204
Denali Professional Center
3401 Denali Street
Anchorage, Alaska 99503

Dear Doctor Bach:

In response to your request I have formulated a list of pharmaceutical agents which may be helpful in preparing your legislation. The current graduating class from the Pennsylvania College of Optometry has developed competency in utilizing pharmaceutical agents in the various catagories and classifications listed below.

Currently the students at the College develop a theoretical knowledge of these pharmaceutical agents through various didactic courses, and expertise in the clinical utilization of these drugs through a variety of clinical experiences. These clinical experiences occur in various settings such as The Eye Institute of the Pennsylvania College of Optometry, Veterans Administration Medical Centers, Health Maintenance Organizations, Armed Forces Hospitals, and private practice settings.

A major emphasis of the curriculum at the College is the differential diagnosis of ocular diseases and systemic diseases with ocular complications. We feel the critical step in the management of ocular and visual disorders is the specific differential diagnosis. The application of pharmaceutical agents is simply one of the competencies necessary in the continuum of the diagnosis and management of ocular diseases.

Listed below are the major classifications and catagories of pharmaceutical agents commonly utilized in the patient care setting of the College. Examples are given of different drugs in each catagory. This is not to be interpreted that other drugs within these catagories are not utilized when specifically needed, based on the professional judgements of the clinician.

I. Topical Anesthetics
   Example: Proparacaine
   Benoxinate

II. Mydriatics
   A. Sympathomimetics
      Example: Phenylephrine
   B. Parasympatholytics
      Example: Atropine group

III. Cycloplegics
   A. Parasympatholytics
      Examples: Atropine group
      Cyclopentolate

IV. Miotics
   A. Examples: Pilocarpine
      Anticholinesterases

V. Antimicrobials
   A. Antibioltics
      Examples: Tetracycline
      Erythromycin
      Gentamicin
      Chloramphenicol
      Bacitracin
      Cephalosporins
   B. Antibacterial
      Example: Sulfonamides
   C. Antiviral
      Example: Idoxuridine
   D. Antifungal
      Example: Natamycin

VI. Anti-inflammatory
   Example: Corticosteroids

VII. Anti-glaucomma
   A. Sympathomimetics
      Example: Epinephrine
   B. Sympatholytic
      Example: Timolol Maleate
   C. Parasympathomimetics
      Examples: Pilocarpine
      Anticholinesterases
   D. Carbonic Anhydrase Inhibitors
      Example: Acetazolamide

VIII. Antihistamines
Examples: Diphenhydramine
Antazoline

IX. Miscellaneous Legend Drugs
Example: Hyperosmotic Agents

X. Over-the-counter Drugs
Example: Dyes
Ocular Lubricants
Decongestants

I hope this list is of some help to you in constructing your new legislation. The Pennsylvania College of Optometry stands prepared to assist you educationally in meeting the visual care needs of the people of Alaska.

Sincerely,

Thomas L. Lewis, O.D., Ph.D.
Dean of Academic Affairs

TLL:dmf

Nancy Dietrick at Senate HE&S says DRAFT CS won't be ready for 2 hours - I saw the draft before it was cleared out of legal services. The bill is quite a bit different than the 225, I'd say schedule AGAIN or wait for CSSB 189 (if it gets out of Senate).

Has Dr Rabkin had
input into the Senate Sub
n do you know.

He wrote the position papers, but
I don't know what he's done on
the CS - I think it comes out of
comm. tee - Doubt he's been too
involved, but don't know for sure.

SPECIFIC LEGISLATION: 32 States

The list (and dates of enactment) of the 32 states with current legislation specifically authorizing optometrists to utilize pharmaceutical agents is as follows:

STATE	DATE OF ENACTMENT
Rhode Island	July 16, 1971
Pennsylvania	March 1, 1974
Tennessee	May 8, 1975
Oregon	May 20, 1975
Maine	June 24, 1975
Louisiana	July 6, 1975
Delaware	July 10, 1975
West Virginia*	March 4, 1976
California	July 9, 1976
Wyoming	February 17, 1977
New Mexico	March 4, 1977
Montana	April 12, 1977 (at 10:10 a.m.)
Kansas	April 12, 1977 (at 2:00 p.m.)
North Carolina*	June 3, 1977
Kentucky	March 29, 1978
Wisconsin	April 29, 1978
Nebraska	February 13, 1979
South Dakota	March 15, 1979
Utah	March 21, 1979
North Dakota	March 22, 1979
Arkansas	April 2, 1979
Nevada	May 25, 1979
Iowa	June 8, 1979
Georgia	February 14, 1980
Arizona	April 25, 1980
Idaho	March 23, 1981
Oklahoma	April 6, 1981
Washington	April 2[illegible] 1981
Missouri	July [illegible] 1981
Minnesota	March [illegible] 1982
Mississippi	March 17, 1982
Virginia	February 25, 1983

*both diagnostic and therapeutic use

NOTE: None of these laws has ever been repealed. However, a July 30, 1982 opinion of the Texas state attorney general has rendered that state's unusual provision (an amendment to the medical practice act), which was enacted on August 5, 1981, inoperative.

SOURCE: Dennis Swarner O.D & Robert O'Connell, O.D.

GENERAL LEGISLATION: 4 states

There are four states which authorize the use of pharmaceutical agents by optometrists by extant general law or favorable attorney general opinion:

Alabama	(diagnostic use)
Florida	(diagnostic and therapeutic use)
Indiana	(diagnostic use)
New Jersey	(diagnostic use)

NOTE: In addition, in Michigan, while there is no statutory prohibition of the use of pharmaceutical agents by optometrists, there is a negative opinion of the state attorney general.

For your information we are including an updated map showing, geographically, the utilization of pharmaceutical agents by optometrists.

Note: Section 39, chapter 842, Oregon Laws 1977, is operative July 1, 1986, and provides:

Sec. 39. ORS 683.010, 683.020, 683.030, 683.035, 683.040, 683.050, 683.060, 683.070, 683.080, 683.100, 683.110, 683.120, 683.130, 683.140, 683.155, 683.170, 683.180, 683.190, 683.210, 683.250, 683.260, 683.270, 683.275, 683.280, 683.290 and 683.990 relating to optometrists are repealed.

GENERAL PROVISIONS

683.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Oregon Board of Optometry.

(2) "Practice of optometry" means the employment of any means other than the use of drugs, except diagnostic agents, topically applied, known generically as cycloplegics, mydriatics, topical anesthetics, dyes such as fluorescein, and, for emergency use only, miotics, for the measurement or assistance of the powers or range of human vision or the determination of the accommodative and refractive states of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the aid thereof, subject to the limitations of ORS 683.040.

(3) "Trial frames" or "test lenses" means any frame or lens used in testing the eye which is not sold and not for sale. [Amended by 1971 c.102 §1; 1975 c.175 §1]

683.020 Certificate of registration required to practice optometry. No person shall engage in the practice of optometry or display a sign or in any other way advertise or hold himself out as an optometrist without having first obtained a certificate of registration from the board as provided for in this chapter. In any prosecution for the violation of this section, the use of test cards, test lenses or of trial frames is prima facie evidence of the practice of optometry. [Amended by 1971 c.102 §2]

683.030 Persons and practices not affected. This chapter shall not be construed to prevent any person duly licensed to practice medicine and surgery from treating or fitting glasses to the human eye, nor to prohibit the sale of complete ready-to-wear eye glasses as merchandise from a permanent place of business in good faith and not in evasion of this chapter by any person not holding himself out as competent to examine and prescribe for the human eye.

683.035 Discrimination against optometrists prohibited. No official, board, commission or other agency of the state or of any of its political subdivisions or municipalities shall discriminate between duly licensed optometrists and any other person authorized by law to render professional services which a duly licensed optometrist may render, when such services are required. Such services shall be paid for in the same manner and under the same standards as similar professional services. [1963 c.121 §1]

LICENSING

683.040 Qualifications of applicants. (1) Every person desiring to commence the practice of optometry in this state must show by satisfactory evidence that he is of good moral character and has graduated from a school of optometry which is recognized and approved by the board and which maintains a standard of four school years of at least nine months each.

(2) Every person desiring to commence the practice of optometry after January 1, 1976, or employ the use of diagnostic agents shall in addition to the requirements of subsection (1) of this section have satisfactorily completed a course in pharmacology, as it applies to optometry, by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the National Commission on Accrediting or the United States Commissioner of Education, with particular emphasis on the topical application of diagnostic agents to the eye for the purpose of examination of the human eye and the analysis of ocular functions, approved by the Oregon Board of Optometry. [Amended by 1971 c.102 §3; 1975 c.175 §2]

683.050 Persons licensed in another state. In lieu of the educational requirements of ORS 683.040, it shall be deemed equivalent if an applicant submits satisfactory proof to the board that he:

(1) Has passed an examination in optometry before a state board of examiners in another state of the United States and that the certificate granted in token thereof is then in force; and

(2) Was actually engaged in the practice of optometry in such state for the full period of three years subsequent thereto.

E. E. BACH, O.D.
PHILLIP W. BACH, O.D., PH.D.
OPTOMETRY
SUITE 204 DENALI PROFESSIONAL CENTER
3401 DENALI STREET
ANCHORAGE, ALASKA 99503

HB225

November 30, 1982

The Honorable Mae M. Tischer
Alaska State House of Representatives
3305 Oregon Drive
Anchorage, Alaska 99503

Dear Representative Tischer:

Alaska's doctors of optometry (O.D.) are preparing to introduce legislation that will allow qualified Alaskan ODs to use prescription drugs in the treatment of infections, allergic inflammations and minor injuries of the eyes not requiring the services of a specialist. Many such conditions are treated by general practitioners, who have minimal training in this area (see attached article on ophthalmology training in medical schools). However the optometrist, who is considerably better qualified by training, experience and instrumentation than a general practitioner, must refer his patient to an MD (usually an ophthalmologist), at additional expense to the patient. We hav estimated, based on the experience of West Virginia (report to the West Virginia Legislature attached), that the elimination of extra visits would save Alaskans $235,000. in the first 3 years, not counting travel and lost time.

A majority of Alaska's ODs have recently completed a 120 hour course of postgraduate education and training in ocular therapy. A copy of the course outline and prospectus are attached. While 120 hours (and an equal amount of home study) is extensive for working practitioners, it should be considered only against a background of 4000 hours of professional training, much of it in the background medical sciences (copy of Pennsylvania College of Optometry curriculum attached). The combination provides a medical background equaling or exceeding dentistry (dental curriculum attached. Basic medical sciences in both curricula highlighted). Dentists, like physicians, have unrestricted drug prescribing privileges, though in practice they limit themselves to drugs appropriate to their field.

Drug legislation in more restricted form was originally introduced in 1978, when it passed the House. However ophthalmologists, who oppose the bill, have been able to tie it up in one committee or another since that time, despite a two thirds favorable majority in each house. If passage is further delayed, the skills gained or sharpened in this training will begin to deteriorate and problems of "grandfathering" may arise.

We will present further backup information at hearing. In the meantime, please feel free to contact me if you need any additional information.

Very truly yours,

Phillip W. Bach

Phillip W. Bach, O.D., Ph.D.
Legislative Chairman
Alaska Optometric Association

PWB/lr

1
8 attachments
(W. Va. report to follow)

E. E. BACH, O.D.
PHILLIP W. BACH, O.D., PH.D.
OPTOMETRY
SUITE 204 DENALI PROFESSIONAL CENTER
3401 DENALI STREET
ANCHORAGE, ALASKA 99503

January 14, 1983

The Honorable Mae M. Tischer
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

The attached report of the West Virginia Board of Optometry to the West Virginia Legislature was cited as an attachment in my November 30 letter to you concerning the forthcoming optometric drug bill. Please include this material with that letter and let me know if you should need a copy of the letter or its attachments.

Respectfully yours,

Phillip W. Bach

Phillip W. Bach, O.D.
Legislative Chairman
Alaska Optometric Association

PWB/lr

Attachment

WEST VIRGINIA BOARD OF OPTOMETRY

JOHN E. CASTO, O.D.
SECRETARY-TREASURER
WEST VIRGINIA BOARD OF OPTOMETRY
611 SIXTH AVE.
P.O. BOX 710
ST. ALBANS, W.VA. 25177

February 27, 1981

The Honorable Warren R. McGraw
President, Senate of West Virginia
State Capitol Building
Charleston, West Virginia 25305

The Honorable Clyde M. See, Jr.
Speaker, West Virginia House of Delegates
State Capitol Building
Charleston, West Virginia 25305

RE: Report on Enrolled H.B. 1005 of 1976

Dear President McGraw and Speaker See:

The purpose of this letter is to report to each of you and your respective bodies on the Enrolled H.B. 1005 enacted on February 20, 1976 by the Sixty-Second Session of the West Virginia legislature. As you may recall, this law updated the statutory definition of "optometry" to include, among other things, the limited use of drugs prescribable for the human eye for both diagnosis and treatment, under carefully prescribed certification authority delegated to the West Virginia Board of Optometry. This Board has endeavored continuously and faithfully to both certify and monitor the use of drugs by optometrists practicing under the registration of this Board.

Recent information compiled from the one hundred thirty-five (135) West Virginia registered optometrists now certified by this Board for drug usage is as follows:

1. A total of seventy-two (72) different drugs prescribable for the human eye have been employed by these West Virginia certified optometrists since the law was enacted.

2. Forty-seven thousand one hundred twenty-one (47,121) individual patients have been seen by these optometrists and conditions such as infectious or allergic conjunctivitis, corneal abrasions and blepharitis (granulated eye lids) have been treated by those certified in the compilation.

3. The distance those patients, who otherwise would have had to travel to geographical locations other than those of the treating optometrists for treatment by ophthalmologists or appropriate medical specialists to whom they formerly were referred, would have had to travel would have required that over 620,000 aggregate miles be traveled by the 47, 121 patients.

4. Fifty-two (52) different pathological conditions have been diagnosed and treated by these West Virginia certified optometrists.

These 135 West Virginia optometrists who have been certified in every county of the state are now, faithfully and well, providing updated eye health care benefits to the people of West Virginia.

It should be additionally noted that there has been no report to this Board of any adverse reaction in the diagnosis and treatment rendered to patients involved by any West Virginia certified optometrist.

Please be advised that this Board is quite aware of the full responsibility placed upon it by the legislature in the enactment of this Law, Enrolled H.B. 1005. This data was compiled in a continuing effort to support the trust which has been reposed in it. Each of you are encouraged to call upon this Board for any additional information which may be helpful.

Sincerely yours,

John E. Casto, O.D.

John E. Casto, O.D.
Secretary-Treasurer

JEC/scp

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: Feb. 24, 1984

REQUEST
Bill/Resolution No.: CSHB 225
Title: "An Act relating to optometrist & use of drugs"
Sponsor: H.E.S.S. Comm.
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Darrell Miller (Darrell Miller) Phone: 465-2535
Division: Occupational Licensing Date: Feb. 24, 1984

Approved by Commissioner: Richard A. Lyon Date: 2/28/84
Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

OPHTHALMIC ASSOCIATES
A PROFESSIONAL CORPORATION

KENNETH T. RICHARDSON, M.D., F.A.C.S.
EDWARD E. CROUCH, M.D.

AHARON STERNBERG, O.D., F.A.A.O.

January 26, 1984



Representative May Tisher
State Capitol
Pouch V
Juneau, AK 99811

Dear Representative Tisher:

I would like to take this opportunity to voice my opposition to House Bill 225 which is due to appear before your committee. This bill is designed to allow optometrists the use of prescription medications for diagnosis and treatment of eye disorders.

Without taking too much of your time I would like to state that I feel this is likely inappropriate for various reasons. One, when freedom to prescribe medications to patients is given to a paramedical personnel, generally it is tied to a supervisory provision in which the provider is suppose to be under the auspices of someone in the medical profession. This, while being admirable in its intent, is impossible in its application. Having recently arrived to Alaska from North Carolina, which happened to have been the second state in the Union to allow optometrists use of medications, I was able to observe such a bill in action for a period of time. In general I do not feel that this right was abused by the optometrist, but in point of fact, there is no way to supervise such usage of medications and pharmacists seem uniformly willing to fill any prescription from an optometrist and provide absolutely no policing effort themselves. Two, once a group of medications is approved for use, a whole new spectrum of medications are available for use in that the medicines tend to be grouped together under certain general headings by the Food and Drug Administration. While I feel it is probably desirable to have optometrists free to use topical anesthetics and diagnostic pupillary agents to aid in the examination of patients, it is essentially impossible to restrict their use of medications to only these agents. If it were possible, I would feel that this is a favorable approach to take to broadening their health care.

A further point would be one to defend my view point. It seems many people hold the view that opposition to such a measure comes from a competitive basis from the medical profession and not one with the patients' true concern at heart. I would like to

542 WEST SECOND AVENUE ANCHORAGE, ALASKA 99501-2242 Telephone 907/276-1617

emphasize that whether or not the bill is passed will have little or no impact on the type of practice any of the ophtnalmologists in the community have. Rather it provides a greater freedom for patient misuse than a loosening of any trade restrictions imposed by present regulations.

Please give thoughtful consideration to the bill when it is presented with these points in mind.

Sincerely,

Edward E. Crouch, M.D.

EEC:lp

A responding letter went out 4/29/83

COOK INLET NATIVE ASSOCIATION

670 West Fireweed Lane
Anchorage, Alaska 99503
(907) 278-4641

APR 2 = 1983

April 21, 1983

Prepresentative Mae Tischer
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

Senate Bill #189 and House Bill #225 should be applicable in the practice of Optometry only in remote areas where medical personnel (M.D./D.O.) are not available. In Anchorage for example, medical personnel are available to treat patients with eye disorders.

On the other hand, Optometrists should be permitted to use such medications as necessary in examining eyes, measuring errors in refraction and prescribing glasses to correct these defects.

Sincerely,

Dr. Kenneth Y. E. Chang, M.D.

tll

HB

230

COMMITTEE REPORT

HOUSE

LABOR & COMMERCE

((7)

FURTHER:

2/28/83

Date: _____

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 230

An Act relating to licensing and regulation of the practice of medicine.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 230 [ ] same title [✓] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [✓] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

STAFF REPORT

HB 230 LICENSING AND PRACTICE OF MEDICINE

MARCH 18, 1983

SB 164

Dave Palmer, HHESS

08.64.010 Sec. 1. Changes area of residency of the board of medical examiners from separate judicial districts to different geographical areas.

08.64.020 Sec. 2. Provides that member's terms are staggered. Restrains reappointment after 2 successive terms.

08.64.040 Sec. 3. Allows board to adopt rules to remove members who do not attend meetings.

08.64.085 Sec. 4. No chang...specifies meeting times and duties.

08.64.170. Sec. 5. Licens to practice medicine or osteopathy is required.

08.64.240 Sec. 6. Reworded version of existing section. Allows board to refuse license for same reasons as it may impose disciplinary sanctions.

08.64.250 Sec. 7. Changes licensure by "endorsement" to "credentials", following nationally recoginzed language. Adds podiatry, which is a practice already covered by statute, but was omitted from certain sections like this one.

08.64.270 Sec. 8. Adds reference to AS 08.64.209 (podiatrists).

08.64.311 Sec. 9. Fees are changed from biennial to four years after date of issue.

08.64.315 Sec. 10. New fees are established. These are consistent with other licensing fees within the division of occupational licensing.

08.64.325 Sec. 11. Grounds for imposition of disciplinary sanctions. Criteria for sanctions are defined. Proposed bill is more specific than current law. Reference to the Administrative Procedure Act (AS 44.62) is deleted.

08.64.330 Sec. 12. Disciplinary sanctions. Sanctions are specified, expanded, and defined in much greater detail than in current law.

Staff report, HB 230
HHESS palmer

08.64.360 Penalty for practicing without a license or in violation of the chapter. Specifies class B misdemeanor for persons practicing without a license.

08.64.380 (2) Sec. 14. practice of medicine is redefined.

Section 15. Statutes are repealed regarding substitution for members on the board (030), payment of per diem (110), annual report to the governor (200[1]), moral character (200[1]), and abortions (380[3]).

Amendments to the bill have been proposed that will add a chief investigator assigned to the Board and an executive director for the board. Investigators currently work under the auspices of the Division of Occupational Licensing, and investigate all issues within the division' jurisdiction. One investigative position, although authorized, has been cut due to the 5% reduction in the governor's budget.

OK on the investigator
Nix on the Exec Dir.

Labor & Commerce

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

For an Act entitled: "An Act relating to the regulation of the practice of medicine."

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

* Section 1. AS 08.01.050 is amended by adding a new subsection to read:

(c) The department shall employ an individual who is not a member of the board to be assigned, as a primary duty, to be the investigator for the board. The State Medical Board (AS 08.64.010) shall approve the employment of the investigator. The investigator shall

(1) conduct investigations into alleged violations of AS 08.64, and into alleged violations of regulations and orders of the State Medical Board;

(2) at the request of the State Medical Board, conduct investigations based on complaints filed with the department or with the board; and

(3) be directly responsible and accountable to the State Medical Board, except that only the department has authority to terminate his employment.

* Sec. 5. AS 08.64 is amended by adding new sections to read:

Sec. 08.64.075. EXECUTIVE DIRECTOR OF THE BOARD.

With approval of the board, the department shall employ an individual who is not a member of the board to serve as the executive officer of the board. The executive director is in the partially exempt service under AS 39.25.120. The executive director shall

(1) perform the administrative duties required by the department, by the board, and by this chapter;

(2) carry out regulations and policies of the board; and

(3) assist the board in conducting continuing education programs and examinations of applicants for licenses.

Introduced: 2/28/83
Referred: Health, Education & Social Services and Labor & Commerce

Sec 1 & Sec 5
8 L&C

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 230

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to licensing and regulation of the practice of medicine."

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

* Section 1. AS 08.64.010 is amended to read:

Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD. The governor shall appoint a board of medical examiners, to be known as the State Medical Board, consisting of five [LICENSED] physicians licensed in the state [, RESIDING IN AS MANY SEPARATE ALASKA JUDICIAL DISTRICTS AS POSSIBLE,] and two persons with no direct financial interest in the health care industry. To the extent possible each physician member must reside in a geographical area of the state that is different from that of every other physician member.

* Sec. 2. AS 08.64.020 is amended to read:

Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members shall be appointed for staggered terms [A TERM] of four years, subject to confirmation by a majority of the members of the legislature in joint session, and shall hold office until their successors are appointed and qualified. A person who has served two successive complete terms may not be reappointed until four years after the expiration of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

* Sec. 3. AS 08.64.040 is amended to read:

Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a member of the board for cause. The board may by regulation provide

that unexcused absences from meetings are cause for removal.

* Sec. 4. AS 08.64 is amended by adding new sections to read:

Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall meet at least four times a year.

Sec. 08.64.101. DUTIES. The board shall

(1) examine and issue licenses to applicants;

(2) submit an annual report of its proceedings to the governor, including a statement of money received and disbursed;

(3) after a hearing, impose disciplinary sanctions on persons who violate this chapter, or the regulations or orders of the board;

(4) adopt regulations insuring that renewal of licenses is contingent upon proof of continued competency on the part of the licensee.

* Sec. 5. AS 08.64.170 is amended to read:

Sec. 08.64.170. LICENSE TO PRACTICE MEDICINE OR OSTEOPATHY. (a) A person may not practice medicine, podiatry, osteopathy or acupuncture in the state unless the person is licensed under this chapter, except that

(1) a physician assistant may examine, diagnose or treat persons under the supervision, control, and responsibility of either a physician licensed under this chapter or a physician (Board) exempted from licensing [LICENSURE] under AS 08.64.370;

(2) a physician trained mobile intensive care paramedic may render emergency lifesaving service; [AND]

(3) a person licensed under AS 08.36 (DENTISTRY) may perform acupuncture in the regular practice of dentistry, subject to the regulations of the Board of Dental Examiners; and

(4) a person who is licensed or authorized under another

chapter of this title may engage in a practice which is authorized under that chapter.

* Sec. 6. AS 08.64.240 is repealed and reenacted to read:

Sec. 08.64.240. LICENSE REFUSED. (a) The board shall refuse to grant a license if

(1) the applicant fails or cheats during the examination;

(2) the board determines that the applicant is professionally unfit to practice medicine or osteopathy in the state; or

(3) the applicant fails to comply with a requirement of this chapter.

(b) The board may refuse to grant a license to any applicant for the same reasons that it may impose disciplinary sanctions under AS 08.64.325.

* Sec. 7. AS 08.64.250 is amended to read:

Sec. 08.64.250. LICENSURE BY CREDENTIALS [ENDORSEMENT]. The board may waive the examination requirement and license by credentials [ENDORSEMENT] if the physician or podiatry applicant meets the requirements of AS 08.64.200 or 08.64.209, submits proof of continued competence as required by regulation, pays the required fee and has

(1) an active license from a board of medical examiners established under the laws of a state or territory of the United States or a province of Canada issued after thorough examination; or

(2) passed an examination given by the National Board of Medical Examiners or the Federation of State Medical Boards of the United States if the applicant is a physician, or has passed an examination given by the National Board of Podiatry Examiners if the applicant is a podiatrist.

* Sec. 8. AS 08.64.270(a) is amended to read:

(a) The board may issue a temporary permit to an applicant who

qualify for physicians qual for osteopath Podiatrist

meets the requirements of AS 08.64.200, [OR] 08.64.205, or 08.64.209 and pays the required fee.

* Sec. 9. AS 08.64.311 is amended to read:

Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be renewed four years after the date of issue [BIENNIALLY].

* Sec. 10. AS 08.64.315 is amended to read:

Sec. 08.64.315. FEES. The following fees are imposed under this chapter:

(1) application	$ 50	[$ 25]
(2) license by examination	200	[125]
(3) license by credentials [ENDORSEMENT] or waiver of examination	200	[100]
(4) temporary permit	50	[25]
(5) locum tenens permit	50	[25]
(6) license renewal [, BIENNIAL], active	600	[100]
(7) license renewal [, BIENNIAL], inactive	200	[25]
(8) license by reexamination	150	[75]

* Sec. 11. AS 08.64.325 is repealed and reenacted to read:

COPY

Sec. 08.64.325. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS. (a) The board may impose a sanction if the board finds after a hearing that a licensee

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation while providing professional services or engaging in professional activities;

(3) advertised professional services in a false or

misleading manner;

(4) has been convicted, including conviction based on a guilty plea or plea of nolo contendere, of (A) a felony or other crime if the felony or other crime is substantially related to the qualifications, functions, or duties of the licensee; or (B) a crime involving the unlawful procurement, sale, prescription or dispensing of drugs;

(5) has procured, sold, prescribed or dispensed drugs in violation of any law, regardless of whether there has been a criminal action;

(6) intentionally or negligently permitted the performance of patient care by persons under the licensee's supervision which does not conform to minimum professional standards even if the patient was not injured;

(7) failed to comply with this chapter, a regulation adopted under this chapter, or with an order of the board;

(8) has demonstrated

(A) professional incompetence, gross negligence, or repeated negligent conduct;

(B) addiction to, severe dependency on, or habitual overuse of alcohol or other drugs which impairs the licensee's ability to practice safely;

(C) unfitness because of physical or mental disability;

(9) engaged in unprofessional conduct or in lewd or immoral conduct in connection with the delivery of professional services to patients;

(10) has violated AS 18.16.010;

(11) has violated any code of ethics adopted by regulation

by the board;

(12) has denied care or treatment to a patient or person seeking assistance from the physician if the only reason for the denial is the failure or refusal of the patient to agree to arbitrate as provided in AS 09.55.535(a); ARBITRATION of dispute.

(13) has had a license or certificate to practice medicine in another state, a territory of the United States, or a province of Canada suspended or revoked unless the suspension or revocation was caused by the failure of the licensee to pay fees to that state, territory, or province.

If one holds this in another state can he pay fees here + practice

(b) In any case involving (a)(13) of this section, the final findings of fact, conclusions of law, and order of the authority which suspended or revoked a license or certificate constitute a prima facie case (1) that the license or certificate was suspended or revoked and (2) of the grounds under which the suspension or revocation was granted.

COPY

* Sec. 12. AS 08.64.330 is repealed and reenacted to read:

Sec. 08.64.330. DISCIPLINARY SANCTIONS. (a) If the board finds that a licensee has committed an act set out in AS 08.64.325(a), the board may COPY

(1) permanently revoke a license to practice;

(2) suspend a license for a determinate period of time;

(3) censure a licensee;

(4) issue a letter of reprimand;

(5) place a licensee on probationary status and require the licensee to

(A) report regularly to the board on matters involving the basis of probation;

(B) limit practice to those areas prescribed;

(C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;

(6) impose limitations or conditions on the practice of a licensee; or

(7) impose one or more of the sanctions set out in (1) -- (6) of this subsection.

(b) The board may end the probation of a licensee if it finds that the deficiencies which required this sanction have been remedied.

(c) The board may summarily suspend a license before final hearing or during the appeal process if the board finds that the licensee poses a clear and immediate danger to the public health and safety if he or she continues to practice. A person whose license is suspended under this section is entitled to a hearing by the board no later than seven days after the effective date of the order. After a hearing, the person may appeal the suspension to a court of competent jurisdiction.

(d) The board may reinstate a license which has been suspended or revoked if the board finds after a hearing that the applicant is able to practice with reasonable skill and safety.

How is this determined - what criterion

(e) A license may be suspended upon receipt of a certified copy of evidence that the licensee's license to practice medicine in another state or a territory of the United States or a province of Canada has been suspended or revoked. The suspension remains in effect until a hearing can be held by the board.

(f) The board shall be consistent in the application of disciplinary sanctions. A significant departure from earlier decisions of the board involving similar situations must be explained in findings of fact or orders made by the board.

* Sec. 13. AS 08.64.360 is amended to read:

Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a physician-trained mobile intensive care paramedic under AS 08.64.170, and a person licensed or authorized under another chapter of this title who engages in practices for which that person is licensed or authorized under that chapter, a person practicing medicine or osteopathy in the state without a valid [OBTAINING AND FILING AN APPROPRIATE] license or permit is guilty of a class B misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN $50 NOR MORE THAN $100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90 DAYS, OR BY BOTH]. Evidence that the defendant has failed to file a license with the clerk of the court is prima facie evidence that the defendant is not licensed. Each day of illegal practice is a separate offense.

Sec. 14. AS 08.64.380(2) is repealed and reenacted to read:

(2) "practice of medicine" or "practice of osteopathy" means:

(A) for a fee, donation, or other consideration, to diagnose, treat, operate on, prescribe for, or administer to any human ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition; or to attempt to perform or represent that a person is authorized to perform any of the acts set out in this subparagraph;

(B) to use or publicly display a title in connection with a person's name including "doctor of medicine," "M.D.," "doctor of osteopathic medicine," "D.O.," or a specialist designation including "surgeon," "dermatologist," or any title which tends to show that the person is willing or qualified to diagnose

or treat the sick or injured; perdiem ANNUAL REPORT TO GOV. GOOD MORAL character

* Sec. 15. AS 08.64.030, 08.64.110, 08.64.140, 03.64.200(1), and 08.64.380(3) are repealed.

"unprofessional conduct" violation to 08.16.010

2 ABORTIONS

STAFF REPORT

HB 230, LICENSING AND PRACTICE OF MEDICINE

MARCH 18, 1983

Dave Palmer, HHESS

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Staff report, HB 230
HHESS palmer

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Labor & Commerce

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

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(3) assist the board in conducting continuing education programs and examinations of applicants for licenses.

FISCAL IMPACT (Medical Practices Act)

100 PERSONAL SERVICES - FY '82 salary schedule

1 Executive Officer, Range 18, Gen. Govt., 12 mos.	$43,471.00

200 TRAVEL

Executive Officer	
4 Board meetings (3 days @ $80 per/per diem	$ 960.00
1 Out-of-State meeting (per diem)	240.00
4 Board meetings - transportation	1,300.00
Out-of-State	800.00
	$ 3,300.00

300 CONTRACTUAL

Postage, telephone, printing, publication and operating cost	$ 3,000.00
Computer terminal use, prorated share @ $[illegible]0.00 per month	4,200.00

400 COMMODITIES -0-

500 EQUIPMENT (One time cost FY '84 only)

1 desk, double pedestal, 60 x 30 ($426.92 ea.)	$ 426.92
1 chair, exec. swivel with arms ($202.43 ea.)	202.43
1 typewriter, IBM Selectric II ($1,129.08)	1,129.08
1 typewriter table ($94.12)	94.12
1 chair, side, without arms ($104.19 ea.)	104.19
1 desk calculator ($331.51 ea.)	331.51
1 recorder, Lanier ($705.34 ea)	705.34
1 book case ($137.71 ea)	137.71
1 file cabinet, 4 drawer, legal w/lock ($305.65 ea.)	305.65
POSITION TOTAL	$ 3,436.95

600 LAND & STRUCTURES

1 positions = 150 sq. ft. x $1.50 x 12 x 1 =	$ 1,350.00
One POSITION TOTAL	$58,757.95

A PERFORMANCE REVIEW OF THE ALASKA STATE MEDICAL BOARD

July 30, 1982

Audit Control Number
08-112-0082-R

Commissioner, Department of Commerce and Economic Development	Charles R. Webber
Deputy Commissioner, Department of Commerce and Economic Development	Edward Eboch

Members of the
Alaska State Medical Board

Chairman	Jeffrey A. Partnow, M.D.
Secretary	Donald R. Rooney, M.D.
Member	Hugh Gellert
Member	George R. Brenneman, M.D.
Member	Thomas Kinsella
Member	George E. Rhyneer, M.D.
Member	T.L. Conley, M.D.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

August 18, 1982

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REVIEW OF THE
ALASKA STATE MEDICAL BOARD

July 30, 1982

Gerald L. Wilkerson

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of AS 24.20.271(1) and AS 44.66.050 (sunset legislation), a review of the Alaska State Medical Board was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Alaska State Medical Board should be reestablished. The law currently specifies that this Board will terminate on June 30, 1983, but will continue until June 30, 1984, for the purpose of concluding its affairs.

Scope

The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint, and affirmative action functions. Our review consisted of analyzing and evaluating the following:

1. Applicable statutes and Board regulations;
2. tests of records and documents of the Board and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development;
3. interviews with OL employees;
4. complaints filed with OL, the Ombudsman's Office, and the Equal Employment Opportunity Office; and,
5. interviews with Board members.

ORGANIZATION AND FUNCTION

The State Medical Board is a regulatory board with 7 members: 5 licensed physicians, and 2 public members with no direct financial interest in the health care industry. It is preferable that the licensed physicians reside in as many separate Alaska judicial districts as possible.

The function of the Board is to determine the minimum quality of medical care by:

1. Examining and issuing licenses to qualified applicants.

2. Establishing or amending rules and regulations necessary and desirable to enforce the statutes of the State.

3. Holding hearings in order to revoke, annul, or suspend the license of a person violating the medical statutes and regulations.

The Board regulates the following groups engaged in medical practice in Alaska: physicians, steopaths, physician assistants (PA's), podiatrists, and acupuncturists. Most licensing requirements are established by statute. However, statutes have granted power to waive some requirements in favor of conditions concerning special licenses--those by endorsement, those for temporary licensure up to 8 months or until the Board meets to consider the application, whichever occurs first, and a temporary locum tenens permit which is valid for 120 consecutive days.

An applicant for registration as a medical practitioner must have passed an examination given by the National Board of Medical Examiners or the Federation of State Medical Boards of the United States. An oral interview is also administered by a member of the Board. Foreign medical graduates who are graduated from medical colleges not recognized by the American Medical Association or one of its agencies must be certified by the Educational Council of Foreign Medical Graduates or be licensed by examination in another state or territory of the United States or a province in Canada.

Licensure by a temporary permit allows a practitioner the opportunity to practice medicine when all other requirements are met. It is renewable only once.

REPORT CONCLUSIONS

In our opinion, the State Medical Board should be reestablished. The practices of medicine, osteopathy, and acupuncture by physicians, osteopaths, physician assistants, paramedics, and podiatrists is regulated by the Alaska State Medical Board. Because these occupations affect the public's health, safety, and welfare, in our opinion they should be subject to regulations and controls. Establishing minimum educational and experience requirements provided reasonable assurance to the public that licensees are qualified. In addition, active investigation of complaints from the public and other practitioners ensures that licensees continue to practice in a competent manner.

In our opinion, these functions are needed for the protection of the public. Although we believe the Medical Board has effectively accomplished these functions, we are making a recommendation which we believe is needed in order for the State Medical Board to more effectively serve the Alaska public.

We recommend legislative consideration be given to statutory change which would (1) define unprofessional conduct or practices, (2) require hospitals to notify the Medical Board when a practitioner is deemed a potential danger to the public, and (3) change the composition of the Board to represent all persons regulated (see Recommendation No. 1).

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

Legislative consideration should be given to regulatory changes concerning the disciplinary process and the composition of the Board.

The 1978 audit recommended the establishment of regulations to ensure consumer complaints receive an impartial examination on the basis of merit. CSSB 237 delineated the grounds for imposition of disciplinary sanctions and disciplinary actions to be imposed. These grounds included unprofessional business practices as well as malpractice. This bill did not pass, and we recommend that it be reintroduced to the Legislature.

In addition, we believe statutory changes in the following areas would benefit the public:

A. Hospitals should be required to notify the State Medical Board when a practitioner's hospital privileges are refused or restricted because that person is a real or potential danger to the public. If hospitals were to report such actions, the Medical Board could initiate an investigation to determine if a questionable practioner should retain his or her license.

B. The Board should adequately represent those persons it regulates. The Board regulates 689 physicians, 73 physician assistants, 53 paramedics, and 10 podiatrists. The Board is currently composed of 5 physicians and 2 public members. Allowing participation of all occupations regulated by the Board would ensure that one occupational group does not promote its interests over the interests of an unrepresented occupational group.

AUDITOR'S COMMENTS

The illness of one of the Division's three full-time investigators resulted in minimal investigative effort for the State Medical Board during the last year as the Division could not replace him until his resignation of June 2, 1982. The Division hired an investigator to fill this position as of June 28, 1982.

As a result of this situation, investigative effort was not sufficient to provide adequate public protection.

Once the unit is fully operational, we believe a management analysis would be in order to determine if additional resources are needed to help reduce the backlog of 44 cases, 17 of which are priority I (life threatening).

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative attainments as Board activities relate to the public need factors defined in the "Sunset" law. These analyses are not intended to be comprehensive in nature, but address those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission or program has operated in the public interest.

A. The following demonstrate the Board's performance in the public's best interest:

1. The board has held an average of 4 meetings a year in various locations in Alaska.

2. The Board provided an examination twice a year for candidates.

3. Since 1978, the Board has established regulations for continuing Medical Education, Physician Assistants, and Paramedics.

B. The following conditions and activities existed which could not be demonstrated to be in the public's best interest:

1. There has been no examination of complaints by consumers because AS 08.64.380 does not specify unethical economic or business practices as unprofessional conduct (see Recommendation No. 1).

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource and personnel matters.

A. The following enhanced the performance of the Medical Board.

1. The Board received funding and support from OL in the amount of $108,704 (see Appendix A).

2. The Board received assistance in drafting legislation and regulatory changes from OL.

3. The Board receives legal assistance from the Attorney General's Office.

4. The Board receives cooperation from the Department of Health and Social Services in licensing paramedics as a result of a Memorandum of Agreement between the two agencies.

B. The following practices have impeded the Board's performance:

1. The Division of Occupational Licensing (OL) has not been able to provide the necessary investigative effort required by AS 08.01.050(19); and the Board has not been able to provide regulations covering unethical or improper actions on the part of licensees (see Auditor's Comments).

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

A. The following statutory changes were recommended by the Board:

1. The Board has recommended and strongly supported passage of CSSB 237 delineating grounds for imposition of disciplinary sanctions and sanctions to be imposed among other changes to the Medical Practices Act.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

A. Encouragement of persons to report to the Board is demonstrated by the following:

1. The placement of advertisements requesting input on proposed regulation changes.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

A. The Board's meetings and examinations are advertised in newspapers by OL to encourage public

participation. In one case, OL had not placed an advertisement for an examination.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

A. The Office of the Ombudsman and the Attorney General's Office has no consumer complaints regarding the Alaska State Medical Board.

B. There is no provision for consumer complaints in AS 08.64 (see Recommendation No. 1).

VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

A. The following demonstrate the Board's performance in presenting qualified applicants, and ensuring their continued competence:

1. The Board has issued 349 licenses, temporary permits, locum tenens permits, physician assistant authorizations, and paramedic authorizations since July 1981.

2. The Board has demonstrated a liberal policy of licensing by endorsing physicians from other states.

3. The Board requires foreign Medical Graduates to have qualifications equivalent to other applicants. This is evidenced by the requirement of the FLEX exam and of completed internship or residency. Note that the requirement of an internship or residency makes it impossible for any medical school graduate to come directly to Alaska upon graduation, since there are no internship or residency programs in Alaska.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

A. According to the State Equal Employment Opportunity Office, applications require

unnecessary information such as an applicant's date and place of birth, weight, height, social security number, and sex. However, the Board believes this information is needed to facilitate its background investigations for licensure.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

A. The Division of Legislative Audit has recommended a review of the following statutes for possible revision:

1. A statutory change for AS 08.64.010 should be considered to allow all occupations regulated by the Board to be represented on the Board (see Recommendation No. 1).

2. A statutory change for AS 08.64.336 should be considered to require hospitals to report to the Medical Board when a practitioner's hospital privileges are refused or restricted because that person poses a danger to the public (see Recommendation No. 1).

B. The Division of Legislative Audit has recommended that the Medical Board consider regulations to protect the public in the following areas:

1. Regulations are needed to make actions on the part of licensed persons, which are unethical, improper, and not in the best interest of the welfare of the public violations of the licensing act (see Recommendation No. 1).

APPENDIXES

APPENDIX A

ALASKA STATE MEDICAL BOARD
REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

Average Revenue (Schedule 1 and Note 1)		$ 49,502
Expenditures (Note 2)		
Direct Expenditures	$14,050	
Indirect Expenditures	94,654	
Total Expenditures		108,704
Excess of Revenues Over Expenditures		$(59,202)

Schedule 1
Types of Revenues

Revenues	Amount		Collection Time
Application Fee		$ 25	With Application
Examination Fee		125	With Application
Endorsement Fee		100	With Application
Temporary Permits		25	With Application
Locum Tenens Permits		25	With Application
Renewal, Active		100	Biennially
Renewal, Inactive		25	Biennially
Reexamination Fee:			
Part I	$15		With Application
Part II	20		With Reapplication
Part III	40	75	With Reapplication
Parts I and II by Individual Subject		10	With Reapplication
Physician Assistant:			
Authorization Fee		25	With Application
Renewal Fee		25	Biennially
Paramedic:			
Authorization Fee		50	With Application
Renewal Fee		50	Biennially

Note 1

Most of the medical revenues are composed of renewal registration fees. These fees are collected once every two years and cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average of the revenues collected in fiscal years 1980 and 1981 in order to obtain an accurate representation of collected revenues.

Note 2

Direct expenditures include Board travel and those expenditures shown for the Board in the Division's accounts. Indirect expenditures are an allocated percentage of the administrative expenses of OL and an allocated percentage of the investigative expenses of OL. They do not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board and OL.

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RECEIVED
OCT 04 1982
LEGISLATIVE
AUDIT

September 29, 1982

Gerald Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

Dear Mr. Wilkerson:

Thank you for your recent letter, as well as the copy of the "Preliminary Audit Report". In accordance with a telephone report from Patricia Harms of your Division, I have had copies made and forwarded them to the other Board members as well as to the Division of Occupational Licensure. I have informed those who will be receiving copies that the report is confidential and not for public release.

My comments are as follows (please refer to the cited page of the audit):

Page 2: The Board also regulates mobile intensive care paramedics in addition to those professions listed. This omission is obviously an oversight since the audit recognizes (page 7, pgh 4) the Memorandum of Agreement between the Board and Department of Health and Social Services dealing with this group.

Page 4: Recommendation #1 - I agree wholeheartedly with the recommendation as stated. As I have previously indicated to the Auditors, I have some reservations relating to adequate representation of those persons it regulates. In order to obtain proportional representation, the size of the Board would have to be large, clearly resulting in "large group inefficiencies". I would be absolutely opposed to any legislation depriving us of our public members or any dilution of the medical expertise which the Board needs in dealing with disciplinary and licensing matters. In priciple, I would like to see "non-M.D. professional representation" on the Board provided that the Board does not become large and unwieldy, and I would suggest that the best way to accomplish this would be a statutory change adding one additional position to the Board to be chosen from amongst the other regulated groups in whatever manner the governor deems appropriate. I do not feel that the Board has short-shrifted any of the non-physician groups which it currently regulates, however, and such a change may be simply solving a problem which does not exist. Currently, the Board makes use of the Alaskan Academy of Physician Assistants, as well as representatives of the Paramedics and Podiatrists in dealing with licensure and regulation of these groups.

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

continuation Page 4 -
I am personally unaware of any changes in regulations or licensing which the Board has made over the past four years, in the absence of consultation and advice of the affected group.

As regarding the remainder of the recommendation, I enthusiastically applaud the Auditor's endorsement of CSSB 237. The Board has requested that this be reintroduced into the next legislative session (Board resolution September 10, 1982 at a meeting in Nome), and this has been done. In addition to the features of the Bill which are mentioned, the Bill also creates a position of Executive Officer for the Board (certainly not a precedent - the Board of Nursing, Real Estate Examiners, etc. already have Executive Officers). The Board feels this will "keep the ball rolling" between meetings, improve the efficiency of staff support, and allow for better tracking of our various legislative concerns. Further, by establishing the position of an investigator responsible primarily to the Board, we feel that the investigative deficiencies to which the Audit refers (page 5) can be abolished.

Finally, the Board members feel that statutory change to require hospitals to notify the Board in case of serious credentialling action which would help the Board become aware of potential problems before they become actual problems.

Page 7, pgh B. The Board has not been able to provide regulations covering unethical or improper actions on the part of licensees, feeling that this is essentially an impossible task. A number of national professional groups have attempted to formulate a formal code of ethics in the past, most notably the American Medical Association, but these have been almost universally abandoned. Although the Legislature has apparently granted to the Board the power to adopt in regulation a code of ethics, AS08.64.380.G, I suspect that it would prove difficult if not impossible to formulate a comprehensive ethical code.

In summary, I feel that the "Preliminary Audit Report" is fair and accurate. With the reservations expressed above, I agree with the recommendation enclosed in the report. I feel that the report accurately reflects the public spirited efforts of the Board and its various members, and I feel that Ms. Harms and Mr. Busch have done a commendable job in identifying the problems against which the Board has to struggle in order to accomplish its goals and objectives.

As only one of two "leftovers" from the first audit of the Board several years ago, I am personally appreciative of the time and consideration which the auditors spent in order to provide a fair and accurate assessment of the Board's status.

RE: Performance Review of
the Alaska State Medical
Board, July 31, 1982

As Chairman, I feel that I speak for the Board in saying that I appreciate both the final result and the effort which went into the report.

Sincerely,

Jeffrey A. Partnow, M.D., Chairman
Alaska State Medical Board

JAP/co

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

October 13, 1982

RECEIVED
OCT 14 1982
LEGISLATIVE AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary Performance Review of the Alaska State Medical Board. The Department of Commerce and Economic Development agrees with your finding that the Medical Board has been operating in the public interest and should be continued.

The department concurs with your recommendations that an equivalent to the former CSSB 237 be introduced in the 1983 legislative session and that hospitals be required to notify the Medical Board when a practitioner's hospital privileges have been refused or restricted due to the practitioner's actual or potential danger to the public.

The department does not feel that the composition of the board should be changed at this time. Liability for the authorization of physician assistants and paramedics to practice lies soley with their collaborating physicians. There are only ten podiatrists licensed by the board, of which only four presently reside in Alaska. A member from this profession on the board does not appear to be necessary.

Lastly, we are in basic agreement with the auditor's comments on page 5 of the report. The investigative unit is presently fully staffed, and complaints are being handled in an expeditious manner. As of June 30, 1982, 21 cases were reported as pending. During a recent board meeting (September 9-10, 1982) 15 were closed. There are presently six active cases, none are priority one. In this regard, we would like to comment on the choice of the word "backlog" to describe those cases which are presently under investigation. We believe that the term "backlog" may be misleading to the extent that it implies that no investigative action has been taken on a case. All complaints presently filed with the Division of Occupational Licensing are being actively investigated and their status is more correctly described as "active." A single case may remain open for an extended period of time and receive substantial attention because of its complexity and would be considered an "active" case rather than a "backlog" case in our terminology.

08-H2LH

The above comments notwithstanding, the department concurs with the basic recommendation that closer management analysis is appropriate here to determine whether additional investigative support is necessary.

Thank you again for the opportunity to comment on your findings.

Sincerely,

Charles R. Webber
Commissioner

CRW/mc1/8

(13) failing, barring unforeseen conditions, to properly prepare, according to generally accepted procedures, all antlers, horn, hides and capes to be delivered to the taxidermist or to the client at the conclusion of a hunt in a satisfactory and unspoiled condition;

(14) failing to endeavor to salvage all meats of trophies taken by his client, in accordance with existing state law;

(15) promoting hunting or the taking of trophies by means other than fair chase: specifically, the pursuit of a trophy in an illegal or unsportsmanlike manner, by herding, driving or chasing of animals with the use of any mechanically powered equipment;

(16) failing to practice sound wildlife conservation or failing to create an awareness of conservation needs and practices during his associations with the public. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.040(6)
AS 08.54.050

12 AAC 38.190. DEFINITIONS. Unless otherwise indicated, in this chapter

(1) "competence" means a professional standard of conduct which satisfactorily implements, under field conditions, the knowledge and qualifications of a guide;

(2) transport means shipping, carrying, importing, exporting, or receiving or delivering for shipment, carriage or export;

(3) "board" means the Alaska Guide Licensing and Control Board. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

CHAPTER 40.
STATE MEDICAL BOARD

Article
1. Licensing (12 AAC 40.010–12 AAC 40.050)
2. Abortions (12 AAC 40.060–12 AAC 40.140)
3. Continuing Medical Education (12 AAC 40.200–12 AAC 40.220)
4. Mobile Intensive Care Paramedics (12 AAC 40.300–12 AAC 40.390)
5. Physician Assistants (12 AAC 40.400–12 AAC 40.490)
6. General Provisions (12 AAC 40.970–12 AAC 40.990)

ARTICLE 1.
LICENSING

Section
10. License by endorsement
20. License by examination
30. Re-examination fees
40. Recognized hospital
50. Biographical data required

12 AAC 40.010. LICENSE BY ENDORSEMENT. An applicant for license by endorsement shall submit evidence satisfactory to the board that he has passed an examination in the medical and basic science subjects. (Eff. 12/20/70, Reg. 36)

Authority: AS 08.64.250

12 AAC 40.020. LICENSE BY EXAMINATION. (a) The written examination will be the FLEX examination administered in Alaska.

(b) The oral examination required under AS 08.64.220 will be given in conjunction with the written examination.

(c) An applicant for license by examination must attain a FLEX weighted average of not less than 75 percent on his examination. (Eff. 12/20/70, Reg. 36; am 8/29/73, Reg. 47)

Authority: AS 08.64.100
AS 08.64.220

12 AAC 40.030. RE-EXAMINATION FEES. The following fees will be charged for re-examination where applicable:

(1) Part I $15
(2) Part II 20
(3) Part III 40
(4) Part I and II by individual subject 10

(Eff. 12/20/70, Reg. 36)
Authority: AS 08.64.260

12 AAC 40.040. RECOGNIZED HOSPITAL. For the purpose of AS 08.64.200(3) a recognized hospital is one which has been approved for internship or residency training by the Council on Medical Education of the American Medical Association or the Canadian Medical Association. (Eff. 12/20/70, Reg. 36)
Authority: AS 08.64.100
AS 08.64.200

12 AAC 40.050. BIOGRAPHICAL DATA REQUIRED. (a) The department will request biographical data from the Amercian Medical Association on each applicant for licensure by examination or endorsement, and no application will be considered complete until the form entitled "Biographical Data on Physicians" is on file.

(b) The department will request data from the United States Department of Justice, Bureau of Narcotics and Dangerous Drugs, on each applicant for licensure by examination or endorsement, and no application will be considered complete until the report is on file. (Eff. 8/29/73, Reg. 47)
Authority: AS 08.64.190

ARTICLE 2.
ABORTIONS.

Section
60. Termination of pregnancy
70. Informed consent
80. Medical procedures
90. Evaluation
100. Consultation requirements
110. Abortion procedures
120. Standards for hospitals and facilities
130. Records
140. Limitation

12 AAC 40.060. TERMINATION OF PREGNANCY. Termination of pregnancy must be requested by the pregnant woman, unless she has been adjudged mentally incompetent or is unmarried and under 18 years of age, in which case the request must be made by her parent or guardian. (Eff. 12/20/70, Reg. 36; am 8/29/73, Reg. 47)
Authority: AS 11.15.060(a)(3)
AS 08.64.105

12 AAC 40.070. INFORMED CONSENT. Unless otherwise provided in 12 AAC 40.060, a written informed consent shall be obtained from the patient or from any other person whose consent is required before termination of a pregnancy. Such written informed consent shall be on the patient's chart. The patient and other persons whose consent is required shall be advised of the medical implications and the possible emotional and physical sequelae of the procedure. (Eff. 12/20/70, Reg. 36; am 8/29/73, Reg. 47)
Authority: AS 08.64.105

12 AAC 40.080. MEDICAL PROCEDURES. The patient shall be examined by a physician licensed in Alaska, and a written record of the patient's physical and emotional health shall be prepared before performing an abortion procedure as set out in 12 AAC 40.110. (Eff. 12/20/70. Reg. 36; am 8/29/73, Reg. 47)
Authority: AS 08.64.105

12 AAC 40.090. EVALUATION. The attending physician shall make an evaluation of the patient and an estimation of the duration of gestation based upon the patient's history, examination and test results. This information shall be recorded on the patient's chart. (Eff. 12/20/70, Reg. 36)
Authority: AS 08.64.105

12 AAC 40.100. CONSULTATION REQUIREMENTS. Abortions interrupting a pregnancy up to and including the twelfth week of gestation may be performed without consultation. Abortions performed after the twelfth week of gestation shall be preceded by consultation with another physician. The consultation shall include an opinion as to the preferred method of termination of pregnancy. (Eff. 12/20/70, Reg. 36; am 8/29/73, Reg. 47)
Authority: AS 08.64.105

12 AAC 40.110. ABORTION PROCEDURES. During the second or third trimester of a

pregnancy, acceptable procedures include dilatation and curettage, suction aspiration of the uterus, injection of pharmacological agents, hysterectomy and hysterotomy. The exact procedure to be used will depend upon the patient's total health, age, associated disease and pathology, and anomalies such as skeletal defects and other medical indications. (Eff. 12/20/70, Reg. 36; am 8/29/73, Reg. 47)

Authority: AS 08.64.105

12 AAC 40.120. STANDARDS FOR HOSPITALS AND FACILITIES. (a) During the second or third trimester of a pregnancy, abortions shall be performed under sterile conditions. A bed and a registered nurse shall be available for a minimum recovery period of one-half hour. A registered nurse shall be present during the procedure.

(b) During the second or third trimester of a pregnancy, blood, blood derivatives, blood substitutes or plasma expanders shall be immediately available when an abortion is performed, and an operating room appropriately staffed and equipped for major surgery in accordance with regulations adopted under AS 18.20.060 shall be immediately available. (Eff. 12/20/70, Reg. 36; am 8/29/73, Reg. 47)

Authority: AS 08.64.105

12 AAC 40.130. RECORDS. During the second or third trimester of a pregnancy, the attending physician shall record a medical history, findings of the physical examination, operative report of the abortion procedure and pathology report as part of the clinical record to be maintained by the hospital or facility. The physician and hospital or facility shall treat the patient's identity and medical record as confidential information. (Eff. 12/20/70, Reg. 36; am 8/29/73, Reg. 47)

Authority: AS 08.64.105

12 AAC 40.140. LIMITATION. A fetus which has not developed beyond 150 days after the first day of the last menstrual period may be considered non-viable for purposes of AS 11.15.060(a). In the performance of an abortion after that date, the physician shall be guided by a reasonable judgment as to whether the fetus is viable in fact. (Eff. 12/20/70, Reg. 36; am 8/29/73, Reg. 47)

Authority: AS 11.15.060(a)
AS 08.64.105

ARTICLE 3.
CONTINUING MEDICAL EDUCATION

Section
200. General requirements
210. Credit hours
220. Certification of compliance

Editor's Note: For new location of the substance of former 12 AAC 40.160, see 12 AAC 40.990.

12 AAC 40.200. GENERAL REQUIREMENTS. (a) A physician seeking renewal of a license on or after January 1, 1986 shall obtain an average of 17 credit hours of continuing medical education during each year of the previous license period.

(b) If a licensee fails to meet continuing medical education requirements due to illness or other extenuating circumstances, the board will, in its discretion, grant an extension of time in compliance with AS 08.64.312(c). The board will consider each case on an individual basis. (Eff. 10/8/81, Reg. 80)

Authority: AS 08.64.100
AS 08.64.312(b)

12 AAC 40.210. CREDIT HOURS. (a) Except as provided in (b) of this section, a licensee may meet the continuing medical education requirements set out in 12 AAC 40.200(a) only by obtaining credit hours in a Category I continuing medical education program accredited by the American Medical Association.

(b) The board will accept the following as the equivalent of the credit hours required under 12 AAC 40.200(a):

(1) a current physician's recognition award from the American Medical Association, American Podiatry Association, American Osteopathy Association, or a recognized subspecialty board; or

(2) a current recertification by a specialty board recognized by the American Medical Association. (Eff. 10/8/81, Reg. 80)

Authority: AS 08.64.100
AS 08.64.312(b)

12 AAC 40.220. CERTIFICATION OF COMPLIANCE. (a) A licensee shall submit, upon a form supplied by the board, a sworn affidavit of compliance with the continuing medical education requirement at the time the licensee applies for license renewal.

(b) The board will, in its discretion, require a licensee to submit additional evidence of compliance with the continuing medical education requirement. The licensee shall maintain evidence of compliance. (Eff. 10/8/81, Reg. 80)

Authority: AS 08.64.100
AS 08.64.312(b)

ARTICLE 4.
MOBILE INTENSIVE CARE PARAMEDICS

Section
300. Application for license
310. Qualification for license
320. Approved curriculum
330. Persons currently practicing as mobile intensive care paramedics
340. License issuance and expiration
350. Renewal of license
360. Grounds for suspension, revocation or refusal to issue a license
370. Scope of authorized activities
380. Prohibited acts
390. Identification

12 AAC 40.300. APPLICATION FOR LICENSE. (a) An applicant for a license as a mobile intensive care paramedic shall apply in writing to the board.

(b) The application will be provided by the board and must contain the name, age, mailing and geographical address (if different), the time spent in study, the place, year and school from which the degrees or certificates were granted, evidence that the applicant meets the requirements of 12 AAC 40.310, and any other information the board considers necessary.

(c) The application must be made under oath before a person empowered by AS 09.65.010 to administer oaths and must be signed by the sponsor physician. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.310. QUALIFICATION FOR LICENSE. An applicant for license as a mobile intensive care paramedic must

(1) be 19 years of age or older;

(2) be a high school graduate;

(3) be of acceptable moral character;

(4) be currently certified as an emergency medical technician by the National Registry of Emergency Medical Technicians or the Alaska Department of Public Safety or the Alaska Department of Health and Social Services;

(5) be under the supervision of a sponsor physician approved by the board;

(6) have successfully completed an approved curriculum under 12 AAC 40.320;

(7) have satisfactorily completed a six-month internship as a mobile intensive care paramedic;

(8) pass the written and practical examination for emergency medical technician-paramedic administered by the National Registry of Emergency Medical Technicians, or an examination approved by the board;

(9) submit a nonrefundable license application fee in the amount of $50. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.320. APPROVED CURRICULUM. (a) The approved curriculum for license as a mobile intensive care paramedic is the U.S. Department of Transportation National Training Course Emergency Medical Technician Paramedic, 1977, or an equivalent program approved by the board.

(b) The curriculum must prepare the mobile intensive care paramedic to demonstrate the skills established by the National Academy of Sciences/National Research Council Task Force on Emergency Medical Technicians, Standards

for Emergency Medical Technician-Paramedic Performance, 1977.

(c) The training program must be under the direction of a physician licensed in the state where the training takes place. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.330. PERSONS CURRENTLY PRACTICING AS MOBILE INTENSIVE CARE PARAMEDICS. A mobile intensive care paramedic practicing in this state under the supervision of a board-approved sponsor physician upon January 13, 1980, will be issued a license without examination if application is made within 180 days after January 13, 1980. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.340. LICENSE ISSUANCE AND EXPIRATION. Upon documentation of successful completion of the requirements of this chapter, a license will be issued by the department to an applicant to practice as a mobile intensive care paramedic. A license expires biennially on a date set by the department. A license must be renewed under 12 AAC 40.350. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.350. RENEWAL OF LICENSE. (a) Upon receipt of written application by a licensee, the board will renew the license for two years if

(1) the licensee submits satisfactory evidence of completion of continuing medical education consisting of not less than 30 classroom hours and 30 clinical hours for each year he has practiced as a licensed mobile intensive care paramedic;

(2) the licensee submits to the board a written recommendation as to his fitness to practice as a mobile intensive care paramedic made by the applicant's sponsor physician; and

(3) payment of a nonrefundable license renewal fee of $50 is received.

(b) When a license cannot be renewed under (a) of this section, the licensee must resubmit an initial application under 12 AAC 40.300 – 12 AAC 40.310.

(c) The board will, in its discretion, exempt a mobile intensive care paramedic from the requirements of (a)(1) of this section upon application giving evidence satisfactory to the board that he or she has been unable to comply with the requirements because of extenuating circumstances. No person will be exempted from more than 60 hours of continuing education in a four-year period. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.360. GROUNDS FOR SUSPENSION, REVOCATION OR REFUSAL TO ISSUE A LICENSE. The board, after compliance with the Administrative Procedure Act (AS 44.62), will, in its discretion, revoke, suspend, or refuse to issue a license for

(1) fraud or deceit in obtaining a license required by this chapter;

(2) habitual abuse of alcoholic beverages or depressants, or illegal use of hallucinogenic or stimulant drugs as defined by AS 17.12.150(3) or the use of narcotic drugs as defined by AS 17.10.230(13);

(3) violation of the Controlled Substances Act (PL 91-513; 84 Stat. 1242) or any other federal law pertaining to medical practice and drugs;

(4) gross misconduct by a licensee in the performance of his or her duties as a mobile intensive care paramedic which tends to endanger life or limb;

(5) practice beyond the scope authorized by the sponsor physician. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.370. SCOPE OF AUTHORIZED ACTIVITIES. (a) A licensed mobile intensive care paramedic, when under the supervision of a sponsor physician, may perform the activities listed in this subsection. The direct supervision of these activities may be delegated when caring for a patient in a hospital under the direct supervision of a physician, or at the scene of a medical emergency when voice contact is monitored by a physician and direct communication is maintained, on the order of the physician, or when under the specific standing order of a physician. The activities are

(1) performing cardiopulmonary resuscitation and defibrillation;

(2) initiating and maintaining intravenous routes using approved intravenous techniques and solutions;

(3) performing pulmonary ventilation by approved methods;

(4) performing gastric suction by intubation;

(5) obtaining blood for laboratory analysis;

(6) applying rotating tourniquets;

(7) administering parentorally, orally, or topically any approved agents or solutions;

(8) performing other emergency procedures authorized by a supervising physician.

(b) A person enrolled in a mobile intensive care paramedic training program may perform the activities set out in (a) of this section insofar as:

(1) the activities are required as part of the training program;

(2) the activities which take place in a hospital are supervised by a physician; and

(3) the activities which take place outside a hospital are supervised by a licensed mobile intensive care paramedic.

(c) A person who is completing the internship required by 12 AAC 40.310(7) may perform the activities in (a) of this section for no more than six months. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.380. PROHIBITED ACTS. No person may represent himself or herself as

a paramedic, mobile intensive care paramedic, or emergency medical technician-paramedic unless he or she is licensed as a mobile intensive care paramedic under this chapter. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.390. IDENTIFICATION. While performing the duties of a mobile intensive care paramedic, the licensee shall display over the right breast pocket of the uniform the identifying insignia prescribed by the department. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

ARTICLE 5.
PHYSICIAN ASSISTANTS

Section
400. Authorization to practice as a physician assistant
405. Temporary permits
410. Collaborative relationship
420. Currently practicing physician assistant
430. Performance and assessment of medical services
440. Student and graduate physician assistant authorization
450. Prescriptive authority
460. Identification
470. Renewal of authorization
480. Exemptions
490. Grounds for suspension, revocation or denial of authorization

12 AAC 40.400. AUTHORIZATION TO PRACTICE AS A PHYSICIAN ASSISTANT. (a) A person desiring authorization to undertake medical diagnosis and treatment or the practice of medicine in AS 08.64.380(2)(A), (C), (D) and (E) as a physician assistant shall apply to the board upon a form prescribed by the board.

(b) The application must contain documented evidence of:

(1) graduation from a physician assistant program accredited by the American Medical Association Committee on Allied Health Education;

(2) a passing score on the National Board of Medical Examiner's Certifying Examination for Primary Care Physician Assistants;

(3) compliance with continuing medical education standards established by the National Commission on Certification of Physician Assistants; and

(4) an established collaborative relationship with a physician actively licensed in the State of Alaska whose usual scope of practice includes that practice area of the applicant and which includes availability of direct communication, consultation, referral, and a method of periodic assessment of medical services rendered.

(c) The application for authorization must be accompanied by a non-refundable application fee of $25. (Eff. 1/13/80, Reg. 73)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.405. TEMPORARY PERMITS. (a) A member of the board may issue a temporary physician assistant permit to an applicant who:

(1) meets the requirements of 12 AAC 40.400(b)(1), (2), (3) and (c);

(2) submits a proposed collaborative relationship with a physician actively licensed in the State of Alaska whose usual scope of practice includes the practice area of the applicant and which includes availability of direct communication, consultation, referral, and a method of periodic assessment of medical services rendered.

(b) A temporary permit is valid for eight months or until the board meets and considers the application, whichever comes first.

(c) The board will, in its discretion, renew a temporary permit for good cause and one time only.

(d) An applicant who has been denied authorization to practice by the board is not entitled to a temporary permit or to renewal of a temporary permit. (Eff. 9/19/80, Reg. 76)

Authority: AS 08.64.100
AS 08.64.107

12 AAC 40.410. COLLABORATIVE RELATIONSHIP. (a) Documented evidence of an established collaborative relationship consists of

3/3 REQ F.N.

Dept Commerce Katy Wallin 2504 FISCAL NOTE

HARRY TRAGER . Div of Occupat. Licensing X2534

2pm 3/8 MEET

10AM 3/17

4944 - SUSANNE @ work - advise of Hearing

3/29 TRAGER

DRAFT CS

Introduced: 2/28/83
Referred: Health, Education &
Social Services and Labor &
Commerce

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

IN THE HOUSE

HOUSE BILL NO. 230

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to licensing and regulation of the practice of medicine."

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

* Section 1. AS 08.64.010 is amended to read:

Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD. The governor shall appoint a board of medical examiners, to be known as the State Medical Board, consisting of five [LICENSED] physicians licensed in the state [, RESIDING IN AS MANY SEPARATE ALASKA JUDICIAL DISTRICTS AS POSSIBLE,] and two persons with no direct financial interest in the health care industry. To the extent possible each physician member must reside in a geographical area of the state that is different from that of every other physician member.

* Sec. 2. AS 08.64.020 is amended to read:

Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members shall be appointed for staggered terms [A TERM] of four years, subject to confirmation by a majority of the members of the legislature in joint session, and shall hold office until their successors are appointed and qualified. A person who has served two successive complete terms may not be reappointed until four years after the expiration of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

* Sec. 3. AS 08.64.040 is amended to read:

Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a member of the board for cause. The board may by regulation provide

that unexcused absences from meetings are cause for removal.

* Sec. 4. AS 08.64 is amended by adding new sections to read:

Sec. 08.64.085. MEETINGS OF THE BOARD. The board shall meet at least four times a year.

Sec. 08.64.101. DUTIES. The board shall

(1) examine and issue licenses to applicants;

(2) submit an annual report of its proceedings to the governor, including a statement of money received and disbursed;

(3) after a hearing, impose disciplinary sanctions on persons who violate this chapter, or the regulations or orders of the board;

(4) adopt regulations insuring that renewal of licenses is contingent upon proof of continued competency on the part of the licensee.

* Sec. 5. AS 08.64.170 is amended to read:

Sec. 08.64.170. LICENSE TO PRACTICE MEDICINE OR OSTEOPATHY. (a) A person may not practice medicine, podiatry, osteopathy or acupuncture in the state unless the person is licensed under this chapter, except that

(1) a physician assistant may examine, diagnose or treat persons under the supervision, control, and responsibility of either a physician licensed under this chapter or a physician exempted from licensing [LICENSURE] under AS 08.64.370;

(2) a physician-trained mobile intensive care paramedic may render emergency lifesaving service; [AND]

(3) a person licensed under AS 08.36 DENTISTRY may perform acupuncture in the regular practice of dentistry, subject to the regulations of the Board of Dental Examiners; and

(4) a person who is licensed or authorized under another

chapter of this title may engage in a practice which is authorized under that chapter.

* Sec. 6. AS 08.64.240 is repealed and reenacted to read:

Sec. 08.64.240. LICENSE REFUSED. (a) The board shall refuse to grant a license if

(1) the applicant fails or cheats during the examination;

(2) the board determines that the applicant is professionally unfit to practice medicine or osteopathy in the state; or

(3) the applicant fails to comply with a requirement of this chapter.

(b) The board may refuse to grant a license to any applicant for the same reasons that it may impose disciplinary sanctions under AS 08.64.325.

* Sec. 7. AS 08.64.250 is amended to read:

Sec. 08.64.250. LICENSURE BY CREDENTIALS [ENDORSEMENT]. The board may waive the examination requirement and license by credentials [ENDORSEMENT] if the physician or podiatry applicant meets the requirements of AS 08.64.200 or 08.64.209, submits proof of continued competence as required by regulation, pays the required fee and has

(1) an active license from a board of medical examiners established under the laws of a state or territory of the United States or a province of Canada issued after thorough examination; or

(2) passed an examination given by the National Board of Medical Examiners or the Federation of State Medical Boards of the United States if the applicant is a physician, or has passed an examination given by the National Board of Podiatry Examiners if the applicant is a podiatrist.

* Sec. 8. AS 08.64.270(a) is amended to read:

(a) The board may issue a temporary permit to an applicant who

Qualify for physicians used for osteopath Podiatrist

meets the requirements of AS 08.64.200, [OR] 08.64.205, or 08.64.209 and pays the required fee.

* Sec. 9. AS 08.64.311 is amended to read:

Sec. 08.64.311. [BIENNIAL] LICENSE RENEWAL. Licenses shall be renewed four years after the date of issue [BIENNIALLY].

* Sec. 10. AS 08.64.315 is amended to read:

Sec. 08.64.315. FEES. The following fees are imposed under this chapter:

(1) application	$ 50	[$ 25]
(2) license by examination	200	[125]
(3) license by credentials [ENDORSEMENT] or waiver of examination	200	[100]
(4) temporary permit	50	[25]
(5) locum tenens permit	50	[25]
(6) license renewal [, BIENNIAL], active	600	[100]
(7) license renewal [, BIENNIAL], inactive	200	[25]
(8) license by reexamination	150	[75]

* Sec. 11. AS 08.64.325 is repealed and reenacted to read:

COPY

Sec. 08.64.325. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS. (a) The board may impose a sanction if the board finds after a hearing that a licensee

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation while providing professional services or engaging in professional activities;

(3) advertised professional services in a false or

misleading manner;

(4) has been convicted, including conviction based on a guilty plea or plea of nolo contendere, of (A) a felony or other crime if the felony or other crime is substantially related to the qualifications, functions, or duties of the licensee; or (B) a crime involving the unlawful procurement, sale, prescription or dispensing of drugs;

(5) has procured, sold, prescribed or dispensed drugs in violation of any law, regardless of whether there has been a criminal action;

(6) intentionally or negligently permitted the performance of patient care by persons under the licensee's supervision which does not conform to minimum professional standards even if the patient was not injured;

(7) failed to comply with this chapter, a regulation adopted under this chapter, or with an order of the board;

(8) has demonstrated

(A) professional incompetence, gross negligence, or repeated negligent conduct;

(B) addiction to, severe dependency on, or habitual overuse of alcohol or other drugs which impairs the licensee's ability to practice safely;

(C) unfitness because of physical or mental disability;

(9) engaged in unprofessional conduct or in lewd or immoral conduct in connection with the delivery of professional services to patients;

(10) has violated AS 18.16.010;

(11) has violated any code of ethics adopted by regulation

by the board;

(12) has denied care or treatment to a patient or person seeking assistance from the physician if the only reason for the denial is the failure or refusal of the patient to agree to arbitrate as provided in AS 09.55.535(a); ARBITRATION of dispute.

(13) has had a license or certificate to practice medicine in another state, a territory of the United States, or a province of Canada suspended or revoked unless the suspension or revocation was caused by the failure of the licensee to pay fees to that state, territory, or province.

(b) In any case involving (a)(13) of this section, the final findings of fact, conclusions of law, and order of the authority which suspended or revoked a license or certificate constitute a prima facie case (1) that the license or certificate was suspended or revoked and (2) of the grounds under which the suspension or revocation was granted.

COPY * Sec. 12. AS 08.64.330 is repealed and reenacted to read:

Sec. 08.64.330. DISCIPLINARY SANCTIONS. (a) If the board finds that a licensee has committed an act set out in AS 08.64.325(a), COPY the board may

(1) permanently revoke a license to practice;

(2) suspend a license for a determinate period of time;

(3) censure a licensee;

(4) issue a letter of reprimand;

(5) place a licensee on probationary status and require the licensee to

(A) report regularly to the board on matters involving the basis of probation;

(B) limit practice to those areas prescribed;

(C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;

(6) impose limitations or conditions on the practice of a licensee; or

(7) impose one or more of the sanctions set out in (1) -- (6) of this subsection.

(b) The board may end the probation of a licensee if it finds that the deficiencies which required this sanction have been remedied.

(c) The board may summarily suspend a license before final hearing or during the appeal process if the board finds that the licensee poses a clear and immediate danger to the public health and safety if he or she continues to practice. A person whose license is suspended under this section is entitled to a hearing by the board no later than seven days after the effective date of the order. After a hearing, the person may appeal the suspension to a court of competent jurisdiction.

(d) The board may reinstate a license which has been suspended or revoked if the board finds after a hearing that the applicant is able to practice with reasonable skill and safety.

(e) A license may be suspended upon receipt of a certified copy of evidence that the licensee's license to practice medicine in another state or a territory of the United States or a province of Canada has been suspended or revoked. The suspension remains in effect until a hearing can be held by the board.

(f) The board shall be consistent in the application of disciplinary sanctions. A significant departure from earlier decisions of the board involving similar situations must be explained in findings of fact or orders made by the board.

* Sec. 13. AS 08.64.360 is amended to read:

Sec. 08.64.360. PENALTY FOR PRACTICING WITHOUT A LICENSE OR IN VIOLATION OF CHAPTER. Except for a physician assistant, [AND] a physician-trained mobile intensive care paramedic under AS 08.64.170, and a person licensed or authorized under another chapter of this title who engages in practices for which that person is licensed or authorized under that chapter, a person practicing medicine or osteopathy in the state without a valid [OBTAINING AND FILING AN APPROPRIATE] license or permit is guilty of a class B misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN $50 NOR MORE THAN $100, OR BY IMPRISONMENT FOR NOT LESS THAN 10 DAYS NOR MORE THAN 90 DAYS, OR BY BOTH]. Evidence that the defendant has failed to file a license with the clerk of the court is prima facie evidence that the defendant is not licensed. Each day of illegal practice is a separate offense.

* Sec. 14. AS 08.64.380(2) is repealed and reenacted to read:

(2) "practice of medicine" or "practice of osteopathy" means:

(A) for a fee, donation, or other consideration, to diagnose, treat, operate on, prescribe for, or administer to any human ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition; or to attempt to perform or represent that a person is authorized to perform any of the acts set out in this subparagraph;

(B) to use or publicly display a title in connection with a person's name including "physician," "doctor of medicine," "M.D.," "doctor of osteopathic medicine," "D.O.," or a specialist designation including "surgeon," "dermatologist," or any title which tends to show that the person is willing or qualified to diagnose

or treat the sick or injured;

* Sec. 15. AS 08.64.030, 08.64.110, 08.64.140, 08.64.200(1), and 08.64.380(3) are repealed.

-9 Optometrists -
Register w/ DEA
(=) Nationaths How many in STATE
Pettijohn

08.64.250
"CREDENTIALS" ENDORSEMENTS
↳ NATIONAL RECOGNIZED term

64.315 FEES CONSISTENT w/ OTHERS
from biennial to 4 YR fees

(1) Chief INVESTIGATOR
(3) INVESTIGATOR
(2) pharmacy bd investigators SB 190 CONT. SUBSTANCE last YR

EX OFFICER Range 18 $58,000 TOTAL
Benefits 35.38%
Notification of Bd by Hospitals

AS 4462

STAFF REPORT

HB 230

LICENSING & PRACTICE OF MEDICINE

08.64.010 Sec. 1 changes AREA of RESIDENCY of board of medical examiners from separate Judicial Districts to separate different geographical AREAS.

020 Sec 2 Provides that members terms ARE STAGGERED. Restrains reappointment after 2 ~~consecutive~~ SUCCESSIVE TERMS

040 Sec. 3. Allows board to adopt rules to remove members who do not attend meetings

085 Section 4. No change - specifies meeting times and duties

170 Sec. 5. (4) ?

240 Sec 6 Reworded version of existing section. Allows board to refuse license for same reasons as it may impose disciplinary SANCTIONS.

08.64.250 Sec 7. changes LICENSURE by "ENDORSEMENT" to by "CREDENTIALS". ADDS PODIATRY AS A PRACTICE licensed by the board. Specifies examinations

08.64.270 Sec. 8 Adds Reference to AS 08.64.209 (PODIATRISTS)

08.64.311 Sec. 9 FEES are change from BIENNIAL to four years after date of issue.

08.64.315 Sec. 10 New fees are established

08.64.325 Sec 11 GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS - CRITERIA for SANCTIONS are defined. PROPOSED bill is MORE SPECIFIC than current law. Reference to the Administrative Procedure Act (AS 44.62 is deleted.

08.64.330 Sec 12. Disciplinary Sanctions. SANCTIONS are specified. ~~Authority and~~ SANCTIONS are expanded and defined in much greater detail than in current law

08.64.360 Penalty for Practicing without a license or in violation of Chapter. Specifies class B misdemeanor for persons practicing without a license.

08.64.380(2) Sec 14 practice of medicine is redefined

~~08.64.230~~ Sec 15 STATUTES ARE REPEALED regarding ~~the~~ SUBSTITUTION of members on TC board (030) payment of per diem (110) ANNUAL REPORT TO the GOVERNOR (200[1]) MORAL CHARACTER (200[1]) ABORTIONS (380[3]).

Amendments are proposed to add an EXECUTIVE DIRECTOR to the Board and an INVESTIGATOR assigned to the Board.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSHB 230 Date on Bill:
Title: An Act relating to licensing and regualtion of the practice of medicine.
Sponsor: Rules by request of the Governor
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			72.8	64.2	68.8			

b. Revenues: 459.0 each four years

Revenue								

2. Source of funds to offset fiscal impact of bill:

not identified

3. Assumptions:

Personal services	48.8	
Travel	7.2	
Commodoties & Equipment	3.8	
Contractual	13.0	Auto and computer terminal (one time cost)
	72.8	

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: DAVE PALMER Phone: 465-3777
Division: H HESS Date: 4/8/83

Approved by Commissioner: Date:
Department:

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

Dave

re: HB 230

MSG 83-00012604 PRTY 1 03/03/83 12:40:38 ORIG: LA01 9
FROM: SHIRLEE ANC LIO TO: POMS, JUNEAU INFO
TARGET: LJHL SUBJ: POM

3/3/83, SHIRLEE ANC LIO, 12604

TO: REPRESENTATIVES FRITZ, [redacted], M.W. MILLER, CATO, GOLL, KOPONEN AND DAVIS

FROM: HUGH GELLERT, CHAIRMAN OF THE STATE MEDICAL BOARD
406 G STREET, ANCHORAGE 99501
(H) 345-1290 (W) 277-2663

WE URGE PASSAGE OF HB 230, THE MEDICAL PRACTICE ACT, BUT WITH THE ADDITION OF AN EXECUTIVE OFFICER AND INVESTIGATOR AS IN THE BILL BEING DRAFTED IN SENATE L&C COMMITTEE. HOUSE BILL 230 IS NEEDED FOR MODERNIZATION OF LICENSING AND ENFORCEMENT STANDARDS. THE EXECUTIVE OFFICER AND INVESTIGATOR ARE VITAL FOR EFFECTIVE ENFORCEMENT AS WITH THE REAL ESTATE COMMISSION. PLEASE LET ME KNOW DIRECTLY OR THROUGH THE DIVISION OF OCCUPATIONAL LICENISING STAFF IF THERE IS ANY ASSISTANCE I CAN GIVE.

****

Read into record

Ketchikan Medical Clinic, Inc.

3612 TONGASS
KETCHIKAN, ALASKA 99901

H.J. Henrickson, M.D.
D.E. Johnson, M.D.
T.L. Conley, M.D.

Phone 225-5144
Phone 225-5145

MAR 1 1 1983

March 7, 1983

Ms. Mae Fisher
Member of HESS Committee
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Dear Ms. Fisher:

I am in receipt of a copy of House Bill Number 230, entitled "An Act Relating to the Licensing and Regulation of the Practice of Medicine." With your indulgence, as a member of the present Alaska State Medical Board, I would like to comment on the act as it is presently envisioned.

In general, as far as it goes, the proposed act should help the Board to function more effectively. Particularly important is the provision under Section 08.64.330 that gives the Board discretion to summarily suspend certain licenses pending very rapid hearing. This would permit us to fulfill our obligation to protect the public health when egregious acts of poor practice come to our attention. At the present time, we feel quite frustrated in dealing with such situations, and have, on ocassion, had to watch while these things drag through the courts over a very prolonged period of time. I am sure that the provision will be used very sparingly, but it is good to know that it is there in case of acute need. There are also a number of house cleaning provisions in the proposed bill which should make the job of the Board easier and more efficient. It also strikes me that raising the fees is certainly in order, as a licensing function such as the Board of Medicine should surely pay for itself.

I have only two minor problems with the bill as it is presently written. One concerns Section 08.64.010. Therein is contained the statement that "...to the extent possible each physician member must reside in a geographical area the state that is different from that of every other physician member..." It should be pointed out that the Medical Board functions, more or less continuously, and the individual members are responsible for issuing temporary and locum tenens permits on an almost weekly basis. There are several natural ports of entry into Alaska. These include Ketchikan, Juneau and, to the greatest extent, Anchorage. It is also noted that the vast majority of the state's physicians do indeed practice in the Anchorage area. It, therefore, does not seem at all unreasonable if more than one physician member of the board resides in the Anchorage area. This simply takes account of the reality of the situation as it is now and is likely to remain for the foreseeable future. It is further understood that the language, specifically the phrase "...to the extent possible...," is permissive, but I would hate to think that we were evading the intent of the law by having two physician members and one public member from the Anchorage area as is the case presently. Being from a "bush" area,

I understand certain objections to Anchorage getting all the goodies, but in this particular situation, the practicalities dictate that a preponderant representation of Anchorage on the Board is not at all unreasonable.

Another minor problem that I have with the law that is presently written concerns Section AS08.64.380, in regard to the requirement that licenses are not valid until such time as they are recorded with the Clerk of Court. It is understood that the Clerk of Court in this case is the Clerk of the Superior Court in the judicial district in which the individual is practicing. As far as I can understand, this requirement dates back to Section 35-3-93 of ACLA, dated 1949. In other words, this is a remnant territorial statute. I would reason that this came about in territorial days when the far flung nature of the state and lack of communication made it imperative that the judicial system act as a repository of vital statistics.

I think, at the present, the State Licensing Board can adequately carry out this function. It may seem a minor point, but the realization that this statute was on the books only came to the Medical Board's attention about a year ago, and we basically found that essentially everyone was in violation of it, including all the members of the Board. With the most recent license reapplications, we sent out notice that everyone should quickly hustle down to their local Clerk of Court and get their license registered. When we did this in Ketchikan, we discovered that the Clerk of Court did not have the slightest idea of what we were talking about. I suppose what I am saying is that this is one of those situations that should fall under sunset review and be eliminated as essentially no longer necessary in the state. It would seem to eliminate a needless nuisance.

My biggest problem with the legislation as introduced concerns what it fails to contain. Appended to this letter is a copy of proposed legislation in draft form, relating to the creation of an executive director for the Board of Medicine, and a position for an investigator within the Board of Medicine. I realize that these positions will doubtlessly cost the state some money at a time when budgets are being cut. Nonetheless, it has been the experience of the Board that the number of applications is rising, the number of unqualified individuals applying for licenses in the state is rising rapidly, and there are situations arising within the state that very definitely require investigation, and we simply do not have the manpower to look into them in an efficient and timely manner.

The Board is charged with making sure that the practice of medicine within the State is competent, and we lack the tools to carry out the job. Because the members of the Board are required to sit more or less in judgment on these matters, it is not appropriate for the Board to do investigations on its own. As such this would be in contravention of the philosophy of law adopted in this country. Therefore, we need an investigator.

Even more than this, with the business of the Board becoming more complex and increasing rapidly in the number of cases that we need to consider, an executive director for the Board seems to be a paramount necessity. It would be my opinion that the extra salaries would more than be repaid by identifying and dealing with problems before they develop. It is quite apparent that it is much easier and more cost effective to deny questionable licenses before they are issued, than try to revoke them after they are already in effect. This is because of legal considerations of fiduciary interest that apply to operative licenses. It is therefore a much easier thing to issue a statement of issues in denying a license than it is to go through an enormously complicated and extremely expensive hearing process to revoke a license.

If we had an investigator and executive director on staff, we would be able to catch these things before they develop. It is very clear to the Board that we are seeing an enormous increase in questionable applications from people who either have no qualifications or who have been denied licenses in other jurisdictions. Our estimates vary from a fourfold to a tenfold increase over the last two years. The cost of even one or two revocation procedures could easily pay for the two salaries involved. One procedure that is now going on has consumed over two years and has gone through a formal hearing, Superior Court process, and it is presently before the Supreme Court. As anyone who is familiar with legal proceedings knows, these sorts of procedures are enormously expensive. I would, therefore, urge you to give very, very serious consideration to including provisions for an executive director and investigator in the body of the amendments to the bill that you are now considering.

I would like to commend you on the work that you have done so far and urge you on the final step in making the Board an effective tool of state government.

Sincerely,

Thomas L. Conley, M.D.
Member of the State Board of Medicine

TLC:dg

cc: Representative Jack McBride
Representative Ronald Wendte
Senator Robert Ziegler
Mr. Harry Treager

Enclosure

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

For an Act entitled: "An Act relating to the regulation of the practice of medicine."

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

* Section 1. AS 08.01.050 is amended by adding a new subsection to read:

(c) After consulting with the State Medical Board (AS 08.64.010), the department shall employ an individual who is not a member of the board to be assigned as the investigator for the board. The investigator shall

(1) conduct investigations into alleged violations of AS 08.64, and into alleged violations of regulations and orders of the State Medical Board;

(2) at the request of the State Medical Board, conduct investigations based on complaints filed with the department or with the board; and

(3) be directly responsible and accountable to the State Medical Board, except that only the department has authority to terminate his employment.

* Sec. 2. AS 08.64.010 is amended to read:

Sec. 08.64.010. CREATION AND MEMBERSHIP OF STATE MEDICAL BOARD.

The governor shall appoint a board of medical examiners, to be known as the State Medical Board, consisting of five [LICENSED] physicians licensed in the state and [,] residing in as many separate geographical areas of the state [ALASKA JUDICIAL DISTRICTS] as possible, and two persons with no direct financial interest in the health care industry.

* Sec. 3. AS 08.64.020 is amended to read:

Sec. 08.64.020. [STATE MEDICAL BOARD] TERM OF OFFICE. Members shall be appointed for staggered terms [A TERM] of four years, subject to confirmation by a majority of the members of the legislature in joint session, and shall hold the office until their successors are appointed and qualified. A person who has served two successive complete terms may not be reappointed until four years after the expiration of the second term [THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD SHALL BE STAGGERED SO THAT THEY DO NOT EXPIRE AT THE SAME TIME].

* Sec. 4. AS 08.64.040 is amended to read:

Sec. 08.64.040. REMOVAL OF MEMBERS. The governor may remove a member of the board for cause. The board may by regulation provide that unexcused absences from meetings is cause for removal.

* Sec. 5. AS 08.64 is amended by adding new sections to read:

Sec. 08.64.075. EXECUTIVE OFFICER OF THE BOARD. After consulting with the board, the department shall employ an individual who is not a member of the board to serve as the executive officer of the board. The executive officer shall

(1) p rform the administrative duties required by the department, by the board, and by this chapter;

(2) carry out regulations and policies of the board; and

(3) assist the board in conducting continuing education programs and examinations of applicants for licenses.

* Sec. 6. AS 08.64.270(a) is amended to read:

(a) The board may issue a temporary permit to an applicant who meets the requirements of AS 08.64.200, [OR] 08.64.205, or

* Sec. 7. AS 08.64.315 is amended to read:

Sec. 08.64.315. FEES.

The following fees are imposed under this chapter:

(1)	application	$ 50 [$25]
(2)	license by examination	200 [125]
(3)	license by credentials ENDORSEMENT or waiver of examination	200 [100]
(4)	temporary permit	50 [25]
(5)	locum tenens permit	50 [25]
(6)	license renewal , BIENNIAL, active . . .	600 [100]
(7)	license renewal , BIENNIAL, inactive . .	200 [25]
(8)	license by reexamination	150 [75]

STATE OF ALASKA

WALT FURNACE,CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
NIILO E. KOPONEN
HUGH MALONE
JOHN RINGSTAD
RON WENDTE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE

March 4, 1983

Representative Joe Hayes, Speaker of House
Alaska House of Representatives
Pouch V,
Juneau, Alaska 99811

Re: Alaska State Medical Board

Dear Mr. Speaker:

Pursuant to AS 44.66.050(a) the House Labor and Commerce Committee has held hearings regarding the above referred Board. Under AS 44.66.050(e) the Committee recommends adoption of the attached Committee Bill continuing the Board. The Legislative Budget & Audit Committee report outlined some concerns that have been reviewed by the Alaska State Medical Board. The Labor & Commerce Committee is satisfied that those concerns are being addressed in an expeditious manner.

The Committee believes the Alaska State Medical Board should be reestablished. The Alaska State Medical Board regulates the practices of medicine, osteopathy, and acupuncture by physicians, osteopaths, physician assistants, paramedics, and podiatrists. By establishing minimum educational and experience requirements and actively investigating complaints from the public and other practitioners, the Alaska State Medical Board provides a

needed public service. Specifically, the findings of the Committee of the public need for the Board as required under AS 44.66.050(c) are as follows:

AS 44.66.050(c) " A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:"

(1) the extent to which the board, commission or program has operated in the public interest;

The Alaska State Medical Board provides for examinations twice a year and has held an average of 4 meetings a year in various locations throughout the State.

2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

The Alaska State Medical Board has been impeded in its operation by the lack of statutory authority to address licensing and business practice(s) violations. Also, the Division of Occupational Licensing has been unable to provide support necessary to the Board and the Courts are not placing emphasis on the findings of the Board developed through the hearing process.

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

The Alaska State Medical Board has recommended and strongly supported legislation to correct these problem areas.

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

The Alaska State Medical Board has encouraged interested persons to report by advertising and requesting public input on proposed regulation changes.

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

The Division of Occupational Licensing places advertisements of the Alaska State Medical Board's meetings and examinations.

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

While there have been no consumer complaints filed with the Ombudsman or the Attorney General's Office regarding the Alaska State Medical Board, there is no provision for consumer complaints in AS 08.64.

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

The Alaska State Medical Board has issued 349 licenses, temporary permits, locum tenens permits, physician assistant authorizations, and paramedic authorizations since July 1981. The Board has a liberal policy of licensing by endorsing physicians from other states. The Alaska State Medical Board requires the FLEX exam and of completed internship or residency which serves to protect the public.

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

The Committee believes the Alaska State Medical Board to be in compliance with applicable law and regulation.

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

The Committee believes adoption of the proposed legislation would better serve to protect the interests of the public.

Pursuant to AS 44.66.050(d) the Committee recommends the following:

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding

officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

The Alaska State Medical Board regulates the medical practice of physicians, osteopaths, physician assistants, podiatrists, and acupuncturists.

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

The objective of the Alaska State Medical Board is to ensure that the public is provided safe and effective medical care by qualified health care professionals.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

The Committee found no other program having similar, conflicting or duplicate objectives.

(4) an assessment of alternative methods of achieving the purposes of the program;

The Committee could find no viable alternative method of achieving the purposes of the Alaska State Medical Board.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

The Committee believes the consequence of eliminating the Alaska State Medical Board or funding its activities at a lower level would be an unnecessary exposure to potential improper medical care.

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

The critical necessity for proper medical treatment is the primary justification for the continuation of the Alaska State Medical Board.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

The Alaska State Medical Board should be given legislative support in addressing the concerns outlined by the Legislative Budget and Audit report.

Respectfully submitted:

_____

Representative Walt Furnace, Chairman

276,000 x $1.25 ☐

RICK URION
SB164

EXTEND SUNSET TO JUNE 30, 1987

TITLE: AND EXTENDING . . .

P. 8 li: 26 add "physician"

INVESTIGATOR

HARRY TREAGER

1) COST BREAKDOWN INVESTIGATOR
2) USE of SURPLUS EQUIPMENT

DR ROONEY

SELECT - QUERY
00001 ALL SECTION EQ 08.64.330

AS08.64.330 DOCUMENT= 1 OF 1

CHAPTER = 08.64
SECTION = 08.64.330
TITLE = 08
HEADINGS TITLE 8.
BUSINESS AND PROFESSIONS.
CHAPTER 64.
MEDICINE.
ARTICLE 2.
LICENSING.
CITATION SEC. 08.64.330.
CATCH LINE
GROUNDS FOR REVOCATION OF LICENSE.
TEXT (A) A LICENSE MAY BE REVOKED FOR FAILURE TO PAY THE LICENSE RENEWAL FEE PRESCRIBED IN AS 08.64.315. IF THE FEE IS NOT PAID WITHIN THE TIME PROVIDED, THE DEPARTMENT SHALL GIVE WRITTEN NOTICE TO THE LICENSEE THAT THE LICENSEE IS IN DEFAULT. NOTICE MAY BE SERVED ON THE LICENSEE PERSONALLY OR BY REGISTERED MAIL ADDRESSED TO THE LICENSEE'S LAST KNOWN RESIDENCE. IF THE LICENSEE FAILS TO PAY THE FEE WITHIN THREE MONTHS AFTER NOTICE OF DEFAULT, THE SECRETARY SHALL REVOKE THE LICENSEE'S LICENSE ON BEHALF OF THE BOARD AND NOTIFY THE LICENSEE OF THE REVOCATION BY MAIL OR BY PERSONAL SERVICE OF THE REVOCATION.

(B) AFTER A HEARING, A LICENSE MAY BE SUSPENDED, LIMITED, REVOKED OR ANNULLED, OR THE LICENSEE MAY BE REPRIMANDED, CENSURED OR DISCIPLINED BY THE BOARD FOR (1) UNPROFESSIONAL OR DISHONORABLE CONDUCT AS DEFINED IN AS 08.64.380(3), (2) PROFESSIONAL INCOMPETENCE, OR (3) A VIOLATION OF THIS CHAPTER OR A REGULATION ADOPTED UNDER IT.

HISTORY (SEC. 35-3-89 ACLA 1949; AM SEC. 22 CH 77 SLA 1969; AM SEC. 9 CH 101 SLA 1974)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

```
SELECT - QUERY
00002 ALL SECTION EQ 08.64.325

AS08.64.325  DOCUMENT=       1 OF       1

      CHAPTER  = 08.64
      SECTION  = 08.64.325
      TITLE    = 08
HEADINGS  TITLE 8.
          BUSINESS AND PROFESSIONS.
          CHAPTER 64.
          MEDICINE.
          ARTICLE 2.
          LICENSING.
CITATION  SEC. 08.64.325.
CATCH LINE
           LIMITS OR CONDITIONS ON LICENSE; DISCIPLINE.
TEXT          (A)  IN ADDITION TO ACTION UNDER AS 08.64.330, UPON A FINDING
          THAT BY REASON OF DEMONSTRATED PROBLEMS OF COMPETENCE,
          EXPERIENCE, EDUCATION, OR HEALTH THE AUTHORITY TO PRACTICE UNDER
          THIS CHAPTER SHOULD BE LIMITED OR CONDITIONED OR THE PRACTITIONER
          DISCIPLINED, THE BOARD MAY REPRIMAND, CENSURE, PLACE ON
          PROBATION, RESTRICT PRACTICE BY SPECIALITY, PROCEDURE OR
          FACILITY, REQUIRE ADDITIONAL EDUCATION OR TRAINING, OR REVOKE OR
          SUSPEND A LICENSE.
              (B)  THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62) APPLIES TO
          ANY ACTION TAKEN BY THE BOARD UNDER THIS SECTION.
HISTORY   (SEC. 14 CH 102 SLA 1976)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.
```

```
      CHAPTER  = 18.16
      SECTION  = 18.16.010
      TITLE    = 18
HEADINGS  TITLE 18.
          HEALTH AND SAFETY.
          CHAPTER 16.
          REGULATION OF ABORTIONS.
CITATION  SEC. 18.16.010.
CATCH LINE
          ABORTIONS.
TEXT          (A)  NO ABORTION MAY BE PERFORMED IN THIS STATE UNLESS (1)
          THE ABOPTION IS PERFORMED BY A PHYSICIAN OR SURGEON LICENSED BY
          THE STATE MEDICAL BOARD UNDER AS 08.64.200; (2) THE ABORTION IS
          PERFORMED IN A HOSPITAL OR OTHER FACILITY APPROVED FOR THE
          PURPOSE BY THE DEPARTMENT OF HEALTH AND WELFARE OR A HOSPITAL
          OPERATED BY THE FEDERAL GOVERNMENT OR AN AGENCY OF THE FEDERAL
          GOVERNMENT; (3) CONSENT HAS BEEN RECEIVED FROM THE PARENT OR
          GUARDIAN OF AN UNMARRIED WOMAN LESS THAN 18 YEARS OF AGE; AND (4)
          THE WOMAN IS DOMICILED OR PHYSICALLY PRESENT IN THE STATE FOR 30
          DAYS BEFORE THE ABORTION. "ABORTION" IN THIS SECTION MEANS AN
          OPERATION OR PROCEDURE TO TERMINATE THE PREGNANCY OF A NONVIABLE
          FETUS.  NOTHING IN THIS SECTION REQUIRES A HOSPITAL OR PERSON TO
          PARTICIPATE IN AN ABORTION, NOR IS A HOSPITAL OR PERSON LIABLE
          FOR REFUSING TO PARTICIPATE IN AN ABORTION UNDER THIS SECTION.
              (B)  A PERSON WHO KNOWINGLY VIOLATES A PROVISION OF (A)  OF
          THIS SECTION, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT
          MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN FIVE
          YEARS, OR BY BOTH.
HISTORY   (SEC. 65-4-6 ACLA 1949; AM SEC. 1 CH 103 SLA 1970; AM SEC. 22 CH
          166 SLA 1978)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.
```

CONCLUSIONS:

CONTINUE Medical Board

RECOMMEND:

1) Define unprofessional conduct
2) REQUIRE hospitals to notify M.B. when PRIVILEGES are refused or restricted.
3) Change MAKEUP of board - add physicians ASSISTANTS And PARAMEDICS & Podiatrists

LSSB237

CALL TREAGER - get position & EVA

TERMS OF IMPRISONMENT

OCTOBER 1, 1982

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELONY CONVICTION
MURDER I	[20] -- 99	[20] -- 99	[20] -- 99
UR. II & KIDNAP. & M. I. C. S. I	[5] -- 99	[5] -- 99	[5] -- 99
EXUAL ASSAULT 1ST **	5 --(10)-- 30	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
EXUAL ASSAULT 1ST	4 --(8)-- 30	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
A FELONY **	3 1/2 --(7)-- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
A FELONY	2 1/2--(5) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
B FELONY	0 -- 10	0 -- (4) -- 10	3 -- (6) -- 10
C FELONY	0 -- 5	0 -- (2) -- 5	0 -- (3) -- 5

**APPLIES WHEN A DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY, EXCEPT FOR MANSLAUGHTER.

NUMBERS IN (BRACKETS ARE) PRESUMPTIVE SENTENCES. NUMBERS ENCLOSED BY [BOXES] ARE MANDATORY MINIMUM SENTENCES. NUMBERS TO LEFT OF BRACKETS ARE LOWEST MITIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

STATE OF ALASKA
FINAL STATEMENT OF FISCAL IMPACT

Bill No: _____ Date on Bill: _____
Title: "An Act relating to licensing and regulation of the practice of
Sponsor: Rules by request of the Governor medicine"
Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			0	0	0	0		

b. Revenues:

Revenue							

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. This statement has been reviewed by the OMB in the Office of the Governor. It may be considered to represent the policy of the Sheffield Administration and the final estimate of fiscal impact.

Prepared By: Darrell Miller Phone: 465-2534
Division: Occupational Licensing Date: _____

Approved by Commissioner: Richard A. Lyon Date: 2/25/83
Department: Commerce and Economic Development

Reviewed by OMB: Gary Bell Date: 2/25/83
Phone: 465-3568

5. Distribution:
Original to Legislative Finance
Copy to Department
Copy to Sponsor
Copy to Requestor

2/8/83

HB

243

COMMITTEE REPORT

HOUSE

FINANCE

(7) FURTHER:

3/8/83

Date: 4/[illegible]/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 243

An Act relating to day care assistance for parents of developmentally disabled children.

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
M.W. Miller Do Pass	
Nils Kopperson Do Pass	
Mike Davis Do Pass	
Mae Fisher	

Mae Fisher
CHAIRMAN

H 60

STAFF REPORT

HB 243, child care, developmentally disabled

March 21, 1983

HOUSE HESS COMMITTEE

Day care assistance is provided for the care of children of a low or moderate income family if a parent or guardian is freed to work or seek work or to attend school. Eligibility for children expires on their 11th birthday. HB 243 extends eligibility for children who have developmental disabilities without regard to the child's age.

The argument in support of HB 243 is that a child with a developmental disability still requires parental attention after the 11th birthday. The inclusion of children with developmental disabilities should be beneficial to the "normalization" of the child's environment. Regulations should be adopted to assure that children of large age differences are carefully supervised. One possibility is to have separate classes of day care programs. One for children under 11 years of age, one for the others. It has also been suggested that an incentive be added to encourage day care centers to accept the developmentally disabled. This could be in the form of training for staff, perhaps.

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

March 23, 1983

POSITION PAPER

RE: HB 243
SPONSOR: Representative Phillips

Program Effects:

The bill would provide day care assistance to an estimated 25-45 developmentally disabled children above 11 years of age, whose parents are in working or training. The Department currently provides for the placement of some handicapped children under 11, usually on a case basis. In those special cases, the Department authorizes up to double the average monthly subsidy for the care of these children. The Department would see this bill as expanding that policy to developmentally disabled children who are minors.

Comments:

The Department supports raising the age limit above 11 years of age for minor children who have a developmental disability, with two major caveats.

1) The Department can support the bill only if there is a rewrite of the licensing codes which protects, through regulation, age specific normalized environments of all children. The mixing of older developmentally disabled children with much younger children could, if not regulated, be potentially damaging to both groups.

2) Specialized training must be available to day care providers who accept these children to help them adequately deal with their needs.

A survey conducted in the fall of 1982 in Fairbanks concluded that licensed child care centers were willing to take handicapped children if specialized assistance training were available. The Department has had no training dollars to allow this to occur. The Department would require funds to hire a half-time specialist to work with providers to assure that the provider meets the intent of the legislation, the regulations and most importantly, the needs of the child.

It is estimated there are between 25-45 children, whose parents are working or training, that might be eligible for this program if the age limit were raised. However, because parents of many developmentally disabled children may not have had the option of being in the job or training market, the Department cannot know what the real population is. The number of families served under this program could very well be much higher. This year, the Department has been contacted by parents of handicapped children in both Kenai and Fairbanks requesting assistance. Last year before funds were available to Catholic Social Services, we also had requests from parents in the Anchorage area.

Finally, while the Department recognizes the need exists it is important to note that the Division does not have expertise in the complex problems of developmentally disabled children. Studies indicate that handicapped students benefit from special pre-school programs, no matter how severe their disability. The Day Care Assistance program was not designed to accomodate these special needs. It is our concern that the real needs of developmentally disabled children not be addressed solely through this program.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: H.B. 243
Title: Day Care Assistance/Dev. Disabled
Sponsor: Phillips
Requestor: House HESS Committee

II. FISCAL DETAIL

Agency Affected: C & RA
Program Category Affected: Social & Econ Ass
BRU, Program of Subprogram(s) Affected:
Child Care Assistance-Child Care

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	0	21.5	22.7	24.0	25.4	26.9
200 TRAVEL	0	5.0	5.3	5.6	5.9	6.2
300 CONTRACTUAL	0	0				
400 COMMODITIES	0	0				
500 EQUIPMENT	0	0				
600 LAND & STRUCTURES	0	0				
700 GRANTS, CLAIMS, ETC	0	194.4	206.0	218.3	231.3	245.1
TOTAL OPERATING	0	220.9	234.0	247.9	262.6	278.2
CAPITAL	0	0				
REVENUE	0	0				

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	220.9	234.0	247.9	262.6	278.2
FEDERAL FUNDS	0	0				
OTHER (Specify Source)	0	0				

POSITIONS:

FULL-TIME	0	0				
PART-TIME	0	1	1	1	1	1
TEMPORARY	0	0				

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by Sponsor/Committee

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Karen Perdue
Phone: 465-4890
Division: Employment Opportunity Division
Date: 3/23/83

Approved by Commissioner:
Date: 3/23/83
Department:

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

Bill Analysis-Fiscal Note

H.B. 243

The Department currently provides funds through the Day Care Assistance Program for children of low income families at an average rate of $180 per child per month. Policy Memorandum #3 allows for increased subsidy rates of up to double the cost of care for handicapped children with written documentation by a physician, thus an average monthly rate for handicapped children is $360.

The Division of Mental Health estimates 45 eligible children who would be affected by this bill. The Department suspects there are likely to be more needs for this service than currently can be quantified. Thus the note is based on 45 children of $360 average monthly costs for twelve months.

The Department currently provides training and technical assistance to child care center and home staff with three full-time professionals. This bill would necessitate an additional half-time professional of range 17 in the classified service. That cost for FY 84 would be $21.5 thousand. An additional $5 thousand would be necessary for travel to provide this training.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 243

"An Act relating to day care assistance for parents of developmentally disabled children."

The existing statutes (A.S. 44.47) specifies that eligible low income parents of children under 11 years of age may receive assistance in payment of costs of day care from licensed day care providers. HB 243 amends this specification by adding developmentally disabled minors (i.e., developmentally disabled persons under 18 years of age.)

Analysis:

Regular day care assistance is intended to provide low income parents with an incentive to pursue careers and income producing jobs that would otherwise be unavailable because of the care and attention parents must give to their children. The assistance, in the form of payments for day care, applies in cases wherein children are under 11 years of age.

This age limit specification assumes that, having reached 11 years of age, a child will have developed enough to be able to take care of himself for brief periods of time without direct care or supervision.

However, in circumstances wherein a childs' mental or physical development is impaired to the degree that the child, even though over 11 years of age, is not able to thrive or care for themselves for a brief period of time, the intent of the law is not met.

HB 243 intends to obviate this circumstances by allowing day care assistance to be provided to otherwise eligible families who have developmentally disabled children over the regular age limit of 11 years.

One liability of the Bill is that it may allow the possible situation in which children of very different ages and sexes are cared for in close proximity. In an extreme case one can envision, say, a 17 year old being cared for with four small children of the opposite sex. Non-normal situations such as these would be taken care of by means of changes in licensing regulations to ensure an age-specific normalized environment for both the developmentally disabled child and the non-disabled child.

Population and estimated overall cost:

It is difficult to estimate the number of parents that would be eligible much less those who would partake of the assistance even though eligible. However, some gross estimates can be made. Based on information communicated by a special pilot program for day care for developmentally disabled people in the Anchorage area, it is estimated that 25 families in Alaska would be added to the existing number of eligible families if HB-243 were to become law. If instead of basing our judgments on this "guesstimate" we were to extrapolate from statistics supplied by the Department of Labor, it is estimated that there are about 90 developmentally persons who are 10 to 18 years of age whose parents would be eligible for substantial day care assistance. If about half of these families chose to enroll their children in day care centers or homes that, in turn, would be willing to take the older children, the result is that about 45 new children would be enrolled

as a result of HB-243. (It should be noted that these estimates do not include low income parents who have developmentally disabled children under 11 years of age. These parents are already eligible for day care assistance under the present statute.)

Even though there is a good deal of disparity between the two estimates, the estimate does indicate, at least, that we do not have hundreds of parents being unserved. The figure is likely to be less than 50 parents who would be enrolled as a result of HB-243.

Presently, a customary cost to the State for day care assistance is approximately $400 per month for a severely developmentally disabled child of an eligible family. If 25 to 45 children would be added as a result of HB-243, then $120,000 to $216,000 would be required to provide assistance to the additional families enrolled.

In addition to these expenditures administered by the Department of Community and Regional Affairs, the Department of Health and Social Service would require a temporary six month position to write and promulgate new and amended licensing regulation to ensure age specific normalized environments. The cost for this is estimated at $26,061 and is explained in the attached fiscal note. It is also anticipated that, as a result of changes in licensing regulations, training existing day care providers will be necessary. It is anticipated that the nature and cost of this training will be included in the position paper being submitted by the Department of Community and Regional Affairs with whom we have coordinated regarding this Bill.

Summary:

HB-243 does not, by itself, mandate adequate day care for developmentally children over 11 years of age. It will, however, (1) provide for a monetary incentive for day care centers and homes to provide such care and (2) provide for an incentive for low income parents who have developmentally disabled children who are over 11 and who cannot be left alone to engage in remunerative work while maintaining the child in the natural home environment.

POSITION PAPER/Department of Health & Social Services

Department Position:

The Department of Health and Social Services supports HB-243 in concept, but implementation would require substantial increase to the Governor's Budget and such a change has not been approved by the Governor's Office.

Recommended by: Thomas R. Brewster for

Philip Shapiro, M.D.
Director, Division of
Mental Health and
Developmental Disabilities

Date: 3-22-83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 3/22/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 243
Title: Day Care Assistance
Sponsor: Phillips, Malone & Koponen
Requestor:

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected: Family and Childrens Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		23.4				
200 TRAVEL		1.5				
300 CONTRACTUAL		1.0				
400 COMMODITIES		.2				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		26.1				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		26.1				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY		1.0				

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The funding source was not identified by the sponsors of the bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price, Director Michael L Price Phone: 465-3170
Division: Family and Youth Services Date:

Approved by Commissioner: Robert London Smith, M.D. Date: 3/22/83
Department: H & S S.

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HOUSE BILL NO. 243

"An Act relating to day care assistance for parents of developmentally disabled children."

Fiscal Note, page 2

IV. ANALYSIS:

A. Assumptions:

Enactment of this bill would result in the need to license new homes for the care of developmentally disabled children. Homes or centers currently licensed for day care would have to be reassessed to meet new licensing criteria.

B. Program Summary:

1. Promulgating new and amended licensing regulations would require establishment of a Community Care Licensing Specialist II position for 6 months, after which it would phase out. Existing staff in other areas would absorb the additional workload in FY 84.

2. Travel is included to conduct public hearings on regulations, and for travel to and from homes and centers being licensed.

3. No revenues will be received.

C. Computations: No additional expenditures are anticipated for FY FY 85-88. Division will absorb changes due to licensing regulation changes.

D. Economic Impact: Licensure will provide a safe environment for care.

E. Impact on Local Governments: There will be no fiscal impact on local governments.

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
	Community Care Licensing Specialist II				18A	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	6				Juneau	4			

3.	CONTINUATION LEVEL		ADDITION		
4.	TYPE OF EXPENDITURE				AMOUNT
	1		2		3
	PERSONAL SERVICES				
5.	Salary		17,790		
6.	Benefits		1,091		
7.	Supplemental Benefits		3,040		
8.	Fixed Benefits		1,440		
9.	TOTAL PERSONAL SERVICES			01	23,361
10.	Travel			02	1,500
11.	Contractual			03	1,000
12.	Commodities			04	200
13.	Equipment			05	
14.	Other				
15.	TOTAL COST				26,061

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	26,061
19.		I-A Receipts	1005	
20.		Program Receipts	1026	
21.		Other		

FOR D&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position will be required one time for six months to prepare licensing regulations and implementation materials. Day care licensing regulations have not been changed in six years. A number of needed changes, including safeguarding provisions for the handicapped, have been identified, but changes are indefinitely delayed due to limited staff time and other pressing priorities. If the Bill is passed licensing regulation changes will be immediately necessary to protect young children from the danger of normal activity of pre-teens and teens, to ensure adequate programming for the handicapped, and to develop family day care regulations for specializing in care for the handicapped. Following is the work plan for this position: 1) Develop revised regulations for day care facilities/conduct hearings. 2) Develop a guidebook and sample forms and policy material to implement the regulations. 3) Prepare implementation plan which would inlcude a orientation of licensing staff, Day Care Assistance local agents, and licensees. 4) Draft, in coordination with the Department of Education, a document entitled "How to Start a day care center, family day care home, or pre-school in Alaska." 5) Revise the 1976 publication entitled "How to Choose Day Care for your Child."

REQUEST FOR
13 NEW POSITION

AGENCY Health and Social Services
PROGRAM Social and Economic Assistation for the General Population
BRU Family Services Administration
COMPONENT Central Office

FY 84

2 of 2

Revised Date

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 5, 1982

MEMORANDUM

TO: Representative Phillips

FROM: Felicity Watt, Research Staff FW

RE: Assistance for Parents of the Developmentally Disabled
Research Request 82-57

You have asked that we look into supplemental funding for day care to be provided to the parent of a 10 year old developmentally disabled child. We have identified an advocacy group and a school that are available to respond to your constituent's request for information.

The daytime school program at Catholic Social Services for the developmentally disabled is managed by Judy Ebbert. Ms. Ebbert said that the school is for children from the ages of six weeks to sixteen years. Though the school charges a monthly rate of $400, that cost will be modified on a case-by-case basis in accordance with the parent's need. According to Dr. Gregovich, Program Administrator for the developmental disabilities program in the Department of Health and Social Services, $625,000 in grant money for handicapped day care and respite care was awarded by the department to Municipality of Anchorage this year. These funds were then subcontracted to Catholic Social Services to assist them in serving developmentally disabled children.

The school is located at 811 West Sixth Avenue and Ms. Ebbert asked that your constituent contact her to discuss the cost adjustment which could be made for her and transportation arrangements that may be made to accommodate her Eagle River location. Judy Ebbert's telephone number is 274-1546.

In the course of our research, we also learned of an organization called Protection Advocacy for the Developmentally Disabled, Inc. (P.A.D.D) which is available to assist your constituent in locating possible programs and sources of funding. P.A.D.D. will pursue federal funding avenues and conduct research on behalf of the parent of a developmentally disabled child. We spoke with case workers for P.A.D.D. in both Juneau and Anchorage who indicated they would be happy to research the case and investigate possible solutions at both the State and national level. Annely Girard of Anchorage expressed great enthusiasm about acting as an advocate on your constituent's behalf.

Ms. Girard can be contacted at 274-3650. P.A.D.D's Anchorage office opens Friday (March 5) at which time the telephone is expected to be connected. If there is no answer at the above number, Ms. Girard asks that the parent contact her at her home telephone which is : 278-3966.

There seem to be no funds available to replace the Alaska Department of Community and Regional Affairs' day care assistance Program (DCAP) once a child surpasses the eligible age for that program. We talked at length with Ms. Lare, the director of DCAP and discussed the possibility of reinterpreting the ceiling age for eligibility for DCAP on the basis of mental rather than chronological years in the particular cases of developmentally disabled children. As the cut off age is prescribed by statute [AS 44.47.310(3)] which defines child as "any person below eleven years of age," Ms. Lare does not believe she has the authority to change that requirement.

Ms. Lare had contacted members of the Governor's Council on the Handicapped and Gifted in Fairbanks and relayed to us their interest in the situation; however, they have no access to funds which would ameliorate the current dilemma.

We also talked to the Whaley school and the Anchorage Community Mental Health Center who were unable to offer other alternatives for your constituent to pursue.

FW/bf

Encls.

SPONSOR: H Hess

leg non-leg pub hear work sess inv hear

SUBJECT: HB 243

MAILING ADDRESS: Developmental Disabilities

PHONE 3777 CONTACT Dave Palmer Rock Star

DATE TAKEN/BY

T/C DATE/DAY 3/23/83

TIME: 1:00-2:00 pm PACIFIC

12-1 pm YUKON

11-12 ALASKA

10-11 BERING

SITES PARTICIPATING:

North Slope
- Anaktuvuk Pass
- * Barrow
- Kaktovik
- Point Hope
- Wainwright

ALL ALASKA
ALL LIO's
WASH., D.C.

NANA
- Ambler
- * Kotzebue
- Noorvik
- Selawik

Norton Sound
- Gambell
- Hooper Bay
- * Nome
- Savoonga
- Shishmaref
- ** Unalakleet

Bristol Bay
Aleutians
- * Bethel
- * Dillingham
- St. Paul
- Sand Point
- ** Unalaska

Interior
- * Delta Junction
- * Fairbanks
- ** Fort Yukon
- Galena

South Central
- * Anchorage
- Homer
- * Kenai (Sol)
- * Kodiak
- * Mat-Su
- Seward
- * Valdez

Southeast
- Cordova
- Haines
- Hoonah
- * Juneau
- * Ketchikan
- * Petersburg
- * Sitka
- Wrangell
- Yakutat

Chairing Site/Person JNU - Tischer

Special Offnet Location/Phone# Merry Abada 694-9750

Signature of Sponsor/Contact Person Date

------TELECONFERENCE OFFICE USE ONLY------

Contact in Rep Phillips office - Janet 4931

(Conference Call)

2-Wire X 4-Wire

Bridges:
- #1 (206)447-0620
- #2 (206)447-1554
- #3 (206)447-5627
- #4 (206)447-9479

Bridge operator (800)426-3232

JNU trouble #'s 586-1062, 465-3836

Publicity:
- ____Local calls/list attached
- ____Media/P.S.A. attached

Can expect:
- ____Lengthy back-up
- ____Bill summary
- ____Participants list

POST TELECONFERENCE NOTES

Site/Date:

Local Moderator

T/C Started: T/C Ended

T/C Recorded:

Testified/Participated:

Unable to Testify:

Observers:

Total Number:

~~HB257~~

~~465-2180~~ Risk Management

HB 243

Robt Gregovich -- MENTAL HEALTH

PAT MONROE

Dept: OK bill concept

OMB MUST REVIEW

$150,000

45 families

OPTION

Gov's council gifted & handicapped

→ Dorothy Truin

talked w Randy Phillips

Gov Comm Gifted & handicapped

3651

- Fairbanks - 479-6507

D Mental Health - 479-6940

Pat Monroe 3206

Dave [redacted] Re: HB 243

[redacted]

[redacted]

[redacted]

[illegible] 03/[illegible]/83 17:05:49 ORIG: LK00 IN= 0008 OUT= 0118
[illegible] TO: JUNEAU INFORMATION
[illegible]

[illegible] SENATE FINANCE COMMITTEES
HOUSE AND SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEES
REPRESENTATIVES MEDRIDE AND WENDTE
SENATOR ZIEGLER

[illegible] MARGARET SELUDO, P. O. BOX 7475, KETCHIKAN, ALASKA 99901, 225 9534

DEPT. OF H. & S.S., DIV OF PUBLIC HEALTH, BUDGET REQUEST UNIT, CHILD [illegible] HEALTH, SPECIAL EDUCATION GRANTS COMPONET, INFANT LEARNING PROGRAMS

[illegible] A [illegible] OF A [illegible] YEAR OLD WHO HAS A LANGUAGE DELAY PROBLEM. HE HAS BEEN [illegible] THE [illegible] LEARNING PROGRAM SINCE SEPTEMBER OF 1982. HE HAS STARTED [illegible] MORE SINCE THE TEACHER HAS BEEN COMING DOWN. PLEASE INCREASE THE [illegible] TO THE LEVEL RECOMMENDED BY THE GOVERNOR'S COUNCIL. THANK YOU.

[illegible]

3-23

~~3926~~

HB 243

Phillips

John Garvin AK. Children's Services
WANTS emotionally disturbed children
47.80 PC 96.602
Gov's commission - wants to include more children

Gregovich
Pat Monroe Bill covers C&RA Day Care,
HSS - Regulations
Favor bill but ....
1. Regular Day care is to provide incentive to find work

Merry Abada

Pat Monroe - Licensing Coordinator

Karen Perdue - Cost of care - $194,000
Double average pmt for handicapped

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: April 15, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

HB 243	An act relating to day care assistance for parents of developmentally disabled children.
SSHB 219	An act relating to Local Citizen Advisory Boards of the University of Alaska.

Other notes or reminders:

Have a good weekend!!

BILL SHEFFIELD, GOVERNOR

GOVERNORS COUNCIL FOR THE HANDICAPPED AND GIFTED

UNIVERSITY PLAZA OFFICES WEST • SUITE C • 600 UNIVERSITY AVENUE • FAIRBANKS, ALASKA 99701
PHONE (907) 479-6507

March 23, 1983

MAR 25 19[illegible]

Honorable Randy Phillips
House of Representatives
State Capitol
Pouch V (Mail Stop 3100)
Juneau, AK 99811

Re: HB 243 Day Care Assistance

Dear Representative Phillips:

Thank you for following through on your promise to try to find a way to provide assistance to handicapped or disabled children who need after school day care but who are over eleven years of age.

Following a brief review of HB 243 the Council offers these comments:

1. We support the need for the day care subsidy for parents of handicapped or disabled children.

2. Amending the Day Care Assistance law to include disabled children over age eleven incurs a minimum of change in the current program now administered successfully to handicapped and non-handicapped children under age eleven by the Department of Community and Regional Affairs.

3. It will be necessary to protect against the potential detrimental effects of inappropriate placement of older children with young children in day care centers. Therefore a re-examination and revision of day care regulations and licensing requirements will be required to insure that:

   a. day care environments, whether in centers or day care homes, meet the age-stage developmental needs of the children served (programs offer social educational and recreational experiences which fit normal patterns for the individuals served).

   b. the physical health and safety of handicapped and non-handicapped children are protected (programs prevent harm or injury which could result if older, physically aggressive children are served in the same setting with toddlers or young children without sufficient staff and supervision).

4. Training opportunities will need to be made available to day care workers to help them to better understand and care for children with special needs. The Department of Community and Regional Affairs has already provided excellent training opportunities through special grants for a variety of day care training and management needs. This can be expanded to include training for day care workers who care for handicapped children. Day care providers who already serve younger handicapped children have most of the knowledge and resources to meet this need.

5. Consideration should be given to changing the target population from a minor who has a "developmental disability" (the definition adopted from A.S. 47.80 is no longer current under the federal Developmental Disability Act P.L. 95-602 and is functionally obsolete in the human services field) to a minor who has a "handicapped or disability" to allow inclusion of children who have physical disabilities, orthopedic handicaps, or health impairments as well as those with mental retardation or mental impairments. The need for after school day care of physically dependent children is similar to that of mentally handicapped children and should be able to be met through this program. There does not appear to be a reason to include one category of handicapped or disabled children and exclude another if the basic goal is to assist parents who have a special day care need because they have a handicapped child who cannot fend for him or herself after school. Implementing regulations could further define the terms.

6. Special subsidy rates would need to be allowed so that remuneration would be related to the additional costs of caring for children with special needs.

There are additional needs to assist parents to care for handicapped children as they grow and develop. What may be an after school day care need today may become a different need tomorrow, depending on changes in the family, where the family lives, and changing developmental and care needs of the handicapped child. Also, there are many communities in Alaska which do not have day care centers or licensed day care homes. To provide a broad-based but individual and local response to these changing needs we hope you will also continue to explore the family subsidy or family assistance concept which you worked on earlier this session. We have obtained more program and cost information and will provide it to you under separate cover. We feel that the number of services and amounts of subsidy can be refined, narrowed, and limited to affordable and manageable levels. With a simple family assistance program we could provide families with handicapped children who do not live in large communities or in proximity to formally organized service programs a somewhat equal opportunity to obtain the support and help they need.

It is heartening to see that you and your legislative colleagues are grappling with these service issues and devising responsive solutions to complex problems. Programs such as day care assistance do much to ease the burden of care and enable parents of handicapped children such as my husband and myself to work and pursue careers and attend to the needs of our other children. They also reduce the need for costly out-of-home placement or institutional care for handicapped children. Many thanks for your willingness to listen and to try out new solutions.

At your suggestion a copy of this letter will be provided to co-sponsors Representative Malone and Representative Koponen, and offered as testimony on the bill to the HESS Committee members.

Sincerely,

Jane White

Jane White
Chairperson

cc: Representative Hugh Malone
Representative Niilo Koponen
Representative Mae Tischer, Chairwoman, House HESS Committee

Who We Are . . .

Protection and Advocacy (P.A.D.D.) is a private not-for-profit corporation that exists to protect and advocate for persons with developmental disabilities.

This agency was created by a federal law, Public Law 95-602, which requires each state to have an agency for protection and advocacy purposes. Since it is a private agency, we are not administered by federal or state government, although funding for P.A.D.D. does come through the federal Department of Health and Human Services and the Alaska Department of Health and Social Services.

Our purpose is to see to it that governmental units at all levels respect and comply with the legal and human rights of persons with a developmental disability. We monitor activities in the private sector as well as the public.

Above all, our goal is to help persons with a developmental disability to know their rights and to assist them in pursuing remedies on their own. Legal action is a final recourse and we believe many other steps can and should be taken before legal remedies are sought.

. . . And What We Do

We provide public awareness of the human rights of persons with a developmental disability. We also provide information to persons with a developmental disability to assure that they and their families know and better understand their rights.

We provide information on the rights of persons with a developmental disability. Armed with correct information and backup support from us, we feel that direct intervention by our agency is not necessary in many cases.

If our help is needed, we do not hesitate to intervene on the behalf of a client. In many cases, PADD has acted as a liaison between a governmental agency and a concerned parent, arbitrating the differences that might exist.

In addition to direct advocacy, we provide guidance to legal services and training groups.

As a corporation, PADD may file class action suits on behalf of persons with a developmental disability. Such direct intervention is a role we take only when far-reaching change is needed to improve the lives of persons with a developmental disability.

How We Can Help . . .

We can provide the tools needed to advocate for persons with a developmental disability. Those tools include information, legal guidance, training and if need be, direct advocacy.

P.A.D.D. is a resource agency. We are here to help and are capable of providing much more than just moral support.

When direct action is called for, we will act. Action may include providing input into the legislative process, acting as a liaison for a client or assisting or initiating legal suits when broader issues are involved. As a last resort we may take direct action on alleged violations alleged violations of the legal rights of persons with a developmental disability.

Our Goal:

To protect the rights of persons with a developmental disability and to enourage them to become self-advocates whenever possible in legal or human rights concerns.

The People We Serve . . .

PADD works on behalf of any person, regardless of age, who has a developmental disability. The disability must be attributable to a mental or physical impairment or combination of mental and physical impairments, and it must be manifested before the age of twenty-two and be likely to continue indefinitely.

The disability must result in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capability for independent living and economic self sufficiency.

Finally, we serve those with a disability which reflects the need for a combination and sequence of special, inter-disciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

SERVICES

There are three basic services provided by PADD.

ADVOCACY SERVICE

This service includes investigation or negotiation on a client's behalf. Information or referral to a more appropriate agency is also part of this service.

LEGAL SERVICE

This service may provide legal support to lawyers working on behalf of a PADD client, refer clients to attorneys familiar with developmental disability law, contribute to training workshops and seminars (and -- in some cases -- directly represent eligible clients).

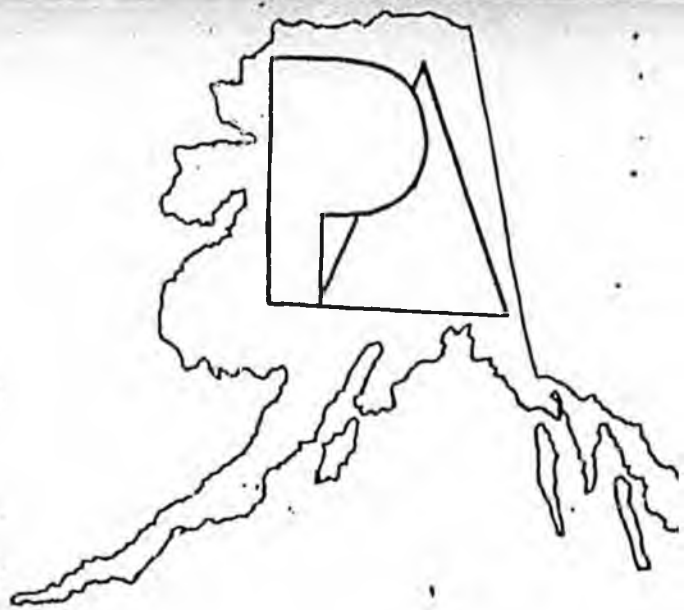
TRAINING SERVICE

PADD's staff can provide in-service training, workshops and presentations regarding our services, due process or legal rights of persons with a developmental disability.

HOW TO MAKE A REFERRAL

Clients may request PADD services directly or referrals can be made from agencies, concerned friends, parents, other advocates or service providers. PADD's staff will emphasize talking directly to the person with the disability rather than about them with referral sources. PADD will employ a wide variety of techniques for informing persons with developmental disabilities of the services available to them and attempt to make service accessible throughout the State. You may call collect

Protecting the Legal and Human Rights of Persons With A Developmental Disability



PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

Protecting the
Legal And Human Rights
of Persons with
A Developmental Disability

Protection & Advocacy for Developmentally Disabled
(P.A.D.D., Inc.)
419 6th St., Rm. 316
Juneau, Alaska 99801
(907) 586-9865

Children's Defense Fund
1520 New Hampshire Ave., N.W.
Washington, D.C. 20036

Special Education

94-142 and 504: Numbers that Add Up to Educational Rights for Handicapped Children

A Guide for Parents and Advocates



THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

The Children's Defense Fund (CDF) is a national, nonprofit public charity created to provide long-range and systematic advocacy on behalf of the nation's children. Through research, public education, litigation, technical assistance to state and local groups, community organizing and monitoring federal administrative and legislative policies and programs, CDF seeks to change policies and practices resulting in the neglect or mistreatment of millions of children. Our goal is to place the needs of children and their families higher on the nation's public policy agenda.

CDF is supported primarily by foundations. We have no chapters and are not a membership organization, but work closely with other groups to help individuals, parents, and advocacy groups work on behalf of children. We welcome those who are interested in receiving up-to-date information on a range of public policies affecting children to become subscribers of our newly launched children's public policy network.

The increased involvement of individuals and groups on behalf of children throughout the nation is critically important. We hope all taking the time to read this Agenda will begin to:

- Become informed about the needs of children nationally and in your own area.
- Talk to other parents, individuals and groups in your community to gain strength from numbers to pursue local change for children.
- Speak up to unresponsive policymakers and political officials who fail to protect children's interests or provide them with needed services.

As a public charity, CDF is permitted under the Tax Reform Act of 1976 to spend a small percentage of its budget on legislative activities. Because our legislative resources are limited and must be strictly accounted for, we carefully target our efforts on issues where we have particular expertise, can make a difference, and will represent a point of view that will not otherwise be heard.

This handbook is one of a series of booklets published by the Children's Defense Fund to encourage a stronger role for families and community groups in protecting children's rights. Other titles in this series are listed on the inside back cover.

Protection & Advocacy for Developmentally Disabled
(P.A.D.D., Inc.)
419 6th St., Rm. 316
Juneau, Alaska 99801
(907) 586-9865

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

94-142 and 504: Numbers that Add Up to Educational Rights for Handicapped Children

A Guide for Parents and Advocates

This booklet was written by Daniel Yohalem and Janet Dinsmore. We are indebted to the Closer Look Information Center for the Handicapped for material drawn from "What Does It Take to Make a Law Work," *Report from Closer Look* (Winter-Spring 1977), and for their provision of a resource list, "National Organizations for the Handicapped."

Children's Defense Fund
1520 New Hampshire
Avenue, N.W.
Washington, D.C. 20036

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1. Introduction

It is commonly thought that a free appropriate public education is the birthright of every American child. But until the enactment of recent landmark legislation—passed after years of public hearings, debate, consultation, and investigation—this right was routinely denied to millions of the nation's handicapped children. A large proportion were kept out of school altogether, while others had to make do with inadequate and piecemeal educational services.

The two laws described in this handbook represent an effort to change this pattern of neglect. They recognize that if children are to grow up to become productive and self-sufficient members of the community, they need the benefits of an appropriate education, adequate health care, and meaningful training and social services *while they are young*. This is especially true for handicapped children who must develop extra skills to compensate for whatever disability they may have. The earlier these services are provided, the greater the gains will be in the child's development.

This handbook is designed to give you an understanding of your child's educational rights under these new federal laws. One, called P.L. 94-142,[1] is a comprehensive law setting forth the fundamental rights necessary to ensure that all handicapped children receive the free appropriate public education to which they are entitled. The other, Section 504,[2] is a more general civil rights law which also applies to educational services. Section 504 makes it illegal for any agency or organization receiving federal funds to discriminate *in any way* against handicapped people. It requires any public or private organization receiving federal money to take special steps to make it possible for people with mental, perceptual, physical or emotional handicaps "to learn, work, and compete on a fair and equal basis." Non-compliance can mean a cutoff of all federal support to the agency or organization.

Despite the fact that these laws are now on the books and apply to most school districts in the United States, it's going to take a lot of work to put them into action. And without your active involvement in the process of getting a good school placement and appropriate services for your child, the changeover will be even slower. Both laws contain provisions for your participation in decisions all along the line. We urge you to exercise these rights and hope this handbook will be useful along the way.

1.1 Know the Law

The first step is to know what the regulations actually say. You can get a copy of P.L. 94-142 regulations (42 *Federal Register* 42474, *et seq.*) by writing your Congressperson or ordering it from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; 45 cents per copy. The Section 504 regulations (42 *Federal Register* 22676, *et seq.*) can be obtained from the U.S. Department of Health, Education and Welfare, Office for Civil Rights, 330 Independence Avenue, S.W., Room 5400, Washington, D.C. 20201.

It is also important to know what your state and local plans for services to handicapped people say. Each state and local school district is required to develop special education plans *each year* and make them available to the public for review and comment *before* they are adopted. The plans must detail how the state and each school district intend to carry out the law. Copies can be ordered from your State Department of Education[3] and local school district superintendent.

All school districts should have copies of the two sets of federal regulations, the state plan, and the local district's own plan. You have a right to see these documents.

Read and review these documents with care. Workshops, training sessions, or problem clinics can be sponsored by parent organizations to learn about the laws and sharpen your ability to enforce them. Communicate your concerns about proposed state and local plans. If there are glaring needs that you feel are not being filled, say so.[4]

[1] Public Law 94-142 (20 United States Code § 1401, *et seq.*), the Education for All Handicapped Children Act, was enacted in 1975. Its regulations—on which this handbook is based—were published in the Federal Register on August 23, 1977.

[2] Regulations implementing Section 504 of the Rehabilitation Act of 1973 (29 United States Code §794), the Civil Rights Act for Handicapped Persons, were published in the May 4, 1977 Federal Register.

[3] A list of the addresses of State Departments of Education is contained in section 6.5 of this handbook.

[4] Highlighted text from "What Does It Take to Make a Law Work?" *Report from Closer Look* (Winter-Spring 1977). A publication of the Closer Look Information Center for the Handicapped, P.O. Box 1492, Washington, D.C. 20013.

1.2 How this Handbook is Organized

This handbook should serve as a general guide to educational services and the processes for getting them under P.L. 94-142 and Section 504. It is divided into the following sections:

- **What the Laws Cover.** The first section includes information on the range of disabilities protected, age requirements, and relevance to children in institutions and foster homes.
- **The School District's Responsibilities.** The second section describes all of the special education services and assistance your child is entitled to under the laws.
- **How the Evaluation Process Works.** The third section explains the procedures used to identify, evaluate and place your child in an educational program fitting his or her needs. A key part of the evaluation process is development of an IEP—individualized education program.
- **Your Rights When You Disagree With the School.** The fourth section describes how you can challenge your school's evaluation or placement decision. Enforcement tools include independent evaluations, hearings, administrative reviews, complaints and lawsuits.
- **Resources.** The fifth section lists local, state, and national organizations that can provide information and help at various points in the process.
- **Appendix.** Legal Citations to Federal Statutes and Regulations.

2. What the Laws Cover

2.1 Who is Eligible for Free Public School Services?

The definition of "handicapped children" is very broad. It includes children with any of the following handicaps, no matter how severe or mild the handicap is:

- Hearing impairments or deafness
- Speech impairments
- Visual impairments or blindness
- Emotional disturbance
- Mental retardation
- Physical impairments
- Learning disabilities
- Chronic or long-term health problems
- "Other conditions"

2.2 How Old does your Child have to be to Receive Special Help?

The age requirements are also broad. There are presently three categories of children who are eligible for special education services. These include all children who are:

- Covered by your state's public education laws—usually 6-17 years old
- Presently receiving services from any federally funded program (such as Headstart or Vocational Education), whether they're younger or older than the state school age
- In any disability category required by state law or court order to be served

All children aged 3-18 will be eligible by September 1, 1978, and all children aged 3-21 by September 1, 1980, unless state law or practice does not allow serving 3-5 or 18-21 year-olds.

2.3 What about Children Placed Outside Their Homes?

The laws apply to all children regardless of their residence. Children living with their own parents, institutionalized children, children in group homes, and children in foster homes are all eligible.

3. The School District's Responsibilities

The law guarantees *every* child a free public education. This means that a child with special learning needs is entitled to free special services to meet those needs.

3.1 What Special Services does the Law Provide?

The range of services your child is entitled to includes:

Early identification and assessment of disabilities (The procedure for evaluating your child's special needs and developing an individualized education program is discussed in the next section.)

- Specially trained teachers and teachers' aides
- Speech and language therapy
- Special materials and equipment
- Counseling
- Psychological services
- School health services
- Medical services for diagnostic or evaluation purposes
- Physical therapy
- Occupational therapy
- Special transportation to school and activities within school
- Vocational education
- College placement services
- Parent counseling and special homemaker services that teach natural and foster parents how to care for handicapped children
- Other programs and services if they are necessary for your child's education

Above all, your child is entitled to *effective* instruction in the basic skills needed to become self-sufficient: reading, writing, speaking, and arithmetic.

3.2 Do the Laws Extend to Extracurricular Activities?

Yes. Handicapped and non-handicapped children need to spend time together and share activities outside the classroom. After-school programs are often as important to a child's development and healthy adjustment in the community as schoolwork. Your child has the same rights as non-handicapped children to participate in:

- Clubs
- Career and educational counseling
- Meals
- Recess periods
- Physical education, including a specially designed program if necessary
- All school athletic programs, including competition
- Early morning and after-school day care programs
- Music, art, crafts, homemaking, industrial arts, or other special interest activities
- Health services
- Referrals to agencies that provide assistance to handicapped persons
- Employment services

These activities should be fully integrated with those of non-handicapped children. If your child's individual needs cannot be met in a regular setting, however, then the same opportunities must be made available in other ways.

3.3 Can Services be Provided to Children in Regular Classes?

If your child's disability calls for intensive one-to-one teaching in a very quiet setting or specialized, perhaps immovable, equipment that is available in only one place in the school district, he or she might be sent to a different facility, spend part of the day in a "resource" classroom, or be enrolled in a day treatment program.

Usually, though, special education services can be arranged with the help of special teachers or teachers' aides who work along with the classroom teacher. Tests and work assignments must be modified, and different techniques and materials used for children with particular disabilities. Under the law, schools are now responsible for routinely providing such services as: interpreters for deaf children, taped tests, brailled materials and readers for children with visual problems, and specially adapted equipment for physical handicaps if needed.

3.4 What about Children in Day or Residential Treatment Programs?

Most children don't need separate, special schools or residential care. But, if it is in your child's best interest—after careful evaluation and *with your agreement*—he or she can be placed in a private school, day program, or residential setting. Your school district is then responsible for paying for all educational, room, board, transportation, and non-medical care costs. Any private school program selected must meet state and federal standards and must safeguard both you and your child's rights. An important point: If a residential placement is called for, your child *must be placed as close to home as possible.*

If you voluntarily choose to place your child in a private facility—even though the state has offered a free appropriate education for your child—then the state is not required to pay. However, your child is still eligible for evaluation by the school district and can take advantage of the special education and related services offered to other handicapped children by the district.

3.5 Architectural Barriers

It is illegal to place handicapped children in separate buildings or trailers simply because the regular school building has stairs, narrow doorways, inaccessible bathrooms and other physical barriers that make it hard for handicapped students to get in or around. Schools must immediately start making their buildings and classes accessible to all students. Ramps must be built and classes relocated *right now*, if necessary. Any significant reconstruction must be completed by June 3, 1980. All new construction must be designed to be readily usable by handicapped persons.

The law applies to pre-schools, elementary schools, secondary schools, colleges, and post-secondary vocational schools.

3.6 Who Provides and Pays for Transportation?

The school is required to provide whatever transportation is necessary to ensure that your child receives an appropriate education. This may involve setting up a special transportation system if your child has physical disabilities or lives too great a distance from the school. He or she is automatically eligible for special transportation if all of the other children in the community get transportation services. If, however, the school doesn't normally provide transportation, it is up to you to show why your child needs it—a doctor's note or note from you on your child's disability should be sufficient.

Most schools already provide their non-handicapped students with free transportation to and from school and special school activities. If there is a fee, handicapped children can't be charged any more for their transportation than non-handicapped children, even if special equipment, personnel, or services must be used.

Make sure appropriate transportation is specifically mentioned in your child's individualized education plan—IEP.

3.7 Mainstreaming/Least Restrictive Environment

The law recognizes that it's important for your child to have the experience of functioning in the real world with all kinds of children. He or she is growing up in a complex society and will someday be living and working with non-handicapped adults. Schools are therefore required to educate your child—to as great an extent as possible—in regular school settings with non-handicapped children of the same age group.

Only if your child's needs are so special that they can't be met in a regular class with additional aids and services should placement in a separate area be considered. Even then, the special separate class placement should be limited—not all day long—and should be located in the regular school building—not trailers or different facilities—whenever possible. Placement in separate buildings should take place *only* when the services are so specialized that they could not possibly be provided in a regular school building.

This does not mean that your child can be put in a regular class just to sit in the back or be ignored. The special services he or she needs *must* be provided in full. The purpose, however, of the law's emphasis on the "least restrictive environment" is to give your child a chance to go to school in the most natural and integrated setting possible. Experience has shown that separation tends to encourage unfair labels and unfair treatment.

4. How the Evaluation Process Works

Both Section 504 and P.L. 94-142 guarantee parent[5] involvement in every decision affecting your handicapped child. Without your consent, no school district or official can:

- Evaluate your child's abilities and educational needs,
- Determine which special education services are necessary, or
- Place your child in a special education program.

The law encourages your presence at all discussions affecting your child; requires that you be fully informed of every decision, the alternatives considered, and the reasons for them; and requires your approval of your child's initial special program. You have the right to inspect all of your child's education records, including those concerning his or her identification, evaluation, and placement.[6]

You also have the right to bring anyone you choose to any meeting concerning your child's education. This might include a lawyer, a friend or relative, a community advocate, or any other person who can help. (A list of people who might be able to represent or refer you to other assistance in your community is contained in section 6.1 of this handbook.)

Poor and minority students have been *misclassified* as mentally retarded by many school districts. Be sure the evaluation process gets at all your child's special needs. Be sure the program you agree to provides all the services your child needs. Do not let your child be dumped in an inappropriate class because of racial or cultural discrimination in your school district.

[5]Under the laws, the term "parent" means a parent, guardian, foster parent, person acting as the child's parent, or "surrogate parent" appointed by the state if a child's parents are unknown or unavailable. The state itself cannot be considered a parent, even if a child is a ward of the state. All "parents" are responsible for protecting their child's educational rights.

[6]This right is also protected under the Federal Family Educational Rights and Privacy Act of 1974, 20 United States Code §1232g.

4.1 How is Your Child Selected for Evaluation?

The responsibility for identifying which children need special attention and help is shared by a lot of people and institutions. Parents, state agencies, school administrators, teachers, social workers, doctors, and community workers should all be involved in getting children the help they need.

States and local school districts are required to prepare plans detailing exactly how they will go about locating children with special needs. Different states have used different methods. Newspapers, television and radio announcements, pamphlets, brochures, mobile units, counseling sessions sponsored by mental health centers, and public health and welfare agencies have been required by various states to alert parents to their rights and to the availability of services.

As a parent, you are the most likely source of referrals. You will probably notice sooner than anyone else that your child has a special problem, especially if the problem isn't obvious or severe. If your child seems to have trouble understanding or keeping up with schoolwork, often complains of headaches, has difficulty speaking, says the television looks blurry or the sound is never loud enough, these may be clues he or she needs extra help.

Children themselves are sometimes afraid to tell their teachers or even their parents that something is bothering them. So if *you* think your child might have a handicap that is interfering with his or her ability to learn *in or out of school*, ask for an evaluation by the school. The evaluation will determine what your child's particular strengths are and in which areas he or she needs special help.

4.2 Whom Do You Contact?

The first step is to call the principal of your local school and the Special Education Director of your school district. (You can find out who the Special Education Director is from the principal's office.) When you call, give your child's name and birthday, and ask for an evaluation to be scheduled as soon as possible. Follow up your call with a letter to both people and be sure to send a copy of the letter to the State Director of Special Education.[7]

Keep written records: Your own personal file on your child should contain copies of all your letters to and from officials, dates and topics of all conversations and meetings with of-

[7]See list of State Directors of Special Education in section 6.5 of this handbook.

ficials, and your own observations about your child's behavior, needs, strengths, and problems. All of this will help you when crucial decisions are made.[1]

4.3 What are your Rights when the School Recommends an Evaluation?

If school officials think that your child needs to be evaluated or placed in a different educational program, they are required to follow certain procedures. They must first notify you, explaining:

- What they propose to do—which tests they want to give, which experts will be involved, and what kind of placement they anticipate.
- Why they think it is necessary—which existing tests, what behavior, or which records support their view.
- What options they considered and why they selected or rejected them.
- Any other reasons for recommending a change in placement or program.

It is illegal for anyone to remove your child from the regular school program without an evaluation, without your being fully informed, and without your consent or a final decision by a hearing officer or court.

4.4 Who Participates in the Evaluation Process?

The "educational team" selected to evaluate your child must include people who know your child well (including you), people you select, people who know how to evaluate the information resulting from the various tests, people who specialize in your child's particular disability, and people familiar with service and treatment alternatives.

The team is likely to be composed of:

- A special education teacher or specialist with knowledge of your child's particular disability. (This is a requirement.)
- The school psychologist (if there is one)
- A school administrator
- A doctor familiar with your child's medical history
- A representative of a private school if it seems likely that your child will be placed in a private facility (This is a requirement.)
- A social worker
- Other teachers who know the child's performance
- Parents

Part of this team will later be involved in helping develop an IEP—individualized education program—for your child.

4.5 What are the Evaluation Procedures?

A variety of tests and other procedures which are racially and culturally non-discriminatory must be used to get a complete picture of your child's educational needs. *Your child cannot be evaluated on the basis of any single test, incident, or discussion.* Data on health, vision, hearing, social skills, emotional status, general intelligence, academic performance, and physical coordination must all be combined to make up the IEP. This information is obtained from:

- Diagnostic tests
- Aptitude, achievement, or "IQ" tests
- Extensive talks with parents and teachers about your child's performance and development in *and* out of school
- Psychological testing of behavior and functioning
- Observation of your child in school and play settings
- Medical examinations

Assessments must take into account any special conditions such as your child's inability to speak English or his or her particular handicap. (For example, schools are not allowed to give oral aptitude or achievement tests to deaf children.)

The right to understand extends to parents, too. If their primary language is not English, the school must arrange for an interpreter.

Whatever tests are used, it's important to know about all facets of your child's development— including physical, self-care and communication abilities, and social and emotional maturity. Insist that the evaluation is thorough and that the IEP developed is not a routine form—*all children with the same handicap do not need the same educational program. The IEP must be specific to your child's needs.*

[1]Highlighted text from *Report from Closer Look*

4.6 What is an IEP?

An IEP—individualized education program—is the written result of your child's evaluation. It is the basis of your child's entire learning program. He or she cannot, in fact, be placed in a special education program without such a written program plan.

The IEP's two major purposes are: (1) to set out learning goals for your child's achievement; and (2) to set out services the school district is then *required* to provide to help your child meet these learning goals.

The IEP must contain information on:

- Your child's present level of performance
- Your child's annual and short-term learning goals—in other words, how much he or she is expected to learn over certain periods of time
- What special education and other services will be provided to accomplish the goals
- How much your child will be able to participate in the regular school program—when, where, and how much he or she will be with non-handicapped children
- When special services will begin and how long each service or special program will be offered
- When and how your child's performance and the effectiveness of the plan will be evaluated

All of this information is designed to let you know exactly what changes in behavior and development to expect, and how each program, service or teacher will help your child reach his or her potential. The IEP should give you a clear idea of the progress your child is expected to make under that particular plan.

You have a right to your own copy of the IEP. Be sure to request one so that you can assess your child's progress, hold the school to its promises, remember what was decided, and place your child properly if he or she has to switch schools.

4.7 How is the IEP Developed?

Your school is required to meet with you, a teacher, an administrator, and another representative of the educational team to discuss the results of your child's evaluation and consider what special services—if any—are needed. It is important also to have an experienced community or parent advocate or Legal Services attorney attend the IEP meetings with you. He or she should be able to help you in making certain that:

- The school has a complete picture of your child's abilities and special needs.
- The services to be provided by the school are specifically geared toward your child's learning goals.
- Your child will be progressing in the program selected and not merely repeating things he or she can already do.

Note: The services described in the IEP are legally binding and must be fully carried out by your school district. So it is essential to put *everything* your child needs carefully down in writing in the IEP. If a special service is unavailable right now, ask the school to specify when they will provide it and what will be done in the meantime. Your consent is required to put the IEP into action. So if you're not satisfied with it, don't agree or sign.

The IEP development meeting must be held within 30 days of an evaluation and special needs finding, and scheduled at a mutually convenient time and place. If you cannot attend the meeting, you are entitled to: a full report of the proceedings; individual or group conferences with school administrators, teachers, and evaluators; and all records.

Again, keep notes on all phone calls, letters, conversations, and meetings concerning your child.

The law calls for public agencies to make repeated efforts through phone calls and letters to notify you about meetings and get your views on the issues to be discussed. Special arrangements must be made to communicate with parents who may not speak English or may be handicapped themselves.

4.8 How Can Parents Contribute to the IEP?*

For many parents, IEP conferences may be the first time they've been at meetings with school officials and professionals—and they may feel unsure of themselves. It helps to remember that you, as a parent, have a unique understanding of your

*This section drawn mainly from *Report from Closer Look*

child—and a point of view that must be clearly heard. It takes a mix of ideas, sometimes real conflict, to come up with a plan that's worth trying. Nobody "knows it all."

If you don't understand what the professionals are saying, ask questions. (Don't be afraid to ask what you think may be a "dumb question." That's probably just the thing others want explained, too—but are too intimidated.) Be sure that everything is translated into plain, understandable language.

The goal of IEP development is to figure out the most appropriate services that can be brought together to help a child learn what he or she is ready to learn, the way he or she learns best. It's important that parents really are equal partners with educators in exchanging opinions and evaluating what is proposed. This takes preparation—advocacy groups in every state should develop training programs for parents that get down to the nuts and bolts of school conference participation. This also means training experienced parent advocates to accompany parents to IEP meetings, when necessary.

In preparing for meetings, review your child's school records (see section 5.3) and your state and local plans for special education services, describing the services offered in your school district (see section 1.1).

Once again, if you're not sure of what the professionals are saying, ask questions. Your understanding of your child's diagnosis will be one of the most valuable tools in your ability to judge the value of a program—and to stand up for an appropriate one. You can bring tape recorders to conferences to help you remember what was said. You can visit classrooms and talk to teachers and other parents of handicapped children. Then make up your mind.

4.9 Where is your Child Placed During the Evaluation / IEP / Hearing Process?

Unless you and the school agree to a temporary program change, your child must remain in his or her current educational program. If your child isn't in school, he or she must be placed in the public school program—with your consent—until a new placement decision is reached.

4.10 What is the Schedule for Placement?

The law calls for your child's IEP to begin immediately after you consent and expressly forbids long delays in implementing the individualized education program.

Every school district—no matter how poor or small—is obligated to provide the services specified in the IEP. Even if the state does not receive P.L. 94-142 funds, Section 504 requires local school districts receiving federal funds of any kind to provide an appropriate education to all handicapped children within their jurisdiction. And presently, nearly every school district in the country receives some kind of federal funds. Your State Department of Education (see section 6.5 of handbook) is responsible for providing educational services to your child during any period the school district is dragging its feet on implementation.

4.11 What Provisions are there for Subsequent Evaluations?

The law is specific about the need for continuing attention to your child's needs as he or she develops. You may request a review or revision of the IEP at any time. But at least once a year— request or not—a meeting must be scheduled with parents to review your child's IEP. A full re-evaluation and new IEP are called for every three years, and more frequently if requested by parents or teachers. If you feel your child's needs have changed or he or she has achieved the original IEP goals, ask school officials to begin a review of his or her current placement. It may well be that your child can be returned to the regular school class or placed in a program more suitable to his or her current abilities.

The old way was to put children into special education programs and forget about them. The law now requires that a review—with you participating—must take place at least once a year. But don't wait a year. It's necessary to keep a dialogue between school and home going, to observe what's really happening. Be alert and sensitive to how your child is doing. Talk over problems with teachers. Ask them to try changing approaches or returning your child to the regular class if it seems to make sense![10]

[10] Highlighted text mainly from *Report from Closer Look*

5. Your Rights when you Disagree with the School

Despite all the protections built into the law to ensure a fair, careful and thoughtful evaluation of your child's special needs and school placement, the process may not work the way it is supposed to. If you are dissatisfied with the outcome, don't settle for it.

You have the right to challenge the school's decision if you think:

- The evaluation was inadequate.
- Your views were ignored or unfairly represented by other educational team members.
- The IEP developed for your child is not responsive to his or her individual abilities and needs.
- The services the school is offering are not what you expected or wanted.
- Promised services have been excessively delayed, denied, or provided in unnecessarily segregated settings.
- Your child is showing no progress, or insufficient progress in the educational program in which he or she has been placed.
- Your child has been placed in a separate program, inadequate to his or her needs, because of racial or cultural discrimination.

5.1 Which Approach is Best?

If possible, first try to settle the issue by talking to officials at the local level—the district director of special education, teachers, the school principal, etc. Keep notes of conversations and school officials' responses to your requests. If your local school officials are uncooperative, there are five courses of action available under the law: (1) an independent evaluation; (2) a hearing before a neutral hearing officer; (3) an administrative appeal; (4) a complaint to the federal Office for Civil Rights; and (5) a lawsuit.

If your efforts to persuade the local school system to comply with the law have failed, try to contact a community advocate, Legal Services attorney, or other attorney for help in deciding whether to request a hearing, file a complaint with the federal government, or bring a lawsuit (see section 6.1). Officials of your school district are responsible for providing you with information about the hearings and state-level appeal procedures. So if you do not have access to a community advocate or attorney, you can and should proceed with the hearing process yourself.

You should also file a complaint with the federal Office for Civil Rights. (The procedure is explained more fully below.) If you have legal counsel, you should discuss all possible actions *before* starting out, since a choice of one course of action may legally affect your ability to proceed with other courses.

5.2 Independent Evaluations and Hearings

Your choice of which step to take first depends on what troubles you about the evaluation. For instance, you may think the entire diagnosis of your child's handicap is wrong—that the behavior or performance is caused by different reasons than the ones described by the evaluators. Or you may believe that *your child isn't handicapped at all*—that he or she has been classified as mentally retarded, for instance, simply to get him or her out of a particular classroom, or because of racial or cultural discrimination. Or you may feel your child has a real problem that the evaluators didn't see or diagnose—maybe because there is no program presently offered to deal with that specific problem.

Whatever the cause of your concern—if you want an expert to take a whole new look at your child—request an independent evaluation first. Later, if you wish, you can request a hearing to present the new evidence.

Your other immediate alternative is to request a hearing before a neutral hearing officer. A hearing is the better first step when you agree with the diagnosis of your child's abilities and needs, but disagree with the special education services offered by the school to meet those needs. (You may believe, for instance, that your child has been put in a certain classroom just because of available space and not because it fits his or her needs.) Here, you should consult with a special education professional outside the school who might be helpful in deciding what services your child should have. In this case—when you want a different kind of placement for your child—request a hearing. The hearing must be provided at public expense.

5.3 How Should You Prepare?

Planning is necessary whether you choose an independent evaluation or a hearing first. In getting

ready, it is best to have the help of someone who knows something about the rights of children and who is not as emotionally involved as you are in preparing for the hearing. This person can help you see little things you may overlook, or may see the overall issue more clearly. Legal Services offices generally have people who can perform this function, or there may be a community advocacy group or parent group which can help. The "Resources" section 6.1 of this handbook lists names of appropriate advocates you can contact in each state for help or referrals.

Get all the local help you can from:

- Community advocates or Legal Services attorneys familiar with hearing procedures (see section 6.1 for names of appropriate people in your state)
- Special education teachers or specialists from your local college or community mental health center knowledgeable about special education programs
- Other parents of handicapped children
- Parent or professional organizations concerned with the special needs of handicapped children
- Friendly teachers familiar with your child

In addition request copies of all your child's records.[11] If there are statements or scores in them that are inaccurate, misleading, or unfair, they should be questioned and corrected. Then organize whatever school documents, health records, or notes on meetings with school personnel seem relevant. Don't forget the IEP, if there is one, and a copy of your school district's plans for special education services. The plans may reveal gaps, not only in services promised by the school district, but in services the school district is *required* to provide under federal law.

If you are not already a member of an organization composed of parents of handicapped persons, join one. Your single voice is important—but the voices of people who have banded together are far more effective. Experienced parents can help others who may be just starting out. Find out if a coalition of organizations exists in your area, and go to their meetings. If one does not exist, think about starting one yourself.[12]

[11] "You are entitled under the Federal Family Educational Rights and Privacy Act (the "Buckley Amendment", 20 United States Code §1232g) to your child's records. A handbook on parents' and students' rights to school records is available from the Children's Defense Fund.

[12] Highlighted text from *Report from Closer Look*.

5.4 How Can You Get an Independent Evaluation?

If you want your child re-evaluated by experts outside the school system, then the school must provide you with names of other professionals in the community. Again, consult individuals and organizations to find an appropriate examiner and arrange for a new evaluation. You should also check with specialists at your local college or university, your local public health office,[13] and the regional mental health center for free independent evaluations. The persons conducting these independent evaluations must be at least as qualified as the "experts" who participated in the original evaluation. (For example, if one of the experts was a psychologist, you might want to hear the views of another psychologist.) In addition, all of the other requirements called for in the initial school district evaluation must be met, such as convenience of location and participation of a variety of professionals and others concerned with your child's education.

Who pays any costs of the new evaluation? This is tricky. The responsibility for paying for the independent evaluation varies according to who asks for it, when it takes place, and what the outcome is. Usually, when you and always when hearing officer requests an independent evaluation, it is provided at public expense. However, *if* the school challenges your request by seeking a hearing first, and if the hearing decision backs up the school's initial evaluation, then you must bear the cost, if any, of the independent evaluation. No matter who ends up paying for the new evaluation, any information obtained from the new evaluation may still be used in a hearing.

5.5 How Can You Get a Hearing?

The first formal step is to notify school officials and the State Director of Special Education (see list of names and addresses in section 6.5) that you are requesting a hearing on your child's placement. In writing, if possible, simply inform the officials about your complaint (that is, the IEP is unsatisfactory or the school hasn't provided the services agreed upon earlier). If you can, name the people involved in the original decision in your letter. Keep a copy of this letter and any response.

The hearing process must be completed within *45 days* of the time your letter is sent or the problem is pointed out to the school officials.

[13] Ask about the availability of EPSDT for free medical screening. EPSDT is the Early and Periodic Screening, Diagnosis, and Treatment Program of Medicaid.

5.6 What Happens at the Hearing?

The purpose of the hearing is to explain to an impartial hearing officer what is wrong with what the school is doing and to present evidence concerning the kind of program your child should be getting. Simply criticizing the school's program is not enough. If you want the hearing officer to order the school to provide your child with a specific program or with specific services, you must persuade him or her by presenting evidence of your child's particular needs. This is where advocates and the persons who did your child's independent evaluation can be most helpful. They can help you explain why a particular program or service is essential for your child.

Parents have the following rights at a hearing:

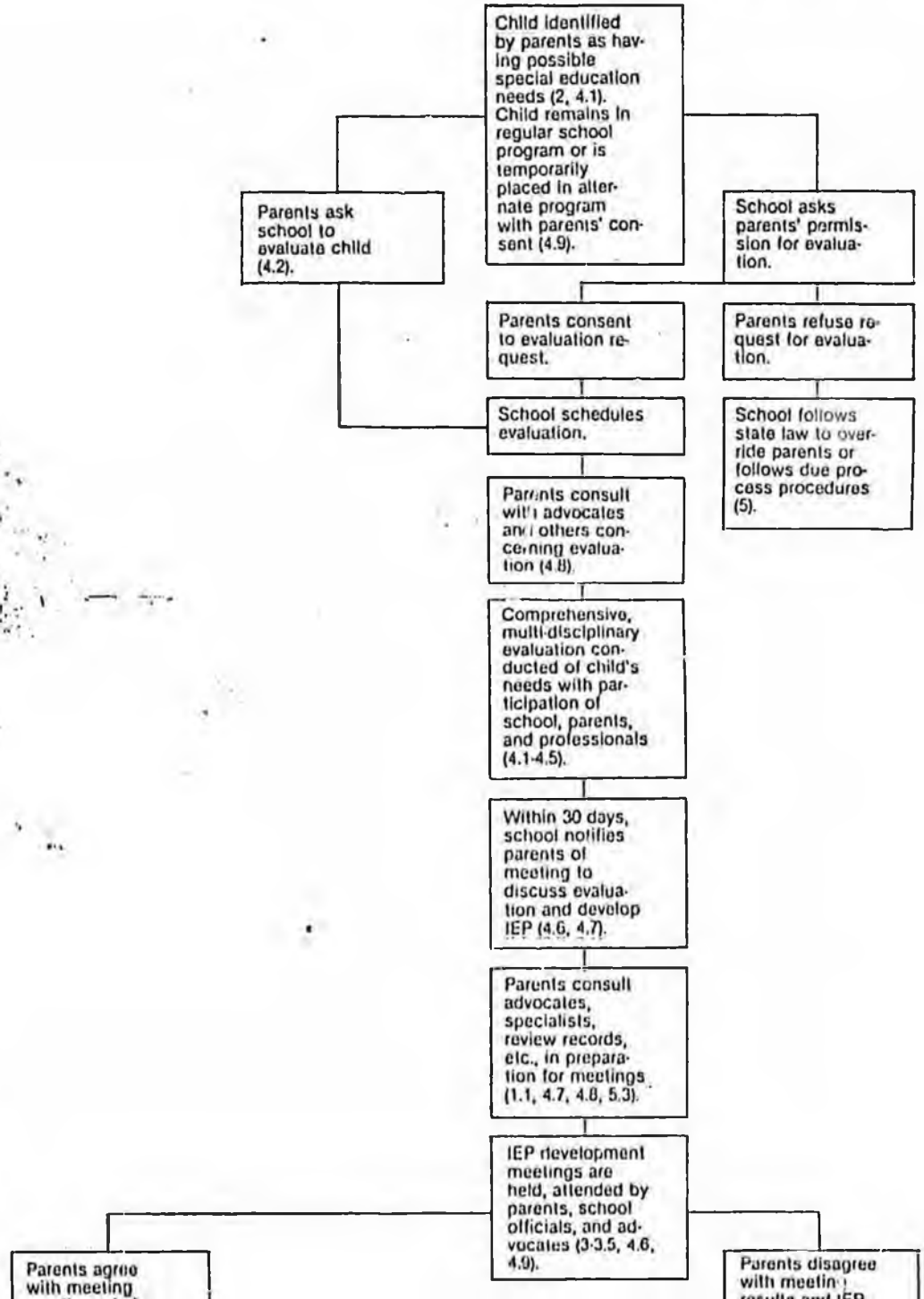
- You can bring anyone—including a lawyer, community advocate, or special education professional—who can help represent you and your child. (See section 6.1 for addresses of groups which can help in your state.) It's an advantage to have the independent evaluator at the hearing if his or her findings agree with your own views.
- You can present information about your child's needs, including the results of an independent evaluation, if there has been one.
- You can require particular school officials to attend the hearing and you can question them.
- You can prevent the introduction of any records or evidence that has not been made available to you at least five days before the hearing.
- You can open the hearing to the public.
- Your child can be present.

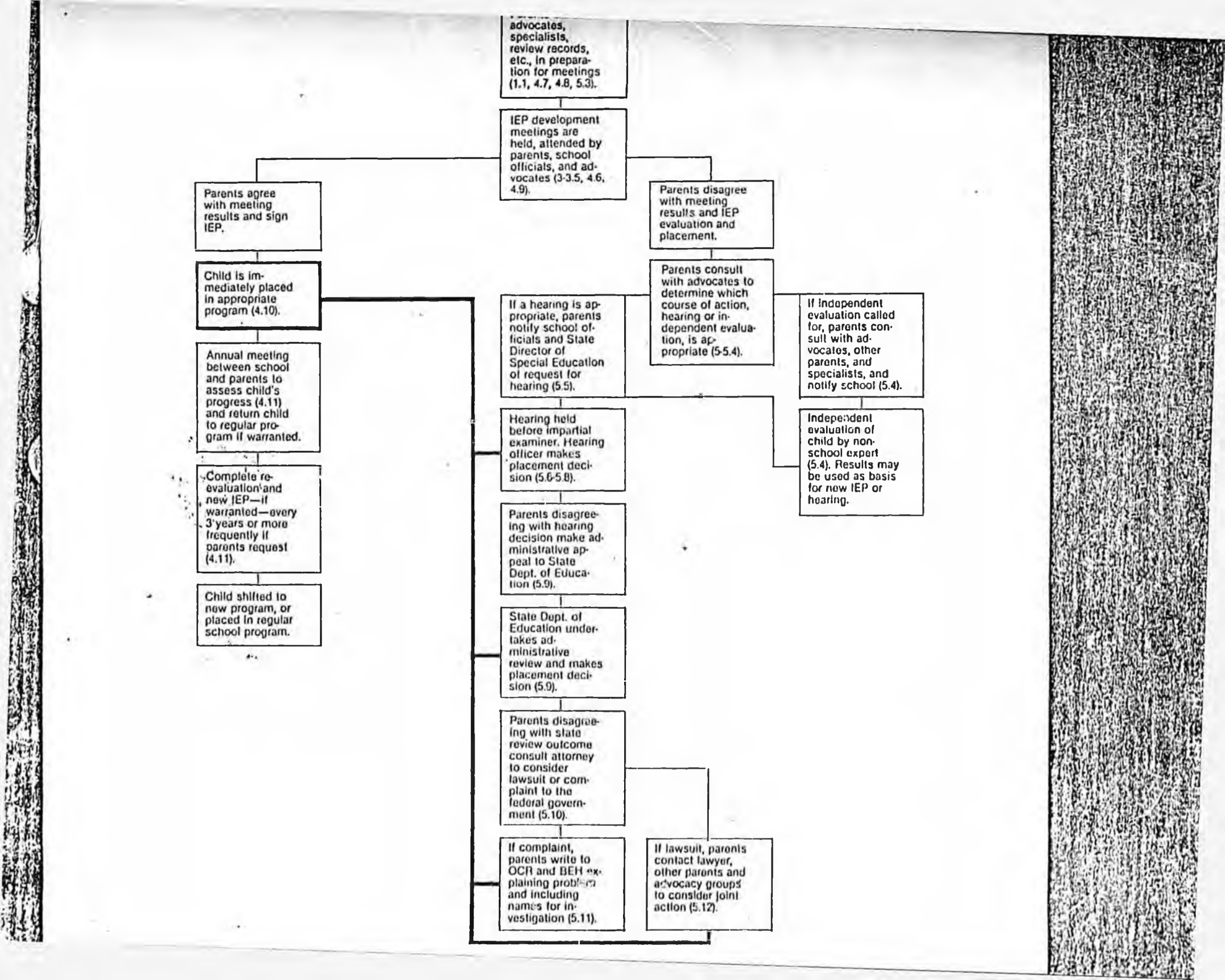
The school district is responsible for arranging for the hearing, and must let parents know beforehand what legal and other services are available to help in the hearing. In addition, it must be held at a convenient time and place. The hearing is conducted by a hearing officer.

5.7 Who is the Hearing Officer?

Each public agency is required to keep a list of persons who can serve as hearing officers, along with statements concerning each person's qualifications. The hearing officer must be totally impartial. He or she cannot work for the school district or any other agency responsible for educating or caring for your child, and cannot have any personal or professional interest that would

Evaluation, Placement and Due Process Under PL 94-142 and Section 504




advocates, specialists, review records, etc., in preparation for meetings (1.1, 4.7, 4.8, 5.3).
IEP development meetings are held, attended by parents, school officials, and advocates (3-3.5, 4.6, 4.9).
Parents agree with meeting results and sign IEP.
Parents disagree with meeting results and IEP evaluation and placement.
Child is immediately placed in appropriate program (4.10).
Parents consult with advocates to determine which course of action, hearing or independent evaluation, is appropriate (5-5.4).
If a hearing is appropriate, parents notify school officials and State Director of Special Education of request for hearing (5.5).
If independent evaluation called for, parents consult with advocates, other parents, and specialists, and notify school (5.4).
Annual meeting between school and parents to assess child's progress (4.11) and return child to regular program if warranted.
Hearing held before impartial examiner. Hearing officer makes placement decision (5.6-5.8).
Independent evaluation of child by non-school expert (5.4). Results may be used as basis for new IEP or hearing.
Complete re-evaluation and new IEP—if warranted—every 3 years or more frequently if parents request (4.11).
Parents disagreeing with hearing decision make administrative appeal to State Dept. of Education (5.9).
Child shifted to new program, or placed in regular school program.
State Dept. of Education undertakes administrative review and makes placement decision (5.9).
Parents disagreeing with state review outcome consult attorney to consider lawsuit or complaint to the federal government (5.10).
If complaint, parents write to OCR and BEH explaining problems and including names for investigation (5.11).
If lawsuit, parents contact lawyer, other parents and advocacy groups to consider joint action (5.12).

conflict with objectivity in deciding the case. (For example, he or she can't be a school board member, own the private school contemplated for your child, or stand to benefit in any way from the outcome.)

5.8 What is the Result of a Hearing?

On the basis of information presented at the hearing, the hearing officer will decide what he or she thinks is the most appropriate placement for your child. The hearing officer is *not* limited merely to accepting or rejecting the school's program, but is supposed to order the school to provide whatever services are necessary for your child, even if the school district does not presently provide such services. The hearing officer can require the district to start a new program or pay for your child to go to a private program providing the necessary services. The decisions of hearing officers are final and must be obeyed by school districts, subject only to appeal to the State Department of Education or the courts.

Within 45 days of the date you first requested a hearing, a written copy of the officer's decision *must* be provided to you. You are also entitled to a written transcript or a tape recording of the hearing proceedings if you wish.

5.9 What is an Administrative Appeal?

If you disagree with the hearing officer's decision, the last opportunity you have to challenge your child's evaluation, IEP, or program before filing a complaint or going to court is an administrative appeal. This appeal is a request to the State Department of Education to review the entire hearing process to make sure your legal rights were protected, all appropriate information was considered and the proper decision was made. The appeals officer may request additional information or meet with you and others concerned with the decision. If more evidence is presented, all the rights described above for the hearing will apply. *An administrative appeal is not possible if the initial hearing was conducted by the State Department of Education.*

If the State Department of Education Agency undertakes an administrative review of the case, they must complete their work and mail copies of their decision to all parties concerned within 30 days. Again, that decision is final unless you want to challenge it through a state or federal lawsuit.

5.10 Complaints to the Federal Government

If there are systematic violations of the law in your state or school district that affect a number of children—such as school board members serving as hearing officers, routine exclusions of children from school, inadequate evaluations based primarily on IQ tests, inaccessible buildings, or unnecessarily segregated facilities—you should consider filing a complaint with the Federal Office for Civil Rights (OCR)—the civil rights/Section 504 enforcement agency for the U.S. Department of Health, Education and Welfare—or the Bureau of Education for the Handicapped (BEH)—the HEW agency responsible for enforcing P.L. 94-142. A complaint with either of these agencies should result in a federal investigation of your charges. Federal agency action can affect *all* of the federal funds received by a school district, if the district refuses to comply with Section 504.

Be aware that once you file a complaint with the federal government, you may have to wait until the federal agency has completed any action it will take before you can file a lawsuit.

To file a complaint, write a letter to OCR and BEH clearly stating the problem and including as much information as you can about the situation (see addresses in section 6.4). Name all the people involved in the complaint so that OCR and BEH can interview them when they make their investigation. In your letter, you can ask OCR and BEH to keep all of the information you are providing confidential. Send a copy of the letter to your State Department of Education Special Education Office and to your Senators and Congresspersons.

Even though the federal agencies may be slow to respond to your complaint, filing a complaint with the federal government can be used to put political as well as legal pressure on school districts, so it is good to distribute copies of your complaint to important political people in your state.

5.11 Lawsuits

If you have been unsuccessful in the hearing and appeal process and have not been able to get the school to provide the services you think your child needs, you should seek help from the state or federal courts. You are able to challenge in court any unlawful aspect of the evaluation, placement and hearing process, as well as the school's failure to provide your child with appropriate special education services in proper school settings. A lawsuit can result in a direct order being issued, requiring public officials to obey the law and provide you the services, evaluation or procedures to which you are entitled.

Note: You do not have to go through the hearing and appeal process before going to court if the process is illegal or unfair and you can show that it would be useless to you to do so—for example, because the hearing officers are school board members or the school district has repeatedly ignored hearing officer orders.

In addition, you should consider challenging major violations of the law (that is, school system-wide or state-wide violations that affect a number of children—such as those discussed in section 5.10) by filing a "class action" suit in state or federal court. In this type of suit, you represent all other parents and children facing the same illegal actions you are facing. You should try to get other parents, parent coalitions, and community groups who share your interests to join with you.

Don't be put off by the idea of going to court. Lawsuits are often the only way to ensure compliance with new laws and are a powerful way of working within the system for the best interests of the public. More and more individual parents and parent groups are filing suits to protect their children's rights. And officials tend to treat you a lot more seriously when they know you are willing to rely on more than talk to accomplish your goals.

To file a lawsuit, you must first contact a lawyer to represent you. Legal Services, private attorneys, Developmental Disabilities Protection and Advocacy offices (there is one in each state—see section 6.1) or parent coalitions should be able to help you find an attorney to represent you. In many cases, attorneys can have their legal fees paid by the defendant (school officials), if they win or favorably settle the case, under the Civil Rights Attorneys' Fees Awards Act of 1976.[14] You should recommend that your attorney contact one of the National Advocacy Groups listed in section 6.2 of this booklet for detailed information about the federal laws, special education cases, and other legal assistance.

[14] 42 United States Code §1988

6. Resources

The following local, state, and national oganizations should be useful to you in obtaining appropriate educational programs for your child. These lists are by no means complete. There are undoubtedly many other advocacy and information resource groups that can provide similar technical assistance and services. It's a good idea first to consult with groups with whom you normally work—such as Headstart, Legal Services, your church, etc.—and then move on to the organizations listed here for additional assistance.

Another valuable resource are the state and local guides to specific education programs and procedures. More and more states are producing free brochures and manuals to let parents in the state know exactly what their rights are and how to work their way through the special education process. Your State Special Education Department (see section 6.5) should be able to send you copies or direct you to organizations that can. It's helpful to enclose a stamped, self-addressed envelope with your request.

If no one in your state has produced a guide to educational rights, your State Department of Education might be willing to provide the money to a parent or advocacy group to do it. Consider taking on the job. It's one of the most useful services a group could perform for the parents of handicapped children.

"42 U.S.C. §1988

6.1 State and Local Advocacy Groups

Alabama

Alabama Developmental Disabilities Advocacy Project
918 Fourth Avenue
Tuscaloosa, AL 35401
205/348-4928

Alabama Council on Human Relations
P. O. Box 1632
Auburn, AL 36830
205/821-8336

Alaska

Protection and Advocacy for Developmental Disabilities, Inc.
600 University Avenue
Fairbanks, AK 99701
907/479-6940

Arizona

Arizona Center for Law
112 N. 5th Avenue
P. O. Box 2783
Phoenix, AZ 85002
602/252-4904

Legal Services for the Developmentally Disabled
Arizona ARC
5610 S. Central Avenue
Phoenix, AZ 85040

Central Arizona Regional Epilepsy Society
P. O. Box 33638
Phoenix, AZ 85607

Arkansas

Arkansas Developmental Disabilities Advocacy System
Governor's Office
Capitol Building
Room 011
Little Rock, AR 72201
501/371-2171

California

Youth Law Center
693 Mission Street
San Francisco, CA 94105
415/495-6420

Public Advocates, Inc.
1535 Mission Street
San Francisco, CA 94103
415/431-7430

Disabled Paralegal Advocate Program
Center for Independent Living
2539 Telegraph Avenue
Berkeley, CA 94704
415/841-4776

Legal Aid Foundation of Los Angeles
1550 West Eighth Street
Los Angeles, CA 90017

Western Center for Law
849 S. Broadway
Suite 206
Los Angeles, CA 90014

Protection and Advocacy Panel
150 Grand Avenue
Oakland, CA 94612

Sonoma County Citizens Advocacy, Inc.
P. O. Box 4449
Santa Rosa, CA 95402

Colorado

Colorado Migrant Council
7905 W. 44th Avenue
Wheatridge, CO 80033
303/425-1532

Legal Center for Handicapped Citizens
1060 Bannock Street
Suite 316
Denver, CO 80202
303/575-0542

Connecticut

Office of Protection and Advocacy for Handicapped and Developmentally Disabled Persons
1380 Asylum Avenue (Rear)
Hartford, CT 06105
203/566-7303

United Cerebral Palsy
1 State Street
New Haven, CT 06511
203/772-2080

Delaware

Community Legal Aid Society, Inc.
913 Washington Street
Wilmington, DE 19801
302/575-0660

District of Columbia

Information Center for Handicapped Children
1619 M Street, N.W.
Washington, D.C. 20036
202/347-4986

Neighborhood Legal Services Program
635 F Street, N.W.
Washington, D.C. 20001
202/628-9161

One America Educational Service, Inc.
1750 Pennsylvania Avenue, N.W.
Suite 418
Washington, D.C. 20006
202/628-2216

Florida

Governor's Commission on Advocacy for Persons With Developmental Disabilities
Division of State Planning
Carlton Building
Tallahassee, FL 32304
904/488-9070

Georgia

American Friends Service Committee
Southeastern Public Education Program
P.O. Box 56JJ
Macon, GA 31208
912/742-3335

Georgia Advocacy Office, Inc.
1447 Peachtree Street
Suite 811
Atlanta, GA 30309
404/885-1447

Hawaii

Kahua Ho'omalu Kina, Inc.
P. O. Box 939
Honolulu, HI 96808
808/538-6631

Idaho

CO-AD, Inc.
100 Scout Lane
Boise, ID 83702
208/336-5353

Illinois

American Friends Service Committee
Midwest Regional Office
407 S. Dearborn Street
Chicago, IL 60605
312/427-2533

Illinois Developmental Disabilities Advocacy Authority
222 South College Street
Springfield, IL 62706
217/782-9696

Legal Assistance Foundation of Chicago
343 South Dearborn Street
Chicago, IL 60604
312/341-1070

Indiana

National Center for Law and the Handicapped
1235 N. Eddy Street
South Bend, IN 46617
219/288-4751

Protection and Advocacy Project
Community Service Council
445 N. Pennsylvania
Indianapolis, IN 46204
317/634-4311

Iowa

Iowa Protection and Advocacy System
Iowa Civil Rights Commission
418 Sixth Avenue
Liberty Building
Room 340
Des Moines, IA 50319
515/281-4121

Kansas

Kansas Advocacy and Protective Services for the Developmentally Disabled, Inc.
513 Leavenworth Suite 2
Manhattan, KS 66502
913/776-1541

Kentucky

Kentucky Protection and Advocacy Program
Department of Justice
Office of Public Defender
625 Leawood Drive
Frankfort, KY 40601
502/564-3754

Louisiana

Louisiana Advocacy System
New Orleans Legal Assistance Corporation
226 Carondelet Street
Suite 716
New Orleans, LA 70130
504/522-2357

Advocates for Juvenile Justice
344 Camp Street
Suite 1101
New Orleans, LA 70130
504/586-8835

Maine

Maine Coalition for Children With Special Needs
163 Lisbon Street
Lewiston, ME 04240
207/784-1558

Advocates for the Developmentally Disabled, Inc.
Cleveland Hall
Winthrop Street
Hallowell, ME 04347

Maryland

Disabilities Law Project
University of Maryland Law School
500 W. Baltimore Street
Baltimore, MD 21201
301/528-6307

Maryland Advocacy Unit for the Developmentally Disabled, Inc.
201 W. Preston Street
13th Floor
Baltimore, MD 21201
301/383-3358

Employment Security Administration/DHR
1100 N. Eutaw
Baltimore, MD 21201
301/383-5070

Anne Arundel County Association for Retarded Citizens
937 Spa Road
Annapolis, MD 21401
301/268-3085

Massachusetts

Massachusetts Advocacy Center
Two Park Square
Boston, MA 02111
617/357-8431

Center for Law and Education
Guttman Library - Third Floor
6 Appian Way
Cambridge, MA 02138
617/495-4666

North Shore Parents and Friends of the Handicapped
3 Elnew Avenue
N. Beverly, MA 01915

Center for Law and the Developmentally Disabled
c/o Massachusetts Association for Retarded Citizens, Inc.
381 Elliot Street
Newson Upper Falls, MA 02164
617/623-2876

Office for Children
120 Boylston Street
Boston, MA 02116
617/727-8900

Michigan

Michigan Protection and Advocacy Service for Developmentally Disabled Citizens
Michigan Association for Retarded Citizens
416 Michigan National Tower
Lansing, MI 48933
517/487-1755

Student Advocacy Center
202 E. Washington
Room 300
Ann Arbor, MI 48104
313/995-0477

Minnesota

Developmental Disabilities Advocacy Project
501 Park Avenue
Minneapolis, MN 55415
612/338-0968

Minnesota Developmental Disabilities Protection and Advocacy System
200 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
612/296-4018

Legal Aid Society of Minneapolis
Legal Advocacy for the Developmentally Disabled
501 Park Avenue
Minneapolis, MN 55415
612/332-1441

Mississippi

Children's Defense Fund
Mississippi Project
Box 1684
Jackson, MS 39205
601/355-7495

Mississippi Mental Health Project
Box 951
Jackson, MS 39205
601/948-6752

Mississippi System of Protection and Advocacy for Developmentally Disabled Individuals, Inc.
235 Watkins Building
510 George Street
Jackson, MS 39201
601/354-6520

Missouri

Missouri Developmental Disabilities Protection and Advocacy Services, Inc.
420 A Bro[illegible] Street
Jefferson City, MO 65101
314/636-8113

National Juvenile Law Center
St. Louis University School of Law
3701 Lindell Boulevard
St. Louis, MO 63108
314/533-8868

Bootheel Legal Aid Society
300 Ward Avenue
Caruthersville, MO 63830
314/333-4076

Montana

Montana Developmental Disabilities Advocacy Program, Inc.
8000 Dark Horse Road
Missoula, MT 59801
406/549-4848

Nebraska

Nebraska Developmental Disabilities Protection and Advocacy System
301 Centennial Mall South
Box 95007
Lincoln, NE 68507
402/471-2981

Nevada

Developmental Disabilities Advocacy Office
Governor's Office of Planning Coordination
Capitol Building - Room 45
Carson City, NV 89701

New Hampshire

New Hampshire Association for Retarded Citizens, Inc.
110 North Main Street
Concord, NH 03301
603/224-7322

New Jersey

Education Law Center
605 Broad Street
Newark, N.J. 07102
201/624-1815

New Jersey Department of the Public Advocate
Advocacy for the Developmentally Disabled
234 East Hanover Street
Trenton, N.J. 08625

New Mexico

New Mexico Developmental Disabilities Protection and Advocacy System

State [illegible]man Rights Commission 303 Bataan Building
Santa Fe, NM 87503
505/827-5681

Legal Advocacy Project
Community Services for the Handicapped
122 La Veta, NE
Albuquerque, NM 87108

New York

Public Education Association
20 W. 40th Street
New York, N.Y. 10018
212/354-6100

Advocates for Children
29-28 41st Avenue
Room 508
Long Island City, N.Y. 11101
212/786-9100

New York Civil Liberties Union
84 Fifth Avenue
New York, N.Y. 10011
212/924-7800

Protection and Advocacy System for Developmental Disabilities, Inc.
175 Fifth Avenue
Room 1308
New York, N.Y. 10010
212/982-1140

Mayors' Office for the Handicapped
250 Broadway
New York, N.Y. 10007
212/566-0972

Center on Human Policy
216 Ostrom Avenue
Syracuse, N.Y. 13210
315/423-3851

North Carolina

North Carolina Protection and Advocacy System
Department of Administration
Howard building
Room 107
112 W. Lane Street
Raleigh, N.C. 27611
919/733-3111

North Dakota

North Dakota Protection and Advocacy System
Governor's Council on Human Resources
State Capitol - 13th Floor
Bismarck, N.D. 58505
701/224-2972

Ohio

Ohio Protection and Advocacy System
4554 Coe Avenue
North Olmstead, OH 44070
216/777-4683

State Parent Involvement Network
3505 LaRue Prospect Road South
Prospect, OH 43342

Oklahoma

Protection and Advocacy Developmental Disabilities Agency
P.O. Box 14452
Oklahoma City, OK 73114
918/743-6453

Oregon

Oregon-Developmental Disabilities Advocacy Center
718 West Burnside Street
Room 301
Portland, OR 97209
503/228-6571

Pennsylvania

Public Interest Law Center of Philadelphia
1315 Walnut Street
Philadelphia, PA 19107
215/735-7200

Developmental Disabilities Advocacy Network, Inc.
1607 City Towers
301 Chestnut Street
Harrisburg, PA 17101
717/278-0474

Education Law Center
2100 Lewis Tower Building
225 South 15th Street
Philadelphia, PA 19102
215/732-6655

Rhode Island

The Rhode Island Protection and Advocacy System for Developmentally Disabled Persons, Inc.
65 Wild Street
Providence, RI 02904

South Carolina

South Carolina Protection and Advocacy System
P. O. Box 1254
Charleston, SC 29402
803/723-2518

South Dakota

South Dakota Advocacy Project, Inc.
111 West Capitol Avenue
Pierre, SD 57501
605/224-8294

Tennessee

Tennessee State Planning Office
Division of Advocacy
660 Capitol Hill Building
301 Seventh Avenue North
Nashville, TN 37219

Texas

Advocacy, Incorporated
5555 N. Lamar Street
Suite K-109
Austin, TX 78711
512/475-5543

Utah

Legal Services for the Developmentally Disabled, Inc.
141 East First South
Salt Lake City, UT 84111
801/532-3333

Vermont

Vermont Developmental Disabilities Advocacy Project
Vermont Legal Aid, Inc.
180 Church Street
P.O. Box 562
Burlington, VT 05641
802/863-2881

Virginia

Virginia Developmental Disabilities Protection and Advocacy Office
Ninth Street Office Building - Suite 100
Richmond, VA 23219
804/786-4185
800/552-3962 (toll free from outside Richmond)

American Civil Liberties Union of Virginia
Student Rights Project
1000 One East Main Street
Suite 515
Richmond, VA 23219
804/644-8022

Washington

Troubleshooters
1500 W. Armory Way
Seattle, WA 98119

West Virginia

West Virginia Advocates for the Developmentally Disabled, Inc.
922 Quarrier Street
Embleton Building
Room 309
Charleston, WV 25301

Wisconsin

Wisconsin Association for Retarded Citizens
2 West Mifflin, Suite 200
Madison, WI 53703
608/831-3444

Wyoming

Developmental Disabilities Protection and Advocacy Systems, Inc.
508 Hynds Building
Cheyenne, WY 82001
307/632-3496

Puerto Rico

Protection and Advocacy System of Puerto Rico
Consumer Affairs Dept.
Box 13934
Minillas Gubernamental Center
North Building
Santurce, PR 00908

Guam

Advocacy and Protective Services for the Developmentally Disabled
P. O. Box 10C
Agana, GU 96910

6.2 National Organizations for the Handicapped[15]

All Disabilities

American Coalition of Citizens with Disabilities
1346 Connecticut Avenue, N.W.
Suite 1124
Washington, D.C. 20036

Autism

National Society for Autistic Children
169 Tampa Avenue
Albany, New York 12208

Blind

American Council for the Blind
1211 Connecticut Avenue, N.W.
Washington, D.C. 20006

American Foundation for the Blind
15 West 16th Street
New York, New York 10011

National Federation of the Blind
1346 Connecticut Avenue, N.W.
Suite 212, Dupont Circle Building
Washington, D.C. 20036

Cerebral Palsy

United Cerebral Palsy Association
66 East 34th Street
New York, New York 10016

Deaf

Alexander Graham Bell Association for the Deaf
3416 Volta Place, N.W.
Washington, D.C. 20007

National Association of the Deaf
814 Thayer Avenue
Silver Spring, Maryland 20910

Deaf-Blind

National Association for the Deaf-Blind
2703 Forest Oak Circle
Norman, Oklahoma 73071

Emotionally Disturbed

Mental Health Association, National Headquarters
1800 North Kent Street
Arlington, Virginia 22209

Epilepsy

Epilepsy Foundation of America
1828 L Street, N.W.
Suite 405
Washington, D.C. 20036

Learning Disabilities

National Association for Children with Learning Disabilities
4156 Library Road
Pittsburgh, Pennsylvania 15234

Mental Retardation

National Association for Down's Syndrome
P. O. Box 63
Oak Park, Illinois 60303

National Association for Retarded Citizens
2709 Avenue E East
P.O. Box 6109
Arlington, Texas 76011

National Down's Syndrome Congress
528 Ashland Avenue
River Forest, Illinois 60305

Physically Handicapped

National Easter Seal Society for Crippled Children and Adults
2023 W. Ogden Avenue
Chicago, Illinois 60612

National Paraplegia Foundation
333 North Michigan Avenue
Chicago, Illinois 60601

[15] Note: Most of these organizations have state and local chapters which you can contact for assistance. This list was provided by the Closer Look Information Center for the Handicapped.

Spina Bifida Association of America
343 South Dearborn Street, Room 319
Chicago, Illinois 60604

Speech Impaired

American Speech and Hearing Association
10801 Rockville Pike
Rockville, Maryland 20852

6.3 National Advocacy and Service Organizations

Center for Law and Education
Guttman Library
6 Appian Way
Cambridge, MA 02138
617/495-4666

Center on Human Policy
216 Ostrom Avenue
Syracuse, N.Y. 13210
315/423-3851

Children's Defense Fund
1520 New Hampshire Avenue, N.W.
Washington, D.C. 20036
202/483-1470

Closer Look Information Center for the Handicapped
P. O. Box 1492
Washington, D.C. 20013

Council for Exceptional Children
1920 Association Drive
Reston, VA 22091
703/620-3660

Mental Health Law Project
1220 Nineteenth Street, N.W.
Washington, D.C. 20036
202/467-5730

Mexican-American Legal Defense Fund
28 Geary Street
San Francisco, CA 94108
415/981-5800

National Association for the Deaf, Legal Defense Fund
Florida Avenue & 7th Street, N.E.
Suite 311
Washington, D.C. 20002
202/447-0503

National Center for Law and the Handicapped
1235 N. Eddy Street
South Bend, IN 46617
219/288-4751

National Juvenile Law Center
St. Louis University School of Law
3701 Lindell Boulevard
St. Louis, MO 63108
314/533-8868

Native American Rights Fund
1506 Broadway
Boulder, CO 80302
303/447-8760

Youth Law Center
693 Mission Street - Second Floor
San Francisco, CA 94105

6.4 National and Regional Offices of Federal Agencies

Office for Civil Rights

National Office:

Director, Office for Civil Rights
Department of Health, Education and Welfare
330 Independence Avenue, S.W.
Washington, D.C. 20201

Bureau of Education for the Handicapped
400 Maryland Avenue, S.W.
Donohoe Building
Washington, D.C. 20202

Region I:

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

HEW
Office for Civil Rights
140 Federal Street
14th Floor
Boston, MA 02110

Region II:

New York, New Jersey, Puerto Rico, Virgin Islands

HEW
Office for Civil Rights
Federal Building
26 Federal Plaza
Room 3908
New York, NY 10007

Region III:

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

HEW
Office for Civil Rights
P. O. Box 13716
3535 Market Street
P.O. Box 13716
Philadelphia, PA 19101

Region IV:

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

HEW
Office for Civil Rights
101 Marietta Street
Atlanta, GA 30323

Region V:

Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin

HEW
Office for Civil Rights
300 South Wacker Drive
8th Floor
Chicago, IL 60606

Region VI:

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

HEW
Office for Civil Rights
1200 Main Tower Building
19th Floor
Dallas, TX 75202

Region VII:

Iowa, Kansas, Missouri, Nebraska

HEW
Office for Civil Rights
12 Grand Building
1150 Grand Avenue
Kansas City, MO 64106

Region VIII:

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

HEW
Office for Civil Rights
Federal Building
1961 Stout Street
Room 11037
Denver, CO 80294

Region IX:

Arizona, California, Hawaii, Nevada, Guam, American Samoa, Trust Territory of Pacific Islands, Wake Island

HEW
Office for Civil Rights
100 Van Ness, 14th Floor
San Francisco, CA 94102

Region X:

Alaska, Idaho, Oregon, Washington

HEW
Office for Civil Rights
1321 Second Avenue
Room 5041, M/S 508
Seattle, WA 98101

6.5 State Special Education Departments

Alabama

Mr. Cecil Bobo
Coordinator
Exceptional Children and Youth
State Department of Education
Montgomery, AL 36104

Alaska

Dr. Tom Brown, Director
Division of Educational Program Support
State Department of Education
Pouch F
Juneau, AK 99801

Arizona

Mr. Don Johnson, Director
Department of Special Education
1535 W. Jefferson
Phoenix, AZ 85007

Arkansas

Dr. Larry L. Rogers
Division of Instructional Services
Arch Ford Education Building
Little Rock, AR 72201

California

Mr. Leslie Brinegar
Director, Office of Special Education
State Department of Education
Sacramento, CA 95814

Colorado

Special Educational Services Unit
State Department of Education
201 East Colfax
Denver, CO 80203

Connecticut

Mr. Robert I. Margolin
Bureau of Pupil Personnel and Special Educational Services
State Department of Education
Hartford, CT 06115

Delaware

Dr. Carl Halton
Director of Instruction
State Department of Public Instruction
John G. Townsend Building
P. O. Box 1402
Dover, DE 19901

District of Columbia

Dr. Doris Woodson
Assistant Superintendent
Special Education
Division of Special Educational Programs
Presidential Building
Suite 602
415 12th Street, N.W.
Washington, DC 20004

Florida

Dr. Landis M. Stetler, Chief
Bureau of Education for Exceptional Students
Florida Department of Education
Tallahassee, FL 32304

Georgia

Mr. Herbert D. Nash, Director
Special Education Program
Division of Early Childhood & Special Education
State Department of Education
Atlanta, GA 30334

Hawaii

Mr. Miles Kawatachi, Director
Special Education Branch
State Department of Education
1270 Queen Emma Street
Room 120
Honolulu, HI 11206

Idaho

Dr. Judy Schrag
Director of Special Education
Len Jordan Building
State Office Building
Boise, ID 83720

Illinois

Joseph Fisher, Assistant Superintendent
Department of Specialized Educational Services
100 North First Street
Springfield, IL 62777

Indiana

Mr. Gilbert A. Bliton, Director
Division of Special Education
Department of Public Instruction
229 State House
Indianapolis, IN 46204

Iowa

Mr. J. Frank Vance
State Director, Division of Special Education
State Department of Public Instruction
Grimes State Office Bldg.
Des Moines, IA 50319

Kansas

Mr. James E. Marshall, Director
Division of Special Education
State Department of Education
120 East Tenth Street
Topeka, KS 66612

Kentucky

Bureau for Education of Exceptional Children
Capital Plaza Tower
8th Floor
Frankfort, KY 40601

Louisiana

Dr. Henry L. Smith, Director
Assistant Superintendent
Special Educational Services
State Department of Education
Capital Station
P. O. Box 44064
Baton Rouge, LA 70804

Maine

Mr. John T. Kierstead, Director
Division of Special Education
State Department of Educational & Cultural Services
Augusta, MA 04333

Maryland

Dr. Linda J. Jacobs
Assistant State Superintendent
Division of Special Education
State Department of Education
P. O. Box 8717, Balt-Wash International Airport
Baltimore, MD 21240

Massachusetts

Mr. Roger Brown
Division of Special Education
State Department of Education
Park Square Building
31 St. James Avenue
Boston, MA 02116

Michigan

Mr. Murray O. Batten, Director
Special Education Services
State Department of Education
P. O. Box 30008
Lansing, MI 48909

Minnesota

Mr. John C. Groos, Director
Special Education Section
State Department of Education
Capitol Square
550 Cedar Avenue
St. Paul, MN 55101

Mississippi

Dr. Walter H. Moore, Assistant Director
Special Education Section
State Department of Education
Jackson, MS 39205

Missouri

Mr. Roland J. Werner, Jr.
Director of Special Education
Dept. of Elementary and Secondary Education
P. O. Box 480
Jefferson City, MO 65101

Montana

Shirley M. Miller, Director
Special Education Unit
Office of Public Instruction
State Capitol
Helena, MT 59601

Nebraska

Mr. Gary Sherman
Administrator of Special Education
Special Education Section
233 S. 10th Street
Lincoln, NE 68509

Nevada

Mr. Frank South
Exceptional Public Education
Nevada State Dept. of Education
Capital Complex
400 West King Street
Carson City, NV 89710

New Hampshire

Mr. Robert Kennedy
Director, Special Education Section
State Department of Education
105 Loudon Road
Concord, NH 03301

New Jersey

Mr. Paul Parado
Acting Deputy Assistant Commissioner
Branch of Special Operations and Pupil Personnel Services
State Department of Education
225 West State Street
Trenton, NJ 08625

New Mexico

Mr. Elie S. Gutierrez, Director
Division of Special Education
State Department of Education
State Educational Building
300 Don Gaspar Avenue
Santa Fe, NM 87503

New York

Dr. Louis Brumet
Office for the Education of Children with Handicapping Conditions
State Education Department
55 Elk Street
Albany, NY 12234

North Carolina

Mr. Theodore R. Drain, Director
Division for Exceptional Children
State Department of Public Instruction
Raleigh, NC 27611

North Dakota

Mr. Rober Miller Director
Special Education
State Department of Public Instruction
Bismarck, ND 58501

Ohio

Mr. S. J. Bonham, Jr., Director
Division of Special Education
State Department of Education
933 High Street
Worthington, OH 43085

Oklahoma

Dr. Maurice P. Walraven
Director of Special Education
State Department of Education
2500 N. Lincoln
Room 263
Oklahoma City, OK 73105

Oregon

Dr. Mason D. McQuiston
Director of Special Education
Oregon Department of Education
942 Lancaster Drive N.E.
Salem, OR 97310

Pennsylvania

Dr. Gary J. Makuch
Bureau of Special and Compensatory Education
P. O. Box 911
Harrisburg, PA 17126

Rhode Island

Mr. Charles Harrington, Dir.
Special Education
State Department of Education
Roger Williams Building
Providence, RI 02908

South Carolina

Mr. Robert S. Black
Office of Programs for the Handicapped
State Department of Education
Room 309, Rutledge Building
Columbia, SC 29201

South Dakota

Dr. George Levin, Director
Section for Exceptional Children
Office Bldg. #3
Pierre, SD 57501

Tennessee

Mr. Vernon Johnson, Director
Division for the Education of the Handicapped
State Department of Education
102 Cordell Hull Building
Nashville, TN 37219

Texas

Mr. Don Weston, Director
Division of Special Education
Texas Education Agency
201 East 11th Street
Austin, TX 78701

Utah

Dr. Elwood Pace, Coordinator
Pupil Services
Utah State Board of Education
250 East, 500 South
Salt Lake City, UT 84111

Vermont

Ms. Jean S. Garvin,
Director
Special Educational and
Pupil Personnel Services
State Department of
Education
Montpelier, VT 05602

Virginia

Mr. James T. Micklem,
Director
Division of Special
Education
State Department of
Education
Richmond, VA 23216

Washington

Mr. Floyd M. Jackson,
Director
Special Services Section
Old Capitol Building
Olympia, WA 98504

West Virginia

Mr. Keith Smith, Director
Division of Special
Education
West Virginia Department
of Education
Building 6, Room B-315
State Capitol
Charleston, WV 25305

Wisconsin

Victor J. Contrucci, Admin.
Division for Handicapped
Children & Assistant
State Superintendent
State Department of Public
Instruction
126 Langdon Street
Madison, WI 53702

Wyoming

Mr. Lamar Gordon, Jr.,
Coordinator
Office of Exceptional
Children
State Department of
Education
Cheyenne, WY 82002

Appendix: Legal Citations to Federal Statutes and Regulations

This chart was prepared by the Center for Law and Education in Cambridge, Massachusetts. We are grateful to the Center for allowing CDF to reproduce this useful document here. Individual copies of the chart may be obtained from the Center for Law and Education, Guttman Library, 6 Appian Way, Cambridge, Massachusetts 02138 (495-4666).

Special Education Identification and Phase-In

	P.L. 94-142 20 U.S.C. §§1401 et seq.	P.L. 94-142 Regulations 45 C.F.R. Part 121a	§504 Rehabilitation Act of 1973 29 U.S.C. §794	§504 Regulations 45 C.F.R. Part 84	Case Law	Cases Pending
Handicapping Conditions Covered	child needing special ed who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically or other health impaired §1401(1) specific learning disabilities §1401(15)	definitions §121a.5 (see also proposed regs re learning disabilities, 41 Fed. Reg. 52404, 11/29/76)	"No otherwise qualified handicapped individual in the United States ...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."	anyone with physical or mental impairment substantially limiting one or more major life activities (including learning) or with a record of such impairment or who is regarded as having such §84.3(j)	§504 definition re admissions "otherwise qualified", *Davis* (424 F. Supp. 1341, E.D. N.C., 1976)	
Child Search	required to identify, locate, and evaluate all children who are handicapped and in need of special ed and to determine which are and are not receiving needed services §1414(a)(1)	required to identify, locate, and evaluate all children who are handicapped and in need of special ed §121a.220		required to identify and locate every qualified handicapped person not receiving public education and notify each of rights §84.32	*Mattie T.*, C.A. No. DC 75-31-S, N.D. Miss., 7/26/77)	
Priorities for Providing Free Appropriate Public Education (FAPE) Prior to September 1, 1978	state must establish priorities for serving first, children not receiving an education and, then, children receiving an inadequate education §1412(3)	use federal funds to provide FAPE first to children who are not receiving any education and then to provide services to those receiving an inadequate education §121a.320, § 324 NOTE: all children must be fully served by 9/1/78				
Timelines for Service	FAPE available for all handicapped children from 3 to 18 years old by 9/1/78 and for all between 3 and 21 years old by 9/1/80 unless state law or practice to contrary §1412(a)(2)	§121a.122 §121a.300		effective 6/3/77 no handicapped person may be excluded, all other requirements must be met at earliest practicable time and in no event later than 9/1/78 §84.33(d)		

Special Education Evaluations

Evaluations Required	§1412(2)(C)	required prior to placement §121a.531 defined §121a.500	"No otherwise qualified handicapped individual in the United States ...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."	required prior to placement or any change in placement §84.35(a)	*Mattie T. Donnie R. v. Wood*, C.A. No. 77-1360 (D. So. Car., 8/22/77) (consent decree) *Stuart v. Nappi*, 443 F. Supp. 1235 (D. Conn., 1977)	*Tyrone P. v. Maschmeyer*, C.A. No. S77-0098-C (E.D. Mo., 12/6/77) *Stuart v. Nappi*, C.A. No. B-77-381 (D. Conn., 12/2/77)
Cost of Evaluation		independent evaluation at public expense when §121a.503(a)(3)(ii) and (b)		see "free education" §84.33(c)		
Independent Evaluation	right to §1415(b)(1)(A)	defined §121a.503(a)(3) use of results §121a.503(c) requested by hearing officer §121a.503(d)				
Evaluation Instruments, Procedures	nondiscriminatory test materials in usual mode of communication required, multifaceted evaluations required §1412(5)(C)	in native language §121a.532(a)(1) trained evaluators §121a.532(a)(3) validated instruments §121a.532(a)(2)	nondiscriminatory as to race, culture, handicap §121a.532(c), §530(b) multifaceted §121a.532(b)(1)	validated instruments §84.35(b)(1) nondiscriminatory as to handicap §84.35(b)(3) multifaceted §84.35(b)(2)	*Mattie T.*	*PASE v. Redmond*, C.A. (No. 74C 3586, N.D. Ill., Comp 12/12/74)
Re-evaluations		at least every 3 years §121a.534(b) anytime at parental or teacher request or if warranted §121a.534(b)		periodic reevaluation of students provided special ed required §84.35(d)		

Special Education Placement and Programming

	P.L. 94-142 20 U.S.C. §§1401 et seq.	P.L. 94-142 Regulations 45 C.F.R. Part 121a	§504 Rehabilitation Act of 1973 29 U.S.C. §794
Decision-Making for Placement	by local or intermediate educational agency, teacher, parents, and, where appropriate, the child §1401(19)	parental, child role §§121a.344-45 participants §121a.344 decision by group knowledgeable about child §121a.533(a)(3) based upon many factors §121a.533(a)(1)	"No otherwise qualified handicapped individual in the United States ...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
Free Appropriate Public Education (FAPE)	special educ and related services at public exp., under publ supervision and direction, mtg state standards at preschool, elem., and secondary levels; provided under individualized education programs §1401(18) right to §1415(b)(1)(A)	defined as per statute §121a.4 timelines, methods, types, services, options, etc. §§121a.300 to §.307	
Least Restrictive Environment (LRE)	to maximum extent appropriate, handicapped must be educated with nonhandicapped and segregation of handicapped occurs only when education in regular class with supplementary aids and services is unsatisfactory §1412(5)	defined §121a.550 continuum of services, placements, nonacademic services, etc. §§121a.551-.556 describe extent of LRE in IEP §121a.346(c)	
Private School Placement	services required at no cost if properly placed or referred by educational agency §1412(a)(4)	same rights §121a.2 if appropriate, no cost to parents §121a.302 implementation when placed by state §§121a.400-.403 implementation when placed by parents §§121a.450-.460	
Individualized Education Program	joint written statement of child's present levels of educational performance, annual goals, short-term instructional objectives, educational services, extent of regular program participation, date of initiation of services, anticipated duration of services, objective evaluation criteria, evaluation procedures and at least annual evaluation schedules §1401(19)	defined §121a.340 required by 10/1/77 §121a.342(a) required before special ed starts §121a.342(b) P.E. included in all programs §121a.307 meetings to develop IEP §§121a.343-.345, .347-.348 parent participation §§121a.344(a)(3) and .345 IEP accountability §121a.349	
Transportation	may be required to assist handicapped child to benefit from education §1401(17)	defined as part of "related services" mandated §121a.13(b)(13) can be included as part of child's IEP §121a.346(c)	
Review	annual review required at minimum §1414(a)(5)	annual review required §§121a.522(a)(1) and .343(d)	

§504 Regulations 45 C.F.R. Part 84	Case Law	Cases Pending	
draw on information from variety of sources §84.35(c) group decision §84.35(c)			
at no cost to parents except for fees imposed on nonhandicapped §84.33(c) designed to meet individual needs §84.33(b) provided with procedural protections §84.33(b)	§504-no cost, exclusion *Kruse v. Campbell*, C.A. No. 75-0822-R (E.D. Va. 3/23/77) *Mattie T.* *Hairston* *Donnie R.* *Stuart v. Nappi*	*Crawford v. Univ. No. Carolina*, 440 F. Supp. 1047 (M.D. N.C. 1977) *PASE Crowder v. Riles*, C.A. No. 000084 (Sup. Ct., L.A. Cty., Cal., 12/20/76) *Lopez v. Salida Sch. Dist.*, C.A. No. C-73078 (Dist. Ct., Denver Cty., Colo., 7/21/77).	*N.A.R.C. v. N.J. Dept. Human Services* C.A. No. C-2473-76 (Sup. Ct. Chancery Div., Hunterdon Cty., N.J., 3/16/78). *Tyrone P. Armstrong v. Kline* (C.A. No. 78-172, E.D. Pa., 1-17-78)
§84.34(a) maximum integration in academic settings §84.34(b) maximum integration in nonacademic settings §84.34(c) if not integrated, comparable facilities	*Mattie T.* *Hairston v. Drosick*, 423 F. Supp. 180 S.D. W. Va., 1/14/76 *Stuart v. Nappi*	*Kenneth J. v. Kline* C.A. No. 77-(E.D. Pa. 1977)	
at no cost to parents only if FAPE not available publicly §84.33(c)(4)		*Armstrong*	
designed to meet individual educational needs of handicapped persons as adequately as needs of nonhandicapped are met—IEP one way to do this §84.33(b)		*P. I. v. Shada* (C.A. No. H78-58 D. Conn. 2-2-78)	
at no greater cost to parents than for nonhandicapped §84.33(c)(2)			
periodic re evaluations required §84.35(d)			

Special Education Procedural Due Process Protections

	P.L. 94-142 20 U.S.C. §§1401 et seq.	P.L. 94-142 Regulations 45 C.F.R. Part 121a	§504 Rehabilitation Act of 1973 29 U.S.C. §794
Notice	written prior notice in native language when initiating, changing or refusing to identify, evaluate, place, or provide free appropriate public education §1415(b)(1)(C)	when- §121a.504(a) content and form- §121a.505	"No otherwise qualified handicapped individual in the United States ... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
Consent		defined- §121a.500 prior to placement evaluation and initial placement in special ed- §121a.504(b) procedures when parent refuses- §121a.504(c)	
Surrogates	assignment of surrogate when parent/guardian unknown, unavailable or child a state ward- §1415(b)(1)(B)	when- §121a.514(a) criteria for selection- §121a.514(c) and (d) responsibilities- §121a.514(e)	
Access to Records/Confidentiality	examine records- §1415(b)(1)(A) (See also Buckley Amnd., 20 U.S.C. §1232g)	records re identification, evaluation, placement FAPE- §121a.502 definitions §121a.500, .560 consent to release- §121a.571 access rights- §121a.562 notice of rights- §121a.562 amendments- §121a.567 hearings §§121a.568-.570	
Grievance Procedures			
Hearings	whenever complaint received §1415(b)(2) hearing rights- §1415(d)	when §§121a.506, 504(a) hearing rights- §121a.508 impartial hearing officer- §121a.507 timelines- §121a.512	
Administrative Appeals	impartial review- §1415(c)	impartial review- §§121a.509, .510 timelines- §121a.512	
Judicial Review	civil action in state or federal court- §1415(e)(2)	when- §121a.511	

§504 Regulations 45 C.F.R. Part 84	Case Law	Cases Pending
whenever action taken regarding identification, evaluation, or educational placement- §84.36 notice of non-discrimination- §84.8	*Mattie T.* *Hairston*	*PASE* *Armstrong*
examine records- §84.36		*PASE*
adoption of grievance procedures required for all recipients employing 15 or more persons for complaints alleging any action prohibited by Part 84 (except re postsecondary admissions) EM 7		
right to impartial hearing- §84.36	*Hairston* *Mattie T.* *Stuart v. Nappi*	*PASE*
right to review- §84.36 see procedures for Title VI, Civil Rights Act of 1964, 45 C.F.R. §§80.6-80.10 and Part 81		
see procedures for Title VI, Civil Rights Act of 1964, 45 C.F.R §§80.6-80.10 and Part 81	§504 private cause of action Lloyd, 548 F. 2d 1277 (7th Cir. 1977) *Donnie R.* *Mattie T.* *Crawford v. U.N.C.* 440 F. Supp. 1047 (M.D.N.C. 1977) *Stuart v. Nappi*	

CDF Board of Directors

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(Former HEW Assistant Secretary for Individual and Family Services)
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Charlotte, North Carolina

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Washington, D.C.

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Nan Waterman
Chairwoman, Common Cause
Washington, D.C.

Andrew Young
Former U.S. Permanent Representative
to the United Nations
Atlanta, Georgia

Other CDF Publications

Books

Children Out of School in America
School Suspensions: Are They Helping Children?
The Elementary and Secondary School Civil Rights Survey: An Analysis
Doctors and Dollars Are Not Enough
EPSDT: Does It Spell Health Care for Poor Children?
Children in Adult Jails
Children Without Homes: An Examination of Public Responsibility to Children in Out-of-Home Care
Where Do You Look? Whom Do You Ask? How Do You Know? Resources for Child Advocates
A Portrait of Inequality: Black and White Children in America
Who Needs Child Care? Policy Options for the '80s

Handbooks

Your School Records
Misclassification: The Resegregation of Black Children in Public Schools
Health Care for Children: Policies and Principles for Child Advocates
A Brief Guide to Children Without Homes
Federal Programs Affecting Children Without Homes
For the Welfare of Children
It's Time to Stand Up for Your Children: A Parent's Guide to Child Advocacy
The Child Care Handbook
America's Children and Families: A Profile
Children and the Federal Budget
A Child Advocate's Guide to Capitol Hill
Building a House on the Hill for Our Children
What is CDF?
CDF Annual Report

HB

257

COMMITTEE REPORT

HOUSE

(7) LABOR & COMMERCE FURTHER:

3/11/83

Date: 4/12/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 257

An Act relating to certain limitations and exclusions in health insurance policies; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 257 [X] same title [ ] new title

and recommends

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

M W. MILLER

Inez Tucker
CHAIRMAN

H 60

Asper
3/29/83

IN THE HOUSE BY WARD

Comm
~~SPONSOR~~ SUBSTITUTE FOR HOUSE BILL NO. 257

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to certain limitations and exclusions in health insurance policies; and providing for an effective date."

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

* Section 1. AS 21.42 is amended by adding a new section to read:

Sec. 21.42.347. COVERAGE WHEN ALASKA AREA NATIVE HEALTH SERVICE BENEFITS AVAILABLE. An individual or group health insurance policy that provides coverage on an expense incurred basis or an individual or group service or indemnity type contract issued by a nonprofit corporation may not exclude or limit coverage for the reason that the covered person is eligible to receive health care benefits provided by the Alaska Area Native Health Service.

* Sec. 2. This Act takes effect January 1, 1984, and applies to all policies issued or renewed on or after that date.

alaska state hospital association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board
Ronald A. Pavellas
Humana Hospital Alaska
Anchorage

Chairman-Elect
Mark Hawkins
Sitka Community Hospital
Sitka

Immediate Past Chairman
Tom Mingen
Fairbanks Memorial Hospital
Fairbanks

Secretary/Treasurer
Edward Zeine
Cordova Community Hospital
Cordova

Delegate to the American Hospital Association
Al M. Camosso
Providence Hospital
Anchorage

Alternate Delegate to the American Hospital Assoc.
Michael Lockwood
Central Peninsula Hospital
Soldotna

Delegate to the American Health Care Association
Jack Buck
St. Ann's Nursing Home
Juneau

Alternate Delegate to the American Health Care Association
Emma G. Ivy
Wrangell General Hospital
Wrangell

Delegate to the Association of Western Hospitals
Michael Herring
South Peninsula Hospital
Homer

Alternate Delegate to the Association of Western Hospitals
Daniel Van Wieringen
Kodiak Island Hospital
Kodiak

Trustee Delegate to the American Hospital Assoc.
Moe Kadish
Trustee, Providence Hospital
Anchorage

Alternate Trustee Delegate to American Hospital Association
Robert Jonsen
Central Peninsula Hospital
Soldotna

Physician Member of the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

April 1, 1983

The Honorable Jerry Ward
House of Representatives
Pouch V
Juneau, Alaska 99811

Subject: HJR 35.

Dear Representative Ward:

The Alaska State Hospital Association wishes to indicate our support for House Joint Resolution 35.

We believe that the use of health insurance by those who are entitled to services provided by the Alaska Native Health Service would be in the public's best interest. That additional influx of funds would allow the Alaska Native Health Service to continue to provide needed services in the face of federal budget reductions.

The Alaska State Hospital Association believes that the concepts in HJR 35 are necessary if an adequate health care delivery system is to continue in Alaska. We believe it merits legislative support.

Sincerely,

Dennis L. DeWitt
President

DLD:hb

cc: House HESS Committee
John Dumbolton
Frank Sutton
Richard E. Zitzow

alaska state hospital association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

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Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

April 1, 1983

The Honorable Jerry Ward
House of Representatives
Pouch V
Juneau, Alaska 99811

Subject: HB 257.

Dear Representative Ward:

The Alaska State Hospital Association wishes to offer our support to the concepts found in House Bill 257.

We believe that it is imperative that the Alaska Native Hospitals be able to collect third party payments for services they provide. With the impending reductions in federal funds, all potential sources of revenue must be pursued by the ANS facilities if they are to remain viable and up to the standard of quality Alaskans have the right to demand. While some may scoff at HB 257, we suggest that is how most forward looking proposals are treated. Without this gradual movement away from depending on federal funding, health services to Alaskan Natives will soon only be a memory.

The Alaska State Hospital Association commends your willingness to address this critical issue in such a meaningful fashion.

Sincerely,

Dennis L. DeWitt
President

DLD:hb

cc: House HESS Comm.
John Dumbolton
Richard E. Zitzow
Frank Sutton

To: Rep. Ward
From: Dave Palmer, House HESS
Re. HB 257

I have talked with Don Koch, Chief of Market Surveillance in the Department of Commerce about this bill. He, in turn talked with Dr. Rabeau at the Dept of Health and Social Services, Public Health division. Dr. Rabeau has extensive experience with the Alaska Area Native Health Service. Mr. Koch explained so problems with HB 257, as written and suggested as substitute that will accomplish your goal without adversely affecting several insurance programs.

The bill as written would require primary payments by insurance companies even though the insured person is covered by another policy. Problems arise with worker's compensation, medicare, the U.S. Longshoremen's Act, to name a few. A person with coverage under, say worker's compensation, would be paid once by his private coverage, and again by the worker's compensation. This double payment has been upheld by a New York court when an exclusion to double payment was omitted.

The question is whether a person has incurred a "legal obligation to pay" for care. If there is a legal obligation to pay, then the insurance company may not discriminate in its payment. Although this is the case now, Mr. Koch suggests that your bill could be changed to make that policy clearer than present statute. It is the "legal obligation to pay" that must control, and that is the topic of HJR 35.

Another problem with the bill as written is that it will jeopardize a group insurance program developed by the North Slope Borough to provide supplemental coverage for all of the Borough residents. To supplement the coverage accorded the Natives there, the Borough bought a group policy to cover costs of services not provided by the AANHS. If this policy is required to pay for costs provided by the Federal government on a primary basis, the liability will increase dramatically, as will the premium. The city of Kake is proposing to develop a similar program.

The argument that employers or persons are paying for coverage that they do not receive does not hold if the premium is based on actuarial studies. The increase in liability by adding primary coverage for those covered by any state or federal program will surely increase rates.

There are some insurance contracts that are guaranteed renewable, which will not be affected by this bill. There will be inequities in coverage between those policies and others that are affected.

STAFF REPORT

HB 257, LIMITATIONS AND EXCLUSIONS IN HEALTH INSURANCE POLICIES

HOUSE HESS COMMITTEE

MARCH 24, 1983

Dave Palmer

HB 257 provides that health insurers may not exclude or limit coverage for persons who receive benefits under a state or federal act, including the Alaska Area Native Health Service.

This has the effect of making health insurers the primary party responsible to pay for costs that are covered by both a private insurance policy and a state or federal program.

The purpose of the bill is to prevent insurance companies from refusing payments to persons who receive care from a government program if that person has paid for insurance that duplicated the coverage afforded by the government program.

The effect of this bill reaches far beyond the intent, in the opinion of Don Koch, Chief of Market Surveillance in the Department of Commerce. By including all state and federal programs, health insurance companies are now made to become the primary party responsible to pay for costs incurred through programs like Worker's compensation, social security, the Longshoremen's Act, and medicare. A New York case held that double payments were not prevented when an exclusion such as would be eliminated by HB 257 was not present.

If a person incurs a legal obligation to pay for services, an insurance company may not refuse to pay for costs that are covered in a valid policy, regardless of the agency providing the care. The Department suggests that HB 257 could be changed to make that existing policy very clear in the statute. It is the question of whether a person should be reimbursed for costs that they have no obligation to pay that creates confusion.

As written, HB 257 may jeopardize a group insurance program developed by the North Slope Borough to provide supplemental coverage for all of the Borough residents. To supplement coverage accorded to the Natives there, the Borough bought a group policy to cover the cost of care not provided by the Alaska Area Native Health Service. HB 257 would make that policy the primary policy, not the supplemental policy that could cover just those costs not covered by the Federal program. Adding that liability to the program would cause significant premium changes.

Some insurance contracts are written to guarantee renewal. These contracts will not be covered by HB 257, if passed. b

An individual or group health insurance policy that provides coverage on an expense incurred basis or an individual or group service or indemnity type contract issued by a nonprofit corporation may not limit or exclude coverage provided in or by a state or federal facility if the person covered is legally obligated to pay for those services and the policy or contract would provide coverage if THOSE services were rendered in other than a state or federal facility.

Alaska State Legislature

House of Representatives

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE, ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR

P.O. BOX 2716
ANCHORAGE, ALASKA 99510

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811

MEMORANDUM

DATE: March 11, 1983

TO: All Legislators

FROM: Representative Jerry Ward JW

SUBJ: Measures Relating to Native Health Care Insurance

I have attached for your information copies of a bill and a resolution I have filed today. Each deals with a problem arising from the way that insurance companies deal with our Native Health system.

Many of the Natives eligible for care in the Alaska Area Native Health Service are also covered by a health insurance policy of some kind. At this time, the Federal Government will not accept payment for services rendered to covered Natives. The effect of this is to increase the cost of Native health care to the public while reducing the cost to the insurers. Since this is a policy of the Federal Government, the resolution introduced today requests that the U.S. Congress adopt legislation requiring payment for health services to the extent covered by insurance policies. At the same time, the resolution requests that any money collected from Alaska patients be dedicated to the Alaska Area Native Health Service.

A second problem is dealt with by the bill introduced today. Most insurance policies written today contain a clause preventing payment of benefits if State or Federal benefits are available. The policy covering us as legislators contains this provision. This is a great arrangement for the insurance company but a disservice to the Alaska Native who pays just as much for his or her policy but does not receive the same benefits. The bill before you will prevent this practice.

In view of the crisis we currently face in Native health care, these two measures should be passed as quickly as possible to provide an infusion of cash payments into the system to help replace Federal money being withdrawn.

Attachment

Mental and Nervous Disorders

Physician's services for Mental and Nervous Disorders will be covered as follows:

- 50 percent of eligible Physician's expenses, received in the Hospital or Physician's office. The maximum amount is $2,500 for each covered Member in any one Benefit Year. Services must be provided by a physician or licensed psychologist; and

- if you are confined to a Hospital the benefit paid will be the same as those stated on page 6 under COVERED MEDICAL EXPENSES.

MEDICAL EXPENSES NOT COVERED

Limitations and Exclusions

The State's Medical Plan does not cover any condition, ailment or injury for which you receive:

- benefits from your employer's liability plan or federal or state Workers' Compensation or similar law;

- benefits available under any federal or state act, even though you or your dependents waive rights to such benefits.

Services provided in the following facilities are not covered:

- an institution which is primarily a rest home, home for the aged, nursing home, skilled nursing facility, convalescent home or any facility of like character;

Mike Coughlin - Dept of Admin
Retirement & benefits

Ward - Jeff Bush - Dept of Law

Pays taxes to Fed -
Recieves Health care from AANHS

Don Kock

CONFLICTS:

Worker's comp. Longshoremen. Admiralty - Jones Act, Social Security Medicare TEFRA individual may elect to have medicare primary.

Destructive of cost containment Ruben v Empire mutual life.

1981 17 million workers comp medical payments "Legal obligation to pay"

AANHS may be able to bill for services

North Slope Borough

Medicare - is secondary unless patient opts to have it primary.

No Review of RATES for healthins except Blue Cross

Martin Tirador =

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 257
Title: Limitations-health insurance
Sponsor: Ward
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Dept. Commerce & Ec De
Program Category Affected: Public protecti
BRU, Program of Subprogram(s) Affected:
Div. of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director
Phone: 465-2515
Division: Insurance
Date: 3/22/83

Approved by Commissioner: Richard A. Lyon
Date: 3/23/83
Department: Commerce & Economic Development

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Introduced: 3/11/83
Referred: Health, Education & Social Services and Labor & Commerce

IN THE HOUSE BY WARD

HOUSE BILL NO. 257

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to certain limitations and exclusions in health insurance policies; and providing for an effective date."

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

* Section 1. AS 21.42 is amended by adding a new section to read:

Sec. 21.42.347. COVERAGE WHEN STATE OR FEDERAL BENEFITS AVAILABLE. An individual or group health insurance policy that provides coverage on an expense incurred basis or an individual or group service or indemnity type contract issued by a nonprofit corporation may not exclude or limit coverage for the reason that the covered person is eligible to receive benefits under a state or federal act, including benefits provided by the Alaska Area Native Health Service.

* Sec. 2. This Act takes effect January 1, 1984.

needs to put in
will be the primary
Carrier

HB

260

SUMMARY: HB 260 "An Act relating to the administration of the University of Alaska"

Enclosed is a sectional analysis prepared by Legal Services Counsel, Keith Levy.

In general, this legislation proposes the following changes:

1). Restructuring the administration in that it requires the Board of Regents to devise and use formula funding in requesting and allocating general funds.

2). Board of Regents will be required to report to the Legislature as in current law (14.40.190 enclosed) but will additionally be required to report a listing of teachers, faculty members, and holders of academic rank as well as the number of credit hours.

3). Board of Regents will be required to submit a disclosure of true operating costs per administrative unit.

4). Salary levels shall be set at no more than 45% above national averages.

Folder Content

Left	Right
Summary	Bill
Sectional/Levy	Lindauer Memorandum
Statutes	U of A fiscal note and back-up

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M March 16, 1983

SUBJECT: Administration of the university (HB 260)

TO: Representative John Lindauer

FROM: Keith B. Levy KBL
Legislative Counsel

The following is a sectional analysis of HB260, relating to the administration of the University of Alaska.

Section 1 adds a new paragraph to AS 14.40.170 to require the Board of Regents to set up and make use of a formula funding process for requesting and allocating money from the general fund. It requires the board to base the formula on the number of full-time equivalent students. It also requires the board to use the regional cost-of-living differentials between different geographic service areas which the state uses for other state employees.

Section 2 amends AS 14.40.190 to require the Board of Regents to report in writing to the legislature at the beginning of each regular session, in addition to information it was already required to report, the following: the number of credit hours generated by and the full-time equivalent number of students served by each administrative unit; and the total earnings reported for federal income tax purposes, the job description and title, the highest academic degree, the major publications and published research, and the total years of teaching experience for each teacher, faculty member, and holder of academic rank in the university.

Section 3 adds a new section, AS 14.40.172. Subsection (a) requires the Board of Regents to establish at least three geographic service areas for the university and two for the community colleges. It requires university budget requests to be made separately by administrative units which conform to these geographic service areas.

Subsection (b) provides for costs of services shared by different administrative units to be paid out of the budgets for units using those services.

Subsection (c) permits administrative units to decline to use shared services and instead use their share of the funds allocated for those services to obtain those services independently.

Section 4 adds a new section, AS 14.40.235. Subsection (a) prohibits the board from approving a pay scale for which the ratio between the compensation for university faculty and community college faculty varies from the national average. It also prohibits the board from compensating teachers and faculty members at a salary which is more than 45 percent above the national average for a comparable position.

Subsection (b) prohibits the board from awarding pay increases to teachers and faculty members for degrees and courses they have completed which are outside the academic discipline taught by the particular teacher or faculty member.

Subsection (c) prohibits the board from awarding or allowing retention of tenure by an employee who does not teach a minimum of student credit hours equivalent to six full-time equivalent students. Research courses, readings courses, and thesis supervision may not be applied to this minimum number of credit hours for purposes of tenure. Similarly, tenure may not be received or retained by an employee who does not teach an average of at least one course per semester or who is employed for two consecutive years without producing annual student credit hours equivalent to six or more full-time equivalent students.

Subsection (c) also provides that an employee who teaches less than two regular classes per semester may only be paid the equivalent of nine months teaching salary for every eleven months of full-time employment.

Subsection (d) requires the Board of Regents to establish a procedure to ensure that an employee whose tenure is denied or revoked under this section receives due process of law in the form of reasonable notice and the opportunity for a hearing.

Section 5 adds a new section, AS 14.40.265. This section provides that course credit may only be administered and granted by the administrative unit responsible for the geographic area in which the credit is earned.

Section 6 adds a new paragraph to AS 14.60.010 defining the terms "major publications" and "major published research" which are used in AS 14.40.190, sec. 2 of the bill. The terms are defined as publications that are published by a person other than the author or the author's employee.

KBL:ljb
10/011

SSHB 219

Bob Baldwin - U of A - against

Ed Isenson - Defenit For

Stan Howitt - Against

Joy Barton - against

HB 260

Ron Fipps - Yes on formula funding
Bob Baldwin - ~~maybe~~ but thru more comprehensive elements, so no.

used in this subsection means a portion of the University of Alaska designated as a "campus" by the Board of Regents. (§ 37-10-3 ACLA 1949; am § 3 ch 80 SLA 1973; am § 2 ch 13 SLA 1977)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 14.40.160. Board meetings public; meeting notice; public facilities. (a) The provision of AS 44.62.310 apply to meetings of the Board of Regents. All meetings of the board, its committees or subcommittees, are open to the public and press except as otherwise provided in AS 44.62.310(c). The findings of an executive session shall be made a part of the record of the proceedings of the Board of Regents. All records of the meetings and proceedings shall be open to inspection by the public and the press at reasonable times.

(b) The Board of Regents may determine the time and place of its meetings. However, 30 days notice is required for all regular meetings and 10 days notice is required for special meetings of the Board of Regents, its committees or subcommittees called under the bylaws or rules of procedure of the Board of Regents. Emergency meetings may be called without notice.

(c) The Board of Regents shall provide adequate facilities for members of the public to attend the meetings of the board, its committees or subcommittees. (§ 37-10-5 ACLA 1949; am § 1 ch 100 SLA 1972; am § 30 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "Board of Regents" for "board" three times in subsection (b).

Legislative history reports. — For report on ch. 100, SLA 1972 (CSHB 605 am), see 1972 House Journal, p. 643.

Sec. 14.40.170. Duties of Board of Regents. (a) The Board of Regents shall

(1) appoint the president of the university by a majority vote of the whole board, and the president may attend meetings of the board;

(2) fix the compensation of the president of the university, all heads of departments, professors, teachers, instructors and other officers;

(3) confer such appropriate degrees as it may determine and prescribe;

(4) have the care, control and management of all the real and personal property of the university;

(5) keep a correct and easily understood record of the minutes of every meeting and all acts done by it in pursuance of its duties;

(6) under procedures to be established by the commissioner of administration, and in accordance with existing procedures for other state agencies, have the care, control, and management of all money of the university and keep a complete record of all money received and disbursed.

tutions of higher learning for accident occurring during school athletic events. 35 ALR3d 725.

Tort liability of public schools and institutions of higher learning for injuries caused by acts of fellow students. 36 ALR3d 330.

Tort liability of public schools and institutions of higher learning for accidents occurring in physical education classes. 36 ALR3d 361.

Tort liability of public schools and institutions of higher learning for accidents occurring during use of premises and equipment for other than school purposes. 37 ALR3d 712.

Tort liability of public schools and institutions of higher learning for injuries due to condition of grounds, walks, and playgrounds. 37 ALR3d 738.

Immunity of private schools and institutions of higher learning from liability in tort. 38 ALR3d 480.

Tort liability of public schools and institutions of higher learning for injuries resulting from lack or insufficiency of supervision. 38 ALR3d 830.

Liability of university, college, or other school for failure to protect student from crime. 1 ALR4th 1099.

Tort liability of public schools and institutions of higher learning for educational malpractice. 1 ALR4th 1139.

Sec. 14.40.180. Religious or partisan instruction, tests and appointments. No instruction either sectarian in religion or partisan in politics shall be permitted in any department of the University of Alaska and no sectarian or partisan test shall be allowed or exercised in the appointment of regents, instructors, or other officers of the University of Alaska or in the admission of students or for any purpose. (§ 37-10-6 ACLA 1949)

Collateral references. — Validity of governmental requirement of oath of allegiance or loyalty as applied to college curators. 18 ALR2d 303.

Sec. 14.40.190. Report to legislature. The Board of Regents shall make a written report to the legislature at the beginning of its regular sessions of the condition of the university property, of all receipts and expenditures, including but not limited to the administration and disposition of appropriated and restricted funds, and of the educational and other work performed. (§ 37-10-6 ACLA 1949; am § 1 ch 37 SLA 1976)

Cross references. — As to status of University of Alaska as state agency, see note to Alas. Const., art. VII, § 2.

NOTES TO DECISIONS

Applied in University of Alas. v. National Aircraft Leasing, Ltd., Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Sec. 14.40.200. Quorum. No corporate business may be transacted at any meeting of the Board of Regents unless at least six regents are present, the majority of the whole board to approve the same. (§ 37-10-6 ACLA 1949; am § 2 ch 168 SLA 1975)

acquisition or disposition of an item owned by, in custody of, or proposed to be acquired by or for the state museum creates a conflict of interest. A committee member may not

(1) have a pecuniary or property interest in an item that is proposed to be acquired or disposed of by or for the state museum;

(2) have a pecuniary or property interest, directly or indirectly, in a contract to which the museum, or the state on behalf of the museum, is a party; or

(3) receive compensation for services rendered to the state museum as a consultant, expert, appraiser, or otherwise, except as provided in AS 14.57.040.

(b) Notwithstanding (a) of this section, a committee member may bequeath or donate an item to the state museum. (§ 1 ch 80 SLA 1974)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Sec. 14.57.080. Definitions. In this chapter "committee" means the state Museum Collections Advisory Committee. (§ 1 ch 80 SLA 1974)

Revisor's notes. — This section was reorganized by the revisor of statutes under the authority of AS 01.05.031.

Chapter 58. Alaska Public Broadcasting Commission.

Section
10 — 90. [Transferred]

Secs. 14.58.010 — 14.58.090. Creation of Alaska Public Broadcasting Commission; membership and term of office; compensation and expenses; chairman; purpose; duties; powers; commercial broadcasting; definitions.

Transferred to AS 44.21.256 — 44.21.290.

Editor's notes. — This chapter was transferred to AS 44.21.256 — 44.21.290 by the revisor of statutes pursuant to AS 01.05.031.

Chapter 60. General Provisions.

Section
10. Definitions

Sec. 14.60.010. Definitions. As used in this title, unless the context otherwise requires

(1) "public schools" include elementary schools, high schools, citizenship night schools for adults, and other public educational institutions which may be established; however, nothing in this title includes schools for Alaska Natives under the control of the federal government and administered and supervised through the Bureau of Indian Affairs;

(2) "board" means the state Board of Education;

(3) "commissioner" means the commissioner of education;

(4) "department" means the Department of Education;

(5) "governing body" means the school board of a borough or city school district or a regional educational attendance area;

(6) "school board" means the school board of a borough or city school district or a regional educational attendance area;

(7) Repealed by § 31 ch 124 SLA 1975.

(8) Repealed by § 31 ch 124 SLA 1975.

(9) "attendance area" means the geographic area designated by the department to be served by a school;

(10) "regional educational attendance area" means an educational service area in the unorganized borough which may or may not include a military reservation, and which contains one or more public schools of grade levels K-12 or any portion of those grade levels which are to be operated under the management and control of a single regional school board. (§ 37-1-3 ACLA 1949; am § 58 ch 98 SLA 1966; am §§ 27 — 29 ch 46 SLA 1970; am § 3 ch 64 SLA 1972; am §§ 29 — 32 ch 124 SLA 1975)

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
April 11, 1983
1:00 p.m.

Members Present: Rep. Fritz, Co-Chair
Rep. Tischer, Co-Chair
Rep. M.W. Miller, Vice-Chair
Rep. Davis
Rep. Koponen
Rep. Goll

Members Absent: Rep. Cato

COMMITTEE CALENDAR

HB 219: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

HB 260: "An Act relating to the administration of the University of Alaska."

WITNESS REGISTER

Rep. Lindauer
District 10
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3709
Position Statement: Sponsor of HB 219 and HB 260; testified in support of HB 219; stated that the only change in HB 219 would be appointment by the Governor of LCAB members.

Bob Baldwin
UAA Citizens Advisory Committee
4907 Roger Road
Anchorage, Alaska 99507
562-5451
Position Statement: Opposed HB 219 because it would put LCAB's in a responsive and confrontative position instead of its current originating position; testified against HB 260 because it would reorganize the University through piecemeal legislation and had not allowed for enough public input.

Ed Isenson
UAA Citizens Advisory Committee
943 Westbury Drive
Anchorage, Alaska 99503

563-6480
Position Statement: Agreed with the intent of HB 219 to strengthen local participation and impact; stated that HB 260 contained several features to fortify the University of Alaska.

Dr. Jay Barton
President
University of Alaska
3211 Providence Drive
Anchorage, Alaska 99508
786-1412
Position Statement: Argued that HB 219 was unnecessary, would increase regionalism and ineffectiveness, and could be unconstitutional.

Stan Howitt
UAA Citizens Advisory Committee
1716 Scenic Way Drive
Anchorage, Alaska 99501
Position Statement: Stated that HB 219 was unnecessary because the Board of Regents already responded to Citizen Advisory Board recommendations and concerns; contended that the fight was with the Legislature.

Ron Phipps
Postsecondary Education Commission
Pouch FP
Juneau, Alaska 99811
465-2854
Position Statement: Endorsed lines 11 - 15 on Page 1 of HB 260 regarding the funding formula process.

PREVIOUS ACTION

HB 219: 2/21/83 - First Reading.

Committee referrals - HESS and Finance Committees.

No previous action in HESS.

HB 260: 3/11/83 - First Reading.

Committee referrals - HESS, Finance and Rules Committees.

No previous action in HESS.

ACTION NARRATIVE

TAPE 28
Recording
Number 0001

Co-Chair Fritz called the meeting to order at 1:05 p.m. Representatives M.W. Miller, Davis and Koponen were present. Representatives Tischer and Goll arrived at 1:12 p.m. Co-Chair Fritz announced the committee calendar and invited the sponsor of HB 219 to testify.

Number 0028

Rep. Lindauer, District 10, introduced a sponsor substitute for HB 219; stated that the bill makes only one change which allows the Governor to appoint Citizen Advisory Board members. Rep. Lindauer contended that local citizens have little input into higher education, and that HB 219 would give Advisory Board members greater stature.

Number 0122

Rep. Lindauer stated that HB 219 also mandates that the Board of Regents explain any decisions which disregard Advisory Board recommendations.

Number 0144

In response to questions from the committee, the sponsor argued that the Advisory Boards already exist; consequently, the only change under HB 219 would be that the Governor instead of the University would appoint the board members.

Number 0213

Rep. Miller questioned the make up of the proposed Fairbanks Citizens Advisory Board and the contradictory fiscal notes submitted by the University of Alaska and the Postsecondary Education Commission.

Number 0250

Discussion about terms of office for Advisory Board members.

Number 0278

Rep. Tischer suggested adding a sunset provision in order to facilitate regular review of the effectiveness of Citizen Advisory Boards. Rep. Lindauer agreed to the need for such a provision; said that SSHB 219 provides for such a review.

Number 0294

Rep. Goll questioned the discrepancies between the fiscal notes submitted by the Postsecondary Education Commission and the University. Rep. Lindauer contended that HB 219 would encure no costs, and argued that the University's fiscal note for $141,900 was mischievous.

Number 0351 — Rep. Lindauer stressed that the sole intent of HB 219 is to allow the Governor to appoint the board members in order to give more stature to local citizens.

Number 0370 — Rep. Koponen suggested that a fiscal note from the Department of Administration would be more accurate as it would be the department involved.

Number 0414 — Discussion about Local Citizen Advisory Board powers and the provision in HB 219 that would require the Board of Regents to wait 60 days before implementing a decision if the LCAB wished to make a recommendation regarding the decision.

Number 0450 — Rep. Davis expressed concern that the 60-day clause might unnecessarily delay Board of Regent decisions. Rep. Lindauer agreed and suggested shortening the 60-day provision in a committee substitute for HB 219.

Number 0466 — Rep. Tischer argued that shortening the 60-day provision might reduce the impact of advisory boards and thus erase the effectiveness of the bill.

Number 0510 — Rep. Lindauer also agreed with Rep. Tischer's concerns and suggested limiting the provision to a more reasonable amount of time, perhaps 7 - 14 days.

Number 0539 — Bob Baldwin, UAA Citizens Advisory Committee, stated that the committee would not support HB 219 as worded; expressed the committee's concern that HB 219 would place citizen advisory boards in a responsive, confrontative position with the Board of Regents instead their current originating position. Mr. Baldwin contended that the committee agreed with the intent to give more clout to LCAB's but argued that HB 219 was not the best means to accomplish that end.

Number 0610 — Mr. Baldwin suggested that the committee's position might change if the wording regarding responding to Board of Regents' decision were altered.

Number 0621 — Rep. Tischer questioned Mr. Baldwin about the meaning of "originating position". Discussion followed.

Number 0670

In response to questions from Rep. Goll, Mr. Baldwin stated the committee's concern that the Governor's appointments would become political thereby minimizing the input of ordinary citizens, and that HB 219 would decrease the number of members permitted on Local Citizen Advisory Boards.

Number 0701

Ed Isenson, UAA Citizens Advisory Committee, agreed with the intent of HB 219 to encourage strong local representative and participation. Mr. Isenson also commented on HB 260, stating that the bill included some constructive features to strengthen the University of Alaska. Mr. Isenson concluded that both bills would have positive effects for students and the community.

Number 0742

In response to questioning from Rep. Tischer, the witness agreed to the benefits of 20 member advisory boards but stated that the proposed decrease was not a primary consideration in regards to HB 219.

Number 0777

Dr. Jay Barton, President, University of Alaska, presented an overview of Board of Regent activities and duties; described recent measures to increase the authority of citizen advisory boards.

Number 0819

Dr. Barton argued that HB 219 would also establish attendance areas and lead to greater inefficiency.

Number 0860

Dr. Barton said the problem concerns how to get everyone involved and still get something done.

Number 0877

Dr. Barton also argued that HB 219 would violate the intent of the state constitution to allow the Board of Regents to govern the University of Alaska. Dr. Barton concluded that HB 219 was unnecessary, inappropriate, would lead to increased regionalism and decrease efficiency. and could in fact be unconstitutional.

Number 0920

Dr. Barton responded to Rep. Tischer's suggestion that the Board of Regents was not responsive to the advisory boards by citing the great amount of communication which exists and the impossibility of granting everybody's wishes.

Number 0957 — Dr. Barton stated that trying to make limited resources cover everybody's requests had led to conflicts, but that the Board of Regents has already accomplished more to alleviate those problems than HB 219 ever could.

Number 0980 — Rep. Goll commented that perhaps HB 219 resulted from recent negative press on University of Alaska academic standards and financial matters.

Number 0993 — Dr. Barton cited the recent shift of emphasis from access to efficiency with regards to higher education in Alaska, and responded that the University received a clean bill of health in the past 3 audits.

Number 1040 — Dr. Barton agreed to the need for quality control in regards to academic standards. Dr. Barton further explained that some U of A programs are very strong and competitive with lower '48 programs, while other areas are not as stable as of yet.

Number 1060 — Stan Howitt, UAA Citizens Advisory Committee, stated that HB 219 is unnecessary because the Board of Regents already responds well to the Citizens Advisory Board. Mr. Howitt asserted that the fight now is with the Legislature. Mr. Howitt spoke against dividing the advisory boards into 3 geographical areas and said that appointment by the Governor seemed bureaucratic.

Number 1134 — Rep. Davis requested information on the duties, functioning, and number of LCAB's.

Number 1148 — Co-Chair Fritz announced that he would entertain a motion to move HB 219 out of committee.

Number 1150 — Rep. Davis suggested holding HB 219 until the receipt of the requested information from Dr. Barton.

Number 1166 — Rep. Tischer requested clarification from Rep. Davis about his recommendation.

Number 1170 — Rep. Davis moved to table HB 219 until receipt of further information from Dr. Barton.

Number 1190	Co-Chair Fritz called for a vote on the previous question. The motion passed by a vote of 4 to 2.
Number 1193	Co-Chair Fritz presented HB 260 for committee consideration.
Number 1199	Ron Phipps, Director of Academic Planning and Research, Postsecondary Education Commission, focused his comments on Page 1, Lines 11 - 15 of HB 260; stated that the committee approved of the proposed funding formula and therefore endorsed that section of HB 260.
Number 1215	Rep. Tischer requested a description of the formula and proof of its effectiveness. Mr. Phipps explained 3 allocations for faculty, support and travel are added together to arrive at the total sum for each community college. Mr. Phipps stated that the formula was compared to actual costs over a 3-year period and reviewed by an outside consultant who is a national expert and knowledgeable about Alaska.
Number 1248	Bob Baldwin, UAA Citizens Advisory Committee, called HB 260 a reorganization plan and argued that reorganization should be done only through a comprehensive process, not piecemeal legislation. Mr. Baldwin also suggested soliciting greater public input.
Number 1287	Co-Chair Fritz adjourned the meeting at 2:58 p.m.

te President Jay Kerttula, D-Palmer, and Sen. au, said the department's cost figure is irrele-

ation, payments would be made from 12.5 per- Fund earnings — specifically 25 percent of the for dividends.

calculated at $42 million in fiscal 1984, were not e demands of the bonus program, the size of in- ments would decrease.

f the administration estimate as to the number of qualified applicants holds true, bonus payments would fall by about 20 percent in fiscal 1984.

However, he and the committee doubt the accuracy of the figure on grounds it was derived from the number of seniors who qualified for 1982 Permanent Fund dividends.

The retroactive payments are among the demands of 67-year-old Rodney Vest of Anchorage, who filed suit on grounds the residency requirement was discriminatory.

Last summer, the Legislative Council, advised by the attorney general's office that the state would lose the suit, agreed to address the issue, including the question of retroactive payments, this session.

However, at the suggestion of Sen. Joe Josephson, D-Anchorage, the finance panel decided the state has legal grounds to refuse to make retroactive payments.

Teacher training plan criticized

ANCHORAGE (AP) — The former director of a Nome-based Eskimo teacher training program says in the past 18 months, nearly $600,000 has been spent on five students.

And Jim Greig, a philosophy professor who has taught in universities around the world, claims he was fired for complaining publicly about how much money is being spent on the Eskimo Teacher Education Program (ETEP).

But Native and education officials involved in ETEP say Greig was not on the job long enough to make an accurate assessment, and that he didn't comprehend its special needs and goals.

"What Jim does not understand is the need for Eskimo teachers and the cost of education in rural Alaska," says Caleb Pungowiyi, president of Kawarek Inc., a non-profit Native corporation.

"There is no doubt that the program is expensive," Pungowiyi agrees, but he says the payoff will be in 10 years rather than within the next two years.

Mike Metty, president of Northwest Community College which coordinates ETEP with a cross-cultural education program based at the University of Alaska-Fairbanks, says the goal is to develop a pool of young people who could one day become certified teachers.

"There was no premise that the program was going to produce 40 teachers in four years," Metty says. "We hope to get 30 or 40 teachers over a decade."

Greig, who was hired in January, says although 27 people are registered this semester, the majority are students "in name only." He says they do not attend classes or complete assignments regularly and collectively have earned only 16 credit hours this semester.

Metty acknolwedges that enrollment fluctuates.

"Right now, we know we're going to lose students on St. Lawrence Island because whaling has started," he says. Education in rural Alaska is unlike education anywhere else because of the demanding way of life, Metty says.

But Greig estimates the cost of one teaching degree earned through ETEP will be $800,000.

"Everybody realizes it isn't working and they don't know what to do," he says.

But when he voiced his concerns to Pungowiyi and the Kawerak board of directors in April, he soon found himself out of job.

"Obviously, I am being fired for telling the truth," Greig says. He maintains facts about the success rate of the program have been hidden deliberately so ETEP will be allowed to continue.

"There are a few people out there who understand how the system works, and are milking it for all it's worth," Greig says. "Eight-hundred-thousand- dollar degrees are not in the best interests of the students — their interests lie in the efficient use of the $598,000 poured into ETEP each year."

Greig contends the money would be much better spent giving Eskimo students university scholarships, but Pungowiyi says Eskimos who enroll in urban colleges have a high dropout rate.

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508

While in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 18, 1983

MEMORANDUM

TO: House Health, Education and Social Services

FROM: Representative John Lindauer John L.

RE: House Bill #260: "An Act relating to the administration of the University of Alaska."

The intent of HB 260 is to provide for the more efficient use of state monies.

Section one of HB 260 insures the Board of Regents will give consideration to students and regional cost-of-living differences by requiring the Regents to devise and use formula funding in the requesting and allocating of general funds. The formula would include the number of full-time equivalent students (FTE students) and the regional cost-of-living differentials used by the state for other state employees.

Section two adds two additional items that the university must annually report to the legislature. The two additional items to be reported are:

1) The number of credit hours generated and the number of FTE students produced by each administrative unit of the University.

2) A listing of the teachers, faculty members, and holders of academic rank.

Section three requires that the Regents disclose the true cost of operating each administrative unit. It requires the costs associated with the sharing of services between administrative units be assigned to those units.

Section four specifies the salaries and tenure status of teachers and professors. Salary levels would be nomore than 45% above nationally reported salary averages. This section would also insure that tenure as a teacher or professor would only be granted and maintained by those employees who actually teach or profess.

Sherman Carter
Executive Vice President
474-7448

University of Alaska
Fairbanks, Alaska 99701

April 4, 1983

Representative Milo H. Fritz, Co-chairman
Health, Education & Social Services Committee
Pouch V
Juneau, AK 99811

Representative Mae Tischer, Co-chairman
Health, Education & Social Services Committee
Pouch V
Juneau, AK 99811

Dear Representatives Fritz and Tischer:

President Jay Barton, who is now off campus on university business, asked me to send this letter to you with the attached fiscal notes and related papers.

I understand that your committee is scheduled to have hearings on House Bills 219 and 260 on 11 April. The university recommends against enactment of those two bills for reasons explained in the attachments.

I am also including information on House Bills 95 and 96 which were referred to your committee. That legislation, too, would have a significant adverse impact on the university as explained in papers below. Copies of the four house bills are attached for convenient reference.

Your interest in and support of the University of Alaska are appreciated.

Sincerely,

Sherman Carter

SFC/pe
Attachments
cc: w/attach.
Members of the House HESS Committee,
Representatives Mike Miller, Bette Cato, Mike Davis,
Peter Goll, Niilo Koponen
Members of the Board of Regents
President Jay Barton

Sherman Carter
Executive Vice President

UNIVERSITY OF ALASKA
FAIRBANKS, ALASKA 99701

March 31, 1983

Ms. Dorothy Pede
Office of Representative Lindauer
Pouch V
Juneau, AK 99811

Dear Ms. Pede:

This submission is to respond to the request you made to the University on March 30, 1983 for a fiscal note from the University of Alaska for House Bill 260.

Sincerely,

Sherman Carter

SFC/man

Enclosures

cc: Legislative Finance
Office of Management & Budget
President Jay Barton

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 260
Title: Administration of University of Alaska
Sponsor: Rep. Lindauer
Requestor: Rep. Lindauer

II. FISCAL DETAIL

Agency Affected: University of Alaska
Program Category Affected: Education
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0				
REVENUE		0				

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER (Specify Source)		0				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

There is no fiscal impact for HB 260. That is, there are not direct costs which can be shown above. However, there would be indirect costs, as shown by the page immediately below. Please also see "agency comments" which also are attached.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank Scarco, Director of Budget Development Phone: 474-7593
Division: Statewide Budget Office Date: March 31, 1983

Approved by Commissioner: Sherman Carter, Executive Vice-President Date: March 31, 1983
Department: University of Alaska

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

March 31, 1983

HB260
ANALYSIS

DIRECT COSTS

There are no direct costs associated with House Bill 260.

INDIRECT COSTS

A. While no direct costs are associated with the implementation of the proposed legislation, since all the additional requirements will involve the participation of many university employees to accomplish, there are some indirect costs. For example, the additional effort required to report a variety of statistics about the university's faculty may require the addition of some personnel and/or recordkeeping ability at smaller units of the university.

B. Section 3 of House Bill 260 requires that separate budgets be developed by each administrative unit. At present this function is centrally controlled by the university Statewide Services & Programs administrative unit. Depending upon how reimbursement is handled, the requirements of Section 3 may lead to duplication in the budget development process which would probably generate additional costs to the state.

Attachment to accompany fiscal note on HB 260 prepared by University of Alaska, 3/31/83

AGENCY COMMENTS

Article 7, Section 3 of the constitution of the state of Alaska specifies that the University of Alaska shall be governed by a Board of Regents. Title 14, Chapter 40, Section 170 of the Alaska Statutes assigns certain duties to the Board of Regents. The University believes that the Board of Regents has the authority to govern the University; the present proposed legislation in House Bill 260 would infringe on that responsibility. For example, AS.14.40.170(2) specifically states that the Board of Regents should "fix the compensation of the President of the University, all heads of departments, professors, teachers, instructors, and other officers." Section 4 of HB260 in effect sets the maximum salary that could be offered a faculty member and sets the criteria upon which pay increases are determined. This provision infringes on the rights of the regents to govern the University, as do all sections of the proposed legislation.

Further, the restrictions and artificial limitations to be imposed on individual faculty salaries, while perhaps being generous for most, may have a deleterious effect on the University and the state in a few cases by preventing the employment of outstanding national scholars and leaders in certain fields of research important to Alaska. The provisions relating to tenure in HB260 essentially destroys the land grant concept of higher education at the University of Alaska by discouraging the employment and retention of research and extension faculty. Tenure is a guarantee against capricious dismissal because of the statement of an alternate and sometimes unpopular view. The University is the one place where a diversity of views and opinions need to be aired and discussed, and solutions appropriate to a particular problem found. The attachment of tenure to classroom instruction only does violence to the concept of academic freedom in a modern land grant university.

HB

262

FOR VANS, HATCHBACKS, STATION WAGONS AND UTILITY TRUCKS

Select a suitable anchor bracket mounting location on the floor of the vehicle. The location must be:

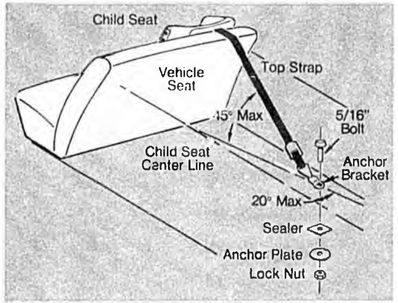
A. On a flat metal surface which is a welded-in integral part of the vehicle body. DO NOT attach anchor bracket assembly to folding seat back panels or movable load floors, filler panels, spare tire covers, or any screw-on panels.

B. In a position clear of fuel tank, fuel lines, brake lines, exhaust systems, etc.

C. In a position where the angle between the Child Seat top strap and the load floor does not exceed 45° (horizontal angle).

D. As close to the centerline of the Child Seat as possible, but in no case must the angle between the Child Seat centerline and top strap exceed 20° (side to side angle).

NOTE: If conditions A, B, C, or D cannot be met, do not use the Child Seat in that seating position. Move the Child Seat to another seating position which satisfies conditions A, B, C, or D.



Drill a 5/16" diameter hole through the floor at the selected location.

Assemble and securely tighten the bolt, anchor bracket, anchor plate, (2-½" O.D. washer) and the lock nut to the floor using a suitable sealer around the hole. If the hole has been drilled through the floor to the outside of the vehicle, make certain that the hole is properly sealed to prevent exhaust fumes from entering the vehicle.

For more information contact:
Alaska State Troopers
Community Services Bureau
(907) 269-5654
P.O. Box 6188 Annex
Anchorage, Alaska 99502

Child Restraint Systems For Your Automobile



ALASKA CHILD PASSENGER SAFETY ASSOCIATION
P.O. Box 10-245
Anchorage, Alaska 99510

Why are child restraints needed?
What kind of restraint systems are available?
How do I select the best restraint for my child?
What is the proper way to use child restraints?
Where can they be purchased?

This booklet answers these questions. The rest is up to parents—to select and obtain the proper restraint, and then to USE IT PROPERLY according to directions.

Why Child Restraints Are Needed

After the critical early weeks of life for the newborn baby, automobile crashes are the leading cause of death for American children. In 1978 alone, 669 children under the age of 5 were killed while riding in cars. Tens of thousands more were seriously injured. The tragedy is that most of those deaths and injuries could have been avoided if parents had taken the time to buckle their children into a proper child restraint system.

To understand why restraints are so important, one must first understand what happens in a crash, or in a sudden panic stop. When a car hits another object and stops suddenly, or when a sudden hard braking action brings it to a fast stop, all occupants in the car continue to move forward at the same speed the car was travelling, until something stops them. Too frequently, that "something" is the steering column, the dash board, the windshield, or some other part of the interior of the car. It is this second collision that causes injuries and death.

In the case of small children, if they are not restrained they literally become flying missiles. It happens so fast, and with such force—even in low speed crashes—that neither the parent nor the child can prevent the child from a violent impact with other passengers or with some hard surface within the car.

The solution to the problem of the second collision is a restraint system. For adults, that means a safety belt, which holds you safely in your seat, away from the car interior. The belt's webbing and the sturdy adult pelvis and rib cage absorb the forces of the collision. But for young children under 5, child restraints are the best solution.

Children need to have the crash forces spread more evenly over their fragile bodies, and that's what child restraints do. They are fastened to the car by the safety belt already in your car, and in a crash they protect children from colliding with the car's interior.

Of course, if no child restraint is available, it is much better to buckle children into regular safety belts than to let them ride free, loose, and unprotected.

Some parents think they can protect infants and young children from being injured by holding them in their laps. They cannot. In a 30 mph crash, for example, a child may be thrown forward with a force equal to 30 times its own weight. If you are wearing a safety belt, the child can be torn from your arms and hurled into the dash or the windshield. If you're not wearing a safety belt, both you and your child will fly forward, with the probability that your child may be crushed between you and the dash. HOLDING YOUR CHILD IN YOUR LAP IS NOT SAFE.

Unfortunately, our studies show that most parents do not provide their children with the protection restraints can offer. A recent survey found that only 5 percent of young children were using child restraints.

Whether adults do or do not use safety belts available in cars is a conscious choice. Small children cannot decide for themselves to buckle up. They depend on their parents to protect them from harm, and make that decision for them.

Fortunately, effective child restraint systems that have been crash tested and meet government standards are available. The remainder of this brochure describes the kinds of restraints that are available and how they should be used.

Some Rules To Remember

1. Children under 5, or weighing less than 40 pounds, should ride in a child restraint.
2. The safest place in the car for a child is in the back seat.
3. If no child restraint is available, children should use the car safety belt. This is much safer than riding unrestrained.
4. Adults should not hold children on their lap while riding in either the front or back seat. They may cause more injuries by crushing their children against the dash with their own body, or the child may be torn from their arms and thrown against the hard interior of the car. If in the back seat, the child may be torn from their arms and thrown into the front area of the car, possibly against the hard interior or into another passenger.
5. Children should not ride in the luggage compartment of a station wagon or hatchback.
6. Hatchbacks should always be kept closed when children are riding in the back seat. If they are left open, the children could be ejected from the car in an accident. Open hatchbacks or tail gate windows also increase the levels of carbon monoxide inside the car from exhaust fumes.

Fringe Benefits

Some days, it seems like there's nothing harder than driving with small kids in the car. Between trying to keep them contented and trying to keep them still, it's almost impossible to keep your mind on the road. That's where child restraints are really helpful. They act just like a good babysitter, keeping your children entertained and under control.

Child restraints can make the ride more fun for children. They're comfortable to ride in, and many of them are designed so they give kids the extra boost they need to see out the windows and feel more a part of what's going on. They are also a very nice place to sleep.

All in all, child restraints are a pretty good deal for everyone. They let you concentrate on driving, while keeping the kids happy and protected.

Types of Restraints Available And How To Use Them

FOR THE INFANT . . . FROM BIRTH TO ABOUT 9-12 MONTHS OF AGE



Infant carriers or convertible child safety seats are the only types of child restraints recommended for use by babies. In these restraint systems, the baby faces backwards, in a semi-reclining position. In an accident, the baby's sturdy back absorbs the crash forces rather than its delicate chest and abdomen. The carrier is lined with soft padding, has an internal safety harness to keep the baby in the restraint, and is anchored to the car by the vehicle's safety belt.

The time to start using the infant carrier is on the baby's very first ride home from the hospital. Parents should anticipate the need for an infant carrier before the baby is born, and buy one early as an essential part of the layette. For newborn babies, a rolled-up receiving blanket placed around the head and shoulders will give their head additional support.

Babies should ride in the infant carrier until they can sit up by themselves without support. This usually occurs between 9 and 12 months, or when they weigh about 20 pounds.

There are basically two kinds of infant carriers. The first is designed for infants only. Babies outgrow this kind of seat and must move up to a child safety seat. The second is a convertible carrier. When babies get too big for the infant position, the convertible carriers can be changed into child safety seats which toddlers can continue to use until they're old enough to

wear regular safety belts. More about convertible carriers later.

WARNING: Do not use flimsy, light weight, plastic feeder seats and car beds that are designed only for household use, and not for transporting an infant in an automobile.

FOR THE TODDLER . . . 1-4 YEARS OLD

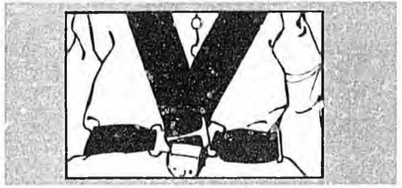
Three types of restraint systems are recommended. They include the child safety seat, the protective shield, and the safety harness.

Child Safety Seat

This restraint system is designed for children who can sit up without support. It faces forward and is anchored by the vehicle's lap belt, which is either fastened around the front of the seat, or threaded through the back of the frame.



It has a safety harness with two shoulder straps, a lap belt, and a crotch strap. This five-point harness spreads the crash forces over the child's shoulders and hips. The crotch strap keeps the hip straps from riding up into the child's delicate abdomen.

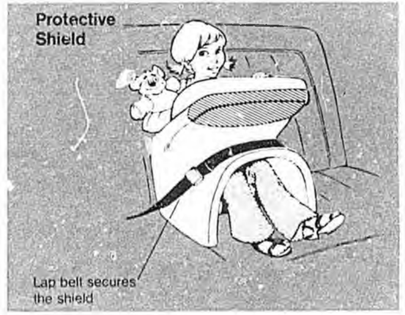


Some child safety seats also have a "top tether strap" that ties the top of the restraint to the structure of the car. A top tether strap is usually required on child safety seats which have been raised several inches so that the children riding in them can see out the windows. When included, the top tether provides additional crash protection, particularly in side collisions. (See the section on anchoring the top tether strap for detailed instructions on fastening the tether strap.)

Protective Shield

This type of child restraint fits over the front of the child's lap and chest, and is designed to catch and cushion the child in a crash.

It is a C-shaped shell with energy-absorbing padding on the upper part of the shield. The shield is anchored to the car by the lap belt which fastens around the front of the shield. In an accident, the shield spreads the crash forces evenly over the child's head and upper body.

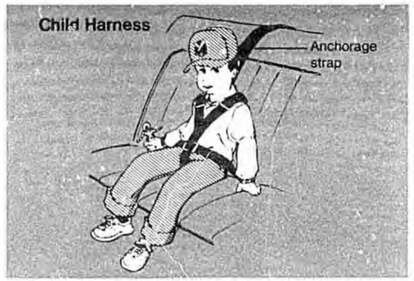


The shield restraint has several advantages over other types of child restraints. It doesn't use a harness, and it doesn't use a top tether strap.

However, the shield generally doesn't provide as much protection in side collisions, and, therefore, should be used in the center seating positions. The shield is also easier to get into and out of, so it may require greater attention to make sure your child stays in the restraint when you're driving.

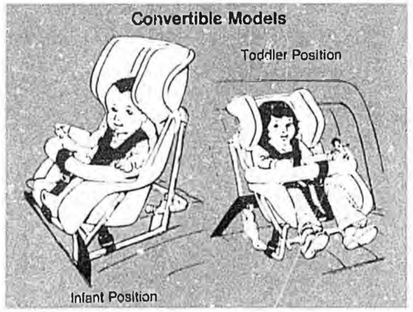
Child Harness System

This restraint consists of a 5-point safety harness with a top tether anchorage strap. It is designed for children who can sit up without support. It faces forward, and is anchored to the car by the vehicle's lap belt and a top tether strap. The vehicle lap belt threads through a loop of the harness behind the child. The safety harness does not provide side impact protection, and should, whenever possible, be used in the center of the rear seat.



The Convertible Seats

Some infant carriers are simply converted safety seats. Changing them from infant carrier to child seat is a fairly simple operation. You move the safety harness from the lower shoulder strap slots to the upper slots; you adjust the tubular frame from the reclining position to the upright position; you turn the seat around so that the child is facing front, and you re-buckle the car safety belt through the seat frame according to the manufacturer's instructions.



Some Reminders

- Be sure to read, follow, and keep the manufacturer's instructions.
- Be sure to attach the child restraint properly to the car with the vehicle's lap belt. On some child safety seats, the lap belt goes through the metal frame of the seat; while in others, it goes around the top of the seat and over the child's lap.
- Be sure to attach the top tether strap, if one is included, for full protection. In order to be effective, the tether strap must be attached securely to either the rear seat belt, the rear shelf, or some other metal anchor point. (See the section on anchoring the tether strap).
- Be sure to properly secure your child in the restraint. Buckle all five parts of the harness together and be sure the harness is not too loose.

Restraint Systems For The Older Child

Regular Vehicle Lap Belts

Children over the age of 4 or 5 and weighing about 40 pounds can be restrained by use of the vehicle lap belt, with the child sitting up-right against the back of the seat. The lap belt should be adjusted snugly so that it will not ride up across the child's abdomen. Again, the safest position is in the rear seat, with the center seating position being safer than the side positions.

Three-Point Restraint System

Depending on the weight and height of the child, the three-point adult belt system may be used. Such use, however, requires a proper fit of the shoulder portion of the belt. That is, it must be positioned firmly across the chest and shoulder and not cutting across the neck, face, or head.

If the three-point belt system must be used and a proper fit of the shoulder belt is not possible, the shoulder belt should be tucked in behind the child, never under the arm or across the chest.

How To Select The Best Restraint For Your Child

A federal law, Federal Motor Vehicle Safety Standard No. 213-80, requires child restraint systems to meet certain strength and performance standards. Not included under the standard are those flimsy, light weight, plastic child feeder seats used in the home, *which are not intended for car use.*

All auto child restraints manufactured after Jan. 1981 must pass tests which show that they can provide adequate protection for children in actual crashes. Look for a label on the restraint which says "dynamically tested."

There are many different places where you can buy child restraints. They include:

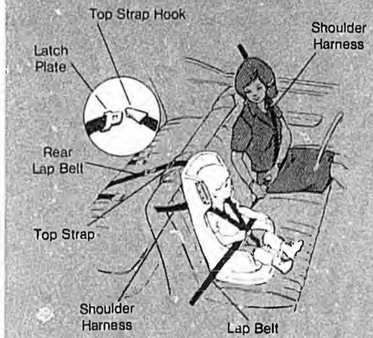
- Retail outlets, including department stores
- Discount centers
- Juvenile furniture and baby needs stores
- Some car dealers
- Some hospital gift shops
- Catalog sales available from large retailers
- Automotive retail and supply dealers

Before you buy a new restraint, try it out in your car. Some restraints don't fit into some cars. There are enough restraints on the market, though, that you should be able to find one that's just right for your car, your child, and your budget.

Some communities have rental or recycling programs where you can rent an infant or child safety seat for a short period of time, instead of buying one. In other programs, your outgrown child restraint can be recycled and rented for another young child to use. Contact your local highway safety or health department to determine is such a program exists in your area.

Anchoring The Top Tether Strap

While the following instructions may be appropriate for many cars, the automobile manufacturer should be able to tell you the best place to anchor a tether strap in your car. We recommend that you contact the manufacturer for this information. You can get the address from your local automobile dealer.



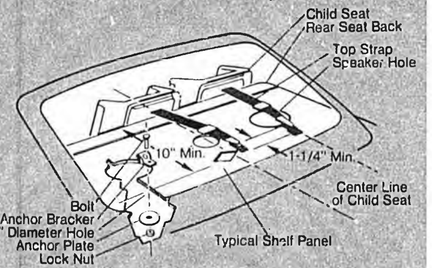
USAGE INSTRUCTIONS
FOR FRONT SEAT INSTALLATIONS

Latch the top strap hook onto the rear seat lap belt latch plate located most directly behind the child seat and SECURELY TIGHTEN THE TOP STRAP. If there is no lap belt latch plate within 10" of being directly behind the child seat, do not use the child seat in that position.

USAGE INSTRUCTIONS
FOR REAR SEAT INSTALLATIONS

Select a suitable anchor bracket mounting location on the filler panel. The location must be:

A. In solid metal at least 1-¼" away from any large holes in the metal portion of the filler panel. (speaker holes, defogger holes, etc.)
B. Far enough behind the child seat to allow the top strap to be securely tightened. (Approximately ten (10) inches or more behind the child seat back.)
C. As close to the centerline of the Child Seat as possible, but in no case more than two inches to the outside or six inches to the inside of the Child Seat centerline. If this condition can not be met, then do not use the Child Seat in that position.



From inside your car's trunk, drill a 5/16" diameter hole up through the metal filler and trim panel at the selected mounting location. Care must be taken not to hit the rear window with the tip of the drill as this could cause the rear window to shatter.

Assemble and securely tighten the bolt, anchor bracket, anchor plate (2-½" O.D. washer) and the lock nut to the metal filler panel and trim as shown.

Alaska Statutes

Title 28. Motor Vehicles.

NOTES TO DECISIONS

Stated in Buckalew v. Holloway, Sup. Ct. Op. No. 1988 (File No. 4058), 604 P.2d 240 (1979).

Chapter 01. Scope and Interpretation of Title.

Sec. 28.01.010. Provisions uniform throughout state.

NOTES TO DECISIONS

Similarity to Uniform Vehicle Code. — Subsection (a) is similar in substance and purpose to the provisions of § 15-101 of the Uniform Vehicle Code Annotated adopted by the National Committee on Uniform Traffic Laws and Ordinances in 1962. Simpson v. Municipality of Anchorage, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

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Nature of inconsistency. — When the question of inconsistency between a local ordinance and state law under subsection (a) is raised, the issue is not whether there is a mere discrepancy between the state law and local ordinance; rather, the inquiry must focus on whether any discrepancy in the ordinance impedes or frustrates policy expressed by state law. Simpson v. Municipality of Anchorage, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

The saving provisions of subsection (b) by their express terms, require a twofold showing to be made before an ordinance inconsistent under subsection (a) can be upheld. First, it is incumbent upon the municipality to demonstrate the existence of a "specific local requirement." Second, the municipality must show that its ordinance was "necessary," in other words, that the specific local problem could not be addressed in a manner consistent with the provisions of this title. Simpson v. Municipality of Anchorage, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

Posting of state-wide speed limits not required. — Although subsection (d) of this section states that a municipality shall erect signs, the effectiveness of the 30 mile per hour limit set by the state in the Alaska Administrative Code is not conditioned upon the posting of signs. Bailey v. Lenord, Sup. Ct. Op. No. 2308 (File No. 4696), 625 P.2d 849 (1981).

Ordinance held inconsistent. — See Simpson v. Municipality of Anchorage, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

Jury instructions. — Although a city ordinance set the speed limit on the streets

in question at 20 miles per hour, the trial court did not err in instructing the jury that the applicable speed limit was the state-wide limit of 30 miles per hour since the city did not post speed limit signs as required by the Alaska Administrative Code. Bailey v. Lenord, Sup. Ct. Op. No. 2308 (File No. 4696), 625 P.2d 849 (1981).

Cited in Anderson v. Municipality of Anchorage, Ct. App. Op. No. 89 (File No. 5318), 645 P.2d 205 (1982).

Chapter 05. Administration.

Article 1. Powers and Duties of Department of Public Safety.

Section

11. Duty of commissioner to adopt regulations

Sec. 28.05.011. Duty of commissioner to adopt regulations. The commissioner shall, unless otherwise provided by statute, adopt regulations in compliance with the Administrative Procedure Act (AS 44.62) necessary to carry out the provisions of this title and other statutes the administration of which is vested in the department. The regulations shall include, but not be limited to:

(1) rules of the road relating to the driving, stopping, standing, parking and other conduct of vehicles, to pedestrians and to official traffic control devices;

(2) minimum equipment for vehicles, including, but not limited to, minimum standards of compliance to be met by manufacturers and vehicle sales and repairs businesses;

(3) inspection of vehicles, and the removal of vehicles from areas of public use when they are found to be in a defective or unsafe condition;

(4) registration, titling, transfer and abandonment of vehicles;

(5) licensing of drivers of vehicles;

(6) financial responsibility relating to vehicles;

(7) management of records of the department required for the administration of this title and regulations adopted under this title, including provisions for insuring the accuracy of information contained in automated and manual information retrieval systems;

(8) Repealed by § 3 ch 77 SLA 1982, effective July 1, 1982;

(9) definitions of words and phrases used in this title and in regulations adopted under this title unless otherwise provided by statute;

(10) registration of motor vehicle, trailer, and semi-trailer dealers; and

(11) certification and regulation of junk yards. (§ 6 ch 178 SLA 1978; am § 3 ch 77 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, repealed paragraph (8) as set out in the main pamphlet. For present provisions covering the subject matter of the repealed paragraph, see AS 44.33.020 (25).

I. REQUEST

Bill/Resolution No.: 262

Title: Use of Child Safety devices in motor,etc

Sponsor: Clocksin, Szymanski & Koponen

Requestor:

II. FISCAL DETAIL

Agency Affected: Health & Social Services

Program Category Affected:

BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Vernellia Randall Phone: 465-3104

Division: Public Health Date: 3/22/83

Approved by Commissioner: Robert Loudon Smith, M.D. Date: 3/30/83

Department: Health & Social Services

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3/8/8

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 262
Title: "...child safety devices..."
Sponsor: Clocksin
Requestor:

II. FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Admin/Justice
BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponser

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact is anticipated.

Prepared By: Francis C. Allan F.C.A. Phone: 269-5691
Division: Alaska State Troopers mck Date: 3-22-83

Approved by Commissioner: R.J. Sundberg Date: 3/29/83
Department: Public Safety

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3/8/83

House Bill No. 262

"An act relating to the use of child safety devices in motor vehicles; providing for a child safety device loan program; and providing for an effective date."

BACKGROUND INFORMATION:

More Alaskan children are killed or injured in car accidents than any other single disease or type of accident. The Alaskan accidental mortality rate for children ages 1-4 years is 105% higher than the rest of United States; and 40% of these deaths are due to car accidents. National statistics have shown that the majority of deaths and injuries to children resulting from car accidents could be prevented if parents would "buckle up" their children.

POSITION:

Because children can't protect themselves, the Department fully supports mandatory child restraint laws. The Department believes that this bill is enhanced by its support for community education programs and car seat loaner programs.

Since the focus of this law is to encourage utilization of approved child restaints, the Department recommends that there be a designated minimum fine; and that the fine be sufficiently high enough to encourage violaters to purchase a car seat rather than pay the fine.

RECOMMENDED BY: E.S. Rabeau

E.S. Rabeau, M.D.
Director
Division of Public Health

DATE: March 21, 1983

APPROVED BY: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

DATE: 3/30/83

DEPARTMENT OF HEALTH & SOCIAL SERVICES/DIVISION OF PUBLIC HEALTH

Tennessee

Compiler's Notes. For table of U.S. decennial population of Tennessee counties, see the supplement to volume 16 (tables).

Amendments. The 1982 amendment added subsection (c).

Effective Dates. Acts 1982 (Adj.S.), ch. 850, § 4. April 22, 1982.

Section to Section References. This section is referred to in § 55-9-402.

55-9-214. Safety belts and child passenger restraint systems required — Violations — Penalties. — (a) It shall be unlawful for any person to buy, sell, lease, trade or transfer from or to Tennessee residents, at retail, an automobile which is manufactured or assembled commencing with the 1964 models, unless such automobile is equipped with safety belts installed for use in the left front and right front seats thereof. All such safety belts shall be of such type and be installed in a manner approved by the department of safety of the state of Tennessee. The department shall establish specifications and requirements of approved types of safety belts and attachments. The department will accept, as approved, all seat belt installations and the belt and anchor meeting the specifications of the Society of Automotive Engineers. Provided that in no event shall failure to wear seat belts be considered as contributory negligence, nor shall such failure to wear said seat belt be considered in mitigation of damages on the trial of any civil action.

(b) Effective January 1, 1978, every parent or legal guardian of a child under the age of four (4) years residing in this state shall be responsible, when transporting his child in a motor vehicle owned by that parent or guardian operated on the roadways, streets or highways of this state, for providing for the protection of his child and properly using a child passenger restraint system meeting federal motor vehicle safety standards; provided, however, nothing in this section shall restrict a mother from removing the child from such system and holding the child when the mother is nursing the child, or attending to its other physiological needs. Provided that the term "motor vehicle" as used in this paragraph shall not apply to recreational vehicles of the truck or van type. Provided further that the term "motor vehicle" as used in this paragraph shall not apply to trucks having a tonnage rating of one (1) ton or more. Provided that in no event shall failure to wear a child passenger restraint system be considered as contributory negligence, nor shall such failure to wear said child passenger restraint system be admissible as evidence in the trial of any civil action.

(c) Violation of any provision of this section is hereby declared a misdemeanor and anyone convicted of any such violation shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each violation of subsection (a) of this section and not less than two dollars ($2.00) nor more than ten dollars ($10.00) for each violation of subsection (b) of this section. Provided, however, that no court costs shall be imposed or assessed against anyone convicted of a violation of this section. [Acts 1963, ch. 102, §§ 1, 2; 1977, ch. 114, §§ 1, 2; T.C.A., § 59-930; Acts 1981, ch. 86, §§ 1, 2.]

Amendments. The 1981 amendment deleted the words "or assuring that such child is held in the arms of an older person riding as a passenger in the motor vehicle" at the end of the first sentence of subsection (b), added at the end of the first sentence of subsection (b) the proviso beginning "provided, however," and ending with "other physiological needs", and added the second sentence of subsection (c).

House Bill No. 262

"An act relating to the use of child safety devices in motor vehicles; providing for a child safety device loan program; and providing for an effective date."

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RECOMMENDED BY: E.S. Rabeau

E.S. Rabeau, M.D.
Director
Division of Public Health

DATE: March 21, 1983

APPROVED BY: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

DATE: 3/30/83

POSITION PAPER/Department of Health & Social Services

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 262
Title: "...child safety devices..."
Sponsor: Clocksin
Requestor:

II. FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Admin/Justice
BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
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200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
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700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponser

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact is anticipated.

Prepared By: Francis C. Allan F.C.A. Phone: 269-5691
Division: Alaska State Troopers MCK Date: 3-22-83

Approved by Commissioner: R.J. Sundberg Date: 3/29/83
Department: Public Safety

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3/8/83

FISCAL NOTE

I. REQUEST

Bill/Resolution No.: 262

Title: Use of Child Safety devices in motor,etc

Sponsor: Clocksin, Szymanski & Koponen

Requestor:

II. FISCAL DETAIL

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Program Category Affected:

BRU, Program of Subprogram(s) Affected:

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	-0-	-0-	-0-	-0-	-0-	-0-

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IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Vernellia Randall Phone: 465-3104

Division: Public Health Date: 3/22/83

Approved by Commissioner: Robert Loudon Smith, Ph.D. Date: 3/30/83

Department: Health & Social Services

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Alaska Statutes

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Chapter 05. Administration.

Article 1. Powers and Duties of Department of Public Safety.

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(7) management of records of the department required for the administration of this title and regulations adopted under this title, including provisions for insuring the accuracy of information contained in automated and manual information retrieval systems;

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Alaska State Legislature

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CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

MEMBERS:
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VICE CHAIRMAN
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REP. PETER GOLL
REP. NIILO KOPONEN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House H.E.S.S. Committee

FROM: Linda Otey, Committee Aide

SUBJ: HB 262 "An act relating to child safety devices for motor vehicles: providing a child safety device loan program and providing for an effective date."

DATE: April 28, 1983

This legislation is similar to CSSB 163 currently in Senate Judiciary. CSSB 163 contains provisions for exemptions of commercial vehicles as well as a 30 day time frame for dismissal of the infraction upon proof of purchase or acquisition of an approved safety device or seatbelt. (CSSB 163 attached)

SECTION 1

28.05.095 Child Safety Devices (New section) HB 262 would require the use of child safety devices in motor vehicles in Alaska and would establish a loan program to make the devices available to the public through hospitals and birthing centers.

A person who is convicted of driving without having his child properly secured in a child safety device or seatbelt (depending on age) would be guilty of an infraction. If a person issued proof of having purchased a device within ten days, the court would dismiss the citation.

28.05.096 Child Safety Device Loan Program Established in the Department of Public Safety, Highway Safety Planning Agency directs the head of that agency to:

1. Provide to all hospitals and birthing centers the devices (subject to availability of funds) to be loaned at nominal fees;

2. Advertise the program to the public to educate about risks of injury or death when children are unrestrained; and

3. Police officers would be required to explain and advise (when stopping a driver) of the loan program.

28.05.097 Sale of Child Safety Devices Prohibits sale or installation of devices not in conformity with all federal standards.

SECTION 2

Effective one year after enactment.

Folder Content

Left	Right
Bill	Summary
Statutes	Memo from Director Smith, Highway Safety Planning
Fiscal Note/Public Safety	Alaska Child Passenger Safety Association
Fiscal Note/Dept. H&SS	Alaska Chapter of American Academy of Pediatrics
CSSB 163 (Transportation)	Misc. Professional Reports
Tennessee Statute	University of Colorado law review/mandatory restraint-use laws

Introduced: 3/11/83
Referred: Health, Education &
Social Services, Judiciary
and Finance

IN THE HOUSE BY CLOCKSIN, SZYMANSKI AND KOPONEN

HOUSE BILL NO. 262

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to child safety devices for motor vehicles; providing for a child safety device loan program; and providing for an effective date."

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

* Section 1. AS 28.05 is amended by adding new sections to read:

Sec. 28.05.095. CHILD SAFETY DEVICES. (a) A driver may not transport a child in a motor vehicle [other than an emergency vehicle or a bus] unless the driver has provided and properly secured each child

Revisor

(1) less than four years of age in a child safety device approved for infants by the United States Department of Transportation;

(2) between four and six years of age in a child safety device approved for a child of that age and size by the United States Department of Transportation, or in a seatbelt, as is appropriate for the particular child.

Delete

(b) A person convicted of a violation of (a) of this section is guilty of an infraction.

(c) If a person who violates (a) of this section by failing to provide a child safety device or seatbelt files with the court, within 10 days after the issuance of a citation, proof of purchase or acquisition of an approved child safety device or seatbelt, the court shall dismiss the citation.

(d) Evidence of the conviction of a person for a violation of

(a) of this section or evidence of the failure to use a child safety device or seatbelt as required by (a) of this section may be admitted in a civil action as evidence of negligence.

Sec. 28.05.096. CHILD SAFETY DEVICE LOAN PROGRAM. (a) There is established a child safety device loan program in the Department of Public Safety, highway safety planning agency.

(b) The director of the highway safety planning agency shall

(1) provide to every hospital and birthing center in the state, subject to the availability of funds, child safety devices to be loaned to the public at nominal fees;

(2) disseminate materials, printed advertisements, and radio and television messages

(A) to educate the public about the risks of injury to and death of unrestrained infants and children in motor vehicles;

(B) to explain to the public the provisions of AS 28.-05.095.

(c) A peace officer who stops a driver for an alleged violation of AS 28.05.095 shall advise the driver of the loan program.

Sec. 28.05.097. SALE OF CHILD SAFETY DEVICES. A person may not sell, offer for sale, or install in any motor vehicle a child safety device not conforming to all applicable federal standards for the device on the date of the sale or installation.

* Sec. 2. This Act takes effect one year after enactment.

Offered: 4/22/83
Referred: Judiciary

Original sponsors: V.Fischer, Moss, Josephson, et al

IN THE SENATE BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 163 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the use of child safety devices in motor vehicles; and providing for an effective date."

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

* Section 1. AS 28.05 is amended by adding new sections to read:

Sec. 28.05.095. CHILD SAFETY DEVICES. (a) Except as provided in (b) of this section, a driver may not transport a child in a motor vehicle unless the driver has provided and properly secured each child

(1) less than four years of age in a child safety device meeting the standards of the United States Department of Transportation for a child safety device for infants;

(2) between four and six years of age in a child safety device approved for a child of that age and size by the United States Department of Transportation, or in a seatbelt, as is appropriate for the particular child.

(b) This section does not apply to

(1) a mass transit vehicle, a school bus, an emergency vehicle, or a taxicab or other commercial vehicle;

(2) a motor vehicle designed for and used primarily off the highway;

(3) a child or class of children exempted by regulation under AS 28.05.096;

(4) a child riding as a passenger in a motor vehicle in

or seatbelt and has forfeited the bail required by the citation; or

(3) provided the proof required by this subsection on a prior occasion.

* Sec. 2. This Act takes effect one year after enactment.

Karen M. Crist
6260 E. 41st Court
Anchorage, AK 99504

April 20, 1983

APR 25 1983

Honorable Mae M. Tischer, Co-Chairman
House, Education & Social Services Committee
Pouch V
State Capitol
Juneau, AK 99811

Re: House Bill 262 - Child safety devices for motor vehicles

Dear Representative Tischer:

You have information and statistics relative to the above-referenced bill so you should already be aware of the significant threat to young children posed by riding unrestrained in automobiles. It is our understanding that the main opposition to this bill is that "we do not need another law forcing people to protect themselves."

As concerned citizens, we would like to point out to you that we do not consider this a proposed requirement for people to protect themselves. This bill provides for the protection of small children who are unable to make decisions for themselves concerning their safety. There is a big difference. Since auto accidents are the leading cause of death for children, it is apparent that at present children are not being adequately protected in car travel. They should not be the victims of their parents' negligence.

We ask that you share this letter with the HESS Committee and do all that you can to facilitate passage of this bill.

Sincerely,

Karen M. Crist
Deborah A. McCall
Michael F. Shannon
Vicki Jones
Susan Evans
Susan Hyland
Tom Hansen
Roland Lemieux
Mary A. Ewart
Susan Mahla
Kimberly A. Mercado
Craig Jerry
E L Crist

Author has requested that this letter be read into the minutes of the mtg re/HB 262

L.

Alaska State Legislature

Representative Mae Tischer
District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

House of Representatives

MAE TISCHER

called 4/27
344-5478

25 March 1983

Robin Hartlieb
1331 W. 7th
Anchorage, AK. 99501

Dear Robin:

I appreciate your taking the time to inquire about my reasons for opposing SB 163. As my aide mentioned in her telephone conversation with you earlier, I share your concern regarding the number of children's deaths that could have been prevented through proper use of child restraint devices. I find it appalling that some parents thoughtlessly allow their children to ride in motor vehicles without adequate protection; however, our reaction to this problem appears to be different.

At face value, HB 262 and SB 163 would seem to correct the problem; in reality each of these bills would probably make some headway but in turn they would also create additional problems. For example, in order to determine if people were in compliance with the law, police officers would have to stop cars without "probable cause', meaning no observable violation of the law, such as a missing headlight, speeding, etc., had been noted. If the police were authorized to do this it would probably violate our consititutional rights; yet if they don't have this authority there really is no way to enforce the law. In short, a catch twenty-two.

I believe a better responce to this dilemma would be for "concerned citizens" to work to make car seats available for loan through hospitals, doctors' offices, day care centers, etc., and attempt to make the public aware of the very real danger of not using safety devices for their children.

You also asked if a bill had been introduced which would provide infant seats on a loan basis to use in transporting babies home from the hospital. That provision is included in HB 262 and I have enclosed a copy of the bill for your review.

Thanks again for responding to my newsletter. I really appreciate your input and hope you will continue to inform me of your views regarding subjects of concern or of special interest to you.

Sincerely,

Mae

Representative Mae Tischer
District 11

P.S. I'm sorry to have missed your call Robin. It would have been great to talk to you. Give my best to your Dad.

MEMORANDUM State of Alaska

TO: Kevin K. Bruce, Special Assistant
Office of the Governor

DATE: December 21, 1982

FILE NO:

TELEPHONE NO: 465-4371

FROM: Charles A. Smith, Director
Highway Safety Planning Agency
Department of Public Safety

SUBJECT: Letter from Dr. Lillibridge
Re: Mandatory Child Restraint Use Legislation

We appreciate the opportunity to comment on Dr. Lillibridge's letter and to better acquaint you with issues with which you may not be familiar.

Dr. Lillibridge has nearly single-handedly brought the issue of mandatory child restraint usage to the attention of the public and the legislature. He is a dedicated physician and a champion of the welfare of Alaska's children. Highway Safety endorses Dr. Lillibridge's position and has supported his efforts to promote child restraint use. We are in total agreement with him that mandatory use legislation will have an impact that no other countermeasure can be hoped to equal.

The statewide traffic records system is in such disarray that we are unable to cite reliable traffic data here to support our position, but at the national level, anywhere from 800 to 1,000 children under 5 are killed every year in highway accidents. Perhaps even more dismaying are those children who are not killed outright but whose lives are damaged by permanently disabling and disfiguring injuries. As many as 90% of the fatalities and 70% of the severe injuries could be prevented by the proper use of child restraint devices.

At present, there are child restraint loaner programs active in Juneau, Sitka and Anchorage. These programs lend automobile restraints to parents of infants for a nominal fee, usually $5.00, until the child reaches 20 pounds at, approximately, one year. The fee is waived in cases of extreme hardship. The source of funds for all three programs is the Federal Highway Safety Act of 1966, Section 402. The Highway Safety Planning Agency administers these funds for the State of Alaska. The Anchorage program, though funded through the "402" program, is administered through the Commissioner of Indian Affairs' highway safety program and is restricted to participation by Native Americans.

Recently, the Alaska Child Passenger Safety Association was formed and is in the process of incorporating. The ACPSA hopes to organize various groups around the State into one cohesive unit in order to better direct and intensify efforts on behalf of child passenger protection.

Other Alaskan organizations supporting these activities include the Alaska Chapter of the American Academy of Pediatrics (Dr. Lillibridge's group), the Alaska Medical Society, the Alaska Medical Auxiliary and the Alaska Nurses' Association. All the hospitals in the Anchorage area have representatives at the ACPSA meetings, and Bartlett Memorial is the agent for lending infant seats to newborns locally.

On December 10 and 11, public hearings on this subject were conducted in Anchorage and Fairbanks by Senate HESS. Attached is a list of those who were in attendance.

Under the 1983 Highway Safety Plan, this agency awarded a grant to the Municipality of Anchorage in excess of $43,000 to develop a comprehensive education program on safety belt and child restraint use that we hope to be able to implement statewide after completion with a minimum of tailoring for various locales. In addition, we are co-sponsoring, with the Division of Public Health, a statewide teleconference in March to encourage the use of child restraints and to explain the possible consequences of failing to use the devices.

In summary, this agency supports Dr. Lillibridge's stance and applauds his efforts and the efforts of all those who are actively seeking child restraint legislation. We urge the Governor to give every consideration to sponsoring this legislation himself.

CAS:vkm

cc: Commissioner Sundberg
Department of Public Safety

Attachment

Form 01-006(a)

STATE OF ALASKA
OFFICE OF THE GOVERNOR

TO: Department of

( ) Administration
( ) Commerce & Economic Devel.
( ) Community & Reg. Affairs
( ) Education
( ) Environ. Conservation
( ) Fish & Game
( ) Health & Social Services
( ) Labor
( ) Law
( ) Military Affairs
( ) Natural Resources
(X) Public Safety
( ) Revenue
( ) Transportation & P.F.

ATTN: HIGHWAY SAFETY

( ) Correspondence Track. Sys.
( ) Return letter w/draft
(X) Return letter w/comment
( ) Reply direct
( ) Your information
( ) Call me
( ) Appropriate action
( ) As requested
( ) _____

REMARKS:

From: KEVIN L. BRUCE
Date: SEPT 15-82

American Academy of Pediatrics

Alaska Chapter

Chairman
Clinton B. Lillibridge, M.D.
4001 Dale Street, Suite 213
Anchorage, 99508

Alternate Chairman
Tom Porter, M.D.
Dept. of Pediatrics
Box 7-741
Anchorage 99510

Secretary-Treasurer
Charles Ryan, M.D.
3300 Providence Drive, Suite 206
Anchorage 99504

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DEC 14 1982
GOVERNOR'S OFFICE

HIGHWAY SAFETY

December 1982

Mr Sheffield, please help us! We little children are being killed and maimed by our parents. They won't buckle us up when we ride in the car. We are too little to do it ourselves. Our parents think they own us. When they stop the car quickly to avoid an accident, we smash our faces on the dashboard. It's not fair! Our right to live and to have an intact face is ignored by our parents.

Our friends, the pediatricians, in 22 other states have already persuaded their legislatures to pass mandatory child auto restraint laws. Please read the enclosed "Elements Desired for Legislation" drawn from the best of other state's experience. Our own Alaska State Troopers have helped draw up these "elements," also.

The programs do work - documentation enclosed.

Please help us!

Sincerely
the little children of Alaska

translated by CB Lillibridge MD
State Chairman

RECEIVED
DEC 14 1982
GOVERNOR'S OFFICE

ALASKA
CHILD PASSENGER SAFETY ASSOCIATION

Fatal motor accident analysis.(1)

Washington State 1970-1979

39,500 accidents in which children were passengers.

6,300 were restrained; 2 killed. Death rate 0.0317%

33,200 were not restrained; 146 killed. Death rate 0.4397%

The death rate for unrestrained children was 13-fold increased over restrained children.

Twenty per cent of the unrestrained children were being held on an adult's lap but were killed. Nine out of every ten adults holding the child were not killed.

If all of the children had been properly restrained, how many would have died? Twelve, instead of 148.

One hundred thirty six children died needlessly because they were not properly restrained.

Profile of an accident.

The "typical" child who was killed would be a one year old male infant riding in the front seat of a passenger car without a restraint. The driver of the car was the mother, who was also not wearing a seat belt. The accident occurred between 8 a.m. and 3 p.m. within a few miles of home. The mother had not been drinking an alcoholic beverage. There were no defects in the family car that contributed to the accident. The accident occurred during daylight hours on a state route. The weather was clear or overcast and the surface was dry. In summary, the fatal accident involving a young child in Washington State usually occurred under ordinary conditions.(1)

(1) "Fatal Motor Vehicle Accidents of Child Passengers from Birth through 4 Years of Age in Washington State" by Robert G. Scherz, Pediatrics, Vol. 68(4), October 1981, pg. 572-575.

CHILD PASSENGER SAFETY ASSOCIATION

Elements Desirable for Legislation

Every driver (parent, car pool driver, people from out of state. It is not the responsibility of the car rental agency, or taxicab driver, bus driver, etc.).

Transporting a child.

Under age five.

Any child unable to sit unaided shall be properly restrained in a child restraint system which meets the federally approved standards prescribed in 49 CFR 571.213. (This covers infants without specifying a specific age or level of development or weight. This is to make it easy for the enforcing officers to make that judgment).

Child must be properly secured according to the manufacturer's recommendation.

Any child who is able to sit unaided but under the age of five and transported in the front seat must be properly restrained in a child restraint system which meets the federal standards prescribed in 49 CFR 571.213.

Any child who is able to sit unaided but under the age of five transported in the rear seat must be properly restrained in a child restraint system which meets the federal standards prescribed in 49 CFR 571.213.

Children shall be carried only in seats intended for passengers.

Within the State of Alaska (statute not limited just to streets, highways, roads, byways, but off-road use as well, which is even more dangerous).

Infractions do not constitute contributory negligence. Infractions are not admissible as evidence.

Seats must be properly installed.

People violating this statute are guilty of an infraction and assessed two points per occurrence (not per child).

Violators of this section shall be fined not to exceed $60. A person found in violation of this section may, instead of paying the fine, submit proof of purchase subsequent to the violation or rental for not less than one year of an approved infant or child restraint system to the court. This shall be acceptable only for the first violation and if the acquisition of the restraint was subsequent to the violation. This option applies only to the first offense.

Exemptions to this statute include mass transit vehicles, school bus, taxi.

Children unable to use safety belts or child passenger restraints because of physical or mental handicaps. In this instance they shall be secured in their own specially designed apparatus.

Motorcycle, moped, other vehicles not required to be equipped with seat belts. Transport in a vehicle in which all seat belts are occupied but extra passengers are being carried. Emergency vehicles during an emergency.

DOCUMENTATION OF EFFECTIVENESS

TENNESSEE

User Rates for Children Under Four

1977 pre-law	9%
1978 (with law)	20%
1980 (with law)	29%

Deaths

pre-law	20-25/year
1980	14
1981	10 (only 1 fatality was in a child who was in an approved child restraint system)

Health Cost Containment

E.R. visit for car accident	$50
Hospitalization	$7-10,000
Funeral	$2,000

MASSACHUSETTS

Usage of Seat Restraints	Education Only (1979)	Mandatory Use Laws (1980)
Age 1 year	41%	70%
2 years	22%	49%
3 years	12%	40%

Estimated savings to the family

$1,100-$55,000 per injury

American Academy of Pediatrics

Alaska Chapter

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4001 Dale Street, Suite 213
Anchorage, 99508

Alternate Chairman
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Dept. of Pediatrics
Box 7-741
Anchorage 99510

Secretary-Treasurer
Charles Ryan, M.D.
3300 Providence Drive, Suite 206
Anchorage 99504

February 10, 1983

FEB 14 1983

The Honorable Betty Cato
Pouch Y
Juneau, AK 99811

Dear Representative Cato:

Would it be possible for you to invite the legislators or their aids to meet directly with Christy Hughes while she is here in Alaska for the statewide teleconference on child passenger safety?

Have you listened to the tapes or read the transcript of Senator Charlie Parr's hearing on this issue, which was held in December 1982 in Anchorage and in Fairbanks? A lot of important data and background information was presented at those hearings. The broad based support from the state troopers, the Academy of Pediatrics, the Medical Society, and the public health nurses is reflected in that report.

How can we get a bill presented? The elements which the Academy of Pediatrics at a national level, and the Alaska State Troopers feel would be important are included in that hearing.

There appears to be a great deal of support among the public for this legislation. How can we get it accomplished?

Senator Pat Rodey has indicated that he is interested. I have received letters from 43 senators and legislators this August which indicate their understanding of the magnitude of the problem.

Would you please telephone me at the office on

my private line (561-1186) at your earliest convenience so that we may discuss this further.

Sincerely yours,

C B Lillibridge III

Clinton B. Lillibridge, M.D.
State Chairman

CL:sh

cc: Peggy Wilson, Child Passenger Safety Assoc.
Mrs. Carolyn Crouch, Anch. Medical Society Aux.
Sergeant Wm. Farber, Alaska State Troopers
Mrs. Sandra Mowrer, PHN

American Academy of Pediatrics

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In support of Senate Bill 163
and House Bill 262

WHY DOES ALASKA NEED TOUGH CHILD PASSENGER SAFETY LEGISLATION?

1. THE GREATEST KILLER of KIDS is the CAR/TRUCK

   a. More children are killed by motor vehicles than by the next two greatest killers combined--more than birth defects, congenital heart lesions, brain malformations, leukemia, cancer, etc. together.

   b. Children under age 6 are PHYSICALLY more susceptible to HEAD INJURY. Twenty-five percent of children's weight is in their head (compared to 9 percent for adults). When the vehicle slows suddenly, the child is thrown HEADFIRST into the dashboard like an arrow. The child's SKULL is more FRAGILE, and BRAIN DAMAGE occurs more easily.

2. WOULD INTENSE EDUCATION ACHIEVE GOOD RESULTS?

   a. No. Several other states have spent hundreds of thousands of dollars on TV, newspaper, pediatric office teaching, etc. with NO MEASURABLE DIFFERENCE IN USAGE or death rate, because young people (parents) naively believe accidents always happen only to other people.

3. WOULD A TOUGH LAW INCREASE USAGE and SAVE LIVES?

		Pre-Law	With Law
Yes.	Massachusetts Usage:	14%	70%

		Pre-Law	With Law
Yes.	Tennessee:	12 deaths/year	1 death/year

   Yes. Washington: Death rate over 10 years and 39,600 accidents is 13 times greater for children riding loose than restrained.

Clinton B Lillibridge, MD

MEMORANDUM State of Alaska

TO: Kevin K. Bruce, Special Assistant
Office of the Governor

DATE: December 21, 1982

FILE NO:

TELEPHONE NO: 465-4371

FROM: Charles A. Smith, Director
Highway Safety Planning Agency
Department of Public Safety

SUBJECT: Letter from Dr. Lillibridge
Re: Mandatory Child Restraint
Use Legislation

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Department of Public Safety

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Form 01-006(a)

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( ) Education
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( ) As requested
( ) _____

REMARKS:

From: KEVIN L. BRUCE
Supervisor

Date: 2-15-82

American Academy of Pediatrics

Alaska Chapter

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4001 Dale Street, Suite 213
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Secretary-Treasurer
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3300 Providence Drive, Suite 206
Anchorage 99504

RECEIVED
DEC 14 1982
GOVERNOR'S OFFICE

1st December 1982

Mr Sleffield, please help us! We little children are being killed and maimed by our parents. They won't buckle us up when we ride in the car. We are too little to do it ourselves. Our parents think they own us. Whe.. they stop the car quickly to avoid an accident, we smash our faces on the dashboard. It's not fair! Our right to live and to have an intact face is ignored by our parents.

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the little children of Alaska

translated by CB Lillibridge MD
State Chairman

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ALASKA
CHILD PASSENGER SAFETY ASSOCIATION

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CHILD PASSENGER SAFETY ASSOCIATION

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Transporting a child.

Under age five.

Any child unable to sit unaided shall be properly restrained in a child restraint system which meets the federally approved standards prescribed in 49 CFR 571.213. (This covers infants without specifying a specific age or level of development or weight. This is to make it easy for the enforcing officers to make that judgment).

Child must be properly secured according to the manufacturer's recommendation.

Any child who is able to sit unaided but under the age of five and transported in the front seat must be properly restrained in a child restraint system which meets the federal standards prescribed in 49 CFR 571.213.

Any child who is able to sit unaided but under the age of five transported in the rear seat must be properly restrained in a child restraint system which meets the federal standards prescribed in 49 CFR 571.213.

Children shall be carried only in seats intended for passengers.

Within the State of Alaska (statute not limited just to streets, highways, roads, byways, but off-road use as well, which is even more dangerous).

Infractions do not constitute contributory negligence. Infractions are not admissible as evidence.

Seats must be properly installed.

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Violators of this section shall be fined not to exceed $60. A person found in violation of this section may, instead of paying the fine, submit proof of purchase subsequent to the violation or rental for not less than one year of an approved infant or child restraint system to the court. This shall be acceptable only for the first violation and if the acquisition of the restraint was subsequent to the violation. This option applies only to the first offense.

Exemptions to this statute include mass transit vehicles, school bus, taxi.

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Motorcycle, moped, other vehicles not required to be equipped with seat belts. Transport in a vehicle in which all seat belts are occupied but extra passengers are being carried. Emergency vehicles during an emergency.

DOCUMENTATION OF EFFECTIVENESS

TENNESSEE

User Rates for Children Under Four

1977 pre-law	9%
1978 (with law)	20%
1980 (with law)	29%

Deaths

pre-law	20-25/year
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E.R. visit for car accident	$50
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Funeral	$2,000

MASSACHUSETTS

Usage of Seat Restraints	Education Only (1979)	Mandatory Use Laws (1980)
Age 1 year	41%	70%
2 years	22%	49%
3 years	12%	40%

Estimated savings to the family

$1,100-$55,000 per injury

the only secure place

for a child in a car is in a crash-tested safety seat…and that's a fact!



Where you can buy child safety seats:

Regular or discount department stores Juvenile furniture or baby needs shops Some new car dealers Some hospital gift shops Automobile parts and accessory dealers Catalog sales through major retailers

&facts



myth: A child riding in a car is safest in its mother's arms.

fact: In a sudden stop or crash, momentum will cause a 20 pound baby to weigh 400 pounds or more. You can't hold back that much weight. And if you're not wearing a seat belt, your body could crush a child against the dashboard.

myth: Regular seat belts are effective for protecting children.

fact: Children need restraints designed especially for them, because of their delicate bone structure. Fortunately, effective, crash-tested child restraining systems are available. Some models are safer than others, so buy carefully and make sure to follow enclosed instructions for attachment. If a safety seat is not available, however, be sure to use the car's regular safety belt system. Your child's safety depends on it.

myth: Childhood diseases pose a greater threat to my child's health than car accidents.



fact: Car accidents are the leading cause of death for children under five. Almost 1,000 children die each year and thousands more are seriously injured, some permanently. One survey showed that a large majority of those killed or injured in crashes could have been saved if they had been properly secured in a safety seat. It's ironic that so many parents who protect their children with inoculations and worry about every little sniffle or fever, still fail to protect them from the greatest threat to children's health – car accidents.

myth: In a serious car accident nothing will really protect a child.

fact: Elana Nailor of Falls Church, Virginia, was hit by another driver and rolled her car over three times. She was hospitalized and the car totaled. But her younger passenger, secured in a child safety seat, did not receive a scratch. Hundreds of incidents like this have demonstrated the effectiveness of child safety seats in serious car accidents. These reports are evidence that car seats really work to protect children in crashes – but they must be used, and used correctly.

myth: I cannot get my child to ride in a safety seat.

fact: Since safety seats elevate children from the car's regular seat, children in safety seats have a better view of their surroundings. One study showed that children riding in safety seats were better behaved and more contented than children who were allowed to roam around the car.

But it may take some persistence. You're best able to understand the risks involved when a child is not properly belted in. Your child's safety and your own peace of mind are at stake. You can set an example by always wearing your own seatbelt.

myth: I don't need to put my child in a safety seat for short trips.



fact: Most accidents happen within 25 miles of home. Even at low speeds a sudden stop or "fender-bender" can cause severe injury to a child who is not properly belted in. Placing your child in a safety seat every time can save a lot of heartbreak.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 262

"An act relating to the use of child safety devices in motor vehicles; providing for a child safety device loan program; and providing for an effective date."

BACKGROUND INFORMATION:

More Alaskan children are killed or injured in car accidents than any other single disease or type of accident. The Alaskan accidental mortality rate for children ages 1-4 years is 105% higher than the rest of United States; and 40% of these deaths are due to car accidents. National statistics have shown that the majority of deaths and injuries to children resulting from car accidents could be prevented if parents would "buckle up" their children.

POSITION:

Because children can't protect themselves, the Department fully supports mandatory child restraint laws. The Department believes that this bill is enhanced by its support for community education programs and car seat loaner programs.

Since the focus of this law is to encourage utilization of approved child restaints, the Department recommends that there be a designated minimum fine; and that the fine be sufficiently high enough to encourage violaters to purchase a car seat rather than pay the fine.

The Department is opposed to the exclusion of taxicabs and commercial vehicles because this action weakens the protection of children. Taxicabs are used primarily for short city driving. Most injuries to children in cars occur in short stop-and-go driving. In addition, the Department is opposed to allowing children who are not family members to ride in a vehicle that does not have enough seat belts. This action will allow the transporting of large numbers of children in car pools. Under this provision, five or more children could be legally crowded into one vehicle.

Recommended By: E. S. Rabeau

E.S. Rabeau, M.D., Director
Division of Public Health

Date: 5/10/83

Approved By: Robert London Smith

Robert London Smith, Ph.D.,
Commissioner, Department of
Health & Social Services

Date: 5/14/83

STATE OF ALASKA
FISCAL NOTE | Revision Date , 1983 |

I. REQUEST
Bill/Resolution No.: CSHB 262
Title: Child care restraints
Sponsor: Rep. Clocksin et al
Requestor: House HESS

II. FISCAL DETAIL
Agency Affected: Health & Social Services
Program Category Affected: Health
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Vernellia Randall, MCH Nursing Coordinator Phone: 465-3104
Division: Public Health Date: 5-10-83

Approved by Commissioner: Robert London Leavitt, Ph.D Date: 5/14/83
Department: Health and Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

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DEC 14 1982
GOVERNOR'S OFFICE

ALASKA
CHILD PASSENGER SAFETY ASSOCIATION

Fatal motor accident analysis. (1)

Washington State 1970-1979

39,500 accidents in which children were passengers.

6,300 were restrained; 2 killed. Death rate 0.0317%

33,200 were not restrained; 146 killed. Death rate 0.4397%

The death rate for unrestrained children was 13-fold increased over restrained children.

Twenty per cent of the unrestrained children were being held on an adult's lap but were killed. Nine out of every ten adults holding the child were not killed.

If all of the children had been properly restrained, how many would have died? Twelve, instead of 148.

One hundred thirty six children died needlessly because they were not properly restrained.

Profile of an accident.

The "typical" child who was killed would be a one year old male infant riding in the front seat of a passenger car without a restraint. The driver of the car was the mother, who was also not wearing a seat belt. The accident occurred between 8 a.m. and 3 p.m. within a few miles of home. The mother had not been drinking an alcoholic beverage. There were no defects in the family car that contributed to the accident. The accident occurred during daylight hours on a state route. The weather was clear or overcast and the surface was dry. In summary, the fatal accident involving a young child in Washington State usually occurred under ordinary conditions. (1)

(1) "Fatal Motor Vehicle Accidents of Child Passengers from Birth through 4 Years of Age in Washington State" by Robert G. Scherz, Pediatrics, Vol. 68(4), October 1981, pg. 572-575.

CHILD PASSENGER SAFETY ASSOCIATION

Elements Desirable for Legislation

Every driver (parent, car pool driver, people from out of state. It is not the responsibility of the car rental agency, or taxicab driver, bus driver, etc.).

Transporting a child.

Under age five.

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American Academy of Pediatrics

Alaska Chapter

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Box 7-741
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Charles Ryan, M.D.
3300 Providence Drive, Suite 206
Anchorage 99504

February 10, 1983

FEB 14 1983

The Honorable Betty Cato
Pouch Y
Juneau, AK 99811

Dear Representative Cato:

Would it be possible for you to invite the legislators or their aids to meet directly with Christy Hughes while she is here in Alaska for the statewide teleconference on child passenger safety?

Have you listened to the tapes or read the transcript of Senator Charlie Parr's hearing on this issue, which was held in December 1982 in Anchorage and in Fairbanks? A lot of important data and background information was presented at those hearings. The broad based support from the state troopers, the Academy of Pediatrics, the Medical Society, and the public health nurses is reflected in that report.

How can we get a bill presented? The elements which the Academy of Pediatrics at a national level, and the Alaska State Troopers feel would be important are included in that hearing.

There appears to be a great deal of support among the public for this legislation. How can we get it accomplished?

Senator Pat Rodey has indicated that he is interested. I have received letters from 43 senators and legislators this August which indicate their understanding of the magnitude of the problem.

Would you please telephone me at the office on

my private line (561-1186) at your earliest convenience so that we may discuss this further.

Sincerely yours,

Clinton B. Lillibridge, M.D.
State Chairman

CL:sh

cc: Peggy Wilson, Child Passenger Safety Assoc.
Mrs. Carolyn Crouch, Anch. Medical Society Aux.
Sergeant Wm. Farber, Alaska State Troopers
Mrs. Sandra Mowrer, PHN

Fatal Motor Vehicle Accidents of Child Passengers from Birth Through 4 Years of Age in Washington State

Robert G. Scherz, MD

From the Mary Bridge Children's Health Center, Tacoma, Washington

ABSTRACT. During the decade beginning Jan 1, 1970 and ending Dec 31, 1979, approximately 39,500 child passengers aged 0 to 4 years were in motor vehicle accidents reported and investigated in the State of Washington; 148 (0.4%) of the children were killed outright or subsequently died. Of the 39,500 children, approximately 6,300, or 16%, were wearing some type of safety restraint and only two, or 1:3,150, were killed. On the other hand, 33,200 were not wearing restraints and 146, or 1:227, were killed. If these ratios are extrapolated, one might conclude that if all the children had been wearing restraints, there would have been 93% fewer deaths. A detailed analysis was performed on 39 fatalities for the years 1977, 1978, and 1979. Fatal accidents involving young children in Washington State usually occurred under ordinary circumstances on dry roads at low speeds during daylight hours and were unrelated to alcohol usage. *Pediatrics* 68: 572-575, 1981; *motor vehicle accidents, child restraints.*

Motor vehicle accidents are the leading cause of accidental death of young children in the United States. In the 1970s, 16,820 children 0 to 4 years of age were killed in motor vehicle-related accidents.[1] The data in this article were tabulated from reports and investigations generated by the Washington State Patrol for motor vehicle accidents involving children in Washington State from 1970 through 1979.

During the last ten years, from Jan 1, 1970 through Dec 31, 1979, 148 children 0 to 4 years of age received fatal injuries as passengers in motor vehicles in Washington State. Although the exact number of child passengers involved in the accidents is not known, data collected by the Washington State Patrol indicate that the number of child passengers from birth through 4 years of age in investigated accidents was approximately 39,500 during that period.[2-5]

Review of data collected from the Washington State Seat Belt study suggests that the cumulative number of children aged 0 to 4 years wearing some sort of restraint at the time of the accident was approximately 6,300 or 16% of the passengers. Approximately 33,200 were not wearing a restraint. During the last ten years, only two of the children wearing a restraint were killed (ratio of fatal injuries to total passengers 1:3,150). On the other hand, there were 146 children aged 0 to 4 years not restrained who were killed (ratio of fatal injuries to total passengers 1:227). If all of them had worn restraints, there might have been 93% fewer deaths.

MATERIALS AND METHODS

Investigation of motor vehicle accidents in Washington State is required for all injury-producing accidents and for accidents that entail property damage of $300 or more. The report form includes information relative to the use of seat belts by the driver and all other passengers. Prior to 1979, the report form did not differentiate between seat belt, seat belt and shoulder belt, and child restraint. The reports did not indicate whether the restraints were used properly or whether a child was restrained properly within the seat. The author reviewed all computer printouts relating to the use of seat restraints by children for the period 1970 through 1979.

To gain additional insight into characteristic features of the accidents that result in fatalities, the State of Washington Uniformed Police Traffic Collision Reports of 39 fatalities of children under age 5 years (that occurred during the years 1977, 1978, and 1979) were reviewed in detail.

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Reprint requests to (R.G.S.) Mary Bridge Children's Health Center, 311 South L St, Tacoma, WA 98405.
PEDIATRICS (ISSN 0031 4005). Copyright © 1981 by the American Academy of Pediatrics.

PROFILE OF FATAL ACCIDENTS

The profile for the "typical" child who was killed is as follows. The child was a 1-year-old male infant riding in the front seat of a passenger car without a restraint. The driver of the car was the mother who was not wearing a seat belt. The accident occurred between 8 AM and 3 PM within a few miles of home. The mother had not been drinking an alcoholic beverage. There were no defects in the family car that contributed to the accident. The accident occurred during daylight hours on a state route. The weather was clear or overcast, and the surface was dry (Tables 1 to 4).

The fatal accident involving a young child in Washington State usually occurred under ordinary conditions.

This profile is different from the general configuration for fatal accidents in the State of Washington during 1978.[5] For instance, during 1978, 27% of the drivers of motor vehicles involved in fatal accidents in Washington State were women; however, in fatal accidents relating to children in this study, 65% of the drivers were women, and 60% of the women were mothers. In general, 22% of the drivers involved in motor vehicle accidents wore restraints; however, in this study only 10% of the drivers of the motor vehicles involved in fatal accidents were wearing a restraint of some kind. In general, 41% of the fatal accidents in the state occurred during daylight hours; however, 75% of the child-related accidents were during daylight hours. In general, 27% of the fatal accidents occurred on state routes; however, in the child-related fatalities, 62% were on state routes. Of all fatal accidents in 1978, 48% included at least one driver who had been drinking and 38% of the drivers were driving while intoxicated. In 29% of the accidents in which children were fatally injured, one of the drivers had been drinking; in only 12% of the accidents, the driver of the car in which the child was killed had been drinking (Table 4).

TABLE 1. Children Involved in Fatal Motor Vehicle Accidents in Washington State, 1977–1979

Age	No. of Children
<1 yr	14
1 yr	6
2 yr	11
3 yr	2
4 yr	6
Total	39

TABLE 2. Profile of Fatal Motor Vehicle Accidents Involving Children in Washington State, 1977–1979

Vehicles
Family car and another motor vehicle
Neither vehicle had significant mechanical defects
Driver
Mother or father a driver
Driver had not been drinking
Driver was not using a seat belt
Child
Riding unrestrained in front seat
Accident conditions
Low speed (<65 kph or 40 mph)
State route
Near home
Daylight (between 8 AM and 3 PM)
Dry weather

TABLE 3. Fatal Motor Vehicle Accidents Involving 39 Children in Washington State, 1977–1979

Child Fatality Data	No. of Children	
Sex		
Male	21	
Female	18	
Seat position		
2	9	28
3 Front	15	
4	6	
5 Back	3	10
6	0	
Unknown	1	
Ejected	14	
Held in lap	8	
Restrained	2	
Not restrained	37	

TABLE 4. Driver Data in Fatal Motor Vehicle Accidents Involving 39 Children in Washington State, 1977–1979

Driver Data in Fatal Accidents	Total	
Relationship to child		
Mother	22	28
Father	6	
Grandfather	3	
Friend	8*	
Alcohol consumption		
Had been drinking	4	
Driving while intoxicated	3	
Wearing seat belt		
Yes	3	
No	32	
Unknown	4	

* Two of eight were women whose names were different from the victim, but lived at same address and "could" have been the mother.

FATALITIES OF YOUNG CHILDREN WEARING RESTRAINTS

Two of 39 children in this study were killed while wearing a restraint of some type. Actually, these were the only two children aged 0 to 4 years reported by the Washington State Patrol who were wearing restraints and were involved in fatal accidents during the ten years from January 1970 through December 1979.

The first case involved a 1-year-old child in a

restraint that was not defined, and it is not known whether or not it was an approved child restraint system. In the second fatality, the 2-year-old child was not wearing an approved restraint system, but rather a lap belt with a pillow between the belt and his abdomen. It is conceivable that if the child had been in a child restraint device with a shell-like protection on the sides, he might not have been fatality injured.

The proper use of approved crash-tested car seats provides the best currently available protection for infants and young children in motor vehicles.[7] However, in order to provide adequate protection, it is essential that they be installed and used according to manufacturers' instructions.[8]

LAP PASSENGER

Another interesting observation was that eight of 39 fatalities occurred when the child was held in the lap of another passenger. In seven of eight instances, the person holding the child survived, and in one instance the grandmother and the child she was holding were killed. Five of the eight children who were crushed were less than 1 year of age. In fact, five of 14 infants less than age 1 year were killed by being crushed by the person on whose lap they were sitting at the time of the crash. The bias in mortality in this survey was toward the infant in that 20 of 39 children killed were 1 year of age and younger (Table 1). The lap position appears to be an important factor in this bias. The increased risk of death with decreasing age of the child is compatible with observations by Baker,[9] who reported extremely high death rates in the first year of life, especially for children less than 6 months of age.

This study supports the concept that on-lap travel places the child at increased risk of being injured or killed. In a large observational survey, Williams[10] found 145 of 344 (42%) infants less than 1 year of age traveling on a lap.

ADDITIONAL OBSERVATIONS

In the investigated accidents only one of the motor vehicles involved in a fatal accident had a defect that contributed to the accident. The accidents were more likely to occur during the week than on the weekend (29/39) and during daylight hours (28/39). The weather was clear or cloudy and the road surface was usually dry (30/39). The location was usually a state route (26/39); the least common site for a fatality was an interstate highway (2/39).

Of the children involved in the car accidents, 64% were retained within the motor vehicle; however, 36% were ejected from the motor vehicle or fell out: nine from the front seat, four from the back seat, and one child's position at the time of the accident was unknown. Of the children killed, 28 were riding in the front seat; ten were in the back seat, and one child's position was not stated. Although fewer children in the rear seat were killed in motor vehicle accidents, it is apparent that riding unrestrained in the back seat does not assure survival (Table 3).

DISCUSSION AND COMMENT

This survey indicates that the restraint of young children in motor vehicles may be accompanied by a significant reduction in their fatal injuries. In Washington State during the last ten years, no child passengers less than 1 year of age who were restrained at the time of the accident have died. Furthermore, no children aged 0 to 4 years who were restrained in the back seat of a vehicle have died. The Washington Seat Belt Study did not provide information about the type of restraint used. Undoubtedly a variety of restraints were used; however, the types of restraints were not well documented and therefore could not be determined by review of the data.

Programs aimed to increase usage of restraint systems for young children should be directed at parents who are most often the operators of the motor vehicles involved in fatal accidents (Table 4). It should be emphasized to them that accidents fatal to young infant/child passengers usually occur in circumstances in which the family automobile is used for ordinary travel near home. Preferred infant/child automobile restraints for children who weigh 18 kg (40 lb) or less are those that meet or exceed the critical elements of the National Highway Traffic Safety Administration's 1978 proposed revision to the Federal Motor Vehicle Safety Standard 213. The revision went into effect Jan 1, 1981.[11] The restraint selected should perform satisfactory in dynamic tests or simulated crash tests.[12]

Children who weigh less than 9 kg or who are less than 9 to 11 months old should be strapped into a carrier that is then belted to the vehicle. The infant rides in a semireclining position, facing the rear of the vehicle. Infants and toddlers aged more than 9 to 11 months or weighing more than 9 kg should ride in an approved automotive safety seat. Current lists of approved automotive seats and infant carriers may be obtained from a variety of organizations such as the American Academy of Pediatrics, Physicians for Automotive Safety, and Action for Child Transportation Safety.

For children who weigh more than 18 kg (40 lb), the standard seat belt is adequate as a primary protection device. The should belt should be used when the child is large enough for it to fit properly over the shoulder and chest. If the shoulder belt

crosses the face or neck, it should be placed behind the child.

Beginning in the 1980s, according to the National Highway Traffic Safety Administration, a branch of the Department of Transportation, newly manufactured cars sold in the United States will be required to have built-in passenger restraints, either air bags or seat belts, that do not have to be buckled. However, the passive restraint systems were devised primarily for front seat occupants who are of adult size. Passive restraints in lieu of child restraint systems designed specifically for young children should not be relied on for protection.[13]

Therefore, it is imperative that the pediatrician accept the responsibility for helping to educate parents to obtain and use available and proven child passenger restraints; in this way the number one cause of disabling injury and death to infants and children may be prevented.

REFERENCES

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MY COLD

Gag
cough
sneeze
wheeze

I have a cold!
I just can't, please!
No matter what they
have me take.
I have a cold!
I just can't take.

Cough
wheeze
gag
sneeze

I have a cold!
I just can't, Please!!!

—Lori Anderson

Children Killed in Falls from Motor Vehicles

Allan F. Williams, PhD

From the Insurance Institute for Highway Safety, Washington, DC

ABSTRACT. In 1978 in the United States, 38 children aged 5 years or younger were killed when they fell from the passenger compartments of moving motor vehicles not involved in crashes. Twenty-eight children (74%) were boys. Eighteen (47%) were 2 years old; 35 (92%) were aged 1 to 3 years. Thirty-six children fell out through doors, one fell out of a window, and one fell through a hole in the floor. Sixteen falls occurred when the driver was making a turn or going around a curve, nine when someone opened the door, seven when the driver was proceeding straight ahead, five when the driver was backing out of a driveway, and one when the driver was swerving. All 38 children killed in falls from vehicles were unrestrained. Use of seat belts or child restraint systems would prevent falls even if doors came open, as well as providing protection in crashes. A recent study has shown that pediatricians, by routinely counseling parents to restrain children in cars, can have some effect in increasing child restraint use. Pediatricians should also encourage parents to transport children in rear seats and to check at the start of trips to ensure that all doors are completely closed and locked. *Pediatrics* 68:576–578, 1981; *motor vehicles, falls, injuries.*

In 1978, 345 deaths in the United States resulted from people falling or jumping from moving motor vehicles not involved in crashes.[1] These cases were identified through the Fatal Accident Reporting System.[2] Information on the cases was obtained from the Fatal Accident Reporting System file and from police reports.

Of the 345 people killed in falls and jumps, 201 had been traveling on motor vehicle exteriors and the other 144 had been in passenger compartments. Only five of the 201 falls or jumps from vehicle exteriors involved children aged 5 years or younger. However, a large percentage of people who fell from passenger compartments were children of these ages. Of the 144 people who fell or jumped from passenger compartments, no children aged 5 years or younger were included in the 40 who jumped, but 38 (48%) of the 79 who fell were in this age group. For 25 people, including six children aged 5 years and younger, it was not known whether they fell or jumped. This paper presents information on the 38 incidents in which children were killed in falls from the passenger compartments of moving vehicles.

Of the 38 children 28 (74%) were male; 18 (47%) of the children were 2 years old; and 35 of 38 incidents involved children who were aged 1 to 3 years.

It should be noted that very few children older than age 5 were killed in falls from passenger compartments in 1978. Only three of the other 41 people killed in falls were aged 6 to 14.

Information on seating position in the vehicle was known for 35 of 38 children: 27 (77%) were in front seats and eight (23%) were in rear seats.

The Table summarizes actions that preceded falls from passenger compartments. Sixteen (42%) of the falls occurred when the drivers were making turns or going around curves, so that there was lateral inertial loading of the door that opened. In all but one of 14 cases in which seating position was known, the child was located next to the door that came open. Ten children were in the right front seat of vehicles being steered to the left; two were in the right rear seat of vehicles turning left; one was in the left rear seat of a vehicle making a right turn; and in one case the driver's door opened during a right turn and a child in the right front seat fell out. In many of these incidents it is likely that in addition to the lateral inertial loading, the door was also loaded by the child as the car turned. However, in only one case was there indication of this in the police reports. In another case, it was noted that the child had been playing with the door; in a third case, the door reportedly was not closed.

Nine children fell out of doors that were opened by someone. In six cases, the child who fell opened the door, but in three cases the doors were opened

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TABLE. Actions That Preceded Children Falling from Passenger Compartments

Action	N (%)
Vehicle turning corner or going around curve	16 (42)
Someone opened the door	9 (24)
Vehicle proceeding straight ahead	7 (18)
Vehicle backing from driveway	5 (13)
Vehicle swerving	1 (3)
Total	38 (100)

by someone else. In one such case, a 4-year-old child in the rear seat opened the door and a 2-year-old child fell out. In another case, the driver opened the door to scare a pursuing dog, and his 3-year-old daughter went out the door. In the third case, a car that had been parked in a parking lot began to move backwards. A bystander opened the door and applied the brakes, and the lone occupant of the car, a 3-year-old boy, fell out and was killed.

In seven instances, children fell from vehicles that were being driven straight ahead on the road. One child went out a window, another through a hole in the floor. In the other five incidents, it was reported only that the door "came open." One of these doors was found to be defective.

Five falls occurred when the driver was backing out of a driveway at the start of a trip. It is likely in these cases that doors had not been closed completely. In one case, it was noted in the police report that the child was leaning against the door.

One incident occurred when the brakes failed and the driver attempted to stop the car by driving over a curb and up an embankment. The driver fell out as the car swerved, and the child subsequently fell.

COMMENT

Preventing doors from opening through changes in vehicle designs and vehicle inspection programs have been discussed elsewhere.[1] Pediatricians can do the following to increase the protection of children in cars.

1. Encourage parents to ensure that all children they transport are restrained by vehicle seat belts or properly used child restraints. All 38 children killed in falls from vehicles were unrestrained. Use of seat belts and child restraint systems is effective in providing protection against crash injuries. Their use would also prevent falls from noncrashing vehicles, even if doors came open. Restraints provide other benefits as well. They are important in preventing noncrash injuries that occur when children fall *within* vehicles during swerves and sudden turns, or when they strike the dashboard in sudden stops.[3] Children traveling in restraint systems have been shown to be better behaved and more manageable than unrestrained children,[4] and restraints prevent crashes that occur when the driver is distracted by the child's movement or actual physical interference with the driver or with vehicle controls.[5]

Surveys have shown that very few children traveling in vehicles are restrained[6] and that very few pediatricians counsel parents to use restraints when transporting their children.[7] There is now scientific evidence that pediatricians can have some effect in increasing the use of child restraints[8]; they should routinely encourage parents to protect their children in cars and instruction should be provided. Pediatricians should also support child restraint laws, which have been shown to be somewhat effective in increasing child restraint use.[9,10]

2. Encourage parents to transport children in rear seats. Children restrained in rear seats are provided the greatest crash protection.[11] When vehicles are in motion, children in rear seats are more difficult for drivers to supervise than are those in front. However, restraints greatly reduce the necessity for close supervision of children, and many automobiles do not have rear doors. Children in front seats apparently have a higher risk of falling from vehicles. More than 75% of the fatal falls in the present study involved children in front seats, whereas observational surveys have indicated that the majority of children aged 1 to 3 years travel in rear seats.[6,12]

3. Encourage parents transporting children to check at the start of trips to make certain that all doors are completely closed and locked. This is important when the children being transported are aged 1 to 3 years, and especially for 2-year-old children, and boys. Fatal falls from passenger compartments predominantly involved boys; they are probably more active and exploratory in vehicles than girls.

Motor vehicle travel results in more deaths to children than any single disease. Adoption of these three practices would greatly reduce this toll.

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A NEW BREED OF NURSES NEEDS TO BRING NURSING BACK TO THE BEDSIDE

What are we offered today by the aggressive new breed of leaders and educators in nursing? An angry, dwindling profession, failing with increasing frequency to meet the needs of patients and physicians and in the process making themselves and everyone else miserable. The idealistic young people who come into the profession to actually nurse patients are sometimes made to feel like Aunt Jemimas, become discouraged and leave, or, if they remain, are denied status, promotions and raises.

The "new model" nursing leaders and educators pursue higher status, higher incomes, more respect and recognition—as indeed most of us do. There's nothing wrong with that. What is damaging is the mode of attack.

By striving to capture some independent middle ground between classical nursing and medical practice, nursing leaders threaten to make of their professionals neither nurses nor physicians, fit only to cause trouble: trouble for people who really want to nurse, trouble for physicians and administrators who can't get the help they need and, most of all, trouble for patients, who often cannot get timely medicines and competent ministrations without hiring a private-duty nurse. And even then competence is far from assured.

Many nursing leaders and educators seem intent on abandoning a badly needed profession in the search for a new category of health-care professional that no one has asked for and hardly anyone needs. They have not merely neglected and downgraded classical, basic nursing; they have also sought to restrict entry into the profession by raising the standards of accreditation of schools of nursing and of licensure of individuals in many instances beyond what is necessary for the basic skills that are in such short supply.

In short, they want not only to take nursing away from the bedside but also to see that no one else steps in to take their place. And all this is done, predictably, "to improve patient care"—the patient is being abandoned for his own benefit.

The manifold discontents consequent upon such policies and actions are blamed—where else?—on The Doctors, those overpaid, arrogant, narcissistic chauvinists who stand between the new breed of nurses and the fulfillment of their goals, which I take to include something akin to professional equality with physicians, patient care to be decided by consensus and rendered by—who? Indeed, the more adamantine members of the new breed will forthrightly state that their real mission is to protect patients from physicians, along with, if I have scanned their literature fairly, a great deal of gratuitous psychologizing and administrative theory.

No wonder nursing is a troubled profession. Small wonder that doctors and administrators are getting upset and that patients are confused. One can only hope that common sense and the plain need for basic nursing will somehow bring us back to calm reality and some measure of comity.

Nursing is a noble profession, and an essential one. Nurses deserve decent salaries and more realistic pay structures, along with status, recognition and security. If we do our best to provide these things, and if the more strident leaders of the new breed of nurses will quiet down and let doctors doctor and nurses nurse, we'll all be a lot better off, especially patients.

A. D. Roberts, MD
Associate Dean
Southwestern Medical School
University of Texas Science Center Dallas
June 5, 1981

From *The New York Times*, June 25, 1981.

NONE	UNDER 5 YEARS	****	210	1495	1.45	10.33
	5 TO 9 YEARS	****	221	1716	1.53	11.85
	10 TO 14 YEARS	*******	337	2053	2.33	14.18
	15 TO 19 YEARS	**********	2251	4304	15.55	29.73
	20 TO 24 YEARS	**********	2266	6570	15.65	45.39
	25 TO 29 YEARS	**********	1553	8123	10.73	56.11
	30 TO 34 YEARS	**********	970	9093	6.70	62.81
	35 TO 39 YEARS	**********	610	9703	4.21	67.03
	40 TO 44 YEARS	**********	430	10133	2.97	70.00
	45 TO 49 YEARS	*******	351	10484	2.42	72.42
	50 TO 54 YEARS	******	297	10781	2.05	74.47
	55 TO 59 YEARS	****	189	10970	1.31	75.78
	60 TO 64 YEARS	***	130	11100	0.90	76.68
	65 TO 69 YEARS	**	75	11175	0.52	77.20
	70 TO 74 YEARS	*	49	11224	0.34	77.54
	75 AND OVER		15	11239	0.10	77.64
NOT APPLICABLE	UNDER 5 YEARS	*	50	11289	0.35	77.98
	5 TO 9 YEARS	***	129	11418	0.89	78.88
	10 TO 14 YEARS	***	156	11574	1.08	79.95
	15 TO 19 YEARS	***	155	11729	1.07	81.02
	20 TO 24 YEARS	***	137	11866	0.95	81.97
	25 TO 29 YEARS	**	82	11948	0.57	82.54
	30 TO 34 YEARS	*	51	11999	0.35	82.89
	35 TO 39 YEARS	*	32	12031	0.22	83.11
	40 TO 44 YEARS	*	27	12058	0.19	83.30
	45 TO 49 YEARS		19	12077	0.13	83.43
	50 TO 54 YEARS		19	12096	0.13	83.56
	55 TO 59 YEARS		23	12119	0.16	83.72
	60 TO 64 YEARS		16	12135	0.11	83.83
	65 TO 69 YEARS		13	12148	0.09	83.92
	70 TO 74 YEARS		5	12153	0.03	83.95
	75 AND OVER		4	12157	0.03	83.98
UNKNOWN	UNDER 5 YEARS	*	39	12196	0.27	84.25
	5 TO 9 YEARS	*	54	12250	0.37	84.62
	10 TO 14 YEARS	*	67	12317	0.46	85.09
	15 TO 19 YEARS	*******	362	12679	2.50	87.59
	20 TO 24 YEARS	**********	522	13201	3.61	91.19
	25 TO 29 YEARS	********	415	13616	2.87	94.06
	30 TO 34 YEARS	******	291	13907	2.01	96.07
	35 TO 39 YEARS	***	170	14077	1.17	97.24
	40 TO 44 YEARS	**	122	14199	0.84	98.09
	45 TO 49 YEARS	**	90	14289	0.62	98.71
	50 TO 54 YEARS	*	74	14363	0.51	99.22
	55 TO 59 YEARS	*	56	14419	0.39	99.61
	60 TO 64 YEARS	*	28	14447	0.19	99.80
	65 TO 69 YEARS		19	14466	0.13	99.93
	70 TO 74 YEARS		6	14472	0.04	99.97
	75 AND OVER		4	14476	0.03	100.00

400 800 1200 1600 2000

FREQUENCY

AGE DISTRIBUTION VERSUS INJURY SEVERITY AND RESTRAINT ANALYSIS
THE DATA USED IS ALL ACCIDENT PARTICIPANTS WHO EXPERIENCED AN INJURY OR FATALITY AND FOR WHOM THE AGE WAS KNOWN FOR THE YEARS 1977, 1978, 1979

17:00 TUESDAY, MARCH 22, 1983

FREQUENCY BAR CHART

SAFEQT	AGE		FREQ	CUM. FREQ	PERCENT	CUM. PERCENT
ADULT RESTRAINT	UNDER 5 YEARS		17	17	0.12	0.12
	5 TO 9 YEARS		13	30	0.09	0.21
	10 TO 14 YEARS		11	41	0.08	0.28
	15 TO 19 YEARS	**	122	163	0.84	1.13
	20 TO 24 YEARS	***	169	332	1.17	2.29
	25 TO 29 YEARS	***	162	494	1.12	3.41
	30 TO 34 YEARS	***	146	640	1.01	4.42
	35 TO 39 YEARS	**	76	716	0.53	4.95
	40 TO 44 YEARS	*	35	751	0.24	5.19
	45 TO 49 YEARS	*	39	790	0.27	5.46
	50 TO 54 YEARS	*	34	824	0.23	5.69
	55 TO 59 YEARS	*	39	863	0.27	5.96
	60 TO 64 YEARS		15	878	0.10	6.07
	65 TO 69 YEARS		9	887	0.06	6.13
	70 TO 74 YEARS		4	891	0.03	6.16
	75 AND OVER		1	892	0.01	6.16
CHILD RESTRAINT	UNDER 5 YEARS		12	904	0.08	6.24
	5 TO 9 YEARS		0	904	0.00	6.24
	10 TO 14 YEARS		0	904	0.00	6.24
	15 TO 19 YEARS		0	904	0.00	6.24
	20 TO 24 YEARS		0	904	0.00	6.24
	25 TO 29 YEARS		0	904	0.00	6.24
	30 TO 34 YEARS		1	905	0.01	6.25
	35 TO 39 YEARS		0	905	0.00	6.25
	40 TO 44 YEARS		0	905	0.00	6.25
	45 TO 49 YEARS		0	905	0.00	6.25
	50 TO 54 YEARS		0	905	0.00	6.25
	55 TO 59 YEARS		0	905	0.00	6.25
	60 TO 64 YEARS		0	905	0.00	6.25
	65 TO 69 YEARS		0	905	0.00	6.25
	70 TO 74 YEARS		0	905	0.00	6.25
	75 AND OVER		0	905	0.00	6.25
HELMET USED	UNDER 5 YEARS		0	905	0.00	6.25
	5 TO 9 YEARS		4	909	0.03	6.28
	10 TO 14 YEARS	*	36	945	0.25	6.53
	15 TO 19 YEARS	***	149	1094	1.03	7.56
	20 TO 24 YEARS	**	102	1196	0.70	8.26
	25 TO 29 YEARS	*	48	1244	0.33	8.59
	30 TO 34 YEARS		13	1257	0.09	8.68
	35 TO 39 YEARS		15	1272	0.10	8.79
	40 TO 44 YEARS		4	1276	0.03	8.81
	45 TO 49 YEARS		6	1282	0.04	8.86
	50 TO 54 YEARS		1	1283	0.01	8.86
	55 TO 59 YEARS		1	1284	0.01	8.87
	60 TO 64 YEARS		0	1284	0.00	8.87
	65 TO 69 YEARS		0	1284	0.00	8.87
	70 TO 74 YEARS		1	1285	0.01	8.88
	75 AND OVER		0	1285	0.00	8.88

17 7.1%
12 5.0% } 12%
29
23%

AGE DISTRIBUTION VERSUS INJURY SEVERITY AND RESTRAINT ANALYSIS
THE DATA USED IS ALL ACCIDENT PARTICIPANTS WHO EXPERIENCED AN INJURY OR FATALITY AND FOR WHOM THE AGE WAS KNOWN FOR THE YEARS 1977, 1978, 1979

TABLE OF AGE BY INJURY

AGE INJURY

FREQUENCY / PERCENT / ROW PCT / COL PCT	UNKNOWN	FATAL	MINOR INJURY	MAJOR INJURY	TOTAL
UNDER 5 YEARS	0	9	259	60	328
	.	0.06	1.79	0.41	2.27
	.	2.74	78.96	18.29	
	.	2.45	2.31	2.08	
5 TO 9 YEARS	0	6	328	87	421
	.	0.04	2.27	0.60	2.91
	.	1.43	77.91	20.67	
	.	1.63	2.92	3.02	
10 TO 14 YEARS	1	13	430	163	606
	.	0.09	2.97	1.13	4.19
	.	2.15	70.96	26.90	
	.	3.54	3.83	5.65	
15 TO 19 YEARS	0	70	2325	644	3039
	.	0.48	16.07	4.45	21.01
	.	2.30	76.51	21.19	
	.	19.07	20.73	22.34	
20 TO 24 YEARS	1	87	2445	663	3195
	.	0.60	16.90	4.58	22.08
	.	2.72	76.53	20.75	
	.	23.71	21.80	23.00	
25 TO 29 YEARS	0	55	1769	436	2260
	.	0.38	12.23	3.01	15.62
	.	2.43	78.27	19.29	
	.	14.99	15.77	15.12	
30 TO 34 YEARS	5	31	1190	248	1469
	.	0.21	8.23	1.71	10.15
	.	2.11	81.01	16.88	
	.	8.45	10.61	8.60	
35 TO 39 YEARS	1	20	713	169	902
	.	0.14	4.93	1.17	6.23
	.	2.22	79.05	18.74	
	.	5.45	6.36	5.86	
40 TO 44 YEARS	0	19	487	112	618
	.	0.13	3.37	0.77	4.27
	.	3.07	78.80	18.12	
	.	5.18	4.34	3.88	

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THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

CHILD SAFETY IN AUTOMOBILES: MANDATORY RESTRAINT-USE LAWS

Automobile safety is an issue of long-standing concern, but only recently has special attention been focused on the safety needs of young children, to whom cars pose one of the largest public health threats in the country.[1] This threat would be greatly diminished if each pre-school aged child were properly secured in a child restraint device (CRD) each time he or she traveled in a motor vehicle.

A CRD is a car seat, padded shell, or harness which is designed to protect infants and young children in the event of an accident, and which is usually secured in place by a vehicle's existing lap belts.[2] These devices are fairly inexpensive and readily available, yet they are rarely used. In fact, a leading study found that less than ten percent of children transported in motor vehicles were adequately protected against the possibility of injury.[3]

A growing awareness of this public health problem has resulted in passage of legislation mandating the use of CRDs in two states[4] and proposed legislation in twenty-eight others.[5] This Comment will examine the laws mandating the use of CRDs and the legal issues which may arise from them. The efficacy of the various statutes will be analyzed as well as their constitutional validity under state police powers. An evaluation of the potential impact of CRD laws on auto-

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1. See text accompanying notes 6-8 *infra*

2. Some CRDs are designed solely for use by infants while others protect only toddlers capable of sitting alone. Many restraint devices are convertible and can be used from birth until the child weighs more than forty to fifty pounds, at four or five years of age. For a complete description and evaluation of many of the CRDs marketed today, *see* MICHIGAN'S MOTOR VEHICLE OCCUPANT PROTECTION PROGRAM, MICHIGAN TRAFFIC SAFETY INFORMATION COUNCIL, A DETAILED REVIEW OF CURRENTLY MARKETED INFANT AND CHILD RESTRAINTS (1979), *Child Restraint Systems*, 42 CONSUMER REPORTS 314 (1977).

3. *See* Williams, *Observed Child Restraint Use in Automobiles*, 130 AM. J. DISEASES OF CHILDREN 1311 (1976).

4. CRD-use laws are in effect in Tennessee and Rhode Island. See notes 33 and 41 *infra*.

5. Child restraint bills have been proposed in the following states: Alabama, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, South Dakota, Virginia, Washington, West Virginia, and Wisconsin. *See* ACTION FOR CHILD TRANSPORTATION SAFETY, SUMMARY OF PROPOSED CHILD RESTRAINT LEGISLATION AND ALTERNATIVE MODEL LAWS (1979, updated May, 1980) [hereinafter cited as ACTS].

mobile accident litigation will follow. Before turning to those issues, however, the problem to which CRD laws are addressed will be more fully described.

THE PROBLEM

Motor vehicle accidents cause death and injury to more children than any other single cause, including childhood diseases.[6] In 1979 alone, 1159 children under the age of five died, and at least fifty times that number were injured, in such accidents in the United States.[7] Colorado contributed fourteen fatalities and 835 recorded injuries to that toll.[8] These high numbers are due primarily to two factors: the physical characteristics of young children and the positions they usually occupy as unrestrained passengers in motor vehicles.

The unique center of gravity and small size of young children make them particularly vulnerable to serious injuries in automobile crashes.[9] A child's head makes up a great proportion of his overall body weight, and this, coupled with an inability to brace himself with his short arms and legs, greatly increases the likelihood that he will be propelled head-first in the direction of any impact point. The result is a high incidence of head injuries and related deaths among accident victims in this age group.[10] In fact, such injuries can occur even in the absence of an actual accident when an unsecured child is thrown against the automobile's interior by a sudden swerve or application of the brakes.[11] Larger and heavier passengers, on the other hand, are less likely to be shifted by abrupt driving maneuvers.

The physical characteristics of very young children also tend to

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6. Automobile accidents are the leading cause of death and serious injury for all children beyond one month of age. *See* Shelness & Charles, *Children as Passengers in Automobiles. The Neglected Minority on the Nation's Highways*, 56 PEDIATRICS 271 (1975).

7. DEPARTMENT OF TRANSPORTATION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA), HIGHWAY SAFETY 1979: REPORT ON ACTIVITIES UNDER THE HIGHWAY SAFETY ACT OF 1966 (1980). This report contains only death statistics. Injury statistics are not published but are kept on file by NHTSA. The National Electronic Injury Surveillance System file kept at NHTSA shows that 60,400 pre-schoolers injured by motor vehicles were transported to emergency rooms in 1979. Telephone interview with Grace Hazzard, data retrieval specialist, National Center for Statistics and Analysis, NHTSA, Sept. 16, 1980.

8. MOTOR VEHICLE DIV., COLO. DEP'T OF REV., STANDARD SUMMARY OF MOTOR VEHICLE TRAFFIC ACCIDENTS (1979).

9. *See* Karwacki & Baker, *Children in Motor Vehicles: Never Too Young to Die*, 242 J. AM. MED. ASSOC. 2848 (1979); Alter, *Unsafe at Any Age? Children and Car Safety*, PARENT'S MAGAZINE Feb. 1979, *reprinted in* INSURANCE INSTITUTE FOR HIGHWAY SAFETY (IIHS) STATUS REPORT 8 (Mar. 19, 1979).

10. Karwacki & Baker, *supra* note 9.

11. Alter, *supra* note 9, at 9.

and the forward-moving weight of the person holding him.[18] This same crushing action can occur when a seatbelt is fastened around both the adult and the child on his lap. In a collision, the weight of the adult is forced against the child penned in the seatbelt with him, and the probability of serious abdominal injury to the child is greatly increased.[19]

The final variation of on-lap travel is a seatbelted adult holding an unrestrained child on his lap. In this position, the adult does not crush the child in an accident, but is powerless in most cases to prevent other harm to the child, for even the smallest infant weighs the equivalent of several hundred pounds at the instant of impact, and is likely to be torn from even the strongest of human arms.[20] In short, holding a child can never be an adequate safety alternative to the use of an appropriate restraint device.

The need for CRDs will not be obviated by the automatic restraint systems which federal legislation will require on all new cars by 1984.[21] While manufacturers will be able to satisfy the requirements by providing either automatic seatbelts or airbags in their vehicles, neither option is fully adequate for child safety needs. Automatic seatbelts designed for average sized adults will not offer even minimal protection to infants. Airbags, on the other hand, will diminish the threat to children riding in the front seat, but present legislation does not require airbag installation for the protection of rear seat passengers, a class composed largely of children.[22] Furthermore, airbags will provide little protection in side- and rear-impact collisions and rollovers.[23]

Finally, unlike a CRD, an airbag would not play a role in preventing the occurrence of an accident. A study conducted at the University of North Carolina concluded that more than two hundred

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18. *Id.* at 3.

19. *Id.* at 4.

20. The force that a child will exert upon impact can be roughly calculated by multiplying the child's weight and the vehicle's speed together. For instance, a fifteen pound infant will exert a force of three hundred pounds in a twenty mile per hour collision. *See* HHS, *An Evaluation of Adult Clasping Strength for Restraining Lap-Held Infants*, discussed in HHS STATUS REPORT 6 (Mar. 19, 1979).

21. Automatic restraint systems are being phased in over several years with large cars being targeted first. All new cars will have to meet the requirement by the 1984 model year. 49 C.F.R. § 571.208 (1979).

22. One survey found that about seventy percent of the nearly 9000 children observed in motor vehicles were riding in the back seat. Riesinger & Williams, *Evaluation of Programs Designed to Increase the Protection of Children in Cars*, 62 PEDIATRICS 280, 286 (1978).

23. *See* Comment, *Occupant Protection in Automobiles*, 27 AM. U. L. REV. 635 (1978) for a thorough discussion of automatic restraint systems.

of that state's traffic accidents in 1977 were caused by unrestrained children who had distracted the driver of the vehicle in which they were riding. Children who fell off the seat or interfered with the operation of the motor vehicle were, in many instances, found to have been the direct cause of a crash.[24]

All of the problems discussed above would be greatly alleviated by the use of CRDs. Experts in the field generally agree that the number of children killed and injured in automobile accidents would be minimized—some claim by as much as ninety percent—if CRDs were consistently and properly used.[25] Yet recent data shows that only seven percent of the children riding on the nation's roads are adequately secured for protection against possible harm.[26] Parents who wear their own seatbelts while transporting their children have been found to use child restraints more than any other group. Yet even in that situation, only twenty-two percent of the passenger children were secured by a CRD or seatbelt.[27] The great number of children harmed, coupled with the low voluntary usage rate of adequate restraints, has led to a growing interest in a statutory solution to this public health problem.

THE STATUTES

The field of automobile safety is one which legislators enter with trepidation. Traditional public hostility toward regulation of individual driving habits has led to a reluctance to impose safety requirements on individual drivers. Public sentiment was so strong against the federally mandated seatbelt-ignition interlock system,[28] for example, that Congress was forced to repeal the measure less than a

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24. This study was summarized in MICHIGAN ASSOCIATION FOR TRAFFIC SAFETY, FORMATS, *Child Passenger Safety News* (Feb. 1980)

25. A study of crashes done in Washington state by Dr. Robert G. Scherz, for example, concludes that "[t]he difference between deaths and disabling injuries between the restrained and unrestrained pre-school children was highly significant. If all of the children in the 0-5 age group had been restrained at the time of the accident, then the . . . deaths may have been reduced from 124 to 13 (down 90%) and disabling injuries reduced from 716 to 238."

Alter, *supra* note 9, at 10.

The reduction in injuries in the Washington study is about 33%, a rate very similar to that obtained by analyzing accidents involving children under fifteen years of age in North Carolina. The North Carolina study found that "[u]se of restraints reduced the injury rate by 39% in the front seat and by 31% in back." Williams & Zador, *supra* note 16, at 10.

26. Williams, *supra* note 3.

27. *Id.* at 1114.

28. The seatbelt-ignition interlock system prevented a vehicle's engine from being started until seatbelts were buckled. An annoying buzzer sounded if seatbelts were unfastened while the seat was occupied.

year after it went into effect.[29] This public hostility explains the absence of mandatory seatbelt-use laws in any of the states.

The somewhat warmer reception given to CRD-use laws in state legislatures is undoubtedly due to the age of those who would benefit from such legislation. Because infants and young children are completely dependent on others for their well-being, state law has historically provided for their health and safety when those charged with their care fail adequately to do so.[30] The effectiveness and practicality of extending state protection to children as automobile passengers will be evaluated by examining the various CRD statutes which have been proposed.

The Existing Laws

Two states have succeeded in passing CRD legislation: Tennessee[31] and Rhode Island.[32] The pioneering Tennessee statute, which went into effect at the beginning of 1978, requires that all children under the age of four be secured in a CRD when riding in a vehicle owned and operated by their parents.[33] Exemptions are allowed for children riding on other passengers' laps, and for children riding in recreational vans and certain trucks.[34] The penalty for breaking this law is a moderate fine; and proof of the violation cannot be raised in civil suits for negligence.[35]

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29. 15 U.S.C. § 1410b(b)(1)(B) (1976).
30. See text accompanying notes 83-92 *infra*.
31. TENN. CODE ANN. § 55-9-214(b) (1980).
32. R. I. GEN. LAWS § 31-22-22 (1980).
33. TENN. CODE ANN. § 55-9-214 (1980):

(b) Effective January 1, 1978, every parent or legal guardian of a child under the age of four (4) years residing in this state shall be responsible, when transporting his child in a motor vehicle owned by that parent or guardian operated on the roadways, streets or highways of this state, for providing for the protection of his child and properly using a child passenger restraint system meeting federal motor vehicle safety standards, or assuring that such child is held in the arms of an older person riding as a passenger in the motor vehicle. Provided that the term "motor vehicle" as used in this paragraph shall not apply to recreational vehicles of the truck or van type. Provided further that the term "motor vehicle" as used in this paragraph shall not apply to trucks having a tonnage rating of one (1) ton or more. Provided that in no event shall failure to wear a child passenger restraint system be considered as contributory negligence, nor shall such failure to wear said child passenger restraint system be admissible as evidence in the trial of any civil action.

(c) Violation of any provision of this section is hereby declared a misdemeanor and anyone convicted of any such violation shall be fined . . . not less than two dollars ($2.00) nor more than ten dollars ($10.00) for each violation of subsection (b) of this section.

34. *Id.*
35. *Id.*

From a safety standpoint, the most controversial provision of this law is the so-called "babes-in-arms" exemption.[36] Holding a child in a passenger's arms has been shown to be an entirely inadequate substitute for the use of a restraint,[37] and there is hope among the original sponsors of the Tennessee law that this exemption will be repealed at some future date.[38] Unfortunately, similar provisions were included in bills introduced in four other states.[39]

A second aspect of the Tennessee law which may lessen its effectiveness is that it applies only to parents who are transporting their own children. Although the majority of children less than four years old are likely to be driven by a parent whenever they ride in a vehicle, the provision may nevertheless lead to enforcement problems. Since most children carry no identification, the temptation for any parent or guardian to simply assert that he is, for example, the child's uncle or babysitter when stopped for a possible violation is evident. A police officer faced with such a statement would in many cases lack probable cause to go forward and issue a citation.[40]

Tennessee's final exempting provision, which excludes trucks and vans from the law's application, was probably viewed as a practical necessity because of the limited seating which is available in those vehicles. The addition of a further provision requiring that restraints be used if seating were available would strengthen the protective purpose of the law while still acknowledging these practical concerns.

A CRD-use law with quite different provisions went into effect in Rhode Island in July of 1980.[41] Unlike the Tennessee statute, this

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36. The exemption allowed for children who ride on another passenger's lap was added as an amendment by one of the bill's opponents. He argued that the happiest day of his daughter's life was when she brought her new baby home from the hospital in her arms and that the law would deny this pleasure to other new mothers. It was feared that the law would not be passed if the exemption were removed. R. Sanders, *Effective Interaction With State Legislatures* (paper presented at the Child Passenger Safety Conference, U. of Tenn. Transp. Center, May 10, 1978, available from Action for Child Transportation Safety).

37. See text accompanying notes 17-20 *supra*.

38. Sanders, *supra* note 36.

39. This language was included in bills introduced in Illinois, Louisiana, New Hampshire, and New Jersey, none of which passed. ACTS, *supra* note 5.

40. Probable cause exists when the facts and circumstances within the officer's knowledge are sufficient in themselves to warrant a belief by a man of reasonable caution that an offense has been committed. Brinegar v. United States, 338 U.S. 160, 175-76 (1949). More than mere suspicion is required. Henry v. United States, 361 U.S. 98, 101 (1959).

41. R. I. GEN. LAWS § 31-22-22 (1980):

> Child Passenger Restraint Systems. Any person transporting a child three (3) years of age or under in the front seat of a motor vehicle operated on the roadways, streets or highways of this state, will provide for the protection of the child and

law applies to all persons driving in Rhode Island and therefore avoids the potential enforcement problems posed by a "parents-only" provision. The unique feature of Rhode Island's law is that it requires CRD use by children under the age of four only while they are riding in the front seat of a vehicle.[42] The law thus addresses the most hazardous practices of unrestrained, or on-lap, front seat travel, but fails to provide protection for the majority of child passengers: those who ride in the back seat.[43] A more stringent bill, to be introduced in the South Dakota legislature,[44] would provide the added protection. That bill would require that children ride in the back seat *and* be secured in the vehicle's available seatbelts whenever possible. Should it be necessary for a child to be transported in the front seat, a restraint device appropriate for the child's age and size, such as is required in Rhode Island, would have to be used.

Pending Legislation: Some Further Options

The majority of CRD legislation introduced in other states is similar to the Tennessee law, but without the "babes-in-arms" exemption.[45] These statutes typically would require that a parent who is driving his own vehicle must have his young children secured in CRDs. The protected class of children is most often limited to those younger than four years, or alternatively, to those who weigh less than forty pounds.[46] These age and weight limitations provide convenient lines for the legislators to draw, since they encompass the class

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properly use a child passenger restraint system approved by the United States Department of Transportation under Federal Standard 213, provided that in no event [shall] failure to wear a child passenger restraint system be considered as contributory negligence, nor [shall] such failure to wear said child passenger restraint system be admissible as evidence in the trial of any civil action.

Any person deemed to be in violation of this section shall be issued a citation with a fine of fifteen ($15.00) dollars and it will be recorded on said person's driving record within the rules and regulations governing Section 31-43.

42. *Id.*

43. While one study found that a "back seat location reduced the injury rate by 28% among unrestrained child passengers and by 18% among restrained children," it further concluded that restrained children are safer than those who are unrestrained, regardless of their position in a vehicle. Williams & Zador, *supra* note 16, at 71.

44. The South Dakota proposal is described in ACTS, *supra* note 5.

45. Arizona H.B. 2418 (defeated in committee), Colorado H.B. 1440 (defeated in the House); Michigan substitute for H.B. 5327, Minnesota H.B. 156 and S.B. 274; Nebraska Leg. B. 79; North Carolina H.B. 1018 (defeated); North Dakota H.B. 1490 (defeated); Oregon H.B. 2667 (defeated in the House); Washington H.B. 199 and S.B. 2895 (withdrawn by sponsors); Wisconsin Asmb. B. 747. The sponsors of many of the defeated bills plan to reintroduce their respective proposals. ACTS, *supra* note 5.

46. *Id.*

of passengers for whom CRDs are typically designed.[47] Also, by drafting legislation concerned with CRD use only, legislators can minimize the political and public opposition which would accompany a more far-reaching restraint-use law.

The four year age limit is not universal, however. California has a bill pending which would encourage the use of appropriate restraint systems for all children under the age of sixteen.[48] This bill is designed primarily to educate the public and would allow law enforcement officers to issue verbal hazard warnings, but not citations, to non-complying motorists. Other age variations are found in the South Dakota legislation mentioned above,[49] which would apply to children up to thirteen years of age, and in a Maryland bill which would require restraint use for the protection of children who are less than eight.[50]

Proposed CRD laws also vary in their determination of who will be responsible for complying with their respective terms. As noted, the majority would hold only parents or legal guardians liable for the failure to use restraint devices. Statutes with broader coverage usually are written to apply to all resident drivers,[51] or to the drivers of all vehicles which are registered in the enacting state.[52] One novel variation is the New York proposal,[53] which would impose a penalty on both the driver of a vehicle in which an unrestrained child was riding, and the vehicle owner who knowingly permitted a child to be transported in that manner.

Other provisions which may be incorporated into some proposed statutes include a ban on carrying passengers in the cargo areas of hatchbacks, station wagons, and pickup trucks,[54] and on the practice of buckling one seatbelt around two people.[55] One exemption under consideration in some states allows children with medical problems

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47. See note 2 *supra*.
48. California Asmb. B. 1198, ACTS, *supra* note 5.
49. See note 44 and accompanying text *supra*.
50. Maryland H.B. 33, ACTS, *supra* note 5.
51. *See, e.g.*, Maryland H.B. 33, ACTS, *supra* note 5.
52. *See, e.g.*, Colorado H.B. 1440, ACTS, *supra* note 5.
53. New York S.B. 2623, ACTS, *supra* note 5.
54. *See, e.g.*, Massachusetts S.B. 1269 which would prohibit the carrying of passengers in open trucks. ACTS, *supra* note 5. This particular provision has been enacted by city ordinance in Ogden, Utah. This five year old law forbids persons from riding in any portion of a motor vehicle not designed or intended for use by passengers. It further makes it illegal to operate a motor vehicle while any person is standing on the vehicle's seats. MICHIGAN ASSOCIATION FOR TRAFFIC SAFETY, FORMATS, *Child Passenger Safety News* 4 (Apr. 1980).
55. *See, e.g.*, Maryland H.B. 33; Washington H.B. 199 and S.B. 2895, ACTS, *supra* note 5.

which may make the use of a CRD impossible, to travel without being secured in such a device.[56] To avoid possible abuse of this provision, a doctor's certificate of exemption would be required by some statutes.[57]

In combining any of these provisions into a workable child restraint law, the interest in maximizing safety should be balanced against considerations of fairness and practicality. The statutes must be flexible. For example, a large family that can afford only a small car with inadequate seating for all family members should not be subject to a penalty each time they venture onto the public roads. A law which requires the use of CRDs for available seating and which further requires all unrestrained children to ride in the back seat might best accomodate both safety concerns and tight family budgets.

Flexibility and compromise is also necessary in striking a reasonable balance between the strictness of a restraint law's provisions and the determination of who will be subject to the law's terms. For example, a requirement that CRDs be obtained and used would be less controversial under a law that applies only to parents and legal guardians, rather than to all in-state drivers. Conversely, statutes which apply to all drivers might require only that the vehicle's available seatbelts be used for the protection of children. Under a law of the latter type, parents could still be encouraged to obtain CRDs by other means, such as by allowing a tax credit as an incentive for their purchase. The tax credit incentive is presently under consideration in some states.[58]

Costs and Enforcement

The burden which would be imposed on members of the public by requiring them to obtain CRDs should not be viewed as an insurmountable problem. The cost of these devices, generally between twenty and forty-five dollars,[59] is not unreasonable when it is consid-

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56. Members of Action for Child Transportation Safety find exemptions for "physical or medical" reasons unacceptable and argue that children unable to sit in the typical car seat style CRD — because of a bulky cast or perhaps some birth defect — are nevertheless entitled to protection. They suggest larger shield or harness type restraints as alternatives. ACTS, *supra* note 5. *See also* L. Schneider, J. Melvin, C. E. Cassidy, *Impact Sled Test Evaluation of Restraint Systems Used in Transportation of Handicapped Children* (paper presented to the Society of Automotive Engineers, Detroit 1979) discussed in HHS STATUS REPORT 5 (Mar. 19, 1979)

57. *See, e.g.*, Colorado H.B. 1440; Massachusetts S.B. 1097, ACTS, *supra* note 5.

58. *See, e.g.*, Michigan S.B. 394, ACTS, *supra* note 5.

59. See note 2 *supra*.

ered that a CRD provides up to four years of protection and that each CRD can be re-used by several children. The price of the device could simply be considered, along with license plates, safety inspections, and insurance, as one of the costs of owning and operating a motor vehicle.

On the other hand, CRD legislation would probably receive greater public acceptance if it were accompanied by programs designed to minimize the cost of compliance. Legislative efforts toward this end could include the tax credit mentioned above and, possibly, Medicaid coverage of CRD purchases for the poor. It has been suggested that Medicaid payments for CRDs could be justified under the same theory that applies to childhood vaccinations—that such devices constitute effective preventive medicine.[60]

As an alternative to government help, many innovative private programs offer means of keeping compliance costs down. Examples include CRD rental programs which have been successfully established in several parts of the country, as well as programs which offer used restraint devices for sale at minimal cost.[61] A different approach has been implemented by one insurance company which provides CRDs to its insured families without charge, thereby spreading the cost of the devices among all of its policy holders.[62] Thus, several possibilities exist in both the government and private sectors which could minimize the financial burden imposed by CRD-use laws.

A final concern about the practicality of these statutes centers on the enforcement problems that they may present, although these problems appear to be no greater than those which accompany many other traffic regulations. As in the case of driving without a valid license, which is against the law[63] but usually goes undetected, CRD violations might often be found only after the driver of the car is stopped for another infraction. More likely, an officer would simply

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60. Action for Child Transportation Safety is among those groups exploring the possibility of Medicaid payments for CRD purchases. Allowing such payments was urged by the safety coordinator of a pediatric preventive medicine program in testimony before the House Commerce Subcommittee on Oversight and Investigation. HHS STATUS REPORT 7 (May 17, 1979).

61. Several such programs are described in *Child Passenger Safety News*, *supra* note 24.

62. Robert E. Vanderbeek, president of the League General Insurance Companies of Southfield, Michigan told the House Commerce Subcommittee on Oversight and Investigation that "[t]he program . . . makes economic sense and we believe will be cost effective — it will pay for itself through reduced claims." HHS STATUS REPORT 6 (May 17, 1979).

63. *See, e.g.*, COLO. REV. STAT. § 42-2-101 (1973).

notice a child standing on the seat of a vehicle or riding on another person's lap and then pull that vehicle over in order to issue a ticket to the driver. Children traveling in dangerous positions are often visible to other motorists on the road and no extraordinary surveillance techniques would be needed by police charged with halting that practice.

The Police Power

Each state possesses authority to pass laws which protect the health, safety, or welfare of the public.[64] This authority is an inherent aspect of the state's sovereignty and is known as its police power.[65] In determining the validity of any legislation passed pursuant to this power, courts typically employ a two-step analysis. Such a law will be upheld if it furthers a legitimate state objective and if the means employed to attain it are reasonably related to that end.[66]

A Legitimate Objective

An appropriate state objective has been held to be any one which promotes or protects the public welfare.[67] This definition is elastic enough to encompass the wide variety of laws which are enacted in response to changing public needs. The shift from an agrarian to an industrial society, for example, created the need for regulations such as workmen's safety, pure food, and urban housing and sanitation laws.[68] More recently, the public welfare concept has been expanded to include rent control laws,[69] anti-deceptive credit practice laws,[70] and anti-billboard and landmark preservation statutes

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64 *See* Berman v. Parker, 348 U.S. 26, 32 (1954); East New York Bank v. Hahn, 326 U.S. 230, 232 (1945); Nebbia v. New York, 291 U.S. 502, 523 (1934); License Cases, 46 U.S. (5 How.) 504, 583 (1847).

65. The term "police power" appears to have been first used by Justice Marshall in Brown v. Maryland, 25 U.S. (12 Wh.) 419, 433 (1827). It is a residuary power, one which was retained by the states after certain enumerated powers had been transferred to the new federal government.

66. "To justify the state in . . . interposing its authority in behalf of the public, it must appear, first, that the interests of the public . . . require such interference, and, second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals." Goldblatt v. Hempstead, 369 U.S. 590, 594-95 (1962) *quoting* Lawton v. Steele, 152 U.S. 133, 137 (1894).

67. *See, e.g.*, In re Interrogatories of the Governor, 97 Colo. 587, 595, 52 P.2d 663, 667 (1935) which notes that this power is as "broad as the public welfare."

68. *See* Morissette v. United States, 342 U.S. 246, 253-54 (1952).

69. Hutton Park Gardens v. West Orange Town Council, 68 N.J. 543, 350 A.2d 1 (1975).

70. Birkenfield v. City of Berkeley, 17 Cal.3d 129, 550 P.2d 1001, 130 Cal. Rptr. 465 (1976).

designed to protect the aesthetic features of an area.[71]

Regulations such as these can be viewed as an attempt to redress an unequal balance of power. When members of the public are faced with some threat with which they cannot deal on an individual level, the constitutional niche known as the police power has enabled the state to attempt to protect their well-being by regulating the conduct of those who do have the power and ability to mitigate the potential harm. Thus, the acts of the employer, the manufacturer, and the polluter may be regulated for the benefit of the worker, the consumer, and the public at large.

The CRD statutes fit easily into this pattern. In passing these laws, states are seeking to protect a particularly powerless class of people by regulating the behavior of those in the best position to minimize the risk to that class. Insofar as they seek to promote safety, these statutes are at the core of the police power doctrine.[72]

Highway Regulations. Specifically, CRD legislation is addressed to the problem of highway safety, an area in which the states have extensively exercised their rule-making powers.[73] Since the arrival of the automobile, both drivers and vehicles have been subjected to a variety of statutory requirements designed to protect the driving and riding public. In evaluating the validity of CRD laws as highway safety regulations, a useful analogy can be drawn from the motorcycle helmet laws which, like CRD laws, mandated the use of specialized equipment.

The controversial helmet laws, which swept the country approximately a decade ago, were sustained as valid police power legislation by the overwhelming majority of courts which faced the issue.[74] The Colorado Supreme Court's discussion in the case of *Love v. Bell*[75] is typical of many of these opinions. As with most of the courts across the country which addressed the problem, the Colorado

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71. Penn Central Transp. Co. v. New York, 438 U.S. 104, 129 (1978); John Donnely & Sons v. Mallar, 453 F. Supp. 1272 (S.D. Me. 1978).

72. Kelley v. Johnson, 425 U.S. 238, 247 (1976).

73. South Carolina Highway Dep't v. Barnwell Bros., 303 U.S. 177 (1938); Bibb v. Navajo Freight Lines, 359 U.S. 520 (1959); People v. Brown, 174 Colo. 513, 485 P.2d 500 (1971); Zaba v. Motor Vehicle Div., 183 Colo. 335, 516 P.2d 634 (1973).

74. Helmet statutes were struck down in only two of the thirty-three states in which they were challenged: Illinois, People v. Fries, 42 Ill.2d 446, 250 N.E.2d 149 (1969) and Michigan, American Motorcycle Association v. Davids, 11 Mich. App. 351, 158 N.W.2d 72 (1968). The Michigan Supreme Court upheld a very similar municipal law several years later in City of Adrian v. Poucher, 398 Mich. 316, 247 N.W.2d 798 (1976). The helmet cases are collected in 32 A.L.R.3d 1270.

75. 171 Colo. 27, 465 P.2d 118 (1970).

court studiously avoided the most salient issue which grew out of the helmet legislation, the issue of whether mandatory self-protection and of regulating a person for his own good was a valid state objective.[76] Instead, the court sought to find some benefit which the helmet statutes provided to other highway users in order to sustain the law. It found one such benefit in the economic area, noting the "laws may be passed within the police power to protect the public from financial loss."[77] In drawing upon a record which showed a higher frequency of serious head injuries and deaths among bare-headed riders than among those who wore helmets, the court ruled that the law protected the public's financial health since it prevented motorists involved in accidents with motorcycles "from being required to respond in damages more heavily than might be the case if the motorcycle driver and passenger were wearing helmets."[78] Other courts also employed the "financial health" argument and cited increased public medical and welfare costs which would have to be paid to disabled cyclists, as well as higher insurance rates.[79]

Most of the helmet law opinions did not rest solely on this economic protection analysis, but also sought some connection between helmets and the public's physical well-being. Many courts found such a connection in the "flying debris" theory, which is based upon the hypothesis that an unprotected cyclist might be struck in the head by loose gravel or other objects thrown up by passing vehicles, thereby causing the cyclist to lose control and possibly cause an accident.[80] The courts were unswayed by the argument that such a chain of events had never been known to have occurred.

If CRDs are substituted for helmets in the analysis above, the reasoning employed in the typical helmet case not only remains valid but is, in fact, strengthened. As with helmets, CRDs offer the potential for mitigating physical, and therefore, financial damages resulting from highway accidents. More importantly, a CRD law would not leave a court having to strain for a "loose gravel" rationale in

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76. Few courts were willing to ground their opinions on the self-protecting aspect of helmet legislation. Two cases which did discuss this issue were People v. Carmichael, 56 Misc. 2d 388, 288 N.Y.S.2d 931 (1968) (state has an interest in preserving strong, healthy citizens) and State v. Mele, 103 N.J. Super. 353, 247 A.2d 176 (1968) (state has an interest in protecting people from their own carelessness).

77. 171 Colo. at 33, 465 P.2d at 121.

78. 171 Colo. at 33, 465 P.2d at 121-22.

79. *See, e.g.*, State v. Anderson, 3 N.C. App. 124, 164 S.E.2d 48 (1968), *aff'd*, 275 N.C. 168, 166 S.E.2d 49 (1969).

80. *See* 171 Colo. at 33-34, 465 P.2d at 122 and the cases cited therein.

searching for a connection between the regulation and the physical safety of non-regulated members of the public. In contrast to the helmet law discussions on this point, the potential beneficiaries of CRD legislation are not hypothetical, their existence is clearly documented in the "0-4 years" column of each state's accident reports.

The mandatory helmet statutes are perhaps on the periphery of valid police legislation. They raise the difficult problem of the extent to which an individual can be regulated for his own good. Shifting political attitudes on just this point have resulted in the repeal of helmet laws in twenty-eight of the forty-nine states which originally enacted them.[81] The notion of protecting a person against himself is not a factor in CRD legislation, however, for in requiring the use of child restraints the state is attempting to protect those too young to make rational choices in their own best interest. In this vein, it is interesting to note that of those states which repealed helmet laws, nearly two-thirds reenacted such legislation applicable only to minors.[82]

Parens Patriae. The state's interest in the well-being of its youth is of ancient origin. Plato believed that the good of the state as a whole justified the regulation of child-rearing practices.[83] His pupil, Aristotle, differed on this point, suggesting that regulations were necessary only to protect the interests of the individual child.[84] These two theories have survived to the present and are often meshed with a third concern, an interest in preserving the family structure as the basic unit in society.[85]

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81. California is the only state never to have enacted helmet legislation. A summary of the recent status of helmet laws in this country, including dates of enactment, repeal and pending legislation is compiled in HHS STATUS REPORT 5-8 (Apr. 30, 1979).

82. *Id.*

83. PLATO, REPUBLIC Bk. V (E. Hamilton & H. Cairns, eds., THE COLLECTED DIALOGUES OF PLATO 1961, at 698-702), *mentioned in* Meyer v. Nebraska, 262 U.S. 390, 401-2 (1923).

84. ARISTOTLE, POLITICS 32-33 discussed in Kleinfeld, *The Balance of Power Among Infants, Their Parents and the State*, 4 FAM. L. Q. 410, 411-12 (1970).

85. See text accompanying notes 105-08, *infra*. An example of the interweaving of these ideals is the preamble to the Colorado Children's Code, COLO. REV. STAT. § 19-1-102 (1973): The general assembly declares that the purposes of this title are:

> (a) To secure for each child subject to these provisions such care and guidance, preferably in his own home, as will best serve his welfare and the interests of society;
>
> (b) To preserve and strengthen family ties whenever possible, including improvement of home environment;
>
> (c) To remove a child from the custody of his parents only when his welfare and safety or the protection of the public would otherwise be endangered; and
>
> (d) To secure for any child removed from the custody of his parents the necessary

The Platonic theory was mentioned more often in early cases dealing with child-related legislation than it is today. For instance, in sustaining the state's compulsory schooling law, the Colorado Supreme Court in 1927 stated flatly that "[t]he state, for its own protection, may require children to be educated. This needs no citation."[86] This "good-of-the-state" approach is also reflected in statutory provisions, such as those which override parental objections to immunization whenever a community is threatened with an epidemic.[87]

Statutes usually demonstrate a more Aristotelian concern for the welfare of individual children, rather than for the state as a whole. Examples are child abuse laws,[88] child labor laws,[89] and those mandating specific medical procedures to prevent blindness[90] and mental retardation[91] in newborns. The "child protection" rationale is also cited frequently by state courts since the United States Supreme Court has stated that "[t]he well-being of its children is of course a subject within the State's constitutional power to regulate. . . ."[92]

Although CRD legislation arguably benefits the state as a whole by preserving the health of future productive citizens and by reducing the number of those who might require long-term public aid because of automobile injuries, its primary purpose is to prevent needless harm from being inflicted upon young children. This latter goal is an entirely appropriate one, as has previously been shown. The question that remains is whether requiring individual drivers to obtain and use child restraints is a reasonable method of attaining that objective.

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care, guidance, and discipline to assist him in becoming a responsible and productive member of society.

86. Vollmar v. Stanley, 81 Colo. 276, 280, 255 P. 610, 613 (1927).

87. *See, e.g.*, COLO. REV. STAT. §§ 25-4-303 to -305 (1973 & Supp. 1978).

88. *See, e.g.*, COLO. REV. STAT. §§ 19-10-101 to -115 (1973) which deal with reporting abuse, and COLO. REV. STAT. § 18-6-401 (1973 & Supp. 1979) describing the crime of child abuse.

89. *See, e.g.*, COLO. REV. STAT. §§ 8-12-101 to -117 (1973 & Supp. 1979), the Colorado Youth Employment Opportunity Act of 1971, which details the types of employment that youths of various ages may engage in.

90. *See, e.g.*, COLO. REV. STAT. §§ 25-4-303 to -305 (1973), requiring that the eyes of all newborns be treated with a prophylaxis within one hour of birth.

91. *See, e.g.*, COLO. REV. STAT. § 25-4-801 (1973): "The general assembly declares that, as a matter of public policy of this state and in the interest of public health, every newborn infant should be tested for phenylketonuria and other metabolic defects in order to prevent mental retardation resulting therefrom. . . ."

92. Ginsberg v. New York, 390 U.S. 629, 639 (1968).

Reasonable Means

The legislature is given wide discretion in implementing its goals, and a presumption of validity attaches to each statute it enacts.[93] In order to rebut this presumption, an opponent must prove that a law, when applied, violates some provision of the state or federal constitution,[94] or that the law does not reasonably relate to the state's objective in passing it.[95] The question of its "reasonableness" is, in fact, the central issue in any challenge to a police power regulation.[96]

Most statutes promulgated under the police power seek to protect public welfare by regulating conduct in the manufacturing and professional sectors. Individual behavior may also legitimately be regulated so long as the burden imposed does not infringe on a fundamental right.[97] A mere showing "that in its operation a police measure may increase their labor, decrease the value of their property or otherwise inconvenience individuals" will not suffice to render a law void.[98] Securing a child in a CRD before each automobile trip may at times be inconvenient, but the question of concern to a reviewing court would be whether a law mandating that action infringes upon a fundamental right.

An opponent of CRD legislation could claim that any one of several rights are infringed upon by such a law: the right to parental autonomy[99] and privacy;[100] the right to equal protection under the

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93. Kelly v. Johnson, 425 U.S. 238 (1976); Day-Brite Lighting, Inc. v. Missouri, 342 U.S. 421, 423 (1952); Prince v. Massachusetts, 321 U.S. 158, 168-70 (1944).

94. Day-Brite Lighting, Inc. v. Missouri, 342 U.S. 421 (1952); Jackson v. Massachusetts, 197 U.S. 11, 25 (1905); City of El Paso v. Simmons, 379 U.S. 497, 508-09, *rehearing denied*, 380 U.S. 926 (1964).

95. *See* Paris Adult Theatre I v. Slayton, 413 U.S. 49 (1973); NAACP v. Alabama, 377 U.S. 283 (1964); Goldblatt v. Town of Hempstead, 369 U.S. 590 (1962).

96. "The legislature may devise *reasonable* schemes for regulations of activities which affect the health and safety of the public." People ex rel. Dunbar v. Kogul, 179 Colo. 394, 399, 501 P.2d 738, 740 (1972) (emphasis in original).

97. Fundamental rights are those rights "implicit in the concept of ordered liberty." Palko v. Connecticut, 302 U.S. 319, 325 (1937).

98. In re Interrogatories of the Governor, 97 Colo. 587, 596, 52 P.2d 663, 667 (1935). One example of a law which puts the burden of compliance on individuals is COLO. REV. STAT. § 33-31-105 (1973 & Supp. 1979). This law makes it the duty of a boat owner or operator — not of the boat manufacturer — to provide an adequate life preserver for each person on board.

99. Parental rights are afforded constitutional protection against unwarranted or unreasonable interference by the state. Planned Parenthood v. Danforth, 428 U.S. 52, 73 (1976); Wisconsin v. Yoder, 406 U.S. 205 (1972); Meyer v. Nebraska, 262 U.S. 390 (1923). *See also* Smith v. Organization of Foster Families, 431 U.S. 816, 842-44 (1977); Ginsberg v. New York, 390 U.S. 629, 639 (1968).

law;[101] and the right to free and unrestricted travel between the states.[102] The last claim can be quickly dispensed with by once again analogizing to the helmet cases, which consistently held that the right to travel was not unreasonably restricted by requiring motorcyclists to obtain and use a relatively inexpensive piece of safety equipment.[103] This right was not infringed even though the helmet statutes were written to apply to all, and not just resident, motorcyclists travelling on the enacting state's roads.[104] The CRD laws are not as broad as the helmet statutes since they typically apply only to resident parents or to those driving vehicles registered in the enacting state. Non-resident tourists therefore would not be subject to the law's provisions.

Parental Autonomy and Privacy. The allocation of power between parent and state in making decisions concerning the best interests of the child is always a sensitive issue. Supreme Court cases have "consistently recognized that the parents' claim to authority in their own household to direct the rearing of their children is basic in the structure of our society."[105] Indeed, the integrity of the family unit has found protection in the Due Process[106] and Equal Protection[107] Clauses of the fourteenth amendment and in the ninth amendment.[108]

Despite this high regard for the family unit, laws which restrict parental autonomy in order to further the welfare of children are usually sustained. Such laws are struck down only if they are arbitrary and capricious. For example, a law attempting to promote good citizenship by banning the teaching of foreign languages in elementary schools was struck down in *Meyer v. Nebraska* on these grounds.[109] Similarly, if the state's objective in passing the law is not sufficiently compelling to overcome a parental objection based on a

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100. Fundamental rights include the "right of personal privacy, or a guarantee of certain areas or zones of privacy." Roe v. Wade, 410 U.S. 113, 152 (1973). The source of this right is not specifically defined, but is derived from the first, third, fourth, fifth, and ninth amendments, the penumbra of the Bill of Rights, and the guarantee of liberty in the fourteenth amendment. Griswold v. Connecticut, 381 U.S. 479, 481-85 (1965).

101. U.S. CONST. amend. XIV.

102. The states may not enact rules and regulations which unreasonably burden the right to travel freely between the states. Shapiro v. Thompson, 394 U.S. 618 (1969).

103. *See, e.g.*, Love v. Bell, 171 Colo. 27, 36, 465 P.2d 118, 123 (1970).

104. *See, e.g.*, COLO. REV. STAT. § 42-4-231 (1973) (repealed 1977).

105. Ginsberg v. New York, 390 U.S. 629, 639 (1968).

106. Meyer v. Nebraska, 262 U.S. 390, 399 (1923).

107. Skinner v. Oklahoma, 316 U.S. 535, 541 (1942).

108. Griswold v. Connecticut, 381 U.S. 479, 496 (1965) (Goldberg, J., concurring).

109. 262 U.S. 390 (1923).

freedom of religion claim it will be held void.[110]

CRD statutes could not be invalidated under either theory. These laws are narrowly drawn, requiring the use of an effective, readily available device designed specifically for the purpose of protecting children in motor vehicles, and are therefore not vulnerable to charges of arbitrariness or caprice. Nor could these laws, which are essentially traffic safety regulations, conceivably be subject to any objections based on religious grounds. In short, the statement that it is "fundamental . . . that parental rights must yield to the interest and welfare of the child"[111] would appear to be particularly uncontroversial when applied to the issue of highway safety.

Parental rights are based to a large extent on the broader claim of a right to privacy—the "right to be let alone."[112] This broader right itself is not unreasonably infringed upon by traffic regulations, as aptly pointed out by the Wisconsin Supreme Court:

> There is no place where any such right to be let alone would be less assertible than on a modern highway. . . . When one ventures onto such a highway, he must be expected and required to conform to public safety regulations and controls, including some that would neither have been necessary nor reasonable in the era of horse-drawn vehicles.[113]

Equal Protection. CRD statutes distinguish between children less than four years old and all other highway users. If a court were convinced that no rational basis existed for this distinction, it could void such legislation on the ground that it denies the public equal protection under the law. A statutory discrimination will not be invalidated, however, if any state of facts reasonably can be conceived to justify it.[114]

When reviewing CRD legislation, a court could rely on several supporting factors to sustain the legislature's classification. A court could find that members of the statutorily created class of children four years of age or younger face a greater risk of injury or death than do others in accident situations, are incapable of making ra-

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110. Wisconsin v. Yoder, 406 U.S. 205 (1972).

111. Stjernholm v. Mazaheri, 180 Colo. 352, 356, 506 P.2d 155, 157 (1973). *See also* Fulton v. Martensen, 129 Colo. 125, 267 P.2d 658 (1954); Graham v. Francis, 83 Colo. 346, 265 P. 690 (1928).

112. Olmstead v. United States, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting).

113. Bisenius v. Karns, 42 Wis. 2d 42, 55, 165 N.W.2d 377, 384 (1969), *appeal dismissed*, 395 U.S. 709 (1969).

114. Dandridge v. Williams, 397 U.S. 471, 485 (1970), *rehearing denied*, 398 U.S. 914 (1970).

tional choices to further their self-preservation, and are not afforded the same degree of protection by existing safety belts as are older passengers for whom such belts are designed.[115] Furthermore, although all legislatively imposed age restrictions are arbitrary to some extent, the class delineated by CRD legislation is not unreasonable since it corresponds to that class for which CRDs are designed and manufactured.[116] These factors could support a finding that a state of facts sufficient to justify the statutory distinction exists.

Finally, it should be noted that although all automobile passengers could benefit by mandatory seatbelt laws, the fact that such laws have not been enacted is insufficient to void CRD laws under the Equal Protection Clause. A law will not be invalidated for violating that Clause merely because the legislature has not "comprehensively remedied all problems at once—it is entitled to proceed one step at a time."[117]

In sum, CRD legislation is valid under both the "ends" and the "means" prongs of the police powers analysis. The state is operating in traditional areas when it seeks further highway and child safety, and no fundamental rights are threatened when the state mandates the use of appropriate equipment in attempting to attain that safety objective.

Civil Proceedings

Aside from the constitutional issues, the legal ramifications which could attend CRD legislation in certain civil cases remain to be examined.[118] Although the only two CRD laws currently in force expressly provide that a breach of their respective terms may not be

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115. See text accompanying notes 9-25 *supra*.

116. See note 2 *supra*.

117. Bushnell v. Sapp, 194 Colo. 273, 280, 571 P.2d 1100, 1104 (1977).

118. CRD statutes could also have an impact on certain criminal proceedings, particularly vehicular homicide and vehicular assault cases. Drunk driving typically is a misdemeanor, but if death to another results, it may be filed as vehicular homicide, a felony. If a drunk driver collides with a vehicle in which an unsecured child is riding and the collision results in the death of that child, a decision to file a felony charge against the drunk driver may pose problems. In Colorado, for example, such a charge can be brought only against a person whose wrongful acts were the "sole proximate cause" of a highway death. Goodell v. People, 137 Colo. 507, 509, 327 P.2d 279, 280 (1958). If the child would not have died had he been properly secured in a CRD, then the failure to use that device would be another proximate cause of his death. Hence, felony charges could not be lodged against the drunk motorist.

The problem is not merely a speculative one, for prosecutors in Michigan have contacted state highway officials to seek advice on this particular issue. Telephone interview with David Shinn, Driver and Vehicle Admin., Mich. Dep't of State, July 1980.

raised in any civil action,[119] future enacting states may pass such laws without this limitation. The discussion below evaluates the impact which a CRD statute without a "no liability" clause could have in negligence lawsuits.

Civil Liability

Negligence per se. In the absence of CRD legislation, a suit for negligence brought on behalf of a child injured in an automobile accident against the child's driver would face serious obstacles. Typically, in order to support a negligence claim, the burden is on the plaintiff to establish by a preponderance of the evidence that the defendant owed him a certain standard of care, that the standard was breached, and that the breach was a cause of the harm suffered.[120] Without a CRD law in force the plaintiff's burden on the question of "standard of care" would be substantial. He would have to assume the burden of educating and persuading six or twelve peers from the community on the practicality and wisdom of CRDs. The fact that the community as a whole has shown little inclination to use child restraints indicates the size of the plaintiff's task in proving this element of the case.

Were a CRD-use law in existence, however, the mere fact of its enactment would greatly lessen the plaintiff's burden. In passing that law, the legislature would have established in specific language the appropriate standard of care which was owed by the defendant, and that question would be removed from the jury's consideration.[121] In other words, the plaintiff could show that the defendant acted negligently simply by showing that the defendant breached the statute. The only further burden the plaintiff would have in this negligence per se claim would be to show a causal link between the harm suffered and the negligent act or omission.[122]

As previously shown,[123] proof of causation should not be difficult, particularly if the child's injuries resulted from his ejection from the vehicle, or from his collision with some portion of its inte-

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119. See notes 33 and 41 *supra*.

120. *See* cases cited in W. PROSSER, HANDBOOK OF THE LAW OF TORTS 143 (4th ed. 1971).

121. *See, e.g.*, Martin v. Herzog, 228 N.Y. 164, 126 N.E. 814 (1920); Konow v. Southern Pacific, 105 Ariz. 386, 465 P.2d 366 (1970); Zerby v. Warren, 297 Minn. 134, 210 N.W.2d 58 (1973); Stahl v. Cooper, 117 Colo. 468, 190 P.2d 891 (1948).

122. *See, e.g.*, Plains Transport of Kansas v. Baldwin, 217 Kan. 2, 535 P.2d 865 (1975); Pratt v. Thomas, 80 Wash. 2d 117, 491 P.2d 1285 (1971); Hamilton v. Gravinsky, 28 Colo. App. 408, 474 P.2d 185 (1970), *modified*, 174 Colo. 206, 483 P.2d 385 (1971).

123. See text accompanying notes 10-25 *supra*.

tempts to shift some of the responsibility for the harm done to the injured child to that third party, but no doctrine would provide this original defendant with complete immunity from liability. Contributory or comparative negligence statutes which limit or totally bar the payment of compensation to a plaintiff would be inapplicable to CRD related lawsuits. Those statutes apply only when the plaintiff has been shown to have contributed to his injuries by his own careless actions.[130] A pre-school aged child is, in many states, legally incapable of negligence,[131] and his failure to look out for his own safety cannot be raised as a defense in any suit in which that child is a plaintiff.[132]

Nor can the defendant obtain complete immunity from liability by claiming contributory negligence due to the carelessness of a plaintiff child's parents. The "doctrine that the negligence of the parents of a child of tender years shall be imputed to the child" was dismissed in one early case as "not only unsound, but absurd and inhuman,"[133] and that doctrine is universally rejected today.

The child's driver, on the other hand, stands a better chance of claiming immunity if he is brought into the negligence case as a third party defendant. If he is unrelated to the plaintiff he can seek to avoid liability under any guest statutes which exist in that state. These laws, which are no longer as prevalent as they once were, prevent a person from suing his "host" driver for any injuries sustained while riding as a non-paying passenger in that driver's vehicle.[134] The laws have been justified in part by an "assumption of the risk" type of theory and for that reason have often been held inapplicable to young children.[135] The child's driver has a much better chance of claiming immunity, and therefore of imposing the full cost of compensating the child on any other defendants, if he is the plaintiff

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130. *See, e.g.*, COLO. REV. STAT. § 13-21-111 (1973 & Supp. 1979). The Colorado court has made it clear that "[t]he comparative negligence statute is inapplicable where no negligence on the part of the plaintiff can be proven." Denham v. Kampman, 37 Colo. App. 233, 236, 547 P.2d 263, 266 (1975), *aff'd*, 192 Colo. 448, 560 P.2d 91 (1977).

131. *See, e.g.*, Lewis v. Buckskin Joes, 156 Colo. 46, 396 P.2d 933 (1964) (children of "very tender years" are incapable of negligence and assume no risks).

132. *See, e.g.*, Majors v. J.C. Penney Co., 31 Colo. App. 568, 506 P.2d 399 (1972) (six year old child incapable of contributory negligence).

133. Denver City Tramway Co. v. Brown, 57 Colo. 484, 493, 143 P. 364, 368 (1914). *See also* W. PROSSER, HANDBOOK OF THE LAW OF TORTS 490 (4th ed. 1971).

134. *See* Brown v. Merlo, 8 Cal. 3d 855, 506 P.2d 212, 106 Cal. Rptr. 388 (1973).

135. *See, e.g.*, Burhans v. Witbeck, 375 Mich. 253, 134 N.W.2d 225 (1965); Wood v. Morris, 109 Ga. App. 148, 135 S.E.2d 484 (1964); Green v. Jones, 136 Colo. 512, 319 P.2d 1082 (1957).

such lawsuits will tend to preserve family harmony.[142] In any CRD related action, the plaintiff would necessarily be a very young child, incapable of maliciously plaguing his parents with lawsuits. The decision to bring a suit on his behalf will most likely be made by the child's parents, with an awareness that their liability insurer will be the true defendant. Under those circumstances, commencing an action is not evidence of a family's internal strife, but rather of the "provident management of its affairs."[143]

The invalidity of the first two arguments, which ignore the existence of liability insurance, must be conceded before credence can be given to the third argument: allowing children to sue their parents will lead to widespread collusion and fraud against insurance companies.[144] A trust in the jury system and its ability to distinguish between valid and fraudulent claims is the first step which must be taken to reject the argument. The courts have consistently reaffirmed that trust and have relied on juries to prevent injustice to insurance companies in automobile cases between husbands and wives[145] and between close friends.[146] No readily apparent reason exists for refusing to extend that trust to cases involving a parent and child.[147] Indeed, an attempt by a parent to defraud an insurance company in a case which centered on the lack of CRD use would be quite difficult. Because of his age, the plaintiff could not be an active participant in the scheme and could not be counted on to convincingly fake a nonexistent harm.

The strongest reason for abrogating parental immunity, at least under the limited circumstances of a CRD law, is largely unrelated

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142. The family harmony argument originated in Roller v. Roller, 37 Wash. 242, 79 P. 788 (1905), a much maligned case in which a daughter was prevented from bringing a civil action for rape against her father based on the family harmony theory.

143. Badigan v. Badigan, 9 N.Y.2d 472, 479, 174 N.E.2d 718, 723, 215 N.Y.S.2d 35, 41 (1961) (Fuld, J., dissenting).

144. *See* Windauer v. O'Connor, 13 Ariz. App. 442, 477 P.2d 1157 (1971), *modified*, 107 Ariz. 267, 485 P.2d 561 (1971); Breinmeckle v. Kilpatrick, 336 S.W.2d 68 (Mo. 1960); Small v. Rockfield, 66 N.J. 231, 330 A.2d 335 (1974).

145. *See, e.g.*, Rains v. Rains, 97 Colo. 19, 46 P.2d 740 (1935) (abolished interspousal immunity in the context of an automobile negligence case).

146. *See, e.g.*, Johnson v. Hassett, 217 N.W.2d 771 (N.D. 1974) in which the court noted the "good sense of the juries" as a protection against fraud in the absense of a guest statute.

147. In abrogating parental immunity, one court stated: "Even assuming that a few fraudulent and collusive claims will slip through judges and juries (and there is no impirical [*sic*] evidence that the assumption is valid) we believe that this price would not be too great since the alternative is to continue a prophylactic rule which indiscriminately bars all claims." France v. A.P.A. Transp. Corp., 56 N.J. 500, 505, 267 A.2d 490, 493 (1970).

House Hells: 1:35
Tischer, Kop, Herman, Fritz

HB 262:
Tischer - Yield to Rep. Clocksin.

Clocksin - 4 prts
1) Prohibit w/o Restraint - pg 1 - thru l 28
2) Allow - evidence of failure to use Restraint - Comparative negligence. Rules of Ct. open as to whether this info can be used as evidence.
3) Est. of loan program - an expansion of existing program under Public Safety. Bartlett provides loaner program. hospitals & health centers
4) Prohibition of Sale of device which does not meet Fed. standards.

Senate Version: amendments to improve bill.

M. Miller - % Fiscal for loan program - Where are funds coming from?
Clocksin - Approp in Budget to carry on existing program. Fed $ also provided. Amer - Volunteer efforts.
M. Miller - Supports bill.
Tischer - Intent? - provide safety for child - goal? Mandatory - used w/o exception - how much are seats? Clocksin - $40?
- U.S. Standards - clocksin - could provide - that will resist severe blow - not collapsable.
- Why look @ statutes to mandate if the program is effective. Ques. Law in citing a parent.
Herman - Requirement?
Clocksin - 2 proposed amendments 1) Off-road vehicles

2) exemption to allow for more children than car seats or space available.

Tischer gave Robin Hartlieb's testimony: Rec'd corres. in favor of bill.
- Additional drive for public awareness

Carolyn Crouch: In Support of HB 262. Involved for 3 yrs. 1st in N.C. 1982 law - automobile accidents are #1 killer of children. Similated to child immunizations. Raised 10,000 from private sector - $3,000 matched = 500 seats for County Medical Society. $15 deposit - return $10 / 1978 Tennessee law - now 22 states comply.

Peggy Wilson - Ak Child Passenger Safety Assoc. Supports bill.

Tischer - Six kids - all still living - w/o mandatory legislation. Making it a crime for a parent in not looking out for their youngster.

Clocksin - Legis makes it an infraction. Fine of up to $300 - no jail time.

Dr. Lillibridge tape: 39,000 Ak's under 5 yrs.
Survey - prior to mandatory statute laws - not effective thru Education Programs only. Law should not be necessary & - can't be effective & it is necessary. 60 serious injuries annually.
Loaner Programs - already established - Jnr. Sith. Hlk, Anch.

Tischer - Position on bill as written.

Davis - Clocksin Amendments.

Motion by Miller:

Pg. 1 of HB 262 -- delete pg. 1 l 11-28' pg.

Insert from CSSB 163. Trans - l 11

thru p l 3 on pg 3 -

leaves (d) changes to new section. in place

Tischer - Object to examine bill.

Goll - hand holding child - & use ~~child~~ seat belts if in someone elses car -

Clochin - Under 4 - Seatbelt not safer - studying ham

Clochin - SB 163 only addresses 1st part of HB 262. Amendments to 163 are improvements. Other 3 parts are not addressed at all in ~~the~~ Senate Version.



Pg 1 - l 15-17 of SB 163 - Change in wording - Fed's set standards

Staff - to put versions together - w/ any additions to hear on Monday

- Amendment on Floor to make C.S. - CS passes - by Monday.

SB 163 TITLE & SPONSOR SUMMARY 16:43 4/26/83 PAGE *1 OF 2
AMENDED TITLE
AN ACT RELATING TO THE USE OF CHILD SAFETY DEVICES IN MOTOR
VEHICLES;
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: FISCHER,V. .
CO-SPONSORS: MOSS, JOSEPHSON, STURGULEWSKI, RODEY.
CURRENT STATUS: 4/22/83 IN (S) JUDICIARY
SB 163 TITLE & SPONSOR SUMMARY 16:43 4/26/83 PAGE DFH2005I
TRANSACTION PAGE ABEND AFLS IN PROGRAM LBHPAGE 16:44:09
AN ACT RELATING TO THE USE OF CHILD SAFETY DEVICES IN MOTOR
VEHICLES;
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: FISCHER,V. .
CO-SPONSORS: MOSS, JOSEPHSON, STURGULEWSKI, RODEY.
CURRENT STATUS: 4/22/83 IN (S) JUDICIARY

Linda, the Law Library called with the following information:

The only regulations found in Washington re: child restraint devices are in Title 204, Ch. 16, Sec. 030, as follows:

The standards for approval of motor vehicle seatbelt assemblies, restraining devices for children (8 months-6 years) for use in motor vehicles and harness type restraint assemblies for use in motor vehicles shall be the current standards of the society of automotive engineers As outlined in SAE Handbook.

Passed2/24/76

4/27/83
gail 12:30PM

Tennessee

Compiler's Notes. For table of U.S. decennial population of Tennessee counties, see the supplement to volume 16 (tables).

Amendments. The 1982 amendment added subsection (c).

Effective Dates. Acts 1982 (Adj.S.), ch. 850, § 4. April 22, 1982.

Section to Section References. This section is referred to in § 55-9-402.

55-9-214. Safety belts and child passenger restraint systems required — Violations — Penalties. — (a) It shall be unlawful for any person to buy, sell, lease, trade or transfer from or to Tennessee residents, at retail, an automobile which is manufactured or assembled commencing with the 1964 models, unless such automobile is equipped with safety belts installed for use in the left front and right front seats thereof. All such safety belts shall be of such type and be installed in a manner approved by the department of safety of the state of Tennessee. The department shall establish specifications and requirements of approved types of safety belts and attachments. The department will accept, as approved, all seat belt installations and the belt and anchor meeting the specifications of the Society of Automotive Engineers. Provided that in no event shall failure to wear seat belts be considered as contributory negligence, nor shall such failure to wear said seat belt be considered in mitigation of damages on the trial of any civil action.

(b) Effective January 1, 1978, every parent or legal guardian of a child under the age of four (4) years residing in this state shall be responsible, when transporting his child in a motor vehicle owned by that parent or guardian operated on the roadways, streets or highways of this state, for providing for the protection of his child and properly using a child passenger restraint system meeting federal motor vehicle safety standards; provided, however, nothing in this section shall restrict a mother from removing the child from such system and holding the child when the mother is nursing the child, or attending to its other physiological needs. Provided that the term "motor vehicle" as used in this paragraph shall not apply to recreational vehicles of the truck or van type. Provided further that the term "motor vehicle" as used in this paragraph shall not apply to trucks having a tonnage rating of one (1) ton or more. Provided that in no event shall failure to wear a child passenger restraint system be considered as contributory negligence, nor shall such failure to wear said child passenger restraint system be admissible as evidence in the trial of any civil action.

(c) Violation of any provision of this section is hereby declared a misdemeanor and anyone convicted of any such violation shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for each violation of subsection (a) of this section and not less than two dollars ($2.00) nor more than ten dollars ($10.00) for each violation of subsection (b) of this section. Provided, however, that no court costs shall be imposed or assessed against anyone convicted of a violation of this section. [Acts 1963, ch. 102, §§ 1, 2; 1977, ch. 114, §§ 1, 2; T.C.A., § 59-930; Acts 1981, ch. 86, §§ 1, 2.]

Amendments. The 1981 amendment deleted the words "or assuring that such child is held in the arms of an older person riding as a passenger in the motor vehicle" at the end of the first sentence of subsection (b), added at the end of the first sentence of subsection (b) the proviso beginning "provided, however," and ending with "other physiological needs", and added the second sentence of subsection (c).

(X) no Provision for hand holding children

(X) no Provision for seat belt for under 4 yrs.

want no "mandatory" misdemeanor

Cochair

1. Prohibits transporting of child w/o restraint
2. Court proceedings - Negligence for Failure to Stop in
3. Establishes loan program
4. Prohibition of sale of device not meeting U.S. Standards

Caroline Crouch - Supports

North Carolina - active in Leg Passage

Had matching funds

Raised $10,000, got Grant - $3000 Pres. Medical Auxiliary.

$15 deposit $12 refund - Loaners

Peggy Wilson - Pres. AK, Pass. Child Safety Assn.

HB

220

COMMITTEE REPORT

HOUSE

JUDICIARY

(7)

FURTHER:

3/25/83

Date: 4/5/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SSHB 270

An Act relating to child pornography.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for SSHB 270 [✓] same title [ ] new title

and recommends Do Pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	
Milo H. Fritz	
M.W. Miller Do Pass	
[signature]	
[signature]	

[signature]
CHAIRMAN
Milo H. Fritz

H 60

MAR 2 3 1983

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SS HB 270
Title: "Child Pornography
Sponsor: Liska
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Law
Program Category Affected: Admin. of Justic
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		130.1	165.5	175.4	185.9	197.1
200 TRAVEL		10.1	12.8	13.6	14.4	15.3
300 CONTRACTUAL		18.0	20.7	21.9	23.2	24.6
400 COMMODITIES		10.0	5.7	6.0	6.4	6.8
500 EQUIPMENT		17.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		185.6	204.7	217.0	230.0	243.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		185.6	204.7	217.0	230.0	243.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Peg[illegible] Richard I. Peg[illegible]
Division: Administrative Services
Phone: 465-3672
Date: March 29, 1983

Approved by Commissioner: Norman C. Gorsuch, Attorney General Richard I. Pegues (AG)
Department: Department of Law
Date: March 29, 1983

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
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Section 1 of this bill adds a new subsection to the current Unlawful Exploitation of a Minor statute, making it a class B felony for a parent or guardian to knowingly allow his child to participate in sexual activities which will be used to produce a pornographic film, TV show, photograph, etc. Since in most cases a parent who would knowingly allow his child to engage in such activity would also be involved in "inducing or employing" the child to perform these acts (conduct which is already covered under existing law), it is expected that there would be only a few additional prosecutions under this portion of the bill. These few new cases could probably be handled by the present prosecution staff.

Section 2 of the bill makes it a class C felony for a person to knowingly sell or distribute pornographic material which visually depicts children engaged in sexual behavior. The bill could result in a large number of additional criminal prosecutions, as the sale or distribution of pornographic material of any sort is not now a criminal offense in this state. It is anticipated that enforcement of the new law would require the addition of two new prosecutors and one new secretary statewide. This estimate is based on the number of establishments in this state which are known to sell pornographic material, the complexity of legal issues that are involved in these types of cases, and the knowledge that con-

victions under similar statutes in other states are almost always appealed on constitutional grounds to the highest appellate court in the state, and frequently to the United States Supreme Court.

Fiscal Analysis - SSHB 270

The impact of HB 270 is expected to result in the addition of two Attorney IV positions (SR 24) and one Legal Secretary position (SR 10).

The first year of this analysis will cover 10 months of FY 84, allowing 2 months for these three positions to be established. The costs beyond FY 84 have been projected on a 12 month basis and include a 6% annual inflation factor.

1st Year (10 months)

	AIV(PFT)	AIV(PFT)	L/SI(PFT)	TOTAL
Personal Services	53.7	53.7	23.4	130.1
Travel	5.0	5.0	-0-	10.0
Contractual	8.0	8.0	2.0	18.0
Commodities - ongoing	1.5	1.5	1.5	4.5
Commod. - single time	2.0	2.0	1.5	5.5
Equipment - single time	1.5	1.5	14.5	17.5
				185.6

2nd Year (12 months + 6% annual inflation)

Personal Services	68.3	68.3	28.9	165.5
Travel	6.4	6.4	-0-	12.8
Contractual	9.1	9.1	2.5	20.7
Commodities	1.9	1.9	1.9	5.7
				204.7

1.	POSITION TITLE Attorney IV			RANGE/STEP 24A	BARG. UNIT X	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG.		

3. CONTINUATION LEVEL ____ ADDITION ____

4. TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
5. Salary 4,251/month	42,510	
6. Benefits	6,555	
7. Supplemental Benefits	2,240	
8. Fixed Benefits	2,400	
9. TOTAL PERSONAL SERVICES	01	53,705
10. Travel	02	5,000
11. Contractual	03	8,000
12. Commodities	04	3,500
13. Equipment	05	1,500
14. Other		
15. TOTAL COST		,705

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	71,705
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

To accommodate the addition of new felony statutes for the prosecution of those who knowingly sell or distribute pornographic material which visually depicts children engaged in sexual behavior, the Department of Law is requesting two new attorney positions and a new secretary position. This is one of two attorney positions which will be responsible for the enforcement of the new felony statutes statewide, including the pursuit of the many cases which will undoubtedly be appealed on constitutional grounds to the state's highest court and to the U.S. Supreme Court. These cases will involve complex legal issues which have been previously unaddressed by Alaska's criminal code.

13 REQUEST FOR NEW POSITION

AGENCY Department of Law

PROGRAM Due Process

BRU Prosecution

COMPONENT Third Judicial District

Page ____ of ____

Revised Date ____

FY 84

01-1156 (7/82) - 13

1.	POSITION TITLE Attorney IV				RANGE/STEP 24A	BARG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG.		

3.	CONTINUATION LEVEL		ADDITION
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 4,251/month	42,510	
6.	Benefits	6,555	
7.	Supplemental Benefits	2,240	
8.	Fixed Benefits	2,400	
9.	TOTAL PERSONAL SERVICES 01		53,705
10.	Travel 02		5,000
11.	Contractual 03		8,000
12.	Commodities 04		3,500
13.	Equipment 05		1,500
14.	Other		
15.	TOTAL COST		71,705

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	71,705
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

To accommodate the addition of new felony statutes for the prosecution of those who knowingly sell or distribute pornographic material which visually depicts children engaged in sexual behavior, the Department of Law is requesting two new attorney positions and a new secretary position. This is the second of two attorney positions which will be responsible for the enforcement of the new felony statutes statewide, including the pursuit of the many cases which will undoubtedly be appealed on constitutional grounds to the state's highest court and to the U.S. Supreme Court. These cases will involve complex legal issues which have been previously unaddressed by Alaska's criminal code.

13 REQUEST FOR NEW POSITION

AGENCY Department of Law

PROGRAM Due Process

BRU Prosecution

COMPONENT Third Judicial District

Page of

Revised Date

FY 84

01-1136(7/82)-13

1. POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
Legal Secretary I				10B	GGU				
2. TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	10				Anchorage	8			

3. CONTINUATION LEVEL		ADDITION	

4. TYPE OF EXPENDITURE			AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 1,726/month	17,260	
6.	Benefits	2,660	
7.	Supplemental Benefits	1,058	
8.	Fixed Benefits	2,400	
9.	TOTAL PERSONAL SERVICES	01	23,400
10.	Travel	02	-0-
11.	Contractual	03	2,000
12.	Commodities	04	3,000
13.	Equipment	05	14,500
14.	Other		
15.	TOTAL COST		42,900

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	42,900
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

This position is required to provide support for the two new attorney positions. This secretary will be responsible for the preparation of a large volume of court documents generated by the appeal of cases dealing with the constitutionality of Alaska's statutes on child pornography. The allocation of a single secretary to serve two full time attorneys is the minimum amount of support needed to meet the workload anticipated and is within the normal ratio of attorneys to secretaries for the Department of Law.

13 REQUEST FOR NEW POSITION

AGENCY Department of Law

PROGRAM Due Process

BRU Prosecution

COMPONENT Third Judicial District

Page of

Revised Date

FY 84

01-1136 (7/82) - 13

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 270
Title: Act relating to child pornography
Sponsor: Rep Liska
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Crime & ID
BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis: No Fiscal Impact Anticipated

Prepared By: Paul Conger
Phone: 465-4338
Division: Administrative Services
Date: 3-29-83

Approved by Commissioner: [signature]
Date: 3/29/83
Department: Public Safety

Distribution:
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3/8/83

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

Sponsor Substitute for House Bill No. 270

"An Act relating to child pornography."

House Bill No. 270 raises the penalty for exploitation of a minor from a Class C felony to a Class B felony in AS 11.41.455. House Bill No. 270 also adds a new section, Sec. 11.61.125, to Alaska State Statutes which makes distribution of child pornography a Class C felony. The Department estimates that one additional medium security bed will be necessary to house offenders convicted of unlawful exploitation of a minor and/or distribution of child pornography.

Recommended by: for Roger C. Sauer
Roger V. Endell, Director
Division of Adult Corrections

Date: April 1, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 4/7/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SS for H.B. #270
Title:"An Act relating to child porno."
Sponsor: Representative Liska
Requestor: HESS Committee

II. FISCAL DETAIL

Agency Affected:Health & Social Services
Program Category Affected:Justice
BRU, Program of Subprogram(s) Affected:
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		2.4	5.1	5.4	5.7	6.1
400 COMMODITIES		2.5	5.3	5.6	6.0	6.3
500 EQUIPMENT						
600 LAND & STRUCTURES			-	-	-	-
700 GRANTS, CLAIMS, ETC		.2	.2	.3	.3	.4
TOTAL OPERATING		5.1	10.6	11.3	12.0	12.8
CAPITAL	-0-	146.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	151.1	10.6	11.3	12.0	12.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange 4/1/83 Phone: 465-3376
Division: Adult Corrections Date: March 31, 1983

Approved by Commissioner: Robert London Smith Date: 4/7/83
Department: Health & Social Services

Distribution:
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3/8/83

IV. ANALYSIS

A. Assumptions

Based on conversations with Department of Law staff, it is assumed that there will be one additional Class B felony conviction and four Class C felony convictions per year. It is assumed all will be first time offenders. Therefore it is estimated that 50% of the Class B and 20% of the Class C felony offenders will receive terms of confinement. This will result in approximately 1.5 person years per year of jail time will be served.

It is further assumed that the distributors of child pornography will remove these materials from their visible stock and convictions for distribution of child pornography will decrease from the original estimate of four per year.

Therefore, it is estimated that one additional medium security bed will be required if this proposed legislation is enacted.

B. Program Summary

1. Positions - An average of one position is required for every 2½ beds. Since only one bed is requested in the fiscal note, no positions are identified as being needed.

2. Other expenditures

a. Contractual Services
Medical care and counseling services $2400

b. Commodities
Food and clothing $2500

c. Grants
Inmate gratuities for kitchen, janitorial or other assigned tasks $200.

C. Impact

There will be no significant economic on local government as a result of passage of this bill.

STATE OF ALASKA

FISCAL NOTE | Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 270
Title: Child Pornography
Sponsor: L.ska
Requestor:

II. FISCAL DETAIL

Agency Affected: H&SS
Program Category Affected: Social Service
BRU, Program or Subprogram(s) Affected: None

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Enactment of this Bill would have no fiscal impact on the Divison of Family and Youth Services as child pornography is already included in reporting of abuse.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price, Director Phone: 465-3170
Division: Family and Youth Services Date: 3/22/83

Approved by Commissioner: Robert London Smith Date: 4/7/83
Department: H&SS

Distribution:
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3/8/

STAFF REPORT

HB 270 RELATING TO CHILD PORNOGRAPHY

MARCH 30, 1983

Dave Palmer

Section 1.
11.41.455 (a) Unlawful exploitation of a minor--defines the crime. This is the existing statute. No change.

(b) This new subsection provides that those adults who have custody of a minor who knowingly permit the exploitation in (a) are guilty of exploitation.

(c) Both offenses are a class B felony.

11.61.125 (a) This new section makes distribution or intent to distribute child pornography a crime.

(b) certain exemptions are allowed for employees of a theater.

(c) Distribution of child pornography is a class C felony.

The SSHB 270 deletes the definition of "obscene". A memo from legal services cites a US Supreme Court case that allows penalization for the production of child pornography and the distribution of material depicting children engaged in sexual conduct without requiring that the material be legally obscene.

Additional amendments are proposed by the sponsor. He requests they be incorporated into the bill as a committee substitute. The proposed changes are attached to this report

Two fiscal notes are attached. a zero note from the Department of Public Safety, and a $185.6 fiscal note from the Department of Law.

ADDITIONAL AMMENDMENTS
FOR HOUSE BILL 270

1. Raising age covered from 16 to 18:

Sec. 11.41.455 (a) (Line 14 and 15, Page 1)
(b) (Line 26, Page 1)

Rationale:

a. Enforcement of this law is predicated on proving to the court that the persons featured in these pornographic materials is under a certain age. When a victim cannot be positively identified (as in cases where materials are imported from outside Alaska and the child is not physically present) it is very difficult to prove beyond the standard reasonable doubt that a child who has reached the puberty stage of development is under 16 from physical appearance alone. Using 18, it would be much easier to prove when dealing with victims are actually between 13 and 16. This is the age bracket most encountered in the experience of the Anchorage Police Department according to Police Chief Porter.

b. Under existing law a person under the age of 18 is treated generally as subject to the juvenile system of justice as opposed to the adult system. It is only logical that we apply the same maturity standard when that same person is the victim under the law.

c. January 26, 1983 Senator Specter introduced similar legislation in Washington, D.C. and the Bill being reviewed by Judiciary uses the age of 18 as its criteria. Should this Bill pass, Alaska State Statutes would conform to the Federal standard.

2. Addition to include "Simulated" sexual acts:

Amend to read in Sec. 11.41.455, Line 16 page 1:

"in the following actual or simulated conduct:"

Rationale:

The deplorable intent is the same whether the sexual acts involved in the exploitation of these children are actual or simulated. We also want to avoid the technicality of having to prove whether the acts were actually performed or only simulated.

3. Change this exploitation of a minor from a Class B Felony to a Class A Felony, and distribution of the materials from a Class C Felony to a Class B Felony.

Rationale:

a. Experience of experts shows that the "damage" to these victims is of major proportions. These are not minor crimes. Aside from the actual physical injury caused to many of these victims, the psychological damage is often extensive. There is also the continuing threat of having those acts depicted in these pornographic materials publically and graphically exposed throughout the victim's lifetime. There also seems to be a heavy causational effect to the child's subsequent hard delinquency. In addition there seems to be a likelihood that these victims can continue the abuse on their own children.

POSITION PAPER/Department of Health & Social Se

POSITION PAPER
HOUSE BILL NO. 270

"An Act relating to child pornography."

House Bill 270 amends the criminal code by adding three major provisions to the laws dealing with child pornography:

1. The parent, legal guardian or person having custody or control of a child under 16 years of age under this Bill commits the crime of unlawful exploitation of a minor if he permits the child to engage in unlawful sexual conduct for commercial purposes;

2. The Bill defines "obscene", which previously had been up to the discretion of the courts to define;

3. The Bill adds a new section which makes the distribution of child pornography materials illegal.

BACKGROUND

The extent to which Alaskan youth are victims of child pornography is unknown, although recent investigations by the Anchorage Crime Commission indicate there may be as many as 30 child slavery and pornography rings in Alaska, with networks to the lower 48 and overseas. Anchorage law enforcement officials believe the problem to be worse in Alaska than in other parts of the country due to criminals being drawn to Alaska by its wealth, by the heavy drug and alcohol abuse, the young and mobile Alaskan population and the overloaded law enforcement and court systems. In a case currently before the courts in Anchorage, one individual is charged with 29 counts of sex crimes against juveniles, including the making of pornographic movies.

It is estimated that at least half the youths in McLaughlin have been sexually abused, and some private residential facilities would estimate that closer to 85% - 95% of the youth served have been victims of sexual abuse. Many youth who have been sexually abused at home, runaway and end up being victimized by individuals who lure them into prostitution, child pornography and other illegal activities.

POSTION PAPER/Department of Health & Social Servic

POSITION

The Department of Health and Social Services supports House Bill 270, which considerably strengthens the statutes regarding child pornography. By making it illegal for the person who has the legal custody or control of the child, whether the parent or not, to permit the child to engage in child pornography for commercial purposes, it recognizes the responsibility of parents and custodians to provide protection for children in their care. Secondly, by extending criminal liability to the distributor of child pornography, this bill recognizes that without promotion and marketing of the child pornography materials, there would be no financial motive for the sexual exploitation of children.

RECOMMENDED: Michael L Price
Michael L. Price, Director
Division of Family and
Youth Services

DATE: March 23, 1983

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

DATE: 3/30/83

FISCAL NOTE

I. REQUEST

Bill/Resolution No.: HB 270

Title: Child Pornography

Sponsor: Liska

Requestor:

II. FISCAL DETAIL

Agency Affected: H&SS

Program Category Affected: Social Services

BRU, Program of Subprogram(s) Affected: None

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Enactment of this Bill would have no fiscal impact on the Divison of Family and Youth Services as child pornography is already included in reporting of abuse.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price, Director Phone: 465-3170

Division: Family and Youth Services Date: 3/22/83

Approved by Commissioner: Date: 3/30/83

Department: H&SS

Distribution:

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3/8/8

HORETSKI -

OPPOSE AGE to 18.

AGE DETERMINED VISUALLY

EASIER FOR PORSECUTION age @ 16

Amendments

1) ACTUAL OR SIMULATED l: 16 page 1
2) p 2 li 7 delete "sends or causes to be sent, or
3) l: 12, 13 delete "minor or a person who reasonably appears to be a minor" Add ... child under the age of 16 ...

MOVE

AMENDMENTS l: 14, 15, 26 from 16-18

TERMS OF IMPRISONMENT

OCTOBER 1, 1982

	FIRST FELONY CONVICTION	SECOND FELONY CONVICTION	THIRD FELON CONVICTION
MURDER I	[20] -- 99	[20] -- 99	[20] -- 99
UR. II & KIDNAP. & M. I. C. S. I	[5] -- 99	[5] -- 99	[5] -- 99
EXUAL ASSAULT 1ST **	5 --(10)-- 30	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
EXUAL ASSAULT 1ST	4 --(8)-- 30	7 1/2 --(15)-- 30	12 1/2 --(25)-- 30
A FELONY **	3 1/2 --(7)-- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
A FELONY	2 1/2--(5) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
B FELONY	0 -- 10	0 -- (4) -- 10	3 -- (6) -- 10
C FELONY	0 -- 5	0 -- (2) -- 5	0 -- (3) -- 5

*APPLIES WHEN A DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY EXCEPT FOR MANSLAUGHTER.

UMBERS IN (BRACKETS ARE) PRESUMPTIVE SENTENCES. NUMBERS ENCLOSED BY [BOXES] ARE MANDATORY MINIMUM SENTENCES.
UMBERS TO LEFT OF BRACKETS ARE LOWEST MITIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

Introduced: 3/25/83
Referred: Health, Education & Social Services and Judiciary

BY LISKA,ADAMS,BUSSELL,FLOOD,FRITZ, GRUSSENDORF,HURLBERT,LINDAUER, MALONE,MARTIN,PHILLIPS,SHULTZ, SZYMANSKI,TISCHER,WARD,CLOCKSIN, PESTINGER,UEHLING AND MCBRIDE

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 270

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to child pornography."

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

* Section 1. AS 11.41.455 is repealed and reenacted to read:

Sec. 11.41.455. UNLAWFUL EXPLOITATION OF A MINOR. (a) A person commits the crime of unlawful exploitation of a minor if, in this state and with the intent of producing a live performance, film, photograph, negative, slide, book, newspaper, or magazine that visually depicts the conduct listed below, the person knowingly induces or employs a child under ~~16~~ 18 years of age to engage in, or photographs, films, or televises a child under ~~16~~ 18 years of age engaged in the following conduct: actual or simulated

(1) sexual penetration;

(2) the lewd touching of another person's genitals, anus, or female breast;

(3) the lewd touching by another person of the child's genitals, anus, or female breast;

(4) masturbation;

(5) bestiality; or

(6) the lewd exhibition of the child's genitals.

(b) A parent, legal guardian, or person having custody or control of a child under ~~16~~ 18 years of age commits the crime of unlawful exploitation of a minor if, in this state, the person permits the child to engage in conduct described in (a) of this section knowing that the conduct is intended to be used in producing a live

performance, film, photograph, negative, slide, book, newspaper, or magazine that visually depicts such conduct.

(c) Unlawful exploitation of a minor is a class B felony.

* Sec. 2. AS 11.61 is amended by adding a new section to read:

Sec. 11.61.125. DISTRIBUTION OF CHILD PORNOGRAPHY. (a) A person commits the crime of distribution of child pornography if the person ~~sends or causes to be sent, or~~ brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints with intent to distribute, sell, or exhibit to others for commercial consideration, any matter which visually depicts conduct described under AS 11.41.455(a), knowing that the production of the matter involves the use of a ~~minor or a person who reasonably appears to be a minor~~ child under 18 engaged in such conduct.

(b) This section does not apply to acts that are an integral part of the exhibition or performance of a motion picture when the acts are done within the scope of employment by a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist

(1) has a financial interest in the theater or place in which employed; or

(2) caused the performance or motion picture to be performed or exhibited without the consent of the manager or owner of the theater or other place of showing.

(c) Distribution of child pornography is a class C felony.

Alaska State Legislature

COMMITTEES
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Resources
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State Capitol
Juneau, Alaska 99811
(907) 465-3783

Home - District 15
Star Route Box 421
Eagle River, Alaska 99577
(907) 688-2528

House of Representatives

John J. Liska

March 14, 1983

MEMORANDUM

TO: All House Members

FROM: John J. Liska, Representative - District 15

SUBJECT: Child Pornography Legislation

Enclosed is a draft of a Bill I have introduced regarding child pornography. In recent months there have been many newspaper articles regarding this issue. Having had my staff research this subject, we have found that there is no statute that covers the sale or distribution of pornography involving children. Nor is there any statute covering parental consent of the use of their children in pornographic materials.

This Bill addresses all of the above. Your support for this Bill is needed to curb these atrocities.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M March 17, 1983

SUBJECT: Child pornography
(HB 270)

TO: Representative John Liska

FROM: James H. Lear
Legislative Counsel JHL

In response to your request, I drafted HB 270 relating to child pornography. Monday afternoon, Mike Gay requested that I redo the bill to define the word "obscene". He indicated that it would have to be done by 9:00 yesterday morning. With just a short amount of time to fulfill this request, I inserted sec. 2 that would add a new paragraph to AS 11.41.470 (definitions) that would define "obscene" to mean

> ". . . conduct that, taken as a whole and applying to contemporary community standards,
>
> (A) appeals to the prurient interest in sex;
>
> (B) is patently offensive; and
>
> (C) lacks serious literary, artistic, political, or scientific value."

This definition sets out the standard established by the United States Supreme Court in Miller v. California, 413 U.S. 15, 37 L.Ed.2d 419, 93 S.Ct. 2607 (1973).

You should be advised that the standard set forth in Miller for determining obscenity may be relaxed by the states in prohibiting child pornography. Unfortunately, I was not aware of the July, 1982, case of New York v. Ferber, ___ U.S. ___, 73 L.Ed.2d 1113, 102 S.Ct. 3348, in which the United States Supreme Court drew the distinction between child pornography and other forms of obscenity.

I will outline the critical points made in New York v. Ferber, supra, and summarize your alternatives with HB 270.

At issue in New York v. Ferber is the constitutionality of a New York criminal statute which prohibits persons from knowingly promoting sexual performances by children under the age of 16 by distributing material which depicts such performances.

The decision highlights the fact that the federal government and 47 states have sought to combat the problem of child pornography with statutes specifically directed at the production of child pornography. At least half of such statutes do not require that the materials produced be legally obscene (i.e., that apply the Miller standard). Thirty-five states and the United States Congress have also passed legislation prohibiting the distribution of such materials. Twenty states prohibit the distribution of material depicting children engaged in sexual conduct without requiring that the material be legally obscene.

The heart of the New York v. Ferber case is a pronouncement by the United States Supreme Court that it is permissible for a state to penalize the production of child pornography and the distribution of material depicting children engaged in sexual conduct without requiring that the material be legally obscene.

Here is how the Court arrived at that decision. The Court stated the issue as follows:

> To prevent the abuse of children who are made to engage in sexual conduct for commercial purposes, could the New York State Legislature, consistent with the first amendment, prohibit the dissemination of material which shows children engaged in sexual conduct, regardless of whether such material is obscene?

The Supreme Court indicated that this case constitutes its first examination of a statute directed at and limited to depictions of sexual activity involving children. The Court then began with the question of whether a state has somewhat more freedom in proscribing works which portray sexual acts or lewd exhibitions of genitalia by children. The Court reviewed the position taken in Miller, supra, that the

> . . . states have a legitimate interest in prohibiting dissemination or exhibition of obscene material when the mode of dissemination carries with it a significant

danger of offending the sensibilities of unwilling recipients or of exposure to juveniles.

Miller v. California, 413 U.S., at 19.

The Miller standard, like its predecessors, was an accommodation between the states' interests in protecting the "sensibilities of unwilling recipients" from exposure to pornographic material and the dangers of censureship inherent in unabashedly content based laws. Like obscenity statutes, laws directed at the dissemination of child pornography run the risk of suppressing protected expression by allowing the hand of the censor to become unduly heavy. For the following reasons, the Court was persuaded that the states are entitled to greater leeway in the regulation of pornographic depictions of children.

(1) It is evident beyond the need for elaboration that a state's interest in "safeguarding the physical and psychological well-being of a minor" is compelling.

(2) The distribution of photographs of and films depicting sexual activity by juveniles is intrinsically related to the sexual abuse of children.

(3) The advertising and selling of child pornography provides an economic motive for and is thus an integral part of the production of such materials, an activity illegal throughout the nation.

(4) The value of permitting live performances and photographic reproductions of children engaged in lewd sexual conduct is exceeding modest, if not deminimus.

(5) Recognizing and classifying child pornography as a category of material outside the protection of the First Amendment is not incompatible with the Court's earlier decisions.

The Court reiterated that the test for child pornography is separate from the obscenity standard enunciated in Miller, but may be compared to it for purposes of clarity. The Miller formulation is adjusted in the following respects:

(1) A trier of fact need not find that the material appeals to the prurient interest of the average person;

(2) It is not required that sexual conduct portrayed be done so in a patently offensive manner; and

(3) The material at issue need not be considered as a whole.

The Court did indicate, however, that there are limits on the category of child pornography which, like obscenity, is unprotected by the First Amendment. As with all legislation in this sensitive area, the conduct to be prohibited must be adequately defined by the applicable state law, as written or authoritatively construed. Here the nature of the harm to be combatted requires that the state offense be limited to works that visually depict sexual conduct by children below a specified age. The category of "sexual conduct" proscribed must also be suitably limited and described.

The Supreme Court proceeded to analyze the New York statute observing that the forbidden acts to be depicted are listed with sufficient precision and represent the kind of conduct, that, if it were the theme of a work, could render it legally obscene: "Actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals". The Court gave special emphasis to the fact that the term "lewd exhibition of the genitals" is not unknown to the Court in this area and, indeed, was given in Miller as an example of a permissible regulation.

The Supreme Court made it perfectly clear that a state is not barred by the First Amendment from prohibiting the dissemination of material which shows children engaged in sexual conduct, regardless of whether such material is obscene.

The Court further clarified its position with regard to child pornography by dismissing the claim that the New York statute is unconstitutionally overbroad because it would forbid the distribution of material with serious literary, scientific or educational value or material which does not threaten the harm sought to be combatted by the state. The Court held this to be the paradigmatic case of a state statute whose legitimate reach dwarfs its arguably impermissible applications. The Court seriously doubted that those arguably impermissible applications of the statute amount to more than a tiny fraction of the materials within the statute's reach.

The Supreme Court refused to assume that the New York Courts will widen the possibly invalid reach of the statute by giving an expansive construction to the proscription on "lewd exhibitions of the genitals". Whatever overbreadth might exist should be cured through case by case analysis of the fact situations to which its sanctions, assertedly, may not be applied.

Now, how does this decision effect HB 270?

It means that HB 270 could be amended to delete the definition of "obscene" set out in sec. 2 of the bill, since it is permissible for the state to enforce AS 11.41.455 and AS 11.61.125 without a court finding that a depicted touching or exhibition is obscene. I would suggest, however, inserting the word "visually" before the word "depicts" on page 1, line 13, and on page 2, line 18; and changing the word "obscene" to "lewd" on page 1, lines 18, 20, and 24.

The suggested changes to HB 270 would give the state much greater latitude in enforcing the child pornography laws and still be within the constitutional guidelines set forth by the United States Supreme Court.

JHL:ljb
10/012

Introduced: 3/16/83
Referred: Health, Education &
Social Services and Judiciary

BY LISKA, ADAMS, BUSSELL, FLOOD, FRITZ, GRUSSENDORF, HURLBERT, LINDAUER, MALONE, MARTIN, PHILLIPS, SHULTZ, SZYMANSKI, TISCHER AND WARD

IN THE HOUSE

HOUSE BILL NO. 270

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to child pornography."

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

* Section 1. AS 11.41.455 is repealed and reenacted to read:

Sec. 11.41.455. UNLAWFUL EXPLOITATION OF A MINOR. (a) A person commits the crime of unlawful exploitation of a minor if, in this state and with the intent of producing for any commercial purpose a live performance, film, photograph, negative, slide, book, newspaper, or magazine that depicts the conduct listed below, the person knowingly induces or employs a child under 16 years of age to engage in, or photographs, films, or televises a child under 16 years of age engaged in the following conduct:

(1) sexual penetration;

(2) the obscene touching of another person's genitals, anus, or female breast;

(3) the obscene touching by another person of the child's genitals, anus, or female breast;

(4) masturbation;

(5) bestiality; or

(6) the obscene exhibition of the child's genitals.

NEW (b) A parent, legal guardian, or person having custody or control of a child under 16 years of age commits the crime of unlawful exploitation of a minor if, in this state, the person permits the child to engage in conduct described in (a) of this section knowing that the conduct is intended to be used in producing for a commercial

purpose a live performance, film, photograph, negative, slide, book, newspaper, or magazine.

SAME→ (c) Unlawful exploitation of a minor is a class B felony.

* Sec. 2. AS 11.41.470 is amended by adding a new paragraph to read:

(4) "obscene" means, conduct that, taken as a whole and NEW applying contemporary community standards,

(A) appeals to the prurient interest in sex;

(B) is patently offensive; and

(C) lacks serious literary, artistic, political, or scientific value.

* Sec. 3. AS 11.61 is amended by adding a new section to read:

Sec. 11.61.125. DISTRIBUTION OF CHILD PORNOGRAPHY. (a) A person commits the crime of distribution of child pornography if the person sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints with intent to distribute, sell, or exhibit to others for commercial consideration, any visual or printed matter which depicts conduct described under AS 11.41.455(a), knowing that the production of the matter involves the use of a minor engaged in such conduct.

(b) This section does not apply to acts that are an integral part of the exhibition or performance of a motion picture when the acts are done within the scope of employment by a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist

(1) has a financial interest in the theater or place in which employed; or

(2) caused the performance or motion picture to be

performed or exhibited without the consent of the manager or owner of the theater or other place of showing.

(c) Distribution of child pornography is a class C felony.

STAFF REPORT

HB 270

child PORNOGRAPHY

SECTION 1

11.41.455 (a) unlawful EXPLOITATION of a minor - DEFINES the CRIME - this is existing STATUTE

(b) This NEW subsection provides that those adults who HAVE CUSTODY of a minor who KNOWINGLY KNOWINGLY permit the EXPLOITATION in (a) are GUILTY of EXPLOITATION

(c) Both offenses are a CLASS B FELONY - (see CHART)

11.61.125 (a) (B) This NEW SECTION MAKES DISTRIBUTION OR intent to distribute child pornography a CRIME.

(b) CERTAIN EXEMPTIONS for employees of a theater ARE ALLOWED.

(c) Distribution is a class C felony.

HB

225

COMMITTEE REPORT

HOUSE

JUDICIARY

FURTHER:

(7)

3/18/83 Date: _____

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 275

An Act relating to the establishment of prison facilities.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HB 275 [✓] same title [ ] new title

and recommends [illegible]

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [✓] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

[illegible]

[illegible] No Rec

M.W. Miller No Rec

[illegible]

[illegible]

[illegible]

Staff Report
HB 275 Relating to Prison Facilities
Dave Palmer
April 18, 1983

HB 275 mandates that after July 1, 1983, all newly maximum security prisons be constructed in the vicinity of Palmer, Wasilla and Sutton.

The position paper from Department of Health and Social Services adamantly opposes the bill, and requests that the decision on correctional facility locations be based on criminal justice criteria.

The fiscal note is zero based on lack of information.

Next referral is to Judiciary Committee

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

House Bill No. 275

"An Act relating to the establishment of prison factilities."

House Bill No. 275 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities within the vicinity of Palmer, Wasilla, and Sutton.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: Roger V. Endell

Roger V. Endell, Director
Division of Adult Corrections

Date: 3/25/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date: 3/30/83

I. REQUEST:

Bill/Resolution No.: House Bill No. 275 Agency Affected: Health & Social Services

Title: "An Act relating to estab. of prison fac. Program Category Affected: Admin. of Justice

Sponsor: Reps. Larson & Lacher BRU, Program of Subprogram(s) Affected:

Requestor: House HESS Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange, LAO Phone: 465-3376

Division: Adult Corrections Date: March 23, 1983

Approved by Commissioner: Robert Fordyce Smith, M.D. Date: 3/30/83

Department: Health & Social Services

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Palmer, Wasilla, and Sutton.

POSITION PAPER/Department of Health & Social Service

POSITION PAPER

House Bill No. 275

"An Act relating to the establishment of prison factilities."

House Bill No. 275 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities within the vicinity of Palmer, Wasilla, and Sutton.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: Roger V. Endell

Roger V. Endell, Director
Division of Adult Corrections

Date: 3/25/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date: 3/30/83

RECEIVED
MILO M FRITZ, M.D.
MAR 35 6 24 PM '83

I. REQUEST

Bill/Resolution No.: House Bill No. 275
Title: "An Act relating to estab. of prison fac.
Sponsor: Reps. Larson & Lacher
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Admin. of Justice
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: March 23, 1983

Approved by Commissioner: Robert Fordon Smith, M.D. Date: 3/30/83
Department: Health & Social Services

Distribution:
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3/8/

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Palmer, Wasilla, and Sutton.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

Senate Bill No. 224

"An Act relating to the establishment of prison facilities."

Senate Bill No. 224 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities within the vicinity of Sutton.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: for Roger C. Lange
Roger V. Endell, Director
Division of Adult Corrections

Date: April 1, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 4/7/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: Senate Bill No. 224
Title:"An Act relating to estab. of prison fac."
Sponsor: Reps. Larson & Lacher
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Servs.
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected:
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange 4/1/83 Phone: 465-3376
Division: Adult Corrections Date: April 1, 1983

Approved by Commissioner: Robert London Smith Date: 4/7/83
Department: Health & Social Services

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Copy to Sponsor
Copy to Requestor (if different from sponsor)

3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Sutton.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
April 18, 1983
1:05 p.m.

Members Present: Rep. Tischer, Co-Chair
Rep. Fritz, Co-Chair
Rep. M.W. Miller, Vice-Chair
Rep. Davis
Rep. Koponen
Rep. Goll
Rep. Herrmann

COMMITTEE CALENDAR

HB 275: "An Act relating to the establishment of prison facilities."

HB 217: "An Act relating to the establishment of prison facilities."

HB 219: "An Act relating to Local Citizen Advisory Boards of the University of Alaska."

WITNESS REGISTER

Rep. Larson
District 16-B
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3727
Position Statement: Supported locating the next maximum security prison in the Palmer, Wasilla or Sutton area; described the advantages of the area such as easy access, already established recreation, medical and social service facilities; said he was amenable to changing the intent of the bill to locate all maximum security prisons in the designated area to that of locating the next facility in the Sutton area.

Rep. Lacher
District 16-A
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-4894
Position Statement: Pointed out the planning which has occurred for many years for a maximum security prison in the Palmer, Wasilla, Sutton area; said

that the prison was always intended for that area and only recently the site decision had become a political football.

Roger Lang
Department of Health & Social Services
Division of Corrections
Juneau, Alaska 99811
465-3376
Position Statement: Testified against HB 275 and HB 217; stated that the Division is opposed to any specific naming of an area where prison facilities may be constructed; stated that the usual process in site determination begins with an appropriation from the Legislature followed by the decision regarding the site location.

Davis Gray
Palmer Chamber of Commerce
Palmer, Alaska
Position Statement: Supported comments made by Representatives Larson and Lacher; acknowledged the effort and time spent planning for a prison in the Palmer area; commented that competition for a prison site was new and not very productive.

Sen. Gilman
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-4935
Position Statement: Commented that HB 217 was drafted because the Seward community was concerned it would not be considered with other communities for the next maximum security site location; stated that the location decision should be left to Corrections to decide based on their own goals and objectives not by the Legislature.

Willard Dunham
Co-Chair
Seward Citizens Task Force
Seward, Alaska
Position Statement: Described the background behind Seward's proposal for a maximum security prison site; commented on the suitability of the location for a security institution and the availability of private industries and educational facilities for prison industry programs; referred to the need for a prison in Seward due to the high unemployment rate.

Louis Bencardino
Seward Administration
Seward, Alaska
224-3331
Position Statement: Showed the committee a drawing of the proposed site in Seward; described the proposed prison industry programs; stated that Seward has offered to build the prison for the State; said he trusted Roger Endell to pick the site best suited for the state's needs.

Belle Blue
(Betty Breck)
Juneau, Alaska 99801
586-4103
Position Statement: Urged the committee to address the sociological conditions which lead to crime instead of spending more and more money on building new prisons.

PREVIOUS ACTION

HB 275: 3/18/83 - First Reading.

Committee referrals - HESS, Judiciary and Rules Committees.

No previous action in HESS.

HB 217: 2/21/83 - First Reading.

Committee referrals - HESS, Judiciary and Rules Committees.

No previous action in HESS.

HB 219: 2/21/83 - First Reading.

Committee referrals - HESS, Finance and Rules Committees.

See HESS minutes of April 11 and 15, 1983.

ACTION NARRATIVE

TAPE#31
Recording
Number 0001 Co-Chair Tischer called the meeting to order at 1:05 p.m. Representatives Fritz, Miller, Davis, Herrmann, Koponen and Goll were present. Co-Chair Tischer announced the

committee calendar and the Chair's intent to move all three bills out of committee.

Number 0047 — Rep. Davis welcomed Rep. Herrmann, who is filling in for Rep. Cato, to the committee.

Number 0067 — Rep. Larson, sponsor of HB 275, commented on the history of corrections related activity in the Palmer, Sutton and Wasilla areas; described the medical, social, and family services already available in the area for prisoners, prison employees, and their respective families. Rep. Larson acknowledged the decline of oil revenues, but stated that the courts mandated that Alaska bring maximum security back to Alaska. Rep. Larson argued that HB 275 would help mitigate extra costs by offering the State the lowest costs of all proposed sites in terms of construction and operation.

Number 0148 — Rep. Larson encouraged the committee to make a decision after looking at future revenues and State responsibilities with regards to prisoners now in the lower '48.

Number 0167 — Rep. Tischer commented on the strong impact of the mandate to center all maximum security prisons in one area.

Number 0181 — Rep. Larson said he would welcome a committee substitute to change lines 10 - 20 to read; "the commissioner locate a newly constructed maximum security prison facility within the vicinity of Palmer, Wasilla, or Sutton".

Rep. Larson said that the reason for mandating that all maximum security prisons be built in one area was to conserve resources by concentrating building, capitol, and facilities in one location.

Number 0203 — Rep. Davis pointed out Roger Endell's, Division of Corrections, recommendation to spread maximum security sites throughout the state.

Number 0220 — Rep. Larson spoke about the desirability of concentrating future sites around food, recreation and housing facilities which are already available.

Number 0234 — Rep. Tischer asked about the impact of HB

275 on the Mat-Su Community. Rep. Larson responded that initially people would need education in order to work with the prisoners, but then the prison would provide approximately 250 jobs for the community and increase sales for local businesses. Rep. Larson also stated that the growth impact would be within the borough's ability to provide services.

Number 0286 — Rep. Davis said he had difficulty locking in all prisons to one area; asked if Rep. Larson would object to changing "all" to "a" maximum security prison and "shall locate" to "may locate". Rep. Larson said that would be satisfactory.

Number 0300 — Co-Chair Tischer asked the committee to stand at ease per the request of Rep. Lacher.

Number 0302 — Rep. Larson said he was amenable to a committee substitute which would change line 19 to read; "the commissioner shall locate a newly constructed maximum security prison facility within the vicinity of Palmer, Wasilla, or Sutton".

Number 0328 — Rep. Goll suggested adding the word "next" before "maximum security prison facility". Rep. Larson agreed to the suggestion.

Number 0347 — Rep. Tischer directed HESS staff to write a committee substitute with the suggested changes for HB 275.

Number 0366 — Rep. Larson said he would approve any wording which would mandate that the next maximum security prison be located in the Sutton area.

Number 0375 — Rep. Lacher, co-sponsor of HB 275, stated that HB 275 was introduced because planning had centered on a maximum security site in Sutton for many years, but then with the change in Administration, the location of the next maximum security site was questionable and subject to competition from other communities. Rep. Lacher argued that the site is badly needed and should be located close to Anchorage.

Number 0413 — Rep. Goll asked why there was a delay in building the prison at Sutton if all the

plans were already made. Rep. Lacher said she believed that the prison is not built yet because it is being used as a political football.

Number 0426 — Roger Lang, Division of Adult Corrections, stated that the Division is opposed to any specific naming of an area where a prison facility must be constructed. Mr. Lang contended that site considerations should be studied by the Division, not decided by the Legislature.

Number 0449 — Rep. Goll questioned Mr. Lang about the status of the Division's decision. Mr. Lang said the Division has considered 7 proposals thus far.

Number 0459 — Rep. Fritz commented that the decision could not be reached before establishing the Department.

0488 — Rep. Koponen asked the witness what criteria the Division would use to determine the next prison site, for example how many prisoners would it need to house? Mr. Lang responded that the Division is considering a 300 bed maximum security facility with the possibility for an additional 100 beds, and said that currently 200 maximum security prisoners are housed out of Alaska.

Number 0514 — Rep. Davis asked how many prisoners would qualify for the maximum security site. Mr. Lang answered that approximately 250 maximum security inmates located in and out of state would qualify. Rep. Davis stated an interest in receiving more information on the criteria which would determine the location of the next site.

Number 0535 — Rep. Tischer argued that the Division had plenty of time already to provide HESS with that information.

Number 0543 — Rep. Goll pointed out a letter from the Department of Health and Social Services indicating that no decision would be reached until funding for planning was authorized by the Legislature. Rep. Goll commented that the delay was not productive, and admonished the Department to let the Legislature worry about funding after the Department decides on a site.

Number 0566

Davis Grey, Palmer Chamber of Commerce, supported the comments made by Representatives Lacher and Larson, and acknowledged the effort and time spent on planning for a prison in the Palmer area. Mr. Grey said competing for a prison site was new and only lead to more studies and lobbying. Mr. Grey urged the Division to make the decision soon on the basis of site suitability.

Number 0611

Co-Chair Tischer presented HB 217 for committee consideration, and pointed out that HB 217 also mandates that all maximum security prison facilities shall be located within the vicinity of Seward.

Number 0633

Senator Gilman, District D, stated that he was not speaking for Rep. Cato, the bill's sponsor, and agreed to the similarity between HB 217 and HB 275. Sen. Gilman explained that Rep. Cato drafted HB 217 because the Seward community was concerned that they would not be one of the communities considered for the next maximum security site. Sen. Gilman contended that the site location should be left to Corrections to decide on the basis of their goals and objectives, not by the Legislature.

Number 0663

Mr. Dunham, Co-Chair Seward Citizens Task Force, stated that Seward submitted a proposal for a maximum security prison site under the Hammond Administration after the Anchorage and Sutton communities indicated they did not want the prison. Mr. Dunham asserted that Seward offers the most economic alternative for the state and described the location of the proposed prison site. Mr. Dunham explained that the proximity of the site to vo-tech programs, industrial sites, the University of Alaska, and the Institute of Marine Sciences would be conducive to prison industries.

Number 0718

Mr. Dunham said he would like to know what is required for the prison site now, and stressed the high unemployment rate in Seward.

Number 0743

Louis Bencardino, Seward Administration, showed the committee a sketch of the proposed prison site and its surroundings.

Mr. Bencardino said that authorities have made arrangements with private industry for prison industries, and have offered to build the prison for the state. The witness also pointed out that Seward has a port which is two days closer than Anchorage to the Lower '48. Mr. Bencardino agreed that some of the other proposed prison sites have merit, and said he trusted Roger Endell to pick out the best site. Mr. Bencardino supported letting the Division judge the various proposals.

Number 0799

Rep. Fritz asked the witness what prison industries Seward had in mind. Mr. Bencardino listed the fishing industry, fabrication industry, and bottom fishing processing plant.

Number 0822

Rep. Tischer questioned why efforts had been concentrated on maximum security prisons when medium security prisons are also overcrowded. Mr. Bencardino said the community would rather have a maximum security facility and asserted that the proposed location was well suited for maximum security facilities.

Number 0848

Roger Lang, Division of Adult Corrections, stated that his testimony for HB 217 was the same as that for HB 275. Mr. Lang contended that HB 217 was also to site specific.

Number 0854

Rep. Tischer asked Mr. Lang what was holding up the Division's decision. Mr. Lang responded that last year's budget included a request for a maximum security facility which was tentatively set for the Palmer/Wasilla area. The request was part of a bond package which was vetoed by Governor Hammond. Mr. Lang stated that the FY '84 request for a maximum security facility did not specify the Palmer area.

Number 0888

Rep. Fritz repeated that the delay was due to the fact that the Governor had not signed the bill to make the Division of Adult Corrections into a Department. Rep. Tischer retorted that prisons were built under the Division in the past.

Number 0897

Mr. Lang stated that decisions are usually not made by the Division until an appropriation is made by the Legislature.

Number 0914 — Rep. Goll suggested the Division make a site decision soon regardless of past policy in order that the Legislature could appropriate money.

Number 0929 — Rep. Davis reminded the committee that the final decision would now rest with the Commissioner of the Department of Health and Social Services.

Number 0950 — Belle Blue, Juneau citizen, agreed that the increase in crime warranted attention for new prison sites, but indicated that the roots of crime are sociological. Ms. Blue recommended that the committee address conditions in society, such as unemployment, which lead to crime.

Number 0970 — Co-Chair requested the witness to confine her remarks to the bill at hand.

Number 0977 — Co-Chair Tischer asked the committee if there was further discussion before she entertained a motion to move a committee substitute for HB 275.

Number 0992 — Rep. Larson repeated his suggestions for amended wording on Lines 19 and 20; "the commissioner shall locate the next maximum security prison facility within the vicinity of Palmer, Wasilla or Sutton".

Number 1000 — Rep. Miller argued that the committee should also add Haines, Seward, Cordova, etc. after Sutton because they too have valid concerns. Rep. Miller said he had a problem with passing out two bills which directly conflict with each other.

Number 1010 — Rep. Larson disagreed with adding the other communities because they had not introduced a bill and done as much back-up work as the Palmer community had. Rep. Larson suggested letting HB 275 answer the immediate need for a prison and then looking at the other sites.

Number 1015 — Rep. Tischer stated that because of the immediate crisis with regards to prison overcrowding, it was the Chair's intent to bring up both bills for discussion before the public, and to help Roger Endell get on with his job as head of Corrections.

Number 1050 — Rep. Tischer asked for a motion to amend HB 275 at the wishes of the sponsor. Belle Blue requested permission to testify. Rep. Tischer denied permission.

Number 1054 — Rep. Fritz contended that the committee should listen to the witness. Co-Chair Tischer called an at ease.

Number 1060 — Belle Blue stated basic objection to giving large amounts of money to prison facilities instead of other programs to reduce crime. Ms. Blue argued that crime is only a symptom of more basic sociological problems.

Number 1088 — Rep. Davis thanked the witness for her testimony and then stated that he would either pass one bill out or the other and that he personally would vote "no recommendation" on both bills.

Number 1095 — Discussion regarding past policy for determining prison sites.

Number 1109 — Rep. Koponen indicated that the Legislature does have the authority to make the final decision, but questioned if the Legislature had the right criteria upon which to base its decision.

Number 1129 — Rep. Fritz predicted that the final decision would be very political, and commented that the committee could just as well add the names of other communities onto either HB 275 or HB 217.

Number 1141 — Rep. Miller suggested naming a deadline for the Division to decide on a site.

Number 1149 — Rep. Goll stated that the House and Senate leadership should direct the Division to decide on a site before the Legislature appropriates money.

Number 1167 — Rep. Davis asserted that passing either bill out of committee could raise false hopes for either Seward or the Palmer area.

Number 1178 — Rep. Tischer said she had no intention of calling for a "do pass" and told Rep. Davis that he was free to vote however he wanted. Co-Chair Tischer then called for a motion.

Number 1191 — Rep. Miller moved to draft a committee

substitute for HB 275 with the suggested language changes to Section 2, and then made a motion to move CSHB 275 out of committee with individual recommendations.

Number 1202 — Co-Chair Tischer called for a vote on the first motion. The committee voted unanimously to replace HB 275 with CSHB 275. Co-Chair Tischer called the previous question on the second motion.

Number 1215 — Rep. Goll pointed out that committee members had the option not to sign if they did not support the bill, and did not want it to leave committee.

Number 1225 — Co-Chair Tischer called for a vote on the second motion. The committee voted unanimously against moving HB 275 out of committee.

Number 1227 — Rep. Miller moved to make the same changes to Section 2 of HB 217. Co-Chair Tischer called for a vote on the motion. The motion passed by a 6 to 1 vote.

Number 1240 — Rep. Miller moved to pass CSHB 217 out of committee. Co-Chair Tischer called for a vote. The motion to move CSHB 217 failed unanimously.

Number 1246 — Co-Chair Tischer presented SSHB 219 for committee consideration, stated her intent to move the bill out of committee, and asked for a motion to that effect.

Number 1252 — Rep. Goll so moved. Rep. Davis objected. Rep. Goll withdrew his motion.

Number 1260 — Rep. Fritz moved to pass SSHB 219 out of committee with individual recommendations. The motion passed by vote of 4 to 3.

Number 1275 — Co-Chair Tischer adjourned the meeting at 3:02 p.m.

Introduced: 3/18/83
Referred: Health, Education and
Social Services and Judiciary

IN THE HOUSE BY LARSON AND LACHER

HOUSE BILL NO. 275

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the establishment of prison facilities."

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

* Section 1. AS 33.30.020 is amended to read:

Sec. 33.30.020. COMMISSIONER TO ESTABLISH AND ADMINISTER PRISON FACILITIES. Subject to the provisions of AS 33.30.025, the [THE] commissioner shall establish prison facilities and classify the prisoners in prison facilities. The commissioner shall provide for the safety, subsistence, proper government, and discipline of prisoners. The commissioner shall establish programs for the treatment, care, rehabilitation and reformation of prisoners.

* Sec. 2. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.025. LOCATION OF FACILITIES. After July 1, 1983, the commissioner shall locate ~~all newly constructed~~ the next maximum security prison facilities within the vicinity of Palmer, Wasilla, ~~and~~ or Sutton.

Roger Lange - Corrections - Financial Mgmt

250 prisoners

Dave Gray - Palmer Chamber of Commerce

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
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WHILE IN JUNEAU
POUCH V
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House of Representatives

April 18, 1983

M E M O R A N D U M

TO: Representative Tischer

FROM: Representative Lacher

SUBJECT: HB 275

I request that your Committee seriously consider reestablishing the Palmer/Sutton area as the state's number one site choice for the new maximum security prison.

Enclosed is a copy of a recent cost-benefit report on locating the state maximum security facility in the Mat-Su valley versus other proposed state locations. Please examine the conclusions on page 12 of this report and take these into consideration in your review of this issue.

I would like to take this opportunity to remind you that the previous Administration selected the Palmer/Sutton site location, five years ago, for very good reasons. The factors which led to the selection of the Palmer/Sutton site have not changed in the brief period of time that has lapsed in the recent administrative change. I therefore urge you to seriously reconsider the selection of the Palmer/Sutton site as the state's location site for the new maximum security prison.

Some of the factors which led to the original selection of the Palmer/Sutton site are:

1) The Mat-Su area is well known in the State for the significantly lower costs in construction. This lower overall cost factor, in construction, is due to the Mat-Su proximity to efficient transportation, an immediately available work force, readily available construction industries and supplies, and other locational factors that directly effect the overall cost of construction.

2) The Palmer/Sutton area has several suitable sites for such a facility which already provide the necessary utility facilities that a maximum security prison would require. These in place utility facilities would, therefore, also significantly reduce overall construction costs.

3) The Palmer/Sutton area offers a site location that is semi-isolated from a population center while at the same time remaining accessible to necessary public support facilities, (e.g., Anchorage Superior Court, Mat-Su and Native hospitals, libraries, etc.).

4) A qualified and available work force is to be found in the Mat-Su area, once the facility is in place.

5) Several acceptable sites are located on State lands within the Palmer/Sutton area, eliminating the cost of land acquisition.

6) The governing bodies of the Mat-Su Borough and the two major cities in the District, Palmer and Wasilla, have endorsed resolutions, with public support, for the location of the maximum security prison in the Palmer/Sutton area.

I would appreciate the serious reconsideration, by the House HESS Committee, of the Palmer/Sutton area for site selection for the new maximum security prison.

BENEFIT / COST ANALYSIS OF ALTERNATIVE SITE SELECTIONS OF THE STATE OF ALASKA MAXIMUM SECURITY PRISON

(1)

BENEFIT / COST ANALYSIS OF ALTERNATIVE SITE SELECTIONS OF THE STATE OF ALASKA MAXIMUM SECURITY PRISON

Prepared for:

The Matanuska-Susitna Borough

Prepared by:

Policy Analysts, Ltd.
Applied Research Associates, Inc.

(2)

EXECUTIVE SUMMARY

Consideration for locating a long-term correctional facility should include three major categories at the very least. First is the economics from the State agency's point of view (operating efficiency). Second is the impact of the facility (short and long term) on the local community, in terms of employment, housing, support services demanded, and risk. Third is the impact of location on the prisoner population and their needs for visitation by family, attorneys, and parole boards.

Location of the facility in question in the Mat-Su Borough is seen as providing optimum siting for any facility which is not placed in Anchorage itself. In comparison with other locations under consideration: its proximity to Anchorage (the location where 44% of the convicted felons we currently send to the Lower 48 were arrested) is ideal – about 50 miles; it has suitable land available, in several locations; its state payrates and construction/facility maintenance costs are lower than the Seward/Whittier/Valdez alternatives; it has a labor force available for construction/operation with high unemployment; there is unoccupied housing available; and there would be no further costly delays to construction (estimated at up to a year for a possible increase in cost of $4-5 million) due to planning for a new site. Over a 20-year period, costs in the Seward area would amount to more than $21,500,000 higher than in Palmer, while a similar forecast for Valdez is more than $50,000,000 higher than Palmer.

Community support for a Prison in the Matanuska-Susitna Borough is widespread and concerns over housing and social impacts can be easily addressed and mitigated.

(3)

INTRODUCTION

This report presents a brief explanation of a decision to site the South Central Regional Long Term Facility in the Matanuska-Susitna Borough. (The facility will henceforth be referred to as the Prison). Sources for the information include the Alaska Department of Transportation and Public Facilities, the Alaska Department of Health and Social Services, the Mat-Su Borough Comprehensive Plan (Draft), the site-evalution done by TRA/Farr et al in September, 1982, and the Alaska Court System 1982 Annual Report.

The three major areas of concern when locating a Prison are:

1) the economics/logistics/regulatory compliance from the operating agency's point of view;

2) the impact on the community which is proximate to the Prison; and

3) the impact on the prisoner population of the location, i.e. expense and difficulty of visits by relatives and attorneys and visits to parole boards and courts.

Each of these areas will be discussed in detail in the following report.

(4)

AGENCY CONSIDERATIONS

The agency in question is the Alaska Department of Health and Social Services, Division of Corrections. It is responsible for the confinement of felons and others at the direction of the Court System. The facility in question would house convicted felons with relatively long sentences who are currently confined in the Lower 48 via the Federal Bureau of Prisons. There are currently around 200 of these prisoners, and the number is constantly increasing. The State has agreed to provide confinement facilities for its prisoners by 1987, hence the need for a maximum security prison in Alaska. A 1981 Facilities Profile projected 1982 sentenced felons to be 720 rising to 1176 by 1986. Current trends suggest that these figures are well below actual figures and thus conservative.

General requirements for the facility are determined by criteria of the American Correctional Association Standard 4147 and include location within 50 miles of a population centered over 10,000 with access to hospital, courts, and public transportation. This standard is not to be taken lightly. Service support both from the judicial system and logistical support systems rise in cost the further a facility is located from a population center. Examples include care for serious medical problems, psychiatric service support, support from the legal community, goods and services support for operation and maintenance, educational support services, etc. Siting criteria, developed by the Criminal Justice Planning Agency include: the size of the site should be 75-100 acres with 55 acres developable for the facility and a buffer space (developable means less than a 20% slope with drained soils, not on a flood plain, and suitable for sewage disposal and construction; and State ownership of the land. The Sutton site originally chosen for the Prison has 640 acres with more than enough developable land; access to the Glenn Highway is acceptable for the Prison's purposes; it is State owned and roughly 50 miles from Anchorage with local health care, services, and public transportation.

The economics of the Prison analysis includes construction, maintenance, and operation. In comparison with other sites, both construction and operation costs are significantly lower: construction in Seward would be

approximately 10% higher with maintenance estimated to be 5% higher, while payroll costs would be about 4% higher (State employees get a two-step increase to work in Seward). This would amount to $4-5 million in construction, about $100,000 in annual maintenance, and approximately $225,000 in salaries. Construction in Valdez would be 20% higher with maintenance 6% lower (though on a higher base cost), while payroll costs would be 16% higher (State employees get a five-step increase to work in Valdez). This would amount to $7-8 million in construction, roughly $500,000 in annual maintenance, and an estimated $900,000 in salaries. In other words, start-up costs are $4-8 million higher and yearly costs are $325,000 - $1,400,000 higher in other locations. In addition, there would be delays in project commencement if current site studies had to be abandoned; unofficial State estimates put this delay at up to a year, with attendant increases in final cost of construction as well as loss of the use of a facility for that year. The placement of any multi-million dollar State facility would require a thorough site evaluation and review. The costs of studies completed to date would have to be written off and repeated. In addition, the loss of time could jeopardize the agreement to transfer prisoners held in federal facilities by 1987, and certainly raise the cost of construction $4-5 million due to the inflationary impact of delay.

Finally the siting of any facility should consider sharing facilities already owned by the State. The Palmer Correctional Facility could readily share much of its services, such as dieticians,counselors, security and maintenance people, storage facilities, etc. Ancillary services, such as staff recreation and transportation can also be shared.

Table 1 shows approximate costs due to re-siting.

(6)

TABLE 1

SITE EXAMPLES – 20 YEAR COST DIFFERENTIALS (1)

	Palmer	Seward	Valdez	
Construction	$ 0	$ 4,500,000	$ 7,500,000	
Delay	0	4,500,000	4,500,000	
Payroll (2)	0	4,500,000	18,000,000	
Maintenance (2)	0	2,000,000	10,000,000	
Travel (2)	0	6,000,000	10,000,000	(est.)
TOTAL	$ 0	$21,500,000	$50,000,000	

(1) Table is designed to demonstrate relative cost differences among three sites which serve as examples for a variety of Southcentral locations in relationship to their proximity to Anchorage.

(2) 20-year costs above Palmer/Sutton site in 1982 dollars.

COMMUNITY IMPACT

Impact on the local community of a Prison includes the economic impact due to employment in construction and operation of the Prison, demand for housing and support of the staff, demand for public services, environmental impact, and risk of escaped felons.

The economic impact would be mostly positive, dominated by increased employment and economic growth through provision of services to the Prison. The Borough has a history of unemployment rates higher than either Anchorage or the State as a whole, running from 11-17%, hence would be able to absorb increased labor requirements happily. It currently has a labor force of around 11,000 with almost 2,000 unemployed and an unemployment rate of 17.6% (February 1983). This is up from 15.7% a year ago. It has a resident population which includes skills necessary to operate a confinement facility (there currently exists a similar low-risk facility in Sutton). We feel that it could easily absorb the additional requirement for labor and staff. In addition, the Matanuska-Susitna Borough is the only labor market in Alaska which can effectively draw from other areas on a regular year-round basis. Its proximity to Anchorage, particularly Eagle River/Chugiak area provides the site with a potential labor market area of 108,000. This capacity compares to Valdez, with a February, 1983, labor force estimate of 3,035 and Seward with 1,671. The Mat-Su labor market area is 3.6 - 6.6 times larger without drawing upon the larger Anchorage market. Currently, about 2,500 people commute between Mat-Su and Anchorage daily for employment. This level is similar to the entire labor market of the other sites considered here.

Land and housing is available freely, with over 800,000 acres of privately held land in the Borough and almost 1,000 vacant housing units. There is a 25-bed hospital, three health care centers, and two mental health centers, so medical support is available. With retail sales over $50 million a year, the local economy can easily support the additional requirements of the Prison for supplies and routine services; utilities currently are available at the site due to the Palmer Correctional Facility.

The environmental impact is considered nil and the risk of escaped felons is already being borne due to existing facility.

LEVELS OF COMMUNITY SUPPORT
PALMER/SUTTON PRISON SITE

Examination of agencies, government bodies and other organizations in the Mat-Su Borough indicates that the level of community support for locating the prison in Palmer/Sutton is very strong. Appendix B depicts the historical development of community action since late 1981. The information was gathered through interviews conducted in the public and private sectors in the communities of Palmer, Wasilla and Sutton. Local government officials in Palmer and Wasilla, and Borough officials have unanimously supported the proposal of the construction of a maximum security facitlity at Sutton since its inception. Both the Wasilla and Palmer Chambers of Commerce have also passed resolutions in its favor; and the Palmer Chamber is in the process of raising $10,000 to finance a lobbying effort in Juneau. It is of interest to note that the Palmer Chamber has been relatively inactive in recent years; however, the Sutton siting issue has generated tremendous interest and involvement by the business sector of this organization. The Chamber of Commerce funds are being matched by both the City and Borough governments.

The Palmer Elks have a very special interest in the Sutton siting. This organization owns the 640 acres which adjoin the proposed site. The Palmer Elks Club in conjunction with the State Elks Association, are in the process of drawing up plans to develop this land into a youth camp with special focus on handicapped children. The State Association has unanimously supported the recreation siting with the full understanding of the State's proposal to build the maximum security facility on the adjoining land.

The only concern appears to be with some of the people living in the Sutton area. Press coverage of the original State public hearings regarding the siting of the proposed facility indicated that community opinion was against the siting. However, interviews conducted of Mat-Su residents revealed several concerned families who had formed a rather "vocal minority." One interviewee indicated that the minority was, in fact, intimidating, and some of these residents are also on the Sutton Community Council, a newly recognized council whose origins are through the Alpine Civic Club. The

(10)

Alpine Civic Club did conduct a very questionable telephone survey in December, 1982 to ascertain the public opinion of the proposed siting at Sutton. Most of the interviewers were known to be against the siting.

One key difficulty in assessing community opinion is that no real information dissemination regarding the impact of the site selection as well as the costs/benefits had been made available to the local community at the time of these surveys. It is the belief of resident and local government officials living in the area that opposition has arisen largely out of fear and misunderstanding of the impact of such a siting. In fact, following a joint open meeting between the Palmer Chamber of Commerce and the Sutton Community Council on March 23, one Borough Assemblyman now plans to request the Borough Planning Department to assist the Sutton community in a needs assessment and impact analysis. One major concern of this group is impacts on the local housing market. In actuality, the site is located four miles south of Sutton and six miles north of Palmer. Such impact would be more likely to occur in the larger community of Palmer and areas south, with its more accommodating infrastructure.

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PRISONER IMPACT

In the case of prisoner impact, the location of the Prison is of lesser importance than it would be with pre-trial or low-risk facilities, since they have fewer occasions to travel to court or to otherwise leave the Prison. There are, however, costs associated with visits by others to them: social visits by family and friends become more difficult as the proximity of the Prison to population centers becomes greater. Similarly, visits by parole boards become more expensive and difficult with increasing distance from Anchorage.

It is difficult to calculate the costs associated with increasing the distance travelled by those wishing to visit the Prison. Hertz recently estimated the cost of ownership/use of a vehicle to be over 40 cents per mile nationally, so such costs could be appreciable when applied to State parole board members travelling to visit a felon. To illustrate the impact, if we assume that each of the projected prisoners would average 24 annual contacts involving personal, legal, other professional, or transport of prisoner to Anchorage for legal, medical, or other reasons, then: in 1982 dollars, the Seward site would add $6 million in travel costs over 20 operational years and while Valdez would add $30 million. This does not consider overnight accommodations which are increasingly likely the further the site is from Anchorage.

A centrally located site in South Central Alaska is critical to minimize problems for families and professional personnel. A 1981 Profile of Prisoners housed through the Federal Bureau of Prisons in the Lower 48 showed that 44% of the prisoners had been arrested in Anchorage, and 27% in Fairbanks. Over 70% of those visiting prisoners would be able to drive easily to the Sutton site and the balance would be travelling through Anchorage to get to the Prison. Appendix A to this report provides further data on the prison population housed in the Lower 48.

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CONCLUSION

Two things stand out after a review of the data on the proposed Prison. They are: 1) that such a facility should be located as close to Anchorage as possible; and 2) that such a facility is greatly needed.

LOCATION

Factors affecting the operating agency indicate that agency costs will be minimized with placement in the Matanuska-Susitna Borough, and that operating criteria will be met with prison location at the Palmer/Sutton site.

Factors affecting the local community indicate that the Prison would be a welcome addition, reducing unemployment and increasing the economic base. Public support in the Matanuska-Susitna Borough is widespread, and opposition is centered on issues easily mitigated.

Factors affecting the Prison population indicate a preference for the Mat-Su location, in terms of reasonable access to personal, legal, and other support systems.

FACILITY NEED

The combination of a large prison population housed outside the State through the Federal Bureau of Prisons with a rapidly increasing need for confinement space results in a fairly desperate requirement for this Prison. Conservative estimates of correctional facilities needs by fiscal year 1986 show that total required bed space will only be met through the construction of at least 300 prison bed spaces.

APPENDIX A

DATA FROM AUGUST 10, 1981 PROFILE OF PRISONERS HOUSED THROUGH THE FEDERAL BUREAU OF PRISONS IN THE L-48

Alaska Resident Time Before Crime

Time	Number	Percent
Less than 6 mo.	17	10
6-12 mo.	17	10
1.1.9 yr.	12	6
2-2.9 yr.	5	3
More than 3 yrs.	123	71

AGE

Age	Number	Percent
Under 20	1	.5
20-30	86	49
31-40	59	34
41-50	19	11
Over 50d	9	5

CRIME CLASS

Class	Number	Percent
Unclassified felon	67	30
Class A felon	96	55
Class B felon	9	5
Class C felon	2	2

PLACE OF ARREST

Place	Number	Percent
Anchorage	76	44
Fairbanks	46	27
Juneau	11	7
Ketchican	3	2
Bethel	9	6
Bush	23	14

OTHER

43% had no prior convictions.

20% had college plus some graduate school.

93% had over two (2) years remaining before release, compared to 36% of instate.

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APPENDIX B

CHRONOLOGY OF COMMUNITY SUPPORT

DATE	ORGANIZATION	ACTION
Nov. 11, 1981	Palmer City Council	Held public hearing and unanimously passed resolution supporting the location of the new State prison in Sutton.
Jan. 1982	Mayor of Palmer	Attended Alaska Conference of Mayors in Juneau; met with Health and Social Services personnel to inquire about the prison and to inform the Department of the City of Palmer's support for the Sutton site.
First Quarter 1982	Wasilla City Council	Discussed and supported the siting of the proposed State prison at Sutton.
March 1982	Palmer Chamber of Commerce	Passed resolution stating their support for the location of the Prison at Sutton.
Mid-winter	Elks	By unanimous vote, at the Elks mid-winter meeting in Petersburg, the organization decided to proceed with plans to build a youth camp on the 640 acres adjacent to the proposed prison site, presently owned by the Elks. The camp will be for all children with special focus on the handicapped.
Nov. 1982	Palmer Chamber of Commerce	Passed second resolution stating support of the Sutton site for the new Administration.
Dec. 1-13	Alpine Civic Club	Conducted telephone survey of Alpine Club membership assessing the level of community support for locating the Prison at Sutton.

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Dec. 7, 1982	Mat-Su Borough Assembly	Passed a resolution urging the State of Alaska to locate the Prison at Sutton.
Dec. 14, 1982	Palmer City Council	Held a second public hearing and passed a second resolution reaffirming the facility at Sutton.
Jan. 23-25, 1983	Mayor of Palmer	Attended the Alaska Conference of Mayors in Juneau. Contacted Senator Kerttula and Representatives Larson and Lacher, to engage their support.
Mar. 15, 1983	Mat-Su Borough Assembly	Appropriated $7,000 toward cost benefit study and lobbying effort to support the location of the State prison in Sutton.
	Joint meeting of Palmer Chamber, Mat-Su Borough, and Palmer City Council	Joint meeting to work on conveying desire to have prison at Sutton site. Turned over lobbying effort to the Palmer Chamber of Commerce.
Mar. 22, 1983	Wasilla Chamber of Commerce	Went on record supporting the location of the prison at Sutton.
	Palmer City Council	Appropriated $10,000 to support the lobbying effort with the Mat-Su Borough and the Palmer Chamber of Commerce funds to be used followed by a dollar-for-dollar pro rata share between the City of Palmer and the Mat-Su Borough after deducting the costs of the cost/benefit study.
Mar. 23, 1983	Joint open meeting between the Palmer Chamber of Commerce and the Sutton Community Council	Discussed local community concerns regarding the prison site selection.

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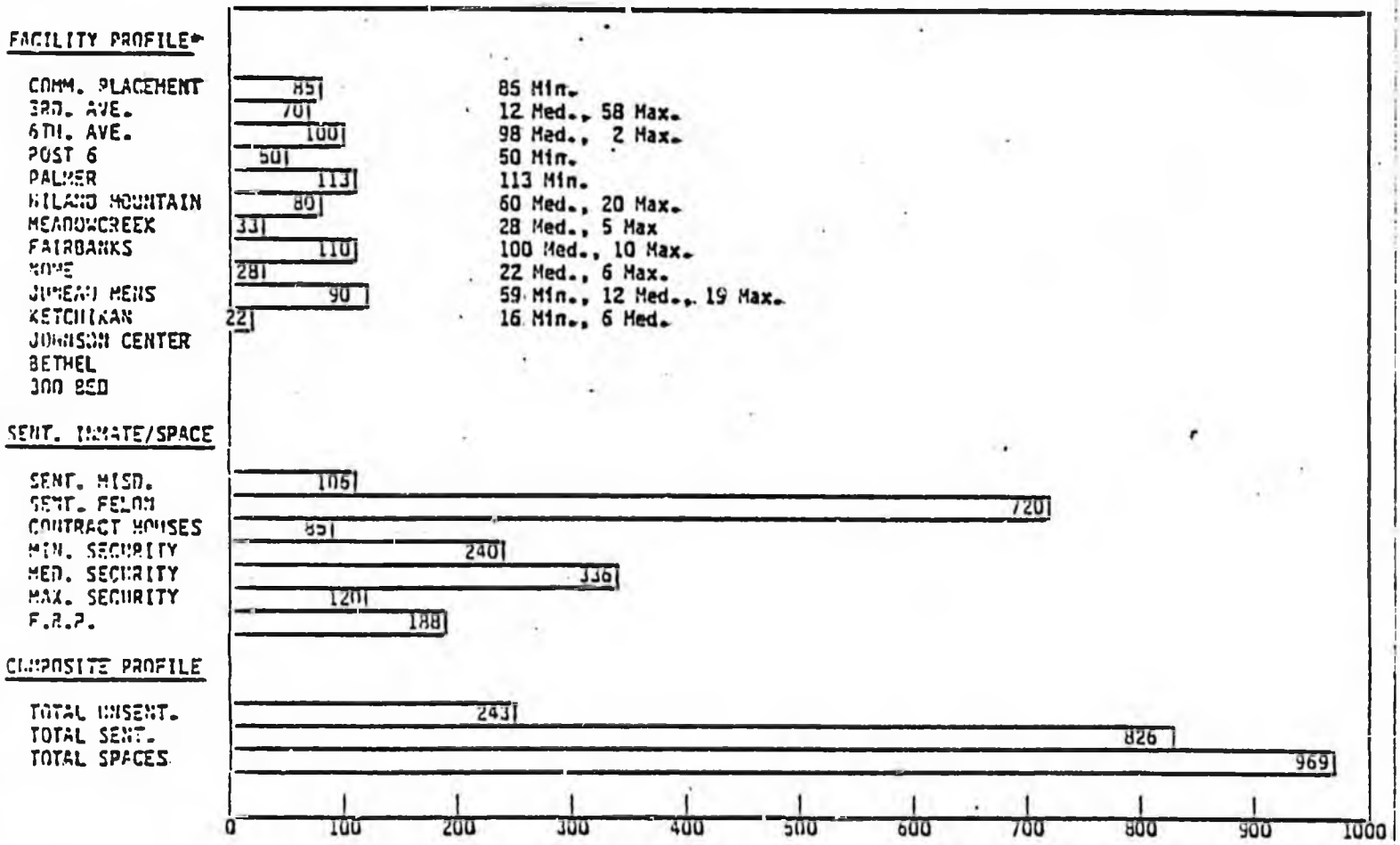
	Mat-Su Borough Assembly	Appropriated an additional $3,000 to support a joint lobbying effort and cost/benefit study with the City of Palmer and the Palmer Chamber of Commerce.
Mar. 24, 1983	Palmer Chamber of Commerce	Chamber issues emergency letter to raise $10,000 for a major lobbying effort to support the location of the new State prison at Sutton.
Mar. 28, 1983	Wasilla City Council	Passed resolution supporting siting of the Prison at Sutton.
Apr. 1983 (1st week)	Sutton Community Council	Full membership meeting to discuss siting of Prison.
May, 1983	Elks State Association Meeting	Program for development of youth camp will be presented.

APPENDIX C1

CORRECTIONAL FACILITIES PROFILE

YEAR 1982

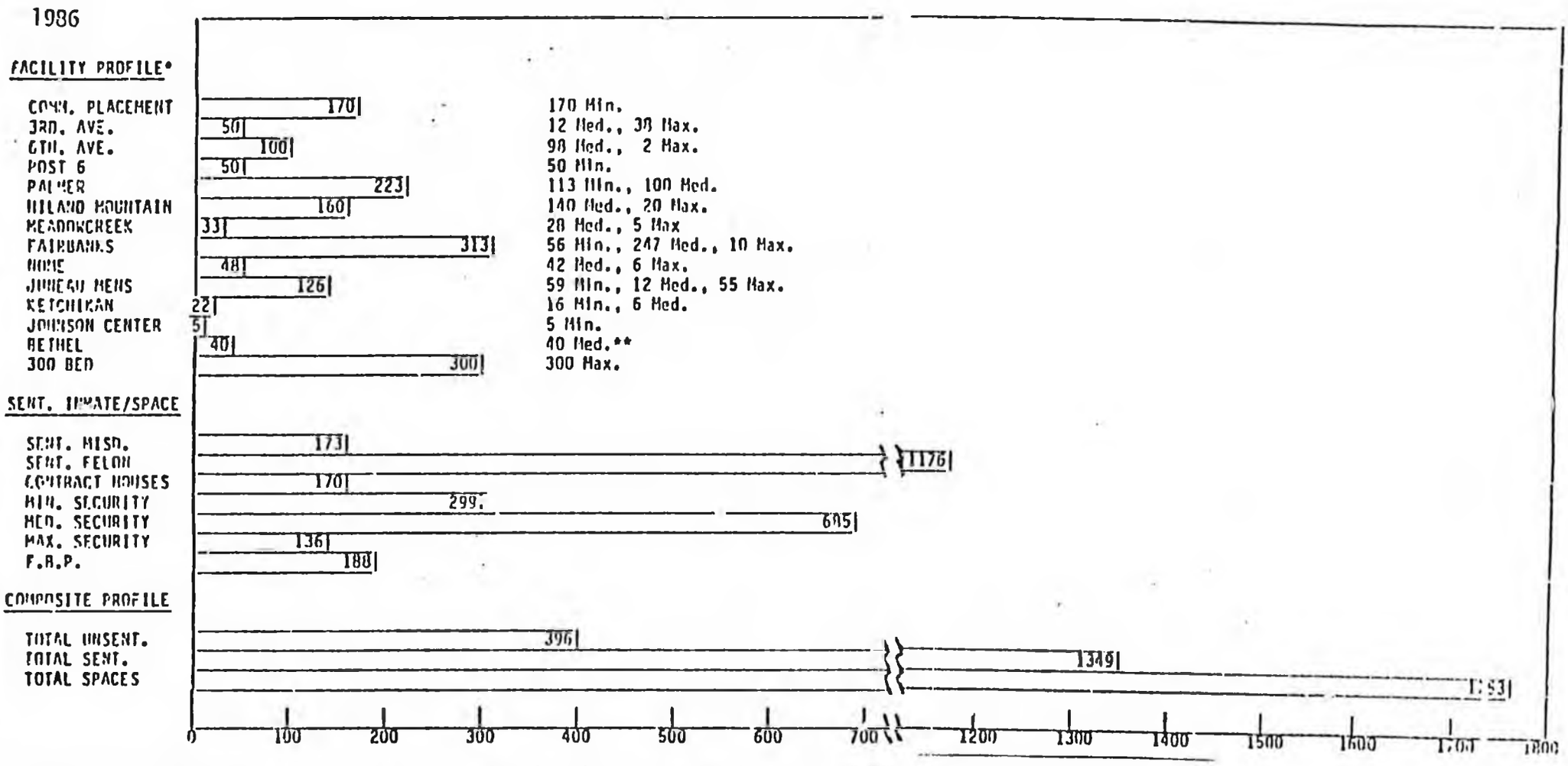


* Does not include intake facilities. 6th Ave. and Ridgeview assumed as sentenced facilities after opening of Pre-Tria December, 1982

(19)

APPENDIX C2

CORRECTIONAL FACILITIES PROFILE



* Does not include intake facilities. 6th Ave. and Ridgeview assumed as sentenced facilities after opening of Pre-Trial facility December, 1982.

** Complete with local prisoners - no increase in system capacity

APPENDIX D

PROFESSIONALS

Richard L. Ender, Ph.D., President, Policy Analysts, Ltd.; Professor, Public Policy and Administration, University of Alaska, Anchorage; participated in preparation of Mat-Su OEDP; principal in OCS Socioeconomic Studies Programme, Anchorage Health Study, Yukon-Kuskokwim CZM, and over 50 other studies.

Charles R. Gant, M.A., President, Applied Research Associates, Inc., former Chief of Life Cycle Cost Analysis for the State of Alaska, 1977-1982, has analyzed the economics of hundreds of projects both for the State of Alaska and for the Department of Defense.

HB275

Alaska State Legislature

Senate

Office of the President

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 11, 1983

TO: House Health, Education and Social Services Committee
Representative Mae Tischer
Co-chair

FROM: Senator Jay Kerttula
Senate President

SUBJECT: Location of a State of Alaska Maximum Security Prison in the Matanuska-Susitna Borough

The attached report, "Benefit-Cost Analysis of Alternative Site Selections of the State of Alaska Maximum Security Prison", highlights the logical choice for locating such a penal facility at the Palmer Correctional Facility in Sutton.

The paper, researched and written by Richard L. Ender, Ph.D. and Charles R. Gant, M.A., demonstrates the need for a maximum security facility in Southcentral Alaska and shows the broad based public support for locating such a facility in Mat-Su.

I would like to recommend that your committee take this report into account when it considers location of maximum security prison facilities in southcentral Alaska.

Thank you for your time in consideration of this matter.

HB

292

COMMITTEE REPORT

HOUSE

FINANCE

FURTHER:

(7)

Date: 5/18/83

4/12/83

Mr. Speaker: HEALTH, EDUCATION AND SOCIAL SERVICES

The Committee on _____ has had SSHB 292

An Act relating to tuberculosis screening of school employees.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] reports it back without recommendation [ ] Zero Fiscal Note Attached

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Mw. Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

To: House HESS Committee Date: 5/16/83

From: Linda Otey, Committee Aide

Re: Summary/ SSHB 292 "An Act relating to tuberculosis screening of school employees"

This legislation cross references HB 291 and the requirements therein. The Sponsor Substitute changes the wording so that the Dept. of Education would not be directly responsible for performing the T.B. screening of school employees.

The original bill read: "The Department shall annually test all employees of public and private elementary and secondary schools...". The Sponsor Substitute requires school districts to annually obtain from each employee proof that the test has been performed. An employee who refuses or fails to be tested would be suspended from employment until the employee had been tested. The Department could by regulation provide for reasonable exceptions to the new requirement.

No effective date provided. (becomes law 90 days after Govenor's signature).

folder content

left	right
bill	summary
statutes	Hurlbert back-up
position paper &	
fiscal note/DHSS	

(d) The department may by regulation provide for reasonable exceptions to the requirements of this section.

Section
58. Alaska School Activities Association
59. Alaska school activities fund
Section
60. Regulations
70. Withholding state funds

Collateral references. — 68 Am. Jur. 2d Schools, §§ 5-7, 37-55.

78 C.J.S. Schools and School Districts, §§ 83-91.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Sec. 14.07.010. Department of Education. The Department of Education includes the commissioner of education, the state Board of Education, and the staff necessary to carry out the functions of the department. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Quoted in Begich v. Jefferson, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

Cited in Tun[illegible] v. Municipality of Anchorage School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 617 P.2d 490 (1980).

Sec. 14.07.020. Duties of the department. The department shall

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

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

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

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the Department of Health and Social Services, standards that will assure healthful and safe conditions in the public and private schools of the state; the standards for private schools may not be more stringent than those for public schools;

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4); pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

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

(13) administer the grants awarded under AS 14.11.020. (§ 1 ch 98 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1-3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 86 SLA 1979; am § 24 ch 59 SLA 1982; §§ 1, 2 ch 92 SLA 1982)

Revisor's notes. — A reference to AS 14.11.020 was substituted for a reference to AS 14.07.190 in paragraph (13) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of that section.

Effect of amendments. — The first 1978 amendment deleted "private, and denominational" preceding "schools" near the beginning of paragraph (6), inserted "and private" preceding "schools" in paragraph (7), added the language beginning "the standards for private schools" to the end of paragraph (7), and added paragraph (10).

The second 1978 amendment added paragraph (11).

The 1979 amendment added paragraph (12).

The first 1982 amendment substituted "of" for "and" preceding "new public elementary" in paragraph (11).

The second 1982 amendment substituted "'plans' include" for "a 'plan' includes" in paragraph (11), inserted "and approve" and "the" preceding "purposes of this paragraph" in that same paragraph, and added paragraph (13).

5/18/83

HOUSE BILL 291

MY NAME IS JIM FARMER, AIDE TO REPRESENTATIVE HURLBERT.

THIS LEGISLATION WAS INTRODUCED BY REQUEST.

IN YOUR PACKET IS A LETTER AND RESOLUTION FROM THE CITY OF GALENA OUTLINING THEIR PROBLEM. I'M HAPPY TO SAY THE INFECTED PERSON WAS FINALLY PERSUADED TO ENTER A COURSE OF TREATMENT, BUT THIS DOES NOT RELIEVE THE UNDERLYING PROBLEM OF SEGREGATING THE INFECTED FROM THE UNINFECTED. AS THE POSITION PAPER FROM DEPARTMENT OF HEALTH AND SOCIAL SERVICES SHOWS THE INCIDENCE OF NEW ACTIVE TB CASES IN ALASKA APPEARS TO BE CLIMBING. THE ONE INDIVIDUAL IN GALENA CAUSED ABOUT 39 OTHER PEOPLE TO NEED EXAMINATION OR TREATMENT.

MOST OF YOU MAY REMEMBER OR MAY HAVE HEARD OF THE MASSIVE PROBLEM ALASKA HAD IN THE PAST WITH TUBERCULOSIS. WE CANNOT ALLOW THIS TO HAPPEN AGAIN.

THIS LEGISLATION WILL HELP ENSURE THE MEDICAL PEOPLE A TOOL THAT MAY BE NEEDED TO SLOW OR REDUCE THE INCIDENCE OF TB WITHIN THE STATE.

THANK YOU.

5/18/83

SPONSOR SUBSTITUTE HOUSE BILL 292

MY NAME IS JIM FARMER, AIDE TO REPRESENTATIVE HURLBERT.

THIS LEGISLATION WAS INTRODUCED BY REQUEST.

IT WAS FELT THAT DUE TO THE CONTINUING INCREASE IN IN INCIDENCE OF TUBERCULOSIS WITHIN THE STATE THAT WE SHOULD DO OUR BEST TO INSURE THE PROTECTION OF OUR MOST VALUABLE ASSET, OUR CHILDREN.

CHILDREN ARE AT HIGH RISK FOR TB AND PEOPLE WHO, THROUGH THEIR JOBS, ARE AROUND THEM A LOT SHOULD BE CHECKED OFTEN FOR EXPOSURE TO THIS UNNEEDED BURDEN.

THIS WILL PROVIDE NEEDED PROTECTION.

THANK YOU.

House HE&S

5/18/83 - Mtg.
— Rep. Hurlbert's Aide Jim Farmer - Statement on HB 191 - Intro by request.
DR. Frith - who reg these bills -
Farmer - from City of Salem per resolution

Goll - Sec 2 Approp. - goes to Frith —
Frith - Yes - annual check appropriate.

DR. Rabeau - Very little to add -
1) TB on the increase
2) Alk had highest rate of TB - worldwide
a) people forget - diagnosis slips by.
b) increase in population
291 - 1st case in # of yrs - persuasion don't work for treatment & quarantine.
Frith - Immigrants from far East — ?
Rabeau - Fluoricide, they're screened - Lowe 48 - cases sited. TB remains hidden
Fischer - TB testing - ?
Roberts - K - 3 - 5 - 7 - 12 - new Entry into schools - 5th in school ages — checked
Fisher - pg 1 & 10 — Constitutional ?

Analysis

In 1983, there are approximately 16,500 public school employees in the State. The number of private school employees is not systematically reported. The following assumptions have been made:

1. The number of private school employees is 1,500 in 1983.

2. The growth rate in school employment will be 3% per year.

3. The proportion of employees requiring chest x-rays is 5%.

4. 60% of employees will be located in areas where x-ray facilities operated by a municipality are available. Cost per film is estimated to be $15.00 in 1984 and is inflated at 5% per year.

5. 40% of employees will be located in areas where x-ray service will have to be purchased from the private sector at a cost of $25.00 per film and inflating at a rate of 5% per year.

6. Costs of skin testing will be negligible since school district nurses or Division of Public Health nurses will provide the services.

HB

332

COMMITTEE REPORT

HOUSE

FINACNE

(7)

FURTHER:

4/7/83

Date: 4/20/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 332

An Act extending the termination date of the State Medical Board; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Mae Tracker	
M.W. Miller	
Mike Davis	
Adelfred Hermann Do Pass	
Nils E. Kozman	
Milo H Fritz	
[illegible]	

Mae Tracker
CHAIRMAN
Milo H Fritz

H 60

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 332
Title: "Medical Board-Continuation"
Sponsor: Labor & Commerce Committee
Requestor: H.E.& S.S. Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
Program Category Affected: Public Prot.
BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Darrell Miller
Phone: 465-2535
Division: Occupational Licensing
Date: April 12, 1983

Approved by Commissioner: Richard A. Lyon
Date: 4/13/83
Department: Commerce & Economic Development

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

STATE OF ALASKA

WALT FURNACE,CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
NIILO E. KOPONEN
HUGH MALONE
JOHN RINGSTAD
RON WENDTE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE

March 4, 1983

Representative Joe Hayes, Speaker of House
Alaska House of Representatives
Pouch V,
Juneau, Alaska 99811

Re: Alaska State Medical Board

Dear Mr. Speaker:

Pursuant to AS 44.66.050(a) the House Labor and Commerce Committee has held hearings regarding the above referred Board. Under AS 44.66.050(e) the Committee recommends adoption of the attached Committee Bill continuing the Board. The Legislative Budget & Audit Committee report outlined some concerns that have been reviewed by the Alaska State Medical Board. The Labor & Commerce Committee is satisfied that those concerns are being addressed in an expeditious manner.

The Committee believes the Alaska State Medical Board should be reestablished. The Alaska State Medical Board regulates the practices of medicine, osteopathy, and acupuncture by physicians, osteopaths, physician assistants, paramedics, and podiatrists. By establishing minimum educational and experience requirements and actively investigating complaints from the public and other practitioners, the Alaska State Medical Board provides a

needed public service. Specifically, the findings of the Committee of the public need for the Board as required under AS 44.66.050(c) are as follows:

AS 44.66.050(c) " A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:"

(1) the extent to which the board, commission or program has operated in the public interest;

The Alaska State Medical Board provides for examinations twice a year and has held an average of 4 meetings a year in various locations throughout the State.

2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

The Alaska State Medical Board has been impeded in its operation by the lack of statutory authority to address licensing and business practice(s) violations. Also, the Division of Occupational Licensing has been unable to provide support necessary to the Board and the Courts are not placing emphasis on the findings of the Board developed through the hearing process.

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

The Alaska State Medical Board has recommended and strongly supported legislation to correct these problem areas.

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

The Alaska State Medical Board has encouraged interested persons to report by advertising and requesting public input on proposed regulation changes.

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

The Division of Occupational Licensing places advertisements of the Alaska State Medical Board's meetings and examinations.

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

While there have been no consumer complaints filed with the Ombudsman or the Attorney General's Office regarding the Alaska State Medical Board, there is no provision for consumer complaints in AS 08.64.

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

The Alaska State Medical Board has issued 349 licenses, temporary permits, locum tenens permits, physician assistant authorizations, and paramedic authorizations since July 1981. The Board has a liberal policy of licensing by endorsing physicians from other states. The Alaska State Medical Board requires the FLEX exam and of completed internship or residency which serves to protect the public.

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

The Committee believes the Alaska State Medical Board to be in compliance with applicable law and regulation.

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

The Committee believes adoption of the proposed legislation would better serve to protect the interests of the public.

Pursuant to AS 44.66.050(d) the Committee recommends the following:

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding

officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

The Alaska State Medical Board regulates the medical practice of physicians, osteopaths, physician assistants, podiatrists, and acupuncturists.

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

The objective of the Alaska State Medical Board is to ensure that the public is provided safe and effective medical care by qualified health care professionals.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

The Committee found no other program having similar, conflicting or duplicate objectives.

(4) an assessment of alternative methods of achieving the purposes of the program;

The Committee could find no viable alternative method of achieving the purposes of the Alaska State Medical Board.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

The Committee believes the consequence of eliminating the Alaska State Medical Board or funding its activities at a lower level would be an unnecessary exposure to potential improper medical care.

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

The critical necessity for proper medical treatment is the primary justification for the continuation of the Alaska State Medical Board.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

The Alaska State Medical Board should be given legislative support in addressing the concerns outlined by the Legislative Budget and Audit report.

Respectfully submitted:

Walter R. Furnace

Representative Walt Furnace, Chairman

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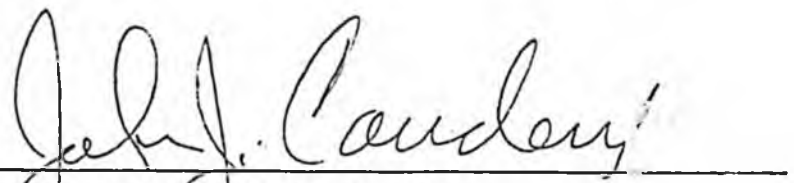
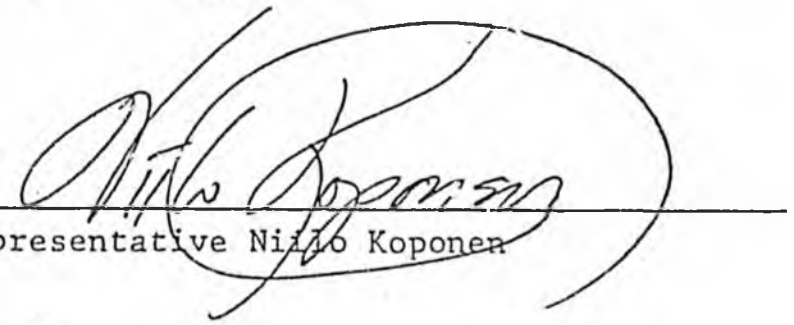
Board.



presentative Rick Uehling, Vice Chairman



epresentative John Cowdery



epresentative Niilo Koponen

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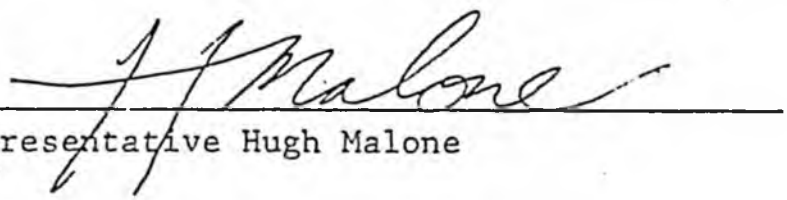
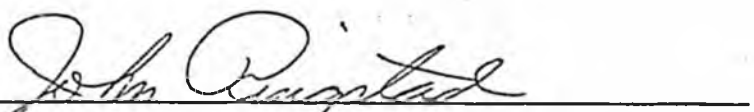
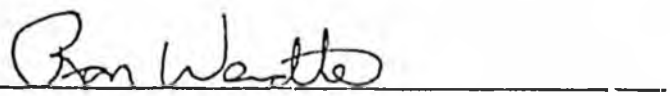


epresentative Hugh Malone



epresentative John Ringstad



epresentative Ron Wendte

HB

347

COMMITTEE REPORT

HOUSE

LABOR & COMMER

(7)

FURTHER: FINANCE

4/12/83

Date: 16 February 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 347

"An Act relating to the licensing of practitioners of naturopathic medicine; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass 4

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 347 (HESS) [X] same title [ ] new title

and recommends

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Mae Tinker	
Terry Morton	R. Sam Pestinger (pass [illegible])
	Mike Davis Pass the amended [illegible]
	Peter Goll AMENDMENT NEEDED
	[illegible]
	[illegible]

Mae Tinker

CHAIRMAN

STATE OF HAWAII NATUROPATHIC LAW

CHAPTER 455
NATUROPATHY

SECTION

455-1 DEFINED
455-2 APPLICATION FOR EXAMINATION; FEE
455-3 QUALIFICATIONS OF APPLICANTS
455-4 STATE BOARD OF EXAMINERS IN NATUROPATHY
455-5 ORGANIZATION OF THE BOARD
455-6 POWERS AND AUTHORITY OF THE BOARD
455-7 EXAMINATIONS
455-8 LICENSE TO PRACTICE; BIENNIAL REGISTRATION
455-9 PENALTY

§455-1 Defined. For the purpose of this chapter the practice of naturopathy means the scientific application of air, light, sunshine, water, earth, cold and heat, electricity, hygiene and dietetics, bio-chemic system, psychotherapy, mechanical movements, manipulations, and appliances, specifically to eliminate toxic conditions from the human body and to promote the quality, quantity and flow of the vital fluids without the use of drugs, aiding nature with natural and

congenial agents or means either tangible or intangible to restore and maintain normal functioning; provided, that the practice of naturopathy shall not include the Hawaiian art of lomilomi or massage. [L 1925, c 77, pt of §1; RL 1935, §1300; RL 1945, §2651; RL 1955, §66-1]

§455-2 Application for examination; fee. Any person desiring to practice naturopathy shall apply in writing to the state board of examiners in naturopathy upon a blank form prepared and furnished by the board and shall include in the application such facts concerning the applicant as the board shall require. Each application shall be filed by the applicant and sworn to before an officer authorized to administer oaths. At the time of the application each applicant shall pay an examination fee of $50 [75] to the department of regulatory agencies which shall not be refunded if the applicant fails to pass the examination.

No person shall be licensed to practice naturopathy unless he has been duly examined and has passed such examination. [L 1925, c 77, pt of §1; RL 1935, §1301; am L 1937, c 221, §1; RL 1945, §2652; RL 1955, §66-2; am L 1957, c 316, §6; am L Sp 1959 2d, c 1, §15; am L 1963, c 114, §3; HRS §455-2; am L 1969, c 106, §1]

For additional licensing requirements, see L 1975, c 118, §35, appended as note to HRS §436-4.

Revision Note

Fee as modified by administrative action pursuant to §92-28 is shown in brackets.

§455-3 Qualifications of applicants. No application shall be received unless the applicant has resided in the State for not less than one year immediately preceding the date of application. Each applicant shall be a graduate of a high school. Each applicant shall, in addition, have had a two year liberal arts and science course from an accredited college or university and be a graduate of a legally chartered school, university, or college of naturopathy which requires a course of resident instruction of at least four years of nine months each of actual attendance, and includes in its course of study the subjects hereinafter listed for the minimum hours hereinafter listed:

Anatomy	650
Histology and embryology	130
Chemistry and toxicology	250
Physiology	300
Bacteriology	130
Hygiene and sanitation	130
Pathology	350
Diagnosis	600
Naturopathic theory and practice	900
Obstetric. ·d gynecology	260
Jurisprudence	50
Clinical practice	400
Biochemistry and dietetics	240
Therapeutics	130
Total	4520

Each applicant shall ve ttended such school, university, or college for at least ninety per cent of the . ours required. The addition of two years of liberal arts and science course shall not apply to persons who, on May 9, 1949, were

lawfully licensed to practice naturopathy in the State or to persons holding diplomas or attending legally chartered naturopathic schools, universities, or colleges on such date. [L 1925, c 77, pt of §1; RL 1935, §1302; am L 1935, c 221, §2; RL 1945, §2653; am L 1949, c 214, §1; RL 1955, §66-3]

Hawaii Bar Journal

For discussion of residence qualification, see The New Resident: Hawaii's Second-Class Citizen, Steven K. Christensen, 5 HBJ 77.

§455-4 State board of examiners in naturopathy. The governor shall appoint in the manner prescribed by section 26-34 the state board of examiners in naturopathy, consisting of three members. Each member shall serve until his successor is appointed and qualified. All members of the board shall, before appointment, have been licensed to practice naturopathy in the State under the laws thereof in force at the date of the issuance of the license. [L 1937, c 221, §3; RL 1945, §2654; RL 1955, §66-4; am L Sp 1959 2d, c 1, §5]

Cross References

Boards, generally, see §26-34 and notes thereto.
Departmental administration, see §§26-9 and 26-35.

§455-5 Organization of the board. The board of examiners in naturopathy may elect a president, a vice-president, and a secretary who shall each serve one year or until a successor is elected. The board may make such rules as it deems expedient to carry this chapter into effect. Two members of the board constitute a quorum for the transaction of business. The board shall serve without pay, provided, that the expenses of conducting examinations shall be paid out of the office expenses of the department of regulatory agencies upon vouchers signed by a majority of the board. [L 1937, c 221, §4; RL 1945, §2655; RL 1955, §66-5; am L Sp 1959 2d, c 1, §15; am L 1963, c 114, §3]

Cross References

Rulemaking, see chapter 91.

§455-6 Powers and authority of the board. The state board of examiners in naturopathy may:

(1) Adopt and use a seal to be affixed to all official acts of the board;
(2) Make rules and regulations to determine the means, terms, translations, and definitions relating to the practice of naturopathy in the State;
(3) Revoke or suspend any license issued to any person to practice naturopathy upon any of the following causes:
    (A) Procuring or aiding or abetting in the procuring of a criminal abortion;
    (B) Obtaining of or any attempt to obtain a license to practice naturopathy through fraud, misrepresentation, bribery, or deceit;
    (C) Continued practice by a person knowingly having an infectious or contagious disease;

(D) Advertising by means of knowingly false or deceptive statements;

(E) Advertising, practicing, or attempting to practice under a name other than one's own;

(F) Habitual drunkenness, or addiction to the use of morphine, cocaine, or other habit-forming drugs;

(G) Professional misconduct, gross carelessness, neglect, or manifest incapacity; any one or more of the causes having been proved to the satisfaction of the board.

The board may not suspend or revoke a license, however, for any of these causes unless the person accused has been given at least twenty days' notice, in writing, and a public hearing in conformity with chapter 91.

The board may compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before them and the presiding officer of the board may administer the requisite oaths.

In case any license is revoked for any of the causes named in this section, the holder thereof shall be immediately notified of the revocation, in writing, by the board. Licenses to practice naturopathy may be restored by the board. [L 1949, c 214, §2; RL 1955, §66-6; am L Sp 1959 2d, c 1, §19; HRS §455-6; am L 1969, c 106, §2; am L 1974, c 205, §2(16)]

§455-7 Examinations. The state board of examiners in naturopathy shall conduct examinations at such times and places as it deems best, in the following subjects: anatomy; histology and embryology; chemistry and toxicology; physiology; bacteriology; hygiene and sanitation; pathology; diagnosis or analysis, including clinical, physical, x-ray, symptomatology, dermatology, and mental diseases; naturopathic theory and practice; obstetrics and gynecology; jurisprudence; clinical practice; biochemistry; therapeutics, including physiotherapy, hydrotherapy, electrotherapy, heliotherapy, phytotherapy, orthopaedics; and such other subjects as the board may require. The examination shall be conducted in writing, but it may be supplemented by oral examinations, and by demonstrations or other practical tests as the board may require. If the applicant receives a general average of seventy-five per cent and does not fall below sixty per cent in more than two branches of the examination, he shall be considered as having passed the examination. [L 1937, c 221, §5; RL 1945, §2656; RL 1955, §66-7; am L Sp 1959 2d, c 1, §19; HRS §455-7, am L 1969, c 106, §3]

Cross References

Disposal of examination papers, see §94-5.

§455-8 License to practice; biennial registration. Licenses to practice naturopathy shall be issued by the board in such form as the board determines, to those who qualify according to this chapter. Naturopathy physicians licensed under this chapter shall observe and be subject to all state regulations relative to reporting births and deaths and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine. Every person holding a license to practice in the State shall reregister with the state board of examiners in naturopathy on or before December 31 of each odd-numbered year and shall pay a reregistration fee of $15. The failure to so reregister and pay the reregistration fee constitutes a forfeiture of

license; provided that the license shall be reinstated upon written application therefor together with payment of all delinquent fees and the sum of $75. [L 1925, c 77, pt of §1; RL 1935, §1303; am L 1937, c 221, §6; RL 1945, §2657; RL 1955, §66-8; am L 1957, c 316, §7; am L Sp 1959 2d, c 1, §19; HRS §455-8; am L 1969, c 106, §4; am L 1975, c 118, §18]

§455-9 **Penalty.** Any person except a licensed naturopath who practices or attempts to practice naturopathy, or any person who buys, sells, or fraudulently obtains any diploma or license to practice naturopathy whether recorded or not, or any person who uses the title "natureopath", "naturopath", or "N.D.", or any word or title to induce the belief that he is engaged in the practice of naturopathy without complying with this chapter, or any person who violates this chapter, shall be fined not more than $200, or imprisoned not more than one year, or both. [L 1925, c 77, pt of §1; RL 1935, §1304; RL 1945, §2658; RL 1955, §66-9]

NATUROPATHIC MEDICINE;

AN ALTERNATIVE FOR THE PREVENTION AND TREATMENT OF DISEASE

Are you aware that there exists in this country a medical profession that treats the CAUSE of disease and places emphasis upon the restoring and maintaining of health?

Naturopathy is a distinct system of healing based upon its own philosophy of health and disease. It may be defined as an art, science, philosophy, and practice following definite physical, chemical, biological, mental, and spiritual laws for the restoration and maintenance of health and the correction of bodily disorders without the use of drugs or surgery. For relief and cure it makes use of Nature's most beneficent forces and agencies on the theory that under the normal conditions of natural living the body is a self-recuperating organism.

A more complete explanation of Naturopathic Medicine is contained in the United States Department of Labor, "Dictionary of Occupational Titles," second edition, March, 1955. It states:

"Doctor, Naturopathic, *Naturopathic Physician:* A healer; diagnoses, treats and cares for patients, using a system of practice that bases its treatment of all physiological functions and abnormal conditions on natural laws governing the body; utilizing physiological, psychological, and mechanical methods, such as air, water, light, heat, earth, phytotherapy, food and herb therapy, psychotherapy, electrotherapy, physiotherapy, minor and orificial surgery, mechanotherapy, naturopathic corrections and manipulation, and all natural methods or modalities, together with natural medicines, natural processed foods, and herbs and nature's remedies. Naturopathy excludes use of major surgery, X-ray and radium for therapeutic purposes, and drugs."

While Naturopathic Physicians are concerned with the immediate causative factors of an illness, equal consideration or treatment is given to the basic, underlying causal factors or circumstances so frequent in many disorders. Particular emphasis is placed on the maintenance of health (or prevention of disease) through *health education* in nutrition, mental hygiene, physical fitness and other aspects of bodily care.

Naturopathic Physicians treat any and all conditions that come within the realm of *general practice.* (Cardiovascular problems, neurological, musculo-skeletal, and orthopedic diseases; gastro-intestinal, genito-urinary, respiratory and dermatological problems are treated frequently as are pediatric or geriatric illnesses.) Naturopathic Physicians cooperate freely with any licensed doctor in the healing profession, when such cooperation is in the best interests of the patient.

Naturopathic services should not be considered ancillary or paramedical in relation to the medical profession.

Naturopathic Physicians have met a standard of qualification that compares favorably with graduates of other medical schools and they are equally scientifically oriented to perform and interpret diagnostic procedures.

The name "Naturopathy" is of comparatively recent date, but its philosophy and practices can be traced to antiquity. It does not discard a method because it is old, neither does it embrace a technique because it is new. Its methods and techniques have been tested upon the anvil of time and experience and proven effective.

In consideration of the above, it must be emphasized that Naturopathic Medicine is very much in favor of all modern, scientific advancement and techniques, (many of which have verified naturopathic concepts and principles) which extend the life and health of the human body providing such scientific endeavors do not violate natural or biological law.

New concepts of micro-biology, neurophysiology, physio-therapeutics and psycho-therapeutics have been incorporated into daily practice. Indeed, there is a tendency for many doctors of other healing professions to employ various aspects of contemporary Naturopathic Medicine.

The Naturopathic Physician familiarizes himself with what constitutes natural living learns to detect by diagnostic signs how, when and where departure from the normal or natural has taken place, and then applies his knowledge and skill, aided by the various kinds of Naturopathic treatments, to help bring about a return to the normal and natural. In reality Nature heals and cures. The Naturopathic Physician merely interprets Nature's laws for the patient and lends intelligent assistance.

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THE PHILOSOPHY OF NATUROPATHIC MEDICINE

In simple terms, the philosophy of Naturopathic Medicine is based upon the premise that man is a part of his environment as well as being influenced by it and therefore, the health of his body and mind is governed by natural or biological (physiological) laws, which apply to all living organisms. The science of physiology has revealed these laws of nutrition, oxygenation, elimination, circulation, excretion, etc. that man must live in accord with. Disease is altered physiology (or pathology) and results when man does not live in accord with or actually violates natural or biological laws. In treating disease, Naturopathic Physicians utilize "physiological therapeutics" and thereby restore health.

A few moments of reflection will reveal a clear differentiation from the profession of orthodox medicine, surgery and chiropractic.

THE SCIENCE OF NATUROPATHIC MEDICINE

The science of Naturopathic Medicine is essentially the thorough study *of all the basic sciences* (anatomy, physiology, pathology, biochemistry, bacteriology, hygiene and sanitation), and the scientific manifestations and modern-day verifications of its philosophical principles, in an accredited naturopathic college. In addition, the subjects of diagnosis (physical, clinical, symptomatological, X-ray and laboratory), and the subjects of Natural Medicine (natural therapeutics embracing nutrition, phytobotanical therapy, physical and physio-therapy, soft-tissue and osseous manipulation, psychotherapy, natural childbirth, homeopathy, etc.) are studied extensively. The curriculum also includes the specified subjects of pediatrics orthopedics, obstetrics and gynecology, jurisprudence, dermatology, endocrinology, abnormal psychology and toxicology.

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THE ART OF NATUROPATHIC MEDICINE

The art or practice of Naturopathic Medicine consists essentially of applying the philosophy and science to the actual sick patient–first in an approved supervised internship program and then in actual practice after qualifying for licensure.

To insure standardization and competency in practice, particular emphasis is placed upon instruction in the art of diagnosis, including recognized laboratory procedures and utilization of all the latest scientific methods of investigation, specifically to search out the underlying causative factors of disease. Thus, adequate provision is made for the establishment of an accurate regime of treatment for the reduction or elimination of the etiological, pathological and symptomatic manifestations of disease.

The specific treatment of illnesses, injuries and reversible pathologies by Naturopathic Medicine embraces the psychological (emotional), nutritional, biochemical, neurological and physical fields of practice. These methods are correlated and administered in combination to produce the desired biological response or therapeutic effect.

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SOCIOLOGICAL RECOGNITION OF NATUROPATHIC MEDICINE

Naturopathic Medicine is practiced throughout the world. In England and other countries of the Commonwealth, professional associations of Naturopathic Physicians have been in existence for many years Many European countries grant to Naturopathic Physicians recognition equal to that of all major healing professions. Germany has some 4,000 naturopathic practitioners. Recognition of the professional status of Naturopathic Medicine in the United States has existed for many years. Naturopathic Medicine is recognized in the states of Arizona, Connecticut, District of Columbia, Florida Hawaii, Oregon, Utah, and Washington.

HISTORY OF NATUROPATHY

Many of the methods of treatment which the Naturopathic Physician employs have been in use since the time before history began. Sunshine, fresh air, heat, exercise, water, clay and mud baths, etc. served as agencies of cure long before man knew how to treat himself scientifically. We see a similar situation among the animals now.

In early historical times, massage, manipulation of a crude type, rules of diet and hygiene inculcated by religions doctrines were added. The Greeks contributed athletics and physical culture, while the Romans made extensive use of baths of all kinds.

During medieval times the Church fostered the various healing arts among which the methods of Natural Healing were outstanding. After the Renaissance, the Nature-Cure movement continued to develop in Central Europe, where it received considerable impetus.

In the latter part of the nineteenth century such men as Priesnitz, Rickli, Kuhne, Bilz, Schuessler, Father Kneipp, Just, Lahmann, Ehret, and others, made important contributions to the Natural Healing Art. They did much to popularize the work which was now called Naturopathy; the term originates from the incorporation of natural healing methods into the already existing practice of Homeopathy in Central Europe.

In this country, Benjamin Franklin and other early pioneers did much to advance the cause of Nature-Cure. Later, Naturopathy was brought over from Europe by Lust, Lindlahr, Carey, and others. Additions to the method of the Natural Healing Art were now being made very rapidly.

Additional information about Naturopathy can be obtained by writing to:

National College of Naturopathic Medicine
510 SW Third Avenue
Portland, Oregon 97204

Or

Clinic of Natural Medicine
505 W. Northern Lts. Blvd.
Anchorage, Ak. 99503

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

March 5, 1984

MEMORANDUM

TO: Representative Furnace

FROM: Jay Livey
Legislative Analyst

RE: Regulation of Naturopaths in Other States
Research Request 84-055

Steve Levi of your staff asked that we compare the regulation and licensure of naturopaths in other states with the approach proposed by CSHB 374. There are currently six states, Washington, Arizona, Oregon, Hawaii, Nevada, and Connecticut, that license naturopaths. We were able to contact or obtain licensing laws for all of these states. The comparisons of the laws includes the following information:

- the entity responsible for the regulation;
- requirements for licensure as a naturopath;
- scope of naturopathic practice; and
- reciprocity arrangements with other states.

Responsibility for Naturopathic Regulation

CSHB 347 puts the responsibility for the regulation of naturopaths in Alaska within the authority of the Department of Commerce and Economic Development. The department would have the authority to evaluate the qualifications of applicants, prepare and administer examinations to applicants and revoke and suspend licenses for cause. The State of Washington uses a similar structure, giving these powers to the Department of Licensing.

In four states, Hawaii, Oregon, Nevada and Arizona, the authority to administer the licensure law is given to a Board of Naturopathic Examiners. These boards may discipline licensed naturopaths through revocation or suspension of licenses, establish and administer licensure examinations, evaluate the qualifications of applicants and generally administer the licensure law. Three of these states, Hawaii, Arizona

and Oregon, have a three-member board composed of licensed naturopaths. Nevada has a five-member Board of Examiners of which three members are required to be naturopaths; one member is required to be a physician and one member must be a layperson.

Connecticut has a structure that divides the licensing authority between a Board of Examiners and the Department of Health Services. The board, composed of 2 licensed naturopaths and one layperson, has the authority to discipline licensed naturopaths according to procedures established by the law and administrative code. The board is also responsible for developing the licensure examination. The Department of Health Services administers the licensure statute, and has final responsibility for licensing naturopaths under the statute.

Requirements for Licensure

In summary, to be licensed as a naturopathic physician in any of these states, the applicant must be a high school graduate, have graduated from an approved school of Naturopathy and pass an examination administered by either a state department or state board of examiners. As proposed in the Alaska law, Hawaii, Oregon and Connecticut require that applicants complete additional college work at an approved school. We also found the the standards used by the states to define approved schools of naturopathy were fairly similar to those proposed in the Alaska law. All states require a mix of classroom and clinical study, a course of study that occurs over four years and a minimum number of hours required for graduation. Each state's requirements are summarized below.

Alaska. To be eligible for a license as a naturopath in Alaska, CSHB 347 would require the applicant to be a high school graduate or equivalent, and to have completed two years of postsecondary education at an accredited college of liberal arts and sciences, have successfully completed an examination given by the Department of Commerce and Economic Development and not to have been licensed to practice naturopathic medicine in another state if the license has been revoked or suspended for disciplinary reasons. In addition, the applicant must have graduated from a legally chartered school of naturopathic medicine or a school of naturopathic medicine that meets specific curriculum requirements including a course of study of at least 4,000 hours of which 1,500 must be clinical.

Hawaii. In Hawaii, to be licensed as a naturopathic physician, an applicant must reside in the state for one year prior to application, be a high school graduate, have had two years liberal arts education at an accedited college and be a graduate of a legally chartered school of naturopathic medicine that meets specific curriculum requirements found in the law. In addition, the applicant must pass an examination prepared and administered by the Board of Naturopathic Examiners.

Arizona. Arizona law requires an applicant for a naturopathic license to be a high school graduate or the equivalent and to have graduated from a school of drugless therapeutics, approved by the Board of Naturopathic Examiners. The school must meet specific curriculum requirements specified in the law and provide a total of at least 4,500 hours of instruction. The applicant must also pass an examination prepared by the Board of Examiners.

Connecticut. Connecticut law requires an applicant for a naturpathic license to be a high school graduate, to have completed 64 weeks of study at a college or scientific school approved by the Board of Naturopathic Examiners and to have graduated from a legally chartered, reputable school or college of naturopathy approved by the board. To be approved, the school of naturopathy, must require a course of resident instruction of at least four years, with each year consisting of thirty-six weeks of actual attendance. The applicant must also successfully pass an examination given by the Department of Health Services.

Oregon. Minimum requirements to be eligible for a license of naturopathy in Oregon include a high school diploma, two years satisfactory study in an accredited college of liberal arts and sciences and graduation from a college of naturopathy approved by the Board of Naturopathic Examiners. To be accredited, the college of Naturopathy must provide at least 4,000 lecture or recitation hours. Applicants are also required to pass an examination administered by the board.

Washington. Washington requires applicants for a naturopathic license to be graduates of a school of naturopathic medicine approved by the Director of Licensing and to pass an examination prepared amd administered by the Director of Licensing. To be approved, the school must require a high school diploma as a condition of admission.

Nevada. To be licensed as a naturopath in Nevada, the applicant must be 21 years of age or older, a citizen of the United States or be legally entitled to work and live here, a graduate of a school of naturopathic medicine that is approved by the Board of Naturopathic Examiners and must have successfully completed an examination administered by the board.

Scope of Practice

The scope of naturopathic practice allowed by the proposed Alaska law is similar to the scope of practice allowed in Oregon, Arizona, and Connecticut. These states all allow naturopaths to perform childbirth, draw blood for diagnosis purposes, sign birth and death certificates and perform minor surgeries.

However, the states of Washington and Nevada restrict the scope of naturopathic practice more than the proposed Alaska law. These states do not allow naturopaths to perform surgeries of any kind or perform natural childbirth (except in Washington if a licensed midwife is present). Naturopaths in Nevada must work under the supervision of a physician; however, they are allowed to draw blood for diagnosis.

Alaska. The proposed Alaska law would allow naturopaths to perform physical exams, write prescriptions for noncontrolled substances, sign birth and death certificates, diagnose disease according to training, treat patients by stimulating normal functions of tissues and organs sensitized by disease, draw blood for laboratory purposes, use electrical or other methods for repair and care of superficial lacerations and abrasions, and practice natural childbirth in obsetrics. According to the proposed law, a naturopath may not perform surgery except as related to childbirth, use controlled substances, use radiation therapy or use drugs except antiseptics, local anesthetics, minerals and extracts, compounds or concentrates obtained from plants or animals.

Hawaii. Hawaii's naturopathic licensing law does not specify a scope of allowable practice. However, it does state that "naturopathic physicians licensed under this chapter shall observe and be subject to all state regulations relative to reporting births and deaths and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons, and practitioners of other schools of medicine." Because we were unable to contact representatives of the Hawaii Board of Naturopathic Examiners, we were unable to make specific comparisons to the proposed Alaska law.

Arizona. The Arizona law does not specifically include the scope of services naturopaths can offer. According to Dr. Milburn Shelton, President of the State Naturopathic Licensing Board, the scope of services is determined by the definitions found in the statute.[1] For example, naturopathy means "a system for treating the abnormalities of the human mind and body by the use of drugless and nonsurgical methods including the use of physical, electrical, hygenic, and sanitary measures and all form of physiotherapy."

Nonsurgical is defined to be "a system of treating the abnormalities of the human mind and body without surgical invasion of the human body, but does not preclude the use of acupuncture, electrical or other methods for the repair and care of incident and superficial lacerations and abrasions, benign superficial lesions and the removal of foreign bodies

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[1]Dr. Milburne Shelton, President of the Arizona Board of Naturopathic Examiners, (602) 937-9125.

located in superficial structures, and the use of standard clincal procedures in connection therewith." This definition allows procedures that are similar to ones allowed in the proposed Alaska law.

Dr. Shelton stated that naturopaths in Arizona could also perform physical examinations, prescribe substances authorized in the statutes, sign both birth and death certificates, treat patients with acupuncture, draw blood for laboratory purposes and practice natural childbirth. He also noted that naturopaths in Arizona are prohibited from performing the activities also prohibited in CSHB 347.

Connecticut. As with Arizona, the Connecticut law is not very specific concerning the scope of practice naturopaths are allowed to perform. However, according to Dr. Charles Soderstrom, President of the Board of Naturopathic Examiners, the scope of practice is very similar to the proposed Alaska law.[2] He noted that Connecticut naturopaths can perform minor surgery, practice natural childbirth, sign both birth and death certificates, draw blood for laboratory tests, and perform diagnosis. However, as in the proposed Alaska law, naturopaths may not perform major surgery, use controlled substances, or use radiation therapy.

Oregon. The Oregon statutes allow naturopaths to "treat the human body by use of drugless methods, which has for its object the maintaining of the body in, or of restoring it to, a state of normal health." Although the full scope of allowed services is not detailed in the statute, it does specifically mention that antiseptics and anesthetics can be administered, birth and death certificates can be signed and minor surgery (as defined in the statute) can be performed.[3] Specific prohibitions mentioned in the law include the practice of optometry, performing chiropractic adjustments and prescribing drugs.

Washington. The Washington licensing law does not specifically detail the scope of naturopathic practice. According to Yvonne Braeme, Executive Secretary to the Drugless Examining Committee, the existing law in Washington, which was adopted in 1919, is outdated.[4] However, she did note that naturopathic practice in Washington may be more restricted than that proposed by the Alaska law. In Washington, naturopaths are

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[2]Dr. Charles Soderstrom, President, Connecticut Board of Naturopathic Examiners, (203) 633-5330.

[3]Minor surgery as defined in the Oregon law is very similar to the scope of services detailed in the proposed Alaska statute.

[4]Ms. Yvonne Braeme, Executive Secretary, Washington State Board of Drugless Medicine, (206) 753-3576.

not allowed to sign birth and death certificates, draw blood for laboratory uses, perform natural childbirth without the presence of a licensed midwife, do surgeries of any kind or prescribe medicine.

Nevada. Of all the states that we contacted, Nevada had the most restrictive law concerning naturopaths. In Nevada, naturopaths are required to work under the supervision of a licensed physician and are not authorized to "perform those functions and duties specifically delegated by law to physicians, dentists, nurses, osteopaths, chiropractors, practitioners of traditional oriental medicine, podiatrists, optometrists, hearing aid specialists or physical therapists."

Specifically, naturopaths may not use x-ray or radium treatments, perform major or minor surgery, perform obstetrics, prescribe drugs or draw blood for any reason other than diagnosis. Naturopaths may sign birth and death certificates if they are co-signed by the supervising physician.

Reciprocity in Licensing

Reciprocity refers to the granting of a license by one state based on the fact that a license has been granted to the applicant by another state that has similar licensing requirements. The proposed Alaska law gives this power to the Department of Commerce and Economic Development assuming that the law in the state in which the applicant currently has a license is equivalent to the requirements of Alaska law.

Currently, the states of Arizona and Oregon have the power in their statutes to grant naturopathic licenses based on reciprocity agreements. The states of Nevada, Washington, Connecticut and Hawaii do not allow reciprocity.

I hope that this information is helpful to you. If you would like copies of the naturopathic regulations from other states or require additional research, please let me know.

JL

POSITION PAPER/Department of Health and Social Services

POSITION PAPER
COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 347 (HESS)

"An Act relating to the licensing of naturopaths; and providing for an effective date".

The committee substitute addresses the objections raised by the Department of Health Services and Social Services in its position paper on the original bill. The Department would like to offer two additional suggestions.

Modification of the language of 08.45.010 (4) is recommended as follows: "(4) provide for temporary permits to engage in the practice of naturopathy for persons who meet the requirements of AS 08.45.110 (1),(2),(3),(5) and (6). Temporary permits are valid until certification of the results of the next examination given under AS 08.45.120." Such language would make more specific the requirements for temporary licensure.

It is assumed that all three conditions listed under Section 08.45.130 must be met before an license by endorsement can be issued. If there is any question, insertion of the word "and" after 08.45.130 (1) would clarify the matter.

The bill would require the Division of Occupational Licensing to evaluate qualifications of applicants, establish educational requirements, evaluate schools and conduct examinations for licensure. This Department and, presumably, professional groups in the State would be available to assist as required in the discharge of these duties.

With the recommended changes, the Department of Health and Social Services has no objection to the passage of this bill.

Recommended: E. S. Rabeau

E.S. Rabeau, M.D.
Director
Division of Public Health

Date: May 20, 1983

Approved: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 5/25/83

NCNM The National College of Naturopathic Medicine

11231 S.E. Market St., Portland, Oregon 97216 503 / 255-4860

NATUROPATHIC MEDICINE

Naturopathic Medicine is a distinct system of healing, a philosophy, science, art and practice which seeks to promote health through education and the rational use of natural agents and processes. As a separate profession, naturopathic medicine in North America traces its origins to Dr. Benedict Lust. Late in the nineteenth century, Lust came to the United States from Germany to practice and teach Hydrotherapy and "Nature-Cure" techniques popularized by Preissnitz, Kneipp and others in Europe. A committee of these practicioners met in 1900 and determined that the practice incorporate all natural methods of healing, including such elements as botanical medicines, homeopathy, nutritional therapy, medical electricity, psychology, and the emerging manipulative therapies. They called their profession "Naturopathy", a term first used by Dr. John H. Scheel, a German Homeopath. The American School of Naturopathy in New York City, founded by Dr. Benedict Lust, graduated its first class in 1902.

Although the name "naturopathic" is of relatively recent origin, the philosophical basis and many of the methods of naturopathic medicine are ancient. The modern naturopathic physician is a true heir to the Hippocratic tradition in Medicine.

PHILOSOPHY

The human body possesses enormous power to heal itself through mechanisms of homeostasis - restoring balance in structure and function and adapting to environmental changes. This vital force, the "vis medicatrix naturae", is the foundation of naturopathic philosophy and practice. The naturopathic physician uses those therapeutic substances and techniques which act in harmony with the body's self-healing processes and avoids treatments which are designed to counteract or supervene them.. Ideally, naturopathic methods are applied as a means of assisting and augmenting this "healing power of nature". A cornerstone of natural therapy is cleansing, detoxification and regeneration.

Naturopathic medicine is a wholistic approach to health. By taking into consideration heredity, biochemical, emotional, environmental and psychological factors, disease manifestations are thus acknowledged from a polycausal perspective. Disease as a process rather than disease as an entity is empahsized and an understanding of the individual as an expression of the dynamic process of life is developed.

SCIENCE

The science of naturopathic medicine is a comprehensive body of knowledge derived from traditional and contemporary sources. It is a record of observation and research in diverse cultures and throughout history. Included in this science are the disciplines common to all healing arts; a thorough study of the human organism, how it iss influenced by all aspects of its environment, and techniques of discovering the nature of the disease process. Naturopathic physicians apply the latest research in all branches of medical science and technology to their field, from discoveries of new facts about human physiology, biochemistry and nutrition to the most modern diagnostic tools and techniques.

Beyond these conventional studies, naturopathic medical science also embraces other diagnostic and proven therapeutic techniques which reflect its philosophical principles.

ART

The art of naturopathic medicine is essentially the application of philosophy and science to the individual. The naturopathic physician develops an ability to gain insight into the causes and effects of personal health problems and to use his or her own knowledge and skill to assist patients in finding solutions. Only in the role of teacher - the literal meaning of "doctor" - can a physician practice truly preventative medicine. In helping people to understand how the choices they make about their lives have an effect on their health, naturopathic physicians provide health education. The ultimate role of the physician is to provide each patient with the tools to achieve the highest possible level of health and the encouragement to use these tools.

PRACTICE

The naturopathic physician is trained as a general practitioner, able to provide a wide range of individual, family and community health services to persons of all ages.

Naturopathic treatment of illnesses, injuries, and reversible pathologies embraces the psychological and emotional, nutritional, biochemical, neurological, and physical therapeutic modes. These methods are administered in combination to produce a maximal desired response or therapeutic effect.

The therapies employed by the naturopathic physician include, but are not limited to the following:

1. CHINESE MEDICINE AND ACUPUNCTURE are concerned with the basic concepts of balance in and correct mobilization of the body's internal energy flow.

2. HOMEOPATHY utilizes th natural law of similars (like cures like) in treating highly personalized "symptom pictures" displayed by patients, a health profile that is derived from extensive life histories and life style analysis.

3. PHYSICAL MEDICINE explores the physiological effects and therapeutic use of heat, light, water, electricity, and sound.

4. NUTRITION focuses on diet and the uses of food stuffs, including vitamins, to correct nutritional deficiencies or imbalancees as well as dietary therapies for specific metabolic conditions.

5. BOTANICAL MEDICINE involves a detailed survey of plants and plant knowledge, integrating traditional herbal knowledge with modern pharmacological research.

In all cases, the naturopathic physician emphasizes the patient's responsibility towards his/her own health and well-being.

BECOMING A NATUROPATHIC PHYSICIAN

The first step in becoming a naturopathic physician is application to an established college of naturopathic medicine. The National College of Naturopathic Medicine is a four-year, N.D. degree-granting institution located in Portland, Oregon. The Admissions Office will be able to provide you with more information about NCNM's curriculum and specific admissions procedures.

The four years at The National College of Naturopathic Medicine are spent in a thorough study of the basic medical sciences, followed by two years of work in the clinical sciences. During the latter, students see patients in the Outpatient Clinic, and develop more specialized expertise in therapeutic modalities. The clinical science years are an important transitional period in the development of the student to a practicing naturopathic physician. In addition, NCNM's new curriculum allows a student to concentrate in certain areas of interest including those listed above. Because of extensive contact with patients under the supervision of a licensed naturopathic physician, and the flexibility that permits students to develop specialized skills and knowledge, the clinical years are generally viewed as the most rewarding and exciting--when being a naturopathic physician becomes a reality.

Upon graduation, most naturopathic physicians set up a private, general practice, though some physicians, by choice, limit their practice to certain classes of problems or therapeutic modalities. Since naturopathic medicine is a

re-emerging profession, most physicians need to be "trail blazers" to some degree by establishing themselves independently in a community which may have little understanding of what a naturopathic physician is and what he does. This provides both a personal and a professional challenge, a challenge that is consistently met with enthusiasm.

Opportunities for post-graduate study or specialty training are presently limited. Only a few clinical residencies are available to graduates of NCNM. In the future, when the profession of naturopathic medicine grows and prospers as is inevitable, inpatient hospitals and other long-term care facilities will allow for even greater exposure to a variety of patients and ailments as well as greater opportunity for specialization at a post-graduate level.

In the words of John B. Bastyr, N.D., President Emeritus of NCNM, "It takes a special kind of person to meet the challenges of naturopathic education and practice--one who is dedicated to the service of others through healing and health education, remembering always that he or she is merely a channel for the healing power of nature." If you are such an individual, we would encourage you to pursue a career in naturopathic medicine at NCNM, and again to quote Dr. Bastyr, "brightly light the path to tomorrow's health care."

Further inquiries about naturopathic medicine and the National College of Naturopathic Medicine may be directed to:

ADMISSIONS OFFICE
NATIONAL COLLEGE OF NATUROPATHIC MEDICINE
11231 SE MARKET ST.
PORTLAND, OREGON 97216
503-255-4860

November 1982

4

Clinic of Natural Medicine

Patton D. Pettijohn, N.D.
Naturopathic Physician

Dear Legislator,

I strongly urge you to support house bill 347 as passed by the H.E.S.S. committee.

You should be aware that because Alaska is without a separate licensing law for naturopathic physicians that the division of occupational licensing is attempting to force naturopaths to stop diagnosing and treating the sick in any way. Enclosed you will find a recent cease and desist order. The contents do not represent complaints from the patients but from the division.

It is very important that you study the training naturopaths receive from naturopathic colleges. House bill 347 clearly defines naturopathic practice as taught in naturopathic colleges. It seems the opposition to this bill argue that the proposed legislation allows naturopaths too broad a scope of practice. This is a false statement. I would like to point out that naturopathic colleges have always taught the subjects listed in this bill. Also house bill 347 was patterned after Oregon's naturopathic licensing law which has been in effect for the last fifty-seven years. As a naturopath, I have been trained as a primary care practitioner. I see no reason why Alaska legislators should object to supporting a law that represents naturopathic practice in its entirety. Please evaluate for yourself the training that naturopathic colleges provide.

It is important for you to support a licensing law that best represents the the naturopathic profession based on facts and training. Please remember that the opposition to house bill 347 generally support Milo Fritz's substitute bill which was written by a medical doctor. Should the medical profession be allowed to arbitrarily define and restrict the scope of naturopathic practice?

I have been trained, tested and licensed in Oregon to use X-ray equipment for diagnosic purposes, to practice as a primary birth attendant including the use

of related minor surgery, and to prescribe natural plant drugs. Some plants have classified as drugs but this is no reason to prevent naturopaths from using them. We went to school for four years so that we would have the expertise necessary to safely prescribe them. Podiatrists and dentists are not medical doctors either but are allowed to prescribe drugs relating to their field of expertise and training. Naturopaths are only asking for the right to prescribe as trained which include natural plant,animal, and mineral substances, antiseptics and local anesthetics necessary for minor surgery.

Please don't let pressure from the medical profession convince you to support legislation that would strip away part of naturopathic practice. Professional training should be the issue. Please investigate naturopathic training for yourself and support legislation that best represents that training.

Sincerely,

Patton D. Pettijohn N.D.

Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

Representative Mae Tischer

April 28, 1983

Mr. Gary Perkins
P.O. Box 263
Chugiak, Alaska 99567

Dear Mr. Perkins:

Thank you for your comment on HB 347 (Naturopath Licensing). I do support this bill and agree that person should have a choice in seeking health care. I will include your message in the hearings on this bill.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

MEMBER: Rules
CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Corrections

MESS.#9952 JUDY/MATSU 4/19/83

TO: REPRESENTATIVES FRITZ, TISCHER, M.MILLER, CATO, GOLL, KOPONEN, AND DAVIS

FROM: GARY PERKINS
PO BOX 263
CHUGIAK 99567 PH. 688-2954

HESS

I WOULD LIKE TO SEE THE NATUROPATHICS LICENSED BY THE STATE. PLEASE SUPPORT HB347.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

April 19, 1983

Mr. Scott Jamison
9411 Berners Avenue
Juneau, Alaska 99801

Dear Mr. Jamison:

Thank you for your comment on HB 347, a bill relating to Naturop. hic Physicians. As cosponsor of HB 347 you can be assured of my support for the bill

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

MSG 83-00009169 PRTY 1 04/15/83 16:32:37 ORIG: LJ04 IN= 0019 OUT= 0162
FROM: PATRICIA/JUNEAU TO:
TARGET: LJHL SUB.' P O M'S

TO: HOUSE HESS - REPRESENTATIVES FRITZ, TISCHER, M.W.MILLER, CATO, DAVIS, GOLL, KOPONEN

HESS

MAR 18 1983

RE: HB 347

FROM: SCOTT JAMISON PHONE: 789-9616(W)
9411 BERNERS AVENUE, JUNEAU, AK 99801 789-9798(H)

MSG: I URGE YOU TO SPONSOR HB 347 FOR LICENSURE OF NATUROPATHIC PHYSICIANS IN THE STATE OF ALASKA.

FROM: NANCY WIGGEN PHONE: 586-4095
P.O. BOX 3165, JUNEAU, AK 99803

I AM IN FAVOR OF THIS BILL AND I AM IN FAVOR OF A FREEDOM OF CHOICE IN MEDICINE I AM IN FAVOR OF INSURANCE FOR NATUROPATHIC MEDICINE. I AM IN FAVOR OF QUALITY IN NATUROPATHIC HEALTH CARE.

..EOM

Dave - Please be sure to respond to me

Thank you for your comment on HB 347, A BILL RELATING TO Licensure of naturopathic physicians.

As CO-SPONSOR of HB 347, you can be ASSURED of my SUPPORT for the bill.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

April 19, 1983

Mr. Chuck Becker
833 West 19th
Anchorage, Alaska 99503

Dear Mr. Becker:

Thank you for your comments on HB 219. As a co-sponsor of the bill you can be assured of my support.

As originally drafted, the bill restricted the constitutional authority of the Board of Regents. The sponsor had the bill redrafted. A copy is attached.

I appreciate your interest.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

Enclosure

MT/cw

MSG 83-00008146 PRTY 1 04/13/83 13:27:55 ORIG: LA01 IN= 0018 OUT= 0090
FROM: SHIRLEE ANC LIO TO: POMS JUNEAU INFO
TARGET: LJHL SUBJ: POM

4/13/83, SHIRLEE ANC LIO, 8146

TO: REPRESENTATIVES FRITZ, TISCHER, M.W. MILLER, CATO, COLL, KOPONEN, DAVIS AND LINDAUER

FROM: CHUCK BECKER, 833 W. 19TH, ANCHORAGE 99503
H 277-3789 W 562-0100

URGE YOUR SUPPORT FOR HB 219 WITH MODIFICATIONS; SUGGEST DELETION OF TERM "DECISIONS" (OF BOARD OF REGENTS) AND INSERTION OF "PROPOSALS AND INITIATIVES" IN LIEU THEREOF. SECTION 14.40.740 (B) AND (C) SHOULD CONTAIN PROVISION FOR EXPEDITED PROCESS HEARINGS SHOULD REVIEW EFFICACY OF EXISTING ADVISORY AND DECISION-MAKING SYSTEMS.

****

Thank you for your comments on HB219. As ~~originall~~ A cosponsor of the bill, you can be assured of my support.

As originally drafted, the bill restricted the constitutional authority of the Board of Regents. The sponsor had the bill redrafted. A copy is attached.

I appreciate your interest.

Bill

MAR 25 1983

Soldotna, Alaska
March 20, 1983

HESS -
Copy received

Dear Mac Fisher,

I am writting to you in hopes you will consider our proposal for a Sheltered Workshop and Residential Care Home for the Retarded and Handicapped in this Area. This is so desperately needed here. There is nothing at all here after High school. I understand they are putting some in Nursing Homes, for lack of openings in the few places there is. This is no place for these people. They need to be needed, like all of us, and have a purpose in life. They are capable of doing so many wonderful things if they could have the training.

We have been told there are 250 people in this area that would

use this program. Can you imagine? This is a figure put out by Voc Rehab and people Count, a group that is helping the parents to get this started.

Please will you consider this proposal very carefully. We will always be greatful.

Sincerely,
Orrin and Adelaide Moore
Parents of a Down Syndrom daughter (32 yrs)

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

April 18, 1983

Ms. Rose Ringstad
502 Monroe Street
Fairbanks, Alaska 99701

Dear Ms. Ringstad:

Thank you for your comments on the Salvation Army request for the care of victims of domestic violence and sexual abuse.

I have supported legislation this session to increase penalties for sexual abuse and distribution and manufacture of child pornography.

I know that Salvation Army performs good services to a variety of people. I am not familiar with the grant request mentioned in your letter. If the request is for a grant through a state department, that department will have authority to allocate funds. If the grant is directly through the legislature, of course I will be involved.

With declining revenues, I am generally supporting the administration's cuts in social program funding. A small cut now is a signal that government funds may not always be available.

Sincerely,

Mae Tischer
Representative Mae Tischer
District 11

P.S. I would like to see the offender pay for his own rehabilitation and that of his victim.

MT/cw

502 Monroe Street
Fairbanks, Alaska 99701
April 12, 1983

Dear Rep. Fischer,

Life involves emotions. Without emotions of hate, envy, jealousy, rage, insensitivity, low self-esteem, super-ego, inability to cope, frustration, insecurity, desperation there would be no domestic violence. Without emotions of love, compassion, understanding, need for sharing and need to share, desire to help, concern, sympathy, empathy there would be no Council on Domestic Violence to aid victims. A decision will be made soon regarding the care of victims of Domestic Violence and Sexual Abuse in the Fairbanks area. I am hopeful that the present recipients of a State Grant will not be granted a new contract for F/Y 1984. There will be a facility for caring for victims of domestic violence and sexual abuse in Fairbanks.

The Salvation Army has prepared a grant request to care for victims of domestic violence and sexual abuse. The Salvation Army has had a long history of helping persons who need a temporary support system. I strongly endorse the Salvation Army as a provider of services for the Council on Domestic Violence in the Fairbanks area.

The group who has received state funding for aid to victims of Domestic Violence and Sexual Abuse has demonstrated a complete disregard for accountability and responsibility.

> Borough zoning was ignored when they moved into their location at 302 Charles Street without asking for a special exception.
>
> When a Conditional Use Permit was requested, an area which was to be used as an apartment by an employee (a disallowed use) was not so noted on the required floor plan and not shown to the Borough Building Inspector.
>
> The Conditional Use Permit which was granted over objections by families in the area specified that the facility would be used as a group home. Actually, a far greater percent of time and space was devoted to administration, a counseling office and public relations activity. Assistant Borough Attorney Terrence Thorgaard stated on February 26, 1982: "In this light, the 'home' probably cannot be overemphasized. Activities that are not incidental to a 'home' environment are not appropriate. These include 'out-patient' counseling and other uses that more properly should be characterized as 'office' or 'clinic'; both inappropriate to and, therefore, prohibited in the R-2 zone."

The requirement that a parking area be provided was ignored until shortly before requesting renewal of the CUP, one year later. On the narrow streets of Slaterville, this created a problem.

The group applied for and was granted state funding (this was never awarded, however, due to the controversy surrounding the organization) in the amount of $208,000.00 for purchase of property at 302 Charles Street. Testimony by the owner indicated that his investment in the property was approximately $115,000.00. This building was sold to the present owner by two realtors who were the President and a member of the Board of Directors of Wicca. They were aware of the cost of the building but apparently deemed a large profit to the purchaser for a one-year waiting period was acceptable when requesting a State appropriation of $208,000.00.

Systematic, consistent embezzling of funds by the bookkeeper of Wicca went unnoticed by the Director of Wicca and the Wicca Board of Directors over a period of three years. State funds were received and state funds were used but how these funds were used or by whom these funds were used did not seem to be overly important. A total of $141,000.00 was embezzled before the loss was noticed.

Recruitment notices for job openings by the Wicca organization do not list any minimum educational requirements for the Positions of Advocate, Legal Advocate, Child Advocate or Shelter Services Coordinator. One year of experience is listed as a qualification.

The above-listed variances from normal, responsible business practice show a lack of respect in the use of public funds and in conforming with public policy. The group should not be given any more public funds. I realize that thorough checking of all monies given out by the State as grants would not be economically feasible but I believe that grantees who have demonstrated this degree of irresponsibility in following established norms of operation should not be allowed to continue.

I request your support of the grant request by the Salvation Army for the care of the victims of domestic violence and sexual abuse.

Sincerely,

Rose Kingstad

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

April 18, 1983

Ms. Joan L. Davis
Route 2, Box 159
Soldotna, Alaska 99669

Dear Ms. Davis:

Thank you for your comment on the need for a sheltered workshop for the handicapped. Those who attend or operate them appear to be pleased with the results. However, due to revenue declines, the Administration and the Legislature is faced with reducing spending in all areas.

While several programs within the Department of Health and Social Services perform useful tasks, I am inclined to agree with the Administration's reduction in funding levels. I believe, as I think you do, that programs that can develop into self-supporting operations are best. With the initial realization that government support may not be available, I expect more programs will take on that attitude.

Good luck in your efforts.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

APR 14 1983

Route 2 Box 159
Soldotna, Ak 99669
April 12, 1983

Rep. Mae Tischer
Pouch V
Juneau, Ak. 99811

Dear Ms. Tischer,

the organization "People Count Inc." have submitted to Sen. Paul Fischer and Rep. Hugh Malone, a proposel requesting funds for a Sheltered work-shop and live in facility for the adult handicapped of the Kenai Penensula.

Speaking as the mother of a 24 year old C.P. victim, this is desperately needed in our area.

I understand that many of these programs are being Cut. But feel this one is unique, in as much as we hope to get our handicapped set up in a business in which they would be able to support themselves.

As President of the adult handicapped Parent Group, we are asking for your Support.

Sincerely

Joan W. Davis

Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

Representative Mae Tischer

April 28, 198?

Mr. Steve Kemp
4101 University Dr ve
Anchorage, Alaska 9?504

Dear Steve:

Thank you for your comment on HB 347 (Naturopath Licensing). I do support this bill and agree that persons should have a choice in seeking health care. I will include your message in the hearings on this bill.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

MEMBER: Rules
CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Corrections

Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

Representative Mae Tischer

May 9, 1983

Ms. Karleen Grummett
301 Seward Street
Juneau, Alaska 99801

Dear Ms. Grummett:

I, too, believe that citizens should have the right to a choice of health care.

House Bill 347 relating to the licensing of practitioners of naturopathic medicine is currently in the House Health, Education and Social Services Committee which I Co-chair. I will support its passage from the H.E.S.S. Committee.

Thank you for your comments. Please feel free to write again.

Sincerely,

Mae Tischer

Repesentative Mae Tischer
District 11

MT/cw

MEMBER: Rules
CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Corrections

Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

Representative Mae Tischer

April 30, 1983

Ms. Pamela A. Fuller
P.O. Box 1174
Juneau, Alaska 99802

Dear Ms. Fuller:

Thank you for your comment on HB 347 (Naturopath Licensing). I do support this bill and agree that persons should have a choice in seeking health care. I will include your message in the hearings on this bill.

A committee substitute for HB 347 has been proposed that would limit the authority of naturopaths and eliminate their use of prescription drugs, sugery and x-rays in their practice.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

MEMBER: Rules
CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Corrections

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

April 20, 1983

Ms. Nancy Wiggen
P.O. Box 3165
Juneau, Alaska 99803

Dear Ms. Wiggen:

Thank you for your comment on HB 347, a bill relating to Naturopathic Physicians. As co-sponsor of HB 347 you can be assured of my support for the bill.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw



406 G Street
Anchorage,AK 99501

Jan.20,1984

Rep.Mae Tischer,Chair
Health,Education and Social Services
Committee
Anchorage,AK

Dear Representative Tischer:

Following are my preliminary views on HB225 and HB347 given as an individual and not as Chairman of the State Medical Board.In fact,I would respectfully request that final action be dferred on the bills until the State Medical Board has a chance to consider them at their February 23d and 24th meeting.

A subcommittee of the State Medical Board has been meeting with members of the Board of Optometry,other optometrists and representatives of the Department of Health and Social Services regarding the substance of HB225.The Medical Board as a whole was to meet with the optometrists at our last meeting in December,but the optometrists were unable to attend.My understanding is that the subcommittee could support the use of drugs for diagnosis but not for treatment which should be reserved for physicians.

I have some serious reservations on HB347.I think that surgical proceduresas outlined in 08.45.150(5) should not be given until one can be sure that the surgical training of naturopaths is equivalent to that of physicians performing the same kinds of surgery.I also have a problem with the definitions of naturopathy and naturopathic medicine in 08.45.205 considering the discussion of the use of mechanical and electrical treatment.I think a permanent exemption of exisiting practitioners from the examination is an overuse of "grandfather" privileges.

I also have a basic doubt that legislation for naturopaths is needed at all.The evident lack of a national exam would tend to support this.Given the limited health services implied in the proposed bill,I believe public awareness of the naturopathic profession and its services could serve better and cheaper than this bill.

I'm sorry other commitments make it impossible to attend the hearings in person and hope this letter will receive your consideration.

Sincerely,

Hubert J. Gellert

HUBERT J. GELLERT

Clinic of Natural Medicine

Patton D. Pettijohn, N.D.
Naturopathic Physician

Oct. 8,1982

Dear Candidate:

I am polling all the legislative candidates reguarding their personal views towards licensing practitioners of naturopathic healing.

Licensing procedures for naturopathic physicians would insure the rights of many Alaskans to choose for themselves, because of preference, what type of health care service they use. This legislation would also serve to protect the public interest by making sure that those who practice as naturopaths in Alaska are qualified to do so.

Enclosed, are both a pamphlet concerning our education and a copy of sample legislation that was introduced last legislative session.

I would appreciate a response to the following questions:

1.) Would you support legislation similar to Senate Bill 274 which would insure Alaskans the right to use naturopathic services if it is their desire to do so?

2.) Would you be willing to co-sponser legislation similar to Senate Bill 274?

Many of my patients and other interested Alaskans are interested in knowing which of the candidates would support such legislation. I feel using nutrition against disease is gaining substantial scientific and public support and the many possible side effects of drugs has oriented many people to a more natural health care approach.

Please feel free to contact me if you have any questions reguarding naturopathic medicine.

Sincerely,

Patton Pettijohn N.D.

Patton D. Pettijohn N.D.

505 West Northern Lights Blvd., Suite 104 • Anchorage, Alaska 99503 • Phone (907) 276-5077

Offered: 3/23
Referred: Finance

Original sponsor: Colletta by request

IN THE SENATE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 274 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the licensing of practitioners of naturopathic healing; and providing for an effective date."

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

* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

(24) practice of naturopathy or naturopathic medicine (AS 08.45).

* Sec. 2. AS 08 is amended by adding a new chapter to read:

CHAPTER 45. NATUROPATHS AND NATUROPATHIC PHYSICIANS.

ARTICLE 1. REGULATION OF NATUROPATHY.

Sec. 08.45.010. DUTIES AND POWERS. The Department of Commerce and Economic Development shall

(1) evaluate the qualifications of applicants for licenses under this chapter;

(2) conduct hearings and keep records necessary to carry out the purposes of this chapter;

(3) license naturopathic physicians in accordance with AS 08.45.100 - 08.45.160; and

(4) provide for temporary permits for persons who are apparently qualified to engage in naturopathic medicine to engage in the practice of naturopathic medicine until certification of the results of the next examination given under AS 08.45.120.

ARTICLE 2. LICENSING OF NATUROPATHIC PHYSICIANS.

Sec. 08.45.100. LICENSING REQUIREMENT. A person may not engage

suggest deleting ⊛ — + instead put in licensing by reciprocity only" means licensing based on a licensing from another state, until there is enough Naturopaths to set up a board

in the practice of naturopathy or naturopathic medicine unless he first obtains a license as provided in this chapter.

⊛Sec. 08.45.110. LICENSURE AS A NATUROPATHIC PHYSICIAN. To be eligible for a license as a naturopathic physician, an applicant shall

(1) hold a high school diploma or the equivalent;

(2) have completed two years of postsecondary education at an accredited college of liberal arts or sciences;

(3) have attended at least 90 percent of the hours required for graduation and graduated from a legally chartered school or college of naturopathic medicine that has as a requirement for graduation successful completion of a course of resident instruction of at least nine months actual attendance in each of four years and successful completion of a course of instruction totaling 4,500 hours or more; the course of instruction shall include:

(A) anatomy and physiology;

(B) histology and embryology;

(C) microbiology;

(D) pathology;

(E) immunology;

(F) public health;

(G) toxicology;

(H) physical, clinical, x-ray and symptomatology diagnosis;

(I) first aid and emergency medicine;

(J) obstetrics and gynecology;

(K) orthopedics;

(L) minor surgery;

(M) proctology;

(N) otolaryngology;

(O) physiotherapy;

(P) manipulative techniques;

(Q) dietetics and clinical nutrition;

(R) herbology;

(S) naturopathic theory and practice;

(T) naturopathic therapeutics;

(U) clinical practice; and

(V) jurisprudence;

(4) successfully complete an examination given by the department;

(5) not have a license to practice naturopathic medicine in another state, province, or territory, which is suspended or revoked for disciplinary reasons;

(6) be a United States citizen or lawfully admitted to permanent residence in this country; and

(7) be of good moral character.

Sec. 08.45.120. EXAMINATION. (a) An examination for licensing as a naturopathic physician shall be held at a time and place and shall be conducted as determined by the department. The examination shall be limited to the subjects listed in AS 08.45.110(3), each of which shall constitute a separate examination section. The examination shall be objective and in writing, but may be supplemented by oral examinations, and by demonstrations or other practical tests as the department may require.

(b) To pass the examination an applicant shall receive an overall average of 75 percent and may not receive less than 70 percent in more than two sections.

Sec. 08.45.130. ENDORSEMENT. The department may license a person as a naturopathic physician if the person is currently licensed as a

naturopathic physician in another state or in a province of Canada and

(1) that state or province maintains professional licensing standards equivalent to those in this chapter;

(2) that state or province extends the same licensing privilege to those holding a license in this state; and

(3) the person demonstrates to the satisfaction of the department qualifications at least equal to those required of persons licensed under this chapter.

Sec. 08.45.140. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. The department may deny, suspend, or revoke the license of a person or applicant who

(1) has obtained or attempted to obtain a license under this chapter by fraud or deceit;

(2) wilfully violates a provision of this chapter or a regulation adopted under this chapter;

(3) engages in unprofessional conduct;

(4) impersonates another physician;

(5) practices under an assumed name; or

(6) is convicted of a crime involving moral turpitude.

Sec. 08.45.150. FEES. The following fees are imposed under this chapter:

(1) application for examination .....$ 25

(2) application for reexamination 10

(3) license issuance or biennial renewal 100

(4) issuance of temporary permit 25

Sec. 08.45.160. NATURE OF NATUROPATHIC PRACTICE. A naturopathic physician in the course of the practice of naturopathic medicine

(1) may perform physical examinations, write prescriptions for substances authorized in this chapter, and sign birth and death

certificates;

(2) may use systems of diagnosis for which he has been trained under AS 08.45.110(3);

(3) may treat patients by physiological, nutritional, psychological, mechanical, electrical, manual, hydrotherapeutic, phytotherapeutic, mineral and organic substances and agencies, including acupuncture, that are effective in stimulating normal function of tissues and organs sensitized by disease;

(4) may

(A) draw blood for laboratory purposes, and use electrical or other methods for the repair and care of superficial lacerations and abrasions, benign superficial lesions, and the removal of foreign bodies located in superficial structures;

(B) practice natural childbirth in obstetrics, including related minor surgical procedures;

(5) may not

(A) perform surgery except as provided under (4)(B) of this section;

(B) use controlled substances as defined in AS 11.81.-900(b)(6) including cannabis;

(C) use radiation therapy; and

(D) use drugs except antiseptics, local anesthetics, minerals and their extracts. and compounds or concentrates obtained from plants or animals.

Sec. 08.45.170. CONTINUING EDUCATION. (a) The department may prescribe by regulation continuing education requirements for persons licensed under this chapter.

(b) Before a license issued under this chapter may be renewed, the licensee shall submit to the department evidence of completion of con-

tinuing education requirements.

(c) The department may exempt a licensee from the continuing education requirement under (b) of this section upon an application of the licensee setting out extenuating circumstances. A licensee may not receive more than one exemption under this subsection in a five-year period.

ARTICLE 3. GENERAL PROVISIONS.

Sec. 08.45.200. TITLES AND ABBREVIATIONS. (a) A person licensed under this chapter may use the following titles: "Doctor of Naturopathy" or its abbreviation, "N.D.", "Naturopath", or "Naturopathic Physician". A person licensed under this chapter may not use his title in a manner that suggests that he practices a form of medicine or a healing art other than naturopathy.

(b) A person may not use a title or abbreviation listed in (a) of this section unless he is licensed under this chapter.

Sec. 08.45.205. VIOLATIONS. (a) It is unlawful for a person to

(1) fraudulently obtain or furnish a license, renewal, or record required by this chapter;

(2) wilfully violate a provision of this chapter or a regulation adopted under this chapter.

(b) A person who violates this section is guilty of a class B misdemeanor.

Sec. 08.45.210. PRACTICING WITHOUT A LICENSE. A person who practices naturopathy or naturopathic medicine without first obtaining a license is guilty of a class A misdemeanor.

Sec. 08.45.220. DEFINITIONS. In this chapter

(1) "department" means the Department of Commerce and Economic Development;

(2) "naturopathy" and "naturopathic medicine" means the

treatment of the human body through the use of natural agencies, forces, processes, and products, with emphasis on the response of the individual to the disease rather than its treatment in isolation;

(3) "unprofessional conduct" means

(A) the habitual overuse of alcoholic beverages or cannabis or the unlawful use of controlled substances as defined in AS 11.81.900(b)(6); or

(B) conviction of an offense that is a crime of moral turpitude, including murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery.

* Sec. 3. LICENSING OF PRACTITIONERS OF NATUROPATHY OR NATUROPATHIC MEDICINE WITHOUT EXAMINATION. The commissioner of commerce and economic development shall license all persons who, on the effective date of this Act, meet the qualifications of AS 08.45.110(1) - (7) and who apply for licensure under AS 08.45 not later than June 30, 1983.

* Sec. 4. This Act takes effect July 1, 1982.

Known Sympathetics

Abool
Martin
Vesta
Vic Fischer
Tim Keller(?)

against

Bennett
Eliason
Kerttula sent this to Bennett (Finance)!

CREATION OF BOARD OF EXAMINERS

A BOARD OF EXAMINERS IN NATUROPATHY SHALL BE CREATED BY THE DEPARTMENT

AFTER
~~WHEN~~ THAN NUMBER OF LICENSED PRACTITIONERS OF NATUROPATHIC MEDICINE HAS REACHED SIX IN NUMBER.

WITHIN ONE YEAR.

BOARD OF EXAMINERS SHOULD CONSIST OF

NATUROPATHIC PRACTITIONER
PSYCHIATIST
MD
CONSUMER

Anch Pettyjohn - ease + decent
minor surgery:
~~vaginal~~ laceration -
superficial laceration -

Cocaine -
Foxglove - Digitalis ~~[illegible]~~

* Gary Jasper - Nathurophic Doc.

Mat Sue - Georgia Pankratz
Anch - Sandra Jacques - Chiropactor
Sherri Holley (Midwife - Lay
Jean Brooking -
Mat Sue - Ruby Pettyjohn
Anch - Karen Jasper
Mat Sue - Capt Pettyjohn
Anch - Connie Walker
Mat Sue - Paula Pettyjohn
Anch - Bill Deal
Mat Sue - Tom Pettyjohn
* Anch - Lindy ~~Sed~~ Siegler
~~Mat Sue~~ -
(*) Anch - Kathy Gerstingberger - Reg. Nurse
Dr. Bonner
Jasper

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

FAIRBANKS LEGISLATIVE
INFORMATION OFFICE
315 BARNETTE STREET, SUITE 101
FAIRBANKS, ALASKA 99701
(907) 452-4448

TO: House H.E.S.S. Committee

FROM: Legislative Information Office - Fairbanks

RE: POMS

The attached POMS were not delivered in person. We received all nine in the same envelope, therefore, we cannot verify the signatures. We are forwarding the original POMS to your committee and a copy to the interior delegation.

Thank you

PUBLIC OPINION FORM

POM's are limited to 25-50 words. These messages are transmitted via omnicom to Juneau by our staff on a time-available basis.

**ONLY THOSE SINGLE MESSAGES DELIVERED BY THE SIGNING INDIVIDUAL TO THE LEGISLATIVE INFORMATION OFFICE BY PHONE, HAND DELIVERED, OR WRITTEN AT THE LEGISLATIVE INFORMATION OFFICE WILL BE ACCEPTED FOR TRANSMISSION VIA OMNICOM AS A PUBLIC OPINION MESSAGE. (Legislative Council Policy 6/81)

DATE 1/30/84

NAME EUGENE H LADASSOR

REPRESENTING INTEGRITY CONST.

MAILING ADDRESS PO BOX 60132

FBKS AK ZIP 99706

PHONE (HOME) 4792528 (WORK) SAME

TO: HOUSE HESS & INTERIOR DELE.

REGARDING: HB 347

MESSAGE: I AM IN SUPPORT OF HB 347 to ENACT LICENSING of NATUROPATHIC PRACTITIONERS IN THE STATE OF ALASKA

SIGNATURE

PUBLIC OPINION FORM

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DATE 2 FEB, 1984

NAME DEBORAH CHAPMAN

REPRESENTING SELF

MAILING ADDRESS P.O. BOX 80672

FAIRBANKS, AK ZIP 99708

PHONE (HOME) 455-6804 (WORK)

TO: HOUSE RES & INTERIOR DELC.

REGARDING: HB 347

MESSAGE: I am in support of HB 347 to enact licensing of Naturopathic Practitioners in the state of Alaska.

SIGNATURE Deborah Chapman

PUBLIC OPINION FORM

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DATE JAN. 23, 1984

NAME JEANNE KEISTER

REPRESENTING SELF

MAILING ADDRESS SR. BOX 20608

FAIRBANKS AK ZIP 99701

PHONE (HOME) _____ (WORK) _____

TO: House H&SS Interior Delegation

REGARDING: HB 347

MESSAGE: I am in support of HB 347 to license Naturopatic Practitioners in Alaska

SIGNATURE Jeanne Keister

PUBLIC OPINION FORM

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DATE 1/24/84

NAME Mary Lee Burbage

REPRESENTING self

MAILING ADDRESS PO Box 81845

College Alaska ZIP 99708

PHONE (HOME) # 5th (WORK) 457-5323

TO: House Hers & Int Delegation

REGARDING: HB 347

MESSAGE: I am in support of HB 347 to enact licensing of naturopathic practitioners in the State of Alaska.

SIGNATURE Mary L. Burbage

PUBLIC OPINION FORM

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DATE 1-30-84

NAME JOHN M. McCORMICK

REPRESENTING SELF

MAILING ADDRESS S.R. BOX 20292

FAIRBANKS, ALASKA ZIP 99701

PHONE (HOME) 455-6747 (WORK)

TO: HOUSE HESS & INTERIOR DELE.

REGARDING: HB 347

MESSAGE: I am in support of HB 347 To enact licensing of naturopathic practitioners in the state of Alaska

SIGNATURE John M. McCormick

PUBLIC OPINION FORM

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DATE 1/26/84

NAME Judith Diamondstone

REPRESENTING

MAILING ADDRESS 761 A NMSH / UAF

Fairbanks, Ak ZIP 99701

PHONE (HOME) 479 3507 (WORK) 474 6634

TO: House H&SS & Interior Dele.

REGARDING: H B 347

MESSAGE: I support H. B. 347 to enact licensing of Naturopathic practitioners in Alaska

SIGNATURE Judith A Diamondstone

PUBLIC OPINION FORM

POM's are limited to 25-50 words. These messages are transmitted via omnicom to Juneau by our staff on a time-available basis.

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DATE Jan 27, 1984

NAME Ed Berg

REPRESENTING

MAILING ADDRESS 3150 Totem Dr

Fairbanks ZIP 99701

PHONE (HOME) 479-2164 (WORK)

TO: Fairbanks area legislative delegation

REGARDING: HB 347

MESSAGE: Please support licensing of naturopaths in Alaska. They can be a valuable and less expensive source of good health care.

SIGNATURE Ed Berg

PUBLIC OPINION FORM

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DATE _____

NAME John H. Sawby

REPRESENTING Self

MAILING ADDRESS Mile 1411 Alaska Hwy

Delta AK. ZIP 99737

PHONE (HOME) none (WORK) none

TO: House Hess & Interior Dek.

REGARDING: HB 347

MESSAGE: I am in support of HB 347 To enact Licensing of Naturopathic Practitioners in the State of Alaska

SIGNATURE John H. Sawby

PUBLIC OPINION FORM

POM's are limited to 25-50 words. These messages are transmitted via omnicom to Juneau by our staff on a time-available basis.

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DATE 01/31/84

NAME Dave Lacey

REPRESENTING Self

MAILING ADDRESS Box 81765

College ZIP 99708

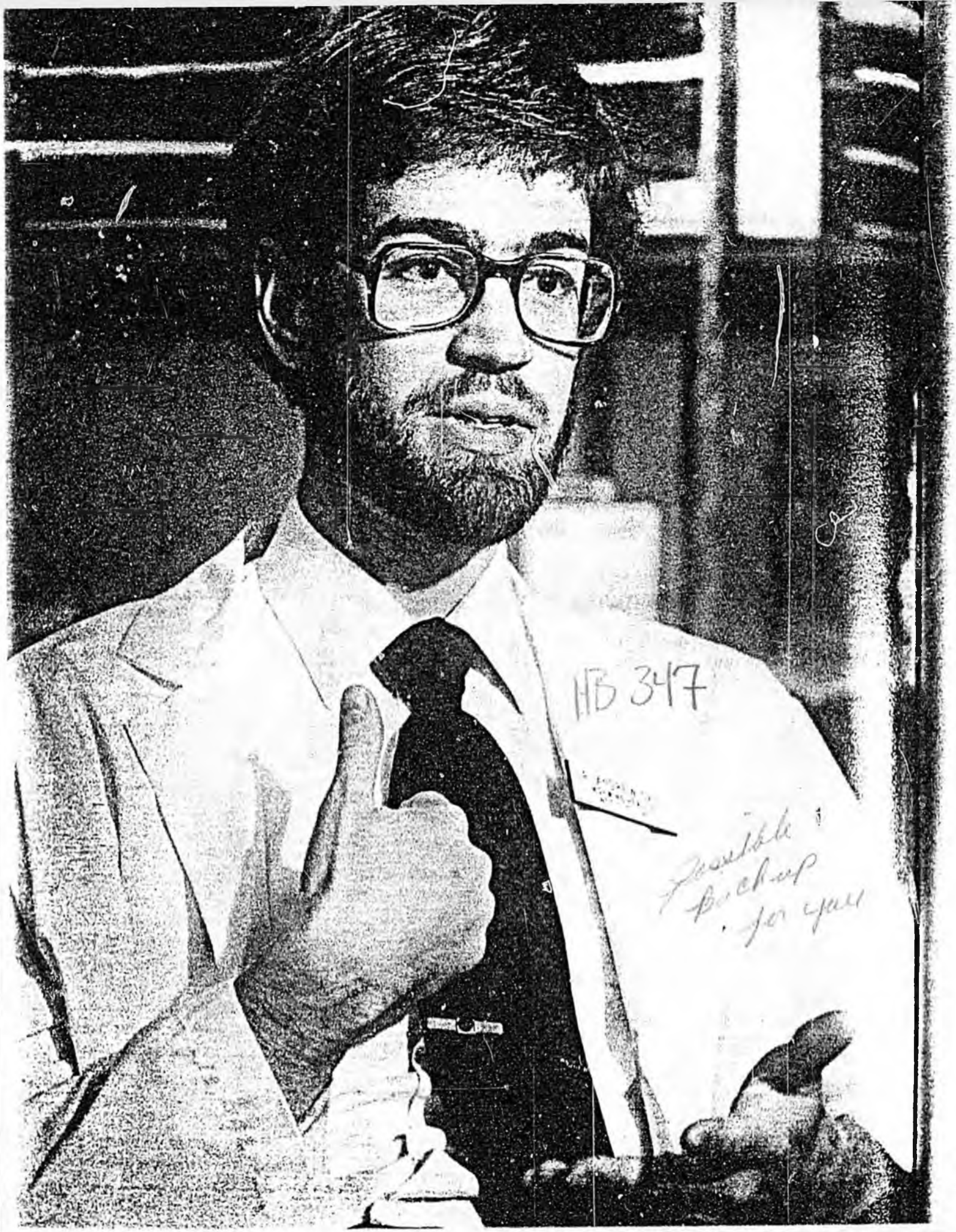
PHONE (HOME) _____ (WORK) 456-6571

TO: House Hess & Interior Delegation

REGARDING: HB 347

MESSAGE: I am in support of HB 347 I hope Homeopathic Practioners are covered under this also.

SIGNATURE Dave Lacey


HB 347
Possible
Pick up
for you

THE PLOWBOY INTERVIEW

ANDREW SAUL:
YOU CAN BE YOUR OWN DOCTOR

"If we learn more than the doctor in areas of value to our health, it is our duty to apply this knowledge to the betterment of ourselves and our families. We need total health more than medically approved health."

So says 28-year-old Andrew Saul in the opening chapter of his manual Doctor Yourself. *Saul is, it seems, engaged in a struggle to expand the frontiers of the medical self-care movement . . . taking the radical view—even in the eyes of some longtime self-help advocates—that a person who lives a truly healthful life should almost never* need *the services of medical professionals. In the process of spreading his message, Dr. Saul (he's not an M.D., but rather a doctor of naturopathy, a title recognized in several states and widely accepted in Europe) managed to become the first person certified by New York State to teach naturopathic healing and health-maintaining techniques . . . established the Ashwins Health Institute in Hamlin, New York . . . set up a charity vitamin dispensary for the poor in nearby Rochester . . . and published a shopper's guide to healthful supermarket foods, a how-to manual aimed at helping people through their first body-cleansing fast, and the book* Doctor Yourself. *Along with all that, he has still found time to teach classes at the State University of New York at Brockport, bombard local newspapers with alternative medical information, and generally make every effort to bring his message of natural health care to as many people as he possibly can.*

In fact, Andrew Saul first came to MOM's attention while he was teaching a series of courses at last summer's Community of Homesteaders' Good Life Get-Together in Naples, New York. Once the MOTHER staffer who visited the festival saw that Dr. Saul's presentations were progressively better *attended as the days went on, he sat in on one himself . . . and quickly became convinced that the outspoken naturopath's ideas merited sharing with our readers.*

So MOTHER sent Bruce Woods to visit Dr. Saul at the Ashwins Health Institute for an in-depth discussion. Mind you, by presenting their conversation (in edited form), we are not necessarily endorsing *Dr. Saul's ideas, and—more important—we're certainly not trying to convince anyone to avoid traditional medical care. However, we did indeed find Saul's words to be a stimulating challenge to our own ideas of self-health responsibility. And by sharing his thoughts and providing access information on pertinent books and medical studies, we hope to help you, our readers, to be better able to make wise decisions on questions pertaining to your own health and that of your families. After all, there are not many* other *situations in which finding the right answer can be so vital.*

PLOWBOY: Dr. Saul, you've made a name for yourself in the field of alternative medicine at a fairly tender age. That leads me to believe that your interest in medical alternatives goes back a goodly number of years.

SAUL: Well, in essence, I was drawn into natural healing because I found that regular healing didn't work. And I suppose the *seeds* of that realization were sown when I was a child. Like everybody else, I had the usual injections, and then I went overseas and had more shots, and I ate meals based on the so-called four basic food groups (again like everybody else), and I got *sick* like everybody else. Not all the time, of course, but often enough.

Now, my "conversion", if you can call it that, was a very slow process . . . I more or less backed into the alternative health field. You see, I was still intending to go into traditional medicine when naturopathic healing was introduced to me by Professor John Mosher at SUNY at Brockport, where I was enrolled in a premed program. Dr. Mosher challenged me on one simple point. He said, "If you really want to help people, why don't you at least *investigate* the natural healing techniques as well as those of conventional medicine. Let the merits of each system tell you which is best." So I began looking into the subject, and the book that turned me around was Aubrey Westlake's *The Pattern of Health.* It's a rather unspectacular-looking paperback, but it's probably the most important volume I've read in the last 12 years. Westlake was an experienced English M.D. who had also backed into natural healing, so I could easily relate to what he had experienced. Briefly, he felt that, after 40 years as a physician, he'd spent too much of his time just bailing out leaking boats. He was frustrated by his inability to get down to causes . . . to promote self-help and to effect practical, deep-down cures. *The Pattern of Health* is the story of his discovery of alternative healing techniques. That book inspired me to read more on the subject, and one thing led to another. I soon started using basic naturopathic methods myself—such as fasting, switching to a vegetarian diet, and taking vitamin supplements—and I actually started feeling better.

PLOWBOY: Were there any *other* experiences that contributed to your disillusionment with standard medicine?

SAUL: Well, when I observed my first surgeries, I found that I wasn't particularly enamored with the idea of cutting out someone's adrenal glands, or otherwise "invading" the person's body, in the hopes of achieving a desired end, one that often wouldn't come about. But the conflict between my medical career and my "sideline" research into alternatives really became intense while I was studying in Boston.

PLOWBOY: Was that at Brigham Hospital?

SAUL: The Peter Bent Brigham Hospital, yes. Now don't get me wrong: That institution's staff members are very good at crisis medicine. But as far as knowing what kind of *diet* will help a person back to health . . . well, let's just say that I was amazed to see people who had diverticulitis or who'd just had a colostomy getting white bread, soda pop, overcooked vegetables, tiny little salads, slabs of overcooked meat, and *no* vitamin supplements at all. These were individuals who had been through grueling surgery—sometimes people who were dying—and this lack of nutritional care nailed home the point that orthodox medicine is sometimes wrong. Those who practice it often *don't* know what they are doing.

However, I also had to beg n to ask myself whether I really knew what I hoped to be doing. And that concern led me to a great source of information. I started reading reprints produced by the Lee Foundation for Nutritional Research and found it to be an excellent outlet for good, hard medical and nutritional information. Better still, these reprinted articles are right out of the mainline medical journals . . . including *Clinical Physiology*, the *Journal of Applied Nutrition*, the *Journal of the American Medical Association*, and the rest. The foundation has simply reprinted features that describe instances in which drugs do not work, and others that demonstrate how vitamins and foods can cure real diseases.

And that was what I needed to see . . . reports by *doctors* who'd worked with medical alternatives. At that point there was no turning back for me, because I was faced with overwhelming evidence . . . data provided by medical doctors, by researchers, by Ph.D.'s, and by leaders in their fields. I'd discovered a tremendous amount of material and I'd begun to see that nature cure was *not* just a questionable method of treating the common cold, but that it could also be used for cancer, encephalitis, meningitis, pneumonia, polio, diverticulitis, and other terrifying diseases.

PLOWBOY: Yet although you received your doctorate in naturopathy in 1976, you weren't able to actually *use* it until 1980.

SAUL: Yes, I was able to open the Ashwins Health Institute only after an uphill battle. Professor Mosher, an accountant named Keith

(continued on next page)

(continued from preceding page)

Taylor, and I began the process by filing for nonprofit corporate status. To do so, we had to obtain the approval of the state attorney general. And, as you probably know, natural healing is not yet considered legitimate medicine in New York State (but it is accepted in some others . . . including Oregon, Washington, and California).

At any rate, the attorney general approved us without question, and our next step was to approach the New York State Education Department, which actually licenses physicians in New York. We assured that organization that we weren't going to practice medicine or grant M.D. diplomas. So the Education Department approved us in short order, at which point we had to get an OK from the county supreme court. Once that was obtained, the state granted us, after some months, our nonprofit status. *Then* we asked the Internal Revenue Service to verify and underline what the state had done, *and* to grant us a tax exemption so that our donors' contributions would not have to be split with the government and could be applied, in total, to the services that we hoped to provide . . . the charitable vitamin dispensary that we now run, for instance.

This application turned into yet another round of forms and letters. Eventually, however, the IRS granted us tax-exempt status. I do believe that the whole process was worthwhile, though, because when a client or student comes to see me, he or she wants to be assured of dealing with a recognized and reputable professional. I'm always careful to point out that I'm certified by the state of New York to teach what I'm teaching.

> *A person really* can *choose to get well or to stay sick . . . and it's shocking to me that many people choose illness.*

PLOWBOY: This would probably be a good time to give a working definition of naturopathy.

SAUL: Well, first of all, naturopathy could also be called *nature cure*, *natural healing*, or even *natural therapeutics*. Nature cure is very different from standard—or *allopathic*—medicine, because a naturopath does not use drugs and doesn't perform surgery.

Now the first question one might ask upon hearing that is "Well, then, what on earth *do* you do?"

To answer that, I have to admit that there are a number of naturopathic approaches. Natural healing is a highly diverse field. However, rather than limit myself to any one of these schools of thought, I believe in using sort of a team approach . . . that is, employing many such methods in concert. I'm interested in results rather than "pet" theories. All I want to see is people getting better, and any technique that they can use to get results is fine with me.

Furthermore, nature cure almost always is safer than allopathic medicine. After all, a healthful diet is probably the keystone to *any* form of naturopathic therapy. And there are no unpleasant side effects of eating right.

PLOWBOY: It would seem that you're saying the patient bears the responsibility for his or her own health, then.

SAUL: Exactly. A person really *can* choose to get well or to stay sick . . . and it's shocking to me that many people choose illness. I often tell folks that everybody has the *right* to be sick. And I'm not being flippant when I say that! If a person really wants to get well, he or she won't mind making a change of lifestyle . . . or taking *whatever* course of action will help him or her get better.

If an individual wants to get well enough, or perhaps I should say if a person wants to get well, *enough* . . . he or she will be willing to take such steps. In fact, my most successful students often tend to be just a bit desperate and discouraged . . . and that combination can sometimes yield remarkable results. Many people do their best work when their backs are against the wall.

PLOWBOY: Why is it that nature cure has such a limited acceptance in this country? Isn't it far more generally recognized overseas?

SAUL: Naturopathy is downright *mainstream* in many other countries. In Germany, for example, naturopathic healers are abundant. Furthermore, there *was* a time when nature cure practitioners were far more common in the U.S. In Florida, for instance, two sister bills were passed in 1927: the Naturopathic Practice Act and the Medical Practice Act. In those days, naturopaths and medical doctors often worked side by side. But by 1959, the nature cure practitioners were no longer being licensed, while, of course, the M.D.'s are to this day.

The official reason for such "precautionary" restrictions is to protect people from quack therapies. And many individuals *have* been taken in by treatments that are statistically invalid. Unfortunately, orthodox medicine leads the league in the use of statistically invalid approaches to human illness. One has only to read Ivan Illich's *Medical Nemesis* to verify that medicine not only is without statistical significance in many cases, but also is sometimes definitely harmful. One out of five people admitted to a typical research hospital today will acquire an iatrogenic—or doctor-caused—disease.

PLOWBOY: Can you cite some well-documented clinical evidence of the effectiveness of nature cure?

SAUL: Yes, a great deal of it. You have only to go to the *Journal of Applied Nutrition*, to the *Journal of the Franklin Institute*, to *Clinical Physiology*, to *The Lancet*, or to any of the many excellent British and German journals to find that such techniques are well established. For instance, in 1950 Dr. Benjamin P. Sandler, a United States Navy physician, then at the Mayo Clinic, treated tuberculosis—and did so more effectively than anyone *else* at that clinic at the time—using nothing but a high-protein, low-carbohydrate diet.

Then too, Dr. William J. McCormick of Toronto, Canada has—since 1946, at least—been using high doses of vitamin C (ascorbic acid) to treat herniated or ruptured disks, as well as a variety of infectious childhood illnesses. Or how about Dr. Frederick Robert Klenner of Reidsville, North Carolina? For 45 years he's been using vitamin C as an antibiotic, an antitoxin, and an antihistamine. He's employed it, with success, against polio, meningitis, tetanus, encephalitis, and a number of other serious diseases. This man is giving *injections* of vitamin C, and reported—in *A Physician's Handbook on Orthomolecular Medicine*—that vitamin C is the most useful therapeutic substance available to the doctor.

Klenner suggests that when an M.D. admits a patient to the hospital, the first thing he or she should do is to administer vitamin C while deciding what other course of action to take. In many cases, the physician won't *have* to do anything else . . . because the vitamin C therapy will cure the condition. Why, high doses of vitamin C can even be a beautiful treatment for infected cows. I worked on a dairy farm for a while before I started practicing, and helped inject dozens of a million or more units of antibiotics to cows with mastitis. Yet if farmers would give their milking stock 20,000 to 30,000 milligrams of vitamin C and eight ounces of cider vinegar a day, the animals wouldn't have mastitis problems.

Colds, cancer, bronchitis, pneumonia, herpes, meningitis, encephalitis . . . how, people ask, can one vitamin cure so many different illnesses? The answer is that the *lack* of one vitamin can *cause* many different illnesses.

PLOWBOY: Hold on there. Are you saying that you know of people who've achieved a complete and total remission of *genital herpes* as a result of vitamin therapy?

SAUL: Yes, that's the proper term for it . . . complete and total remission. The specific form of vitamin C used was calcium ascorbate, in conjunction with sizable doses of L-lysine, a magnesium supplement, and a vegetarian diet. The amount of calcium ascorbate may exceed 40,000 milligrams daily. And yet, proportionate to body weight, that's no more vitamin C than a sick rat would manufacture!

PLOWBOY: Right. Rats, goats, and many other animals produce vitamin C in their bodies, and the amount varies with the creature's health.

SAUL: Yes, a healthy rat may manufacture the equivalent of a human dose of 6 grams a day. A sick rat—or goat—will manufacture a good deal more.

Vitamin C is inexpensive . . . has broad-spectrum utility . . . is effective . . . *and* is safe. Yet it gets absolutely no significant attention from the medical community. Perhaps that's because physicians don't believe that anything cheap, safe, and generic *could* work.

PLOWBOY: And, of course, it's also available without a prescription.

SAUL: That's precisely why vitamin C appeals to *me*, because I'm trying to promote *radical* wellness self-reliance. By that I don't mean that people should just learn when to go to the doctor or how to avoid mixing their medicines. Such concepts are little more than grade

school-level medical self-reliance. I want people not only to know what type of approach might help them, but also to be able to take the appropriate action and get results, totally on their own. People no longer *have* to suffer.

PLOWBOY: And it was to spread the word about such health care that you came out with your self-published book, *Doctor Yourself* . . . which I believe you've called a "health homesteader's handbook".

SAUL: The purpose of *Doctor Yourself* is to describe—in simple, practical, immediately useful terms—12 ways people can improve their own health.

PLOWBOY: But how do you convince them that they have the *capability* of managing their own health?

SAUL: The book addresses that fear right off. The first chapter explains that it's easy—and safe—to be your own doctor . . . *if* you know how. The *absence* of knowledge is what should be feared.

PLOWBOY: Well, how can a person obtain the necessary knowledge? What sorts of materials are available to the public?

SAUL: *Doctor Yourself* lists about 140 readily available books and articles, and that's by no means intended to be a complete bibliography. However, the Lee Foundation for Nutritional Research should be the *first* source a person investigates. *[EDITOR'S NOTE: See the access list accompanying this interview.]* I'd even go so far as to suggest that anyone interested in self-care get one copy of every reprint and book the foundation publishes. These would prove to the person, as much as anything *can* be proved by written material, that "real" doctors do cure diseases with nutrition . . . with fasting . . . with vitamins . . . and with minerals.

Then again, people can simply go to their local libraries, and even to *medical* libraries—no one's going to throw them out—and research any disease that they'd like to understand. I'd also suggest visiting a pharmacy, borrowing the establishment's copy of the *Physician's Desk Reference for Prescription Drugs*, and reading enough of it to appreciate how dangerous many drugs are and how little is known about the majority of them. Yet another valuable source of information is the *Merck Manual*. It's a 2,400-page medical text, and it sells for about $12. That's almost like getting four years of medical education for $12!

PLOWBOY: It sounds like quite a bargain.

SAUL: Yes. This is a book that practically every physician has on his or her desk, and one that every health homesteader should have, too. Now, you might well ask, do I really believe people are going to go through this volume and learn everything they need to know? Certainly not. In fact, I think much of the information in the *Merck Manual* concerns ways of approaching illness that I'd disagree with. But the book does at least correctly describe symptoms and conventional treatments. It will let a reader know what the *medical* approach to a specific problem would be.

I also highly recommend *Dr. Schuessler's Biochemistry* by J.B. Chapman, M.D. The 108-page book lists the 12 Schuessler cell salts and tells exactly how to use them . . . it's doubly cross-referenced . . . and it's probably the most valuable single medical book for the home I've ever seen. *[EDITOR'S NOTE: The 12 Schuessler cell salts were categorized, in 1873, by the German biochemist whose name they bear. Many naturopaths believe they can be used to relieve disease by restoring the minerals missing in the affected tissue.]*

The next book that belongs in the health homesteader's library is *Boericke's Materia Medica*, ninth edition, by William Boericke. This 1,000-page volume, a detailed presentation of homeopathic theory and treatment, will set you back about $20.

The possible additions to this list are, of course, about as numerous as the world's diseases. But it's safe to say that you could make a good "tool kit" with six or seven books . . . six or eight herbs . . . a very big bottle of vitamin C . . . some good multiple vitamins (everyone should, I think, take a high-potency natural multiple vitamin a day) . . . and a few other basics.

PLOWBOY: So the tools and the information needed for medical self-reliance probably are more accessible than most people believe. But aren't there some legal implications yet down one's own doctoring?

SAUL: First of all, it's completely lawful to doctor yourself. The Constitution provides for that. You may also treat your immediate family (if you—and they—wish). Should you start prescribing for friends or a neighbor, though, you'd be venturing into legal corridors. And if you *charge* for treating a neighbor or friend, you are definitely asking for trouble.

Then again, though, I don't *treat* anybody. And I don't diagnose, prescribe, or operate. Instead, I *teach* people how to diagnose and how to treat themselves to get specific results. They may use that education or not . . . it's up to them.

PLOWBOY: I've read that you're opposed to vaccination.

SAUL: Slow down a second. I do counsel people frequently on the pros and cons of vaccination. But I never tell anyone *not* to get shots or *to* get shots. I simply point out the alternatives that are available. Our four-year-old daughter has never had an injection, and our son is no longer getting them, yet both youngsters—lifelong vegetarians—are at least as healthy as the other children in the neighborhood.

PLOWBOY: Even though they're exposed to the many contagious illnesses children encounter in school?

SAUL: Yes. And if you're initially put off by this idea, remember that the unvaccinated child poses absolutely no threat at all to the other children, because the others *have* had their shots. So the only possible complaint can be one of neglect, with the argument that says, "If you don't allow vaccinations, you're injuring that child." But that just isn't necessarily a true statement. The fact of the matter is that many injections—including the diphtheria, pertussis, and tetanus shots—are not without risks of their own. What's more, many vaccines may not be all they're cracked up to be. For instance, there was a medical doctor up in Canada who treated polio with iodine supplements in the 1950's. The method is called iodine prophylaxis, and the effectiveness of his treatments suggests that the popularization of iodized salt has had more to do with the elimination of polio in America than the polio vaccine!

Now I am not saying that there's no statistical significance to results with the Salk vaccine. But I also believe that, on a scale of 1 to 10, it definitely ranks below 2. Whereas I think vitamin C, a vegetarian diet, and iodine will actually prevent polio *more* effectively. Once again, all of the evidence supporting this theory can be found in articles available from the Lee Foundation.

PLOWBOY: Let's say an individual who's reading this interview decides, "Well, this Dr. Saul seems to make some sense, and I know I haven't been taking care of myself as well as I could." Then . . .

SAUL: What should he or she do?

PLOWBOY: Yes. And—to be more explicit—if someone isn't ready to jump into a major lifestyle change with both feet, what initial steps might give him or her enough immediate results to provide encouragement?

(continued on next page)

DR. SAUL'S "OPTIMAL HEALTH REQUIREMENTS" (OHR) FOR VITAMINS COMPARED WITH THE U.S. RECOMMENDED DAILY ALLOWANCE (RDA)

	U.S. RDA	OHR
VITAMIN A	5,000 IU	20,000 IU
B VITAMIN COMPLEX		
Thiamine (B-1)	1.5 mg	75 mg
Riboflavin (B-2)	1.7 mg	75 mg
Niacinamide (B-3)	20 mg	250 mg
Pyridoxine (B-6)	2.0 mg	75 mg
Cobalamin (B-12)	6 mcg	125 mcg
Biotin (B-7)	0.3 mg	0.7 mg
Pantothenic Acid	10 mg	150 mg
Folic Acid	0.4 mg	0.8 mg
VITAMIN C	60 mg	4,000 mg
VITAMIN D	400 IU	500 IU
VITAMIN E	30 IU	600 IU

EDITOR'S NOTE: Dr. Saul informed us of a good source of vitamin C although he was careful to point out that in reason necessarily recommending the other products sold through this outlet. It seems that Bronson Pharmaceutical (Dept. PMEN, 4526 Rinetti Lane, La Canada, California 91011) sells ascorbic acid vitamin C powder for $15.50 a kilogram, postpaid in the U.S.

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SAUL: Well, the very first thing I recommend is that people stop eating meat.

PLOWBOY: Whoops!

SAUL: I know, I lose a lot of people on this point. But I'm not out to make friends . . . I'm out to tell people what I believe is the *truth*.

Unfortunately, a lot of my students kind of run into a brick wall right there. They are just not *willing* to give up the hot dogs and hamburgers in order to get rid of—say—their arthritis. Well, if they're not ready to drop meat, they should no longer look at themselves as victims of this demon arthritis, but rather as victims of their own stubbornness. This is why motivation is so important. Natural healing works . . . but only if *you* do.

You know, I was in a class once, and I mentioned that rats make their own vitamin C, and someone asked, "Does that mean rats are a good source of vitamin C?" I replied, "Sure, if you eat your rats *raw*. Once you cook the meat, the vitamin C content is almost nil."

I think that's why traditional Eskimos tend to be healthy . . . because they eat raw meat. If they tried to subsist on *cooked* meat, they'd all be seriously vitamin-deficient. People who do eat meat, then, probably should do so the way that true carnivorous or omnivorous creatures do: Eat the whole animal . . . skin, bones, blood, intestines, brains, eyes . . . *everything*.

> *". . . the popularization of iodized salt [may have] had more to do with the elimination of polio in America than the polio vaccine!"*

PLOWBOY: Would that actually provide a balanced . . .

SAUL: It'd be a *perfect* diet. If you completely consume a raw, freshly killed animal, you'll get everything you need . . . all the vitamins, all the minerals, everything. But that's repugnant to us, because, you see, we're *not* meat eaters by nature.

However, to return to my subject, people who do stop eating meat typically find that—for instance—their hay fever isn't as bad, their allergies aren't as severe, or their skin doesn't break out as much. This is due, in part, to the fact that these "new" vegetarians are avoiding all of the chemicals that find their way into meat: the hormones, the antibiotic residues, the colorings, and the preservatives.

On top of all that, when people stop eating meat, they spend less on food. I save $20 a week simply as a result of being a vegetarian. Now that's $80 a month tax free . . . without having to go out and earn it. I'm all for that!

PLOWBOY: There are, of course, any number of arguments as to whether humans are by nature, omnivorous or vegetarian . . . and there are also any number of people who'll give you very convincing evidence pointing one way or the other. However, I suspect that the key here is the *quality* of the meat that people can get nowadays.

SAUL: Look, I'm not telling people that they *have* to stop eating meat. I'm saying that if I were they, *I'd* stop eating meat right away. If they do so, regardless of the validity of one or another of the arguments about mankind's nature, I believe they'll get results. They'll feel better, they'll have fewer illnesses. That's *my* real reason for not eating meat, because a vegetarian diet *works*.

That should hardly come as a surprise. After all, when you buy a cut of beef, for example, you're getting the dead muscle tissue of an animal that's been raised in a highly confined environment *and* on a very limited diet.

PLOWBOY: That environment was probably quite stressful, too.

SAUL: The meat could contain lead if the animal was grazed near an interstate highway, or be doped with antibiotics or other chemical residues. And, on humanitarian grounds, some farming conditions are deplorable . . . those typical of many veal-raising operations, for instance.

PLOWBOY: We recently did an interview with Dr. Michael Fox of the Humane Society of the U.S., and he touched on that. *[EDITOR'S NOTE: See MOTHER NO. 79.]* In fact, he cited evidence that human diseases are developing resistance to antibiotics as a result of the large quantities of these substances that are given to animals.

SAUL: Worse yet, we're actually starting to see humans contracting diseases as a consequence of eating animals that have been fed "kill-floor scraps", or—as they're commonly called—"meat by-products". Think of it this way: A steer goes to market, and the muscle meat by no means make up the whole animal . . . there's also a lot of waste that is processed into meat by-products. And these substances sometimes include the entire *bodies* of animals that are cancerous or have other diseases that make them unfit for human food. Well, according to a report by Dr. P.F. McGargle—a veterinary surgeon who did meat inspection—published in *Preventive Medicine Forum*, countries in which these ground-up animal by-products are used in livestock food have an unusually high incidence of human cancer. Childhood cancer, in particular, is much higher in countries that use kill-floor scraps when producing feed for hogs, chickens, and turkeys.

Now if you organically raise your own livestock, or if you're a hunter and you get wild game . . . surely that animal had a better chance to get a balanced diet rich in minerals and vitamins—and lived a better life—than did a steer confined to an intensive feedlot. Even so, I still think we should eat the whole animal—*raw*—if we're going to call ourselves omnivorous.

PLOWBOY: What actions *other* than adopting a vegetarian diet would you recommend?

SAUL: If a person is not on insulin or any medication that requires eating, I'd suggest a short fast (four to six days) to rid the body of the toxins accumulated over years of unhealthful living. Fasting, by the way, is also a commonly used naturopathic treatment for certain illnesses.

PLOWBOY: Do you have any tips that might help a first-timer get through a fast? A lot of people are really intimidated by that idea.

SAUL: We have a little brochure called "Techniques for Successful Fasting" that many individuals have found helpful. Basically, it makes the following recommendations: [1] Go into the fast with a positive attitude. Some folks think they're surely going to die if they stop eating. Of course, that's not true, unless they have a health problem such as diabetes and *can't* fast. [2] They should attempt a 50-50 juice/water fast . . . consuming half fruit juice and half water, either mixed together or in alternation.

PLOWBOY: In any amounts that they feel comfortable with?

SAUL: Yes . . . *any* amounts. [3] They should continue their vitamin supplements while fasting. Now some naturopaths say you don't need these "boosters" while fasting—or, indeed, at all, *if* you're eating a healthful diet—but my feeling is that in real life, with its stresses of jobs and kids and traffic jams, you'll find it worthwhile to take vitamins every day.

[4] The next tip is to have a nightly enema during the fast—or any day that you don't have a bowel movement naturally—to rinse out the wastes that accumulate in the bowel and are not being eliminated. Otherwise, toxins will remain in your body when your fast is over. Now I lose a lot of individuals when I recommend that nightly enema, but, again, I'm not out to win buddies.

[5] And the last piece of advice is to come off the fast slowly and gradually. If you fast for four days, take a day or two to come off it. If you fast for six days, take at least two days.

PLOWBOY: Just how does one come off a fast gradually?

SAUL: Stick to fruit salads, vegetable broths, and such . . . and eat half of what you want but do so twice as often as you normally would. If you try all these steps, you'll almost certainly succeed. Most people who have fasted and hated it were on a water fast with no vitamins and no enema.

PLOWBOY: If people do manage to give up eating meat and make their way through the first fast, what should they then consume on a day-to-day basis? What do you feel would be healthful?

SAUL: A two-thirds raw food diet. Or what I prefer to call a two-thirds salad diet. I recommend, for example, an all-fruit breakfast, with some cheese or yogurt, and an all-salad lunch. Try to use sprouts instead of lettuce . . . sprouts are a complete protein while lettuce is not. Then, for supper, eat any meatless menu that you like . . .

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going very light on sweeteners and very light on eggs. I also recommend drinking three glasses of raw fruit or vegetable juice a day . . . preferably before meals.

PLOWBOY: What about breads?

SAUL: Whole grain breads can be a very valuable part of any diet. There *are* other ways to get your grains, though. Sprouting your wheat, for instance, is a superb way of getting complete protein.

And this brings us to an opportunity to exercise some real dietary economy. If people want to save money and still feel that they're getting enough protein, they should be sure to have a cereal bowl full of sprouted grain or beans a day. You can grow a whole jarful of sprouts for pennies. In fact, you could *live* on an all-sprout diet for less than $3.50 a week!

> *If you completely consume a raw, freshly killed animal, you'll get everything you need . . . all the vitamins, all the minerals, everything.*

There are people right now who are starving to death in America—many of them are elderly—because they can't live on the $10-$12 a week that they can spend on food. If these people were to eat, say, a diet consisting of half sprouted wheat and half sprouted alfalfa, lentils, mung beans, sunflower seeds, or chick-peas, they would get all of the protein they need . . . all of the vitamins . . . *and* all of the minerals. Then, if a person had just a little additional money, he or she could supplement that all-sprout diet with a daily eggnog . . . the latter being simply a glass of raw milk and a raw egg *yolk* only, with maybe a little sweetener added. That would provide an excellent poverty-level diet. Now I am *not* suggesting that we should all eat that way. I'm saying if I had only $4.00 a week, I could be very healthy on that amount of money.

PLOWBOY: And very bored, perhaps.

SAUL: Very bored, but also very *alive*. You know, it doesn't *cost* much to get good nutrition, but we neglect our need for it. I wonder how many nursing homes even give a high-potency natural multiple vitamin every day?

And simple, easily available vitamins can actually fight drug addiction! I've written to Nancy Reagan and expressed my support for her fight against drug abuse in children. And I told her that our work at the Ashwins Health Institute—in particular our vitamin dispensary that serves the poor in Rochester—has shown us that substance abuse trails off when individuals get adequate vitamin supplements . . . especially B vitamins and vitamin C in substantial quantities. I suggested to Mrs. Reagan that she help develop a national vitamin supplementation program. Unfortunately, all I got in reply was a polite letter from her press secretary.

Yet I've talked to people at St. Joseph's House of Hospitality in Rochester who often seemed to be so drunk they couldn't stand up without my holding them. We get such alcoholics on vitamin C and B complex, though, and those individuals can get *off* the booze. And that means a lot.

More amazing still, in Scotland it's been discovered that people who—in the course of treatment for cancer—were given morphine, or even heroin, can be injected intravenously with ten grams of vitamin C a day, and break the addiction in less than ten days . . . with *no* withdrawal symptoms, maintenance drugs, or side effects!

PLOWBOY: Hasn't it been said that almost 90% of *all* North Americans don't get enough vitamin C?

SAUL: Yes. William J. McCormick, the Toronto, Canada M.D. I mentioned before, did tests on several thousand individuals. He did find that 90% of them were vitamin C-deficient.

That may sound like a shocking statistic, but look at our nearest animal cousin, the gorilla. It's a vegetarian animal . . . one that's anatomically very similar to human beings and one which gets over *six thousand* milligrams of vitamin C a day in its normal diet. Yet the government's telling us that we need (according to the RDA) about one one-hundredth of that amount. Now somebody's wrong, and I'll side with the gorilla and against the government.

Of course, that common human deficiency is very [illegible] find that people simply get [illegible] when they take vitamin C [illegible] and controlled experiments aside, it all comes down to what [illegible] individual is willing to do. If any reader of this interview wants to conduct a safe experiment, all the person has to do is start taking the amount of vitamin C that I recommend and see if he or she feels better after a few weeks. *[EDITOR'S NOTE: See the accompanying chart.]* The proof is in the pudding. You can't argue with that any more than you should ignore Ivan Illich's disclosure that survival rates for the most common types of cancer—those that make up 90% of all cases—have remained virtually unchanged for the past 25 years.

PLOWBOY: Are you saying that all of our new chemotherapeutic drugs have made no progress in treating these cancers?

SAUL: Very little. Let me point out—as Linus Pauling has noted—that the medical establishment has double standards when it comes to vitamins and medicines. A drug may not work all the time, and may even have dangerous side effects, but still be considered a worthwhile risk for a possible success. Whereas if a vitamin doesn't work all the time, but is totally safe, most physicians won't even *try* it.

PLOWBOY: Are there any other easy self-help courses of action that you'd recommend?

SAUL: Well, for one, there's the "spontaneous release by positioning" technique (as developed by Lawrence Hugh Jones, D.O.), which is a method—a first aid technique—for adjusting a person's spine. *[EDITOR'S NOTE: We'll describe this method in detail in our next issue.]*

PLOWBOY: You seem to be sowing a number of self-help seeds, Dr. Saul. What do you hope will result from such work?

SAUL: Most of all, I'd like to see people stop living *with* their illnesses and start living *without* them. I dream of a nationwide system of neighborhood health cooperatives, which will make individuals so self-reliant that they can simply bypass the professionals. And I mean bypass the naturopath *as well as* the medical doctor. Now if someone has a broken leg or is bitten by a rabid dog, for heaven's sake, they'd still have to seek medical help. The secret is not to *never* go to a doctor . . . the secret is to rarely *need* to go.

PLOWBOY: So you believe that every illness is a result of unhealthful living.

SAUL: Basically, yes.

PLOWBOY: How does naturopathic theory explain the existence of contagious diseases?

SAUL: I could probably fill your magazine responding to that question, but I'll try to be brief. First of all, there is no absolute proof that germs are the *primary* cause of any illness. Yes, germs are found at the scene of illness. But then, detectives are found at the scene of a crime, and that fact doesn't mean that they committed it.

PLOWBOY: OK.

SAUL: In fact, many medical doctors have, during the last 150 years, gone on record as saying that they believe the germ theory isn't valid. It certainly doesn't seem to explain cancer very well . . . or heart disease . . . or mental illness . . . or diabetes. At least 20 billion dollars' worth of cancer research hasn't been able to defeat malignancy, or we'd all be vaccinated for it, you can be sure of that.

That's the first basic point. The second is that if we go back to Robert Koch, who formulated Koch's postulates—upon which the germ theory is based—we find that there's a logical flaw in that argument. The first postulate says that you can isolate the germ in a sick animal. The second postulate says you can culture that germ and then—here's the third postulate—inject that cultured germ into a healthy animal and produce the symptoms characteristic of the illness. The fourth postulate states you can then remove the germ from the newly sick animal . . . and it will be the *same* germ, thus proving that the microorganisms caused the disease.

Now that sounds ironclad. But—as Andrew Weil, M.D. points out in his book *The Natural Mind*—there's a flaw in postulate three. How is the germ presented to the animal? By bypassing all of the body's defense systems, since it's injected directly into the bloodstream!

The naturopath claims that disease resistance is the *main* story! It *allows* germs to become a factor.

PLOWBOY: Are you saying, then, that someone who leads a healthful life would be less likely to contract a contagious disease?

SAUL: Absolutely. They'd be less likely to catch it, and if they *did* it would be less severe. Here's a simple example. Our children had been playing with the neighbor's kids just before those children's chicken pox became visible, at the most contagious stage of that disease. A few days later, the other kids had chicken pox. But our youngsters developed only five or six spots apiece. We upped their vitamin C and that was the end of that.

PLOWBOY: That sounds analogous to the increased disease and bug-attack resistance shown by healthy, organically grown plants.

SAUL: Certainly. And you can apply that same line of comparison when considering the laboratory animals used in medical research. Think about the white rats—generation after generation after generation of them—that are fed only commercial rat food. That diet can't possibly contain *every* natural factor . . . it can only contain what we humans think rats need for a healthy life. OK?

So all of these rats get the same diet . . . one that quite possibly is deficient, and certainly is given in excess. We introduce germs to these animals and they drop dead. When I was in Australia, I studied with Professor S.A. Barnett of the Australian National University in Canberra. He asserted that if those same experiments were conducted with London sewer rats, the results would be quite different, because those rodents wouldn't be so quick to die. Not only do London sewer rats have a more broadly based diet . . . they're also, of course, constantly exposed to germs. There simply wouldn't *be* any rodents if the population wasn't able to resist illness. Again, resistance is the question . . . not germs.

And people can *build* resistance by getting plenty of rest . . . plenty of exercise . . . and the right kind of diet. We also need vitamin supplements, especially vitamin C. If folks follow these simple rules, though, germs will really become more or less irrelevant. This sort of natural disease prevention is always to be preferred to medical inoculation and such. If it's a toss-up, go with nature. Nature has had thousands of years to work out the enzyme/vitamin/elimination/nutrition structures of the body. Nature has had a *lot* of experience.

The medical establishment, for all its good intentions, has had considerably less experience.

You know, when the signers of the Declaration of Independence were sitting down at the table, one of the gentlemen present was Dr. Benjamin Rush, surgeon general of the Continental army. When they sat down to sign the Declaration—to more or less create this country—Dr. Rush said the following: "The Constitution of this republic should make special provision for medical freedom, as well as religious freedom. To restrict the art of healing to one class of men, and to deny equal privileges to others, will constitute the bastille of medical science. All such laws are un-American and despotic."

And this, of course, is the real crux. Medicine is not a science . . . it's an art. And that's why people should be *encouraged* to be their own doctors . . . because it's an art form, for which you need no degree, and which generally requires no training that you can't pick up on your own.

Just remember this basic point: Our *internal* environment is the primary influence on our health! We're talking about inner-space ecology. We're talking about interior homesteading. And the rewards of naturopathic living can be enormous. To sit down to a simple, healthful meal with healthy children and to be able to know that your basic bodily equipment is functioning as well as possible, should, I think, be a more important aspect of self-reliance than solar heating!

PLOWBOY: One of the first rules of a self-reliant lifestyle is that you must take care of your tools . . . and you're talking about the most precious tool we have.

SAUL: Exactly. This body is the only one we're going to get, so we owe it to ourselves to be careful with it. And I think that we can get better health care by doing the job ourselves than we can by contracting it out.

Of course, if you are going to doctor yourself, it's vitally important that you take the time, do the reading, and put enough energy into it to do a good job. I don't want people going out half-baked after reading one book and thinking they're experts.

But make no mistake, naturopathic remedies *do* work. If a dedicated person goes into the field to prove nature cure wrong, he or she will wind up proving it right. The truth will stand on its own. The folks with *real* problems are those who can't be bothered to look into natural healing at all. The people who are indifferent. The people who don't care.

Our hospitals and nursing homes are filled to *capacity* with those people!

EDITOR'S NOTE: People interested in obtaining more information about Dr. Saul and the Ashwins Health Institute can [1] mail a self-addressed, stamped envelope—along with a dollar or two to cover expenses—to the Ashwins Health Institute, Dept. TMEN, 23 Greenridge Crescent, P.O. Box 144, Hamlin, New York 14464 for general information . . . [2] send a tax-deductible donation of $10 or more to receive a copy of Doctor Yourself *by return mail . . . or [3] send a donation of $20 or more to receive* Doctor Yourself, *"Techniques for Successful Fasting", and a packet of related home health-care information.*

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McCormick, W.J. "Have We Forgotten the Lesson of Scurvy?" ***Journal of Applied Nutrition*** *15(1, 2):4-12 (1962).*

McGargle, P.F. "Do Meat Packers Unwittingly Recycle Cancer?" ***Preventive Medicine Forum*** *Winter 1979:9-14.*

Sandler, B.P. "Treatment of Tuberculosis with a Low Carbohydrate, High Protein Diet." ***Diseases of the Chest*** *17(4):398 (1950).*

(Note: Out of print books and journal articles may be available at your library. Most of the articles can be ordered from the Lee Foundation for Nutritional Research, Dept. TMEN, 2023 West Wisconsin Avenue, Milwaukee, Wisconsin 53201.)

MSG 93-00011043 PRTY 1 04/21/83 16:35:08 ORIG: LM01 IN= 0010 OUT= 0185
FROM: MAT SU LIO TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M. MILLER, CATO, GOLL, KOPONEN, DAVIS

FROM: LINDA ACTON
PO BOX 1057
WILLOW 99688

RE: HB 347

I AM IN FAVOR OF NATUROPATHS BEING LICENSED. I HAD MORE QUALITY CARE FOR THE DELIVERY OF MY LAST BABY SIX WEEKS AGO BY A NATUROPATH THAN I DID FOR EITHER OF THE OTHERS WHO WERE DELIVERED IN BIG HOSPITALS WITH SOPHISTICATED EQUIPMENT.

MSG 83-00011364 PRTY 1 04/22/83 12:38:39 ORIG: LM01 IN= 0007 OUT= 0108
FROM: MAT SU LIO TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M. MILLER, CATO, GOLL, KOPONEN, DAVIS

FROM: MRS. ZELDA FRANKS
STAR ROUTE BOX 5542
WASILLA 99687
PHONE: 376 3972

APR 25 1983

RE: HB 347
I URGE THE PASSAGE OF THIS BILL TO LICENSE NATUROPATHS. IT WOULD BE A GOOD THING. WHEN THEY AREN'T LICENSED, IT KEEPS PEOPLE FROM GOING TO THEM BECAUSE THE INSURANCE WON'T PAY THEM UNLESS THEY ARE LICNESED.

MSG 83-00011479 PRTY 1 04/22/83 16:30:10 ORIG: LA02 IN= 0008 OUT= 0166
FROM: NINA, ANC LIO
TARGET: LJHL SUBJ: POM TO: [illegible] APR 25 1983

TO REPRESENTATIVES: DAVIS, FRITZ, GL HERRMANN, KOPONEN, MILLER, M. W. (NP
& TISCHER

FROM: STEVE KEMP 4101 UNIVERSITY DR. ANC., AK. 99504 HM. 563-8378

I WISH TO EXPRESS MY APPROVAL OF HB 347

MSG 83-00010409 PRTY 1 04/20/83 14:10:42 ORIG: LA01 IN= 0015 OUT= 0099
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJHL SUBJ: P O M

TO: REPRESTATIVES ABOOD AND TISCHER
SENATORS V. FISCHER AND STURGULEWSKI

APR 20 1983

FROM: CHARLES BROBST, 4200 A COPE STREET, ANC 99503 562-5554 H

REFERENCE ADDITIONAL JAILS FOR DWI, I SEE NO NEED TO BUY A 50 BED SURPLUS PIPELINE CAMP WHEN DOWN AT INTERNATIONAL AIRPORT THERE IS AN OLD NIKE MISSLE SITE THAT STILL HAS THE BARRACKS STANDING THAT COULD BE CONVERTED QUIT EASILY INTO A MINIMUM SECURITY FACILITY.

EOM

Thank you for your comments on jails. The Division of corrections is investigating several facilities and sites for new correctional facilities. I believe they should be given the tools I believe that Commissioner Rogers Endell has the expertise to choose the best site in the most cost effective manner. However, As a member of the finance sub committee reviewing the correctional budget I think your suggestion has merit, to be sure, and Rep. Abood and I will pursue the issue.

Designed after Dr Oregon Law

Current Passed → Senate HESS
defeated in Senate Finance

Offered: 3/23/82
Referred: Finance

Original sponsor: Colletta by request

IN THE SENATE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 274 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the licensing of practitioners of naturopathic healing; and providing for an effective date."

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

* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

(24) practice of naturopathy or naturopathic medicine (AS 08.45).

* Sec 2. AS 08 is amended by adding a new chapter to read:

CHAPTER 45. NATUROPATHS AND NATUROPATHIC PHYSICIANS.

ARTICLE 1. REGULATION OF NATUROPATHY.

Sec. 08.45.010. DUTIES AND POWERS. The Department of Commerce and Economic Development shall

(1) evaluate the qualifications of applicants for licenses under this chapter;

(2) conduct hearings and keep records necessary to carry out the purposes of this chapter;

(3) license naturopathic physicians in accordance with AS 08.45.100 - 08.45.160; and

(4) provide for temporary permits for persons who are apparently qualified to engage in naturopathic medicine to engage in the practice of naturopathic medicine until certification of the results of the next examination given under AS 08.45.120.

ARTICLE 2. LICENSING OF NATUROPATHIC PHYSICIANS.

Sec. 08.45.100. LICENSING REQUIREMENT. A person may not engage

suggested deleting ⊗ on + instead put in "licensing by reciprocity only" means licensing based on a licensing from another state, until there is enough Naturopaths to set up a Board

in the practice of naturopathy or naturopathic medicine unless he first obtains a license as provided in this chapter.

⊗ Sec. 08.45.110. LICENSURE AS A NATUROPATHIC PHYSICIAN. To be eligible for a license as a naturopathic physician, an applicant shall

(1) hold a high school diploma or the equivalent;

(2) have completed two years of postsecondary education at an accredited college of liberal arts or sciences;

(3) have attended at least 90 percent of the hours required for graduation and graduated from a legally chartered school or college of naturopathic medicine that has as a requirement for graduation successful completion of a course of resident instruction of at least nine months actual attendance in each of four years and successful completion of a course of instruction totaling 4,500 hours or more; the course of instruction shall include:

(A) anatomy and physiology;

(B) histology and embryology;

(C) microbiology;

(D) pathology;

(E) immunology;

(F) public health;

(G) toxicology;

(H) physical, clinical, x-ray and symptomatology diagnosis;

(I) first aid and emergency medicine;

(J) obstetrics and gynecology;

(K) orthopedics;

(L) minor surgery;

(M) proctology;

(N) otolaryngology;

(O) physiotherapy;

(P) manipulative techniques;

(Q) dietetics and clinical nutrition;

(R) herbology;

(S) naturopathic theory and practice;

(T) naturopathic therapeutics;

(U) clinical practice; and

(V) jurisprudence;

(4) successfully complete an examination given by the department;

(5) not have a license to practice naturopathic medicine in another state, province, or territory, which is suspended or revoked for disciplinary reasons;

(6) be a United States citizen or lawfully admitted to permanent residence in this country; and

(7) be of good moral character.

Sec. 08.45.120. EXAMINATION. (a) An examination for licensing as a naturopathic physician shall be held at a time and place and shall be conducted as determined by the department. The examination shall be limited to the subjects listed in AS 08.45.110(3), each of which shall constitute a separate examination section. The examination shall be objective and in writing, but may be supplemented by oral examinations, and by demonstrations or other practical tests as the department may require.

(b) To pass the examination an applicant shall receive an overall average of 75 percent and may not receive less than 70 percent in more than two sections.

Sec. 08.45.130. ENDORSEMENT. The department may license a person as a naturopathic physician if the person is currently licensed as a

naturopathic physician in another state or in a province of Canada and

(1) that state or province maintains professional licensing standards equivalent to those in this chapter;

(2) that state or province extends the same licensing privilege to those holding a license in this state; and

(3) the person demonstrates to the satisfaction of the department qualifications at least equal to those required of persons licensed under this chapter.

Sec. 08.45.140. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. The department may deny, suspend, or revoke the license of a person or applicant who

(1) has obtained or attempted to obtain a license under this chapter by fraud or deceit;

(2) wilfully violates a provision of this chapter or a regulation adopted under this chapter;

(3) engages in unprofessional conduct;

(4) impersonates another physician;

(5) practices under an assumed name; or

(6) is convicted of a crime involving moral turpitude.

Sec. 08.45.150. FEES. The following fees are imposed under this chapter:

(1) application for examination .....$ 25

(2) application for reexamination 10

(3) license issuance or biennial renewal 100

(4) issuance of temporary permit 25

Sec. 08.45.160. NATURE OF NATUROPATHIC PRACTICE. A naturopathic physician in the course of the practice of naturopathic medicine

(1) may perform physical examinations, write prescriptions for substances authorized in this chapter, and sign birth and death

certificates;

(2) may use systems of diagnosis for which he has been trained under AS 08.45.110(3);

(3) may treat patients by physiological, nutritional, psychological, mechanical, electrical, manual, hydrotherapeutic, phytotherapeutic, mineral and organic substances and agencies, including acupuncture, that are effective in stimulating normal function of tissues and organs sensitized by disease;

(4) may

(A) draw blood for laboratory purposes, and use electrical or other methods for the repair and care of superficial lacerations and abrasions, benign superficial lesions, and the removal of foreign bodies located in superficial structures;

(B) practice natural childbirth in obstetrics, including related minor surgical procedures;

(5) may not

(A) perform surgery except as provided under (4)(B) of this section;

(B) use controlled substances as defined in AS 11.81.-900(b)(6) including cannabis;

(C) use radiation therapy; and

(D) use drugs except antiseptics, local anesthetics, minerals and their extracts, and compounds or concentrates obtained from plants or animals.

Sec. 08.45.170. CONTINUING EDUCATION. (a) The department may prescribe by regulation continuing education requirements for persons licensed under this chapter.

(b) Before a license issued under this chapter may be renewed, the licensee shall submit to the department evidence of completion of con-

tinuing education requirements.

(c) The department may exempt a licensee from the continuing education requirement under (b) of this section upon an application of the licensee setting out extenuating circumstances. A licensee may not receive more than one exemption under this subsection in a five-year period.

ARTICLE 3. GENERAL PROVISIONS.

Sec. 08.45.200. TITLES AND ABBREVIATIONS. (a) A person licensed under this chapter may use the following titles: "Doctor of Naturopathy" or its abbreviation, "N.D.", "Naturopath", or "Naturopathic Physician". A person licensed under this chapter may not use his title in a manner that suggests that he practices a form of medicine or a healing art other than naturopathy.

(b) A person may not use a title or abbreviation listed in (a) of this section unless he is licensed under this chapter.

Sec. 08.45.205. VIOLATIONS. (a) It is unlawful for a person to

(1) fraudulently obtain or furnish a license, renewal, or record required by this chapter;

(2) wilfully violate a provision of this chapter or a regulation adopted under this chapter.

(b) A person who violates this section is guilty of a class B misdemeanor.

Sec. 08.45.210. PRACTICING WITHOUT A LICENSE. A person who practices naturopathy or naturopathic medicine without first obtaining a license is guilty of a class A misdemeanor.

Sec. 08.45.220. DEFINITIONS. In this chapter

(1) "department" means the Department of Commerce and Economic Development;

(2) "naturopathy" and "naturopathic medicine" means the

treatment of the human body through the use of natural agencies, forces, processes, and products, with emphasis on the response of the individual to the disease rather than its treatment in isolation;

(3) "unprofessional conduct" means

(A) the habitual overuse of alcoholic beverages or cannabis or the unlawful use of controlled substances as defined in AS 11.81.900(b)(6); or

(B) conviction of an offense that is a crime of moral turpitude, including murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery.

* Sec. 3. LICENSING OF PRACTITIONERS OF NATUROPATHY OR NATUROPATHIC MEDICINE WITHOUT EXAMINATION. The commissioner of commerce and economic development shall license all persons who, on the effective date of this Act, meet the qualifications of AS 08.45.110(1) - (7) and who apply for licensure under AS 08.45 not later than June 30, 1983.

* Sec. 4. This Act takes effect July 1, 1982.

Known Sympathetic
Abbott
Martin
Ulmer
Vic Fischer
Tim Kelly (C)

Against
Bennett
Eileen
Kerttula sent this to Bennett (Finance)!

I. REQUEST

Bill/Resolution No.: CSHB 347 (HESS)
Title: "Licensing of naturopaths"
Sponsor: Martin, Abood, Tischer
Requestor: HESS

I. FISCAL DETAIL

Agency Affected: Health & Soc. Svcs.
Program Category Affected: Public Health
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dean F. Tirador, M.D. Phone: 465-3090
Division: Public Health Date: 5/20/83

Approved by Commissioner: Robert London Smith Date: 5/20/83
Department: Health and Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

Dixie Belcher re: licensing
789-0449 naturopaths

Yule Kilcher
Box 353
Homer

file
naturopath

MT

Oregon Board of Naturopathic Examiners

Procedures for Colleges Applying for Approval under ORS 685.060

Naturopathic colleges seeking approval by the Board of Naturopathic Examiners in order that graduates may be eligible to take the licensing examinations should submit the following information to document compliance with the standards of OAR . Four(4) copies of all materials are required.

1) Current institutional catalog, brochures, and other information provided to students and the public.

2) Institutional self-evaluation for accreditation, if any.

3) Statements or documents described below, corresponding to sections of rule , Standards. Reference may be made to the appropriate sections of 1) and 2) above.

   1) Objectives. List the objectives of the college.

   2) Organization. Submit copies of Articles of Incorporation, By-laws, and the names of all Directors or Trustees.

   3) Administration. Submit resumes of all administrators, organization chart and position descriptions.

   4) Financial Condition. Submit current audited financial statement, current budget and projected budget for t he next fiscal period.

   5) Records and Educatior l Credentials. Describe record-keeping policies and procedures, submit sample degree and transcript.

   6) Catalog. Indicate the location of each required item in the catalcg.

   7) Admissions. Describe the admissions policies, requirements and procedures. List the names of the Admissions Committee members. Submit a copy of the application form(s) used.

   8) Attendance. Describe the college's attendance policy.

   9) Curriculum. Submit a synopsis of the curriculum showing the number of clock hours for each course. Submit a course outline for each course.

   10) Academic Standards. Describe how students are evaluated and the standards by which they are evaluated. Provide representative tests.

11) Faculty. Submit resume for each member of the faculty as described. Provide a narrative description on faculty participation in other areas specified. Submit copies of policies on hiring, compensation, etc. as listed.

12) Library. Submit all information as listed in Standards.

13) Clinical Training. Provide a narrative description of clinic facilities, major equipment, details of clinic procedures, rules of conduct, resumes of clinic staff, and any other pertinent data on the student's clinical experience.

14) Physical Plant. Describe in detail the college's physical plant and equipment.

15) Cancellation and Refund Policy. Submit a copy of the college's policy on refund of tuition and fees.

The following information should be made available to the Board's inspection committee during its visit.

a) Minutes of all board of control meetings
b) Administrative reports to the board of control
c) Minutes of faculty meetings
d) Student personnel records and financial accounts

850-10-220

SCOPE AND PURPOSE

(1) ORS 685.060 requires that one of the minimum educational requirements for licensure to practice naturopathic medicine in Oregon is graduation from a naturopathic school or college approved by the State Board of Naturopathic Examiners which teaches adequate courses in all subjects necessary to the practice of naturopathic medicine. The statute also specifies required subjects and subjects which the Board may not require, and permits the Board to require other subjects at its discretion.

(2) The purpose of these rules is to provide a set of standards and procedure by which schools of naturopathic medicine may obtain approval by the Board of Naturopathic Examiners in order that graduates of those schools may be permitted to take examinations for license.

850-10-221

EXERCISE OF BOARD AUTHORITY

(1) The Board may grant provisional approval to a naturopathic college which has been in continuous operation for at least one year. Provisional approval may be for a period not to exceed two and one half years and may not be renewed or extended. Provisional approval shall not imply nor assure eventual approval under ORS 685.060.

(a) In order to obtain provisional approval, a naturopathic college must demonstrate compliance with, or adequate planning and resources to achieve compliance with, the standards of Rule 850-10-224, 1 through 17.

(b) The procedures for application, examination, review, and revocation of provisional approval shall be the same as those specified for approval in Rules 850-10-224, 850-10-225 and 850-10-226.

(2) After initial approval by the Board, periodic reports may be required. Failure to conform to established standards may result in loss of approval. No school shall receive approval for a period longer than five years. Prior to the expiration of the period of approval, the school must apply to the Board for renewal of approval. The Board shall review the application and make a final decision of approval or disapproval in not more than 11 months.

(3) If a naturopathic college fails to maintain the required standards or fails to report significant institutional changes within 90 days of the change including changes in location, the Board may revoke its approval subject to rule 850-10-225. The Board may make periodic contact and/or send a representative or evaluation committee to an institution to gather information as authorized under rule . All costs of an evaluation shall be borne by the institution requesting approval.

850-10-222

ELIGIBILITY

(1) In order to apply for provisional approval, a naturopathic college must have been in continuous operation for a period of at least one year.

(2) In order to apply for full approval, a naturopathic college must have been in continuous operation for a period of at least three years.

850-10-223

APPLICATION PROCEDURE

Naturopathic colleges making application shall do so on a form or in a manner specified by the Board which shall be designed to meet the standards of rule 850-10-224.

850-10-224

STANDARDS

The following standards shall be used by the Board in considering a naturopathic college's application for approval:

(1) Objectives. The objectives of the institution shall be clearly stated and address the preparation for the naturopathic physician to provide patient care. The implementation for the objectives should be apparent in the administration of the institution, individual course objectives, and in the total program leading to the N.D. degree.

(2) Organization. The institution shall be incorporated under the laws of the state of its residence as an education corporation. Control shall be vested in a board of directors composed of naturopathic physicians and others. Under no circumstances shall more than one-third of the directors have administrative or instructional positions in the college. The directors must demonstrate collective responsibility in their: Knowledge of, and policy decisions consistent with, the Articles of Incorporation or Charter, By-laws, and objectives of the college; support of college programs and active participation in college governance; selection and oversight of the chief Administrative Officer.

(3) Administration. The education and experience of directors, administrators, supervisors, and instructors should be sufficient to insure that the student will receive educational services concistent with institutional objects. The administration of the institution shall be such that the lines of authority are clearly drawn. The institution shall present with its application a catalog and a brief, narrative explanation of how the administration of the institution is, or is to be, organized and how the administrative responsibility for each of the following is or is to be managed:

(a) Faculty and staff recruitment

(b) Personnel records management

(c) Faculty pay scale and policies

(d) Standards and practices relating to evaluation, improvement of instruction, promotion, retention, and tenure

(e) Admissions policies including procedures used to solicit students

(f) Development and administration of policies governing rejection and retention of students, job placement, and student counseling and advising services

(g) Curriculum requirements

(h) Tuition and fee policies

(i) Financial management policies

(4) Financial condition. The institution shall demonstrate its financial stability by submitting annual certified audits, reports, or other appropriate evidence. Board may require posting of an adequate bond.

(5) Records. The institution shall maintain an adequately detailed system of records for each student beginning with application credentials through the entire period of attendance. The records, including matriculation, attendance, grades, disciplinary action and financial accounts, shall be the permanent property of the institution to be safeguarded from all hazards and not to be loaned or destroyed.

(6) Educational Credentials

(a) Upon satisfactory completion of the educational program and the payment of all tuition and fees owed by the student to the college, the student shall receive a degree from the college indicating that the course of study has been satisfactorily completed by the student.

(b) In addition, for each student who graduates or withdraws, the college shall prepare, permanently file, and make available a transcript that specified all courses completed, provided that all tuition and fees owed by

the student have been paid. Each course entry shall include a title, the number of credits awarded, and a grade. The transcript shall separately identify all credits awarded by transfer, or examination.

(c) Upon request, all student records and transcripts shall be made available to the Naturopathic Board of Examiners.

(7) Catalog. The institution shall publish a current catalog at least every two years containing the following information:

(a) Name and address of the school

(b) Date of publication

(c) Admission requirements and procedures

(d) A statement of tuition and other fees or charges for which a student is responsible and a statement on refund policies

(e) A school calendar designating the beginning and ending dates of each term, vacation periods, holidays, and other dates of significance to students

(f) Objectives of the institution

(g) A list of trustees (directors), administrative officers and faculty members including titles and academic qualifications

(h) A statement of policy about standards of progress required of students, including the grading system, minimum satisfactory grades, conditions for interruption for unsatisfactory progress, probation, and re-entry, if any

(i) A description of each course indicating the number of hours and course content, and its place in the total program

(j) A description of facilities and major equipment, including library laboratory and clinical training facilities

(k) Statements on the nature and availability of student financial assistance, counseling, housing, and placement services if any.

(l) A statement indicating whether the school is recognized by other agencies or associations for the licensing or certification of naturopathic physicians.

(m) Any other material facts concerning the school or instruction which are reasonably likely to affect the decision of the potential student.

(8) Admission Policies and Procedures. The college shall have admission rules that include the following:

(a) All candidates must furnish proof of having at least two years (60 semester/90 quarter hours or equivalent) credit at an accredited institution with includes at least 30 quarter (20 semester) hours of biology and chemistry.

(b) Official transcripts of undergraduate credit must be sent directly from the undergraduate college to the naturopathic college.

(c) No student shall be admitted without a review of his/her psychological, moral, and professional attitudes by an Admissions Committee of at least three members.

(d) No applicant will be barred from admission because of sex, race, color religion, age, physical handicap, or national or ethnic origin.

(e) Applicants for admission with advanced standing shall be required to furnish evidence:

1. That they can meet the same entrance requirements as candidates for the first-year class
2. That courses equivalent in content and quality to those given in the admitting college in the year(s) preceeding that to which admission is desired have been satisfactorily completed.
3. That the work was done at a recognized school acceptable to the Naturopathic College.
4. The candidate has a letter of reference from the Dean of the college from which transfer is made.

(9) Attendance. The college shall have a stated policy relative to attendance. Students shall be required to spend the last year of the course in residence in the college which confers the degree.

(10) Curriculum. The curriculum of the college shall be designed and presented to meet or exceed the statutory requirements of length and content. The following standards are intended not as an exact description of a college's curriculum, but rather as guidelines for the typical acceptable program. It is expected that the actual program taught by each college will be prepared by the academic departments of the institution to meet the needs of their students and will exceed the outline present here. This policy has been adopted to preserve the autonomy and uniqueness of each naturopathic institution, and to encourage innovative and experimental programs enhancing the quality of naturopathic education.

(a) Basic Science

Anatomy (Includes Histology and Embryology - 350 hours
Physiology .....250 hours
Pathology.....125 hours
Biochemistry.....125 hours
Public Health (Includes Public Health,
genetics, microbiology, immunology.....175 hours
Naturopathic Philosophy.....100 hours
Pharmacology .....100 hours

(b) Clinical Sciences

I. Diagnostic Courses

Physical diagnosis..... 75 hours
Clinical diagnosis.....100 hours
Laboratory diagnosis..... 50 hours
Radiological diagnosis..... 50 hours

II. Therapeutic Courses

Materia Medica (Botanical medicine).....150 hours
Homeotherapeutics, Emergency Drugs)
Nutrition.....125 hours
Physical Medicine.....150 hours
Psychological Medicine..... 75 hours

III. Specialty Courses

Organ Systems (Cardiology, Dermatology, Endocrinology, EENT, Gastroenterology	175 hours
Human Development (Gynecology, Obstetrics Pediatrics, Geriatrics	75 hours
Acupuncture	25 hours
Jurisprudence	25 hours
Medical Emergencies	50 hours
Office Procedures	50 hours
Minor Surgery	50 hours

IV. Clinical Externship/Preceptorship.....1100 hours

(11) Academic Standards. The institution must regularly evaluate the quality of its instruction and have a clearly defined set of standards of competence required of its students. Promotion to each successive phase of the program and graduation shall be dependent on mastery of the knowledge and skills presented in the program.

(12) Faculty. Faculty members shall be qualified by training and experience to give effective instruction in the subject(s) taught; advanced degrees in their respective disciplines are expected. The faculty should participate in development and evaluation of curriculum, instructional methods and facilities; student discipline, welfare, and counseling; establishment of administrative and educational policies; scholarly and professional growth. Provisions shall be made to allow and encourage faculty involvement in these non-instructional functions. The college shall not discriminate on the basis of sex, race, age, color, religion, or national or ethnic origin in the recruitment and hiring of faculty. The college shall have stated policies on faculty hiring, compensation, fringe benefits, tenure, retirement, firing, grievance and appeals procedures. The college shall submit to the Board for each faculty member a resume which includes the following information.

(a) Academic rank or title

(b) Degree(s) held, the institution(s) that conferred the degree(s), the date(s) thereof, and whether earned or honorary.

(c) Other qualifying training or experience.

(d) Name and course number of each course taught

(e) Other non-instructional responsibilities, if any, and the proportion of the faculty member's time devoted to them.

(f) The length of time associated with the college.

(13) Library. The library shall be staffed, equipped and organized to adequately support the instruction, and research of students and faculty. The college shall submit information about the library to include:

(a) Financial support

(b) Circulation

(c) Number of volumes exclusive of documents

(d) List of periodicals

(e) List of reference books

(f) List of other instructional media

(g) List of special collections

(h) Staff and operating hours

(i) Arrangements for student and faculty access to library facilities at other institutions.

(14) Clinical Training. The clinical facilities shall be adequate in size, number and resources to provide all aspects of naturopathic diagnosis and treatment. There shall be properly equipped rooms for consultation, physical examination, and therapy, and a pharmacy, laboratory, and radiological equipment. A licensed and adequately experienced naturopathic physician must be present in the clinic at all times which the clinic is open and in direct supervision of diagnosis and treatment of patients by students. The ratio of adequately prepared students to clinical staff shall be such that patient care and student experience are optimized while the competence of the student is evaluated.

(15) Physical Plant, Materials and Equipment. The college shall own or enjoy the full use of buildings and equipment adequate to accommodate the instruction of its students, and administrative and faculty offices. There shall be adequate facilities for the safekeeping of valuable records. The plant and grounds, equipment and facilities shall be maintained in an efficient, sanitary, and presentable condition. All laws relating to safety and sanitation and other regulations concerning public buildings shall be observed. There shall be sufficient personnel employed to carry out proper maintenance.

(16) Cancellation and Refund Policy. The college shall maintain a fair and equitable policy in reference to refund of the unused portion of tuition fees and other charges in the event a student fails to enter the course, or withdraws at any time prior to completion of the course. Such a policy shall be in keeping with generally accepted practices of institutions of higher education.

(17) Other information. The applicant college shall provide any other information about the institution and its programs required by the Board.

850-10-225

REVIEW PROCEDURES

(1) The Board may send a representative or an examining or evaluation committee to inspect any institution requesting approval under ORS 685.060. Such inspections may be at any reasonable time during the normal operating hours of the college. The report of the representative or committee and the college's response shall be submitted as part of the documentation necessary for Board action on the college's application.

(2) In lieu of a review in accordance with part of the standards used by the Board as listed in OAR 850-10-224 the Board may acknowledge the adequacy of

accrediation by the Council on Naturopathic Medical Education, Inc., or other accrediting agency acceptable to the Board.

(3) Final action for approval by the Board will be held open to the public and the applicant college shall be invited to attend.

850-10-226

Revocation of Approval

Approval obtained under ORS 685.060 may be revoked for proper cause by the Board at its discretion, after a hearing. Such hearing shall be held in accordance to Model Rules of Procedure applicable to contested cases.

REMARKS BY REPRESENTATIVE MAE TISCHER

HOUSE BILL 347 MARCH 6, 1984

THANK YOU, MR. CHAIRMAN.

FOR THE RECORD, I AM REPRESENTATIVE MAE TISCHER, CHAIRMAN OF THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE. I AM CO-SPONSOR OF THE BILL BEFORE YOU TODAY, HOUSE BILL 347, "AN ACT RELATING TO THE PRACTICE OF NATUROPATHY."

I AM HERE TODAY TO CLEAR UP A FEW OF THE MISCONCEPTIONS SURROUNDING THIS BILL.

CRITICS OF HB 347 WILL TELL YOU IN JUST A FEW MINUTES THAT THEY DON'T WANT TO STOP THE PRACTICE OF NATUROPATHY -- THAT THEY ONLY WANT TO STOP NATUROPATHS FROM "PRACTICING MEDICINE." I MUST REJECT THIS ARGUMENT FOR TWO REASONS: FIRST, THE BILL BEFORE YOU DOES NOT ALLOW NATUROPATHS TO DO ANYTHING THAT THEY ARE NOT TRAINED TO DO IN LICENSED AND APPROVED SCHOOLS; AND SECOND, THIS BILL HAS NOTHING TO DO WITH "PRACTICING MEDICINE" -- ONLY WITH PROVIDING AN

ALTERNATIVE METHOD OF HEALTH CARE WITHIN CAREFUL LIMITS OF TRAINING, AND PROFESSIONAL REVIEW. NATUROPATHS ARE NOT DOCTORS; THEY CAN'T FIX A RUPTURED APPENDIX. HOWEVER, THEY CAN PROVIDE A SPECIALIZED HEALTH CARE SERVICE TO A SPECIALIZED GROUP OF PATIENTS WHO SPECIFICALLY SEEK THEM OUT. THIS BRINGS ME TO THE BASIC REASON I SUPPORT HB 347.

I BELIEVE THAT EACH INDIVIDUAL HAS THE RIGHT TO SEEK THE KIND OF HEALTH CARE THAT HE THINKS BEST, AND THAT NO BUREAUCRAT, HOWEVER WELL INTENTIONED, HAS THE AUTHOPITY TO STOP THE EXERCISE OF THAT RIGHT. HOUSE BILL 347 ONLY SEEKS TO GUARANTEE THAT ALASKANS WHO WANT TO DO SO MAY HAVE ACCESS TO THE NATUROPATHIC METHOD OF HEALING -- WITHIN ITS <u>FULL</u> SCOPE OF PRACTICE. THE BILL SIMPLY REQUIRES THE INDIVIDUAL TO BE RESPONSIBLE FOR SELECTING THE METHOD OF TREATMENT THAT HE WANTS AND THE EXTENT TO WHICH HE WILL RELY UPON THAT METHOD. IN ORDER TO PROVIDE A GENERAL ASSURANCE TO THE CONSUMER THAT ANYONE WHO CALLS HIMSELF A L[illegible]NSED NATUROPATH

HAS IN FACT MET SOME CRITERIA TO EARN THAT LICENSURE, THE STATE REQUIRES EACH LICENSED NATUROPATH TO COMPLY WITH RIGOROUS STANDARDS: ADEQUATE TRAINING IN DESIGNATED SUBJECTS (INCLUDING 1500 HOURS OF CLINICAL TRAINING), AND DEMONSTRATED PROFICIENCY IN RELATED SUBJECT AREAS ON A STANDARDIZED TEST. THE BILL THEN STIPULATES THAT PRACTITIONERS OF NATUROPATHY MUST IDENTIFY THEMSELVES CLEARLY AS SUCH. WITH THESE PRECAUTIONS IN THE BILL, I FAIL TO SEE ANY VALID CRITICISM OF THE MAIN THRUST OF THIS LEGISLATION. ANY ARGUMENT AGAINST THIS BILL, I FEEL, ONLY CHALLENGES THE INTELLIGENCE AND JUDGEMENT OF INDIVIDUAL ALASKANS.

WHEN LISTENING TO THIS LINE REASONING, I CANNOT HELP BUT WONDER WHAT THESE BUREAUCRATS THINK OF THE AVERAGE PERSON. I GET THE IMPRESSION THAT THE BUREAUCRATS BELIEVE WE ARE ALL A BUNCH OF DUNCES INCAPABLE OF MAKING ANY DECISIONS FOR OURSELVES -- THAT NO MATTER HOW MUCH WE TRUST OUR NATUROPATH AND THE PRACTICE OF NATUROPATHY, WE STILL MAY NOT GET ACCESS

TO HIS SEPVICES, EXCEPT WITHIN STRICT LIMITATIONS WHICH THEY SET FOR US. I FOR ONE AM INSULTED BY THIS KIND OF "BIG-BROTHERISH" MENTALITY.

I APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE THE HOUSE LABOR AND COMMERCE COMMITTEE TO EXPRESS MY CONTINUING SUPPORT FOR HOUSE BILL 347. I URGE YOUR EXPEDITIOUS AND FAVORABLE CONSIDERATION OF THIS IMPORTANT LEGISLATION. THANK YOU.

I. REQUEST

Bill/Resolution No.: CSHB 347 (HESS)
Title: "Licensing of naturopaths"
Sponsor: Martin, Abood, Tischer
Requestor: HESS

I. FISCAL DETAIL

Agency Affected: Health & Soc. Svcs.
Program Category Affected: Public Health
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dean F. Tirador, M.D. Phone: 465-3090
Division: Public Health Date: 5/20/83

Approved by Commissioner: Robert London Smith Date: 5/20/83
Department: Health and Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

OREGON EDUCATIONAL COORDINATING COMMISSION
PROPOSED AMENDMENTS TO OREGON ADMINISTRATIVE RULES
CHAPTER 583, DIVISION 30

NOTE: Matter underlined is new; matter [*italic and bracketed*] is existing language to be omitted.

STANDARDS AND PROCEDURES FOR APPROVAL OF DEGREE REQUIREMENTS IN CERTAIN OREGON PRIVATE AND ALL OUT-OF-STATE INSTITUTIONS

Scope and Purpose

583-30-005 (1) ORS 348.835 provides that certain Oregon private and all out-of-state institutions of learning shall not confer or offer to confer any degree in recognition of the attainment or proficiency of a person without first having submitted the requirements for the degree to the Oregon Educational Coordinating Commission and having obtained the Commission's approval. This applies to each degree program at each location proposed by an institution.

(2) The purpose of this rule is to provide standards and procedures for submission of requirements and for Commission review and approval of the same, and to assure that institutions covered by this rule meet minimum standards of quality in their operation and conferral of degrees. It is also the purpose of these rules to help prevent deception of the public resulting from the conferring and use of fraudulent or substandard degrees. Regulation of degree requirements as evidence of academic achievement is in the public interest.

Stat. Auth.: ORS Ch. 348
Hist: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80

Exemptions

583-30-010 This rule shall not apply to:

(1) Any school or institution of learing which has been established and conducted within Oregon, and has conferred degrees for a period of 15 years prior to March 4, 1935;

(2) Any school conducted under the public educational system of the State of Oregon;

(3) Any Oregon school which is a member in good standing of the Northwest Association of Schools and Colleges;

[*(4) Any school which confers degrees only for proficiency in any system or method of healing;*]

[*(5) Any school now conferring the degree of doctor of optometry;*]

(4)[*(6)*] Schools of theology operating on a post-baccalaureate degree level.

Stat. Auth.: ORS Ch. 348
Hist: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80

Definitions as Used in OAR 583-30-005 to 583-30-045

583-30-015 (1) "Institution of Learning" or "Institution" means post-secondary educational institution subject to this rule.

(2) "Degree" means any academic or honorary title of designation, mark, appelation, series of letters or words, such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level or a recognized title conferred for meritorious recognition which may be used for any purpose whatsoever. "Degree" does not include certificate, diploma, license, report, document, or title which signifies satisfactory completion of requirements of a non-degree program.

(3) "Confer" includes awarding, granting, bestowing, or giving of a degree.

(4) "Good Standing" means full accreditation with the Northwest Association of Schools and Colleges.

(5) "Commission" means the Oregon Educational [illegible]

(6) "Out-of-State" or "Foreign" educational institution means either a public or private institution which is not an Oregon school.

(7) "Attainment" or "Proficiency" means the completion and mastery of a program or field of study or competence in the skills generally required in the profession or field of study.

(8) "Advertising" means any form of public notice used in school recruiting and promotional activities, however disseminated including, but not limited to, catalogues and other school publications, signs, mailing pieces, radio or television advertisement, and audiovisual material.

(9) "Oregon School" means any school or institution of learning which initially establishes operations solely in oregon and Continuously maintains its main headquarters in Oregon.

(10) "Part-time faculty" means teaching staff employed by an institution less than full-time throughout the academic year.

(11) "Credit for prior learning" means credit which is awarded for learning which is not sponsored by an institution and occurs prior to matriculation.

Stat. Auth.: ORS Ch. 348
Hist: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80

Exercise of Commission Authority

583-30-020 (1) After initial approval by the Commission for an institution to grant a certain degree (or degrees), periodic reports may be required. Failure to conform to the established standards may result in loss of Commission approval. No institution shall receive approval for a period longer than five years. Prior to the expiration of the five-year period, or any lesser period designated by the Commission at the time of approval, the institution must initiate the reevaluation process by making application to the Commission for renewal of its authority. The Commission upon review and evaluation of the application shall make a final decision of approval or disapproval in not less than two nor more than 11 months.

(2) If any institution of learning fails to maintain the required standards or fails to report significant institutional changes within 90 days of the change including the offering of approved degree programs at new locations either within Oregon or elsewhere, the Commission may revoke its approval subject to rule 583-30-045 of these rules. The Commission may make periodic contact and/or send a representative or qualified examining or evaluation committee to an institution to gather information as authorized under rule 583-30-040. All costs of an evaluation shall be borne by the institution requesting approval.

Stat. Auth.: ORS Ch. 348
Hist: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80

Eligibility to Apply

583-30-025 In order to make application for the review of its degree-granting authority, an institution subject to this rule must have a representative in Oregon residence and a headquarters with a physical location and address in Oregon and identify its agent for the transaction of business with the Commission; or, if a foreign or out-of-state institution, it must designate a responsible agent within the State of Oregon and provide his/her name, address, and telephone number.

Stat. Auth.: ORS Ch. 348
Hist: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80

Application Procedure

583-30-030 Institutions making application shall do so on a form provided by the Commission, which shall be designed to meet the standards in rule 583-30-035.

Stat. Auth.: ORS Ch. 348

Standards

583-30-035 The following standards shall be used by the Commission in determining the completeness of an application and in its review of the degree-granting authority of an institution:

(1) Objectives. The objectives of the institution shall be clearly stated; they should make evident the ends which the institution hopes to achieve; and their implementation should be obvious in the administration of the institution, individual course objectives, and the total program which has been planned for students.

(2) Curriculum and Academic Standards. The institution shall make known the standards of excellence, mastery, and competence for its programs and courses of study and shall validate the effectiveness of its instruction by evaluating the proficiency of its students in their particular field of study before the granting of degrees. Special training for a given profession or vocation shall be sufficient in extent and quality to insure that recipients of the degree can perform acceptably the duties of the particular profession or vocation involved.

(3) Administration. The education and experience of directors, administrators, supervisors, and instructors should be sufficient to insure that the student will receive educational services consistent with institutional objectives. The administration of the institution shall be such that the lines of authority are clearly drawn. The institution shall present with its application a catalog and a brief, narrative explanation of how the administration of the institution is or is to be organized and how the administrative responsibility for each of the following is or is to be managed:

(a) Faculty and staff recruitment;

(b) Personnel records management;

(c) Faculty pay scale and policies;

(d) Standards and practices relating to evaluation, improvement of instruction, promotion, retention, and tenure;

(e) Admissions policies including procedures used to solicit students;

(f) Development and administration of policies governing rejection and retention of students, job placement, and student counseling and advising services;

(g) Curriculum requirements;

(h) Tuition and fee policies; and

(i) Financial management policies.

(4) Faculty. Faculty members of any institution conferring degrees shall be qualified by training and experience to give effective instruction in the particular fields involved. There shall be submitted to the Commission a resume for each faculty member participating in a program in Oregon, including the following information:

(a) Academic rank or title;

(b) Degree or degrees held, the institution(s) that conferred the degree(s), the dates(s) thereof, and whether earned or honorary;

(c) The faculty members' assignments by course number and title and the number of students involved in each course;

(d) Where faculty members have responsibilities for other than teaching, the nature of these responsibilities and the proportion of the faculty member's time required for them;

(e) Full-time equivalency; and

(f) The length of time each faculty member has been with the institution. Institutions which primarily employ part-time faculty must show how the following are provided:

(a) Faculty participation in the development of curriculum to afford continuity and stability in the educational program.

(b) Opportunity for counseling and informal association between students and faculty.

(5) Student Recruitment, Selection, and Retention. Recruitment and selection policies and practices shall be such as to assure that the personal goals and abilities of prospective students are compatible with the institution's purpose and academic standards and that student retention practices are consistent with the institution's objectives. The data submitted to the Commission shall include the following:

(a) A statement of the institution's recruitment, selection, and retention policies;

(b) The number of applicants for admission, number admitted, and the number enrolled during the past year, the attrition rate compared to the total school enrollment, and the reasons for student leaving if known; and

(c) The distribution of students in each of the various years in school and in each degree program.

(6) Financial Condition:

(a) The institution shall demonstrate to the satisfaction of the Commission its financial solvency and stability by submitting certified audit reports, the posting of an adequate bond, or other appropriate evidence.

(b) The potential of a proposed program for retaining students over time will be a factor in assessing projected financial stability.

(7) Physical Plant, Materials, and Equipment. Instructional space, equipment, laboratories, recreational facilities, gymnasiums, health centers, and instructional materials shall be adequate to achieve all institutional and program objectives. Institutions without the educational resources of a traditional campus and out-of-state domiciled institutions shall furnish evidence that provisions are made for faculty and student access to all necessary teaching and learning resources.

(8) Library Resources:

(a) The library resources shall be adequate to support the instruction, research, and services pertinent to the institution's goals and courses of study. Evidence for evaluation shall include:

(A) Financial support;

(B) Circulation;

(C) Number of volumes exclusive of documents;

(D) list of periodicals;

(E) List of reference books;

(F) List of instructional media available; and

(G) List of special collections.

(b) Institutions that do not maintain an on-site library shall furnish evidence that provisions have been made for faculty and student access to adequate library services.

(9) Entrance Requirements. Entrance requirements for post-secondary degree studies shall include graduation from a secondary school or its equivalent or such other requirements as are generally employed by institutions offering similar degrees.

(10) Educational Credentials:

(a) Upon satisfactory completion of educational or training and the payment of all tuition and fees owed by the student to the institution, the student shall be given appropriate educational credentials by the institution indicating that the course or courses of instruction or study have been satisfactorily completed by the student.

(b) In addition, for each student who graduates or withdraws, the institution shall prepare, permanently file, and make available a transcript that specifies all courses completed, provided that all tuition and fees owed by the student to the institution have been paid. Each course entry shall include a title, the number of credits awarded, and a grade. The transcript shall separately identify all credits awarded by transfer and for prior learning experience, correspondence courses, and credit by examination.

(11) Records:

(a) In addition to the transcript requirement provided for under section (10), the institution shall maintain adequate records to document the performance and progress of each student. The records and accounts pertaining to each period of

enrollment of each student shall be kept intact and in good condition by the educational institution for a period of at least three years following the termination of such enrollment period.

(b) The records to be retained shall include, but not necessarily be limited to, any of the following information that does not appear on permanently filed transcripts:

(A) Records and accounts which are evidence of tuition and fees charged to and received from or on behalf of all students.

(B) Records of previous education or training of students at the time of admission and records of credit, if any, granted by the institution at the time of admission.

(C) Records of the student's grades and progress.

(D) Individual instructor's class records.

(E) Records of interruption for unsatisfactory progress or conduct.

(F) Records of re. nds of tuition, fees, and other charges made to the student.

(c) Institutions shall maintain and have available for inspection for a period of three years following their use complete records and copies of all advertising, sales, and enrollment materials used by or on behalf of the institution.

(d) If any educational institution proposes to discontinue its operation, the chief administrative officer of the institution shall file with the Oregon Educational Coordinating Commission the original or legible true copies of all such information as is customarily required by colleges when considering students for transfer or advanced study, including but not necessarily limited to, all records required in section (10) and subsection (a) of this section. In the event it appears to the Commission that any such records of an educational institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the Commission, the Commission may seek a court order to protect and, if necessary, take possession of the records. The Commission shall select at appropriate permanent location for such records.

(12) Advertising:

(a) The institution and its agents shall not utilize advertising of any type which is false or misleading, either by actual statement, omission, or insinuation.

(b) References to accreditation will be limited to accreditation currently held by the school through nationally recognized accrediting agencies as listed by the United States Department of Education.

(c) When an institution advertises that it is accredited it must identify the accrediting agency.

(d) An institution shall have records available to document any statements made through its advertising including salary and placement claims.

(e) An institution shall not advertise that it is in any way licensed, endorsed, recommended, approved, or accredited by the Oregon Educational Coordinating Commission.

(f) The insitution shall provide students and other interested parties with a brochure or catalog. The brochure or catalog must be revised and published at least every two years.

The following may be included in the brochure or catalog: "This institution has met the requirements of the Oregon Educational Coordinating Commission to grant degrees."

If any of the following items of information are not included in the catalog or brochure, it shall refer to other specific documents containing the omitted information:

(A) Name and address of the school;

(B) Date of publication;

(C) Admission requirements and procedures;

(D) A statement of tuition and other student charges related to enrollment such as deposits, fees, books and supplies, tools and equipment, and other charges for which a student may be responsible. This information may be presented as an addendum or insert to the main publication;

(E) A description of the extent and nature of part-time or full-time job placement assistance, if any, available to students or graduates;

(F) Specifics describing the availability of student housing, counseling and other student services, if any;

(G) A school calendar including beginning and ending dates of classes and programs, holidays, and other dates of importance;

(H) A statement of the objectives of the institution;

(I) A list of all institutional administrators and faculty members, including their titles and academic qualifications;

(J) A statement of institutional policy relative to standards of progress required of the student. This policy shall describe the grading system of the school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of the probationary period, if any, and conditions for re-entrance for those students dismissed for unsatisfactory progress. A statement shall be made regarding progress records kept by the institution and furnished to the student;

(K) A statement of institutional cancellation and refund policy;

(L) A description of the available space, facilities and equipment;

(M) A description of the objectives, requirements, and length of each program offered.

(N) For each program or field of study that prepares students for a licensed or certified occupation, a statement that indicates whether or not the appropriate agency or association recognizes the program for purposes of licensing or certification in that occupation. For all such programs, this information must be provided at the beginning of each program description in the catalog, brochure, and supplementary publications.

(O) Policy and procedures relative to the granting of credit for prior learning if offered.

(P) A statement explaining the arrangements, or lack thereof, for transfer of the institution's credits to other institutions.

(Q) A description of the types of financial assistance available to students enrolled in the institution.

(R) Any other material facts concerning the school and the instruction which are reasonably likely to affect the decision of the potential student;

(13) Credit for Prior Learning:

(a) Institutions awarding credit for prior learning shall have clearly state policies relating to administrative responsibility, student eligibility, means of assessment, recording of results and transcripts, storage of documentation, student fees and maximum number of credits allowable.

(b) Credit for prior learning normally should be awarded in subject matter fields in which the institution offers comparable courses or curriculum and has available faculty expertise or where nationally validated examinations or other procedures for establishing credit equivalency can be relied upon. However, credit may be accepted when appropriately evaluated through contractual or other means.

(c) Systematic and rigorous procedures for assessing prior learning shall be used. They shall insure that learning is carefully articulated, documented, and measured in the context of the role of the institution and the educational objective of the student. Requirements must be specific that each student must demonstrate the learning achieved before credit is awarded.

(14) Requirements for all Associate, Baccalaureate and graduate degrees shall provide for an appropriate balance of credits between those earned in the major discipline and in general education. These requirements shall be in keeping with those generally employed by institutions offering similar degrees.

(15) Cancellation and Refund Policy. The institution shall maintain a fair and equitable policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws at any time prior to completion of the course. Such a policy shall be in keeping with generally accepted practices of institutions of higher education.

(16) Other Information. The applicant shall provide any other information about the institution and its programs required by the Commission.

Stat. Auth.: ORS Ch. 348
Hist: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80

Review Procedures

583-30-040 (1) The Commission may send a representative or an examining or evaluation committee to inspect any institution of learning subject to ORS 348.835. The examining committee shall be comprised minimally of a Commission staff reviewer, or a designee; an institutional representative of a college accredited by the Northwest Association of Schools and Colleges; and a third party drawn from the general professional field of the institution undergoing review. In those instances in which a representative of the Commission or an examining committee has been assigned to inspect an institution, the representative's or committee's report shall be submitted as part of the documentation necessary for Commission action.

(2) In lieu of a review in accordance with part of the standards used by the Commission as listed in OAR 583-30-035, the Commission may acknowledge the adequacy of accreditation by an association recognized by the United States Department of Education.

(3) Final action for approval by the Commission will be held open to the public and the applicant institution shall be invited to attend.

Stat. Auth.: ORS Ch. 348
Hist: ECC 22, f. & ef. 12-22-75; ECC 26, f. & ef. 6-8-77; ECC 2-1980, f. & ef. 4-14-80

Revocation of Approval

583-30-045 Approval obtained under ORS 348.835 may be revoked for proper cause by the Commission at its discretion, after a hearing. Such hearing shall be held only after the institution of learning involved has been given 20 days' notice in writing of the time and place of such hearing.

Stat. Auth.: ORS Ch. 348
Hist: ECC 22, f. & ef. 12-22-75

WE PETITION YOU

AS OUR LEGISLATOR TO RECOGNIZE BY LAW, THE NATUROPATHIC PROFESSION. WE FEEL IT IS OUR CONSTITUTIONAL RIGHT TO BE ABLE TO MAKE OUR OWN CHOICE IN SELECTING THE TYPE OF DOCTOR AND THE TYPE OF TREATMENT FOR US OR OUR FAMILY. WE WOULD PREFER TO BE ABLE TO CHOOSE BECAUSE OF AVAILABILITY, FROM ALL OF THE DIFFERENT TYPES OF TREATMENT AND ESPECIALLY AT TIMES, THE NATURAL METHOD OR NATUROPATHIC SYSTEM. WE THE UNDERSIGNED HAVE USED OR WOULD LIKE TO USE NATUROPATHIC SERVICES. WOULD YOU ACT IN OUR BEHALF TO ASSURE US OF OUR CONTINUED FREEDOM OF CHOICE?

NAME	ADDRESS	DATE
Deborah Brookins	4202 Hayes Anch. 99503	3/4/81
Svetlana Dombrecki	3234 Lindsey Dr. Anch 99502	3-5-81
Stevanne Hansen	3-1 Bunnell 99504	3-5-81
Doris Maehler	2606 Hamilton	3-5-81
Kim Caldwell	P.O. Box 3258 Palmer AK 99645	3-5-81
Roxanne Marquiss	815 N. Park #2 Anchorage 99504	3-5-81
Linda Bighers	Box 43 Nape AK	3-5-81
Scarlet Hickmeier	BOX 545 GIRDWOOD AK	3-5-81
Karen Kalla	General Delivery Akiak, AK 99552	3/6/81
Lee Olson	3922 apollo Dr Anchorage 99504	3-6-81
Angela Davis	1936 Wickersham Dr. Anch. Ak.	3/6/81
Dan M Rice	Box 1062 Eagle Ak. 99738	3/6/81
Pauline Wells	1351 Falcon ai anch ak 99504	
Joan Kattenbach	Box 635 Eagle River Ak 99577	
Katy Mann	7401 Chad St Anchorage Ak 99502	
Diane Jolin	510 Iyre Circle Anchorage AK 99503	
Anna Thorkamott	9830 Hedgemore Dr Anch AK 99502	
Kristine M. Harding	3404 Oregon Dr. Anch. AK 99503	
Tonia L. Whaley	2949 E. 88th Anch 99507	3/6/81
Dan Smith	5901 S Lake Rd #57 Anch 99504	3-9-81
Leona Clarke	7840 Loretta Lane Anch 99502	3-10-81
Cathleen Horwich	4998 Klondike Ak 99504	3/10
Jerry L. Clark	8800 CORDELL CIRCLE apt #4 Anchorage ALASKA 99502	3/9/81
David Mooney	5530 SILVERADO WAY #11 Anchorage AK	
Celia L. Stevens	SRA 407-A Anchorage AK	3/10/81

WE PETITION YOU

AS OUR LEGISLATOR TO RECOGNIZE BY LAW, THE NATUROPATHIC PROFESSION. WE FEEL IT IS OUR CONSTITUTIONAL RIGHT TO BE ABLE TO MAKE OUR OWN CHOICE IN SELECTING THE TYPE OF DOCTOR AND THE TYPE OF TREATMENT FOR US OR OUR FAMILY. WE WOULD PREFER TO BE ABLE TO CHOOSE BECAUSE OF AVAILABILITY, FROM ALL OF THE DIFFERENT TYPES OF TREATMENT AND ESPECIALLY AT TIMES, THE NATURAL METHOD OR NATUROPATHIC SYSTEM. WE THE UNDERSIGNED HAVE USED OR WOULD LIKE TO USE NATUROPATHIC SERVICES. WOULD YOU ACT IN OUR BEHALF TO ASSURE US OF OUR CONTINUED FREEDOM OF CHOICE?

NAME	ADDRESS	DATE
✓ Jean Brooking	1035 W. 20th Anchorage AK	3/10/81
✓ Nancy Rojas	2907 La Honda Dr. #6 Anch. 99503	3/10/81
✓ Janet Embury	2910 W. 34th Ave Anchorage 99503	3/10/81
✓ Jill Bilka	St R+B Bx 9250 Palmer AK	3/10/81
✓ Nancy Walters	1570 Garden St Anch. AK	3/10/81
✓ Joanne S. Jesque	8142 E 5TH Anch AK	3/10/81
✓ Lawrence D. Meshkin	241 N. Park Anch, AK 99504	3/10/81
✓ Susan Faulk, President of Better Alaskan Birth Experiences	Box 4-381 Anchorage 99509	3/10/81
✓ Peter Raynor	5132 W. 72nd Anchorage, AK 99502	3/11/81
✓ Roberta L. Travers	1303 W. 39th Anch. AK 99509	3/11/81
✓ Marcie Mathews	6930 Altoona Dr. Anch, AK 99502	3/11/81
✓ [illegible]	Box 442 Anch	995-0
✓ Nancy Richmond	P.O. Box 6091 Anchorage 99502	3-11-81
✓ Allen M. Wickett	4500 Garfield Anch AK 99503	3-12-81
✓ Juliana K. Reed	400 W. 11th St. Apt 1 Anch. AK	3/12/81
✓ Laura Trimmingham	Box 3 Hope, AK 99605	3/12/81
[illegible] Trimmingham	Box 3 Hope AK 99605	3/12/81
✓ Beverly Vosburgh Lee	Box 326 Girdwood AK 99587	
✓ Scott Lee	Box 326 Girdwood AK 99587 3/12/81	3/12/81
✓ J. Ann Silmont	SR Box 5046 Wasilla AK 99687	12 Mar 1981
✓ Kathleen Whitson	4040 Folker St. #1 Anch. AK 99504	3/12/81
✓ David Crewdson	" " "	"
✓ LARRY G. NELSON	1611 DIMOND DR. ANCH AK 99503	3/12/81
✓ Pauline Titus	SRA Box 498 Anch AK 99577	3/12/81
✓ [illegible]	SR 1503 Eagle River, AK 99577	3/12/81

WE PETITION YOU

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NAME	ADDRESS	DATE
✓ Ellen E. Merrill	612 Chevigny St.	March 13, 1981
✓ Nadene Calderwood	7900 Honeysuckle Dr.	March 13, 1981
✓ [illegible]	1414½ Earlark	3/13/81
✓ Dawn Palmer	P.O. Box 4-294 Anch 99509	3/13/81
✓ Adrienne Bové	4343 San Roberto #4, 99504	3/13/81
✓ Cristhal D. Bennett	720 W 19th Ave Apt 99503	3-13-81
✓ Carol Rhodes	1061 E. 17th Ave Anch 99501	3-13-81
✓ [illegible]	1061 E. 17th Anchorage, Ak. 99501	3/13/81
✓ Dana Pace	SRA 191 Anchorage Ak. 99502	3/13/81
✓ Allen Badzynski	1908 W. HIDCREST ANCH., AK.	3-13-8
✓ Carolyn Elder	SRA Box 19 Anch 99501	3/16/81
✓ Marilyn Peterson	721 W 88th Anch 99502	3/16/81
✓ Janet Hunter		
✓ Linda Arndt	1028 N. Street, Anch, 99501	3/16/81
✓ [illegible] B Surinsky	1417 W. 70 Lights Blvd anch 99503	3/16/8
✓ Doyle V. Varnoby	3520 Wentworth 99504	3/17/81
✓ Susan J Clark	8800 Cordell Cir. Apt. 4	3/17/81
✓ Constance M. Walker	2103 W. 45th, Anch 99503	3/17/81
✓ Billie J. Perkins	SR Box 2662-M Wasilla Ak	March 17, 1981
✓ Karen Jasper	6141 Jewel Lake Road	march
✓ Mary Keckin	7800 Dr Burn Rd, #520	3/18/81
✓ Kay Steele	3944 Borland 99503	3/18/81
✓ Ruth Donohoe	1200 Dimond #1202 99502	3-18-81
✓ Shirley M Harman	1621 Dimond Dr. Anch 99507	3-18-81

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NAME	ADDRESS	DATE
Jackie Wood	SRA Box 1313 Anc 99502	3-19-81
[illegible]	Box 495-C SRA Anch AK 04	3-19-81
Tom Pettijohn	SRT Box 2940 Wasilla AK	3-19-81
Linda L. Bower	P.O. Box 3-858 ECB Anch. AK 99501	3-19-81
ALLAN Shepard	PO Box 113, Anchorage	3-19-81
HAL HODGES	P.O. BOX 2424 PALMER AK	3-19-81
Taffy Pettijohn	2308 Jefferson	3-19-81
[illegible]	Box 6513 Anchorage	3-19-81
Cathina Freeman	SRA Box 1750-B Anch AK	3-20-81
[illegible]	4110 [illegible] Rd. Sp 20 F Anch AK	3-20-81
Linda L Brodigan	1982 Waldron Dr. Anch. AK	3-20-81
Jamie Huckaby	SRA Box 2572 Anch. AK 99507	3-20-81
[illegible]	1907 [illegible] 99501	3-20-81
Michelle [illegible]	Box 8104 Anch. AK 99508	3-20-81
[illegible]	P.O. Box 8104 Anch AK 99508	3/20/81
Thomas Thompson	2805 Dawson Anch. AK 99503	3/21/81
Mary A Thompson	905 Muldoon Sp A12 - 99504	3/21/81
Doris L Pettijohn	2308 Jefferson Anc 99503	3/23/81
Eileen Herring	1112 E. 19th #4 99501	3/23/81
Melinda J. Kocklow	SRA Box 6105 A3 Palmer AK	3-23-81
Patti Phears	Girdwood AK	3-23-81
Eugene R Kane	Wasilla, AK	3-23-81
Lynn Hohl	Box 4-1264 Anchorage 99509	3-24-81
Elaine Thomas	Box 1372 Eagle River AK 99577	3-24-81
Mariann Peidlow	1014 E. 11th #4 Anchorage 99501	3-24-81

WE PETITION YOU

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NAME	ADDRESS	DATE
✓ Mark Grindle	1924 Stonegate Cr.	3/24/81
✓ Diana Lay	705 Muldoon Sp 9	3/24/81
✓ Karen Rios	1509 W. 45th Apt 4	3-24-81
Nilah Blakemore	801 Airport Hts #375	3-24-81
✓ ERIC H. AKOLA	1260 FRIENDLY LN.	3/25/81
✓ Karen Button	PO Box 1582	3/25/81
✓ Judy Means	234 East 15th Ave ANCH 99501	3/25/81
✓ Cathy Crandall	830 W 26TH #5 ANCH. 99503	3/26/81
✓ Brenda S Anacleto	PO Box 1622 Palmer AK 99645	3/26/81
✓ ANDRE PIEKARSKI	Box 461 GIRDWOOD 99587	3/26/81
✓ Alice Stacey	S/R 8766 Indian, Ak 99540	3/26/81
? Dave Sifert	Box 116 Girdwood 99587	3/26/81
? Kai Perrollo	PO Box 520 Anchorage AK 99509	3/27/81
✓ Harland Noble	30 S. Bragaw Anchorage AK 99504	
✓ Cathy Crandall	830 W 26TH #5 Anch	3/27/81
✓ Audrey Tavanis	P.O. BOX 6343 Anch. AK 99502	3-27-81
✓ Earle Fardig	2404 Oregon Anch AK 99503	3-27-81
✓ Ruth Adler	1110 W 6th Ave Anch Ak 99501	
✓ Susan W. Brown	7733 Honeysuckle Anch, Ak 99502	3/3
✓ Michael W. Ostrowski	130 EAST 8TH ANCH AK 99501	3/30/8
✓ Mary R Ostrowski	130 E 8th Anch AK 99501	3/30/8
? Nellie A. Thomas	926 W 11th Apt 10 Anch Ak 99501	3/30/81
? Arthur R [illegible]	3601 W [illegible] A[illegible]	3/30/81
✓ Mrs (Carolyn) Greiner	P.O. Box 251 Eagle River, AK 99577	3/31/
✓ Jeanie Colby	SRA Box 1740-C Anch AK 99507	3-31-81

WE PETITION YOU

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NAME	ADDRESS	DATE
✓ [illegible]		
✓ Kelly P Blevins	4127 Wright Anch	3/30/81
✓ [illegible] Nabia	647 E 78th St Apt B-4 Anch AK	4/1/81
✓ Vanessa L Nabia	697 E 78th Ave, # B-4 Anch Ak	4/1/81
✓ Columbine Wild	Block 9 Lot 1 Rabbit Creek Sub. Box 796 Valdez, Ak	4/1/81
✓ Alexis Arnold	8250 Barnett #1 Anch	4/2/81
✓ Connie A. Olson	3581 Heartwood Pl.	4/3/81
✓ Carol G. Lecrone	4040 Baker #11	4/6/81
✓ Ruth Maloney	General Delivery Eagle River, Alaska	4/6/81
✓ Kathleen Watson	4040 Baker #11	4/7/81
✓ [illegible]	SR 5077	[illegible]
✓ Patty Beck	Box 743	Girdwood, AK
✓ Linda Michaelson	SRA Box 1765-H, Anch, AK 99507	349-4/7/81
✓ Carol E. Edwards	SRA Box 1765-H, Anch, AK 99507	4/7/81
✓ Beatrice L. Adams	SR Box 725 Palmer	Alaska 4-8-81
✓ Jennifer A. Soulsbie	1637 Stanley AK. 99502	4/8/81
✓ K. Audrey Girard	3903 Seaforth Pl., Anchorage, Ak.	4/8/81
✓ Valerie Abel-Ey	524 - Irwin St #3 " "	4-9-81
✓ [illegible]	524 - Irwin St #3 " " " "	
✓ Harry P. Palmer	P.O. Box [redacted] 3794 Anch. AK 99510	
✓ James M. Brookins	4202 Hayes St Anchorage Alaska. 99503	4/8/81
✓ [illegible]	5205 E 26th Ave Anchorage Alaska 99504	
✓ Peter Wallace	700 Fireweed Anch AK	99501
✓ Lucy Lynch	1405 Summit Place, Anch. Ak.	99504

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NAME	ADDRESS	DATE
Lt. Matt Ilo	Box 269 Kenai AK 99611	283-4637
Carl Bolden	1225 W 11th Ave Anch AK 99501	
Cynthia Lee	3501 Wyoming Anch. 99503	4-8-81
[illegible] Taylor	3407 N. Star [illegible] Anch 99503	4-11-81
Kathleen J. Brown	Gen Del, Chugiak 99567	4-11-81
Terry L Knock	Gen Del, Eagle River 99577	11-11-81
Jaime Schaaf	Box 192, TRAPPER CREEK, AK 99688	5-10-8
Richard M Olsen	7800 DeBarr #431 Anchorage 99504	5/13/81
Theresa J. Miller	4308 Baxter Rd #6 Anc AK. 99504	5/14/81
Cheryl Brown	4228 Laurel St.	5/14/81
Mary Newton	Box 17049 Big Lake 99687	5/14/81
Brijinder Basi	2021 Tudor Hills Dr. 99507	5/14/81
Marilyn Johnson	PO Box 3298 Palmer AK 99645	5-14-81
Alice Matter	2460 Clandalan 99504	5-15-81
Dorene Buckman	427 West 26 99503	5-15-81
Lili M. Wilson	Box 3684 Kenai 99611	5-22-81
Marlee Wilson	Box 3684 Kenai 99611	5-22-81
moved [illegible]	1424 E 27th St Anc AK	5-22-81
Pamela L Meyers	3904 IOWA DR ANCH. AK	243-8814
[illegible]	4938 E. 43rd Ct Sc	337-3465
Kelly Ann E. Scrimsley	8411 E. 5th Circle AK 99504	333-0143
Nancy D Kroon	SRA Box 1732-I Anch AK 99507	344-4650
JoAnn Belmont	SRBox 5046 Wasilla AK 99687	376-2138
Karen Rios	1509 W 45th #4 Anch. 99503	272-6740

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NAME	ADDRESS	DATE
[illegible] S. Deitrick	Rob 5 Sterling AK	4-10-81
✓ Roberta Powell	7400 Tirchik Cir Anch AK 99504	4-10-81
✓ Jill Gould	SRA BOX 1506J Anch. 99507	4/10/81
✓ Susan Gandjean	1534 H St. Anch. AK 99501	4/10/81
✓ [illegible] Matthews	6730 Altoona Dr #2 Anch AK 99502	4/10/81
Brinece Rains	7800 DeBarr Anch, AK 99504	4-13-81
✓ Jerene M Masier	SRA Box 380-W Anch. AK 99507	
✓ Blanche M Jackson	2616 McRae Anch, AK 99503	
✓ Kathleen T. Graves	5902 Buckner Anch. AK. 99504	
✓ Class Timler	3705 Lois Drive Anch AK 99503	
✓ [illegible] L. Stout	SRB 7811 Palmer AK 99645	
✓ [illegible] Rosser	1619 Otter Apt A Anch 99504	4-16-81
Beverly Bingham	2051 Tudor Hills Dr. Anch 99507	4-15-81
✓ [illegible]	7534 Arthur Court, Anch 99502	4/15/81
✓ [illegible] Homela	2310 Forest Park Dr. Anch 99503	4/15/81
✓ Beverly Beatt	530 LAKERIDGE DR. EAGLE RIVER AK	4/15
✓ [illegible] McCloud	530 Lakeridge Dr. Eagle River AK	4/15/81
✓ Shawn Maxwell	4133 W. 89th Anch. AK. 99502	4-15-81 243-7781
✓ Kathy Freeman	809 E 76 Anch AK 99503	4/15/81
Brinece Rains	7800 DeBarr Anch, AK 99504	4/15/81
✓ Shirley Schneider	P.O. Box 1357 Wasilla, AK 99687	4/16
✓ Bonnie Schram	SRA Box 1703-C Anch 99507	
✓ William D Dabbs Jr.	1936 Wickersham Dr. Anchorage, AK. 99507	4/17
✓ Gary Perkins	5001 Chena Ave Anch AK 99504	4/17

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NAME	ADDRESS			DATE
Andrea Jones	8600 Hamilton St.			4/20/81
Jean Clark	1973 Lakeridge Dr			4-20-81
Judy Donahue	1300 Diamond Blvd.			4-20-81
Brenda Caldwell	12240 Eileen			4-21-81
Marlene Abbatti	Box 10-895	no card		4/21/81
P. Plawiak Walter	1728 W. 11th Apt A			4/21/81
[illegible]	4511 Laurel Apt 1 [illegible]			4/21/81
Pauline Kindle	3321 E 4th St			4-21-81
Ruth Kilpatrick	P.O. Box 6761	Anchorage	99504	4-22-81
Donna Frederick	9599 Brayton Dr #243	Anch	99507	4-22-81
LeRon Fredrickson	P.O. Box 698	Anch	AK 99510	4-23-81
Cindy Wittstock	P.O. 93 - Clearwater,	AK	99567	4-23-81
Schmidt Malone	9801 W 70th	Anchorage, AK	99502	4-23-81
John Smith	8307 Duke St #B	Anch	AK 99504	4-23-81
[illegible]				
[illegible]	8301 Rovanian Dr		99504	4-24-81
Claudia Trendelenburg	2514 Mile Hill Way		99501	4-24-81
Celtus D Gillis	2635 Reeder Drive	Anchorage	99503	4-25-81
E Dittrich	2308 Alaska	Anchorage	99503	4-25-81
Helen Chalcraft	P.O. Box 10-09	Anch	AK 99511	4-27-81
Catherine Andrus	4150 Reka #E-11	Anch	AK 99504	4-27-81
Sheila Hamlin	1053 W. 26th Ave, #4	Anch	99503	4/27/81
[illegible]		Barrow	AK	
Linda Rexwinkel	SRA Box 80-T	Anch.	99507	4/27/81
David Salamon	4040 Folker #6		99504	4/27/81

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NAME	ADDRESS	DATE
Heather Reinwald	3189 Indian Cove Rd Juneau AK 99801	4/27/81
Paul Hamilton	Box 153 Chugiak AK 99502	4/28/81
Karen Dunford	6331 Wooded Circle, Anchorage AK 99502	
Pat Kay	1601 Wolverine Anchorage	99504
Mary Burr	Box 8501 Bird Creek AK 99540	
Janice Manning	401 E. 6th ave #1107 Anch AK 99501	
O E Bohannon	Box 10-388 Anchorage AK 99511	
Lynda J Ogen	4860 Wesleyan Anchorage AK 99504	
Freddie Cotti	Box 6516 Anch AK 99502	
Peggy Bohannon	Box 10-388 Anch AK 99511	
O E Bohannon	Box 10-388 " " 99511	
Karen Herfindahl	Box 287 Girdwood 99587	
Anne Dawson	Box 3134 FCB Anchorage 99501	
Vida L Woods	330 Aurora Eagle River AK 99577	
Linda Stafford	Box 3366 Kenai, AK 99611	
Malone Billbrook	4005 Arkansas Anch 99503	5/1/81
[illegible]	1168 Dean Place Anch 99504	
Gertrude J Hoover	SR1 Bx 7389 Birchwood Chugiak 99567	
Elva Lewis	Box 10-388 Anch 99511	
Kelleigh Mussette	8632 Boundary Anchorage 99504	
[illegible]	SRA 3502 AB Hare Anchorage 9950[illegible]	
[illegible]	SRA 3502 Anchorage AK	
Brian J. Brandon	1430 Crescent Anchorage AK 99504	

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NAME	ADDRESS	DATE
Katherine Schlicht	1931 Rabbit Creek	5-29-81
Laura Phillips	8224 BEARBERRY PL 99502	5-29-81
Diana Jones	4110 DEBARR SP. 13-B 99504	5/29/81
Catherine Nielsen	P.O. Box 3194 3600 W. 34th - Anchorage 99510	5/29/81
Martha Weiland	P.O. Box 4-772 Anc AK 99509	6/1/81
Howard Graham	2045 Dimmy Lee ANC AK 99504	6/1/81
Vicki Rockwell	3925 Arctic St. Anch. 99504	6/1/81
Karen Swindahl	POB 287 GIRDWOOD 99587	6-1-81
Francis Vaughan	POB 2061 Palmer 99645	6-1-81
Joan M Lesher	Box 11694 Anchorage 99511	6-1-81
K. R Summers	P.O. Box 3-4184 Anc. Ak. 99501	6-1-81
Doris Dawson	P.O. Box 1-1, Chugiak 99567	6/02/81
Doreen Dawson	2907 La Honda #11 Anch	
Shelley R. Parker	220 W. 24th #4 Anch	6/2/81
Lois Howell	SR Box 498	
Susan Suchala Collett	1200 W. Dimond #302 Anchorage 99502	6/3/81
Ron Salmi	4938 E. 43rd St c-5 Anc AK. 99504	6/3/81
Sarah Austin	3931 Lindenwood Anc Ak 99504	6/3/81
Steven R Hasse	1201 W 34th #4 Anch 99503	6-5-81
Esther Nelson	3041 MT. VIEW DRIVE Anchorage	99504 5 June
Beatrice Hamm	SR. Box 8570 Indian Ak. 99540	
Marian Hopkins	P.O. Box 3-4013 ECB Anch 99501	
[illegible]		
Carol Washima	3916 42nd SW Seattle WA 98	
Patricia B. Jasper	6141 Jewell Ct Anch 9950	

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NAME	ADDRESS	DATE
SR Braund	2378 Capt Cook Drive	6/5/81
Dine Miller	2810 W 29th #1	6/5/81
Gail Greenhalgh	Girdwood, AK	6/9/81
[illegible] Steele	4403 Spenard Rd. #12	6/9/81
Judith Cobb	3323 Eide #5	6/10/81
Renee S. Mason	4502 Lake Otis Pkwy	6/10/81
[illegible]	2300 Homestead Ct #2C 99507	6/10/81
Betty		
Debra W Brown	P.O. Box 2333 Palmer, AK 99645	6-10-81
James D Brown	PO Box 2333 Palmer AK	6/10/81
Methoal Bennett	720 W 19th Ave Anch AK	6-10-81
Celeste Mamble	1080 E. 17th #137	6-10-81
? Mary Pearson	3303 Lois Dr. Apt 3	6-11-81
Mary Darby	601 N Bunn 99504	6-11-81
Ellen M Wickett	4500 Garfield 99503	6-11-81
Rex A. Holt	100 E. Firewood Ln. #9 99503	6-11-81
Mary-Clayton Pearce	4243 ~~[illegible]~~ Chess St. 99504	6-11-81
[illegible]	4116 W 88th #1 99502	6-11-81
Ronnie Reece	" "	6-11-81
JIM BAKER	137 W. 15th 99501	6-12-81
Marilyn Pettit	SRA. Box 4333 99502	6-15-81
[illegible]	A-1, Chugiak, AK 99567	6/15/81
Adriane Bové	4343 San Roberto, #4, Anch 99504	6/15/81
Mary Shier	P.O. Box 10-788 Anch 99511	6-15-81
DONA IVERSON	SRA Box 116 "M" ANCH AK 99502	6/16/81

WE PETITION YOU

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NAME	ADDRESS	DATE
✓ Dale Hosman	1502 W. 45th	6/16/81
✓ Donald L Ramsey	3701 Eureka Sp. 12-C Anchorage 99503	6/16/81
✓ Russell D. Dixon	2206 W 45	6-16-81
✓ Elizabeth A. De Loria	Gen. Del. Chugiak AK 99567	6-17-81
✓ Karen K. Palinski	7031 Oakwood Dr.	6-17-81
✓ Panna Lynch	2536-Forest Pk. Dr.	6/17/81
✓ Marsh E. Thatcher	SRA Box 1561E Anchorage, Alaska	6/17/81
✓ Ginny Kreines	1400 Airport Hts. Dr. Anch	6/17/81
✓ Paloma Joy	817 N Flower Anch	6/17/81
✓ Doris Garrison	4510 Spenard Rd. Anch.	6/17/81
✓ Ann Loveland	8050 E. 18th Ave	6-18-81
✓ Jill Gould	SRA Box 1506J 99507	6/18/81
✓ Patricia Miller	2834 Knik Anchorage 99502	6/18/81
✓ Jeffrey Stuart	" " " "	"
✓ Patricia Fesler	Star Rte. Box 8610 Bird Creek, Ak 99540	6/18/81
✓ R C DAVIS	SRA-BOX 495-C Anch 99507	6/19/81
✓ Cathy dunbar	po box 1375 Wasilla	6/19-81
✓ Lisa Jackson	600 Cherry St. Anch. Ak	6/19/81
✓ Lester Vanbrough	6871 Old Seward #202 Anch, AK	6/19/81
✓ Sister Cabrio	830 W. 7th #5 Anchorage 99502	6/19/81
✓ Jeanne Kolisky	7810 Ascot Anch 99502	6/19/81
✓ Lennie L Wheeler	2949 E. 88th 99507	6/19/81
✓ Melinda Kocal		
✓ [illegible] Nelson	1531 W. 12th ave. Anch. 99501	6/22/81
✓ Gene Faulk	2202 Roosevelt #6 99503	6/22-81

WE PETITION YOU

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NAME	ADDRESS	DATE
Virginia R. Zimmerman	601 No. Birch "A"	062381
[illegible]	1280 E 17th Ave Apt 137	6/23/81
[illegible]	2224 Mullaney 99501	6/22/81
[illegible]	Melinda Walker-Koehler SRA Box 4105A3 Palmer 99645	6-23-81
Lawn Waterfield	2523 Kona Lane Anch. 99503	6/25/81
[illegible]	143 W 11th #4 Anch AK 99501	6-25-81
Larry S [illegible]	3110 Delta Dr. Anchorage AK 99502	6-25-81
Jane R Travis	5912 Franklin St Anch. AK 99502	6-26-81
Dave A. Caldwell	Po Box 3298 Palmer AK 99645	6-26-80
D. Freeman	SRA 1750-B Anch., AK 99507	06/29/81
Charles Pettit	SRA-Box 4333 Anchorage 99502	6/29/81
Cheryl L. Dixon	2206 W. 45 Anchorage 99503	6/29/81
Ann Cooper	S.R.A. Box 4349 " 99502	6-29-81
Becky Pearce	801 Erickson, Apt. 4" 99501	6-29-81
Michelle Keeper	9431 Dundee Cir. 99502	6-30-81
Paul N Pooth	Box 5252 Star Route 2 99567	6-30-81
[illegible]	Box 5252 Star Route 2 99567	6-30-81
Michael Gaply	P.O. Box 2407 Anch 99510	7-1-81
Amy E Brunner	SR2 Box 5252 Chugiak 99567	
[illegible]	SR5072 Wasilla AK 99687	7/2/81
Jimmy Kroon	SR Box 1732I Anch. AK 99507	7/3/81
Cyndi Shaw	2101 W 29th ANCH A 99503	7/3/81
Ritta Hamilton	P.O. Box 155 Chugiak 99567 Ak	7/6/81
Susan Bohner	4009 Merrill Anchorage 99503 AK	7/6/81
Hoesie [illegible]	P.O. Box A-1, Chugiak Alas. 99567	7/06/81

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NAME	ADDRESS	DATE
[illegible]	140 Eagle #101	7/6/81
[illegible]	140 Eagle #101	7/6/81
[illegible]	SRA 6105 A-5 PALMER	7-6-81
[illegible]	3601 Lima	7-8-81
[illegible]	Box 368 3601 Cactus 99703	7-8-81
[illegible]	Box 734 Palmer AK. 99645	7/8/81
[illegible]	Box 3592 Palmer AK 99645	7/8/81
[illegible]	2917 W 24th Anchorage	7/10/81
[illegible]	P.O. Box 1471 Palmer AK 99645	7/10/81
[illegible]	SRA Box 2289 Birchwood Chugiak	
[illegible]	2604 W. 32nd #2 Anch. AK	7/10/81
[illegible]	SRA Box 150-B Anch. AK	99502
[illegible]	Box 155 Chugiak 99567	AK 7/13/81
[illegible]	Box 4-1264 Anchorage 99509	7/13/81
[illegible]	2600 Happy Lane Anchorage 99507	7/15/81
[illegible]	PO Box 2378	99510 7-15-8
[illegible]	1053 W 26th Ave #4 Anch, AK 503	7/14/81
[illegible]	1303 W 31st #1 Anch. 99503	7/14/81
[illegible]	10611 ORCHAN ANCH. AK. 99507	7/14/81
[illegible]	700 Hollywood Dr. AK 99501	7/14/81
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	1241 Valley St Anch. 99504	7-15-81
[illegible]	1241 Valley St. Anch. 99504	7-15-81

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NAME	ADDRESS	DATE
Charles H Bedwell	SRA 476-H Bayview	7-16-81
Barbara Solomon	Box 40 Chitina	7-16-81
Manuel Peña	3606 Lois Dr.	7-16-81
Mary L DeVone	1321 Kinnikinnick St.	7-17-81
Paul D. Pooler		
Suzie Pooler		
Karan M. Dunford	6331 Wooded Circle	7-20-81
Doris	Gen. Del. Eagle River	7-20-81
Ben Johnson	SRA 476 H	7-21-81
Greg Bentz	P.O. BOX 1053 Anch, AK	7/21/81
Richard V. Buzzelli	General Delivery Anchorage AK	7/22/81
Peter P. Paulus	c/o P.O. Box 1207 ANCH, AK	7/22/81
Carrie Link	332 Northlake Apt D Anch, AK	7/23/81
Kimberly Ann Caldwell	Po Box 3298 Palmer AK 99645	7-23-81
Janice Rachele	6140 Austin Anch AK 99502	7-23-81
Shawna K. Maxwell	4133 W. 89th Anch. Ak. 99502	7-24-81
[illegible] Morris	SRA 6654 A Palmer AK 99645	7-27-81
Val Riddle	3935 Lynn Dr #1 99504	7-28-81
[illegible]	3935 Lynn Dr #1 Anch AK 99504	7-28-81
Eleanor Carter	1600 Otter St Anchorage - 99504	7/28/81
Virginia Smither	1600 Otter St. ANCH. AK - 99504	7-28-81
Alisa Tilley	325 North Park #7 Anch. Ak 99504	7/28/81
Martin Mathews		
Gerald A Johnson	1722 Crescent 99504	7-28-81
Judith Russell	Box 593 Sterling AK	7-30-81

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NAME	ADDRESS	DATE
Anthony & Diana	7530 Beluga Cir. Anch. AK	7/30/81
Stephen Antil Lauck	530 E. 46th Pl. Anch. AK	7/30/81
Kathy Pontius	Box 1706 Valdez AK	7/30/81
Debbie Cote'	1200 W. Dimond, sp 1430 Anch. Ak	7/31/81
Linda		
Glen Caulkins		
Dawn Groh	801 Airport Hts #115 Anch. Ak.	8/3/81
Barbara Caudill	2208 Roosevelt Dr Anch	8-4-81
Bertie Haines	3701 Eureka Ct-D	8-4-81
Alma Lawton	3303 Turnagain Blvd East	8/4/81
Judy Thatcher	2907 W. 33rd Anchorage AK	8-4-81
Norman & Caulkins	POUCH 511 DUTCH HARBOR	8-5-81
Vicki L Crawford		8/5/81
Lori & Robert Hmick	8147 Lloyd Anchak	8/5/81
Norah Henson	SRA Box 116 "M"	8/5/81
Henry Henson	SRA Box 116 "M"	8/5/81
Ed Lawton	9983 Powers Dr	8/6/81
Jason Lerken	7730 Mason Pl.	8/7/81
Sylvia Lerken	7730 Mason Pl.	8/7/81
Myra E. Hales	Box 88 Talkeetna Ak	8-7-81
Rev. Dick Randolph	9910 685 Eagle River	8-7-81
[illegible]	685 9th [illegible]	8-7-81
Dawn Groh	801 Airport Hts #115 Anch Ak	8-10-81

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NAME	ADDRESS	DATE
WAYNE CUTLIFF	4220 PETERKIN #2 99504	8/12/81
Jill Gould	SRA Box 1506J 07	8/13/81
Teresa Rominas	1404 W. 45th St	8/13/81
[illegible]	130 E 8TH ANCH AK	8/14/81
Tom Holbrook	SRA Box 478-P Anch Ak	8/14/81
Mary E. Holbrook	SRA Box 478-P Anch Ak	8/14/81
Linda M. Angel	SRA Box 1436 Anch 99502	8/17/81
Wm. A Robertson	P.O. Box 10-289 99511	8/17/81
Philip Blackwell	S.R. Box 80620 FBKS, AK. 99701	8-18-81
Rosalie Beeks	P.O. Box 3026 Kenai Ak.	8-18-81
Carol Hill Freeman	1410 Medfra St Anch Ak.	8/18/81
Gayle Keller	SRA BX2 354 Anch Ak	8/18/81
Roberta Moore	4121 Grape Pl #3 Anch Ak	8/19/81
Steve Counts	P.O. Box 3638 Anch. AK	8/19/81
Patrick Durkin	SRA Box 8705 Indian Ak	8/19/81
[illegible]	S.R. Box 5542 Wasilla Ak	8/19/81
Gary Ryan	2413 Spruce Wood Anchorage AK	8/20/81
MARK RHODES	SRA BOX 1718 non-sufficient address	8/20/81
Lee Maxwell	2702 W. 29th Anchorage, 99503	8/20/81
Dave Kim (Jessie) Caldwell	PO Box 3298 Palmer AK	8-20-81
MARVIN C SMITH	4910 CHUCK DR ANC	8/21/81
Nadine Calderwood	7900 Honeysuckle Dr. Anch	8/21/81
C. Keenan	21-766 D. Fig E.A.F.B 99506	8/20/81
Bethany Schulz-Bliz	9599 Brayton #489 99507	8/21/81
Nancy Coppola	Church St Steven Pt Wisconsin	715-344-7516

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NAME	ADDRESS	DATE
	8010 Boundary Ave - Anchorage	8/31/81
Mrs. David G Hansen	530 E 46th Place - Anch	9 Sept 81
	2509 CLOVERLANE #5	9 Sept 81
	P.O Box 1307 WASILLA, AK 99687	9/10/81
DICK DONOHOE	1200 DIMOND BLVD. #1202 ANCHORAGE	9/11/81
	3333 W 81st Ave Anch 99502	9-11-81
	SRA Box 33-D Anch. 99507	9-14-81
	2378 Captain Cook Dr. 99503	9-14-81
	2711 Britain 99504	9-14 81
	3116 Delta Dr. 99502	9-15-81
	1600 Otter, Anch AK 99504	9-16-81
	1720 W. 11th Anch. 99501	9-21-81
	2704 Fair Banks Anch. 99502	9-21-81
	3931 Circassian cir Anc AK 99503	9-21-81
	3203 Lois Dr. Anch AK 99502	277-9820 9-20-81
	Bx 11-283 Muldoon Anca 99504	23 Sept
	P.O. Box 10 1371 Anch 99511	9-23-81
	1640 E 27th Anchorage 99501	9-23-81
	STAR Route Box 20279 Fairbanks AK 99701	9-24-81
	1000 W 32 Ave Anch ak 99503	9/26/81
	1635 Aleina Dr " 99504	
	SRA 1721 H Anchorage AK 99507	9-28-81
	SRA Box 988W Anchorage Alaska 99507	9/30
JOHN A. MEACHER	4455 Juneau St #C-8 Anch. AK. 99503	9-81
JACK W. DOSE	4611 FALKER 36A ANCH AK 99501	10/1

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NAME	ADDRESS	DATE
Deborah Brookins	2905 Turnagain St. Anch 99503	10/5/81
Bonnie Schram	SRA Box 1703-C Anch 99507	10-5-81
[illegible]	2949 E. 88th Anch 99507	10-5-81
Janice Bird	3110 Delta Dr. Anch 99502	10-5-81
Randall J Stefanich	248 Smith Dr. Anchorage, AK 99503	10-5-81
Paula Pettijohn	SR Box 2940 Wasilla AK 99687	10/5/81
Gail Carlo	1918 Central Fairbanks, Alaska 99701	10/16/81
Lucille Clark	2121 Lake George Wing Anch 99504	10/20/81
Cristine Lovance	P.O. Box 1261 Kenai AK 99611	10/21/81
Ross Epperson	P.O. Box 125 Willow Ak. 99688	10/22/81
Nancy Kleine	SRA Box 474-U Anchorage 99507	10/23/81
[illegible]	[illegible]	[illegible]
[illegible] Woods	Box 37 Sutton, AK 99674	10/27/81
Lynne Woods	Box 37 Sutton, AK 99674	10/27/81
[illegible]	BOX 2709 PALMER 99645	10/27/81
Darlene Dunn	PO Box 163 Eagle River AK 99577	10-27-81
Greg Trumbull	PO Box 247 Eagle River, AK 99577	10/28/81
Karen K Redstone	1509 W 45th #3 99503	10/29/81
Robert J Redstone	1509 W 45TH #3 99503	10/29/81
Wayne G. Stout	Box 10241 (Berry's) FBK'S 99701	10-30
[illegible]	9499 Barrymore Dr. Sp262 99507	11-3-81
Laurel Parks	5835 Kennyhill Dr. Anch 99504	11-3-81
Audrey Tavanis	P.O. Box 6343 Anchorage 99502	11-3-81
[illegible]	SR2 BX 6258 HMSTEAD CHUGIAK 99567	11-3-81
Rika & Michael Rockwell	3925 PO Box 5 St Anch 99504	11-5-81

COMMITTEE ON TOURISM, PROFESSIONS AND OCCUPATIONS
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2202
(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Legislative intent

Since naturopathy is a health care system of diagnosing, treating and preventing disease, illness or injury of the human mind and body, it has a direct relationship with the public health. It is essential that the legislature regulate the practice of the profession of naturopathy to safeguard the public health, safety and welfare. It is also a matter of public interest and concern that the practice of the profession of naturopathy merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of the profession of naturopathy.

Sec. 2. Repeal

Title 32, chapter 14, Arizona Revised Statutes, is repealed.

Sec. 3. Title 32, Arizona Revised Statutes, is amended by adding a new chapter 14, to read:

CHAPTER 14

NATUROPATHIC PHYSICIANS

ARTICLE 1. NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS

32-1501. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE STATE NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS.

2. "COMPLETED APPLICATION" MEANS AN APPLICATION FOR A REGULAR OR TEMPORARY LICENSE TO PRACTICE NATUROPATHY OR A NATUROPATHIC SPECIALTY WHICH, IN THE OPINION OF THE BOARD, APPEARS ON ITS FACE TO SHOW THAT THE APPLICANT POSSESSES ALL OF THE REQUIREMENTS FOR THE CATEGORY OF LICENSE

APPLIED FOR EXCEPT FOR THE PHYSICAL EXAMINATION OR MENTAL EVALUATION WHICH MAY BE REQUIRED BY THE BOARD AND THE EXAMINATION APPLICABLE TO THE CATEGORY OF APPLICATION CONCERNED.

3. "DIAGNOSING" INCLUDES PHYSICAL, CLINICAL, X-RAY AND LABORATORY EXAMINATIONS, AS TAUGHT IN NATUROPATHIC SCHOOLS AND COLLEGES APPROVED BY THE BOARD, TO DETERMINE THE NATURE OF A PERSON'S CONDITION.

4. "DOCTOR OF NATUROPATHIC MEDICINE" MEANS A NATURAL PERSON LICENSED UNDER THIS CHAPTER.

5. "DRUGS" MEANS PREPARATIONS AND SUBSTANCES, OTHER THAN FOOD AND WATER:

(a) RECOGNIZED, OR FOR WHICH STANDARDS OR SPECIFICATIONS ARE PRESCRIBED, IN THE LATEST REVISION OF THE PHARMACOPOEIA OF THE UNITED STATES, THE LATEST REVISION OF THE NATIONAL FORMULARY OR ANY CURRENT SUPPLEMENT TO EITHER OF THEM.

(b) USED OR INTENDED TO BE USED FOR THE DIAGNOSIS, CURE, TREATMENT, MITIGATION OR PREVENTION OF DISEASES OR ABNORMALITIES OF MAN.

DRUGS DO NOT INCLUDE BARIUM SULFATE USED FOR DIAGNOSTIC PURPOSES, ANTISEPTICS, LOCAL ANESTHETICS OR NONPOISONOUS PLANT SUBSTANCES OR OTHER EXTRACTED, COMPOUNDED OR CONCENTRATED SUBSTANCES OBTAINED FROM AN ANIMAL, A PLANT OR A MINERAL ORIGIN USED OR INTENDED TO BE USED IN THE TREATMENT OR PREVENTION OF DISEASES OR ABNORMALITIES OF MAN BY A NATUROPATHIC PHYSICIAN FOR WHICH STANDARDS OR SPECIFICATIONS ARE PROVIDED BY FEDERAL OR STATE LAWS.

6. "LOCAL ANESTHETIC" MEANS AN AGENT USED TO ABOLISH THE SENSATION OF PAIN WHOSE ACTION IS LIMITED TO AN AREA OF THE BODY AROUND THE SITE OF ITS APPLICATION.

7. "MINOR SURGERY" MEANS MINOR SURGERY AS TAUGHT IN NATUROPATHIC SCHOOLS AND COLLEGES APPROVED BY THE BOARD, INCLUDING:

(a) THE USE OF ELECTRICAL OR OTHER METHODS FOR SURGICAL REPAIR AND CARE INCIDENT TO SURGICAL REPAIR OF MINOR PROCEDURES, SUPERFICIAL LACERATIONS, LESIONS AND ABRASIONS.

(b) THE CLAMPING AND SEVERING OF UMBILICAL CORDS.

(c) THE REMOVAL OF FOREIGN BODIES LOCATED IN SUPERFICIAL STRUCTURES.

(d) THE USE OF ANTISEPTICS, SANITARY MEASURES AND LOCAL ANESTHETICS IN CONNECTION WITH PROCEDURES SET FORTH IN THIS PARAGRAPH.

MINOR SURGERY DOES NOT INCLUDE ABORTIONS BY NATUROPATHIC PHYSICIANS.

8. "NATURAL THERAPEUTIC METHODS" MEANS PROCEDURES, DEVICES AND METHODS FOR TREATING THE HUMAN MIND AND BODY WITHOUT DRUGS AS DEFINED IN PARAGRAPH 5.

9. "NATUROPATHIC SPECIALTY" MEANS ANY FIELD OF NATUROPATHIC PRACTICE WHICH, IN THE JUDGMENT OF THE BOARD, REQUIRES EDUCATIONAL BACKGROUND AND DEMONSTRATED PROFICIENCY IN ADDITION TO THE GENERAL QUALIFICATIONS REQUIRED FOR LICENSING AS A NATUROPATHIC PHYSICIAN.

10. "NATUROPATHY" MEANS A HEALTH CARE SYSTEM OF DIAGNOSING, TREATING AND PREVENTING DISEASE, ILLNESS OR INJURY OF THE HUMAN MIND AND BODY BY THE USE OF NATURAL THERAPEUTIC METHODS, PHYSIOTHERAPY AND MINOR SURGERY AS TAUGHT IN NATUROPATHIC SCHOOLS AND COLLEGES APPROVED BY THE BOARD.

11. "PHYSIOTHERAPY" INCLUDES ALL FORMS OF PHYSIOLOGICAL THERAPEUTICS AS TAUGHT IN NATUROPATHIC SCHOOLS AND COLLEGES APPROVED BY THE BOARD.

12. "UNPROFESSIONAL CONDUCT" INCLUDES THE FOLLOWING ACTS:

(a) INTENTIONAL BETRAYAL OF A PROFESSIONAL SECRET OR INTENTIONAL VIOLATION OF A PRIVILEGED COMMUNICATION EXCEPT AS EITHER OF THESE MAY OTHERWISE BE REQUIRED BY LAW. THIS SUBDIVISION DOES NOT PREVENT MEMBERS OF THE BOARD FROM THE FULL AND FREE EXCHANGE OF INFORMATION WITH THE LICENSING AND DISCIPLINARY BOARDS OF OTHER STATES OR COUNTRIES OR WITH THE ARIZONA NATUROPATHIC MEDICAL ASSOCIATION, INC., OR ANY OF ITS COMPONENT SOCIETIES OR WITH THE NATUROPATHIC MEDICAL SOCIETIES OF OTHER STATES, COUNTIES OR COUNTRIES.

(b) ANY DISHONORABLE CONDUCT REFLECTING UNFAVORABLY ON THE PROFESSION.

(c) COMMISSION OF A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR A MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE CONVICTION BY ANY COURT OF COMPETENT JURISDICTION IS CONCLUSIVE EVIDENCE THEREOF.

(d) HABITUAL INTEMPERANCE IN THE USE OF ALCOHOL.

(e) HABITUAL USE OF NARCOTIC OR HYPNOTIC DRUGS, OR BOTH.

(f) GROSS MALPRACTICE, REPEATED MALPRACTICE OR ANY MALPRACTICE RESULTING IN THE DEATH OF A PATIENT.

(g) IMPERSONATION OF ANOTHER DOCTOR OF NATUROPATHIC MEDICINE OR ANY OTHER PRACTITIONER OF THE HEALING ARTS.

(h) ACTING OR ASSUMING TO ACT AS A MEMBER OF THE BOARD IF SUCH IS NOT THE FACT.

(i) PROCURING OR ATTEMPTING TO PROCURE A LICENSE TO PRACTICE NATUROPATHY BY FRAUD, MISREPRESENTATION OR KNOWINGLY TAKING ADVANTAGE OF THE MISTAKE OF ANOTHER.

(j) HAVING PROFESSIONAL CONNECTION WITH OR LENDING ONE'S NAME TO AN ILLEGAL PRACTITIONER OF NATUROPATHY OR ANY OF THE OTHER HEALING ARTS.

(k) REPRESENTING THAT A MANIFESTLY INCURABLE DISEASE, INJURY, AILMENT OR INFIRMITY CAN BE PERMANENTLY CURED, OR THAT A CURABLE DISEASE, INJURY, AILMENT OR INFIRMITY CAN BE CURED WITHIN A STATED TIME, IF SUCH IS NOT THE FACT.

(l) OFFERING, UNDERTAKING OR AGREEING TO CURE OR TREAT A DISEASE, INJURY, AILMENT OR INFIRMITY BY A SECRET MEANS, METHOD, DEVICE OR INSTRUMENTALITY.

(m) REFUSING TO DIVULGE TO THE BOARD UPON DEMAND THE MEANS, METHOD, DEVICE OR INSTRUMENTALITY USED IN THE TREATMENT OF A DISEASE, INJURY, AILMENT OR INFIRMITY.

(n) GIVING OR RECEIVING, OR AIDING OR ABETTING THE GIVING OR RECEIVING OF, REBATES, EITHER DIRECTLY OR INDIRECTLY.

(o) KNOWINGLY MAKING ANY FALSE OR FRAUDULENT STATEMENT, WRITTEN OR ORAL, IN CONNECTION WITH THE PRACTICE OF NATUROPATHY EXCEPT AS NECESSARY FOR ACCEPTED THERAPEUTIC PURPOSES.

(p) IMMORALITY OR MISCONDUCT THAT TENDS TO DISCREDIT THE NATUROPATHIC PROFESSION.

(q) REFUSAL, REVOCATION OR SUSPENSION OF LICENSE BY ANY OTHER STATE OR COUNTRY, UNLESS IT CAN BE SHOWN THAT SUCH WAS NOT OCCASIONED BY REASONS WHICH RELATE TO THE ABILITY TO SAFELY AND SKILLFULLY PRACTICE NATUROPATHY OR TO ANY ACT OF UNPROFESSIONAL CONDUCT IN THIS PARAGRAPH.

(r) ANY CONDUCT OR PRACTICE CONTRARY TO RECOGNIZED STANDARDS OF ETHICS OF THE NATUROPATHIC PROFESSION OR ANY CONDUCT OR PRACTICE WHICH DOES

OR MIGHT CONSTITUTE A DANGER TO THE HEALTH, WELFARE OR SAFETY OF THE PATIENT OR THE PUBLIC, OR ANY CONDUCT, PRACTICE OR CONDITION WHICH DOES OR MIGHT IMPAIR THE ABILITY TO SAFELY AND SKILLFULLY PRACTICE NATUROPATHY.

(s) FAILURE TO OBSERVE ANY STATE, COUNTY OR MUNICIPAL LAW RELATING TO PUBLIC HEALTH AS A PHYSICIAN IN THIS STATE.

(t) VIOLATING OR ATTEMPTING TO VIOLATE, DIRECTLY OR INDIRECTLY, OR ASSISTING IN OR ABETTING THE VIOLATION OF, OR CONSPIRING TO VIOLATE ANY OF THE PROVISIONS OF THIS CHAPTER.

32-1502. Naturopathic physicians board of examiners; appointment; qualifications; term of office; immunity

A. THERE IS ESTABLISHED A STATE NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS CONSISTING OF THE FOLLOWING EIGHT MEMBERS:

1. FOUR NATUROPATHIC PHYSICIAN MEMBERS APPOINTED BY THE GOVERNOR. EACH NATUROPATHIC PHYSICIAN MEMBER SHALL BE:

(a) A RESIDENT OF THIS STATE FOR FIVE YEARS IMMEDIATELY PRECEDING HIS APPOINTMENT.

(b) A DOCTOR OF NATUROPATHIC MEDICINE WITH A DEGREE FROM A NATUROPATHIC SCHOOL OR COLLEGE APPROVED BY THE BOARD WHO HAS ENGAGED IN THE FULL-TIME PRACTICE OF NATUROPATHY FOR FIVE YEARS IMMEDIATELY PRECEDING HIS APPOINTMENT.

2. TWO PUBLIC MEMBERS APPOINTED BY THE GOVERNOR. EACH PUBLIC MEMBER SHALL:

(a) BE A RESIDENT OF THIS STATE FOR FIVE YEARS IMMEDIATELY PRECEDING HIS APPOINTMENT.

(b) NOT BE CONNECTED, IN ANY MANNER, WITH OR HAVE ANY INTEREST IN A SCHOOL OF MEDICINE, HEALTH CARE INSTITUTION OR ANY PERSON PRACTICING ANY FORM OF HEALING OR TREATMENT OF BODILY OR MENTAL AILMENTS.

(c) DEMONSTRATE AN INTEREST IN THE HEALTH PROBLEMS IN THIS STATE.

3. THE CHAIRMAN OF THE STATE BOARD OF MEDICAL EXAMINERS WHO SHALL SERVE AS AN EX OFFICIO MEMBER OR ANOTHER PROFESSIONAL MEMBER OF THE STATE BOARD OF MEDICAL EXAMINERS DESIGNATED BY THE CHAIRMAN TO SERVE ON THE STATE NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS IN HIS PLACE.

4. THE PRESIDENT OF THE STATE BOARD OF NURSING WHO SHALL SERVE AS AN EX OFFICIO MEMBER OR ANOTHER PROFESSIONAL MEMBER OF THE STATE BOARD OF NURSING DESIGNATED BY THE PRESIDENT TO SERVE ON THE STATE NATUROPATHIC PHYSICIANS BOARD OF EXAMINERS IN HIS PLACE.

B. THE TERM OF OFFICE OF THE NATUROPATHIC PHYSICIAN MEMBERS AND THE PUBLIC MEMBERS IS FIVE YEARS TO BEGIN AND END ON JUNE 30. EACH NATUROPATHIC PHYSICIAN MEMBER AND EACH PUBLIC MEMBER CONTINUE TO HOLD OFFICE UNTIL THE APPOINTMENT AND QUALIFICATION OF THEIR SUCCESSORS, SUBJECT TO THE FOLLOWING EXCEPTIONS:

1. A MEMBER OF THE BOARD, AFTER NOTICE AND A HEARING BEFORE THE GOVERNOR, MAY BE REMOVED FROM OFFICE AND HIS TERM ENDS IF THE GOVERNOR FINDS THE MEMBER NEGLECTED ANY DUTY IMPOSED BY LAW OR WAS GUILTY OF MALFEASANCE, MISFEASANCE OR DISHONORABLE CONDUCT.

2. THE TERM OF ANY MEMBER AUTOMATICALLY ENDS ON HIS DEATH, RESIGNATION OR PERMANENT REMOVAL FROM THIS STATE OR REMOVAL FROM THIS STATE FOR A PERIOD OF MORE THAN SIX MONTHS.

C. MEMBERS OF THE BOARD ARE IMMUNE FROM PERSONAL LIABILITY WITH RESPECT TO ACTS DONE AND ACTIONS TAKEN IN GOOD FAITH WITHIN THE SCOPE OF THEIR AUTHORITY.

32-1503. Organization; meetings; compensation

A. THE BOARD SHALL ANNUALLY ELECT, FROM AMONG ITS MEMBERSHIP, A CHAIRMAN, A VICE-CHAIRMAN AND A SECRETARY-TREASURER, WHO SHALL HOLD THEIR RESPECTIVE OFFICES AT THE PLEASURE OF THE BOARD.

B. THE BOARD SHALL HOLD A REGULAR MEETING AT LEAST SEMIANNUALLY ON A DATE AND AT A TIME AND PLACE IT DESIGNATES. IN ADDITION, THE BOARD MAY HOLD SPECIAL MEETINGS IT DEEMS NECESSARY.

C. A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTES A QUORUM AND A MAJORITY VOTE OF A QUORUM PRESENT AT ANY MEETING GOVERNS ALL ACTIONS TAKEN BY THE BOARD, EXCEPT THAT LICENSES SHALL BE ISSUED UNDER THIS CHAPTER ONLY ON THE VOTE OF THE MAJORITY OF THE FULL BOARD.

D. MEMBERS OF THE BOARD ARE ELIGIBLE TO RECEIVE COMPENSATION AS DETERMINED UNDER SECTION 38-611 FOR EACH DAY OF ACTUAL SERVICE IN THE BUSINESS OF THE BOARD. THE BOARD MAY PAY COMPENSATION IN AN AMOUNT AS DETERMINED UNDER SECTION 38-611 TO THE SECRETARY-TREASURER IF HE SERVES AS

THE ADMINISTRATIVE HEAD OF THE BOARD ASSUMING THE DUTIES OF AN EXECUTIVE SECRETARY.

32-1504. Powers and duties

A. THE BOARD SHALL:

1. ADMINISTER AND ENFORCE ALL PROVISIONS OF THIS CHAPTER AND ALL RULES AND REGULATIONS ADOPTED BY THE BOARD UNDER THE AUTHORITY GRANTED BY THIS CHAPTER.

2. COLLECT ALL FEES PROVIDED FOR BY THIS CHAPTER AND MAKE DISPOSITIONS OF THEM AS PROVIDED FOR IN SECTION 32-1505.

3. MAINTAIN AN ACCURATE ACCOUNT OF ALL RECEIPTS, EXPENDITURES AND REFUNDS GRANTED UNDER THIS CHAPTER.

4. MAINTAIN A RECORD OF ITS ACTS AND PROCEEDINGS, INCLUDING THE ISSUANCE, REFUSAL, RENEWAL, SUSPENSION OR REVOCATION OF LICENSES.

5. MAINTAIN A ROSTER OF ALL DOCTORS OF NATUROPATHIC MEDICINE LICENSED UNDER THIS CHAPTER WHICH INDICATES:

(a) THE NAME OF THE LICENSEE.

(b) HIS CURRENT PROFESSIONAL OFFICE ADDRESS.

(c) THE DATE OF ISSUANCE AND THE NUMBER OF HIS LICENSE.

(d) WHETHER THE LICENSE IS IN GOOD STANDING.

6. KEEP ALL APPLICATIONS FOR LICENSURE AS A PERMANENT RECORD.

7. MAINTAIN A PERMANENT RECORD OF THE RESULTS OF ALL EXAMINATIONS IT GIVES.

8. KEEP ALL EXAMINATION RECORDS INCLUDING WRITTEN EXAMINATION RECORDS AND TAPE RECORDINGS OF THE QUESTIONS AND ANSWERS IN ORAL EXAMINATIONS FOR ONE YEAR.

9. KEEP THE RECORDS OF THE BOARD OPEN TO PUBLIC INSPECTION AT ALL REASONABLE TIMES.

10. ADOPT AND USE A SEAL, THE IMPRINT OF WHICH, TOGETHER WITH THE SIGNATURES OF THE CHAIRMAN OR VICE-CHAIRMAN AND THE SECRETARY-TREASURER OF THE BOARD, SHALL EVIDENCE ITS OFFICIAL ACTS.

11. COMPENSATE ITS EXECUTIVE SECRETARY, OTHER PERMANENT AND TEMPORARY PERSONNEL AND COMMISSIONERS ON EXAMINATIONS AS DETERMINED UNDER SECTION 38-611.

B. THE BOARD MAY:

1. MAKE AND ADOPT RULES AND REGULATIONS WHICH ARE NECESSARY OR PROPER FOR THE ADMINISTRATION OF THIS CHAPTER.

2. MAKE AND ADOPT RULES AND REGULATIONS PRESCRIBING CONTINUING EDUCATION REQUIREMENTS FOR THE RENEWAL OF LICENSES ISSUED UNDER THIS CHAPTER.

3. EMPLOY AN EXECUTIVE SECRETARY AND OTHER PERMANENT OR TEMPORARY PERSONNEL IT DEEMS NECESSARY TO CARRY OUT THE PURPOSES OF THIS CHAPTER AND DESIGNATE THEIR DUTIES.

4. APPOINT DOCTORS OF NATUROPATHIC MEDICINE AS COMMISSIONERS ON EXAMINATIONS TO GIVE ANY PART OR ALL OF ANY EXAMINATION PROVIDED FOR UNDER THIS CHAPTER.

5. REQUIRE A BOND, IN AN AMOUNT IT DETERMINES AS APPROPRIATE, FOR THE FAITHFUL DISCHARGE OF THE DUTIES OF ITS EMPLOYEES.

32-1505. Naturopathic physicians board fund

A. ALL MONIES FROM WHATEVER SOURCE WHICH COME INTO THE POSSESSION OF THE BOARD SHALL BE PAID TO THE SECRETARY-TREASURER WHO SHALL, BEFORE THE END OF EACH CALENDAR MONTH, DEPOSIT THEM WITH THE STATE TREASURER WHO SHALL DEPOSIT TEN PER CENT OF SUCH MONIES IN THE STATE GENERAL FUND AND TRANSFER THE REMAINING NINETY PER CENT TO THE NATUROPATHIC PHYSICIANS BOARD FUND.

B. MONIES DEPOSITED IN THE NATUROPATHIC PHYSICIANS BOARD FUND ARE SUBJECT TO SECTION 35-143.01.

ARTICLE 2. LICENSING

32-1521. Persons and acts not affected by this chapter

THIS CHAPTER DOES NOT APPLY TO:

1. THE PRACTICE OF ANY OTHER METHOD, SYSTEM OR SCIENCE OF HEALING BY A PERSON LICENSED UNDER THE LAWS OF THIS STATE.

2. ANY STUDENT OF NATUROPATHY IN THE COURSE OF TAKING AN APPROVED INTERNSHIP, PRECEPTORSHIP OR CLINICAL TRAINING PROGRAM IF THE STUDENT COMPLIES WITH THE APPLICABLE REGISTRATION PROVISIONS OF THIS CHAPTER AND PAYS THE REQUIRED FEES.

3. ANY PERSON ACTING AT THE DIRECTION OR UNDER THE SUPERVISION OF A DOCTOR OF NATUROPATHIC MEDICINE SO LONG AS HE IS ACTING IN A CUSTOMARY CAPACITY, NOT IN VIOLATION OF ANY STATUTE AND DOES NOT HOLD HIMSELF OUT TO THE PUBLIC GENERALLY AS BEING AUTHORIZED TO PRACTICE NATUROPATHY.

4. ANY OUT-OF-STATE NATUROPATHIC PHYSICIAN LICENSED BY ANOTHER STATE OR COUNTRY, IF IN CONSULTATION REQUESTED BY A DOCTOR OF NATUROPATHIC MEDICINE.

32-1522. Qualifications for license

A. TO BE ELIGIBLE FOR A LICENSE TO PRACTICE NATUROPATHY OR A NATUROPATHIC SPECIALTY, THE APPLICANT SHALL:

1. HAVE A HIGH SCHOOL DIPLOMA OR THE EQUIVALENT OF A HIGH SCHOOL DIPLOMA.

2. HAVE AT LEAST SIXTY SEMESTER UNITS OF CREDIT IN LIBERAL ARTS AND SCIENCES FROM AN ACCREDITED COLLEGE OR UNIVERSITY.

3. BE A GRADUATE OF A SCHOOL OF NATUROPATHIC MEDICINE APPROVED BY THE BOARD.

4. HAVE SATISFACTORILY COMPLETED AN INTERNSHIP, PRECEPTORSHIP OR CLINICAL TRAINING PROGRAM IN NATUROPATHIC MEDICINE APPROVED BY THE BOARD.

5. POSSESS A GOOD MORAL AND PROFESSIONAL REPUTATION.

6. BE PHYSICALLY AND MENTALLY ABLE TO SAFELY ENGAGE IN THE PRACTICE OF NATUROPATHY AND SUBMIT TO A PHYSICAL EXAMINATION, MENTAL EVALUATION OR INTERVIEW, OR ANY COMBINATION THEREOF, DEEMED PROPER BY THE BOARD.

7. NOT BE GUILTY OF ANY ACT OF UNPROFESSIONAL CONDUCT OR ANY OTHER CONDUCT WHICH WOULD BE GROUNDS FOR REFUSAL, SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS CHAPTER.

8. NOT HAVE HAD A LICENSE TO PRACTICE NATUROPATHY REFUSED, REVOKED OR SUSPENDED BY ANY OTHER STATE OR COUNTRY FOR REASONS WHICH RELATE TO HIS ABILITY TO SKILLFULLY AND SAFELY PRACTICE NATUROPATHY.

9. FILE THE APPLICATION, PAY THE FEES PROVIDED FOR IN SECTION 32-1529 AND PASS THE EXAMINATION PROVIDED FOR IN SECTION 32-1526.

B. THE BOARD MAY:

1. REQUIRE AN APPLICANT TO SUBMIT CREDENTIALS OR OTHER WRITTEN OR ORAL PROOF.

2. MAKE INVESTIGATIONS IT DEEMS PROPER TO ADEQUATELY ADVISE ITSELF WITH RESPECT TO THE QUALIFICATIONS OF AN APPLICANT.

32-1523. Qualifications for license by reciprocity

TO BE ELIGIBLE FOR A LICENSE TO PRACTICE NATUROPATHY BY RECIPROCITY, THE APPLICANT SHALL:

1. QUALIFY UNDER SECTION 32-1522 EXCEPT FOR PASSING THE WRITTEN EXAMINATION PROVIDED FOR IN SECTION 32-1526.

2. BE LICENSED TO PRACTICE NATUROPATHY BY ANOTHER STATE AFTER PASSING A WRITTEN EXAMINATION, IF THAT STATE ACCORDS LIKE PRIVILEGES TO HOLDERS OF LICENSES ISSUED BY THIS STATE.

3. BE ACTIVELY ENGAGED, FOR THREE YEARS IMMEDIATELY PRECEDING HIS APPLICATION, IN ONE OR MORE OF THE FOLLOWING:

(a) THE ACTIVE PRACTICE OF NATUROPATHY.

(b) AN INTERNSHIP, PRECEPTORSHIP OR CLINICAL TRAINING PROGRAM APPROVED BY THE BOARD.

(c) POSTGRADUATE TRAINING DEEMED BY THE BOARD TO BE EQUIVALENT TO AN APPROVED CLINICAL TRAINING PROGRAM.

(d) THE STUDY OF NATUROPATHY AT A SCHOOL OF NATUROPATHIC MEDICINE APPROVED BY THE BOARD.

4. PASS AN ORAL EXAMINATION PROVIDED FOR IN SECTION 32-1526.

32-1524. Temporary licenses

A. TO BE ELIGIBLE FOR A TEMPORARY LICENSE TO PRACTICE NATUROPATHY, AN APPLICANT SHALL QUALIFY UNDER SECTION 32-1522 EXCEPT FOR PASSING THE WRITTEN EXAMINATION PROVIDED FOR IN SECTION 32-1526.

B. TEMPORARY LICENSES SHALL BE ISSUED FOR A TERM OF SIX MONTHS AND MAY BE RENEWED ONLY ONCE.

C. A TEMPORARY LICENSE EXPIRES ON THE OCCURRENCE OF ONE OF THE FOLLOWING EVENTS:

1. THE EXPIRATION OF THE TERM FOR WHICH THE TEMPORARY LICENSE OR RENEWAL WAS ISSUED.

2. ISSUANCE OF A REGULAR LICENSE TO PRACTICE NATUROPATHY.

3. SUSPENSION OR REVOCATION OF THE TEMPORARY LICENSE.

D. THE HOLDER OF A TEMPORARY LICENSE SHALL PRACTICE WITH A NATUROPATHIC PHYSICIAN LICENSED UNDER THIS CHAPTER AND SHALL NOT OPEN AN OFFICE OR PRACTICE WITHOUT THE SUPERVISION AND DIRECTION OF A NATUROPATHIC PHYSICIAN LICENSED UNDER THIS CHAPTER.

32-1525. Application; hearing on deficiencies in application; interview; withdrawal

A. EACH APPLICANT SHALL FILE A VERIFIED COMPLETED APPLICATION IN THE FORM AND STYLE REQUIRED AND SUPPLIED BY THE BOARD ACCOMPANIED BY THE APPROPRIATE APPLICATION FEE PRESCRIBED IN SECTION 32-1529.

B. THE APPLICATION SHALL BE DESIGNED TO REQUIRE THE SUBMISSION OF EVIDENCE, CREDENTIALS AND OTHER PROOF NECESSARY TO SATISFY THE BOARD THAT IT MEETS THE REQUIREMENTS OF A COMPLETED APPLICATION.

C. THE APPLICATION SHALL CONTAIN THE OATH OF THE APPLICANT THAT:

1. ALL INFORMATION CONTAINED IN THE APPLICATION AND EVIDENCE SUBMITTED WITH IT ARE TRUE AND CORRECT.

2. THE CREDENTIALS SUBMITTED WERE NOT PROCURED BY FRAUD OR MISREPRESENTATION OR ANY MISTAKE OF WHICH THE APPLICANT IS AWARE.

3. THE APPLICANT IS THE LAWFUL HOLDER OF THE CREDENTIALS.

D. ALL APPLICATIONS SUBMITTED TO THE BOARD AND ANY ATTENDANT EVIDENCE, CREDENTIALS OR OTHER PROOF SUBMITTED WITH AN APPLICATION ARE THE PROPERTY OF THE BOARD AND PART OF THE PERMANENT RECORD OF THE BOARD AND SHALL NOT BE RETURNED TO A WITHDRAWING APPLICANT.

E. THE BOARD SHALL PROMPTLY INFORM AN APPLICANT, IN WRITING, OF THE DEFICIENCIES, IF ANY, IN HIS APPLICATION WHICH PREVENT IT FROM BEING A COMPLETED APPLICATION.

F. ANY APPLICANT WHO DISAGREES WITH THE STATEMENT OF DEFICIENCIES AND WHO BELIEVES HE HAS FILED A COMPLETED APPLICATION MAY REQUEST AND ON REQUEST SHALL BE GRANTED A HEARING. THE HEARING SHALL NOT BE HELD LESS THAN THIRTY DAYS AFTER THE RECEIPT OF THE REQUEST BUT SHALL BE HELD AT THE FIRST MEETING OF THE BOARD THEREAFTER. AT THE HEARING THE BURDEN OF PROOF IS ON THE APPLICANT TO SHOW THAT HE HAS FILED A COMPLETED APPLICATION.

G. THE BOARD MAY INTERVIEW THE APPLICANT TO DETERMINE WHETHER THE APPLICATION IS SUFFICIENT OR WHETHER THE APPLICANT OTHERWISE QUALIFIES FOR LICENSURE.

H. APPLICATIONS ARE CONSIDERED WITHDRAWN ON ANY OF THE FOLLOWING CONDITIONS:

1. REQUEST OF THE APPLICANT.

2. FAILURE OF THE APPLICANT TO APPEAR FOR AN INTERVIEW WITH THE BOARD EXCEPT FOR GOOD CAUSE BEING SHOWN.

3. FAILURE TO SUBMIT A COMPLETED APPLICATION WITHIN ONE YEAR FROM THE DATE OF THE MAILING BY THE BOARD OF A STATEMENT TO HIM OF THE DEFICIENCIES IN HIS APPLICATION UNDER SUBSECTION E OF THIS SECTION.

4. FAILURE TO SHOW, AT THE HEARING PROVIDED FOR IN SUBSECTION F OF THIS SECTION, THAT DEFICIENCIES DO NOT EXIST.

5. FAILURE TO SHOW, WITHIN ONE YEAR FROM THE INTERVIEW PROVIDED FOR IN SUBSECTION G OF THIS SECTION, THAT HIS COMPLETED APPLICATION IS TRUE AND CORRECT.

32-1526. Examinations

A. EXAMINATIONS REQUIRED UNDER SECTIONS 32-1522 AND 32-1523 SHALL BE CONDUCTED AT A TIME AND PLACE DESIGNATED BY THE BOARD BUT NO LESS FREQUENTLY THAN SEMIANNUALLY. THE APPLICANTS TO BE EXAMINED SHALL HAVE FIRST FILED A COMPLETED APPLICATION FOUND TO BE TRUE AND CORRECT AND SHALL BE GIVEN AT LEAST THIRTY DAYS' WRITTEN NOTICE OF THE TIME AND PLACE AT WHICH THE EXAMINATION SHALL BE GIVEN.

B. THE EXAMINATION REQUIRED UNDER SECTION 32-1522 SHALL BE WRITTEN BUT MAY ALSO INCLUDE ORAL, CLINICAL OR LABORATORY SECTIONS, OR ANY COMBINATION OF ORAL, CLINICAL OR LABORATORY SECTIONS.

C. THE EXAMINATION REQUIRED UNDER SECTION 32-1523 SHALL BE ORAL AND MAY INCLUDE CLINICAL OR LABORATORY SECTIONS, OR BOTH.

D. EXAMINATIONS FOR LICENSURE UNDER THIS CHAPTER SHALL:

1. BE IN ENGLISH.

2. BE PRACTICAL IN CHARACTER.

3. BE DESIGNED TO ASCERTAIN THE APPLICANT'S KNOWLEDGE OF NATUROPATHY AND HIS FITNESS TO PRACTICE NATUROPATHY.

4. INCLUDE ALL SUBJECTS WHICH ARE GENERALLY ACCEPTED AS NECESSARY TO A THOROUGH KNOWLEDGE OF THE PRACTICE OF NATUROPATHY.

E. THE BOARD SHALL PRESCRIBE RULES AND REGULATIONS FOR CONDUCTING EXAMINATIONS AND SET PASSING GRADES.

F. THE BOARD SHALL REVIEW THE EXAMINATION OF ANY APPLICANT ON THE APPLICANT'S REQUEST. A GRADE ON AN EXAMINATION REVIEWED BY THE BOARD MAY BE CHANGED ONLY BY THE MAJORITY VOTE OF THE MEMBERS OF THE BOARD. AN APPLICANT FAILING TO PASS AN EXAMINATION MAY BE REEXAMINED WITHIN ONE YEAR WITHOUT PAYMENT OF ADDITIONAL FEES.

G. IN A WRITTEN EXAMINATION, APPLICANTS SHALL BE DESIGNATED BY NUMBERS ONLY, AND THE CORRESPONDING NAMES SHALL BE KEPT SECRET UNTIL AFTER THE GRADING OF THE EXAMINATIONS.

H. IN ANY ORAL EXAMINATION (IN THE ORAL SECTION OF ANY EXAMINATION, A TAPE RECORDING SHALL BE MADE OF ALL QUESTIONS AND ANSWERS.

32-1527. License; issuance; registration; reregistration; cancellation; waiver of fees; registration of exempt persons

A. THE BOARD SHALL ISSUE LICENSES TO APPLICANTS WHO ARE QUALIFIED UNDER THIS CHAPTER.

B. EACH PERSON LICENSED UNDER THIS CHAPTER SHALL REGISTER HIS LICENSE AND PAY THE REGISTRATION FEE PRESCRIBED IN SECTION 32-1529.

C. EACH PERSON HOLDING A REGULAR LICENSE TO PRACTICE NATUROPATHY IN THIS STATE SHALL ANNUALLY REGISTER HIS LICENSE ON OR BEFORE JANUARY 1 OF EACH YEAR BY SUPPLYING THE BOARD WITH INFORMATION IT DEEMS NECESSARY AND PAYING THE ANNUAL REGISTRATION FEE PRESCRIBED IN SECTION 32-1529. IF A LICENSEE FAILS TO REGISTER HIS LICENSE ON OR BEFORE FEBRUARY 1 OF EACH YEAR, HE SHALL PAY THE PENALTY FEE FOR LATE REGISTRATION PRESCRIBED IN SECTION 32-1529. FAILURE TO REGISTER A LICENSE ON OR BEFORE MARCH 1 OF EACH YEAR, WITHOUT ADEQUATE CAUSE SHOWN, IS GROUNDS FOR PROBATION, SUSPENSION OR REVOCATION OF A LICENSE UNDER SECTION 32-1551.

D. A LICENSEE IN GOOD STANDING AND WHOSE LICENSE IS CURRENT MAY, AT ANY TIME, REQUEST AND SHALL BE GRANTED CANCELLATION OF HIS LICENSE.

E. THE BOARD MAY WAIVE THE ANNUAL REGISTRATION FEE IF A LICENSEE PRESENTS EVIDENCE SATISFACTORY TO THE BOARD THAT HE HAS PERMANENTLY RETIRED FROM THE PRACTICE OF NATUROPATHY AND HAS PAID ALL FEES REQUIRED UNDER THIS CHAPTER PRIOR TO WAIVER.

F. IF A RETIRED LICENSEE WHO HAS HAD HIS ANNUAL REGISTRATION FEE WAIVED BY THE BOARD ENGAGES IN THE PRACTICE OF NATUROPATHY HE IS SUBJECT TO THE SAME PENALTIES AS ARE IMPOSED UNDER THIS CHAPTER ON A PERSON WHO PRACTICES NATUROPATHY WITHOUT A LICENSE AND WITHOUT BEING EXEMPT FROM LICENSURE.

G. THE BOARD MAY REINSTATE A RETIRED LICENSEE TO ACTIVE PRACTICE ON PAYMENT OF THE ANNUAL REGISTRATION FEE AND PRESENTATION OF EVIDENCE SATISFACTORY TO THE BOARD THAT HE IS PHYSICALLY AND MENTALLY ABLE TO SAFELY ENGAGE IN THE PRACTICE OF NATUROPATHY AND STILL POSSESSES THE PROFESSIONAL KNOWLEDGE REQUIRED TO ENGAGE IN THE PRACTICE OF NATUROPATHY. THE BOARD MAY

REQUIRE A PHYSICAL EXAMINATION OR A MENTAL EVALUATION AND AN EXAMINATION OF NATUROPATHIC KNOWLEDGE AS IT DEEMS NECESSARY TO DETERMINE THESE QUALIFICATIONS.

H. TO QUALIFY FOR THE EXEMPTION IN SECTION 32-1521, PARAGRAPH 2, NATUROPATHIC STUDENTS SHALL:

1. REGISTER WITH THE BOARD FOR EACH YEAR OF THEIR INTERNSHIP, PRECEPTORSHIP OR CLINICAL TRAINING PROGRAM.

2. SUPPLY THE BOARD WITH WRITTEN PROOF THE BOARD DEEMS NECESSARY TO SATISFY ITSELF THAT THE REQUIREMENTS FOR THE EXEMPTION ARE MET.

3. PAY THE REGISTRATION FEE PRESCRIBED IN SECTION 32-1529.

32-1528. Directory; change of address

A. THE BOARD SHALL ANNUALLY COMPILE AND PUBLISH A DIRECTORY WHICH CONTAINS:

1. THE NAMES, ADDRESSES AND FIELDS OF PRACTICE OF ALL PERSONS HOLDING REGULAR LICENSES ISSUED UNDER THIS CHAPTER.

2. THE NAMES AND ADDRESSES OF THE OFFICERS AND MEMBERS OF THE BOARD.

3. THE RULES OF THE BOARD.

4. A COPY OF THIS CHAPTER.

5. SUPPLEMENTARY INFORMATION THE BOARD DEEMS OF INTEREST AND IMPORTANCE TO DOCTORS OF NATUROPATHIC MEDICINE.

B. EACH PERSON LICENSED UNDER THIS CHAPTER SHALL PROMPTLY AND IN WRITING INFORM THE BOARD OF HIS RESIDENCE AND OFFICE ADDRESSES AND EACH CHANGE OF HIS RESIDENCE AND OFFICE ADDRESSES.

C. A COPY OF THE DIRECTORY SHALL BE GIVEN FREE OF CHARGE TO EACH PERSON LICENSED UNDER THIS CHAPTER AT THE TIME OF INITIAL LICENSURE AND AT THE TIME OF EACH ANNUAL REGISTRATION OF LICENSE. ADDITIONAL COPIES SHALL BE AVAILABLE FOR PURCHASE AT A COST PRESCRIBED IN SECTION 32-1529.

32-1529. Fees

THE BOARD SHALL CHARGE THE FOLLOWING FEES:

1. FOR APPLICATION FOR A LICENSE TO PRACTICE NATUROPATHY OR A NATUROPATHIC SPECIALTY UNDER SECTION 32-1522, A FEE NOT TO EXCEED FOUR HUNDRED DOLLARS.

2. FOR APPLICATION FOR A LICENSE TO PRACTICE NATUROPATHY BY RECIPROCITY UNDER SECTION 32-1523, A FEE NOT TO EXCEED FOUR HUNDRED DOLLARS.

3. FOR APPLICATION FOR A TEMPORARY LICENSE TO PRACTICE NATUROPATHY UNDER SECTION 32-1524, TWO HUNDRED DOLLARS FOR THE INITIAL TERM AND ONE HUNDRED DOLLARS FOR THE RENEWAL TERM.

4. FOR ISSUANCE OF A DUPLICATE LICENSE, ONE HUNDRED DOLLARS.

5. FOR ENDORSEMENT OF AN ARIZONA LICENSE FOR THE PURPOSE OF APPLYING FOR A LICENSE IN ANOTHER STATE, FIFTY DOLLARS.

6. FOR INITIAL REGISTRATION OF LICENSE, FIFTY DOLLARS.

7. FOR ANNUAL REGISTRATION, A UNIFORM FEE OF ONE HUNDRED DOLLARS OR MORE BUT NOT TO EXCEED FOUR HUNDRED DOLLARS TO BE ANNUALLY DETERMINED BY THE BOARD AS NECESSARY TO PROVIDE FUNDS TO CONDUCT ITS BUSINESS.

8. FOR LATE REGISTRATION, A PENALTY OF TWO HUNDRED DOLLARS.

9. FOR ANNUAL REGISTRATION FOR INTERNSHIP, PRECEPTORSHIP OR CLINICAL TRAINING, ONE HUNDRED DOLLARS.

10. FOR THE SALE OF COPIES OF THE ANNUAL NATUROPATHIC DIRECTORY WHICH ARE NOT DISTRIBUTED FREE OF CHARGE UNDER SECTION 32-1528, A FEE NOT TO EXCEED TWENTY-FIVE DOLLARS.

11. FOR SERVICES NOT REQUIRED TO BE PROVIDED BY THIS CHAPTER BUT WHICH THE BOARD DEEMS APPROPRIATE TO CARRY OUT THE INTENT AND PURPOSE OF THIS CHAPTER, A FEE NOT TO EXCEED THE COSTS OF RENDERING THE SERVICES.

ARTICLE 3. REGULATION

32-1551. Grounds for probation, suspension, revocation or refusal to issue license; notice; hearing; appeal

A. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE ANY INFORMATION WHICH APPEARS TO SHOW GROUNDS FOR PROBATION, SUSPENSION, REVOCATION OR REFUSAL TO ISSUE A LICENSE FOR UNPROFESSIONAL CONDUCT. ANY NATUROPATHIC PHYSICIAN OR HEALTH CARE INSTITUTION AS DEFINED IN SECTION 36-401 SHALL, AND ANY OTHER PERSON MAY, REPORT TO THE BOARD ANY INFORMATION THE PERSON MAY HAVE WHICH APPEARS TO SHOW GROUNDS FOR PROBATION, SUSPENSION, REVOCATION OR REFUSAL TO ISSUE A LICENSE. ANY PERSON WHO REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION

FOR CIVIL DAMAGES AS A RESULT, AND THE PERSON'S NAME SHALL NOT BE DISCLOSED UNLESS THE PERSON'S TESTIMONY IS ESSENTIAL TO THE DISCIPLINARY PROCEEDINGS CONDUCTED UNDER THIS SECTION. ANY HEALTH CARE INSTITUTION WHICH FAILS TO REPORT AS REQUIRED BY THIS SECTION SHALL BE REPORTED BY THE BOARD TO THE INSTITUTION'S LICENSING AGENCY.

B. IF, IN THE OPINION OF THE BOARD, IT APPEARS THE CHARGE IS OF SUCH MAGNITUDE AS TO WARRANT SUSPENSION OR REVOCATION OF A NATUROPATHIC PHYSICIAN'S LICENSE THE BOARD SHALL SERVE ON THE PHYSICIAN A SUMMONS AND A COMPLAINT FULLY SETTING FORTH THE CONDUCT OR INABILITY CONCERNED AND SETTING THE TIME AND PLACE FOR A HEARING TO BE HELD BEFORE THE BOARD. THE HEARING SHALL NOT BE HELD LESS THAN THIRTY DAYS FROM SERVICE OF THE SUMMONS AND COMPLAINT.

C. IF THE PHYSICIAN WISHES TO BE PRESENT AT THE HEARING IN PERSON OR BY REPRESENTATION, OR BOTH, HE SHALL FILE WITH THE BOARD HIS ANSWER TO THE CHARGES IN THE COMPLAINT. THE ANSWER SHALL BE IN WRITING, VERIFIED UNDER OATH AND FILED WITHIN TWENTY DAYS AFTER SERVICE OF THE SUMMONS AND COMPLAINT.

D. IF THE PHYSICIAN COMPLIES WITH SUBSECTION C, HE MAY BE PRESENT AT THE HEARING WITH COUNSEL AND WITNESSES.

E. THE BOARD SHALL ISSUE SUBPOENAS FOR WITNESSES IT DEEMS NECESSARY AND FOR WITNESSES THE PHYSICIAN REQUESTS. ANY PERSON REFUSING TO OBEY A SUBPOENA SHALL BE CERTIFIED BY THE BOARD TO THE SUPERIOR COURT IN THE COUNTY IN WHICH SERVICE WAS MADE, AND PROCEEDINGS SHALL BE HAD AS FOR CONTEMPT.

F. SERVICE OF THE SUMMONS AND COMPLAINT SHALL BE AS PROVIDED FOR SERVICE OF THE SUMMONS AND COMPLAINT IN CIVIL CASES.

G. SERVICE OF SUBPOENAS FOR WITNESSES SHALL BE AS PROVIDED BY LAW FOR THE SERVICE OF SUBPOENAS GENERALLY.

H. THE BOARD MAY ADMINISTER THE OATH TO ALL WITNESSES AND SHALL KEEP A WRITTEN TRANSCRIPT OF ALL ORAL TESTIMONY SUBMITTED AT THE HEARING AND THE ORIGINAL OR A COPY OF ALL OTHER EVIDENCE SUBMITTED. THE BOARD MAY WAIVE THE TECHNICAL RULES OF EVIDENCE AT ANY HEARING CONDUCTED UNDER THIS SECTION.

I. IF THE BOARD FINDS, AFTER A HEARING CONDUCTED UNDER THIS SECTION, THAT SUFFICIENT GROUNDS EXIST TO MERIT PROBATION, SUSPENSION, REVOCATION OR DENIAL OF A LICENSE, THE BOARD SHALL TAKE THE APPROPRIATE ACTION.

J. COPIES OF THE WRITTEN TRANSCRIPT AND ALL OTHER EVIDENCE SUBMITTED SHALL BE AVAILABLE AT THE PHYSICIAN'S EXPENSE TO ANY PHYSICIAN APPEALING A DECISION OF THE BOARD AND WITHOUT CHARGE TO THE COURT IN WHICH AN APPEAL IS TAKEN.

K. AN APPEAL TO THE SUPERIOR COURT OF MARICOPA COUNTY MAY BE TAKEN FROM DECISIONS OF THE BOARD PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

32-1552. Reinstatement of a suspended license; reissuance of a revoked license

A. A PHYSICIAN WHOSE LICENSE TO PRACTICE NATUROPATHY HAS BEEN SUSPENDED FOR AN INDEFINITE PERIOD OF TIME, OR REVOKED, MAY APPLY TO THE BOARD FOR THE TERMINATION OF THE SUSPENSION OR REISSUANCE OF THE REVOKED LICENSE UNDER THE FOLLOWING TERMS AND CONDITIONS:

1. THE APPLICATION SHALL BE SUBMITTED IN WRITING, VERIFIED UNDER OATH AND SHALL CONTAIN OR HAVE ATTACHED TO IT SUBSTANTIAL EVIDENCE SHOWING THAT THE BASIS FOR SUSPENSION OR REVOCATION HAS BEEN REMOVED AND THAT THE TERMINATION OF SUSPENSION OR REISSUANCE OF THE REVOKED LICENSE WILL NOT CONSTITUTE A THREAT TO THE PUBLIC HEALTH OR SAFETY.

2. IF IT IS AN APPLICATION FOR THE TERMINATION OF A SUSPENSION FOR AN INDEFINITE PERIOD, THE APPLICANT HAS NOT APPLIED FOR TERMINATION MORE FREQUENTLY THAN ONCE IN ANY SIX MONTH PERIOD.

3. IF IT IS AN APPLICATION FOR THE REISSUANCE OF A REVOKED LICENSE, THE APPLICANT HAS NOT APPLIED FOR REISSUANCE MORE FREQUENTLY THAN ONCE IN ANY TWENTY-FOUR MONTH PERIOD.

B. THE BOARD MAY INTERVIEW AN APPLICANT UNDER SUBSECTION A.

C. THE BOARD SHALL MAKE ITS DETERMINATION ON EACH APPLICATION AS IT DEEMS CONSISTENT WITH THE PUBLIC HEALTH AND SAFETY AND JUST IN THE CIRCUMSTANCES.

32-1553. Insurers to report malpractice claims and actions

A. ANY INSURER PROVIDING PROFESSIONAL LIABILITY INSURANCE TO A NATUROPATHIC PHYSICIAN LICENSED BY THE BOARD SHALL REPORT TO THE BOARD,

WITHIN THIRTY DAYS OF ITS RECEIPT, ANY WRITTEN OR ORAL CLAIM OR ACTION FOR DAMAGES FOR PERSONAL INJURIES CLAIMED TO HAVE BEEN CAUSED BY AN ERROR, OMISSION OR NEGLIGENCE IN THE PERFORMANCE OF THE INSURED'S PROFESSIONAL SERVICES, OR BASED ON A CLAIMED PERFORMANCE OF PROFESSIONAL SERVICES WITHOUT CONSENT OR BASED UPON BREACH OF CONTRACT FOR PROFESSIONAL SERVICES BY A NATUROPATHIC PHYSICIAN.

B. REPORTS REQUIRED BY SUBSECTION A SHALL CONTAIN:

1. THE NAME AND ADDRESS OF THE INSURED.

2. THE INSURED'S POLICY NUMBER.

3. THE DATE OF THE OCCURRENCE WHICH CREATED THE CLAIM.

4. THE DATE OF CLAIM IF SUIT IS NOT SIMULTANEOUSLY FILED.

5. THE DATE SUIT IS FILED.

6. A SUMMARY OF THE OCCURRENCE WHICH CREATED THE CLAIM AS STATED BY THE CLAIMANT.

7. SUCH OTHER REASONABLE INFORMATION RELATED TO THE CLAIM AS THE BOARD MAY REQUIRE.

C. EVERY INSURER REQUIRED TO REPORT TO THE BOARD UNDER THIS SECTION SHALL ALSO BE REQUIRED TO ADVISE THE BOARD OF ANY SETTLEMENTS OR JUDGMENTS AGAINST A NATUROPATHIC PHYSICIAN WITHIN THIRTY DAYS AFTER THE SETTLEMENT OR JUDGMENT OF ANY TRIAL COURT.

D. THE BOARD SHALL MAINTAIN THE REPORTS FILED IN ACCORDANCE WITH THIS SECTION AS CONFIDENTIAL RECORDS. STATISTICAL DATA DERIVED FROM THESE REPORTS SHALL BE RELEASED ONLY FOR BONA FIDE RESEARCH OR EDUCATIONAL PURPOSES.

E. THE BOARD SHALL INSTITUTE PROCEDURES FOR AN ANNUAL REVIEW OF ALL RECORDS KEPT IN ACCORDANCE WITH THIS CHAPTER IN ORDER TO DETERMINE WHETHER IT IS NECESSARY FOR THE BOARD TO TAKE REHABILITATIVE OR DISCIPLINARY MEASURES PRIOR TO THE RENEWAL OF A NATUROPATHIC PHYSICIAN'S LICENSE TO PRACTICE.

F. THE BOARD SHALL ANNUALLY REPORT TO THE DIRECTOR OF INSURANCE THE FOLLOWING STATISTICAL INFORMATION REPORTED BY INSURERS:

1. THE NUMBER OF CLAIMS.

2. THE DATES OF THE ACTS OR OMISSIONS WHICH FORM THE BASIS OF CLAIMS.

3. THE FINAL DISPOSITION OF CLAIMS.

G. THERE IS NO LIABILITY ON THE PART OF AND NO CAUSE OF ACTION ARISES AGAINST ANY INSURER REPORTING OR ITS AGENTS OR EMPLOYEES, OR THE BOARD OR ITS REPRESENTATIVES, FOR ANY ACTION TAKEN BY THEM IN GOOD FAITH UNDER THIS SECTION.

32-1554. Observance of public health laws and regulations

NATUROPATHIC PHYSICIANS LICENSED UNDER THIS CHAPTER SHALL OBSERVE AND ARE SUBJECT TO ALL STATE, COUNTY AND MUNICIPAL LAWS AND REGULATIONS RELATING TO PHYSICIANS AND TO PUBLIC HEALTH AS REQUIRED FOR PHYSICIANS OF OTHER SCHOOLS OF HEALING.

32-1555. Unlawful acts

IT IS UNLAWFUL FOR ANY PERSON:

1. TO PRACTICE, ATTEMPT TO PRACTICE OR CLAIM TO PRACTICE NATUROPATHY OR ANY BRANCH OF NATUROPATHY WITHOUT COMPLYING WITH THIS CHAPTER.

2. NOT LICENSED UNDER THIS CHAPTER TO USE THE DESIGNATION "DOCTOR OF NATUROPATHIC MEDICINE", "DOCTOR OF NATUROPATHY", "NATUROPATH", "NATUROPATHIC PHYSICIAN" OR THE USE OF ANY OTHER WORDS, INITIALS, SYMBOLS OR COMBINATION THEREOF WHICH WOULD LEAD THE PUBLIC TO BELIEVE SUCH PERSON WAS LICENSED TO PRACTICE AS A NATUROPATHIC PHYSICIAN.

3. TO SELL OR FRAUDULENTLY OBTAIN OR FURNISH ANY NATUROPATHIC DEGREE OR DIPLOMA.

4. TO OPERATE A SCHOOL, COLLEGE OR EDUCATIONAL INSTITUTION GRANTING A DEGREE, DIPLOMA OR CERTIFICATE IN NATUROPATHY UNLESS IT HAS BEEN APPROVED BY THE BOARD.

5. TO REPRESENT THAT A SCHOOL, COLLEGE OR EDUCATIONAL INSTITUTION GRANTING A DEGREE, DIPLOMA OR CERTIFICATE IN NATUROPATHY IS APPROVED BY THE BOARD IF THE SCHOOL, COLLEGE OR EDUCATIONAL INSTITUTION HAS NOT BEEN APPROVED BY THE BOARD.

6. TO SECURE OR ATTEMPT TO SECURE A LICENSE TO PRACTICE NATUROPATHY UNDER THIS CHAPTER BY FRAUD OR DECEIT.

32-1556. Prosecution for violations

THE COUNTY ATTORNEY OF EACH COUNTY OR THE ATTORNEY GENERAL SHALL PROSECUTE ALL PERSONS CHARGED WITH VIOLATING THIS CHAPTER, BUT THE BOARD

MAY RETAIN ITS OWN ATTORNEY OR INVESTIGATORS TO AID IN PROSECUTING A VIOLATOR. IF THE BOARD OBTAINS INVESTIGATORS OR LEGAL ASSISTANCE TO PROSECUTE OR AID IN THE PROSECUTION FOR A VIOLATION OF THIS CHAPTER, PAYMENT FOR THESE SERVICES SHALL BE MADE FROM THE NATUROPATHIC PHYSICIANS BOARD FUND.

32-1557. Violation; classification

A PERSON WHO VIOLATES ANY PROVISION OF THIS CHAPTER IS GUILTY OF A CLASS 5 FELONY.

32-1558. Injunction

A. AN INJUNCTION MAY BE ISSUED TO ENJOIN THE PRACTICE OF NATUROPATHY BY EITHER OF THE FOLLOWING CLASSES OF PERSONS:

1. ONE NOT LICENSED TO PRACTICE NATUROPATHY NOR EXEMPT FROM THE LICENSING REQUIREMENT UNDER THIS CHAPTER.

2. A NATUROPATH WHOSE CONTINUED PRACTICE WILL OR MAY CAUSE IRREPARABLE DAMAGE TO THE PUBLIC HEALTH AND SAFETY.

B. IN A PETITION FOR INJUNCTION UNDER SUBSECTION A, PARAGRAPH 1 IT IS SUFFICIENT TO CHARGE THAT THE RESPONDENT ON A DAY CERTAIN IN A NAMED COUNTY ENGAGED IN THE PRACTICE OF NATUROPATHY WITHOUT A LICENSE AND WITHOUT BEING EXEMPT FROM THE LICENSING REQUIREMENT UNDER THIS CHAPTER. FOR THE PURPOSE OF THIS SUBSECTION DAMAGE OR INJURY AS A RESULT OF SUCH PRACTICE IS PRESUMED.

C. A PETITION FOR INJUNCTION SHALL BE FILED IN THE NAME OF THIS STATE BY THE BOARD OR AT THE REQUEST OF THE ATTORNEY GENERAL IN THE COUNTY WHERE THE RESPONDENT RESIDES OR MAY BE FOUND.

D. ISSUANCE OF AN INJUNCTION DOES NOT RELIEVE THE RESPONDENT FROM BEING SUBJECT TO ANY OTHER PROCEEDINGS UNDER LAW PROVIDED FOR IN THIS CHAPTER OR OTHERWISE. VIOLATION OF AN INJUNCTION SHALL BE PUNISHED AS FOR CONTEMPT OF COURT.

E. IN ALL OTHER RESPECTS INJUNCTION PROCEEDINGS UNDER THIS SECTION SHALL BE CONDUCTED IN THE SAME MANNER AS OTHER INJUNCTIONS.

Sec. 4. Section 41-2362, Arizona Revised Statutes, is amended to read:

41-2362. Schedule for termination July 1, 1982

The following agencies shall terminate on July 1, 1982:

Sec. 11.71.140.

Schedule IA.

(a) A substance shall be placed in schedule IA if it is found under AS 11.71.120(c) to have the highest degree of danger or probable danger to a person or the public.

(b) Schedule IA includes, unless specifically excepted or listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

(A) raw opium;

(B) opium extracts;

(C) opium fluid extracts;

(D) powdered opium;

(E) granulated opium;

(F) tincture of opium;

(G) codeine;

(H) ethylmorphine;

(I) etorphine hydrochloride;

(J) hydrocodone;

(K) hydromorphone;

(L) metopon;

(M) morphine;

(N) oxycodone;

(O) oxymorphine;

(P) thebaine;

(2) any salt, compound, derivative, or preparation of a substance included in (b)(1) of this section which is chemically equivalent or identical to any of the substances referred to in (b)(1) of this section; however, these substances do not include the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) concentrate of poppy straw which is the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy.

(c) Schedule IA includes, unless specifically excepted or unless listed in another schedule, any of the following opiates,

including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan excepted:

(1) acetylmethadol;

(2) allylprodine;

(3) alphacetylmethadol;

(4) alphameprodine;

(5) alphamethadol;

(6) alphaprodine;

(7) anileridine;

(8) benzethidine;

(9) betacetylmethadol;

(10) betameprodine;

(11) betamethadol;

(12) betaprodine;

(13) bezitramide;

(14) clonitazene;

(15) dextromoramide;

(16) diampromide;

(17) diethylthiambutene;

(18) difenoxin;

(19) dihydrocodeine;

(20) dimenoxadol;

(21) dimepheptanol;

(22) dimethylthiambutene;

(23) dioxaphetyl butyrate;

(24) diphenoxylate;

(25) dipipanone;

(26) ethylmethythiamutene;

(27) etonitazene;

(28) etoxeridine;

(29) fentanyl;

(30) furethidine;

(31) hydroxpethidine;

(32) isomethadone;

(33) ketobemidone;

(34) levomethorphan;

(35) levomoramide;

(36) levorphanol;

(37) levophenacylmorphan;

(38) meperidine, also known as pethidine;

(39) metazocine;

(40) methadone;

(41) methadone-intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(42) moramide-intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

(43) morpheridine;

(44) noracymethadol;

(45) norlevorphanol;

(46) normethadone;

(47) norpipanone;

(48) pethidine, also known as merperidine;

(49) pethidine-intermediate-A, 4-cyano-1-methyl-4-phenyl piperidine;

(50) pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-carbox-ylate;

(51) pethidine-intermediate-C, 1-methyl-4-phenylpiperidine- 4-carboxylic acid;

(52) phenadoxone;

(53) phenampromide;

(54) phenazocine;

(55) phenomorphan;

(56) phenoperidine;

(57) piminodine;

(58) piritramide;

(59) propheptazine;

(60) properidine;

(61) propiram;

(62) racemethorphan;

(63) racemoramide;

(64) racemorphan;

(65) trimeperidine.

(d) Schedule IA includes, unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever

the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) acetorphine;

(2) acetyldihydrocodeine;

(3) benzylmorphine;

(4) codeine methylbromide;

(5) codeine-n-oxide;

(6) cyprenorphine;

(7) desomorphine;

(8) dihydromorphine;

(9) drotebanol;

(10) etorphine, except hydrochloride salt;

(11) heroin;

(12) hydromorphinol;

(13) methyldesorphine;

(14) methyldihydromorphine;

(15) morphine methylbromide;

(16) morphine methylsulfonate;

(17) morphine-n-oxide;

(18) myrophine;

(19) nicocodeine;

(20) nicomorphine;

(21) normorphine;

(22) pholcodine;

(23) thebacon.

Sec. 11.71.150. SCHEDULE IIA.

(a) A substance shall be placed in schedule IIA if it is found under AS 11.71.120(c) to have a degree of danger or probable danger to a person or the public which is less than substances listed in schedule IA, but higher than substances listed in schedule IIIA.

(b) Schedule IIA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, whether optical, position, or geometric, or salts of isomers whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation:

(1) 4-bromo-2, 5-dimethoxy-amphetamine, also known as 4-bromo-2, 5-dimethoxy-a-methylphenethylamine and 4-bromo-2, DMA;

(2) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-a-methylphenethylamine and 2,5-DMA;

(3) 4-methoxyamphetamine, also known as 4-methoxy-a-methylphenethylamine and paramethoxyamphetamine, PMA;

(4) 5-methoxy-3,4-methylenedioxy-amphetamine;

(5) 4-methyl-2,5-dimethoxy-amphetamine, also known as 4-methyl-2,5-dimethoxy-a-methylphenethylamine;

(6) 3,4-methylenedioxy amphetamine;

(7) 3,4,5-trimethoxy amphetamine;

(8) bufotenine, also known as 3-(B-dimethylaminoethyl)-5-hydroxyindole, 3-(2-dimethylaminoethyl)-5-indolol, N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine, and mappine;

(9) diethyltryptamine, also known as N, N-diethyltryptamine and DET;

(10) dimethyltryptamine, also known as DMT;

(11) ibogaine, also known as 7-ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido ~~[1',2':1,2] azepino [5,4-b] indole~~ (16,26:1,2) azepino (5,4.b) indole and tabernanthe iboga;

(12) lysergic acid diethylamide, also known as LSD;

(13) mescaline;

(14) n-ethyl-3-piperidyl benzilate;

(15) n-methyl-3-piperidyl benzilate;

(16) peyote;

(17) analogs of phencyclidine (PCP), including:

(A) ethylamine analog, also known by some trade or other names as follows: N-ethyl-1-phenylcyclohexylamine (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(B) pyrrolidine analog, also known by some trade or other names as follows: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPY, PHP;

(C) thiophene analog, also known as 1-[1-(2-thienyl) cyclohexyl] piperidine and 2-thienylanalog of phencyclidine, TPCP, and TCP;

(18) psilocybine;

(19) psilocyn.

(c) Schedule IIA includes cocaine or coca leaves, and any salt, compound, derivative, mixture, isomer, ester, ether, or preparation of cocaine or coca leaves produced directly or indirectly by extraction from coca leaves, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, including the isomers, salts, and salts of isomers of cocaine and other derivatives of coca leaves whenever the existence of these esters, ethers, isomers or salts is possible, but does not include decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(d) Schedule IIA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) amobarbital;

(2) mandrix or mandrax;

(3) mecloqualone;

(4) methaqualone;

(5) pentobarbital;

(6) phencyclidine, also known as PCP;

(7) secobarbital.

(e) Schedule IIA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the nervous system:

(1) amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) methamphetamine, its salts, isomers, and salts of its isomers;

(3) methylphenidate;

(4) phenmetrazine and its salts.

(f) Schedule IIA includes, unless specifically excepted or unless listed in another schedule, any material, mixture, or preparation which contains any quantity of the following substances:

(1) immediate precursor to amphetamine and methamphetamine: phenylacetone also known as phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(2) immediate precursors to phencyclidine, also known as PCP:

(A) 1-phencylclohexylamine;

(B) 1-piperidinocyclohexanecarbonitrile, also known as PCC.

Sec. 11.71.160. SCHEDULE IIIA.

(a) A substance shall be placed in schedule IIIA if it is found under AS 11.71.120(c) to have a degree of danger or probable danger to a person or the public less than the substances listed in schedule IIA but higher than substances listed in schedule IVA.

(b) Schedule IIIA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers whether optical,

position, or geometric, and salts of these isomers whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) benzphetamine;

(2) chlorphentermine;

(3) clortermine;

(4) mazindol;

(5) phendimetrazine;

(6) any compound, mixture, or preparation in dosage unit form containing any stimulant substance listed in schedule IIA, which compound, mixture, or preparation was listed on August 25, 1971, as an excepted compound under 21 C.F.R. sec. 1308.32, and any other drug of the quantitive composition shown in that list for those substances, or which is the same except that it contains a lesser quantity of any controlled substance.

(c) Schedule IIIA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) amobarbital, secobarbital, or pentobarbital or any salt of these substances, combined with one or more other active medicinal ingredients which are not listed in any other schedule;

(2) amobarbital, secobarbital, or pentobarbital or any salt of these substances, approved by the federal Food and Drug Administration for marketing only as a suppository;

(3) any substance which contains any quantity of a derivative of barbituric acid or any salt of barbituric acid;

(4) chlorhexadol;

(5) glutethimide;

(6) lysergic acid;

(7) lysergic acid amide;

(8) methyprylon;

(9) sulfondiethylmethane;

(10) sulfonethylmethane;

(11) sulfonmethane.

(d) Schedule IIIA includes nalorphine.

(e) Schedule IIIA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in the following quantities:

(1) not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(5) not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(6) not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Schedule IIIA includes

(1) hashish;

(2) hash oil or hashish oil; and

(3) tetrahydrocannabinols.

Sec. 11.71.170. SCHEDULE IVA.

(a) A substance shall be placed in schedule IVA if it is found under AS 11.71.120(c) to have a degree of danger or probable danger to a person or the public which is less than the substances listed in schedule IIIA, but higher than the substances listed in schedule VA.

(b) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) barbital;

(2) chloral betaine;

(3) chloral hydrate;

(4) chlordiazepoxide;

(5) clonazepam;

(6) clorazepate;

(7) diazepam;

(8) ethclorvynol;

(9) ethinamate;

(10) flurazepam;

(11) lorazepan;

(12) mebutamate;

(13) meprobamate;

(14) methohexital;

(15) methylphenobarbital, also known as mephobarbital;

(16) oxazepam;

(17) paraldehyde;

(18) petrichloral;

(19) phenobarbital;

(20) prazepam.

(c) Schedule IVA includes any material, compound, mixture or preparation which contains any quantity of the following

substance, including its salts, isomers whether optical, position, or geometric, and salts of these isomers, whenever the existence of these salts, isomers, and salts of isomers is possible: fenfluramine.

(d) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers whether optical, position, or geometric, and salts of these isomers whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) diethylpropion;

(2) phentermine;

(3) pemoline, including organometallic complexes and chelates of this substance.

(e) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or their salts calculated as the free anhydrous base or alkaloid.

(f) Schedule IVA includes, unless specifically excepted or unless listed in another schedule, any material, compound,

mixture or preparation which contains any quantity of the following substances, including their salts:

(1) dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-dephenyl3-methyl-2-propionoxybutane);

(2) pentazocine;

(3) propoxphene.

Sec. 11.71.180. SCHEDULE VA.

(a) A substance shall be placed in schedule VA if it is found under AS 11.71.120(c) to have a degree of danger or probable danger to a person or the public which is less than substances listed in schedule IVA, but higher than substances listed in schedule VIA.

(b) Schedule VA includes any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or their salts, calculated as the free anhydrous base or alkaloid, in limited quantities as specified in (1) - (6) of this subsection, which includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by schedule IA substances alone:

(1) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Schedule VA includes loperamide.

Sec. 11.71.190. SCHEDULE VIA.

(a) A substance shall be placed in schedule VIA if it is found under AS 11.71.120(c) to have the lowest degree of danger or probable danger to a person or the public.

(b) Marijuana is a schedule VIA controlled substance.

2900 Spinnaker Dr.
Anchorage, AK 99516
22 January 1984



Rep. Mae Tischer
Pouch V
Juneau, AK 99811

RE: House Bill 347

Dear Mrs. Tischer:

I had looked forward to meeting you again yesterday--we first met at the U of AK-Anchorage campus in the fall of '82 and talked for some time. I remember being impressed by your large family and the fact that you homesteaded in Alaska. We now have three children and have been here almost three years.

It was a new experience for me to testify before your committee yesterday--I've never been involved in a teleconference before. In fact, I've never been interested so deeply in an issue as I am in HB 347.

Before taking my family to a Naturopath, I did much research on the subject. In doing this, I discovered many things, among them the fact that Naturopathy has been around for nearly 200 years, that the Queen of England's personal physician is a Homeopath (one of the things Naturopaths practice), and that around the turn of the century there were 22 Naturopathic medical schools in the U.S. Today there are three. The reason for Naturopathy's decline? Apparently, there is not enough money in its practice. The "drugs" (called "remedies") prescribed by Naturopaths are readily available by simple means, although they must be prepared under rigid conditions in Homeopathic pharmacies. One can see why the drug companies which find allopathic medicine (the way most medicine is practiced today) so lucrative, cannot support Naturopathy.

Naturopaths practice a kind of medicine outside the experience or understanding of most M.D.s. In the first place, Naturopaths attempt to prevent disease by diet and exercise. Secondly, they treat the whole person by encouraging the body to heal itself, not by suppressive or allopathic drugs which cause the body to become dependent on, often addicted to, those very drugs.

If Naturopaths are not provided with separate licensing from M.D.s in Alaska, they will be faced with a Catch 22 situation. Without licensing they cannot practice medicine as they were trained, but there will be no provision for licensing them. Aside from my personal bias towards Naturopathy, I feel the issue of choice is or should be the priority here. Whether one feels Naturopathy is "right" or "wrong" for them, it does exist and (evidently) needs to be legislated.

UNTRUE!

As brought out by Dr. Jasper, even Nurse Practitioners and Certified Nurse Midwives are allowed to prescribe and do minor surgery. Therefore, I feel the physicians who testified are speaking from ignorance of the training and ideals of Naturopathy and are trying to relegate Naturopaths to second-class citizens. The bill should be passed as it is and give Naturopaths the right to practice as they were trained--to be conscientious, caring physicians in the prevention and treatment disease.

I used Dr. Pettijohn as backup for the home delivery of my youngest, Megan, one year ago by a lay midwife. Dr. Jasper is our family doctor and has seen us through ear infections, impetigo and Megan's pneumonia--all without antibiotics or suppressive drug therapy. I feel very strongly that both doctors should be allowed to continue helping people like us who want <u>true</u> "traditional medicine."

Sincerely,

Sherry Arrick

/sa

Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

Representative Mae Tischer

April 28, 1983

Mr. Randy Action
P.O. Box 1057
Willow, Alaska 99688

Dear Mr. Action:

Thank you for your comment on HB 347 (Naturopath Licensing). I do support this bill and agree that persons should have a choice in seeking health care. I will include your message in the hearings on this bill.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

MEMBER: Rules
CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Corrections

MSG 83-00011048 PRTY 1 04/21/83 16:37:39 ORIG: LMC1 IN= 0011 OUT= 0188
FROM: MAT SU LIO TO: JUNEAU INFORMATION
TARGET: LJHL -SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M. MILLER, CATO, GOLL, KOPONEN, DAVIS

FROM: RANDY ACTON
PO BOX 1057
WILLOW 99688

APR 2 2 1983

RE: HB 347

REGARDING THE LICENSING OF NATUROPATHS--I AM FOR IT. OUR DOCTOR IS A NATUROPATH AND HE IS VERY GOOD.

FEB 2 1983

Box 101807,
Anchorage, Alaska 99510
January 26, 1983

Reference: Conversation Leading to Medicaid Paying for Spondylosis

To: Governor, Legislators, Congresspersons, and Others Concerned

Dear Governor Bill Sheffield:

Congratulations of your being our new Alaskan Governor!

I remember when you could not continue to campaign a term ago because your late wife was not well, and you so loyally stayed with her until her transition to "beyond." Each time I saw this episode on T-V, my emotional tears came forth, but today I simply pray she is in the arms of the Lord Jesus Christ.

I remember more recently your passing out campaign buttons, cards, and balloons at the Anchorage Bus Accomodation Center. A little grubby Alaskan native boy of about 3½ or 4 years of age, wanted a yellow inflated one, rolled his eyes toward his mother but she was also too bashful to venture forth to get one for him. I led the youngster forward to get one from you and as he twirled his finger in his mouth, you looked at him, knelt down, looked into his brown eyes and gave him his heart's desire.

Most recently, I remember sitting on a table on the edge of the T-V cameras in the Captain Cook ballroom, and after hours of political fellowship, you emerged victorious as our Governor Sheffield.

The first time I remember your paying for New Year's novelties for your parties, a few years ago or rather many years ago, and you were a busy busy man then.

I listened to your addressing the legislators and the Alaskans. The address was typically Sheffield, very well researched and to the point. My only comment is that at the beginning or at the end a Bob Hope sort of pun could have been effective, like "Old Alaskans never die, because they have to divi up their ends." Another one close to this is, "Strange Alaskans never die, they just divi up the closei ends of Old Alaska." Or the worst, "Divi, Divi, Divi up my end, before I get to heaven, because strange things are being done, in the Land of the Midnight Sun."

Going back to the time before the boy with the balloon incident, I buttonholed you with the concern regarding Medicaid helping us victimized with spinal problems, foot problems,etc., and you put a notation on a little note pad. You also mentioned that your brother went to a chiropractor for his spinal adjustments.

I hate to enclose all the following reports on my spondylosis, because it seems so hopeless, and it was until I saw a video educational program at Dr. Kenneth Ketz's office, and with adjustments, prescribed exercises, and care I could be 50% better in 2½ years. This was early last summer. Now, in mid-winter I am better, stronger and whatever it takes, I still care about others, and take care of myself. That is the purpose of this letter, so others, like unwed mothers who have help in raising their children on Medicaid, so too, we who have been victimized by injuries upon injuries through no fault of our own can have badly needed adjustments for our spine.

Believe it or not, due to extreme pain, I became a Born-Again Christian one year ago in April. I had rebelled during my teens toward formal ritualistic religion, and then returned after thirty-some years to the foot of the cross of the Lord Jesus Christ. Finding this new way has not been my cure-all for pain, but my spiritual world began, and a new charisma of living began also. I am going to send forth each day a prayer for your strenght, for your peace of mind, and for making the right decisions along the way through our Lord Jesus Christ.

Theologically and Teleologically yours,

deAnn Brezina

(Ms) deAnn Brezina

Copies of actual letters on file will be presented to those concerned.
1/27/83

Synopsis of Spondylosis (deAnn Brezina) for Medicaid payments

1. Was abused as child plus had malnutrition. Foster home at age 11.

2. Had severe rheumatic fever at age 12 with weakness in muscles of body.

3. Had a form of rheumatoid arithitis, and treated with gold-sodium-thiosulfate shots during late teens. Also removal of tonsils, appendix, and medication for infections, reoccuring infections, allergies, anemia.

4. Was an abused wife from an alcholic husband during the 50's. Had two children, divorced.

5. Was an abused wife again during the early 60's. One miscarriage. Divorced.

6. Remarried in 1965. Had one child in 1967.
In 1965 a chair was pulled out by a fisherman in Kodiak, and thus started a lifelong injury and pain. Had three changes of attornies because of their one heart attack, and the others died.

7. 1973-Back injury occured over marital argument of a package of cigarettes and I had not provoked argument. Divorce preparation and trial until conclusion in 1977, or 1978.

8. 1974-A double whiplash injury caused by Robert Rice, a then real estate salesman who was drinking during the day.

9. 1975-Dec. Accident caused by Gary Sloan, who was driving a vehicle whose trailor unsnapped, headed for my engine, threw me into a spin on the icy road, and injured my spinal vertebrae, head and neck. If Medicaid would have covered chiropractic adjustments I would have been on the road to recovery instead of in constant pain for years to come. Also, on two crutches for several years before being on one crutch.

10. From about 1969, was also under the psychiatrist's care, and was given pain pills from time to time. ASKED FOR FEDERAL DISABILITY DETERMINATION 2 APPEALS TO DATE. NO DISABILITY PAYMENTS FORTHCOMING AT THIS TIME

11. Also under care of Dr. wWickman from 1974 until 1981.

12 Changed to Dr. George Gates because there was no progress, no information, and more pain in my spine than I could bear.

13. Under Dr. Gates treatment, I discovered that the word SPONDYLOSIS was my cause of pain. Dr. Aaron Wolf then told me it was a DEGENERATIVE DISK DISEASE, and Dr. wWickman should have shared this information with me.

14. I did as much research as possible, and decided that I had to get help-NOW!

15. On Medicaid forms I was refused the neck and lower back traction units that Dr. Gates prescribed. Also, orthpedic shoes. DENIED. Clinirol (spelling ?) medication made me gain weight with extra milk or protein prescribed with it. DR. WOLF REFUSED PRESCRIPTIONS FOR ANY MORE PAIN PILL

16. I then went to Dr. Scott V. Linder, M. D., explained my problems to him, and enclosed is the recommended letter. However, Medicaid payments are not forthcoming for my chiropractic adjustments.

17. Have been to Dr. Kenneth Ketz's Chiropractic Clinic since last summer and have found more relief than before. Can become better by 50% in 2½ years with adjustments, excercises and sleeping on rolled towels.

18. Asking your help, Legislators, and others concerned, to allow chiropractors and podiatrists (also I have bunions) to be paid under Medicaid. MY DISABILITY PAYMENTS HAVE NOT BEEN FORTHCOMING.



KENNETH O. KETZ, D.C.
and ASSOCIATES
Anchorage Center for Chiropractic, Inc.
3330 C Street
Anchorage, Alaska 99503
Hours by Appointment
274-7621

Thank you,

Ms deAnn Brezina
Box 1807, Anchorage Ak 99510
1/27/83

1-22-84

Hello Representative Tischer -

My family and I attented the Arch. tele conference on HB 347. We appreciated your sense of concern, humor and truth. We are in strong support of the bill and are extremely concerned about the passage. I've written every Representative and Senator and would like to understand what else can be done - a letter to Editor of local papers? What can be done to influence Senator Don Bennett (if he is the one who is holding the strong opposition position?) to accept HB 347. I honestly believe that we should have the constitutional right to choose the treatment we want and Naturopaths should have the Right to provide that treatment. By licensing the field of Naturopathy you protect everyone involved both provider & providee. Other states have originated appropriate forms of accrediting Naturopaths - these people are highly trained in a very different discipline than A.M.A. based medical care, no less better because of their preventive approach. The A.M.A. types provide background well versed in surgery and pharmaceuticals.

an example I read somewhere compared A.M.A types as having less than 1% of their total schooling devoted to nutrition. Whereas Naturopaths devote 30% of their total training believe in building the bodys systems up via vitamins, diet, exercise and herbal or natural extracts. these approaches are so very different, they are opposite sides of the same coin. The people who favor the Natural approach arent necessarily opposed to using both kinds of care as the situation dictates. In fact, the Amer. Naturopaths frequently refer people to local M.d.s for treatment there seems to be an openess on their part to cooperate but not on the A.M.A. society's part. What can be done to set up the necessary board to appease the A.M.A. Society? You know I could tell you were interested in natural childbirth. I would like to share my experience with you. My daughter, Yarrow Raven, was born at Dr. Hansens birthing Center in the providence Professional bldg. He was not there at all, but his licensed nurse midwife, Verona Gentry, was in charge along with

nurse practioner Owen Wolverton. they had a relaxed home type setting, complete with rocking chairs and Kitchen, bathtub ect. this was my first birth and I had wanted to do it at home, but not knowing what it would be like, I opted for the "safety" of being very close to the hospital. as it went, I birthed with a labour of 6 hrs. and needed no intervention, ie, medication to stop pain, routine cutting of vaginal opening to prevent tears (episiotomys), pitocin to help speed labour and expel placenta. We prepared ourselves for this birth with exercise, reading everything we could get our hands on, and talking to midwifes. an organization called B.A.B.E (Better Alcestan birth experiences) has very good information on what local OB-Gyn's will and will not do for patients. they sent out a 30-40 question-ere and got very negative responses. these OB's are so in demand, that they don't have to do anything your way. An example is that I thought that I wouldn't want to lie down and be cut open, but would rather squat down and be rubbed with Vitamin E oil to help stretch the vaginal tissue naturally and in rythum with my body.

Most OBs just weren't interested in this type of non-interventional approach. They want to "do" the birthing procedure and take it away from the mother. Our Midwife Verna, asked David how involved he wanted to be in the birthing and he said, "as much as I can" So she gowned and gloved him and he caught the baby and she suctioned out mucus. Then we did not cut cord until it stopped pulsing, thereby allowing baby maximum storage of blood & nutrients & oxygen before cutting cord. David did that also, and put baby dry on baby. We were, in this setting, given choices and control within safety of situation.

Abel - It's a law that a pediatrician must sign baby out of birthing center, and our choice was the Children's Clinic. They have five Doctors and they rotate, so we did not get the Dr. we had liked. This particular Dr. (Dr. Roberts) was anti-midwife birthing even under the auspices of a highly trained OB like Dr. Hanson. Dr. R. read us the riot act, wanted me in Providence Hosp

immediately and just totally ignored our wishes in the situation and laid his hostility on a otherwise, fantastic experience. I was so in love with my baby, husband, both attendents, that I could not relate to this ugly, ugly scene. Dr. Roberts, in punishment, made me come into the office on a Sunday (this day off) and be checked there even though he knew that both Gwen & Verona would be coming to check me via home visit Sunday morn & eve. They also called to check and know I had 2 L.P.N. friends at home with me. When Yarrow developed jaundice, which is common, Dr. Roberts wanted her in hospital immediately and no nursing. He would not give orders for me to feed baby so nurses didn't want me bothering them. I was crushed - how could this man do this to an innocent couple. Well, I have since learned that (and this is really the whole point of this story) Dr. Bauer has done extensive research into biliruben jaundice in newborns and he says that my treatment was totally in error and that Dr. Roberts acted extremely conservatively - to the point

of denying me that bonding time with my newborn. Now - just look at the difference of attitude and treatment within the field of pediatrics in Anchorage!! During Teleconference, the endocrinologist Dr Bronner, SP? was very biased, showing a double standard, between Naturopath "misdiagnosing and physician misdiagnosing. How do we know the patients in question had waited so long after Nat. treatment before seeing Dr. Bronner, that it might not, in fact, be a whole new situation/problem? Certainly the Doctors I have seen in Anch. have tremendous differences in opinion of treatment. One ear, nose throat man did one treatment on me and another totally something else - and wags head over first M.D.s course of action. So really, M.D.s need not cast stones on Naturopaths misdiagnosing when they are so unclear themselves. Please let me know how I can help HB 347 pass.

thank for your time.

Blessings Kathleen Whitson
7727 Lumbis Ln
Anch. AK 99502

RECEIVED

2/8/84 - requested second CS

Cook
2/2/84
Version #2

Original sponsors: Martin and Tischer

DRAFT

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 347 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the licensing of practitioners of naturopathic medicine; and providing for an effective date."

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

* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

(24) regulation of naturopathy or naturopathic medicine under AS 08.45.

* Sec. 2. AS 08 is amended by adding a new chapter to read:

CHAPTER 45. NATUROPATHS.

ARTICLE 1. REGULATION OF NATUROPATHY.

Sec. 08.45.010. DUTIES AND POWERS. The department shall

(1) evaluate the qualifications of applicants for licenses under this chapter;

(2) conduct hearings and keep records necessary to carry out the purposes of this chapter;

(3) license naturopaths and renew licenses in accordance with AS 08.45.100 - 08.45.170; and

(4) provide for temporary permits to engage in the practice of naturopathic medicine for persons who are apparently qualified that are valid until certification of the results of the next examination given under AS 08.45.120.

ARTICLE 2. LICENSING OF NATUROPATHS.

Sec. 08.45.100. LICENSING REQUIREMENT. A person may not engage in the practice of naturopathy or naturopathic medicine unless that

person has a valid license or temporary permit under this chapter.

Sec. 08.45.110. LICENSURE AS A NATUROPATH. To be eligible for a license as a naturopath, an applicant shall

(1) hold a high school diploma or the equivalent;

(2) have completed two years of postsecondary education at an accredited college of liberal arts or sciences;

(3) have graduated from a legally chartered school or college of naturopathic medicine that has as a requirement for graduation successful completion of a course of resident instruction of at least nine months actual attendance in each of four years and successful completion of a course of instruction totaling 4,000 hours or more; the course of instruction shall include:

[1500 hours of clinical experience to be included in the 4000 hours]

(A) anatomy, physiology, histology, and embryology;

(B) microbiology;

(C) pathology;

(D) immunology;

(E) public health;

(F) physical, clinical, and x-ray diagnosis;

(G) first aid and emergency medicine;

(H) obstetrics and gynecology;

(I) orthopedics;

(J) minor surgery and proctology;

(K) otolaryngology;

(L) physiotherapy and manipulative techniques;

(M) dietetics and clinical nutrition;

(N) botanical medicine;

(O) naturopathic theory, therapeutics and clinical practice;

(P) jurisprudence;

(4) successfully complete an examination given by the department;

(5) not have a license to practice naturopathic medicine in another state, province, or territory, that is suspended or revoked for disciplinary reasons;

(6) be a United States citizen or lawfully admitted to permanent residence in this country; and

(7) be of good moral character.

Sec. 08.45.120. EXAMINATION. (a) An examination for licensing as a naturopath shall be held at a time and place and shall be conducted as determined by the department. The examination shall be limited to the subjects listed in AS 08.45.110(3), each of which shall constitute a separate examination section. The examination shall be objective and in writing, but may be supplemented by oral examinations, and by demonstrations or other practical tests as the department may require.

(b) To pass the examination an applicant shall receive an overall average of 75 percent and may not receive less than 70 percent in more than two sections.

Sec. 08.45.130. ENDORSEMENT. The department may license a person as a naturopath if the person is currently licensed as a naturopath in another state or in a province of Canada and

(1) that state or province maintains professional licensing standards equivalent or higher than those in this chapter;

(2) that state or province extends the same licensing privilege to those holding a license in this state; and

(3) the person demonstrates to the satisfaction of the department qualifications at least equal to those required of persons licensed under this chapter.

Sec. 08.45.140. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. The department may deny, suspend, or revoke the license of a person or applicant who

(1) has obtained or attempted to obtain a license under this chapter by fraud or deceit;

(2) wilfully violates a provision of this chapter or a regulation adopted under this chapter;

(3) habitually overuses alcoholic beverages;

(4) unlawfully uses a controlled substance as defined in AS 11.81.900(b)(6);

(5) impersonates another physician;

(6) practices under an assumed name; or

(7) is convicted of a crime involving moral turpitude, including murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery.

Sec. 08.45.150. FEES. The following fees are imposed under this chapter:

(1) application for examination	$ 50
(2) application for reexamination	10
(3) license issuance or biennial renewal	200
(4) issuance of temporary permit	50

Sec. 08.45.160. SCOPE OF NATUROPATHIC PRACTICE. (a) A naturopath in the course of the practice of naturopathic medicine may

(1) perform physical examinations, write prescriptions for substances authorized in this chapter, and sign birth and death certificates;

(2) use systems of diagnosis for which the naturopathic physician has been trained under AS 08.45.110(3);

(3) treat patients by physiological, nutritional,

psychological, mechanical, electrical, manual, hydrotherapeutic, phytotherapeutic, mineral and organic substances and agencies, including acupuncture, that are effective in stimulating normal function of tissues and organs sensitized by disease;

(4) draw blood for laboratory purposes, and use electrical or other methods for the repair and care of superficial lacerations and abrasions, benign superficial lesions, and the removal of foreign bodies located in superficial structures; and

(5) practice natural childbirth in obstetrics, including related minor surgical procedures.

(b) A naturopath may not

(1) perform surgery except as provided under (a)(5) of this section;

(2) use controlled substances as defined in AS 11.81.-900(b)(6);

(3) use radiation therapy; or

(4) use drugs except antiseptics, local anesthetics, minerals and extracts, compounds or concentrates obtained from plants or animals.

Sec. 08.45.170. CONTINUING EDUCATION. (a) The department may prescribe by regulation continuing education requirements for persons licensed under this chapter.

(b) Before a license issued under this chapter may be renewed, the licensee shall submit to the department evidence of completion of continuing education requirements.

(c) The department may exempt a licensee from the continuing education requirement under (b) of this section upon an application of the licensee setting out extenuating circumstances. A licensee may not receive more than one exemption under this subsection in a five-

year period.

ARTICLE 3. GENERAL PROVISIONS.

Sec. 08.45.200. TITLES AND ABBREVIATIONS. (a) A person licensed under this chapter may use the following titles: "Naturopath", "Doctor of Naturopathy" or its abbreviation, "N.D.". A person licensed under this chapter may not use a title in a manner that suggests that the person practices a form of medicine or a healing art other than naturopathy.

(b) A person may not use a title or abbreviation listed in (a) of this section unless the person is licensed under this chapter.

Sec. 08.45.205. VIOLATIONS. (a) A person is guilty of a class B misdemeanor if the person

(1) fraudulently obtains or furnishes a temporary permit, license, renewal, or record required by this chapter;

(2) wilfully violates a provision of this chapter or a regulation adopted under this chapter.

(b) A person who practices naturopathy or naturopathic medicine without a valid temporary permit or license issued under this chapter is guilty of a class A misdemeanor.

Sec. 08.45.220. DEFINITIONS. In this chapter

(1) "department" means the Department of Commerce and Economic Development;

(2) "naturopathy" and "naturopathic medicine" means a system of healing the human body that includes diagnosis and treatment through the use of natural agencies, forces, processes, and products with emphasis on the response of the individual to the disease rather than its treatment in isolation.

* Sec. 3. AS 08.01.010(24) is repealed and reenacted to read:

(24) Naturopathic Medicine Board (AS 08.45.020)

* Sec. 4. AS 08.03.010(c) is amended by adding a new paragraph to read:

(21) Naturopathic Medicine Board (AS 08.45.020) -- June 30, 1990.

* Sec. 5. AS 08.45 is amended by adding new sections to read:

Sec. 08.45.020. CREATION AND MEMBERSHIP OF THE BOARD. There is established the Naturopathic Medicine Board consisting of

(1) two naturopaths licensed under this chapter;

(2) two doctors licensed under AS 08.64; and

(3) one public member.

Sec. 08.45.030. TERM OF OFFICE. Members of the board serve staggered terms of three years. A member may be appointed to serve no more than two consecutive full terms.

Sec. 08.45.040. POWERS AND DUTIES. (a) The board shall

(1) evaluate the qualifications of applicants for licenses under this chapter;

(2) conduct hearings and keep records necessary to carry out the purposes of this chapter;

(3) direct the department to license naturopaths and renew licenses in accordance with AS 08.45.100 - 08.45.170; and

(4) provide for temporary permits to engage in the practice of naturopathic medicine for persons who are apparently qualified that are valid until certification of the results of the next examination given under AS 08.45.120.

(b) The board may adopt regulations to carry out the provisions of this chapter.

* Sec. 6. AS 08.45.120(a) is amended to read:

(a) An examination for licensing as a naturopath shall be held at a time and place and shall be conducted as determined by the board [DEPARTMENT]. The examination shall be limited to the subjects listed

in AS 08.45.110(3), each of which shall constitute a separate examination section. The examination shall be objective and in writing, but may be supplemented by oral examinations, and by demonstrations or other practical tests as the board [DEPARTMENT] may require.

* Sec. 7. AS 08.45.130 is amended to read:

Sec. 08.45.130. ENDORSEMENT. The board [DEPARTMENT] may provide for the licensure of [LICENSE] a person as a naturopath if the person is currently licensed as a naturopath in another state or in a province of Canada and

(1) that state or province maintains professional licensing standards equivalent or higher than those in this chapter;

(2) that state or province extends the same licensing privilege to those holding a license in this state; and

(3) the person demonstrates to the satisfaction of the board [DEPARTMENT] qualifications at least equal to those required of persons licensed under this chapter.

* Sec. 8. AS 08.45.140 is amended to read:

Sec. 08.45.140. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. The board [DEPARTMENT] may deny, suspend, or revoke the license of a person or applicant who

(1) has obtained or attempted to obtain a license under this chapter by fraud or deceit;

(2) wilfully violates a provision of this chapter or a regulation adopted under this chapter;

(3) habitually overuses alcoholic beverages;

(4) unlawfully uses a controlled substance as defined in AS 11.81.900(b)(6);

(5) impersonates another physician;

(6) practices under an assumed name; or

(7) is convicted of a crime involving moral turpitude, including murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery.

* Sec. 9. AS 08.45.140 is amended by adding a new subsection to read:

(b) The board shall notify the department of any action taken under (a) of this section.

* Sec. 10. AS 08.45.170 is amended to read:

Sec. 08.45.170. CONTINUING EDUCATION. (a) The board [DEPARTMENT] may prescribe by regulation continuing education requirements for persons licensed under this chapter.

(b) Before a license issued under this chapter may be renewed, the licensee shall submit to the board [DEPARTMENT] evidence of completion of continuing education requirements.

(c) The board [DEPARTMENT] may exempt a licensee from the continuing education requirement under (b) of this section upon an application of the licensee setting out extenuating circumstances. A licensee may not receive more than one exemption under this subsection in a five-year period.

* Sec. 11. AS 08.45.220 is amended by adding a new paragraph to read:

(3) "board" means the Naturopathic Medicine Board.

* Sec. 12. AS 44.62.330(a) is amended by adding a new paragraph to read:

(53) Naturopathic Medicine Board (AS 08.45.020).

* Sec. 13. AS 08.45.010 is repealed.

* Sec. 14. LICENSING OF PRACTITIONERS OF NATUROPATHY OR NATUROPATHIC MEDICINE WITHOUT EXAMINATION. The commissioner of commerce and economic development shall license all persons who, on the effective date of sec. 2 of this Act, meet the qualifications of AS 08.45.110(1) - (3) and (5) - (7) and who apply for licensure under AS 08.45 not later than June 30, 1985.

* Sec. 15. Notwithstanding AS 08.45.030 as enacted in sec. 5 of this Act, the first members of the Naturopathic Medicine Board shall be appointed for the following terms: one member shall serve a one-year term; two members shall serve two-year terms; and two members shall serve three-year terms.

* Sec. 16. Sections 1, 2, and 14 of this Act take effect July 1, 1984.

* Sec. 17. Sections 3 - 13 and 15 of this Act take effect July 1, 1986.

DAVID A. CREWDSON
7727 LUMBIS
ANCH. AK. 99502

1/22/84

I WOULD LIKE TO EXPRESS MY SUPPORT FOR H.B. 347 INTRODUCED BY REPRESENTATIVES ABOOD, MARTIN AND TISCHER. IT IS AN IMPORTANT PIECE OF LEGISLATION WHICH CAN DIRECTLY AFFECT THE HEALTH AND WELL-BEING OF MANY PEOPLE THROUGHOUT ALASKA. I URGE PASSAGE OF THIS BILL FOR THE FOLLOWING REASONS:

1. ALONG WITH MANY OTHERS, I AM VERY DISSATISFIED WITH THE MEDICAL COMMUNITY. STANDARD MEDICAL TREATMENT IS CHARACTERIZED BY AN INSENSITIVITY TO THE PATIENT'S HUMANITY AND REAL NEEDS, AN ORIENTATION TOWARDS DRUGS AND SURGERY AND THE TREATMENT OF SYMPTOMS RATHER THAN THE CURE OF THE UNDERLYING CONDITIONS, AND A GENERAL ELITIST ATTITUDE TOWARDS HEALTH CARE. NATUROPATHS, HOWEVER, ATTEMPT TO UNDERSTAND THE LIVES OF THEIR PATIENTS SO THEY MIGHT CURE THEM IN THE GENTLEST, MOST NON-INVASIVE MANNER POSSIBLE AND TO THEN TEACH THEM HOW TO REMAIN HEALTHY.

2. THERE IS GROWING EVIDENCE THAT MANY METHODS AND TREATMENTS USED BY M.D.'S HAVE NEVER BEEN HONESTLY EFFECTIVE AND THAT THERE IS A GROWING, AND ALREADY HIGH, RATE OF CONDITIONS CAUSED BY INAPPROPRIATE OR IMPROPERLY HANDLED TREATMENTS. AT THE SAME TIME THERE IS GROWING EVIDENCE OF THE EFFICACY AND SUPERIORITY OF NATUROPATHY IN MANY ILLNESSES AND CONDITIONS.

3. IT IS THE RIGHT AND DUTY OF ALL PEOPLE TO CHOOSE THE BEST POSSIBLE HEALTH CARE FOR THEMSELVES AND THEIR FAMILIES. IF NATUROPATHS ARE NOT ALLOWED TO PRACTICE IN ALASKA, MANY PEOPLE WILL BE DENIED THIS OPPORTUNITY.

4. THE PUBLIC ALONG WITH CHIROPRACTERS AND MANY OTHER ALTERNATIVE HEALTH CARE PRACTITIONERS WANT NATUROPATHY MADE LEGAL. ONLY M.D.'S, NATUROPATHS DIRECT COMPETITORS, OPPOSE THIS. PLEASE HELP PASS H.B. 347.

SINCERELY
David A. Crewdson



Dear Rep. Tischer and Committee Members of HESS,

I attended the teleconference hearing on The House Bill 347, Jan. 21, 1984. in Anchorage. I did not chose to testify at that time. Instead I am writing now in behalf of my family, friends and myself. I also wish to thank Rep. Tischer for her open ear and her concerned, relevant questions. My family and I wish this to be our written testimony to support House Bill 347.

My entire family for nearly 3 years has used the services of a Naturopath; Dr. Pitty John. We have been more than satisfied - I think the appropriate word would be healed. My mothers healing of Uterine cancer, My Grandmother's healing of breast cancer. I shudder to think of the horrors these two women may now have been experiancing had there been no alternative route to the radical surgery; radiation and Chemotherpy treatments. The side affects which many of us are painfully aware of.

There have been many other cases of persons in our family being healed of illnesses and disorders through the means of Naturopathy. I guess the main point to Naturopathy has opened a door for all of us to experiance that we have the power to be healthy,

happy human beings.

That the Attorney General can so easily deny us of these services is a direct depriyation of our God-given and constitutional rights. Any tampering with or 'watering down' of House Bill 347 is also a denial of our rights. And the fact that a bill licensing Natropaths has not been given proper and adequate consideration in the past and is still being further delayed is an insult and affront to our rights, causing one to wonder as to the true nature of the citizens representation in our Goverment. We ask the legislature to please listen to the public, the consumer in this matter and, not the fear promoting Medical community.

Thank you,

*Rebekah C. Collins. 1600 Otter St., Anchorage, AK. 99504

Mary E. Collins 1600 Otter St. Anchorage, AK. 99504

Norma Carter 1600 Otter St. Anchorage, AK. 99504

Rolando E. Rivas 2500 Glenn Hwy Sp. 27
Anch. Ak 99504

Shirley A. Collins 1600 otter, Anch, Ak 99504

OREGON LAW
Relating to Naturopathic Medicine

The practice of naturopathic medicine was first recognized in Oregon law in 1927 and by the United States Congress in 1931.

Oregon Revised Statutes, Chapter 685 (revised 1977), 685.101—685.990, provides the licensing authority for Naturopathic Physicians in the state of Oregon:

Chapter 685

Naturopaths

GENERAL PROVISIONS

685.010 Definitions
685.020 Licensee required to practice naturopathy; title and abbreviations usable by licentiates
685.030 Application of chapter
685.040 Application of health laws
685.050 Execution of birth and death certificates

LICENSING

685.060 Minimum educational requirements for license
685.070 Aplication for examination; license fee
685.080 Examination of applicants; issuing license
685.085 Reciprocal license
685.090 Recording license with county clerk
685.100 Annual renewal of license
685.102 Continuing education course required; exemptions
685.104 Effect of failure to comply with ORS 685.102; reissuance of registration
685.106 Approval of continuing education programs
685.110 Denial or revocation of license by board
685.125 License denial or revocation procedure; promulgation and review of rules and orders.

STATE BOARD

685.160 Naturopathic Board of Examiners; appointment; confirmation
685.170 Officers of board
685.190 Compensation and expenses of board members; compensation of secretary
685.201 Disposition of receipts

ENFORCEMENT

685.210 Enforcement; employing attorney; jurisdiction

PENALTIES

685.990 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183
Health certificate, signature by physician licensed by Board of Medical Examiners only, 433.010
Legislative review of need for agency, 182.615
Military or naval service persons relieved from payment of fees, 408.450
Naturopaths exempt from jury duty, 10.040
Physician-patient privileged communications, 44.040
Professional corporations, Ch. 58

685.020

Professional designation of licensed naturopath, 676.110

Use of professional designation by unlicensed person prohibited, 676.120

685.050

Falsification of health certificate prohibited, 106.990

685.060

Waiver of educational requirement for admission to examination, 670.010

685.110

Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280

Injunction against practicing after suspension or revocation of license, 676.220

685.160

Administrative agencies generally, Ch. 182

Assistant Director for Health as ex officio member of board, 184.835

685.190

Subsistence and mileage allowance for travel, 292.210 to 292.250

685.201

Expenditures without allotment prohibited in certain cases, 291.238

685.210

Attorney General to supervise all legal proceedings for state agencies, 180.220, 180.230

Note: Section 41, chapter 842, Oregon Laws 1977, is operative July 1, 1986, and provides:

Sec. 41. ORS 685.010, 685.020, 685,030, 685.040, 685,050, 685.060, 685.070, 685.080, 685.085, 685.090, 685.100, 685.102, 685.104, 685.106, 685.110, 685.125, 685.160, 685.170, 685.190, 685.201, 685.210 and 685.990 relating to naturopaths are repealed.

GENERAL PROVISIONS

685.010 Definitions. As used in this chapter.

(1) "Board"means the Naturopathic Board of Examiners.

(2) "Drugs" means all medicines and preparations and all substances, except non-poisonous plant substances, food and water, used or intended to be used for the diagnosis, cure, treatment, mitigation or prevention of diseases or abnormalities of man, which are recognized in the latest editions of the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia, official National Formulary, or any supplement to any of them, or otherwise established as drugs.

(3) "Minor surgery" means the use of electrical or other methods for the surgical repair and care incident thereto of supperficial lacerations and abrasions, benign superficial lesions, and the removal of foreign bodies located in the superficial structures; and the use of antiseptics and local anesthetics in connection therewith.

(4) "Naturopathy," which includes physiotherapy and minor surgery, is defined as a system of treating the human body by use of drugless methods, which has for its object the maintaining of the body in, or of restoring it to, a state of normal health.
[Amended by 1953 c.557 §4]

685.020 License required to practice naturopathy; title and abbreviations usable by licentiates. (1) No person shall practice, attempt to practice, or claim to practice naturopathy in this state without first complying with the provisions of this chapter.

(2) Licentiates under this chapter may use any or all of the following terms: "Doctor of Naturopathy" or its abbreviation, "N.D.," "Naturopath" or "Naturopathic Physician." However, none of these terms, or any combination of them, shall be so used as to convey the idea that the physician who uses them practices anything other than drugless therapy.

685.030 Application of chapter. Nothing in this chapter shall be construed to:

(1) Apply to any physician and surgeon, osteopath or chiropractor, or to any Christian Scientist or other person who by religious or

spiritual means endeavors to prevent or cure disease or suffering in accord with the tenets of any church.

(2) Authorize licentiates to practice optometry or administer chiropractic adjustments, or any system or method of treatment not authorized in this chapter, or to administer or write prescriptions for or dispense drugs, or do major surgery.

(3) Prevent one licensed under this chapter from the administration of the anesthetics or antiseptics authorized in subsection (3) of ORS 685.010 or the use of radiopaque substances administered by mouth or rectum necessary for Roentgen diagnostic purposes.

(4) Authorize the administration of any substance by the penetration of the skin or mucous membrane of the human body for a therapeutic purpose.

[Amended by 1953 c.557 §4]

685.040 Application of health laws. Licentiates under this chapter shall observe and are subject to all state, county and municipal laws and regulations relating to public health.

685.050 Execution of birth and death certificates. Licentiates under this chapter are authorized to sign birth and death certificates. Such certificates so signed shall be accepted as fulfilling all the requirements of the laws dealing with such certificates.

LICENSING

685.060 Minimum educational requirements for license. (1) The minimum educational requirements for license under the provisions of this chapter shall be:

(a) A high school education, as shown by diploma or certificate of graduation from a standard high school, or the equivalent of such an education, which shall be certified by a Superintendent of Public Instruction; and

(b) At least two years' satisfactory liberal arts and sciences study, or either, in a college or university accredited by either the Northwest Association of Secondary and Higher Schools or a like regional association or in a college or university in Oregon approved for granting degrees by the Oregon State Board of Education as evidenced by certificate or transcript of credits from the college or university; and

(c) Graduation from a naturopathic school or college approved by the State Board of Naturopathic Examiners and which requires for graduation a period of actual attendance of four years of at least nine months each, and teaching adequate courses in all subjects necessary to the practice of naturopathy.

(2) The studies required of the applicant for a license to practice naturopathy in this state shall include anatomy, histology, embryology, physiology, chemistry, pathology, bacteriology, public health and hygiene, toxicology, obstetrics and gynecology, diagnosis, theory, practice and philosophy of naturopathy, electrotherapy, hydrotherapy, physiotherapy, clinics, eye-ear-nose-throat, minor surgery, first aid, herbology, proctology, dietetics, jurisprudence, and such other naturopathic subjects as the board may require, except materia medica, pharmacology and major surgery, with a total of not less than 4,000 lecture or recitation hours.

[Amended by 1953 c.557 §4, 1969 c.381 §5]

685.070 Application for examination; license fee. Any person who wishes to practice naturopathy in this state shall make application to the board for an examination for a license to practice naturopathy. The application shall be filed with the board not less than 10 days before the date of the examination upon blanks provided by the board. All persons licensed under this chapter shall pay to the board a license fee of $25, $10 of which must accompany the application for examination. The balance shall be paid when the applicant has been granted a license. Under no condition will the application fee of $10 be returned to the applicant. Affidavits of two reputable citizens of the state attesting the good moral character of the applicant shall be filed with the application for examination.

685.080 Examination of applicants; issuing license. (1) For the purpose of determining the qualifications of applicants for license under this

chapter, the board shall hold meetings and conduct examinations of applicants for licenses at such time and places and under such rules and regulations as a majority of the board may determine. The time and place of holding such an examination shall be published at least 30 days prior to the date of the examination.

(2) At the time and place the board has previously designated, the applicant shall appear before the board to be examined as to his fitness to practice naturopathy. The examination shall be in writing and embrace and be restricted to the subjects listed in ORS 685.060.

(3) If the applicant answers correctly 75 percent of the questions asked on each of the subjects of the examination, the board shall issue to such applicant a license to practice naturopathy. If however, an applicant fails to pass an examination, the applicant shall, without losing credits for subjects passed and without paying another fee, be permitted, within one year from date of failure to pass, to take another examination at the convenience of the board, but the applicant shall, not less than 10 days before the date of the examination, notify the board of his intention to take the examination.

685.085 Reciprocal license. A person licensed to practice naturopathy under the laws of another state who demonstrates to the satisfaction of the board that he possesses qualifications at least equal to those required of persons eligible for licensing under this chapter, may be issued a license to practice in this state without written examination upon payment of the license fee required under ORS 685.100.
[1973 c.469 §2]

685.090 Recording license with county clerk. Before engaging in practice in any part of the state, the holder of a license under this chapter shall present such a license, or a certified copy, for record to the county clerk of the county in which the holder of the license resides. A county clerk is entitled to collect a fee of $ for recording the license or for making a certified copy of it. Annually, on January 1, county clerks shall, when requested by the board, furnish the board with a list of such licenses on record in their respective counties.

685.100 Annual renewal of license. (1) On or before January 1 of each year, every person holding a license under this chapter shall apply to the board for a certificate of annual registration and at the time of applying shall pay to the board an annual registration fee not to exceed $75, as determined by the board and approved by the Executive Department. A person holding a license under this chapter who is at least 70 years of age and retired from the practice of naturopathy shall apply to the board for a certificate of annual registration and at the time of applying shall pay to the board an annual registration fee not to exceed $30, as determined by the board and approved by the Executive Department. The application shall be made upon a blank form furnished by the board, and shall contain such information as may be necessary to enable the board to identify the applicant for registration and the licensee to be what he claims to be in the application.

(2) Upon receipt of an application for annual registration, accompanied by the annual registration fee, the board shall issue to the applicant a certificate of annual registration. The certificate shall, at all times, be displayed in the office of the person to whom it was issued unless the person is retired from the practice of naturopathy and does not maintain an office.

(3) The failure, neglect or refusal of any person holding a license under this chapter, to pay the annual registration fee as required by subsection (1) of this section shall, after 30 days from January 1 of each year, automatically revoke his license. A revoked license shall not be restored except upon written application therefor and the payment of a restoration fee of $25 for each year the license remains revoked, which is in addition to the annual registration fee for each year the registration fee remains unpaid. An applicant for the restoration of a license so revoked shall not be required to submit to any examination as to his qualification to practice under this chapter. However, the board may deny the restoration of any license for which the required registration fees have not been paid during the years for which they are due if it finds that grounds for refusal to grant or for revocation of the license exist under ORS 685.110.

(4) On or before December 1 of each year the secretary of the board shall notify each person holding a license under this chapter that the annual registration application and fee are due on or before January 1 following.

[Amended by 1967 c.44 §2; 1969 c.26 §2; 1969 c.381 §6; 1973 c.182 §5]

685.102 Continuing education course required; exemptions. (1) Except as provided in subsection (2) of this section, each person holding a license under this chapter shall submit at the time he submits the annual registration fee, evidence satisfactory to the board of his successful completion of an approved program of continuing education in naturopathy, completed in the calendar year preceding the date on which the evidence is submitted.

(2) The board may exempt any person holding a license under this chapter from the requirements of subsection (1) of this section upon an application by him showing evidence satisfactory to the board that he is unable to comply with the requirements because of physical or mental condition or because of other unusual or extenuating circumstances. However, no person shall be exempted from the requirements of subsection (1) of this section more than once in any five-year period.

(3) Notwithstanding subsection (2) of this section, a person holding a license under this chapter may be exempted from the requirements of subsection (1) of this section upon an application by him showing evidence satisfactory to the board that he is or will be in the next calendar year at least 70 years of age and is retired or will retire in the next calendar year from the practice of naturopathy.

(4) A person who is exempted from the requirements of subsection (1) of this section shall not practice naturopathy. A violation of this subsection is grounds for suspension or revocation of the license of the person granted the exemption by the board.

[1969 c.381 §2; 1973 c.829 §67]

685.104 Effect of failure to comply with ORS 685.102; reissuance of registration. (1) The board shall refuse to issue the certificate of annual registration to any person holding a license under this chapter who fails to submit with his annual registration fee proof required under ORS 685.102, unless it has exempted the person from the requirements of subsection (1) of ORS 685.102. The board shall return the annual registration fee to the person.

(2) After January 1 of any year, the board may issue a certificate of annual registration to any holder of a license under this chapter who had been refused such certificate under subsection (1) of this section upon submission of the evidence required under subsection fees for each year the registration fee remains unpaid and a restoration fee of $25 for each year the license remains revoked.

(3) If the person completes an approved program after January 1 to meet the requirementof ORS 685.102 for the year beginning January 1, such completion does not meet the requirements of ORS 685.102 for the subsequent year.

[1969 c.381 §3; 1973 c.182 §6]

685.106 Approval of continuing education programs. (1) The board may offer a program of continuing education in naturopathy to meet the requirements of ORS 685.102. The board may also approve a program to be presented by persons reasonably qualified to do so.

(2) Any person seeking approval of a program of continuing education in naturopathy, to be offered to assist persons holding licenses under this chapter to comply with the requirements of subsection (1) of ORS 685.102, shall submit to the board, at such time as the board may require, copies of courses of study to be offered and proof of such other qualifications as the board may require. Approval granted to any program of continuing education shall be reviewed periodically and approval may be withdrawn from any program that fails to meet the requirements of the board.

(3) Any program of continuing education in naturopathy offered or approved under this section shall consist of at least 20 hours of study covering new, review, experimental, research and specialty subjects in the field of naturopathy.

[1969 c.381 §4]

685.110 Denial or revocation of license by board. The board may refuse to grant or may suspend or revoke a license to practice naturopathy in this state for any of the following reasons:

(1) The use of fraud or deception in securing a license.

(2) The impersonation of another physician.

(3) Practicing naturopathy under an assumed name.

(4) The procuring, aiding or abetting in procuring an abortion; provided, that for the purpose of this subsection an abortion means the removal from the womb of a woman the product of conception at any time prior to delivery of the child; provided further, that nothing in this chapter shall be construed to authorize any licentiate under this chapter to perform an abortion.

(5) The conviction of a crime involving moral turpitude.

(6) Any other reason that renders the applicant or licentiate unfit to perform the duties of a naturopathic physician.

[Amended by 1953 c.555 §2, 1971 c.734 §132]

685.120 [Repealed by 1971 c.734 §21]

685.125 License denial or revocation procedure; promulgation and review of rules and orders. (1) Where the board proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided in ORS 183.310 to 183.500.

[1971 c.734 §134]

STATE BOARD

685.160 Naturopathic Board of Examiners; appointment; confirmation. (1) There hereby is created the Naturopathic Board of Examiners in the Health Division. The board shall consist of three members appointed by the Governor for terms of three years commencing July 1, and until their successors are appointed and qualified. A majority of the members of the board constitutes a quorum. The Governor shall fill all vacancies in the membership of the board. All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570. No person shall be appointed to membership on the board, who is not a citizen of the State of Oregon, or who has not been in continuous practice of naturopathy in this state for five years immediately prior to the date of appointment, or who is interested financially in any medical or drugless school or college, or who is connected, directly or indirectly, with the dispensing, prescribing or sale of pharmaceutic drugs.

(2) The board shall carry into effect the provisions of this chapter and is authorized to issue licenses to practice naturopathy in this state. The possession of a common seal by the board hereby is authorized.

[Amended by 1971 c.650 §34, 1973 c.792 §40]

685.170 Officers of board. Annually the board shall elect one of its members president and one of its members secretary, who severally shall have power during their terms of office to summon witnesses, administer oaths and to take testimony and affidavits, certifying thereto, under their hand and the seal of the board. The secretary of the board shall keep a record of all actions of the board, including a detailed register of applicants for license. The board in lieu of electing one of its members as secretary, may employ or appoint a person to act as secretary to the board who shall perform such duties and functions as may be prescribed by the board.

[Amended by 1973 c.829 §68]

685.180 [Repealed by 1973 c.829 §71]

685.190 Compensation and expenses of board members; compensation of secretary. (1) A member is entitled to compensation and expenses as provided in ORS 292.495.

(2) The board may fix the compensation of the secretary subject to ORS 240.245. Such compensation shall not prohibit the secretary from receiving reimbursement for actual and necessary travel and other expenses incurred in the performance of his official duties.

[Amended by 1967 c.44 §3, 1969 c.314 §86]

685.200 [Amended by 1967 c.637 §32, repealed by 1973 c.427 §28 (685.201 enacted in lieu of 685.200)]

685.201 Disposition of receipts. All moneys received by the Health Division under this chapter shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of this chapter.

[1973 c.427 §25 (enacted in lieu of 685.200)]

ENFORCEMENT

685.210 Enforcement; employing attorney; jurisdiction. (1) The district attorneys of the state shall prosecute all persons charged with violation of any of the provisions of this chapter. However, the board shall have power to retain its own attorney to prosecute or assist in prosecuting any person so charged and to pay such attorney such sums as may be just for such services from the Naturopathic Fund.

(2) Justice courts, municipal courts and circuit courts have concurrent jurisdiction for the prosecution of offenses under this chapter.

PENALTIES

685.990 Penalties. Violation of any provision of this chapter is punishable, upon conviction, by a fine of not less than $50 nor more than $500.



December 28,1983

Dear Legislator:

As a long term Alaska resident and a third year student at Naturopathic Medical School I wish to encourage you to support Hb 347 in any way possible to facilitate its prompt passage.

Naturopathy is a distinct branch of medical practice in which doctors learn all current medical theory and technique and vary only in the emphasis and interpretation of the causes of susceptibility to disease and the best methods of treating it. A primary emphasis is placed on maintaining health and proper immunocompetency rather than waiting until drastic measures are required.

The bill as written provides for the right of Naturopaths to practice fully within the scope of our training, which is essential if the patient is to be guaranteed their right tochoose their mode of health care. One shortcoming of the bill as written is that injection of vitamins and other natural substances is not listed under the scope of practice. Such injections are extremely useful in a naturopathic practice.

In closing I would like to say that I fully support the passage of this bill and hope that you will as well. I further hope that you will not permit the bill to be watered down or restricted due to pressure from groups who would hope to limit the freedom of choice in medical care for Alaskan residents.

Thank you for your time and attention to this matter.

Sincerely

Paul Reilly

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Ester Alaska 99725

temp address at school
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Fischer

NORTHLAND CLINIC
1500 AIRPORT WAY
FAIRBANKS, ALASKA 99701

Telephone 452-2041

D. E. HAMPTON, DC APC
Clinic Director

February 5, 1984

Representative Niilo Kopenen
Pouch V
Juneau, Alaska 99811

Re: Your letter January 30th
HB 347

Dear Niilo:

Thank you for informing me on the above bill relating to licensure of Naturopathic Physicians. I am presently licensed in the states of Oregon, Washington and Utah as a Naturopathic Physician and in the states of Oregon and Washington a Naturopathic Physician is licensed to practice Obstetrics and Minor Surgery.

To answer your questions:

1. The patients of a physician of an unlicensed Healing Art would not be reimbursed for medical services that they have paid and consequently they would suffer a hardship. The unlicensed doctor would also have more difficulty seeking financing to build or enlarge a clinic for the practice of Naturopathic medicine and his patients would not be covered under Medicare.

2. I feel this is in conflict in the basic bill presented by the Department of Commerce and the bill by Martin, et al. I feel that minor surgery, which is taught in Naturopathic schools of Medicine, should be a part of the bill.

3. Besides the doctors that you mentioned in your letter I know of three other Naturopathic Physicians in Alaska. They are: Frank G. Spaulding of Fairbanks, Dr. Donald L. Hammond of Juneau and myself. The three of us have also been members of the faculty of the National College of Naturopathic Medicine which is located in Portland, Oregon.

4 The fees in Sec. 08.45.150 are not realistic and I feel that the application for examination fee should be $250 and the annual renewal fee $400. I remember when other professional groups were licensed their fees did not cover the total

cost of Board administration and that it appears that the cost of $50,000 a year is excessive.

5. Naturopathic Medicine is a distinct and separate profession and like the other professions there is an overlapping of skills and areas of practice. A Dentist may use a local anesthetic in his practice and an Osteopath, Medical Doctor and a Naturopathic Physician may also use a local anesthetic in their practice of Obstetrics. Similarly all three may prescribe exercise and diets.

I appreciate the opportunity to be of assistance and if I can be or any further assistance please let me know.

Sincerely,

Dr. D. E. Hampton, D.C., N.D.

mj

STATE OF ALASKA
THE LEGISLATURE

POUCH V - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 16, 1984

SUBJECT: Regulation of Naturopaths
(CSHB 347 (HESS))

TO: Representative Niilo Koponen

FROM: Tamara Brandt Cook
Deputy Director
Division of Legal Services

TBC

Here is a draft of CSHB 347 (HESS) incorporating the changes that you requested, with one exception. Under Section 08.45.160(b)(2) you asked me to add "drugs" to the prohibition against the use of controlled substances and this I was not able to do in a way that would lead to a sensible or desirable result.

Under this draft that paragraph prohibits a naturopath from prescribing or using ". . .controlled substances as defined in AS 11.81.900(b)(6). . . ." The referenced section in turn refers to another section, AS 11.71.900(4) that includes drugs within the definition of controlled substances:

> "controlled substance" means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140 - 11.71.190;" (Emphasis added)

By using the term "controlled substance" in this draft, drugs of a type that are regulated under state law have been included, from those deemed most dangerous (schedule IA drugs) to those deemed least dangerous (schedule VIA drugs). In view of the very comprehensive definition of controlled substance, I fear that adding the word "drugs" to the prohibition would have the result of precluding the use by a naturopath of many items available to every other person without a prescription, like aspirin or common over-the-counter cold remedies.

For you information I am including a copy of all of the types of drugs that are controlled substances and, consequently, already covered by this draft. If I can be of further assistance, please let me know.

TBC:ojb
J3/103 Enclosure

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

M E M O R A N D U M March 5, 1984

SUBJECT: Naturopaths
(CSHB 347(HESS) and CSHB 347 (L&C))

TO: Representative John Cowdery
Chairman, House Labor and Commerce

FROM: Tamara Brandt Cook TBC
Deputy Director
Division of Legal Services

You have asked for a comparison between CSHB 347(HESS) and a draft CSHB 347(L&C) dated 2/29/84, both dealing with the licensing of naturopaths. A major difference between the two versions is that the draft provides for the creation of a Board of Naturopathic Examiners. After the first eight licenses are issued, the board will take over the duties of the Department of Commerce and Economic Development relating to the regulation of naturopaths. (See Sec. 08.45.040 of the draft.) Provision is made for appointment of members of the board and term of office under Sec. 08.45.010 and 08.45.030. Under *Sec. 4, some of the first members are appointed for shorter terms than generally provided for, so that the offices will become vacant at staggered intervals. Under the HESS CS the department regulates naturopathy and that version contains none of the provisions mentioned above relating to a regulatory board for that occupation.

Additional differences between the two versions follow by underlined section numbers that refer to CSHB 347(HESS). The appropriate section number from the draft version is supplied in parenthesis for your convenience if it differs from the underlined section number.

* Sec. 1. Regulation of naturopathy is added to the list of occupations subject to the general provisions of AS 08.01. Essentially the same provision is contained in the draft. (* Sec. 1)

Sec. 08.45.010. General duties of the department relating to the regulation of naturopathy are set out. The draft does not contain (4) dealing with temporary permits, however, that subject is dealt with elsewhere in the draft. The draft contains additional material in (b) authorizing the department to establish educational requirements that are additional to the requirements set out by statute and to identify schools that provide courses of study that satisfy the requirements. (Sec. 08.45.090.)

Sec. 08.45.100 Similar in both versions.

Sec. 08.45.110 The education requirements under the HESS CS are completion of high school, two years of postsecondary education, and graduation from a legally chartered school of naturopathic medicine with a course of instruction that includes particular itemized subjects. The draft requires a bachelor's degree, and graduation from a school of naturopathy approved by the department, with no itemized subjects set out. Both versions require 4,000 hours of study and certain clinical experience. A requirement for licensure that is in the HESS CS but no in the draft is that the person be of good moral character. A requirement that is in the draft but not in the HESS CS is that the person complete a one-year internship.

Sec. 08.45.120 The HESS CS limits the examination to the subjects of study previously itemized in the bill. The draft authorizes an applicant who fails the examination to be re-examined. With the exception of these items, the provision is similar in both versions.

Sec. 08.45.130 The HESS CS allows the department to license a person who is currently licensed in another state or in Canada if the jurisdiction maintains licensing standards equivalent or higher than those in this bill and extends the same licensing privilege to Alaskans. The person must demonstrate qualifications at least equal to those required of persons licensed under this bill. The draft authorized the department to issue a temporary permit to a person under the same circumstances. The permit is valid until the next examination is given. The draft also authorizes the department to issue a temporary permit to an intern that is valid for one year.

Sec. 08.45.140 The HESS CS provides reasons for the denial, suspension or revocation of a license. The draft provides

reasons for disciplinary sanctions that are modeled on similar provisions applicable to other medical occupations. (Sec. 08.45.210)

Sec. 08.45.150 Similar in both versions.

Sec. 08.45.160 Material contained on (a)(1), (4), and (5) of the HESS CS does not appear in the draft. There are some additional minor differences between the two versions.

Sec. 08.45.170 The HESS CS authorizes the department to prescribe continuing education requirements and the draft requires the department to do so.

Sec. 08.45.200 Similar in both versions.

Sec. 08.45.205 Similar in both versions, although fraudulently obtaining or furnishing a license or record is specifically dealt with in the HESS CS and not in the draft. (Sec. 08.45.220)

Sec. 08.45.220 Minor differences in the definition of "naturopathy". (Sec. 08.45.900)

* Sec. 3 The HESS CS requires the commissioner of commerce and economic development to license persons who have not been examined, but meet the other requirements for licensure on the effective date of this Act and who apply for a license by June 30, 1985. The draft requires the commissioner to issue a temporary permit under similar circumstances and the permit is valid only until the first examination is offered.

* Sec. 4 The HESS CS takes effect July 1, 1984. The draft takes effect January 1, 1985.

TBC:ojb
J4/039

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, HESS Committee Staff
DATE: February 10, 1984

RE: Comparison of proposed CSHB 347 (HESS) and HB 347

For your information, I have compared the proposed HESS Committee Substitute for House Bill 347, "[a]n Act relating to the licensing of practitioners of naturopathic medicine; and providing for an effective date," to the bill as originally introduced.

Section 1 of the proposed HESS Committee Substitute is unchanged from the original bill.

Section 2 of the proposed HESS Committee Substitute changes three provisions of the original bill:

Page 2, line 12, inserted "of which at least 1,500 hours is clinical experience." The effect of this amendment is the addition of a requirement that, of the 4,000 hours of approved training required to be a licensed naturopath, at least 1,500 hours must be clinical training.

Page 4, lines 19 - 22, deleted fee schedule amounts contained in original bill (indicated in brackets below) and inserted new amounts (underscored below):

(1) application for examination.....$ 50 [25]
(2) application for reexamination..... 10 [10]
(3) license issuance or biennial renewal.. 200 [100]
(4) issuance of temporary permit..... 50 [25]

The effect of this amendment is the provision of additional means to cope with any anticipated fiscal impact. This amendment would also ostensibly reduce misuse of the licensing system by requiring greater financial investment.

Page 4, line 29, inserted "under AS 08.45.110 (3)" after the words "physician has been trained." The effect of this amendment is to add further clarification of the authorization to use diagnostic

methods as it relates to appropriate preparatory training. AS 08.45.110 (3) is the new section created in CSHB 347 (HESS) outlining training requirements.

Section 3 of the proposed HESS Committee Substitute is unchanged from the original bill.

Section 4 of the proposed HESS Committee Substitute changes the effective date of the bill from July 1, 1983, to July 1, 1984.

/wtl

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 28, 1984

REQUEST
Bill/Resolution No.: CS HB 347(L&C)
Title: "An Act relating to the licensing of Naturopaths"
Sponsor: Labor & Commerce Comm.
Requestor: Labor & Commerce Comm.
Date of Request: March 28, 1984

FISCAL DETAIL
Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	0	31.7	33.3	35.0	36.7	38.6
200 TRAVEL	0	7.8	8.2	8.6	9.1	9.5
300 CONTRACTUAL	0	5.7	6.0	6.3	6.6	7.0
400 SUPPLIES	0	.5	.5	.6	.6	.6
500 EQUIPMENT	0	4.4	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	0	4.1	4.3	4.5	4.7	4.9
700 GRANTS, CLAIMS	0	-0-	-0-	-0-	-0-	-0-
800 MISCELLANEOUS	0	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	0	54.2	52.3	55.0	57.7	60.6
CAPITAL	0	0	0	0	0	0
REVENUE	0	1.2	1/5	1.7	2.0	2.2

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	54.2	52.3	55.0	57.7	60.6
FEDERAL FUNDS						
OTHER						
TOTAL	0	54.2	52.3	55.0	57.8	60.6

POSITIONS:

FULL-TIME	0	1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

NOT IDENTIFIED BY THE SPONSOR

ANALYSIS: Attach a separate page for analysis SEE ATTACHED

Prepared By: Darrell Miller Phone: 465-2535
Division: Occupational Licensing Date: 3/28/84

Approved by Commissioner: Richard A. Lyon Date: 3/31/84
Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL ANALYSIS

CS HB 347

Assumptions:

This bill creates a new five member board. This will impose a fiscal impact on operating expenses for board travel and for additional support staff that will be required to implement the provisions of the bill.

Support staff travel will be required to attend the board meetings to administer examinations, assist the board in conducting board meetings, and assist the board in developing regulations to implement the provisions of the bill.

The bill does provide fees for application for examination and for license issuance. It is anticipated that in FY '85 a total of 5 persons would be licensed under the provisions of this bill for a total revenue of $1,250.00. It is anticipated that one additional person would be licensed under this bill each suceeding fiscal year thereafter.

The revenue generated from the licensing provisions of this bill would be minimal and would not off-set the operating costs of the board and support staff functions.

The bill is silent on the number of meetings the board shall conduct each year, however the bill does specify that the board shall conduct examinations for licensing of naturopath at least twice each year. It is anticipated that the board would hold two such board meetings in order to meet this mandatory examination criteria.

The bill is silent on the issue of geographic area of residence for the five board members to be appointed. In the absence of specific guidelines, it is anticipated that two of the members would be appointed from the Interior Region, one from South Eastern Region and two from the South Central Region.

Based on this anticipation, and the unknown factors of where the board would want to hold the two annual meetings, the fiscal note was prepared with a single figure for transportation and perdiem. If meetings are rotated around the state, as most boards do, the cost factor would even out enentually.

CS HOUSE BILL NO. 347

100 PERSONAL SERVICES: (FY '84 salary schedule with a 5% inflation factor projected)

1 License Examiner, Range 12A, General Goverment, 12 months, located in Juneau	$31,721.83

200 TRAVEL: (Estimated Costs)

2 Support Staff to Board:		
Transportation:	2 board meetings each @ $400.00 per trip	$1,600.00
Per Diem:	2 board meetings each - 2 days each meeting @ $80.00 per day = 2 x $80.00 x 2 staff x 2 meetings	640.00
5 Board members:		
Transportation:	2 board meetings @ $400.00 each x 5 board members	4,000.00
Per Diem:	2 board meetings each - 2 days each meeting @ $80.00 per day = 2 x $80.00 x 5 board members x 2 meetings	1,600.00
Total Travel Costs:		$7,840.00

300 CONTRACTUAL: (Estimated Costs)

Postage, telephone, printing, publication and other operating costs	$4,500.00
Professional Examination Service fees for licensing examinations: (Estimated 5 licenses issued by examination in FY '85 @ $125.00 each)	625.00
Meeting rooms for board meetings: 2 meetings 2 days each @ $150.00 per day	600.00
Total Contractual Costs:	$5,725.00

400 COMMODITIES: (Estimated costs)

Stationery, typewriter ribbons, pens, pencils, tablets and other miscellaneous desk top supplies	$ 500.00

500 EQUIPMENT: (One time cost - FY '85 only)

1 desk, double pedestal, 60" x 30" @ $568.22 each	$ 568.22
1 chair, swivel with arms @ $225.42 each	225.42
1 typewriter, IBM correcting selectric with dual pitch, 15.5 inch paper capacity @ $1,369.36 each	1,369.36
1 chair, side, without arms, contour style @ $114.60 each	114.60
1 calculator, desk, printing and display, 12 digit, @ $364.66 each	364.66
1 recording machine, portable, Lanier @ $775.87 each	775.87
1 file cabinet, 5 drawer, legal with lock @ $406.91 each	406.91
1 storage cabinet, 36" x 18" x 78" @ $192.44 each	192.44
1 table, 72" x 36" @ $340.36 each	340.36
Total Equipment Cost:	$4,357.84

600 LAND & STRUCTURES: (Estimated Costs)

Office Space:

1 License Examiner: 150 square feet @ $2.25 per foot per month x 12 months	$4,050.00
TOTAL OPERATING COSTS:	$54,194.67

	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
1.	License Examiner I				12A	GGU				
	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
2.	PFT	12				AWA	ALL			
3.	CONTINUATION LEVEL		ADDITION							

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	23.6	
6.	Benefits	3.9	
7.	Supplemental Benefits	1.5	
8.	Fixed Benefits	2.7	
9.	TOTAL PERSONAL SERVICES 01		31.7
10.	Travel 02		7.8
11.	Contractual 03		5.7
12.	Commodities 04		.5
13.	Equipment 05		4.4
14.	Other - Land & Structures		4.1
15.	TOTAL COST		54.2

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	54.2
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This position would be required under CS HB NO. 347 "An Act relating to the licensing of Naturopaths and providing for an effective date", to implement the provisions of AS 08.45, to provide necessary support to the Board of Naturopathic Examiners in the organization of the board, initial licensing of applicants, establishing license files, computer entry of license data, conducting board meet[illegible] (providing administrative support for such meetings), [illegible]nications with other professional boards, communications with other States with similiar statutes in regards to licensing, providing budget input to the Division as to board needs for funding, and any other duty as required.

13 REQUEST FOR NEW POSITION

AGENCY Commerce & Economic Development

PROGRAM Public Protection

BRU Occupational Licensing

COMPONENT Administration

Revised Date 3/28/84

FY 84

01-1136 (7/82) - 13

Clinic of Natural Medicine

Patton D. Pettijohn, N.D.
Naturopathic Physician

Oct. 8,1982

Dear Candidate:

I am polling all the legislative candidates reguarding their personal views towards licensing practitioners of naturopathic healing.

Licensing procedures for naturopathic physicians would insure the rights of many Alaskans to choose for themselves, because of preference, what type of health care service they use. This legislation would also serve to protect the public interest by making sure that those who practice as naturopaths in Alaska are qualified to do so.

Enclosed, are both a pamphlet concerning our education and a copy of a sample legislation that was introduced last legislative session.

I would appreciate a response to the following questions:

1.) Would you support legislation similar to Senate Bill 274 which would insure Alaskans the right to use naturopathic services if it is their desire to do so?

2.) Would you be willing to co-sponser legislation similar to Senate Bill 274?

Many of my patients and other interested Alaskans are interested in knowing which of the candidates would support such legislation. I feel using nutrition against disease is gaining substantial scientific and public support and the many possible side effects of drugs has oriented many people to a more natural health care approach.

Please feel free to contact me if you have any questions reguarding naturopathic medicine.

Sincerely,

Patton Pettijohn N.D.

Patton D. Pettijohn N.D.

505 West Northern Lights Blvd., Suite 104 • Anchorage, Alaska 99503 • Phone (907) 276-5077

FILE
HB 347

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
Title: relating to licensing practitioners of naturopathic medicine.	Title: Same.	Title: changed to read: "An Act relating to the licensing of naturopaths"	Same as L&C CS.	Same as L&C CS.
Section 1: adds regulation of naturopathy or naturopathic medicine to AS 08.45	Section 1: Same.	Section 1: changed to "regulation of naturopaths" (rather than regulation of naturopathy or naturopathic medicine).	Same as L&C CS.	Same as L&C CS.
Section 2: Creates a new Chapter 45, "Naturopaths".	Section 2: Chapter title remains the same.	Section 2: Chapter title remains unchanged.	Section 2: Chapter title remains unchanged.	Section 2: Chapter title remains unchanged.

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
Article 1: "Regulation of Naturopathy" This section details the duties and powers of the department to evaluate qualifications of applicants for licenses; conduct hearings; license naturopaths and renew licenses; and provide for temporary permits to persons apparently qualified to practice until certification of the results of the next examination.	Article 1: Remains the same.	Article 1: Entirely new Article 1, entitled "Board of Naturopathic Examiners". (The previous subject of this chapter, "Regulation of Naturopathy", is moved to Article 2.) 08.45.010: creates a Board of Naturopathic Examiners consisting of three licensed naturopaths, one doctor and one public member. 08.45.030: states that members shall serve staggered three-year terms, and that a member may be appointed to no more than two consecutive full terms. 08.45.040: these new sections (08.45.010-040) will come into effect after the first eight licenses are issued under this chapter, after which the board shall exercise the powers and duties of the department under this chapter.	Article 1: Same as L&C CS.	Article 1: Unchanged except for: 08.45.010: same as L&C CS, except that reference is made to three "naturopathic physicians", instead of three naturopaths. Balance of Article 1 is the same as L&C CS.

HB 347 (as introduced)

Article 2:
Licensing of Naturopaths

08.45.100 Requires a person to have a license or permit before being allowed to practice naturopathy or naturopathic medicine.

HB 347 (HESS)

Article 2:
Same.

08.45.100:
same.

HB 347 (L&C)

Article 2:

"Regulation of Naturopathy". Subsections (a)(1)-(3) correspond exactly to previous Article 1, subsections (1)-(3) (which state that the department will evaluate qualifications of applicants, conduct hearings, and license naturopaths and renew licenses).

Subsection (b) states that the department may establish educational requirements for licensure in addition to requirements under AS 08.45.110(2) that are equivalent to or higher than requirements in other states that license naturopaths, and identify schools that provide courses of study that satisfy the requirements.

Deleted from the previous article dealing with regulation is former Article 1, subsection (4), which provided for temporary permits to engage in the practice of naturopathy.

08.45.100: Same, except reference to "naturopathic medicine" is deleted.

HB 347 (Proposed Compromise)

Article 2

Same as L&C CS.

HB 347 (Naturopath Proposal)

New Article 2 (previous Article 2 is now Article 3, see below).

Article 2: Council of Naturopathic Advisors.

Sec. 08.45.050 Creation and Membership of Council: establishes a council of three naturopathic physicians licensed to and actively practicing in the state, to serve without pay.

08.45.060 Term of Office: members will serve staggered 3 year terms. A member may be appointed to no more than 2 consecutive full year terms.

08.45.070 Duties and Purpose: the council will advise the department, and help develop educational standards and criteria, examinations, and other regulations. Council will serve as a peer review board to hear and make recommendations to the department in cases involving naturopaths subject to or considered for disciplinary sanctions.

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
---	---	---	---	New Article 3 corresponds to former Article 2: 08.45.090 is same as L&C CS, except for a new subsection (a)(4), Temporary Permits: persons who meet the requirements for licensure shall be eligible for temporary permits until the results of the next examination given; or persons working as interns supervised by a naturopath who holds a license or permit, shall be given permits until the completion of their 1 year internship if they meet all other requirements for licensure. (b) remains the same as the L&C CS. 08.45.100: Same as L&C CS.

08.45.110 Sets out requirements for eligibility to be licensed, which include: a high school diploma; two years of postsecondary education; graduation from a college of naturopathic medicine which requires for graduation completion of a course of resident instruction of at least nine months actual attendance in each of four years and successful completion of a course of instruction totaling 4,000 hours or more. (The required courses of instruction are set out in the statute.) Requires successful completion of an examination given by the department, not have a license anywhere else that is suspended or revoked; be a citizen or person lawfully admitted to the country; and be of good moral character.	08.45.110: Same, except that under subsection (3), after "completion of a course of instruction totaling 4,000 hours or more", requirement is added: "of which at least 1,500 hours is clinical experience".	08.45.110: Previous subsections (1) and (2) are deleted and replaced by a new subsection (1), which states an applicant shall "hold a bachelor's degree from an accredited college of liberal arts or sciences". Previous (3) is now (2), in which references to "naturopathic medicine" are deleted; the school of naturopathy must be approved by the department; and the list of courses of instruction is deleted. Previous (4) is now (3). Previous (5) is now (4). Previous (6) is now (5). Previous (7) is deleted (be of good moral character). New (6) requires that, upon graduating from a school of naturopathy, a one-year internship with a licensed naturopath must be completed.	08.45.110: Same as L&C CS, except in (2), where the Commission on Postsecondary Education would approve schools of naturopathy, rather than the department.	08.45.110: Same as L&C CS.

08.45.120 Authorizes the department to hold examinations for licensing, which examinations shall be limited to the subjects listed in 08.45.110(3). Exam will be in writing, but may be supplemented by oral examination. Applicant must receive an overall average of 75% and no less than 70% in more than two sections.	08.45.120: Same.	08.45.120: (a) adds that examinations will be held at least twice each year. Deletes sentence limiting examination to the subjects listed in 08.45.110(3). (b) adds that an applicant may apply to be reexamined if the applicant fails the examination.	Same as L&C CS.	08.45.120: Same as L&C CS.

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
08.45.130 This section sets up a reciprocal arrangement; it allows the department to license without examination a person currently licensed in another state or in a province of Canada if the state's or province's licensing standards are equivalent or higher than those in this chapter; the state or province offers reciprocity to those licensed in Alaska; and the person demonstrates satisfactorily to the department qualifications equal to those licensed under this chapter.	08.45.130: Same.	08.45.130: Title is changed from "Endorsement" to "Temporary Permit". A new (a) is created, which encompasses the previous language of this entire section with the following changes: Rather than licensing a person who meets the following qualifications, the department may issue a temporary permit to practice naturopathy. New (1), (1)(a) and (1)(b) correspond to previous introductory language, (1) and (2), with the addition of the word "territory". Previous (3) now appears as (a)(1)(C). A new subsection (a)(2) is added, which reads, "qualifies for a license under AS 08.45.110(1)-(5) and is working as an intern supervised by a naturopath with a license or temporary permit issued under this chapter." A new subsection (b) is added, which says that a temporary permit is valid under the date on which the results of the next examination offered are	Same as L&C CS.	08.45.130: Entirely <u>different</u> section entitled, "Licensure by Credentials": The department may license a person as a naturopath if the person is currently licensed by examination as a naturopath in another state or in a province of Canada and 1) that state or province maintains professional licensing standards equal to or higher than those in this chapter; 2) extends the same licensing privilege to those holding a license in this state; and, 3) the person demonstrates to the department's satisfaction qualifications at least equal to those required of persons licensed under this chapter.

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
		released, and that a temporary permit is valid for one year.		
08.45.140 The department may deny, suspend or revoke the license of a person or applications who: obtains license by fraud or deceit; wilfully violates a provision of the chapter; is an alcoholic; abuses controlled substances; impersonates another physician; practices under an assumed name; or is convicted of a crime involving moral turpitude.	08.45.140: Same.	08.45.140: Title is changed to "License Renewal", and provides that a license expires unless renewed every four years. A section similar to previous 08.45.140 can now be found under 08.45.210.	08.45.140: Same as L&C CS.	08.45.140: Same as L&C CS.
08.45.150 Sets up fees: $25 for examination, $10 for reexamination; $100 for license or biennial renewal; $25 for temporary permit.	08.45.150: fees are changed as follows: examination, $50; license or biennial renewal, $200; temporary permit, $50. The $10 reexamination fee remains the same.	08.45.150: Same as HESS committee substitute.	08.45.150: Same as HESS CS.	08.45.150: Same as L&C CS.

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
08.45.160 Details scope of naturopathic practice. a) A naturopath may: 1) perform physical examinations; write prescriptions for substances authorized; sign birth and death certificates; 2) use systems of diagnosis for which naturopathic physician has been trained; 3) treat patients by physiological, nutritional, psychological, mechanical, electrical, manual, hydrotherapeutic, phytotherapeutic, mineral and organic substances and agencies, including acupuncture; 4) draw blood for laboratory purposes and use electrical and other methods for repair and care of superficial lacerations and abrasions, benign superficial lesions, and removal of foreign bodies located in superficial structures; 5) practice natural childbirth in obstetrics, including related minor surgical procedures.	08.45.160: Remains the same except under subsection (2), where a statute reference is added, so that the section now reads, "use systems of diagnosis for which the naturopathic physician has been trained under AS 08.45.110(3)".	08.45.160: Changes words "naturopathic medicine" to "naturopathy". Deletes previous (1), which allowed naturopaths to perform physical exams, write prescriptions and sign birth and death certificates. Previous (2) is new (1); statute reference is deleted. Previous (3) is new (2); deleted from list of authorized practices is treating patients by psychological and electrical means, or with acupuncture. Previous (4) is deleted (which authorized drawing blood and repairing lacerations and abrasions and removal foreign bodies). Previous (5) is deleted (authorizing practicing natural childbirth in obstetrics, including related minor surgical procedures).	08.45.160: Same as L&C CS, except adds a new subsection (a)(3), which authorizes naturopaths to practice natural childbirth in obstetrics.	08.45.160: Added to the L&C CS are the following provisions: (a)(1): a naturopath may also draw blood for laboratory purposes and use x-ray equipment for diagnostic purposes. (a)(1): add repair and care of superficial lacerations and lesions to scope of naturopath's practice, and delete accupressure.

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
b) Naturopath may not: 1) perform surgery except as provided in this chapter; 2) use controlled substances; 3) use radiation therapy; 4) use drugs except antiseptics, local anesthetics, minerals and extracts, compounds or concentrates obtained from plants or animals.	(b) remains the same.	(b) (1) New language prohibits any surgery; (2) cannot use or prescribe controlled substances; (3) previous subsection banned use of radiation therapy; new language bans use of x-ray equipment, radium or irradiation for diagnosis or therapy. Previous (4) is deleted.	(b) same as L&C CS	Same as L&C CS, except (b)(3): a naturopath may not use x-ray equipment for therapeutic purposes or radiation therapy.
08.45.170 The department may prescribe continuing education requirements. Before a license may be renewed, the licensee shall submit evidence of completion of continuing education requirements to the department. The department may exempt a licensee from the continuing education requirement in extenuating circumstances. No more than one exemption in a five year period.	08.45.170: Same.	08.45.170: Same. Minor language change in subsection (b), which does not change the effect.	08.45.170: Same as L&C CS.	08.45.170: (a) change word "persons" licensed to "physicians" licensed. Balance of this section remains the same as L&C CS.
Article 3. General Provisions	No change in title of Article 3.	No change in title of Article 3.	No change in title of Article 3.	Previous Article 3 is now Article 4 (General Provisions).

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
08.45.200 Titles and Abbreviations: a) authorized titles are: Naturopath, Doctor of Naturopathy, or N.D. May not use a title that suggested a form of medicine or healing art other than naturopathy. b) may not use a title or abbreviation listed herein unless licensed under this chapter.	08.45.200: Same.	08.45.200: Same, except that provisions now apply to those holding permits under this chapter, as well as those licensed under the chapter.	08.45.200: Same as L&C CS.	08.45.200: Same as L&C CS, except that "Naturopathic Physician" is added to the list of authorized titles.
08.45.205 a) Defines as a Class B misdemeanor: fraudulently obtaining a permit, license, renewal or required record; or wilfully violating a provision of law or a regulation. b) Defines as a Class A misdemeanor practicing naturopathy or naturopathic medicine without a permit or license.	08.45.205: Same.	08.45.205 is deleted; similar provisions now appear at 08.45.220.	----------	----------

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
----------	----------	08.45.210: New section entitled, Imposition of Disciplinary Sanctions: Provides that after a hearing, the Department may limit, deny, suspend or revoke a license or temporary permit, or censure a licensee or permittee if the person 1) secured the license/permit through deceit, fraud or intentional misrepresentation; 2) engaged in deceit, fraud, misrepresentation in the course of providing professional services; 3) advertised services in a false or misleading manner; 4) has been convicted of a felony or other crime that affects ability to practice competently; 5) fails to comply with this chapter or a regulation adopted; 6) continues to practice after becoming unfit due to a) professional incompetence, b) addiction or severe dependency on alcohol or other drugs, or c) physical or mental disability; or 7) engages in lewd or immoral conduct in connection with delivery of service to a patient.	08.45.210: Same as L&C CS.	08.45.210: Same as L&C CS.

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
08.45.220 defines department as C&ED; and naturopathy and naturopathic medicine as "a system of healing the human body that includes diagnosis and treatment through the use of natural agencies, forces, processes, and products with emphasis on the response of the individual to the disease rather than its treatment in isolation".	08.45.220: Same.	08.45.220: Title is changed from "Definitions" to "Violations". a) except as provided in (b) herein, it is a class B misdemeanor to intentionally violate a provision of this chapter or a regulation adopted; b) a person practicing naturopathy without a valid license or permit is guilty of a Class A misdemeanor.	08.45.220: Same as L&C CS.	08.45.220: Same as L&C CS.
----------	----------	08.45.900 New section entitled "Definitions". 1) definition of "department" remains C&ED. 2) definition of naturopathy is redefined to "a system of human health care that promotes good health through the prevention and treatment of illness by the use of educational, physical, nutritional, botanical, hygienic and other methods, and without the use of prescription drugs, surgery, x-ray equipment or radium therapy". (Compare to definition under 08.45.270, above, under HB 347 column.)	08.45.900: Same as L&C CS.	08.45.900: definition of department is same as L&C CS. Definition of naturopathy and naturopathic is expanded to include assisting in childbirth; after "without the use of prescription drugs" is added "except for that which is allowed by 08.45.160(1) and (2); and reference to x-ray equipment is deleted.

HB 347 (as introduced)	HB 347 (HESS)	HB 347 (L&C)	HB 347 (Proposed Compromise)	HB 347 (Naturopath Proposal)
Section 3 Licensing of Practitioners of Naturopathy or Naturopathic Medicine Without Examination: States that the commissioner shall license all persons who meet the qualifications of 08.45.110(1)-(3) and (5)-(7) who apply for license no later than 6/30/84.	Section 3: Same, except last date on which a person may apply for licensure is extended one year to 6/30/85.	Section 3: Title is changed to: Temporary Permits for Practitioners of Naturopathy. States that a) the Department shall issue a temporary permit to practice naturopathy to a person who is 1) practicing naturopathy in the state; 2) meets the qualifications of 08.45.110 or 08.45.130(a)(2), except of 08.45.110(3) and 3) applies for the permit; and, b) a temporary permit issued under this section is valid until the date on which the results of the first examination offered are released.	Section 3: Title changed to: Licensing of Practitioners of Naturopathy or Naturopathic Medicine Without Examination Or Internship. States that the department shall license a person who (a) on the effect date of this Act, (1) is residing and practicing naturopathy in the state; 2) is licensed by examination to practice naturopathy in another state, territory or province; 3) has graduated from a school of naturopathy that has as a requirement for graduation successful completion of a course of resident instruction of at least nine months actual attendance in each of 4 years and successful completion of a course of study totaling at least 4,000 hours; and b) applies for licensure under AS 08.45 no later than 6/30/85.	Section 3: Same as proposed "Compromise" CS.
Section 4: Effective date is 7/1/83.	Section 4: Effective date is extended one year to 7/1/84.	Section 4: New language setting terms for the first Board members: one 1-year term; two 2-year terms; two 3-year terms. Section 5: New effective date of 1/1/85.	Section 4: Same as L&C CS. Section 5: Immediate effective date.	Section 4: Same as L&C CS. Section 5: Immediate effective date.

February 2, 1984

Mae Tisher
Pouch V (Mail Stop 3100)
Juneau, AK 99811

Dear Mrs. Tisher:

Freedom of Choice is one of the basic principles of life in the United States and is accentuated even more and demanded more by Alaskans. We pride ourselves on our independence, varied lifestyles, pioneer spirit, and our freedom to choose where and how we live.

In Alaska we are able to choose between several different types of health care - Chiropractic, Naturopathy, and Medical. We are in jeopardy of loosing one of these choices. As legislators we need your help in supporting the continued licensing of naturopaths in the State of Alaska. Please vote yes on House Bill #347 and help preserve our freedom of choice. Why would we deny ourselves the privilege?

Thank you,

D. Kalenka

Dorcas M. Kalenka
4001 Cope Street #1
Anchorage, Alaska 99503
562-5905

Shirley A. Collins

Shirley A. Collins
1600 Otter Street
Anchorage, Alaska 99504
333-9150

Brenda Rhodes

Brenda Rhodes
P.O. Box 100798
Anchorage, Alaska 99510

Linda Beaupre

Linda Beaupre
P.O. Box 2087
Homer, Alaska 99603

Loretta Parsons
6255 East 41st Court
Anchorage, Alaska 99504



Dear Rep. Tischer and committee,

I was at the teleconference on Jan 21, 1984 on the licencing of Naturopathic Physicians, Bill 347. Because of time I was unable to stay to testify. But I would like to go on record as a supporter of naturopathy.

My daughter was born at home and I would never trade that experiance. I have been to birthsat home and in hospital and the home births get so much more care and attention. Twice the doctor was not even present for the baby's birth in the hospital. I myself would feel very apprehensive to go to a hospital to have another child.

I have been an Alaskan all my life and am a registered voter. I feel it is my right to be able to choose the form of medical care I want for my family, and to have that type of reliable care licenced by this state.

Please put your support behind Bill 347. Thank you for your time.

Sincerely,
Taffy Oscola
Taffy Oscola



HB

352

COMMITTEE REPORT

HOUSE

JUDICIARY

FURTHER:

(7)

4/12/83

Date: 4/22/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 352

An Act relating to the definition of death; and providing for an effective date.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for _____ [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Mae Tucker	
M.W. Miller	
[illegible]	
Adelbert Hartman	
[illegible]	
[illegible]	

Mae Tucker
CHAIRMAN

H 60

Adopted by 19 STATES

POSITION PAPER

HOUSE BILL NO. 352

"An Act relating to the definition of death; and providing for an effective date."

BACKGROUND

A Uniform Definition of Death has been endorsed by the National Conference of Commissioners on Uniform State Laws, the American Medical Association, the American Bar Association, the President's Commission for the Study of Ethical Problems in Medical and Biomedical and Behavioral Research as well as by the American Academy of Neurology and the American Electroencephalographic Society. The Uniform Definition is as follows:

> "An individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards."

According to information received from the Commissioners on Uniform State Laws, 19 states have now adopted this definition, up from two states in 1981.

DISCUSSION

The definition proposed in this Bill, differs from the Uniform Definition in several respects:

1. In the Bill, "person" is substituted for "individual". The Uniform Definition purposely included the term "individual" to conform to the standard designation of a human being. The term "person" was not used because it is sometimes used by the law to include a corporation. Although that particular confusion would be unlikely to arise, the narrower term "individual" is more precise and thus avoids possibility of confusion.

2. In the Bill, the phrase "medically and legally dead" is used. The Uniform Definition prefers the phrase "is dead" since the broader provisions were considered to be misleading. The President's Commision stated, "A law setting a general standard without explicit limitations would be assumed to apply for all legal purposes; to say so in the statute, however, only raises needless questions (e.g., what does 'all legal purposes' leave out? For example, proceedings in equity?)"[1]

1/ Defining Death. Medical, Legal and Ethical Issues in the Determination of Death. President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. Pg. 79. Government Printing Office, Washington, D.C., 1981.

POSITION PAPER/Department of Health and Social Services

3. The Bill sets the standard for establishing death as "ordinary standards of medical practice", while the Uniform Definition adopts "accepted medical standards". This difference is probably not important.

4. The Bill adds a provision that death may be pronounced "before artificial means of maintaining respiratory and cardiac function are terminated." The Uniform Definition avoids the necessity for such a provision by simply stating that an individual "is dead" when either "irreversible cessation of circulatory and respiratory function or irreversible cessation of all functions of the entire brain, including the brain stem" has occurred. When either of these circumstances prevails, the appropriateness of stopping medical intervention is apparent.

POSITION

While the Department considers the definition proposed in the Bill to be better than the current statutory definition, it would prefer that the Uniform Definition of Death be adopted.

Recommended by: E. S. Rabeau

E.S. Rabeau, M.D.
Director
Division of Public Health

Date: April 15, 1983

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 4/18/83

STATE OF ALASKA
FISCAL NOTE | Revision Date , 1983 |

I. REQUEST
Bill/Resolution No.: HB 352
Title: Definition of death
Sponsor: Rep. Fritz by request
Requestor: House HESS

II. FISCAL DETAIL
Agency Affected: Health & Social Services
Program Category Affected: Health
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dean Tirador Phone: 465-2113
Division: Public Health Date: 4-14-83

Approved by Commissioner: Robert London Smith, Ph.D. Date: 4/18/83
Department: Health and Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

sec. 1 of this Act, is in addition to liability for an award of reasonable attorneys' fees which may be made to the prevailing party in a civil action under Rule 82 of the Rules of Civil Procedure."

Sec. 09.65.120. Definition of death. A person is considered medically and legally dead if, in the opinion of a medical doctor licensed or exempt from licensing under AS 08.64.010 — 08.64.380, based on ordinary standards of medical practice, there is no spontaneous respiratory or cardiac function and there is no expectation of recovery of spontaneous respiratory or cardiac function or, in the case when respiratory and cardiac functions are maintained by artificial means, a person is considered medically and legally dead, if, in the opinion of a medical doctor licensed or exempt from licensing under AS 08.64.010 — 08.64.380, based on ordinary standards of medical practice, there is no spontaneous brain function. Death may be pronounced in this circumstance before artificial means of maintaining respiratory and cardiac function are terminated. (§ 1 ch 8 SLA 1974)

Sec. 09.65.130. Representation of child. (a) The court may, upon the motion of either party or upon its own motion, appoint an attorney to represent the minor with respect to his custody, support, and visitation or in any other legal proceeding involving his welfare. When custody, support, or visitation are at issue in a divorce, it is the responsibility of the parties or their counsel to notify the court that those matters are at issue. Upon notification, the court shall determine whether the child should have legal representation or other services and shall make a finding on the record before trial. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney and may further order that other services be provided for the protection of the child.

(b) If custody, support, or visitation is an issue, the order for costs, fees, and disbursements shall be made against either or both parents, except that, if one of the parties responsible for the costs is indigent, the costs, fees, and disbursements for that party shall be borne by the state. If either or both parents are only temporarily without funds, as determined by the court, the court may advance payment for legal representation or other services rendered to the child; however, no repayment may be required for those who are receiving legal services for the indigent. The attorney general is responsible for enforcing collections owed the court, and repayment shall be made directly to the court under the provisions of rules governing the administration of the courts. The court shall, if possible, avoid assigning costs to only one party by ordering that costs of the child's legal representation or other services be paid from proceeds derived from a sale of property belonging to both parties, before a division of property is made.

(c) Instead of, or in addition to, appointment of an attorney under (a) of this section, the court may, upon the motion of either party or upon

HB
353

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

2/15/84 Date: February 29, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SSHB 353

"An Act making special appropriations to the Department of Education and for payments as grants for rural school design and construction; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

[signature]

[signature]

[signature]

[signature]

MEMBERS HAVING OTHER RECOMMENDATIONS: NEEDS DOE [illegible]

[signature] NO REC

[signature]

[signature]

CHAIRMAN

BRISTOL BAY BOROUGH
CAPITAL PROJECTS AND
LEGISLATIVE CONCERNS
FOR FISCAL YEAR 1985

SUBMITTED TO THE

STATE OF ALASKA

JANUARY 1984

Bristol Bay Borough
BOX 189 • NAKNEK, ALASKA 99633

JIM D. CLARK
MAYOR

TELEPHONE
(907) 246-4224

December 20, 1983

Dear Legislators and State Agencies:

The Bristol Bay Borough is pleased to submit our capital project needs for your review and consideration.

The Borough takes a great deal of pride in this submission as it represents the efforts of all of our commissions, as well as input from the communities within the Borough.

As in the past, the established priorities are based on need as determined by the public and the governing body.

Each project is extensively evaluated to take into consideration operation and maintenance costs, compared to our short as well as long term financial capabilities.

We spend the funds we receive in the manner we indicate and in the time frame allocated.

You can be assured, funds allocated to the Bristol Bay Borough will be wisely and prudently spend, not only for our Borough but for our region and the State of Alaska.

Sincerely,

Jim D. Clark

Jim D. Clark
Mayor

BRISTOL BAY BOROUGH

CAPITAL PROJECTS AND

LEGISLATIVE CONCERNS

FOR FISCAL YEAR 1985

****

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BRISTOL BAY BOROUGH

LEGISLATIVE GRANT REQUEST

FISCAL YEAR 1985

PRIORITY LIST

PRIORITY			
1	PHASE II DOCK IMPROVEMENTS		$ 750,000
2	SCHOOL IMPROVEMENTS		5,193,000
3	PHASE II SOLID WASTE PROGRAM		500,000
4	EMERGENCY POWER GENERATOR		200,000
5	COMMUNITY CENTER AND WATER SAFETY FACILITY - FEASIBILITY STUDY		100,000
6	PUBLIC FACILITIES:		
	Itinerant Park	$150,000	
	King Salmon Boat Ramp	100,000	
	South Naknek Boat Ramp	200,000	
	TOTAL PUBLIC FACILITIES		450,000
7	EMERGENCY WARNING SYSTEM		25,000
TOTAL LEGISLATIVE APPROPRIATION REQUEST			$ 7,218,000

Bristol Bay Borough
BOX 189 • NAKNEK, ALASKA 99633

JIM D. CLARK
MAYOR

TELEPHONE
(907) 246-4224

RESOLUTION NO. 83-27

A RESOLUTION ESTABLISHING THE BOROUGH'S LEGISLATIVE DOCKET FOR FY 85.

THE BOROUGH OF BRISTOL BAY HEREBY RESOLVES:

WHEREAS, important items which affect the lives of citizens in Bristol Bay Borough are introduced and debated each year in the legislature, and

WHEREAS, the Borough's limited tax base makes it necessary to get assistance from the State of Alaska for the provision of basic governmental services.

NOW THEREFORE BE IT RESOLVED, that the Borough Assembly adopts the attached Legislative Docket as representing the needs and concerns of the citizens of Bristol Bay Borough.

Passed this 19th day of December, 1983.

Jim D. Clark
Mayor

ATTEST:

Betty L. Thompson
Borough Clerk

EMPLOYMENT

The Bristol Bay Borough uses a combination of contractor services and force account work.

All of our contract services with the exception on engineering was performed by local contractors utilizing local labor. All of the force account work was performed by local people.

In the past two construction seasons, the Borough has expended in excess of two million dollars in capital projects utilizing a combination of grant, legislative appropriations and local funds. Since all of the employees involved in these construction projects were local residents, the economic benefits were shared throughout the communities of the Borough and provided employment opportunities for many residents which previously were not afforded the opportunities of employment in the locations in which they live.

1

PHASE II - DOCK IMPROVEMENTS

PUBLIC DOCK FACILITY

INTRODUCTION

The public dock facility has been designated as a four stage project. Construction of the primary facility, excavation of approximately 120,000 cubic yards of material adjacent to the dock, construction of primary facilities and finally, utilities and support facilities.

Preliminary statistics from our first year's operation, which are included in this report, indicate a tremendous success.

To further enhance the future capabilities of the dock facility, the Borough currently has an economic feasibility study in the process which will assist us in the determination of future private sector development in areas adjacent to our dock.

Finally, if our first year's operation is any indication of future year's, it would appear this facility will be self-supporting in the aspect that revenues derived from the operation will support the operation and maintenance costs and will not add to the tax burden of the residents or cause potential future requests of the legislature for operational funds.

PHASE III FISCAL YEAR 1985 REQUEST

The funds requested for fiscal year 1985 entails the construction of a river retainment wall and a large utility building.

UTILITY BUILDING

This building will be a 100' x 120' multi-purpose structure that will be used on a year-round basis.

In the summer operational season the building will be used as a freight storage and operations facility. During the winter months it will be used as an equipment storage and maintenance facility and will also house the Borough Department of Public Works.

By utilizing this facility on a multi-purpose year-round basis, we will be afforded the opportunity to have year-round security, provide a location for equipment storage and repair and provide an operational base for our Department of Public Works.

From the utilization standpoint, there will be no period of the year this building will be sitting idle.

RETAINMENT WALL

This bulkhead or retainment wall will be constructed on the river bank for three purposes. It will allow us to reclaim and use additional land to be included as part of the dock staging area, prevent erosion and provide an area for the mooring of fishing vessels and small pleasure crafts.

The retainment wall is extremely important from the erosion control aspect since erosion of soil along our rivers can create environmental problems for migrating salmon, which are the economic mainstay of our region.

CONCLUSION

Utilizing local, state and federal funds the Borough has constructed a public dock facility since 1981.

We began construction of the base facility in early 1982. Since that time, with the assistance of a legislative appropriation we were able to begin the development of the staging area.

As agreed by the stipulations of a "Bid Ready" early appropriation construction bill, we removed 95% of the material in the staging area.

In addition, we were awarded funds in the general appropriation for dock development which we utilized in the installation of an industrial and fire protection well with capabilities of providing water to large vessels. We also installed our electrical system, a launching area for our fire boat and a security fence surrounding the dock area.

With additional assistance we can construct Phase III of our construction program with the assurance the project will be started and completed within the specified time limitations and be utilized in the manner for which the funds were designated.

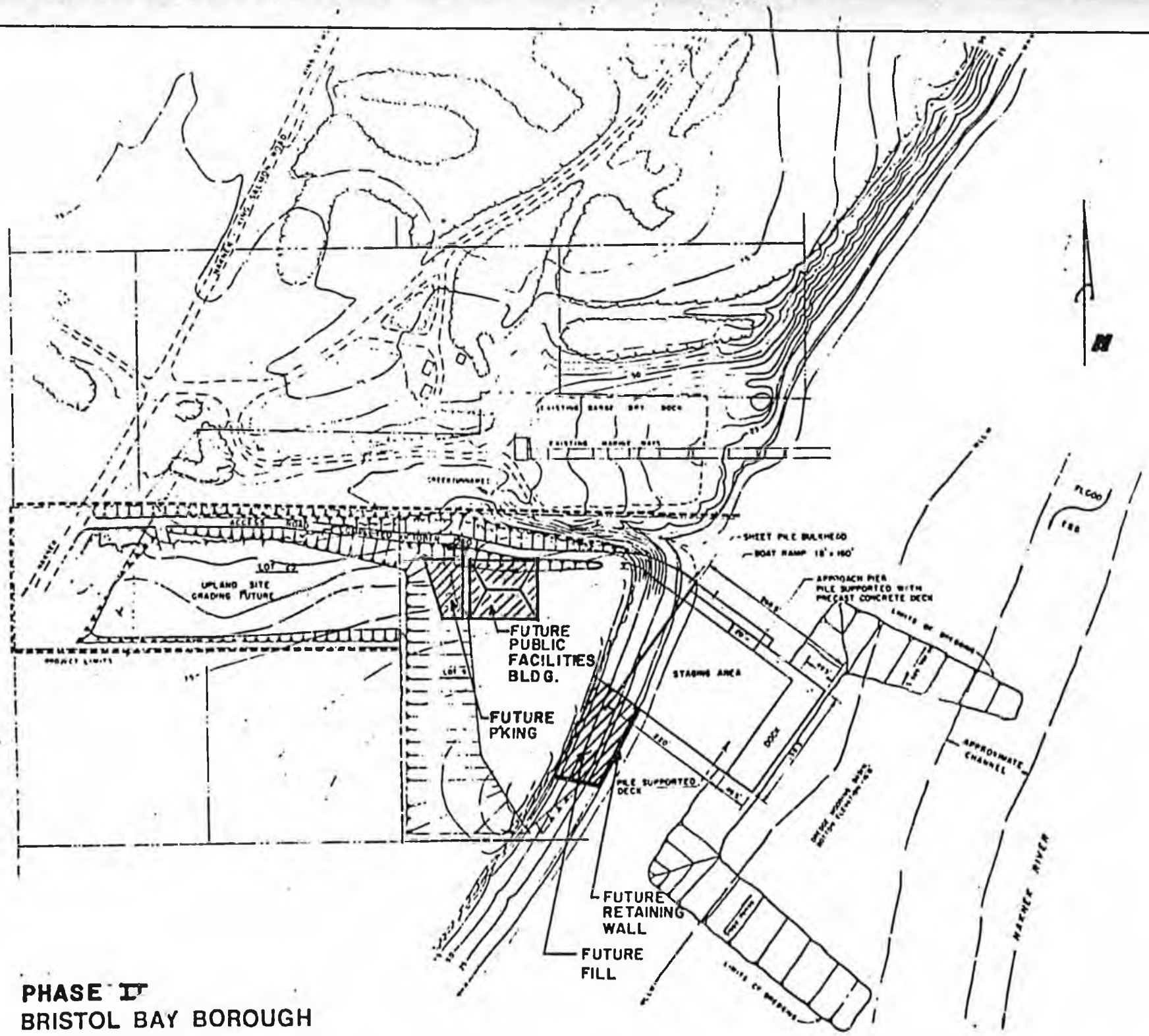


EXHIBIT A

PHASE II
BRISTOL BAY BOROUGH
PUBLIC DOCK

COST SUMMARY

UTILITY BUILDING		
120' x 100' x 22' Garco steel building		$ 85,000
Material and equipment		309,000
Excavation and landscaping		17,000
Construction labor		69,000
Administration and overhead		30,000
Shipping cost based on F.O.B. Naknek		-0-
	TOTAL	$510,000
RETAINMENT WALL		
Material and equipment		$ 52,392
Excavation and landscaping		72,600
Construction labor		78,608
Administration and overhead		24,000
Shipping cost		12,400
	TOTAL	$240,000
TOTAL LEGISLATIVE REQUEST		$750,000

COST ANALYSIS

UTILITY BUILDING

The proposed Garco Steel Building will be assembled on a heavily reinforced concrete pad, capable of withstanding the weight of large and heavy dock equipment. In addition, a floor and ceiling hoist will be installed to repair the heavy equipment. This will require specialized reinforcement within the structure.

Building Package	$ 85,000
Heavy Duty Reinforced Concrete	77,000
Urethane Foam Insulation	72,000
Building Construction	69,000
Electrical and Plumbing	35,000
Heating System	15,000
Office and Parts Storage Areas	32,000
Sewage Disposal System	6,000
Water Supply	6,000
Excavation and Landscaping	17,000
Parking Area	3,000
Fuel Tanks and Pumps	3,000
Overhead and Floor Hoists	55,000
Administration and Overhead	30,000
TOTAL	$510,000

COST ANALYSIS - Continued

RETAINMENT WALL

49 Timber piles @ $222.00 per unit	$ 10,878
4,608 Lineal feet of 4" x 12" pressure treated timbers	14,561
3/4' 38,000 minimum breaking strength wire rope and fittings	21,903
MC 10 x 28.5 channel steel	4,500
Trevira 1127 filter fabric	550
Excavation, settin of piles and pile trench	70,000
Landscaping	2,600
Construction labor including: Operators, capenters and laborers	78,608
Administration and overhead	24,000
Shipping costs	12,400
TOTAL	$240,000

SOURCES OF ESTIMATE:

Datum Engineers	Anchorage, Ak
Builtwell Enterprises	Naknek, Ak
Ideal Foam and Insulation	Anchorage, Ak
King, Harness & Owen	Anchorage, Ak
Kenai Supply	Anchorage, Ak
Moorcroft Construction	King Salmon, Ak
Bristol Bay Borough	Naknek, Ak

PORT OF BRISTOL BAY

SHIPPING ACTIVITIES SUMMER OF 1983

NAME OF SHIPPER	INCOMING FREIGHT (IN TONS)	OUTBOUND FREIGHT (IN TONS)
Northland Service, Inc.	672.90	81.30
Nelbro Packing Co.		3,422.00
Foss Alaska Lines	832.44	98.50
Alaska Marine	42.50	
APUTCO	954.00	88.00
LOCAL		
Gravel	27.00	283.89
Raw Fish	600.57	
Lumber		159.34
General Freight		712.88
TOTALS	3,129.41	4,845.91

In addition to the freight moving activities, we also loaded and unloaded 34 fishing vessels, provided service for loading and unloading supplies and a local boat launching firm used our boat ramp facility for the launching and haul our of fishing vessels.

BRISTOL BAY BOROUGH

PHASE II

DOCK FACILITY IMPROVEMENTS

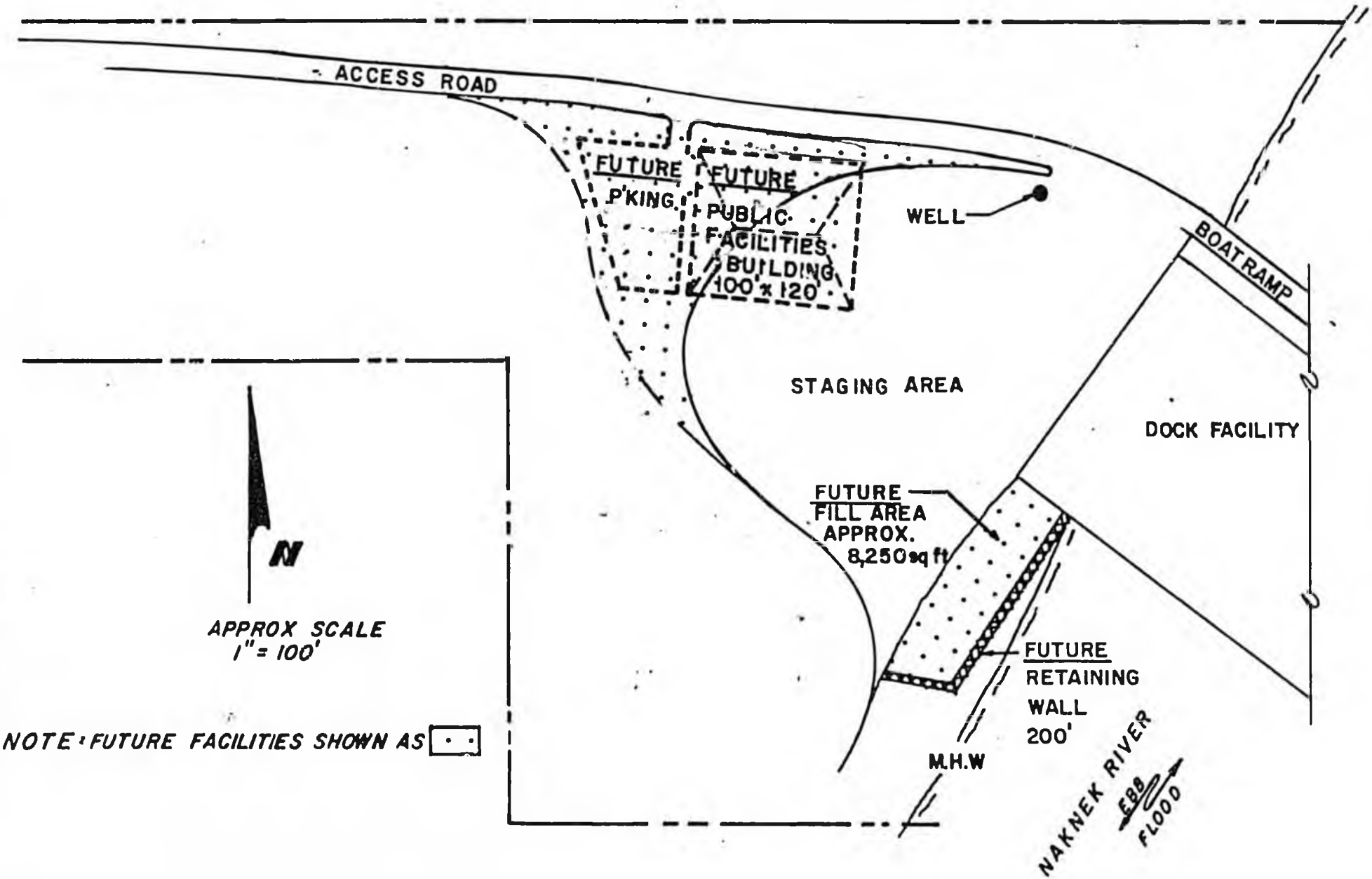


EXHIBIT B

PREPARED BY: RALPH MANCUSO & ASSOC. BOX 181, NAKNEK AK. 99633

DEC. '83

2

SCHOOL IMPROVEMENTS

SCHOOL IMPROVEMENTS

INTRODUCTION

Bristol Bay Borough High School is in need of immediate remodeling and reorganization of the school facility. Initially built in 1968 to accomodate a complete K-12 educational program, the building has since been modified to facilitate a comprehensive high school program. Throughout the modification the school has evolved from an "open-space" design to a "self-contained" classroom design. During the fifteen years since original construction, the facility needs have grown beyond the capacity of the initial structure. Therefore, the following remodeling/construction plan is jointly submitted by Bristol Bay Borough School District and Bristol Bay Borough to effectively resolve critical facility deficiencies in Bristol Bay High School.

DESCRIPTION OF NEEDS

A description of critical needs include but are not limited to the following:

1. Health and Life Safety Needs

    a. Unsanitary health conditions in locker-room areas.
    b. Home Economics area does not meet emergency codes as established by the state fire marshall's office.
    c. Inadequate storage areas force equipment storage in crowded hallways.
    d. Ventilation system does not adequately provide circulated air into academic areas.
    e. Plumbing system requires extensive repair and replacement due to increased use and severe mineral deposits in fresh water source.

2. Unhoused Students

    a. Due to increased enrollment the elementary school is one classroom short. This deficiency would be rectified with construction of additional classrooms to accommodate a 6-8 grade middle school program.
    b. Academic programs are restricted or eliminated due to lack of adequate space, e.g., computing, arts and electronics.

3. Protection of Structure

    a. Exterior walls are not adequately insulated and most interior walls are made of temporary non-sound proof and non-fire retardent material.

THE PLAN

This proposed remodeling/construction project is part of a long range facility master plan with previous capital projects funded via local bonding effort. The plan was developed to provide maximum benefit to students and residents served by the District. Significant effort has been made to provide a plan that meets educational needs while providing improved educational and community services to district residents.

This entire capital project is supported by a recently completed feasibility study and estimated expense is $5,193,000 for the total project.

COST SUMMARY

PHASED PRIORITY AND ESTIMATED EXPENSE

1. Classroom addition, Instructional media center, Locker rooms and Offices.

Area - Estimated expense: $1,777,500 plus 10% for each year delayed.

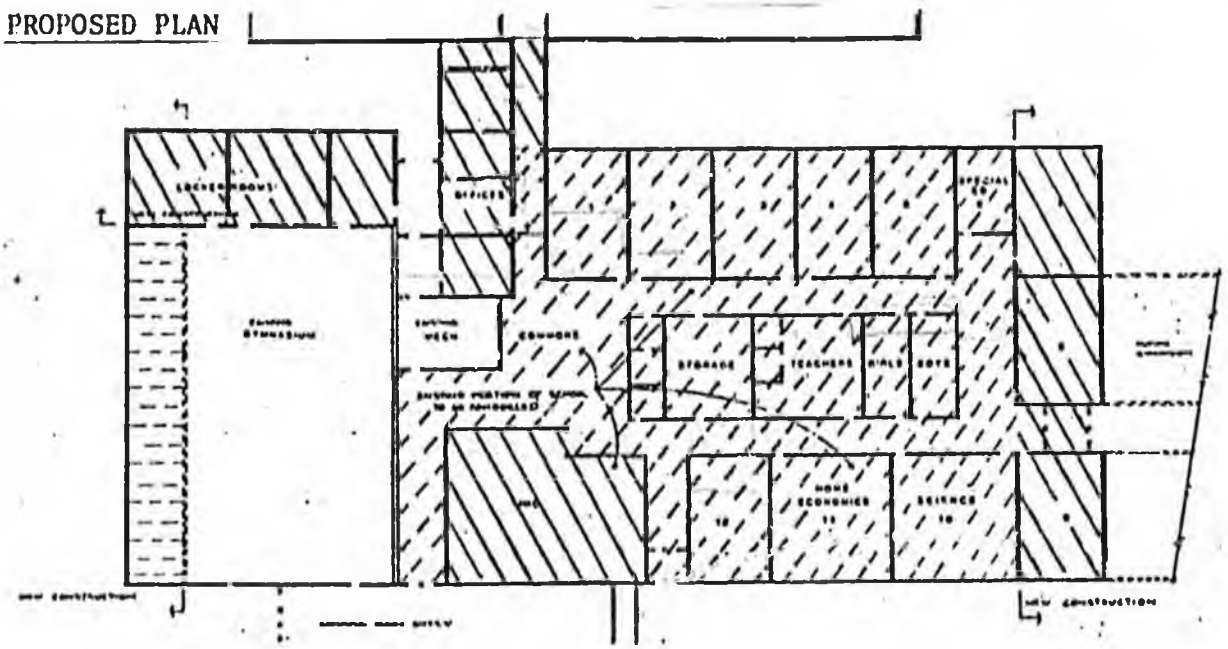
2. Remodel academic area

Area - Estimated expense: $2,875,000 plus 10% for each year delayed.

3. Gymnasium extension

Area - Estimated expense: $ 540,500 plus 10% for each year delayed.

PROPOSED PLAN



PHASE BREAKDOWN

The following capital project is proposed jointly by Bristol Bay Borough School District and Bristol Bay Borough for remodeling the high school in Naknek, Alaska. Total estimated expense for the entire project, assuming total funds are available, is $5,193,000.

Even though this proposal is submitted as a total project, the plan is illustrated in a phased approach to resolve critical facility deficiencies while keeping estimated expenses at a reasonable level.

PHASE I

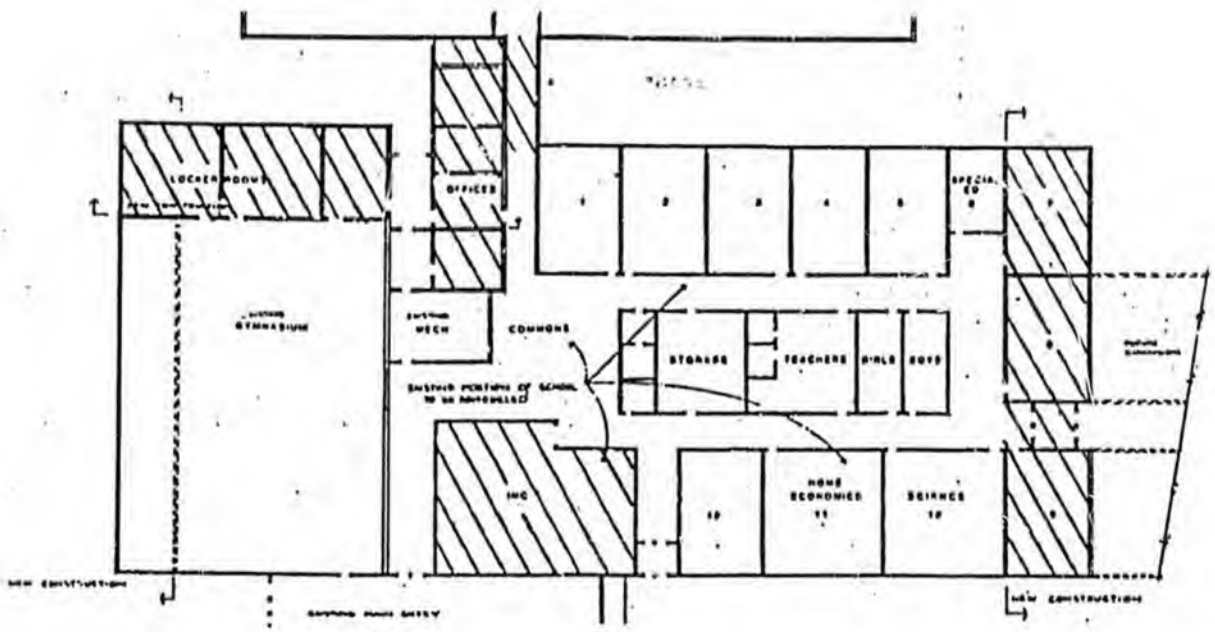
CLASSROOM ADDITION, IMC - LOCKER ROOM AREA AND OFFICES

This phase would result in the construction of three new classrooms, an Instructional Media Center (IMC), locker rooms with P.E. storage and an administrative office area. When completed this phase would: alleviate current shortage of appropriate classroom space; create an IMC that is appropriately designed for a learning and resource center; have a sanitary and efficiently maintained locker with appropriate equipment storage adjacent to the gymnasium; and an office area appropriate for district administrative functions.

All construction would include stub-outs, etc., necessary for future expansion with design and finish of each area to coincide with that proposed for the remodeled academic area.

TOTAL PHASE I ESTIMATED EXPENSE: $1,777,500

PROPOSED PLAN - PHASE I  AREA



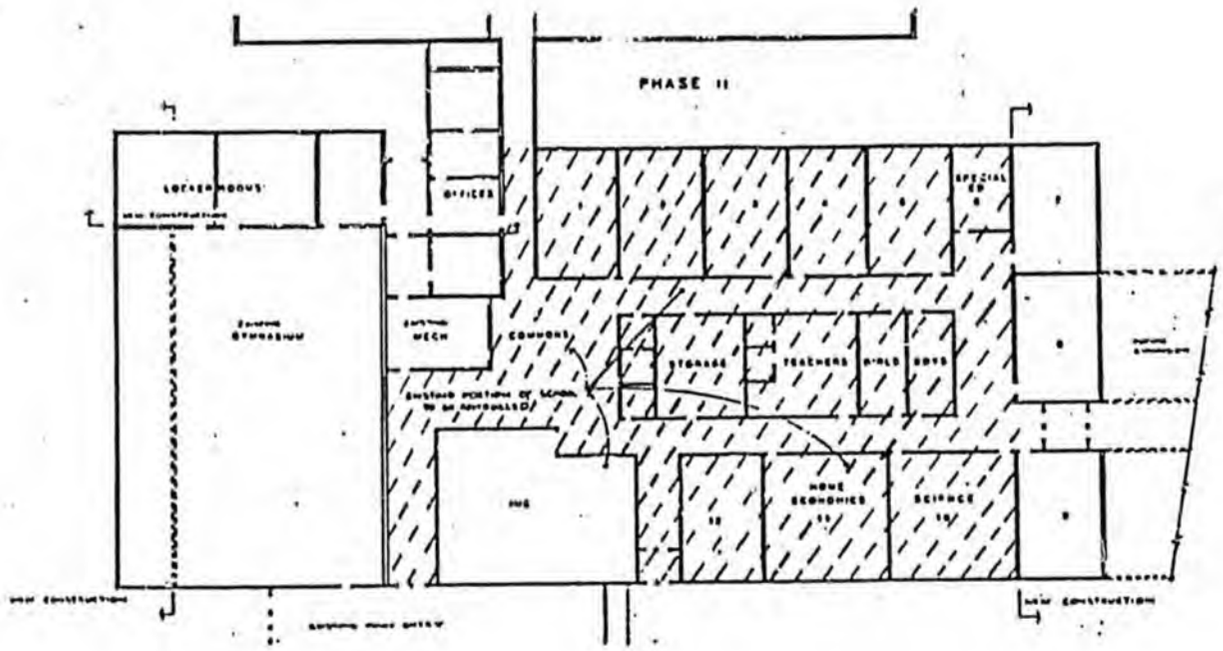
PHASE II

REMODEL ACADEMIC AREA

This phase would result in a completely remodeled academic area. When completed the remodeled area would: provide ample classroom space for a comprehensive secondary program; meet current fire and building codes; have efficient heating systems and insulation installed; and provide sufficient storage space for supplies and equipment. Completed design and finish of each area would coincide with that proposed in Phase I of this plan.

TOTAL PHASE II ESTIMATED EXPENSE: $2,875,000

PROPOSED PLAN - PHASE II ▨ AREA



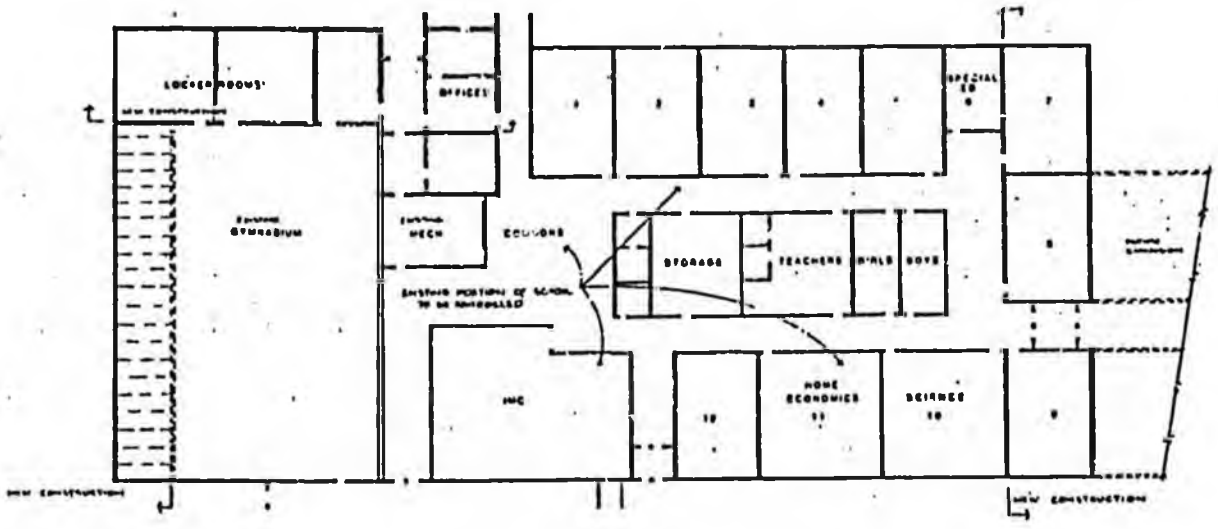
PHASE III

GYMNASIUM EXTENSION

This phase would result in construction of a sixteen foot addition to the full length of the gymnasium. The gym floor would be resurfaced and remarked and new spectator seating would be installed. This phase would also allow for more effective use of the gymnasium area with two cross-court activities occurring simultaneously. For activities requiring full floor length, the activity would be a safe distance away from the seating area allowing safe spectator movement while the activity is in progress.

TOTAL PHASE III ESTIMATED EXPENSE: $540,500

PROPOSED PLAN - PHASE III  AREA



COST ANALYSIS

PHASE I - ESTIMATED EXPENSE

Classroom addition - $150 per sq. ft. $150 x 3,000 sq. ft.	$ $450,000
Locker room & P.E. storage - $250 per sq. ft. $250 x 2,060 sq. ft.	515,000
Remodel IMC area - $150 per sq. ft. $150 x 2,400 sq. ft.	360,000
District office area - $150 per sq. ft. $150 x 1,470 sq. ft.	220,500
Engineering, architectural, work of art and administration fees - 15% of construction costs	232,000
TOTAL PHASE I EXPENSES	$1,777,500

Estimated 10% annual increase for inflation and mobilization of material and personnel for each year project is delayed.

PHASE II - ESTIMATED EXPENSE

Academic area remodeling - $125 per sq. ft. $125 x 20,000 sq. ft.	$2,500,000
Engineering, architectural, work of art and administrative fees - 15% of construction costs	375,000
TOTAL PHASE II EXPENSES	$2,875,000

Estimated 10% annual increase for inflation and mobilization of material and personnel for each year project is delayed.

PHASE III - ESTIMATED EXPENSE

Gymnasium extension - $200 per sq. ft. $200 x 1,600 sq. ft.	$ 320,000
Resurfaced - remarked floor and seating	150,000
Engineering, architectural, work of art and administrative fees - 15% of construction costs	70,000
TOTAL PHASE III EXPENSES	$ 540,500

Estimated 10% annual increase for inflation and mobilization of material and personnel for each year project is delayed.

TOTAL PROJECT ESTIMATED EXPENSE	$5,193,000

DISTRICT CONTRIBUTION

In an effort to expedite planning and organization of this capital project the school district can provide $200,000. These funds could be used to initiate immediate development of project specifications and start the architectural drawings and engineering plans.

COST JUSTIFICATION

Expense estimates have been confirmed with John Kumin, architect of Kumin and Associates. Estimates are also supported by a recently completed feasibility study. Therefore, it is felt that estimated expenses are reasonable and rational for the plan as proposed.

3

PHASE II SOLID WASTE PROGRAM

SOLID WASTE

INTRODUCTION

For the past two years the Borough has made a concerted effort to upgrade our solid waste facilities in both Naknek-King Salmon and South Naknek.

With the assistance of a legislative appropriation in Fiscal Year 1984, the Borough developed a solid waste plan and began implementation of that plan.

In the Naknek-King Salmon facility, we cleaned up the entire area, eliminated the dumping of solid waste into a ground water lake, established dumping times and basic regulations, drilled a well for testing and domestic use, developed an approved solid waste cell, acquired the property at the solid waste site and submitted an application for a solid waste permit, which was subsequently approved.

In South Naknek, we began developing the new solid waste site, purchased a piece of equipment to excavate and cover the solid waste on a regular basis, acquired the land for the new disposal site and cleaned up the existing site. We will also submit an application for a solid waste permit as soon as the final land acquisition papers have been processed.

In short, we have come a long way in developing a sound, safe and sanitary solid waste program.

THE PLAN

Since our solid waste program is a phased program, the previous information represents Phase I. Phase II of the program, for which we are seeking assistance, consists of additional development of both sites.

NAKNEK-KING SALMON

To fulfill the requirements indicated by the Department of Environmental Conservation, we plan to continue with our Phase II solid waste program. This will entail pumping and diking a protion of the ground water lake, the development and construction of additional solid waste disposal cells and the construction of a portable unloading ramp and used oil storage tank. We will complete the Phase I portion of the bale-compactor building, which at this stage will consist of the attendants' quarters and equipment storage area, develop and fence an area for heavy metal objects such as wrecked or abandoned automobiles and appliances and construct a bear-proof fence around the perimeter of the solid waste site.

SOUTH-NAKNEK

It is anticipated we can complete the South Naknek solid waste facility as part of the Phase II program. South Naknek Village and its industry cannot generate enough solid waste to warrant a baler-compactor unit at this time. Therefore, it is anticipated a sanitary land fill can be successfully operated for a number of years.

With this idea in mind, we plan to abandon this present location, fill and grade as necessary and relocate to the new site. Prior to the actual relocation, we will develop the new area to the Department of Environmental Conservation's standards, construct an attendant and equipment storage building, fence the perimeter of the disposal area with a bear-proof fence, construct a portable unloading ramp and drill a well.

CONCLUSION

We consider our solid waste program one of the more progressive in our region. We submitted a solid waste grant application to the Department of Environmental Conservation in early 1982, but never reached a priority high enough to receive funding in spite of the fact that our solid waste problem was just as dramatic as other communities within the State.

We did, however, proceed with our program and have expended a great deal of local funds in addition to the funds received from the legislature.

Since we have limited financial resources, it is imperative that we receive funding for this program if we are to fulfill our commitment to the Department of Environmental Conservation and provide safe and sanitary solid waste sites for the residents of the Borough.

BRISTOL BAY BOROUGH
SANITARY LAND FILL

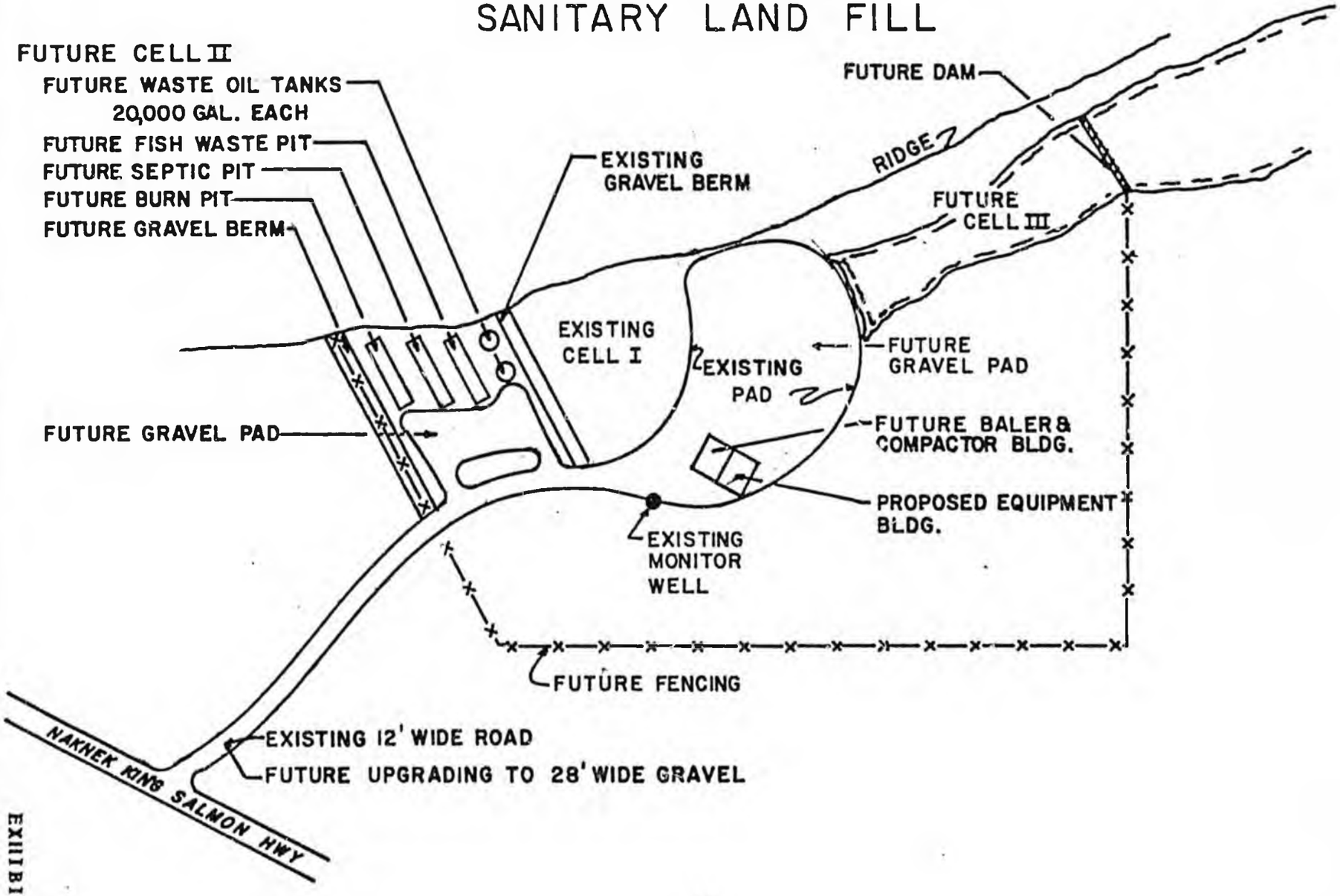


EXHIBIT C

PREPARED BY: RALPH MANCUSO & ASSOC. BOX 181, NAKNEK AK. 99633 DEC. '83

COST SUMMARY

NAKNEK LANDFILL

Concrete floor slab for utility building	$ 18,000
Retainment wall	10,000
Roads and parking aprons	25,000
Dam drain pond	65,000
Waste oil storage facility	45,000
Construction of solid waste cell	29,500
Septic discharge cell	8,000
Waste oil heating system	20,000
3 phase electrical power and poles	14,500
Bear proof fence	40,000
Construction labor	25,000
Anministration and overhead	30,000
TOTAL	$330,000

SOUTH NAKNEK LANDFILL

Construct attendant and equipment storage building	$ 12,000
Roads and parking area for new site	18,000
Retainer and bulkhead construction material	10,000
Construct solid waste cell	20,000
Abandon, drain and fill existing site	20,000
Construct septic discharge cell	8,000
Fuel storage tank	4,500
Electrical power and poles	1,500
Bear proof fence	40,000
Construction labor	20,000
Administration and overhead	16,000
TOTAL	$170,000
TOTAL LEGISLATIVE REQUEST	$500,000

COST ANALYSIS

NAKNEK LANDFILL

The total 40' x 50' heavy duty reinforced concrete floor will be constructed for both Phase II & III of the office, equipment storage facility.	$ 18,000
The bulkhead unloading ramp will consist of heavy 4" x 6" planks and beams.	10,000
The road must be constructed within the landfill area and parking or unloading areas provided.	25,000
The current dumping pond will be drained, diked and excavated to provide for landfill cells, which will require a great deal of pumping and excavation.	65,000
The waste oil storage facility will consist of a bermed area for fire prevention, two (2) 20,000 gallon storage tanks and specialized plumbing to pump the oil to the heating system.	45,000
Two (2) 80,000 square foot containment areas consisting of a fifteen foot high berm will be constructed, which will contain the solid waste disposal cells.	25,000
There will be a specialized septic discharge disposal cell.	8,000
A waste oil heating system will be installed to heat the building complex. The system will require specialized burners and boiler to utilize waste oil as a fuel source.	20,000
Three phase electrical power will be necessary to operate the entire system when it is complete.	16,000
2,000 linear feet of bear proof fence will be required to fence the perimeter of the solid waste disposal site @ $20.00 per foot.	40,000
Construction labor	25,000
Administration and overhead	33,000
TOTAL	$330,000

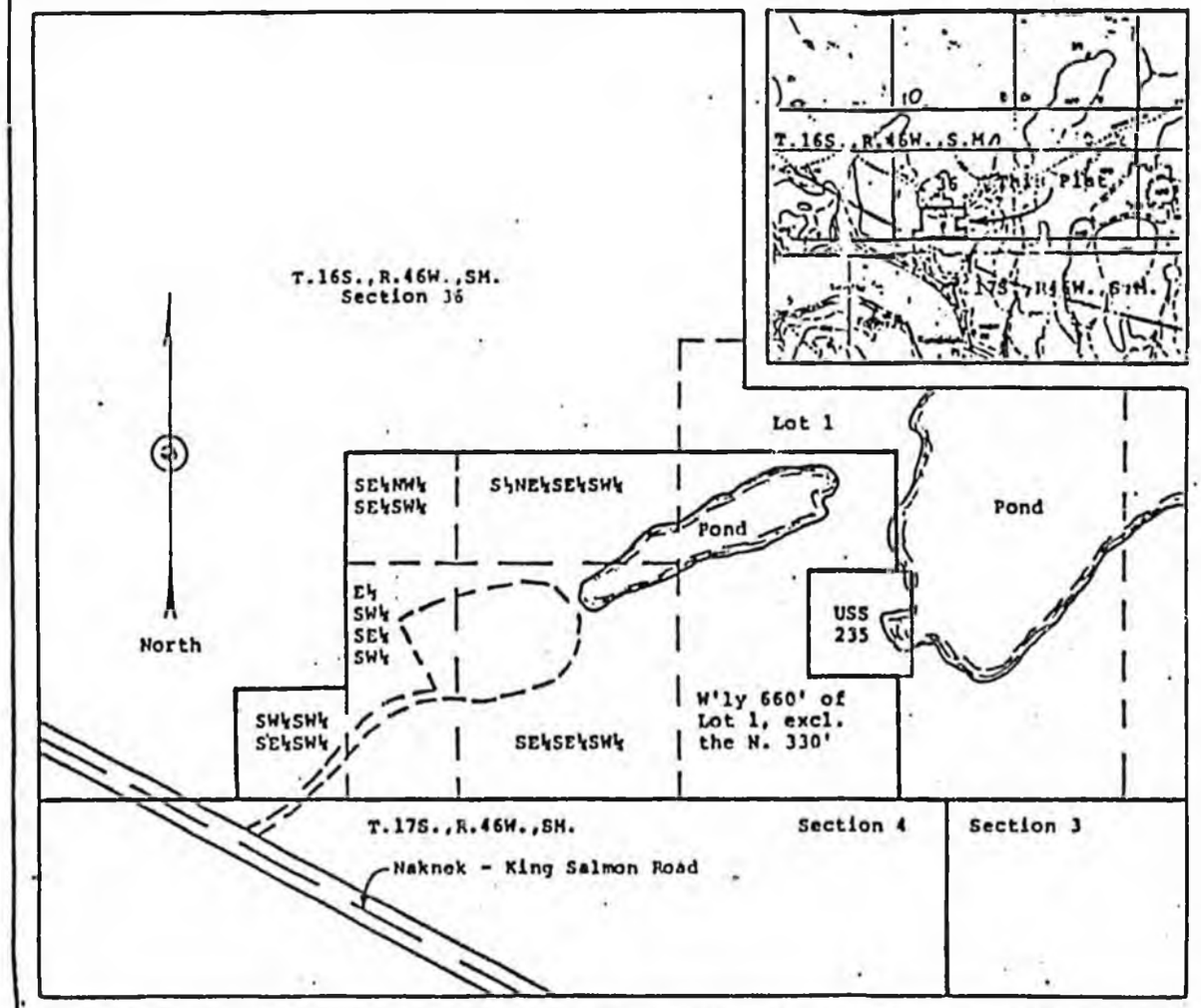
COST ANALYSIS

SOUTH NAKNEK LANDFILL

Construction of roads and unloading areas at the new location	$ 18,000
Construct attendant and equipment storage building	12,000
Portable unloading ramp similar to the Naknek facility	10,000
Construction of solid waste retainment area and disposal cells	20,000
Abandon, drain pond, fill and landscape existing area	20,000
Construct septic discharge cell	8,000
Fuel storage tank	4,500
Install electrical power supply and transmission poles	1,500
2,000 linear feet of bear proof fence	40,000
Construction labor	20,000
Administration and overhead	16,000
TOTAL	$170,000

SOURCES OF ESTIMATE:

Mt McKinley Fence Co.	Anchorage, Ak
Naknek Electric Association	Naknek, Ak
Builtwell Enterprises	Naknek, Ak
Ray Multi-Fuel	Seattle, Wa



APPENDIX A

Legal Description

Township 16 South, Range 46 West, Seward Meridian, Alaska, Surveyed.

Section 36: SW¼SW¼SE¼SW¼, SE¼SE¼SW¼, S½NE¼SE¼SW¼, E½SW¼SE¼SW¼, SE¼NW¼SE¼SW¼ and the westerly 660 feet of Lot 1 excluding the north 330 feet.

Containing 38.5 acres more or less encompassing the existing sanitary landfill and access road.

Based on Bristol Bay Borough Aerial Photo Enlargement dated 8-18-83 and BLM Township Survey accepted 5-10-61.

NAKNEK
COMMUNITY LANDFILL
State of Alaska
Department of Community and
Regional Affairs
Municipal Lands Trustee Program
ANCSA 14(c)(3)
AS 44.47.130
19 AAC 90

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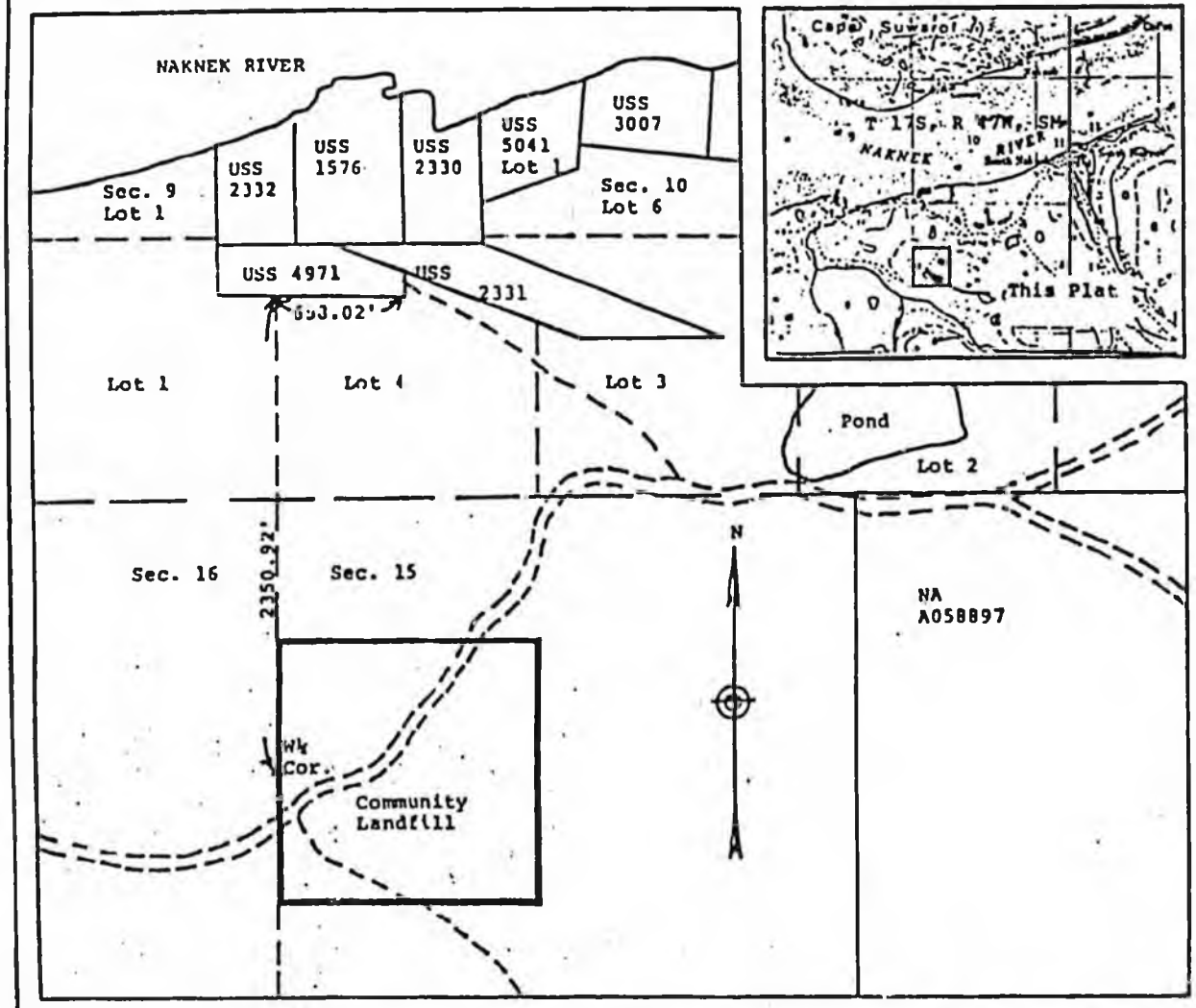
Sheet 1 of 1 File: 33-0235

EXHIBIT D



APPENDIX A

LEGAL DESCRIPTION

The surface estate of that certain real property located in Surveyed Township 17 South, Range 47 West, Seward Meridian, Alaska, being situated at the Native village of South Naknek, Alaska, more particularly described as follows:

Section 15: S½SW¼NW¼,
N½NW¼SW¼

This tract contains 40 acres, more or less.

Adjustments or exclusions may be required to conform with the boundaries of any parcels adjacent to or within the land that may be conveyed by Alaska Peninsula Corporation under the provisions of Section 14(c)(1) and (2).

Based on BLM Township Survey accepted October 13, 1982.

SOUTH NAKNEK
COMMUNITY LANDFILL
State of Alaska
Department of Community and
Regional Affairs
Municipal Lands Trustee Program
ANCSA 14(c)(3)
AS 44.47.150
19 AAC 90

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Sheet 1 of 1 File: 38-0254

EXHIBIT E

4

EMERGENCY POWER GENERATOR

EMERGENCY POWER GENERATOR

INTRODUCTION

For the past three years, the Borough has attempted to obtain a government surplus or a used electrical power generator.

After a great deal of time and expense, we found the generators available to us were either too large or small or used to the extent that a major overhaul would be necessary.

The concensus of the community is that an emergency generator is a necessity, particularly considering our remote location. In the event of a disaster or a major power outage, the communities of King Salmon, Naknek and South Naknek could suffer far more than a simple inconvenience. We have no primary electrical power source other than Naknek Electric Association and no way to relay power in the event this power source is seriously impaired or destroyed.

In addition, both the school and health clinic are heated by a waste heat system provided by Naknek Electric Association and in the event Naknek Electric is destroyed we would have no means to heat these facilities. The emergency generator could provide electric heat to both.

COST SUMMARY

EMERGENCY GENERATOR

250 KW Generator	$ 48,000
Generator building	25,000
Equipment and material	77,000
Construction labor	15,000
Engineering	15,000
Administration and overhead	20,000
TOTAL LEGISLATIVE REQUEST	$200,000

COST ANALYSIS

EMERGENCY GENERATOR

The philosophy behind the emergency generator is two-fold. By utilizing a primary source generator rather than an auxilary source we can also provide a heating source to both the school and the health clinic. The costs derived include the modification of existing system to conform to the emergency system.

250 KW primary power generator	$ 48,000
Generator building	25,000
Electrical heating system for the clinic	1,500
Switching and mechanical gear	35,000
Heat exchangers	8,000
Pump controls and sensors	10,000
Modification of school heating system to include 4" insulated pipe	14,000
Underground power lines to the school and the clinic	2,500
Electrical service modification	2,000
Electrical heating system for the school	1,500
1,000 gallon fuel storage tank	2,500
Construction labor	15,000
Engineering	15,000
Administration and overhead	20,000
TOTAL	$200,000

SOURCE OF ESTIMATES:

Dryden and LaRue Engineers Anchorage, Ak

5

COMMUNITY CENTER

AND

WATER SAFETY FACILITY

FEASIBILITY STUDY

COMMUNITY CENTER AND WATER SAFETY FACILITY

INTRODUCTION

Historically, rural communities in Alaska have had a sad lack of community facilities. In modern times when survival is not as difficult and the people do not have to work as hard just to stay alive, this lack is even more apparent.

The end result of the lack of anything to do has created severe social problems such as alcoholism, crime and severe depression.

What we can do as a local government is to provide a facility and activities as an alternative to occupy the peoples' minds, energy and time.

A Borough-wide survey conducted by the Borough Parks and Recreation Commission during the winter of 1982 indicated the number one priority among the Borough residents for recreation was an indoor recreation facility. To honor this request, the Borough requests your consideration in assisting us to develop and construct such a facility.

Two of the needs within this facility are a water safety facility and a senior citizens' center.

WATER SAFETY FACILITY

The need for a water safety facility is not a new idea in the Bristol Bay Borough as both school and community have repeatedly expressed concern regarding residents inability to swim, ignorance of boat and water safety principles and lack of appropriate leisure time activities. Several attempts have been made to establish a swimming program despite the lack of facilities. A state program utilizing a temporary "above-ground" tank was installed several years ago to help teach basic swimming and drown proofing. Unfortunately, funding is no longer available for the program. There were numerous other difficulties with the outdoor tank and it was finally abandoned due to inefficiencies, leaving only a greater awareness of the need for water safety training.

While interest in the construction of swimming pools is being expressed throughout the state, certain regions can identify a much greater need than others. Such is true in the Bristol Bay Borough where the prime occupation of residents is closely related to the sea. In 1980, the State Department of Health and Social Services documented deaths attributed to drowning from 1975 forward. (Source: Annerud, Nels. Deaths due to Drowning, unpublished, 1981) The report indicates an escalating number of deaths per year in fishing and fishing-related occupations. The state has averaged 100 deaths per year over a five year period. Of even greater significance, the greatest number of these deaths are reported to be in the southcentral region. Finally, most of these deaths are tied to the "ocean" or "ocean-bay".

The escalating number of deaths continue in the Bristol Bay region. According to the September 1981 edition of the Bristol Bay Times (Vol. II, No. 7), 12 persons drowned in the region last summer. Statistics such as these graphically represent the problem and obviously support the continued community pressure to initiate a water safety program. It is the community's desire to see a sound educational program which will drastically reduce the number of lives needlessly lost to the sea.

WATER SAFETY FACILITY - Continued

A second and somewhat less critical need within the Borough could also be successfully addressed with the addition of a water safety facility. Naknek, South Naknek and King Salmon offer few recreation and leisure-time activities for their residents. The geographic isolation and severe weather conditions further hamper both physical and psychological well being. It is a secondary goal of the school board to offer improved activities which not only provide an outlet for excess energies, but foster physical fitness and well being as well. The installation of a water safety facility would contribute substantially in this effort.

The decision to include a state approved water safety facility in the overall master plan was made following extensive school and community planning meetings. As an integral part of the planning process, a questionaire was circulated throughout the Borough soliciting written comments about school facilities needs. The results supported the response found in public meetings and that was the need for a swimming pool was of foremost importance. (Source: Survey and Analysis of School Facilities Needs in the Bristol Bay Borough School District - South East Regional Resource Center, Juneau, Alaska, September 1982)

SENIOR CITIZENS CENTER

The need for Senior Citizens' facilities throughout the state has increased over the years with the increase in the number of senior citizens.

It behooves us to provide services for the comfort of these valuable members of the community. We need to establish a means for these people to have the companionship of other persons in their age group. Society has the tendency to ignore our seniors and they are frequently left behind in the fast lane life style we have created for ourselves.

THE PLAN

We plan to develop a site plan based on community input to determine exactly the types of facilities to be considered.

As stated preliminary indications are that there is a need for a water safety facility and a senior citizens' center. Additionally it is indicated game and meeting rooms are high priorities along with other types of recreational facilities.

The total cost of these facilities is estimated to be approximately $4,000,000.

We plan to develop these facilities over a four or five year period of time, starting with a basic facility and adding to the facility based on need and the availability of funds.

COST SUMMARY

1. Facility & Site Development Planning

ESTIMATED COST $100,000

6

PUBLIC FACILITIES

ITINERANT PARK

KING SALMON BOAT RAMP

SOUTH NAKNEK BOAT RAMP

PUBLIC FACILITIES

INTRODUCTION

The Borough is planning three outdoor public facilities for Fiscal Year 1985. One is an itinerant and community park in Naknek and two boat ramps to be located in King Salmon and South Naknek.

NAKNEK ITINERANT AND COMMUNITY PARK

In the summer during fishing season, the Borough has a large influx of itinerant cannery workers and other fish industry oriented workers, plus tourists and other persons seeking employment.

The canneries provide housing for their seasonal employees and a limited number of tourist accomodations. However, there are a great number of individuals who do not have a place to stay.

Since the land around the village is primarily in private ownership, there is no area for these persons to so much as pitch a tent.

Each year the Borough law enforcement officers receive numerous complaints about trespassing and the airport manager must devote a great deal of his time evicting persons camped on areas adjacent to the air strip.

To compound matters there is very little wood available for fire wood. Consequently, persons stealing wood from private wood piles is not uncommon.

In addition to the problems generated by the itinerants, there are no organized picnic or outdoor recreation areas in the village in which residents can have a family or group get together.

THE PLAN - NAKNEK ITINERANT PARK

The Borough has already acquired the property to locate this facility. The plan is to build a 40' x 20' central pavillion to house six barbeque pits and picnic tables, a restroom and shower facility, two small 10' x 20' shelters, gravel pads for tent locations, foot paths, a well and sewage disposal system.

During the period it is not used as a camping facility, the local residents can use it as a community park.

BOAT RAMPS

The idea of boat ramps in King Salmon and South Naknek has been a public request for many years. The only public boat ramp in the area is in Naknek and there is a critical need for such facilities in South Naknek and King Salmon also.

King Salmon is the hub of the tourist trade in our region and many sport fishermen fish the Naknek River in this vicinity. The present boat ramp is used by commercial fishermen and they have in the past dominated the facility.

In addition to small boats that could be using the boat ramp, there also appears to be a demand for a float plane haul out area, as many of the Alaskan sportsmen fly in from other areas throughout Alaska to take advantage of the sport fishing in our area.

In South Naknek we have a different situation. Since we do not have a bridge to span the river, we are forced to transport heavy equipment and supplies across the river via scow or landing craft. This is a tricky situation since the landing craft or scow must beach on the river bank in strategic locations, based on the volume of the tide in the river.

A boat ramp and a small dock could provide a safe and adequate loading and unloading facility.

THE PLAN - KING SALMON

The Borough has obtained a long term public use lease from the Department of Transportation and Public Facilities to acquire the property where the present boat ramp is located.

Our plan is to construct a skid proof concrete launching pad, repair the existing small dock and develop a parking area.

An additional commitment to the public, utilizing this facility, is to provide a means to launch and tie up to the dock. We plan to provide attendant service to control the launching and parking procedure.

THE PLAN - SOUTH NAKNEK

We intend to construct a facility in South Naknek, similar to King Salmon.

This facility will be designed primarily for industrial use, but can also be used as a tourist facility.

The legislature appropriated $75,000 for a beach access road in Fiscal Year 1984. Our plan therefore, is to be able to provide a dock facility in concert with the access road which will provide us the necessary ramp and dock with access to it.

COST SUMMARY

ITINERANT AND COMMUNITY PARK

40' x 20' Central pavillion	$ 35,000
Restroom shower complex	50,000
(2) 10' x 20' Shelters	15,000
(15) Gravel tent pads	5,000
Foot paths	3,000
30' x 60' Parking lot	5,000
Well	15,000
Sewage disposal system	5,000
Electrical power supply	2,000
Administration and overhead	15,000
TOTAL LEGISLATIVE REQUEST	$150,000

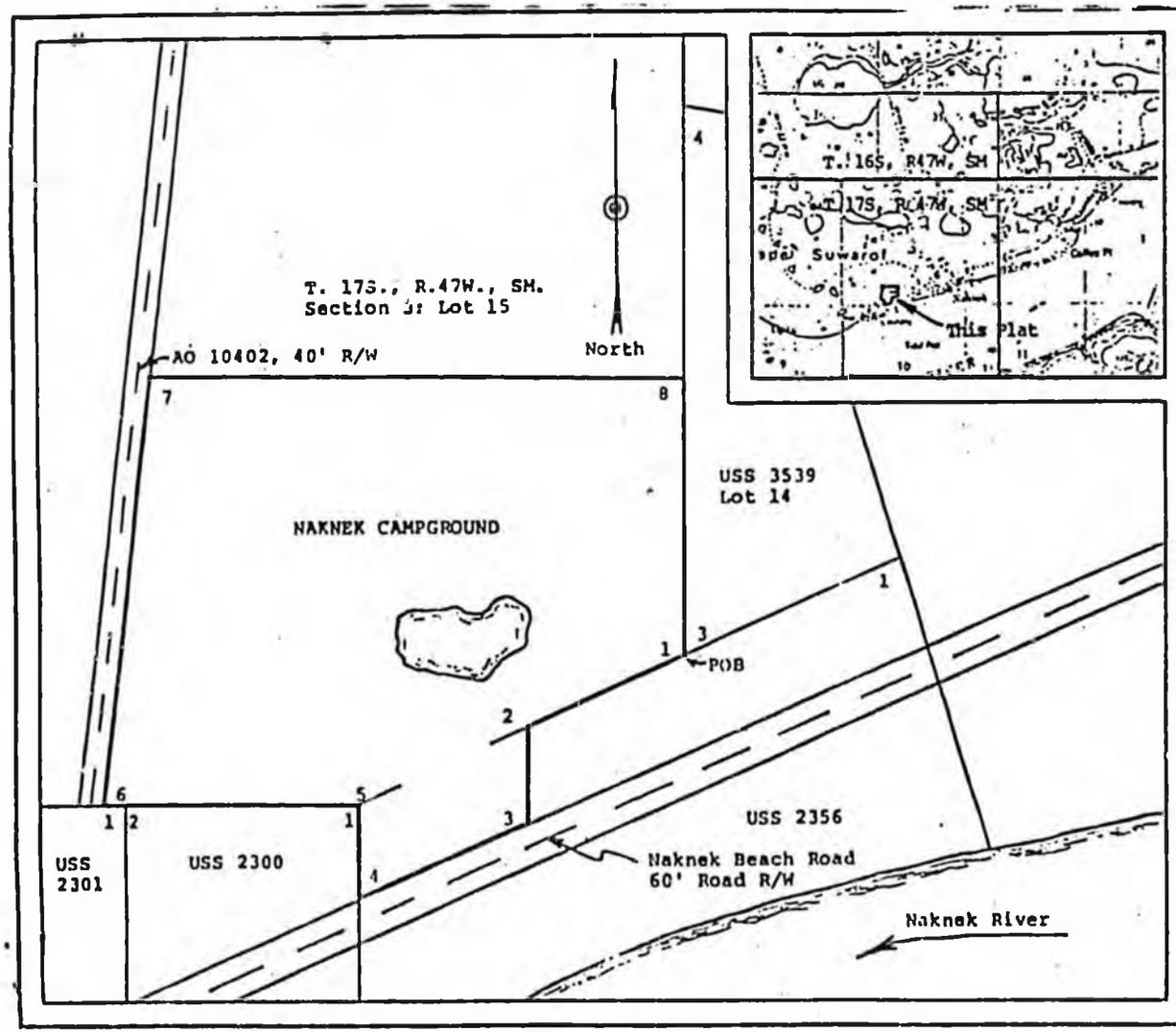
COST ANALYSIS

ITINERANT AND COMMUNITY PARK

The proposed park area consists of 14.5 acres with a small lake in the middle of the park.

Since the area is considered semi-wet tundra, it will be necessary to construct gravel pads and trails to provide a dry area to camp. This cost is reflected in the overall construction of this facility.

Pavillion: 40' x 20' with steel posts, girders and roof. Concrete footings and set on gravel pad. Six (6) tables and six (6) grills.	$ 45,000
Restroom and showers: 20' x 20' metal building with two (2) toilets and two (2) showers each side. The toilets - stainless steel with push button flush. Handrails as required for the handicapped. Small stainless sink on each side. Stainless steel mirror on each side. Overhead lighting.	50,000
Two (2) small steel shelters: 10' x 20' each on gravel pads. Two (2) tables and two (2) grills for each.	20,000
Gravel pads: Ten (10) to fifteen (15) pads, each one to be 10' x 15'. Gravel to be one inch deep.	5,000
Foot paths: Approximately 2,000 linear feet of path, 4' wide and 1' deep.	3,000
Parking lot: 30' x 60' and 18" deep	5,000
Well and sewage disposal	20,000
Electrical power to restroom for lighting and hot water and one (1) yard light.	2,000
TOTAL	$150,000



APPENDIX A

Legal Description

See Sheet 2 of 2

NAKNEK CAMPGROUND
State of Alaska
Department of Community and
Regional Affairs
Municipal Lands Trustee Program
ANCSA 14(c)(3)
AS 44.47.150
19 AAC 90

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Sheet 1 of 2	File: [illegible]

EXHIBIT F

COST SUMMARY

KING SALMON BOAT RAMP

Precast concrete pads	$ 17,000
Site preparation	12,500
400 cubic yards gravel	7,000
Landscaping	8,000
Construction labor	10,000
Freight	14,000
Dock renovation	21,500
Administration and overhead	10,000
TOTAL LEGISLATIVE REQUEST	$100,000

COST ANALYSIS

KING SALMON BOAT RAMP

48' x 40' of precast concrete pads	$ 17,000
Site preparation	12,500
400 cubic yards pit run gravel	7,000
Landscaping	8,000
Construction labor	10,000
Freight	14,000
TOTAL	$ 68,500

DOCK RENOVATION

It will be necessary to re-align piling and replace some planking.

Excavation	1,500
Material	12,000
Construction labor	8,000
TOTAL	$ 21,500
Administration and overhead	10,000
TOTAL LEGISLATIVE REQUEST	$100,000

SOURCES OF ESTIMATE:

Utility Vault Co.	Auburn, Wa
Foss Alaska Lines	Seattle, Wa
Paug-Vik, Inc.	Naknek, Ak
Bristol Bay Contractors	King Salmon, Ak

COST SUMMARY

SOUTH NAKNEK BOAT RAMP

Precast concrete pads	$ 17,000
Excavation and site preparation	25,000
400 cubic yards of gravel	7,000
Access road	20,000
Landscaping	8,000
Construction labor	30,000
Freight	15,000
Dock construction	58,000
Administration and overhead	20,000
TOTAL LEGISLATIVE REQUEST	$200,000

COST ANALYSIS

SOUTH NAKNEK BOAT RAMP

To construct a boat ramp in South Naknek will require selecting a suitable location, extensive excavation and construction of the docking facility.

48' x 40' of precast concrete pads	$ 17,000
Excavation and site clearance	25,000
400 cubic yards of gravel	7,000
Construction of access road	20,000
Landscaping	8,000
Construction labor	30,000
Freight	15,000
TOTAL	$122,000
Dock Facility: 400 square feet 4" x 6" treated timbers	12,000
(8) wood pilings	2,000
Excavation	10,000
Construction labor	32,000
Freight	2,000
TOTAL	$ 58,000
Administration and overhead	20,000
TOTAL LEGISLATIVE REQUEST	$200,000

SOURCE OF ESTIMATES:

Utility Vaults Co.	Auburn, Wa
Foss Alaska Lines	Seattle, Wa
Paug-Vik, Inc.	Naknek, Ak
Bristol Bay Contractors	King Salmon, Ak

7

EMERGENCY WARNING SYSTEM

EMERGENCY WARNING SYSTEM

INTRODUCTION

Due to an expanding population and the development of new areas, the Borough's emergency warning system has become obsolete.

We currently have emergency warning systems in the three villages within the Borough. However, the effective range of these devices are less than 50% and during adverse weather conditions, the effective range may drop to 25% efficiency.

This is a serious problem particularly in the event of a national emergency or natural disaster where it may be necessary to notify the public of the danger.

To compound this problem, the only radio broadcasting station is located in Dillingham 60 miles away, and if this station was disabled, the Borough would be hard pressed to notify residents of any impending danger.

THE PLAN

The Borough recently had our alarm system evaluated by a firm who specializes in community alarm systems.

Based on this evaluation, the recommendations were to relocate two sirens, replace two sirens and install two new sirens in areas currently not covered by the existing system.

Based on the afore mentioned evaluation, we have submitted a grant application to the Federal Emergency Management Agency for a grant to provide funds for 50% of the cost. The request for this item represents the 50% matching funds.

COST SUMMARY

EMERGENCY WARNING SYSTEM

Based on the cost of two new sirens and the relocation or removal of four sirens.

Equipment		$ 28,767
Additional parts		750
Freight		750
Installation labor		15,000
	TOTAL	$ 45,267
TOTAL LEGISLATIVE REQUEST		$ 25,000

COST ANALYSIS

EMERGENCY WARNING SYSTEM

SOUTH NAKNEK

Federal STL 10B Siren (low sound frequency)	$ 5,414
RC5WB motor starter	473
Pole mounting stand	259
ARCH *S1 Radio receiver	1,225
10A6 Antenna	13

LEADER CREEK

Federal RSH 10 Siren	7,247
RC5WB Motor starter	473
Pole mounting stand	259
ARCH*S1	1,225
10A6 Antenna	13

KING SALMON CREEK

Federal RSH 10 Siren	7,247
RC5WB Motor starter	473
Pole mounting stand	259
ARCH*S1	1,225
10A6 Antenna	13

KING SALMON

ARCH*S1 Radio receiver	1,225
10A6 Antenna	13

NAKNEK

ARCH*S1	1,225
10A6 Antenna	13
TE12B Encoder	473
	$28,767
Parts and supplies	750
Freight	750
Installation labor	15,000
TOTAL	$45,267

SOURCE OF ESTIMATE:

L.N. Curtis and Sons
629 So Industrial Way
P.O. Box 24964
Seattle, Wa 98124

BRISTOL BAY BOROUGH

EXISTING & PROPOSED SIREN RANGES

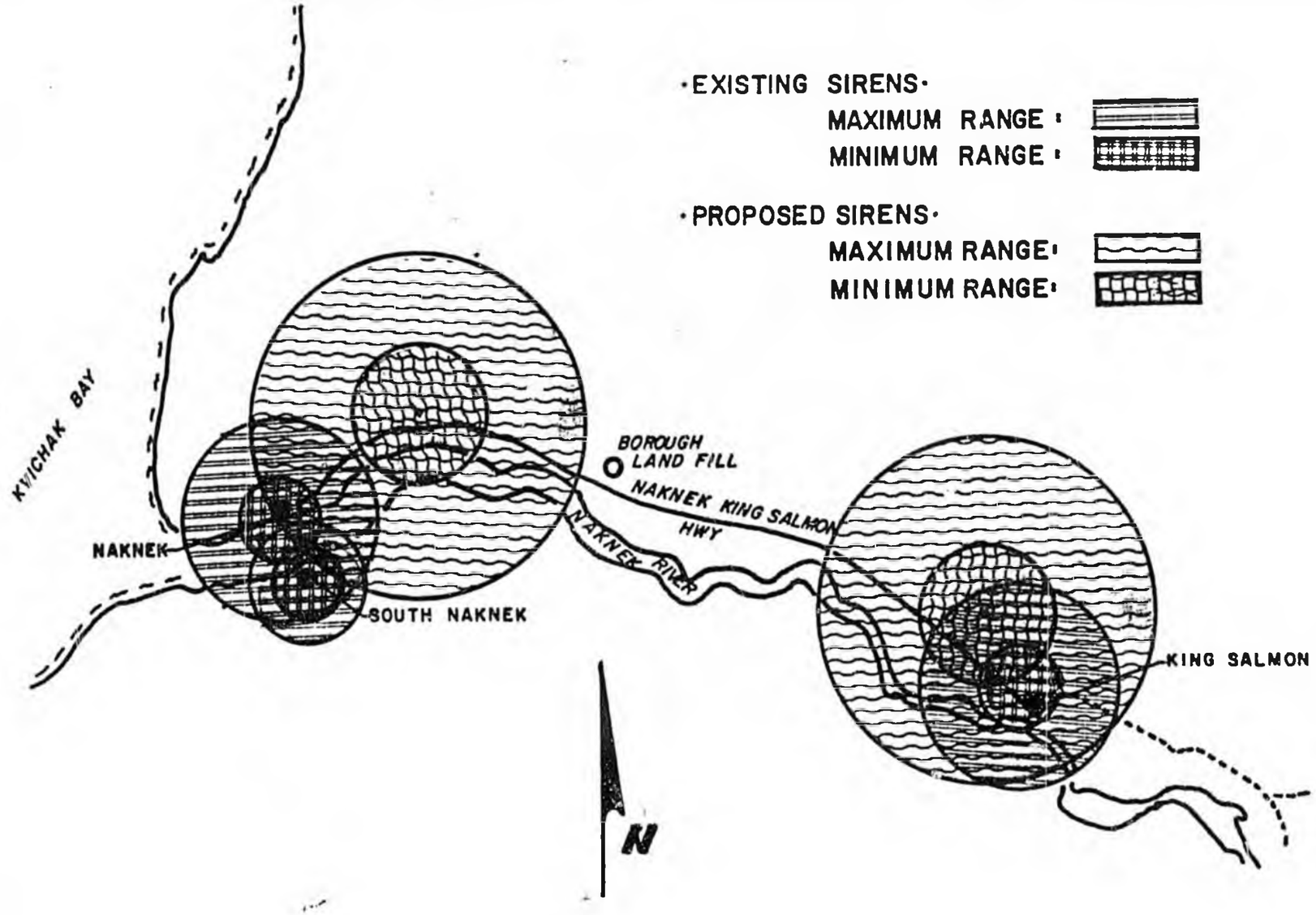

EXHIBIT G

PREPARED BY: RALPH MANCUSO & ASSOC. BOX 181, NAKNEK AK. 99633

NOV, 1983

LEGISLATIVE CONCERNS

FISCAL YEAR 1985

TRANSPORTATION

1. NAKNEK - KING SALMON HIGHWAY

Over the past several years, the Naknek - King Salmon Highway had deteriorated to the point it was almost impassable in sections. However, in the spring of 1983 the local Department of Transportation and Public Facilities upgraded the highway considerably. It is our understanding funds have been allocated for engineering to do major renovation of this highway in the near future. The Borough appreciates the efforts of the Department of Transportation and Public Facilities for their consideration and we support a timely completion of this project for the safety of our residents.

2. KING SALMON AIRPORT TAXIWAY

During the summer months during the height of the commercial fishing and tourist season the airport taxiways are congested to the point a thirty or forty minute wait is not unusual. Therefore, the Borough supports legislation for continuous airport improvements and that such improvements be designated a high priority on the Department of Transportation and Public Facilities' appropriations for capital projects list.

3. SOUTH NAKNEK RUNWAY IMPROVEMENTS

South Naknek's runway is the only year-round transportation link to the outside world and therefore a very important facility in the community. However, the runway is relatively short and has only one approach, thereby limiting its availability to only certain weather conditions. Therefore, the Borough requests the Legislature to place lengthening the existing runway and building a cross-runway as high priorties on the DOT/PFs' appropriation for capital projects.

4. NAKNEK RIVER BRIDGE

South Naknek is separated from the other two communities in the Borough by the Naknek River. This geographic barrier causes a hardship on the people on both sides of the river and a costly duplication of government services. Since South Naknek is the terrestrial link to the Alaska Peninsula, eventually if the petroleum industry is to flourish, a bridge could provide a motor link to the modern airport facilities in King Salmon. Also such a bridge would enhance the tourist industry. They could take advantage of the scenic beauties of the Alaska Peninsula. There are also a number of villages on the peninsula that could benefit from the existence of a Trans-Peninsula road.

From the standpoint of duplication of Borough services, to adequately serve the village of South Naknek, the Borough must provide and maintain expensive road maintenance equipment on both sides of the river. Also since there is not a middle or senior high school in South Naknek, students must be transported daily to and from school via aircraft. All of this duplication is extremely expensive to the taxpayers and the cost of a bridge could be amortized in a few short years.

5. PEDERSON POINT BEACH ROAD

Pederson Point is an area approximately three miles from Naknek which is populated with numerous fishing cabins and a cannery. During the summer several hundred people live around Pederson Point. However, it has no road access. Therefore, the Borough requests the Legislature place the construction of a road from Naknek to Pederson Point as a high priority on the DOT/PFs' appropriation for capital projects.

PUBLIC SAFETY

1. DISTRICT ATTORNEY

The Bristol Bay Borough has passed a resolution in support of establishing a permanent office and staff in the Bristol Bay area.

Crime, alcohol and drug related offenses have increased throughout the region and the area would be best served by a regional office of the District Attorney to prosecute crimes within this region in an expeditious manner, acceptable to the communities' needs and desires.

Therefore, the Borough supports legislative action to establish an office and position in the Bristol Bay region as well as other communities in House District 26.

2. SOCIAL WORKER

The Borough urges the Department of Health and Social Services to provide a full time social worker within the Borough to deal with social problems on a daily basis or as needed.

3. APSIN COMPUTER TERMINAL

The Borough urges the Department of Public Safety to install an APSIN computer terminal in the Borough public safety facilities to be utilized by our police department and the state troopers located within this area.

The Borough would consider sharing the operational and maintenance costs associated with this installation and its utilization.

4. ALL TERRAIN VEHICLES

The Borough urges the Department of Public Safety to implement on a state-wide basis a program developing the safe usage of ATV's. In conjunction with this, the Borough urges that these programs take into consideration the legal ramifications of their operation and safety.

EDUCATION

1. FUNDING FOR DEBT SERVICE

The Borough urges the Legislature to continue to assist municipalities in the retirement of bonds for school construction at a minimum level of 90% of the debt service amount.

2. RURAL EDUCATION

The Borough urges the state to adequately fund Rural Education programs for the Bristol Bay area to meet the communitie's needs from a stand point of trades and advanced education.

TELECOMMUNICATIONS

1. TELEVISION AND RADIO

The Borough urges the Legislature to expand the Division of Telecommunications' budget and thereby their capability to provide more television channels and radio programing to bush communities like the Borough.

NATURAL RESOURCES

1. FISHING

An important factor in the economic development and prosperity of the Borough is the diversification of its fishing industry. Many local fishermen have entered the herring fisheries to supplement their earnings from the salmon fisheries. The development of the herring fishery in Bristol Bay would help create a more stable economic base and present alternate income sources. Therefore, the Borough urges the Legislature to take every necessary step to assure a market for the Bristol Bay herring fishery.

REPRESENTATIVE
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NAKNEK, ALASKA 99633
(907) 246-4495

While in Juneau
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(907) 465-4942, 465-4943

Rep. Mae Tischer

Alaska State Legislature

House of Representatives

CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

MAR 1984
RECEIVED

DISTRICT 26

ADAK
AKUTAN
ALEKNAGIK
ATKA
BELKOFSKI
CLARK'S POINT
COLD BAY
DILLINGHAM
DUTCH HARBOR
EGEGIK
EKUK
EKWOK
FALSE PASS
IGIUGIG
ILIAMNA
KING COVE
KING SALMON
KOKHANOK
KOLIGANEK
LEVELOCK
MANOKOTAK
NAKNEK
NELSON LAGOON
NEWHALEN
NEW STUYAHOK
NIKOLSKI
NONDALTON
PEDRO BAY
PILOT POINT
PORT ALSWORTH
PORT HEIDEN
PORT MOLLER
PORTAGE CREEK
SAND POINT
SOUTH NAKNEK
SQUAW HARBOR
ST. GEORGE
ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

MEMORANDUM

TO: Representative Mike Davis, Member
House Committee on Health, Education
and Social Services

FROM: Representative Adelheid Herrmann

DATE: March 2, 1984

SUBJECT: SSHB 353 -- Special appropriations for rural school design and construction.

Yesterday, you requested th : the Department of Education's FY 85 CIP Priority rating be provided with respect to the schools contained in the above bill. They are:

Section 1. Dillingham elementary school ($2,800,000)
DOE #98 ($2,300,000)

Section 2. Bristol Bay Consolidated High School ($1,800,000)
DOE #32 ($1,777,500)

Section 3. Unalaska Vocational Education Facility ($1,803,000)
DOE #55 (same) -- this rating was prior to the voc-ed building burning down

Section 4. Clark's Point K-12 ($4,430,000)
DOE REAA #9 ($4,500,000)

Section 5. King Cove High School ($3,200,000)
DOE #101 ($2,900,000)

Section 6. Manakotak K-12 ($3,500,000)
DOE REAA #32 ($4,500,000)

Section 7. False Pass Elementary School ($2,774,700)
DOE REAA #26 ($3,564,800)

Section 8. St George High School ($1,066,200)
DOE REAA #73 ($2,372,100)

Section 9. St. Paul High School ($4,602,256)
DOE REAA #15 ($8,082,300)

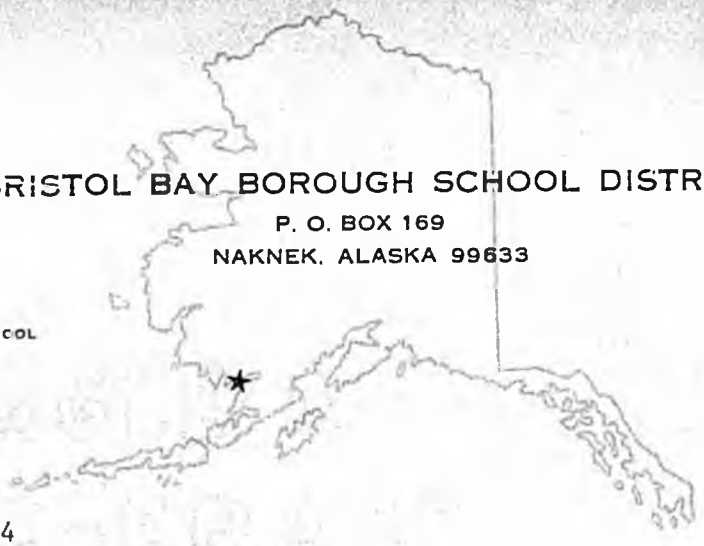
I double-checked with the Department of Education to see if they had any particular comments on the legislation that I could forward to the Committee, as the Department staff was unable to attend the hearing. I was informed that the only position that the Department takes with regard to capital projects was the formulation of the CIP priority list.

Comparing the submissions to DOE with the figures contained in my bill, you will find that the overall costs of the projects have been reduced by approximately $5,803,540. Considering the DOE prioritization process is a statewide compilation, I did not ask that these projects be reprioritized in light of the new submissions.

I am hopeful that this information is helpful to you. If you have any other comments or questions, please let me know.

AH/ml

cc: Members, House Committee on Health,
Education and Social Services



BRISTOL BAY BOROUGH SCHOOL DISTRICT
P. O. BOX 169
NAKNEK, ALASKA 99633

PHONE 246-4225 OR 4265
HIGH SCHOOL

DR. HARRY W. MASINTON
SUPERINTENDENT

February 13, 1984

The Honorable Mae Tischer
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Ms. Tischer,

As you are aware, a teleconference on school capital funding is scheduled for Monday, February 20, 1984, and the Board of Education for Bristol Bay Borough School District is currently making arrangements to personally appear at the hearing.

The District is in need of $1.8 million to finance the first phase of a construction/remodeling project for Bristol Bay High School. Initially built in 1968 to accommodate a complete K-12 educational program, the school has since been modified to facilitate a comprehensive high school program. Throughout the modification the high school has evolved from an "open-space" design to a "self contained" classroom design. During the sixteen years since original construction, facility needs have grown beyond the capacity of the original structure. Therefore the District is requesting funds necessary to remedy critical building deficiencies. Identified needs that require immediate attention include: health & life safety, unhoused students, and protection of structure.

Your support for capital funding sufficient to meet these needs would be most appreciated.

I am looking forward to meeting with you and sharing my concerns at the upcoming hearing.

Thank you for your attention and support.

Best regards,

Harry W. Masinton

Harry W. Masinton, Ed. D.
Superintendent of Schools

HWM;crm

2-21-84
Notified DOE
Notified Sponsor

Introduced: 2/15/84
Referred: Health,Education &
Social Services and Finance

Rec'd 2-29-84
Rec'd back-up 2-28
duplicated 2-28
filed 2-29

Funding Information
General Fund $25,976,156
Other Funds -0-
$25,976,156

IN THE HOUSE BY HERRMANN

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 353

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making special appropriations to the Department of Education and for payment as grants for rural school design and construction; and providing for an effective date."

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

* Section 1. The sum of $2,800,000 is appropriated from the general fund for payment as a grant to the City of Dillingham for the design and construction of an addition to the Dillingham elementary school.

* Sec. 2. The sum of $1,800,000 is appropriated from the general fund for payment as a grant to the Bristol Bay Borough for design and construction of improvements to the Bristol Bay Consolidated High School.

* Sec. 3. The sum of $1,803,000 is appropriated from the general fund for payment as a grant to the City of Unalaska for design and construction of a vocational education facility.

* Sec. 4. The sum of $4,430,000 is appropriated from the general fund to the Department of Education for the design and construction of a new school at Clark's Point.

* Sec. 5. The sum of $3,200,000 is appropriated from the general fund for payment as a grant to the City of King Cove for the design and construction of an addition to the King Cove school.

* Sec. 6. The sum of $3,500,000 is appropriated from the general fund to the Department of Education for the design and construction of a school addition at Manakotak.

* Sec. 7. The sum of $2,774,700 is appropriated from the general fund

to the Department of Education for the design and construction of a school addition at False Pass.

* Sec. 8. The sum of $1,066,200 is appropriated from the general fund to the Department of Education for the design and construction of improvements and an addition to the school at St. George.

* Sec. 9. The sum of $4,602,256 is appropriated from the general fund to the Department of Education for the design and construction of improvements and an addition to the school at St. Paul.

* Sec. 10. The appropriations made by secs. 1 - 3 and 5 of this Act shall be disbursed in accordance with AS 37.05.315.

* Sec. 11. The appropriations made by secs. 4 and 6 - 9 of this Act are for capital projects and are subject to AS 37.25.020.

* Sec. 12. This Act takes effect July 1, 1984.

REPRESENTATIVE
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(907) 465-4942, 465-4943

Alaska State Legislature

House of Representatives

CHAIRMAN
SPECIAL COMMITTEE
ON FISHERIES

MEMBER
TRANSPORTATION
COMMITTEE

DISTRICT 26

ADAK
AKUTAN
ALEKNAGIK
ATKA
BELKOFSKI
CLARK'S POINT
COLD BAY
DILLINGHAM
DUTCH HARBOR
EGEGIK
EKUK
EKWOK
FALSE PASS
IGIUGIG
ILIAMNA
KING COVE
KING SALMON
KOKHANOK
KOLIGANEK
LEVELOCK
MANOKOTAK
NAKNEK
NELSON LAGOON
NEWHALEN
NEW STUYAHOK
NIKOLSKI
NONDALTON
PEDRO BAY
PILOT POINT
PORT ALSWORTH
PORT HEIDEN
PORT MOLLER
PORTAGE CREEK
SAND POINT
SOUTH NAKNEK
SQUAW HARBOR
ST. GEORGE
ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

February 29, 1984

TO: Representative Mae Tischer, Chair
Members, House Committee on Health,
Education and Social Services

FROM: Representative Adelheid Herrmann

RE: SSHB 353 -- special appropriations for rural school design and construction

It has been called to our attention that several of the references in the bill do not clearly identify which level of school will be modified, improved, etc. The following reference may be helpful to you when reviewing the bill.

Section 1. Dillingham Elementary School.

Section 2. Bristol Bay Consolidated High School.

Section 3. Unalaska vocational education facility: Middle and High Schools

Section 4. Clark's Point: K-12.

Section 5. King Cove High School.

Section 6. Manakotak: K-12.

Section 7. False Pass: Elementary School.
Need to amend language to refelct relocation in lieu of "addition"

Section 8. St. George: High School.

Section 9. St. Paul: High School.

AH/jr

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT

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ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

Koponen
HB 353

MEMORANDUM

TO: Representative Mae Tischer, Chair
and Members, House Committee on
Health, Education and Social Services

FROM: Representative Adelheid Herrmann

DATE: February 27, 1984

SUBJECT: HB 353/SSHB 353 - An Act making special appropriations to the Department of Education and for payments as grants for rural school design and construction; and providing for an effective date.

I am attaching some information for your review which I hope will be of assistance while you consider the above legislation. The following material is enclosed:

1. The school/school district name and superintendent who will be testifying on the project.

2. A quick reference of community-school/school district-project and requested appropriation.

3. A section-by-section comparison of HB 353 and SSHB 353 which provides a brief explanation of the project.

4. Background information submitted to me by the schools/school districts on behalf of their requested proposals.

If you have any questions on the enclosed information, please let me know and I will get back to you.

AH/ml
Enclosures

REPRESENTATIVE
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ST. GEORGE
ST. PAUL
TOGIAK
TWIN HILLS
UGASHIK
UNALASKA

MEMORANDUM

TO: Representative Mae Tischer, Chair
and Members, House Committee on
Health, Education and Social Services

FROM: Representative Adelheid Herrmann

DATE: February 27, 1984

SUBJECT: SSHB 353 - Special Appropriations to the Department of Education and for payment as grants for rural school design and construction; and providing for an effective date.

On Wednesday, February 29th, the House HESS committee will be sponsoring, at my request, a teleconference on this bill. The following are expected to testify at this time:

Aleutian Region School District -- Dick Bowers, Superintendent

Bristol Bay Borough Schools -- Harry Masinton, Superintendent

Dillingham City Schools -- LeRoy Owens, Superintendent

King Cove City Schools -- Ben Kirker, Superintendent

Pribilof School District -- Leland Dishman, Superintendent

Southwest Region Schools -- Peter Flisock, Superintendent

Unalaska City Schools -- Bob Denny, Superintendent

These individuals, and some School Board Members, will be available to answer any questions that you may have on their respective requests. I am enclosing some background material on their proposed projects for your reference. If you have any particular concerns that you would like for me to answer, please let me know.

Thank you for your attention to this request.

AH/ml
Enclosures

REPRESENTATIVE ADELHEID HERRMANN

SSHB 353 -- Special Appropriations to the Department of Education and for payment as grants for rural school design and construction; and providing for an effective date.

The following is a brief outline by Section of the community listed and the responsible entity charged with jurisdiction of school modifications.

Section 1. Dillingham -- Dillingham City Schools -- elementary school addition: $2,800,000.

Section 2. Naknek -- Bristol Bay Borough -- Bristol Bay Consolidated High School improvements: $1,800,000.

Section 3. Unalaska -- Unalaska City Schools -- vocational-education facility: $1,803,000.

Section 4. Clark's Point -- Southwest Region Schools -- new school for Clark's Point: $4,430,000.

Section 5. King Cove -- King Cove City Schools -- school addition: $3,200,000.

Section 6. Manakotak -- Southwest Region Schools -- school addition for Manakotak: $3,500,000.

Section 7. False Pass -- Aleutian Region School District -- school addition for False Pass (Tobeluk Decree): 2,774,700.

Section 8. St. George -- Pribilof Islands School District -- school addition for St. George: $1,066,200

Section 9. St. Paul -- Pribilof Islands School District -- school improvements/addition at St. Paul: $4,602,256.

Section 10. Appropriations for municipalities.

Section 11. Appropriations for unincorporated communities.

Section 12. Effective date.

JR/s

REPRESENTATIVE ADELHEID HERRMANN
HB 353/SSHB 353

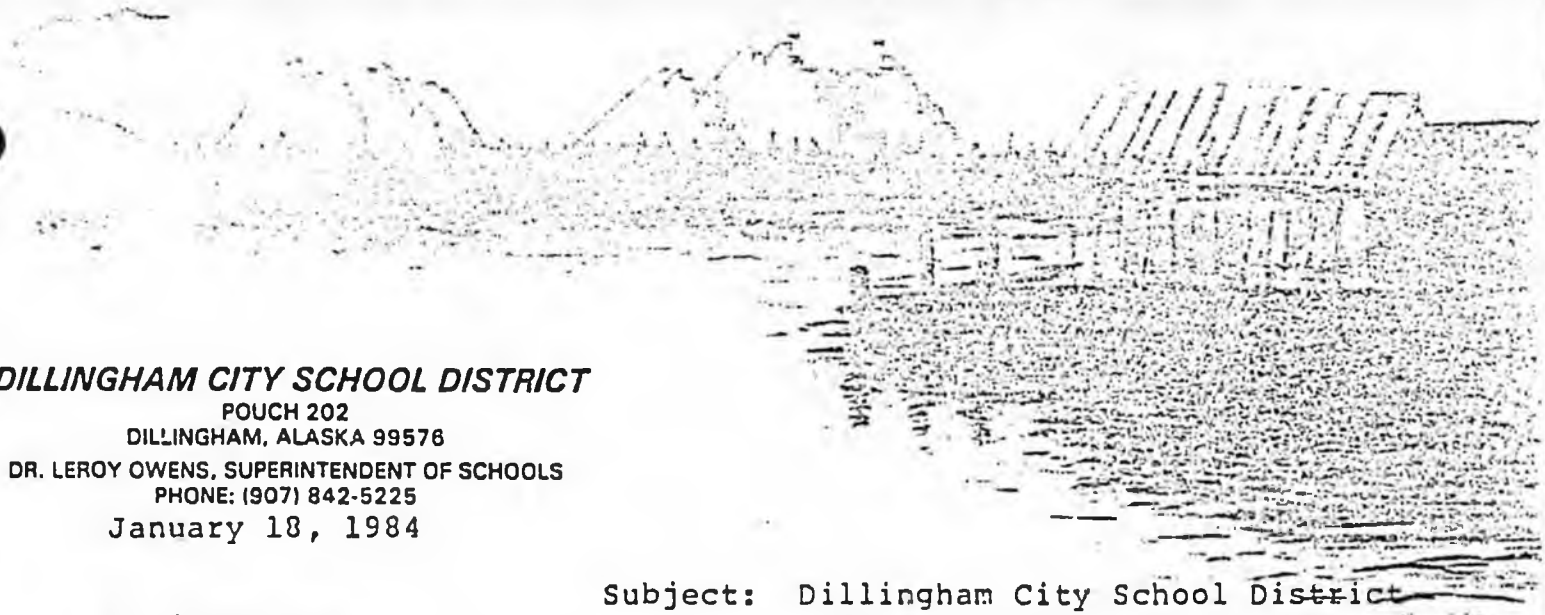
SECTION	PROJECT	HB 353	SSHB 353	RATIONALE
1	Dillingham elementary school addition	$ 6,000,000	$ 2,800,000	SSHB 353 deleted the reference to middle school and accepted the reduced figure which would take care of the immediate concern of alleviating the over-crowding of classrooms; returning the 6th grade class back to the elementary school. Classes are now being conducted in the hallways and stage area -- the latter to be modified as a music classroom.
2	Bristol Bay Consolidated High School -- Naknek	1,800,000	1,800,000	Phase I of a 3 Phase project. This would allow for classroom addition, Instructional Media Center, locker rooms/storage and an administrative office area. The construction would allow for future expansion.
3	Unalaska vocational-education facility	2,500,000	1,803,000	In the city's five-year plan, the vocational-education has been presented in two phases. This amount represents the initial phase which are mechanics, metals and general shops; art classroom, office and storage area.
4	Clark's Point: new school	4,430,000	4,430,000	The current building was built in 1946 and requires extensive upgrading to meet fire and building code standards. It is also undersized for program and enrollment demands. While a higher figure of $5,475,000 has been recommended, the lower amount will go a long way in making the necessary changes.
5	Levelock vocational-education facility	5,200,000	-0-	Deleted in SSHB 353. $2,035,000 was appropriated to this project last year.
	King Cove school addition	2,900,000 Section 8	3,200,000	HB 353 has this project in the amount of $2,900,000 which has been revised upward to $3,200,000 in SSHB 353. This change is a result of modifications to the overall scope of the project, including elimination of certain spaces, omission of the remodel portion and a decrease in the overall square footage.

SECTION	PROJECT	HB 353	SSHB 353	RATIONALE
6	Akutan: new school	$ 2,258,000	$ -0-	Deleted in SSHB 353. The Governor has it in his budget at $667,000. Tobeluk Consent Decree (Molly Hootch)
	Manakotak school addition	3,500,000 Section 9	3,500,000	Additional classroom space is needed and the building requires remodeling upgrade and a lunch room/kitchen facility.
7	Adak middle/high school improvements	993,500	-0-	Deleted in SSHB 353. As the Adak school serves the military, the state has been reluctant to fund any facility located on federal property.
	False Pass school addition **relocation**	2,774,700 Section 10	2,774,700	Although a higher cost estimate ($3,564,750), the lower figure has been maintained in this submission. Although the Governor has submitted $785,000 in his budget as a result of the Tobeluk Consent Decree, it is felt that more money is needed in order to accommodate the growing enrollment at False Pass. Due to an oversight, the language should be amended to reflect relocation instead of addition to school.
8	King Cove school addition	2,900,000	3,200,000 Section 5	See Section 5 for comment.
	St. George school improvements and addition	-0-	1,066,200	The School District has restructured the plan to reflect the minimum amount necessary to make needed changes. This phase includes remodeling of existing area.
9	Manakotak school addition	3,500,000	3,500,000 Section 6	See Section 6 for comment.
	St. Paul school improvements and addition	-0-	4,602,256	The School District has restructured the plan to reflect the minimum amount necessary to make needed changes. This phase is comprised of a combination of remodeling and new construction, including soil testing and land survey.

SECTION	PROJECT	HB 353	SSHB 353	RATIONALE
10	False Pass school addition	$ 2,774,700	$ 2,774,700 Section 7	See Section 7 for comment.

The remaining sections have been modified to reflect funding source.

The effective date clause has been changed to July 1, 1984.



DILLINGHAM CITY SCHOOL DISTRICT
POUCH 202
DILLINGHAM, ALASKA 99576
DR. LEROY OWENS, SUPERINTENDENT OF SCHOOLS
PHONE: (907) 842-5225

January 18, 1984

Subject: Dillingham City School District
Elementary/Office Facility
Capital Construction Project
Submitted to 1984 Legislature

Legislators
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Legislators:

Enclosed is a presentation of the Dillingham City School District Capital Construction Request to the 1984 Legislature. Included are excerpts from the District's Long Range Plan as well as statistics gathered to indicate expected growth of the school population for the next 10 years. Even the most conservative projection more than justifies the enclosed elementary addition and office facility. This plan is intended to meet the elementary population growth expected in the next five years. The District projects the building of a middle school structure that could extend the usability and the adequacy of the proposed elementary space for several more years. Including the central office facility in the capital construction request provides a means for the City to locate its school offices in functional proximity to its schools and to allow for the renovation of the old district office (an old condemned school) for other badly needed community functions. Thus, the projected cost of $4,200,000 will provide the community with much needed student space, while allowing the community to organize its functions of city government as well as school operation in a logical and cost-effective manner.

This proposal has the whole-hearted support of the entire community, and is the top priority of both the City Council and School District Board. Although Dillingham has many critical needs for public projects, it has a deep commitment to its children and has placed their education as the highest priority for its legislative capital construction request.

This proposal, then, is presented with the combined support and effort of the entire Dillingham community. We submit it for your consideration and support.

Sincerely,

LeRoy Owens, Superintendent, for
Dillingham City School Board and Dillingham City Council

DILLINGHAM CITY SCHOOL DISTRICT
POUCH 202
DILLINGHAM, ALASKA 99576
DR. LEROY OWENS, SUPERINTENDENT OF SCHOOLS
PHONE: (907) 842-5225

February 8, 1984

Representative Adelheid Herrmann
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

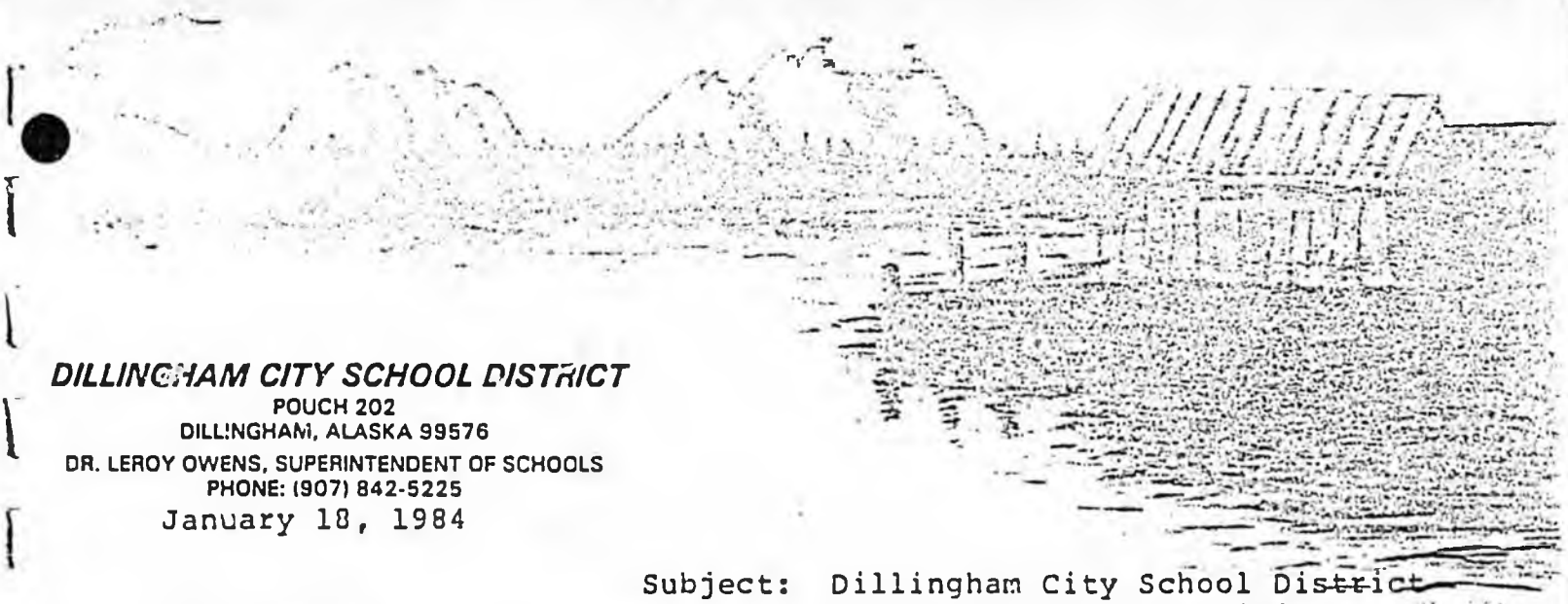
Dear Representative Herrmann:

Attached is a copy of the completed schematic drawings and backup material in support of the Dillingham City School District and City of Dillingham top priority for capital improvement funding from the 1984 legislature.

Note that the school district originally requested $ 2,000,000 to complete the first phase of a long range plan that includes waste heat recovery funding, middle school facilities construction, a life safety pool facility, and upgrading of school facilities to include music and drama, practice and performance areas as well as improved and expanded outside playground areas.

The attached elementary and central office facilities plan projects a potential cost of $4,200,000, if all items included in the proposal were to be completed. The City Council and School Board feel that they can complete Phase I of the long range program within the $2,000,000 amount originally proposed. We realize that completing items like central kitchen, site and playground development and some other items may not be completed within this amount, but can be requested in subsequent proposals in future years.

It is important to note that along with the $2,000,000 top priority proposal of the elementary/central office facility, the school district also has a waste heat recovery item in the amount of $600,000 that received favorable placement on the Governor's budget list. The success with our past heat recovery project in our elementary school has pointed up the great advantage in using this approach to energy savings. With this in mind, the heat recovery proposal makes a lot of sense to us.



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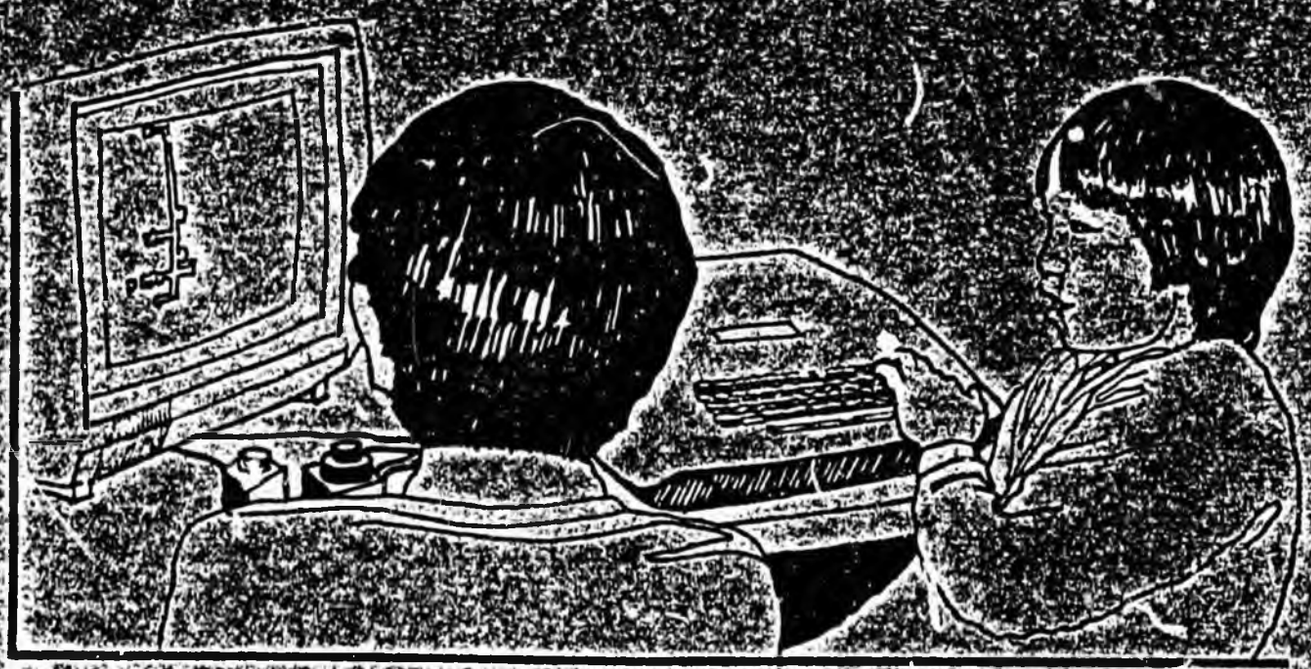
This proposal, then, is presented with the combined support and effort of the entire Dillingham community. We submit it for your consideration and support.

Sincerely,

LeRoy Owens, Superintendent, for
Dillingham City School Board and Dillingham City Council

Project Manual

Schematic Design



Dillingham Elementary School addition and central office

LIVINGSTON SLONE

PROJECT MANUAL
SCHEMATIC DESIGN PHASE

FOR AN ADDITION TO

DILLINGHAM ELEMENTARY SCHOOL

DILLINGHAM CITY SCHOOL DISTRICT

DILLINGHAM, ALASKA

FEBRUARY, 1984

PREPARED BY:

Livingston Slone, Inc.
Architecture, Engineering, Interior Design, Planning
3900 Arctic Blvd., Suite 301
Anchorage, Alaska 99503
(907) 562-2058

ACKNOWLEDGEMENTS

The preparers of this document wish to acknowledge the assistance of the following people:

Rick Ladd, Principal
Dillingham Elementary School

the Teaching Staff of
Dillingham Elementary School

Dillingham Community
Participants

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Assistant Superintendent
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Sally Smith
Dorothy Larson
Shirley Wiggins
Mary Dunn
Dave Bouker

the Administrative staff of
the Dillingham City School
District

Leon Braswell, Mayor

the Dillingham City Council
Laura Schroeder
Kay Larson
Kurt Armstrong
John Pearson
Nels Anderson Jr.
Mary Ellen Darling

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5.0 Building Cost Estimate

6.0 Project Schedule

INTRODUCTION

This document is a presentation of the schematic design for an addition to the Dillingham Elementary School and a new central office building for the Dillingham City School District.

The City of Dillingham is located on the Nushagak River in northern Bristol Bay. The present population is about 60% white and 40% Native. The economy is based on commercial fishing and fish processing, and since 1960 Dillingham has grown rapidly as the fishery has expanded. Dillingham is the largest town in the Bristol Bay area, the only first class city, and is the economic and service center of the region.

The rapid growth of the past few years has created severe overcrowding in the elementary school. The addition will accommodate the additional children. A new kindergarten classroom will be provided, as well as a multi-purpose room, music areas, and four classrooms for the upper grades.

The new central office building will house school district personnel, whose present offices are being pre-empted by City government. The building will also include a central kitchen to provide hot lunches for elementary, middle school, and high school children.

Existing building utilities consist of an oil fired boiler system, hydronic distribution, and a mechanical ventilation system. Waste heat from nearby Nushagak Electric supplies the elementary school's heating requirements. It is expected that the waste heat system will continue to be used with the new addition. The addition will include remote fan rooms for ventilation at the kindergarten wing.

The enlarged school will serve a projected enrollment of approximately 300 students. The facility is also programmed for community use: evening education, aerobic exercise, recreation, festivals, meetings, and small theatrical productions.

The documents contained in this report have been organized into sections corresponding to individual architectural/engineering disciplines and other pertinent subject areas.

1.0 Scope of Work

1.1 The basic scope of work at this phase of design is defined below. Should the project construction cost estimate change during subsequent design phase the scope of work will change also.

1.2 The existing Elementary School building consists of 25,250 square feet of floor area on the main level. The addition consists of 11,850 square feet of floor area added to the east and west ends of the existing structure. A potential for 4,000 square feet will be provided for storage above the new classrooms in the attic space. Some of this area may also be used for remote fan rooms.

2.0 Basis of Design

2.1 Architectural:

2.1.1 General: The new school structure is a concrete slab on grade, wood frame building of one story providing an educational program area for primary elementary school students. The school is designed in separate zones as follows: Four classrooms added to the southeast corner of the building for upper grades, 4 and up. Added to the west end of the building is a multi-purpose room, music room, and kindergarten areas. A storeroom for the gynasium and instructional materials is also incorporated. Providing of the additions in this fashion uses a minimum of available site area leaving as much site as possible for exterior play yards. It is a compact arrangement with minimum exterior wall construction versus a enclosed floor area. It is anticipated that the existing boiler room and mechanical room will provide support for the additions. However remote ventilation equipment will be located above the ceiling in the two areas of the addition.

The location of the new kindergarten addition allows for direct exterior access to their play area. The addition of the four classrooms on the southeast will require removal of an existing covered entry structure. This structure has not proven useful and has become an operating liability. The recontouring of the site near the main entry will remove the outdoor stair hazard and will give children a pleasant pedestrian approach to the school's front door.

2.1.2 The Building Site and Master Plan:

1. Location: The project is an addition to the existing elementary school. The proposed new roof design shall attempt to minimize problems from drifting snow entering the attic at the north eave and snow building up on the lee side of roof area.

2. Master Plan: The addition is sited and designed to allow for possible future expansion on the east end. The addition is also been considered in light of a master plan prepared earlier by the architect which depicted an overall plan for the School District showing a central kitchen, and central office facility extending into Middle School area and a future swimming pool.

3. Utilities: The building is sited near a waste heat line that is supplied by Nushagak

Electric's generating facility. Thid waste heat system will continue to supply heating for the school and the new additions. On-site oil storage for the buildings boilers will be maintained.

2.1.3 Building Technologies, Assemblies:

1. Floors: Hallways and classrooms to receive carpeting. Multi-purpose Room and wet areas in classrooms shall receive resilient vinyl tile. Entrance ramp and vestibules to have sealed concrete.

2. Wall Assemblies: Conventional wall assemblies are proposed utilizing painted gypsum board for fire protection. The heavy vapor barrier, wood studs, plywood sheathing for structural shear on the exterior, building paper and plywood siding to match the existing building will be provided.

3. Roof Assembly: The roof assembly consists of manufactured wood trusses, plywood deck with corrugated metal roofing to match the existing building in profile and color. This system will incorporate fiberglas batt insulation between the trusses with a vapor barrier attached to the furring below with gypsum wallboard forming a fire resistant skin beneath.

4. Windows: The existing window system is a double glaze aluminum frame set into decorative wood mullions at 6'0" on center. The Additions will employ similar matching window details with aluminum thermalbreak sash, insulating 1" glass, with some small operable windows. The architects will investigate available glazing systems to assure that a unit with minimum air infiltration will be selected.

5. Exterior Door Assemblies: Exterior door assemblies will have double steel doors with glazing panels with a possiblity of some of

the existing building exterior doors to be reused. Other exterior doors shall be painted steel.

6. Interior Door Assemblies: Interior doors will be hollow metal frames and of a 3' width unless design dictates specific needs for a wider door.

7. Interior Finishes: Interior finishes will generally adhere to the existing building's system of smooth texture gypsum wallboard and carpeting along the wainscot of the corridors and coat storage areas. Carpeting will be supplied for corridors and classroom floor areas with some classroom areas receiving a resilient vinyl flooring as shown on the floor plans.

8. Toilet Rooms: Floors shall be ceramic tile with ceramic tile base and walls. Fixture partitions shall be painted steel.

STRUCTURAL NARRATIVE

GENERAL

The scope of work under this section is to provide the structural design for the expansion of the Dillingham Elementary School in accordance with all applicable State and local building and fire codes.

STANDARD

All materials and methods shall conform to the latest rules, regulations, and/or specifications of the following authorities:

American Society for Testing Materials (ASTM)
American Concrete Institute (ACI)
American Institute of Steel Construction (AISC)
American Welding Society (AWS)
National Board of Fire Underwriters (NBFU)
American Institute of Timber Construction (AITC)
Uniform Building Code (1982)
American Plywood Association (APA)

STRUCTURAL FEATURES:

1. General:

   The existing structure is cut into a sloping site. The natural grade on the uphill side of the building is several feet above the finish floor level of the building. The classroom expansion will be constructed on this uphill side of the existing building, therefore the use of concrete retaining walls is anticipated. Also, the removal of earth and recontouring will be needed to keep the exterior grades around the classroom expansion to a desirable level.

   The new structure will be tied into and act as a unit with the existing structure in the event of seismic or wind action. The framing and foundation materials will be identical to the existing building to insure that the structures act with the same rigidity.

2. Foundation:

   The foundation of the structure will consist of concrete strip and spread footings to distribute loads to the soils. We anticipate some soil testing beneath the new construction and recommendations from a Geotechnical Engineer on allowable foundation loads will be forthcoming from the School District during prior to the next phase of design.

The first floor will consist of a concrete slab on grade. Concrete retaining walls, both cantilevered and buttressed will be utilized where the floor level is below the exterior grade.

3. Framing System:

Roof and mezzanine loads will be supported by load bearing, wood framed walls and where required, glu-laminated beams and columns. Plywood sheathing with the appropriate nailing patterns will be utilized to resist wall shears caused by lateral loading.

4. Mezzanine Floor System:

Mezzanine floors will required for additional mechanical space and may also be utilized as storage areas. Both mechanical equipment and storage items require a very strong floor system. Primary floor framing will span between load bearing walls. Plywood floors will serve as a diaphragm to transfer seismic and wind loads to the shear walls.

5. Roof:

Roof loads shall be carried by wood/metal open web joists spanning between load-bearing walls. Lateral loads at the roof line shall be carried by the plywood deck acting as a diaphragm to distribute lateral loads the shear walls. Special attention will be given to snow loadings and the potential for drifting on lower roof surfaces.

DESIGN LIVE LOADS

1. Roof, Snow Loads: 35 psf plus drifting

2. Floor:

Classrooms	100 psf
Corridors and Stairs	100 psf
Mezzanines and Storage	125 psf

3. Wind: UBC, 100 mph

4. Seismic: UBC, Zone 2

Design loads may be modified as site information is collected.

MECHANICAL NARRATIVE

GENERAL

The proposed project is an ±11,000 ft² addition and ±1300 ft² remodel to the existing elementary school building located in Dillingham, Alaska. The addition will house classrooms, toilets, storage, music room, multi-purpose room and an expansion of the mechanical room. New systems and materials will match existing and be compatible to ease maintenance and operations.

MECHANICAL SPACE REQUIREMENTS

Additional space requirements for new mechanical equipment as well as the need to relocate existing boilers for code required clearances require approximately 300 ft² of additional mechanical space in the existing boiler room/fan room, and a new 400 ft² fan room in the attic space of the new addition.

CODES AND STANDARDS

Mechanical systems will be designed to comply with all current codes and standards including:

Uniform Building Code (UBC), 1982 Edition
Uniform Mechanical Code (UMC), 1982 Edition
Uniform Plumbing Code (UPC), 1982 Edition
Uniform Fire Code (UFC), 1982 Edition

HEATING AND VENTILATION SYSTEMS

1. General:

   Heating will be accomplished by perimeter finned tube radiation with fan coil units in entries. Ventilation will be provided by new air handlers designed to supply a minimum 5 cfm/person outside air, 15 cfm/person total air. Toilets will be exhausted at the rated of 8 air changes/HR. Space air temperatures will be maintained at 70°F (adjustable). During periods of non-use, i.e., nights and weekends, ventilation will be shut down by timers.

2. Heating:

   Two additional circulating loops with pumps will be added to the existing boilers. The added load will reduce the effect of the boiler so that both boilers will have to be operated in cold weather to maintain 70°F, although one boiler alone will prevent freezing in the building upon failure.

3. Heat Recovery:

The existing heat recovery equipment will be expanded as necessary to take full use of available waste heat. All new heating units will be designed to operate effectively with the low grade waste heat. The domestic hot water system will be connected to the heat recovery system.

4. Air Distribution:

Two new fans will provide ventilation. One will serve the southeast addition, one will serve the southwest addition. Fans will be operated by 7-day time clocks. Supply air will be routed through ceiling spaces. Fan rooms will be located above the prospective additions.

5. Exhaust Air Systems:

Toilet room exhaust will discharge to the outdoors through the roof.

6. Humidification:

No humidification system will be provided.

WATER AND SEWER

1. Cold Water:

The existing cold water main is sufficient in size for the new additions. New branch lines will be connected to the existing main inside the building.

2. Sewage:

Two new 4" sewer lines will be installed for the new plumbing fixtures, one for each addition, all connecting to the 6" main on the building exterior.

3. Domestic Hot Water:

Additional hot water requirements can be satisfied by connecting the domestic hot water system to the heat recovery system, to provide back-up for the existing hot water heaters, and to reduce overall fuel consumption.

ROOF DRAINS

No roof drains will be provided. Natural runoff from sloping roofs is the condition for the building additions.

FIRE DETECTION AND PROTECTION SYSTEMS

The existing sprinkler riser is of sufficient capacity to incorporate the addition. New branch lines to the additions will be provided.

A smoke detector system will be provided on each air handling system. Fire dampers will be used on duct penetrations through fire rated partitions.

ELECTRICAL NARRATIVE

SERVICE

The existing 120/208V, 30, 4W utility service from a pole-mounted transformer on the site form an aerial service from the existing power line and will be enlarged to handle the new addition. The existing main switchboard will be used to provide all power requirements for addition. Switchboard is rated 800A, and the existing 600A main breaker will be resized to 800A.

SECONDARY DISTRIBUTION AND BRANCH WIRING

The necessary service equipment is located in the mechanical room, with necessary main devices. Branch circuit panelboards are in the same vicinity, with insulated copper conductors in conduit to the various items of utilization equipment, such as lighting, convenience outlets, and motors. All wiring devices shall be heavy duty, specification grade, of nylon or other high abuse material.

EMERGENCY LIGHTING

Emergency lighting will be provided from existing emergency generator and located to properly illuminate the exitways. Consideration shall be given to self illuminated exit signs requiring no external hookup.

STANDBY POWER

A 30KW, 102/208V, 3Ø diesel-driven engine generator set has been provided to power the entire facility in the event of a utility power failure. This will be accomplished automatically with the necessary transfer switches and interlocks with utility power to prevent coincident power supply to the facility.

LIGHTING

Flourescent fixtures will be utilized as much as possible with industrial type or open strips in utility spaces, and architectural up-lights to match the existing classrooms and corridors. Fixture type will be coordinated with the anticipated ceiling material and the interior design concept of the facility. IES recommended criteria will be utilized in all areas, and it is anticipated that if budget allows, additional lightin may be added to existing classrooms where needed. Necessary site lighting for adequate exterior security lighting will be provided to suit the site extension.

TELEPHONE SYSTEM

Space will be provided for telephone system. A conduit-only system will be provided within the school addition to various phone locations as determined by the Architect.

FIRE ALARM SYSTEM

A fire alarm system is installed in this occupancy. A complete supervised, closed circuit, zoned initiating circuits with battery standby has been provided. Existing system will be intertied with the new fire alarm system.

CLOCKS

Battery operated clocks will be provided in the classrooms.

INTERCOM SYSTEM

An intercom system has been provided for administrative to classroom communication and public address. New intercom systems will be intertied with the existing system.

MISCELLANEOUS SYSTEM

Receptacles and special purpose outlets will be provided as required for necessary equipment.

GROUNDING SYSTEM

Each dry type transformer within the addition shall be grounded, by conductors, to building ground. All branch circuits will have a metallic grounding conductor.

SYSTEMS ESTIMATE SUMMARY

ELEMENTARY SCHOOL ADDITION

PROJECT CODE : DILLINGHAM ELEM SCHOOL
LOCATION : DILLINGHAM, ALASKA
ARCHITECT : LIVINGSTON SLONE
OWNER : DILLINGHAM SCHOOL DIST

NET AREA : 11850 SQ.FT.
GROSS AREA : 11850 SQ.FT.
RATIO - NET TO GROSS : 1/1.000
GROSS VOLUME : CU.FT.
** PROJECTED BID DATE : 00/00/00 **

ESTIMATE NUMBER : 1
ESTIMATE DATE : 02/03/84
NO. OF STORIES : 0
ESTIMATOR : ACMI

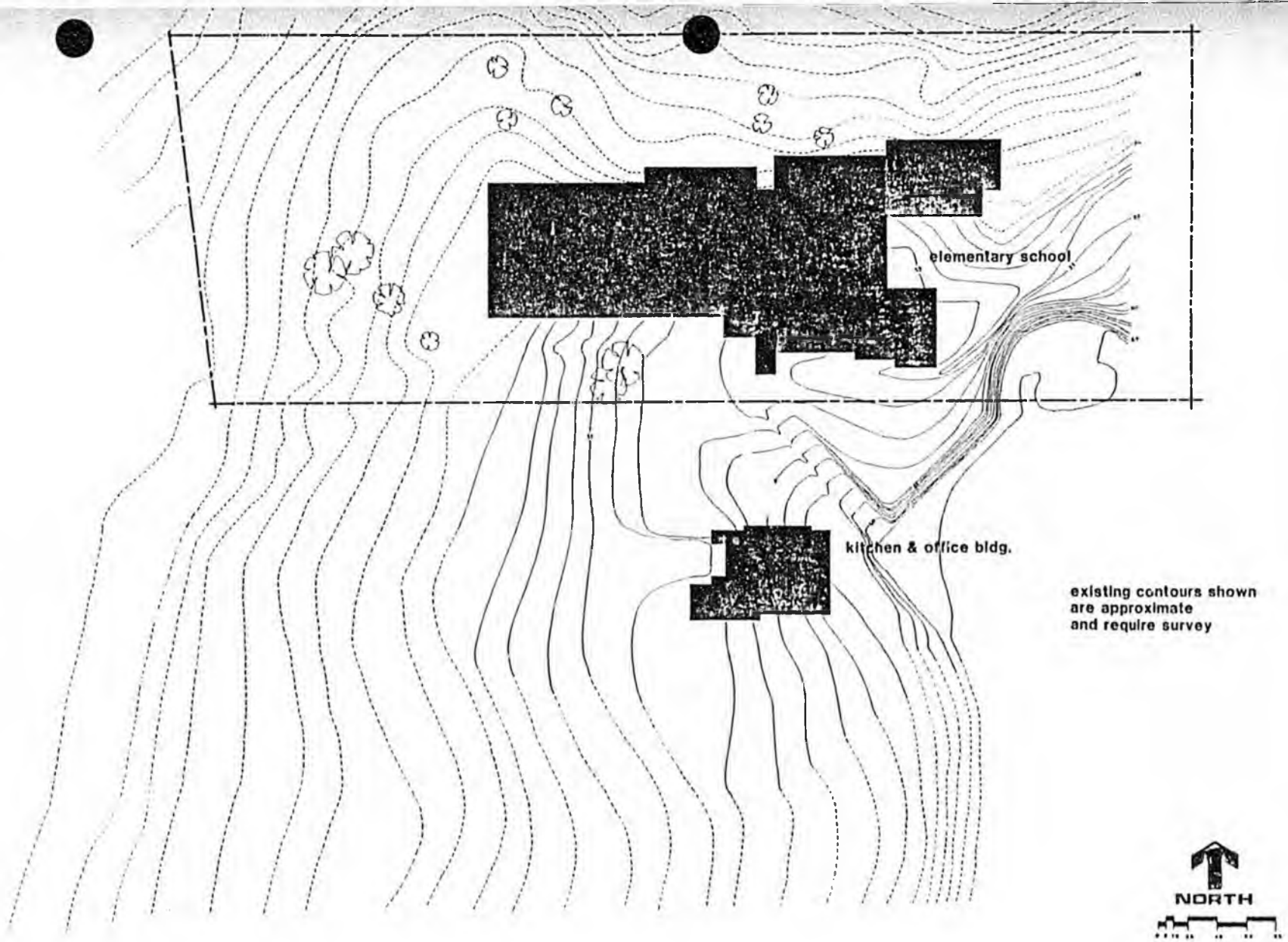
CODE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST	COST/S.
DIVISION 01 SITE WORK						
01010	CLEARING	175.0	SQ	10.00	$ 1750	
01020	BUILDING EXCAVATION	2500.0	CY	8.00	$ 20000	
01021	FOOTING EXCAVATION	90.0	CY	12.00	$ 1080	
01022	BACKFILL	725.0	CY	15.00	$ 10875	
01031	GRADE FOR SLAB	119.0	SQ	40.00	$ 4760	
01032	FINISH GRADING	55.0	SQ	25.00	$ 1375	
01041	REMOVE EXTERIOR WALL	1020.0	SF	2.50	$ 2500	
01042	REMOVE INTERIOR WALL	1.0	JOB	1000.00	$ 1000	
01043	DEMOLISH ENTRIES	1.0	EA	500.00	$ 500	
01044	REMOVE RAMP	500.0	SF	2.50	$ 1250	
01045	REMOVE FLOOR COVER	1300.0	SF	1.00	$ 1300	
01051	SITE UTILITIES	1.0	JOB	5000.00	$ 5000	
	DIVISION COSTS				$51390	$4.3
DIVISION 02 FOUNDATION SYSTEMS						
02010	CONCRETE FOOTINGS	550.0	LF	22.00	$ 12100	
02011	FOUNDATION WALL	1650.0	SF	15.00	$ 24750	
02021	DAMPPROOFING	17.0	SQ	75.00	$ 1275	
02022	UNDERSLAB VAPOR BARR	119.0	SQ	20.00	$ 2380	
	DIVISION COSTS				$40505	$3.4
DIVISION 04 FLOOR SYSTEMS						
04010	CONCRETE SLAB	11900.0	SF	4.00	$ 47600	
	DIVISION COSTS				$47600	$4.0
DIVISION 05 WALL SYSTEMS						
05010	EXTERIOR WALLS	8550.0	SF	8.00	$ 68400	
05020	INTERIOR WALLS	6500.0	SF	4.50	$ 29250	
	DIVISION COSTS				$97650	$8.2
DIVISION 06 ROOF SYSTEMS						
06010	ROOF FRAMING	12800.0	SF	12.50	$ 160000	
06011	CLERSTORY FRAMING	4.0	EA	15.00	$ 60	
06021	METAL ROOFING	12800.0	SF	6.00	$ 76800	

ELEMENTARY SCHOOL ADDITION

CODE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST	$/S.
06022	ROOF INSULATION	128.0	SQ	2.25	$ 288	
06023	FLASHINGS	650.0	LF	10.00	$ 6500	
06024	ROOF ACCESSORIES	1.0	LOT	3000.00	$ 3000	
06031	MECHANICAL CHASE FRA	3200.0	SF	4.00	$ 12800	
	DIVISION COSTS				$259448	$21.8
DIVISION 07	DOOR/WINDOW SYSTEMS					
07010	INTERIOR DOORS	17.0	EA	450.00	$ 7650	
07020	ENTRY DOORS	12.0	EA	750.00	$ 9000	
07030	FINISH HARDWARE	29.0	SET	400.00	$ 11600	
07040	RELITES	64.0	SF	20.00	$ 1280	
07050	WINDOWS	1110.0	SF	25.00	$ 27750	
	DIVISION COSTS				$57280	$4.8
DIVISION 08	FINISH SYSTEMS					
08010	FLOOR COVER	11850.0	SF	2.75	$ 32588	
08011	BASEBOARD	1100.0	LF	1.75	$ 1925	
08021	ACOUSTICAL CEILING	11850.0	SF	2.25	$ 26663	
08022	GYPBOARD CEILING	.0	SF	0.00	$	
08031	INTERIOR PAINTING	255.0	SF	100.00	$ 25500	
08032	EXTERIOR PAINTING	85.0	SQ	110.00	$ 9350	
08041	MILLWORK	1.0	JOB	10000.00	$ 10000	
	DIVISION COSTS				$105026	$8.9
DIVISION 09	BUILDING SPECIALTIES					
09010	BLINDS & DRAPES	1110.0	EA	5.00	$ 5550	
09051	TOILET PARTITIONS	3.0	EA	500.00	$ 1500	
09061	BATHROOM ACCESSORIES	2.0	SET	600.00	$ 1200	
09071	FIRE EXTINGUISHERS	6.0	EA	150.00	$ 900	
	DIVISION COSTS				$9153	$.7
DIVISION 10	EQUIPMENT/FURNISHINGS					
10021	FURNISHINGS	1.0	LOT	25020.00	$ 25020	
	DIVISION COSTS				$25020	$2.1
DIVISION 11	MECHANICAL SYSTEMS					
11010	PLUMBING	8.0	FIX	2800.00	$ 22400	
11020	HVAC	11850.0	SF	18.00	$ 213300	
	DIVISION COSTS				$235700	$19.8

ELEMENTARY SCHOOL ADDITION

CODE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST	COST/S.
DIVISION 12	ELECTRICAL SYSTEMS					
12010	INTERIOR ELECTRICAL	11850.0	SF	14.00	$ 165900	
	DIVISION COSTS				$165900	$14.00
DIVISION 13	OVERHEAD/FEES					
13010	FREIGHT	4500.0	CWT	20.00	$ 90000	
13020	SUBSISTANCE	500.0	MD	100.00	$ 50000	
13030	GENERAL CONDITIONS	15.0	%	12356.49	$ 185347	
13040	CONTRACTOR OVERHEAD	4.0	%	14209.96	$ 56839	
13050	CONTRACTOR PROFIT	15.0	%	14778.36	$ 221675	
13060	BOND & INSURANCE	2.0	%	16595.11	$ 33990	
	DIVISION COSTS				$637852	$53.83
ESTIMATED PROJECT COSTS					$1733501	$146.29

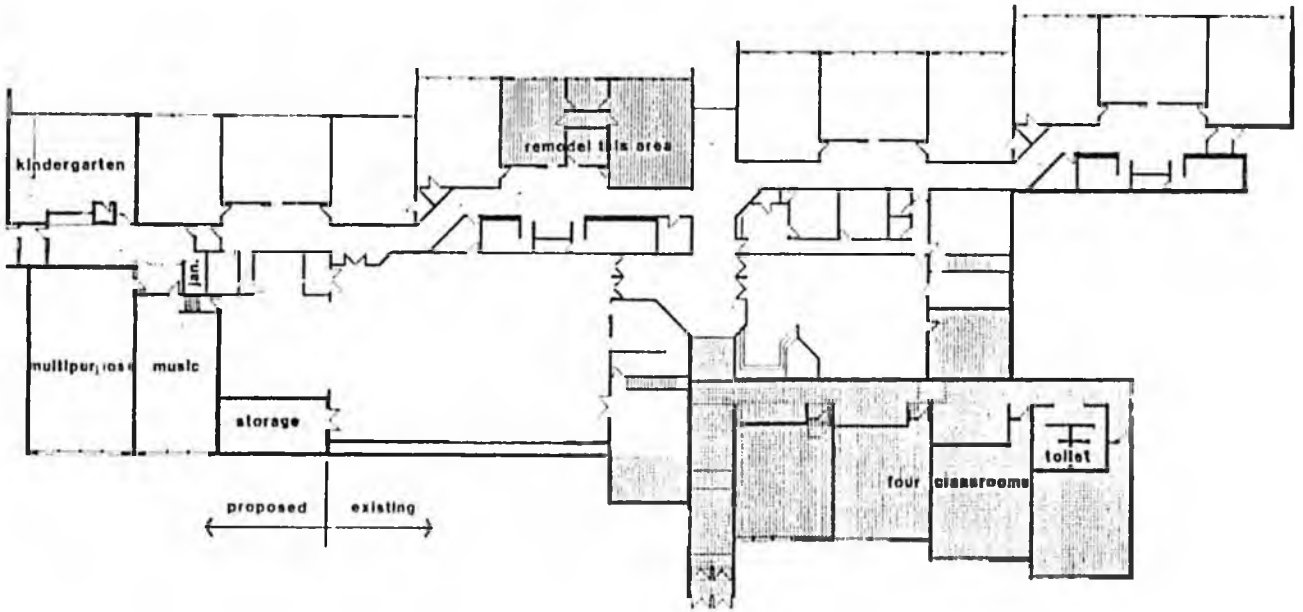


DILLINGHAM ELEMENTARY SCHOOL
SCHEMATIC PHASE ADDITION
DILLINGHAM CITY SCHOOL DISTRICT

LIVINGSTON STONE

SITE PLAN

A1



existing circlation

new space

FLOOR PLAN

NORTH

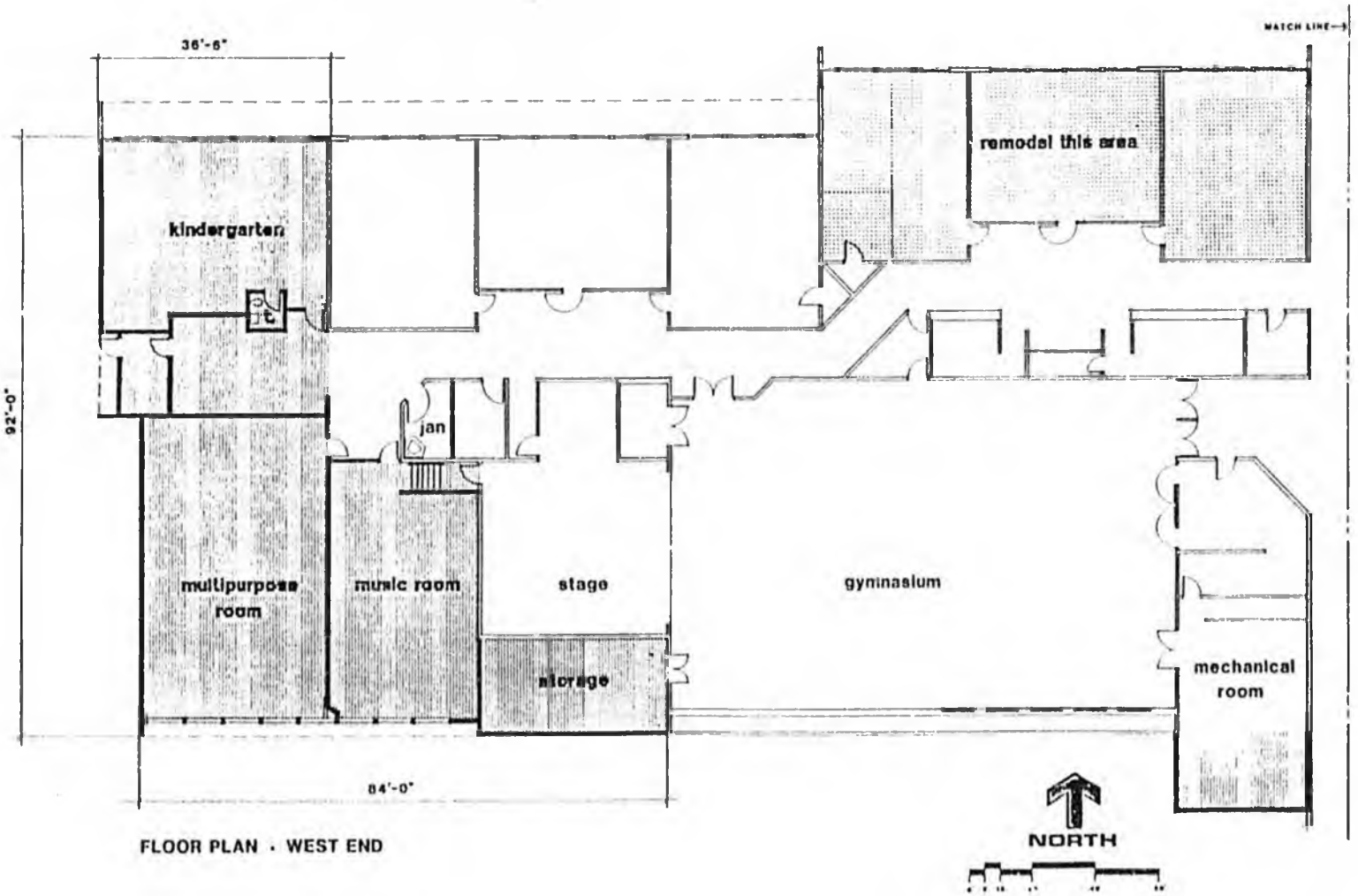
DILLINGHAM ELEMENTARY SCHOOL
SCHEMATIC PHASE ADDITION

DILLINGHAM CITY SCHOOL DISTRICT

LIVINGSTON STONE

FLOOR PLAN

A2



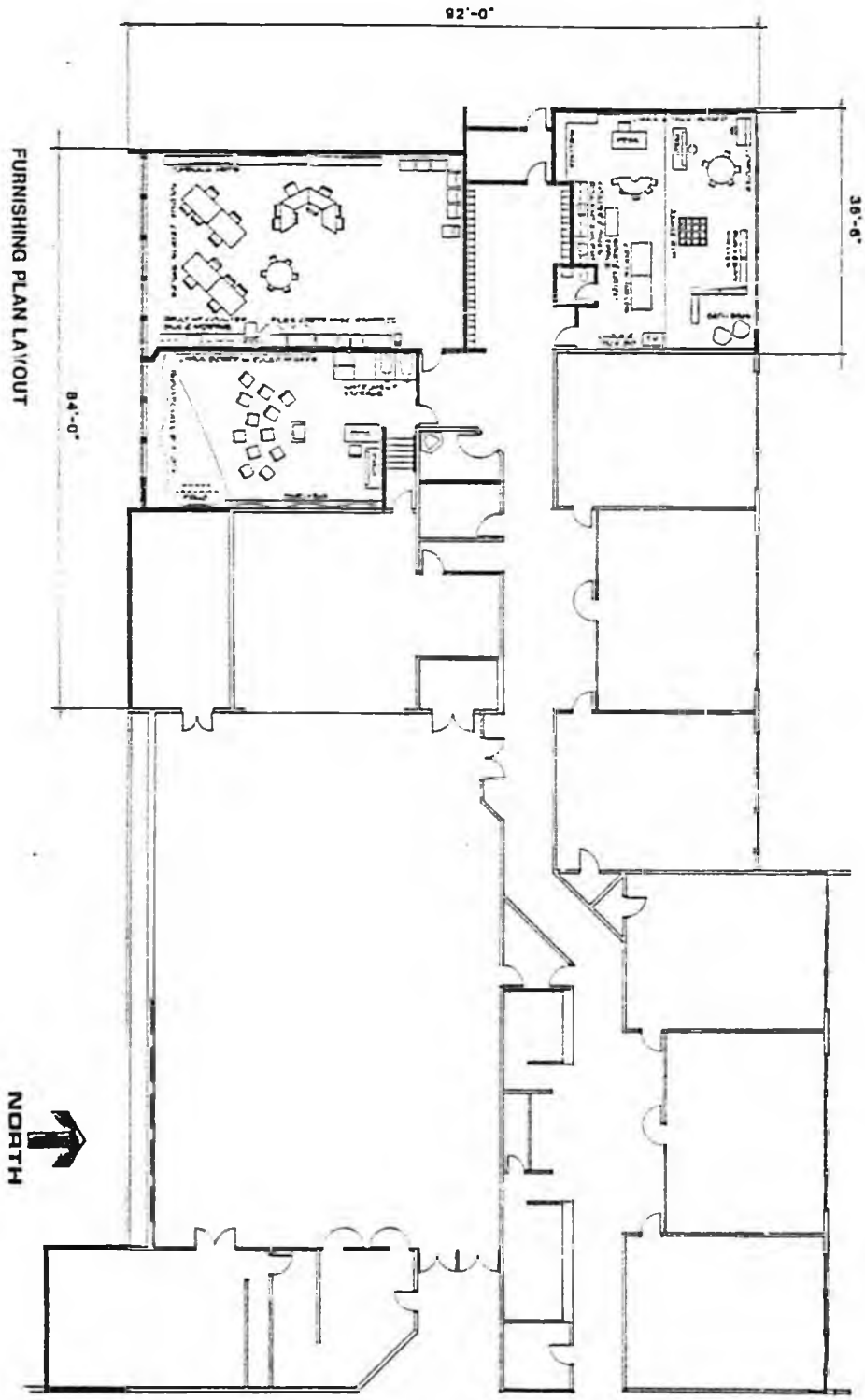
FLOOR PLAN - WEST END

DILLINGHAM ELEMENTARY SCHOOL
SCHEMATIC PHASE ADDITION
DILLINGHAM CITY SCHOOL DISTRICT

LIVINGSTON STONE

FLOOR PLAN

A3



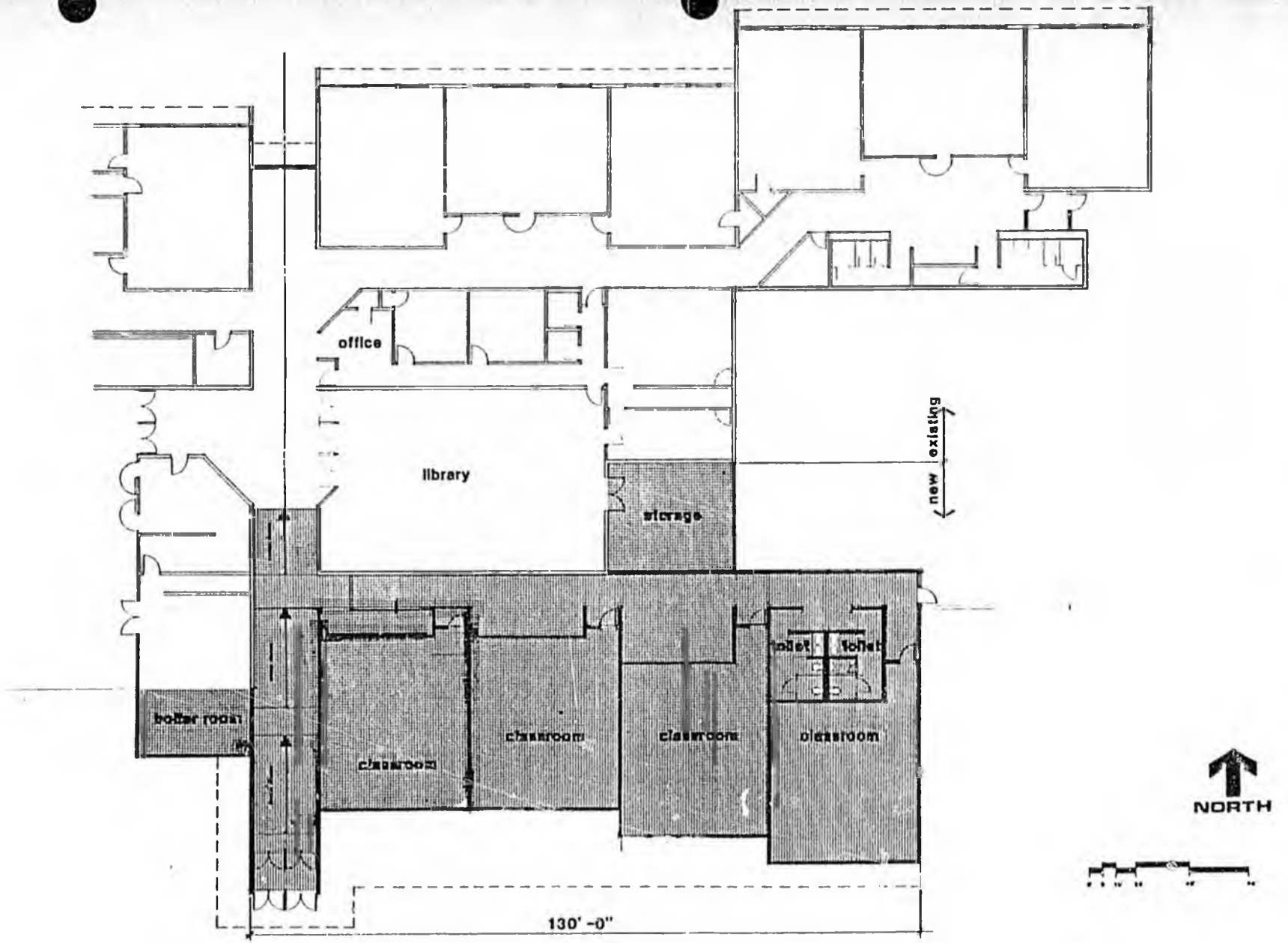
FURNISHING PLAN LAYOUT

A4

LIVINGSTON SLONE
Architecture Engineering
Interior Design Planning

DILLINGHAM ELEMENTARY SCHOOL
SCHEMATIC PHASE ADDITION

DILLINGHAM CITY SCHOOL DISTRICT



FLOOR PLAN · EAST END

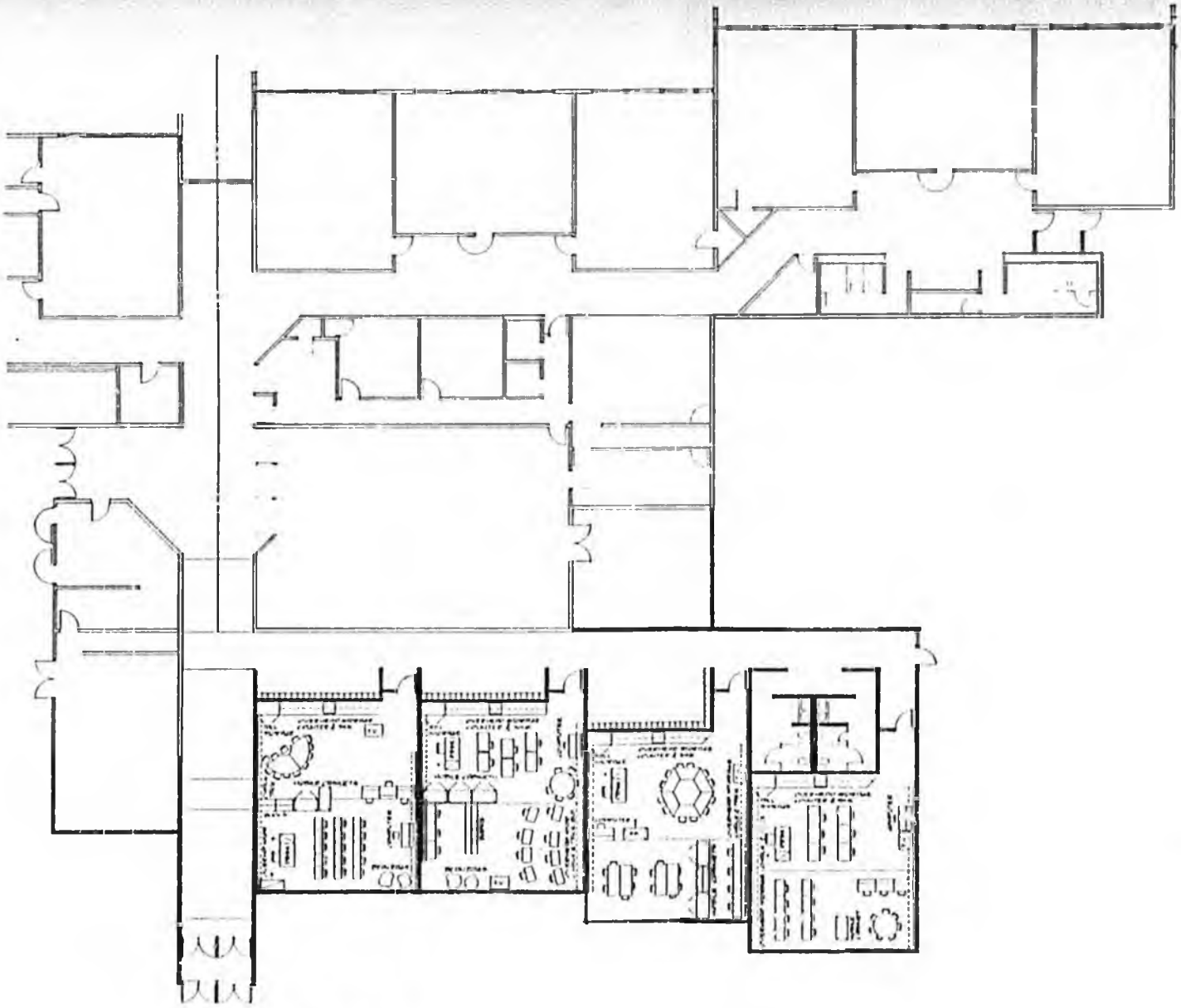
DILLINGHAM ELEMENTARY SCHOOL
SCHEMATIC PHASE ADDITION

DILLINGHAM CITY SCHOOL DISTRICT

LIVINGSTON STONE

FLOOR PLAN

A5



NORTH

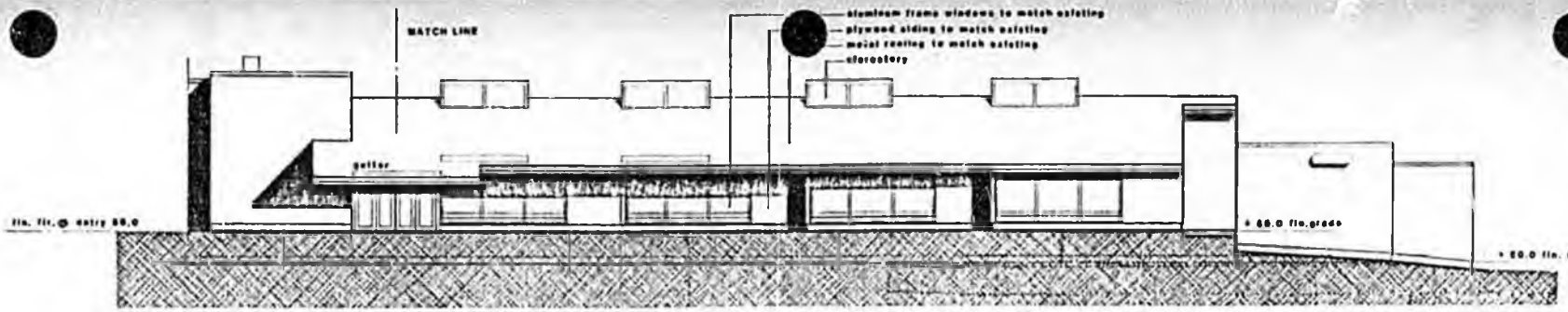
FURNISHING PLAN LAYOUT

DILLINGHAM ELEMENTARY SCHOOL
SCHEMATIC PHASE ADDITION

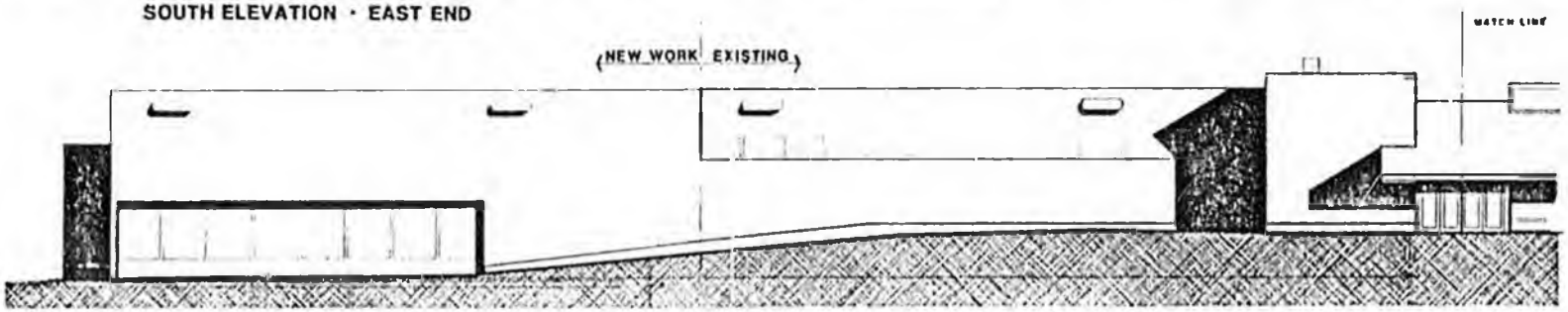
DILLINGHAM CITY SCHOOL DISTRICT

LIVINGSTON STONE

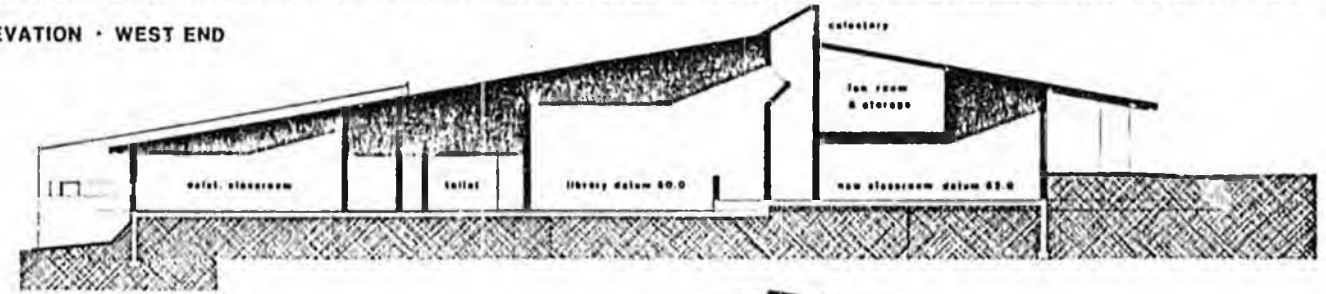
A6



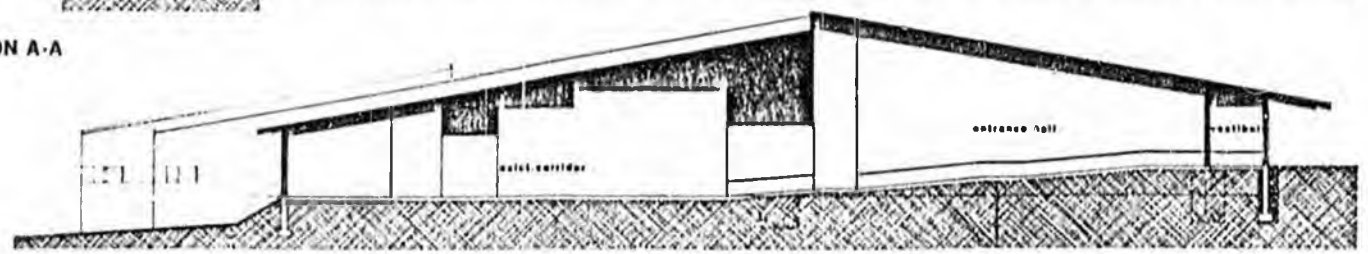
SOUTH ELEVATION · EAST END



SOUTH ELEVATION · WEST END



SECTION A·A



SECTION B·B

DILLINGHAM ELEMENTARY SCHOOL
SCHEMATIC PHASE ADDITION

DILLINGHAM CITY SCHOOL DISTRICT

LIVINGSTON STONE

EXT ELEVATION
BUILDING SECTIONS

A7

1.0 Scope of Work

1.1 The scope of work at this phase of design is defined below. Should the project construction cost estimate change during subsequent design phases the scope of work will change also.

1.2 The central office and kitchen building consists of 5,525 square feet of office space on the main level. The lower level consists of 5,525 square feet of kitchen and storage space. These areas include such functional requirements as mechanical rooms, toilet, and stairs.

2.0 Basis of Design

2.1 Architectural:

2.1.1 General: The new central office structure is a two story, concrete slab on grade, wood frame building. One floor is organized to accommodate the administrative offices, the other floor accomodates a central kitchen and storage functions. The office area will provide offices for the superintendent, assistant superintendent, business manager, maintenance supervisor, and a conference room. Workspaces for bookkeeper, payroll clerk, accounts payable clerk, secretaries and receptionist are provided adjacent to the offices. Rooms for mail sorting, office supplies, and a computer are provided. Restrooms and a public waiting area comprise the remainder of functions of the upper floor. The lower floor provides a truck loading dock set into the sloping grade of the site. This dock serves both to receive district supplies as well as distribution of meals as produced by the kitchen. The kitchen is provided with a hot cart parking area with cooler and freezers adjacent. Storage and boiler room complete the functions accommodated on this level. Access to the office level will be from the parking area common to the high school with vehicular access to the loading provided by a new roadway as defined in the Master Plan document.

2.1.2 The Building Site and Master Plan:

1. Location: The project is located to the south of the elementary school on adjacent property. This provides convenient transfer of meals while assuring that the identity of administrative functions remain separate from the elementary and high schools.

2. Master Plan: The building is sited to allow expansion and yet remain compatible with the possible future construction of a middle school and swimming pool facility. Additionally the sloping site has been used to reduce effects from vehicle traffic into and from the kitchen remaining separate from the schools arrival-delivery and parking areas. This eliminates student walkways conflicting with truck traffic.

3. Utilities: This project has the potential of being connected to the waste heat line but will be provided with oil storage tank for the buildings boilers. Telephone, power, water, and sewer are available close by but

may require extensions of existing service lines.

2.1.3 Building Technologies, Assemblies:

1. Floors: Flooring in first floor storage areas shall be hardened concrete with sealer. Floors in the food handling and kitchen areas shall receive a non-skid quarry tile. Floors in the office areas shall be carpeted. Toilet rooms shall receive ceramic tile floors and base.

2. Wall Assemblies: Exterior wall construction in retaining condition will be concrete with insulation and damp proofing applied to the exterior. Walls above grade shall be of wood framing, plywood sheathed with an infiltration barrier and horizontal cedar siding applied to the exterior. Interior components of the wall assembly shall consist of fiberglass insulation, vapor barrier and gypsum wallboard. Toilet room areas shall have water resistant gypsum wallboard as back up for ceramic tile wall finish. Interior partition assemblies shall be wood studs, sound board, and gypsum wallboard with paint and wall fabric finishes.

3. Roof Assembly: The roof assembly consists of wooden roof trusses spanning between primary beams. Gypsum wallboard applied over a vapor barrier serves as interior finish. Fiberglass insulation, vented at the perimeter, and a plywood deck with a metal roof comprise the exterior materials, in an assembly known as a cold roof i.e., no direct thermal conductivity to the roof surface continuous with the insulation layer.

4. Windows: The window system shall be a double glazed, thermal break, aluminum frame system with operable casement units provided with a system of fixed mullion glazing. Glazing shall be clear float glass in 1" dimension with 1/2" insulating airspace between panes.

5. Exterior Door Assemblies: Exterior door assemblies will be painted steel frames with painted steel doors with tempered glass vision inserts at entrances. Loading dock

shall have sectional upward acting insulated steel door.

6. Interior Door Assemblies: Interior door assemblies shall be hollow metal frames of 3' width with rotary cut red oak doors in office areas. High frequency doors in kitchen shall have spring return hinges and suitable stainless steel protective plates attached to wear zones.

7. Interior Finishes: Interior walls in office space shall be painted with accent walls given application of wall fabric. Kitchen walls to receive semigloss enamel paint system. Floors in office areas shall be carpeted. Toilet room finishes shall be ceramic tile floors and walls, stainless steel fittings and partitions. Kitchen finishes shall be stainless steel and quarry tile.

STRUCTURAL NARRATIVE

GENERAL

The scope of work under this section is to provide the structural design for the construction of the Dillingham City School District Office and Kitchen Building in accordance with all applicable State and local building and fire codes.

STANDARDS

All materials and methods shall conform to the latest rules, regulations and/or specifications of the following authorities:

American Society for Testing Materials (ASTM)
American Concrete Institute (ACI)
American Institute of Steel Construction (AISC)
American Welding Society (AWS)
National Board of Fire Underwriters (NBFU)
American Institute of Timber Construction (AITC)
Uniform Building Code (1982)
American Plywood Association (APA)

STRUCTURAL FEATURES:

1. General:

   The structure as proposed will have a full basement which will be daylighted on the west side to allow for an at-grade loading dock. The second floor will consist of school district central office space and conference areas. An open ceiling is anticipated which will include skylights.

2. Foundation:

   The foundation of the structure will consist of concrete strip and spread footings to distribute loads to the soils. Allowable soil loads would determined by a soils investigation and recommendations by a Geotechnical Engineer. The basement walls of the structure will be cast-in-place reinforced concrete. The concrete walls will have the required strength to resist the lateral soil pressures against them and the durability needed around the loading dock area.

3. Framing System:

   Roof and main floor loads will be supported by load bearing, wood framed walls and where required, glu-laminated beams and columns.

Plywood sheathing with the appropriate nailing patterns will be utilized to resist wall shears caused by lateral loading.

4. Floor Framing:

The main floor will consist of plywood on wood truss framing members. The location of bearing walls and columns in the basement will dictate the depth and spacing of the trusses. A good stiff floor is important in an office environment and will be provided through proper thickness of the plywood and selection of trusses. The floor diaphragm will also resist lateral loading from wind and seismic events.

5. Roof:

The roof system will be a heavy timber system composed of the heavy timber glu-lam beams and a tongue and groove decking. It is anticipated that the tongue and groove planks will be exposed to the inside, and the insulation will be on the exterior. The beams will carry the roof loads to posts located within bearing walls. The decking will serve a diaphragm to carry lateral loads to the shear walls.

DESIGN LIVE LOADS

1.	Roof, Snow Load:	35 psf plus drifting
2.	Floor:	
	Office Areas	50 psf
	Corridors and Stairs	100 psf
	Mezzanines and Storage	125 psf
3.	Wind:	UBC, 100 mph
4.	Seismic:	UBC, Zone 2

Design loads may be modified as site information is collected.

MECHANICAL NARRATIVE

GENERAL

The proposed project is a new ±8900 ft² two story building located in Dillingham, Alaska. The lower level will be kitchen, storage, and mechanical room and the upper level contains office areas, restrooms, and mechanical room.

MECHANICAL SPACE REQUIREMENTS

Mechanical space requirements for a building of this type will approximate 400 square feet. Housed in the lower mechanical room will be two boilers, circulating pumps, domestic hot water heater and storage tank. The upper level mechanical room will house the ventilation fan for the building area. Space in both mechanical rooms will be available for electrical equipment.

CODES AND STANDARDS

Mechanical systems will be designed to comply with all applicable codes and standards, latest adopted editions including:

Uniform Building Code (UBC), 1982 Edition
Uniform Mechanical Code (UMC), 1982 Edition
Uniform Plumbing Code (UPC), 1982 Edition
Uniform Fire Code (UFC), 1982 Edition

HEATING AND VENTILATION SYSTEMS

1. General:

   Temperatures and supply and exhaust air change rates will be maintained at the following levels:

Office areas:	72 degrees F (adj)	4 AC/HR
Conference room:	72 degrees F (adj)	8 AC/HR
Toilets:	70 degrees F (adj)	8 AC/HR
Storage:	68 degrees F (adj)	2 AC/HR
Kitchen:	70 degrees F (adj)	Make-up Air

2. Air Distribution:

   The ductwork will be routed through the lower ceiling spaces for both levels. The fan will have a outside air connector for fresh/cooling air. A seven day time clock will cycle fan off during non-use periods.

3. Heating:

Perimeter baseboard with individual room zones will provide heating. Glycol will be used.. Fan coil units in entries and near loading dock will provide quick pick-up heating to offset periodic large infiltration rates. One of the two boilers will provide 100% standby capacity. Main circulation pumps will be shut off automatically when outside air temperature is 60°F (adj) or above.

4. Exhaust Air System:

Toilet areas will be exhausted direclty to the outdoors. The kitchen range exhaust will be through the roof, with a roof mounted exhaust fan. The ductwork will extend from the kitchen to the roof in a properly designed 1 HR shaft.

WATER AND SEWAGE SERVICE

A new 4" sewer and 4" cold water service will be required. The water line will connect to the existing 6" transite main serving the grade school. New services will be coordinated with local authorities.

PLUMBING SYSTEM

Toilet fixtures will be wall hung flush valve type for reliability and sanitation. Kitchen waste line will have back flow prevention to eliminate any potential sewage in kitchen area. A grease trap will be provided. The cold water main will be 2".

DOMESTIC HOT WATER

A large storage hot water heater will be provided to accommodate dishwashing. A supply temperature of 140°F will be available for dishwasher. A separate oil fired hot water heater will be used.

FIRE DETECTION AND PROTECTION SYSTEMS

An automatic wet sprinkler system will be provided, with fire department connection, using a 4" main riser. Each room or area will be served by heat sensitive heads.

A smoke detector system will be provided on the air handling unit. All ductwork will have fire dampers when penetrating fire separation walls.

An Ansul fire extinguishing system will be provided for the kitchen hood.

ELECTRICAL NARRATIVE

SERVICE

A new utility service from a pole-mounted transformer on the site from an aerial service from the existing power line will be coordinated with the City when specific requirements have been determined. Depending on installed equipment, the service may be single or three phase, with an initial capacity of approximately 45 KVA. Building service ground will be provided by connection of service entrance equipment tc three driven ground rods.

SECONDARY DISTRIBUTION AND BRANCH WIRING

The necessary service equipment is anticipated to be located in the mechanical room, with necessary main devices. Branch circuit panelboards will probably be in the same vicinity, with insulated copper conductors in conduit to the various items of utilization equipment, such as lighting, convenience outlets, and motors.

EMERGENCY LIGHTING

Emergency lighting will be provided from battery units located to properly illuminate the exitways. Consideration shall be given to self illuminated exit signs requiring no external hookup and egress lighting accomplished by battery operated flourescent lamps in 2'x4' fixtures.

STANDBY POWER

A diesel-driven engine generator set will be provided to power the entire facility in the event of a utility power failure. This will be accomplished automatically with the necessary transfer switches and interlocks with utility power to prevent coincident power supply to the facility.

LIGHTING

Flourescent fixtures will be utilized as much as possible with industrial type or open strips in utility spaces, and 2'x4' lay-in type flourescent fixtures utilizing energy-saving ballasts and lamps in offices and corridors. Fixture type will be coordinated with the anticipated ceiling material and the interior design concept of the facility. IES recommended criteria will be utilized in all areas. Necessary site lighting for adequate exterior security lighting will be provided to suit the site selected.

TELEPHONE SYSTEM

Space will be provided for telephone service. The service will be coordinated with the utility company to provide an underground or overhead supply as determined necessary. A conduit-only system will be provided within the facility to various phone locations as determined by the Architect.

FIRE ALARM SYSTEM

A fire alarm system is required for this occupancy. With the sprinkler system, the manual system will give an additional degree of protection for early warning.

INTERCOM SYSTEM

An intercom system will use the telephone system for distribution. Intercom equipment will allow direct 2-way communications, all-call, and emergency call capabilities.

MISCELLANEOUS SYSTEMS

Receptacles and special purpose outlets will be provided as required for necessary equipment. All wiring devices shall be heavy duty, specification grade, of nylon or other high abuse material.

GROUNDING SYSTEM

Each dry type transformer within the facility will be grounded, by conductors, to building ground. All branch circuits will have a metallic grounding conductor. Plumbing and heating piping will be electrically bonded to building grounding system.

SYSTEMS ESTIMATE SUMMARY

NEW OFFICE/KITCHEN BUILDING

PROJECT CODE : DILLINGHAM ELEM SCHOOL
LOCATION : DILLINGHAM, AK
ARCHITECT : LIVINGSTON SLONE
OWNER : DILLINGHAM SCHOOL DIST

NET AREA : 11050 SQ.FT.
GROSS AREA : 11050 SQ.FT.
RATIO - NET TO GROSS : 1/1.000
GROSS VOLUME : CU.FT.
** PROJECTED BID DATE : 00/00/00 **

ESTIMATE NUMBER : 1
ESTIMATE DATE : 02/03/84
NO. OF STORIES : 0
ESTIMATOR : ACMI

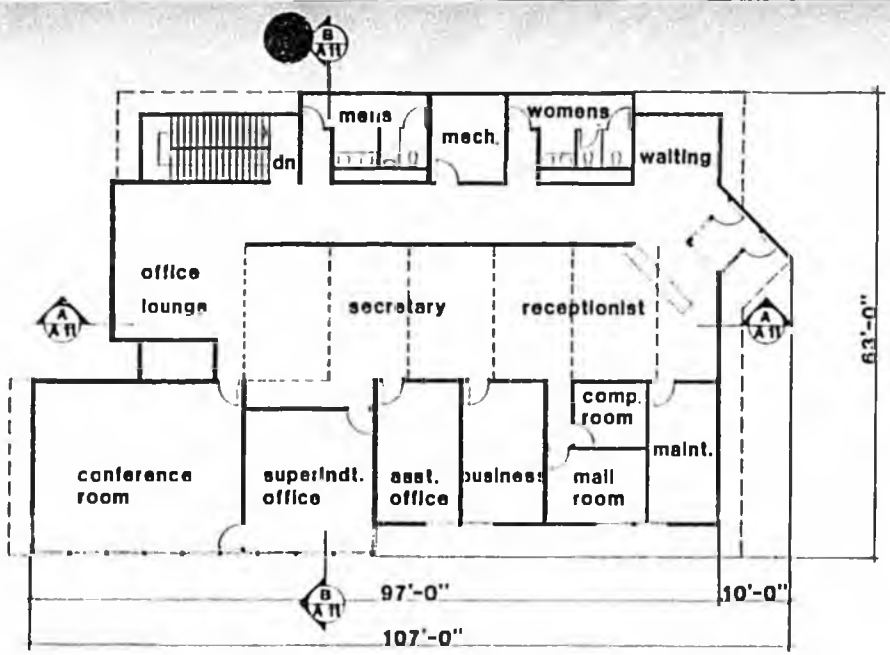
CODE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST	COST/S.
DIVISION 01	SITE WORK					
01010	CLEARING	140.0	SQ	10.00	$ 1400	
01020	BUILDING EXCAVATION	1800.0	CY	8.00	$ 14400	
01021	FOOTING EXCAVATION	50.0	CY	10.00	$ 500	
01022	BACKFILL	400.0	CY	15.00	$ 6000	
01031	GRADE FOR SLAB	55.0	SQ	40.00	$ 2200	
01032	FINISH GRADING	50.0	SQ	25.00	$ 1250	
01041	SITE UTILITIES	1.0	JOB	15000.00	$ 15000	
	DIVISION COSTS				$40750	$3.6
DIVISION 02	FOUNDATION SYSTEMS					
02010	CONCRETE FOOTINGS	325.0	LF	22.00	$ 7150	
02011	CONCRETE WALL	1300.0	SF	15.00	$ 19500	
02021	DAMPPROOFING	13.0	SQ	75.00	$ 975	
02022	UNDERSLAB VAPOR BARR	55.0	SQ	20.00	$ 1100	
	DIVISION COSTS				$28725	$2.5
DIVISION 03	STRUCTURAL SYSTEMS					
03010	SECOND FLOOR FRAMING	5525.0	SF	13.00	$ 71825	
	DIVISION COSTS				$71825	$6.5
DIVISION 04	FLOOR SYSTEMS					
04010	CONCRETE SLAB	5525.0	SF	4.00	$ 22100	
04030	RAMP & RAIL	400.0	SF	18.00	$ 7200	
	DIVISION COSTS				$29300	$2.6
DIVISION 05	WALL SYSTEMS					
05010	EXTERIOR WALLS	5500.0	SF	8.00	$ 44000	
05020	INTERIOR WALLS	6150.0	SF	4.50	$ 27675	
	DIVISION COSTS				$71675	$6.4
DIVISION 06	ROOF SYSTEMS					

NEW OFFICE/KITCHEN BUILDING

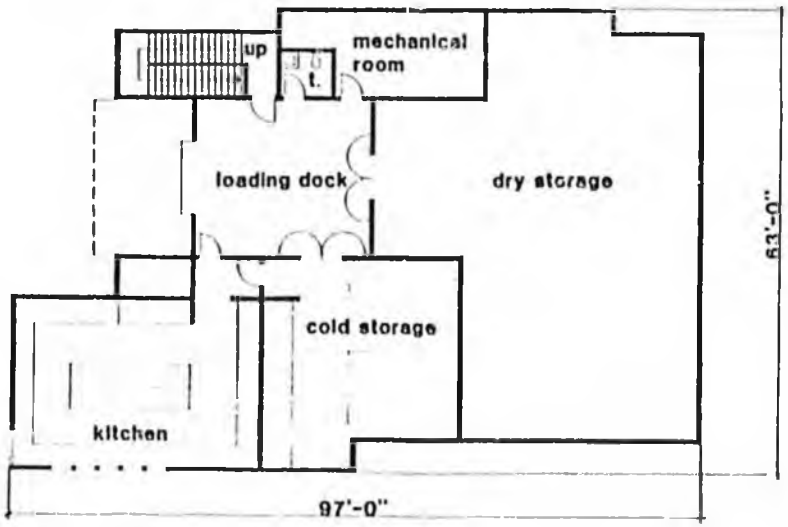
CODE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST	$/S.
05011	CLESTORY FRAMING	3.0	EA	1500.00	$ 4500	
06021	METAL ROOFING	6400.0	SF	6.00	$ 38400	
06022	ROOF INSULATION	6400.0	SF	2.25	$ 14400	
06023	FLASHINGS	350.0	LF	10.00	$ 3500	
06024	ROOF ACCESSORIES	1.0	LOT	1500.00	$ 1500	
	DIVISION COSTS				$148300	$12.67
DIVISION 07	DOOR/WINDOW SYSTEMS					
07010	INTERIOR DOORS	23.0	EA	450.00	$ 10350	
07020	ENTRY DOORS	2.0	EA	750.00	$ 1500	
07030	FINISH HARDWARE	25.0	EA	400.00	$ 10000	
07040	SELITES	100.0	SF	20.00	$ 2000	
07050	WINDOWS	1140.0	SF	25.00	$ 28520	
	DIVISION COSTS				$52350	$4.73
DIVISION 09	FINISH SYSTEMS					
09010	FLOOR COVER	11050.0	SF	2.75	$ 30388	
09011	BASEBOARD	775.0	LF	1.75	$ 1356	
09021	ACOUSTICAL CEILING	4000.0	SF	2.25	$ 9000	
09022	GYPBOARD CEILING	7200.0	SF	1.50	$ 10800	
09031	INTERIOR PAINTING	245.0	SF	100.00	$ 24500	
09032	EXTERIOR PAINTING	60.0	SQ	110.00	$ 6600	
09041	MILLWORK	1.0	JOB	7500.00	$ 7500	
	DIVISION COSTS				$90144	$8.15
DIVISION 09	BUILDING SPECIALTIES					
09010	BLINDS & DRAPES	1000.0	EA	5.00	$ 5000	
09051	TOILET PARTITIONS	3.0	EA	500.00	$ 1500	
09061	BATHROOM ACCESSORIES	3.0	SET	800.00	$ 2400	
09071	FIRE EXTINGUISHERS	4.0	EA	150.00	$ 600	
	DIVISION COSTS				$9500	$.85
DIVISION 10	EQUIPMENT/FURNISHINGS					
10011	KITCHEN EQUIPMENT	1.0	LOT	125000.00	$ 125000	
10012	COLD STORAGE ROOM	1.0	EA	10000.00	$ 10000	
10021	FURNISHINGS	1.0	LOT	20000.00	$ 20000	
	DIVISION COSTS				$155000	$14.02
DIVISION 11	MECHANICAL SYSTEMS					
11010	PLUMBING	12.0	FIX	2800.00	$ 33600	

NEW OFFICE/KITCHEN BUILDING

CODE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST	COST/S.
11020	HVAC	11050.0	SF	18.00	$ 198900	
	DIVISION COSTS				$232500	$21.2
DIVISION 12	ELECTRICAL SYSTEMS					
12010	INTERIOR ELECTRICAL	11050.0	SF	14.00	$ 154700	
	DIVISION COSTS				$154700	$14.0
DIVISION 13	OVERHEAD/FEES					
13010	FREIGHT	4500.0	CWT	20.00	$ 90000	
13020	SUBSISTANCE	500.0	MD	100.00	$ 50000	
13030	GENERAL CONDITIONS	15.0	%	12187.69	$ 182815	
13040	CONTRACTOR OVERHEAD	4.0	%	14015.84	$ 56063	
13050	CONTRACTOR PROFIT	15.0	%	14576.47	$ 218647	
13060	BOND & INSURANCE	2.0	%	16782.94	$ 33525	
	DIVISION COSTS				$631051	$57.1
ESTIMATED PROJECT COSTS					$1709820	$154.7



FIRST FLOOR PLAN



GROUND FLOOR PLAN

area tabulations :

office level :	4080 sq. ft.
kitchen :	1670 sq. ft.
storage :	3167 sq.ft.
total :	8926 sq. ft.

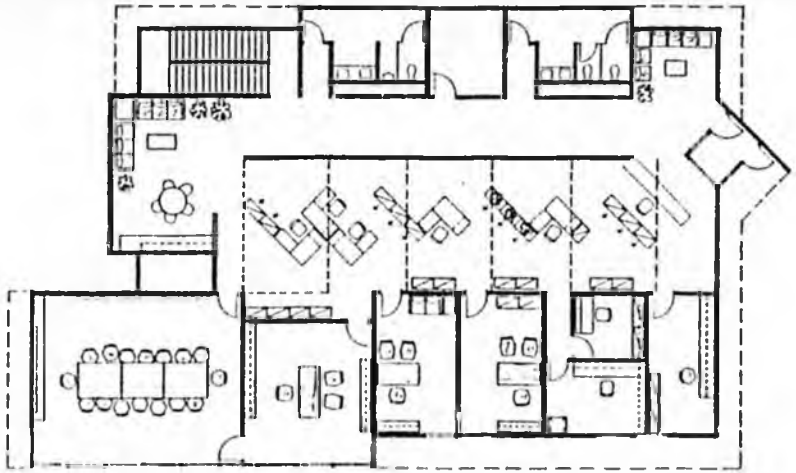
NORTH

CENTRAL OFFICE & KITCHEN FACILITY
SCHEMATIC PHASE
DILLINGHAM CITY SCHOOL DISTRICT

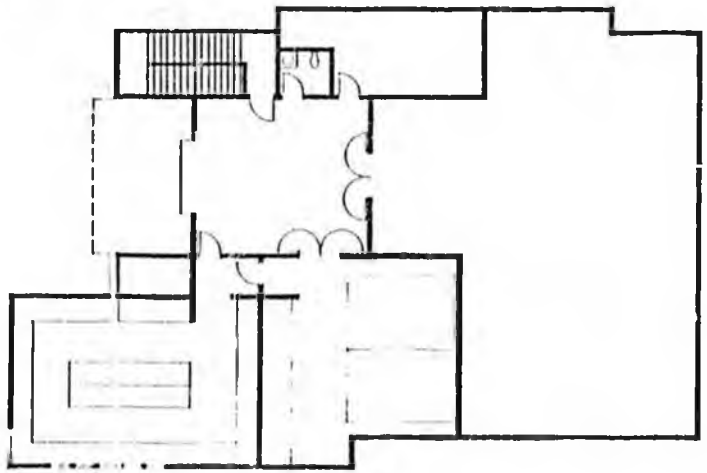
LIVINGSTON STONE

FLOOR PLANS

A3



FIRST FLOOR PLAN



GROUND FLOOR PLAN

NORTH

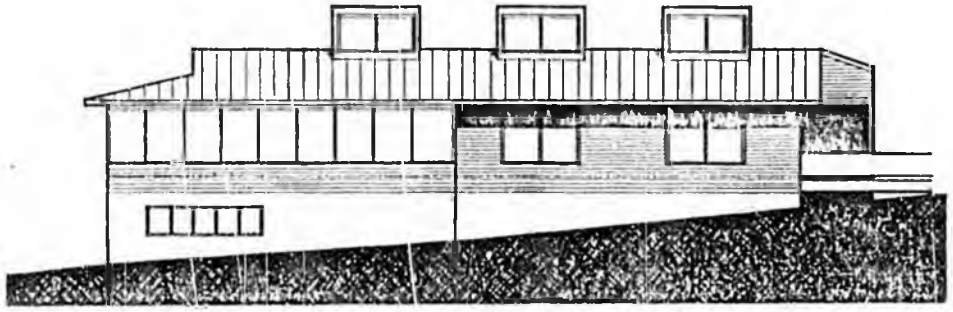
CENTRAL OFFICE & KITCHEN FACILITY
SCHEMATIC PHASE

DILLINGHAM CITY SCHOOL DISTRICT

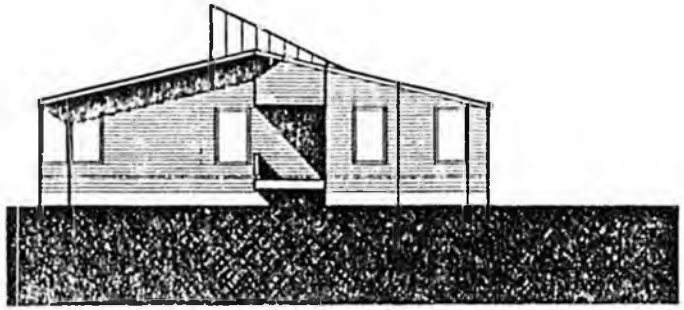
LIVINGSTON STONE

TURNING PLAN

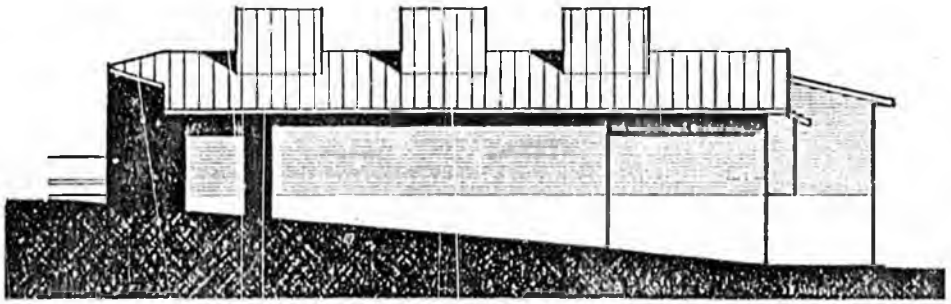
A9



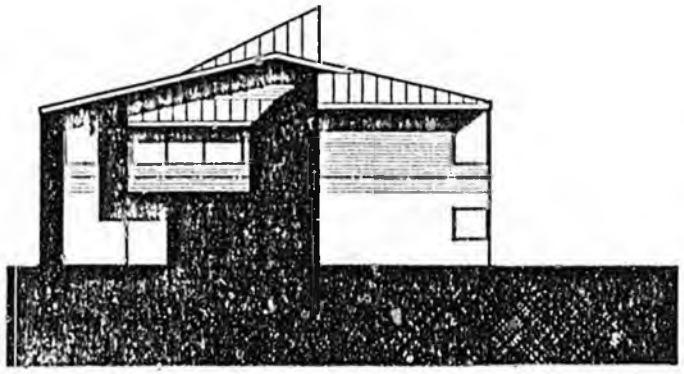
SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION

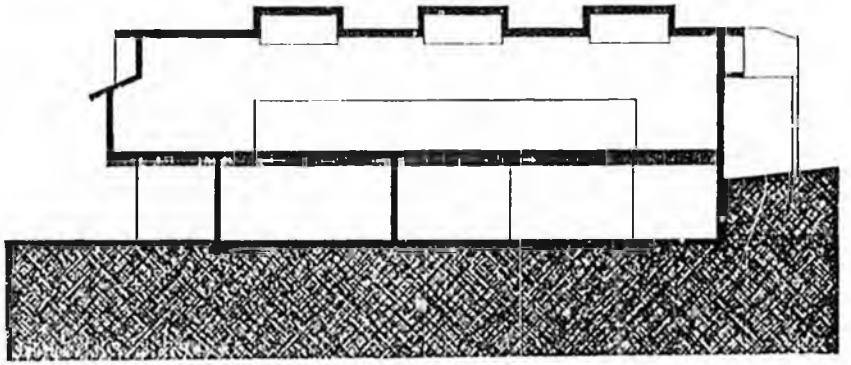
CENTRAL OFFICE & KITCHEN FACILITY
SCHEMATIC PHASE

DILLINGHAM CITY SCHOOL DISTRICT

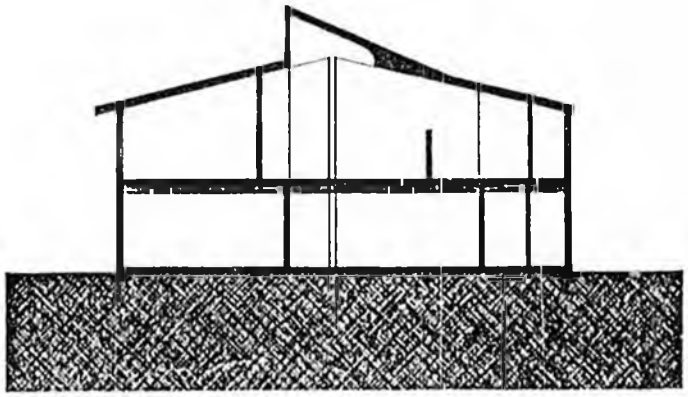
LIVINGSTON STONE

EXTERIOR ELEVATIONS

A10



SECTION A



SECTION B

CENTRAL OFFICE & KITCHEN FACILITY
SCHEMATIC PHASE

DILLINGHAM CITY SCHOOL DISTRICT

LIVINGSTON STONE

BUILDING SECTIONS

A11

Bristol Bay Borough
BOX 189 • NAKNEK, ALASKA 99633

JIM D. CLARK
MAYOR

TELEPHONE
(907) 246-4224

RESOLUTION NO. 83-27

A RESOLUTION ESTABLISHING THE BOROUGH'S LEGISLATIVE DOCKET FOR FY 85.

THE BOROUGH OF BRISTOL BAY HEREBY RESOLVES:

WHEREAS, important items which affect the lives of citizens in Bristol Bay Borough are introduced and debated each year in the legislature, and

WHEREAS, the Borough's limited tax base makes it necessary to get assistance from the State of Alaska for the provision of basic governmental services.

NOW THEREFORE BE IT RESOLVED, that the Borough Assembly adopts the attached Legislative Docket as representing the needs and concerns of the citizens of Bristol Bay Borough.

Passed this 19th day of December, 1983.

Jim D. Clark
Mayor

ATTEST:

Betty L. Thompson
Borough Clerk

2

SCHOOL IMPROVEMENTS

SCHOOL IMPROVEMENTS

INTRODUCTION

Bristol Bay Borough High School is in need of immediate remodeling and reorganization of the school facility. Initially built in 1968 to accomodate a complete K-12 educational program, the building has since been modified to facilitate a comprehensive high school program. Throughout the modification the school has evolved from an "open-space" design to a "self-contained" classroom design. During the fifteen years since original construction, the facility needs have grown beyond the capacity of the initial structure. Therefore, the following remodeling/construction plan is jointly submitted by Bristol Bay Borough School District and Bristol Bay Borough to effectively resolve critical facility deficiencies in Bristol Bay High School.

DESCRIPTION OF NEEDS

A description of critical needs include but are not limited to the following:

1. Health and Life Safety Needs

    a. Unsanitary health conditions in locker-room areas.
    b. Home Economics area does not meet emergency codes as established by the state fire marshall's office.
    c. Inadequate storage areas force equipment storage in crowded hallways.
    d. Ventilation system does not adequately provide circulated air into academic areas.
    e. Plumbing system requires extensive repair and replacement due to increased use and severe mineral deposits in fresh water source.

2. Unhoused Students

    a. Due to increased enrollment the elementary school is one classroom short. This deficiency would be rectified with construction of additional classrooms to accommodate a 6-8 grade middle school program.
    b. Academic programs are restricted or eliminated due to lack of adequate space, e.g., computing, arts and electronics.

3. Protection of Structure

    a. Exterior walls are not adequately insulated and most interior walls are made of temporary non-sound proof and non-fire retardent material.

THE PLAN

This proposed remodeling/construction project is part of a long range facility master plan with previous capital projects funded via local bonding effort. The plan was developed to provide maximum benefit to students and residents served by the District. Significant effort has been made to provide a plan that meets educational needs while providing improved educational and community services to district residents.

This entire capital project is supported by a recently completed feasibility study and estimated expense is $5,193,000 for the total project.

COST SUMMARY

PHASED PRIORITY AND ESTIMATED EXPENSE

1. Classroom addition, Instructional media center, Locker rooms and Offices.

Area - Estimated expense: $1,777,500 plus 10% for each year delayed.

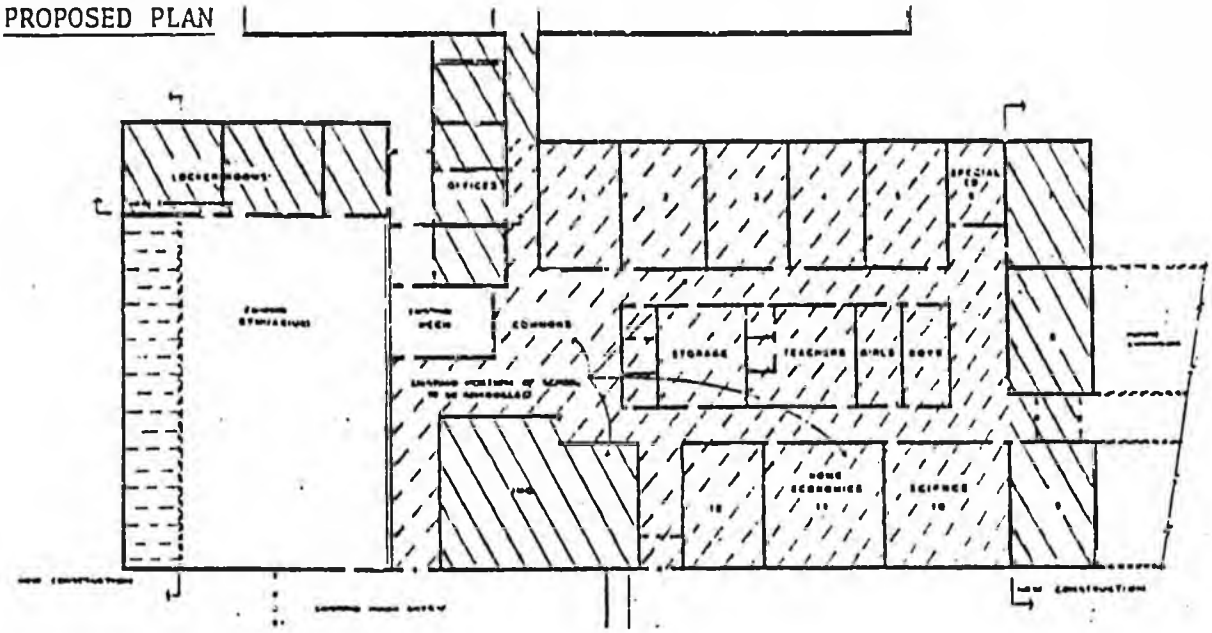
2. Remodel academic area

Area - Estimated expense: $2,875,000 plus 10% for each year delayed.

3. Gymnasium extension

Area - Estimated expense: $ 540,500 plus 10% for each year delayed.

PROPOSED PLAN



PHASE BREAKDOWN

The following capital project is proposed jointly by Bristol Bay Borough School District and Bristol Bay Borough for remodeling the high school in Naknek, Alaska. Total estimated expense for the entire project, assuming total funds are available, is $5,193,000.

Even though this proposal is submitted as a total project, the plan is illustrated in a phased approach to resolve critical facility deficiencies while keeping estimated expenses at a reasonable level.

PHASE I

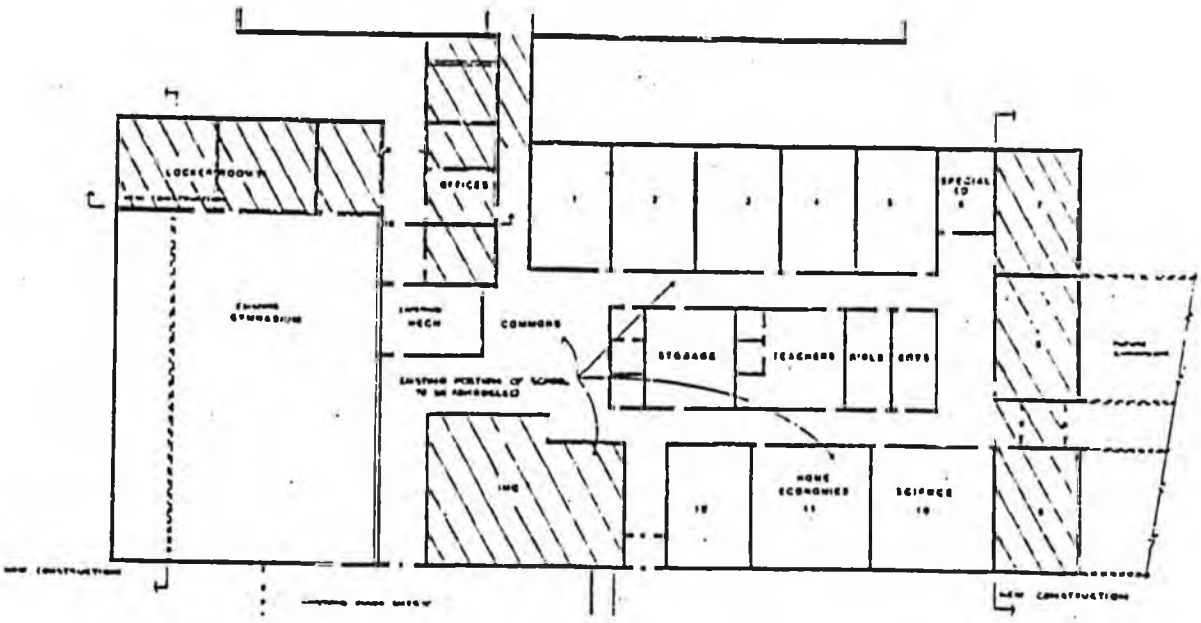
CLASSROOM ADDITION, IMC - LOCKER ROOM AREA AND OFFICES

This phase would result in the construction of three new classrooms, an Instructional Media Center (IMC), locker rooms with P.E. storage and an administrative office area. When completed this phase would: alleviate current shortage of appropriate classroom space; create an IMC that is appropriately designed for a learning and resource center; have a sanitary and efficiently maintained locker with appropriate equipment storage adjacent to the gymnasium; and an office area appropriate for district administrative functions.

All construction would include stub-outs, etc., necessary for future expansion with design and finish of each area to coincide with that proposed for the remodeled academic area.

TOTAL PHASE I ESTIMATED EXPENSE: $1,777,500

PROPOSED PLAN - PHASE I  AREA



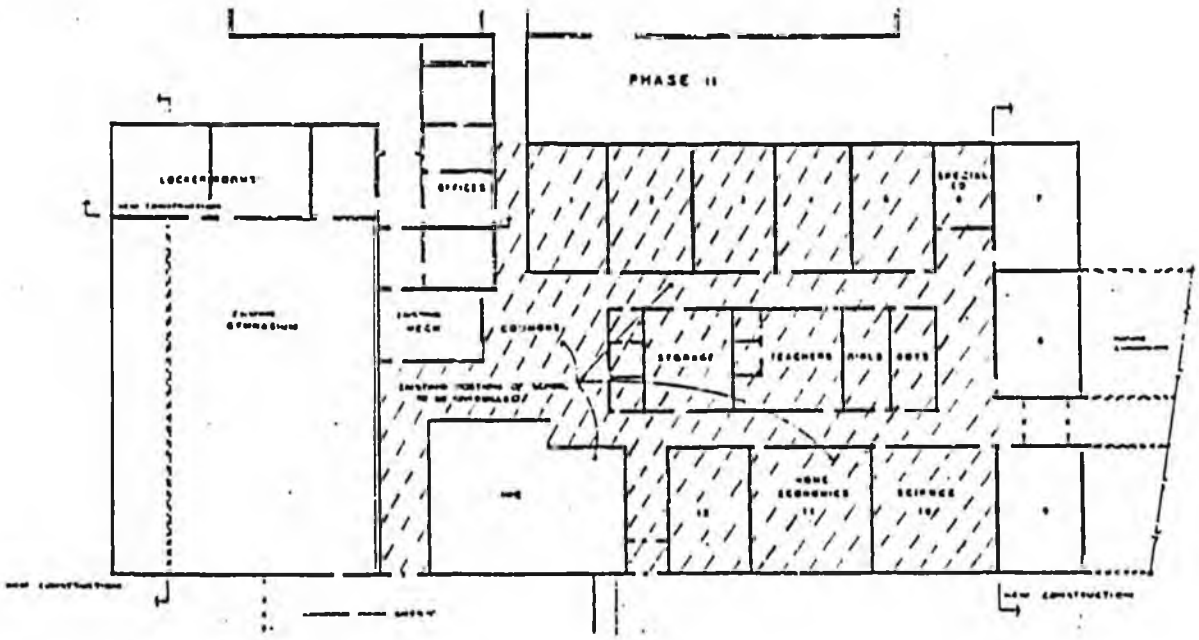
PHASE II

REMODEL ACADEMIC AREA

This phase would result in a completely remodeled academic area. When completed the remodeled area would: provide ample classroom space for a comprehensive secondary program; meet current fire and building codes; have efficient heating systems and insulation installed; and provide sufficient storage space for supplies and equipment. Completed design and finish of each area would coincide with that proposed in Phase I of this plan.

TOTAL PHASE II ESTIMATED EXPENSE: $2,875,000

PROPOSED PLAN - PHASE II ▨ AREA



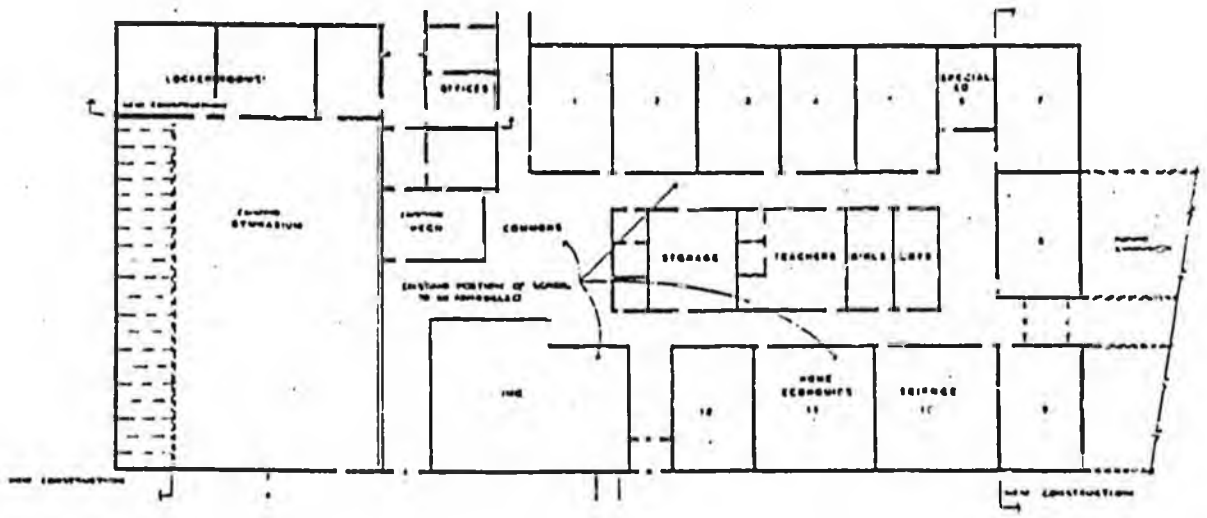
PHASE III

GYMNASIUM EXTENSION

This phase would result in construction of a sixteen foot addition to the full length of the gymnasium. The gym floor would be resurfaced and remarked and new spectator seating would be installed. This phase would also allow for more effective use of the gymnasium area with two cross-court activities occurring simultaneously. For activities requiring full floor length, the activity would be a safe distance away from the seating area allowing safe spectator movement while the activity is in progress.

TOTAL PHASE III ESTIMATED EXPENSE: $540,500

PROPOSED PLAN - PHASE III  AREA



COST ANALYSIS

PHASE I - ESTIMATED EXPENSE

Classroom addition - $150 per sq. ft. $150 x 3,000 sq. ft.	$ $450,000
Locker room & P.E. storage - $250 per sq. ft. $250 x 2,060 sq. ft.	515,000
Remodel IMC area - $150 per sq. ft. $150 x 2,400 sq. ft.	360,000
District office area - $150 per sq. ft. $150 x 1,470 sq. ft.	220,500
Engineering, architectural, work of art and administration fees - 15% of construction costs	232,000
TOTAL PHASE I EXPENSES	$1,777,500

Estimated 10% annual increase for inflation and mobilization of material and personnel for each year project is delayed.

PHASE II - ESTIMATED EXPENSE

Academic area remodeling - $125 per sq. ft. $125 x 20,000 sq. ft.	$2,500,000
Engineering, architectural, work of art and administrative fees - 15% of construction costs	375,000
TOTAL PHASE II EXPENSES	$2,875,000

Estimated 10% annual increase for inflation and mobilization of material and personnel for each year project is delayed.

PHASE III - ESTIMATED EXPENSE

Gymnasium extension - $200 per sq. ft. $200 x 1,600 sq. ft.	$ 320,000
Resurfaced - remarked floor and seating	150,000
Engineering, architectural, work of art and administrative fees - 15% of construction costs	70,000
TOTAL PHASE III EXPENSES	$ 540,500

Estimated 10% annual increase for inflation and mobilization of material and personnel for each year project is delayed.

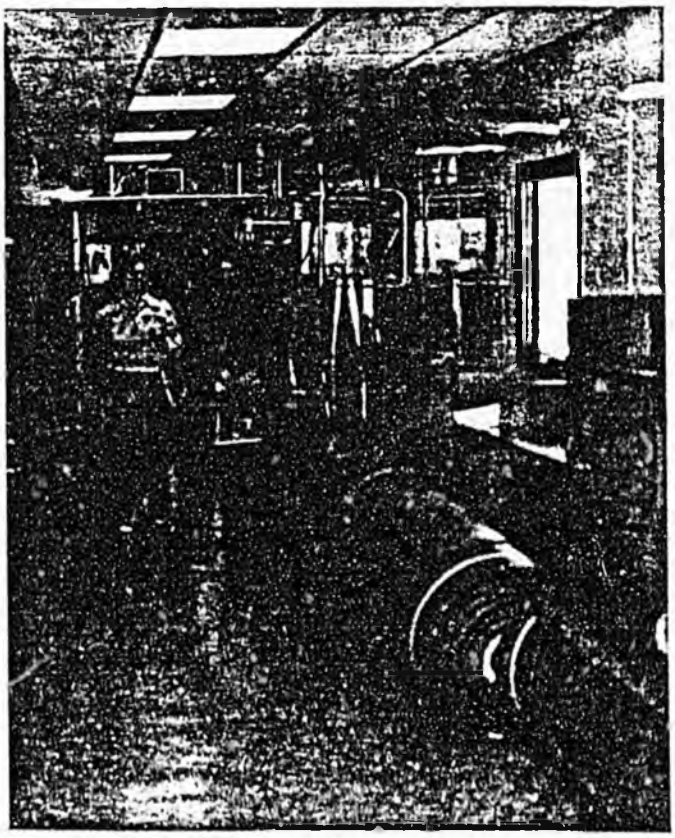
TOTAL PROJECT ESTIMATED EXPENSE	$5,193,000

DISTRICT CONTRIBUTION

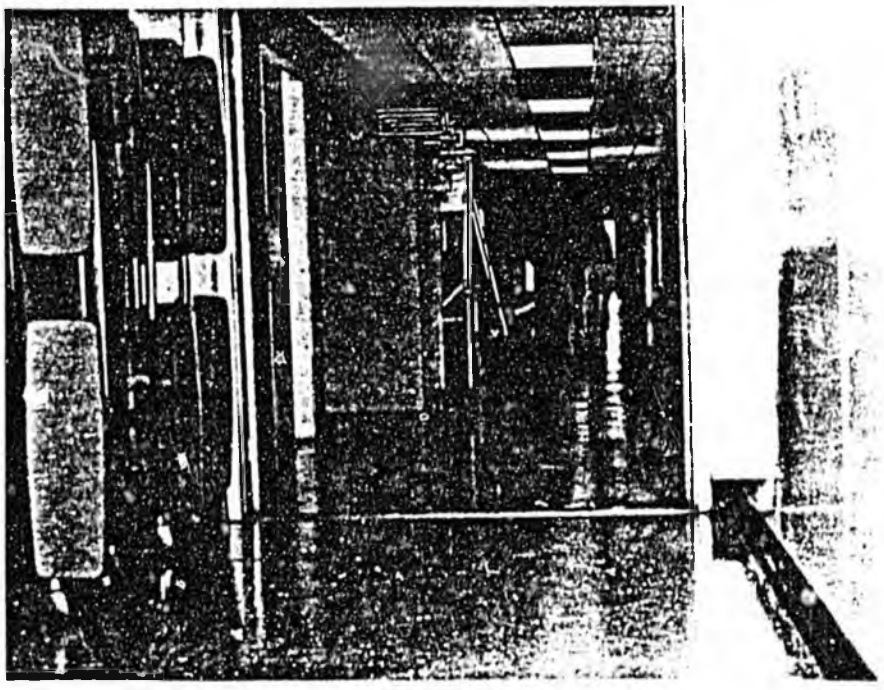
In an effort to expedite planning and organization of this capital project the school district can provide $200,000. These funds could be used to initiate immediate development of project specifications and start the architectural drawings and engineering plans.

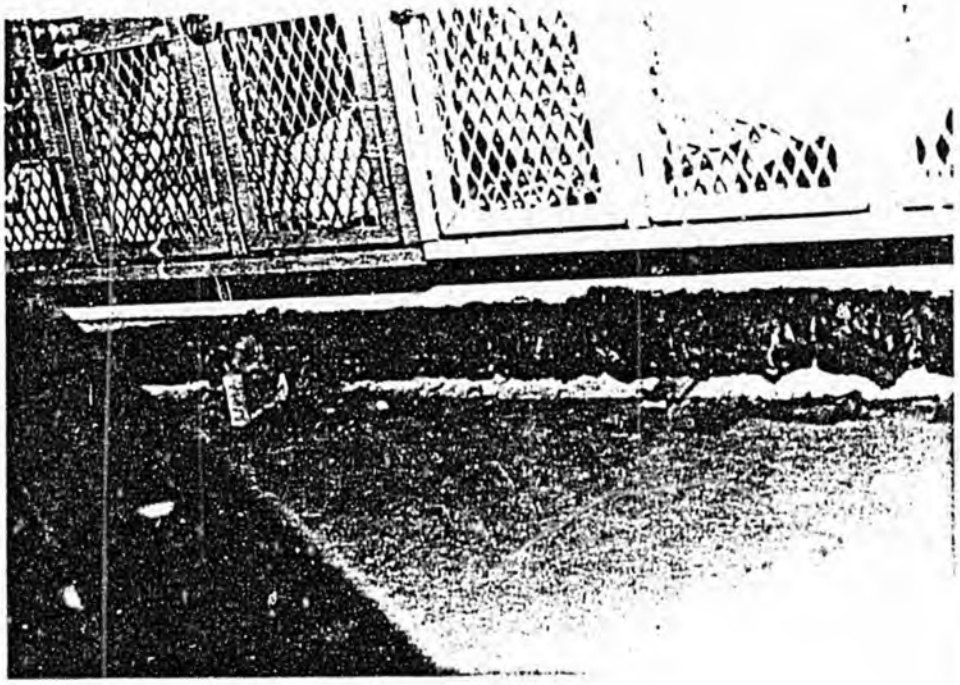
COST JUSTIFICATION

Expense estimates have been confirmed with John Kumin, architect of Kumin and Associates. Estimates are also supported by a recently completed feasibility study. Therefore, it is felt that estimated expenses are reasonable and rational for the plan as proposed.

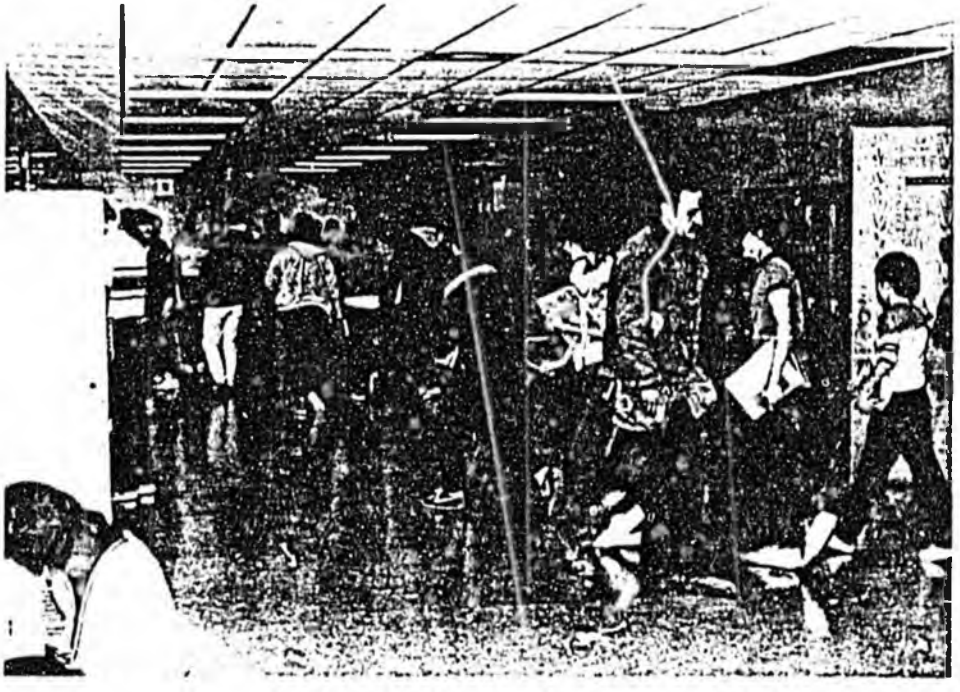


Major Hall referred to as "The Wind Tunnel". Serious heat loss area - extremely cold - storage in hall area presents emergency exit hazard.

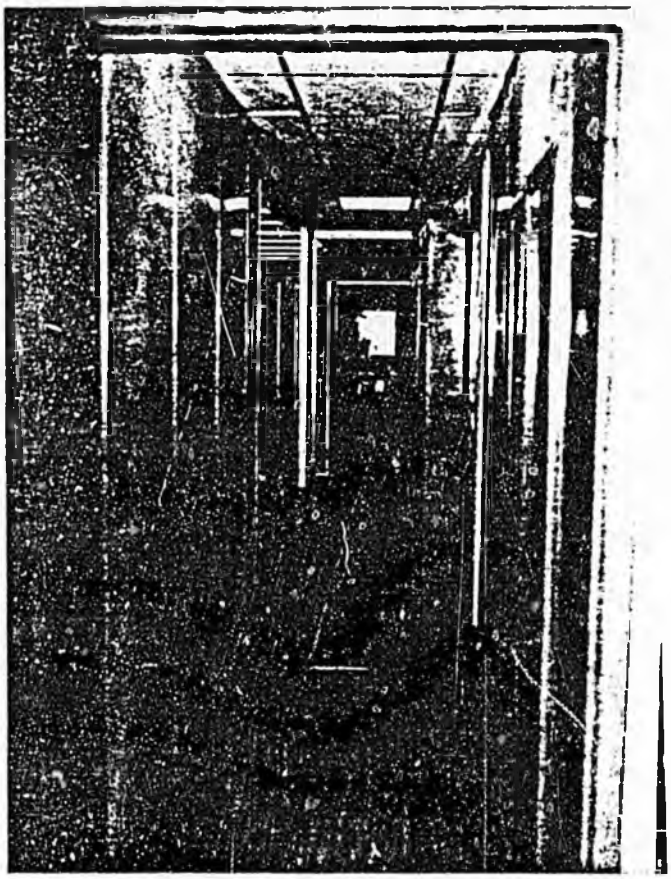




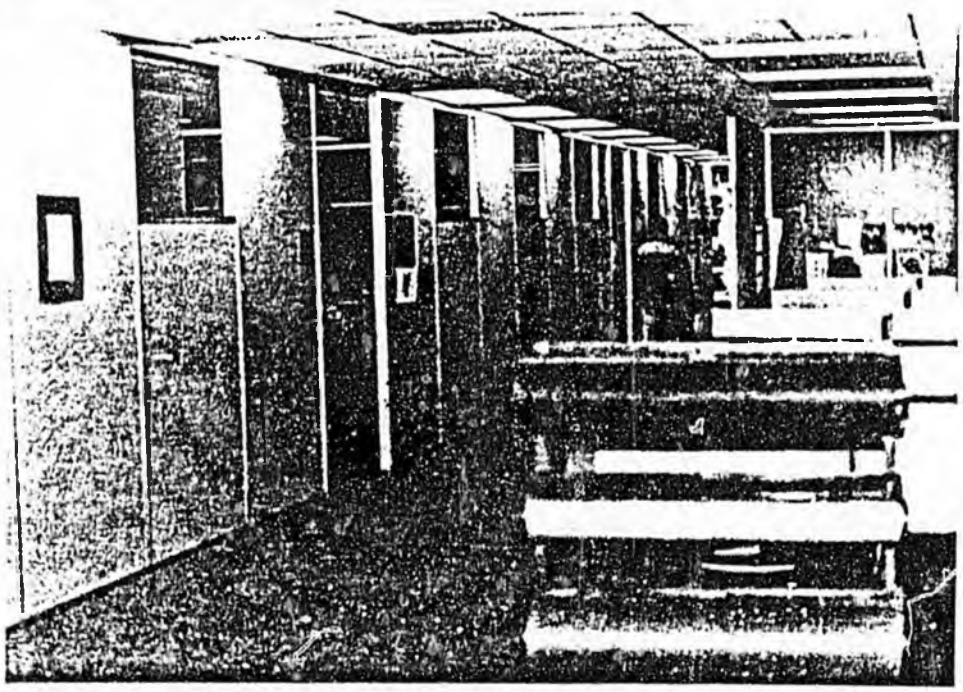
Locker Room Heating Conductor: Poor plumbing and extremely poor heat conduction - 16 years old.



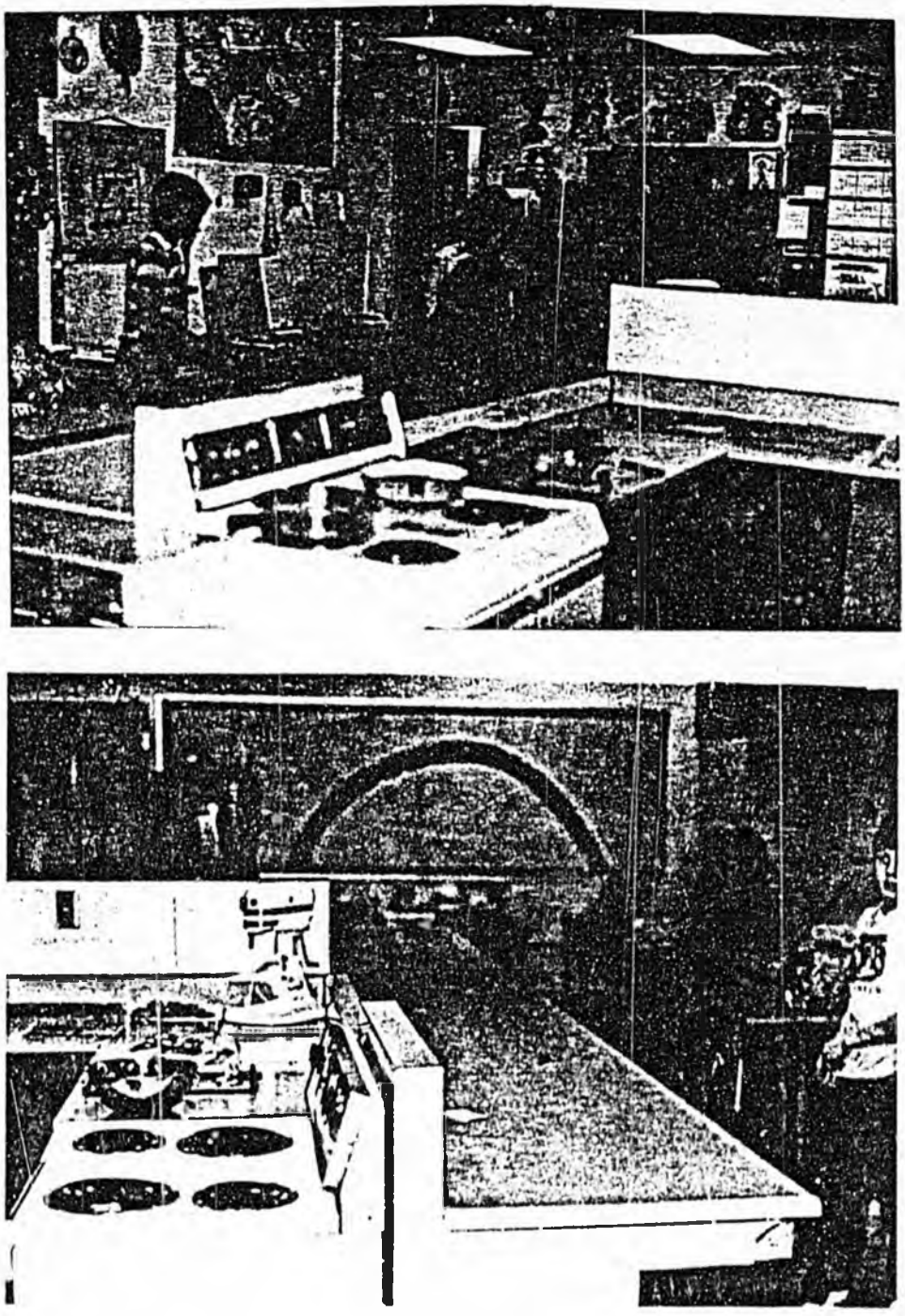
Main High School Hall - Built to be multi-purpose room - Huge expanse of wasted space - Needed as classroom or storage



Passage - Exit Hall: Very narrow - High danger due to congestion.



Fake Wall in Study Hall: Very cold - poor aesthetic appeal - Not conducive to reducing noise level.



Home Economics Room - Extreme congestion - No direct outdoor exit - Does not meet state fire code



Computer Lab: No direct outdoor exit - Area does not meet state fire code - extreme congestion



Science Lab: Extreme congestion - Plumbing corrosion - Very poorly insulated



Library: Extreme congestion - No study space - Poor lighting - Poor location - Difficult access from elementary area

SECTION 3

[illegible]APITA[illegible] BUDGET REQUEST

[illegible]alask[illegible] City School District

[illegible]escription:

1985 - [illegible]cational Education Building, Phase I
[illegible] - [illegible]ational Educati[illegible] Building, Phase II
[illegible] - [illegible]sical Educati[illegible] [illegible]omplex*
[illegible] - [illegible] and Senior [illegible]gh Academics and [illegible]istration [illegible]ex*
[illegible] - [illegible] Upgrade [illegible] [illegible]isting [illegible]*
[illegible] - [illegible]ition [illegible] Elem[illegible] Classroom Wing*

*[illegible]ive schedule

[illegible]st Su[illegible]mary:

1985 - [illegible]3,000 - Vocational Education Building, Phase I (5,700 sq. ft.)
[illegible] - [illegible]4,00[illegible] - Vocational Education Building, Phase II (7,437 sq. ft.)

FY CAPITAL BUDGET TO PLAN CAPITAL IMPROVEMENT

DISTRICT: Unalaska			DATE: August 19, 1983				PAGE OF PAGES	
PRIORITY (FUND & YEAR)	DISTRICT, LOCATION & DESCRIPTION	PRIORITY TYPE	YEAR IN WHICH FUNDING IS REQUESTED					
			FY 1985	FY 1986	FY 1987	FY 1988	FY 1989	FY 199
#1 1985	Unalaska School District Vocational Education Building Phase I	Health & Life Safety & Functional Upgrade	X					
#2 1986	Unalaska School District Vocational Education Building Phase II	Health & Life Safety & Functional Upgrade		X				
#3 1986	Unalaska School District Physical Education Complex	Health & Life Safety & Functional Upgrade		X				
#4 1987	Unalaska School District Junior and Senior High Academics and Administration Complex	Functional Upgrade			X			
#5 1988	Unalaska School District Total Upgrade of Existing Facility	Functional Upgrade				X		
#6 1989	Unalaska School District Addition of Elementary Classroom Wing	Health & Life Safety ; Unhoused students; functional Upgrade					X	

FY CAPITAL BUDGET REQUEST SUMMARY

DISTRICT

Unalaska City School District

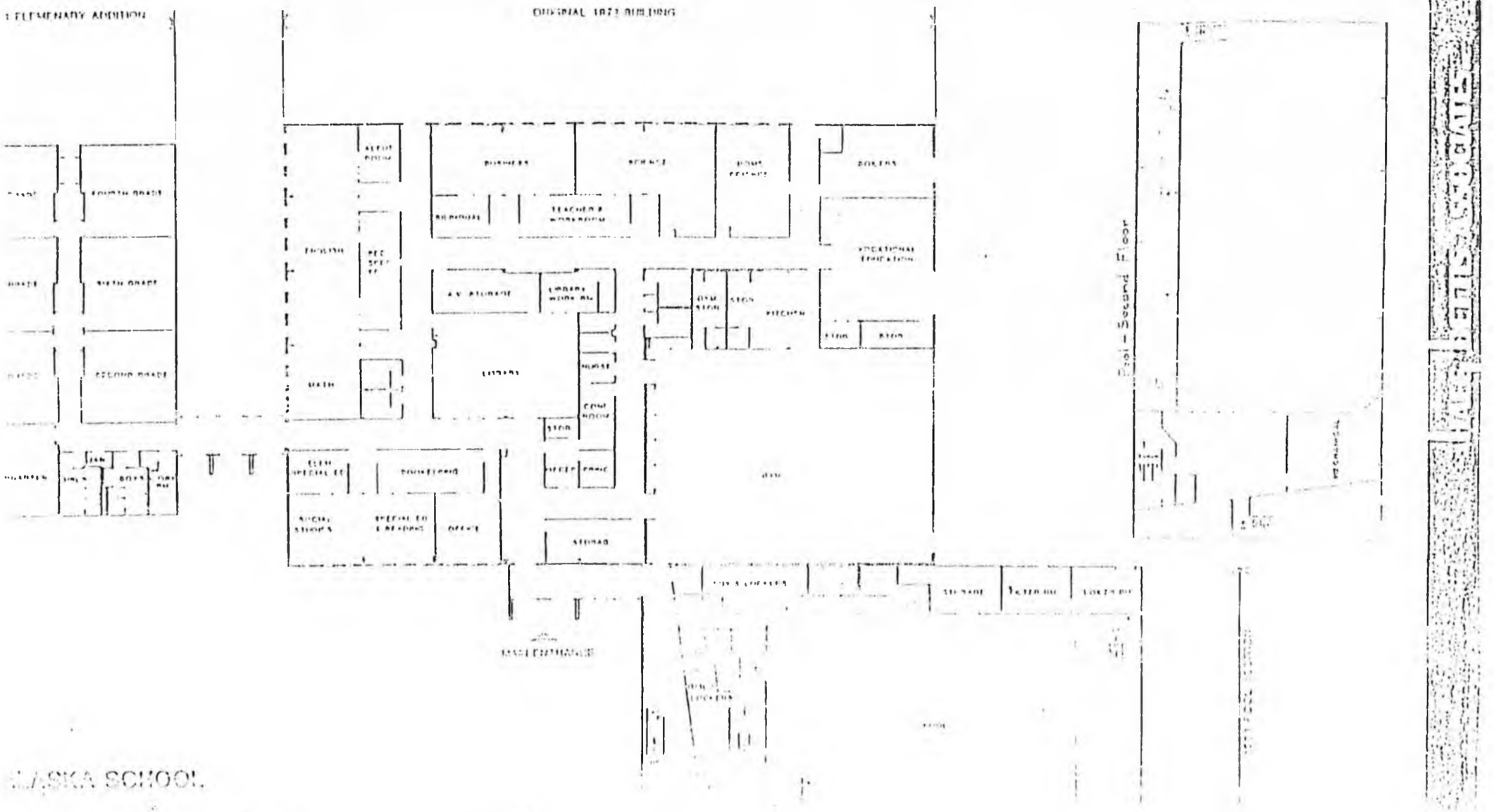
DISTRICT PRIORITY	COMMUNITY	PROJECT	DISTRICT COST ESTIMATE	STATE BUDGET
1	Unalaska	Vocational Education Building - Phase I	$1,003,000	
2	Unalaska	Vocational Education Building - Phase II	$2,324,000	
3	Unalaska	Physical Education Complex	$7,773,000	
4	Unalaska	Junior/Senior High Academics and Administration Complex	$11,121,000	
5	Unalaska	Total Upgrade of Unalaska's Existing School Facility	$6,169,000	
6	Unalaska	Addition of Elementary Classroom Wing	$3,005,000	

SUBMITTED BY

S.E.R.R.C. on behalf of
Unalaska City School District

SIGNATURE

DATE



ALASKA SCHOOL

VOCATIONAL EDUCATION

FACILITY - PHASE I

FY 85 CAPITAL BUDGET REQUEST — PROJECT SHEET | Due: August 25, 1983

DISTRICT Unalaska City School District | SCHOOL Unalaska

DESIGN ENROLLMENT K-6 ___ 7-8 ___ 9-12 ___ | PROJECT NAME Unalaska Vocational Education Facility - Phase I

PROJECT TYPE
- ☒ NEW CONSTRUCTION
- ☐ ADDITION
- ☐ REMODELING
- ☐ REPLACEMENT
- ☐ MAJOR MAINTENANCE
- ☐ UTILITIES
- ☐ OTHER

PROJECT JUSTIFICATION
- ☒ HEALTH OR LIFE SAFETY
- ☐ UNHOUSED STUDENTS
- ☐ PROTECTION OF STRUCTURE
- ☐ OPERATING COST SAVINGS
- ☐ CODE UPGRADE
- ☒ FUNCTIONAL UPGRADE
- ☐ OTHER

CONSTRUCTION START June , 1984 | COMPLETION DATE January, 1985

PROJECT ESTIMATED TO ☒ INCREASE ☐ DECREASE | DISTRICT OPERATING BUDGET $ 5,000

SCHOOL SITE: ☒ EXISTING, OR ☐ NEW SITE, IF NEW, ACQUISITION COST $ _____

PRIMARY UTILITIES: WILL THIS PROJECT INCLUDE THE FOLLOWING UTILITIES ON SITE?
Already there
- ☐ OIL STORAGE _____ GALLONS
- ☐ FULL ELECTRICAL POWER GENERATION ____ KW
- ☐ WATER SUPPLY
- ☐ SEWAGE DISPOSAL

ALTERNATIVES: LIST TWO OR MORE ALTERNATIVES FOR CONSTRUCTION AND WHY REJECTED

1. Renovate the existing facilities. Present facilities are inadequate. The woodshop is forty years old and it should be abandoned. Metals shop is tiny and should be converted to a receiving and shipping facility or a maintenance shop.

2. Construct in addition to the current facility. Location is prohibitive. Sound barrier design requires it be located elsewhere.

3. Leave as is. Not an option. Facility is too hazardous for occupancy.

COMPLETE FOR RECONSTRUCTION, ADDITIONS, REPLACEMENT OR REMODELING PROJECTS ONLY

PROGRAM AREA	GROSS SQUARE FEET OF FLOOR SPACE: GUIDELINES	EXISTING	REQUESTED	PROPOSED TOTAL	DOE USE ONLY
ELEMENTARY CLASSROOMS					
SECONDARY CLASSROOMS					
LIBRARY MEDIA					
OFFICE					
INDUSTRIAL ED		2,100	5,700	5,700	
HOMEMAKING		300			
LAB SCIENCE		900			
ART PURPOSE					
SPECIAL ELEMENTARY ____					
TOTAL		3,300	5,700	5,700	

PRESENT CONDITION OF EXISTING FACILITIES: Wood and metal shops are 40 years old and in poor condition.

ADDITIONAL COMMENTS: ATTACH AVAILABLE DOCUMENTATION E.G. INSPECTION REPORTS FROM STATE FIRE MARSHALL AND HEALTH & SOCIAL SERVICES, ETC.

1985 see accompanying narrative for Phase I justifying request for 1985. New justification is based upon health and life safety.

This phase includes: general shop, mechanics shop (auto and diesel), metals shop, art classroom, office, storage, corridor.

POPULATION FORMULA ENROLLMENT PROJECTIONS:	PRESENT	AFTER CONSTRUCTION
ELEMENTARY (GRADES K-6)	101	125
SECONDARY (GRADES 7-12)	138	138
VOCATIONAL ED	___	___
ADDITIONAL ED (____)	___	___

Unalaska City Schools — August 15, 1983
SIGNATURE — DATE

DOE FORM 1 (REV 8/83)

NARRATIVE

PHASE I: VOCATIONAL EDUCATION FACILITY RENOVATION

Unalaska School District developed a comprehensive Facilities Master Plan in 1980. The study, identifying both short and long range needs, was the result of an intensive investigation of existing facilities, condition, current program operation, predicted enrollment, and future programmatic expansion (see Unalaska School District: Facility Survey and Analysis, Alaska Vocational Regional Resource Center, Anchorage Municipal Libraries, January, 1982).

The need for a site plan was identified as critical. Of particular concern were the constraints of the current site.

> To date there has been no planning for growth and the deleterious effects are obvious. The existing facility's relationship to its surroundings, its internal arrangement, and its capacity for expansion are all compromised. A future construction phase without proper planning would likely render the site useless for additional future phases. This would necessitate the building of a second school as the community's need for educational space increased.

Because the current site is inadequate for sensible, staged expansion, the School Board adopted the long-range (20 year) plan based on both new construction, renovation and re-arrangement of current spaces. The facility plan addresses most critical needs first and these have been submitted to the Department of Education for approval and prioritization.

Currently the District is at Step II of implementing the components of the master plan. The Alaska Legislature appropriated $300,000 for emergency gymnasium repairs in 1982. The greatest need now is to replace the vocational shop building. Replacement of the classroom [illegible] at $5,529,870 in the 1982 comprehensive plan. However, failure to gain funding [illegible]

have forced the District to divide the phase [illegible] components and revise the [illegible].

The 1984 request is as follows:

Phase I:	Vocational Shop Facility Replacement Design, planning and construction of 5700 square feet at a cost of $1,[illegible]

The requested funding would allow design of Phase I and Phase II of the needed facility, and construction of Phase I the shop spaces that must be replaced immediately due to health and life/safety hazards. (see drawing)

Educational spaces which will be gained in phase one are:

1. general shop classroom
2. diesel/automotive shop
3. metal shop
4. art classroom

Storage for the classrooms and a corridor are also included in the plan.

Other vocational spaces are currently housed in another facility and are not a hazard to occupant safety. For this reason, the remaining 7,437 square feet of space have been postponed until Phase II (again, see drawing).

JUSTIFICATION

Unalaska School District requests prioritization for Phase I as

I: Health, Life/Safety

While this request is a [illegible] the District asks that [illegible]

application. Major revision has occurred [illegible] requested only for the replacement portion. [illegible] detailed description of current facility conditions [illegible] below:

The main vocational facility is housed [illegible] shed built during World War II. One portion [illegible] ing was destroyed by fire in 1980. The third [illegible] building must also be used for storage, leaving [illegible] for instruction. This building belongs to [illegible] and has been provided for interim use only. It was not considered worthy of survey and analysis by [illegible] their Statewide Survey due to its deplorable condition and inappropriateness for educational purposes. [illegible] photographs. It is type I construction, [illegible] wood with a sheet metal roof. Obviously, this facility supports only a minimal program, far below the standards set for the Department of Education:

> "The priority system must ensure that all schools within the state reach a comparable level of facilities necessary to meet minimum educational program requirements before providing for other desirable, but less critical needs."

Fire/Life Safety hazards exist because of:

1. Limited Space for Student Occupancy. Code requires 50 S.F. of instructional space per student. The current building allows 30 and nearly 1/3 of this amount is unusable leaving 17 feet per student for instruction.

2. Inadequate and dangerous heating system. It is a simple oil fired stove which is hazardous in any building and critically so in a woodshop area. It is not feasible to install another heat source.

3. Lack of fire rated walls, and doors creates a hazardous condition.

4. Lack of fire exits.

Assessed value of the building is $[illegible]

than the cost of upgrading [illegible] even the most [illegible] standards. Occupancy [illegible] continue, yet [illegible] in full operation and [illegible] the heaviest [illegible] in the district.

The Department of [illegible], Career [illegible] Unit has been active in the planning and [illegible] the Unalaska School's vocational education [illegible] cording to the Comprehensive Program Review [illegible] the DOE review team in [illegible] made the [illegible] mendation:

1. Build a new [illegible] Education [illegible]

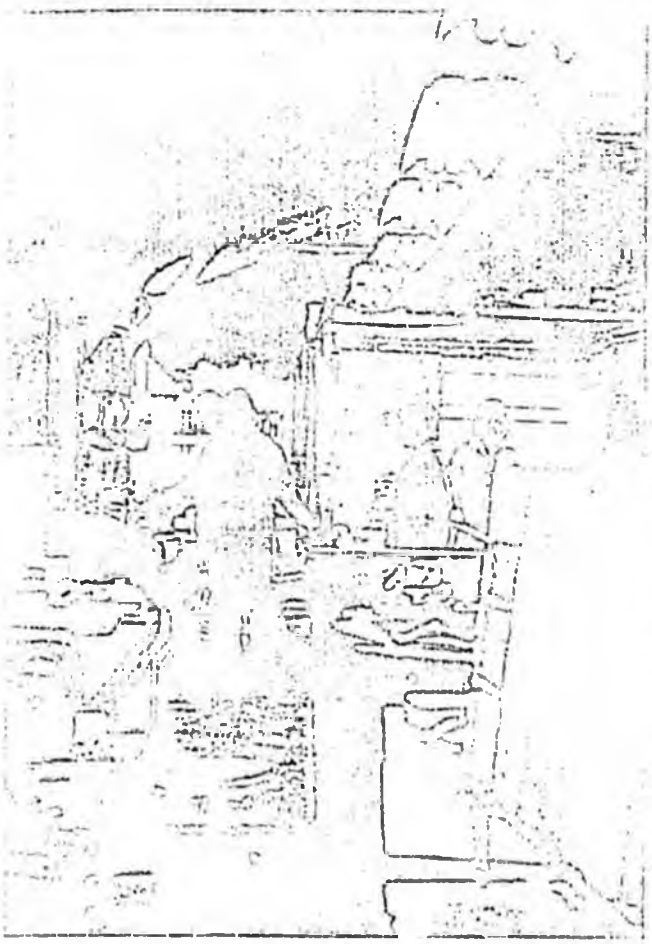
The report discusses the strength of the [illegible] "much still needs to be done. Expansion [illegible] SECURING A NEW FACILITY [illegible] (pg. [illegible])

This recommendation is in support of the [illegible] feasibility study, letters from students, [illegible] and community leaders stressing the need to provide a facility to address basic vocational, rather than academic (in this case, college-prepatory) curricula. DOE evaluators again recommended the necessity of eliminating [illegible] concepts of vocational education versus college [illegible] students (tracking) which are damaging to [illegible] and total development of students".

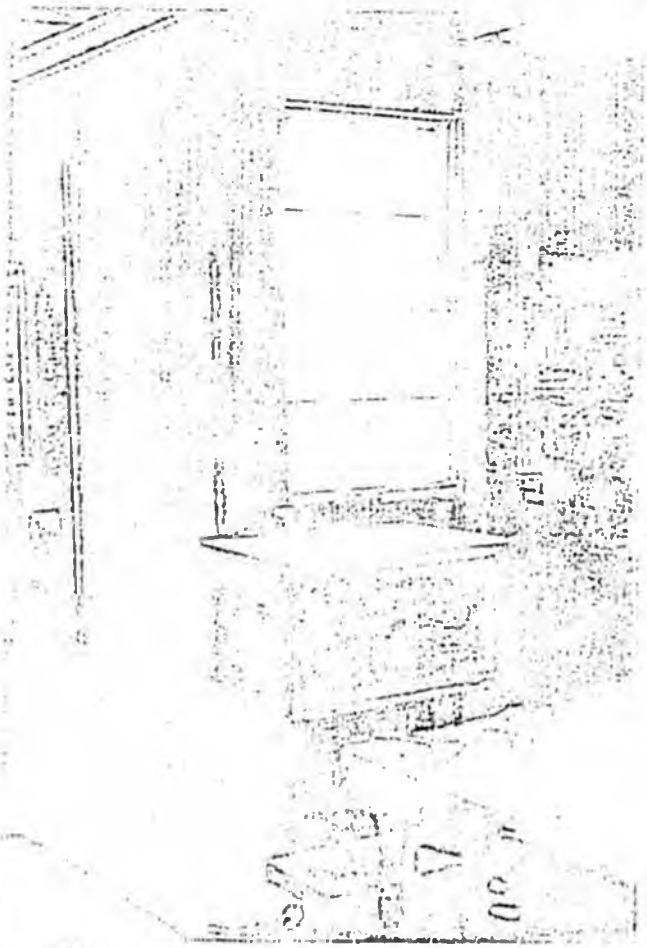
COST INFORMATION AND ARCHITECTURAL PLANNING

1985 - Vocational Education Building, [illegible]

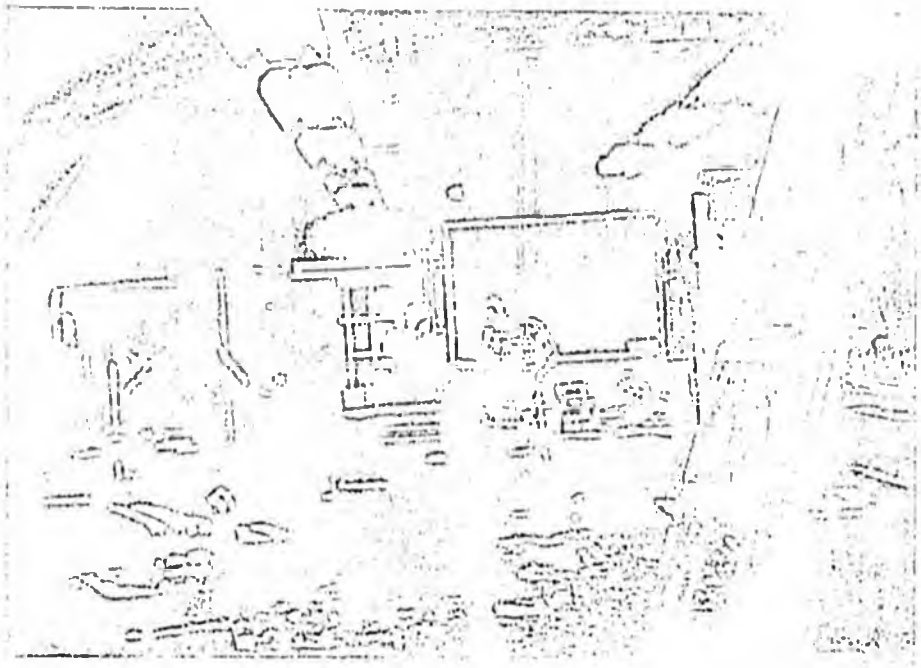
5,700	sq. ft.
n$ [illegible]	per sq. ft.
$1,[illegible],000	(construction [illegible]
$ [illegible],000	(25% administrative costs)
$ 93,000	(5% of phase [illegible] construction costs for design and engineering)
$1,803,000	Total cost - Phase [illegible]



The above picture and the one below show the interior of the old shop building, an antiquated structure, with poor lighting, safety hazards and lack of appropriate storage space.

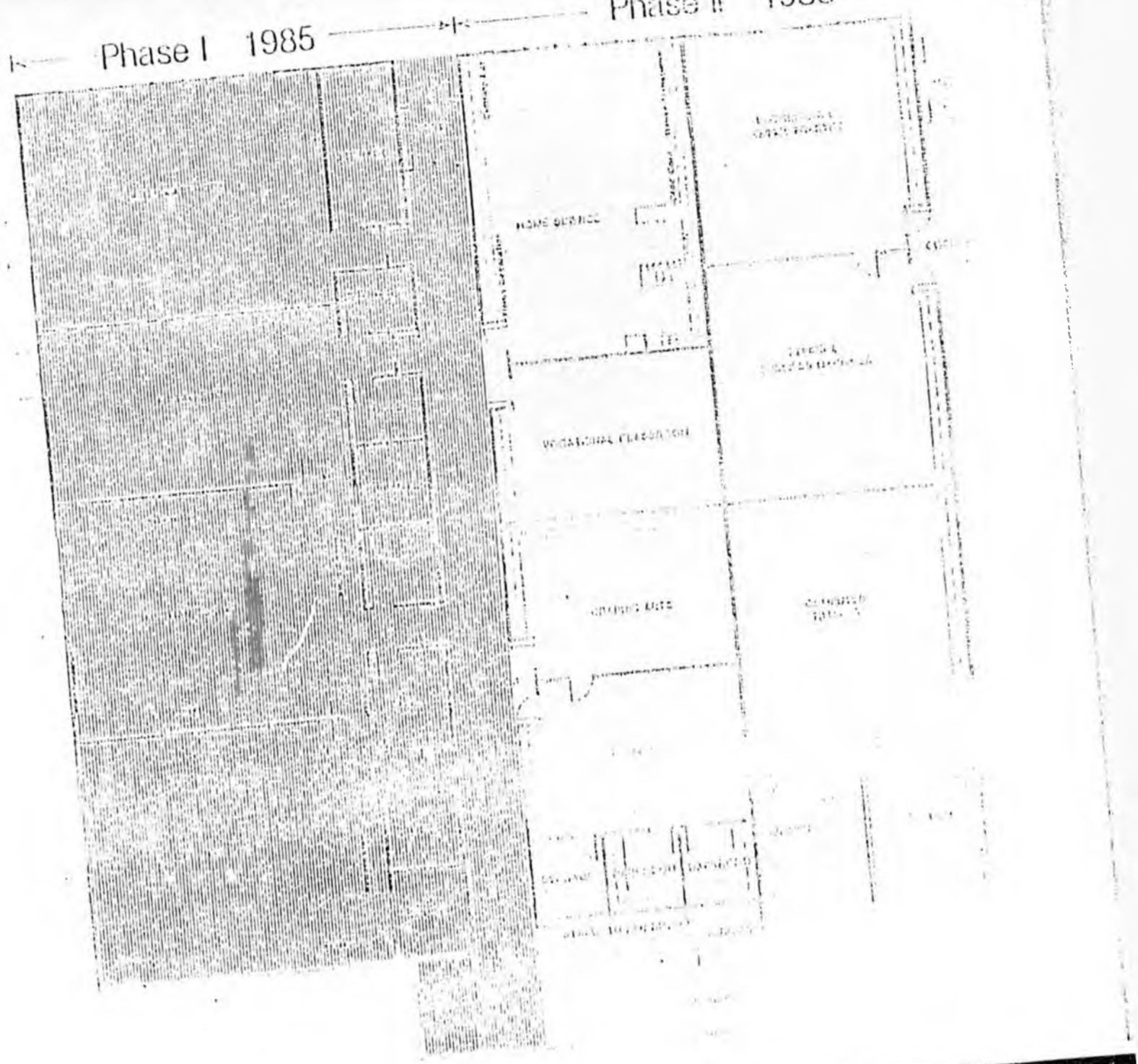


This oil fired space heater is particularly unsafe for installation in a wood shop.



Vocational Education Complex

PHASE I AND PHASE II



FY 85 CAPITAL BUDGET REQUEST — PROJECT SHEET

DISTRICT Unalaska City School District — SCHOOL Unalaska

PAS ____ TAS X SAR ____ — PROJECT NAME Unalaska [illegible] Facility Phase II

DESIGN ENROLLMENT

PROJECT TYPE
- ☐ NEW CONSTRUCTION
- ☐ ADDITION
- ☐ REMODELING
- ☐ REPLACEMENT
- ☐ MAJOR MAINTENANCE
- ☐ UTILITIES
- ☐ OTHER

PROJECT JUSTIFICATION
- ☐ HEALTH OR LIFE SAFETY
- ☐ UNHOUSED STUDENTS
- ☐ PROTECTION OF STRUCTURE
- ☐ OPERATING COST CHANGES
- ☐ CODE UPGRADE
- ☐ FUNCTIONAL UPGRADE
- ☐ OTHER

CONSTRUCTION START June, 1985 — COMPLETION DATE [illegible]

PROJECT ESTIMATED TO ☐ INCREASE ☐ DECREASE — DISTRICT OPERATING [illegible]

SCHOOL SITE: ☐ EXISTING, OR ☐ [illegible]

PRIMARY UTILITIES: WILL THIS PROJECT [illegible] UTILITIES

already there
- ☐ OIL STORAGE ____ [illegible]
- ☐ FULL ELECTRICAL [illegible] GENERATION ____ [illegible]

ALTERNATIVES. LIST TWO OR MORE ALTERNATIVES TO THIS CONSTRUCTION [illegible]

1. Renovate the existing facilities. Present facilities [illegible] space is currently devoted to [illegible] education, [illegible] etc. so renovation would result in inadequate facilities.
2. Construct an addition to the current facility. Location [illegible] long range planning requires it be located elsewhere.
3. Leave as is. Not an option. Facility is too hazardous [illegible].

COMPLETE FOR NEW CONSTRUCTION, ADDITIONS, REPLACEMENT OR REMODELING [illegible]

PROGRAM AREA	GROSS SQUARE FEET OF FLOOR SPACE: GUIDELINES	EXISTING	REQUESTED	[illegible]	[illegible]
ELEMENTARY CLASSROOMS					
SECONDARY CLASSROOMS					
LIBRARY MEDIA					
SCIENCE					
INDUSTRIAL ED		[illegible]			
BUSINESS ED		[illegible]			
HOME SCIENCE		[illegible]	7,437		
MULTI PURPOSE					
SUPPLEMENTARY ____					
TOTAL		[illegible]	7,437	[illegible]	

AGE & CONDITION OF EXISTING FACILITIES.

JUSTIFICATION & COMMENTS. ATTACH AVAILABLE DOCUMENTATION, E.G., [illegible] MARSHALL, AND HEALTH & SOCIAL SERVICES, ETC.

Please see accompanying narrative for Phase II justifying [illegible] for 1985
Major justification is based upon health and life safety.

This phase includes: classrooms for home science, [illegible] education, [illegible], printing, computer training, bookkeeping and office practices [illegible] business [illegible], Corridor space, & janitor's rooms and lavatories [illegible]

FOUNDATION FORMULA ENROLLMENT PROJECT [illegible]
- ELEMENTARY GRADES [illegible]
- SECONDARY GRADES [illegible]
- SPECIAL ED F.T.E.
- VOCATIONAL ED F.T.E.

SUBMITTED BY: [illegible] Unalaska City [illegible]

SIGNATURE [illegible] — DATE

FORM NO. 35-244-15 (REV 3/83)

NARRATIVE

PHASE III

VOCATIONAL EDUCATION FACILITY: PHASE II

The second component of the Unalaska Master-Plan will be the final half of the vocational education complex. These spaces include classrooms for printing, computer training, graphics arts, bookkeeping and office practices, typing and business machines, home science and vocational education. Lavatories are also included in this phase. These spaces will house current educational programs which are operating in cramped, over-crowded conditions within the existing grade school. (see drawing, previous section)

[illegible]

The District requests the following prioritization be considered:

PRIORITY [illegible]: UNHOUSED STUDENTS

This request is based upon the need to provide unhoused students adequate space to participate in existing programs. These include classrooms for home science, graphic arts, bookkeeping and office practice, typing, computer training, printing and vocational education. Detailing of the classrooms, along with photo documentations is provided within the Haag-[illegible] feasibility study.

[illegible] and least [illegible] alternative for [illegible] elementary area will be the [illegible] area [illegible] and engine [illegible]. This area is [illegible] not designed [illegible] instruction [illegible] [illegible] maintenance area. The [illegible] is located in [illegible] school facility and is [illegible] particularly when adapted for elementary [illegible].

[illegible] AND ARCHITECTURAL PLANNING

[illegible] National Education Building - Phase II

[illegible]

[illegible]

[illegible] Phase III

$ 171,750	(11% administrative costs)
$ 10,000	(1% equipment)
$2,324,000	Total cost - Phase II

PHYSICAL EDUCATION COMPLEX

...T REQUEST — ...ICT SUMMARY — DATE: August 25, 1993

...Chelatchie

...NAME: Chelatchie Physical Education Complex

...
- ... HEALTH OR LIFE SAFETY
- ... OVERCROWDED STUDENTS
- ... PROTECTION OF STRUCTURE
- ... OPERATING COST SAVINGS
- ... CODE UPGRADE
- ... FUNCTIONAL UPGRADE
- ... OTHER

...TRUCTION START: June, 1995 | COMPLETION DATE: August, 1996

...TE ESTIMATED ...: ☒ INCREASE ☐ DECREASE | DISTRICT OPERATING BUDGET: $ 30,000

...E SITE: ☐ EXISTING SITE ☐ NEW SITE | ESTIMATED ACQUISITION COST: $ _____

...OVISIONS: WILL THIS PROJECT INCLUDE THE FOLLOWING UTILITIES IF NOT?
- ☐ ON-SITE STORAGE _____ GALLONS
- ☐ WELL ELECTRICAL POWER CONNECTION _____ KW
- ☐ WATER SUPPLY
- ☐ SEWAGE DISPOSAL

...ONSIDERED ALTERNATIVES TO THIS CONSTRUCTION AND REJECTED
...because it lacks all K-12 guidance and an inadequate gymnasium. Rejected because this option, the gym should be used as an elementary multi-purpose room ... is not large enough to be used as the only gym.

...COMPLETE FOR NEW CONSTRUCTION, ADDITIONS, REPLACEMENT OR REMODEL OF FACILITY ONLY

...ROOM AREA	GROSS SQUARE FEET OF FLOOR SPACE: GUIDELINES	EXISTING	REQUESTED	PROPOSED TOTAL	DOE USE ONLY
...ENTARY (K-6)					
...RDINATE					
...ARY (7-8)					
...IENCE					
...STRIAL ED					
...ARTS					
...L SCIENCE					
...LTIPURPOSE					
...LEMENTARY					
...					
...					
...TOTAL					

...ADDITIONAL SQUARE FEET REQUESTED: _____

...JUSTIFICATION (Guidelines are based on ... [illegible] ... [illegible] ... [illegible]

NARRATIVE

PHYSICAL EDUCATION COMPLEX

Recommendations of the 1982 planning study addressed the inadequacy of the gymnasium, which is really a multi-purpose room. Feasibility studies report "current facility serves too many students in too broad an age range, and are required to compete with other school programs including lunch, large class gatherings and community events."

An integral part of the master plan calls for inclusion of a 25,000 square foot physical education complex including gymnasium, locker rooms, weight room, handball court and storage.

Currently the request for the Unalaska District for prioritization is:

VI: Functional Upgrade

JUSTIFICATION

Current program requirements for K-12 cannot be met in the existing multi-purpose room. Slab Vinyl Flooring does not support basketball or other activities. There are few seats for spectator activities.

[illegible] AND ARCHITECTURAL PLANNING

[illegible] Physical Education Complex

[illegible] sq. ft.
[illegible] sq. ft.

[illegible]
[illegible]

[illegible] cost

JUNIOR AND SENIOR HIGH ACADEMICS

AND ADMINISTRATION COMPLEX

...QUEST -- ...COT SHEET | DUE: August 25, 1983

...Unalaska

...Unalaska Junior and Senior High Academics and Administration Complex

- ☐ REPLACEMENT
- ☐ MAJOR MAINTENANCE
- ☐ UTILITIES
- ☐ OTHER

- ☒ HEALTH OR LIFE SAFETY
- ☐ UNHOUSED STUDENTS
- ☐ PROTECTION OF STRUCTURE
- ☐ OPERATING COST SAVINGS
- ☒ CODE UPGRADE
- ☒ FUNCTIONAL UPGRADE
- ☐ OTHER

CONSTRUCTION START June, 1986 | COMPLETION DATE August, 1987

...COST ESTIMATE BY: ☒ INCREASE ☐ DECREASE | DISTRICT OPERATING BUDGET $ 20,000

...SHARED SITE: ☐ EXISTING OR ☐ NEW SITE; IF NEW, ACQUISITION COST $ _____

...UTILITIES: WILL THIS PROJECT INCLUDE THE FOLLOWING UTILITIES ON SITE?

...WELL: ☐ OIL STORAGE _____ GALLONS ☐ WATER SUPPLY

☐ FULL ELECTRICAL POWER GENERATION ____ KW ☐ SEWAGE DISPOSAL

...DESCRIPTION: LIST ONE OR MORE ALTERNATIVES TO THIS CONSTRUCTION AND WHY REJECTED

...Consideration was given to using the old facility as is. Facilities for secondary classes are ...inadequate in design and space as are the administrative office facilities. ...Purchase was rejected because both elementary and secondary students have ...performance facilities. This new complex will allow an upgrade of the current facility so it may be used as an elementary school.

...COMPLETE FOR NEW CONSTRUCTION, ADDITIONS, REPLACEMENT OR REMODELING PROJECTS ONLY

...PROGRAM AREA | GROSS SQUARE FEET OF FLOOR SPACE: GUIDELINES | EXISTING | REQUESTED | PROPOSED TOTAL | DOE USE ONLY

...: 15,500

...ADDITIONAL AVAILABLE INFORMATION SUPPORTING THIS REQUEST (REPORTS FROM STATE FIRE ...

...Other activities using the Junior and Senior High Academic and ...plex.

...FUNDING PROGRAM: ENROLLMENT PROJECTION: ...NUMBER | ...ATION

...

...

...

NARRATIVE

[illegible] ACADEMICS AND ADMINISTRATION COMPLEX

[illegible] expansion and remodel of the existing facility occur, the 1987 phase would include new construction located [illegible] the south and southeast of the existing facility. Spaces will include music classroom and stage, social studies classrooms, special education, science and math labs and library media center.

[illegible] for prioritization from the Department of [illegible]

[illegible]: Functional Upgrade

[illegible]

[illegible] comprehensive review recommends remodel of lab facilities, enlargement of classroom to accomodate current [illegible] class loads. Also in planning for projected enrollment increase the K-12 library media center must be enlarged. New construction of 2 levels is considered the most practical and cost effective means of accomplishing this phase.

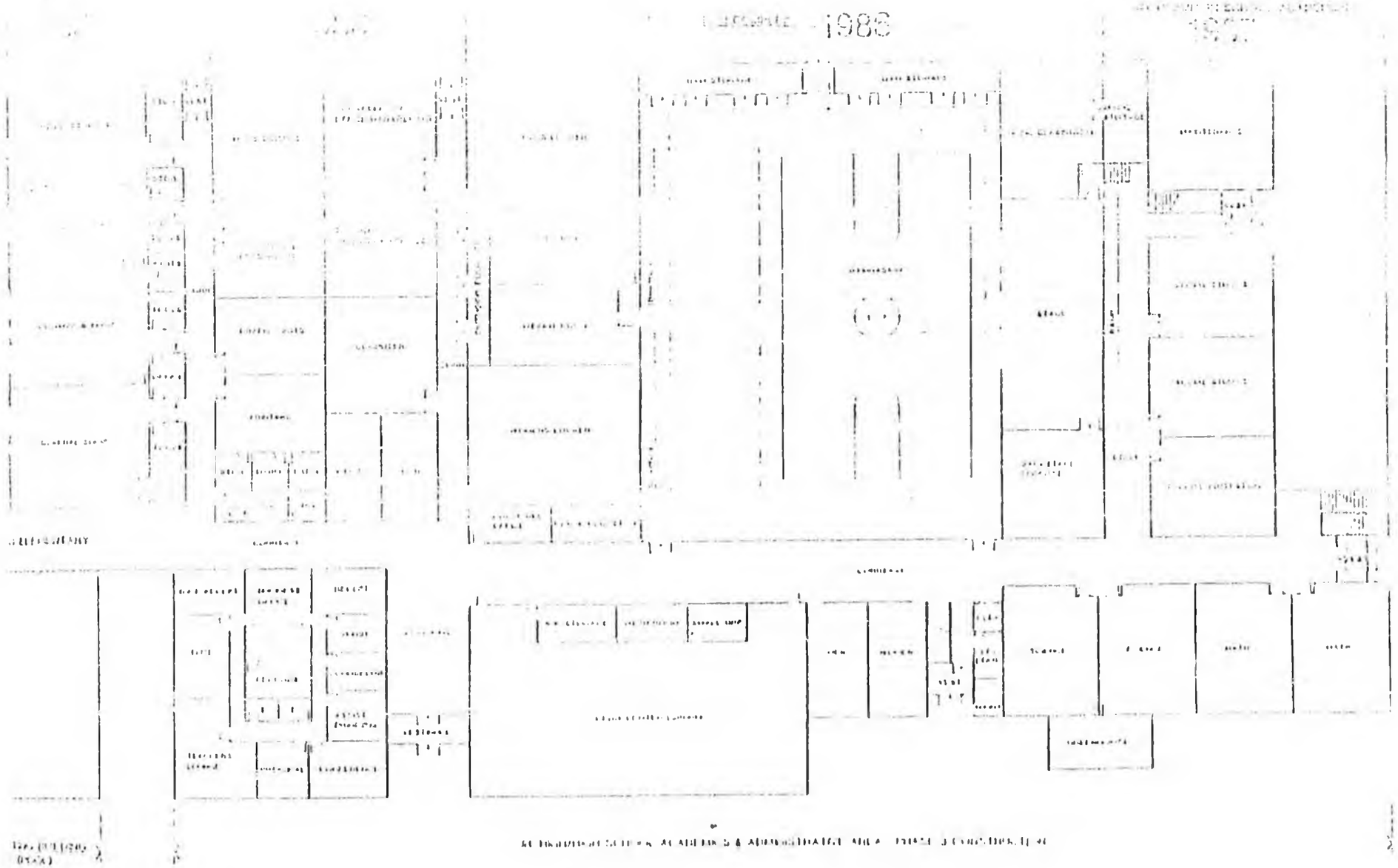
[illegible] AND ARCHITECTURAL PLANNING

[illegible] Junior and Senior High Academics
Administration Complex

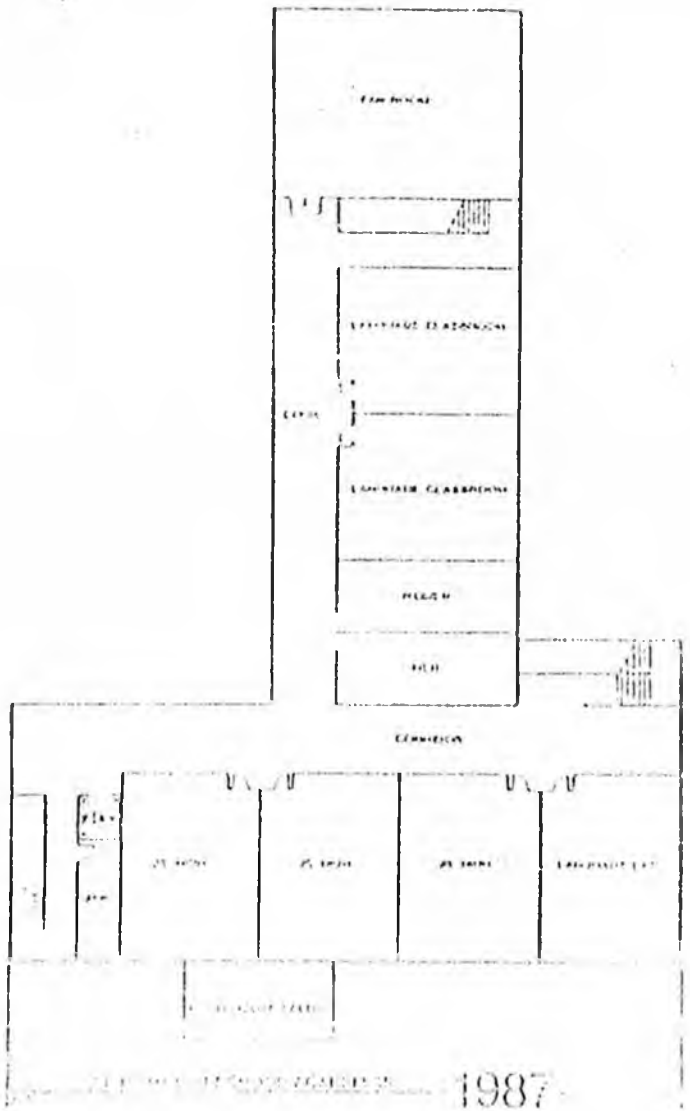
[illegible]

[illegible] construction [illegible]
[illegible] administration [illegible]

[illegible]



JR. HIGH/HIGH SCHOOL MASTERPLAN



SECOND FLOOR PLAN

...ICT OFFICE — DUE: August 25, 1983

...l District — ...Unified

...Unified School District Total
...Grade of Existing Facility

- ☐ CONSTRUCTION
- ☐ ...TION
- ☐ ...ODELING
- ☐ ...PLACEMENT
- ☐ ...OR MAINTENANCE
- ☐ UTILITIES
- ☐ OTHER

- ☐ HEALTH OR LIFE SAFETY
- ☐ UNHOUSED STUDENTS
- ☐ PROTECTION OF STRUCTURE
- ☐ OPERATING COST SAVINGS
- ☒ CODE UPGRADE
- ☐ FUNCTIONAL UPGRADE
- ☐ OTHER

...TRUCTION START: June, 1987 — COMPLETION DATE: August, 1988

...W ESTIMATE/S: ☐ INCREASE ☒ DECREASE — DISTRICT OPERATING BUDGET: 25,000

...L SITE: ☒ EXISTING OR ☐ NEW SITE; IF NEW, ACQUISITION COST: _____

...: THIS PROJECT INCLUDES THE FOLLOWING UTILITIES TO SITE:

☐ GAS ☐ WATER SUPPLY
☐ FULL ELECTRICAL POWER INSTALLATION ____ W ☐ SEWAGE DISPOSAL

...ATIVES: ...NO MORE ALTERNATIVES ... CONSTRUCTION AND ...REJECTED

...Detailed educational ...ns were in an existing, poorly designed facility. ...ected because modern programs demand modern, ...ll designed facilities.

...PLETE FOR NEW CONSTRUCTION, ADDITIONS, REPLACEMENT OR REMODELING PROJECTS ONLY)

	FROM SQUARE FEET OF FLOOR SPACE			
...TOTAL	GUIDELINES	ELIGIBLE	REQUESTED	ARCHER TOTAL (USE ONLY)
...ROOMS			50,000	
...ROOMS				
...ROOMS				
...ROOMS		

[redacted]

MODEL UPGRADE OF EXISTING FACILITY

The renovation and upgrade of the core facility housing the elementary classroom is scheduled for 1986. The main specific elementary need is for classroom enlargement. 600 square foot classrooms are three hundred square feet below recommended minimums. The District feasibility study supports the need for the increase in square footage. A plan has been developed to incorporate this major remodel within the existing structure (please see drawing). Adequate-sized classrooms, elementary music media center, multi-purpose room/cafeteria are included in the renovation. By this phase, a functional K-6 facility will have been developed, utilizing the current site and structure.

JUSTIFICATION

At this time, the prioritization request is for

V: Code Upgrade
VI: Functional Upgrade

COST INFORMATION AND ARCHITECTURAL PLANNING

[redacted] sq. ft.
[redacted] per sq. ft.

[redacted] (construction cost)
[redacted] (15% administrative costs)

[redacted]

[illegible] REQUEST — [illegible] | DUE: August 25, 1983

[illegible] | [illegible] Unalaska

[illegible] | [illegible] Unalaska — Addition of Elementary Classroom Wing

[illegible]

- [illegible] CONSTRUCTION
- [illegible]
- [illegible] REMODELING
- [illegible] REPLACEMENT
- [illegible] MAJOR MAINTENANCE
- [illegible] UTILITIES
- [illegible] OTHER

[illegible] JUSTIFICATION

- [illegible] HEALTH OR LIFE SAFETY
- [illegible] UNHOUSED STUDENTS
- [illegible] PROTECTION OF STRUCTURE
- [illegible] OPERATING COST SAVINGS
- [illegible] CODE UPGRADE
- [illegible] FUNCTIONAL UPGRADE
- [illegible] OTHER

CONSTRUCTION START June, 1988 | COMPLETION DATE January, 1989

PROJECT ESTIMATED TO: [illegible] INCREASE / [illegible] DECREASE | DISTRICT OPERATING BUDGET $ 15,000 (est.)

SCHOOL SITE: [illegible] EXISTING, OR [illegible] NEW SITE: IF NEW, ACQUISITION COST $ _____

PRIMARY UTILITIES: Existing

WILL THIS PROJECT INCLUDE THE FOLLOWING UTILITIES ON SITE?

- [illegible] OIL STORAGE _____ GALLONS
- [illegible] FULL ELECTRICAL POWER GENERATION _____ KW
- [illegible] WATER SUPPLY
- [illegible] SEWAGE DISPOSAL

ALTERNATIVES: [illegible] OR MORE ALTERNATIVES TO THE CONSTRUCTION AND WHY REJECTED

1. Continue to use the elementary classrooms now available and either overload the classrooms or double shift when the elementary enrollment becomes too great to handle comfortably. Rejected because good long range planning includes maintaining a good educational atmosphere.
2. Use portable classrooms. Rejected since this would be a stop gap answer to an ongoing need.

COMPLETE FOR NEW CONSTRUCTION, ADDITIONS, REPLACEMENT OR REMODELING PROJECTS ONLY

PROGRAM AREA	GROSS SQUARE FEET OF FLOOR SPACE				
	GUIDELINES	EXISTING	REQUESTED	PROPOSED TOTAL	DOE USE ONLY
[illegible]			12,175		
[illegible]			12,175		

[illegible] FACILITIES:

[illegible] ATTACH [illegible] SERVICES, ETC.

[illegible] the need [illegible] additional elementary [illegible] new years.

[illegible]

August 15, 1983

[illegible]

[illegible] CLASSROOM WING

The final phase of the plan calls for addition of a 12,175 square foot elementary wing. Designed as an extension of the remodeled classroom wing, this section would include up to nine classrooms. This wing would be included only if enrollment increase warrant such planning.

A tentative request is now made to include this priority in 1989 as

II: Unhoused Students
VI: Functional Upgrade

[illegible]

The present plateau in the economy and population of Unalaska is viewed as a time to assess the "present status of public programs and facilities" and to use the leveling-off period to plan more adequately for the future. The planning has addressed community and student growth patterns and is geared to provide flexibility in-meeting educational demands.

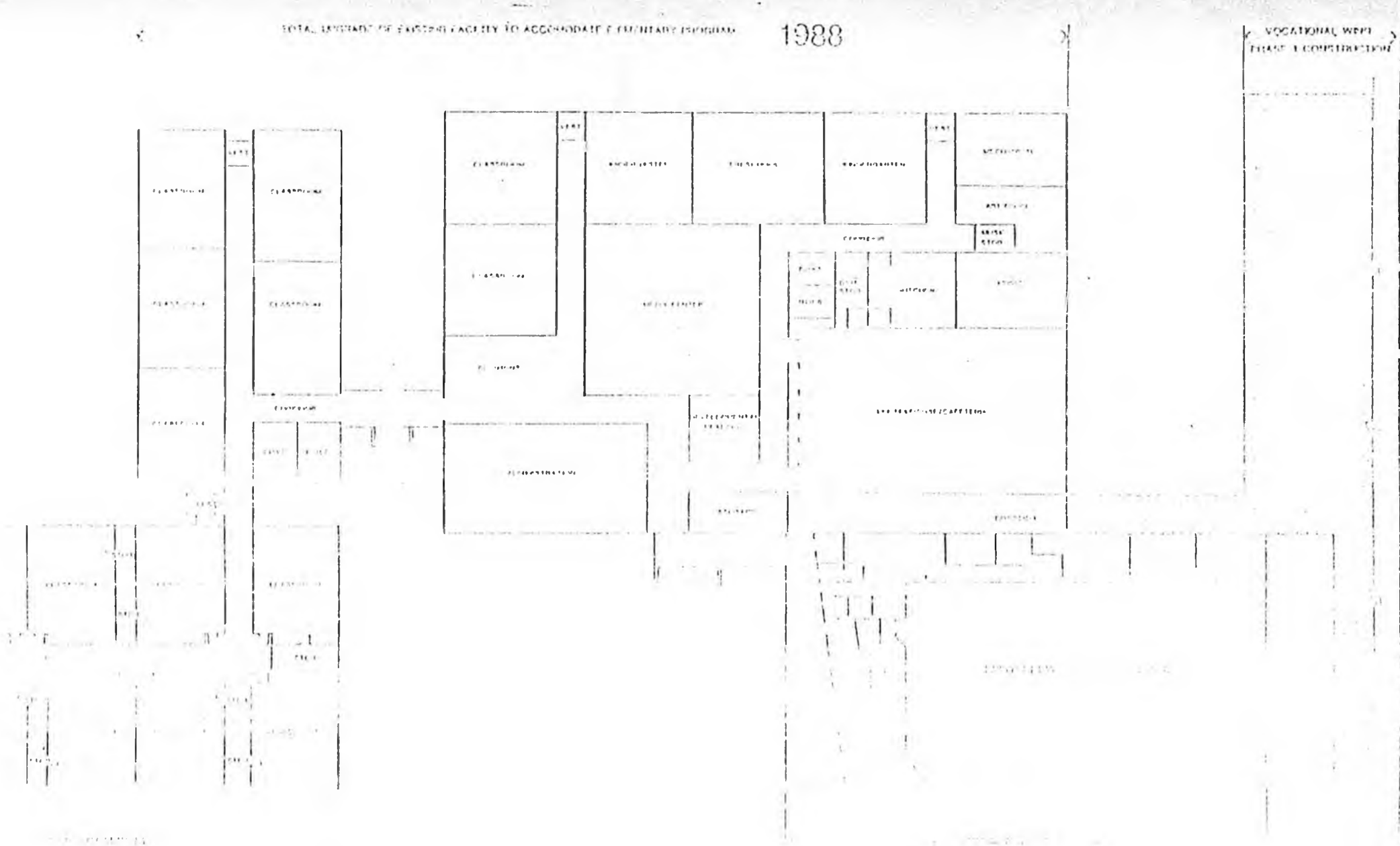
COST [illegible] AND ARCHITECTURAL PLANNING

[illegible] Addition of Elementary Classroom Wing

12,175 sq. ft.
[illegible] 150 per sq. ft.

[illegible]
[illegible]

[illegible]


TOTAL UPGRADE OF EXISTING FACILITY TO ACCOMODATE ELEMENTARY PROGRAM
1988
VOCATIONAL WING
PHASE 1 CONSTRUCTION



Southwest Region Schools
Pouch 196
Dillingham, Alaska 99576
Phone (907) 842-5287

~~December 7, 1983~~
December 14, 1983

Office of the Superintendent

Senator Bob Mulcahy
Box 246
Kodiak, Alaska 99615

Dear ~~Senator Mulcahy~~ Representative Hermann:

Enclosed find the memorandum that was approved by the Southwest Region District Board of Education on May 14, 1983. Please note that at that time the District Board was assuming that Levelock and Clarks Point were going to be funded during this last legislative session. This was not the case as when the legislature finally adjourned in June we found out that Clarks Point was not funded.

Therefore, please place Clarks Point at the top of your list for funding during this next legislative session.

Also, find a copy of the first page of the Department of Education's REAA Capital Improvement Program Budget FY85 CIP Budget Request which lists Clarks Point as #9 priority.

I hope the enclosed is the material you requested. Please feel free to request more information as we believe that Clarks Point is very deserving of your attention and funding next year.

Sincerely,

Peter E. Plisock
Superintendent

PEF:lr

Enclosures: District Memorandum #SRS-117
DOE FY83 CIP Budget Request (1st Page)

Kuliganek

New Stuyahok

Eek

Levelock

Togiak Twin Hills Manokotak Aleknagik Clarks Point Portage Creek

84-2 CLARKS POINT K-12 SCHOOL:

STATIS:

FISH CANNERY OWNS PRESENT SCHOOL SITE PROPERTY. FACILITY IS SITUATED ON SWAMP LAND AND FLOOD PLAIN (FLOODED OUT 1981). VILLAGE IS MOVING TO HILLTOP BLUFF SITE. HIGH WATER TABLE IS DISTRUCTIVE TO STRUCTURAL ENTEGRITY OF BUILDING BASEMENT AND WASTE SYSTEM. SCHOOL TOO SMALL FOR ENROLLMENT AND BASIC ED PROGRAM, ONLY TWO CLASSROOMS IN AVAILABLE SPACE. NO SPECIAL ED., VOCATIONAL ED., P.E. CLASSES NOR A MULTI-MEDIA/LIBRARY FACILITY. LUNCH AND KITCHEN IN TRAILER. FORTY YEAR OLD BUILDING INOT COST EFFECTIVE TO UP GRADE TO MEET FIRE & BUILDING CODE STANDARDS. HEATING PLANT INADEQUATE TO NEEDS AND OBSOLETE FOR PARTS ACQUISITION. OLD TWO STORY STRUCTURE OFFERS NO HANDICAP ACCESS NOR FIRE ESCAPE ROUTES.

SOLUTIONS:

A NEW K-12 FACILITY LOCATED ON 5-10 ACRES ON THE BLUFF WILL HOUSE A GROWING STUDENT ENROLLMENT AND BE ABLE TO OFFER A BALANCED CURRICULUM, TO INCLUDE VOCATIONAL ED., A MULTI PROGRAM SPACE, AND SPECIAL ED. CLASSES. KITCHEN/LUNCH ROOM AND HEATED STORAGE SPACE REQUIREMENTS WOULD ALSO BE MET. FURTHERMORE, THE HEATING AND POWER PLANT SYSTEM WOULD BE IMPROVED TO MEET NEEDS AS REQUIRED IN THE NEW FACILITY.

ESTIMATING FORM

1.01 Project: High School K-12 1.03 Date: June 2, 1982

1.02 Location: Clarks Point 1.04 Category: Combined K-12 21-32

1.05 Outline Description:

The current school is undersized for current program and enrollment. It is located on undeeded land and is partially encroaching on privately owned land. The building is also situated on a flood plain and is subject to occasional flooding. A HUD housing project has recently been completed on high ground and families relocated as a result of a 1981 flood which destroyed a number of homes and flooded (over)

2.00	Assignable Educational Areas	Area	$/SF	Cost
2.01	Standard Classroom	2600	80.30	$208,780
2.02	Science Laboratory	300	150.21	$45,063
2.03	Art Classroom		82.03	
2.04	Photographic Room		81.30	
2.05	Business Class		76.30	
2.06	Library		76.30	
2.07	Media Center	1000	77.95	$77,950
2.08	Language Arts		77.95	
2.09	Special Education		80.30	
2.10	Social Studies		80.30	
2.11	Music Room		82.70	
2.12	Theater		114.85	
2.13	Home Economics		192.96	
2.14	Vocational Shop		143.37	
2.15	Drivers Education		80.30	
2.16	Gymnasium/Multipurpose	3500	101.20	$354,200
2.17	Other			
	Subtotal:	SF		$ 685,993

the school. This housing project has also caused the influx of past and new residents to the village and, as a result, student enrollment is expected to increase. The current building was built in 1946 and requires extensive upgrading to meet fire and building code standards.

Estimating Form (continued)

1.01 Project High School, K-12

1.02 Location Clarks Point

			Area	$/SF	Cost
Educational Areas Subtotal:					
3.00	Auxiliary Areas	(optional)			
3.01	Offices	(2.3%)	200	66.30	$13,260
3.02	Food Service	(3.4%)	600	273.97	$164,382
3.03	Medical	(0.5%)		93.32	
		Total:			$167,642
4.00	Unassigned	(mandatory)			
4.01	Ablutions	(6.8%)		120.90	
4.02	Circulation	(8.1%)		70.48	
4.03	Mechanical/Electrical	(10.2%)	800	128.49	$102,792
4.04	Storage	(3.3%)	100	56.24	$5,624
4.05	Structure	(7.6%)	800	65.72	$52,576
		Total Area:		Subtotal:	

5.00 Special Requirements (optional)

5.01 Emergency Electrical Generator, $43,246 Lump Sum

5.02 Sprinkler System Total Area _____, $1.93/SF

5.03 Other Special Requirements

Building Cost: $1,014,627

1.01 Project High School, K-12

1.02 Location Clarks Point

		Cost
Building Cost:		$1,014,627
6.00 Other Costs		
6.01 Basic Building Needs	26.08%	$263,803
	Subtotal:	$1,278,430
6.02 Geographic Index (See Table, page 6-27)	2.445 %	
	Total Construction Cost:	$3,125,760
6.03 Projected Inflation (at 1% per month)	(36 Mo.)%	$1,125,274
	Subtotal:	$4,251,034
6.04 Soft Costs (Appendix D)	25.21 %	$1,071,686
	Total Project Cost:	$5,322,720

MEMORANDUM SRS- 117

To: School Board Members

From: Office of the Superintendent (IP)

Date: May 3, 1983

Subject: Capital Improvement Plan FY 85-87

The Board is being asked to accept and approve the proposed Capital Improvement Plan as presented herein.

Extensive re-evaluation and study of the school district's projected needs and the resulting priority ranking of the proposed projects as listed; SRS is requesting the state legislature to provide funding for following Capital Improvement proposals.

0. Clarks Point #1 Priority was not funded in FY 84

2/. Manokotak - School Addition: FY-85

Classroom space is needed for basic education and music programs. The building requires remodeling upgrade and a lunch room/kitchen facility is urgently required.

Estimated Cost - $4,500.000

3/. Rehabilitation and Upgrade Teaching Facilities:(District Wide) FY-85

a) Painting and Repairs	150,000
b) Water and Sewer Systems	200,000
c) Life/Safety Fire Alarms	700.000
d) Voc. Educ. Facility - Ekwok	750,000
e) Bulk Fuel Oil Storage & Piping - Clarks Point	180,000
Estimated Cost	1,980,000

4/3. Portage Creek Multipurpose Addition and Remodel: FY-85

Space is required for a library, multipurpose facility and voc. educ. class room; an increased lunch room/kitchen area and a new heating plant is needed.

Estimated Cost 1,550,000

5/. Teacher Housing: FY-85

Teacher living quarters such as duplexes are urgently needed at the following locations:

a) Aleknagik HS	205,000
b) Levelock	275,000
c) New Stuyahok	285,000
Estimated Cost	765,000

5. Electrical Generator Rehabilitation and Upgrade: FY-85

Due to increased demands on power loads and because of larger curriculum programs and the power requirements for growing populations, the district's power generation capabilities must be upgraded; at Koliganek New Stuyahok, Clarks Point, Togiak, and Twin Hills.

Estimated Cost 1,100,000

6. Aleknagik - Additional Classroom Space: FY-86

Increased classroom space for basic education will be required to accommodate student enrollment growth at Aleknagik school. Projection needs indicate two additional classrooms and an increase in Voc Educ. facilities will be required.

Estimated Cost 1,500,000

7. Togiak -- Block Erosion Control Barrier: FY-85

Evidence indicates that some thirty five feet of the school playground property area that borders on the ocean beach, has severely erroded away; thus threatening the security of the school buildings. A soil retainer sea barrier, to retard further sea errosion intrusion must be provided before severe facility damage results.

Estimated Cost 1,500,000

8. District Office Rehabilitation: FY-86

To more efficiently serve the school district, the present facility is in need of re-building to provide work space, office room and curriculum materials storage space.

Estimated Cost 335,000

9. New Stuyahok - Secondary Classroom Addition: FY-86

An additional facility is required to provide teaching space for the basic education programs projected. Expected high school student population growth requires a minimum of two additional classrooms to house students and provide heating upgrade.

Estimated Cost 1,700,000

10. Facility Heating Retrofit and Upgrade: FY-87

The sites of Koliganek and New Stuyahok will require upgrading and retrofiting of complete heating systems in the older structures. Obsolesence and deterioration (wear & tear) on facility heating systems require replacement with a more fuel efficient system.

Estimated Cost 1,200.000

The estimated total projected funding costs for this six year Capital plan amounts to:

Total Estimated Cost $16,130,000

Date 5-5-83

6 YEAR CAPITAL IMPROVEMENT PROGRAM

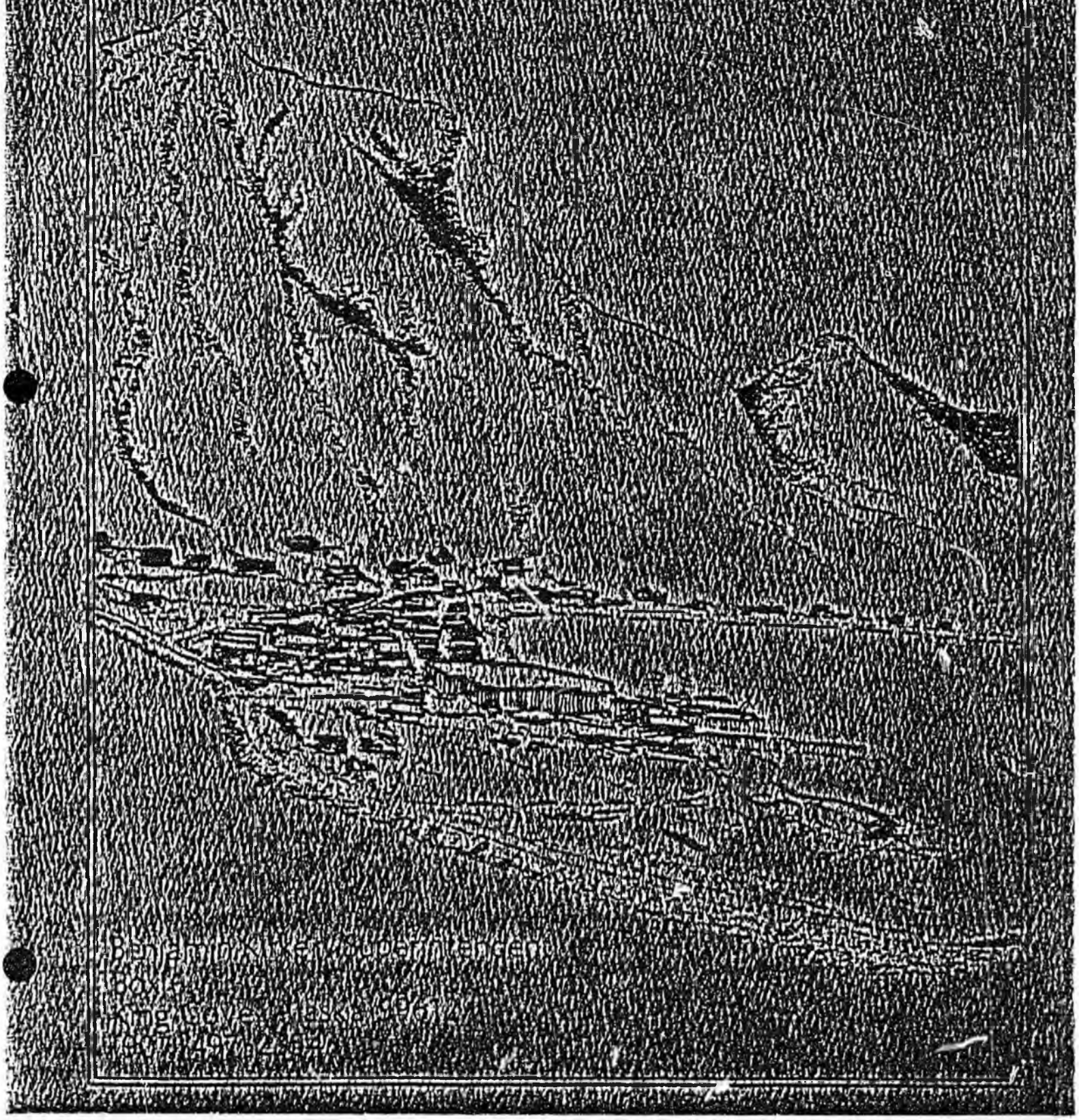
BRU

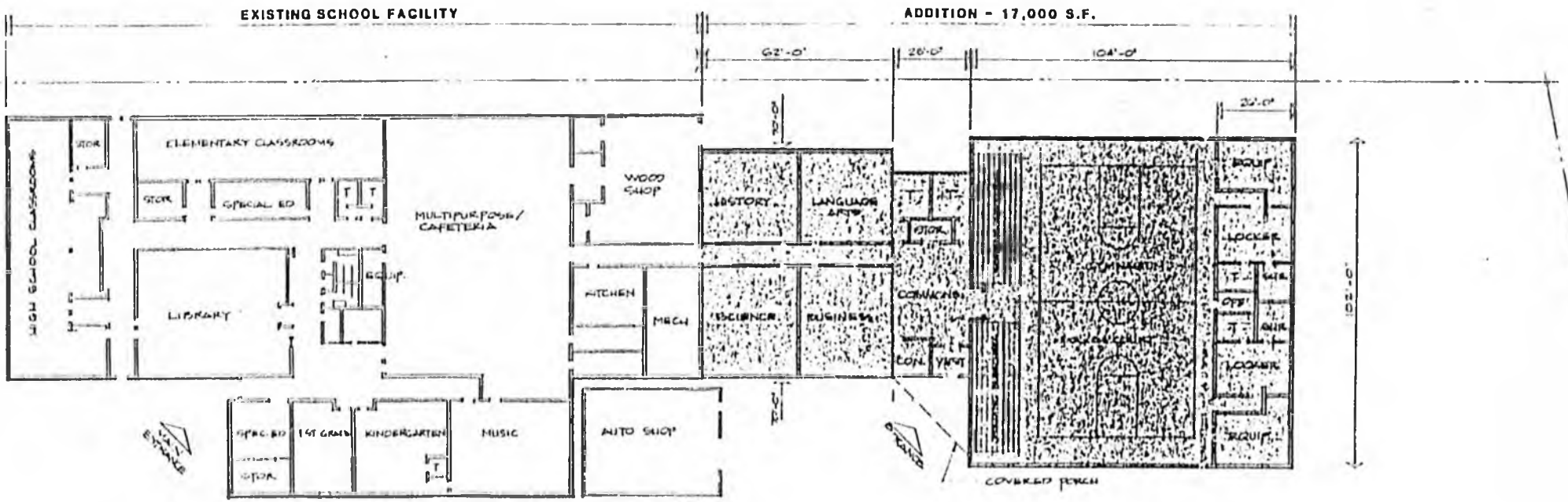
Priority (Fiscal & Year)	District, Location & Description	Priority Type	Year in Which Funding is Requested					
			FY 1984	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
84-1	Levelock - Multipurpose Room Voc. Ed. Facility, Additional Classroom Space	Unhoused Students	5,200,000 ←	Was funded at 3,065,000				
84-2	Clarks Point K - 12 Facilities	Unhoused Students	4,430,000 ←	Now is top priority				REAA #9
85-1	Manokotak Classroom Space remodel lunchroom/kitchen	unhoused Students Life/Safety		4,500,000				REAA #32
85-2	District Wide Rehabilitation & Upgrade teacherages	Unhoused Teachers Life/Safety		1,980,000				
85-3	Portage Creek Library/Multipurpose facility Increase Lunchroom/kitchen	Unhoused Students Life/Safety		1,550,000				REAA #60
85-4	Aleknagik, Levelock, New Stuyahok Teacher Living Quarters	Unhoused Teachers		765,000				
85-5	District Wide Generator Rehabilitation/Upgrade	Life/Safety		1.100,000				REAA #78
86-1	Aleknagik Increased Classroom Space	Unhoused Students			1,500,000			
86-2	Togiak Block Erosion Control Barrier	Life/Safety			1,500,000			
86-3	District Office Rehabilitation	Needed Office & Storage			335,000			
86-4	New Stuyahok Secondary Classroom Addition	Unhoused Students			1,700,000			
87-1	Koliganek & New Stuyahok Facility Heating Retrofit and Upgrade	Life/Safety				1,200,000		

No. 5-202-20

King Cove City Schools

Revised Request for High School Addition





PROJECT.

SITE AND FLOOR PLAN

February 2, 1984

REQUEST FOR CAPITAL PROJECT FUNDING
KING COVE CITY SCHOOL DISTRICT
FISCAL YEAR 1985

King Cove City School District, with full support of the Municipality, has revised the funding request for a high school addition to King Cove School.

Original facility analysis and planning called for a three-phase construction project, which would add a high school wing to the existing elementary school. Estimated cost was $9.6M. However, declining state revenues combined with increasing need within the district, has forced the consideration of a more realistic and affordable alternative. The result is a major reduction in the scope of the planned project, including elimination of certain spaces, omission of the remodel portion of the project and a decrease in overall square footage. The district feels that with proper design, the current facility can continue to house both elementary and secondary students. It is their intent to maximize joint usage of as many spaces as possible. The revised request is for a 17,000 square foot addition at an estimated cost of $4,576,600. Spaces to be included are science and business labs, history and language arts classrooms, gymnasium and auxillary facilities. The district has tentatively budgeted local funds in the amount of $1,000,000 toward the project. It is the remainder, $3,576,600, which is requested as a direct legislative appropriation.

The 17,000 square foot addition fits within the guidelines established by the Department of Education (see attached letter of approval January 23, 1984). The approval by DOE removes the concern of an average in square footage: Existing square footage in the school totals 24,000 square feet. With the additional 17,000, the total will be 41,000 square feet. This is well within the allowable 57,000 square foot allotment.

The district has worked with an architectural firm, facility planners and cost estimators to develop the following project budget:

Construction Cost

17,000 sq. ft. @ $228 psf **	$3,876,000
7% contingency, inflation, change orders	271,000
Total Construction Cost	$4,147,000

** Verified by Cost Estimators, HMS, Anchorage and current bid prices for the Aleutian Region.

Additional Project Costs

Design, including inspections (8.5%)	$ 330,200
Site/Survey/Soils	10,000
Art Work	21,000
Agency Approvals/Fire Marshall	2,000
Administration/Restricted Funds	66,400
Total Project Cost	$4,576,600

District Contribution (tenative)

Principal	$ 800,000
Projected Interest*	200,000
Total District Contri.	$1,000,000

* If money is allocated through Department of Education as requested by District.

REQUESTED 1985 LEGISLATIVE APPROPRIATION $3,576,600

STATE OF ALASKA

DEPARTMENT OF EDUCATION

DIVISION OF MANAGEMENT LAW AND FINANCE

BILL SHEFFIELD, GOVERNOR

GOLDBELT PLACE
801 WEST 10th STREET
POUCH F
JUNEAU, ALASKA 99811

January 23, 1984

Benjamin Kirker, Superintendent
King Cove City Schools
Box 6
King Cove, Alaska 99612

Dear Sir:

The documentation submitted concerning your student population projections has been received. As a result of this review, the Department of Education accepts your enrollment projection as valid. Based on this position, your CIP budget request is now consistent with the Department's space guidelines.

If you need additional information or have any questions concerning this position, please contact me at your convenience.

Sincerely,

James E. Tozer
Facilities Coordinator

CC: Twyla Coughlin, SERRC

SOUTH EAST REGIONAL RESOURCE CENTER
S.E.R.R.C. INC.

538 Willoughby Avenue, Juneau, Alaska 99801
Phone: (907) 586-6806

January 20, 1984

James Tozer
Facilities Administrator
Pouch F
Alaska State Department of Education
Juneau, Alaska 99811

Dear Jim:

As I mentioned in our discussion yesterday, King Cove School District requests that another look be taken at their enrollment projection. As indicated in the CIP request, there was a severe drop in the number of students with a recent temporary decline in the fishing industry. However, the long range view continues to be optomistic. In fact, an increase of at least 9% is ensured by next year due to a large current pre-school group. While the District feels a 9% annual increase over the next years is a wee bit optomistic, they do feel a 6% increase per year is realistic for the next ten year period. Our revised enrollment projection, rising a 6% annual increase, follows:

SCHOOL YEAR	ENROLLMENT PROJECTION
1983-4	111 (current enrollment)
1984-5	121 (a large preschool ensures this increase)
1985-6	128
1986-7	136
1987-8	144
1988-9	153
1989-90	162
1990-1	172
1991-2	182
1992-3	193
1993-4	205

Satellite Center 215 Main Street, Ketchikan, Alaska 99901

If you will accept these figures, the square footage estimates in the CIP are within the guidelines for 200-299 students. (maximum of 57,000 square feet) The square footage requested was based on actual architectural drawings done for the District's facilities feasibility study in 1982. As we are trying to add a high school addition which makes maximum use of the existing elementary structure, 43,600 square feet is needed, for the new and existing space.

Please advise as to the acceptability of the District's request. If you approve, would you please let us know via memo so local legislators will know the guidelines have not been exceeded.

Thanks for your assistance.

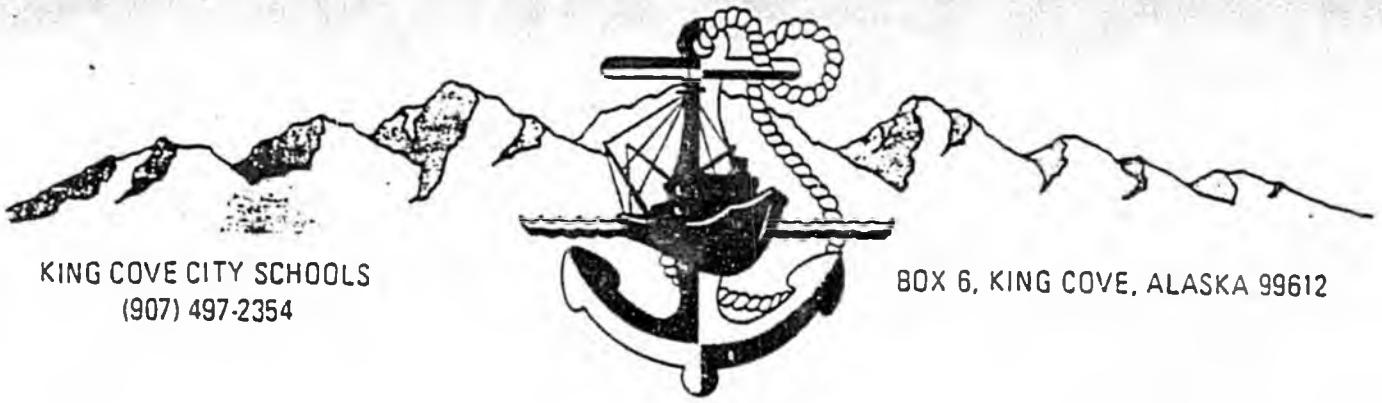
Sincerely,

Twyla

Twyla G. Coughlin
Associate Director

TGC/cmk

CC: Ben Kirker, Supt.
King Cove School District



KING COVE CITY SCHOOLS
(907) 497-2354

BOX 6, KING COVE, ALASKA 99612

December 12, 1983

Dear Senator Mulcahy:

Presently in King Cove we have 45 students in grades 7-12. With the influx next year of a large seventh grade class, this will increase to 53. The City of King Cove and the King Cove Native Corporation have informed me that in the near future a new subdivision of 30 new homes will be constructed. As rendered in their letters, we can expect a substantial increase in our student population.

Sir, attached is a floor plan which the board and administration considers most important and of the barest minimum of square feet to meet this increase and still provide an excellent educational program.

If any other information is required, please call. Thank you for your kindness, understanding and cooperation.

Cordially,

Ben

Benjamin C. Kirker
Superintendent

Encl.
Floor Plan
Letter: City
Letter: Corp.

CITY OF KING COVE

P. O. Box 37 • King Cove, Alaska 99612 • (907) 497-2340

December 9, 1983

Ben Kirker, Superintendant
King Cove City Schools
King Cove, Alaska 99612

Dear Ben:

The Aleutian Housing Aurhority is presently planning to develop thirty new homes in the Rams Creek Subdivision area, with construction slated to commence within one year.

The City and housing authority are working together on site and utility issues, and it is my opinion that site work will begin this spring, and occupancy of the new homes will occur a few months later. I believe this improvement in housing avalability in King Cove will have important implications for enrollment at the school, with an increase in students virtually certain.

I will keep you informed of developments on this front.

Sincerely,
CITY OF KING COVE

John Sevy
City Manager

KING COVE CORPORATION
P.O. Box 38 King Cove, Alaska 99612 497-2312

December 12, 1983

King Cove City School
King Cove, Alaska 99612

Attention School Board Members:

The King Cove Corporation is aware of HUD Housing putting 30 more new homes in King Cove this fall.

Richard Koso, President

SOUTHWEST REGION SCHOOLS PRIORITY 84-3

MANOKOTAK SCHOOL ADDITION:

STATUS:

WITH ONE OF THE LARGEST SCHOOL POPULATIONS DISTRICT WIDE, THE MANOKOTAK K-12 SCHOOL HAS TOO LITTLE CLASSROOM SPACE TO HOUSE THEIR STUDENTS AND OFFER FULL CURRICULUM. A GENERATOR ROOM HAS BECOME THE MUSIC CLASSROOM, A TINY KITCHEN SERVES LUNCHES TO BE EATEN IN THE CLASSROOMS BECAUSE NO LUNCHROOM EXISTS. A SEVERE LACK OF HEATED STORAGE SPACE FOR GYM EPQUIPMENT NECESSITATES STOCKING ITEMS IN HALLWAYS. THE TOO SMALL SHOP WITH ITS' WOOD FLOOR SEVERELY LIMITS ANY "HOT" METALS PROGRAM SUCH AS WELDING ETC.

SOLUTION:

PROVIDE FOR A SCHOOL ADDITION OF 3,000 SQUARE FEET AND UP-GRADE THE PRESENT FACILITY TO INCLUDE NEEDED BASIC EDUCATION CLASSROOM SPACE, ROOM FOR A MUSIC PROGRAM, KITCHEN/LUNCHROOM AREA, AND STORAGE AREAS.

ESTIMATED FUNDS PROJECTED TO MEET THE REQUIRED SPACE PROPOSED:

$6,100,000

ESTIMATING FORM

1.01 Project: School Addition

1.02 Location: Manokotak

1.03 Date: June 2, 1982

1.04 Category: Combined K-12
100 - 199

1.05 Outline Description:
Current facilities are undersized for present and projected enrollments. Various programs and classes are being held in an adapted storage/generator building and leased village buildings. Additional backup and funding breakdown will follow.

	2.00 Assignable Educational Areas	Area	$/SF	Cost
2.01	Standard Classroom	900	80.30	72,270
2.02	Science Laboratory	900	150.21	135,189
2.03	Art Classroom		82.03	
2.04	Photographic Room	200	81.30	16,260
2.05	Business Class		76.30	
2.06	Library		70.30	
2.07	Media Center		77.95	
2.08	Language Arts		77.95	
2.09	Special Education		80.30	
2.10	Social Studies		80.30	
2.11	Music Room		82.70	
2.12	Theater		114.85	
2.13	Home Economics		192.96	
2.14	Vocational Shop		143.87	
2.15	Drivers Education		80.30	
2.16	Gymnasium/Multipurpose	7000	101.20	708,400
2.17	Other			
	Subtotal:	9000 SF		$ 932,119

1.01 Project

1.02 Location

		Area	$/SF	Cost
Educational Areas Subtotal:		9000	103	932,119
3.00 Auxiliary Areas	(optional)			
3.01 Offices	(2.3%)		66.30	
3.02 Food Service	(3.4%)		273.97	
3.03 Medical	(0.5%)		93.82	
	Total:			
4.00 Unassigned	(mandatory)			
4.01 Ablutions	(6.8%)	625	129.90	81,188
4.02 Circulation	(8.1%)	730	70.48	51,450
4.03 Mechanical/Electrical	(10.2%)	925	128.49	118,853
4.04 Storage	(3.3%)	1000	56.24	56,240
4.05 Structure	(7.6%)	830	65.72	54,547
	Total Area:	4110	Subtotal:	362,273

5.00 Special Requirements (optional)

5.01 Emergency Electrical Generator, $43,245 Lump Sum

5.02 Sprinkler System Total Area _____, $1.93/SF

5.03 Other Special Requirements

Building Cost:

1.01 Project

1.02 Location

		Cost
Building Cost:		$1,294,397
6.00 Other Costs		
6.01 Basic Building Needs	26.08%	3,337,578
	Subtotal:	1,631,975
6.02 Geographic Index (See Table, page 6-27)	213.27%	x213.27
	Total Construction Cost:	3,480,513
6.03 Projected Inflation (at 1% per month)	36 %	1,252,984
	Subtotal:	4,733,497
6.04 Soft Costs (Appendix D)	25.21 %	1,193,314
	Total Project Cost:	5,926,811

Aleutian Region School District

TECHNICAL CENTER
640 West 36th Avenue
Anchorage, Alaska 99503-5898
(907) 562-2924



Dr. Dick H. Bower,
Superintendent

BOARD OF DIRECTORS

Clayton Brown, President
Cold Bay, Alaska 99571

Jack Nelson, Clerk
Nelson Lagoon, Alaska 99571

Helen Prokopioff
Akutan, Alaska 99553

Michael Snigaroff
Atka, Alaska 99502

Gilda Shellikoff
False Pass, Alaska 99583

January 4, 1984

Adelheid Herrmann, Representative
Alaska State Legislature
P. O. Box 63
Naknek, Alaska 99633

Dear Representative Herrmann:

Thank you for your letter regarding our budget and legislative action concerning our needs. Because our operation and maintenance budget process requires its submission to the Commissioner of Education by May 30, I trust you are asking for the Capital Construction Budget Request which goes to the Department of Education in the summer of each year.

Senator Mulcahy had previously asked that a copy be mailed to him. We did this and I also sent copies of some related materials. You will find copies of these materials enclosed for your information and use.

Please do not hesitate to call upon me if you have any questions or need additional information.

Sincerely yours,

Dick H. Bower
Superintendent

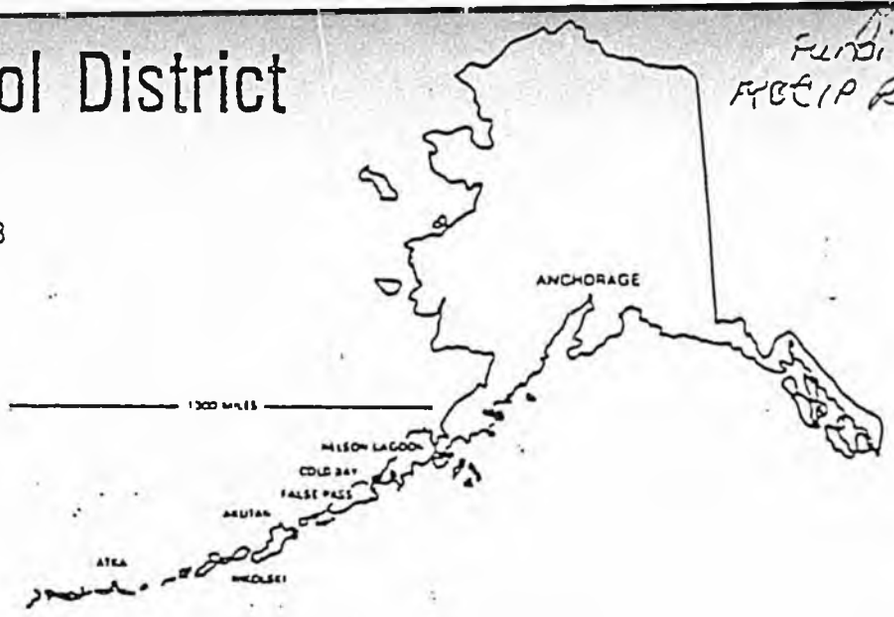
DHB:sg

Enclosures: FY 1985 Capital Budget Request & 6 Yr. Plan
DOE FY-85 CIP List
Letter to Steve Hole, 11-23-83
Letter to Judy Bush, Ak Legal Service, 12-16-83

cc: Richard D. Anderson, Assistant Superintendent

Aleutian Region School District

TECHNICAL CENTER
640 West 36th Avenue
Anchorage, Alaska 99503-5898
(907) 562-2924



Dr. Dick H. Bower,
Superintendent

BOARD OF DIRECTORS

Clayton Brown, President
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Nelson Lagoon, Alaska 99571

Helen Prokopioff
Akutan, Alaska 99553

Michael Saigaroff
Atka, Alaska 99502

Gilda Shellikoff
False Pass, Alaska 99583

December 16, 1983

Judy Bush
Alaska Legal Service
763 7th Avenue
Fairbanks, Alaska 99701

Dear Judy:

The following cost breakdown represents our best estimate of the required appropriation for meeting ONLY the Tobeluk Decree requirements at Akutan and False Pass.

Akutan

Construction Costs (1100 Sq. Ft. @ $225.00)	$247,000
Restrooms, Circulation, Mechanical, Storage (1000 Sq. Ft.)	295,000
Design and Administration (25%)	135.000
	$677,000

False Pass

Construction Cost (1100 Sq. Ft. @ $205,000)	$225,000
Utilities (Required at New Site)	130,000
Restrooms, Circulation, Storage, Mechanical (1000 Sq. Ft.)	270,000
Design and Administration (25%)	160.000
	$785,000

The figures cited above are consistent with our letter of November 25, 1983 to Steve Hole at the Department of Education. As previously indicated to you, Mr. Hole, and all others concerned, we are still very reluctant to look only at meeting the Tobeluk Decree requirements at these two sites. The facility needs of these communities and their students have suffered continued neglect from the legislative process.

We consider, under the specific circumstances previously oulined, a limited, piece meal approach to these projects, being to neither the financial nor educational best interests of the State of Alaska nor the communities involved.

We sincerely appreciate your contacting us on this matter and alerting us to impending action which would have seriously limited our ability to accomplish even the minimal Tobeluk requirements. Your advocacy of the needs of these students was both appropriate and handled in a positive and professional manner.

Please do not hesitate to contact us if we can provide additional information.

Sincerely yours,

Dick H. Boyer
Superintendent

DHB:sg

cc: Steve Hole
Senator Mulcahy
CSC Members at Akutan and False Pass
Board Members
Richard D. Anderson
Robert N. Ingraham

CAPITAL BUDGET REQUEST SUMMARY SHEET | August 12, 1983

STRICT

ALEUTIAN REGION SCHOOL DISTRICT

STATE USE ONLY

STRICT RITY	COMMUNITY	PROJECT	DISTRICT COST ESTIMATE	D.O.E. BUDGET	D.O.E. STATEWIDE PRIORITY
1a	False Pass	New K-12 School on new site (Tobeluk Decree School)	$3,564,750		#26
1b	False Pass	Teacher Housing (2 units)	$169,000		
2a	Akutan	New K-12 School on new site (Tobeluk Decree School)	$2,291,625		#34
2b	Akutan	Teacher Housing (1 unit)	$84,500		
3a	Nelson Lagoon	K-12 Completion/Addition Phase II of Construction	$1,450,853		
3b	Nelson Lagoon	Teacher Housing (2 units)	$169,000		
4a	Atka	K-12 Completion/Addition Phase II of Construction	$2,099,856		
4b	Atka	Teacher Housing (2 units)	$169,000		
5a	Cold Bay	New K-12 School on new site Replacement away from airstrip	$8,385,492		
5b	Cold Bay	Teacher Housing (3 units)	$253,500		
6	Nikolski	Major Maintenance	$400,707		
	SUBTOTAL FY 85 COST ESTIMATE		$4,109,875		
	SUBTOTAL FY 86 COST ESTIMATE (with 10%/year escalation		$3,333,709		
	SUBTOTAL FY 88 COST ESTIMATE (with 10%/year escalation		$8,411,992		
	SUBTOTAL FY 90 COST ESTIMATE (with 10%/year escalation		$400,707		

MITTED BY | SIGNATURE | DATE

CONSTRUCTION COST WORKSHEET
FY 1985 (8-12-83)

	GROSS SQ. FT.	CONST COST @ $250	CONST CONTING @ 12%	ART RESERVE @ 0.5%	FEES & LEGAL @ 20%	EQUIPT RESERVE @ 13%	TOTAL FY 85 DOLLARS	FY YR OF CONST	ESCAL @ 10% /YEAR	TOTAL WITH ESCAL
AKUTAN REPLACEMENT	6300	1575000	189000	7875	315000	204750	2291625	FY 85	229163	2291625
FALSE PASS REPLACEMENT	9800	2450000	294000	12250	490000	318500	3564750	FY 85	356475	3564750
ATKA PHASE II ADDITION	5248	1312000	157440	6560	262400	170560	1909960	FY 86	190996	2099956
NELSON LAGOON PHASE II ADD.	3626	906500	108780	4533	181300	117845	1318958	FY 86	131896	1450853
COLD BAY REPLACEMENT PHS. I	17733	4433250	531990	22166	886650	576323	6450379	FY 88	645038	8385492
NIKOLSKI MAJOR MAINTENANCE	3672	183600*	22032	918	36720	23868	267138	FY 90	26714	400707
TCHR HSNG (10 UN @ 5 SITES)	13000	845000**					845000	FY 85	84500	845000

* MAJOR MAINTENANCE ESTIMATED AT $50 PER SQUARE FOOT.
** TEACHER HOUSING ESTIMATED AT $65 PER SQUARE FOOT INCLUSIVE OF ALL COSTS.

K–6 ____ 7–8 ____ 9–12 ____
DESIGN ENROLLMENT K-12 = 24

PROJECT NAME New K-12 School

PROJECT TYPE
- ☒ NEW CONSTRUCTION
- ☐ ADDITION
- ☐ REMODELING
- ☒ REPLACEMENT
- ☐ MAJOR MAINTENANCE
- ☐ UTILITIES
- ☐ OTHER

PROJECT JUSTIFICATION
- ☒ HEALTH OR LIFE SAFETY
- ☒ UNHOUSED STUDENTS
- ☐ PROTECTION OF STRUCTURE
- ☐ OPERATING COST SAVINGS
- ☐ CODE UPGRADE
- ☐ FUNCTIONAL UPGRADE
- ☐ OTHER

CONSTRUCTION START May, 1984

COMPLETION DATE May, 1985

PROJECT ESTIMATED TO ☒ INCREASE ☐ DECREASE

DISTRICT OPERATING BUDGET $ 12,000

SCHOOL SITE: ☐ EXISTING, OR ☒ NEW SITE: IF NEW, ACQUISITION COST $ 10,000

PRIMARY UTILITIES: WILL THIS PROJECT INCLUDE THE FOLLOWING UTILITIES ON SITE?
- ☐ OIL STORAGE _____ GALLONS
- ☐ FULL ELECTRICAL POWER GENERATION ____ KW
- ☐ WATER SUPPLY
- ☐ SEWAGE DISPOSAL

ALTERNATIVES: LIST TWO OR MORE ALTERNATIVES TO THIS CONSTRUCTION AND WHY REJECTED.

1. Do nothing - rejected because current space is inadequate for the conduct of both elementary and secondary programs at this Tobeluk Decree site, and because this course of inaction meets neither the legal responsibility of the school district nor the State of Alaska.

2. Construct addition to existing school - rejected because existing site is in swa area with approach by boardwalk (handicapped inaccessible) and because site is a end of airport runway and has private housing infringement.

COMPLETE FOR NEW CONSTRUCTION, ADDITIONS, REPLACEMENT OR REMODELING PROJECTS ONLY:

PROGRAM AREA	GROSS SQUARE FEET OF FLOOR SPACE				
	GUIDELINES	EXISTING	REQUESTED	PROPOSED TOTAL	DOE USE ONLY
ELEMENTARY CLASSROOMS	180	840	1,800	1,800	
SECONDARY CLASSROOMS	1,200	-	1,200	1,200	
LIBRARY/MEDIA	1,100	-	1,100	1,100	
SCIENCE	-0-	-	-0-	-0-	
INDUSTRIAL ED	600	-	600	600	
BUSINESS ED	-0-	-	-0-	-0-	
HOME SCIENCE	-0-	-	-0-	-0-	
MULTI PURPOSE	2,500	-	2,500	2,500	
SUPPLEMENTARY (____%)	2,600	1,252	2,600	2,600	
TOTAL	9,800	2,092	9,800	9,800	

AGE & CONDITION OF EXISTING FACILITIES: Constructed in 1965, Fair condition.

JUSTIFICATION & COMMENTS (ATTACH AVAILABLE DOCUMENTATION, E.G., INSPECTION REPORTS FROM STATE FIRE MARSHALL, AND HEALTH & SOCIAL SERVICES, ETC.):

Existing facility, constructed as a one room elementary school in 1965, is functiona inadequate for housing three teachers and the elementary and secondary programs required by law and the Tobeluk Decree.

FOUNDATION FORMULA ENROLLMENT PROJECTIONS:	PRESENT	AFTER CONSTRUCTION
ELEMENTARY (GRADES K TO 8)	12	14
SECONDARY (GRADES 9 TO 12)	10	10
SPECIAL ED F.T.E.	3	3
VOCATIONAL ED F.T.E.	2	2

SUBMITTED BY:

Pribilof School District
St. George School • St. Paul School
St. Paul, Alaska 99660 • Telephone (907) 546-2222

FEB 16 1984

Leland L. Dishman,
Superintendent
Denver G. Bowen,
Assistant Superintendent
Rick E. Luthi,
Principal

Board of Education
John R. Merculief, President
Alexis Prokopief, Vice President
Mike Zacharof, Treasurer
Jason Bourdukofsky, Member
Andronik Kashevarof, Jr., Member

February 8, 1984

The Honorable Adelhide Herrmann
The House of Representatives
Pouch V
Juneau, Alaska 99811 (MS 3100)

Dear Adelhide:

In order to have a complete and adequate high school in the Pribilofs, we need all the recommended new construction and renovation as described in our Capital Improvement Program Plan. I want you to know me well enough to know that if I ask you for something for the Pribilof School District, it is really needed--not just wanted.

I have mulled over the project for many hours, and have cut the request by eight million dollars for the first phase funding. If we receive funding in two phases, I want to rethink and redesign some of the renovation requests as shown on the original plan.

The major problem that I see in the phasing of our high school is that I had to remove, not only the multipurpose room, but four (4) classrooms as well. This will cause us a problem in curriculum design, as you are well aware, you plan curriculum and design a physical plant to your curriculum design, not vice versa.

If it must be phased, so be it! Please do your best. You are one person the children of the Pribilofs can count on for leadership.

A revision of the Pribilof School District's Capital Improvement Plan is enclosed with this letter. It reflects a major reduction in our original request. Please note that this reduction in the amount of funds requested by no means indicates any reduction from the physical needs originally requested. It only reflects the breaking of our original request into two funding phases.

I shall look forward to seeing you in Juneau during the week of the nineteenth.

With warmest personal regards, I am

Sincerely yours,

Leland L. Dishman
Superintendent

LLD: dgb

CAPITAL IMPROVEMENT PLAN OUTLINE
PRIBILOF SCHOOL DISTRICT

PHASE I ST. GEORGE SCHOOL

I.	New construction--None			
II.	Remodeling			
	A. Project area for remodeling	7344 square feet		
	B. Construction costs (1985 bidding)		$118.00/sq.ft.	
	1. Project construction cost		$866,592	
	2. Equipment and furnishings		40,000	
III.	Total remodeling construction cost		906,592	
IV.	Project contingency @ 8%		72,527	
V.	Architectural and engineering fees		70,000	
VI.	Administration		17,081	
VII.	TOTAL PROJECTED COSTS (ST. GEORGE)			1,066,200

PHASE I ST. PAUL SCHOOL

I.	New construction			
	A. Projected area	12,371 square feet		
	B. Construction costs (1985 bidding)		208.00/sq.ft.	
	C. Project construction cost		2,573,168	
	D. Equipment and furnishings		200,000	
II.	Remodeling			
	A. Project area	7,653 square feet		
	B. Remodeling costs		78.40/sq.ft.	
	C. Project construction cost		599,995	
	D. Mechanical & electrical modification		400,000	
	E. Equipment and furnishings		53,000	
III.	Total construction costs (St. Paul)		3,826,163	
IV.	Contingency @ 8%		306,093	
V.	Architectural and engineering fees		350,000	
VI.	Soil testing and land survey		25,000	
VII.	Administration		95,000	
VIII.	TOTAL PROJECT COST (ST. PAUL)			4,602,256

SUMMARY TOTALS FOR PRIBILOF SCHOOL DISTRICT

ST. GEORGE AND ST. PAUL SCHOOLS COMBINED

I.	ORIGINAL FUNDING REQUEST	13,683,190
II.	PHASE I FUNDING (1984-85)	5,668,456
III.	REDUCTION FROM ORIGINAL REQUEST	8,014,734

Pribilof School District

St. George School • St. Paul School
St. Paul, Alaska 99660 • Telephone (907) 546-2222

Leland L. Dishman,
Superintendent
Denver G. Bowen,
Assistant Superintendent
Rick E. Luthi,
Principal

Board of Education
John R. Merculief, President
Alexis Prokopief, Vice President
Mike Zacharof, Treasurer
Jason Bourdukofsky, Member
Andronik Kashevarof, Jr., Member

FEB 13 1984

February 6, 1984

The Honorable Adelheid Herrmann
The House of Representatives
Pouch V
Juneau, Alaska 99811 (MS3100)

Dear Ms. Herrmann: Adelheide —

In the very near future, you will be discussing the Capital Project Funding for the fifty-three school districts in the State of Alaska. The purpose of this letter is to call to your attention the desperate need for adequate Capital Project Funding for the Pribilof School District.

The St. Paul School consists of an originally designed kindergarten through grade eight classroom cluster with a media center in the school and a multipurpose room constructed in 1971. Four classrooms were added in 1976 to accommodate grades nine and ten, and a small vocational area was added in 1978 to introduce occupational exploration. As you can easily see, the school was designed solely for an elementary school.

There now exists, and has existed for the past two years, a community demand for an adequate high school program on Saint Paul. With the present physical facilities, an adequate high school program is an impossibility.

We are attempting to teach general science, biology, chemistry, and marine biology in the same inadequate classroom. Our science room consists of a total of 672 square feet of space. The Alaska State Department of Education School Facilities minimum standards for a small high school science room is 1100 square feet.

We have no space available for guidance and counseling, art, small group instruction, teacher preparation, theater, choral or instrumental music, or psychological testing. Every available space is utilized for pupil instruction.

We recognize the importance of the computer in the future and, therefore, have purchased the necessary quantities to provide an adequate program in computer literacy. However, our inadequate facilities limit computer usage due to existing shortages in electrical outlets, power consumption, and available instructional space.

Another glaring problem is our home economics room, which has only 576 square feet of floor space. It is too small for food preparation, clothing design and construction, and display/ serving of student projects. State standards indicate that a home economics room should be a minimum of 800 square feet.

It is evident from visiting many schools and public buildings throughout the State of Alaska that Alaska places a great deal of emphasis on art. It must be noted that Saint Paul school does not have space available for art, painting, drawing, or ceramics.

The multipurpose room (gymnasium) is grossly inadequate. It has a playing surface of 75 feet in length and only 40 feet wide. It is a wonderful area for elementary and junior high physical education; however, with its limited seating (140 persons) and reduced floor area, it is not at all suitable for high school or community activities.

The Pribilof School District and the people of the Pribilofs made a commitment to the children of the District in 1982. They promised them a high school in which they could receive an adequate education; an education equal to, or better than, an education they might receive anywhere else in the state. Unless you, in your capacity as lawmakers and providers, take the responsibility to provide funds to construct an adequate high school on Saint Paul, the hopes and dreams of earning a high school diploma in our community will disappear.

We, as a School District and community, are doing all we can to provide the ingredients for a program of excellence within our schools. We have extended the school day by one hour; we have searched out and employed the finest, most dedicated teaching staff available; and upon every occasion, we recognize excellence in performance by our students and employees by the presentation of certificates of merit.

After each grading period, we hold an open house and invite the parents to school at 7:00 p.m. to pick-up their child's report cards, and visit their child's teachers. Would you believe that more than ninety (90) percent of the parents care enough to come to every open house. At eight p.m. an assembly is held and those students making the honor roll are honored by the school administration and Board of Education. During the 1982-83 school year, thirty-nine (39) percent of our students made the honor roll.

My closing statement will be an article clipped from the Anchorage Daily news on Wednesday, February 1, 1984. The one sentence states it all, you'll recognize the sentence. We desperately need and want a high school in Saint Paul, Alaska. We do not believe that we are asking too much. If you review the facts, you will discover that the Pribilofs have not received, for Capital Projects, their fair share of the funds. Many similar sized REAA's have received more than four times the amount of capital project funds for building construction. In my professional opinion, the Pribilof School District has been overlooked when the capital project funds were being distributed.

Please consider the impact of the Federal Government's phase-out on the Pribilofs, and the pressure being applied to the school system to provide a sensible method of educating or re-educating everyone to survive in the future.

It is with great deal of faith and hope that I send you this letter. Perhaps the letter will explain, to your satisfaction, the sincere needs of the people of the Pribilofs.

With personal regards, I am,

Sincerely,

Leland L. Dishman
Superintendent

LLD:ek

P.S. I sent copies of this letter to several members of the Legislature —

State proposes higher math, English requirements

The Associated Press

JUNEAU — Alaska's high schopl students would be required to go back to the basics under a curriculum proposal approved Tuesday by the state Board of Education.

The proposal must be aired at public hearings before it becomes final, according to Harry Gamble, a spokesman for the state Department of Education.

In December, the board raised from 19 to 21 the number of course credits required of high school students before they can graduate. That brought state policy into line with many Alaska school districts which required at least 21, Gamble said.

Of the state's 53 school districts, only two — Iditarod and North Slope — require 19 credits, officials said. Of the remainder, 13 require 20 credits, 20 require 21 credits, nine require 22 credits and eight require 23 or more credits. One district, The Pribilofs, doesn't have a four-year high school.

Tuesday's action boosts the number of credits needed for such basic subjects as math and English, Gamble said.

The state previously had mandated just five of the required 19 graduation credits: one credit each for social studies, math, science, English and physical education. Local school districts had set the other 14 units.

Under the new proposal, that would be changed to four credits required for English, three for social studies, two for math, two for science and one for health and physical education. The local school districts would set the remaining nine units under the 21-credit system, Gamble said.

The board, however, wants comments from educators and local school districts on just what subjects the core curriculums should contain.

"For example, if we asked high school students to complete three units of social studies, we'll ask educators just what those courses should cover," Gamble said. "That could include Alaska history, U.S. history, Western civilization, U.S. government or Alaska government.

"This places a lot more stress on the basic courses, requiring more time in the core curriculum," Gamble said. "It probably will cause some districts to change some priorities."

PRIBILOF ISLANDS SCHOOL DISTRICT

CAPITAL IMPROVEMENT PROGRAM

August 15, 1983

SUMMARY OF SCHOOL PROJECT COSTS FOR

PRIBILOF ISLANDS SCHOOL DISTRICT.

I. St. Paul School:	$ 8,082,340.00
II. St. George School:	$ 2,372,100.00
III. St. Paul Teacher Housing:	$ 2,388,750.00
IV. St. George Teacher Housing:	$ 840,000.00
TOTAL COSTS FOR PRIBILOF SCHOOL DISTRICT:	$13,683,190.00

PRIBILOF ISLAND BOARD OF EDUCATION

CAPITAL FUNDING REQUEST

&

PROJECT RATIONALE

The Pribilof Island Board of Education believes that innovation and change in education --both content and methods--are necessary for meeting the needs of our youth as they face life before them.

To accomplish that innovation and change, a District needs a dynamic staff, quality instructional materials for the students and staff to use, a well-defined curriculum adopted by the Board of Education, and an adequate learning environment in which staff and students are housed.

The District has accomplished all of the above with the exception of adequate facilities.

The Board of Education has been faced with a "Catch 22" situation. For many years, the Pribilof Islands have been controlled by the Federal Government, National Marine Fisheries, Pribilof Division, with the primary purpose of protecting the summer habitat and managing the Northern Fur Seal. As the Islands managers, the Federal government controlled all housing on the islands. Therefore, when the Board of Education desired to offer the same programs as other school districts, necessary for students to function well in a modern society, no housing was available for the teaching staff. Without staff, the programs could/can not be offered. Therefore, the District has no music program, for example, and the Board has been hesitant to expand high school programs at St. George, which has none and at St.Paul which recently added grade 11.

However, National Marine Fisheries will turn the operation of basic public services and control of the Pribilof Islands to its residents, September 30, 1983.

It is the declared intention of the Islands' residents to diversify the economy, improve community living including addressing the housing problem, and operate a school system which offers

to its citizens a quality educational program, housed in facilities equal to other school districts in the State.

As a beginning in that effort, the Board of Education voted in March, 1983, to establish a high school program at St.George in the 1986-87 school year after adequate planning has been completed; and expand through grade twelve at St. Paul beginning in the 1984-85 school year.

In addition, the District is in the process of developing a master plan for the rest of the decade of the 1980's and the 1990's. The master plan will identify the various economic scenarios which could occur on the Islands, project future student enrollments based on those scenarios, and identify the educational programs, staffing and facilities required to provide those students with a quality educational program.

ECONOMIC SCENARIOS

Various economic futures have been projected for the future of the Islands. Those identified as having potential are the following:

1. Shore-based support services for the fishing industry.
2. Staging area for off-shore oil exploration and drilling.
3. Continued management and harvest of the fur seal
4. Expanded summer tourism.

The most likely of the scenarios is shore-based support services for the fishing industry with the others ranging from not likely to highly unlikely.

Based on the most likely, shore-based support services for the fishing industry, the following projections are made.

PROJECTED STUDENT ENROLLMENTS

Factors influencing these projections are the expansion of the school program through grade twelve, projected housing needed for people employed in fisheries support and related services, existing student population, and birth rate trends.

Based on existing student populations (tables attached), the projected enrollments for the 1988-89 school year are anticipated at 1.2 students ages5-17(school age) per household.

The number of households projected are:

St. Paul	166
St. George	42

With the addition of complete high school programs on both islands, the anticipated student populations are

St. Paul, Grades K-12	199
St. George, Grades K-12	50
District Total	249

Since projection of student populations beyond five years become more risky, the educational program, staffing and facilities are based on the above projected student population.

PROJECTED EDUCATIONAL REQUIREMENTS

The Board of Education has identified instructional areas where program offerings need to be initiated and or expanded. These areas are music-band and choral-, business education-office practice and computer science, auto servcing, hotmetals and building trades. Specific course offerings would include marine science, vocational agriculture/horticulture, basic building construction, fisheries support services, computer statistics, word processing, and art.

1978 - 1982

PRIBILOF SCHOOL DISTRICT

DISTRICT WIDE MEMBERSHIP

GRADE	1978	1979	1980	1981	1982	1st QUARTER 1983
K	15	14	11	18	18	19
1	19	14	15	12	17	15
2	16	18	15	18	13	15
3	11	17	21	13	16	8
4	16	9	19	22	11	14
5	13	17	9	21	18	11
6	24	13	19	9	21	16
7	17	19	13	17	10	20
8	21	14	19	15	18	11
9	18	13	9	17	11	11
10	17	16	11	7	18	11
11						
12						
None-Classified			12			
Total	187	164	173	169	171	151

*Source: Alaska State Department of Education

Five-Year Average 172.8 - Grades K - 10

ST. GEORGE FINAL

AVERAGE DAILY MEMBERSHIP (ADM)*

1978 - 1982

GRADE	1978	1979	1980	1981	1982	1st QUARTER 1983
K	6	2	5	4	2	5
1	4	5	3	4	3	3
2	2	3	5	5	4	4
3	1	3	3	3	5	3
4	6	1	3	3	2	6
5	3	5	1	4	2	2
6	3	3	6	1	3	2
7	5	2	3	8	1	3
8	6	5	3	3	5	1
Total	36	29	32	35	27	29

* Source: Alaska State Department of Education

Five year Average ADM 31.8 Students

Grades K - 8

ST. PAUL FINAL AVERAGE
DAILY MEMBERSHIP (ADM)*
1978 - 1982

GRADE	1978	1979	1980	1981	1982	1st QUARTER 1983
K	9	12	6	14	16	14
1	15	9	12	8	14	12
2	14	15	10	13	9	11
3	10	14	18	10	11	5
4	10	8	16	19	9	8
5	10	12	8	17	16	9
6	21	10	13	8	18	14
7	12	17	10	9	9	17
8	15	9	16	12	13	10
9	18	13	9	17	11	11
10	17	16	11	7	18	11
11	2	-0-				13
12		-0-				
None-Classified			12			
Total	153	135	141	134	144	135

*Source: Alaska State Department of Education
Five year Average ADM 141.0 - Grades K - 10

PROJECTED STAFFING REQUIREMENTS

To carry on the desired program, additional staff will be needed at both island schools. Those requirements are as follows:

School	Existing Staff	Additional Staff Needed	Total
St. George	2	1	3
St. Paul	14	4	18
District Total	16	5	21

The addition of staff is contingent upon housing. Since the District has a housing shortage of five(5) units at St. Paul for the 1983-84 school year, and has only one (1) housing unit at St. George, housing projected as needed is as follows:*

St. George	1-2 Units
St. Paul	5-8 Units

*The range of housing units is given, for if the District cannot attract married teaching couples with training in needed subject areas, the higher number of housing units is needed.

PROJECTED SCHOOL FACILITIES NEEDED

To determine new facilities needed,an examination of each existing facility was accomplished and floor plans were reviewed to determine the educational adequacey.

ST. PAUL SCHOOL

The St. Paul School consists of an originally designed, kindergarten through grade eight classroom cluster with a media center in the middle and a multipurpose room constructed in 1971. Four classrooms to accommodate the ninth and tenth grades were added in 1976, and a third addition, a vocational area,where occupational exploration is conducted,was added in 1978.

The school is located on a filled site in a lagoon. Unfortunatel/, the facility was placed on the corner of the school site which prohibits expansion in two directions. Therefore, any future expansion will require substantial earthfill into the lagoon area.

No library workroom was provided for the librarian for processing library materials, storing of rare materials, or audio-visual equipment, therefore, an existing classroom has been converted to a library workroom.

No spaces were provided for testing, small group instruction, speech correction and other special education, therefore, two classrooms have been converted for special instruction

No space has been provided for clerical workers, teacher work/ preparation, or counseling service.

The media center is adequate for an <u>elementary</u> school population, inadequate for junior and senior high school.

No space is available for choral or instrumental music.

The existing science laboratory/classroom is totally inadequate for junior high school and high school science activities.

Originally designed as a science/art room for elementary students, total floor space is 672 sq. ft. Alaska State Department of Education School Facilities Standards recommend a small high school science room of 1100 sq. ft.

The multipurpose room consists of laminated beam construction. Seating is available for approximately 150 people. With 600 people in the community, seating is inadequate. Attempts to expand for seating would be futile, since the laminated beams interfere with spectator sight-lines.

Storage rooms for audio-visual equipment, instructional supplies, textbooks and custodial/maintenance supplies are inadequate or unsuitable.

The home economics room, 576 sq. ft. is too small for food preparation, clothing design and construction, and display/ serving of student projects. State standards indicate a home economics room should be at least 800 sq. ft.

No space is available for art, painting, drawing and ceramics.

A welding shop in the auto shop probably violates fire code.

The auto shop is too small (225 sq. ft.) for student safety.

A transformer/storage building is located in the area in which the school would logically expand.

ST. GEORGE SCHOOL

The St. George school was constructed during the 1950's with a multipurpose room added in 1976 and expanded in 1982. The school has five classrooms with one converted to special education/ library, a principal's office, boys/girls restrooms, a small storage area and a mechanical room.

The site has poor drainage with attempts to correct the problem not suitable. The surrounding area drains directly toward the front of the building creating a hazardous, unsanitary condition.

Fuel Oil storage is inadequate.

Classroom spaces are adequate to house kindergarten though grades twelve, however, quality of space is inadequate or minimal. There are no sinks in primary and pre-school room, or art room. Blackboards, tackboards are not sized to the children served.

There is no science area.

Library area (221) is inadequate.

No restrooms are provided for primary children.

No room darkening capability is provided.

No space is available for trades and industry, home economics, business education or other vocational areas.

Art is conducted in a classroom not designed for art activities. No sink is provided, nor tiled area for messy activities.

Storage throughout is inadequate.

No space is available for radio, teleconferencing.

RECOMMENDED IMPROVEMENTS AND ALTERATIONS

St. Paul

Remodel space for libary workroom, book, periodical and audio-visual storage.

Remodel space for special education activities- gifted/talented, speech correction, and reading and mathematics remediation.

Remodel existing gymnasium to provide a choral/instrumental music area with ensemble practice and music storage area. Leave balance of space for elementary physical education.

Provide space for teacher preparation area.

Provide space for extension of media center to serve high school students.

Provide adequate areas for student displays.

Improve the aesthetic environment of the school in terms of color schemes and interior decor.

Combine three existing storage areas into one larger, functional storage area.

Correct heating, ventilating deficiencies.

Size all tackboard, chalkboards, relocating to proper heights relative to the students served.

Provide space for hot metals

Provide auto servicing/repair area.

Provide science suite consisting of science laboratory/class room, experimental area (greenhouse) and marine related service area.

Provide multipurpose area with playing court,showers, lockers, and seating.

Provide a business education laboratory/classroom, suitable for office practice, and computer science.

Provide an art area for painting, drawing and print-making.

Provide a home economics laboratory/classroom suitable for food preparation, clothing construction and interior design.

St. George School

Provide vocational education area

Expand media/library area

Remodel existing school and reconfigure for more efficient use centered on programmatic uses, i.e. science, academic areas.

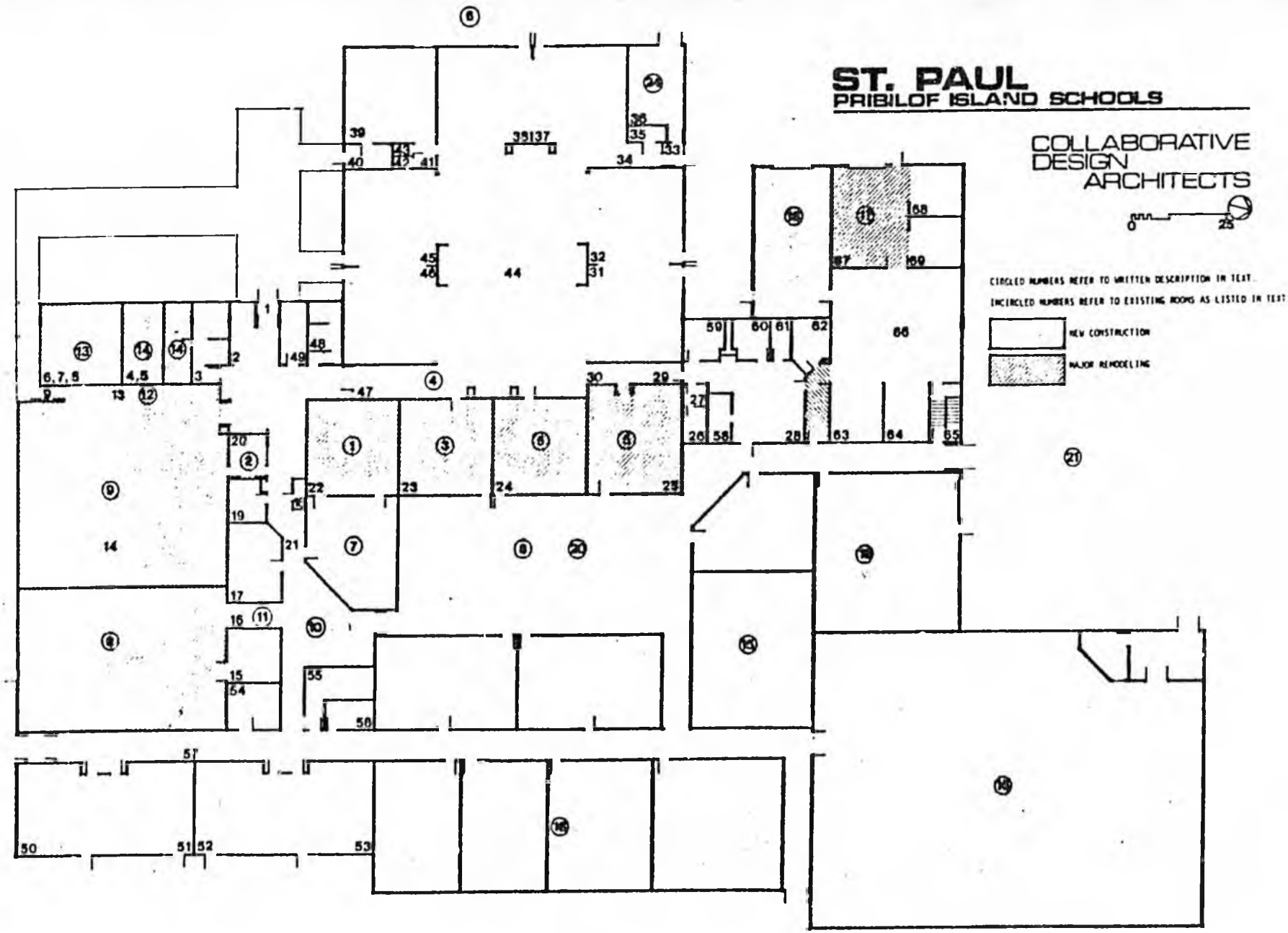
Remodel interior spaces and size blackboards, tackboards, restrooms, sinks, etc. for the size children served.

Provide adequate fuel storage.

Slope site to provide adequate drainage.

Space requirements, new construction and remodeling, are detailed in the Architectual Abstract.

ST. PAUL


ST. PAUL
PRIBILOF ISLAND SCHOOLS
COLLABORATIVE DESIGN ARCHITECTS
0
25
CIRCLED NUMBERS REFER TO WRITTEN DESCRIPTION IN TEXT.
ENCIRCLED NUMBERS REFER TO EXISTING ROOMS AS LISTED IN TEXT.
NEW CONSTRUCTION
MAJOR REMODELING

ARCHITECTURAL PROGRAM FOR PRIBILOF ISLANDS SCHOOL DISTRICT
ST. PAUL, ALASKA

ST. PAUL SCHOOL

1. Convert existing Home Economics Room 22 to Administration and Counseling. Keeps Administration close to entrance and at junction between Elementary and Secondary.

2. Convert Principal Office Room 20 to Sick Room.

3. Use Classrooms 23 for Media Center Office, Work Room and Reference desk.

4. Close off access to Industrial Arts area via Media Center and Graphics Lab and hall 47 and 30.

   ...disrupts media center operation and open classroom functions around elementary media center.

   ...keep secondary separated from elementary.

5. Convert Classrooms 24 and 25 to Special Education and Gifted Students Centers.

   ...locates special students near special resources particularly needed for their education.

   ...provides accessibility to both Elementary and Secondary students.

6. Relocate childrens playground to west side adjacent to road between school and village. Provide protection from autos.

   ...get activities close to Kindergarten and if enclosed keeps wayward traffic away from school.

7. Construct new Teacher's Lounge and Prep Area east of Room 22 off Corridor 21.

   ...centralizes staff area between all grade levels.

8. Locate High School Media Center north of transformer surrounded by new classrooms.

   ...keeps both media centers centrally located and capable of being operated from one control point.

9. Convert existing Gymnasium to Elementary Gym and Music Center.

   ...provides non-existing facilities for music and separates the little folks from the big guys of the High School.

10. Provide High School Commons off Corridor 21.

   ...gets all lockers to one area and gives High students their own area.

11. Convert A.V. Storage 16 to Corridor.

   ...gives access to music area from high school commons and can provide access for elementary students if it's not feasible for them to enter via their gym.

12. Eliminate Hall 13.

   ...wasted space - can use in elementary gym.

13. Convert Girls Locker Room 6, 7 and 8 to Storage.

14. Convert Boys Locker Room 4 and 5 to Elementary Locker (change) rooms, using the existing Girls Restroom 3 for the Girl's toilet facilities.

   ...provide storage space without building new space, and still gives minimal facilities for gymnasium uses.

15. Build new Gymnasium for full-sized activities east of Industrial Arts wing. Locate parking north of building.

   ...provides access to all of community - both the old town and the east addition.

16. Extend new classrooms from north end of east classroom wing 53 to enclose Court Area.

   ...provides new Business Ed. Room, Marine Science Room, Science Room, Art Room and 2 other classrooms.

17. Convert the Auto Shop into Hot Metals Lab with proper venting and fire protection.

18. Add new Auto Bay to the south of the existing shop wing.

   ...keeps the facility close to other shop activities.

...eliminates the need for fill to accommodate its construction.

...still have access to basement storage on north side although this could be altered by new access to gymnasium for the public.

19. Cover encircled court area for use as High School Media Center.

...keeps all media resources centrally located, controlable by one director.

...effective energy control, by reducing exterior wall exposure.

20. Build new Greenhouse in upper spaces of New Media Center.

...gives southern exposure.

...close proximity to science rooms.

...give access to both Elementrary and Secondary students.

21. Relocate existing transformer vault.

...primary service probably has to be encapsulated to existing if we enclose it within the new addition.

...special requirements of National Electric Code for transformer vault.

22. Provide additional restroom facilities as follows:

Elementary:	WC:	11	urinals:	3	Existing
		3		3	Required
Secondary:	WC:	3	urinals:	2	Existing
		3		2	Required

None required except that location of existing are not very convenient - perhaps can use the facilities in the east wing (Jr. High) for High School as well as have students use new Gym facilities.

23. Relocate student lockers to new Commons Area.

...gets them out of media center and elementary students area.

ST. PAUL SCHOOL - PRIBILOF ISLAND

24. Improve, modernize, redesign, and reconstruct the existing mechanical system.

1. Improve existing heating system for open classroom space around media center 44.

...many diffusers and return air registers are blocked off by book shelves and other equipment.

...the existing distribution system short-circuits itself. Ductwork must be extended to distribute air at outside walls and return at core so can get a more laminar flow from the cool outside to the inside spaces.

...Coil sizes may require enlarging.

...a boiler may be required for conversion of old gym because new activities will be more sedentary and require more heating.

...more efficient boilers may be feasible.

...other methods such as base board heating, shut down of air handlers at night, improved filtration, change of shower temperature-controlled valves, etc., would contribute significantly to energy conservation.

2. Close up most of the exterior doors from the classrooms. They are not required as exits and contribute tremendously to heat loss.

...they are not used significantly, if at all.

...they, however, have been used as a means to have the structure classified as a 1-Hr. building, increasing allowable areas within fire enclosures.

...fire separation walls will be required to comply with code requirements for maximum area allowances or a fire sprinkler system may be installed in lieu of some separations. A fire sprinkler system would improve fire protection and insurance ratings.

3. The conversion of the existing gym to other uses will require different mechanical design for different activities.

ANALYSIS OF COSTS FOR ST. PAUL SCHOOL

...Construction project as per projected enrollments to 1988 and Grades K-12.

Construction Costs

I.	New		
	1. Project Area	23,800 S.F.	
	2. Construction Cost (1985 bidding):	$207.75/S.F.	
	3. Project Construction Cost:		$4,944,720.00
	4. Equipment and Furnishings:		$ 395,580.00
II.	Remodeling		
	1. Project Area (Remodeling):	8584 S.F.	
	Construction Cost (1985 bidding):	$78.40/S.F.	
	Project Construction Cost:		$ 672,960.00
	2. Mechanical/Electrical Modifications:		$ 539,680.00
	3. Equipment and Furnishings:		$ 53,840.00
III.	Total Construction Cost:		$6,606,780.00

Other Project Costs

IV.	Contingency @ 8%	$ 528,550.00
V.	Architectural and Engineering Fees:	$ 713,530.00
VI.	Soils Survey and Testing:	$ 75,000.00
VII.	Administration:	$ 158,480.00

TOTAL PROJECT COST (ST. PAUL): $8,082,340.00

ST. PAUL SCHOOL - PRIBILOF ISLAND

ENERGY CONSERVATION COMMENTARY

In view of the severe winds on the Pribilofs, and the high costs of electrical generation and fuel costs for heating, an explicit and agressive energy conservation program must be explored in the School design process so that the facilities will be as conservative as possible. The following are several ideas that should be explored in the design process or prior to it by grants for special studies. Some are tried and true, others may be, in concept, very exotic but may prove feasible where costs are so high.

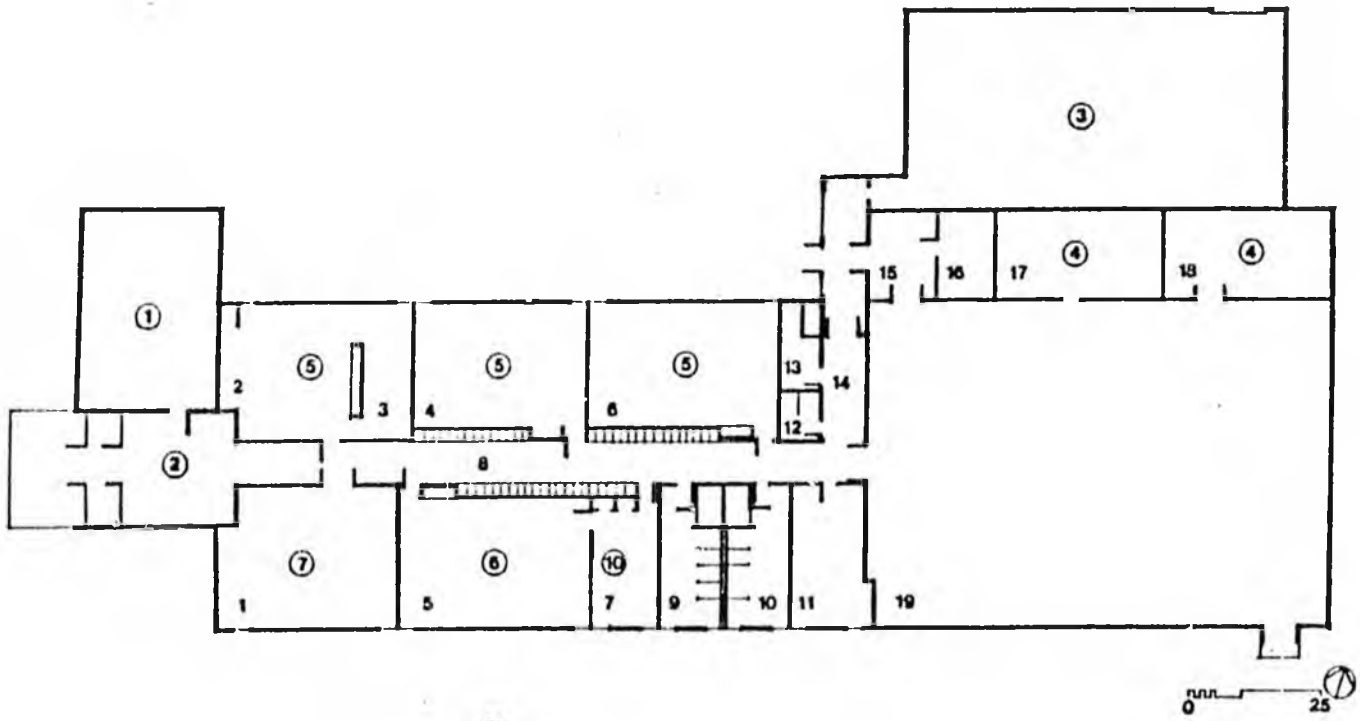
1. Earth berming.
2. Minimizing doors and operable windows to reduce infiltration.
3. Reinsulate, and super insulate new construction.
4. Daylight as much as possible to take advantage of natural lighting.
5. Wind power.
6. Passive solar principles where applicable.
7. Use the most modern state-of-the-art mechanical equipment.
8. Life-cycle cost evaluation of design, equipment, and systems.
9. Heat reclaim of exhausted air and process heating equipment.
10. Arctic entries.
11. Tidal mills for electrical generation.
12. Design building skin to reduce air infiltration.
13. Special considerations for alleviating or reducing specific requirements by governing Codes and Building Standards, where life safety is not jeoparoized.

ANALYSIS OF TEACHER HOUSING COSTS FOR ST. PAUL ISLAND

...Construction projected for 1984 season 8 units.

I.	Construction		
	1. Project Area:	11,000 S.F.	
	2. Construction Cost (1984 bidding): (Reflects 13% escalation factor for each year after 1983)	$169.50/S.F.	
	3. Project Construction Cost:		$1,864,500.00
II.	Furnishings		$ 280,500.00
III.	Total Construction Costs		$2,145,000.00
IV.	Project Contingency @ 3%:		$ 64,350.00
V.	Architectural and Engineering Fees @ 6%:		$ 132,560.00
VI.	Administration:		$ 46,840.00
TOTAL PROJECT COSTS:			$2,388,750.00

ST. GEORGE



ST. GEORGE
PRIBILOF ISLAND SCHOOLS

COLLABORATIVE
DESIGN
ARCHITECTS

CIRCLED NUMBERS REFER TO WRITTEN DESCRIPTION IN TEXT.

ENCIRCLED NUMBERS REFER TO EXISTING ROOMS AS LISTED IN TEXT

NEW CONSTRUCTION

ST. GEORGE SCHOOL

GENERAL SPATIAL REQUIREMENTS

1. Construct new space for a Media Center at the west end of the building.

   .....New Area Requirements: 1000 s.f.

2. For foul weather protection construct an entry vestibule as a transition and waiting space and an arctic entry.

   .....New Area Requirements: 200 s.f.

3. Construct a Vocational/Industrial Arts facility.

   .....New Area Requirements: 2400 s.f.

4. Provide additional storage for the Media Center, Audio/Visual aids, and art supplies by utilizing the rooms adjacent to the Multi-Purpose Room 19.

   .....New Area Requirements: None

Most of the curriculum needs for St. George can be accommodated by renovating the existing facilities to furnish more special spaces for designated uses. No other new space will be required. In addition the general condition of the interior requires some remedial repair, especially at the entry doors, although it, like St. Paul has been well maintained. The wall surfaces, being glazed clay tile, are much more durable than the frame walls at St. Paul and require somewhat less care. This list continues with those modifications.

5. Remodel interior spaces to adequately accommodate Kindergarten through Grade 12, providing sinks, blackout means for A/V use, repositioning teaching aids as required, and changing interior finishes to accommodate specialized programs.

6. Remodel Room 5 to accommodate Home Economics and Home Skills.

7. Remodel to provide adequate Business Education facilities, including a Computer Center, Typing facilities, and space for other business equipment appropriate for educational purposes.

GENERAL SPATIAL REQUIREMENTS (Con't)

8. Regrade the entire site to alleviate poor drainage characteristics around the building and play area, especially on the south and west sides.

9. Replace and relocate oil storage facilities to provide adequate separation from the building.

10. Convert a portion of the Principal's Office, Room 7, to a Radio Communications Center.

GENERAL SUPPORT FACILITIES

11. Construct three units of Teacher Housing for the 1985 school year.

.....New Area Requirements: 3500 s.f.

ANALYSIS OF COSTS FOR ST. GEORGE SCHOOL

...Construction project as per projected enrollments to 1988, and Grades K-12 starting in 1986.

Construction Costs

I.	New		
	A. Project Area:	3600 S.F.	
	B. Construction Cost (1985 bidding): (Reflects 13% escalation factor for each year after 1983)	$216.00/S.F.	
	C. Project Construction Cost:		$ 777,600.00
	D. Equipment and Furnishings:		$ 77,800.00
II.	Remodeling		
	A. Project Area (Remodeling):	7344 S.F.	
	B. Construction Costs (1985 bidding):	118.00/S.F.	
	C. Project Construction Cost: *		$ 866,600.00
	D. Equipment and Furnishings:		$ 43,400.00
III.	Relocate Oil Storage Facilities:		$ 80,000.00
IV.	Site Grading		$ 50,000.00
V.	Total Construction Cost:		$1,895,400.00
VI.	Project Contingency @ 8%:		$ 151,600.00

Other Project Costs

VII.	Architectural and Engineering Fees:	$ 204,700.00
VIII.	Soils Survey and Testing:	$ 75,000.00
IX.	Administration:	$ 45,400.00

TOTAL PROJECT COSTS (ST. GEORGE): $2,372,100.00

* On-Site inspection must be made to confirm these Remodeling Costs.

ST. GEORGE SCHOOL - PRIBILOF ISLAND

ST. GEORGE ENERGY CONSIDERATIONS

The following recommendations are given to reduce the demands for energy for comfort control, in view of the severe weather conditions and the total dependence on shipped fuel for heating and power generation. The general comments in the St. Paul section apply here as well. Specifically, the following should be done or at least evaluated on a life-cycle cost basis to determine their effectiveness although generally, they are very effective under severe weather conditions.

1. Earth berming to reduce wind exposure and improve drainage. With masonry construction for the original building, this can be accomplished easily, although careful placement of soil is required.

2. Reinsulate and super-insulate the building shell.

3. Construct an arctic entry at the Gymnasium entry.

4. Insulate all heating piping and ductwork, preventing heat loss and protecting children from burns.

5. Provide a potable water supply with a distiller.

6. Replace entry door hardware with more durable styles, insuring positive latching and closure.

ANALYSIS OF TEACHER HOUSING COSTS FOR ST. GEORGE ISLAND

...Construction projected for 1985 season 3 units.

I.	Construction		
	1. Project Area:	3500 S.F.	
	2. Construction Cost (1985 bidding): (Reflects 13% inflation factor for each year after 1983).	$193.65/S.F.	
	3. Project Construction Cost:		$ 677,770.00
II.	Furnishings:		$ 76,500.00
III.	Total Construction Costs:		$ 754,270.00
IV.	Project Contingency @ 3%:		$ 22,630.00
V.	Architectural and Engineering Fees @ 6%:		$ 46,600.00
VI.	Administration:		$ 16,500.00
TOTAL PROJECT COSTS:			$ 840,000.00

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

HB

354

COMMITTEE REPORT

HOUSE

(7)

FURTHER:

4/13/83

Date: 4/13/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 354

"An Act relating to physicians' staff privileges in hospitals."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [✓] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	[signature]
[signature]	[signature] Do not pass unless amended
[signature]	
[signature]	

[signature]

CHAIRMAN

H 60

STAFF REPORT

HB 354 Relating to Physicians Staff Privileges
April 25, 1983

HB 354 requires hospitals to notify the State Medical Board when within seven days of the suspension or revocation of staff privieges in a hospital.

The purpose of this bill is to provide notice to the Medical Board that privileges have been altered, thereby alerting the Board that a problem of a professional nature may exist with a physician.

This bill follows the recommendation found on Page 4 of the performance audit of the Medical Board made July 30, 1982 (Audit No. 08-112-0082-R).

No position paper or fiscal note has been received as of the morning of hearing date.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

Legislative consideration should be given to regulatory changes concerning the disciplinary process and the composition of the Board.

The 1978 audit recommended the establishment of regulations to ensure consumer complaints receive an impartial examination on the basis of merit. CSSB 237 delineated the grounds for imposition of disciplinary sanctions and disciplinary actions to be imposed. These grounds included unprofessional business practices as well as malpractice. This bill did not pass, and we recommend that it be reintroduced to the Legislature.

In addition, we believe statutory changes in the following areas would benefit the public:

A. Hospitals should be required to notify the State Medical Board when a practitioner's hospital privileges are refused or restricted because that person is a real or potential danger to the public. If hospitals were to report such actions, the Medical Board could initiate an investigation to determine if a questionable practioner should retain his or her license.

B. The Board should adequately represent those persons it regulates. The Board regulates 689 physicians, 73 physician assistants, 53 paramedics, and 10 podiatrists. The Board is currently composed of 5 physicians and 2 public members. Allowing participation of all occupations regulated by the Board would ensure that one occupational group does not promote its interests over the interests of an unrepresented occupational group.

Introduced: 4/13/83
Referred: Health, Education &
Social Services

Voted do not pass without amending

IN THE HOUSE BY KOPONEN AND FRITZ

HOUSE BILL NO. 354

IN THE LEGISLATURE OF THE STATE OF ALASKA -

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to physicians' staff privileges in hospitals."

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

* Section 1. AS 18.20 is amended by adding a new section to read:

Sec. 18.20.076. REPORTS OF SUSPENDED OR REVOKED STAFF PRIVILEGES. (a) Within seven days after suspending or revoking the staff privileges of a physician, a hospital shall notify the State Medical Board of the name of the physician and the circumstances involved in the suspension or revocation.

(b) The notice under (a) of this section is subject to the confidentiality provisions of AS 18.20.090 and AS 18.23.030.

AMENDMENT #1

OFFERED IN THE HOUSE: BY: TISCHER

TO: _____ HOUSE BILL No. HB 354

SENATE BILL No. _____

PAGE: 1 LINE: 13

Following the word "Board" insert: "in writing".

HARRY TREAGER 2534

PASSED OUT indiv REC - 4- DO PASS
1- NO REC
1- DO NOT PASS

Ø FISCAL NOTE

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: Jan. 30, 1984

REQUEST
Bill/Resolution No.: HB 354 am
Title: "An Act relating to physicians staff privileges"
Sponsor: Reps. Koponen & Fritz
Requestor: H E S S
Date of Request:

FISCAL DETAIL
Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Darrell Miller (Darrell Miller) Phone: 465-2535
Division: Occupational Licensing Date: Jan. 30, 1984
Approved by Commissioner: Richard A. Lyon Date: 2/3/84
Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB
355

northern alaska health resources association, inc.

February 6, 1984

The Honorable Mae Tischer
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

As you know, SB 334, "An act relating to health resources development," is now being considered by the Senate HESS and Finance Committees. There is also a companion to this bill in the House, HB 355. These bills would continue regional health resources planning and development throughout the state.

It is our understanding that many of the Senators and Representatives have been receiving mail from constituents in support of these bills. However, given the short time before committee hearings begin, the Board of Directors of the Northern Alaska Health Resources Association wanted you to have access to letters written last year on the same matter. The enclosed packet contains copies of letters sent to NAHRA last year; you may have others in your files of which we do not have copies.

Please consider these letters as evidence of support for health resources development organizations. We would be happy to provide any other information that you might need.

Thank you in advance for your support of SB 334/HB 355.

Sincerely,

Sherry E. McWhorter

Sherry E. McWhorter
Executive Director

encl

529 5th avenue, suite 8 fairbanks, alaska 99701 telephone (907) 456-2553

RECEIVED MAR 24 1983

Tanana Chiefs Conference, Inc.

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Phone (907) 452-8251

March 23, 1983

The Honorable William Sheffield
Governor, State of Alaska
Office of the Governor
Pouch A
Juneau, AK 99811

Dear Governor Sheffield:

This is to express the support of the Tanana Chiefs Conference for continuation of an adequate level of state funding for the operation of Health Systems Agencies in the State.

The Tanana Chiefs Conference has participated actively in the Health Systems Agency for the northern region, the Northern Alaska Health Resources Association (NAHRA) since its formation in 1975. The Board of Directors meetings have provided a neutral meeting ground where health care providers and consumers can jointly establish specific objectives for health system development, negotiate conflicts at the local level, and provide the Department of Health and Social Services with a balanced perspective of state health affairs and issues in Northern Alaska.

The staff of NAHRA has maintained a reputable level of technical assistance to the Tanana Chiefs Conference and to various communities and health service organizations in Interior Alaska; health statistical information has been consistently compiled and analyzed in a manner beneficial to providers, the public, and to the State.

We recognize that this level of effort has also been maintained by the other two HSA's in the State, and that the variability of situations in the three regions is such that the continuation of these three entities is reasonable and desirable.

It is our recommendation that the State restore to the FY84 budget the funding level authorized for FY83; further we urge your administration to follow the lead of other states in enacting legislation and appropriating funds to continue the regional health systems development network initiated by the Federal government on a long term basis.

Such action would allow the State to establish a system designed to meet our continuing need for guidance in the development of our health resources.

5160

A resolution of support for continuation of this public service was endorsed by the 1983 meeting of the Board of Directors of the Tanana Chiefs Conference (enclosed).

Your attention to this significiant issue is appreciated. Please contact myself or Mr. Paul Sherry at 452-8251 for further information.

Sincerely,

William C. "Spud" Williams
President

WCW/PS/kh

c: Interior Alaska Legislators
Emil Notti, Office of the Governor
Allen Blume, Office of the Governor
J. B. Carnahan, NAHRA President
Dr. Charles Kaltenbach, Alaska Health Coalition

5044

TANANA CHIEFS CONFERENCE, INC.

Funding for Northern Alaska Health Resources Assn.

Resolution No. 83-60

WHEREAS: the health care needs of Alaska Natives have been shown to be serious and to require continuing, long-term attention; and

WHEREAS: the effective services to meet these needs must be based on professional planning, which in turn requires a continuity of the planning work; and

WHEREAS: the Tanana Chiefs Conference serves to advocate for the needs of Alaska Natives in the Interior;

THEREFORE BE IT RESOLVED that the Tanana Chiefs Conference Board of Directors requests the Alaska Legislature's attention to the need to continue funding for the Northern Alaska Health Resources Association at a level sufficient to enable them to fulfill their health planning function.

CERTIFICATION

I hereby certify that this resolution was duly passed by the Tanana Chiefs Conference, Inc. Board of Directors on March 17, 1983 at Fairbanks, Alaska.

_____

Tanana Chiefs Conference, Inc.
Dorothy Shockley
Secretary/Treasurer

129c22

RECEIVED FEB 2 2 1983

Maniilaq Association

Senior Citizen Center
P.O. Box 260
Kotzebue, Alaska 99752
(907) 442 - 3590

P.O. Box 256
Kotzebue, Alaska 99752
(907) 442 - 3311
Alcoholism Program (907) 442 - 3914

Public Health Nursing
P.O. Box 170
Kotzebue, Alaska 99752
(907) 442 - 3313

February 16, 1983

Dr. Charles Kaltenback
Northern Alaska Health Resources Association
529 5th Avenue, Suite 8
Fairbanks, Alaska 99701

Dear Dr. Charles Kaltenback:

I am writing in support of the funding of our Northern Alaska Health Resources Association. As a board member of this committee, I feel it would be a catastrophe if our health system agencies are not re-instated into the budget after August 31, 1983.

Northern Alaska Health Resources Association (NAHRA) is the only group in our region who provides technical assistance to agencies and communities in grantshmanship, community organization, management, evaluation, program planning, needs assessments and implementation. We maintain a current data and information base which is inserted in the national presentation of health status problems and needs of our area. Our major areas of effort are community assistance, health promotion and regional advocacy. Without NAHRA none of these activities would continue.

I urge you to join me and our people in supporting this agency.

Let me know how you stand on this.

Keep up your good work for us and keep smiling.

Sincerely,

Nina K. Dahl

Nina K. Dahl
Health Director

NKD/etk

cc: Albert Adams
Frank R. Ferguson
Robert Bettisworth
Don Bennett
John C. Sackett

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

Eugene Brower, Mayor

February 2, 1983

The Honorable William Sheffield
Governor, State of Alaska
Office of the Governor
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

I am writing to express the North Slope Borough's support for the State of Alaska to continue to provide a sufficient level of funding for the Northern Alaska Health Resources Association (NAHRA), the Health Systems Agency (HSA) for northern Alaska..

Along with regional organizations and municipalities in the northern region, the Borough is actively represented on the NAHRA Board of Directors. This participation has afforded the Borough much benefit through technical assistance and direct involvement in planning our health care delivery to better meet local needs. NAHRA's assistance in effective regional planning has greatly improved the cost-effectiveness of our health service delivery, and has prevented unnecesary duplication of services. Furthermore, NAHRA provides constructive, realistic critiques of federal and state grant and contract proposals for health services. The organization also maintains very accurate and dependable health care statistics, and has achieved a high level of respect and notoriety as the clearinghouse for health care services provided in northern Alaska. Much of NAHRA's credibility is derived from the fact that its Board of Directors is composed of health care consumers and providers, with equal representation from the northern urban and rural areas. I believe it serves as a good example of unifying urban and rural support behind a common concern which you expressed a desire to accomplish during your successful campaign.

Before considering a reduction in State funding to NAHRA, I would suggest you first consider perhaps eliminating the

great number of consumer advisory boards which were established under previous State administrations. I feel these advisory boards cannot adequately and effectively address issues which are regional in nature. It appears very appropriate to fully utilize the expertise and experience of the regional Health Systems Agencies (HSA), such as NAHRA, as a review mechanism for all health services which require State grants or contract proposals.

I appreciate your favorable consideration of my comments and recommendations.

Sincerely,

Eugene Brower

Eugene Brower, Mayor

cc: Representative Al Adams
Senator Frank Ferguson

CC:

RECEIVED FEB 16 1983

North Slope Borough
Health and Social Services
Agency

Box 69
Barrow, Alaska 99723

(907) 852-3999
(907) 852-3065

10 February 1983

Governor William Sheffield
Office of the Governor
Pouch A
Juneau, AK 99811

Honorable Bill Sheffield;

Over the past decade, the idea of consumer/provider boards advising agencies that deliver a service has led to a fairly rapid and extensive proliferation of this type of group. While admitting to the basic soundness of the idea, one must question whether the multiplicity of board that it has generated is truly an effective way of bringing this idea to fruition.

It has been the experience of the North Slope Borough Department of Health and Social Services that multiple boards addressing the same issues create confusion and an added layer of bureaucratic red tape when applying for grant funding.

The one board that has consistently provided helpful, relevant evaluations and input into our service delivery programs has been the Northern Alaska Health Resources Association. Their combination of providers and consumers from the area to be impacted by the proposed service, creates a board with intimate knowledge of the problem to be addressed as well as knowledge of services already available to address the problem. Their input is valuable, because it is relevant to the specific region. Statewide boards cannot hope to have this amount of knowledge for any specific region.

The staff of the NAHRA have also proven to be valuable resources in the researching and writing of grant proposals. They have at hand the most recent statistical data available on the problem being addressed and can often save time and effort for the grant writing agency through the technical assistance they offer.

In a time of shrinking financial support of human service programs, it is critical to evaluate where present dollars are going. It is the position of my department that a regional board such as NAHRA provides a much more valuable service than a statewide board. This position is fully supported by the North Slope Borough Mayor, Eugene Brower. I therefore urge you to restore funding for the NAHRA in the state budget.

If only limited dollars are available, I suggest regional boards such as NAHRA receive priority over the myriad statewide boards whose value is of greater question. It is my department's view that a board such as NAHRA could easily assume the review process responsibilities of these state boards since that already is one of their functions. Doing that would also provide the agency writing the grant with the assurance that the review board would have enough knowledge of their area and its particular problems to issue a critique that was relevant and helpful.

Thank you for your time and attention.

Sincerely yours,

Elise Sereni Patkotak

Elise Sereni Patkotak
Director, H&SSA

cc: files

fairbanks north star borough
p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761

March 4, 1983

The Honorable Bill Sheffield
Governor, State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

I would like to call your attention to the Northern Alaska Health Resources Association (NAHRA) and the valuable contributions that it makes to the North Star Borough.

As you know, the North Star Borough is a second-class borough and, as such, does not have health and social service powers. It is unlikely that we will assume those powers in the foreseeable future. Therefore, NAHRA provides the only forum for the public participation in the decision-making process about human service delivery for this community. NAHRA coordinates planning and community organization activities on a wide range of issues -- responsibilities which the Borough would have to assume, at increased cost, were NAHRA to cease operations.

There are numerous examples which I could cite showing NAHRA's services to the community; two activities are of particular importance at this moment. One is that NAHRA is assisting with our Borough-wide emergency medical services study; they are coordinating public awareness and community organization activities and have offered extensive planning and data assistance. Another is that NAHRA, as the prima founder and sponsor of the Arctic Alliance for People, is conducting a survey of the 71 human service agencies in the area and is spearheading the effort to develop goals, objectives, and action steps toward adoption of a comprehensive human services pain for the area. The Arctic Alliance, through NAHRA's expertise, is pursuing this planning process at my suggestion.

Recently, NAHRA provided major backing for the fourth annual Alcohol Awareness Week in the Borough area. They have also just completed needs assessments and program evaluations for the Fairbanks Rehabilitation Association, the Regional Center for Alcohol and Other Addictions, the Family Focus program, and the Fairbanks

Native community. They are currently leading behavioral health planning efforts for the Tanana Chiefs Conference and the North Slope Borough Health and Social Services Agency.

NAHRA also assists local non-profit organizations to tailor their grant applications closely to community needs. Within the last two months, NAHRA has worked with five child abuse/neglect and domestic violence-related service providers to ensure that grant applications submitted this year are non-duplicative and are consistent with objectives contained in the recently completed "Child Abuse and Neglect Needs Assessment" for the North Star Borough.

All of NAHRA's work is based on skilled planning processes conducted with extensive public involvement. Policies and decisions adopted by NAHRA's Board of Directors are founded in the long-range plans.

As mayor of the North Star Borough, I am responsible for appointing fifteen of NAHRA's thirty Board members. This linkage provides a significant avenue for the Borough government and NAHRA to interface, for the general good of the citizens.

I urge your support for NAHRA and the other two health systems agencies in Alaska at a level of $200,000 each. This is a small amount of funding for the returns which these agencies bring in terms of improved coordination, enhanced efficiency of service delivery, and cost-savings in individual service agencies because of the consolidated data and management services resources. Close-out of these agencies would mean significant economic and human services losses to this state.

Thank you.

Sincerely,

SIGNED

B. B. Allen
Borough Mayor

BBA:RWC:hs
cc: Interior Delegation

March 8, 1983

The Honorable Bill Sheffield
Governor, State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

As Mayor of the City of Fairbanks, I wish to lend my support to continuation of regional health planning and resources development activities as currently practiced by the three health systems agencies.

I am most familiar with the Northern Alaska Health Resources Association (NAHRA) and the services it has provided to the Fairbanks area. Many of my contacts with NAHRA over the last four years have centered around alcohol awareness/public education activities. NAHRA has been the primary sponsor for annual activities related to substance abuse and has led the community-based efforts to address the attendant problems of alcohol abuse and alcoholism. Recently NAHRA provided valuable testimony to the Blue Ribbon Commission on Alcoholism, which I established to examine solutions to alcohol-related problems in the core area of the city. NAHRA is the City's primary source of statistical information on this topic and is the only group in the community which has conducted long-range planning activities related to substance abuse.

NAHRA provides the only community planning and data resources in the area of health and human services for use by organizations, individuals, and local government. Through their services, non-profit organizations can obtain information and management consultation free of charge, thereby saving many program dollars which can then be directed into hands-on services. This function promotes the efficiency and effectiveness of human service delivery throughout northern Alaska.

Because the North Star Borough lacks social service powers and because the City exercises its powers only to limited degrees, NAHRA provides the only real means for the citizens to play active roles in health care decisionmaking. In areas where the City is involved, such as through the City Commission on Health and Social Services, NAHRA assists the City by providing information and helping to design project review criteria and a credible review process.

NAHRA helps the community of Fairbanks and the rest of northern Alaska in many other ways. However, I think their primary importance lies in the fact that they facilitate community decisionmaking at the regional and local levels. They assist Alaskans to retain control over their own lives.

Please retain the health systems agencies as viable entities in Alaska, and increase their funding levels to $200,000 per agency. We cannot do without their services.

Sincerely,

Bill Walley
Mayor

cc: Interior Delegation

FAIRBANKS CITY COMMISSION ON HEALTH AND SOCIAL SERVICES
410 Cushman Street
Fairbanks, Alaska 99701

March 1, 1983

The Honorable Bill Sheffield
Governor, State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

The Fairbanks City Commission on Health and Social Services endorses continued funding for Alaska's three health systems agencies (HSAs). It is our understanding that the Governor's proposed operating budget currently before the legislature does not contain an appropriation for HSAs.

Due to drastic cutbacks in support for HSAs by the Federal Government, it is essential that increased State support be provided to continue the important activities of these agencies. We recommend that their funding level be increased to $200,000 per agency ($600,000 total).

The Fairbanks City Commission has worked very closely with the Northern Alaska Health Resources Association (NAHRA), the HSA for northern Alaska, during the past two years. Not only has NAHRA assisted us by providing current, accurate health-related data and information for our use; but they were instrumental in helping us establish objective criteria for reviewing social service applications which we considered and recommended to the City Council for funding last year. In addition, they recently assisted us in developing a request for proposal (RFP) for various handicapped services in the North Star Borough.

NAHRA provides an objective forum for the urban and rural residents of northern Alaska to discuss health systems issues together. Because of the diversity of Alaska's people and the health services which attempt to serve them (e.g., State, Alaska Native Health, Military, private, Native Corporations, non-profits), it is important to recognize the coordinating function NAHRA provides.

Specifically within the Fairbanks area, NAHRA has been wholly or partially responsible for establishing and maintaining the activities of the Arctic Alliance for People (organization of health and social service providers); Alcohol Awareness, Inc. (an organization of concerned consumers and alcohol treatment providers); and Fairbanks United at Noon (a monthly noon-hour gathering of health and social service providers).

We are also aware of major studies they have recently completed for the Fairbanks Rehabilitation Association, the Regional Center for Alcohol and Other Addictions, the Family Focus Program, and the Fairbanks Native community which have assisted in identifying needs and

evaluating services. Furthermore, they are promoting a study which has been undertaken by the North Star Borough on delivery of emergency medical services within the Borough.

In summary, we believe that NAHRA is an important resource agency for Fairbanks and the northern region of the State. Because of their presence, many health services are being provided in a more coordinated, cost-effective manner. We recommend continued support for NAHRA and the other two HSAs.

Sincerely,

Linda Hulbert

Linda Hulbert
Chairperson

cc: Interior Delegation

RECEIVED MAR - 4 1983

Sent to local legislators 1/E-17

February 28, 1983

Dear

It is essential that the regional health planning agencies continue to be funded. I have come to this conclusion based on a working relationship with Northern Alaska Health Resources Association, Inc. (NAHRA), and as an 8 year Alaskan (Fairbanks) resident.

I am presently Nursing Manager of the Fairbanks Health Center. I am also a Childbirth Educator, mother of boys 9 and 12 years, wife of a civil engineer, established as an Alaskan resident and presently completing my work towards a Masters in Public Health from the University of Washington with majors in Health Services Delivery and Business Administration.

I feel it would be a step backward for the consumers of health care in this state if the regional planning agencies did not continue to function. As a public health nurse, I have the unique perspective of working in community health. I am in daily contact with consumers of health care who request clarification of their family's health concerns. They also request assistance in how to deal with the medical care system. They know how to shop for a car, but in general are uninformed of options and choices regarding health care. NAHRA has provided an opportunity for consumer participation in health-care decision making. It is a group whose interests are not tied to a hospital business or existing public health program. NAHRA consistently has organized a through and consistent process for consumer input. Other groups may say they listen to consumers, but the quality of the process is lacking and often a decision is made and the only objective is consumer approval of one particular option.

Regional advocacy is needed. Alaska is too diverse to expect a centralized agency close to political influences to plan comprehensively. Traveling consultants may come to an area for input. They hear from the organized articulate groups who have an interest and know how to participate in a dialogue with strangers.

For the average consumer, it is difficult to give input when you first have to describe your area and it's characteristics before you feel an atmosphere of rapport exists. NAHRA staff know the Interior. NAHRA is accessible and visible. (In fact, when data is needed for program planning, much time is saved by local agencies contacting NAHRA). The average health consumer needs an established and visible group to relate to.

In my experience as a community based health professional, I have working knowledge of at least three (3) projects in Fairbanks that the community has and will benefit from through NAHRA's work:

1. Improved Pregnancy Outcome
   -Grant money allocation in original proposal out of Juneau in 1980 bypassed Fairbanks completely. Anchorage area had funds tied up. Through NAHRA's format, the Childbirth Association pointed out the concern that our community be included. Result - Fairbanks High Risk Pregnancy Project - based at the Fairbanks Health Center, providing comprehensive follow-up and direct financial aid to women enrolled in the project - 1980-1983. (Information on model and statistics available on request)

2. Infant Car Seat Safety
   -NAHRA's leadership in coordinating and forming an association on this issue will make a car seat loan program a reality very soon. Many professionals and consumers have been concerned about this issue for years, yet no one has had the time or expertise to get people together and plan. The community will gain because NAHRA was available.

3. Needs assessment child abuse/neglect and related services

   NAHRA brought agencies together for this process. The process was a good example of how NAHRA facilitates communication among health providers and agencies. With more power given to NAHRA, duplication of service programs could decrease and gaps in service identified and filled.

   (Please feel free to contact me for more details)

NAHRA has an objective regarding Health Promotion. The educational formats sponsored by NAHRA raise the level of public knowledge regarding health and at the same time, the number of "informed consumers" of health care is increasing.

As a legislator, you have a responsibility to the majority of your constituents. This includes a concern for cost-effectiveness and setting priorities when limited funds are avaible. NAHRA provides a community based mechanism to assist you in decisions on priorities. Objective evaluations of existing programs can also be provided by this professional health planning group. Decisions regarding health care delivery influences the total quality of life in our community. Informed and educated consumers may help decrease medical costs through their own practices, in the long term.

At the present time, it is essential that NAHRA continue to analyze in an objective, organized and documented format the health needs of the community. Again, in my opinion NAHRA needs to continue to be supported as an independent, unbiased, regional health planning agency.

Sincerely,

Elaine McKenzie EM

Elaine McKenzie

EM/nlr

RECEIVED MAR 9 1983

MC GRATH-ANVIK COMMUNITY & FAMILY SERVICES
BOX 44
MC GRATH, ALASKA 99627
(907) 524-3867

March 3, 1983

John Sackett
Capitol
Room 520/528
Pouch V
Juneau, AK 99811

COPY

Dear Senator Sackett,

I am writing in regard to the plight of the state's Health Systems Agencies, who are again this year facing an end to their existence. It is my understanding that all state funding for their operation has been eliminated from the govenor's budget.

In the past I have found involvement with Northern Alaska Health Resources Association, Inc., useful to our own regional planning. I believe that they have strongly supported efforts to develop realistic planning for our more rural areas. I would hate to see this strong advocacy resource lost in the state.

I hope you will support efforts to reinstate them in the budget for the coming Fiscal Year.

Sincerely,

Nettie Scott, M.S.W.
Clinical Director

NDS:jbf

cc:NAHRA

RECEIVED FEB 2 2 1983

I am writing to strongly support restoration of funding for the Northern Alaska Health Resources Association, Inc. This organization provides a vital service for Interior Alaska which should not be curtailed or eliminated but expanded. Consumer participation in health planning and implementation is vital, not only for viability and relevance of programs/services, but to monitor its quality and stimulate its improvement. NAHRA needs the funding to continue what it has done very well, and needs additional power to require response and accountability from all would be health providers proposing to serve Interior Alaskans. A recent assessment of child abuse and neglect service needs demonstrated need for expansion of services such as NAHRA provides.

Please do what you can to provide adequate funding for NAHRA in the state budget.

Yours Sincerely

John V. Hawk
2024 Blueberry St.
Fairbanks, Ak. 99701

RECEIVED FEB 1 1 1983

Catholic Community Resources, Inc.
1316 Peger Road
Fairbanks, Alaska 99701
(907) 456-7123/456-1649

Diocesan Office
of Social Services

February 11, 1983

Senator John C. Sackett
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett,

I was distressed to hear that Governor Sheffield has eliminated state funding from the budget for health systems agencies.

It is my observation that the assistance Northern Alaska Health Resources Association, Inc. has provided Catholic Community Resources, Inc. is typical of the help rendered other agencies across Northern Alaska. NAHRA has been a mainstay in providing technical advice to this agency, primarily through its subsidiary, Fairbanks Counseling and Adoption. NAHRA is also instrumental in assisting me evaluate proposed programs for the rural areas of the diocese. I trust the data I receive and rely extensively on the evaluation of grant proposals and service delivery designs by the NAHRA staff.

Arctic Alliance, a coalition of the human service agencies of Fairbanks, has been greatly assisted by donated staff time and advice. Because of the Child Abuse/Neglect Needs Assessment conducted by NAHRA in the community, Fairbanks Counseling and Adoption, Resource Center for Parents and Children, Family Focus and Fairbanks Crisis Line have recently entered a formal agreement of cooperation. These few examples are illustrative of how, as a non-aligned association, NAHRA has been instrumental in assisting service agencies to provide better services with less overlap, greater efficiency of delivery, and the facilitation of greater cooperation between those same agencies, all of which means savings to the tax payer.

Health planning is important! It is also cost effective! I urge you to support the $600,000 figure which would allow the continuation of the regional health resource organizations across the state during the coming year.

Thank you!

Sincerely,

Carolyn Winters

Carolyn Winters
Director

CMW/shp

cc: NAHRA

NAHRA
RECEIVED FEB 16 1983

FAIRBANKS NATIVE ASSOCIATION, INC.
310½ First Avenue
Fairbanks, Alaska 99701

Phone: (907) 452-1648 / 456-5151

Copies of this letter were sent to all Northern Regional Legislators.

February 9, 1983

Honorable John C. Sackett
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

I am writing this letter to all the Northern Regional Legislators, asking for your support specifically for Northern Alaska Health Resources Association, Inc., and for health planning in Alaska.

If health planning agencies are not allowed to continue to be responsible for identifying and addressing health care issues, who will be?

My experience in working in the Social Services field, which includes issues of health, has shown me the importance of planning, community assistance, and evaluation. I am sure you are aware that NAHRA does all these, and much more.

An example of their work has been submitted to you for your use, compliments of the Family Focus program, entitled Child Abuse and Neglect: A Community-Wide Needs Assessment.

In my opinion, without NAHRA's assistance, restructuring community and health services to better meet the needs of Alaskans would be slower and ultimately more costly. I understand that planning is everybody's business, but when its everybody's business, in reality will it get done?

Enclosed is a little story that I'm sure you can relate to.

Please do what you can do to reinstate in the budget $600,000 statewide (200,000 per agency) so that health planning agencies can continue in Alaska.

Planning is the first step to problem solving.

Respectfully,

William S Hardy

William S. Hardy, Family Focus Director

Box 289
Barrow, Alaska
99723
February 10, 1983

The Honorable Frank R. Ferguson
Pouch V
Juneau, Alaska 99811

Dear Senator Ferguson:

I am writing to urge your support to continue funding for all Health System Agencies in the State. Our funding was completely eliminated from the Governors budget. If we do not receive substantial amount of funding, we will cease to exist.

Our HSA, for the Northern Region, Northern Alaska Health Resources Association, has provided a means for which Residents of the Northern Region can participate in health care decision making, and assist with local and Regional health concerns. NAHRA has also provided technical assistance to agencies, provided community assistance, health promotion and Regional advocacy. Without NAHRA, these activities would not continue. Residents would lose there means for self-determination in health services for the Northern Region.

I urge you to assist us with funding for the coming year with Reinstatement in the budget. Thank you for your assistance.

Sincerely,
Sonya Leavitt
Member
Board of Directors
Northern Alaska Health
Resources Association

cc: NAHRA

Copies were mailed to Northern Delegation

NORTH STAR COUNCIL ON AGING, INC.
P.O. BOX 73888 • FAIRBANKS, ALASKA 99707
AREA CODE 907-452-1735

February 15, 1983

Senators Don Bennett and John C. Sackett
Co-Chairmen, Senate Finance Committee
State of Alaska 13th Legislature
Pouch V
Juneau, Alaska 99811

Dear Senators Bennett and Sackett:

We have just learned there is a possibility that Governor Sheffield will exclude from the budget funding for the current maintenance of the Alaska health planning agencies. We of the Northern Region are particularly concerned and seek your assistance in not allowing this deletion to take place.

Our region has come to rely heavily on the information, resources provided by the Northern Alaska Health Resources Association, Inc., and the closure of this association would cause the people of the northern region to lose their primary means for self-determination in health services.

NAHRA is the only non-aligned group in this region which provides technical assistance to agencies and communities in grantsmanship, management, community organization, evaluation, program planning, needs assessments and implementation. We depend heavily on the information in their continually updated files as relating to health problems and needs in this area. To not have the services of NAHRA available to us would require extra funding for our agency as well as those in other areas to maintain a resource of data collection and analysis.

Therefore, the Board of Directors, staff and participating Seniors in our program services earnestly seek your support and endorsement for the continuance of the health systems agencies statewide. We will greatly appreciate your efforts in behalf of NAHRA as well as the other statewide systems for health planning.

Sincerely,

Genevieve Reininger
Executive Director

CC: Senators Bettye Fahrenkamp, Frank R. Ferguson and Pappy Moss

RECEIVED MAR 17 1983

Alaska Dental Society
3400 Spenard Road, Suite 10
Anchorage, Alaska 99503
(907) 277-4675

March 9, 1983

Representative Al Adams, Chairman
House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Adams:

On behalf of the three Health Systems Agencies in the state, the Alaska Dental Society asks reinstatement of monies in the budget to fund the continuance of their organizations.

The HSA's are a mechanism through which local and regional health-related concerns are identified and addressed, and through which citizen perspectives are presented to the state. HSA's provide technical assistance to agencies, boards and communities, community organization, management, evaluation, program planning, needs assessments and implementation. All maintain a current data and information base - essential in the presentation of health status problems and needs of the area.

The alternative to the HSA's would be individual organizations and special interest agencies doing autonomous health planning. This would not only be economically wasteful, but incredibly lacking in expertise and review thoroughness - now provided cost-effectively by the HSA organizations.

We understand federal funds are earmarked for the Alaska HSA organizations and further ask for your committee's approval of budget reinstatement. Suggested amounts are $200,000 per agency - NAHRA (Northern Alaska Health Resources Association), SCHPD (South Central Health Planning and Development), and SEHSA (Southeast Alaska Health Systems Agency).

Thank you for your consideration.

Sincerely,

Edward G. Wilkinson

Edward G. Wilkinson, D.D.S.
President
Alaska Dental Society

cc: ✓NAHRA
SCHPD
SEHSA
Representative Don Clocksin
Representative Mae Tischer
Senator Don Gilman
Senator Kerttula
Senator Bennett
Senator Ziegler

R. Holmes Johnson, M.D., D.A.B.F.P.
Family Practice

RECEIVED MAR 25 1983

HOLMES JOHNSON CLINIC
Box 1727
Kodiak, Alaska 99615
486-3237

March 21, 1983

Milo Fritz, M.D.
Pouch V
Juneau, AK 99811

Dear Dr. Fritz:

I am writing to request support of financing for Health Planning Agencies. I know that consideration is being given to reducing or cancelling their funding. My request comes from my observation as Chairman of the Governor's Review Board on Alcoholism. These agencies have evaluated the alcohol treatment programs in place throughout the State at the request of the Board, and we have found this independent appraisal very useful as a check on the State office which admittedly has a vested interest. They serve as a check and balance on other State health organizations as well. To lose them would, in effect, create a monoply.

I think it extremely important that their function particularly in the appraisal capacity be ported.

Sincerely,

R. Holmes Johnson, M.D.

RHJ:cm

RECEIVED MAR 1 8 1983

March 16, 1983

Representative Al Adams
House Finance Committee
on Health & Social Service
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Adams:

Please accept this letter in support of reinstatement of the Health Systems Agencies within the State budget at $200,000 per agency ($600,000 statewide).

Having worked as a Health Educator in Alaska for over six years, I am well aware of the positive effect the Agencies have had on the Health of the citizens of Alaska. Through their early efforts to provide a forum for discussion and action,

a. School Health Education has advanced,
b. TTH-NED was established,
c. Health Promotion at the Workplace Began Networking, and
d. Risk Reduction areas for Health Improvement were established.

The Health Systems Agencies have provided a continual unbiased expertise in planning for the Health of all Alaskans and to that aim their staff has given unselfishly of their time in technical assistance.

Now, we need your help in continuing this effort to realize optimal Health for the citizens of Alaska. I urge your support, and look forward to knowing your position on this matter.

Sincerely,

Brenda Rodgers

Brenda Rodgers
300 Sanctuary
Eagle River, AK 99577

cc: Alaska Health Coalition

THE POLARIS

427 First Avenue 907-456-4456 907-452-4456 Fairbanks, Alaska 99701

Wallace Burnett
General Manager
907-452-5571

RECEIVED FEB 22 1983

February 17, 1983

Senator Don Bennett
Alaska State Legislature
Pouch V(MS 3100)
Juneau, AK 99811

Dear Don:

It has come to my attention that Northern Alaska Health Resources Association, Inc. (NAHRA) funding for the coming year has been eliminated from the state budget. Although I understand there will be some federal funds available, there seems to be a real need for state participation.

I am sure you are more familiar with the organization, management, program planning, etc. of NAHRA than I, so I will only express my support for the continuation of this service for the Northern Region.

Thank you for your consideration of this request.

Sincerely,

Ruth E. Burnett

REB/mdw

cc: Representative Bob Bettisworth
Sherry McWhorter, NAHRA

WAMI Medical Education Program

RECEIVED
RECEIVED FEB 25 198

UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

February 17, 1983

Senator John C. Sackett
Capitol, Room 520/528
Pouch V
Juneau, AK 99811

Dear Senator Sackett:

It is my understanding that State funding for the Northern Alaska Health Resources Association (NAHRA) has been eliminated from the Governor's budget. I would like to elicit your support in reinstating these funds. It is through organizations such as NAHRA that the following has been, and will continue to be, accomplished:

1. Health services planning with input from both citizens and provider groups.

2. Collection and analysis of data in an objective manner in order to assist in the decision-making process concerning health care needs in the region.

3. Organization of a system that can assist rural communities in needs assessment, keeping in mind regional needs and capabilities.

4. By feeding information from the Northern region to the State, it has been possible to develop health plans for the State with effective regional input.

Sincerely yours,

Philip C. Nice, M.D.
Professor of Medical Science
WAMI Medical Education Program

/ch

Copies sent to — and 17 Interior & Northern Delegation

RECEIVED FEB 24 1983

BONNIE JOHNSON
SR 10469
FAIRBANKS, ALASKA
99701

February 17, 1983

Dear

I am writing to urge you to re-instate the $600,000 funding for regional health planning in the State budget.

I feel that in this period of escalating health costs, it is imparative to have a neutral organization to assist communities in developing and evaluating the most cost-effective services needed in their area.

The Northern Alaska Health Resource Association has been instrumental in objectively assessing needs in the northern region and avoiding any duplication in service. They have been active in health promotion areas which in the long run, reduces health costs. They have encouraged community and individual citizen input and participation.

I feel strongly that State funding of regional health planning is the most practical-cost-effective means to continue to develop comprehensive health care in Alaska.

Sincerely,

Bonnie Johnson

RECEIVED FEB 2 3 1983

GALENA HEALTH CENTER

EDGAR NOLLNER BUILDING
P. O. BOX 77
GALENA, ALASKA 99741
PHONE: (907) 656-1266



(Serving the Surrounding Villages)
Hughes, Huslia, Kaltag
Koyukuk, Nulato, Ruby

Senator John C. Sackett
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

I am writing on behalf of the Northern Alaska Health Resource Association, Inc., one of the three HSA's in the State. I have been informed that funding for the HSA's have been eliminated from the Governor's budget. In order for the HSA's to continue operations, they have requested $600,000.00 from the State. If they do not receive this funding they will be out of existence after August 31, 1983.

NAHRA, Inc. has been very helpful in providing technical assistance and most importantly health planning. This has alleviated a lot of unnecessary spending and duplication of services. As you are aware, small health centers such as ours cannot afford to purchase consulting services. We are firm believers in self-determination as far as local health planning is concerned. NAHRA, Inc. has provided us with much data and information over the years. As a result of this, we have planned the services that we have today that are cost effective, but most importantly are meeting the needs of people.

Therefore, I would like to request that you support their efforts to secure funding in order for them to continue operating.

Sincerely,

Flora Sweetsir
Health Administrator

CC: Chuck Kaltenbach

RECEIVED FEB 1 5 1983

CAREAGE NORTH
HEALTH CARE CENTER

A Division of HCS – Alaska, Inc.

P.O. BOX 847 • FAIRBANKS, ALASKA 99707

February 15, 1983

The Honorable Albert Adams, Representative
Capitol, Room 509/507
Pouch V
Juneau, AK 99811

Dear Representative Adams,

I am writing to urge your support of regional health planning and the subsequent reinstatement in the state budget of $200,000.00 per agency.

I have served on the Board of Directors of the Northern Alaska Health Resources Association for approximately two years and have first hand knowledge of the public education, community assistance and health promotion that has occurred during that time. I personally feel that consumer participation in health care decision making is essential in a young and growing state. However, before the consumer can participate effectively, there must be a mechanism for data collection and analysis that provides an information base from which citizens and providers can evaluate needs. Regional health resource organizations are that mechanism.

Thank you for your consideration.

Sincerely,

Sharon L. White
Administrator
Careage North Health Care Center

F-H

SLW/jb

Similar letters sent to Bettisworth, Lackett and Bennett

WICCA CENTER
302 Charles Street
Fairbanks, Alaska 99701
452-2293

RECEIVED FEB 10 1983

14 February 1983

Senator Don Bennett
Pouch V
Capitol, Rm 516,524,526
Juneau, Alaska
99811

another 4 byes
legislators

Dear Senator,

I am writing in support of the Northern Alaskan Health Resources Agency (NAHRA) and to request reinstatement of $200,000 in the budget for this agency. They perform a necessary service to the Northern region in the form of planning and health promotion. Recently they conducted a survey of child abuse and neglect services inwhich WICCA participated. The work they performed was excellent and very thorough. I believe that all agencies and thus the services we provide benefit from the kind of work performed by NAHRA.

Sincerely,

Ruth Lister

Ruth Lister
Executive Director

WICCA CENTER
women in crisis -- counseling & assistance

RECEIVEDFEB 1 1983

January 31, 1983

Senator John Sackett
Pouch V (Mail Stop 3100)
Juneau, Alaska 99811

Dear John,

I'm writing you as a Board Member of Northern Alaska Health Resources Association, the Regional Health Planning Group for Northern Alaska.

NAHRA is one of three Regional "Health Service Orgainizations" allowing consumer/provider input into several areas of Health Care Delivery:

1) Public education
2) New or expanded facilities review
3) New or expanded services review
4) Data gathering and distribution
5) Planning for future Health Care Delivery.
6) Assistance in applications for funding for Northern Region Health Care Delivery groups.

The Governor's budget carries a $-0- line item for HSA's such as NAHRA.

I request that funding, in the amount of $600,000 ($200,000 for each region) be re-inserted into the new budget because:

1) There are the only orgainizations allowing local consumer input into health care issues.

2) The shut-down of the Regional groups will allow the Governor (through the Commissioner of DHSS) far too much power concerning Health Care Delivery in the North--decisions made far away from our area without local input and control will, I believe, negatively affect Health Care Delivery in local communities for years to come.

Thank you for your consideration of this matter.

Sincerely,

Norm MacPhee
S.R. 40591
Fairbanks, AK 99701

cc: Chuck Kaltenbach
Exec. Director, NAHRA

Copies of this sent to "Fairbanks Delegation"

RECEIVED MAR 1, 1983

Legislative Affairs

Re: Northern Alaska Health Resources Assn., Inc.

In the 60's we saw many well intended ~~programs~~ programs go sour because those provided for were not consulted & were told they participate in the planning. NAHRA allows for both, thus preventing the waste of money and human resources.

Don't let NAHRA die. Let their funding be reinstated in the budget.

RECEIVED FEB 7 8 1983

February 16, 1983

Rep. Niilo Koponen
Pouch V
Juneau, AK 99811

Dear Niilo:

I am writing to express my concern about state funding and the mandate for health systems agencies, and, in particular, for the future of the Northern Alaska Health Resources Association.

I am aware that the HESS Committee is presently considering testimony about the appropriate rike for HSAs and the possibility of instituting a state certificate of need statute. I am also aware that the Alaska Hospital Association (not surprisingly) opposes the institution of a state-level certificate of need process and would just as soon that HSAs and SHPDA disappear entirely.

I want you to know from where I sit as a trained hospital administrator and as a planner with over 10 years of experience in trying to get human services to be responsive to local needs and yet accountable to the public trust that Alaska desperately needs to develop a legitimate local planning and development infrastructure. I would recommend that HSAs not only be empowered to conduct a state-level certificate of needs process (simplified, if that is the beef of the providers) but also that HSAs should have their role expanded to perform legitimate local broad-range human services planning.

Let me give you my reasoning for this recommendation:

- Currently the "unsystem" for distribution of state funds for human services has resulted in a myriad of twisted, well-intentioned, but uncordinated programs which may meet specific individual needs of a small group of people but which not not assure the consumer that he/she will get the service needed. Local service providers know the game all too well and, unfortunately, legislators respond to individual pleas for well-intentioned projects. What is not happening is rational growth of human services according to a well-designed local planning process. The result is inconsistent and unequitable availability of various services across the state. The result is legislators being hounded by endless parades of needy agencies wanting money for specific purposes. The result is a proliferation of services with very little accountability, evaluation of effectiveness, or coordination with each other. The result is local governments becoming increasingly unwilling to even entertain the thought of human services planning because "the state will take care of it" and "under Title 29, the voters have to tell us 2nd class boroughs that they want us to be concerned about human services".

- I hear a lot of talk about "local control" of services and

the rationale that we need "local control" because of "regional differences" in this state. I agree! But I say, let's legitimize local control and protect the state's interest in accountability by designating an entity for a region with the responsibility to "map out" needs and ways to meet those needs. It seems that the state has been so busy providing direct services and issuing contracts and grants that the important elements of setting parameters for considering needs and evaluating the effectiveness of what is being done currently are not being paid the attention that they need. If there were a "human services game plan" worked out by a thoughtful and responsive local planning and development process, maybe we could all see where we are going and why. Maybe the legislators wouldn't be hounded so much. Maybe state agencies would spend more time offering technical help and evaluation of services. Maybe there would be developed patterns of services and ways of providing services which would meet local needs. Maybe consumers wouldn't be shuffled from agency to agency because "their need doesn't meet my program".

- You might ask - why turn the responsibility for local/regional human services planning over to HSAs (or whatever their successors are named)? I can't think of a better way for the legislature to ensure some type of statewide consistent planning structure. We can't ask the boroughs to do this because of their non-existence in 75% of the state and because of their limitations under Title 29; we can't ask the Native non-profits to do this because of problems with their mandate for provision of services.

- I would further recommend that the HESS Committee consider introducing legislation that would have the HSAs, in their new role, accountable to the Department of Community of Regional Affairs, rather than H&SS. It's time to legitimize human services planning in this state (over 50% of the F84 proposed operating budget is committed to human services). C&RA seems to have the best track record of any state agency in assisting local communities with planning of all types - economic, physical, lands, etc. Human services is a big business in this state and the same planning and development processes used which are used for physical development planning are applicable to human services. Besides, planners need each other to stay fresh and challenged.

Thanks much for listening to these ideas. I have seen and worked with state legislation in Minnesota which has set up local planning processes for health services and it is working well, both politically and progammatically. I am really hopeful that the Legislature will not disband HSAs. They provide a valuable, hidden as sometimes it is, service to the local area.

I would be happy to share with you materials that I have from Minnesota which describe the legislation and regulation used to

set up the "Community Health Services System". Please let me know if you would like to see these materials or get in touch with some people in Minnesota who have built that system.

My phone number is 479-6507 (days) or 452-7782 (evenings). Thanks again, Niilo.

Sincerely,

Laurie

Laurie Sarkipato Goggin
P.O. Box 73972
Fairbanks, AK 99707

P.S. - As Holda Hues said, "I'm not a typist!"

TELEX TO: AL ADAMS

MAE TISCHER

DONALD E. CLOCKSIN

HEALTH & SOCIAL SERVICES FINANCE SUB COMMITTEE

FROM: THE ASSOCIATION OF REGIONAL HEALTH DIRECTORS

DATE: 2 MARCH 1983.

AS CHAIRPERSON OF THE ASSOCIATION OF REGIONAL HEALTH DIRECTORS, I HAVE BEEN REQUESTED TO CONVEY TO YOU OUR CONSENSUS ON THE FOLLOWING TWO ISSUES:

1. HEALTH SYSTEM AGENCIES (H.S.A.s) - THIS ASSOCIATION SUPPORTS THE CONCEPT OF UTILIZING SOME FORM OF THE PRESENT HSAs AS REGIONAL PLANNING AND REVIEW BODIES FOR STATE FUNDED HUMAN SERVICE PROGRAMS. THIS APPROACH WOULD HAVE TWO ADVANTAGES:

   A. ELIMINATION OF MULTIPLE STATE BOARDS CURRENTLY OPERATING AND FUNNELING THEIR FUNCTIONS INTO 3 REGIONAL BOARDS WOULD PRODUCE SUBSTANTIAL COST SAVINGS.

   B. USE OF REGIONAL ENTITIES WOULD ASSURE COMPETENT QUALITY REVIEW OF STATE GRANT PROPOSALS BECAUSE THEY WOULD BE DONE BY A LOCAL GROUP WITH KNOWLEDGE OF UNMET NEEDS AND CURRENTLY AVAILABLE SERVICES WITHIN THEIR REGION.

2. THE MAJORITY OF STATE SERVICES CURRENTLY REACHING THE RURAL/BUSH POPULATION ARE FUNDED THROUGH GRANTS AND CONTRACTS TO REGIONAL, NON-PROFIT CORPORATIONS. DESPITE THEIR NATIVE STATUS, THEY OFFER STATE SERVICES ON A NON-DISCRIMINATORY BASIS. THE ASSOCIATION IS CONCERNED THAT AS BUDGET CUTBACKS

OCCUR, THESE SERVICE PROGRAMS DO NOT SUFFER INEQUITABLE CUTS IN ORDER TO MAINTAIN CENTRAL ADMINISTRATIVE SERVICES. IF THE PURPOSE OF HUMAN SERVICE PROGRAMS IS TO CARE FOR A POPULATION IN NEED, THEN ALL STEPS POSSIBLE MUST BE TAKEN TO INSURE THE FUNDING INTEGRITY OF THOSE ORGANIZATIONS ACTUALLY DELIVERING THE SERVICE.

THANK YOU FOR YOUR TIME AND ATTENTION. PLEASE FEEL FREE TO CONTACT ME OR ANY REGIONAL HEALTH DIRECTOR IF YOU HAVE ANY QUESTIONS.

ELISE SERENI PATKOTAK
CHAIRPERSON, ARHD
DIRECTOR, NSB, H&SSA

RECEIVED MAR 9 1983

February 15, 1983

Joe Josephson
State Capitol
Pouch V, MS 3100
Juneau, Alaska 99811

Dear Senator Josephson:

I am writing in support of the funding of our Northern Alaska Health Resources Association. As a board member of this committee, I feel it would be a catastrophe if our health system agencies are not reinstated into the budget after August 31, 1983.

Northern Alaska Health Resources Association (NAHRA) is the only group in our region who provides technical assistance to agencies and communities in grantshmanship, community organization, management, evaluation, program planning, needs assessments and implementation. We maintain a current data and information base which is inserted in the national presentation of health status problems and needs of our area. Our major areas of effort are community assistance, health promotion and regional advocacy. Without NAHRA none of these activities would continue.

I urge you to join me and our people in supporting this agency.

Let me know how you stand on this.

Keep up your good work for us and keep smiling.

Sincerely,

Nina K Dahl

Nina K. Dahl
Health Director

NKD/eth

cc: Jan Faiks
Mae Tischer
Don Clocksin
& Dr. Charles Kaltenback, NAHRA
Frank R. Ferguson
Robert Bettisworth
Ben Bennett
John C. Sackett
Al Adams

RECEIVED FEB 1 1983

January 31, 1983

Senator Don Bennett
Pouch V (Mail Stop 3100)
Juneau, Alaska 99811

Dear Don,

I'm writing you as a Board Member of Northern Alaska Health Resources Association, the Regional Health Planning Group for Northern Alaska.

NAHRA is one of three Regional "Health Service Orgainizations" allowing consumer/provider input into several areas of Health Care Delivery:

1) Public education
2) New or expanded facilities review
3) New or expanded services review
4) Data gathering and distribution
5) Planning for future Health Care Delivery.
6) Assistance in applications for funding for Northern Region Health Care Delivery groups.

The Governor's budget carries a $-0- line item for HSA's such as NAHRA.

I request that funding, in the amount of $600,000 ($200,000 for each region) be re-inserted into the new budget because:

1) There are the only orgainizations allowing local consumer input into health care issues.

2) The shut-down of the Regional groups will allow the Governor (through the Commissioner of DHSS) far too much power concerning Health Care Delivery in the North--decisions made far away from our area without local input and control will, I believe, negatively affect Health Care Delivery in local communities for years to come.

Thank you for your consideration of this matter.

Sincerely,

Norm MacPhee
S.R. 40591
Fairbanks, AK 99701

cc: Chuck Kaltenbach
Exec. Director, NAHRA

February 15, 1983

Rep. Mike Davis
Pouch V
Juneau, AK 99811

Dear Mike:

I'm writing as a constituent and supporter to express my concerns about state funding and mandate for health systems agencies, and, in particular, for the future of the Northern Alaska Health Resources Association.

I am aware that the HESS Committee is presently considering testimony about the approriate role for health systems agencies and the possibility of instituting a certificate of need statute. I am also aware that the Alaska Hospital Association opposes the institution of a state-level certificate of need process and would just as soon that health systems agencies disappear.

I want you to know that from where I sit as a trained hospital administrator and as a planner with over 10 years in working on issues leading to the quality development of human services, that the HESS Committee should seriously consider not only empowering the health systems agencies with state-mandated certificate of need authority but also should consider expanding their role as a viable, non-political, unbiased, and professional local-regional human ser- planning and development shop.

Let me give you my reasoning for this recommendation:

- Currently the "unsystem" for distribution of state funds for human services has resulted in a myriad of twisted, well-intentioned projects which do not interface on the local level. Service providers will tell you that there is "good informal coordination" of services, but I can tell you from real evaluation experiences that there is alot of "good informal miscommunication and assumptions" instead. We desperately need an entity with NAHRA which would have the capability of bringing together service providers to work on real coordination of services which will result in people not getting lost in being shuffled from agency to agency.

- I hear a lot of talk about "local control" of services and rationale that we need "local control" because of "regional differences" in our state. I agree! But I say, let's legitimize local planning and designate an entity to have the responsibility for calling together local consumers, politicians, and agency representatives who have the job to map out a future course of needed action in the development of responsive local human services.

- You might ask - why turn this responsibility for local/ regional human services planning over to HSAs? I can't think of a better way for the legislature to ensure some type of statewide, consistent planning infrastructure. We can't ask the boroughs to do this because of problems with Title 29; we can't ask the Native non-profits to do this because of problems with their mandate for services.

- I would further recommend that the HESS Committee consider writing legislation that would have the HSAs, in their new role, be accountable to the Department of Community and Regional Affairs, rather than DHSS. It's time to legitimize local human services planning in this state and C&RA seems to have the best track-record of assisting local communities with planning of all types - economic, physical, lands, etc. Human services is a big business in this state and the same type of planning techniques and tools that are applicable to physical development planning are also applicable to human services planning. Besides, planners need each other to stay fresh and challenged!

Thanks much for listening to these ideas. I really am hopeful that the HESS Committee (and the legislature as a whole) will not disband the HSAs. They provide a valuable service, hidden as it sometimes is, to the local community. The lack of their presence in the past few years would have netted us losses - like the lack of a hospice here in Fairbanks, and perhaps 100 new beds in Anchorage that we probably don't need and which would cost each of us needing medical services over the next thirty years a bundle.

Please call/write if you have questions or if I can be of further assistance. My daytime phone is - 479-6507; home phone - 452-7782.

Sincerely,

Laurie Goggin

Laurie S. Goggin
P.O. Box 73972
Fairbanks, AK 99707

Gateway COMMUNITY MENTAL HEALTH CENTER

KETCHIKAN COMPREHENSIVE ALCOHOLISM PROGRAM

~~Laffrale S. Rasmussen, R.N., M.S.~~
~~XXXXXX~~ Terry Wolf, MSW
Interim Director

3134 Tongass Avenue
Ketchikan, Alaska 99901
Phone 225-4137 or 225-4154

March 14, 1983

Albert P. Adams, Co-Chairman
Alaska State Legislature
House Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Adams:

I am writing this letter encouraging you to support the continued funding of the Southeast Alaska Health Systems Agency (SEAHSA). Although this organization does not provide direct health care services to specific clients, the organization has served as a catalyst for improving the quality of services in Southeast Alaska, as well as identifying service area gaps and working toward their fulfillment.

I have found the staff of the SEAHSA to be a viable resource of information in planning the future activities of the Ketchikan Comprehensive Alcoholism Program (KCAP). If they did not have the specific information requested, they knew where to acquire it and frequently assisted in the acquisition.

It has been my observation that through the SEAHSA, the local Health Planning Council has remained an ongoing group. Several times the functions of the Council had become unclear and was about to dissipate. Each time the SEAHSA assisted the Council in renewing its focus and continue to provide community health planning needs. Specific services provided by the Health Planning Council through assistance of the SEAHSA Staff have been an Annual Health Fair; development of a means to incorporate a K-12 health curriculum in the local school system; annual reviews of local health delivery agency grant/funding proposals; and planning future health needs due to projected significant population increases (i.e. Borax Quartz Hill Project, Ferry Maintenance Terminal, increased Forestry activities on Prince of Wales Island, etc.). All of these activities are important for the continued development of health programs in our community, and without SEAHSA they probably would be non-existant, or at a greatly reduced level.

RECEIVED
MAR 21 1983
SOUTHEAST ALASKA
HEALTH SYSTEMS AGENCY

I have observed that frequently direct health care providers become so involved with the provision of services that they loose site of future community needs or develop a skewed perception of what the real needs are. A non-direct service provider having health care interest can in many cases more objectively evaluate area wide health care needs.

In summary, I see SEAHSA as a viable resource for the continued development of health care programs to meet community needs in Southeast Alaska. The amount of funds requested are not excessive in light of the gains realized by the community.

If I can be of any assistance reference the Southeast Alaska Health Systems Agency, do not hesitate to call me at 225-4154.

Sincerely,

Charlie G. Laub

Charlie G. Laub,
KCAP Coordinator

CGL:im

✓cc: SEAHSA, Ketchikan

March 18, 1983

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

I understand that the budget introduced by Govenor Sheffield last month did not include money for Health Systems Agency grants. Federal support of Health Systems agencies has also been reduced, leaving them operating "on a shoestring" with resultant deprivation of services for health care consumers. In this region the Southeast Alaska Health Systems Agency would be greatly handicapped, if able to function at all. The Southeast Alaska Health Systems Agency (SEAHSA) performs a dual role in our region: both as Planner/Coordinator and Provider of direct support to Health programs.

Since 1978 SEAHSA has been insuing Health Systems Plans (HSP) along with Implementation Plans (IP) which have served to coordinate the several health systems- public (Federal and State) and private- which operate in Southeast Alaska. The HSP reviews the regional profile including geographic, demographic, and social data; lists the health systems currently operating in the region, and then establishes goals and objectives for the achievement of desired levels of health status and performance of health systems. The IP details explicit milestones for measuring the progress of HSP: who should do what in a given time frame.

These plans are valuable to health care providers in the region because they clearly state the problems and who might best deal with it. This at once addresses the problem, its solution, and avoids duplication of services, saving time and money for providers and consumers of health care. A much needed plan for the region, that of Mental Health services, is intended to be insued shortly. The lack of services or fragmentation thereof in this area is well recognized by health care providers in the region. An overall plan is an important first step in improving Mental Health services for Southeast Alaska.

RECEIVED
MAR 21 1983
SOUTHEAST ALASKA
HEALTH SYSTEMS AGENCY

OPPOSED

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

[illegible] Water St
[illegible]kikon, Alaska
99901
-53
[illegible]25-3938

[illegible]

Dear Representative Clarkson,

I am writing to support the three Health Systems Agencies request for $200,000 each for regional health planning. Although the [illegible] budget did not include money [illegible] the [illegible], I understand this could be included in the Health and Social Services budget.

I have [illegible] a volunteer, [illegible] planning and health [illegible] the mid 1970's, [illegible] Health Systems [illegible] was [illegible] such [illegible] potential [illegible] and [illegible] tion. [illegible] has

working on projects, which we feel will improve the quality of life in our communities.

In a day when everyone is talking about saving money and President Regan is frequently heard promoting the use of volunteers, perhaps more attention should be given to funding organizations that have been utilizing volunteers.

The effective use of volunteers insures that health planning will reflect the needs and concerns of a community at a minimum of cost. Funding a relatively small budget for HSA's should be a good investment toward achieving optimum levels of health for all Alaskans. I urge you to give this matter serious consideration. Thank you for your attention.

Sincerely,

Jon F. M. Wipfli

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

531 Grant St. #31
Ketchikan, Alaska 99901

March 8, 1983

The Honorable John C. Sackett
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

May I call it to your attention that the Governor's Budget for Fiscal Year 84, as introduced, includes no money for Health Systems Agency grants. Inasmuch as the HSAs are the primary health planning agency assisting communities in evaluating health programs and the need for new health programs, this strikes me as being a most unfortunate occurrence, and it would be hoped that such funds could be restored.

The Southeast Alaska Health Systems Agency, a HSA, has requested $200,000 from the State for continued funding. Additionally, it is my understanding, a funding request totaling $600,000 is requested to fund the entire program state-wide.

As chairperson during the organizational stages of the Southwestern Washington HSA (1975 and 1976), I firmly believe that they play a vital role in the health delivery systems of the Country and that, if they are not funded, it will be a real loss to all of the people of the State of Alaska.

I trust that you will give this matter your much needed attention.

Very truly yours,

E. Louis Keller

cc: John Manning, Program Director, SE Alaska Health Systems Agency

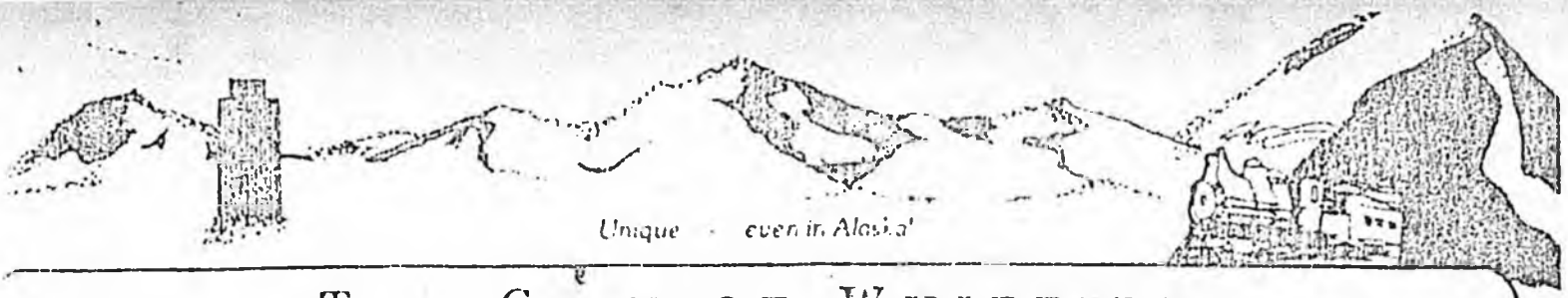
The Honorable William Sheffield 12-27-82
Governor
State of Alaska
Dear Governor Sheffield,

I am the President of the Southeast Alaska Health Systems Agency. We are partially funded by a state grant.

During your campaign you told us you supported regional and local health planning. This local effort is in jeopardy since no appropriation has been included in the FY-84 State HSS budget.

Your support in restoring the budget for these local agencies is needed in order to continue this local voice.

Sincerely
Arthur C. Williams
PO Box 4110
Mt Edgecumbe AK 99835



THE CITY OF WHITTIER

February 20, 1983

Senator Don Gilman
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman,

The Whittier Health and Human Services Committee is concerned that the State's three Health Services Agencies, (HSA's(have been eliminated from the State budget.

It has come to our attention that a misunderstanding of the Federal budget cuts has eliminated the State's matching funds for it's HSA's which includes the South Central Health Planning and Development, Inc., (SCHPD). We are an isolated community which is rapidly growing and becoming the hub of increased activity as the gateway to Prince William Sound. The information base and the expertise with current data available at SCHPD has been invaluable to us the past two years in our efforts of comprehensive community health planning.

We strongly urge you to consider the reinstatement of the HSA's in the State budget for without them small communities, the consumer and other non-profit groups will again be left without the resources for intelligent, wise, and above all money and man power saving health planning.

Sincerely,

Lucille McGarvin RN,BSN

The Whittier Health and Human Services Committee
Tom McCahill
Steve Vaughn
Geri Wheelright
Lucille Garrison
Kathy Jackson

cc: Penny Robinson

P.O. Box 608 Whittier, Alaska 99693 (907) 472-2327

CITY COUNCIL OF MOUNTAIN VILLAGE

P.O. BOX 204 - MOUNTAIN VILLAGE, ALASKA 99632 - (907) 365-8001

Honorable John C, Sackett
State Senator
Pouch V
Juneau, Alaska 99811

February 23, 1983

The City of Mountain Village wants to go on record and strongly recommend, and consider reinstatement of State funding for the three Alaska Health Systems Agencies to the level of $200,000.00 per agency. It is my understanding funds are available from the Federal Goverment to match with the State funds. The state wide organization such as South Central Health planning and Development, Inc. is vital to help us in our newly opened Area Clinic, here in Mountain Village along with ten other villages that will be served by Area Clinic for the following reasons; Community Organization, Management, evaluation, program planning, needs assessments and implementation.

Senator Sackett if you recall during the 1975 legislative session you was the one who appropiated $500,000.00 for the Area Clinic here in Mountain Village, and I trust you that you will do the same again, considering keeping a very worth while group of agencies aline to help Alaskans as we strive to improve peoples health in this area.

Thank you very much for your time and attention.

Sincerely yours,

Andrew Brown Sr.,
Mayor

c.c. Representative Vern Hurlbert
Representative Al Adams

2105 Otter Street
Anchorage, Alaska 99504
February 23, 1983

Representative Al Adams, Chairman
House Finance Committee
State Capitol
Pouch Y
Juneau, Alaska 99811

Dear Representative Adams:

This is a letter in strong support of the continuation of the three Health Planning Agencies in the State. I have been a physician in practice in Alaska since 1972. During that time I have had opportunity to work with many rural communities in helping devise both local clinics and health care programs to improve medical services. As you know, this takes a lot of planning, a tremendous local effort, and good and sensitive technical assistance from people outside the local community.

Our health planning agencies have had an excellent track record for providing technical work per se, and data that can be used to develop these programs. If they disappear, I see no other group filling the role that they have played. Each of the other groups that have been involved in local health projects have vested interests. They have not necessarily served the local communities well.

I'm personally acquainted with many of the staff in the health planning agencies and find them of the highest caliber. They could easily match anyone in health planning whom I have met in the lower '48. Given the increasing costs of health care and the limited resources, health planning is necessary. If these agencies meet their demise we will have to recreate them. I would strongly support their continued existence.

Sincerely yours,

Thomas S. Highsmith, M.D., M.P.H.
Anchorage, Alaska

cc: Lillie McGarvey
Representative Don Clocksin
Representative Mae Tischer

Kenaitze Indian Tribe

P. O. BOX 988
KENAI, ALASKA 99611
(907) 283-3633

February [illegible], 1983

Representative Hugh Malone
State House of Representatives
Pouch "V"
Juneau, Alaska 99811

Dear Representative Malone:

The Kenaitze Indian Tribe is asking your support for the reinstatement of State funding in the amount of $600,000 for the three Health Systems Agencies (HSA's) at Juneau, Anchorage and Fairbanks, with each of the three agencies receiving $200,000 of the requested allocation.

It is our understanding that adequate State funds were not included in the proposed FY-84 State budget, on the assumption that federal FY-83 monies were being made available for covering the HSA operational costs. Unfortunately, this assumption is incorrect insofar as very insufficient federal funding currently is being allocated to the HSA's.

It is the opinion of the Tribe that the demise of the HSA's, especially the Southcentral Health Planning and Development (SCHPD) HSA at Anchorage, would be a serious loss to all health care agencies or entities with health care programs -- such as the Kenaitze Indian Tribe -- on the Kenai Peninsula. The cost of invaluable technical assistance in health planning and development which is provided by the SCHPD is minimal in comparison to what these costs would be if local, State funded health agencies had to use grant funds to pay private consultants for such necessary services. Moreover, it is doubtful if the Tribe could have reopened the Wildwood Health Clinic this past December without the planning, development and advocacy services which were provided to the Tribe by SCHPD staff.

Additionally, the extinction of the SCHPD would result in the elimination on a regional level of the only real forum [illegible] participation in health care decision making for the Southcentral [illegible]. The SCHPD is the normal mechanism and the instrument through [illegible] local health care organizations and their clients on the Peninsula [illegible] their health-related concerns before a larger tribunal [illegible] have a voice in influencing health care [illegible] wide basis.

In summation, [illegible] effective and necessary health care [illegible] HSA's provide, should be continued [illegible] your [illegible]

upcoming State fiscal year in which tribal services and services might perdure.

Sincerely,

Clare Swan

Clare Swan
President
Kenaitze Indian Tribe

JP/cs

xc: Representative Al Adams
Representative Don Glecksin
Representative Mae Tischer

[illegible] 947
Anchorage, AK 99510
[illegible] 1983

Representative Al Adams, Chairman
House Finance Committee
State Capitol
Porch Y
Juneau, AK 99811

Dear Representative Adams:

I am writing to you to urge you to consider the reinstatement of State funding for the three Alaska Health Systems Agencies (HSA's). These HSA's provide high quality health planners-who are meeting the needs of various corporations, agencies and groups around the State.

Nutrition and health are important to all the citizens of this State, and the HSA's consistently have demonstrated awareness and concern for these matters.

The three HSA's need funding to the level of $200,000 per agency. Again, I would urge you to consider the reinstatement of State funding for these very worthwhile and necessary agencies.

Sincerely,

Cyclia A. Kirkus

cc: Lillie McGarvey, President
South Central Health Planning & Development

Matanuska-Susitna Borough
BOX B, PALMER, ALASKA 99645 • PHONE 745-3246
PLANNING DEPARTMENT

February 25, 1982

Honorable Ron Larson
Pouch V
Juneau, Alaska 99811

Dear Mr. Larson,

I would like to support the inclusion of funding for the State's regional health systems agencies generally, and South Central Health Planning and Development, Inc., specifically, in the FY 1984 budget for the Department of Health and Social Services. I understand the amount needed is $200,000 per agency or $600,000 statewide.

I have dealt with South Central Health Planning and Development, Inc. (SCHPD) over the past five years and have found them to be a very competent and responsive public agency. They - and presumably the other regional agencies - make very significant contributions to the area they serve.

First of all they are governed by a board of directors to which the Borough appoints two members - therefore gaining us regional representation on matters of concern to the health and wellbeing of our residents.

They readily provide technical assistance to the Borough through their staff of professional health planners - a specialized skill which local governments would ordinarily not be able to include on their own staffs.

They play a key role in the planning and development/provision of health facilities/services within the region. Without this role, I feel costs of health care and equitable distribution of health services would be adversely affected.

Specifically, SCHPD has greatly aided the development of a Boroughwide health plan by providing us with the services of a student intern who developed very complete inventory, analysis and recommendation sections for such a plan. SCHPD staff also have provided technical assistance in this effort.

And they have produced and currently maintain, by mandate, a regional health systems plan for Western and Southcentral Alaska.

They are a most worthwhile provider of services to and coordinator of health related activities within our region. I urge your support for their funding in FY 1984 and beyond.

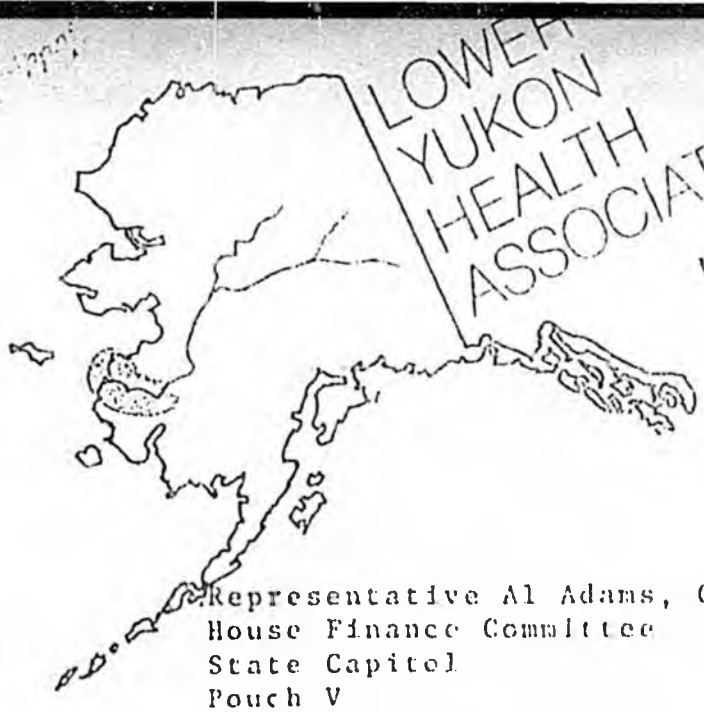
Thank you for your consideration.

Rodney

Rodney W. Schulling
Assistant Planning Director

lf

cc: SCHPD



LOWER YUKON HEALTH ASSOCIATION

Mountain Village, Alaska 99632
phone 58[illegible]2346

February 25, 1983

Representative Al Adams, Chairman
House Finance Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Adams;

It was real good to see you and speak with you recently. I really appreciated the reception that you and your collegues extended to my group that represented the City Council of Mountain Village, the Lower Yukon Health Association and the good-behavior image that is favorable to the Native people of Rural Alaska.

As you and the Finance Committee members deliberate on the allocations of funding for various agencies for FY '84, please keep in mind that the Board of the Lower Yukon Health Association strongly urges you to consider the reinstatement of State funding to a level of $700,000.00 to the South Central Health Planning and Development, Inc., as well as $200,000.00 each to the other two (2) Health System Agencies (HSA's).



LOWER YUKON HEALTH ASSOCIATION

Mountain Village, Alaska 99632
phone 591-2346

Should you need to contact me, please call me at 591-2411 or 2412.

Sincerely,

Lower Yukon Health Association

Ed Beans
Chairman of the Board

cc: Representative Adelheid Herrmann
Representative Vern Hurlbert
Representative Tony Vaska
Representative Jack Fuller
Senator John Sackett
Governor Bill Sheffield
President Lillie McGarvey - SCHPD

EB/kt

Elizabeth D. Hohmann
Public Health Nutritionist
[illegible] Apollo Drive
Anchorage, AK 99504
February 23, 1983

Rep. Ramona L. Barnes
House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Barnes

I would like to urge your support for reinstating $680,000 in the budget for the continuation of the three Health Systems Agencies in Alaska.

I am most familiar with South Central Health Planning and Development, Inc. They have been responsive and effective in providing planning assistance to groups with whom I work.

There is a need for an independent body to assess, identify, and promote necessary health services and measures which the existing agencies should then address, whether it be the expansion of hospital beds or the identification of new avenues to promote better health for Alaskans.

Thank you for your consideration. I will be happy to offer additional thoughts on this matter if you wish. Please feel free to contact me.

Sincerely,

Elizabeth D. Hohmann, R.D., M.P.H.
Public Health Nutritionist

cc: South Central Health Planning & Development, Inc.

BRISTOL BAY AREA HEALTH CORPORATION

P.O. Box 10235
DILLINGHAM, ALASKA 99576

PHONE (907) 842-5266
(907) 842-5267

March 3, 1983

Governor Bill Sheffield
Office of the Governor
Pouch A
Juneau, AK 99811

Dear Governor Sheffield,

We are very concerned about the elimination of the State Health Planning and Development function in your F.Y. 84 proposed budget, especially since it would eliminate funding to the Health Systems Agencies (HSA's). They have been very helpful to us as we cannot afford our own professional planners, also they are the most knowledgeable single agencies on whats happening in the health areas (rural and urban) in our State. As such, they eliminate millions of dollars in waste and provide alot of useful help.

We understand you propose a new program "Health Facility Development which includes Development as well as Certification and Licensing components" says Al Adams, Chairman of the House of Representatives Committee on Finance. Since this will be a substantive change, we would like to review your proposal and provide a "users" pros and cons on it. We feel all recipients should be afforded a chance to comment via the legislative hearing (teleconference) process.

Many changes are happening to the way the Federal Government deals with the State, non-profit Corporations, municipalities, boroughs, Native Corporations and individual receipients i.e. Medicare/Medicaid etc.. We need adequate deliberations on your proposed change so as not to cut something out without due consideration. Thank you for your thoughtfulness in an area that affects all of us.

Sincerely,

Robert J. Clark

Robert J. Clark
Executive Director

cc: Representative Adelheid Hermann
Senator Bob Mulcahy
Representative Al Adams
South Central Health Systems Planning & Development Incorporated

JC:hsm

YUKON-KUSKOKWIM HEALTH CORPORATION

P.O. Box 528
Bethel, Alaska 99559
(907) 543-3321

March 2, 1987

Representative Al Adams, Chairman
House Finance Committee
State Capitol
Pouch Y
Juneau, Alaska 99811

Dear Representative Adams:

As president of the Full Board of Directors of Yukon Kuskokwim Health Corporation, we have supported our South Central Health Planning & Development, Inc., for several years now. They have provided us with technical assistance in the planning and development of our programs and have provided Board training for us.

We would request that you consider the reinstations of State funding for the three Alaska Health Systems agencies (HSA's) to the level of $200,000.00 per agency. If the HSA's cannot receive matching funds they could not exist. We feel the HSA's are needed by our Corporations for the value of their expertise in Health Planning, training and their review process we feel is excellent.

Thank you for your consideration in keeping a very worthwhile group of agencies alive to help Alaskans maximize the use of State and Federal funding.

We look forward to your support and thank you for your help in improving the health care of our fellow Alaskans.

Sincerely,

Joseph Lomack, President
YKHC Board of Directors

JL/kc

cc: Representative Tony Vaska
Representative Vern Hurlbert
Representative Jack Fuller
Senator John C. Hackett
Senator Ted Stevens
Alaska Native Health Board
S.C.H.P.& D., Inc.
President Lillie McCarvey

February 24, 1983

Diane Muri
3561 E. 20th
Anchorage, AK 99504

Pouch 5
Juneau, AK 99811

Dear

This is to urge you to reinstate State financing for the continuation of Alaska Health System Agencies (HSA's) in the State budget. The three (3) agencies would require $200,000 per agency for a total of $600,000 statewide.

I am requesting this because of the strong role the Health System Agencies play in promoting health and encouraging consumer participation in health care. HSA's develop comprehensive action plans for health and maintain an accurate data base for health assessment and policy decisions. They also provide technical assistance to community groups, especially rural areas, in the area of community organization, needs assessments, planning, and implementation.

The HSA board meetings are a unique and excellent means for both providers and consumers of health care to exchange information on health issues and generate ideas for improvements in the health system and health status of Alaskans. In other words, it is a good communications network.

I have personally found the board meetings and HSA data base very useful to me as a health professional. Once again, I urge your support for the continuation of HSA's.

Sincerely yours,

Diane Muri

406 "G" Street P.O. Box 3056 DT Anchorage, Alaska 99510 (907) 272-2332

ALASKA LUNG ASSOCIATION, *Inc.*

March 1, 1983

Leo C. Kaye, *Executive Director*

Representative Albert Adams
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Adams,

This letter is in support of reinstating $200,000 in the Governor's budget for the continuation of South Central Health Planning and Development (SCHPD). The Alaska Lung Association has taken part in the public hearing process made possible by SCHPD. We have also received information from them regarding legislation or programs affecting our agency. SCHPD has provided technical assistance, conference planning and statistics to the Alaska Council on Smoking or Health, a volunteer organization supported by the Alaska Lung Association.

SCHPD offers services available from no other agency. Without the HSA there will be a duplication of services and and an additional expense for the collection and analysis of data.

I urge you to support the continuation of their services.

Sincerely,

Leo Kaye

Leo C. Kaye, Executive Director
Alaska Lung Association

LCK/vl

cc: SCHPD
Peggy Wilson

SRA Box 812
Anchorage, Alaska 99502
March 9, 1983

Senator Jan Faiks
Pouch V
Juneau, Ak 99811

Dear Senator Faiks:

It has come to my attention that funding for the three regional health planning agencies has been eliminated from the Governor's budget. Our regional agency, South Central Health Planning and Development, Inc. (SCHPD) is the only non-aligned group in the region through which health concerns are identified and addressed. The agency stresses health planning, community assistance, and health promotion through the use of its technical staff, and many volunteers including both consumers and providers in the health field.

The health agency also maintains a current data and information base which is essential to the health planning process. Without SCHPD, other agencies and communities would have to expand their own funding to meet their data collection, community organization, management, and public education needs.

As a health consumer and constituent in your district, I urge you to consider reinstating the health planning agencies in the budget. $200,000 is needed per agency or $600,000 statewide. Your support will be appreciated.

Sincerely,

Ronni L. Kinneen

Matanuska-Susitna Borough
BOX B, PALMER, ALASKA 99645 • PHONE 745-4801
BOROUGH MAYOR

March 14, 1983

Representative Tischner
House of Representatives
State of Alaska
Pouch V
Juneau, AK 99811

Dear Representative Tischner:

We understand funding for South Central Health Planning & Development, Inc. and for other health planning agencies has been eliminated from the budget.

Without the funding, these organizations would cease to exist. This would be a loss to the people of South Central area and the State, as well as to us.

South Central Health Planning & Development has been a most valued source of technical assistance. They helped us during our formative stages to develop a rounded community approach to health planning including input from the consumer and the provider. As we began developing a health plan they provided a data base not only locally but with regard to our plan as it related to the region and State.

We need continued access to this information, technical assistance and support. Other areas of the region and the State must have similar needs.

It seems more cost effective to continue an organization who has met their goal of cost containment of health care and whose services are available to all phases of health planners throughout various regions of the State. Even the loss of the data base collected and maintained would be detrimental. Planning is a basic and fundamental activity. Please assist in reinstating the necessary funding.

Sincerely,

Myrtle Bass, Chairman
Health Planning Council

MB/DK/cm

cc: SCHPD, Inc.

Family Practice

HOLMES JOHNSON CLINIC

Box 1727

Juneau, Alaska 99802

586-1237

March 21, 1983

Milo Fritz, M.D.
Pouch V
Juneau, AK 99811

Dear Dr. Fritz:

I am writing to request support of financing for Health Planning Agencies. I know that consideration is being given to reducing or cancelling their funding. My request comes from my observation as Chairman of the Governor's Review Board on Alcoholism. These agencies have evaluated the alcohol treatment programs in place throughout the State at the request of the Board, and we have found this independent appraisal very useful as a check on the State office which admittedly has a vested interest. They serve as a check and balance on other State health organizations as well. To lose them would, in effect, create a monoply.

I think it extremely important that their function particularly in the appraisal capacity be ported.

Sincerely,

R. Holmes Johnson, M.D.

RHJ:cm

HB

357

#1

COMMITTEE REPORT

HOUSE

(7)

FURTHER:

4/14/83

Date: 5/17/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 357

"An Act relating to the regulation of religious schools."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
M.W. Miller	
[illegible]	
[illegible] Do Pass	
[illegible]	
[illegible]	

[illegible]

CHAIRMAN

H 60

4/15 - Req fiscal note DOE
" - " " " H&SS

4/19 Spoke w/Keith Levy Re: Constitutionality
- Removing language re: "operation by religious groups" would stand up constitutionally - effects would be all non-profit private schools would not be regulated by DOE.

DOE -
- not support a bill that would strip DOE of health & safety standards

DOE supports:
- exemptions apply only to curriculum - not immunizations for example

- What type of tax exemptions are necessary to be non-profit? -

5/10 Written Position Paper from DOE Requested again. from Van Sluke
Called:
5/10 310 K State St. / 2nd Floor / Marie Lozano /
501C3 - Code - Religious schools - charitable cont.
Religious / Educational
Church automatically tax exempt

Pub #557

Court won't protect school from tax action

Washington — The Supreme Court today refused to suspend a ruling that could deny a small Bap ist school in Mississippi its federal tax exemption because it has failed to recruit blacks. The court turned down an emergency request by Clarksdale Baptist Church, which is seeking to prevent the Internal Revenue Service from proceeding to revoke its tax exempt status. Critics say the Clarksdale Baptist school was founded in 1963 to provide a place for whites trying to avoid attending public schools under orders to integrate. Other new private schools in Mississippi were founded around the same time. The Clarksdale Baptist Church denies that it has ever practiced racial discrimination, and says it would accept black students or teachers if any ever applied.

Courier Times 10/3/83

11 states lose Indian rights case

Washington — The Supreme Court today left intact a ruling that 11 states say effectively prevents them from suing Indian leaders in federal court to stop alleged tribal violations of federal law. The court, without comment, turned down an appeal by California, which is seeking a share of the power to regulate fishing and hunting by non-Indians on Indian reservations. Ten other states joined California in pressing for Supreme Court review of the case. They said federal court rulings against California have placed "Indian tribes above the law, in that no remedy is available to restrain them from committing unlawful acts." The Supreme Court has ruled that Indian tribes generally enjoy the same "sovereign immunity" as state governments, meaning that they are shielded from most lawsuits challenging official tribal policies.

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

July 28, 1983

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SCS CS HB No. 357 (Rls) am S -- Relating to the Regulation of ~~private~~ schools.

Dear Mr. Speaker:

I have today vetoed Senate Committee Substitute for Committee Substitute for House Bill No. 357 (Rls) am S.

I have taken this action despite substantial pressure from several organized religious groups, on the grounds that enacting this legislation serves no discernible public purpose, and will only benefit select, private interests.

The State of Alaska presently regulates private religious schools only to a limited degree, primarily in the areas of health and safety. I have no plans to do more.

Given that early childhood development programs, daycare and preschool, have become a rapidly growing industry in the state, I am reluctant to create an exemption for any group of service providers, without greater justification for the exemption. Further, the distinction between religious and non-religious private educational programs created by this bill moves us perilously close to constitutional challenge for violation of equal protection provisions of both the state and federal constitutions.

Sincerely,

Bill Sheffield
Governor

HOUSE ROLL CALL

_____ 19 ____

SUBJECT:

23	Yea	Nay	Absent
ABOOD	✓		
ADAMS not in favor of overdescriptive Road ??			
✓ BARNES	✓		
✓ BETTISWORTH	✓		
✓ BUSSELL	✓		
CATO ~~Out of State~~	✓		
CLOCKSIN			
✓ COWDERY	✓		
DAVIS			
DUNCAN	BC ✓		
FLOOD	✓		
✓ FRITZ	✓		
FULLER			
✓ FURNACE	✓		
GOLL		(✓)	uncertain
GRUSSENDORF ??			
✓ HERRMANN	✓		
HURLBERT	✓		
KOPONEN			
LACHER ~~[illegible]~~			
LARSON Out of State			uncertain
✓ LINDAUER	✓		
LISKA	✓		
MALONE			
MARTIN	✓		
MCBRIDE			
MILLER (D)	BU ✓		
✓ MILLER (R)	✓		
PESTINGER	✓		
PHILLIPS			
RINGSTAD	✓		
SHULTZ O			
SZYMANSKI		✓	
✓ TISCHER	✓		
UEHLING	✓		
VASKA			
✓ WARD	✓		
WENDTE			
ZHAROFF needs ? resp. ? unsure			
# HAYES	✓		

7/11/83

REPRESENTATIVES

Representative	Legislative Office Location	Legis. Phone	Staff
Mitch Abood House State Affairs	500 L St., Suite 310-D	274-2843 274-5941	Carol Horos 274-8483 (home #) Elaine Bales 333-5633
Al Adams House Finance	1024 W. 6th, Suite 204-A/B Room 507, Capitol	274-0615/16 465-3706	Louann Cutler Darla Schnell Marla Berg Elmer Lindstrom
Ramona Barnes House Majority Leader	1024 W. 6th, Suite 201-A/B	276-3176	Jeanne Lovell 243-5773 Jim Wood
Bob Bettisworth (Budget & Audit) Bette Cato	211 Cushman Fairbanks 99701 Anch-Lou Ken's 276-7862 835-4568	452-3421 452-3471	Mike Dalton (B&A) Steve Frank (B&A) Marilyn Wilson (B&A) Ralph Bennett (Fin) Leta Kaye (Fin)
Charlie Bussell House Judiciary	1024 W. 6th, Suite 200	274-1441	Joe Brewer Catherine Zalewski
Don Clocksin	1024 W. 6th, Room 204-G	274-4031	
John Cowdery Oil & Gas Committee	500 L, Suite 310-B	278-1521	Shirley Dreas 243-7876
Walt Furnace House Labor & Commerce	500 L, Suite 310-D	277-2459	Steve Levi 337-2021 Diana Smith
Ben Grussendorf	P.O. Box 928, Sitka	747-8459 (h) 747-6276 (Sitka LIO)	
Joe Hayes Speaker of the House	1024 W. 6th, Room 201-D/E	272-3471 OR-278-8222	Jeff Day Neil Phelps-Munson
Adelheid Herrmann Spec. Committee on Fisheries	1024 W. 6th, Room 201-G	276-8994	
Vern Hurlbert	1024 W. 6th, Room 204-B	277-2141	Kay Wallis June Baker
Barbara Lacher	P.O. Box 478, Palmer 99645	376-5865 (h) 376-3704 (msg - LIO)	
Ron Larson	P.O. Box 53, Palmer 99645	745-3826 376-3704 (Mat-Su LIO)	
John Lindauer	500 L St., Suite 310-A	562-4684	

Szymanski

688-2526 John

John Liska Aomin. Regulation Review	Eagle River 99577	694-5080 (Mary's home)	Mary Whitman
Sen. Pestinger	500 L St., Suite 310-F	274-7681/82	CINDY ERVIN 243-1222 Terry Otness Ed Essa 344-0950
John Ringstad	211 Cushman St.; Fairbanks 99701	452-3252 452-3206	Dave Stancliff
Mae Tischer House HESS Co-Ch	500 L St., Suite 310-G	277-2486	Bill Lovell 243-5773 TRUDIE ALFORD (274-2 HOME
Rick Uehling Spec. Committee on Loans	1024 W. 6th, Room 204-F	274-2441	
Jerry Ward	500 L St., Suite 310-C	277-2479	Linda Cortez 276-0378 Lydia Jones 278.2296
House Minority Democrats	1024 W. 6th, Room 204-G	274-40312	Pat Corbett

CSHB 357(Rls)

CSHB 357(RULES) RECON

Yeas:	28	✓Abood, Adams, ~~Barnes~~, ~~Bursell~~, ✓Cato, ~~Cowdery~~, 0Duncan, 0Flood, ~~Fritz~~, ✓Fuller, ~~Furnace~~, 0Goll, ~~Hayes~~, ~~Herrmann~~, ✓Hurlbert, Larson, ~~Lindauer~~, ✓Liska, ✓Martin, 0Miller, M.M., ~~Miller, M.W.~~, 0Pestinger, Ringstad, ✓Szymanski, ~~Tischer~~, ✓Uehling, ~~Ward~~, ✓Zharoff
Nays:	9	Clocksin, Davis, Koponen, Lacher, Malone, McBride, Phillips, Shultz, Wendte
Excused:	3	Bettisworth, Grussendorf, Vaska
Absent:	0	

And so, CSHB 357(Rls) passed the House on reconsideration of the vote.

Representative Tischer moved and asked unanimous consent that the following letter of intent be adopted:

"May 24, 1983 offered by
Representative Mae Tischer

LETTER OF INTENT

HB 357 "An Act relating to the regulation of religious schools."

The House of Representatives recognizes that operating a church school is an integral part of the free expression of religion and that schools operated by religious bodies are quite different from other private schools. Therefore, the purpose of HB 357 is to prevent possible church-state constitutional conflicts by protecting the fundamental rights of religious freedom of parents, children, and church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education. The House specifically intends to exempt pre-elementary and nursery programs operated by religious organizations from the general supervision of the Departments of Education and of Health and Social Services.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

GOLDBELT PLACE
801 WEST 10th STREET
POUCH F
JUNEAU, ALASKA 99811

OCT 1983
RECEIVED

October 19, 1983

The Honorable Mae Tischer, Chair
Health, Education and Social
Services Committee
500 "L" Street, Suite 310-G
Anchorage, AK 99501

Dear Mae:

Thank you for your various communications on matters related to preschool regulations. In our conversations nearly two months ago, I recall saying that the Department of Education (DOE) would not propose regulations for action by the State Board but that we would proceed with the process and wait for action to clarify the laws and the intent of the Legislature during the forthcoming session. We proceeded on that basis and requested further public comment. We have certainly had that.

The important responsibility for the Legislature in the matter is a clear determination of a public policy for preschool programs, public and private. I know you understand that the Department of Education and the State Board have no interest in developing regulations unless there is a legal basis for such regulations contained in the statutes.

Ernestine Griffin, President of the State Board, and the Department are ready to work with the Legislature at your forthcoming session to define the State responsibility for public and private preschool programs. If your committee has direction or data for us to prepare, we are ready to go to work. There is important work to be done to resolve these matters.

I regret that I was unable to reach you even from Chena Hot Springs by radio telephone. Your staff members were most helpful in our efforts to communicate.

Sincerely,

Harold Raynolds, Jr.
Commissioner

cc: Ernestine Griffin, State Board President
Members of the State Board
Richard Luther
Annie Calkins

05 E1LH

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4); pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

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

(13) administer the grants awarded under AS 14.11.020. (§ 1 ch 98 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1-3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 86 SLA 1979; am § 24 ch 59 SLA 1982; §§ 1, 2 ch 92 SLA 1982)

Revisor's notes. — A reference to AS 14.11.020 was substituted for a reference to AS 14.07.190 in paragraph (13) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of that section.

Effect of amendments. — The first 1978 amendment deleted "private, and denominational" preceding "schools" near the beginning of paragraph (6), inserted "and private" preceding "schools" in paragraph (7), added the language beginning "the standards for private schools" to the end of paragraph (7), and added paragraph (10).

The second 1978 amendment added paragraph (11).

The 1979 amendment added paragraph (12).

The first 1982 amendment substituted "of" for "and" preceding "new public elementary" in paragraph (11).

The second 1982 amendment substituted "'plans' include" for "a 'plan' includes" in paragraph (11), inserted "and approve" and "the" preceding "purposes of this paragraph" in that same paragraph, and added paragraph (13).

	Adoption of Agenda	ACTION
	Approval of Minutes	ACTION
	Board Comments and Concerns	
	Public Comments	
	REPORTS	
	Commissioner's Report Finance Report Subcommittee Reports Attorney General's Report	
84-9	REGULATIONS	
	4 AAC. 60.009-199 Proposed Adoption of Early Childhood Program Regulations	ACTION
	4 AAC. 12.055 Proposed Adoption of Early Childhood Teacher Certification Regulations	ACTION
	4 AAC. 12.010(b) and (c) Procedure Governing Application for Teacher Certification	PROMULGATION
	4 AAC. 12.010(g) Proposal for Revision of Fee Structure for Teacher Certification	PROMULGATION
	4 AAC. 12.010(h) Revision of Requirements Governing the Issuance of Certification Endorsements	PROMULGATION
	4 AAC. 12.020(d), 4 AAC. 12.030(d), 4 AAC.040(c) Proposal for Elimination of Nonacademic Credit From the Teacher Certification Renewal Process	PROMULGATION
	4 AAC. 12.030(a)(2) Proposal for Repeal of Special Qualifications For Out of State Applicants for Administrative Certification	PROMULGATION
	4 AAC. 12.045 Proposal for Amendment of Provisions for Professional Certificate Requirements	PROMULGATION
	4 AAC. 12.060(b)(2) Proposal for Repeal of Transcript Review by Department Certification Personnel	PROMULGATION

	4 AAC. 12.080(1)-(3) Proposal for Repeal of Nonacademic Credit Approval Process	PROMULGATION
	4 AAC. 12.080(d) Proposed Elimination of the Grace Period for Certification Renewal	PROMULGATION
12:30PM	Recess for Lunch	
1:30PM	Reconvene	
84-10	Board Priorities for FY 85 Budget	ACTION
84-11	Mt. Edgecumbe Project	ACTION
84-12	Teacher Education On Site Review Team Report University of Alaska/Anchorage - Secondary Programs	ACTION
84-13	Consideration of Plan for Drafting of Official Bylaws for State Board of Education	ACTION

STATE BOARD FOR VOCATIONAL REHABILITATION

84-14	Appointments to Vocational Rehabilitation Advisory Board	ACTION

STATE BOARD FOR VOCATIONAL EDUCATION

84-15	Appointment to Vocational Education Planning Council	ACTION
84-16	Board Review of Proposed Timeline for the Department of Education Career and Vocational Education Plan (K-12, Adult, Postsecondary)	DISCUSSION
84-17	Proposed Criteria for Vocational-Technical Centers	DISCUSSION
84-18	Vocational Education Advisory Council Report	INFORMATION
5:30PM	ADJOURN	

TITLE 4. EDUCATION.
CHAPTER 60. PRE-ELEMENTARY (EARLY CHILDHOOD) SCHOOL

Register , 1983 EDUCATION 4 AAC 60

SECTION

4 AAC 60.009 Applicability
4 AAC 60.010 (Repealed)
4 AAC 60.019 Certificate Required
4 AAC 60.020 (Amended)
4 AAC 60.030 (Amended)
4 AAC 60.031 Implementation
4 AAC 60.032 Provisions of Certificate
4 AAC 60.039 Provisional Certificate
4 AAC 60.040 (Repealed)
4 AAC 60.049 Special Changes Affecting Certification
4 AAC 60.050 (Amended)
4 AAC 60.051 Certification Renewal
4 AAC 60.059 Waiver of Requirements
4 AAC 60.060 (Repealed)
4 AAC 60.061 Voluntary Certification
4 AAC 60.065 Inspection
4 AAC 60.069 Organization and Administration
4 AAC 60.070 (Repealed)
4 AAC 60.079 Ensuring Care In Emergency
4 AAC 60.080 (Repealed)
4 AAC 60.089 Administrator Qualifications
4 AAC 60.090 (Repealed)
4 AAC 60.099 Staff Qualifications
4 AAC 60.100 (Repealed)
4 AAC 60.110 (Repealed)
4 AAC 60.115 (Amended)
4 AAC 60.119 Environment Requirements
4 AAC 60.120 (Repealed)
4 AAC 60.129 Fire Safety
4 AAC 60.130 (Repealed)
4 AAC 60.139 Sanitation and Environmental Protection
4 AAC 60.140 (Repealed)
4 AAC 60.149 Health Program
4 AAC 60.150 (Repealed)
4 AAC 60.159 Immunizations Required
4 AAC 60.160 (Repealed)
4 AAC 60.169 Nutrition
4 AAC 60.170 (Amended)
4 AAC 60.175 (Amended)
4 AAC 60.180 (Repealed)
4 AAC 60.191 Exceptional Children
4 AAC 60.199 Definitions

ARTICLE 1.

Section

4 AAC 60.009. APPLICABILITY. The provisions of 4 AAC 60.009 - 4 AAC 60.101, apply to pre-elementary schools as defined in 4 AAC 60.199. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.010. REQUIREMENTS. Repealed

Authority: AS 14.07.020

4 AAC 60.019. CERTIFICATE REQUIRED. (a) A person who does not have a certificate issued under 4 AAC 60.009 - 4 AAC 60.191
may not:

(1) operate a pre-elementary school; or

(2) advertise or represent that the person offers pre-elementary educational services to children. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.020 is amended to read: EXEMPTIONS. (a) The following programs are exempt from the requirements of 4 AAC 60.009 - 4 AAC 60.199.

(1) schools operated by the federal government

(2) programs licensed as day care facilities under 7 AAC 50.120 - 7 AAC 50.275 (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.030, is amended to read APPLICATION FOR A CERTIFICATE OF APPROVAL. (a) An applicant must apply for a certificate on a form provided by the department, and submit all required attachments with the application.

(b) Within 60 days after receipt of a completed application and all required attachments, a department representative will

(1) review the application, confer with the applicant if necessary, and schedule an inspection of the pre-elementary school; and

(2) if the department considers it necessary, request appropriate authorities to verify compliance with applicable fire safety regulations, environmental health regulations, building codes, zoning ordinances, and other state and municipal laws.

(c) If the results of the application review and inspection indicate that the pre-elementary school meets the requirements of 4 AAC 60.009 - 4 AAC 60.199, the department will issue a certificate to the applicant.

(d) If the department finds that the program does not comply with the requirements of 4 AAC 60.009 - 4 AAC 60.199, the department will deny a certificate, and provide the applicant with reasons in writing for the denial, and notify the Department of Health and Social Services, Division of Family Services of the status of the program. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.031. IMPLEMENTATION. (a) All currently certified pre-elementary schools in existence in Alaska upon the effective date of 4 AAC 60.009 - 4 AAC 60.199 must complete an application for a certificate and submit it to the department no later than 12 months after the effective date of 4 AAC 60.009 - 4 AAC 60.199. (Eff. / / , Reg.)

Montessori !

(b) All currently operating, non-certified pre-elementary schools must complete an application, with required attachments, and submit it to the department within 120 days of the effective date of 4 AAC 60.009 - 4 AAC 60.199.

Authority: AS 14.07.020

4 AAC 60.032. PROVISIONS OF CERTIFICATE. (a) A certificate issued in accordance with 4 AAC 60.009 - 4 AAC 60.191 will state

(1) the period for which it is in effect;

(2) the name of the person, board, or school district certified to operate the pre-elementary school;

6

(3) the address of the person, board, or school district certified to operate the pre-elementary school;

(4) the maximum number of children who attend the program at any one time;

(5) ages of children who may enroll in the program;

(b) The certificate must be displayed in the pre-elementary school in plain view of the public. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.039. PROVISIONAL CERTIFICATE. (a) The department will, in its discretion, issue a provisional certificate to a pre-elementary school whose completed application of certification has been approved by the department and whose final certification is dependent upon the on-site review of the program. The pre-elementary school may operate with a provisional certificate while department representative completes the on-site review and a certificate is granted or denied. A provisional certificate may not be issued if the department has reasonable cause to believe there is a standard not met which may mean substantial threat to life or safety of the children enrolled. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.040. DENIAL OF APPROVAL; HEARING. Repealed.

4 AAC 60.049. SPECIAL CHANGES AFFECTING CERTIFICATION. (a) The certificate holder shall report an anticipated change in any of the following to the department as early as possible but not more than 90 days before the change occurs.

(1) a change in the administrator of the program;

(2) a change in the name of the person certified to operate the facility;

(3) a change of the location of the facility;

(4) a change in the name of the pre-elementary school;

(5) a substantial change in the program offered; or

(6) a substantial change in the building housing the pre-elementary school.

(b) A certificate may not be transferred to a different location or owner.

Authority: AS 14.07.020

4 AAC 60.050. is amended to read DURATION OF APPROVAL. (a) A certificate issued under 4 AAC 60.009 - 4 AAC 60.191 is valid for a period of two years from the date of issuance.

(b) A certificate may be modified, revoked, or suspended for failure to comply with the requirements of 4 AAC 60.009 4 AAC 60.199 or other statutes and regulations covering the health, safety and welfare of students and staff.

(c) If the department finds that the holder of a certificate does not meet the requirements of 4 AAC 60.09 - 4 AAC 60.119, the department may revoke, modify or suspend the certificate subject to 4 AAC 60.039. The holder of the certificate may request a hearing before the division director or the division director's designee within 15 days after receipt of the accusation or statement of issues in accordance with AS 44.62.360 and AS 44.62.370.

(d) Following the hearing, the hearing officer shall prepare the findings and recommend appropriate action to the commissioner. The commissioner shall review the hearing officer's recommendations and determine what action shall be taken. The decision of the commissioner is subject to review in the manner provided by AS 44.62.560. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.051. CERTIFICATE RENEWAL. (a) Upon request, the department will provide the certificate holder with a renewal application form at least 60 days before the expiration of the certificate holder's existing certificate.

(b) The certificate holder shall submit the completed renewal application to the department at least 30 days before the expiration of the existing certificate; however, the department will, in its discretion, waive the requirements of this subsection if it determines there is good cause for the waiver.

(c) The department will, in its discretion, conduct a review and take appropriate action within ten days before expiration of the existing certificate.

(d) If the department cannot complete the review within the period set out in (c) of this section, it will issue the applicant a provisional certificate effective until completion of the department's review. (Eff. / / , Reg.)

(e) THe department will not renew a certificate if there is a revocation action pending.

Authority: AS 14.07.020

4 AAC 60.059. WAIVER OF REQUIREMENTS. (a) An applicant for a waiver must apply in writing to the department. The application must include

(1) a statement of the requirement for which the waiver is requested;

(2) an explanation of the reasons why the requirement cannot be satisfied; and

(3) a description of the alternative method proposed to satisfy the purpose of the requirement for which the waiver is requested.

(b) The department will, in its discretion, waive a requirement of 4 AAC 60.009 - 4 AAC 60.199 if an alternative method of satisfying the purpose of the requirement is established.

(c) The department will not grant a waiver, until the appropriate municipal or state authority have reviewed a request for a waiver involving fire safety, environmental health, or other municipal or state requirements within their jurisdiction.

(d) A waiver granted under this section is effective for the time specified on the certificate. The commissioner will review a waiver upon the termination of the waiver and will, in his discretion, renew the waiver.

(e) The department will answer a request for a waiver in writing within 30 days. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.060. DISPLAY OF CERTIFICATE. Repealed.

4 AAC 60.061 VOLUNTARY CERTIFICATE. (a) A pre-elementary school for which a certificate is not required under 4 AAC 60.009 - 4 AAC 60.199 may apply for a certificate. The department will, in its discretions, issue a certificate if it determines that the pre-elementary school satisfies the requirements of 4 AAC 60.009 - 4 AAC 60.199. (Eff. / / , Reg.)

(b) A licensed day care facility applying for certification as a pre-elementary school may submit in writing to the department a copy of its current day care license, and the following:

1) Philosophy of education;
2) Program educational goals and objectives;
3) Samples of daily schedules or lesson plans;
4) Provisions for parental involvement in program;
5) Child progress records.

The department will review the information and if appropriate, issue a voluntary certificate to the applicant.

Authority: AS 14.07.020

4 AAC 60.065 INSPECTION. (a) The department shall schedule and conduct on-site inspections to determine compliance with regulations in 4 AAC 60.009 - 4 AAC 60.199.

(b) If a program which the department suspects is a pre- elementary school has not applied for a certificate and refuses to permit an inspection, the department may seek an administrative search warrent. (Eff. / / , Reg.)

(c) An applicant or certificate holder shall permit certification representatives to inspect the pre-elementary school at any time during the facility's hours of operation. In carrying out these visits, certification representatives will call upon governmental agencies for appropriate assistance. Applicants or certificate holders shall cooperate in these visits by providing access to their facilities, records, children and staff. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.069. ORGANIZATION AND ADMINISTRATION. (a) The name, address and telephone number of the person or organization with the legal responsibility and the administrative authority for operating the pre-elementary school must be provided to the department and, if the facility is operated by an association, corporation or other entity, the name, address, and telephone number of each member of its board or governing body must also be provided to the department

(b) The individual or governing body with the legal responsibility for the pre-elementary school must designate an administrator also exercises responsibilities for the daily management of the program.

(c) Specific responsibilities and duties of the governing body must be written and communicated to the administrator of the pre-elementary school and staff when applicable.

(d) A pre-elementary school shall:

(1) provide an educational program and facility which meets the requirements of 4 AAC 60.009 - 4 AAC 60.191.

(2) provide the department with a description and the name of the owner of the land and building in which the pre-elementary school is located.

Why?!?

(3) ensure the confidentiality of records and information pertaining to an individual child or the parents, except as required by program staff in working with the child and the family, or when a release of information form is signed by the parents.

(4) maintain current individual records including but not limited to

(A) individual child emergency information records, maintained on forms provided by the department unless prior department approval is given to use alternate forms.

you can find red-tape almost anywhere -

(B) staff employment and health records;

(C) child attendance records.

(D) child progress records;

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(5) maintain bodily liability insurance (including transportation coverage if applicable) in an amount not less than $100,000 per child, $300,000 per accident with a company authorized to write insurance policies and must contain the following endorsement:

"In the event of cancellation or non-renewal of this policy, the company agrees to give 30 days prior notice to the Department of Education, Pouch "F", Juneau, Alaska 99811."

(6) have written materials covering, admission policy, nondiscrimination, provisions which can be made for the special needs of individual children, program philosophy, program goals and objectives, samples of daily schedules or lesson plans, behavior management policies, provisions for parental involvement, enrollment requirements and procedures, fees and payment arrangement plans, insurance coverage, transportation arrangements, parental permission for trips and related activities outside the classroom, cold weather outdoor play policies, cold weather closure, child abuse reporting, illness or accident policies, disclosure of information, and notifications of changes in program; these materials must be presented and explained to parents at the time of enrollment or at the time of the change, and a copy filed with the department. (Eff. / / , Reg.)

Hog-wash!

Authority: AS 14.07.020

4 AAC 60.070. CERTIFICATE OF APPROVAL. Repealed.

4 AAC 60.079. ENSURING CARE IN EMERGENCY. (a) A pre-elementary school must have a plan for the complete evacuation of all children including the handicapped in case of fire or other disaster. The plan must include provisions for accountability for each child until released to an appropriate authority. The plan must be written and posted. Staff must be aware of the plan, and the staff must hold evacuation drills at least once every month.

(b) Provision must be made in all pre-elementary school facilities for emergency electrical lighting by generator or battery power for use in case of power failure.

$$$

(c) Pre-elementary school facilities shall have a telephone or radio-phone if that service is locally available. Emergency telephone numbers must include fire, police, physician, poison control, and must be conspicuously posted on or adjacent to the telephone.

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(d) In all pre-elementary school facilities, first aid supplies appropriate to the size of the facility must be maintained and readily available for use at all times.

(e) A facility must have at least one staff member with a current first aid certificate on duty at all times unless first aid courses are not regularly available in the community in which the facility is located. If courses are not regularly available, the pre-elementary school must enroll one or more employees in the first available first aid course offered in the community to meet this requirement.

(f) A staff member, who, in the performance of duties, has cause to believe that a child has suffered harm as a result of abuse or neglect shall immediately report the harm to the nearest office of the Department of Health and Social Services. If the staff cannot reasonably contact the nearest office of the Division of Family and Youth Services of the Department of Health and Social Services, and immediate action is necessary for the well-being of the child, the administrator shall make the report to a peace officer.

(g) A pre-elementary school must have a written emergency back-up staffing plan for periods when only one staff member is on duty.

(h) When a child is left in the pre-elementary school after the closing of the program without contacting the staff, or making alternative arrangements for the care of the child, the administrator s[redacted] the nearest office of [redacted] Department of Health and Social Services. (Eff. / / , Reg.)

Changed for the better

Authority: AS 14.07.020
AS 47.17.

4 AAC 60.080. INSURANCE. Repealed.

4 AAC 60.089. ADMINISTRATOR QUALIFICATIONS. (a) The administrator of a pre-elementary school is responsible for the screening, scheduling and supervising of all staff, volunteers and others who provide services in the pre-elementary school, and for designating a staff member to be in charge of the facility in the administrator's absence.

(b) The administrator of a pre-elementary school must be at least 19 years of age.

(c) The administrator shall furnish the names, addresses, and telephone numbers of three persons unrelated to the administrator, who could provide character references to the department with the certificate application; the references, one of which must be from a supervisor in previous work experience, shall attest to the character and reputation of the administrator and to the management and interpersonal skills which enable the administrator to work successfully with children, staff, and parents.

???

(d) An individual may not be the administrator of a pre-elementary school if the individual is under indictment or has been convicted of a felony or has had a child adjudicated as a child in need of aid within the last five years. The department will require a release to review law enforcement records for each administrator. In this subsection, "child in need of aid" means a child who has been adjudicated a dependent child under AS 47.10.010 or under a similar statute in another state or jurisdiction.

(e) The administrator must also meet the staff qualifications in 4 AAC 60.099. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.090. RECORDS. Repealed.

4 AAC 60.099. STAFF QUALIFICATIONS. (a) A staff member shall possess tuberculin clearance before contact with children in a facility.

(b) A staff member, excluding parent classroom volunteers, must furnish the names, addresses, and telephone numbers of three positive references unrelated to the staff member, who will attest to the ability of the applicant to meet the qualifications of this section.

(c) A staff member must have reached the age of 18 to be counted toward meeting the staff-to-child ratio requirements. However, persons aged 14 and older may be employed as staff members and counted toward staff-to-child ratio requirements if he or she:

(1) works under the close supervision of an adult staff member;

(2) constitute no more than one third of the total staff; and

(3) is not placed in sole charge of a group of children in a classroom;

(4) is enrolled in or has completed a training program in early childhood education or another related field, or have demonstrated competence to an administrator.

(d) A staff member must be able to

(1) provide children with a variety of learning and social experiences appropriate to their ages;

(2) recognize and act against hazards to health and physical safety.

(e) The administrator shall provide an orientation for a new employee within the first month of employment, including:

(1) administrative procedures, program goals and objectives and description of state regulations;

(2) specific written personnel policies including written job responsibilities;

(3) crisis management, duties to be carried out in an emergency, and emergency and safety procedures;

(4) acceptable behavior management techniques, outlined in the pre-elementary school's discipline policy;

appropriate resources to carry out the assigned responsibi.. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.100. PHYSICAL EXAMINATIONS FOR CHILDREN. Repealed.

4 AAC 60.110. Repealed.

4 AAC 60.115. is amended to read STAFF. (a) A facility must have sufficient personnel to ensure that the children are never left without supervision by a responsible staff member.

(1) there must be one staff member for every ten children between three and five years of age;

Montessori is presently 1 to 20

(2) there must be one staff member for every fifteen children between five and six years of age;

(b) In a facility where there are more than ten children present, there must be a minimum of two staff members on the premises.

(c) In a pre-elementary school, only a staff member who spends at least 75 percent of his or her working time in direct contact with children will be counted in meeting staff-to-child ratios. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.119. ENVIRONMENT REQUIREMENTS. (a) A pre-elementary school facility must have sufficient indoor and outdoor space in relation to the number and ages of children to accommodate the physical safety and the developmental needs of children served. Satisfactory compliance with this subsection requires that:

(1) there be a minimum of 35 square feet of indoor space per child capacity used for the care of children, exclusive of hallways, bathrooms, lockers, closets, laundry and furnace rooms, and the kitchen;

(2) there be at least 75 square feet per child of outdoor play space for the maximum number of children on the playground at any one time. Where outdoor play space is not available at the facility, parks or other outdoor facilities that are easily accessible may be used.

(b) A pre-elementary school must have appropriate storage and work space for children and staff, convenient to the areas of use, to accommodate the following functions:

(1) record storage and administrative functions;

(2) food preparation and serving, if applicable;

(3) meeting space for staff;

(4) storage of program materials and resources for staff and parents;

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(5) storage of repair and maintenance supplies.
(Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.120. RECOGNITION OF SPECIAL NEEDS. Repealed.

4 AAC 60.129. FIRE SAFETY. (a) The building housing a pre-elementary school must meet the standards for buildings and life safety contained in 13 AAC 50.010 - 13 AAC 50.030 and 13 AAC 55.010-13 AAC 55.150. Copies of documents indicating satisfactory compliance with standards must be filed with the department before the issuance of a certificate.

(b) When the department receives a certification application from a pre-elementary school and when any new construction or remodeling is completed, a fire inspection of the premises must be made by the fire marshal or his or her local designee to determine conformity with existing safety standards. Subsequent annual fire inspections may be required by the department. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.130. DISASTER PLAN. Repealed.

4 AAC 60.139. SANITATION AND ENVIRONMENTAL PROTECTION. (a) Pre-elementary school facilities must meet applicable standards for sanitation and environmental protection set out in 18 AAC 30.800 - 18 AAC 30.890.

(b) When the department receives a certification application from a pre-elementary school or when any new construction or remodeling is completed, an environmental health inspection by the Department of Environmental Conservation or its local designee to determine conformity with existing standards must be made. Copies of documents indicating satisfactory compliance with standards must be filed with the department before the issuance of a certificate. Subsequent annual inspections shall be required by the department. (Eff. / / , Reg.)

Duplicates local inspections

Authority: AS 14.07.020

4 AAC 60.140. FACILITY INSPECTIONS. Repealed.

4 AAC 60.149. HEALTH PROGRAM. (a) Pre-elementary school staff shall not administer medicines or drugs to a child except with written permission of the child's parent and physician or other medical authority. In the case of prescription medicine, a prescription label with the medical authority's name, the child's name, and a recent date may be accepted as showing that the drug may be administered to the child. Medicines or drugs kept at the pre-elementary school for a child must be clearly marked with the child's name and the dosage, and must be inaccessible to children.

(b) A pre-elementary school must provide a place where a tired, ill, injured, or upset child may rest or play quietly, apart from other children, yet under adult observation. Ill children need not be sent home as a routine policy, but may be cared for at the pre-elementary school at the administrator's discretion and with the concurrence of the parents.

(c) If a child appears to be more than moderately ill or a communicable disease other than a cold is indicated, the child must not be allowed to expose other children to the illness and must be isolated in a separate room under adult observation until appropriate arrangements are made. Staff members shall inform parents when their children have been exposed to illness or communicable disease.

(d) Children under age six, who attend a pre-elementary school for periods longer than four hours must have a time and place to lie down and sleep, or rest quietly. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.150. CHANGES IN MAJOR WRITTEN POLICIES, PLANS, PROGRAMS. Repealed.

4 AAC 60.159. IMMUNIZATIONS REQUIRED. (a) The administrator of a pre-elementary school shall maintain evidence of current immunization, or the exemption permitted by subsection (b)(1), for each child in attendance. This evidence must be obtained from the child's parent or guardian upon admission, and show that the child has received or has begun and is continuing to receive immunizations appropriate to age as prescribed in the Alaska Division of Public Health's schedule for active immunization or that the child is exempt from immunization under (b) of this section. Satisfactory compliance requires that each child's health record contain evidence of immunization or evidence of exemption. Evidence of immunization must include

(1) the name of the health service provider, and the date of immunization against diphtheria, tetanus, polio, measles, rubella, and, if the child is less than six years of age, pertussis; and

(2) valid immunization certificates, which are limited to

(A) an international immunization certificate; or

(B) a statement by a physician listing the date each required immunization was given; or

(C) a copy of a clinic or health center record listing the date each required immunization was given.

(b) Evidence of exemption of immunization must include

(1) a signed affidavit by a doctor (M.D.) or osteopathy (P.O.) licensed in Alaska, attesting that immunizations would, in his or her professional opinion, be injurious to the health of the child or members of the child's family or household; or

(c) A pre-elementary school in a community where regular medical services are not available on at least a weekly basis may provisionally admit a child who does not have the required immunizations for a reasonable period of time , but for no longer than 90 days. Provisional admissions must be reported to the communicable disease control section of the Division of Public Health of the Department of Health and Social Services, which shall then determine that the required immunizations are completed during the provisional period if the child is to be admitted for full time attendance.

(d) A pre-elementary schools may not admit a child who does not comply with the requirements of this section. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.160. NONDISCRIMINATION. Repealed.

4 AAC 60.169. NUTRITION. (a) To ensure adequate nutrition and promote good eating habits and attitudes, a pre-elementary school must ensure that

(1) at least one nutritious meal is offered to each child in the program for five hours per day or more; meals may be provide by the program or the parents or guardians;

(2) a snack is offered between breakfast and lunch and between lunch and dinner;

(3) with all snacks and meals offered, the National Academy of Science's Recommended Dietary Allowances, 9th Ed. 1980*, is met.

(b) Vitamins and mineral supplements may be provided to a child only with written parental permission, and only in dosage indicated by.

(c) Children may be encouraged but may not be forced to eat. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.170. is amended to read PROGRAMMATIC REQUIREMENTS OF THE PRE- ELEMENTARY SCHOOLS. (a)The educational program conducted in a pre-elementary school must provide pre-planned experiences which promote the individual child's physical, emotional, social and intellectual growth. Satisfactory compliance of this section requires that:

Who says what is satisfactory: the school?, the child?, the Department?

(1) staff members generally follow a written schedule of daily activities based on program's philosophy, goals and objectives. The program must provide a balance of quiet and active, group and individual, indoor and outdoor, teacher-directed, and child-initiated activities, as well as adequate time for meals, snacks, sleep, and toileting according to individual needs, as appropriate. The daily schedule must include:

(A) opportunities for individual self-expression in conversation, imaginative play, art, and creative expression;

(B) vigorous physical activities and gross motor activities, both indoors and outdoors, weather permitting.

*EDITOR'S NOTE: This document is available from book stores or the division of family and youth services, Department of Health and Social Services.

2C

(C) opportunities for intellectual and social development through use of a variety of books, games, toys, crafts, puzzles, blocks, and other activities and materials.

(2) the amount and variety of materials and equipment available, and its arrangements and use, must be appropriate to the developmental needs of the children and

(A) the quantity of materials and equipment is sufficient to avoid excessive competition and long waits by children;

(B) individual storage areas must be accessible to each child for storage of his own belongings;

(C) furniture and equipment must be durable and safe and developmentally appropriate;

(3) staff members may not use any form of corporal punishment unless approved in writing by the parent or guardian of the child and they may not use any other technique which is humiliating, cruel, shaming, or otherwise damaging to the child. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.175. is amended to read TRANSPORTATION. (a) A pre-elementary school must provide means for transporting children in case of emergency.

(b) A vehicle used in transporting children must be licensed in accordance with state law.

(c) A staff member of the pre-elementary school or other person acting on behalf of the program operating a vehicle for the purpose of transporting children shall be properly licensed to operate that class of vehicle according to state law.

(d) A pre-elementary school must ensure that there is prudent supervision in a vehicle used by the program to transport children, including but not limited to, use of seat belts, and prohibit riding in the back of open pickup trucks and other similar open vehicles. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.180. DEFINITIONS. Repealed.

4 AAC 60.191. EXCEPTIONAL CHILDREN. In accordance with AS 14.30.180-350, pre-elementary schools shall cooperate with school districts in identifying exceptional children between the ages of three and five. (Eff. / / , Reg.)

Authority: AS 14.07.020

4 AAC 60.199. DEFINITIONS. In AAC 60.009 - AAC 60.191, unless the context requires otherwise

(1) "administrator" means the person 19 years of age or older, delegated the responsibility for the daily management of the pre-elementary school;

(2) "board" means the governing body of the program;

(3) "certificate" means a certificate of approval issued to the pre-elementary school from the Department of Education;

(4) "certification representative" means a representative employee of the Department of Education given the responsibility to conduct reviews and on-site inspections of pre-elementary schools to determine compliance with this chapter;

(5) "commissioner" means the Commissioner of Education;

(6) "department" means the Department of Education;

(7) "division director" means the director of the Division of Educational Program Support;

(8) "exceptional children" means children who are handicapped or gifted;

(9) "facility" means the administration, program and physical plant of a program calling itself a pre-elementary school.

(10) "gifted" means exhibiting outstanding intellect, ability or creative talent within the meanding of 4 AAC 52.130;

(11) "guardian" means an individual who is appointed by a court to manage the affairs of another person;

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

October 19, 1983

The Honorable Rae Tischer, Chair
Health, Education and Social
Services Committee
500 "L" Street, Suite 310-G
Anchorage, AK 99501

Dear Rae:

Thank you for your various communications on matters related to preschool regulations. In our conversations nearly two months ago, I recall saying that the Department of Education (DOE) would not propose regulations for action by the State Board but that we would proceed with the process and wait for action to clarify the laws and the intent of the Legislature during the forthcoming session. We proceeded on that basis and requested further public comment. We have certainly had that.

The important responsibility for the Legislature in the matter is a clear determination of a public policy for preschool programs, public and private. I know you understand that the Department of Education and the State Board have no interest in developing regulations unless there is a legal basis for such regulations contained in the statutes.

Ernestine Griffin, President of the State Board, and the Department are ready to work with the Legislature at your forthcoming session to define the State responsibility for public and private preschool programs. If your committee has direction or data for us to prepare, we are ready to go to work. There is important work to be done to resolve these matters.

I regret that I was unable to reach you even from Chena Hot Springs by radio telephone. Your staff members were most helpful in our efforts to communicate.

Sincerely,

Harold Reynolds, Jr.
Commissioner

cc: Ernestine Griffin, State Board President
Members of the State Board
Richard Luthar
Annie Calkins

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

Alaska State Legislature

House

JUNEAU ALASKA

October 21, 1983

FOR IMMEDIATE RELEASE
Contact: Rep. Mae Tischer
277-2486

ANCHORAGE - A public hearing scheduled for October 24 concerning proposed regulations of pre-school education was postponed indefinitely by Rep. Mae Tischer.

Tischer, chairman of the House Health, Education, and Social Service Committee, said she is postponing the meeting because the proposed regulations have been "pulled back" by Harold Raynolds, commissioner of the Department of Education.

Tischer said she has been assured that Raynolds will not present the proposed regulations to the state education commission at its upcoming meeting in Anchorage on October 31 and November 1.

But Tischer stressed, "I'm not cancelling the hearings, just postponing them. The commissioner has decided to pull back these regulations, but I don't know for how long."

The Anchorage Republican credited a large public outcry against the regulations for helping force Raynolds to reconsider his stance on the regulations.

"The public outcry against the regulations has been overwhelming," Tischer said. "I've been told that the governor, commissioner Raynolds, and the state board of education have received over 5,000 letters of protest. And I don't know how many telephone calls they've received.

"It seems very clear to me that the people have spoken," Tischer added.

More than 700 people attended a committee meeting in Anchorage on October, with most of those protesting against the proposed regulations.

However, Tischer spoke with Gov. Sheffield on Friday, October 21, and was told that the governor was also concerned about the proposed regulations.

"The governor said that sometimes in the bowels of government this happens," Tischer said.

Tischer said she and Sen. Jan Faiks, R-Anchorage, are scheduled to meet with Sheffield within the next week in an attempt to permanently resolve the problem.

Last session, House Bill 357 was overwhelmingly approved by both the House and Senate, but was then vetoed by Sheffield. House Bill 357 would have allowed the Department of Education to have sole authority to supervise pre-elementary schools, but would have prohibited the state licensing and supervis;ion over the educational component of religious pre-schools that are non-profit and do not receive state or federal funding.

After the veto, Commissioner Raynolds proposed additional regulations for religious pre-schools.

"The public is now calling for a veto override," Tischer said. "The House passed it by a 28-9 vote and the Senate voted 18-2 in favor of the legislation. It was a very non-partisan issue.

"Yet, Raynolds says he now wants to wait for a message next session to see how the legislature deals with this issue. That's what the department of education told us last session. These response to that was passage of House Bill 357.

"What type of response does he want, a 20-0 and 40-0 vote? I think the legislature - and the pub'ic - have made their feelings very clear."

# # # # #

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

GOLDBELT PLACE
801 WEST 10th STREET
POUCH F
JUNEAU, ALASKA 99811

October 12, 1983

The Honorable Joe L. Hayes
Speaker of the House
1024 West 6th, Room 201 C/E
Anchorage, Alaska 99501

Dear Mr. Speaker:

Thank you for your letter inquiring about the promulgation of regulations for preschools. The questions concerning preschool regulations arise because of the veto of House Bill 357 by Governor Sheffield. The matter of legislative action and intent will remain unclear until a resolution of the issues can be worked out during the next legislative session.

Ernestine Griffin, President of the State Board of Education, and members of the Board plan to work closely with the Legislature and the Department of Education to clarify the intent of the Legislature and the Governor on matters related to preschools, both public and private.

No regulations concerning preschools will be enacted until statutes and legislative intent are clarified. You may be sure that ample opportunities will be provided for public input, if and when preschool regulations are developed pursuant to statutes.

Sincerely,

Ron Raynolds

Harold Raynolds, Jr.
Commissioner

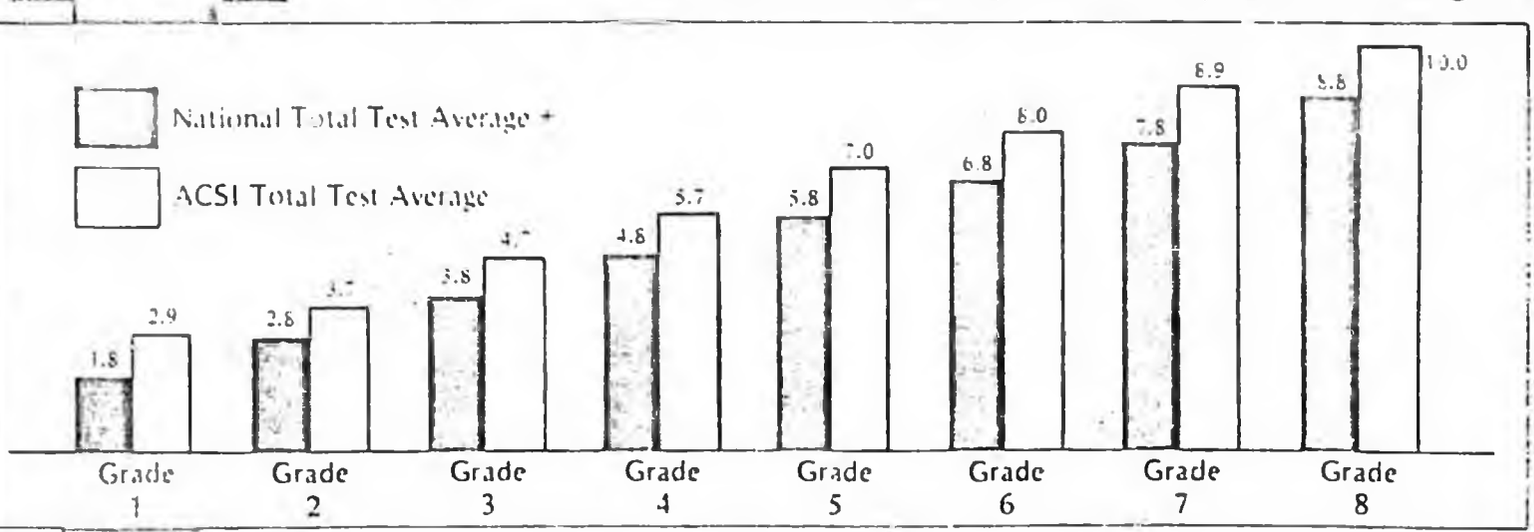
cc: Ernestine Griffin
State Board Members
Richard Luther
Annie Calkins
Steve Hole
Alison Elgee

05-E1LH

ACSI students score higher than the National Average!

1981-82 School Year

Year after year testing shows that ACSI students score higher than the National Average at every grade taught.



1st graders are 11 months *above* the National Average

2nd graders are 9 months *above* the National Average

3rd graders are 9 months *above* the National Average

4th graders are 9 months *above* the National Average

5th graders are 12 months *above* the National Average

6th graders are 12 months *above* the National Average

7th graders are 11 months *above* the National Average

8th graders are 12 months *above* the National Average

ACSI students are compared to some 225,000 students that were carefully selected to represent average students across the United States (1973). The figures represent the average (median) of all tests at each grade level. The test used was the 1973 Stanford Achievement Test, Form A.

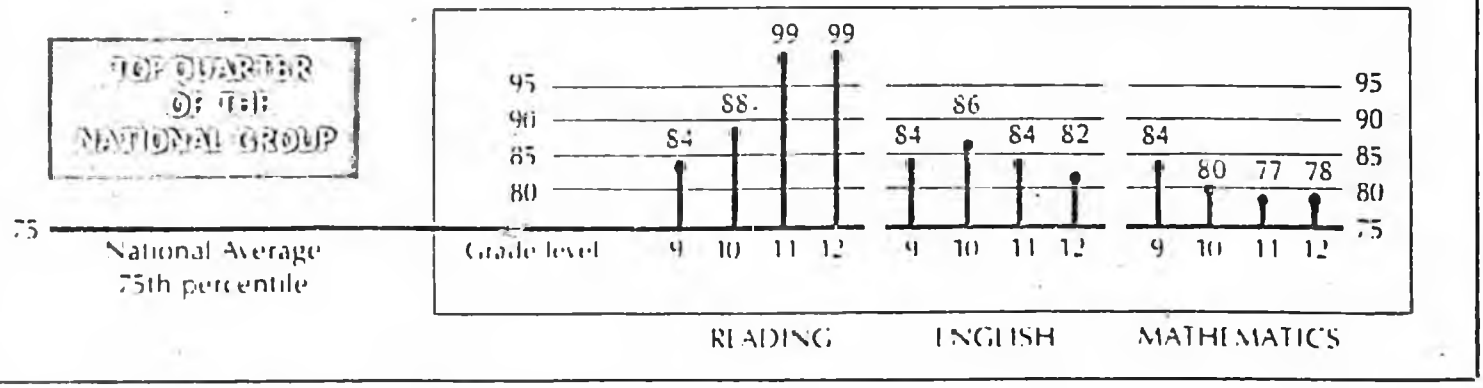
\+ TOTAL TEST INCLUDES:

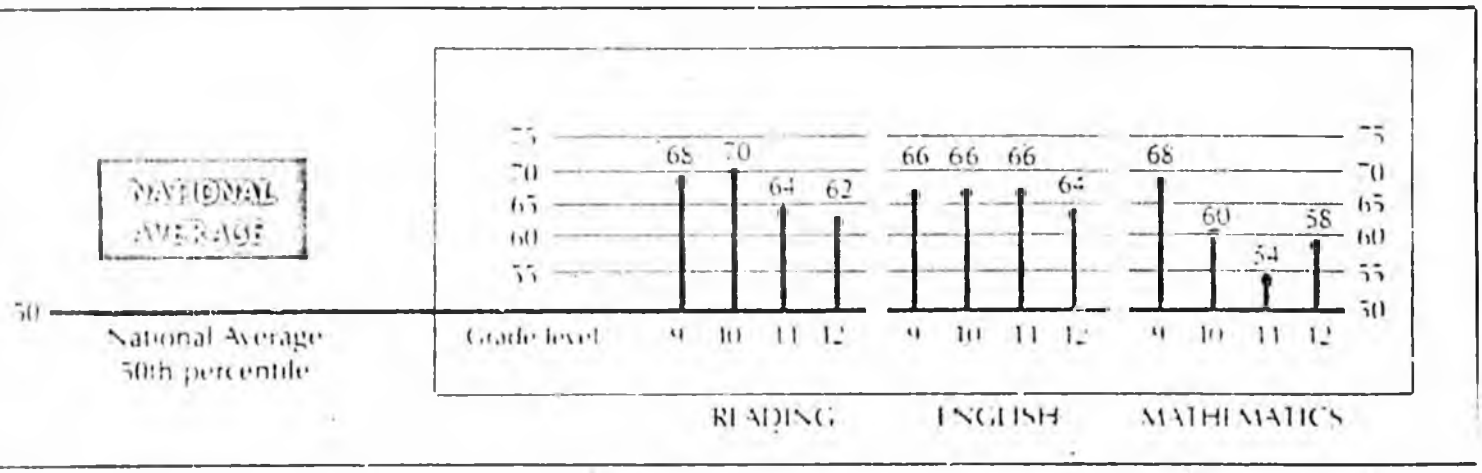
vocabulary	math	social science
reading	spelling	science
word study skills	language	listening

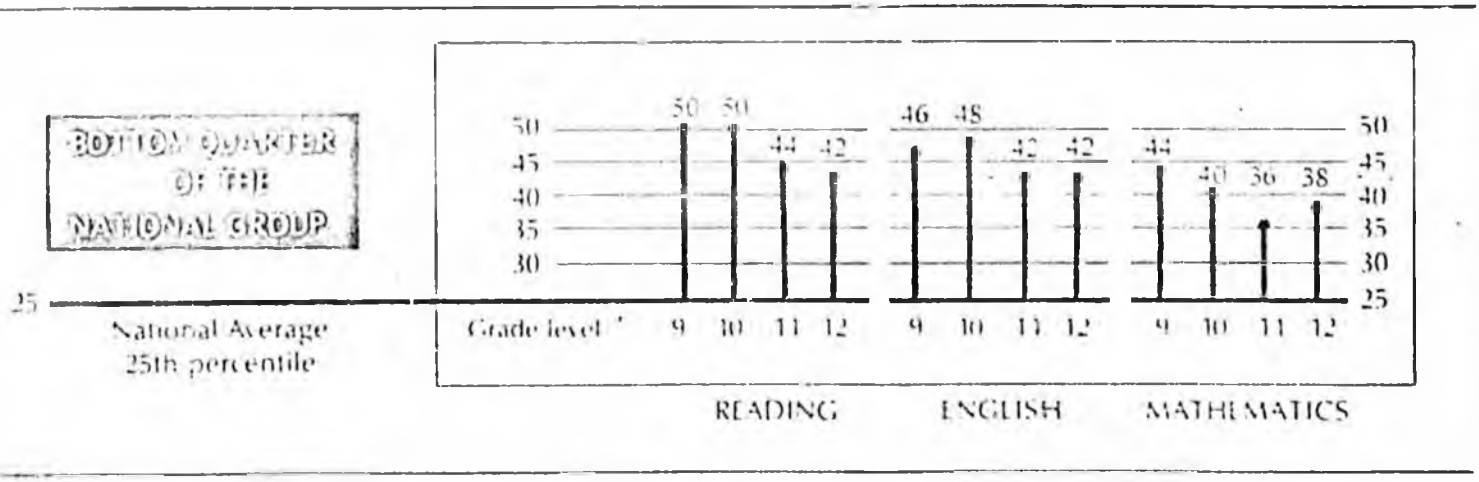
What about ACSI HIGH SCHOOL students? 1981-82 School Year

How do they compare?

ACSI PERCENTILE RANKS *







* This indicates the relative standing of ACSI students in comparison with students of the same grade status in the National Norm Group. For example, a score of 70 means the ACSI students equaled or exceeded 70% of the National Group that took the test.

Scores are based on the 1977 Stanford Test of Academic Skills, Level H, Form A

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: May 13, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

HB 357 An act relating to the regulation of religious schools. STATEWIDE TELECONFERENCE

Other notes or reminders:

FULL CALENDAR NEXT WEEK

HB 357/SB 261: Legislation relating to the regulation of private, non-profit, religious schools which are exempt from federal tax and do not receive state or federal funding.

Sec. 1: Such schools will self-regulate the educational component (curriculum, text books, class schedules, kinds of toys, quantities of materials etc.) of their pre-elementary programs.

Sec. 2: Legislation relating to such schools is deleted from present statutes and reintroduced under new statutes.

Sec. 3: A policy statement declaring the right to freedom of religion guaranteed by the constitution of the United States and the state of Alaska.

Sec. 4: Repealing the statute which authorizes the state to grant diplomas to 8th grade graduates.

Sec. 5: Such schools will, at least once a year, submit to a nationally standardized test for students attending grades one, three, six and nine.

Sec. 6: Such schools will make available regular monthly attendance reports and annual reports. Such schools will operate on a regular schedule at least nine calendar months of the year.

Sec. 7: Such schools who comply with this chapter are not subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, immunization and physical exams.

Sec. 8: Such schools will administer their own program of education at the elementary, secondary and adult levels.

NOTE: Statues governing health requirements are not affected in this bill. (See attached copy).

Article 2. Physical Examinations.

Section
60. Repealed
65. Supervision
70. Physical examination required
80. Repealed
110. Repealed
120. Certificate of physical examination
125. Immunization
130. Repealed
170. Repealed

Sec. 14.30.060. Repealed. (Sec. 59 ch 98 SLA 1966)

Sec. 14.30.065. Supervision. The program of physical examination and immunizations prescribed by sections 65—125 of this chapter shall be under the general supervision and in accordance with regulations of the Department of Health and Social Services. (Sec. 42 ch 98 SLA 1966; am Sec. 1 ch 131 SLA 1957; am Sec. 6 ch 104 SLA 1971)

Sec. 14.30.070. Physical examination required. (a) The governing body of each school district shall provide for and require a physical examination of every child attending school in the district. The examination shall be made when the child enters school or, in areas where no physician resides, as soon thereafter as is practicable, and thereafter at regular intervals considered advisable by the governing body of the district.

(b) The Department of Health and Social Services may require the district to conduct additional physical examinations which it considers necessary, and may reimburse the district for the additional examinations on the basis and to the extent the commissioner of health and social services prescribes by regulation.

(c) Examinations shall be made by a competent physician, except that if the services of a physician cannot be obtained or if authorized by the commissioner of health and social services examinations may be made by a nurse. (Sec. 37-7-11 ACLA 1949; am Sec. 10 ch 118 SLA 1949; am Sec. 1 ch 72 SLA 1953; am Sec. 43 ch 98 SLA 1966; am Sec. 6 ch 104 SLA 1971)

Sec. 14.30.080 — Sec. 14.30.110. Repealed. (Sec. 59 ch 98 SLA 1966)

Sec. 14.30.120. Certificate of physical examination. The school board, when physical examinations are made, shall deliver to the parent, guardian, or other person having the responsibility for or control of the child a report signed by the physician or nurse making the examination, specifying the findings with respect to the health and physical well-being of the child. (Sec. 37-7-13 ACLA 1949; am Sec. 12 ch 118 SLA 1949; am Sec. 44 ch 98 SLA 1966)

Sec. 14.30.125. Immunization. If in the judgment of the commissioner of health and social services it is necessary for the welfare of the children or the general public in an area, the governing body of the school district shall require the children attending school in that area to be immunized against the diseases the commissioner of health and social services may specify. (Sec. 45 ch 98 SLA 1966; am Sec. 2 ch 131 SLA 1957; am Sec. 6 ch 104 SLA 1971)

Sec. 14.30.130—14.30.170. Repealed. (Sec. 59 ch 98 SLA 1966)

CHRISTIAN SCHOOL COMMUNICATOR

Vol. 3 The Christian School and the Home — Partners In Education! No. 8

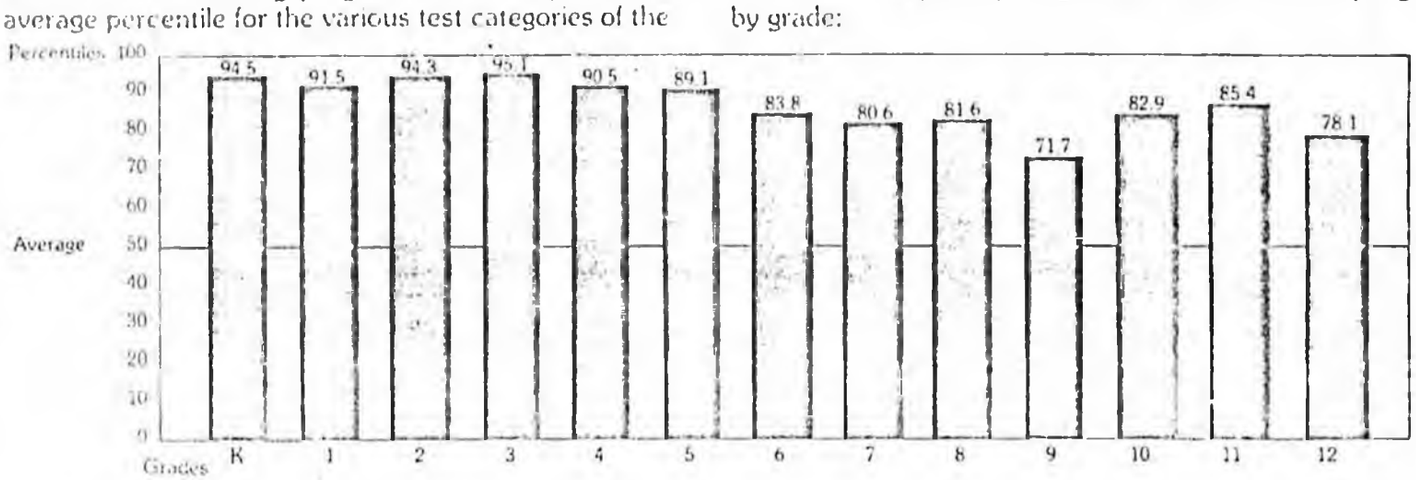
AACS NATIONWIDE STUDENT ACHIEVEMENT TESTING PROGRAM

By Dr. Bruce Jackson, Educational Director
American Association of Christian Schools

What can be said about the academic achievement of Christian schools? Are students learning anything besides Bible? How do Christian schools compare with other schools across the country?

Perhaps the new testing program of the American Association of Christian Schools will help to answer some of these questions. AACS has been working with the publisher of the Stanford Achievement Tests and the Otis-Lennon School Ability Test (I.Q. Test) to develop a testing program for AACS member schools. Besides the national norms that are typically given on scoring sheets, the Christian school also receives a set of scores that reflect the norms of AACS schools only. These additional scores allow a school the opportunity to observe how the academic achievement of its students compares to the achievement of all of the students in schools involved in the testing program. For example, if the average percentile for the various test categories of the fourth grade of a particular school were the 60th percentile, that school would know that its four grade program was above average as compared to the other Christian schools. A score at the 60th percentile simply means that 60% of the students' scores ranked below that point and 40% ranked above. A program that was average compared to the other Christian schools would receive a score of approximately the 50th percentile.

The first AACS testing was scheduled for this past November (1982). Schools received scores as described above which allowed that school to compare the achievement of its students with those in other Christian schools. In addition, each school also received scores based upon national norms which included public, private, and parochial schools across the country. The following chart illustrates the average achievement of AACS schools participating in this initial test sampling by grade:



Looking over the chart, one can see that the Christian schools demonstrated outstanding achievement as compared to national norms. Ninth-graders had the lowest average of all the grades, yet that was almost 22 points above the national average (50th percentile).

Some cautions need to be noted with regard to the use of these scores. These scores indicate the achievement of those schools involved in the November testing and thus, are not necessarily representative of all Christian schools. An individual school should advertise its own scores rather than the averages of Christian schools in general.

Why do Christian schools do so well? There are several reasons why Christian schools are able to demonstrate such superior achievement:

1. The student learns in a disciplined environment where the teacher maintains firm, but loving control over the classroom. Students are taught how to properly develop self-government so that they are able to recognize and fulfill their God-given responsibilities.
2. A Christian philosophy of education demands an emphasis on the basics. Thus, the curriculum is designed so as to offer such basic instruction as phonetic instruction in reading beginning in Kindergarten. Much time is spent on basic reading and arithmetic skills in the lower grades.
3. The Christian teacher is definitely a key to the success of the Christian school. A Christian school teacher is one who has been led by the Lord into the ministry of Christian schools. The teacher is not looking for personal gain, but rather for an opportunity to give of oneself.
4. Parents of Christian school students tend to be vitally concerned about their children's education. Part of their parental responsibility to their children is to spend time at home reinforcing the work of the school.

Thus, one who thoroughly understands the Christian school movement is not surprised at such achievement. Parents and schools should properly use the testing results so as to continually improve the achievement of students. After all, it is part of one's Christian testimony to always do one's best.

Additional copies can be obtained from:

SB 261 AND HB 357

Summary of the Legislation

SB 261 and HB 357 deal exclusively with private church schools and schools operated by religious organizations and, as amended, are modeled after the legislation adopted by North Carolina in 1979 and by West Virginia in 1982 to remedy church-state constitutional conflicts. These laws, if enacted by the Legislature, would establish requirements that must be met by private religious schools in order for parents whose children attend them to satisfy the compulsory education law. They would also exempt pre-elementary and nursery programs operated by religious organizations from the supervision of the Departments of Education and of Health and Social Services. The purpose of these bills is to remedy existing church-state constitutional conflicts by protecting the guaranteed religious freedom of church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education.

This legislation only covers schools, pre-elementary programs or nursery programs operated by a church or other nonprofit religious organization exempt from federal taxation and not receiving state or federal funding. These are constitutionally protected groups and activities.

More specifically, church schools (or denominational schools as defined in the proposed legislation) would be required to maintain attendance and immunization records. Since current compulsory education laws make parents liable for their children's failure to attend school, these bills, as amended, would require the parents to file statements with the public school authorities to establish their children's attendance at a church sponsored private school. By placing the requirement on the parent, the bills avoid the constitutional problems created by the state's excessive entanglement in religious activities. The school would also be required to operate on a regular schedule, at least nine calendar months per year, and to be subject to reasonable fire, health, and safety regulations.

To ensure that children attain certain minimum standards, each religious school would be required to administer a nationally standardized test to students in the first, third, sixth and ninth grades and to make the school results available for the Department of Education. This would satisfy the state's interest in compulsory education and still avoid the constitutional problem of excessive state entanglement in religion.

Any church school that satisfied all the requirements of AS 14.45 would be exempt from any additional provision of law relating to education except those requirements of law relating to fire, health, and safety.

Constitutional Requirements

The changes set out in SB 261 and HB 357, as amended, are required to correct existing Alaskan laws which run afoul of the constitutional mandate requiring the states to avoid excessive entanglement in religious activities. The state's right to impose minimum requirements on private religious schools is very limited, because these religious activities are protected by the First Amendment of the United States Constitution and its identical counterpart in the Alaska Constitution, Art. I, sec. 4.[1]

Schools operated by churches or by nonprofit religious organizations are quite different from other private schools. They enjoy a constitutionally protected status.

> "Church operated schools are generally integral parts of their sponsoring churches. Their superintendents are generally pastors or assistant pastors of the sponsoring churches; their teachers are generally members; and their doctrinal stances are generally set by the sponsoring churches."[2]

Federal and state courts recognize that operating a church school is an integral part of the free exercise of religion.[3] For many churches, it is in fact the ministry of the church. Because church operated schools clearly come within the First Amendment free-exercise clause, their activities are constitutionally

[1] E.g., Kentucky State Bd. for Elem. & Secondary Education v. Rudasill, 589 S.W.2d 877 (Ky. 1979), cert. den., 446 U.S. 938 (1980); Wisconsin v. Yoder, 406 U.S. 205 (1972); Lemon v. Kurtzman, 403 U.S. 602 (1970); Pierce v. Society of Sisters, 268 U.S. 510 (1925).

[2] "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405, 431-32 (1980).

[3] See, e.g., NLRB v. Catholic Bishop, 99 S. Ct. 1313 (1979) (Catholic parochial schools are founded for religious reasons and religious doctrine is pervasive); Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979) (private Catholic schools are an integral part of the Catholic Church and as such "involve substantial religious activity and purpose"); Hunt v. McNair, 413 U.S. 734, 743 (1973) ("[R]eligion is so pervasive that a substantial portion of [religious school] functions are subsumed in the religious mission."); Lemon v. Kurtzman, 403 U.S. 602, 616 (1971) ("[T]he parochial schools constituted 'an integral part of the religious mission of the Catholic Church'. . . In short, parochial schools involve substantial religious activity and purpose.").

protected as fundamental rights.[4]

In the area of First Amendment individual liberties, any state legislation that burdens parents', childrens', or a church's free exercise of religious beliefs is unconstitutional unless, the state can demonstrate "a compelling state interest in the regulation of a subject within the state's constitutional power to regulate." Sherbert v. Verner, 374 U.S. 398, 403 (1963).

To establish the existance of a compelling state interest, it is not enough for the state to merely show that a rational relationship exists between a colorable state interest and the proposed regulation. According to Sherbert, "[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation."

More importantly, the state must demonstrate that it is using the least burdensome method for addressing the compelling state interest. The current law violates this mandate, because the legislative goals can be achieved with less burdensome methods. SB 261 and HB 357, as amended, use North Carolina and West Virginia laws as models and are less burdensome while still accomplishing legislative goals.

Eventhough SB 261 and HB 357, as amended, would create two classes of private schools and treat them differently, these bills would not violate the Equal Protection clause of the Fourteenth Amendment. According to established legal principles[5], the equal protection guarantee of the Fourteenth Amendment does not take from the state legislatures all power to classify persons or objects. The state may classify persons for the purpose of legislation. Classification is an inherent right and power of the legislature.

The important issue for these proposed bills is whether the distinction between private schools operated for profit and private schools operated by churches is based on a real and substantial difference between the two classes. Clearly, there is a substantial difference. The decision of the legislature to recognize its limited ability to regulate church schools is based on a constitutional distinction between the two classes. Church schools are in a protected class, enjoying the protection of the First Amendment. Private schools are not.[6]

[4] Ibid.

[5] 16A Am Jur 2d, Constitutional Law, §746, et. seq.

[6] In addition, it must noted that the motivations for operating a private school for profit and a school operated by a church are entirely different.

In the area of religious freedom and expression, the Constitution demands neutrality. The government cannot demonstrate a hostility toward religion or religious activity. The mere fact that the government specifically exempts religious groups from complying with certain laws does not violate the Constitution. For example, federal law clearly creates two classes when it exempts the property and income of religious organizations from federal taxation. These two classes parallel the two classes which would be created by SB 261 and HB 357, as amended. The Supreme Court held this was proper legislation in Walz v. Tax Commission, 397 U.S. 664,669 (1970). The Supreme Court found that neither the purpose nor the effect of such exemption was to advance or inhibit religion. It was "benevolently neutral."

The distinction between private schools operated for profit and those operated by churches is real and parallels distinctions created by the federal tax laws. Therefore, there is no violation of equal protection guarantees.

In summary, the present law violates both the United States Constitution and the Alaska Constitution. SB 261 and HB 357, as amended, balance the state's interest in ensuring that each child receives a good education with the fundamental right to religious freedom and should be adopted.

HB 357

* Section 1. AS 14.07.020 (8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080 (4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Section 2. AS 14.30.010 (b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests; the department with assistance from representatives of the private schools shall promulgate regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding and provided that the church or other nonprofit religious organization elects to comply with the provisions of AS 14.45;

* Section 3. AS 14.45.015 is added to read:

Sec. 14.45.015. POLICY. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and of Alaska, it is the public policy of the State in the matters of education by religious organizations that the state shall not control or interfere with the rights of conscience or with religious liberty. The State further finds that there is no compelling reason to interfere with this fundamental right.

* Section 4. AS 14.45.020 is repealed.

* Section 5. AS 14.45.025 is added to read:

AS 14.45.025. STANDARDIZED TESTING REQUIREMENTS. Each school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with this chapter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after testing, all records shall be made available to the parents at the principal's office, and the school composite test results shall be made available at all reasonble times for annual inspection by a duly authorized representative of the State of Alaska.

* Section 6. AS 14.45.030. is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Teachers and others in charge of private [OR DENOMINATIONAL] schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with AS 14.45 shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

(b) The enrollment and attendance of a child in a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding shall be filed with the local public school superintendent by the parent, guardian or other person in charge or control of the child on a form provided by the superintendent which shall be countersigned by the administrator of the church school and returned to the public school superintendent by the parent. Should said child cease attendance at a church school, the parent, guardian, or other person in charge or control of the child shall by prior consent at the time of enrollment direct the church school to notify the local public school superintendent that said child no longer is in attendance at a church school.

(c) Each school operated by a church or other nonprofit religious organization exempt from federal taxation and which does not receive state or federal funding shall make and maintain monthly attendence records for each student enrolled and regularly attending classes. Such school shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year.

* Section 7. AS 14.45.035 is added to read:

AS 14.45.035. REQUIREMENTS EXCLUSIVE. No school operated by any church or other nonprofit religious organization exempt from federal taxation which does not receive state or federal funding and which has complied with this chapter shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, physical examination and immunization.

* Section 8. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondance courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding and if that school has elected to comply with the requirements of AS 14.45;

* Section 1. AS 14.07.020 (8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080 (4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

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(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests; the department with assistance from representatives of the private schools shall promulgate regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

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* Section 3. AS 14.45.015 is added to read:

Sec. 14.45.015. POLICY. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and of Alaska, it is the public policy of the State in the matters of education by religious organizations that the state shall not control or interfere with the rights of conscience or with religious liberty. The State further finds that there is no compelling reason to interfere with this fundamental right.

* Section 4. AS 14.45.020 is repealed.

* Section 5. AS 14.45.025 is added to read:

AS 14.45.025. STANDARDIZED TESTING REQUIREMENTS. Each school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with this chapter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after testing, all records shall be made available to the parents at the principal's office, and the school composite test results shall be made available at all reasonble times for annual inspection by a duly authorized representative of the State of Alaska.

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(b) The enrollment and attendance of a child in a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding shall be filed with the local public school superintendent by the parent, guardian or other person in charge or control of the child on a form provided by the superintendent which shall be countersigned by the administrator of the church school and returned to the public school superintendent by the parent. Should said child cease attendance at a church school, the parent, guardian, or other person in charge or control of the child shall by prior consent at the time of enrollment direct the church school to notify the local public school superintendent that said child no longer is in attendance at a church school.

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STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M April 18, 1983

RECEIVED
MILO FRITZ, M.D.
MAR 10 5 PM '83

SUBJECT: Regulation of religious schools (HB 357)

TO: Representative Milo Fritz

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested a sectional analysis of HB 357, an Act relating to the regulation of religious schools. In general, the bill amends certain sections of Title 14 of the Alaska Statutes to remove state control of schools operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding for its educational program.

Section 1 of the bill amends AS 14.07.020(8) to remove pre-elementary schools and the educational component of nurseries operated by these religious groups from the supervision of the Department of Education. The law currently requires the Department of Education to supervise these programs.

Section 2 of the bill amends AS 14.30.010(b)(1) to exempt children attending a school operated by one of the religious organizations described above from the requirement that children between seven and 16 years of age attend public school. It also makes clear that these schools need not have an average student proficiency that is at least equal to the average proficiency found in public schools in the same area. AS 14.30.010(b)(1) currently requires such proficiency of all private schools.

Section 3 excludes the schools described above from the provisions of AS 14.45.020. As presently written, AS 14.45.020 allows the commissioner of education to furnish final examination questions and grant diplomas for eighth graders in private schools.

Section 4 amends AS 14.45.030 to exempt the schools described above from monthly attendance and other reporting requirements currently applied to public and private schools.

Section 5 amends AS 44.27.020(1) to exclude the schools described above from the general duty of the Department of Education to administer the state's program of education.

You should be aware that HB 357, as currently written, presents a constitutional problem with respect to the equal protection clauses of the state and federal constitutions. The bill exempts certain private schools from requirements that apply to all other private schools. The factors that distinguish the exempt schools from the nonexempt schools are their federal taxation exemption status, that the educational programs involved do not receive state or federal funding, and that they are operated by a church or other nonprofit religious organization.

The equal protection clause of the Constitution of the State of Alaska (Article I, section 1) has been interpreted to mean that legislative classifications

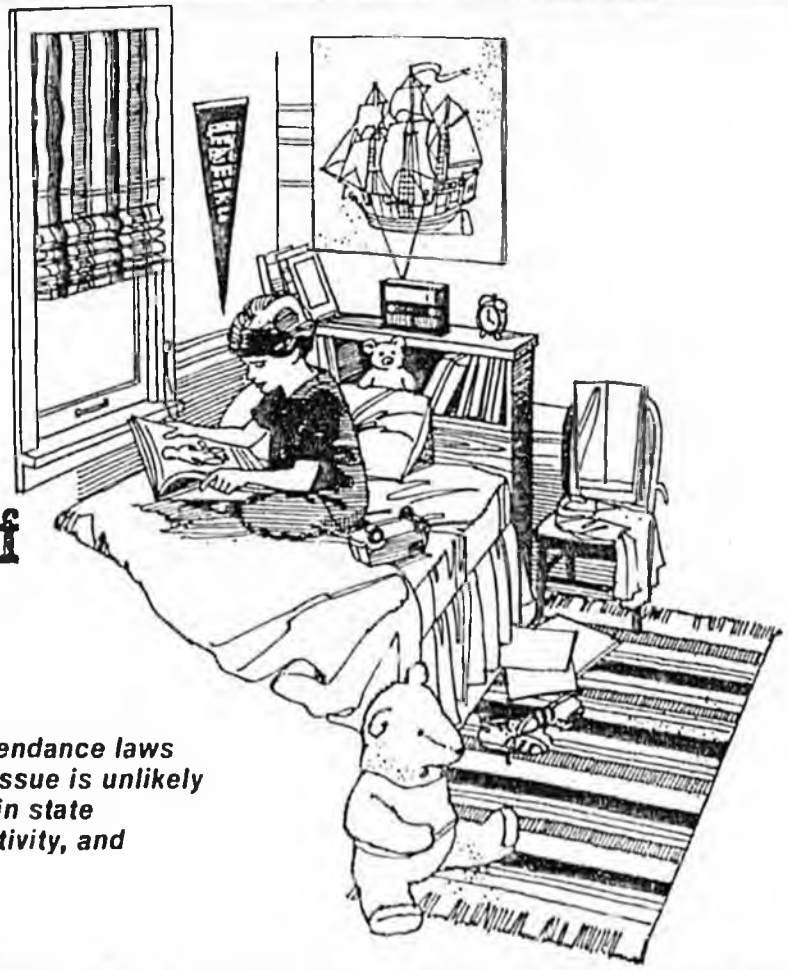
> ...must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.

Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). Accordingly, the distinguishing factors mentioned above must meet this test if HB 357 is to survive a constitutional attack. Although some of the distinguishing factors do meet the test, at least one probably does not.

Singling out schools which do not receive state or federal funds for exemption from certain state requirements probably has a fair and substantial relationship to the goals of the legislation in the sense that the state has less of an interest in controlling such schools. The same may be true of schools with nonprofit status under federal taxation laws. However, a provision which singles out a school merely because it is operated by a church or other religious organization is subject to greater scrutiny. The legislature may be called upon to justify treating a private, nonprofit school which does not receive state or

federal funding in a different manner than a private, nonprofit school which does not receive federal funding and is operated by a church or other religious organization. The only difference between the two classes of schools is that one is run by a religious group and the other is not. To justify such a distinction, the legislature would have to show a very substantial relationship between the distinction and the goals of the legislation. Moreover, the goals of the legislation must be constitutionally legitimate. In my opinion, the classifications created by HB 357 lack this level of justification to the extent that they are based solely on religion. For this reason, the bill is probably unconstitutional.

KBL:ljb
15/009



State Regulation of Private Education

by Patricia M. Lines

Violations of state compulsory school attendance laws appear to be rising dramatically, and the issue is unlikely to go away. Ms. Lines details the trends in state regulation, the current wave of judicial activity, and the implications for public policy.

Although a good education is generally considered crucial to a child's future economic success and personal happiness, a growing number of people believe that traditional schooling is neither indispensable to education nor "right" for every child. Thus some parents are enrolling their children in unaccredited private schools or teaching them at home, whether or not such choices are acceptable under compulsory school attendance laws.

Parents who violate such laws risk criminal charges, fines, jail sentences, and other forms of legal compulsion. Under most state laws, a child who is declared a truant may be institutionalized. Resisting school attendance requirements takes its toll in other ways as well, the judicial process is rarely easy on the participants.[1] But despite the serious personal consequences for parents and for children, violations of state compulsory school attendance laws appear to be rising dramatically, presenting policy makers with one of the most serious issues facing them today.

Nontraditional Schooling

Parents who place their children in unauthorized educational programs have a variety of reasons. Those who choose home schooling often see public schools or publicly approved private schools as too traditional or too conservative. By contrast, the growing number of parents who send their children to fundamentalist Christian schools tend to feel that the public schools are too liberal or devoid of the moral and religious instruction that they see as crucial to children's education. These disparate groups have two things in common: a rejection of the ideal of the U.S. public school as melting pot and a willingness to defy the law in the interests of their children.

The public education system is caught in the middle, unable to please everyone but responsible for enforcing compulsory attendance laws against those who disagree with the values that underlie the public school program.[2] Some state and local officials wonder whether compulsory attendance is important enough to be treated as a criminal offense, with stiff penalties imposed on parents for seeking what they believe to be the best education for their children. Others worry that children in unaccredited programs may not be acquiring the essential skills for good citizenship and self-sufficiency; they are also concerned about the long-range implications of allowing large segments of the population to insulate themselves from the mainstream of society. Still others fear that private schools provide havens for those who seek to avoid racial integration.[3] One state official expressed a private suspicion that hucksters, interested only in tuition payments, were running one particular fundamentalist Christian school. Meanwhile, a few state officials have recognized the financial implications for public schools of the trend toward nontraditional schooling, which is siphoning off students and thus enrollment-based state aid.

This issue is unlikely to go away. In fact, the number of families choosing nontraditional educational options seems to be increasing. The Census Bureau estimates that enrollments in non-Catholic private schools increased from 615,548 in 1965 to 1,433,000 in 1975.[4] These figures probably cover only established, accredited schools, however.[5] Families choosing unaccredited schools neither seek nor want state approval, and they probably do not want to be counted by the Census Bureau. Many of the unau-

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thorized schools are fundamentalist Christian schools, which reject state authority over their operations as a matter of faith. Some refuse even to provide information on themselves. Using techniques designed to locate all hard-to-find schools in a sample of 22 counties, Bruce Cooper and Donald McLaughlin estimate that there are 15,000 non-Catholic private schools in the U.S., serving two million children; they also estimate that enrollments in these schools are increasing at a rate of 100,000 per year.[6] It seems likely that the largest growth in attendance has occurred among small, unaccredited schools.

Some states have consciously deregulated private schools. These states expressly limit state authority to promulgate regulations.

Many other children in the underground education movement are taught at home. John Holt, an educator and author whose Boston-based organization, Holt Associates, provides support services for home instruction, estimates that there are more than 10,000 families educating their children at home in defiance of compulsory education laws. Others believe the number to be much higher.

If enrollment figures are hard to come by, data on the quality and goals of unaccredited education programs are even more elusive. Virginia Nordin and William Turner have attempted to locate and evaluate fundamentalist Christian schools in Wisconsin and Tennessee. From their own observations and the scant available data, they have concluded that supporters of these schools are motivated by strong religious beliefs, not by segregationist attitudes.[7]

The scant amount of available evidence from standardized tests suggests that these unaccredited alternatives are educationally adequate. Test scores introduced as evidence in a few lawsuits suggest that children's performances improve after they are enrolled in unauthorized educational programs.[8] Test data from a home tutorial network in Los Angeles showed children in the tutorial program scoring higher than children in the public schools. However, the researchers did not control for parents' socioeconomic status, and pretest data were not available.[9]

Trends in State Regulation

Traditionally, compulsory school attendance laws have served as the mechanism for enforcement of minimum standards for private education. Punishment for breaking those laws has been directed at parents and children, not at those who offer private instruction. Typically, the basic requirement of these laws is school *attendance*, although some states require *education* of the child. These laws almost always mandate fines and jail sentences for parents who fail to comply; frequently they make children subject to truancy charges and possible institutionalization. In nearly every state, the local superintendent or school board and the local prosecuting attorney are responsible for identifying truants, i.e., children who are not enrolled in an approved educational program. In most states, local officials also have primary responsibility for approving home instructional programs, if such programs are allowed by state law. Local boards may also have responsibility for approving private schools, but the state often assumes this task. The criminal sanctions in compulsory attendance laws appear to have been designed for parents who are guilty of neglecting their children's education.

Acceptable ways of complying with a compulsory education requirement vary widely among the states. Some states demand certification of teachers and schools, some require that only the schools be approved, and some merely require minimal evidence that schooling takes place. At one end of the spectrum, such states as Alabama, Iowa, Nebraska, North Dakota, West Virginia, and Wisconsin have obtained state court approval for at least some aspects of the regulation of private educational alternatives. Those states with more flexible requirements will probably experience less litigation, unless the state boards exercise their broad statutory authority to impose more stringent standards. Connecticut, for example, provides a broad exception to the school attendance requirement; parents who do not send their child to public school must educate the child themselves or "show that the child is elsewhere receiving equivalent instruction in the studies taught in the public schools."[10] Other states that follow this model include Delaware, Idaho, New Jersey, South Dakota, and Vermont. The laws in these states typically do not specify who the teacher must be or where instruction is to take place.[11]

Some states have consciously deregulated private schools. These states expressly limit state administrative authority to promulgate regulations. Tennessee, for example, prohibits the state board and local boards from regulating faculties, textbooks, or curricula in church-affiliated schools.[12] Prior to the passage of a new law in North Carolina, the state board had gradually expanded its regulations governing private schools to the point of requiring that teachers' qualifications, courses of study, and textbooks be substantially the same as those in the public schools. Now North Carolina requires only that private schools keep records on pupil attendance and disease immunization and that they select and administer a nationally standardized test to students each year. The schools keep the tests on

file and make them available to state inspectors. They must also meet fire, health, and safety standards established by other laws.[13]

State law in Washington prevents state agencies from expanding on statutory provisions, but these provisions set minimum standards as to length of a school year, length of day, subjects to be taught, and teacher qualifications. Teacher certification is required, except for courses in religion and other subjects not taught in the public schools.[14] This requirement is a stumbling block for many private educational alternatives. However, state law in Washington allows persons of "unusual competence" to teach, if they are supervised by certified teachers. In practice, Washington may allow private educators more flexibility than the state law would suggest.

Laws in about half of the states permit instruction at home by a parent.[15] Other states permit instruction at home by a certified teacher (who may also be the parent). Of course, home instruction is permissible in any state if it meets all the requirements of a private school.[16] It would not be easy for most homes to meet these requirements.

State legislators and board members, torn between strong lobbies for both public and private education, are having a difficult time dealing with the issue of regulation of private education. In states that have little regulation, such as Oregon and Idaho, bills to establish even minimal reporting requirements are failing to pass. By contrast, efforts in the state of Washington to permit instruction by a parent are also foundering in the legislature. Large numbers of state legislatures are being asked — usually by fundamentalist Christian schools — to deregulate private schools, but to date only Alabama has responded to such requests. The topic appears to be so controversial that any kind of legislative change will be very difficult.

Legislative change is not impossible, however. Both Arizona and Vermont recently modified their laws to reduce the friction between public and private education sectors. Clearly, legislative change is more desirable than change through the courts. It is less polarizing, and it minimizes personal costs for the individuals involved.

Supreme Court Guidance

In the 1920s the U.S. Supreme Court outlined in part the limits to state regulation of private education. In *Pierce* v. *Society of Sisters* the Court struck down an Oregon law that required attendance at *public schools only*. The Court held that the law "unreasonably interferes with the liberty of parents and guardians to direct the upbringing of children under their control."[17] The Court recognized as legitimate the interests of the state in compelling some form of schooling, but in this case the state had gone too far.

The Supreme Court also dealt in the Twenties with laws in Nebraska and Hawaii that were less restrictive but that still unreasonably burdened the right of parents to rear their children as they deem fit. In *Meyer* v. *Nebraska*,[18] the Court struck down a state law forbidding the teaching of foreign languages to younger children. The Court found that this law was not rationally related to the stated goal in Nebraska of cultivating good citizenship. Meanwhile, in *Farrington* v. *Tokushige*, the Court struck down a law regulating foreign language schools in Hawaii. These schools, which were predominantly Japanese, were required to pay fees, to submit numerous reports, to establish their commitment to the "ideals of democracy," to adhere to strict rules regarding when and how long the schools could operate each day, and to follow detailed regulations on textbooks and other matters. The Court observed that enforcement of the act "would probably destroy most, if not all," of the affected schools.[19]

Clearly, legislative change is more desirable than change through the courts.

More recent Supreme Court decisions have provided some additional guidance on the extent of state authority to regulate private education. In 1979 the Court observed in *NLRB* v. *Catholic Bishop of Chicago* that enforcement of federal labor laws against religious schools touches on First Amendment rights. The Court decided the issue on statutory grounds, however, holding that the National Labor Relations Act does not apply to church schools.[20] In 1981 the Court ruled similarly in *St. Martin Evangelical Lutheran Church* v. *South Dakota*, a case involving federal and state unemployment taxes.[21] Both cases follow a Supreme Court rule that requires lower courts to construe statutes in ways that enhance their constitutionality. The Supreme Court might have upheld the statutes involved in these two cases, had the statutes expressly included church schools. But the Court avoided a decision on the issue. These two cases suggest only that state regulation of private education may sometimes go too far, but the Court's decisions provide no detailed guidance.

Finally, in a very different kind of case, the Court ruled in 1972, in *Wisconsin* v. *Yoder*, that Amish families with strong religious objections to public schooling are exempt from educational programs beyond the eighth grade.[22] Although the plaintiffs objected to the absence of Amish values in the public school program, they accepted compulsory school attendance in the lower grades because they believed that their children should acquire basic skills. The Court held that, *as applied to the Amish*, the compulsory attendance law in Wisconsin is unconstitutional. This ruling does not affect state compulsory attendance laws in general, even in Wisconsin.[23] *Yoder* holds only that a state cannot compel a child to attend public school in the face of strong religious objections and when the state's interest in the education of the child is adequately served by an alternative program. The Court was careful to distinguish between philosophical and religious objections to formal schooling, and it took into consideration the long tradition of the Amish.

Despite the Court's limiting language, the *Yoder* decision can be extended at several points. First, it clearly applies to religions other than the Old Order Amish, if plaintiffs demonstrate a comparable sincerity of belief and if the record shows that the states' interests are being met by adequate alternatives. To restrict the exemption granted in *Yoder* to a single religion would be unconstitutional. The *Yoder* decision may also apply to nontheistic, nontraditional religious beliefs, if the standards in *Yoder* are otherwise met.[24] To date the Supreme Court has not had occasion to consider extensions of *Yoder*.

Current Judicial Activity

Lower courts have followed *Yoder* only when dealing with traditional, theistic beliefs.[25] In other cases, despite obviously sincere religious objections to approved school programs, the courts have refused to extend *Yoder*. Some of these cases have involved fundamentalist religious schools using the self-paced Accelerated Christian Education (ACE) curriculum.

In the celebrated case of *State* v. *Faith Baptist Church*,[26] a Nebraska court examined these curricular materials and found them generally adequate. Faith Baptist Church indicated that it would not request approval of the ACE program, even though church officials had been informed informally that the state board would grant such approval. The school run by Faith Baptist Church employed no

certified teachers, and school officials refused to furnish names and addresses of students to local and state education agencies, as required by state law. The defendants, citing *Yoder*, argued that the state has no authority whatsoever over the operation of a religious school. They offered evidence, including passages from the Bible, supporting their view that religion must be integrated into teaching and that the public schools are inadequate to this task. Finally, the defendants asserted that public schools have secular humanism as their basic philosophy.

The Nebraska High Court rejected these arguments and upheld the state regulations. The U.S. Supreme Court dismissed an appeal by the school for want of a substantial federal question.[27] To enforce court orders to close the school, a lower Nebraska court for a time had the church door padlocked during school hours. The children transferred to an unapproved fundamentalist religious school in Iowa. The case seems far from ended, however. The local prosecutor is now seeking enforcement of the Nebraska compulsory attendance law against the parents and school officials, and the minister who operated the school was jailed for contempt of court.

Nebraska officials are now proceeding against other fundamentalist schools. One, the Park West Christian School in Lincoln, is operated by the Rev. Carl Godwin, the pastor of Bible Baptist Church. Godwin, although clearly embarrassed by the publicity, is articulate and active. He has organized the Nebraskans for Religious Freedom and has retained the legal services of William Ball, the defense attorney in the *Yoder* case. Ball has a reputation for winning cases of this kind, and Godwin is willing to report enrollment data and similar matters. Thus Godwin's case may force the courts to focus more sharply on the constitutional issues. Godwin spoke before a conference of more than 100 leaders of public and private education, sponsored by the U.S. Education Department in early May, and he seems capable of winning support from the traditional private education sector. Such support could help to bring about legislative change before court action becomes necessary.

A flurry of judicial activity involving religious schools is now in progress, with mixed results.[28] Most court opinions are grounded in state constitutions or statutes. Although the case law can be transferred from state to state (as guidance, not as precedent), the disparity in state constitutions and statutes does not permit broad generalizations. Of course, general rules for federal cases may emerge, but this has not yet occurred.

Home instruction is in a somewhat different category than instruction in an unapproved school, although the line between them is unclear. Home instruction may be entitled to even more constitutional protection, because the child/parent relationship may be entitled to constitutional protection under a right to privacy. But this idea has not been tested, and judicial reactions to it have been mixed.[29]

Of course, judicial opinions to date on home instruction represent only the tip of the iceberg. Additional cases have been or will soon be filed in Iowa, New Hampshire, Maine, Michigan, and many other states. Given the accelerating growth of the fundamentalist Christian schools, other nontraditional private schools, and home instruction, strict state requirements for compulsory attendance in approved schools will probably continue to be challenged. As I have already noted, litigation of this type carries with it high personal costs for the individuals involved. Such litigation also has the potential to polarize supporters of public and private education.

Implications for Public Policy

Thus legislative reform seems preferable to judicial reform. Unlike the courts, legislatures are not limited to accepting or rejecting existing statutes. Their wider range of options allows for greater flexibility.

States that wish to reform the regulation of private education through legislative action might consider a shift in focus from compulsory school *attendance* to compulsory *education*. The available evidence, though scant, suggests that periodic testing of children enrolled in nontraditional educational programs may be a viable alternative to compulsory school attendance. States that move in the direction of compulsory education should probably establish minimal requirements for nontraditional programs with regard to the subjects to be taught, the amount of time per day and year to be devoted to instruction, and the reporting of enrollment and attendance figures and similar data to state officials. If a child shows unsatisfactory academic progress on standardized achievement tests, state law might require remedial instruction in an accredited or approved school.

In the interest of consumer protection, a state may wish to establish regulations that guarantee honest and fair promotion of private schools, including full disclosure of the teachers' qualifications and of the schools' educational philosophies. However, existing laws may already protect consumers adequately.

States that are concerned about the operation of schools in private homes could amend their statutes to permit home instruction only by a child's parent(s). Statutes in such states could define "school" as instruction of children from one or more families by an unrelated teacher. (Some states may wish to emulate California, which has established separate rules for instruction at home by a tutor.)

North Carolina, Washington, and Oregon have established flexible regulations for private education that could serve as models elsewhere. In Oregon and North Carolina, test scores help to provide assurance that children enrolled in nontraditional programs are being educated. Washington relies on teacher certification for such assurance, although this gives private educational alternatives less leeway in staffing and precludes instruction by a parent in most cases. Such legislation would not be necessary, if state law did not give the state board of education or other state administrative officials broad regulatory power over private education in the first place. But such legislation is called for when a state board has gradually increased the requirements for nontraditional educational programs and the state legislature wishes to make clear its intent that statutory minimum standards are to remain *minimum* standards, not subject to expansion by administrative action.

Administrative action is probably the most peaceful means for resolving issues related to the regulation of private education. And flexible state laws make such action possible. In New Hampshire, for example, state officials have reached a somewhat fragile agreement with the fundamentalists: The state will accept school records submitted on church stationery instead of on standard state forms. Thus the state receives the information it must have to approve fundamentalist educational programs, and the fundamentalists do not feel that they are submitting to the state regulatory system. In Iowa, the state has agreed to accept reports from parents rather than from fundamentalist schools. Iowa fundamentalists see parental reports on children's schooling as analogous to the annual reports these parents file with the Internal Revenue Service. But they deem it inappropriate for the state to request such information directly from the church.

Because they are staunch supporters of public education and because they may see nontraditional educational programs as a threat to their membership, teacher unions seem likely to oppose the relaxation of state laws requiring attendance at approved schools staffed by certified teachers. These unions may argue that testing instruments are not yet sufficiently sophisticated to assure the public that adequate education is taking place. This is

probably true, but it could be argued that teacher certification is no better. Teacher certification is usually dependent on completion of a degree, which in turn is dependent on passing final examinations in college courses. (In some states, certification is also dependent on passing a competency test.) Ultimately, state legislators must decide whether testing a child, testing his or her teacher, or testing both would best provide adequate assurance that education is taking place.

Local school officials are also likely to oppose the relaxation of existing state laws regulating private education. As supporters of public education, such officials will probably be wary of the academic and social implications of nontraditional alternatives. They may also be concerned about the loss of state aid to public schools (which is based on enrollments) should more flexible regulations encourage families to choose private alternatives.

States that are sensitive to these problems could publish test data from nontraditional programs, if these data are available. They could also stand ready to revise their policies, if children in nontraditional programs fail to perform as well as they should. States should also recognize and deal with the problems caused by the loss of per-pupil aid to local school districts. For example, states might explore constitutional ways of providing partial state aid to local districts that make their school libraries, physical education facilities, art facilities, testing and guidance services, and other resources available to pupils in alternative educational programs. Such cooperation requires new laws and regulations. It also demands new relationships between state and local education officials and between public and private educational systems.

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1. As an example of the extreme emotionalism that surrounds these cases, John Singer was involved in a shoot-out with law enforcement officers and was killed outside his Utah home three years ago. The officers were investigating a charge that Singer had failed to abide by his obligations under the Utah compulsory school attendance law.

2. Educators generally agree that it is nearly impossible to provide education without also imparting values. See, for example, William J. Bennett and Edwin J. Delattre, "Moral Education in the Schools," *The Public Interest*, Winter 1978, pp. 81-98; and Andrew Oldenquist, "Moral Education Without Moral Education," *Harvard Educational Review*, May 1979, p. 247.

3. There is some support for this point of view. On the heels of the school desegregation order in Mississippi, for example, that state repealed its compulsory education law, apparently to avoid requiring parents to send their children to integrated schools. Following a desegregation order in Los Angeles, an organization of parents opposed to busing formed a home instruction network that served approximately 1,000 children (see Roy A. Weaver, Anton Negri, and Barbara Wallace, "Home Tutorials vs. the Public Schools in Los Angeles," *Phi Delta Kappan*, December 1980, pp. 251-55).

4. Department of Health, Education, and Welfare, *Statistics of Public Elementary and Secondary Day Schools* (Washington, D.C.: National Center for Education Statistics, 1976), p. 6.

5. Census Bureau officials are unable to estimate the number of children enrolled in unapproved educational alternatives, according to a 10 February 1982 memorandum to the director from Paul M. Siegel, chief of the Education and Social Stratification Branch (copy on file at the Education Commission of the States).

6. Bruce S. Cooper and Donald H. McLaughlin, "The Latest Word on Private School Growth," paper presented at the annual convention of the American Educational Research Association, New York, March 1982. By contrast, public school enrollments have declined from approximately 45.9 million in 1970 to 42.6 million in 1978, according to *Statistics of Public Schools, Fall 1970* (Washington, D.C.: National Center for Education Statistics, 1971); and *Statistics of Public Elementary and Secondary Day Schools, Fall 1978* (Washington, D.C.: NCES, 1979).

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8. See *In re Rice*, 204 Neb. 732, 285 N.W.2d 223 (1979); and *State* v. *Shaver*, 294 N.W.2d 883 (N.D. 1980).

9. Weaver, Negri, and Wallace, pp. 253-54.

10. Connecticut General Statutes, Sec. 10-184 (1981).

11. See, for example, Delaware Code Annotated, Tit. 14, Sec. 2703 (1981); Idaho Code, Sec. 33-202 (1981); New Jersey Statutes Annotated, Secs. 18A:38-25 (West 1968); and South Dakota Compiled Laws Annotated, Sec. 13-27-3 (Supp. 1981). See also Table II in Patricia Lines, "Private Education Alternatives and State Regulation," Education Commission of the States, Pub. No. LEC-82-3, March 1982.

12. Tennessee Statutes Annotated, Sec. 49, §201-5204 (1970).

13. North Carolina General Statutes, Sec. 155C-547 *et seq.* (Cum. Supp. 1981); Sec. 115C-555 *et seq.* (Cum. Supp. 1981); and Sec. 115C-378 (Cum. Supp. 1981).

14. Washington Revised Code, Secs. 28A.02.201 *et seq.* and 28A.27.010 (1981).

15. See Table B of Lines, "Private Education Alternatives. . . ."

16. See, for example, Michigan Attorney General, Opinion No. 5579, 27 September 1979.

17. 268 U.S. 510 (1925), 534-35.

18. 262 U.S. 390 (1923).

19. 273 U.S. 284 (1927), 298.

20. 99 S.Ct. 1313 (1979).

21. 101 S.Ct. 2142 (1981).

22. 406 U.S. 205 (1972).

23. See, for example, *Meyerkorth* v. *State*, 173 Neb. 889, 115 N.W.2d 585 (1962); *Parr* v. *State*, 117 Ohio St. 23, 157 N.E. 555 (1927); *Stephens* v. *Bongart*, 15 N.J. Misc. 80, 189 A. 131 (1937); *State* v. *Hoyt*, 84 N.H. 38, 146 A. 170 (1929); *State* v. *Williams*, 56 S.D. 370, 228 N.W. 470 (1929); *State* v. *Freudenberg*, 166 Wis. 35, 163 N.W. 184 (1917); and *State* v. *Bailey*, 61 N.E. 730 (Ind. 1901).

24. See, for example, *United States* v. *Seeger*, 380 U.S. 163 (1965), in which the Court adopted a broad interpretation of the selective service law to avoid favoritism to individuals with more traditional theistic beliefs — a favoritism that would clearly violate the establishment clause.

25. See, for example, *Nagle* v. *Olin*, 64 Ohio St.2d 341, 415 N.E.2d 279 (1980), which dealt with a non-Amish parent sending a child to an unapproved Amish school; and *State* v. *Nobel*, Nos. S 791-0114-A and S 791-0115-A (Mich. Dist. Ct., Allegan County, 9 January 1980), which dealt with a mother who was teaching a child at home but who refused for religious reasons to obtain a teacher's certificate, although she met the requirements.

26. 107 Neb. 802, 301 N.W.2d 571 (1981).

27. 102 S.Ct. 75 (1981). Members of the congregation of Faith Baptist Church subsequently brought suit in federal court, seeking an injunction against the state to permit continuation of the school. The court dismissed the suit, relying primarily on the Supreme Court's decision to dismiss the appeal (*Prettyman* v. *Nebraska*, Civ. No. 82-0-154, D. Neb., 16 April 1982).

28. For a discussion of applicable cases, see Lines, "Private Education Alternatives. . . ."

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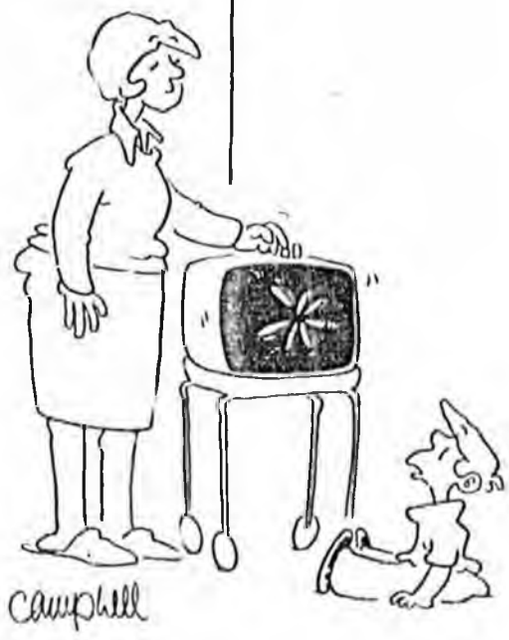

"Use my mind? At home?"

NOTES

Preliminary Findings

Religious and Secular Schools: Differences in State Control
Research Request 83-159
Leslie Longenbaugh, Research Staff
May 4, 1983

I. Which states allow religious schools to operate free of state control?

A. Primary and Secondary Schools

1) Five states exempt religious schools from some requirement(s) to which other private schools are subject.*

a. Maryland
b. Nevada
c. Pennsylvania
d. Tennessee
e. Washington

2) Eight states do not require accreditation, approval, or licensure of any nonpublic school.*

a. California
b. Delaware
c. Florida
d. Massachusetts
e. Minnesota
f. New Mexico
g. North Carolina
h. Wisconsin

3) One state, South Dakota, has removed all state standards from all nonpublic schools. Students in the nonpublic schools must take competency tests periodically to ensure that they are receiving adequate instruction.**

4) Twenty-one states have voluntary, rather than mandatory, reporting by all nonpublic schools.*

a. Alabama
b. Arizona
c. Colorado
d. Georgia
e. Idaho
f. Illinois
g. Indiana
h. Iowa
i. Kansas
j. Louisiana
k. Mississippi
l. Montana
m. New Jersey
n. North Carolina
o. Oklahoma
p. Oregon
q. Tennessee
r. Texas
s. Utah
t. Virginia
u. Wyoming

5) At least two states other than Alaska have legislation pending that would affect state control of religious schools.***

a. Colorado
   i. The bill would exempt both religious and secular private schools from state control.
b. Montana
   ii. The bill would make mandatory some of the requirements that are now voluntary.

B. Pre-schools

1) Three states now have laws exempting religious pre-schools from all state certification and inspection except for conformity with health and fire codes.****

a. Arkansas; enacted 1981
   i. A lawsuit has been filed challenging the constitutionality of the Arkansas law on the grounds that it denies the children who would attend such schools equal protection of the law.*****
      a) A copy of the plaintiffs' brief in this lawsuit has been sent to us.
b. Illinois
c. Virginia

2) Legislatures in two states other than Alaska are now considering legislation that is similar to HB 357 in regard to pre-schools.****

a. Arizona
b. California

II. How do such states distinguish between religious and secular nonpublic schools for the purposes of the exemption?

A. Religious schools for the purposes of these exemptions usually are those that are sponsored and funded entirely by a church or religious organization rather than through the state or federal government.

B. The language used often includes a phrase such as "church-sponsored schools or schools with religious charters."

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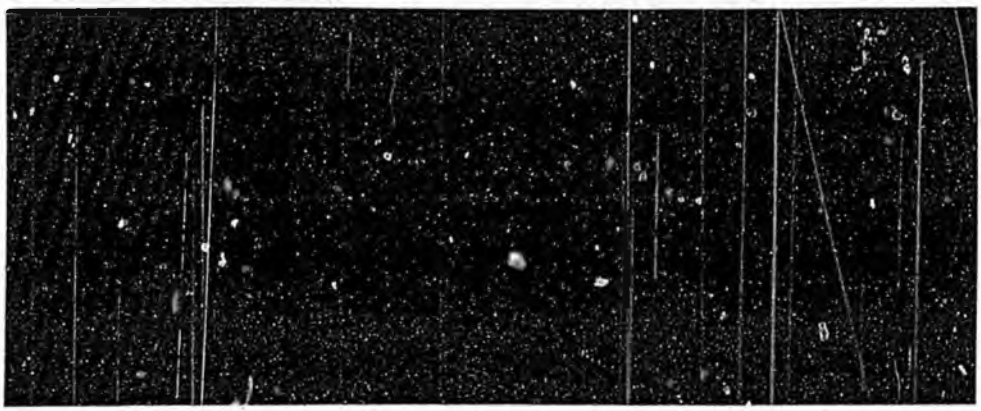

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12. Compulsory Schooling and Nontraditional Education

The Issue

Some parents today believe that traditional schooling (public or private) is not necessarily equivalent to "education" nor "right" for every child. They are placing their children in nontraditional schools (not necessarily accredited) or educating them at home. Their reasons vary. Some have overriding religious concerns; others are dissatisfied with or mistrust the public school system. Occasionally they seek only to escape the effects of public desegregation policies.

Some private options may violate state compulsory attendance laws. In some states, parents and individuals operating unaccredited private schools have received or are faced with jail sentences. One fundamentalist Christian clergyman in Nebraska has refused to comply with court orders directing him to either obtain state approval for his school or cease operating, and he has been jailed twice. A church has been padlocked to enforce laws requiring private schools to obtain state approval and comply with state rules for operating a school.

The Choice Before State Education Policy Makers

In states that require compulsory school attendance (rather than compulsory education) and require certified teachers in private schools, policy makers are being asked to change the laws. Private school people seek fewer requirements for private schools, exemption of church schools, provision for home instructions, removal of teacher certification requirements or other policies that would make it easier for individuals to choose nontraditional education options free of state accreditation or approval.

How Many Children are in Unapproved Education Options?

While most children in nonpublic schools are enrolled in Roman Catholic institutions, the U.S. Bureau of Census estimated that (as of 1975) there were close to 1.4 million children in non-Catholic, private schools. Most likely the census bureau counted only traditional and accredited schools. A more careful study for the National Center for Statistics suggests there are about 15,000 non-Catholic private schools serving approximately 2 million students, and that this population is increasing by 100,000 students per year. One might speculate that the difference of some 500,000 to 600,000 children between the official census and this study represents the number of children in unapproved schools.

By contrast, public school enrollments declined from approximately 45.9 million in 1970 to 42.6 million in 1978.

Estimates of the numbers of children being taught at home vary from 10,000 to 50,000.

Education In An Unapproved Setting

When available, testing data shows that children in these schools are performing above national standards. The data do not show whether this is due to socioeconomic status, other individual characteristics, or the education program. With this caveat, the data show children in a Los Angeles home tutorial program (approved by the state) scored higher than children in public schools on nationally standardized tests.. Experimental work done about ten years ago showed no significant difference in students' test scores whether they were taught by an experienced teacher or by a lay person knowledgeable in the subject taught. Finally, in three court cases, attorneys introduced evidence of test scores showing

improvement as children moved from a public school to a private, unapproved education option.

State Education Requirements

Traditionally, states enforce minimum standards for private education through compulsory school attendance laws, which provide for punitive action for noncomplying parents and children, but not for those who offer private instruction. Although these laws vary, they contain the following features:

- All states have some kind of compulsory law requiring school attendance or education of children.

- States that require education of the child rather than attendance include Connecticut, Delaware, Idaho, New Jersey, South Dakota and Vermont. Most states require school attendance, although many of these provide exceptions for home instruction.

- Almost every state provides for jail sentences and fines for parents who fail to comply with the state's compulsory attendance law.

- Without exception, compulsory requirements can be fulfilled by attendance at a nonpublic school that is properly approved or accredited. A number of states require the teachers to be certified, or require approval of the curriculum and similar matters.

- Some states have recently "deregulated" private schools, and have restricted the authority of the state board of education to regulate them. These include Alabama, Arizona, Louisiana, North Carolina, and Tennessee. Washington restricts state board authority but contains a number of important statutory requirements, such as a teacher certification requirement.

- Laws in about half the states permit home instruction by a parent whether the parent has a teaching certificate or not.

- In some states, courts or attorneys general have ruled that if the home meets the standards for private school (generally, where a parent is a certified teacher), home instruction is allowed even if state law does not expressly so provide.

Court Challenges

The United States Supreme Court has indicated that regulation of nonpublic education can go too far. In a landmark case, Yoder v. Wisconsin, the high court narrowly ruled that Wisconsin's compulsory attendance law could not be enforced against the Amish (a religious community). The Court held that the state cannot compel attendance of children in the face of strong religious objections, so long as the children are adequately educated in an alternative setting. Lower courts have extended Yoder only when traditional religious beliefs are involved. Decisions outside of this narrow realm have been mixed, with most cases turning on state constitutional or statutory grounds.

Litigation over the status of private education has culminated in court rulings in a number of states, among them Florida, Hawaii, Iowa, Kentucky, Michigan, Nebraska, North Dakota, Ohio, Washington, and West Virginia. Generally states undergoing litigation require school attendance and certification of private school teachers. In a few states the central issue is approval of curriculum or facilities, or zoning rules. Additional cases have been or will soon be filed in many states, including Iowa, Maine, Michigan, New Hampshire, North Dakota, and Virginia, Given the growth of fundamentalist Christian schools, other nontraditional private schools and home instruction, states that require compulsory school attendance and set standards for the school will probably be challenged in the near future.

The litigation receiving the most attention from the media appears to be State v. Faith Baptist Church, dealing with the refusal of Reverend Everett Silevan to obtain approval from Nebraska for any aspect of his church-run school. The school uses a series of booklets called the Packet of Accelerated Christian Education (PACE), including instructional information and self administered tests. The school does not use state-certified teachers, a requirement under Nebraska's compulsory school attendance law. The Nebraska high court found the materials adequate, but upheld the state's requirement for certified teachers. On appeal to the United States Supreme Court, the case was summarily dismissed because, based on the papers filed before it, the high court could not identify an important constitutional issue.

Somewhat similar opinions (not going to the U.S. Supreme Court) have been handed down by state courts in Florida, North Dakota, and Wisconsin. In some of these cases, parents refused to provide any evidence about the child's schooling.

In other cases, state courts have ruled in favor of parents. In Ohio, in State v. Whisner, the state supreme court struck down a system of state regulation that, by its literal terms, left no time for religious instruction in a private school. A Michigan court was reluctant to find a mother teaching a child at home guilty under the state's compulsory attendance law, as she met the requirements for teacher certification but refused to obtain a certificate for religious reasons. (Michigan allows home instruction only by certified teachers.) In a Kentucky case, the state court applied a state constitutional provision (found only in a handful of state constitutions) that prohibits requiring a child to attend a school which parents find objectionable for conscientious reasons.

Policy Alternatives

Where statutory requirements are flexible, imaginative administrative solutions to the issue become possible. In New Hampshire, for example, state officials reached a somewhat fragile agreement with fundamentalists that required information to be submitted on church stationery rather than on official state forms. This fulfills the state's need for certain information, but recognizes the fundamentalists' tenet that they should not submit to state regulatory systems. In Iowa, the state accepts reports from parents instead of the fundamentalist school. The fundamentalists involved felt individual reporting was no different than filing an income tax form, while a church report was tantamount to church submission to state regulation.

A state considering a change in its policy can look to sister states for models. In the past five years several states have deregulated private education.

- Tennessee, for example, prohibits the state board and local boards from regulating faculties, textbooks, or curricula in church affiliated schools.

- North Carolina requires only that private schools keep records on pupil attendance and disease immunization and that they select and administer a nationally standardized test to students each year. The schools keep the tests on file and make them available to state inspectors. They must also meet fire, health, and safety standards established by other laws.

- Washington prevents state agencies from expanding on statutory provisions, but these provisions set minimum

standards as to length of school year, length of day, subjects to be taught, and teacher qualifications. Teacher certification is required, except for courses in religion and other subjects not taught in the public schools. State law in Washington allows persons of "unusual competence" to teach, if they are supervised by certified teachers.

- The Vermont legislature, following efforts by its state board to require teachers certification, made it clear it could not do so, and also strengthened its child abuse laws in order to narrowly focus on actual problems, rather than to sweepingly subject all private educators to regulation.

- In mid-1982 the Arizona legislature determined to permit home instruction, so long as the child shows academic progress, as indicated by test scores or an impartial professional evaluation.

- Louisiana exempted schools which receive no local, state or federal funds from most reporting requirements.

- Arizona, Oregon, and North Carolina require testing of the children, to help provide assurance that they are being educated.

- Teacher certification is the mechanism used in Washington, although it reduces flexibility for private education alternatives and precludes instruction by a parent in most cases.

Policy Questions

Policy makers contemplating a change in state compulsory education laws need to ask the following questions before deciding on a course of action.

- Should compulsory attendance laws carry criminal sanctions against parents honestly acting in the best interests of their children?

- Are the children educated in unapproved settings acquiring what they need for good citizenship and self-sufficiency?

- What are the long-range implications of large segments of the population insulating themselves from the mainstream of society -- in this case, by avoiding state-approved education for their children?

- Are private schools havens for those wishing to avoid integration?

- Do existing consumer protection laws assure that parents are evaluating small nontraditional schools on the basis of adequate and correct information?

- What are the political implications of the growing exodus from public schools, when local school districts depend on state aid based on enrollment or attendance?

Policy Implications

Organizations and individuals urging more flexible compulsory education laws argue that this is required to preserve the free exercise of religion. These groups argue that parents know what is best for the child. They include those participating in nontraditional options, fundamentalist Christians, more traditional private schools and, to some extent, organizations and individuals concerned with civil liberties. The national ACLU, for example, in its Policy #71A, states: "We believe that, in the interest of parental right to choose an alternative to public education, [home instruction with safeguards, such as approval of curriculum or testing of the child] . . . should be extended to all jurisdictions because the state's interest in assuring minimum levels of education does not extend to control of the means by which that interest is realized."

Organizations and individuals urging retention or adoption of stricter requirements for private education generally argue that these regulations are needed to assure the best interests of the child, and to prevent balkanization of society. These groups include teachers' organizations and public school administrators.

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from Paul Stevens

COMMENTS ON
HOUSE BILL #357
and
SENATE BILL #361

The subject at hand has to do with House Bill #357, currently before the Legislature, and a Senate Bill with identical language for which I have no number at the present time.

This is an act relating to the regulation of religious schools.

The First Amendment to the U.S. Constitution says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" With these words, the First Amendment guarantees a separate church and state. Historically, this has meant that the church was not subject to the state, nor was the state subject to the church.

The First Amendment also guarantees "free exercise of religion." Our nation has repeatedly recognized the value of this most important clause and has resisted infringement of First Amendment rights of the citizenry.

It is also true that the language of the Constitution of the State of Alaska provides similar liberties to those spoken to in the Constitution of the United States.

At the outset of these remarks, it should be noted that it is the responsibility of the church to provide buildings and equipment that meet reasonable regulations for fire, life safety, health, and sanitation when they are equally and fairly applied to all.

One of the reasons for the presentation of the proposed legislation has to do with some language found in the Constitution of the State of Alaska. That language reads as follows:

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

We have no quarrel with the language set forth in the paragraph above excerpted from the Constitution of the State of Alaska. However, since the provision is made that the public school system of the State of Alaska shall be free from sectarian control, we believe it follows reason and logic that the church-operated schools of the State of Alaska should be free from state control.

For this reason, we have addressed the importance of certain changes that need to be made in the present structure of the Alaska Statutes that would bring present law into line with the provision of the Federal and State Constitutions.

Our special concern has to do with the impact of present law and the resultant regulations that could be written under the umbrella of the existing language.

While we have stated above that we have no quarrel with the right of the State to require reasonable fire, life safety, health, and sanitation standards, we would never submit to the inspection of personnel, programs, finances, records, curricula, etc., since this is clearly a violation of the First Amendment, and cannot be permitted by the local church.

For these and other reasons, we have proposed an Amendment to Section 1. A.S. 14.07.020(8).

In this Amendment, we have addressed the fact that it is our sincere conviction that neither the Department of Education nor the Department of Health and Social Services has the constitutional right to general supervision over our pre-elementary schools, nor over the educational component of our nurseries.

We have also offered an Amendment to Section 2. A.S. 14.30.010(b)(1).

One of the reasons why we have suggested the addition of paragraph (D) has to do with the requirements set forth in paragraph (C). You see, it is our policy to regularly measure the progress of our students in our church-operated schools through the use of national achievement tests, and we would have no problem with making that information available to anybody on a request basis. However, since the Constitution says that no law shall be made concerning the establishment of religion, we simply believe that the State has no right to REQUIRE that information. So, we have proposed paragraph (D) as an amendment to that section.

One of the questions that has been raised with regard to paragraph (D) is as follows: "If paragraph (D) should become law, what assurance do we have that some 'fly-by-night' type church such as the Jim Jones syndrome or the Moonies won't pop up and start what they would call a church-operated school?"

Quite honestly, we don't have any assurance that that wouldn't happen. However, there are some reasons why I believe it would not happen. One of the reasons why I would question that a "Jim Jones" church or a "Moonies" church would start a school is simply that it is not as lucrative an operation as that which generally interests them. They are usually looking for ways to get their hands on large amounts of money as quickly as they can with a minimum of work involved.

The operation of a school involves a great deal of hard work, dedication, consecration, and plain, old-fashioned elbow grease!

Church-operated schools must function in a free-market society, and they simply must produce what they claim to produce, or the parents will take their children elsewhere.

My second response to the original question would be as follows: It is our understanding that laws should be made for the benefit of and the protection of the majority of the people. While it is true that there is the possibility that some church like the Jim Jones, Moonies, or Universal Life Church people might start a school under the provision of paragraph (D), why would the Legislature of the State of Alaska wish to continue to impose an unconstitutional burden on the many churches in the State of Alaska who are doing a great job in the field of private education because it was afraid a possible small minority might start an educational program that would be undesirable?

Why would the Legislature want to take away the liberties of the many because it feared the abuses of a few?

Section 3 has been amended by the Department of Law as a housekeeping measure to bring it into line with the rest of the proposed legislation in this bill.

The next item under consideration is Section 14.45.030. Once again, this is a matter where we believe constitutional liberties are being abrogated. While it is a fact that we would have no problem providing this information on a request basis in cooperation with the State Department of Education, we are convinced that it should not be required by law in order to maintain the true separation of church and state.

The last amendment proposed in this bill is found in A.S. 44.27.020(1).

This amendment is proposed in order to maintain the separation of church and state. Present law says that the Department of Education shall administer the State's program of education at the elementary, secondary, and adult levels. What we are

saying in our proposed amendment is simply that the State Department of Education does not have the right to administer the church's programs of education, since the State neither founded nor funded our church educational programs.

Respectfully submitted,

_____

Paul E. Glover

4/18/83
PEG:hm

CHRISTIAN SCHOOL COMMENT ©

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WHAT EVERY PARENT SHOULD KNOW ABOUT THE ASSOCIATION OF CHRISTIAN SCHOOLS INTERNATIONAL

by Dr. Paul A. Kienel, Executive Director
Association of Christian Schools International

The Association of Christian Schools International (ACSI) is a non-profit service organization serving Bible-centered Christian schools and colleges. It is the largest association of Christian schools in the world with a membership of 1,933 schools and a combined student enrollment of 337,554. Over the past five years, ACSI membership has nearly doubled in size. The annual cost of school membership is $3.00 per student payable on October 1. Most schools include this small amount in their annual student registration fee. As a parent, you need to know about the wide variety of services offered by ACSI that directly benefit your Christian school and ultimately your child or children in the school.

LEGAL/LEGISLATIVE SERVICES

Over the past five years, ACSI has raised and spent more than $400,000 to preserve your school's religious freedom. We have had major struggles with the U.S. Department of Labor and the IRS. There have been several important victories but the struggle continues. Last week, for example, I met with U.S. Department of Education leaders in Washington, D.C. to discuss guidelines on how state departments of education can work cooperatively with Christian schools instead of attempting to control them. Next week I fly to Washington, D.C. again to meet with U.S. Department of Labor officials. We will attempt to reverse a decision made by the previous U.S. Secretary of Labor under the Carter Administration that claimed Christian school teachers are secular employees subject to government agency control. In the past ACSI has organized parent and teacher letter-writing campaigns to the White House and members of Congress on various issues. The results have been important to your school and your children.

CONVENTIONS AND CONFERENCES

Another service of ACSI is to encourage the spiritual and professional growth of your school's staff through ACSI conventions and conferences. Your child's teacher comes away from these meetings with fresh insight and inspiration for his or her ministry in the classroom. The ACSI staff of 42 people work year-round preparing for these meetings. More than 20,000 teachers, administrators and board members will attend the seventeen ACSI conventions held in the United States and Canada this year. ACSI also conducts similar programs in other countries.

ACCREDITATION AND CERTIFICATION

Under the capable leadership of ACSI's president, Dr. Roy B. Lowrie, Jr., the association offers a quality program of school accreditation and teacher and administrator certification. These professional services are designed to raise the spiritual and academic levels of our schools and to provide testimony to all, including government agencies, that the Christian school community has its own forms of professional recognition. Dr. Lowrie is also the editor of *Christian School*, a professional journal for Christian school teachers and board members. It is provided free of charge to teachers in ACSI member schools.

STUDENT ACTIVITIES

Approximately 25,000 Christian school students participate annually in ACSI student activities. I am referring to speech meets, spelling bees, choir festivals, science fairs, art festivals, sporting events, piano festivals, academic meets, band festivals, cheerleader camps and student leadership conferences. Each of these events is designed to inspire leadership qualities and communication skills so that students will be effective in sharing Jesus Christ with others.

PROFESSIONAL COUNSEL

ACSI personnel are located in twelve offices throughout the country. They are available to offer counsel and information to Christian schools in the United States and Canada. The ACSI regional directors are competent leaders in the Christian school movement. Pray for them as they travel thousands of miles each year on behalf of ACSI member schools.

PROFESSIONAL BOOKS

ACSI publishes many books and manuals for parents, administrators, board members, teachers, school secretaries and students. The association also publishes a monthly teacher placement list, an annual directory of member schools and colleges, regional newsletters and our professional journal, *Christian School*. This flow of vital information is important to the quality of education in your child's Christian school. Without the strong flow of written communication provided by ACSI, the Christian school movement would soon lose its cohesive thrust.

REDUCED INSURANCE RATES

ACSI insurance programs return more than one million dollars a year to its member schools and colleges via savings in premiums and worker's compensation rebates. Many schools more than offset the annual cost of ACSI membership with savings from the group insurances offered through ACSI.

Finally, the most important thing parents should know about ACSI is that everyone who is a part of the association is vitally concerned about children and young people. The 42 staff members, the 26 people who serve on the ACSI Board and scores of others who assist with ACSI programs are all born-again believers in Jesus Christ. We are strongly committed to quality Christ-centered education. Along with the staff of your fine Christian school, we have devoted our lives to the task of inspiring the next generation to be followers of Jesus Christ. □

CHERI C. JACOBUS
ATTORNEY AT LAW
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SB 261 AND HB 357

Summary of the Legislation

SB 261 and HB 357 deal exclusively with private church schools and schools operated by religious organizations and, as amended, are modeled after the legislation adopted by North Carolina in 1979 and by West Virginia in 1982 to remedy church-state constitutional conflicts. These laws, if enacted by the Legislature, would establish requirements that must be met by private religious schools in order for parents whose children attend them to satisfy the compulsory education law. They would also exempt pre-elementary and nursery programs operated by religious organizations from the supervision of the Departments of Education and of Health and Social Services. The purpose of these bills is to remedy existing church-state constitutional conflicts by protecting the guaranteed religious freedom of church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education.

This legislation only covers schools, pre-elementary programs or nursery programs operated by a church or other nonprofit religious organization exempt from federal taxation and not receiving state or federal funding. These are constitutionally protected groups and activities.

More specifically, church schools (or denominational schools as defined in the proposed legislation) would be required to maintain attendance and immunization records. Since current compulsory education laws make parents liable for their children's failure to attend school, these bills, as amended, would require the parents to file statements with the public school authorities to establish their children's attendance at a church sponsored private school. By placing the requirement on the parent, the bills avoid the constitutional problems created by the state's excessive entanglement in religious activities. The school would also be required to operate on a regular schedule, at least nine calendar months per year, and to be subject to reasonable fire, health, and safety regulations.

To ensure that children attain certain minimum educational standards, each religious school would be required to administer a nationally standardized test to students in the first, third, sixth and ninth grades and to make the school results available for the Department of Education. This would satisfy the state's interest in compulsory education and still avoid the constitutional problem of excessive state entanglement in religion.

Any church school that satisfied all the requirements of AS 14.45 would be exempt from any additional provision of law

relating to education except those requirements of law relating to fire, health, and safety.

Constitutional Requirements

The changes set out in SB 261 and HB 357, as amended, are required to correct existing Alaskan laws which run afoul of the constitutional mandate requiring the states to avoid excessive entanglement in religious activities. The state's right to impose minimum requirements on private religious schools is very limited, because these religious activities are protected by the First Amendment of the United States Constitution and its identical counterpart in the Alaska Constitution, Art. I, sec. 4.[1]

Schools operated by churches or by nonprofit religious organizations are quite different from other private schools. They enjoy a constitutionally protected status.

> "Church operated schools are generally integral parts of their sponsoring churches. Their superintendents are generally pastors or assistant pastors of the sponsoring churches; their teachers are generally members; and their doctrinal stances are generally set by the sponsoring churches."[2]

Federal and state courts recognize that operating a church school is an integral part of the free exercise of religion.[3] For many churches, it is in fact the ministry of the church. Because

[1] E.g., Kentucky State Bd. for Elem. & Secondary Education v. Rudasill, 589 S.W.2d 877 (Ky. 1979), cert. den., 446 U.S. 938 (1980); Wisconsin v. Yoder, 406 U.S. 205 (1972); Lemon v. Kurtzman, 403 U.S. 602 (1970); Pierce v. Society of Sisters, 268 U.S. 510 (1925).

[2] "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405, 431-32 (1980).

[3] See, e.g., NLRB v. Catholic Bishop, 99 S. Ct. 1313 (1979) (Catholic parochial schools are founded for religious reasons and religious doctrine is pervasive); Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979) (private Catholic schools are an integral part of the Catholic Church and as such "involve substantial religious activity and purpose"); Hunt v. McNair, 413 U.S. 734, 743 (1973) ("[R]eligion is so pervasive that a substantial portion of [religious school] functions are subsumed in the religious mission."); Lemon v. Kurtzman, 403 U.S. 602, 616 (1971) ("[T]he parochial schools constituted 'an integral part of the religious mission of the Catholic Church'. . . In short, parochial schools involve substantial religious activity and purpose.").

church operated schools clearly come within the First Amendment free-exercise clause, their activities are constitutionally protected as fundamental rights.[4]

In the area of First Amendment individual liberties, any state legislation that burdens parents', childrens', or a church's free exercise of religious beliefs is unconstitutional unless, the state can demonstrate "a compelling state interest in the regulation of a subject within the state's constitutional power to regulate." Sherbert v. Verner, 374 U.S. 398, 403 (1963).

To establish the existance of a compelling state interest, it is not enough for the state to merely show that a rational relationship exists between a colorable state interest and the proposed regulation. According to Sherbert, "[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation."

More importantly, the state must demonstrate that it is using the least burdensome method for addressing the compelling state interest. The current law violates this mandate, because the legislative goals can be achieved with less burdensome methods. SB 261 and HB 357, as amended, use North Carolina and West Virginia laws as models and are less burdensome while still accomplishing legislative goals.

Eventhough SB 261 and HB 357, as amended, would create two classes of private schools and treat them differently, these bills would not violate the Equal Protection clause of the Fourteenth Amendment. According to established legal principles[5], the equal protection guarantee of the Fourteenth Amendment does not take from the state legislatures all power to classify persons or objects. The state may classify persons for the purpose of legislation. Classification is an inherent right and power of the legislature.

The important issue for these proposed bills is whether the distinction between private schools operated for profit and private schools operated by churches is based on a real and substantial difference between the two classes. Clearly, there is a substantial difference. The decision of the legislature to recognize its limited ability to regulate church schools is based on a constitutional distinction between the two classes. Church schools are in a protected class, enjoying the protection of the First Amendment. Private schools are not.[6]

4 Ibid.

5 16A Am Jur 2d, Constitutional Law, §746, et. seq.

6 In addition, it must noted that the motivations for operating

In the area of religious freedom and expression, the Constitution demands neutrality. The government cannot demonstrate a hostility toward religion or religious activity. The mere fact that the government specifically exempts religious groups from complying with certain laws does not violate the Constitution. For example, federal law clearly creates two classes when it exempts the property and income of religious organizations from federal taxation. These two classes parallel the two classes which would be created by SB 261 and HB 357, as amended. The Supreme Court held this was proper legislation in Walz v. Tax Commission, 397 U.S. 664,669 (1970). The Supreme Court found that neither the purpose nor the effect of such exemption was to advance or inhibit religion. It was "benevolently neutral."

The distinction between private schools operated for profit and those operated by churches is real and parallels distinctions created by the federal tax laws. Therefore, there is no violation of equal protection guarantees.

In summary, the present law violates both the United States Constitution and the Alaska Constitution. SB 261 and HB 357, as amended, balance the state's interest in ensuring that each child receives a good education with the fundamental right to religious freedom and should be adopted.

a private school for profit and a school operated by a church are entirely different.

* Section 1. AS 14.07.020 (8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080 (4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Section 2. AS 14.30.010 (b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests; the department with assistance from representatives of the private schools shall promulgate regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding and provided that the church or other nonprofit religious organization elects to comply with the provisions of AS 14.45;

* Section 3. AS 14.45.015 is added to read:

Sec. 14.45.015. POLICY. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and of Alaska, it is the public policy of the State in the matters of education by religious organizations that the state shall not control or interfere with the rights of conscience or with religious liberty. The State further finds that there is no compelling reason to interfere with this fundamental right.

* Section 4. AS 14.45.020 is repealed.

* Section 5. AS 14.45.025 is added to read:

AS 14.45.025. STANDARDIZED TESTING REQUIREMENTS. Each school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with this chapter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after testing, all records shall be made available to the parents at the principal's office, and the school composite test results shall be made available at all reasonble times for annual inspection by a duly authorized representative of the State of Alaska.

* Section 6. AS 14.45.030. is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Teachers and others in charge of private [OR DENOMINATIONAL] schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with AS 14.45 shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

(b) The enrollment and attendance of a child in a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding shall be filed with the local public school superintendent by the parent, guardian or other person in charge or control of the child on a form provided by the superintendent which shall be countersigned by the administrator of the church school and returned to the public school superintendent by the parent. Should said child cease attendance at a church school, the parent, guardian, or other person in charge or control of the child shall by prior consent at the time of enrollment direct the church school to notify the local public school superintendent that said child no longer is in attendance at a church school.

(c) Each school operated by a church or other nonprofit religious organization exempt from federal taxation and which does not receive state or federal funding shall make and maintain monthly attendence records for each student enrolled and regularly attending classes. Such school shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year.

* Section 7. AS 14.45.035 is added to read:

AS 14.45.035. REQUIREMENTS EXCLUSIVE. No school operated by any church or other nonprofit religious organization exempt from federal taxation which does not receive state or federal funding and which has complied with this chapter shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, physical examination and immunization.

* Section 8. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondance courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding and if that school has elected to comply with the requirements of AS 14.45;

Chapter 07. Administration of Public Schools.

Article
1. Department of Education (Sec. 14.07.010—14.07.070)
2. State Board of Education and Commissioner of Education (Sec. 14.07.075—14.07.170)

Article 1. Department of Education

Section
10. Department of Education
20. Duties of the department
30. Powers of the department
40. Repealed
50. Selection of textbooks
52. Repealed
53. Alaska School Activities Association
54. Alaska School Activities Fund
55. Repealed
57. Transmittal selections
60. Promulgation of regulations
70. Withholding state funds

Sec. 14.07.010. Department of Education. The Department of Education includes the commissioner of education, the State Board of Education, and the staff necessary to carry out the functions of the department. (Sec. 1 ch 98 SLA 1966)

Sec. 14.07.020. Duties of the department. The department shall

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

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

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

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house; (am Sec. 1 ch 126 SLA 1978)

(7) prescribe by regulation, after consultation with the Department of Health and Social Services, standards that will assure healthful and safe conditions in the public and private schools of the state; the standards for private schools may not be more stringent than those for public schools; (am Sec. 2 ch 126 SLA 1978)

Sect 1 → (8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private preelementary schools and over the educational component of nurseries as defined in AS 47.35.080(4); preelementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational.

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study.

(Sec. 1 ch 98 SLA 1966; am Sec. 2 ch 69 SLA 1971; am Sec. 6 ch 104 SLA 1971; am Sec. 1 ch 190 SLA 1975; am Sec. 6 ch 50 SLA 1977)

(10) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine the extent of eligibility for state aid of a school construction project begun after the effective date of this act; for purposes of this paragraph, a "plan" includes educational specifications, schematic designs, and final contract documents.

(11) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department.

(am Sec. 3 ch 126 SLA 1978)

(12) provide educational opportunities in the areas of vocational education and training, basic education, and fire-service training to individuals over 16 years of age who are no longer attending school. (am Sec. 1 ch 86 SLA 1979)

Sec. 14.07.030. Powers of the department. The department may

(1) establish, maintain, govern, operate, discontinue, and combine area, regional, and special schools;

(2), (3) and (4) Repealed Sec. 1 ch 205 SLA 1970.

(5) enter into contractual agreements with the Bureau of Indian Affairs or with a school district to share boarding costs of secondary school students;

(6) provide for citizenship night schools when and where expedient;

(7) provide for the sale or other disposition of abandoned or obsolete buildings and other state-owned school property;

(8) prescribe a classification for items of expense of school districts;

(9) acquire and transfer personal property, acquire real property, and transfer real property to federal agencies, state agencies, or to political subdivisions;

(10) enter into contractual agreements with school districts to provide more efficient or economical educational services;

(11) provide for the issuance of elementary and secondary diplomas to persons not in school who have completed the equivalent of an eighth or twelfth grade education, respectively, in accordance with standards established by the department;

(12) exercise disapproval power under AS 14.08.100. (Sec 1 ch 98 SLA 1966; am Sec 1 ch 66 SLA 1968; am Sec 2, 3, 4 ch 46 SLA 1970; am Sec 1 ch 161 SLA 1975)

Sec. 14.07.040. Repealed. (Sec 34 ch 46 SLA 1970)

Sec. 14.07.050. Selection of textbooks.

(a) Textbooks for use in the public schools of the state shall be selected by district boards for district schools . . J by a State Schools Textbook Committee appointed by the director for state schools. Selections of the State Schools Textbook Committee shall be submitted to the Board of Directors for State-Operated Schools for approval or rejection.

(b) However, a district may elect to adopt the selection of the State Schools Textbook Committee. (Sec 1 ch 98 SLA 1966; am Sec 1 ch 96 SLA 1970; am Sec 2 ch 205 SLA 1970)

Sec. 14.07.052. Repealed. (Sec 2 ch 96 SLA 1970)

Sec. 14.07.053. Alaska School Activities Association.

(a) There is created within the Department of Education the Alaska School Activities Association.

(b) The purposes of the association are to provide for the efficient governing of interscholastic activities through the promotion of those activities and other inter-school contests or programs sanctioned by the association and to assist in the promotion of those other activites and interests as it may from time to time elect.

(c) A public or private school or school district in the state may become a member of the association if it applies for membership. The Department of Education shall make applications available to all public or private schools or school districts in the state.

(d) The governing body of the association shall be the board of control with at least one member from each judicial district on the board of control. A member of the board shall be elected from each regional activities association by the members of that region. The term of office for each member is two years, except that one-half of the members elected to the first elected board shall be elected for one-year terms under regulations prescribed by the commissioner of education.

(e) The board in consultation with the Department of Education shall appoint an executive secretary, prescribe his duties and fix his compensation. He shall serve at the pleasure of the board.

(f) The board of control of the existing Alaska High School Activities Association in office on the effective date of this Act shall serve as the initial board of control for no longer than six months.

(g) The Department of Education shall approve the association's constitution and bylaws to ensure that all regions of the state are treated on a equitable basis and in the best interests of the state. (Sec 1 ch 128 SLA 1976)

Sec. 14.07.054. Alaska School Activities Fund.

(a) The Alaska school activities fund is established within the Department of Education.

(b) The commissioner of education shall review the budget request of the Alaska School Activities Association and request a sum he approves that is equitable to all regions of the state.

(c) School districts and member schools of the Alaska School Activities Association may appropriate money to the fund. (Sec 1 of 123 SLA 1976)

Chapter 30. Pupils

Article
1. Compulsory Education (Sec. 14.30.010 — 14.30.050)
2. Physical Examinations (Sec. 14.30.060 — 14.30.170)
3. Education for Exceptional Children (Sec. 14.30.180—14.30.350)
4. Bilingual-Bicultural Education (Sec. 14.30.400 — 14.30.410)

Article 1. Compulsory Education

Section
10. When attendance compulsory
20. Violation
30. Report of violations and procedures
40. Repealed
45. Grounds for suspension or denial of admission
47. Admission or readmission, when cause no longer exists
50. Truant officers

Sec 2

Sec. 14.30.010. When attendance compulsory. (a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall insure that the child is not absent from attendance.

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests; the Department of Education with assistance from representatives of the private schools shall promulgate regulations defining the subject areas to be tested and the minimum average scores to be achieved;

(am Sec. 4 ch 126 SLA 1978)

(2) attends a school operated by the federal government;

(3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to sec. 45 of this chapter;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the pupil resides within two miles of a federal or private school which he is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting; (am Sec. 1 ch 10 SLA 1977)

(9) has completed the 12th grade;

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving his educational interests despite an absence from school, the request for excuse is made in writing by his parents or guardian, and approved by the principal or administrator of the school he attends. (am Sec. 1 ch 30 SLA 1976)

(Sec. 37-7-1 ACLA 1949; am Sec. 36 ch 98 SLA 1966; am Sec. 5 ch 71 SLA 1972; am Sec. 5 ch 190 SLA 1975)

(B) a person eligible to be admitted to an accredited postsecondary educational institution; and

(3) establishes financial need in accordance with standards for determining financial need adopted by the committee under 20 USC sec.1070c-2.

(b) The committee shall, by regulation, establish a system of priority in the selection of recipients of grants under sections 930—960 of this chapter under which students from "low income" families or whose incomes are considered "low income" shall be given preference in the award of the educational incentive grants.

Sec. 14.40.950. Limitation on grants. (a) No grant made under sections 930—960 of this chapter may be in an amount less than $100 nor more than $1,500 for each academic year.

(b) A grant awarded under sections 930—960 of this chapter may be used by a student only at an accredited postsecondary educational institution.

Sec. 14.40.955. Confidentiality of certain information. All information submitted in support of a determination of financial need as provided in this chapter is confidential. However, an applicant may inspect or copy information from his own application, or records relating to his own application, or authorize release of the application or records to designated individuals or organizations.

Sec. 14.40.960. Definitions. In sections 930—960 of this chapter

(1) "resident" means a person who, except for brief intervals, military service, attendance at an educational or training institution, or for absences for good cause shown, has resided in Alaska and who has maintained his domicile in Alaska; domicile is the true and permanent home of a person from which he has no present intention of moving and to which he intends to return whenever he is away;

(2) "undergraduate" means a student who has not completed a baccalaureate, graduate or professional degree.

(am Sec. 1 ch 51 SLA 1978)

Chapter 45. Private and Denominational Schools

Section
10. Repealed
20. Commissioner may furnish examination questions for and grant diplomas to eighth grade pupils
30. Attendance and annual reports required

Sec. 14.45.010. Repealed. (Sec. 59 ch 98 SLA 1966)

Sec 3

Sec. 14.45.020. Commissioner may furnish examination questions for and grant diplomas to eighth grade pupils. The commissioner may furnish final examination questions for the eighth grade pupils in private and denominational schools and grant eighth grade diplomas in the same manner as in public schools. (Sec. 37-11-2 ACLA 1949)

Sec 4

Sec. 14.45.030. Attendance and annual reports required. Teachers and others in charge of private or denominational schools shall make regular monthly attendance reports and annual reports to the commissioner of education in the same manner as teachers and superintendents in the public schools. (Sec. 37-11-3 ACLA 1949)

Chapter 47. Regulation of Educational Institutions. Repealed. (Sec. 5 ch 25 SLA 1976)

Legislative history report. — For report on ch. 190, SLA 1972 (CSHB 409 am), see 1972 House Journal, p. 744.

Sec. 44.25.036. Repayment of loans. Repayment of loans under AS 44.25.030 — 44.25.038 shall be on an annual basis with repayment commencing no later than 90 days after receipt of funds authorized to be appropriated from the Alaska Native Fund to the regional corporation under § 6(a) (1) (A), P.L. 92-203. (§ 1 ch 190 SLA 1972)

Sec. 44.25.038. Expiration of loan program. Because the purposes for which the loan program is created are limited, no loan may be made after five years from October 4, 1972. The program shall be inoperative 10 years from October 4, 1972. (§ 1 ch 190 SLA 1972)

Chapter 27. Department of Education.

Article
1. Board and Department of Education (§§ 44.27.010 — 44.27.020)
2. Alaska State Council on the Arts (§§ 44.27.040 — 44.27.060)
3. Alaska Historical Commission (§§ 44.27.061 — 44.27.076)

Article 1. Board and Department of Education.

Section
10. Board and commissioner of education
20. Duties of department

Sec. 44.27.010. Board and commissioner of education. There is at the head of the Department of Education a Board of Education. The commissioner of education is the principal executive officer of the department. (§ 11 ch 64 SLA 1959; am § 12 ch 96 SLA 1967)

Am. Jur. 2d references. — 63 Am. Jur. 2d, Public Officers and Employees, § 371; 68 Am. Jur. 2d, Schools, §§ 37 — 55; 72 Am. Jur. 2d, States, Territories and Dependencies, § 62.

Sec. 5

Sec. 44.27.020. Duties of department. The Department of Education shall

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education;

(2) administer the historical library;

(3) plan, finance and operate related school and educational activities and facilities. (§ 11 ch 64 SLA 1959; am § 77 ch 69 SLA 1970 am § 5 ch 86 SLA 1979)

CHAPTER 60. PRE-ELEMENTARY (EARLY CHILDHOOD) SCHOOL

Section

10. Requirements
20. Exemption
30. Application for a certificate of approval
40. Denial of approval; hearing
50. Duration of approval
60. Display of certificate
70. Certificate of approval
80. Insurance
90. Records
100. Physical examination for children
110. (Repealed)
115. Staff
120. Recognition of special needs
130. Disaster plan
140. Facility inspections
150. Changes in major written policies, plans, programs
160. Nondiscrimination
170. Programmatic requirements of the pre-elementary schools
175. Transportation
180. Definitions

4 AAC 60.010. REQUIREMENTS. (a) Every person, institution or agency operating a school for children ages three through five years, when the school's primary function is educational, shall apply to the department for a certificate of approval.

(b) The educational component of all pre-elementary programs is under the general supervision of the department in cooperation with the Department of Health and Social Services. Those programs not approved by the Department of Education are supervised by the Department of Health and Social Services.

(c) Before admitting a child whose school expenses could be the responsibility of departments of state government, authorization of eligibility should be requested from the appropriate department by the school. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060
AS 14.35.080(4)

4 AAC 60.020. EXEMPTIONS. The following are exempt from 4 AAC 60.010:

(1) schools maintained by the United States or funded entirely with federal funds;

(2) courses of instruction on religious subjects given under the auspices of a religious organization, such as church schools, vacation Bible schools, or similar denominational programs;

(3) schools that enroll six children or less. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.030. APPLICATION FOR A CERTIFICATE OF APPROVAL. (a) Application for a certificate of approval must be submitted on a form prescribed by the department.

(b) No pre-elementary school may represent that its program has a sponsorship, approval, characteristics, affiliation, or accreditation which it does not have, nor may any school cause a likelihood of confusion or misunderstanding as to any of these matters.

(c) Before issuing a certificate of approval, the department shall conduct an investigation of the applicant, including the proposed plan for the education and supervision of children and the mode of operation of the pre-elementary school. If the results of the investigation reveal that the primary purpose of the school is educational and that applicable regulations adopted by the department are satisfied, a regular certificate of approval shall be issued.

(d) The department may grant a conditional certificate of approval for programs with minor deficiencies correctable within a time specified on the permit, but not exceeding six months. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.040. DENIAL OF APPROVAL; HEARING. (a) A school or program denied a certificate of approval by the department is entitled to a hearing before the state Board of Education at a regular meeting of the board if a written appeal is received by the commissioner within 15 days of the date of denial of certification.

(b) The decision of the board on the appeal is final. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.050. DURATION OF APPROVAL. (a) A certificate of approval remains in effect for a period of no more than five years from date of issuance.

(b) A certificate may be revoked or suspended for failure to comply with the requirements of this chapter or other statutes and regulations governing the health, safety and welfare of students and employees.

(c) If the department has reasonable cause to believe that the holder of a certificate has failed to comply with this chapter or other applicable statutes and regulations, it may notify the holder of the basis for its belief and schedule a hearing on the matter to determine whether the certificate should be revoked or suspended. The commissioner shall appoint a hearing officer to preside over the hearing and to control its proceedings. The hearing shall be public, and all interested persons who have information relevant to the inquiry shall be permitted to be heard or to submit written statements and arguments, or both. A record shall be kept of the hearing.

(d) Following the hearing, the hearing officer shall prepare his findings and conclusions and recommend appropriate action to the commissioner. The commissioner shall review the hearing officer's recommendations and decide what, if any, action should be taken.

(e) A certificate holder whose certificate has been revoked or suspended by the commissioner may request, in writing and within 15 days of receiving notification of the commissioner's decision, that the board review that decision. A review will be made by the board or a committee of the board in the same manner as that provided in 4 AAC 60.040. The decision of the board is final. (Eff. 4/20/73,

Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.060. DISPLAY OF CERTIFICATE. The certificate of approval must be displayed in a prominent place in the pre-elementary school. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.070. CERTIFICATE OF APPROVAL. The certificate of approval must include

(1) name of pre-elementary school;

(2) address of pre-elementary school;

(3) maximum allowable number of children;

(4) effective dates of certificate;

(5) ages of children to be enrolled;

(6) minimum number of staff members required to be in attendance while children are present. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.080. INSURANCE. (a) Each nonpublic, pre-elementary school must have bodily injury liability insurance in an amount not less than $100,000 per child, $300,000 per accident, with a company authorized to do business in the State of Alaska. Policies must contain the following endorsement:

"In the event of cancellation of this policy, the company agrees to give 30 days' advance notice to the Department of Education, Pouch F, Juneau, Alaska 99811."

(b) If the insurance required under (a) of this section is allowed to lapse more than once in a 12-month period, the second policy lapse is grounds for termination of approval. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.090. RECORDS. The pre-elementary school shall maintain an individual record for each pupil enrolled which must contain not less than the following:

(1) child's full name, birth date, and current address;

(2) name and address of parents or legal guardians;

(3) telephone numbers and instructions how the parents may be reached during school hours;

(4) names and addresses of persons authorized to take the child from school;

(5) a record indicating the immunization status of the child;

(6) a Cumulative Health Record Form. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.100. PHYSICAL EXAMINATION FOR CHILDREN. (a) Not more than three months before first entering school, each child must have a tuberculosis skin test which meets the requirements of 7 AAC 27.213.

(b) Before first entering school, each child must have received the immunizations required by 4 AAC 06.055. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62; am 8/17/78, Reg. 67; am 9/24/82, Reg. 83)
Authority: AS 14.07.020(7) and (8)
AS 14.07.060
AS 14.30.070

4 AAC 60.110. PHYSICAL EXAMINATIONS FOR EMPLOYEES AND VOLUNTEERS. Repealed 5/20/77.

4 AAC 60.115. STAFF. (a) All staff members must have a physical examination annually and not more than three months before initial employment in the pre-elementary school. This

physical examination must include proof of negative Tine test. It is the responsibility of the operator to maintain a personnel file for each employee in which the results of the current physical examination are kept. This file is subject to inspection by the department.

(b) All volunteers who work in the classroom or who provide direct services to children must present to the operator proof of a negative Tine test taken not more than three months before initial service. This test must be repeated annually.

(c) Schools subject to the provisions of this chapter shall comply with all applicable statutes and regulations concerning labor and employment practices. (Eff. 5/20/77, Reg. 62)

Authority: AS 14.07.020(7) and (8)
AS 14.07.060

4 AAC 60.120. RECOGNITION OF SPECIAL NEEDS. At the age of three years, an exceptional child may receive special assistance as a part of the local school district's annual plan of services for special education. Any pre-elementary school which provides services for an exceptional child and receives state funds for providing those services must adhere to state guidelines for special education programs. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060
AS 14.30.180

4 AAC 60.130. DISASTER PLAN. Each pre-elementary school shall develop a disaster plan which must include provisions for accountability for each child in the school until he is released to an appropriate authority. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(7) and (8)
AS 14.07.060

4 AAC 60.140. FACILITY INSPECTIONS. (a) Each pre-elementary school shall request an inspection by public safety and health agencies and shall conform to standards established by those agencies.

(b) Copies of documents indicating satisfactory compliance with health and safety standards must be filed with the department before the issuance of a certificate of approval. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(7) and (8)
AS 14.07.060

4 AAC 60.150. CHANGES IN MAJOR WRITTEN POLICIES, PLANS, PROGRAMS. Major changes in written policies, plans, programs and other information included in the initial application must be transmitted to the department within 30 days following implementation of the change. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.160. NONDISCRIMINATION. No pre-elementary school will be approved unless it adopts a policy of nondiscrimination in respect to race, sex, creed, color or religion with the following exceptions:

(1) a pre-elementary school established for an identified group (e.g., physical-mental handicaps) may serve that group only but otherwise may not discriminate;

(2) a religious group may elect to serve children that adhere to its religious beliefs but otherwise may not discriminate. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.170. PROGRAMMATIC REQUIREMENTS OF THE PRE-ELEMENTARY SCHOOLS. (a) The pre-elementary school shall provide the following information, in writing, to the department: the philosophy of education; the goals and objectives of the school; the program model and teaching techniques used in achieving the stated goals and objectives; daily educational activities schedule including provisions for individual activities, small group activities and large group activities; the number and ages of the children to be served along with the number of staff members working with the children; provisions for parental involvement; a copy of all public advertisements regarding the school; a copy of the personnel and administrative rules of the school; and a copy of all administrative forms used by the school.

(b) A pre-elementary school must have

sufficient staff to provide for each child's physical care and to offer individual attention to children as it may be needed as well as time to interact with children for the benefit of their conceptual and language growth. The number of staff and their utilization should reflect programmatic requirements, differences in the needs of the children served and should permit flexible groupings.

(c) There must be at least two staff members, one of whom may be a teacher-aide, present in each building. They must be stationed in sufficient proximity to be of aid in emergency situations.

(d) The operator shall provide a written training plan for each staff member who serves in the capacity of teacher, teacher-aide or assistant teacher. This plan must include provisions for preservice and inservice training and must indicate frequency as well as content. All such training is subject to the approval of the department.

(e) The department shall investigate to determine whether the programmatic objectives of the school are being met. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.175. TRANSPORTATION. An adult must be designated to accompany the driver and provide for pupil safety when more than six pupils are transported in a vehicle. (Eff. 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.180. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "department" means the Department of Education;

(2) "board" means the state Board of Education;

(3) "commissioner" means the Commissioner of Education;

(4) "pre-elementary school" means a school for children ages three through five years whose primary function is educational;

(5) "certificate of approval" means a regular certificate issued to an operator of a pre-elementary school who has met the minimum requirements of this chapter;

(6) "operator" means the person legally responsible for the pre-elementary school;

(7) repealed (Eff. 5/20/77, Reg. 62);

(8) "staff member" means anyone who provides direct services to children in the classroom and may be any of the following:

(A) a person 19 years or over who is salaried;

(B) classroom volunteers who are at least 19 years of age;

(C) student aides who are enrolled in a training program who are at least 16 years of age;

(9) repealed (Eff. 5/20/77, Reg. 62). (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB - 357
Title: ...regulation of religious schools
Sponsor: Fritz
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Elem. & Sec.
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Steve Hole
Phone: 465-3865
Division: Management, Law, & Finance
Date: 4/18/83

Approved by Commissioner: Marshall Lind
Date: 4/18/83
Department: Education

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M May 14, 1983

SUBJECT: Regulation of religious schools (CSHB 357 (HESS))

TO: Representative Milo Fritz
Chairman, Health, Education, and
Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

Enclosed is a copy of CSHB 357 (HESS), relating to the regulation of religious schools. The bill raises a number of constitutional questions. Because these constitutional requirements must be balanced against one another, there is virtually no way to guarantee that the bill is valid. In my opinion, however, the bill does a good job of balancing the constitutional requirements and is probably not unconstitutional.

In regulating religious schools, the state must consider the "free exercise" and "establishment" clauses of the state and federal constitutions. These provisions essentially prohibit the state from unduly burdening the free exercise of religion and from becoming so involved in the regulation of religious schools as to encourage or inhibit religious activity. On the other hand, the "equal protection" clauses of the state and federal constitutions require the state to justify treating religious schools differently from other private schools. Moreover, while the state may not excessively regulate religious schools, it also has an obligation to provide a reasonable education to school age children. Reconciling these different interests with one another is no easy task and it is difficult to predict which of these will take precedence in the courts.

CSHB 357 (HESS) exempts certain religious schools from all state laws and regulations relating to education except laws concerned with health, fire safety, sanitation, immunization, and physical examinations if the schools agree to comply

with certain minimal statutory requirements. The schools affected by the bill are those that are operated by a church or other religious organization that is exempt from federal taxation and do not receive state or federal funding (AS 14.45.040). Children attending these schools are exempt from the state's compulsory attendance law (AS 14.30.010). The schools that opt to comply with the minimal statutory requirements must maintain attendance and enrollment records (AS 14.45.030(b)), notify the public school superintendent if a child is no longer enrolled or attending (AS 14.45.-030(b)), administer a nationally standardized test to be selected by the individual schools that measures English grammar, reading, spelling, and mathematics (AS 14.45.035), and operate on a regular nine month schedule (AS 14.45.-030(c)). Parents of children attending these schools must file enrollment and attendance records with the local public school superintendent (AS 14.45.030(b)). Religious schools that choose not to comply with these standards remain subject to the same regulations as all other private schools.

The First Amendment to the United States Constitution and Article I, section 4 of the Constitution of the State of Alaska provide

> No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

The free exercise clause has been interpreted to mean that the state may not unduly burden the right of a parent, child, or church to freely exercise a particular religion, unless the state can show a compelling state interest. Sherbert v. Verner, 374 U.S. 398 (1968). Even when the state can show a compelling interest in regulating religious schools, it must also show that the regulation is by the least burdensome means.

CSHB 357 (HESS) allows the state to regulate health and safety standards, to require certain standardized tests, and to assure regular attendance by the children. None of these requirements appears to be unduly burdensome on the free exercise of religion. The state clearly has a compelling interest in maintaining health and safety standards and these standards, if reasonable, generally have no connection to the exercise of religion. The interest justifying the standardized test requirement is the state's obligation to provide an education for children. The requirement is not unduly burdensome because the individual schools are

permitted to select the test of their choice provided that the test measures achievement in certain basic areas. Beyond that, the bill does not regulate curriculum in the religious schools. Finally, the bill requires certain attendance reports from the schools and the parents of children attending them. Again, the reporting requirements are minimal and are justified by the state's interest in assuring that the children are receiving an education. Accordingly, the bill probably does not infringe on the right to the free exercise of religion.

The analysis of the bill under the establishment clause is similar to that under the free exercise clause. Legislation must be substantially neutral toward religion. Epperson v. Arkansas, 393 U.S. 97 (1968). Excessive entanglement in the regulation of religious organizations is not permitted. Lemon v. Kurtzman, 403 U.S. 602 (1971).

The bill minimizes the state's involvement in regulating religious schools by exempting them from the state's general education regulations if the schools agree to comply with certain minimal standards. Of these standards, the only one that might present a problem by excessively involving the state in the regulation of religion is the attendance reporting requirement. In Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979), the court found state requirements that religious schools release extensive financial and other data unconstitutional. The statute challenged in that case can be distinguished from CSHB 357 (HESS), however, because the bill only requires attendance reports, the reports must be released by the parents, and they can be justified by the state's obligation to ensure that children receive an education. The attendance reports are probably not an excessive entanglement by the state in the regulation of religious schools.

The equal protection clauses of the Fourteenth Amendment of the United States Constitution and Article I, section 1 of the Constitution of the State of Alaska require the state to justify the statutory creation of a class based on religion. The classification

> . . . must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.

Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). CSHB 357 (HESS) creates a class of religious schools which are exempt from most state regulations that apply to other private schools. Since the exemptions are substantially tied to the free exercise of religion, however, they can be justified on the basis that there is a substantial relationship between the exemptions and the goal of the legislation. Only if the exemptions were not tied to the exercise of religion or some other valid governmental purpose would the bill violate the equal protection clause.

The bill's deregulation of religious schools may raise a problem with respect to the state's obligation to provide an education to all children in the state. It is not clear, however, that this obligation is mandated by the constitution. Article VII, section 1 of the Constitution of the State of Alaska provides, in part,

> The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions.

It is not clear whether this provision merely obliges the state to provide the opportunity for an education to all children of the state, or if it includes the obligation to ensure that they actually receive an education. If the latter is true, then the state would be restricted in the degree to which it may deregulate religious schools. Even if that is the case, however, CSHB 357 (HESS) probably does impose sufficient requirements on the religious schools to ensure a minimal level of quality of education. Thus, the bill probably does not violate any obligation the state has to provide an education to children in the state.

In conclusion, CSHB 357 (HESS) is probably constitutional although the necessary balancing of constitutional requirements makes it difficult to be certain of this. Ideally, legislation regulating religious schools will place minimal burdens on the schools and require minimal state involvement while requiring the schools to meet minimal educational requirements to ensure that the children are receiving an education. In my opinion, the bill successfully strikes this balance.

KBL:ljb
20/002

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 13, 1983

MEMORANDUM

TO: Representative Sam Pestinger

FROM: Leslie Longenbaugh
Research Staff

RE: Other States' Regulation of Religious Schools
Research Request 83-159

Ed Essa of your staff asked that we provide information about states that regulate religious and other nonpublic schools differently. My preliminary work, provided to you on May 4, revealed five states that exempt religious schools from some state regulation to which other nonpublic schools are subject. Upon further investigation, I found significant differences in regulation in only three states: Maryland, North Carolina and Tennessee. Below is a brief description of the statutory distinctions made by each state; I have attached copies of the pertinent state statutes.

Maryland

Maryland requires that private "noncollegiate" schools obtain a state certificate of approval before they may operate in the state. The issuance of such a certificate of approval is contingent upon the state board of education's finding that the "facilities, conditions of entrance and scholarship, and educational qualifications and standards are adequate and appropriate" for the type of school.[1]

Specifically exempted from the requirement of a certificate of approval are all institutions "operated by a bona fide church organization..."[2] Schools that come under this exemption may not receive any state funds other than funds for the state food service program.

All private noncollegiate schools in Maryland, including the religious schools that are exempt from the certificate of approval, must make annual reports of their enrollment and courses of study.[3] In addition,

---

1 Annotated Code of Maryland, Education § 2-206 (e)(2).

2 ACN § 2-206 (3)(4).

3 ACN § 2-205.

NEA - ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

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Region VI Director
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Director at Large
Box [illegible]
Haines, Alaska 99827

May 12, 1983

TO: House HESS Committee

FROM: NEA-Alaska

RE: HB 357

NEA-Alaska members wanted to participate in this teleconference for HB 357; but, because of the timing of the teleconference to fall during the peak hours of the school day, in every region of Alaska, they find themselves unable to testify. Therefore, on behalf of over 6,000 teachers NEA-Alaska submits this written testimony in opposition to HB 357 "An Act relating to the regulation of religious schools".

Our opposition is premised both on constitutional and educational grounds.

The State of Alaska is not and cannot be concerned with instruction in sectarian, religious matters; but in non-sectarian disciplines such as mathematic , science, English, history, civics, physical and vocational education, etc. the state is and must be concerned. The Alaska State Constitution in Article I, Section I, "Inherent Rights", states:

> "SECTION 1. This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State."

HB 357 removes all oversight and regulation by the State for those educational programs offered by religious institutions who do not receive federal or state funds. In doing so, HB 357 forces the State to abdicate its responsibility in the education, health and social services of youngsters enrolled in religious schools. The State of Alaska will not be able to ensure that religious school students are enjoying equal rights, opportunities and protections under the law:

> Section 14.45.030 as amended denies the State the power to receive and examine reports about the educational programs offered in religious schools;

Section 6. AS 14.45.030 Sentence addition to paragraph (c).

Such schools shall report annually the number of students enrolled in each grade and provide a copy of the school calendar to the department.

Such schools shall maintain adequate student records, including all information required of public schools on attendance, immunization, physical examinations, testing and courses taken while in attendance at the religious school. (same as public school)

- discrete difference - calendar & enrollment only -
This - adequate information if the youngster w/draws from the religious school want it available for public schools.

Milo & Mae — 5/18/ 10am

Just had a call from Ed Essa of Pestinger's Office. He wanted you to know that Bert Carney is not very happy with the amendment made to Sec 1 of the religious school bill:

The HEW Committee inserted the exclusion of "educational component of pre-elementary schools and ~~...~~ nurseries operated by a church..."

He (Carney) is going to attempt to amend this out on the House floor & wants your support.

He feels that this defeats the purpose of the bill. ~~...~~

Linda.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House HESS Committee DATE: May 12, 1983

FROM: Linda Otey, Committee Staff

RE: Summary/ HB 357 "An Act relating to the regulation of religious schools"

Enclosed is material that has been gathered in an attempt to more clearly understand the issue of 'de-regulation' of church schools while maintaining some monitoring of the constitutional mandate to provide for public education. A sectional analysis of the bill has been provided by Legislative Counsel. He suggests that HB 357, as written, is probably unconstitutional with respect to the equal protection clauses of the State & Federal Constitutions.

> "The bill exempts certain private schools from requirements that apply to all other private schools..."

With the understanding of the desire and need to resolve this issue legislatively, staff has contacted Ms. Patricia Lines, Director of Law & Educations Center of the Education Commission of the States (ECS), Denver, Colorado. Ms. Lines has been working on this issue nation-wide and is extremely well versed in the objectives it encompasses. Her article, State Regulation of Private Education is enclosed for your review. Ms. Lines has been very helpful and has emphasized the need for legislative resolve through investigation of current regulation as well as the interest and need for religious school de-regulation and how best the two goals can work together. Ms. Lines also suggested that it would be in the best interest of expeditious and sound legislation for the issue to be dealt with away from the political arena; allowing each interest room for rational communication and resolution.

This issue is not easily addressed as it actually raises three constitutional issues:

1). Seperation of Church & State - First Amendment, U.S. Constitution
2). Equal Protection Clause - Fourteenth Amendment, U.S. Const. & Art. 1, Sec. 1, Ak. Const.
3). Providing Public Education - Art 7, Sec 1, Ak. Const. & U.S. Const.

With the adivce of our Legislative Counsel, in approaching the Alaska Statutes for revision, these three issues must be carefully meshed in order to be effectively implemented. A proposed Committee Substitute will be forthcoming.

folder content:

left	right	
bill & statutes	Summary	National Comparison
Pre-Elem Regulations	Sectional/Levy	ECS Report
Fiscal Note Ø	Pat Lines Article	Comments/Glover
		Jacobus Summary

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

April 20, 1983

Ms. Pat Lines
Education Commission of the States
Suite 300
Lincoln Tower Bldg.
1860 Lincoln St.
Denver Colorado 80203

Dear Ms. Lines:

In appreciation for the information you were able to extend to me in our telephone conversation earlier today, I would like to thank you for your time and efforts in forwarding any further background in regard to the issue concerning the exempting of religious schools from State government.

The enclosed bill has been proposed to the Alaska State Legislature and is currently being reviewed by the Health, Education and Social Services Committee. This language, however, has been declared unconstitutional through a legal opinion from our Legal Services Division attorney, Keith Levy (attached).

Any further assistance you are able to offer will be appreciated. We will be scheduling the legislation for hearings in the very near future.

Respectfully,

Linda Otey

Linda Otey, Committee Aide
House HESS Committee

cc: Rep. Milo Fritz, Co-Chair HESS
Rep. Mae Tischer, Co-Chair HESS

enclosures

HESS

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM April 18, 1983

RECEIVED
MILO H. FRITZ, M.D.
MAR 10 5 11 PM '83

SUBJECT: Regulation of religious schools (HB 357)

TO: Representative Milo Fritz

FROM: Keith B. Levy
Legislative Counsel

You have requested a sectional analysis of HB 357, an Act relating to the regulation of religious schools. In general, the bill amends certain sections of Title 14 of the Alaska Statutes to remove state control of schools operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding for its educational program.

Section 1 of the bill amends AS 14.07.020(8) to remove pre-elementary schools and the educational component of nurseries operated by these religious groups from the supervision of the Department of Education. The law currently requires the Department of Education to supervise these programs.

Section 2 of the bill amends AS 14.30.010(b)(1) to exempt children attending a school operated by one of the religious organizations described above from the requirement that children between seven and 16 years of age attend public school. It also makes clear that these schools need not have an average student proficiency that is at least equal to the average proficiency found in public schools in the same area. AS 14.30.010(b)(1) currently requires such proficiency of all private schools.

Section 3 excludes the schools described above from the provisions of AS 14.45.020. As presently written, AS 14.45.020 allows the commissioner of education to furnish final examination questions and grant diplomas for eighth graders in private schools.

Section 4 amends AS 14.45.030 to exempt the schools described above from monthly attendance and other reporting requirements currently applied to public and private schools.

Section 5 amends AS 44.27.020(1) to exclude the schools described above from the general duty of the Department of Education to administer the state's program of education.

You should be aware that HB 357, as currently written, presents a constitutional problem with respect to the equal protection clauses of the state and federal constitutions. The bill exempts certain private schools from requirements that apply to all other private schools. The factors that distinguish the exempt schools from the nonexempt schools are their federal taxation exemption status, that the educational programs involved do not receive state or federal funding, and that they are operated by a church or other nonprofit religious organization.

The equal protection clause of the Constitution of the State of Alaska (Article I, section 1) has been interpreted to mean that legislative classifications

> ...must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.

Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). Accordingly, the distinguishing factors mentioned above must meet this test if HB 357 is to survive a constitutional attack. Although some of the distinguishing factors do meet the test, at least one probably does not.

Singling out schools which do not receive state or federal funds for exemption from certain state requirements probably has a fair and substantial relationship to the goals of the legislation in the sense that the state has less of an interest in controlling such schools. The same may be true of schools with nonprofit status under federal taxation laws. However, a provision which singles out a school merely because it is operated by a church or other religious organization is subject to greater scrutiny. The legislature may be called upon to justify treating a private, nonprofit school which does not receive state or

federal funding in a different manner than a private, nonprofit school which does not receive federal funding and is operated by a church or other religious organization. The only difference between the two classes of schools is that one is run by a religious group and the other is not. To justify such a distinction, the legislature would have to show a very substantial relationship between the distinction and the goals of the legislation. Moreover, the goals of the legislation must be constitutionally legitimate. In my opinion, the classifications created by HB 357 lack this level of justification to the extent that they are based solely on religion. For this reason, the bill is probably unconstitutional.

KBL:ljb
15/009

Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: Senator Joe Josephson
Chairman, Senate HESS Committee

FROM: Representative Randy Phillips R.E.P.

DATE: May 25, 1983

RE: CS HB 357 (RLS)

During the House floor debate on the captioned bill, Representative Koponen and I offered the attached amendments for consideration. These amendments failed the House.

The amendments were offered so that this bill would apply equally to all nonprofit private schools (to include religious schools). I have some real concern that the bill as is presently drafted could open the door to some lawsuits concerning the constitutionality of singling out religious schools for special treatment. It was my feeling that by extending the provisions to all nonprofit private schools, this problem could be avoided.

I would appreciate it if you and your committee would take the attached amendments into consideration when you review this legislation.

If you have any questions, please do not hesitate to contact me.

RECEIVED
MAY 26 1983
Josephson,

AMENDMENT #1

OFFERED IN THE HOUSE: BY: Koponen and Phillips

TO: CS HOUSE BILL No. 357 (RULES)

SENATE BILL No. _____

PAGE: _____ LINE: _____

PAGE 1, LINE 6

Delete: "religious"

Insert: "private"

PAGE 1, LINE 14, following "by a"

Delete: "church or other nonprofit religious"

Insert: "private nonprofit"

PAGE 2, LINE 6, following "by a "

Delete: "church or other nonprofit religious"

Insert: "private nonprofit"

PAGE 2, LINE 10, following "A"

Delete: "religious"

Insert: "private nonprofit"

PAGE 2, LINE 23, following "in a"

Delete: "religious"

Insert: "private nonprofit"

PAGE 2, LINE 25, following "in the"

Delete: "religious"

Insert: "private nonprofit"

PAGE 2, LINE 29, before "school"

delete: "religious"

insert: "private nonprofit"

AMENDMENT #1 (continued)

OFFERED IN THE HOUSE: BY: _____

TO: _____ HOUSE BILL No. _____

SENATE BILL No. _____

PAGE: _____ LINE: _____

PAGE 3, LINE 1, following "The"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 3, following "the"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 4, following "a"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 12, before"school"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 14, following "the"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 18, following "A"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 22, following "A"

Delete: "religious"

Insert: "private nonprofit"

OFFERED IN THE HOUSE: BY: _____

TO: _____ HOUSE BILL No. _____

SENATE BILL No. _____

PAGE: _____ LINE: _____

PAGE 3, LINE 25, following "the"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 26, following "chapter"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 27, following "by a "

Delete: "church or other nonprofit religious"

Insert: "private nonprofit"

PAGE 4, LINE 8, following "by a"

Delete: "church or other nonprofit religious"

Insert: "private nonprofit"

AMENDMENT #2

OFFERED IN THE HOUSE: BY: KOPONEN AND PHILLIPS

TO: CS HOUSE BILL No. 357 (RULES)

SENATE BILL No. _____

PAGE: _____ LINE: _____

PAGE 1, LINE 15

Delete: "direct"

PAGE 2, LINE 8

Delete: "direct"

PAGE 3, LINE 29

Delete: "direct"

PAGE 4, LINE 10

Delete: "direct"

AMENDED TITLE:
AN ACT RELATING TO THE REGULATION OF RELIGIOUS SCHOOLS

PRIME SPONSOR: FRITZ.
CO-SPONSORS: TISCHER, PESTINGER, FURNACE, WARD, FLOOD.
CURRENT STATUS: 5/19/83 IN (H) RULES

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/14/83	01	0861	FIRST READING -- COMMITTEE REPORTS
05/19/83	02	1426	HESS -- CS05
05/19/83	03	1427	HESS F/NOTE EQUALS ZERO
			RULES
****	**	**	*** *** ***

PUBLIC SERVICE ANNOUNCEMENT 5/4/83

STATEWIDE TELECONFERENCE
May 13, 1p.m. until 2:30 p.m. PST
Subject: HB 357 "An Act relating to the regulation of religious schools".

Contact: Linda Otey, HESS Committee Aide

FOR IMMEDIATE RELEASE

The House HESS Committee will be inviting the Senate HESS Committee to join them in a statewide teleconference regarding HB 357 "An Act relating to the regulation of religious schools. The teleconference will be held at 1p.m. on May 13, (PST) and will end at 2:30p.m. PST. The meeting will be held in Juneau in Court Room A of the Court Building. It would be appreciated, in the essence of time, if those wishing to testify would coordinate their testimonies to specific subject areas addressed by this legislation so as not to create a repetitious testimony that might not allow all witnesses to testify due to time contraints. Written comments may also be submitted to the House HESS Committee, Pouch V, Juneau, Alaska 99801.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

April 22, 1983

Pastor Paul Glover
Harvestor Christian Church
and Academy
9101 Brayton Drive
Anchorage, Alaska 99507

Dear Pastor Glover:

Enclosed is a copy of a legal opinion regarding HB 357, the religious school legislation. The opinion has been concluded based on the legislation as written in its original form.

We are in the process of researching the relationship of religious, non-profit and private schools to other states and how best to draft legislation keeping with the intent and, at the same time, standing the test of constitutionality.

I will be happy to keep you informed as to the status of the legislation.

Sincerely,

Linda Otey
Committee Aide
House HESS Committee

cc: Representative Milo Fritz, Co-chairman
Representative Mae Tischer, Co-chairman

Testimony of Burton Carney

Associate Pastor and Principal of
Harvester Christian Church and Academy
Anchorage, Alaska

November 29, 1982

Regarding
New Regulations Being Proposed By
Alaska Department of Education
For

Pre-Elementary School Programs

1). Remarks regarding the Task Force that prepared this proposal.

Dr. Marshall Lind's Response to the Draft Report dated February 2, 1982, specifically states, "The Task Force will be made up of persons from the state who are knowledgeable in the area of preschool education and who represent the various groups who will be impacted by the plan for managing preschool programs."

Although churches have a sizeable number of the pre-elementary programs in this state, no individuals were chosen from this impacted group to serve on the Task Force that wrote this proposal. Some of the major flaws of this proposal can be traced to the absence of these people from the Task Force.

2). 4 AAC 60.019 (Draft page 3) CERTIFICATE REQUIRED

The first amendment to the U. S. Constitution plainly says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" It is a clear violation of the principle of the separation of church and state for DOE regulations to require that a ministry of our church be LICENSED by the government. This interferes with the "free exercise" of our religion.

This proposal must be rewritten. No licensure or regulations that interfere with the "free exercise of religion" can be accepted or obeyed.

Some say that this proposal is for the "protection" of young children. I would point out that it is the conviction of our church that our buildings and equipment meet reasonable regulations for fire, life safety, health, and sanitation when they are equally and fairly applied to all. Regulations already exist that protect the health and safety of children without requring that a church's ministry be licensed.

Portions of the proposal to which I strongly object as violations of the First Amendment include the need for a certificate (LICENSE), inspection of church personnel, finances, records, and church program/curriculum.

3). 4 AAC 60.019 (Draft p. 3) EXEMPTIONS

This section needs additional exemptions added.

Add a #3 that reads, "SCHOOLS WITH ELEMENTARY PROGRAMS."

Telephone conversations with the DOE have indicated that this new proposal would not be applied to schools such as Harvester or Tom Thumb Montessori, etc. because they already have a school program for children age six and up. When asked where this exemption was in the code in writing, we were told that it was an "understanding within the department." This is NOT good enough. Exempting "schools with elementary programs" would mean that those schools would not have to try to comply with two sets of different regulations within the same facility. Why should children of age five be regulated in a markedly different manner than children of age six? (Teacher/pupil ratios, square footage per child, hot lunch, etc.)

Add a #4 that reads, "SCHOOLS OPERATED BY LOCAL CHURCHES UNDER THEIR OWN BOARD."

This wording would give proper recognition to the exemption from licensure already granted by the constitution. The DOE must not interfere with the ministries of churches. Jesus Christ never said, "Suffer (allow) the little children to come unto me after you have a government license on the wall." God, not state government, calls and ordains these ministries to serve the community!

I wish to publicly state that as the Associate Pastor of Harvester Christian Church and Academy and as the Principal of our Christian school ministry, that I will NOT apply for a license from the DOE. It would be a violation of my religious convictions to do so!

Examples of discrimination against our church if this proposal is adopted in its present form include:

A. Requiring Christian pre-elementary programs to get a license to minister to the needs of children. 4 AAC 60.019 (Draft page 3)

B. Threatening to close down a sacred ministry if we as a church do not bow to governmental control and interference. 4 AAC 60.041 (Draft page 4)

C. Government agencies should not be allowed to have total access to church and Christian school records. This violates the privacy of the church and of the parents. 4 AAC 60.049 (b) which refers to "records" should be modified to say "medical records," etc. to properly limit government intrustion. (Draft page 5).

D. The government has no right nor authority to dictate to churches the staff qualifications for their Christian pre-elementary programs. 4 AAC 60.089 & 4 AAC 60.099 (Draft pages 9 and 10)

E. The state must not be permitted to review, change, or dictate curriculum and program to churches. As presently worded, this proposal intrudes into the internal affairs of a church. 4 AAC 60.189 (Draft pages 16 and 17)

4). A number of the provisions of this proposal would INCREASE the cost of tuition for schooling. This would effectively DENY nursery school and kindergarten to the children less able to afford these beneficial programs.

Examples of MINIMUM standards that are not realistic for non-subsidized programs include:

A. Unrealistic space requirements of 35 sq. ft./child. Minimum requirements for children in grades 1-12 are 20 sq. ft./child. Why almost double the space for a five year old child when compared to the space required for a six year old child? 4 AAC 60.119 (Draft page 12)

B. Staff/student ratio of 1/8 for three and four year olds and a 1/10 ratio for five year olds. This certainly does not represent the MINIMUM standards for reasonable supervision and instruction. 4 AAC 60.109 (Draft p. 11)

C. Schools should not be required to supply hot lunches to pre-elementary students. Parents should have the right to decide what they want done about lunches. Many church school programs have no hot lunch program now. To begin one would cost a great deal of money for some groups. 4 AAC 60.169 (Draft page 15)

Some may be tempted to say at this point, "You should be able to meet these requirements because day care centers already do." Yes, but the parents don't have to pay for a lot of the overhead costs because of government money that subsidizes the center.

Examples:

A. Any day-care center can apply for a $50,000 government loan at 7% interest to improve their center or help their center meet regulations or revised regulations.

B. A lady at the local Day-care Assistance Office estimated that between 50 to 65% of the children in Anchorage day-care centers had subsidized tuitions. If a family has take-home pay of $1,075 or less, the entire tuition ($12/day) is paid for by the government. An individual or family can earn up to $1,975 p/m. before the subsidies quit. This would amount up to $240.00 for the month of November for 100% subsidy.

C. Day-care centers receive surplus food products or cash to help with their snacks and noon meal. The amount per child can be as high as 52¢ for snacks and $1.86 for their noon meal. This adds up to another $50.00 per month to the center.

With all this government money, it's easy to see how day-care centers can make ends "meet" and still abide by so-called MINIMUM standards. Already they are planning to ask this next legislature for increased subsidies.

What's the point? Many of the groups that are opposed to this DOE proposal are non-profit organizations and by conviction do NOT receive government funds. We simply cannot operate like most day-care centers operate. The government will not help us meet these MINIMUM standards, our parents will have to help us by paying HIGHER tuitions. The sad part is that a number of children will end up being denied service because their families can't afford a tuition increase. I think that it is time for the Task Force to think about how families are going to pay for Utopian standards!

5). Some provisions of this proposal invade privacy and parental rights.

Examples:

A. The requirement that the school report a parent to the Department of Health and Social Services if the parent is over one hour late to pick up his child is unwarranted. No parent wants to be listed in some social worker's case file! 4 AAC 60.079 (h) (Draft page 9)

B. Why did the ANCHORAGE TIMES on Friday, Nov. 26th. headline an article in favor of the proposal, "CORPORAL PUNISHMENT OUTLAWED"? Because some of those writing this proposal really believe that it is wrong to paddle a child. They call that child abuse. Oh, it was later qualified in the article and is in this proposal that written authorization for spanking is permitted. But what about this wording?

Re: discipline - "...and that they not use any other technique which is humiliating, cruel, shaming, frightening, or otherwise damaging to the child." I ask, BY WHOSE STANDARDS? 4 AAC 60.189 (7) (Draft page 17)

6). This proposal neglects to include an important sentence in the DISCRIMINATION section -- 4 AAC 60.069 (3) (Draft page 7).

Present regulations contain the sentence,

"A religious group may elect to serve children that adhere to its religious beliefs but otherwise may not discriminate."

This recognizes the right of a church to serve those that are supportive of its programs. This deleted sentence MUST BE ADDED to the rewrite of this proposal.

IN SUMMARY. The most dangerous part of this proposal is the licensure of Christian church programs to young children. This must be changed to be acceptable. Cost factors have not been considered in light of what people are going to have to pay to meet these requirements. Some gross violations of privacy and parental rights need to be remedied.

Thank you. Burton Carney

Burton Carney

YOUR CHURCH'S DEFENSE: Free Exercise and/or Entanglement

by Earl Little

TO WHAT DEGREE SHOULD THE GOVERNMENT CONTROL A CHURCH MINISTRY? DOES THE STATE HAVE THE RIGHT TO ENTANGLE ITSELF WITH THE EDUCATIONAL MINISTRY OF A CHURCH?

Churches across America are coming under attack . . . yet as they go to the courtroom, many understand little about the deep meanings behind their choice of a defense. Pastors must not allow attorneys to put words in their mouths . . . present more easily defended arguments that compromise only a small part of their faith . . . place the priority of winning above the command to stand . . . twist the faith ever so slightly so as to appear more reasonable before the court . . . abandon five percent of their convictions to increase the chances of a courtroom victory by seventy-five percent . . . dip the colors with the justification that "half a loaf is better than no loaf at all" . . . cut the lines and allow the loser to sink, even though he is right, rather than risking his pulling them under . . . replace absolute Biblical truth as the basis for their position with the expediency of conformity to U.S. Supreme Court decisions.

Miller Road Baptist Church stood sued . . . as pastor, I was sued — two counts against the church and me, operating a school and day care without a license since November of 1979. The minimum fine was $100 per day, with a maximum fine of $2,000 per day. I could have gone to jail charged with violating the same Texas law that has put Brother Lester Roloff in jail three times. Such charges brought me no small amount of soul searching. I knew we had a much better chance to win by arguing not only "free exercise," but also "entanglement," yet my faith would not permit me to allow the lawyers to argue "entanglement." This decision involved principles from God's Word. I would rather lose than violate those principles. Many other pastors share my convictions on these matters and refuse to allow the Christian Law Association attorneys or any attorneys to violate their faith by arguing contrary to what they believe, even though it is more likely to win.

CLA carefully explains to churches which it represents in lawsuits the possible avenues of defense. When fundamentalist pastors fully understand the basis of arguing "entanglement," many respond that to so argue would violate their faith in such areas as licensure, taxation, compulsory attendance, minimum standards for church school education, and zoning.

The basis of arguing "entanglement" is one of **degree**. In order to argue that the government is "entangled" with



Earl Little, Pastor, Miller Road Baptist Church, Garland, Texas

your religion (too great of a degree), one has to admit that the government has a right to come in a little but has come in too far. In other words, the camel has a right to put his head in the tent, but has no right to come any further into the tent.

A good illustration would be-how far is too far to go with my wife. Someone reasons, "I promise you that I'll go no farther than holding her hand." My immediate reply would be a clinched fist. "Hands off!" This matter is not open to negotiation or discussion. Even to talk about such a thing makes adrenaline shoot through my body with muscles tightening. Our church is the Bride of Jesus Christ. Matters of faith are not negotiable. Compromise is not considered. "Absolutely, keep your hands off her!" is my watchword to the government. I will not consider for a moment how far is too far. In such matters I am a purist — a Biblicist.

A classic example of a compulsory attendance case argued from the standpoint of entanglement is **State of Ohio v. Whisner**. Brother Levi Whisner is one of my heroes. As a pastor, he saw this thing sooner and stood straighter than perhaps any other pastor. He exercised amazing God-given wisdom when practically no one saw the issue clearly. Levi's faith was the turning point of Attorney David Gibbs' life. While Levi Whisner faced the lions, most of us cowered in the corner displaying our licenses. For years I spoke of the **Whisner** decision as a great victory. Recently I read the Ohio Supreme Court decision and realized the victory we received was in Brother Whisner's life, not in the Court's decision. God has used his life to change so many of us, but the case has set terrible precedent and will lead to a new series of lawsuits in Ohio.

The Biblical position regarding compulsory attendance laws is that the responsibility to train children rests entirely with the parents (Deuteronomy 6:4-6; Proverbs 22:6; Galatians 6:4; Malachi 4:6; Psalms 78:4-7). The Apostle Paul alludes to this uncontested principle in Galatians 4:1, 2 referring to children being under tutors and governors until the time appointed by the father. A father should determine at what age the pedagogy of his child has reached fruition. Nowhere in Scripture is education a responsibility of the State.

In **Whisner**, this Biblical principle is avoided under the compromising banner of "entaglement," which is far more reasonable to the State as well as to many judges. In **Ohio v. Whisner** (1 Ohio Opinions 3d - No. 75-746, decided July 28, 1976), an expert witness for the church, Professor Donald Erickson of the University of Chicago, testified that he is "of the firm position that the

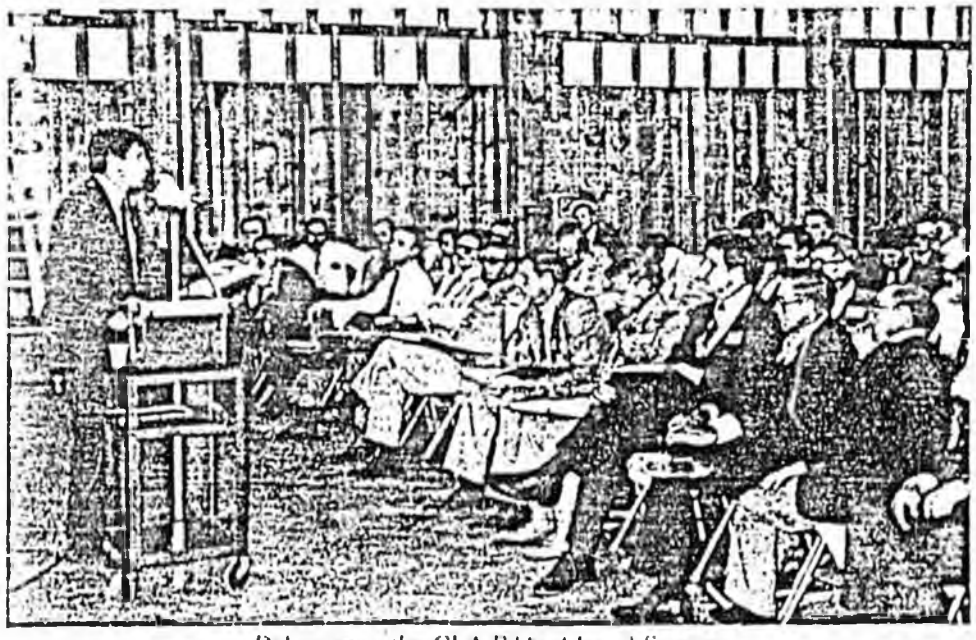
state has some far-reaching fundamental educational responsibilities . . . " He further testified, "I don't think the state has any compelling interest at all in requiring schools to live up to the minimum standards in this book **as a whole** " (Page 111)

On August 15, 1974, the trial court in its opinion said: " . . . counsel for the defendants do not attack the well established law of this state and nation . . . that the natural rights of a parent to the custody and control of an infant child are subordinate to the power of the state; that a parent has an obligation to educate not only to the child but to the state; that the state has the power and duty to promulgate minimum standards for the education of its children and that compulsory education laws have been universally upheld as constitutional . . . the defense rests solely upon the contention that the minimum standards are vague, that they admit to several interpretations; that they are not rational . . . The court was not impressed by the testimony of the defendants' two expert witnesses . . . Mr. Erickson agrees that the state has far reaching fundamental educational responsibilities and that it must regulate education . . . the basic thrust of the defense appears to be that there should be two sets of standards, one for tax supported schools and another of lesser requirements for Church or private schools." The conviction by the trial court was affirmed by the Court of Appeals which noted "But as stated in **Wisconsin v. Yoder**, 'there is no doubt as to the power of a state . . . to impose reasonable regulations for the control and duration of a basic education.'"

The Ohio Supreme Court reversed the lower courts in favor of the church, noting that the church did not maintain that the state is devoid of all power to promulgate and enforce reasonable regulations affecting non-public schools. They mention minimum hours, employment of teachers with specified training and covering prescribed subjects. The decision said, as applied to this church, the minimum standards taken as a whole unduly burden the free exercise of religion and overstep the boundary of reasonable regulation. A separate opinion by Justice Stern stated: "Under a more reasonable construction of those provisions, the constitutional issues raised by the majority need not, and, therefore, should not even be considered.

The Ohio Department of Education realized the way to overcome this decision (that their standards merely went too far, thus being entangling) was to write new, less entangling standards. These new standards were finalized and published on December 12, 1980. The **Whisner** decision rematerialized in the language of the Olin decision, rendered by the Ohio Supreme Court on December 30, 1980, wherein the court once again said if new, less-entangling standards were considered, its decision would go the other way.

"Entaglement" is clearly defined and demonstrated in the area of taxation of churches in **Walz v. Tax Commission**. The U.S. Supreme Court's majority opinion said churches were tax exempt, but not on the grounds of total separation of church and state. The court found "room for play," as long as there is not excessive entanglement, noting prior rulings allowing government to provide textbooks and busing for religious schools. The dangerous implication is that the state can aid church functions outside the worship of God. This comes close to saying that some educational functions are not sacred and God mandated. The court further states that church tax exemption is the same as that afforded hospitals, libraries, patriotic groups, etc. Exemption is granted because the groups are "useful and desirable" to the state. Tax exemption would be lost if those groups (including a church) are considered no longer within this classification. Churches are exempt according to the court, because taxation would involve more entanglement than exemption. The court states that church tax exemption is an indirect economic benefit, but not sponsorship. State legislatures, according to the court, can tax certain property at a lower rate wholly at the legislature's discretion. Tax exemption is thus viewed not as a right the church has, but a privilege granted by the state based on being less entangling than taxation. Justice Brennan's second reason for tax exemption for churches is that churches fit into the "pluralism" of American society thus helping to make society diversified. The church is viewed as only another organization that "is organized exclusively for the moral and mental improvement of men and women." He notes that the granting of the exemption may be wholly secular in nature. However, he agrees the secular is so intertwined with the sacred that to separate them for tax exemption would be too entangling.



Delegates at the CLA Biblical Legal Seminar

Justice Harlan carried the trend even further by saying that the same exemption could be given to atheist groups because the exemption is based on charitable activities which would otherwise by borne by the state. He states that if the church is not involved in "secular" charitable community projects, tax exemption would be improper. He continues by saying that subsidy of the church through state tax exemption is a matter of degree to be determined by the U.S. Supreme Court.

The Word of God says to render unto

The latest trend is most disturbing, some of the people who argue against entanglement are proposing laws that entangle church with the state.

Caesar the things that are Caesar's, but to render unto God the things that are God's. The tithe is the Lord's (Malachi 3:8-10)...God will not allow his tithe to go to Caesar, - especially to support wicked programs such as abortions. As a matter of free exercise of religion our church can pay no tax. This would not apply to assessments. It is faulty reasoning to contend that our church tax exemption is not a matter of right, but abstention by the state in not exercising its right to tax because taxation would be too entangling. To me some churches who pay taxes (such as unemployment compensation) under protest are sacrificing their conviction against paying taxes in order to argue that taxation is going too far and entangling. Some cases concerning licensure are being argued from the standpoint of "entanglement." In one case I attended not argued by CLA, this was so clear to me. It was plainly brought out that the pastor was not opposed to all licensing of the church. A copy of a cafeteria permit was shown as an example of the church accepting a license. An expert witness testified to a certain point, then abruptly stopped. What he did not testify in this particular case, that he usually testified in other trials when I have heard him, is that historically the church has rejected all licensure because a license speaks of Lordship, only a higher can license a lower, a license is the permission to exist, and no one can replace the Lord Jesus as Head of the Church. It seems to me that higher courts will reason that if this church can take one license on their cafeteria, why can't they take another license on their childrens' ministry as long as the minimum standards are not too "entangling?" Why not take the license on the childrens' ministry and accept a variance on every standard the church finds objectionable? A recent case on zoning illustrates the pitfall of arguing establishment/entanglement. In **Damascus Community Church v. Clackamas County**, a church was issued a Conditional Use Permit allowing them to use their property for a "church" in 1967. In 1975 the county became aware of a church school that had operated for some time. The school was ordered closed by the zoning board. Upon advise from counsel (**not** a CLA case) the church applied for a second Conditional Use Permit to operate a "school." This admitted the school was not the same as the church. The Oregon Supreme Court ruled: "By applying for a Conditional Use Permit for its school, the petitioner in effect concedes, that, for the purpose of this proceeding, its proposed use was not permitted by the original permit." On February 23, 1981, the U.S. Supreme Court refused the appeal, thus allowing the lower court's decision to stand.



Charles Craze teaching the separation of church and state

The Bible plainly teaches a geographical will of God. This church contends God led them to this property and through faith provided for the church to begin. God also led them to begin a church school (102 students on six acres located in a sparsely populated agricultural and residential area). One can understand a compelling government interest if a pastor said God told him to build a church on another man's property without permission. However, in this case there is no compelling interest, no question of safety or criminal law. A careful reading of the case suggests the church would have won had a pure stand based on free exercise been taken without the compromise, especially of seeking a second Conditional Use Permit.

The latest trend is the most disturbing. Some of the same people who argue against entanglement are proposing laws that unbelievably entangle church and state. A proposed law in Washington state forces church schools to "make and maintain daily attendance records. . . . provide minimum total program (hour) offerings required of public schools . . . provide instruction in mathematics, reading, science, social studies, spelling and writing . . . administer at least once a year, a nationally standardized test . . . make records of the test available to a duly authorized representative of the state superintendent of public instruction . . . maintain on file health certificates for each teacher . . . make attendance and health certificates available for a representative of the superintendent of public instruction . . . maintain permanent student records and forward such . . . in event the church school should close, forward all student records to the nearest local school district office . . . have a policy which prohibits racial segregation . . . require students to provide proof of immunization . . . send a notification letter to the superintendent of public instruction by November 15th of each year, giving name and address of school, name or principal, statement that as a matter of conscience and or religious beliefs it qualifies as an exempt school, grades which it operates, enrollment both in total and by grade . . ." other states are passing similar laws. These unscriptural, compromise laws will effectively divide the fundamentalist churches. A few "hardliners" will refuse to submit. They will be sued. Fundamentalist pastors who submit will be subpoened as adverse witnesses and forced under oath to testify against their brother pastors. Their testimony will be effectively used to show the unreasonableness of the few purists.

A similar law is proposed in North Dakota. A watered down version was passed in North Carolina. A Washington State Senator summed up the situation rather well as he commented about a state department of education representative coming to him, urging his support of the bill (described above). The bureaucrat commented, "We need this piece of legislation. They are contesting laws in other states and proving the laws are unconstitutional. With this law, we can still keep the church schools under our control." The bureaucrace plainly sees they must push to the very limit of "entanglement" and maintain control, while they wait for the right moment to move in for the kill. ■

REASONS WHY WE CANNOT ACCEPT
L I C E N S U R E
OF OUR CHURCH MINISTRIES

The subject at hand has to do with the licensure or certification of pre-elementary programs in the State of Alaska by the Department of Education.

Our special concern has to do with the impact of these proposed regulations on our Church ministries.

THE U.S. CONSTITUTION EXEMPTS CHURCHES FROM STATE CONTROL.

The First Amendment to the U.S. Constitution plainly says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" It should be crystal clear from this simple statement that the Church is constitutionally exempt from licensure.

At the same time, it should be noted that it is the responsibility of the Church to provide buildings and equipment that meet reasonable regulations for fire, life safety, health, and sanitation when they are equally and fairly applied to all alike.

On the other hand, inspection of personnel, programs, finances, records, curricula, etc., is clearly a violation of the First Amendment, and cannot be permitted by the local Church.

The First Amendment to the Constitution guarantees a separate Church and State. Historically, this has meant that the Church was not subject to the State, nor was the State subject to the Church.

The First Amendment also guarantees "free exercise of religion." Our nation has repeatedly recognized the value of this most important clause, and has resisted infringement of First Amendment rights of the citizenry.

In 1925 the State of Oregon passed a law requiring all students to attend public schools. Catholics argued that this violated their First Amendment rights because their children could no longer attend parochial schools. The U.S. Supreme Court ruled in favor of the Catholics in a case known as Pierce v. Society of Sisters.

WHO IS RESPONSIBLE FOR THE EDUCATION OF THE CHILDREN?

Here we must consult the words of Jesus Christ as recorded in Matthew 22:21. ". . . Then saith He unto them, 'Render therefore unto Caesar the things which are Caesar's, and unto God the things that are God's.'"

On this Biblical basis we declare that neither the family nor the children belong to Caesar. In this view we contend that the Church is not to be controlled by the State. Furthermore, the Scriptures do not declare that the State has a compelling interest in the education of a child, or that it is responsible to guarantee his education.

Constitutional issue - State's obligation for education

Deuteronomy 6:3-7, Psalm 78:4-8, Proverbs 22:6, Galatians 4:1&2, and Ephesians 6:4 set forth the Biblical mandate that parents, especially fathers, have the primary responsibility for the education of their children, and that the local Church has the secondary responsibility.

One of the ministries of the Church is education. The Great Commission commands the Church to teach. Matthew 28:19 is a commandment to the Church. In I Timothy 3 15, the Church is called "the pillar and ground of the Truth."

At this point, it should be stated that fathers may delegate areas of their responsibility, but they can never be rid of the responsibility itself. It should be remembered that a person who delegates his responsibility to another is still responsible to see to it that the task is accomplished.

All education is inherently religious. Because this is true, it is impossible to teach without setting forth a philosophy of life. It is impossible to teach facts, whether they be historical, mathematical, psychological, or any other kind, without arriving at a conclusion to which those facts ultimately point. Facts cannot be isolated; they are a part of the whole.

In teaching, we convey our own values, or the lack of them, whichever the case may be. Our habits of life inevitably come through.

Christian parents have the distinct responsibility to train their children in God's way, since education is a religious function. A person simply cannot teach without instilling values and philosophies into the students in the classroom.

Christian schools customarily achieve academic excellence through a disciplined subject-centered teaching methodology which employs a completely different approach from that of the child-centered programs used by State and government schools.

LICENSURE IS ABSOLUTELY UNACCEPTABLE.

If our Churches accepted a State license for their educational programs, there is a very real possibility that the same objectional programs which have already failed in the public sector would be forced upon the Christian schools. Even a cursory inspection of State licensing rules, as proposed in the considered document, quickly reveals a philosophy of education diverse from that of the Christian Church sector.

Sex education classes in the public sector are often required to display graphic illustrations of sexual activity before elementary school students. Perversion is treated as normal. The sin of sodomy is called "sexual preference" or a "lifestyle." The use of such euphemisms to classify sin is diametrically opposed to the Biblical philosophy and teaching of the Christian schools.

State licensure of Christian schools would establish de facto State schools, since the Christian schools would be at the mercy of State agencies for their existence. For these and other reasons which we shall cite, the Church cannot accept State licensure for its ministries.

When the State seeks to compel a Church to be licensed by the State, and thereby be controlled by the State, the State is in violation of the First Amendment to the Constitution. We simply cannot render to the State what belongs to God, because we are loyal to the Sovereign Head of the Church--The Lord Jesus Christ. All educational programs offered by the local Church are off limits to the State.

ADMINISTRATIVE RESPONSIBILITIES.

Administratively, it is imperative that we reserve the right to make the decisions with regard to personnel, textbooks, disciplinary practices, curriculum, and all other areas which affect the quality of our teaching ministry. Our Christian Churches and schools must be able to preach and teach without interference from the State into their ministries.

Advocates of State licensure use the specious argument that it is necessary for the "protection" and "welfare" of the children enrolled in Christian pre-elementary programs. The case simply has not been made that licensure "protects" the children.

Astute observation of these efforts at licensure of Church ministries in other states has revealed that the so-called

need for licensure is but a guise for concealing the motives for the enhancement of power by a self-serving bureaucracy.

Advocates for licensure of the local Church seem to think that unless a Church provides pre-elementary and pre-school services free of charge, it is operating a business rather than a ministry. Biblical history and common sense dictate a completely different view. The Bible plainly teaches that "the laborer is worthy of his hire," and each employee of full-time Church ministries deserves an appropriate remuneration for his labors just as much as do the pastor, associate pastor, and full-time teachers in the Christian ministry.

There is another question to be addressed as we conclude our considerations. Should a ministry be limited only to its Church members in order to escape the allegation that the Church is operating a business? I think the answer is quite obvious: No other ministry is so limited in its outreach. No church limits its attendance to its membership. Once again, the First Amendment is violated if government and private businesses are allowed to determine that a Church's pre-elementary educational ministry has in fact become a business because its outreach goes beyond its immediate membership.

WHAT ABOUT CIVIL DISOBEDIENCE?

Since we have taken the position set forth in the previous paragraphs of this document, we are faced with the responsibility of stating when it is Biblically correct to disobey civil authority. WE MUST DISOBEY CIVIL AUTHORITY ONLY WHEN IT WOULD REQUIRE US TO ACT CONTRARY TO GOD'S COMMANDS. If the State Department of Education should endeavor to force a local Church to apply for a D.O.E. certificate in order to keep its pre-elementary educational ministry open, we would have no choice but to disobey the requirement. This is due to the fact that Jesus Christ is Lord of the Church, not the State Department of Education.

Licensure is an activity which proceeds from the superior to the subordinate. The U.S. Constitution calls for the Church and the State to exist alongside one another. We would never agree that the State Department of Education or the State of Alaska itself is superior to the local Church.

Furthermore, if the State should proceed to license a Church's pre-elementary education program, it would be violating the Constitution by "establishing" a school of religion by the State!

FINAL ANALYSIS.

The ultimate responsibility for the education of children lies within the home, not the State. Biblically and historically, the family is God's first and basic institution. The authority and love which God has ordained for the family must not be violated by any action of the State.

Much of the blame for the frighteningly large number of broken homes today lies with the failure of other institutions to honor the sanctity of the family.

Since there is a considerable body of evidence which supports the idea that more than three-fourths of a child's personality and character is formed by the time he is six years old, the Church must not abdicate its responsibility in providing a suitable Christian education for these children in their tender years. By the grace of God, we will fulfill our commitment by meeting the demands of the Great Commission and provide a Biblical education for the children of parents who have enrolled their most precious treasures in our Christian schools.

Respectfully submitted,

Paul E. Glover

Paul E. Glover, Pastor
Harvester Christian Church & Academy
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PEG:hm
November 9, 1982

Detroit News -
9-10-82
Page 12-a.

Our Opinions

Functional Illiterates

Twenty-three million adult Americans — a staggering 20 percent — are considered functional illiterates because they can neither read a restaurant menu nor fill out a job application form.

These people aren't to be confused with "conventional illiterates" — individuals over the age of 14 who lack a sixth-grade education. To the contrary many functional illiterates have high school diplomas, yet they cannot perform basic tasks that most people take for granted.

According to a University of Texas study, 11 percent of American high school graduates can't read well enough to interpret a bus schedule or address an envelope.

The latest group to declare war on educational failure is the Coalition for Literacy, an alliance of volunteer groups, businesses, and public service organizations that has announced a campaign to reduce the number of functional illiterates in American society.

Notwithstanding the coalition's good intentions, it must be noted that there have been many other volunteer groups devoted to assisting undereducated adults. The federal government also began funding adult basic education 18 years ago, and in 1969 launched the "Right to Read" campaign. Yet, according to a 1979 Ford Foundation report, "only 2 to 4 percent of (the illiterates) ever enter the programs."

It appears these efforts are little more than ineffectual, albeit sincere, stopgap measures.

The cause of functional illiteracy is an institutional unwillingness to either accept past failures, or do something about present problems.

We refer, of course, to those public school systems that stubbornly refuse to require minimum-competency standards of their students. So long as schools fail to insist that their students meet fundamental educational objectives, the number of failures will continue to increase.

And all the well-intentioned programs for the victims will do nothing for the root cause of illiteracy — our defective public schools.

11-82



Are schools really better than ever?

By Arthur E. Hippler

VIEWING THE PAST in reseate hues is usually an exercise in selective retrospection. Much in the "good old days" was really terrible, as anyone who was there can easily point out.

An exception to that view might be made for education. This was brought home to me with some force as I mentally attempted to compare the education being received by my eldest son and that which I received some 35 or more years ago.

By the time I'd left parochial elementary school, I had a good working knowledge of the major sequences of historical events from the Hellenic period of Greece to the first World War, a broad geographic perspective of the world and it's countries, and a capacity to read at what would now be considered the 12th grade level (standards of reading achievement have been substantially "democratized" since then).

IN PAROCHIAL high school, history and geography were expanded upon and one could take both Latin and a contemporary foreign language, physics, chemistry and math (not including calculus). Social science, as such, was (fortunately) in short supply; no sociology or anthropology or psychology were offered.

Perhaps most importantly, we were provided a purpose for learning and a sense of right and wrong. About half my fellow students and myself were from very tough neighborhoods, and while fighting may have been common away from school, it was nearly unheard of within its boundaries.

Assaults on teachers would have been inconceivable as would incidents involving weapons, drugs or alcohol. Interracial conflicts were few in number.

Presently in the Anchorage school system, which I am told is one of the best in the U.S. and which seems to be staffed by people whose paper qualifications may be superior to those of the teachers of my childhood, it seems possible to get through without really learning much history or geography, and to have "value free" (which really means value hidden) social science courses substitute a mushy kind of internationalist freebootery for serious substantive information about government.

Much more math is offered in the Anchorage school system than in those of my youth; it may be the outcome is greater mathematical sophistication.

SCIENCE COURSES, which offer the possibility for the learning of substantial content in the presence of intellectual discipline, are on the surface far better than those I was offered.

Unfortunately since children in this system do not learn to read or write either well or critically, the offerings must almost always be watered down. I understand they are presently in the process of further dilution locally.

MOST APPARENT of all is the breakdown of personal discipline. Minimal homework, minimal demands and "prepping" of students for the Iowa Basic Skills Test by teachers (so the school district will compare well) teach a lesson whose outcome is anti-social behavior within the very school.

Of equal importance is the uphill struggle to find teachers able and willing to communicate the powerful positive message of the cultural contribution of capitalist democracy. In any society the schools must communicate their basic values. Ours do so poorly because in large part schools are dominated by liberals who are very fuzzy about what our society's values are, but who are perfectly willing to substitute their own.

On the one hand, I can sympathize with them. How can schools supported by public funds formally teach values alien to any segment of the supporting society? But such teachers are rarely consistent, and often define their own vague leftism as "progressive" and everything else as vaguely "reactionary." Thus they wind up teaching the contradictory idiosyncratic values of nihilism and collectivism. Liberals who learned their ideas about society from left-wing professors are not prone to teach the importance to human freedom of capitalist democracy.

The core of the difficulty is the decline of private education, a reality forced upon us by the massive tax support of public schools and the imposition of curriculum control by state education departments and the ubiquitous self-serving teachers unions.

VARIETY in the educational experience, and hence useful competition of approaches, cannot be accomplished by smorgasbord offerings in the public system, since within that system the ethos and ideology remain fixed. If we wish to offer our children an education with vitality, we must remove barriers to private education, so that our high school grads will be able to read Horace, will know what happened at Thermopylae and why, and will understand just what the contributions of democratic capitalism have been.

Absent that kind of change, you'd better continue to expect your children to get less than you did, in the guise of getting more.

Arthur Hippler, co-founder of the Alaska Civil Liberties Union, is a research associate professor of anthropology at the Institute for Social and Economic Research, University of Alaska.

Law review vol 16 - Wakeforest pg. 495 - 1980

1 Religious

N.C. 2 identical Statutes 1) Religious 2)

Welcomed law! Voluntary accreditation analyzed in law review as potential "model"

Ace Hardware

15¢

Pat Lines - 303-830-3656

Alabama did the same as 357 (Weak) Constitutional question not yet challenged!

Yoder case - Yomish. Sup Ct decision. Ct ordered exemption specifically for that case!

Use term "by reason of religious or conscientious concinnic object - by the administrators of the school

Colorado has de-reg bill exempting non-public schools.



"For non-profit org schools that are exempt will be exempt if the

Alabama - other states do it for all private education.

NC - allows school to be approved by the state

OR

Education Week
- Oct 82 - Fi Delta C PHI - Delta Kappana

State does have interest! Testing
if de-regulated - how well on standardized tests
① - Consider protection needs of parents
② - People together in non political environment to talk.

Wise - comp law unconst. - for failure to define "school" - rule against void for vagueness

add definition

AG of Texas - appealed & is in appelate system
now -
Gov Clements - 1st Rep. Gov in Texas

Calif — 100 churches have lost tax exemption -
county sells prop to the state - Church has 5
years to redeem the property.
- would not allow state to combine church w/school.
School had to come under Dept of Welfare.
- could not preach or influence legis unless
reported teaching to franchise tax board.. -
St of Calif won't allow them to defend
themselves because their not a recog. entity -
however they are still taxed.

Kentucky ~~Florence~~ Dept - brought into into court for a
custody hearing for the crime of educating
Then is a christian school
(Finally won the case in court)

★ — Religious freedom issue not an education issue —
Neb - very powerful teachers unions
—

—

Rev. ~~[illegible]~~ Silinen
Faith Baptist Church

Judge ordered school closed –
Rev. refused – Judge found him in contempt
School was closed except for church services
17 Students
– they moved into Church ~~[illegible]~~ & now lived there.
3 months 17 day – contempt ~~[illegible]~~ charge

Judge said law needs to be solved by legis.

DR. Gregg Dickson
Unicameral Leg. in Neb. – w/ State law exempting churches. Religious liberty Issue
Corpus Christi Texas

Opr. illegally w/o State approval – arrested Rev. Silinen.
– Judge case – trampled constitution

Faith Christing School will remain open

→ won't be reg by state – or certify teachers

~~[illegible]~~

~~If~~ They loose. Religious freedom in Amer is gone per Rev.

Issue Bottom line not education as says press
Press "Will not allow state to reg. this educ"

Rev Reverend

Is the Church a sub of the state. – Can the state control any or all of the Church. If they have the rite to license teachers – they will have the rite to license preachers – worship service sunday school etc – We say none – How far can the state go?

5/17 7 pm Mtg

Tischer - Steve Hales Amen / DOE -

pg 2 - technical changes -

① pg 2 l 1 - change Dept to State Bd of Edu
As a sect 26 Bd - has sole authority
to adopt req's

② sec 5 l 24 - burdensome

③ Sec 4 - offered by DOE but not necessarily same as what
Levy - Pt to sec (c) pg. 3. - not necessary

④ l 1 pg 3 delete parent insert religious school
Hole - if we get from parent okay - but - if does not enroll in a public school no way to know if he is re-enrolled.
Goll - confused about Sec 4! Intent of section:
Hole - Req. of 16-21 - private school not otherwise effected by the effects of this bill (religious) to report - any non-religious or for profit schools.
Levy - Sect. also applies to religious schools that choose not to comply w/bill.
Goll - creating 2 separate reporting methods. Maybe its own oversite. Financial burden to state.

⑤ pg 3 l 6 - delete 9 mo - insert 180 days.

⑥

Goll - N.C. statute - 11th grade proficiency test language - doesn't define quality of test.

⑥ R.S be req to provide school calendar & # of students enrolled in each grade - purely statistical.
Would be the same for all private schools. Ideas w/ Reprtg. requirement.

tape # 720

Hole – Compulsory attendance not req. by St Brd. Collect aggregate info by district generally.
Report for Foundation – based upon all the schools – when we deal w/ private schools they are seperate entities.

Tischer – Is this info classified –
Hole – only parent & school officials has access to confidential information.
critical – immunization record – less critical = achievement records.

M. Miller – testing is important on behalf of receiving school.

Tischer – Req. by religious school teacher – do not require any more than what is required of public schools.

Kopenen
14.09.020 – Provides Transportation
14.30.010 – Compulsory Attendance
14.45. – dealt w/ private & denominational schools – cert repealed in 1966 –
14.45.020 – permission – allows comm to grant diplomas

Ques – what is acute immediate danger or problem that has brought forth bill? Problem in some other state – not Alaska.

Tischer – Preventive measures are the best – national interest –
– Endorse as long as DOE is content w/ monitoring

M. Miller – No problem for private schools re DOE amendments. –
– Motion to adopt. DOE amendment.

Hole – "Competency requirement

Jean Krause - Pres NEA - opposes bill - based on feeling as professional organization - must strengthen standards this bill weakens bill. Under CS amended - no requirements for certificated teachers. No min graduation requirements. Free exercise & religion differs from secular matters. Perhaps state should establish a standardized test. No challenge to statutes - no evidence of burden. Generated by the new Commissioner from Maine. Should be no transportation of these pupils or activities or spec educ @ public expense. No reason to change now.

Fritz - Partake of public transportation? Special Educ.

Krause - In Anch students, on occassion, students transfer to special educ classes provided by public schools.

Gall - - Levy's opinion w/regard to schools w/ do not receive St or Fed funding - relationship w/ other Federal or State assistance.

Levy - Surprised to hear that private school - Ak Supreme Ct. -

M. Miller - Thks catholic school - reimburses school dist for buses used.

Kopenhaver - 14.09.020. Transp for - By Dick Bruel -

Fritz - Teachers on their own recognition - why is end result seen to be superior educ in private schools.

Rep Schultz - opposed to bill - more press - leading to mediocrity Should turn this into a resol. to Gov to DOE to set higher educ. standards.

Gall - Issue of church state relationship raised -

Schultz - States respon to set standards & to see

Pat Monroe - Dept H&SS - concerns re/ passing & how it effects licensing programs - day care & adult -

Major concern - to exclude pre-elementary operated by religious

1) no background on operator of facility
" " emergency child record keeping
" consumer protection - inform of policies
" first aide
" tb
" equip or sq. footage req.
" admin of medication

regulation

Purpose of licensing — Pre-schools - 3-4 & 5 yr olds.

— C&RA — - No would they be eligible to receive day care assistance - all

Move out as amended -

Goal - Problem - l 10-14 pg 1 / DH&SS would continue to supervise -

Pg. 1 l 13 - insert lang. —

Move - CS for 357 (H&SS) - Ind Rec.

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 13, 1983

MEMORANDUM

TO: Representative Sam Pestinger

FROM: Leslie Longenbaugh LL
Research Staff

RE: Other States' Regulation of Religious Schools
Research Request 83-159

Ed Essa of your staff asked that we provide information about states that regulate religious and other nonpublic schools differently. My preliminary work, provided to you on May 4, revealed five states that exempt religious schools from some state regulation to which other nonpublic schools are subject. Upon further investigation, I found significant differences in regulation in only three states: Maryland, North Carolina and Tennessee. Below is a brief description of the statutory distinctions made by each state; I have attached copies of the pertinent state statutes.

Maryland

Maryland requires that private "noncollegiate" schools obtain a state certificate of approval before they may operate in the state. The issuance of such a certificate of approval is contingent upon the state board of education's finding that the "facilities, conditions of entrance and scholarship, and educational qualifications and standards are adequate and appropriate" for the type of school.[1]

Specifically exempted from the requirement of a certificate of approval are all institutions "operated by a bona fide church organization..."[2] Schools that come under this exemption may not receive any state funds other than funds for the state food service program.

All private noncollegiate schools in Maryland, including the religious schools that are exempt from the certificate of approval, must make annual reports of their enrollment and courses of study.[3] In addition,

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1 Annotated Code of Maryland, Education § 2-206 (e)(2).

2 ACN § 2-206 (3)(4).

3 ACN § 2-205.

they must conform to a state law that requires private schools that are ending operation to furnish to the state the academic records of all past and present students.

North Carolina

North Carolina in 1979 enacted a statute which has served as a compromise between the competing interests of religious schools and states.[4] For the purposes of state regulation, the law creates three types of legal nonpublic schools: 1) religious schools, defined as "private church schools or schools of religious charter"; 2) "qualified nonpublic schools" -- these institutions are either accredited by the state or an association or receive no state funds; and 3) "proprietary schools," or nonpublic schools that are operated for profit.

Schools in the first and second classifications above (religious institutions and other nonpublic schools) share the following requirements:

a) notice to the state of the intent to begin or cease operation;

b) maintainance of annual attendance and disease immunization records for all students (there is no requirement that these records be submitted to the state);

c) operation on a regular schedule during at least nine months of the year;

d) subjection to reasonable fire, health and safety inspections as required by law;

e) administration of nationally standardized tests for all students in the first, second, third, sixth and ninth grades;

f) administration of nationally standardized tests for all students in the eleventh grade and establishment of minimum standards for achievement on the test before graduation.

In addition, schools of these two types may choose to participate in any state-operated or -sponsored program which is available to other nonpublic schools. The statute adds that no other state laws, except health, fire and safety laws, are applicable to these schools.

Apparently, North Carolina is one of only three states that require standardized testing for students of religious schools (New York and

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[4] General Statutes of North Carolina, § 115C-547 through § 115C-554.

South Dakota are the other states). In North Carolina, the chief administrator of the religious school may choose the test, rather than having the state select the tests to be given. The tests need cover only the basic secular skills -- grammar, reading, spelling and mathematics. Records of the test scores must be available for state inspection for one year following the test.

Nonpublic schools that are operated for profit must obtain a license from the state annually. The state board of education is charged with promulgating and enforcing regulations and standards governing approval and licensure. By law, the reports solicited must include detailed information regarding curricula, costs, and instructional space. In addition, the schools must post a bond of $1,000.[5]

Another difference in the requirements for licensed and exempt nonpublic schools in North Carolina is the certification of their staff. While North Carolina is one of the few states that require nonpublic-school teachers to be certified, teachers in religious schools are exempt from this provision.

Tennessee

The Tennessee Department of Education, by regulation, requires that all nonpublic schools report the name, age and address of all students to the local public school superintendent for the purposes of ensuring compliance with attendance laws.[6] Otherwise, state law requires only that the department of education inspect, approve and classify those primary, secondary and pre-elementary nonpublic schools that request such services. The approval is to be according to the standards that are used for the state's public schools.[7]

In 1976, the Tennessee legislature enacted legislation which prohibits the state and local boards of education from regulating the selection of faculty, textbooks or curricula of "church-related schools." The law requires that these schools meet the standards of accreditation of at least one of four nonpublic school associations. The law does require that the terms of church-related schools be as long as the public schools'.[8]

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[5] GSNC §115C-570.

[6] Donald Wood, Chief of Management Services, Tennessee Department of Education, Nashville; telephone: 615/741-2731.

[7] Tennessee Code Annotated, 49-105 § 19.

[8] TCA 49-5201.

The statute adds that children who attend church-related schools may transfer into the state's public school system; however, the public schools may test such students and place them at a grade level that is indicated by the results of the test.

Like other nonpublic schools in Tennessee, church-related schools may apply for state approval, and many do. Of approximately 440 nonpublic schools in the state, roughly 160, both religious and secular, have received state approval.[9]

Case Law

Mr. Essa mentioned an interest in the case law about the regulation of religious nonpublic schools. I have enclosed a copy of a law review article written about North Carolina's regulation of religious schools; this article contains a concise overview of the findings of the United States Supreme Court and state courts of last resort.

* * *

If you have any questions or further needs for research, please call on us.

LL

Attachments: Annotated Code of Maryland, Education, § 2-205, § 2-206, § 2-304
General Statutes of North Carolina, Articles 39 and 40
Tennessee Code Annotated, Chapter 52 and § 49-105
J. Eric Evenson II, "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," Wake Forest Law Review, Vol. 16 1980, pages 405 to 437

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[9] Donald Wood, Tennessee Department of Education.

MAY 11 1983

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM May 11, 1983

SUBJECT: Chief school administrators (CSHB 384 (HESS))

TO: Representative Mae Tischer
Chairman, Health, Education, and Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

Enclosed is a draft of a Committee Substitute for HB 384 (HESS). The bill may present a constitutional problem which you should be aware of. In addition, this draft differs in certain respects from the request I received from your office.

The committee substitute sets out certain limits on what a chief school administrator for a regional educational attendance area may do and the compensation he or she may receive. To go outside of these limits, the chief school administrator must obtain the approval of the school board and the legislative budget and audit committee. It may be a violation of the separation of powers doctrine for the legislature to require an employee of the executive branch to obtain legislative approval since that approval may be an executive function.

However, the state constitution does allow the legislature to exercise certain executive powers with respect to the unorganized borough. Article X, section 6 of the state constitution provides:

> The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough.

Accordingly, CSHB 384 (HESS) may be a valid exercise of executive power by the legislature since the bill only applies to chief school administrators in the regional educational attendance areas. Since the extent of the legislature's power to perform executive functions in the unorganized borough has not been fully defined by the courts, however, the bill merits a discussion of the separation of powers issue.

The Constitution of the State of Alaska implicitly recognizes the separation of powers doctrine. Public Defender Agency v. Superior Court, 534 P.2d 947 (Alaska 1975). Article III, section 1 of the state constitution provides

> The executive power of the state is invested in the governor.

Accordingly, the legislature may not reserve to itself an executive power unless the constitution specifically provides for such a retention of power. Citing the United States Supreme Court, the Alaska Supreme Court noted that

> Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions.

Bradner v. Hammond, 553 P.2d 1, 6, n. 17 (Alaska 1976), citing Springer v. Philippine Islands, 277 U.S. 189, 202, 72 L.Ed. 845, 849 (1927).

If the approval required in the bill is construed as a legislative rather than an executive function, there is no constitutional problem. This interpretation is feasible with respect to AS 14.14.130(d) in the sense that fiscal control is at least in part a legislative function and that subsection allows the legislature to ensure fiscal integrity by retaining the power to disapprove budget excesses by chief school administrators. On the other hand, a court could also construe this power as executive in the sense that it is the power to enforce the law, i.e., the power to ensure that a chief school administrator does not violate AS 14.14.130. At the very least, that subsection is open to constitutional attack. Some of the remaining subsections, however, do not even have the fiscal justification found in subsection (d). Subsection (f) requires legislative approval

of military and sick leave exceeding six days by chief school administrators and subsection (g) requires legislative approval for sabbatical leave. These duties are clearly administrative and would require the legislature to make executive decisions. In my opinion, such a usurping of executive power would be unconstitutional without express constitutional justification. As noted above, however, Article X, section 6 of the state constitution may provide that justification.

Moreover, there is some precedent in the Alaska Statutes for requiring legislative approval of executive acts. AS 38.06.055(a) provides

> (a) In addition to the recommendation by the board required under AS 38.06.050, the commissioner of natural resources may not enter into a sale, exchange, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas under AS 38.05.183 without the prior approval of the legislature. The legislature may approve a sale, exchange, or other disposition of oil or gas or of the rights or of a waiver of the rights to receive future production of royalty oil or gas only by enacting legislation.

This section has not been challenged in the courts. However, in an opinion addressed to Senator Ziegler regarding other aspects of AS 38.06.055, former Attorney General Avrum Gross said

> It is no secret that the statute authorizing legislative approval of these contracts creates some rather serious questions concerning separation of powers. There is no need to reach the constitutional question in this case, since whatever the legal merits of the issue, the Governor has submitted these contracts to the legislature for its approval and will be bound by its decision.

Op. Att'y Gen. February 23, 1977. In other words, although the attorney general felt that the requirement of legislative approval might be unconstitutional, he chose not to address the issue since the governor had agreed not to challenge the statute. If the present administration were to challenge the provisions of CSHB 384 (HESS), the same constitutional issues would arise. In my opinion, such a challenge could fail because of the legislature's unique

power to govern in the unorganized borough. I would caution, however, that the exact meaning of Article X, section 6 is not clear and the question is still an open one.

You should also be aware that the provisions in this draft of the committee substitute relating to tenure of chief school administrators differ from your draft request slightly. My understanding is that you wish to provide that a chief school administrator may not acquire tenure and a teacher must forfeit tenure if appointed to the position of chief school administrator. Your draft request did not cover the possibility of a teacher who has already acquired tenure before being appointed chief school administrator. Accordingly, the enclosed draft amends two sections of Title 14 to provide that a chief school administrator forfeits tenure upon appointment and may not acquire tenure after appointment.

KBL:ljb
19/001

Section 6. AS 14.45.030 Sentance addition to paragraph (c).

Such schools shall report annually the number of students enrolled in each grade and provide a copy of the school calendar to the department.

Such schools shall maintain adequate student records, including all information required of public schools on attendance, immunization, physical examinations, testing and courses taken while in attendance at the religious school.

Made into new Sec. in CS. - 14.45.040. Records

HESS CS
final

Levy
5/13/83

Original sponsors: Fritz, Tischer, Pestinger, et al

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

IN THE HOUSE

CS FOR HOUSE BILL NO. 357 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of religious schools."

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

* Section 1. AS 14.07.020(8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4) excluding educational component of pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Sec. 2. AS 14.30.010(b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement

tests; the [department] with assistance from representatives of the private schools shall adopt [PROMULGATE] regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding;

* Sec. 3. AS 14.45 is amended by adding a new section to read:

Sec. 14.45.025. EXEMPTION FROM EDUCATION LAWS. A religious school that complies with this chapter is exempt from other provisions of state law and regulations relating to education except laws and regulations relating to health, fire safety, sanitation, immunization, and physical examinations.

* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Except as provided in (b) and (c) of this section, teachers [TEACHERS] and others in charge of private or denominational schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 5. As 14.45.030 is amended by adding new subsections to read:

(b) The parent or guardian of a child enrolled in a religious school that complies with this chapter shall file annual enrollment [and attendance records] for the child with the public school superintendent for the area in which the child resides on a form provided by the public school superintendent. The form shall be signed by the parent and the chief administrative officer of the religious school and returned to the public school superintendent by the parent. The

religious school
parent shall notify the public school superintendent immediately if the child is no longer enrolled in or attending the religious school.

(c) A religious school that elects to comply with this chapter shall maintain monthly attendance records for each student enrolled in the school and shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months 180 days of the year.

* Sec. 6. AS 14.45 is amended by adding new sections to read:

Sec. 14.45.035. STANDARDIZED TESTING REQUIREMENTS. (a) A religious school that elects to comply with this chapter shall administer a nationally standardized test selected by the chief administrative officer of the religious school to all students enrolled in grades one, three, six, and nine at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious school shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student and to authorized representatives of the state. Word written amendment by Hale

Sec. 14.45.040. DEFINITION. In this chapter, "religious school" means a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding.

* Sec. 7. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree

programs of postsecondary education or an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding;

* Sec. 8. AS 14.45.020 is repealed.

Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-3764
465-3765

LETTER OF INTENT

HB 357 "An Act relating to the regulation of religious schools."

The Rules Committee recognizes that operating a church school is an integral part of the free expression of religion and that schools operated by religious bodies are quite different from other private schools. Therefore, the committee's purpose in sending HB 357 to the floor and in urging its passage is to prevent possible church-state constitutional conflicts by protecting the fundamental rights of religious freedom of parents, children, and church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education. The committee specifically intends to exempt pre-elementary and nursery programs operated by religious organizations from the general supervision of the Departments of Education and of Health and Social Services.

The committee only intends to exclude from the purview of this bill those church schools that receive direct federal or state funds. This would not affect those schools that receive incidental benefits from government, such as fire or police protection, health care or other benefits to which all citizens are entitled.

Any church school that satisfies all the requirements of AS 14.45 would be exempt from any additional provision of law relating to education except those requirements of law relating to fire, health, and safety. While each church school would be subject to reasonable fire, health, and safety regulation, the Rules Committee intends to specifically limit health regulation to that regulation that is reasonably related to the state's interest in preventing and curing physical diseases. For example, the committee does not intend for the state to regulate minimum space requirements (except as it directly relates to the fire code), hours of attendance, or reasonable methods of discipline.

In summary, the Rules Committee Substitute for HB 357 balances the state's interest in ensuring that each child receives a good education with the constitutional right to religious freedom.

Respectfully submitted,

Rep. Jack Fuller
Rules Committee chairman

MEMORANDUM State of Alaska

TO: Steve Hole
Administrator
Department of Education

DATE: June 10, 1983

FILE NO: 366-657-83

TELEPHONE NO: 465-3603

SUBJECT: CSHB 357 (Rules)

FROM: Norman C. Gorsuch
Attorney General

By: Thomas H. Robertson
Assistant Attorney General
Human Services-Juneau

This memorandum is written in response to our recent telephone conversation in which you asked whether language in CSHB 357 (Rules) which would exempt certain pre-elementary schools from supervision by your agency raises a question of equal protection under the law.

A substantial question exists as to whether this and other provisions of CSHB 357 (Rules) violate the equal protection clauses of the state and federal constitutions.

Section 1 of CSHB 357 (Rules) would exclude pre-elementary schools and nurseries operated by "a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding" from supervision by your agency under AS 14.07.020(8). Other sections of the bill would amend AS 14.30.010 which governs compulsory attendance and would exclude other educational programs operated by these organizations from regulation by the state. In effect, this bill would establish two categories of private schools, church related and not church related, and would provide for disparate treatment of each.

To the extent CSHB 357 (Rules) is intended to assure that your agency does not infringe first amendment protections, it is unnecessary. 1/ Your agency has no power to violate the

---

1/ The first amendment to the United States Constitution provides, in part, that Congress shall make no law "respecting an establishment of religion, or prohibiting the free exercise thereof". Similar language is contained in Article 1, sec. 4, of the Alaska Constitution.

constitutional rights. To the extent CSHB 357 (Rules) would go beyond first amendment protections, it raises a serious question of equal protection under the state and federal constitutions.

Equal protection analysis under either the state or federal constitutions requires an evaluation of the purpose of the legislation at issue. CSHB 357 (Rules) does not contain a statement of purpose and none, other than that of accommodating first amendment rights, is readily apparent. If as a factual matter sufficient reasons cannot be articulated to support a distinction between these categories of private schools, then a court would probably find this legislation to deny equal protection. 2/

In an opinion dated January 24, 1983, the Attorney General for the State of Arkansas addressed the constitutionality of a similar bill under consideration in that state. That opinion, a copy of which is attached, concludes that the bill unlawfully discriminates against children in religious child care facilities and the owners and operators of non-religious facilities. In addition, it concludes that the bill may impermissably benefit religious organizations in violation of the First Amendment. Unless circumstances in this state require a different result, we would probably reach a similar conclusion if asked to undertake a more comprehensive analysis of this legislation.

2/ Generally speaking, the Fourteenth Amendment to the United States Constitution requires that disparate treatment be supported by a rational basis unless a suspect classification (race, creed, etc.) or a fundamental right is involved, in which case it must be supported by a compelling state interest. In State v. Erickson, 574 P.2d 1 (Alaska 1978), the Alaska Supreme Court established a single standard for equal protection analysis under the Alaska Constitution. This standard, which is more demanding than the federal rational basis test, requires an evaluation of the purpose of the statute and, if the purpose is legitimate, a determination whether it is substantially furthered by the means chosen. Finally, the means must be balanced against the nature of any constitutional right which may be infringed.

If you have additional questions, or desire further research in this area, please do not hesitate to contact this office.

THR:ja

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

(501) 371-2007

January 24, 1983

OPINION NO. 83-15

The Honorable Joseph K. Mahony
The Honorable Robert L. McGinnis
State Representatives
1983 General Assembly
State Capitol
Little Rock, AR 72201

RE: House Bill 54

Gentlemen:

I am writing in response to your request for an opinion regarding the constitutionality of House Bill 54. An examination of the bill reveals an obvious concern that House Bill 54 is legally invalid as a violation of the equal protection provisions of the Fourteenth Amendment to the United States Constitution and Article 2, Section 3 of the Arkansas Constitution.

The Fourteenth Amendment states, in pertinent part, as follows:

> No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. [Emphasis supplied]

These constitutional provisions have consistently been interpreted to strike down statutes which discriminate between different groups of citizens or businesses which are regulated by the same legislation.

That is to say, when the law attempts to regulate a business, industry or practice, it must do so on an equal basis to all the members of the regulated class unless there is a significant difference in the way the exempted class operates its business, industry or practice and the exemption is reasonably related to the purpose of the original legislation. Jacks v. State, 219 Ark. 392, 242 S.W.2d 704; Wometco Services, Inc. v. Gaddy, 272 Ark. 452, 616 S.W.2d 466, Rayco Construction Co., Inc. v. Vorsanger, 397 F.Supp. 1105; Milnot Co. v. Douglas, 452 F.Supp. 505. See also Milnot v. Arkansas State Board of Health, 388 F.Supp. 901 and Dicks v. Nall, Mayor, 255 Ark. 357.

In the Rayco case the Court stated:

> A state may validly differentiate between people or corporations on the basis of classifications providing that the state has legitimate and significant (in some contexts a "compelling") interest in the differentiation and provided that the classification is based on some reasonable and rational criterion or criteria; however, absent an appropriate state interest or absent rational and relevant standards of classification, state-imposed differentiation amounts to unconstitutional discrimination. [Emphasis supplied]

The exemption which H.B. 54 creates is the type of "classification" which these cases address.

Therefore unless the exemption can be justified because of differences in the operation of religious child care facilities as opposed to non-religious facilities this bill appears to discriminate, unlawfully, against not one but two classes of citizens; the children the Child Care Facility Review Board Act was intended to protect and the owners and operators of non-religious facilities.

Since there is no language in the bill indicating that children in these religious facilities are fed, supervised, etc. any differently from children in secular facilities and since there is no language in the bill indicating that children in the religious facilities are any less likely to be neglected, abused or left in hazardous circumstances than children in secular facilities there is no justification for denying to the children in these centers the protection of the state and forcing the owners of secular facilities to compete with unlicensed facilities who are operating the identical kind of business.

It is important to remember in this regard that the intent of the original act, as stated at Ark. Stat. Ann. §83-904(b), is the protection of children:

> (B) In establishing requirements and standards for the granting, revoking, refusing, and suspending of a license for a Child Care Facility the Welfare Department [Child Care Facility Review Board] shall adopt such rules and regulations as will: promote the health, safety and welfare of children attending a Child Care Facility; promote safe, comfortable, and healthy physical facilities for the children who attend the Child Care Facility; insure adequate supervision of the children who attend the Child Care Facility, insure adequate supervision of the children by capable, qualified and healthy individuals; insure appropriate educational programs and activities within each Child Care Facility; and insure adequate and healthy food service where food service is offered by the Child Care Facility.

With this in mind H.B. 54 demonstrates no rational, much less compelling state interest, in exempting facilities from licensure simply because they happen to receive no state or federal money and are associated with a religious organization.

The source of the facilities' funds and its association with a religious association simply does not appear to be connected in any way with whether or not these children deserve the same protection from abuse, neglect or hazardous circumstances as children in secular centers.

Likewise the source of the facilities' money and association with a religious organization does not appear to justify compelling a secular facility to spend the money and resources necessary to comply with the original act when the religious facilities operate the identical type of business enterprise.

Since there is no language in the original act which appears to authorize the Child Care Board to interfere with the religious beliefs of any church, this exemption seems irrelevant to any need to protect the First Amendment rights of religious groups.

However, if a religion's beliefs are manifested in practices which may threaten the safety and well being of children, then the state through its police power and the doctrine of parens patriae can and should lawfully discover and prevent such dangers. See Cude v. State, 237 Ark. 927, 377 S.W.2d 816.

In the Cude case the Arkansas Supreme Court overruled parents' religious objections to having children vaccinated, saying that the state's police power superceded the dangerous beliefs of parents which threaten the well being of the children. The Court quoting the United States Supreme Court in Prince v. Massachusetts, 321 U.S. 158, said:

> The right to practice religion freely does not include liberty to expose the community or the child to communicable diseases or the latter to ill health or death.
>
> . . . Parents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves.

Again however, it is important to note that the intent of the original legislation has nothing whatsoever to do with parents' religious rights or the rights of a religious association but simply with the

protection of all children, religious or not, in facilities which are religious or secular.

Therefore any argument that this exemption is necessary to protect the First Amendment rights of the prospectively exempt facilities is without support from any language in H.B.54.

In fact the bill itself appears that it may violate the doctrine of church/state separation by awarding an unjustifiable benefit to religious organizations not enjoyed by private facilities which operate identical enterprises.

Without a justifiable secular legislative purpose which neither advances or inhibits religion, the bill is, in fact also suspect from the point of view of the First Amendment. Roemer v. Maryland, 426 U.S. 736, 96 S.Ct. 2337, 49 L.Ed.2d 179

Again, it is difficult to see, from the bill itself, a secular and neutral legislative purpose for exemption of only the religious facilities. Rather it appears that this legislation is clearly intended to further the alleged religious interests of certain denominations since there is no rational justification for the exemption in view of the legislative purpose quoted above.

The courts, in reviewing a challenge to this bill, can look behind the legislation into the history of the bill, something that has been done recently in McLean v. Board of Education, 529 F.Supp. 1255 (E.D. Ark. 1982), and Epperson v. Arkansas, 363 U.S. 97, 89 S.Ct. 260, 21 L.Ed. 2d 228 (1968).

Since the burden is on those defending a discrimination to make out a claim for justification (Wengler v. Druggist Mutual Insurance Co., 446 U.S. 142, 100 S.Ct. 1540, 64 L.Ed.2d 107) I can advise you that this bill presents no such justification and the state could therefore not carry that burden in a court action.

It is important to remember that:

1. Many children in the so-called religious centers are not members, nor are their parents, of the religious facility seeking exemption. So again the particular beliefs of the religious association are irrelevent to protecting the children at the facility. Circle H and Faith Christian homes recruit children from all over Arkansas regardless of the children's religion at the time of their arriving at these facilities. The Alamo foundation solicits new born babies from all over the nation totally disregarding any beliefs of the child.

There is simply no rational justification for denying these children protection of state law because the institution they end up in, through no choice of their own, has a religious objection to licensure.

2. This exemption would not have protected Circle H Ranch because records at social services reflect it received well over $100,000 in state and federal aid.

3. Many of these children come from broken homes, and have learning disabilities which require expert counseling and often special education which, as Judge Barrier found in the Circle H case, are not available at some of these facilities. These are children who need society's protection and assistance.

4. Health department inspections are inadequate to insure the safety of children because they do not have specific day care rules and regulations to address vital areas of the operation of a child care center such as playground safety, etc. The same is true with the Fire Marshal. Such problems were observed at the Alamo Foundation where an unfenced swimming pool and unfenced fishing pond were less than 100 feet from a playground serving 70 children.

5. Current criminal laws against child abuse are not adequate to protect children in these centers because: (1) These laws cannot operate without a report of abuse by a witness. At some facilities absolute loyalty is the rule and therefore it is unlikely that employees will file such a complaint; (2) Employees at other centers are not likely to report abuse because it may cost them their job; (3) Criminal statutes don't authorize closing the facility where abuse or neglect is practiced. They only allow prosecution of individuals. And if the only witnesses are children who are too young to testify, there is no case to take to a prosecutor although the abuse, unreported, is nonetheless occuring.

In conclusion, House Bill 54 is constitutionally suspect as being without rational justification and thus discriminates both against a large class of children and the owners and operators of secular facilities.

I am informed of the likely prospect of an immediate court challenge if the bill is enacted. In that eventuality, it is my judgment that the bill would be struck down as a violation of the constitutional provisions I have mentioned.

If I may be of assistance in providing additional information on this or other proposed legislation, please do not hesitate to contact this office.

Sincerely,

STAV. CLARK
Attorney General

SC:mgv

SENATE AMENDMENT

By Josephson

To: _____ SENATE BILL No. _____

To: Committee substitute for HOUSE BILL No. 357 (RULES)

PAGE: 1 LINE: 9-18

Section 1. AS 14.07.020(8) is amended to read:

(8) [in cooperation with the Department of Health and Social Services,] exercise general supervision over public and private pre-elementary schools [and over the educational component of nurseries as defined in AS 47.35.080(4)] excluding the educational component of pre-elementary schools [and nurseries] operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding; pre-elementary schools in this paragraph means schools for children ades three through five years when the schools' primary function is educational;

HOUSE MESS
COMMITTEE MEETING
AGENDA

PRIVATE SCHOOLS.
PAROCHIAL SCHOOLS.

DATE: May 13, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

HB 357 An act relating to the regulation of religious schools. STATEWIDE TELECONFERENCE

Other notes or reminders:

FULL CALENDAR NEXT WEEK

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

To: Chief Clerk Date: 5/13/83

From: House HESS Committee Staff

Re: Notice of Hearing/ Proposed CSHB 357

In addition to the HESS Committee's scheduled calendar for Monday, May 16, the Committee will take testimony in regard to the proposed CS for HB 357 (HESS) at 1.p.m. in room 112 of the Capitol Building.

Levy
5/20/83

Original sponsors: Fritz, Tischer,
Pestinger, et al

IN THE HOUSE BY THE RULES COMMITTEE

CS FOR HOUSE BILL NO. 357 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of religious schools."

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

* Section 1. AS 14.07.020(8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

CS deletes "the educational component of"

* Sec. 2. AS 14.30.010(b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievem-

tests; the board of education [DEPARTMENT] with assistance from representatives of the private schools shall adopt [PROMULGATE] regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding;

* Sec. 3. AS 14.45 is amended by adding a new section to read:

Sec. 14.45.025. EXEMPTION FROM EDUCATION LAWS. A religious school that complies with this chapter is exempt from other provisions of state law and regulations relating to education except laws and regulations relating to health, fire safety, sanitation, immunization, and physical examinations.

* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Except as provided in (b) and (c) of this section, teachers [TEACHERS] and others in charge of private or denominational schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 5. AS 14.45.030 is amended by adding new subsections to read:

(b) The parent or guardian of a child enrolled in a religious school that complies with this chapter shall file an annual notice of enrollment in the religious school for the child with the public school superintendent for the area in which the child resides on a form provided by the public school superintendent. The form shall be signed by the parent and the chief administrative officer of the religious school and returned to the public school superintendent by

the parent. The religious school shall notify the public school superintendent immediately if the child is no longer enrolled in or attending the religious school.

(c) A religious school that elects to comply with this chapter shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall make an annual report to the commissioner of the number of students in each grade and the school calendar.

* Sec. 6. AS 14.45 is amended by adding new sections to read:

Sec. 14.45.035. STANDARDIZED TESTING REQUIREMENTS. (a) A religious school that elects to comply with this chapter shall administer a nationally standardized test selected by the chief administrative officer of the religious school to all students enrolled in grades one, three, six, and nine at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious school that elects to comply with this chapter shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student and to authorized representatives of the state.

Sec. 14.45.040. RECORDS. A religious school that elects to comply with this chapter shall maintain adequate student records, including records of immunizations, physical examinations, testing, and courses taken at the religious school.

Sec. 14.45.045. DEFINITION. In this chapter, "religious school" means a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding.

* Sec. 7. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education <u>or an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding</u>;

* Sec. 8. AS 14.45.020 is repealed.

Levv
5/13/83

Original sponsors: Fritz, Tischer,
Pestinger, et al

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 357 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of religious schools."

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

* Section 1. AS 14.07.020(8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4) <u>excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding</u>; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Sec. 2. AS 14.30.010(b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) <u>except as provided in (D) of this paragraph,</u> attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement

State Bd of Educ.

tests; the ~~department~~ with assistance from representatives of the private schools shall adopt [PROMULGATE] regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding;

* Sec. 3. AS 14.45 is amended by adding a new section to read:

Sec. 14.45.025. EXEMPTION FROM EDUCATION LAWS. A religious school that complies with this chapter is exempt from other provisions of state law and regulations relating to education except laws and regulations relating to health, fire safety, sanitation, immunization, and physical examinations.

* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Except as provided in (b) and (c) of this section, teachers [TEACHERS] and others in charge of private or denominational schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 5. As 14.45.030 is amended by adding new subsections to read:

(b) The parent or guardian of a child enrolled in a religious school that complies with this chapter shall file an annual notice of enrollment ~~and attendance records~~ for the child with the public school superintendent for the area in which the child resides on a form provided by the public school superintendent. The form shall be signed by the parent and the chief administrative officer of the religious school and returned to the public school superintendent by the parent. The

religious school

~~parent~~ shall notify the public school superintendent immediately if the child is no longer enrolled in or attending the religious school.

(c) A religious school that elects to comply with this chapter shall maintain monthly attendance records for each student enrolled in the school and shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least ~~nine calendar months of the year~~ 180 days of the year.

* Sec. 6. AS 14.45 is amended by adding new sections to read:

Sec. 14.45.035. STANDARDIZED TESTING REQUIREMENTS. (a) A religious school that elects to comply with this chapter shall administer a nationally standardized test selected by the chief administrative officer of the religious school to all students enrolled in grades one, three, six, and nine at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious school shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student and to authorized representatives of the state.

Sec. 14.45.040. DEFINITION. In this chapter, "religious school" means a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding.

* Sec. 7. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree

Section 6. AS 14.45.030 Sentence addition to paragraph (c).

Such schools shall report annually the number of students enrolled in each grade and provide a copy of the school calendar to the department.

Such schools shall maintain adequate student records, including all information required of public school ~~pupils~~ attendance, immunizations, physical examinations, testing and courses taken while in attendance at the religious school.

programs of postsecondary education or an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding;

* Sec. 8. AS 14.45.020 is repealed.

HB 357 TITLE & SPONSOR SUMMARY 12:15 5/21/83 PAGE 1 OF 2

AMENDED TITLE:
AN ACT RELATING TO THE REGULATION OF RELIGIOUS SCHOOLS

PRIME SPONSOR: FRITZ.
CO-SPONSORS: TISCHER, PESTINGER, FURNACE, WARD, FLOOD.
CURRENT STATUS: 5/19/83 IN (H) RULES

12:15 5/21/83 PAGE 2 OF 2

HB 357 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/14/83	01	0861	FIRST READING --- COMMITTEE REPORTS
05/19/83	02	1426	HESS -- CS05
05/19/83	03	1427	HESS F/NOTE EQUALS ZERO
			RULES
****	**	**	*** *** ***

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

Alaska State Legislature

House of Representatives

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

M E M O R A N D U M

TO: House HESS Committee DATE: May 12, 1983

FROM: Linda Otey, Committee Staff

RE: Summary/ HB 357 "An Act relating to the regulation of religious schools"

Enclosed is material that has been gathered in an attempt to more clearly understand the issue of 'de-regulation' of church schools while maintaining some monitoring of the constitutional mandate to provide for public education. A sectional analysis of the bill has been provided by Legislative Counsel. He suggests that HB 357, as written, is probably unconstitutional with respect to the equal protection clauses of the State & Federal Constitutions.

> "The bill exempts certain private schools from requirements that apply to all other private schools..."

With the understanding of the desire and need to resolve this issue legislatively, staff has contacted Ms. Patricia Lines, Director of Law & Educations Center of the Education Commission of the States (ECS), Denver, Colorado. Ms. Lines has been working on this issue nation-wide and is extremely well versed in the objectives it encompasses. Her article, State Regulation of Private Education is enclosed for your review. Ms. Lines has been very helpful and has emphasized the need for legislative resolve through investigation of current regulation as well as the interest and need for religious school de-regulation and how best the two goals can work together. Ms. Lines also suggested that it would be in the best interest of expeditious and sound legislation for the issue to be dealt with away from the political arena; allowing each interest room for rational communication and resolution.

This issue is not easily addressed as it actually raises three constitutional issues:

1). Seperation of Church & State - First Amendment, U.S. Constitution
2). Equal Protection Clause - Fourteenth Amendment, U.S. Const. & Art. 1, Sec. 1, Ak. Const.
3). Providing Public Education - Art 7, Sec 1, Ak. Const. & U.S. Const.

With the adivce of our Legislative Counsel, in approaching the Alaska Statutes for revision, these three issues must be carefully meshed in order to be effectively implemented. A proposed Committee Substitute will be forthcoming.

folder content:

left	right	
bill & statutes	Summary	National Comparison
Pre-Elem Regulations	Sectional/Levy	ECS Report
Fiscal Note Ø	Pat Lines Article	Comments/Glover

HB

357

#2

Alaska State Legislature

Fischer

HOUSE CALENDAR

OFFICIAL BUSINESS OF THE HOUSE

ONE HUNDRED TWENTY-SEVENTH DAY

Monday

CHAPLAIN:
Michael McKennett
Bahai Juneau Assembly

Convenes: 10:00 a.m.
May 23, 1983

SECOND READING OF HOUSE BILLS

HB 357 "An Act relating to the regulation of religious schools."
-HESS report w/CS(HESS), same title, p. 1426
Zero Fiscal Note
-Rules report w/CS(Rls), same title, forthcoming

CITATIONS

*Honoring - Robert and Donna Blair by Representatives Zharoff, Cato

*In Memoriam Kevin Konls by Representatives Duncan, M.M. Miller

Standing Committee Announcements on back -- subject to change.

** indicates first public hearing

HOUSE

DAILY COMMITTEE ANNOUNCEMENTS

DATE: MONDAY, MAY 23, 1983

Prepared by the Chief Clerk's Office

COMMUNITY & REGIONAL AFFAIRS 465-4894

Capitol 205 - 3:15 - 5pm, M - F

**HB 396 (Audit and financial statement requirements)

JUDICIARY 465-4990

Capitol 124 - 1:30 pm

HB 345 (victim's rights/sentencing & parole hearings/furlough determinations/ person convicted of a felony)
SSHB 374 (est/maximum security prison facilities at Anderson and Palmer/Sutton)
HB 217 (est./prison facilities)
HB 275 (est./prison facilities)
SB 167 (correction facilities, good time compensation, and imprisonment & rehabilitation of offenders)
CSSJR 19(Jud) (Recommending Alaska Board of Dental Examiners/suspend Goodman's lic.)
HB 14 (processing permits by state agencies)

RULES 465-3789

BELTZ ROOM - 8:30 a.m.

HB 357 (regulation of religious schools)
HJR 42 (est./sister state relationship with Taiwan)

FINANCE 465-3706

Capitol 519

1:30 pm - House Finance Committee

HB 203 (sp. approp./DOTPF/Phase I of the Nome Port Facility)
HB 413 (creation/Capital Area Historic Properties Advisory Commission)
HB 436 (Exempting public utility income from the net income tax)

LABOR & COMMERCE 465-3892

Behrends Conf. Rm. 209 - 8:45 - 10:00am

SB 263 (notices for occupational safety and health violations)

STATE AFFAIRS 465-4963

Capitol 102 - 1:00pm

CSSB 132(SA) (est./Alaska Administration Journal)
SB 190 (sp. approp./grants/Wrangell Totem Poles & Chief Shakes Island Preservation & Restoration Proj./ for Sealaska Heritage Foundation Language and Cultural Studies Program)
SB 294 (compensation of state officers and employees not covered by collective bargaining)

HEALTH, EDUCATION & SOCIAL SERVICES 465-3777

Capitol 112 - MWF - 1-3pm

To be announced

RESOURCES 465-3715

Capitol 118 - 3-5pm

HB 376 (amending the Limited Entry Act)

TRANSPORTATION 465-4858

Capitol 112, 8:30am

SCR 5 (Requesting DOTPF/reconstruct and upgrade Petersville Road in Mat-Su Borough)
SCR 6 (Encouraging the upgrading and resurfacing of the old Glenn Hwy from the Knik River to the Matanuska River)

Alaska State Legislature

Thirteenth Legislature — First Session

Senate Calendar

MONDAY
May 23, 1983
11:00 a.m.

Official Business of the Senate

One Hundred Twenty-seventh Legislative Day

Chaplain: Jon Padden of the Church of Christ

SECOND READING OF SENATE BILLS

SSSB 277 — Benefits under the public employees' retirement system
_____eff. date
(L&C offered CS, pg 976, FY note in Senate Supplement No. 28, Finance report, with Letter of of Intent pg 1001, FY Note in Senate Supplement No. 29)

SENATE BILLS IN SECOND READING

SB 133 — Corrective amendments to the Alaska Statutes as recommended by the revisor of statutes
_____eff. date.
(Judiciary offered CS, pg 900, FY note in Senate Supplement No. 24 and zero FY note, Judiciary CS moved and pending, held from May 20)

SENATE BILLS IN THIRD READING

CSSB 169(Res) — Establishing the Alaska grain reserve program and the Alaska grain reserve loan fund
_____eff. date
(held from May 20)

SECOND READING OF SENATE RESOLUTIONS

SJR 12 — Opposing the extension of the provisions of the Export Administration Act of 1979 that effectively bans the export of Alaska North Slope oil
(Resources report, pg 798, Judiciary offered CS, pg 999 new title, Rules offered CS today)

OVER

PUBLICATION NOTICE -Tuesday Calendar-

Honoring - Melissa Chaney by Representative Herrmann and Senator Mulcahy

Honoring - Eugenie Williams by Representative Gruesendorf and Senator Eliason

Honoring - Kotzebue Civil Air Patrol by Representative Adams and Senator Ferguson

In Memoriam - Gordon MacDonald by Representatives Davis, Koponen, M. W. Miller, Bettisworth and Senators Fahrenkamp, Bennett and Moss

* HONORING - ROBERT AND DONNA BLAIR *

The members of the 13th Alaska Legislature wish to honor two truly amazing Alaskans who have, through an abundance of generosity and humanity, taken on the task of raising a family of 18 children!

Parents of eight children of their own, the Blair's have, through the years, opened their home and their hearts to children from other lands who are without parents. Children from Korea and India have now found a warm, loving environment here in Alaska through the totally selfless efforts of these fine Alaskans. Young people who might otherwise lead dismally bleak futures are now being educated and raised in a healthy and wholesome family setting.

Much of the news that makes the headlines today has to do with the selfish and uncaring acts of people with no interest other than their own comfort and pleasure. For that reason, and many, many others, it gives each of us genuine pleasure to be able to recognize the exceptional efforts of Robert and Donna Blair.

On behalf of all of the citizens of our State we wish to extend to them, and to the children, our fondest warm wishes and commendations. Bless you for your humanity. You have our highest respect and admiration.

SPEAKER OF THE HOUSE

PRESIDENT OF THE SENATE

Date:

Requested by: Representative Zharoff

In Memoriam

* KEVIN KOHLS *

The members of the Legislature were deeply saddened to learn of the tragic and untimely death of a valiant young Alaskan, Kevin Kohls of Juneau.

The son of Frederick and Shirley Kohls, Kevin, an enthusiastic, vital and active young man, succumbed to cancer after a lengthy battle with the disease. Kevin was born in Juneau in 1967 and attended school here. He played the piano and the trombone, was a member of the Civil Air Patrol, an active skiing enthusiast and was universally admired and respected.

We are deeply grieved that so fine and promising a young man has been taken from us and our hearts go out to Fred and Shirley and other members of the family. Many friends are equally stricken at this loss since many of them had personal knowledge of the courageous and silent battle Kevin waged against the disease.

We mourn Kevin's death. We share the grief and sense of loss experienced by Fred and Shirley Kohls. We pause for a moment to reflect on the sadly short, promising life of this fine young man and do so with total admiration for his cheerfulness and strength. The example he set will long be remembered.

SPEAKER OF THE HOUSE

PRESIDENT OF THE SENATE

Date:

Requested by: Representatives Duncan and M. M. Miller

Levy
5/13/83

Original sponsors: Fritz, Tischer,
Pestinger, et al

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

IN THE HOUSE

CS FOR HOUSE BILL NO. 357 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of religious schools."

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

* Section 1. AS 14.07.020(8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct financial state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Sec. 2. AS 14.30.010(b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement

tests; the department with assistance from representatives of the private schools shall adopt [PROMULGATE] regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding;

* Sec. 3. AS 14.45 is amended by adding a new section to read:

Sec. 14.45.025. EXEMPTION FROM EDUCATION LAWS. A religious school that complies with this chapter is exempt from other provisions of state law and regulations relating to education except laws and regulations relating to health, fire safety, sanitation, immunization, and physical examinations.

* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Except as provided in (b) and (c) of this section, teachers [TEACHERS] and others in charge of private or denominational schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 5. As 14.45.030 is amended by adding new subsections to read:

(b) The parent or guardian of a child enrolled in a religious school that complies with this chapter shall file annual enrollment and attendance records for the child with the public school superintendent for the area in which the child resides on a form provided by the public school superintendent. The form shall be signed by the parent and the chief administrative officer of the religious school and returned to the public school superintendent by the parent. The

parent shall notify the public school superintendent immediately if the child is no longer enrolled in or attending the religious school.

(c) A religious school that elects to comply with this chapter shall maintain monthly attendance records for each student enrolled in the school and shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year.

* Sec. 6. AS 14.45 is amended by adding new sections to read:

Sec. 14.45.035. STANDARDIZED TESTING REQUIREMENTS. (a) A religious school that elects to comply with this chapter shall administer a nationally standardized test selected by the chief administrative officer of the religious school to all students enrolled in grades one, three, six, and nine at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious school shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student and to authorized representatives of the state.

Sec. 14.45.040. DEFINITION. In this chapter, "religious school" means a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding.

* Sec. 7. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree

programs of postsecondary education or an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding;

* Sec. 8. AS 14.45.020 is repealed.

Levy
5/13/83

Original sponsors: Fritz, Tischer,
Pestinger, et al

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

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~~parent~~ shall notify the public school superintendent immediately if the child is no longer enrolled in or attending the religious school.

(c) A religious school that elects to comply with this chapter shall maintain monthly attendance records for each student enrolled in the school and shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least ~~nine calendar~~ 180 days of the year.

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Sec. 14.45.035. STANDARDIZED TESTING REQUIREMENTS. (a) A religious school that elects to comply with this chapter shall administer a nationally standardized test selected by the chief administrative officer of the religious school to all students enrolled in grades one, three, six, and nine at least once each school year.

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* Sec. 8. AS 14.45.020 is repealed.

Section 6. AS 14.45.030 Sentence addition to paragraph (c).

Such schools shall report annually the number of students enrolled in each grade and provide a copy of the school calendar to the department.

Such schools shall maintain adequate student records, including all information required of public schools on attendance, immunization, physical examinations, testing and courses taken while in attendance at the religious school.

May 11, 1983
P.O. Box 376
Douglas, Ak.99824

Representative Mae Tischer
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

I enclose an article taken from the book, Rebirth of Our Nation, by Donald R. Howard, P.H.D. which explains why Eagle Forum members across our state cannot ever support licensing of private schools.

Basically the reasons include:
Licensing paves the way for loss of freedom of religion, it entangles the State with the Church and it violates parental rights, which is recognized by nature, history, the state, and law.

Farrington v.Takushige, 1927
Meyer v. Nebraska , 1923
Pierce v. Society of Sisters, 1925
Wisconsin v. Yoder, 1972

Let's work together to end atrocities constitutionally, while protecting the unalienable rights built into the foundation of our great nation."

Please support HB 357 and SB 261.

Sincerely,
Sue Miller
Sue Miller
Pres.Eagle Forum
Juneau/Douglas Chp.

V. PRACTICALLY

We agree that there are atrocities. We disagree about how to eliminate them.

1. Licensure is ineffective. Never has there been more licensure, certification, accreditation, registration, and approval, but never have there been more atrocities. Children are kept in cages; one child dies. Where? In a licensed facility. Jim Jones types stand first in line to receive their licenses. They need such to make their "ministries" appear legitimate to the public and acceptable to receive thousands of dollars in government funds.
2. Licensure is duplicative. Why do we need two bureaucrats to check the same thing? Fire marshals and welfare workers check the same things, sometimes with conflicting requirements. Why couldn't churches be checked by local fire marshals, health officers, and building inspectors who point out compelling interest areas, regulation by regulation, but without licensure? If conflict arose concerning a particular regulation, the recourse would be the court which could decide compelling interest.
3. Licensure is subjective. Someone said OSHA's new building in Washington violates over 1,700 of its own regulations. Everyone under administrative standards realizes the standards mean one thing to one representative, and another thing to a different representative. With the 1,600 minimum standards for schools in Ohio, you could close any school (government or private) in the state. Under oath, one of the heads of the Ohio education department admitted he did not know of even one school in the whole state which met the standards. This licensure can be a vicious weapon in the hands of a discriminating representative. Would some "Baptist" inspector tend to overpower a "Mormon" day care?
4. Licensure is inconsistent. Again and again the State is saying a certain standard is necessary to make the building safe on Monday but unnecessary on Sunday. A room is considered safe for 130 children on Sunday but unsafe for 25 children on Monday. Compelling interest would require consistent protection on every day. If it is right to license the Christian Monday school, it is right to license the Sunday school. If the State must license the day care, the State must also license the nursery on Sunday morning. There is no difference. Children are on the church premises on Sunday without the parents being present. Academics are taught in the Sunday school. Child care takes place on Sunday. Money is given on Sunday. What's the difference?
5. Licensure is hypocritical. "The worst place a teenager can be today is in the public school system," said Joseph Califano (Secretary of H.E.W.) The National Institute of Education reports $600 million in vandalism, 5,000 teachers assaulted, 1 out of 80 children attacked on school property, etc. Rapes, narcotics, and murder have brought guards into the hallways — all in licensed state-run facilities. Yet the same things are nonexistent in the better than 10,000 Christian schools. Why would the Christian ministries need the advice, approval, and licensure of the State? Better, the State should learn from the church. Why would parents pay $60 or more per month in addition to their school taxes for the privilege of placing their child in an institution inferior to the one just down the street where the child could enter free?

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M May 14, 1983

SUBJECT: Regulation of religious schools (CSHB 357 (HESS))

TO: Representative Milo Fritz
Chairman, Health, Education, and Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

Enclosed is a copy of CSHB 357 (HESS), relating to the regulation of religious schools. The bill raises a number of constitutional questions. Because these constitutional requirements must be balanced against one another, there is virtually no way to guarantee that the bill is valid. In my opinion, however, the bill does a good job of balancing the constitutional requirements and is probably not unconstitutional.

In regulating religious schools, the state must consider the "free exercise" and "establishment" clauses of the state and federal constitutions. These provisions essentially prohibit the state from unduly burdening the free exercise of religion and from becoming so involved in the regulation of religious schools as to encourage or inhibit religious activity. On the other hand, the "equal protection" clauses of the state and federal constitutions require the state to justify treating religious schools differently from other private schools. Moreover, while the state may not excessively regulate religious schools, it also has an obligation to provide a reasonable education to school age children. Reconciling these different interests with one another is no easy task and it is difficult to predict which of these will take precedence in the courts.

CSHB 357 (HESS) exempts certain religious schools from all state laws and regulations relating to education except laws concerned with health, fire safety, sanitation, immunization, and physical examinations if the schools agree to comply

with certain minimal statutory requirements. The schools affected by the bill are those that are operated by a church or other religious organization that is exempt from federal taxation and do not receive state or federal funding (AS 14.45.040). Children attending these schools are exempt from the state's compulsory attendance law (AS 14.30.010). The schools that opt to comply with the minimal statutory requirements must maintain attendance and enrollment records (AS 14.45.030(b)), notify the public school superintendent if a child is no longer enrolled or attending (AS 14.45.030(b)), administer a nationally standardized test to be selected by the individual schools that measures English grammar, reading, spelling, and mathematics (AS 14.45.035), and operate on a regular nine month schedule (AS 14.45.030(c)). Parents of children attending these schools must file enrollment and attendance records with the local public school superintendent (AS 14.45.030(b)). Religious schools that choose not to comply with these standards remain subject to the same regulations as all other private schools.

The First Amendment to the United States Constitution and Article I, section 4 of the Constitution of the State of Alaska provide

> No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

The free exercise clause has been interpreted to mean that the state may not unduly burden the right of a parent, child, or church to freely exercise a particular religion, unless the state can show a compelling state interest. Sherbert v. Verner, 374 U.S. 398 (1968). Even when the state can show a compelling interest in regulating religious schools, it must also show that the regulation is by the least burdensome means.

CSHB 357 (HESS) allows the state to regulate health and safety standards, to require certain standardized tests, and to assure regular attendance by the children. None of these requirements appears to be unduly burdensome on the free exercise of religion. The state clearly has a compelling interest in maintaining health and safety standards and these standards, if reasonable, generally have no connection to the exercise of religion. The interest justifying the standardized test requirement is the state's obligation to provide an education for children. The requirement is not unduly burdensome because the individual schools are

permitted to select the test of their choice provided that the test measures achievement in certain basic areas. Beyond that, the bill does not regulate curriculum in the religious schools. Finally, the bill requires certain attendance reports from the schools and the parents of children attending them. Again, the reporting requirements are minimal and are justified by the state's interest in assuring that the children are receiving an education. Accordingly, the bill probably does not infringe on the right to the free exercise of religion.

The analysis of the bill under the establishment clause is similar to that under the free exercise clause. Legislation must be substantially neutral toward religion. Epperson v. Arkansas, 393 U.S. 97 (1968). Excessive entanglement in the regulation of religious organizations is not permitted. Lemon v. Kurtzman, 403 U.S. 602 (1971).

The bill minimizes the state's involvement in regulating religious schools by exempting them from the state's general education regulations if the schools agree to comply with certain minimal standards. Of these standards, the only one that might present a problem by excessively involving the state in the regulation of religion is the attendance reporting requirement. In Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979), the court found state requirements that religious schools release extensive financial and other data unconstitutional. The statute challenged in that case can be distinguished from CSHB 357 (HESS), however, because the bill only requires attendance reports, the reports must be released by the parents, and they can be justified by the state's obligation to ensure that children receive an education. The attendance reports are probably not an excessive entanglement by the state in the regulation of religious schools.

The equal protection clauses of the Fourteenth Amendment of the United States Constitution and Article I, section 1 of the Constitution of the State of Alaska require the state to justify the statutory creation of a class based on religion. The classification

> . . . must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.

Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). CSHB 357 (HESS) creates a class of religious schools which are exempt from most state regulations that apply to other private schools. Since the exemptions are substantially tied to the free exercise of religion, however, they can be justified on the basis that there is a substantial relationship between the exemptions and the goal of the legislation. Only if the exemptions were not tied to the exercise of religion or some other valid governmental purpose would the bill violate the equal protection clause.

The bill's deregulation of religious schools may raise a problem with respect to the state's obligation to provide an education to all children in the state. It is not clear, however, that this obligation is mandated by the constitution. Article VII, section 1 of the Constitution of the State of Alaska provides, in part,

> The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions.

It is not clear whether this provision merely obliges the state to provide the opportunity for an education to all children of the state, or if it includes the obligation to ensure that they actually receive an education. If the latter is true, then the state would be restricted in the degree to which it may deregulate religious schools. Even if that is the case, however, CSHB 357 (HESS) probably does impose sufficient requirements on the religious schools to ensure a minimal level of quality of education. Thus, the bill probably does not violate any obligation the state has to provide an education to children in the state.

In conclusion, CSHB 357 (HESS) is probably constitutional although the necessary balancing of constitutional requirements makes it difficult to be certain of this. Ideally, legislation regulating religious schools will place minimal burdens on the schools and require minimal state involvement while requiring the schools to meet minimal educational requirements to ensure that the children are receiving an education. In my opinion, the bill successfully strikes this balance.

KBL:ljb
20/002

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

To: Chief Clerk Date: 5/13/83

From: House HESS Committee Staff

Re: Notice of Hearing/ Proposed CSHB 357

In addition to the HESS Committee's scheduled calendar for Monday, May 16, the Committee will take testimony in regard to the proposed CS for HB 357 (HESS) at 1.p.m. in room 112 of the Capitol Building.

HB 357 - Religious School

Dr Dan Hayek - Favors - FRks

Waldo Arden - Anch - Favors - suggests using denominational instead of religious. Also include private schools

Eunice Catalina - Mat-Sue - Teacher - Palmer Christian Schools - Favors

Diane Haag Kodiak - no comments

Gary Barnes (Rev) Cordova - Concerned about diplomas receiving & recognized by State.

Vern Streenner Ketchikan -

Robert Wallace - favors

Steven P. Glover - Anch -

Curtis Smith - favors - Parent of 2 who attend Christian Sch.

Norman Sanders - Kikiki School - Substitute fair to both Church & State.

Laurence Olson - Unalakleet -

Ronnie Starr - Fort Yukon - Baptist / Arctic Christian School - Supports

Tab Bergman - " " - wants passage.

Mrs. Bailey - " " favors bill. parents have a right to choose Children's education.

Donna Trontvent FRks Eagle Forum

Jim Rice - Parent w/ Children in both State & Church schools. wants nothing from the State. No watered down sub.

Gary Brooks - Anch - Harvester - DOE Reg's proposed - discussed these regs for the record & talked about what was left out & how this restricts & controls the Church ministry

HB - 357 Cont.

Lloyd Bellamy - Anch - Quotes Pres. Reagan - we should be consistent w. Pres. "Excellence in Ed

Janet Morgan - Mat Sue - Elementary teacher Christian Schools.

Heather Morgan - Student.

Diane ~~Hoag~~ - Hoag - Kodiak -

Chuck Crapuchatto - Soldotna - Independent non-religious schools. "Direct financial" support language

Ruth ~~Vanderwerth~~ Vanderwerf - Kitchikan - 9th Grade Christian School Chm of Leadership Group

Rebecca Gobb - Ft Yukon -

— — — - " " - 2 Children in Christian School

Elene Becker - Homer - Chm of Board " " 52 students Children also in school.

Evl Williamson - FBks - Support - parent of 9 Children in Private + public school. Private surpasses.

Curtis Nestegard - Mknek - Constitutional issue. supports bill.

~~Mat Sue~~ -

Pete Harvey - Soldotna - Kalifonsky Administrator - tells that Religious Churches began education as we know it + that gov't has made it Secular.

Miss Grossman - FBks

+ many more

Jack Bocker - Pastor

Wolfgang Falke - FBks - Wants (Pg I Sec I) repealed rather than amend.

Jerald Cope - Supports - Resents Public School irresponsibility to Ed. Secular, athiest,

Daniel Glover - Arch - Primary function of the Church is Education.

Margaret Greene - Monesorry School private

Atty - wants letter of Intent to clarify any language open for (attack)

Burt Carney -

Steve Hole - wants: school calendar enrollment & grade

Wm Brown - Principal Glacier Valley Academy.
Double Standards
1. Attendance chs is better than Public
2. Testing
3.

Bill Blue - Genius with genius child

Introduced: 4/14/83
Referred: Health, Education &
Social Services

IN THE HOUSE

BY FRITZ, TISCHER, PESTINGER, FURNACE, WARD AND FLOOD

HOUSE BILL NO. 357

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THIRTEENTH LEGISLATURE - FIRST SESSION

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(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement

tests; the department with assistance from representatives of the private schools shall adopt [PROMULGATE] regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding;

* Sec. 3. AS 14.45.020 is amended to read:

Sec. 14.45.020. COMMISSIONER MAY FURNISH EXAMINATION QUESTIONS FOR AND GRANT DIPLOMAS TO EIGHTH GRADE PUPILS. The commissioner may furnish final examination questions for the eighth grade pupils in private [AND DENOMINATIONAL] schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and grant eighth grade diplomas in the same manner as in the public schools.

* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. Teachers and others in charge of private [OR DENOMINATIONAL] schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 5. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic

education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding;

Chapter 07. Administration of Public Schools.

Article

1. Department of Education (Sec. 14.07.010—14.07.070)
2. State Board of Education and Commissioner of Education (Sec. 14.07.075—14.07.170)

Article 1. Department of Education

Section

10. Department of Education
20. Duties of the department
30. Powers of the department
40. Repealed
50. Selection of textbooks
52. Repealed
53. Alaska School Activities Association
54. Alaska School Activities Fund
55. Repealed
57. Transmittal selections
60. Promulgation of regulations
70. Withholding state funds

Sec. 14.07.010. Department of Education. The Department of Education includes the commissioner of education, the State Board of Education, and the staff necessary to carry out the functions of the department. (Sec. 1 ch 98 SLA 1966)

Sec. 14.07.020. Duties of the department. The department shall

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

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

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

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house; (am Sec. 1 ch 126 SLA 1978)

(7) prescribe by regulation, after consultation with the Department of Health and Social Services, standards that will assure healthful and safe conditions in the public and private schools of the state; the standards for private schools may not be more stringent than those for public schools; (am Sec. 2 ch 126 SLA 1978)

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private preelementary schools and over the educational component of nurseries as defined in AS 47.35.080(4); preelementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational.

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study.

(Sec. 1 ch 98 SLA 1966; am Sec. 2 ch 69 SLA 1971; am Sec. 6 ch 104 SLA 1971; am Sec. 1 ch 190 SLA 1975; am Sec. 6 ch 50 SLA 1977)

(10) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine the extent of eligibility for state aid of a school construction project begun after the effective date of this act; for purposes of this paragraph, a "plan" includes educational specifications, schematic designs, and final contract documents.

(11) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department.

(am Sec. 3 ch 126 SLA 1978)

(12) provide educational opportunities in the areas of vocational education and training, basic education, and fire-service training to individuals over 16 years of age who are no longer attending school. (am Sec. 1 ch 86 SLA 1979)

Sec. 14.07.030. Powers of the department. The department may

(1) establish, maintain, govern, operate, discontinue, and combine area, regional, and special schools;

(2), (3) and (4) Repealed Sec. 1 ch 205 SLA 1970.

(5) enter into contractual agreements with the Bureau of Indian Affairs or with a school district to share boarding costs of secondary school students;

(6) provide for citizenship night schools when and where expedient;

(7) provide for the sale or other disposition of abandoned or obsolete buildings and other state-owned school property;

(8) prescribe a classification for items of expense of school districts;

(9) acquire and transfer personal property, acquire real property, and transfer real property to federal agencies, state agencies, or to political subdivisions;

(10) enter into contractual agreements with school districts to provide more efficient or economical educational services;

(11) provide for the issuance of elementary and secondary diplomas to persons not in school who have completed the equivalent of an eighth or twelfth grade education, respectively, in accordance with standards established by the department;

(12) exercise disapproval power under AS 14.08.100. (Sec 1 ch 98 SLA 1966; am Sec 1 ch 66 SLA 1968; am Sec 2, 3, 4 ch 46 SLA 1970; am Sec 1 ch 161 SLA 1975)

Sec. 14.07.040. Repealed. (Sec 34 ch 46 SLA 1970)

Sec. 14.07.050. Selection of textbooks.

(a) Textbooks for use in the public schools of the state shall be selected by district boards for district schools . . by a State Schools Textbook Committee appointed by the director for state schools. Selections of the State Schools Textbook Committee shall be submitted to the Board of Directors for State-Operated Schools for approval or rejection.

(b) However, a district may elect to adopt the selection of the State Schools Textbook Committee. (Sec 1 ch 98 SLA 1966; am Sec 1 ch 96 SLA 1970; am Sec 2 ch 205 SLA 1970)

Sec. 14.07.052. Repealed. (Sec 2 ch 96 SLA 1970)

Sec. 14.07.053. Alaska School Activities Association.

(a) There is created within the Department of Education the Alaska School Activities Association.

(b) The purposes of the association are to provide for the efficient governing of interscholastic activities through the promotion of those activities and other inter-school contests or programs sanctioned by the association and to assist in the promotion of those other activites and interests as may from time to time elect.

(c) A public or private school or school district in the state may become a member of the association if it applies for membership. The Department of Education shall make applications available to all public or private schools or school districts in the state.

(d) The governing body of the association shall be the board of control with at least one member from each judicial district on the board of control. A member of the board shall be elected from each regional activities association by the members of that region. The term of office for each member is two years, except that one-half of the members elected to the first elected board shall be elected for one-year terms under regulations prescribed by the commissioner of education.

(e) The board in consultation with the Department of Education shall appoint an executive secretary, prescribe his duties and fix his compensation. He shall serve at the pleasure of the board.

(f) The board of control of the existing Alaska High School Activities Association in office on the effective date of this Act shall serve as the initial board of control for no longer than six months.

(g) The Department of Education shall approve the association's constitution and bylaws to ensure that all regions of the state are treated on a equitable basis and in the best interests of the state. (Sec 1 ch 128 SLA 1976)

Sec. 14.07.054. Alaska School Activities Fund.

(a) The Alaska school activities fund is established within the Department of Education.

(b) The commissioner of education shall review the budget request of the Alaska School Activities Association and request a sum he approves that is equitable to all regions of the state.

(c) School districts and member schools of the Alaska School Activities Association may appropriate money to the fund. (Sec 1 of 128 SLA 1976)

Chapter 30. Pupils

Article
1. Compulsory Education (Sec. 14.30.010 — 14.30.050)
2. Physical Examinations (Sec. 14.30.060 — 14.30.170)
3. Education for Exceptional Children (Sec. 14.30.180—14.30.350)
4. Bilingual-Bicultural Education (Sec. 14.30.400 — 14.30.410)

Article 1. Compulsory Education

Section
10. When attendance compulsory
20. Violation
30. Report of violations and procedures
40. Repealed
45. Grounds for suspension or denial of admission
47. Admission or readmission, when cause no longer exists
50. Truant officers

Sec 2 →

Sec. 14.30.010 When attendance compulsory. (a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall insure that the child is not absent from attendance.

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests; the Department of Education with assistance from representatives of the private schools shall promulgate regulations defining the subject areas to be tested and the minimum average scores to be achieved;

(am Sec. 4 ch 126 SLA 1978)

(2) attends a school operated by the federal government;

(3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to sec. 45 of this chapter;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the pupil resides within two miles of a federal or private school which he is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting; (am Sec. 1 ch 10 SLA 1977)

(9) has completed the 12th grade;

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving his educational interests despite an absence from school, the request for excuse is made in writing by his parents or guardian, and approved by the principal or administrator of the school he attends. (am Sec. 1 ch 30 SLA 1976)

(Sec. 37-7-1 ACLA 1949; am Sec. 36 ch 98 SLA 1966; am Sec. 5 ch 71 SLA 1972; am Sec. 5 ch 190 SLA 1975)

(B) a person eligible to be admitted to an accredited postsecondary educational institution; and

(3) establishes financial need in accordance with standards for determining financial need adopted by the committee under 20 USC sec.1070c-2.

(b) The committee shall, by regulation, establish a system of priority in the selection of recipients of grants under sections 930—960 of this chapter under which students from "low income" families or whose incomes are considered "low income" shall be given preference in the award of the educational incentive grants.

Sec. 14.40.950. Limitation on grants. (a) No grant made under sections 930—960 of this chapter may be in an amount less than $100 nor more than $1,500 for each academic year.

(b) A grant awarded under sections 930—960 of this chapter may be used by a student only at an accredited postsecondary educational institution.

Sec. 14.40.955. Confidentiality of certain information. All information submitted in support of a determination of financial need as provided in this chapter is confidential. However, an applicant may inspect or copy information from his own application, or records relating to his own application, or authorize release of the application or records to designated individuals or organizations.

Sec. 14.40.960. Definitions. In sections 930—960 of this chapter

(1) "resident" means a person who, except for brief intervals, military service, attendance at an educational or training institution, or for absences for good cause shown, has resided in Alaska and who has maintained his domicile in Alaska; domicile is the true and permanent home of a person from which he has no present intention of moving and to which he intends to return whenever he is away;

(2) "undergraduate" means a student who has not completed a baccalaureate, graduate or professional degree.

(am Sec. 1 ch 51 SLA 1978)

Chapter 45. Private and Denominational Schools

Section
10. Repealed
20. Commissioner may furnish examination questions for and grant diplomas to eighth grade pupils
30. Attendance and annual reports required

Sec. 14.45.010. Repealed. (Sec. 59 ch 98 SLA 1966)

Sec 3

Sec. 14.45.020. Commissioner may furnish examination questions for and grant diplomas to eighth grade pupils. The commissioner may furnish final examination questions for the eighth grade pupils in private and denominational schools and grant eighth grade diplomas in the same manner as in public schools. (Sec. 37-11-2 ACLA 1949)

Sec 4

Sec. 14.45.030. Attendance and annual reports required. Teachers and others in charge of private or denominational schools shall make regular monthly attendance reports and annual reports to the commissioner of education in the same manner as teachers and superintendents in the public schools. (Sec. 37-11-3 ACLA 1949)

Chapter 47. Regulation of Educational Institutions. Repealed. (Sec. 5 ch 25 SLA 1976)

Legislative history report. — For report on ch. 190, SLA 1972 (CSHB 499 am), see 1972 House Journal, p. 744.

Sec. 44.25.036. Repayment of loans. Repayment of loans under AS 44.25.030 — 44.25.038 shall be on an annual basis with repayment commencing no later than 90 days after receipt of funds authorized to be appropriated from the Alaska Native Fund to the regional corporation under § 6(a) (1) (A), P.L. 92-203. (§ 1 ch 190 SLA 1972)

Sec. 44.25.038. Expiration of loan program. Because the purposes for which the loan program is created are limited, no loan may be made after five years from October 4, 1972. The program shall be inoperative 10 years from October 4, 1972. (§ 1 ch 190 SLA 1972)

Chapter 27. Department of Education.

Article
1. Board and Department of Education (§§ 44.27.010 — 44.27.020)
2. Alaska State Council on the Arts (§§ 44.27.040 — 44.27.060)
3. Alaska Historical Commission (§§ 44.27.061 — 44.27.076)

Article 1. Board and Department of Education.

Section
10. Board and commissioner of education
20. Duties of department

Sec. 44.27.010. Board and commissioner of education. There is at the head of the Department of Education a Board of Education. The commissioner of education is the principal executive officer of the department. (§ 11 ch 64 SLA 1959; am § 12 ch 96 SLA 1967)

Am. Jur. 2d references. — 63 Am. Jur. 2d, Public Officers and Employees, § 371; 68 Am. Jur. 2d, Schools, §§ 37 — 55; 72 Am. Jur. 2d, States, Territories and Dependencies, § 62.

Sec. 44.27.020. Duties of department. The Department of Education shall

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education;

(2) administer the historical library;

(3) plan, finance and operate related school and educational activities and facilities. (§ 11 ch 64 SLA 1959; am § 77 ch 69 SLA 1970; am § 5 ch 86 SLA 1979)

CHAPTER 60. PRE-ELEMENTARY (EARLY CHILDHOOD) SCHOOL

Section

10. Requirements
20. Exemption
30. Application for a certificate of approval
40. Denial of approval; hearing
50. Duration of approval
60. Display of certificate
70. Certificate of approval
80. Insurance
90. Records
100. Physical examination for children
110. (Repealed)
115. Staff
120. Recognition of special needs
130. Disaster plan
140. Facility inspections
150. Changes in major written policies, plans, programs
160. Nondiscrimination
170. Programmatic requirements of the pre-elementary schools
175. Transportation
180. Definitions

4 AAC 60.010. REQUIREMENTS. (a) Every person, institution or agency operating a school for children ages three through five years, when the school's primary function is educational, shall apply to the department for a certificate of approval.

(b) The educational component of all pre-elementary programs is under the general supervision of the department in cooperation with the Department of Health and Social Services. Those programs not approved by the Department of Education are supervised by the Department of Health and Social Services.

(c) Before admitting a child whose school expenses could be the responsibility of departments of state government, authorization of eligibility should be requested from the appropriate department by the school. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060
AS 14.35.080(4)

4 AAC 60.020. EXEMPTIONS. The following are exempt from 4 AAC 60.010:

(1) schools maintained by the United States or funded entirely with federal funds;

(2) courses of instruction on religious subjects given under the auspices of a religious organization, such as church schools, vacation Bible schools, or similar denominational programs;

(3) schools that enroll six children or less. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.030. APPLICATION FOR A CERTIFICATE OF APPROVAL. (a) Application for a certificate of approval must be submitted on a form prescribed by the department.

(b) No pre-elementary school may represent that its program has a sponsorship, approval, characteristics, affiliation, or accreditation which it does not have, nor may any school cause a likelihood of confusion or misunderstanding as to any of these matters.

(c) Before issuing a certificate of approval, the department shall conduct an investigation of the applicant, including the proposed plan for the education and supervision of children and the mode of operation of the pre-elementary school. If the results of the investigation reveal that the primary purpose of the school is educational and that applicable regulations adopted by the department are satisfied, a regular certificate of approval shall be issued.

(d) The department may grant a conditional certificate of approval for programs with minor deficiencies correctable within a time specified on the permit, but not exceeding six months. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.040. DENIAL OF APPROVAL; HEARING. (a) A school or program denied a certificate of approval by the department is entitled to a hearing before the state Board of Education at a regular meeting of the board if a written appeal is received by the commissioner within 15 days of the date of denial of certification.

(b) The decision of the board on the appeal is final. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.050. DURATION OF APPROVAL. (a) A certificate of approval remains in effect for a period of no more than five years from date of issuance.

(b) A certificate may be revoked or suspended for failure to comply with the requirements of this chapter or other statutes and regulations governing the health, safety and welfare of students and employees.

(c) If the department has reasonable cause to believe that the holder of a certificate has failed to comply with this chapter or other applicable statutes and regulations, it may notify the holder of the basis for its belief and schedule a hearing on the matter to determine whether the certificate should be revoked or suspended. The commissioner shall appoint a hearing officer to preside over the hearing and to control its proceedings. The hearing shall be public, and all interested persons who have information relevant to the inquiry shall be permitted to be heard or to submit written statements and arguments, or both. A record shall be kept of the hearing.

(d) Following the hearing, the hearing officer shall prepare his findings and conclusions and recommend appropriate action to the commissioner. The commissioner shall review the hearing officer's recommendations and decide what, if any, action should be taken.

(e) A certificate holder whose certificate has been revoked or suspended by the commissioner may request, in writing and within 15 days of receiving notification of the commissioner's decision, that the board review that decision. A review will be made by the board or a committee of the board in the same manner as that provided in 4 AAC 60.040. The decision of the board is final. (Eff. 4/20/73,

Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.060. DISPLAY OF CERTIFICATE. The certificate of approval must be displayed in a prominent place in the pre-elementary school. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.070. CERTIFICATE OF APPROVAL. The certificate of approval must include

(1) name of pre-elementary school;

(2) address of pre-elementary school;

(3) maximum allowable number of children;

(4) effective dates of certificate;

(5) ages of children to be enrolled;

(6) minimum number of staff members required to be in attendance while children are present. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.080. INSURANCE. (a) Each nonpublic, pre-elementary school must have bodily injury liability insurance in an amount not less than $100,000 per child, $300,000 per accident, with a company authorized to do business in the State of Alaska. Policies must contain the following endorsement:

"In the event of cancellation of this policy, the company agrees to give 30 days' advance notice to the Department of Education, Pouch F, Juneau, Alaska 99811."

(b) If the insurance required under (a) of this section is allowed to lapse more than once in a 12-month period, the second policy lapse is grounds for termination of approval. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.090. RECORDS. The pre-elementary school shall maintain an individual record for each pupil enrolled which must contain not less than the following:

(1) child's full name, birth date, and current address;

(2) name and address of parents or legal guardians;

(3) telephone numbers and instructions how the parents may be reached during school hours;

(4) names and addresses of persons authorized to take the child from school;

(5) a record indicating the immunization status of the child;

(6) a Cumulative Health Record Form. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)
Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.100. PHYSICAL EXAMINATION FOR CHILDREN. (a) Not more than three months before first entering school, each child must have a tuberculosis skin test which meets the requirements of 7 AAC 27.213.

(b) Before first entering school, each child must have received the immunizations required by 4 AAC 06.055. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62; am 8/17/78, Reg. 67; am 9/24/82, Reg. 83)
Authority: AS 14.07.020(7) and (8)
AS 14.07.060
AS 14.30.070

4 AAC 60.110. PHYSICAL EXAMINATIONS FOR EMPLOYEES AND VOLUNTEERS. Repealed 5/20/77.

4 AAC 60.115. STAFF. (a) All staff members must have a physical examination annually and not more than three months before initial employment in the pre-elementary school. This

physical examination must include proof of negative Tine test. It is the responsibility of the operator to maintain a personnel file for each employee in which the results of the current physical examination are kept. This file is subject to inspection by the department.

(b) All volunteers who work in the classroom or who provide direct services to children must present to the operator proof of a negative Tine test taken not more than three months before initial service. This test must be repeated annually.

(c) Schools subject to the provisions of this chapter shall comply with all applicable statutes and regulations concerning labor and employment practices. (Eff. 5/20/77, Reg. 62)

Authority: AS 14.07.020(7) and (8)
AS 14.07.060

4 AAC 60.1[illegible]. RECOGNITION OF SPECIAL NEEDS. At the age of three years, an exceptional child may receive special assistance as a part of the local school district's annual plan of services for special education. Any pre-elementary school which provides services for an exceptional child and receives state funds for providing those services must adhere to state guidelines for special education programs. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060
AS 14.30.180

4 AAC 60.130. DISASTER PLAN. Each pre-elementary school shall develop a disaster plan which must include provisions for accountability for each child in the school until he is released to an appropriate authority. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(7) and (8)
AS 14.07.060

4 AAC 60.140. FACILITY INSPECTIONS. (a) Each pre-elementary school shall request an inspection by public safety and health agencies and shall conform to standards established by those agencies.

(b) Copies of documents indicating satisfactory compliance with health and safety standards must be filed with the department before the issuance of a certificate of approval. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(7) and (8)
AS 14.07.060

4 AAC 60.150. CHANGES IN MAJOR WRITTEN POLICIES, PLANS, PROGRAMS. Major changes in written policies, plans, programs and other information included in the initial application must be transmitted to the department within 30 days following implementation of the change. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.160. NONDISCRIMINATION. No pre-elementary school will be approved unless it adopts a policy of nondiscrimination in respect to race, sex, creed, color or religion with the following exceptions:

(1) a pre-elementary school established for an identified group (e.g., physical-mental handicaps) may serve that group only but otherwise may not discriminate;

(2) a religious group may elect to serve children that adhere to its religious beliefs but otherwise may not discriminate. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.170. PROGRAMMATIC REQUIREMENTS OF THE PRE-ELEMENTARY SCHOOLS. (a) The pre-elementary school shall provide the following information, in writing, to the department: the philosophy of education; the goals and objectives of the school; the program model and teaching techniques used in achieving the stat[illegible]d goals and objectives; daily educational activities schedule including provisions for individual activities, small group activities and large group activities; the number and ages of the children to be served along with the number of staff members working with the children; provisions for parental involvement; a copy of all public advertisements regarding the school; a copy of the personnel and administrative rules of the school; and a copy of all administrative forms used by the school.

(b) A pre-elementary school must have

sufficient staff to provide for each child's physical care and to offer individual attention to children as it may be needed as well as time to interact with children for the benefit of their conceptual and language growth. The number of staff and their utilization should reflect programmatic requirements, differences in the needs of the children served and should permit flexible groupings.

(c) There must be at least two staff members, one of whom may be a teacher-aide, present in each building. They must be stationed in sufficient proximity to be of aid in emergency situations.

(d) The operator shall provide a written training plan for each staff member who serves in the capacity of teacher, teacher-aide or assistant teacher. This plan must include provisions for preservice and inservice training and must indicate frequency as well as content. All such training is subject to the approval of the department.

(e) The department shall investigate to determine whether the programmatic objectives of the school are being met. (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.175. TRANSPORTATION. An adult must be designated to accompany the driver and provide for pupil safety when more than six pupils are transported in a vehicle. (Eff. 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

4 AAC 60.180. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "department" means the Department of Education;

(2) "board" means the state Board of Education;

(3) "commissioner" means the Commissioner of Education;

(4) "pre-elementary school" means a school for children ages three through five years whose primary function is educational;

(5) "certificate of approval" means a regular certificate issued to an operator of a pre-elementary school who has met the minimum requirements of this chapter;

(6) "operator" means the person legally responsible for the pre-elementary school;

(7) repealed (Eff. 5/20/77, Reg. 62);

(8) "staff member" means anyone who provides direct services to children in the classroom and may be any of the following:

(A) a person 19 years or over who is salaried;

(B) classroom volunteers who are at least 19 years of age;

(C) student aides who are enrolled in a training program who are at least 16 years of age;

(9) repealed (Eff. 5/20/77, Reg. 62). (Eff. 4/20/73, Reg. 45; am 5/20/77, Reg. 62)

Authority: AS 14.07.020(8)
AS 14.07.060

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB - 357
Title: ...regulation of religious schools
Sponsor: Fritz
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Elem. & Sec.
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Steve Hole
Phone: 465-2865
Division: Management, Law, & Finance
Date: 4/18/83

Approved by Commissioner: Marshall Lind
Date: 4/18/83
Department: Education

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 13, 1983

MEMORANDUM

TO: Representative Sam Pestinger

FROM: Leslie Longenbaugh LL
Research Staff

RE: Other States' Regulation of Religious Schools
Research Request 83-159

Ed Essa of your staff asked that we provide information about states that regulate religious and other nonpublic schools differently. My preliminary work, provided to you on May 4, revealed five states that exempt religious schools from some state regulation to which other nonpublic schools are subject. Upon further investigation, I found significant differences in regulation in only three states: Maryland, North Carolina and Tennessee. Below is a brief description of the statutory distinctions made by each state; I have attached copies of the pertinent state statutes.

Maryland

Maryland requires that private "noncollegiate" schools obtain a state certificate of approval before they may operate in the state. The issuance of such a certificate of approval is contingent upon the state board of education's finding that the "facilities, conditions of entrance and scholarship, and educational qualifications and standards are adequate and appropriate" for the type of school.[1]

Specifically exempted from the requirement of a certificate of approval are all institutions "operated by a bona fide church organization..."[2] Schools that come under this exemption may not receive any state funds other than funds for the state food service program.

All private noncollegiate schools in Maryland, including the religious schools that are exempt from the certificate of approval, must make annual reports of their enrollment and courses of study.[3] In addition,

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1 Annotated Code of Maryland, Education § 2-206 (e)(2).

2 ACN § 2-206 (3)(4).

3 ACN § 2-205.

they must conform to a state law that requires private schools that are ending operation to furnish to the state the academic records of all past and present students.

North Carolina

North Carolina in 1979 enacted a statute which has served as a compromise between the competing interests of religious schools and states.[4] For the purposes of state regulation, the law creates three types of legal nonpublic schools: 1) religious schools, defined as "private church schools or schools of religious charter"; 2) "qualified nonpublic schools" -- these institutions are either accredited by the state or an association or receive no state funds; and 3) "proprietary schools," or nonpublic schools that are operated for profit.

Schools in the first and second classifications above (religious institutions and other nonpublic schools) share the following requirements:

a) notice to the state of the intent to begin or cease operation;

b) maintainance of annual attendance and disease immunization records for all students (there is no requirement that these records be submitted to the state);

c) operation on a regular schedule during at least nine months of the year;

d) subjection to reasonable fire, health and safety inspections as required by law;

e) administration of nationally standardized tests for all students in the first, second, third, sixth and ninth grades;

f) administration of nationally standardized tests for all students in the eleventh grade and establishment of minimum standards for achievement on the test before graduation.

In addition, schools of these two types may choose to participate in any state-operated or -sponsored program which is available to other nonpublic schools. The statute adds that no other state laws, except health, fire and safety laws, are applicable to these schools.

Apparently, North Carolina is one of only three states that require standardized testing for students of religious schools (New York and

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[4] General Statutes of North Carolina, § 115C-547 through § 115C-554.

South Dakota are the other states). In North Carolina, the chief administrator of the religious school may choose the test, rather than having the state select the tests to be given. The tests need cover only the basic secular skills -- grammar, reading, spelling and mathematics. Records of the test scores must be available for state inspection for one year following the test.

Nonpublic schools that are operated for profit must obtain a license from the state annually. The state board of education is charged with promulgating and enforcing regulations and standards governing approval and licensure. By law, the reports solicited must include detailed information regarding curricula, costs, and instructional space. In addition, the schools must post a bond of $1.000.[5]

Another difference in the requirements for licensed and exempt nonpublic schools in North Carolina is the certification of their staff. While North Carolina is one of the few states that require nonpublic-school teachers to be certified, teachers in religious schools are exempt from this provision.

Tennessee

The Tennessee Department of Education, by regulation, requires that all nonpublic schools report the name, age and address of all students to the local public school superintendent for the purposes of ensuring compliance with attendance laws.[6] Otherwise, state law requires only that the department of education inspect, approve and classify those primary, secondary and pre-elementary nonpublic schools that request such services. The approval is to be according to the standards that are used for the state's public schools.[7]

In 1976, the Tennessee legislature enacted legislation which prohibits the state and local boards of education from regulating the selection of faculty, textbooks or curricula of "church-related schools." The law requires that these schools meet the standards of accreditation of at least one of four nonpublic school associations. The law does require that the terms of church-related schools be as long as the public schools'.[8]

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[5] GSNC §115C-570.

[6] Donald Wood, Chief of Management Services, Tennessee Department of Education, Nashville; telephone: 615/741-2731.

[7] Tennessee Code Annotated, 49-105 § 19.

[8] TCA 49-5201.

The statute adds that children who attend church-related schools may transfer into the state's public school system; however, the public schools may test such students and place them at a grade level that is indicated by the results of the test.

Like other nonpublic schools in Tennessee, church-related schools may apply for state approval, and many do. Of approximately 440 nonpublic schools in the state, roughly 160, both religious and secular, have received state approval.[9]

Case Law

Mr. Essa mentioned an interest in the case law about the regulation of religious nonpublic schools. I have enclosed a copy of a law review article written about North Carolina's regulation of religious schools; this article contains a concise overview of the findings of the United States Supreme Court and state courts of last resort.

* * *

If you have any questions or further needs for research, please call on us.

LL

Attachments: Annotated Code of Maryland, Education, § 2-205, § 2-206, § 2-304
General Statutes of North Carolina, Articles 39 and 40
Tennessee Code Annotated, Chapter [illegible] and § 49-105
J. Eric Evenson II, "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," Wake Forest Law Review, Vol. 16 1980. pages 405 to 437

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[9] Donald Wood, Tennessee Department of Education.

CHERI C. JACOBUS
ATTORNEY AT LAW
1348 CRESCENT AVENUE
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SB 261 AND HB 357

Summary of the Legislation

SB 261 and HB 357 deal exclusively with private church schools and schools operated by religious organizations and, as amended, are modeled after the legislation adopted by North Carolina in 1979 and by West Virginia in 1982 to remedy church-state constitutional conflicts. These laws, if enacted by the Legislature, would establish requirements that must be met by private religious schools in order for parents whose children attend them to satisfy the compulsory education law. They would also exempt pre-elementary and nursery programs operated by religious organizations from the supervision of the Departments of Education and of Health and Social Services. The purpose of these bills is to remedy existing church-state constitutional conflicts by protecting the guaranteed religious freedom of church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education.

This legislation only covers schools, pre-elementary programs or nursery programs operated by a church or other nonprofit religious organization exempt from federal taxation and not receiving state or federal funding. These are constitutionally protected groups and activities.

More specifically, church schools (or denominational schools as defined in the proposed legislation) would be required to maintain attendance and immunization records. Since current compulsory education laws make parents liable for their children's failure to attend school, these bills, as amended, would require the parents to file statements with the public school authorities to establish their children's attendance at a church sponsored private school. By placing the requirement on the parent, the bills avoid the constitutional problems created by the state's excessive entanglement in religious activities. The school would also be required to operate on a regular schedule, at least nine calendar months per year, and to be subject to reasonable fire, health, and safety regulations.

To ensure that children attain certain minimum educational standards, each religious school would be required to administer a nationally standardized test to students in the first, third, sixth and ninth grades and to make the school results available for the Department of Education. This would satisfy the state's interest in compulsory education and still avoid the constitutional problem of excessive state entanglement in religion.

Any church school that satisfied all the requirements of AS 14.45 would be exempt from any additional provision of law

relating to education except those requirements of law relating to fire, health, and safety.

Constitutional Requirements

The changes set out in SB 261 and HB 357, as amended, are required to correct existing Alaskan laws which run afoul of the constitutional mandate requiring the states to avoid excessive entanglement in religious activities. The state's right to impose minimum requirements on private religious schools is very limited, because these religious activities are protected by the First Amendment of the United States Constitution and its identical counterpart in the Alaska Constitution, Art. I, sec. 4.[1]

Schools operated by churches or by nonprofit religious organizations are quite different from other private schools. They enjoy a constitutionally protected status.

> "Church operated schools are generally integral parts of their sponsoring churches. Their superintendents are generally pastors or assistant pastors of the sponsoring churches; their teachers are generally members; and their doctrinal stances are generally set by the sponsoring churches."[2]

Federal and state courts recognize that operating a church school is an integral part of the free exercise of religion.[3] For many churches, it is in fact the ministry of the church. Because

[1] E.g., Kentucky State Bd. for Elem. & Secondary Education v. Rudasill, 589 S.W.2d 877 (Ky. 1979), cert. den., 446 U.S. 938 (1980); Wisconsin v. Yoder, 406 U.S. 205 (1972); Lemon v. Kurtzman, 403 U.S. 602 (1970); Pierce v. Society of Sisters, 268 U.S. 510 (1925).

[2] "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405, 431-32 (1980).

[3] See, e.g., NLRB v. Catholic Bishop, 99 S. Ct. 1313 (1979) (Catholic parochial schools are founded for religious reasons and religious doctrine is pervasive); Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979) (private Catholic schools are an integral part of the Catholic Church and as such "involve substantial religious activity and purpose"); Hunt v. McNair, 413 U.S. 734, 743 (1973) ("[R]eligion is so pervasive that a substantial portion of [religious school] functions are subsumed in the religious mission."); Lemon v. Kurtzman, 403 U.S. 602, 616 (1971) ("[T]he parochial schools constituted 'an integral part of the religious mission of the Catholic Church'. . . In short, parochial schools involve substantial religious activity and purpose.").

church operated schools clearly come within the First Amendment free-exercise clause, their activities are constitutionally protected as fundamental rights.[4]

In the area of First Amendment individual liberties, any state legislation that burdens parents', childrens', or a church's free exercise of religious beliefs is unconstitutional unless, the state can demonstrate "a compelling state interest in the regulation of a subject within the state's constitutional power to regulate." Sherbert v. Verner, 374 U.S. 398, 403 (1963).

To establish the existance of a compelling state interest, it is not enough for the state to merely show that a rational relationship exists between a colorable state interest and the proposed regulation. According to Sherbert, "[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation."

More importantly, the state must demonstrate that it is using the least burdensome method for addressing the compelling state interest. The current law violates this mandate, because the legislative goals can be achieved with less burdensome methods. SB 261 and HB 357, as amended, use North Carolina and West Virginia laws as models and are less burdensome while still accomplishing legislative goals.

Eventhough SB 261 and HB 357, as amended, would create two classes of private schools and treat them differently, these bills would not violate the Equal Protection clause of the Fourteenth Amendment. According to established legal principles[5], the equal protection guarantee of the Fourteenth Amendment does not take from the state legislatures all power to classify persons or objects. The state may classify persons for the purpose of legislation. Classification is an inherent right and power of the legislature.

The important issue for these proposed bills is whether the distinction between private schools operated for profit and private schools operated by churches is based on a real and substantial difference between the two classes. Clearly, there is a substantial difference. The decision of the legislature to recognize its limited ability to regulate church schools is based on a constitutional distinction between the two classes. Church schools are in a protected class, enjoying the protection of the First Amendment. Private schools are not.[6]

[4] Ibid.

[5] 16A Am Jur 2d, Constitutional Law, §746, et. seq.

[6] In addition, it must noted that the motivations for operating

In the area of religious freedom and expression, the Constitution demands neutrality. The government cannot demonstrate a hostility toward religion or religious activity. The mere fact that the government specifically exempts religious groups from complying with certain laws does not violate the Constitution. For example, federal law clearly creates two classes when it exempts the property and income of religious organizations from federal taxation. These two classes parallel the two classes which would be created by SB 261 and HB 357, as amended. The Supreme Court held this was proper legislation in Walz v. Tax Commission, 397 U.S. 664,669 (1970). The Supreme Court found that neither the purpose nor the effect of such exemption was to advance or inhibit religion. It was "benevolently neutral."

The distinction between private schools operated for profit and those operated by churches is real and parallels distinctions created by the federal tax laws. Therefore, there is no violation of equal protection guarantees.

In summary, the present law violates both the United States Constitution and the Alaska Constitution. SB 261 and HB 357, as amended, balance the state's interest in ensuring that each child receives a good education with the fundamental right to religious freedom and should be adopted.

a private school for profit and a school operated by a church are entirely different.

Alaska State Legislature

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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House HESS Committee DATE: May 12, 1983

FROM: Linda Otey, Committee Staff

RE: Summary/ HB 357 "An Act relating to the regulation of religious schools"

Enclosed is material that has been gathered in an attempt to more clearly understand the issue of 'de-regulation' of church schools while maintaining some monitoring of the constitutional mandate to provide for public education. A sectional analysis of the bill has been provided by Legislative Counsel. He suggests that HB 357, as written, is probably unconstitutional with respect to the equal protection clauses of the State & Federal Constitutions.

> "The bill exempts certain private schools from requirements that apply to all other private schools..."

With the understanding of the desire and need to resolve this issue legislatively, staff has contacted Ms. Patricia Lines, Director of Law & Educations Center of the Education Commission of the States (ECS), Denver, Colorado. Ms. Lines has been working on this issue nation-wide and is extremely well versed in the objectives it encompasses. Her article, State Regulation of Private Education is enclosed for your review. Ms. Lines has been very helpful and has emphasized the need for legislative resolve through investigation of current regulation as well as the interest and need for religious school de-regulation and how best the two goals can work together. Ms. Lines also suggested that it would be in the best interest of expeditious and sound legislation for the issue to be dealt with away from the political arena; allowing each interest room for rational communication and resolution.

This issue is not easily addressed as it actually raises three constitutional issues:

1). Seperation of Church & State - First Amendment, U.S. Constitution
2). Equal Protection Clause - Fourteenth Amendment, U.S. Const. & Art. 1, Sec. 1, Ak. Const.
3). Providing Public Education - Art 7, Sec 1, Ak. Const. & U.S. Const.

With the adivce of our Legislative Counsel, in approaching the Alaska Statutes for revision, these three issues must be carefully meshed in order to be effectively implemented. A proposed Committee Substitute will be forthcoming.

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Sectional/Levy
Pat Lines Article

National Comparison
ECS Report
Comments/Glover
Jacobus Summary

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

April 18, 1983

RECEIVED
MILO FRITZ, M.D.
FEB 16 5 PM '83

SUBJECT: Regulation of religious schools (HB 357)

TO: Representative Milo Fritz

FROM: Keith B. Levy
Legislative Counsel

You have requested a sectional analysis of HB 357, an Act relating to the regulation of religious schools. In general, the bill amends certain sections of Title 14 of the Alaska Statutes to remove state control of schools operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding for its educational program.

Section 1 of the bill amends AS 14.07.020(8) to remove pre-elementary schools and the educational component of nurseries operated by these religious groups from the supervision of the Department of Education. The law currently requires the Department of Education to supervise these programs.

Section 2 of the bill amends AS 14.30.010(b)(1) to exempt children attending a school operated by one of the religious organizations described above from the requirement that children between seven and 16 years of age attend public school. It also makes clear that these schools need not have an average student proficiency that is at least equal to the average proficiency found in public schools in the same area. AS 14.30.010(b)(1) currently requires such proficiency of all private schools.

Section 3 excludes the schools described above from the provisions of AS 14.45.020. As presently written, AS 14.45.020 allows the commissioner of education to furnish final examination questions and grant diplomas for eighth graders in private schools.

Section 4 amends AS 14.45.030 to exempt the schools described above from monthly attendance and other reporting requirements currently applied to public and private schools.

Section 5 amends AS 44.27.020(1) to exclude the schools described above from the general duty of the Department of Education to administer the state's program of education.

You should be aware that HB 357, as currently written, presents a constitutional problem with respect to the equal protection clauses of the state and federal constitutions. The bill exempts certain private schools from requirements that apply to all other private schools. The factors that distinguish the exempt schools from the nonexempt schools are their federal taxation exemption status, that the educational programs involved do not receive state or federal funding, and that they are operated by a church or other nonprofit religious organization.

The equal protection clause of the Constitution of the State of Alaska (Article I, section 1) has been interpreted to mean that legislative classifications

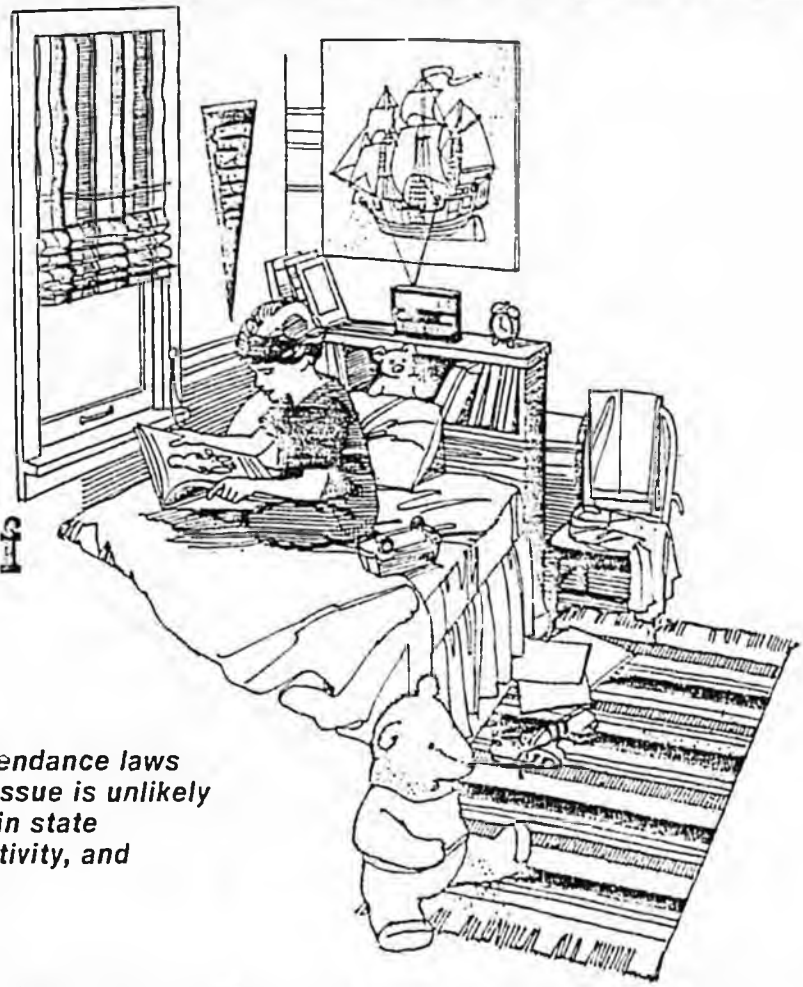
> ...must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.

Isakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). Accordingly, the distinguishing factors mentioned above must meet this test if HB 357 is to survive a constitutional attack. Although some of the distinguishing factors do meet the test, at least one probably does not.

Singling out schools which do not receive state or federal funds for exemption from certain state requirements probably has a fair and substantial relationship to the goals of the legislation in the sense that the state has less of an interest in controlling such schools. The same may be true of schools with nonprofit status under federal taxation laws. However, a provision which singles out a school merely because it is operated by a church or other religious organization is subject to greater scrutiny. The legislature may be called upon to justify treating a private, nonprofit school which does not receive state or

federal funding in a different manner than a private, nonprofit school which does not receive federal funding and is operated by a church or other religious organization. The only difference between the two classes of schools is that one is run by a religious group and the other is not. To justify such a distinction, the legislature would have to show a very substantial relationship between the distinction and the goals of the legislation. Moreover, the goals of the legislation must be constitutionally legitimate. In my opinion, the classifications created by HB 357 lack this level of justification to the extent that they are based solely on religion. For this reason, the bill is probably unconstitutional.

KBL:ljb
15/009



State Regulation of Private Education

by Patricia M. Lines

Violations of state compulsory school attendance laws appear to be rising dramatically, and the issue is unlikely to go away. Ms. Lines details the trends in state regulation, the current wave of judicial activity, and the implications for public policy.

Although a good education is generally considered crucial to a child's future economic success and personal happiness, a growing number of people believe that traditional schooling is neither indispensable to education nor "right" for every child. Thus some parents are enrolling their children in unaccredited private schools or teaching them at home, whether or not such choices are acceptable under compulsory school attendance laws.

Parents who violate such laws risk criminal charges, fines, jail sentences, and other forms of legal compulsion. Under most state laws, a child who is declared a truant may be institutionalized. Resisting school attendance requirements takes its toll in other ways as well; the judicial process is rarely easy on the participants.[1] But despite the serious personal consequences for parents and for children, violations of state compulsory school attendance laws appear to be rising dramatically, presenting policy makers with one of the most serious issues facing them today.

Nontraditional Schooling

Parents who place their children in unauthorized educational programs have a variety of reasons. Those who choose home schooling often see public schools or publicly approved private schools as too traditional or too conservative. By contrast, the growing number of parents who send their children to fundamentalist Christian schools tend to feel that the public schools are too liberal or devoid of the moral and religious instruction that they see as crucial to children's education. These disparate groups have two things in common: a rejection of the ideal of the U.S. public school as melting pot and a willingness to defy the law in the interests of their children.

The public education system is caught in the middle, unable to please everyone but responsible for enforcing compulsory attendance laws against those who disagree with the values that undergird the public school program.[2] Some state and local officials wonder whether compulsory attendance is important enough to be treated as a criminal offense, with stiff penalties imposed on parents for seeking what they believe to be the best education for their children. Others worry that children in unaccredited programs may not be acquiring the essential skills for good citizenship and self-sufficiency; they are also concerned about the long-range implications of allowing large segments of the population to insulate themselves from the mainstream of society. Still others fear that private schools provide havens for those who seek to avoid racial integration.[3] One state official expressed a private suspicion that hucksters, interested only in tuition payments, were running one particular fundamentalist Christian school. Meanwhile, a few state officials have recognized the financial implications for public schools of the trend toward nontraditional schooling, which is siphoning off students and thus enrollment-based state aid.

This issue is unlikely to go away. In fact, the number of families choosing nontraditional educational options seems to be increasing. The Census Bureau estimates that enrollments in non-Catholic private schools increased from 615,548 in 1965 to 1,433,000 in 1975.[4] These figures probably cover only established, accredited schools, however.[5] Families choosing unaccredited schools neither seek nor want state approval, and they probably do not want to be counted by the Census Bureau. Many of the unau-

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PATRICIA M. LINES is director of the Law and Education Center, Education Commission of the States (ECS), Denver. *Copies of the complete report from which this article comes ("Private Education Alternatives and State Regulation," Pub. No. LEC-82-3) are available at $4.50 each from the Law and Education Center, ECS, 1860 Lincoln St., Denver, CO 80295.* *The research for this article was supported by ECS state fees and by grants from the Carnegie Corporation, the Spencer Foundation, and the Ford Foundation. The conclusions are the author's own and do not necessarily reflect the views or policies of these agencies.*

thorized schools are fundamentalist Christian schools, which reject state authority over their operations as a matter of faith. Some refuse even to provide information on themselves. Using techniques designed to locate all hard-to-find schools in a sample of 22 counties, Bruce Cooper and Donald McLaughlin estimate that there are 15,000 non-Catholic private schools in the U.S., serving two million children; they also estimate that enrollments in these schools are increasing at a rate of 100,000 per year.[6] It seems likely that the largest growth in attendance has occurred among small, unaccredited schools.

Some states have consciously deregulated private schools. These states expressly limit state authority to promulgate regulations.

Many other children in the underground education movement are taught at home. John Holt, an educator and author whose Boston-based organization, Holt Associates, provides support services for home instruction, estimates that there are more than 10,000 families educating their children at home in defiance of compulsory education laws. Others believe the number to be much higher.

If enrollment figures are hard to come by, data on the quality and goals of unaccredited education programs are even more elusive. Virginia Nordin and William Turner have attempted to locate and evaluate fundamentalist Christian schools in Wisconsin and Tennessee. From their own observations and the scant available data, they have concluded that supporters of these schools are motivated by strong religious beliefs, not by segregationist attitudes.[7]

The scant amount of available evidence from standardized tests suggests that these unaccredited alternatives are educationally adequate. Test scores introduced as evidence in a few lawsuits suggest that children's performances improve after they are enrolled in unauthorized educational programs.[8] Test data from a home tutorial network in Los Angeles showed children in the tutorial program scoring higher than children in the public schools. However, the researchers did not control for parents' socioeconomic status, and pretest data were not available.[9]

Trends in State Regulation

Traditionally, compulsory school attendance laws have served as the mechanism for enforcement of minimum standards for private education. Punishment for breaking those laws has been directed at parents and children, not at those who offer private instruction. Typically, the basic requirement of these laws is school *attendance*, although some states require *education* of the child. These laws almost always mandate fines and jail sentences for parents who fail to comply; frequently they make children subject to truancy charges and possible institutionalization. In nearly every state, the local superintendent or school board and the local prosecuting attorney are responsible for identifying truants, i.e., children who are not enrolled in an approved educational program. In most states, local officials also have primary responsibility for approving home instructional programs, if such programs are allowed by state law. Local boards may also have responsibility for approving private schools, but the state often assumes this task. The criminal sanctions in compulsory attendance laws appear to have been designed for parents who are guilty of neglecting their children's education.

Acceptable ways of complying with a compulsory education requirement vary widely among the states. Some states demand certification of teachers and schools, some require that only the schools be approved, and some merely require minimal evidence that schooling takes place. At one end of the spectrum, such states as Alabama, Iowa, Nebraska, North Dakota, West Virginia, and Wisconsin have obtained state court approval for at least some aspects of the regulation of private educational alternatives. Those states with more flexible requirements will probably experience less litigation, unless the state boards exercise their broad statutory authority to impose more stringent standards. Connecticut, for example, provides a broad exception to the school attendance requirement; parents who do not send their child to public school must educate the child themselves or "show that the child is elsewhere receiving equivalent instruction in the studies taught in the public schools."[10] Other states that follow this model include Delaware, Idaho, New Jersey, South Dakota, and Vermont. The laws in these states typically do not specify who the teacher must be or where instruction is to take place.[11]

Some states have consciously deregulated private schools. These states expressly limit state administrative authority to promulgate regulations. Tennessee, for example, prohibits the state board and local boards from regulating faculties, textbooks, or curricula in church-affiliated schools.[12] Prior to the passage of a new law in North Carolina, the state board had gradually expanded its regulations governing private schools to the point of requiring that teachers' qualifications, courses of study, and textbooks be substantially the same as those in the public schools. Now North Carolina requires only that private schools keep records on pupil attendance and disease immunization and that they select and administer a nationally standardized test to students each year. The schools keep the tests on

file and make them available to state inspectors. They must also meet fire, health, and safety standards established by other laws.[13]

State law in Washington prevents state agencies from expanding on statutory provisions, but these provisions set minimum standards as to length of a school year, length of day, subjects to be taught, and teacher qualifications. Teacher certification is required, except for courses in religion and other subjects not taught in the public schools.[14] This requirement is a stumbling block for many private educational alternatives. However, state law in Washington allows persons of "unusual competence" to teach, if they are supervised by certified teachers. In practice, Washington may allow private educators more flexibility than the state law would suggest.

Laws in about half of the states permit instruction at home by a parent.[15] Other states permit instruction at home by a certified teacher (who may also be the parent). Of course, home instruction is permissible in any state if it meets all the requirements of a private school.[16] It would not be easy for most homes to meet these requirements.

State legislators and board members, torn between strong lobbies for both public and private education, are having a difficult time dealing with the issue of regulation of private education. In states that have little regulation, such as Oregon and Idaho, bills to establish even minimal reporting requirements are failing to pass. By contrast, efforts in the state of Washington to permit instruction by a parent are also foundering in the legislature. Large numbers of state legislatures are being asked — usually by fundamentalist Christian schools — to deregulate private schools, but to date only Alabama has responded to such requests. The topic appears to be so controversial that any kind of legislative change will be very difficult.

Legislative change is not impossible, however. Both Arizona and Vermont recently modified their laws to reduce the friction between public and private education sectors. Clearly, legislative change is more desirable than change through the courts. It is less polarizing, and it minimizes personal costs for the individuals involved.

Supreme Court Guidance

In the 1920s the U.S. Supreme Court outlined in part the limits to state regulation of private education. In *Pierce* v. *Society of Sisters* the Court struck down an Oregon law that required attendance at *public schools only*. The Court held that the law "unreasonably interferes with the liberty of parents and guardians to direct the upbringing of children under their control."[17] The Court recognized as legitimate the interests of the state in compelling some form of schooling, but in this case the state had gone too far.

The Supreme Court also dealt in the Twenties with laws in Nebraska and Hawaii that were less restrictive but that still unreasonably burdened the right of parents to rear their children as they deem fit. In *Meyer* v. *Nebraska*,[18] the Court struck down a state law forbidding the teaching of foreign languages to younger children. The Court found that this law was not rationally related to the stated goal in Nebraska of cultivating good citizenship. Meanwhile, in *Farrington* v. *Tokushige*, the Court struck down a law regulating foreign language schools in Hawaii. These schools, which were predominantly Japanese, were required to pay fees, to submit numerous reports, to establish their commitment to the "ideals of democracy," to adhere to strict rules regarding when and how long the schools could operate each day, and to follow detailed regulations on textbooks and other matters. The Court observed that enforcement of the act "would probably destroy most, if not all," of the affected schools.[19]

Clearly, legislative change is more desirable than change through the courts.

More recent Supreme Court decisions have provided some additional guidance on the extent of state authority to regulate private education. In 1979 the Court observed in *NLRB* v. *Catholic Bishop of Chicago* that enforcement of federal labor laws against religious schools touches on First Amendment rights. The Court decided the issue on statutory grounds, however, holding that the National Labor Relations Act does not apply to church schools.[20] In 1981 the Court ruled similarly in *St. Martin Evangelical Lutheran Church* v. *South Dakota*, a case involving federal and state unemployment taxes.[21] Both cases follow a Supreme Court rule that requires lower courts to construe statutes in ways that enhance their constitutionality. The Supreme Court might have upheld the statutes involved in these two cases, had the statutes expressly included church schools. But the Court avoided a decision on the issue. These two cases suggest only that state regulation of private education may sometimes go too far, but the Court's decisions provide no detailed guidance.

Finally, in a very different kind of case, the Court ruled in 1972, in *Wisconsin* v. *Yoder*, that Amish families with strong religious objections to public schooling are exempt from educational programs beyond the eighth grade.[22] Although the plaintiffs objected to the absence of Amish values in the public school program, they accepted compulsory school attendance in the lower grades because they believed that their children should acquire basic skills. The Court held that, *as applied to the Amish*, the compulsory attendance law in Wisconsin is unconstitutional. This ruling does not affect state compulsory attendance laws in general, even in Wisconsin.[23] *Yoder* holds only that a state cannot compel a child to attend public school in the face of strong religious objections and when the state's interest in the education of the child is adequately served by an alternative program. The Court was careful to distinguish between philosophical and religious objections to formal schooling, and it took into consideration the long tradition of the Amish.

Despite the Court's limiting language, the *Yoder* decision can be extended at several points. First, it clearly applies to religions other than the Old Order Amish, if plaintiffs demonstrate a comparable sincerity of belief and if the record shows that the states' interests are being met by adequate alternatives. To restrict the exemption granted in *Yoder* to a single religion would be unconstitutional. The *Yoder* decision may also apply to nontheistic, nontraditional religious beliefs, if the standards in *Yoder* are otherwise met.[24] To date the Supreme Court has not had occasion to consider extensions of *Yoder*.

Current Judicial Activity

Lower courts have followed *Yoder* only when dealing with traditional, theistic beliefs.[25] In other cases, despite obviously sincere religious objections to approved school programs, the courts have refused to extend *Yoder*. Some of these cases have involved fundamentalist religious schools using the self-paced Accelerated Christian Education (ACE) curriculum.

In the celebrated case of *State* v. *Faith Baptist Church*,[26] a Nebraska court examined these curricular materials and found them generally adequate. Faith Baptist Church indicated that it would not request approval of the ACE program, even though church officials had been informed informally that the state board would grant such approval. The school run by Faith Baptist Church employed no

certified teachers, and school officials refused to furnish names and addresses of students to local and state education agencies, as required by state law. The defendants, citing *Yoder*, argued that the state has no authority whatsoever over the operation of a religious school. They offered evidence, including passages from the Bible, supporting their view that religion must be integrated into teaching and that the public schools are inadequate to this task. Finally, the defendants asserted that public schools have secular humanism as their basic philosophy.

The Nebraska High Court rejected these arguments and upheld the state regulations. The U.S. Supreme Court dismissed an appeal by the school for want of a substantial federal question.[27] To enforce court orders to close the school, a lower Nebraska court for a time had the church door padlocked during school hours. The children transferred to an unapproved fundamentalist religious school in Iowa. The case seems far from ended, however. The local prosecutor is now seeking enforcement of the Nebraska compulsory attendance law against the parents and school officials, and the minister who operated the school was jailed for contempt of court.

Nebraska officials are now proceeding against other fundamentalist schools. One, the Park West Christian School in Lincoln, is operated by the Rev. Carl Godwin, the pastor of Bible Baptist Church. Godwin, although clearly embarrassed by the publicity, is articulate and active. He has organized the Nebraskans for Religious Freedom and has retained the legal services of William Ball, the defense attorney in the *Yoder* case. Ball has a reputation for winning cases of this kind, and Godwin is willing to report enrollment data and similar matters. Thus Godwin's case may force the courts to focus more sharply on the constitutional issues. Godwin spoke before a conference of more than 100 leaders of public and private education, sponsored by the U.S. Education Department in early May, and he seems capable of winning support from the traditional private education sector. Such support could help to bring about legislative change before court action becomes necessary.

A flurry of judicial activity involving religious schools is now in progress, with mixed results.[28] Most court opinions are grounded in state constitutions or statutes. Although the case law can be transferred from state to state (as guidance, not as precedent), the disparity in state constitutions and statutes does not permit broad generalizations. Of course, general rules for federal cases may emerge, but this has not yet occurred.

Home instruction is in a somewhat different category than instruction in an unapproved school, although the line between them is unclear. Home instruction may be entitled to even more constitutional protection, because the child/parent relationship may be entitled to constitutional protection under a right to privacy. But this idea has not been tested, and judicial reactions to it have been mixed.[29]

Of course, judicial opinions to date on home instruction represent only the tip of the iceberg. Additional cases have been or will soon be filed in Iowa, New Hampshire, Maine, Michigan, and many other states. Given the accelerating growth of the fundamentalist Christian schools, other nontraditional private schools, and home instruction, strict state requirements for compulsory attendance in approved schools will probably continue to be challenged. As I have already noted, litigation of this type carries with it high personal costs for the individuals involved. Such litigation also has the potential to polarize supporters of public and private education.

Implications for Public Policy

Thus legislative reform seems preferable to judicial reform. Unlike the courts, legislatures are not limited to accepting or rejecting existing statutes. Their wider range of options allows for greater flexibility.

States that wish to reform the regulation of private education through legislative action might consider a shift in focus from compulsory school *attendance* to compulsory *education*. The available evidence, though scant, suggests that periodic testing of children enrolled in nontraditional educational programs may be a viable alternative to compulsory school attendance. States that move in the direction of compulsory education should probably establish minimal requirements for nontraditional programs with regard to the subjects to be taught, the amount of time per day and year to be devoted to instruction, and the reporting of enrollment and attendance figures and similar data to state officials. If a child shows unsatisfactory academic progress on standardized achievement tests, state law might require remedial instruction in an accredited or approved school.

In the interest of consumer protection, a state may wish to establish regulations that guarantee honest and fair promotion of private schools, including full disclosure of the teachers' qualifications and of the schools' educational philosophies. However, existing laws may already protect consumers adequately.

States that are concerned about the operation of schools in private homes could amend their statutes to permit home instruction only by a child's parent(s). Statutes in such states could define "school" as instruction of children from one or more families by an unrelated teacher. (Some states may wish to emulate California, which has established separate rules for instruction at home by a tutor.)

North Carolina, Washington, and Oregon have established flexible regulations for private education that could serve as models elsewhere. In Oregon and North Carolina, test scores help to provide assurance that children enrolled in nontraditional programs are being educated. Washington relies on teacher certification for such assurance, although this gives private educational alternatives less leeway in staffing and precludes instruction by a parent in most cases. Such legislation would not be necessary, if state law did not give the state board of education or other state administrative officials broad regulatory power over private education in the first place. But such legislation is called for when a state board has gradually increased the requirements for nontraditional educational programs and the state legislature wishes to make clear its intent that statutory minimum standards are to remain *minimum* standards, not subject to expansion by administrative action.

Administrative action is probably the most peaceful means for resolving issues related to the regulation of private education. And flexible state laws make such action possible. In New Hampshire, for example, state officials have reached a somewhat fragile agreement with the fundamentalists: The state will accept school records submitted on church stationery instead of on standard state forms. Thus the state receives the information it must have to approve fundamentalist educational programs, and the fundamentalists do not feel that they are submitting to the state regulatory system. In Iowa, the state has agreed to accept reports from parents rather than from fundamentalist schools. Iowa fundamentalists see parental reports on children's schooling as analogous to the annual reports these parents file with the Internal Revenue Service. But they deem it inappropriate for the state to request such information directly from the church.

Because they are staunch supporters of public education and because they may see nontraditional educational programs as a threat to their membership, teacher unions seem likely to oppose the relaxation of state laws requiring attendance at approved schools staffed by certified teachers. These unions may argue that testing instruments are not yet sufficiently sophisticated to assure the public that adequate education is taking place. This is

probably true, but it could be argued that teacher certification is no better. Teacher certification is usually dependent on completion of a degree, which in turn is dependent on passing final examinations in college courses. (In some states, certification is also dependent on passing a competency test.) Ultimately, state legislators must decide whether testing a child, testing his or her teacher, or testing both would best provide adequate assurance that education is taking place.

Local school officials are also likely to oppose the relaxation of existing state laws regulating private education. As supporters of public education, such officials will probably be wary of the academic and social implications of nontraditional alternatives. They may also be concerned about the loss of state aid to public schools (which is based on enrollments), should more flexible regulations encourage families to choose private alternatives.

States that are sensitive to these problems could publish test data from nontraditional programs, if these data are available. They could also stand ready to revise their policies, if children in nontraditional programs fail to perform as well as they should. States should also recognize and deal with the problems caused by the loss of per-pupil aid to local school districts. For example, states might explore constitutional ways of providing partial state aid to local districts that make their school libraries, physical education facilities, art facilities, testing and guidance services, and other resources available to pupils in alternative educational programs. Such cooperation requires new laws and regulations. It also demands new relationships between state and local education officials and between public and private educational systems.

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1. As an example of the extreme emotionalism that surrounds these cases, John Singer was involved in a shoot-out with law enforcement officers and was killed outside his Utah home three years ago. The officers were investigating a charge that Singer had failed to abide by his obligations under the Utah compulsory school attendance law.

2. Educators generally agree that it is nearly impossible to provide education without also imparting values. See, for example, William J. Bennett and Edwin J. Delattre, "Moral Education in the Schools," *The Public Interest*, Winter 1978, pp. 81-98; and Andrew Oldenquist, "Moral Education Without Moral Education," *Harvard Educational Review*, May 1979, p. 247.

3. There is some support for this point of view. On the heels of the school desegregation order in Mississippi, for example, that state repealed its compulsory education law, apparently to avoid requiring parents to send their children to integrated schools. Following a desegregation order in Los Angeles, an organization of parents opposed to busing formed a home instruction network that served approximately 1,000 children (see Roy A. Weaver, Anton Negri, and Barbara Wallace, "Home Tutorials vs. the Public Schools in Los Angeles," *Phi Delta Kappan*, December 1980, pp. 251-55).

4. Department of Health, Education, and Welfare, *Statistics of Public Elementary and Secondary Day Schools* (Washington, D.C.: National Center for Education Statistics, 1976), p. 6.

5. Census Bureau officials are unable to estimate the number of children enrolled in unapproved educational alternatives, according to a 10 February 1982 memorandum to the director from Paul M. Siegel, chief of the Education and Social Stratification Branch (copy on file at the Education Commission of the States).

6. Bruce S. Cooper and Donald H. McLaughlin, "The Latest Word on Private School Growth," paper presented at the annual convention of the American Educational Research Association, New York, March 1982. By contrast, public school enrollments have declined from approximately 45.9 million in 1970 to 42.6 million in 1978, according to *Statistics of Public Schools, Fall 1970* (Washington, D.C.: National Center for Education Statistics, 1971); and *Statistics of Public Elementary and Secondary Day Schools, Fall 1978* (Washington, D.C.: NCES, 1979).

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8. See *In re Rice*, 204 Neb. 732, 285 N.W.2d 223 (1979); and *State* v. *Shaver*, 294 N.W.2d 883 (N.D. 1980).

9. Weaver, Negri, and Wallace, pp. 253-54.

10. Connecticut General Statutes, Sec. 10-184 (1981).

11. See, for example, Delaware Code Annotated, Tit. 14, Sec. 2703 (1981); Idaho Code, Sec. 33-202 (1981); New Jersey Statutes Annotated, Secs. 18A:38-25 (West 1968); and South Dakota Compiled Laws Annotated, Sec. 13-27-3 (Supp. 1981). See also Table B in Patricia Lines, "Private Education Alternatives and State Regulation," Education Commission of the States, Pub. No. LLC-82-3, March 1982.

12. Tennessee Statutes Annotated, Sec. 49, 5201-5204 (1970).

13. North Carolina General Statutes, Sec. 155C-547 *et seq.* (Cum. Supp. 1981); Sec. 115C-555 *et seq.* (Cum. Supp. 1981); and Sec. 115C-378 (Cum. Supp. 1981).

14. Washington Revised Code, Secs. 28A.02.201 *et seq.* and 28A.27.010 (1981).

15. See Table B of Lines, "Private Education Alternatives. . . ."

16. See, for example, Michigan Attorney General, Opinion No. 5579, 27 September 1979.

17. 268 U.S. 510 (1925), 534-35.

18. 262 U.S. 390 (1923).

19. 273 U.S. 284 (1927), 295.

20. 99 S.Ct. 1313 (1979).

21. 101 S.Ct. 2142 (1981).

22. 406 U.S. 205 (1972).

23. See, for example, *Meyerkorth* v. *State*, 173 Neb. 889, 115 N.W.2d 585 (1962); *Parr* v. *State*, 117 Ohio St. 23, 157 N.E. 555 (1927); *Stephens* v. *Bongart*, 15 N.J. Misc. 80, 189 A. 131 (1937); *State* v. *Hoyt*, 84 N.H. 38, 146 A. 170 (1929); *State* v. *Williams*, 56 S.D. 370, 228 N.W. 470 (1929); *State* v. *Freudenberg*, 166 Wis. 35, 163 N.W. 184 (1917); and *State* v. *Bailey*, 61 N.E. 730 (Ind. 1901).

24. See, for example, *United States* v. *Seeger*, 380 U.S. 163 (1965), in which the Court adopted a broad interpretation of the selective service law to avoid favoritism to individuals with more traditional theistic beliefs -- a favoritism that would clearly violate the establishment clause.

25. See, for example, *Nagle* v. *Olin*, 64 Ohio St.2d 341, 415 N.E.2d 279 (1980), which dealt with a non-Amish parent sending a child to an unapproved Amish school; and *State* v. *Nobel*, Nos. S 791-0114-A and S 791-0115-A (Mich. Dist. Ct., Allegan County, 9 January 1980), which dealt with a mother who was teaching a child at home but who refused for religious reasons to obtain a teacher's certificate, although she met the requirements.

26. 107 Neb. 802, 301 N.W.2d 571 (1981).

27. 102 S.Ct. 75 (1981). Members of the congregation of Faith Baptist Church subsequently brought suit in federal court, seeking an injunction against the state to permit continuation of the school. The court dismissed the suit, relying primarily on the Supreme Court's decision to dismiss the appeal (*Prettyman* v. *Nebraska*, Civ. No. 82-0-154, D. Neb., 16 April 1982).

28. For a discussion of applicable cases, see Lines, "Private Education Alternatives. . . ."

29. Ibid. □



"Use my mind? At home?"

NOTES

Preliminary Findings

Religious and Secular Schools: Differences in State Control
Research Request 83-159
Leslie Longenbaugh, Research Staff
May 4, 1983

I. Which states allow religious schools to operate free of state control?

A. Primary and Secondary Schools

1) Five states exempt religious schools from some requirement(s) to which other private schools are subject.*

a. Maryland
b. Nevada
c. Pennsylvania
d. Tennessee
e. Washington

2) Eight states do not require accreditation, approval, or licensure of any nonpublic school.*

a. California
b. Delaware
c. Florida
d. Massachusetts
e. Minnesota
f. New Mexico
g. North Carolina
h. Wisconsin

3) One state, South Dakota, has removed all state standards from all nonpublic schools. Students in the nonpublic schools must take competency tests periodically to ensure that they are receiving adequate instruction.**

4) Twenty-one states have voluntary, rather than mandatory, reporting by all nonpublic schools.*

a. Alabama
b. Arizona
c. Colorado
d. Georgia
e. Idaho
f. Illinois
g. Indiana
h. Iowa
i. Kansas
j. Louisiana
k. Mississippi
l. Montana
m. New Jersey
n. North Carolina
o. Oklahoma
p. Oregon
q. Tennessee
r. Texas
s. Utah
t. Virginia
u. Wyoming

5) At least two states other than Alaska have legislation pending that would affect state control of religious schools.***

a. Colorado
   i. The bill would exempt both religious and secular private schools from state control.
b. Montana
   ii. The bill would make mandatory some of the requirements that are now voluntary.

B. Pre-schools

1) Three states now have laws exempting religious pre-schools from all state certification and inspection except for conformity with health and fire codes.****

a. Arkansas; enacted 1981
   i. A lawsuit has been filed challenging the constitutionality of the Arkansas law on the grounds that it denies the children who would attend such schools equal protection of the law.*****
      a) A copy of the plaintiffs' brief in this lawsuit has been sent to us.
b. Illinois
c. Virginia

2) Legislatures in two states other than Alaska are now considering legislation that is similar to HB 357 in regard to pre-schools.****

a. Arizona
b. California

II. How do such states distinguish between religious and secular nonpublic schools for the purposes of the exemption?

A. Religious schools for the purposes of these exemptions usually are those that are sponsored and funded entirely by a church or religious organization rather than through the state or federal government.

B. The language used often includes a phrase such as "church-sponsored schools or schools with religious charters."

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****Floyd Haberkorn
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12. Compulsory Schooling and Nontraditional Education

The Issue

Some parents today believe that traditional schooling (public or private) is not necessarily equivalent to "education" nor "right" for every child. They are placing their children in nontraditional schools (not necessarily accredited) or educating them at home. Their reasons vary. Some have overriding religious concerns; others are dissatisfied with or mistrust the public school system. Occasionally they seek only to escape the effects of public desegregation policies.

Some private options may violate state compulsory attendance laws. In some states, parents and individuals operating unaccredited private schools have received or are faced with jail sentences. One fundamentalist Christian clergyman in Nebraska has refused to comply with court orders directing him to either obtain state approval for his school or cease operating, and he has been jailed twice. A church has been padlocked to enforce laws requiring private schools to obtain state approval and comply with state rules for operating a school.

The Choice Before State Education Policy Makers

In states that require compulsory school attendance (rather than compulsory education) and require certified teachers in private schools, policy makers are being asked to change the laws. Private school people seek fewer requirements for private schools, exemption of church schools, provision for home instructions, removal of teacher certification requirements or other policies that would make it easier for individuals to choose nontraditional education options free of state accreditation or approval.

How Many Children are in Unapproved Education Options?

While most children in nonpublic schools are enrolled in Roman Catholic institutions, the U.S. Bureau of Census estimated that (as of 1975) there were close to 1.4 million children in non-Catholic, private schools. Most likely the census bureau counted only traditional and accredited schools. A more careful study for the National Center for Statistics suggests there are about 15,000 non-Catholic private schools serving approximately 2 million students, and that this population is increasing by 100,000 students per year. One might speculate that the difference of some 500,000 to 600,000 children between the official census and this study represents the number of children in unapproved schools.

By contrast, public school enrollments declined from approximately 45.9 million in 1970 to 42.6 million in 1978.

Estimates of the numbers of children being taught at home vary from 10,000 to 50,000.

Education In An Unapproved Setting

When available, testing data shows that children in these schools are performing above national standards. The data do not show whether this is due to socioeconomic status, other individual characteristics, or the education program. With this caveat, the data show children in a Los Angeles home tutorial program (approved by the state) scored higher than children in public schools on nationally standardized tests.. Experimental work done about ten years ago showed no significant difference in students' test scores whether they were taught by an experienced teacher or by a lay person knowledgeable in the subject taught. Finally, in three court cases, attorneys introduced evidence of test scores showing

improvement as children moved from a public school to a private, unapproved education option.

State Education Requirements

Traditionally, states enforce minimum standards for private education through compulsory school attendance laws, which provide for punitive action for noncomplying parents and children, but not for those who offer private instruction. Although these laws vary, they contain the following features:

- All states have some kind of compulsory law requiring school attendance or education of children.

- States that require education of the child rather than attendance include Connecticut, Delaware, Idaho, New Jersey, South Dakota and Vermont. Most states require school attendance, although many of these provide exceptions for home instruction.

- Almost every state provides for jail sentences and fines for parents who fail to comply with the state's compulsory attendance law.

- Without exception, compulsory requirements can be fulfilled by attendance at a nonpublic school that is properly approved or accredited. A number of states require the teachers to be certified, or require approval of the curriculum and similar matters.

- Some states have recently "deregulated" private schools, and have restricted the authority of the state board of education to regulate them. These include Alabama, Arizona, Louisiana, North Carolina, and Tennessee. Washington restricts state board authority but contains a number of important statutory requirements, such as a teacher certification requirement.

- Laws in about half the states permit home instruction by a parent whether the parent has a teaching certificate or not.

- In some states, courts or attorneys general have ruled that if the home meets the standards for private school (generally, where a parent is a certified teacher), home instruction is allowed even if state law does not expressly so provide.

Court Challenges

The United States Supreme Court has indicated that regulation of nonpublic education can go too far. In a landmark case, Yoder v. Wisconsin, the high court narrowly ruled that Wisconsin's compulsory attendance law could not be enforced against the Amish (a religious community). The Court held that the state cannot compel attendance of children in the face of strong religious objections, so long as the children are adequately educated in an alternative setting. Lower courts have extended Yoder only when traditional religious beliefs are involved. Decisions outside of this narrow realm have been mixed, with most cases turning on state constitutional or statutory grounds.

Litigation over the status of private education has culminated in court rulings in a number of states, among them Florida, Hawaii, Iowa, Kentucky, Michigan, Nebraska, North Dakota, Ohio, Washington, and West Virginia. Generally, states undergoing litigation require school attendance and certification of private school teachers. In a few states the central issue is approval of curriculum or facilities, or zoning rules. Additional cases have been or will soon be filed in many states, including Iowa, Maine, Michigan, New Hampshire, North Dakota, and Virginia. Given the growth of fundamentalist Christian schools, other nontraditional private schools and home instruction, states that require compulsory school attendance and set standards for the school will probably be challenged in the near future.

The litigation receiving the most attention from the media appears to be State v. Faith Baptist Church, dealing with the refusal of Reverend Everett Sileven to obtain approval from Nebraska for any aspect of his church-run school. The school uses a series of booklets called the Packet of Accelerated Christian Education (PACE), including instructional information and self administered tests. The school does not use state-certified teachers, a requirement under Nebraska's compulsory school attendance law. The Nebraska high court found the materials adequate, but upheld the state's requirement for certified teachers. On appeal to the United States Supreme Court, the case was summarily dismissed because, based on the papers filed before it, the high court could not identify an important constitutional issue.

Somewhat similar opinions (not going to the U.S. Supreme Court) have been handed down by state courts in Florida, North Dakota, and Wisconsin. In some of these cases, parents refused to provide any evidence about the child's schooling.

In other cases, state courts have ruled in favor of parents. In Ohio, in State v. Whisner, the state supreme court struck down a system of state regulation that, by its literal terms, left no time for religious instruction in a private school. A Michigan court was reluctant to find a mother teaching a child at home guilty under the state's compulsory attendance law, as she met the requirements for teacher certification but refused to obtain a certificate for religious reasons. (Michigan allows home instruction only by certified teachers.) In a Kentucky case, the state court applied a state constitutional provision (found only in a handful of state constitutions) that prohibits requiring a child to attend a school which parents find objectionable for conscientious reasons.

Policy Alternatives

Where statutory requirements are flexible, imaginative administrative solutions to the issue become possible. In New Hampshire, for example, state officials reached a somewhat fragile agreement with fundamentalists that required information to be submitted on church stationery rather than on official state forms. This fulfills the state's need for certain information, but recognizes the fundamentalists' tenet that they should not submit to state regulatory systems. In Iowa, the state accepts reports from parents instead of the fundamentalist school. The fundamentalists involved felt individual reporting was no different than filing an income tax form, while a church report was tantamount to church submission to state regulation.

A state considering a change in its policy can look to sister states for models. In the past five years several states have deregulated private education.

- Tennessee, for example, prohibits the state board and local boards from regulating faculties, textbooks, or curricula in church affiliated schools.

- North Carolina requires only that private schools keep records on pupil attendance and disease immunization and that they select and administer a nationally standardized test to students each year. The schools keep the tests on file and make them available to state inspectors. They must also meet fire, health, and safety standards established by other laws.

- Washington prevents state agencies from expanding on statutory provisions, but these provisions set minimum

standards as to length of school year, length of day, subjects to be taught, and teacher qualifications. Teacher certification is required, except for courses in religion and other subjects not taught in the public schools. State law in Washington allows persons of "unusual competence" to teach, if they are supervised by certified teachers.

- The Vermont legislature, following efforts by its state board to require teachers certification, made it clear it could not do so, and also strengthened its child abuse laws in order to narrowly focus on actual problems, rather than to sweepingly subject all private educators to regulation.

- In mid-1982 the Arizona legislature determined to permit home instruction, so long as the child shows academic progress, as indicated by test scores or an impartial professional evaluation.

- Louisiana exempted schools which receive no local, state or federal funds from most reporting requirements.

- Arizona, Oregon, and North Carolina require testing of the children, to help provide assurance that they are being educated.

- Teacher certification is the mechanism used in Washington, although it reduces flexibility for private education alternatives and precludes instruction by a parent in most cases.

Policy Questions

Policy makers contemplating a change in state compulsory education laws need to ask the following questions before deciding on a course of action.

- Should compulsory attendance laws carry criminal sanctions against parents honestly acting in the best interests of their children?

- Are the children educated in unapproved settings acquiring what they need for good citizenship and self-sufficiency?

- What are the long-range implications of large segments of the population insulating themselves from the mainstream of society -- in this case, by avoiding state-approved education for their children?

- Are private schools havens for those wishing to avoid integration?

- Do existing consumer protection laws assure that parents are evaluating small nontraditional schools on the basis of adequate and correct information?

- What are the political implications of the growing exodus from public schools, when local school districts depend on state aid based on enrollment or attendance?

Policy Implications

Organizations and individuals urging more flexible compulsory education laws argue that this is required to preserve the free exercise of religion. These groups argue that parents know what is best for the child. They include those participating in nontraditional options, fundamentalist Christians, more traditional private schools and, to some extent, organizations and individuals concerned with civil liberties. The national ACLU, for example, in its Policy #71A, states: "We believe that, in the interest of parental right to choose an alternative to public education, [home instruction with safeguards, such as approval of curriculum or testing of the child] . . . should be extended to all jurisdictions because the state's interest in assuring minimum levels of education does not extend to control of the means by which that interest is realized."

Organizations and individuals urging retention or adoption of stricter requirements for private education generally argue that these regulations are needed to assure the best interests of the child, and to prevent balkanization of society. These groups include teachers' organizations and public school administrators.

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COMMENTS ON
HOUSE BILL #357
and
SENATE BILL #[illegible]

The subject at hand has to do with House Bill #357, currently before the Legislature, and a Senate Bill with identical language for which I have no number at the present time.

This is an act relating to the regulation of religious schools.

The First Amendment to the U.S. Constitution says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" With these words, the First Amendment guarantees a separate church and state. Historically, this has meant that the church was not subject to the state, nor was the state subject to the church.

The First Amendment also guarantees "free exercise of religion." Our nation has repeatedly recognized the value of this most important clause and has resisted infringement of First Amendment rights of the citizenry.

It is also true that the language of the Constitution of the State of Alaska provides similar liberties to those spoken to in the Constitution of the United States.

At the outset of these remarks, it should be noted that it is the responsibility of the church to provide buildings and equipment that meet reasonable regulations for fire, life safety, health, and sanitation when they are equally and fairly applied to all.

One of the reasons for the presentation of the proposed legislation has to do with some language found in the Constitution of the State of Alaska. That language reads as follows:

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

We have no quarrel with the language set forth in the paragraph above excerpted from the Constitution of the State of Alaska. However, since the provision is made that the public school system of the State of Alaska shall be free from sectarian control, we believe it follows reason and logic that the church-operated schools of the State of Alaska should be free from state control.

For this reason, we have addressed the importance of certain changes that need to be made in the present structure of the Alaska Statutes that would bring present law into line with the provision of the Federal and State Constitutions.

Our special concern has to do with the impact of present law and the resultant regulations that could be written under the umbrella of the existing language.

While we have stated above that we have no quarrel with the right of the State to require reasonable fire, life safety, health, and sanitation standards, we would never submit to the inspection of personnel, programs, finances, records, curricula, etc., since this is clearly a violation of the First Amendment, and cannot be permitted by the local church.

For these and other reasons, we have proposed an Amendment to Section 1. A.S. 14.07.020(8).

In this Amendment, we have addressed the fact that it is our sincere conviction that neither the Department of Education nor the Department of Health and Social Services has the constitutional right to general supervision over our pre-elementary schools, nor over the educational component of our nurseries.

We have also offered an Amendment to Section 2. A.S. 14.30.010(b)(1).

One of the reasons why we have suggested the addition of paragraph (D) has to do with the requirements set forth in paragraph (C). You see, it is our policy to regularly measure the progress of our students in our church-operated schools through the use of national achievement tests, and we would have no problem with making that information available to anybody on a request basis. However, since the Constitution says that no law shall be made concerning the establishment of religion, we simply believe that the State has no right to REQUIRE that information. So, we have proposed paragraph (D) as an amendment to that section.

One of the questions that has been raised with regard to paragraph (D) is as follows: "If paragraph (D) should become law, what assurance do we have that some 'fly-by-night' type church such as the Jim Jones syndrome or the Moonies won't pop up and start what they would call a church-operated school?"

Quite honestly, we don't have any assurance that that wouldn't happen. However, there are some reasons why I believe it would not happen. One of the reasons why I would question that a "Jim Jones" church or a "Moonies" church would start a school is simply that it is not as lucrative an operation as that which generally interests them. They are usually looking for ways to get their hands on large amounts of money as quickly as they can with a minimum of work involved.

The operation of a school involves a great deal of hard work, dedication, consecration, and plain, old-fashioned elbow grease!

Church-operated schools must function in a free-market society, and they simply must produce what they claim to produce, or the parents will take their children elsewhere.

My second response to the original question would be as follows: It is our understanding that laws should be made for the benefit of and the protection of the majority of the people. While it is true that there is the possibility that some church like the Jim Jones, Moonies, or Universal Life Church people might start a school under the provision of paragraph (D), why would the Legislature of the State of Alaska wish to continue to impose an unconstitutional burden on the many churches in the State of Alaska who are doing a great job in the field of private education because it was afraid a possible small minority might start an educational program that would be undesirable?

Why would the Legislature want to take away the liberties of the many because it feared the abuses of a few?

Section 3 has been amended by the Department of Law as a housekeeping measure to bring it into line with the rest of the proposed legislation in this bill.

The next item under consideration is Section 14.45.030. Once again, this is a matter where we believe constitutional liberties are being abrogated. While it is a fact that we would have no problem providing this information on a request basis in cooperation with the State Department of Education, we are convinced that it should not be required by law in order to maintain the true eparation of church and state.

The last amendment proposed in this bill is found in A.S. 44.27.020(1).

This amendment is proposed in order to maintain the separation of church and state. Present law says that the Department of Education shall administer the State's program of education at the elementary, secondary, and adult levels. What we are

saying in our proposed amendment is simply that the State Department of Education does not have the right to administer the church's programs of education, since the State neither founded nor funded our church educational programs.

Respectfully submitted,

_____

Paul E. Glover

4/18/83
PEG:hm

CHRISTIAN SCHOOL COMMENT

Vol. 13 | More than 140,000 Copies Sold Monthly | No. 8

WHAT EVERY PARENT SHOULD KNOW ABOUT THE ASSOCIATION OF CHRISTIAN SCHOOLS INTERNATIONAL

by Dr. Paul A. Kienel, Executive Director
Association of Christian Schools International

The Association of Christian Schools International (ACSI) is a non-profit service organization serving Bible-centered Christian schools and colleges. It is the largest association of Christian schools in the world with a membership of 1,933 schools and a combined student enrollment of 337,554. Over the past five years, ACSI membership has nearly doubled in size. The annual cost of school membership is $3.00 per student payable on October 1. Most schools include this small amount in their annual student registration fee. As a parent, you need to know about the wide variety of services offered by ACSI that directly benefit your Christian school and ultimately your child or children in the school.

LEGAL/LEGISLATIVE SERVICES

Over the past five years, ACSI has raised and spent more than $400,000 to preserve your school's religious freedom. We have had major struggles with the U.S. Department of Labor and the IRS. There have been several important victories but the struggle continues. Last week, for example, I met with U.S. Department of Education leaders in Washington, D.C. to discuss guidelines on how state departments of education can work cooperatively with Christian schools instead of attempting to control them. Next week I fly to Washington, D.C. again to meet with U.S. Department of Labor officials. We will attempt to reverse a decision made by the previous U.S. Secretary of Labor under the Carter Administration that claimed Christian school teachers are secular employees subject to government agency control. In the past ACSI has organized parent and teacher letter-writing campaigns to the White House and members of Congress on various issues. The results have been important to your school and your children.

CONVENTIONS AND CONFERENCES

Another service of ACSI is to encourage the spiritual and professional growth of your school's staff through ACSI conventions and conferences. Your child's teacher comes away from these meetings with fresh insight and inspiration for his or her ministry in the classroom. The ACSI staff of 42 people work year-round preparing for these meetings. More than 20,000 teachers, administrators and board members will attend the seventeen ACSI conventions held in the United States and Canada this year. ACSI also conducts similar programs in other countries.

ACCREDITATION AND CERTIFICATION

Under the capable leadership of ACSI's president, Dr. Roy W. Lowrie, Jr., the association offers a quality program of school accreditation and teacher and administrator certification. These professional services are designed to raise the spiritual and academic levels of our schools and to provide testimony to all, including government agencies, that the Christian school community has its own forms of professional recognition. Dr. Lowrie is also the editor of *Christian School*, a professional journal for Christian school teachers and board members. It is provided free of charge to teachers in ACSI member schools.

STUDENT ACTIVITIES

Approximately 25,000 Christian school students participate annually in ACSI student activities. I am referring to speech meets, spelling bees, choir festivals, science fairs, art festivals, sporting events, piano festivals, academic meets, band festivals, cheerleader camps and student leadership conferences. Each of these events is designed to inspire leadership qualities and communication skills so that students will be effective in sharing Jesus Christ with others.

PROFESSIONAL COUNSEL

ACSI personnel are located in twelve offices throughout the country. They are available to offer counsel and information to Christian schools in the United States and Canada. The ACSI regional directors are competent leaders in the Christian school movement. Pray for them as they travel thousands of miles each year on behalf of ACSI member schools.

PROFESSIONAL BOOKS

ACSI publishes many books and manuals for parents, administrators, board members, teachers, school secretaries and students. The association also publishes a monthly teacher placement list, an annual directory of member schools and colleges, regional newsletters and our professional journal, *Christian School*. This flow of vital information is important to the quality of education in your child's Christian school. Without the strong flow of written communication provided by ACSI, the Christian school movement would soon lose its cohesive thrust.

REDUCED INSURANCE RATES

ACSI insurance programs return more than one million dollars a year to its member schools and colleges via savings in premiums and worker's compensation rebates. Many schools more than offset the annual cost of ACSI membership with savings from the group insurances offered through ACSI.

Finally, the most important thing parents should know about ACSI is that everyone who is a part of the association is vitally concerned about children and young people. The 42 staff members, the 26 people who serve on the ACSI Board and scores of others who assist with ACSI programs are all born-again believers in Jesus Christ. We are strongly committed to quality Christ-centered education. Along with the staff of your fine Christian school, we have devoted our lives to the task of inspiring the next generation to be followers of Jesus Christ. □

CHERI C. JACOBUS
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SB 261 AND HB 357

Summary of the Legislation

SB 261 and HB 357 deal exclusively with private church schools and schools operated by religious organizations and, as amended, are modeled after the legislation adopted by North Carolina in 1979 and by West Virginia in 1982 to remedy church-state constitutional conflicts. These laws, if enacted by the Legislature, would establish requirements that must be met by private religious schools in order for parents whose children attend them to satisfy the compulsory education law. They would also exempt pre-elementary and nursery programs operated by religious organizations from the supervision of the Departments of Education and of Health and Social Services. The purpose of these bills is to remedy existing church-state constitutional conflicts by protecting the guaranteed religious freedom of church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education.

This legislation only covers schools, pre-elementary programs or nursery programs operated by a church or other nonprofit religious organization exempt from federal taxation and not receiving state or federal funding. These are constitutionally protected groups and activities.

More specifically, church schools (or denominational schools as defined in the proposed legislation) would be required to maintain attendance and immunization records. Since current compulsory education laws make parents liable for their children's failure to attend school, these bills, as amended, would require the parents to file statements with the public school authorities to establish their children's attendance at a church sponsored private school. By placing the requirement on the parent, the bills avoid the constitutional problems created by the state's excessive entanglement in religious activities. The school would also be required to operate on a regular schedule, at least nine calendar months per year, and to be subject to reasonable fire, health, and safety regulations.

To ensure that children attain certain minimum educational standards, each religious school would be required to administer a nationally standardized test to students in the first, third, sixth and ninth grades and to make the school results available for the Department of Education. This would satisfy the state's interest in compulsory education and still avoid the constitutional problem of excessive state entanglement in religion.

Any church school that satisfied all the requirements of AS 14.45 would be exempt from any additional provision of law

relating to education except those requirements of law relating to fire, health, and safety.

Constitutional Requirements

The changes set out in SB 261 and HB 357, as amended, are required to correct existing Alaskan laws which run afoul of the constitutional mandate requiring the states to avoid excessive entanglement in religious activities. The state's right to impose minimum requirements on private religious schools is very limited, because these religious activities are protected by the First Amendment of the United States Constitution and its identical counterpart in the Alaska Constitution, Art. I, sec. 4.[1]

Schools operated by churches or by nonprofit religious organizations are quite different from other private schools. They enjoy a constitutionally protected status.

> "Church operated schools are generally integral parts of their sponsoring churches. Their superintendents are generally pastors or assistant pastors of the sponsoring churches; their teachers are generally members; and their doctrinal stances are generally set by the sponsoring churches."[2]

Federal and state courts recognize that operating a church school is an integral part of the free exercise of religion.[3] For many churches, it is in fact the ministry of the church. Because

[1] E.g., Kentucky State Bd. for Elem. & Secondary Education v. Rudasill, 589 S.W.2d 877 (Ky. 1979), cert. den., 446 U.S. 938 (1980); Wisconsin v. Yoder, 406 U.S. 205 (1972); Lemon v. Kurtzman, 403 U.S. 602 (1970); Pierce v. Society of Sisters, 268 U.S. 510 (1925).

[2] "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405, 431-32 (1980).

[3] See, e.g., NLRB v. Catholic Bishop, 99 S. Ct. 1313 (1979) (Catholic parochial schools are founded for religious reasons and religious doctrine is pervasive); Surinach v. Pesquera de Busquets, 604 F.2d 73 (1st Cir. 1979) (private Catholic schools are an integral part of the Catholic Church and as such "involve substantial religious activity and purpose"); Hunt v. McNair, 413 U.S. 734, 743 (1973) ("[R]eligion is so pervasive that a substantial portion of [religious school] functions are subsumed in the religious mission."); Lemon v. Kurtzman, 403 U.S. 602, 616 (1971) ("[T]he parochial schools constituted 'an integral part of the religious mission of the Catholic Church'. . . In short, parochial schools involve substantial religious activity and purpose.").

church operated schools clearly come within the First Amendment free-exercise clause, their activities are constitutionally protected as fundamental rights.[4]

In the area of First Amendment individual liberties, any state legislation that burdens parents', childrens', or a church's free exercise of religious beliefs is unconstitutional unless, the state can demonstrate "a compelling state interest in the regulation of a subject within the state's constitutional power to regulate." Sherbert v. Verner, 374 U.S. 398, 403 (1963).

To establish the existance of a compelling state interest, it is not enough for the state to merely show that a rational relationship exists between a colorable state interest and the proposed regulation. According to Sherbert, "[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation."

More importantly, the state must demonstrate that it is using the least burdensome method for addressing the compelling state interest. The current law violates this mandate, because the legislative goals can be achieved with less burdensome methods. SB 261 and HB 357, as amended, use North Carolina and West Virginia laws as models and are less burdensome while still accomplishing legislative goals.

Eventhough SB 261 and HB 357, as amended, would create two classes of private schools and treat them differently, these bills would not violate the Equal Protection clause of the Fourteenth Amendment. According to established legal principles[5], the equal protection guarantee of the Fourteenth Amendment does not take from the state legislatures all power to classify persons or objects. The state may classify persons for the purpose of legislation. Classification is an inherent right and power of the legislature.

The important issue for these proposed bills is whether the distinction between private schools operated for profit and private schools operated by churches is based on a real and substantial difference between the two classes. Clearly, there is a substantial difference. The decision of the legislature to recognize its limited ability to regulate church schools is based on a constitutional distinction between the two classes. Church schools are in a protected class, enjoying the protection of the First Amendment. Private schools are not.[6]

[4] Ibid.

[5] 16A Am Jur 2d, Constitutional Law, §746, et. seq.

[6] In addition, it must noted that the motivations for operating

In the area of religious freedom and expression, the Constitution demands neutrality. The government cannot demonstrate a hostility toward religion or religious activity. The mere fact that the government specifically exempts religious groups from complying with certain laws does not violate the Constitution. For example, federal law clearly creates two classes when it exempts the property and income of religious organizations from federal taxation. These two classes parallel the two classes which would be created by SB 261 and HB 357, as amended. The Supreme Court held this was proper legislation in Walz v. Tax Commission, 397 U.S. 664,669 (1970). The Supreme Court found that neither the purpose nor the effect of such exemption was to advance or inhibit religion. It was "benevolently neutral."

The distinction between private schools operated for profit and those operated by churches is real and parallels distinctions created by the federal tax laws. Therefore, there is no violation of equal protection guarantees.

In summary, the present law violates both the United States Constitution and the Alaska Constitution. SB 261 and HB 357, as amended, balance the state's interest in ensuring that each child receives a good education with the fundamental right to religious freedom and should be adopted.

a private school for profit and a school operated by a church are entirely different.

* Section 1. AS 14.07.020 (8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080 (4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Section 2. AS 14.30.010 (b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement tests; the department with assistance from representatives of the private schools shall promulgate regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation provided the program does not receive state or federal funding and provided that the church or other nonprofit religious organization elects to comply with the provisions of AS 14.45;

* Section 3. AS 14.45.015 is added to read:

Sec. 14.45.015. POLICY. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and of Alaska, it is the public policy of the State in the matters of education by religious organizations that the state shall not control or interfere with the rights of conscience or with religious liberty. The State further finds that there is no compelling reason to interfere with this fundamental right.

* Section 4. AS 14.45.020 is repealed.

* Section 5. AS 14.45.025 is added to read:

AS 14.45.025. STANDARDIZED TESTING REQUIREMENTS. Each school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with this chapter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades one, three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after testing, all records shall be made available to the parents at the principal's office, and the school composite test results shall be made available at all reasonble times for annual inspection by a duly authorized representative of the State of Alaska.

* Section 6. AS 14.45.030. is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Teachers and others in charge of private [OR DENOMINATIONAL] schools not operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding and that has elected to comply with AS 14.45 shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

(b) The enrollment and attendance of a child in a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding shall be filed with the local public school superintendent by the parent, guardian or other person in charge or control of the child on a form provided by the superintendent which shall be countersigned by the administrator of the church school and returned to the public school superintendent by the parent. Should said child cease attendance at a church school, the parent, guardian, or other person in charge or control of the child shall by prior consent at the time of enrollment direct the church school to notify the local public school superintendent that said child no longer is in attendance at a church school.

(c) Each school operated by a church or other nonprofit religious organization exempt from federal taxation and which does not receive state or federal funding shall make and maintain monthly attendence records for each student enrolled and regularly attending classes. Such school shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year.

* Section 7. AS 14.45.035 is added to read:

AS 14.45.035. REQUIREMENTS EXCLUSIVE. No school operated by any church or other nonprofit religious organization exempt from federal taxation which does not receive state or federal funding and which has complied with this chapter shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, physical examination and immunization.

* Section 8. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondance courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated by a church or other nonprofit religious organization that is exempt from federal taxation if the program does not receive state or federal funding and if that school has elected to comply with the requirements of AS 14.45;

HB
357
#3

CHERI C. JACOBUS
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19 May 1983

Representative Sam Pestinger
State House of Representatives
Pouch V
Juneau, Alaska 99811

Re: HB 357 -- Regulation of Religious Schools

Dear Representative Pestinger:

Thank-you for your support and for the excellent help provided to Burt Carney and to me by Ed Essa during our recent trip to Juneau to work for the passage of HB 357. As we discussed, this legislation is extremely important if the state is to avoid the church-state conflicts that have occurred in other states. While the results are generally pleasing, in reviewing the final Health, Education and Social Services committee substitute, one problem is apparent in the language added to Section 1. The section as amended reads as follows:

> (8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4) **excluding the educational component of pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive state or federal funding;** pre-elementary schools in this paragraph means schools for children ages three through five years when the school's primary function is educational; (the added language is in bold type)

While the phrase "the educational component" may seem innocuous, it really defeats the purpose of this legislation. The change in the language is improper on three grounds. First, it violates the Equal Protection clause of the U. S. Constitution by apparently delegating to the Department of Education more supervision over church schools than it has over public schools. Second, it is unclear what non-educational general supervisory powers the legislature intends to grant to the Department of Education over church schools and, therefore, this broad grant is an unconstitutional delegation of legislative power to the executive branch of government. Third, if by this grant of power, the department through regulation can unduly burden religious exercise, it is unconstitutional as a violation

of the First Amendment.

If the legislation excludes only "the educational component" of church schools, there is a clear implication that the church school may be regulated in other ways under the "general supervision" language. Not even the public schools are subject to "general supervision," but the department's duties regarding them are specifically set forth. The existing statute includes: providing consulting and advisory services to the public schools, prescribing a minimum course of study for the public schools, establishing educational programs for children in detention, accrediting public schools, prescribing standards to assure healthful and safe conditions in public and private schools, providing correspondence courses, accrediting private schools that request accreditation, reviewing construction plans of public schools, and providing vocational education to those persons older than sixteen. These specific powers are generally not relevant or applicable to church schools.

Unless church schools are totally exempt from "general supervision," and not exempt only with respect to the educational component, there would be a denial of equal protection under the Constitution, because the department would have more authority over religious schools than it has over public schools.

Because the words, "general supervision," are not defined it is not clear what the legislature intends by them. By leaving it up to the department to decide what is meant by these words, the legislature would be violating a basic principle of our form of government. The legislature writes the laws and sets policy and the executive branch implements that policy. The separation of power is essential to effective government and where a delegation is too vague, the courts generally strike the law down.

Finally, the state cannot do indirectly what it is prohibited from doing directly. As we have discussed, the state's right to impose minimum requirements on private religious schools is very limited, because those religious activities are protected by the First Amendment of the U. S. Constitution and its identical counterpart in the Alaska State Constitution, Art. I, sec. 4. Any legislation that directly or indirectly burdens parents', childrens', or a church's free exercise of religious beliefs is unconstitutional unless, the state can demonstrate that it has a compelling state interest in the regulation and that it has chosen the least burdensome method for protecting that interest.

In this case, since the legislature has not even identified the compelling state interest in granting to the department "general supervision" of church pre-elementary and nursery programs and has left the definition of the term, as well as the method, up to the department, this would clearly violate the First Amendment.

Again, I appreciate the time and the support you and your staff have provided to me. Please delete the phrase "the educational component of" added by the HESS Committee to HB 357.

Sincerely,

Cheri C. Jacobus

Cheri C. Jacobus

cc: Rep. Mae Tischer
Rep. Milo Fritz, M.D.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M May 18, 1983

SUBJECT: Regulation of religious schools (CSHB 357 (HESS))

TO: Representative Mae Tischer
Chairman, House Health, Education and Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have asked for an opinion as to the effect of the amendment made to sec. 1 of CSHB 357 (HESS) at the Health, Education and Social Services Committee meeting of May 17, 1983. Before the committee amendment, sec. 1 amended AS 14.07.020(8) to provide that certain religious schools are excluded from the general supervision of the Department of Education and the Department of Health and Social Services. The committee amendment makes it clear that only the educational component of those schools is exempt from departmental supervision.

More specifically, before the committee amendment, sec. 1 provided that the departments would exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries, excluding pre-elementary schools and nurseries run by religious organizations. In other words, religious pre-elementary schools would be exempt from any supervision whereas religious nurseries would only be exempt from supervision of their educational component. This would leave the religious nurseries open to regulation as to such matters as health and safety, but not curriculum. The amendment made in the committee meeting added the words "educational component" to the exemption from departmental supervision. The effect of the amendment is to make it clear that the departments can regulate both religious pre-elementary schools and nurseries only in regard to matters other than education, e.g., health and safety.

KBL:ljb
20/024

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Representative Milo Fritz, M.D.
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Draft Letter of Intent for CSHB 357 -- Regulation of Religious Schools

Dear Dr. Fritz:

Attached is a draft Letter of Intent to accompany CSHB 357. I have attempted to cover all the issues which might arise in the state's later interpretation of this legislation. If you or your staff have any questions or think that it can be clarified, please feel free to call me. I especially enjoyed our short meeting together.

In carefully reviewing the draft CSHB 357 a few minor problems came to my attention. The Legislative Affairs Assistant Counsel added some language and left out other language which would have made the committee substitute more clear, without changing its meaning.

Pursuant to discussions with the representative of the Department of Education, Steve Hole, the following sentence should be added to page 2, line 21 to make it clear that religious schools are treated in the sub-sections that follow:

> This sub-section does not apply to religious schools as defined in AS 14.45.040 which comply with this chapter.

Since it is clearly not practical for the parents to provide daily attendance records, that requirement should be deleted from the committee substitute. Section 5 found on page 2, beginning on line 23, would then read:

> (b) The parent or guardian of a child enrolled in a religious school that complies with this chapter shall file annual enrollment [and attendance records] for the child with the public school superintendent for the area in which the child resides on a form provided by the public school superintendent. . . (bracketed part is deleted.)

As I testified in the teleconference, the last sentence of that section should also read differently to protect the state's interest in assuring compliance with the state's compulsory education law. Since this is more practical, the change would require the church school to notify authorities if a child leaves the church school. Line 29 on page 2 and lines 1 and 2 on page 3 should read as follows:

> The <u>religious school</u> [parent] shall notifiy

the public school superintendent immediately if the child is no longer in or attending the religious school.

As I was leaving Juneau, it came to my attention that the Administration was considering lengthening the school year. Therefore, with that in mind, the following language change is suggested to ensure that religious schools operate for similar lengths of time. Line 6 on page 3 should read:

> . . . [during at least nine calendar months of the year] for at least the same number of days that the public schools operate.

Finally, to avoid an interpretation that would require intrusive regulations, it is suggested that the following language be added to Section 6, beginning at line 19. That subsection would then read:

> (c) A religious school shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student and to authorized representatives of the state <u>in the school office.</u>

Thank-you for all your help on this important issue. If Alaska can avoid all the problems that have occurred in the lower 48 states, it will be worth the effort. I look forward to working with you again.

Sincerely yours,

Cheri C. Jacobus

Cheri C. Jacobus

attachment

LETTER OF INTENT
HB 357

The House Health, Education and Social Services Committee recognizes that operating a church school is an integral part of the free expression of religion and that schools operated by religious bodies are quite different from other private schools. Therefore, the Committee's purpose in referring HB 357 to the floor and in urging its passage is to prevent possible church-state constitutional conflicts by protecting the fundamental rights of religious freedom of parents, children, and church schools in Alaska and, at the same time, to balance the state's interest in assuring that each child receives a good education. The Committee specifically intends to exempt pre-elementary and nursery programs operated by religious organizations from the general supervision of the Departments of Education and of Health and Social Services.

The Committee only intends to exclude from the purview of this bill those church schools that receive direct federal or state funds. This would not affect those schools that receive incidental benefits from government, such as fire or police protection, health care or other benefits to which all citizens are entitled.

Any church school that satisfies all the requirements of AS 14.45 would be exempt from any additional provision of law relating to education except those requirements of law relating to fire, health, and safety. While each church school would be subject to reasonable fire, health, and safety regulation, the House Health, Education and Social Services Committee intends to specifically limit health regulation to that regulation that is reasonably related to the state's interest in preventing and curing physical diseases. For example, the Committee does not intend for the state to regulate minimum space requirements (except as it directly relates to the fire code), hours of attendence, or reasonable methods of discipline.

In summary, the House Health, Education and Social Services Committee Substitute for HB 357 balances the state's interest in ensuring that each child receives a good education with the constitutional right to religious freedom.

Respectfully submitted,
/s/

AMENDMENT #1

OFFERED IN THE HOUSE: BY: Koponen and Phillips

TO: CS HOUSE BILL No. 357 (RULES)

SENATE BILL No. _____

PAGE: _____ LINE: _____

PAGE 1, LINE 6

Delete: "religious"

Insert: "private"

Failed
13 - 23

PAGE 1, LINE 14, following "by a"

Delete: "church or other nonprofit religious"

Insert: "private nonprofit"

PAGE 2, LINE 6, following "by a "

Delete: "church or other nonprofit religious"

Insert: "private nonprofit"

PAGE 2, LINE 10, following "A"

Delete: "religious"

Insert: "private nonprofit"

PAGE 2, LINE 23, following "in a"

Delete: "religious"

Insert: "private nonprofit"

PAGE 2, LINE 25, following "in the"

Delete: "religious"

Insert: "private nonprofit"

PAGE 2, LINE 29, before "school"

delete: "religious"

insert: "private nonprofit"

AMENDMENT #1 (continued)

OFFERED IN THE HOUSE: BY: _____

TO: _____ HOUSE BILL No. _____

SENATE BILL No. _____

PAGE: _____ LINE: _____

PAGE 3, LINE 1, following "The"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 3, following "the"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 4, following "a"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 12, before"school"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 14, following "the"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 18, following "A"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 22, following "A"

Delete: "religious"

Insert: "private nonprofit"

OFFERED IN THE HOUSE: BY: _____

TO: _____ HOUSE BILL No. _____

SENATE BILL No. _____

PAGE: _____ LINE: _____

PAGE 3, LINE 25, following "the"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 26, following "chapter"

Delete: "religious"

Insert: "private nonprofit"

PAGE 3, LINE 27, following "by a "

Delete: "church or other nonprofit religious"

Insert: "private nonprofit"

PAGE 4, LINE 8, following "by a"

Delete: "church or other nonprofit religious"

Insert: "private nonprofit"

AMENDMENT #2

OFFERED IN THE HOUSE: BY: KOPONEN AND PHILLIPS

TO: CS HOUSE BILL No. 357 (RULES)

SENATE BILL No. _____

PAGE: _____ LINE: _____

PAGE 1, LINE 15

Delete: "direct"

PAGE 2, LINE 8

Delete: "direct"

PAGE 3, LINE 29

Delete: "direct"

PAGE 4, LINE 10

Delete: "direct"

Failed 03-14

Levy
5/20/83

Original sponsors: Fritz, Tischer, Pestinger, et al

IN THE HOUSE BY THE RULES COMMITTEE

CS FOR HOUSE BILL NO. 357 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of religious schools."

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

* Section 1. AS 14.07.020(8) is amended to read:

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4) excluding pre-elementary schools and nurseries operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

CS deletes "the educational component of"

* Sec. 2. AS 14.30.010(b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) except as provided in (D) of this paragraph, attendance at a private school in which the average student proficiency is not less than the average proficiency found in the public schools in the area as measured by national achievement

tests; the board of education [DEPARTMENT] with assistance from representatives of the private schools shall adopt [PROMULGATE] regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

(D) attendance in an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding;

* Sec. 3. AS 14.45 is amended by adding a new section to read:

Sec. 14.45.025. EXEMPTION FROM EDUCATION LAWS. A religious school that complies with this chapter is exempt from other provisions of state law and regulations relating to education except laws and regulations relating to health, fire safety, sanitation, immunization, and physical examinations.

* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Except as provided in (b) and (c) of this section, teachers [TEACHERS] and others in charge of private or denominational schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 5. AS 14.45.030 is amended by adding new subsections to read:

(b) The parent or guardian of a child enrolled in a religious school that complies with this chapter shall file an annual notice of enrollment in the religious school for the child with the public school superintendent for the area in which the child resides on a form provided by the public school superintendent. The form shall be signed by the parent and the chief administrative officer of the religious school and returned to the public school superintendent by

the parent. The religious school shall notify the public school superintendent immediately if the child is no longer enrolled in or attending the religious school.

(c) A religious school that elects to comply with this chapter shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall make an annual report to the commissioner of the number of students in each grade and the school calendar.

* Sec. 6. AS 14.45 is amended by adding new sections to read:

Sec. 14.45.035. STANDARDIZED TESTING REQUIREMENTS. (a) A religious school that elects to comply with this chapter shall administer a nationally standardized test selected by the chief administrative officer of the religious school to all students enrolled in grades one, three, six, and nine at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious school that elects to comply with this chapter shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student and to authorized representatives of the state.

Sec. 14.45.040. RECORDS. A religious school that elects to comply with this chapter shall maintain adequate student records, including records of immunizations, physical examinations, testing, and courses taken at the religious school.

Sec. 14.45.045. DEFINITION. In this chapter, "religious school" means a school operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding.

* Sec. 7. AS 44.27.020(1) is amended to read:

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated in compliance with AS 14.45 by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding;

* Sec. 8. AS 14.45.020 is repealed.

HB

324

COMMITTEE REPORT

HOUSE

STATE AFFAIRS

JUDICIARY

FURTHER:

(7)

(HESS and Judiciary; added 4/26/83; Finance removed 4/26/83)

4/26/83

Date: 5/6/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SSHB 374

"An Act relating to the establishment of maximum security prison facilities at Anderson and Palmer/Sutton."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for SSHB 374 [X] same title [ ] new title

and recommends [illegible]

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[illegible]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[illegible]

[illegible]
CHAIRMAN

H 60

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

Sponsor Substitute for House Bill No. 374

"An Act relating to the establishment of maximum security prison facilities at Anderson and Palmer/Sutton."

House Bill No. 374 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities that contain 200 or more beds within the vicinity of Anderson and Palmer/Sutton.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: Roger C. Sanger for
Roger V. Endell, Director
Division of Adult Corrections

Date: 4-29-83

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 4/29/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SS for HB #374
Title: Act relating to estab. of max pris fac
Sponsor: Schultz
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: April 28, 1983

Approved by Commissioner: Robert Boochever Smith, M.D. Date: 4/29/83
Department Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Anderson and Palmer/Sutton.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

CS for Sponsor Substitute for House Bill No. 374 (HESS)

"An Act relating to the establishment of maximum security prison facilities at Anderson and Palmer/Sutton."

House Bill No. 374 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all new maximum security prison facilities that contain 200 or more beds within the vicinity of Anderson and Palmer/Sutton.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: Roger C. Lange for
Roger V. Endell, Director
Division of Adult Corrections

Date: May 13, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 5/17/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

CS for SS for
Bill/Resolution No.: HB #374 (HESS)
Title: Act relating to estab. of max pris fac
Sponsor: Schultz
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: May 12, 1983

Approved by Commissioner: Robert Gordon Smith, Ph.D. Date: 5/17/83
Department Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all new maximum security prison facilities within the vicinity of Anderson and Palmer/Sutton.

TO: HESS Committee Members

FROM: Heidi H. Borson

RE: Staff Report - HB 347 - An act relating to the establishment of maximum security prison facilities at Anderson and Palmer/Sutton.

HB 347 mandates that all newly constructed maximum security prisons with 200 or more beds be located within the vicinity of Anderson and Palmer/Sutton. The fiscal note for HB 374 is zero due to a lack of information, and the next committee of referral is Judiciary.

The Department of Health & Social Services totally opposes the concept of predetermined building sites for prison facilities; and thus opposes HB 374, as well as HB 217 and HB 275.

The language in Section 33.30.025 of HB 374 differs from HB 217 and HB 275 in two respects:

1. the name of the designated location
2. the added stipulation that the prison facilities contain 200 or more beds

Note that in previous deliberations over HB 217 and HB 275, the committee voted to adopt committee substitutes for the bills which changed the wording in Section 33.30.025 from locating "all newly constructed maximum security prison facilities" within the vicinity of X to locating "the next maximum security prison facility" within the vicinity of X.

Backup material from the sponsor of HB 374 is attached to this report.

EXECUTIVE SUMMARY
FOR THE LEGISLATURE

The Anderson Case
for a
Maximum Security Prison
April 26, 1983

We'd like to be taken seriously.

Now that the attention-getting phase of our program has concluded, we'd like to firmly establish our position on maximum security prisons by briefly re-stating it:

1. The Legislature should decide on the location of any correctional facility such as this one. The impacts on a community are enormous and of long-term economic and social importance. It is the kind of decision that determines which part of the State will or will not grow. This is the kind of decision Legislatures should be making. Legislatures prevail, over time. Commissioners come and go, and policies with them. It is obvious that you and your colleagues must make this decision. It is just as obvious that the management decisions belong to the professionals.

2. It is decision time. Information we have developed during our research tells us that the State of Alaska is at peril if a decision is not reached during this Session of the Thirteenth! We have mentioned this to no one up to now, but, we'll appreciate being able to fill you in during the coming week. Please let us have a couple of minutes to do so. Thank you.

3. Two small prisons, not one large one. Our research among Alaska prison managers, those in the Lesser-48, and throughout the professional literature support the validity of this concept, and it may actually cost less to operate two smaller, than one large. Costs to construct two will be only about 22% more than to build the single larger unit, we have been told by prison architects.

4. Palmer and Anderson are appropriate locations to serve the north and south of the State since about 46% of all inmates resided in the Greater Anchorage area and about 41% came from Fairbanks and the Bush before their placement in institutions.

5. And finally, Anderson has the same kind of locational advantages as any other site, except one -- and that's where we have it all over everybody -- our citizens voted for it in a legal Referendum. To this time, no other city has done that!

THE CITY OF ANDERSON

G. W. Mueller
Mayor

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

Developed In Cooperation With
GARY COPUS, Ph.D
Criminal Justice Division
University of Alaska
Fairbanks

Credentials Brief

GARY COPUS, PH.D

Currently serving the Thirteenth Alaska Legislature as a consultant in Corrections, Dr. Copus has also assisted the Mayor and Council of the City of Anderson in determining its viability for siting a Maximum Security Prison.

He received his Doctorate in Sociology at the University of Missouri-Columbia.

From 1970 until 1979, he was instructor in Criminal Justice in the graduate school at Sam Houston University, Huntsville, Texas.

From 1980 to the present he served in the Criminal Justice program in which he has published and lectured in all areas of corrections and its alternates.

We are very proud to have the assistance of Dr. Copus in developing our position.

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

CONSIDERATIONS ABOUT ANDERSON AND MAXIMUM SECURITY PRISONS

- o Purpose of maximum facilities is LESS REHABILATATION AND MORE WAREHOUSING. Lessens the necessity to establish facilities in urban, or near urban, areas.

- o Availability of the Anderson Site for VISITATION is enhanced by the TRAIN STOP and HIGHWAY connecting Alaska's two largest cities.

- o There is no other prison system in Anderson. The modern trend is to keep prison facilities: less than 500 bed capacity, and GEOGRAPHICALLY SEPARATE, so as NOT TO CREATE A "PRISON MEGALOPOLIS." This latter characteristic allows for 1) distribution of the economic advantages and 2) the flexability for prison management to have access to a variety of resources from the land and the community.

- o Anderson is in the middle of a growth/development corridor of Alaska. Remembering that given the prison facility will last many generations to come the Anderson site makes an excellent choice given the emerging DEVELOPMENT PATTERNS ALONG THE RAIL-BELT.

- o The facility, if a 400 bed one as currently proposed, will employ between 175 and 250 persons. The City of Anderson looks forward to the advantages new citizens afford and to the opportunity for current and future citizens to obtain correctional employment.

- o With OVERWHELMING COMMUNITY SUPPORT any deficit Anderson may have will be overcome or lessened. No matter where a site is located, there will be positive and negative factors to be dealt with. It is emphasized that where Anderson differs is the community spirit so necessary for what successes prisons can achieve.

- o IN SUMMARY, Prisons need four things to operate: a physical facility, personnel to staff and administer, offenders to be located there, and supplies. Anderson can provide a location whereby the state can satisfy these needs efficiently, economically, and continually.

COMMUNITY SUPPORT

- Referendum on February 29, 1983 supported prison by 2-to-1.
- 61% voter turnout
- Five public meetings informed citizens
- Reasons Anderson wants prison are community expansion and employment opportunities in future generations.

LAND AVAILABILITY

- Multiple sites for selection
- Sites are available by State Land Selection Process from Cook Inlet Region, Incorporated; or, Federal Lands

ELEMENTS OF PHYSICAL ENVIRONMENT

- Water - pure, unlimited, and without fee via prison's own wells and distribution facilities.
- Sewage - Cost saving from construction/operation of on-site treatment system.
- Power - Optional excess power available from Clear AFB or, Golden Valley Electric Association and potential Anchorage-Fairbanks intertie.
- Heating - Coal from Usibelli Mines 50 miles away, and/or fuel from North Pole Refinery 100 miles away.
- Transportation available by highway, rail, and air.

ELEMENTS OF HUMAN ENVIRONMENT

- Recreational areas and activities plentiful in Anderson area.
- Modern elementary and high school expandable to accomodate increased student body.
- Medical facilities currently 80 miles north in Fairbanks via highway, but, with increased population expect Anderson facility.
- Fire protection supported by Anderson and Clear AFB.
- The prison will attract quality personnel to work there and live in Anderson. Precedent in support is Clear AFB personnel educational level and technical skill level in Anderson for 20+ years. AFB also offers supply of potential quality employees from those retired or wishing a job change.

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

MODERN PRISONS DESCRIBED

1. In modern penal systems the purpose of maximum security units has changed little since the inception of the first prison in our nation. The purpose is simply to provide for the safe keeping of those individual offenders who have shown themselves incapable of co-existing with others, or are deemed a danger to themselves or others, or are in danger from others.

Individuals are assigned to maximum units via a thorough process called classification and end up "max-rated" only as a last resort. Given these considerations, experts argue that "max units" are simply warehousing units, with less emphasis on rehabilitation.

Less Rehabilitation

Rehabilitation is attempted in minimum or medium security units -- an assignment available to max inmates through re-classification. Thus

> FOR SITE SELECTION OF A MAXIMUM SECURITY UNIT THE AVAILABILITY OF REHABILITATION SERVICES SHOULD NOT BE A MAJOR FACTOR OF CONSIDERATION.

EASY TRAVEL

2. An Anderson site would be ideal for friends and relatives wishing to visit inmates because of its accessibility by highway and rail. The train is a particularly good asset for families not having access to automobile transportation and during most of the year the frequency of the local runs is such that persons visiting the prison could make convienient connections. Additionally, for persons visiting from Fairbanks, Anderson is a short, scenic drive.

NO PLACE PERFECT

3. With the numerous points to consider, no matter which site the State selects, all points will not be positive relative to other sites, For example, one might argue that Haines would have been more positively effected economically than a Palmer area site, but Palmer is nearest the largest city. Anderson may have transportation and utility advantages over Palmer. Given that no one site will score relatively higher than other sites on all points, what becomes important is how to handle the deficits and then the community becomes an indispensable part of site consideration.

Positive Community Attitude

A positive community outlook supports the goals of the prison in many direct and subtle ways. For example, a positive community attitude attracts, in part, quality personnel to staff the prison; assists those families moving to the area because a friend or relative is incarcerated and thus eliminates worry on part of the inmate; works with the prison administration to provide for staff housing, supplies, and emergency labor needs thus resulting in an efficient institution with a high morale.

ANDERSON IS A CITY WHICH HAS PUBLICLY ANNOUNCED, ON THE BASIS OF INFORMED DECISION MAKING, THAT IT WILLINGLY ACCEPTS THE COMMUNITY RESPONSIBILITY.

LONG USEFUL LIFE

4. Prisons last for many years, a conservative estimate being a useful life of between 60 to 90 years. A good many prisons operating today are "centenarians". Thus when considering a site, the future of the area must be carefully taken into account. Any points negative with respect to Anderson should be assessed with the question, "What will the Anderson area be like 5, 10, 20, 50 years from now?" The current projections are that Anderson will be part of a rapidly developing area along the rail belt which could make it a center point of population in the next 20 years. This, accompanied by projected increases in transportation facilities demotes any current concerns about "out-of-the-wayness" to only temporal concerns at best.

MAJOR PRISON PROBLEMS

5. Many of the major problems in prisons today are in part related to their mere magnitude in terms of numbers of persons locked up under one roof. Recent national recommendations stress the importance of keeping newly constructed units less than 500 bed capacity, and the physical separation of units. In other words, the recommendations could be interpreted as "do not build a prison megalopolis" be it under one roof or by building multiple adjacent structures. Separation of facilities, geographically, has several advantages.

Physical Separation

First from the standpoint of the state the economic advantages are spread as well as any disadvantages which communities might accrue. For example, suppose the presence of a facility attracts inmate families which have children who in turn have learning problems, behavior problems in school, and relatively high delinquency rates. Why concentrate these traits versus spreading them out and subject them to strong positive community influence (like Anderson can provide)?

Second building a facility geographically separate from other current institutions makes good sense from a management point of view. Take the hopefully unlikely and extreme case of a major earthquake in the vicinity of a prison creating the need for evacuation. Would it not be better to evacuate only one facility than several too closely juxtaposed? Further, physical separation enhances identification by staff with "their" facility and increases pride, morale, and dedication as opposed to "working in a large network of prisons." Management also has a variety of land and community resources, the variety offering the opportunity to install new programs and ideas which may not be acceptable in just any one location. <u>These are only a few of the reasons not to build prisons in the same geographical locale</u>.

Other Advantages

Gary Copus, Ph.D

INTRODUCTION TO ANDERSON

Anderson, Alaska thinks it would be a good place for a Maximum Security Prison--But only a Maximum Security Prison! The people of Anderson are pretty outspoken on that point. They have talked it over.

You say you've never heard of Anderson-- and haven't the foggiest notion of where it is?

Touche!

No convention mecca, is Anderson. It is not on the tourist highways and by-ways or the slick travel maps. But, it is well connected--very well connected, to an all-weather highway, an airport and ocean-going barges via the Alaska Railroad, right in the middle of nowhere! Between Anchorage and Fairbanks.

Now you've heard of Anderson! a town of 550 people which comes of age on its 21st birthday in June.

The reasons for putting forth Anderson's name stem from a package of advantages no where else available in quite the same magnitude or combination, as they are available in Anderson.

..... READ ON! .....

COMMUNITY SUPPORT

The City of Anderson has made a pointed and energetic effort to inform the citizens of all aspects, both negative and positive, of having a maximum security prison within close proximity of the town. The idea was first publicly presented on February 8 at a City Council meeting where the decision was made to continue by informing the public and assessing the general opinion. During further public hearings and Town Hall meetings occurring on February 17, 18, 25, 26, and March 18, 26 it is estimated that over 60% of all citizens in Anderson were personally involved in acquiring knowledge and asking questions. Undoubtably, 100% became informed through informal discussion.

During the meetings, material used to guide informative discussion was used from the American Correctional Association, The Federal Bureau of Prisons and the Criminal Justice Institute at Hemlock Hill, New York. In addition, at the March 18th Town Hall meeting, professionals in the correctional area were invited to address the citizentry. Invited and accepting were Captains Douglas Nowak and Lawrence Jackson of the U.S. Air Force, and Dr. Gary Copus.

Dr. Copus, with academic and practical expertise in community impact by prisons, was very careful to point out what to some communities might be undesirable impacts. No area was left unexamined and the result was--

> BASED ON SOUND AND TOTAL INFORMATION THE CITIZENS OF ANDERSON VOTED ON FEBRUARY 29TH TO DIRECT THE CITY COUNCIL TO PURSUE WITH VIGOR THE ATTRACTION OF THE MAXIMUM SECURITY PRISON TO ANDERSON.

The resulting 2-to-1 vote was based on 61% of the registered voters. Voting was done in an official manner in all precincts, locked ballot boxes and election judges. Noteworthy is that the prison issue was the only item on the ballot so that the largest turnout in Anderson's voting history was due to the community interest which was overwhelmingly positive.

An informal assessment was made as to the reasons the community obviously wanted a maximum security prison.

First the community sees the prison as an employment opportunity for its future generations. Correctional employment was seen as not only an opportunity for young adults to have the alternative of remaining in Anderson as productive citizens, but the community also recognized modern corrections as providing a desirable career opportunity. Present employment was of lesser concern. Anderson is not currently impacted by any economic crisis which might sway a community's opinion to be only temporally positive. Anderson is in a reasonably good economic and employment status.

Second the community saw many positive aspects of development and growth. Among those mentioned were cultural and social growth, economic growth through cirricula expansion and attraction of additional qualified teachers, and the establishment of social and health services. The community looks at the prison as offering a challenge to develop and manage a "new Anderson."

ECONOMIC ADVANTAGES OF ANDERSON

The economical advantages of an Anderson site could vastly outweigh those of many other potential sites if life cycle economics is considered.

Life cycle economics center upon options available for essential operating utilities, such as:

heating/air conditioning
electric power
water
sewage treatment
transportation

HEATING Healy coal, transported by the Alaska Railroad, powers the generators and boilers at the Anderson-located Clear Air Force Station. Three Anderson sites are located immediately adjacent to the Alaska Railroad. Options for heating and power generation include both coal and/or diesel transported by the Alaska Railroad:

- o Coal: Usibelli Mines, Inc.
  Healy, Alaska
  50 miles South

- o Diesel: North Pole Refinery Co.
  North Pole, Alaska
  100 miles North

ELECTRIC POWER An option available only at an Anderson site includes the potential of purchasing the stable excess power generated at Clear Air Force Station, as many other Alaskan communities do from nearby U.S. Government facilities. The City of Anderson itself purchases power from the Golden Valley Electric Association, soon to be served by the Anchorage-Fairbanks Power Intertie, providing still another option for sub-station service at about the same time the Maximum Security Prison is expected to be operational.

WATER Anderson does not offer city-treated or supplied water to the Clear Air Force Station which consumes in excess of <u>One Hundred Fifty Million Gallons per Month</u>, or to the 117

domestic users inside the Municipality. The prison facility would drill its own wells and provide its own water from the uniquely-abundant natural supply of superior quality potable water available in Anderson--one of its priceless natural resources. Thus the prison would not now, or later, be in the position of having to purchase water supplies from a Municipality. And, the water in Anderson is hygienically pure without treatment. The prison would, of course, have established water rights, thereby protecting its call upon the natural resource forever.

A comprehensive water study, funded by the Alaska State Legislature, was completed on February 7, 1983 by URS Engineers, an internationally-connected firm of engineers and scientists with an Anchorage operations base. The final Draft Report, accepted by the Anderson City Council on February 15, 1983, found the water to be not only pure, but plentiful for domestic needs for generations into the future in the built-up residential area, and, of unlimited industrial supply nearly everywhere else in the Municipality.

In further testimony of the purity and abundance of water for large-demand-users such as the prison might be considered, the State-owned/operated Clear Fish Hatchery draws water from it's complex of wells directly into its propagation system, using 60 million gallons per month. Brewing and soft drink industries are looking at Anderson not only because of its abundance of pure water, but also because of its logistical advantages.

SEWAGE TREATMENT — Another cost saving advantage of an Anderson site is that the prison would construct and operate its own small, self-contained treatment system, just as does the Clear Air Force Station for its 500+ military and civilian personnel forces. The State may wish to acquire slightly more than the proposed 100-acre-reservation for these purposes. Everywhere at all Anderson sites, land is available to the State for its purposes and needs.

TRANSPORTATION — The advantages of prisoner transfer transportation has been earlier addressed. In this section, logistical transportation is discussed.

The locational advantage of an inter-modal transportation network must not be under-estimated, either for the construction phase or the ultimate operational life of the prison.

Construction materials can be boarded on rail cars at any point in the Lower-48 or the Orient and off-loaded near any of the potential Anderson sites. This same transportation system will greatly reduce costs of consumable supplies for the operation phases through use of the rail-barge-rail-truck-road inter-modal matrix available only at Anderson, while utilizing the state-owned Alaska Railroad utility. The air link to Anderson sites has been prior addressed.

CULTURAL-SOCIAL-RECREATIONAL ADVANTAGES OF ANDERSON

Since Anderson is just 90 minutes driving time from the main campus of the University of Alaska/Fairbanks, and the university's Nenana Valley Rural Education Center presents credit-courses at Anderson and throughout the region, opportunities to take or teach graduate and under-graduate courses are readily available, as are symphony, drama, music and art, sports and popular music. The Fairbanks Regional Medical Center is only 30 air minutes from Anderson and provides a wide range of modern medical procedures.

In Anderson itself, there is an opportunity to participate in social and fraternal clubs and organizations as well as sports and educational activities. Anderson's new and modern elementary and High School can absorb a hundred or more students with only the addition of a few staff positions. By adding new rooms to the architecturally expandable complex, up to 250 additional students could be responsibly accommodated.

A new gun club and indoor shooting range will be completed next year in Anderson and, cross-country ski, snowmachine and ATV trails criss-cross the area and sport fishing and hunting are very nearby. Youth and large all-family parks are popular and in use. All roads and water removal ditching will have been completed prior to commencement of major construction.

Anderson is a Second Class City with an experienced, stable government and Council. There is no property tax. Except for educators and government employees, most adults work at Anderson's Clear Air Force Station as technical or management personnel. While Anderson has obvious employment stability, second and eventually third generation citizens face chronic unemployment and welcome the opportunity to train and to qualify for positions at the prison, now, and into its future life cycle.

LAND AVAILABILITY
IN ANDERSON

Anderson is surrounded on both sides by land available to the State through the State land selection process. Most specifically, from removal from the Cook Inlet Region, Incorporated selection pool, or from other federally owned land from which it may select. The State itself owns land which should be considered, and will soon receive numerous Sections of land in Township 7 South, Range 7 West, F.M. which affords a number of site potentials. The City of Anderson recommend sites in Sections 15, 14, 10, 11 of T7S, R7W FM be studied; then, section 8 or 4 of T7S, R7W FM; finally sections 13, 23, 26, 27 and 34 T7S, R7W FM.

POINTS TO CONSIDER FOR LOCATING PRISON IN ANDERSON

1. Prison would be close enough to Fairbanks to benefit that area's labor, logistics and transportation.

2. All supplies for the prison would probably come through Fairbanks.

3. Prison would not have the annual expense of paying a city for water and sewage treatment. The community of Clear, adjacent to the proposed prison site, has ample supply of water and the ground percolates well for sewage treatment.

4. Fairbanks Bar Association has advised that they are for this location and will process any services that are needed at the prison.

5. Population of Anderson voted on a regular ballot (not straw vote - as did Haines) to locate the prison there and by a vote of two to one. Haines citizens are against locating prison in Haines.

6. City of Anderson has hired Dr. Copus to assist them in setting up, administering and supporting the prison efforts there. He is an expert on prisons, having written many books on the subject.

(Above information supplied by Vern McCorkle and Jerry Mueller)

ALASKA miner 4/6

Anderson says yes to high security jail

If residents in the City of Anderson have their way, the state will build Alaska's first maximum security prison in their small Railbelt community.

Anderson residents voted nearly 2-1 last week in favor of offering their community as a site for a maximum security prison, jumping into competition with Palmer for the $49 million facility.

Division of Corrections Director Roger Endell has told the Anderson city council he is not interested in Anderson as a site, but city officials are hoping the vote will change his mind.

"We know Endell has always said he'd never build the prison in a town where the people were not solidly behind the project, and we intend to hold him to that," said Anderson Mayor G.W. Mueller.

Mueller said the first thing the Anderson city council did was schedule public hearings and a "town hall" meeting to get information to residents and an indication of their sentiments.

"Now that the people are behind us, we are hoping for some support from Juneau, and we'll be there to make our case," Mueller said.

"We know that Endell has already selected the Palmer area, but Anderson has some definite advantages no other site can offer, including Palmer."

Mueller said one of the main advantages is the local support in the 550-resident community.

Mueller also said Anderson is only an hour south of Fairbanks and three hours north of Anchorage, a statement that might be disputed by highway drivers who maintain the 55-mph speed limit.

However, Mueller said Anderson also sits in the middle of the heart of Alaska's new growth corridor, and offers rail and air service.

Mueller said the town has already made wide contact with legislators and that Anderson is the most logical site for the prison.

ALASKA

Anderson ready for tough fight to get prison

By DAVID RAMSEUR
News-Miner Bureau

JUNEAU—City Manager Vern McCorkle likens it to David and Goliath. Others say it's more like the impossible dream.

The tiny town of Anderson, about 75 miles south of Fairbanks on the Parks Highway, has tossed its hat in the ring for a new maximum security state prison.

Even though state officials have all but narrowed the prison site to two other locations, Anderson is not giving up. In fact, Anderson officials say they've just now begun to fight.

"It's definately uphill," city Manager McCorkle admitted Wednesday between appointments with legislators. "We just know it's not going to be an easy fight."

He and Mayor Gerald Mueller are here for the week trying to convince enough lawmakers that their community of 550 is the best spot to house 300 hardened criminals.

"Our position is it's all well and good for the president of the Senate to want the prison in his backyard but we'd like equal consideration," McCorkle said.

Politicizing the issue with statements like that is part of Anderson's strategy. City officials are carefully counting noses in case selection of the prison site falls to the Legislature.

They hope to recruit the co-chairmen of the powerful Senate Finance Committee and on the surface appear to stand a good chance. Sen. Don Bennett is from nearby Fairbanks and Sen. John Sackett once represented Anderson.

But state officials have different ideas. Three areas—Seward, Haines and the Matanuska Susitna Valley, probably Sutton—are still in the running for the prison estimated to cost $45 million, according to state Corrections Director Roger Endell.

Sutton is near Palmer, the hometown of Senate President Jay Kerttula.

Endell told a legislative panel this week that despite heavy lobbying, Haines stands little chance. Endell said he'll probably wait until the Legislature approves funding for the prison before selecting a site.

According to McCorkle, Endell also has told Anderson officials they're out of luck and that he even refused to visit their town to check out the proposed sites.

The smooth-talking McCorkle however, looks on the bright side.

Following four public hearings, Anderson voted 102-59 on March 29 to support location of the prison in their town.

The community is a transportation hub, McCorkle says, with the Alaska Railroad and Parks Highway within a stone's throw and support services such as a hospital and court system nearby in Fairbanks.

Healy coal or North Pole-produced fuel oil could heat the prison. It could probably be located on land soon to be owned by the Cook Inlet Native Corp., which would increase the value of the firm's other land in the area, McCorkle said.

Unlike other areas in the running, McCorkle said Anderson doesn't need the prison to bail it out of tough economic times.

"We're looking beyond the immediate job seekers in the area," he said. "We're looking to the next 100 years."

The prison is expected to provide up to 175 jobs when in operation and many more during its construction.

McCorkle said he hopes the prison will attract small businesses which will help provide an incentive for Anderson area youth to remain in their community.

Greater Fairbanks Chamber of Commerce

First National Center
100 Cushman Street
(907) 452-1105
P.O. Box 74446
Fairbanks, Alaska 99707

April 26, 1983

Representative Richard Shultz
Pouch V
Juneau, Alaska 99811

Re: Location of Maximum Security Prison Facility

Dear Representative Shultz:

I am pleased to inform you that at a recent special meeting, the Board of Directors of the Greater Fairbanks Chamber of Commerce unanimously endorsed the concept of locating a maximum security prison facility in the community of Anderson. We feel that location is well suited for a maximum security facility, as it has a good location, access, adequate support servcies, and strong community support.

The location of such a facility at Anderson would have a positive economic effect on the Fairbanks community as well. For goods and services, the community of Anderson, in many cases, relies on Fairbanks suppliers. An enhancement of Anderson's economic base would have an equivilent enhancing effect on the economy of the entire Interior.

I realize that it's late in the game for making a decision on this facility. However, we are convinced that the Anderson proposal warrants serious consideration as an option that will serve the best interest of all Alaskans.

Thank you very much for your consideration.

Sincerely,

Buki Wright
President

Dr. Gary Copus, Prof of Criminal Justice, UAF

HB 374 has 2 issues - 1.) size - 2.) location

1.) size - used to consider 1 400 bed facility
people in Anderson cognizant of trend
towards smaller prisons

2.) have a variety of locations to offer

+ of smaller institutions - more humane
greater control
managerial flexibility

200 or more - reflects the intent to keep
prisons small

role of the legislature re: site selection

1.) do nothing - leave it to Dept of Corrections
2.) jelly bean option - give several alternatives
to pick from
3.) make a recommendation for a specific site
advocated the 3rd option

Should consider 2 factors:

functional - water, land, power, transportation - all
available

political - prisons affect those inside & outside
wealth distributed through prison

positive community attitude 61% turnout
2 to 1 in support

Anderson is as viable as the other sites.

Legislatures resp to locate site for the benefit of the state, look at site, don't tell how to run the prison.

Make decision quickly - state under the Cleary Decision

face material - commissioner doesn't support any profound summation

Anderson Palmer/Sutton

facility to serve both Northern + Southern axis of the State

my personal observation, feeling and philosophy is ...

Introduced: 4/25/83
Referred: State Affairs and
Finance

IN THE HOUSE BY SHULTZ

COMMITTEE
~~SPONSOR~~ SUBSTITUTE FOR HOUSE BILL NO. 374

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the establishment of maximum security prison facilities at Anderson and Palmer/-Sutton."

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

* Section 1. AS 33.30.020 is amended to read:

Sec. 33.30.020. COMMISSIONER TO ESTABLISH AND ADMINISTER PRISON FACILITIES. Subject to the provisions of AS 33.30.025, the [THE] commissioner shall establish prison facilities and classify the prisoners in prison facilities. The commissioner shall provide for the safety, subsistence, proper government, and discipline of prisoners. The commissioner shall establish programs for the treatment, care, rehabilitation and reformation of prisoners.

* Sec. 2. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.025. LOCATION OF FACILITIES. After July 1, 1983, the commissioner shall locate within the vicinity of Anderson and Palmer/-Sutton ~~all newly constructed~~ the next maximum security prison facilities that contain 200 or more beds.

Health, Education and Social Services Committee

Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811
465-4907
465-4908

Committee Report by the

Senate Health, Education and Social Services Committee

May 3, 1983

SITE SELECTION FOR A MAXIMUM SECURITY PRISON

The Senate Health, Education and Social Services Committee, in considering SB 224 and SB 267 relating to the location of maximum security prison facilities, recommends that the new facility be constructed in the Palmer area within the vicinity of Sutton.

The Committee also considered the testimony and presentation by Anderson, Alaska, and wishes to commend its citizens for their enthusiasm and support for the prison site.

In future planning for regionalization of prison sites, the Committee would recommend that the Commissioner of the new Department of Corrections grant serious consideration to Anderson as a possible prison location.

Anticipated development in the Railbelt Corridor coupled with transportation, utility and land availability make Anderson an attractive site.

The Committee is aware that Haines, Seward, Valdez and Whittier may have an interest in being chosen as the site for the proposed facility, but no testimony was received on their behalf.

Findings of the Committee in selecting the Sutton site were:

1. Construction and operating costs are lower than other areas of the state under consideration for the prison site.

2. State-owned land in the area is readily available allowing sufficient capacity for development and the recommended "buffer zone" between the facility and the community.

CSSB 224

1.) a maximum security prison will be built in the Sutton area

2.) the commissioner shall consider Anderson as a future site

3.) no date stipulation

3. Road access is available through the Glenn Highway, with the proximity to Anchorage offering reasonable access to a large percentage of the anticipated prison population for supportive contact with families and friends, as well as members of the parole board.

4. Support services are locally available through the court system, the hospital and health centers, the mental health centers, and public transportation. (There is a new Superior Court at Palmer, and in FY 1984, a public defender.)

5. Utilities can be made available at the site through the Palmer Correctional Facility, which also presents the possibility of sharing prison ancillary services between facilities.

6. The Mat-Su Borough offers a large potential labor force and commuter access to the state's largest population area, with housing and land locally existing.

7. Public support for the prison facility is widespread.

The above mentioned facets of the Sutton site appear to fulfill the siting criteria outlined by the Criminal Justice Planning Agency. Combined with the economic savings that would be realized in the selection of Sutton, and the urgent need to commence the project to meet the 1987 deadline for returning Alaska felons to the state, the Senate Hess Committee respectfully recommends that Sutton be selected for the new maximum security prison.

To this end, the Committee is forwarding the Committee Substitute for SB 224 to the Finance Committee.

Senator Joe P. Josephson, Chair
Senate Health, Education and Social Services Committee

HB

383

COMMITTEE REPORT

HOUSE

FINANCE

(7) FURTHER:

4/27/83 Date: 5/9/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 383

"An Act relating to payments authorized for residential child care services; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 383 (HESS) [ ] same title [ ] new title

and recommends individual U.S.

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible]	
[illegible]	
[illegible] Do Pass	
[illegible]	
M.W. Miller	
[illegible]	
[illegible]	

[illegible]
CHAIRMAN

H 60

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 383
PAGE 1

"An Act relating to payments authorized for residential child care services; and providing for an effective date."

House Bill No. 383 amends Section 3, Chapter 138, SLA 1982 by increasing by 5% the rates for all residential child care facilities which are paid under AS 47.40. Each of the facilities currently being paid under AS 47.40 is listed in this Bill. A few facilities which are being paid under contract are not included in this legislation.

1. Services Provided by Facilities

Residential child care facilities provide a needed service to dependent and delinquent children who need specialized treatment services. The majority of the children the Division of Family and Youth Services serves live in their own homes (67.1%). Most of the children the Division places away from their homes can stay with relatives (6.9%), with non-relatives (6.9%), or in foster homes (10.1%). Nine percent (9%) of the children are placed in residential child care facilities because they have such severe behavioral or emotional problems that they cannot be served in less restrictive settings. These children require structured treatment programs run by trained staff. This specialized care is much more expensive. Some of the facilities provide receiving home services, taking adolescents who need short term supervised care until court disposition occurs or until a treatment plan can be developed.

Residential child care facilities need to be available throughout the State so that children can be served as near to their homes and families as possible. They also need to be available when the need for placement arises, which the Department cannot control.

2. Budget Projections

Current projections in the institutional care budget indicate that there will be a balance of $552,762. This does not take into account the following expenditures which are expected to come out of the budget:

A. The Maniilaq Human Services program will receive a contract amendment of $107,600 because their budget was not fully funded last year.

B. Legislation to cover a supplemental to the Bethel Receiving Home amounts to $65,000.

C. The Bethel Group Home needs to hire paid staff in order to serve the Division's needs in the Lower Kuskokwim area and to be in compliance with licensing regulations. Legislation has been introduced to cover this need.

D. There is a possibility that $35,000 which is currently owed to Presbyterian Hospitality House for a prior year due to an auditing report should be reappropriated from this year's funds to cover the prior year Bill.

Subtracting these costs, there will be a projected balance of $273,000. It is assumed that the rate increase would come out of this budget line. This balance would only permit a 2.5% increase to each facility, not the 5% proposed by this Bill.

3. Cost Study

The 1982 legislature froze the rates at the 1981 rate level and ordered the Department to conduct a study of costs to residential child care facilities. A committee was appointed, as ordered by the legislation, and has held meetings to consider AS 47.40 and the problems in the current method of payment to facilities. The committee will be recommending changes to AS 47.40, as well as to the regulations. In addition, a study to analyze existing costs to facilities will be made to determine new base rates.

4. Conclusions

The 1982 Legislature froze the rates at the 1981 level. It has now become apparent that the rate freeze combined with a placement utilization decrease has created hardship for a number of facilities. This Bill seeks to alleviate these hardships for facilities under this legislation. Should the Legislature wish to increase the rates, current projections indicate that the most that will be permitted out of this budget is a 2.5% increase. However, the projections are based on placement patterns to date, and these could change during the remainder of the calendar year. Therefore, the

POSITION PAPER

HOUSE BILL NO. 383
PAGE 3

Department recommends that if this Bill is favorably considered, there be a clause added to the Bill permitting the increase to be determined on a prorated basis once the actual placement pattern for the year is known.

RECOMMENDED: Michael L Price

Michael L. Price, Director
Division of Family and
Youth Services

DATE: May 5, 1983

APPROVED BY: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

DATE: 5/4/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 383
Title: "...Payments authorized for child care"
Sponsor: Fritz
Requestor: Fritz

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected:
BRU, Program of Subprogram(s) Affected: Juvenile Custody

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	440.4	462.4	485.5	509.8	535.3	562.1
TOTAL OPERATING	440.4	462.4	485.5	509.8	535.3	562.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	440.4	462.4	485.5	509.8	535.3	562.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funding was not identified in the bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price Michael L. Price Phone: 465-3170
Division: Family & Youth Services Date: 4/29/83

Approved by Commissioner: Robert London Smith, M.D. Date: 5/4/83
Department: H & SS

Distribution:
Original to Legislative Finance
Copy to Office of Management and Bu[illegible] (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/E

IV. ANALYSIS

A. Assumptions

Enactment of this bill would result in a 5% increase in the cost of residential child care for the Fiscal Year 1983.

B. Program Summary

No new positions would be necessary if the Bill were enacted. There would be an increase of $440,422 in the Benefits to Individuals costs for FY83.

C. Computations

Facility	Total Units Projected FY83	5% Rate Increase	Total Cost
ACS Receiving Home	4,277	$7.49	$ 32,035
ACS Jesse Lee	12,915	8.27	106,807
ACS Rabbit Creek	3,695	8.32	30,742
ACS North Star	1,588	5.17	8,210
ACS Aquarius	1,601	5.38	8,613
ACS Colletti	1,617	5.87	9,492
Alaska Baptist	3,167	5.85	18,527
Booth Memorial	3,235	7.34	23,745
Hilltop Home	1,028	4.27	4,390
Kenai Community Care Ctr	1,878	4.58	8,601
Kodiak Baptist Mission	4,850	3.08	14,938
Turning Point	6,438	5.26	33,864
North Star Home	513	3.11	1,595
Presbyterian Hosp Use	4,683	5.59	26,178
Juneau Receiving Home	4,334	5.30	22,970
St. Judes Center	225	3.61	812
Nome Receiving Home	1,553	5.84	9,070
Maniilaq Group Home	1,674	8.25	13,978
North Slope Borough	2,032	8.41	17,089
Ketchikan Teen I	2,226	3.71	8,258
Ketchikan Teen II	2,285	4.08	9,323
Ketchikan Intensive Care	1,818	7.62	13,853
Sitka Receiving Home	1,353	2.03	2,747
Bethel Receiving Home	2,212	3.77	8,341
Bethel Group Home	2,083	2.95	6,145
Covenant High School	39	2.55	99
Totals	73,319		$440,422

D. Economic Impact

Passage of this Bill would not have a significant impact on the State's economy.

E. Impact on Local Governments

There would be no impact on local governments.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M April 30, 1983

SUBJECT: Payments authorized for residental child care services (HB 383)

TO: Representative Milo Fritz
Chairman, House Health, Education and Social Services Committee

FROM: Edward H. Hein
Legislative Counsel

Section 1 of the bill amends sec. 3, Chapter 138, SLA 1982, by adding five percent to the FY 1983 payment rate authorized per day for each child placed by the Department of Health and Social Services in named residential care facilities.

Section 2 of the bill makes the rate increase retroactive to the beginning of the current fiscal year.

Section 3 provides for an immediate effective date. Note that under sec. 4, Chapter 138, SLA 1982, the rates for fiscal year 1984 will be another five percent higher than the rates provided in this bill.

EHH:ljb
17/010



ALASKA CHILDREN'S SERVICES, INC.

1200 East 27th Avenue
Anchorage, Alaska 99508-3999
(907) 276-4515

May 31, 1983

JUN 3 1983

The Honorable Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

RE: CSHB 383 - A BILL THAT WOULD AUTHORIZE DHSS TO INCREASE RESIDENTIAL CHILD CARE RATES BY 2 1/2% RETROACTIVE TO JULY 1, 1982, USING UNEXPENDED FUNDS FROM FY '83 APPROPRIATION.

Dear Representative Tischer:

Alaska Children's Services (ACS) provides residential care and treatment for emotionally disturbed, neglected, abused and troubled children and youth placed in custody of the State by the court system. Our agency in partnership with the State is committed to providing quality services.

Due to 1982 legislative action, cost-of-care rates for FY '83 were frozen at the FY '82 level. Also, during the first half of the FY, there was a 7% reduction in placements. As a result, ACS had a $180,000 deficit (8% of the operating budget) the first half of FY '83. We desperately need at least the 2 1/2% increase proposed by CSHB 383 in order to continue to provide professional care and treatment to the children referred by the State.

At a recent ACS Board of Directors meeting a resolution endorsing this bill was passed unanimously. I am enclosing a copy for your information.

Your wholehearted support of this legislation is urged and will be greatly appreciated.

Sincerely yours,

J. Helen Gamble

J. Helen Gamble, Secretary
Alaska Children's Services' Board of Directors

JHG/rv

Enclosure

Alaska Children's Services, Inc.

Proposal Number 83-50 Subject Support for CSHB 383

Submitted to:	Date	Submitted to:	Date
XX Board of Directors	5-24-83	___ Executive Director	
___ Executive Committee		___ _____ Program Director	
___ _____ Committee		___ Staff _____	

Submitted by: Thelma Langdon
Director Family and Child Advocacy Project

Resolution: Whereas, Alaska Children's Services provides residential care and treatment for emotionally disturbed, neglected, abused and troubled children and youth placed in custody of the State by the court system, and

Whereas, due to 1982 Legislative action, cost of care rates for FY 83 were frozen at FY 82 level, and

Whereas, during the first half of the FY there was a 7% reduction in placements, and

Whereas, this has resulted in a deficit of $180,000 which is approximately 8% of the operating budget, and

Whereas, Alaska Children's Services desperately needs at least 2½% rate increase proposed by Committee Substitute for House Bill 383 in order to provide professional care and treatment to the children referred by the State,

Be It Resolved That the ACS Board of Directors supports CSHB 383 and urges its passage.

Note: This bill would authorize the Department of Health and Social Services to increase residential child care rates by 2½% retroactive to July 1, 1982. The money would come from a projected fund balance and would require no new money.

Action taken: ___Passed ___Amended ___Tabled ___Withdrawn ___Defeated
___Referred to: _____ ___Other _____

Date: _____

XM#74

Alaska Statutes

Title 47. Welfare, Social Services and Institutions.

Chapter
30. Mentally Ill and Insane Persons (§§ 47.30.655 — 47.30.915)
65. Service Programs for Older Alaskans (§§ 47.65.010 — 47.65.060)
90. Displaced Homemakers (§§ 47.90.010 — 47.90.070)

Chapter 05. Administration of Welfare, Social Services and Institutions.

Section
10. Duties of department
15. Contracts
50. Policy

Sec. 47.05.010. Duties of department. The Department of Health and Social Services shall

(1) administer adult public assistance, aid to families with dependent children, and all other assistance programs, and receive and spend funds made available to it;

(2) adopt regulations necessary for the conduct of its business and for carrying out federal and state laws granting adult public assistance, aid to families with dependent children, and other assistance;

(3) establish minimum standards for personnel employed by the department and make necessary rules and regulations to maintain those standards;

(4) require those bonds and undertakings from persons employed by it which in its judgment are necessary, and pay the premiums on them;

(5) cooperate with the federal government in matters of mutual concern pertaining to adult public assistance, aid to families with dependent children, and other forms of public assistance;

(6) make the reports, in the form and containing the information, which the federal government from time to time requires;

(7) cooperate with the federal government, its agencies or instrumentalities in establishing, extending and strengthening services for the protection and care of homeless, dependent and neglected children in danger of becoming delinquent, and receive and expend funds available to the department by the federal government, the state or its political subdivisions for that purpose;

(8) cooperate with the federal government in adopting state plans to make the state eligible for federal matching in appropriate categories of assistance, and in all matters of mutual concern, including adoption of the methods of administration which are found by the federal government to be necessary for the efficient operation of welfare programs;

(9) adopt regulations, not inconsistent with law, defining need, prescribing the conditions of eligibility for assistance, and establishing standards for determining the amount of assistance which an eligible person is entitled to receive; the amount of the assistance is sufficient when, added to all other income and resources available to an individual, it provides the individual with a reasonable subsistence compatible with health and well-being; an individual who meets the requirements for eligibility for assistance shall be granted the assistance promptly upon application for it;

(10) grant to a person claiming or receiving assistance and who is aggrieved because of the department's action or failure to act, reasonable notice and an opportunity for a fair hearing by the department, and the department shall establish regulations relative to this;

(11) enter into reciprocal agreements with other states relative to public assistance, welfare services, and institutional care which are considered advisable;

(12) establish the requirements of residence for public assistance, welfare services and institutional care which are considered advisable, subject to the limitations of other laws of the state, or law or regulation imposed as conditions for federal financial participation;

(13) establish the divisions and local offices which are considered necessary or expedient to carry out a duty or authority assigned to it and appoint and employ the assistants and personnel which are necessary to carry on the work of the divisions and offices, and fix the compensation of the assistants or employees except that no person engaged in business as a retail vendor of general merchandise, nor a member of the immediate family of a person who is so engaged, may serve as an acting, temporary or permanent local agent of the department, unless the commissioner of health and social services certifies in writing to the governor, with relation to a particular community, that no other qualified person is available in the community to serve as local welfare agent; for the purposes of this subsection, a "member of the immediate family" includes a spouse, child, parent, brother, sister, parent-in-law, brother-in-law or sister-in-law;

(14) each February hold public meetings to review, study, and propose, the necessary levels of care and the rates it will pay to anyone for the services required during the succeeding year; before final adoption by the department the proposed levels of care and the rates of payment shall be reviewed by the legislature annually while in session. (§ 51-1-3(a) — (m) ACLA 1949; am § 1 ch 88 SLA 1951; am § 1 ch 63 SLA 1959; am § 1 ch 175 SLA 1968, am § 2 ch 136 SLA 1970;

Chapter 40. Purchase of Services.

Editor's notes. — For legislative findings that the present method for establishing payment rates under this chapter for residential child care services is inadequate and that the rates established under this chapter should be suspended from June 30, 1982 to July 1, 1984, see § 1, ch. 138, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Section 2, ch. 138, SLA 1982, provides: "The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the period of suspension, payment for services provided by residential child care facilities shall be made solely in accordance with the provisions of secs. 3 and 4 of this Act."

For payments authorized per day for each child placed by the Department of Health and Social Services in an existing residential care facility for fiscal year 1983, see § 3, ch. 138 SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

For payment rates for residential child care services for fiscal year 1984, see § 4, ch. 138, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Section 5, ch. 138, SLA 1982, provides: "For fiscal years 1983 and 1984 the Department of Health and Social Services may contract for residential child care services with a facility not listed in sec. 3 of this Act at a rate to be determined by the department."

Sec. 47.40.010. Purchase of services.

Cross references. — For provisions suspending the operation of this section, see § 2, ch. 138, SLA 1982, quoted in the editor's notes following the chapter analysis.

NOTES TO DECISIONS

Subsection (a)(3) of this section and AS 47.40.040(a) are in pari materia and should be construed so as to be consistent with one another and in such a manner as to give maximum effect to each. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

The legislature did not intend retroactive cost settling under this section and AS 47.40.040. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

Subsection (a)(3) of this section states that when the Department of Health and Social Services purchases services for persons for whom the state has assumed responsibility, it shall "pay all expenses related directly to the full cost of services at the levels of care required," since AS 47.40.040(a) specifically provides that the "'full cost' of services shall be determined by the per person, per day cost in the preceding fiscal year plus a proportionate share of anticipated cost of living and staff salary increment increase" for the upcoming fiscal year, the Department of Health and Social Services is bound to authorize payments only for those amounts predicted at the beginning of each fiscal year. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

Sec. 47.40.040. Determination of full cost of services.

Cross references. — For provisions suspending the operation of this section, see § 2, ch. 138, SLA 1982, quoted in the editor's notes following the chapter analysis.

NOTES TO DECISIONS

Alaska Statutes 47.40.010(a)(3) and subsection (a) of this section are in pari materia and should be construed so as to be consistent with one another and in such a manner as to give maximum effect to each. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

The legislature did not intend retroactive cost settling under AS 47.40.010 and this section. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

Although AS 47.40.010(a)(3) states that when the Department of Health and Social Services purchases services for persons for whom the state has assumed responsibility, it shall "pay all expenses related directly to the full cost of services at the levels of care required," since subsection (a) of this section specifically provides that the "'full cost' of services shall be determined by the per person, per day cost in the preceding fiscal year plus a proportionate share of anticipated cost of living and staff salary increment increase" for the upcoming fiscal year, the Department of Health and Social Services is bound to authorize payments only for those amounts predicted at the beginning of each fiscal year. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

Sec. 47.40.050. Services.

Cross references. — For provisions suspending the operation of this section, see § 2, ch. 138, SLA 1982, quoted in the editor's notes following the chapter analysis.

Chapter 45. Alaska Longevity Bonus.

Section		Section	
10.	Persons who may qualify for longevity bonus	120.	Exemption from taxation and process

Sec. 47.45.010. Persons who may qualify for longevity bonus. (a) A person who is 65 years of age or over, who was domiciled in the territory on or before January 3, 1959 and who has maintained a continuous domicile in the territory or state for 25 years may apply to the commissioner of administration for qualification to receive a monthly bonus of $250.

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 — 47.45.170 he shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 — 47.45.170 may continue to do so only as long as he continuously retains a domicile in the state. (§ 1 ch 205 SLA 1972; am § 1 ch 33 SLA 1976; am § 1 ch 89 SLA 1978; am § 1 ch 147 SLA 1980; am § 1 ch 13 SLA 1981)

Effect of amendments. — The 1980 amendment substituted "$200" for "$150" at the end of subsection (a).

The 1981 amendment, in subsection (a), substituted "$250" for "$200" at the end of the subsection.

Pugh 3030

John [redacted] Verify Money Recommend Leg.

Mike Price

Chapter 138

SLA 82

AN ACT

Relating to vision and hearing screening examinations, public assistance, and other assistance provided by the state; and providing for an effective date.

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* Section 1. FINDINGS. The legislature finds that the present method for establishing payment rates under AS 47.40 for residential child care services is inadequate. The Department of Health and Social Services shall conduct a study of alternatives to the method of establishing payment rates under AS 47.40. The study shall be conducted by a committee of five members appointed by the commissioner of the Department of Health and Social Services. Three members of the committee shall be employees of the Department of Health and Social Services and two members shall be providers of residential child care services. The study shall contain, among other matters determined by the department, a suggested redefinition of the manner in which rates for residential child care services are calculated, a consideration of the method and amount of reimbursement for capital costs of residential child care facilities, and the availability and use of other sources of money to finance residential child care services and to finance the construction of residential child care facilities. The committee shall report its findings to the legislature on or before the 30th day of the Second Session of the Thirteenth Legislature. The legislature further finds that the rates established under AS 47.40 should be suspended from June 30, 1982 to July 1, 1984.

* Sec. 2. The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the

Amend sec 3 Ch 138
By increasing amount 5%

Chapter 138 Immediate effective date

period of suspension, payment for services provided by residential child care facilities shall be made solely in accordance with the provisions of secs. 3 and 4 of this Act.

* Sec. 3. For fiscal year 1983, the payment authorized per day for each child placed by the Department of Health and Social Services in an existing residential care facility is:

Alaska Children's Services Receiving Home (Anchorage)	$149.85
Alaska Children's Services Jesse Lee Home (Anchorage)	165.46
Alaska Children's Services Rabbit Creek Group Home (Anchorage)	166.40
Alaska Children's Services North Star Home (Anchorage)	103.55
Alaska Children's Services Aquarius House (Anchorage)	107.60
Alaska Children's Services Colletti House (Anchorage)	117.51
Alaska Baptist Family Service Center (Anchorage)	117.02
Booth Memorial Home (Anchorage)	146.90
Hilltop Home, Inc. (Anchorage)	85.53
Kenai Peninsula Community Care Center (Kenai)	91.74
Kodiak Baptist Mission (Kodiak)	61.61
Turning Point Boys Ranch (Willow)	105.37
North Star Children's Home (Dot Lake)	62.25
Presbyterian Hospitality House (Fairbanks)	111.98
Juneau Receiving Home (Juneau)	106.17
St. Jude Center, Inc. Receiving Home (Juneau)	72.33
Nome Receiving Home (Nome)	116.97
Manillaq Group Home (Kotzebue)	167.00
North Slope Borough Children's Receiving Home (Barrow)	168.35
Ketchikan Teen Home I (Ketchikan)	74.26
Ketchikan Teen Home II (Ketchikan)	81.61
Ketchikan Children's Home Intensive Treatment Unit (Ketchikan)	152.56
Sitka Receiving Home (Sitka)	40.66

Bethel Receiving Home (Bethel)	75.52
Bethel Group Home (Bethel)	59.06
Covenant High School (Unalakleet)	51.16

* Sec. 4. For fiscal year 1984 the payment rates for residential child care services shall be the amounts set out in sec. 3 of this Act increased by five percent.

* Sec. 5. For fiscal years 1983 and 1984 the Department of Health and Social Services may contract for residential child care services with a facility not listed in sec. 3 of this Act at a rate to be determined by the department.

* Sec. 6. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.075. VISION AND HEARING SCREENING EXAMINATIONS. (a) A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.

(b) The Department of Health and Social Services shall

(1) set standards for the performance of vision and hearing screening;

(2) train and certify public health nurses and school district employees to conduct hearing and vision screening tests;

(3) assist with referral and follow-up of children needing professional examination or treatment; and

(4) assist with maintenance and repair of screening equipment.

* Sec. 7. AS 44.29.020 is amended to read:

Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health and Social Services shall administer the state programs of public health and social services, including: (1) maternal and child health services;

DIVISION OF FAMILY AND YOUTH SERVICES
PROJECTED EXPENDITURES
03/31/83 AUTHORIZATION BALANCES

BRU COMPONENT	FY 83 AUTHORIZED	EXPENDED 03/31/83 AUTH BAL	AVERAGE MONTHLY EXPEND.	FIXED COSTS	TOTAL PROJECT. EXPEND.	LAST MONTH'S PROJECTIONS	PROJECTED BALANCE/ (DEFICIT)	REMARKS
JUVENILE CUSTODY								
Foster Care								
					(1,2,3)			
736 Benefits to Indiv	-0-	2,044,152	255,956	-0-	3,071,475	3,023,925	-0-	FTE's February 519.6, FTE's 479.1 (1) Do
734 Travel	-0-	171,957	22,188	-0-	266,256	274,398	-0-	to
765 Psychological	-0-	60,384	7,791	-0-	93,498	98,496	-0-	(2) In
772 Clothing	-0-	63,608	8,207	-0-	98,490	100,715	-0-	Fo
700 Others	-0-	32,182	4,153	-0-	49,830	49,398	-0-	(3) Do
739 Contracts	-0-	39,016	-0-	90,963	144,980	144,980	-0-	
656 Adoptions	-0-	52,891	-0-	-0-	56,000	56,000		
TOTALS FOSTER CARE	4,586,500	2,464,190	298,295	90,963	3,780,529	3,747,912	805,971	
							-.214	
							391,911	
Institutional Care								
200 Travel	14,000	-0-	-0-	-0-	14,000	-0-		Full Cost of Care Committee
300 Contractual	1,500	-0-	-0-	-0-	1,500	-0-		
400 Commodities	500	-0-	-0-	-0-	500	-0-		
736 Benefits to Indiv		5,359,714	828,210	-0-	9,938,517	9,721,966		FTE's 241.0 CPU $113.01
734 Travel		146,575	18,913	-0-	251,271	261,100		
765 Psychological		30,918	3,989	-0-	53,002	53,346		
772 Clothing		31,980	4,126	-0-	54,823	51,118		
700 Other		42,773	5,519	-0-	73,325	75,344		
TOTAL INST CARE	10,939,700	5,611,960	860,757	-0-	10,386,938	10,162,874	552,762	Does not include possibles: Manillaq (1
								~~Hosp-Hsc~~
								Bethel Grp
								Bethel Rec
								5% Retro (4
BRU TOTALS - Juvenile Custody								
700 Benefits to Indiv	15,526,200	8,076,150	1,159,052	90,963	13,910,786	1,358,733		
JUNEAU REC HOME CIP 83								
700 BENEFITS	15,000	15,000	-0-	-0-	15,000	15,000	-0-	Processed by Budget and Finance

Balance FY83

SECTION 80

FY83 Budget

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
DEPARTMENT OF HEALTH & SOCIAL SERVICES (CONT.)				
PROGRAM SERVICES				
HOMEMAKER SERVICES (1 POSITION)	218,100			
DAY CARE	543,800			
PREVENTIVE SERVICES	1,696,100			
ADULT SERVICES (18 POSITIONS)	4,102,400			
FAMILY SERVICES ADMINISTRATION				
SOUTHCENTRAL REGION (73 POSITIONS)	3,149,500			
NORTHERN REGION (31 POSITIONS)	1,620,200			
SOUTHEASTERN REGION (12 POSITIONS)	543,600			
WESTERN REGION (16 POSITIONS)	829,300			
NORTHWESTERN REGION (10 POSITIONS)	624,600			
SOUTHERN REGION (16 POSITIONS)	686,900			
CENTRAL OFFICE (21 POSITIONS)	1,098,700			
STAFF DEVELOPMENT (3 POSITIONS)	489,800			
JUVENILE CUSTODY		19,526,200	19,526,200	
SOCIAL SERVICES, FOSTER CARE	4,586,500			
INSTITUTIONAL CARE, SOCIAL SERVICES	10,939,700			
SOCIAL SERVICES BLOCK GRANT OFFSET			-3,376,600	3,376,600
YOUTH CORRECTIONAL SERVICES		11,243,400	11,243,400	
ADMINISTRATION (4 POSITIONS)	178,500			
FIRST DISTRICT (12 POSITIONS)	498,100			
THIRD DISTRICT (28 POSITIONS)	1,126,500			

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
DEPARTMENT OF HEALTH & SOCIAL SERVICES (CONT.)				
SECOND & FOURTH DISTRICT (17 POSITIONS)	858,300			
MCLAUGHLIN YOUTH CENTER (120 POSITIONS)	5,956,600			
FAIRBANKS YOUTH FACILITY (25 POSITIONS)	1,319,800			
HOME YOUTH FACILITY (13 POSITIONS)	979,400			
JUNEAU WOMEN'S & JUVENILE FACILITY (3 POSITIONS)	191,800			
KETCHIKAN YOUTH FACILITY	180,000			
HUMAN SERVICES - NORTHWEST		2,186,800	2,134,800	52,000
HOMEMAKER SERVICES	72,800			
NORTHWESTERN REGION FAMILY SERVICES	124,800			
FOSTER CARE	183,800			
INSTITUTIONAL CARE	219,900			
ELIGIBILITY DETERMINATION & STAFF DEVELOPMENT	179,300			
OLD AGE ASSISTANCE	358,200			
AID TO THE BLIND	5,700			
AID TO THE DISABLED	111,800			
ENERGY ASSISTANCE PROGRAM	52,800			
HEALTH SERVICES	958,500			
PUBLIC HEALTH		21,805,400	17,350,100	4,455,300
NURSING				
FIELD NURSING (123 POSITIONS)	9,488,600			
HOME HEALTH SERVICE (11 POSITIONS)	442,400			
ADMINISTRATION (10 POSITIONS)	970,100			

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Alaska Statutes

Title 47. Welfare, Social Services and Institutions.

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65. Service Programs for Older Alaskans (§§ 47.65.010 — 47.65.060)
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50. Policy

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(2) adopt regulations necessary for the conduct of its business and for carrying out federal and state laws granting adult public assistance, aid to families with dependent children, and other assistance;

(3) establish minimum standards for personnel employed by the department and make necessary rules and regulations to maintain those standards;

(4) require those bonds and undertakings from persons employed by it which in its judgment are necessary, and pay the premiums on them;

(5) cooperate with the federal government in matters of mutual concern pertaining to adult public assistance, aid to families with dependent children, and other forms of public assistance;

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(7) cooperate with the federal government, its agencies or instrumentalities in establishing, extending and strengthening services for the protection and care of homeless, dependent and neglected children in danger of becoming delinquent, and receive and expend funds available to the department by the federal government, the state or its political subdivisions for that purpose;

(8) cooperate with the federal government in adopting state plans to make the state eligible for federal matching in appropriate categories of assistance, and in all matters of mutual concern, including adoption of the methods of administration which are found by the federal government to be necessary for the efficient operation of welfare programs;

(9) adopt regulations, not inconsistent with law, defining need, prescribing the conditions of eligibility for assistance, and establishing standards for determining the amount of assistance which an eligible person is entitled to receive; the amount of the assistance is sufficient when, added to all other income and resources available to an individual, it provides the individual with a reasonable subsistence compatible with health and well-being; an individual who meets the requirements for eligibility for assistance shall be granted the assistance promptly upon application for it;

(10) grant to a person claiming or receiving assistance and who is aggrieved because of the department's action or failure to act, reasonable notice and an opportunity for a fair hearing by the department, and the department shall establish regulations relative to this;

(11) enter into reciprocal agreements with other states relative to public assistance, welfare services, and institutional care which are considered advisable;

(12) establish the requirements of residence for public assistance, welfare services and institutional care which are considered advisable, subject to the limitations of other laws of the state, or law or regulation imposed as conditions for federal financial participation;

(13) establish the divisions and local offices which are considered necessary or expedient to carry out a duty or authority assigned to it and appoint and employ the assistants and personnel which are necessary to carry on the work of the divisions and offices, and fix the compensation of the assistants or employees except that no person engaged in business as a retail vendor of general merchandise, nor a member of the immediate family of a person who is so engaged, may serve as an acting, temporary or permanent local agent of the department, unless the commissioner of health and social services certifies in writing to the governor, with relation to a particular community, that no other qualified person is available in the community to serve as local welfare agent; for the purposes of this subsection, a "member of the immediate family" includes a spouse, child, parent, brother, sister, parent-in-law, brother-in-law or sister-in-law;

(14) each February hold public meetings to review, study, and propose, the necessary levels of care and the rates it will pay to anyone for the services required during the succeeding year; before final adoption by the department the proposed levels of care and the rates of payment shall be reviewed by the legislature annually while in session. (§ 51-1-3(a) — (m) ACLA 1949; am § 1 ch 88 SLA 1951; am § 1 ch 63 SLA 1959; am § 1 ch 175 SLA 1968, am § 2 ch 136 SLA 1970·

Chapter 40. Purchase of Services.

Editor's notes. — For legislative findings that the present method for establishing payment rates under this chapter for residential child care services is inadequate and that the rates established under this chapter should be suspended from June 30, 1982 to July 1, 1984, see § 1, ch. 138, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Section 2, ch. 138, SLA 1982, provides: "The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the period of suspension, payment for services provided by residential child care facilities shall be made solely in accordance with the provisions of secs. 3 and 4 of this Act."

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For payment rates for residential child care services for fiscal year 1984, see § 4, ch. 138, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Section 5, ch. 138, SLA 1982, provides: "For fiscal years 1983 and 1984 the Department of Health and Social Services may contract for residential child care services with a facility not listed in sec. 3 of this Act at a rate to be determined by the department."

Sec. 47.40.010. Purchase of services.

Cross references. — For provisions suspending the operation of this section, see § 2, ch. 138, SLA 1982, quoted in the editor's notes following the chapter analysis.

NOTES TO DECISIONS

Subsection (a)(3) of this section and AS 47.40.040(a) are in pari materia and should be construed so as to be consistent with one another and in such a manner as to give maximum effect to each. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

The legislature did not intend retroactive cost settling under this section and AS 47.40.040. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

Subsection (a)(3) of this section states that when the Department of Health and Social Services purchases services for persons for whom the state has assumed responsibility, it shall "pay all expenses related directly to the full cost of services at the levels of care required," since AS 47.40.040(a) specifically provides that the "'full cost' of services shall be determined by the per person, per day cost in the preceding fiscal year plus a proportionate share of anticipated cost of living and staff salary increment increase" for the upcoming fiscal year, the Department of Health and Social Services is bound to authorize payments only for those amounts predicted at the beginning of each fiscal year. Alaska Children's Servs., Inc. v. Williamson, Sup. Ct. Op. No. 2014 (File No. 4155), 606 P.2d 786 (1980).

Sec. 47.40.040. Determination of full cost of services.

Cross references. — For provisions suspending the operation of this section, see § 2, ch. 138, SLA 1982, quoted in the editor's notes following the chapter analysis.

NOTES TO DECISIONS

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Sec. 47.40.050. Services.

Cross references. — For provisions suspending the operation of this section, see § 2, ch. 138, SLA 1982, quoted in the editor's notes following the chapter analysis.

Chapter 45. Alaska Longevity Bonus.

Section
10. Persons who may qualify for longevity bonus
120. Exemption from taxation and process

Sec. 47.45.010. Persons who may qualify for longevity bonus.

(a) A person who is 65 years of age or over, who was domiciled in the territory on or before January 3, 1959 and who has maintained a continuous domicile in the territory or state for 25 years may apply to the commissioner of administration for qualification to receive a monthly bonus of $250.

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 — 47.45.170 he shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 — 47.45.170 may continue to do so only as long as he continuously retains a domicile in the state. (§ 1 ch 205 SLA 1972; am § 1 ch 33 SLA 1976; am § 1 ch 89 SLA 1978; am § 1 ch 147 SLA 1980; am § 1 ch 13 SLA 1981)

Effect of amendments. — The 1980 amendment substituted "$200" for "$150" at the end of subsection (a).

The 1981 amendment, in subsection (a), substituted "$250" for "$200" at the end of the subsection.

Pugh 3030

John [redacted] Verify Money Recommend Leg.

Mike Price

Chapter 138
SLA 82

AN ACT

Relating to vision and hearing screening examinations, public assistance, and other assistance provided by the state; and providing for an effective date.

---

* Section 1. FINDINGS. The legislature finds that the present method for establishing payment rates under AS 47.40 for residential child care services is inadequate. The Department of Health and Social Services shall conduct a study of alternatives to the method of establishing payment rates under AS 47.40. The study shall be conducted by a committee of five members appointed by the commissioner of the Department of Health and Social Services. Three members of the committee shall be employees of the Department of Health and Social Services and two members shall be providers of residential child care services. The study shall contain, among other matters determined by the department, a suggested redefinition of the manner in which rates for residential child care services are calculated, a consideration of the method and amount of reimbursement for capital costs of residential child care facilities, and the availability and use of other sources of money to finance residential child care services and to finance the construction of residential child care facilities. The committee shall report its findings to the legislature on or before the 30th day of the Second Session of the Thirteenth Legislature. The legislature further finds that the rates established under AS 47.40 should be suspended from June 30, 1982 to July 1, 1984.

* Sec. 2. The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the

Amend for 3 Ch 138
By increasing amount 5%

Chapter 138 Immediate effective date.

period of suspension, payment for services provided by residential child care facilities shall be made solely in accordance with the provisions of secs. 3 and 4 of this Act.

* Sec. 3. For fiscal year 1983, the payment authorized per day for each child placed by the Department of Health and Social Services in an existing residential care facility is:

Alaska Children's Services Receiving Home (Anchorage)	$149.85
Alaska Children's Services Jesse Lee Home (Anchorage)	165.46
Alaska Children's Services Rabbit Creek Group Home (Anchorage)	166.40
Alaska Children's Services North Star Home (Anchorage)	103.55
Alaska Children's Services Aquarius House (Anchorage)	107.60
Alaska Children's Services Colletti House (Anchorage)	117.51
Alaska Baptist Family Service Center (Anchorage)	117.02
Booth Memorial Home (Anchorage)	146.90
Hilltop Home, Inc. (Anchorage)	85.53
Kenai Peninsula Community Care Center (Kenai)	91.74
Kodiak Baptist Mission (Kodiak)	61.61
Turning Point Boys Ranch (Willow)	105.37
North Star Children's Home (Dot Lake)	62.25
Presbyterian Hospitality House (Fairbanks)	111.98
Juneau Receiving Home (Juneau)	106.17
St. Jude Center, Inc. Receiving Home (Juneau)	72.33
Nome Receiving Home (Nome)	116.97
Manilaq Group Home (Kotzebue)	167.00
North Slope Borough Children's Receiving Home (Barrow)	168.35
Ketchikan Teen Home I (Ketchikan)	74.26
Ketchikan Teen Home II (Ketchikan)	81.61
Ketchikan Children's Home Intensive Treatment Unit (Ketchikan)	152.56
Sitka Receiving Home (Sitka)	40.66

Bethel Receiving Home (Bethel)	75.52
Bethel Group Home (Bethel)	59.06
Covenant High School (Unalakleet)	51.16

* Sec. 4. For fiscal year 1984 the payment rates for residential child care services shall be the amounts set out in sec. 3 of this Act increased by five percent.

* Sec. 5. For fiscal years 1983 and 1984 the Department of Health and Social Services may contract for residential child care services with a facility not listed in sec. 3 of this Act at a rate to be determined by the department.

* Sec. 6. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.075. VISION AND HEARING SCREENING EXAMINATIONS. (a) A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.

(b) The Department of Health and Social Services shall

(1) set standards for the performance of vision and hearing screening;

(2) train and certify public health nurses and school district employees to conduct hearing and vision screening tests;

(3) assist with referral and follow-up of children needing professional examination or treatment; and

(4) assist with maintenance and repair of screening equipment.

* Sec. 7. AS 44.29.020 is amended to read:

Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health and Social Services shall administer the state programs of public health and social services, including: (1) maternal and child health services;

DIVISION OF FAMILY AND YOUTH SERVICES
PROJECTED EXPENDITURES
03/31/83 AUTHORIZATION BALANCES

BRU COMPONENT	FY 83 AUTHORIZ	EXPENDED 03/31/83 AUTH BAL	AVERAGE MONTHLY EXPEND.	FIXED COSTS	TOTAL PROJECT. EXPEND.	LAST MONTH'S PROJECTIONS	PROJECTED BALANCE/ (DEFICIT)	REMARKS
JUVENILE CUSTODY								
Foster Care					(1,2,3)			
736 Benefits to Indiv	-0-	2,044,152	255,956	-0-	3,071,475	3,023,925	-0-	FTE's February 519.6, FTE's 479.1 (1)
734 Travel	-0-	171,957	22,189	-0-	266,256	274,398	-0-	
765 Psychological	-0-	60,384	7,791	-0-	93,498	98,496	-0-	(2)
772 Clothing	-0-	63,608	8,207	-0-	98,490	100,715	-0-	
700 Others	-0-	32,182	4,153	-0-	49,830	49,398	-0-	(3)
739 Contracts	-0-	39,016	-0-	90,963	144,980	144,980	-0-	
656 Adoptions	-0-	52,891	-0-	-0-	56,000	56,000		
TOTALS FOSTER CARE	4,586,500	2,464,190	298,295	90,963	3,780,529	3,747,912	805,971	
Institutional Care								
200 Travel	14,000	-0-	-0-	-0-	14,000	-0-		Full Cost of Care Committee
300 Contractual	1,500	-0-	-0-	-0-	1,500	-0-		
400 Commodities	500	-0-	-0-	-0-	500	-0-		
736 Benefits to Indiv		5,359,714	828,210	-0-	9,938,517	9,721,966		FTE's 241.0 CPU $113.01
734 Travel		146,575	18,913	-0-	251,271	261,100		
765 Psychological		30,918	3,989	-0-	53,002	53,346		
772 Clothing		31,980	4,126	-0-	54,823	51,118		
700 Other		42,773	5,519	-0-	73,325	75,344		
TOTAL INST CARE	10,939,700	5,611,950	860,757	-0-	10,386,938	10,162,874	552,762	Does not include possibles: Manilaq Hospitality Bethel Grp Bethel Rec 5% Retro
BRU TOTALS - Juvenile Custody								
700 Benefits to Indiv	15,526,200	8,076,150	1,159,052	90,963	13,910,786	1,358,733		
JUNEAU REC HOME CIP 83								
700 BENEFITS	15,000	15,000	-0-	-0-	15,000	15,000	-0-	Processed by Budget and Finance

Balance FY83

SECTION 80

FY83 Budget

		ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
1	DEPARTMENT OF HEALTH & SOCIAL SERVICES (CONT.)				
4	PROGRAM SERVICES				
5	HOMEMAKER SERVICES (1 POSITION)	218,100			
6	DAY CARE	343,800			
7	PREVENTIVE SERVICES	1,696,100			
8	ADULT SERVICES (18 POSITIONS)	4,102,400			
9	FAMILY SERVICES ADMINISTRATION				
10	SOUTHCENTRAL REGION (73 POSITIONS)	3,149,500			
11	NORTHERN REGION (31 POSITIONS)	1,628,200			
12	SOUTHEASTERN REGION (11 POSITIONS)	543,600			
13	WESTERN REGION (16 POSITIONS)	829,300			
14	NORTHWESTERN REGION (10 POSITIONS)	626,600			
15	SOUTHERN REGION (16 POSITIONS)	696,900			
16	CENTRAL OFFICE (21 POSITIONS)	-1,890,700			
17	STAFF DEVELOPMENT (3 POSITIONS)	489,800			
18	JUVENILE CUSTODY		15,526,288	15,526,288	
19	SOCIAL SERVICES, FOSTER CARE	4,586,500			
20	INSTITUTIONAL CARE, SOCIAL SERVICES	10,939,788			
21	SOCIAL SERVICES BLOCK GRANT OFFSET			-3,376,888	3,376,888
22	YOUTH CORRECTIONAL SERVICES		11,243,488	11,243,488	
23	ADMINISTRATION (4 POSITIONS)	178,500			
24	FIRST DISTRICT (12 POSITIONS)	496,100			
25	THIRD DISTRICT (28 POSITIONS)	1,126,500			

		ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
1	DEPARTMENT OF HEALTH & SOCIAL SERVICES (CONT.)				
4	SECOND & FOURTH DISTRICT (17 POSITIONS)	858,300			
5	MCLAUGHLIN YOUTH CENTER (120 POSITIONS)	5,956,600			
6	FAIRBANKS YOUTH FACILITY (25 POSITIONS)	1,319,000			
7	NOME YOUTH FACILITY (13 POSITIONS)	975,400			
8	JUNEAU WOMEN'S & JUVENILE FACILITY (3 POSITIONS)	191,000			
9	KETCHIKAN YOUTH FACILITY	188,000			
10	HUMAN SERVICES - NORTHWEST		2,186,000	2,134,000	52,000
11	HOMEMAKER SERVICES	72,000			
12	NORTHWESTERN REGION FAMILY SERVICES	124,000			
13	FOSTER CARE	103,800			
14	INSTITUTIONAL CARE	219,900			
15	ELIGIBILITY DETERMINATION & STAFF DEVELOPMENT	179,300			
16	OLD AGE ASSISTANCE	358,200			
17	AID TO THE BLIND	5,700			
18	AID TO THE DISABLED	111,800			
19	ENERGY ASSISTANCE PROGRAM	52,000			
20	HEALTH SERVICES	958,500			
21	PUBLIC HEALTH		21,885,488	17,350,188	4,535,300
22	NURSING				
23	FIELD NURSING (123 POSITIONS)	5,488,600			
24	HOME HEALTH SERVICE (11 POSITIONS)	462,488			
25	ADMINISTRATION (18 POSITIONS)	976,188			

Kenai Peninsula Community Care Center
Drawer 3573
Kenai, Alaska 99611
907-283-7635

JUN 6 1983

May 27, 1983

The Honorable Mae Tischer
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

Thank you for your letter of May 17. We were pleased to learn that the HESS Committee recommended Do Pass on House Bill 383 allowing for a 2.5 percent retroactive payment for private child care facilities. It will be particularly helpful since we were granted no rate increase during FY 1982-83.

We agree with your preference to deinstitutionalize children and move them to less restrictive programs such as community based group homes and foster care. Many youth need the treatment available in group homes before they are able to function with foster families. It is unfair to foster parents and youth to make placements before the youth have developed enough social skills to make it a success.

We trust that this information will be helpful to you in the future decisions you must make on behalf of Alaska's troubled youth.

Sincerely,

John Douglas, Chairman of the Board
Production Foreman, Shell Oil Co.
Kenai & Boro Assembly

Jack Brown, Vice-Chairman
People Count, Inc.
Kenai

Beth Taeschner
School Nurse Coordinator
Soldotna

Tim Rogers
City of Kenai Attorney
Soldotna

Vern Gehrke
Soldotna City Council & contractor
Sodlotna

Carmen Gintoli
Architect
Kenai

Pastor James Pearson
Christ Lutheran Church
Soldotna

Officer Gene Backstrom
Kenai Police Department

Marilyn Dimmick
Borough Assembly member
Ninilchik

ex officio: Dr. Peter Cannava
Soldotna

Riley Hunter
Homer

Tischer / Miller / Davis / Fritz / Herrman —
Kopenen

CSHB 383

Miller - Move CSHB 383 (HESS) w/ Ind rec.

Tischer - Explain bill / Subcomm on Fin (HESS) -
explained intent for reductions.

Foster care programs taking over rather
than residential child care programs.

Davis - Fiscal note?

Goll - ? Inst. vs ? Foster Care - Intent of ~~Tischer's~~ Tischer's
explanation of

~~Kopenen~~ -
Davis. - In.

5/4

DHHSS

John Pugh - Deputy Com HHSS
Mike Price - Dir. Family & Youth Services

HB383 - Frozen rates / costs were ballooning @ the time. Task force - 47.40 look into - come up w/another formula - next year — Committee working now. Frozen @ 82 rates w/no cost of living. Bill increases 5% raise to residential care providers.

273,000 left = 2.5% increase / anything beyond would be new # rather than re-approp.

Price - Assumption that lapsing balances will be used
Increase on pro-rata basis - support some lapsing funds.
-time to evaluate fiscal impact.

Pugh -- Does not increase placements!
- Develop stronger foster home program.

Gold - Ave # of children in homes

Pugh - 200 / Recvg. Homes
# of Children in ea / Ave = 10

Kopmeier - Retro 82 — or assume FY83?

Pugh - FY83!

John Garmi Pres. AK St Homes for Children - 18/26 providers in Support.

5% increase is fiscally not possible. Dept wants this reduced to 2½%

Bethel needs upgrading. Using some of these funds.

- Consider amending @ CS to figures of 2½% to $273,000

DR Fritz - Move change from 5 to 2½% w/unan. consent

Kop - Set @ dept recommends / prepare w/ inclusion

Fritz - $35,200 moved / also #2 in position paper accepted.

Fritz - Amend motion to A B & D included as CS.

Introduced: 4/27/83
Referred: Health, Education &
Social Services and Finance

IN THE HOUSE BY FRITZ BY REQUEST

HOUSE BILL NO. 383

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to payments authorized for residential child care services; and providing for an effective date."

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

* Section 1. Sec. 3, ch. 138, SLA 1982 is amended to read:

Sec. 3. For fiscal year 1983, the payment authorized per day for each child placed by the Department of Health and Social Services in an existing residential care facility is:

Alaska Children's Services Receiving Home (Anchorage)	$157.34	[$149.85]
Alaska Children's Services Jesse Lee Home (Anchorage)	173.73	[165.46]
Alaska Children's Services Rabbit Creek Group Home (Anchorage)	174.72	[166.40]
Alaska Children's Services North Star Home (Anchorage)	108.72	[103.55]
Alaska Children's Services Aquarius House (Anchorage)	112.98	[107.60]
Alaska Children's Services Colletti House (Anchorage)	123.38	[117.51]
Alaska Baptist Family Service Center (Anchorage)	122.87	[117.02]
Booth Memorial Home (Anchorage)	154.24	[146.90]
Hilltop Home, Inc. (Anchorage)	89.80	[85.53]
Kenai Peninsula Community Care Center (Kenai)	96.32	[91.74]

Kodiak Baptist Mission (Kodiak)	64.69	[61.61]
Turning Point Boys Ranch (Willow)	110.63	[105.37]
North Star Children's Home (Dot Lake)	65.36	[62.25]
Presbyterian Hospitality House (Fairbanks)	117.57	[111.98]
Juneau Receiving Home (Juneau)	111.47	[106.17]
St. Jude Center, Inc. Receiving Home (Juneau)	75.94	[72.33]
Nome Receiving Home (Nome)	122.81	[116.97]
Maniilaq Group Home (Kotzebue)	175.35	[167.00]
North Slope Borough Children's Receiving Home (Barrow)	176.76	[168.35]
Ketchikan Teen Home I (Ketchikan)	77.97	[74.26]
Ketchikan Teen Home II (Ketchikan)	85.69	[81.61]
Ketchikan Children's Home Intensive Treatment Unit (Ketchikan)	160.18	[152.56]
Sitka Receiving Home (Sitka)	42.69	[40.66]
Bethel Receiving Home (Bethel)	79.29	[75.52]
Bethel Group Home (Bethel)	62.01	[59.06]
Covenant High School (Unalakleet)	53.71	[51.16]

* Sec. 2. This Act is retroactive to July 1, 1982.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Summary

May 2, 1983

TO; House HESS Committee

FROM: Staff

RE: HB 383 "An Act relating to payments authorized for residential child care services; and providing for an effective date".

Section 1 of the bill amends sec. 3, Chapter 138 SLA '82 (attached) by adding five percent to the FY 83 payment rate authorized per day for each child placed by the Dept. of H&SS in named residential care facilities.

Section 2 of the bill makes the rate increases retroactive to the beginning of the current fiscal year.

Section 3 provides for an immeidate effecitve date. Note that under sec. 4, Chpater 138, SLA 82, the rates for fiscal year 1984 mandates another 5% increase over FY 83.

Explanation

Historically the Division of Family & Youth Services required annual supplemental appropriations. In recent years, Legislative Intent has been to stop this procedure. Consequently, the Dept. of H&SS has received additional funds with lapse dates for unexpended amounts.

This year, the unexpended portion that will be required to lapse is approximately $553,000. (see attached).

The intent of this legislation is to re-appropriate the balance of these funds to allow these facilities to spend money which has already been appropriated. Consequently, there is no need for a supplemental appropriation to accompany this legislation.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: HESS Committee Members

FROM: Linda Utey, HESS aide

DATE: May 4, 1983

RE: Presbyterian Hospitality House Appropriation

The Presbyterian Hospitality House is currently owed the sum of $35,200. This is the result of a 1981 audit which affected the 1982 rates. Note: The payment is for 1982 costs.

There were insufficient fund balances left in the 1982 budget to pay the added amount. There is question as to whether the department can legally pay the debt with 1983 moneys. The consensus is that there is no authority. Therefore, the authorization of a payment of $35,200 to the Presbyterian Hospitality House would alleviate this problem.

Proposed amendment: The authorization to pay a FY82 obligation of $35,200 to the Presbyterian Hospitality House of Fairbanks.

dss

DRAFT

POSITION PAPER

HOUSE BILL NO. 383
PAGE 1

"An Act relating to payments authorized for residential child care services; and providing for an effective date."

House Bill No. 383 amends Section 3, Chapter 138, SLA 1982 by increasing by 5% the rates for all residential child care facilities which are paid under AS 47.40. Each of the facilities currently being paid under AS 47.40 is listed in this Bill. A few facilities which are being paid under contract are not included in this legislation.

1. Services Provided by Facilities

Residential child care facilities provide a needed service to dependent and delinquent children who need specialized treatment services. The majority of the children the Division of Family and Youth Services serves live in their own homes (67.1%). Most of the children the Division places away from their homes can stay with relatives (6.9%), with non-relatives (6.9%), or in foster homes (10.1%). Nine percent (9%) of the children are placed in residential child care facilities because they have such severe behavioral or emotional problems that they cannot be served in less restrictive settings. These children require structured treatment programs run by trained staff. This specialized care is much more expensive. Some of the facilities provide receiving home services, taking adolescents who need short term supervised care until court disposition occurs or until a treatment plan can be developed.

Residential child care facilities need to be available throughout the State so that children can be served as near to their homes and families as possible. They also need to be available when the need for placement arises, which the Department cannot control.

2. Budget Projections

Current projections in the institutional care budget indicate that there will be a balance of $552,762. This does not take into account the following expenditures which are expected to come out of the budget:

A. The Maniilaq Human Services program will receive a contract amendment of $107,600 because their budget was not fully funded last year.

B. Legislation to cover a supplemental to the Bethel Receiving Home amounts to $65,000.

C. The Bethel Group Home needs to hire paid staff in order to serve the Division's needs in the Lower Kuskokwim area and to be in compliance with licensing regulations. Legislation has been introduced to cover this need.

D. There is a possibility that $35,000 which is currently owed to Presbyterian Hospitality House due to an auditing report may need to come out of this year's funds.

Subtracting these costs, there will be a projected balance of $273,000. It is assumed that the rate increase would come out of this budget line. This balance would only permit a 2.5% increase to each facility, not the 5% proposed by this Bill.

3. Cost Study

The 1982 legislature froze the rates at the 1981 rate level and ordered the Department to conduct a study of costs to residential child care facilities. A committee was appointed, as ordered by the legislation, and has held meetings to consider AS 47.40 and the problems in the current method of payment to facilities. The committee will be recommending changes to AS 47.40, as well as to the regulations. In addition, a study to analyze existing costs to facilities will be made to determine new base rates.

4. Conclusions

The 1982 Legislature froze the rates at the 1981 level. It has now become apparent that the rate freeze combined with a placement utilization decrease has created hardship for a number of facilities. This Bill seeks to alleviate these hardships for facilities under this legislation. Should the Legislature wish to increase the rates, current projections indicate that the most that will be permitted out of this budget is a 2.5% increase. However, the projections are based on placement patterns to date, and these could change during the remainder of the calendar year. Therefore, the

Department recommends that if this Bill is favorably considered, there be a clause added to the Bill permitting the increase to be determined on a prorated basis once the actual placement pattern for the year is known.

increase funds for current needs. 2.5% would prorate remainder funds

DRAFT

Title: "...Payments authorized for child care" Program Category Affected:

Sponsor: Fritz BRU, Program or Subprogram(s) Affected:

Requestor: Fritz Juvenile Custody

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	440.4	462.4	485.5	509.8	535.3	562.1
TOTAL OPERATING	440.4	462.4	485.5	509.8	535.3	562.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	440.4	462.4	485.5	509.8	535.3	562.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funding was not identified in the bill.

DRAFT

DRAFT

IV. ANALYSIS

A. Assumptions

Enactment of this bill would result in a 5% increase in the cost of residential child care for the Fiscal Year 1983.

B. Program Summary

No new positions would be necessary if the Bill were enacted. There would be an increase of $440,422 in the Benefits to Individuals costs for FY83.

C. Computations

Facility	Total Units Projected FY83	5% Rate Increase	Total Cost
ACS Receiving Home	4,277	$7.49	$ 32,035
ACS Jesse Lee	12,915	8.27	106,807
ACS Rabbit Creek	3,695	8.32	30,742
ACS North Star	1,588	5.17	8,210
ACS Aquarius	1,601	5.38	8,613
ACS Colletti	1,617	5.87	9,492
Alaska Baptist	3,167	5.85	18,527
Booth Memorial	3,235	7.34	23,745
Hilltop Home	1,028	4.27	4,390
Kenai Community Care Ctr	1,878	4.58	8,601
Kodiak Baptist Mission	4,850	3.08	14,938
Turning Point	6,438	5.26	33,864
North Star Home	513	3.11	1,595
Presbyterian Hosp Hse	4,683	5.59	26,178
Juneau Receiving Home	4,334	5.30	22,970
St. Judes Center	225	3.61	812
Nome Receiving Home	1,553	5.84	9,070
Maniilaq Group Home	1,674	8.25	13,978
North Slope Borough	2,032	8.41	17,089
Ketchikan Teen I	2,226	3.71	8,258
Ketchikan Teen II	2,285	4.08	9,323
Ketchikan Intensive Care	1,818	7.62	13,853
Sitka Receiving Home	1,353	2.03	2,747
Bethel Receiving Home	2,212	3.77	8,341
Bethel Group Home	2,083	2.95	6,145
Covenant High School	39	2.55	99
Totals	73,319		$440,422

D. Economic Impact

Passage of this Bill would not have a significant impact on the State's economy.

E. Impact on Local Governments

There would be no impact on local governments.

FULL COST OF CARE

PERIOD 7-1-82 TO 12-31-82
(first half of FY '83)

(Per Provider Cost Reports)

	Cost of Care Revenue	Cost of Care Expenses	Surplus (Deficit)
Bethel Group Home	57,819	50,632	7,187
Kodiak Baptist Mission	140,101	209,102	(69,001)
Sitka	25,087	33,580	(8,493)
Juneau Receiving Home	222,851	190,893	31,958
Crossroads	21,379	29,635	(8,256)
Turning Point Boy's Ranch	489,028	560,564	(71,536)
Booth Home	214,711	277,732	(63,021)
Hospitality House	268,976	339,340	(70,364)
Kenai Care Center	72,893	72,469	424
Ketchikan Children's Home	303,354	322,407	(19,053)
ACS PROGRAMS			
Jesse Lee Home	1,052,236	1,172,370	(120,134)
ACS Shelter	298,677	363,683	(65,006)
Aquarius	81,936	104,156	(22,220)
Adventure Based	87,970	86,364	1,606
Colletti House	90,365	107,901	(17,536)
Rabbit Creek	290,905	271,715	19,190
North Star	79,112	95,308	(16,196)
TOTAL	3,797,400	4,287,851	(490,451)
Deficit %	12.9%	11.4%	

Reports missing as of 3-11-83:

Alaska Baptist Home
North Slope Receiving Home
Bethel Receiving Home
Nome Receiving Home
Manillaq Group Home

Alaska State Legislature

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

MEMORANDUM

April 27, 1983

To: Rep. Mae Tischer
Rep. Milo Fritz
Co-Chairmen House HESS Committee

Rep. Al Adams
House Finance Committee

From: Rep. Joe Hayes
Speaker

Re: HB 383

HB 383 regarding the cost of care rates for youth facilities has been introduced and referred to your committees.

It is my understanding this bill will allow these facilities to spend money which has already been appropriated and that a supplemental appropriation is not required by this bill. These organization are in need of this legislation to allow them to spend the money already appropriated.

I request that you give this bill immediate attention so that it may quickly pass to the Senate for consideration as action on this matter is needed this session.

Thanks.

THE SALVATION ARMY
Booth Memorial Home
"A United Way Agency"

3600 EAST TWENTIETH AVENUE
POUCH S.A. 3-063
ANCHORAGE, ALASKA 99501
(907) 279-0822

WILLIAM BOOTH
FOUNDER
JARL WAHLSTROM
GENERAL
WILLI RATT
TERRITORIAL COMMANDER
MAJOR WM. E. MCHARG
DIVISIONAL COMMANDER
LIEUTENANT GENE RAGAN
ADMINISTRATOR

RECEIVED
MILO [illegible], M.D.
MAY 3 1 53 PM '83

May 2, 1983

To: Representatives Tischer, Fritz, Goll, Herrmann, M. W. Miller, Davis and Koponen

Re: HB 383

As administrator of the Booth Home, I strongly support House Bill 383. This past year has been a financial dilema due to lack of state funding. Needless to say, with a 5% retroactive cost of care payment we would be able to meet some financial demands placed on us at this present time.

If I can be of any other assistance in this crucial matter, please call upon me.

Sincerely,

Gene Ragan jw

Gene Ragan, Lt.
Administrator

CR/jw



Photo: Merrill E. Grube

Alaska Children's Services
1200 E. 27th Avenue
Anchorage, Alaska 99504

A Ministry of:
American Baptist, American Lutheran, United Methodist, and the Christian Churc (Disciples of Christ)

Legal Title for Wills: Alaska Children's Services, Inc.

Facts About

Alaska Children's Services, Inc. (ACS)

A Joint Ministry of American Lutheran, American Baptist, United Methodist, and the Christian Church (Disciples of Christ)

1200 East 27th Avenue Anchorage, Alaska 99508-3999
Phone: 907/276-4515

HISTORY

- ***founded*** in 1970 as a merger of the Jesse Lee Home (United Methodist), the Lutheran Youth Center (American Lutheran) and the Anchorage Children's Christian Home (American Baptist) to meet the growing child care needs of Alaska. In 1981, ACS became an affiliate member of the National Benevolent Association, the Division of Social and Health Services of the Christian Church (Disciples of Christ).
- ***represents*** the combined experience of 125 years of church-related child care in Alaska.

PROGRAM

- ***serves*** up to 1,000 children each year ranging from abused infants to older teenagers—one third are Aleut, Indian and Eskimo.
- ***operates*** three emergency shelters, four community-based group homes, a residential treatment center, and an adventure-based program for delinquent youth.

PERFORMANCE

- ***grown*** to become the state's largest private child and family service agency.
- ***recognized*** as a leading advocate for good child care—the only agency in Alaska to have earned full membership to the Child Welfare League of America.

SPIRITUAL LIFE

- ***committed*** to assist children in their search for a meaningful faith.
- ***employs*** a full-time, clinically trained Chaplain.
- ***provides*** a program of pastoral care and religious education opportunities.

SUPPORT

- ***depends*** on gifts from churches and individuals to provide the "margin of excellence" in its program of care.
- ***eligible*** to receive mission gifts through:
  - the Benevolence Program of the North Pacific District of the American Lutheran Church
  - Institutional support gifts in all areas and associations of American Baptist Churches
  - Advance special gifts from all United Methodist churches
  - The National Benevolent Association of the Christian Church (Disciples of Christ)

TELEGRAM

ALASCOM, INC.
PHONE: 586-6442
JUNEAU, AK 99802

1983 APR 29 PM 10 57

#

02226 NL ANCHORAGE ALASKA 123 04-29 1610 ADT

PMS REP MILO M. FRITZ

2223

JUN

ALASKA CHILDRENS SERVICES PROVIDES RESIDENTIAL CARE AND TREATMENT FOR EMOTIONALLY DISTURBED, NEGLECTED, ABUSED AND TROUBLED CHILDREN AND YOUTH PLACED IN CUSTODY OF THE STATE BY THE COURT SYSTEM.

DUE TO 1982 LEGISLATIVE ACTION, COST OF CARE RATES FOR FISCAL YEAR 83 WERE FROZEN AT FISCAL YEAR 82 LEVEL. ALSO, DURING THE FIRST HALF OF THE FISCAL YEAR THERE WAS A 7 PERCENT REDUCTION IN PLACEMENT. THE RESULTING DEFICIT AMOUNTS TO DLRS180,000 WHICH IS APPROXIMATELY 8 PERCENT OF OUR OPERATING BUDGET.

ALASKA CHILDREN SERVICES DESPERATELY NEEDS THE 5 PERCENT RATE INCREASE PROPOSED BY HB383 IN ORDER TO PROVIDE PROFESSIONAL CARE AND TREATMENT TO THE CHILDREN REFERRED BY THE STATE. YOUR WHOLE HEARTED SUPPORT OF THIS LEGISLATION IS URGED AND WILL BE GREATLY APPRECIATED.

THOMAS M. DAHL

PRESIDENT

ALASKA CHILDRENS SERVICES BOARD OF DIRECTORS

MSG 03-00014226 PRTY 4 05/03/83 13:36:09 ORIG: LO01 IN= 0061 OUT= 0094
FROM: ROBERTA/KODIAK TO: JUNEAU
TARGET: LJHL SUBJ: PUBLIC OPINION MESSAGE

TO: HOUSE HESS COMMITTEE: FRITZ, CHAIRMAN TISCHER, CHAIRMAN
M. MILLER, V. CHAIR. HERRMANN DAVIS
GOLL KOPONEN
REPRESENTATIVE ZHAROFF SENATOR BOB MULCAHY

FROM: DAVID COOK, KODIAK BAPTIST MISSION
P.O. BOX 785, KODIAK, AK. 99615 486-5181

RE: HB303

I SUPPORT HB 303 IN IT'S PRESENT FORM GIVING EQUAL PERCENTAGE INCREASES TO ALL CHILD CARE FACILITIES. WE ARE ALL STRUGGLING WITH DECREASED CHILD PLACEMENTS. THE KODIAK BAPTIST MISSION ITSELF HAS A 25 PERCENT SHORTFALL IN PROGRAM INCOME.

MSNG 14092 MARTIE/MATSU 5/3

TO SENATOR KERTTULA, BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, FISCHER, MULCAHY,
REPRESENTATIVES LARSON, LACHER, TISCHER, FRITZ, M.W. MILLER, GATO, GOLL, KOPONEN, DAVIS

FROM: RAY GRAVES
PO BOX 1070
WILLOW 99688
495 6243

I STRONGLY SUPPORT HB 283 FOR A 5% RETROACTIVE PAYMENT TO JULY 1992 FOR PRIVATE CHILDCARE FACILITIES. THIS MONEY IS NEEDED TO KEEP THESE FACILITIES OPEN, AND I SUPPORT ALL THE GOOD THEY ARE DOING FOR OUR YOUTH.
THANK YOU

MSG 03-00014342 PRTY 1 05/03/03 15:40:26 ORIG: LM01 IN= 0015 OUT= 0150
FROM: JUDY/MATSU TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: SENATOR KERTTULA
REPRESENTATIVES FRITZ, TISCHER, M. MILLER, CATO, GOLL, KOPONEN, DAVIS, LACHER AND LARSON

FROM: DAVID C. SMITH
MILE 79, PARKS HWY
WILLOW 99688

I SUPPORT HB383 AND THINK IT IS WELL NEEDED. I KNOW THERE ARE FACILITIES THAT NEED THE 5 % INCREASE. HOPE YOU MAKE THE RIGHT DECISION.

MSG 83-00014312 PRTY 1 05/03/83 15:21:39 ORIG: LM01 IN= 0010 OUT= 0136
FROM: JUDY/MATSU TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: SENATOR KERTTULA
REPRESENTATIVES FRITZ, TISCHER, M. MILLER, CATO, GOLL, KOPONEN, DAVIS, LACHER AND LARSON

FROM: MORGAN OVERBAY
P.O. BOX 940092
HOUSTON 99694 PH. 495-6608

RE: HB347

I SUPPORT HB383 REGARDING RETROACTIVE PAYMENT TO PRIVATE CHILD CARE FACILITIES. I BELIEVE THEY ARE A VERY WISE INVESTMENT. HOPE YOU WILL SUPPORT THIS PASSAGE ALSO.

MSG 83-00014327 PRTY 1 05/03/83 15:34:07 ORIG:.LM01 IN= 0012 OUT= 0144
TO: JUNEAU INFORMATION
FROM: JUDY/MATSU
TARGET: LJHL SUBJ: POM

TO: SENATOR KERTTULA
REPRESENTATIVES FRITZ, TISCHER, M. MILLER, CATO, COLL, KOPONEN, DAVIS,
LACHER AND LARSON

FROM: MARVIN BAL
P.O. BOX 3589
PALMER 99645 PH. 495-6630

I SUPPORT HB383, 5% CHILDCARE RETROACTIVE PAYMENT PLAN. I FEEL IT IS MONEY WELL SPENT. MANY OF MY FRIENDS FEEL THE SAME WAY.

MSG 83-00014494 PRTY 1 05/03/83 16:15.14 ORIG: LM01 IN= 0027 OUT= 0218
FROM: JUDY/MATSU TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M.W. MILLER, HERRMANN, DAVIS, GOLL AND KOPONEN (H.E.S.S.)

FROM: PATRICIA DAFT
PO BOX 1070
WILLOW 99688 PH. 495-6687

PLEASE SUPPORT HB383.

MSG 83-00014498 PRTY 1 05/03/83 10:20:39 ORIG: LH0; IN= 0020 OUT= 0219
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M.W. MILLER, HERRMANN, DAVIS, GOLL AND KOPONEN (H.E.S.S.)

FROM: DAN BOLLERUD
SRA BOX 355
WILLOW 99688

I SUPPORT HB 383 WITH THE 5% RETROACTIVE REIMBURSEMENT TO PRIVATE CHILD CARE FACILITIES. NOT PASSING THIS BILL COULD VERY WELL RESULT IN THE CLOSING OF EVEN MORE PRIVATE CARE FACILITIES WHICH, IF YOU LOOK AT ALL THE COST INVOLVED, ARE MORE COST-EFFECTIVE THAN STATE FACILITIES.

MSG 83-00014423 PRTY 1 05/03/83 16:56:52 ORIG: LM00 IN= 0012 OUT= 0182
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJHL SUBJ: P.O.M.

TO: SENATOR KERTTULA, BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, FISCHER, MULCAHY
REPS. LACHER, LARSON, FRITZ, TISCHER, M. MILLER, HERRMANN, GOLL, KOPONEN, DAVIS

FR: WILLIAM AND GRACE ELKINS
P O BOX 1131
WASILLA 99687 PH: 376-2670

RE: HB 383 - 5% RETROACTIVE INCREASE FOR RESIDENTIAL CHILD CARE FACILITIES

WE SUPPORT HB 383 FOR RETROACTIVE PAY INCREASE. WE FEEL THIS MONEY KEEPS THE KIDS GOING. PLEASE VOTE TO ALLOCATE THIS FUNDING.

MSG 83-00014425 PRTY 1 05/05/83 14:58:51 ORIG: LM01 IN= 0018 OUT= 0185
FROM: HARTIE/MATSU TO: JUNEAU INFORMATION
TARGET: LJNL SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M. MILLER, CATO, DAVIS, GOLL, AND KOPONEN (H.E.S.S.)

FROM: MARCIA CONN
BOX 50
WILLOW 99688

I SUPPORT HB 383 BECAUSE I KNOW THAT MANY PRIVATE FACILITIES ARE HAVING A DIFFICULT TIME BECAUSE THEIR COST OF CARE RATES WERE FROZEN. I FEEL THE 5% RETROACTIVE PAYMENT TO JULY OF 1982 IS MONEY WELL SPENT FOR THE GOOD OF ALASKA YOUTH AND SOCIETY.

MSG 83-00014418 PRTY 1 05/03/83 16:52:42 ORIG LH09 IN= 0011 OUT= 0134
FROM: MARY/MATSU
TARGET: LJHL SUBJ: P.O.M. TO: JNU INFO

TO: SENATOR KERTTULA, BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, FISCHER, HULCAHY
REPS. LACHER, LARSON, FRITZ, TISCHER, H. MILLER, HERRMANN, GOLL, KOPONEN, DAVIS

FR: PAM MIKKELSEN
P O BOX 1070
WILLOW 99688 PH: 495-6480

RE: HB 383 - 5% RETROACTIVE INCREASE FOR RESIDENTIAL CHILD CARE FACILITIES

I SUPPORT THIS LEGISLATION. THIS INCREASE IS JUST AS IMPORTANT AS INCREASES IN OTHER SERVICE AREAS. PLEASE VOTE FOR IT.

MSG 83-00014482 PRTY 1 05/03/83 18:05:02 ORIG: LM01 IN= 0024 OUT= 0213
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M.W. MILLER, HERRMANN, DAVIS, GOLL AND KOPONEN (H.E.S.S.)

FROM: BILLIE JEAN JOHNSON
PO BOX 1070
WILLOW 99688 PH. 495-6687

I SUPPORT HB383 WHICH ASK FOR A 5% RETROACTIVE PAYMENT FOR PRIVATE CHILDCARE FACILITY BACK TO JULY 1982. PLEASE VOTE TO ALLOCATE THIS MONEY.

MSG 83-00014426 PRTY 4 05/03/83 17:00:52 PIG: LM00 IN= 0013 OUT= 0184
FROM: MARY/MATSU TO: JNL INFO
TARGET: LJNL SUBJ: P.O.M.

TO: SENATOR KERTTULA, BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, FISCHER, MULCAHY
REPS. LACHER, LARSON, FRITZ, TISCHER, M. MILLER, HERNHANN, GOLL, KOPONEN, DAVIS

FR: BECKY FRIDAY
P O BOX 18
WILLOW 99688 PH: 495-6299

RE: HB 383 - 5% RETROACTIVE INCREASE FOR RESIDENTIAL CHILD CARE FACILITIES

I SUPPORT HB 383 FOR THE RETROACTIVE PAYMENT TO PRIVATE CHILD CARE FACILITIES TO JULY OF '82. I SUPPORT ALL THE GOOD THESE FACILITIES ARE OFFERING OUR YOUTH.

MSG 83-00014442 PRTY 1 , 05/03/83 17:15:05 ORIG: LM00 IN= 0016 OUT= 0196
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJHL SUBJ: P.O.M.

TO: SENATOR KERTTULA, BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, FISCHER, MULCAHY
REPS. LACHER, LARSON, FRITZ, TISCHER, M. MILLER, HERRMANN, GOLL, KOPONEN, DAVIS

FR: ROSS EPPERSON
P O BOX 125
WILLOW 99688 PH: 495-6364

RE: HB 383 - 5% RETROACTIVE INCREASE FOR RESIDENTIAL CHILD CARE FACILITIES

I SUPPORT HB 383 INCREASING THE RETROACTIVE PAY TO 5% TO PRIVATE CHILD CARE FACILITIES. A PRIVATE FACILITY IS A VERY COST EFFECTIVE INVESTMENT AND ANY MONEY SPENT TO HELP THEM IS WISE.

MSG 83-00014435 PRTY 1 05/03/83 17:10:58 ORIG LM00 IN= 0015 OUT= 0191
FROM: MARY/MATSU TO JNU INFO
TARGET: LJHL SUBJ: P.O.M.

TO: SENATOR KERTTULA, BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, FISCHER, MULCAHY
REPS. LACHER, LARSON, FRITZ, TISCHER, H. MILLER, HERRMANN, GOLL, KOPONEN, DAVIS

FR: JIM HAYES
P O BOX 108
WILLOW 99688 PH: 495-6350

RE: HB 383 - 5% RETROACTIVE INCREASE FOR RESIDENTIAL CHILD CARE FACILITIES

I SUPPORT HB 383. PRIVATE CHILD CARE FACILITIES NEED THIS EXTRA MONEY TO SURVIVE. THE FUTURE OF ALASKAN YOUTH IS AT STAKE. THANK YOU.

MSG 83-00014440 PRTY 1 05/03/83 17:14:34 ORIG: LM01 IN= 0022 OUT= 0195
FROM: MARTIE/HATSU TO: JUNEAU INFORMATION
TARGET: LJHL SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M.W. MILLER, HERRMANN, DAVIS, GOLL AND KOPONEN (H.E.S.S.)

FROM: PAT MILLER
PO BOX 1304
WASILLA 99687

I SUPPORT HB 383.

MSG 03-00014446 PRTY 1 05/03/93 17:17:47 ORIG: LH00 IN= 0017 OUT= 0197
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJHL SUBJ: P.O.M.

TO: SENATOR KERTTULA, BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS,
FISCHER, MULCAHY
REPS. LACHER, LARSON, FRITZ, TISCHER, M. MILLER, HERRMANN, GOLL,
KOPONEN, DAVIS

FR: RICK ALLEY
P O BOX 167
WILLOW 99688 PH: 495-6435

RE: HB 383 - 5% RETROACTIVE INCREASE FOR RESIDENTIAL CHILD CARE FACILITIES

I AM IN FAVOR OF SB 383.

MSG 83-00014434 PRTY 1 05/03/83 17:06:51 ORIG LM01 IN= 0129 OUT= 0137
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION
TARGET: LOHL SUBJ: POM

TO: REPRESENTATIVES FRITZ, TISCHER, M. MILLER, CATO, DAVIS, GOLL, AND KOPONEN (H.E.S.S.)

FROM: DAVE BACON
BOX 1070
WILLOW 99688

I SUPPORT HB 383 WHICH ADDS 5% RETROACTIVE PAYMENT TO PRIVATE CHILD CARE FACILITIES TO JULY OF 1982. MONEY SPENT THIS WAY US BETTER THAN $1,000,000 WORTH OF PICTURES FORT THE OLD FEDERAL BUILDING. PLEASE VOTE TO ALLOCATE THIS MONEY.

MSG 03-00014433 PRTY 1 05/03/93 17:05:11 ORIG: LM30 IN= 0014 OUT= 0186
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJHL SUBJ: P.O.M.

TO: SENATOR KERTTULA, BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, FISCHER, MULCAHY
REPS. LACHER, LARSON, BRITZ, TISCHER, M. MILLER, HERRMANN, SOLL, KOPONEN, DAVIS

FR: TOM SCHRODER
MILE 69 PARKS HIGHWAY
WILLOW 99688

RE: HB 383 - 5% RETROACTIVE INCREASE FOR RESIDENTIAL CHILD CARE FACILITIES

I SUPPORT HB 383 FUNDING FOR PRIVATE CHILD CARE FACILITIES. I THINK IT IS MONEY WELL FOR THE KIDS AND THE SOCIETY OF ALASKA.

HB

384

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB-384
Title: ...chief school administrators...
Sponsor: Tischer
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Steve Hole
Phone: 465-2865
Division: Management, Law & Finance
Date. 5/2/83

Approved by Commissioner: for Marshall L. Lind
Date: 5/2/83
Department: Education

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

HB
412

COMMITTEE REPORT

HOUSE

(7)

FURTHER: JUDICIARY

5/12/83

Date: APRIL 2, 1984

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 412

"An Act relating to adoption medical records; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 412 (HESS) [X] same title [ ] new title

and recommends THAT THE HESS CS DO PASS.

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Rick Vehl

T. H. Martin

Mike Davis

Nilo Kozman

[illegible]

J. Mastrich

Sam Testinger

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mal Tracker

CHAIRMAN

H 60

IV. ANALYSIS

A. Assumptions:

There would be no cost impact.

B. Program Summary:

No new positions would be necessary

C. Computations:

N/A

D. Economic Impact:

There would be no economic impact.

E. Impact on Local Governments:

There would be no impact on local governments.

ISSUING COMPANY'S NAME

MEDICAL DEPARTMENT
HEALTH EXAMINATION HISTORY

DATE

FULL NAME			ADDRESS
SOCIAL SECURITY NO. (OR EQUIV.)	DATE OF BIRTH		PLACE OF BIRTH
AGE / SEX	MARITAL STATUS		PROSPECTIVE POSITION AND NATURE OF WORK
MOTOR VEHICLE DRIVER ☐ NEW CERTIFICATE ☐ RECERTIFICATION			EMPLOYER CORPORATION, DEPARTMENT AND UNIT

PREVIOUSLY EMPLOYED BY	DATE	POSITION	REASON FOR LEAVING
1			
2			
3			
4			

HAVE YOU TRAVELLED OUTSIDE U.S.A. - WHERE - WHEN?

WILL THIS POSITION ENTAIL DUTY OUTSIDE U.S.A.?
☐ NO ☐ YES – WHERE –

FAMILY HISTORY–

Check if any near relatives had:

- ☐ TUBERCULOSIS
- ☐ HIGH BLOOD PRESSURE
- ☐ HEART DISEASE
- ☐ STROKES
- ☐ DIABETES
- ☐ CANCER
- ☐ MIGRAINE
- ☐ KIDNEY DISEASE
- ☐ NERVOUS TROUBLES

AGE OF FATHER	IF DEAD- AGE AT DEATH	CAUSE OF DEATH		
AGE OF MOTHER	IF DEAD- AGE AT DEATH	CAUSE OF DEATH		
BROTHERS AND SISTERS	NO. LIVING	AGES	NO. DEAD	AGES AT DEATH
	CAUSE OF DEATH			
AGE OF HUSBAND OR WIFE	IF DEAD- AGE AT DEATH	CAUSE OF DEATH		
CHILDREN	NO. LIVING	AGES	NO. DEAD	AGES AT DEATH
	CAUSE OF DEATH			

PAST HISTORY – HAVE YOU EVER HAD–

☐ FREQUENT HEADACHES	☐ INFLUENZA	☐ HEPATITIS	☐ FREQUENT SORE THROATS	☐ HIGH BLOOD PRESSURE
☐ DIZZINESS	☐ PNEUMONIA	☐ TYPHOID FEVER	☐ SCARLET FEVER	☐ DIABETES
☐ FAINTING	☐ TUBERCULOSIS	☐ MALARIA	☐ GROWING PAINS, MUSCLE DISEASE	☐ STOMACH ULCERS
☐ FITS (Epilepsy)	☐ PLEURISY	☐ SYPHILIS	☐ ANEMIA	☐ HERNIA (Rupture)
☐ CONVULSIONS	☐ BRONCHITIS	☐ GONORRHEA	☐ RHEUMATIC FEVER	☐ ARTHRITIS
☐ SINUSITIS	☐ ASTHMA	☐ SKIN TROUBLE	☐ KIDNEY DISEASE	☐ RHEUMATISM
☐ HEAD OR SPINAL INJURIES	☐ HAY FEVER	☐ BACKACHE	☐ HIVES OR ECZEMA	☐ VARICOSE VEINS
☐ PSYCHIATRIC DISORDERS	☐ EAR INFECTION	☐ BLOOD TROUBLE	☐ HEART TROUBLE	☐ ANY OTHER DISEASE

HAVE YOU EXPERIENCED WHAT YOU CONSIDER UNUSUAL OR EXCESSIVE SYMPTOMS, SUCH AS:

	WHEN	HOW LONG		WHEN	HOW LONG
POOR HEARING			VOMITING		
COUGH			PAIN OR CRAMPS		
COUGHING UP BLOOD			CHANGE IN BOWEL ACTION		
LUNG TROUBLE			TROUBLE WITH URINATING		
CHEST PAIN			SWELLING		
SHORTNESS IN BREATH			PERSISTENT LUMPS		
PALPITATION			PERSISTENT SORES		
LOSS OR GAIN IN WEIGHT			BACKACHE		
INDIGESTION			INSOMNIA		
NAUSEA			NERVOUS BREAKDOWN		

LIST ALL ACCIDENTS, INJURIES, SURGICAL OPERATIONS, DATES OF EACH, ANY RESULTING DEFECTS OR DISABILITIES AND EXTENSIVE CONFINEMENT FOR ILLNESS OR INJURY:

HAVE YOU HAD ANY ILLNESS OR CONSULTED A PHYSICIAN IN THE PAST YEAR?

☐ NO ☐ YES – EXPLAIN –

DURATION	NAME OF PHYSICIAN

MILITARY SERVICE DATA	TIME IN SERVICE FROM TO BRANCH OF SERVICE	HAVE YOU EVER BEEN REJECTED BY AN ARMY – NAVY PHYSICAL EXAMINATION? ☐ YES ☐ NO ☐ MEDICAL DISCHARGE ☐ OTHER	HAVE YOU EVER BEEN REJECTED ON A LIFE INSURANCE EXAMINATION? ☐ YES ☐ NO INJURIES IN SERVICE

DO YOU USE ANY DRUGS, SEDATIVES, OR LAXATIVES?	TO WHAT EXTENT DO YOU USE:	DO YOU CONSIDER YOURSELF IN GOOD HEALTH?
☐ YES ☐ NO	ALCOHOL TOBACCO	☐ YES ☐ NO

HAVE YOU EVER BEEN VACCINATED FOR THE FOLLOWING? *(Check Yes or No)*

	YES	NO		YES	NO		YES	NO
SMALL POX			TETANUS			DIPHTHERIA		
TYPHOID			INFLUENZA			POLIO		

FOR WOMEN ONLY	DO YOU STILL MENSTRUATE? ☐ YES ☐ NO	MENSTRUAL CYCLE: PERIOD EVERY ___ DAYS; DURATION ___ DAYS	LAST MENSTRUAL PERIOD WAS	PAINFUL PERIOD ☐ YES ☐ NO

IF YOU BELIEVE THAT ANY CONDITIONS OF YOUR WORK MAY HAVE ANY EFFECT ON YOUR HEALTH, EXPLAIN TO EXAMINING PHYSICIAN.

WHAT COMPENSATION, SETTLEMENT OR AWARDS HAVE YOU RECEIVED FROM ANY SOURCE FOR PERSONAL INJURIES OR ILLNESS?

FROM WHOM:

REASONS:

DATES: AMOUNTS PAID:

SUMMARY OF HISTORY BY PHYSICIAN:

I certify that the above information is correct.

(SIGNATURE OF APPLICANT) (SIGNATURE OF EXAMINING PHYSICIAN)

IN CASE OF EMERGENCY PLEASE NOTIFY	RELATIONSHIP
	TELEPHONE NO.
ADDRESS	TELEPHONE NO.
NAME AND ADDRESS OF FAMILY PHYSICIAN	

PHYSICAL EXAMINATION

DATE

NAME DEPT.

REASON FOR EXAMINATION	AGE	HEIGHT	WEIGHT	DESIRED WEIGHT	HAIR COLOR

BLOOD PRESSURE	TEMPERATURE	PULSE RATE-BEFORE EXERCISE	PULSE RATE-AFTER EXERCISE

VISION - NEAR (JAEGER)	VISION - FAR (JAEGER)	CORRECTED - NEAR	CORRECTED - FAR
R L	R/20 L/20	R L	R/20 L/20

COLOR VISION	DEPTH	HEARING - RIGHT EAR	HEARING - LEFT EAR
		☐ NORMAL ☐ ABNORMAL	☐ NORMAL ☐ ABNORMAL

PUPILS (INCL. REFLEXES)	LIDS	HORIZONTAL FIELD	FUNDUSCOPIC	EYES - OTHER FINDINGS
R L	R L	R L	R L	

NOSE	MOUTH	TEETH	HEAD

PHARYNX & TONSILS	EARS	NECK	THYROID

CHEST: LUNGS: BREASTS:
ANY DEFORMITIES OF THE CHEST WALL.
NOTE: RALES, WHEEZES, DULLNESS, RESONANCE, EMPHYSEMA, TUBERCULOSIS, ANY ABNORMALITY.

HEART:
NOTE: MURMURS, ARRHYTHMIAS, ENLARGEMENTS, IF ORGANIC DISEASE PRESENT, EVIDENCE OF FAILURE. IS IT FULLY COMPENSATED?

ABDOMEN:
SCARS, MASSES, PALPABLE VISCERA, LIVER, KIDNEYS, SPLEEN

HERNIA	INGUINAL R L	OTHER (DESCRIBE)	TRUSS WORN ☐ YES ☐ NO

NUTRITION	POSTURE

GENERAL APPEARANCE AND DEVELOPMENT ☐ GOOD ☐ FAIR ☐ POOR	SPINE

SKIN	GASTROINTESTINAL ULCERATION OR OTHER DISEASE; EXPLAIN: ☐ YES ☐ NO

PERIPHERAL VESSELS (RADIAL, DORSALISPEDIS POST. TIBIAL - PULSATION AND SCLEROSIS)

LYMPH NODES

HANDS AND ARMS	FEET AND LEGS

EDEMA	VARICOSITIES	JOINTS

GENITO – URINARY – SCARS	URETHRAL DISCHARGE

ANUS	RECTUM

PROSTATE

PELVIC

REFLEXES – RHOMBERG ☐ POSITIVE ☐ NEGATIVE	NORMAL ☐ RIGHT ☐ LEFT	HYPERACTIVE ☐ RIGHT ☐ LEFT	ABSENT ☐ RIGHT ☐ LEFT

DO YOU FIND ANY EVIDENCE OF OPERATIONS, INJURIES OR ILLNESSES NOT LISTED BY APPLICANT, AND "OTHERS" SUCH AS EMOTIONAL REACTIONS? LIST AND GIVE DATES.

N = NORMAL – OTHERWISE LINE TO BE COMPLETED.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M

February 10, 1984

SUBJECT: Sectional Analysis of CS for HB 412

TO: Representative Mae Tischer
Chairman, House HESS

FROM: Richard C. Folta
Legislative Counsel

Section 1 adds a new article on adoption information in Chapter 50 of Title 18 concerning vital statistics.

Access to available nonidentifying information on previous medical conditions and treatment, immunization records and other medical information relevant to the health care of a genetically-related person would be permitted adoptive parents and adopted persons begining January 1, 1985. The department, child adoption agency or a person authorized by law, such as a guardian appointed by a court, to place a person for adoption would be required to maintain and furnish the state register the above information on a standardized form prepared by the Department of Health and Social Services. Finally, certain key words are defined in a definition section.

Section 2 would require the clerk of the Superior Court, the above department, or a person placing a person for adoption, to obtain the above information directly from each known biological parent for the state register.

The privacy of biological parents of an adopted person would not be violated by release of "medical history" under this bill to adoptive parents for the health purposes of an adopted person.

RCF:ojb
J3/076

POSITION PAPER/Department of Health & Social Service

POSITION PAPER

HOUSE BILL NO. 412

Page 1

"An Act relating to adoption medical records"

House Bill No. 412 amends the Vital Statistics Act and the adoption statute to require collection of nonidentifying information on the health history of each biological parent, adopted person, and blood relatives of each biological parent, if available. The Department agrees that this information could be useful and would support the enactment of such legislation. However, there are some changes we propose, as follows:

Page 1, line 11: "If the information is available" be changed to "whatever information is available, the state registrar shall, upon request,..." This change is suggested because in all cases, after January 1, 1984, there will be some information available, even if it is on only the biological mother. The words "upon request" should be added because without it the meaning indicates that the information would be automatically provided. The information should be provided only if the adoptive parents or the adoptee want it. Many adoptions are by a step-parent so the information is already known.

Page 1, line 17: Change "prepared by the commissioner" to "prescribed and furnished by the bureau" to be consistent with similar provisions of AS 18.50.

Page 1, line 19: Change "commissioner" to "department"

Page 1, line 20: Change "or a person authorized by law or regulation to place a person for adoption" to "or the person placing a child for adoption." This change is suggested because not all persons are required to be authorized by law or regulation to place a person for adoption. An example would be an attorney who handles only one adoption a year. This change is consistent with the wording on page 2, line 22.

(?) Page 1, line 27: Delete the words "request the commissioner to" since it is the Department's position that this function should lie with the state registrar.

Page 1, line 29: Change "records of the commissioner" to "records of the department"

POSITION PAPER/Department of Health & Social Services

Page 2, line 1: Change as indicated for page 1, line 20.
Page 2, line 3: Change as indicated for page 1, line 20.
Page 2, line 6: Change as indicated for page 1, line 20.

Finally, it is suggested that number 4 be deleted from page 2, line 16 because commissioner is defined under Sec. 18.50.030 and number 5 be deleted from page 2, line 18 because state registrar is defined under Sec. 18.50.370 (11) and that the definitions for Chapter 50 which appear under Sec. 18.50.370 be combined with those under Sec. 18.50.520.

With these changes the Department of Health and Social Services would support passage of House Bill No. 412.

RECOMMENDED BY: Joan P. Brooks

JOAN P. BROOKS
STATE REGISTRAR
BUREAU OF VITAL STATISTICS

DATE: May 24, 1983

RECOMMENDED BY: Daniel J. Meddleton

DANIEL J. MEDDLETON
DIRECTOR
DIVISION OF PLANNING, POLICY,
AND PROGRAM EVALUATION

DATE: May 24, 1983

APPROVED BY: Robert London Smith

ROBERT LONDON SMITH, PH.D.
COMMISSIONER

DATE: 5/24/83

(b) An owner of a restaurant or tavern shall provide and maintain sanitary toilet accommodations for public use. (§ 1 ch 58 SLA 1974; am § 1 ch 175 SLA 1975; am § 1 ch 78 SLA 1976; § 45 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 28, 1982, repealed former subsection (a) which read "An owner of a restaurant or tavern in operation on August 15, 1976 shall provide and maintain no less than one sanitary toilet accommodation for public use, and shall comply with this requirement within 180 days after August 15, 1976."

Article 3. Facilities and Special Events Open to General Public.

Section
200. Toilet facilities required

Sec. 18.35.200. Toilet facilities required. An owner of public facilities or sponsor of special events open to the general public shall where practical provide and maintain at the facilities or events sanitary toilet accommodations for public use whether the facilities or events are permanent or temporary. No charge may be required for use of a toilet facility in any public place. (§ 1 ch 58 SLA 1974; am § 46 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 28, 1982, deleted the former second sentence which read "an owner of a permanent facility in operation on August 1, 1974 has two years from that date to comply with the requirement of this section."

Chapter 50. Vital Statistics Act.

Article
3. Registration Requirements, Procedures and Certificates (§§ 18.50.210, 18.50.211)
4. Records (§ 18.50.290)

Article 3. Registration Requirements, Procedures and Certificates.

Section
210. Court reports of adoption
211. Certificate of birth for foreign-born adopted person

Sec. 18.50.210. Court reports of adoption. (a) For each adoption decreed by a court in the state, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the bureau. The report shall include the facts necessary to locate and identify the original certificate of birth, if any, of the person adopted. If the person being adopted was born in the state, the report shall provide information necessary to establish a new certificate of birth. If the person being adopted was born outside the United States, the report

shall provide findings, if requested by the adoptive parents, or other information necessary to establish a certificate of birth. The report shall identify the order of adoption, and be certified by the court or the clerk.

(b) The petitioner or his attorney shall furnish with the petition for adoption information in the possession of the petitioner necessary to prepare the adoption report. The social, welfare agency or other person concerned shall supply the court with additional information in his possession necessary to complete the report. The furnishing of the information is a prerequisite to the issuance of a final decree in the matter.

(c) Whenever an adoption decree is amended or vacated, the court shall prepare a report on a form prescribed and furnished by the bureau. The report shall include the facts necessary to identify the original adoption report and the facts amended in the adoption decree necessary to properly amend the original report, or the new certificate of birth if already established.

(d) Before the 11th day of each calendar month, the court shall forward to the bureau reports of decrees of adoption, including those vacated or amended, which were entered in the preceding month, together with the related reports the bureau requires.

(e) When the bureau receives a report of an adoption, or vacation or amendment of an adoption from a court for a person born in the United States but outside the state, a copy shall be made for the bureau's files and the original shall be forwarded to the appropriate registration authority in the state of birth. (§ 17 ch 118 SLA 1960; am §§ 1, 2 ch 76 SLA 1982)

Effect of amendments. — The 1982 amendment, in subsection (a), divided the former second sentence into the present second, third and fifth sentences, inserted "if any" in the present second sentence, added "If the person being adopted was born in the state, the report" to the beginning of the present third sentence, deleted "of the person adopted" from the end of the present third sentence, added the present fourth sentence, and substituted "The report" for "and" at the beginning of the present fifth sentence. The amendment also inserted "in the United States but" near the middle of subsection (e).

Sec. 18.50.211. Certificate of birth for foreign-born adopted person. (a) Subject to the limitation in (b) of this section, the state registrar shall issue a certificate of birth for a person born outside the United States whose adoptive parents are residents of the state at the time of the adoption, upon request by the adopted person, or by the adopted person's adoptive parent or guardian that the certificate be made, and upon receipt of an adoption report as provided in AS 18.50.210 together with

(1) the information necessary to identify the original certificate of birth; or

(2) if there is no original certificate of birth, the findings of the court under AS 20.15.170(b), unless the adoption proceeding is commenced before August 31, 1982, in which case an affidavit of an adoptive parent setting out the true or probable date and place of birth and parentage of the adopted person must accompany the adoption report.

(b) The state registrar may not issue a certificate of birth under this section if the adopted person for whom the certificate is intended is 18 or more years of age at the time the request for the certificate is made.

(c) A certificate of birth issued under this section shall be in a form prescribed by the state registrar and shall state that it is not evidence of United States citizenship.

(d) Upon proof of naturalization an amended certificate of birth shall be issued under this section that deletes the statement that the certificate is not evidence of United States citizenship. (§ 3 ch 76 SLA 1982)

Article 4. Records.

Section

290. Corrections and amendments

Sec. 18.50.290. Corrections and amendments. (a) A certificate or record registered by the bureau may be amended only in accordance with this chapter and the regulations the department adopts to protect the integrity and accuracy of vital statistics records.

(b) A certificate that is amended under this section shall be marked "amended," with the date of amendment. A summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The department shall prescribe by regulation the conditions under which additions or minor corrections may be made to vital statistics records without the certificate being considered amended.

(c) Upon receipt of a certified copy of a court order changing the name of a person born in the state or a person born outside the United States whose adoptive parents are residents of the state at the time of the adoption and upon request of the person or the person's parent, guardian, or legal representative, the state registrar shall amend the certificate of birth to reflect the new name.

(d) When a certificate is corrected or amended under this section, the state registrar shall instruct the local custodian of the copy of the certificate to make the changes in the copy. (§ 25 ch 118 SLA 1960; am § 4 ch 76 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "or a person born outside the United States whose adoptive parents are residents of the state at the time of the adoption" and substituted "the person's" for "his" in subsection (c).

§ 18.50.200

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Replaced by SLA 82

Sec. 18.50.210. Court reports of adoption. (a) For each adoption decreed by a court in the state, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the bureau. The report shall include the facts necessary to locate and identify the original certificate of birth of the person adopted; shall provide information necessary to establish a new certificate of birth of the person adopted; and shall identify the order of adoption, and be certified by the court or the clerk.

(b) The petitioner or his attorney shall furnish with the petition for adoption information in the possession of the petitioner necessary to prepare the adoption report. The social, welfare agency or other person concerned shall supply the court with additional information in his possession necessary to complete the report. The furnishing of the information is a prerequisite to the issuance of a final decree in the matter.

(c) Whenever an adoption decree is amended or vacated, the court shall prepare a report on a form prescribed and furnished by the bureau. The report shall include the facts necessary to identify the original adoption report and the facts amended in the adoption decree necessary to properly amend the original report, or the new certificate of birth if already established.

(d) Before the 11th day of each calendar month, the court shall forward to the bureau reports of decrees of adoption, including those vacated or amended, which were entered in the preceding month, together with the related reports the bureau requires.

(e) When the bureau receives a report of an adoption, or vacation or amendment of an adoption from a court for a person born outside the state, a copy shall be made for the bureau's files and the original shall be forwarded to the appropriate registration authority in the state of birth. (§ 17 ch 118 SLA 1960)

Sec. 18.50.220. New certificate of birth. (a) The state registrar shall establish a new certificate of birth for a person born in the state, upon proper request that the certificate be made, and upon receipt of

(1) an adoption report as provided in AS 18.50.210, or a certified copy of the decree of adoption from a court of competent jurisdiction in another state, together with the information necessary to identify the original certificate of birth and to establish the new certificate of birth; however, a new certificate of birth may not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person if he is of legal age; or

(2) the evidence required by law and regulation proving that the person has been legitimated.

(b) When a new certificate of birth is established, the actual place and date of birth shall be shown. The new certificate shall be substituted for the original certificate of birth, and

Joyce Lanier 586-7701
requests hearing
on bill

SB 241

HB 412 TITLE & SPONSOR SUMMARY 08:53 1/17/84 PAGE 1 OF 2
AMENDED TITLE:
AN ACT RELATING TO ADOPTION MEDICAL RECORDS, AND PROVIDING
FOR AN EFFECTIVE DATE

PRIME SPONSOR: SZYMANSKI.
CO-SPONSORS: FRITZ, MALONE, KOPONEN.
CURRENT STATUS: 5/12/83 IN (H) HESS REFERRAL: JUDICIARY
HB 412 HOUSE ACTION 08:54 1/17/84 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/12/83	01	1293	FIRST READING -- COMMITTEE REPORTS HESS JUDICIARY RULES

**** ** ** *** *** ***

Alaska State Legislature

House of Representatives

Representative Mike Szymanski

Official Business

SR-A Box 1304B
Anchorage, Alaska 99502
Phone (907) 349-3373

While in Session:
Pouch V
State Capitol
Juneau, Alaska 99811

TO: House HESS Committee

FROM: Representative Mike Szymanski

SUBJECT: HB 412 - relating to adoption medical records.

DATE: May 24, 1983

Under present statute, there is no provision which makes it mandatory that an adopted child's medical history and records be made available to the adopted child and the adoptive parents.

A constituent of mine, Ms. Janice Griffith, contacted me because her adopted child had developed an illness which was "predictable" had the child's medical history/records been available.

It is the intent of this legislation to do several things:

1. It would require that information relating to the medical history of an adopted child be collected and recorded on a form and attached to the adoption records at the time of adoption. This would be for all adoptions, private, agency, or State.

2. For those adoptions which have occurred prior to the effective date of this legislation where the medical history was not mandatorily required to be included in the records, the Department of Health & Social Services would now be required to obtain this information if it is available and if requested by the child or the adoptive parents.

3. This legislation would now make the information available upon request to the adoptive parents and to the adopted child.

4. The information which will be included will all be nonidentifying information.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

5/24/83

M E M O R A N D U M

TO: House HESS Committee

FROM: Linda Otey, Committee Aide

RE: HB 412 Summary/ "An Act relating to adoption medical records; and providing for an effective date."

This legislation would direct the state Registrar, if the information is available, to provide the adoptive parents of a person adopted after Jan. 1, 1984, and an adopted person who has been adopted after that date, with nonidentifying information on the health history of each biological parent, adopted person, and blood relatives of each biological parent.

For all adoptions after Jan. 1, 1984, the state, child adoption agencies, or a person authorized to place a child for adoption must furnish the state Registrar the nonidentifying information required above. If the information is requested but not available for adoptions that occurred before Jan. 1, 1984, the Registrar must request the Commissioner of H&SS to attempt to obtain the required information. Adoption agencies and persons authorized to place a person for adoption would be required to maintain records of the information.

Effective date, January 1, 1984.

Further referral - House Judiciary Committee

folder content

bill	summary
statutes	Szymanski Memo

position paper and fiscal note requested from the Dept. of H&SS but not yet delivered.

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99311
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, House HESS Staff
DATE: February 10, 1984

RE: Comparison of CSHB 412 (HESS) to HB 412

For your convenience, I have compared the proposed House HESS Committee Substitute for House Bill 412 to the bill as originally introduced.

Page 1, line 13, change "1984" to "1985."

Page 1, line 14, change "1984" to "1985."

Page 1, line 19, insert "authorized by law," after the word "person."

Page 1, line 22, change "1984" to "1985."

Page 1, line 25, change "1984" to "1985."

Page 1, line 25, change "1984" to "1985."

Page 2, line 1, insert "authorized by law," after the word "person."

Page 2, line 25, changes the effective date clause to january 1, 1985.

/wtl

HB

418

COMMITTEE REPORT

HOUSE

(7) FURTHER:

5/16/83 Date: _____

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 418

"An Act relating to the rights of physically disabled persons."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60

POSITION PAPER/Department of Health & Social Service

POSITION PAPER

HOUSE BILL NO. 418

"An Act relating to the rights of physically disabled persons."

The effect of the act: As 18.06.020(b) entitles a visually and otherwise physically disabled person full and equal accommodations, advantages, facilities and privileges on all common carriers, airplanes, motor vehicles, trains, buses, street cars, boats or any other public conveyance, hotels, lodging, places of public accommodation, amusement, or resort and other places to which the general public is invited.

Section (c) of AS 18.06.020 provides that a blind person has a right to be accompanied by a guide dog in places listed in Section (b).

HB 418 expands Section (c) to include a service dog in the same way as a guide dog is now allowed to accompany a physically disabled person in places listed in (b) of AS 18.06.020.

The existing law and the amendment proposed by HB 418 each provide that the guide or service dog shall be allowed to accompany the person at no extra charge and that the person with the dog shall be liable for any damage done by the dog.

Discussion:

Guide dogs have for a long period of time, been provided by law with sanctions which allowed them to accompany their master as he conducted his normal living routine. More recently dogs have been trained beyond the seeing eye skill and are being utilized as "hearing dogs" to aid the deaf as well as to retrieve and facilitate for the immobile person. This expanded use of the trained service dog to aid the physically handicapped has presented a legal and financial problem to the owner who must deal with a system which limits itself to the single class of guide dog as a recognized exception and treats all other service dogs as pets.

HB 418 includes services dogs as equal to guide dogs and elevates these animals from the category of being only a pet.

Recommendation:

The Department of Health and Social Services supports HB 418.

Recommended by: Philip Shapiro

Philip Shapiro, M.D.
Director, Division of
Mental Health and
Developmental Disabilities

Date: 5/25/83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 5/25/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

BILL/Resolution No.: House Bill 418
Title: Rights of physically disabled persons
Sponsor: Lacher, Fritz, and Lindauer
Requestor: _____

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Mental Health & DD
BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Philip Shapiro, M.D. Phone: 465-3370
Division: Mental Health & Developmental Disabilities Date: 5/24/83
Approved by Commissioner: Kilbert London Smith Date: 5/25/83
Department: Health and Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/83

MEMORANDUM State of Alaska

TO: HESS Committee
Alaska State Legislature

DATE: May 24, 1983

FILE NO:

TELEPHONE NO:

FROM: Michael C. Morgan
Director
Division of Vocational
Rehabilitation

SUBJECT: HB 418

Please find attached a fiscal note from the Department of Education on HB 418, An Act relating to the rights of physically disabled persons."

While the division has not had the opportunity to discuss the content of this bill with the State Board of Education, I can see no reason why the Board would object.

The bill simply includes some provision of rights for the physically disabled in an existing statute.

There will be no cost to the Department of Education.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB418
Title: Rights of Physically Disabled
Sponsor: Representative Lacher
Requestor: Representative Lacher

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Voc Rehab
BRU, Program of Subprogram(s) Affected: Vocational Rehabilitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						1

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael C. Morgan Michael C. Morgan Phone: 465-2814
Division: Vocational Rehabilitation Date: May 24,1983

Approved by Commissioner: for Harold Raynolds, Jr. Date: May 24,1983
Department: Education

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

MAY 04 1983

April 29, 1983

Barbara Lacher, State Representative
Pouch V
Juneau, 99811

Dear Representative Lacher:

I would first like to commend you for the outstanding legislative job you have done to date for the Matanuska-Susitna Valley residents. Your tenacious ability to work hard and represent all of your constituents fairly is a tribute to your office and your personal abilities.

Enclosed you will find a House Bill recently passed in North Dakota to admit handicapped persons accompanied by a service dog to public places. I am not familiar with the Alaska State law regarding this subject but assume it speaks only to guide dogs for the blind. Could you please research the existing legislation and inform me as to the possibilities of amending the law to include service dogs for the handicapped. I plan to be in Juneau May 20, 1983, and would like to meet with you to discuss this matter in depth.

As the Coordinator for Project ACTIVE, a developmental and adapted physical education program in the Mat-Su Schools, I am pleased to state that our District is in compliance with PL-94 142 with regard to physical education for the handicapped child. It disturbs me greatly to know that this is not true in other school districts in our State. Hence, handicapped children, Statewide, are being short changed and indeed their school districts may be in violation of the Federal Law, PL - 94 142. I plan to meet with William Mulnix, Director of the - Office for Exceptional Children, in the Department of Education in Juneau. I would appreciate your assistance in scheduling a meeting with Mr. Mulnix on May 20,1983.

Representing the Alaska Association of Health, Physical Education, Recreation and Dance (AAHPERD), I plan to meet with Darby Anderson, Office of School Improvement, Dept. of Ed., to determine the role AAHPERD can take to insure quality health and physical education programs through the Effective Schooling Plan.

I plan to write the aforementioned persons to set up meeting times on May 20. However, your accessibility to local phone calls in Juneau will be of great service to me in verification of these meetings.

Thank you for your time and efforts in the above matters. I will be awaiting your confirmation of our possible meeting.

Respectfully yours,

Barbara Cadden

Barbara Cadden

Forty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1469

Introduced by

Representative Eagles

A BILL for an Act to amend and reenact section 25-13-02 of the North Dakota Century Code, relating to the admittance to public places of blind and physically handicapped persons who are accompanied by a guide or service dog.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-13-02. Blind person or physically handicapped persons accompanied by guide or service dog to be admitted to public places. Every totally or partially blind person shall have the right to be ~~handicapped~~ accompanied by a guide dog and every physically disabled person shall have the right to be accompanied by a service dog, especially trained for the purpose those purposes, in places of public accommodations, common carriers, and all places in which the public is generally invited, without being required to pay an extra charge for the guide or service dog; provided that he such persons shall be liable for any damage done by the dog or facilities by such dog the dogs.

Amended

Sec. 18.05.061. Penalty for violation. A person who violates a provision of this chapter or a regulation adopted under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $500, or by imprisonment for not more than one year. Each day that a person continues a violation is a separate offense. (§ 40-1-6(c) ACLA 1949)

Revisor's notes. — The words "rule or" were deleted preceding "regulation" and the word "adopted" was substituted for "promulgated" following "regulation" by the revisor of statutes pursuant to AS 01.05.031.

Sec. 18.05.070. Definitions generally. In this chapter

(1) "department" means the Department of Health and Social Services;

(2) "commissioner" means the commissioner of health and social services. (§ 40-1-1 ACLA 1949; am § 2 ch 149 SLA 1968; am § 6 ch 104 SLA 1971)

Revisor's notes. — The text of a former subsection (b), defining "impairment" as used in AS 18.05.044 and 18.05.046, was relocated to those sections by the revisor of statutes under authority of AS 01.05.031.

Legislative history reports. — For report on ch. 149 SLA 168 (CSHB 358 am S), see 1968 House Journal, p. 475.

Chapter 06. Rights of Blind and Otherwise Physically Disabled Persons.

Section
10. State policy
20. Rights
30. Rights as pedestrians
40. Penalty for denying rights
50. Definitions

Collateral references. — 15 Am. Jur. 2d, Civil Rights, §§ 1-4.

14 U.S.C., Civil Rights Supplement, §§ 1-18.

Exclusion of person (for reason other than color or race) from place of public entertainment or amusement. 1 ALR3d 1165.

Businesses or establishments falling within state civil rights statute provisions prohibiting discrimination. 87 ALR3d 120.

Municipal corporation's power to enact civil rights ordinance. 93 ALR3d 1028.

Recovery of damages as remedy for wrongful discrimination under state or local civil rights provisions. 85 ALR3d 381.

Construction and effect of state legislation forbidding job discrimination on account of physical handicap. 90 ALR3d 393.

Sec. 18.06.010. State policy. It is the policy of this state to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the social and economic life of the state and to engage in remunerative employment. (§ 2 ch 19 SLA 1972)

Sec. 18.06.020. Rights. (a) The blind, the visually handicapped, and the otherwise physically disabled have the same right as the able-bodied to the full and free pedestrian use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

(b) The blind, the visually handicapped, and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

(c) Totally or partially blind persons have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places listed in (b) of this section without being required to pay an extra charge for the guide dog; however, the person with the guide dog is liable for any damage done to the premises or facilities by the dog. (§ 2 ch 19 SLA 1972)

Sec. 18.06.030. Rights as pedestrians. The driver of a motor vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide dog shall take all necessary precautions to avoid injury to the pedestrian, and a driver who fails to take all necessary precautions and causes injury to the pedestrian is liable in damages for the injury caused. A totally blind or partially blind pedestrian not carrying a cane as described in this section or using a guide dog in any of the places, accommodations or conveyances set out under AS 18.06.020 has all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind pedestrian to carry a cane as described in this section or to use a guide dog is not by itself evidence of contributory negligence. (§ 2 ch 19 SLA 1972)

Sec. 18.06.040. Penalty for denying rights. A person who denies or interferes with admittance to or enjoyment of the public facilities set out in AS 18.06.020 or otherwise interferes with the rights of a totally or partially blind or otherwise disabled person is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than 60 days, or by both. (§ 2 ch 19 SLA 1972)

HB
420

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

P.O. BOX 80288
COLLEGE, ALASKA 99708

December 23, 1983

Rep. Mae Tischer, Chairman
House Health, Education & Social Services Committee
500 "L" Street, Suite 310-G
Anchorage, AK 99501

Dear Representative Tischer:

In response to your letter of December 14th regarding the legislation I introduced last year, which is presently in your committee, I would like to have HB 420 passed out of committee, and after giving it some consideration, I plan to withdraw HB 90. Thank you.

Sincerely,

RB Bettisworth

Rep. Robert Bettisworth

RHB/mjw

HB
423

COMMITTEE REPORT

HOUSE

FINANCE

(7)

FURTHER:

5/19/83

Date: 5/24/83

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 423

"An Act making an appropriation to the Department of Education for school construction debt retirement; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[✓] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	
[signature] Do Pass	
Mike Davis Do Pass	
[signature]	
[signature]	

CHAIRMAN

[signature]

H 60

Chapter 18. State Aid to Local Governments.

Article
1. Aid for Miscellaneous Municipal Purposes (Repealed)
2. Aid for School Construction (§§ 43.18.100 — 43.18.135)
5. Cultural Facilities (§ 43.18.500)

Article 1. Aid for Miscellaneous Municipal Purposes.

Section
10—45. [Repealed]

Secs. 43.18.010 — 43.18.045.

Repealed by § 11 ch 155 SLA 1980.

Cross references. — For programs of municipal assistance, see AS 29.88.010 — 29.88.045, 29.89.010 — 29.89.100, 29.90.010 — 29.90.030 and 29.95.010 — 29.95.030.

Editor's notes. — The repealed article derived from § 10, ch. 95, SLA 1969; §§ 1 — 5, ch. 194, SLA 1970; § 3, ch. 84, SLA 1971; §§ 1, 2, ch. 127, SLA 1971; § 43, ch. 71, SLA 1972; §§ 3, 4, ch. 200, SLA 1972; § 6, ch. 32, SLA 1973; §§ 1, 2, ch. 87, SLA 1973; §§ 1, 2, ch. 43, SLA 1974; § 1, ch. 95, SLA 1974; §§ 44, 45, ch. 127, SLA 1974; § 1, ch. 45, SLA 1975; § 1, ch. 100, SLA 1975; §§ 1, 2, ch. 208, SLA 1976; §§ 1, 2, ch. 265, SLA 1976; §§ 4, 5, ch. 120, SLA 1977; § 24, ch. 168, SLA 1978; § 3, ch. 173, SLA 1978.

Article 2. Aid for School Construction.

Section
100. State aid for retirement of school construction debt
105. Public school facilities construction advance account
110. Eligibility
115. State aid
120. Application for aid
125. Conditions of state aid
130. Construction and implementation
135. Definitions

Sec. 43.18.100. State aid for retirement of school construction debt. (a) During each fiscal year, the state shall allocate to a municipality that is a school district, the following sums:

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

(2) 90 percent of

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

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

(3) 90 percent of

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

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

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

(A) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after December 31, 1981 to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed $25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1982 by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed $25,000 and are approved under AS 14.07.020(11).

(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall

(1) offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140;

(2) Repealed by § 10 ch 92 SLA 1982.

(c) The school construction account is established. Funds to carry out the provisions of this section may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of providing the share to which a borough or city is entitled under this section, those funds that are available shall be distributed pro rata among the eligible local governments.

(d) Money in the school construction account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this section reverts to the general fund.

(e) The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section, including but not limited to, the amount of state aid paid on a per capita and per student basis and the resultant effect on the rate of levy of taxes by the municipality for educational purposes.

(f) Repealed by § 17 ch 147 SLA 1978.

(g) In this section, unless the context requires otherwise,

(1) "commissioner" means the commissioner of education;

(2) "costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping or furnishing of public elementary and secondary school buildings and includes the sum total of all costs of financing and carrying out the project; these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary.

(h) An allocation under (a)(4) of this section for school construction begun after July 1, 1982, shall be reduced by the amount of money used for the construction of residential space, hockey rinks, planetariums, saunas, and other facilities for single purpose sporting or recreational uses that are not suitable for other activities. An allocation under (a)(4) of this section may not be reduced by the amount of money used for construction of a small swimming pool, tank, or water storage facility used for water sports. However, an allocation shall be reduced by the difference between the amount of money used to construct a swimming pool that is competition size or larger and the amount of money that would have been used to construct a small swimming pool, tank, or water storage facility, as determined by the commissioner.

(i) For the purposes of (a)(4) of this section

(1) an indebtedness for bonds is incurred after the bonds are sold;

(2) reimbursement for a cash payment may only be made after the payment is made to a vendor; and

(3) payments may not be made for costs that are incurred under a contract after the contract has been released. (§ 1 ch 249 SLA 1970; am § 1 ch 93 SLA 1971; am § 2 ch 137 SLA 1972; am § 1 ch 28 SLA 1973; am § 47 ch 127 SLA 1974; am §§ 1 — 3 ch 120 SLA 1977; am §§ 12, 17 ch 147 SLA 1978; am § 25 ch 168 SLA 1978; am §§ 8 — 10 ch 92 SLA 1982)

Effect of amendments. — The 1977 amendment rewrote subsection (a), inserted the paragraph (1) designation and added paragraph (2) in the third sentence of subsection (b), and added the language beginning "including but not limited to" to the end of subsection (e).

The first 1978 amendment, in subsection (a), deleted "and cash payments made by the borough or city before July 1, 1976

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to pay the cost of school construction" from the end of paragraph (1), substituted "80 per cent" for "50 per cent" at the beginning of paragraph (2), substituted "June 30, 1976 and before June 30, 1978" for "July 1, 1977" in subparagraphs (A) and (B) of paragraph (2), and added paragraph (3). The amendment also repealed subsection (f), which read "The provisions of (a)(2) of this section apply only to payments made before July 1, 1971. The provisions of (a)(3) of this section apply to payments made after June 30, 1971."

The second 1978 amendment, in paragraph (2) of subsection (g), substituted "the sum total of all costs of financing and carrying out the project" for "but is not limited to the costs of acquisition of sites, legal, engineering, fiscal, architectural and other fees of specialists or consultants, costs of labor, materials, equipment and supplies, costs of authorization, issuance and sale of bonds, notes, or other evidences of debt" at the end of the first sentence and added the second sentence.

The 1982 amendment, effective July 1, 1982, substituted "a municipality that" for "an organized borough or a city which" in the introductory language of subsection (a), substituted "the municipality" for "the borough or city" in paragraphs (1), (2)(A) and (B), and (3)(A) and (B), substituted "90 percent" for "80 percent" in the introductory language of paragraphs (2) and (3), inserted "and before January 1, 1982" in paragraph (3)(A) and (B), and added paragraph (4). The amendment also repealed paragraph (2) of subsection (b), which read "required the borough or city to provide, with its application, a certified copy of the notice to taxpayers required by AS 43.18.030," and added subsections (h) and (i).

Editor's notes. — AS 43.18.030, referred to in paragraph (2) of subsection (b), was repealed by § 11, ch. 155, SLA 1980. For programs of municipal assistance, see AS 29.88.010 — 29.95.030.

Sec. 43.18.105. Public school facilities construction advance account. The public school facilities construction advance account is established. The account consists of appropriations for distribution under AS 43.18.105 — 43.18.135 to boroughs and cities which are school districts to assist in paying the costs of public school facilities projects approved under AS 14.07.020(10) for which construction is commenced after June 30, 1978 and for which no bonding, notes, or other indebtedness was incurred before July 1, 1978. (§ 13 ch 147 SLA 1978)

Sec. 43.18.110. Eligibility. Eligibility of a proposed construction project for funding assistance under AS 43.18.105 — 43.18.135 shall be determined by the department based on standards and criteria established by regulation. The standards and criteria to be considered in determining eligibility include the following:

(1) emergency requirements;

(2) number of unhoused students;

(3) new elementary or secondary programs;

(4) existing community and school facilities and their condition; and

(5) economic and social stability of the community. (§ 13 ch 147 SLA 1978)

Sec. 43.18.115. State aid. (a) The amount of state aid payable in advance under AS 43.18.105 — 43.18.135 is the amount by which the cost of construction of the approved school construction project would cause the debt-to-valuation ratio of the municipality to exceed 12 per cent.

House HESS Comm
Davis / Goll / Tischer / Fritz

HB 423 –
Ralph Bennett - approx 31 mill. shortfall. Because of the current statute - cannot appro 60 mill in
Budget – HB 105 and be legally safe in re/ to 90% of current entitlement

Some Munis have authorized but unissued debt.
Davis - Approp will just take care of this year. future years?
Bennett - Same as intent of HB 251 - HB 420 reduces to 50% - indebtedness payback.
Tischer - Bettis propose to do w/ unorganized school districts! Philosophy to treat everyone equally. REAA's receive full funding - & imbalanced funding situation. If there's a change in statutes - consider rural areas - won't organize to establish a tax base.
Chitwood - AK M L - Supports & urges passage. REAA's do get 100% - if fund is a direct approp so the Legis always has control over what & where it is spent. Munis present the bill "after the fact."
Suggest - CS HB 251 - which pledges to fund existing entitlement but reduces entitlement to 50% & also increasing the amount of approval authority.

Chitwood - 1 suggestion - perhaps match grants to ~~to~~ sale of bonds

Bill Zyback - Asst to Mayor Bill Allan - Fbks NSB -
Critical to Fbks. Borough / 30 mill - part of fixed cost. Completing 3 schools w/new hi school next year. HB 105 = 65% of entitlement. Moon important than cap projects or supplemental passed earlier. Supports cap for future years per AML & monitoring on future debt.

- Herman here -

Tischer - Fbks - new schools? School enrollment - passed 4 years

Zyback - 3 Elem & 1 JR-SR high school - Project 600 new students next year

Steve Hole - Fiscal Note -

Tischer - Jump from 1977-78 from 9 mill to 30 mill increase

Hole - '78 ~~to~~ went from 50% to 80% - also substantial shift in Anch from town to urban areas - FY82 - Chp 82 - 90% Reimbursements.

Molly Hooker - Cap expenditure Cost State: Related $150 million - several are comb. elem/sec. schools - Hooker only deals w/ secondary programs.

Tischer - Moore hon HB 423 w/ Ind Rec.
No obj.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB - 423
Title: ...school construction debt retirement
Sponsor: Bettisworth
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Elem. & Secondary
BRU, Program of Subprogram(s) Affected: Debt Retirement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		30,916.7				
TOTAL OPERATING		30.916.7				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		30.916.7				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not provided by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Steve Hole
Phone: 465-2865
Division: Management, Law & Finance
Date: May 23, 1983

Approved by Commissioner: Harold Reynolds, Jr.
Date: May 23, 1983
Department: Education

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

History of Appropriations for AS 43.18.100

Fiscal Year	Total Eligibility	Actual Payment	Percent of Eligibility
FY-70	2,445,197	1,800,000	74.00%
FY-71	2,448,347	1,800,000	73.52%
FY-72	2,376,209	2,376,209	100.00%
FY-73	3,575,355	3,450,000	96.49%
FY-74	7,074,380	5,752,000	81.31%
FY-75	7,650,530	7,423,300	97.03%
FY-76	9,242,310	8,810,500	95.33%
FY-77	10,107,336	9,051,600	89.55%
FY-78	11,408,304	11,408,304	100.00%
FY-79	27,868,182	22,273,300	79.92%
FY-80	30,823,133	24,081,000	78.13%
FY-81	38,380,134	38,380,134	100.00%
FY-82	38,262,156	38,262,156	100.00%
FY-83 (as of 5-16-83)	62,769,390	49,669,700	79.13

	AUDITED FY-82 ELIGIBILITY	ELIGIBILITY ON DEBT ISSUED AFTER 12/31/81	TOTAL FY-84 ELIGIBILITY	@ 65.95%	DIFFERENCE
Anchorage	$10,532,909	$8,207,495	$18,740,404	$12,359,296	
Bristol Bay Borough	369,613		369,613	243,759	
Cordova	99,681		99,681	65,739	
Fairbanks No. Star Bor.	4,970,192	6,054,075	11,024,267	7,270,504	
Galena	45,998		45,998	30,336	
Haines Borough	93,688		93,688	61,787	
City & Borough Juneau	1,377,557	5,872,993	7,250,550	4,781,737	
Kenai Peninsula Bor.	6,007,170	8,907,716	15,198,197	10,023,210	
Ketchikan Gateway Bor.	980,388		980,388	646,565	
Kodiak Isl. Borough	1,683,285	1,512,900	3,196,185	2,107,884	
Mat-Su Borough	5,191,266	5,007,420*	10,198,686	6,726,033	
Nenana	9,956		9,956	6,566	
North Slope Borough	14,203,693	3,952,619	18,156,312	11,974,087	
Petersburg	481,373	495,000*	976,373	643,917	
City & Borough Sitka	1,019,581		1,019,581	672,413	
Skagway	21,530		21,530	14,199	
Unalaska	144,183		144,183	95,088	
Valdez	3,117,975		3,117,975	2,056,305	
Wrangell	111,516		111,516	73,545	
Yakutat	49,423		49,423	32,594	
TOTALS	$50,590,973	$40,010,218	$90,804,506	$59,885,564**	$30,918,942***

Chpt 92-SLA 82 - 90%-estimated - this cost at 13 mill

estimate by Dec 15

*Estimates of payments on authorized but as yet unsold issues.

**Difference between this number and budget amount of 59,887.8 due to rounding.

***Difference between this number and bill amount due to rounding.

5/23/83

Alaska Municipal League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

May 24, 1983

To: House HESS Committee

From: Ginny Chitwood

Re: HB 423 - - School Debt Appropriation

Alaska Municipal League urges your approval of HB 423, appropriating $30,916,706 to the Department of Education for school construction debt retirement. This amount represents the difference between the $59,887,800 currently proposed in the FY 84 operating budget and the $90,804,506 that the Department estimates as the local entitlement.

Several years ago, the Legislature developed this program to reduce the inequities between the REAA's, where the state pays 100% of school construction costs and the municipal school districts, where the local taxpayers were footing the bill. The original program provided for a 50% reimbursement on a two-year time delay, and later the percentage was increased to 80%. Over the years, changes have been made, including giving the Department of Education plan approval authority and raising the percentage of reimbursement to 100% for payments on debt issued before July 1, 1977.

Last session, two other changes were made to the program. In order to partially alleviate the cash flow problems in rapidly growing areas that were caused by the two-year time delay in reimbursements, the program was modified to phase in a current year reimbursement of payments on debt issued after December 31, 1981. The other changes made last year raised the percentage of reimbursement from 80% to 90% for payments on debt issued after July 1, 1977.

School boards, councils, and assemblies relied on the word of the legislature and took school projects to the voters for approval. The voters were told that the state would reimburse 90% of the payments. As an example, in the Anchorage school bond election, a letter signed by 21 Anchorage legislators was circulated to that effect.

Now, after the fact, there is talk of changing the ground rules. We realize that the program has ballooned beyond anyone's expectations and that there needs to be a change to ensure administrative and legislative control in the future, but believe that the existing obligations should be funded.

Enclosed is a list showing estimated FY 84 entitlements, projected shortfall without HB 423, and the mill levy equivalent of that shortfall. Also attached is a brief summary of this program of reimbursements for school construction debt retirement.

SCHOOL DEBT RETIREMENT

Impact of $59,887,800 Appropriation for FY 84

	Total FY 84 Entitlement	Projected Shortfall 66% Proration	Mill Levy Equivalent of Shortfall
Anchorage	$18,740,404	$6,371,737	0.612 mills
Bristol Bay Bor.	369,613	125,668	1.562 mills
Cordova	99,681	33,892	0.678 mills
Fbks N. Star Bor.	11,024,267	3,748,251	1.595 mills
Galena	45,998	15,639	2.51 mills
Haines Borough	93,688	31,854	0.51 mills
C. & B. Juneau	7,250,550	2,465,187	2.49 mills
Kenai Pen. Bor.	14,994,886	5,098,261	2.039 mills
Ketchikan Gate. B.	980,388	333,332	0.581 mills
Kodiak I. Bor.	3,196,285	1,086,737	2.898 mills
Mat-Su Borough	10,198,686	3,467,553	2.987 mills
Nenana	9,956	3,385	0.444 mills
North Slope Bor.	18,156,312	6,173,146	0.622 mills
Petersburg	976,373	331,967	3.32 mills
C. & B. Sitka	1,019,581	346,658	0.889 mills
Skagway	21,530	7,320	0.159 mills
Unalaska	144,183	49.022	0.545 mills
Valdez	3,179,975	1,081,192	0.561 mills
Wrangell	111,516	37,915	0.595 mills
Yakutat	49,423	16,804	1.323 mills

(On a $100,000 house, a one mill levy would result in $100 in taxes.)

estimates prepared 5/2/83

estimates revised 5/24/83

FY 84 Entitlement

	Entitlement on Debt Issued before 12/31/81	Entitlement on Debt Issued after 12/31/81 (estimates)	Total FY 84 Entitlement
Anchorage	$10,532,909	$ 8,207,495	$18,740,404
Bristol Bay Bor.	369,613		369,613
Cordova	99,681		99,681
Fbks N. Star Bor.	4,970,192	6,054,075	11,024,267
Galena	45,998		45,998
Haines Borough	93,688		93,688
C. & B. Juneau	1,377,557	5,872,993	7,250,550
Kenai Pen. Bor.	6,087,170	8,907,716	14,994,886
Ketchikan Gate. B.	980,385		980,388
Kodiak I. Bor.	1,683,285	1,512,900	3,196,285
Mat-Su Borough	5,191,266	5,007,420	10,198,686
Nenana	9,956		9,956
North Slope Bor.	14,203,693	3,952,619	18,156,312
Petersburg	481,373	495,000	976,373
C. & B. Sitka	1,019,581		1,019,581
Skagway	21,530		21,530
Unalaska	144,183		144,183
Valdez	3,117,975		3,117,975
Wrangell	111,516		111,516
Yakutat	49,423		49,423
totals	$50,590,977	$40,010,218	$90,601,195

Breakdown of Entitlement on post 12/31/81 Debt

	90% of Payment on Debt Issued After 12/31/81	Estimated 90% of Payment on Debt To Be Issued In May & June	Estimated Entitlement For FY 84 on Debt Issued After 12/31/81
Anchorage	$ 8,207,495		$ 8,207,495
Fbks N. Star Bor.	3,894,075	$ 2,160,000	6,054,075
C. & B. Juneau	2,717,528	3,155,465	5,872,993
Kenai Pen. Bor.	8,907,716		8,907,716
Kodiak I. Bor.		1,512,900	1,512,900
Mat-Su Borough	2,077,920	2,929,500	5,007,420
North Slope Bor.	3,952,619		3,952,619
Petersburg		495,000	495,000
totals	$29,757,353	$10,252,865	$40,010,218

* * * * * *

Estimated Entitlement on Debt Issued after 12/31/81	$40,010,218
Entitlement on Debt Issued before 12/31/81 (2 year lag)	50,590,977
Total FY 84 Entitlement for School Debt Retir-ment	$90,601,195

STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 43.18.100)

More than 10 years ago, the Legislature established this program of reimbursing municipalities for a portion of their school construction debt. The program started as a 50% reimbursement with a two year lag in payments, and over the years was changed to provide for a larger percentage of reimbursement (100% for payments on debt issued before 7/1/77 and 80% for the rest) and some oversight by the Department of Education. Last session, other changes were made to the program: the percentage of reimbursement was raised from 80% to 90% for payments on debt issued after 7/1/77 and current year reimbursements were authorized for payments on debt issued after 12/31/81, in order to phase out the two year lag.

In summary, the current program provides:

1. 100% of payments made two years earlier on school debt issued before July 1, 1977. (Payments made by the municipality in FY 82 are reimbursed by the State in FY 84.)

2. 90% of payments made two years earlier on school debt issued between July 1, 1977 and December 31, 1981. (Payments made by the municipality in FY 82 are partially reimbursed by the State in FY 84.)

3. 90% of cash payments made two years earlier for school construction costs. (Payments made by the municipality in FY 82 are partially reimbursed by the State in FY 84.)

4. 90% of payments made in the current year on school debt issued after December 31, 1981. (Payments to be made by the municipality in FY 84 are partially reimbursed in FY 84.)

5. Each municipality's entitlement is determined by adding the four categories listed above and then subtracting the amount of tobacco tax the district received two years earlier. (The amount of tobacco tax received in FY 82 is deducted from the FY 84 payment.)

The other factors of the program relate to the oversight and approval authority granted to the Department of Education and limits to the types of facilities that are eligible for reimbursement.

Prepared by the Alaska Municipal League
May 2, 1983

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House HESS Committee Date: May 23, 1961

FROM: Linda Otey, Committee Aide

RE: Summary/ HB 423 "An Act making an appropriation to the Department of Education for school construction debt retirement; and providing for an effective date."

Section 1. Appropriates $30.9 million from the general fund to D.O.E. the school consturction account of 43.18.100(c) for school construction debt retirement.

Section 2. Balance of account lapses on June 30, 1984.

Section 3. Effective date of July 1, 1983 (for FY 84 Budget)

folder content

left	right
Bill	Summary
Statutes	Bettisworth Memo
Fiscal Note from DOE	Impact of Approp per district -FY 84
Eligibility per dist./30.9million	Entitlements per district
	Entitlements pre 12/81 debt
	History/ Ak. Municipal League

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

P.O. BOX 80288
COLLEGE, ALASKA 99708

May 23, 1983

M E M O R A N D U M

To: Representatives Fritz and Tischer, Co-Chairs, and members of the House HESS Committee

From: Representative Bob Bettisworth RHB

Subject: HB423, "An Act making an appropriation to the Department of Education for school construction debt retirement; and providing for an effective date."

As you are no doubt aware, there is a growing concensus among legislators that a reduction in state aid for retirement of school construction debt under AS 43.18.100 is warranted. HB423 seeks to alleviate potential negative impact of any immediate and substantial reduction that might result during this legislative session.

The attached data for each school district outlines the most current projections of composite eligibility bearing in mind the uncertainty of such data. There are certain school districts that plan to authorize new issues or have authorized but unissued debt on the books that may affect the accuracy of the numbers.

I feel that the current statutory language contained in AS 43.18.100 where the words "shall allocate to a municipality that is a school district" appear is very clear and until and unless the legislature affects a statute change, we are legally bound to the composite formula now on the books. I have also introduced HB420 that would change the formula from 90% to 50%. Several legislators have indicated that such a change is necessary before funding the 1983 shortfall is addressed.

Again, I wish to reiterate that this bill seeks to bring the various school districts up to the level of construction debt compensation required by current law and until the statute is changed no less reimbursement is acceptable.

RHB/rob

Attachments:

SCHOOL DEBT RETIREMENT

Impact of $59,887,800 Appropriation for FY 84

	Total FY 84 Entitlement	Projected Shortfall 63% Proration	Mill Levy Equivalent of Shortfall
Anchorage	$18,740,404	$6,933,949	0.666 mills
Bristol Bay Bor.	369,613	136,757	1.563 mills
Cordova	99,681	36,882	0.738 mills
Fbks N. Star Bor.	11,024,267	4,078,979	2.39 mills
Galena	45,998	17,019	2.73 mills
Haines Borough	93,688	34,665	0.55 mills
C. & B. Juneau	7,250,550	2,682,704	2.709 mills
Kenai Pen. Bor.	14,994,886	5,548,108	2.219 mills
Ketchikan Gate. B.	980,388	362,744	0.632 mills
Kodiak I. Bor.	3,196,185	1,182,588	2.7 mills
Mat-Su Borough	10,198,686	3,773,514	3.25 mills
Nenana	9,956	3,684	0.461 mills
North Slope Bor.	18,156,312	6,717,835	0.812 mills
Petersburg	976,373	361,258	3.612 mills
C. & B. Sitka	1,019,581	377,245	0.967 mills
Skagway	21,530	7,966	0.177 mills
Unalaska	144,183	53,348	0.726 mills
Valdez	3,179,975.	1,176,591	0.719 mills
Wrangell	111,516	41,261	0.648 mills
Yakutat	49,423	18,286	1.439 mills

(On a $100,000 house, a one mill levy would result in $100 in taxes.)

estimates prepared 5/2/83
estimates revised 5/13/83

FY 84 Entitlement

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Yakutat	49,423		49,423
totals	$50,590,877	$40,010,218	$90,601,095

Breakdown of Entitlement on post 12/31/81 Debt

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totals	$29,757,353	$10,252,865	$40,010,218

* * * * * *

Estimated Entitlement on Debt Issued after 12/31/81	$40,010,218
Entitlement on Debt Issued before 12/31/81 (2 year lag)	50,590,877
Total FY 84 Entitlement for School Debt Retirement	$90,601,095

STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 43.18.100)

More than 10 years ago, the Legislature established this program of reimbursing municipalities for a portion of their school construction debt. The program started as a 50% reimbursement with a two year lag in payments, and over the years was changed to provide for a larger percentage of reimbursement (100% for payments on debt issued before 7/1/77 and 80% for the rest) and some oversight by the Department of Education. Last session, other changes were made to the program: the percentage of reimbursement was raised from 80% to 90% for payments on debt issued after 7/1/77 and current year reimbursements were authorized for payments on debt issued after 12/31/81, in order to phase out the two year lag.

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5. Each municipality's entitlement is determined by adding the four categories listed above and then subtracting the amount of tobacco tax the district received two years earlier. (The amount of tobacco tax received in FY 82 is deducted from the FY 84 payment.)

The other factors of the program relate to the oversight and approval authority granted to the Department of Education and limits to the types of facilities that are eligible for reimbursement.

Prepared by the Alaska Municipal League
May 2, 1983

HB
463

COMMITTEE REPORT

HOUSE

((7)

FURTHER: FINANCE

1/31/84

Date: January 25, 1984

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 1453

"An Act making a special appropriation to the Department of Health and Social Services to construct a prison in Whittier; and providing for an effective date."

under consideration and reports it back as follows:

[XX] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M.W. Miller Do Not Pass

_____
CHAIRMAN

H 60 (Rev. 3/81)

STATE OF ALASKA

CHAIRMAN,
HOUSE LABOR AND
COMMERCE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

P.O. BOX 1542
ANCHORAGE, ALASKA 99510
(907) 333-2616

REPRESENTATIVE WALT FURNACE

To: Representative Mae Tischer, Chairman
House Health and Social Services Committee

RE: HB 463, Whittier Prison

Date: January 24, 1983

In addition to this memo, attached please find select documents for your file.

As you know, at the present time there is a statewide search underway for a reasonable site for a state prison at an reasonable price. HB 463 proposes the establishment of a state prison in Whittier for a price tag of $25 million. (Attached please find several estimates for remodeling and conversion of the current structure into a turnkey operation which will clearly show that the Buckner Building can be renovated and converted for the cost indicated -- despite the estimate of the State of Alaska, Department of Transportation and Public Facilities.)

Further, allow me state that Whittier should be favorably considered because it is close enough to Anchorage to encourage guards and other prison personnel to reside in Anchorage yet far enough to be considered isolated. And, the establishment of a prison in Whittier will encourage other critical development in the Whittier area such as a port facility as well as additional usage of the Alaska Railroad.

Thank you for your consideration of HB 463.

BUILDERS & CONTRACTORS SERVICE

2124 Hillcrest Place
Anchorage, Alaska 99503
(907) 276-4618

Contractor Claims
Construction Management
Appraisal Estimates

Quantity Surveys
Estimates
Bid Preparation

March 9, 1983

Olympic Inc.
171 Muldoon Road
Anchorage, Alaska

ATTENTION: Mr. Pete Zamarello

REFERENCE: Buckner Building - Whittier, AK

SUBJECT: Preliminary Project Review - Cost Estimate

Gentlemen:

At your request, per the commisson given us, we have made a complete review, on a preliminary basis, of the above reference structure.

Our commission, as we understand it, is to provide you with cost figures in two parts, as follow:

1. Remodeling and conversion of the exsisting building, to be used as a correctional facility.

2. A remodeling of the exsisting facility, including new ventilation and heating systems and electrical systems. In addition, new elevators, new roofing, new flooring, new ceiling systems and a number of new partitions. Additionally,, per your instructions, we have included costs for restoration of the building exterior, as well as, additions for a six lane bowling alley and bakery, a sixteen bed hospital and a new dining area/kitchen facility.

Our review anticipates that any and all work which would be done would meet exsisting state and local codes.

The figures we have arrived at, are based upon the preliminary sketches, pictures and numerous meetings with your company.

Due to the fact that we did not have definitive, exact drawings from which to work, our price must be considered preliminary and in this regard, we are providing you a cost range for each item. Our estimates are as follows:

1. For remodel and conversion to a correctional facility, our cost estimate range is $23,725,000 to $25,100,000.

2. For remodeling and additions as noted above, our cost estimate range is $18,650,000 to $19,800,000.

If we can be of further assistance or should you wish a more exact cost estimate after development of drawings, we would be pleased to provide them for you.

Attached is our billing, which we forward with this report, for payment.

Thank you for using our services.

Very truly yours,

BUILDERS AND CONTRACTORS SERVICE



Terry Gorsuch

TG:jw

Enc.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
Deputy Commissioner - Standard and Statewide Programs

Pouch Z
Juneau, Alaska 99811
(907)465-3900

March 21, 1983.

The Honorable Walt Furnace
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Furnace:

A request from Steve Levi, of your office, was received asking the Department of Transportation and Public Facilities (DOT/PF) information about converting the Buchner Building in Whittier to a corrections facility.

The following information is provided:

Background

The Buchner Building is a multi-story reinforced concrete structure which was built by the military in the early 1950's as a composite facility for up to approximately 2500 enlisted men. There are few individual rooms in the facility and mostly large dormitory areas as well as a large area that was used as a dining hall.

The facilities have been left abandoned since 1965--open to both weather and extreme vandalism.

The concrete structure is intact; however, all the finishes and systems would have to be replaced and complete security added to make it suitable for a prison facility. Most partitioning is wood-frame and not adequate for prison security, nor building code standards.

Prior to a final decision on remodeling the existing facility, consideration should be given to demolition and a complete new building

Assumptions/Basis of Estimate

- Conversion would be for a long-term, maximum security prison to house approximately 300 prisoners.

- Estimate is based on available information. No funds have been provided for a detailed on-site survey by DOT/PF.

- Operational costs are excluded.
- Land costs are excluded.
- No earthquake damage has been sustained.
- 273,660 square feet is the gross square footage.
- 1983 construction dollars.
- All mechanical, communication, security, electrical, and fire/life safety systems and elevators would have to be added or replaced. (Note: In many cases extensive demolition would be required where original systems were imbedded in the reinforced concrete structure).
- All finishes, windows, walls, and roof would need replacement and/or repair.
- Corridors meet current code requirements.
- Interior partitions must be Type II (Fireproof) construction.
- The building would be upgraded to meet both the current code and barrier free requirements as well as those of the American Correctional Association.

Estimated Costs

Square Footage	273,660
Cost/square foot for Rehabilitation	$228
Estimated cost to reconstruct for correctional facility use (1)	$62,394,480

(1) Department of Health and Social Services functional facility needs versus physical/transportation/locational constraints as well as socio-economic factors have not been addressed at this time. More detailed analysis will require a comprehensive study.

Sincerely

Fred J. Seeger
Deputy Commissioner

cc: John C. Bates
Wayne Weeks
Emil Notti
Office of the Governor

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
Deputy Commissioner - Standard and Statewide Programs

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March 9, 1983

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171 Muldoon Road
Anchorage, Alaska

ATTENTION: Mr. Pete Zamarello

REFERENCE: Buckner Building - Whittier, AK

SUBJECT: Preliminary Project Review - Cost Estimate

Gentlemen:

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2. A remodeling of the exsisting facility, including new ventilation and heating systems and electrical systems. In addition, new elevators, new roofing, new flooring, new ceiling systems and a number of new partitions. Additionally,, per your instructions, we have included costs for restoration of the building exterior, as well as, additions for a six lane bowling alley and bakery, a sixteen bed hospital and a new dining area/kitchen facility.

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Very truly yours,

BUILDERS AND CONTRACTORS SERVICE

Terry Gorsuch

TG:jw

Enc.

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BUILDERS AND CONTRACTORS SERVICE



Terry Gorsuch

TG:jw

Enc.

HB
466

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: January 30, 1984

REQUEST
Bill/Resolution No.: HB 466
Title: Act relating to...fiscal procedures of the U of A
Sponsor: Rep. Martin
Requestor: House HESS committee
Date of Request: January 27, 1984

FISCAL DETAIL
Agency Affected: University of Alaska
Program Category Affected: Education
BRU, Program or Subprogram(s) Affected: All University programs

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable

ANALYSIS: Attach a separate page for analysis

Prepared By: Frank Spargo
Phone: 474-7593
Division: Statewide Budget Office, U of Alaska
Date: January 30, 1984

Approved by Commissioner: Exec. Vice President Sherman Carter
Date: January 30, 1984
Agency: University of Alaska

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—D6
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

MEMORANDUM

To: House HESS Committee

From: Representative Terry Martin

Date: January 24, 1984

Subject: HB 466

"An Act relating to appropriations to and fiscal procedures of the University of Alaska; and providing for an effective date."

This bill will enable the University to legally invest state general funds and federal funds, and to place income derived from these investments directly into the working capital reserve fund without a specific appropriation by the legislature. Although the University has been making such investments, there is no clear legal authority for it to do so.

This legislation has been recommended by the Commission on Postsecondary Education, and is strongly endorsed by the University. It will enable the University to receive and expend funds, such as tuition receipts, without waiting weeks for legislative approval. Some good examples of the problems this causes are set out on page 2 of the attached letter from Dr. Jay Barton to Don Abel, President of the Board of Regents, and in Dr. Carter's letter to Representative Goll.

Your positive action on this bill will greatly relieve the operational problems experienced by the University administration. I urge you to pass HB 466.

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

1/9/84 Date: 1-27-84

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 466

"An Act relating to appropriations to and fiscal procedures of the University of Alaska; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] ~~New~~ ZERO Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Terry Martin

Vito Kopman

Peter Joe

Mike Davis

M.W. Miller

Mae Fischer

MEMBERS HAVING OTHER RECOMMENDATIONS:

Rick Uehling (NO REC)

Mae Fischer
CHAIRMAN

H 60 (Rev. 3/81)

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

Official Business

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Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

M E M O R A N D U M

TO: Terry Martin
Chairman
University of Alaska Budget Subcommittee
House Finance Committee

FROM: Elmer A. Lindstrom
Professional Aide
House Finance Committee

DATE: November 4, 1983

SUBJ: University of Alaska bill drafts 13-1543 and 13-1587

Enclosed are the two bill drafts you requested. The following is a sectional analysis of each bill.

" An Act relating to appropriations to and fiscal procedures of the University of Alaska; and providing for an effective date."

Section 1. This section allows the University of Alaska to invest general funds and federal funds in addition to other funds.

Section 2. This section allows the University to place income derived from the investments allowed under AS 14.40.250 (see section 1 above) into the Working Capital Reserve Fund without an appropriation to the fund by the legislature. This conforms with the current practice of the University although in the opinion of legislative counsel it does raise the question of a dedicated fund (see attached memo from Keith Levy, Legislative Counsel).

Section 3. This section allows the University to make transfers between objects of expenditures, e.g., personal services, travel, etc., and transfers between allocations without the approval of the Office of Management & Budget. This is similar to the legislative intent contained in the FY 84 General Appropriations Act.

Section 4. This section allows the University to receive and expend additional federal or program receipts during the course of a fiscal year without the approval of the Office of Management & Budget and the Legislative Budget & Audit Committee. This is similar to the legislative intent contained in the FY 84 General Appropriations Act.

Section 5. This section allows the University to carry forward all non-general funds and those general funds designated by the legislature for "organized research" from one fiscal year to another.

"An Act making special appropriations to the University of Alaska working capital reserve fund and to the University of Alaska to pay obligations from past fiscal years; and providing for an effective date."

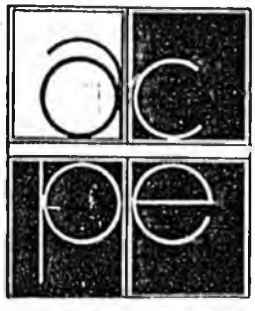
Section 1. At the present time AS 14.40.296 states that the Working Capital Reserve Fund consists of money appropriated by the legislature. To date the legislature has appropriated $5,000.000 to the fund. The fund balance, however, is $7,564,522. The difference consists of investment income deposited in the fund without a legislative appropriation. This section appropriates the interest income to the fund.

Section 2. This section appropriates $3,799,754 from the Working Capital Reserve Fund to the University in order to remove from the University's books the liability that exists from over expenditures in FY 77 and FY 79.

Alaska Commission on Postsecondary Education

Review of the University of Alaska FY 1984 Operating and Capital Budgets

Submitted to the
Governor
and the
Thirteenth Alaska State Legislature



December 10, 1982

Recommendation 2: THE UNIVERSITY SHOULD BE ABLE TO ACCEPT GRANTS AND CONTRACTS DURING THE COURSE OF A FISCAL YEAR WITHOUT WAITING TO CLEAR SUCH ACCEPTANCE THROUGH THE GOVERNOR'S OFFICE AND THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE.

Hearings held throughout the state revealed that there was a great deal of criticism raised regarding the inability of the University to respond quickly to requests for special courses, workshops, seminars, and even research projects when the requesting group or agency was willing to pay for the service. By the time all required approvals had been obtained, need may have passed, the funds may have been lost, or the interest may have waned.

For the university system to be able to meet these demands and thereby provide services to the state, more flexibility must be allowed. One of the detriments to this flexibility is the requirement which states that the University must go through the same Revised Program (RP) process as all the other state agencies when contracts exceed their budgetary authority. This is an extremely time-consuming process and is one which was not required of the university system until the last few years.

There was a time when fiscal accountability of the university system was justifiably called into question. That time has now passed, and the University has demonstrated sound fiscal practice to the satisfaction of nearly all observers. The Commission would like to see some flexibility returned to the University budgeting

procedure; this could be brought about by adding a section to the appropriation bill.? In the 1978 appropriation bill (FCCSSCSCSHB 627), the following language was included:

> "Federal or other program receipts available to the University of Alaska which exceed the amounts appropriated in this Act are appropriated and available for expenditure under procedures established by the Board of Regents."

The Commission recommends that such flexibility be returned to the Board of Regents.

This would require an amendment to AS 37.07

November 29, 1983

The Honorable Terry Martin
3960 Reka Drive, 36
Anchorage, AK 99504

SUBJECT: Proposed Legislation

Dear Terry,

Please be advised that the UAA Executive Council has reviewed and expressed enthusiastic support for your proposed legislation redefining the fiduciary rights of the University of Alaska. I concur with their recommendation. Enactment of the proposed legislation would be an important benefit to the University of Alaska. Thank you for your continued interest and support.

Sincerely,

David L. Outcalt
Chancellor

/mah

Sherman Carter
Executive Vice President
474-7448

University of Alaska
Fairbanks, Alaska 99701

October 27, 1983

TO: Don Abel, President and
Members of the Board of Regents

THROUGH: Jay Barton
President

FROM: Sherman Carter
Executive Vice President

SUBJECT: Possible Changes in Legislation Affecting Fiscal Administration of the University

Several provisions in existing legislation impede efficient fiscal administration of the University of Alaska.

For example, as you know, the university has a need during the course of a fiscal year to be able to receive program receipts, such as tuition, in amounts greater than what was initially budgeted without waiting weeks for prior approval to be able to do that.

During the last legislative session, an attempt was made to correct this problem by an expression of legislative intent as follows:

> "Notwithstanding the provisions of AS 37.07.080(h), federal or other program receipts available to the University of Alaska which exceed the amounts appropriated in this act are appropriated and available for expenditure under procedures established by the Board of Regents and the Office of Management and Budget. The university shall provide the Legislative Budget and Audit Committee with quarterly reports detailing additional federal or program receipts accepted under this provision."

However, subsequently I was told that a provision such as the above could not properly be handled by an intent statement -- that legislation to make this change was required. Also, it would be far more advantageous to get things such as this corrected in continuing legislation rather than to hope each year that such needed provisions are included in appropriation bills, since sometimes they get included and sometimes, inadvertently, they do not.

There are several other problems which the university has perennially, unnecessarily, which keep us from doing a more efficient job for the state, for example, current provisions in law providing that the university may invest program receipts but not general fund money. This is not sensible in that the university draws money from the state monthly and pays its employees every two weeks. Consequently, the university does have temporary cash in excess to its needs from time to time and should not simply leave that in banks without earning interest. There is a need to change legislation so that the fact that the university may also invest general fund money is permissible. Now we simply do this anyway, and occasionally the state tells us that legally we may not. Meanwhile, the interest we are earning in temporary, secure cash investments permits us this fiscal year to decrease our request for general fund money in the amount of $1.8 million. Obviously, the present law prohibiting the university from investing state and federal money is absurd and needs to be changed, in the state's own best interest.

Another problem has to do with organized research. Various research projects continue past the end of a fiscal year and state money for them, which along with federal money which does not lapse, finances such research and should not need to be lapsed precisely at the end of a fiscal year any more than capital funds for a building project, which will take several years, need to lapse at the end of each fiscal year. Right now, this is on a hit and miss basis; that is, sometimes legislation appropriating money for organized research provides for a lapse of such money at the end of the calendar rather than the fiscal year and sometimes legislation making funds available for organized research does not.

Another problem the university has relates to the lapsing of program receips. Unspent general fund money may continue to be lapsed. However, various classes of program receipts should not lapse. As one illustration, consider university bookstores. They try to break even, but they can never do that exactly. Some years they may come out slightly ahead or slightly behind a break even point, depending upon sales, losses and all kinds of factors. If bookstores are required to lapse money when they end up in the black and then incur uncovered, illegal deficits when they end up in the red, this is obviously an unfair problem, like expecting them to go to bat with two strikes against them to begin with. The university can and will provide full disclosure to the executive and legislative branches on its holdings of program receipts.

Several weeks ago, Representative Terry Martin indicated to me that he wanted to propose certain legislative changes to correct problems as noted above. He asked me for information concerning them and my suggestions, which information and suggestions I provided to him. In answer to a letter I received from him yesterday, asking for my comments on his proposed bill, I have sent to him the attachment. Today I am having a copy of it taken to Gene Dusek, the associate director in the Office of Management and Budget in Juneau. I also plan to provide this information to other legislators.

SFC/pe
Attachment
cc: The Honorable Terry Martin, w/o attachments
Mr. Peter McDowell
Chancellors Biggerstaff, Melican, O'Rourke, Outcalt, Paradise
Office of Regents' Affairs

HB 466

Sherman Carter
Executive Vice President
474-7448

University of Alaska
Fairbanks, Alaska 99701

January 5, 1984

The Honorable Peter Goll
State of Alaska
House of Representatives
Pouch V
Juneau, AK 99811

Dear Peter:

This is to answer your letter, a copy of which is attached for convenient reference. Regarding your points which I have marked --

1. Any reasonable limitation would cause no problem. What we are talking about is strictly temporary, secure investments of cash. All such investments to date have been made in or through Alaskan banks or savings and loan associations and have been 100 percent collateralized, so that there is no possibility whatsoever of principal being lost. We are not talking about investing in equities or in other ways. All investments of any state general funds and federal funds held by the university will continue to be limited by the university with or without legislation specifically requiring that.

   If legislation were going to specify the types of investments which could be made with state general funds and federal funds, I would like it to be broad enough to make clear the fact that investments in such things as treasury bills are permissible and that such investments may be made through brokers if the university should elect to do so. If a limitation on the type of investments to be made must go into the legislation, I would suggest the limitation include the following types of investments, if this is not too cumbersome. Right now we have no need to invest in some of these, but some time in the future, such investments may be advisable, being completely prudent and offering higher yields than such things as collateralized CDs.

   - Certificates of deposit in Alaska banking organizations
   - Obligations of the U.S. Government
   - Federal funds bank repurchase agreements
   - Deposits in savings or other accounts in commercial banks, savings and loan associations, and federal credit unions in the state of Alaska
   - Commercial paper, of prime or equivalent grade

2. This point of yours is also an excellent one. We here at the university are extremely careful about the use of non-budgeted program receipts. When we receive such things as tuition or interest income, beyond what was initially budgeted, this is invariably spent for one-time projects that do not continue any obligation whatsoever beyond the current fiscal year, and often

in ways to decrease appropriation requests from the state in future years. I can conceive of increased program receipts carrying obligations beyond a current fiscal year. For example, a federal grant or contract could be signed which would involve expenditures into the next year. But, again, we take special care to ensure that the financing of any such continuing expenditures is absolutely assured.

We have never caused the state any problem in these respects. Our difficulty with handling non-budgeted program receipts is that decisions must be made promptly. In granting the university authority to accept non-budgeted program receipts as is proposed in the draft legislation I sent to you, the state is not giving up any control that it now actually has. That might not seem to be true but is really the case. Units may expeditiously clear virtually any amount of program receipts by placing those into a budget request initially and having those "appropriated." In fact, this is a continuing problem. It is easy for units to overbudget their program receipts and avoid later delays in getting increased receipts approved. This encourages bad management, because we then need continually to decrease appropriation and spending authority already allocated in line with money actually being received. The university must have the authority to accept non-budgeted program receipts promptly and needs to be entrusted with the responsibility for assuring that no such receipts require uncovered obligations into future fiscal years.

The acceptance and expenditure of program receipts above those initially budgeted invariably results in a net financial gain to the university. With respect to your request that I document that point, one illustration is the fact that the university submitted a request to the state on October 4, 1983 for authority to expend $100,000 of excess program receipts to do emergency repair work on the Seward Marine Center. There is a problem there with land eroding away into the ocean and the university needs to build a gabion wall and place armor rock along Armstrong Road for a distance of about 30 feet. Delay in performing this construction will eventually result in demolition of the docking facility needed for research vessels. I am still awaiting authority from the state to make the expenditure from money which the university has in hand. This same request to the state, awaiting action, asked for authority to cover other pressing needs, such as roof repairs which will cost about $60,000. These things will all eventually get done and will end up costing more than would have been the case without the delay.

One other example of the fact that program receipts result in a gain to the university is a case which I may or may not have previously mentioned to you. A few years ago, the university had an opportunity to accept about one-half million dollars of federal money to provide student financial aid. The money had to be accepted and expended promptly. Accordingly, I did that and then reported to the state what I had done. However, proceeding in that way was not in accordance with instructions from the state as to how we here should have proceeded. If I had done it the correct way, students would have lost about one-half million dollars which got accepted and spent in Alaska without costing the state one dime. I could document case after case of the fact that program receipts in addition to those initially budgeted result in a gain to the university and to the state. Indeed, I cannot now think of one single example of the university's use of such receipts when that has not been the case.

I have enjoyed our talks and exchange of correspondence, and I thank you again for your continuing confidence and for what you do to help the University of Alaska. To keep other people who are interested informed about these matters, I am taking the liberty to send copies of these papers to persons listed below.

Sincerely,

Sherman Carter

SFC/pe
Attachment
cc: The Honorable Terry Martin
Regents' Finance Committee
President Jay Barton
Mr. Elmer Lindstrom

JAN 0 2 1984

REPRESENTATIVE
PETER GOLL

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

December 30, 1983

Mr. Sherman Carter
Executive Vice President
University of Alaska
Fairbanks, Alaska 99701

Dear Sherman:

Thank you for your thoughtful letter of December 22.

I am in full support of the principles outlined therein.

Thank you too for the information to support efforts in behalf of university research. I will try to put it to good use. Keep in touch as needed.

(1) Terry Martin's bill draft seems very good. Should there be resistance to its passage, possibly a limit on the sort of investments which can be made with general funds would allay concern.

(2) Regarding your point number one on accepting of non-budgeted program receipts, can you advise me on the actual impact of this policy? That is: If you accept program receipts which are not in the budget, and hire extra staff as a result, will you generally expect a net financial gain or loss to the university? If a gain, can you document this? In any case, if you have the funds to hire the extra personnel, I would certainly support your serving the additional students. I am reminded of the Cordova situation.

Incidentally, thank you very much for your support in that matter. John Devons has handled himself quite well, and I believe the matter is resolved. I am working to help the citizens of Cordova coordinate their efforts in support of funding with John in order to insure that those efforts benefit the FY85 budget development.

Should you be in Juneau, I would enjoy meeting with you.

Best regards,

Peter Goll

HB
467

COMMITTEE REPORT

HOUSE

(7)

FURTHER: FINANCE

1/9/84

Date: 1-27-84

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 467

"An Act making special appropriations to the University of Alaska working capital reserve fund and to the University of Alaska to pay obligations from past fiscal years; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mae Fischer

Rick Uehling

Terry Martin

Mike Davis

Nick E. Kopanar

Peter Jones

Mike Miller

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mae Fischer
CHAIRMAN

H 60 (Rev. 3/81)

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 6
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—86
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

MEMORANDUM

To: House HESS Committee

From: Representative Terry Martin TM

Date: January 24, 1984

Subject: HB 467

"An Act making special appropriations to the University of Alaska working capital reserve fund and to the University of Alaska to pay obligations from past fiscal years; and providing for an effective date."

This bill will clear up a discrepancy on the University's books resulting from under-appropriations to the working capital reserve fund in the fiscal years 1977 and 1979. I will quote from a letter I received from Dr. Sherman Carter dated October 26, 1983, which explains what the bill will accomplish:

> Peat, Marwick, Mitchell & Co., the university's external auditors, have recommended that the university propose a bill designed to improve the university's financial position as reflected in its financial statements. The recommendation is being included in the auditor's annual management letter to the Board of Regents. (NOTE: Dr. Carter is expected to bring a copy of this letter with him to the HESS hearing.--T.M.) The management letter has not yet been formally issued, but the auditors have discussed the recommendation and shown me a draft of it....
>
> In FY77 and again in FY79, the university incurred deficits. In all other years, the university has lapsed funds back to the state. The deficits in FY77 and FY79 resulted from the university then not being able to control its finances. Since that time, the university installed a new financial accounting system and did regain control of its finances.
>
> The deficits incurred in the late '79s ($3,767,040 for FY77 and $32,714 for FY79) continue to be reflected as a negative fund balance in the university's audited financial statements. The notes to the financial statements also have a comment that the accumulated deficits are included in the

Alaska State Legislature

House of Representatives

Al Adams
Chairman
Committee on Finance

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1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

M E M O R A N D U M

TO: Terry Martin
Chairman
University of Alaska Budget Subcommittee
House Finance Committee

FROM: Elmer A. Lindstrom
Professional Aide
House Finance Committee

DATE: November 4, 1983

SUBJ: University of Alaska Bill drafts 13-1543 and 13-1587

Enclosed are the two bill drafts you requested. The following is a sectional analysis of each bill.

" An Act relating to appropriations to and fiscal procedures of the University of Alaska; and providing for an effective date."

Section 1. This section allows the University of Alaska to invest general funds and federal funds in addition to other funds.

Section 2. This section allows the University to place income derived from the investments allowed under AS 14.40.250 (see section 1 above) into the Working Capital Reserve Fund without an appropriation to the fund by the legislature. This conforms with the current practice of the University although in the opinion of legislative counsel it does raise the question of a dedicated fund (see attached memo from Keith Levy, Legislative Counsel).

Section 3. This section allows the University to make transfers between objects of expenditures, e.g., personal services, travel, etc., and transfers between allocations without the approval of the Office of Management & Budget. This is similar to the legislative intent contained in the FY 84 General Appropriations Act.

Section 4. This section allows the University to receive and expend additional federal or program receipts during the course of a fiscal year without the approval of the Office of Management & Budget and the Legislative Budget & Audit Committee. This is similar to the legislative intent contained in the FY 84 General Appropriations Act.

Section 5. This section allows the University to carry forward all non-general funds and those general funds designated by the legislature for "organized research" from one fiscal year to another.

"An Act making special appropriations to the University of Alaska working capital reserve fund and to the University of Alaska to pay obligations from past fiscal years; and providing for an effective date."

Section 1. At the present time AS 14.40.296 states that the Working Capital Reserve Fund consists of money appropriated by the legislature. To date the legislature has appropriated $5,000.000 to the fund. The fund balance, however, is $7,564,522. The difference consists of investment income deposited in the fund without a legislative appropriation. This section appropriates the interest income to the fund.

Section 2. This section appropriates $3,799,754 from the Working Capital Reserve Fund to the University in order to remove from the University's books the liability that exists from over expenditures in FY 77 and FY 79.

HB
420

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

Date: MARCH 7, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SSHB 470

"An Act making a special appropriation to the Department of Education, Alaska History Commission to produce a documentary film relating to the participation of Alaska in World War II; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[X] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

February 14, 1984

TO: Representative Mae Tischer, Chairman House HESS

FROM: Representative Milo H. Fritz, M.D. MHF

SUBJECT: HB 470

HB 470 is an appropriation bill for the making of a Documentary Film History of WWII in Alaska. Originally, there were two bills HB 484 and HB 470. HB 484 was a bill to form a Commission for this special task. The bills went to State Affairs where we were asked to redraft HB 484. After hearing testimony from Carol Derfner, Special Assistant of the Governor in charge of Boards and Commissions my aide went to speak with her and Keith Levy, a legislative affairs lawyer. I learned there is an ALaska Historical Commission already formed by A.S. Title 44 Article 3 that has the power under statute section (4), (5), & (6) to make the documentary film. With the bill you will find a letter of Intent we would like to see passed out with the Bill.

Would you please schedule this bill as soon as Possible? I would like to testify for this bill. If you have any questions regarding this bill my researcher, Jan, will give you any backup material needed.

jh

MEMORANDUM

State of Alaska

TO:
The Honorable Milo Fritz
Alaska House of Representatives
Attn: Jan Harmon

DATE: March 5, 1984

FILE NO:

TELEPHONE NO: 465-2910

FROM:
Richard B. Engen, Director
Division of State Libraries & Museums

SUBJECT: Comments on HB 484

I am sorry I will be in Sitka and cannot be present at the hearing on March 7th dealing with the proposed documentary film on the Aleutian Campaign of World War II.

We have two film centers, Juneau and Anchorage, which provide services to libraries and individuals statewide. We have the largest film library selection in the state. One of our concerns, based on previous experience, is to assure that the State Library has an adequate number of copies for use statewide and full video duplication rights. As the film is being done at state expense, we recommend that the state hold the copyright and that production copies (internegatives) be placed with the State Library depository at Alpha Cine in Seattle. This will assure future access to the film.

Based on estimated use we recommend that 6 copies of the film and 2 video 3/4" masters be placed with the State Library.

We could also offer assistance in locating other footage dealing with the Aleutian Campaign; i.e. U.S. Army Signal Corps film presently in storage.

If we can offer other information or assistance please contact me.

Attachment

cc: Pat Wilson, Alaska State Film Library
Phyllis DeMuth, Alaska Historical Library
Allison Elgee

National Archives, Record Group 18, Acc no III-NAV-307.

Rescue Party Trek Through Deep Snows in Hunt for Two Missing Planes, 11th Air Force, Aleutian Islands, November 27, 1943, 448 feet.

Miscellaneous Stock Photo Shots from Attu Island, November 30, 1943, 202 feet.

Christmas (Preparations), 11th Air Force, Aleutian Islands, November 30, 1943, 876 feet.

Christmas (Preparations), 11th Air Force, Aleutian Islands, December 1, 1943, 631 feet.

Tools and Parts Built in the Field, Mainly from Salvage by Members of 404th Bombardment Squadron Machine Shop, 11th Air Force, Aleutian Islands, December 6, 1943, 796 feet.

Staff Section, 11th Air Force, at Xmas Dinner, and Winter Scenes, Adak Air Field, Aleutian Islands, December 25, 1943, 746 feet.

Christmas Activities in the Aleutians, 11th Air Force, December 25, 1943, 2,103 feet.

Replacement Crews Landing at Alexai Point Air Base in B-25s, 11th Air Force, Aleutian Islands, December 31, 1943, 438 feet.

Air Transport Command and General Shots, 11th Air Force, Aleutian Islands, January 1, 1944, 555 feet.

Adak Snow Storm, January 10, 1944, 776 feet.

General Scenes, Adak Island, January 10, 1944, 301 feet.

Plane Takeoffs in Snow, etc., 11th Air Force, Aleutian Islands, Including Views of General Buckner, January 10, 1944, 334 feet.

Aerial Views Over Adak Island, Aleutian Islands, February 22, 1944, 1,036 feet.

National Archives Record Group 208, Accession 3276:

First Pictures: Alaska-Russia Sky Route. United News Film, 1945, 10 minutes.

National Archives Record Group 111, Accession 2355:

Electronics at Work, 1945 Signal Corps Film, Explaining Basic Principals of Radar, 22 minutes.

Alaska, Signal Corps Educational Film No. 193, 1945, 11 minutes.

Citizen in Arms, Signal Corps Orientation Film No. 48, 1948, Showing Military Bases in Alaska, Hawaii, and Puerto Rico, 9 minutes.

National Archives Record Group 111, Accession III-NAV-210:

General Butler makes awards, Adak Island, February 20, 1943, 794 feet.

Activities at Longview Field, Adak, March 1, 1943, 1,636 feet.

Mission over Kiska and activities at Longview Field, Adak, March 8, 1943, 1,066 feet.

General Activity around Adak, March 27, 1943, 2693 feet.

Activities at Kiska and Adak, April 15, 1943, 800 feet.

Operations at Amchitka -- Attacks on Attu, May 22 (?), 1943, 2700 feet.

C-47 Operations in Alaska, August 3, 1943, 550 feet.

General Scenes of Activity on Attu Island, September 1943, 1872 feet.

Aerial Activity Over Attu by the 77th Bomber Group, B-25s and P-38s, September 20 to October 1, 1943, 1557 feet.

Decoration of Col. Matheny by General Nathan Twining, October 8, 1943, 49 feet.

Adak Activities, October 11, 1943, 1,011 feet.

Kiska Island in the Aleutians, Air Base Headquarters, October 12, 1943, 210 feet.

Building Quonsets, Alaska, October 18, 1943, 103 feet.

Captain Eddie Rickenbacker Visits Adak in the Aleutians, October 19, 1943, 225 feet.

General Shots -- Aleutian Islands, Alaska, October 22, 1943, 681 feet.

General Shots, Aleutian Islands, October 22, 1943, 218 feet.

P-40s Over Kiska Field, October 25, 1943, 320 feet.

P-40s Zooming Field on Kiska Island, October 25, 1943, 321 feet.

Air Mail Service on Kiska, October 27, 1943, 202 feet.

Control Center, 11th Air Force, Aleutian Islands, November 1, 1943, 1,013 feet.

Aerial Views, Kiska Air Field and Harbor, October 27, 1943, 225 feet.

Attu Activities, November 12, 1943, 1,085 feet.

Selected Scenes from "Summer Movements in the Arctic", Big Delta Region, Alaska, August, 1949, 1,701 feet.

Selected Scenes from "Arctic Indoctrination School", Big Delta, Alaska, November 30, 1949, 2325 feet.

Selected Scenes from "Alaska Communication System", Alaska, 1950, 4248 feet.

National Archives Record Group 200, Accession III-NAV-9:

Paramount News Film, 1952, Including (Part I) B-29s of the 58th Strategic Reconnaisance Squadron are Warmed up at an Alaskan Field, Take Off, and Fly Over the North Pole, 6 minutes.

National Archives Record Group 200, Accession III-NAV-60:

Paramount News Film, November 4, 1953, Volume 13, No. 24, Including (Part I) an F-86C Scorpion interseptor plane fueled and taking off from an Alaskan Base, 7 minutes.

3601 Cumberland St. N.W.
Washington, D. C. 20008
15 February 1984

Representative Milo Fritz
Pouch V
Juneau, Alaska 99811

Dear Milo:

On the assumption that the Letter of Intent referred to in your letter of February 6, 1984 has been prepared and is attached to the bill now in process of legislative consideration, there is enclosed a draft of a document in support of this legislation. In any event, a note of suggested matters which should be covered in such a letter of intent is enclosed.

It would be appreciated if you would reproduce and distribute a copy of the supportive memorandum to each member of the legislature and to other individuals and agencies who can assist in getting the appropriation bill through the legislature.

I admit playing blind man's bluff with this, for I haven't seen a copy of the bill to which it refers.

Sincerely,

BBTalley

B. B. Talley

02/15/84

SUGGESTED MATTERS TO BE COVERED BY LETTER OF INTENT

It is the intent of the legislature that funds provided by HB _____ be used by the Alaska Historical Commission to prepare, or to authorize and coordinate preparation and production by others of, a comprehensive documentary film of World War II in Alaska.

In carrying out this mandate, the Commission may give financial support and otherwise participate and cooperate with personnel, both active and retired, of the Armed Forces of the United States, Canada and Japan, and with others, in preparation of the film, using material available from existing sources as well as additional visual components, as may be found appropriate.

02/15/84
Draft prepared by B. B. Talley
with contribution by
Col. Evan J. Griffith, USAF

BACKGROUND MATERIAL IN SUPPORT OF HB _____
APPROPRIATING FUNDS FOR A COMPREHENSIVE DOCUMENTARY FILM
OF WWII IN ALASKA

There exist several books and papers, some official, which purport to document the history of WWII in Alaska. In addition, the military services have extensive motion pictures of their operations in Alaska. In recent years there has been a rebirth of interest on the part of individuals and organizations, particularly veterans organizations, in this part of Alaska's history. These individuals and groups have many important visual records which can be obtained for a comprehensive documentary film of WWII in Alaska.

In 1980, on the 40th anniversary of its arrival in Alaska, the veterans of the 11th US AF held a reunion in Alaska. It included a visit to the Aleutians as far out as Shemya. Weather prohibited their going to Attu. Extensive motion pictures and video tapes were made of this celebration, including interviews and oral history from many of the veterans present.

In 1982 extensive motion pictures and video tapes were made by individuals, organizations and by TV stations of the ceremony in dedication of a memorial on Unalaska Island to all those who lost their lives in the Aleutians during WWII. This included the Armed Forces of the United States and Canada, the Aleuts, and the Japanese Armed Forces. The two Japanese officers, now retired, who led the first and second waves of bombers in the attack on Dutch Harbor on 4 June 1942 participated in this dedication. The dedication was preceded by a flight from Unalaska Island to the Umnak Air Base, and to the position of the Japanese carrier from which the attack was launched, thence following the course of the planes to the rendezvous point and returning to Dutch Harbor. The plane was piloted by the Japanese officer who led the attack, flying

in reverse the course flown in the attack. From the rendezvous point, the plane flew the course at the same altitude flown in the actual attack. In the plane were Admiral James S. Russell, USN-Ret. who commanded the US Navy Catalinas in Alaska during WWII, BG B. B. Talley, Corps of Engineers, retired, who was responsible for building the secret air base on Umnak Island from which the US AF P-40s broke up the Japanese aerial attack on Dutch Harbor, and Admiral Hiroichi Samejima, JMSDF (Ret.) who led the first wave of Japanese bombers, and Colonel Zenji Abe, JMSDF (Ret.) who led the second wave which consisted of dive bombers. (Then Lieutenant Commander Abe later transferred to the army, as the reconstituted Naval defense force did not have dive bombers.) Also in the plane were Mr. Ted Spencer who arranged the dedication ceremony and the aerial flight here described. There was also a motion picture camera crew aboard who recorded the flight on film.

In view of the advancing age of the still living participants in WWII in Alaska, delay in the production of this visual history might preclude their participation in this important chapter in Alaska's history.

Inasmuch as the State of Alaska would be the primary beneficiary, the State should be the primary sponsor of the project. Such a project is within the purview of the Alaska Historical Commission of the Department of Education.

The project would include, but not necessarily be limited to, bringing together into a single compilation the best of the existing film, editing it into a single comprehensive historical document. There should be included in this compilation such additional footage as may be appropriate, with commentary by selected veterans who took part in the action.

Upon being instructed to carry out this project and being provided with the necessary funds for its accomplishment, the Alaska Historical Commission formed by AS Title 44, Article 3,

would have power to prepare or to authorize and coordinate the preparation and production by others of a documentary film covering this important portion of Alaska's history. Such a history should include but not be limited to the stills and motion pictures already in existance, but should include additional visual components as may be appropriate. Such a project should be completed by June 30, 1986.

A conceptual organization structure for executing this projcct is shown in Figure 1.

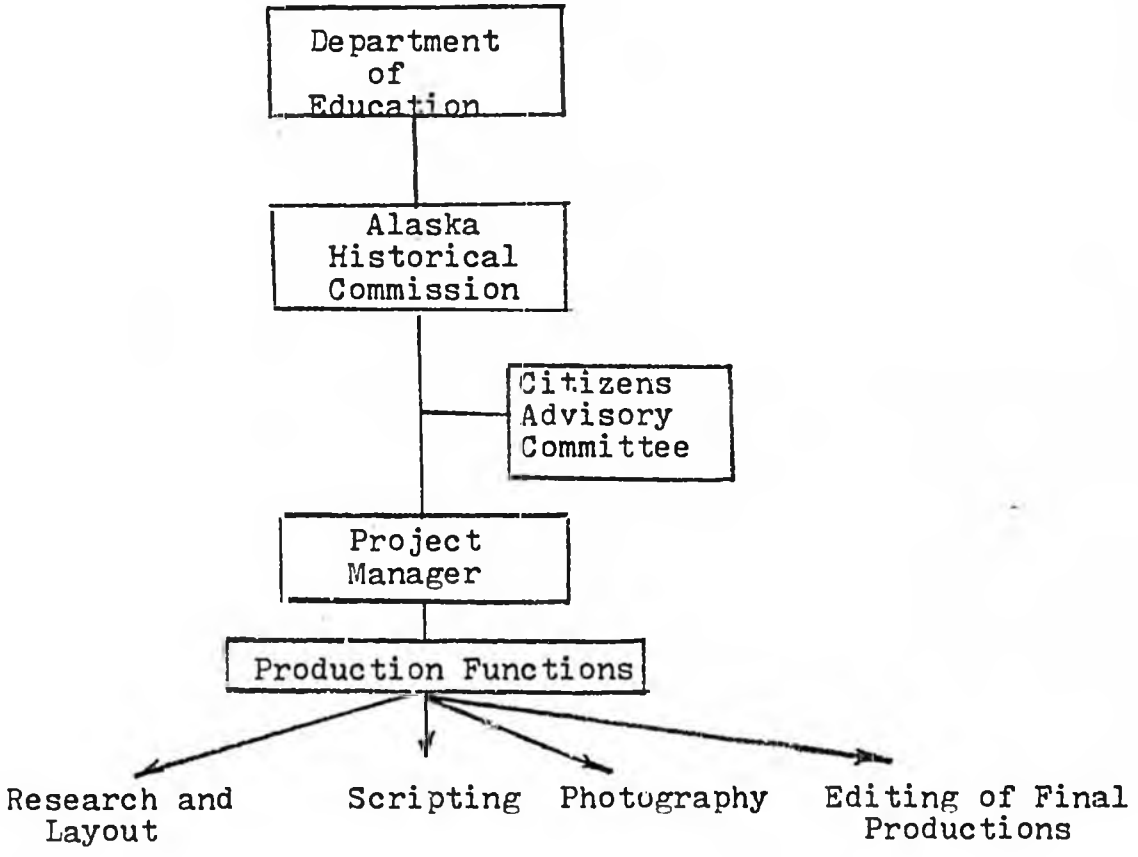


Figure 1. Conceptual Organizational Structure. Production of a Comprehensive Visual History of WWII in Alaska

LETTER OF INTENT SSHB 470

February 22, 1984

On behalf of WWII veterans appropriation SSHB 470 is being introduced. It is the intent of this legislation that funds provided by SSHB 470 be used by the Alaska Historical Commission to prepare, or to authorize and coordinate preparation and production by others of, a comprehensive documentary film of World War II in Alaska.

In carrying out this mandate the Commission may give financial support and otherwise participate and cooperate with personnel, both active and retired, of the Armed Forces of the United States, Canada and Japan, and with others, in preparation of the film, using material available from existing sources as well as additional visual components, as may be found appropriate.

Today, Alaska still suffers from some of the same lack of appreciation that it received at the time of it's purchase in 1867. The Aleutian Campaign of WWII, once referred to as "the Forgotten Front," could well become just that---forgotten. It is important to increase the little knowledge and understanding the public has concerning conditions in Alaska during WWII.

Adoption of SSHB 470 by the Alaska Legislature would exemplify the important role that Alaska played during 1940-1945. It would strengthen an understanding and respect for our great 49th state. It also is an educational tool for our present generation on the folly and danger of being physically, morally and militarily unprepared to protect our country and way of life.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 484
Title: WW II History Commission

FISCAL DETAIL
Agency Affected: Office of the Governor
Program Category Affected: General Government

Sponsor: State Affairs
Requestor: Fritz
Date of Request: 1/9/84

BRU, Program or Subprogram(s) Affected:
Executive Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		62,205	64,000	65,500		
200 TRAVEL		12,344	14,344	15,000		
300 CONTRACTUAL		10,427	12,427	13,500		
400 SUPPLIES						
500 EQUIPMENT		13,122	2,000	3,500		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		98,098	92,771	97,500		
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2.0	2.0	2.0		
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Michael A. Nizich
Phone: 465-3616
Division: Admin. Services/Executive Office
Date: 1/31/84

Approved by Commissioner: Laura J. Thomas
Date: 2-1-84
Agency:

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Fiscal Note on HB 484

The fiscal impact on the Office of the Governor is as follows:

Personal Services: 62,205.00

	Mo. Sal.	Yearly	25% Bene	Total
Administrative Assist., Range 16	2,586.00	31,032.00	7,758.00	38,790.00
Clerk Typist, Range 8	1,561.00	18,732.00	4,683.00	23,415.00
				62,205.00

Administrative personnel are required to gather information and documents from public & private agencies concerning the participation of Alaska in WW II. Also to preserve and index materials gathered in order to make them readily available to the public. In addition, support positions are required to ensure minutes of the meetings are taken and the preparation of the annual report is compiled for the Legislature and Governor.

Travel: 12,344

Travel consists of four meetings annually, to be conducted in Anchorage, Fairbanks, Juneau and Kotzebue. This would entail travel costs for airline tickets for each member of the Commission plus the appropriate per diem rate. Meetings are estimated to be approximately two days in length in each location.

5 Member Commission
$80. per day Per Diem
2 Day Meetings

Meetings Held	Transp	Per/ Diem	Minimum Total
Anchorage	1,422	1,200	2,622
Juneau	1,618	1,200	2,818
Fairbanks	1,634	1,520	3,154
Kotzebue	2,230	1,520	3,750
	6,904	5,440	12,344

Contractual Services: $10,427.00

Office Space	4,170.00
Conference Room Space	4,500.00
Phone (rental)	1,096.00/yr.
Work Station (30 x 60)	250.00
Stationery	90.00
Office Supplies (approx.)	300.00
Business Cards	21.00
	$10,427.00

Equipment: $13,122.00

Displaywriter, diskette & printer	9,296.00
Typewriter, Sel. III	789.00
Calculator	190.00
2 file cabinets (4 drawer, ltr) 203. ea.	406.00
1 desk - double pedestal	397.50
1 desk - sec. w/return	505.00
1 chair - exec.	306.00
1 chair - sec.	250.00
2 chairs - side	300.00
1 bookcase - 4 shelf	150.00
2 partitions - 4 x 5 266. ea.	532.00
	$13,122.00

TOTAL: 98,098.00

10-22-83

A COMPREHENSIVE VISUAL DOCUMENTARY
OF
WORLD WAR II IN ALASKA

A joint production by the Alaska Veterans of World War II, assisted by contributions by the US Army, Navy and Air Force, together with the State of Alaska, the Air Force Association, et al.

Draft of Suggested Format
Prepared by B. B. Talley

Background music.

Title and accreditation (Producer, Narrators, Contributors, etc.)

PROLOGUE with voice off camera. On the screen flashes of motion pictures and projected stills, changing every 3 to 5 seconds.

Voice off camera:

"ALASKA. A land of inestimable beauty...Its Mountains (McKinley)..Its Rivers...Forests...Lakes: _____ of them...Farms in the Matanuska Valley...A Coastline of _____ miles...The Sea with its abundance of seafood: 35 million salmon alone caught in 1983...The Inside Passage (map) from Seattle to Skagway and to Haines...Its Cities (flash of Fairbanks, Anchorage, and perhaps Juneau)...Its vast natural resources: Oil...Coal... Timber...Gold and other rare metals...Its Industry: Mining.., Forestry...Fishing...Construction...Its People (Indians... Eskimos...Aleuts...Sourdoughs...Business Men and Women. Truly a Great Land." (Total time from 3 to 5 minutes.)

On the screen: A map of Alaska superimposed on a map to the same scale, of the South 48 States, with Ketchikan over Jacksonville, FL, and Attu over (vicinity of) San Diego.

As the map is projected, a veteran walks on stage and speaks:

"When the United States purchased Russia's interests in Alaska in 1867, the American people called it 'Seward's Ice Box' or

'Seward's Folly'. The natives called it 'Denali'--the Great Land. A land so vast that if Ketchikan (turns and points) were at Jacksonville, Florida, Attu--one of the Near Islands--would be at San Diego, and the oil fields at Prudhoe Bay would be in North Dakota and Minnesota.

"The Near Islands?" Near to what? _____ miles to Soviet Komandorskiye Islands, _____ miles from the Kamchatka Peninsula in Asia.

"Further north, Soviet Big Diomede Island is 5 miles from American Little Diomede. Until recently the Eskimos on these islands visited back and forth, but no more. The inhabitants of Russia's Big Diomede have been evacuated.

"But this is not a history of Alaska, which was governed as a Military District under the Department of California until it attained Territorial status in 1912, or until it became our 49th state in 1958.

"Rather, we present to you the story of World War II in Alaska as experienced by veterans of that war. Too often it is called 'The Forgotten War' or 'The Thousand Mile War'. A war that few Americans knew much about even while it was taking place; and fewer know now that during that war American territory was seized by the Japanese armed forces and occupied for 15 months before we were able to again bring it under the American flag.

"This is a story told by men who took part in that war and by natives who suffered because of it. It is a story the American people ought to know, to see for themselves pictures made at the time the action took place. They should see for themselves the tremendous effort required to build the bases from which our airmen, our soldiers and our navy operated in the defense of Alaska. They should see what those bases look like more than 40 years after the action took place.

"It is important that we do this. History not only tells us what has already happened, but if we are attentive, it will indicate what could occur in the future."

# # #

Here continue with a brief statement of the situation in Alaska just before we entered the war, including an account of Captain Streit's visit, General Arnold's photographic mission, an account of the passage of the Around the World Flyers in 1924, the statement of Billy Mitchell regarding the strategic importance of Alaska, etc.

This situation is partially covered in my talk at the EAFB on 17 September. Data covering the other items mentioned are readily available.

For the production, we must review the motion pictures and selected stills made by the three services, and by the Japanese as may be appropriate, and as can be obtained.

The foregoing material should be assembled at the EAFB for review by carefully selected personnel of the three services, and from these select what is needed for the documentary. At the same time we should determine what additional photographic coverage is needed both of the bases on the mainland and in the Aleutians. When this is done, we are well on our way to having the documentary we want.

Hopefully, we can assemble these data before the end of the year. As a starter, I spoke to the Chief of Engineers about the Corps film at the National Archives, and of our plans for this documentary. His reaction was expressed in a few words: "What can I do to help?" Action is being taken to get this film.

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

February 14, 1984

TO: Representative Mae Tischer, Chairman House HESS

FROM: Representative Milo H. Fritz, M.D. MHF

SUBJECT: HB 470

HB 470 is an appropriation bill for the making of a Documentary Film History of WWII in Alaska. Originally, there were two bills HB 484 and HB 470. HB 484 was a bill to form a Commission for this special task. The bills went to State Affairs where we were asked to redraft HB 484. After hearing testimony from Carol Derfner, Special Assistant of the Governor in charge of Boards and Commissions my aide went to speak with her and Keith Levy, a legislative affairs lawyer. I learned there is an ALaska Historical Commission already formed by A.S. Title 44 Article 3 that has the power under statute section (4), (5), & (6) to make the documentary film. With the bill you will find a letter of Intent we would like to see passed out with the Bill.

Would you please schedule this bill as soon as Possible? I would like to testify for this bill. If you have any questions regarding this bill my researcher, Jan, will give you any backup material needed.

jh

PHOTO CREDITS

AAHS	American Aviation Historical Society - California
ADGM	Allison Division, GM - California
AJRC	Admiral James Russell Collection - Tacoma
BAT	Bell Aerospace Textron Collection - Buffalo, NY
BC	Boeing Company - Seattle
BN	Bob Nelson Collection
CAP	Collect-Air Photos - Wisconsin
CAS	Charles A. Simenstad Collection
COE	Corps of Engineers, US Army - Anchorage
DSB	DS Braden Collection - Anchorage
GFP	GF Petrov - Finland
JD	Jay Demming Collection - Florida
MFC	Mark Fuersteanau Collection - Nome
NAA	North American Aircraft Collection
PMB	Peter M. Bowre Collection - Fairbanks
PPL	Pilot Press Ltd. Collection
RWH	RW Harrison COllection - Massachusetts
TPL	Taylor Picture Library
TS	Thomas Spitler - Adak
USA	US Army Archives - Washington
USAF	US Air Force Archives - Washington
USCG	US Coast Guard - Kodiak

AIRCRAFT WRECKS SHOWN ON MAP

WRECK NUMBER	DATE OF CRASH	TYPE OF AIRCRAFT	POSITION OF WRECK
1 ✓	WWII	B–24	CAPE KIGUN, ATKA
2 ✓	WWII	B–24	ILAK ISLAND, WRECKAGE INTACT
3 ✓	28 OCT 46	P–38	TANAGA BAY, POOR CONDITION
4 ✓	28 OCT 46	OA–10	TANAGA BAY
5 ✓	31 AUG 51	PB 4Y–2	NW TIP OF LITTLE TANAGA, 500–FOOT LEVEL
6 ✓	WWII	B–24	SEMISOPOCHNOI, EAST SIDE OF DERRET RIDGE
7 ✓	WWII	B–24	BECHEVIN BAY, ATKA, VERY GOOD CONDITION
8 ✓	WWII	A–20	KISKA, EAST END OF LANDING STRIP
9 ✓	WWII	B–24	GREAT SITKIN, FUSELAGE INTACT, WINGS FOLDED BACK
10 ✓	WWII	PBY	NE SIDE OF KISKA VOLCANO
11 ✓	WWII	PBY	CLIFF ON KASATOCHI ISLAND
12 ✓	WWII	OA–10	ATKA, NORTH SIDE OF KOROVIN BAY
13 ✓	WWII	P–38	NW POINT OF BULDIR ISLAND, POOR CONDITION
14 ✓	5 SEP 46	PV–1	AGATTU ISLAND, PRETTY GOOD CONDITION
15 ✓	WWII	P–38	ALAID ISLAND, VERY POOR CONDITION
16 ✓	5 SEP 46	C–47	ATTU
17 ✓	WWII	P–38	ATTU, TEMNAC BAY, POOR CONDITION
18 ✓	WWII	P–40	SW END OF UMNAK ISLAND, CAPE STARR
19 ✓	WWII	PBY	UNALASKA ISLAND, DEBRIS SCATTERED FROM 300 TO 900 FOOT LEVELS
20 ✓	WWII	P–40	UNALASKA, BADLY SCATTERED
21 ✓	WWII	OA–10	UNALASKA, BADLY SCATTERED
22	WWII	ZERO	AKUTAN, VERY POOR CONDITION
23 ✓	11 DEC 73	C–118	GREAT SITKIN, TEN PERSONS ON BOARD, NO SURVIVORS

REFERENCE: 5

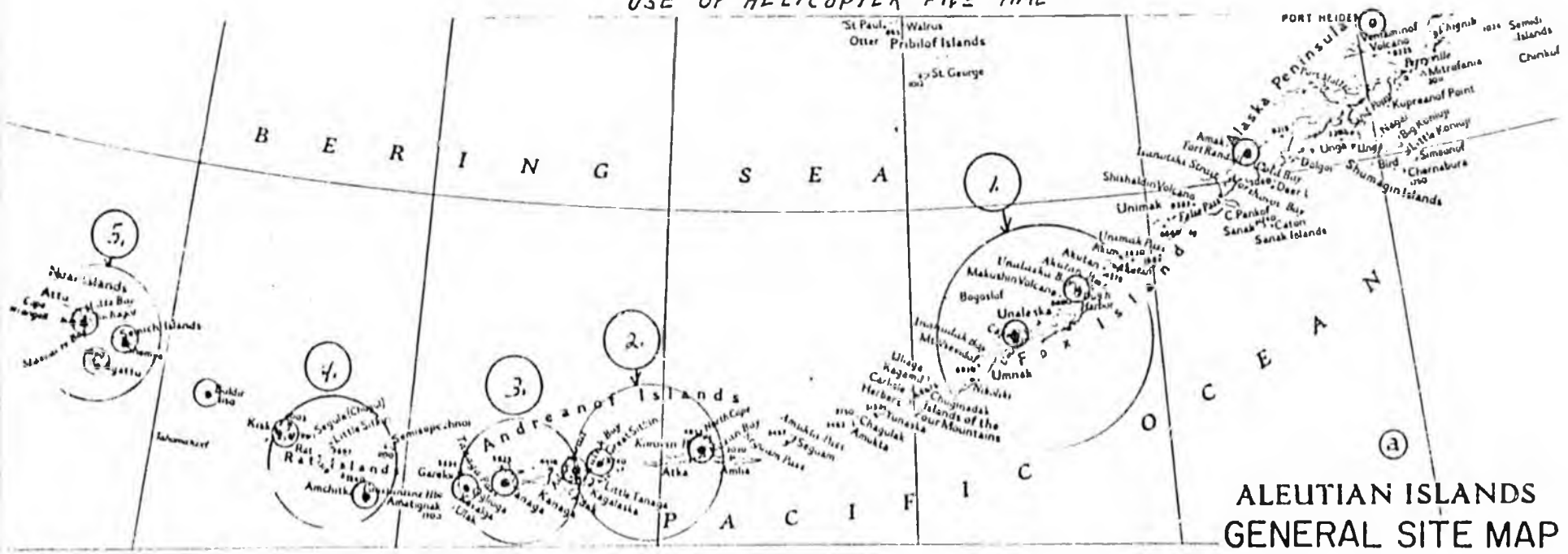
FIGURE 1–14

DOWNED AIRCRAFT OF POTENTIAL HISTORIC VALUE

The Historical Remains of Aleutians
1941-1944

1. Kodiak - Ft. Greely - Airfield
2. Fort Heiden - Fort Morrow - Airfield
3. Cold Bay - Fort Randall - Airfield
4. Dutch Harbor - Fort Mears - Airfield
5. Unalaska - Chernofski
6. Umnak Island - Fort Glenn - Airfield
7. Atka Island - Atka Landing Field
8. Great Sitkin Island
9. Adak Island - Adak - Airfield
10. Tanaga Island - Airfield (Ogliuga Island)
11. Amchitka Island - Amchitka - Airfield
12. Kiska Island - Kiska
13. Little Kiska Island
14. Buldir Island
15. Shemya Island - Shemya - Airfield
16. Agattu Island
17. Attu Island - Attu

USE OF HELICOPTER FIVE TIME



ALEUTIAN ISLANDS
GENERAL SITE MAP

General Site Map

NORTH STAR CHAPTER

3605 Arctic Boulevard
Anchorage, Alaska 99503

"There Are Some Days You Can't Forget".

(907) [redacted] 277-7472 (907) 272-0365

Use of C-130 Hercules	Use of Helicopter	Dates	Codes	Points of Interest
A.		Day 1.	A.	Kodiak - Ft Greely - Airfield - Fixed Harbor Defense - Naval Base - Army Garrison Airfield at Cape Chinak
B.		Day 2 - 3	B.	Port Heiden - Fort Morrow - Airfield Docking Facilities (Air Defence of the Naval Base at Dutch Harbor) one downed aircraft
C.		Day 3.	C.	Cold Bay - Fort Randall - Airfield - Docking Facility (Air Defense of the Naval Base at Dutch Harbor)
D.	1.	Day 5 - 7	D.1.	From SW Umnak Island to NE Akutan Island Dutch Harbor - Fort Mears (Bombing of Dutch Harbor June 3, 1942) Unmak Island - Fort Glenn (Two Satellite Airfields) 17 Downed Aircraft
E.	2.	Day 8 - 10	E-2	From Adak to West of Atka Island Adak - Great Sitkin Island Atka Island 7 Downed Aircraft
F.	3.	Day 8 - 10	F-3	From Adak to South of Ogliuga Island Tanaga Island 3 Downed Aircraft
G.	4.	Day 11-13	G-4	From Amchitka Island to West of Kiska Amchitka Island Kiska (Battle of the Kiska Islands) Little Kiska 3 Downed Aircraft 3 Japanese 2-man submarines
H.	5.	Day 14-16	H-5	From East of Shemya Island To North of Attu Island Shemya Attu (Battle of Attu) Agattu Island 6 Downed Aircraft

Keep America Strong —— Remember Pearl Harbor

NORTH STAR CHAPTER

3605 Arctic Boulevard
Anchorage, Alaska 99503

"There Are Some Days You Can't Forget".

(907) [redacted] 277-7472 (907) 272-0365

Milo H. Fritz, M.D.
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Doctor:

The Pearl Harbor Survivors has been involved in the preservation, through film of what often has been titled, "The Forgotten War" - the World War II campaign in the Aleutians. For the past two years we have, with the aid of many others, researched the areas, the people, the survivors and the locations.

In order to comply with governmental regulations, we have contacted the Village Corporation Leaders and received their permission to visit and film those localities that played such a dominant role in Alaska's involvement in World War II.

Our goal is to do documentary film of the Aleutians to be used in the public school system in Alaska and in the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to our film on Pearl Harbor, "There Are Some Days You Can't Forget." Our records indicate that effective December 20, 1983, that film has been viewed by over 4,300 Anchorage school children and about 130,000 Alaskans.

A total of fourteen men will assist in the production including the film crew, Aleutian Survivors and support personnel.

Our history and war efforts in the Aleutians are rapidly being lost. Through your cooperation, your position can start the wheel rolling to help our country preserve what is left of our heritage and war effort.

PAUL FAULKNER, President

cc: Rep. Liska, Col. Griffith, Rep. Furnace

encl: Information packet

THE HISTORICAL

REMAINS

F HB 470 .484

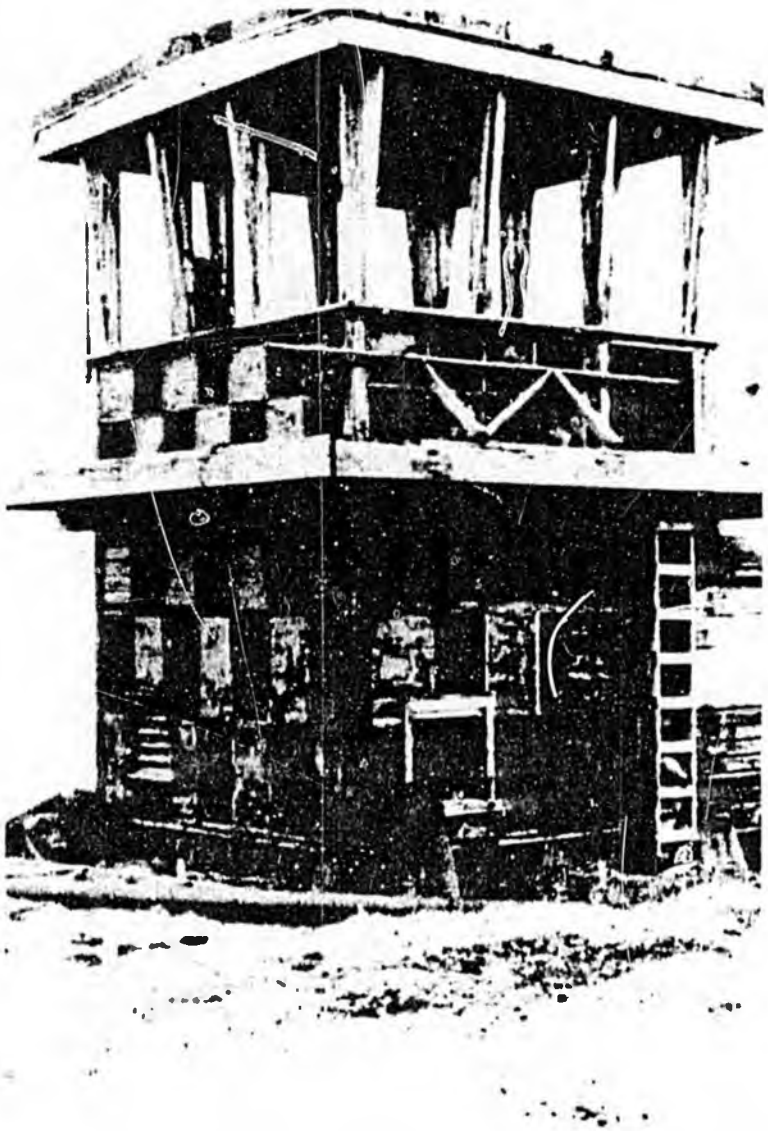


KISKA

U.S. ARMY RETAKES -- 1943

"In honor and memory of the men of the North Pacific Theatre who died so that a continent might be free."

CPL Dashiell Hammett
The Battle of the Aleutians (1944)

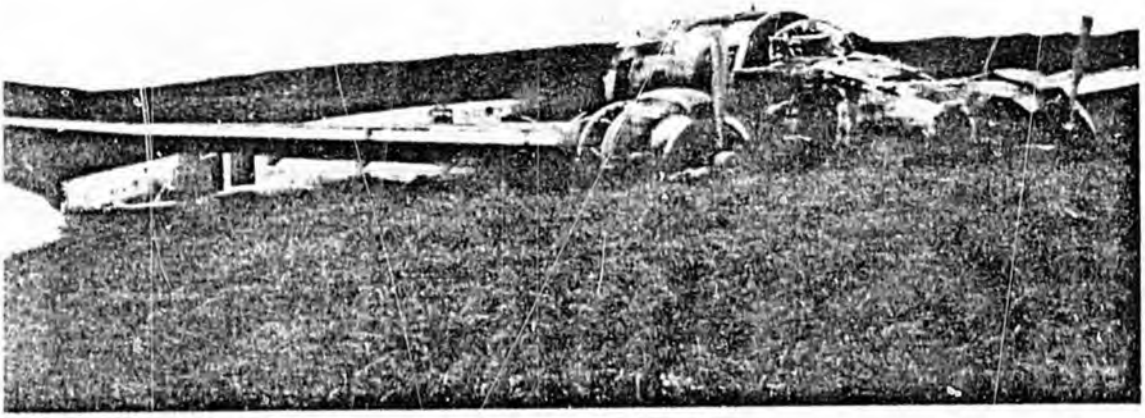


There are several aircraft control towers like this one in the photo that still remain in the Aleutians.

COE

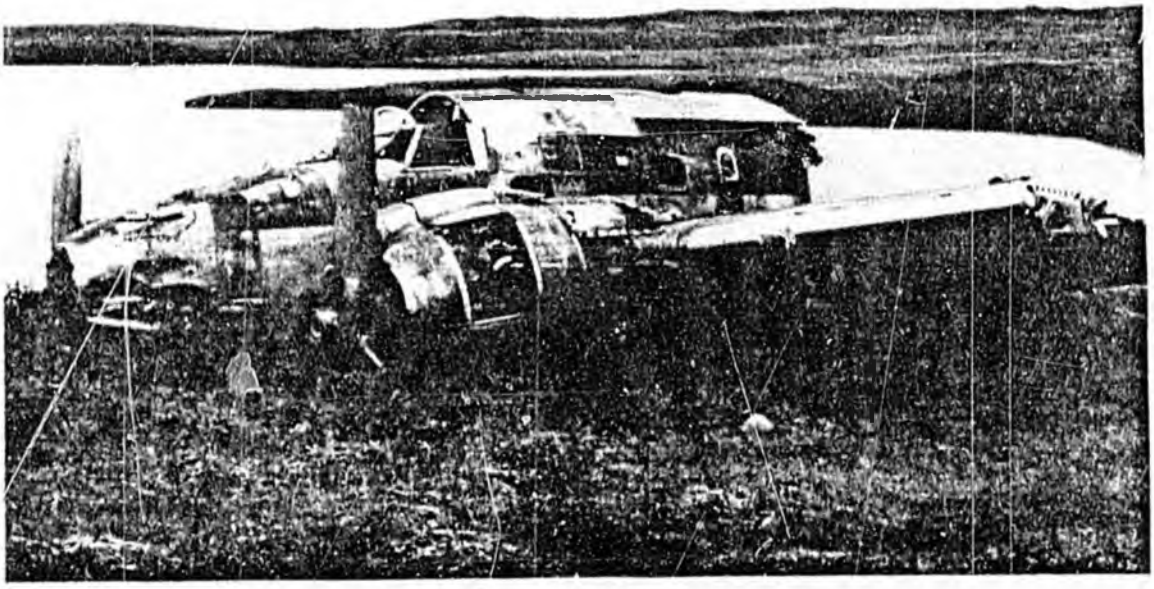
"The loyal courage, vigorous energy and determined fortitude of our armed forces in Alaska, on land, in the air and on the water - have turned back the tide of Japanese invasion, ejected the enemy from our shores and made a fortress of our last frontier. But this is only the beginning. We have opened the road to Tokoyo: the shortest, most direct and most devastating to our enemies. May we soon travel the raod to victory."

Simon Bolivar Buckner, Jr.
Licutenant General, U.S.A.



This PV-1 Ventura went down on a remote island in the Aleutians. ANother PV-1, which is in a better condition than this, sits on another island.

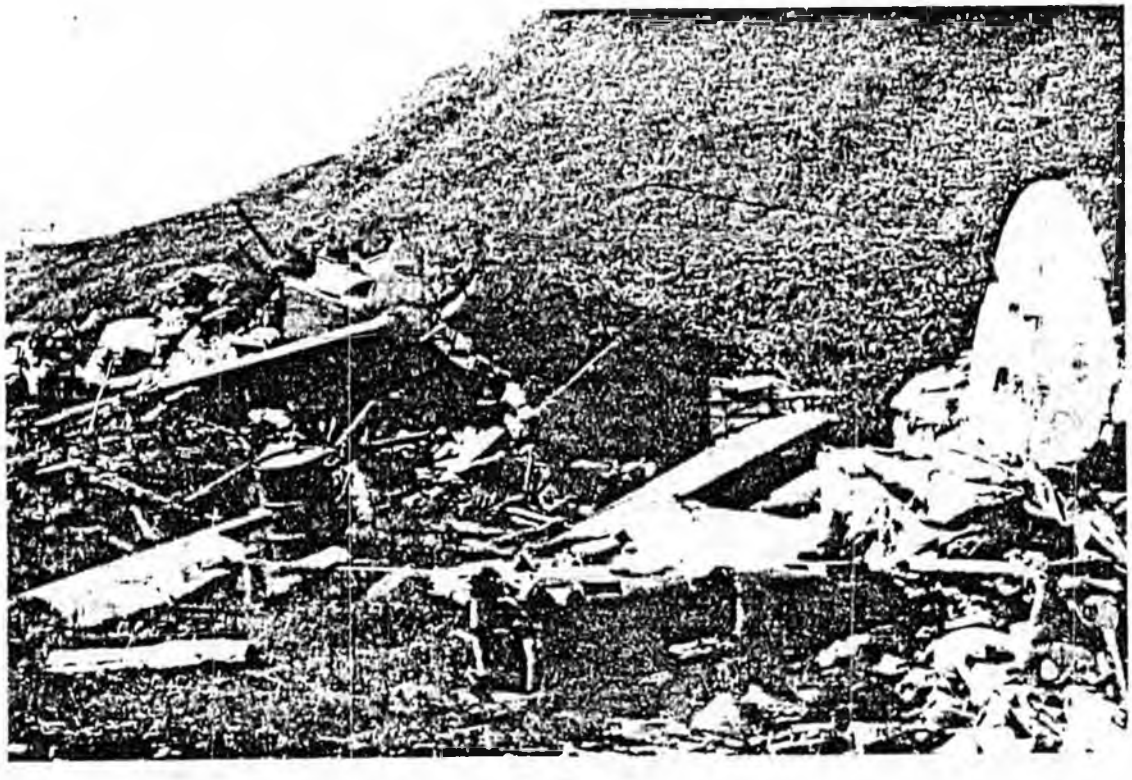
USFWS





An aircraft dump area alongside a runway in the Aleutians has P-40 and P-38 parts and fuselages.

USFWS



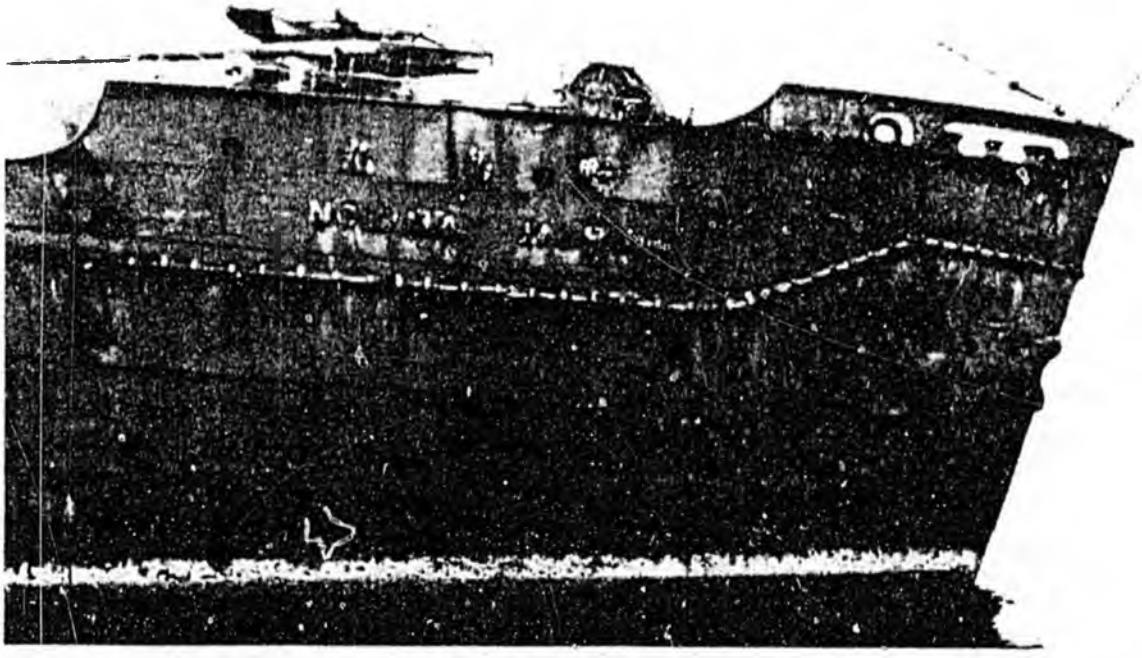


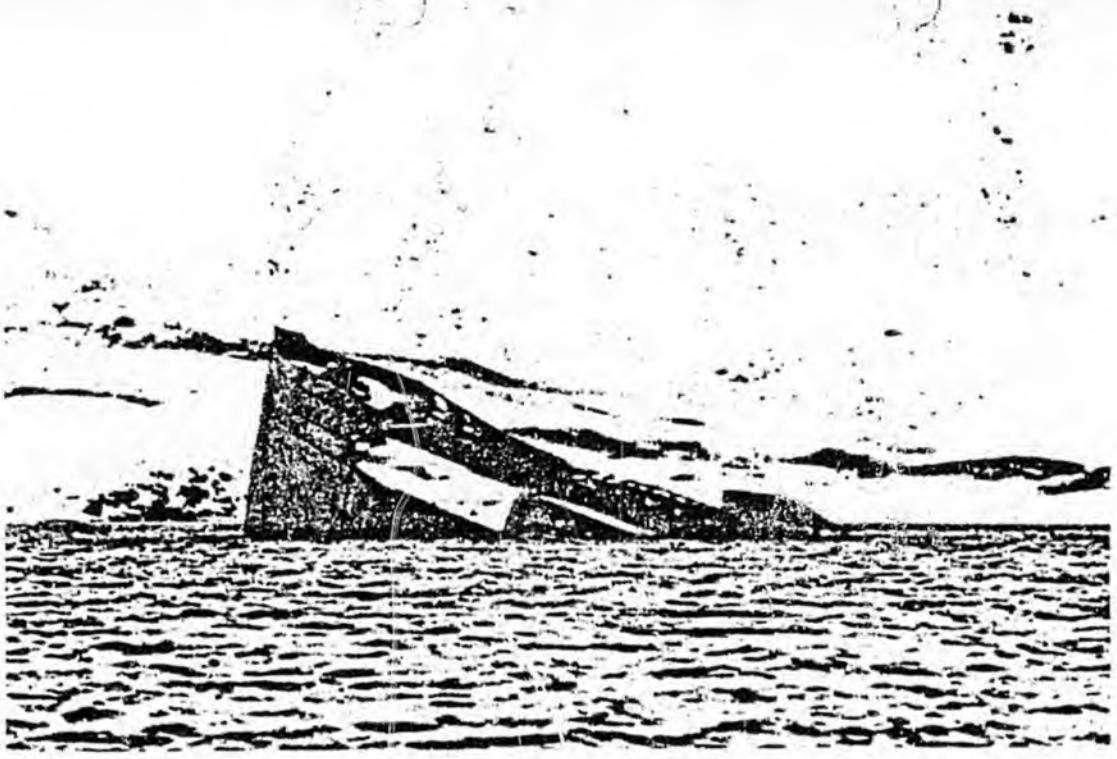
Bomb-out Japanese Freighter.

USFWS

Remains of a Bygone Era. The Bombed-out Japanese Freighter Nozine Maru. Note the Large Gun Mount on the Bow.

COE



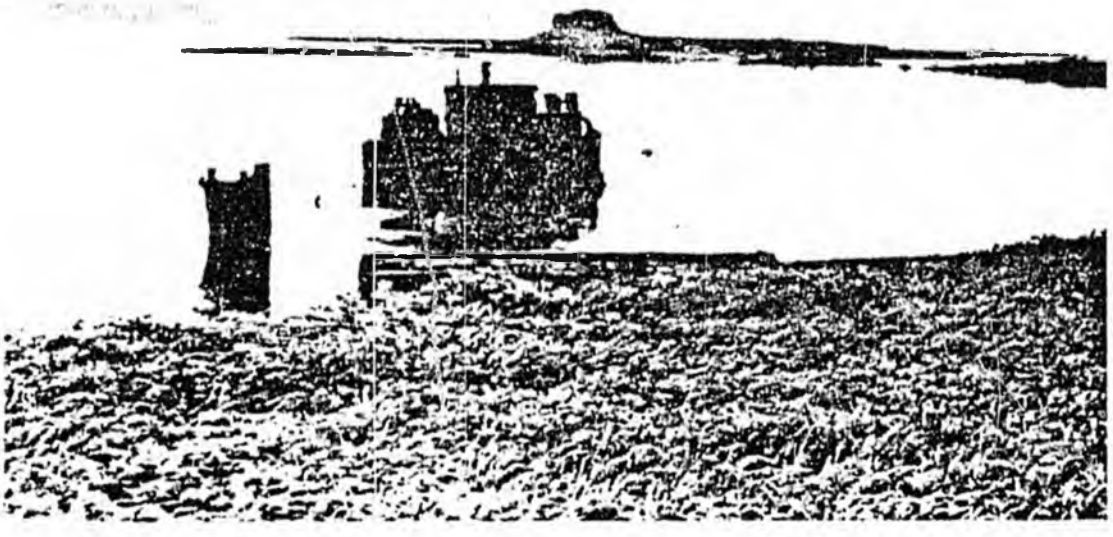


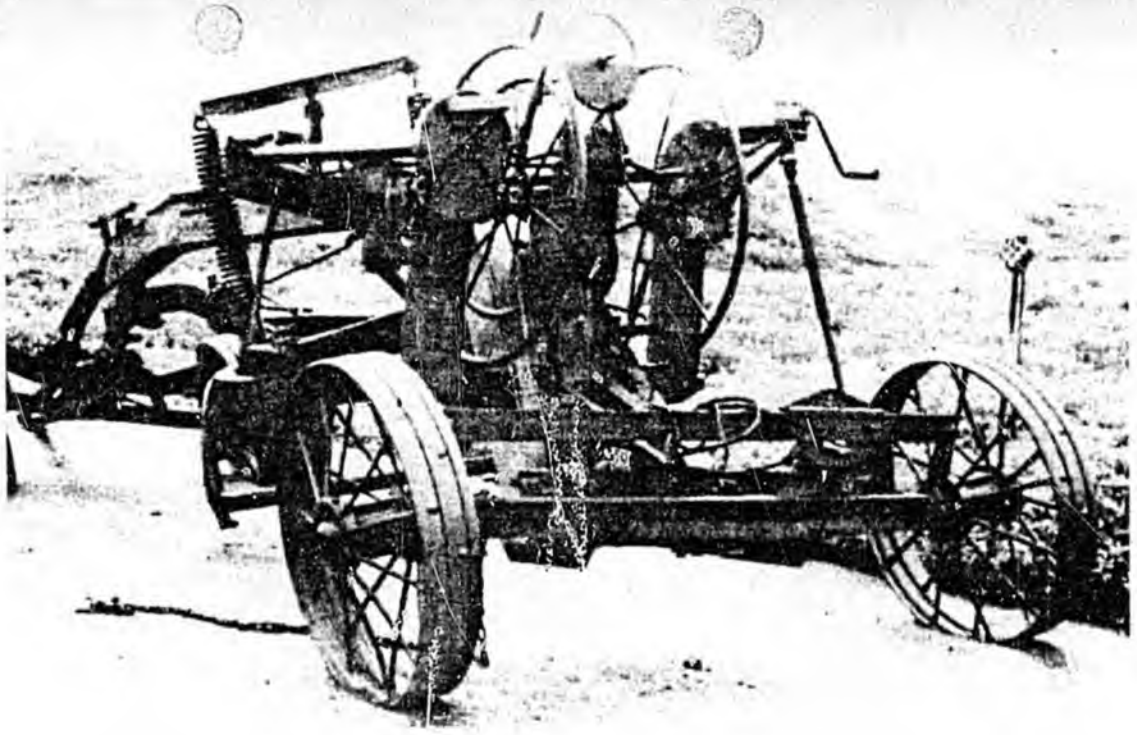
The USS Northwestern, which served as barrack and power plant, was destroyed by a direct hit by a Japarese Fighter plane on June 4, 1942.

BN

Sunken American LCI (Landing Craft Infantry).

COE

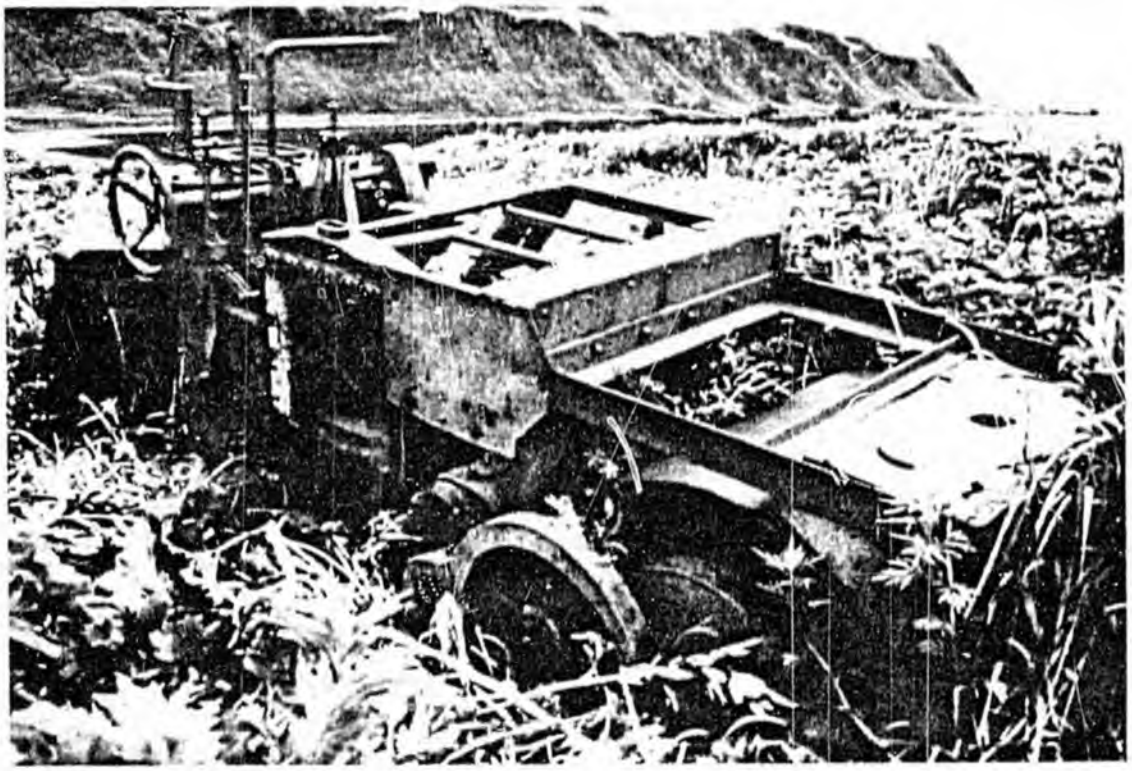


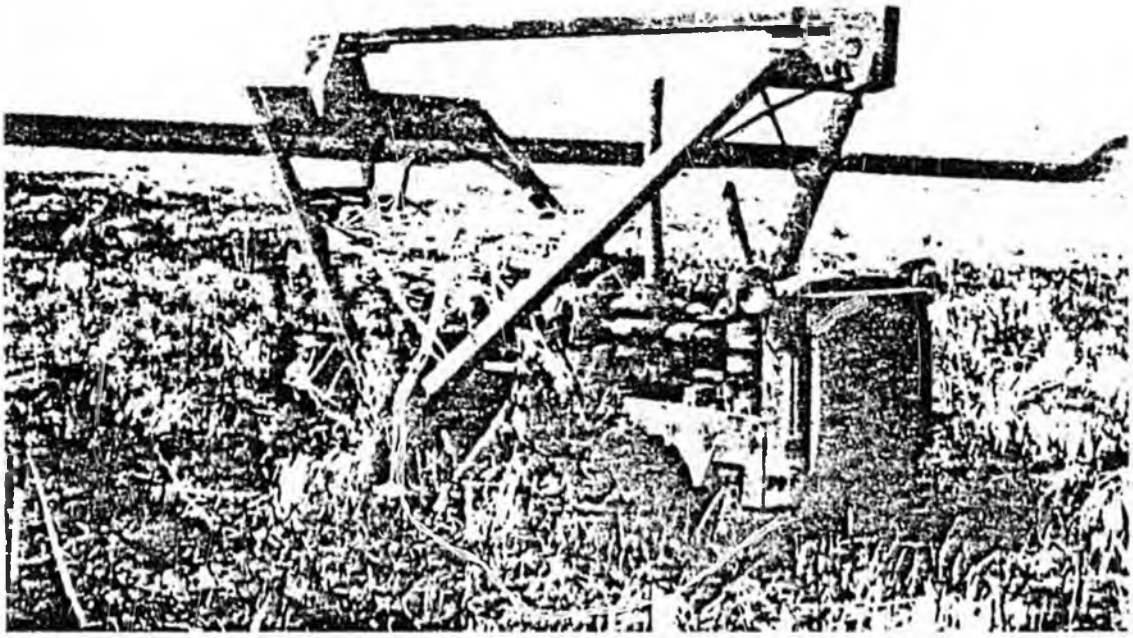


American Tractor-Pulled Scraper for Airfield and Road Construction.
USFWS

A steam Roller, which was used in a construction of runways and roads, is sitting in an Aleutian island.

USFWS





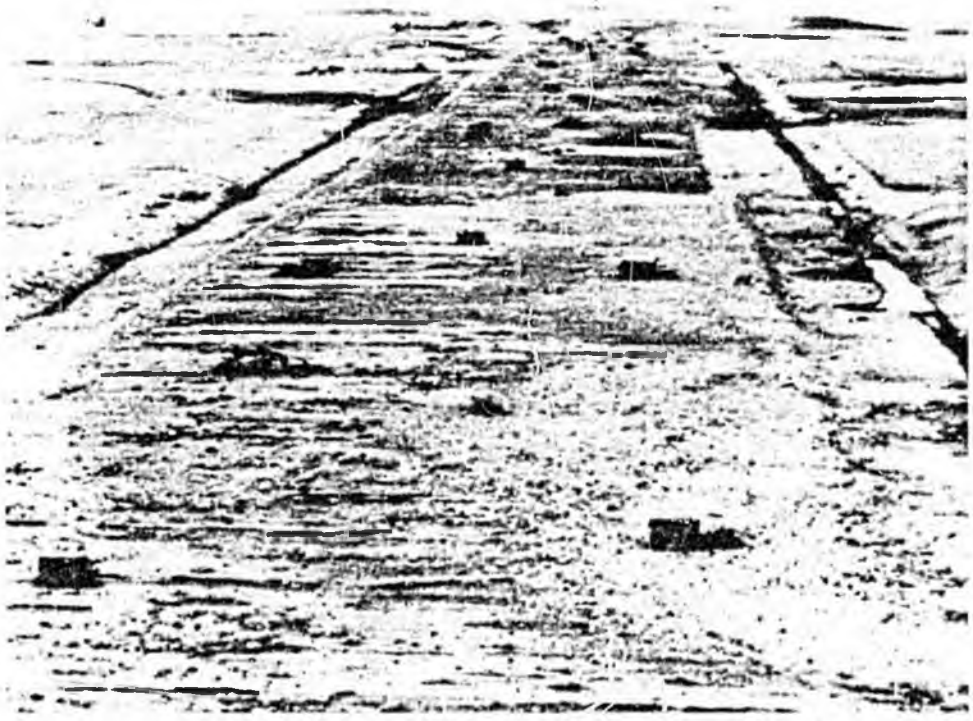
American D4 Caterpillar Bulldozer.

USFWS

Floats for American Anti-Submarine Nets.

COE

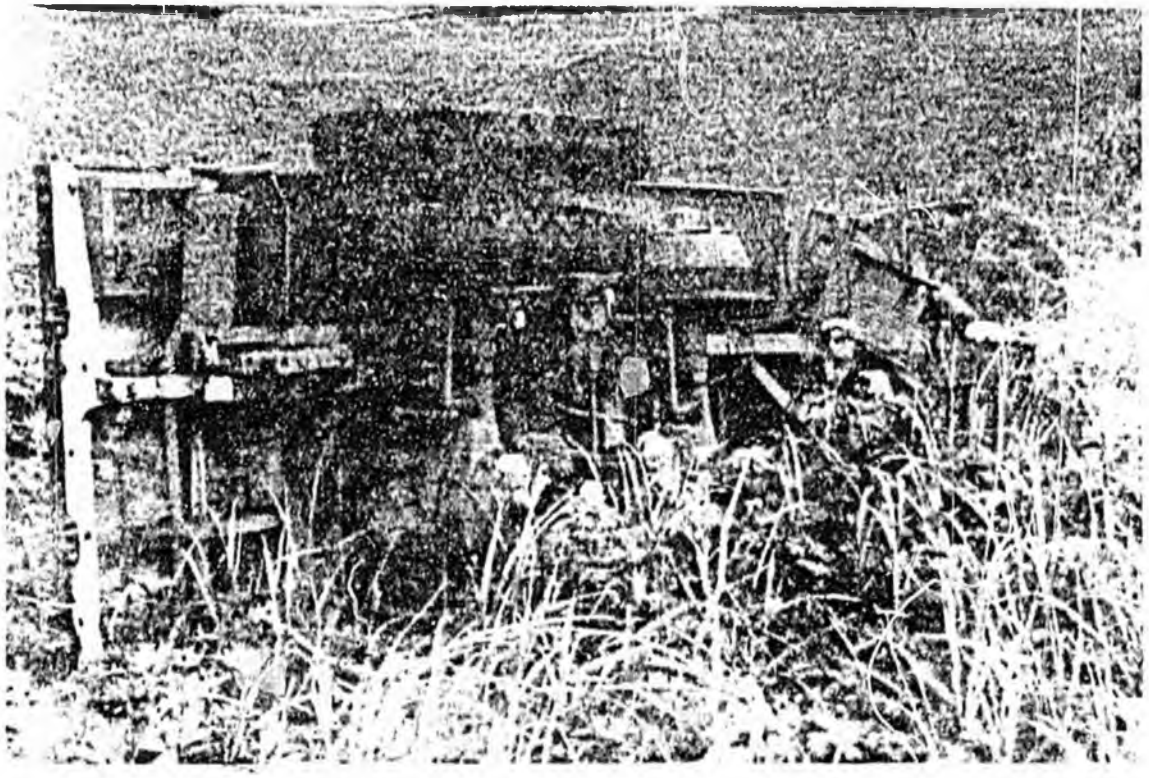


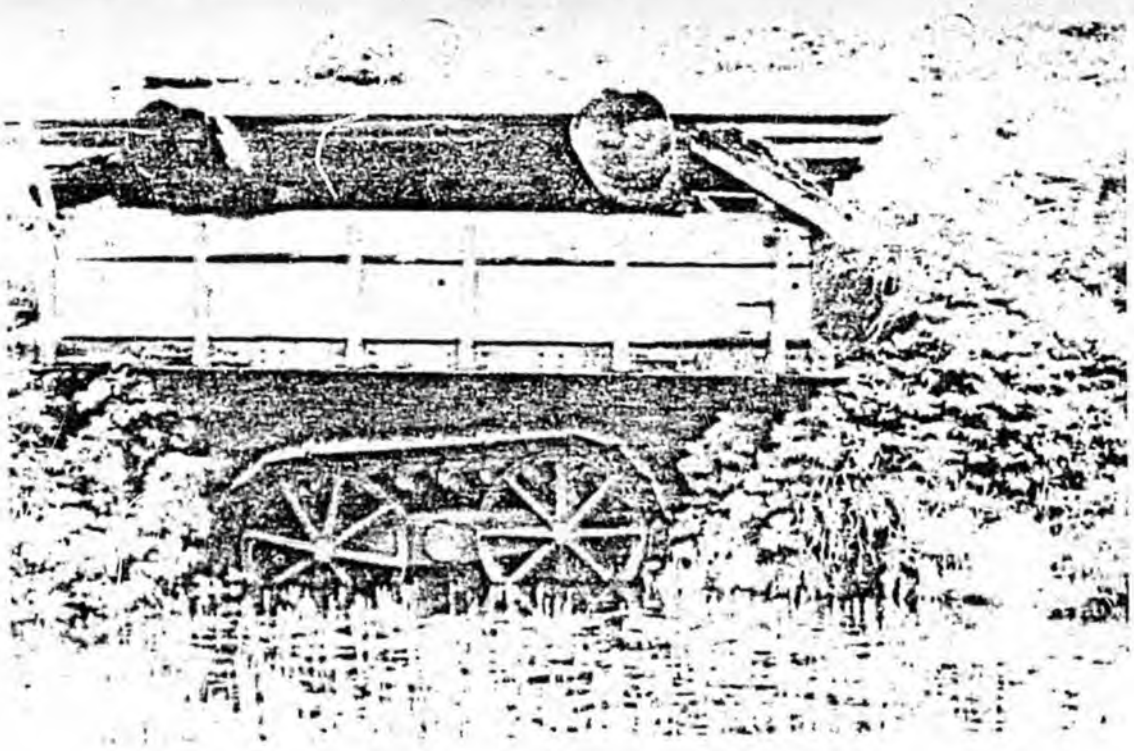


Abandoned Engineer Construction Vehicles on Steel Matting Runway.
USN

Japanese Model 94 (1934) 6 X 4 Utility Truck.

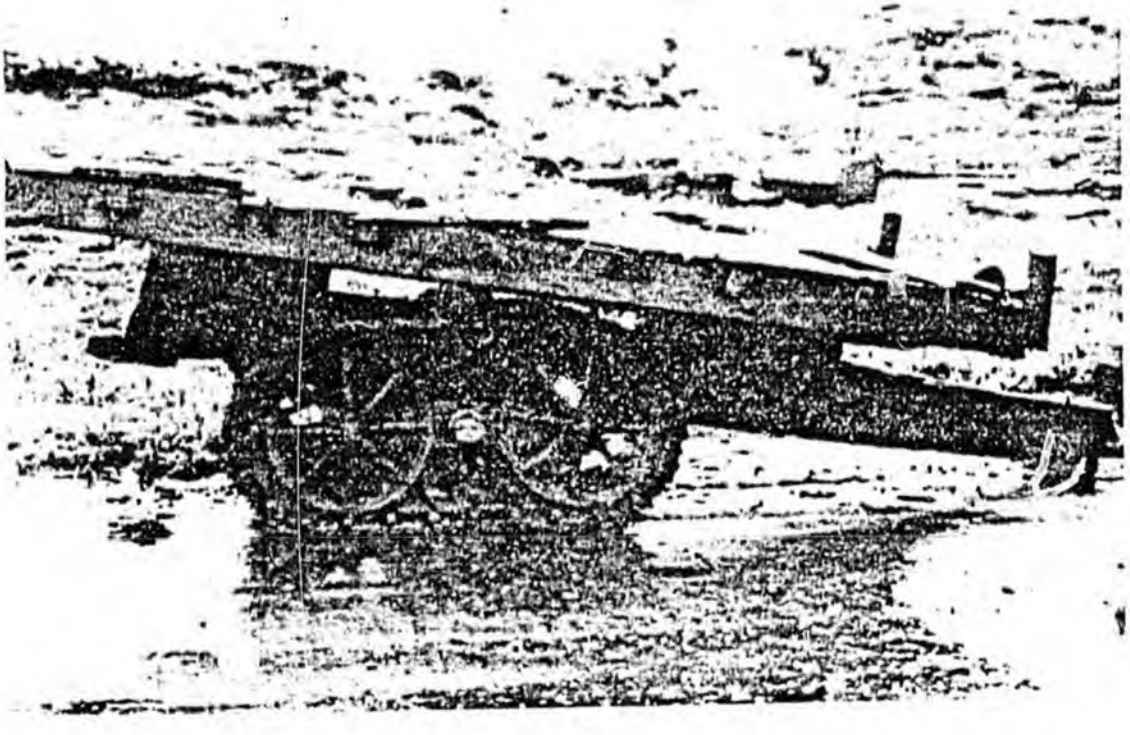
COE





American Bulldozer-Pulled ATHEY Vehicle.

COE



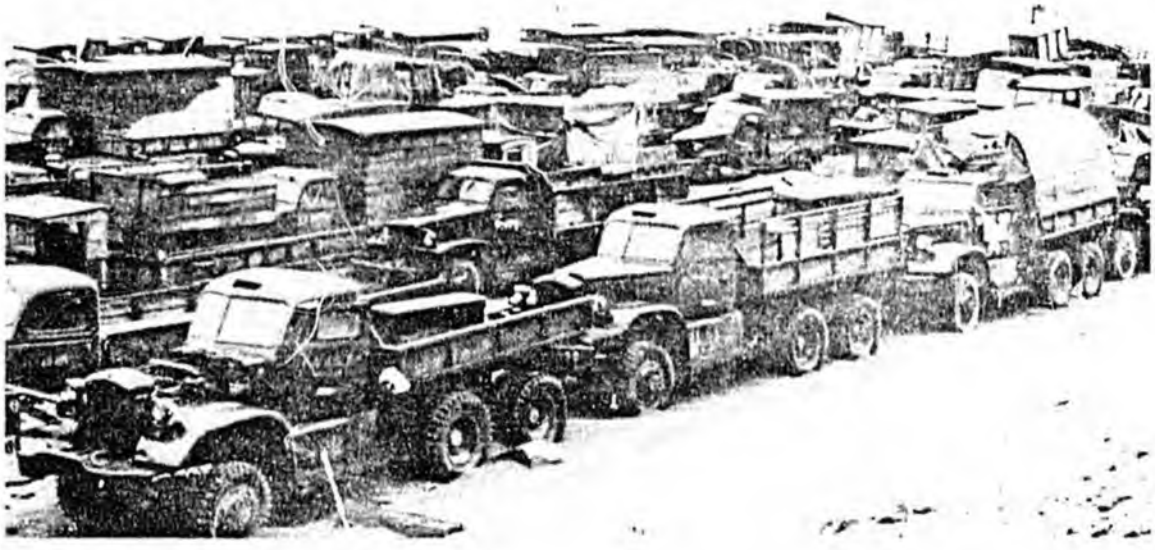
Heavy equipment (such as bulldozers and Cats) and vehicles (such as trucks) were all buried in the Aleutian Island.

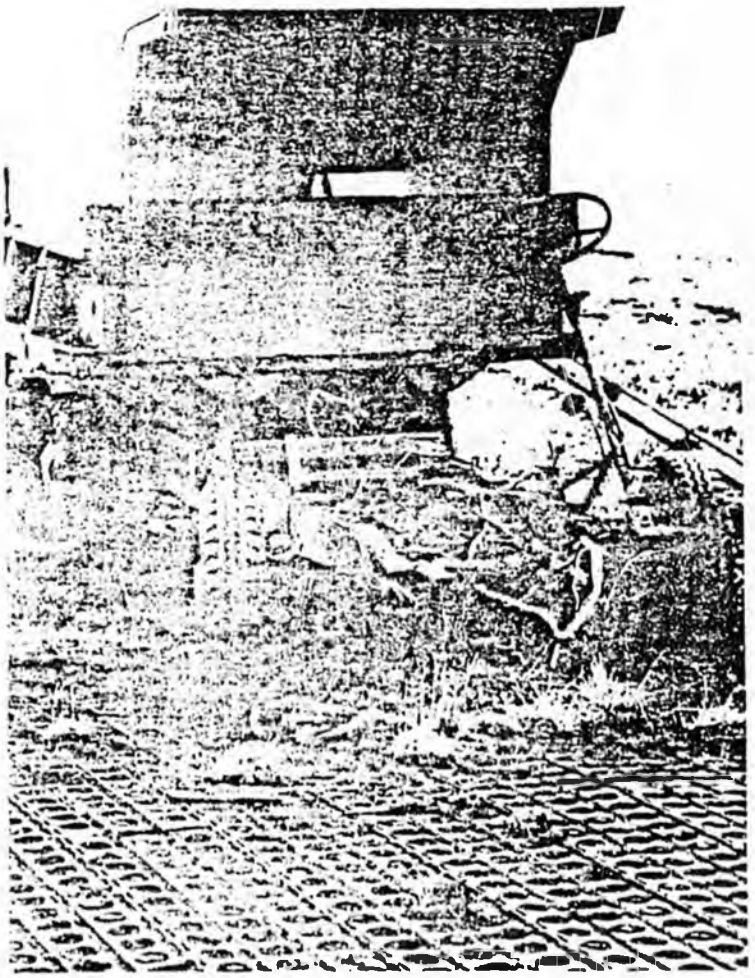
USA



In closing the air bases in the Aleutians Islands after WW II, trenches were dug. Trucks and jeeps like these and staff cars were driven into the trenches and then completely were buried.

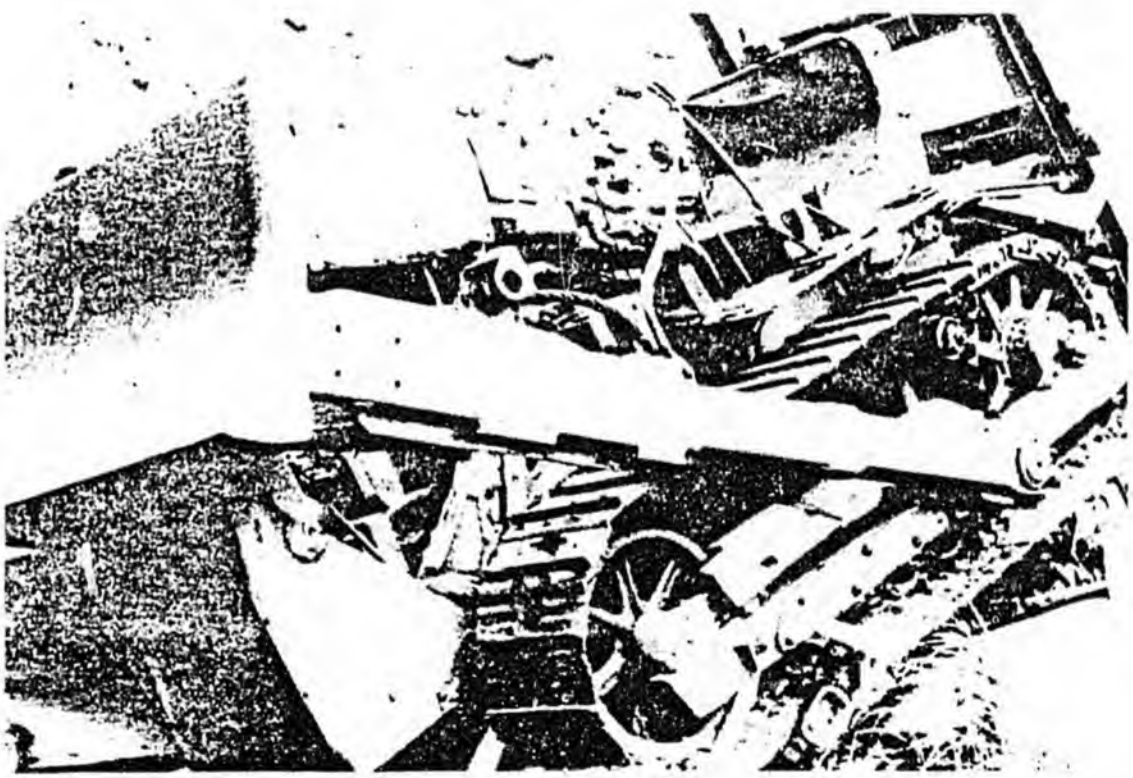
USAF





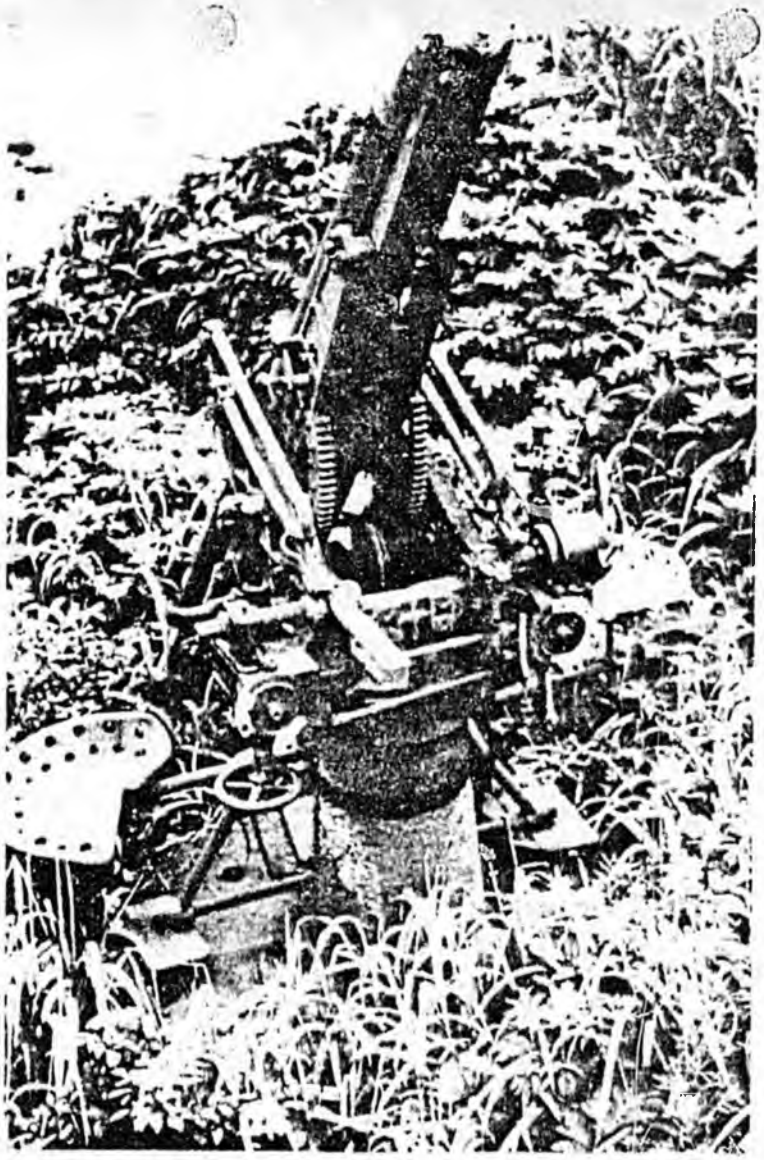
American 5CY Dump Truck on Runway Matting.

USN



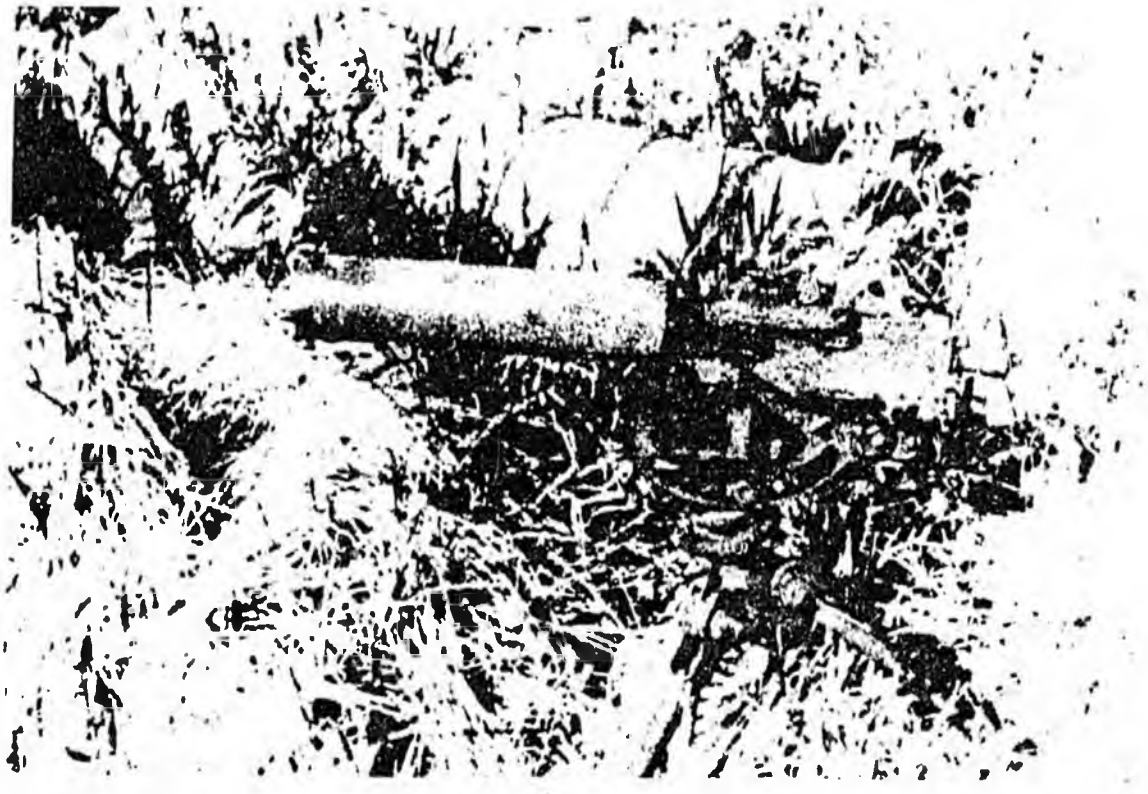
Typical Remains of an Engineer Bulldozer.

COE



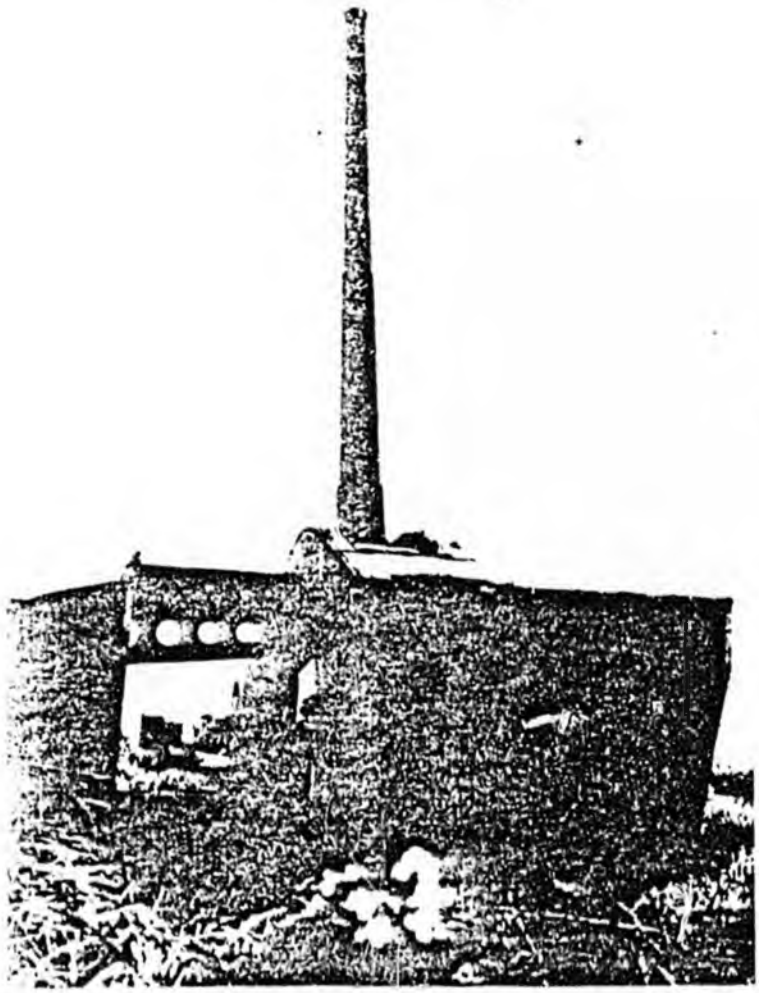
A Japanese gun, caliber unknown, sits on an Aleutian Island.

USFW



A Browning M1917A1, .30 mm water-cooled machine gun.

USFWS

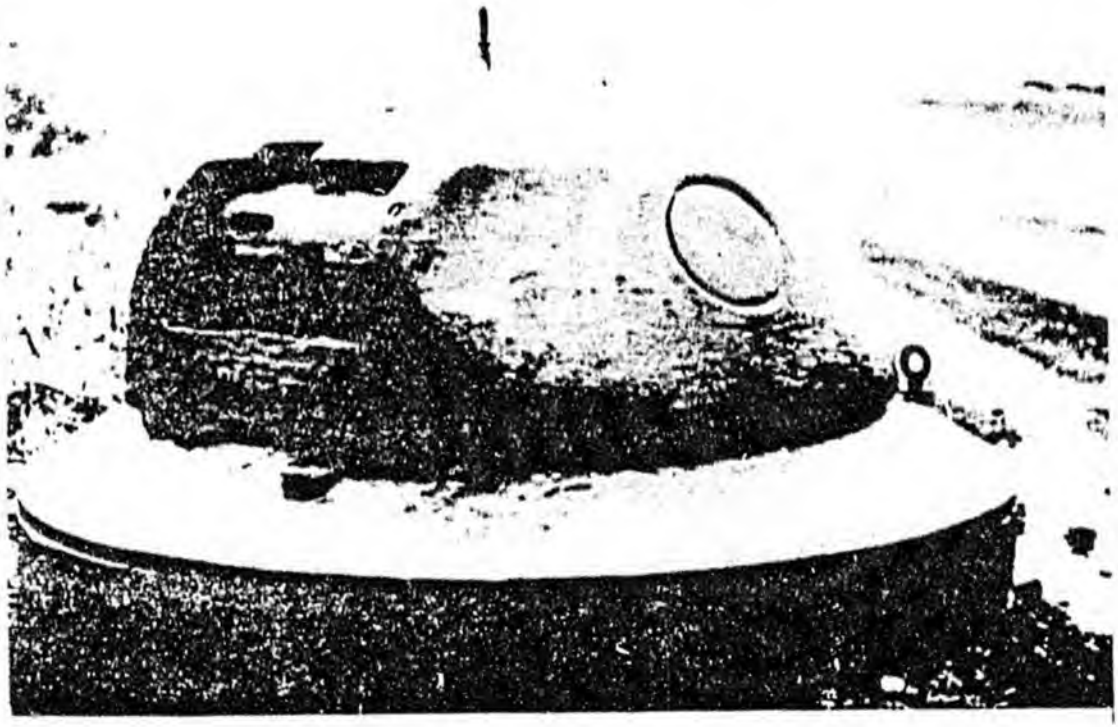


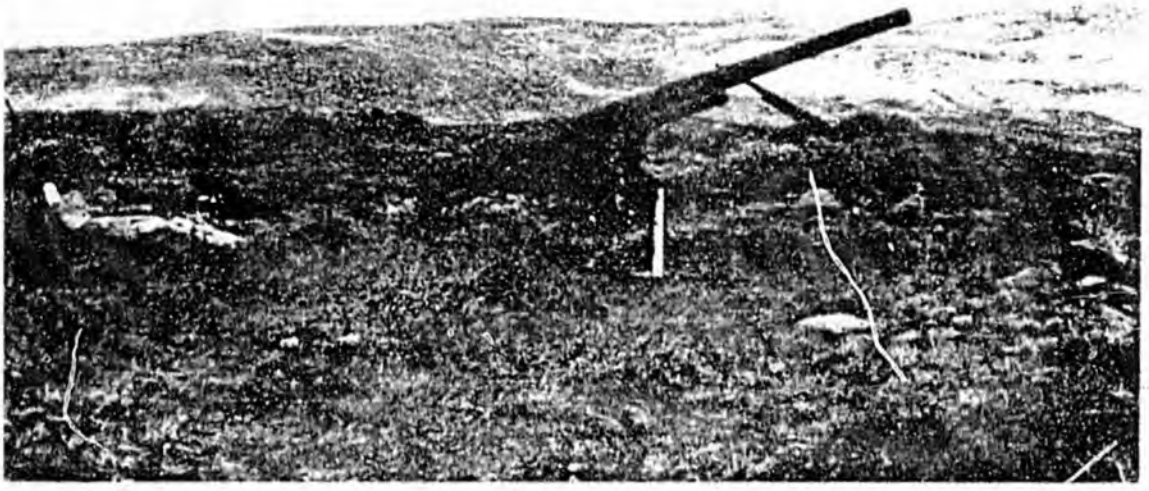
A 14 cm Coastal Gun, believed to be from the British Fortress at Singapore, Vintage 1900.

COE

The Renault Tank Turret was used for airfield defense.

COE



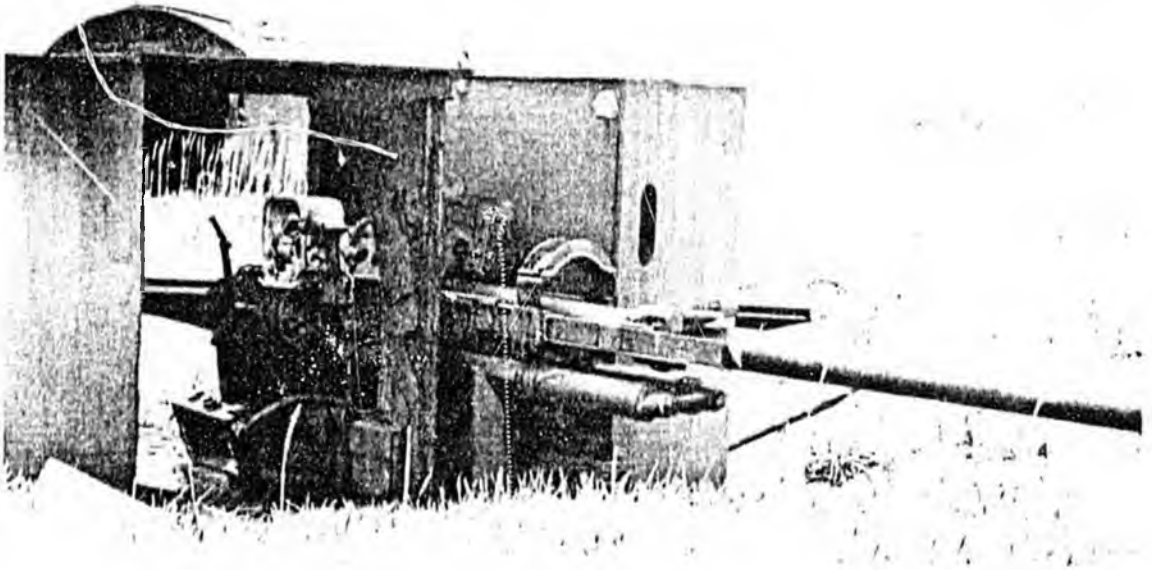


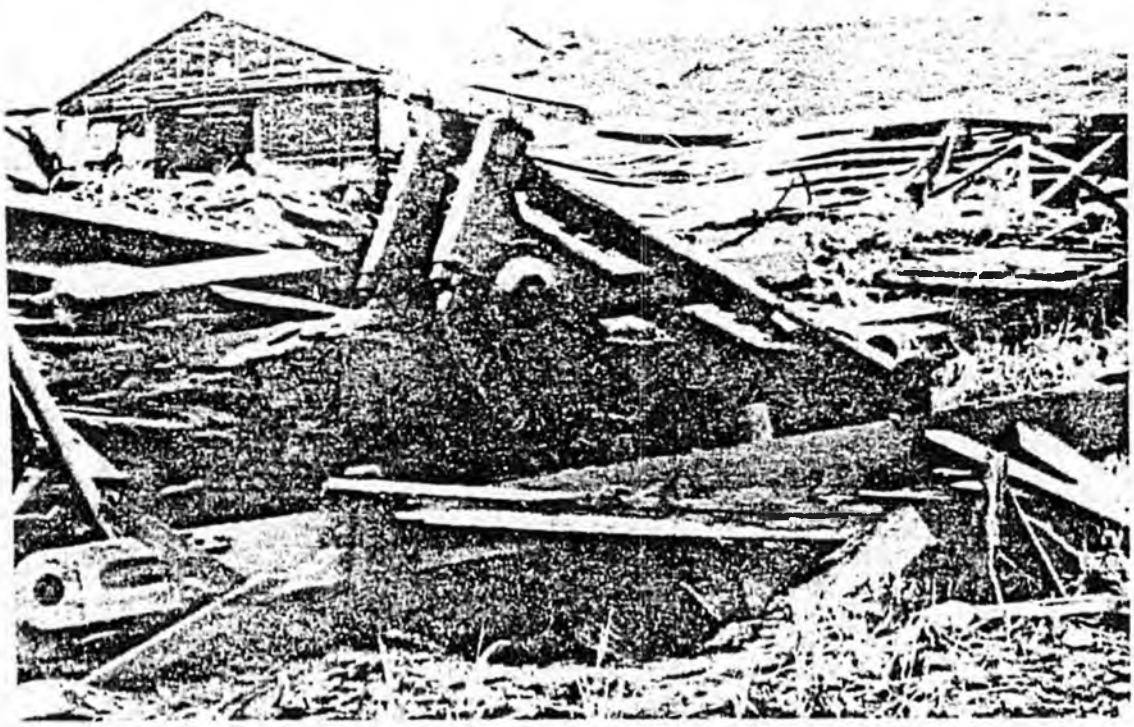
Japanese 75 mm Anti-Aircraft Guns still in position.

COE

An American 3-inch Coastal Gun.

COE



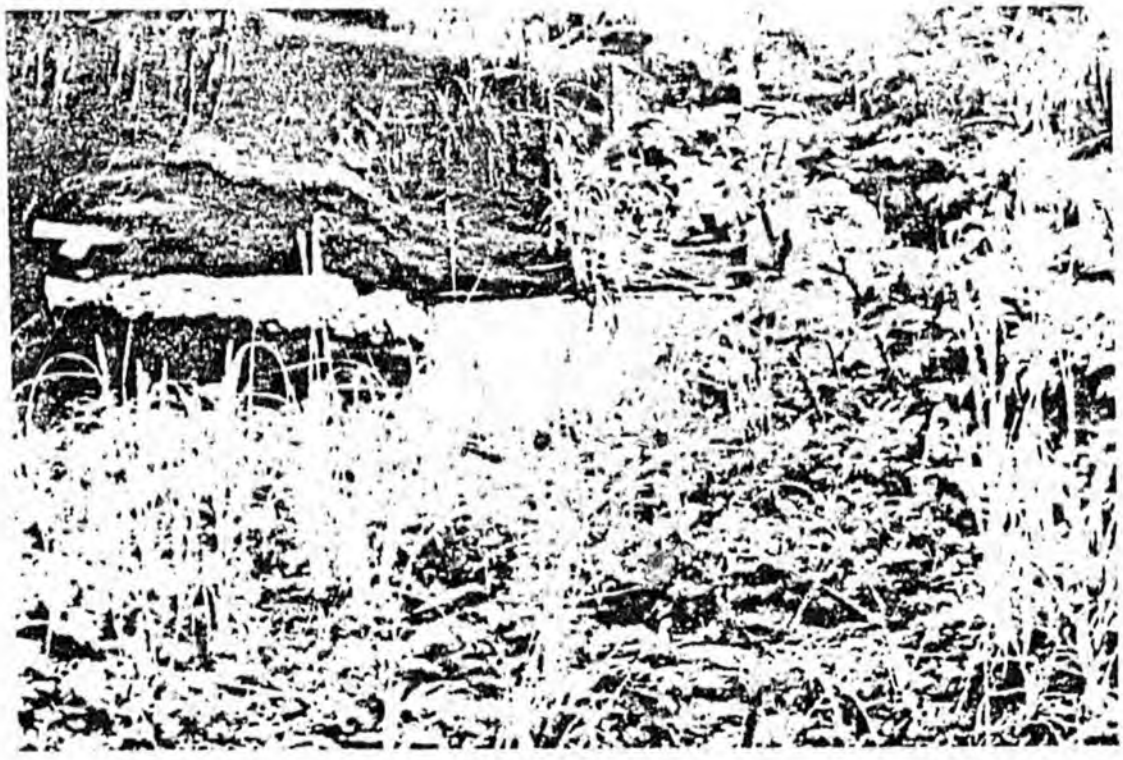


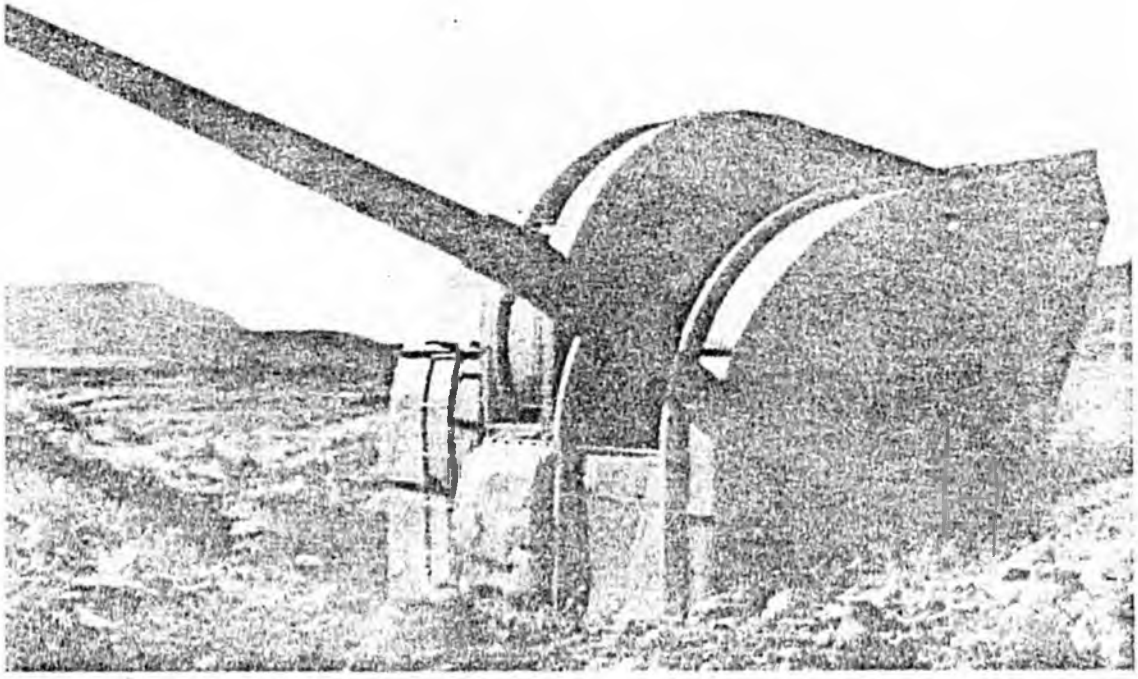
Present Dock Area and Remains of 155 mm Gun Carriage.

COE

This lush vegetation has practically hidden this Japanese 75 mm battery.

COE



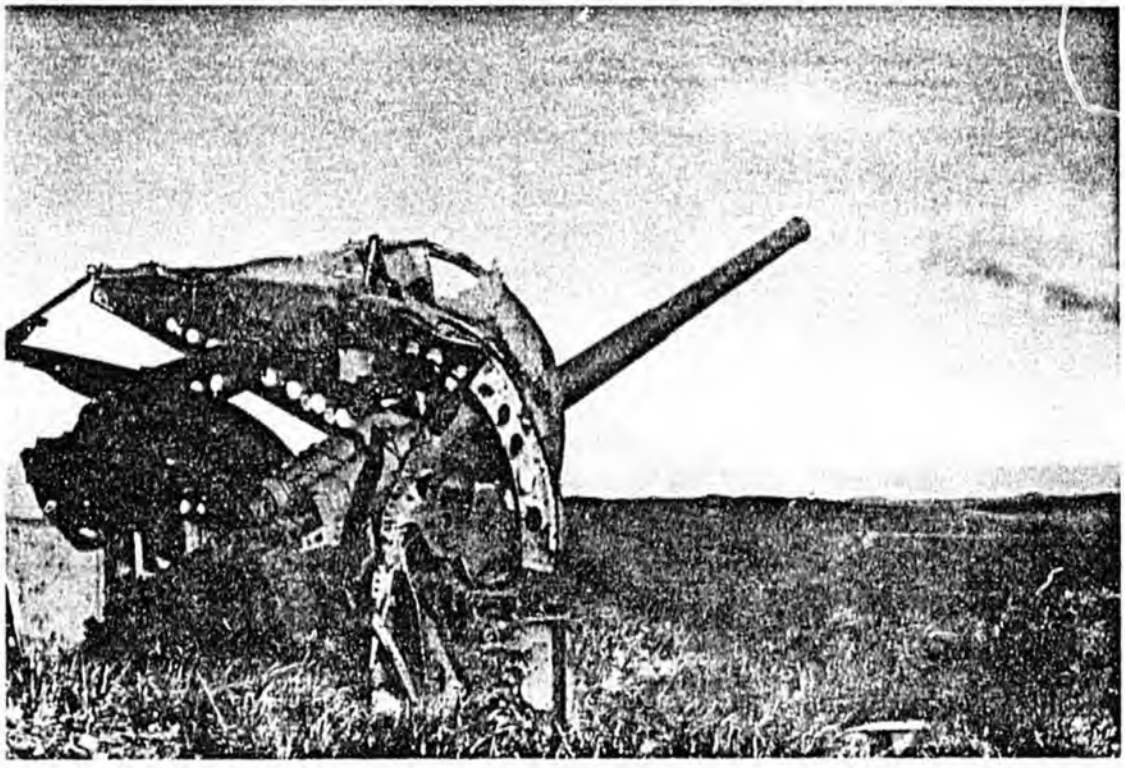


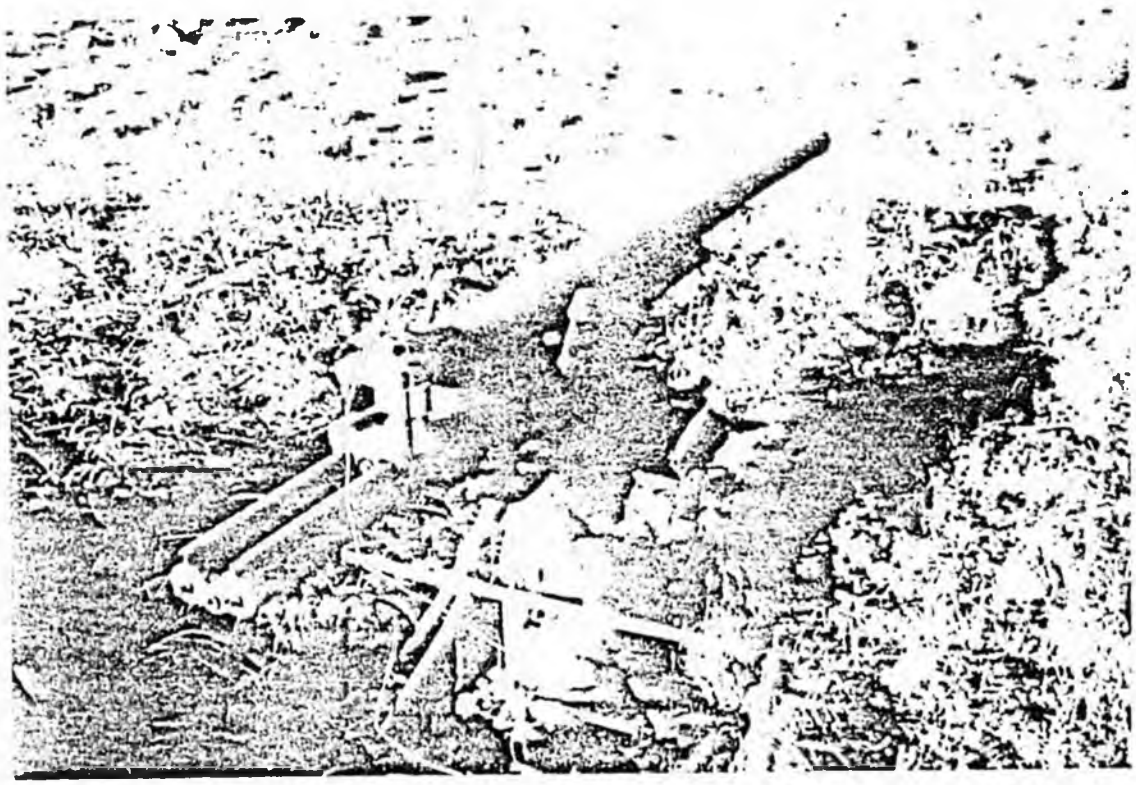
A captured British Model 3 (1914), 12 cm naval Gun used by the Japanese in defense of an Aleutian.

COE

A British Model 14 cm Coastal Gun.

COE



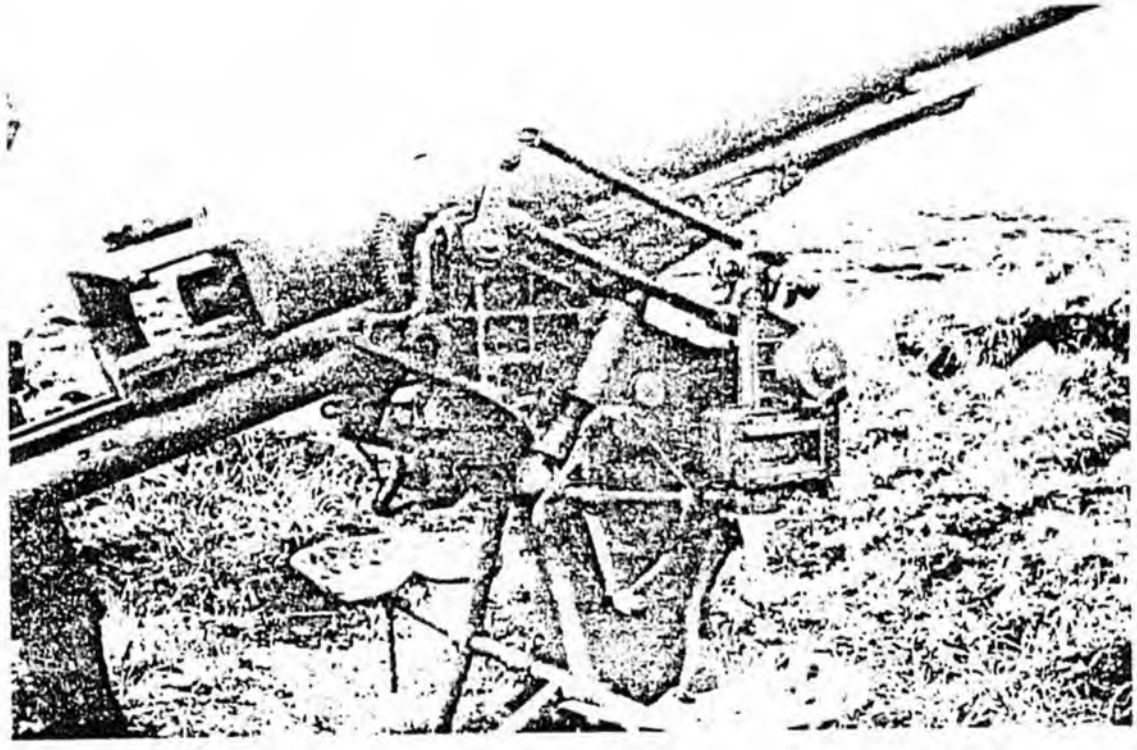


A Japanese Anti-Aircraft F Gun 75 mm.

COE

A Japanese Model 88 (1928), 75 mm Anti-Aircraft Gun.

COE



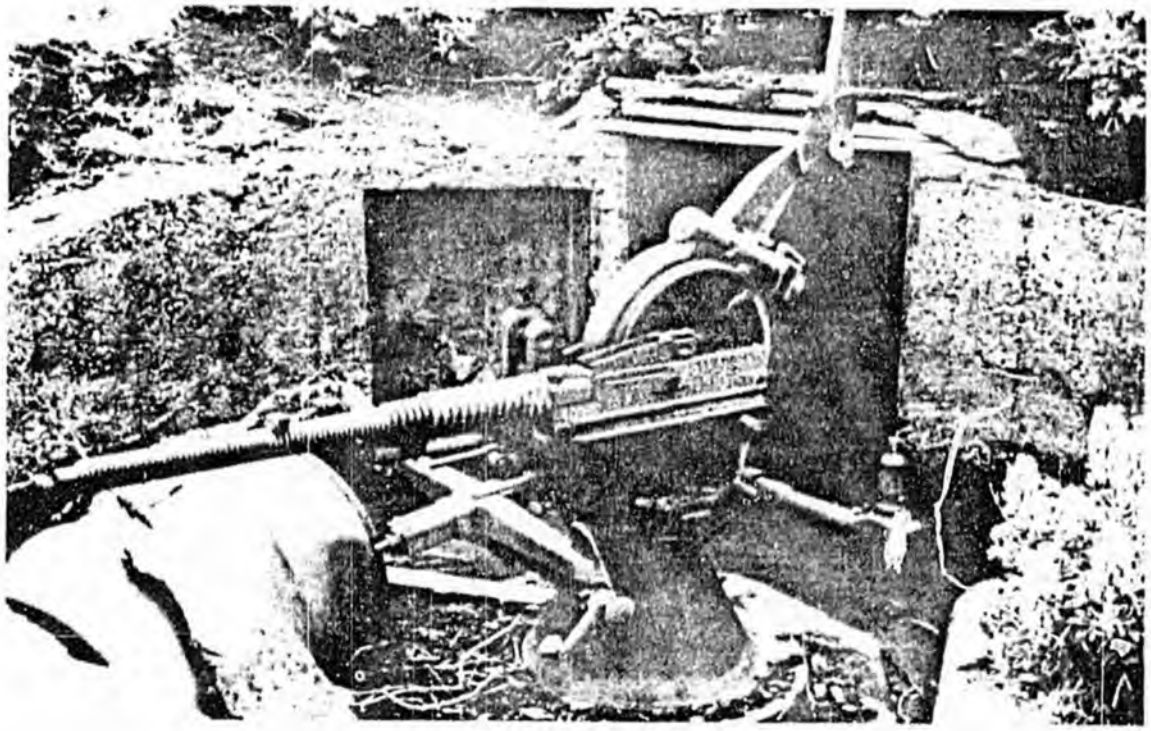


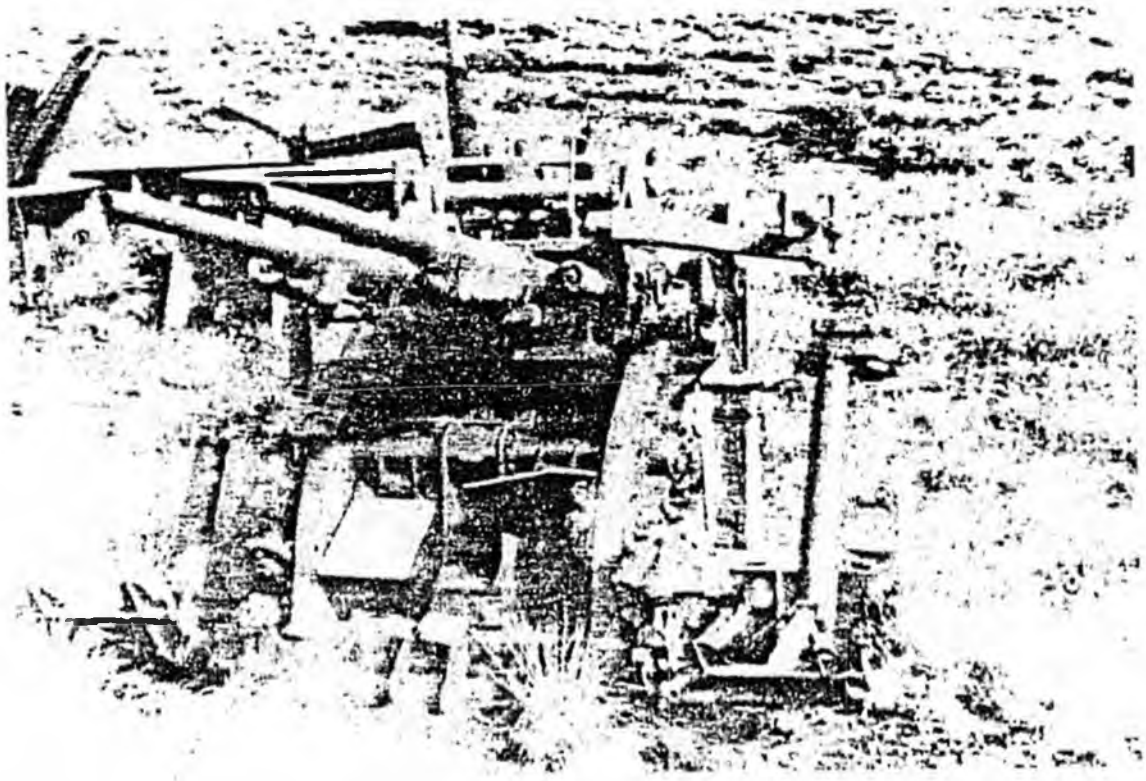
Japanese Model 96 (1936), Type 2, 25 mm Anti-aircraft Gun and Mount. This gun is very rare and was not extensively used by the Japanese.

COE

Japanese Model 93 Heavy Machine Gun, 13.3 mm on an Anti-Aircraft Mount.

USFWS



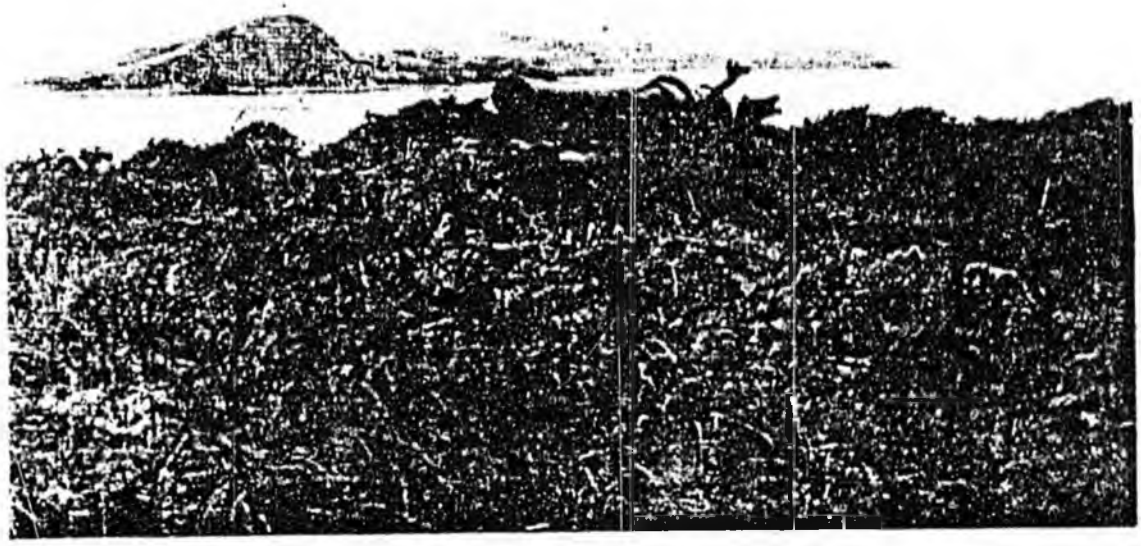


Japanese Anti-Aircraft Battery Featuring Model 93 (1933), 13.2 mm Dual Machine Guns.

COE

The largest of the Japanese Anti-Aircraft Guns were the 90 mm Models.

COE





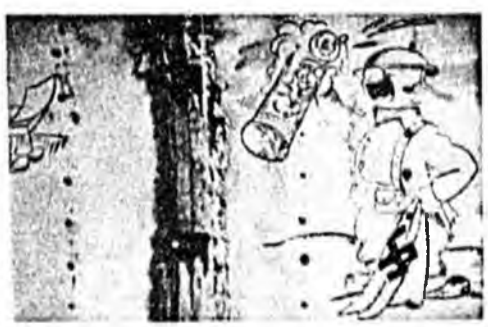
A propeller of a B-24 Libertor is one of the many items that are still lying around in the Aleutians.

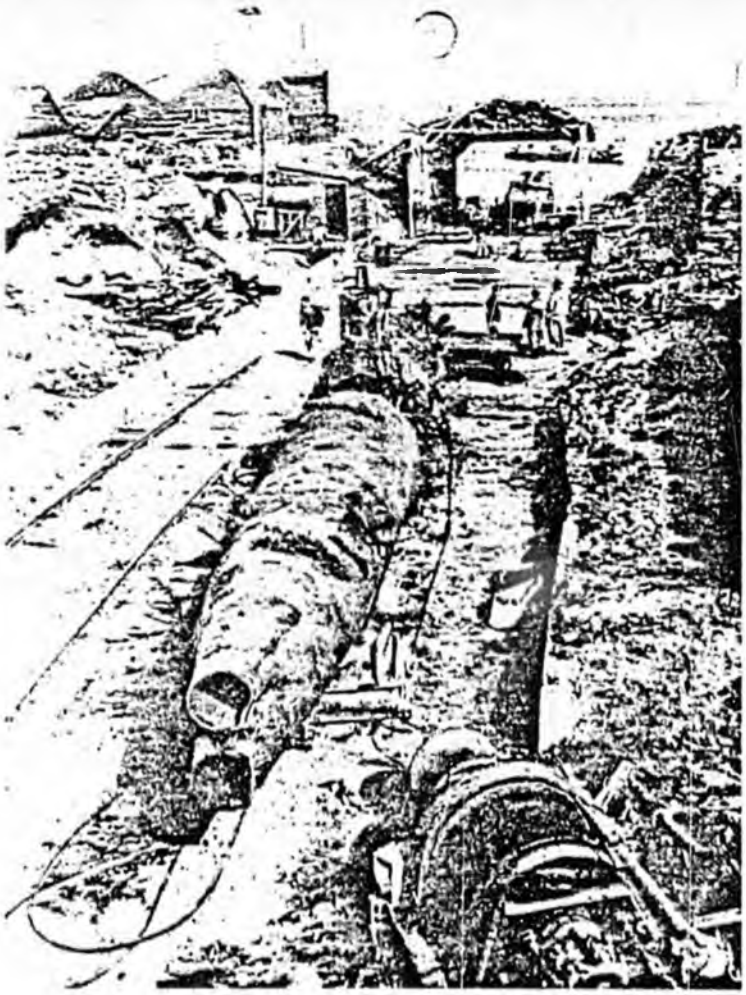
USAFWS

WW II pinups and drawings are in many of the quonset huts in the Aleutians Islands.

CAS





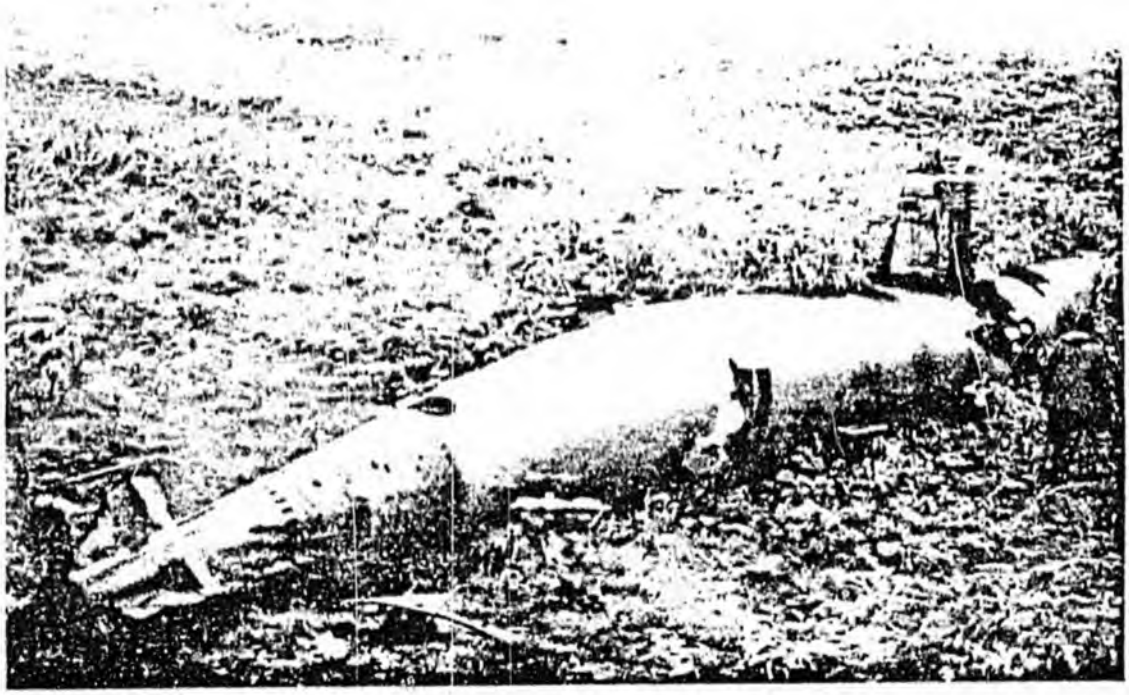


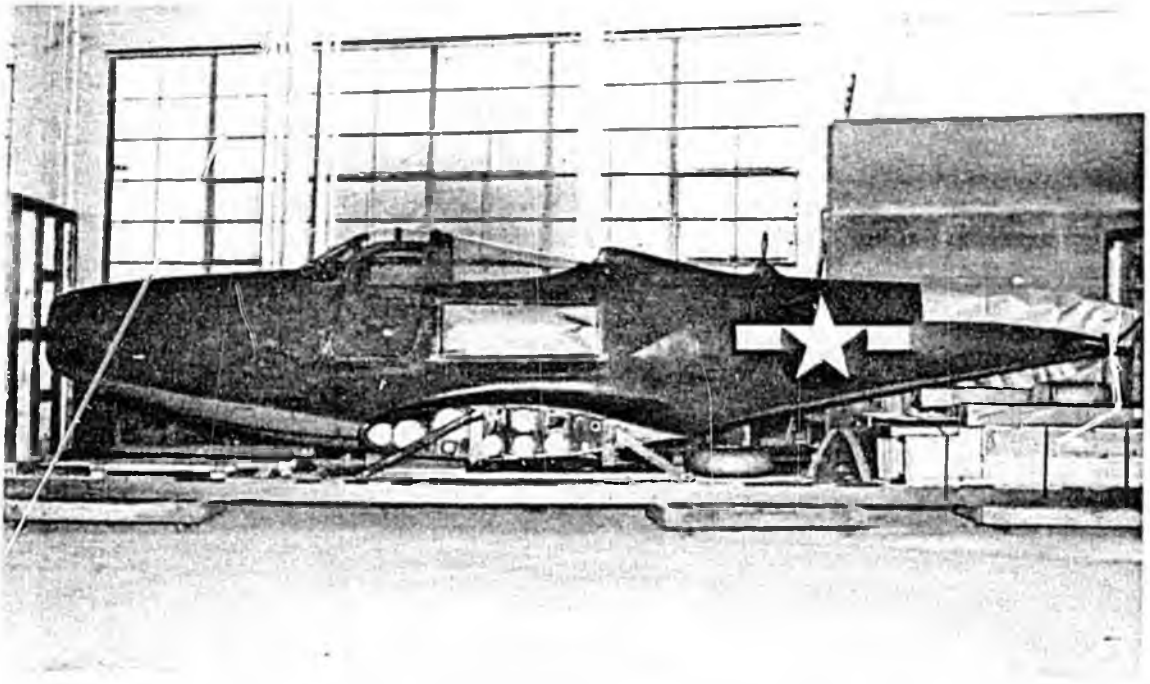
Shown in the picture is a Japanese mini sub in 1943.

USA

The same Japanese submarine sits today in the Aleutians.

USFWS





A P-63 King Cobra is shown in a packing crate to be shipped to Russia. Two dump areas in the Aleutians were located that have a P-39's and P-40's buried in the similar crates.

BAT

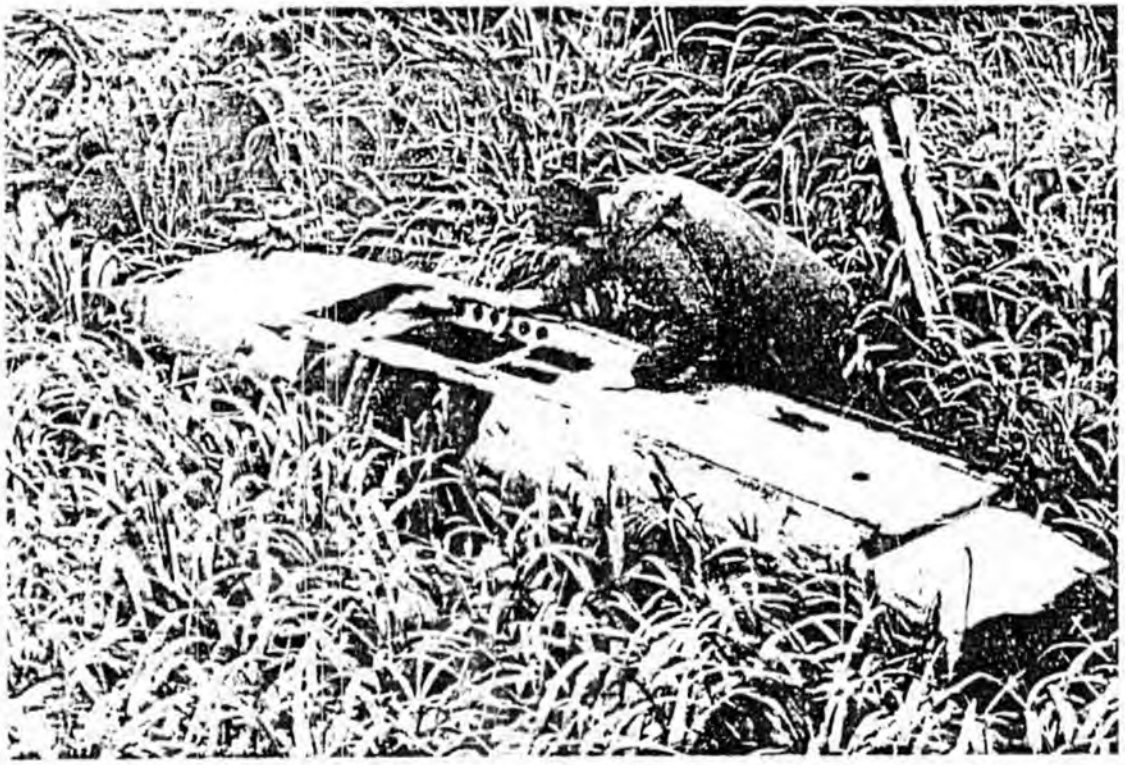
After WW II the P-38 Lightning fuselages were buried alongside the runways of many of the Aleutian Islands.

USAF





Shown in the photos are a Japanese stabilizer and a Japanese float which are some of the aircraft parts that are just lying on the Aleutian Islands. USFWS



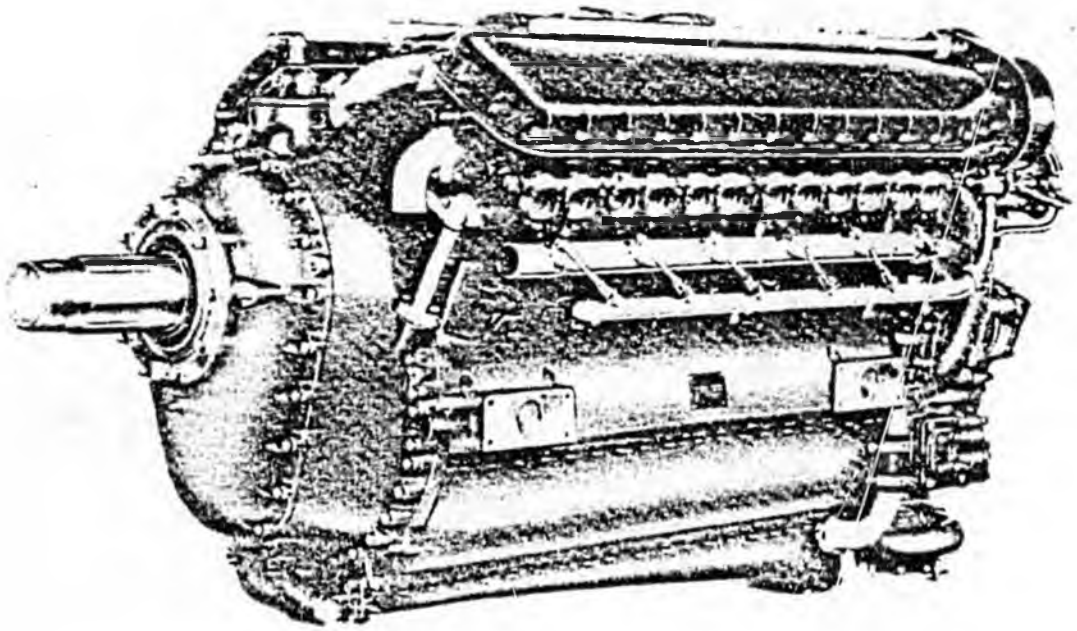
A Grumman Du[illegible] fuselage and a T-6 Trainer si[illegible] in a dump area next to a fresh water lake in the Aleutians TS



This C-47 fuselage was located in an Aleutian dump area.

USFWS



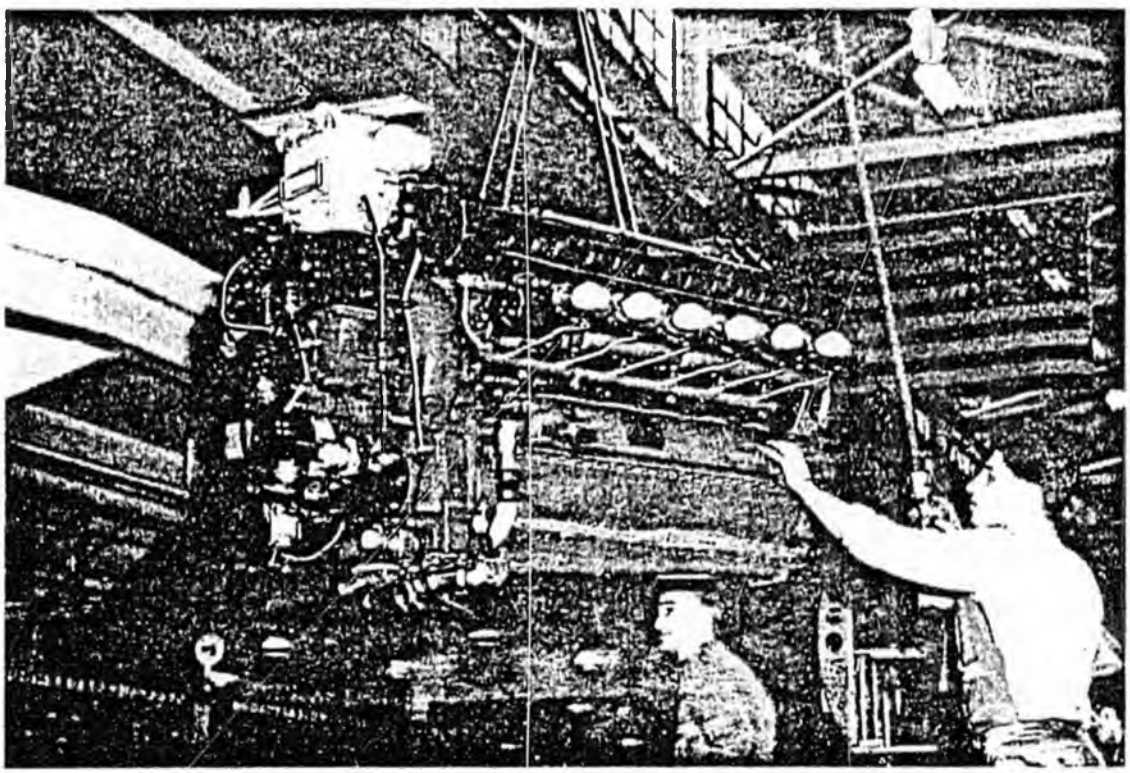


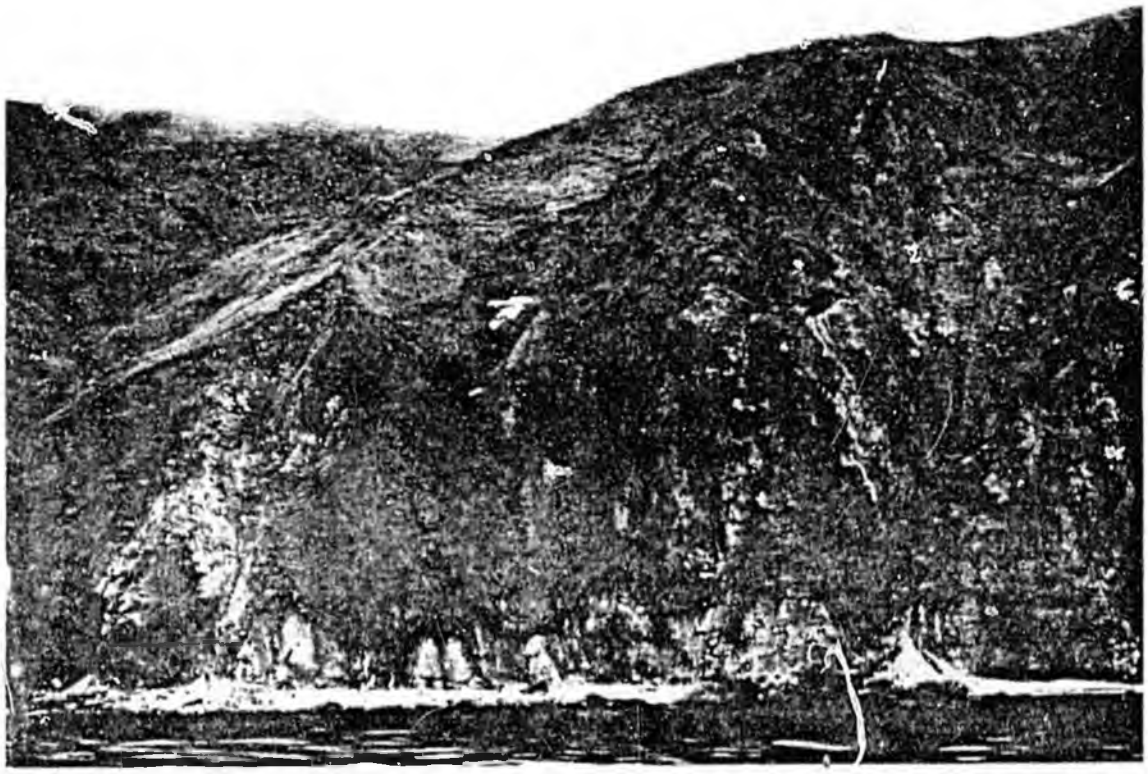
This is a P-38 Allison V-1710F series engine. Four dump areas were located in which these type of engines were buried in packing cylinders.

ADGM

This P-39 Allison engine is being lowered down into the aircraft. In four dump areas, they had buried brand new Allison engines of this type.

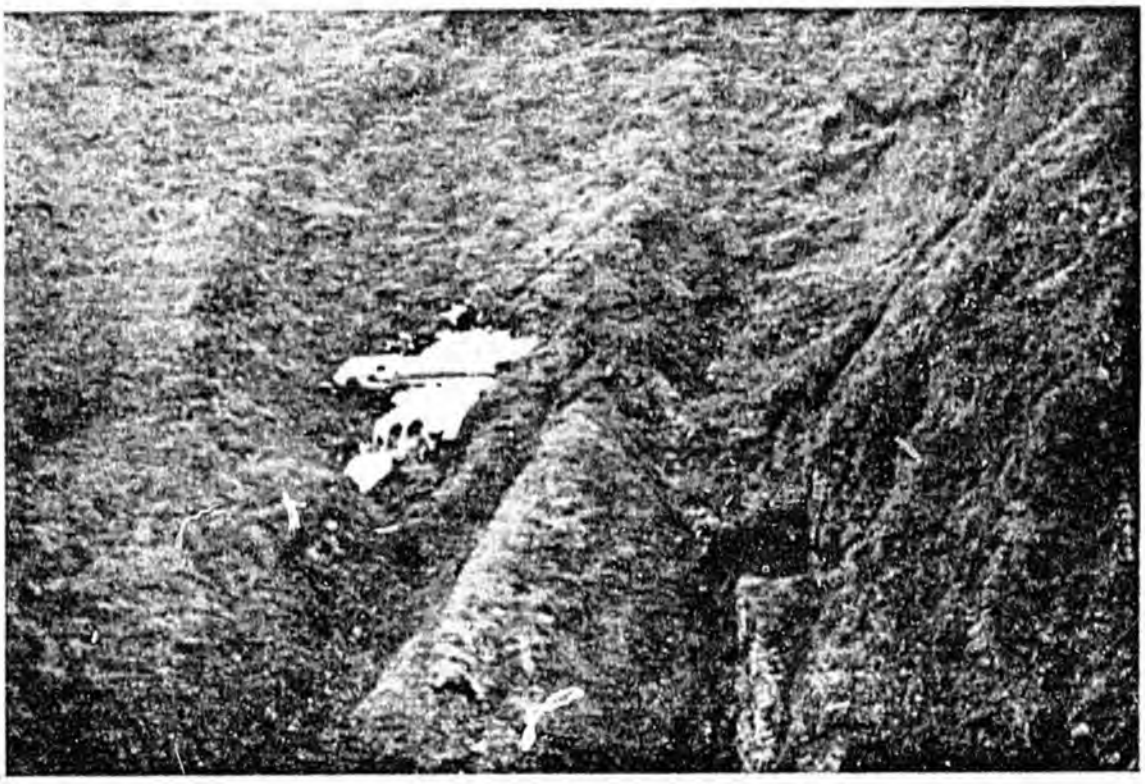
BAT

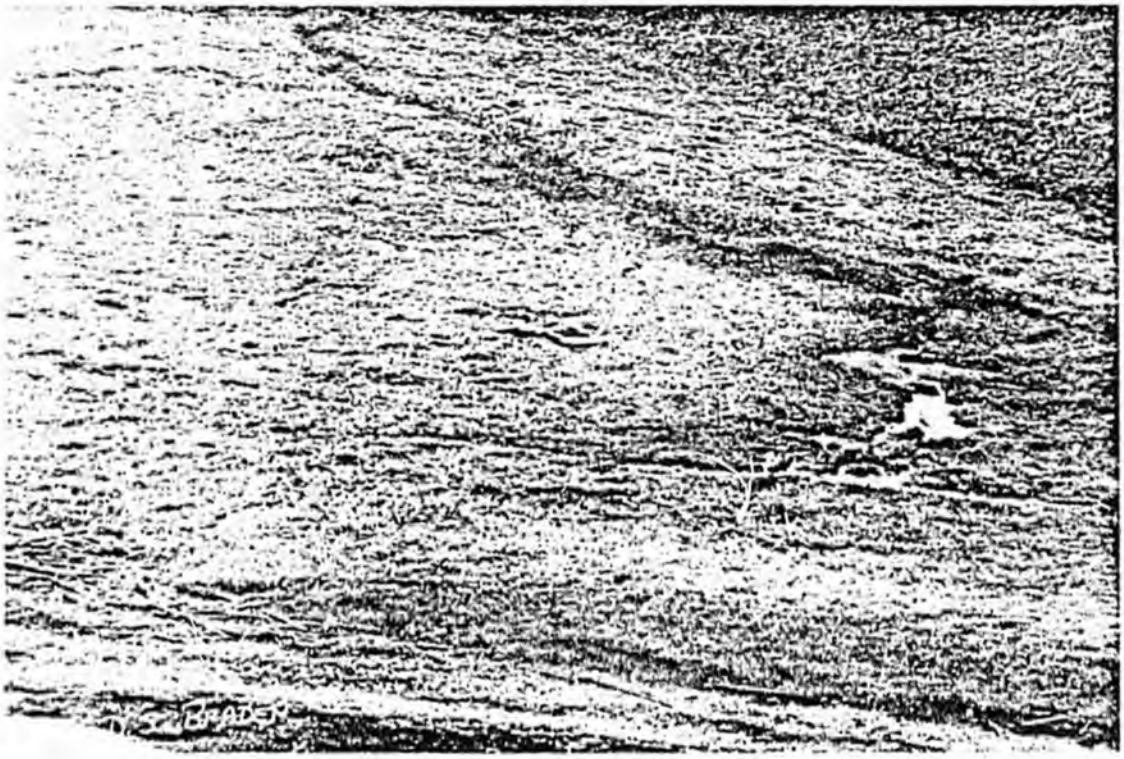




This B-25 Mitchell went down on a hillside in the Aleutians some time during the Aleutian Campaign.

USFWS

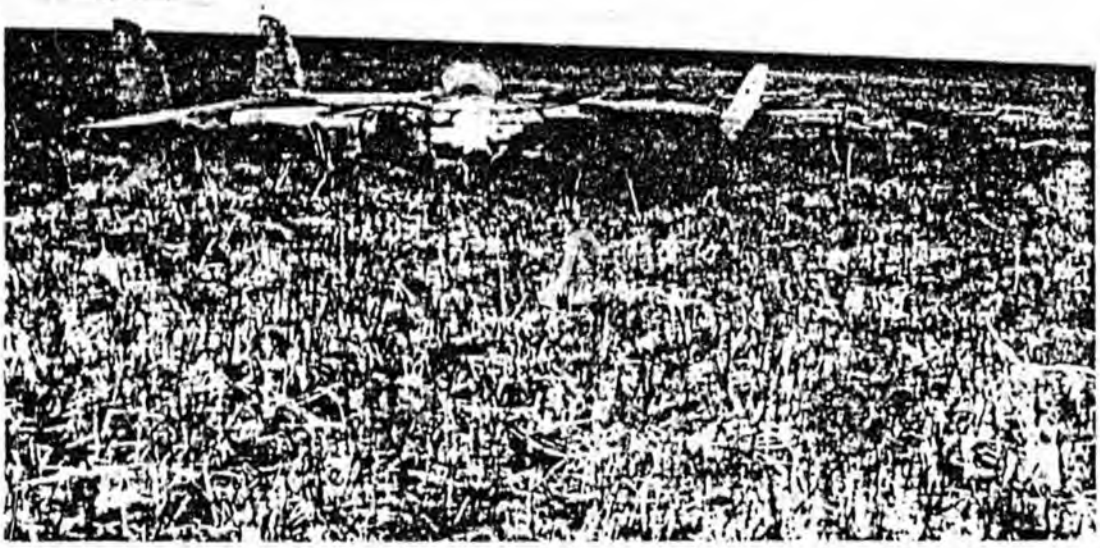


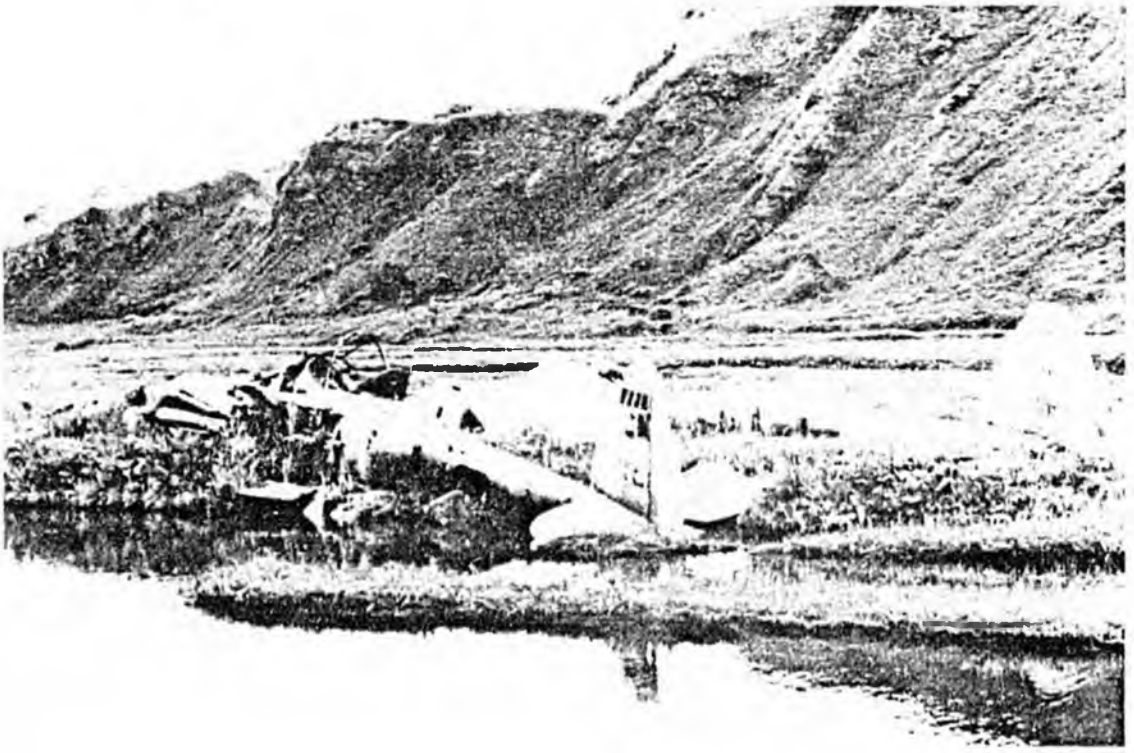


Aerial view of a P-38 Lightning that bellied in on an Aleutian Island.
DSB

On a ground view showing the P-38 which the USAF blew up to dispose off the radar equipment after the Aleutian Campaign.

USFWS

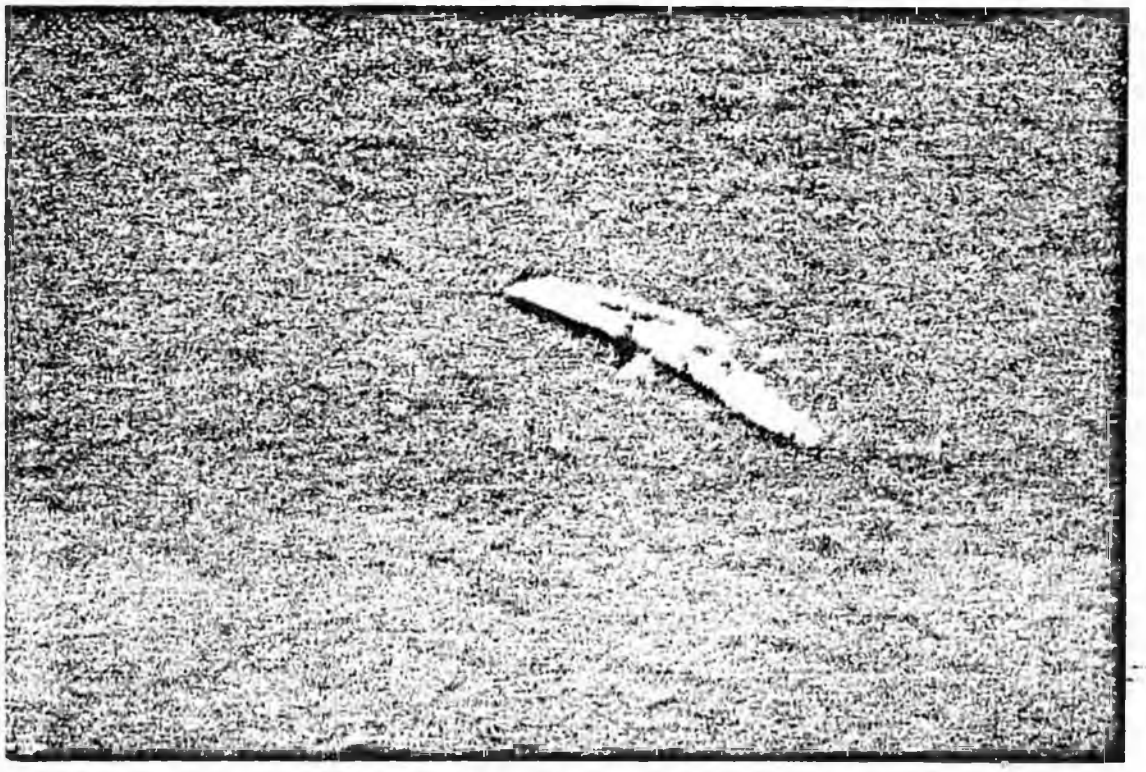




A P-38 that bellied in because of bad weather condition sits on a deserted island in the Aleutians. The aircraft is intact.

USFWS



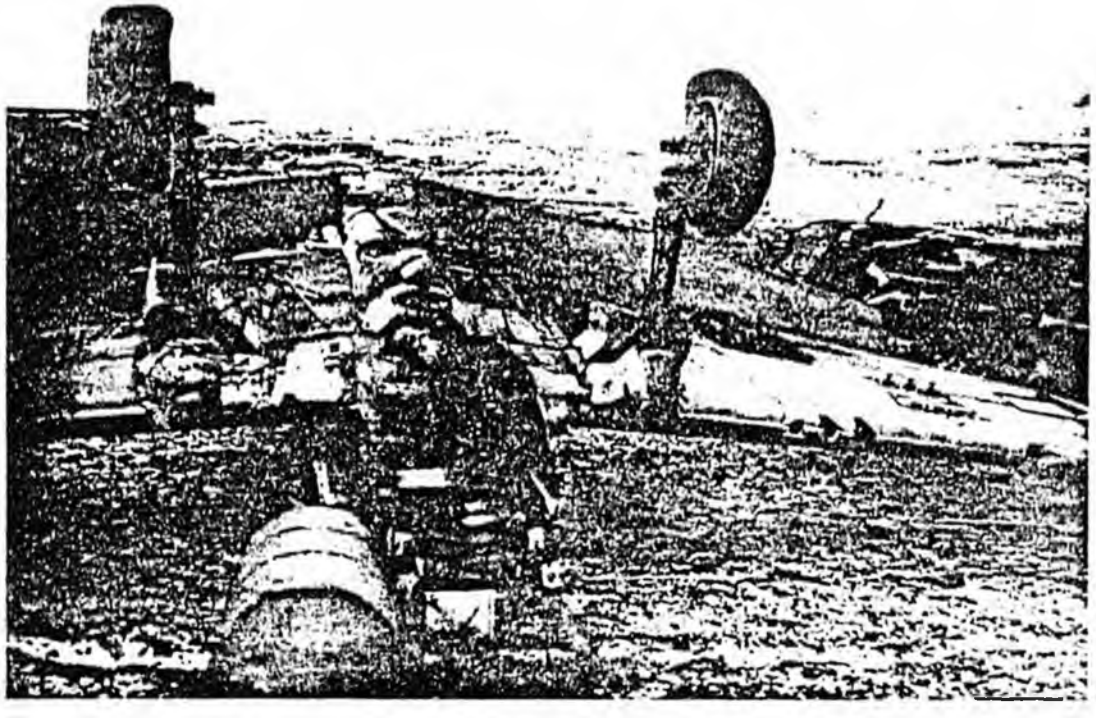


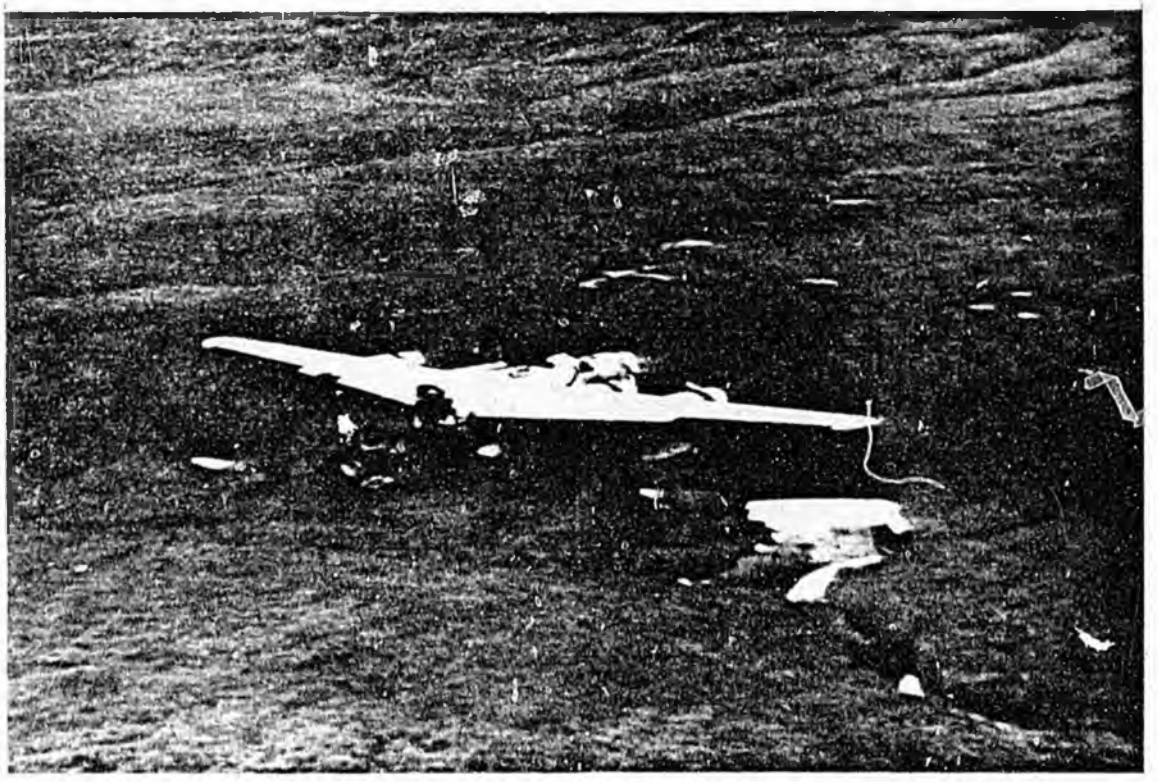
An aerial view of a P-40 that landed on an island in the Aleutians. Its tail section was removed by illegal salvagers.

USHAPM

Five of these Curtiss P-40's are sitting in the Aleutians today with their engines removed.

USA

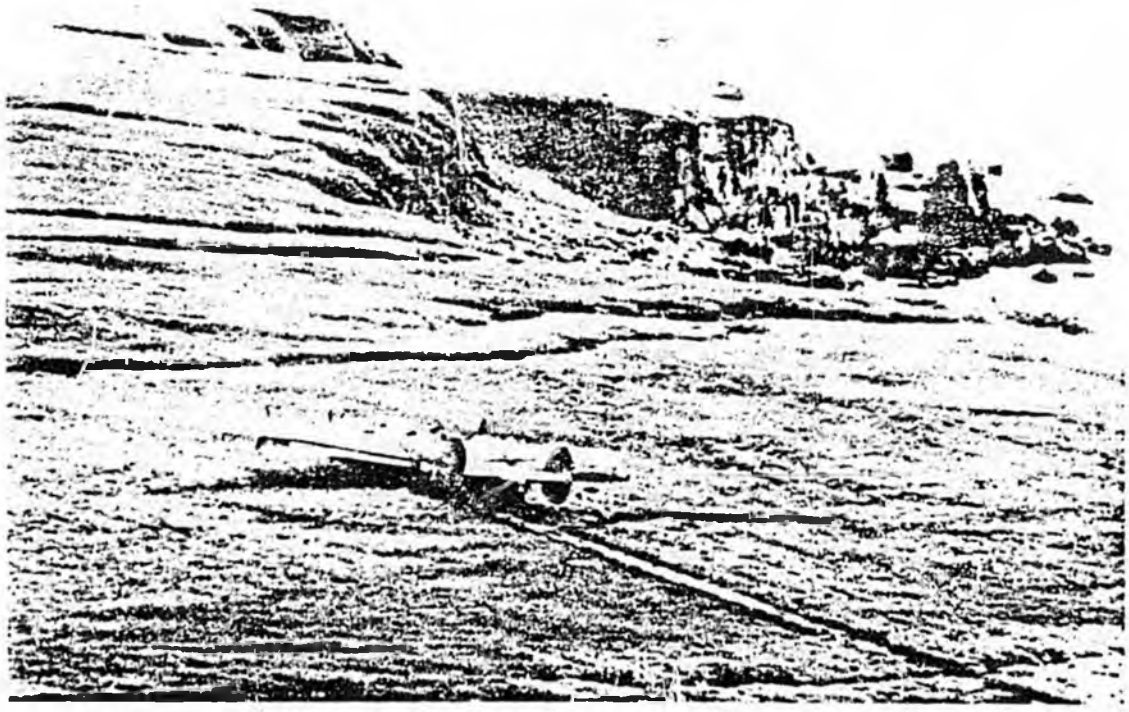




This B-24 Liberator bellied in on an Aleutian Island. Few years ago the U.S. Coast Guard went into the area and removed its machine guns.

USCG



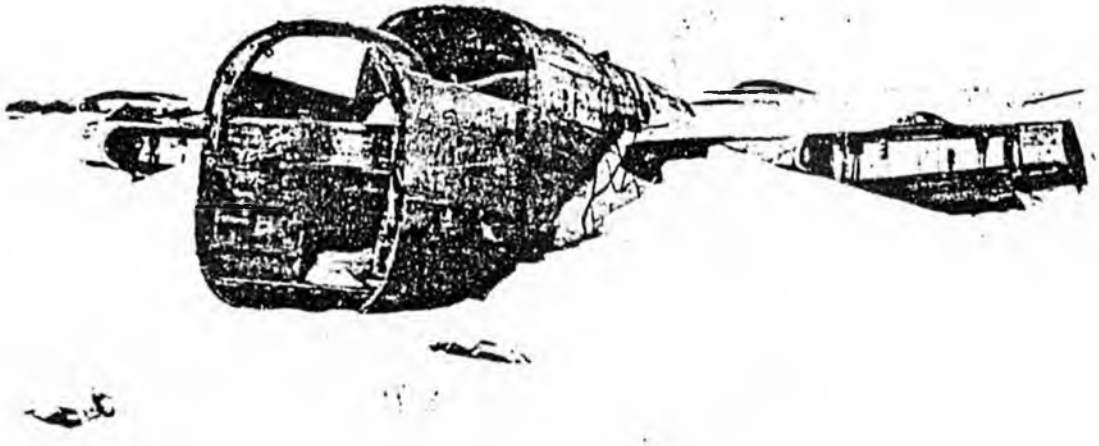


The last report on this B-24 Liberator is that somebody attempted to dismantle its wings and engines then abandoned removing them because of the Preservation Laws. The aircraft still sits there today in an Aleutian Islands.

USAF

This is a Lend Lease B-25 sitting at a dump area in the Interior.

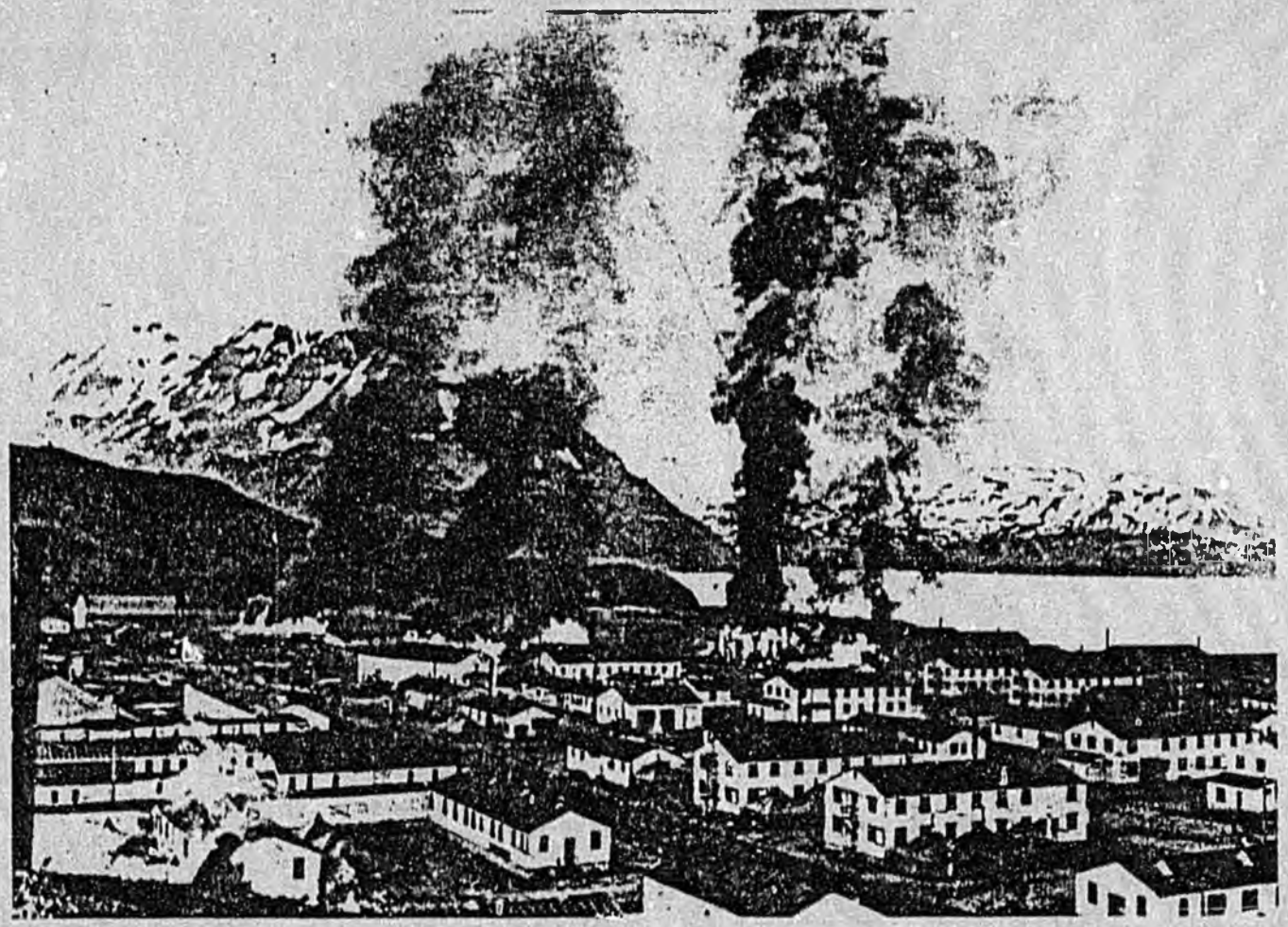
MFC



THE FORGOTTEN WAR

PEARL HARBOR SURVIVORS ASSOCIATION
Founded 1958

ALEUTIAN ISLANDS



VOL. XCI..No. 30,812. NEW YORK, THURSDAY, JUNE 4, 1942. THREE CENTS

JAPANESE BOMB DUTCH HARBOR, ALASKA, TWICE;

World War II Period (1940-1945)

This brief period was the most catastrophic, from almost any perspective, since first Russian contact. Just as the Aleutian Archipelago was the first area occupied by eastward-expanding Russian fur traders, so the islands were vulnerable for occupation by expanding Japanese military units during World War II. Naturally the Aleuts and their island homeland received the brunt of this international conflict.

Outline of Military Occupation

Prior to the war, the only military installation in the Aleutians-lower Alaska Peninsula was the Naval Radio Station and Coast Guard Station, Unalaska. With the increased possibility of a Pacific and European war, plans were made in 1939 to increase the defensive and strategic capability of Alaska Territory. Besides mainland (Ladd Field and Fort Richardson) and Kodiak military bases, which were operational by the attack on Pearl Harbor (December 7, 1941), construction was extended to the Aleutians proper with the expansion of Dutch Harbor by the Army and Navy (1940) and the construction of the secret air base at northeastern Umnak (December, 1941-January, 1942). The latter field played an important part in repulsing the Japanese bombing attack on Dutch Harbor, June 3-4, 1942.

As a result of Alaskan vulnerability demonstrated by the Dutch Harbor attack and the Japanese occupation of Attu-Kiska on June 7-8, it was clear that a massive buildup was required to halt expansion of, and eventually remove, the Japanese garrison. Army and Navy installations, therefore, continued to be built westward along the chain; these include (with garrison activation dates indicated) Cold Bay (Fort Randall; January, 1942), Dutch Harbor (Fort Mears; May, 1941; and Dutch Harbor Naval Operating Base), Umnak-Chernovski (Fort Glenn; January, 1942), Atka (September, 1942), Adak (c. September-October, 1942), Amchitka (January, 1943), Shemya (May, 1943), and St. Paul (September, 1942). After the Battle of Attu (May, 1943) and the invasion of Kiska (August, 1943), those former Japanese bases were enlarged and defended. Many other minor fueling, repair, radio, and weather stations were established on other islands.

By the fall of 1943, the Aleutians were no longer a battleground, but they became a jumping-off point for bombing flights against the Japanese-held Kurile Islands, north of Japan. During the Attu and Kiska campaigns, over 200,000 troops were stationed in the chain, but this number was cut after the Japanese defeat. However, the military bases were operational or on caretaker status through 1945. Adak and Shemya have been in continuous service as major Navy and Air Force installations respectively since World War II.

(Continued)

The Aleutian-Alaskan theater had a number of "unique" characteristics within American military history. The Japanese attack on Dutch Harbor was the only air bombing attack on Alaska and American soil; by diluting their carrier force, the Japanese attack was central to the Japanese defeat in the Battle of Midway, the turning point in the Pacific war; a Japanese Zero which crashed intact at the Dutch Harbor attack was the first captured during the Pacific war and was studied intensively for flying characteristics; the Japanese occupation and subsequent battle for Attu and Kiska was the only foreign occupation of American soil since the War of 1812 and the only World War II military campaign to win back American land; the successful evacuation of over 5,000 Japanese troops from Kiska under fog was one of the greatest military achievements in recent military history; the loss of life and material due to weather was probably the highest of any World War II campaign; the Aleutian war was one of the most closely censored or "secret" wars fought during World War II; and the tremendous Alaska defense, caused by the Japanese attack in the Aleutians, including the Alaska Highway construction, building of air fields and bases, introduction of large numbers of southern U.S. residents to the territory, etc., was responsible for the postwar "opening up" of the territoty and eventual statehood.

— — — — —

With very limited funds
28 minutes on Ak. P.B.S.A's
involvement

NORTH STAR CHAPTER

3605 Arctic Boulevard
Anchorage, Alaska 99503

"There Are Some Days You Can't Forget".

(907) [illegible] 277-7472 (907) 272-0365

Milo H. Fritz, M.D.
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Doctor:

The Pearl Harbor Survivors has been involved in the preservation, through film of what often has been titled, "The Forgotten War" - the World War II campaign in the Aleutians. For the past two years we have, with the aid of many others, researched the areas, the people, the survivors and the locations.

In order to comply with governmental regulations, we have contacted the Village Corporation Leaders and received their permission to visit and film those localities that played such a dominant role in Alaska's involvement in World War II.

Our goal is to do documentary film of the Aleutians to be used in the public school system in Alaska and in the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to our film on Pearl Harbor, "There Are Some Days You Can't Forget." Our records indicate that effective December 20, 1983, that film has been viewed by over 4,300 Anchorage school children and about 130,000 Alaskans.

A total of fourteen men will assist in the production including the film crew, Aleutian Survivors and support personnel.

Our history and war efforts in the Aleutians are rapidly being lost. Through your cooperation, your position can start the wheel rolling to help our country preserve what is left of our heritage and war effort.

PAUL FAULKNER, President

cc: Rep. Liska, Col. Griffith, Rep. Furnace

encl: Information packet

Keep America Strong —— Remember Pearl Harbor

Introduced: 1/9/84
Referred: State Affairs and
Finance

Funding Information
General Fund $250,000
Other Funds - 0 -
$250,000

IN THE HOUSE BY FRITZ BY REQUEST

HOUSE BILL NO. 470

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Office of the Governor for the expenses of the World War II History Commission; and providing for an effective date."

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

* Section 1. The sum of $250,000 is appropriated from the general fund to the Office of the Governor, World War II History Commission for fiscal year 1984 operating expenses of the commission.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1986.

* Sec. 3. This Act takes effect on the effective date of an Act entitled "An Act relating to the creation of the World War II History Commission."

Proposal would block dredging firm

Associated Press

Juneau — Here is a list of bills and resolutions introduced in the state Senate and House on Wednesday, the 31st day of the second session of the 13th Alaska Legislature:

Senate:

— SJR 37; requests that U.S. Army Corps of Engineers deny a permit to Northland Gold Dredging Co. for operations in the Tuluksak River-Granite Creek area; sponsored by Sen. John Sackett, R-Ruby.

— SB 418; would change date that Legislative sessions convene from second Monday in January to fourth Monday; sponsored by Sens. Fritz Pettyjohn, R-Anchorage, and Frank Ferguson, D-Kotzebue.

— SB 419; would prevent maintenance, repair, remodeling or "similar activity" at governor's mansion without prior approval from state historical architect; introduced by Sens. Jan Faiks, R-Anchorage; Pappy Moss, D-Delta Junction, Don Gilman, R-Kenai, and Paul Fischer, R-Soldotna.

— SB 420; makes special appropriation to Department of Environmental Conservation for water and sewer grants; introduced by Senate Finance Committee.

— SB 421; would change the manner in which claims for bid preparation costs are handled; introduced by the Senate Rules Committee by request of the governor.

— SB 422; would amend the Limited Entry Act dealing with subsequent transfer, and would make net family income fall within federal guidelines; introduced by the Senate Rules Committee by request of the governor.

— SB 423; would allow APA to change power rates for electricity generated by four-dam pool, and would remove "Susitna clause" by deleting obligation that state would have to pay at least $5 billion to the fund; introduced by the Senate Rules Committee by request of the governor.

— SB 424; relates to recovery of medical assistance expenses; introduced by the Senate Rules Committee by request of the governor.

— SB 425; would require political candidates to report campaign contributions over $250; introduced by the Senate Rules Committee by request of the governor.

House:

— HCR 50; calling on the governor and the City-Borough of Juneau to "cease and desist" with plans to build a legislative hall in Juneau; introduced by Rep. Sam Pestinger, R-Anchorage.

— SSHB 143; stipulating that the state cannot dispose of land reserved for a capitol at Willow until Jan. 1, 1986; sponsored by Rep. Ron Larson, D-Palmer.

— SSHB 478; a special appropriation for a documentary film about Alaska's participation in World War II; sponsored by Rep. Milo Fritz, R-Anchor Point, by request.

— HB 585; relating to an inmate education advisory council; sponsored by Rep. Mike Miller, D-Juneau.

— HB 586; relating to public employee benefits; sponsored by Rep. Fred Zharoff, D-Kodiak.

— HB 587; amending state law so the head of a state agency making a transfer shall report the transfer to the Legislature; introduced by the Transportation Committee.

— HB 588; providing for the award of attorney fees to people who prevail in certain state administrative proceedings; sponsored by Rep. Mae Tischer, R-Anchorage.

— HB 589; relating to sale of power by APA to customers of "four-dam pool"; introduced by the House Rules Committee at the request of the governor.

— HB 590; relating to state aid for Indians on federal reservations; sponsored by Rep. Jack McBride, D-Ketchikan.

NORTH STAR CHAPTER

3605 Arctic Boulevard
Anchorage, Alaska 99503

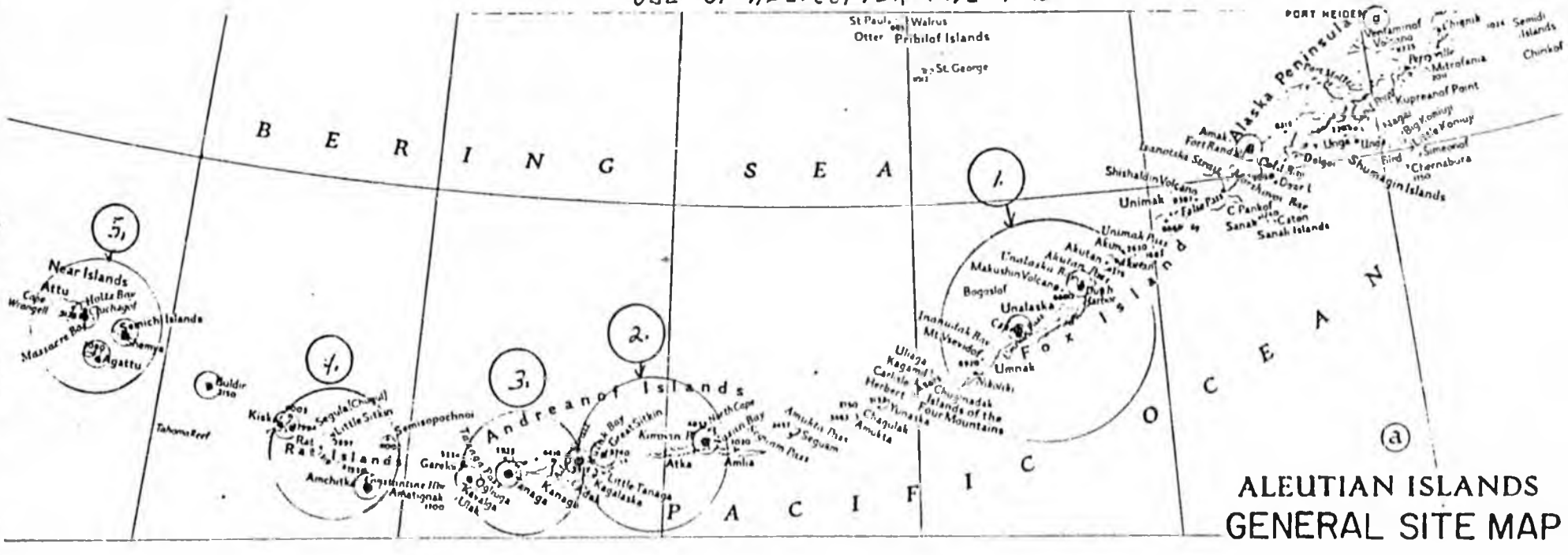
"There Are Some Days You Can't Forget".

(907) ~~277-7472~~ 277-7472 (907) 272-0365

Use of C-130 Hercules	Use of Helicopter	Dates	Codes	Points of Interest
A.		Day 1.	A.	Kodiak - Ft Greely - Airfield - Fixed Harbor Defense - Naval Base - Army Garrison Airfield at Cape Chinak
B.		Day 2 - 3	B.	Port Heiden - Fort Morrow - Airfield Docking Facilities (Air Defence of the Naval Base at Dutch Harbor) one downed aircraft
C.		Day 3.	C.	Cold Bay - Fort Randall - Airfield - Docking Facility (Air Defense of the Naval Base at Dutch Harbor)
D.	1.	Day 5 - 7	D.1.	From SW Umnak Island to NE Akutan Island Dutch Harbor - Fort Mears (Bombing of Dutch Harbor June 3, 1942) Unmak Island - Fort Glenn (Two Satellite Airfields) 17 Downed Aircraft
E.	2.	Day 8 - 10	E-2	From Adak to West of Atka Island Adak - Great Sitkin Island Atka Island 7 Downed Aircraft
F.	3.	Day 8 - 10	F-3	From Adak to South of Ogliuga Island Tanaga Island 3 Downed Aircraft
G.	4.	Day 11-13	G-4	From Amchitka Island to West of Kiska Amchitka Island Kiska (Battle of the Kiska Islands) Little Kiska 3 Downed Aircraft 3 Japanese 2-man submarines
H.	5.	Day 14-16	H-5	From East of Shemya Island To North of Attu Island Shemya Attu (Battle of Attu) Agattu Island 6 Downed Aircraft

Keep America Strong —— Remember Pearl Harbor

USE OF HELICOPTER FIVE TIME



ALEUTIAN ISLANDS
GENERAL SITE MAP

General Site Map

The Historical Remains of Aleutians
1941-1944

1. Kodiak - Ft. Greely - Airfield
2. Port Heiden - Port Morrow - Airfield
3. Cold Bay - Fort Randall - Airfield
4. Dutch Harbor - Fort Mears - Airfield
5. Unalaska - Chernofski
6. Umnak Island - Fort Glenn - Airfield
7. Atka Island - Atka Landing Field
8. Great Sitkin Island
9. Adak Island - Adak - Airfield
10. Tanago Island - Airfield (Ogliuga Island)
11. Amchitka Island - Amchitka - Airfield
12. Kiska Island - Kiska
13. Little Kiska Island
14. Buldir Island
15. Shemya Island - Shemya - Airfield
16. Agattu Island
17. Attu Island - Attu

AIRCRAFT WRECKS SHOWN ON MAP

WRECK NUMBER	DATE OF CRASH	TYPE OF AIRCRAFT	POSITION OF WRECK
1 ✓	WWII	B–24	CAPE KIGUN, ATKA
2 ✓	WWII	B–24	ILAK ISLAND, WRECKAGE INTACT
3 ✓	28 OCT 46	P–38	TANAGA BAY, POOR CONDITION
4 ✓	28 OCT 46	OA–10	TANAGA BAY
5 ✓	31 AUG 51	PB 4Y–2	NW TIP OF LITTLE TANAGA, 500–FOOT LEVEL
6 ✓	WWII	B–24	SEMISOPOCHNOI, EAST SIDE OF DERRET RIDGE
7 ✓	WWII	B–24	BECHEVIN BAY, ATKA, VERY GOOD CONDITION
8 ✓	WWII	A–20	KISKA, EAST END OF LANDING STRIP
9 ✓	WWII	B–24	GREAT SITKIN, FUSELAGE INTACT, WINGS FOLDED BACK
10 ✓	WWII	PBY	NE SIDE OF KISKA VOLCANO
11 ✓	WWII	PBY	CLIFF ON KASATOCHI ISLAND
12 ✓	WWII	OA–10	ATKA, NORTH SIDE OF KOROVIN BAY
13 ✓	WWII	P–38	NW POINT OF BULDIR ISLAND, POOR CONDITION
14 ✓	5 SEP 46	PV–1	AGATTU ISLAND, PRETTY GOOD CONDITION
15 ✓	WWII	P–38	ALAID ISLAND, VERY POOR CONDITION
16 ✓	5 SEP 46	C–47	ATTU
17 ✓	WWII	P–38	ATTU, TEMNAC BAY, POOR CONDITION
18 ✓	WWII	P–40	SW END OF UMNAK ISLAND, CAPE STARR
19 ✓	WWII	PBY	UNALASKA ISLAND, DEBRIS SCATTERED FROM 300 TO 900 FOOT LEVELS
20 ✓	WWII	P–40	UNALASKA, BADLY SCATTERED
21 ✓	WWII	OA–10	UNALASKA, BADLY SCATTERED
22	WWII	ZERO	AKUTAN, VERY POOR CONDITION
23 ✓	11 DEC 73	C–118	GREAT SITKIN, TEN PERSONS ON BOARD, NO SURVIVORS

REFERENCE: 5

FIGURE 1–14

DOWNED AIRCRAFT OF POTENTIAL HISTORIC VALUE

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. Box 0813
ANCHORAGE, ALASKA 99302

Telephone No.
907-243-0914

Memo To: Major General Edward G. Pagano
Adjutant General of Alaska Air National Guard

From: North Star Chapter of the Pearl Harbor Survivors Association

Subject: The use of C-130 Hercules (cargo airplane) Aug. 22 to Sept. 5, 1983 and a helicopter from August 25 to September 5, 1983

Date: August 5, 1983

This is a request that your office provide us with an air support through the use of a C-130 Hercules (cargo airplane) from August 22 through Sept. 5 (15 days) and a helicopter from August 25 thru September 5, 1983 (12 days).

Our purpose is to do documentary film of the Aleutians (The Forgotten War) to be used in the public school system in Alaska and the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to our main message to school children, "Remember Pearl Harbor and don't let it happen to you." A total of fourteen (14) men will be on board these aircraft which will consist of Pearl Harbor Survivors Members, film crew, and Aleutian Campaign Survivors and Pilots.

Attached are our itinerary plans, a list of the 17 military installations, and the map showing the main points of interest.

Our history and war efforts in the Aleutians are rapidly being lost everyday. Our country can preserve what is left of our heritage and war efforts beginning with your cooperation and the Pearl Harbor Survivors' goal of documentary filming. We look forward to working with you.

Paul A. Dy

Paul A. Dex
Curator, U.S. Historical Aircraft Preservation Museum
Project Coordinator, North Star Chapter's Aleutians Documentary Filming

cc: Senator Stevens
Bill Mack

Bill Sheffield, Governor

DEPARTMENT OF MILITARY AFFAIRS

OFFICE OF THE ADJUTANT GENERAL

SUITE 620 FRONTIER BUILDING
3601 "C" STREET
ANCHORAGE, ALASKA 99503
PHONE: (907) 243-0656 AUTOVON: 862-7210

AG

29 August 1983

Mr. Paul A. Fox
Project Coordinator, Aleutian Dcoumentary
North Star Chapter of the Pearl Harbor
Survivors Association
P.O. Box 6813
Anchorage, Alaska 99502

Dear Mr. Fox:

This is in reply to your request for Alaska National Guard fixed and rotary wing airlift support for your Aleutian Campaign Documentary Film Team.

Shortly after your letter came in, we carried the request for assistance to the National Guard Bureau in Washington, D.C. and asked for approval. In response, officials there cited several conditions that would first have to be met. First, the government cannot assume costs. The $197,000 required to support your project would require reimbursement to the U.S. Treasury. Secondly, the film script would require approval by Department of Defense.

I regret that the response from Washington, D.C. was not more favorable. However, if I can be of any further assistance please let me know.

Sincerely,

Edward G. Pagano

EDWARD G. PAGANO
Major General, AK NG
The Adjutant General

CF:
Senator Ted Stevens

09-11LH

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. Box 6813
ANCHORAGE, ALASKA 99502

Telephone No.
907-243-0914

Memo To: Fred Ziellemaker
Refuge Manager
Aleutian Islands Unit Alaska Meridian Natl. Wildlife Refuge

From: North Star Chapter of the Pearl Harbor Survivors Assn.

Subject: Temporary Use Permit on Fish & Wildlife Refuge
and Aleutian Island National Wildlife Refuge
From August 22, 1983 through October 31, 1983

Date: August 15, 1983

Please issue us the temporary use permit on the Fish & Wildlife Refuge and the Aleutian Island National Wildlife Refuge from August 22 through October 31, 1983 so that we may be able to make documentary filming on the places listed in the attached pages 1 and 2 within the time frame of 15 days.

We are awaiting for the final permission from the Alaska Air National Guard in selecting a favorable weather condition before we advance to our 15 days film expedition. It is vital that you grant us the permit for such dates to give us the opportunity for any readjustment of plans due to the unpredictable changes of weather condition in the Aleutians.

Attached are our itinerary plans, a list of the 17 military installations, and the map showing the main points of interest.

Our goal is to do documentary film of the Aleutians (The Forgotten War) to be used in the public school system in Alaska and the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to our main message to school children, "Remember Pearl Harbor and don't let it happen to you." A total of fourteen (14) men will be on board those aircraft which will consist of Pearl Harbor Survivors Members, film crew, and Aleutian Campaign Survivors and Pilots.

Our history and war efforts in the Aleutians are rapidly being lost everyday. Through your cooperation, your office can start the wheel rolling to help our country preserve what is left of our heritage and war efforts. The Pearl Harbor Survivors (PSSN) depends on people like you to fulfill its goal of documentary filming.

Paul A. Fox

Paul A. Fox, U.S.H.A.P.M. Curator
Project Coordinator, North Star Chapter's Aleutians Documentary Filming
cc: Gen. Pagano, Sen. Stevens, Larry Hood

United States Department of the Interior

IN REPLY REFER TO:

FISH AND WILDLIFE SERVICE
ALEUTIAN ISLANDS UNIT
ALASKA MARITIME NATIONAL WILDLIFE REFUGE
P.O. BOX 5251
FPO SEATTLE, WA 98791

August 23, 1983

Mr. Paul Fox, Curator
U.S. Historical Aircraft Preservation Museum
P.O. Box 6813
Anchorage, AK 99502

Dear Mr. Fox:

We have reviewed your August 15, 1983 letter requesting a Special Use Permit to visit the Aleutian Islands Unit of the Alaska Maritime National Wildlife Refuge to make documentary films of the places and aircraft wreckage associated with the Aleutian Campaign.

Prior to our issuing the Special Use Permit we will need written evidence that you do have flight time and aircraft available from the Alaska Air National Guard. We will also need copies of Letters of Non-Objection from the Aleut Corporation and each village corporation, for you to visit lands under their control. Information regarding corporation lands can be obtained from the Aleut Corporation, 2550 Denali, Suite 900, Anchorage, AK 99503.

The majority of the Aleutian Islands received Wilderness Status when the U.S. Congress passed the 1980 Alaska National Interest Lands Conservation Act. There is one provision in the Wilderness Act that prohibits the use of motorized vehicles or landing of aircraft on lands under Wilderness Status.

With the above in mind, we are furnishing the attached list to assist you in formalizing your plans. If we can provide additional assistance, feel free to contact us.

Sincerely,

C. Fred Zeillemaker

C. Fred Zeillemaker
Refuge Manager

EVK/jt

attachment
cc: U.S. Senator Stevens
Major General Pagano
SA Larry Hood

ISLANDS LISTED IN REQUEST	STATUS	ACTION REQUIRED BY PERMITTEE
"SW Umnak to NE Akutan"	Umnak - Native Selected &/or Interum Conveyed Lands	Provide Letter of Non-Objection from each Village Corp. & Aleut Corp. (Before SUP can be issued)
	Unalaska - Native Selected &/or Interum Conveyed Lands	Provide Letter of Non-Objection from each Village Corp. & Aleut Corp. (Before SUP can be issued)
	Akutan - Native Selected &/or Interum Conveyed Lands	Provide Letter of Non-Objection from each Village Corp. & Aleut Corp. (Before SUP can be issued)
"Adak to west of Atka, Great Sitkin, Atka"	Adak - U.S. Navy Base/Wildr.	Clearance from CO NAVSTA (N), No helo/mv use on Wildr. (S)
	Great Sitkin - Wildr. except SW parcel	No helo/mv use in Wilderness
	Atka - Native Selected &/or Interum Conveyed Lands & Wilderness (W)	Letters of Non-Objection & no helo/mv use on Wilderness
	All others - Wilderness	No helo/mv use on Wilderness
"Adak to south of Ogliuga Island, Tanaga Island"	Ogliuga - Wilderness except North Parcel	No helo/mv use on Wilderness
	Tanaga - Wilderness except SW parcel	No helo/mv use on Wilderness
Amchitka to west of Kiska	Amchitka - Wilderness except east one half	No helo/mv use on Wilderness
	Kiska - Wilderness except main occupation area.	No helo/mv use on Wilderness
	Little Kiska - All Wilderness	No helo/mv use on Wilderness
	Buldir - All Wilderness	No helo/mv use on Wilderness
East of Shemya to north of Attu Island	Shemya - U.S. Air Force Base	Clearance from CO Shemya AFB
	Alaid/Nizki -All Wilderness	No helo/mv use on Wilderness
	Attu - SE Unit, US Coast Guard - remainder Wilderness	Clearance from CO USCG, LORAN Station, No helo/mv on Wilderness portion
	Agattu - All Wilderness	No helo/mv use on Wilderness

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. BOX 6813
ANCHORAGE, ALASKA 99502
Telephone No.
907-243-0914

Memo To: Senator Ted Stevens

From: North Star Chapter of the Pearl Harbor Survivors Association

Subject: Additional Flying Hours for the Alaska Air National Guard To Provide Air Support to Pearl Harbor Survivors Association's Documentary Filming of the Aleutian Campaign

Date: August 5, 1983

The Alaska Air National Guard has used up its quota of flying hours. In order for them to give us air support in our documentary filming of the Aleutians (The Forgotten War), it is necessary that they receive an authorization directly from the Air National Guard in Washington, DC giving their office in Anchorage the additional flying hours.

Because of the predicted good weather conditions in the Aleutians from August 22 through September 5, it is important that we do our filming there within that time frame.

Your assisting us in getting this authorization is critically needed in order for us to accomplish our goal in the efficient and timely manner. Attached is a copy of our correspondence to Major General Pagano.

SENATOR STEVENS, YOU ARE OUR ONLY HOPE.

Paul A. Fox

Paul A. Fox
Curator, United States Historical Aircraft Preservation Museum
Project Coordinator, North Star Chapter's Aleutians Documentary Filming

cc: Maj. Gen. Pagano
Mr. Bill Mack

MARK O. HATFIELD, OREG., CHAIRMAN

TED STEVENS, ALASKA
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JIM SASSER, TENN.
DENNIS DE CONCINI, ARIZ.
DALE BUMPERS, ARK.

J. KEITH KENNEDY, STAFF DIRECTOR
FRANCIS J. SULLIVAN MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

August 29, 1983

Paul A. Fox, Curator
U.S. Historical Aircraft
Preservation Museum
Post Office Box 6813
Anchorage, Alaska 99502

Dear Mr. Fox:

On behalf of Senator Stevens, who is currently in Alaska, thank you for the copy of your memorandum to the Fish and Wildlife Service.

In an effort to assist you, we have contacted Keith Schreiner, Director of the Service's Alaska Region office. As soon as he responds, Senator Stevens will get back in touch with you.

With best wishes,

Cordially,

Greg Chapados
Legislative Assistant to
TED STEVENS

MARK O. HATFIELD, OREG., CHAIRMAN

TED STEVENS, ALASKA
LOWELL P. WEICKER, JR., CONN.
JAMES A. MC CLURE, IDAHO
PAUL LAXALT, NEV.
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DALE BUMPERS, ARK.

J. KEITH KENNEDY, STAFF DIRECTOR
FRANCIS J. SULLIVAN MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

September 8, 1983

Mr. Paul Fox
U. S. Historical Aircraft
Preservation Museum
P. O. Box 6813
Anchorage, Alaska 99502

Dear Paul:

I have your correspondence concerning the North Star Chapter of the Pearl Harbor Survivors Association's desire to document the Aleutian campaign. My office has been in contact with the National Guard locally about this.

According to what I've been told, there appears to be a price tag of some $190,000 for the Guard to assist. The Guard has been told from their headquarters that this expenditure by them would have to be reimbursed.

It appears to me that your organization might have to consider attempting to obtain a grant of some type - and I have forwarded the paperwork on to my D.C. office to see if this matter might be researched for you.

We will be back in touch with you - and I hope you will keep in contact with my office as you proceed with this project.

With best wishes,

Cordially,

TED STEVENS

TED STEVENS, ALASKA
LOWELL P. WEICKER, JR., CONN.
JAMES A. MC CLURE, IDAHO
PAUL LAXALT, NEV.
JAKE GARN, UTAH
THAD COCHRAN, MISS.
MARK ANDREWS, N. DAK.
JAMES ABDNOR, S. DAK.
ROBERT W. KASTEN, JR., WIS.
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DALE BUMPERS, ARK.

J. KEITH KENNEDY, STAFF DIRECTOR
FRANCIS J. SULLIVAN MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

October 6, 1983

Paul A. Fox
U.S. Historical Aircraft
Preservation Museum
P.O. Box 6813
Anchorage, Alaska 99502

Dear Paul:

Greg Chapados of my staff brought your memorandum concerning a Special Use Permit to visit the Aleutian Islands National Wildlife Refuge to my attention recently.

Enclosed is a copy of the letter I received from Keith Schreiner, Regional Director of the U.S. Fish and Wildlife Service, in response to my inquiry on your behalf. I hope this explains why the Service was unable to process your application as quickly as you would have liked.

If you have any further problems once you've provided the Fish and Wildlife Service with the information they need to proceed with your application, let me know, and I'll do what I can to speed things along.

With best wishes,

Cordially,

Ted Stevens

TED STEVENS

Enclosure

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. BOX 5813
ANCHORAGE, ALASKA 99502

Memo To: President Ronald Reagan Date: Februrary 1,1984

From : Curator Paul A. Fox Phone: 907-243-0914

Subject: Request Written Permission for an Exception to the Wilderness Act to Do Documentary Filming of the Aleutian Campaign

Your help is desperately needed. There is a provision in the Wilderness Act (1980 Alaska National Interest Lands Conservation Act) which prohibits the use of motorized vehicles or landing of aircraft on lands under Wilderness Status. Since majority of the Aleutian Islands received Wilderness Status, we are asking that an exception be made in this law for a period of one month in 1984.

For the past two years, the North Star Chapter of the Pearl Harbor Survivors has been involved in the preservation, through film of what often has been titled, "The Forgotten War" - the WW II Campaign in the Aleutians. With the aid of many others, the group had researched the areas, the people, the survivors and the locations.

Our goal is to do documentary film of the Aleutians to be used in the public school system in Alaska and in the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to the chapter's film on Pearl Harbor, "There Are Some Days You Can't Forget" The North Star Chapter's records indicate that effective December 20, 1983 the film has been viewed by over 4,300 Anchorage school children and about 130,000 Alaskans.

The filming of the Aleutians is also a follow-up to our main message to school children, "Remember Pearl Harbor and don't let it happen [illegible]." A total of 14 men will assist in the production including the film crew, Aleutian Campaign Survivors, and Pearl Harbor Survivors. Depending on good weather coordination in the Aleutians, a one-month time span (from May through October) is projected to accomplish this historical filming.

The Aleutian Campaign is the only war in which the enemy occupied a U. S. territory in the North American Continent. There were numerous American, Alaskan Native, and Japanese lives lost in this Forgotten War. Our history and war efforts in the Aleutian Campaign are being lost so rapidly everyday by deterioration because of harsh weather conditions, the cleanup drives in some of the areas, illegal salvagings on some of the equipment and artifacts, and vandalisms by unconcerned individuals as well souvenier hunters.

As curator of our museum, I am acting as the project coordinator for the Pearl Harbor Survivors in this filming of the Aleutian Campaign. One of my duties is to work on all the necessary papers and permits to make it legal for the filming. The attached letter of August 23, 1983 from the U. S. Dept. of Interior, Fish and Wildlife Service states that we may not use a helicopter in the area that we want to film which includes the military installations and battlefields during the Aleutian Campaign.

Without the use of a helicopter to get into the wilderness areas, there is no way our museum, the Pearl Harbor Survivors, or any group can capture in film the remaining scenes of the Forgotten War to be a living memento to our future generations. For us not to use a helicopter, all areas will be covered by foot only in good weather condition. Such ideal weather is unpredictable and hard to come by, and not to mention the months of filming through perilous and tedious hiking on rugged terrain in the Aleutians. There is no way an effective filming could ever be done without a helicopter. We plan to land the helicopter on airplane wrecks, World War II U. S. and Japanese military installations and battlefields.

We have obtained permissions from the Aleut Corporation and individual village corporations to use helicopter to film on their lands. Under Base Commander Col. Evan Griffith, Jr., the Elmendorf AFB personnel support and will help us in any way they can. We wrote to Secretary Casper Weinberger asking for a written permission to do the documentary filming in Kodiak, Adak, Shemya and Attu.

Under Maj. Gen. Edward Pagano, Adjutant General of Alaska Air National Guard, a helicopter will be also used in the project. The Alaska Air National Guard is in support of our goal and will provide us with a C-130 cargo airplane. We have the support of the Governor and the State Legislature in the filming. Our two bills in Juneau, House Bill Nos. 484 and 470, were introduced in the 1984 Legislative Session to obtain the sum of $250,000 for the filming.

The major factor that is stopping us to make the documentary film is the prohibited use of a helicopter in the Aleutian Wilderness. We are pleading to you, Mr. President, that you make an exception in the Wilderness Act for one month for us to use a helicopter in the Aleutian Wilderness.

The helicopter will not damage the terrain or water fowl because once we obtain your permission for the exemption, we will notify the Fish and Wildlife for such authorization. Their office in turn will give us the information of the wilderness areas where we may and may not go.

The project should had been done many years ago. If we wait any longer or if we are not allowed to use a helicopter in those wilderness areas for the filming, our generations will not have a testimonial film of the Forgotten War that so many lives were lost in preserving our freedom from foreign aggression.

Through your cooperation, your position can start and keep the wheel rolling to help our country preserve what is left of our heritage and war effort.

Paul A. Fox

Attachments

cc: Hon. William P. Clark

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM

P. O. Box 6813
ANCHORAGE, ALASKA 99502

Telephone
243-0914

Memo To: Aleut Village Corporations

From : North Star Chapter, Pearl Harbor Survivors Assn.

Subject: Request for Permission to Visit Lands Under Each Aleut Village Corporation's Control

Date : September 13, 1983

Mr. Allan Aksell, director of Lands and Mineral Resources of the Aleut Corporation in Anchorage, had verbally granted us permission to visit the Aleut lands for our documentary filming. A follow-up letter will confirm his statement. He informed us that we still have to obtain similar authorization from each Aleut Village Corporation.

Explanation: Our goal is to do documentary film of the Aleutians (The Forgotten War) to be used in the public school system in Alaska and the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to our main message to school children, "Remember Pearl Harbor and don't let it happen to you." A total of fourteen (14) men will be on board the two aircraft which will consist of Pearl Harbor Survivors Members, film crew, and Aleutian Campaign Survivors and Pilots.

The U.S. Fish and Wildlife Service, Aleutian Islands Unit, requires us to submit copies of letters of non-objection from the Aleut Corporation and each Aleut Village Corporation, for us to visit lands under their control.

Attached are our itinerary plans, a list of the 17 military installations, and the map showing the main points of interest. Please go over these materials and determine if any of the places that are scheduled to be visited are under your jurisdictions. If there are any, we urgently request that you send us written permissions that we may visit such lands. Copies of the letters will be in our possession when we visit the Aleut lands for any future querries by anyone in the villages.

We are awaiting for the final permission from the Alaska Air National Guard in selecting a favorable weather condition before we advance to our 15-day film expedition. Because of the unpredictable changes of weather condition between September 15 through October 31, time is the essence in securing all the proper authorization.

It is vital that we obtain your letters of non-objection soon. Our history and war efforts in the Aleutians are rapidly being lost everyday. The Aleuts' sacrifices and sufferings to win back our freedom can be more meaningful as we all stand together to help our country preserve what is left of our heritage and war efforts. We can start the wheel rolling with the Pearl Harbor Survivors' documentary filming with your cooperation.

Please call us collect at 243-0914 for your verbal approvals and for any additional information you need.

Paul Faulkner
President

By: Paul A. Fox
Curator, U.S.H.A.P.M.
Project Coordinator, North Star Chapter's Aleutian Documentary Filming

Enclosures

Distribution: Allan Aksell, Aleut Corporation
Tom McGlashan, Akutan Corporation
George Kudrin, Atxam Corporation
Claude Kuzakin, Belkofski Corporation
William Ermeloff, Chaluka Corporation
Gilda Shellikoff, False Pass Corporation
Richard Koso, King Cove Corporation
Paul E. Gundersen, Nelson Lagoon Corporation
Eugene Makarin, Qunalashka Corporation
Chris Gundersen, Sanak Corporation
Dick Jacobsen, Shumagin Corporation
Flore Lekanof, St. George Tanaq Corporation
Larry Merculieff, Tanadgusix Corporation
Edgar Smith, Jr., Unga Corporation
General Edward G. Pagano
Senator Ted Stevens



UNALASHKA CORPORATION
P. O. BOX 149
UNALASKA, ALASKA 99685
907-581-1276

AN ENVIRONMENTAL & SYSTEMATIC APPROACH TO DEVELOPMENT

September 19, 1983

Paul A. Fox
Curator, U.S.H.A.P.M.
P.O. Box 6813
Anchorage, Ak. 99502

Dear Mr. Fox:

This is to follow-up on our verbal ok for your access to our lands for your documentary filming of the Aleutian's "Forgotten War" project.

If housing, truck rentals, etc. are required by your crew, please feel free to ask.

Sincerely,

E R. Makarin

E.R. Makarin
President

ERM/mw

ST. GEORGE TANAQ CORPORATION

ST. GEORGE ISLAND • ALASKA • 99660
(907) 859-2224

2604 FAIRBANKS STREET
ANCHORAGE • ALASKA • 99503
(907) 276-3600

October 11, 1983

Mr. Paul A. Fox, Curator
U. S. Historical Aircraft
Preservation Museum
P.O. Box 6813
Anchorage, Alaska 99502

Dear Mr. Fox:

As I indicated in our recent phone conversation, the St. George Tanaq Corporation is supportive of your mission to document the history of the Aleutian War Campaign. As such, we welcome your visit to St. George Island.

Accommodations are available at the St. George Hotel on a limited basis. Please contact me at your soonest possible convenience so that I may make reservations for your stay on the Island.

Sincerely yours,

ST. GEORGE TANAQ CORPORATION

Bret Coburn
Executive Assistant

BC:djd

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

U. S. Historical
Aircraft Preservation Museum
Paul Faulkner, President

Dear Mr. Faulkner:

I am in receipt of your letter of request of Sept 13, 1982. My only regret is that it took so long to arrive.

This letter authorizes you to visit the lands under our control, for the purpose mentioned in your letter of request.

I believe it is a very worthwhile project and wish you every success with your project.

Sincerely yours,
[illegible]
Pres. Chalaska Corporation

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. Box 6813
ANCHORAGE, ALASKA 99502

Memo to: Allan Aksell
Director of Lands & Mineral Resources, Aleut Corp.

From : North Star Chapter, Pearl Harbor Survivors Assn.

Subject: Request for Written Permission to Visit Lands Under Each Aleut Village Corporation's Control for Documentary Filming of the Aleutians

Date : February 10, 1984

This is a request that your office issue us a written permission to do filming in the Aleutian lands owned by different Aleut village corporations.

Out of the 13 village corporations we wrote to, only three replied to our request. Enclosed are copies of our letter and their responses. Also enclosed is a copy of the Fish and Wildlife Service letter requiring us to submit written permissions from the Aleut Corporation and the village corporations. Will you help us obtain the written permissions from the ten village corporations.

Time is running short. Our history and war efforts in the Aleutians are rapidly being lost. Our country can preserve what is left of our heritage and war efforts with your cooperation in the Pearl Harbor Survivors' goal of documentary filming. We look forward to working with you and for your immediate reply.

If you need additional information or have any questions, please do not hesitate to contact me. You can reach me at 243-0914.

Paul A. Fox
Curator, US Historical Aircraft Preservation Museum
Proj. Coordinator, North Star Chapter's Aleutians Documentary Filming

Enclosures



The Aleut Corporation

2550 Denali • Suite 900 • Anchorage, Alaska 99503
Phone (907)-274-1506

February 22, 1984

Paul A. Fox
United States Historical
Aircraft Preservation Museum
P. O. Box 6813
Anchorage, AK 99502

RE: DOCUMENTARY FILMING
OF THE ALEUTIANS

Dear Paul:

The Aleut Corporation is pleased to grant your request for access to any and all lands within our control for the purpose of filming a documentary history of the American war efforts in the Aleutians during World War II.

If I can be of any further assistance in this project, please do not hesitate to contact me. We wish you every success in this project and, most of all, good weather.

Very truly yours,

Allan C. Aksell

Allan C. Aksell
Director of Lands & Minerals

ACA:cv

TANADGUSIX CORPORATION

Seeking A Better Tomorrow



St. Paul Island, Alaska 99660-0088
Phone (907) 546-2312

February 16, 1984

Mr. Paul Fox
U.S. Historical Aircraft
Preservation Musieum
P.O. Box 6813
Anchorage, Alaska 99502

Dear Mr. Fox:

Tanadgusix Corporation has no objection to your request on entering TDX lands in the Aleutians for the purpose of filming World War II veterins. Please provide us with a copy of your work on a VHS tape if at all possible.

Good Luck.

Sincerely,

Victor N. Merculief
Land Manager

VNM/mz

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. Box 6813
ANCHORAGE, ALASKA 99502

Memo To: Hon. Caspar W. Weinberger, Secretary of Defense
From : North Star Chapter of the Pearl Harbor Survivors Assn.
Subject: Authorization to Do Documentary Filming in the Aleutians
Date : February 1, 1984

As required by the U.S. Fish and Wildlife Service, Dept. of Interior, we are requesting your office to grant us a written permission to do a documentary filming of Attu, Kodiak, Adak USN Base, Shemya AFB, and all abandoned WW II military installations in the Aleutians within the time frame of 15 to 30 days.

We would like to do the filming any time in June till October 1984 depending on the favorable weather condition and when the funds are received from the state of Alaska. Your office and the proper authorities will be notified promptly of the specific dates.

The Alaska Air National Guard has given us the permission to use a C130 and a helicopter for the filming. Col. Evan Griffith of Elmendorf AFB also supports the project.

Our goal is to do documentary film of the Aleutians (The Forgotten War) to be used in the public school system in Alaska and the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to our main message to school children, "Remember Pearl Harbor and don't let it happen to you." A total of fouteen (14) men will assist in the production including Pearl Harbor Survivors, film crew, and Aleutian Campaign Survivors and Pilots.

Enclosed are some information to support our request. If you need additional info or have any questions, please call me at 907-243-0914. It is important that we receive your permission in writing immediately so we can submit all the necessary documents to the U.S. Fish and Wildlife Service to get a special use permit.

Our history and war efforts in the Aleutians are rapidly being lost. Through your cooperation, your office can start the wheel rolling to help our country preserve what is left of our heritage and war efforts.

Paul Fox

Paul A. Fox
Curator, U. S. Historical Aircraft Preservation Museum
Project Coordinator, North Star Chapter's Aleutians Documentary Filming

cc: LTJG G. J. Paquette - Attu
Capt. B. K. Schaeffer - Kodiak
RADM R. J. Knapp - Juneau
Capt. G. R. Allender - Adak
Col. Edward Frey - Shemya

DEPARTMENT OF THE NAVY
OFFICE OF INFORMATION
WASHINGTON, D.C. 20350

IN REPLY REFER TO

24 February 1984

Paul A. Fox
Curator, U.S. Historical Aircraft
Preservation Museum
P.O. Box 6813
Anchorage, Alaska 99502

Dear Mr. Fox,

This is in regard to your letter to the Secretary of Defense of February 16, 1984, discussing your plans to produce a documentary film on World War Two activities in the Aleutians. The Office of the Assistant Secretary of Defense has authorized me to act as your project officer. Please feel free to call upon me when you wish to proceed. My address is Chief of Information (ATTN: OI-220) Navy Department, Washington, D.C. 20350. My telephone number is (202)697-0866.

Your interest in the Navy is greatly appreciated.

Robert Manning
Assistant Director
Productions Services Division

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. Box 6813
ANCHORAGE, ALASKA 99502

Memo To: Capt. Benjamin K. Schaeffer
Kodiak USCG

From : North Star Chapter, Pearl Harbor Survivors Assn.

Subject: Authorization to Do Documentary Filming in Kodiak

Date : February 1, 1984

We wrote to the Secretary of Defense for an authorization but we also need a written permission from you for the filming of WW II military bases and airfields in Kodiak. Additional information is attached. If you have any questions or need more information, please do not hesitate to contact us. Our phone number is 243-0914.

Our history and war efforts in the Aleutians are rapidly being lost. Our country can preserve what is left of our heritage and war efforts with your cooperation in the Pearl Harbor Survivors' goal of documentary filming. We look forward to working with you and for your immediate reply.

Paul A. Fox
Curator, US Historical Aircraft Preservation Museum
Proj. Coordinator, North Star Chapters Aleutians Documentary Filming

Attachment

P.S. Will you please provide ground transportation for the film crew and staff to get us around into the different areas for filming.

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

Commanding Officer
USCG Support Center
Box 14
Kodiak, AK 99619

1155
24 February 1984

Mr. Paul A. Fox, Curator
US Historical Aircraft Preservation Museum
P. O. Box 6813
Anchorage, AK 99502

Dear Mr. Fox:

In response to your request for permission to film at various locations around Kodiak, consider this letter confirmation of my permission to do so.

LT Thomas R. RICE of my staff has been designated coordinator to assist you in your endeavor. He will arrange ground transportation and otherwise aid you as needs arise. His telephone number is 487-5257/8. Please feel free to contact him at any time.

I wish you good fortune in your filming of the historical airfield and base remnants of World War II and look forward to the results.

B. K. SCHAEFFER
Captain, U. S. Coast Guard
Commanding Officer

Copy to: CCGD17(pao)

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. Box 6813
ANCHORAGE, ALASKA 99502

Memo To: Col. Edward Frey, Shemya AFB Commander

From : North Star Chapter of the Pearl Harbor Survivors Association

Subject: Authorization to Do Documentary Filming in Shemya AFB

Date : February 1, 1984

We wrote to the Secretary of Defense for an authorization but we also need a written permission from you for the filming of Shemya AFB. Additional information is attached. If you have any questions or need more information, please do not hesitate to contact us. Our phone number is 243-0914.

Our history and war efforts in the Aleutians are rapidly being lost. Our country can preserve what is left of our heritage and war efforts with your cooperation in the Pearl Harbor Survivors' goal of documentary filming. We look forward to working with you and for your reply.

Paul A. Fox
Curator, US Historical Aircraft Preservation Museum
Proj. Coordinator, North Star Chapter's Aleutians Documentary Filming

Attachment

P.S. Will you please provide ground transportation for the film crew and staff to get us around into the different areas for filming.

DEPARTMENT OF THE AIR FORCE
5073D AIR BASE GROUP (AAC)
APO SEATTLE 98736

29 Feb 84

United States Historical
Aircraft Preservation Museum
P. O. Box 6813
Anchorage, Alaska 99502

Dear Mr Fox,

I have your letter of 1 February 1984 requesting clearance onto Shemya Island to film. I'm sorry but Shemya Air Force Base is a closed military installation and has no facilities to house, feed, or transport you or your personnel. If you can tell me what you want filmed, and in what way (movie, video tape, etc) I will be glad to try and have it done for you.

I'm sorry that I can't support you, but wish you luck in your other endeavors.

EDWARD P. FREY, Colonel, USAF
Commander

cc: HQ AAC/PA
HQ AAC/HO

ENERGY EFFICIENCY

Top Cover for America

UNITED STATES HISTORICAL
AIRCRAFT PRESERVATION MUSEUM
P. O. Box 6813
ANCHORAGE, ALASKA 99502

Archaeology of WW II
Artifacts & Aircraft
Phone: 907-243-0914
Date : Feb. 1, 1984

Memo To: State and Federal Agencies
Native Corporations

From : North Chapter, Pearl Harbor Survivors Assn.
U. S. Historical Aircraft Preservation Museum

Subject: Documentary Filming of the Aleutian Campaign

Under the leadership of Ted Divis, the North Star Chapter has been involved for the past three years in the preservation, through film of what often has been titled, "The Forgotten War" - the WW II Campaign in the Aleutians. With the aid of many others, the group had researched the areas, the people, the survivors and the locations.

Sometime this year 1984 the chapter's goal is to do a documentary film of the Aleutians to be used in the public school system in Alaska and in the Lower 48 and for public television. This filming of the Aleutian Campaign is a follow-up to the chapter's film on Pearl Harbor, "There Are Some Days You Can't Forget." The North Star Chapter's records indicate that effective December 20, 1983 the film has been viewed by over 4,300 Anchorage school children and about 130,000 Alaskans.

The filming of the Aleutians is also a follow-up to our main message to school children, "Remember Pearl Harbor and don't let it happen to you." The Aleutian Campaign is the only war in which the enemy occupied a U. S. territory in the North American Continent. There were numerous American, Alaskan Native, and Japanese lives lost in this Forgotten War.

Our history and war efforts in the Aleutian Campaign are being lost so rapidly everyday by deterioration because of harsh weather conditions, the cleanup drives in some of the areas, cannibalsim for needed parts, illegal salvagings on some of the equipment and artifacts, and vandalisms by unconcerned individuals as well as souvenir hunters. Our survivors are not getting any younger.

The United States Historical Aircraft Preservation Museum has three major duties in this documentary expedition:

1. Project coordinator for the documentary filming of the Aleutian Campaign

   A. Work all details to obtain the permits from Fish and Wildlife, Native Corporation, and private landowners.

   B. Work with Dept. of Defense for access and ground transport support on active military installations.

   C. Work details with the Alaska Air National Guard for the use of a helicopter and a C-130 airplane.

1. D. Plot maps and charts for all known WW II downed aircraft, gun implacements, artifacts, military installations, battlefields.

   E. Compile history of the Aleutian Campaign (before, during and after WW II) for the film crew and others who will be taking active part in the filming.

   F. Contact veterans of the Aleutian Campaign to participate in the filming.

   G. Provide the pilots, who will be flying the helicopter, and ground transport staff with list of significant areas of WW II in the Aleutians including battlefields.

   H. Compile copies of all WW II documentary films that were filmed in the Aleutians to integrate with the present filming of the Aleutians through the assistance of the Air Force, Navy, Coast Guard, Corps of Engineers, state-federal agencies as well as groups or individuals.

   I. Compile photographs through state-federal agencies, individuals, organizations and archives to have still shots of the Aleutian Campaign.

2. Archaeological survey on the WW II military installations, equipment, aircraft and artifacts.

   A. Two means of documenting the artifacts and remains of WW II:

      (1) The film crew, who will doing the documentary filming, will record on the film and on tape.

      (2) Using 35 mm camera, our museum will photograph in BW, color & slides. Our museum will have access to all the films of the individuals who will be taking their own personal cameras to this documentary filming, thus providing the museum with a more complete record of the remains of the Aleutian Campaign.

   B. Through photographs and tape recording of the artifacts, we (as experienced WW II archaeologists) will determine the historical value of the remains, list them by priority of saving and retrieving them, with the explanations for the urgency of removing them from the sites which in the coming months or years the chances of their being destroyed through weather conditions, vandalism, cannabalism, cleanups or just pure neglect, and so forth.

   C. Our museum will seek a second opinion by other WW II archaeologists and expert people including other museums to determine the historical significance of the remains of the Aleutian Campaign.

   D. Once all photographs are gathered up and tapes are transcribed, a report will be compiled showing the list of artifacts and remains with their corresponding historical significance as well as their priorities for removal for restoration and preservation.

   E. As the funds become available, this report will eventually be put into a book form for archives.

2. F. State and federal agencies may obtain copies of this report by written request to our museum. A minimal feel will be required to cover the expenses for the report.

3. Photograph and document WW II waste disposal dump or anything that is considered as hazardous wastes in streams, rivers, or lakes along the areas where the filming is being done. This will be compiled into a report to be turned over to the Air Force Installation Program or the Environmental Protection Agency in Washington, DC.

Any individual, corporation, state or federal agency that can provide us with additional information as to the Aleutian Campaign History (before, during, and after WW II) and the whereabouts of WW II artifacts, aircraft, and remains in the Aleutians are urged to contact us immediately by phone or letter. When we do the documentary filming, we will have more additional information regarding the artifacts (such as their progress of deterioration). Information that were gathered up by word of mouth or records of items will be also verified if they are still in the same sites.

Without the complete documentary film, photographs, records of events, artifacts and remains, to the majority of our generations, the Aleutian Campaign will completely become a Forgotten War where so many lives were lost in preserving our freedom from foreign aggression.

Paul A. Fox
Curator, USHAPM
Program Coordinator, North Star Chapter's Aleutian Campaign Documentary Filming

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 2750TH AIR BASE WING (AFLC)
WRIGHT-PATTERSON AIR FORCE BASE, OHIO 45433

9 JUL 1981

REPLY ATTN: JA

SUBJECT: United States Historical Aircraft Preservation Museum (Your ltr, 1 July 1981)

TO: AFM/DMX

The Articles of Incorporation of the United States Historical Aircraft Preservation Museum provide for the establishment of a museum which is operated and maintained for educational purposes and whose charter denies it the right to operate for profit. The museum therefore qualifies to receive USAF excess historical properties in accordance with 10 U.S.C. 2572.

Carol A. Satterfield

CAROL A. SATTERFIELD
Staff Attorney

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

March 7, 1984

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

LETTER OF INTENT FOR SPONSOR SUBSTITUTE FOR HOUSE BILL 470

Sponsor Substitute for House Bill 470, "An Act making a special appropriation to the Department of Education, Alaska Historical Commission to produce a documentary film relating to the participation of Alaska in World War II; and providing for an effective date," has been introduced on behalf of the veterans of World War II.

In adopting this legislation, the Legislature intends that the funds provided by SSHB 470 be used by the Department of Education, Alaska Historical Commission to prepare, or to authorize and coordinate preparation by others of, a comprehensive documentary film on Alaska's role in World War II; that the Alaska Historical Commission create an advisory committee of veterans and other interested persons to assist in the planning and production of the film; that the Commission shall provide at least six copies of the film to the state historical library for permanent record; and that the state should retain all copyright interests in the film. In carrying out this mandate, the Alaska Historical Commission may give financial support to, and otherwise cooperate with, active and retired members of the Armed Forces of the United States, Canada and Japan, and with others, in the production of the film, using materials available from existing sources as well as additional visual material as may be found appropriate.

The Legislature recognizes that today Alaska continues to suffer from the same lack of appreciation and understanding as was the case when the state was purchased in 1867. The Aleutian Campaign of World War II, once referred to as the "forgotten front," could well become just that -- forgotten. It is therefore important for the state to increase the public's awareness of Alaska's role in the war.

_____ _____

_____ _____

_____ _____

_____

112 North St.,
Middletown, N.Y., 10940

Dear Legislator,

Re: Your House bill # 470

This a request asking for your support of this bill. It is presumptuous for me, from the lower 48, to address you.

However I did serve in the Aleutian Campaign. After two trips to your great State I feel that I am "an Alaskan at large". Then too, Seward who arranged the pruchase of Alaska was born and lived in a little village about 15 miles from here.

I served a short time on somber Umnak. Troops still carried weapons awaiting an enemy who never came, enduring curfews, sullen skies and the monotony of a rear base.

Then to Adak, weapons aside, lights, activity. I remember ravens strutting on the graceful wings of the P 38s. I was with the B 24s, the rugged bearer of bombs.

Thence to Shemya, where the sun shone occasionally. Shemya, the dagger aimed at the heart of the Japanese Empire. It was being sharpened by a 10,000 foot runway for the B 29s; and the construction of a big hospital for the casualties from the invasion of Paramushiro.

Neither came to be.

The dagger was sheated. Why? Perhaps Stalin was not ready for a quick end to the Pacific war. It would prevent his later grab of territory and Japanese army of some 250,000.

Because my experience was so short and uneventful I can better plead the cause of the men who bore the burden of alerting America to the importance of Alaska; the men who stubbornly fought for money and equipment; and the army, air, and navy personnel who battled under adverse conditions.

For these,and for posterity, the passage of your bill # 470 will insure a true records of the men and the events. A source not subject to distortions of later day historians.

You, as one who has military experience, know the soldier is a hero in war -- and a bore in peace.

Alaska can correct that for its part in World War 2.

Respectfully,

Lawrence Reineke

Lawrence Reineke

HB

422

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

1/9/84 Date: February 17, 1984

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 477

"An Act relating to repayment of state aid for hospital and health facility construction."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	
[signature]	
[signature]	
[signature]	

[signature]
CHAIRMAN

H 60 (Rev. 3/81)

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: Representative Mae Tischer, Chairman
House Health, Education and Social Services Committee

From: Representative Terry Martin

Date: February 16, 1984

Subject: HB 477

"An Act relating to repayment of state aid for hospital and health facility construction."

Over the years, the state has provided millions of dollars toward construction and expansion of non-profit hospital facilities. Under current law, if the non-profit hospital is sold to a private, profit-making entity, these dollars are unrecoverable by the state.

This bill provides that, if a non-profit hospital which received state construction funds is sold to a private entity, the state will be repaid. The formula in the bill provides for recovery of the state's investment, plus a proportionate amount of the profit received from the sale.

The question is raised as to whether the state can go back and amend existing contracts. Ed Hein, LAA legal counsel, contends that this would probably be upheld in court if the amendment were to a contract between the state and a non-profit or municipal agency, but would not be legal if the state were trying to amend a contract made with a private entity.

This bill is an important protection of the state's investment in public health care, ensuring that dollars invested remain in public use, and do not become a subsidy of private, for-profit enterprise.

HB 477

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M October 21, 1983

SUBJECT: Repayment of state aid for hospital and health facility construction (Work Order No. 13-1519)

TO: Representative Terry Martin

FROM: Edward H. Hein EHH
Legislative Counsel

Enclosed is the bill draft we discussed over the telephone regarding repayment of state aid given under former AS 29.-90.010 - 29.90.030. I have used the formula that appears in 19 AAC 30.061(b) for repayment of state aid if the hospital ceases to be a hospital within 20 years. This formula provides for repayment of the original amount granted, plus or minus the proportionate share of any profit made or loss incurred from the transfer of the hospital or health facility to a for-profit entity.

You should be aware that the bill is not immune from legal challenge, although a court in that event is likely to uphold it. A for-profit corporation that wished to buy a hospital subject to the terms of the bill could raise the argument that it (the for-profit corporation) was eligible for direct aid under the terms of former AS 29.90.030(2) and, therefore, a penalty cannot now be attached to transferring the aid to it indirectly through a sale or lease of the hospital. Under the state aid program, a hospital sponsor did not have to be a municipality or other nonprofit entity, as did the sponsor of a health facility. Compare AS 29.90.030(2) with AS 29.90.030(4). In fact, state aid under the program was granted only to nonprofit sponsors, in part because of the Department of Community and Regional Affairs' possibly erroneous interpretation of the law.

It is our opinion that such a challenge is not likely to cause the bill, should it become law, to be overturned in court. However, the argument might receive serious consideration by the court if raised.

If you have any questions or comments, feel free to contact me at your convenience.

EHH:ljb

Enclosure
30/002

Private corporations buying up public hospitals

By WILLIAM C. REMPEL
and ALAN GOLDSTEIN
The Los Angeles Times

CRAWFORDSVILLE, Ind. — Culver Memorial, a 1920s-vintage public hospital, is so antiquated and crowded that patients are prepared for surgery in hallways outside the operating rooms. Expectant fathers share a common waiting room with families of dying patients, and visitors and patients often have to share the same elevators.

A chronic plumbing problem periodically causes sewage to drain into a basement corridor, and for years the hospital has lived with potentially hazardous fire code violations. When an engineering survey detailed many structural deficiencies, administrators began searching for money to make major improvements.

But Montgomery County officials would not subsidize replacement of the tax-supported hospital or major renovations. Advised that the hospital was a poor credit risk, they also refused to underwrite a bond issue.

Out of financial desperation, Culver Memorial did what an increasing number of hospitals are doing — it turned to private industry. The county sold its hospital to a profit-making medical chain, American Medical International, based in Beverly Hills, Calif.

The sale was another example of a strategy for survival that critics warn will impair poor persons' access to health care and raise the cost of medical treatment for everyone.

"The public hospital is the closest thing to national health insurance we have," said Deborah L. Bauer, administrator of the National Association of Public Hospitals. "There's a tremendous need for it, especially in this economy. We're seeing the greatest increases in public hospital use today in areas of high unemployment. The care of indigents isn't just for the winos off the streets. It's for the guy next door who's been laid off, too."

But public hospitals — particularly small ones — are in trouble. A generation of public hospitals built and expanded with federal funds in the years after World War II has reached old age with outdated equipment, crumbling bricks and little or no cash, credit or operating surpluses for repair and replacement. Repeatedly, voters have rejected bond issues aimed at improving the situation.

At the same time, economic pressures on hospitals in general are increasing. Government funding and charitable contributions have declined, and hospitals everywhere are competing for paying patients.

Increasing the pressure to affiliate with private, money-rich chains.

For example, at York General, a 216-bed public hospital in Rock Hill, S.C., two bond issues that would have financed improvements failed when submitted to voters. Meanwhile, rain occasionally leaked into labs, heavily used X-ray equipment frequently broke down and the maternity ward had no private labor rooms. For a time, the physician staff dwindled, and a survey showed that half of those in the rural area needing treatment checked into hospitals outside the county — until the hospital sold out to American Medical.

> *"Socialized medicine is dead and buried. Public access to health care is very desirable, but it can't be achieved without economically viable hospitals."*
> — Walter Weisman, president, American Medical International

The same chain bought Collin Memorial, a 168-bed public hospital in McKinney, Texas, after voters rejected a bond issue to raise taxes. Collin was chronically short of everything from intravenous equipment to thermometers. The hospital had to ask its staff to bring in pens and staplers from home.

Public hospitals are "floating on borrowed time," said Gary Rowe, executive director at Culver Memorial for nearly 10 years. "This country is in for a serious shock. Public hospitals have been operating out of a shoestring box, setting nothing aside for a rainy day. They are going to be closing like flies."

Some — such as 750-bed Philadelphia General Hospital, which [illegible] million in renovation costs seven years ago — already have closed. Others have put out "For Sale" signs when funding for vital improvements was not available.

Riding to the rescue with healthy bank accounts and robust credit ratings, the chains of for-profit hospitals are increasingly eager to purchase struggling public facilities. They have the financial strength to build new, state-of-the-art medical centers, buy expensive high-tech equipment and attract some of the best-qualified physicians.

To critics, some of whom object to the very presence of the profit motive in health care, the trend could turn hospitals into cash registers.

"My health . . . has become a potential profit opportunity," complained Doug Cassel, an attorney with the Health and Medicine Policy Research Group in Chicago. "Before long, patients' kidneys may be listed on the commodities exchange."

But the acquisition trend that began slowly through the Sun Belt in the late 1960s has increased most rapidly during the last two years, industry sources say. The investor-owned chains now control about 80 former public health facilities.

This industry generates more than $16 billion in annual revenue from more than 900 for-profit hospitals in the United States and abroad.

"Our principal advantage is capital — we can find the financing while local hospitals, in the main, cannot," said Charles Martin, a senior vice president with Hospital Corp. of America, the leading buyer of public hospitals among the investor-owned hospital chains. "Charity is no longer a major source of funding for hospitals, and bond issues aren't popular."

Executives at American Medical International see the trend as part of the move away from government-provided health care.

"What we're seeing now is deregulation and an entrusting of that field to private health care firms," said Walter Weisman, president of American Medical International. "Socialized medicine is dead and buried. Public access to health care is very desirable, but it can't be achieved without economically viable hospitals."

What worries public interest groups is that "economically viable hospitals" will be achieved by raising fees and denying quality treatment to persons unable to pay for it.

"Profit-making hospitals might not be as motivated to care for people who can't pay for treatment," warned Quentin Young, former administrator of the public Cook County Hospital in Illinois, [illegible]

Some for-profit hospitals have even been accused of threatening or refusing to treat those who cannot afford to pay.

In Somerset, Ky., for instance, a 27-year-old woman signed an affidavit alleging that an official of the Humana Hospital — another large for-profit chain — said she could not take her newborn baby home until an $8,000 bill was paid. The same hospital was accused of pressuring a 30-year-old man, admitted for neurological testing, to sign a check for $1,100 even though it exceeded his bank balance. He was told that he should apply for a loan to cover the check, according to an affidavit.

Although Humana insisted that the allegations were "fiction," it settled litigation with its former patients by signing a consent decree, agreeing never to engage in the alleged conduct.

More alarming to critics is the prospect of needy patients being denied access to former public hospitals — or being "dumped" on distant public hospitals — because of their inability to pay.

In rural Georgia, for instance, several women complained to an Atlanta newspaper that they were denied admission for maternity care at a former public hospital because they could not afford to pay a deposit. Each delivered a child at the public hospital in a neighboring county.

Damon King, administrator of the Medical Center of Central Georgia, a public hospital outside Macon, said his hospital is resisting patient transfers from the for-profit hospitals.

"Their capability for handling a patient does not decrease simply because that patient cannot pay," King said.

But Rowe of Culver Memorial countered, "No one says food stores shouldn't make a profit — and they're more important than health care. Society seems to be saying that government has a responsibility to provide health care. I don't believe that."

Furthermore, Weisman of American Medical International added, "Private hospitals have to generate profit — and so do public hospitals. We call it profit. They call it surplus. But it's the same animal."

In its last year as a public hospital, Rowe said, Culver Memorial realized an operating surplus of $300,000 — equivalent to about $2,500 per bed. By contrast, Weisman's firm, the new owners of Culver Memorial, showed a systemwide profit of $17,200 per bed.

"It costs money to deliver health care," Weisman said. "If no money is reinvested in the plant, equipment and personnel, you can charge lower fees, but you also deliver much less service. That alternative is clearly unacceptable."

And the cost of health care is higher at investor-owned, for-profit medical centers than at public hospitals. According to a survey published in August by the New England Journal of Medicine, investor-owned facilities also charge more than nonprofit hospitals such as church-run medical centers.

Indiana Health Commissioner Ronald G. Blankenbaker predicted that hospital costs probably will double within a year after the new Crawfordsville hospital opens, perhaps in 1984.

Culver Memorial's Rowe acknowledged that rates at for-profit hospitals "are always going to be higher" because the private chain invests heavily in the acquisition and replacement of the old facilities.

For example, American Medical International is building a new $17 million hospital here. Hospital Corp. of America is spending $20 million to replace the public hospital in Tarboro, N.C. Humana Inc. moved into Somerset, Ky., in 1976 and built a replacement for the old city hospital, which was converted to a nursing home as soon as the new investor-owned facility opened.

Executives at the hospital chains contend that taxpayers benefit from converting public hospitals to private ownership, partly because the new corporate owners pay property taxes.

"When a private company buys a public hospital, it creates a taxpaying entity where a tax drain used to be," Weisman said.

Sales of public hospitals are often accompanied by assurances that indigent care will not be a burden to taxpayers because its cost will be offset by new tax revenues. But, in addition, American Medical has recently negotiated with county officials to provide an indigent-care trust fund. In Crawfordsville, for instance, they agreed to set aside $3.8 million from the proceeds of the sale.

Robert Irvine, a spokesman for Humana Inc. — the Kentucky-based chain that recently took over Louisville's new $73 million public hospital — said a community suffers if its public hospital is forced to close.

"We still need public hospitals," he said. "We've just got to figure out how these public hospitals can be run more efficiently, so they can stay open and stay viable."

Humana seeks expansion sites

by Cary Virtue
Times Writer

Humana Inc., the second largest hospital chain in the country, is interested in seeing if there are other communities in Alaska where it may operate a new hospital, the company's chairman said Monday.

Anchorage residents also can expect health care competition to stiffen as Humana steps up efforts to woo patients away from Providence Hospital, partly by providing people with special care they can't find elsewhere.

"Our pattern is that once we have a foothold in a state we start looking around (for other acquisitions)," said Dave Jones, co-founder, chairman and chief executive officer of Humana, Inc. "We'd like to expand."

But any decision to expand into other Alaskan communities will depend on market studies, said Jones. He was in town to tour Humana Alaska Hospital and speak to the chamber of commerce noon luncheon Monday.

Meanwhile, Jones said the company is busy establishing itself in Anchorage. He was referring to its plans to build a $21.5 million five-story addition at Humana Alaska Hospital by 1985. The expansion would add another 93 licensed beds, for a total of 292 licensed beds at the hospital.

Providence Hospital also will build a five-story, 186,000-square-foot hospital tower by 1986, boosting its total bed capacity from 250 licensed beds to 410 licensed beds.

Anchorage, Jones said, is large enough to support two major private hospitals, but he said Hummana's mission is to provide the best health care in town.

"We made a big commitment to Anchorage to put ourselves in a position of being a competitor to Providence," Jones said. "Our concept is to have the best hospital in town. (And) I think that in the long run we will become the hospital of choice."

Jones said he welcomes more competition in the health field, saying it would help reduce overall costs by forcing a hospital to "trim its own fat."

Humana, a chain with 93 hospitals, last year was able to provide health care services that averaged about 17 percent lower than its competitors, Jones said. He said he's trying to lower Humana's overall operating costs by another three percent this year.

National policies that attempt to shield the consumer by artificially keeping a lid on health care costs also should be repealed, Jones said. And, he said there should be more public debate on health care issues.

In other areas, Jones said he supported:

- Diagnostic related groupings, a new federal approach to establishing standard health care prices for more than 496 medical procedures based on a community's cost of living index. The new law starts going into effect this fall.
- Allowing hospitals to bid to provide all government-funded health care for a region. This experiment already is being tested in California.
- Public discussion about how private health care organizations can provide health care to those people who can't afford the care and who do not have medical insurance.
- Repealing the certificate of need process that forces hospitals to win state approval before expanding or purchasing expensive new equipment. The state legislature is reviewing a repeal bill currently.



Alice Puster of The Times

Humana's Dave Jones pledges to woo patients away from the competition

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

on

House Bill No. 477

For an Act entitled: "An Act relating to repayment of state aid for hospital and health facility construction."

Financial assistance for hospital and health facility construction has until recently been available from the Department of Community and Regional Affairs under AS 29.90. Numerous hospitals and health facilities have received funding for construction under this program. The program has recently been amended to limit reimbursement to those facilities constructed prior to July 1, 1980.

This bill proposes a means for recovery of state funds for non-profit or community owned hospital or health facility construction in the event that the facility constructed becomes controlled by a for-profit institution within 20 years following receipt of the state funds. The Department of Health and Social Services supports this bill as consistent with the objectives of the department. However, the department questions the usefulness of the bill in that the statute has been revised to limit payment to facilities constructed prior to July 1, 1980. Facilities now receiving funding or those which have received funding in the past may have unspecified "grandfather" rights under the present statute that prevent recovery of funds already granted.

One example of the purpose of this bill is evidenced by the recent sale of the Alaska Hospital and Medical Center (AHMC) to Humana, Inc. AHMC was constructed to operate as a non-profit community hospital. The state provided approximately $16,200,000 under AS 29.90 to offset approximately 25% of the total project cost for construction. Upon notice of the proposed sale of AHMC to Humana, Inc. (a for-profit corporation) the Department of Law researched the possibility of recovery of state funding. The Department of Law, in two separate opinions indicated that there did not exist a statutory basis for recovery of the funding upon sale of the constructed facility to a for-profit institution. (Ref. May 4, 1982 memorandum to Commissioner Lee McAnerney, file no. 366-629-82 and November 12, 1981 response letter to Senator Arliss Sturgulewski.)

Passage of H.B. 477 will provide a statutory basis for recovery of grants for hospital and health facility construction provided under AS 29.90; however, the recovery of funds may be limited to a time when and if the statute is revised to provide funds for new construction.

POSITION PAPER/Department of Health & Social Services

Recommended by: Daniel J. Meddleton for

Daniel J. Meddleton, Director
Division of Planning, Policy
& Program Evaluation

Date: Feb. 7, 1984

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 2/10/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 477
Title: State Aid for Health Facility Construction
Sponsor: Martin
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Health & Social Service
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Dave W. Williams Phone: 465-3037
Division: Planning, Policy & Program Evaluation Date:

Approved by Commissioner: Robert London Smith Ph.D Date: 2/10/84
Agency: Dept of Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Health and Social Services	Rep. Martin	HB 477

Department Position

Support -- This bill is consistent with the objectives of the Department of Health and Social Services and should be enacted.

Division Director	Date	Commissioner's Signature	Date
Dennis M. Middleton	1-17-84	Robert Loeber Smith	2/10/84

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
	Community and Regional Affairs
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**
	Alaska State Hospital Association and Alaska State Medical Association

3. Program Effects of Bill

This bill proposes a means for recovery of State funds for nonprofit or community owned hospital or health facility construction in the event that the hospital or health facility becomes a for-profit institution within 20 years of receipt of the State funds.

4. Fiscal Impact: ☒ None ☐ Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

The bill affects a program of the Department of Community and Regional Affairs. C&RA should review the formula for recovery of funds to accertain that all factors may be obtained.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

☐ POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

☐ 225 CORDOVA STREET - BLDG B
ANCHORAGE, ALASKA 99501
PHONE: (907) 264-2294

March 8, 1984

POSITION PAPER

RE: HB 477
SPONSOR: Representative Martin

PROGRAM EFFECTS:

This bill establishes a method for the State to be reimbursed in the event that a nonprofit or municipal health facility or hospital which received State Revenue Sharing support is sold to a for-profit owner. Sale to a for-profit owner must occur within 20 years after State Revenue Sharing aid is provided for the State to receive reimbursement.

COMMENTS:

The question of public purpose in the expenditure of State aid for hospital construction is the central issue raised by this bill. State aid diminishes the amount of debt or liability held by a municipality or nonprofit in a hospital or health facility and this factor could be essential in the sale of this facility to a for-profit entity. The equity earned by the nonprofit or municipality as a result of State reimbursement for a hospital or health facility either accrues as a benefit to the nonprofit which, by sale of health facility, is reducing or totally divesting itself from health care responsibilities or translates as a benefit to the for-profit buyer by way of a reduced sale price or acquisition of an undervalued asset. Under either scenario, the State's interest is not served.

This department supports this bill because it protects the State's investment in nonprofit and municipal health care facilities and assures that State funds do indeed serve a public purpose.

APPROVED: Emil Notti
Emil Notti, Commissioner

21-PILH

HB
482

COMMUNITY MENTAL HEALTH CENTER
BUILDING PROPOSAL

Priority Funding Request

South Peninsula Mental Health Association, Inc.
P.O. Box 2274
Homer, Alaska 99603

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

September 28, 1983

Ms. Jeanne K. Calkins
Board President
Community Mental Health Center
P. O. Box 2274
Homer, AK 99603

Dear Ms. Calkins:

I enjoyed discussing the Mental Health Center with you while I was in Homer this month. The citizens of Homer can be proud to have such support for this facility in their community.

Best regards.

Sincerely,

Bill Sheffield
Governor

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- City of Homer

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CITY OF HOMER

1984 CAPITAL IMPROVEMENTS LEGISLATIVE REQUEST SUMMARY

THE FOLLOWING SUMMARY IS COMPOSED OF THREE CATEGORIES; LOCAL PROJECTS, REGIONAL PROJECTS, AND STATE PROJECTS WHICH THE CITY OF HOMER SUPPORTS. THE LOCAL AND REGIONAL PROJECTS ARE PRIORITIZED.

LOCAL PROJECTS	COST
1. UPGRADE AND TRANSFER STATE ROADS TO CITY MAINTENANCE	
a. Pioneer Avenue	$ 2,300,000
b. Bartlett Steet/Fairview/Hohe	$ 1,230,000
c. Lower Main Street - South of Pioneer Avenue	$ 700,000
2. PAVE UPPER MAIN STREET	$ 320,000
3. PAVE KACHEMAK WAY	$ 530,000
4. HOMER COMMUNITY CENTER	$ 2,500,000
5. UPGRADE UPPER LAKE STREET	$ 1,200,000

REGIONAL PROJECTS	
1. HILLSIDE PARK COMPLETION	$ 100,000
2. PRATT MUSEUM	$ 1,085,700
3. MENTAL HEALTH BUILDING	$ 306,500
4. PARKS AND RECREATION FACILITIES	$ 1,100,000
5. HOMER SPIT CAMPGROUND	$ 6,000,000

STATE PROJECTS WHICH THE CITY OF HOMER SUPPORTS

HOMER SPIT ROAD IMPROVEMENT

BRADLEY LAKE HYDROELECTRIC PROJECT

EAST HILL ROAD RECONSTRUCTION

KACHEMAK BAY DRIVE

STERLING HIGHWAY - HOMER/ANCHOR POINT

KACHEMAK BAY FERRY SHUTTLE

ADEC GRANT PROGRAM

TOTAL $17,372,200

3. MENTAL HEALTH CENTER

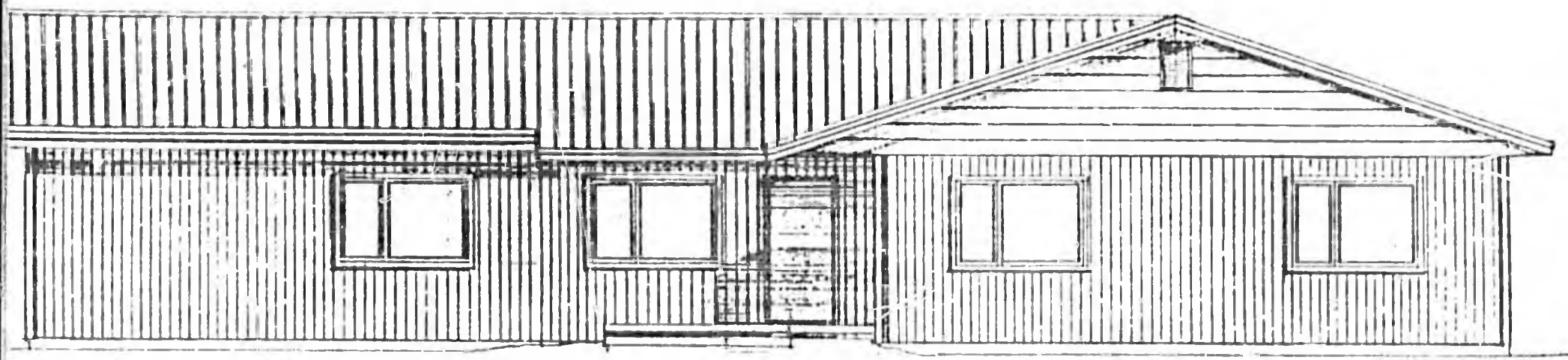
The City of Homer supports the Community Mental Health Center's efforts to expand its facilities and programs. The Mental Health Center has been operating for seven years offering a wide variety of counseling, education and referral services to the entire lower Peninsula area.

The participation in these programs has risen at an increasing rate over the last several years. For example, in a report filed in February 1983, the Center had a caseload history of 800 cases. In November 1983, that load had increased to 960 cases. An increase of 20% in less than a year. In fact, over 50% of the existing caseload has been admitted in the last two years. This is a phenomenal growth rate that will continue as the Homer and outlying area populations continue to grow.

The Mental Health Center currently spends $24,000 per year for their existing rented facilities. They estimated that the new proposed facility will be paid for in rent savings alone. This is a significant point because of the gradually declining State revenues and ability to fund these programs. The Center, like all non-profit organizations dependent on State aid, has felt the burden of decreasing budgets. This new building will allow the Center to make more effective use of the money available.

In addition to the Mental Health Center, the Cook Inlet Council on Alcoholism plans to use this new facility. This will reduce their operating costs for rent and allow more effective use of this agency's money too.

The Center has already, using existing State aid, City funds, and its own revenues, purchased property, conducted soils tests and designed the facility. They now request assistance to bring the project to fruition with construction.



COMMUNITY MENTAL HEALTH CENTER

FACILITY PROPOSAL

South Peninsula Mental Health Association, Inc.

The Community Mental Health Center serving Homer and the surrounding region is sponsored by the South Peninsula Mental Health Association, Inc. The Center has provided comprehensive outpatient community mental health services to the residents of Homer, Ninilchik, Anchor Point, Nikolaevsk, Kachemak City, Seldovia, Halibut Cove, Port Graham, and English Bay during the past seven years. Recently, the Community Mental Health Center has gained a remarkable increase in community acceptance as reflected by the increased use of services provided. As of November 3, 1983 the Community Mental Health Center has provided direct services to 955 individuals since it open its doors seven years ago. Of these 955 clients, 400 have begun receiving services during the past two years. In addition to these direct service recipients, numerous residents of Homer and the surrounding communities have benefited from community mental health services through participation in workshops and classes provided by professional staff of the Community Mental Health Center.

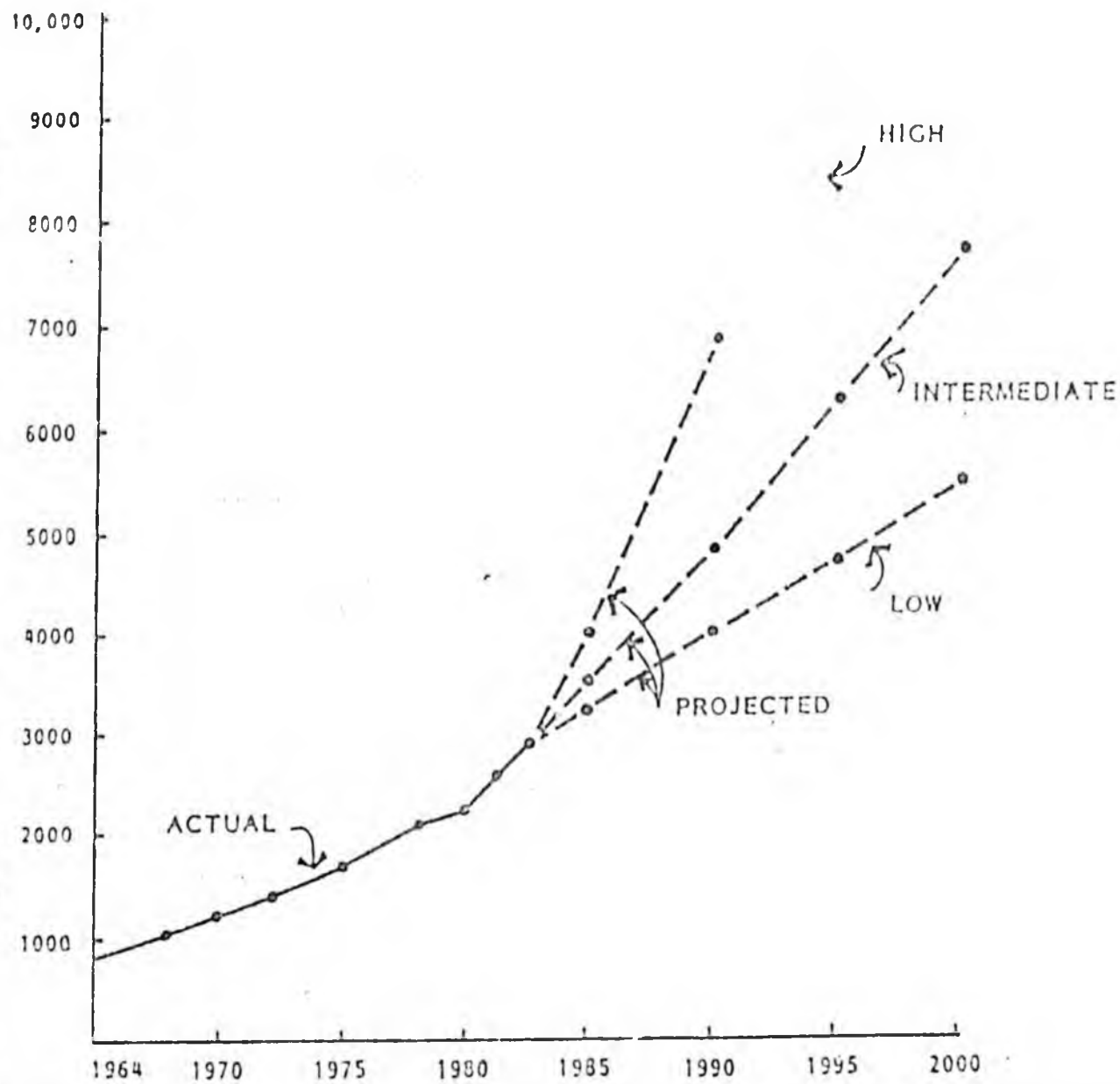
During the past two years, the Community Mental Health Center has expanded with regard to the programs which are offered to the residents of the area. This expansion is contributing to our goal of better meeting human service needs of the residents of the South Kenai Peninsula based upon needs assessments conducted by the South Peninsula Mental Health Association, Inc. In addition to a LICENSED CLINICAL PSYCHOLOGIST functioning as a direct service provider and program administrator, the Community Mental Health Center has developed a VOCATIONAL COUNSELING PROGRAM (funded in part by the Alaska Division of Vocational Rehabilitation), an INFANT LEARNING PROGRAM (funded by the Alaska Division of Family and Youth Services), a FAMILY SERVICES PROGRAM serving Port Graham and English Bay twice monthly (funded by the North Pacific Rim Native Corporation), and a CHILD ABUSE/CHILD NEGLECT PREVENTION PROGRAM (funded by the Alaska Division of Family and Youth Services). The Community Mental Health Center has upgraded its PSYCHIATRIC SERVICES through a contract for weekly consulation provided by a local psychiatrist, Hal Sexton, M.D. The Association is also proud to have established a collaborative training relationship with the University of Washington School of Medicine, Division of Community Psychiatry. Specifically, a POST-DOCTORAL PSYCHOLOGY FELLOWSHIP in rural community mental health was cooperatively arranged whereby the fellow would spend three months in Seattle at the University of Washington and nine months on location in the South Kenai Peninsula area. he first post-doctoral fellow, Mark Soelling, Ph.D., began this program this year and has proven to be an outstanding and stimulating addition to the professional staff. All of these services have been extremely well received as evidenced by our current caseload and the percentage of time spent by staff delivering direct clinical services (average of 70 to 75 percent direct service time). In addition to the grant support for the services offered through the Community Mental Health Center, a significant amount of program funding is derived from local contributions and fees for services. During the pas fiscal year, the Center successfully raised $59,122.00 to fund the services

offered through the program. In addition, the City of Homer allocated $35,000.00 during the past fiscal year toward a capital improvement fund for the Center in support of the Association's effort to secure appropriate office accomodations to meet the service delivery needs of the residents of the community.

The expansion of services and the increased usage of services at the Community Mental Health Center serving Homer and the surrounding area is in response to existing human needs as well as the dramatic increase in population currently impacting the South Peninsula Region. In Homer alone, a recent Borough census indicated that the population has grown by at least 30 percent during the past 24 months with projections that this rate of increase may accelerate. The birth rate has nearly doubled at the South Peninsula Hospital during the past two years and the public schools are overflowing with students. In response, two new schools are being built in Homer not to mention the school expansion projects in other communities served by the Center. In addition, the South Peninsula Community Hospital is currently being expanded in order to double its bed capacity. According to a recent Homer News article, more than $100 million worth of construction projects have been undertaken during 1983 in Homer alone. If work at the Bradley Lake hydroelectric dam begins in 1985 as projected by the Homer Electric Association, yet another dramatic influx of workers and associated support personnel will impact the region. In addition to the economic incentive to move to the Homer area, many individuals are chosing to relocate to Homer in order to benefit from the awesome beauty of the surroundings and the high quality of life offered by this pastoral community. Clearly, the South Kenai Peninsula is being severely impacted by a dramatic increase in population. Concommitant with this influx of people is an increasing demand for human services which the Community Mental Health Center is attempting to meet in a comprehensive and cost-effective manner such that the services are available to one and all independent of ability to pay or other individual differences.

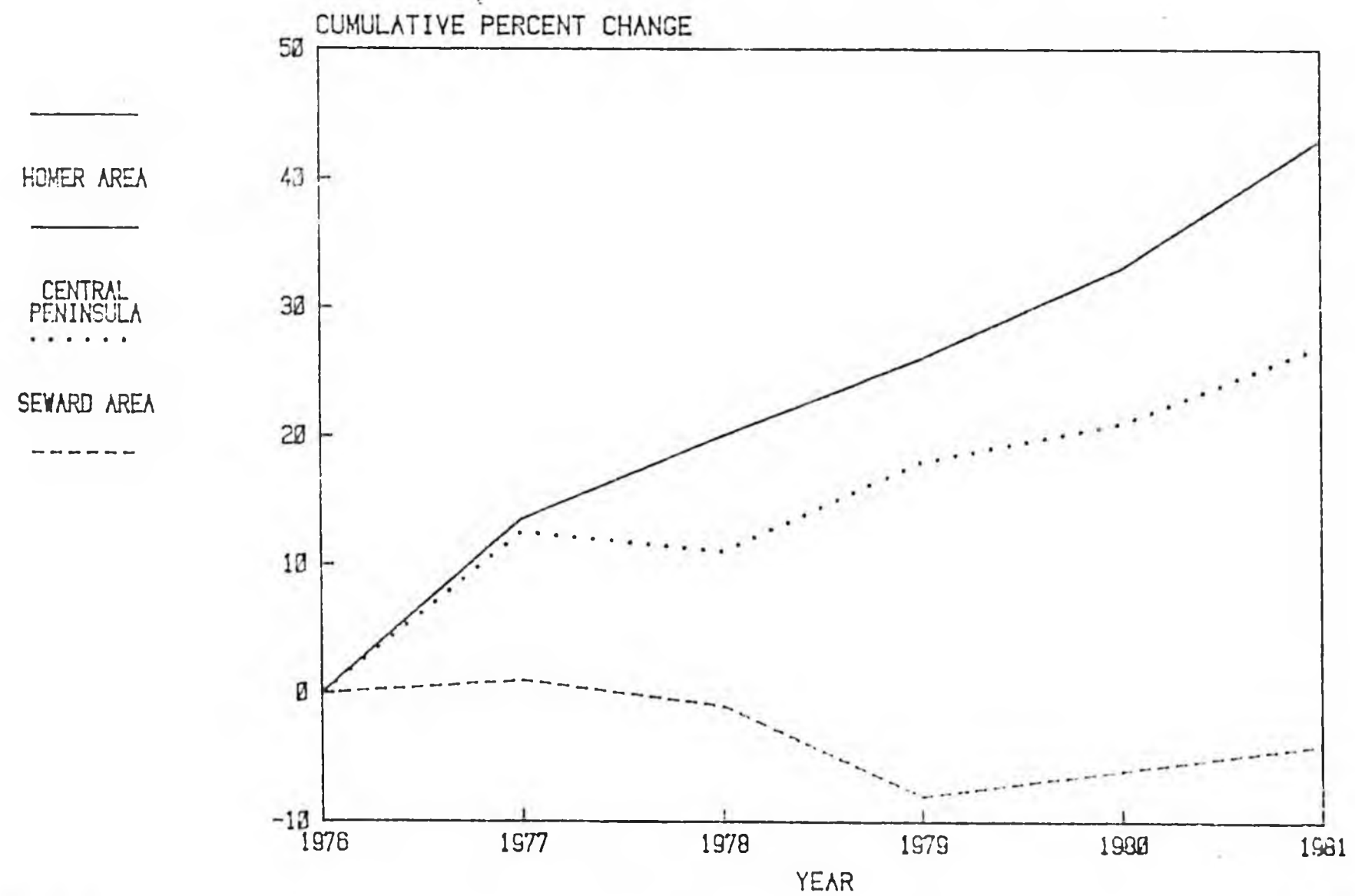
The following 13 pages include graphic and pictoral representations of the current boom being experienced in Homer and the surrounding area. Clearly, the residents of the South Kenai Peninsula live in a boom town atmosphere.

HOMER AREA
POPULATION GROWTH
ACTUAL AND PROJECTED



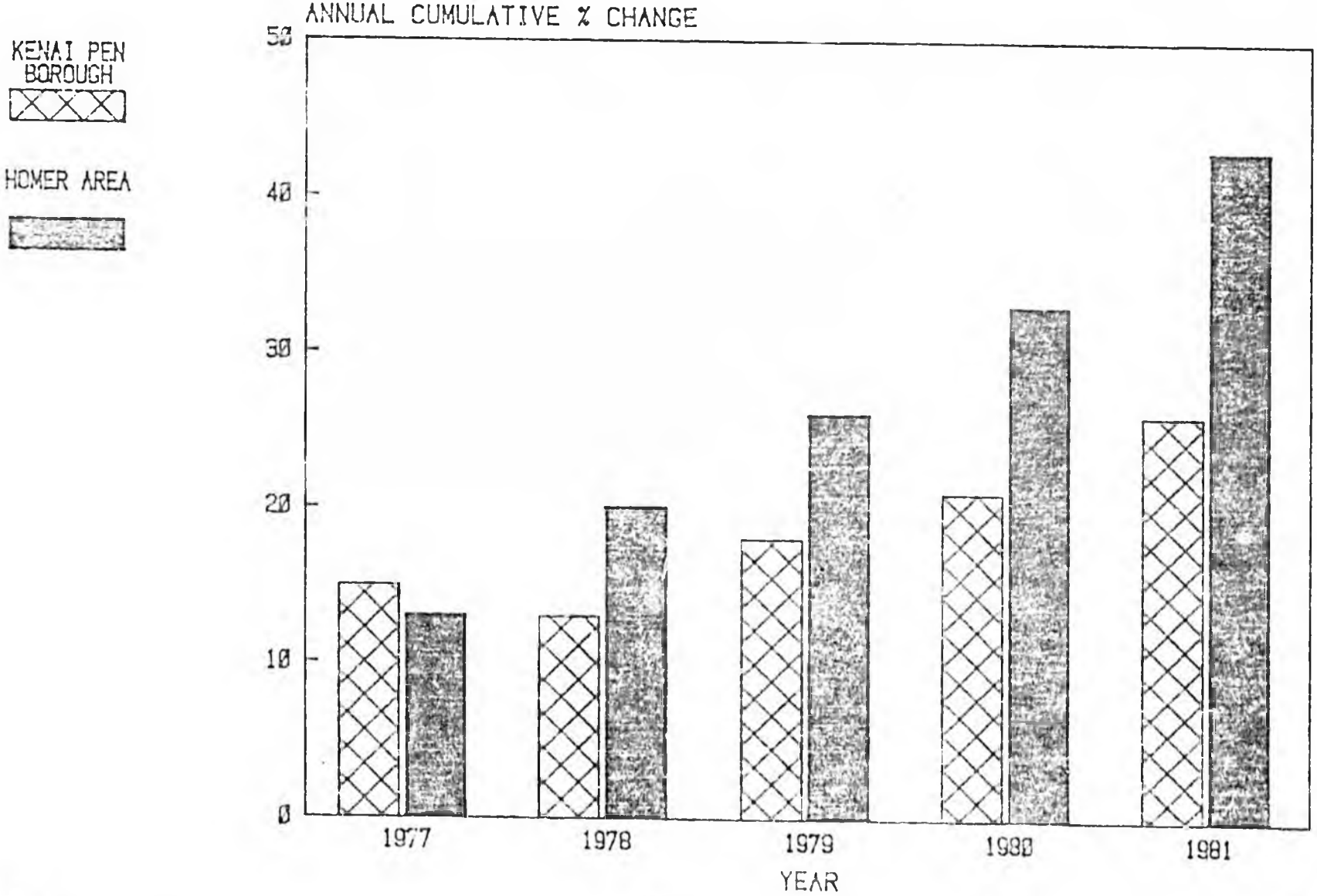
ELEMENTARY SCHOOL ENROLLMENT

KENAI PENINSULA BOROUGH AREAS



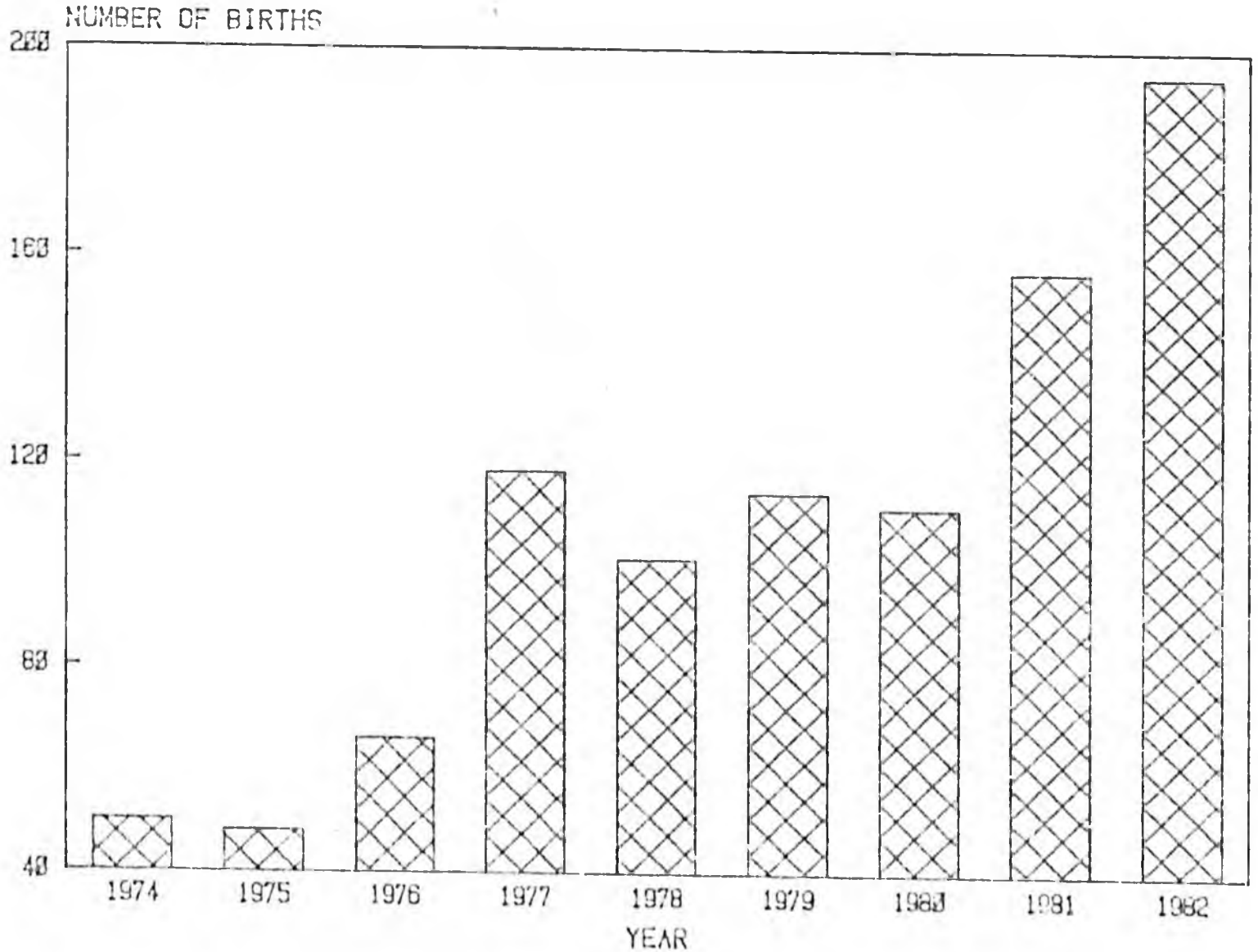
ELEMENTARY SCHOOL ENROLLMENT

HOMER AREA VS. REST OF KPB



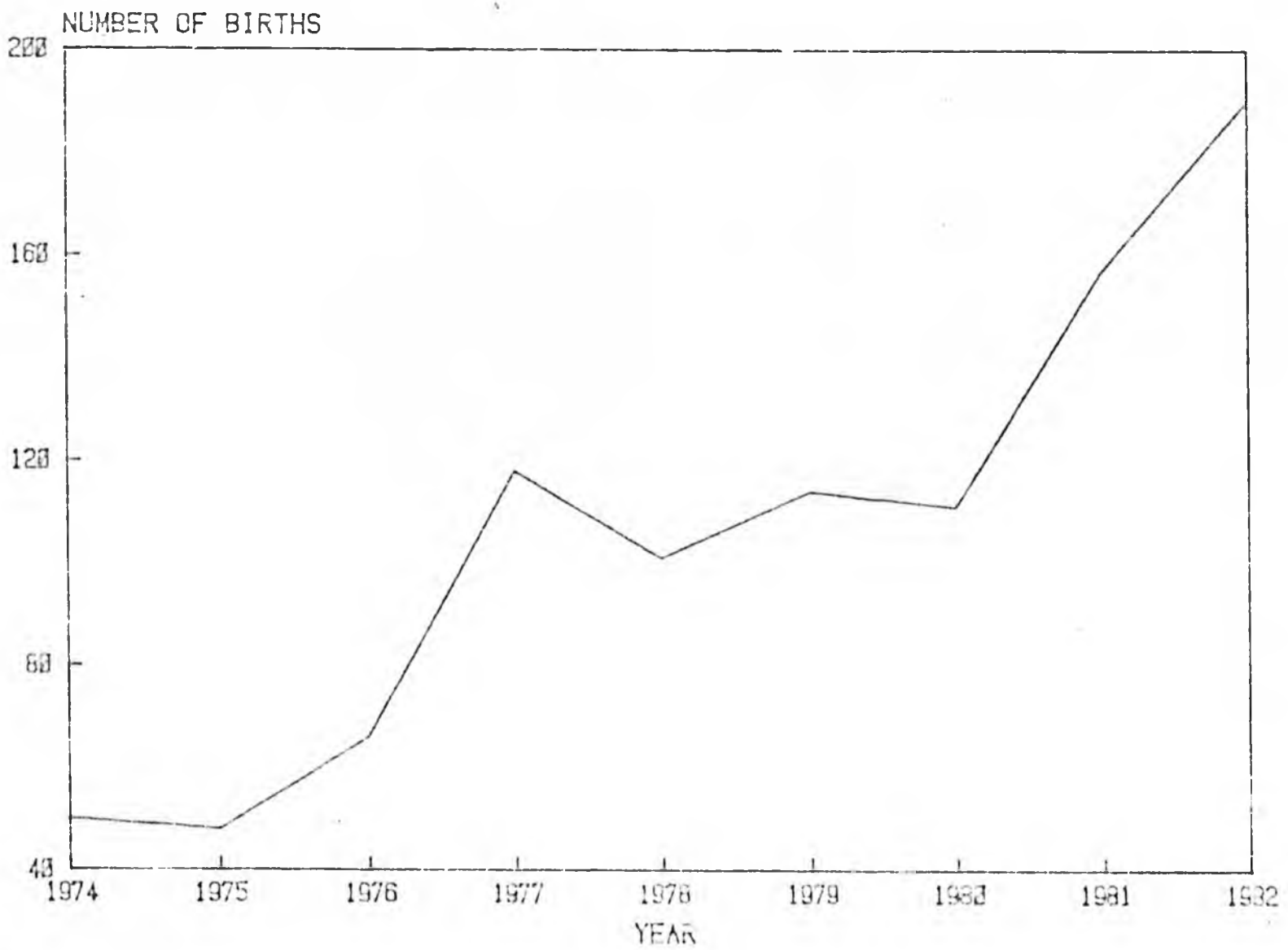
SOUTH PENINSULA HOSPITAL

BIRTHS 1974 - 1982



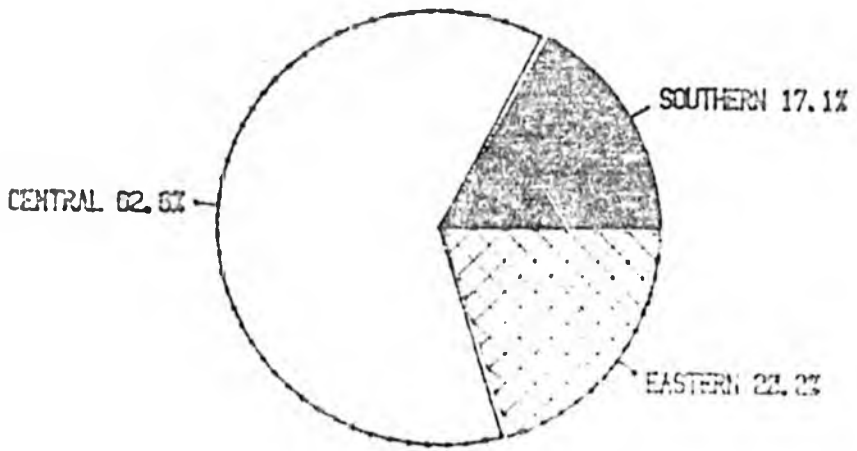
SOUTH PENINSULA HOSPITAL

BIRTHS 1974 - 1982

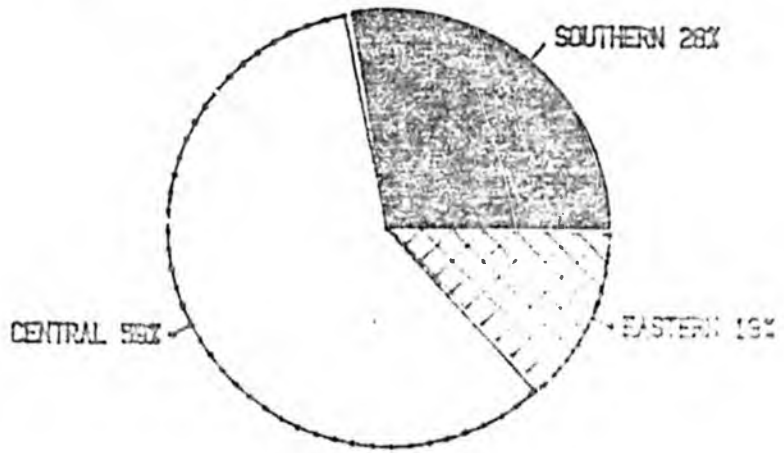


KPB REGISTERED VOTERS

PERCENT BY AREA 1978

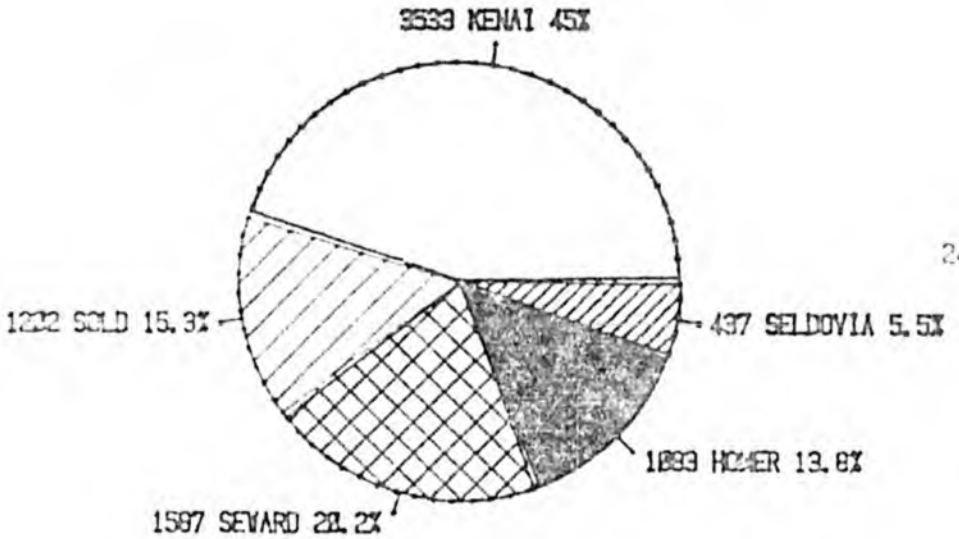


PERCENT BY AREA 1981

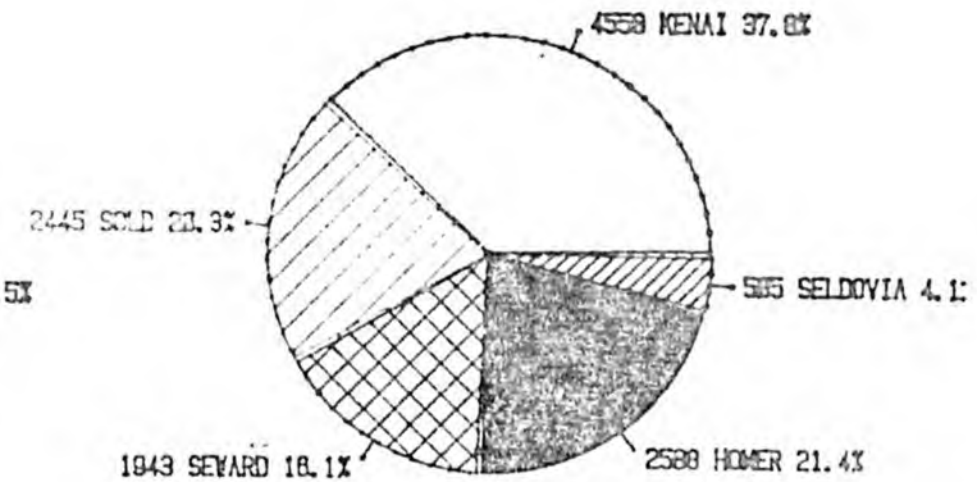


RELATIVE GROWTH OF KPB CITIES

POPULATION 1970

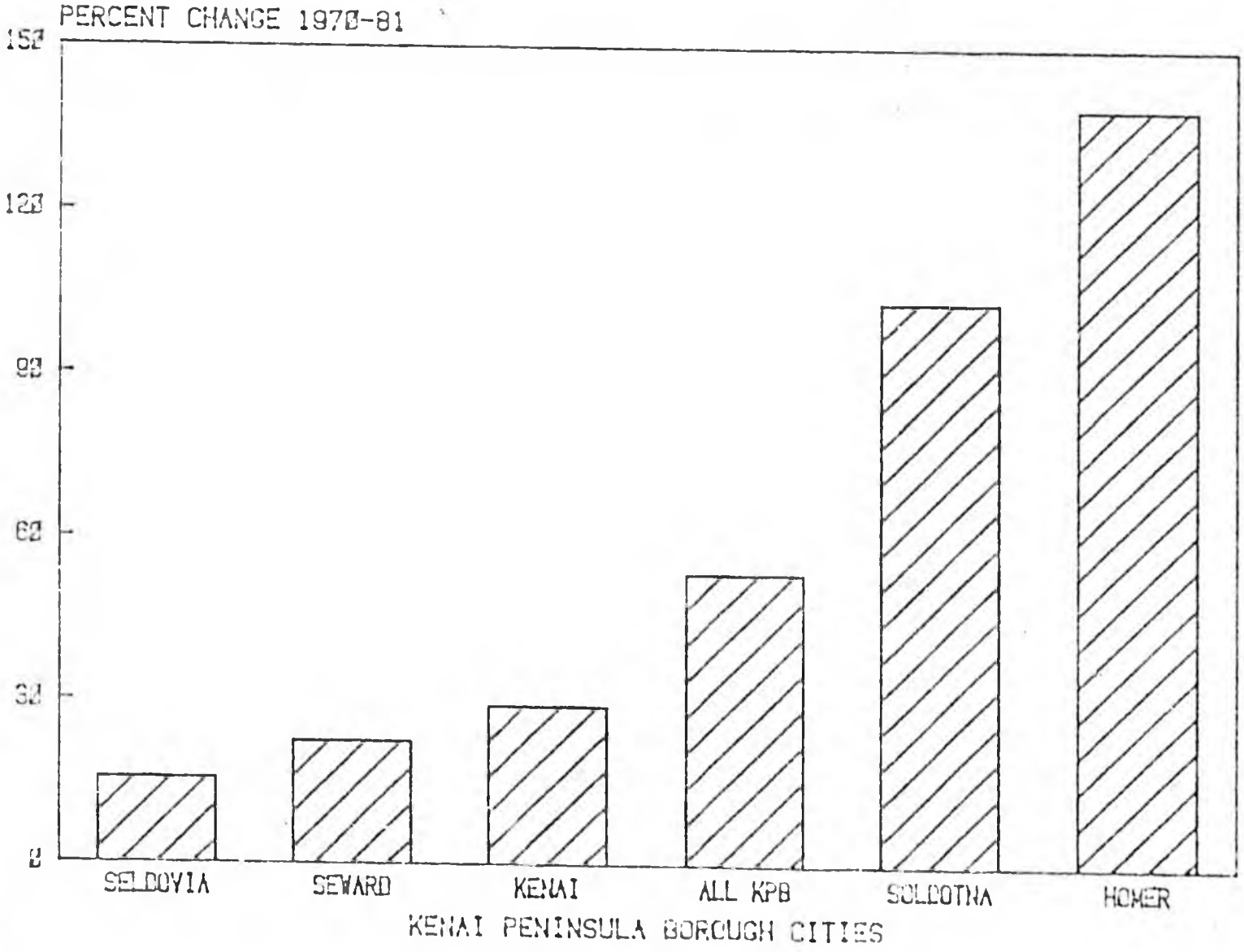


POPULATION 1981



KPB POPULATION GROWTH RATE

CITIES 1970 - 1981



PAST POPULATION TRENDS IN THE CITY OF HOMER
AND KENAI PENINSULA BOROUGH
1960 to 1982

	City of Homer		Kenai Peninsula Borough	
	Number	Annual Growth Rate	Number	Annual Growth Rate
1960	NA	--	9,053	--
1964	800	--	10,582	4.0%
1968	975	5.1%	14,160	7.6%
1970	1,083	5.4%	16,586	8.3%
1972	1,243	7.1%	16,200	-1.2%
1975	1,538	7.4%	18,770	5.0%
1978	2,054	10.1%	25,335	10.5%
1980	2,209	3.7%	25,282	-0.1%
1981	2,588	17.2%	26,520	4.9%
1982	2,897	11.9%	32,303	21.8%

Source: Kenai Peninsula Borough, 1981, 1982a and 1982b, U.S. Bureau of the Census, and Alaska Department of Labor.

CURRENT AND PROJECTED POPULATION
HOMER AREA
1978 to 2010

	City of Homer	Other Homer Areas*	Total Homer Area
Actual			
1978	2,054	1,577	3,631
1980	2,209	NA	NA
1981	2,588	NA	NA
1982	2,897	2,069	4,966
Low Projection			
1985	3,100	2,300	5,400
1990	3,900	3,000	6,900
1995	4,500	3,500	8,000
2000	5,200	4,200	9,400
2005	5,800	4,600	10,400
2010	6,400	5,100	11,500
Intermediate Projection			
1985	3,400	2,800	6,200
1990	4,700	4,000	8,700
1995	6,200	5,600	11,800
2000	8,100	7,500	15,600
2005	9,400	8,800	18,200
2010	10,900	10,400	21,300
High Projection			
1985	3,800	3,100	6,900
1990	6,500	5,600	12,100
1995	10,400	9,600	20,000
2000	13,300	12,600	25,900
2005	16,200	15,700	31,900
2010	19,700	19,600	39,300

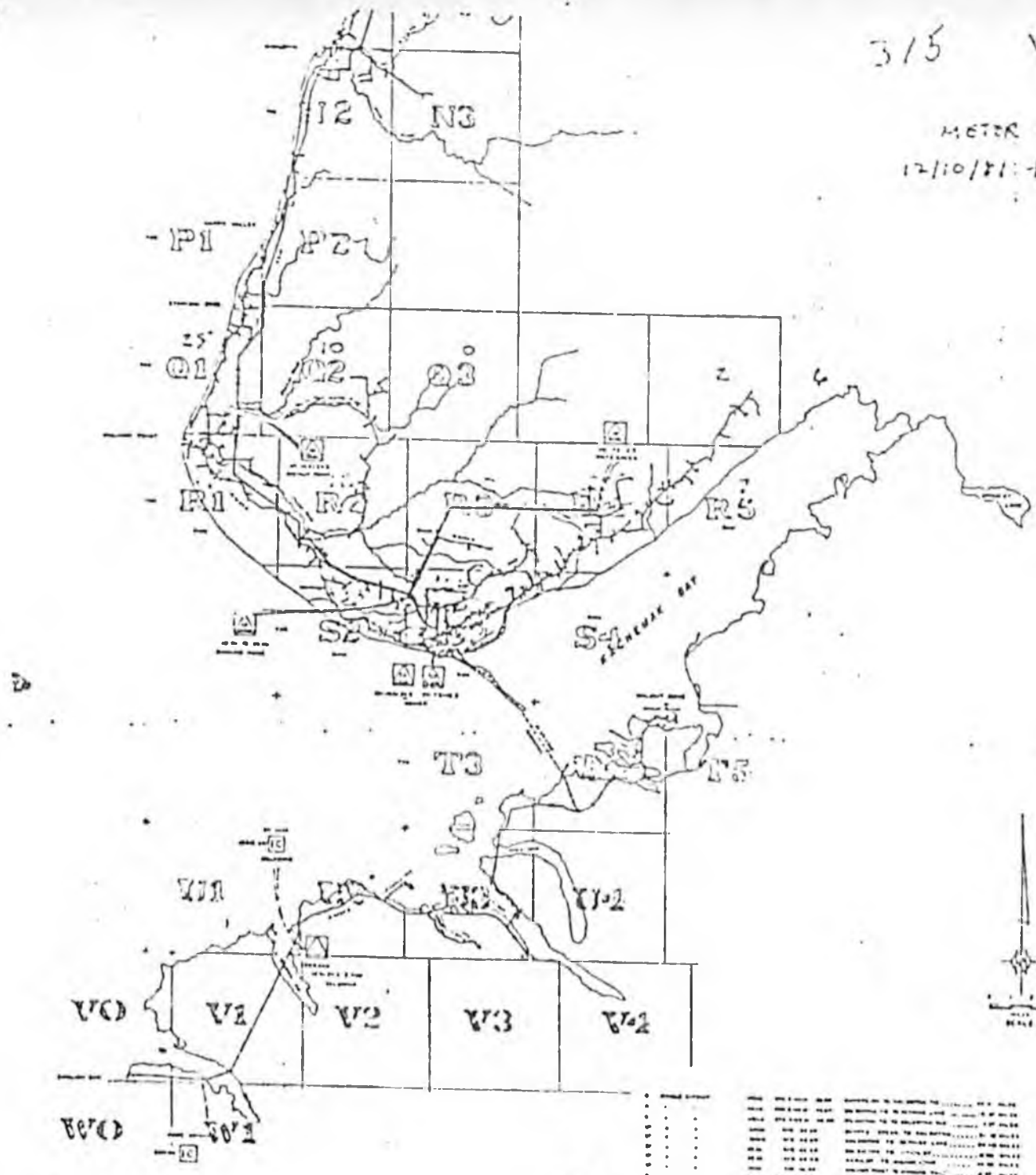
* Fritz Creek and Diamond Ridge election precincts.

NA - Data not available.

Source: Kenai Peninsula Borough 1979, 1982a and 1982b, and
Pacific Rim Planners & Engineers, Olympic Associates Company

315 5.7% increase

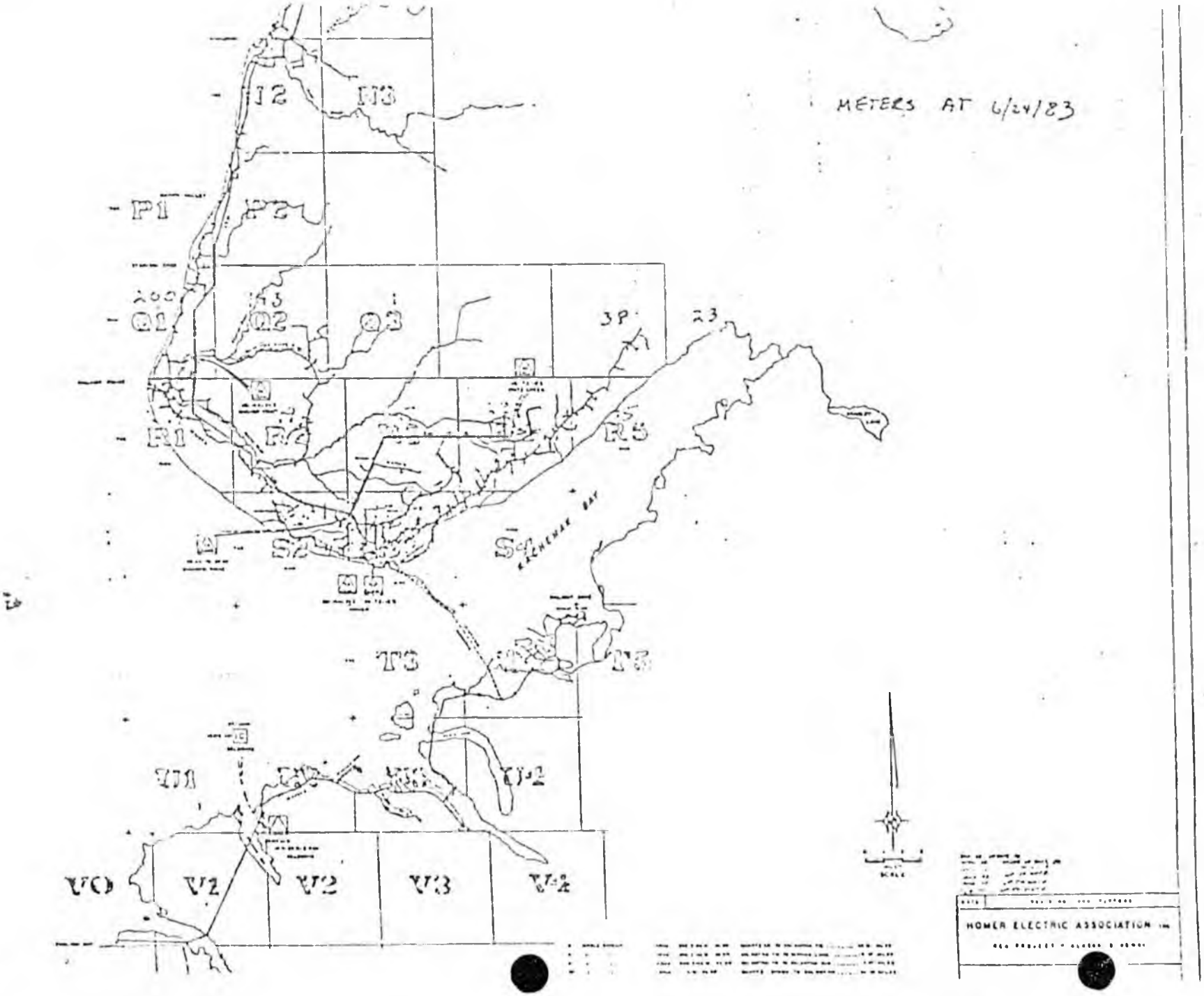
METER INCREASE
12/10/81 to 6/24/83



HOMER ELECTRIC ASSOCIATION

SYSTEM KEY MAP

HOMER ELECTRIC ASSOCIATION
SYSTEM KEY MAP
METERS AT 12/10/81

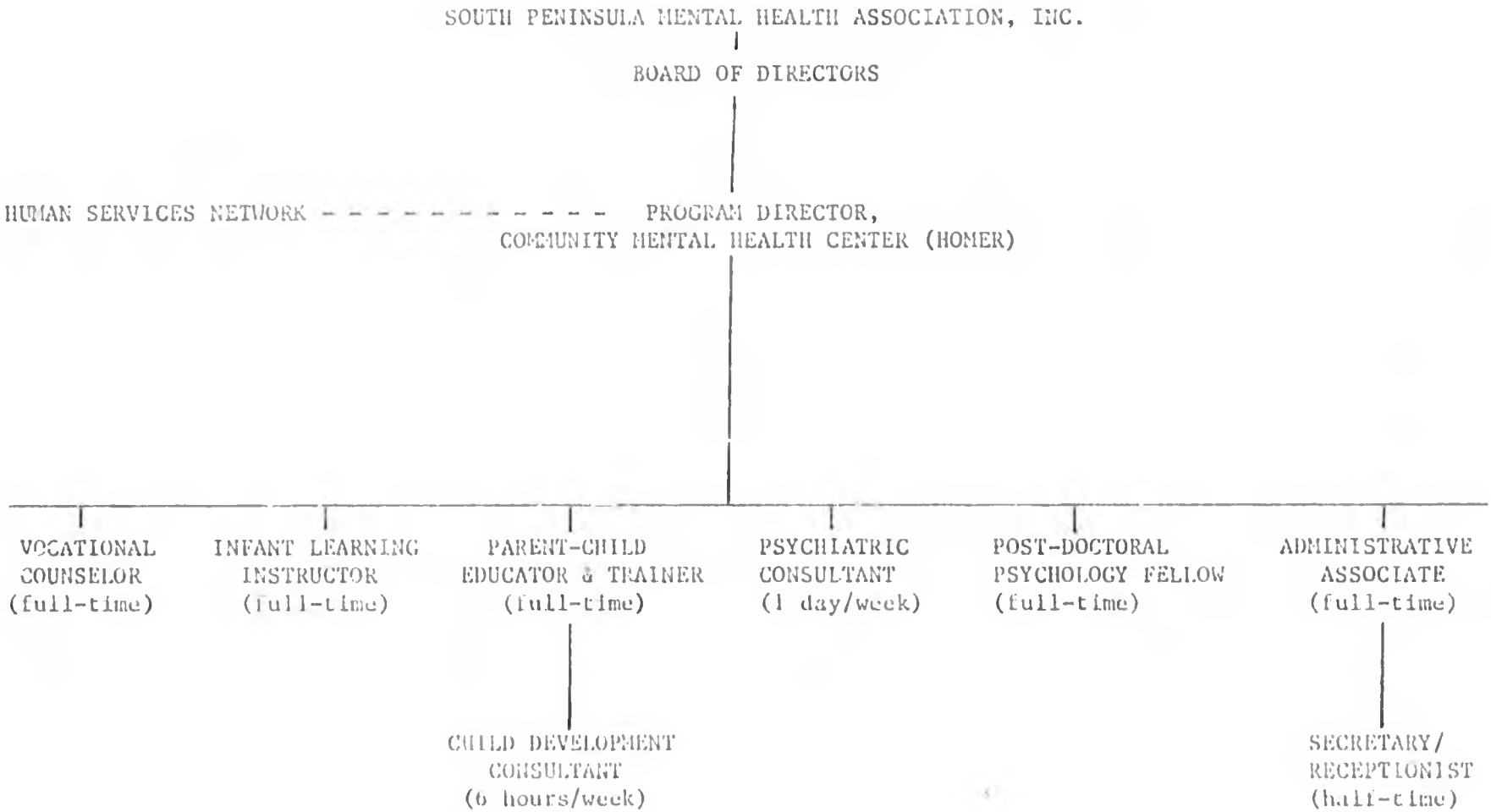

METERS AT 6/24/83
N2
N3
P1
P2
Q1
Q2
Q3
R1
R2
R5
S2
S4
T3
T5
U1
U2
V0
V1
V2
V3
V4
HOMER ELECTRIC ASSOCIATION

ORGANIZATIONAL STRUCTURE

The Community Mental Health Center is sponsored by the South Peninsula Mental Health Association, Inc., a private non-profit corporation registered in the State of Alaska. The Association is comprised of members from the communities served by the Community Mental Health Center who are concerned about human service needs in the region. The membership elects a group of seven members to comprise the Board of Directors which governs the day-to-day functioning of the Center and provids oversight to the Center's program administrator. Current members of the Board serving three-year terms each include:

President:	Jeanne K. Calkins P.O. Box 2020 Homer AK 99603 907-235-7248
Vice-President:	Bill Bell, M.D. P.O. Box 194 Homer AK 99603 907-235-8586
Secretary/Treasurer:	Darlene Crawford Drawer M Seldovia AK 99663 907-234-7625
	Bob Moore P.O. Box 84 Anchor Point AK 99556 907-235-8972
	Mike Hopson P.O. Box 2181 Homer AK 99603 907-235-8671
	Eleanor McMullen Port Graham VIA Homer AK 99603 907-433-8001
	Rev. Joe Aprill P.O. Box 127 Anchor Point AK 99556 907-235-7178

ORGANIZATIONAL CHART



OFFICE SPACE PROBLEM

Since the community mental health program was established in the South Kenai Peninsula region, adequate office space has been a perennial problem. The first offices used for the program were located within a residential four-plex building directly east of the hospital in Homer. These offices were grossly inadequate with regard to size and soundproofing therefore being in violation of the regulations for community mental health programs in Alaska. In 1980, the Center relocated to a 1100 square foot space in the Katamar Building on the Sterling Highway entering Homer. The space appeared pleasant and clean but again proved to be grossly inadequate for the services which the Center delivered. In particular, the five offices used for counseling services were seven and one-half feet by nine feet with no ventilation, no windows, and again, inadequate soundproofing. Individuals in the waiting area were able to listen to clients speaking with the professional staff in the therapy rooms. Additionally, when a family was squeezed into one of these cubicles with a therapist, the experience was similar to a sauna with little oxygen left in the air at the end of each session. However, no other office space was available to house the Community Mental Health Center programs until August, 1983. At that time, the Community Mental Health Center moved to the basement of the Alaska Commercial Fishing and Agriculture Bank building located on Ocean Drive in Homer. The facility is quite adequate for the present needs of the program with the exception of limited and somewhat inaccessible parking during the winter months. However, the office space is extremely expensive resulting in a significant amount of program resources dedicated toward maintenance of an appropriate facility rather than supporting client services directly. The current office space includes 2,183 square feet rented at the rate of $1.00 per square foot per month for a total expense of $26,196.00 annually for rent alone. Through a $10,000.00 payment from locally generated revenues to pay some of the building renovation which was necessary to convert the basement to office space, the Association was able to negotiate a proportionally lower rental fee for 24 months. On August 1, 1985, the lease agreement can be renewed at a rate of $1.00 per square foot per month plus an annual increase equal to the rise in the consumer price index during the prior 24 months. Given the limited financial resources available to support public sector human services, it appears that the Community Mental Health Center will be priced out of this office space at that time.

FACILTIY PROPOSAL

In light of the perennial problem described above, the South Peninsula Mental Health Association, Inc. solicited funds from the City of Homer to initiate a building program to construct adequate office accomodations. Following extensive public hearings, the City of Homer allocated $35,000.00 toward this effort in November, 1982, and supported the Association in their endeavor to secure additional funding for the project (see attached resolution from the City of Homer). With the generous contribution from the City of Homer as well as some funds raised by the South Peninsula Mental Health Association, Inc. within the community, the Board of Directors solicited available land centrally located in Homer having access to city water and sewer. This land (Lots 12 and 13, Block 3, Lakeside Village Subdivision, Homer, Alaska) was purchased in full from the National Bank of Alaska on November 2, 1983. In addition, architectural drawings, soils tests, and building specifications have been accomplished. Hence, the Association is prepared to go to bid at such time that sufficient funding became available to construct the facility.

As displayed in the attached architectural drawings, a facility that would be adequate for at least the next two decades would include 3,420 square feet. The building is designed to meet the need for confidentiality and other service requirements. The building is designed according to standard construction techniques utilizing cost-effective residential type design with the interior arranged to accomodate outpatient services. This approach was selected in order to blend with the neighborhood selected for the building and to be as cost-efficient as possible. As can be noted from the plot plan, adequate parking space has been designed. Additionally, the building has been designed tc accomodate expansion if this becomes a necessity at some point in the future.

FACILITY BENEFITS

Construction of an office building to house the programs offered through the Community Mental Health Center would benefit the local community by helping to guarantee that these essential human services will have adequate housing in order to continue to meet community needs in perpetuity. From an economic perspective, the building would be a benefit to the local community insofar as limited financial resources could be dedicated entirely to client services rather than spending an ever-increasing portion of program revenues for facility rental. Assuming the State of Alaska intends to continue to support community mental health services in the South Kenai Peninsula region, this building program will prove to be cost-effective. At the current rate of rental an equivalent amount of money will be expended from out State grant award toward rent at the end of 7.47 years as the State will spend to construct a building now. ($1.00 per square foot for 3,420 square feet would equal $41,040 per year, or a total cost of $306,500 at the end of 7.47 years.) These calculations are based upon 1983 dollars and do not take into consideration the ever-increasing cost associated with rental due to inflation. Another immediate benefit of this building would be that the South Peninsula Mental Health Association intends to share the office space with the Cook Inlet Council on Alcohol and Drug Abuse upon completion of construction. Negotiations to this effect have already been established with support from the Cook Inlet Council on Alcohol and Drug Abuse. (See CICADA Resolution.) This would provide the State of Alaska with further cost savings of approximately $7,200.00 per year in rental payments currently being made by the Cook Inlet Council. Including the building expense figures from CICADA, the pay off on the proposed building will be only 6.35 years. This space sharing agreement would make effective use of all of the office space immediately and will be viable for several years to come insofar as there is no projected growth in the staffing pattern at the Community Mental Health Center during the next several years.

BUILDING BUDGET

SITE PREPARATION	$ 25,000.00
CONSTRUCTION COST (3,420 Sq. Ft.x $75.00 per sq. ft). . . .	$256,500.00
DEEP PILINGS To prevent settling	$ 25,000.00
TOTAL REQUESTED:	$306,500.00

BUILDING MAINTENANCE COSTS

TAXES (Private, non-profit organization) . .	$ 0.00
CITY WATER & SEWER	$ 900.00
ELECTRICITY	$ 3,300.00
JANITORIAL FEES	$ 2,700.00
INSURANCE	$ 1,500.00
PARKING MAINTENANCE	$ 500.00
ROUTINE BUILDING MAINTENANCE	$ 1,000.00
TOTAL ANNUAL MAINTENANCE COST:	$9,900.00

These maintenance expenses will be shared by the building tenants and would be within the Association's financial ability to pay on an annual basis, derived from operating expenses.

EXPENSES

OPERATION & MAINTENANCE	FY 83	FY 84 (Projected)	Proposed Building (Projected)
Taxes (private, non-profit)	0.00	0.00	0.00
City Water & Sewer	0.00	300.00	900.00
Electricity	1,900.00	3,000.00	3,300.00
Janitorial	1,500.00	1,970.00	2,700.00
Insurance	900.00	1,000.00	1,500.00
Routine Building Maint.	0.00	0.00	1,000.00
Parking Maintenance	0.00	0.00	500.00
Yearly Totals	$4,300.00	$6,270.00	$9,900.00

REVENUES

	FY 83	FY 84 (Projected)	Proposed Building (Projected)
State Grants	$240,612.00	$255,150.00	$230,000.00 **
Local Contribution	11,644.00	12,000.00	14,000.00
Fee for Services	48,000.00	50,000.00	51,000.00
Yearly Totals	$300,256.00	$317,150.00	$295,000.00

** Decrease in state grants expected due to proposed deletion of rental expense.

LETTERS OF SUPPORT FOR SERVICES

PROVIDED THROUGH THE

COMMUNITY MENTAL HEALTH CENTER

February 15, 1983

Dr. Paul L. Craig
Director
Homer Community Mental Health Center
P.O. Box 2274
Homer, Alaska 99603

Dear Dr. Craig:

It is with a great deal of pleasure that I have been requested to submit a letter of support for the Community Mental Health Center, and am able, in good faith, to offer this support.

I feel that you and your staff are providing a vital service to the overall good health of the Homer community and surrounding area, and I will do all possible to help in your efforts to secure funding for the continuation of the Mental Health program for our area.

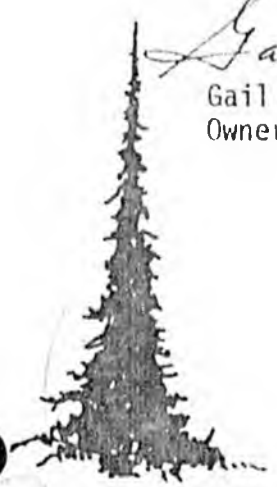
As a Councilperson, we are often called upon to lend support for various projects in our community, and many times I find that I have a personal conflict in giving support. Not so, however, in your case. I personally feel that your organization is not only above board, ethically and financially, but that you also are providing a desparately needed service in the community.

Please let me know if I can be of further assistance.

Sincerely,

Gail Phillips

Gail Phillips
Owner



C. Michael Hough
ATTORNEY AT LAW
P. O. BOX 291
HOMER, ALASKA 99603
(907) 235-8184

January 26, 1983

Community Mental
Health Center
Box 2274
Homer, AK 99603

Gentlemen:

This letter is to indicate my support for continuing funding of the Community Mental Health Center which serves the residence of the South Kenai Peninsula. I would also note a significant improvement in the Mental Health Center after Dr. Paul Craig became the director.

My office has been involved in emergency placement of disturbed individuals, evaluation of persons suspected of being sucidial and in counseling on family disputes.

The local Mental Health Center is well respected by the legal community including the court system. Dr. Craig and his staff have shown their involvement in the community by discussing their services with the Chamber of Commerce and other interested groups in the Homer area.

Sincerely,

C. MICHAEL HOUGH
Attorney at Law

CMH:lb

JOHN RATE
LAWYER
BOX 2169
HOMER, ALASKA 99603

(907) 235-8740

To Whom It May Concern:

Re: Community Mental Health Center, Homer, Alaska

I am writing in support of the Community Mental Health Center, which I believe has served this community well. As a lawyer, I can assure you that the judicial system is definitely inadequate to deal with problems of mental health. The Center has provided a source of local counseling, which the court system has used to provide sensible dispositions directed at long-term rehabilitation of criminal offenders. It has also served to identify and resolve mental problems before they become a burden on the court system. The Center also provides an invaluable service in counseling young people who are having problems with the school administration or with their families.

I believe that the entire Homer community will appreciate your attention to the needs of the Community Mental Health Center.

Sincerely,

John Rate

JR:lag

Box 145

3301

567-3976



KENAI PENINSULA BOROUGH SCHOOL DISTRICT

NINILCHIK SCHOOLS

NINILCHIK, ALASKA 99639

January 31, 1983

Dr. Paul L. Craig, Director
Community Mental Health Center
Box 2274
Homer, Alaska 99603

Dear Dr. Craig:

One of the best supplementary services that our students can take advantage of is that offered by your Center. Not only do individual students benefit from the services offered; the school and homes are beneficiaries in many instances where students are helped.

In the last three years I have seen excellent cooperation between the individual school, the district school office, and the Community Mental Health Center. This has been of great value to students who have had the opportunity of learning skills in communication and self-awareness through the sessions that have been offered by Center staff members.

I certainly do hope that the program will be continued, with perhaps some additional sessions to work with teachers for better understanding of pupil needs.

We do appreciate the fact that we can call on you and know that you will respond.

Sincerely yours,

Wade Jackinsky

Wade Jackinsky
Counselor

wj

Ninilchik Community Clinic
February 2, 1983

Paul Craig, Phd.
Director
Community Mental Health Center
Homer, Alaska

I am happy to write this letter in support of the Community Mental Health Center of Homer, Alaska.

Individuals in the Ninilchik area contacted the Ninilchik Community Clinic asking for some type of help in dealing with stress. September 29 th. Paul Craig and Eilleen Littrell from the Mental Health Center met with me to discuss some of the needs of Ninilchik's peoples.

In October Eileen Littrell, M.A., COunselor began conducting morning workshops three times a month open to the general public at a $2.00 registration fee. The themes alternate between stress management in the home and basics for couples living happily ever after.

Private counseling is provided to individuals by appointments prior to the workshops. This service because of its availability has been sought out by a young couple with problems.

A communications skill class is held in the afternoons with high school students. Just having Eileen in the school is valueable. Students see her and can seek her out.

Numbers are hard to count in the mental health area. The people actually seen are just the visible tip of the iceberg that is recieving the benefits.

We have a need in Ninilchikfor the services of the Mental Health Center of Homer. If these services are denied us our needs go unanswered. If the program remains and is a steady source of aid more and more people will use it.

I personally value the increased knowledge and skills these workshops have given me. Others have voiced the same opinions. Thank you Community Mental Health Center of Homer.

Sincerely,
Pat Oskolkoff CHR.

Pat Oskolkoff CHR.
Ninilchik Community Clinic
Box 39368
Ninilchik, Ak. 99639
#576-3970

ANCHOR POINT ELEMENTARY SCHOOL

A part of the
Kenai Peninsula Borough School District

Box 156
Anchor Point, Alaska 99556

Phone (907) 235-8671

February 17, 1983

Paul Craig
Community Mental Health Center
Box 2274
Homer, AK 99603-2274

Dear Paul:

The Anchor Point Community School Council and I would like to submit this letter of support for the programs at the Community Mental Health Center. We feel that the services that have been offered in Homer and Anchor Point are of great value to the community, and we especially appreciate the workshops that have been offered here in Anchor Point for the benefit of our local people. We have been extremely impressed by the quality of the personnel who present the services, and the Community School Council and I sincerely hope that the program can continue to offer such fine workshops and services for the southern Kenai Peninsula communities. Thank you very much.

Sincerely,

Melanie Kipp
Anchor Point Community School Coordinator

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF EDUCATION

DIVISION OF VOCATIONAL REHABILITATION

MICHAEL C. MORGAN, DIRECTOR

Kenai Branch Office
P.O. Box 3533
Kenai, Alaska 99611
(907) 283-3133

January 19, 1983

Community Mental Health Center
Box 2274
Homer, Alaska 99603

Dear Paul:

This is in support of the Community Mental Health Center in Homer.

The mental health center in Homer greatly meets the needs of the local community from my perspective as well as the residents of the Homer area. They provide this office with psychological assessments on my clients, excellent guidance to my clients as well as assisting me in my contacts with employers and educational personnel.. They have a broad based mental health program that works with walk ins, referrals from other agencies as well as other physicians and hospitals.

From my viewpoint they are doing an excellant job. The staff of the Community Mental Health Center appear to be highly competant, well trained, knowledgeable of problems in a rural area and very insightful of the needs of the community. Their parent/child educational program seems to be functioning quite well and appears to be meeting an obvious need. The same can be said for the Infant Learning Program which is relatively new.

I am very impressed by all of the programs that fall under this office and am highly pleased with the helpfullness of the staff.

Thank you for this opportunity to voice my opinion. I highly recommend continuation of the funding support for their current programs or any other programs they deem appropriate in the future.

Sincerely,

John B. Osborne

John B. Osborne, VRC I

JBO/PM

Cook Inlet Council On Alcohol And Drug Abuse

February 15,1983

Dear Paul,

I would like to lend my support of the Community Mental Health programs and services offered to the residents of the South Kenai Peninsula.

I was especially pleased when you added the Parent-Child Education and Training program and the Infant Learning Program. There has been a need to address the issue of parenting being one of the most difficult jobs for which there is the least amount of training. You are addressing this need through your educational programs that prepare and support parents.

I am also very pleased with the "team" approach that has been developing in which Mental Health,Homer Junior and Senior High School,and Cook Inlet Council are working closely to establish appropriate programs and services for "high risk" students and their families. This agency and school "team" approach with the students and their families will increase the chances of teens receiving appropriate services which I believe will increase the chances of the students receiving an education.I believe it will also help provide support and services to the family.

I'm looking forward to our continued work together.

Sincerely,

YOUTH OPTIONS Coordinator

HOMER MIDDLE SCHOOL

Kenai Peninsula Borough School District
Lee Winn, Principal
Larry Nauta, Vice-Principal
SRA Box 500
Homer, AK 99603
Phone: (907) 235-8186

January 26, 1983

TO: Whom It May Concern

FROM: Larry Nauta, Vice Principal

SUBJECT: Letter of Support

The Community Mental Health Center under the direction of Dr. Paul Craig has, over the last two years, become an integral part of the public eduction in this community. Dr. Craig and his staff have been able to successfully fill a void that had existed in the area of community mental health.

We have found Dr. Craig and his staff to be extremely professional, effective, and supportive at all times.

LN:nd

John D. Kosch
Box 1163
Homer, Alaska 99603

January 21, 1983

Paul L. Craig, Ph.D.
Psychologist, Director
Community Mental Health Center
Box 2274
Homer, Alaska 99603

Dear Paul;

As a councilperson and citizen of the city of Homer, I feel that you and your staff have been doing an excellent job in administrating the services of the community mental health center.
I feel the whole concept and the different services the community health center offers are needed and certainly I back them. I further would hope that any grants that are available for community mental health should come your way.

Sincerely,

John D. Kosch
Homer City Councilperson

Phone:
283-3658
P.O. Box 882
Kenai, Alaska 99611

Cook Inlet Council On Alcohol And Drug Abuse

Phone
235-8001
P.O. Box 2352
Homer, Alaska 99603

January 20, 1983

Dr. Paul Craig
COMMUNITY MENTAL HEALTH CENTER
P. O. Box 2274
Homer, AK 99603

Dear Paul:

This is my letter of support for the Community Mental Health Center. It is my professional opinion that your office provides a much needed, high quality service to your community.

In working with recovering persons, the Parent-Child Education and Training Program can serve as an important adjuct to a healthy, sober family. In working with individuals and families, mental health needs must be addressed in many cases for a person to return to or begin a quality sobriety. It is important we work together. I know through your efforts with the Human Service Provider's Network working together is an important goal to your agency. This is also the goal of CICADA and will benefit the community.

If I can be of further assistance, please feel free to call me at 283-3658.

Sincerely,

Kevin Murphy

Kevin Murphy
Executive Director

KM/pp

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

PUBLIC DEFENDER AGENCY

BOX 3413
KENAI, ALASKA 99611
PHONE: (907) 283-3129

January 27, 1983

Mr. Paul Craig, PhD
Community Mental Health Center
P.O. Box 2274
Homer, Alaska 99603-2274

Dear Dr. Craig:

I am the supervising attorney for the Kenai Office of the Alaska Public Defender Agency. Our office is assigned to represent indigent criminal defendants in the Homer area. I understand that the Homer Community Health Center has submitted a grant proposal for the coming fiscal year and I am writing this letter in support of that grant proposal.

As you know, we frequently request the Community Mental Health Center to prepare evaluations for our clients for use in aid of sentencing. The evaluations that have been provided are frequently useful to the court in fashioning the appropriate sentence for the individual offender. In addition, it is not uncommon for the court to order mental health counseling through a Community Mental Health Center as part of an individual's sentence. I am of the opinion that this resource is a significant asset to the Homer Community.

Accordingly, I am hopeful that your grant proposal will be accepted.

Sincerely,

KEVIN F. McCOY
Assistant Public Defender

bkg

BOX 1200

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

PUPIL PERSONNEL SERVICES

Special Services

Counseling

SOLDOTNA, ALASKA 99669

Nursing Services

Media

February 17, 1983

Paul L. Craig, Ph.D.
Psychologist, Director
Community Mental Health Center
P.O. Box 2274
Homer, Alaska 99603

Dear Dr. Craig,

Thank you for the opportunity to express my appreciation and continuing support for the efforts of the Community Mental Health Program. For those it may concern, I might explain that through the contract between our agencies, counseling and consultative services are provided to emotionally handicapped school children, their teachers and parents. Without your activities in the south peninsula area, services to these residents would be significantly reduced, if not eliminated altogether in many cases.

Personally, I am absolutely delighted with both the responsiveness and flexibility you and your staff have displayed in meeting difficult and at times, protracted situations. That your agency functions in a responsible fashion is obvious from the measurable improvements seen in the students you have worked with.

I expect to make heavy demands on your time in the coming year with similarly positive results.

Sincerely,

Arlo Morgenweck

Arlo Morgenweck, M.S.
School Psychologist

LAURANCE A. MARSHBURN, M.D.
P.O. BOX 277
HOMER, ALASKA 99603

January 26, 1983

Re: Letter of Recommendation - Homer Community Mental Health Center

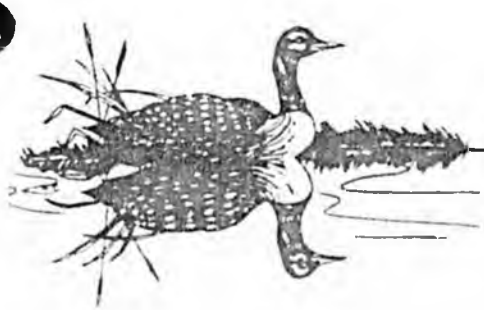
To Whom It May Concern:

It is my feeling that the Homer Community Mental Health Center continues to provide an extremely valuable resource in this community. The support that they have given to me and to my patients in the last year has been consistently of extremely high quality and entirely professional. My only area of contact with this program, however, has been in the realm of people who required counselling over a period of time, usually for a transient situational problem. As stated, the support in this area has been excellent. I have had no real contact with other areas of the program, such as the parent/child education and training program or the infant learning program.

I would certainly endorse the need for continuing support of the Community Mental Health program in Homer and recommend a favorable response on the current grant proposals.

Very truly yours,

Laurance A. Marshburn, M. D.



Nikolaevsk

Николаевск



POST OFFICE BOX 129
ANCHOR POINT, ALASKA 99556

January 20, 1983

Dr. Paul L. Craig, Director
Community Mental Health Center
Box 2274
Homer, Alaska 99603

Dear Dr. Craig;

I would like to take this opportunity to commend you and the staff of the Community Mental Health Center for the positive influence you have been on the surrounding community specifically during the past year. The consistancy of your excellent service as director has established the center as constantly available, highly competent, and completely professional.

Although new, the Parent/Child Education and Training Program and the Infant Learning Program show tremendous potential for far reaching service and influence for the South Peninsula. The combination of the abilities and talents of Chris Laing and Judith Rothstein into the one DVR position was innovative and by all appearances very successful. The organization and efforts of Mary Barnett are also to be complimented. Your efforts as administrator re reflected in the winning combination you have in your staff and the professionalism demonstrated there.

Personnally, I want to thank you for your efforts in meeting needs identified here at Nikolaevsk School and your availability for advice when needed. I see our service opportunities increasing here as the two new programs gain greater visibility and as we continue to work with established programs such as Donna Fenske, PHN, and Ingrid Avril, Alaska Department of Health and Social Services.

If I can be of help anytime, please contact me.

Respectfully,

Bob

Bob Moore,
Head Teacher

BM/kjs

January 28, 1983

Community Mental Health Center
Box 2274
Homer, Alaska 99603-2274

To Whom it May Concern;

It is with great pleasure that I submit this letter of support for the services rendered by our local Community Mental Health Center. When funding for this valuable local serice was threatened last year, I viewed that trend with alarm. The good to the community at large so far outweighs the dollars spent, every dollar spent represents a valuable investment.

I would like to cite my own personal experience with the Mental Health Center first. That concerns the services rendered to my mother, who through no fault of her own, has been a patient of mental institutions and clinics for the better part of her 75 years. If it were not for the existence of this clinic and the excellent service she receives here (and I rate it the best she has ever received), she would now be a ward of an institution. It is my hope that she may remain in the comfortable surroundings of her own home for as long as possible. Due to her financial situation, that can only be accomplished through this clinic.

As a school board member and parent I am also very much concerned with and about the services rendered to our schools by the Community Mental Health Center. Here in Homer Dr. Craig works with identified emotionally handicapped children, at the moment serving ten such children in our Homer schools. The service area for Dr. Craig extends from Ninilchik south and includes Anchor Point, Homer, English Bay, Port Graham, and Seldovia (as well as Ninilchik). It is a very large area that obviously requires a lot of energy and time. Population wise, it is also a very fast growing area, increasing at the rate of 15 to 20 percent per year. The services that Dr. Craig provides to our schools are those that are beyond that what we, the school, can provide. We are therefore very dependent upon him.

I am particularly pleased with the Parent-Child Education and Training Program, a parent effectiveness program and one that I consider vital. Any time we can reach out to parents and assist them in thier every day dealings with children, we are helping to create a healthy environment for those children. These communications skills provide a foundation and among the many benefits enable a child to perform better at school. The Parent-Child Education and Training program has been well received in the community.

Overall I find the services rendered by the Community Mental Health Center to be invaluable to the Lower Kenai Peninsula. The continuation and expansion of these services is of utmost importance. I strongly urge your financial support of the Community Mental Health Center.

Sincerely,

Mildred M. Martin, member
Kenai Peninsula Borough School Board
P.O. Box 2652
Homer, Alaska 99603

February 19, 1983

Community Mental Health Center
P.O. 2274
Homer, Alaska 99603

Dear Paul:

This letter is in support of continued funding for the Community Mental Health Program in Homer. We appreciate the working relationship between community mental health and the The North Pacific Rim and the support services provided by your agency.

Sincerely,

Agnes Meganack Community Health Representative
Port Graham, Alaska 99603



District Court

State of Alaska

THIRD JUDICIAL DISTRICT
P.O. BOX 136
HOMER, ALASKA
99603

CHAMBERS OF
JAMES C. HORNADAY, JUDGE

25 January 1983

Paul L. Craig, Ph.D.
Psychologist, Director
Community Mental Health Center
Box 2274
Homer, Alaska 99603-2274

Dear Dr. Craig:

This letter is written in support of the continuing programs of the Community Mental Health Center. Programs put on by the Center include but are not necessarily limited to the overall Community Health Program, Parent Child Education and Training Program, and Infant Learning Program. It is also my understanding that your organization is providing service to several villages in the area.

We appreciate your efforts and hope that they will continue and expand.

Thank you.

Very truly yours,

James C. Hornaday

JAMES C. HORNADAY
District Judge

JCH:rp

KENAI PENINSULA COMMUNITY COLLEGE

HOMER BRANCH

P.O. BOX 2779 HOMER, ALASKA 99603 (907) 235-7743

February 14, 1983

TO Whom it May Concern:

The Community Mental Health Center in Homer, Alaska provides many necessary and unduplicated services to the Lower Kenai Peninsula.

The Center has been successful in helping people to become productive and successful citizens. I have found the staff at the Community Mental Health Center to be professional in every sense of the word and I am looking forward to continuing our work with them in the future.

Kenai Peninsula Community College Homer Campus pledges its support to Community Mental Health Center of Homer and I urge you to also support the efforts of this important and vital organization. Our community needs their services.

Sincerely yours,

Jim Riggs
Homer Campus Administrator

VALDEZ

TATITLEK

EYAK

CHENEGA

SEWARD

ENGLISH BAY

PORT GRAHAM

the north pacific rim

February 22, 1983

Paul Craig, Director
Community Mental Health Center
P. P. Box 2274
Homer, AK 99603

Dear Paul:

This letter is in regards to your request for support from the North Pacific Rim Native Corporation for further funding of Community Mental Health Center programs which impact the Native villages in the South Katchemak area.

During the past 2 years, the North Pacific Rim and the community MHC have operated with a cooperative agreement to provide services to English Bay and Port Graham on a consistent basis.

We believe that timing and sensitivity to community needs are paramount to providing useful services to Alaska Native villages and we have appreciated the fact that the Community Mental Health Center has been ready and willing to provide services on an "as needed" basis as opposed to forcing programs on a community that is not ready for them.

Our Family Services Worker reports that the Community Mental Health Center has followed his lead and provided services in a timely and highly professional manner. He further states that the Infant Learning Program and the Parent Education classes are valuable components to the services provides and good mental health program serves as an excellent back-up and resource for him as a professional.

We would like to offer our continued support for your program.

Sincerely,

Richard A. Rolland
Director
Health & Social Services

903 W. Northern Lights Blvd., Suite 203 / Anchorage / Alaska 99503 / Ph. (907) 276-2121

The Non-Profit Corporation Serving The People Of The Chugach Native Region

January 26, 1983

Paul L. Craig, Ph. D.
Director
Community Mental Health Center
Box 2274
Homer, Alaska 99603

Dear Dr. Craig:

Thank you for contacting the PreSchool Program for our input regarding South Kenai Peninsula community health and child-parent related services.

Since I have only resided in Homer since September, quite frankly, I don't feel competent to assess the quality and quantity of services offered; but since I am extremely interested in pre-school parent and child education I would like to pass a few observations along to you, especially if some money might be funded in this area.

The Community School's Preschool is the only preschool of its type in Homer. There are a few other organizations that offer "preschool" education; however these fall mainly under the category of daycare and do not foster positive parent-child inter-relationships as the parent is usually working and not present.

I see a great need in this community for a type of program that involves parent and child. Many children in this area live in isolated areas, missing much early socialization, and many of the mothers, in particular are spouseless for a length of time and need contact and communication with a skilled teacher and other parents just to see that Johnny really isn't as awful as she thinks and he can cooperate without that whack on the bottom she needs to give him all the time!

Our preschool program last year served as many as 110 children. Our equipment is sub-substandard or non-existent. We only have $20.00 per month for supplies. Community Schools picks up all the bills and many people can't or don't pay and we won't exclude any child for financial reasons.

If there would be my way PreSchool could be included in any grant requests we would be overjoyed. Please feel free to visit us as we welcome your interest and support and I will be contact-you or your staff to make myself acquainted with your services especially in the area of early child education.

Thank you,

Pat Springer

Pat Springer

T. H. TAYLOR, D.M.D.
BOX 3288
HOMER, ALASKA 99603

TELEPHONE (907) 235-6446

OFFICE HOURS BY APPOINTMENT

ASH WEDNESDAY
February 16, 1983

To Whom It May Concern:

As a local clergyman at St. Augustines' Episcopal Church and a local dentist, I meet many people in the Homer and surrounding areas; some of them with problems which the Community Mental Health Center has been able to greatly assist with...

I utilize the expertise of the counselors at The Community Mental Health Center, by refering people to them from time to time. I would be disappointed, to say the least, without their valuable contribution to the well being of our community.

Please give them every consideration in their grant proposals.

Sincerely,

(The Rev.) Thomas H. Taylor D.M.D.

South Peninsula Women's Services, Inc.

P.O. Box 2328
Homer, Alaska 99603

Phone: 235-7712

February 3, 1983

Paul Craig, Ph.D.
Community Mental Health Center
P.O. Box 2274
Homer, Alaska 99603

Dear Paul:

Please accept this letter in support of the continuing services of the Community Mental Health Center, Parent Education, and Infant Learning programs provided by the Community Mental Health Center to residents of the South Kenai Peninsula.

South Peninsula Women's Services and Community Mental Health Center has a most viable, cooperative relationship that positively benefits both individual and mutual clients. S.P.W.S. has made a multitude of referrals to the Center's various program components. These referrals have been received and acted upon in a most professional manner. Moreover, we have received appropriate referrals from the Community Mental Health Center. Mutual program planning has also been very effective.

We feel the Community Mental Health Center is an integral part of the community. The services that the three program components provide are of an utmost importance. We at South Peninsula Women's Services are in full support of the effective and needed programs offered by the Community Mental Health Center and receommend their continued funding.

Sincerely,

Carol Swartz

Carol Swartz, M.S.W., A.C.S.W.
Director

CS/ja

panoply family health care

February 17, 1983

Paul Craig, Ph.D.
Psychologist, Director
Community Mental Health Center
P.O. Box 2274
Homer, AK 99603

Dear Paul:

This letter is in continued support of your program at the Community Mental Health Center. Over the past year many of my clients have received assistance and care from the Community Mental Health Center in a variety of ways by taking advantage of the well-established programs and, especially, since the introduction of the Infant Learning Program. I continue to be impressed with the service provided, with the attention to follow-up, and feel more strongly than ever that the Community Mental Health Center serves a vital function in our community. To consider referring my clients to Kenai or Anchorage for counseling and evaluation would be as limiting as not having a hospital available in which to practice.

I look forward to another year of excellent service.

Warmly,

D White

Dan White, M.D.

DW/jlw

box ~~315~~ 334 homer alaska 99603 (907)235-7725

KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

STAN THOMPSON
MAYOR

February 22, 1983

Paul L. Craig
Community Mental Health Center
Box 2274
Homer, AK 99603

Dear Dr. Craig:

While I do not at this moment have any specifics to mention regarding the mental health programs for South Kenai Peninsula, I do realize the great need for the programs in this area.

It is an absolute necessity that the Community Mental Health program, the Parent-Child Education & Training program, and the Infant Learning program continue in the community as these programs seem to be effective in filling the needs in this area.

We appreciate your work; keep it up.

Sincerely,

Stan Thompson

Stan Thompson
Kenai Peninsula Borough Mayor

ST:lc

Homer High School

Kenai Peninsula Borough School District

LEE WINN, PRINCIPAL
DARREL WHITE, VICE PRINCIPAL

SRA BOX 500
HOMER, ALASKA 99603
PHONE: (907) 235-8186

January 20, 1983

Community Mental Health Center
P.O. Box 2274
Homer, AK 99603

TO WHOM IT MAY CONCERN:

FROM: Lee Winn, Principal Lee Winn

RE: LETTER OF SUPPORT

As Principal of Homer High School, I totally support the Community Mental Health Center under the direction of Paul L. Craig, Ph.D. Through his guidance, our community and school continue to be provided a very valuable resource as to their needs. At no time has Dr. Craig and his staff been unwilling to work with our problems or our schedule.

It has been my personal observation that Dr. Craig has spent additional time providing input and direction to help improve our school "effectiveness" for the student. His expertise and guidance continue to provide our teachers with new options and techniques.

The community of Homer would be drastically affected without the services of Community Mental Health Center. As a school administrator and community member, I whole heartily solicit your support.

If I can provide any additional information, please feel free to contact me.

LW:gs

STATE OF ALASKA

DEPARTMENT OF LAW

~~JAY S. HAMMOND, GOVERNOR~~
BILL SHEFFIELD
GOVERNOR

DISTRICT ATTORNEY OFFICE / *P.O. DRAWER 1180*
KENAI 99611

February 22, 1983

Paul L. Craig, Ph.D.
Psychologist, Director
Community Mental Health Center
P. O. Box 2274
Homer, Alaska 99603

Dear Dr. Craig:

Please consider this letter as support for your continuing efforts in rendering much needed evaluation and counseling service for the people in your area.

It is clear to me from having handled a number of criminal cases on the southern end of the peninsula, that there is a definite need being met by your Center. I consider a continuation of your services as important to the treatment of a number of individuals who are involved in the criminal justice system, whose problems can best be addressed through counseling in their own community.

Please let me know if I can be of assistance in your efforts and I sincerely hope that your program will be adequately funded and supported; you certainly have my support.

Very truly yours,

Thomas M. Wardell

Thomas M. Wardell
District Attorney
Kenai

TMW:md

Susan B. English School

A part of KENAI PENINSULA BOROUGH SCHOOL DISTRICT
SELDOVIA, ALASKA 99663

February 2, 1983

Paul L. Craig, Director
Community Mental Health Center
Box 2274
Homer, AK 99603

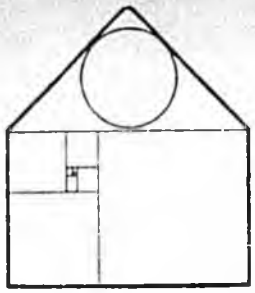
Dear Dr. Craig:

Seldovia Community Schools wishes to express support of the Homer Community Mental Health Center. Your counseling and educational services plus Eileen Littrell's counseling and parenting classes have proven beneficial. Since the size of Seldovia prohibits a counseling center of its own, we are appreciative of the cooperation between your agency and agencies here. We appreciate your competance and concern and look forward to continued services by your agency.

Sincerely,

Annie McKenzie

Ms. Annie McKenzie
Coordinator
Seldovia Community Schools



The Children's House
A Montessori Center

January 19, 1983

Paul Craig, Ph.D.
Director, Psychologist
Community Mental Health Center
Box 2274
Homer, Alaska 99603

Dear Paul:

Thank you for informing me of your intention to submit a grant proposal again for funding of your programs. Your center has done a remarkable job this past year with the Infant Learning Program, the Parent-Child Education and Traning Program, and all aspects of the Community Mental Health Program. I certainly hope funding will be available to continue the good work in these areas.

Through my work with children and their families I see a definite need of resources for parents and children alike who have special needs, problems coping with stress, or simply wish to improve their parenting skills. Your center is helping to fill this need with your various programs. I have referred parents to you for counselling and training, feeling comfortable that you could provide the needed help. The parents I hear back from have been both grateful and enthusiastic about your programs. I in turn am very grateful for your help.

I wish you continued success for another year of strong community involvement. Thanks for providing such quality programs for the people of Homer.

Sincerely,

Jane Wingquist

Jane Wingquist
Director

Box 916 - Homer, Alaska 99603 907-235-7035

HOMER POLICE DEPARTMENT
235-8113

BOX 391

CITY OF HOMER

HOMER, ALASKA 99603

January 28, 1983

Community Mental Health Center
Box 2274
Homer, Alaska 99603-2274

Dr. Paul Craig, Ph.D.

Dear Dr. Craig,

In reply to your letter of January 17, 1983, your services have been of benefit to our Department in many cases where domestic violence or mental illness were major factors. And, as such, have effectively assisted our department in culminating these matters.

I, therefore, recommend that funding be continued for your center to allow continued efforts in these areas.

Sincerely,

Michael L. Daugherty
Director of Public Safety

MLD/gm

cc. 83 Correspondence

Homer High School

Kenai Peninsula Borough School District

LEE WINN, PRINCIPAL
DARREL WHITE, VICE PRINCIPAL

SRA BOX 500
HOMER, ALASKA 99603
PHONE: (907) 235-8186

February 21, 1983

To Whom It May Concern:

This letter is in support of the Community Mental Health Center in Homer, Alaska. We have worked closely with the center for the past several years and have found them to offer a much needed support in the mental health area.

As I reflect on their program, I see one of their biggest strengths is their responsiveness. They are able to consult with us, or provide family counseling for students, or individual counseling. We use them as a local resource for classes in careers, mental health, or testing. I feel they have done a very good job of responding to our requests.

I would shudder to think of not having them as part of our community.

Sincerely,

James Ballentine

James Ballentine
Counselor

JB:mm

COOK INLET NATIVE ASSOCIATION

670 West Fireweed Lane
Anchorage, Alaska 99503
(907) 278-4641

February 25, 1983

Community Mental Health Center
Box 2274
Homer, Alaska 99603

Attn: Dr. Paul Craig, PHD

Cook Inlet Native Association (CINA) has reviewed your proposal, which would in our opinion provide vital needed services to the Kenia Pennisula area.

We feel that many benefits would accrue to the Native population should this proposal be funded.

Please accepted this letter as support for your proposal.

Sincerely,

Maxim Dolchok
Executive Director

MD:sbe

SELDOVIA POLICE DEPARTMENT

A. W. (ANDY) ANDERSON
CHIEF OF POLICE

JERRY L. LEWIS
ASSISTANT CHIEF

2/15/83

COMMUNITY MENTAL HEALTH CENTER
BOX 2274
HOMER, ALAKSA 99603

Dear Mr. Craig:

I would like to take this opportunity to commend you and your staff on the professional handling of referred cases by our department. The feedback I am receiving is very positive. In my opinion, your service is a necessity in our area and a much needed resource.

Your Parent-Child Education and Training program could, in time, have a v .y positive impact in our community. The communication betwee parents and children would greatly reduce the number of problems involving the Police. Parents as well as the children need the training and, I'm certain, it will draw families closer together.

The Infant Learning program is also an excellant outreach and to train the children at such an early age is the answer to assuring healthy, productive persons in the years to come.

Your willingness to help and your professional attitude as well as that of your staff will insure your valuble and needed services to remain in our area. Keep up the good work.

Sincerely,

A.W. Anderson
Chief of Police

SELDOVIA NATIVE ASSOCIATION, INC.
P.O. DRAWER L
SELDOVIA, ALASKA 99663
(907) 234-7625 • 234-7890

February 14, 1983

Dr. Paul Craig, Ph. D.
Psychologist, Director
Community Mental Health Center
P.O. Box 2274
Homer, Alaska 99603

Dear Dr. Craig:

This letter will confirm the support of our organization for your grant request for this year.

The increased level of service to the Seldovia area has been noted and is appreciated. The Parent-Child Education program, as well as the Infant Learning Program have also been beneficial to our area.

Your support of our local alcoholism program is appreciated too. We would urge the State of Alaska to give total funding to the Community Mental Health Center's grant application.

Sincerely,

Fred H. Elvsaas

Fred H. Elvsaas, President
Seldovia Native Association, Inc.

FHE/dc

W. J. MARLEY, D.D.S.
BOX 155
HOMER, ALASKA 99603
235-8909

February 24, 1983

Paul L. Craig
Community Mental Health Center
Box 2274
Homer, AK 99603

Dear Sir,

I would like to express my support for our Community Mental Health Center. The services provided to our community are most important. In my opinion, there would be a terrible deficit in the health care of our community were the service not available.

While I do support the Community Mental Health Center, it is also my hope that my support would not preclude any efforts by the private practice community to provide a like service.

Sincerely,

W. J. Marley, DDS

February 22, 1983

To whom this may concern.

I, Pat Evarts an elected official of the Homer City Council do fully support Dr. Paul Craig as the Psychologist, Director of the Community Mental Health Center of Homer, Alaska.

Furthermore, I fully support increased funding for the coming fiscal year so as to reflect present community needs in a growing population.

Sincerely

Pat Evarts
Councilwoman
Homer, Alaska



PAUL BANKS ELEMENTARY SCHOOL

BOX 1889 • HOMER, ALASKA 99603 • (907) 235-8161

February 4, 1983

Community Mental Health Center
Box 2274
Homer, Alaska 99603

To Whom It May Concern:

I have been asked to write a letter in support of the Community Mental Health Center and Paul Craig here in Homer, Alaska.

Paul has been able to provide excellent counselling and psychological help to students in severe need here at Paul Banks Elementary School. Without Paul's assistance the students here would not be able to receive any direct counselling or psychological benefits due to the logistical distances involved between our school and Central Office and the other support teams that work with the school.

In the last year and half the Community Mental Health Center has not just become a small office somewhere down in town, but has become an arm that is extending out into the community and helping not only the school, the children, the parents, but all members of the society in which we live here in Homer.

I greatly support Paul's efforts and solicit your support in funding the Mental Health Center and the programs in which Paul Craig has initiated in the community.

Sincerely yours,

Lewis McLin

Lewis McLin, Principal
Paul Banks Elementary

LM/lg

Education With Care

City of Seldovia
P.O. DRAWER B TELEPHONE 234-7643
SELDOVIA, ALASKA 99663

February 15, 1983

Dr. Paul Craig, Ph. D.
Community Mental Health Center
P.O, Box 2274
Homer, Alaska 99603

Dear Dr. Craig:

It is with pleasure that I write this letter of support for the grant application you will be submitting this year.

The Community Mental Health Center is providing a real and beneficial service to our community. Other services such as the Parent-Child Education Progam, and the Infant Learning Program have been beneficial also.

The educational services which you and your staff provide locally have been a great help to many people, and are appreciated. I know that your visits to the school have aided some students there.

We appreciate the personalized service which Seldovia has received this year, and would urge the State of Alaska to allow this service to continue, by providing the necessary funding.

Sincerely,

Darlene Crawford

Darlene Crawford, Mayor
City of Seldovia

DC/ck



Trial Courts
State of Alaska
POUCH "I"
KENAI, ALASKA 99611

Chambers of
CHARLES K. CRANSTON
Superior Court Judge

January 20, 1983

Community Mental Health Center
Box 2274
Homer, AK 99603

Attention: Paul L. Craig, Ph.D., Psychologist, Director

Dear Dr. Craig:

Now that a new year is upon us I wish to express to you my opinion concerning the services which have been offered by the Homer Community Mental Health Center to residents of the South Kenai Peninsula. Based upon my contact with the Community Mental Health Center through court proceedings which include both adult and children matters, I believe that the Community Mental Health Program has been a benefit to the residents of the South Kenai Peninsula and has provided an indispensable service to those residents.

I wish you the best for 1983 and urge that you indicate to all those persons responsible for your existence that without your services there would be many unfulfilled needs in the South Kenai Peninsula area.

Very truly yours,

CHARLES K. CRANSTON

CKC:nh



Homer Community Schools

Box 500 *Homer, Alaska 99603*

February 23, 1983

To Whom It May Concern:

Please accept this letter of appreciation and support for the services of the Community Mental Health Center in Homer. Through my involvement with the Homer Community Schools Program I have had an opportunity to work with the staff of the Mental Health Center in several areas of community need or benefit.

The staff of the Center have consistently offered classes and workshops in a broad variety of areas helpful to our community--most recently, career changing, parenting skills, parent-child education and suicide prevention. The Infant Learning program aids in targeting infants and toddlers who are handicapped or developmentally delayed, smoothing their way into preschool or elementary school programs. In addition the staff has demonstrated a willingness, personally and professionally, to help in identifying community, family and individual concerns and possible ways to address them. The Community Mental Health Center has also been a motivating force behind the formation of a Human Services Network, a group of human service providers in the area, and the publication of the first Human Services Guide to Homer Area Resources.

My experiences with the Community Mental Health Center in Homer have made it evident that the staff is caring, professional and responsive to the needs of our community. I urge your continued funding of the Homer Community Mental Health Center and it's programs.

Sincerely,

Bev Cronen

Bev Cronen
Coordinator

Box 335
Homer, Alaska 99603

CITY OF HOMER

REPLY TO:

- ☐ City Hall
  Ph. (907) 235-8121
- ☐ Port of Homer
  Ph. (907) 235-8597
- ☐ Harbor Master
  Ph. (907) 235-8959
- ☐ Public Works Dept.
  Ph. (907) 235-8120
- ☐ City Engineer
  Ph. (907) 235-6368

January 31, 1983

Paul Craig, Ph.D., Director
Community Mental Health Center
P. O. Box 2274
Homer, AK 99603-2274

Dear Dr. Craig:

It is with pleasure that I submit this letter of support for inclusion in the grant application proposals for the Homer Community Mental Health Center.

As Mayor of Homer, and from a personal prospective, I am aware of the worth of the programs provided and administered by the organization you direct. It is clear that programs are selected on the basis of community need and are carried forth in a sincere effort to assist participants in developing comprehensive skills which are life support systems. Specifically, the Parent-Child Education and Training program, and Infant Learning program are identified as beneficial to the young people of our community. Because of the mild climate and easy road accessibility, many young, new families settle here yearly. Both of these programs assist with adjustments for these families, and provide a resource for assisting in new starts.

It is my feeling that programs such as those administered by the Community Mental Health Center are supportive of family development; therefore, a continuing asset to this community. Be confident of the support of the City of Homer in your grant application pursuits.

Sincerely,

Erle Cooper
Mayor

KPH:ler

PAUL L. ENEBOE, M.D., A.B.F.P.
WILLIAM H. BELL, M.D., A.B.F.P.
A PROFESSIONAL CORPORATION
P.O. BOX 194
HOMER, ALASKA 99603
TELEPHONE 235-8586

February 22, 1983

Paul L. Craig, Ph.D., Director
Community Mental Health Center
Box 2274
Homer, AK 99603

Dear Dr. Craig:

I am pleased to once again recommend the services of the Community Mental Health Center. I have been very impressed with the work the Center has done in providing services to the residents of the South Kenai Peninsula.

There have been several patients I have referred to the Mental Health Center and several that have referred themselves who have come back and told me they were extremely pleased and had benefitted greatly from their care at the Center. I am also very pleased to see the growth of the parent-child education program and the infant learning program.

Sincerely yours,

William H. Bell, M. D.

WHB:nmc

February 14, 1983

Paul Craig, Ph.D.
Community Mental Health Center
P.O. Box 2274
Homer AK 99603

To Whom It May Concern:

Greetings from the beautiful City of Homer. A recent survey poll indicates that the population growth on the Kenai Peninsula and specifically the Homer area is on a very high increase. And as you know, a population increase brings many varied problems.

As for myself, I am not particularly fond of this high-powered population explosion; however I do face the reality and the fact that change in this area is taking place, and we need the excellent services that are provided here in Homer to meet these drastic changes. The Community Mental Health center under the direction of Dr. Paul Craig provides an excellent service to take care of the citizens that encounter problems on an emotional and mental level.

There is no question in my mind that the Homer Community Mental Health Center has one of the best Boards of Directors in the state of Alaska. They attend meetings and they give high-powered interest and attention to the needs of the Center and the community. They are definitely a group of dedicated people.

I have had the opportunity and privilege as a member of the Governor's Review Board on Alcohol and Drug Abuse to visit a number of the mental health centers throughout the State of Alaska, and I am pleased to report that the services offered by the Homer Community Mental Center are efficient, excellent, and meet the needs of the people who request assistance.

We are very fortunate to have Dr. Paul Craig and his staff and the good work that our mental health center makes available to the people. My recommendation would be to continue funding the program, and if funds are available to make an increase in the grant, so this work may expand to meet the needs of our growing community.

Thank you for giving your attention to the content of this letter, and may great joy and bliss fill your beautiful hearts to overflowing as we move on down through the corridors of time to meet the demands that the wheel of life places upon our minds and hearts.

Thank you very much,

Asaiah

Brother Asaiah Bates
P.O. Box 504
Homer AK 99603

Box 335
Homer, Alaska 99603



CITY OF HOMER

REPLY TO:

☐ City Hall
Ph. (907) 235-8121

☐ Port of Homer
Ph. (907) 235-8597

☐ Harbor Master
Ph. (907) 235-8959

☐ Public Works Dept.
Ph. (907) 235-8120

☐ City Engineer
Ph. (907) 235-6368

February 16, 1983

Paul L. Craig, Ph.D.
Psychologist, Director
Community Mental Health Center
Box 2274
Homer, Alaska 99603

Dear Paul:

As City Manager for the City of Homer I would like to lend my support to the services of the Community Mental Health Center and to verify that I have personal knowledge of its service to this community.

The services the center provides are an essential part of the community infra-structure; and I urge the continuance of the various programs so long as the services are provided in a prompt and professional manner.

Thank you for your services and the opportunity to express my support.

Very truly yours,

Larry C. Farnen
City Manager

LCF/pb

martin friedman
lawyer
—
box 337
homer, alaska
—
235-8085

January 24, 1983

Community Mental Health Center
Box 2274
Homer, Alaska 99603-2274

To Whom It May Concern:

As a practicing attorney in the Homer community for the past twelve years, I have encountered every possible type of family and personal trauma in one or more of its aspects.

The Community Mental Health Center has been providing services essential to the residents of the Homer community for many years. The individual and family counseling program and the parent child education training program both have been of great help, support and assistance to those in need.

Along with the development of services of the Community Mental Health Center has been an awareness in the people of the community that these problems, which have existed in the past no longer have to be suffered and hidden. The Community Mental Health Center provides services to resolve these problems thereby contributing to the over-all mental health of the South Kenai Peninsula residents.

In my opinion, the Community Mental Health Center has been and continues to be, in all of its programs, an essential and well functioning resource to the residents of this area.

Sincerely

Mart Friedman

MARTIN FRIEDMAN

Homer Chamber of Commerce

February 23, 1983

Dr. Paul L. Craig
Director
Community Mental Health Center
Box 2274
Homer, AK. 99603

Dear Dr. Craig:

By vote of the Board of Directors of the Homer Chamber of Commerce, this letter is to voice our wholehearted support for the Community Mental Health Center and the programs you have initiated and offered Homer over the past year.

We hope that grant funding for the continuation of these programs will be forthcoming. The services provided to families and individuals by the Mental Health Center indirectly effect each of us in the community and we feel that they more than adequately augment and complement the programs and services offered by other medical and social organizations in the area.

Our best wishes for your continued success and please let the Chamber Board know if there's anything we can do to assist you in any of your operations.

Sincerely,

HOMER CHAMBER OF COMMERCE

Mary A. Henry
Vice President

MAH:ap

SOUTH KACHEMAK, INC. ALCOHOLISM PROGRAM

BOX 197
SELDOVIA, ALASKA 99663
234-7807

February 4,1983

Dr. Paul Craig
Community Mental Health Center
P.O.Box 2274
Homer, Alaska 99603

Dear Dr. Craig,

We would like to express our support and appreciation for the Community Mental Health Center and the opportunities you are making available.

We are hearing excellent reports on the Parent-Child Education and Training classes. They are getting good response here in Seldovia and we also got a very positive reaction from our board members in Port Graham, toward the classes held in that village.

Having a "baby boom" here in town bears out the necessity for the Infant Learning program. This is an area of need in our communities and we support your effort to meet that need.

We are seeing increasing acceptance and use of the Mental Health program over here. Knowing there will be a regular and accessible care provider has created a very positive climate to recommend and ask for help in our community. In your position, Dr. Craig, you have established a level of trust and professionalism that is changing attitudes throughtout our community.

Cooperation between our programs has been invaluable for SKIAP. We continually benfit from your consultations and the resources we can now suggest to our clients.

You have our whole-hearted support.

Sincerely,

Edith-Helen Hilts
Director

EHH/ls

Box ~~142~~ 39010

567-~~3976~~ 3301


KENAI PENINSULA BOROUGH SCHOOL DISTRICT
NINILCHIK SCHOOLS
NINILCHIK, ALASKA 99639

January 27, 1983

Community Mental Health Center
Box 2274
Homer, Ak. 99603

Dear Staff,

I am personally involved with junior high (7-9) guidance and students with serious personal problems. There are many cases I cannot deal with because of my lack of expertise. For these special problems, I am both relieved and grateful to be able to turn to the Community Mental Health Service in Homer.

Mrs. Irene Littrell, from the Homer Office, has been traveling to Ninilchik to provide communication workshops for students and adults. She has also been dealing with some of these very serious cases. It is a real relief to have someone with her experience and background to provide counseling to these students and their parents.

One eighth grade boy was failing in all his classes. Mrs. Littrell began counseling with the entire family. The young man's attitude is greatly improved and he passed several of his courses for the quarter.

This kind of achievement is very important and worthwhile in an area that has so many problems. We need this service and appreciate it immensely. Please keep us on your agenda.

Sincerely,

Shawnie Holdermann

Shawnie Holdermann
Ninilchik Guidance Counselor

LITTLE PEOPLE PUBLICATIONS
560 W. Soundview Ave.
Box 2181, Homer Alaska 99603
Ph.# 907/235-7515

January 27, 1982

Dr. Paul Craig, Director
Community Mental Health Center
P. O. Box 2274
Homer, Alaska 99603

Dear Dr. Craig:

We are pleased to offer our support of the services that are being provided by the Community Mental Health Center to the residents of the South Kenai Peninsula.

Those of us who have been involved with the Little People Can Read Research Project are acutely aware of the importance of high quality stimulation in the earliest years of a child's life in promoting good social, emotional, and intellectual development. We are, therefore, particularly enthusiastic about the Parent-Child Education and Training Program and the Infant Learning Program now being offered at the Mental Health Center.

Because we have observed the dedication shown by the clinic's staff and the need within the local community for these services, we urge that these programs be continued.

Cordially,

Mary + Mike

Mary & Michael Hopson

HAZEL HEATH
REAL ESTATE
Glacier View Subdivisions
BOX 676
HOMER, ALASKA 99603

March 1, 1983

Paul L. Craig, Ph.D.
Psychologist, Director
Community Mental Health Center
Box 2274
Homer, Alaska 99603

Dear Paul:

This letter is evidence of my support and belief in the work you are doing in the lower Kenai Peninsula. You have such a large area to cover. I marvel at the work you have accomplished.

Until your organization came to Homer I was not aware of the tremendous need people in our community have for your services. I didn't realize that a small city such as Homer could harbor so many different kinds of mental disturbances and psychological needs.

I hope that my support will help you in your effort to find adequate funding.

Sincerely,

Hazel Heath
Chairman
OLDER ALASKANS COMMISSION

MARK O. GULDSETH
P. O. BOX 1086
HOMER, ALASKA 99603

February 24, 1983

TO WHOM IT MAY CONCERN:

I would like to state my support for the Community Mental Health Center in Homer. It seems to be filling a definite need in the community in helping people to cope with life and with each other.

I recommend continued funding for this service.

Yours truly,

Mark Guldseth

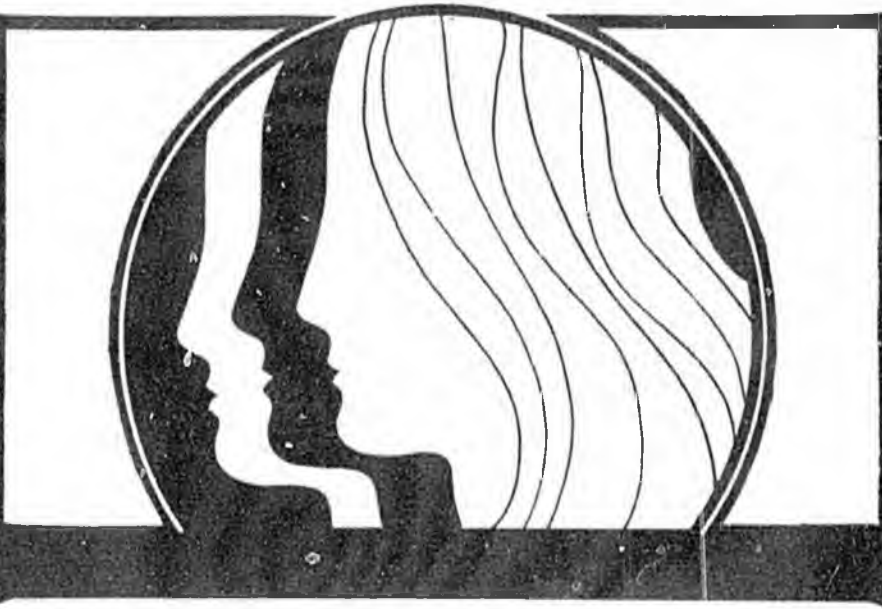
Mark Guldseth
City Councilman, Homer

PROGRAM BROCHURES

Community Mental Health Center
Infant Learning Program
Vocational Counseling
Parent-Child Education & Training

Community Mental Health Center

235-7701

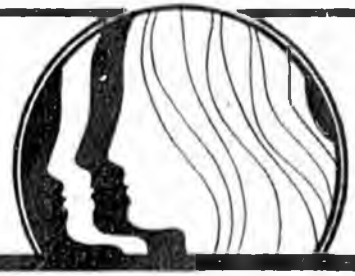


Serving:

Homer-Anchor Point-Halibut Cove
Kachemak City-Seldovia-English Bay
Port Graham-Ninilchik-Nikolaevsk

Looking for professional assistance in any of the following areas?

- Relationships
- Behaviors that you would like to change
- Emotions
- Employment or educational planning
- Stress
- Your child's development or behavior
- Family relations
- Developing positive parenting skills
- Or even Cabin Fever!



WE CAN HELP!!!

Our professional staff is available to serve you.

The Community Mental Health Center sponsors the following services:

Mental Health

Counseling, evaluation, consultation and crisis mental health services for adults and children.

Vocational Counseling

Career exploration, guidance and training services coordinated with Alaska Division of Vocational Rehabilitation.

Parenting Skills Educational Program

Workshops, classes and counseling for families and individuals regarding effective positive parenting.

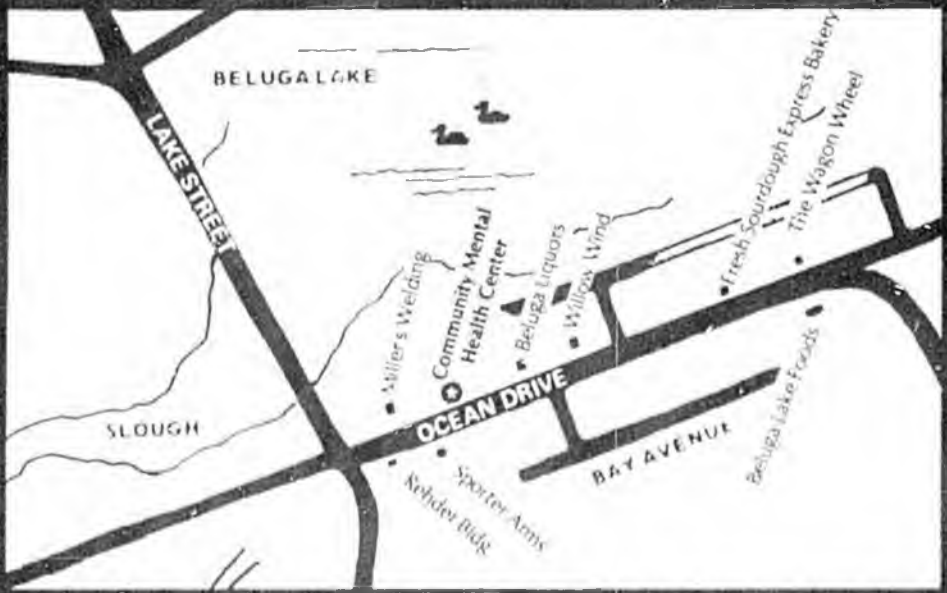
Infant Learning Program

Home-based program assisting parents of developmentally delayed infants (0-3 years) providing activities to enhance development.

Some services are free and others are on a sliding fee scale.

The center is located in the lower level of the office building on Ocean Drive between Miller's Welding and the Willow Wind. Outreach services are provided to Homer and outlying communities.

The Community Mental Health Center is sponsored by the South Peninsula Mental Health Association, a private non-profit corporation. If you are interested in becoming a member of the Association, give us a call.



Community Mental Health Center

P.O. Box 2274
Homer, Alaska 99603
(907) 235-7701



SOUTH PENINSULA INFANT LEARNING PROGRAM

COMMUNITY MENTAL HEALTH CENTER
P.O. Box 2274
Homer, Alaska 99603
(907) 235-7701

THE PROGRAM

The Infant Learning Program (ILP) is an early intervention program for infants and toddlers from birth to three years who are developmentally delayed, have a physical handicap or are at risk of developing a problem.

The Infant Learning Instructor will visit the parents and child in the home to do a formal assessment of all developmental areas. Where developmental delays are found, an Individualized Education Plan (IEP) will be established with the parents. The Instructor will visit the home on a weekly basis or as needed, for about an hour each visit, to share with parents some activities and techniques they can use daily to stimulate their child's development.

For more information, contact the INFANT LEARNING INSTRUCTOR through the Community Mental Health Center in Homer, 235-7701.

SERVICE AREAS

The Infant Learning Instructor will provide home services in the communities of Homer, Anchor Point, Ninilchik, Nikolaevsk, Seldovia, Port Graham, English Bay and outlying areas.

ELIGIBILITY

Any child under age three who has a handicap (such as Cerebral Palsy, Down's Syndrome, Mental Retardation, Blindness, Deafness) or who is suspected of having a developmental delay is eligible for the program.

COST

There is no cost to the parents. The program is funded by the Department of Health and Social Services, Family Services Section.

CHRIS LAING
VOCATIONAL COUNSELOR

jointly sponsored by

STATE OF ALASKA
DIVISION OF VOCATION REHABILITATION

COMMUNITY MENTAL HEALTH CENTER
P.O. BOX 2274
HOMER, ALASKA 99603
235-7701

COMMUNITY MENTAL HEALTH CENTER

Serving:



235-7701

Judith Rothstein, M.S.
Vocational Counselor

P.O. Box 2274
Homer, Alaska 99603

JOHN B. OSBORNE
VOCATIONAL REHABILITATION COUNSELOR

STATE OF ALASKA
DEPT. OF EDUCATION
P.O. BOX 3633
KENAI, ALASKA 99611

VOCATIONAL REHABILITATION
PHONE (907) 283-3133

V O C A T I O N A L

C O U N S E L I N G



For information and appointments, call:

235-7701

Office located in
Community Mental Health Center
P.O. Box 2274
Homer, Alaska 99603

INTRODUCTIONS

Most of us spend considerable time and energy at different points in our lives wondering which jobs would fit our needs and desires. Exploring the rnage of choices of employment is a difficult task. Often, the beginning step of knowing who to ask for sepcific information about a field of work is a bogging-down place. The Vocational Counseling Program in Homer is designed to assist people in clarifying career goals, barriers to successful employment, and strategies for seeking new employment.

FOR WHOM ARE THESE SERVICES DESIGNED?

- Any person in the process of rethinking his/her career, or how s/he is utilizing time;

* The average American worker changes careers 4 times in his/her lifetime;

- Any disabled Alaskan who seeks assistance through Division of Vocational Rehabilitation and resides in the Southern Kenai Peninsula.

* We serve people in the following communities:

Ninilchik
Nikolaevsk
Anchor Point
Homer
Kachemak City
Seldovia
Port Graham
English Bay

SERVICES AVAILABLE...

Career exploration and guidance: (in groups or individually), utilizing the Alaska Career Information System and interest inventories.

Information and referral services: from type of training required for a job to where such is offered, including employment forecasts for various job fields.

Special needs planning: such as in the case of physical, mental or emotional disabling conditions.

Assistance with sharpening job-readiness skills: resume writing, interviewing tips, etc .

Coordination with other agencies: state, federal, and private agency contacts.

Job development: working with area employers in developing on-the-job training opportunities.

Job supervision: assisting employers in monitoring employee progress and upgrading skills.

Individual counseling: available to clients wishing to work on issues of self esteem, assertiveness, and other issues affecting job production.

Community education: periodic classes and workshops are offered to the public covering various aspects of the job search.

Employee Assistance Program: a confidential information and referral service available to employees and their family members. Available as a benefit to employees whose employers have contracted for services.

...AND NOW FOR A WORD ABOUT VOCATIONAL REHABILITATION

The Homer Vocational Counseling program is an extension of the Alaska Division of Vocational Rehabilitation (DVR), whose nearest office is in Kenai.

In an effort to provide the most comprehensive outreach services possible to the Southern Kenai Peninsula, we serve as liason with the Kenai office, and work closely with the DVR counselor who visits Homer once each month. In order to be eligible for DVR services, an individual must:

1) Have a disability (emotional, mental, physical, or learning) that can be verified by a licensed physician and/or psychologist.

2) This disability must be a substantial handicap to employment.

3) DVR services will enable the individual to get and hold a job.

Applications for DVR services are available through the Homer Vocational Counselor.

Services are available through the Community Mental Health Center sliding fee scale until such time as the person may become a DVR client, at which time no fee would be charged. The sliding fee scale is based upon ability to pay; however, no one will be refused services due to a lack of funds.



Service Areas:

The Parent-Child Educator/Family Counselor will provide educational counseling services in a variety of settings, including but not limited to: Your home, the Community Mental Health Center, the school, or other common facilities. We serve parents in the following communities: Ninilchik, Anchor Point, Seldovia, Port Graham, English Bay, Nikolaevesk and Homer.

ELIGIBILITY:

All parents of children ages 0-18 in the service area are eligible for one or more of the services offered.

COST:

Fees are established based on ability to pay by using a sliding fee scale. As a result, services are available to one and all without regard to financial resources. Some of the groups and classes are provided without charge.

Give Your Family a Boost!

Consult with the Parenting Specialist for Stimulating Ideas!



FOR MORE INFORMATION, PLEASE CALL:

235-7701

Sponsored by South Peninsula Mental Health Association, Inc.
Funded by a grant from the State of Alaska, Division of Family & Youth Services
P.O. Box 2274
Homer, Alaska 99603

PARENTING IS A TOUGH JOB!



"Parenting is a Tough Job, yet we can make it the choicest time in human life! Let us become inspired with brilliant motives so we can more effectively enrich and enhance the quality of our daily family living."

—Eileen Littrell, M.A.
Parent Educator

THIS PROGRAM PROVIDES:

★ Parenting Skills Classes
★ Support Groups for Parents
★ Individual & Family Counseling

Common Child Problems Addressed:

- Short attention span
- Non-compliant behavior
- Temper tantrums
- Hitting others
- Verbal abuse
- Eating problems
- Disobedience
- Toilet training
- Whining



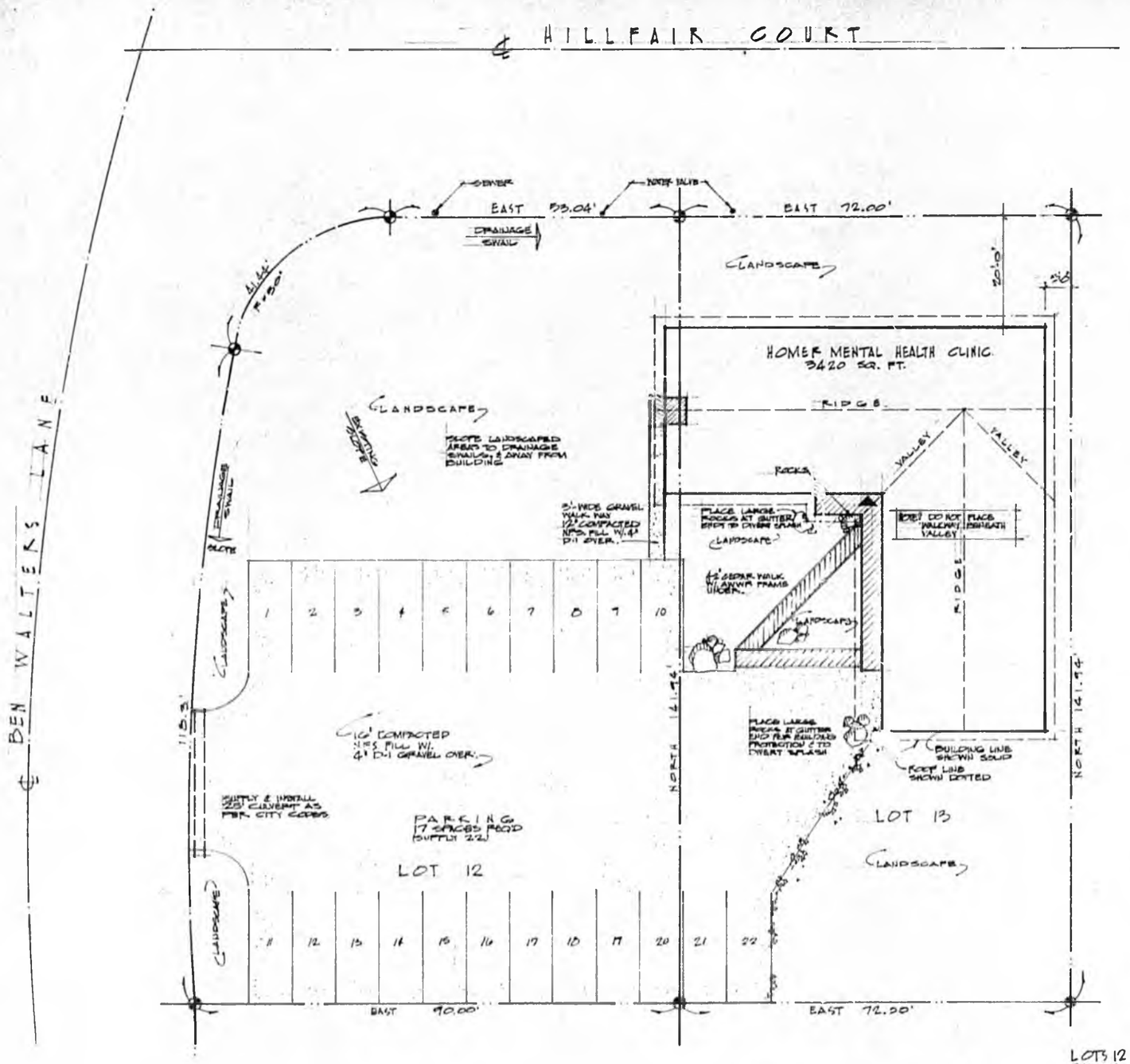
Pa enting Skills

are
discussed within small group settings with a
practical "How To" approach

How to:

—Defuse anger
—Reduce stress
—Agree to disagree
—Be cordial yet frank in sending "I" messages
—Set training priorities
—Generate unconditional positive regard
—Detect and prevent double messages,
i.e., teach honesty
—Prevent power plays & manipulating behaviors
—Speak with moderation
—Be firm but kind
—Calm tempers
—Effectively ignore to reduce undesirable behaviors
—Extinguish undesirable behaviors
—Set appropriate limits on your child's behavior
—Appreciate normal stages of child development
—Enjoy your children
—Effectively encourage to shape desirable behavior
—Win your child's respect and cooperation





PLOT PLAN ... 1'-10'-0"

LOTS 12 & 13
BLOCK 3
LAKESIDE VILLAGE SUBD.
ZONED: URBAN RESIDENTIAL

HOMER MENTAL HEALTH CLINIC

SCHEDULE OF DRAWINGS

A-1 PLOT PLAN
A-2 FLOOR PLAN
A-3 EXTERIOR ELEVATIONS
A-4 FOUNDATION & FLOOR FRAMING & DETAILS
A-5 SECTIONS A & B, FASCIA DETAILS
A-6 SECTIONS C & D, FRAMING DETAILS
A-7 ROOF FRAMING PLAN, FRAMING DETAILS.
A-8 INTERIOR ELEVATIONS, DOOR & WINDOW SCHS., INTERIOR FINISH SCHEDULE
E-1 ELECTRICAL PLAN

HOMER MENTAL HEALTH CLINIC	
DRAWN BY: DAVID GARCIA BOX 1481 HOMER AK.	DATE 4/20/98
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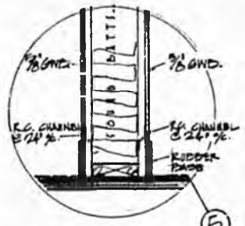
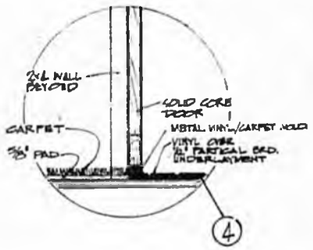
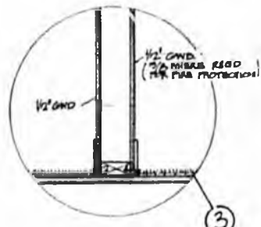
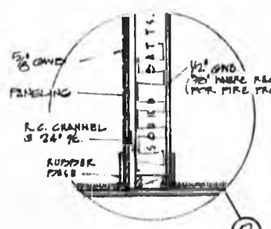


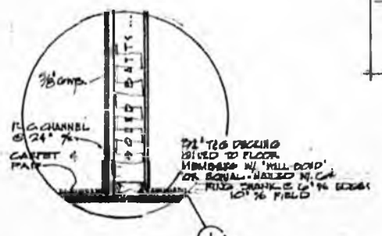


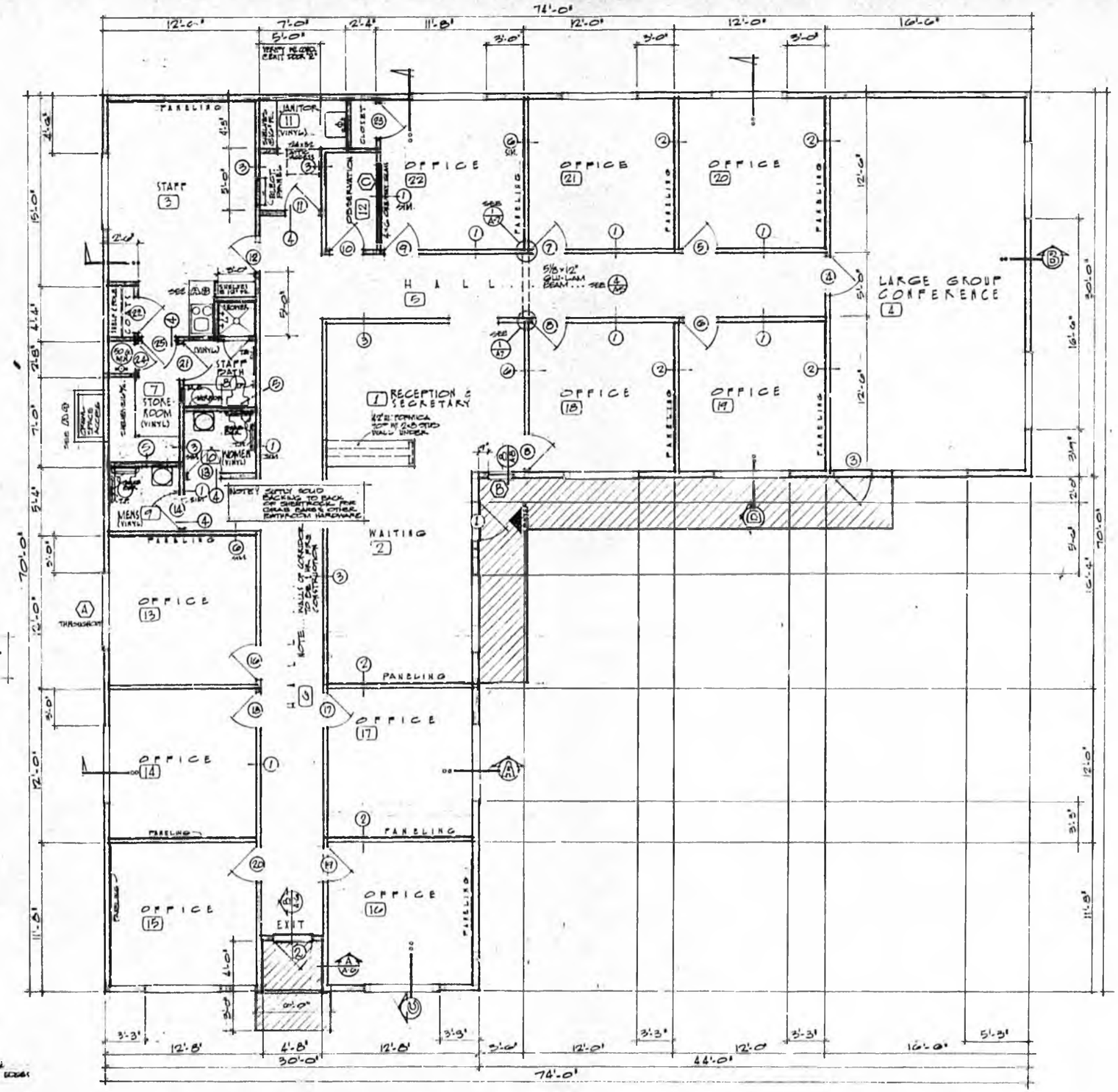


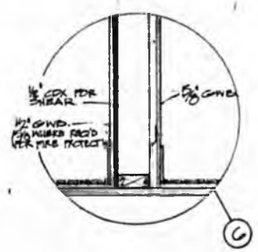
NOTE: R.C. CHANNEL SIDE OF ALL SOLID WALLS AND ALL COMPOSITE SIDE OF WALLS TO RECEIVE 5/8" GWB



WALL TYPES 1½"-1'-0"







3420 SQ. FT.

FLOOR PLAN . . . 1/4" - 1'-0"

HOMER MENTAL HEALTH CENTER	
DRAWN BY: DAVID GARCIA	DATE: MAR 23 '83
	SHEET: A2

EXTERIOR FINISH

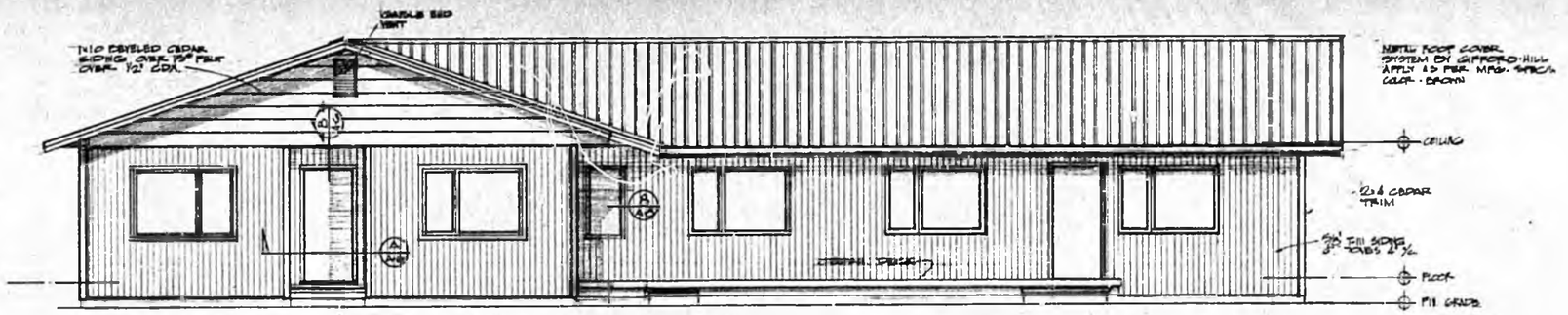
BEVELED CEDAR SIDING & CEDAR TRIM TO RECEIVE ONE COAT OF "BEHR RANGER" TINT & ONE COAT OF "BEHR RANGER" CLEAR PROTECTIVE COAT

FASCIA, UNDERSIDE OF GABLE END, AND GABLE END VENT TO RECEIVE 2 COATS FULLER-O'BRIEN EXTERIOR GLOSS ENAMEL MATCH ROOF COLOR

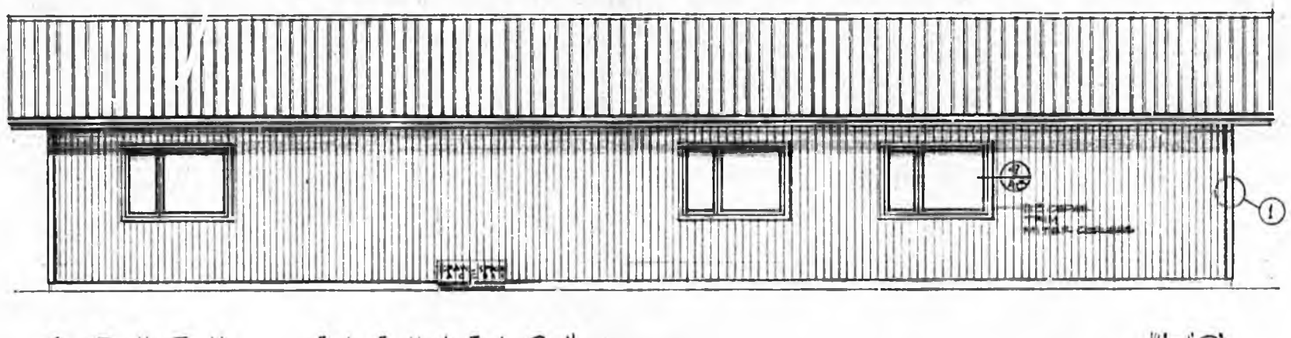
T-111 SIDING TO RECEIVE 2 COATS OLYMPIC SEMI-TRANSPARENT STAIN #710 APPLIED W/ BRUSH OR ROLLER. STAIN MAY BE SPRAY APPLIED IF FOLLOWED W/ WET BRUSH OR ROLLER. APPLICATION BY SPRAYER ALONE NOT ALLOWED

OLYMPIC STAIN NO. –

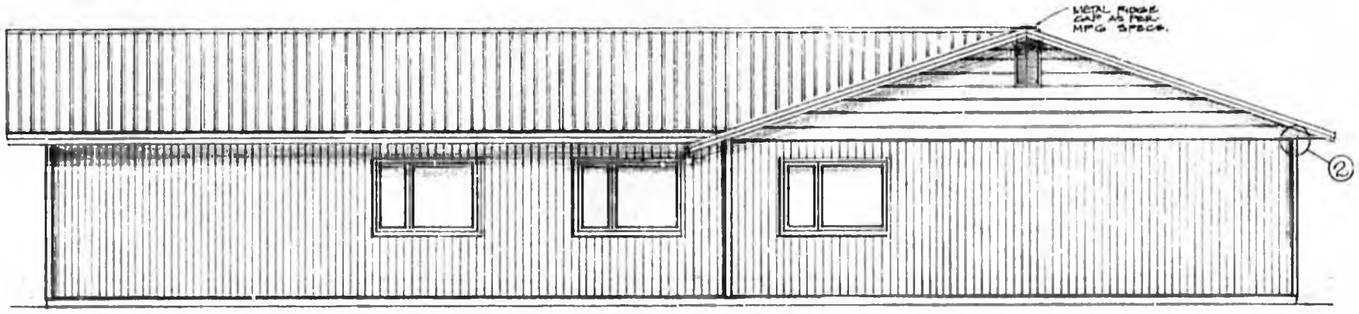
NOTE: ALL EXTERIOR NAILING TO BE W. GALV. FASTENERS ONLY.



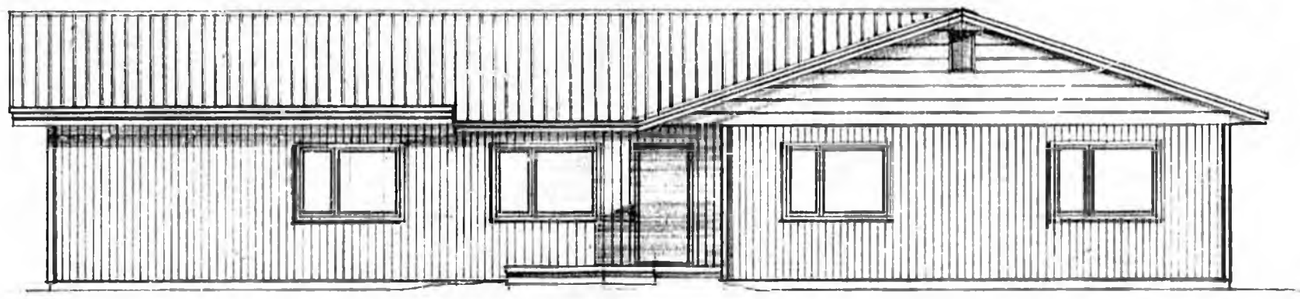
WEST ELEVATION 1/4"-1'-0"



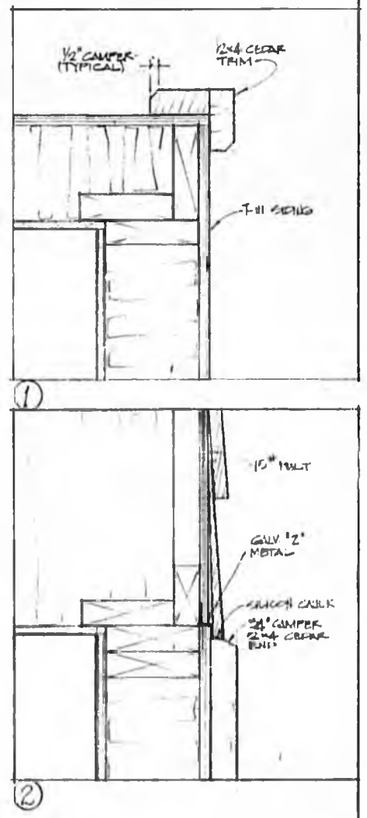
SOUTH ELEVATION 1/4"-1'-0"



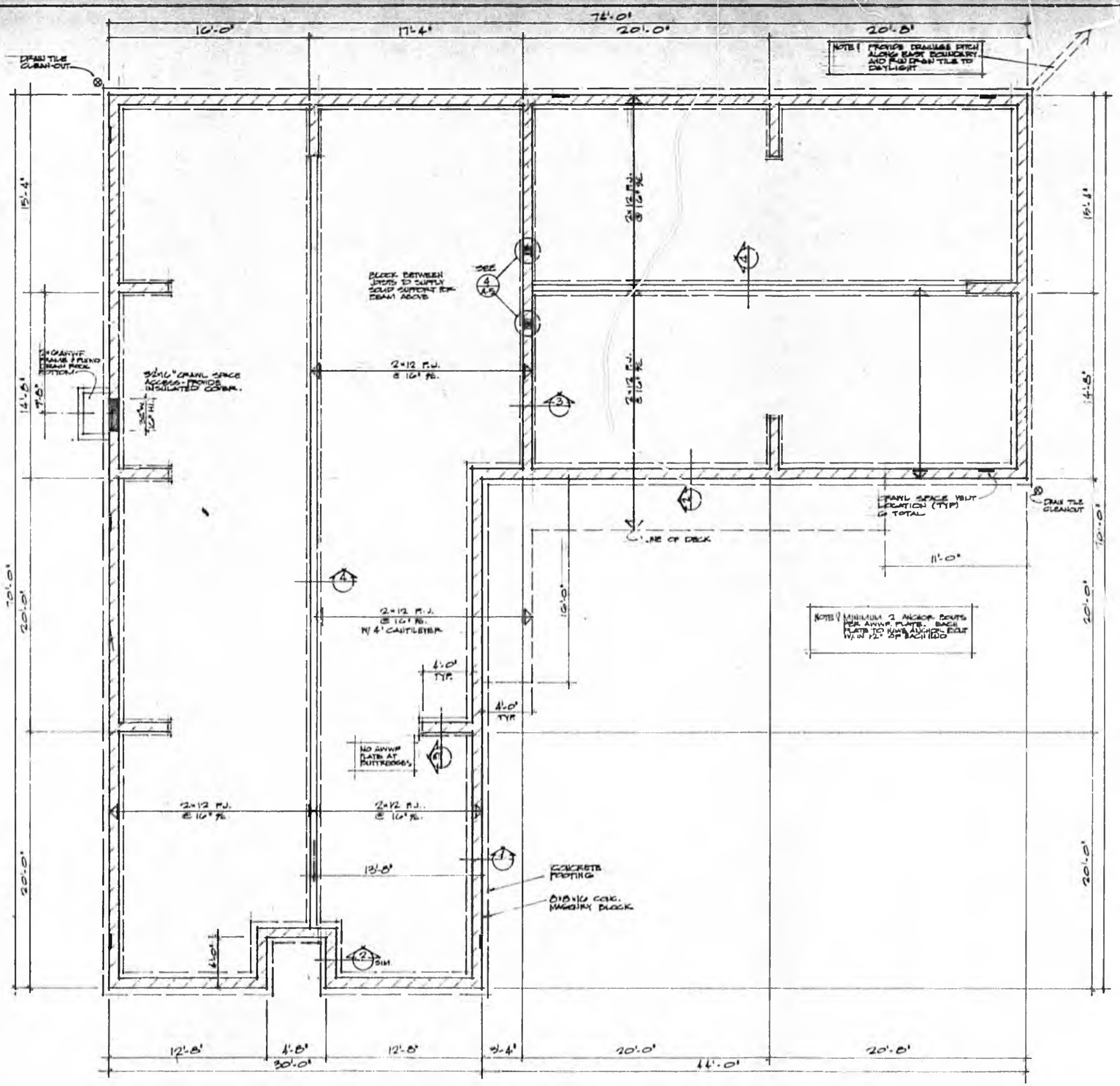
EAST ELEVATION 1/4"-1'-0"



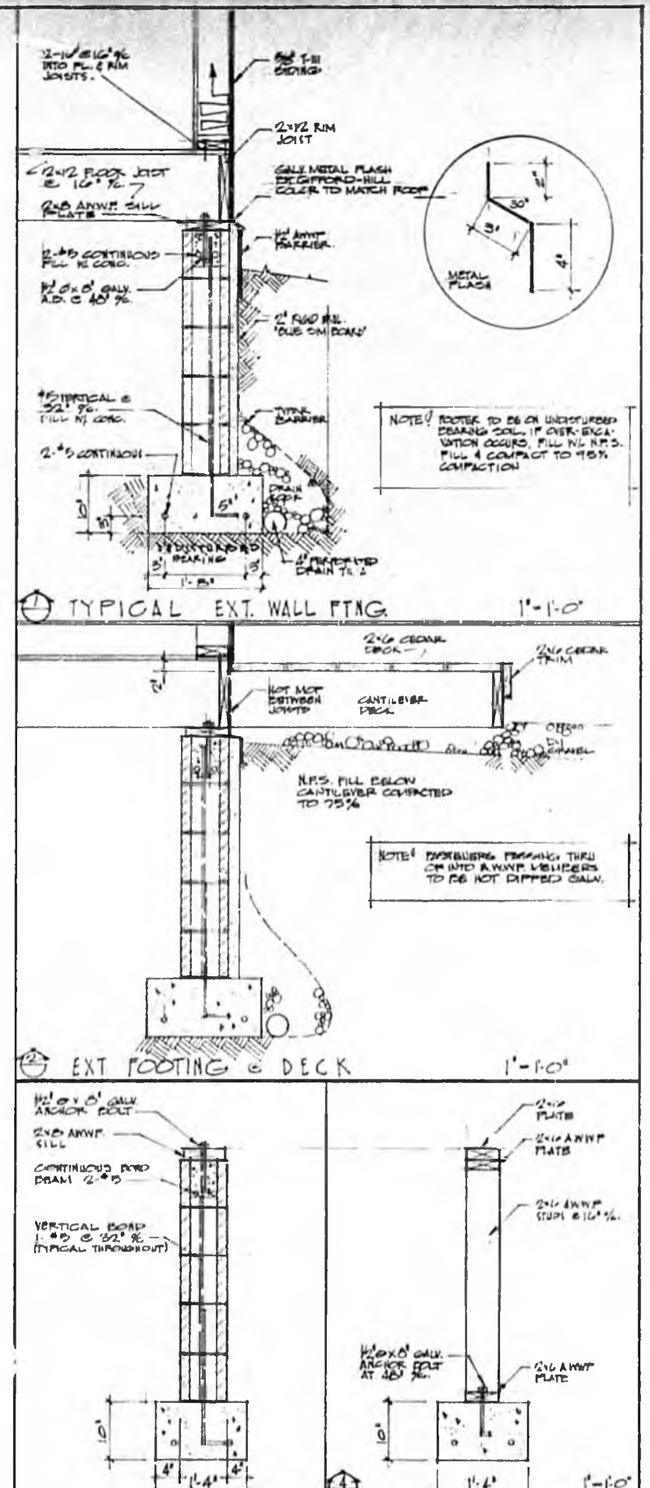
NORTH ELEVATION 1/4"-1'-0"



HOMER MENTAL HEALTH CLINIC		
DRAWN BY: DAVID GARCIA BOX 1481 HOMER, AK	DATE 6/17/00	SHEET A3



FOUNDATION & FLOOR FRAMING PLAN 1/4"=1'-0"



1 TYPICAL EXT. WALL FTNG. 1"=1'-0"

2 EXT FOOTING @ DECK 1"=1'-0"

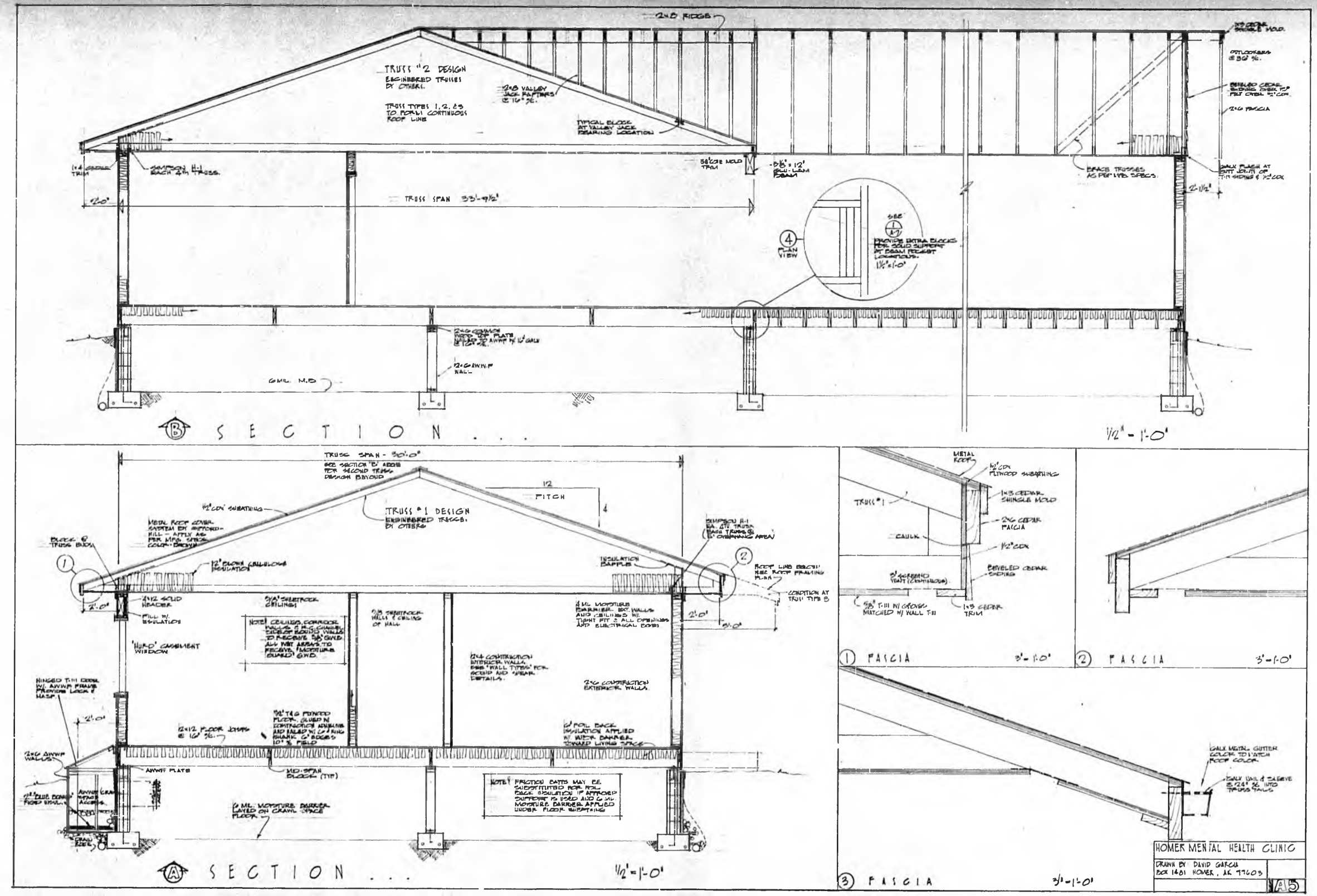
3 INTERIOR FOOTING 1"=1'-0" 4 1"=1'-0"

HOMER MENTAL WEALTH CLINIC

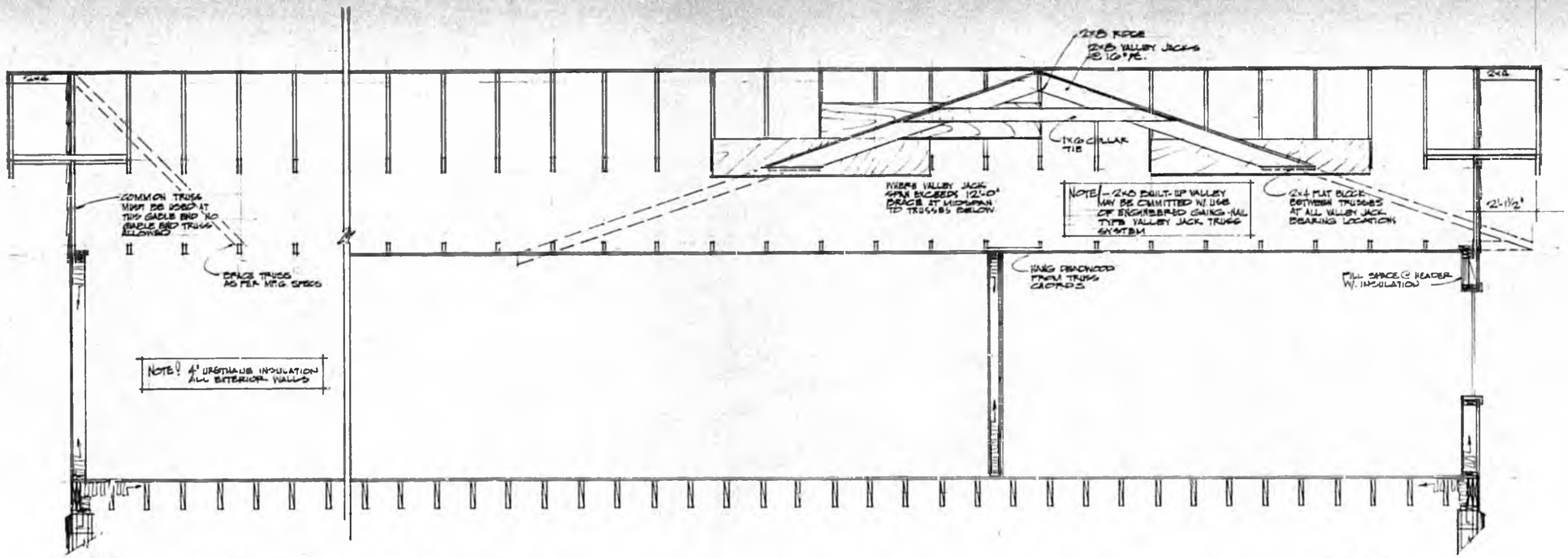
DRAWN BY DAVID GARCIA
BOX 1481 HOMER, AK

DATE: MAR. 28 '89

A4

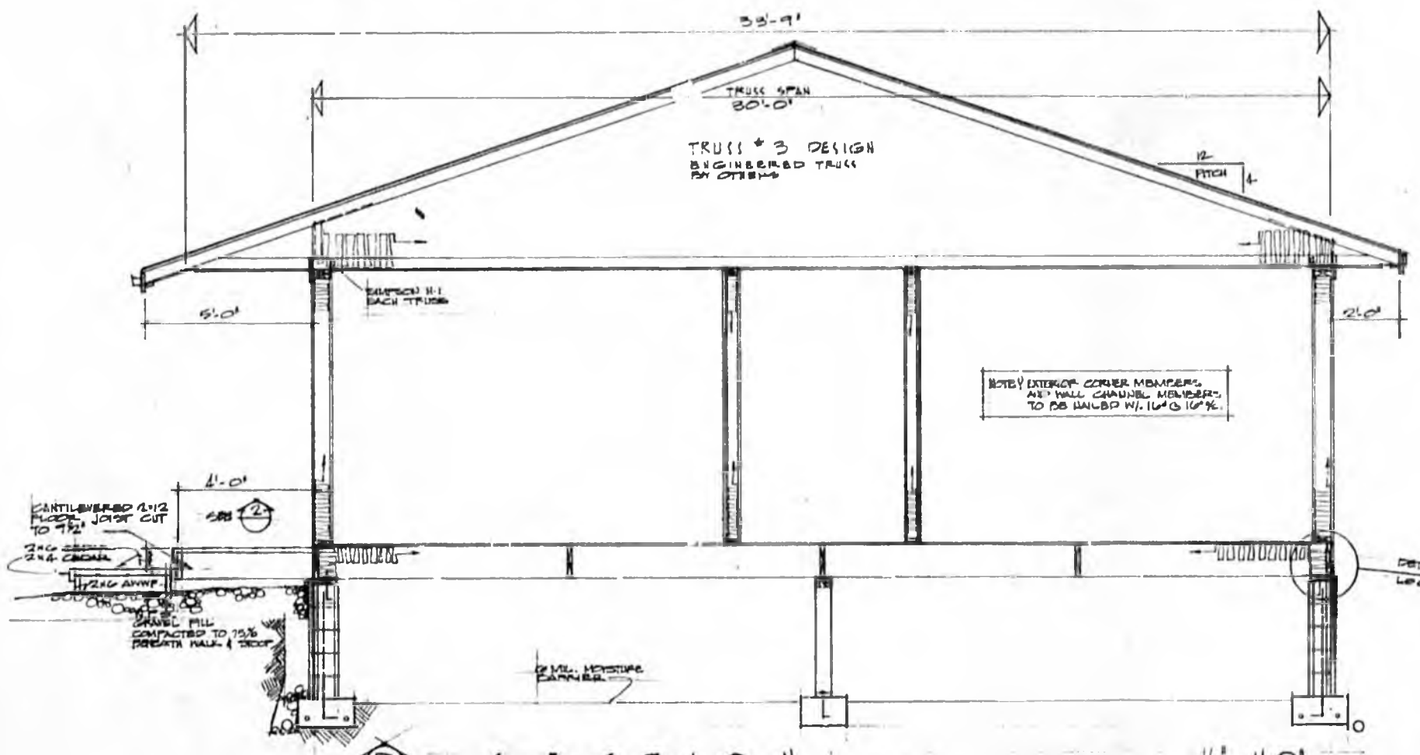


2x8 RIDGE
TRUSS #2 DESIGN
ENGINEERED TRUSSES BY OTHERS.
TRUSS TYPES 1, 2, & 3 TO FORM CONTINUOUS ROOF LINE
2x8 VALLEY JACK RAFTERS @ 16" o/c.
TYPICAL BLOCK AT VALLEY JACK BEARING LOCATION
1x4 CEDAR TRIM
SIMPSON H-1 EACH 4th TRUSS.
TRUSS SPAN 33'-9½"
2'-0"
BRACE TRUSSES AS PER MFG. SPECS.
2x6 FASCIA
2'-1½"
PLAN VIEW
PROVIDE EXTRA BLOCKS FOR SOLID SUPPORT AT BEAM POCKET LOCATIONS.
1½"=1'-0"
2x6 AWWF WALL
6 MIL. M.B.
B SECTION . . .
½" = 1'-0"
TRUSS SPAN - 30'-0"
SEE SECTION 'B' ABOVE FOR SECOND TRUSS DESIGN BEYOND
12
PITCH
4
½" CDX SHEATHING
TRUSS #1 DESIGN
ENGINEERED TRUSSES BY OTHERS
METAL ROOF COVER SYSTEM BY GIFFORD-HILL - APPLY AS PER MFG. SPECS. COLOR-BROWN
BLOCK @ TRUSS ENDS
12" BLOWN CELLULOSE INSULATION
INSULATION BAFFLE
ROOF LINE BELOW SEE ROOF FRAMING PLAN
CONDITION AT TRUSS TYPE B
4x12 SOLID HEADER
FILL W/ INSULATION
'HURD' CASEMENT WINDOW
5/8" SHEETROCK CEILINGS
5/8 SHEETROCK WALLS & CEILING OF HALL
4 MIL MOISTURE BARRIER EXT. WALLS AND CEILINGS W/ TIGHT FIT & ALL OPENINGS AND ELECTRICAL BOXES
2x4 CONSTRUCTION INTERIOR WALLS. SEE 'WALL TYPES' FOR SOUND AND SHEAR DETAILS.
2x6 CONSTRUCTION EXTERIOR WALLS.
2'-0"
3'-0"
2x12 FLOOR JOISTS @ 16" o/c.
6" FOIL BACK INSULATION APPLIED W/ VAPOR BARRIER TOWARD LIVING SPACE
2x6 AWWF WALLS
AWWF PLATE
MID-SPAN BLOCK (TYP)
6 MIL. MOISTURE BARRIER LAYED ON CRAWL SPACE FLOOR
NOTE: FRICTION BATTS MAY BE SUBSTITUTED FOR FOIL BACK INSULATION IF APPROVED SUPPORT IS USED AND 6 MIL. MOISTURE BARRIER APPLIED UNDER FLOOR SHEATHING
A SECTION . . .
½" = 1'-0"
METAL ROOF
½" CDX PLYWOOD SHEATHING
1x3 CEDAR SHINGLE MOLD
TRUSS #1
2x6 CEDAR FASCIA
CAULK
½" CDX
BEVELED CEDAR SIDING
1x3 CEDAR TRIM
1 FASCIA
3" = 1'-0"
2 FASCIA
3" = 1'-0"
GALV. METAL GUTTER COLOR TO MATCH ROOF COLOR
GALV. NAIL & SLEEVE @ 24" o/c INTO TRUSS TAILS
3 FASCIA
3" = 1'-0"
HOMER MENTAL HEALTH CLINIC
DRAWN BY DAVID GARCIA
BOX 1481 HOMER, AK 99603
A5



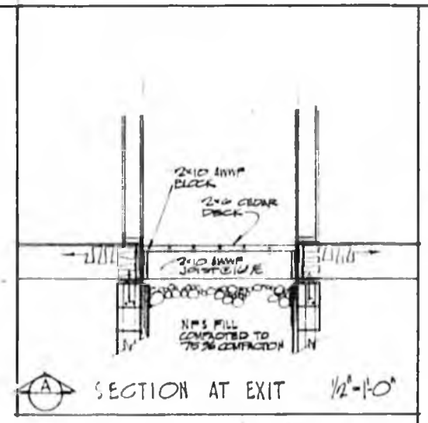
SECTION . . .

1/2"-1'-0"

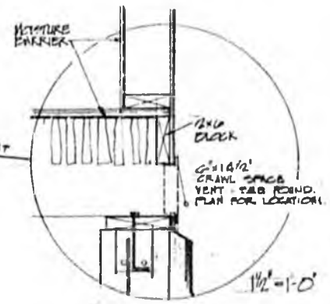


SECTION . . .

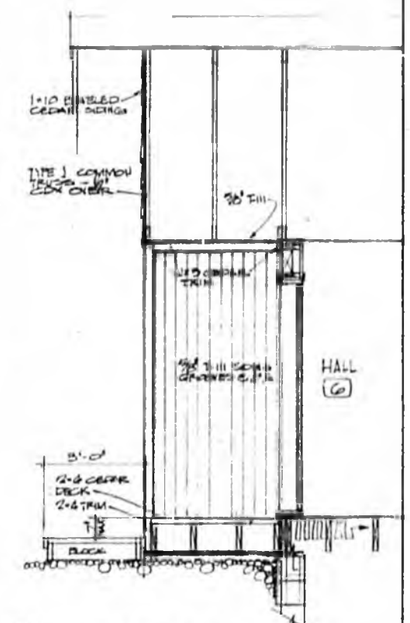
1/2"=1'-0"



SECTION AT EXIT 1/2"-1'-0"



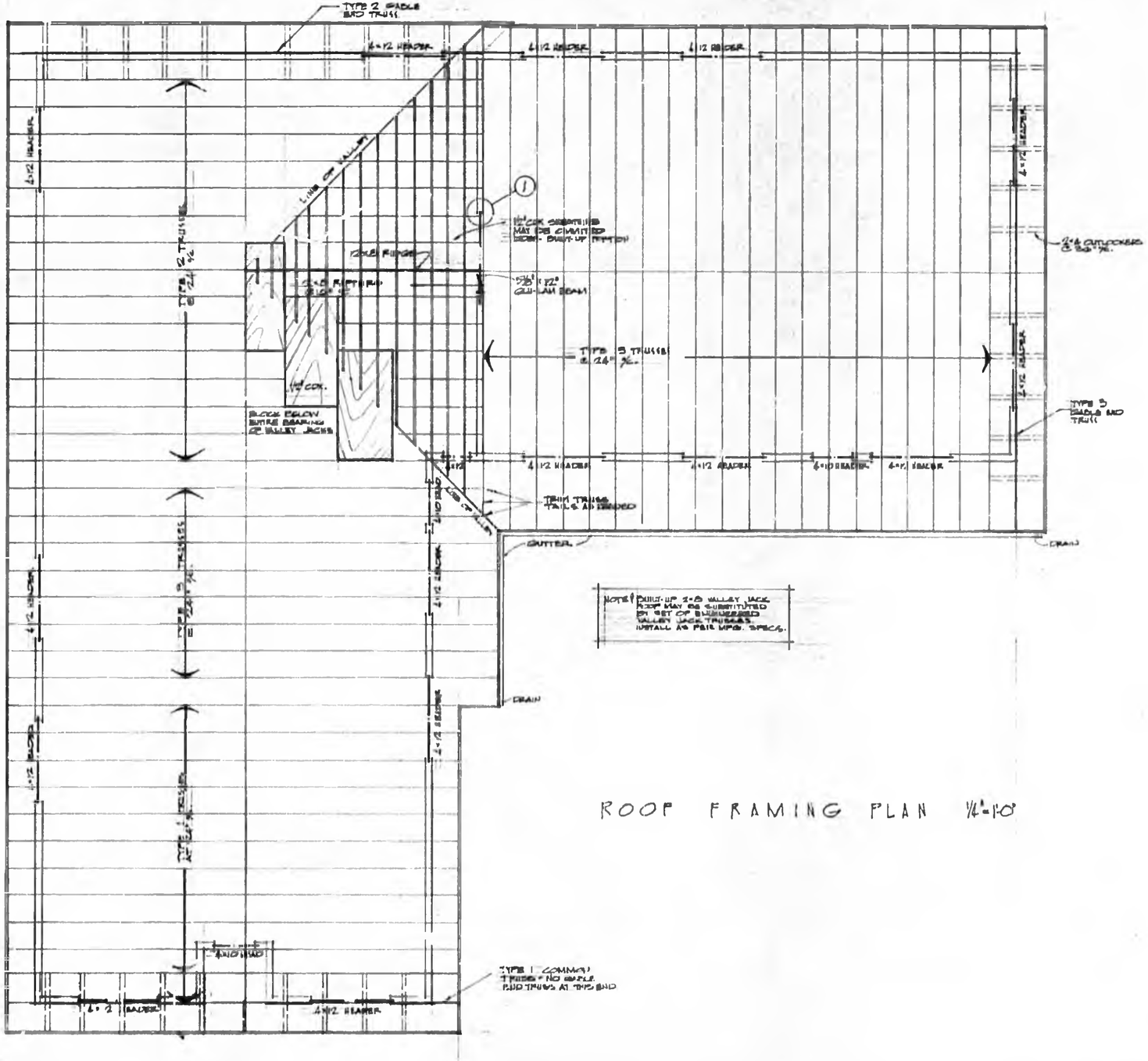
1½"-1'-0"



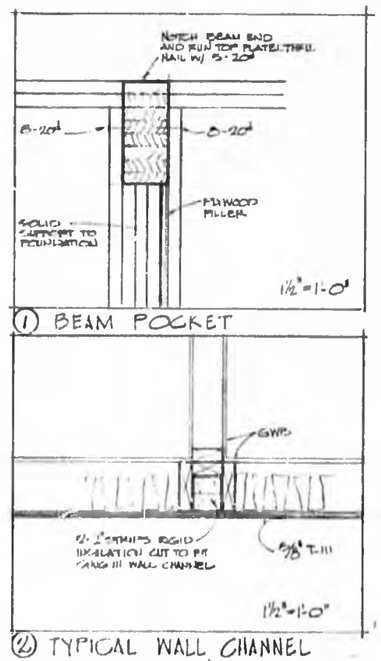
SECTION AT EXIT 1/2"-1'-0"

HOMER MENTAL HEALTH CENTER

DRAWN BY: DAVID GARCIA BOX 1481, HOMER, AK.	DATE 6/23/83
	A6



ROOF FRAMING PLAN 1/4"=1'0"



① BEAM POCKET

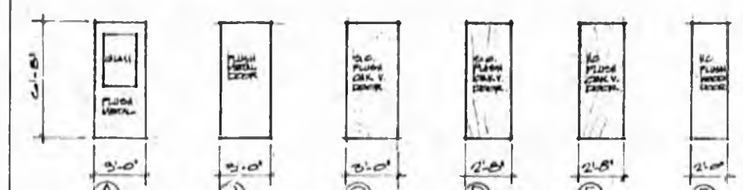
② TYPICAL WALL CHANNEL (EXTERIOR)

HOMER MENTAL HEALTH CLINIC

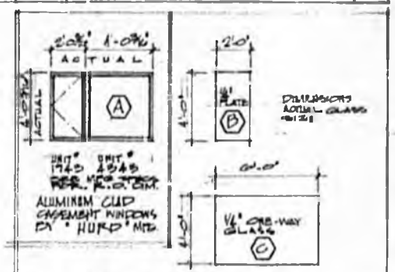
DRAWN BY: DAVID GARCIA BOX 1481 HOMER, AK	DATE: 6/30/89
	A7

DOOR & HARDWARE SCHEDULE

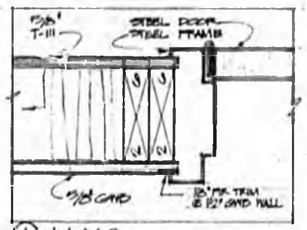
NO.	DOORS WIDE	DOORS HIGH	DOORS THICK	DOORS MAT'L	DOORS FINISH	FRAMES TYPE	FRAMES MAT'L	FRAMES FINISH	HINGES DETAILS	HINGES QT. EA.	HINGES SIZE	HINGES NO. PAIRS	LOCKS LATCHES	CLOSERS	PANIC BOLTS	GUARDS	KICK PLATES	REMARKS	NO.
1	3'-0"	6'-8"	1¾"	STEEL & GLASS	PAINT	A	STEEL	PAINT	1.B	1½	4½"x4½"	1½							1
2	3'-0"	6'-8"	1¾"	STEEL	PAINT	B	STEEL	PAINT	1.B	1½	4½"x4½"	1½							2
3	3'-0"	6'-8"	1¾"	STEEL	PAINT	B	STEEL	PAINT	1.B	1½	4½"x4½"	1½							3
4	3'-0"	6'-8"	1¾"	OAK V.	SF/DOOR	C	WOOD	PAINT	3	1½	4½"x4½"	1½							4
5	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							5
6	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							6
7	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							7
8	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							8
9	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							9
10	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	3	1½	4½"x4½"	1½							10
11	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	3	1½	4½"x4½"	1½							11
12	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	3	1½	4½"x4½"	1½							12
13	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							13
14	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							14
15	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	4	1½	4½"x4½"	1½							15
16	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							16
17	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							17
18	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							18
19	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							19
20	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2	1½	4½"x4½"	1½							20
21	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	D	WOOD	PAINT	2 PAIR	1½	4½"x4½"	1½							21
22	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	B	WOOD	PAINT	3	1½	5½"x5½"	1½							22
23	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	B	WOOD	PAINT	3	1½	5½"x5½"	1½							23
24	2'-0"	6'-8"	1¾"	WOOD	PAINT	F	WOOD	PAINT	3	1½	5½"x5½"	1½							24
25	2'-8"	6'-8"	1¾"	OAK V.	SF/DOOR	B	WOOD	PAINT	3	1½	4½"x4½"	1½							25



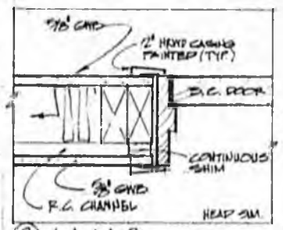
DOOR TYPES



WINDOW & GLASS SCHEDULE



1 JAMB



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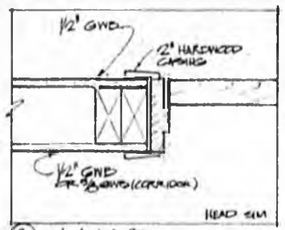

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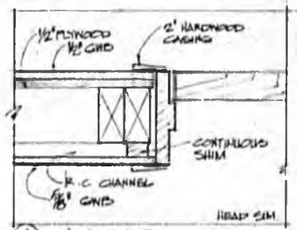
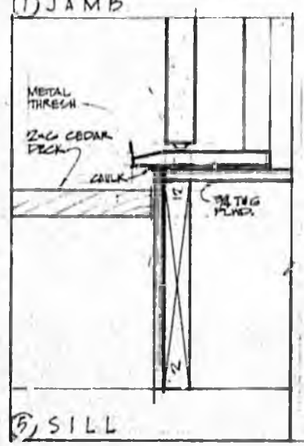
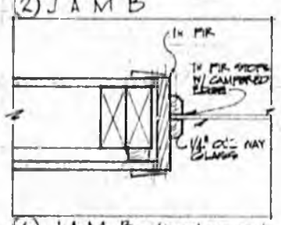


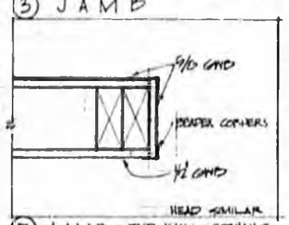
4 JAMB



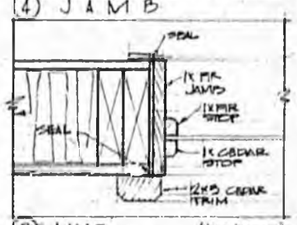
5 SILL



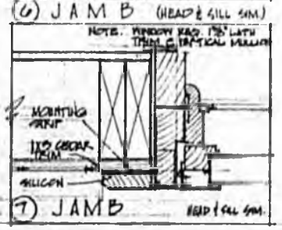
6 JAMB (HEAD & SILL SIM.)



7 JAMB · TYP. WALL OPENING

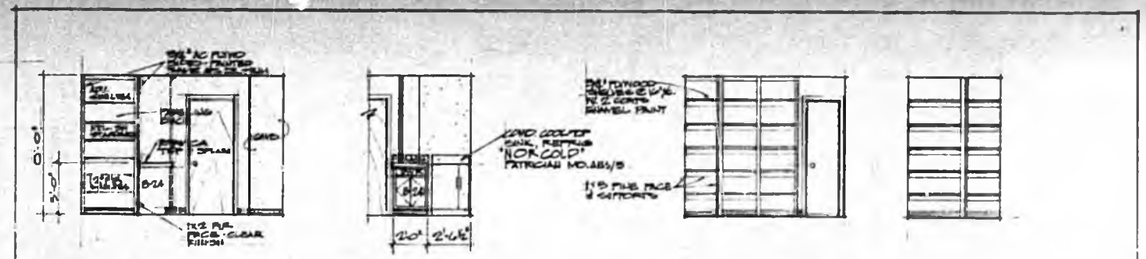


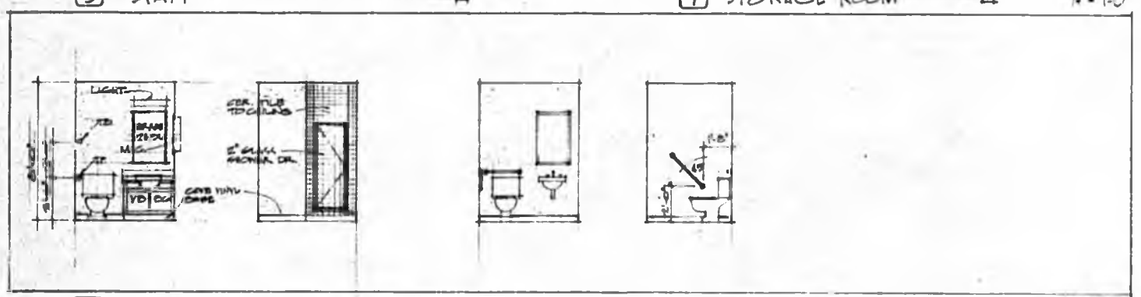
8 JAMB (HEAD & SILL SIM.)



7 JAMB HEAD & SILL SIM.

3" = 1'-0"





ROOM FINISH SCHEDULE

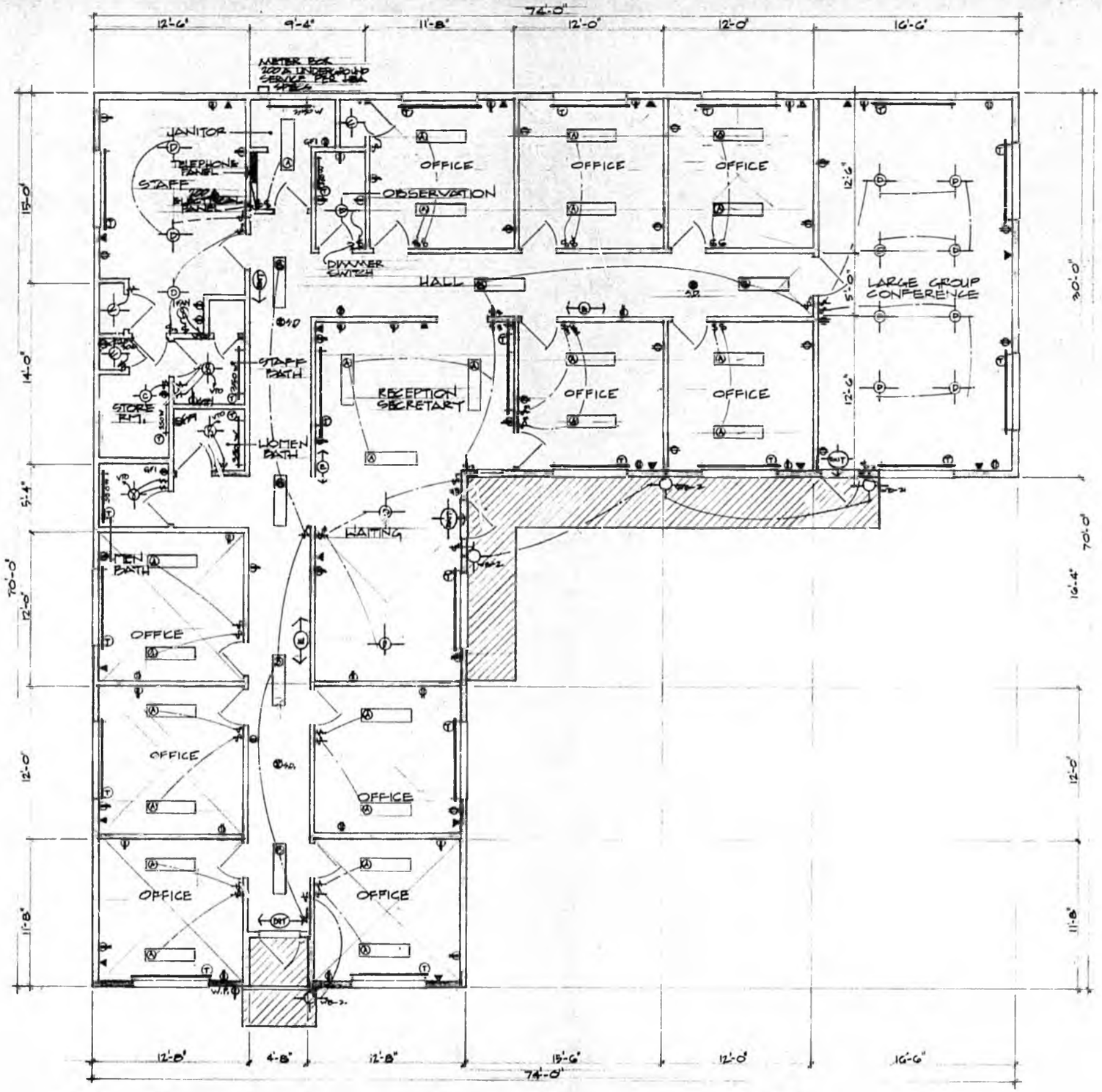
NO	NAME	FLOOR	BASE	NORTH WALL MAT'L	NORTH WALL FINISH	SOUTH WALL MAT'L	SOUTH WALL FINISH	EAST WALL MAT'L	EAST WALL FINISH	WEST WALL MAT'L	WEST WALL FINISH	CEILING MAT'L	CEILING FINISH	CEILING HT.	REMARKS
1	RECEPTION & SECRETARY	CARPET	RUBBER	GWB	P-1	GWB	P-1	GWB	P-1			GWB	P-1	8'-0"	
2	WAITING	CARPET	RUBBER	GWB	P-1	GWB	P-1			PANEL		GWB	P-1	8'-0"	
3	STAFF	CARPET	RUBBER	GWB	P-1	GWB	P-1	PANEL		GWB	P-1	GWB	P-1	8'-0"	
4	LARGE GROUP CONFERENCE	CARPET	RUBBER	GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
5	HALL	CARPET	RUBBER	GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
6	HALL	CARPET	RUBBER	GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
7	STORE ROOM	VINYL	RUBBER	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	8'-0"	
8	STAFF BATH	VINYL	CORE VINYL	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	8'-0"	MOISTURE GUARD GWB ALL WALLS
9	MEN'S	VINYL	CORE VINYL	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	8'-0"	MOISTURE GUARD GWB ALL WALLS
10	WOMENS	VINYL	CORE VINYL	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	8'-0"	MOISTURE GUARD GWB ALL WALLS
11	JANITOR	VINYL	CORE VINYL	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	GWB	P-2	8'-0"	
12	OBSERVATION	CARPET	RUBBER	GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
13	OFFICE	CARPET	RUBBER	GWB	P-1	GWB	P-1	PANEL		GWB	P-1	GWB	P-1	8'-0"	
14	OFFICE	CARPET	RUBBER	GWB	P-1	GWB	P-1	GWB	P-1	PANEL		GWB	P-1	8'-0"	
15	OFFICE	CARPET	RUBBER	PANEL		GWB	P-1	GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
16	OFFICE	CARPET	RUBBER	GWB	P-1	PANEL		GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
17	OFFICE	CARPET	RUBBER	GWB	P-1	GWB	P-1	GWB	P-1	PANEL		GWB	P-1	8'-0"	
18	OFFICE	CARPET	RUBBER	GWB	P-1	PANEL		GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
19	OFFICE	CARPET	RUBBER	GWB	P-1	PANEL		GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
20	OFFICE	CARPET	RUBBER	GWB	P-1	PANEL		GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
21	OFFICE	CARPET	RUBBER	GWB	P-1	PANEL		GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	
22	OFFICE	CARPET	RUBBER	GWB	P-1	PANEL		GWB	P-1	GWB	P-1	GWB	P-1	8'-0"	

HOMER MENTAL HEALTH CLINIC

DRAWN BY: DAVID GARCIA
BOX 1481 HOMER AK

DATE 6/29/83

A8



ELECTRICAL PLAN

1/4" = 1'-0"

3420 SQ. FT.

ELECTRICAL LEGEND

- DUPLEX CONVENIENCE OUTLET
- GFI GROUND FAULT CIRCUT INTERRUPTER
- WP WEATHER PROOF OUTLET
- 220V 220V OUTLET
- VENTED FAN (VENTED TO OUTSIDE AIR) W/ LIGHT
- SD 110 V SMOKE DETECTOR
- TELEPHONE OUTLET
- 200 A ELECTRICAL PANEL
- 200 A UNDERGROUND SERVICE AS PER LIBA SPECIFICATIONS
- TELEPHONE PANEL
- S SINGLE POLE SWITCH
- 3 THREE WAY SWITCH
- OFFICE FLUORESCENT FIXTURE
- CORRIDOR FLUORESCENT
- C FIXTURE
- P RECESSED CEILING
- E EMERGENCY LIGHTING
- EXIT EXIT LIGHT
- BASEBOARD HEATER (THERMOSTAT TYPICAL)
- WB-2 PRESCOLITE MODEL WASH TYPE 100W THRU PHOTOCELL

NOTES:
1. FURNISH & INSTALL SIX (6) BRYANT 5226 PORCELAIN LAMPHOLDERS EQUALLY SPACED THROUGHOUT CRAWL SPACE. PLACE SWITCH NEAR ACCESS WAY.

LIGHTING FIXTURE SCHEDULE

KEY	LAMPS NO	LAMPS TYPE	DESCRIPTION	FINISH	MTG HT	MANUF. NO.
A	2	F96CW WM	SURFACE WRAP-AROUND FLUOR.	STD.	SURF	LITHONIA LB-240A
B	2	F96CW WM	SURFACE WRAP-AROUND FLUOR.	STD.	SURF	LITHONIA CB-240A
C	1	100W	KEYLESS PORCELAIN LAMPHOLDER	STD.	6" BS	BRYANT 5226
D	1	100W	RECESSED CEILING W/FRESNEL LENS	STD.	R.C.	PRESCOLITE 101SHF-7
E	2	6VOLT	BATTERY POWERED EMERGENCY LIGHT	STD.	SURF	DUALITE ICL
EXIT	2	ST6	EMERGENCY EXIT LIGHT	ALUM	CEILING MTD	DUALITE EXF-SRWW
WB-2	1	100W	BRONZED ALUM THRU PHOTOCELL	ALUM	WALL 6'-0"	PRESCOLITE WB-2

HOMER MENTAL HEALTH CENTER

DRAWN BY: KK

DATE: 9-9-85

D.M. GIER & COMPANY
HOMER, ALASKA
(907) 235-7784

E1

DESIGN • ENGINEERING • CONSTRUCTION

D. M. GIER & COMPANY
P. O. BOX 3670
HOMER, ALASKA 99603
(907) 235-7284

October 24, 1983

Ms. Jeanne Calkins, President
Board of Directors
Homer Mental Health Center
P.O. Box 2274
Homer, Alaska 99603

Subject: Homer Mental Health Center - New Building Construction

Dear Ms. Calkins and Board Members:

Our estimate of the additional cost involved for a deep foundation (i.e. piles under the footers) would be approximately $25,000.00.

We submit this information to you so that provisions can be made in the budget for this type of foundation. A deep foundation may be required for this site to keep the settlement within tolerable limits.

Please call us if you have any further questions.

Thank you.

Sincerely,

Dennis M. Gier, P.E.
D.M. Gier & Company

DMG/jd

D. M. GIER & COMPANY
P. O. BOX 3670
HOMER, ALASKA 99603
(907) 235-7284

October 17, 1983

Ms. Jeanne Calkins, President
Board of Directors
Homer Mental Health Center
P.O. Box 2274
Homer, Alaska 99603

Dear Ms. Calkins and Board Members:

Enclosed is the Revised Soils Reconnaissance Report for the new Homer Mental Health Center.

This revision is a result of further discussion with Soils Engineers from Woodward-Clyde concerning the soft silt and peat layers found on the proposed building site. We want to emphasize that the foundation design for this site may require the use of deep foundations (i.e. piles under the footers) to keep settlement within tolerable limits.

We submit this additional information to you so that provisions can be made in the foundation design to accommodate the on-site soil conditions.

Please call us if you have any further questions. Thank you.

Sincerely,

Dennis M. Gier, P.E.
D.M. Gier & Company

DMG/jd

Encl:as

701 Sesame Street
Anchorage, Alaska 99503
907-561-1020

Woodward-Clyde Consultants

October 12, 1983

D. M. Gier Company
P. O. Box 3670
Homer, AK 99603

SUBJECT: Revised soils reconnaissance report for the proposed Homer Mental Health Clinic located on Lot 12 & 13, Lakeside Subdivision, Homer Recording District.

Dear Mr. Gier:

In accordance with your request, we have performed a limited soils reconnaissance on the subject property. In general we have found the site may be suitable for the proposed development provided the recommendations presented herein are incorporated into the project.

General Site Description

The site consists of two undeveloped residential lots bounded on the northerly and westerly sides by gravel surfaced roads. Vegetation consists of medium density spruce to 15-inch diameter. Undergrowth consists of tall grasses, some devils club and some alders. To the east of the properties is a small semi-defined drainage system. A utility corridor exists on the southerly boundary, where free standing water was noted during the site visit.

It is our understanding the proposed development will consist of a one story wood frame structure founded on concrete footing and block stem wall. Parking is to be provided on a gravel surfaced pad.

General Soils Conditions

Four backhoe trenches were excavated on the site on September 14, 1983 to a maximum depth of 11½ ft. Approximate locations of the trenches are shown on Figure 1. Soils encountered consisted primarily of soft clayey silts, fine sands and peat. A distinct layer of un-decomposed trees and branches was encountered in trenches 2, 3 and 4 at depths ranging from 3½ to 6 ft. Logs of the trenches are shown on Figures 2 - 5.

Water flowed into all four trenches during excavation. Flow rates were low enough to allow continued excavation and inspection of the trench walls. The highest observed flowing water is indicated for each trench on the logs. Water levels may vary considerably, depending on several factors including rainfall. Water levels on site can be expected to rise to near or on the current ground surface.

Two in-place density tests were performed on the site in representative soils near the foundation bearing level. In addition, two samples were obtained for moisture contents. Results of all the tests performed are presented in Table 1 The soils were saturated and loose.

Recommendations

Three conditions warrant special attention during the development of the site 1) high water, 2) the buried un-decomposed organic layer, and 3) the lower soft silt and peat layers. Each condition will be discussed and alternatives presented.

High water table conditions on the building site can lead to foundation troubles. Problems include water seepage into the crawl space and hydrostatic pressure on the footing stem wall. Design of

waterproofing and a perimeter drain for the foundation to eliminate water seepage should be incorporated into the plans. The stem walls for the foundation should also be designed to resist hydrostatic pressure. Because of the high water conditions footings should also be designed for buoyant conditions.

The buried un-decomposed organic layer could cause excessive settlements if footings are founded just above the layer. It appears that the organic layer extends over most of the site, but not at uniform depth. The footings should extend below the upper organic layers and the footings should be designed to accommodate the differential settlement that may result from the compression of the lower organics and soft silt layers. It may be necessary to use deep foundations, i.e. piles to keep settlements within tolerable limits.

Due to the limited nature of the reconnaissance predictions of water conditions and settlement cannot be estimated. Residential development on neighboring property was observed and noted that no special considerations were taken beyond waterproofing and the possibility that a drain system was going to be installed. This observation does not mean those residences 1) have identical soils conditions especially with the un-decomposed organic layer or 2) that they will provide trouble free conditions over the life of the structure. Free standing water was observed at about 1 foot below the ground surface.

Also due to the limited nature of our study no considerations were given to a seismic response of the site. In general wood frame structures behave well, however, loose saturated sands, of which pockets were observed may experience extreme loss of strength and large settlements. If seismic design is desired, additional site work and laboratory testing will be required. We will be glad to assist you in putting together an additional program to meet your needs, if desired or required.

If large settlements are a concern, additional work should include consolidation testing of selected samples and analyses to determine an appropriate foundation system to limit settlements.

We understand your current budget limitations and hope you understand the limitations that has placed on us. If there are any questions regarding this report, please do not hesitate to contact us at your convenience.

Sincerely,

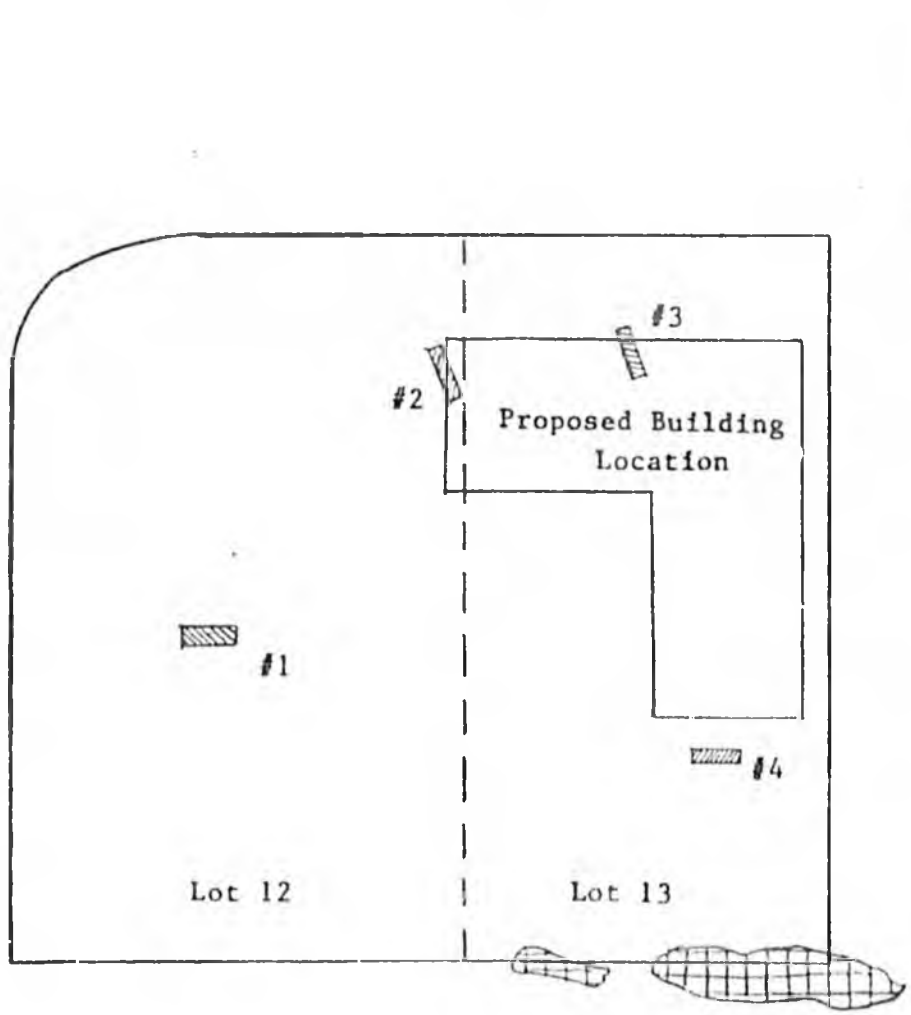


Keith Mobley
Sr. Staff Engineer

Table 1

Density Test	Dry Density	Moisture Content (%)
Hole 1 at 6 ft.	75 pcf	44
Hole 2 at 4 ft.	65 pcf	65

Moisture Contents (%)	
Hole 2 at 9½ ft.	145
Hole 3 at 9 ft.	43



Approximate Area of Free Standing Water

Approx. Location of Trenches

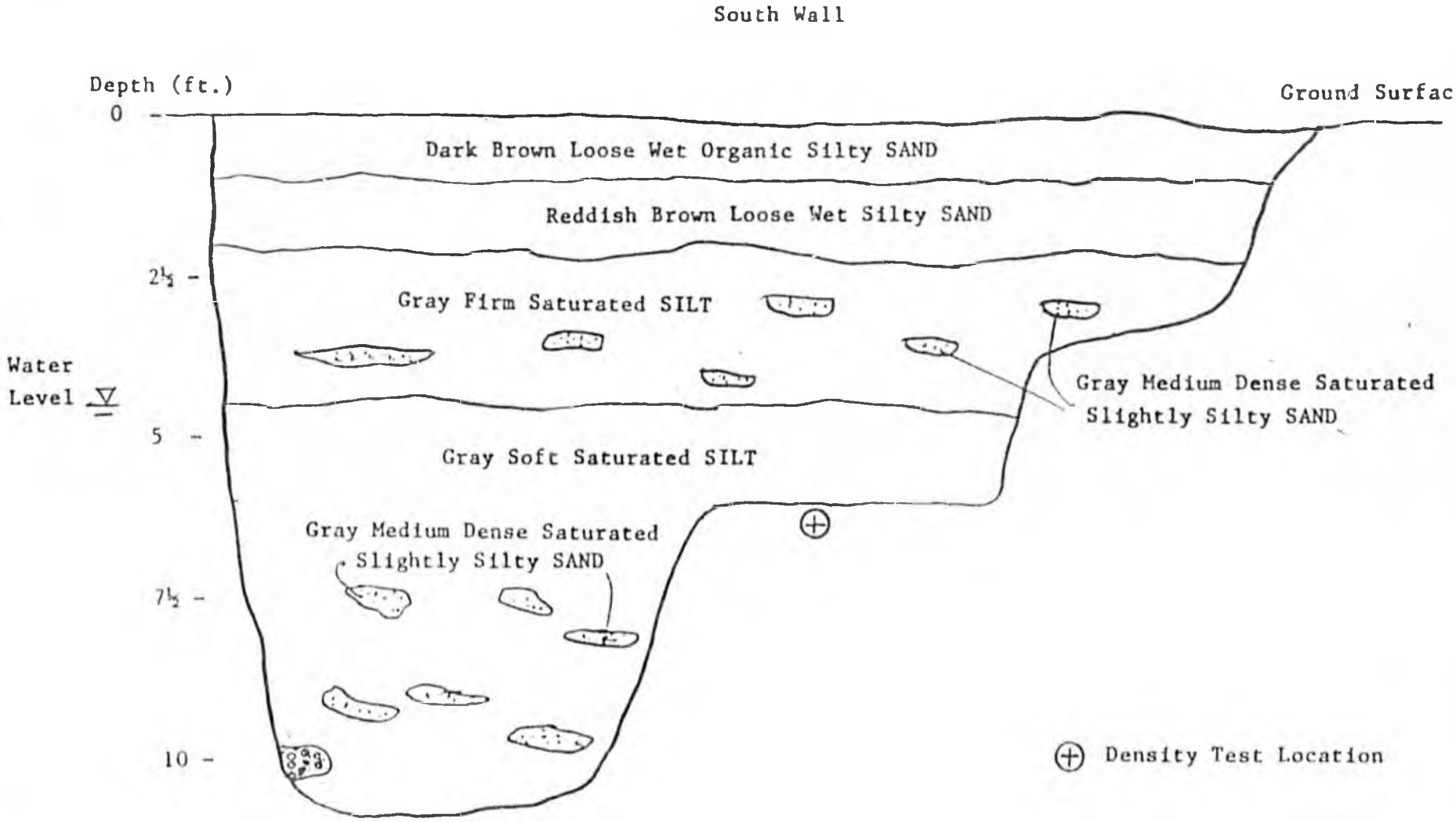
Approx. Scale 1"=40'

Homer Mental Health Clinic

Site Plan

Woodward-Clyde Consultants

Figure 1

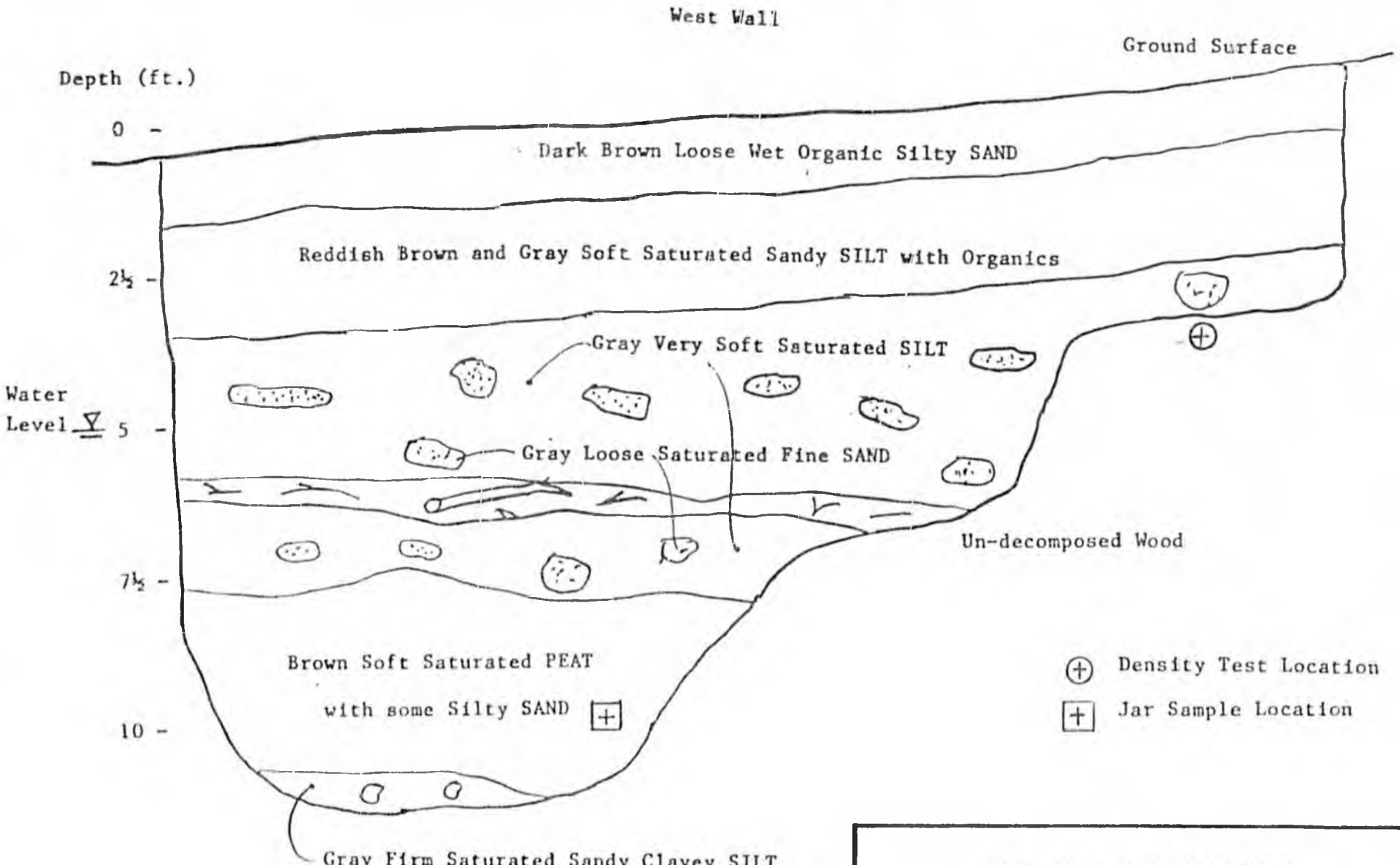


Homer Mental Health Clinic

Test Hole 1

Woodward-Clyde Consultants

Figure 2

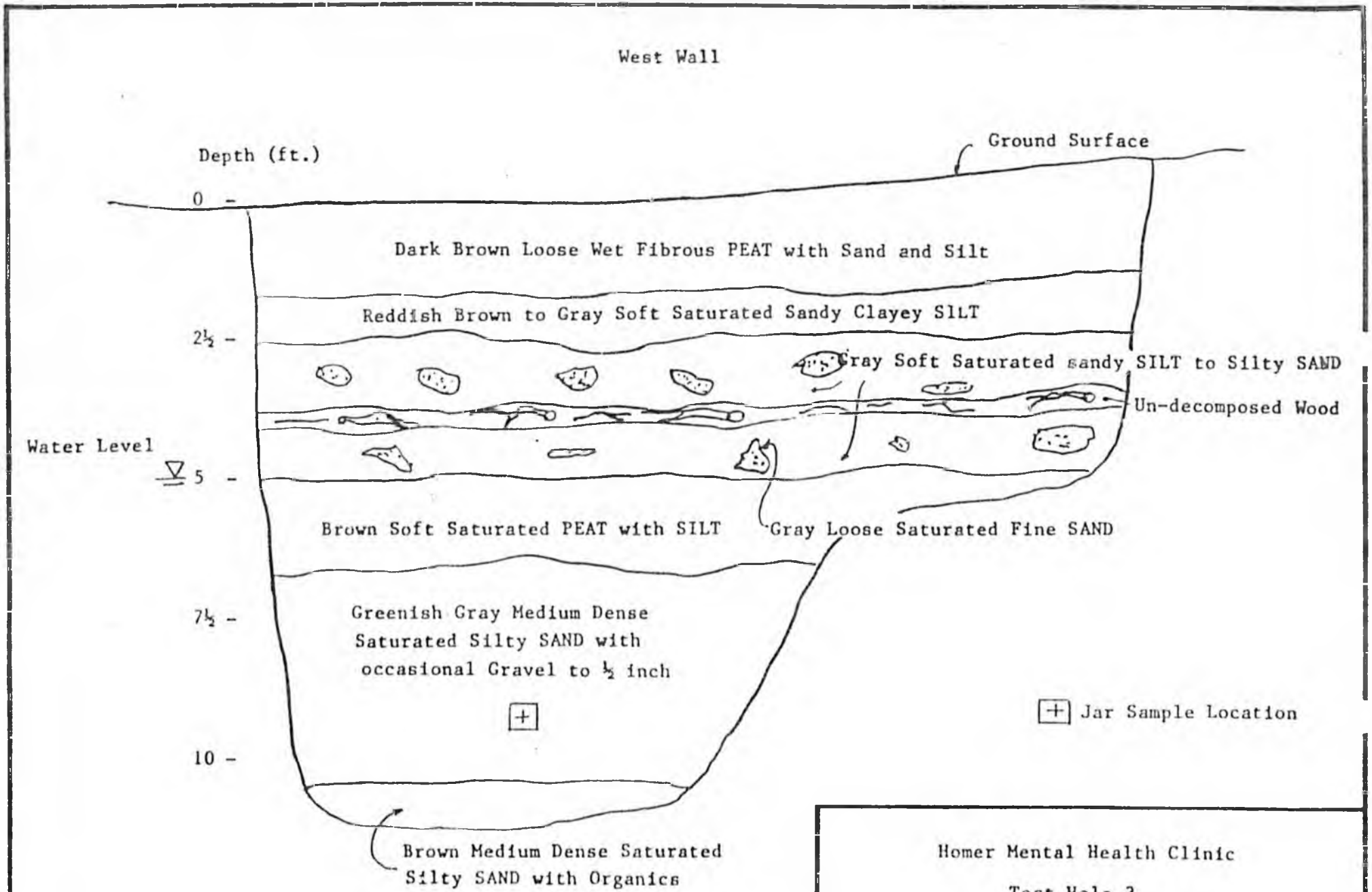


Homer Mental Health Clinic

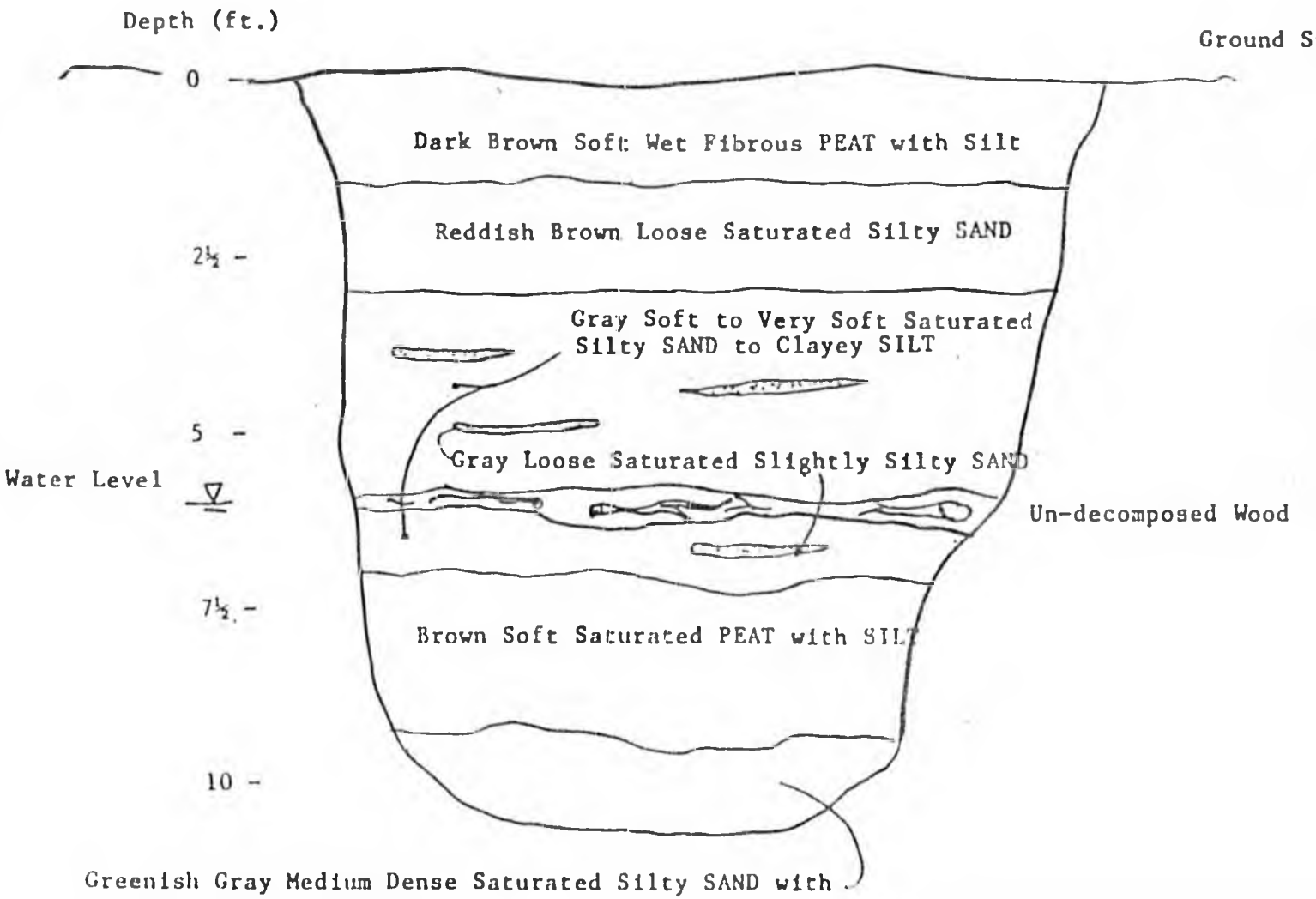
Test Hole 2

Woodward-Clyde Consultants

Figure 3


West Wall
Depth (ft.)
Ground Surface
0 -
Dark Brown Loose Wet Fibrous PEAT with Sand and Silt
Reddish Brown to Gray Soft Saturated Sandy Clayey SILT
2½ -
Gray Soft Saturated Sandy SILT to Silty SAND
Un-decomposed Wood
Water Level
5 -
Brown Soft Saturated PEAT with SILT
Gray Loose Saturated Fine SAND
7½ -
Greenish Gray Medium Dense
Saturated Silty SAND with
occasional Gravel to ½ inch
Jar Sample Location
10 -
Brown Medium Dense Saturated
Silty SAND with Organics
Homer Mental Health Clinic
Test Hole 3
Woodward-Clyde Consultants
Figure 4

North Wall



Homer Mental Health Clinic
Test Hole 4

Woodward-Clyde Consultants

Figure 5

HOMER MENTAL HEALTH CLINIC

SPECIFICATIONS

by: David Garcia

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I. EXCAVATION

A. GENERAL

1. The contractor is to familiarize himself with the existing site conditions and information from the soils survey.
2. The owner will provide soil inspection service during earthwork operation.

B. TYPES OF FILL

1. Well-graded, non-frost susceptible material consisting of sand, gravel, or broken stone containing less than four percent of grains less than 0.02 mm. Materials shall not exceed four inches on any dimensions - except in the top six inches under footings, no size greater than one and one-half inch. All materials to be free of frozen lumps, rubbish, and organic matter.

2. Material noted as D-1 to meet the gradation and fraction specifications for Alaska Highways D-1 base course.

C. EXCAVATION.

1. Finish floor elevation to be determined in the field upon examination of existing site conditions and drainage considerations. Provide drainage for footers and run drain tile to daylight.

2. All footings shall bear on compacted backfill or in-place material at minimum depths called for on drawings.

3. Keep foundation bearing areas dry and free from frost. In the event bearing surfaces are softened by water of frost, re-excavate to approved bearing material and backfill to correct elevation with compacted backfill as specified.

4. Where excavations are carried below required depths, backfill to designated elevations with compacted backfill as specified at no charge to the contract sum.

5. Shore banks of excavations sufficiently to prevent caving. Remove all shoring before backfilling. All excavation shall be done in a manner which will create a minimum hazard and in accordance with applicable safety rules.

D. DEWATERING

1. Prevent surface and subsurface water from flowing into excavations. Do not allow water to accumulate in excavations. Remove water using methods which will prevent softening of foundation bottoms.

2. Provide and maintain pumps, sumps, discharge lines, and other components to carry water away from the excavations.

E. COLD WEATHER PROTECTION

1. Protect excavation and fill material against freezing. Do not place frozen fill material.

F. BACKFILL

1. Backfilling may be done with existing material if available and in accordance with plans.
2. Place backfill in accordance with soils report.
3. Place backfill so as not to damage structure, drain tile or utilities.
4. Provide foundation drainage system as shown on drawings.

G. COMPACTION

1. Compact all backfill with an approved vibratory compactor, and as recommended in soils report.

H. GRADING

1. Uniformly grade, form to smooth transition lines.
2. Grade areas adjacent to building lines to drain away from structure.
3. Protect newly graded areas from traffic and erosion. Keep free of trash and debris.

II. FOUNDATION

A. GENERAL

1. The contractor must examine the substrata and the conditions under which the concrete reinforcement is to be placed. Do not proceed with work until unsatisfactory conditions have been corrected.
2. Comply with requirements of the Uniform Building Code and Concrete Reinforcing Steel Institute's "Manual of Standard Practice."
3. Store concrete reinforcement materials at the site to prevent damage and accumulation of dirt or excessive rust.
4. All reinforcing for concrete to be in any one day must be placed, tied, inspected and approved by owner before any concrete is cast. Notify at least 24 hours prior to concrete placement.
5. Cast no concrete when temperature is below 40 degrees F. or can be expected to fall below 40 degrees F. in the next 24 hours, unless approved special provisions have been made for maintaining heat around pour.

B. FOOTINGS

1. Place two #5 rebar as shown on drawings.

C. CEMENT

1. 3,000 psi compressive strength.
2. Five and one-half sacks cement per cubic yard, minimum.
3. Six gallons of water per sack, maximum.
4. Three inch slump, maximum.
5. Three-quarter inch maximum aggregate.

D. Place anchor bolts as indicated on drawings and as required to secure each end of plate at corners. Place vertical bond steel.

E. Use mechanical vibrating equipment for consolidating concrete.

F. CONCRETE MASONRY UNITS
1. Use 8"x8"x16" concrete block.
2. Cement - Standard brand of Portland cement.
3. Sand - Clean, sharp, fresh water.
4. Water - clean, potable.
5. Lime - "Slick" or "Miracle" brand, or equal.
6. Reinforcement, as shown on drawings.
7. Place anchor bolts as shown on drawings and as required by codes, and to catch both ends of plate at corners and within 12 inches of each end of plates at end joints.

G. MORTER MIXING
1. Measure each batch accurately and mix with machine:
One cubic foot of Portland cement,
One-quarter to one-half cubic foot of lime,
Two and one-half cubic feet of sand.

H. LAYING UNITS
1. Lay all units with full bed of morter, common running bond. Shove into place. All horizontal joints to be level on each course. Bond all right angle connections. Internal angles bonded.

I. Foundation wall to be smooth and free of morter on exterior surfaces to accept moisture seal treatment.

J. Seal block with Conklin "Wall-up" as recommended by manufacturer.

K. Protect masonry work and moisture barrier treatment from freezing during curing period.

III. ROUGH CARPENTRY

A. QUALITY CONTROL
1. Grading rules: Standard grading and dressing rules of the West Coast Lumberman's Associations latest edition. Each piece of yard and structural lumber shall bear official grade mark of appropriate bureau or association.
2. Protect lumber and plywood from damage by weather.
3. Do not allow splash from eaves to stain unfinished siding.
4. Workmanship: Plumb, level, and true to lines, close-fits with nailing as shown or minimum as specified in sections 2517 and 2518 of 1979 Uniform Building Code.

B. MATERIALS

1. Framing lumber: Douglas Fir, Coast region or Hem-Fir, Standard grade or better.
2. Plywood: Plywood sheathing shall be APA Exterior Grade "D-D" Douglas Fir Plywood of thickness and type indicated on the drawings.
3. Plates: Plates and studs anchored to masonry with one-half inch galvanized anchor bolts 48 inches on-center maximum or four power driven stud fasteners at three inch on-center maximum. Single plate at floor, double at ceiling. Plates adjoining masonry bust be AWWF.
4. Joists and rafters: set crown side up. Double headers and trimmers.
5. Bridging: Solid blocking on 1"x4" cross bridging (or pre-fab metal) no more than eight feet on center.
6. Fasteners: Bolts, washers, lags, nails or other fasteners shall be hot-dip galvanized when exposed to weather or moisture. All fasteners into concrete or masonry to be galvanized. Use only galvanized nails on exterior siding. All fasteners used in preserving treated wood to be stainless steel.

C. INSTALLATION

1. Execute rough carpentry using best industry practices. All lines to be straight and true.
2. Install framing at spacing shown on drawings or as required. Block or back for plumbing fixtures and other equipment secured at walls and ceilings. Double studs at all openings, triple at corners. Provide solid backing for all door stops.
3. Headers shall bear on at least one cripple stud for space up to six feet, not less than two cripple studs for space greater than six feet. Place one full height stud adjacent to each end of header next to cripple studs.
4. Joists and beams to be laid crown up.
5. Do not notch or drill in the middle one-third of span on joists or bearing studs.
6. Tolerances:
   Top of bearing plates - ± one-quarter inch in ten feet.
   Wall divisions and openings: ± one-quarter inch.
   Wall bowing or warping: ± one-quarter inch in ten feet.
   Stud alignment: 1/8th inch from two adjacent studs.

IV. WOOD TRUSSES

A. All trusses shall be Gang Nail wood trusses, factory built using stress graded lumber bearing the proper grade mark stamp of a recognized grading association. Connectors shall be galvanized Gang Nail connectors, and shall be stamped "Gang Nails." The trusses shall be inspected by the contractor during installation to see that all connector plates are pressed fully into the wood. Trusses to be designed by manufacturer to support minimum fifteen pounds dead load plus thirty pounds live load per square foot.

B. INSTALLATION

1. Truss shall be handled and stored in a manner which they are not subject to damage. Sufficient bearing points and/or bracing shall be provided to prevent excessive lateral bending or tipping over.
2. Framing anchors shall be provided by the contractor in accordance with the plans.
3. The truss system shall be braced during erection to prevent toppling or dominoing of trusses, and permanently braced to form complete structural truss system.
4. During the entire construction period, all contractors shall adequately distribute loads so that the carrying capacity of any one truss or member is not exceeded.
5. All erections and permanent bracing shall be installed and all components permanently fastened before the application of any loads.

V. FINISH CARPENTRY

A. MATERIALS

1. Doors: Pre-hung, tan oak, solid or hollow core as indicated on drawings. Oak veneer jambs.
2. Door casing: Solid oak.
3. Window trim: Oak veneer.
4. Paneling: one-quarter inch real wood - Champion "Woodland Ash."
5. Storage shelving: three-quarter inch AC plywood, 1"x3" pine face and supports.
6. Book shelves: Solid oak frame, 1"x12: fir shelves, three-quarter inch oak veneer sides.
7. Exterior trim: Cedar.

B. INSTALLATION

1. All work to be true, plumb, level unless otherwise shown. Scribe fits, hairline joints, scarfed and mitered running joints, neat and accurate.
2. Nailing: finish nails for mill work; blind nail work if possible; set surfaces nails; paneling nails to match.
3. Glue joints with permanent synthetic glue. Moldings mitered at corners, coped at angles.
4. Exposed surfaces to be sanded to smooth, even surfaces, ready to finish. All nails set one-sixteenth inch deep. Ease all edges one-sixteenth inch radius. Fill all nail holes.
5. Set exterior trim in waterproof caulking as necessary for waterproof installation. Use silicon caulk.

VI. DOORS AND WINDOWS

A. EXTERIOR METAL DOORS

1. To be equal to Pease Ever Straight door system. Size and type as scheduled on drawings. Provide complete door system, including frame, threshold, and all hardware. Weatherstripping to be magnetic type. Provide exit sign. Front entrance: Pease crossbuck with glass. Other entrances: Pease E-1.

B. INTERIOR DOORS

1. See door schedule. See painting and wood finish schedule.
2. All interior hollow core and solid core doors shall be Tan Oak with oak veneer jambs and solid oak casing. All doors adjacent to hallway and reception area shall have smoke seal and twenty minimum U.L. label.

C. DOOR INSTALLATION

1. Install all doors and hardware as specified, provide level and free swinging operation. Doors to fit tightly without binding or excessive play.

D. WINDOWS

1. All windows to be "Hurd" aluminum clad wood windows with "Heat Mirror" film. Casement type and as shown on drawings. Provide fiberglass screens.
2. Exterior fixed glass to be seven-eighths inch double pane, three-sixteenths inch glass.
3. Interior fixed glass to be one-way type one-quarter inch plate.

E. WINDOW INSTALLATION

1. Install in rough openings, shim for alignment and tight fit, level and straight. Use standard factory nailing flanges where required. Caulk all around for weather tight installation. Stuff spaces with fiberglass insulation before application of vapor seal and sheetrock. Set exterior trim in bed of silicon caulk to insure weathertight installation.

VIII. HARDWARE

A. MATERIALS

1. Lawrence, Stanley, or McKinney butts.
   Sizes: 1-3/4" exterior for 5"x4-1/2".
   1-3/4" interior doors 4-1/2"x4-1/2".
   To obtain maximum degree on openings, butts shall be as required to clear projecting trim or structural conditions.
2. Quantity: One and one-half pair butts each exterior door, each solid core interior door, and each hollow core door.
3. Locksets: Sargent six line. Bronze finish. Provide keyed locks at each exterior door and janitorial. Passage locks elsewhere. Provide dead bolt at rear and front doors.

4. Door Closures: Provide door closers as indicated on door schedule. Closure to be Sargent 1250 Series. Verify for type of installation. Furnish cold weather fluid.
5. Mop and kick plates to be Sargent eight inches high stainless steel. All plates shall be furnished with width as required to provide one-quarter inch of clearance at sides of door on stops or weatherstripping.
6. Door stops: provide door stops at all doors. Sargent, Johnson, Quality, Builders Brass, or Ives. Where wall stops are not applicable, furnish floor stops. Install proper backing at all stop locations.
7. Keying: System by owner. All locks to be master keyed. Furnish two keys per lock or cylinder, and four construction master keys. Return all master keys.

B. INSTALLATION

1. Provide solid blocking for all stops.
2. Fasteners: Check all conditions and use fastening devices as needed to securely anchor all hardware as per manufacturers published templates. Self tapping sheet metal screws are not acceptable. All closures on wood doors shall be through-bolted.
3. Mounting heights: Mount units at height recommended in "Recommended Locations for Builders' Hardware" by NBHA, except as otherwise indicated.
4. Install each hardware item in compliance with the manufacturers instructions. Wherever cutting and fitting are required to install hardware surfaces which will be painted or finished a a later time, install each item completely and then remove and store in a secure place. After completion of the finish, reinstall each item. Do not install surface mounted items until finishes have been completed on the substrate.
5. Adjust and check each operating item of hardware and each door to insure proper operation or function of every unit. Replace units which cannot be adjusted to operate freely and smoothly or which are warped or damaged.
6. Coordinate all boring, backset, tapping information with door suppliers or others applicable.
7. Wherever hardware installation is made more than one month prior to acceptance or occupancy, make a final check and adjustment of all hardware items during the week prior to acceptance or occupancy. Clean and lubricate operating items as necessary to restore proper function and finish of hardware and doors. Adjust door control devices to compensate for final operation of heating and ventilating equipment.
8. All hardware to be installed by experienced tradesmen using top quality techniques. All finish hardware shall be guaranteed against defects in workmanship and materials and operation for a period of one year, backed by a factory guarantee of the hardware manufacturer, except the door closures shall be so guaranteed for five years. No liability shall be assumed by the hardware supplier where faulty operation is due to improper installation or failure to exercise normal maintenance.

VIII. GYPSUM WALLBOARD

A. MATERIALS

1. Wallboard: See details and floor plan for thickness. Apply behind panelling locations. In all wet areas such as toilets, custodial, and kitchen, use moisture resistant type board throughout. All exposed gypsum wallboard to have paper face suitable for painting.
2. Trim: Provide metal beads and trim as required for finish corners and edges as shown on drawings and as follows: finish edges and edges abutting other materials, USG #200A; at outside corners, USG "Dur-A-Bead."
3. Joint system: "Pref-A-Tape" System by U.S. Gypsum Company, or equal.

B. INSTALLATION

1. When outdoor temperature requires, heat shall be maintained in the building continuously and uniformly at not less than 55 degrees F. from one week prior to installation until wallboard application and joint treatment is completed. Installation shall not be started until windows are glazed and exterior doors installed, unless openings are temporarily closed. Provide ventilation, either natural or forced to remove excess moisture during joint treatment.
2. Review work prior to sheetrocking to insure that all framing, blocking, insulating, plumbing, electrical, and plumbing & electrical protective plates have been finished and installed properly.
3. Comply with manufacturers requirements for fire resistance ratings.
4. Use wallboard of maximum practical lengths horizontally or vertically. Bring boards into contact, but do not force into place. Where ends or edges abutt, fit neatly. Ends of all wallboard shall meet over nailing members. Joints on opposite sides of wall shall meet on different studs. Attach wallboard with one inch Hi-Lo screws, USG Type S and/or one and one-quarter inch USG brand screw type W, or one and three-eighths inch annular ring nails, spaced not more than 12 inches on center for framing 24 inch on center, and 16 inches on center for framing spaced 16 inches on center.
5. Space fasteners at least three-eighths inches from edges and ends of wallboard. Fasteners on all framing members shall be spaced and driven as recommended for specified fastening method. While driving fasteners, hold wallboard in firm contact with underlying support. Attachment shall proceed from central portion of wallboard towards ends and edges.
6. Install corner beads on all exterior corners, attach with suitable fasteners at nine inches on center, on both sides. Use single lengths.
7. Install metal trim over wallboard, at all locations where board terminates with exposed edge or a abutts other materials. Attach with suitable fasteners nine inches on center, in single lengths.
8. Fasten all metal using drywall screws, or nails as recommended by manufacturer.

9. Upon review, installed drywall should look clean, neat, with close cuts around boxes and windows, etc., small gaps at corners. All broken edges etc. should be peeled back and ready for repair by taper. In general, it should have a professionally applied appearance.
10. Scrap out building and clean for taping contractor.

C. JOINT TREATMENT

1. Mix joint treatment compounds according to manufacturer's directions.
2. Apply thin, uniform layer of taping compound to all joints and angles to be reinforced. Apply reinforcing tape immediately, centered over joint, seated into compound. Follow with skim coat immediately, but not as a fill or second coat. Fold tape properly and embed in all angles.
3. After taping compound has hardened, apply taping compound, filling board taper flush with surface. Fill coat shall cover tape and feather out slightly beyond taper. On joints with no taper, fill coat shall cover tape and feather out at least four inches on either side of tape. No fill coat is necessary at interior angles.
4. After taping compound is dry, spread finishing coat of taping compound evenly over and extending slightly beyond fill coat on all joints and feathered to a smooth, uniform finish. All taped angles shall receive a finish coat to cover tape and taping compound, and provide a true angle. Sand between coats and after final application of compound to provide a smooth surface ready for decoration.
5. Apply taping compound to all fastener depressions followed, when hardened, by at least two coats of taping compound leaving all depressions level with plane of surface.
6. Apply taping compound to all bead and trim feathered out from ground to plane of surface. When hardened, follow by two coats of taping compound applied separately and allowed to dry between coats. Feather finish coat from ground to plane of surface and sand to provide a flat smooth surface ready for decoration.
7. All gypsum wallboard to be taped and finished unless concealed. Concealed gypsum board to be fire taped.
8. All gypsum board to receive light orange peel knock down type texture, except restrooms, janitorial and storage which will receive smooth surface.

IX. CERAMIC TILE

A. Provide and install ceramic tile as shown on drawings.
1. Comply with applicable requirements of American National Standard Institute (ANSI) A108.1, A108.4 and A108.5, and recommendations of the Tile Council of America, Inc. (TCA) "Handbook for Ceramic Tile Installation." Comply with the manufacturer's instructions for the installation of each material.
2. Two inch square ceramic mosaic porcelain tile at shower.
3. Build up shower floor with mortar bed to provide slope, include shrinkage mesh, allow for final setting bed.
4. Provide for soap dish.
5. Ceramic tile shower walls, ceiling, floor, returns, etc. as shown on drawings. Use trim pieces as necessary for finished installation."

X. FLOOR COVERING

A. RESILIENT FLOORING AND CARPET

1. Vinyl: Mannington Aristocon - color by owner.
2. Carpet: Columbia Innovation and Classic Stripe - 100 percent Oliphin.
3. Pad: Five-eighths inch FHA pad.
4. Adhesives: As per manufacturer's recommendations.
5. Rubber base: Use premolded corners and end stop units; smooth finish; four inch high, set on cove type; light brown color.

B. INSTALLATION

1. Provide reducing strips at exposed edges of resilient flooring and at change from resilient to other floor finish. Anchor strips solidly as per manufacturer's recommendations.
2. Extend resilient flooring into closets and offsets and under movable equipment scheduled to receive resilient flooring. Extend unexposed edges of flooring under set-on bases and similar trim work.
3. Thoroughly clean all floor covering not more than four days before acceptance or occupancy by the owner.
4. Protect floor coverings from damage and from normal wear and tear throughout construction period so that it will be without indications of use or damage at the time of acceptance by the owner.
5. Carpet and resilient flooring to be installed by a professional installer. Invisible, sealed, tight, hairline seams. Carpet to be stretched with power stretcher where applicable.

XI PAINTING AND FINISHING

A. GENERAL

1. It is the intent of this section to provide finish for all materials factory pinned or unfinished unless specifically stated as not requiring finish. Omission of specific surfaces from "Room finish" schedule is not to be interpreted to mean that finish is not required.
2. Contractor is responsible for finished appearance and satisfactory completion of this work. Do not commence any painting until surface to be painted is in proper condition in every respect. If for any reason surface cannot be properly prepared by customary cleaning, sanding, or puttying operations, report condition to the owner. Proceeding with the work constitutes acceptance of the surface by the subcontractor.
3. Do not paint when the air is dust laden nor when weather and temperature conditions are unsuitable. Maintain temperatures within the building at a minimum of 60 degrees F. during the painting and drying periods. Do not paint exterior surfaces in damp or rainy weather, nor when the temperature is below 50 degrees F. Comply with the manufacturer's recommendations when they are more stringent with respect to application temperatures.

B. PROTECTION

1. Place paint or solvent soaked rags, waste, or other materials which might constitute a fire hazard in metal containers and remove from premises at the close of each day's work. Take every precaution to avoid damage by fire.
2. Provide suitable coverings to protect work, the work or others, and adjacent surfaces and objects.
3. Remove or protect items such as hardware, hardware accessories, lighting fixtures and similar items placed prior to painting. Reposition or remove protection upon completion of each space. Disconnect equipment adjacent to walls by workmen skilled in these trades to permit painting of wall surfaces, replace and reconnect after completion of painting.

C. MATERIALS AND APPLICATION - EXTERIOR

1. Exterior body: Olympic Transparent Stain #718 to be roller or brush applied. Stain may be spray applied if followed with wet roller or brush to work stain into wood surface. Application by airless sprayer alone will not be allowed. Apply two coats.
2. Exterior trim and cedar: Behi "Liquid Rawhide". Apply with brush. One coat tinted, two coats clear.
3. Metal doors: Two coats Fuller O'Brien Enamel - color by owner (Coco Brown).
4. Wood deck: oil preservative.

D. MATERIALS AND APPLICATION - INTERIOR

1. Gypsum wallboard surfaces: one coat acrylic latex sealer, two coats Fuller O'Brien semigloss enamel. Apply sealer after taping, before texture is applied. Let dry, apply texture, let dry, finish with paint: (P-2) one coat acrylic latex sealer, two coats Fuller O'Brien gloss enamel.
2. Transparent stain on wood surfaces:
   Oak and other hardwoods - sand smooth and stain with "Daly's" penetrating stain. Brush on and wet sand with #400 wet or dry paper. Let soak at least five minutes, or as required for desired effect. Let dry, then apply two coats Daly's Den-Matt clear Danish oil. Apply each coat in liberal amounts, let soak and wipe off excess.

   Fir and other softwoods - sand smooth, then apply "Daly's" clear Penelac Sealer. Let dry. Apply stain as above (no sanding). Wipe after stain has soaked for color. Apply tow coats oil as above.

   Storage shelving - one coat primer, two coats Fuller O'Brien high gloss enamel.

XII TOILET AND BATH ACCESSORIES

A. DESCRIPTION - ACCESSORIES

1. Cabinets and mirrors:
   Men's and women's - one-quarter inch plate mirror, 24 inch x 36 inch.

   Staff bath - one-quarter inch plate mirror, 24 inch x 36 inch. Medicine cabinet - 14 inch x 24 inch recesses with mirror; model #P1510-OA-P, as manufactured by Perma Bilt.
2. Towel bar: all towel bars to meet standards of grab bar. Conform to DBC, Section 1711b. One and one-quarter inch outside diameter pipe, stainless steel type 304, #4 satin finish. Location shown on drawings. Supply solid backing.
3. Toilet paper holders: all baths, recess mounted double roll holder as manufactured by Bobrick.
4. Towel dispensers: all baths, as manufactured by Bobrick.
5. Grab bar: see floor plan and interior elevations. Two each, men's and women's, #352-24inch straight grab bars as manufactured by Bobrick.
6. Shower door: 24 inch wide aluminum =/obscure glass shower door.

B. GENERAL

1. Assumes that all required backing and/or concealed anchors are in place, that all surfaces to receive accessories are suitable for quality installation.
2. Install all accessories in exact compliance with manufacturer's printed directions, where shown on drawings and securely fastened to solid backing.

XIII CABINETS

A. KITCHEN cabinets and bath cabinets by Pacific Cabinet Corporation. Solid oak doors and rails, raised panel doors. No pulls. Nutmeg color.

B. LAMINATED plastic countertops. Preformed with factory end caps and splash as required. Formica or Wilson Art, color by owner.

C. INSTALLATION

1. Verify that interface surfaces are plumb, straight, and true; solid, rigid, and in all ways acceptable to install as a base for quality cabinet work installation. Verify field dimensions.
2. Assemble cabinets according to printed directions.
3. Secure cabinets in place, plumb, level, square and true without distortion. Level with concealed shims if required.
4. Scribe face plates, backsplash, filler strips and trim strips to adjacent walls.
5. Secure top in place.
6. Insure that doors, drawers, and other moving parts operate freely and correctly.

IXV PLUMBING

A. GENERAL

1. Install all plumbing in conformance with the Uniform Plumbing Code, Uniform Mechanical Code and all ammendments by local authority.

B. DOMESTIC HOT WATER AND COLD WATER PIPING

1. Rigid copper tubing type "L" with copper or bronze sweat fittings, and copper to IPS adapters.
2. Provide unions adjacent to each valve, where connected to equipment. Use isolation unions between dissimilar materials.
3. Use soft drawn type "K" copper with compression fittings or silver soldered joints below grade.
4. Grade all plumbing towards a low spot in the system, if possible, and provide with one-half inch hose and drain valve, with removable key.
5. Test all water piping hydrostatically at one and one-half times the pressure found at the site or 80 psi minimum, for four hours. It is the responsibility of the plumbing contractor to see that the system is tight. Any damage to the building caused by a faulty plumbing system shall be the responsibility of the plumbing contractor. Do not cover piping until test requirements are satisfied. Install metal plumbing protectors where plumbing comes within 3/4" of framing surfaces where sheetrock is to be installed.

C. SANITARY DRAIN, WASTE AND VENT PIPING

1. All underground pipe and fittings shall be cast iron "No Hub" service weight with "No Hub" fittings and joints.
2. Inside building - Pipes 2" and less shall be ABS. Over 2" shall be "No Hub" cast iron with "No Hub" fittings and joints.
3. Support all stacks at base.
4. Cleanouts - Where shown, required by code or necessary for maintenance.
5. Test in accordance to Uniform Plumbing Code. Do not cover until requirements are satisfied.
6. Horizontal Drain lines shall have a uniform slope of 1/4" per foot toward point of disposal.
7. Provide vents for all traps. Vents maybe joined 6" above flood rim of fixtures they serve, and collected for the run up to the roof. Observe vent signing per UPC when collected. Vents above heated spaces must be insulated with 1" fiberglass.
8. Extend vents 24" above roof. Increase vent two pipe sizes, 24" below roof penetration. Support vent with clamp to structural member within 6" of roof penetration.
9. Cleaning of domestic water supply: All fixtures and piping using potable water shall be flushed with clean water. Fill entire system with liquid chlorine solution so that the resulting solution in the piping, etc. is at least 50 PPM chlorine. All valves in the system shall be operated three times. Leave solution in contact with systems for 24 hours. Flush thoroughly with clean water, operating valves until no more than one PPM chlorine is obtained.

10. Install all fixtures per Manufacturer's written instructions. Observe clearances required by Code and for Maintenance.
11. All fixtures with water service shall have an 18" air cushion in line and near stop or valve.

D. FIXTURES TO BE KOHLER OR AMERICAN STANDARD
1. Toilets - Flush tank, white, Kohler-Wellworth Waterguard. Seatcover - Olsanite 30 TM. 50°F tempering valve.
2. Men's and Women's wall-hung lavatory - K-2731-B Tuanton - 16 X 14" with K8040-T faucet.
3. Staff bath - Round, countertop white lavatory - Kohler K2910. Faucet - K-8040-T.
4. Stops - Speedflex at all fixtures.
5. Drinking fountain - Kohler K5293A
6. Water heater - Electric 50 gallon.
7. Service sink - Swan-MFS 1-W - Single wall mount fiberglass laundry tub - Faucet - Bradley H6621

XV INSULATION AND MOISTURE BARRIERS

I. MATERIALS

A. Foundation walls - 2" thick blue styrofoam S.H. Board, installed outside.

B. Walls - $3\frac{1}{2}$", 2lb. urethane foam for R25 - Foam to be sprayed in place.

C. Floors - Owens Corning 9" Batts - support with wire insulation supports.

D. Ceiling to be cellulose insulation blown in 12" thick - R-38.

E. Sound insulation to be $3\frac{1}{2}$" Owens Corning Fiberglass. "Noise Barrier Batts". Install in corridors, toilet rooms, and as scheduled on drawings for sound rated walls.

F. Vapor barriers to be "Visqueen" six mill polyethlene sheet.

II. INSTALLATION

A. Install thermal insulation at locations shown on drawings and as required. Fluff insulation as necessary, leave no voids or pockets. Chink small areas full. Provide complete thermal envelope. Support as required.

B. Install vapor barriers on warm side of framing. Staple to studs, overlap joints 4" minimum. Cut neatly around penetrations, tape with duct-tape to maintain tight seal. Provide complete envelope of vapor barriers.

XVI. FLASHING AND SHEET METAL ROOF

A. THE EXTENT OF FLASHING ON OTHER METAL WORK IS SHOWN ON DRAWINGS

B. Metal Roof by Gifford Hill - Pro Pand II 29GA - brown color.
   1. Install as per Manufacturer's specifications, providing all necessary trim. Including - formed ridge and bottom and top closure strips.

C. Flashing @ sill - Special order from Gifford Hill - 2¢ quage galvanized steel, color - brown to match roof.

D. Gutters - Northwest Metal Products Co. Stylek Galvanized Gutters 26 gallon - brown color.
   1. Install as per Manufacturer's specifications.
   2. Ferrells and nails @ 2¢ O/C.
   3. Supply all connections, ferrells, nails, straps, caulk, etc. necessary to assure tight, durable, no leak gutter system with straight lines and quality appearance.
   4. Supply downspouts and splash blocks or rocks as shown drawings.

XVII. APPLIANCES

A. KICHENETTE - Norcold 30" wide "Patrician" MOAES/5 - Almond color.
   1. Install as per Manufacturer's specifications.

XVIII. BLINDS

A. LEVELOR - Inside mounted - dimensions in field. Color by owner.

Specifications: Homer Mental Health Clinic

XIX Electrical

A. GENERAL REQUIREMENTS

Applicable provisions of the Agreement and General Requirements of the specifications govern the work of this section.

B. WORK INCLUDED

Furnish and install a complete electrical system including all labor materials, equipment, lighting fixtures with lamps, switches, dimmers, receptacles, outlet boxes, motor wiring, wiring, and everything else necessary and/or required to produce a complete, safe, legal, and properly operating electrical system as herein specified.

C. MATERIALS

1. Provide a 200A, 120/240V, single-phase, 3-wire service with main breaker in accordance with utility company's requirements.
2. Load center: Shall be 200 amp MLO with snap-in circuit-breaker-type, breaker sizes as required.
3. Single pole, three-way switches; silent action type. Color to be ivory.
4. Receptacles: duplex 15A, 125V, grounded type. Provice GFI protection where required by code. To be ivory.
5. All devices and plates to be ivory Approved manufacturers: AH&H, Hubbell, P&S or equal.

D. WIRING

Branch circuit wiring shall be type NM with ground. Min. size wiring to be #12. Lighting: A maximum of 1,600 watts per 20A circuit is permitted for lighting. Receptacles: Install on separate circuit (20A) with maximum of eight devices.

E. LIGHTING FIXTURES

Install fixtures where indicated on drawings. Generally fixtures are either ceiling mounted two tube 40W fluorescent fixtures or recessed incandescent fixtures.

SEE FIXTURE SCHEDULE on working drawings for type and model No.

XX Heating

A. GENERAL REQUIREMENTS

Applicable provisions of the Agreement and General Requirements of the specifications govern the work of this section.

B. WORK INCLUDED

Furnish and install electric baseboard heating system for all spaces shown on working drawings. Each heater to be individually controlled by thermostat as shown on drawings. Equipment to be of sufficient capacity to insure 65 degree farenheit inside temperature. Provide mechanical exhaust of no more than 2 air changes per hour for toilets, showers, and kitchenette unit.

C. MATERIALS

Heating elements shall be standard 240V 1500 Watt wall mounted baseboard heaters unless smaller size is shown on working drawings. Units shall be as manufactured by Cadet Manufacturing Company, Trim Ray Models with thermostats, or equivalent.

FIRE MARSHALL REPORT

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FIRE PREVENTION

REPLY TO:

☐ POUCH N
JUNEAU, ALASKA 99811
(907) 465-4331

☒ POUCH 6313
ANCHORAGE, ALASKA 99502
(907) 272-2404/6

☐ 1979 PEGER ROAD
FAIRBANKS, ALASKA 99701
(907) 456-4002

December 6, 1983

Paul L. Craig, Ph.D.
P.O. Box 2274
Homer, Alaska 99603

Subject: Community Health Center,
Homer
Plan Review: 83A-560
Type Construction: V-N
Occupancy: B-2

Dear Doctor Craig:

Plans for the subject project have been reviewed by this office for conformity with the state fire safety regulations, however, prior to approval, the following items require clarification and/or implementation into the final documents. Following, please find our comments:

* SEE COMMENTS SHEET

A letter certifying the above listed items will be incorporated in the plans shall constitute final approval.

Approval of submitted plans is not approval of omissions or oversights by this office; nor is it approval of noncompliance with any applicable regulations of municipal government.

If we can be of any further assistance, please feel free to contact us at the above address or call 272-2404.

Sincerely,

Sylvester (Sam) Neal
State Fire Marshal

By: Jack R. McGary
Fire Protection Engineer

JR McG/lmc

cc: Homer Vol. Fire Dept.

enclosures

COMMENTS Community Mental Health Center P.R 83A-560

(1)

① Per our phone conversation on 12-1-83 dealing with the location of your building. If you move the building 15 Ft to the west, then there will be not one hour requirement for the east wall. If the building isn't moved, you will need to make the east wall one hour construction and remove all windows from that wall. Also, that one hour wall will need a one hour parapet as per Sec. 1709, Uniform Building Code, 1979.

② Every door opening into the corridor shall be protected by a tight-fitting smoke and draft control assembly having a fire-protection rating of 20 minutes. Doors shall be self-closing or shall be automatic closing. Per UBC Sec 3304 (b).

③ Per our phone conversation on 12-1-83 dealing with the corridor and conference. a exit corridor can not pass through the conference room. Recommend you change your floor plan to allow the corridor to exit directly to the outside. If you are not clear on what is required please call us to help you.

④ a draft stop for the attic area is required, per U.B.C. Sec 3205.(6).

COMMENTS 3

(5) Rooms 1 & 2, Reception & WAITING area will be required to be the ONE hour CONSTRUCTION as required for CORRIDORS. SINCE they are CONSIDERED as part of the CORRIDOR and not as INTERVENING ROOMS.

COMMUNITY MENTAL HEALTH CENTER

Box 2274
Homer, Alaska 99603-2274
(907) 235- 7701



December 15, 1983

Jack R. McGary
Fire Protection Engineer
Division of Fire Prevention
Pouch 6313
Anchorage AK 99502

Dear Mr. McGary:

Thank you for your letter of December 6, 1983 regarding plan review: 83A-560.

Relative to each of the Division's recommendations, we would like to submit the following changes which are being integrated into our architectural drawings:

1- The plot plan will be altered to move the building 15 feet to the west in order to provide a 20 foot clearance from the property line;

2- All corridor doors shall have smoke and draft control assemblies with fire protection rating of 20 minutes and shall be constructed to meet UBC Section 3304(h);

3- The conference room will be rotated 90 degrees and placed on one side of the corridor with offices occupying the other side of the corridor so that the exit at the end of the corridor will open to the outside rather that into the conference room;

4- An attic draft stop will be integrated into the plans; and,

5- Rooms 1 and 2, the reception and waiting areas will be built to meet the one hour construction requirement for corridors.

Thank you for your review of our plans. Your comments were most helpful as we plan for the safety of the building and its occupants.

Sincerely,

Paul L. Craig, Ph.D.
Psychologist, Director
PLC:mw

RESOLUTIONS

Cook Inlet Council on Alcoholism and Drug Abuse
City of Homer

CITY OF HOMER

HOMER, ALASKA

RESOLUTION 83 - 12 A

A RESOLUTION OF THE CITY OF HOMER ENDORSING THE EFFORTS OF THE SOUTH PENINSULA MENTAL HEALTH ASSOCIATION, INC., TO SECURE MATCHING FUNDS FROM THE STATE OF ALASKA FOR A BUILDING.

WHEREAS, the City of Homer recognizes the value of the various services provided through the Community Mental Health Center including the Infant Learning Program, the Parent Training Program, Vocational Counseling, and Outpatient Mental Health Services;

WHEREAS, the City of Homer is aware of the gross inadequacies in the current facility rented by the Community Mental Health Center including inadequate office size, lack of ventilation, and inadequate provisions for confidentiality;

WHEREAS, adequate office space to house the programs offered through the Community Mental Health Center is not currently available in Homer; and

WHEREAS, the City of Homer expressed support for a building program by allocating $35,000 during November 1982 to the Community Mental Health Center as seed money to initiate land acquisition and building planning;

NOW BE IT THEREFORE RESOLVED that the City of Homer endorses the efforts of the South Peninsula Mental Health Association, Inc., (a private, non-profit organization) to secure matching funds from the State of Alaska to complete the proposed building project.

DATED at Homer, Alaska, this 28th day of February, 1983.

E O Cooper
Erle Cooper, Mayor

ATTEST:

Kathleen F. Herold
Kathleen Herold, City Clerk

ADDITIONAL SUPPORTING DOCUMENTS

Box 335
Homer, Alaska 99603

CITY OF HOMER

REPLY TO:

- ☐ City Hall
  Ph. (907) 235-8121
- ☐ Port of Homer
  Ph. (907) 235-8597
- ☐ Harbor Master
  Ph. (907) 235-8959
- ☐ Public Works Dept.
  Ph. (907) 235-8120
- ☐ City Engineer
  Ph. (907) 235-6368

May 24, 1983

Jean Calkins
Box 2020
Homer, AK 99603

Dear Ms. Calkins:

Professional offices are a permitted use in the Urban Residential district, of which Lots 12 and 13, Lakeside Village are so zoned (HMC Title 21, Section 21.45.020).

Professional office is defined as "An office which is maintained and operated for the conduct of professional business, including but not limited to medicine, dentistry, law, architecture, engineering, accounting, veterinary medicine and investment", HMC Title 21, Section 21.32.020.

If we can be of any further assistance, please call 235-8121.

Sincerely,

Larry C. Farnen
City Manager

LCF/MH/sn

COMMUNITY MENTAL HEALTH CENTER

Box 2274
Homer, Alaska 99603-2274
(907) 235- 7701



February 8, 1984

Representative Mae Tischer, Chairman
Health, Education, and Social Services Committee
Pouch V
Juneau AK 99811

Dear Chairman Tischer:

It has come to my attention that House Bill 482 concerning funding for the construction of a mental health facility in Homer is currently under consideration by the House of Representatives Health, Education and Social Services Committee.

An information packet describing the proposed facility, utilization, and cost-effectiveness is enclosed for your review. As you will note, the facility is being constructed for utilization by a variety of programs managed under the Community Mental Health Center including COMMUNITY MENTAL HEALTH services, CHILD ABUSE/CHILD NEGLECT PREVENTION services, INFANT LEARNING services, and VOCATIONAL COUNSELING. The building also will be utilized by the Cook Inlet Council on Alcohol and Drug Abuse for their Homer satelite office. The local need for such a facility is well demonstrated as documented in the enclosed facility proposal. The City of Homer has already allocated $35,000.00 toward this project, recognizing the need for an adequate facility to house these essential services. This $35,000.00 grant provided the financing for the purchase of the building site as well as the architectural drawings.

As President of the Board of Directors for the South Peninsula Mental Health Association, Inc., I urge you to consider House Bill 482 as soon as possible and to refer same to the House Finance Committee. Thank you for your consideration. Please keep me posted. If you have any questions, or if I can be of any help, please call me any time at 235-7248.

Respectfully,

Jeanne K. Calkins, President
South Peninsula Mental Health Association, Inc.

JKC:mw
Encl.
cc: Representative Milo Fritz
Representative Hugh Malone
Senator Paul Fischer
Senator Don Gilman

COMMUNITY MENTAL HEALTH CENTER

Box 2274
Homer, Alaska 99603-2274
(907) 235- 7701



JAN 1984
RECEIVED

January 9, 1984

Rep. Mae Tischer, Co-Chairperson
House HESS Committee
Alaska State Legislature
Pouch V
Juneau AK 99811

Dear Representative Tischer:

I am writing this letter in my capacity as Chairperson of the Alaska Mental Health Program Director's Association, Inc. As an Association, we are concerned with the provision of community-based mental health services available to all residents of Alaska.

Several members of the Association as well as other concerned citizens in our state have approached me as Chairperson of the Alaska Mental Health Program Director's Association regarding the possibility of providing informational testimony to appropriate Committees of the Alaska Legislature regarding community mental health services. Hence, I would like to ask whether such an informational hearing could be scheduled for the House HESS Committee during the current Legislative session. The intent of the hearing would be informational with input from the Association as well as concerned citizens who may wish to testify. It is our hope that this testimony would prove useful to the Committee as it endeavors to make critical decisions regarding health and social services programs for the coming year.

The Governor's Mental Health Advisory Council will be meeting in Juneau on Sunday and Monday, March 4 & 5, 1984. Several members of the Alaska Mental Health Program Director's Association as well as concerned citizens will be attending this Council meeting. If an informational hearing could be held concurrent with the Council meeting, this would be ideal. Specifically, Monday, March 5, 1984 would be most suitable. It would be possible to consider alternative dates. Teleconference testimony could be arranged if the beginning of March proves to be an untenable time to arrange an informational hearing.

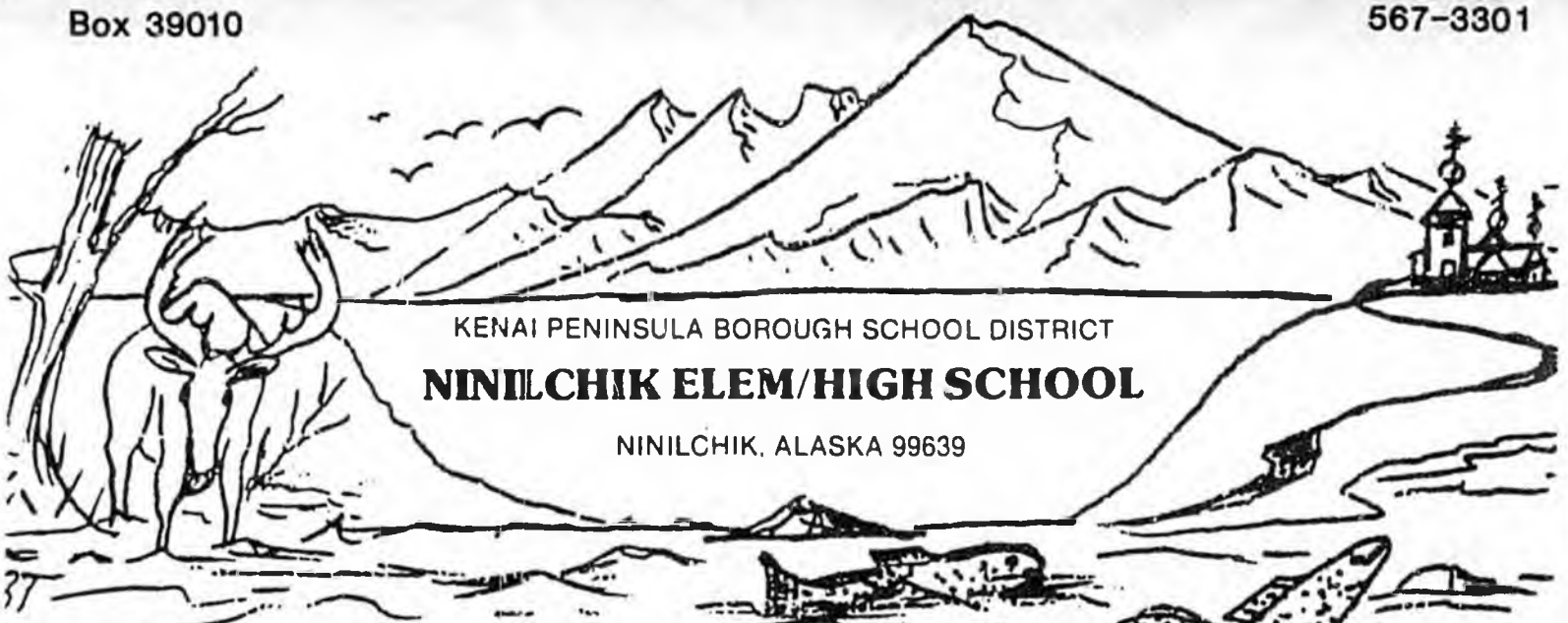
In any case, your consideration is appreciated. As an Association, we wish you the best as you enter another Legislative session.

Respectfully,

Paul L. Craig, Ph.D., Chairperson
Alaska Mental Health Program Director's Association
PLC:cjs

Box 39010

567-3301



KENAI PENINSULA BOROUGH SCHOOL DISTRICT

NINILCHIK ELEM/HIGH SCHOOL

NINILCHIK, ALASKA 99639

February 28, 1984

Representative Mae Tischer, Chairman
House HESS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

This is a letter of support for House Bill 482, which provides funding for construction of a mental health facility in Homer. This is an urgently needed facility that serves the southern portion of the Kenai Peninsula.

Please give it your attention as soon as possible so that it may move to the floor and Senate.

Our school has been the recipient of many services from the Mental Health Center in Homer and we do appreciate having the professional assistance for our students and the community.

Thank you for any attention this letter receives.

Very sincerely yours,

Wade C. Jackinsky

Wade C. Jackinsky
Counselor

wj
cc: Dr. Fritz
Mental Health Center

HB
489

Alaska State Legislature

HESS

REPRESENTATIVE
JACK MCBRIDE

COMMITTEES
COMMUNITY & REGIONAL AFFAIRS
TRANSPORTATION
SPECIAL COMMITTEE ON FISHERIES

SERVING:
KETCHIKAN
SAXMAN
WRANGELL
PETERSBURG
METLAKATLA
HYDER
MEYERS CHUCK
KUPREANOF

BOX 7563
KETCHIKAN, ALASKA 99901

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4919

House of Representatives

MEMORANDUM

To: Representative Mae Tischer, Chairman
House HESS Committee

Date: February 14, 1984

Subject: HB489

From: Representative Jack McBride Jack

Attached please find a copy of a letter I received from Mary Beth Faikas and Joanne Therp, both from Anchorage, regarding HB 489, "An Act relating to Child Abuse".

Although HB 489 has not been scheduled for review in the HESS committee as of this date, I would appreciate it if you could include these letters in your file and also let them know when the bill will be up in committee. I would be happy to answer any questions you may have or to assist you in gathering any additional information you may need.

2-7-84

To:

REP. JACK MCBRIDE
POUCH V
JUNEAU, AK 99811

RE: HOUSE BILL 489

MR. MCBRIDE,

I OPPOSE THE PASSAGE OF HOUSE BILL 489 AS IT IS WRITTEN. WHILE I FULLY SUPPORT LEGISLATION OF THIS TYPE, I FEEL THAT HOUSE BILL 489 WILL ① DELAY TREATMENT OF BOTH VICTIM AND OFFENDER ② REDUCE REPORTING OF THESE CRIMES ③ AND BE MISINTERPRETED AS IT IS QUITE VAGUE.

THANK YOU FOR YOUR TIME,

Mary Beth Fowlkes
1606 ATKINSON
ANCH AK 99504

Jack-

I read in todays Daily News about the Child-Abuse Bill (HB 489) you filed in the House. I am strongly in favor of this and am very happy to hear of this bill -

As a registered nurse and as a former victim of child abuse I know how much damage can result in child abuse/neglect and have seen the mental anguish that lasts for years from such acts on children -

Any support I can give to aid you in this endeavor please call/write.

Please keep me updated.

Joanne

Joanne Thorp
438 Mumford #4
Anchorage, Alaska 99508

HB
492

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

1/9/84

Date: 2-27-84

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 492

"An Act relating to state aid for school construction; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 492 (HESS) [X] same title [ ] new title

and recommends THAT IT DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Rick Hebb

Sam Pestinger

[illegible]

Mae Tucker

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mae Tucker
CHAIRMAN

H 60 (Rev. 3/81)

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM April 18, 1984

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff, House HESS Committee

RE: Sectional Analysis of CSHB 492 (HESS)

I have prepared the following sectional analysis of the House HESS Committee Substitute for House Bill 492, "An Act relating to state aid for school construction; and providing for an effective date."

Sections 1, 3, and 4 simply amend existing sections of law that refer to the existing aid program so that they now refer to the new program.

Section 2 establishes the new program of state grants for school construction (AS 14.11.200). Under the new program, the Department of Education is authorized to grant municipal school districts 90 percent of the cost of school construction projects approved by the department (AS 14.-11.200(a)). The school construction grant account is established consisting of funds appropriated to the account and interest earned on those funds; any portion of a grant that is not used to carry out the purposes of this section is also credited back into the account (AS 14.11.200(b)). The bill sets out a list of priorities to be used by the department in determining which projects are eligible for the grants (AS 14.11.200(c)). To be eligible for a grant a municipality must agree to pay at least 10 percent of the construction costs with cash or bonds issued through the municipal bond bank authority. The project must also be approved by the voters of the municipality (AS 14.11.200-(d)).

"Cost" is defined as the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping, or furnishing of public, elementary and secondary school buildings, including the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction,

reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; and the cost of financing the project, including premiums on insurance and legal fees (AS 14.11.200(e)).

Allocations under this program for school construction projects begun after July 1, 1984, are reduced by the amount of money used for the construction of residential space, hockey rinks, planetariums, saunas, and other facilities for single-purpose sporting or recreational uses that are not suitable for other activities. Allocations under this section may not be reduced by the amount of money used for construction of a small swimming pool, tank, or water storage facility used for water sports. However, allocations under this section of the law are to be reduced by the difference between the amount of money used to construct a swimming pool that is competition size or larger and the amount of money that would have been used to construct a small swimming pool, tank, or water storage facility, as determined by the Commissioner of Education (AS 14.11.200 (f)).

The Commissioner of Education is required to provide an annual report to the Legislature to include information about the balance remaining in the school construction account at the end of each fiscal year, and the use of the funds in the account for the fiscal year (AS 14.11.210). The Commissioner is required to prescribe by regulation the necessary requirements, forms, and procedures to be used in applying for construction grants under this program (AS 14.11.220(a)). Applications from municipalities seeking a construction grant are due by October 15 of the previous fiscal year (AS 14.11.220(b)). The Commissioner of Education must review all applications for construction grants and make a recommendation to the governor as to the amount of funds to be appropriated to the construction grant account (AS 14.11.220(c)).

The way the program is set up, the department would not distribute available funds to all potentially eligible school construction projects so that some projects would receive less than 90 percent funding. Rather, eligibility will be determined in part by the amount of funds available each year. Consequently, eligible projects will receive 90

percent funding and other projects will receive nothing.

Sections 5 and 6 repeal the existing school construction debt retirement program except that the program remains in effect with respect to a project if construction on the project began before July 1, 1984, or if the the bonds for the project are authorized after June 30, 1983, and before July 1, 1984.

Section 7 provides that the Act takes effect July 1, 1984.

WTL:kjb

Section
58. Alaska School Activities Association
59. Alaska school activities fund
60. Regulations
70. Withholding state funds

Collateral references. — 68 Am. Jur. 2d Schools, §§ 5-7, 37-55.

78 C.J.S. Schools and School Districts, §§ 83-91.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Sec. 14.07.010. Department of Education. The Department of Education includes the commissioner of education, the state Board of Education, and the staff necessary to carry out the functions of the department. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Quoted in Begich v. Jefferson, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

Cited in Tunley v. Municipality of Anchorage School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 617 P.2d 490 (1980).

Sec. 14.07.020. Duties of the department. The department shall

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

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

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

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the Department of Health and Social Services, standards that will assure healthful and safe conditions in the public and private schools of the state; the standards for private schools may not be more stringent than those for public schools;

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4); pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

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

(13) administer the grants awarded under AS 14.11.020. (§ 1 ch 93 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1-3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 36 SLA 1979; am § 24 ch 59 SLA 1982; §§ 1, 2 ch 92 SLA 1982)

Revisor's notes. — A reference to AS 14.11.020 was substituted for a reference to AS 14.07.190 in paragraph (13) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of that section.

Effect of amendments. — The first 1978 amendment deleted "private, and denominational" preceding "schools" near the beginning of paragraph (6), inserted "and private" preceding "schools" in paragraph (7), added the language beginning "the standards for private schools" to the end of paragraph (7), and added paragraph (10).

The second 1978 amendment added paragraph (11).

The 1979 amendment added paragraph (12).

The first 1982 amendment substituted "of" for "and" preceding "new public elementary" in paragraph (11).

The second 1982 amendment substituted "'plans' include" for "a 'plan' includes" in paragraph (11), inserted "and approve" and "the" preceding "purposes of this paragraph" in that same paragraph, and added paragraph (13).

Stated in Tunl
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477; 53 ALR 832.
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STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

TREASURY DIVISION

ELEVENTH FLOOR
STATE OFFICE BUILDING
POUCH SB
JUNEAU, ALASKA 99811
PHONE:

February 27, 1984

The Honorable Mae Tischer
Chairperson
House Health, Education,
& Social Services Committee
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

At the request of your staff, I offer the following comments on HB 492 and draft CS HB 492:

1. The substitution of a program which provides state grants for school construction in place of state reimbursement for debt service and delayed reimbursement for cash expenditures has several attractive features:

   a) such a substitution seems generally propitious at a time of high municipal bonded indebtedness and large amounts of state cash available for expenditure;

   b) by undoubtedly eliminating most municipal bonding for schools--which currently makes up roughly 50% of all municipal indebtedness--the legislation would free up municipal debt capacity and reduce interest costs for other types of municipal capital projects;

   c) the state would avoid paying interest at rates higher than it would incur by borrowing itself to pay for school construction;

   d) provision of grants rather than reimbursement should usually result in state commitment for project funding prior to construction commitments; this would allow for budgeting with greater certainty as to requirements for school construction funding and also the possibility for consideration in the budget process of relative merits and needs for particular projects; a grant program will also reduce municipalities' needs for and costs of interim funding prior to reimbursement.

2. The replacement of a 50% cost-sharing program with a 90% program raises anew the problem of state cost sharing at such a high level as to eliminate many municipal incentives to appropriately size and design facilities and control project costs. Of course, this problem is mitigated to a certain extent by the requirement for Department of Education approval of projects and the statutory definition of project costs.

3. The Department of Revenue would like to suggest that interest on the grant account not be dedicated to the account. Even if it would be arguably legal to do so, there seems to be no pressing need which would require the legislature and governor to give up their budgetary discretion with respect to this income.

Sincerely,

Milt Barker

Milt Barker
Deputy Commissioner

MB:mw

STATE OF ALASKA
THE LEGISLATURE

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 22, 1984

SUBJECT: Dedication of interest earned on special fund accounts (CSHB 492 (HESS))

TO: Representative Mae Tischer
Chairman, Health, Education, and Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

Enclosed is a Committee Substitute for HB 492, relating to state aid for school construction. At your request, I have included in section two of this draft a provision allowing interest earned on the school construction grant account to be deposited directly into the account without an appropriation from the legislature. You should be aware that this provision may be in violation of the prohibition against dedicated funds in the Constitution of the State of Alaska.

Article IX, section 7 of the state constitution provides:

> The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article [the Alaska Permanent Fund] or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Thus, the state constitution prohibits the dedication of certain state revenues to any special purpose except for three specific exceptions: the Alaska Permanent Fund, participation in federal programs, and funds grandfathered in at the time the constitution was adopted. It seems clear that the provision in your bill requiring the dedication of

interest income does not fall into any of the exceptions expressly provided for in the dedicated funds clause.

Two questions are presented by your bill with respect to the dedicated funds clause. First, is interest income a "state tax or license" within the meaning of article IX, section 7 of the state constitution such that the dedicated funds clause applies at all? Second, does placing that interest income into the school construction grant account so that it may be used without an appropriation by the legislature amount to a dedication to a special purpose?

The meaning of "state tax or license":

In a recent decision, the Supreme of Alaska had occasion to consider whether certain mandatory tax assessments to be paid directly to private aquaculture associations amounted to a "state tax or license" that would invoke the dedicated funds clause. State v. Alex, 646 P.2d 203 (Alaska 1982). Concluding that the assessment did come within the ambit of the dedicated funds provision, the court cited 1975 Alaska Op. Atty. Gen. No. 9 with approval:

> ...it is our conclusion that the dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever is limited by the state Constitution to those existing when the Constitution was ratified or required for participation in federal programs. (Emphasis added.)

Alex, supra, at 210. This language indicates that the Supreme Court takes a very broad view of the kinds of revenue that amount to a state tax or license within the meaning of the dedicated funds provision. Accordingly, there is a strong possibility that the Court would consider interest income a state tax or license that may not be dedicated to a special purpose. Since the issue has not been placed squarely before the Court, however, it remains an open question.

The dedication of interest income to a special fund:

Last year, the Attorney General released an opinion providing a thorough discussion of the dedicated funds clause. 1982 Alaska Op. Atty. Gen. (November 30). That opinion specifically discusses the second question raised by your bill: the applicability of the dedicated funds clause to interest income that is returned to a special fund. The

opinion acknowledges that an argument could be made that placing interest generated by a fund back into the fund without an appropriation by the legislature does not violate the purpose of the dedicated funds clause: to allow the legislature to retain control of state revenues. However, the Attorney General reached the following conclusion:

> A difficulty that arises from the view that the dedicated funds prohibition is not applicable to interest or investment income on separate funds is that it permits steadily increasing amounts of money to be received and used by state departments and agencies without legislative control through the annual budget process. This is precisely the problem posed by the dedication of revenue sources which the drafters [of the state constitution] sought to avoid. For this reason, while we are not certain about the likely outcome, we doubt that a blanket exception for derivative income would be approved by the courts.

1982 Alaska Op. Atty. Gen., at 16 (November 30). Thus, in light of the significant amounts of interest generated by various state funds and the broad view of the dedicated funds clause taken by the Supreme Court, the dedication of interest income to the school construction grant account is at least open to constitutional attack.

In conclusion, while the applicability of the dedicated funds clause to interest income remains undecided, there are strong indications that such a dedication of funds may be unconstitutional. As an alternative, the legislature might consider including a provision in the annual budget bill appropriating the interest income earned on the school construction grant account into the account. This would not guarantee that the interest would be appropriated to the account in future years, but it would provide that money to the account on an annual basis and thereby circumvent the constitutional problem.

KBL:ojb
J3/117

(e)"costs of school construction" means the cost of acquiring, constructing, enlarging, repairing, remodeling, equipping or furnishing of public elementary and secondary school buildings and includes the sum total of all costs of financing and carrying out the project: these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, aquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, premiums on insurance and legal fees.

(f) An allocation under 'a) of this section for school construction begun after July 1, 1984, shall be reduced by the amount of money used for the construction of residential space, nockey rinks, planetariums, saunas, and other facilities for single purpose sporting or recreational uses that are not suitable for other activities. An allocation under (a) of this section may not be reduced by the amount of money used for construction of a small swimming pool, tank, or water storage facility used for water sports. However, an allocation shall be reduced by the difference between the amount of money used to construct a swimming pool that is competition size or larger and the amount of money that would have been used to construct a small swimming pool, tank or water storage facility, as determined by the commissioner.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM February 3, 1984

SUBJECT: Sectional analysis of HB 492

TO: Representative Walt Furnace

FROM: Keith B. Levy KBL
Legislative Counsel

At your request, I have prepared a sectional analysis of HB 492, "An Act relating to state aid for school construction; and providing for an effective date." The central function of the bill is to repeal the existing program of state aid for the retirement of school construction debt and replace it with a grant program.

Sections 1, 3, and 4 simply amend existing sections of law that refer to the existing aid program so that they now refer to the new program.

Section 2 establishes the new program of state grants for school construction (AS 14.11.200). Under the new program, the Department of Education is authorized to grant municipal school districts 90 percent of the cost of school construction projects approved by the department (AS 14.11.200(a)). The bill sets out a list of priorities to be used by the department in determining which projects are eligible for the grants (AS 14.11.200(c)). A school construction grant account is created consisting of funds to make the grants (AS 14.11.200(b)). To be eligible for a grant, a municipality must agree to pay at least 10 percent of the construction costs with cash or bonds issued through the municipal bond bank authority. The project must also be approved by the voters of the municipality (AS 14.11.200(d)). "Cost of a school construction project" is defined as all the costs of planning, financing, and carrying out the project, excluding costs for single purpose sporting facilities.

The way the program is set up, the department would not distribute available funds to all potentially eligible school

construction projects so that some projects would receive less than 90 percent funding. Rather, eligibility will be determined in part by the amount of funds available each year. Consequently, eligible projects will receive 90 percent funding and other projects will receive nothing.

Sections 5 and 6 repeal the existing school construction debt retirement program except that the program remains in effect with respect to a project if construction on the project began before July 1, 1984, of if the bonds for the project are authorized after June 30, 1983, and before July 1, 1984.

Section 7 provides that the Act takes effect July 1, 1984.

KBL:lmb
L3/043

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 492
Title: relating to state aid for school construction
Sponsor: Pestinger/Larson
Requestor: House HESS
Date of Request: Feb. 27, 1984

FISCAL DETAIL
Agency Affected: Education
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:
The fiscal impact of the bill is indeterminate as the school construction fund could be funded at any level desired by the Legislature.

ANALYSIS: Attach a separate page for analysis

Prepared By: William D. Thomson, Director Phone: 465-2865
Division: Management, Law & Finance Date: 2/27/84
Approved by Commissioner: Harold Reynolds, Jr. Date: 2/27/84
Agency: Education

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB
496

COMMITTEE REPORT

HOUSE

(7) FURTHER: JUDICIARY

1/9/84 Date: 2-8-84

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 496

"An Act relating to food banks."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 496 (HESS) [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 3/81)

COMMITTEE REPORT

HOUSE

(7)

FURTHER: JUDICIARY

Date: April 24, 1984

4/13/84

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSSB 384(HESS)

"An Act relating to food banks."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mal Fischer

Rick Uef

T.H. Martin

Mike Davis

Wilson Kopman

Peter Jan

Sam Pestinger

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mal Fischer
CHAIRMAN

Gleaners fight hunger, salvage food in 11 states

In produce fields and fruit groves scattered across America, hard-pressed Americans are increasingly using a concept as old as the Bible to fight hunger. It is gleaning, the salvaging of food that otherwise would rot in the fields, whether inadvertently left behind or discarded because of blemishes, bruises, or low prices.

Gleaners are gathering some of that food through privately organized efforts in at least 11 states: Arizona, California, Colorado, Florida, Kansas, Maryland, Michigan, Missouri, Oregon, Texas, and Washington. They help fill what Congress' General Accounting Office calls "an unmet need" for food assistance among those not qualifying for government food programs, and GAO says states can help increase the amount of gleaned food.

California and Oregon, for example, give state tax deductions to farmers for the value of food gleaned from their fields. First passed in 1977, California's A.B. 120 this year was extended through 1984.

"It's an incentive for churches and other groups to go out and get the produce and say to a store or grower that he can get a tax deduction," says California Assemblyman David Kelly, who sponsored the renewal. Stores and growers can claim a charitable deduction — in addition to the business expense — for the value of gleaned or discarded food. A study is underway to determine the amount of lost taxes on such food.

In addition, the Food Marketing Institute says that 34 states have passed "Good Samaritan" laws limiting the liability of food donors. Ohio's is illustrative: "No person who in good faith donates perishable food to an agency is liable in civil damages for injury, death, or loss to persons or property that arises because that perishable food . . . is not fit for human consumption," if the food was reasonably considered safe at the time it was donated.

Tax deductions and Good Samaritan laws, the GAO said, are "positively affecting the amount of food being donated."

Gleaning takes its cue from Leviticus 19:9-10: "When you harvest the produce of your field, do not completely mow the edge of your field or gather the gleanings of your harvest . . . leave them for the poor." Today food is also gleaned from supermarket waste.

Gleaners are the needy or volunteers gathering food for others. The needy keep what they can use with the excess going to such places as food banks. "It's not a freebie program — you work for what you get," says Judi Amos, of Everett, Wash., who has labored as a gleaner among potatoes and peaches.

"The program's really helped out my budget," adds Rachel Brown, who supports three children on welfare and food stamps. After years of dependence on others, she says with pride, "I'm helping myself and helping others."

—Bill Curry



Los Angeles Times photo by Bob Grieser

GLEANING HARVEST — Rachel Brown and her nephew, Anthony Miller, stand next to boxes of pears and vegetables that were her share for a day's work of gleaning in Washington state.

In-state preference laws enacted to govern public contract awards

One sidelight of the recent recession is that several legislatures are worried about state and local government contracts being awarded to out-of-state firms. As a consequence, at least 21 legislatures have enacted in-state preference laws.

The "Buy Minnesota" law passed last May, for example, has received nationwide publicity reflecting the generic pros and cons of implementing such protectionist legislation. (These laws differ from "Buy American" laws requiring the purchase of American-made goods and services over those from foreign countries — which don't specify whether they must come from in-state firms.)

According to the author of the Minnesota legislation, State Representative Pat Beard, the law was intended to improve in-state employment and thus increase state tax revenues.

Beard found that 13 other states exercise in-state preference laws that include a 2-15 percent break in bidding on public works jobs against out-of-state contractors. States exercising preference are Alaska, Arizona, Arkansas, Hawaii, Louisiana, Maine, Montana, New Mexico Oklahoma, South Carolina, Washington, West Virginia, and Wyoming. Among them, the preference law may apply only to state agencies or extend also to municipalities and school districts.

The Minnesota law includes a provision that says any contract awarded by a state agency for engineering services, erection, construction, alteration or repair of any public building or structure, or for any public work improvement, when competitive bidding is not required, must be awarded to a Minnesota resident.

"If competitive bidding is required by law," the statute continues, "the contract must be

813 W. 3rd Ave.
Anchorage, Ak 99501
January 25, 1984

Representative Mae Tischer
Alaska State Legislature
Parch U
Juneau, Ak 99811

RECEIVED



Dear Representative Tischer,

I was present on Monday for the teleconference on HB 496 "relating to food banks" and HESS Committee hearing - Time ran out for us to testify and has been rescheduled for Saturday a.m. Unfortunately I have a conflict on Saturday and will not be able to make that teleconference.

I hope HESS will vote passage of this bill for consideration by the House. Those of us involved with food banks and non-profit organizations that depend on donated food feel that this will encourage those in the food industry to continue and increase donations to our organizations -

Because of the safeguards in the bill for inspection by food donor and food bank. I would ask that the bill be amended not to exclude those in the food industry who are manufacturers, packers, processors, bottlers or similar commercial entities from the protection of this bill - and thus encouraging their donations of surplus unmarketable food items.

The inspection of donated items by the donee at the time of the donation, plus inspection by the receiving food bank and its recipient agency provide needed safeguards for the individual receiving the donated food.

To date, similar legislation has been passed in 47 states. Alaska, Vermont, and New Hampshire are the last three to recognize the care given by the food industry and non profit organizations for the safe

redistribution of donated food items.

Again we hope this bill will have a speedy progress through committee and House and Senate to the Governor's desk - and with the above mentioned amendment.

Families and organizations that depend on charitable donations of food will be the benefactors of this legislation -

Sincerely,
Mary Jane Sandstrom
Volunteer and an organizing
Board for the Food Bank of
Alaska, Anchorage -
Currently President of Board
of Directors (incorporated
Aug. 1979)

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☐ 1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

☐ 1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

☒ POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600
465-3603

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL



January 26, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

This office has reviewed HB 496 as you requested in your January 24, 1984, letter to the Attorney General. You have asked that this office concentrate on the legal questions raised in 1980 when Governor Hammond vetoed SCS CSHB 686 ams (limiting liability of donors of food). For your information I have included a copy of a letter drafted by the Department of Law which was sent to Governor Hammond regarding the 1980 bill. You will note that the "fatal flaw" was the fact that manufacturers, bottlers, and packers of food were included in the definition of donors thereby excluding them from a well established principle of law that they are liable for damages resulting from a failure to exercise that degree of care required to insure that the product that they produce is fit for use and is free from taint.

HB 496 excludes manufacturers, processors, bottlers or other similar entities from the definition of donor. In that respect this bill is different from the 1980 bill. However, HB 496 does not appear to change the law as it now exists.

Under HB 496 a donor of food will not be subject to civil or criminal liability arising from an injury or death attributable to the condition of the donated food if

1. the donor inspects the food and finds it apparently fit for human consumption;

2. the donor has no actual or constructive knowledge that there is anything wrong with the food or that it is harmful to health; and,

3. the injury or death is not a result of the negligence, recklessness, or intentional misconduct of the donor.

3-C5LH

In essence the donor will be liable if he or she is negligent. Such would be the case without this bill. This office assumes that HB 496 is an attempt to encourage food donations by limiting the liability of food donors. In fact, however, the bill does not limit liability but merely provides that if a food donor is negligent, he or she will be liable. If he or she is not negligent, he or she will not be liable. The same analysis would hold true for the second part of the bill regarding a food bank.

If you have any further questions regarding this bill, please feel free to let me know.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Elizabeth L. Shaw
Elizabeth L. Shaw
Assistant Attorney General

ELS:bap

Enclosure

465-3600

June 30, 1980

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: SCS CSHB 686 am S
(limiting liability of
donors of food)
Our File: J-88-146-80

Dear Governor Hammond:

This office has reviewed SCS CSHB 686 am S, the principal thrust of which relieves a person donating food to a nonprofit organization of any civil or criminal liability flowing from any adulteration or misbranding of the food, unless the alteration is the result of intentional or grossly negligent conduct on the part of the donor.

"Grossly negligent conduct" is defined as "the intentional failure to perform a duty with reckless disregard of consequences that affect the life or property of another." (The legislature forgot the comma after "duty," thus changing the literal meaning, but we assume that we know what was intended.) A donee may ask the commissioner of health and social services to inspect the food to determine if it is adulterated or misbranded.

The commissioner may delegate this inspection duty, and a broad range of other enforcement and inspection duties, to the Department of Environmental Conservation.

This bill is apparently well intentioned; it is designed to encourage the donation of food to nonprofit

organizations for their use or distribution--presumably to needy persons. However, it exacts too great a price from prospective donees as a reward for the eleemosynary conduct.

The bill's failure to distinguish between donors who are manufacturers, packers, or bottlers and those who are not is, we think, a fatal flaw. It is a well-established principle of law that manufacturers, bottlers, and packers are liable for damages resulting from a failure to exercise that degree of care required to insure that the product is fit for use and is free from taint. See 32A C.J.S. Food, sections 59-60. This bill would relieve those manufacturers from liability for negligence for illness caused by unfit food when they give away rather than sell their products. While it is admirable to encourage the donation of food to needy causes, it is unwise to eliminate the ordinary standard of care and its attendant liability. We can, for example, imagine a manufacturer whose warehouse is laden with food of marginal fitness who would like to donate it for a tax deduction. We do not think it proper to eliminate this person's liability for negligence should one of the donees become ill from adulterated or unfit food. Poor people receiving donated food should have no less protection than people who buy food from the donor.

The class of persons who manufacture food should be held to a uniform standard of care regardless of whether the food is sold or given away. To do otherwise would be to encourage socially irresponsible conduct disguised as beneficent bounty. We would suggest that you veto this bill.

Sincerely,

Wilson L. Condon
Attorney General

WLC:ml:MRL

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

SB 384/HB 496

REPLY TO:

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JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

JAN 25 84
RECEIVED

January 26, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

This office has reviewed HB 496 as you requested in your January 24, 1984, letter to the Attorney General. You have asked that this office concentrate on the legal questions raised in 1980 when Governor Hammond vetoed SCS CSHB 686 ams (limiting liability of donors of food). For your information I have included a copy of a letter drafted by the Department of Law which was sent to Governor Hammond regarding the 1980 bill. You will note that the "fatal flaw" was the fact that manufacturers, bottlers, and packers of food were included in the definition of donors thereby excluding them from a well established principle of law that they are liable for damages resulting from a failure to exercise that degree of care required to insure that the product that they produce is fit for use and is free from taint.

HB 496 excludes manufacturers, processors, bottlers or other similar entities from the definition of donor. In that respect this bill is different from the 1980 bill. However, HB 496 does not appear to change the law as it now exists.

Under HB 496 a donor of food will not be subject to civil or criminal liability arising from an injury or death attributable to the condition of the donated food if

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2. the donor has no actual or constructive knowledge that there is anything wrong with the food or that it is harmful to health; and,

3. the injury or death is not a result of the negligence, recklessness, or intentional misconduct of the donor.

In essence the donor will be liable if he or she is negligent. Such would be the case without this bill. This office assumes that HB 496 is an attempt to encourage food donations by limiting the liability of food donors. In fact, however, the bill does not limit liability but merely provides that if a food donor is negligent, he or she will be liable. If he or she is not negligent, he or she will not be liable. The same analysis would hold true for the second part of the bill regarding a food bank.

If you have any further questions regarding this bill, please feel free to let me know.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Elizabeth L. Shaw
Elizabeth L. Shaw
Assistant Attorney General

ELS:bap

Enclosure

ALASKA STATE LEGISLATURE

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
JOINT OIL AND GAS
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis
House District 19



MEMORANDUM

To: House HESS Committee

From: Rep. Mike Davis

Date: Feb. 4, 1984

Re: HB 496

Dear Rep. Tischer,

Please include the following written testimony in the HB 496 bill packet for all members of the Hess Committee.

Sincerely,

Rep. Mike Davis

GARY C. NEWMAN
S.R. BOX 51233
FAIRBANKS, ALASKA 99701

January 23, 1984

House HESS Committee

I am in support of House Bill 496, relating to food banks.

This bill would remove the impediment of liability from the donation by food vendors of surplus or waste food. By doing so, it would allow the use of tons of food for human or animal consumption that is presently being destroyed by the vendors.

For one who has had animals such as pigs, chickens and cows, this bill would allow them to have the waste that is presently thrown away by food vendors. At present, the vendors won't give away food which is waste by their standards even for animal use because there is the chance that the food would really be used for human consumption and they are concerned about the liability question, as I stated earlier.

While this issue may affect only a small proportion of our state's population, it would allow the use of tons of resources that are expensively imported into our state for use for something other than landfill.

I do have one suggested change to this bill. I would like to see the definition on page 2 from line 27 to page 3 line 1 deleted or tightened up to not be so inclusive. For example, a meat packer, who might have a substantial amount of waste available for animal or human consumption, will still have a liability problem. If there are concerns related to a particular industry or type of processor, please be more specific in their exclusion.

I urge your support of this bill.

Gary C Newman

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: H.B. 496
Title: An Act relating to Food Banks

Sponsor: Koponen and M. M. Miller
Requestor:
Date of Request: 1/23/84

FISCAL DETAIL
Agency Affected: Environmental Conservation
Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected:
Environmental Quality Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		0	0	0		
200 TRAVEL		0	0	0		
300 CONTRACTUAL		0	0	0		
400 SUPPLIES		0	0	0		
500 EQUIPMENT		0	0	0		
600 LAND & STRUCTURES		0	0	0		
700 GRANTS, CLAIMS		0	0	0		
800 MISCELLANEOUS		0	0	0		
TOTAL OPERATING		0	0	0		
CAPITAL		0	0	0		
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0		
FEDERAL FUNDS		0	0	0		
OTHER		0	0	0		
TOTAL		0	0	0		

POSITIONS:

FULL-TIME		0	0	0		
PART-TIME		0	0	0		
TEMPORARY		0	0	0		

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Joe Cladouhos, Director
Division: Environmental Quality Management
Phone: 465-2640
Date: 1/23/84

Approved by Commissioner: Richard Neve'
Agency: Environmental Conservation
Date: 1/23/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Alaska State Legislature

Representative Niilo Koponen

FAIRBANKS
Box 252
Fairbanks, Alaska 99707
479-6782

JUNEAU
Pouch V
Juneau, Alaska 99811
465-4992

MEMORANDUM

TO: Representative Niilo Koponen

FROM: Deborah Niedermeyer, Legislative Aide DMN

DATE: 6 February, 1984

RE: Foodstamp Program

The foodstamp program does not adequately cover the needs of Alaska's poor. An income low enough to meet foodstamp eligibility standards only barely meets other basic monthly costs. Applicants with no income at all must wait at least 5 days before receiving assistance. This memorandum details foodstamp waiting periods and eligibility requirements which force many Alaskans to turn to foodbanks for help.

Eligibility

In December, 1983 5% of Alaskans (22,000 people) were using the foodstamp program.

To be eligible for benefits, a person who lives alone must make less than $659.00 per month. At that income level, a person receives $10.00 per month in foodstamps. A single person with no income receives the maximum assistance level of $112.00 in foodstamps per month.

A household of four must make no more than $1,342 per month to receive receive the minimum of $30.00 in foodstamp assistance. At zero monthly income, the four person household receives $374 per month in foodstamps.

Waiting Period

There is a maximum waiting period of 30 days between application for foodstamps and determination of eligibility. The Division of Public Assistance says, however, that due to the caseload, the thirty day legal maximum waiting period is also the minimum. Public Assistance admits that in some cases applicants wait even longer to find out if they will be eligible. Foodstamps must be in the mail to an applicant within 10 days of having been found eligible. Thus, the total waiting period is at least 40 days.

Households of any size which demonstrate that the household income for the previous month was less than $150.00 and that the household has less than $100.00 in liquid resources, qualify for "expedited determination". A quarter of Alaska's foodstamps applicants do qualify. In this case the foodstamps must be in the mail within 5 days of application. All those who are eligible for expedited determination are supposed to get the service automatically, however the Fairbanks office of the Alaska Legal Services Corporation routinely deals with cases where this has not happened.

State	Provisions for nonprofit organizations
Alabama	not liable
Arizona	not liable
Arkansas	not mentioned
California	liable
Colorado	liable
Florida	not mentioned
Georgia	liable
Hawaii	not liable
Idaho	liable
Illinois	not liable
Indiana	not liable
Iowa	not liable
Kentucky	not liable
Louisiana	
Maine	not liable
Maryland	not mentioned
Michigan	not mentioned
Minnesota	not liable
Missouri	not liable
Montana	not liable
Nebraska	not liable
Nevada	not liable
New Mexico	not liable
New York	not mentioned
North Carolina	liable
Ohio	not mentioned
Oklahoma	not mentioned
Oregon	not liable
Pennsylvania	not liable
Rhode Island	not liable
South Carolina	not liable
South Dakota	not liable
Tennessee	not liable
Texas	not liable

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☐ *1031 W 4th AVENUE*
SUITE 200
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PHONE: (907) 452-1568

☒ *POUCH K - STATE CAPITOL*
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603



February 6, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

On February 2, 1984, I met with Representative Niilo Koponen; Deborah Neidermeyer, Administrative Assistant; and Russ Josephson, Legislative Affairs Attorney. We discussed HB 496. We focused on the concern which this office had that the legislation did not change the law but merely restated law as it stands now.

Although I have not seen the wording of a sponsor substitute for this house bill, I believe that language will be offered which will limit the liability on donors of food. The care standard for food donors will be gross negligence. The care standard for food banks, however, will be negligence.

I would like to note that included among donors are retailers which would include food markets. It is also our understanding that there will be language changes which will allow slaughter houses which are inspected by the state to be included as food donors. Also a change may be made in the wording of proposed AS 17.20.347(1)(B) which will state that certain persons that work in commercial capacities will be excluded from the definition of donor only if their primary activity is being a manufacturer, packer, processor, or bottler. These language changes bring the definition closer and closer to the problem identified in the legislation in 1980 ... that commercial business will be treated the same as non-business donors.

If you have any further questions regarding this bill, please feel free to let me know.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Elizabeth L. Shaw
Elizabeth L. Shaw
Assistant Attorney General

ELS:bap

Enclosure

cc: Honorable Niilo Koponen
Representative

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM January 24, 1984



SUBJECT: Food Banks
Sectional analysis on HB 496

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Russ Josephson
Legislative Counsel

You have requested a sectional analysis of HB 496. This bill contains three sections of new law. The first concerns the immunity of a food donor from civil and criminal liability, the second concerns the immunity of a food bank, and the third is a definitions section. The provisions of this bill are very straightforward. Essentially, immunity will be granted to donors and food banks if they meet requirements listed in the bill.

Liability of Donors. A donor of food to a food bank that will distribute the food for free must meet the following requirements:

1. The donor must inspect the food reasonably when it is donated and must find the food to be apparently fit for consumption at that time.

2. The donor must not have actual or constructive knowledge that the food is adulterated, tainted, or contam...ted, or that it would be harmful to the health or well-being of a person eating it. By "constructive knowledge" we mean that the donor should have known those things even if the donor denies actual knowledge is denied.

3. If an injury or death occurs, it must not be the direct result of the negligence, recklessness, or intentional misconduct of the donor.

If any of the requirements listed above is not met, the donor will not be immune from liability.

Liability of Food Banks. To be immune from civil and criminal liability for an injury or death attributable to the condition of food that it bank distributes, a food bank must meet the following requirements:

1. The food bank must make a reasonable inspection of the food it receives and must find the food apparently fit for human consumption at the time of distribution.

2. The food bank must have no actual or constructive knowledge that the food it distributes is adulterated, tainted, or contaminated, or that it would be harmful to the health or well-being of a person eating it.

3. An injury or death that occurs must not be the direct result of the negligence, recklessness, or intentional misconduct of the food bank.

If all of the above requirements are not met, the food bank will not be immune from liability.

This section of the proposed statute also addresses the problems of food that is misbranded, missing the label, or is not readily marketable. (Food may be misbranded in several ways detailed in AS 17.20.040.) This section specifically allows a food bank to distribute food that is misbranded, missing the label, or that is not readily marketable because of its appearance or grade or because it is surplus.

Definitions. "Donor" is defined to include certain persons and entities and to exclude others. The lists in this definition should be read carefully. Essentially, the definition excludes those who commercially produce or prepare food. This prevents the "dumping" of food by those who produce or prepare food that could not be sold commercially. (This was the primary concern of Governor Hammond when he vetoed prior legislation. He did not want the producers or preparers of food to be able to dump the food they could not sell and then be able to take a tax credit for the loss.) As "donor" is defined, individuals, retailers, and others would be able to donate food with immunity from liability if they meet the requirements detailed above. Those excluded from the definition of "donor" would of course be able to

donate food, but they would not enjoy the immunity of those defined as donors.

"Food bank" is defined as an organization recognized as a nonprofit organization that principally operates to collect, inspect, and salvage donated food for free distribution to needy persons. This definition by implication excludes the occasional collector and distributor of food. The idea here was to limit the granting of immunity to those organizations that handle food often enough to inspect food knowledgeably and to have good judgement about the quality of the food being distributed.

RS:ojb
J2/073

dvertisement;
nspection, or to permit the taking
.20.200;
lertaking which is false, except by
r undertaking to the same effect
nd address of the person residing
who relied on the guarantee or
device, or cosmetic in good faith;
etained or embargoed article in
0;
ruction, obliteration, or removal
or the doing of any other act with
netic, if the act is done while the
the article being misbranded;
ting, or falsely representing, or
ark, stamp, tag, label or other
equired by regulations adopted

a drug or in an advertisement
r suggestion that an application
er AS 17.20.110 or that the drug
ection;
rozen fish as fresh fish;
g substitution by pharmacists

al conservation or a designee of
forcing the provisions of para-
and (10) of this section, if the
d or cosmetics, and the provi-
This subsection does not limit

cial services or a designee of
rcing the provisions of para-
and (10) of this section, if the
gs or devices, and the provi-
f this section. This subsection
rs. (§ 3 ch 129 SLA 1949; am
971; am Executive Order No.

ct of amendments. — The 1961
ment added subsections (b) and (c).

leading labeling or adver-
e misbranded because the
ment is alleged to be false

because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account among other things representations made or suggested by statement, word, design, device, sound or combination of them, and the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement or under customary or usual conditions of use. (§ 2(l) ch 129 SLA 1949)

Collateral references. — Products li... bility of manufacturer or seller for injury or death allegedly caused by failure to warn regarding danger in use of vaccine or prescription drug, 94 ALR3d 748.

Promotional efforts directed towards prescribing physician as affecting pre...scription drug manufacturer's liability for product-caused injury, 94 ALR3d 1080.

What constitutes "false advertising" of food products or cosmetics within §§ 5 and 12 of the Federal Trade Commission Act (15 USCS §§ 45, 52), 50 ALR Fed. 16.

Sec. 17.20.310. Penalties. A person who violates the provisions of AS 17.20.290, upon conviction, is punishable by imprisonment for not more than six months, or by a fine of not more than $500, or by both. If the violation is committed after a conviction under this section has become final, the person is punishable by imprisonment for not more than one year, or by a fine of not more than $500, or by both. (§ 5(a) ch 129 SLA 1949)

Sec. 17.20.320. Effect of written guaranty. A person is not subject to the penalties of AS 17.20.310 for having violated AS 17.20.290(1) or (3) if that person establishes a guaranty or undertaking signed by and containing the name and address of the person residing in the state from whom the article was received in good faith, to the effect that it is not adulterated or misbranded within the meaning of this chapter. (§ 5(b) ch 129 SLA 1949)

Sec. 17.20.330. Liability for dissemination of false advertising. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, is liable under AS 17.20.310 for the dissemination of the false advertisement, unless the publisher, licensee, agency or medium has refused the request of the commissioner of health and social services to furnish the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state who caused dissemination of the advertisement. (§ 5(c) ch 129 SLA 1949; am Executive Order No. 51, § 31 (1981))

Sec. 17.20.080. Adulterated drugs and devices. (a) A drug or device is adulterated if

(1) it consists in whole or in part of a filthy, putrid, or decomposed substance;

(2) it has been produced, prepared, packed or held under insanitary conditions in which it may have been contaminated with filth, or in which it may have been rendered injurious to health;

(3) it is a drug and its container is composed, in whole or in part, of poisonous or deleterious substance which may render the contents injurious to health; or

(4) it is a drug and it bears or contains, for purposes of coloring only, a coal tar other than one from a batch certified under the authority of the federal act.

(b) A drug is adulterated if it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below the standard set forth in the compendium. The determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the compendium, or in the absence or inadequacy of tests or methods of assay, those prescribed under authority of the federal act. A drug defined in an official compendium is not adulterated under this subsection because it differs from the standard of strength, quality, or purity set forth in the compendium, if its difference in strength, quality, or purity is plainly stated on its label. When a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it is subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it is subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

(c) A drug is adulterated if it is not subject to the provisions of (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) A drug is adulterated if a substance has been

(1) mixed or packed with it to reduce its quality or strength; or

(2) substituted wholly or in part for it. (§ 14 ch 129 SLA 1949)

Sec. 17.20.090. Misbranded drugs and devices. A drug or device is misbranded

(1) if its labeling is false or misleading in any particular;

(2) if it is in package form unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms

department;

(3) if a word, statement, or other info
authority of this chapter to appear or
prominently placed with conspicuousn
words, statements, designs, or devices,
which render it likely to be read and un
vidual under customary conditions of th

(4) if it is for use by man and contain
hypnotic substance alpha-eucaine, b
bromal, cannabis, carbromal, chloral,
marijuana, morphine, opium,
sulphonmethane, or a chemical derivat
been by the commissioner after investig
lations under this chapter designated as
bears the name, and quantity or pro
derivative and in juxtaposition with it t
be habit forming";

(5) if it is a drug and is not designate
in an official compendium unless its la
usual name of the drug; and (B) in case it
ingredients, the common or usual nam
including the kind and quantity or propo
whether active or not, the name an
bromides, ether, chloroform, acetanilid,
antipyrine, atropine, hyoscine, hyo
glucosines, mercury, quabain, strophan
derivative or preparation of any of these
however, to the extent that compliance
this paragraph is impracticable, exemp
regulations adopted by the department

(6) unless its labeling bears (A) adequ
adequate warnings against use in those
children where its use may be dangerou
dosage or methods or duration of admin
manner and form necessary for the prote
a requirement of (A) of this paragraph
is not necessary for the protection of the
shall adopt regulations exempting th
requirements;

(7) if it purports to be a drug the nam
official compendium, unless it is packag
the compendium; however, the metho
with the consent of the commissioner,

;s, to state "reasonable
or, 22 ALR Fed. 883.

vices. (a) A drug or

utrid, or decomposed

ıeld under insanitary
ated with filth, or in
ealth;
n whole or in part, of
der the contents inju-

ıoses of coloring only,
nder the authority of

r is represented as a
ial compendium, and
falls below the stan-
ation as to strength,
ı the tests or methods
ısence or inadequacy
ıder authority of the
um is not adulterated
standard of strength,
, if its difference in
s label. When a drug
rmacopoeia and the
's it is subject to the
a unless it is labeled
ıich case it is subject
ıpoeia of the United
rmacopoeia.
ıe provisions of (b) of
urity or quality falls
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ty or strength; or
h 129 SLA 1949)

:es. A drug or device

particular;
el containing (A) the
acker, or distributor;
he contents in terms

of weight, measure, or numerical count; however, under (B) of this paragraph reasonable variations shall be permitted and exemptions for small packages shall be established by regulations adopted by the department;

(3) if a word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed with conspicuousness as compared with other words, statements, designs, or devices, in the labeling and in terms which render it likely to be read and understood by the ordinary individual under customary conditions of the purchase and use;

(4) if it is for use by man and contains a quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or a chemical derivative of any of them, which has been by the commissioner after investigation found to be and by regulations under this chapter designated as habit forming; unless its label bears the name, and quantity or proportion of the substance or derivative and in juxtaposition with it the statement "Warning—May be habit forming";

(5) if it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (A) the common or usual name of the drug; and (B) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of alcohol, and including, whether active or not, the name and quantity or proportion of bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis glucosines, mercury, quabain, strophanthin, strychnine, thyroid, or derivative or preparation of any of these substances contained in them; however, to the extent that compliance with the requirements of (B) of this paragraph is impracticable, exemptions shall be established by regulations adopted by the department;

(6) unless its labeling bears (A) adequate directions for use; and (B) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in the manner and form necessary for the protection of users; however, where a requirement of (A) of this paragraph as applied to a drug or device is not necessary for the protection of the public health, the department shall adopt regulations exempting the drug or device from these requirements;

(7) if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed in the compendium; however, the method of packing may be modified with the consent of the commissioner, and when a drug is recognized

in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it is subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States; and not to those of the United States Pharmacopoeia;

(8) if it has been found by the commissioner to be a drug liable to deterioration, unless it is packaged in the form and manner and its label bears a statement of the precautions the department by regulation requires as necessary for the protection of public health; and no regulation shall be established for a drug recognized in an official compendium until the commissioner has informed the appropriate body charged with the revision of the compendium of the need for packaging or labeling requirements and that body has failed within a reasonable time to prescribe the requirements;

(9) if it is a drug and its container is made, formed, or filled so as to be misleading or if it is an imitation of another drug; or if it is offered for sale under the name of another drug;

(10) if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in its labeling;

(11) if (A) it is a drug sold at retail and contains any quantity of aminopyrine, barbituric acid, cinchophen, pituitary, thyroid, or their derivatives, or (B) it is a drug or device sold at retail and its label as originally packed bears a statement that it is to be dispensed or sold only by or on the prescription of a physician, dentist or veterinarian, unless it is sold on a written prescription signed by a member of the medical, dental, or veterinary profession licensed by law to administer the drug or device, and its label as dispensed bears the name and place of business of the seller, the serial number and date of the prescription, and the name of the member of the medical, dental or veterinary profession, and the prescription shall not be refilled except on the written authorization of the prescribing physician, dentist or veterinarian. (§ 15 ch 129 SLA 1949)

Collateral references. — Failure to warn as basis of liability under doctrine of strict liability in tort, 53 ALR3d 239.

Liability of manufacturer or seller for injury or death allegedly caused by failure to warn regarding danger in use of vaccine or prescription drug, 94 ALR3d 748.

Sec. 17.20.100. Exemptions in case of drugs and devices. A drug sold on a written prescription signed by a member of the medical, dental, or veterinary profession, except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail is

law to administer the drug, and (2 the name and place of business of t of the prescription, and the name o or veterinary profession. (§ 16 ch

Sec. 17.20.105. Preparation cist. (a) In preparing a drug pres on the drug container the name a it, unless specifically directed oth osteopathic physician, dentist or v pharmacologically active substan need be indicated on the contain term "physician's mixture" may

(b) In preparing a prescription, drug for a registered brand or trad pharmacist obtains permission fro if the prescribing physician, oste narian is temporarily unavailabl supply the drug requested, sub approximately equal therapeutic notifies the author of the prescrip 17 SLA 1971)

Sec. 17.20.110. Sale of new d offer for sale, hold for sale or giv

(1) an application for it has be

or

(2) when not subject to the fo tested and has not been found to b prescribed, recommended, or sugg selling or offering it for sale there an application setting out

(A) full reports of investigatio whether or not the drug is safe f

(B) a full list of the articles us

(C) a full statement of the com

(D) a full description of the me controls used for, the manufacture

(E) samples of the drug and art the commissioner requires; and

(F) specimens of the labeling 17(a) ch 129 SLA 1949)

Collateral references. — Right o medical patient to obtain, or physician t

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell
DATE: February 8, 1984

RE: Analysis of Proposed CSHB 496 (HESS)

For your convenience I have analyzed the proposed House HESS Committee Substitute for House Bill 496, "[a]n Act relating to food banks."

The proposed Committee Substitute amends AS 17.20 (Alaska Food, Drug and Cosmetic Act) by adding new sections, the effects of which are described below.

Sec. 17.20.345 provides that donors to food banks are not liable for damages resulting from the consumption of goods they donate unless such damages are the result of extreme negligence or misconduct by the donor. This provision subjects food bank donors to a more stringent test than food bank operators when determining negligence or misconduct. In other words, gross negligence or misconduct must be proven before a food bank donor is held liable for damages.

The bill specifically states that nothing in the section prohibits the donation of apparently suitable goods solely because of missing labels; or lower grade or marketability.

Sec. 17.20.346 provides that food banks are not liable for damages resulting from the consumption of goods received from individual donors if such damages are not the result of negligence or misconduct by the operators of the food bank. This provision subjects food bank operators to a less stringent test than donors when determining negligence. In other words, simple negligence must be proven before a food bank operator is held liable for damages.

The bill specifically states that nothing in this section prohibits a food bank from distributing apparently suitable goods solely because of missing labels; or lower grade or marketability.

Sec. 17.20.347 defines "donor," as used in AS 17.20.345 or 17.20.346, as including "a person, farmer, retailer, slaughter-house under state supervision, freight company, distributor, wholesaler, or similar entity." This provision specifically permits operators of state supervised slaughter-houses to donate suitable meats to food banks.

The section specifically excludes from the definition of "donor" a "person who acts in a commercial capacity as a manufacturer, packer, processor, bottler, or similar entity, if that activity is the persons primary activity."

This section further provides that "food bank" means "an organization recognized by the state or federal government as a nonprofit organization and that operates principally to collect, inspect, and salvage donated food for free distribution to needy persons."

/wtl

CL 84-00005420 PRTY 1 01/20/94 15:12:57 ORIG: LF00 IN= 0007 OUT= 0153
FROM: PAULA/FKS TO: INU INFO
TARGET: LJUK SUBJ: COM /2

HOUSE HESS COMM: REPS FISCHER, M.U. MILLER, MARTIN, UEHLING, GOLL KOPPMEN DAVIS. ALSO REPS BETTISWORTH & KINGSTAD
& SENS BENNETT FAHRENKAMP & MOSS

**********THE FOLLOWING MESSAGES ALL GO TO THE ABOVELEGISLATORS**********

FROM: BRUCE ENGEBRETSON, 1005 KELLUM. FKS, AK, 99701 452-2329-H

RE: HB 496, FOOD BANKS

MSG: I ENCOURAGE THE PASSAGE OF THIS BILL.

==========EOM

X

FROM: WILLIAM R. TRUAX, P.O.BOX 56337, NORTH POLE 99705-0337
HOME 488-0540

RE: HB 496 FOOD BANK

REGISTER STRONGEST SUPPORT POSSIBLE FOR THIS MEASURE.

**********EOM

FROM: CAROL MILLER, 223 SLATER STREET, FKS, 99701, 452-3993-H

RE: HB 496, FOOD BANK

MSG: I AM ASKING YOU TO SUPPORT THIS BILL AS A GOOD WAY TO FEED HUNGRY PEOPLE AT LOW COST AND PROTECT THOSE DONATING THE FOOD.

==========EOM

FROM: FRED LANDES, 2601 CUSHMAN, FBKS, AK, 99701, 456-2161-W 479-6478-H

RE: HB 496, FOOD BANKS

MSG: AS OWNER OF THE BOX BOY STORES IN FAIRBANKS I STRONGLY SUPPORT PASSAGE OF HB 496 WHICH RELIEVES DONATORS OF THE LIABILITY REGARDING DONATED PRODUCTS TO LOCAL CHARITIES AND FOOD BANKS.

==========EOM

END OF MESSAGES FOR HB496**********

SG 84-00005286 PRTY 1 01/20/04 12:43:35 ORIG: LFOO IN= 0002 OUT= 0064
ROM: PAULA/FKS TO: JNU INFO
ARGET: LJHK SUBJ: FOM

O: REPS, BETTISWORTH, RINGSTAD,
& SENS BENNETT, FAHRENKAMP & MOSS

LSO: HOUSE HESS COMM: REPS TISCHER, M.W. MILLER, MARTIN, OEHLING, GOLL, KOPONEN, DAVIS

ROM: MAJOR J.C. BOWEN, P.O. BOX 405, FKS, 99707, 452-3113-W 452-4976-H

E: HB 496 FOOD BANKS

SG: SALVATION ARMY GOES ON RECORD AS FAVORING THE GOOD SAMARITAN BILL AND URGES THE PASSING OF THIS BILL.

==========EOM

M.G 84-00005622 PRTY 1 01/20/84 17:23:08 ORIG: LF02 IN= 0007 OUT= 0152
FROM: PAULA/FKS TO: JNU INFO
TARGET: LJHK SUBJ: POM 13

TO: HOUSE HESS COMM: REPS TISCHER, M.W. MILLER, MARTIN, DEHLING, GOLL KOPONEN, DAVIS

ALSO: REPS BETTISWORTH, RINGSTAD & SENS BENNETT, FAHRENKAMP, & MOSS

FROM: PETE STEPOVICH, DIVIRSIFIED FREIGHT HANDLERS, 1003 ASPEN

RE: HB 496, FOOD BANKS

MSG: I STRONGLY URGE PASSAGE OF HB 496 RELEASING SOCIALLY MINDED CONTRIBUTORS OF FOOD PRODUCTS FOR THE NEEDY FROM LEGAL LIABILITIES ASSOCIATED WITH THEIR GENEROUS ACT. BY DOING SO I BELIEVE IT WILL INCREASE THE NUMBER OF CONTRIBUTORS OF FOOD AND GREATLY HELP THOSE THAT NEED PRODUCTS OF THIS NATURE.

==========EOM

MSG 84-00005330 PRTY 1 01/20/84 13:24:48 ORIG: LF00 IN= 0004 OUT= 0073
FROM: MAXINE/FBX TO: JUNO INFO
TARGET: L BNK SUBJ: POM

TO: HOUSE H.E.S.S. CMTE., CHAIRPERSON REP. TISCHER
REP. MW MILLER, REP. MARTIN, REP. UEHLING, REP. COLL, REP. KOPONEN
REP. DAVIS
FR: MICHAEL DRESSER, 301 15TH AVE., FBX 99701 PH. H)456-8433 W) 456-5327

RE: HB 496 FOOD BANKS

MSG: I TOTALLY SUPPORT THE BILL. IT WOULD LET AN AWFUL LOT OF FOOD GO TO PEOPLE WHO NEED IT.

MSG 84-00005400. PRTY 1 01/20/84 14:21:39 ORIG: LA02 IN= 0019 OUT= 0092
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJHK SUBJ: P O M

TO: REPRESENTATIVES TISCHER, MW MILLER, MARTIN, UEHLING, GOLL, KOPONEN, DAVIS

FROM: LAURIE FIELDS, 310 EAST 45TH #D, ANCHORAGE 99503 H 563-1771 W 274-5525

I SUPPORT HOUSE BILL 496. (RE: FOOD BANK)

EOM

MSG 84-00005419 PRTY 1 01/20/84 14:39:23 ORIG: LF00 IN= 0006 OUT= 0096
FROM: PAULA/FKS TO: JNU INFO
TARGET: LJHK SUBJ: POM

TO: HOUSE HESS COMM: REPS TISCHER, M.W. MILLER, MARTIN, UEHLING, GOLL, KOPONEN, DAVIS

ALSO: REPS BETTISWORTH, RINGSTAD
& SENS BENNETT, FAHRENKAMP, MOSS

FROM: REV. RICHARD HEACOCK, 915 2ND AVE., FBKS, 99701, 452-2956-W

RE: HB 496, FOOD BANKS

MSG: URGE SUPPORT FOR HB 496.

==========EOM

MSG 84-00005391 PRTY 1 01/20/84 14:06:06 ORIG: LA02 IN= 0018 OUT= 0083
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJHK SUBJ: P O M

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: MARIAH REDWOOD, 4110 TERRACE DR., ANC 99502 H 248-2042 W 276-4776

I SUPPORT HB 496. (RE: FOOD BANKS)

EOM

FROM: CATHY POPPERT

MSG 84-00005323 PRTY 1 01/20/84 13:14:26 ORIG: LA02 IN= 0013 OUT= 0070
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJHK SUBJ: P O M

TO: ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: WILLIAM PRESLER, 604 EAST 3RD AVENUE, ANC 99501 W 272-5646
BEANS CAFE

I AM FOR HOUSE BILL 496 IN SUCH THAT DISTRIBUTORS CANNOT BE HELD RESPONSIBLE FOR FOOD DONATED.

EOM

MSG 84 00005369 PRTY 1 01/20/84 13:57:32. PRIC: LA02 IN= 0017 OUT= 0081
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: PUNK SUBJ: P O M

TO: REPRESENTATIVES TISCHER, MW MILLER, MARTIN, UEHLING, GOLL, KOPUNEN, DAVIS

FROM: SCHAIRER, ROSEMARY, 516 EAST 10TH #1, ANCHORAGE 99501
H 277-4005

PLEASE SUPPORT IN FAVOR OF HOUSE BILL 496. (RE: FOOD BANKS)

EOM

SG 84-00005340 PRTY 1 01/20/84 13:31:50 ORIG: LA02 IN= 0014 OUT= 0074
RUM: NANCIE, ANC INFO TO: POM, JUNEAU INFO
ARGET: LJHK SUBJ: P O M

TO: REPRESENTATIVES TISCHER, M.W. MILLER, MARTIN, OEHLING, GOLL, KUPUNEN, DAVIS

FROM: ALBERT KOENIG, 831 B STREET, ANC 99501
MESSAGE: 272-1641

I SUPPORT HOUSE BILL 496 BECAUSE I WORK ONLY PART TIME AND THE FOOD FROM THE FOOD BANK HAS HELPED ME.

EOM

MSG 04-00695269 PRTY 1 01/20/84 13:48:24 ORIG: LA02 IN= 0016 OUT= 0078
FROM: MARCIE, ANC INFO TO: Pgm. JUNEAU INFO
TARGET: LJUK SUBJ: P O M

TO: REPRESENTATIVES TISCHER, M.W. MILLER, MARTIN, UEHLING, GOLL, KOPGUNEN, DAVIS

FROM: VICKI HEINZ, WASILLA RESIDENT
MAIL: BOX 872271, WASILLA 99687 H 376-7723 W 274-5525

I SUPPORT HOUSE BILL 496. (RE: FOOD BANKS)

EOM

MSG 84-00005305 PRTY 1 01/20/84 13:02:12 ORIG: LA01 IN 0004 OUT= 0066
FROM: KAREN, ANC LIO TO: POM - JUNEAU INFO
TARGET: LJHK SUBJ: POM

TO: REP. TISCHER, M.W. MILLER, MARTIN, UEHLING, GULL, DAVIS, KAPONEN

FROM: CARL LARSON, 9625 INDEPENDENCE DR., #201, ANCHORAGE 99507
H. 349-4877; W. 276-4776

I SUPPORT HB 496, ALLOWING DISTRIBUTORS TO GIVE FOOD TO FOOF BANKS WITH NO FEAR OF LAW SUITS.

MSG 84-00005470 TOTY 1 01/20/84 15:52:31 UNIG: LA09 IN= 0003 OUT= 0134
FROM: SHIRLEE ANC LIO TO: POMS JUNEAU INFO
TARGET: LJHK SUBJ: HB

TO: REPRESENTATIVES TISCHER, M. W. MILLER, MARTIN, UEHLING, GOLL, KOPONEN AND DAVIS

FROM: BARBARA FOREHLICH-SHUPE
5215 EAST 26TH. NO. 11
ANCHORAGE, AK 99508 (H) 333-7179 (W) 276-8511

MARY ANN RODGERS
801 AIRPORT HEIGHTS, SPACE 405
ANCHORAGE, AK 99508 (H) 344-3104 (W) 276-8511

DEBBIE BEAR
7351 CHRISTOPHER CIRCLE
ANCHORAGE, AK 99507 (H) 344-3104(W) 276-8511

IRENE NOLAN
1019 MILA STREET
ANCHORAGE, AK 99504 (H) 337-4630 (W) 276-8511

I SUPPORT HOUSE BILL 496.

****
1/20/84, SHIRLEE ANC LIO, 5470

TO: REPRESENTATIVES TISCHER, M. W. MILLER, MARTIN, UEHLING, GOLL, KOPONEN, AND DAVIS

FROM: WALT SCHMIDT
2210 SENTRY DRIVE, NO. 19-B
ANCHORAGE, AK 99507 (H) 344-0793 (W) 274-5525

I SUPPORT HB 496. AS A JOB COUNSELOR, I USE THE SERVICES OF THE FOOD BANK AND FAVOR LEGISLATION UNDER WHICH DISTRIBUTER CAN GIVE FOOD STUFFS WITHOUT FEAR OF LAWSUIT.

****

SG 84-00005561 PRTY 1 01/20/84 16:27:27 ORIG: LA09 IN= 0004 OUT= 0140
ROM: SHIRLEE AND LIO TO: FORS/JUNEAU INFO
ARGET: LJNK SUBJ: FOM

O: REPRESENTATIVES TISCHER, M. W. MILLER, MARTIN, UEHLING, GOLL, KOPONEN AND DAVIS

ROM: DORTHEA WILLIAMS
4818 MALIBU
ANCHORAGE, AK 99503 (H/W) 243-6381

I AM IN SUPPORT OF HOUSE BILL 496.

/S/ DORTHEA WILLIAMS
F. I. S. H. ORGANIZATION

GARY C. NEWMAN
S.R. [illegible] X 51233
FAIRBANKS ALASKA 99701

January 23, 1984

House HESS Committee

I am in support of House Bill 496, relating to food banks.

This bill would remove the impediment of liability from the donation by food vendors of surplus or waste food. By doing so, it would allow the use of tons of food for human or animal consumption that is presently being destroyed by the vendors.

For one who has had animals such as pigs, chickens and cows, this bill would allow them to have the waste that is presently thrown away by food vendors. At present, the vendors won't give away food which is waste by their standards even for animal use because there is the chance that the food would really be used for human consumption and they are concerned about the liability question, as I stated earlier.

While this issue may affect only a small proportion of our state's population, it would allow the use of tons of resources that are expensively imported into our state for use for something other than landfill.

I urge your support of this bill.

Gary C. Newman

TO: HOUSE HESS COMMITTEE
FROM: REPRESENTATIVE NIILO KOPONEN
DATE: January 27, 1984

Waste not, want not

WASHINGTON, DC

How are America's poor to eat when their unemployment pay runs out, or when they can no longer make do on food stamps and welfare? The recession has provided an answer: a jerry-built, bat enviably efficient, system of emergency food centres. This network stretches across the nation, using food that would otherwise go to waste, and shunts it quickly and in large quantities from grower or manufacturer to the various centres that feed the hungry. It is a charitable operation which employs only a few hundred people and is completely decentralised. It has grown with such speed that it has already left the agriculture department's much criticised surplus commodity programme, ensnarled in red tape, far behind.

The emergency food system has its origins in the soup kitchens of the depression and before, but its growth in the past few years has been startling. Although all involved would like to consider it a temporary institution, there is a growing belief that it is here to stay and, if anything, will grow much larger.

Sixty-one regional food banks are the system's backbone. Each consists of a large warehouse equipped with freezers and usually manned by a small, paid staff supplemented by volunteers. These food banks are connected through Second Harvest, a non-profit-seeking organisation, which acts as a food broker. From its base in Phoenix, Arizona, Second Harvest approaches farmers and food manufacturers for donations and then shunts this food through three regional offices out to its members. The member food banks, either individually or through pools, pay the cost of transport, which is also sometimes donated. Once the food reaches a food bank, it is then given out to hundreds of the bank's members: churches, day centres for infants and the elderly, soup kitchens and various other organisations.

The member groups, which would previously have bought food on the open market, now support their food bank by paying a tax of between five and 12.5 cents a pound for the food they take. In this way the budget of the food bank, usually running anywhere from $100,000-250,000 a year, is covered. In some instances food banks are paid for by small donations. In Oklahoma, 600 people send in cheques of from $5 to $25 a month to keep the major local food banks going.

The entire system is private and non-profit seeking. To make sure it stays that way for tax purposes, Second Harvest certifies its member banks, inspects their operations, ensures that they charge no more than 12.5 cents a pound in taxes, and satisfies itself that the bank members in turn are charitable organisations as defined under the tax laws.



No shortage of takers

Second Harvest began as an experimental arm of the now defunct Community Services Administration in the Carter era. Last year it handled 60m lb of food. This year the volume is expected to exceed 100m lb. Much of the food consists of products that would otherwise be thrown out by the manufacturer, not because they are bad, but because they cannot be sold for other reasons: for example, discolouration or misspelled labels. When a Middle Eastern food broker went out of business, a trailer of macaroni with Arabic labelling was given to a food bank in New Jersey. Second Harvest dispensed 32 train carloads of a cereal which its manufacturer thought too oddly-flavoured to sell. The companies can deduct cost and half the unrealised profit from their taxes when they make such donations.

Some food banks rely heavily on farm surpluses. In northern California, where there are five large food banks, the banks collaborate to find out what crops are in surplus and to carry out exchanges between different areas. The bank in Watsonville, for example, supplies tons of artichokes and lettuce and gets, in exchange, peaches from the bank in Santa Clara and tomatoes from the bank in Sacramento. Farmers give food that would otherwise go to waste. What is left in the fields after harvest is also, in many cases, gathered in by teams of volunteer gleaners who take their pickings to the banks for sorting, cleaning and packing.

A report by a research group in Washington noted a dramatic increase in people coming to programmes served by the food banks. More than half the 181 programmes surveyed said that provision of free meals or food baskets had increased by more than half between February, 1982, and February, 1983. The Community Food Bank of New Jersey in Newark provides a good indication of the trend. Last autumn the bank was handling 10,000 lb of food a month. Now it distributes 200,000 lb a month across the state to 300 different groups which provide food to 30,000 people every day.

Some food banks in the Second Harvest system also distribute federal surplus foods under the government's programme. For the most part these consist of butter, cheese and non-fat dry milk from the government's huge surplus. But some food banks refuse to handle federal foods on the ground that it involves too much paper work. In certain states food banks say they have been deliberately denied federal food shipments, which instead have been handed out through local politicians as patronage.

Alaska State Legislature

Representative Niilo Koponen

FAIRBANKS
Box 252
Fairbanks, Alaska 99707
479-6782

JUNEAU
Pouch V
Juneau, Alaska 99811
465-4992

MEMORANDUM

TO: Representative Niilo Koponen

FROM: Deborah Niedermeyer, Legislative Aide DMN

DATE: 6 February, 1984

RE: Foodstamp Program

The foodstamp program does not adequately cover the needs of Alaska's poor. An income low enough to meet foodstamp eligibility standards only barely meets other basic monthly costs. Applicants with no income at all must wait at least 5 days before receiving assistance. This memorandum details foodstamp waiting periods and eligibility requirements which force many Alaskans to turn to foodbanks for help.

Eligibility

In December, 1983 5% of Alaskans (22,000 people) were using the foodstamp program.

To be eligible for benefits, a person who lives alone must make less than $659.00 per month. At that income level, a person receives $10.00 per month in foodstamps. A single person with no income receives the maximum assistance level of $112.00 in foodstamps per month.

A household of four must make no more than $1,342 per month to receive receive the minimum of $30.00 in foodstamp assistance. At zero monthly income, the four person household receives $374 per month in foodstamps.

Waiting Period

There is a maximum waiting period of 30 days between application for foodstamps and determination of eligibility. The Division of Public Assistance says, however, that due to the caseload, the thirty day legal maximum waiting period is also the minimum. Public Assistance admits that in some cases applicants wait even longer to find out if they will be eligible. Foodstamps must be in the mail to an applicant within 10 days of having been found eligible. Thus, the total waiting period is at least 40 days.

Households of any size which demonstrate that the household income for the previous month was less than $150.00 and that the household has less than $100.00 in liquid resources, qualify for "expedited determination". A quarter of Alaska's foodstamps applicants do qualify. In this case the foodstamps must be in the mail within 5 days of application. All those who are eligible for expedited determination are supposed to get the service automatically, however the Fairbanks office of the Alaska Legal Services Corporation routinely deals with cases where this has not happened.

REP. MAE TISCHER
CHAIRMAN

Alaska State Legislature

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

January 24, 1984

The Honorable Norman Gorsuch
Attorney General of the State of Alaska
State Capitol Building
Juneau, Alaska

Dear Mr. Attorney General:

I request that the Department of Law review House Bill 496, "An Act relating to food banks."

While a general overview is appropriate, I specifically request that the department concentrate on the legal questions raised in 1980 when Governor Hammond vetoed a similar bill because of serious legal questions regarding manufacturer liability for contaminated goods transferred directly to a food bank (See attached veto message).

The House Health, Education and Social Services Committee will be taking testimony on the bill on Saturday, January 28, 1984 in Anchorage. I ask that the completed review be available to my office by Friday, January 27, at 12:00.

Please contact me immediately if you need further clarification of my request or if you foresee some problem in meeting my requested deadline.

Thank you for your cooperation in this matter.

Cordially,

Mae Tischer

Mae Tischer

MMT:wtl

Attachments

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell
DATE: February 8, 1984

RE: Analysis of Proposed CSHB 496 (HESS)

For your convenience I have analyzed the proposed House HESS Committee Substitute for House Bill 496, "[a]n Act relating to food banks."

The proposed Committee Substitute amends AS 17.20 (Alaska Food, Drug and Cosmetic Act) by adding new sections, the effects of which are described below.

Sec. 17.20.345 provides that donors to food banks are not liable for damages resulting from the consumption of goods they donate unless such damages are the result of extreme negligence or misconduct by the donor. This provision subjects food bank donors to a more stringent test than food bank operators when determining negligence or misconduct. In other words, gross negligence or misconduct must be proven before a food bank donor is held liable for damages.

The bill specifically states that nothing in the section prohibits the donation of apparently suitable goods solely because of missing labels; or lower grade or marketability.

Sec. 17.20.346 provides that food banks are not liable for damages resulting from the consumption of goods received from individual donors if such damages are not the result of negligence or misconduct by the operators of the food bank. This provision subjects food bank operators to a less stringent test than donors when determining negligence. In other words, simple negligence must be proven before a food bank operator is held liable for damages.

The bill specifically states that nothing in this section prohibits a food bank from distributing apparently suitable goods solely because of missing labels; or lower grade or marketability.

Sec. 17.20.347 defines "donor," as used in AS 17.20.345 or 17.20.346, as including "a person, farmer, retailer, slaughter-house under state supervision, freight company, distributor, wholesaler, or similar entity." This provision specifically permits operators of state supervised slaughter-houses to donate suitable meats to food banks.

The section specifically excludes from the definition of "donor" a "person who acts in a commercial capacity as a manufacturer, packer, processor, bottler, or similar entity, if that activity is the persons primary activity."

This section further provides that "food bank" means "an organization recognized by the state or federal government as a nonprofit organization and that operates principally to collect, inspect, and salvage donated food for free distribution to needy persons."

/wtl

HB

504

Introduced: 1/10/84
Referred: Health, Education & Social Services, House Special Committee on State Loans and Finance

BY HAYES, HURLBERT, ADAMS, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DAVIS, FULLER, FURNACE, GRUSSENDORF, HERRMANN KOPONEN, LINDAUER, LISKA, MALONE, MARTIN, M.W.MILLER, RINGSTAD, SHULTZ, SZYMANSKI, JEHLING, WARD, ZHAROFF, FRITZ, BETTISWORTH AND MCBRIDE

IN THE HOUSE

HOUSE BILL NO. 504

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the teacher scholarship loan program."

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

* Section 1. AS 14.43 is amended by adding new sections to read:

ARTICLE 7. TEACHER SCHOLARSHIP LOAN PROGRAM.

Sec. 14.43.600. FINDINGS AND INTENT. (a) The legislature finds that there is a wide and unacceptable disparity between the ~~ethnic~~ distribution of teachers and the ethnic distribution of students in the state public schools. Particularly in rural areas, many schools have virtually no Native teachers and no non-Native students. The undesirable effects of this disparity include the following:

(1) there is a serious weakness in the ability of teaching staffs, particularly in rural schools, to foster a sense of ethnic traditions and cultures in the students;

(2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes, and the essentially modern atmosphere of the classroom;

(3) almost no students among the state's ethnic minorities return to rural schools to teach, continuing the ethnic imbalance and exacerbating its effects; and

(4) there is an annual turnover of 40 percent among teachers in rural educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of members of ethnic minorities

teaching in rural schools. Therefore, it is the intent of the legislature to establish the teacher scholarship loan program to encourage members of ethnic minorities to return to rural schools as teachers and relieve the conditions described in this section.

Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the teacher scholarship loan program to provide an incentive for graduates of Alaska high schools who are from ethnic minorities to pursue teaching careers in Alaska schools.

Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There is created a teacher scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.600 - 14.43.650. All repayments of principal and interest on teacher scholarship loans shall be paid into the teacher scholarship revolving fund and shall be used to make new teacher scholarship loans. If estimated funds available from teacher scholarship loan repayments are inadequate to fully fund estimated teacher scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

Sec. 14.43.630. ADMINISTRATION. The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall distribute the funds available for teacher scholarship loans annually to local school boards giving a preference to school districts with a high percentage of students in ethnic minorities and a low percentage of teachers in ethnic minorities. The local school boards shall select the recipients of the teacher scholarship loans.

Sec. 14.43.640. CONDITIONS OF LOANS. Each school district shall award teacher scholarship loans subject to the following conditions:

(A) the conditions provided in AS 14.43.120 apply except that no loans may be made to graduate students (and the state shall repay a portion of a teacher scholarship loan under AS 14.43.120(j) only if, in addition to the other criteria, the borrower is also employed as a public school teacher in the state during the period for which the loan is forgiven;)

(B) if a borrower meets the conditions provided in paragraph (1) of this section and is employed as a public school teacher in the district from which the borrower graduated, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

(A) one year employment, 15 percent;

(B) two years employment, an additional 15 percent;

(C) three years employment, an additional 15 percent;

(D) four years employment, an additional 25 percent;

(E) over four years employment, an additional 30 percent; and

(3) a loan may not exceed $10,000 in a school year.

Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a teacher scholarship loan, a student must

(1) be a graduate of, or scheduled for graduation within six months from, a state public high school, with sufficient credits to be admitted to an accredited college or university;

(2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level; and

(3) meet the conditions set by the student's local school district with respect to the district's requirements for teachers in

particular subject areas.

(b) Each school district shall award teacher scholarship loans in direct proportion to the distribution of ethnic groups among the students eligible for graduation from the school district each year.

(c) A student may not be awarded a scholarship loan under AS 14.43.090 - 14.43.160 and a teacher scholarship loan under AS 14.-43.600 - 14.43.650 for the same school year.

define ethnic/minority

Bethel

✓ Robert Nick
✓ Timothy Miller

Committee:
Hayes ✓
* Davis
+ Ehling
* Kopenon
* Martin
* Pestinger

Locations

Naknek: (3) Dave Hamilton ✓
Harry Masington ✓
Frank Hill ✓

Newhalen: (3) Sue Arce ✓
~~[illegible]~~
John Hoffman

Dillingham: (1) Peter Flisock ✓

Kodiak: (2) ✓ ~~Thompson~~ ✓ ~~Volson~~ ✓ Fulp

Petersburg: (1) ~~Victor Guthrie~~ ✓

Anchorage: (1)

Juneau:

~~Dave - Return the District~~
6 ~~[illegible]~~
~~school board~~ decide
~~Dave Hamilton~~
~~Guthrie - [illegible]~~
Mr Flisock

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
Kotzebue, Alaska
February 3, 1984
1:05 p.m.

Members Present: Rep. Tischer, Chairman (In Kotzebue)

Rep. Pestinger, Vice-Chair (via teleconference in Juneau)

Rep. Uehling (via teleconference in Juneau)

Rep. Martin (via teleconference in Anchorage)

Rep. Davis (via teleconference in Juneau)

Rep. Goll (via teleconference in Juneau)

Rep. Koponen (via teleconference in Juneau)

Members Absent: None

COMMITTEE CALENDAR

HB 504 "An Act establishing the teacher scholarship loan program."

WITNESS REGISTER

Rep. Hayes
Pouch V
State Capitol Building
Juneau, Alaska 99811
465-1965
Position Statement: Sponsor of HB 504; reviewed reasons for writing the bill.

Russell Jones
Special Assistant to the President
Legislative Affairs
University of Alaska
Position Statement: Generally supported HB 504, saying that the number of Native teachers is far too few, but he had several questions which detracted from his complete support.

Evellyn Conwell
Member
Regional School Board
Kotzebue, Alaska

Position Statement: Supports the intent of HB 504.

Nita Towarok
Teacher
Kotzebue Middle School
Kotzebue, Alaska
Position Statement: Supports HB 504.

Jackie Hill
Supervisor
Northwest Arctic School District
Kotzebue, Alaska
Position Statement: HB 504 is excellent incentive for rural students to get higher education.

Helen Chamberlain
Counselor
Kotzebue Technical Center
Kotzebue, Alaska
Position Statement: Supports intent of bill but had several qualms which abrogated support for the bill as written.

Kerry Romesburg
Executive Director
Postsecondary Education Commission
Pouch F
Juneau, Alaska 99811
465-2854
Position Statement: If a person with a Bachelor's degree returned to school to get an MA in teaching, the MA would be considered an extension of his BA, thus, he could get this loan for that purpose.

Susy Ehrlich
Advisory School Board
Kotzebue, Alaska
Position Statement: Very strongly supports the intent of this bill.

Wesley Goodwin
Student
Kotzebue High School
Kotzebue, Alaska
Position Statement: Strongly supports HB 504.

Calvin Baker
Principal
Kotzebue Middle School
Kotzebue, Alaska
Position Statement: Strongly supports intent of HB 504.

James Elliot

Superintendent
Northwest Arctic School District
Kotzebue, Alaska
Position Statement: Supports intent of HB 504, cited several short comings.

Marie Schwind
President
Maniilaq Association
Kotzebue, Alaska
442-3311
Position Statement: Maniilaq supports without qualifications the language and intent of bill.

Nina Bradfield
Director
Instructional Support
Chukchi Community College
Kotzebue, Alaska
442-3400
Position Statement: Applauds intent of HB 504, but did have concerns.

Jean Robb
NEA Alaska
Box 193
Kotzebue, Alaska
442-3510
Position Statement: Observer.

Rita Ryder
Box 792
Kotzebue, Alaska
442-3400
Position Statement: Fully supports HB 504.

Dennis Trepelman
Former President
Maniilaq Association
President
Kotzebue Village Corporation
Box 279
Kotzebue, Alaska
442-3460
Position Statement: Supports HB 504.

Beverly Grogin
Teacher
Chukchi Community College
Kotzebue, Alaska
442-3400
Position Statement: Getting people to return to rural regions very important; supports HB 504.

Reggie Jewel
NANA
Box 49
Kotzebue, Alaska
442-3301
Position Statement: Supports HB 504.

Eric Madsen
X-CED
Box 297
Kotzebue, Alaska
442-3819
Position Statement: Agrees with Dennis Trepelman.

Sharon Oyoumick
Graduate
Seattle Pacific University
Kotzebue, Alaska
Position Statement: Fully supports bill.

Sharon Moore
NANA Museum
Box 45
Kotzebue, Alaska
442-3301
Position Statement: Supports prior testimony.

PREVIOUS ACTION

HB 504	1/10/84 - First Reading.
	Committee Referrals - HESS, Loans and Finance Committees.
	No previous action in HESS Committee.

ACTION NARRATIVE

TAPE#1, Side A Recording Number 0006	Chairman Tischer called the House Health, Education & Social Services Committee to order at 1:05 at the Kotzebue Technical Center. Members present in Juneau via teleconference were Representatives Uehling, Davis, Martin and Pestinger. Also present were Russell Jones and Rep. Hayes.
Number 0058	Rep. Koponen is now in attendance in Juneau.
Number 0084	Chairman Tischer called Rep. Hayes to testify.

Number 0089 — Rep. Hayes, sponsor of HB 504 comes to the stand. He said there is too much disparity between rural and urban education experience.

Number 0125 — Rep. Hayes continues. In at least 13 districts there are no Native teachers and the annual turnover is 50%.

Number 0131 — Rep. Hayes; $4 million in 1980 for teacher training.

Number 0153 — He said the intent of HB 504 is to place more Native teachers in rural Alaska. HB 504 makes forgiveness easier and encourages teaching profession, said Rep. Hayes.

Number 0170 — Rep. Hayes continues testimony. It will reduce turnover rate and preserve Native cultural heritage and all Alaskans will benefit.

Number 0208 — Russell Jones, Special Assistant, Legislative Office for University of Alaska comes to the stand to testify on HB 504. He said the number of Native teachers is too low. He questions Page 3, Lines 7 - 11, "forgiveness". Asks if one must return to his exact village, even if recommended for scholarship from another village.

Number 0248 — He asked for age requirements; must be immediate last year's graduate or could it be a 20-25 year old who could become a great teacher?

Number 0268 — Rep. Koponen questions Mr. Jones; suggest any changes to current wording?

Number 0274 — Mr. Jones; broader bill - so candidate must not go back to exact district; but any comparable district, and still get forgiveness.

Number 0286 — Rep. Koponen said language is the problem.

Number 0293 — Rep. Davis agrees with Rep. Koponen and Russell Jones, put in a language requirement.

Number 0300 — Rep. Martin in Anchorage: Agrees with Mr. Jones. When there is an overload of students from one area they should be

eligible to teach in a comparable regional area. We should be more flexible, said Rep. Martin.

Number 0318 — Chairman Tischer suggested members look at map of rural area. School districts are very large. Bill sponsor interested in preserving the ethnic cohesion.

Number 0340 — Evellyn Conwell, Regional School Board Member in Kotzebue welcomes people and said she supports HB 504. Ethnic minorities are needed and is aware of the need for programs like this which compliments the EXCEED Program. As board member, they will make personal commitment to hire more Native teachers, however, only qualified teachers.

Number 0396 — Rep. Martin in Anchorage: What about marriage during college? What about forgiveness when students move to others' home town?

Number 0417 — Nita Towarok, Teacher, Kotzebue Middle School; supports bill, but concerned with language on page 3, line 1; no loans to graduate students. It excludes students who want to return to learn to teach.

Tape 1, Side B
Recording
Number 0001 — Nita Towarok continues testimony.

Number 0010 — Chairman Tischer said regular Alaska Student Loan is not restrictive in this way. They still have that option.

Number 0036 — Nita Towarok said loan should apply to all rural students.

Number 0048 — Rep. Koponen asked about success of the loan program, and how many students are interested in teaching?

Number 0075 — Jackie Hill, Supervisor, Northwest Arctic School District; HB 504 is excellent incentive for rural students to go into education. Asked why it wasn't applicable to private schools?

Number 0099 — Chairman Tischer agreed to make suggestion to sponsor of bill and include all schools.

Number 0113 — Helen Chamberlain, Kotzebue Technical

Center, had the following questions and concerns:

1. restricted to public schools and what about those with GED?

2. concerned about elimination of graduate students.

3. why not be able to apply for both Alaska Student Loan and this at the same time?

Just applying does not ensure the full amount.

Number 0182 — Kerry Romesburg said a person with a Baccalaureat degree could return to get MA in teaching, and that part would be considered as extension of his BA.

Number 0201 — Susy Ehrlich, Local Advisory School Board; very strongly in support for this effort. It will enhance student if we have successful Native role models.

Ms. Ehrlich: Cultural empathy; when educators from different culture dominate, some of the value of the culture is lost.

Number 0262 — Chairman Tisher asks Ms. Ehrlich, why haven't we ever seen flood of Native students to return as teachers? They have the original loan.

Number 0274 — Susy Ehrlich said they see no opportunity, it's invisible to them.

Number 0293 — Rep. Koponen asked definition of district to which student must return. Could we broaden the bill to include a language requirement instead of strictly district.

Number 0310 — Rep. Pestinger referred to Page 3; add - "return to region of same or similar ethnic and linguistic origin."

Number 0322 — Calvin Baker, Principal, Kotzebue Middle and High School; strongly supports for intent of bill. He said when Native teachers are on staff, its much easier to meet the needs of community and students.

Number 0362 — Rep. Goll is now present.

Rep. Goll questions the constitutionality of the bill.

Number 0371 — Mr. Baker said the bill is an excellent vehicle for attacking the problem; expressed concern about language of bill.

Number 0414 — Rep. Goll asks Mr. Baker; what about expanding existing student loan to have additional incentives and not create a new HB 504.

Tape 2, Side A
Recording
Number 0001 — Mr. Baker continues; just expand original bill. Intimated at question not constitutionality of the racial qualifications of HB 504.

Number 0050 — Chairman Tischer stated that the Attorney General is drafting a legal statement.

Number 0062 — Wesley Goodwin, Student, Kotzebue High School; reassuring to know that people care about students in these regions.

Number 0095 — James Elliot, Superintendent, Northwest Arctic School District; supports concept of this bill. We have 8 (of 107) Native teachers in this district, 98% native students and the turnover is 11.6% said Mr. Elliot. We have strong commitment to hire district graduates and glad that HB 504 gives discretion to choose school boards. He cited shortcomings of the bill and the value of Natives teaching Natives.

Number 0200 — Mr. Elliot passed copy of marked bill to Chairman Tischer.

Number 0202 — Rep. Koponen: How many of Arctic Villages have 4-year high schools?

Mr. Elliot: All, but one.

Number 0220 — Rep. Goll asks Mr. Elliot the same questions he asked Mr. Baker. Also, what about modifying existing student loan program?

Number 0266 — Marie Schwind, President, Maniilaq Association said she was happy to have Chairman Tischer and staff in Kotzebue. She said Maniilaq Association supports without qualifications the language and intent of HB

504.

Ms. Schwind cited percentages concerning ratio of Native teachers to Native students.

Number 0357 — Nina Bradfield, Director, Instructional Support; applaud intent of HB 504, concerned that this bill may penalize students who fail in college - they both fail in college and have a debt. What about those who can't find work in their home districts? They have a debt and no job.

Number 0380 — Rep. Goll asks Ms. Bradfield the same question about modifying existing bill.

Number 0387 — Ms. Bradfield; would like to modify the bill.

Number 0410 — Camille Z.; supports intent of bill, but does bill exclude non-high school students? She said she graduated long ago, but wants to return.

Tape 2, Side B
Recording
Number 0001 — Rep. Goll said there are other loan programs.

Number 0065 — Rep. Pestinger restated language change suggested before.

Number 0085 — Rita Ryder, Administrative Record Clerk at Chukchi College; fully supports HB 504, it will help bridge cultural gap.

Number 0126 — Dennis Trepelman, former Maniilaq President, President of Kotzebue Village Corporation; encouraged HB 504, percentage of Native teachers far too low. He said the turnover is sometimes higher than 40%.

Number 0203 — Dennis Trepelman continues. He agrees with language on Page 2, Lines 20-26.

Number 0238 — Mr. Trepelman considers requirement of demonstration, first semester of first year. Money is lost often by drop-outs. We should have U of A aware of rural issues, said Mr. Trepelman. He encourages passage of HB 504.

Number 0275 — Dennis Trepelman; NANA scholarships derived from contributions from other business or

corporations. We take and look at all applications, what is written well, and promises to benefit both corporation and village, and them, we view highly.

Number 0306 — Chairman Tischer said some selection criteria leans toward what applicant can do for NANA later? (Yes).

Number 0327 — Beverly Grogin, Chukchi Community College; getting people to return to these regions for all jobs is very important.

Number 0352 — Ms. Grogin; I'd like to see district encouraged to hire Natives if possible or people who love the area.

Number 0361 — Reggie Jewel, Board Director, NANA Regional Corporation; supports HB 504. It is needed and agrees with Camille Z., that this bill should be broadened to include those already out of high school or who have already done some college.

Number 0391 — Reggie Jewel; really need positive role models for Natives, and agrees with Dennis Trepelman's testimony.

Number 0404 — Rep. Koponen: Might not this loan be supplemented by direct scholarship?

Number 0410 — Mr. Jewel; agree with Dennis Trepelman's suggestion that perhaps a student go to school for a year or semester to help weed those who would not make it.

Tape 3, Side A
Recording
Number 0001 — Eric Madsen agrees with Mr. Trepelman's statement and would like the language change as suggested.

Number 0051 — Chairman Tischer; how do you feel about opening bill to extent that it might be short funded?

Number 0109 — Rachel O.: fully supports HB 504. She said, do not exclude private school graduates from this loan, and was concerned that other majors such as administration be included as eligible for this bill.

Number 0169 — Chairman Tischer; was your adjustment difficult?

Number 0182 — Rachel O.; yes quite, I almost quit, but I did adjust.

Number 0189 — Chairman Tischer; if the college experience were the first contact with metropolitan life, could that have a lot to do with failure?

Rachel O.: Yes.

Number 0215 — Rep. Koponen: are there incentives built in programs for areas where problem is just the opposite?

Number 0250 — Sharon Moore, NANA Museum for Arctic: Supports prior testimony, concerned with public high school restriction, and on Page 3, Line 9, support change of language.

Number 0301 — Chairman Tischer thanks witnesses of Kotzebue for testifying and calls for recess at 3:12 p.m.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
Nome, Alaska
February 4, 1984
10:50 a.m.

Members Present: Rep. Tischer, Chairman (In Kotzebue)

Rep. Pestinger, Vice-Chair (via teleconference in Juneau)

Rep. Davis (via teleconference in Juneau)

Rep. Martin (via teleconference in Juneau)

Rep. Goll (via teleconference in Juneau)

Rep. Koponen (via teleconference in Juneau)

Rep. Uehling (via teleconference in Juneau)

Members Absent: None

COMMITTEE CALENDAR

HB 504 "An Act establishing the teacher scholarship loan program."

WITNESS REGISTER

Nancy Mendenhall
Northwest Community college
Pouch 400
Nome, Alaska
443-2201
Position Statement: Supports HB 504.

Ken Kristenson
NEA Alaska
Box 1508
Nome, Alaska
443-2559
Position Statement: Supports HB 504.

Ralph Gabrielli
Northwest Community College
Pouch 400
Nome, Alaska
443-2201
Position Statement: Supports HB 504.

Jenny Alowa

Box 1007
Nome, Alaska
443-5641
Position Statement: Supported HB 504.

Willie Willoya
Nome, Alaska
443-2688
Position Statement: Favored HB 504.

Susie Silook
Box 1902
Nome, Alaska
443-2201
Position Statement: Supported HB 504.

Helga Eakon
Unalakleet, Alaska
Position Statement: Favored HB 504.

Herbert Ivanoff
City Administrator
Unalakleet, Alaska
Position Statement: Favored HB 504.

Alfred White
Principal
Unalakleet High School
Unalakleet, Alaska
Position Statement: Favored HB 504.

PREVIOUS ACTION

HB 504	1/10/84 - First Reading. Committee Referrals - HESS, Loans and Finance Committees. See HESS minutes of February 3, 1984.

ACTION NARRATIVE

TAPE#1, Side A Recording Number 0001	Chairman Tischer welcomes all witnesses in Kotzebue. Members present in Juneau; Representatives Davis, Martin, Goll, Koponen and Uehling. Representatives Hayes and Hurlbert are observing.
Number 0003	Nancy Mendenhall; involved in teaching education for four years, she said there

were 15 students in the teacher education program, and 8 students in the EXEED Program.

Number 0022 — Ms. Mendenhall likes the bill; it's well stated. She said they have a very serious problem in their region with the lack of Native children.

Number 0032 — The EXCEED Program is not working as it takes too long, these people need to become full-time student. HB 504 would help correct that problem, said Nancy Mendenhall.

Number 0064 — Ms. Mendenhall: Natives with BA degree are in great demand. This bill will be a great incentive for them to return to their community and that they are very important role models.

Number 0086 — Nancy Mendenhall stated HB 504 is an outstanding bill.

Number 0092 — Rep. Hayes, sponsor of HB 504 comes to the stand. He said the student loan program is aimed at getting students who graduated to return to their villages. Rep. Hayes said there is too much disparity between rural and urban education experience. In at least 13 districts there are no Native teachers and the annual turnover is 50%. The intent of HB 504 is to place more Native teachers in rural Alaska; the bill makes forgiveness easier and encourages teaching profession. It will reduce turnover rate and preserve Native cultural heritage and all Alaskans will benefit, said Rep. Hayes.

Number 0139 — Rep. Hayes further stated that this bill will create a larger pool of qualified Native teachers and a stronger sense of the values of the rural cultures.

Number 0164 — Alfred White, Principle, Unalakleet High School: Thanks for the opportunity to speak, pleased particularly with this bill. But, public school graduates only - not acceptable. He read the testimony to be sent to Juneau, and he recognized the need since 1959. Mr. White stated that private school students are being discriminated against.

Number 0195 — Mr. White continues his testimony. The

success of private schools is widely accepted, and that some areas have only one high school and what if it is private? He encouraged to increase the bill's scope.

Number 0240 — Rep. Koponen: Speaker made a good statement, we'll be working with you, Chairman Tischer when you return.

Number 0255 — Ken Kristenson, NEA Alaska: There is a great lack of role models for students, and the increasing number of students wish to go on in school. He said, this bill will give us something to show them it's special for them to get educated and return. Ken Kristenson said NEA supports HB 504.

Number 0306 — Helga Eakon from Unalakleet: She read a written testimony.

Number 0324 — Helga Eakon: Happy to testify in support of HB 504, the findings and intent are accurate. She said, we need teachers who understand our culture.

Number 0350 — Group other than Alaska School Board should not choose students, said Ms. Eakon.

Number 0361 — Eligibility should not depend upon graduating from public school. This is unconstitutional, said Helga Eakon.

Number 0390 — Ike Wowakok: Native pride is a stepping stone to realize we have something unique and important. In our rapidly changing culture, education helps to make adjustments easier. Private school graduates not allowed, is unfair and discriminating.

Number 0441 — Rep. Davis: We are going to work on that point in the legislation, that complaint was brought up yesterday, it's a very good observation.

Number 0487 — Jenny Alowa: Originally from Sevonga.

Tape 1, Side B
Recording
Number 0001 — Jenny Alowa continues testimony. Working toward MA degree, thank you for the chance to speak. Sometimes it takes the top level to change things or motivate. The bill is very positive; it has already made an

impact. Our children do need successful role models. EXCEED teachers are over-worked and under paid. They must work too hard too long.

Number 0035 — Jenny Alowa: Local school districts very slow in moving people up any career ladder. Curriculum also a problem, it limits people sometimes.

Jenny Alowa: This is a conflict between the various cultures, but our children are very adaptable, and fewer and fewer are being lured to urban areas.

Number 0062 — Jenny Alowa: Local Community Colleges have been a great advantage to the villages. So has state wide satellite, Channel 13.

Number 0072 — Chairman Tischer: How would it affect your thinking to that offer borrowing $40,000. You might change your decision and not teach, or you might marry and go without your mate to another area?

Number 0100 — Jenny Alowa: This is limiting. If one returns to any area within the state, they should have forgiveness.

Number 0128 — Lawrence Olson, Executive Director; fully supports the bill, and restated, should not be restricted to public school graduates. He added, our high school has students from all over Western Alaska, please include private schools.

Number 0170 — Ralph Gabrielli, Education Teacher for (4) years, Northwest Community College: Probably 30 students in this area are moving toward AA or BA degrees. These are very fine motivated students who sacrificed greatly for only 9 credits per semester. Thus, it takes 7 years to get BA.

Number 0206 — Ralph Gabrielli continues, strongly support HB 504. The money will provide options not currently available.

Number 0217 — Mr. Gabrielli: Students who take this loan will be risking a great deal. They may not finish their college, there may be no jobs available.

Number 0234 — Mr. Gabrielli continues: Committee should consider forgiveness for returning to any rural area in Alaska.

Number 0248 — Ralph Gabrielli: Addressing the spirit behind the bill; in Alaska, 35 Natives who care called Aides, but who take great responsibility for classroom. Perhaps some special legislation could make them full-time teachers, because that is what they are doing now.

Number 0291 — Willie Willoya, former school teacher; as this bill stands, I am against it. It's a political football - the administration clause may work against ethnic community.

number 0314 — Mr. Willoya: The things not firmly established in bill will work against the Natives in the area.

Number 0345 — Mr. Willoya continues testimony. In 5 years, Sec. 14.43.360 will work against villages. I suggest that if legislators really want Native teachers, they establish a two year grant program to any Native who wants it. No politics, no time consuming things besides teaching courses.

Number 0374 — Willie Willoya: The people who really want to make it, they can, if they don't have families to feed.

Number 0405 — Mr. Willoya refers to Sec. 14.43.650. SELECTION CRITERIA. His concern was, most people don't know until their second year if they want to be a teacher.

Number 0431 — You could have A and B students teach C and D students to help pinpoint the best and help them decide if they want to spend a life teaching, said Mr. Willoya.

Number 0484 — Mr. Willoya said HB 504 does not define philosophies.

Tape 2, Side A
Recording
Number 0001 — Mr. Willoya continues his testimony: If those who will choose students for scholarships.

Number 0012 — Chairman Tischer: How did you get MA's?

Mr. Willoya: Kuskokwim Community College and Barrow. I have close to 7 other Masters degree if I want to finish them. Extension programs.

Number 0050 — Herbert Ivanhoff, City Administrator, Unalakleet: This bill is long over due. He noted on Page 3, Sec. 14.43.650. SELECTION CRITERIA. Private schools should not be left out.

Number 0072 — Mr. Ivanoff: Should be able to teach in a private school, too.

Number 0081 — Student should be able to return anywhere in rural Alaska, said Herbert Ivanhoff.

Number 0090 — Mr. Ivanoff refers to Sec. 3 and asks for explanation.

Number 0095 — Chairman Tischer explained the section.

Number 0116 — Susie Silook, Administrative Assistant, Community College: Voices her support. I sympathize with students who try to feed a family and get a degree. Outside teachers cannot always adopt their teaching to Native culture. We need Native teachers who can adapt knowledge to the culture.

Number 0148 — Chairman Tischer: Clarified that if one could not get this loan, there is still the Alaska Student Loan.

Helga Eakon: Refers to Sec. 14.43.650. SELECTION CRITERIA: Clarity of first clause - 6 months period, could a several year graduate also seek loan?

Number 0221 — Chairman Tischer: Clarification.

Number 0270 — Alfred White: Refers to Sec. 14.43.640. CONDITIONS OF LOANS and the next paragraph. He feels that it is too restrictive.

Number 0313 — Mr. White: School Board select recipients regarding a quota? Then if there are no qualified candidates, they would still have to pick someone, which would lower the overall quality of students.

Number 0384 — Edna Apatiki from Gamble: She is pursuing a teaching certificate and is in support of HB 504.

Number 0481 Chairman Tischer called for a recess until noon on Sunday, February 5, 1984.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
February 6, 1984
2:04 p.m.

Members Present: Rep. Tischer, Chairman
Rep. Pestinger, Vice-Chair
Rep. Uehling
Rep. Koponen
Rep. Goll, late
Rep. Davis, late

Members Absent: Rep. Martin

COMMITTEE CALENDAR

HB 504: "An Act establishing the teacher scholarship loan program."

WITNESS REGISTER

Jeff Day
Legislative Aide
Rep. Hayes
Pouch V
State Capitol Building
Juneau, Alaska 99811
465-3740
Position Statement: Urged passage of bill and clarified intent of HB 504.

Kerry Romesburg
Director
Postsecondary Education Commission
Pouch
Department of Education
Juneau, Alaska 99811
465-
Position Statement: Represented the Attorney General's Office.

Rep. Hurlbert
Pouch V
State Capitol Building
Juneau, Alaska 99811
465-3711
Position Statement: Clarified some provisions.

PREVIOUS ACTION

HB 504 1/10/84 - First Reading.

Committee Referrals - HESS, Loans and Finance Committee.

See HESS minutes of February 3, 4 and 5, 1984.

ACTION NARRATIVE

TAPE#1, Side A

Recording Number 0001	Chairman Tischer called the meeting to order at 2:04 p.m., recognized the members present and announced the committee will have a work session on HB 504.
Number 0048	Chairman Tischer reviewed the suggestions and concerns of the weekend hearings. She said she intended to change the language in the bill concerning "private schools."
Number 0131	Rep. Koponen asked who decides admission to a University? He said, we can't force University to accept credits from any high school.
Number 0150	Rep. Uehling asks Rep. Pestinger· Can we put Alaska high school or State high school?
Number 0161	Chairman Tischer said, we've got to be consistent. We will ask the legal drafter for exact language. Page 3, Subsection 2. Condition of Loan. The village dweller who went outside village to high school, or those students from different districts who marry and go to one spouse's home village, the other gets penalized.
Number 0234	Rep. Pestinger: Amendment, "of same or similar ethnic and linguistic origin". Rep. Pestinger suggested that this change was consistent with testimony, and did not interfere with the intent of the bill. This seem a good change.
Number 0259	Representatives Goll and Davis arrived at 2:25 p.m.
Number 0266	Jeff Day; to help with the intent of the bill. Intent; they can return to a culturally linguistically similar area.

Number 0278 — Rep. Uehling; would this apply to any urban areas? We don't want to open it up this much.

Number 0296 — Rep. Koponen: Some testimony stated support for bill because of the role model idea, this would be as viable for an urban Native as a rural one.

Number 0300 — Chairman Tischer: Exactly. How do you not discriminate and still account? There is a large black population in Anchorage, for example.

Number 0315 — Rep. Davis: What if one moves to city at 16 years? Is he not eligible for the loan?

Number 0331 — Chairman Tischer: There is always the Alaska Student Loan program available.

Number 0346 — Rep. Pestinger: I'm trying to look toward the policy of bill, not legal matters. How broad should our meddling be? Do you want me to look at the constitutionality of it? As Chairman, I need your discretion.

Number 0356 — Chairman Tischer: Answer for sponsor, the intent of the bill is to keep handle on loan. We want to encourage kids who are thinking about college to become teachers and go back to their rural area.

Number 0368 — Rep. Pestinger: Attorney General's legal opinion you had drafted, any red flags?

Number 0375 — Chairman Tischer gave the committee five minutes to review the legal document.

Number 0376 — Rep. Davis: Perhaps we should ask Mr. Romesburg to add his testimony. He's worked on the legal

Number 0379 — Mr. Romesburg: The Attorney General raised several questions about equal protection, and most of those can be addressed by dealing with preference rather than proportion. Preference in an area of unbalance will get you around quotas. She also addressed the public/private high school part. She (Assistant Attorney General) said about forgiveness, don't restrict to school district. Intent is cultural similarity. School district and cultural similarity may not be the same

thing. Looking for ethnic balance. She liked going with each rural Alaska as returning point.

Number 0410 — Rep. Goll asked to clarify the federal incentive loans, the forgiveness.

Number 0417 — Rep. Goll; what's your recommendation for defining minority rural areas.

Number 0426 — Rep. Goll said the intent of the bill is fine, but statistics show that people do return to rural Alaska. These constitutional problems would be overcome. Take Section 640, line 28 - exclude part 3, $10,000.

Rep. Goll; include this part in the existing loan program. Rather than create a new program, just amend this Alaska State Loan Program with the same forgiveness for returning to rural areas.

Tape 1, Side B
Recording
Number 0001 — Kerry Romesburg: Doesn't address the problem of mal-distribution of teachers.

Number 0020 — Rep. Davis: I must leave soon, but could Mr. Romesburg provide us with some written recommendations.

Number 0057 — Rep. Uehling: Re; Rep. Goll's suggestion to change this but expand Alaska Student Loan Program.

Number 0073 — Kerry Romesburg: If purpose is to recruit for specific occupation, then fine.

Number 0083 — Rep. Goll: Do you want to make a dollar incentive?

Number 0085 — Rep. Uehling: I want to make sure we put this bill together without constitutional problems, and still keep the $10,000 in the loan.

Number 0092 — Representatives Goll and Uehling: What happens to the junior who changes his mind about becoming a teacher?

Number 0095 — Chairman Tischer: He'll suffer the consequences.

Number 0110 — Mr. Romesburg: As written, I don't know why

any student would take this loan. Because this program demands 100% payback if you don't do exactly what the loan demands - gamble that you'll graduate with a teacher's degree and get a job in Alaska. Too many gambles.

Number 0137 — Rep. Hurlbert: At first we had a provision that you got 50% forgiveness if you taught anywhere in the state. Others clarified that provision still exists.

Number 0170 — Rep. Davis agrees with Mr. Romesburg.

Number 0191 — Rep. Hurlbert asks Mr. Romesburg: What does loan cover? Books, tuition, room and board? No travel. Rep. Hurlbert suggested to add travel as an expense covered by loan.

Number 0204 — Chairman Tischer to Mr. Romesburg: With more forgiveness, what impact on idea that program will eventually be a revolving fund?

Number 0209 — Kerry Romesburg: This loan will become a revolving fund, about 1 of 5 students ever gets forgiveness.

Number 0217 — Chairman Tischer: Rural folks concerned about paying back that money.

Number 0226 — Mr. Romesburg: Same as anyone else, 10 year pay back. Then you could extend that 5 years under the Hardship Rule.

Number 0238 — Rep. Goll: Do we have a fiscal note here? Why such a low fiscal note?

Number 0240 — Mr. Romesburg: So low, because this fund comes from the same fund as the Alaska Student Loan fund.

Number 0257 — Chairman Tischer: Another questions the folks brought up, I'm going to take this loan and go to U of A,A. Second year, switch majors. I suggested they should then switch to original Alaska State Loan Program, then I advised them to start out with the Alaska State Loan anyway because no matter what you graduate in, it's forgiven.

Number 0289 — Rep. Uehling: Concerned about potential liability of $80,000 loan.

Number 0302 — Rep. Hurlbert: What about leaving some of

this to the discretion of the post-secondary board. We can't foresee all circumstances.

Number 317

Chairman Tischer adjourned the meeting.

NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE
1411 W. 33RD
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE
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(907) 586-3090

FAIRBANKS REGIONAL OFFICE
2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

TO: Mae Tischer, Chairman
House HESS Committee
Members of the Committee

DATE: February 21, 1984

RE: HB 504; "An Act establishing the teacher scholarship loan program."

NEA-Alaska strongly supports and encourages favorable consideration of the concept of scholarship incentives as a method of encouraging Alaska Natives to pursue careers in teaching in the public schools in Alaska. This particular issue was established as one of the six major legislative priorities of the Delegate Assembly, meeting in Anchorage in January.

It may be appropriate for the Committee to seek data relative to the previous implementation of AS 14.43.050 -.090 for purposes addressing specifically identified needs. SB 426 expands upon the provisions of the above referenced statute.

We would further encourage that the Committee, either on its own initiative or through the Department of Education, consider the feasibility of conducting an annual survey of all Alaska Native High School sophomores, juniors, and seniors and, perhaps even a supplemental survey of their parents and guardians as well, in an effort to build a data base which could be used to bring even more focus to this kind of legislation on a long term basis. Specifically, it seems appropriate to have more information on:

- career aspirations, expectations, needs
- current deterrents, barriers, problems
- extent and nature of counseling and adequacy of curriculum

A recent survey published by Texas Christian University on "Factors Related to High School Students' Interest in Teaching as a Profession" strongly suggest that a decline in parental interest in encouraging their children toward teaching is a major factor. It may be appropriate to ascertain the validity of this conclusion for Alaska.

With an increasing number of Native students in the urban areas perhaps it is worthy of some emphasis to encourage, through incentives, more Native teachers in these areas as well.

It also seems appropriate to consider making this loan program an adjunct of the regular student loan program, but utilizing an expanded and separate sub-committee of the Post Secondary Education Commission which would also include practicing teachers and parents among its membership.

We feel that it is appropriate to raise some caution relative to geographic restrictions upon where a recipient may chose to teach. Reduction in the teaching force, non-retention and/or desire to voluntary job changes may have some effect on mobility of the recipients.

Finally, it may also be appropriate to clarify the legislative intent of HB 504 as it pertains to the term "teacher." AS 14.20.207 currently provides that the term teacher is also intended to cover administration. It is our recommendation that the primary focus be toward those who are actually in a classroom teaching circumstance.

Respectfully Submitted,

Bob Manners
Executive Secretary
NEA-Alaska

4:DS1

HOUSE HESS COMMITTEE
Mae Tischer, Chairman
Capitol Room 112
Juneau, Alaska

1/31/84

You might want to remind the members in Juneau of this. Also for the record.

NOTICE

The House Health, Education and Social Services Committee gives notice that it will take testimony on House Bill 504, "An Act establishing the teacher scholarship loan program," at the times and locations indicated below:

Kotzebue
Kotzebue Technical Center
1:00 p.m.
Friday, February 3, 1984
Teleconferenced to Capitol Room 112, Juneau, 1:00 p.m.

Nome
Nome City Hall
10:00 a.m.
Saturday, February 4, 1984
Teleconferenced to Capitol Room 112, Juneau, 10:00 a.m.

Bethel
Kuskokwim Inn Annex
12:00 p.m.
Sunday, February 5, 1984
Teleconferenced to Capitol Room 112, Juneau, 12:00 p.m.

If necessary, the Chairman may at her discretion limit testimony to a stated amount of time per witness.

Please contact Bill Lovell at 465 - 3777 or the local Legislative Information Office for more information.

/wtl

RESEARCH SUMMARY

Institute of Social and Economic Research, University of Alaska January 1984, R.S. No. 13

Effective Schooling in Rural Alaska

INTRODUCTION

Rural teachers are not satisfied with their students' academic progress, according to a new University of Alaska report, and they tend to blame the problem on a lack of motivation. On the other hand, the teachers are satisfied with their relationships with both the students and the community.

The report was prepared by the College of Human and Rural Development and the Institute of Social and Economic Research for the Alaska Department of Education. It was based on a survey of 304 rural teachers, representing every school outside Alaska's urban areas (such as Anchorage, Fairbanks, and Juneau). The teachers identified several educational areas that needed attention. They also described the instructional practices that they found effective in a rural Alaska context. Ninety-six percent of the teachers returned their surveys, an unusually high proportion.

FINDINGS

Satisfaction with Educational and Other Conditions

Most rural teachers, whether they taught in majority Native or non-Native schools, are satisfied with the quality of their relationships with students (92 percent), with discipline in their schools (84 percent), and with school/community relations (73 percent).

Ironically, what frustrates rural teachers, particularly in Native majority communities, is not relationships with people of a different culture, but relationships with the district center. Fewer than half the teachers in Native majority communities are satisfied with the support they receive from the central office (43 percent), with the superintendent's management (46 percent), and with the district board's action (46 percent). According to teachers, many district staff do not appreciate the local situation. (We did not survey district staff; their perspective may very well be different.)

Most rural teachers (80 percent) are pleased with their salary and benefits. To our surprise, only about a third voiced dissatisfaction with their housing.

Almost half of the rural teachers want more opportunities for professional growth. One wrote:

> I am in a tiny school—one other teacher who is not my husband. I have no one to ask questions of. My class of primary grade children includes an incredible range of students (skill, intelligence, behavior, motivation). I have an unworkable curriculum guide. My district has offered me one training session, one week. I am alone!

Student Achievement: What Teachers Expect

Rural teachers' views of their students' performance are ambivalent. On the one hand, over half the teachers in Native majority schools (52 percent) say they are not satisfied with their students' academic progress. Even more (60 percent) say they cannot expect average or above-average achievement from their students.

Rural teachers expect virtually all their students to graduate from high school. But most teachers in Native majority schools (90 percent) expect less than half their students to attend college.

Despite their pessimistic view of students' academic performance and potential, most teachers in Native majority schools (63 percent) say they are satisfied with the quality of education at the school.

Rural teachers in non-Native majority schools are significantly more satisfied with their students' academic progress. They feel that achievement levels *above* national norms can be expected from their students. Finally, they are much more likely to expect students to attend college.

These differences between teachers' views in Native and non-Native majority schools are troubling. We are not sure what they mean. Several teachers wrote on the margins of their surveys that we should be careful *not* to interpret their attitudes as "low expectations." In their view, they are simply being realistic when they say that they do not expect many students to achieve at national norms and that they do not expect many students to attend college.

JAN 16 1984

Indeed, 49 percent of the teachers in Native majority communities say that none of the parents expected students to complete college. "Parents are reluctant to see their children leave home and become indoctrinated in a foreign culture," one teacher explained on the survey.

But teachers also point out that the rural context unjustifiably lowers academic expectations. One said:

> My own personal level of expectation has gone down since I arrived here. When I started as an English teacher my expectations were too high. Very quickly my expectations became more realistic. The big problem is that we overcompensate and come to expect too little.

Effective Teaching Practices in Rural Alaska Schools

Rural teachers say their schools do not emphasize many of the practices that are related to high achievement test scores in schools outside Alaska. Most teachers, for example, say their schools do not pay much attention to standardized test scores as a basis for setting academic goals.

Less than half (48 percent) of rural teachers assign homework regularly. Many say they avoid homework because students do not have the needed lighting, space, or opportunity at home.

A large proportion of teachers (40 percent), however, do hold study sessions before or after school once a week or more. These study sessions are advantageous, they say, because the school setting helps students settle down to work and teachers are right there to help.

When asked to describe briefly the instructional practices they personally found effective, rural teachers emphasized some of the practices stressed in national studies of effective schooling and some practices related to the village cultural context. These include:

1. Use of diverse instructional materials and especially projects where students actively do things.
2. Self-paced instruction, especially where the teacher sets standards for the amount of work to be done.
3. Cooperative student learning situations, such as group projects and peer tutoring.
4. Opportunities for parents and community people to participate in schooling, such as sending home nightly study guides.

CONCLUSIONS

We have asked many different people—school superintendents, rural and urban teachers, representatives of professional education organizations—to comment on these findings. Most raise the same issue: How can so many rural teachers say they are satisfied with the quality of education at their schools and then turn around and say they don't expect students to reach national achievement norms or attend college or complete college if they do attend?

Possibly the answer is straightforward: most rural teachers may feel they are working in a difficult situation, with students whose cultural traditions do not necessarily support academic achievement or college attendance, and whose parents are not often oriented toward these goals. They may feel that under these circumstances, they and their schools are doing a fine job. But the disturbing issues remain: do teachers expect too little of village students? And what should count as "educational success" in rural Alaska? Such questions as these must be answered before we can reasonably expect to improve the effectiveness of rural schooling in Alaska.

This report, entitled *Effective Schooling in Rural Alaska* (27 pages), was prepared by Judith Kleinfeld and G. Williamson McDiarmid under the auspices of the College of Human and Rural Development and the Institute of Social and Economic Research, University of Alaska. The teacher survey on which the report was based was part of a study of school governance in rural Alaska, conducted by Dr. Gerald McBeath at the University of Alaska with the assistance of the authors and others. The report is available from the Institute of Social and Economic Research, 204 Chapman Building, University of Alaska, Fairbanks, AK 99701, or from ISER in Anchorage, 707 A St., Suite 206, Anchorage, AK 99501, telephone 278-4621. For more information on this report, call Judith Kleinfeld, ISER-Fairbanks, 474-7435.

RESEARCH SUMMARY
Institute of Social and Economic Research
Lee Gorsuch, Director
707 "A" Street, Suite 206
Anchorage, Alaska 99501

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Forward to:
Representative Vern Hurlbert
1024 West 6th, Suite 204-B
Anchorage, Alaska 99501

MR VERN HULBERT
HOUSE OF REPSENTATIVES
JUNEAU, AK

FEB. 15, 1984

DEAR REP. Vern Hulbert

THIS IS A LETTER CONCERNING HOUSE BILL NO. 504 IN SUPPORT OF STUDENT LOANS TO AKASKAN STUDENTS. I AM IN FULL SUPORT OF THIS BILL. I CAN HONESTLY SPEAK ON THIS ISSUE. WHEN I ATTENED THE X-CED PROGRAM THERE WHERE MANY DISCOMFORTS I HAD TO ENCOUNTER IN APPLYING FOR FUNDING AS AN OFF CAMPUS STUDENT. THE EXISTING LOANS WERE NOT ENOUGH TO MET THE NEEDS OF ANYONE WITH A FAMILY. WE ALL UNDERSTOOD THAT IT COSTED MONEY TO GO TO SCHOOL BUT THE HARDSHIP WAS AT TIMES VERY DEMANDING ON OUR SLIM BUDGETS.

THE BILL HAS INSIGHT FOR OUR NON-CERTIFIED TEACHERS WHO HAVE BEEN VERY DEDICATED TO THEIR JOBS. THAY HAVE WORKED VERY SILENTLY WITHOUT RETIREMENT BENIFITS ON PART TIME BASES. I CAN FORESEE THEM GOING ON TO SCHOOL NOW IF THIS BILL IS PASSED IN BOTH HOUSES. THE COMMUICATION WHICH LINKS THE VILLAGE LIFE AND THE SCHOOLS ARE THE NON-CERTIFIED AIDES. PERHAPS, IN THE FURTURE WITH MORE CERTIFIED TEACHERS WHO ARE ALASKAN NATIVES A BETTER DELIVERY OF EDUCATION WILL BE A REALITY HERE IN RURAL ALASKA.

I ALSO CAN SEE ANOTHER BARRIER WHAT WILL BE DONE FOR THE NATIVE CERTIFIED TEACHERS WHO MUST WAIT FOR THE TENURE TEACHERS TO MOVE ON I MYSELF SIT IN THAT POSITION AND HAVE BROUGHT IT TO THE ATTENTION OF THE REAA BOARD THE REPLY WAS THE TENURE TEACHER OR AN OPENING WITHIN THE DISTRICT WHEN EVERY THE WAS ONE WHERE I CAN FIT THE SLOT.

SINCERELY

MARIE T. [WALKER] HAILEY

Alaska Native Land Managers Association

WHEREAS, the preservation and continuation of Native culture in Alaska is of paramount importance; and

WHEREAS, Native teachers are needed to foster a sense of ethnic traditions and cultures in Alaska Native students; and

WHEREAS, existing programs have failed to increase the number of Alaska Native teachers; and

WHEREAS, the number of Alaska Native teachers returning to teach Alaska Native students is inadequate.

THEREFORE BE IT RESOLVED that the Alaska Native Land Managers Association, meeting in Anchorage, Alaska, this 19th day of January, 1984, does hereby support and urge the immediate passage of House Bill 504.

Chapter 2

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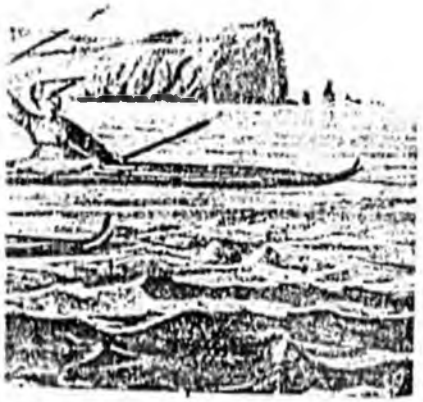
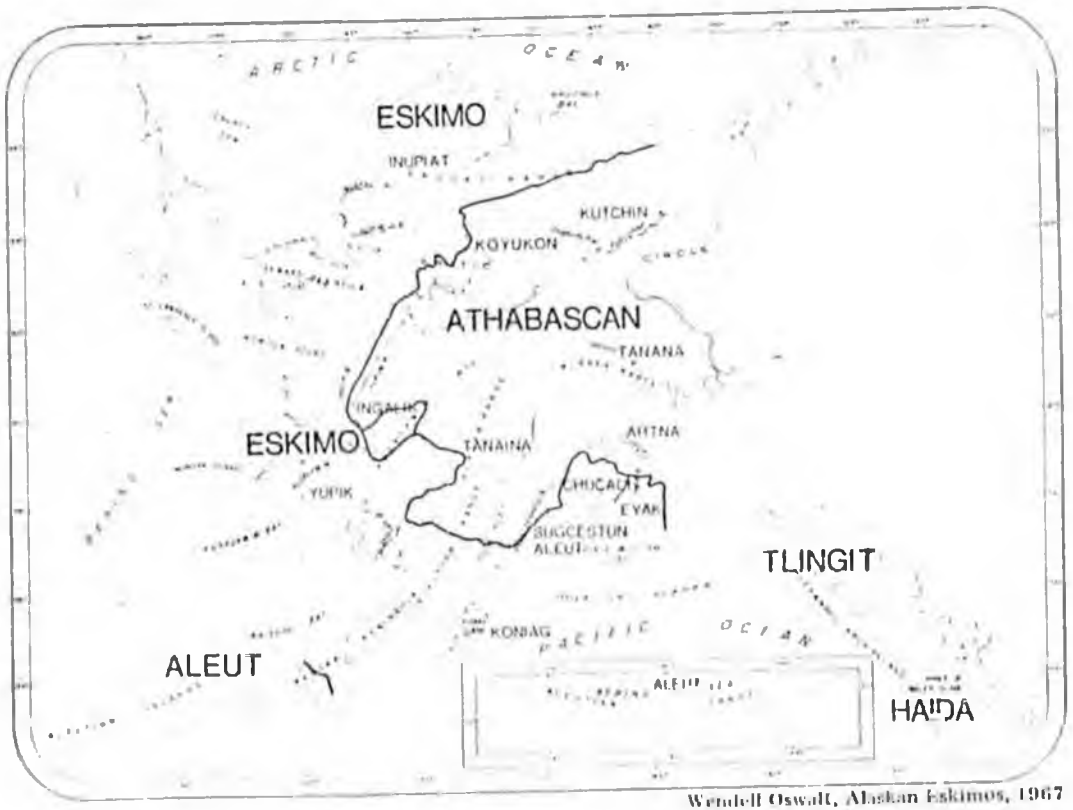


ka State Museum, Juneau (Lutke's Voyages)



Wendell Oswalt, Alaskan Eskimos, 1967

MAP 2 GENERALIZED GEOGRAPHIC DISTRIBUTION OF ESKIMOS, INDIANS AND ALEUTS IN ALASKA

Aleuts

Most Aleuts lived in coastal villages on islands named after them stretching 1,000 miles across the North Pacific. Some few lived at the lower end of the Alaska Peninsula.

The population of about 15,000 Aleuts lived in numerous small villages, most of which were located on the Bering Sea side of the islands. One island, Umnak, once had 16 villages. A typical village was made up of six or seven houses; each household consisted of 20 to 30 people who were related to one another. Their houses were half underground and covered with a warm dome of sod.

Every village with its cluster of houses had its own sea hunting areas, which had to be respected by other villages. Use of these areas without permission meant war.

Adult men hunted seals, sea lions, and whales in the open sea from kayaks, perhaps the most seaworthy of watercraft. Roots, berries, birds, and eggs were available on the land. The food resources of the Aleuts were so abundant that anyone [illegible] by gathering

Alaska State Legislature

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

February 22, 1984

Mr. William Willoya
Box 484
Nome, Alaska

Dear Mr. Willoya,

Thank you for forwarding your comments on HB 504. I found them enlightening and thoughtful. They will be an important contribution to what we are attempting to make a thorough and complete review on the subject of rural education in Alaska, as it affects the proposed program.

I have forwarded your comments to the HESS Committee for its final work sessions on the bill, and it will become a part of the permanent bill file.

I appreciate your taking the time to attend the hearing and to type and send your comments. When I may be of further assistance or information, please feel free to contact me.

Sincerely,

Joe L. Hayes
SPEAKER OF THE HOUSE

JLH:rjn

FEB 1 0 1984

Teleconference opinions of William Willoya on

House Bill no. 504 at Nome Alaska, Feb.4,1984.

As per your request for written words here is a brief, concise recap of my oral testimony. I am a bachelor of Arts certified, graduate of Alaska Pacific University, class of 1974. Prior to that I was a student of "Arctic" teacher training program, class of 1969.

The experiences I have had in the Arctic as a working person and Principal Teacher number 30 years, approximately 9½ in k-12 schoolteaching. I arrived thru the back door into education,(which is one of many careers I have pursued). Hence I have the objectivity to look at any stratum of Arctic Society with a relatively unprejudiced, experienced eye. With this in mind let me remind you the Arctic, now "x-ced" program is a visible bureaucracy, created by the Alaska people to using your "words." 'Therefore, it is the intent of the legislature to establish the teacher scholarship loan program to encourage members of ethnic minorities to return to rural schools as teachers and relieve the conditions described in this section".

As per my testimony as living proof that Arctic X-ced is a viable program. Except the Super insulated bureaucratic intelligentsia administered the program. I am totally opposed to programs that are statistical "miracles" and real life failures. This is true with any program that involves several layers of accountability, in which native people are the constituents, technicians and professionals work for and are accountable to. In all cases the legislature hears the professionals and not the village spokesman when programs are called into account.

Sec. 14.43.630 I Object: Local school boards should be the "total" process. Selection,administration,Identification of Awardee, Guardianship of the funds, etc.etc.

Reason: Professional Educators know there finest students, know there local school board, know the familys, know whether or not the student -is sincere in purpose, Pure in motivation, and hard working enough to stick out 4 years in college. School Districts statewide are in political and administrative chaos. Most of the elected school boards leave every type possible work To the administration. Hence, if this provision is left in infighting, quota politicking,promoting, and other common tactics will be employed to insure the "right" student is awarded.

As per the testimony on Article 7 I reiterate the goals. Rural students are the aristocracy of the Arctic kingdom. All life goals, plans, efforts, and societal measures are planned with the idea in mind of insuring the student child will be awarded the highest degree of status. Hence, when jobs take children away enmasse the subsistence villagiers revolt by sabotageing the take away our children,program. Right now there is not enough sophistication to keep the talented in remote villages. I can name you the survivors of "Arctic X-ced" left in villages if you wish, on my fingers and toes. Arctic Attrition will kill this bill as surely as a firing squad. A subsistence person is Arctic Royalty. A child, spoiled, self sufficient, aristocratically upbred, secure, in full control of that society does not necessarily find education a progressive entity. Hence, I suggest that this bill be redrafted so that earlier identification of client students, and school boards be finally called on to correct the deficiencies of this bill and the Village Local school boards in conjunction with Local teachers keep this bill out of the hands of bureaucracys.

Finally, let me congratulate you for your universality, progressive mindedness, and fairness to all Alaskans, especially the future ones now in school.

William Willoya

Introduced: 1/10/84
Referred: Health, Education & Social Services, House Special Committee on State Loans and Finance

BY HAYES, HURLBERT, ADAMS, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DAVIS, FULLER, FURNACE, GRUSSENDORF, HERRMANN KOPONEN, LINDAUER, LISKA, MALONE, MARTIN, M.W.MILLER, RINGSTAD, SHULTZ, SZYMANSKI, UEHLING, WARD, ZHAROFF, FRITZ, BETTISWORTH AND MCBRIDE

IN THE HOUSE

HOUSE BILL NO. 504

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the teacher scholarship loan program."

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

* Section 1. AS 14.43 is amended by adding new sections to read:

ARTICLE 7. TEACHER SCHOLARSHIP LOAN PROGRAM.

Sec. 14.43.600. FINDINGS AND INTENT. (a) The legislature finds that there is a wide and unacceptable disparity between the ethnic distribution of teachers and the ethnic distribution of students in the state public schools. Particularly in rural areas, many schools have virtually no Native teachers and no non-Native students. The undesirable effects of this disparity include the following:

(1) there is a serious weakness in the ability of teaching staffs, particularly in rural schools, to foster a sense of ethnic traditions and cultures in the students;

(2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes and the essentially modern atmosphere of the classroom;

(3) almost no students among the state's ethnic minorities return to rural schools to teach continuing the ethnic imbalance and exacerbating its effects; and

(4) there is an annual turnover of 40 percent among teachers in rural educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of members of ethnic minorities

teaching in rural schools. Therefore, it is the intent of the legislature to establish the teacher scholarship loan program to encourage members of ethnic minorities to return to rural schools as teachers and relieve the conditions described in this section.

Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the teacher scholarship loan program to provide an incentive for graduates of Alaska high schools who are from ethnic minorities to pursue teaching careers in Alaska schools.

Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There is created a teacher scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.600 - 14.43.650. All repayments of principal and interest on teacher scholarship loans shall be paid into the teacher scholarship revolving fund and shall be used to make new teacher scholarship loans. If estimated funds available from teacher scholarship loan repayments are inadequate to fully fund estimated teacher scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

Sec. 14.43.630. ADMINISTRATION. The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall distribute the funds available for teacher scholarship loans annually to local school boards giving a preference to school districts with a high percentage of students in ethnic minorities and a low percentage of teachers in ethnic minorities. The local school boards shall select the recipients of the teacher scholarship loans.

Sec. 14.43.640. CONDITIONS OF LOANS. Each school district shall award teacher scholarship loans subject to the following conditions:

do they stop and be perfect teachers?

(1) the conditions provided in AS 14.43.120 apply except that no loans may be made to graduate students and the state shall repay a portion of a teacher scholarship loan under AS 14.43.120(j) only if, in addition to the other criteria, the borrower is also employed as a public school teacher in the state during the period for which the loan is forgiven;

(2) if a borrower meets the conditions provided in paragraph (1) of this section and is employed as a public school teacher in the ~~district~~ LV School from which the borrower graduated, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

(A) one year employment, 15 percent;

(B) two years employment, an additional 15 percent;

(C) three years employment, an additional 15 percent;

(D) four years employment, an additional 25 percent;

(E) over four years employment, an additional 30 percent; and

(3) a loan may not exceed $10,000 in a school year.

Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a teacher scholarship loan, a student must

(1) be a graduate of, or scheduled for graduation within six months from, a state public high school, with sufficient credits to be admitted to an accredited college or university;

(2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level; and

(3) meet the conditions set by the student's local school district with respect to the district's requirements for teachers in

Too vague

particular subject areas.

(b) Each school district shall award teacher scholarship loans in direct proportion to the distribution of ethnic groups among the students eligible for graduation from the school district each year.

(c) A student may not be awarded a scholarship loan under AS 14.43.090 - 14.43.160 and a teacher scholarship loan under AS 14.-43.600 - 14.43.650 for the same school year.

Alaska Native Land Managers Association
850 K Street, Suite 202
Anchorage, Alaska 99501
(907) 272-1254

February 13, 1984

Representative Mae Tischer
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: HB 504

Dear Representative Tischer:

At a recent meeting of the Alaska Native Land Managers Association, the membership passed the enclosed resolution urging passage of HB 504, dealing with establishing the teacher scholarship loan program.

We feel that this bill satisfies an important need in rural Alaska. For too long, young people have left the villages to attend college, never to return. Additionally, we have watched a parade of non-native teachers through the village schools. We feel that it is important to have a stable staff of teachers in rural schools. We also feel that it is preferable to have native teachers teaching in predominantly native schools in order to understand and preserve the unique culture and history of Alaska Native peoples. It is our feeling that native teachers will provide a valuable role model for students in rural Alaska. The students need to see that they can be a success and that they can be leaders in today's world.

We feel strongly that the passage of HB 504 will be another step along the path towards improving rural education and the lives of rural Alaskans.

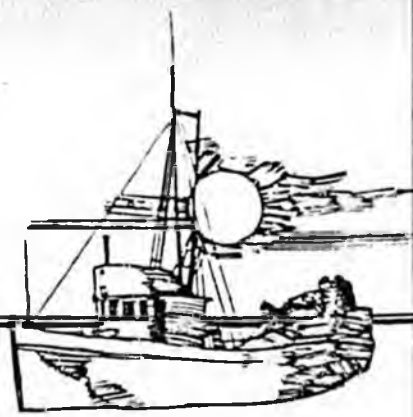
Very truly yours,

Daniel Alex

Daniel Alex,
President

CHUGACH

School District — Nyal D. Worsham, Superintendent



February 2, 1984

Honorable Joseph Hayes, Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

RE: House Bill #504

Dear Mr. Speaker:

I wish to speak in support of House Bill #504 related to a teacher scholarship fund for native students. Having spent the last eight years in Alaska bush and rural school systems, I know that our native students do need the relationships that native teachers can give to them.

We need positive counseling efforts to lead our future native teachers into the profession and give them support while they develop their teaching skills.

I thank you for the introduction of this bill and wish you and Representative Hurlbert success in its passage.

Sincerely,

Nyal D. Worsham, Supt.

cc: Representative Vern Hurlbert
Files

P. O. Box 638 Whittier, Alaska 99693 (907) 472-2

MANIILAQ MANPOWER

P.O. Box 725
Kotzebue, Alaska 99752

Phone
(907) 442-3860

February 6, 1984

Mr. William T. Lovell
House HE&SS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Lovell:

Thank you for this opportunity to submit written comments on House Bill No. 504. I admire the legislators insight into the problems of Rural Alaska and I applaud them for their inventiveness. Keep up the good work!!

Once again thank you for this opportunity.

Sincerely,

Fred Wemark
Special Assistant

enclosure: 1

Mauneluk Manpower
Testamony on HB 504

Thank you for this opportunity to comment on HB 504. My name is Fred Wemark, Special Assistant with Mauneluk Manpower. I manage a program that brings career awareness into the villages. The main thrust for the program is to get the students and adults within the villages to think about what they would like to do in the village or region in the way of an occupation. We explore all the potential possibilities of work and try to give as accurate a picture of employment as possible in the future.

Your Bill reaches right to the heart of employment that will always be present regardless of the amount of development the rural parts of our great state may or may not enjoy. As long as there is a rural population there will be teaching jobs available. It is only fitting that these positions be taken by those that will live in the community and raise their families and keep the money within the community. This not only makes sense from an economic standpoint but from a social standpoint also.

There are many students in our University system that are studying for a career in Education. But those people are to few. Your bill will increase that number dramatically. More and more the high school students are realizing the importance of a higher education. With the rural economy in the shape it is in those hopes for a higher education fades with the lack of money to send them to school. Hope is now on the horizon. I urge that you pass this important piece of legislation as soon as possible with the appropiate funding.

Thank you.



City of Mountain Village

P.O. Box 204
Mountain Village, Alaska 99632
(907) 591-2929

Febraury 10, 1984

Honorable Joe Hayes
Speaker of the House
Alaska House of Representative
Pouch V
Juneau, Alaska 99811

Dear Speaker Hayes:

I am writing to you in support of House Bill no. 504, which uou introduced recently in the second session of the 13th legislature. This bill if passed, will greatly encourage and enhance our native people to come back and teach among their own people and will improve the quality of education which is vital in this area. Representative Vern Hurlbert is avare of this and it is his concern for his constituents in District 24 of which he represents.

Mr. Speaker, I advice your integrity and is some what surprise to me that you are concerned for us natives, therefore, I believe that is the kind of leadership we need in Juneau. Thank you very much!

Sincerely,

Andrew Brown, Vice-Mayor

cc. Rep. Vern Hulbert
Sen. John Sackett
Sen. Frank Ferguson
Rep. Jack Fuller
Supt. Dr. William Phillips, Lower Yukon School District
City Manager, Steve Schwab

January 27, 1984



Mr. Joe Hayes
Speaker of the House
Pouch V
Capitol Building
Juneau, Alaska 99811

Dear Speaker Hayes:

I am in receipt of a letter from Vern Hurlbert and a copy of HB 504. The idea seems a propitious one and has my enthusiastic support. I have noticed the problem you described with village schools in this area, wherein the bulk of the students are native and the teachers non-native. The teacher turnover rate is also sometimes rather appalling. I am sure the problem is even more marked in the northern sections of the state.

The only question I have is a legal one; namely, what is the advice of the AG's office on the constitutionality of Sec. 14.43.630 wherein preference is given to certain districts. I understand the intent, applaud it as morally correct and a practical necessity (if you are to accomplish the stated goal and not end up giving the bulk of the scholarships to non-natives from non-native majority school districts) but wonder if it runs afoul of due process clauses. It is worth getting an opinion on beforehand to make sure the bill is couched in terms that are proof against later litigation.

Sincerely,

Thomas L. Conley, M.D.
Secretary
Ketchikan Gateway Borough School District
Board of Education

N.B. This is a personal, not a Ketchikan Gateway Borough School District, Board of Education, response.

cc: Representative Vernon L. Hurlbert
Representative Jack McBride
Ms. Cheri Davis
President
Ketchikan Gateway Borough School District



WRANGELL
PUBLIC SCHOOLS
DISTRICT OFFICE

P. O. BOX 65?
WRANGELL, ALASKA 99929
GATEWAY TO THE STIKINE
Telephone (907) 874-2347
ROBERT W. McCONNELL, Superintendent of Schools

January 31, 1984

The Honorable Joe Hays, Speaker of the House
Pouch V
Capitol Building
Juneau, Alaska 99811

Dear Honorable Hays:

In response to Representative Vern Hurlbert's letter of January 20 1984, please regard this as support for HB 504.

Having spent time with a government which tried the same process, designed with the same philosophy, I have some concerns over the possible outcome. I applaud the intent however.

Sincerely,

Robert W. McConnell
Superintendent

cc: Representative Hurlbert
Representative McBride

MR. DARRELL G. MOORE
DISTRICT SUPERINTENDENT

Chatham School District

P.O. BOX 109
ANGOON, ALASKA 99820
TELEPHONE: 788-3302 OR 788-3682

January 27, 1984

BOARD OF EDUCATION
MR. WALLY FRANK, SR.
MR. EDWARD GAMBLE, SR.
MS. MATILDA GAMBLE
MRS. ANN MACKOVJAK
DR. JACK LESH

Representative Vern Hurlbert
State Capital
Pouch V
Juneau, Alaska 99811

Dear Representative Hurlbert:

I would like to respond to House Bill NO. 504 which was recently introduced in an effort to encourage Alaska Native high school graduates to return to their home village to teach.

Prior to my tenure here in Chatham School District, I spent nine years on the Sheldon Jackson campus encouraging and developing a teachers education program. I am very interested in presenting role models for the village; however, I think your approach is wrong.

In our school district I would be in favor of hiring a student to return to the area, but not the same village. Experience from Bible times to the present will demonstrate that people returning to their home village are unduly criticized or subjected to demands not common to other candidates.

I also think the loan is discriminatory. This fact on the surface may not seem like an important clause; however, minorities like to know they made it on their own merits. I also think people are more inclined to succeed at something they invest time and money in.

Finally, I think many native graduates do something other than teach simply because they can demand more money as a college graduate in another occupation.

Many of our Sheldon Jackson graduates were either offered employment and terminated or never started due to the high wages they were able to attain through private enterprise or the native corporations. I do not think this program will change this fact and may in the long run do a disservice.

Please write or call me if I can be of further service or add clarification

Sincerely,

Darrell G. Moore

Darrell G. Moore, Supt. of Schools

cc: Joe Hayes, Speaker of the House
Reading File

Native teacher fund envisioned

(Continued from Page One)

tive students among the state's ethnic minorities return to the rural schools which continues the ethnic imbalance.

A high turnover of as much as 40 percent of teachers in rural education attendance areas in the state.

The bill states that current programs such as the X-CED program at the University of Alaska has failed to rectify the problem.

The loan program would appropriate money to be loaned to high school graduates or students within six months of graduation from a state public high school who have sufficient credits to be admitted to an accredited college. Those students also must be enrolled in or show intent to enroll in a university program which aims at a teaching degree for elementary or secondary school. The student also must meet criteria established by the local school board.

If the student is awarded the scholarship and completes his education and returns to the village, a percentage of his loan will be "forgiven" by the state at a rate of 15 percent each year for the first three years of teaching; 25 percent of the total loan for the fourth year completed and the final 30 percent for the fifth year.

The bill is given good change for success on the House side of the legislature because it is supported by the House Majority coalition of urban Republicans and Bush Democrats and because Hayes, the powerful House Speaker, is backing it. It isn't often that a bill sponsored by the Speaker is defeated.

On the Senate side, it is given fair chance for passage by Sen. Frank Ferguson, D-Kotzebue, who said that it will probably pass in a refined form after some things are ironed out.

One possible problem the bill may have is surviving a legal challenge on the basis that it discriminates in favor of one specific ethnic group. The bill directs that the scholarships be awarded on a level proportionate to the percentage of ethnic representation.

Therefore, if 80 percent of the students are Native, 80 percent of the scholarship money must go to Native students.

Recent laws directing money at a specific group, such as the Longevity Bonus program which gives money to Alaska residents older than 65 years who have lived in the state since statehood has been ruled unconstitutional on the grounds that it discriminates against a person who moved to the state after statehood.

Tony Vaska of Bethel, who is a member of the Bush Caucus but not a member of the House Majority, said he thinks it will not survive a constitutionality test.

Hayes said he has had the Legislature's lawyers review the bill and they found it all right. He said the state attorney general has yet to review the bill.

Veteran observers of the Legislature found the key sponsor of the bill – Hayes – to be of particular interest because of his urban background. One commented that "if there ever was any doubt that Hayes is running for governor, this kills it."

Hayes responds to such skepticism by saying "I suppose it would look (like he is trying to gain a rural support) but I just know the problems of ru people. I fly a lot and get into the villages more than ot urban legislators. I also h worked with the Bush Cau for the past two years an know of their concerns."

He said that Hurlbert was strumental in pushing the and is second sponsor on document.

Gov. Bill Sheffield had comment on the bill other th to point out that programs exist in the state to draw ru students into teaching.

And as for Hayes drawing a bernatorial constituency, Sh field said, "I told him, I'll o campaign him 125 to one an have more staying power."

Child abuse bill introduced

The Associated Press

Juneau – Certain kinds of child neglect and abuse unpunishable under existing law would be classified as felonies by a bill introduced in the Alaska House of Representatives.

The legislation is aimed at adults who use force against children or who "... cause or permit a child to be placed in circumstances resulting in serious physical injury."

The measure (HB 489) is sponsored by House Democrats Jack McBride of Ketchikan, Niilo Koponen of Fairbanks and Mike Szymanski of An-

City of Kaltag

Kaltag, Alaska 99748



February 7, 1984

Vern Hurlburt, Representative
Pouch V
Juneau, Alaska 99811

RE: HB 504 - Educational

Dear Representative Hurlburt:

This is a letter of support to the educational scholarship funding for rural students of Alaska including students of private schools.

Sincerely,

Kenneth B. Madros

Kenneth B. Madros,
Mayor

ejm



507

THE LAKE AND PENINSULA SCHOOL BOARD

SARA HORNBERGER, [illegible] Member
[illegible]
P.O. Box 69, Iliamna, AK. 99606
February 3, 1984



The Honorable Vern Hurlbert
Alaska State Representative
Pouch V - Capital Building
Juneau, Alaska 99811

Dear Vern:

Thank you for yourletter of January 20, 1983, in reference to House Bill No. 504. I appreciate the opportunity to comment on it. In realization of how very busy you folks are down there, I still hope that you will find time to read my letter of reply in addition to the reading by an administrative assistant. (I have no objections to this system - I know it is necessary if you elected officials are to be able to accomplish anything.)

I believe that my comments are made from a position of great strength. We have in our school district an administrative assistant, Frank Hill; two principal teachers, Norm Auberg and Pete Hill; and three teachers, Pauline Hobson, Larry Hill, and Gwen Nielsen; and one teacher on leave, Emma Hill, who are Native. In addition, we recently inaugurated a minority administrative apprenticeship and Frank Hill is the first person to participate. Whenever possible we hire local people to do school district jobs as for example, Alex Wassilie our North Area Maintenance Person.

Going from there, I want to ask if anyone had done any research at all to see if this bill will do what it proposes to do? Three of our Native teachers got their degrees through the ARCTIC program (later called X-Ced); Several refused all financial help of any sort preferring the joy of being able to say, "I did it all by myself." Several used the regular state loan program and BIA assistance.

In our district at least there has been no lack of assistance for village persons interested in higher education of any sort in obtaining any possible loan, grant, or scholarship. Persons who work as aides who show promise are encouraged - urged - to go on and get their degrees. Some few have attended the university sporadically. The members of the school board and the local teachers association have joined together for five years to grant two scholarships a year to district high school seniors in the name of one of our members who was killed in a snowmachine accident shortly after she enrolled in a teacher preparation program in Anchorage. She was a Native from Newhalen. We have youngsters from our district in college under the regular state loan program; but, so far as I know, my daughter is the only one in a teacher training program.

The Hon able Vern Hurlbert

I should add that oneof our current board members, Jeannie Ihly, a Native from Chignik Lake, has enrolled in college in Anchorage with the intention of becoming a primary teacher.

Where does this leave us? I believe that this bill will not do what you hope it will. All the money in the world will not prompt a person to attend college unless that person has the sincere desire, the personal drive to go. Secondly, that person, if he/she is to become a teacher must be willing to face a five-day-a week, nine-month-ayear job; a job that is very intense and demanding. How many of our village people really want that sort of job? So we are talking about motivation. What is going to motivate a youngster from a village who enjoys the freedom of a life of trapping, fishing, hunting, etc., without the demands of a time clock, to take on the other sort of life? There are two things that cause a person to become a teacher: for some it is a calling; they cannot imagine doing anything else; it is their life; for other it is a job, a way to make a living and have three months a year off, etc. If a youngster from a village doesn't have an intense desire to become a teacher, I can't imagine that this loan program will inspire him/her to spend four years away from home in school to become a teacher. That child is going to get a trade that will enable him/her to go out and earn money when it is needed and then go home and enjoy life, and I don't blame that person one bit. Who wouldn't prefer that sort of life! So, we have a motivation problem.

We have one more problem. The fact that a person is a Native does not mean that he/she will make a good teacher, anymore than membership in any other race guarantees skill in any profession. This bill has no criteria set up at any place to evaluate participants. Today our children must have the very best possible teachers for the basics. We have many fine people in our villages who can and do work in the schools assisting with local culture programs, bi-lingual programs, who are not college graduates. Many of them have not finished eighth grade. They cannot teach math or reading or other subjects the certificated teachers handle; rather, the two work as a team complimenting each other when the program is handled properly.

One last point I'd like to speak to is teacher turnover. Years ago when Bristol Bay Borough was formed and took over the schools one of our main concerns was teacher turnover. However, that is not all bad. Teachers like preachers maybe need to move around. I'm not going to dwell on this, but the question is a very debatable one. Furthermore, we have discovered that not all residents of a village are pleased when a local person comes home as a teacher. Was it not Christ who said something to the effect that a prophet is not without honor except in his own country.

This letter, of course, contains my opinions only and most certainly does not speak for the other members of the board either individually or as a legal group.

Most sincerely,

Sara Hornberger

Sara Hornberger (Mrs.)

504

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

February 1, 1984

Hon. Joe Hayes
Speaker of the House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representatives Hayes:

On behalf of the Association of Village Council Presidents, regional non-profit Native corporation for the 56 Yupik Native communities of the Yukon-Kuskokwim delta region, I wish to commend you and the 27 co-sponsors for your introduction of House Bill 504, providing for a teacher scholarship loan program.

We concur with the legislative findings as stated in the bill. In particular, incentive has not be provided for Alaska Natives to pursue teaching careers in rural Alaska. Throughout the State (REAA) schools and remaining federal (BIA) schools, there are almost no Native teachers available for the almost totally Native student bodies. We sincerely appreciate your sponsorship of H.B. 504 and encourage your aggressive efforts for the enactment of this very beneficial legislation.

There is one small group of rural school districts which has overcome many of the difficulties which H.B. 504 seeks to correct. In the examination of rural education issues by you and your colleagues, we wish to encourage you to consider the future of five locally-controlled community schools in the AVCP-Calista Region. The Native communities of Akiachak, Akiak, Chefornak, Chevak and Tuluksak manage the only village-operated community schools in Alaska.

Beginning in 1977, these village council chose to operate their own community schools, apart from the federally-operated BIA schools and the State REAA systems. The federal government provides funds through the BIA appropriations, however management of the education programs and school districts is completely controlled at the community level.

Local community, Native involvement is provided in every aspect of the education program of these "contract" schools. The largest school, for example, has eight certified Alaska Native teachers in its teaching staff. Community school boards at these schools completely determine, within the village, all administrative, curriculla, fiscal and policy decisions concerning school district operations.

Unfortunately, these schools are scheduled to be closed at the end of the 1984-85 school year.

The schools are community-operated and controlled, while funds are provided by the federal government under contracting provisions of the "Indian Self-Determination and Education Assistance Act." The communities wish to continue to locally manage their education programs, however federal funds will not be available beyond federal FY-85.

These schools have requested financial assistance from the State to continue to operate their districts. Under present policies, the state will not provide education funds to the contract schools because they are operated by Native community councils (village councils), which were organized prior to statehood. The councils are recognized as "tribal governing bodies" by the federal government.

Although the village council "contract" schools have agreed to admit all student village residents to the schools, regardless of race, the present state policy regards them as "private" schools because they are operated by Native community councils.

Despite their desire the maintain community control over the village education programs, the contract schools' only other option is to join the REAA education systems. They are very reluctant to do so because of the loss of community control over the education program, and because of the successes which they have achieved through the systems which have been established by them and which are now in place. If, for example, a Native community school becomes part of an REAA, they will be absorbed by a school district which encompasses up to 35 or more other communities, and will no longer have effective control over education at the community level.

The history, circumstances, and legal and policy issues are perhaps more complicated than I describe in this letter, however the basic aim of the village contract schools is simple. They wish to maintain effective local control and community operation of their schools. This goal is becoming destroyed by pressures of state and federal policies over which they have no effective control. We hope that you will consider the fate of these school districts among other rural education issues under review by the legislature.

By alerting you to the matter of Native community schools, we in no way wish to diminish the importance of your continued support for H.B. 504. Your interest in rural and Native education needs, as evidenced by H.B. 504, is genuinely appreciated.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman of the Board

Ivan M. Ivan
President

cc: Hon. Bill Sheffield, Governor
Rep. Vern Hurlbert
Rep. Jack Fuller
Rep. Tony Vaska
Sen. Frank Ferguson
Sen. John Sackett
Contract School Association

DISTRICT 23
ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
ELIM
EMMONAK
GAMBELL
GOLOVIN
HOOPER BAY
KOTLIK
KOYUK
NOME
SAVOONGA
SCAMMON BAY
SHAKTOOLIK
SHELDON'S POINT
SHISHMAREF
STEBBINS
ST MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

REP. JOHN G. (JACK) FULLER

CHAIRMAN, RULES COMMITTEE
MEMBER
POLICY COMMITTEE
COMMITTEE ON COMMITTEES
REAA BUDGET OVERSIGHT COMMITTEE
BLUE RIBBON COMMISSION ON PERSONNEL

Alaska House of Representatives

February 13, 1984

Mr. Alfred S. White, Principal
Covenant High School
Unalakleet, Alaska 99684

Dear Mr. White:

Thank you for your letter regarding HB 504 - "An Act establishing the teacher scholarship loan program."

HB 504 was introduced 1/10/84 and referred to the Health & Social Services Committee, which is chaired by Representative Mae Tischer. The bill has further referrals to the House Committee on Loans, chaired by Representative Rick Uehling and the Finance Committee, chaired by Representative Al Adams. Any further correspondence you may have should be addressed to these Committees.

I have forwarded your letter to the Health, Education and Social Services Committee. Thank you for your interest in the Legislative process.

Sincerely,

Rep. John G. (Jack) Fuller
Chairman, House Rules

HOME
P.O. BOX 669
NOME, ALASKA 99762

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3789

Covenant High School

(907) 624-3282 Unalakleet, Alaska 99684

FEB 9 1984

February 6, 1984

Representative Jack Fuller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Fuller:

Enclosed is a letter which we submitted at the hearing recently on HB 504. We feel that this bill could serve an excellent purpose in the bush but feel strongly that private school graduates should not be restricted from participation. Our letter expresses our viewpoint.

The method of payment might need to be altered in order to avoid channeling funds through a private school to the recipients, but I am sure that this could be done without altering the intent of the bill. I am inclined to believe that it would be preferable, at any rate, to have recipients receive grants directly from the state on nomination from the districts. This method would largely parallel the present Student Loan program while giving the districts input on promising candidates.

Other items in the bill which might be given additional consideration are the following:

Sec. 14.43.640 Conditions of loan. Paragraph 2 requires that the borrower must teach in the district from which he/she graduated in order to be eligible for loan forgiveness. I believe that this is entirely too restrictive. In small districts such as Nome or Dillingham, an opening may not be available upon graduation. Also, marriage often requires a graduate to re-locate. It has been our experience that most Alaska Native graduates do return to the bush, and the value of others in the major city school systems is significant in its impact on Native students in those areas as well.

It seems unfortunate also that a returning student would be restricted from teaching in a private school in order to receive credit toward forgiveness. Federal teacher loans have not made this distinction. If the school is classified as having a high percentage of minority students, the borrower may apply for a percentage of forgiveness regardless of the public or private status of the school.

I am personally inclined to think that the loan should be supplemental rather than set at $10,000 maximum without restrictions. BIA loans, for example, require that the applicant "show financial need after other sources of funding have been considered." Some such requirement would serve the double purpose of weeding out the less serious applicants and would increase the numbers of students who could be served.

I think that there should be close state monitorship of the loan recipients through the four years. This might require more than the present regulations for the Student Loan program.

Again, we want to indicate our strong support for this bill and will appreciate your consideration of the items we have discussed.

cc. Rep. Joe Hayes

Sincerely,

Alfred S. White, Principal

Covenant High School

(907) 624-3282 Unalakleet, Alaska 99684

February 3, 1984

Alaska House of Representatives
Health, Education and Social Services
House Special Committee on State Loans and Finance
Juneau, Alaska 99801

Dear Committee Members:

We are taking this opportunity to comment on House Bill No. 504 which has recently come to our attention. We certainly applaud the intent of the bill to enlarge the number and strengthen the training of ethnic minorities, particular Alaska Natives, in the teaching profession by offering teacher scholarship loans. We have recognized this need since 1954 when Covenant High School was opened and have encourage both public and private support of teacher training.

We are surprised, however, to discover that Native graduates of private schools are discriminated against in receiving this assistance. Since the intent of the bill is "to encourage members of ethnic minorities to return to rural schools as teachers," and since "almost no students among the state's ethnic minorities return to rural schools to teach," it would seem that every able condidate would be encouraged to participate.

The success of such schools as St. Mary's High School and Covenant High School in providing graduates with college skills has been widly recognized and documented by studies such as those of Judith Kleinfeld at the University of Alaska. A quick survey of Covenant High School's alumni list indicates at least 10 people, all but three of whom are Alaska Natives, who have teaching degrees. One, Sam Towarak, is president of Chuchi Community College in Kotzebue. Probably at least another 10 have education minors or are presently working on education degrees. It is entirely possible that the incentive of a bill like HB 504 would have encouraged other such private school graduates with college skills to enter education. It might also have led some of these young people who showed an interest in education, but entered other fields, to find a place in education.

We see no problem in administering this legislation with graduates of private schools as recipients. Funds would be made available to eligible Alaskans without discrimination in the same way Alaska Student Loans are made available. No payments would be made to private or denominational schools. The Bureau of Indian Affairs Scholarship Grant Program, federal Pell Grants, etc. are all administered on this basis. Students receiving teacher scholarship loans may very well attend private colleges. It seems unreasonable that they would be restricted from attending a private high school to become eligible.

It would seem that the same formula for awarding scholarships by public schools could be used in such schools as Covenant High School. In communities where there is a single high school in the district, such as Nome or Dillingham, the process of awarding scholarships would be identical to the situation at Covenant High School. We would simply be considered as a district, as we are now with the Alaska High School Activities Association.

Again, we wish to offer our strong support for this legislation which shows promise of dealing with a serious deficiency in our rural communities - the lack of Native educators. We hope that the committee will increase the bill's scope to include what we believe is a strong source of eligible candidates for the program - the private and denominational schools.

Sincerely,

Alfred S. White
Principal

Laurence E. Olson
Executive Director

REP. JOHN G. (JACK) FULLER

DISTRICT 23

ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
ELIM
EMMONAK
GAMBELL
GOLOVIN
HOOPER BAY
KOTLIK
KOYUK
NOME
SAVOONGA
SCAMMON BAY
SHAKTOOLIK
SHELDON'S POINT
SHISHMAREF
STEBBINS
ST MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

CHAIRMAN, RULES COMMITTEE

MEMBER

POLICY COMMITTEE
COMMITTEE ON COMMITTEES
REAA BUDGET OVERSIGHT COMMITTEE
BLUE RIBBON COMMISSION ON PERSONNEL

Alaska House of Representatives

February 13, 1984

Mr. Ivan M. Ivan, President
Association of Village Council Presidents
P. O. Box 219
Bethel, Alaska 99559

Dear Ivan:

Thank you for your letter regarding HB 504 - "An Act establishing the teacher scholarship loan program."

HB 504 was introduced 1/10/84 and referred to the Health & Social Services Committee, which is chaired by Representative Mae Tischer. The bill has further referrals to the House Committee on Loans, chaired by Representative Rick Uehling and the Finance Committee, chaired by Representative Al Adams. Any further correspondence you may have should be addressed to these Committees.

I have forwarded your letter to the Health, Education and Social Services Committee. Thank you for your interest in the Legislative process.

Sincerely,

Jack

Rep. John G. (Jack) Fuller
Chairman, House Rules

HOME
P.O. BOX 669
NOME, ALASKA 99762
(907) 443-2968

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3789

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

FEB 9 1984

February 1, 1984

Hon. Joe Hayes
Speaker of the House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representatives Hayes:

On behalf of the Association of Village Council Presidents, regional non-profit Native corporation for the 56 Yupik Native communities of the Yukon-Kuskokwim delta region, I wish to commend you and the 27 co-sponsors for your introduction of House Bill 504, providing for a teacher scholarship loan program.

We concur with the legislative findings as stated in the bill. In particular, incentive has not be provided for Alaska Natives to pursue teaching careers in rural Alaska. Throughout the State (REAA) schools and remaining federal (BIA) schools, there are almost no Native teachers available for the almost totally Native student bodies. We sincerely appreciate your sponsorship of H.B. 504 and encourage your aggressive efforts for the enactment of this very beneficial legislation.

There is one small group of rural school districts which has overcome many of the difficulcies which H.B. 504 seeks to correct. In the examination of rural education issues by you and your colleagues, we wish to encourage you to consider the future of five locally-controlled community schools in the AVCP-Calista Region. The Native communities of Akiachak, Akiak, Chefornak, Chevak and Tuluksak manage the only village-operated community schools in Alaska.

Beginning in 1977, these village council chose to operate their own community schools, apart from the federally-operated BIA schools and the State REAA systems. The federal government provides funds through the BIA appropriations, however management of the education programs and school districts is completely controlled at the community level.

Local community, Native involvement is provided in every aspect of the education program of these "contract" schools. The largest school, for example, has eight certified Alaska Native teachers in its teaching staff. Community school boards at these schools completely determine, within the village, all administrative, curriculla, fiscal and policy decisions concerning school district operations.

Unfortunately, these schools are scheduled to be closed at the end of the 1984-85 school year.

cc: Hon. Bill Sheffield, Governor
Rep. Vern Hurlbert
Rep. Jack Fuller
Rep. Tony Vaska
Sen. Frank Ferguson
Sen. John Sackett
Contract School Association

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602

February 15, 1984

The Honorable Joe L. Hayes, Speaker
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr Hayes:

House Bill No. 504, creating a teacher scholarship loan program for Alaska Native high school graduates who would earn a teaching degree and return to their district to teach, would give incentive for our Native students to enter into a field which would allow them to return to their villages or districts to teach.

Often, students are reluctant to enter this sector because upon conclusion, they are forced to move out of their environment to seek employment opportunities. House Bill No. 504 would alleviate this hurdle.

Sincerely,

Treton Angasan, Jr.
Director, Shareholder Relations

cc: Representative Vernon L. Hurlbert

INFORMATION SURVEY

DISTRICT	NATIVE TEACHERS	CERTIFIED H.S. GRADS
Adak	0	1
Alaska Gateway	0	1
Aleutians	0	1
Anchorage	30	21
Annette Island	No response	
Bering Strait	2	1
Bristol Bay	No response	
Chatham	0	0
Chugach	0	0
Copper River	1	2
Cordova	0	6
Craig	No response	
Delta/Greely	0	3
Dillingham	No response	
Fairbanks	No response	
Galena	1	0
Haines	1	4
Hoonah	0	0
Hydaburg	0	0
Iditarod	2	4
Juneau	0	0
Kake	0	0
Kenai	0	0
Ketchikan	3	25
King Cove	1	1
Klawock	2	2
Kodiak	2	?
Kuspuk	0	0
Lake & Peninsula	8	6
Lower Kuskokwim	13	22
Lower Yukon	5	15
Mat-Su	No response	
Nenana	0	1
Nome	2	2
North Slope	20	14
Northwest Arctic	6	59
Pelican	No Response	
Petersburg	0	5
Pribilof	0	0
Railbelt	0	0
St. Marys	10	5
Sand Point	No response	
Sitka	2	6
Skagway	0	2
Southeast Islands	0	3
Southwest Region	No Response	
Tanana	No Response	
Unalaska	0	0
Valdez	0	0
Wrangell	No Response	
Yakutat	1	1
Yukon Flats	2	3
Yukon Koyukuk	10	?

ELLIOT

THIS IS FOR INFORMATION PURPOSES ONLY
The information contained herein may not be complete, and is not to be construed as a legal opinion.

Introduced: 1/10/84
Referred: Health, Education & Social Services, House Special Committee on State Loans and Finance

BY HAYES, HURLBERT, ADAMS, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DAVIS, FULLER, FURNACE, GRUSSENDORF, HERRMANN KOPONEN, LINDAUER, LISKA, MALONE, MARTIN, M.W.MILLER, RINGSTAD, SHULTZ, SZYMANSKI, UEHLING, WARD, ZHAROFF, FRITZ, BETTISWORTH AND MCBRIDE

IN THE HOUSE

HOUSE BILL NO. 504

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the ~~teacher~~ educator scholarship loan program."

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

* Section 1. AS 14.43 is amended by adding new sections to read:

ARTICLE 7. ~~TEACHER~~ EDUCATOR SCHOLARSHIP LOAN PROGRAM.

Sec. 14.43.600. FINDINGS AND INTENT. (a) The legislature finds that there is a wide and unacceptable disparity between the ethnic distribution of ~~teachers~~ educators and the ethnic distribution of students in the state public schools. Particularly in rural areas, many schools have virtually no Native teachers, no Native administrators, and no non-Native students. The undesirable effects of this disparity include the following:

(1) there is a serious weakness in the ability of ~~teaching~~ educators, ~~staffs~~ particularly in rural schools, to foster a sense of ethnic traditions and cultures in the students;

(2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes, and the essentially modern atmosphere of the classroom;

(3) almost no students among the state's ethnic minorities return to rural schools to ~~teach~~ work as educators, continuing the ethnic imbalance and exacerbating its effects; and

(4) there is an annual turnover of 40 percent among teachers in rural educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of members of ethnic minorities

working as educators
~~teaching~~ in rural schools. Therefore, it is the intent of the legislature to establish the ~~teacher~~ educator scholarship loan program to encourage members of ethnic minorities to return to rural schools as ~~teachers~~ educators and relieve the conditions described in this section.

Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the teacher scholarship loan program to provide an incentive for ~~graduates of Alaska high schools~~ individuals who are from ethnic minorities to pursue teaching careers in Alaska schools.

Sec. 14.43.620. ~~TEACHER~~ EDUCATOR SCHOLARSHIP REVOLVING LOAN FUND. There is created a ~~teacher~~ educator scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.600 - 14.43.650. All repayments of principal and interest on ~~teacher~~ educator scholarship loans shall be paid into the ~~teacher~~ educator scholarship revolving fund and shall be used to make new ~~teacher~~ educator scholarship loans. If estimated funds available from ~~teacher~~ educator scholarship loan repayments are inadequate to fully fund estimated ~~teacher~~ educator scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

Sec. 14.43.630. ADMINISTRATION. The ~~teacher~~ educator scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall distribute the funds available for teacher scholarship loans annually to local school boards giving a preference to school districts with a high percentage of students in ethnic minorities and a low percentage of ~~teachers~~ educators in ethnic minorities. The local school boards shall select the recipients of the ~~teacher~~ educator scholarship loans.

Sec. 14.43.640. CONDITIONS OF LOANS. Each school district shall award ~~teacher~~ educator scholarship loans subject to the following conditions:

(1) the conditions provided in AS 14.43.120 apply ~~except that no loans may be made to graduate students~~ and the state shall repay a portion of a ~~teacher~~ educator scholarship loan under AS 14.43.120(j) only if, in addition to the other criteria, the borrower is also employed as a public school ~~teacher~~ educator in the state during the period for which the loan is forgiven;

(2) if a borrower meets the conditions provided in paragraph (1) of this section and is employed as a public school ~~teacher~~ educator in ~~the district from which the borrower graduated~~ rural Alaska, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

(A) one year employment, 15 percent;

(B) two years employment, an additional 15 percent;

(C) three years employment, an additional 15 percent;

(D) four years employment, an additional 25 percent;

(E) over four years employment, an additional 30 percent; and

(3) a loan may not exceed $10,000 in a school year.

Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a ~~teacher~~ educator scholarship loan, a student must

(1) be a graduate of, or scheduled for graduation within six months from, a ~~state public~~ high school or its equivalent (G.E.D.), with sufficient credits to be admitted to an accredited college or university;

(2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching or administrative career at the elementary or secondary school level; and

(3) meet the conditions set by the student's local school district with respect to the district's requirements for ~~teachers~~ educators in

particular subject areas.

(b) Each school district shall award ~~teacher~~ educator scholarship loans in direct proportion to the distribution of ethnic groups among the students eligible for graduation from the school district each year.

(c) A student may not be awarded a scholarship loan under AS 14.43.090 - 14.43.160 and a ~~teacher~~ educator scholarship loan under AS 14.-43.600 - 14.43.650 for the same school year.

None

XX allow private school graduates as well as public school graduates to receive loans

delete "local school boards," page 2, line 23 insert "advisory council" or something like that

XX allow graduates to teach in public or private high schools, page 3, line 8

allow graduates to teach at any nurse school district by adding "or a region of same or similar ethnic and linguistic origin," page 3, line 9 or perhaps broader

[grant program for two years]

change (3) so that it is clearer what is meant

students must apply to local school board so that those awarded the scholarship

clarify language on page 3, lines 22-23

some statewide selection monitoring

[any rural village or district]

delete "except that no loans may be made to graduate students", page 3, line 1

delete "a State public," insert "an Alaskan," page 3, line 23

~~add "or equivalent," page 3, line 23~~

add "or region of same or similar ethnic substrate and linguistic origin," page 3, line 9 or perhaps broader

adopt Lomesbery's language on page 3, "CONDITIONS OF LOAN"

somehow allow regional or village corporations or similar local group to assist selecting nominees

somehow require 1 semester or more of completed school work before persons may be eligible - SELECTION CRITERIA

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

REPLY TO:

☐ 1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

☐ 1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

☒ POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

February 6, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

You have asked us to review HB 504, "[a]n Act establishing the teacher scholarship loan program." This bill raises several constitutional and legal questions which we briefly address below.

Several provisions of this proposed legislation are subject to challenge under the equal protection clauses of the United States or Alaska Constitutions. These concern (1) the establishment of racial quotas in loan distribution; (2) the exclusion of graduates of private high schools, and (3) the limitation of total forgiveness to teachers who teach in the district from which they graduated. Another constitutional issue raised by this bill concerns the prohibition against dedicated funds.

The United States Supreme Court has adopted a "two-tiered" analysis for evaluating most legislative classifications challenged under the federal equal protection clause. A classification which is "suspect" or impinges upon a "fundamental right" is subject to "strict scrutiny." A law that makes a classification based on race or ethnicity is "suspect" and, consequently, will be closely examined by the court to determine whether (1) it is supported by a compelling state interest, and (2) whether the racial or ethnic classification is necessary to promote that state interest. The first equal protection issue identified above would be analyzed under this test. The second and third do not involve suspect classifications or fundamental rights and, therefore, under federal law would be subjected to the less demanding standard of whether (1) the classification promotes a legitimate state interest, and (2) whether the means chosen to achieve that interest is rational.

The Alaska Supreme Court has adopted a single standard of review for equal protection questions arising under the Alaska Constitution which is more rigorous than the federal "rational basis" test and, in areas involving suspect classifications and fundamental rights, is comparable to the federal standard. The Alaska Supreme Court would inquire as to the purposes of the statute and the circumstances surrounding it to determine whether those purposes are legitimate and fall within the police power of the state. Then the court would determine whether the means chosen "substantially furthers the goals of the enactment." Finally, the court would balance the state interest in the chosen means against the nature of the constitutional right involved. State v. Erickson, 574 P.2d 1, 12 (Alaska 1978); Isakson v. Rickey, 550 P.2d 359 (Alaska 1976).

Under section 650(b), the award of loans is to be "in direct proportion to the distribution of ethnic groups" among eligible students. This provision establishes a racial quota and would be subject to close examination under both federal and state law.

We have serious reservations regarding the ability of the bill to survive an equal protection challenge, under either the federal or state analyses described above, to the ethnic classification of § 650(b). Even if the court were to find the purposes of the bill, as expressed in sections 600 and 610 to be compelling ones, which cannot be assumed, the court would closely scrutinize the means chosen to achieve those ends. Since the means employ ethnic criteria, the bill would fall if the court were to find that the ends could be achieved by less discriminatory means. An example may be helpful. In a school district with 90 percent Alaska Natives, and 10 percent non-Natives, if there were 10 loans to be awarded, nine would be available for distribution to Alaska Native students and one for a non-Native student. If only eight Alaska Natives and two non-Natives applied for loans, the bill would require that only one non-Native get a loan, despite the shortage of Alaska Native applicants. The quota in § 650(b) is not expressed as simply a preference, but as an inflexible mandate, which may not be necessary to accomplish the stated objectives. 1/ Of course, if it could be shown that the means employed in this legislation are

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1/ This example is for illustrative purposes only and is not meant to suggest that substituting a preference for the existing quota would necessarily render it constitutionally permissible.

essential to remedy problems identified in § 600 and 610, or problems that could be identified, 2/ the provisions of § 650(b) could be upheld.

The second equal protection issue arises with respect to the restriction of this program to graduates of public high schools. Although § 610 states that the purpose of the bill is to provide an incentive "for graduates of Alaskan high schools ...", and § 600 identifies problems found in rural schools, § 640 and 650 restrict participation to graduates of public schools, and the forgiveness benefits are only available to those who teach in public high schools. If the preservation and pedagogical use of cultural heritage and traditions, through inducement of rural students to return and teach in rural areas, is the main objective of the bill, the restriction to graduates of and teachers in public high schools would not seem to further that goal. Consequently, this provision may also be subject to challenge under state, if not federal, law.

The forgiveness provision in § 640(2) also raises equal protection concerns. Under § 640(2), total forgiveness is available only to students who return to teach in the school districts from which they graduate. Assuming the main purpose of the bill is that stated above, it would seem that a return to the general area or culture in which the student was raised would suffice to achieve it. 3/ It appears unlikely that each school district is so culturally distinct as to justify such a restriction.

2/ In a recent case the United States Supreme Court upheld a law that employed racial and ethnic criteria. The case involved a federal law giving a 10 percent preference for minority businesses in the award of certain contracts, with the intent of remedying the present effects of past discrimination. Before a legislative body can predicate a race-conscious remedy on redressing past discrimination, however, findings of past discrimination sufficient to justify that remedy must be made. Valentine v. Smith, 654 F.2d 503 (8th Cir 1981). Our brief review has uncovered no cases which sanction the use of a racial or ethnic quota where there are not factual findings that the racial imbalance sought to be remedied is due to past discrimination.

3/ Additionally, it should be considered that many rural school districts will have a limited capacity to absorb new teachers,
(Footnote Continued)

A constitutional problem of a different nature arises with respect to administration of the loan program under § 620. That section establishes the program as a revolving loan fund in which all repayments of principal and interest are put back into the fund and used to make new loans. This may contravene the constitutional prohibition against dedicated funds. Alaska Const., art IX, sec. 7. However, this department has indicated that it will defend such legislation until this issue is definitively resolved. 13 Op. Atty. Gen. Nov. 30, 1982.

We suggest, finally, that the term "ethnic minority" be defined to obviate questions of statutory interpretation that might arise as this program is implemented. For example, it is unclear whether each group in a community composed of Tlingits, Haidas, and Tsimpshians would be considered members of a single "Alaska Native" ethnic group, or whether each would be considered a distinct ethnic group.

If you have any other questions about this bill, please do not hesitate to contact us.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Linda Scoccia
Linda Scoccia
Assistant Attorney General

LS:jal

cc: Arthur H. Peterson

(Footnote Continued)
and a teacher who is unable to get a job in his or her school district of origin may be in effect penalized as a result, by being ineligble for forgiveness under § 640(b).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 504
Title: Teacher Scholarship Loans

Sponsor: Hayes, Hurlbert, et.al.
Requestor: House HESS
Date of Request: 1-13-84

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: Postsecondary Commission
BRU, Program or Subprogram(s) Affected: Scholarship Loans

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	N.A.	0	0	0	0	0
CAPITAL	N.A.					
REVENUE	N.A.	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	62.5	132.5	210.7	297.8	315.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	N.A.	0		0	0	0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Commission on Postsecondary Education Date: 1-13-84

Approved by Commissioner: Date:
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB504: Teacher Scholarship Program

A. Comments

1. Borrower must be a graduate from an Alaskan public high school. There are a number of private high schools which would have no students eligible (Covenant High School - Unalakleet, Monroe High School - Fairbanks, St. Mary's Catholic High School - St. Mary's, for example).

2. Borrower is eligible to borrow up to the total cost of room and board, tuition and fees, and books and supplies, or $10,000, whichever is lower. Hence, only twenty or thirty students per year would borrow more than the normal $6,000 student loan maximum.

3. Borrower must maintain good standing to continue receiving loans. ("C" average, enroll and complete 12 hours per term.)

4. Loans may not be awarded for more than 5 years of study.

5. Interest is 5% - repayment is 10 years.

6. Section 14.43.630 requires the commission to actually transfer funds to the school districts. We feel that fund transfer to the district is an unnecessary step and should be eliminated. The funds should go to the student (actually to the school in which the student enrolls) and not to the district and then to the student.

7. Section 14.43.640 (b)(1) means that if a borrower does not teach

public school in Alaska, no loan forgiveness is possible - not even the normal 50% for which other loan borrowers are eligible.

B. Possible Amendments

1. Section 14.43.630 amended to read:

Sec. 14.43.630. ADMINISTRATION. The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall allocate [DISTRIBUTE] the loan awards [FUNDS] available for teacher scholarship loans annually to local school boards giving a preference to school districts with a high percentage of students in ethnic minorities and a low percentage of teachers in ethnic minorities. The local school boards shall select the recipients of the teacher scholarship loans.

2. Section 14.43.640 amended to read

Sec. 14.43.640. CONDITIONS OF LOANS. Each school district shall award teacher scholarship loans subject to the following conditions:

(1) the conditions provided in AS 14.43.120 apply except that no loans may be made to graduate students [AND THE STATE SHALL REPAY A PORTION OF A TEACHER SCHOLARSHIP LOAN UNDER AS 14.43.120 (j) ONLY IF, IN ADDITION TO THE OTHER CRITERIA, THE BORROWER IS ALSO EMPLOYED AS A PUBLIC SCHOOL TEACHER IN THE STATE DURING THE PERIOD FOR WHICH THE LOAN IS FORGIVEN];

(2) if a borrower meets the conditions provided in paragraph (1) of this section and is employed as a public school teacher in the district from which the borrower graduated, AS 14.43.120 (j) does not apply, but rather, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

(A) one year employment, 15 percent;

(B) two years employment, an additional 15 percent;

(C) three years employment, an additional 15 percent;

(D) four years employment, an additional 25 percent;

(E) over four years employment, an additional 30 percent; and

(3) a loan may not exceed $10,000 in a school year.

3. Section 14.43.650 amended to read:

Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a teacher scholarship loan, a student must

(1) be a graduate of, or scheduled for graduation within six months from, an Alaskan [A STATE PUBLIC] high school, with sufficient credits to be admitted to an accredited college or university;

(2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level; and

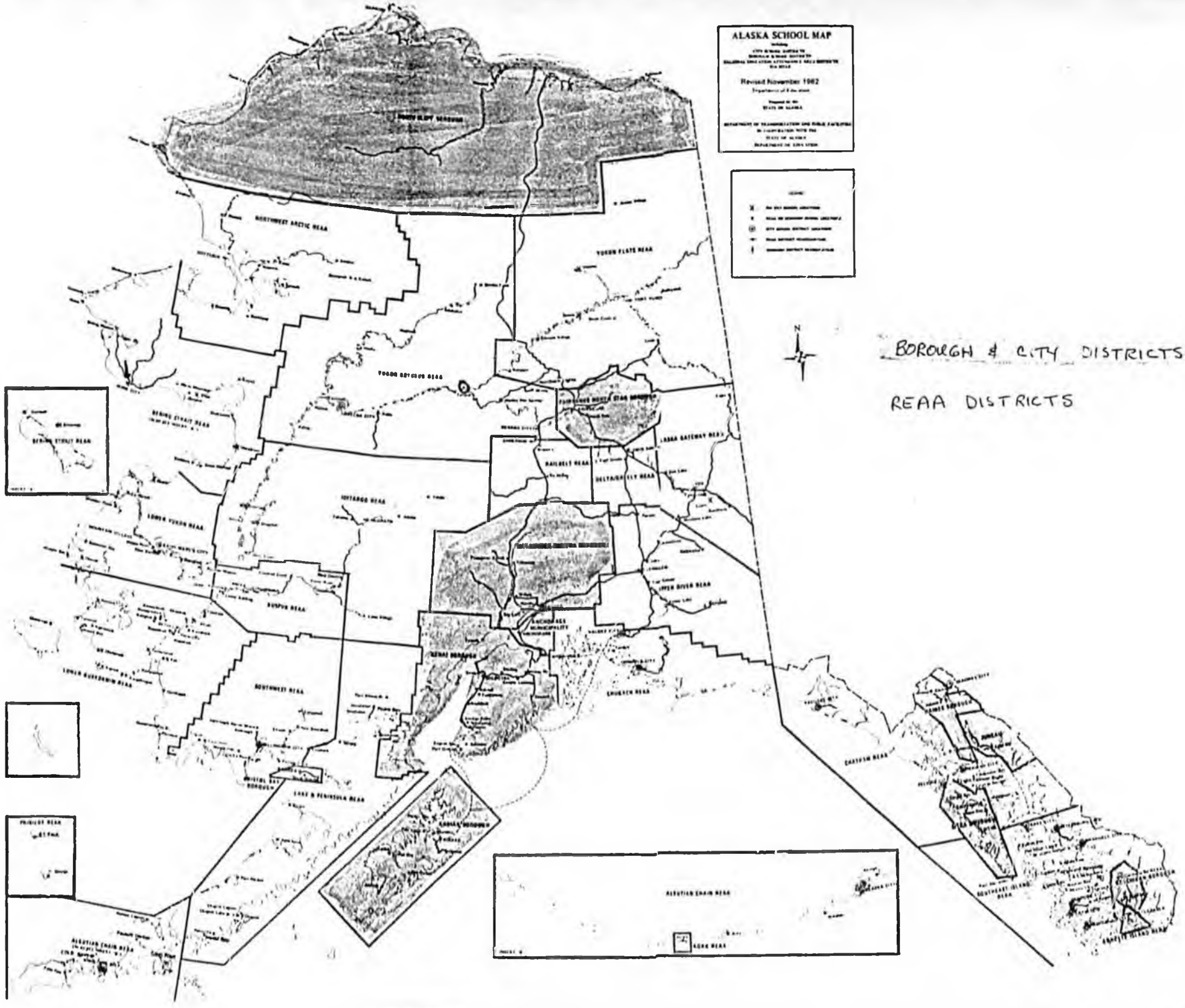
(3) meet the conditions set by the student's local school district with respect to the district's requirements for teachers in particular subject areas.

C. Fiscal Analysis

1. Estimated number of teacher scholarship loans available

FY85	80
FY86	160
FY87	240
FY88	320
FY89	320

2. Since a student may not borrow both a teacher loan and a standard student loan, much of the cost would be off-set. The only add-on would be for those eligible costs exceeding $6,000. This is estimated to be $2,500 for 25 students in FY85, and then carried forward with a 6% inflation in future years.


ALASKA SCHOOL MAP
Revised November 1982
BOROUGH & CITY DISTRICTS
REAA DISTRICTS

Feb. 1, 1984

Jim Greig, Ph.D.
Box 399
Bernalillo, N.M.
87004
(505) 867-2969

FEB 06 1984

FUND STUDENTS, NOT PROFESSORS -- THE HAYES SCHOLARSHIP BILL

Rural Native American students may soon receive $10,000 per year scholarships towards teaching degrees if the bill recently introduced by Alaska State Representative Joe Hayes is successful. Many voters may see this as too much money lavished on a favored ethnic minority. They may see this bill as both an example of government waste and of government reverse discrimination. But, I have good evidence to show that this bill is neither wasteful nor discriminatory. The reality is quite the opposite.

My evidence comes from inside information, information that is common knowledge among rural college professors and administrators but is almost never released to the general public. I can divulge this information because I was willing to risk my career in Alaska rather than cover up the waste that I found in rural higher education. For any that care to investigate this evidence, I have quite extensive, specific information. In 1981 and 1982 I worked as a University of Alaska professor among Native American villages along the Yukon River. Then, in the spring of 1983, I worked as the director of a "non-profit" Native teacher education program among the villages of the Bering Sea. The following are just as few of my experiences as a rural educator.

When I arrived at my job on the Bering Sea, I was responsible for directing an on-going $346,000 Federal program that was coordinated with two University of Alaska programs that cost about $252,000. In all, we were spending about $600,000 per year. All the publicly released documents -- grant requests, appeals for more state funding, etc. -- advertised that we had over 40 students, all rapidly progressing towards their teaching degrees. But, after I had been on the job for a month, nothing seemed to be happening. Four or five students seemed to be doing some of their assignments, but that was about all. This program had been running for a year and a half before I arrived. Had the students done any work during that year and a half? It was hard to say. No credit hour totals had ever been compiled. What was the total cost of this program? Again, no total cost figures had ever been kept. I asked the university officials for their totals, but they said that they didn't have any.

In attempting to determine the success rate of my program, I began to piece together the facts. If the program really was not working, perhaps something could be done to improve it. But, first I had to determine what was accually happening. So, I began to assemble complex charts on my office walls -- charts showing student progress during the current semester and charts showing student progress during the previous semesters.

At first it was difficult to determine just what I should consider as a "student." After all, I had over 40 people signed up, and all were claiming to be "students." Yet, little work was being done. But, then I found a clear solution. If, for example, those in my program completed a total of 1000 courses (3 credit hours each) during the school year, and if each full time student was theoretically expected to complete 10 courses per year, then I could justifiablly speak of having 100 "students." This would be true no matter how many people were actually on my rolls. Further, if the total cost of my program was, for example, $1,000,000 per year, then I could say that the efficiency of this program was $10,000 per student per year.

Such cost effectiveness is so easy to calculate that it could be demanded by the State Legislature and even published in the newpapers. In this way alternative programs could openly compete with each other for public funds. At present, university administrators hide such statistics as though they were nuclear secrets.

For example, one day two officials from a rural community college came by and noticed the charts on my wall.

"Better not display information like that," said one.

"Best not to collect such information in the first place," said the other.

These well intentioned men simply wanted to give me good survival advice. Nevertheless, I kept on with my chart work. Soon my charts clearly showed that over the last year and a half this program had not 40 students but only 5 students. I was generously calculating that one "student" would complete about seven courses per year -- which is only a part-time load anywhere else. Further, we were spending not $10,000 but $120,000 for each student each year. At this rate, the price of just one teaching degree was going to be well over $700,000.

I went to a high administrator of the local community college that formed part of this program.

"Look at these charts," I said. "This program clearly isn't working."

"I know," said the administrator, "but we have tried almost everything."

I had been giving some thought to another, quite obvious approach. It seemed to me that most Native American college graduates that I met in rural Alaska earned their degrees at major campuses. Scholarships large enough to allow our average student, who often had dependent children, to venture onto a large campus, might be the way to go.

"What about setting up a large scholarship fund to send our best students to major campuses?" I asked. "It might be worth a try."

"No way!" He said.

At this point, I should give the reader some background information. Why was this administrator so upset over my suggestion? The answer is that if these scholarships were granted, his college would not only be losing student tuition money, but it would also be faced with decreasing enrollment statistics. His total student enrollment was a major factor in his own funding and was a major factor by which his bureaucratic superiors measured his effectiveness as an administrator. He didn't want to send away promising students -- even if it was to their advantage.

Why don't other rural professors protest over the waste within their own programs? After all, don't professors have the freedom and desire to "profess" the truth? The answer to this is, again, "No way!" Almost two hundred Ph.D's applied for the position that I was selected for at the University of Alaska. Most of these were unemployed. Even if they could find jobs in the Lower Forty-Eight, their average pay would only be about $18,000. The Alaskan bush is often their last chance to make up for all those years at the poverty level. My Alaskan job paid about $50,000 per year, plus a long vacation, junkets to southern

California, and other benefits. With these wages and with 200 Ph.D's waiting in line to replace you, are you going to rock the boat? Probably not.

If you are a boat rocker, you are very quickly replaced. Through a process of natural selection, all boat rockers are soon jettisoned, and only those with a stomach for this kind of excursion survive. I now run my own construction company in New Mexico.

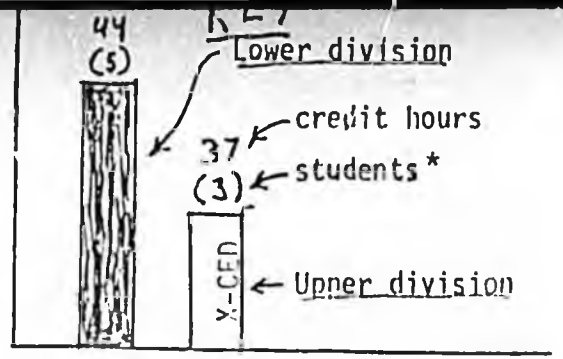
So, would this $10,000 scholarship be wasteful? Not at all. In fact, quite the opposite. If my program is typical, and I believe it is, the taxpayer is already spending up to $120,000 a year for each rural student. How much better would it be for this money to fund twelve students directly, instead of one student indirectly. As it is, most of this $120,000 per student never benefits the student, but instead benefits the bank account of some professional educator. The case is similar if the efficiency of the main rural teacher education program of the University of Alaska at Fairbanks, the X-CED Program, is put to the test. X-CED spends in excess of $1,130,000 per year to field eight professors, some with as little as two or three actual students. This money alone would fund 113 $10,000 scholarships -- perhaps far more scholarships than rural Alaska could presently absorb. Figured this way, the direct benefits become tremendous, and this scholarship program is already funded. It is just a matter of switching the money around.

Would this scholarship constitute reverse discrimination? I think not. The point of this scholarship is not to reward someone for having a particular kind of genes, but for having a particular kind of knowledge. Someone with, for example, Inupiaq ancestory who was raised in Ireland would not be a fitting candidate for these scholarships. On the other hand, an Irish child adopted by an Inupiaq family presumably could become a scholarship candidate. Further, these scholarships would not be designed to reward a student simply because he is a product of Alaskan Native culture. If, for example, the proposed scholarship were for a degree in electrical engineering, then the student's cultural knowledge would have no relevance. But, the point here is that such cultural knowledge is directly relevant to the student's future duties as a teacher of his own children. As has been amply demonstrated, teachers from the American mainstream rarely remain in a Native American village long enough to understand their new culture or to understand their students. Due to this lack of cultural and linguistic knowledge, effective education suffers.

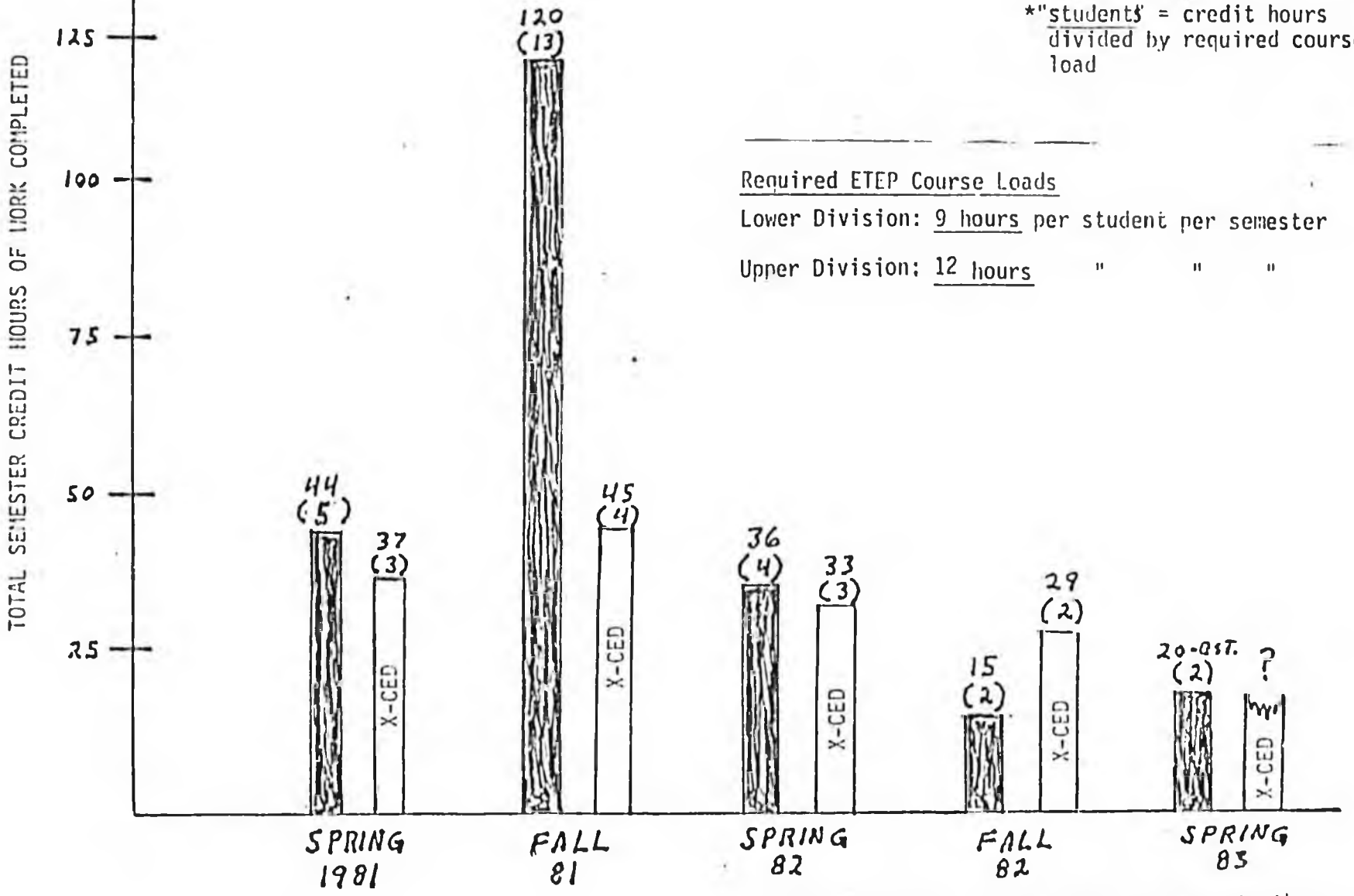
To conclude, from direct experience I know that much of rural higher education is extremely wasteful. For every $100,000 the state pours into rural programs, over $90,000 gets drained away by a vast bureaucracy of professional educators. How much better would it be to give the students money directly and to cut out all of these expensive middlemen. These educators will certainly scream over such a proposal. But, they can easily be silenced by auditing their programs and calculating the total cost per actual student. At present this ratio is never made public.

Secondly, It seems only fair that rural Alaskan communities be given the opportunity to educate their own children. These scholarships should not be seen as discriminating against those who are not Native Americans, but as rewarding those who have a specialized and valuable kind of knowledge.

BAR GRAPH of ETEP PROGRESS



*"students" = credit hours divided by required course load



Required ETEP Course Loads

Lower Division: 9 hours per student per semester

Upper Division: 12 hours " " "

Totals do not include work by 2 non-Native students who are not funded by ETEP.

Presented by Jim Greig, ETEP Director, to the Kawerak Board of Directors, April 20, 1983.

Prepared by Jim Greig, ETEP Director (2)

ANALYSIS OF ETEP PERFORMANCE -- APRIL 20, 1983
(With some revisions for more precise data & corrections on 4/24)

TOTAL PROGRAM COST (Both X-CED & Lower Division, Spring Sem. '81 -- Sp. Sem. '83)	
ETEP Budget for Entire Program (11/1/80 to 6/30/83)	$848,296
Cost of X-CED for 2½ years *	382,380
Cost of NWCC for 2½ years *	247,430
Total Program Cost (X-CED & Lower Division)	1,478,606
Total Credit Hours Produced (X-CED & Lower Division) *	517
Cost per Credit Hour	$2860
Cost for One 130 hour Teaching Degree (B.Ed.):	$371,800
Average number of students per semester (Calculated using "required course loads" -- see bar graph) *	8

COSTS FOR 1982 - 1983 SCHOOL YEAR (Both X-CED & Lower Division)	
Total Program Cost	$598,762
Total Credit Hours Produced (est.)	88
Cost per Credit Hour	$6804
Cost for 130 hr Teaching Degree (B.Ed.):	$884,520
Average numbers of students per semester (Calculated using "required course loads" -- see bar graph)	4

ANALYSIS OF BERING STRAITS REGION X-CED PERFORMANCE -- Prepared April 22, 83

TOTAL X-CED PROGRAM COST, SPRING SEMESTER '81 THROUGH SPRING SEMESTER '83	
Total X-CED Budget (est., extrapolating from '82-'83) *	$382,380
Total Semester Credit Hours Produced (est.) *	173
Cost per Credit Hour	$2,213
Cost for 130 hour teaching degree (B.Ed.)	$287,690
Average number of students per semester * (Total cdt. hrs., divided by 5 semesters, divided by 12 hr. normal course load)	2.9

*Separate sheets of paper contain information explaining these calculations

PREPARED BY JIM GREIG, ETEP DIRECTOR

REVISED COSTS 4/20/83

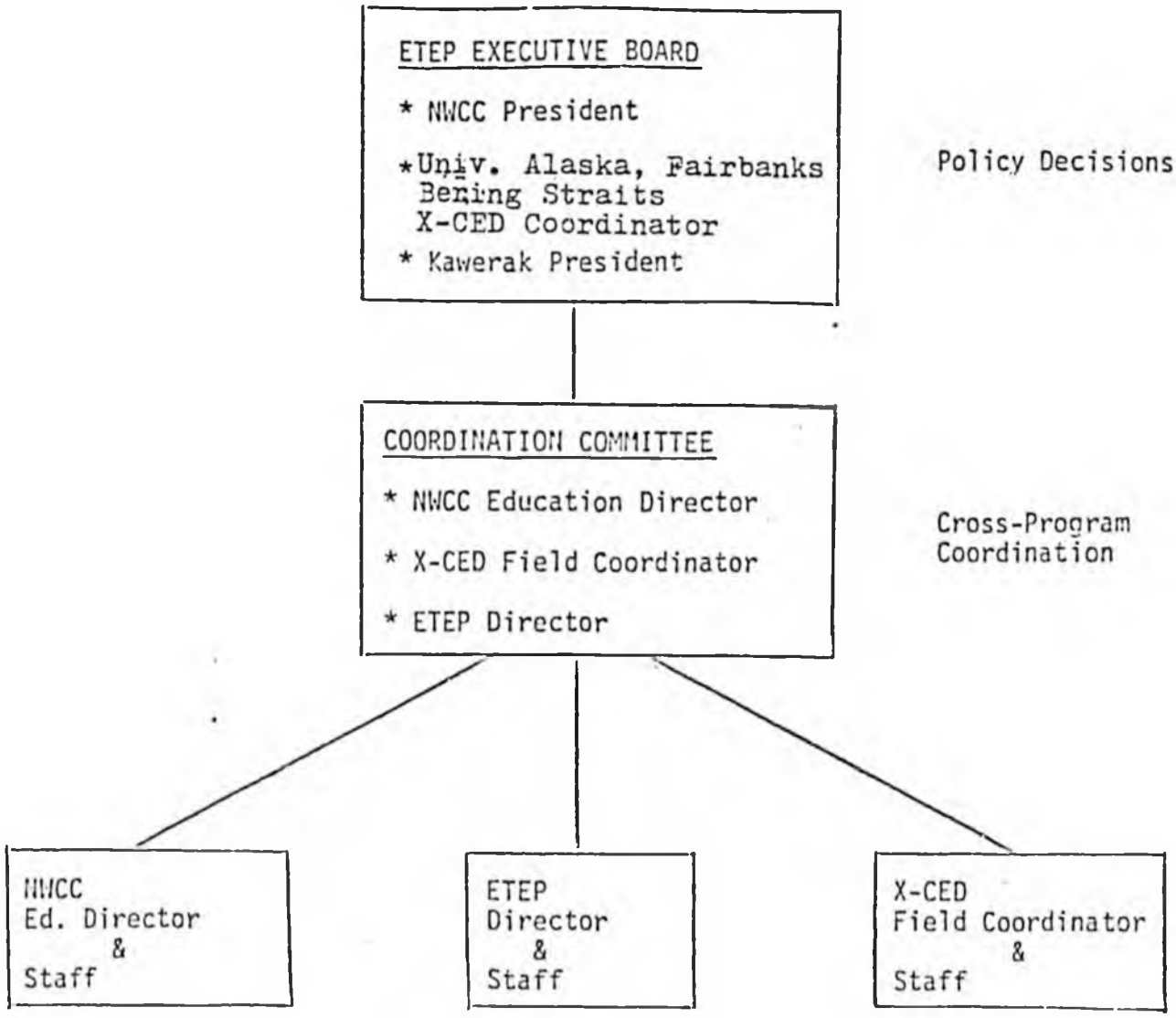
CORRECTED NWCC COSTS 4/24/83

ETEP, X-CED, & NWCC ANNUAL COSTS FOR ETEP PROGRAM (UPPER & LOWER DIVISIONS)

ETEP	1982-83 Budget	$346,638
X-CED	Total X-CED Budget 1982-83 $1,130,966 Total number of X-CED student statewide: 96 Number of X-CED students in Bering Straits Region: 13 Therefore costs: 13/96 x $1,130,966 =	$153,152
NWCC	NWCC Affiliated Staff Salaries: $73,150 (from ETEP Title VII grant request p.7-14 Travel (not, as in ETEP, 25% of salaries but, approximately 10%) $7,315 Indirect charges (as in ETEP, 23%) $18,507 Total for NWCC	$98,972
TOTAL FOR ALL OF THE ABOVE (i.e. for school year 1982-83)		$598,762

NOTE: These two information sheets on ETEP organization, although prepared for a Title VII grant proposal, generally show the de facto ETEP organizational plan.

ETEP ORGANIZATION CHART (Administrative)



Ousted director raps rural teacher program

By MARTHA ELIASSEN
Daily News reporter

The former director of a Nome-based Eskimo teacher training program claims he was fired because he has said publicly that the program costs too much and it is not working.

Dr. Jim Greig, a philosophy professor who has taught in universities around the world and was hired in January to oversee the Eskimo Teacher Education Program in northwest Alaska, claims hundreds of thousands of dollars are going into the program but only a handful of students are benefiting.

The program was developed two years ago by Kawerak Inc., a non-profit Native corporation, to provide teacher training in individual villages. It is coordinated by Kawerak, the Northwest Community College in Nome and a cross-cultural education program based at the University of Alaska-Fairbanks.

University and Kawerak officials say Greig was not on the job long enough to make an accurate judgment. They say he misunderstood the nature of the training program.

In the past year and a half, Greig said, about $598,000 a year has been used to educate five students. Although 27 students are registered this semester, Greig said, the majority are students "in name only." They do not attend classes or complete assignments regularly and have collectively earned only 16 credit hours this semester, he said.

Greig estimates the cost of one teaching degree earned through the program at $800,000.

"Everybody realizes it isn't working and they don't know what to do," Greig said.

After he was hired in January, Greig said he spent the first month or so writing grants for the program because funds run out this summer. But after praising the program to the government and oil companies, Greig said he began investigating its success in producing Eskimo

Continued from Page A-1

teachers for village schools.

"A lot of money has been spent since the ETEP program began with very little produced," Greig said in an initial memo to Caleb Pungowiyi, Kawerak president.

Greig said he gave a presentation to the Kewarak board of directors April 21 outlining what he says are the shortcomings of the program. He received a memo from Pungowiyi April 25 telling him he had been fired for unsatisfactory performance.

"Obviously, I am being fired for telling the truth," Greig said. Facts about the success rate of the program have been deliberately hidden to make sure it continues, he said.

"There are a few people out there who understand how the system works and are milking it for all it's worth," Greig said.

"My firing is made even more repugnant by being described as 'in the interests of students,'" Greig said in a protest letter to Pungowiyi. "Eight-hundred-thousand dollar degrees are not in the interest of the students — their interests lie in the efficient use of the $598,000 poured into ETEP each year."

Pungowiyi said Greig does not understand what the program is meant to accomplish and made judgments about rural Alaska he did not have the background to make.

"What Jim does not understand is the need for Eskimo teachers and the cost of education in rural Alaska," Pungowiyi said.

The aim of the program is to prepare Eskimos for teacher certification in their own villages, at their own pace, he said.

Though Greig had proposed that it would be much cheaper to give Eskimo students university scholarships, Eskimos who enroll in urban colleges have a high dropout rate, Pungowiyi said.

"There is no doubt that the program is expensive," Pungowyi said. The pay-off will be in 10 or more years rather than within the next two years, he said.

Mike Metty, Northwest Community College president, said Greig made his judgments with only "a couple of months of observation." The goal of the teacher training program is to develop a pool of young people who could one day become certified teachers, he said.

Metty acknowledged enrollment in the program fluctuates. "Right now, we know we're going to lose students on St. Lawrence Island because whaling has started," he said. Education in rural Alaska is unlike education anywhere else because of the demanding way of life, he said.

Furthermore, college is a relatively new idea in the Eskimo culture, Metty said.

"There was no premise that the program was going to produce 40 teachers in four years," Metty said. "We hope to get 30 or 40 teachers over a decade."

But Dr. Gene Adam, former field coordinator for the university cross-cultural program, said some of the original grant applications had more optimistic projections.

Adam, who now teaches English at Fairbanks Community College, supports Greig's view and said the spending bears investigation by taxpayers.

"I think he (Greig) is saying, 'Here is the cost, here is the product,'" Adam said.

Rural education is expensive and it is difficult to coordinate, Adam said. "I have the greatest respect for those students. They have to catch fish, they have to work, they have to take care of their kids and they have to mail in their homework," he said.

"The idea of bringing education into every little valley is a noble one but it's not very practical," Adam said.

Rep. Terry Martin, R-Anchorage, said Greig's concerns about the Nome-based programs are similar to his own about the high cost of rural education in general.

"When you compare it to some of the other programs I've been bickering about, it is not out of line," Martin said.

"The concept has been around for a long time to get Native people to work with Native people," Martin said, but the cost of present methods is too high.

In addition to the letter to Pungowiyi protesting his firing, Greig flew to Fairbanks from Anchorage Tuesday to discuss the situation with university officials.

He said he plans on returning to New Mexico in a week or so to resume a lucrative adobe construction business.

END

This story also appeared in:
-The Anchorage Times
-The All-Alaska Weekly (headlines)
-The U.S.A. Today (national paper)
-Associated Press (sent nationally)
-Alaska Public Radio
-And many other news sources.

RESUME

JAMES GREIG

Box 399
Bernalillo, New Mexico 87004

(505) 867-2969

EDUCATION

UNIVERSITY OF COLORADO, Boulder. B.A. 1964, M.A. 1969. Philosophy major, English minor.
UNIVERSITY OF NEW MEXICO, Albuquerque. Ph.D. 1978. Philosophy major, English minor. Dissertation:"The Overman & the Unity Of Nietzsche's Phil."

AREAS OF SPECIALIZATION: Cross-cultural Ed., Interdisciplinary Ed., Humanities, Philosophy, English.

TEACHING EXPERIENCE

1969 LATIN AMERICAN INSTITUTE, NY, NY. Instructor of English as a Second Language.

1969-70 SOPHIA UNIV., Tokyo. Instructor of Philosophy & English.

1971-74 UNIV. OF NEW MEXICO, Albuquerque. Instructor of Philosophy.

1974-75 UNIV. OF GUAM, Agana. Instructor of Philosophy & English.

1976 TEXAS TECH UNIV., Lubbock. Assist. Prof. of Philosophy.

1981-82 UNIV. OF ALASKA, Fairbanks. Assist. Prof. X-CED Program (Cross-Cultural Education Development Program, Sch. of Ed.). Duties: Interdisciplinary humanities"specialist" in a Native teacher education program. Administered B.Ed. program over a 200,000 sq. mile area. Flew between and resided in remote Athabascan Native American villages in the interior of Alaska.

1982 UNIV. OF ALASKA, Fairbanks. Assist. Prof. of Philosophy.

1983 ESKIMO TEACHER EDUCATION PROGRAM (ETEP), Nome, Alaska. Director. Duties: Administer a $346,000/yr. Title IV program, write grant requests, coordinate program planning with the University of Alaska and the Northwest Community College, develop curriculum, supervise bi-lingual student teachers, teach B.Ed. related courses. Constant flights into Eskimo villages in Bering Straits.

COURSES TAUGHT

Humanities
English Literature
Philosophy & Mythology
English Grammar & Composition
American Philosophy
English as a Second Language
Logic
Introduction to Philosophy
History of Philosophy & Science
Contemporary Philosophy

(Note: These are courses I developed & taught, I tutored a range of others

OTHER EXPERIENCE

1970 Editor, Encyclopedia Britannica, Tokyo, (part-time editing).

NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE
1411 W. 33RD
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE
147 S. FRANKLIN #207
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE
2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

TO: Mae Tischer, Chairman
House HESS Committee
Members of the Committee

DATE: February 21, 1984

RE: HB 504; "An Act establishing the teacher scholarship loan program."

NEA-Alaska strongly supports and encourages favorable consideration of the concept of scholarship incentives as a method of encouraging Alaska Natives to pursue careers in teaching in the public schools in Alaska. This particular issue was established as one of the six major legislative priorities of the Delegate Assembly, meeting in Anchorage in January.

It may be appropriate for the Committee to seek data relative to the previous implementation of AS 14.43.050 -.090 for purposes addressing specifically identified needs. SB 426 expands upon the provisions of the above referenced statute.

We would further encourage that the Committee, either on its own initiative or through the Department of Education, consider the feasibility of conducting an annual survey of all Alaska Native High School sophomores, juniors, and seniors and, perhaps even a supplemental survey of their parents and guardians as well, in an effort to build a data base which could be used to bring even more focus to this kind of legislation on a long term basis. Specifically, it seems appropriate to have more information on:

- career aspirations, expectations, needs
- current deterrents, barriers, problems
- extent and nature of counseling and adequacy of curriculum

A recent survey published by Texas Christian University on "Factors Related to High School Students' Interest in Teaching as a Profession" strongly suggest that a decline in parental interest in encouraging their children toward teaching is a major factor. It may be appropriate to ascertain the validity of this conclusion for Alaska.

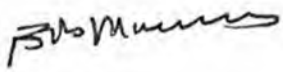
With an increasing number of Native students in the urban areas perhaps it is worthy of some emphasis to encourage, through incentives, more Native teachers in these areas as well.

It also seems appropriate to consider making this loan program an adjunct of the regular student loan program, but utilizing an expanded and separate sub-committee of the Post Secondary Education Commission which would also include practicing teachers and parents among its membership.

We feel that it is appropriate to raise some caution relative to geographic restrictions upon where a recipient may chose to teach. Reduction in the teaching force, non-retention and/or desire to voluntary job changes may have some effect on mobility of the recipients.

Finally, it may also be appropriate to clarify the legislative intent of HB 504 as it pertains to the term "teacher." AS 14.20.207 currently provides that the term teacher is also intended to cover administration. It is our recommendation that the primary focus be toward those who are actually in a classroom teaching circumstance.

Respectfully Submitted,



Bob Manners
Executive Secretary
NEA-Alaska

4:DSI

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION

February 8, 1984

Representative Vern Hurlbert
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Hurlbert:

Thank you for your letter soliciting support for HB 504. At the most recent meeting of the State Board of Education, Board Members voted to support this Bill in concept, but following considerable discussion, they recommended that the Legislature consider some additional amendments to the proposal. These have been communicated to you in the February 2, 1984, memorandum from Commissioner Raynolds.

We appreciate your continued interest and support of education in Alaska.

Sincerely,

Ernestine Griffin

Ernestine Griffin, President
State Board of Education

05-F37LH

COMMITTEE REPORT

HOUSE

(7)

HOUSE SPECIAL COMMITTEE ON STATE LOANS

FURTHER:

FINANCE

1/10/84

Date: 2-27-84

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 504

"An Act establishing the teacher scholarship loan program."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 504 (HESS) [X] same title [ ] new title

and recommends THAT IT DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

[signature]

Dan P. Tinger

MEMBERS HAVING OTHER RECOMMENDATIONS:

NK - NO RE

CHAIRMAN

H 60 (Rev. 3/81)

MEMORANDUM

TO: ~~Representative Mae Fischer~~ Bill
FROM: Tuckerman Babcock, staff

DATE: February 17, 1984

RE: HB 504 and conference with former educators and school board Presidents.

Randy Briggs, President of the Lake and Peninsula School District (Lake Clark, Naknek etc.), former educator, and Sarah Hornberger, former President of the Lake and Peninsula School District and former educator, stopped by to give their views on HB 504 and the issue of Mt. Edgecumbe.

COMMENTS ON HB 504:

1- State loans already very generous, and Bureau of Indian Affairs might lend money.
2- All districts have counselors to encourage stundets to seek higher education.
3- Does not address problem of MOTIVATION, which they viewed as the single greatest handicap to native students wanting to teach school. Most simply prefer other activities to teaching.
4- There is a legitimate need for teachers with a cosmopolitan background to balance the heavy emphasis on rural, local issues.
5- To ease the culture shock between home and school continue to hire locals as assistants.
6- Their district always gives locals first crack at teaching job.
7- Provision for three years teaching before loan is forgiven will cause several problems:
    A- Tenure is granted in the third contract, making it impossible (virtually) to fire someone.
    B- Boards will be in position of forcing someone to assume large debt or keep an unqualified teacher on.
    C- Will be likely to create tension in the community if the teacher is not very good by dividing neighbor against neighbor as parents advocate removal while friends and family argue for retention.
8- Bad practice to completely forgive any loan.
9- Just because someone takes fours years of teacher education courses does not mean they will be educated in their subject matter or be comparitively cognizant of the larger "world out there".

MEMORANDUM REGARDING HB 504

Randy Briggs and Sarah Hornberger's comments on Mt. Edgecumbe:

1- Not really a viable alternative.

2- Those that emerged from Mt. Edgecumbe as leaders would have been leaders anywhere.

3- Drain off money better used to maintain programs of quality closer to home.

MY COMMENT:
I suspect they are most unpset because of the possibility that their best students would opt to attend Mt. Edgecumbe.

Randy Briggs
Ugashik, AK 99683

Sarah Hornberger
P.O. Box 69
Iliamna, AK 99606

MEMORANDUM State of Alaska



TO: The Honorable Mae Tischer
Alaska State Representative
Chairman, House Health
& Social Services

DATE: February 2, 1984

FILE NO:

TELEPHONE NO: 465-2800

FROM: Harold Raynolds
Commissioner
Department of Education

SUBJECT: HB 504: Teacher Scholarship Loan Program

The State Board of Education addressed HB 504 during the State Board meeting in Juneau, January 31, 1984. The Board voted approval of the concept of a loan program to encourage Alaskan ethnic minorities to enter the teaching profession. There were several areas which they felt needed further clarification in consideration of the legislation:

1. The findings and intent focus on problems experienced in rural Alaska, but the bill would allow any ethnic minority student to be eligible, including those from the urban Alaskan districts, with forgiveness tied to that teacher returning to the district from which he came. The State Board expressed some confusion as to whether this is what was intended by the sponsors, or if the intent was to limit the loan program to just rural ethnic minority students. If it is to be limited to rural students a definition of rural students should be included in the legislation.

2. The State Board of Education felt the criteria for forgiveness was too restrictive by requiring that a student return to teach in the district from which he graduated, The district from which he graduated may have no openings when the teacher is ready to return to teach. If that student returns to teach in another Alaskan school district, other than the district from which he graduated, the State still receives the benefit of the ethnic minority in the teaching role. If it is the intent of the legislation to assure that students return to teach in rural Alaska, this might also be accomplished by expanding Sec. 14.43.640(2) to include "employed as a public school teacher in the district from which he graduated or another rural Alaskan school district." This amendment would also require that rural school district be defined in a definitions section.

3. The State Board of Education felt that the loan should be available to a student who, after completing an academic major (i.e. history, English, science), decides to return to college for a fifth year of study for the purpose of teacher training. As the legislation is currently drafted, it prohibits loans for graduate study.

4. The State Board of Education felt that the loan program should also be available to Alaskan ethnic minority students

attending high school outside the State who desire to enter the teaching profession and return to the State to teach.

The legislation appears to be an excellent step towards encouraging Alaskan ethnic minorities into the teaching profession and providing incentives to return Native Alaskans to rural areas to teach. Your consideration of the State Board of Education's recommendations is appreciated.

cc: Ernestine Griffin, President
State Board of Education
Rep. Joe L. Hayes
Rep. Vernon L. Hurlbert
Rep. Albert P. Adams
Rep. Mitchell E. Abood, Jr.
Rep. Ramona L. Barnes
Rep. Charlie Bussell
Rep. Bette Cato
Rep. John Cowdery
Rep. Mike Davis
Rep. John G. "Jack" Fuller
Rep. Walt Furnace
Rep. Ben F. Grussendorf
Rep. Adelheid Herrmann
Rep. Niilo Koponen
Rep. John Lindauer
Rep. John L. Liska
Rep. Hugh Malone
Rep. Terry Martin
Rep. Mike W. Miller
Rep. John Ringstad
Rep. Richard Schultz
Rep. Mike Symanski
Rep. Rick Uehling
Rep. Jerry Ward
Rep. Fred Zharoff
Rep. Milo Fritz
Rep. Robert H. Bettisworth
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(7)

#70,000

Program Proposal for the Design of: A Program for the Recruitment, Training, and Retention of Local Personnel on Bush School District Staffs.

Rep. Vern Hurlbert
Pouch V
Juneau, Alaska 99811

March 8, 1983

Synopsis:

This report proposes a design process to structure a coordinated educational program. The paper is divided thusly-

-Statement of problem: not enough local persons on professional bush school district staffs.

-Analysis of components of problem: inadequate educational preparation to allow succesful postsecondary training; problems caused by bush/urban transition necessary for postsecondary education; lack of field-based postsecondary educational program that integrates instead of separating the individual from the rural community.

-Guidelines for designing a comprehensive program with the objective of developing a workable, coordinated program with the primary focus being a marked increase in local persons who are educationally prepared to fill professional staff positions in rural Alaskan school districts.

-Final note.

-Footnotes & Appendix

INTRODUCTION:

Anyone who has lived in bush Alaska understands the importance of the school to the community. Not only does it provide the most stable source of employment, but in most places the school also serves, ideally, as the center of community activity. Recreation, social gatherings, and educational events all are coordinated through the school. Most importantly, the social and intellectual development of young bush residents takes place under the guidance and influence of those staffing the local schools.

The herein proposed program aims to facilitate in producing more local persons who are educationally prepared to fill professional positions within bush school systems. As it now stands, most bush school systems are predominantly staffed at the certified level by transient (non-local) persons. A major problem facing rural Alaskan schools is not a lack of positions to be filled, but the scarcity of well trained local persons to fill those positions that do open.

The program design being proposed here would address this lack of qualified personnel by breaking the problem into three component parts that, taken together, it is felt, are the root cause of the shortage. Attention would then be focussed on each of the three separate areas:

1. Inadequate educational preparation for post-secondary education.

2. The difficulties that bush persons experience when moving to more structured urban environments.

3. The lack of an adequate post-secondary educational program focussing on bringing the bush student back into the local school and community (integrating the education with the needs and perceptions of the local community).

DEFINITION of PROBLEM:

The program proposed here is in answer to the problem of not enough local persons to staff bush schools. The definition of problem results from, first and most importantly, living in the bush and experiencing the schism of school personnel/community. Rural Alaska, although well supplied in terms of educational materials, is not fully participating in the implemetation of its educational programs.

In a formal sense, the problem was defined by members of the Alaska Pacific University staff in a paper Developing and maintaining teacher competence for rural Alaska. The paper concludes that "It seems evident that teacher turnover can be reduced by recruiting teachers who are more favorably inclined -

to the rural Alaskan lifestyle." This we view as part of the problem, but, -because we aren't limiting our focus to teachers alone-rather our interest includes all personnel involved in staffing rural schools, it served as only the beginning point. The key being recruiting those who are favorably disposed to the rural Alaskan lifestyle.

The Alaska Department of Education, in the Comprehensive Plan for the Coordination of Federal and State Funds for Training Educational Personnel[1] discussing perservice educational needs, states that: "The two most important changes have to do with the need to prepare educators for the rural, cross-cultural, small school context, and to provide more pre-graduate field experience."[2] It is the belief of this office that a program can be designed that, through expanded pre-graduate field service, will prepare rural Alaskan students to fill the need for more (cross-culturally) prepared educators.

"The matter of an increased level of field experience for teacher candidates drew considerable discussion. Basically the problem was seen to have two dimensions. The first dimension was one of 'too little-to late.' The second dimension evolves around the problem of relevant early field experience in the area of the rural small school portion of preservice curriculum. The problem of content training and relevant field experience are exacerbated by the issues involved. There appears to be some confusion and ambiguity in rural schools. There are no unique Alaskan requirements in terms of preservice or pre-employment experiences. The traditional institutional requirements for the teacher education program in IHE (Institutes of Higher Education) do not speak to Alaskan cross-cultural and/or small school issues."[3]

A study of the H.U.D./Internship program[4] run through the Univercity fo Alaska, Juneau concluded that not only does such an interactive approach to education better prepare the student for real-life situations, but, at the same time, creates a method for the sponsoring agency to appraise potenial employees, and for participating students to cultivate employment opportunities-both problem areas that would benefit from the herein proposed program.

The above mentioned studies emphasize the value of a more interactive, internship-style of educational program for adequately preparing rural school personnel-recognized by this office to be an integral part of the solution to redressing the current shortage of local persons on rural school staffs.

Another area of concern: inadequate preparation for post-secondary education, has been documented in numerous studies (see Appendix A). The most recent Alaska Statewide Assesment Program[5] report shows rural students's scores averaging only 81% those of middle-sized schools in incorporated areas of the state. A January 1982 report put out by the Institute of Social and Economic Reseach[6] at the Universcity of Alaska, Anchorage shows-

a marked decrease in the ACT (American College Test) scores for native freshmen entering the University of Alaska, Fairbanks between the years 1963 and the period 1975-78 (appendix). In the most recent statewide Assesment Program, ample evidence is presented identifying educational defficiencies as a handicap impeding rural Alaskans in their attempts to obtain the postsecondary education necessary to qualify for certified staff level positions with the local school districts.

The third concern of the proposed program-difficulties that bush persons experience in making the transition from the bush to more urban communities-though not well documented as a major problem, is often cited as a problem needing to be dealt with if rural students are to be succesful in completing postsecondary educational programs. In its proposal for continued funding of the Summer Enrichment Program, 1983, the Alaska Native Foundation-a leader in the field of educational programs for rural Alaska-lists its goal as facilitating a student's transition from a small rural high school to a postsecondary institution. It goes on to say that as drop-out rates document, this change from school to college is frequently devastating.

In the course of exploring the possibilities for putting together this type of program, a large and varied cross section of persons associated with one or more aspect of the proposal were contacted. Whether they were originally sought out for the technical knowledge, historical perspective or an assesment of their present educational activities, there was a discussion of the multifocal nature of what is here being proposed. A result of these discussions was that the direction of the program was modified with a more clear understanding of what the practicalities, and objectives could be. All seemed to agree on one thing, putting such a program together will-to be succesful-require the broadest level of participation in planning. Attatched to this report (appendix) is an article taken from the Anchorage Times, February 24,1983 that identifies some of the special problems of rural Alaskan schools. A recognition of these unique problems, coupled with an understanding of the important role the local school plays in bush communities, mandates that in any planning process addresing the local school system, the community be consulted at all stages of development.

1. Program Design:

As more stones were overturned in search of the right components to make up the whole program, it became increasingly clear that only those who would eventually make it work-including those who will be served-are in a knowledgeable enough position to define a structure and method. The areas of focus have either wholly or in part been addressed. Therefore, the major task at hand is to eclectically draw upon the existing resources and structure them in an operable manner.

2. Administration of Program Design Process:

Because of this office's concern that the need for more local persons on rural school system staffs is very important, and that the here proposed program can-if put togehter with the highest regard for a broad-based level of input-succeed in greatly facilitating a solution to the shortage, potential administrators for program design were examined. As the concept of a comprehensive program integrating the array of concerns noted (in this paper) developed, and information concerning other educational programs dealing with rural Alaska was gathered, it bacame clear that those most functional are those closest to the public being served. In this particular instance that could be one of any number of regional administrative units, but-for the crterion of experience and acceptability-the Alaska Native Foundation (ANF) appears to be best able to preside over the program's design. This is a program for rural Alaskans, and the ANF's focus has always been rural Alaska.

3. Design Process Participants:

Representatives from postsecondary Alaskan educational institutions, Kuspuk and Yukon Flats school districts (administrations, boards, staff and citizens), the concerned regional and local corporations,and any group or person involved with rural or educational issues.

4. Guiding Principles.

Eclecticism (choosing the best approach fro those existing), fiscal prudence, broad participation in design, commitment to making the program work (good faith effort).

5. STATEMENT OF OBJECTIVE:

The objective of this design process is to develope a workable, coordinated program with the primary focus being a marked increase in local persons who are educationally prepared to fill professional staff positions in rural school districts.

Time Schedule for Program Design

July 1, 1983	Projected funding for design available; begin identification of participants, submission of planning schedule within 30 days of funding.
September 1,1983	Submit draft outline of possibilities for structuring program (put together from research of existing possibilities) along with proposals to deal with portions of the program previously undealt with (e.g. postsecondary field-based curriculum).

January 16, 1983	Submission of final program design, complete with identification of participants, budget, and extended program requiremnts (5 year outline for operation).
Spring 1984	Begin operation of program.

Summary:

What has been outlined in this paper is that in rural Alaska there is a shortage of local persons in meaningful positions in the staffing structure of local school districts, and a proposed method of designing a program to recitfy the problem. A number of guiding principles as to who should be a part of the design process, a call for a pragmatic and utilitarian approach, and a rough time schedule for completing certain aspects of the design are also layed out.

A final note to this report, and a firm belief of this office, is that what is being sought in this program offers to all who participate very real and positive benefits that will multiply as more local rural Alaskans become part of their educational process. Bush schools are annually plagued by cultural wars involving bush vs. non-bush interpretations of often non-complex questions. Communities are split, administrations and staffs are forced to 'choose up sides', and inevitably the real losers are the kids who suffer the life-long effects of poor education. This program proposal is no quick-fix solution, but it does offer an opportunity to begin addressing a problem that is so often dealt with only cosmetically by replacing one problem with another.

Footnotes:

1. Comprehensive Plan for the Coordination of Federal and State Funds for Training Educational Personnel. Division of Educational Program Support, Alaska Department of Education, May 1982.

2. Ibid. page 9

3. Ibid. page 10

4. Performance Evaluation-H.U.D. Work/Study Intern Program. Prepared for Division of Community Planning, Department of Community and Regional Affairs by Kevin Waring Associates. 6255 East 41st Court, Anchorage, Alaska 99504

5. Assesment Report 3: An update on the Alaska Statewide Assesment Program. Office of Planning and Research, Alaska Department of Education. Copyright 1982 by the Alaska Department of Education and InterWest Applied Research.

6. Native College Success in the Seventies: Trends at the University of Alaska at Fairbanks. Judith Kleinfeldt, Robert Travis, Velma Hubbard. Institute of Social and Economic Research, University of Alaska, Anchorage, Alaska 1982.

Persons Contacted in exploration of Program possibilities:

Main reason for contact:	Person contacted:
program participant.	Mr. Robert McHenry, Superintendent of schools Kuspuk School District, Aniak,Alaska.
program participant.	Dr. Beatriz Apodaca, Superintendent of schools Yukon Flats School District, Fort Yukon, Ak.
remedial program.	Mr. Mike McKeown, Asst. Coordinator S.O.S., Anchorage Community College
Administration of design process.	Mr. Frank Berry, President, Alaska Native Foundation, Anchorage, Alaska
program conceptualization.	Dr. Glen Olds, President, Alaska Pacific University, Anchorage, Alaska
Internship program.	Mr. Dennis Demmert, Cross-Sultrual Studies, University of Alaska, Fairbanks, Alaska
Educational program.	Dr. Ray Lehrman, Professor of Education, Alaska Pacific University, Anchorage, Alaska

Main reason for contact:	Person Contacted:
Educational program.	Dr. Virginia Hohnson, Professor of Education, Alaska Pacific University, Anchorage, Alaska
Financial Aid.	Ms Jane Byers Maynard, Director of Special Programs, Alaska Commission on Postsecondary Education, Juneau, Alaska.
Community involvement & Financial Aid.	Mr. Glen Fredericks, Kusko Corporation, Anchorage, Alaska.
" " "	Mr. Mike Irwin, Tanana Cheifs Conference, Fairbanks, Alaska.
Remedial Program	Ms. Sue Hare, Asst. Supt. Lower Kuskokwim School District, Bethel, Alaska.
Internships	Mr. Lawrence Kimball Jr., Director Division of Community Planning, Alaska Dept. of Community and Regional Affairs.
Internships	Ms. Baribel Sorenson, University of Alaska at Juneau.
program structuring	Mr. Richard Spaziani, Deputy Director Educational Program Support Division, Alaska Dept. of Education, Juneau, Alaska.
" " "	Dr. Allen Barnes, SouthEast Regional Resource Center, Juneau, Alaska.
Educational program.	University of Alaska, Fairbanks. School of Education.
	University of Alaska, Anchorage, School of Education.
	Members of Alaska Native Foundation, Youth Leadership Conference-while in Juneau (regarding Community Involvement).
	Alaska Dept. of Education: consulted on numerous questions about technical structuring.
Technical information.	B.I.A. Educational personnel

RESEARCH SUMMARY

Institute of Social and Economic Research, University of Alaska January 1984, R.S. No. 13

Effective Schooling in Rural Alaska

INTRODUCTION

Rural teachers are not satisfied with their students' academic progress, according to a new University of Alaska report, and they tend to blame the problem on a lack of motivation. On the other hand, the teachers are satisfied with their relationships with both the students and the community.

The report was prepared by the College of Human and Rural Development and the Institute of Social and Economic Research for the Alaska Department of Education. It was based on a survey of 304 rural teachers, representing every school outside Alaska's urban areas (such as Anchorage, Fairbanks, and Juneau). The teachers identified several educational areas that needed attention. They also described the instructional practices that they found effective in a rural Alaska context. Ninety-six percent of the teachers returned their surveys, an unusually high proportion.

FINDINGS

Satisfaction with Educational and Other Conditions

Most rural teachers, whether they taught in majority Native or non-Native schools, are satisfied with the quality of their relationships with students (92 percent), with discipline in their schools (84 percent), and with school/community relations (73 percent).

Ironically, what frustrates rural teachers, particularly in Native majority communities, is not relationships with people of a different culture, but relationships with the district center. Fewer than half the teachers in Native majority communities are satisfied with the support they receive from the central office (43 percent), with the superintendent's management (46 percent), and with the district board's action (46 percent). According to teachers, many district staff do not appreciate the local situation. (We did not survey district staff; their perspective may very well be different.)

Most rural teachers (80 percent) are pleased with their salary and benefits. To our surprise, only about a third voiced dissatisfaction with their housing.

Almost half of the rural teachers want more opportunities for professional growth. One wrote:

> I am in a tiny school—one other teacher who is not my husband. I have no one to ask questions of. My class of primary grade children includes an incredible range of students (skill, intelligence, behavior, motivation). I have an unworkable curriculum guide. My district has offered me one training session, one week. I am alone!

Student Achievement: What Teachers Expect

Rural teachers' views of their students' performance are ambivalent. On the one hand, over half the teachers in Native majority schools (52 percent) say they are not satisfied with their students' academic progress. Even more (60 percent) say they cannot expect average or above-average achievement from their students.

Rural teachers expect virtually all their students to graduate from high school. But most teachers in Native majority schools (90 percent) expect less than half their students to attend college.

Despite their pessimistic view of students' academic performance and potential, most teachers in Native majority schools (63 percent) say they are satisfied with the quality of education at the school.

Rural teachers in non-Native majority schools are significantly more satisfied with their students' academic progress. They feel that achievement levels *above* national norms can be expected from their students. Finally, they are much more likely to expect students to attend college.

These differences between teachers' views in Native and non-Native majority schools are troubling. We are not sure what they mean. Several teachers wrote on the margins of their surveys that we should be careful *not* to interpret their attitudes as "low expectations." In their view, they are simply being realistic when they say that they do not expect many students to achieve at national norms and that they do not expect many students to attend college.

JAN 16 1984

Indeed, 49 percent of the teachers in Native majority communities say that none of the parents expected students to complete college. "Parents are reluctant to see their children leave home and become indoctrinated in a foreign culture," one teacher explained on the survey.

But teachers also point out that the rural context unjustifiably lowers academic expectations. One said:

> My own personal level of expectation has gone down since I arrived here. When I started as an English teacher my expectations were too high. Very quickly my expectations became more realistic. The big problem is that we overcompensate and come to expect too little.

Effective Teaching Practices in Rural Alaska Schools

Rural teachers say their schools do not emphasize many of the practices that are related to high achievement test scores in schools outside Alaska. Most teachers, for example, say their schools do not pay much attention to standardized test scores as a basis for setting academic goals.

Less than half (48 percent) of rural teachers assign homework regularly. Many say they avoid homework because students do not have the needed lighting, space, or opportunity at home.

A large proportion of teachers (40 percent), however, do hold study sessions before or after school once a week or more. These study sessions are advantageous, they say, because the school setting helps students settle down to work and teachers are right there to help.

When asked to describe briefly the instructional practices they personally found effective, rural teachers emphasized some of the practices stressed in national studies of effective schooling and some practices related to the village cultural context. They include:

1. Use of diverse instructional materials and especially projects where students actively do things.
2. Self-paced instruction, especially where the teacher sets standards for the amount of work to be done.
3. Cooperative student learning situations, such as group projects and peer tutoring.
4. Opportunities for parents and community people to participate in schooling, such as sending home nightly study guides.

CONCLUSIONS

We have asked many different people—school superintendents, rural and urban teachers, representatives of professional education organizations—to comment on these findings. Most raise the same issue: How can so many rural teachers say they are satisfied with the quality of education at their schools and then turn around and say they don't expect students to reach national achievement norms or attend college or complete college if they do attend?

Possibly the answer is straightforward: most rural teachers may feel they are working in a difficult situation, with students whose cultural traditions do not necessarily support academic achievement or college attendance, and whose parents are not often oriented toward these goals. They may feel that under these circumstances, they and their schools are doing a fine job. But the disturbing issues remain: do teachers expect too little of village students? And what should count as "educational success" in rural Alaska? Such questions as these must be answered before we can reasonably expect to improve the effectiveness of rural schooling in Alaska.

This report, entitled *Effective Schooling in Rural Alaska* (27 pages), was prepared by Judith Kleinfeld and G. Williamson McDiarmid under the auspices of the College of Human and Rural Development and the Institute of Social and Economic Research, University of Alaska. The teacher survey on which the report was based was part of a study of school governance in rural Alaska, conducted by Dr. Gerald McBeath at the University of Alaska with the assistance of the authors and others. The report is available from the Institute of Social and Economic Research, 204 Chapman Building, University of Alaska, Fairbanks, AK 99701, or from ISER in Anchorage, 707 A St., Suite 206, Anchorage, AK 99501, telephone 278-4621. For more information on this report, call Judith Kleinfeld, ISER-Fairbanks, 474-7435.

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DEPARTMENT OF LAW

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465-3603

February 6, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

You have asked us to review HB 504, "[a]n Act establishing the teacher scholarship loan program." This bill raises several constitutional and legal questions which we briefly address below.

Several provisions of this proposed legislation are subject to challenge under the equal protection clauses of the United States or Alaska Constitutions. These concern (1) the establishment of racial quotas in loan distribution; (2) the exclusion of graduates of private high schools, and (3) the limitation of total forgiveness to teachers who teach in the district from which they graduated. Another constitutional issue raised by this bill concerns the prohibition against dedicated funds.

The United States Supreme Court has adopted a "two-tiered" analysis for evaluating most legislative classifications challenged under the federal equal protection clause. A classification which is "suspect" or impinges upon a "fundamental right" is subject to "strict scrutiny." A law that makes a classification based on race or ethnicity is "suspect" and, consequently, will be closely examined by the court to determine whether (1) it is supported by a compelling state interest, and (2) whether the racial or ethnic classification is necessary to promote that state interest. The first equal protection issue identified above would be analyzed under this test. The second and third do not involve suspect classifications or fundamental rights and, therefore, under federal law would be subjected to the less demanding standard of whether (1) the classification promotes a legitimate state interest, and (2) whether the means chosen to achieve that interest is rational.

The Alaska Supreme Court has adopted a single standard of review for equal protection questions arising under the Alaska Constitution which is more rigorous than the federal "rational basis" test and, in areas involving suspect classifications and fundamental rights, is comparable to the federal standard. The Alaska Supreme Court would inquire as to the purposes of the statute and the circumstances surrounding it to determine whether those purposes are legitimate and fall within the police power of the state. Then the court would determine whether the means chosen "substantially furthers the goals of the enactment." Finally, the court would balance the state interest in the chosen means against the nature of the constitutional right involved. State v. Erickson, 574 P.2d 1, 12 (Alaska 1978); Isakson v. Rickey, 550 P.2d 359 (Alaska 1976).

Under section 650(b), the award of loans is to be "in direct proportion to the distribution of ethnic groups" among eligible students. This provision establishes a racial quota and would be subject to close examination under both federal and state law.

We have serious reservations regarding the ability of the bill to survive an equal protection challenge, under either the federal or state analyses described above, to the ethnic classification of § 650(b). Even if the court were to find the purposes of the bill, as expressed in sections 600 and 610 to be compelling ones, which cannot be assumed, the court would closely scrutinize the means chosen to achieve those ends. Since the means employ ethnic criteria, the bill would fall if the court were to find that the ends could be achieved by less discriminatory means. An example may be helpful. In a school district with 90 percent Alaska Natives, and 10 percent non-Natives, if there were 10 loans to be awarded, nine would be available for distribution to Alaska Native students and one for a non-Native student. If only eight Alaska Natives and two non-Natives applied for loans, the bill would require that only one non-Native get a loan, despite the shortage of Alaska Native applicants. The quota in § 650(b) is not expressed as simply a preference, but as an inflexible mandate, which may not be necessary to accomplish the stated objectives. 1/ Of course, if it could be shown that the means employed in this legislation are

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1/ This example is for illustrative purposes only and is not meant to suggest that substituting a preference for the existing quota would necessarily render it constitutionally permissible.

essential to remedy problems identified in § 600 and 610, or problems that could be identified, 2/ the provisions of § 650(b) could be upheld.

The second equal protection issue arises with respect to the restriction of this program to graduates of public high schools. Although § 610 states that the purpose of the bill is to provide an incentive "for graduates of Alaskan high schools ...", and § 600 identifies problems found in rural schools, § 640 and 650 restrict participation to graduates of public schools, and the forgiveness benefits are only available to those who teach in public high schools. If the preservation and pedagogical use of cultural heritage and traditions, through inducement of rural students to return and teach in rural areas, is the main objective of the bill, the restriction to graduates of and teachers in public high schools would not seem to further that goal. Consequently, this provision may also be subject to challenge under state, if not federal, law.

The forgiveness provision in § 640(2) also raises equal protection concerns. Under § 640(2), total forgiveness is available only to students who return to teach in the school districts from which they graduate. Assuming the main purpose of the bill is that stated above, it would seem that a return to the general area or culture in which the student was raised would suffice to achieve it. 3/ It appears unlikely that each school district is so culturally distinct as to justify such a restriction.

2/ In a recent case the United States Supreme Court upheld a law that employed racial and ethnic criteria. The case involved a federal law giving a 10 percent preference for minority businesses in the award of certain contracts, with the intent of remedying the present effects of past discrimination. Before a legislative body can predicate a race-conscious remedy on redressing past discrimination, however, findings of past discrimination sufficient to justify that remedy must be made. Valentine v. Smith, 654 F.2d 503 (8th Cir 1981). Our brief review has uncovered no cases which sanction the use of a racial or ethnic quota where there are not factual findings that the racial imbalance sought to be remedied is due to past discrimination.

3/ Additionally, it should be considered that many rural school districts will have a limited capacity to absorb new teachers,
(Footnote Continued)

A constitutional problem of a different nature arises with respect to administration of the loan program under § 620. That section establishes the program as a revolving loan fund in which all repayments of principal and interest are put back into the fund and used to make new loans. This may contravene the constitutional prohibition against dedicated funds. Alaska Const., art IX, sec. 7. However, this department has indicated that it will defend such legislation until this issue is definitively resolved. 13 Op. Atty. Gen. Nov. 30, 1982.

We suggest, finally, that the term "ethnic minority" be defined to obviate questions of statutory interpretation that might arise as this program is implemented. For example, it is unclear whether each group in a community composed of Tlingits, Haidas, and Tsimpshians would be considered members of a single "Alaska Native" ethnic group, or whether each would be considered a distinct ethnic group.

If you have any other questions about this bill, please do not hesitate to contact us.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Linda Scoccia
Linda Scoccia
Assistant Attorney General

LS:jal

cc: Arthur H. Peterson

(Footnote Continued)
and a teacher who is unable to get a job in his or her school district of origin may be in effect penalized as a result, by being ineligble for forgiveness under § 640(b).

Dear Rep. Hayes:

Here is an article on your Native teacher scholarship bill. Perhaps you will find it useful — perhaps you can even induce some newspaper to print it after nine months of controversy, the University of Alaska has never contradicted my facts — they have only attacked my character.

If you have any questions, please phone.

Yours truly,

Jim Gre

Feb. 1, 1984

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FEB 06 1984

FUND STUDENTS, NOT PROFESSORS -- THE HAYES SCHOLARSHIP BILL

Rural Native American students may soon receive $10,000 per year scholarships towards teaching degrees if the bill recently introduced by Alaska State Representative Joe Hayes is successful. Many voters may see this as too much money lavished on a favored ethnic minority. They may see this bill as both an example of government waste and of government reverse discrimination. But, I have good evidence to show that this bill is neither wasteful nor discriminatory. The reality is quite the opposite.

My evidence comes from inside information, information that is common knowledge among rural college professors and administrators but is almost never released to the general public. I can divulge this information because I was willing to risk my career in Alaska rather than cover up the waste that I found in rural higher education. For any that care to investigate this evidence, I have quite extensive, specific information. In 1981 and 1982 I worked as a University of Alaska professor among Native American villages along the Yukon River. Then, in the spring of 1983, I worked as the director of a "non-profit" Native teacher education program among the villages of the Bering Sea. The following are just as few of my experiences as a rural educator.

When I arrived at my job on the Bering Sea, I was responsible for directing an on-going $346,000 Federal program that was coordinated with two University of Alaska programs that cost about $252,000. In all, we were spending about $600,000 per year. All the publicly released documents -- grant requests, appeals for more state funding, etc. -- advertised that we had over 40 students, all rapidly progressing towards their teaching degrees. But, after I had been on the job for a month, nothing seemed to be happening. Four or five students seemed to be doing some of their assignments, but that was about all. This program had been running for a year and a half before I arrived. Had the students done any work during that year and a half? It was hard to say. No credit hour totals had ever been compiled. What was the total cost of this program? Again, no total cost figures had ever been kept. I asked the university officials for their totals, but they said that they didn't have any.

In attempting to determine the success rate of my program, I began to piece together the facts. If the program really was not working, perhaps something could be done to improve it. But, first I had to determine what was actually happening. So, I began to assemble complex charts on my office walls -- charts showing student progress during the current semester and charts showing student progress during the previous semesters.

At first it was difficult to determine just what I should consider as a "student." After all, I had over 40 people signed up, and all were claiming to be "students." Yet, little work was being done. But, then I found a clear solution. If, for example, those in my program completed a total of 1000 courses (3 credit hours each) during the school year, and if each full time student was theoretically expected to complete 10 courses per year, then I could justifiablly speak of having 100 "students." This would be true no matter how many people were actually on my rolls. Further, if the total cost of my program was, for example, $1,000,000 per year, then I could say that the efficiency of this program was $10,000 per student per year.

Such cost effectiveness is so easy to calculate that it could be demanded by the State Legislature and even published in the newpapers. In this way alternative programs could openly compete with each other for public funds. At present, university administratcrs hide such statistics as though they were nuclear secrets.

For example, one day two officials from a rural community college came by and noticed the charts on my wall.

"Better not display information like that," said one.

"Best not to collect such information in the first place," said the other.

These well intentioned men simply wanted to give me good survival advice. Nevertheless, I kept on with my chart work. Soon my charts clearly showed that over the last year and a half this program had not 40 students but only 5 students. I was generously calculating that one "student" would complete about seven courses per year -- which is only a part-time load anywhere else. Further, we were spending not $10,000 but $120,000 for each student each year. At this rate, the price of just one teaching degree was going to be well over $700,000.

I went to a high administrator of the local community college that formed part of this program.

"Look at these charts," I said. "This program clearly isn't working."

"I know," said the administrator, "but we have tried almost everything."

I had been giving some thought to another, quite obvious approach. It seemed to me that most Native American college graduates that I met in rural Alaska earned their degrees at major campuses. Scholarships large enough to allow our average student, who often had dependent children, to venture onto a large campus, might be the way to go.

"What about setting up a large scholarship fund to send our best students to major campuses?" I asked. "It might be worth a try."

"No way!" He said.

At this point, I should give the reader some background information. Why was this administrator so upset over my suggestion? The answer is that if these scholarships were granted, his college would not only be losing student tuition money, but it would also be faced with decreasing enrollment statistics. His total student enrollment was a major factor in his own funding and was a major factor by which his bureaucratic superiors measured his effectiveness as an administrator. He didn't want to send away promising students -- even if it was to their advantage.

Why don't other rural professors protest over the waste within their own programs? After all, don't professors have the freedom and desire to "profess" the truth? The answer to this is, again, "No way!" Almost two hundred Ph.D's applied for the position that I was selected for at the University of Alaska. Most of these were unemployed. Even if they could find jobs in the Lower Forty-Eight, their average pay would only be about $18,000. The Alaskan bush is often their last chance to make up for all those years at the poverty level. My Alaskan job paid about $50,000 per year, plus a long vacation, junkets to southern

California, and other benefits. With these wages and with 200 Ph.D's waiting in line to replace you, are you going to rock the boat? Probably not.

If you are a boat rocker, you are very quickly replaced. Through a process of natural selection, all boat rockers are soon jettisoned, and only those with a stomach for this kind of excursion survive. I now run my own construction company in New Mexico.

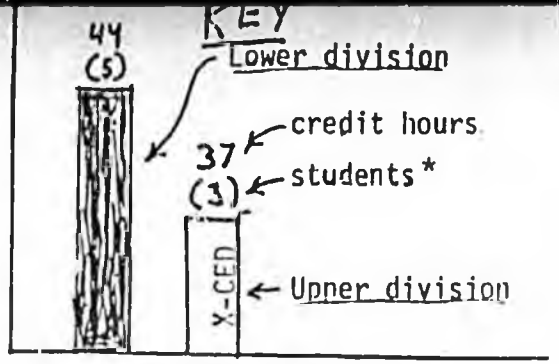
So, would this $10,000 scholarship be wasteful? Not at all. In fact, quite the opposite. If my program is typical, and I believe it is, the taxpayer is already spending up to $120,000 a year for each rural student. How much better would it be for this money to fund twelve students directly, instead of one student indirectly. As it is, most of this $120,000 per student never benefits the student, but instead benefits the bank account of some professional educator. The case is similar if the efficiency of the main rural teacher education program of the University of Alaska at Fairbanks, the X-CED Program, is put to the test. X-CED spends in excess of $1,130,000 per year to field eight professors, some with as little as two or three actual students. This money alone would fund 113 $10,000 scholarships -- perhaps far more scholarships than rural Alaska could presently absorb. Figured this way, the direct benefits become tremendous, and this scholarship program is already funded. It is just a matter of switching the money around.

Would this scholarship constitute reverse discrimination? I think not. The point of this scholarship is not to reward someone for having a particular kind of genes, but for having a particular kind of knowledge. Someone with, for example, Inupiaq ancestory who was raised in Ireland would not be a fitting candidate for these scholarships. On the other hand, an Irish child adopted by an Inupiaq family presumably could become a scholarship candidate. Further, these scholarships would not be designed to reward a student simply because he is a product of Alaskan Native culture. If, for example, the proposed scholarship were for a degree in electrical engineering, then the student's cultural knowledge would have no relevance. But, the point here is that such cultural knowledge is directly relevant to the student's future duties as a teacher of his own children. As has been amply demonstrated, teachers from the American mainstream rarely remain in a Native American village long enough to understand their new culture or to understand their students. Due to this lack of cultural and linguistic knowledge, effective education suffers.

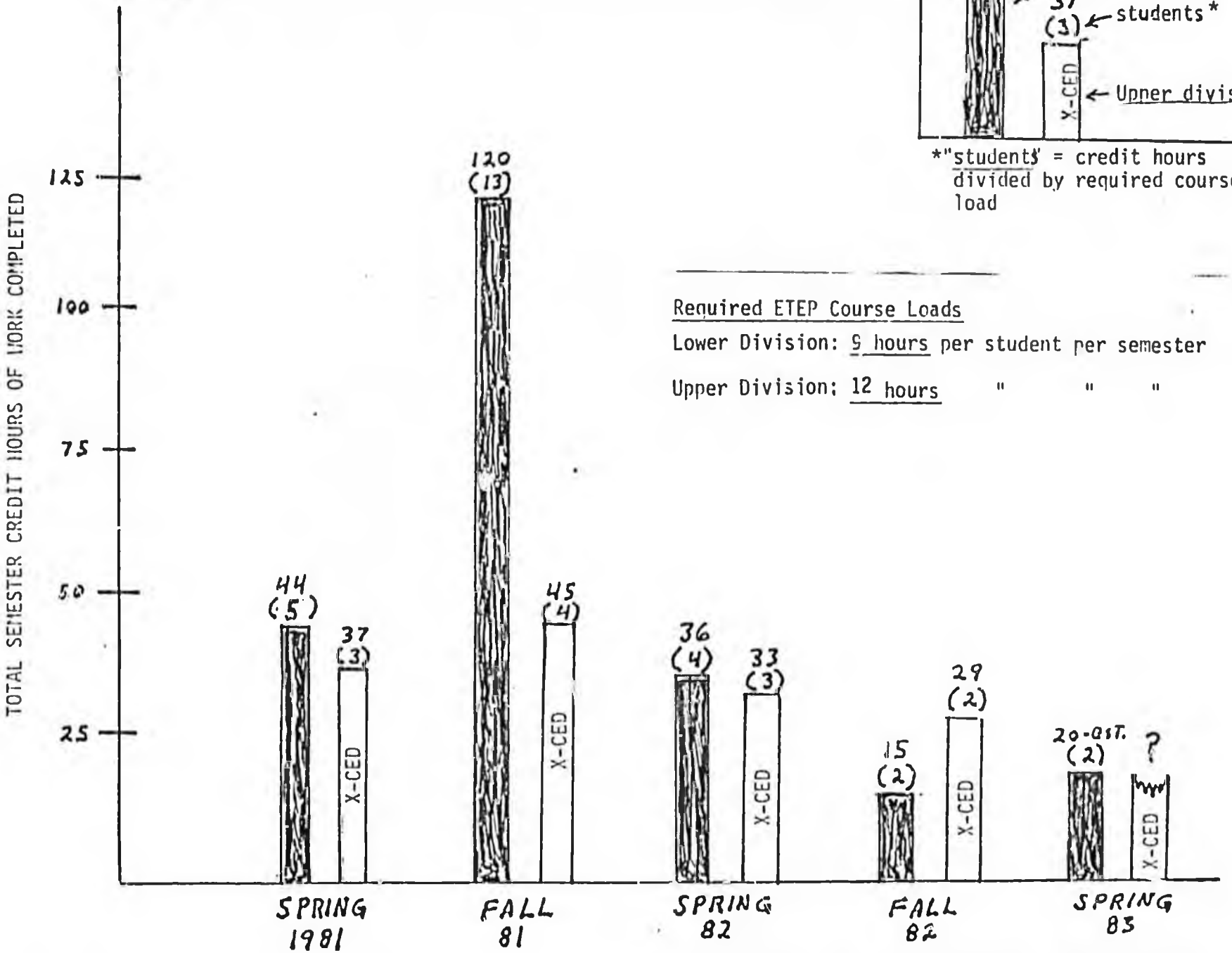
To conclude, from direct experience I know that much of rural higher education is extremely wasteful. For every $100,000 the state pours into rural programs, over $90,000 gets drained away by a vast bureaucracy of professional educators. How much better would it be to give the students money directly and to cut out all of these expensive middlemen. These educators will certainly scream over such a proposal. But, they can easily be silenced by auditing their programs and calculating the total cost per actual student. At present this ratio is never made public.

Secondly, It seems only fair that rural Alaskan communities be given the opportunity to educate their own children. These scholarships should not be seen as discriminating against those who are not Native Americans, but as rewarding those who have a specialized and valuable kind of knowledge.

BAR GRAPH of ETEP PROGRESS



*"students" = credit hours divided by required course load



Required ETEP Course Loads

Lower Division: 9 hours per student per semester

Upper Division: 12 hours " " "

Totals do not include work by 2 non-Native students who are not funded by ETEP.

Presented by Jim Greig, ETEP Director, to the Kawerak Board of Directors, April 20, 1983.

Prepared by Jim Greig, ETEP Director (2)

ANALYSIS OF ETEP PERFORMANCE -- APRIL 20, 1983
(With some revisions for more precise data & corrections on 4/24)

TOTAL PROGRAM COST (Both X-CED & Lower Division, Spring Sem. '81 -- Sp. Sem. '83)	
ETEP Budget for Entire Program (11/1/80 to 6/30/83)	$848,296
Cost of X-CED for 2½ years *	382,880
Cost of NWCC for 2½ years *	247,430
Total Program Cost (X-CED & Lower Division)	1,478,606
Total Credit Hours Produced (X-CED & Lower Division) *	517
Cost per Credit Hour	$2860
Cost for One 130 hour Teaching Degree (B.Ed.):	$371,800
Average number of students per semester (Calculated using "required course loads" -- see bar graph) *	8

COSTS FOR 1982 - 1983 SCHOOL YEAR (Both X-CED & Lower Division)	
Total Program Cost	$598,762
Total Credit Hours Produced (est.)	88
Cost per Credit Hour	$6804
Cost for 130 hr Teaching Degree (B.Ed.):	$884,520
Average numbers of students per semester (Calculated using "required course loads" -- see bar graph)	4

ANALYSIS OF BERING STRAITS REGION X-CED PERFORMANCE -- Prepared April 22, 83

TOTAL X-CED PROGRAM COST, SPRING SEMESTER '81 THROUGH SPRING SEMESTER '83	
Total X-CED Budget (est., extrapolating from '82-'83) *	$382,880
Total Semester Credit Hours Produced (est.) *	173
Cost per Credit Hour	$2,213
Cost for 130 hour teaching degree (B.Ed.)	$287,690
Average number of students per semester * (Total cdt. hrs., divided by 5 semesters, divided by 12 hr. normal course load)	2.9

*Separate sheets of paper contain information explaining these calculations

PREPARED BY JIM GREIG, ETEP DIRECTOR

REVISED COSTS 4/20/83

CORRECTED NWCC COSTS 4/24/83

ETEP, X-CED, & NWCC ANNUAL COSTS FOR ETEP PROGRAM (UPPER & LOWER DIVISIONS)

ETEP	1982-83 Budget	$346,630

X-CED

Total X-CED Budget 1982-83
$1,130,966
Total number of X-CED student statewide: 96
Number of X-CED students in Bering Straits Region: 13
Therefore costs: 13/96 x $1,130,966 = $153,152

NWCC

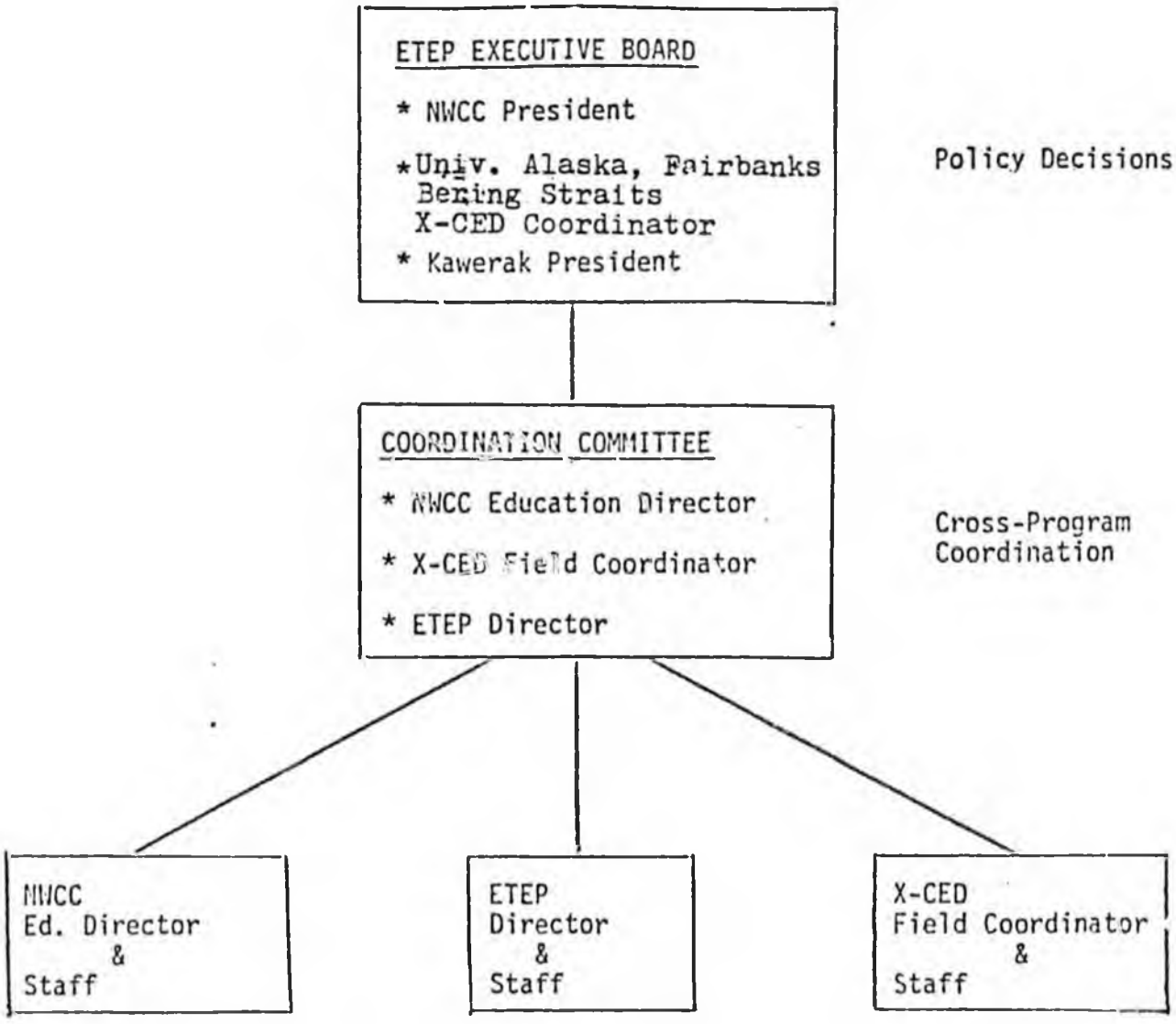
NWCC Affiliated Staff Salaries: $73,150
(From ETEP Title VII grant request p.7-14
Travel (not, as in ETEP, 25% of salaries but, approximately 10%) $7,315
Indirect charges (as in ETEP, 23%) $18,507

Total for NWCC $98,972

TOTAL FOR ALL OF THE ABOVE (i.e. for school year 1982-83) $598,762

NOTE: These two information sheets on ETEP organization, although prepared for a Title VII grant proposal, generally show the de facto ETEP organizational plan.

ETEP ORGANIZATION CHART (Administrative)



Ousted director raps rural teacher program

By MARTHA ELIASSEN
Daily News reporter

The former director of a Nome-based Eskimo teacher training program claims he was fired because he has said publicly that the program costs too much and it is not working.

Dr. Jim Greig, a philosophy professor who has taught in universities around the world and was hired in January to oversee the Eskimo Teacher Education Program in northwest Alaska, claims hundreds of thousands of dollars are going into the program but only a handful of students are benefiting.

The program was developed two years ago by Kawerak Inc., a non-profit Native corporation, to provide teacher training in individual villages. It is coordinated by Kawerak, the Northwest Community College in Nome and a cross-cultural education program based at the University of Alaska Fairbanks.

University and Kawerak officials say Greig was not on the job long enough to make an accurate judgment. They say he misunderstood the nature of the training program.

In the past year and a half, Greig said, about $598,000 a year has been used to educate five students. Although 27 students are registered this semester, Greig said, the majority are students "in name only." They do not attend classes or complete assignments regularly and have collectively earned only 16 credit hours this semester, he said.

Greig estimates the cost of one teaching degree earned through the program at $800,000.

"Everybody realizes it isn't working and they don't know what to do," Greig said.

After he was hired in January, Greig said he spent the first month or so writing grants for the program because funds run out this summer. But after praising the program to the government and oil companies, Greig said he began investigating its success in producing Eskimo

Continued from Page A-1

teachers for village schools.

"A lot of money has been spent since the ETEP program began with very little produced," Greig said in an initial memo to Caleb Pungowiyi, Kawerak president.

Greig said he gave a presentation to the Kewarak board of directors April 21 outlining what he says are the shortcomings of the program. He received a memo from Pungowiyi April 25 telling him he had been fired for unsatisfactory performance.

"Obviously, I am being fired for telling the truth," Greig said. Facts about the success rate of the program have been deliberately hidden to make sure it continues, he said.

"There are a few people out there who understand how the system works and are milking it for all it's worth," Greig said.

"My firing is made even more repugnant by being described as 'in the interests of students,'" Greig said in a protest letter to Pungowiyi. "Eight-hundred-thousand dollar degrees are not in the interest of the students — their interests lie in the efficient use of the $598,000 poured into ETEP each year."

Pungowiyi said Greig does not understand what the program is meant to accomplish and made judgments about rural Alaska he did not have the background to make.

"What Jim does not understand is the need for Eskimo teachers and the cost of education in rural Alaska," Pungowiyi said.

The aim of the program is to prepare Eskimos for teacher certification in their own villages, at their own pace, he said.

Though Greig had proposed that it would be much cheaper to give Eskimo students university scholarships, Eskimos who enroll in urban colleges have a high dropout rate, Pungowiyi said.

"There is no doubt that the program is expensive," Pungowyi said. The pay-off will be in 10 or more years rather than within the next two years, he said.

Mike Metty, Northwest Community College president, said Greig made his judgments with only "a couple of months of observation." The goal of the teacher training program is to develop a pool of young people who could one day become certified teachers, he said.

Metty acknowledged enrollment in the program fluctuates. "Right now, we know we're going to lose students on St. Lawrence Island because whaling has started," he said. Education in rural Alaska is unlike education anywhere else because of the demanding way of life, he said.

Furthermore, college is a relatively new idea in the Eskimo culture, Metty said.

"There was no premise that the program was going to produce 40 teachers in four years," Metty said. "We hope to get 30 or 40 teachers over a decade."

But Dr. Gene Adam, former field coordinator for the university cross-cultural program, said some of the original grant applications had more optimistic projections.

Adam, who now teaches English at Fairbanks Community College, supports Greig's view and said the spending bears investigation by taxpayers.

"I think he (Greig) is saying, 'Here is the cost, here is the product,'" Adam said.

Rural education is expensive and it is difficult to coordinate, Adam said. "I have the greatest respect for those students. They have to catch fish, they have to work, they have to take care of their kids and they have to mail in their homework," he said.

"The idea of bringing education into every little valley is a noble one but it's not very practical," Adam said.

Rep. Terry Martin, R-Anchorage, said Greig's concerns about the Nome-based programs are similar to his own about the high cost of rural education in general.

"When you compare it to some of the other programs I've been bickering about, it's not out of line," Martin said.

"The concept has been around for a long time to get Native people to work with Native people," Martin said, but the cost of present methods is too high.

In addition to the letter to Pungowiyi protesting his firing, Greig flew to Fairbanks from Anchorage Tuesday to discuss the situation with university officials.

He said he plans on returning to New Mexico in a week or so to resume a lucrative adobe construction business.

END

This story also appeared in:
-The Anchorage Times
-The All-Alaska Weekly (headlines)
-The U.S.A. Today (national paper)
-Associated Press (sent nationally)
-Alaska Public Radio
-And many other news sources.

RESUME

JAMES GREIG

Box 399
Bernalillo, New Mexico 87004

(505) 867-2969

EDUCATION

UNIVERSITY OF COLORADO, Boulder. B.A. 1964, M.A. 1969. Philosophy major, English minor.
UNIVERSITY OF NEW MEXICO, Albuquerque. Ph.D. 1978. Philosophy major, English minor. Dissertation:"The Overman & the Unity Of Nietzsche's Phil."

AREAS OF SPECIALIZATION: Cross-cultural Ed., Interdisciplinary Ed., Humanities, Philosophy, English.

TEACHING EXPERIENCE

1969 LATIN AMERICAN INSTITUTE, NY, NY. Instructor of English as a Second Language.

1969-70 SOPHIA UNIV., Tokyo. Instructor of Philosophy & English.

1971-74 UNIV. OF NEW MEXICO, Albuquerque. Instructor of Philosophy.

1974-75 UNIV. OF GUAM, Agana. Instructor of Philosophy & English.

1976 TEXAS TECH UNIV., Lubbock. Assist. Prof. of Philosophy.

1981-82 UNIV. OF ALASKA, Fairbanks. Assist. Prof. X-CED Program (Cross-Cultural Education Development Program, Sch. of Ed.). Duties: Interdisciplinary humanities"specialist" in a Native teacher education program. Administered B.Ed. program over a 200,000 sq. mile area. Flew between and resided in remote Athabascan Native American villages in the interior of Alaska.

1982 UNIV. OF ALASKA, Fairbanks. Assist. Prof. of Philosophy.

1983 ESKIMO TEACHER EDUCATION PROGRAM (ETEP), Nome, Alaska. Director. Duties: Administer a $346,000/yr. Title IV program, write grant requests, coordinate program planning with the University of Alaska and the Northwest Community College, develop curriculum, supervise bi-lingual student teachers, teach B.Ed. related courses. Constant flights into Eskimo villages in Bering Straits.

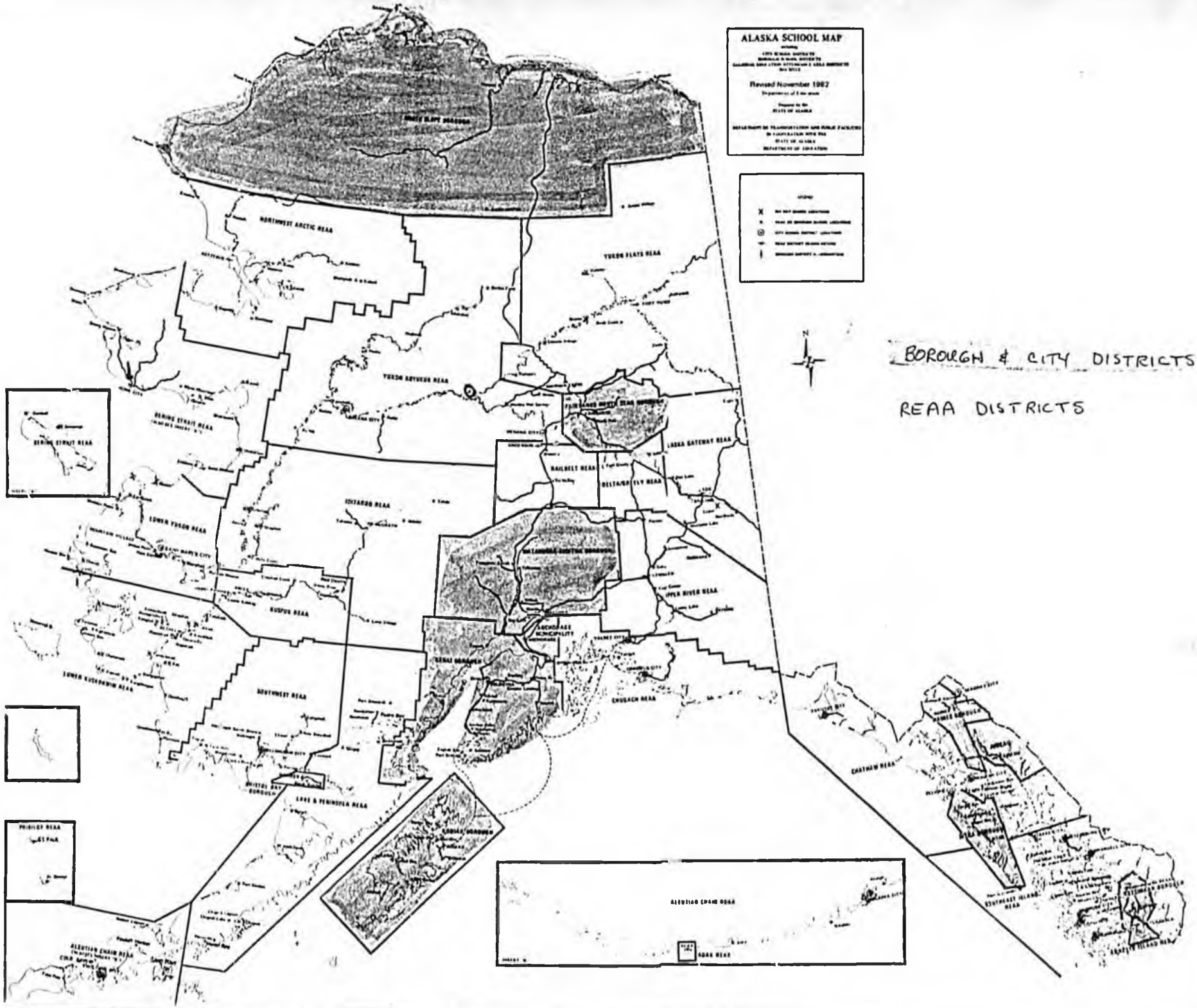
COURSES TAUGHT

Humanities
English Literature
Philosophy & Mythology
English Grammar & Composition
American Philosophy
English as a Second Language
Logic
Introduction to Philosophy
History of Philosophy & Science
Contemporary Philosophy

(Note: These are courses I developed & taught, I tutored a range of others

OTHER EXPERIENCE

1970 Editor, Encyclopedia Britannica, Tokyo, (part-time editing).



BOROUGH & CITY DISTRICTS

REAA DISTRICTS

ASSOCIATION FOR SCHOOL, COLLEGE AND UNIVERSITY STAFFING
Box 4411
Madison, Wisconsin 53711
608 271-8782

TEACHER SUPPLY/DEMAND 1984

A Report Based Upon an Opinion Survey
of Teacher Placement Officers

Survey and Report by:

James N. Aki.
Career Planning and Placement Center
Kansas State University
Manhattan, Kansas 66506
913 532-6508

copyright 1984 Association for School, College and University Staffing (ASCUS)

1984 ASCUS TEACHER SUPPLY/DEMAND REPORT
Survey of October, 1983

BACKGROUND

In 1976 the Executive Committee of the Association for School, College and University Staffing (ASCUS) directed then President, Jim Akin, to develop teacher supply/demand information for dissemination to the ASCUS membership and to the public. A survey of the entire institutional and associate membership was conducted at that time and became the prototype for the current annual teacher supply/demand survey and report. Comparisons in this report include new data, as well as those from previous reports dating back to 1976.

The three-page survey instrument has been modified only slightly from previous years for the 1983 survey (1984 report). Copies of the instrument were forwarded to basically the same placement officers who participated in recent surveys. The report deals with nine continental United States regions, plus Alaska and Hawaii. The chart of the regions is shown below. Of the 67 instruments mailed, 61 were received from Teacher Placement Officers in time for utilization in this report.

The survey requested supply/demand comparisons for different years for elementary and secondary teachers by field. In addition, it asked for average beginning salaries for graduates in special education, elementary and secondary education for recent placement years.

MAP OF REGIONS



AK=Alaska, HI=Hawaii, 1=North West, 2=West, 3=Rocky Mountain, 4=Great Plains/Midwest, 5=South Central, 6=South East, 7=Great Lakes, 8=Middle Atlantic, 9=North East

TEACHER SUPPLY/DEMAND REPORT

- After three years of decreasing optimism among reporting placement officers, it appears that the job market for teachers has bottomed and that the job market, generally, will be the same or better for new teachers for the 1984-85 school year.

- For the third consecutive year, education placement officers in the South Central region (#5) expressed higher levels of optimism about teacher employment than did their counterparts in other regions.

- For the third consecutive year, placement officers in the New England region (#9) expressed less optimism for teacher employment than did their counterparts in other regions.

- Compared to reports from their own regions one year earlier, increased optimism for the teacher job market was reflected by teacher placement officers from the following regions: Alaska, Northwest (#1), Middle Atlantic (#8), Southeast (#7), Northeast (#9), Great Lakes (#6), and West (#2).

- Compared to reports from their own regions one year earlier, decreased optimism for the teacher job market was reflected by teacher placement officers in the following regions: Hawaii, Great Plains/Midwest (#4), and Rocky Mountain (#3).

- Only in the fields of mathematics, physics, computer programming and chemistry is there a considerable teacher shortage, nationwide.

- Only in physical education is there a considerable surplus of teachers, nationwide.

- Sixteen subject areas were identified as having a slight or a considerable teacher shortage.

- Ten subject areas were reported as having either a slight or considerable surplus of teachers.

- Fifteen teaching fields were identified as having a balanced supply/demand.

- The identification of those fields having considerable shortage or considerable surplus was consistent throughout most regions of the United States.

For:
ASCUS Supply/Demand
January, 1984

By:
James N. Akin
Kansas State University

RELATIVE DEMAND BY TEACHING AREA AND YEAR
Continental United States

Based upon a Survey of Teacher Placement Officers

	1984	1983	1982	1981	1980	1979	1976
Teaching fields with considerable teacher shortage....(5.00-4.25):							
Mathematics	4.78	4.75	4.81	4.79	4.80	4.68	3.86
Science-Physics	4.45	4.46	4.41	4.56	4.23	4.36	4.04
Computer Programming	4.34	--	--	--	--	--	--
Science-Chemistry	4.25	4.30	4.13	4.42	4.18	4.09	3.72
Teaching fields with slight teacher shortage.....(4.24-3.45):							
Data Processing	4.18	4.36	3.86	--	--	--	--
Bilingual Education	4.04	3.83	4.13	4.10	4.21	4.32	--
Special Education-LD	3.98	4.09	4.20	4.47	4.48	4.50	4.00
Special Education-ED/PSA	3.84	4.08	3.98	4.22	4.36	4.22	3.42
Speech Pathology/Audio.	3.83	3.62	3.95	4.27	4.17	3.83	3.68
Special Education-Multi. Handi.	3.77	3.82	3.95	4.13	3.87	3.24	--
Special Education-Gifted	3.74	3.80	3.81	4.10	4.33	4.56	3.85
Science-Earth	3.70	3.80	3.89	4.08	3.64	3.82	3.44
Science-General	3.65	--	--	--	--	--	--
Special Education-MR	3.55	3.71	3.84	4.14	4.23	4.39	2.87
Industrial Arts	3.50	3.96	4.36	4.72	4.77	4.68	4.22
Special Education-Reading	3.48	3.39	3.73	4.21	4.23	4.27	3.96
Teaching fields with balanced supply and demand.....(3.44-2.65):							
Vocational Agriculture	3.44	4.02	4.36	4.46	4.73	4.67	4.06
Science-Biology	3.40	4.10	3.66	3.98	3.50	3.49	2.97
Nurse (school)	3.40	--	--	--	--	--	--
Library Science	3.30	3.09	3.12	3.31	3.58	4.26	--
Music-Instrumental	3.25	2.97	3.28	3.33	3.65	3.33	3.03
Language, Mod.-Spanish	3.18	2.77	2.68	2.95	3.34	2.88	2.47
English	3.13	2.90	3.21	3.37	3.51	2.78	2.05
Business	3.11	3.24	3.47	3.50	3.80	3.65	3.10
Language, Mod.-German	3.08	2.51	2.48	2.58	2.70	2.17	2.03
Language, Mod.-French	3.00	2.59	2.49	2.58	2.68	2.49	2.15
Music-Vocal	3.00	2.89	2.95	3.06	3.32	2.97	3.00
Psychologist (school)	2.98	3.19	3.56	3.70	3.87	3.43	3.09
Counselor-Elementary	2.80	3.03	2.72	3.05	3.38	2.96	3.15
Speech	2.70	2.51	2.76	2.65	2.50	2.47	2.46
Counselor-Secondary	2.67	2.83	2.79	3.13	3.76	3.03	2.69
Teaching fields with slight surplus of teachers.....(2.64-1.85):							
Driver Education	2.61	2.94	2.77	2.87	2.98	3.06	2.44
Journalism	2.60	2.63	2.61	2.77	2.98	2.50	2.86
Home Economics	2.43	2.44	2.43	2.54	2.85	2.67	2.62
Social Worker (school)	2.33	2.27	2.34	--	--	--	--
Elementary-Intermediate	2.20	2.11	2.26	2.56	2.84	2.33	1.90
Elementary-Primary	2.13	2.11	2.02	2.24	2.77	2.19	1.78
Social Science	1.91	1.75	2.11	2.05	1.98	1.83	1.51
Health Education	1.90	1.76	1.90	2.24	2.17	2.16	2.27
Art	1.89	1.92	1.84	2.00	2.45	2.06	2.14
Teaching field with considerable surplus of teachers..(1.84-1.00):							
Physical Education	1.61	1.54	1.72	1.80	1.82	1.67	1.74

5 = Greatest Demand, 1 = Least Demand

ASCUS Supply/Demand
January, 1984

James N. Akin
Kansas State University

TEACHER SUPPLY/DEMAND BY FIELD AND REGION

Region	Alaska	Hawaii	1	2	3	4	5	6
Field								
Agriculture	3.00	4.00	4.00	3.00	2.50	3.00	4.00	4.00
Art	2.00	2.00	1.50	1.67	1.50	2.17	2.33	2.00
Bilingual Ed.	4.00	4.00	4.60	4.70	3.67	4.67	4.40	4.00
Business	3.00	3.00	2.92	3.50	2.50	3.20	2.63	3.00
Computer Programming	4.00	--	4.75	4.50	4.33	4.70	4.80	4.60
Counselor-Elem.	2.00	3.00	3.33	2.50	3.00	3.00	2.75	2.67
Counselor-Sec.	3.00	3.00	3.00	2.43	3.00	3.00	2.50	2.50
Data Processing	--	--	4.50	4.50	5.00	2.33	4.00	4.67
Driver Ed.	1.00	3.00	2.92	2.33	3.50	2.50	2.50	3.00
Elem.-Primary	1.00	1.00	2.00	2.86	1.40	2.00	2.44	2.00
Elem.-Intermediate	1.00	1.00	2.00	2.71	1.75	2.17	2.44	2.17
English	3.00	3.00	2.17	3.36	3.17	3.83	3.63	3.00
Health Education	1.00	3.00	1.66	2.50	1.60	1.50	1.63	1.67
Home Economics	4.00	3.00	2.63	2.50	2.00	2.25	2.17	2.40
Industrial Arts	2.00	4.00	3.38	3.00	2.67	3.00	4.33	3.75
Journalism	--	3.00	1.75	2.60	2.75	3.40	2.43	2.40
Language, Mod.-French	--	3.00	2.33	2.14	3.20	3.33	3.25	3.33
Language, Mod.-German	--	3.00	2.50	2.14	2.83	3.30	3.50	3.67
Language, Mod.-Spanish	--	3.00	3.00	2.71	3.00	3.17	3.38	3.33
Library Science	5.00	3.00	3.00	3.25	3.50	2.80	3.50	3.40
Math	3.00	4.00	4.83	4.71	4.33	4.83	5.00	4.83
Music-Instrumental	4.00	2.00	3.83	3.43	3.67	3.33	3.56	2.50
Music-Vocal	4.00	2.00	3.83	2.67	3.20	3.33	2.89	2.67
Nurse (school)	3.00	--	2.66	4.00	--	3.33	3.00	3.75
Physical Education	--	1.00	1.83	1.86	1.00	1.17	1.75	1.50
Psychologist (school)	3.00	--	4.00	2.71	3.50	3.33	3.00	2.80
Science-Biology	3.00	4.00	3.00	3.36	3.33	3.33	3.57	3.17
Science-Chemistry	4.00	4.00	4.17	4.07	3.67	4.50	4.63	4.33
Science-Earth	3.00	3.00	4.67	3.43	3.20	4.00	4.13	3.50
Science-General	3.00	3.00	3.67	4.00	3.17	3.50	4.13	3.83
Science-Physics	4.00	4.00	4.17	4.14	3.83	4.75	4.63	4.67
Social Science	3.00	2.00	1.17	1.17	1.67	2.33	2.25	2.00
Social Worker (school)	--	--	2.25	1.33	2.00	4.00	1.50	2.50
Speech	--	2.00	2.00	2.40	2.60	2.92	2.50	3.20
Special-ED/PSA	3.00	3.00	3.83	3.75	4.25	4.00	4.14	3.83
Special-Gifted	5.00	3.00	3.83	3.75	4.00	3.20	4.20	4.33
Special-LD	3.00	3.00	3.83	3.50	4.50	4.00	4.38	4.33
Special-MR	3.00	3.00	3.83	3.60	4.50	3.17	4.00	3.33
Special-Multi. Handi.	3.00	4.00	3.80	4.50	4.25	3.50	4.29	3.67
Special-Reading	3.00	3.00	4.00	3.14	3.25	3.40	4.00	3.50
Speech Path./Audiology	4.00	--	3.13	3.50	2.67	4.50	4.17	4.40
COMPOSITE	3.03	2.91	3.15	3.07	3.02	3.25	3.36	3.24

Regions are coded as follows: Alaska, Hawaii, 1-Northwest, 2-West, 3-Rocky Mountain, 4-Great Plains/Midwest, 5-South Central, 6-Southeast, 7-Great Lakes, 8-Middle Atlantic, 9-Northeast. Alaska and Hawaii are not included in the Continental United States totals.

ASCUS Supply/Demand
January, 1984

JANUARY, 1984 REPORT

7	8	9	Continental United States							
			1984	1983	1982	1981	1980	1979	1976	
3.67	3.00	3.00	3.44	4.02	4.36	4.46	4.73	4.67	4.06	Ag.
2.00	1.90	2.00	1.89	1.92	1.84	2.00	2.45	2.06	2.14	Art
4.29	3.00	3.50	4.04	3.83	4.13	4.10	4.21	4.32	--	Bil. Ed.
3.57	4.00	3.00	3.11	3.24	3.47	3.50	3.80	3.65	3.10	Bus.
4.67	4.60	4.00	4.34	--	--	--	--	--	--	Comp. Prog.
2.86	2.75	2.40	2.80	3.03	2.72	3.05	3.38	2.96	3.15	Couns.-El.
2.71	2.75	2.40	2.67	2.83	2.79	3.13	3.76	3.03	2.69	Couns.-Sec.
4.33	4.25	4.00	4.18	4.36	3.86	4.35	--	--	--	Data Proc.
2.17	1.00	3.00	2.61	2.94	2.77	2.87	2.98	3.06	2.44	Dr. Ed.
2.33	2.00	1.60	2.13	2.11	2.02	2.24	2.77	2.19	1.78	El.-Prim.
2.33	2.40	1.40	2.20	2.11	2.26	2.56	2.84	2.33	1.90	El.-Inter.
3.21	3.00	2.25	3.13	2.90	3.21	3.37	3.51	2.78	2.05	English
2.00	2.40	2.50	1.90	1.76	1.90	2.24	2.17	2.16	2.27	Health Ed.
2.71	2.67	2.50	2.43	2.44	2.43	2.54	2.85	2.67	2.62	Home Ec.
3.33	4.25	4.00	3.50	3.96	4.36	4.72	4.77	4.68	4.22	Ind. Arts
3.00	2.33	2.00	2.60	2.63	2.61	2.77	2.98	2.50	2.86	Journ.
3.86	3.20	2.00	3.00	2.59	2.49	2.58	2.68	2.49	2.15	French
3.71	3.60	2.00	3.08	2.51	2.48	2.58	2.70	2.17	2.03	German
4.14	3.20	2.25	3.18	2.77	2.68	2.95	3.34	2.88	2.47	Spanish
3.67	2.50	4.00	3.30	3.09	3.12	3.31	3.58	4.26	--	Libr. Sci.
5.00	4.80	4.50	4.78	4.75	4.81	4.79	4.80	4.68	3.86	Math
3.43	2.20	2.75	3.25	2.97	3.28	3.33	3.65	3.33	3.03	Instr.
3.43	2.20	2.50	3.00	2.89	2.95	3.06	3.32	2.97	3.00	Vocal
3.67	3.50	4.00	3.40	--	--	--	3.50	3.62	3.93	Nurse
1.14	2.20	2.25	1.61	1.54	1.72	1.80	1.82	1.67	1.74	P. E.
2.92	3.00	2.25	2.98	3.19	3.56	3.70	3.87	3.43	3.09	Psych.
3.71	3.40	3.75	3.40	4.10	3.66	3.89	3.50	3.49	2.97	Biol.
4.00	4.80	4.00	4.25	4.30	4.13	4.42	4.18	4.09	3.72	Chem.
3.43	3.20	3.50	3.70	3.80	3.89	4.08	3.64	3.82	3.44	Earth
3.43	3.20	3.75	3.65	--	--	4.31	4.10	4.00	--	General
4.71	4.80	4.25	4.45	4.46	4.41	4.56	4.28	4.36	4.04	Physics
2.14	2.80	1.50	1.91	1.75	2.11	2.05	1.98	1.83	1.51	Soc. Sci.
3.00	2.50	2.00	2.33	2.27	2.34	--	--	--	--	Soc. Wrk.
2.79	3.50	3.00	2.70	2.51	2.76	2.65	2.50	2.47	2.46	Speech
3.43	3.80	3.50	3.84	4.08	3.98	4.22	4.36	4.22	3.42	ED/PSA
3.67	3.25	3.50	3.74	3.80	3.81	4.10	4.33	4.56	3.85	Gifted
4.29	3.25	3.40	3.98	4.09	4.20	4.47	4.48	4.50	4.00	LD
2.86	3.50	3.25	3.55	3.71	3.84	4.14	4.23	4.39	2.87	MR
3.29	3.50	3.50	3.77	3.82	3.93	4.13	3.87	3.24	--	MH
3.57	3.25	2.80	3.48	3.39	3.73	4.21	4.23	4.27	3.96	Reading
4.00	4.00	4.00	3.83	3.62	3.95	4.27	4.17	3.83	3.68	Sp./Aud.
3.32	3.20	2.88	3.19	3.14	3.20	3.39	—	--	--	COMP.

5 = Considerable Shortage, 4 = Slight Shortage, 3 = Balanced, 2 = Slight Surplus, 1 = Considerable Surplus

From October, 1983 survey of Teacher Placement Officers

James N. Akin
Kansas State University

AVERAGE SALARY REPORTS

The following average salary reports for beginning teachers are from data which were furnished by survey respondents. The averages in some cases are based upon limited salary input thus reliability is not assured.

It is hoped that this limited information can be helpful until more complete information is available.

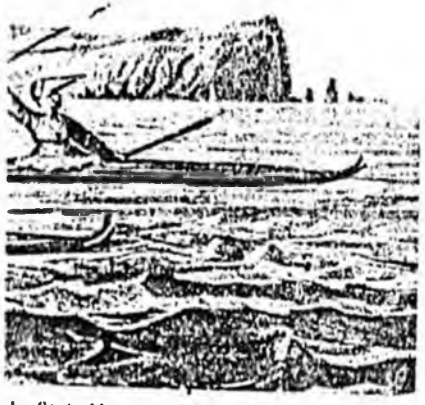
		Special Education		Elementary/Secondary	
		Bachelors	Masters	Bachelors	Masters
Region 1	1981-1982	$12,651	$13,750	$12,410	$13,417
	1982-1983	13,275	14,500	13,038	14,250
	1983-1984	13,607	15,400	13,806	15,000
Region 2	1981-1982	12,505	13,510	12,505	13,510
	1982-1983	13,000	14,922	13,707	14,772
	1983-1984	13,900	15,723	14,375	15,665
Region 3	1981-1982	14,157	15,389	13,742	15,475
	1982-1983	15,061	16,550	14,421	15,700
	1983-1984	14,681	16,917	14,345	16,313
Region 4	1981-1982	13,291	15,438	12,758	14,883
	1982-1983	12,789	---	12,051	---
	1983-1984	13,914	15,659	13,144	15,345
Region 5	1981-1982	11,792	12,503	11,175	11,725
	1982-1983	12,903	13,813	12,642	13,302
	1983-1984	13,090	14,335	12,815	14,114
Region 6	1981-1982	12,078	13,396	11,496	12,567
	1982-1983	11,750	12,750	12,000	12,750
	1983-1984	13,875	15,225	13,480	14,725
Region 7	1981-1982	12,503	13,958	12,090	14,040
	1982-1983	13,213	15,477	12,890	15,054
	1983-1984	14,140	15,475	13,328	14,825
Region 8	1981-1982	11,875	12,500	11,875	12,500
	1982-1983	12,875	13,875	12,875	13,875
	1983-1984	13,333	14,500	13,250	14,500
Region 9	1981-1982	10,000	11,100	10,332	11,100
	1982-1983	10,500	11,750	10,365	11,000
	1983-1984	11,667	13,233	11,369	13,233
Alaska	1981-1982	22,000	25,000	22,000	25,000
	1982-1983	22,000	25,000	22,000	25,000
	1983-1984	---	---	---	---
Hawaii	1981-1982	13,271	14,245	13,271	14,245
	1982-1983	14,598	15,669	14,598	15,669
	1983-1984	14,589	15,669	14,598	15,669

ASCUS Supply/Demand
January, 1984

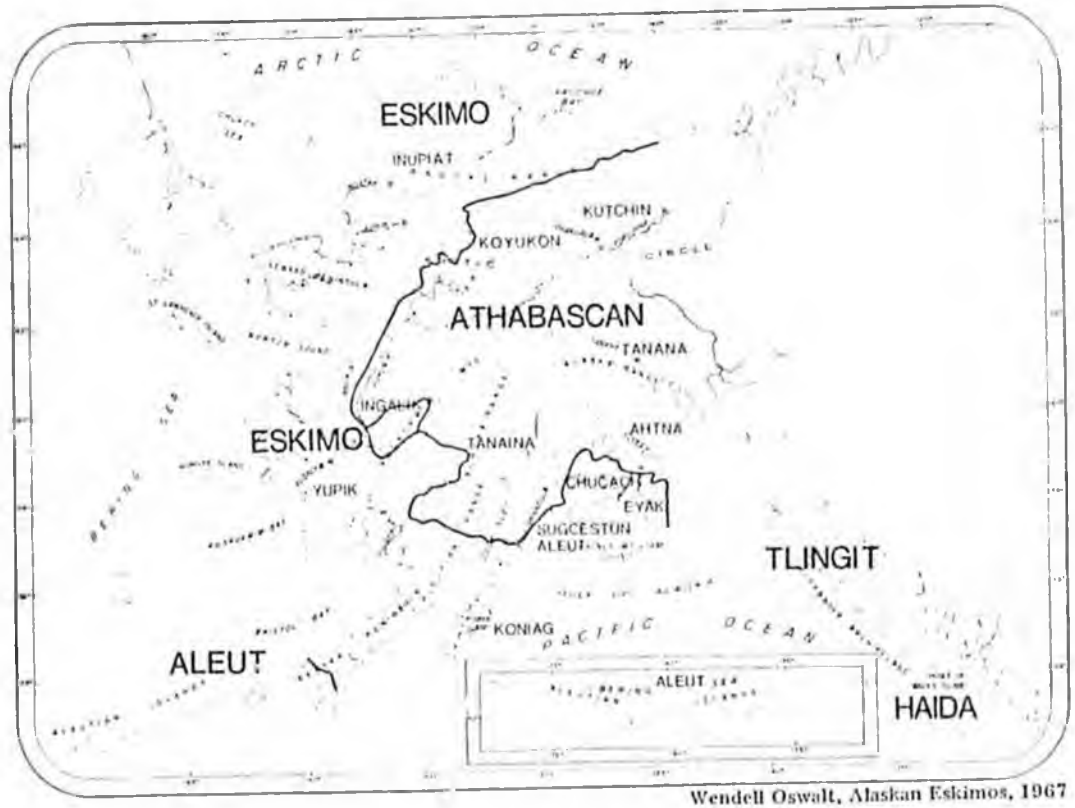
James N. Akin
Kansas State University

Chapter 2

l of the existence of northwestern
ıe voyage of Vitus Bering in 1741.
coastline was more fully defined,
›y explorers and navigators to its
atures. Much of the interior was to
›rld for another hundred years.
the land were already known and
›ple who would in time become
. Indians, and Aleuts. It was — and
years — their homeland.
›dge of the e Americans — as they
›y their first foreign visitors — was
›ir existence and their lifeways
ld only through the eyes of foreign
›ers, missionaries, and others. It is
heir observations gathered over a
›er with later research, to portray
· the arrival of the first Russians in



ka State Museum, Juneau (Lutke's Voyages)



Wendell Oswalt, Alaskan Eskimos, 1967

MAP 2 GENERALIZED GEOGRAPHIC DISTRIBUTION OF ESKIMOS, INDIANS AND ALEUTS IN ALASKA

Aleuts

Most Aleuts lived in coastal villages on islands named after them stretching 1,000 miles across the North Pacific. Some few lived at the lower end of the Alaska Peninsula.

The population of about 15,000 Aleuts lived in numerous small villages, most of which were located on the Bering Sea side of the islands. One island, Umnak, once had 16 villages. A typical village was made up of six or seven houses; each household consisted of 20 to 30 people who were related to one another. Their houses were half underground and covered with a warm dome of sod.

Every village with its cluster of houses had its own sea hunting areas, which had to be respected by other villages. Use of these areas without permission meant war.

Adult men hunted seals, sea lions, and whales in the open sea from kayaks, perhaps the most seaworthy of watercraft. Roots, berries, birds, and eggs were available on the land. The food resources of the Aleuts were so abundant that anyone [illegible] could survive by gathering

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 504
Title: Teacher Scholarship Loans

Sponsor: Hayes, Hurlbert, et.al.
Requestor: House HESS
Date of Request: 1-13-84

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: Postsecondary Commission
BRU, Program or Subprogram(s) Affected: Scholarship Loans

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	N.A.	0	0	0	0	0
CAPITAL	N.A.					
REVENUE	N.A.	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	62.5	132.5	210.7	297.8	315.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	N.A.	0		0	0	0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Commission on Postsecondary Education Date: 1-13-84

Approved by Commissioner: Date:
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB504: Teacher Scholarship Program

A. Comments

1. Borrower must be a graduate from an Alaskan public high school. There are a number of private high schools which would have no students eligible (Covenant High School - Unalakleet, Monroe High School - Fairbanks, St. Mary's Catholic High School - St. Mary's, for example).

2. Borrower is eligible to borrow up to the total cost of room and board, tuition and fees, and books and supplies, or $10,000, whichever is lower. Hence, only twenty or thirty students per year would borrow more than the normal $6,000 student loan maximum.

3. Borrower must maintain good standing to continue receiving loans. ("C" average, enroll and complete 12 hours per term.)

4. Loans may not be awarded for more than 5 years of study.

5. Interest is 5% - repayment is 10 years.

6. Section 14.43.630 requires the commission to actually transfer funds to the school districts. We feel that fund transfer to the district is an unnecessary step and should be eliminated. The funds should go to the student (actually to the school in which the student enrolls) and not to the district and then to the student.

7. Section 14.43.640 (b)(1) means that if a borrower does not teach

public school in Alaska, no loan forgiveness is possible - not even the normal 50% for which other loan borrowers are eligible.

B. Possible Amendments

1. Section 14.43.630 amended to read:

Sec. 14.43.630. ADMINISTRATION. The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall allocate [DISTRIBUTE] the loan awards [FUNDS] available for teacher scholarship loans annually to local school boards giving a preference to school districts with a high percentage of students in ethnic minorities and a low percentage of teachers in ethnic minorities. The local school boards shall select the recipients of the teacher scholarship loans.

2. Section 14.43.640 amended to read:

Sec. 14.43.640. CONDITIONS OF LOANS. Each school district shall award teacher scholarship loans subject to the following conditions:

(1) the conditions provided in AS 14.43.120 apply except that no loans may be made to graduate students [AND THE STATE SHALL REPAY A PORTION OF A TEACHER SCHOLARSHIP LOAN UNDER AS 14.43.120 (j) ONLY IF, IN ADDITION TO THE OTHER CRITERIA, THE BORROWER IS ALSO EMPLOYED AS A PUBLIC SCHOOL TEACHER IN THE STATE DURING THE PERIOD FOR WHICH THE LOAN IS FORGIVEN];

(C) if a borrower meets the conditions provided in paragraph (1) of this section and is employed as a public school teacher in the district from which the borrower graduated, AS 14.43.120 (j) does not apply, but rather, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

(A) one year employment, 15 percent;

(B) two years employment, an additional 15 percent;

(C) three years employment, an additional 15 percent;

(D) four years employment, an additional 25 percent;

(E) over four years employment, an additional 30 percent; and

(3) a loan may not exceed $10,000 in a school year.

3. Section 14.43.650 amended to read:

Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a teacher scholarship loan, a student must

(1) be a graduate of, or scheduled for graduation within six months from, an Alaskan [A STATE PUBLIC] high school, with sufficient credits to be admitted to an accredited college or university;

(2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level; and

(3) meet the conditions set by the student's local school district with respect to the district's requirements for teachers in particular subject areas.

C. Fiscal Analysis

1. Estimated number of teacher scholarship loans available

FY85	80
FY86	160
FY87	240
FY88	320
FY89	320

2. Since a student may not borrow both a teacher loan and a standard student loan, much of the cost would be off-set. The only add-on would be for those eligible costs exceeding $5,000. This is estimated to be $2,500 for 25 students in FY85, and then carried forward with a 6% inflation in future years.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

February 24, 1984

SUBJECT: Affirmative action--teacher scholarship loan program (CSHB 504 (HESS))

TO: Representative Rick Uehling

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested an opinion on the constitutional issues raised by CSHB 504 (HESS). As you are aware, any legislation which creates classifications based on race or ethnic background will be subject to close judicial scrutiny if challenged in the courts. In establishing the teacher scholarship loan program, the bill creates a racial classification and could therefore be subject to challenge. Although I believe that the bill could withstand a constitutional challenge, it does raise a number of significant constitutional issues.

In University of California Regents v. Bakke, 438 U.S. 265, 57 L.Ed.2d 750 (1978) the United States Supreme Court issued a divided opinion on the subject of "affirmative action". While no five justices could agree on a single opinion, the opinion of the Court lends some guidance to future treatment of affirmative action programs.

Bakke, a white male, was denied admission to a medical school run by the state and he challenged the state's admission procedures as violative of the Equal Protection clause of the Fourteenth Amendment to the United States Constitution. The school accepted a quota of a certain percentage of minority students. Bakke claimed that this constituted unfair racial discrimination in violation of the federal constitution. The Court ruled that racial and ethnic distinctions are subject to strict scrutiny, but a preferential classification using race as a factor would not be unconstitutional. However, a preferential classification establishing a racial quota would be unconstitutional unless it is

precisely tailored to serve a compelling governmental interest. Moreover, the burden is on the state to prove that the quota meets this criterion.

Under this test, the Court struck down the school's admission procedure saying that the state had failed to establish a compelling interest on which to justify the racial quota. In doing so, the Court rejected several of the state's justifications for the program. Specifically, the medical school's racial quota could not be justified: (1) solely to insure that the school contained a certain percentage of racial minorities; (2) to increase the number of physicians practicing in underserved areas, since the state couldn't prove that the program was likely to have that result; or (3) to counter the effects of "social discrimination" generally. The only justification for such an affirmative action program would be to counter the effects of specific identified discrimination, the Court said.

In a more recent case, Fullilove v. Klutznick, 448 U.S. 448, 65 L.ED.2d 902 (1980), the United States Supreme Court upheld a racial quota in the Federal Public Works Employment Act of 1977. The "minority business enterprise" provision of the Act required a minimum of 10 percent of federal funds granted for local public works projects to be used to contract with businesses owned by "minority group members." As in Bakke, no five members of the Court in Fullilove could agree on a single opinion. But the opinion of the Court stated that Congress could use a racial quota to avoid perpetuation of the effects of prior discrimination. The decision indicates that the court is leaning toward approval of affirmative action programs aimed at relieving the effects of past discrimination.

There are two provisions in the teacher scholarship loan program which raise the "affirmative action" problem. AS 14.43.630, added by section 1 of the bill, provides that the funds available for the loans shall be distributed to the local school boards by "giving a preference to school districts with a high percentage of Native students and a low percentage of Native teachers.

AS 14.43.650(b), also added by the bill, requires the local school boards to award teacher scholarship loans "giving a preference to Native students that meet the qualifications for a loan." Since both of these provisions merely give a preference to Native students, rather than establishing a

quota, they stand a good chance of surviving a constitutional attack under the Bakke decision.

However, even the Native preference provisions will be given strict scrutiny by the Court if challenged. To withstand the challenge, the legislature will have the burden of showing that the provisions are aimed at a compelling state interest, e.g., remedying past racial discrimination. The state would also have to prove that the provisions are precisely tailored to do this.

Under the apparent rationale of the Bakke decision, the legislature would have to show that the Native preference is aimed at relieving actual past discrimination in the hiring of Native teachers and that it would actually have the effect of relieving the results of that discrimination. Moreover, the court would probably not accept the legislature's mere claims of past discrimination; the state would have to show evidence of such discrimination. Assuming that the state can make this showing, however, the teacher scholarship loan program would probably survive judicial scrutiny.

If the legislature wishes to circumvent the potential constitutional problems altogether, I would recommend removing the Native preference and substituting a preference for rural areas, or something to that effect. Removing the racial classification would have the effect of changing the test the Court would use if the provisions were challenged. If the classification were rural rather than racial, the Court would only require that the classification have a "rational basis", rather than a "compelling state interest", required under the strict scrutiny test. The rational basis test requires only that the state show that the legislation is rationally related to some legitimate end. It is a very easy burden for the state to meet, as opposed to the compelling interest standard which is very difficult to satisfy.

In conclusion, CSHB 504 (HESS) presents some significant constitutional problems, which may or may not survive a legal challenge. To remove the constitutional issues altogether, the legislature could use some classification other than the present preference for Natives, such as a rural classification.

KBL:ojb
J4/002

Introduced: 1/10/84
Referred: Health, Education & Social Services, House Special Committee on State Loans and Finance

BY HAYES, HURLBERT, ADAMS, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DAVIS, FULLER, FURNACE, GRUSSENDORF, HERRMANN KOPONEN, LINDAUER, LISKA, MALONE, MARTIN, M.W.MILLER, RINGSTAD, SHULTZ, SZYMANSKI, UEHLING, WARD, ZHAROFF, FRITZ, BETTISWORTH AND MCBRIDE

IN THE HOUSE

HOUSE BILL NO. 504

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the teacher scholarship loan program."

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

* Section 1. AS 14.43 is amended by adding new sections to read:

ARTICLE 7. TEACHER SCHOLARSHIP LOAN PROGRAM.

Sec. 14.43.600. FINDINGS AND INTENT. (a) The legislature finds that there is a wide and unacceptable disparity between the [ethnic] NATIVE distribution of teachers and ~~the ethnic distribution of~~ NATIVE students in the state public schools. Particularly in rural areas, many schools have virtually no Native teachers and no non-Native students. The undesirable effects of this disparity include the following:

(1) there is a serious weakness in the ability of teaching staffs, particularly in rural schools, to foster a sense of ethnic traditions and cultures in the NATIVE students;

(2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes, and the essentially modern atmosphere of the classroom;

(3) almost no students among the state's ethnic minorities return to rural schools to teach, continuing the ethnic imbalance and exacerbating its effects; and

(4) there is an annual turnover of 40 percent among teachers in rural educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of members of ethnic minorities

teaching in rural schools. Therefore, it is the intent of the legislature to establish the teacher scholarship loan program to encourage members of ethnic minorities to return to rural schools as teachers and relieve the conditions described in this section.

Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the teacher scholarship loan program to provide an incentive for graduates of Alaska high schools who are from ethnic minorities to pursue teaching careers in Alaska schools.

Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There is created a teacher scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.600 - 14.43.650. All repayments of principal and interest on teacher scholarship loans shall be paid into the teacher scholarship revolving fund and shall be used to make new teacher scholarship loans. If estimated funds available from teacher scholarship loan repayments are inadequate to fully fund estimated teacher scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

Sec. 14.43.630. ADMINISTRATION. The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall distribute the funds available for teacher scholarship loans annually to local school boards giving a preference to school districts with a high percentage of students in ethnic minorities and a low percentage of teachers in ethnic minorities. The local school boards shall select the recipients of the teacher scholarship loans.

Sec. 14.43.640. CONDITIONS OF LOANS. Each school district shall award teacher scholarship loans subject to the following conditions:

(1) the conditions provided in AS 14.43.120 apply except that no loans may be made to graduate students and the state shall repay a portion of a teacher scholarship loan under AS 14.43.120(j) only if, in addition to the other criteria, the borrower is also employed as a public school teacher in the state during the period for which the loan is forgiven;

(2) if a borrower meets the conditions provided in paragraph (1) of this section and is employed as a public school teacher in the district from which the borrower graduated, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

(A) one year employment, 15 percent;

(B) two years employment, an additional 15 percent;

(C) three years employment, an additional 15 percent;

(D) four years employment, an additional 25 percent;

(E) over four years employment, an additional 30 percent; and

(3) a loan may not exceed $10,000 in a school year.

Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a teacher scholarship loan, a student must

(1) be a graduate of, or scheduled for graduation within six months from, a state public high school, with sufficient credits to be admitted to an accredited college or university;

(2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level; and

(3) meet the conditions set by the student's local school district with respect to the district's requirements for teachers in

particular subject areas.

(b) Each school district shall award teacher scholarship loans in direct proportion to the distribution of ethnic groups among the students eligible for graduation from the school district each year.

(c) A student may not be awarded a scholarship loan under AS 14.43.090 - 14.43.160 and a teacher scholarship loan under AS 14.43.600 - 14.43.650 for the same school year.

The local school board ~~Teacher Selection~~ Shall ~~include~~ consider ~~Students~~ applicants from both public and private schools for the teacher Scholarship Loan.

(4) Complete an application

The ~~Committee~~ School Shall make its selections without prejudice

Levy
2/23/84

Original sponsors: Hayes, Hurlbert,
Adams, et al

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 504 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the teacher scholarship loan program."

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

* Section 1. AS 14.43 is amended by adding new sections to read:

ARTICLE 7. TEACHER SCHOLARSHIP LOAN PROGRAM.

Sec. 14.43.600. FINDINGS AND INTENT. (a) The legislature finds that there is a wide and unacceptable disparity between the distribution of Native teachers and Native students in elementary and secondary schools in the state. Particularly in rural areas, many schools have virtually no Native teachers and no non-Native students. The undesirable effects of this disparity include the following:

(1) there is a serious weakness in the ability of teaching staffs, particularly in rural schools, to foster a sense of Native traditions and cultures in the Native students;

(2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes, and the essentially modern atmosphere of the classroom;

(3) almost no Native students return to rural schools to teach, continuing the imbalance and exacerbating its effects; and

(4) there is an annual turnover of 40 percent among teachers in rural educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of Natives teaching in rural schools. Therefore, it is the intent of the legislature to establish

the teacher scholarship loan program to encourage Natives to return to rural schools as teachers and relieve the conditions described in this section.

Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the teacher scholarship loan program to provide an incentive for Native high school graduates to pursue teaching careers in elementary and secondary schools in the state.

Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There is created a teacher scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.-43.600 - 14.43.700. All repayments of principal and interest on teacher scholarship loans shall be paid into the teacher scholarship revolving loan fund and shall be used to make new teacher scholarship loans. If estimated funds available from teacher scholarship loan repayments are inadequate to fully fund estimated teacher scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

Sec. 14.43.630. ADMINISTRATION. The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall allocate the loan awards available for teacher scholarship loans annually to local school boards giving a preference to school districts with a high percentage of Native students and a low percentage of Native teachers. The local school boards shall select the recipients of the teacher scholarship loans.

For the purposes of 14.43.640 the Committee shall annually designate those ~~districts~~ schools with a high percentage of native students.

Sec. 14.43.640. CONDITIONS OF LOANS. (a) The conditions provided in AS 14.43.120 apply to teacher scholarship loans except that no loans may be made to graduate students.

(b) If a borrower meets the conditions provided in (a) of this

section and is employed as a teacher in a ~~school~~ designated by the student financial aid committee as having a high percentage of Native students, notwithstanding AS 14.43.120(j), the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

(1) one year employment, 15 percent;

(2) two years employment, an additional 15 percent;

(3) three years employment, an additional 15 percent;

(4) four years employment, an additional 25 percent;

(5) over four years employment, an additional 30 percent.

(c) A loan may not exceed $10,000 in a school year.

Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a teacher scholarship loan, a student must

(1) be a graduate of, or scheduled for graduation within six months from, a high school in the state, with sufficient credits to be admitted to an accredited college or university;

(2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level; and

(3) meet the conditions set by the student's local school district with respect to the district's requirements for teachers in particular subject areas.

(b) Each school district shall award teacher scholarship loans giving a preference to Native students that meet the qualifications for a loan.

(c) A student may not be awarded a scholarship loan under AS 14.43.090 - 14.43.160 and a teacher scholarship loan under AS 14.43.600 - 14.43.700 for the same school year.

Sec. 14.43.700. DEFINITION. In AS 14.43.600 - 14.43.700, "Native" means any person who is a descendant of a member of the aboriginal races inhabiting the state when annexed to the United States, or who is a descendant of an Indian or Eskimo who, since the year 1867 and prior to June 30, 1952, migrated into the state from Canada, and who is a descendant having at least one-quarter blood derived from these ancestors.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE
27 February 1984
1:15 p.m.

CONTENTS OF MEMBER'S FILE

1) Committee Substitute for HB 504.

2) House Bill 504, "An Act establishing the teacher scholarship program."

3) Fiscal Note, prepared by Kerry Romesburg, Commission on Postsecondary Education.

4) Sectional analysis of the differences between the CS and the original HB 504, HESS Committee staff.

5) Attorney General's review of HB 504: Constitutional and legal questions.

6) Map describing borough and city districts, and REAA districts.

7) Letter to Hayes in support of the bill by University of Alaska professor Jim Greig, Ph.D.

8) Booklet, Alaska High School Seniors Survey Report, 1982-1983, by the Commission on Postsecondary Education.

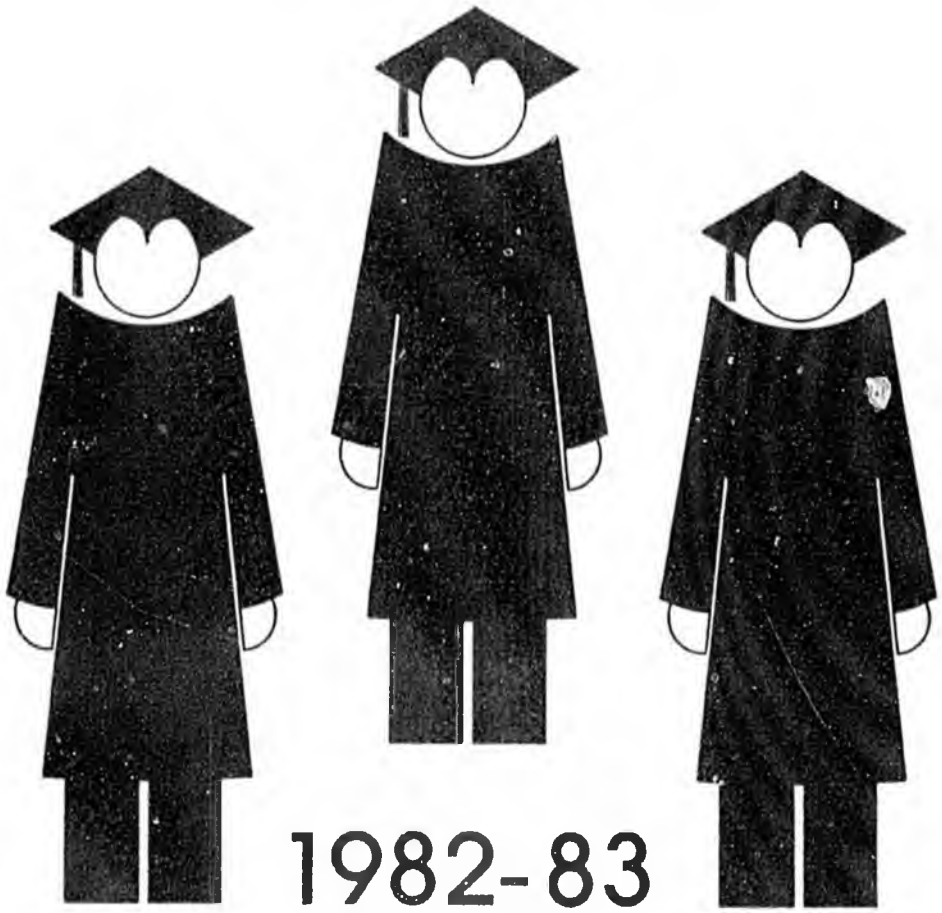
9) Booklet, Effective Schooling in Rural Alaska: Information for the Rural Effective Schools Project, by the Institute of Social and Economic Research, University of Alaska, Fairbanks.

10) Minutes, HESS Committee hearings: 3 February 1984, Kotzebue, Alaska.

11) Minutes, HESS Committee hearings: 4 February 1984, Nome, Alaska.

13) Minutes, HESS Committee hearings: 6 February 1984, Juneau, Alaska.

Alaska High School Seniors Survey Report



1982-83

Alaska Commission on Postsecondary Education

ALASKA HIGH SCHOOL SENIORS SURVEY REPORT

JUNE, 1983

Alaska Commission on Postsecondary Education
Pouch FP, 400 Willoughby Avenue
Juneau, Alaska 99811

Document Number 83-8

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ACKNOWLEDGEMENTS

The Alaska Commission on Postsecondary Education wishes to acknowledge the cooperation of the Alaska Department of Education, the principals, counselors and teachers who administer the senior survey, and the high school seniors whose responses make this report possible.

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INTRODUCTION

Historically, large numbers of Alaska's high school seniors have looked "outside" for pursuit of postsecondary education. In an effort to document this pattern and to try to understand the underlying motivations, this annual survey of Alaska's seniors has developed. The first survey report was published for the 1977-78 academic year; this report represents the sixth in the series.

During the fall of the 1982-83 school year, Alaska high school seniors were asked their opinions of their overall high school experience, their need for additional assistance in selected academic and career planning areas, and general demographic information, as well as what they planned to do after high school graduation. Survey results can be used for administrative and academic planning within the state and for improving student counseling and advisement.

METHODOLOGY

A written questionnaire, consisting of eighteen questions, was sent to all 215 Alaska public and private schools identified as having a twelfth grade.

For 1982-83, it was estimated that there were 5,830 students enrolled in the twelfth grade in Alaska. Of these 5,830 seniors, 3,505, or 60 percent, responded to this survey. Slightly more than a third (1,306, or 37 percent) were seniors enrolled in Anchorage area schools. Students from Fairbanks accounted for 6 percent, Juneau for 3 percent, and the remainder of the students in the state accounted for 54 percent.

Four general groupings of questions were included in the questionnaire. These were:

1. those describing demographic characteristics of the student (sex, race, primary home language, income, etc.);
2. those describing the high school experiences of the student (evaluation of school experiences, and identification of possible areas of weakness);
3. those describing the postsecondary plans of the respondent (occupational choices, choice of college, post-high school plans, etc.); and
4. those describing the more detailed plans of that group of respondents planning to pursue some type of postsecondary education.

RESULTS AND ANALYSIS

A. Demographic Data

The demographic data indicate that the students who responded are a highly representative sample of the general senior population. This conclusion is based upon previous senior surveys and current year estimates and projections. Approximately half the respondents were male (52 percent) and half were female (48 percent); 67 percent were Caucasian, 22 percent were Alaska Native, 3 percent were Black, and small percentages were Oriental, Hispanic, or other; 72 percent indicated annual family incomes of $15,000 or more; 56 percent indicated annual family incomes of $25,000 or more; and 93 percent were from homes where English is the primary language spoken. (Details of these results are presented in Appendix B, Tables 22 to 30).

B. High School Experience

Ranking of High School Experiences. Respondents were requested to evaluate various aspects of their high school experiences using the following descriptors: outstanding, average, poor, or not provided. Those characteristics receiving the highest number of "outstanding" responses were: Counseling and Guidance Services, Athletic and Recreational Facilities, Library and Learning Center Facilities, and Vocational Training, as indicated in Table 1. This response is very similar to the responses of recent years. Also consistent with responses from past years were those characteristics receiving the least number of "outstanding" responses.

They were Grades, Marks, or Promotion Policy, School Rules and Discipline, and Variety of Courses. It is interesting to note that Laboratory Facilities was separated out for the first time this year and it received the lowest number of "outstanding" responses.

TABLE 1
DISTRIBUTION OF "OUTSTANDING" RESPONSES
FOR HIGH SCHOOL CHARACTERISTICS

CHARACTERISTICS	"OUTSTANDING" RESPONSES	
	Number	Percent
Counseling and Guidance Services	1,212	34.6
Athletic & Recreation Facilities	1,206	34.4
Library, Learning Center Facilities	1,001	28.6
Vocational Training	981	28.0
Quality of Instruction	830	23.7
Special Help for Students	794	22.7
Variety of Courses	744	21.2
School Rules, Regulations, & Discipline	685	19.5
Grades, Marks, Promotion Policy	529	15.1
Laboratory Facilities	436	12.4
Overall High School Experience	1,066	30.4

Table 2 presents the "poor" responses to the high school characteristics. As was true for the past two years, Quality of Instruction, Vocational Training, and Grades, Marks, or Promotion Policy received the fewest "poor" ratings. School Rules, Regulations, and Discipline, Laboratory Facilities, Counseling and Guidance Services, and Athletic and Recreation Facilities received the highest number of "poor" ratings.

TABLE 2
DISTRIBUTION OF "POOR" RESPONSES
FOR HIGH SCHOOL CHARACTERISTICS

CHARACTERISTICS	"POOR" RESPONSES	
	Number	Percent
School Rules, Regulations, & Discipline	849	24.2
Laboratory Facilities	809	23.1
Counseling and Guidance Services	501	14.3
Athletic & Recreation Facilities	475	13.6
Library, Learning Center Facilities	473	13.5
Variety of Courses	466	13.3
Special Help for Students	446	12.7
Grades, Marks, Promotion Policy	286	8.2
Vocational Training	285	8.1
Quality of Instruction	228	6.5
Overall High School Experience	344	9.8

Although 83.4 percent of the seniors rated their overall high school experiences as "average" or "outstanding", this represents a decrease from last year when nearly 90 percent of the seniors did so. While it is encouraging that a substantial number of seniors indicated general satisfaction with their high school experiences, the Commission will pay special attention to this response in subsequent surveys to see if the downward trend continues. A more complete listing of responses to high school experiences and characteristics may be found in Table 27 of Appendix B.

A comparison of Tables 1 and 2 shows that Counseling and Guidance Services again evoked strong responses from the seniors. It ranked highest in "outstanding" ratings and third highest in "poor" ratings. Even so, 80 percent of the seniors rated Counseling and Guidance Services as "average" or "outstanding". It is also apparent that Laboratory Facilities evoked strong negative responses; it ranked lowest in "outstanding" ratings and second highest in "poor" ratings.

Further analysis of seniors' evaluation of their high school experiences was conducted by comparing the assessment of respondents from small and large schools. Small schools were identified as schools with 200 students or fewer; large schools had more than 200 students. Table 3 shows the percentages of "outstanding" responses for small and large schools. In almost every case, seniors from large schools had greater percentages than those from small schools. In particular, there were considerable differences in the categories of Library, Learning Center Facilities and Variety of Courses.

TABLE 3
PERCENTAGES OF "OUTSTANDING" RESPONSES FOR
HIGH SCHOOL CHARACTERISTICS FOR LARGE AND SMALL SCHOOLS

CHARACTERISTICS	PERCENTAGE OF "OUTSTANDING" RESPONSES	
	Large School	Small School
Counseling and Guidance Services	37.7	23.9
Athletic & Recreation Facilities	36.9	28.5
Vocational Training	28.6	24.5
Library, Learning Center Facilities	33.4	12.8
Special Help for Students	23.8	18.7
Quality of Instruction	23.9	20.6
Variety of Courses	24.7	9.1
School Rules, Regulations, & Discipline	18.6	22.6
Grades, Marks, Promotion Policy	14.8	14.8
Laboratory Facilities	13.6	9.1
Overall High School Experience	32.2	25.8

Areas of Improvement. Seniors were asked if they felt a need for additional assistance in the four areas of writing, reading, mathematics, and career planning. Table 4 shows that over half of the seniors felt a need for more assistance in mathematics and career planning and approximately 40 percent indicated a need for assistance in the areas of writing and reading. It should be noted that, in relation to last year's responses, a higher percentage of seniors expressed a need for additional assistance in all four areas. In writing, the percentages increased over 5 points from 34.6 percent to 39.8 percent, and in math the percentage change was from 46.8 to 50.9.

TABLE 4
SENIOR EXPRESSED NEED FOR FURTHER
ASSISTANCE IN SELECTED AREAS

TYPE OF ASSISTANCE	NEEDED		NOT NEEDED		TOTAL
	No.	%	No.	%	
Expressing ideas in writing	1,362	39.8	058	60.2	3,420
Improving reading skills	1,443	42.1	981	57.9	3,424
Improving math skills	1,755	50.9	691	49.1	3,446
Deciding on Career/Education	1,738	50.6	700	49.4	3,438

Those seniors planning to attend a postsecondary educational institution (technical, business, two- or four-year college) after high school indicated less of a need for assistance in all areas than did those planning to work full-time or those who were undecided about post-graduation plans. These data are presented in Table 5 and also reflect the opinion that the greatest need for those seniors planning to work was for additional assistance in career planning. Moreover, there was a substantial percentage increase of those seniors planning to work and needing assistance when compared to last year's survey. In particular, the percentage of seniors planning to work and needing assistance in writing increased from 37.4 to 46.7. For those seniors planning schooling beyond high school, the greatest need areas were for improved math skills and additional assistance in career and/or educational planning.

TABLE 5
SENIOR EXPRESSED NEED FOR FURTHER ASSISTANCE IN SELECTED AREAS BY INDICATED POST-HIGH SCHOOL PLANS

POST-HIGH SCHOOL PLAN: FURTHER SCHOOLING					
	NEEDED		NOT NEEDED		
TYPE OF ASSISTANCE	No.	%	No.	%	TOTAL
Expressing ideas in writing	757	35.8	1,357	64.2	2,114
Improving reading skills	817	38.6	1,300	61.4	2,117
Improving math skills	1,049	49.3	1,080	50.7	2,129
Deciding on Career/Education	1,006	47.4	1,117	52.6	2,123
POST-HIGH SCHOOL PLAN: FULL-TIME JOB OR DON'T KNOW					
	NEEDED		NOT NEEDED		
TYPE OF ASSISTANCE	No.	%	No.	%	TOTAL
Expressing ideas in writing	515	46.7	587	53.3	1,102
Improving reading skills	534	48.4	569	51.6	1,103
Improving math skills	595	53.6	516	46.4	1,111
Deciding on Career/Education	628	56.7	480	43.3	1,108

As a student's yearly household income increased, the need for assistance in all areas decreased. More than half of those seniors whose annual yearly household income was less than $25,000 indicated that they needed assistance in improving math skills and deciding on career or continuing education. There is little difference between the students whose yearly household income was between $25,000 and $40,000 and those students who came from a household whose income was over $40,000. These data are presented in Table 6. It should be noted, however, that the need for help in improving math skills and deciding on future career or educational plans is evident for a significant percentage of students, irrespective of family income.

TABLE 6
SENIOR EXPRESSED NEED FOR FURTHER ASSISTANCE
IN SELECTED AREAS BY HOUSEHOLD INCOME

EXPRESSED NEED FOR ASSISTANCE IN:	ANNUAL HOUSEHOLD INCOME					
	UNDER $25,000		$25,000 TO $40,000		OVER $40,000	
	No.	%	No.	%	No.	%
Expressing ideas in writing	535	45.3	294	36.5	388	33.2
Improving reading skills	566	48.0	317	39.4	416	35.6
Improving math skills	677	57.4	380	47.2	516	44.1
Deciding on Career/Education	658	55.8	383	47.6	537	45.9

More detail on need for assistance by varied levels of annual household income is presented in Appendix B, Table 28.

C. Postsecondary Plans

A number of questions regarding postsecondary plans were posed for the seniors, and based upon the responses, the seniors were divided into two groups, those planning educational pursuits and those not. Those planning some form of education were then asked to respond to additional questions which will be discussed later in this report.

The responses to the question concerning the post-high school plans of seniors are contained in Table 7. The percentage of those planning to continue with some form of postsecondary education has increased steadily the past several years, from 56.5 in 1980 to 61.6 this year.

The number of seniors not planning any postsecondary education was 1,348, or 38.4 percent of the total respondents. However, it should be noted that this number includes 377 students who did not know what they were going to do, so the number of students actually involved in postsecondary education could increase.

TABLE 7
DISTRIBUTION OF SENIORS BY
MOST LIKELY ACTIVITY AFTER HIGH SCHOOL

ACTIVITY	NUMBER	PERCENT
Attend a 4-Year College	1,400	40.0
Attend a 2-Year College	408	11.6
Attend a Vocational-Technical School	349	10.0
Enter Into Apprentice Training	103	2.9
Become a Full-Time Homemaker	33	0.9
Join the Military	140	4.0
Get a Full-Time Job	480	13.7
Don't Know Yet	377	10.8
Other	215	6.1
Total	3,505	100.0

D. Similarities and Differences Between Those Seniors Planning Postsecondary Education and Those Who Are Not

Sex. In examining the plans of the seniors and differentiating by sex, as presented in Table 8, one can see that certain activities are more likely for one sex than the other. For instance, 65.2 percent of female seniors intend to enroll in some form of postsecondary education, while 58.3 percent of male seniors have the same intention. A larger difference can be seen when focusing upon two- or four-year postsecondary institutions. 57.8 percent of female seniors intend to enroll in either a two-year or four-year college, while only 46.0 percent of the male seniors express the same desire.

TABLE 8
DISTRIBUTION OF SENIORS BY MOST LIKELY
ACTIVITY AFTER HIGH SCHOOL AND BY SEX OF RESPONDENT

ACTIVITY	MALE		FEMALE	
	No.	%	No.	%
Attend a 4-Year College	656	35.7	732	44.6
Attend a 2-Year College	190	10.3	216	13.2
Attend a Vocational-Technical School	225	12.3	122	7.4
Subtotal	1,071	58.3	1,070	65.2
Enter Into Apprentice Training	72	3.9	30	1.8
Become a Full-Time Homemaker	8	0.4	25	1.5
Join the Military	116	6.3	24	1.5
Get a Full-Time Job	252	13.8	224	13.6
Don't Know Yet	210	11.5	164	10.0
Other	107	5.8	105	6.4
Subtotal	765	41.7	572	34.8
Total	1,836	100.0	1,642	100.0

Race. The race of the senior respondents was a significant factor in determining postsecondary plans. As illustrated in Table 9, almost 49 percent of Alaska Natives intend to pursue some type of postsecondary education, while 60 percent and 66 percent of Black and Caucasian seniors, respectively, indicated the same desire. A slightly different picture emerges when this year's seniors are compared to last year's. The percentage of Alaska Natives intending to pursue some type of post-secondary education increased from 42 to 49 percent. On the other hand, the percentage of Black seniors with that intent decreased significantly, from 73 to 60 percent. Native seniors, however, continue to have a much higher percentage of undecided responses than any other group, and they also had a higher percentage of those planning to enter into apprentice training.

TABLE 9
DISTRIBUTION OF SENIORS BY MOST LIKELY
ACTIVITY AFTER HIGH SCHOOL AND BY RACE OF RESPONDENT

ACTIVITY	ALASKA NATIVE		BLACK		CAUCASIAN		ALL OTHERS	
	No.	%	No.	%	No.	%	No.	%
Attend a 4-Year College	188	24.0	40	38.1	1,070	45.6	102	38.1
Attend a 2-Year College	90	11.4	16	15.2	269	11.5	33	12.3
Attend a Vocational-Technical School	105	13.3	7	6.7	209	8.9	28	10.4
Subtotal	383	48.7	63	60.0	1,548	66.0	163	60.8
Enter Into Apprentice Training	35	4.4	2	1.9	56	2.4	10	3.7
Become a Full-Time Homemaker	5	0.6	1	1.0	25	1.1	2	0.7
Join the Military	42	5.3	10	9.5	74	3.2	14	5.2
Get a Full-Time Job	102	13.0	18	17.1	330	14.0	30	11.3
Don't Know Yet	170	21.6	5	4.8	175	7.5	27	10.1
Other	50	6.4	6	5.7	137	5.8	22	8.2
Subtotal	404	51.3	42	40.0	797	34.0	105	39.2
Total	787	100.0	105	100.0	2,345	100.0	268	100.0

School Size. There is a striking difference between those seniors planning to attend a four-year college and those seniors undecided about their future when differentiating by size of school they attend. Table 10 shows that only 26.2 percent of seniors from small schools plan to attend a four-year college compared to 43.6 percent of seniors from large schools. Moreover, 21.4 percent of seniors from small schools do not know what they plan to do after graduation compared to only 8.1 percent from large schools.

TABLE 10
DISTRIBUTION OF SENIORS BY MOST LIKELY ACTIVITY AFTER HIGH SCHOOL AND BY SIZE OF SCHOOL IN WHICH THE SENIOR IS ENROLLED

ACTIVITY	LARGE SCHOOLS		SMALL SCHOOLS	
	No.	%	No.	%
Attend a 4-Year College	1,174	43.6	190	26.2
Attend a 2-Year College	320	11.9	77	10.6
Attend a Vocational-Technical School	257	9.6	86	11.8
Subtotal	1,751	65.1	353	48.6
Enter Into Apprentice Training	65	2.4	35	4.8
Become a Full-Time Homemaker	25	0.9	5	0.7
Join the Military	94	3.5	41	5.6
Get a Full-Time Job	376	14.0	89	12.2
Don't Know Yet	218	8.1	155	21.4
Other	162	6.0	49	6.7
Subtotal	940	34.9	374	51.4
Total	2,691	100.0	727	100.0

Household Income. Annual household income has continued to relate strongly to specific postsecondary plans of the seniors over the past four years. A comparison was made of the responses of those seniors from

households with annual incomes of less than $25,000, $25,000 to $40,000, and more than $40,000. The results of this comparison are presented in Table 11. As household income increases, so does the tendency of seniors to pursue postsecondary activities at a four-year college. This, however, does not hold true for attendance at two-year colleges or vocational/technical schools. In fact, the higher the household income, the less likely it is for seniors to attend vocational/technical schools. Also, as household income increases, uncertainty about postsecondary plans decreases. Almost 17 percent of those seniors whose household incomes were less than $25,000 indicated that they did not know what they intended to do after graduation, while considerably less than 10 percent of those students from households in higher income brackets expressed the same uncertainty.

TABLE 11
DISTRIBUTION OF SENIORS BY MOST LIKELY
ACTIVITY AFTER HIGH SCHOOL AND BY ANNUAL HOUSEHOLD INCOME

ACTIVITY	INCOME UNDER $25,000		$25,000-$40,000		OVER $40,000	
	No.	%	No.	%	No.	%
Attend a 4-Year College	319	27.1	355	44.1	628	53.8
Attend a 2-Year College	139	11.8	101	12.5	124	10.6
Attend a Vocational/ Technical School	141	11.9	82	10.2	81	6.9
Subtotal	599	50.8	538	66.8	833	71.3
Enter Into Apprentice Training	49	4.2	18	2.2	25	2.1
Become a Full-Time Homemaker	16	1.4	9	1.1	4	0.3
Join the Military	62	5.3	33	4.1	34	2.9
Get a Full-Time Job	185	15.6	95	11.9	132	11.3
Don't Know Yet	198	16.7	63	7.8	78	6.7
Other	71	6.0	49	6.1	63	5.4
Subtotal	581	49.2	267	33.2	336	28.7
Total	1,180	100.0	805	100.0	1,169	100.0

Grades Earned. The seniors were asked to indicate what their grades had been in high school, whether they had earned mostly A's, mostly B's, mostly C's, or mostly below C's.

As one might suspect, and consistent with surveys from the past two years, those seniors who earned mostly A's and B's indicated their intention to pursue postsecondary education far more frequently than those earning lower grades. As Table 12 indicates, nearly 84 percent of those seniors earning mostly A's planned to go on for more schooling, while considerably smaller percentages are evident for seniors with lower grades. There is, however, a slight but steady upward trend of seniors with lower grades planning to attend postsecondary institutions. For seniors earning mostly B's, the percentage planning to go on for more schooling increased from 64.3 to 66.6 from 1981 to 1983. For seniors earning mostly C's, the percentage change was from 42.3 to 48.2, and for seniors earning grades below C, the percentage change was from 21.2 to 23.9.

TABLE 12
DISTRIBUTION OF SENIORS BY MOST LIKELY
ACTIVITY AFTER HIGH SCHOOL AND BY GRADES EARNED IN HIGH SCHOOL

ACTIVITY	A's		B's		C's		Below C's	
	No.	%	No.	%	No.	%	No.	%
Attend a 4-Year College	388	71.0	751	46.0	254	21.2	5	4.6
Attend a 2-Year College	50	9.2	202	12.3	145	12.1	10	9.2
Attend a Vocational Technical School	19	3.5	135	8.3	179	14.9	11	10.1
Subtotal	457	83.7	1,088	66.6	578	48.2	26	23.9
Enter Into Apprentice Training	7	1.3	41	2.5	50	4.2	5	4.6
Become a Full-Time Homemaker	2	0.4	16	1.0	11	0.9	4	3.7
Join the Military	5	0.9	57	3.5	71	5.9	6	5.5
Get a Full-Time Job	21	3.8	186	11.4	241	20.2	30	27.5
Don't Know Yet	37	6.8	158	9.7	160	13.3	18	16.5
Other	17	3.1	87	5.3	88	7.3	20	18.3
Subtotal	89	16.3	545	33.4	621	51.8	83	76.1
Total	546	100.0	1,633	100.0	1,199	100.0	109	100.0

Occupational Choice. Seniors were asked to choose a first and second occupational preference from a list of 58 technical and professional occupations. Business Management and Computer Programming are solidly the most popular choices by the seniors. Aviation Careers was also very popular. The top four choices in descending order of popularity, were:

First Preference	Second Preference
Business Management	Computer Programming
Computer Programming	Business Management
Education	Aviation Careers
Aviation Careers	Social Sciences

The occupational preferences varied quite markedly between the sexes, with the exception of Business Management. The male seniors preferred the more technical and trade occupations while Elementary/Secondary education is clearly the choice of female seniors. The top four choices, in descending order of popularity, for male and female seniors were:

Male Seniors	Female Seniors
Computer Programming	Elementary/Secondary Education
Business Management	Business Management
Automotive Repair	Office Occupations
Heavy Equipment Operations	Accounting

A further analysis was conducted to relate occupational preference to race of respondent. As in the past, there seemed to be no particular patterns of occupational preference based upon race. Indeed, for Black, Hispanic, and Oriental students, no clear preference for occupational choices were evident. The top choices for Alaska Native and Caucasian seniors were:

Alaska Native	Caucasian
Business Management	Business Management
Commercial Fishing	Computer Programming
Accounting	Elementary/Secondary Education
Elementary/Secondary Education	Business & Commerce, General

E. Seniors Planning Postsecondary Education.

A separate portion of the survey was devoted to obtaining more information about those seniors planning to pursue postsecondary education. Although the number of seniors indicating plans to attend school immediately after graduation was fairly consistent at about 2,150 in response to a number of cross-check items (such as income levels, sex, and race), the total number of seniors responding to specific questions on schooling increased to 2,786. This increased figure is assumed to include not only those seniors with firm post-high school plans, but also a number who were undecided and were responding in a suppositional manner. That is, suppose I were to attend, then how would I answer?

State of Attendance. Seniors were asked to indicate the state in which they planned to pursue their postsecondary education. The evidence is clear that Alaska has increasingly become a more popular choice the past four years. In 1979-80, 31 percent of the high school seniors indicated that they planned to pursue their postsecondary education in Alaska. That percentage increased to 36.5 percent in 1980-81, 40.6 percent in 1981-82, and this year the percentage is 42.7 percent. Table 13 provides detailed information regarding where the students intend to pursue their postsecondary education activities. As in previous years, Washington, California, Oregon, and Colorado are the most popular states for those seniors who intend to enroll in institutions out-of-state.

TABLE 13
DISTRIBUTION OF SENIORS BY
INTENDED STATE OF POSTSECONDARY ATTENDANCE

STATE	NUMBER	PERCENT
Alaska	1,190	42.7
Washington	300	10.8
California	296	10.6
Oregon	152	5.5
Hawaii	112	4.0
Colorado	110	3.9
Arizona	78	2.8
Texas	54	1.9
Montana	42	1.5
Idaho	41	1.5
Utah	35	1.3
Other*	376	13.5
Total	2,786	100.0

*Including foreign.

When the intended state of attendance was cross-referenced with the seniors' grades in high school, no single state seemed to draw heavily from any particular grade group.

The distribution for a few selected states is presented on a percentage basis in Table 14. It appears that those seniors electing attendance in Alaska are heavily represented by those earning mostly B's and C's while in high school, but this distribution is largely due to the normal distribution of all seniors (also presented in Table 14). It should be noted, however, that the percentage of seniors planning to attend school in Alaska, and who earned mostly A's, is steadily increasing. In 1980-81 the percentage was 8.8, in 1981-82, 12.6 percent, and this year it is 14.3 percent.

TABLE 14
PERCENTAGE DISTRIBUTION OF SENIORS BY SELECTED STATES OF PLANNED ATTENDANCE AND BY GRADES EARNED IN HIGH SCHOOL

SENIORS' GRADES	ALASKA	WASHINGTON	OREGON	CALIFORNIA	COLORADO	ALL SENIORS
Mostly A's	14.3	23.5	18.4	24.0	19.1	15.7
Mostly B's	50.3	50.2	59.9	46.0	39.1	46.8
Mostly C's	33.8	23.9	20.4	27.7	39.1	34.4
Below C's	1.6	2.4	1.3	2.3	2.7	3.1
Total	100.0	100.0	100.0	100.0	100.0	100.0

Another way of examining these same data is to compare Alaska's drawing power, within the grade distribution of seniors, to the drawing power of "outside". This is presented in Table 15 and differs from Table 14 in that the question addressed in Table 15 is: of those seniors earning mostly A's (or B's, C's, etc.), how many plan schooling in Alaska; while the question in Table 14 is: of those seniors planning schooling in Alaska, how many earned mostly A's (or B's, C's, etc.)? In the analysis which led to Table 15, it was discovered that 66.5 percent of the seniors earning mostly A's in high school who planned postsecondary attendance, planned it for "outside" of Alaska. It is very significant that this

percentage has declined sharply over the past three years; in 1980-81, 83.7 percent of the seniors earning mostly A's planned postsecondary education "outside" of Alaska.

TABLE 15
PERCENTAGE DISTRIBUTION OF SENIORS BY
GRADES EARNED IN HIGH SCHOOL AND BY
PLANNED POSTSECONDARY ATTENDANCE IN OR OUT OF ALASKA

SENIORS' GRADES	ALASKA	OUT-OF-STATE	TOTAL
Mostly A's	33.5	66.5	100.0
Mostly B's	43.1	56.9	100.0
Mostly C's	48.3	51.7	100.0
Below C's	34.6	65.4	100.0

It is important to try to understand why those seniors earning mostly A's plan to attend postsecondary institutions outside of the state. Although a more detailed presentation is found later in this report, the survey contained a question which asked the seniors to indicate which factors were important in their decisions about institutions. Of those seniors who earned mostly A's and intend to enroll in an institution of Alaska, the most important reason was the "availability of program" followed closely by "reputation or prestige of the school". This finding parallels very closely the research regarding "brain drain" in other states. As noted in last year's report, Maryland provides a good example of that research. The Maryland State Board for Higher Education conducts an annual survey of high school seniors who were semi-finalists in the National Merit and National Achievement competition. They find that the most important factor in college choice cited by students going out of state is "institutional reputation". Having a quality program in the student's major is the second most important reason.

For those Alaskan students who intend to enroll in institutions within the state, the most important reason was "low tuition and expenses" and the second most important reason was "program availability".

When addressing the question of "brain drain" then, we find that a higher percentage of Alaska's higher-grade-earning seniors are indeed looking "outside" for their postsecondary schooling. This is, however, not unlike the experiences of other states.

Alaska Attendance. When asked which institution in Alaska they planned to attend, 36 percent of the responding seniors indicated the University of Alaska-Fairbanks, followed by the University of Alaska-Anchorage, with 17 percent. The responses to this question are presented in Table 16.

It is interesting to note that the fourth and sixth most popular institutional choices of the seniors were the Alaska Vocational Technical Center at Seward and the Alaska Business College in Anchorage, respectively. This pattern is consistent over several years and the survey continues to show that these two institutions, which are dedicated to preparing persons for employment in selected occupational and career fields, have strong drawing power.

TABLE 16
DISTRIBUTION OF SENIORS BY
CHOICE OF ALASKAN POSTSECONDARY INSTITUTION

INSTITUTION	NUMBER	PERCENT
Anchorage Community College	148	12.4
Chukchi Community College	5	0.4
Kenai Peninsula Community College	30	2.5
Ketchikan Community College	5	0.4
Kodiak Community College	4	0.3
Kuskokwim Community College	15	1.3
Matanuska-Susitna Community College	14	1.2
Northwest Community College	3	0.3
Prince William Sound Community College	4	0.3
Sitka Community College	7	0.6
Tanana Valley Community College	7	0.6
Extension Center Near Home	3	0.3
COMMUNITY COLLEGE SUBTOTAL	245	20.6
University of Alaska-Anchorage	201	16.9
University of Alaska-Fairbanks	432	36.3
University of Alaska-Juneau	17	1.4
UNIVERSITY CENTER SUBTOTAL	650	54.6
Alaska Bible College	9	0.8
Alaska Pacific University	68	5.7
Sheldon Jackson College	38	3.2
PRIVATE COLLEGE SUBTOTAL	115	9.7
Alaska Business College	54	4.4
Alaska Vocational Technical Center at Seward	78	6.6
Trade, Technical School	21	1.8
Hutchison Career Center	12	1.0
Kotzebue Technical Center	15	1.3
OCCUPATIONAL SCHOOL SUBTOTAL	180	15.1
Total	1,190	100.0

Reasons for Institutional Choice. Why a senior chooses to attend a particular institution is a question of great interest to those persons involved in postsecondary education. The seniors were asked to indicate, from a list of 16 possible reasons, which factors were important in their decisions about institutions. The seniors were to pick the two most important reasons and also the least important reason affecting the choice of the postsecondary institution they planned to attend.

The most important reasons for institutional choice were "availability of program", "closeness to home", and "reputation or prestige of school". This was followed closely by "low tuition and living expenses" and "geographic location". "Availability of program" stands out because of the large number of seniors indicating it as the most important reason for attending school. (See Table 17.) Also, it has continued to be the top choice since 1978. The least important determinants of college selection for the seniors were "friends will be there," "religious atmosphere," "close to home," and sorority/fraternity/student organizations on campus".

TABLE 17
REASONS FOR SELECTING A
POSTSECONDARY EDUCATIONAL INSTITUTION

REASON	MOST IMPORTANT		SECOND MOST IMPORTANT		LEAST IMPORTANT	
	Number	Percent	Number	Percent	Number	Percent
Availability of Program	611	24.0	246	9.4	58	2.3
Close to Home	308	12.0	323	12.4	292	11.5
Reputation or Prestige of School	284	11.1	206	7.9	134	5.3
Low Tuition and Living Expenses	272	10.6	255	9.8	143	5.6
Geographic Location	260	10.2	382	14.7	211	8.3
Encouragement from Parents/Relatives	243	9.5	258	9.9	109	4.3
Availability of Jobs While in School	99	3.9	137	5.2	125	4.9
Availability of Financial Aid	94	3.7	165	6.3	79	3.1
Friends Will Be There	77	3.0	183	7.0	417	16.3
Intercollegiate Athletics	72	2.8	104	4.0	140	5.5
Intramural Athletics	70	2.7	84	3.2	139	5.5
Encouragement from Teachers	62	2.4	75	2.9	64	2.5
Religious Atmosphere	55	2.1	55	2.1	318	12.5
Encouragement from College Representatives	21	0.8	35	1.3	38	1.5
Availability of College Housing	19	0.7	58	2.2	76	3.0
Sororities/Fraternities	14	0.5	45	1.7	200	7.9
Total	2,56.	100.0	2,611	100.0	2,543	100.0

As was shown earlier in this report, more seniors intend to enroll in in-state institutions than in past years. A major reason for the increase of in-state attendance is the availability of low tuition and living expenses. To explain further the reasons why students attend in-state or out-of-state institutions, institutional choice was cross-referenced with the state of planned attendance, the results of which are presented in Table 18. Also, those factors affecting choice were further analyzed on an in-state basis. A cross-tabulation was run between reasons for institutional choice and Alaskan institution indicated. The results of those data for selected institutions are shown in Table 19.

A very consistent pattern exists among those seniors who intend to enroll out-of-state. In all cases except Hawaii the principal reason for institutional choice was "availability of program".

For those students attending institutions within the state, the principal factors affecting institutional selection were "low tuition", "closeness to home", and "availability of program".

TABLE 18
REASONS FOR SELECTING A POSTSECONDARY
EDUCATIONAL INSTITUTION DISTRIBUTED BY STATE

STATE	PRIMARY REASON	SECONDARY REASON
Alaska	Close to Home	Close to Home
Washington	Availability of Program	Geographic Location
California	Availability of Program	Geographic Location
Oregon	Availability of Program	Geographic Location
Colorado	Availability of Program	Geographic Location
Hawaii	Geographic Location	Geographic Location

TABLE 19
REASONS FOR SELECTING A PARTICULAR
ALASKA POSTSECONDARY EDUCATIONAL INSTITUTION

INSTITUTION	PRIMARY REASON	SECONDARY REASON
Univ. of Alaska-Fairbanks	Low Tuition and Expenses	Close to Home
Univ. of Alaska-Anchorage	Close to Home	Close to Home
Univ. of Alaska-Juneau	Availability of Program	Close to Home
All Community Colleges	Close to Home	Close to Home
Alaska Pacific University	Availability of Program	Close to Home
Sheldon Jackson	Encouragement from Parents/Relatives	Friends Will Be There
Alaska Business College	Availability of Program	Availability of Jobs
Alaska Vocational-Technical Center	Availability of Program	Close to Home

Familiarity with Financial Aid. The seniors were asked about their familiarity with, and intent to use, various types of financial aid available for postsecondary education. As one can see in Table 20, the program with which the seniors were most familiar (when combining familiarity with intent to use) is the Alaska State Student Loan Program. Four out of five of the students responding to this survey are aware of the program.

TABLE 20
SENIORS' FAMILIARITY WITH AND INTENDED
USE OF SELECTED FINANCIAL ASSISTANCE PROGRAMS

PROGRAMS	FAMILIAR WITH		INTEND TO USE		Total Percentage
	Number	Percent	Number	Percent	
Pell Grant	389	11.1	152	4.3	15.4
GSL (Guaranteed Student Loan)	1,187	33.8	375	10.7	44.5
Alaska State Student Loan	1,309	37.3	1,502	42.8	80.1
Native Corp. Assistance	956	27.3	180	5.1	32.4
CETA	1,171	33.4	119	3.4	37.8
BIA	950	27.1	159	4.5	31.6
ROTC	1,708	48.7	104	3.0	51.7
SEIG (State Educational Incentive Grant)	539	15.4	121	3.5	18.9

Plans to Return to Alaska. Those seniors planning postsecondary education of Alaska were asked if they planned to return to the state after completing their schooling. In 1980-81, 72.2 percent indicated that they did plan to return to Alaska. That percentage decreased slightly to 69.1 percent in 1981-82 but increased almost 10 points to 77.6 percent this year. There remains, however, a strong relationship between the distance one intends to go away from the state and the intention to return after schooling. A regional distribution is presented in Table 21 which indicates that, in general, the propensity to return decreases as the student attends school farther away from Alaska.

TABLE 21
DISTRIBUTION OF SENIORS PLANNING ATTENDANCE
"OUTSIDE" BY REGION OF ATTENDANCE* AND BY
INTENTION TO RETURN TO ALASKA AFTER SCHOOLING

REGION OF PLANNED ATTENDANCE	PERCENT PLANNING TO RETURN TO ALASKA
Northwest	75.3
West	68.8
Southwest	63.5
Midwest	63.0
South	54.3
Southeast	40.6
East	71.4
Northeast	54.1

* REGIONS: Northwest: WA, OR, ID, MT; West: CA, HI, NV, UT, CO, WY; Southwest: AZ, NM, TX, OK; Midwest: ND, SD, NE, KS, MN, WI, MI, IA, MO, IL, IN, OH; South: FL, GA, AL, MS, LA, AR; Southeast: VA, NC, SC, TN, KY; East: PA, NJ, MD, DE, WV, DC; Northeast: ME, VT, NH, NY, MA, CT, RI.

SUMMARY

Alaska's high school seniors have now responded to six consecutive annual surveys. Responses have been generally consistent over the six-year period, and support the following conclusions.

1. Most seniors are generally quite satisfied with their high school experiences. Those particular areas which have received the highest number of "outstanding" marks are counseling and guidance services and athletic and recreational facilities. Compared to last year, there was a decline in the percentage of seniors expressing satisfaction with their overall high school experience, from 90 to 83 percent. It remains to be seen if this represents a trend.

2. Seniors from small schools are not as satisfied with their high school experience as seniors from large schools. This is particularly evident when considering variety of courses and library and learning center facilities.

3. Regardless of whether they plan to pursue further schooling, many seniors feel that they need assistance in improving mathematics skills and in developing career or educational plans.

4. Those seniors who have higher household incomes and who earn higher grades are more likely to plan schooling beyond high school than are other seniors.

5. Proportionately, considerably fewer seniors from small schools plan to attend four-year colleges than seniors from large schools. Also, a much larger percentage of seniors from small schools are undecided about what they plan to do after graduation than seniors from large schools.

6. The percentage of students who choose to remain in Alaska for postsecondary education has increased in the past three years. Another way to look at this statistic is to say that, although a majority of seniors still go "outside" for their schooling, the percentage of students leaving the state is continuing to diminish.

7. There does not seem to be a direct correlation between grades earned in high school and geographic choice. Although many students in all grade categories are drawn "outside", the tendency to plan out-of-state attendance is highest among those seniors who earned mostly A's in high school. Institutional reputation and availability of programs are the reasons that "A" students cite for choosing their schools. Other states have reported similar propensities among their higher-grade-earning seniors.

8. Regardless of the grades they earned in high school, seniors choose particular out-of-state educational institutions primarily because of the availability of certain programs. Students choose particular Alaskan institutions because of availability of programs and proximity.

9. The University of Alaska's Fairbanks and Anchorage campuses continue to be the top choices for those students who remain in Alaska for further schooling; again this year over 50 percent of in-state students indicated that they plan to attend one of these institutions.

10. Approximately 16 percent of students remaining in Alaska plan to attend vocational-technical and private proprietary schools. Those institutions with the greatest drawing power are Alaska Business College and Alaska Vocational Technical Center at Seward.

11. A high proportion of the seniors planning to attend school out-of-state also plan to return to Alaska after completing their schooling. This proportion has increased dramatically over last year. Future surveys will ascertain if this upward trend will continue.

The information from this survey is compiled on an individual high school basis and returned to each participating school. This feedback enables the secondary officials to better plan or respond to and for the high school students' needs. The information and results are also used on a statewide basis for planning and analysis of postsecondary resources for Alaskans.

APPENDIX A

1982-83 ALASKA HIGH SCHOOL SENIOR SURVEY

Alaska High School Senior Survey
1982-83

This survey is an attempt to find out what you intend to do with your life the first year after graduation. The results of this survey will be used to plan for the growth and development of postsecondary education* in Alaska, to coordinate and plan for better financial aid services for Alaskan postsecondary students and to provide for the educational needs of Alaskan high school graduates.

Please answer questions 1 through 14 regardless of what you plan to do after graduation. Students continuing a postsecondary education should also complete questions 15 through 18.

Individual responses will be kept confidential. Please do not identify yourself on the survey. PLACE THE NUMBER OF YOUR RESPONSE IN THE SPACE PROVIDED AT THE RIGHT. Your cooperation is appreciated.

RESPONSE

1. What is your sex? 1. Male 2. Female ..... _____

2. How do you describe yourself? (Choose only one) ..... _____

   1. Alaskan Native
   2. Black
   3. Caucasian
   4. Hispanic
   5. Oriental
   6. Other

3. What category best describes your total family income? ..... _____

   1. Under $8,000
   2. Between $8,000 and $15,000
   3. Between $15,000 and $25,000
   4. Between $25,000 and $40,000
   5. Over $40,000

4. What category best describes your parents' level of education?

RESPONSE (Enter 1, 2, 3, or 4)

   1. did not finish high school .....
   2. graduated from high school or attained the GED .....
   3. attended college .....
   4. graduated from college with at least a bachelor's degree .....

   Father ..... _____
   Mother ..... _____

5. There are a number of financial aid programs offered to Alaskans. Please indicate your familiarity with each program by using the following code.

RESPONSE (Enter 1, 2, or 3)

   1. I am not aware of this financial assistance program.
   2. I am aware of this financial assistance program.
   3. I am aware of this program and plan to use it.

   A. Pell Grant Program (BEOG) ..... _____
   B. GSL (Guaranteed Student Loan Program) ..... _____
   C. Alaska State Student Loan Program ..... _____
   D. Native Corporation Student Financial Aid ..... _____
   E. CETA (Comprehensive Employment Training Act) ..... _____
   F. BIA (Bureau of Indian Affairs) Financial Assistance ..... _____
   G. ROTC (Reserve Officer Training Corps) Financial Assistance ..... _____
   H. SEIG (State Educational Incentive Grant Program) ..... _____
   I. Other Financial Aid Program (Specify) ..... _____

*NOTE: Postsecondary education is defined as any organized education, learning or training experience beyond high school.

PLACE 1 IN THE RESPONSE SPACE FOR "YES" AND 2 FOR "NO" for questions 6 through 10.

RESPONSE (Enter 1 or 2)

6. English is the language most frequently spoken in my home..... _____

7. I have had the following employment experiences:
   - A. held a regular part-time job while in school..... _____
   - B. held a full-time job during the summer..... _____
   - C. participated in work-study or distributive education while in school..... _____
   - D. supervised the work of others..... _____
   - E. never worked..... _____

8. I need assistance in the following educational areas:
   - A. expressing my ideas in writing..... _____
   - B. improving reading speed or comprehension..... _____
   - C. improving math skills..... _____
   - D. deciding on a career, occupation or educational plans..... _____

9. I plan to take or have already taken the ACT (American College Testing Program)..... _____

10. I plan to take or have taken the SAT (Scholastic Aptitude Test)..... _____

RESPONSE (Enter 1, 2, 3 or 4)

11. Please indicate what grades you received in high school:
    (Place the appropriate number in the space provided.)..... _____

    1. Mostly A's
    2. Mostly B's
    3. Mostly C's
    4. Mostly below C's

12. Listed below are a number of characteristics of your high school. You are asked to rank each one on how beneficial it has been to you. That is, how well did it contribute to your experience as a student? Please use the following ranking scale and use your own experience for the ranking, not what you have heard from others.

    1. Outstanding
    2. Average
    3. Poor
    4. Not provided/Not applicable

RESPONSE (Enter 1, 2, 3 or 4)

   - A. Variety of courses..... _____
   - B. Quality of instruction..... _____
   - C. Counseling or guidance service..... _____
   - D. Special help or programs for students needing it..... _____
   - E. School rules, regulations and discipline..... _____
   - F. Assignment of grades or marks..... _____
   - G. Athletic or recreational facilities..... _____
   - H. Library and learning centers..... _____
   - I. Laboratory facilities..... _____
   - J. Vocational training (industrial, business, home economics, etc.)..... _____
   - K. Satisfaction with your high school experience overall..... _____

RESPONSE (Enter 1-9)

13. What are you most likely to be doing this time next year? ..... _____
Use the following list to indicate your response. (Choose only one answer.)

1. Don't know yet.
2. Join the military.
3. Get a full-time job.
4. Become a full-time homemaker.
5. Enter into apprentice training.
6. Attend a vocational-technical school.
7. Attend a four-year college.
8. Attend a two-year college.
9. Other:_____ _____(Please specify).

14. Please indicate by number your first and second occupational choice, choosing from the list in Table A, located on page 4 of this survey.

RESPONSE (Enter 10-99)

A. My first occupational choice is ..... _____
B. My second occupational choice is ..... _____

IF YOU **DO NOT** PLAN TO GO ON FOR MORE SCHOOLING, SKIP THE REST OF THE SURVEY.

RESPONSE (Enter 1-52)

15. Using the code found in Table B on page 4 of the survey, indicate by number the state in which you plan to attend a postsecondary institution ..... _____

RESPONSE (enter 1-22)

16. If your answer was Alaska in question 15, indicate which Alaskan institution you plan to attend by using the list in Table C on page 4 of the survey. (If you are not going to school in Alaska, skip this question).. _____

RESPONSE (enter 1-17)

17. Regardless of where you are going to school, why have you made that choice? Use the number codes below to select the two most important reasons and the one **least** important reason for your choice.

A. Most important reason for my selection ..... _____
B. Second most important reason for my selection ..... _____
C. **Least** important reason for my selection ..... _____

1. Intramural athletics/recreational activities
2. Sororities/fraternities/student organizations on campus
3. Geographic location/weather/climate
4. Encouragement from parents/relatives
5. Encouragement from teachers/principal/counselor
6. Encouragement from college representative
7. Availability of jobs while in school
8. Low tuition and living expenses
9. Reputation or prestige of school
10. Availability of program
11. Availability of financial aid
12. Close to home
13. Religious atmosphere
14. My friends will be there
15. Availability of campus housing
16. Intercollegiate athletic program
17. Other (please specify)

_____

RESPONSE (enter 1 or 2)

18. Do you plan to live in Alaska upon completion of your chosen program? ..... _____

1. Yes 2. No

TABLE A
LIST OF OCCUPATIONAL CHOICES

PLEASE CHOOSE THE NUMBER OF YOUR FIRST AND SECOND OCCUPATIONAL CHOICE FROM THE LIST BELOW. SELECT THE OCCUPATIONAL AREA THAT BEST FITS YOUR GOALS, AND FILL IN THE RESPONSE BLANKS ON PAGE 3 OF THE SURVEY WITH THE NUMBERS YOU HAVE SELECTED.

10 AGRICULTURE OR ANIMAL SCIENCE
11 FORESTRY SCIENCE
12 FORESTRY PRODUCTION & PROCESSING
13 NATURAL RESOURCE MANAGEMENT
14 FISHERIES SCIENCE
15 COMMERCIAL FISHING
16 SEAFOOD PROCESSING
20 ARCHITECTURE
21 INTERIOR DESIGN
24 LIFE SCIENCE, GENERAL (ANATOMY, BACTERIOLOGY, BIOLOGY, BOTANY, ECOLOGY, GENETICS, MARINE BIOLOGY, ZOOLOGY, ETC.)
25 COMMUNITY OR SOCIAL SERVICES (LAW ENFORCEMENT, FIRE PROTECTION, PUBLIC ADMINISTRATION, SOCIAL WORK, PARKS AND RECREATION MANAGEMENT, ETC.)
26 LAW
27 SOCIAL SCIENCES (ANTHROPOLOGY, ARCHAEOLOGY, CRIMINOLOGY, ECONOMICS, HISTORY, POLITICAL SCIENCE, SOCIOLOGY, PSYCHOLOGY, ETC.)
30 BUSINESS & COMMERCE, GENERAL
31 ACCOUNTING
32 ADVERTISING
33 BANKING
34 BUSINESS MANAGEMENT
35 OFFICE OCCUPATIONS
36 RECREATION & TOURISM
37 TRANSPORTATION & PUBLIC UTILITIES
40 COMMUNICATIONS, GENERAL
41 JOURNALISM
42 BROADCASTING (RADIO & TV)
43 ADVERTISING
45 COMPUTER & INFORMATION SERVICES
46 COMPUTER PROGRAMMING
47 DATA PROCESSING
48 COMPUTER SYSTEMS ANALYSIS
50 FOREIGN LANGUAGES/HUMANITIES
51 RELIGIOUS STUDIES/THEOLOGY
55 HOME ECONOMICS/FAMILY LIFE SKILLS
60 TRADE & VOCATIONAL, GENERAL
61 AVIATION TECHNOLOGY
62 AUTO REPAIR (ENGINE & BODY)
63 CARPENTRY & CONSTRUCTION
64 DIESEL TECHNOLOGY
65 ELECTRICITY (HOUSE WIRING)
66 HEAVY EQUIPMENT OPERATIONS
67 WELDING & METAL FABRICATION
68 COSMETOLOGY
69 AVIATIONAL ASSOCIATED CAREERS (COMMERCIAL PILOT, STEWARDESS, ETC.)
75 ELEMENTARY AND/OR SECONDARY EDUCATION
80 ENGINEERING, GENERAL
81 AEROSPACE ENGINEERING
82 ELECTRICAL ENGINEERING
83 MECHANICAL ENGINEERING
85 FINE OR APPLIED ARTS, GENERAL
86 COMMERCIAL ARTS
87 MUSIC
88 DRAMA
90 HEALTH PROFESSION, GENERAL
91 NURSING
92 DENTISTRY
93 MEDICAL, M.D.
94 CHIROPRACTIC
95 MENTAL HEALTH
96 PHYSICAL SCIENCE, GENERAL (GEOLOGY, PHYSICS, OCEANOGRAPHY, MATHEMATICS, CHEMISTRY, ETC.)
99 OTHER

TABLE B
LIST OF STATES

USE THE FOLLOWING NUMBER CODES TO ANSWER QUESTION 14 ON PAGE 3 OF THE SURVEY. (INDICATE IN WHICH STATE YOU PLAN TO ATTEND A POSTSECONDARY INSTITUTION.)

1. ALABAMA
2. ALASKA
3. ARIZONA
4. ARKANSAS
5. CALIFORNIA
6. COLORADO
7. CONNECTICUT
8. DELAWARE
9. DISTRICT OF COLUMBIA
10. FLORIDA
11. GEORGIA
12. HAWAII
13. IDAHO
14. ILLINOIS
15. INDIANA
16. IOWA
17. KANSAS
18. KENTUCKY
19. LOUISIANA
20. MAINE
21. MARYLAND
22. MASSACHUSETTS
23. MICHIGAN
24. MINNESOTA
25. MISSISSIPPI
26. MISSOURI
27. MONTANA
28. NEBRASKA
29. NEVADA
30. NEW HAMPSHIRE
31. NEW JERSEY
32. NEW MEXICO
33. NEW YORK
34. NORTH CAROLINA
35. NORTH DAKOTA
36. OHIO
37. OKLAHOMA
38. OREGON
39. PENNSYLVANIA
40. RHODE ISLAND
41. SOUTH CAROLINA
42. SOUTH DAKOTA
43. TENNESSEE
44. TEXAS
45. UTAH
46. VERMONT
47. VIRGINIA
48. WASHINGTON
49. WEST VIRGINIA
50. WISCONSIN
51. WYOMING
52. FOREIGN

TABLE C
ALASKAN POSTSECONDARY INSTITUTIONS

USE THE FOLLOWING NUMBER CODES TO ANSWER QUESTION 15 ON PAGE 3 OF THE SURVEY. (INDICATE WHICH ALASKA INSTITUTION YOU PLAN TO ATTEND.)

1. ALASKA BIBLE COLLEGE
2. ALASKA BUSINESS COLLEGE
3. ALASKA PACIFIC UNIVERSITY
4. ALASKA VOCATIONAL TECHNICAL CENTER AT SEWARD
5. ANCHORAGE COMMUNITY COLLEGE
6. CHUKCHI COMMUNITY COLLEGE
7. EXTENSION CENTER NEAR HOME
8. HUTCHISON CAREER CENTER
9. KENAI PENINUSLA COMMUNITY COLLEGE
10. KETCHIKAN COMMUNITY COLLEGE
11. KODIAK COMMUNITY COLLEGE
12. KOTZEBUE TECHNICAL CENTER
13. KUSKOKWIM COMMUNITY COLLEGE
14. MATANUSKA-SUSITNA COMMUNITY COLLEGE
15. NORTHWEST COMMUNITY COLLEGE
16. PRINCE WILLIAM SOUND COMMUNITY COLLEGE
17. SHELDON JACKSON COLLEGE
18. SITKA COMMUNITY COLLEGE
19. TANANA VALLEY COMMUNITY COLLEGE
20. TECHNICAL INSTITUTE, BUSINESS OR TRADE SCHOOL
21. UNIVERSITY OF ALASKA, ANCHORAGE
22. UNIVERSITY OF ALASKA, FAIRBANKS
23. UNIVERSITY OF ALASKA, JUNEAU

APPENDIX B

SELECTED DATA TABLES

TABLE 22
DISTRIBUTION OF SENIORS BY SEX

SEX	NUMBER	PERCENT
Male	1,836	52.4
Female	1,642	46.8
No Response	27	0.8
TOTAL	3,505	100.0

TABLE 23
DISTRIBUTION OF SENIORS BY RACE

RACE	NUMBER	PERCENT
Alaska Native	787	22.5
Black	105	3.0
Oriental	61	1.7
Caucasian	2,345	66.9
Hispanic	42	1.2
Other	133	3.8
No Response	32	0.9
TOTAL	3,505	100.0

TABLE 24
DISTRIBUTION OF SENIORS BY
ANNUAL HOUSEHOLD INCOME

ANNUAL INCOME	NUMBER	PERCENT
Under $8,000	303	8.6
$8,000 to 14,999	339	9.7
$15,000 to 24,999	538	15.4
$25,000 to 39,999	805	23.0
$40,000 or over	1,169	33.4
No Response	351	10.0
TOTAL	3,505	100.0

TABLE 25
DISTRIBUTION OF SENIORS
BY PRIMARY HOME LANGUAGE

PRIMARY SPOKEN HOME LANGUAGE	NUMBER	PERCENT
English	3,190	91.0
Other	295	8.4
No Response	20	0.6
TOTAL	3,505	100.0

TABLE 26
DISTRIBUTION OF SENIORS
BY WORK EXPERIENCE

TYPE OF WORK	YES		NO		NO RESPONSE		TOTAL	
	NO.	%	NO.	%	NO.	%	NO.	%
Part-Time Job	2,423	69.1	1,040	29.7	42	1.2	3,505	100.0
Full-Time Summer Job	2,647	75.5	817	23.3	41	1.2	3,505	100.0
Work Study	1,109	31.6	2,302	65.7	94	2.7	3,505	100.0
Supervised Others	1,442	41.1	1,977	56.4	86	2.5	3,505	100.00
No Work Experience	322	9.2	2,992	85.4	191	5.4	3,505	100.0

TABLE 27
DISTRIBUTION OF SENIORS BY RATING
OF SELECTED HIGH SCHOOL CHARACTERISTICS

HIGH SCHOOL CHARACTERISTIC	SENIOR RATING					
	OUTSTANDING		AVERAGE		POOR	
	No.	%	No.	%	No.	%
Variety of Courses	744	21.2	2,215	63.2	466	13.3
Quality of Instruction	830	23.7	2,365	67.5	228	6.5
Counseling Services	1,212	34.6	1,596	45.5	501	14.3
Special Help, if Needed	796	22.7	1,820	51.9	446	12.7
School Rules and Discipline	685	19.5	1,857	53.0	849	24.2
Grades, Marks, and Promotion	529	15.1	2,630	75.0	286	8.2
Athletic & Recreation Facilities	1,206	34.4	1,710	48.8	475	13.6
Library & Learning Centers	1,001	28.6	1,886	53.8	473	13.5
Vocational Training	981	28.0	2,152	61.4	285	8.3
Overall Satisfaction	1,066	30.4	1,857	53.0	344	9.8

TABLE 28
DISTRIBUTION OF SENIORS BY NEED
FOR ADDITIONAL ASSISTANCE AND BY HOUSEHOLD INCOME

ANNUAL HOUSEHOLD INCOME	AREAS OF ASSISTANCE							
	WRITING		READING		MATHEMATICS		CAREER PLANNING	
	YES	NO	YES	NO	YES	NO	YES	NO
Under $8,000	167	124	176	115	201	93	187	109
$8,000 to $14,999	154	175	159	172	194	137	195	135
$15,000 to $24,999	214	316	231	300	282	249	276	254
$25,000 to $39,999	294	495	317	471	380	413	383	408
$40,000 or over	388	752	416	724	516	637	573	612
No Response	145	196	144	199	182	162	160	182

TABLE 29
DISTRIBUTION OF SENIORS BY GRADES
EARNED IN HIGH SCHOOL AND BY SEX

GRADES	MALE		FEMALE		TOTAL	
	Number	Percent	Number	Percent	Number	Percent
Mostly A's	216	39.6	330	60.4	546	100.0
Mostly B's	768	47.3	856	52.7	1,624	100.0
Mostly C's	765	64.7	418	35.3	1,183	100.0
Below C's	82	76.6	25	23.4	107	100.0
No Response	5	27.8	13	72.2	18	100.0
TOTAL	1,836	52.7	1,642	47.2	3,478	100.0

TABLE 30
DISTRIBUTION OF SENIORS BY GRADES
EARNED IN HIGH SCHOOL AND BY RACE

GRADES	ALASKA NATIVE		BLACK		CAUCASIAN		OTHER	
	NO.	%	No.	%	No.	%	No.	%
Mostly A's	75	9.5	7	6.7	427	18.2	35	14.8
Mostly B's	377	47.9	30	28.6	1,113	47.5	102	43.2
Mostly C's	302	38.4	62	59.0	743	31.7	74	31.4
Below C's	26	3.3	6	5.7	55	2.3	21	8.9
No Response	7	0.9	0	0.0	7	0.3	4	1.7
TOTAL	787	100.0	105	100.0	2,345	100.0	236	100.0

EFFECTIVE SCHOOLING IN RURAL ALASKA:

INFORMATION FOR THE RURAL EFFECTIVE SCHOOLS PROJECT

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July 1983

RESEARCH SUMMARY

Background

Rural Alaska educators are skeptical about the applicability of national "effective schooling" research to culturally different village schools. The effective schooling research focuses on such matters as efficient use of classroom time, using standardized test scores to set academic priorities, and direct instruction to the class as a whole.

The Alaska Department of Education is planning to establish a rural Effective Schools Project in 1983. The Department is specifically concerned about the appropriateness of this research for rural Alaska and generally concerned with how to make the Effective Schools Project of value to rural education.

Purpose

In view of the controversy on effective schooling practices in rural Alaska, we added questions on this topic to a general survey of rural teachers. We asked teachers:

- how often they or their schools used the kinds of practices discussed in the national literature on effective schooling;
- how often they or their schools used instructional practices research has found to be especially effective with Native American children;
- what instructional methods they personally found most effective in their own communities; and
- how satisfied they were with students' academic progress, their own opportunities for professional growth, and other conditions of rural Alaska education.

Methods

We received surveys from 304 rural teachers. One teacher was randomly sampled from each school outside urban areas (such as Anchorage or Fairbanks). Response rate was 96 percent.

While the response rate was unusually high for a mailed survey, the limitations of questionnaires must be kept in mind in interpreting the results. We could not ask teachers in a survey how often they used many of the practices identified in the national literature on effective schooling; classroom observation would be required. In addition, standard measures of such concepts as "academic expectations" may not be applicable to rural Alaska.

Results

National Effective Schooling Practices

The majority of rural teachers do not often use national effective schooling practices. Fewer than half the teachers, for example, said that their schools often used standardized testing to set academic priorities or that their schools had found ways to schedule non-academic activities to limit disruption of instructional time.

Among teachers of junior high school students and above, about half regularly assigned homework. Rural teachers pointed out that many students did not have the lighting, space, or opportunity at home to complete homework. About a quarter of the teachers, however, overcame this problem by holding after-school study sessions twice a week or more. The classroom atmosphere, they felt, helps students get down to work and a teacher is available when students need assistance.

Teachers in all rural schools expected virtually all of their students to complete high school. The majority of teachers in Native majority schools, however, did not expect many students to attend or complete college, and they believed parents held similar views.

Only about 40 percent of teachers in Native majority schools felt that their students' academic ability was the same or higher than students' nationwide and that achievement at or above national norms could be expected of their students. In view of the isolation and different cultural background of many communities, teachers' views may be realistic. These results, however, underscore the problem of determining what "counts" as high academic expectations and reasonable standards for success in a village setting.

Effective Practices in Native American Education

While the national literature on effective schooling focuses on such issues as efficient use of time and standardized test scores, the research literature on Native American education has identified a different set of "effective" educational practices. These include, for example, use of Native teacher aides, self-paced instruction, and use of local examples to illustrate academic concepts. Most teachers in Native majority communities said they used these practices often.

When asked to describe the teaching practices they personally found effective, rural teachers emphasized those in the Native American research literature more often than those in the national effective schooling literature. Teachers emphasized the usefulness of such practices as 1) diverse instructional techniques, especially hands-on materials, 2) self-paced instruction, especially where the teachers set standards for how much work should be completed, 3) cooperative student learning, especially group projects and peer tutoring, and 4) involving parents and community people in the classroom.

Teacher Satisfaction with School Conditions

Most rural teachers are satisfied with their pay and benefits, teacher-student relationships, student discipline at their schools, and relationships between the school and the community. What frustrates many rural teachers is relationships with the district center, not relationships across cultures. About half the teachers in Native majority communities were dissatisfied or only somewhat satisfied with the district board's actions, the superintendent's management, and the support they receive from the central office. Many teachers are also dissatisfied with their own opportunities for professional growth.

Most rural teachers, especially more experienced teachers, are satisfied with the general quality of education at their schools. In Native majority communities, however, slightly over half the teachers were dissatisfied or only somewhat satisfied with their students' academic progress.

Implications

The focus of effective schooling projects in most states is academic progress. These results suggest that many rural teachers, particularly those in Native majority communities, see academic progress as a problem and will be receptive to this issue. Most rural teachers, especially experienced teachers, are satisfied with the general quality of education their schools offer. The Rural Effective Schools Project should avoid any negative implications about rural schools.

Most rural teachers, however, are unlikely to consider the national research on effective teaching helpful. When they consider what works in their own schools, they are likely to focus on practices emphasized in the research on Native American education. The Rural Effective Schools Project can point out that there is typically no conflict between the research on effective schooling and the research on Native American education.

In working with village schools, the Rural Effective Schools Project should be aware of the tensions that sometimes exist between the district center and the village schools and of the need to develop independent support for the project at both the central office and the individual school level. The project also needs to be aware of rural teachers' sensitivity to what rural parents want and to collaborate with parents as well as with teachers in any efforts to improve rural schools.

THE ISSUE

Rural Alaska educators are skeptical about the "effective schooling" practices summarized in the Governor's Task Force on Effective Schooling (1981). The Task Force attempted to identify, on the basis of national research, "effective schooling practices which would have general applicability to Alaskan students" (p.43).[1] The Alaska Department of Education (DOE) is using these findings to assist Alaska schools in designing their own improvement strategies. In 1982, DOE focused on urban schools; in 1983 DOE plans to begin a Rural Effective Schools Project.

Rural educators question whether the national findings on effective schooling—usually coming from large urban elementary schools—apply to the small Native multi-grade schools typical of rural Alaska. For example, national research on effective schooling shows that "children in the primary grades evidence higher achievement levels when they receive instruction in closely supervised, highly structured small group settings" (Governor's Task Force, p. 62). Direct instruction in small group settings is difficult to arrange in rural schools. The teacher must monitor children sometimes spanning five grade levels or more. A small group of students at the same grade level may not even exist. Self-paced individualized instruction, in the view of many rural teachers, is what works.

Is the national research literature irrelevant to the multi-grade classrooms of rural Alaska? Or do Native children also learn more from direct instruction in small groups rather than self-paced instruction where this situation can be arranged?

Rural teachers also question the national research literature on effective schooling because it does not take into account the specific cultural

characteristics and learning styles of Native American children. Indeed, a review of the research on Native American education has identified a different set of "effective" instructional practices (Cotton and Savard, 1981a). This set of practices does not typically contradict the findings of national research. It focuses, however, on other matters--the importance of warm, supportive teachers, Native American teachers and teacher aides, hands-on materials, and cooperative student projects.

PURPOSE OF REPORT

The purpose of this report is to provide background information for educators interested in finding ways to support rural schools in increasing their effectiveness.

We present the views of 304 randomly sampled rural Alaska teachers on effective instruction in their communities. We asked teachers:

1) how often they or their schools used the national effective schooling practices recommended in the Task Force Report;

2) how often they or their schools used the instructional practices research has found to be especially effective with Native American children;

3) what instructional practices they personally found most effective in their own communities; and

4) how satisfied they were with their students' academic progress, their own opportunities for professional growth and development, and other school conditions in rural Alaska.

METHODS

This teacher survey was part of a large study of school governance in rural Alaska conducted by Dr. Gerald McBeath at the University of Alaska with the assistance of Judith Kleinfeld, Bill McDiarmid, and others. In view of the controversy on effective schooling practices in rural Alaska, we added questions on this topic to a general survey of rural teachers.

The Sample

We mailed the survey in the spring of 1982 to one randomly selected teacher from each rural Alaska school (N = 315). (We defined "rural" as schools outside urban areas, such as Anchorage, Fairbanks, Juneau, and Kenai.) The response rate was extremely high—96 percent of the rural teachers answered our questions. Most teachers answered the questions carefully; indeed, many wrote notes in the margins to clarify their views.

The total sample—304 rural Alaska teachers--is unusually large and representative of rural schools. Since we sampled one teacher from each rural school (not rural teachers in general) the sample includes large numbers of teachers from small, multi-grade schools.

Limitations of a Survey

In asking teachers about their own instructional practices or those commonly used at their school, we faced a problem. Some of the most important instructional practices identified in the national literature cannot be measured through a survey.

Study after study, for example, has found that in some classrooms students spend most of their time doing academic tasks. In others, classwork is constantly interrupted because the teacher stops to discipline students, pass out materials, or attend to administrative details. "Time on task" is strongly related to gains in achievement on standardized tests (see review by Cotton and Savard, 1981b).

A mailed survey, however, cannot be used to measure how much time rural Alaska students spend doing academic work. Most teachers could not say with any accuracy how many minutes a day their students are on task. Classroom observation--extremely expensive and time-consuming in remote rural schools--would be required. What we could ask teachers in a mailed survey is a related question--whether their school has found a way to limit the interruptions common in rural schools, for example, basketball games, medical and dental exams, student trips, and the like.

In short, we could not ask rural teachers about every effective instructional practice discussed in the Task Force Report. We did ask about those practices which teachers could report on in a mailed survey.

Data Analysis

We analyzed teachers' reports by many categories--whether the school was Native majority (80 percent or more), white majority (80 percent or more), or of mixed ethnicity; whether the school was REAA, BIA, city or borough; whether the school was large or small; and the number of years experience the teacher had in the community or in rural Alaska education.

In presenting the results, we use the categories where statistically significant differences most frequently occurred. In the case of the principal's instructional role, for example, the greatest differences occurred in schools of

different size. In the case of teachers' expectations about whether or not their students would attend college, the greatest differences occurred between Native and white majority communities. Where no substantial differences occur, we present results for all rural teachers.

FINDINGS

Use of National Effective Schooling Practices

National research suggests that the following practices are strongly and consistently related to student achievement (Governor's Task Force, 1981). We asked rural Alaska teachers how often they used them:

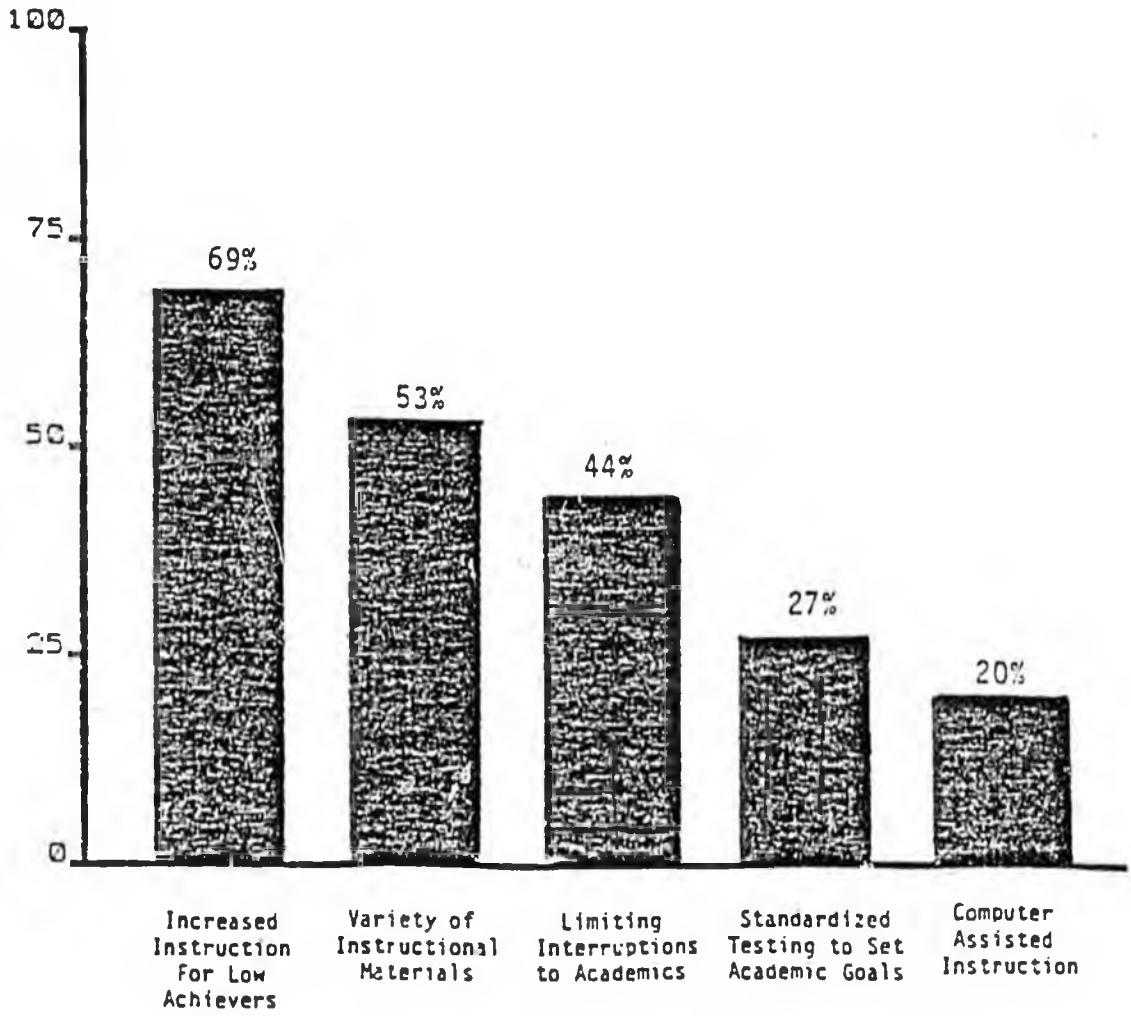
- Allocating additional instructional time for low ability, low-achieving students (including Title I and other programs).
- Using computer-assisted instruction to supplement regular teaching.
- Using standardized test scores to set academic priorities and objectives.
- Using diverse instructional materials including kits, mock-ups, modules and hands-on projects.
- Scheduling non-academic activities to limit disruption of instructional time.

Of these five practices, the only one used in most schools (69 percent) was increasing instructional time with low achieving students (Table I). Federally funded Title I programs probably account for the frequency of this practice. About half the teachers (53 percent) said they used a variety of instructional materials. But less than half said that the school attempted to schedule non-academic activities outside classtime, that computers were used on a regular basis,[2] or that the school paid attention to standardized test scores in setting academic goals and priorities. Most teachers said that their schools used these practices "somewhat" but not "often."

TABLE 1

NATIONAL EFFECTIVE TEACHING PRACTICES

TEACHERS USING PRACTICE OFTEN:
ALL RURAL SCHOOLS



SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

We found very little difference in the use of these practices in schools of different size or of different ethnic composition. Since BIA schools are being phased out in rural Alaska, it is interesting, however, that these were the schools most likely to use some of these practices. BIA schools were significantly more likely to use standardized test scores to set academic goals and priorities (50 percent) and to schedule non-academic activities so they did not interrupt classwork (62 percent). We do not know why this is the case. Possibly these results indicate the narrower academic emphasis of the BIA—an older and more traditional school system.

Homework

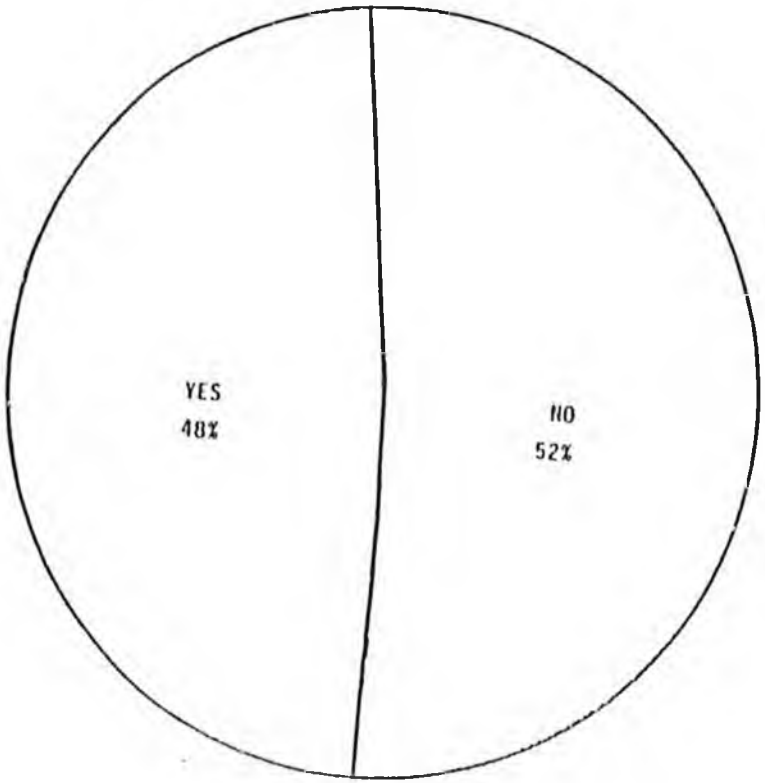
Another instructional practice related to student achievement in national research is regularly assigning homework (Coleman, Hoffer, and Kilgore, 1982). In rural Alaska many teachers find whether or not to give homework a troublesome issue. As some teachers explained in the margins of the survey, students may not have the lighting, space, or opportunity at home to complete homework. (One teacher in a traditional Eskimo community wrote that the "school board requested that students not be given homework.")

In view of these circumstances, we asked rural teachers whether they regularly assigned homework to their students. Slightly less than half (48 percent) said they did (Table 2). Some of these teachers, of course, teach in the early elementary grades where homework is not conventional. When we consider only teachers of junior high and high school students, the proportion of teachers who assign homework increases but only slightly (55 percent).

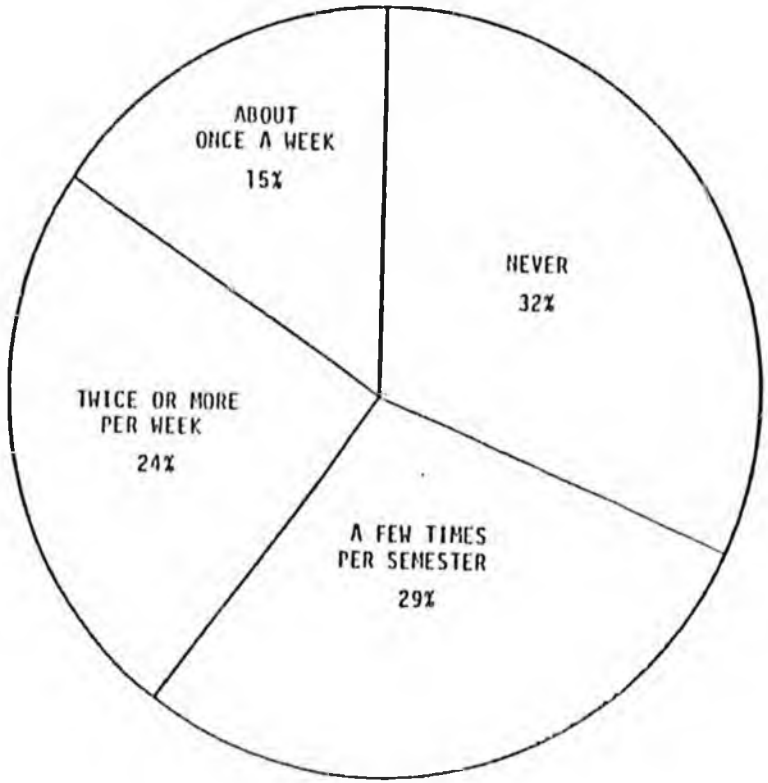
Some rural teachers, aware that students find it difficult to do homework at home, hold before or after school study sessions where students can do homework. The classroom atmosphere, they argue, helps students get

TABLE 2

HOMEWORK AND AFTER-SCHOOL STUDY SESSIONS:
ALL RURAL SCHOOLS



PROPORTION OF RURAL TEACHERS WHO REGULARLY ASSIGN HOMEWORK



PROPORTION OF RURAL TEACHERS WHO HOLD FORMAL BEFORE OR AFTER SCHOOL STUDY SESSIONS

SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

down to work and the teacher is there when the students need help. About a quarter of the rural teachers we surveyed held such study sessions as often as twice a week and another 15 percent held them once a week (Table 2). Teachers of junior high and high school students held after school study sessions no more frequently than other teachers.

More experienced rural teachers are more likely to hold after school study sessions. For example, only about 20 percent of teachers in Native communities with one to four years' experience held after school study sessions; among teachers with five or more years' experience 46 percent held such sessions ($p < .06$).

Teacher Expectations

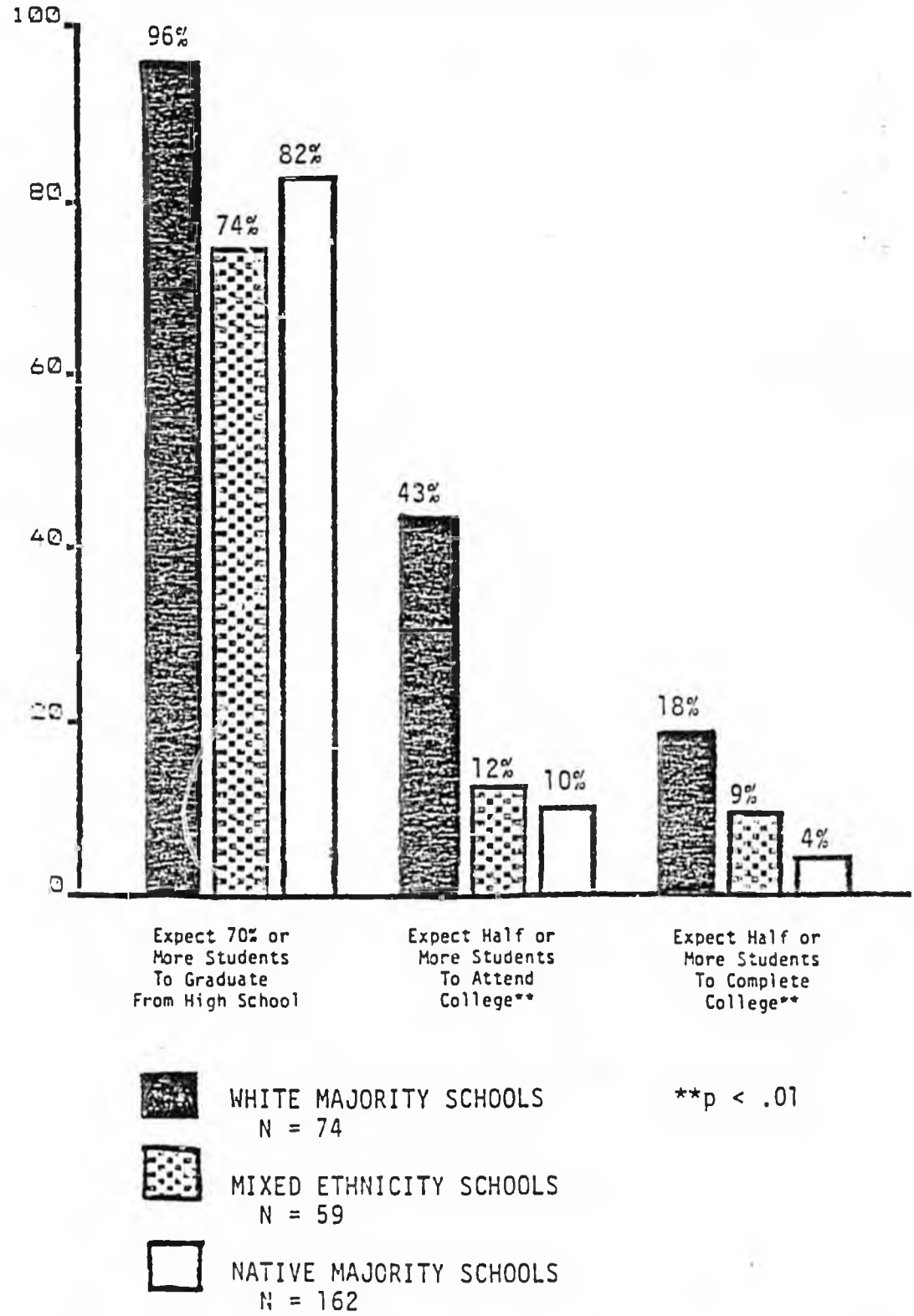
In the national literature on effective schooling, holding high expectations for student achievement has been found to be a critical characteristic of effective teachers (see especially Brookover, 1979). Typically expectations are measured by asking teachers such questions as what proportion of their students they expect to complete high school and attend college, how they would compare the ability of their students to students nationally, and whether they feel their students can be expected to achieve at national norms.[3]

Rural teachers, whether their students are mostly Native or mostly white, expect the majority of their students to complete high school (Table 3). Teachers in Native majority schools, however, are significantly less likely to expect students to attend and complete college than teachers in white majority schools (Table 3).

Rural teachers' own views about college for their students are consistent with what they think parents want for their children. In Native

TABLE 3

RURAL TEACHERS' EXPECTATIONS ABOUT
HIGH SCHOOL AND COLLEGE COMPETITION:
WHITE MAJORITY, MIXED, AND NATIVE MAJORITY SCHOOLS



SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

majority communities, 49 percent of the teachers said that none of the parents expected students to complete college. In white majority communities, the same proportion of teachers believed that parents expected half or more students to complete college.

We did not survey parents in either Native or white communities, and we do not know if teachers' perceptions are correct or incorrect. Teachers' comments in the margins of the surveys, however, suggest their concern about parents' support for what they are trying to do in school:

> "It gets very depressing to a teacher. You really get tired of playing the heavy and being the only (most of the time) negative influence on their life. By negative I mean that you try to enforce some kind of discipline or rules."

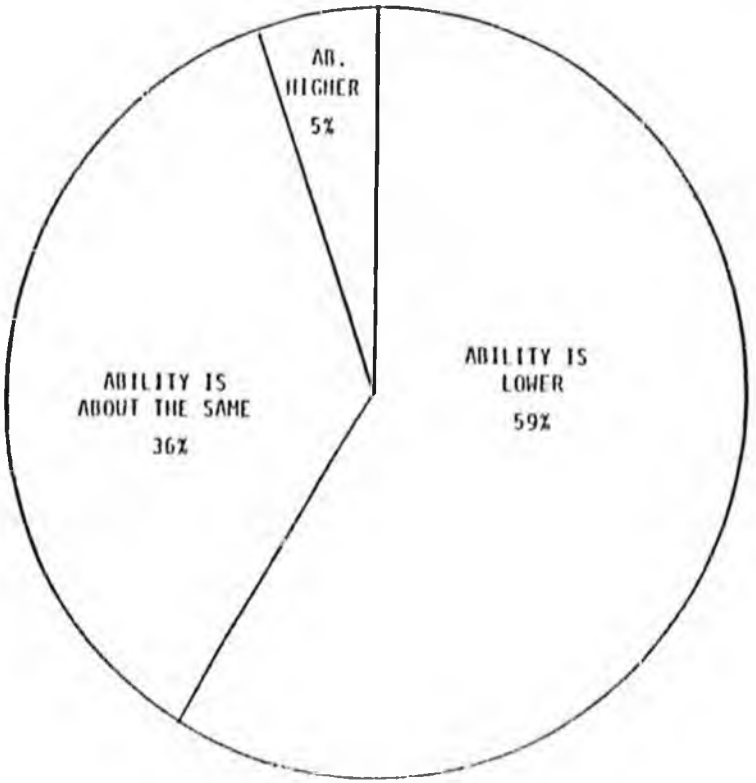
> "Parents are reluctant to see their children leave home and become indoctrinated in a foreign culture."

> "If the parents would support the teacher we would have much greater success."

When we asked rural teachers about the level of academic achievement they could expect of their students, there were again wide differences between Native majority schools and white majority schools. About 60 percent of rural teachers in Native majority communities felt that the academic ability of their students was lower than that of students nationally (Table 4). Sixty percent also felt that their students could not be expected to achieve at national norms (Table 5). Similarly, only slightly more than half the teachers in Native majority communities felt their schools could be better than average (Table 6).

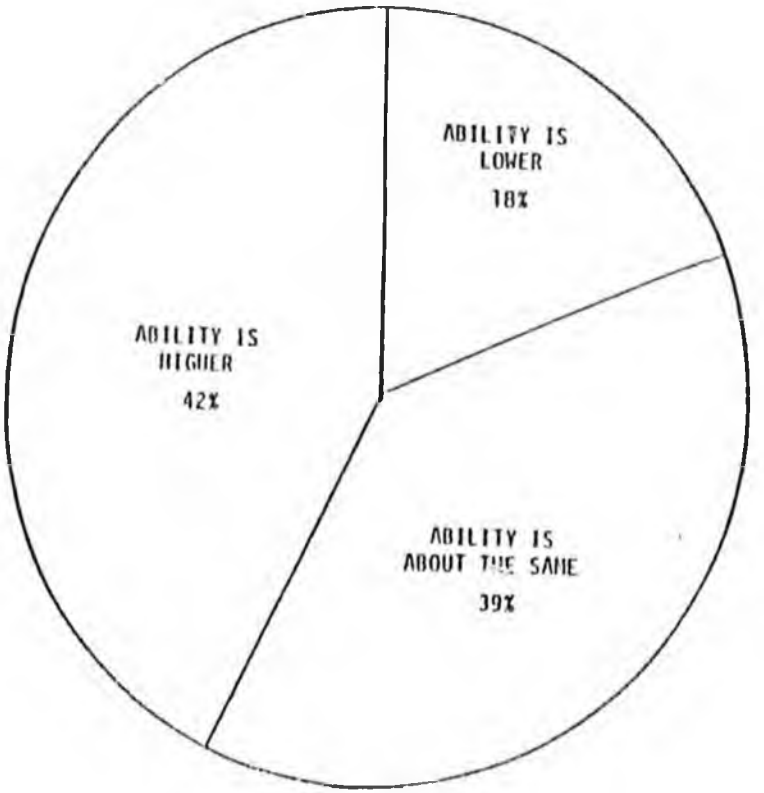
TABLE 4

RURAL TEACHERS' VIEWS OF THEIR STUDENTS' ACADEMIC ABILITY
COMPARED TO STUDENTS NATIONWIDE:
NATIVE MAJORITY SCHOOLS AND WHITE MAJORITY SCHOOLS



NATIVE MAJORITY SCHOOLS**

N = 162



WHITE MAJORITY SCHOOLS**

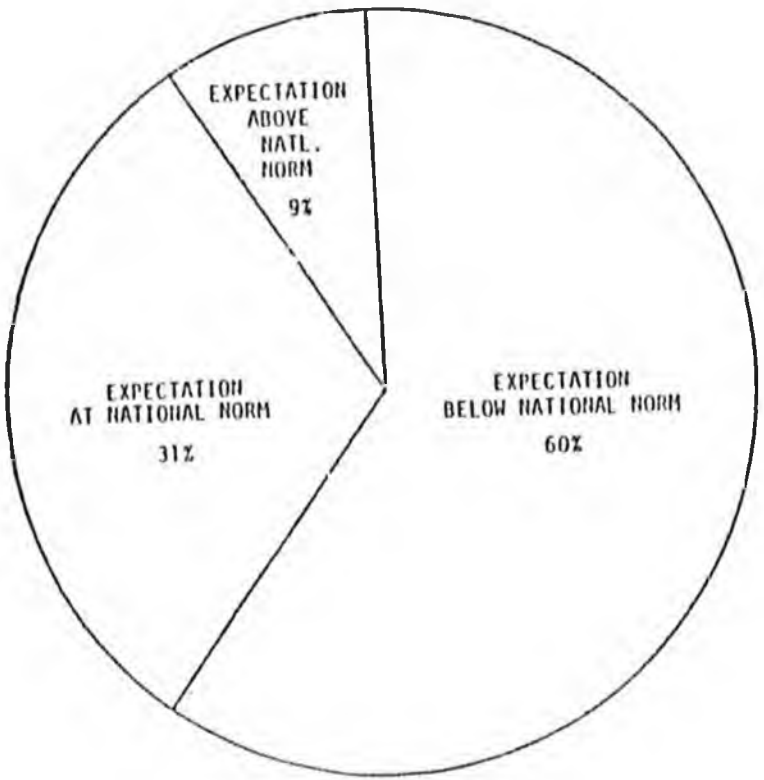
N = 74

**p < .01

SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

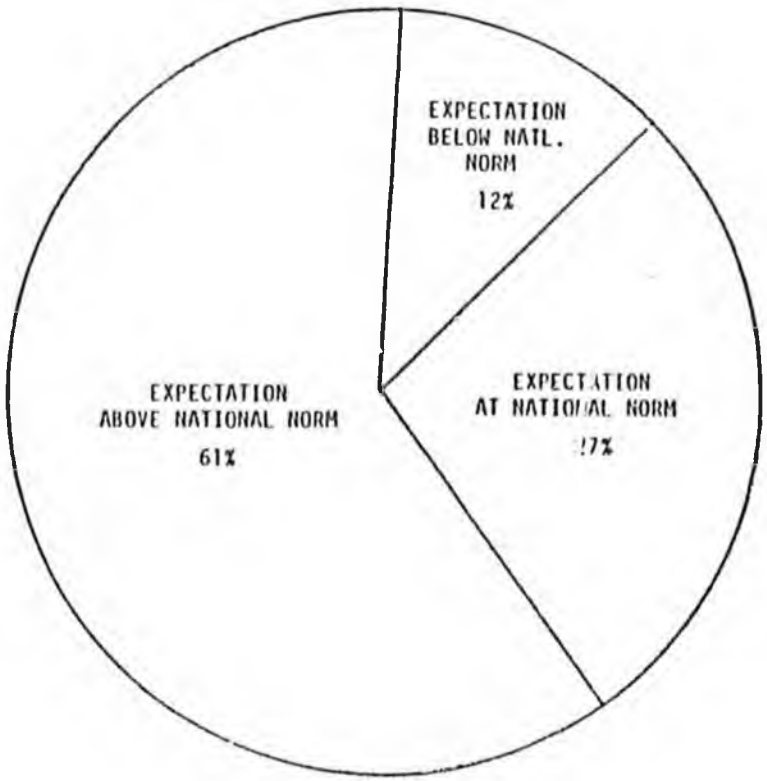
TABLE 5

RURAL TEACHERS' VIEWS ON THE ACHIEVEMENT LEVEL
THAT CAN BE EXPECTED OF THEIR STUDENTS:
NATIVE MAJORITY SCHOOLS AND WHITE MAJORITY SCHOOLS



NATIVE MAJORITY SCHOOLS **

N = 162



WHITE MAJORITY SCHOOLS **

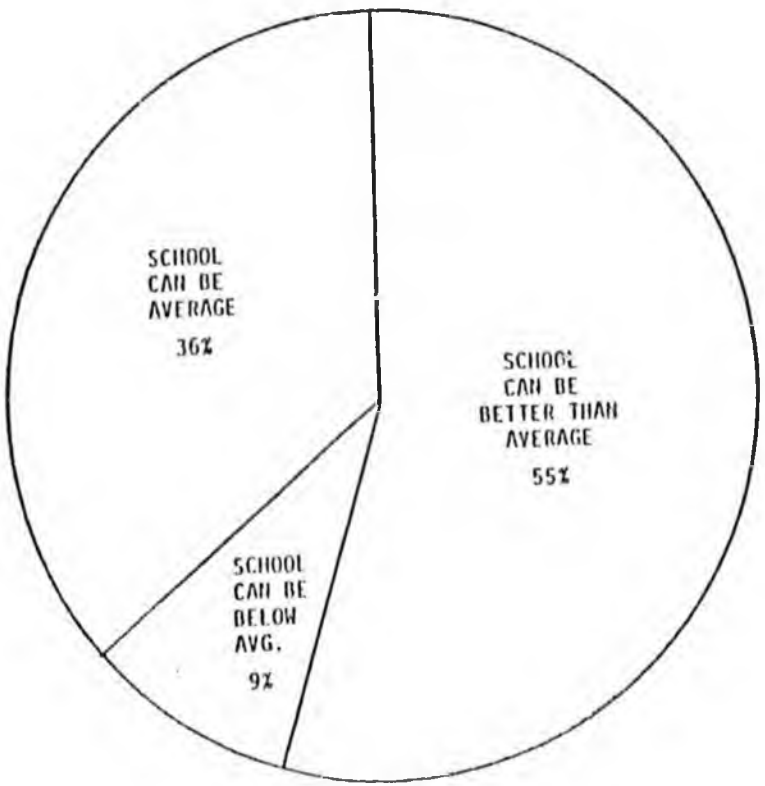
N = 74

**p < .01

SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

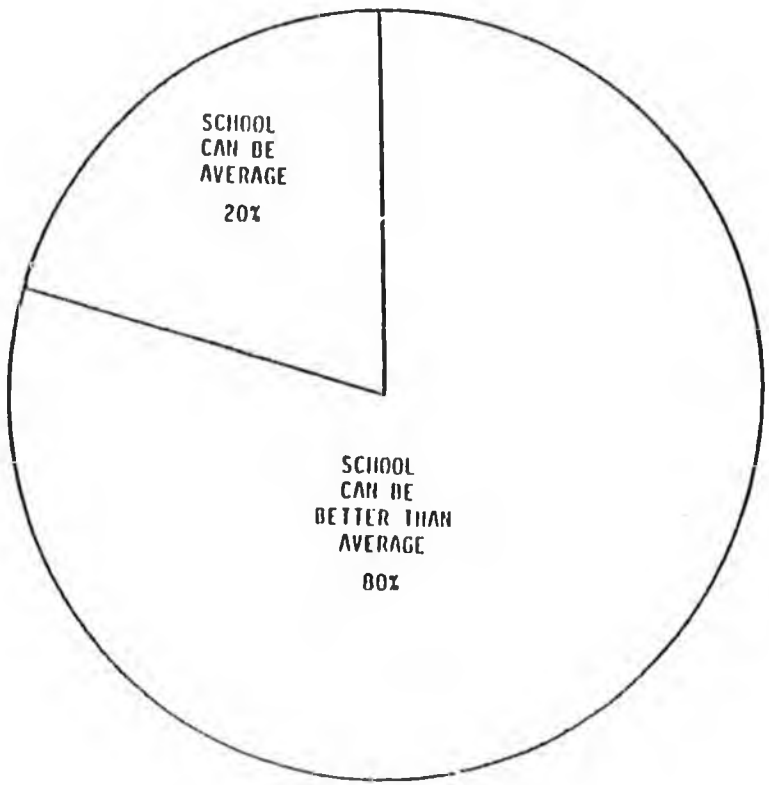
TABLE 6

RURAL TEACHERS' VIEWS ON HOW GOOD A SCHOOL
THEIR SCHOOL CAN BE:
NATIVE MAJORITY SCHOOLS AND WHITE MAJORITY SCHOOLS



NATIVE MAJORITY SCHOOLS**

N = 162



WHITE MAJORITY SCHOOLS**

N = 74

** $p < .01$

SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

It is difficult to know how to interpret these results. One view is that rural teachers are simply being realistic. They are aware that their students have grown up in isolated, culturally different communities and that for many standard English is a second language. They know that in fact most students score below national norms. It would be unreasonable to expect their students to do as well as students nationally. Indeed, several teachers wrote on their surveys that we should be careful NOT to interpret their responses as "low expectations."

While we were inclined to accept this view, it is still troubling that so many rural teachers do not expect their students to achieve at national norms. A national norm, after all, is an average of children from the inner city and rural Mississippi as well as from Scarsdale. The issue of how to set reasonable standards, of what kinds of academic performance should count as success, is a vexing one in rural education.

Use of Native American Effective Teaching Practices

In a review of the research literature on Native American education, Cotton and Savard (1981a) identified instructional practices especially effective with Indian and Eskimo students. These practices are quite different from those identified in the national literature on effective schooling. They emphasize localized instruction rather than efficient use of time. The practices include:

- Use of Native teacher aides
- Self-paced instruction
- Cooperative student learning situations (such as peer teaching and group projects)
- Use of local curriculum materials (such as legends)
- Use of local examples to illustrate academic concepts

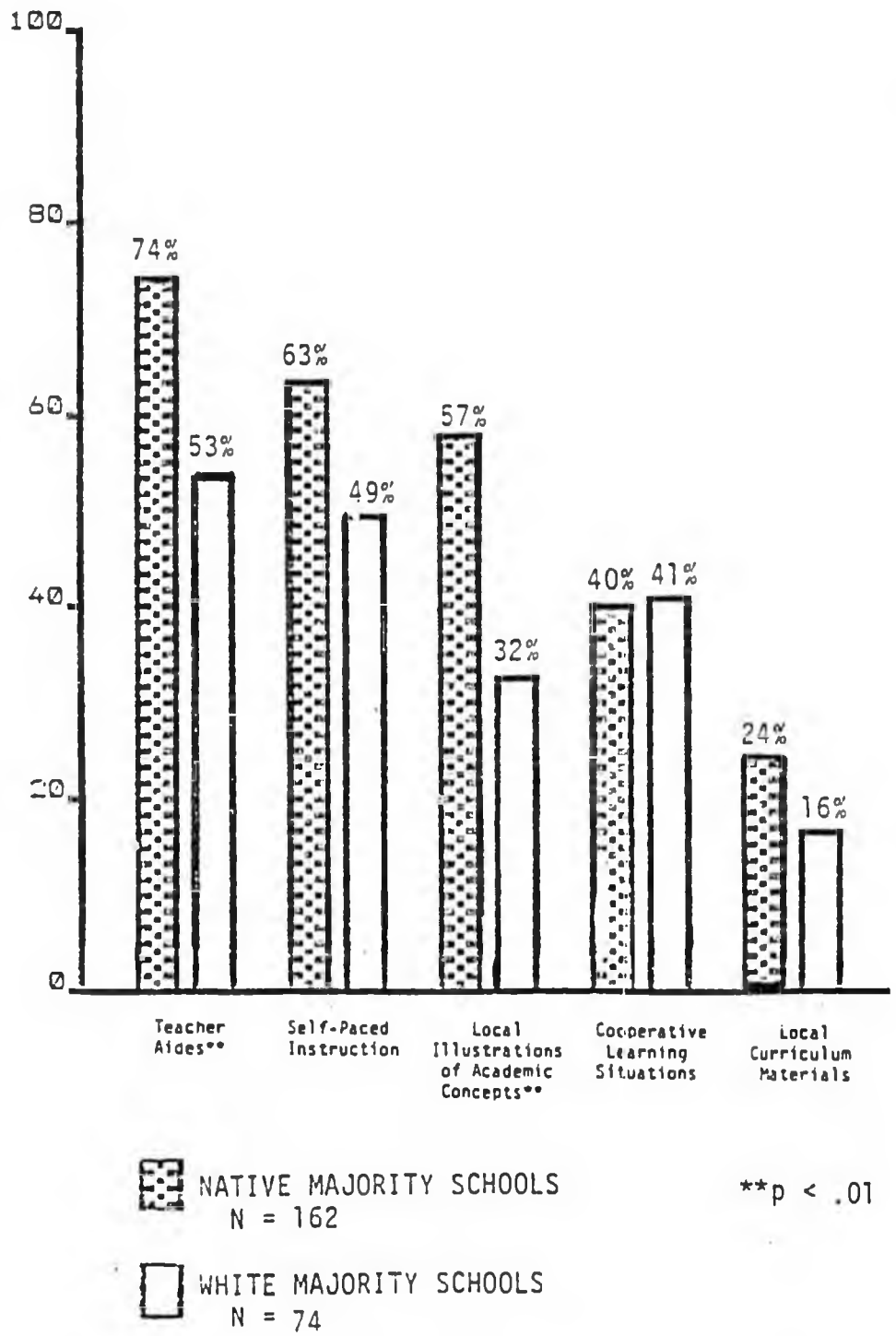
The practices listed above, however, are not supported by a substantial body of well-designed research. In general, research on Native American education is scarce. Such practices as "time on task" have not been systematically examined with Native Americans.

We found that rural teachers in Native majority schools used the practices linked to effective teaching of Native American students fairly often (Table 7). Almost three-fourths of the teachers, for example, said their schools often used teacher aides. More than half the teachers frequently used self-paced instruction and relied on local examples to explain academic concepts. More experienced teachers were especially likely to use these practices. For example, 44 percent of teachers with five or more years experience in the community often used local curriculum materials; among teachers with two to four years experience, 17 percent often used local

TABLE 7

USE OF INSTRUCTIONAL PRACTICES RESEARCH HAS FOUND ESPECIALLY EFFECTIVE WITH NATIVE AMERICAN STUDENTS: NATIVE MAJORITY SCHOOLS AND WHITE MAJORITY SCHOOLS

USE PRACTICE OFTEN



SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

materials ($p < .04$). More experienced teachers were significantly more likely to use local examples to illustrate academic concepts. They were somewhat more likely (the trends did not quite reach conventional levels of statistical significance) to use self-paced instruction and cooperative student learning situations.

Instructional Practices Rural Alaska Teachers See as Highly Effective in Their Communities

We asked rural teachers to describe briefly the instructional practices they found particularly effective in their own communities. Each of the following practices were mentioned by about 20 percent of the teachers (a fairly large group considering the wide variety of practices teachers mentioned):

1. Use of diverse instructional materials, especially hands-on materials.

> "Any type of hands-on class seems to be a better motivator than a purely academic program. Arts, music, small engines, skin sewing, etc."
>
> "Hands-on projects that are pertinent and meaningful to everyday life."
>
> "Hands-on projects have shown the most knowledge gains."

2. Self-Paced Instruction, especially when the teachers sets some standards for the amount of work to be completed.

> "Self-paced with guidelines (such as at least five pages in math done by Friday; they can go faster but have to meet the minimum requirements)."
>
> "As I have only ten students in a one room school, self-paced (and teacher-paced) instruction works well. I find group activities hard to plan because of the grade level spread."

3. Cooperative Student Learning, especially group projects and peer tutoring.

> "Group assignments are very effective."
>
> "In a multi-grade classroom, the older students make wonderful teachers for the younger students."
>
> "Group projects such as a weekly school-community newspaper."

4. Involving Parents and Community People in the Classroom.

> "Sending home nightly study guides for the family to work on that day's reading vocabulary and word skills." (majority white community)
>
> "Retired community people with special talents and interests." (majority white community)

When asked to describe the teaching practices they saw as effective, few rural teachers mentioned any of the practices discussed in the national literature on effective schooling.[4] The exception was the use of diverse instructional materials and here rural Alaska teachers added a different emphasis—the importance of hands-on materials.

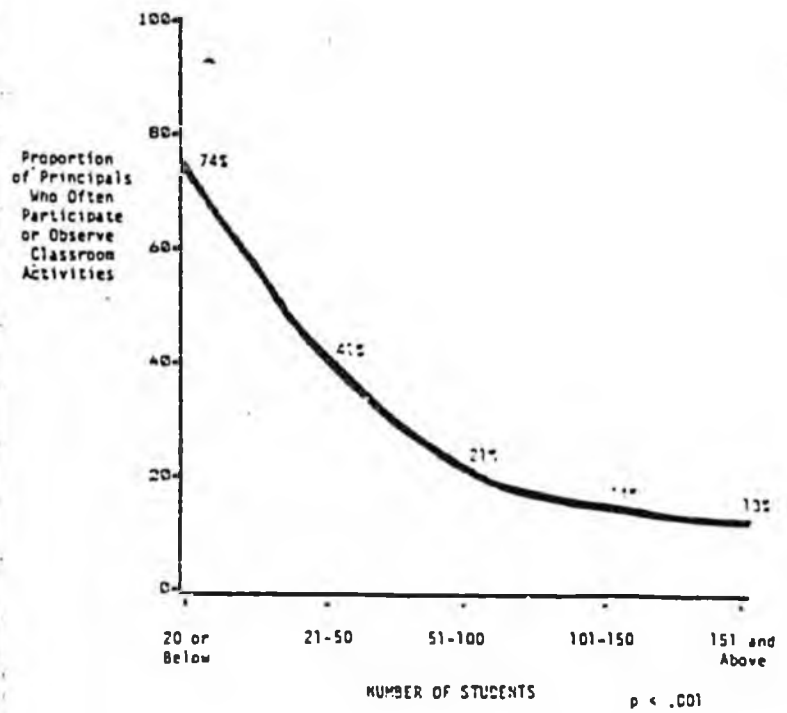
Rural Principals' Instructional Role

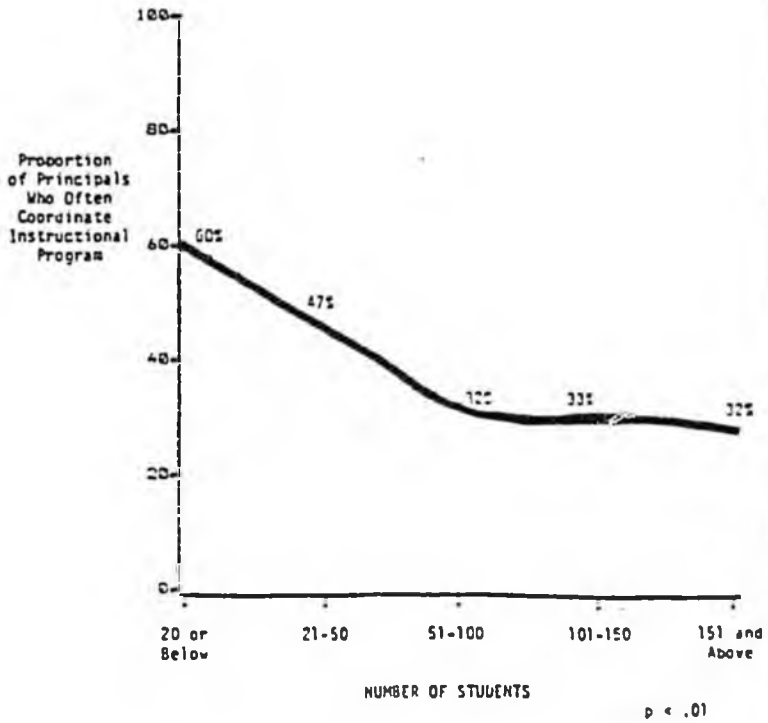
The national literature on effective schooling suggests that the achievement of low-income children goes up when the building principal takes on the role of instructional leader and focuses staff and student energy on raising achievement levels (Cotton and Savard, 1981c).

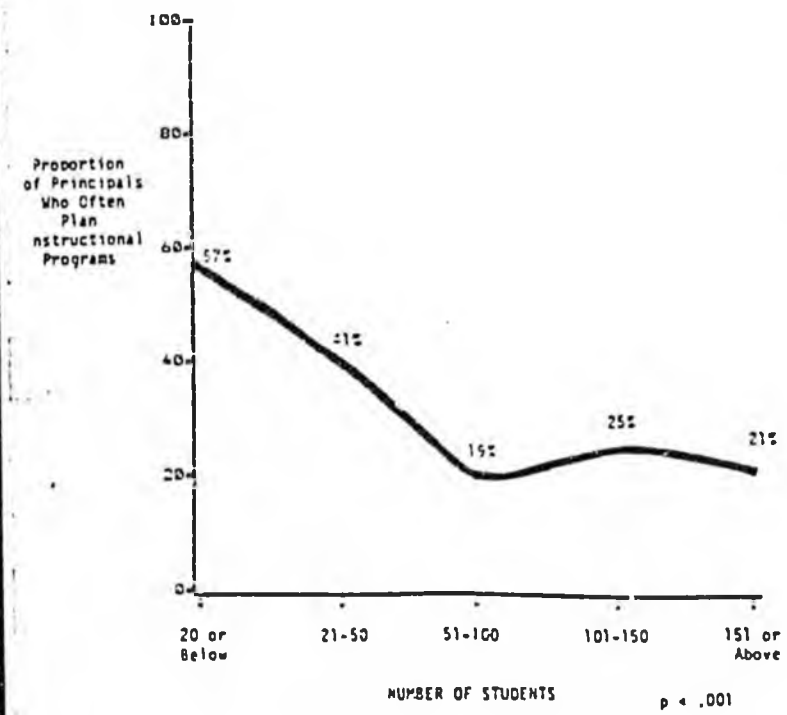
Principals in Alaska rural schools, especially smaller schools, already participate to a great extent in the business of teaching (Table 8). The role of the principal is strongly related to the size of the school. In very small schools, almost three-fourths of the principals are also classroom teachers. In schools of 50 students or below, about half the principals often plan, coordinate, and evaluate instruction.

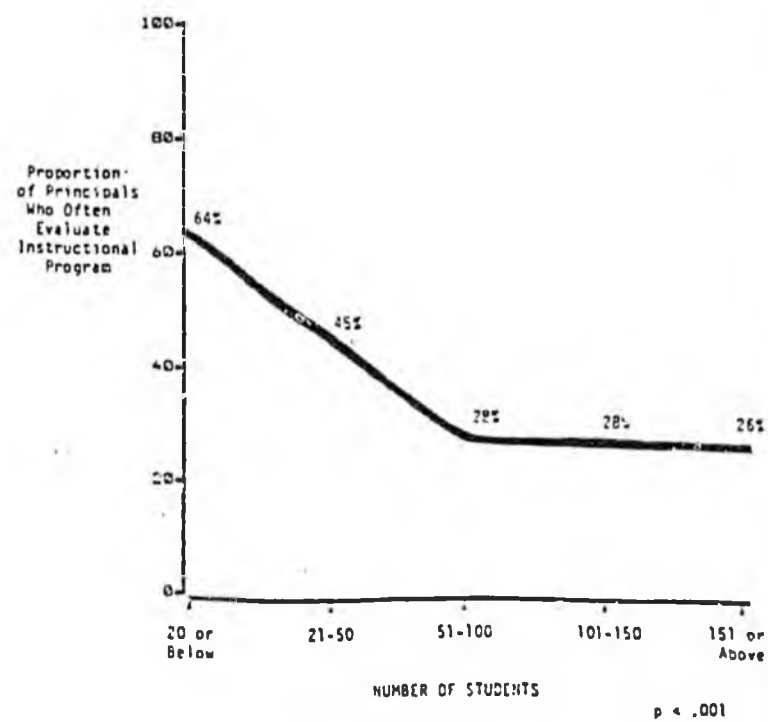
TABLE 8

THE PRINCIPAL AS INSTRUCTIONAL LEADER:
ALL RURAL SCHOOLS









SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

Rural Teachers' Satisfaction With School Management and Working Conditions

Reading through 304 teacher surveys, many marked with marginal comments, was a disheartening experience. The teachers' dominant mood was frustration. Occasionally, a teacher would voice satisfaction:

> "This is a great place to be, challenging students, helpful parents, and a cooperative district. We love it here so I don't know when we'll leave."

But the majority of the notes in the margins were complaints. Many teachers were depressed and dissatisfied, even though the majority (78 percent) thought they were personally successful as rural teachers.

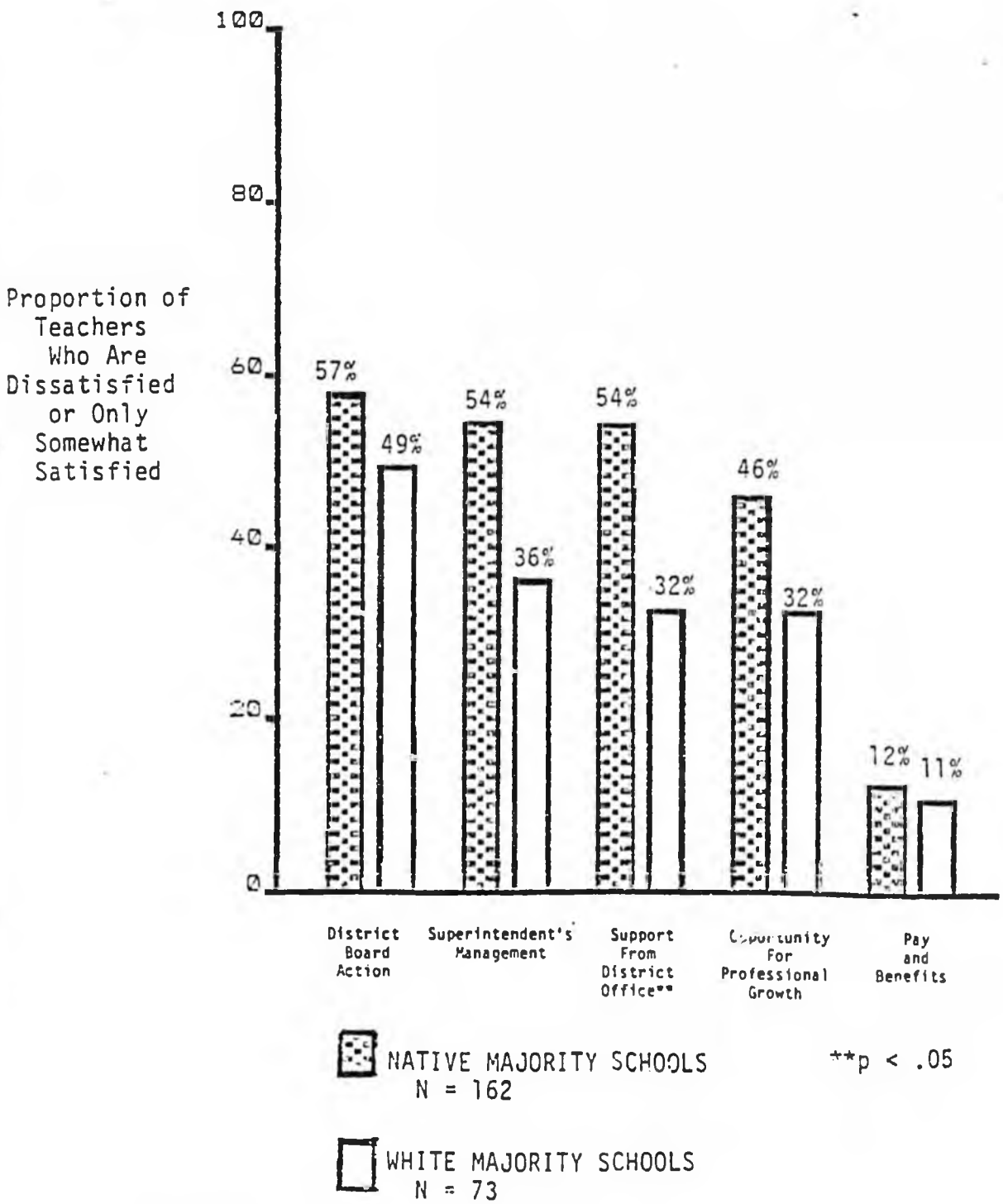
We asked teachers what they were satisfied and dissatisfied about—pay and benefits, housing, relationships with the students and with the community, district office management, students' academic progress, and so on. The results surprised us.

The majority of teachers were not concerned about the standard issues discussed in contract negotiations or legislative reports or the academic literature. Most teachers (88 percent) were satisfied with their pay and benefits (Table 9). Housing was an acute problem for some (about a third), but not for most. Nor did teachers find it difficult to develop good relationships with the culturally different students they taught. Indeed most teachers (93 percent) saw their relationships with students as a major source of satisfaction.

What frustrated teachers most was not relationships with different cultures but relationships with the district office. More than half the teachers in Native majority communities were dissatisfied or only somewhat satisfied

TABLE 9

TEACHER SATISFACTION WITH SCHOOL MANAGEMENT
AND WORKING CONDITIONS:
NATIVE MAJORITY SCHOOLS AND WHITE MAJORITY SCHOOLS



**p < .05

SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

with the district school board, the superintendent's management, and the support they received from the district office.

Several teachers commented on the margins of their survey, for example, that the school near the central office received an unfair share of equipment. Some teachers in remote schools said that the "superintendent never has been here to make a visit" and that the district office "too frequently forgets the village schools." Others felt that the district staff did not support them and did not understand their situation:

> "Many problems that face rural schools are self-inflicted—usually from the central office. Administrators who have never worked or lived in rural Alaska often make decisions that do not fit village life or needs."

These types of tensions are common between any "center" and its "periphery", whether it is a corporate headquarters and its remote offices, a city and its countryside, or the district office and its village schools. The central office perspective is, of course, quite different. Central office staff see themselves as having many schools to visit, many programs to administer, many grant applications and reports to write. The point of interest to the rural Effective Schools Project is the existence of such tensions and the need to develop a strategy for change that is supported by both the central office and the village schools.

Another area where a large proportion of teachers were dissatisfied was with their own opportunities for professional growth. In Native majority communities, 46 percent of the teachers mentioned this area (Table 9). One teacher wrote on her survey:

> "I am in a tiny school—one other teacher not my husband. I have no one to ask questions of. My class of primary grade children includes an incredible range of students (skill, intelligence, behavior, motivation). I have an unworkable curriculum guide which presents me with ample materials to use with each grade--three--and each subject—eight—but no advice at all for my class. My district has offered me one training session, one week. I am alone!"

Rural teachers see the lack of opportunities, for example, to talk over their teaching problems with other professionals as one of the serious problems of village teaching. Professional exchanges in an isolated village school are difficult. The teaching staff itself is small and few instructors teach similar grade levels or subjects. The teacher can't talk shop with someone else, for example, who is struggling with how to teach high school English. In addition, interpersonal tensions can develop between rural teachers at the same school. Unlike urban teachers, a village teacher cannot leave it all, vent frustrations to an uninvolved party, and return the next morning with a different perspective.

EFFECTIVE SCHOOLING IN RURAL ALASKA:

INFORMATION FOR THE RURAL EFFECTIVE SCHOOLS PROJECT

Judith Kleinfeld and G. Williamson McDiarmid
Institute of Social and Economic Research
University of Alaska
Fairbanks, Alaska 99701

July 1983

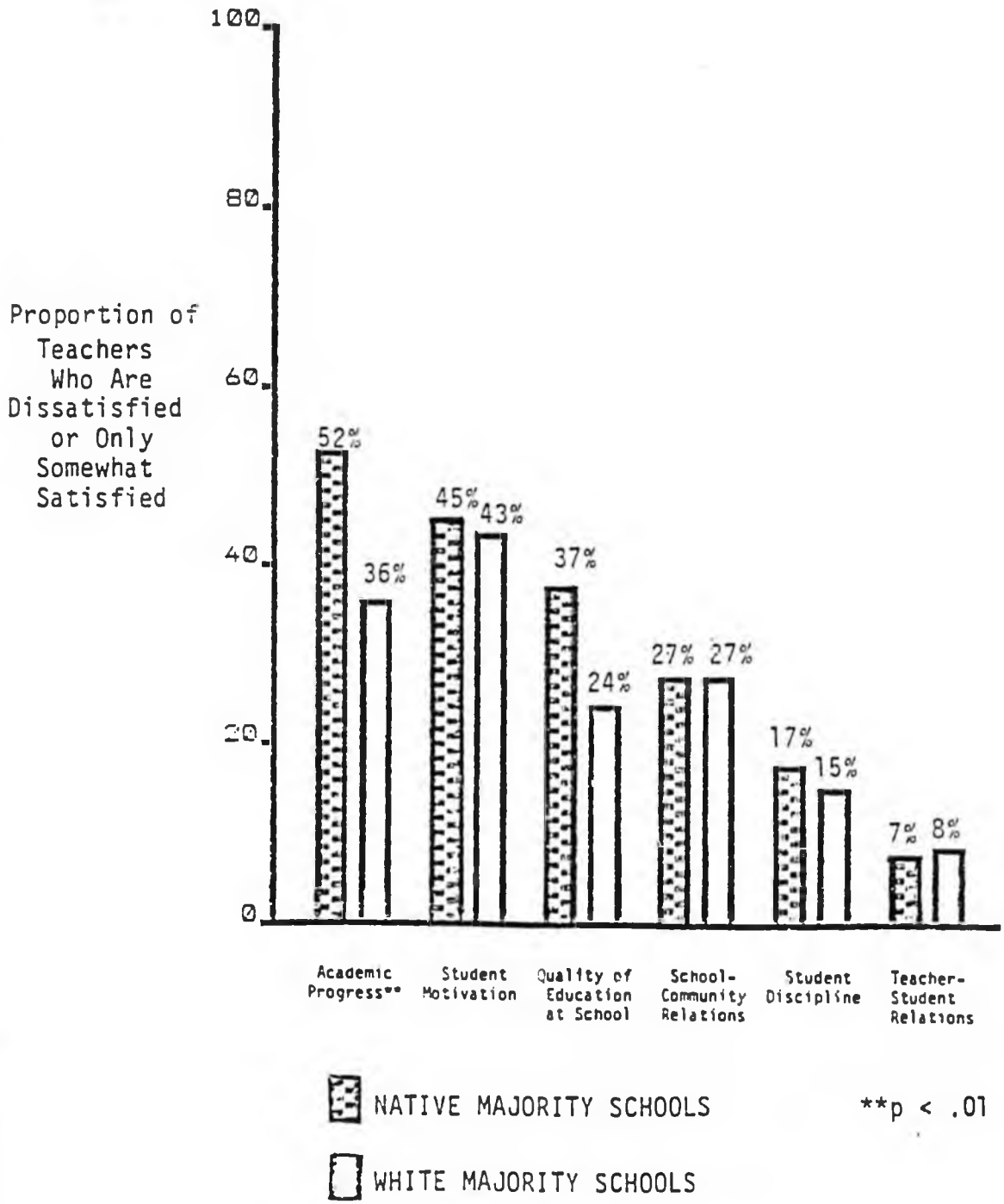
Rural Teachers' Satisfaction With Educational Conditions

Most rural teachers (63 percent) were satisfied with the general quality of education at their school (Table 10). Teachers with more experience in rural Alaska education were significantly more satisfied. Of teachers who had five years or more experience, for example, 79 percent were very or mostly satisfied with the general quality of education.

When we asked teachers more specifically about academic progress, however, less than half the teachers were satisfied. More experienced teachers were not significantly more satisfied than those new to rural Alaska education. Teachers saw a key problem as motivation, not discipline or teacher-student relationships (Table 10).

TABLE 10

TEACHER SATISFACTION WITH EDUCATIONAL CONDITIONS:
NATIVE MAJORITY SCHOOLS AND WHITE MAJORITY SCHOOLS



SOURCE: McBeath, G., Kleinfeld, J., McDiarmid, G., and Coon, D. A Statewide Survey of Rural Alaska School Teachers, Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska, 1982.

IMPLICATIONS FOR THE RURAL EFFECTIVE SCHOOLS PROJECT

In attempting to change schools, it is critical to begin with what teachers see as problems. It is important, therefore, to know that many rural teachers do see students' academic progress—the typical focus of statewide effective schooling projects—as a serious issue. Rural teachers may well be receptive to a project aimed at assisting them to increase students' academic skills. The majority of teachers are satisfied, in contrast, with the general quality of education in their school. A project that appears to teachers to be based on the assumption that rural schools are somehow "failing" will be unattractive.

Rural Alaska teachers are not likely, however, to be receptive to the instructional practices that national research has found to be important in raising achievement among low income children. Most of these practices are not used often in rural schools. Nor are these the practices that come to mind when teachers think about what really works in rural classrooms.

The majority of teachers in Native majority communities, in contrast, do use often some of the instructional practices that research has linked to the effective education of Native American education—Native teacher aides, self-paced instruction, using local examples to illustrate academic concepts. When we asked teachers what worked in their own classrooms, they mentioned these kinds of practices, not the practices emphasized in the national research literature.

The Rural Effective Schools Project should point out to teachers that there is no necessary contradiction between the national research on effective schooling and the research on Native American education. (The value of individualized, self-paced instruction is an exception.) The effective schooling

literature focuses in large part at the school level. The Native American education literature focuses primarily at the classroom level. It is not surprising that teachers, concerned with making their classrooms run well and fine tuning their methods, are more interested in the classroom level. Both sets of practices may be important to rural schooling.

In working with teachers to improve small rural schools, there are special opportunities and special pitfalls. An opportunity is that many rural teachers are dissatisfied with what they are offered in the area of professional growth and development. The Rural Effective Schooling Project may be able to provide professional assistance that teachers will appreciate. Another advantage is that rural principals, particularly in small schools, are already active in instruction. Many principals are principal-teachers and plan, coordinate, and evaluate the instructional program. Rural principals are strategically placed to become instructional leaders.

In working with village schools, however, the Rural Effective Schools Project should be aware of the tensions that exist between many village schools and the central office. The Project should carefully develop independent support at both the school and central office levels.

The Rural Effective Schools Project also needs to be aware of rural teachers' sensitivity to what parents want and the feeling of teachers in some communities that parents do not expect their children to go on to college. The issue of what should count as high expectations and academic success in a culturally different village school warrants discussion. This is an issue that cannot be appropriately considered without the participation of village parents. Above all, the Rural Effective Schools project needs to gain the active support of parents for efforts to improve rural schools.

FOOTNOTES

[1] Many reviews of the literature on effective schooling practices have been published in the national literature. This paper refers primarily to the literature reviews conducted by the Northwest Regional Educational Laboratory. These reviews were commissioned by the Governor's Task Force on Effective Schooling and form the research base most discussed in Alaska.

[2] This survey was done in the spring of 1982. More computers have been introduced to rural school since this time. How often they are used, however, is another question.

[3] We used the set of questions developed by Brookover et al. (1979) to measure academic expectations. Brookover found these items to be highly related to achievement in Michigan schools enrolling low income black and white children. We made minor modifications of these items to make them more appropriate for rural Alaska.

[4] Our survey question on what instructional practices the teacher personally found effective came after the survey questions asking whether the teacher used the practices described in the national literature or the literature on Native American education. We asked teachers to draw either from these lists or elsewhere in describing what they personally found effective.

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Governor's Task Force on Effective Schooling. Effective Schooling Practices. A Report Presented to the Honorable Jay S. Hammond, Governor of Alaska, 1981.

504

2/1/84

Vern

NOTICE

The House Health, Education and Social Services Committee gives notice that it will take testimony on House Bill 504, "An Act establishing the teacher scholarship loan program," at the times and locations indicated below:

Kotzebue
Kotzebue Technical Center
1:00 p.m.
Friday, February 3, 1984
Teleconferenced to Capitol Room 112, Juneau, 1:00 p.m.

Nome
Nome City Hall
10:00 a.m.
Saturday, February 4, 1984
Teleconferenced to Capitol Room 112, Juneau, 10:00 a.m.

Bethel
Kuskokwim Inn Annex
12:00 p.m.
Sunday, February 5, 1984
Teleconferenced to Capitol Room 112, Juneau, 12:00 p.m.

If necessary, the Chairman may at her discretion limit testimony to a stated amount of time per witness.

Please contact Bill Lovell at 465 - 3777 or the local Legislative Information Office for more information.

/wtl



Janet M. Merrill
8760 Dudley St.
Juneau, Alaska 99801

February 7, 1984

Rep. Vern Hurlbert
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Vern;

With respect to your recent letter concerning House Bill 504, I would like to state that I do support the concept of this bill. I do, however, have some reservations with respect to section 14.43.630, entitled "Conditions of Loans." In order to encourage a larger number of Native people to take advantage of this loan program, I would suggest the following revisions: 1) Loans should be available to graduate students as well as undergraduates. 2) The forgiveness scale for returning to the home school district to teach should be extended to returning to any rural district in Alaska to teach (perhaps with a maximum of 75% forgiveness for the latter option).

I personally feel that these amendments would increase the quality and the quantity of applicants. As a professional in the field of education, I am encouraged in your efforts to pass this bill, and wish you success and support. Please feel free to share this letter with The Speaker of the House, Mr. Joe Hayes.



Sincerely,

Janet

Janet M. Merrill

Telephone (907) 662-2325

Gwitchyaa Zhee Corporation

Box 57
Fort Yukon, Alaska 99740



February 7, 1984

Representative Vern Hurlbert
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Representative Hurlbert:

This letter is written in support of House Bill No. 504 which was recently introduced in the second session of the 13th Legislature.

As Native Leaders of Native Corporation and the Community we are well aware of your concerns on the lack of Native teachers within the teaching position. Unfortunately to our knowledge their is only two certified Native teacher in the district.

We need to work together to encourage educational excellence in all perspective among our students and to place role models in the classrooms.

One other thing is to encourage or have mandatory regulation of Department of Education and the local School District hire certified Native teachers when they are graduates of X-CED Programs.

In any event we sincerely support the concept of House Bill 504.

Sincerely,

Nancy James
General Manager
Gwitchyaa Zhee Corporation

cc: Nels Petersen, President GZ Corporation
NJ:abp





01-30-84

Dear Vern,

I have written letters to Joe Hayes and my local representative Adelheid Hermann. I thank you for the letter of Jan. 20, 1984 and I will continue to support and encourage others to support H.B 504.

Yours truly
Betty Hirsch

Alaska Native Land Managers Association
840 K Street, Suite 202
Anchorage, Alaska 99501
(907) 272-1254

February 13, 1984

Representative Vern Hurlbert
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: HB 504

Dear Representative Hurlbert:

At a recent meeting of the Alaska Native Land Managers Association, the membership passed the enclosed resolution urging passage of HB 504, dealing with establishing the teacher scholarship loan program.

We feel that this bill satisfies an important need in rural Alaska. For too long, young people have left the villages to attend college, never to return. Additionally, we have watched a parade of non-native teachers through the village schools. We feel that it is important to have a stable staff of teachers in rural schools. We also feel that it is preferable to have native teachers teaching in predominantly native schools in order to understand and preserve the unique culture and history of Alaska Native peoples. It is our feeling that native teachers will provide a valuable role model for students in rural Alaska. The students need to see that they can be a success and that they can be leaders in today's world.

We feel strongly that the passage of HB 504 will be another step along the path towards improving rural education and the lives of rural Alaskans.

Very truly yours,

Daniel Alex

Daniel Alex,
President

Respond

HSS Staff

MSG 84-00011995 PRTY 1 02/09/84 15:06:15 ORIG: LG00 IN= 0015 OUT= 0138
FROM: JOANN GLENNALLEN TO: JNU LIO FOR RE-TRANSMISSION
TARGET: LJHK SUBJ: POM

PUBLIC OPINION MESSAGE TO: SENATORS - KERTTULA AND MOSS
REPRESENTATIVES - SHULTZ AND TISCHER

SENDER: MAXWELL D. FANCHER, RETIRED PUBLIC SCHOOL ADMINISTRATOR
BOX 72 GLENNALLEN, ALASKA 99588
HOME PHONE: 822-3715 WORK PHONE: 822-5241 X200

MESSAGE: RE - HB 504

1. OPEN THE BILL TO GRADUATES OF PRIVATE SCHOOLS AND GED GRADUATES
2. ALLOW STUDENTS TO APPLY TO ANY SCHOOL DISTRICT WHERE THERE IS AN ESTABLISHED NEED FOR NATIVE TEACHERS.
3. LOAN FORGIVENESS: IF DISTRICT WHERE STUDENT RECEIVES LOAN HAS NO OPENING ALLOW STUDENT TO TEACH IN ANY OTHER DISTRICT WHICH HAS ETHNIC NEED.
4. WHAT EMPLOYMENT COMMITMENT WILL SCHOOL DISTRICT PROVIDE FOR GRADUATE?
5. WHAT HAPPENS IF A DISTRICT HAS NO OPENINGS BUT ANOTHER DISTRICT DOES?
6. THE CONCEPT AND NEED FOR THIS BILL SHOULD RECEIVE A HIGH PRIORITY.





MSG 84-00012465 PRTY 1 02/10/84 15:12:31 ORIG: LG00 IN= 0008 OUT= 0098
FROM: JOANN GLENNALLEN TO: JUNEAU LIO FOR RE-TRANSMISSION
TARGET: LJHK SUBJ: POM

******** PUBLIC OPINION MESSAGE ********

TO: ALL REPRESENTATIVES AND SENATOR MOSS
FROM: FRED T. WILLIAMS
MILE 112 RICHARDSON HWY.
BOX 91, GLENNALLEN, AK 99588 HOME PHONE: 822-3922

RE: HB 504 I OPPOSE THIS BILL. THE PRESENT STUDENT LOAN PROGRAM NOW PROVIDES FUNDS FOR EDUCATIONAL PURSUITS. A LACK OF EDUCATIONAL FUNDS AND OPPORTUNITIES IS NOT THE REASONS WE DO NOT HAVE MORE NATIVE TEACHERS. CREATING ANOTHER STATE PROGRAM WILL NOT SOLVE THIS PROBLEM.

MSG 84-00014783 PRTY 1 02/17/84 10:15:07 ORIG: LN00 IN= 0002 OUT= 0029
FROM: SANDY / NOME TO: JUNEAU INFORMATION
TARGET: LJHK SUBJ: P.O.M. 5

TO: REPRESENTATIVE MAE TISCHER, CHAIRPERSON, HESS COMMITTEE
REPRESENTATIVE SAM PESTINGER, VICE-CHAIRPERSON, HESS COMMITTEE
REPRESENTATIVE AL ADAMS, REPRESENTATIVE JACK FULLER

FROM: DEBORAH K. SWISHER, DIRECTOR
BILINGUAL TEACHER EDUCATION PROGRAM
KAWERAK, INC.
P.O. BOX 948
NOME, ALASKA 99762PHONE: (W) 443-5231 EXT. 53 (H) 443-5702

RE: HB 504

PLEASE HOLD ADDITIONAL TELECONFERENCE. INTENT OF BILL IS GREAT. PROBLEMS INCLUDE POSSIBLE POLITICAL NATURE OF SCHOOL BOARD, DISTRIBUTION OF FUNDS; STUDENTS SHOULD BE ALLOWED ONE YEAR GRACE PERIOD IF JOB IN DISTRICT IS NOT AVAILABLE; MOBILITY TO ANOTHER DISTRICT DESIRABLE; RESTRICTION TO PUBLIC SCHO GRADUATES QUESTIONABLE.

Bill

February 1, 1984



Representative Joe Haynes
Pouch V
Juneau, Alaska 99811

Dear Representative Hayes:

I am responding to Representative Vern Hurlbert's letter concerning House Bill No. 504. As a Native with elementary certificate, I fully support this bill.

This year I am in NEA-Alaska Minority Affairs Committee, but due to my location I am unable to work closely with other Native teachers in my region. I am also having some difficulty with telephones and mail service, which is not my fault.

I have been teaching at Gambell Elementary School for two years. This year I am asking BSREAA for transfer to Shishmaref which is my home town. I have not heard from them yet other than my principal, Dave Bowling, recommending for the transfer. I would very much like to teach there, for simple fact, I have my parents and my house there. I also have other projects I would like to do. Enclosed you will find part of my official records, which clearly stated my reason since the year I graduated.

One of the main reasons why it is hard for Natives to come back to the villages is lack of support from the District and the Board. you see, I am the first person from my village to earn a degree in education but due to jealous and other factors, I have unable to teach in my village.

One of the reasons why we have few graduates is because of lack of funds to continue and complete training to become a teacher. I am still paying for my state loan. Students with families have no money to support families while at the campus, and therefore takes forever to complete courses. We have many students in our regions who have been students for years but due to lack of funds, it is impossible to complete any projects.

One thing I oppose is Sec.14.43.650,(b)Each school district shall award teacher scholarship loans... My reason is some students may not be award due to personal conflict with the Board president o administors. Some people are very hard to deal with in the villages. They tend to create problems which prevents students from recieving support. They tend not follow professional criteria. I think this is wrong for I was and still the victim of such actions. We need some one else to over see the program if it passes. In fact, I would like to be involve in such program.

I have been very successful with my students this year and last. I feel we should have more Natives in positions.

Thank you for supporting our people. Someday, I hope we will be treated like any other teachers in the world and be proud.

Sincerely,

George Olanna, Sr.

George Olanna, Sr.
5th & 6th Grade teacher

cc:

Rep. Vernon Hurlbert

Rep. John "Jack" Fuller

NEA-Alaska Minority Affairs Committee

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

FEB 1984
RECEIVED

To Whom it may concern:

I was born and raised in Shishmaref, Alaska. I attended Mt. [illegible] High School and upon graduation, moved to Washington [illegible] I continued my training as auto mechanic. I worked as a mechanic for total of seven (7) years.

[illegible] rapidly. [illegible] concept of Native Pride was disappearing. I didn't like what I saw and wanted to help educate our young people to realize that it is acceptable to be a Native. I wanted to show what I have seen outside of Alaska. I couldn't do it being a mechanic.

[illegible] as a teacher in my village and my culture, I will [illegible]:

1. [illegible] by example for the students to demonstrate that a Native can receive an education that will [illegible] Native life style and still be a Native.

2. With the development of the Land Claims Act, the future citizens of our villages will need education to be successful.

3. To help students to see changes that will come in the future, and that are now in process.

4. [illegible] communication between the teachers and students.

[illegible] goals I have set will expand as my experience increase.

Sincerely,

George Olanna, Sr.

George Olanna, Sr.

[illegible] PAGE

Form 7

Re typed: Nov. 12, 1983

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

Alaska Native Land Managers Association
840 K Street, Suite 202
Anchorage, Alaska 99501
(907) 272-1254

February 13, 1984

Representative Mae Tischer
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: HB 504

Dear Representative Tischer:

At a recent meeting of the Alaska Native Land Managers Association, the membership passed the enclosed resolution urging passage of HB 504, dealing with establishing the teacher scholarship loan program.

We feel that this bill satisfies an important need in rural Alaska. For too long, young people have left the villages to attend college, never to return. Additionally, we have watched a parade of non-native teachers through the village schools. We feel that it is important to have a stable staff of teachers in rural schools. We also feel that it is preferable to have native teachers teaching in predominantly native schools in order to understand and preserve the unique culture and history of Alaska Native peoples. It is our feeling that native teachers will provide a valuable role model for students in rural Alaska. The students need to see that they can be a success and that they can be leaders in today's world.

We feel strongly that the passage of HB 504 will be another step along the path towards improving rural education and the lives of rural Alaskans.

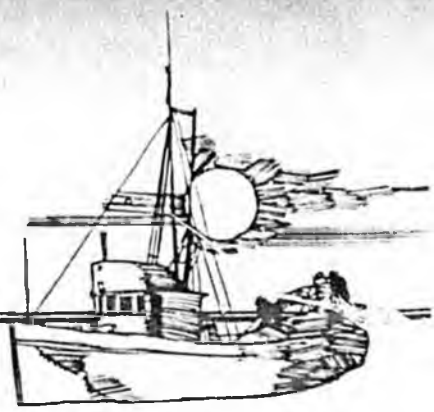
Very truly yours,

Daniel Alex

Daniel Alex,
President

CHUGACH

School District — Nyal D. Worsham, Superintendent



February 2, 1984



Honorable Joseph Hayes, Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

RE: House Bill #504

Dear Mr. Speaker:

I wish to speak in support of House Bill #504 related to a teacher scholarship fund for native students. Having spent the last eight years in Alaska bush and rural school systems, I know that our native students do need the relationships that native teachers can give to them.

We need positive counseling efforts to lead our future native teachers into the profession and give them support while they develop their teaching skills.

I thank you for the introduction of this bill and wish you and Representative Hurlbert success in its passage.

Sincerely,

Nyal D. Worsham, Supt.

cc: Representative Vern Hurlbert
Files

P. O. Box 638 Whittier, Alaska 99693 (907) 472-2343

WHITTIER Rural Education Attendance Area – District Number 21 TATITLEK

MANIILAQ MANPOWER

P.O. Box 725
Kotzebue, Alaska 99752

Phone
(907) 442-3860



February 6, 1984

Mr. William T. Lovell
House HE&SS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Lovell:

Thank you for this opportunity to submit written comments on House Bill No. 504. I admire the legislators insight into the problems of Rural Alaska and I applaud them for their inventiveness. Keep up the good work!!

Once again thank you for this opportunity.

Sincerely,

Fred Wemark
Special Assistant

enclosure: 1

Mauneluk Manpower
Testamony on HB 504

Thank you for this opportunity to comment on HB 504. My name is Fred Wemark, Special Assistant with Mauneluk Manpower. I manage a program that brings career awareness into the villages. The main thrust for the program is to get the students and adults within the villages to think about what they would like to do in the village or region in the way of an occupation. We explore all the potential possibilities of work and try to give as accurate a picture of employment as possible in the future.

Your Bill reaches right to the heart of employment that will always be present regardless of the amount of development the rural parts of our great state may or may not enjoy. As long as there is a rural population there will be teaching jobs available. It is only fitting that these positions be taken by those that will live in the community and raise their families and keep the money within the community. This not only makes sense from an economic standpoint but from a social standpoint also.

There are many students in our University system that are studying for a career in Education. But those people are to few. Your bill will increase that number dramatically. More and more the high school students are realizing the importance of a higher education. With the rural economy in the shape it is in those hopes for a higher education fades with the lack of money to send them to school. Hope is now on the horizon. I urge that you pass this important piece of legislation as soon as possible with the appropiate funding.

Thank you.

HB 504
HESS

CITY OF SCAMMON BAY

GENERAL DELIVERY
Scammon Bay, Alaska 99662 / (907) 558-5529

The Honorable Anthony Vaska 2-7-84
State Representative for District 25
Alaska State Legislative
Pouch V
Juneau, Alaska 99811

Dear Tony,

Hello there Mr. Vaska! I understand that you and Senator Sackett were very busy having to meet with your constituients in Bethel. I'm sorry I did not have an opportunity to see you when Frank Aguchak and I went down to Juneau during the week of Febuary 1-4 to do political business with our district legislator..Anyway I talked with your /isaltive assistant, Jim Plasman and, gave him a copy of Scammon Bay's Capital priority needs for this year.

We also would like for you to support H.B. 504 introduced by Representative Joe Hayes which is a bill aimed at providing a teacher scholarship loan program.

It's time that rural students especially natives must have sufficient financial recourse in order to come back to their own villages and teach. We would like for you to oppose the State take over of Mt. Edgecumb High School. Both of these issues are fully supported by the majority of the AVCP delegates which convened in Hooper Bay on January 26-27. You know as well as we know that it's unnessary for the State to take another financial burden when there's so much to fall for rurals basic need's.

Well, Tony, if theres anything I can do in anyway, please let me know.

Sincerely,

Homer Hunter Jr.
Mayor

cc. Files
Senator John Sackett
Senator F

Rep. Al Adams

Rep. Vern Hurlbert

KALTAG NATIVE VILLAGE COUNCIL

RESOLUTION NO. 84-2

A RESOLUTION OF THE KALTAG NATIVE VILLAGE COUNCIL, KALTAG, ALASKA PERTAINING TO HOUSE BILL NO. 504, "ESTABLISHING TEACHER SCHOLARSHIP LOAN PROGRAM".

WHEREAS, we, the Council of Kaltag Village, are aware of the need for more native teachers in our school systems across the state, and

WHEREAS, there is a need for funding and scholarships, and

WHEREAS, House Bill No. 504, in the legislature of the State of Alaska, Thirteenth Legislature - Second Session has been introduced, and

WHEREAS, the above bill does not include students of private schools,

NOW, THEREFORE BE IT RESOLVED that the Kaltag Native Village Council respectfully requests the sponsors of HB 504 to include private school students and, if and when it does this, the council will fully endorse the above mentioned bill.

ADOPTED THIS 9th day of Feb, 1984.

Franklin Madrus Sr. Chief

Plasker Nicholi Sr. Second Chief

Marylene Esmailka Council Member

Mary E Neglaska Council Member

_____ Council Member

_____ Council Member



City of Mountain Village

P.O. Box 204
Mountain Village, Alaska 99632
(907) 591-2929

Febraury 10, 1984

Honorable Joe Hayes
Speaker of the House
Alaska House of Representative
Pouch V
Juneau, Alaska 99811

Dear Speaker Hayes:

I am writing to you in support of House Bill no. 504, which uou introduced recently in the second session of the 13th legislature. This bill if passed, will greatly encourage and enhance our native people to come back and teach among their own people and will improve the quality of education which is vital in this area. Representative Vern Hurlbert is avare of this and it is his concern for his constituents in District 24 of which he represents.

Mr. Speaker, I advice your integrity and is some what surprise to me that you are concerned for us natives, therefore, I believe that is the kind of leadership we need in Juneau. Thank you very much!

Sincerely,

Andrew Brown, Vice-Mayor

cc. Rep. Vern Hulbert
Sen. John Sackett
Sen. Frank Ferguson
Rep. Jack Fuller
Supt. Dr. William Phillips, Lower Yukon School District
City Manager, Steve Schwab

January 27, 1984



Mr. Joe Hayes
Speaker of the House
Pouch V
Capitol Building
Juneau, Alaska 99811

Dear Speaker Hayes:

I am in receipt of a letter from Vern Hurlbert and a copy of HB 504. The idea seems a propitious one and has my enthusiastic support. I have noticed the problem you described with village schools in this area, wherein the bulk of the students are native and the teachers non-native. The teacher turnover rate is also sometimes rather appalling. I am sure the problem is even more marked in the northern sections of the state.

The only question I have is a legal one; namely, what is the advice of the AG's office on the constitutionality of Sec. 14.43.630 wherein preference is given to certain districts. I understand the intent, applaud it as morally correct and a practical necessity (if you are to accomplish the stated goal and not end up giving the bulk of the scholarships to non-natives from non-native majority school districts) but wonder if it runs afoul of due process clauses. It is worth getting an opinion on beforehand to make sure the bill is couched in terms that are proof against later litigation.

Sincerely,

Thomas L. Conley, M.D.
Secretary
Ketchikan Gateway Borough School District
Board of Education

N.B. This is a personal, not a Ketchikan Gateway Borough School District, Board of Education, response.

cc: Representative Vernon L. Hurlbert
Representative Jack McBride
Ms. Cheri Davis
President
Ketchikan Gateway Borough School District



WRANGELL
PUBLIC SCHOOLS
DISTRICT OFFICE

P. O. BOX 651
WRANGELL, ALASKA 99929
GATEWAY TO THE STIKINE
Telephone (907) 874-2347
ROBERT W. McCONNELL, Superintendent of Schools

January 31, 1984

The Honorable Joe Hays, Speaker of the House
Pouch V
Capitol Building
Juneau, Alaska 99811

Dear Honorable Hays:

In response to Representative Vern Hurlbert's letter of January 20, 1984, please regard this as support for HB 504.

Having spent time with a government which tried the same process, designed with the same philosophy, I have some concerns over the possible outcome. I applaud the intent however.

Sincerely,

Robert W. McConnell
Superintendent

cc: Representative Hurlbert
Representative McBride

MR. DARRELL G. MOORE
DISTRICT SUPERINTENDENT

Chatham School District

P.O. BOX 109
ANGOON, ALASKA 99820
TELEPHONE: 788-3302 OR 788-3682

January 27, 1984

BOARD OF EDUCATION
MR. WALLY FRANK, SR.
MR. EDWARD GAMBLE, SR.
MS. MATILDA GAMBLE
MRS. ANN MACKOVJAK
DR. JACK LESH

Representative Vern Hurlbert
State Capital
Pouch V
Juneau, Alaska 99811

Dear Representative Hurlbert:

I would like to respond to House Bill NO. 504 which was recently introduced in an effort to encourage Alaska Native high school graduates to return to their home village to teach.

Prior to my tenure here in Chatham School District, I spent nine years on the Sheldon Jackson campus encouraging and developing a teachers education program. I am very interested in presenting role models for the village; however, I think your approach is wrong.

In our school district I would be in favor of hiring a student to return to the area, but not the same village. Experience from Bible times to the present will demonstrate that people returning to their home village are unduly critized or subjected to demands not common to other candidates.

I also think the loan is discriminatory. This fact on the surface may not seem like an important clause; however, minorities like to know they made it on their own merits. I also think people are more inclined to succeed at something they invest time and money in.

Finally, I think many native graduates do something other than teach simply because they can demand more money as a college graduate in another occupation.

Many of our Sheldon Jackson graduates were either offered employment and terminated or never started due to the high wages they were able to attain through private enterprise or the native corporations. I do not think this program will change this fact and may in the long run do a disservice.

Please write or call me if I can be of further service or add clarification

Sincerely,

Darrell G. Moore

Darrell G. Moore, Supt. of Schools

cc: Joe Hayes, Speaker of the House
Reading File

Native teacher fund envisioned

(Continued from Page One)

tive students among the state's ethnic minorities return to the rural schools which continues the ethnic imbalance.

A high turnover of as much as 40 percent of teachers in rural education attendance areas in the state.

The bill states that current programs such as the X-CED program at the University of Alaska has failed to rectify the problem.

The loan program would appropriate money to be loaned to high school graduates or students within six months of graduation from a state public high school who have sufficient credits to be admitted to an accredited college. Those students also must be enrolled in or show intent to enroll in a university program which aims at a teaching degree for elementary or secondary school. The student also must meet criteria established by the local school board.

If the student is awarded the scholarship and completes his education and returns to the village, a percentage of his loan will be "forgiven" by the state at a rate of 15 percent each year for the first three years of teaching; 25 percent of the total loan for the fourth year completed and the final 30 percent for the fifth year.

The bill is given good change for success on the House side of the legislature because it is supported by the House Majority coalition of urban Republicans and Bush Democrats and because Hayes, the powerful House Speaker, is backing it. It isn't often that a bill sponsored by the Speaker is defeated.

On the Senate side, it is given fair chance for passage by Sen. Frank Ferguson, D-Kotzebue, who said that it will probably pass in a refined form after some things are ironed out.

One possible problem the bill may have is surviving a legal challenge on the basis that it discriminates in favor of one specific ethnic group. The bill directs that the scholarships be awarded on a level proportionate to the percentage of ethnic representation.

Therefore, if 80 percent of the students are Native, 80 percent of the scholarship money must go to Native students.

Recent laws directing money at a specific group, such as the Longevity Bonus program which gives money to Alaska residents older than 65 years who have lived in the state since statehood has been ruled unconstitutional on the grounds that it discriminates against a person who moved to the state after statehood.

Tony Vaska of Bethel, who is a member of the Bush Caucus but not a member of the House Majority, said he thinks it will not survive a constitutionality test.

Hayes said he has had the Legislature's lawyers review the bill and they found it all right. He said the state attorney general has yet to review the bill.

Veteran observers of the Legislature found the key sponsor of the bill – Hayes – to be of particular interest because of his urban background. One commented that "if there ever was any doubt that Hayes is running for governor, this kills it."

Hayes responds to such skepticism by saying "I suppose it would look (like he is trying to gain a rural support) but I just know the problems of rural people. I fly a lot and get out into the villages more than other urban legislators. I also have worked with the Bush Caucus for the past two years and I know of their concerns."

He said that Hurlbert was instrumental in pushing the bill and is second sponsor on the document.

Gov. Bill Sheffield had no comment on the bill other than to point out that programs do exist in the state to draw rural students into teaching.

And as for Hayes drawing a gubernatorial constituency, Sheffield said, "I told him, I'll outcampaign him 125 to one and I have more staying power."



Child abuse bill introduced

The Associated Press

Juneau — Certain kinds of child neglect and abuse unpunishable under existing law would be classified as felonies by a bill introduced in the Alaska House of Representatives.

The legislation is aimed at adults who use force against children or who "intentionally cause or permit a child to be placed in circumstances resulting in serious physical injury."

The measure (HB 489) is sponsored by House Democrats Jack McBride of Ketchikan, Niilo Koponen of Fairbanks and Mike Szymanski of Anchorage.

City of Kaltag

Kaltag, Alaska 99748

February 7, 1984

Vern Hurlburt, Representative
Pouch V
Juneau, Alaska 99811

RE: HB 504 - Educational

Dear Representative Hurlburt:

This is a letter of support to the educational scholarship funding for rural students of Alaska including students of private schools.

Sincerely,

Kenneth B. Madros

Kenneth B. Madros,
Mayor

ejm

RECEIVED
FEB 1984

THE LAKE AND PENINSULA SCHOOL BOARD

SARA HORNBERGER, President
Port Alsworth, Alaska 99653
P.O. Box 69, Iliamna, AK. 99606

February 3, 1984





The Honorable Vern Hurlbert
Alaska State Representative
Pouch V - Capital Building
Juneau, Alaska 99811

Dear Vern:

Thank you for yourletter of January 20, 1983, in reference to House Bill No. 504. I appreciate the opportunity to comment on it. In realization of how very busy you folks are down there, I still hope that you will find time to read my letter of reply in addition to the reading by an administrative assistant. (I have no objections to this system - I know it is necessary if you elected officials are to be able to accomplish anything.)

I believe that my comments are made from a position of great strength. We have in our school district an administrative assistant, Frank Hill; two principal teachers, Norm Auberg and Pete Hill; and three teachers, Pauline Hobson, Larry Hill, and Gwen Nielsen; and one teacher on leave, Emma Hill, who are Native. In addition, we recently inaugerated a minority administrative apprenticeship and Frank Hill is the first person to participate. Wherever possible we hire local people to do school district jobs as for example, Alex Wassilie our North Area Maintenance Person.

Going from there, I want to ask if anyone had done any research at all to see if this bill will do what it proposes to do? Three of our Native teachers got their degrees through the ARCTIC program (later called X-Ced); Several refused all financial help of any sort preferring the joy of being able to say, "I did it all by myself." Several used the regular state loan program and BIA assistance.

In our district at least there has been no lack of assistance for village persons interested in higher education of any sort in obtaining any possible loan, grant, or scholarship. Persons who work as aides who show promise are encouraged - urged - to go on and get their degrees. Some few have attended the university sporadically. The members of the school board and the local teachers association have joined together for five years to grant two scholarships a year to district high school seniors in the name of one of our members who was killed in a snowmachine accident shortly after she enrolled in a teacher preparation program in Anchorage. She was a Native from Newhalen. We have youngsters from our district in college under the regular state loan program; but, so far as I know, my daughter is the only one in a teacher training program.

The Hon able Vern Hurlbert

I should add that oneof our current board members, Jeannie Ihly, a Native from Chignik Lake, has enrolled in college in Anchorage with the intention of becoming a primary teacher.

Where does this leave us? I believe that this bill will not do what you hope it will. All the money in the world will not prompt a person to attend college unless that person has the sincere desire, the personal drive to go. Secondly, that person, if he/she is to become a teacher must be willing to face a five-day-a week, nine-month-ayear job; a job that is very intense and demanding. How many of our village people really want that sort of job? So we are talking about motivation. What is going to motivate a youngster from a village who enjoys the freedom of a life of trapping, fishing, hunting, etc., without the demands of a time clock, to take on the other sort of life? There are two things that cause a person to become a teacher: for some it is a calling; they cannot imagine doing anything else; it is their life; for other it is a job, a way to make a living and have three months a year off, etc. If a youngster from a village doesn't have an intense desire to become a teacher, I can't imagine that this loan program will inspire him/her to spend four years away from home in school to become a teacher. That child is going to get a trade that will enable him/her to go out and earn money when it is needed and then go home and enjoy life, and I don't blame that person one bit. Who wouldn't prefer that sort of life! So, we have a motivation problem.

We have one more problem. The fact that a person is a Native does not mean that he/she will make a good teacher, anymore than membership in any other race guarantees skill in any profession. This bill has no criteria set up at any place to evaluate participants. Today our children must have the very best possible teachers for the basics. We have many fine people in our villages who can and do work in the schools assisting with local culture programs, bi-lingual programs, who are not college graduates. Many of them have not finished eighth grade. They cannot teach math or reading or other subjects the certificated teachers handle; rather, the two work as a team complimenting each other when the program is handled properly.

One last point I'd like to speak to is teacher turnover. Years ago when Bristol Bay Borough was formed and took over the schools one of our main concerns was teacher turnover. However, that is not all bad. Teachers like preachers maybe need to move around. I'm not going to dwell on this, but the question is a very debatable one. Furthermore, we have discovered that not all residents of a village are pleased when a local person comes home as a teacher. Was it not Christ who said something to the effect that a prophet is not without honor except in his own country.

This letter, of course, contains my opinions only and most certainly does not speak for the other members of the board either individually or as a legal group.

Most sincerely,

Sara Hornberger

Sara Hornberger (Mrs.)

504

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521



February 1, 1984

Hon. Joe Hayes
Speaker of the House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representatives Hayes:

On behalf of the Association of Village Council Presidents, regional non-profit Native corporation for the 56 Yupik Native communities of the Yukon-Kuskokwim delta region, I wish to commend you and the 27 co-sponsors for your introduction of House Bill 504, providing for a teacher scholarship loan program.

We concur with the legislative findings as stated in the bill. In particular, incentive has not be provided for Alaska Natives to pursue teaching careers in rural Alaska. Throughout the State (REAA) schools and remaining federal (BIA) schools, there are almost no Native teachers available for the almost totally Native student bodies. We sincerely appreciate your sponsorship of H.B. 504 and encourage your aggressive efforts for the enactment of this very beneficial legislation.

There is one small group of rural school districts which has overcome many of the difficulties which H.B. 504 seeks to correct. In the examination of rural education issues by you and your colleagues, we wish to encourage you to consider the future of five locally-controlled community schools in the AVCP-Calista Region. The Native communities of Akiachak, Akiak, Chefornak, Chevak and Tuluksak manage the only village-operated community schools in Alaska.

Beginning in 1977, these village council chose to operate their own community schools, apart from the federally-operated BIA schools and the State REAA systems. The federal government provides funds through the BIA appropriations, however management of the education programs and school districts is completely controlled at the community level.

Local community, Native involvement is provided in every aspect of the education program of these "contract" schools. The largest school, for example, has eight certified Alaska Native teachers in its teaching staff. Community school boards at these schools completely determine, within the village, all administrative, curriculla, fiscal and policy decisions concerning school district operations.

Unfortunately, these schools are scheduled to be closed at the end of the 1984-85 school year.

The schools are community-operated and controlled, while funds are provided by the federal government under contracting provisions of the "Indian Self-Determination and Education Assistance Act." The communities wish to continue to locally manage their education programs, however federal funds will not be available beyond federal FY-85.

These schools have requested financial assistance from the State to continue to operate their districts. Under present policies, the state will not provide education funds to the contract schools because they are operated by Native community councils (village councils), which were organized prior to statehood. The councils are recognized as "tribal governing bodies" by the federal government.

Although the village council "contract" schools have agreed to admit all student village residents to the schools, regardless of race, the present state policy regards them as "private" schools because they are operated by Native community councils.

Despite their desire the maintain community control over the village education programs, the contract schools' only other option is to join the REAA education systems. They are very reluctant to do so because of the loss of community control over the education program, and because of the successes which they have achieved through the systems which have been established by them and which are now in place. If, for example, a Native community school becomes part of an REAA, they will be absorbed by a school district which encompasses up to 35 or more other communities, and will no longer have effective control over education at the community level.

The history, circumstances, and legal and policy issues are perhaps more complicated than I describe in this letter, however the basic aim of the village contract schools is simple. They wish to maintain effective local control and community operation of their schools. This goal is becoming destroyed by pressures of state and federal policies over which they have no effective control. We hope that you will consider the fate of these school districts among other rural education issues under review by the legislature.

By alerting you to the matter of Native community schools, we in no way wish to diminish the importance of your continued support for H.B. 504. Your interest in rural and Native education needs, as evidenced by H.B. 504, is genuinely appreciated.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman of the Board

Ivan M. Ivan
President

cc: Hon. Bill Sheffield, Governor
Rep. Vern Hurlbert
Rep. Jack Fuller
Rep. Tony Vaska
Sen. Frank Ferguson
Sen. John Sackett
Contract School Association

REP. JOHN G. (JACK) FULLER

DISTRICT 23

ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
ELIM
EMMONAK
GAMBELL
GOLOVIN
HOOPER BAY
KOTLIK
KOYUK
NOME
SAVOONGA
SCAMMON BAY
SHAKTOOLIK
SHELDON'S POINT
SHISHMAREF
STEBBINS
ST MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

CHAIRMAN, RULES COMMITTEE
MEMBER
POLICY COMMITTEE
COMMITTEE ON COMMITTEES
REAA BUDGET OVERSIGHT COMMITTEE
BLUE RIBBON COMMISSION ON PERSONNEL

Alaska House of Representatives

February 13, 1984

Mr. Alfred S. White, Principal
Covenant High School
Unalakleet, Alaska 99684

Dear Mr. White:

Thank you for your letter regarding HB 504 - "An Act establishing the teacher scholarship loan program."

HB 504 was introduced 1/10/84 and referred to the Health & Social Services Committee, which is chaired by Representative Mae Tischer. The bill has further referrals to the House Committee on Loans, chaired by Representative Rick Uehling and the Finance Committee, chaired by Representative Al Adams. Any further correspondence you may have should be addressed to these Committees.

I have forwarded your letter to the Health, Education and Social Services Committee. Thank you for your interest in the Legislative process.

Sincerely,

Jack

Rep. John G. (Jack) Fuller
Chairman, House Rules



HOME
P.O. BOX 689
NOME, ALASKA 99762
(907) 443-2968

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3789
465-3764 465-3765

Covenant High School

(907) 624-3282 Unalakleet, Alaska 99684

FEB 9 1984

February 6, 1984

Representative Jack Fuller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Fuller:

Enclosed is a letter which we submitted at the hearing recently on HB 504. We feel that this bill could serve an excellent purpose in the bush but feel strongly that private school graduates should not be restricted from participation. Our letter expresses our viewpoint.

The method of payment might need to be altered in order to avoid channeling funds through a private school to the recipients, but I am sure that this could be done without altering the intent of the bill. I am inclined to believe that it would be preferable, at any rate, to have recipients receive grants directly from the state on nomination from the districts. This method would largely parallel the present Student Loan program while giving the districts input on promising candidates.

Other items in the bill which might be given additional consideration are the following:

Sec. 14.43.640 Conditions of loan. Paragraph 2 requires that the borrower must teach in the district from which he/she graduated in order to be eligible for loan forgiveness. I believe that this is entirely too restrictive. In small districts such as Nome or Dillingham, an opening may not be available upon graduation. Also, marriage often requires a graduate to re-locate. It has been our experience that most Alaska Native graduates do return to the bush, and the value of others in the major city school systems is significant in its impact on Native students in those areas as well.

It seems unfortunate also that a returning student would be restricted from teaching in a private school in order to receive credit toward forgiveness. Federal teacher loans have not made this distinction. If the school is classified as having a high percentage of minority students, the borrower may apply for a percentage of forgiveness regardless of the public or private status of the school.

I am personally inclined to think that the loan should be supplemental rather than set at $10,000 maximum without restrictions. BIA loans, for example, require that the applicant "show financial need after other sources of funding have been considered." Some such requirement would serve the double purpose of weeding out the less serious applicants and would increase the numbers of students who could be served.

I think that there should be close state monitorship of the loan recipients through the four years. This might require more than the present regulations for the Student Loan program.

Again, we want to indicate our strong support for this bill and will appreciate your consideration of the items we have discussed.

cc. Rep. Joe Hayes

Sincerely,

Alfred S. White

Alfred S. White, Principal

Covenant High School

(907) 624-3282 Unalakleet, Alaska 99684

February 3, 1984

Alaska House of Representatives
Health, Education and Social Services
House Special Committee on State Loans and Finance
Juneau, Alaska 99801

Dear Committee Members:

We are taking this opportunity to comment on House Bill No. 504 which has recently come to our attention. We certainly applaud the intent of the bill to enlarge the number and strengthen the training of ethnic minorities, particular Alaska Natives, in the teaching profession by offering teacher scholarship loans. We have recognized this need since 1954 when Covenant High School was opened and have encourage both public and private support of teacher training.

We are surprised, however, to discover that Native graduates of private schools are discriminated against in receiving this assistance. Since the intent of the bill is "to encourage members of ethnic minorities to return to rural schools as teachers," and since "almost no students among the state's ethnic minorities return to rural schools to teach," it would seem that every able condidate would be encouraged to participate.

The success of such schools as St. Mary's High School and Covenant High School in providing graduates with college skills has been widly recognized and documented by studies such as those of Judith Kleinfeld at the University of Alaska. A quick survey of Covenant High School's alumni list indicates at least 10 people, all but three of whom are Alaska Natives, who have teaching degrees. One, Sam Towarak, is president of Chuchi Community College in Kotzebue. Probably at least another 10 have education minors or are presently working on education degrees. It is entirely possible that the incentive of a bill like HB 504 would have encouraged other such private school graduates with college skills to enter education. It might also have led some of these young people who showed an interest in education, but entered other fields, to find a place in education.

We see no problem in administering this legislation with graduates of private schools as recipients. Funds would be made available to eligible Alaskans without discrimination in the same way Alaska Student Loans are made available. No payments would be made to private or denominational schools. The Bureau of Indian Affairs Scholarship Grant Program, federal Pell Grants, etc. are all administered on this basis. Students receiving teacher scholarship loans may very well attend private colleges. It seems unreasonable that they would be restricted from attending a private high school to become eligible.

It would seem that the same formula for awarding scholarships by public schools could be used in such schools as Covenant High School. In communities where there is a single high school in the district, such as Nome or Dillingham, the process of awarding scholarships would be identical to the situation at Covenant High School. We would simply be considered as a district, as we are now with the Alaska High School Activities Association.

Again, we wish to offer our strong support for this legislation which shows promise of dealing with a serious deficiency in our rural communities - the lack of Native educators. We hope that the committee will increase the bill's scope to include what we believe is a strong source of eligible candidates for the program - the private and denominational schools.

Sincerely,

Alfred S. White
Principal

Laurence E. Olson
Laurence Olson
Executive Director

REP. JOHN G. (JACK) FULLER

DISTRICT 23

ALAKANUK
BREVIG MISSION
CHEVAK
DIOMEDE
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WHITE MOUNTAIN

CHAIRMAN, RULES COMMITTEE

MEMBER

POLICY COMMITTEE
COMMITTEE ON COMMITTEES
REAA BUDGET OVERSIGHT COMMITTEE
BLUE RIBBON COMMISSION ON PERSONNEL

Alaska House of Representatives

February 13, 1984

Mr. Ivan M. Ivan, President
Association of Village Council Presidents
P. O. Box 219
Bethel, Alaska 99559

Dear Ivan:

Thank you for your letter regarding HB 504 - "An Act establishing the teacher scholarship loan program."

HB 504 was introduced 1/10/84 and referred to the Health & Social Services Committee, which is chaired by Representative Mae Tischer. The bill has further referrals to the House Committee on Loans, chaired by Representative Rick Uehling and the Finance Committee, chaired by Representative Al Adams. Any further correspondence you may have should be addressed to these Committees.

I have forwarded your letter to the Health, Education and Social Services Committee. Thank you for your interest in the Legislative process.

Sincerely,

Rep. John G. (Jack) Fuller
Chairman, House Rules

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AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

FEB 9 1984

February 1, 1984

Hon. Joe Hayes
Speaker of the House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representatives Hayes:

On behalf of the Association of Village Council Presidents, regional non-profit Native corporation for the 56 Yupik Native communities of the Yukon-Kuskokwim delta region, I wish to commend you and the 27 co-sponsors for your introduction of House Bill 504, providing for a teacher scholarship loan program.

We concur with the legislative findings as stated in the bill. In particular, incentive has not be provided for Alaska Natives to pursue teaching careers in rural Alaska. Throughout the State (REAA) schools and remaining federal (BIA) schools, there are almost no Native teachers available for the almost totally Native student bodies. We sincerely appreciate your sponsorship of H.B. 504 and encourage your aggressive efforts for the enactment of this very beneficial legislation.

There is one small group of rural school districts which has overcome many of the difficulties which H.B. 504 seeks to correct. In the examination of rural education issues by you and your colleagues, we wish to encourage you to consider the future of five locally-controlled community schools in the AVCP-Calista Region. The Native communities of Akiachak, Akiak, Chefornak, Chevak and Tuluksak manage the only village-operated community schools in Alaska.

Beginning in 1977, these village council chose to operate their own community schools, apart from the federally-operated BIA schools and the State REAA systems. The federal government provides funds through the BIA appropriations, however management of the education programs and school districts is completely controlled at the community level.

Local community, Native involvement is provided in every aspect of the education program of these "contract" schools. The largest school, for example, has eight certified Alaska Native teachers in its teaching staff. Community school boards at these schools completely determine, within the village, all administrative, curricula, fiscal and policy decisions concerning school district operations.

Unfortunately, these schools are scheduled to be closed at the end of the 1984-85 school year.

The schools are community-operated and controlled, while funds are provided by the federal government under contracting provisions of the "Indian Self-Determination and Education Assistance Act." The communities wish to continue to locally manage their education programs, however federal funds will not be available beyond federal FY-85.

These schools have requested financial assistance from the State to continue to operate their districts. Under present policies, the state will not provide education funds to the contract schools because they are operated by Native community councils (village councils), which were organized prior to statehood. The councils are recognized as "tribal governing bodies" by the federal government.

Although the village council "contract" schools have agreed to admit all student village residents to the schools, regardless of race, the present state policy regards them as "private" schools because they are operated by Native community councils.

Despite their desire the maintain community control over the village education programs, the contract schools' only other option is to join the REAA education systems. They are very reluctant to do so because of the loss of community control over the education program, and because of the successes which they have achieved through the systems which have been established by them and which are now in place. If, for example, a Native community school becomes part of an REAA, they will be absorbed by a school district which encompasses up to 35 or more other communities, and will no longer have effective control over education at the community level.

The history, circumstances, and legal and policy issues are perhaps more complicated than I describe in this letter, however the basic aim of the village contract schools is simple. They wish to maintain effective local control and community operation of their schools. This goal is becoming destroyed by pressures of state and federal policies over which they have no effective control. We hope that you will consider the fate of these school districts among other rural education issues under review by the legislature.

By alerting you to the matter of Native community schools, we in no way wish to diminish the importance of your continued support for H.B. 504. Your interest in rural and Native education needs, as evidenced by H.B. 504, is genuinely appreciated.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman of the Board

Ivan M. Ivan
President

cc: Hon. Bill Sheffield, Governor
Rep. Vern Hurlbert
Rep. Jack Fuller
Rep. Tony Vaska
Sen. Frank Ferguson
Sen. John Sackett
Contract School Association

Bristol
Bay
Native
Corporation

445 E. 5TH AVENUE / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602

February 15, 1984

The Honorable Joe L. Hayes, Speaker
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr Hayes:

House Bill No. 504, creating a teacher scholarship loan program for Alaska Native high school graduates who would earn a teaching degree and return to their district to teach, would give incentive for our Native students to enter into a field which would allow them to return to their villages or districts to teach.

Often, students are reluctant to enter this sector because upon conclusion, they are forced to move out of their environment to seek employment opportunities. House Bill No. 504 would alleviate this hurdle.

Sincerely,

Trefon Angasan, Jr.
Director, Shareholder Relations

cc: Representative Vernon L. Hurlbert

Haines Borough School District

P.O. Box 636
HAINES, ALASKA 99827

Stephen T. McPhetres, Superintendent

Gary D. Matthews, High School Principal
Alan W. Heinrich, Elementary Principal



January 30, 1984

Representative Vern Hurlbert
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Rep. Hurlbert;

First, let me say I appreciate your sending me a copy of House Bill 504 and giving me the opportunity to respond.

Let me preface my comments by saying I have been in education in Alaska for twenty years and am myself a product of the Alaskan schools. So my comments will be somewhat bias.

As I read the bill, the intent is to encourage more Alaskan natives to pursue a career in education, However, the bill states "ethnic minorities". I read this to be negro, asian, hispanic, as well as Alaskan native. The bill must be more specific to accomplish the goal. I personally would be concerned if all minorities were eligible and I was not. That indeed would be a reverse discrimination. When I graduated from high school, the BIA assisted the native students in furthering their edcuation. Possibly the state could pattern a scholarship program from the BIA.

Also, under the conditions of the loan, could you amend the section for payment by the State if borrower teaches in one of the State's rural school districts instead of anywhere in Alaska?

Again, thank you for the opportunity to comment.

Sincerely,

Stephen T. McPhetres

Stephen T. McPhetres
Superintendent

Alaska Native Land Managers Association
840 K Street, Suite 202
Anchorage, Alaska 99501
(907) 272-1254



January 26, 1984

Representative Hurlbert
Pouch V
Juneau, Alaska 99811

Re: HB 504

Dear Representative Hurlbert:

The Alaska Native Land Managers Association would like to thank you for co-sponsoring House Bill 504 dealing with establishing the teacher scholarship loan program.

We feel that it is very important to train teachers who will return to their rural villages to work. It will improve the quality of education in rural Alaska to have teachers from the area work in their schools. We hope that this will be a significant factor in improving the education system in rural Alaska.

We appreciate the support you have shown for rural Alaskan education by co-sponsoring this legislation. We look forward to working with you for the early passage of this bill.

Very truly yours,

Daniel Alex

Daniel Alex
President

cc: Alaska Native Land Managers Association Members

Alaska Native Land Managers Association

WHEREAS, the preservation and continuation of Native culture in Alaska is of paramount importance; and

WHEREAS, Native teachers are needed to foster a sense of ethnic traditions and cultures in Alaska Native students; and

WHEREAS, existing programs have failed to increase the number of Alaska Native teachers; and

WHEREAS, the number of Alaska Native teachers returning to teach Alaska Native students is inadequate.

THEREFORE BE IT RESOLVED that the Alaska Native Land Managers Association, meeting in Anchorage, Alaska, this 19th day of January, 1984, does hereby support and urge the immediate passage of House Bill 504.

MR VERN HULBERT
HOUSE OF REPSENTATIVES
JUNEAU, AK

FEB. 15, 1984

DEAR REP. Vern Hulbert

THIS IS A LETTER CONCERNING HOUSE BILL NO. 504 IN SUPPORT OF STUDENT LOANS TO AKASKAN STUDENTS. I AM IN FULL SUPORT OF THIS BILL. I CAN HONESTLY SPEAK ON THIS ISSUE. WHEN I ATTENED THE X-CED PROCRAM THERE WHERE MANY DISCOMFORTS I HAD TO ENCOUNTER IN APPLYING FOR FUNDING AS AN OFF CAMPUS STUDENT. THE EXISTING LOANS WERE NOT ENOUGH TO MET THE NEEDS OF ANYONE WITH A FAMILY. WE ALL UNDERSTOOD THAT IT COSTED MONEY TO GO TO SCHOOL BUT THE HARDSHIP WAS AT TIMES VERY DEMANDING ON OUR SLIM BUDGETS.

THE BILL HAS INSIGHT FOR OUR NON-CERTIFIED TEACHERS WHO HAVE BEEN VERY DEDICATED TO THEIR JOBS. THAY HAVE WORKED VERY SILENTLY WITHOUT RETIREMENT BENIFITS ON PART TIME BASES. I CAN FORESEE THEM GOING ON TO SCHOOL NOW IF THIS BILL IS PASSED IN BOTH HOUSES. THE COMMUICATION WHICH LINKS THE VILLAGE LIFE AND THE SCHOOLS ARE THE NON-CERTIFIED AIDES. PERHAPS, IN THE FURTURE WITH MORE CERTIFIED TEACHERS WHO ARE ALASKAN NATIVES A BETTER DELIVERY OF EDUCATION WILL BE A REALITY HERE IN RURAL ALASKA.

I ALSO CAN SEE ANOTHER BARRIER WHAT WILL BE DONE FOR THE NATIVE CERTIFIED TEACHERS WHO MUST WAIT FOR THE TENURE TEACHERS TO MOVE ON I MYSELF SIT IN THAT POSITION AND HAVE BROUGHT IT TO THE ATTENTION OF THE REAA BOARD THE REPLY WAS THE TENURE TEACHER OR AN OPENING WITHIN THE DISTRICT WHEN EVERY THE WAS ONE WHERE I CAN FIT THE SLOT.

SINCERELY

MARIE T. [WALKER[HAILEY

MANIILAQ MANPOWER

P.O. Box 725
Kotzebue, Alaska 99752

Phone
(907) 442-3311

February 6, 1984

Mr. William T. Lovell
House HE&SS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Lovell:

Thank you for this opportunity to submit written comments on House Bill No. 504. I admire the legislators insight into the problems of Rural Alaska and I applaud them for their inventiveness. Keep up the good work!!

Once again thank you for this opportunity.

Sincerely,

Fred Wemark
Special Assistant

enclosure: 1

Mauneluk Manpower
Testamony on HB 504

Thank you for this opportunity to comment on HB 504. My name is Fred Wemark, Special Assistant with Mauneluk Manpower. I manage a program that brings career awareness into the villages. The main thrust for the program is to get the students and adults within the villages to think about what they would like to do in the village or region in the way of an occupation. We explore all the potential possibilities of work and try to give as accurate a picture of employment as possible in the future.

Your Bill reaches right to the heart of employment that will always be present regardless of the amount of development the rural parts of our great state may or may not enjoy. As long as there is a rural population there will be teaching jobs available. It is only fitting that these positions be taken by those that will live in the community and raise their families and keep the money within the community. This not only makes sense from an economic standpoint but from a social standpoint also.

There are many students in our University system that are studying for a career in Education. But those people are to few. Your bill will increase that number dramatically. More and more the high school students are realizing the importance of a higher education. With the rural economy in the shape it is in those hopes for a higher education fades with the lack of money to send them to school. Hope is now on the horizon. I urge that you pass this important piece of legislation as soon as possible with the appropiate funding.

Thank you.



City of Mountain Village

P.O. Box 204
Mountain Village, Alaska 99632
(907) 591-2929

Febraury 10, 1984

Honorable Joe Hayes
Speaker of the House
Alaska House of Representative
Pouch V
Juneau, Alaska 99811

Dear Speaker Hayes:

I am writing to you in support of House Bill no. 504, which uou introduced recently in the second session of the 13th legislature. This bill if passed, will greatly encourage and enhance our native people to come back and teach among their own people and will improve the quality of education which is vital in this area. Representative Vern Hurlbert is avare of this and it is his concern for his constituents in District 24 of which he represents.

Mr. Speaker, I advice your integrity and is some what surprise to me that you are concerned for us natives, therefore, I believe that is the kind of leadership we need in Juneau. Thank you very much!

Sincerely,

Andrew Brown, Vice-Mayor

cc. Rep. Vern Hulbert
Sen. John Sackett
Sen. Frank Ferguson
Rep. Jack Fuller
Supt. Dr. William Phillips, Lower Yukon School District
City Manager, Steve Schwab

KALTAG NATIVE VILLAGE COUNCIL

RESOLUTION NO. 84-2

A RESOLUTION OF THE KALTAG NATIVE VILLAGE COUNCIL, KALTAG, ALASKA PERTAINING TO HOUSE BILL NO. 504, "ESTABLISHING TEACHER SCHOLARSHIP LOAN PROGRAM".

WHEREAS, we, the Council of Kaltag Village, are aware of the need for more native teachers in our school systems across the state, and

WHEREAS, there is a need for funding and scholarships, and

WHEREAS, House Bill No. 504, in the legislature of the State of Alaska, Thirteenth Legislature - Second Session has been introduced, and

WHEREAS, the above bill does not include students of private schools,

NOW, THEREFORE BE IT RESOLVED that the Kaltag Native Village Council respectfully requests the sponsors of HB 504 to include private school students and, if and when it does this, the council will fully endorse the above mentioned bill.

ADOPTED THIS 9th day of Feb, 1984.

Franklin Madrus Jr. Chief

Plasker Nicholi Jr. Second Chief

Marylene Esmailka Council Member

Mary E Neglaska Council Member

_____ Council Member

_____ Council Member

HB 504
HESS

CITY OF SCAMMON BAY

GENERAL DELIVERY
Scammon Bay, Alaska 99662 / (907) 558-5529

The Honorable Anthony Vaska
State Representative for District 25
Alaska State Legislative
Pouch V
Juneau, Alaska 99811

2-7-84

Dear Tony,

Hello there Mr. Vaska! I understand that you and Senator Sackett were very busy having to meet with your constituients in Bethel. I'm sorry I did not have an opportunity to see you when Frank Aguchak and I went down to Juneau during the week of Febuary 1-4 to do political business with our district legislator..Anyway I talked with your /isaltive assistant, Jim Plasman and, gave him a copy of Scammon Bay's Capital priority needs for this year.

We also would like for you to support H.B. 504 introduced by Representative Joe Hayes which is a bill aimed at providing a teacher scholarship loan program.

It's time that rural students especially natives must have sufficient financial recourse in order to come back to their own villages and teach. We would like for you to oppose the State take over of Mt. Edgecumb High School. Both of these issues are fully supported by the majority of the AVCP delegates which convened in Hooper Bay on January 26-27. You know as well as we know that it's unnessary for the State to take another financial burden when there's so much to fall for rurals basic need's.

Well, Tony, if theres anything I can do in anyway, please let me know.

Sincerely,

Homer Hunter Jr.
Mayor

cc. Files
Senatore John Sackett
Rep. Al Adams
Rep. Vern

NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE
1411 W. 33RD
ANCHORAGE, ALASKA 99503
(907) 274-052

JUNEAU OFFICE
147 S. FRANKLIN #207
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE
2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

TO: Mae Tischer, Chairman
House HESS Committee
Members of the Committee

DATE: February 21, 1984

RE: HB 504; "An Act establishing the teacher scholarship loan program."

NEA-Alaska strongly supports and encourages favorable consideration of the concept of scholarship incentives as a method of encouraging Alaska Natives to pursue careers in teaching in the public schools in Alaska. This particular issue was established as one of the six major legislative priorities of the Delegate Assembly, meeting in Anchorage in January.

It may be appropriate for the Committee to seek data relative to the previous implementation of AS 14.43.050 -.090 for purposes addressing specifically identified needs. SB 426 expands upon the provisions of the above referenced statute.

We would further encourage that the Committee, either on its own initiative or through the Department of Education, consider the feasibility of conducting an annual survey of all Alaska Native High School sophomores, juniors, and seniors and, perhaps even a supplemental survey of their parents and guardians as well, in an effort to build a data base which could be used to bring even more focus to this kind of legislation on a long term basis. Specifically, it seems appropriate to have more information on:

- career aspirations, expectations, needs
- current deterrents, barriers, problems
- extent and nature of counseling and adequacy of curriculum

A recent survey published by Texas Christian University on "Factors Related to High School Students' Interest in Teaching as a Profession" strongly suggest that a decline in parental interest in encouraging their children toward teaching is a major factor. It may be appropriate to ascertain the validity of this conclusion for Alaska.

With an increasing number of Native students in the urban areas perhaps it is worthy of some emphasis to encourage, through incentives, more Native teachers in these areas as well.

It also seems appropriate to consider making this loan program an adjunct of the regular student loan program, but utilizing an expanded and separate sub-committee of the Post Secondary Education Commission which would also include practicing teachers and parents among its membership.

We feel that it is appropriate to raise some caution relative to geographic restrictions upon where a recipient may chose to teach. Reduction in the teaching force, non-retention and/or desire to voluntary job changes may have some effect on mobility of the recipients.

Finally, it may also be appropriate to clarify the legislative intent of HB 504 as it pertains to the term "teacher." AS 14.20.207 currently provides that the term teacher is also intended to cover administration. It is our recommendation that the primary focus be toward those who are actually in a classroom teaching circumstance.

Respectfully Submitted,

Bob Manners
Executive Secretary
NEA-Alaska

4:DS1

Alaska State Legislature

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

February 24, 1984

Jim Greig, Ph. D.
Box 399
Bernalillo, N.M. 87004

Dear Dr. Greig:

Thank you for your February 1st letter and the fascinating description of some of the high costs of education in rural Alaska. I had been aware they were high, but your material was a real eye-opener. Obviously, to the extent that it can be documented and publicized, it will work to the advantage of the bill I have sponsored.

In addition to that interest, however, it appears this might be material of interest to the Legislative Auditor. I will forward a copy of your material and of this letter to Representative Bob Bettisworth, Chairman of the Legislative Budget and Audit Committee, for his perusal.

With your interest in education you might be pleased to know that the bill, which has been the feature of several public hearings recently, is very popular, and it appears at this point that implementation could begin in the upcoming school year (next Fall). It has the strong support of the State Board of Education, the Director of Postsecondary education, and numerous other ranking officials in the education community. It very well could prove to be the sensible solution to a bothersome and very expensive problem.

Again, thank you for the information, and for your expression of support for the legislation.

Sincerely,

Joe L. Hayes
SPEAKER OF THE HOUSE

JLH:rjn

Feb 1, 1984

Dear Rep. Hayes:

Here is an article on your Native teacher scholarship bill. Perhaps you will find it useful — perhaps you can even induce some newspaper to print it. After nine months of controversy, the University of Alaska has never contradicted my facts — they have only attacked my [illegible]

If you have any questions, please phone.

Yours truly,

Jim Gring

Feb. 1, 1984

Jim Greig, Ph.D.
Box 399
Bernalillo, N.M.
87004
(505) 867-2969

FEB 06 1984

FUND STUDENTS, NOT PROFESSORS -- THE HAYES SCHOLARSHIP BILL

Rural Native American students may soon receive $10,000 per year scholarships towards teaching degrees if the bill recently introduced by Alaska State Representative Joe Hayes is successful. Many voters may see this as too much money lavished on a favored ethnic minority. They may see this bill as both an example of government waste and of government reverse discrimination. But, I have good evidence to show that this bill is neither wasteful nor discriminatory. The reality is quite the opposite.

My evidence comes from inside information, information that is common knowledge among rural college professors and administrators but is almost never released to the general public. I can divulge this information because I was willing to risk my career in Alaska rather than cover up the waste that I found in rural higher education. For any that care to investigate this evidence, I have quite extensive, specific information. In 1981 and 1982 I worked as a University of Alaska professor among Native American villages along the Yukon River. Then, in the spring of 1983, I worked as the director of a "non-profit" Native teacher education program among the villages of the Bering Sea. The following are just as few of my experiences as a rural educator.

When I arrived at my job on the Bering Sea, I was responsible for directing an on-going $346,000 Federal program that was coordinated with two University of Alaska programs that cost about $252,000. In all, we were spending about $600,000 per year. All the publicly released documents -- grant requests, appeals for more state funding, etc. -- advertised that we had over 40 students, all rapidly progressing towards their teaching degrees. But, after I had been on the job for a month, nothing seemed to be happening. Four or five students seemed to be doing some of their assignments, but that was about all. This program had been running for a year and a half before I arrived. Had the students done any work during that year and a half? It was hard to say. No credit hour totals had ever been compiled. What was the total cost of this program? Again, no total cost figures had ever been kept. I asked the university officials for their totals, but they said that they didn't have any.

In attempting to determine the success rate of my program, I began to piece together the facts. If the program really was not working, perhaps something could be done to improve it. But, first I had to determine what was actually happening. So, I began to assemble complex charts on my office walls -- charts showing student progress during the current semester and charts showing student progress during the previous semesters.

At first it was difficult to determine just what I should consider as a "student." After all, I had over 40 people signed up, and all were claiming to be "students." Yet, little work was being done. But, then I found a clear solution. If, for example, those in my program completed a total of 1000 courses (3 credit hours each) during the school year, and if each full time student was theoretically expected to complete 10 courses per year, then I could justifiablly speak of having 100 "students." This would be true no matter how many people were actually on my rolls. Further, if the total cost of my program was, for example, $1,000,000 per year, then I could say that the efficiency of this program was $10,000 per student per year.

Alaska State Legislature

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

February 24, 1984

Jim Greig, Ph. D.
Box 399
Bernalillo, N.M. 87004

Dear Dr. Greig:

Thank you for your February 1st letter and the fascinating description of some of the high costs of education in rural Alaska. I had been aware they were high, but your material was a real eye-opener. Obviously, to the extent that it can be documented and publicized, it will work to the advantage of the bill I have sponsored.

In addition to that interest, however, it appears this might be material of interest to the Legislative Auditor. I will forward a copy of your material and of this letter to Representative Bob Bettisworth, Chairman of the Legislative Budget and Audit Committee, for his perusal.

With your interest in education you might be pleased to know that the bill, which has been the feature of several public hearings recently, is very popular, and it appears at this point that implementation could begin in the upcoming school year (next Fall). It has the strong support of the State Board of Education, the Director of Postsecondary education, and numerous other ranking officials in the education community. It very well could prove to be the sensible solution to a bothersome and very expensive problem.

Again, thank you for the information, and for your expression of support for the legislation.

Sincerely,

Joe L. Hayes
SPEAKER OF THE HOUSE

JLH:rjn

Such cost effectiveness is so easy to calculate that it could be demanded by the State Legislature and even published in the newpapers. In this way alternative programs could openly compete with each other for public funds. At present, university administrators hide such statistics as though they were nuclear secrets.

For example, one day two officials from a rural community college came by and noticed the charts on my wall.

"Better not display information like that," said one.

"Best not to collect such information in the first place," said the other.

These well intentioned men simply wanted to give me good survival advice. Nevertheless, I kept on with my chart work. Soon my charts clearly showed that over the last year and a half this program had not 40 students but only 5 students. I was generously calculating that one "student" would complete about seven courses per year -- which is only a part-time load anywhere else. Further, we were spending not $10,000 but $120,000 for each student each year. At this rate, the price of just one teaching degree was going to be well over $700,000.

I went to a high administrator of the local community college that formed part of this program.

"Look at these charts," I said. "This program clearly isn't working."

"I know," said the administrator, "but we have tried almost everything."

I had been giving some thought to another, quite obvious approach. It seemed to me that most Native American college graduates that I met in rural Alaska earned their degrees at major campuses. Scholarships large enough to allow our average student, who often had dependent children, to venture onto a large campus, might be the way to go.

"What about setting up a large scholarship fund to send our best students to major campuses?" I asked. "It might be worth a try."

"No way!" He said.

At this point, I should give the reader some background information. Why was this administrator so upset over my suggestion? The answer is that if these scholarships were granted, his college would not only be losing student tuition money, but it would also be faced with decreasing enrollment statistics. His total student enrollment was a major factor in his own funding and was a major factor by which his bureaucratic superiors measured his effectiveness as an administrator. He didn't want to send away promising students -- even if it was to their advantage.

Why don't other rural professors protest over the waste within their own programs? After all, don't professors have the freedom and desire to "profess" the truth? The answer to this is, again, "No way!" Almost two hundred Ph.D's applied for the position that I was selected for at the University of Alaska. Most of these were unemployed. Even if they could find jobs in the Lower Forty-Eight, their average pay would only be about $18,000. The Alaskan bush is often their last chance to make up for all those years at the poverty level. My Alaskan job paid about $50,000 per year, plus a long vacation, junkets to southern

California, and other benefits. With these wages and with 200 Ph.D's waiting in line to replace you, are you going to rock the boat? Probably not.

If you are a boat rocker, you are very quickly replaced. Through a process of natural selection, all boat rockers are soon jettisoned, and only those with a stomach for this kind of excursion survive. I now run my own construction company in New Mexico.

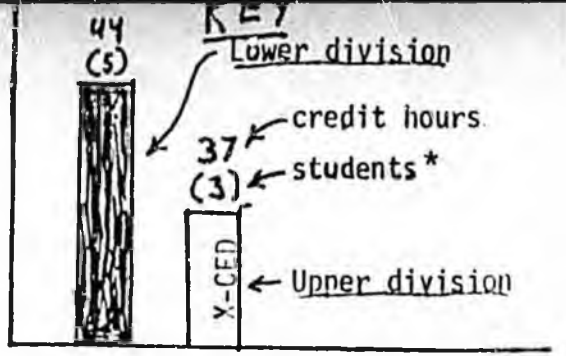
So, would this $10,000 scholarship be wasteful? Not at all. In fact, quite the opposite. If my program is typical, and I believe it is, the taxpayer is already spending up to $120,000 a year for each rural student. How much better would it be for this money to fund twelve students directly, instead of one student indirectly. As it is, most of this $120,000 per student never benefits the student, but instead benefits the bank account of some professional educator. The case is similar if the efficiency of the main rural teacher education program of the University of Alaska at Fairbanks, the X-CED Program, is put to the test. X-CED spends in excess of $1,130,000 per year to field eight professors, some with as little as two or three actual students. This money alone would fund 113 $10,000 scholarships -- perhaps far more scholarships than rural Alaska could presently absorb. Figured this way, the direct benefits become tremendous, and this scholarship program is already funded. It is just a matter of switching the money around.

Would this scholarship constitute reverse discrimination? I think not. The point of this scholarship is not to reward someone for having a particular kind of genes, but for having a particular kind of knowledge. Someone with, for example, Inupiaq ancestory who was raised in Ireland would not be a fitting candidate for these scholarships. On the other hand, an Irish child adopted by an Inupiaq family presumably could become a scholarship candidate. Further, these scholarships would not be designed to reward a student simply because he is a product of Alaskan Native culture. If, for example, the proposed scholarship were for a degree in electrical engineering, then the student's cultural knowledge would have no relevance. But, the point here is that such cultural knowledge is directly relevant to the student's future duties as a teacher of his own children. As has been amply demonstrated, teachers from the American mainstream rarely remain in a Native American village long enough to understand their new culture or to understand their students. Due to this lack of cultural and linguistic knowledge, effective education suffers.

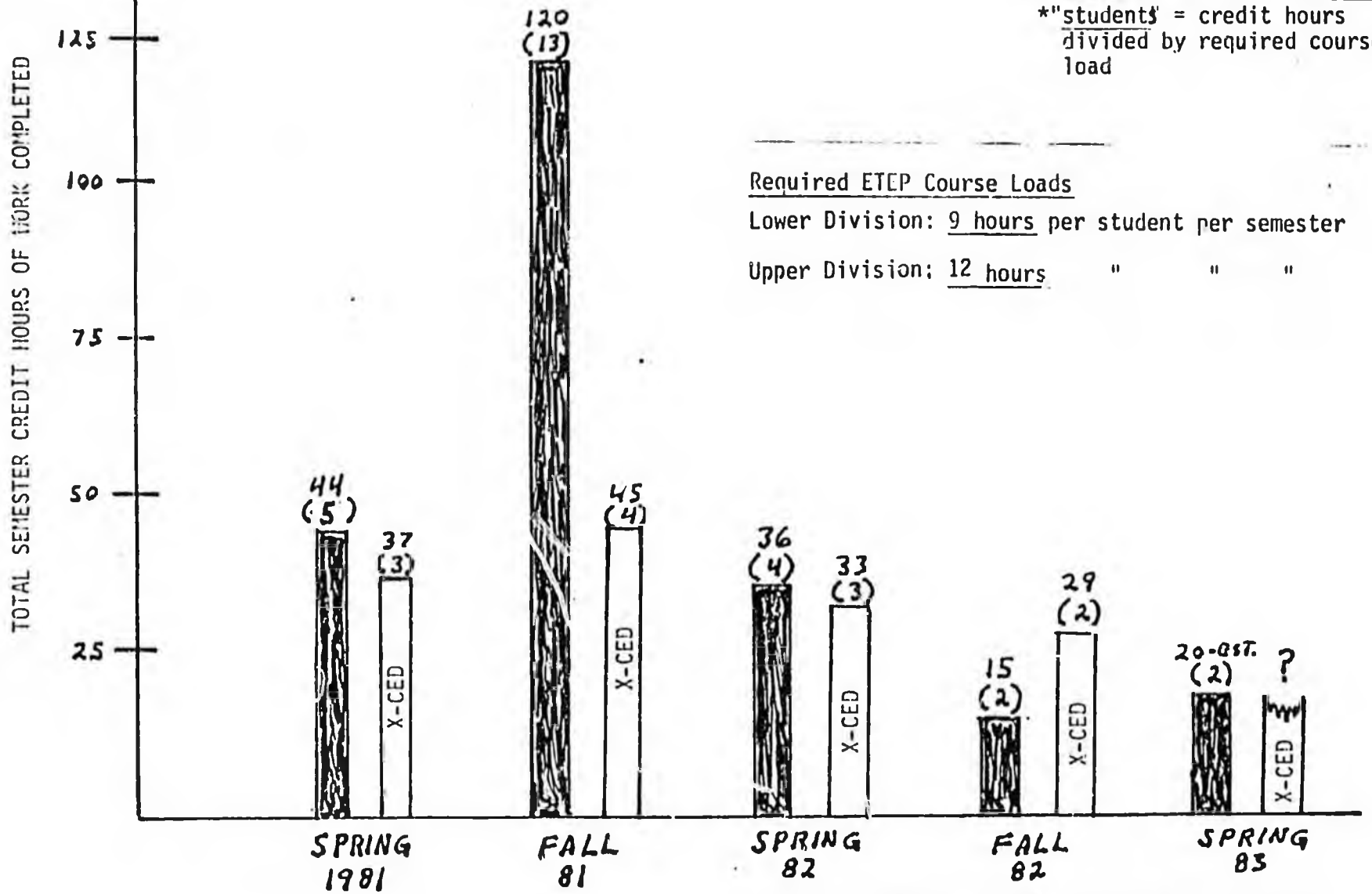
To conclude, from direct experience I know that much of rural higher education is extremely wasteful. For every $100,000 the state pours into rural programs, over $90,000 gets drained away by a vast bureaucracy of professional educators. How much better would it be to give the students money directly and to cut out all of these expensive middlemen. These educators will certainly scream over such a proposal. But, they can easily be silenced by auditing their programs and calculating the total cost per actual student. At present this ratio is never made public.

Secondly, It seems only fair that rural Alaskan communities be given the opportunity to educate their own children. These scholarships should not be seen as discriminating against those who are not Native Americans, but as rewarding those who have a specialized and valuable kind of knowledge.

BAR GRAPH of ETEP PROGRESS



*"students" = credit hours divided by required course load



Required ETEP Course Loads

Lower Division: 9 hours per student per semester

Upper Division: 12 hours " " "

Totals do not include work by 2 non-Native students who are not funded by ETEP.

Presented by Jim Greig, ETEP Director, to the Kawerak Board of Directors, April 20, 1983.

Prepared by Jim Greig, ETEP Director

(2)

ANALYSIS OF ETEP PERFORMANCE -- APRIL 20, 1983
(With some revisions for more precise data & corrections on 4/24)

TOTAL PROGRAM COST (Both X-CED & Lower Division, Spring Sem. '81 -- Sp. Sem. '83)	
ETEP Budget for Entire Program (11/1/80 to 6/30/83)	$848,296
Cost of X-CED for 2½ years *	382,880
Cost of NWCC for 2½ years *	247,430
Total Program Cost (X-CED & Lower Division)	1,478,606
Total Credit Hours Produced (X-CED & Lower Division) *	517
Cost per Credit Hour	$2860
Cost for One 130 hour Teaching Degree (B.Ed.):	$371,800
Average number of students per semester (Calculated using "required course loads" -- see bar graph) *	8

COSTS FOR 1982 - 1983 SCHOOL YEAR (Both X-CED & Lower Division)	
Total Program Cost	$598,762
Total Credit Hours Produced (est.)	88
Cost per Credit Hour	$6804
Cost for 130 hr Teaching Degree (B.Ed.):	$884,520
Average numbers of students per semester (Calculated using "required course loads" -- see bar graph)	4

ANALYSIS OF BERING STRAITS REGION X-CED PERFORMANCE -- Prepared April 22, 83

TOTAL X-CED PROGRAM COST, SPRING SEMESTER '81 THROUGH SPRING SEMESTER '83	
Total X-CED Budget (est., extrapolating from '82-'83) *	$382,880
Total Semester Credit Hours Produced (est.) *	173
Cost per Credit Hour	$2,213
Cost for 130 hour teaching degree (B.Ed.)	$287,690
Average number of students per semester * (Total cdt. hrs., divided by 5 semesters, divided by 12 hr. normal course load)	2.9

*Separate sheets of paper contain information explaining these calculations

PREPARED BY JIM GREIG, ETEP DIRECTOR

REVISED COSTS 4/20/83

CORRECTED NWCC COSTS 4/24/83

ETEP, X-CED, & NWCC ANNUAL COSTS FOR ETEP PROGRAM (UPPER & LOWER DIVISIONS)

ETEP	1982-83 Budget	$346,630

X-CED

Total X-CED Budget 1982-83
$1,130,966
Total number of X-CED student state-wide: 96
Number of X-CED students in Bering Straits Region: 13
Therefore costs: 13/96 x $1,130,966 = $153,152

NWCC

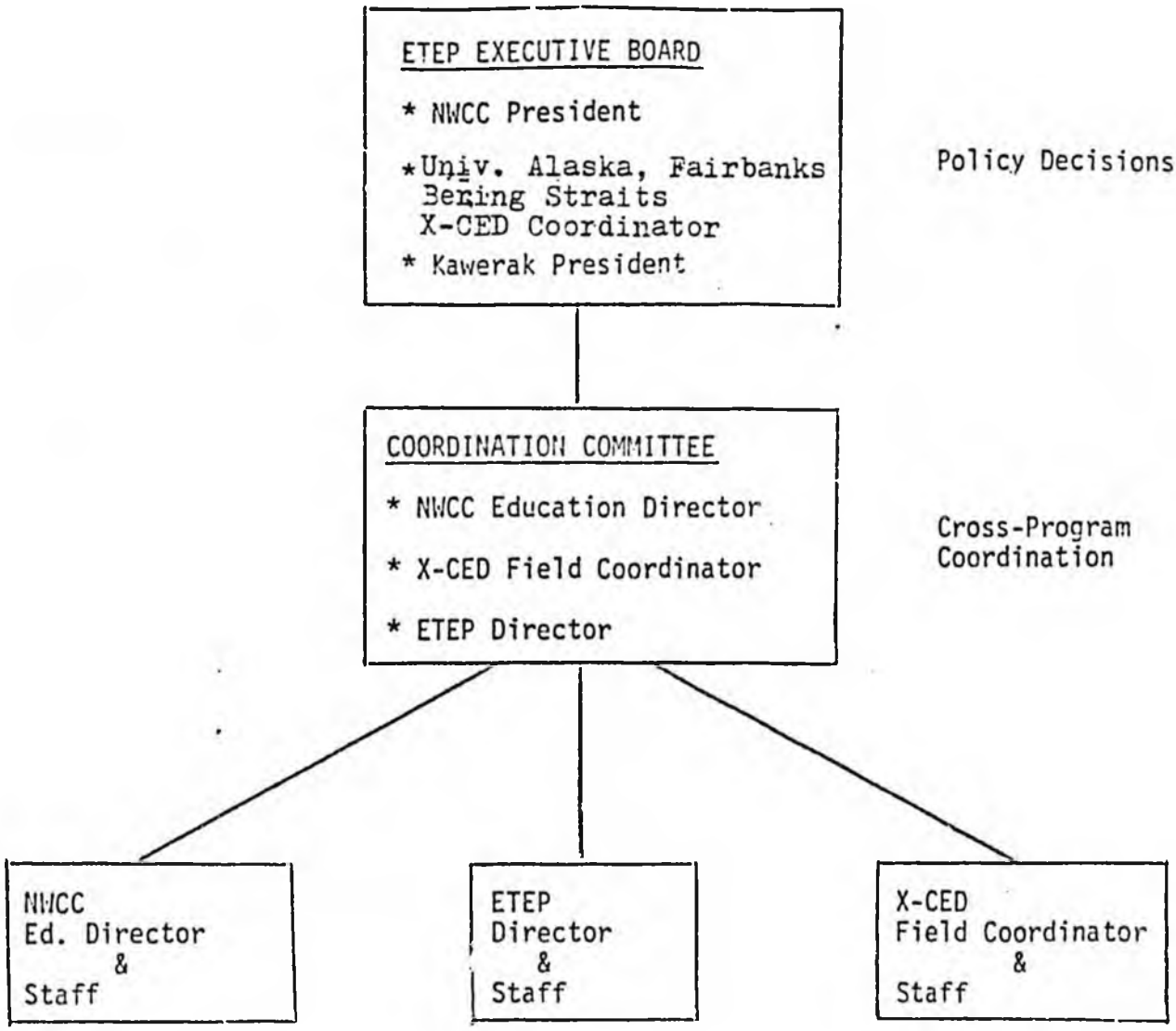
NWCC Affiliated Staff Salaries: $73,150
(from ETEP Title VII grant request p.7-14
Travel (not, as in ETEP, 25% of salaries but, approximately 10%) $7,315
Indirect charges (as in ETEP, 23%) $18,507

Total for NWCC $98,972

TOTAL FOR ALL OF THE ABOVE (i.e. for school year 1982-83) $598,762

NOTE: These two information sheets on ETEP organization, although prepared for a Title VII grant proposal, generally show the de facto ETEP organizational plan.

ETEP ORGANIZATION CHART (Administrative)



ANCHORAGE DAILY NEWS
May 5, 1983. Page 1.

This story also appeared in:
-The Anchorage Times
-The All-Alaska Weekly (headlines)
-The U.S.A. Today (national paper)
-Associated Press (sent nationally)
-Alaska Public Radio
-And many other news sources.

Ousted director raps rural teacher program

By MARTHA ELIASSEN
Daily News reporter

The former director of a Nome-based Eskimo teacher training program claims he was fired because he has said publicly that the program costs too much and it is not working.

Dr. Jim Greig, a philosophy professor who has taught in universities around the world and was hired in January to oversee the Eskimo Teacher Education Program in northwest Alaska, claims hundreds of thousands of dollars are going into the program but only a handful of students are benefiting.

The program was developed two years ago by Kawerak Inc., a non-profit Native corporation, to provide teacher training in individual villages. It is coordinated by Kawerak, the Northwest Community College in Nome and a cross-cultural education program based at the University of Alaska-Fairbanks.

University and Kawerak officials say Greig was not on the job long enough to make an accurate judgment. They say he misunderstood the nature of the training program.

In the past year and a half, Greig said, about $598,000 a year has been used to educate five students. Although 27 students are registered this semester, Greig said, the majority are students "in name only." They do not attend classes or complete assignments regularly and have collectively earned only 16 credit hours this semester, he said.

Greig estimates the cost of one teaching degree earned through the program at $800,000.

"Everybody realizes it isn't working and they don't know what to do," Greig said.

After he was hired in January, Greig said he spent the first month or so writing grants for the program because funds run out this summer. But after praising the program to the government and oil companies, Greig said he began investigating its success in producing Eskimo

Continued from Page A-1

teachers for village schools.

"A lot of money has been spent since the ETEP program began with very little produced," Greig said in an initial memo to Caleb Pungowiyi, Kawerak president.

Greig said he gave a presentation to the Kewarak board of directors April 21 outlining what he says are the shortcomings of the program. He received a memo from Pungowiyi April 25 telling him he had been fired for unsatisfactory performance.

"Obviously, I am being fired for telling the truth," Greig said. Facts about the success rate of the program have been deliberately hidden to make sure it continues, he said.

"There are a few people out there who understand how the system works and are milking it for all it's worth," Greig said.

"My firing is made even more repugnant by being described as 'in the interests of students,' " Greig said in a protest letter to Pungowiyi. "Eight-hundred-thousand dollar degrees are not in the interest of the students — their interests lie in the efficient use of the $598,000 poured into ETEP each year."

Pungowiyi said Greig does not understand what the program is meant to accomplish and made judgments about rural Alaska he did not have the background to make.

"What Jim does not understand is the need for Eskimo teachers and the cost of education in rural Alaska," Pungowiyi said.

The aim of the program is to prepare Eskimos for teacher certification in their own villages, at their own pace, he said.

Though Greig had proposed that it would be much cheaper to give Eskimo students university scholarships, Eskimos who enroll in urban colleges have a high dropout rate, Pungowiyi said.

"There is no doubt that the program is expensive," Pungowyi said. The pay-off will be in 10 or more years rather than within the next two years, he said.

Mike Metty, Northwest Community College president, said Greig made his judgments with only "a couple of months of observation." The goal of the teacher training program is to develop a pool of young people who could one day become certified teachers, he said.

Metty acknowledged enrollment in the program fluctuates. "Right now, we know we're going to lose students on St. Lawrence Island because whaling has started," he said. Education in rural Alaska is unlike education anywhere else because of the demanding way of life, he said.

Furthermore, college is a relatively new idea in the Eskimo culture, Metty said.

"There was no premise that the program was going to produce 40 teachers in four years," Metty said. "We hope to get 30 or 40 teachers over a decade."

But Dr. Gene Adam, former field coordinator for the university cross-cultural program, said some of the original grant applications had more optimistic projections.

Adam, who now teaches English at Fairbanks Community College, supports Greig's view and said the spending bears investigation by taxpayers.

"I think he (Greig) is saying, 'Here is the cost, here is the product,' " Adam said.

Rural education is expensive and it is difficult to coordinate, Adam said. "I have the greatest respect for those students. They have to catch fish, they have to work, they have to take care of their kids and they have to mail in their homework," he said.

"The idea of bringing education into every little valley is a noble one but it's not very practical," Adam said.

Rep. Terry Martin, R-Anchorage, said Greig's concerns about the Nome-based programs are similar to his own about the high cost of rural education in general.

"When you compare it to some of the other programs I've been bickering about, it's not out of line," Martin said.

"The concept has been around for a long time to get Native people to work with Native people," Martin said but the cost of present methods is too high.

In addition to the letter to Pungowiyi protesting his firing, Greig flew to Fairbanks from Anchorage Tuesday to discuss the situation with university officials.

He said he plans on returning to New Mexico in a week or so to resume a lucrative adobe construction business.

END

RESUME

JAMES GREIG

Box 399
Bernalillo, New Mexico 87004

(505) 867-2969

EDUCATION

UNIVERSITY OF COLORADO, Boulder. B.A. 1964, M.A. 1969. Philosophy major, English minor.
UNIVERSITY OF NEW MEXICO, Albuquerque. Ph.D. 1978. Philosophy major, English minor. Dissertation:"The Overman & the Unity Of Nietzsche's Phil."

AREAS OF SPECIALIZATION: Cross-cultural Ed., Interdisciplinary Ed., Humanities, Philosophy, English.

TEACHING EXPERIENCE

1969 LATIN AMERICAN INSTITUTE, NY, NY. Instructor of English as a Second Language.

1969-70 SOPHIA UNIV., Tokyo. Instructor of Philosophy & English.

1971-74 UNIV. OF NEW MEXICO, Albuquerque. Instructor of Philosophy.

1974-75 UNIV. OF GUAM, Agana. Instructor of Philosophy & English.

1976 TEXAS TECH UNIV., Lubbock. Assist. Prof. of Philosophy.

1981-82 UNIV. OF ALASKA, Fairbanks. Assist. Prof. X-CED Program (Cross-Cultural Education Development Program, Sch. of Ed.). Duties: Interdisciplinary humanities"specialist" in a Native teacher education program. Administered B.Ed. program over a 200,000 sq. mile area. Flew between and resided in remote Athabascan Native American villages in the interior of Alaska.

1982 UNIV. OF ALASKA, Fairbanks. Assist. Prof. of Philosophy.

1983 ESKIMO TEACHER EDUCATION PROGRAM (ETEP), Nome, Alaska. Director. Duties: Administer a $346,000/yr. Title IV program, write grant requests, coordinate program planning with the University of Alaska and the Northwest Community College, develop curriculum, supervise bi-lingual student teachers, teach B.Ed. related courses. Constant flights into Eskimo villages in Bering Straits.

COURSES TAUGHT

Humanities
English Literature
Philosophy & Mythology
English Grammar & Composition
American Philosophy
English as a Second Language
Logic
Introduction to Philosophy
History of Philosophy & Science
Contemporary Philosophy
(Note: These are courses I developed & taught, I tutored a range of others

OTHER EXPERIENCE

1970 Editor, Encyclopedia Britannica, Tokyo, (part-time editing).

Alaska State Legislature

Speaker of the House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

February 22, 1984

Mr. William Willoya
Box 484
Nome, Alaska

Dear Mr. Willoya,

Thank you for forwarding your comments on HB 504. I found them enlightening and thoughtful. They will be an important contribution to what we are attempting to make a thorough and complete review on the subject of rural education in Alaska, as it affects the proposed program.

I have forwarded your comments to the HESS Committee for its final work sessions on the bill, and it will become a part of the permanent bill file.

I appreciate your taking the time to attend the hearing and to type and send your comments. When I may be of further assistance or information, please feel free to contact me.

Sincerely,

Joe L. Hayes
SPEAKER OF THE HOUSE

JLH:rjn

FEB 1 0 1984

Teleconference opinions of William Willoya on
House Bill no. 504 at Nome Alaska, Feb.4,1984.

As per your request for written words here is a brief, concise recap of my oral testimony. I am a bachelor of Arts certified, graduate of Alaska Pacific University, class of 1974. Prior to that I was a student of "Arctic" teacher training program, class of 1969.

The experiences I have had in the Arctic as a working person and Principal Teacher number 30 years, approximately 9½ in k-12 schoolteaching. I arrived thru the back door into education,(which is one of many careers I have pursued). Hence I have the objectivity to look at any stratum of Arctic Society with a relatively unprejudiced, experienced eye. With this in mind let me remind you the Arctic, now "x-ced" program is a visible bureaucracy, created by the Alaska people to using your "words." "Therefore, it is the intent of the legislature to establish the teacher scholarship loan program to encourage members of ethnic minorities to return to rural schools as teachers and relieve the conditions described in this section".

As per my testimony as living proof that Arctic X-ced is a viable program. Except, the Super insulated bureaucratic intelligentsia administered the program. I am totally opposed to programs that are statistical "miracles" and real life failures. This is true with any program that involves several layers of accountability, in which native people are the constituents, technicians and professionals work for and are accountable to. In all cases the legislature hears the professionals and not the village spokesman when programs are called into account.

Sec. 14.43.630 I Object: Local school boards should be the "total" process. Selection,administration,Identification of Awardee, Guardianship of the funds, etc.etc.

Reason: Professional Educators know there finest students, know there local school board, know the familys, know whether or not the student -is sincere in purpose, Pure in motivation, and hard working enough to stick out 4 years in college. School Districts statewide are in political and administrative chaos. Most of the elected school boards leave every type possible work To the administration. Hence, if this provision is left in infighting, quota politicking,promoting, and other common tactics will be employed to insure the "right" student is awarded.

As per the testimony on Article 7 I reiterate the goals. Rural students are the aristocracy of the Arctic kingdom. All life goals, plans, efforts, and societal measures are planned with the idea in mind of insuring the student child will be awarded the highest degree of status. Hence, when jobs take children away enmasse the subsistance villagiers revolt by sabotageing the take away our children,program. Right now there is not enough sophistication to keep the talented in remote villages. I can name you the survivors of "Arctic X-ced" left in villages if you wish, on my fingers and toes. Arctic Attrition will kill this bill as surely as a firing squad. A subsistence person is Arctic Royalty. A child, spoiled, self sufficient, aristocratically upbred, secure, in full control of that society does not necessarily find education a progressive entity. Hence, I suggest that this bill be redrafted so that earlier identification of client students, and school boards be finally called on to correct the deficiencies of this bill and the Village Local school boards in conjunction with Local teachers keep this bill out of the hands of bureaucracys.

Finally, let me congratulate you for your universality, progressive mindedness, and fairness to all Alaskans, especially the future ones now in school.

William A Willoya

Introduced: 1/10/84
Referred: Health, Education & Social Services, House Special Committee on State Loans and Finance

BY HAYES, HURLBERT, ADAMS, ABOOD, BARNES, BUSSELL, CATO, COWDERY, DAVIS, FULLER, FURNACE, GRUSSENDORF, HERRMANN KOPONEN, LINDAUER, LISKA, MALONE, MARTIN, M.W.MILLER, RINGSTAD, SHULTZ, SZYMANSKI, UEHLING, WARD, ZHAROFF, FRITZ, BETTISWORTH AND MCBRIDE

IN THE HOUSE

HOUSE BILL NO. 504

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the teacher scholarship loan program."

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

* Section 1. AS 14.43 is amended by adding new sections to read:

ARTICLE 7. TEACHER SCHOLARSHIP LOAN PROGRAM.

Sec. 14.43.600. FINDINGS AND INTENT. (a) The legislature finds that there is a wide and unacceptable disparity between the ethnic distribution of teachers and the ethnic distribution of students in the state public schools. Particularly in rural areas, many schools have virtually no Native teachers and no non-Native students. The undesirable effects of this disparity include the following:

(1) there is a serious weakness in the ability of teaching staffs, particularly in rural schools, to foster a sense of ethnic traditions and cultures in the students;

(2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes, and the essentially modern atmosphere of the classroom;

(3) almost no students among the state's ethnic minorities return to rural schools to teach, continuing the ethnic imbalance and exacerbating its effects; and

(4) there is an annual turnover of 40 percent among teachers in rural educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of members of ethnic minorities

teaching in rural schools. Therefore, it is the intent of the legislature to establish the teacher scholarship loan program to encourage members of ethnic minorities to return to rural schools as teachers and relieve the conditions described in this section.

Sec. 14.43.610. PROGRAM ESTABLISHED. There is established the teacher scholarship loan program to provide an incentive for graduates of Alaska high schools who are from ethnic minorities to pursue teaching careers in Alaska schools.

Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There is created a teacher scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.600 - 14.43.650. All repayments of principal and interest on teacher scholarship loans shall be paid into the teacher scholarship revolving fund and shall be used to make new teacher scholarship loans. If estimated funds available from teacher scholarship loan repayments are inadequate to fully fund estimated teacher scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

Sec. 14.43.630. ADMINISTRATION. The teacher scholarship loan program shall be administered by the student financial aid committee (AS 14.43.095) in accordance with regulations adopted by the committee. The committee shall distribute the funds available for teacher scholarship loans annually to local school boards giving a preference to school districts with a high percentage of students in ethnic minorities and a low percentage of teachers in ethnic minorities. The local school boards shall select the recipients of the teacher scholarship loans.

Sec. 14.43.640. CONDITIONS OF LOANS. Each school district shall award teacher scholarship loans subject to the following conditions:

do they also have to be perfect teachers?

(1) the conditions provided in AS 14.43.120 apply except that no loans may be made to graduate students and the state shall repay a portion of a teacher scholarship loan under AS 14.43.120(j) only if, in addition to the other criteria, the borrower is also employed as a public school teacher in the state during the period for which the loan is forgiven;

(2) if a borrower meets the conditions provided in paragraph (1) of this section and is employed as a public school teacher in the ~~district~~ LV School from which the borrower graduated, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

(A) one year employment, 15 percent;

(B) two years employment, an additional 15 percent;

(C) three years employment, an additional 15 percent;

(D) four years employment, an additional 25 percent;

(E) over four years employment, an additional 30 percent; and

(3) a loan may not exceed $10,000 in a school year.

Sec. 14.43.650. SELECTION CRITERIA. (a) To be eligible for a teacher scholarship loan, a student must

(1) be a graduate of, or scheduled for graduation within six months from, a state public high school, with sufficient credits to be admitted to an accredited college or university;

(2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level; and

(3) meet the conditions set by the student's local school district with respect to the district's requirements for teachers in

Too vague

particular subject areas.

(b) Each school district shall award teacher scholarship loans in direct proportion to the distribution of ethnic groups among the students eligible for graduation from the school district each year.

(c) A student may not be awarded a scholarship loan under AS 14.43.090 - 14.43.160 and a teacher scholarship loan under AS 14.-43.600 - 14.43.650 for the same school year.

February 1, 1984



Robert Buttcane
P.O. Box 601
Bethel, Alaska 99559

Speaker of the House
Joe Hayes
Pouch V
Capital Building
Juneau, Alaska 99811

Dear Speaker Hayes,

Please accept this letter as an expression of my support for HB 504, a bill which would create a teacher scholarship loan program. I am specifically supportive because this bill is designed to encourage Alaska Native high school graduates to earn a teaching degree and to return to their districts to teach.

In my position as a probation officer with Youth Services for the State of Alaska, I have noticed there is a real absence of Native teachers within the villages in my district. The intent of this bill would make an effort to address this deficiency and would provide economic incentive for Native students who obtained their teaching credentials to return to their home communities to teach local Native students.

I understand there will be a public hearing in Bethel by the Health & Social Services Committee on February 5, 1984. I will not likely be able to attend that hearing on that day, so would ask that this letter serve as an expression of my support and that my views would be considered along with the public testimony taken at that upcoming hearing.

Thank you for the opportunity to address you on this matter.

Sincerely,

Robert Buttcane

Robert Buttcane

cc. House Health & Social Servies Committee, Representative Vern Hurlbert, and Representative Tony Vaska.

UNIVERSITY OF ALASKA, FAIRBANKS
Fairbanks, Alaska 99701

FEB 01 1984

January 26, 1984

Joe L. Hayes
Representative
State of Alaska Legislature
Pouch V
Juneau, AK 99811

Dear Honorable Representative Hayes:

I read with great interest the article in the Tundra Times concerning the bill that you and other members of the House have submitted with regard to the increase in native student teacher loans. I consider this one of the most significant bills that has entered the Legislature in terms of an impact upon schools in rural Alaska. As you know, our College at the University has been responsible for the development and the execution of the Cross-Cultural Education Development (X-CED) Program in rural Alaska. During the early years of this particular program, when it was known as the ARTTC program, the students involved had access to stipends and were able, therefore, to be students full time. The number of graduates and the number of successful completions were significantly higher than after this particular program ceased. Obviously, this is accounted for by the fact that students were able to be full time students who did not additionally have responsibility for working full time. Although the X-CED Program continues to graduate students, the potential for success would greatly be enhanced by a loan program such as yours. We know that a large number of interested and motivated native people are present in the villages who wish to become teachers. The X-CED Program, itself, over its short ten years has only scratched the surface. However, within those ten years the program can account for thirty-three precent of all of the native graduates of the entire University of Alaska system since it began. This is a significant and perhaps shocking statistic; however, it is fact and indicates that such a rural-based program has tremendous potential for increasing accessibility of native people to education. A bill such as yours will provide the stability to enable students not only to go full time, but for instruction to take place in short workshops, for students to be able to come to campus for short periods of time, and for other teaching configurations which are really prohibited when a person must work full time while trying to complete a baccalaureate degree.

Again, I would like to thank you for your foresightedness in introducing such a bill. If there is any way I can be of support in any small way, please let me know. With best wishes for success,

Sincerely,

Gerald V. Mohatt

Gerald V. Mohatt, Dean
College of Human and Rural Development
University of Alaska, Fairbanks
Fairbanks, Alaska 99701
Phone: (907) 474-7106

GVM/ijs

The Honorable Vern Hurlbert
Alaska State House of Representatives
Juneau, AK 99801

Dear Mr. Speaker:

Your letter dated January 16, 1984, is commendable, as it states very desirable objectives. If the bill you described were to pass, it would help motivate native peoples to enter the teaching profession. I support such a bill and hope it passes into law.

We are very concerned about our native students and also our own children who have gone out to college and received their teaching d ree. They return to their home town but are never considered for positions they have been trained.

I might mention that my daughter Lillian graduated from an accredited college with a BA in teaching and is certified to teach in the state of Alaska. She is a Tlingit and grew up in the state of Alaska. In the past, she applied for a teaching position at Klawock and Craig, to no avail. It is with some hesitation that I say that her Dad, uncles,

aunts, cousins and myself taught school for many years. Her Dad and some uncles are now retired from teaching and we had enccuraged the younger family members to continue in this profession. She doesn't have any interest in teaching in any other area because she would rather work with her own people.

Administrators hired outside of Alaska have no interest in hiring local teachers. I personally have applied at the same school three consecutive years and was told, I wasn't strong enough.

In order to push your bill through you need to convince the administrators and the local school boards. The administrators work their way into controlling the school board which completely throws out local hiring.

Thank you for your letter.

Truly yours,

Virginia Y Demmert

Virginia Y. Demmert

HB

514

COMMITTEE REPORT

HOUSE

(7)

FURTHER:

1/14/84

Date: January 23, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 514

"An Act relating to the regulation of private schools."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 514 (HBSS) [XX] same titl [X] new title

and recommends That the CS Pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [XX] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	[signature]
M.W. Miller	
Terry Martin	

CHAIRMAN

Levy
1/18/84

BY TISCHER, FURNACE, LINDAUER, BARNES, SZYMANSKI, ABOOD, BETTISWORTH, BUSSELL, CATO, COWDERY, DUNCAN, FLOOD, FRITZ, FULLER, HERRMANN, LARSON, LISKA, MARTIN, M.M.MILLER, M.W.MILLER, PESTINGER, PHILLIPS, RINGSTAD, SHULTZ, WARD AND HAYES

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 514

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of private schools."

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

* Section 1. PURPOSE. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and the State of Alaska and in recognition of the right of parents to choose to have their children educated in private schools, it is the purpose of this Act

(1) to ensure that in matters of education by religious organizations the state shall not control or interfere with the rights of conscience and religious liberty;

(2) to further the state's legitimate interest in ensuring the quality of all education, including private education; and

(3) ~~to allow~~ diversity in education by ~~encouraging~~ minimizing STATE regulation of private education. State involvement in the affairs of

* Sec. 2. AS 14.07.020 is amended to read:

Sec. 14.07.020. DUTIES OF THE DEPARTMENT. The department shall

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

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

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

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], standards that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in private pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES,] exercise general supervision over public [AND PRIVATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private [ELEMENTARY AND SECONDARY] schools which request accreditation and which meet accreditation standards prescribed by regulation by the department; nothing in this paragraph authorizes the department to require religious or other private schools to be licensed;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

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

(13) administer the grants awarded under AS 14.11.020.

* Sec. 3. AS 14.30.010(b) is amended to read:

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at an educational program operated in compliance with AS 14.45.100 - 14.45.140 by a religious or other private school [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE

AVERAGE STUDENT PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFICIENCY FOUND IN THE PUBLIC SCHOOLS IN THE AREA AS MEASURED BY NATIONAL ACHIEVEMENT TESTS; THE DEPARTMENT WITH ASSISTANCE FROM REPRESENTATIVES OF THE PRIVATE SCHOOLS SHALL PROMULGATE REGULATIONS DEFINING THE SUBJECT AREAS TO BE TESTED AND THE MINIMUM AVERAGE SCORES TO BE ACHIEVED];

(2) attends a school operated by the federal government;

(3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school which the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends.

* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. NON-EXEMPT SCHOOLS [ATTENDANCE AND ANNUAL REPORTS REQUIRED]. Teachers and others in charge of religious or other private [OR DENOMINATIONAL] schools not operated in compliance with AS 14.45.100 - 14.45.140 are not exempt from laws and regulations relating to education. Non-exempt schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 5. AS 14.45 is amended by adding new sections to read:

ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS.

Sec. 14.45.100. EXEMPTION. A religious or other private school that complies with AS 14.45.100 - 14.45.140 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent or guardian of a child enrolled in a religious or other private school that complies with AS 14.45.100 - 14.45.140 shall file an annual notice of enrollment in the school for the child with the local public school superintendent for the area in which the child resides on a form provided by the department. The form shall be signed by the parent or guardian and the chief administrative officer of the school and returned to the local public school superintendent by the parent or guardian. The school shall notify the local public school

superintendent within a reasonable time if the child is no longer enrolled in or attending the school.

(b) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.140 shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall make an annual report to the commissioner of the number of students in each grade and the school calendar.

Sec. 14.45.120. STANDARDIZED TESTING REQUIREMENTS. (a) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.140 shall administer a nationally standardized test selected by the chief administrative officer of the school to all students enrolled in grades four, six, and eight at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.140 shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student. Each school shall make composite test results for the school available annually to an authorized representative of the department. The composite test results of a religious or other private school operated in compliance with AS 14.45.100 - 14.45.140 are not public information unless each public school

(1) is also required to administer a nationally standardized test that measures achievement in English grammar, reading, spelling, and mathematics; and

(2) the composite test results for each public school are public information.

Sec. 14.45.130. RECORDS. (a) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.140 shall maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school.

(b) The chief administrative officer of a school that elects to comply with AS 14.45.100 - 14.45.140 shall certify under oath to the department that the records required under (a) of this section are being maintained.

Sec. 14.45.140. DEFINITION. In this chapter

(1) "religious school" means a private school operated by a church or other religious organization that does not receive direct state or federal funding.

* Sec. 6. AS 14.45.020 is repealed.

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
326 Fourth St., Suite #510 Juneau, Alaska 99801 586-9702

an organization of Alaskan School Administrators

January 24, 1984



The Honorable Mae Tischer
House of Representatives
Chairman, Health, Education
and Social Services
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

The Alaska Council of School Administrators would like to go on record as supporting H.B. 514 as amended. We are particularly pleased that the bill calls for a process of notifying local school districts about enrolled or non-enrolled students as found in Sec. 14.45.110. This bill enables the chief administrative officer of a district to fulfill his requirements under the compulsory attendence law AS Sec. 14.30.030.

Once again, we support the bill as written and urge its adoption.

Sincerely,

Don MacKinnon
Executive Secretary

DM:clc

American Association of University Women
Alaska State Division

Susan R. Clark, State Legislative Chair
1109 C Street, Juneau, Ak. 99801
(907) 586-6952

23 January 1984

The Alaska Division of AAUW would like to go on record in support of an amendment to HB 519/SB 354, relating to the regulation of private schools. On page two of the bill (in Sec. 2. AS 14.07.020.) we would recommend that (8) read as follows: "...pre-elementary schools in this paragraph means schools for children ages three through five years when the school's primary function is educational and the program operates for four or fewer hours a day." Of specific concern to us is the health and safety of pre-elementary children ages 3 through 5 who spend from five to 10 or more hours daily in care outside their home.

Without this ammendment a loophole is created or rather maintained in Alaska statute that permits any program offering care to children up to 10 hours or more a day to exempt itself from health and safety regulations governing all Alaskan day care centers - even though that program is not functionally different from a day care program. The Dept. of Education has been called to task over the last several years by both the State Division of Internal Audit and the Federal Office of Child Development for the lack of a clear definition. Says the latter: "Your statute is indeed weak, allowing for confusion and almost any interpretation..." The Dept. audit found that "neither of the statutes [D.O.E.'s wording nor D.H.S.S's AS 47.35.010-80] set criteria nor define what is to be considered a primarily educational facility versus a child care facility;" and "because primarily educational has not been defined, neither the regulator Departments, the facilities themselves, nor the public has a positive definition to use in deciding whether or not a program is a preschool or daycare program. As a result, any facility may choose to be classified as a preschool, and avoid the requirement to comply with daycare standards."

One of the issues involved here is that education of pre-elementary children is different than the academic emphasis of elementary education, due to shorter attention spans, the need for more physical movement (and the need for physical rest), and the underlying necessity of children needing to learn pre-academic skills. Goals for a pre-schooler are different than those for an older child, and Early Childhood educators set out the following as desirable outcomes of a preschool education:

a. Development of a positive self-concept, a sense of self-worth that comes from experiencing success, and a growing awareness of one's strengths as well as one's weakness.
b. Achievement of independence in decision making and a sense of mastery over one's environment (buttons, bows and zippers...); plus an achievement of mutual interdependence - a sense of responsibility for self and others within a community or group.
c. Movement from preoccupation with one's own biological and

psychological needs toward involvement in outside interests and activities; finding pleasure from human interaction; seeking problems and finding satisfaction in solving them.

d. Internalizing the concepts of problem solving abilities.
e. Coping with change and wider relationships.

Parents overwhelmingly want the option of an enrichment program for their children - the inclusion of life-expanding experiences not normally available in the home - and early enrichment has been shown to be important to the full development of all types and classes of children. Because of these factors all quality childcare programs at the pre-elementary level have (and all programs are encouraged to have) educational components teaching the basic life skills of self-sufficiency, socialization, and basic cognitive skills. Parents and community are no longer willing to accept custodial childcare or "warehousing" of kids as acceptable. Thus based on educational content there is no functional difference between a full day "preschool" and a good day care center. In fact in the D.O.E. audit, "of the 19 daycare programs surveyed, 18 stated they offered a preschool program." Ironically in Alaska while parents are lured by the term "preschool" into thinking they are doing better by their children, the standards for preschools are considerably lower than for daycare centers. [See attachment for comparison.]

When a young child is in care for all day every day, the program ceases to be solely a "school" and must include attention to nutritional needs, rest, staff health, adequate supervision with enough staff to attempt to meet the individual needs of each child, and enough space to meet the need to be physically active. Quality childcare is commonly described in national studies as having a tight child/staff ratio (a small number of children to each staff member). Safety in emergencies is a factor, but in normal times children under five need more individual attention than they will ever need at any other time. To form strong and positive self-concept, children need to be listened to, supported and encouraged. A large number of children can be tolerated in "school"-like situations for short periods during the day when activities are highly structured, but the emphasis must necessairly be on control. On a full time basis that can contribute to degrees of "maternal deprivation" resulting from the lack of a strong, rewarding relationship in the early years with a single close adult. "Preschools" have no child/staff ratio requirements. Similarly "pre-schools" have no minimum space requirements although the D.O.E. audit pointed out that adequate space is "absolutely necessary to ensure a quality, developmentally-orientated child care program":

> "the higher the quality of space in a center, the more likely were teachers to be sensitive and friendly in their manner toward children, to encourage children in their self-chosen activities and to teach consideration for the rights and feelings of self and others. Where spatial quality was low, children were less likely to be involved and interested, were more likely to exhibit agressive behavior, and teachers more likely to be neutral and insensitive in their manner, to use large amounts of guidance and restriction, and to teach arbitrary rules of social living."

There can be a workable definition of "pre-elementary school". Most legitimate pre-schools operate from two and a half to three

hours a day, as do most kindergartens for 6 year olds. Even elementary and high school kids do not attend school longer than about 6 hours a day, yet we permit three year olds to attend "school" 10 hours a day. We expect pre-schools to offer a fairly highly structured program for children and often the child/staff ratio is large (20 or more youngsters to 1 adult), but on a short time basis this can be acceptable. Beyond four hours the needs of small children demand more nurturing and less structured care, more space and less control, provision for a nutritional meal and snacks, a time for rest and naps, and the assurance that staff are not carriers of T.B., and assurance that an emergency plan is operable. After four hours children need more individual attention.

All 50 states regulate full-day child care, though in many states it took a tragedy to enact licencing laws. Without this amendment, Alaska is the only state not regulating full day programs which are funtionally identical to day care centers.
The results are a "risk to children", says the D.O.E. audit, for "programs quickly call themselves pre-elementary schools when they learn that is a means of escaping regulations." Please don't let tragedy have to happen first, before we correct what no other state will tolerate.

Preschool Standards are Lower Than Daycare Standards

In Alaska, the Department of Education's standards for preschools are lower than the Department of Health and Social Services standards for daycare centers. For example, the only preschool standard equal to daycare standards is the immunization standard as shown in the following table.

COMPARISON OF DAYCARE AND PRESCHOOL STANDARDS

STANDARD	DAYCARE	PRESCHOOLS
License Renewal	Annual	5 yrs.
Agency Review	Annual	5 yrs.
Staff Pupil Ratio	1-10	no standard
** Indoor Space	35 sq. ft.per child	no standard
Outdoor space	75 sq. ft.per child	no standard
Fire Inspection	Annual	5 years
Sanitation Inspection	Annual	5 years
Health Program	required	no standard
Prone Rest	required	no standard
Immunizations	required	required
Nutrition Program	required	no standard
* Corporal Punishment	regulated	no standard

The Department of Health and Social Services also requires that daycare programs provide opportunities and experiences to promote the individual child's physical, emotional, social and intellectual growth, as outlined below:

- -- opportunities for balance of active/quiet play, group and individual, and indoor and outdoor play;
- -- opportunities for individual self expression in conversation. imaginative play and creative expressions;
- -- use of games, toys, books, sand, puzzles, for intellectual and social development;
- -- walking excursions/field trips; and
- -- equipment and furniture be of sufficient quality and quantity and appropriate to a child's use.

* The regulation reads: "Satisfactory compliance with this subsection requires that ... (7) caregivers not use any form of corporal punishment unless otherwise approved in writing by the parent of the child, and that they not use any other technique which is humiliating, shaming, frightening, or otherwise damaging to a child."

** "Several studies have found that most social involvement appears to occur at medium density (35-50 sq. ft. per child), while agressiveness occurs at higher densities (below 35 sq. ft.) and random behavior occurs in large undifferentiated settings (over 50 sq. ft.)."

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM January 20, 1984

SUBJECT: Sectional analysis of CS HB 514 (HESS)

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested a sectional analysis of CS HB 514 (HESS), "An Act relating to the regulation of private schools." The main thrust of the bill is to allow religious and other private schools to opt out of the general laws and regulations applicable to private schools if they agree to comply with certain minimal requirements.

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion while at the same time ensuring the quality of all education in the state and minimizing the the regulation of private education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). It provides that the department will consult with the state fire marshall and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in private pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of private pre-elementary schools and nurseries. Supervision over public pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)).

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5, below) satisfies the compulsory education requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and the school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the result of which are also public (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and

courses taken at the school. The administrator of the school must certify under oath that these records are being maintained (AS 14.45.130). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140).

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

KBL:ojb
J2/057

To: Legislators and interested others
From: League of Women Voters, AAUW (American Association of University Women), NAEYC (National Association for the Education of Young Children), the Alaska Women's Lobby

Re: SB 354, HB 514 An Act relating to the requlation of private schools.

Requesting: An ammendment defining the term "pre-elementary school" in Sec. 2. AS 14.07.020. (8)..."pre-elementary schools is this paragraph means schools for children ages three through five years when the schools' primary function is educational and the program operates for four or fewer hours per day."

Problem: Without this ammendment a loophole is created in Alaska statute that permits any program offering care to children up to 10 hours or more a day to exempt itself from health and safety regulations governing all Alaskan day care centers - even though that program is not functionally different from a day care program.

Issues: (1) Education of pre-elementary children is different than the academic emphasis of elementary education, due to shorter attention spans and the need for more physical movement.

(2) All quality childcare programs at the pre-elementary level have educational components which include teaching basic life skills including self-sufficiency, socialization, and basic cognitive skills. Based on content there is no functional difference between a full day "pre-school" and a good day care center.

(3) When a young child is in care for all day every day, the program ceases to be solely a "school" and must include attention to nutritional needs, health of the staff, supervision with at least one staff person to 10 pre-schoolers so that the staff can attempt to meet the individual needs of each child, and enough space to meet the needs to be physically active.

(4) Most legitimate pre-schools operate from two and a half to four hours a day. Even kindergarten limits 6 year olds to two and a half to three hours. Elementary and high school kids attend only 6 hours, yet we permit a three year old to attend "school" 10 hours a day!

For more information call:

L.W.V.	Paula Ziegler	586-9439/586-2660(h)
AAUW	Susan R. Clark	586-6952
NAEYC	Marjorie Fields	789-4408/789-0109(h)
Ak. W.L.	Jana Varnati	364-3487(h)

THE DEPARTMENT OF EDUCATION NEEDS TO IMPROVE MANAGEMENT OF PRESCHOOL PROGRAMS

FEBRUARY 1982

STATE OF ALASKA
OFFICE OF THE GOVERNOR
DIVISION OF INTERNAL AUDIT



05-41

SUMMARY

The Department of Education is responsible for preschool programs in the State of Alaska. There are at least 185 early childhood programs in the state that provide preschool services.

This report shows that the Department of Education needs to better manage preschools, and needs to define which early childhood programs should be classified as preschools. The report also shows that the Department needs to set standards for preschools.

BETTER MANAGEMENT OF PRESCHOOL PROGRAMS IS NEEDED

The Department has certified only 28 early childhood programs as preschools, and has monitored even fewer. Historically, the Department has placed little emphasis on preschools. In addition, deciding which early childhood programs actually are preschools is difficult because the Department has not provided a definition of preschools. The lack of a definition causes confusion for those attempting to manage other child care programs.

STANDARDS FOR PRESCHOOLS SHOULD BE IMPROVED

The Department has not developed adequate preschool standards. And, although Alaska Statutes require that the Department of Education cooperate with the Department of Health and Social Services in regulating preschools, there has been little cooperation. Inadequate standards lead to inconsistent care for similar populations in preschool and daycare centers, and lessens the value of the preschool certification process.

RECOMMENDATIONS

To assure that the Department of Education meets their management responsibilities for preschools, we recommend the Commissioner require that:

-- preschool programs in Alaska are regulated; and

-- preschool programs are monitored to assure compliance with requirements.

To help eliminate the confusion in determining which early childhood programs are preschools, we recommend the Commissioner provide a definition of which early childhood programs are preschools.

To assure that the similar populations in preschool and daycare programs receive consistent care, we recommend the Commissioner of the Department of Education cooperate with the Commissioner of the Department of Health and Social Services in developing health, safety and developmental standards for preschools. We also recommend the Commissioner of the

Department of Education develop standards for the educational component of preschools.

DEPARTMENT COMMENTS

In response to our draft report, the Commissioner of the Department of Education and the Commissioner of the Department of Health and Social Services agreed with our recommendations and are taking action to improve management of early childhood programs. (See Appendices I and II)

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INTRODUCTION

There are at least 37,000 children 6 years old or younger in Alaska. Many of these children spend part of their time in organized early childhood programs, such as preschools. Research has produced abundant evidence that a good child development program has significant short and long term effects. Early childhood programs have been found to have a positive effect on a child's self respect, proficiency at learning, achievement and intelligence test scores, reduction of grade failure, and social development. According to a major economic study the benefits of a quality child development program provide a 248 percent return on the original investment.

In the State of Alaska, the Department of Education is responsible for setting preschool standards for a level of care that will insure safety, reduce predictable harm, and provide developmental opportunities. The Department of Health and Social Services is similarly responsible for daycare programs.

DEPARTMENT OF EDUCATION RESPONSIBILITIES

Alaska Statute 14.07.020 provides that the Department of Education, in cooperation with the Department of Health and Social Services, exercise general supervision over public and private preschools and over the educational component of daycare centers, and prescribe regulations that will assure healthful and safe conditions in the schools. The Departments' responsibility is defined in Section 4 of the Alaska Administrative Code 60.010 which requires the Department issue a certificate of approval after:

- conducting an investigation of preschool applicants;
- reviewing the proposed plan of education, mode of operation and supervision of children; and
- investigating whether the programmatic objectives of the preschool are being met.

This regulation also requires that preschools have:

- a valid Department of Education certificate displayed with effective dates;
- insurance;
- a Cumulative Health Record Form and records of immunization of children;
- records of physical exam and records of immunization for staff and volunteer workers;
- a disaster plan;
- documentation, on file with the Department of Education, showing inspections for public safety were made before certification and;
- provided programmatic requirements to the Department of Education.

DEPARTMENT OF HEALTH AND SOCIAL SERVICE RESPONSIBILITIES

The role of the Department of Health and Social Services is to license, investigate and supervise daycare centers; and to issue and enforce regulations. Facilities that are primarily educational are exempt from Department of Health and Social Service regulation.

OTHER STATE INVOLVEMENT IN PRESCHOOL AND DAYCARE PROGRAMS

The Department of Community and Regional Affairs contracts with local communities to provide daycare assistance to enable parents to work or enter training. In addition, the State, through the Department, provides funds to Federal Head Start programs in Alaska.

The Department of Commerce and Economic Development provides a revolving loan fund to enable daycare facilities to obtain loans when necessary to meet licensing standards.

In addition, the Department of Environmental Conservation and the Department of Public Safety review early childhood programs for compliance with fire and sanitation standards.

SCOPE OF THE REVIEW

We performed the following steps in reviewing Department of Education's role in exercising general supervision of Alaska's preschools:

- -- reviewed applicable statutes and administrative procedures;
- -- interviewed educators, Departmental administrators, and early childhood learning center staff;
- -- visited preschools;
- -- reviewed and analyzed documents of the Department of Education and preschools; and
- -- gathered information by questionnaires to similar programs in other states, and to preschool and daycare centers in Alaska.

BETTER MANAGEMENT OF PRESCHOOL PROGRAMS IS NEEDED

Historically, the Department of Education has taken little action to manage preschools and has not allocated resources for managing preschools. As a result, the Department has certified and monitored few preschools, which could expose the State to liabilities. In addition, the Department's failure to develop a definition which distinguishes between child care programs and preschools results in confusion for those attempting to manage other child care programs.

THE DEPARTMENT OF EDUCATION MAKES LITTLE EFFORT TO MANAGE PRESCHOOLS

Little staff time or funds are allocated to performing the Department's statutory obligation in early childhood education. The Department staff member responsible for early childhood education programs is also responsible for guidance and counseling, and private and denominational schools. Only about one eighth of her staff time is allocated to the early childhood program. In addition, the Department of Education budgets show that no funds have been allocated to early childhood programs in the last 5 years.

FEW PROGRAMS ARE CERTIFIED

The Department of Education certifies few preschool programs. Responses to questionnaires from 41 of Alaska's 52 school districts showed that there are at least 167 preschool programs in the State. Yet, during the past 5 years the Department of Education has certified only 28 programs. In addition, many of the 28 certificates were given without the necessary documentation on file in the Department. For example, of the 28 programs certified, the Department did not have a fire and sanitation inspection report on file for 12 of the programs, did not have documentation of insurance for 18 programs and did not have programmatic requirements for 18 of the programs.

In addition, many daycare centers are offering preschool programs without Department of Education supervision over the educational component. For example, of the 19 daycare programs surveyed, 18 stated they offered a preschool program but were not certified by the Department of Education.

FEW PROGRAMS ARE MONITORED

The Department is not making onsite visits to monitor the safety, medical records, insurance records or to see if the school is actually implementing a curriculum. The Department has made only about 15 onsite visits in the last 5 years. The early childhood coordinator stated that seven of the onsite visits occurred as a result of a crisis situation and the other reviews were performed on lunch hours while traveling for other reasons.

LIABILITY EXISTS FOR NONPERFORMANCE OF STATUTORY RESPONSIBILITY

The concept of "State Certification" implies to the public that:

-- the preschool is, in fact, an education institution; and

-- the State, through the appropriate agency, has determined the preschool to be in compliance with appropriate laws and regulations.

In a November 1980 memo to the Department of Law, the Commissioner of Health and Social Services expressed concern about the number of unregulated preschools. The Commissioner stated in the memo that the problem of unregulated preschools causes unequal application of the law and has the following results:

1. Lowering respect for Alaska statutes in general.

2. Enforcement problems for this Department. Programs quickly call themselves pre-elementary schools when they learn that is a means of escaping regulations.

3. Risk to children in unregulated pre-elementary schools.

4. A large early childhood population subject to immunization regulations but not receiving the immunizations.

In response, the Department of Law noted that:

> "This office understands that the Department of Education does not now investigate facilities applying for certification and does not supervise the physical examination of immunization requirements. Nor is the department involved in monitoring of other health and safety codes.
>
> Even assuming that there are no certifiable pre-elementary schools in Alaska, the department's records should reflect that applications have been submitted and that investigations have taken place sufficient to determine that the Department of Education finds that no facility is a pre-elementary school or a day care facility with an education component."

The Department of Laws' advisor to the Department of Education told us that the Department of Education has been designated to perform a responsibility and currently is not performing it. Failure to perform where there is a duty to perform, can place the State in a position of exposure to liability.

PRESCHOOLS ARE NOT DEFINED

Alaska Statute 14.07.020 (8) provides that the Department of Education "...exercise general supervision over public and private pre-elementary

schools...when the school's primary function is educational." Alaska Statute 47.35.010-80 provides that the Department of Health and Social Services license..."an establishment providing care and services for any part of the 24-hour day for a child... but does not include any establishment whose primary purpose is educational." Neither of the statutes set criteria nor define what is to be considered a primarily educational facility versus a child care facility.

In 1975, the Department of Health, Education and Welfare (Federal Office of Child Development) commented in a letter to the Department of Health and Social Services that "Your statute is indeed weak, allowing for confusion and almost any interpretation..." The letter said that the most difficult job for the two Departments was the formulation of a clear and full definition of a facility whose function is "primarily educational", and the Departments should work towards better statutes and a clarification of the primarily educational function. The letter said a definition is needed so each applicant will know whether or not the law applied to their program and so each Department has a positive definition to use in deciding whether or not a facility is in their area of responsibility.

Even though the statute is weak, the Department could take action to establish standards and a definition of preschools, but they have not done so. In 1971, the Attorney General stated that a determination must be made whether a given school is actually primarily educational, and the "Department of Education...may define what type of program or programs is primarily educational."

RESPONSIBILITY FOR REGULATION IS NOT CLEAR

Because primarily educational has not been defined, neither the regulatory Departments, the facilities themselves, nor the public has a positive definition to use in deciding whether or not a program is a preschool or daycare program. As a result, any facility may choose to be classified as a preschool, and avoid the requirement to comply with daycare standards. For example, 8 of the 28 certified preschools provide daycare services but do not have to comply with daycare standards because they chose to be certified as preschools

This problem also creates confusion for regulatory agencies. At locations where both preschool and daycare services are provided, the Department of Health and Social Services has found it difficult to determine compliance because two different standards are used. For example, children in the Department of Education regulated preschool program often intermingle with children in the Department of Health and Social Services regulated daycare program, thereby changing the acceptable staff pupil ratio.

In addition, the Municipality of Anchorage also has difficulty issuing accurate, legal and meaningful permits because some child care centers are providing services regulated by their ordinance and services regulated by the Department of Education.

The Department of Health and Social Services and the Municipality of Anchorage told us that the regulatory confusion also results in some early childhood programs being unregulated. For example, we found 36 early childhood programs unregulated by either the Department of Health and Social Services or the Department of Education.

STANDARDS FOR PRESCHOOLS SHOULD BE IMPROVED

The Department of Education's preschool standards do not assure that certified preschools provide quality educational programs in a safe and healthy setting. Alaska Statutes require that the Department of Education cooperate with the Department of Health and Social Services in regulating preschools, but cooperation has not occurred. In addition, the statutes do not give the Department authority to enforce standards. Inadequate standards lead to inconsistent care for similar populations in preschools and daycare centers. Also, the value of the preschool certification process is questionable because of the inadequate standards.

PRESCHOOL STANDARDS IN ALASKA ARE INADEQUATE

Preschool standards should assure that certified preschools provide quality educational programs in a safe and healthy setting. But, the Department of Education has not established educational standards for preschools. In addition, the Departments health and safety standards for preschools are lower than the standards the Department of Health and Social Services has established for daycare centers.

Standards are Needed to Assure Quality Preschool Programs

According to Federal and national association authorities in the field of child care and development, there are two levels of standards. First, there is licensing, which is the base level and assures that a program or facility meets health, safety and child development standards.

The second level generally supplements basic licensing and is designed to assure quality where a specialized service, such as education, is being offered. Thus, a facility providing child care should be licensed, while a facility operating as a preschool should have a child care license plus be certified as a preschool.

Educational Standards Have Not Been Developed

The Department of Education has not developed specific educational standards for preschools. The Department only requires that preschools provide written information concerning the schools philosophy and goals. Examples of standards that many states have set for preschools are those relating to teacher certification and space requirements.

Teacher Certification

According to education authorities the quality of the staff determines, to a high degree the excellence of an educational program. For example, The Teacher Education Committee of the Association for

Childhood Education International has recommended that teachers of children three through eight years of age:

-- should have study in the areas of physical and biological sciences, mathematics and philosophy, language and literature, the social and behavioral sciences, and the fine arts.

-- should have a minimum of twenty-four semester hours of professional preparation in the field of early childhood education,

-- should have supervisory experience with young children, and

-- should be required to take refresher courses and to keep active affiliation with professional organizations.

In a recent survey of 26 states, 17 said they require separate certification, four said they require a separate early childhood endorsement, and five said they currently have no requirement on early childhood teacher certification.

Alaska is one of the five states surveyed that does not require any early childhood training as a prerequisite for teaching children under age six. The Department of Education allows any person 19 years old or over, or any student who is age 16 and enrolled in a training program, to be a staff member.

Space

National experts advise that an adequate amount of space available for children's activities is absolutely necessary to ensure a quality, developmentally-orientated child care program. For example, research has shown that space effects the quality of living and learning within a center:

> "the higher the quality of space in a center, the more likely were teachers to be sensitive and friendly in their manner toward children, to encourage children in their self chosen activities, and to teach consideration for the rights and feelings of self and others. Where spatial quality was low, children were less likely to be involved and interested, and teachers more likely to be neutral and insensitive in their manner, to use large amounts of guidance and restriction, and to teach arbitrary rules of social living."

In addition, tendencies towards social versus aggressive behavior has been found to be effected by space and according to a research study report:

"Several studies have found that most social involvement appears to occur at medium density (35-50 sq. ft.), while aggressiveness occurs at higher densities (below 35 sq. ft.) and random behavior occurs in large, undifferentiated settings (over 50 sq. ft. per child)."

Eight of the ten states who responded to our survey on this question required a minimum of 35 square feet per child. The Department of Education has not established space requirements for preschools in Alaska.

Preschool Standards are Lower Than Daycare Standards

In Alaska, the Department of Education's standards for preschools are lower than the Department of Health and Social Services standards for daycare centers. For example, the only preschool standard equal to daycare standards is the immunization standard as shown in the following table.

COMPARISON OF DAYCARE AND PRESCHOOL STANDARDS

STANDARD	DAYCARE	PRESCHOOLS
License Renewal	Annual	5 yrs.
Agency Review	Annual	5 yrs.
Staff Pupil Ratio	1-10	no standard
Indoor Space	35 sq. ft.per child	no standard
Outdoor space	75 sq. ft.per child	no standard
Fire Inspection	Annual	5 years
Sanitation Inspection	Annual	5 years
Health Program	required	no standard
Prone Rest	required	no standard
Immunizations	required	required
Nutrition Program	required	no standard
Corporal Punishment	regulated	no standard

The Department of Health and Social Services also requires that daycare programs provide opportunities and experiences to promote the individual child's physical, emotional, social and intellectual growth, as outlined below:

- -- opportunities for balance of active/quiet play, group and individual, and indoor and outdoor play;
- -- opportunities for individual self expression in conversation, imaginative play and creative expressions;
- -- use of games, toys, books, sand, puzzles, for intellectual and social development;
- -- walking excursions/field trips; and
- -- equipment and furniture be of sufficient quality and quantity and appropriate to a child's use.

COOPERATION IN DEVELOPING PRESCHOOL STANDARDS HAS NOT OCCURRED

Alaska Statutes require that the Department of Education cooperate with the Department of Health and Social Services in the general supervision

THE VALUE OF ALASKA'S PRESCHOOL CERTIFICATION PROCESS IS QUESTIONABLE

Those who are aware of the Department of Education's standards for preschools generally consider the preschool certification process to be meaningless. For example:

-- Many of the early childhood educators we interviewed said that because of the Department's inadequate standards, the preschool certificates issued by the Department do not assure a quality preschool program. Certification is, in fact, misleading to parent consumers.

-- We interviewed instructors of two early childhood training programs and both teach their students that the Department's standards are not an acceptable standard to assure a quality preschool program.

-- We visited one two-hour a day educationally oriented program that chose to be licensed as a day care center rather than a preschool because they thought parents would have no assurance of a quality preschool program if it only complied with the the Department's preschool standards.

-- The legislature recently mandated that eligibility for a child care grant program is dependent on compliance with day care licensing standards. Those preschools certified by the Department of Education are not eligible for the grants unless they also have a daycare license.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

The Department of Education needs to better manage preschool programs. During the past 5 years, the Department certified only 28 preschools and visited for monitoring purposes only 15 preschools. But, our analysis shows that there are at least 167 preschools. And, 18 of 19 daycare programs surveyed said they provided preschool services. In addition, because the Department of Education has not provided a definition of preschools there is confusion for those attempting to manage other early childhood programs.

The Department of Education has not cooperated with the Department of Health and Social Services in developing standards for preschool programs. Currently, there is inconsistent care for similar populations in preschools and daycare programs because preschool standards are lower than daycare standards. Preschools programs should meet daycare standards and should meet additional standards for education.

RECOMMENDATIONS

To assure that the Department of Education meets their management responsibilities for preschools, we recommend the Commissioner require that:

-- preschool programs in Alaska are regulated; and

-- preschool programs are monitored to assure compliance with requirements.

To help eliminate the confusion in determining which early childhood programs are preschools, we recommend the Commissioner provide a definition of which early childhood programs are preschools.

To assure that the similar populations in preschools and daycare programs receive consistent care, we recommend the Commissioner of the Department of Education cooperate with the Commissioner of the Department of Health and Social Services in developing health, safety and developmental standards for preschools. We also recommend the Commissioner of the Department of Education develop standards for the educational component of preschool.

DEPARTMENT COMMENTS

Both the Department of Education and Department of Health and Social Services responded to a draft of this report. Their comments are summarized below and are included as appendices I and II of this report.

Department of Education

The Commissioner of the Department of Education agreed with our recommendations and listed actions the Department has taken or will take to resolve the problems associated with managing preschool programs. The actions include:

-- Developing a tentative agreement with the Department of Health and Social Services and the Department of Community and Regional Affairs for coordination of early childhood programs.

-- Introducing a request for statutory change to require all child care programs be licensed by the Department of Health and Social Services for base level standards.

-- Development of standards for a voluntary education certification process in addition to the mandatory base level licensing.

-- Establishing on site reviews for evaluation of the educational component of certified preschools. (See Appendix I)

Department of Health and Social Services

The Commissioner of the Department of Health and Social Services agreed with our recommendations and is also in agreement with the plans for improvement as presented by the Department of Education. (See Appendix II)

MEMORANDUM State of Alaska

TO: John O'Meara, Director
Division of Internal Audit
Office of the Governor

DATE: February 2, 1982

FILE NO:

TELEPHONE NO: 465-2800

FROM: Marshall L. Lind, Commissioner
Department of Education

SUBJECT: Response to Draft Report

Attached is our response to your draft report titled "The Department of Education Needs to Improve Management of Preschool Programs". As you will note in our response, we are planning a series of actions which will address the conditions described in your report.

You and your staff are to be complimented for the professional manner in which the review was conducted and the report presented. The findings and recommendations are proving useful to us in planning how to better meet our responsibilities for preschool programs.

RECEIVED
FEB 5 1982
Office of the Governor
Division of Internal Audit

RESPONSE TO
THE DEPARTMENT OF EDUCATION NEEDS TO IMPROVE MANAGEMENT OF PRESCHOOL PROGRAMS

FEBRUARY 1982

STATE OF ALASKA
DEPARTMENT OF EDUCATION

INTRODUCTION:

The Department of Education is in basic agreement with the findings of the report by the Division of Internal Audit titled "The Department of Education Needs to Improve Management of Preschool Programs". In responding, therefore, we will make no effort to counter any of the findings of the report. We also believe that nothing would be gained by attempting to present reasons for our past activities in the management of preschool programs. Rather, we will present those actions which have been taken and those planned to address the conditions described in the report.

ACTIONS TAKEN:

During the past two months we have met several times with a representative from Health and Social Services and once with a representative from Community and Regional Affairs. These meetings have resulted in a tentative agreement between the three departments for the coordination of early childhood programs. We have also met with representatives from the Alaskan chapters of the National Association for the Education of Young Children to discuss plans for the role these chapters might play in the management of preschool programs. A presentation has also been made before the State Board of Education. At this meeting the board voted unanimously to endorse the early childhood education career ladder certification concept. The Board was also advised of tentative plans for carrying out Department of Education responsibilities for preschools.

ACTIONS PLANNED:

The tentative plan for managing preschool programs consists of the following steps. The conditions from the report, which will be addressed by each step, are presented following the description of each step.

PROPOSED STEP I:

All day care programs, including those claiming to be preschool programs, will be licensed by the Department of Health and Social Services. This base level of licensing will be mandatory and no programs should be exempt from the licensing requirement.

CONDITIONS ADDRESSED:

Requiring that all programs which provide services for preschool age children be licensed by Health and Social Services will clear up the confusion which currently exists for regulating agencies, and for the care providers. It will not be necessary to make a predetermination of whether or not a program is "primarily education." Programs will not be able to avoid basic licensing requirements by claiming to be educational programs. The plan will insure that all programs meet basic health, safety and child development standards, and will eliminate instances of inconsistent care for similar populations of children and differential treatment of care providers.

The plan will also negate the need for the Department of Education to obtain the enforcement authority giving it the power to close schools which do not meet basic health and safety standards, since Health and Social Services already has this authority and will be responsible for base level licensing which will insure adequate health and safety standards.

Implementing Step I of the plan will necessitate a change in statute. The Departments of Health and Social Services and Education are currently working cooperatively to determine those required changes. We anticipate that we will be introducing requests for statutory changes during this legislative session.

The change in licensing requirements will also greatly increase the staff load for Department of Health and Social Services licensing personnel. This will not correspond with a decrease for Department of Education personnel, since Department of Education personnel are not currently involved in licensing. Successful implementation will, therefore, require an increase in the Department of Health and Social Services licensing budget.

PROPOSED STEP II:

Day care centers wishing to have their educational programs certified will, on a voluntary basis, notify the Department of Education. An on-site review of these facilities will be conducted using a criteria for preschool programs. Those programs successfully meeting the criteria will be certified by the Department of Education.

CONDITIONS ADDRESSED:

This step will satisfy the Department of Education's statutory responsibility for certifying preschool programs. It will also provide a definition for preschool programs without making it a condition for base level licensing.

Since the certification process is voluntary only those programs choosing to go beyond base level licensing will do so.

It is anticipated that certification will be at two levels, a basic acceptance level and an exemplary level. We plan to develop an on-site review process which will involve persons from the regional chapters of the National Association for the Education of Young Children as members of the review teams. This will result in a peer monitoring process administered by the Department of Education.

The standards for preschool programs which will be used as the criteria for certification will be developed by a Task Force during the Spring of this year. The Task Force will be made up of persons from the state who are knowledgable in the area of preschool education and who represent the various groups who will be impacted by the plan for managing preschool programs.

CONCLUSION:

These, then are the activities which have taken place and the plans for future activities which will enable the Department of Education to better manage preschool programs.

We feel that the plans represent a cooperative inter-departmental effort which will result in the coordination and better management of preschool programs as well as early childhood programs in general.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

February 8, 1982

RECEIVED
FEB 8 1982
Office of the Governor
Division of Internal Audit

John O'Meara, Director
Division of Internal Audit
Office of the Governor
Pouch AU
Juneau, Alaska 99811

Dear Mr. O'Meara:

This is in response to your draft report titled "The Department of Education Needs to Improve Management of Preschool Programs." The Department of Health & Social Services is in general agreement with the findings of the audit. The document captures the essence of a serious problem and we are hopeful that the plan developed between the Departments--of Education and Health & Social Services will provide corrective action. We have received the Department of Education's response to the audit which outlines that plan.

The Department of Health & Social Services is pleased to have been a participant in recent meetings between representatives of the Departments of Education, Community & Regional Affairs, and Health & Social Services. The dialogue which has begun is extremely useful and the tentative inter-departmental agreement establishes a new precedent of coordinating between three departments around concerns for young children and their families.

The Department of Health & Social Services is in full agreement with proposed Step 1 of the Department of Education's response, that all child care facilities now called Day Care Centers, Family Day Care Homes, and Preschools be licensed under one standard by the Department of Health & Social Services. A recognized principle of government is responsibility to provide equal protection and opportunity to all citizens. For young children who spend part of the day away from their families, the State fulfills this responsibility in part, through licensing to assure a basic level of care and protection, adequate program, and opportunity for development. Licensing under one standard will eliminate the disparity between the care children receive in day care facilities and preschools.

The Department of Health & Social Services is in full agreement that a change of statute is necessary to implement Step 1. In the ten years since the statutes were changed, the disparity has increased rather than decreased. A clear legislative mandate is required to correct a problem of this long standing.

The Department of Health & Social Services will require an increase in staff to perform the licensing studies. Without additional staff the Department of Health & Social Services could not accept the responsibility for an estimated 167 additional programs.

The Department is aware that some programs not now regulated may be fearful that Department of Health & Social Services regulation would result in closure of needed programs. The Department, should it receive the authority, fully intends to implement carefully and in as a supportive manner as possible. Every person or organization whose activities are regulated through licensing has the right to notice of the requirements and an opportunity to comment on them. When there are findings of non-compliances, information for correcting areas of non-compliance will be provided and reasonable time limits for meeting the new standards will be established. It is the Departments' belief that in regulating a new area, two years may be required for full implementation.

The Department of Health & Social Services believes that proposed Step 2 in the Department of Education's response, the certification of educational programs on a voluntary basis, will be well received by providers of early childhood programs. Our experience with day care centers is that directors want to have the educational component of their programs recognized. We are also in agreement that peer monitoring through regional chapters of the National Association for the Education of Young Children is an appropriate role for a professional organization to take and are therefore, in agreement with the Department of Education's plan to use this model.

It is the intent of the Department of Health & Social Services to fully cooperate with the Department of Education in implementing the proposed plan in a timely manner. It is also our intent to continue work on the inter-departmental agreement between the Departments of Education, Community & Regional Affairs, and Health and Social Services for the coordination of Early Childhood programs.

The Division of Internal Audit is to be commended for the careful study given to this important area.

Sincerely,

Helen D. Beirne

Helen D. Beirne
Commissioner

(20)

7-5-83

STATE OF MICHIGAN

IN THE COURT OF APPEALS

SHERIDAN ROAD BAPTIST CHURCH; FIRST BAPTIST CHURCH BRIDGEPORT; REVEREND GERALD SOMERO; REVEREND RENE B. OUELLETTE; RONALD MUNSON and JANICE MUNSON, his wife; WILLIAM L. SWAIN and SHARON SWAIN, his wife; and MRS. SUSANNE KWAITOWSKI,

Plaintiffs-Appellees,

versus

STATE OF MICHIGAN, DEPARTMENT OF EDUCATION; and PHILLIP E. RUNKEL, SUPERINTENDENT OF PUBLIC INSTRUCTION,

Defendants-Appellants.

Court of Appeals No. 69050

Ingham County Circuit Court
No. 80-26205-AZ

AMICUS CURIAE BRIEF

OF CATHOLIC LEAGUE FOR RELIGIOUS & CIVIL RIGHTS

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STATEMENT OF QUESTIONS INVOLVED

Catholic League for Religious and Civil Rights concurs with the Counter-Statement of Questions Involved which Appellees presented.

STATEMENT OF FACTS

Catholic League for Religious and Civil Rights concurs with the Counter-Statement of Facts Appellees presented.

ARGUMENT

I.

THE CIVIL AND RELIGIOUS RIGHTS OF PARENTS IN THE EDUCATION OF THEIR CHILDREN ARE VALUES STRONGLY RECOGNIZED BOTH IN THE PRONOUNCEMENTS OF THE CATHOLIC CHURCH AND THE UNITED STATES SUPREME COURT'S INTERPRETATION OF THE UNITED STATES CONSTITUTION.

This case requires this court to determine the extent to which a state may limit the fundamental right of parents to educate their children in accordance with their religious beliefs.

The Catholic Church recognizes a primary and most significant role which parents must play in the education of their children. For example, the Second Vatican Council stated:

> [S]ince parents have conferred life on their children, they have a most solemn obligation to educate their offspring. Hence, parents must be acknowledged as the first and foremost educators of their children. Their role as educators is so decisive that scarcely anything can compensate for their failure in it. For it devolves on parents to create a family atmosphere so animated with love and reverence for God and others that a well-rounded personal and social development will be fostered among the children. Hence, the family is the first school of those social virtues which every society needs.
>
> SECOND VATICAN ECUMENICAL COUNCIL, DECLARATION ON CHRISTIAN EDUCATION, GRAVISSIMUM EDUCATIONIS (1965), no. 3.

In a recent pronouncement Pope John Paul II elaborated on the nature of this primary parental role and explained that it could never be completely alienated to others:

> The right and duty of parents to give education is essential, since it is connected with the transmission of human life; it is original and primary with regard to the educational role of others, on account of the uniqueness of the loving relationship between parents and children; and it is irreplaceable and inalienable, and therefore incapable of being entirely delegated to others or usurped by others.
>
> POPE JOHN PAUL II, APOSTOLIC EXHORTATION, THE ROLE OF THE CHRISTIAN FAMILY IN THE MODERN WORLD, FAMILIARIS CONSORTIO (1981) (hereinafter "FAMILIARIS CONSORTIO"), at no. 36 (emphasis in original).

The significance of the right and duty of Christian parents to educate their children in a manner comporting with their faith led the Pope to state that the "rights of parents to choose an education in conformity with their religious faith must be absolutely guaranteed." FAMILIARIS CONSORTIO at no. 40.

Interestingly the concerns the Catholic church has expressed have been mirrored to a large extent by the pronouncements of the United States Supreme Court in cases involving constitutional challenges to state statutes impinging upon parents' religiously motivated choices in the education of their children. The first case lending support to this conclusion is Pierce v. Society of Sisters, 268 U.S. 510 (1925). There the Supreme Court upheld a challenge to a law forbidding attendance at private schools on the basis of a "liberty" interest which the Court felt inhered in the Due Process Clause, U.S. CONST., amend. XIV. The Court noted that there was a "liberty of parents and guardians to direct the upbringing and education of children under their control." 268 U.S. at 534-535. The Court further observed, "The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." 268 U.S. at 535.

Although Pierce was decided under a "substantive due process" rationale, which fell out of favor for a time before making a powerful return in the "personal privacy" cases of the last two decades, the same basic right of parental educational direction was reaffirmed, primarily on the basis of the Free Exercise Clause, U.S. CONST., amend. I, in Wisconsin v. Yoder, 406 U.S. 205 (1972). There the Court concluded that enforcement of Wisconsin's compulsory education statute would impinge upon Amish parents' rights to direct their children's religious upbringing. See Id. at 215-219. The Court's holding further determined that the involved State interests in compulsory education could not, override the parents' legitimate claims under the Free Exercise Clause. See Id. at 219-236.

The above discussion demonstrates most clearly that Catholic parents place a great value on their right and responsibility to educate their children in a manner comporting with their religious faith. They recognize that this right and responsibility is primarily theirs, cannot be completely alienated to another entity, requires careful and deliberate exercise and should be protected against any deleterious state action. They further recognize that this right and responsibility is not a creation of a Church, but a basic trait of parenthood. Accordingly, Baptist parents enjoy the same basic right and responsibility in the education of their children and this right and responsibility must be protected from adverse state interference. The above discussion further demonstrates that the United States Supreme Court has recognized the basic right and responsibility parents have for the education of their children in accordance with their religious beliefs as inhering in the Constitution and subject to State interference only when necessary to protect a compelling state interest. With this background we now consider the sectarian school systems which have arisen from the exercise of constitutionally protected parental educational

choice and the particular examples of State interference with these sectarian schools which are alleged to infringe upon this parental choice.

II.

CONSTITUTIONALLY PROTECTED CATHOLIC PARENTAL EDUCATIONAL CHOICES, LIKE CONSTITUTIONALLY PROTECTED PROTESTANT EDUCATIONAL CHOICES, HAVE RESULTED IN SECTARIAN SCHOOLS WITH DIFFERENT EDUCATIONAL PURPOSES AND REGIMENS THAN PUBLIC SCHOOLS. THUS, TEACHER OR CURRICULUM REQUIREMENTS TAILORED FOR PUBLIC SCHOOLS ARE UNSUITABLE FOR SECTARIAN SCHOOLS AND CAN IMPAIR CONSTITUTIONALLY PROTECTED PARENTAL EDUCATIONAL CHOICES.

In efforts to exercise their constitutional rights to educate their children in accordance with their religious beliefs, Catholic and Protestant parents have each formed school systems which serve as alternatives to the public school system. In their brief and the trial record, the Plaintiff-Appellees have made this court aware of the pervasively Christian character of the Fundamentalist Protestant school. It is interesting to note that the Catholic school, like the Fundamentalist Protestant school, is founded upon a distinctly Christian approach to education.

A description of the distinctly Christian approach of the Catholic school may be found in The Sacred Congregation for Catholic Education's document, THE CATHOLIC SCHOOL, issued March 19, 1977. The Sacred Congregation makes clear that the distinctive feature of a Catholic school is "its reference to a Christian concept of life centered on Jesus Christ." SACRED CONGREGATION FOR CATHOLIC EDUCATION, THE CATHOLIC SCHOOL (1977), at no. 33. "Christ is the foundation of the whole educational enterprise in a Catholic school," Id. at no. 34, and "The Catholic School is committed . . . to the development of the whole man, since in Christ, the Perfect Man, all human values find their fulfillment and unity." Id. at no. 35. The goal at which the Catholic school aims is "forming in the Christian those particular virtues which will enable him to live

a new life in Christ and help him to play faithfully his part in building up the Kingdom of God." Id. at no. 36. Based on these premises the Catholic school has the tasks of synthesizing culture and faith and faith and life. Id. at no. 37. "The first [of these two tasks] is reached by integrating all the different aspects of human knowledge through the subjects taught, in the light of the Gospel; the second in the growth of the virtues characteristic of a Christian." Id.

This description of the Catholic school, like the descriptions of the Baptist schools this Court has been provided with in Plaintiffs' briefs and the trial record, requires one clear conclusion. That is that private sectarian schools, including Catholic schools, have as their central purpose to "instruct a child in the way he should go"[1] through bringing a child to a point of informed adherence to and practice of basic Christian values. Accordingly, a private sectarian school, like a Catholic school, will fundamentally differ from a public school by including the instruction of Christian values as they relate to every phase of the curriculum. The important presence of Christian values in sectarian school courses means that these courses may often not clearly resemble courses taught in a public school. Further, the qualifications necessary to teach these value laden subjects in a sectarian school will differ from those needed to teach the same type of courses in a public school in which transmission of religious values is forbidden. This means that the constitutional guarantee of parental educational choice can only be preserved if parents opting for sectarian education are permitted to choose sectarian schools which have teachers and curricula which may substantially differ from those found in public schools. State regulations which attempt to require private schools to

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[1] Proverbs 22:6.

conform to requirements which may be appropriate for public schools, thus, can significantly impair the constitutionally protected parental choice of sectarian education. As will be seen more fully in succeeding pages, the state requirements at issue in this case have this unconstitutional effect.

III.

THE REQUIREMENT OF 1921 MICH. PUB. ACTS 302, SECTION 3, MICH. COMP. LAWS ANN. § 388.553 (1976), THAT TEACHERS IN PRIVATE SCHOOLS HOLD A TEACHING CERTIFICATE EQUIVALENT TO THAT REQUIRED OF PUBLIC SCHOOL TEACHERS IS AN IMPINGEMENT UPON PARENTS' CONSTITUTIONALLY PROTECTED RIGHTS TO EDUCATE THEIR CHILDREN IN ACCORDANCE WITH THEIR RELIGIOUS BELIEFS WHICH DOES NOT ADVANCE A COMPELLING STATE INTEREST NOR CONSTITUTE THE LEAST RESTRICTIVE MEANS TO ACHIEVE ANY ARGUABLY PRESENT STATE INTEREST.

In 1921 P.A. 302, Section 3, MICH. COMP. LAWS ANN. § 388.553 (1976), the State has enacted a "certification" requirement for private school teachers, which reads in relevant part:

> No person shall teach or give instruction in any private, denominational or parochial school within this state who does not hold a certificate such as would qualify him or her to teach in like grades of the public schools of the state . . . .

In approaching the issue of whether this proposal unconstitutionally interferes with rights guaranteed by the Free Exercise Clause of the U.S. CONST., amend. I, it is first necessary to examine whether there exists any burden on the free exercise of religion. See Sherbert v. Verner, 374 U.S. 398, 403 (1963). The free exercise right involved is that of parents of private school children to effectively exercise their constitutionally protected right to choose a sectarian education for their children. If this right is burdened by the state regulation, the State will be required to prove that this regulation implements a compelling state interest, and that the regulation is the means placing the least restriction on parents' free exercise rights which can implement this interest. See Sherbert, 374 U.S. at 406-408.

Addressing the question of whether the proposal burdens free exercise requires a further examination of the role of the teacher in the sectarian school context. As Plaintiffs' brief and trial testimony makes clear, a teacher in the Baptist schools is involved in a ministry in which he or she is shaping young people in accordance with Christian values. The teacher in the Catholic school has this same responsibility. In the first of the two tasks of the Catholic school explained supra, the integration of faith and culture, the teacher plays a critical role. The Sacred Congregation for Catholic Education noted in this respect:

> Since the educative mission of the Catholic school is so wide, the teacher is in an excellent position to guide the pupil to a deepening of his faith and to enrich and enlighten his human knowledge with the data of the faith. While there are many occasions in teaching when pupils can be stimulated by insights of faith, a Christian education acknowledges the valid contribution which can be made by academic subjects towards the development of a mature Christian. The teacher can form the mind and heart of his pupils and guide them to develop a total commitment to Christ, with their whole personality enriched by human culture.
>
> SACRED CONGREGATION FOR CATHOLIC EDUCATION, THE CATHOLIC SCHOOL (1977), at no. 40.

The specific qualifications and duties of the teacher in the sectarian Christian school have been further explained by the Sacred Congregation in these manners:

> The school considers human knowledge as a truth to be discovered. In the measure in which subjects are taught by someone who knowingly and without restraint seeks the truth, they are to that extent Christian. Discovery and awareness of truth leads man to the discovery of Truth itself. A teacher who is full of Christian wisdom, well prepared in his own subject, does more than convey the sense of what he is teaching to his pupils. Over and above what he says, he guides his pupils beyond his mere words to the heart of total Truth.
>
> The cultural heritage of mankind includes other values apart from the specific ambient of truth. When the Christian teacher helps a pupil to grasp, appreciate and assimilate these values, he is guiding him towards eternal realities. This movement towards the Uncreated Source of all knowledge highlights the importance of teaching for the growth of faith.
>
> Id. at nos. 41, .

Finally, the Sacred Congregation emphasized the crucial role of the teacher in the process of integrating faith and culture:

> The achievement of this specific aim of the Catholic school depends not so much on the subject matter or methodology as on the people who work there. The extent to which the Christian message is transmitted through education depends to a very great extent on the teachers. The integration of culture and faith is mediated by the other integration of faith and life in the person of the teacher. The nobility of the task to which teachers are called demands that, in imitation of Christ, the only Teacher, they reveal the Christian message not only by word but also by every gesture of their behaviour. That is what makes the difference between a school whose education is permeated by the Christian spirit and one in which religion is only regarded as an academic subject like any other.
>
> Id. at no. 43.

Although the Sacred Congregation places special emphasis on the Catholic school teacher's critical role in the pupils' integration of faith and culture, it emphasizes that the teacher's role also extends into the very central matter of the pupils' integration of faith and life: "The fundamental aim of teaching is the assimilation of objective values, and, when this is undertaken for an apostolic purpose, it does not stop at an integration of faith and culture but leads the pupil on to a personal integration of faith and life." Id. at no. 44. More specifically, the Sacred Congregation directs:

> The Catholic school should teach its pupils to discern in the voice of the universe the Creator Whom it reveals and, in the conquests of science, to know God and man better. In the daily life of the school, the pupil should learn that he is called to be a living witness to God's love for men by the way he acts, and that he is part of that salvation history which has Christ, the Saviour of the world, as its goal.
>
> Id. at no. 45.

This background of the Catholic school, as part of the species of sectarian schools this proposal attempts to regulate, illustrates the absolutely crucial role of the unabashedly Christian teacher to the successful working of the school. Thus, any state regulation which would restrict this pool of Christian

teachers will burden religious protections guaranteed by the Free Exercise Clause, U.S. CONST., amend. I. By substantially diminishing the pool of available teachers with the requisite Christian qualifications, the State's certification requirement impedes the carrying out of sectarian school parents' Free Exercise right to select the teachers who would most effectively fulfill the crucial role of a sectarian school teacher. More specifically, the sectarian school is required to forego the services of many teachers who would superiorly transmit to students the authentic Christian approach to both religious and secular subjects. Instead, the school is required to select teachers who are less capable, and perhaps almost unqualified, on the important basis of their religious convictions, but who possess valid teaching certificates which, even in secular subjects, bear little relationship to their ability to effectively teach. Thus, when sectarian schools choose to comply with the type of certification requirements found in this case, the result can be a lessening of the schools' ability to effectively transmit Christian values to students. Because transmission of these values constitutes the central and unique mission of the sectarian school, and the purpose for which parents would choose a sectarian school to effectuate their Free Exercise rights to educate their children in accordance with their religious beliefs, the statute's impairment of the sectarian school's ability to effectively transmit Christian values is an unconstitutional interference with these parents' rights, under the Free Exercise Clause, U.S. CONST., amend. I.

While the teacher certification requirement wreaks havoc with parents' rights to effectively choose a sectarian school for their children, it is not an appropriate means to accomplish any interests the State may have in insuring that sectarian school children receive a proper education. Although the State may have a compelling interest in compulsory school attendance generally, it

does not follow that the state has carried its burden of proving that its certification requirements achieve this interest in the manner least restrictive to parental rights to educate their children in accordance with their religious beliefs. Initially, the fact that only a handful of the states have been shown to require certification for private school teachers is strong evidence that a certification requirement is unnecessary to satisfy the educational interests all states share. Further, the State has offered little clear empirical evidence to demonstrate that a certification requirement is necessary to guarantee high quality education. Finally, there are undoubtedly means which place fewer restrictions on free exercise rights, such as requiring parents to educate their children, requiring schools to provide the acknowledged universal "basics" of education and limiting any gross parental abuse of their educational duty through child abuse statutes, which could effectively monitor and guarantee the reception of quality education. Accordingly, the requirement for certification of private school teachers is an unconsitutional infringement upon sectarian school parents' rights to educate their children in accordance with their religious beliefs.

IV.

THE REQUIREMENT OF 1921 MICH. PUB. ACTS 302, SECTION 1, MICH. COMP. LAWS ANN. § 388.551 (1976), THAT COURSES OF STUDY IN PRIVATE SCHOOLS BE OF THE SAME STANDARD AS THOSE PROVIDED BY THE GENERAL SCHOOL LAWS OF THE STATE IMPERMISSIBLY IMPINGES UPON PARENTS' FREE EXERCISE RIGHTS UNDER THE U.S. CONST., AMEND. I, TO EDUCATE THEIR CHILDREN IN ACCORDANCE WITH THEIR RELIGIOUS BELIEFS, IS NOT NECESSITATED BY A COMPELLING STATE INTEREST AND IS NOT THE METHOD TO ACHIEVE ANY PURPORTED GOVERNMENTAL INTEREST WHICH HAS THE LEAST EFFECT UPON THE PROTECTED RIGHTS.

The curriculum regulations present much the same problems as the teacher certification requirements, and are unconstitutional for very similar reasons.

Curriculum, like teacher qualities, is a central feature distinguishing sectarian private schools from public schools and parental preferences for a private school are often based upon this distinction. It is well known that public schools are generally restricted in their ability to transmit Christian values. See Abington Township School District v. Schempp, Murray v. Curlett, 374 U.S. 203 (1963) (Prohibiting Bible reading in public schools except when studied as literature); Engel v. Vitale, 370 U.S. 421 (1962) (Prohibiting recitation of government composed prayer in public schools). In sharp contrast, sectarian schools are very concerned with the transmission of these values. In the case of Catholic schools it has been noted:

> The specific mission of the school, then, is a critical, systematic transmission of culture in the light of faith and the bringing forth of the power of Christian virtue by the integration of culture with faith and of faith with living. Consequently, the Catholic school is aware of the importance of the Gospel-teaching as transmitted through the Catholic Church. It is, indeed, the fundamental element in the educative process as it helps the pupil towards his conscious choice of living a responsible and coherent way of life.
>
> SACRED CONGREGATION FOR CATHOLIC EDUCATION. THE CATHOLIC SCHOOL (1977), at no. 49.

The pervasive importance of gospel teaching is further emphasized in its lack of confinement to specific religion courses in a sectarian school and its role in insuring that students obtain more than a mere intellectual appreciation of the truths of Christ:

> Without entering into the whole problem of teaching religion in schools, it must be emphasized that, while such teaching is not merely confined to "religious classes" within the school curriculum, it must, nevertheless, also be imparted explicitly and in a systematic manner to prevent a distortion in the child's mind between general and religious culture. The fundamental difference between religious and other forms of education is that its aim is not simply intellectual assent to religious truths but also a total commitment of one's whole being to the Person of Christ.
>
> Id. at no. 50.

Obviously, sectarian schools, including Catholic schools, must have significant latitude in the development of their curricula if they are to serve as effective objects of parents' constitutionally protected rights to educate their children in accordance with their religious beliefs. However, the framework of state regulation of private school curricula in this case has great potential to impair this required freedom. The "same standard" language of the involved statute is construed to require comparison to the local public school curriculum,[2] but is sufficiently vague to permit a number of different modes of enforcement. If the enforcing entity were to interpret this language only to require a review of course titles to see that the sectarian school curriculum included instruction in the acknowledged universal "basics" of education, there would normally not be significant impairment of religious freedom. But, even under this minimal review there would be a potential for significant potentially objectionable courses in areas such as sex education or "values clarification" which can be found in many public school curricula.

Further, the language of the involved statute does not require the enforcing entity to limit its inquiry into whether private schools are of the "same standard" as public schools to an examination of course titles. If an enforcing entity were to determine that the "same standard" requirement extended to the content of courses in each school, significant infringement of parental rights would result. This would occur because the content of a sectarian school course, in which the Gospel should be emphasized, could differ in major respects from similar courses in public schools in which the Gospel is not emphasized.

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[2] See Sheridan Road Baptist Church v. State, No. 80-26205-A2, slip op. at 7 (Ingham Co. Cir. Ct. Dec. 29, 1982).

Thus, the ambiguous language of the statute, standing alone, results in great potential for infringement of parental rights under the Free Exercise Clause to educate their children in accordance with their religious beliefs. However, the significant difficulties inherent in this ambiguous statute are aggravated by the fact that the body enforcing the statute is not an "impartial" governmental body. Instead, the superintendent of the school district in which the sectarian school is located has enforcement responsibilities. See Sheridan Road Baptist Church v. State, No. 80-26205-A2, slip op. at 7 (Ingham Co. Cir. Ct. Dec. 29, 1982). It is not difficult to imagine the potential for abuse which may exist when a public school superintendent, whose system is losing students and state aid by the presence of vibrant sectarian schools, is given the responsibility to enforce the standards these sectarian schools must meet. Accordingly, the statute in this case represents a significant infringement of parents' constitutional rights to educate their children in accordance with their religious beliefs.

Although the statute significantly infringes upon parents' constitutional rights, there exists little relationship between the statute and the state's expressed purpose of "quality education." Initially, the trial judge correctly noted that the statute does not guarantee quality education on a state-wide basis, but instead merely insures that the private school will match the quality of the local public school. Further, if the statute only requires an inspection of course titles, it is difficult to see what major positive or negative impact it would have on the quality of education. Finally, if the statute requires a significant conformity between the content of private and public school courses, it could actually have the effect of reducing educational quality by forcing superior sectarian school courses to resemble inferior public school courses. In any event it is clear that the statute is neither an appropriate means to

achieve the stated purpose of quality education nor the "least restrictive means" to achieve this end. Accordingly, the statute is an unconstitutional infringement of sectarian school parents' Free Exercise rights to educate their children in accordance with their religious beliefs.[3]

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[3] Although this brief's focus has been on parental Free Exercise rights to educate their children in accordance with their religious beliefs, it appears that both the teacher certification and curriculum requirements create an unconstitutional excessive entanglement between government and sectarian schools. In noting that a more indirect regulation, involving sectarian school teachers' collective bargaining rights, could pose "entanglement" problems, the United States Supreme Court noted:

> "Whether the subject is 'remedial reading,' 'advanced reading,' or simply 'reading,' a teacher remains a teacher, and the danger that religious doctrine will become intertwined with secular instruction persists." Meek v. Pittenger, 421 U.S. 349, 370 (1975). Cf. Wolman v. Walter, 433 U.S. 229, 244 (1977). Good intentions by government --or third parties--can surely no more avoid entanglement with the religious mission of the school in the setting of mandatory collective bargaining than in the well-motivated legislative efforts consented to by the church-operated schools which we found unacceptable in Lemon, Meek, and Wolman.
>
> NLRB v. Catholic Bishop of Chicago, 440 U.S. 490, 501-502 (1979).

The thrust of the Catholic Bishop language would appear to be that, even if government regulation of sectarian school teacher qualifications and curricula did not impinge upon parental Free Exercise rights, pervasive regulation of these matters, which appears to be actually or potentially present in this case, could present an unconstitutional "excessive entanglement" between the state and sectarian schools. It would further appear that this rationale formed much of the basis of the ruling under review in this matter.

RELIEF

Based upon the foregoing discussion, the Catholic League for Religious and Civil Rights requests that this Court rule that 1921 Mich. Pub. Acts 302, Sections 1 and 3, MICH. COMP. LAWS. ANN. §§ 388.551 and 388.553 (1976), violate the Free Exercise Clause of the U.S. CONST., amend. 1, and award the Plaintiff-Appellees any relief to which they are entitled in this action.

Respectfully submitted, this 5TH day of July, 1983.

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FOR RELIGIOUS AND CIVIL RIGHTS

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff
DATE: January 21, 1984
RE: Comparison of proposed CSHB 514 (HESS) and HB 514

For your information, I have compared the proposed HESS Committee Substitute for House Bill 514 to the original version of the bill.

Section 1 of the proposed CS has three changes from the original bill:

Page 1, lines 11 - 12, Adds "and in recognition of the right of parents to choose to have their children educated in private schools". The effects of the amendment are to balance the draft formation and to add additional emphasis to the independence and security of religious and other private schools.

Page 1, line 19, Adds a new subsection (3), to read, "to minimize regulation of private education." The effect of the new language is to further clarify and emphasize the intent of the bill.

Section 2 of the proposed CS contains no changes from the original bill.

Section 3 of the proposed CS has one change from the original bill:

Page 3, line 27, Substitutes "AS 14.45.100 - 14.45.140" for the original citation, "AS 14.45". This change is made upon recommendation of Legislative Counsel in order to correctly identify the accurate legal reference.

Section 4 of the proposed CS contains no changes from the original bill.

Section 5 of the proposed CS has one change from the original bill:

Page 6, line 13, Substitutes "grades four, six, and eight" for the original language, "grades one, three, six, and nine". The effect is to make testing requirements for private schools more in line with the testing requirements for public schools. At this time, the state requires a random sampling of school districts to administer a "student assessment" at least once a year to students in grades four and eight; this amendment adopts that requirement for all private schools and adds one additional required test in the sixth grade to further ensure adequate core education.

/wtl

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM January 24, 1984

SUBJECT: Health and safety regulation of private pre-elementary schools (CSHB 514(HESS))

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested an opinion on the implication of CSHB 514(HESS) with respect to health and safety regulation of private pre-elementary schools. The bill, while removing the supervision of private pre-elementary schools from the Department of Education, in no way removes the power of the Department of Public Safety to regulate these schools with respect to fire safety or the Department of Health and Social Services to regulate with respect to health standards. In fact, several sections in the bill as well as other provisions of law make it clear that private pre-elementary schools may be regulated with respect to health and safety.

To begin with, AS 14.07.020(7), as amended by section 2 of the bill, provides that the Department of Education shall:

> prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in private pre-elementary schools.

That section applies general health and safety standards to all the public and private schools in the state, including the private pre-elementary schools. It also imposes a specific requirement of physical examinations and immunizations on private pre-elementary schools. In other

words, private pre-elementary schools are subject to health and safety regulations generally under the bill.

Moreover, Title 18 of the Alaska Statutes sets out provisions for health and safety, all of which, if appropriate, apply to private pre-elementary schools unless some specific exemption exists. There is no such exemption in CSHB 514(HESS).

Specifically, AS 18.70.080 provides for the Department of Public Safety to adopt regulations for fire safety applicable to all public buildings. "Buildings" is defined very broadly in AS 18.70.300 and would clearly apply to private pre-elementary schools.

In conclusion, CSHB 514 (HESS), while providing that private pre- elementary schools are no longer subject to regulation by the Department of Education, has no effect on the ability of other departments to regulate these schools with respect to health and safety.

KBL:ojb
J2/070

January 18, 1984

I want to thank the sponsors of HB 514 and Senate Bill 354 for their attitude, concern, and intentions. The purpose of this legislation as expressed is excellent. The assurance of religious liberty and a child's education without conflict is supported by most of us. However, there is an incongruence in the bill as written. Section I subsection (1) states that "the state shall not control or interfere with the rights of conscience and religious liberty;". Yet, in this bill churches seeking exemptions have to meet conditions and file reports to the state.

I am the Minister of Education for Glacier Valley Baptist Church, in Juneau. As a church we can not request or accept an exemption from the Department of Education. Exemptions can only be granted to a lesser by a greater power. We can not take an easy way out from possible confrontations if that way involves denial of the Sovereignty of our Lord.

The state can still meet its obligations of ensuring that a child receives an education that prepares him as a viable member of society, by placing the primary responsibility of education where it belongs, on the parent. The parent should be responsible for the reports to the state if he elects to educate his child in a program other than the public schools, or state controlled alternatives.

In view of the purpose of this legislation, please see my enclosure for the suggested changes.

Thank you.

Sincerely,

William E. Brown

William E. Brown
Minister of Education

Page 1 line 16 DELETE "all" from all education. In line 19 one example is given that voids the "all" aspect.

Section 14.45.030. page 5 lines 3-9 DELETE If you don't meet the requirements of the exemption (voluntary or otherwise) you are under Department of Education's control.

Section 14.45.100. page 5 lines 11-16 DELETE Asking for an exemption implies recognition of control or higher authority. This is incongruent to the stated purpose of the legislation in Section I subparagraph (1) and (2)

Page 5 lines 25, 26, 27 recognizes the local public school superintendent as an authority over the church school.

Page 5 lines 28, 29 Page 6 lines 1-5 Entangles the church school unnecessarily and once again places the school as answerable to the state.

Page 6 lines 6-11 Testing requirements DELETE (a) A religious or other private school" Excessive entanglement.

Page 6 lines 14-19 Subsection (c) DELETE

CHANGES

Article 2 Section 14.45.100. Children Enrolled In Private and Religious Schools.

Parents choosing to enroll their children in schools where the laws and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations are not applicable must file notice of enrollment with their local public school district.

Section 14.45.110 Parental Responsibilities concerning non licensed education.

Page 5 lines 18-24 Remain

line 25 DELETE school shall notify, add "the parent shall notify."

Page 6 lines 6-11 change "a religious or other private school" to "a parent"

Page 6 line 8 change "shall administer" to "shall submit the results"

Page 6 line 14-19 Subsection (C) change line 19 from "the composite test results" to "the student test results from a non licensed school utilized by parents in compliance with AS 14.45.100-AS 14.45.140"

Page 6 lines 28-29

A parent or guardian that elects to comply with AS 14.45.100-14.45.140 shall file an annual report reflecting standardized test scores, past year's grades, and approaching year's course of study, no later than October 1. Students enrolled for the first time in a non licensed church or private school will not be required to report previous year's performance.

Page 7 lines 1-3 DELETE. Insert A student that transfers from an alternative education covered by AS 14.45.100-14.45.140 to a public school shall have records that reflect immunizations, physical examinations, standardized testing, academic achievement, and courses attended.

Page 7 lines 4-7 DELETE - excessive entanglement

NOTICE OF ENROLLMENT IN A NON-LICENSED SCHOOL

198__ SCHOOL YEAR.

STUDENT'S NAME _____ AGE ____ GRADE ____

SCHOOL PROVIDING SERVICES _____ CITY _____

COURSE OF STUDY FOR THIS ACADEMIC YEAR

_____ _____ _____ _____

_____ _____ _____ _____

_____ _____ _____ _____

REST OF FORM IS TO BE COMPLETED FOR STUDENTS CONTINUING IN A NON-LICENSED SCHOOL.

COURSES TAKEN PRIOR ACADEMIC YEAR. LIST GRADES EARNED.

_____ _____ _____ _____

_____ _____ _____ _____

_____ _____ _____ _____

IF A CHILD WAS IN GRADES ONE, THREE, SIX, OR NINE, COMPLETE THE FOLLOWING STANDARDIZED TEST INFORMATION.

ME OF TEST	DATE ADMINISTERED	PCTL SCORES ENGLISH GRAMMAR	READING	SPELLING	MATHEMATICS

PARENT'S OR GUARDIAN'S SIGNATURE _____

ADMINISTRATOR'S SIGNATURE OF SERVICING SCHOOL _____

level of safety for 3-5 year olds. Most parents assume that teachers and staff have received a Tine test, since that is required so uniformally of people dealing with children. Most parents are unaware that in spaces smaller that that which allows 35 sq. ft. per child (the minimum for day care licensing), crowded conditions increase the incidence of sickness and disease.1 In addition in those same conditions children are more likely to be less involved and interested and more agressive while teachers tend to be more restrictive and arbitrary.[2] Parents assume that a program caring for their children has insurance coverage. Most parents assume that at least some of the staff has first aid training and that planned and practiced emergency procedures are in place. None of these are assured when a program is exempt from minimum state regulation, although nowhere does this bill require exempt programs to inform its parents that it has chosen to remove itself from state regulation.

Both the League and AAUW believe that "regulations and standards appropriate to the locale and involving health, nutrition, safety, space per child, and staff training should be adopted by state...governments"; that regulatory licensing by the state for care of children during the day is necessary; and that "essential in a full day care situation are a tight child-staff ratio and the provision of nutritional meals and snacks." Because of these positions we feel that permitting all private pre-schools, including those who care for children up to 10 hours/day, is an unwise move. Since the legislature is determined to do this, however, we support the Senate ammendment that would exempt only those pre-elementary schools which have connections with an established elementary program. We feel that greater internal control may result in such situations, and the public is protected from unscruplous programs providing all day care of children, but simply using the "pre-elementary" term as a convienient way to escape licenture.

In addition we support the Senate ammendment that specifically spells out that programs serving pre-kindergarten kids may not be exempt from regulation if it receives state payments or subsidies. We feel it is important to make that clear since private pre-schools may be eligible for state monies through the Child Care Revolving Loan Program, the Child Care Food Program, Chapter I monies, and the Rural Development Assistance Program (according to the Senate Advisory Day Care Status Report). The state should not help to finance those programs which may be physically or mentally unhealthy for young children. Thank you.

1. Senate Advisory Council. "Day Care in Alaska: A Status Report."
2. Division of Internal Audit. Office of the Governor. "The Department of Education Needs to Improve Management of Preschool Programs."

PROPOSED AMENDMENT TO

CS FOR SENATE BILL 354 (Judiciary)

*Section 1. PURPOSE. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and the State of Alaska; and in recognition of the right of parents to choose to have their children educated in private schools; it is the purpose of this Act

(1) to ensure that in matters of education by religious organizations, the state shall not control or interfere with the rights of conscience and religious liberty; and

(2) to further the state's legitimate interest in ensuring the quality of all education, and

(3) to allow diversity in education by encouraging private education.

Bill,
Mac wants to add this to the CS you're working on.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: H.B. 514
Title: An Act relating to the regulation of private schools
Sponsor: Tischer, et al
Requestor:
Date of Request: 1/23/84

FISCAL DETAIL
Agency Affected: Environmental Conservation
Program Category Affected: NRMEC
BRU, Program or Subprogram(s) Affected: Environmental Quality Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		0	0	0		
200 TRAVEL		0	0	0		
300 CONTRACTUAL		0	0	0		
400 SUPPLIES		0	0	0		
500 EQUIPMENT		0	0	0		
600 LAND & STRUCTURES		0	0	0		
700 GRANTS, CLAIMS		0	0	0		
800 MISCELLANEOUS		0	0	0		
TOTAL OPERATING		0	0	0		
CAPITAL		0	0	0		
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0		
FEDERAL FUNDS		0	0	0		
OTHER		0	0	0		
TOTAL		0	0	0		

POSITIONS:

FULL-TIME		0	0	0		
PART-TIME		0	0	0		
TEMPORARY		0	0	0		

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Joe Cladouhos, Director
Phone: 465-2640
Division: Environmental Quality Management
Date: 1/23/84

Approved by Commissioner: Richard Neve'
Date: 1/23/84
Agency: Environmental Conservation

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☐ *1031 W 4th AVENUE*
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

☐ *1st NATIONAL CENTER*
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

☒ *POUCH K - STATE CAPITOL*
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600
465-3603

January 23, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Re: CSHB 514 (HESS)

Dear Representative Tischer:

You have asked that we indicate whether CSHB 514 (HESS) remedies the equal protection problems which we identified last year during consideration of HB 357. We believe that it does. For additional detail, please refer to our review of SCS CS HB No. 357 (Rls) am S, a copy of which is enclosed.

If you have other questions, do not hesitate to contact this office.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Linda Scrivia for
Thomas H. Robertson
Assistant Attorney General

THR:jal

Enclosure

03-C5LH

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB No. 514
Title: An Act relating to the regulation of private schools.
Sponsor: Tischer, Furnace, et al
Requestor: HESS
Date of Request: 1/16/84

FISCAL DETAIL
Agency Affected: Health and Social Services
Program Category Affected:
BRU, Program or Subprogram(s) Affected: Direct Delivery Service

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Michael A. Price
Division: Family and Youth Services
cc
Phone: 465-3170
Date:

Approved by Commissioner: Robert London Smith
Agency: Dept. of Health & Social Services
Date: 2/9/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB

515

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(7)

1/16/84

Date: MARCH 21, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 515

"An Act making a special appropriation to the University of Alaska Anchorage, Alaska Center for International Business; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[X] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	[signature] as rec.
[signature]	[signature]
[signature]	
[signature]	

[signature]
CHAIRMAN

A PROPOSAL TO ESTABLISH THE
ALASKA CENTER FOR INTERNATIONAL BUSINESS

Submitted to the University of Alaska

President
and
Board of Regents

December, 1983

University of Alaska, Anchorage

A Proposal to Establish the

ALASKA CENTER FOR INTERNATIONAL BUSINESS

OVERVIEW

Alaska must increasingly look to the utilization of its natural resource base and the development of international markets to sustain its history of economic growth. Such development will occur primarily in response to market system forces and the broader socio/legal structure within which the market system functions. However, total reliance on the unfettered functioning of the market system does not ensure that Alaska will enjoy an optimum rate of resource development and economic growth. There are two fundamental reasons for this.

First, the institutional framework within which the market system functions may impose external barriers which preclude or hamper resource development and the establishment of international markets. The prohibitions on round log exports and federal legislation that prevents the export of North Slope crude are both examples of institutional barriers.

Second, there is a strong probability that the functioning of markets may suffer from internal inefficiencies. The efficient operation of markets is highly dependent upon several critical factors, including the quality of information and knowledge about markets, the costs of transactions, the absence of significant external costs and benefits, and economies of scale.

Public policy and public institutions have a major role to play in dealing with both the problems of institutional barriers and the inefficient functioning of markets. It is within this context that the proposal for the Alaska Center for International Business is presented.

The mission of the Center is simple and specifically focused.

> The Center is to facilitate the development of sound business and economic relations between Alaska and Pacific-Asian nations, circumpolar regions, and other nations.

In carrying out this mission five objectives are identified.

1. To foster a better understanding of business and economic relationships between Alaska and Pacific-Asian nations and others.

2. To provide members of business and government, through instruction and training, the specific skills and techniques needed for doing business with nations in Pacific-Asia and other regions of the world.

3. To analyze the opportunities for, and constraints on business and economic relations in both the private and public sectors.

4. To carry out research on international markets and marketing designed to facilitate the development of Alaska resources and the establishment of markets for these resources.

5. To establish a central point for the acquisition, analysis, and dissemination of information specifically related to international markets and Alaska resources and economic conditions.

To achieve these objectives the Center is structured around three major components; instruction, including professional training and development, research, and public service. The emphasis within instruction is focused on two related aspects. First, an integrated set of professional training and development seminars and short courses will deal specifically with the issue of "how to do business with Pacific-Asian nations and others." A similar set of short courses and seminars will be provided for representatives of Pacific-Asian and other nations, with the focus shifted to "how to do business in Alaska." The second instructional emphasis focuses on "internationalization" of the UAA School of Business and Public Affairs curriculum. This would be accomplished in two phases. Initially, appropriate existing courses would be revised to provide more substantive international content. As the Center capabilities grow specific international business courses would be introduced into the curriculum.

The research component has as its focus applied research, aimed at two major areas. The first is international markets and marketing. The second addresses the broader question of institutional constraints and barriers and public policy solutions.

The service component is built around the establishment of a comprehensive computerized data base detailing international markets and economic conditions, and Alaska resource availability. Dissemination of data base information, coupled with research analyses and Center reports will constitute the major service effort.

The development phase of the Center envisions the creation of a one-half time director position, five full time faculty positions, and six research associate positions. By the end of the first five years it is anticipated that a substantial portion of Center activity will be self supporting. The Center will actively seek permanent endowment for two of the full time faculty positions. It is also projected that grants and contractual research will provide the majority of funding for research activity by the end of the development phase. Finally, the professional development and training instructional program would be largely on a self support basis.

In summary, we are proposing the establishment of a center to address a specific, critical need of Alaska. It is highly appropriate that the center be located within a university setting, with its unique combination of instructional, research, and public service capabilities and its abilities to blend both private and public sector support.

A PROPOSAL TO ESTABLISH THE ALASKA CENTER FOR INTERNATIONAL BUSINESS

Need

Alaska occupies a strategic position in the future of Pacific Asia's accelerated economic growth and development. Credence is given to this fact but the implications are scarcely understood. Major cultural and institutional barriers exist in the development of constructive business and economic policies and relations. Even simple matters prove to be chronic road blocks, restricting and hampering Alaska's international business in this fastest developing region of the world. By the turn of the century, forecasters project that the major center of business activity will shift from Europe and even possibly the U. S. North Atlantic to Pacific Asia, mainly Japan (pop. 115 million) and to the four so-called little dragons--South Korea (pop. 40 million), Taiwan (pop. 20 million), Hong Kong, and Singapore. If the Peoples Republic of China (pop. 1.2 billion) continues its economic reforms, then another tremendous segment will be added to this vast economic region. Equally important is the economic progress of Asian, with this collective of nations already a major trading partner of the USA.

Alaska will become the important bridge between the United States and Pacific Asia because of its strategic location and vast natural resources. The task now is to construct this bridge in a sound fashion. There is also a growing interest among non-pacific-Asian nations, including circumpolar nations, in developing a closer business and economic relationship with Alaska. Toward this end, this proposal is submitted.

Packaging and Delivering of the New Educational and Research Programs

The Commission on International Education of the American Council on Education has recently published a report entitled "What We Don't Know Can Hurt Us: The Shortfall in International Competence," that points out the critical importance of international competence and awareness to the United States. It also points out that the economic, political, and intellectual well-being of the United States is increasingly related to our ability to interact intelligently, effectively and incisively with the rest of the world. The Council of Graduate Schools in the U.S. passed a resolution urging increased federal, state, and private support for international educational programs in order to enhance the international competence of the people of the United States.

While there is a need for general education and understanding of the Pacific Asian region, it is suggested that the best academic results may be achieved if this educational program is packaged and delivered in functional and professional terms. In recent years the American Assembly of Collegiate Schools of Business (ASCSB) has conducted in-depth studies on the curriculum content of international business including subject matter courses, research needs, and academic competencies for instructional staff. This has resulted in a new emphasis on "the internationalizing" of business education in institutions of higher learning.* Guidelines are being issued as to how this may be achieved.

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* See Lee C. Nehrt, Business and International Education, A Report Submitted by the Task Force on Business and International Education to the Government/Academic Interface Committee, International Education Project, American Council on Education (Washington, D.C.: International Education Project, American Council on Education, 1977).

It is recognized that U. S. business success increasingly must occur in a growing, interdependent world. American businessmen in larger numbers must become cosmopolitan in both attitude and perspective.

The program of the proposed center will have the following components: academic instruction, including professional training and development, research, and public service. It must be treated as a constituent component within the UAA system. While based in the School of Business and Public Affairs of UAA, its academic staff must be drawn from the entire university faculty--with all of the important disciplines incorporated into the endeavor. A model drawn from the referenced report on business and international education will be used to organize the discussion on the proposed UAA program (See Figure 1).

Mission

The Center is to facilitate the development of sound business and economic relations between Alaska and Pacific-Asian nations, circumpolar regions, and other nations.

Objectives:

1. To foster a better understanding of business and economic relationships between Alaska and Pacific-Asian nations and others.

2. To provide members of business and government, through training and instruction, the specific skills and techniques needed for doing business with nations in Pacific-Asia and other regions of the world.

3. To analyze the opportunities for, and constraints on business and economic relations in both the private and public sectors.

4. To carry out research on international markets and marketing designed to facilitate the development of Alaska resources and the establishment of markets for these resources.

5. To establish a central point for the acquisition, analysis, and dissemination of information specifically related to international markets and Alaska resources and economic conditions.

Strategies

Three strategies are designed to accomplish these objectives: instructions including professional training and development, research, and public service.

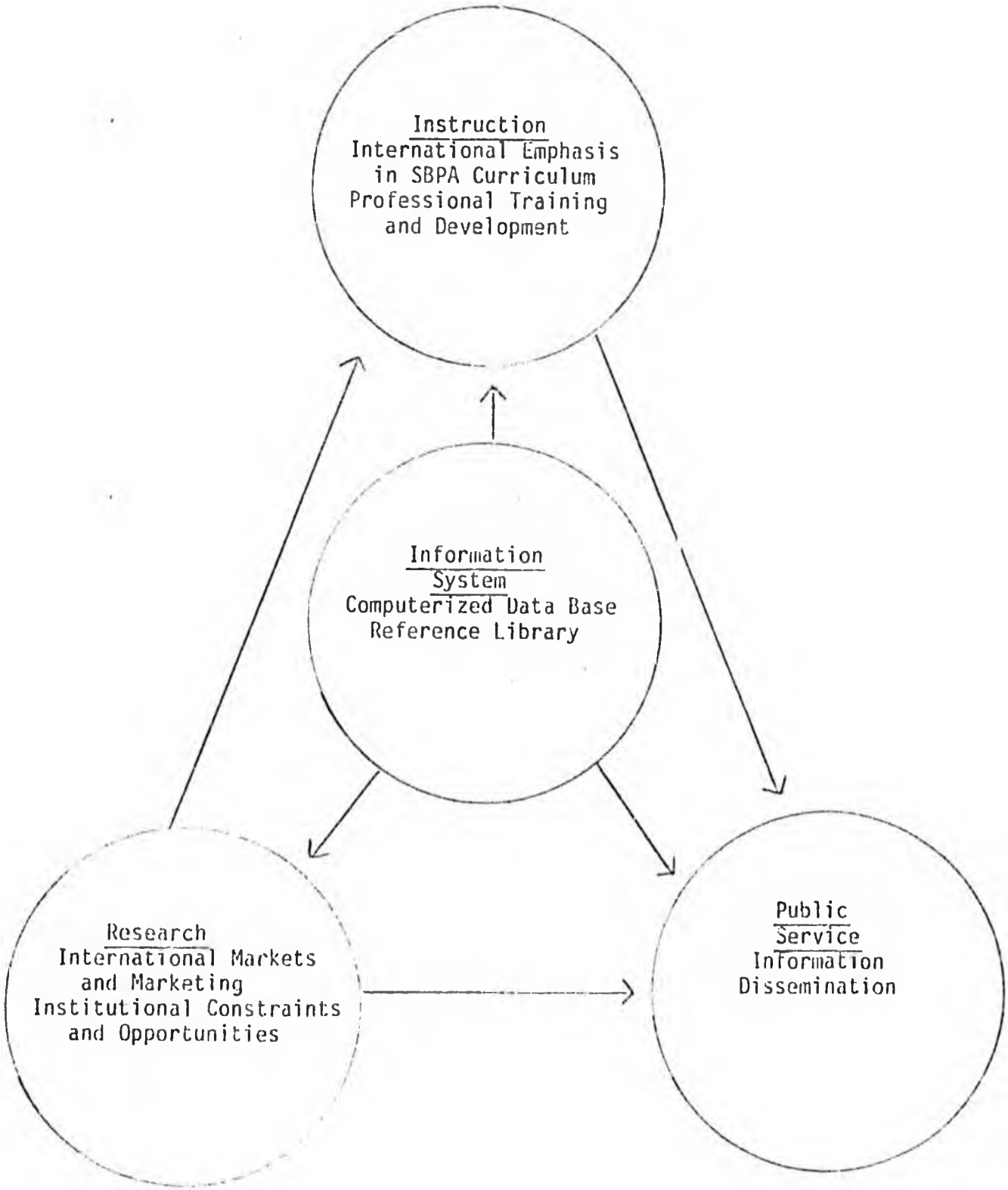
I. Instruction

A. Academic Instruction (curriculum)

Following the recent guidelines of AACSB, it is proposed that the current curriculum of the School of Business and Public Affairs be internationalized by infusing various aspects of international business into present courses (internationalization of SBPA curriculum). The existing courses which are germaine to the proposed center program are:

FIGURE 1

INTERDEPENDENCIES BETWEEN MAJOR COMPONENTS OF THE CENTER



BA 325	Financial Management
BA 331	Business Law
BA 335	Management Principles and Practices
BA 343	Principles of Marketing
BA 426	Financial Markets and Institutions
BA 488	Social Issues in Business
ECON 423	Comparative Economic Systems
ECON 435	Economics of Resources
ECON 463	International Economics
PA 634	Resource Policy Administration
BA 652	International Comparison of Business Practices

In addition, new upper division courses such as International Accounting, International Business (with Pacific-Alaska emphasis), International Marketing (with Pacific-Asia emphasis), and International Management should be introduced, as well as two graduate level seminars on International Business and International Marketing. To provide academic strength for these courses, students would be encouraged to take appropriate courses in international relations, Asian history, foreign languages, education, computer science, engineering, psychology, anthropology of developing countries and Alaska resources, including marine policy and management.

B. Professional Training and Development

A wide range of programs and activities will be undertaken to provide Alaskan people (government officials, business and industry leaders, resource developers and foreign traders, and students) training and instruction in "how to do business with the Pacific nations", and to train the Pacific-Asian people in "how to do business with Alaska". For the immediate future, special seminars, workshops, short-courses and conferences would constitute the primary activity of the center. These would be packaged essentially for special clienteles. The central theme throughout the conduct of these special educational activities should be the enhancement of business diplomacy skills, i.e. "How to do business". The center will work on these projects in cooperation with the UAA Office of Conferences and Continuing Education.

The following topics will be offered through seminars, workshops, short-courses, and conferences;

1. Language: intensive, short language courses to introduce cultural values and business etiquette (e.g. Japanese, Korean, Mandarin for businessmen)
2. Business customs, ethics and culture in comparison.
3. Negotiation techniques.
4. Business law: Legal framework of international business (U.S., Alaska and Pacific nations).
5. International marketing: products, demand, supply and consumption in Pacific-Asia and Alaska.
6. Governmental, economic and social structures of Pacific nations.
7. Transportation for international trade
8. International finance.
9. Export and Import potential in Pacific-Asia nations.
10. Cross-cultural Management.
11. Government and Business Relationships: regulation, planning and attitudes toward government and business.

II. Research

The major focus of the center's research activities will be on Alaskan issues and problems related to international business, marketing, trade, resources development, and political, legal, institutional, financial and economic opportunities and constraints. These research activities would be conducted through organized research and development. Faculties from SBPA, sociology, computer science, foreign languages, political science, engineering, anthropology, education, and psychology, etc. of UAA, the Center's visiting and exchange professors, and other noted experts would be invited to jointly conduct research and development activities.

The needs for research are substantial. It is believed that extramural funding can be secured, especially in those areas vital to Alaska's business future. A problem exists, which is not necessarily unique, in securing start-up funds to prepare research proposals. We anticipate that this can be accomplished with present UAA funding to enlarge research activities.

III. Public Service

The center will establish a computerized, comprehensive information and data base on Alaska, Pacific-Asian nations and other related countries which will be accessible to interested individuals and organizations.

The information acquisition, analysis and dissemination activities will be accomplished through close cooperation with the library. The research information will be specifically disseminated for the business community and government through various forms of publications and direct inquiry.

Specific Program Detail

The following pages provide extensive detail on projected Center activities. The material is organized by "key result area." Each key result area identifies one or more "indicators", which in turn are keyed to specific program objectives. A summary of key result areas and associated indicators and objectives is followed by detailed statements.

SUMMARY: THE ALASKA CENTER FOR INTERNATIONAL BUSINESS

KEY RESULTS AREAS	INDICATORS	OBJECTIVES
(1) Formal Academic Instruction	(1)-(1) Faculty Positions Approved	(1)-(1)-(1)--To get approval for 1/2 Director and five faculty positions from the Board of Regents, Governor and Legislature beginning FY '85 through FY '87.
	(1)-(2) Quality of Faculty Recruited	(1)-(2)-(1)--To recruit 5 nationally and internationally known full-time faculty members in the fields of international business, marketing, resource economics, and international policy analysis beginning July 1, 1984 through 1987.
	(1)-(3) Courses Offered and Productivity	(1)-(3)-(1)--In order to internationalize business education, instructional courses are regularly offered for undergraduate, graduate students, industry and business leaders, and public officials in the areas of international business, marketing accounting, cultures, languages, and other related areas beginning Sept. 1984.
(2) Professional Development and Training	(2)-(1) Program Plan	(2)-(1)-(1)--To successfully and effectively deliver 8 to 10 professional development and training programs annually to targeted groups for the enhancement of skills and techniques, and information and knowledge about doing business between Alaska and nations in Pacific-Asia beginning Sept. 1984.
	(2)-(2) Programs delivered for People of Alaska	(2)-(2)-(1)--To effectively train people in business, industry and government in the specific skills and techniques necessary for doing business with nations in Pacific-Asia beginning Sept. 1984.
	(2)-(3) Programs delivered for business industry leaders of the Pacific-Asia nations	(2)-(3)-(1)--To deliver four programs annually to leaders of business and industry for Pacific-Asia nations, with the specific focus of "how to do business in Alaska" beginning November, 1984.

SUMMARY: THE ALASKA CENTER FOR INTERNATIONAL BUSINESS

KEY RESULTS AREAS	INDICATORS	OBJECTIVES
(3) Research and Development	(3)-(1) Research Associate and Support Positions Approved	(3)-(1)-(1)--To get approval for 6 research associate positions and a secretary from the Board of Regents, Governor and Legislature beginning FY '85 through FY '87.
	(3)-(2) Quality of Research Associates	(3)-(2)-(1)--To successfully recruit 6 competent research associates, four of whom will be either bilingual or multilingual to make significant contributions to international research activities beginning Aug. 30, 1984.
	(3)-(3) Amounts of Research Contracts	(3)-(3)-(1)--To obtain approximately $200,000 in research grants per year beginning Jan. 1, 1987 and increase the research grants to $400,000 per year beginning July 1, 1989.
	(3)-(4) Quality of Research	(3)-(4)-(1)--To effectively acquire, analyze and disseminate information, specifically related to Alaska resources, international business, and marketing through the publication of reports, information materials, and direct inquiry beginning July 1, 1985.
(4) Public Service	(4)-(1) Information System	(4)-(1)-(1)--To establish a comprehensive information system.
	(4)-(2) Information Dissemination	(4)-(2)-(1)--To establish systematic processes for dissemination of center information and research analyses.
(5) Visiting Diplomats and Scholars in Residence	(5)-(1) Instruction, Research, Public Services Provided	(5)-(1)-(1)--To utilize the talents and skills of visiting diplomats and scholars in residence in conducting research, instruction and public service.
(6) Fund Raising	(6)-(1) Permanent Endowment Fund	(6)-(1)-(1)--To receive $3 million in endowment funds from the governments of Pacific-Asia and the State of Alaska, industry and other business organizations by July 1, 1988.
	(6)-(2) Amount of Funds generated by contributions and other grants	(6)-(2)-(1)--To receive $30,000 contributions and non-contract grants per year beginning Jan. 1, 1986.

KEY RESULT AREA (1) Formal Instruction

INDICATOR (1)- (1) Faculty Positions Approved

OBJECTIVE (1)-(1)-(1)

To get approval for 1/2 Director and five faculty positions from the Board of Regents, Governor and Legislature beginning FY '85 through FY '87.

ACTIVITIES	TARGET DATE
FY '85	
1. To get approval for the center Director (1/2)	July 1, 1984
2. To get approval for one full-time faculty in International Business	
FY '86	
1. To get approval for 2 full-time faculty; in International Marketing and Resource Economics	July 1, 1985
FY '87	
1. To get approval for 2 full-time faculty; in International Marketing and Policy Analysis	July 1, 1986

COMMENTS

Two full-time faculty positions will be directly supported by the Center's extramural funds beginning July 1, 1989.

KEY RESULT AREA (1) Formal Academic Instruction

INDICATOR (1)-(2) Quality of Faculty Recruited

OBJECTIVE (1)-(2)-(1)

To recruit 5 nationally and internationally-known full-time faculty members in the fields of international business, marketing, resource economics, and international policy analysis beginning July 1, 1984 through 1987.

ACTIVITIES	TARGET DATE
1. Announce an international business faculty position	July 1, 1984
2. Hire adjunct faculty until a full-time faculty is recruited	August 1, 1984
3. Recruit a full-time international business faculty member	May 31, 1985
4. Recruit two faculty members in international marketing and Alaska resources economics	May 31, 1986
5. Recruit two faculty members in international business and marketing, and policy analysis	May 31, 1987

COMMENTS

(1) Each faculty member will be engaged in formal instruction, professional training and development, and organized research activities.

KEY RESULT AREA (1) Formal Academic Instruction

INDICATOR (1)-(3) Courses Offered and Productivity

OBJECTIVE (1)-(3)-(1)

In order to internationalize business education, formal instructional courses are regularly offered for undergraduate, graduate students, industry and business leaders, and public officials ir the areas of international business, marketing accounting, cultures, languages, and other related areas beginning Sept. 1984

ACTIVITIES	TARGET DATE
1. Develop curriculum in cooperation with faculties in related disciplines	March, 1985
2. Schedule courses for the next 3 years	March, 1985
3. Develop student recruitment program plan	March, 1985

COMMENTS

(1) Besides the formal courses, a number of short-courses, seminars and workshops on specific topics will be packaged and delivered through the center each year (see professional training and development).

KEY RESULT AREA (2) Professional Development and Training

INDICATOR (2)-(1) Program Plan

OBJECTIVE (2)-(1)-(1)

To successfully and effectively deliver 8 to 10 professional development and training programs annually to targeted groups for the enhancement of skills and techniques, and information and knowledge about doing business between Alaska and nations in Pacific-Asia beginning September 1984.

ACTIVITIES	TARGET DATE
(1) Develop Five-Year Program Plan (September 1, 1984 through June 30, 1989) under the following block systems: 1. Principle block: Languages, governmental social, cultural, and economic structures of Alaska and Pacific-Asian nations; Business ethics, customs, culture in comparison; and government and business relationships. 2. Technical block: International business law (U.S. Alaska, Pacific-Asian Nations, etc.); negotiation skills and techniques; and labor-management relations. 3. Natural resources demand block: Timber; fish; minerals; coal; oil; gas; agricultural products; and tourism demands in the Pacific-rim nations. 4. International marketing block: Product demand supply and consumption in Pacific-Asia and Alaska; transportation; international finance; export and import potential in the Pacific-Asia; and cross-cultural management and business environment.	Sept., 1984

COMMENTS

Nationally and internationally noted experts will be often invited to conduct seminars and workshops, and instruct short-courses.

KEY RESULT AREA (2) Professional Training and Development

INDICATOR (2)-(2) Programs delivered for people of Alaska

OBJECTIVE (2)-(2)-(1)

To effectively train people in business, industry, and government in the specific skills and techniques necessary for doing business with nations in Pacific-Asia beginning in September, 1984.

ACTIVITIES	TARGET DATE
1. Short Courses Focusing on Pacific-Asia Nations (1) History and culture of Pacific-Rim people (2) Governmental, economic and social structures of Pacific-Asia nations (3) Government and Business Relations; planning and attitudes toward business and government (4) Labor Management Relations (5) International Relations (6) Languages (Japanese, Chinese, and Korean for businessmen). 2. Workshops: (1) Legal framework of international business: U.S., Alaska and Pacific Nations (2) Negotiation styles and techniques (3) Comparative business practices and cultures: Business environments, decision-making patterns, cross-cultural management, and business customs and ethics.	Period of Sept., 1984 - Dec., 1985

COMMENTS

Fees will be charged to participants in each short course, seminar or workshop, therefore, it is anticipated that professional training and development activities will be self-supported.

KEY RESULT AREA (2) Professional Training and Development

INDICATOR (2)-(2) Programs delivered for the people of Alaska (continued)

OBJECTIVE (2)-(2)-(1) continued

ACTIVITIES - Continued-	TARGET DATE
3. Seminars:	
(1) Export and import potential of Pacific-Rim nations	
(2) International finance	
(3) International marketing: products, demands, supply, consumption and consumer behavior in the Region.	
(4) Transportation in international trade	
(5) Natural resources demands for the Pacific Region: present and future	

COMMENTS

KEY RESULT AREA (2) Professional Training and Development

INDICATOR (2)-(3) Programs delivered for business industry leaders of the Pacific-Asia nations

OBJECTIVE (2)-(3)-(1)

To deliver four programs annually to leaders of business and industry for Pacific-Asia nations, with the specific focus of "how to do business in Alaska" beginning in November, 1984.

ACTIVITIES	TARGET DATE
1. Short courses:	Nov., 1984 - May, 1985
(1) History and culture of Alaska	
(2) Governmental, economic, social and cultural structures of Alaska.	
(3) Government and Business Relations in Alaska	
(4) Labor-management relations in Alaska	
(5) Learning English for businessmen	
2. Workshops	
(1) Business Law in U.S. and Alaska	
(2) Comparative Business practices and cultures: Business environments decision-making, cross-cultural management, and business customs and ethics	
(3) Negotiation styles and techniques	
3. Seminars:	
(1) Export and import potential in Alaska	
(2) Financial situation in Alaska	
(3) Marketing in Pacific Region and Alaska	
(4) Transportation: delivery systems	
(5) Natural resources and development policies in Alaska	

COMMENTS

Forty to fifty leaders from industry, government and higher educational institutions of each Pacific-Asia nation will be invited to participate in the Center's short-courses, seminars and workshops, with expenses to be paid by participants.

KEY RESULT AREA (3) Research and Development

INDICATOR (3)-(1) Research Associate and Support Positions Approved.

OBJECTIVE (3)-(1)-(1)

(1) Get approval for 6 research associate positions and a secretary from the Board of Regents, Governor and Legislature beginning FY '85 through FY '87.

ACTIVITIES	TARGET DATE
FY '85	
1. Get approval for a full-time research associate position.	July 1, 1984
FY '86	
1. Get approval for three full-time research associate positions.	July 1, 1985
2. Get approval for a secretary position.	July 1, 1985
FY '87	
1. Get approval for two full-time research associate positions.	July 1, 1986

COMMENTS
(1) Four of 6 research associates will be either bilingual or multi-lingual.
(2) Two full-time research associate positions will be directly funded by the center's extramural funds beginning July 1, 1989.

KEY RESULT AREA (3) Research and Development

INDICATOR (3)-(2) Quality of Research Associates

OBJECTIVE (3)-(2)-(1)

(1) Successfully recruit 6 competent research associates, four of whom will be either bilingual or multi-lingual to make significant contributions to international research activities; beginning Aug. 30, 1984.

ACTIVITIES	TARGET DATE
1. Recruit one full-time research associate in international marketing.	Nov. 30, 1984
2. Recruit three full-time research associates in international business, policy analysis, and resource economics.	Nov. 30, 1985
3. Recruit two full-time research associates in international business and marketing.	Nov. 30, 1986

COMMENTS

Research associates will also participate in seminars, workshops, and short-courses.

KEY RESULT AREA (3) Research and Development

INDICATOR (3)-(3) Amounts of Research Contracts

OBJECTIVE (3)-(3)-(1)

(1) Obtain approximately $200,000 in research grants per year beginning Jan. 1, 1987 and increase the research grants to $400,000 per year beginning July 1, 1989.

ACTIVITIES	TARGET DATE
1. Complete a data inventory for research grant sources.	Dec. 1, 1984
2. Select most appropriate and compatible research grant sources.	Dec. 31, 1984
3. Write and submit five to 10 proposals between Sept. 1984 and June 30, 1986.	June 1986
4. Receive $200,000 in research grants by Jan. 1, 1987, and continue to receive the same amounts through July 1, 1989.	Jan. 1, 1987
5. Receive $400,000 in grants and contracts by July 1, 1989 and continue to receive the same amounts in subsequent years.	July 1, 1989

COMMENTS

The research and development activities should be conducted through organized research by bringing the center faculty, research associates, faculty from other disciplines, visiting and exchange professors, and other noted experts together.

KEY RESULT AREA (3) Research and Development

INDICATOR (3)-(4) Quality of Research

OBJECTIVE (3)-(4)-(1)

(1) Effectively acquire, analyze and disseminate information, specifically related to Alaska resources, international business, and marketing through the publication of reports, information materials, and direct inquiry beginning July 1, 1985.

ACTIVITIES	TARGET DATE
1. Receive sufficient funds for start-up costs for research formulation, setting up of data center for Pacific-rim markets and library collection.	July 1, 1984
2. Publish reports (various forms) on political, legal, institutional, cultural, financial and economic opportunities and constraints in international trade between Alaska and the Pacific-Asia region and other regions of the world; consumer behavior, quarterly analysis of Pacific-rim markets and international business beginning July 1, 1985.	July 1, 1985
3. Have operational a computerized comprehensive information and data center on Alaska, Pacific-Asian nations, and other related countries which can be readily accessible to interested individuals, leaders of governments and business firms and organizations engaged in international trade.	July 1, 1986
4. Publish a quarterly journal on Alaska Resources and international business.	Dec. 1, 1987

COMMENTS

There will be fees charged for reports and journals.

KEY RESULT AREA (4) Public Service

INDICATOR (4)-(1) Information System

OBJECTIVE (4)-(1)-(1)

Establish a comprehensive information system.

ACTIVITIES	TARGET DATE
1. Identify major information requirements and information sources and availability	Jan., 1985
2. Design computer based data bank and initiate collection of data relating to Pacific-Asian nation markets and economic conditions, and Alaska resources and markets.	May, 1985
3. Identify and begin acquisition of non-computerized information sources to serve as the basis of the special library collection.	May, 1985

COMMENTS

KEY RESULT AREA (4) Public Service

INDICATOR (4)-(2) Information System

OBJECTIVE (4)-(2)-(1)

(1) Establish systematic processes for dissemination of center information and research analyses.

ACTIVITIES	TARGET DATE
1. Identify key recipients of center information and develop distribution system.	Dec., 1984
2. Publish results of center research and information activities through appropriate media as beginning July, 1985	July, 1985
3. Publish a quarterly journal on Alaska resources and international business beginning December 1987.	Dec., 1987

COMMENTS

Publication and distribution costs to be supported by fees and extramural funding. User fees to be charged for access to computer data base services.

KEY RESULT AREA (5) Visiting Diplomats, Executives and Scholars in Residence

INDICATOR (5)-(1) Instruction, Research, and Public Services Provided

OBJECTIVE (5)-(1)-(1)

(1) Utilize the talents and skills of visiting diplomats, executive and scholars in residence in conducting research, instruction and public service.

ACTIVITIES	TARGET DATE
1. Invite "Diplomat in Residence" participation from Korea, Japan, and U.S.	Nov., 1984
2. Develop Mechanisms and seek candidates for visiting scholars in residence	Nov., 1984
3. Develop system to ensure continuing flow of visiting diplomats and scholars in residence	Nov., 1984
4. Have first diplomat in residence at center	Sept. 1985
5. Have first visiting scholar in residence at center	Sept. 1986

COMMENTS

(1) Expenses of visiting diplomats to be met by country of residence.
(2) Visiting scholars to be sought on exchange or sabbatical leave basis. Center cost limited to space and support services.

KEY RESULT AREA (6) Fund Raising

INDICATOR (6)-(1) Permanent Endowment Fund

OBJECTIVE (6)-(1)-(1)

(1) Receive $3 million in endowment funds from the governments of Pacific-Asia and the State of Alaska, industry and other business organizations by July 1, 1988

ACTIVITIES	TARGET DATE
1. Complete a list of leaders of governments and business and industrial organizations.	Oct. 31, 1984
2. Complete preliminary preparations for seeking endowment.	Oct. 31, 1984
3. Complete travel arrangements for meeting leaders of governments and industry.	Dec. 1, 1984
4. Secure sufficient funds for travelling.	April 30, 1985
5. Receive $500,000 from the Korean Government.	July, 1986
6. Receive $500,000 from the Japanese Government.	July, 1986
7. Receive $250,000 from the Taiwanese Government	July, 1987
8. Receive $250,000 from the Singapore Government.	July, 1987
9. Receive $500,000 from the State of Alaska.	July, 1987
10. Receive $250,000 from industry and business organizations in Alaska.	July, 1988
11. Receive $250,000 from Japanese business corps and organizations.	July, 1988
12. Receive $250,000 from Korean business corps. and organizations.	July, 1988
13. Receive $250,000 from the Peoples' Republic of China by 1988.	July, 1988

COMMENTS

(1) Each fund may be endowed <u>at one time</u> or <u>yearly</u> by the target date.

KEY RESULT AREA (6) Fund-Raising

INDICATOR (6)-(2) Amount of funds generated by contributions and other grants

OBJECTIVE (6)-(2)-(1)

(1) Receive $30,000 contributions and non-contract grants per year beginning Jan. 1, 1986.

ACTIVITIES	TARGET DATE
1. Complete the list of individuals, associations and firms which may contribute the fund for the center.	Oct. 1, 1984
2. Begin to seek contributions and grants from individuals, associations and firms.	Nov. 1, 1984

COMMENTS

Funds to be used for direct operating expenses and program support.

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

March 21, 1984

LETTER OF INTENT FOR HOUSE BILL 515

In adopting House Bill 515, "An Act making a special appropriation to the University of Alaska Anchorage, Alaska Center for International Business; and providing for an effective date," the Legislature intends that the funds provided by HB 515 shall be used by the Alaska Center for International Business to provide appropriate program planning as well as actual classroom instruction by qualified instructors on subject areas related to international business, beginning the Fall semester of 1984; and that the coursework thus completed by qualifying students in the aforementioned program shall be eligible for academic credit at the University of Alaska.

Representative Tischer

Representative Pestinger

Representative Uehling

Representative Martin

Representative Koponen

Representative Goll

Representative Davis NO. REC.

HB
520

TRW Inc.

Executive Offices
One Space Park
Redondo Beach, CA 90278
213.535.2175

February 3, 1984



The Honorable Mae Tischer
Member, Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Representative Tischer:

We are writing to urge your support of House Bill 520, as introduced by House Speaker Joe L. Hayes.

This legislation would enact a computer crime statute in the state of Alaska and create an offense for the criminal use of a computer. We support this legislation because it would protect consumers from unauthorized access to and manipulation of sensitive computer-based information contained in the data base of a consumer credit reporting agency.

TRW's Information Services Division operates one of the country's largest consumer credit reporting agencies. We maintain credit information on more than 90 million consumers. And we service these consumers through 21 offices and 80 independent credit bureaus, including Credit Bureau of Alaska, Inc.

Unfortunately, our data base has been illegally accessed, and we have been frustrated with the inadequacy of current federal and state laws to properly prosecute these occurences. We have, therefore, successfully sponsored related legislation in California and New York, and we hope to see similar statutes enacted in other states, including Alaska.

I have attached additional information on this issue and a brief description of our consumer credit reporting services.

Once again, we respectfully encourage your support of House Bill 520. Thank you.

Sincerely,

Maureen S. Frisch, Regional Manager
TRW Inc. Government Relations

Attachment: as stated.

THE NEED FOR COMPUTER CRIME LEGISLATION

INTRODUCTION

Several issues related to the information services industry have led to the need for computer crime legislation.

The computer industry has created a consumer market that has put machines in the hands of hobbyists, and controls in the data processing industry have been reduced thru time-sharing options and other productional facets. While we see individuals invading systems in the news and entertainment mediums, the point is being raised that it will not be long before true criminals are involved in other areas. Unfortunately, this has become a reality. Little publicity is given to these cases of computer crime because they are not always turned over to law enforcement agencies. This is because computer crime statutes, for the most part, are either not in place or insufficient to result in prosecution. With little chance of achieving successful prosectution, or even getting to court, it is not surprising that many companies do not report computer crime.

Because of growing problems and concerns about unauthorized access to and manipulation of computer-based information, it is necessary to enact legislation. After unsuccessful attempts at the national level, it has become necessary to have progressive state legislatures implement legislation on a state-by-state basis.

UNAUTHORIZED ACCESS TO CREDIT INFORMATION

The credit industry has evidenced criminal behavior thru unauthorized access in three basic scenarios:

1. Consumer victimization via stolen access codes.

2. File manipulation.

3. Investigation and collection agency activity using stolen access codes.

Each of these scenarios is elaborated on separately to illustrate the impact of this activity and the need for up-to-date legislation.

Consumer Victimization

Attachment A, "For Sale: Credit Ratings," describes a process of victimization. The act of a consumer obtaining a good credit rating was facilitated by stealing subscriber access codes. The individuals that were selling these packages telephoned legitimate credit grantors subscribing to the credit agency. These individuals represented themselves as calling from the credit agency, usually using the pretext of clearing up a billing problem, or being from the security department. During the conversation the access code is requested and usually provided. This access code enables access to the credit data base to facilitate the process. The buyer of the good credit history uses the good accounts and requests other credit cards. The buyer runs up bills with no intent of paying. The good consumer is left with the issue of clearing up his or her credit history once it has been discovered that someone has used the individual's history.

File Manipulation

Attachment B illustrates the issue of file manipulation. File manipulation is achieved by bribing someone to modify the information contained in files within the bureau or subscriber's premises and the submission of false credit information.

Unfortunately, not all bureaus have controls to prevent this access and many incidents of information modification occur. Once the bad credit history is deleted or modified, the individual applies for new credit accounts. (Controls exist within the TRW system to prevent and/or isolate attempts of this type.)

Even if consumer victimization and file manipulation efforts are successful, most law enforcement agencies will not pursue the case until there has been a loss to a credit grantor.

Investigation and Collection Agency Activity (Attachment C)

Private investigators, lawyers, and repossession agents may, in isolated cases, have a legitimate purpose to access a credit data base; however, most of the major credit agencies do not allow these individuals to subscribe due to the control features required to monitor permissible access. Unfortunately, there have been many cases where individuals wanting this information have either stolen access codes or derived the access code from credit profiles sent to them by other subscribers with the access code on them.

Some collection agencies have acquired access codes in a similar manner. Although collection agencies have legitimate reasons to access a credit bureau, and they are subscribers, some do not use their own access code. The stolen access code is often utilized to reduce costs and increase commissions and agency profits.

A GROWING PROBLEM

According to recent statistics (Modern Office Procedures - March 1983, "Defending Your Computer Room Against Disaster") the average bank robbery is less than $3,000. The average "white collar" embezzlement nets less than $30,000. But the average computer crime is estimated to exceed $600,000, with little chance of detection, prosecution or conviction.

Education has become a key element in the fight against this area of criminal activity, and the United States Department of Justice has opened a specialized four week computer fraud school for F.B.I. agents. The Department of Justice, Sacramento, California, operates a two week course specializing in the same subject. Other municipalities as well as private organizations are currently holding seminars to combat problem areas of detection.

The challenge is to actively prosecute computer crime suspects. A challenge in the sense that the current laws regulating computer access are extremely lacking. Following, are three examples of TRW incidents that illustrate the need for computer crime legislation:

Example #1

An organized ring of credit criminals was established in a large metropolitan area. Although this example was taken from the Western Region, there is an indication that an identical ring is operating in the Eastern Region. One member of the ring provided computer password information to another who used it to gain access to our system. The suspect then retrieved hundreds of credit reports. Through a relocation and file merge system, the suspect was able to alter negative credit information into what appeared to be a positive profile.

The fee charged for this service varied, however, it averaged about $600 per report. This particular case is being actively prosecuted at the writing of this report. The section selected for prosecution was 502 P.C. (California).

Example #2

A collection agency/private investigative firm gained access to computer password information on several Information Services Division subscribers. As such, unauthorized access was made into our system and a total of $65,000 worth of credits were applied for from various east coast subscribers. While working the investigation of this matter, several New York agencies were contacted and each declined investigative jurisdiction. Most felt that it was a civil or federal problem, in that no computer crime bill existed.

Subsequently, the F.B.I. was contacted and consented to continue the investigation. A suspect was identified and prosecution is being actively pursued.

Example #3

A coast-to-coast organized crime ring obtained several thousand blank credit cards. Later, they obtained illegal access into credit systems and retrieved thousands of credit profiles of potential victims. By viewing the reports, account number information was obtained and later embossed on the stolen cards. The total amount stolen from creditors is unknown at this time, but it is believed to exceed $1,000,000. Investigation is continuing.

Crimes by these individuals were made possible through the illegal access to computer files. In each case the criminal simply called a TRW operator and relinquished certain password information which then caused the computer to be accessed.

It is acutely apparent that much has been done in the area of detection, but legislation is now needed for active prosecution.

CALIFORNIA'S COMPUTER CRIME LEGISLATION

SB 648 (California Penal Code 502) was introduced in the California Legislature in March of 1981. This bill modified the penal code to make it a crime to intentionally access or cause to be accessed any computer system or network for the purpose of damaging the credit rating of any person. The bill was sponsored by an individual in the San Diego District Attorney's office, Fraud Division, in response to a situation in San Diego in which an individual's credit file was sold for the purposes of obtaining credit under fraudulent circumstances. (Similar legislation has been enacted in New York.)

Legislative justification for the bill goes on to say:

> "The credit granting sector of private industry is being deluged with false and fraudulent applications for credit. It is not uncommon for individuals and organized groups to systematically apply for multiple credit cards, loans, etc. utilizing fictitious and false names, biographical information, and credit histories. These fraudulent applications are carefully created to fit within the credit grantors' criteria for issuance of credit - such policies which are well known to the applicants. Sophisticated wrinkles are added such as the use of telephone answering services, which have been provided a prepared script to read in case of inquiry by the credit granting agencies. The answering service tells the inquiring party 'that the applicant has been employed at a high salary for five years; that the applicant has successfully paid off a loan on a expensive automobile, etc.'
>
> Under existing law, the credit grantor must suffer a loss before this activity can be filed as a felony. This ridiculous posture does nothing to prevent repeated attempts to obtain credit by fraudulent means. It is likewise discouraging to the credit grantors, who having discovered these activities, bring them to the attention of law enforcement and discover that this conduct is at most a misdemeanor. (Section 532a, California Penal Code)"

ONE STEP TOWARD A SOLUTION

Because of the tremendous growth in computer-based information services and an alarming increase in the unauthorized access to and abuse of various data bases throughout the country, it has become necessary for states to update existing penal codes to include computer fraud. California and New York have passed legislation in this area. And it is hoped that similar legislation can be enacted in other states to facilitate criminal prosecution and standardize penalites.

11/1983

auditors commended Sandia's corrective actions and stated that it appeared that the problems had been solved. However, it would not pay those responsible for the laboratory to become complacent. Without continual policing, the problem will return. The auditors recommended periodic random sampling of computer files to check on unauthorized use of the system. #

For Sale: Credit Ratings

While evidence is still not clear, it seems possible that a data theft gang has been operating in southern California. It appears that the ring has allowed those with poor credit ratings to use someone else's good rating as the basis for opening charge accounts and obtaining loans.

The crime apparently involved unauthorized access to a credit bureau data base to obtain financial information about individuals with a clean credit history. Good credit ratings are sold to people who have problems obtaining credit. The bad credit risk purchases information that will allow him to assume for credit purposes the identity of someone who has the same name but a better financial record. Information supplied includes such things as social security number, bank account number, and driver's license number.

This suspected crime came to light when an individual with a good credit rating became aware that his identity was being used by another. He contacted a number of different law enforcement agencies and informed them about the alleged crime. To date, investigative efforts have been hampered by the fact that, although everyone acknowledges that a crime has indeed taken place, no one has been able to figure out who has jurisdiction. Meanwhile, a number of questions remain unanswered:

- How was the data obtained from the supposedly secure files of the credit bureau?
- Who obtained the data?
- Is it an inside job?

These questions will remain unanswered until jurisdiction problems can be ironed out and further information developed. #

Student Cracks School District's Computer System

A high school senior in Tucson, Arizona was successful in breaking into the school district's computer system. However, he is beginning to have regrets about his actions. Since his successful intrusion, security measures have been tightened, and his access to the computer has been reduced.

The student, Joel Snyder, first realized that he could break the system's security code when he was accessing the computer through a remote job entry terminal at his high school. He was quoted as saying that anyone with a knowledge of assembly language could easily circumvent the system's security features. The passwords protecting student grades and other information were unimaginative.

His attempt to gain access to another user's password was successful. As a result, Snyder felt he should inform the authorities about the security risks involved. However, officials tended to doubt that Joel Snyder had actually cracked the system. They were willing to acknowledge that he had obtained access to passwords, but they were never sure how he had done it.

In his attempt to publicize the security weakness, Joel appeared at a school board meeting and brought the matter to the attention of the board. This action had some results. System security was soon tightened. Students are now allowed to access the system only from RJE stations (not by dialing up from a modem), only during certain hours, and only while a teacher is present.

While he has proven that he has more than a passing knowledge of computers and their security features, Snyder does not plan a career in data processing. His first college choice is Stanford University, where he plans to major in liberal arts.

Although Joel Snyder's reasons for breaking security were not malicious, his action shows the ease with which intelligent students can circumvent security features in today's systems. Obviously, there are basic weaknesses in most security provisions. #

TOLEDO, OHIO
D. 175,383 SUN. 210,782

SEP 3 1976

U.S. Charges Six Fixed Reports On Credit-Risk Buyers For Fee, Fed False Data Into Computers

Authorities Believe Plot May Have Led To Millions Of Dollars In Unpaid Bills

LOS ANGELES (AP) —With the aid of a file clerk, six men sought out persons with poor credit records and for fees of up to $1,500 improved their credit reports in the computer banks of the country's largest consumer credit bureau, a federal indictment charges.

The credit records were kept in the computers of TRW Credit Data in Anaheim, Calif. The company maintains credit files on about 50 million Americans living in 20 cities.

The files are used by banks, credit card companies, and other businesses seeking information concerning the credit worthiness of customers.

Authorities said the alleged scheme may have produced millions of dollars in unpaid bills and caused untold legal problems for firms that rely on credit information.

The six men are charged with conspiracy in the indictment returned Thursday by a grand jury. All six also are charged with at least one count of making false loan-application statements.

A TRW Credit Data file clerk, Kathleen Bennett, was named as an unindicted co-conspirator. Federal authorities said she is to be a government witness.

According to the indictment, Miss Bennett was paid $50 each time she improved the computerized credit records of people solicited by the ring.

Some Information Deleted

This allegedly was done by deleting bad payment records, information about bankruptcies, and other unfavorable material. In some cases, material indicating a good credit history was inserted, authorities said.

The indictment listed 26 persons who paid between $300 and $1,500 to have their credit records altered, but authorities said as many as 150 persons may have paid for such falsifications between August, 1974, and March, 1975.

With their improved credit records, these people obtained banks loans, credit cards, and credit at retail stores, authorities said, and many of them subsequently defaulted on payments.

FBI agents uncovered the plot and broke up the ring 18 months ago, authorities said. It took the FBI, a Justice Department Organized Crime Strike Force, and the U.S. Attorney's office nearly two years to obtain the evidence needed to present the case to a grand jury.

Seven Counts In Indictment

Charged in the seven-count indictment were Philip Kostoff, 31, the alleged ringleader; his brother, Paul Kostoff, 35; Ronald C. Rossi, 41; John R. Dubbs, 41; Kenneth L. Stevenson, 39, and Sean Shanahan, 45. All live in Orange County, where Anaheim is located.

The indictment alleged that Philip Kostoff hired the other defendants to locate persons who wanted their credit ratings improved and also recruited Miss Bennett.

Authorities said TRW Data Credit, a division of Cleveland-based TRW, Inc., cooperated in the investigation and is lightening its security.

ANAHEIM, CALIF.
BULLETIN
D. 13,211

APR 6 1982

Authorities seize stolen computer reports

ORANGE — Detectives, armed with search warrants, last week seized several thousand credit reports that were allegedly stolen from TRW computers in Orange.

The records were seized by police during raids at three Los Angeles area companies — H.E.L.P. Locksmiths of Van Nuys, Searchers Investigations and Searchers Security Co., Los Angeles.

Police said entry into TRW's computer bank was made via telephone and teleprinters, using that company's codes.

No charges were filed against the officers of the three companies.

The search warrants served Thursday and Friday culminated a three-month investigation into what police said is "to the best of our knowledge, the first known reported crime of this particular type in California and the country."

Gil Hamblet, TRW's vice president of industry and public affairs, said the company first noticed the illegal access to their computer records six months ago.

He said the material relates to the pay habits of Southern California residents and does not include any other personal information, except their names, addresses and previous addresses.

The Van Nuys firm is an automobile repossession company and the two Los Angeles companies are private investigators who work for attorneys and corporations.

"Such records are used to obtain credit information on individuals," Detective John Carson said. "The records are also used in skip tracing."

Carson said the material is now being inventoried, and it will probably be a week before the police and the district attorney will be ready to file charges.

Los Angeles Times
LOS ANGELES CAL
D. 1,094,115

APR 7 1982

3 Firms Probed in Theft of TRW Computer Data

Two Los Angeles private detective agencies and a Van Nuys vehicle repossession firm have been accused of massive electronic theft of credit information from a computer at TRW, Orange County authorities said Tuesday.

Police said the three firms gained access to the nationwide credit reporting agency's computer by obtaining codes issued to TRW subscribers. No dollar value had been set on the alleged theft.

Investigators said Tuesday that H.E.L.P. Locksmiths, the repossession company, had been using the code for six months. Searchers and Searchers Investigations, the detective agencies, had been using them since 1972, police said.

Orange police Detective Roger Braham said no charges have been filed, but investigators are examining thousands of records—mostly computer printouts—seized from the three firms in raids last week.

Gil Hamblet, vice president of public affairs for TRW's Information Services Division in Orange, said the firm's own security surveillance system first spotted the illegal information request entries in January.

Officials of the three companies that allegedly obtained the information illegally could not be reached for comment Tuesday.

Computer-Fraud Coverage Grows As Insurers Solve Policy Problems

By Joanne Lipman
Staff Reporter of The Wall Street Journal

An oil company paid millions of dollars to gather highly confidential geophysical information and then fed the data into a computer. Now it wants insurance against electronic theft of the data by competitors or damage to its storage system by teen-age computer hackers. Is such coverage available?

The answer is yes, some insurers say. But the kinds of coverage available vary widely, and most insurance companies are still at work developing their policies. A few insurers cover theft of trade secrets and such items as customer lists. Others cover only the cost of reproducing erased or damaged information. All agree there are problems to overcome: Losses are hard to calculate and potentially staggering, for example, and premiums can be very high. But everyone also agrees that once the problems are solved, business will be hot.

Computer-fraud coverage "is the most sought-after insurance in the crime area these days," says Christopher Barr, vice president of National Union Fire Insurance Co. "The computer is the fad of the 1980s—and computer insurance is the fad topic of the insurance world."

So far, only about $20 million of electronic-crime policies have been sold and most of them cover transfers of money and securities, according to Dean P. Felton, a vice president of Marsh & McLennan Cos. But he figures that amount will increase geometrically, reaching $100 million in the next three years.

Demand is already rising. Shand, Morahan & Co., a subsidiary of Alexander & Alexander Securities Inc., says inquiries about its policy have doubled in the past six months, to 75 a week. Applications for the coverage have risen 20% to 30%, says Grant R. Hubbard, a Shand Morahan vice president. St. Paul Fire & Marine Co., Fireman's Fund Insurance Cos., Chubb & Sons Inc. and others report a similar increase in interest.

A New Twist In Coverage

Insuring computer data against theft and damage is a new twist in electronic-crime coverage. One of the first computer-crime policies, introduced by Lloyd's of London in 1981 and quickly copied by several American insurers, applied only to financial institutions and covered only money and securities transferred by electronic means.

That kind of policy was inspired by the exploits of Stanley Mark Rifkin, who was charged with swindling Security Pacific Bank of Los Angeles out of $10.2 million in 1978. According to prosecutors, he posed as an international bank officer, got the computer codes required to transfer money to a Swiss bank, and then bought 19 pounds of Russian diamonds with the proceeds. Back then, the case was hailed as the ultimate electronic scam.

But a new type of computer crime is drawing attention now, and its immediate target is information rather than money. Insurers can reel off tales of computer treachery. There's a company, for example, whose client file was pilfered electronically by a competitor. In another case, a prankster gained access to computerized motor-vehicle records, wiping out penalties given poor drivers. Recently, the Federal Bureau of Investigation has arrested teen-agers who allegedly broke into computers belonging to the Defense Department, a New York City hospital and an electronic-mail service.

Crimes like these make companies very nervous. Chubb, for instance, says it has sold computer-fraud policies to an aerospace company worried about piracy of its designs and a book publisher concerned that an outsider could steal unpublished books. Shand Morahan says travel agencies, county governments, department stores and stockbrokers have shown interest in its policy.

Insuring computer data against theft and damage is "a new area, and there are no hard and fast decisions on who is liable for what," says a State Farm executive.

Computer-data coverage varies from insurer to insurer. St. Paul Fire & Marine covers the cost of reproducing erased or damaged information, including footwork or research. That means that if a client list is erased, the insurer will pay for the extra time and work required to recreate it. But "snooping" isn't covered. As a result, if a competitor steals the client list electronically without damaging the data, no payment is made.

Chubb's policy does cover snooping. If information is stolen and used by someone, the policy covers the full amount spent to develop the data. Thus, if a new automobile design is stolen from a manufacturer's computer and the new car becomes uncompetitive as a result, Chubb will cover such costs as research and promotion. If the car is still marketable but sales are hurt because the design is no longer exclusive, a smaller payment will be negotiated.

Shand Morahan may offer the most ambitious policy. It promises to cover all computer-fraud-related costs, up to $30 million for a single incident. It will even cover the cost of inventory stolen by electronic means. Such cases have occurred in the past. In the early 1970s, Jerome Schneider was convicted of procuring more than $200,000 of telephone equipment from Pacific Telephone & Telegraph Co. in Los Angeles.

But many insurers are still trying to devise formulas for insuring computerized data. "It's a new area, and there are no hard and fast decisions on who is liable for what," says Wesley Doms, assistant vice president of State Farm Mutual Insurance Co., which doesn't offer any computer-fraud coverage.

One problem is that insurers like to stick with quantifiable losses. That makes them reluctant to cover less-concrete costs, like loss of confidentiality and confidence among customers.

There are other problems. While no claims have been made yet, they may be devastating when they come. "We don't expect them to be numerous," says Ralph W. Wheeler Jr., an executive at Aetna Casualty & Surety Co., "but we expect a catastrophe when it happens." Mr. Hubbard of Shand Morahan believes losses among his company's customers will "always be in excess of seven figures."

With the potential for losses like these, premiums can be enormous. They tend to run between $25,000 and $100,000 a year, depending on the size of the business and how secure its computer system is. But coverage can cost a large bank as much as $4 million over three years, according to Mr. Wheeler of Aetna. If the company has a backup computer or other alternate system, insurance costs are usually lower.

Giving Hackers Ideas

Most companies are reluctant to talk about their computer-crime coverage for fear of giving hackers and competitors ideas. "Nobody's going to admit carrying this coverage," says Mr. Hubbard, of Shand Morahan. "It's the same thing as kidnap coverage."

But law firms, which computerize data about cases, and airlines, which computerize everything from accounts receivable to reservations, are among the kinds of companies looking into coverage. "Anyone who uses information-systems technology is going to have to look at this type of insurance," says Don Karmazin, vice president of computer and communications services at United Airlines.

United is self-insured, but it plans to study coverage carefully as it becomes more readily available. "It has been talked about in the industry," Mr. Karmazin says, "especially with all the notoriety that these teen-age computer whiz kids have been getting."

McGraw-Hill Inc. has computer-crime coverage, but it says all its risks still aren't covered. Its policy covers the cost of recreating damaged information, but if an electronic trespasser reads—but doesn't damage—an unpublished stock appraisal from McGraw-Hill's Standard & Poor's Index or an unreleased article from its BusinessWeek magazine, no payment is made.

"We hit the stumbling block," says John J. Bott, corporate risk manager. "It's a gray area. We're going round and round on this at least once a month."

Criminal Use Of Computers Seen Growing

By Robert E. Taylor
Staff Reporter of The Wall Street Journal

WASHINGTON — Richard Shanklin has found another use for the versatile home computer: credit-card fraud.

From his parents' home in Fairfax, Va., the 30-year-old Mr. Shanklin used his computer to get into the files of Credit Bureau Inc. in Atlanta. Authorities say he used information about other people's credit-card accounts to order about $50,000 worth of computer and electronic gear from mail-order businesses.

A grand jury indicted Mr. Shanklin on 15 charges. After plea bargaining, the prosecutors dropped all but one charge of credit-card fraud. Mr. Shanklin pleaded guilty, and he faces a jail term.

The ease with which he gained access to the files is alarming to Assistant U.S. Attorney Loren Hershey, who prosecuted the case. He calls the home computer "the burglary tool of the electronic age." Several computer experts consider that an exaggeration, saying they haven't heard of another case like Mr. Shanklin's. But while computer pranks gain far more attention, experts expect the use of home computers in fraud and similar criminal activity to grow.

"The rip-offs are likely to be more frequent and larger," says Arthur Gillis, a computer-security specialist who is president of Computer Based Solutions Inc. of Atlanta. "The numbers are against us," he says, because people are learning about computers faster than adequate security precautions are being developed.

Danger From Insiders

The most serious threats of misuse, most experts say, come not from outsiders, but from insiders. Most computer thefts are embezzlements. In one case, a consultant, Stanley Mark Rifkin, used computer codes to transfer $10.2 million from the Security Pacific Bank of Los Angeles to his account in Switzerland. He served three years in jail.

Computer buffs have shown that they can use their wits, their terminals and their telephone lines to gain unauthorized access to private data banks. The most dramatic examples have been carried out by a group of youths in Milwaukee who call themselves the 414s, after the city's telephone area code.

They have penetrated dozens of computer systems, including a data base at the U.S. nuclear weapons research laboratory in Los Alamos, N.M., and the radiation-therapy records at Memorial Sloan-Kettering Cancer Center in New York.

While computer intrusions are generally ascribed to sport rather than greed, the case of Mr. Shanklin shows the possibilities of financial gain.

Computers' Weak Point

Mr. Shanklin apparently broke into the computer data bank by exploiting a weak point common to most systems: human carelessness. Federal authorities believe he posed as a Credit Bureau employee to obtain from a J.C. Penney clerk the codes used to enter the computer's credit files.

Dan P. Miller, a vice president at the Credit Bureau's Maryland subsidiary, says anyone who gets inside the computer's data base can read the company's files on about 90 million people from 24 states—including their credit account numbers, credit histories and unused balances.

Authorities say Mr. Shanklin, in ordering electronic gear by telephone, used credit accounts of people who had recently died. Investigators also say he obtained credit histories of Hollywood personalities, including actress Linda Blair. The grand jury charged that Mr. Shanklin obtained credit reports on at least 80 individuals.

When federal investigators went to Mr. Shanklin's home, they say they found seven antennas on the roof. The amount of computer and electronic gear packed into his bedroom was reminiscent, Mr. Hershey says, of the movie-set bedroom of the youth in "WarGames," a movie that raises the specter of a home-computer penetration of the U.S. missile defense system.

Deliveryman Grows Suspicious

According to the government, Mr. Shanklin picked up some of the goods he ordered at a freight depot, but he had other purchases shipped to his home. A United Parcel Service deliveryman grew suspicious, according to the prosecutor, after taking packages for several individuals to the home in a few days and seeing Mr. Shanklin sign for all of them.

Thomas Maloy, the Credit Bureau's director of public relations, says the company has "taken the appropriate steps" to prevent a similar unauthorized foray into its records, but, citing security concerns, he won't explain what they are.

Mr. Gillis, the computer-security expert, says security can be provided in several ways. Software can require a user to give a series of codes before getting access to data. It also can limit the amount of computerized information that is open to each authorized user. The central computer can be linked only to private telephone lines or programmed to give access to only specific computer terminals.

The most sophisticated safeguards identify authorized users by scanning their fingerprints, voiceprints or even the blood vessels in the retinas of their eyes, says Jim Schweitzer, Xerox Corp.'s manager of system security technology.

But such safeguards may be too expensive or cumbersome for some users. A private phone line to a computer is likely to cost at least $1,000 a month, Mr. Gillis says, so it isn't practical for most low-volume users.

In the absence of the more sophisticated security measures, Mr. Gillis says, "it doesn't take a genius" to break in to a data bank. All it takes, he says, is an understanding of how computers work. Computer users can beat the simpler safeguards by trying random variations of codes and passwords until they find the right ones.

But even the best security is vulnerable to human frailty. A common problem, says Mr. Schweitzer, is that authorized users don't safeguard their passwords and access codes. Theode C. Langevin, working in a New York brokerage house, used the password assigned to a former colleague at the Federal Reserve Bank to tap into the Fed's secret money-supply files. Mr. Langevin has pleaded guilty and faces a sentence of up to five years and a $1,000 fine.

Many crimes that rely on computers, though, could have been committed with old-fashioned tactics. Mr. Schweitzer contends, for instance, that Mr. Shanklin could have found enough information in a credit-bureau or department-store trash bin to charge his purchases to someone else's credit card

Crime on a chip

Beware the logic bombs, data diddlers and hackers

BY MURIEL DOBBIN
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LOS ANGELES — Logic bombs, data diddling, obscene messages and illegal access to defense secrets are just the tip of a computer crime iceberg that federal and California officials are working full time to control.

Already established in the annals of computer crime are the Phantom, who cost a San Francisco corporation $250,000 by feeding obscene messages into its machines, a teen-ager who acquired computer access to secret Defense Department information, and Cap'n Crunch, one of the original "phone phreaks" from whom today's electronic pirates are descended.

"The magnitude of the problem of computer vulnerability is only now being realized. What we are seeing is the tip of a nasty iceberg," said Clifton Garrott, an assistant district attorney who heads the electronics crime division in Los Angeles.

The U.S. Justice Department has commissioned a team of electronics experts at Stanford Research International, a California foundation, to carry out a study of computer crime in 18 states.

Rep. Ronald Wyden, D-Ore., introduced this month a computer crime prevention bill, said to be the first of its kind, as an initial step to combating the problem.

The Wyden bill would set up a task force to assess the dimensions of computer crime nationally. It also would create a clearing house to provide guidelines and aid for small businesses that are especially sensitive to computer criminals.

Charles Wood, management systems consultant at Stanford Research International, pointed to the timeliness of the movie *WarGames*, in which a teen-ager accidentally keys into a Pentagon computer and puts the world on nuclear alert.

"It is conceivable," he said. "The question is whether it is reasonably possible."

Garrott, who in three years of heading California computer crime-fighters has seen such offenses rise sharply, recalled that it was a teen-age boy who was reported recently to have used a computer at the University of Southern California to gain access to a Defense Department system. The extent of the youth's success, said Garrott, had not been established because nobody at the Pentagon would talk about it.

"What we must remember," said Garrott, "is that a computer is no more than an electronic filing system, which will do what anyone tells it to do."

A so-called intelligent computer, which could draw on its own experience when dealing with different sets of facts, is still at least seven years away, according to Garrott.

Meanwhile, he said, not only corporations but people have to learn to cope with the growing threat of computer abuse.

"Our credit ratings, our taxes, our bank accounts, our telephone bills are all to be found on computers, and there is evidence that increasing access is being gained to credit bureau machines where ratings are listed. New personalities can be built over existing ones, but it is the real person who gets the bill," he said.

He classified hackers, as computer criminals are called, as the successors of phone phreaks such as Cap'n Crunch, who used to use a device called the "blue box" to make long-distance calls without paying for them.

Hackers, he said, are "brilliant in a very limited way. They are not sociable. They flunk out of school and they can communicate only through the world of electronics," he said.

They are people like Lewis DePayne, whose computer name was "Roscoe" or "the Phantom." He led a criminal computer gang in Los Angeles that included two teen-age boys and a woman known as "Susan Thunder."

"Susan Thunder loved computers so much that she would prostitute herself to get money to buy computer equipment," said Garrott.

DePayne eventually spent five months in jail for computer fraud after he had planted obscenities in the computers of a California company.

An even darker side of computer abuse was uncovered at a hospital, where it was found that hackers had gained access to the computerized records of patients in intensive care and had doubled the dosage of their medications.

"If a nurse had not noticed the difference, we could have been dealing with a case of mass murder," Garrott said.

What worries the computer crime fighters is that such offenses often are discovered by accident.

"It's too often a fluke that it's found out at all," Garrott said.

He told of the bank employee who decided use a computer to triple the withholding for state and federal taxes on the bank staff and apply for the refund to be paid to himself. He was unsuccessful only because an auditor wondered if the withholding was too high and investigated.

There was also the case of Sarah the bank teller who programmed the bank computer to pay her unearned overtime and was successful for months until it occurred to a bank official that an enormous amount of overtime was being paid to a low-level employee.

What was significant about the case of Sarah was that after she had made restitution of the money, she was not fired. She was given a better job at a higher salary on the condition that she told nobody how she had diddled the data.

"That attitude on the part of corporations is passing," said Garrott, who explained that it originally stemmed from reluctance on the part of many firms to admit their own management inefficiency. "It does point up the need for new and tougher computer safeguards," he emphasized.

But until computer precautions are improved, he said, there will continue to be cases where data is changed or "diddled," and corporations risk financial disaster as a result of the planting of "logic bombs" which result in a computer erasing all the information in its records on a given time and date.

"The trouble is that people think computer crime is funny when it can be both disastrous and tragic," Garrott said.

Yet even the official admitted computer crime can be funny. As in the classic case of the cookie monster in the computer. That took place in San Francisco, where interference by hackers led to repeated interruption of a firm's programming with the word "cookie" appearing on the screen.

It would wind up with "gimme cookie." And it turned out that the only way to appease the electronic monster was to "feed" it by typing in the word it wanted, which was "cookie."

TRW NEWS

INFORMATION SERVICES DIVISION OF TRW INC. • 505 CITY PARKWAY WEST • ORANGE, CALIFORNIA 92668

FOR RELEASE: CONTACT:

TRW Information Services Division

Credit Data

A CAPSULE DESCRIPTION

TRW Information Services operates and markets one of the nation's largest, computerized consumer credit reporting services called Credit Data. TRW has credit information on more than 86 million consumers, and serves 24,000 subscribers at 35,000 locations.

TRW collects and stores factual credit information on consumers and provides that information to credit grantors that subscribe to the service including banks, retailers and finance companies. The TRW Updated Credit Profile contains credit account information provided by subscribers including positive and negative information about retail credit card accounts, bank charge card accounts, lines of credit, secured loans and finance company accounts. The Profile also includes selected public record information limited to tax liens, judgments and bankruptcies. TRW does not collect information on checking and savings accounts, race, religion, sex, salary, personal lifestyle or criminal records.

Open current credit accounts remain on the Profile indefinitely. Closed or paid accounts are removed within seven years. Adverse credit information remains on file for a maximum of seven years, with the exception of bankruptcies, which remain for a maximum of 10 years.

HISTORY

The development of consumer credit reporting agencies was a direct result of the rapid growth in the use of credit and need for consumer credit repayment information. As more and more businesses began extending credit to consumers, there was an increasing need for information on how those consumers repaid their credit obligations with other creditors. To meet this need, individual businesses began to collect their customer repayment information and exchange it within branches of their own company or within their industry. This credit information was kept in paper files in a central location. As the volume of credit information grew, the job became too large for individual businesses.

Credit bureaus soon developed, meeting businesses' need for a central repository of credit repayment information that provided credit grantors with a more complete picture of consumers' repayment habits. The Michigan Merchants Credit Assn. in Detroit was one such bureau, which was founded in 1932 by Norman Jordan, and taken over by his son, Harry ("Bud") Jordan, in 1956. The company was incorporated in Michigan in August of 1960 as the Credit Data Corp. and used file cabinets and 3" x 5" cards to store consumer credit information. In 1965 Credit Data initiated and installed the first computerized, on-line credit reporting system. It was acquired by TRW Inc. in November 1969 and became TRW Credit Data.

HOW CREDIT GRANTORS USE CREDIT REPORTS

TRW provides credit information to bona fide credit grantors who have a legitimate business need for the information. When consumers apply for

credit, they generally authorize a credit grantor to obtain information on their credit history. Credit grantors use TRW's service when considering applications for credit, or when reviewing their current accounts. Credit grantors apply their own evaluation criteria to the information TRW supplies in determining whether to grant or deny credit. In addition to the information on a Credit Profile, credit grantors also take into consideration information not supplied by TRW, such as the consumer's employment, income, other assets and outstanding debts. TRW does not make the decision to grant or deny credit.

HOW AUTOMATED CREDIT REPORTING WORKS

TRW provides credit information to credit grantors that assist them in the credit granting decision. In turn, they provide TRW with a record of their past and present credit account information. This is usually done on a monthly basis. Since the majority of TRW subscribers have their accounting function computerized, they typically provide the information via magnetic tape, copied directly from their billing records used to notify their customers. These tapes are sent to TRW's data center in Anaheim, Calif., where they are entered into the TRW computer system. This regular receipt of credit information provides TRW with an automatic updating of the credit account information in the files. Public record information is gathered directly from court records, converted to a computerized format and entered into the computer system in the same manner as credit information from credit grantors.

THE CREDIT PROFILE

The TRW Credit Profile contains up-to-date credit information on consumers' credit accounts, items of public record, inquiries, and a consumer's identifying information. [redacted]

[redacted]

--Identifying Information: the consumer identifying information is limited to the consumer's full name (including generation, such as "Junior" or "Senior"), address, social security number, age or year of birth, and spouse's initial. The consumer's place of employment, as indicated by the consumer on a credit application, may also be contained in the Profile.

--Credit Account Information: includes the name of the company reporting the account, the date the information was reported, the date the account was opened, the type of account, terms, the original balance or credit limit, current account balance, amount past due and the status of the account, such as "current account" or "30 days past due."

--Inquiries: whenever a request is made for a copy of the Profile, that request, or "inquiry," is automatically recorded on the Profile and is retained for a period of one year. Inquiries include the name of the inquiring company and the month, day and year of the inquiry.

--Public Record Information: includes the name and location of the court from which the data was obtained, a description of the item, such as "judgment" or "state tax lien," the docket number and/or page number where it was located, date and the status of the item, such as "judgment satisfied."

--Designations: each item of credit or public record information is assigned a general designation of "positive," "negative" or "non-evaluated," depending on the status of the account or public record item. A paid satisfactory account, for example, would be designated as a positive item. These designations -- selected through the consensus of credit grantors that use TRW's service -- are provided as a service to credit grantors. TRW does not provide a general credit rating -- such as "A-1" or "Triple-A Credit" -- on an individual.

--Payment Profile: is another service to credit grantors that provides them with an immediate comprehensive picture of the consumer's payment history for the last 12 months. An account that has been current for the last 12 months, for example, would be indicated in the Payment Profile as a series of "C's," representing "current." A 30-day, or one month past due, would show on the Payment Profile as a "1" in the column for that month.

--Consumer Statement: if the consumer so chooses, a consumer statement of 100 words or less regarding any item that TRW has reinvestigated and with which the consumer is still dissatisfied may also be included on his or her Profile.

(A more extensive explanation of status comments, association codes, types of accounts, and items of public record is included on the back of the sample Credit Profile).

DISCLOSURE TO CONSUMERS

Consumers may obtain a copy of their Credit Profile anytime by writing to TRW directly. Approximately 500,000 consumers a year request a copy

of their Credit Profile from TRW, through TRW's 21 Consumer Relations offices across the country. They should include the following information in their request:

: Full name (including generation, i.e., Jr., Sr., III, etc.)
: Addresses for 5 years
: Social Security Number
: Year of birth
: Signature

If the consumer has been denied credit within the past 30 days, there is no charge for the Profile. Consumers should indicate the company that declined them credit or include a copy of the declination letter with their request. If they have not been denied credit within the past 30 days, there is a $8 fee. ($5 in Maryland). The request should be mailed to the TRW Consumer Relations office closest to their home (See list of TRW locations). Eighty-six percent of the consumers who request their Credit Profile from TRW do so by mail.

Consumers may also make a personal visit to TRW offices during business hours to receive a copy of their Credit Profile and speak to a trained representative, who will explain its contents. To make an appointment for a personal visit, consumers should call the TRW Consumer Relations office closest to their home. Fourteen percent of the consumers who contact TRW make a personal visit to TRW's Consumer Relations offices.

TRW reinvestigates any item on a consumer's Credit Profile that the consumer disputes. This is done by contacting the source of the information to verify its accuracy. If there is any item on the Credit Profile that

the consumer disputes, the nature of the dispute should be indicated in the column provided on the Credit Profile and returned to TRW. TRW will reinvestigate the disputed item with the source of information. If the item cannot be verified, it will be deleted from the record. TRW notifies the consumer of the result of that reinvestigation by sending the consumer an updated copy of the Credit Profile. Of the approximately 500,000 consumers a year who request copies of their Credit Profile from TRW, less than one-third dispute information on the Profile.

Consumers may add a consumer statement to their Credit Profile regarding any item which TRW has reinvestigated and with which they are still dissatisfied. This statement will tell the consumer's side of the story in his or her own words, and will be included with all inquiries to the consumer's Credit Profile. TRW will work with consumers to formulate the statement, which should be limited to 100 words or less and should not include libelous comments.

SAFEGUARDS

TRW's contract with subscribers specifies the Credit Profiles be used only in accordance with the permissible purposes outlined in the Federal Fair Credit Reporting Act. TRW has extensive security procedures, including safeguards for protecting the computer equipment, computer center, information files, systems programming and access to the TRW system.

CREDIT AND FEDERAL LAW

There are a number of federal laws that pertain to credit. The Fair Credit Reporting Act, Equal Credit Opportunity Act, and Fair Credit

Billing Act, summarized below, are the three most important laws for consumers to be aware of.

FEDERAL FAIR CR DIT REPORTING ACT

Gives you the right...

...to know what credit information is held that pertains to you, without charge if you've been denied credit within 30 days

...to know who has received a report on you in the past six months

...to have information pertaining to you, which you dispute, reinvestigated and corrected or removed if inaccurate or unverifiable

...to place a statement in the credit reporting company's records if you continue to dispute the accuracy of an item after reinvestigation

...to have an updated report sent to those credit grantors who have received a report pertaining to you in the last 6 months

...not to have adverse information pertaining to you over 7 years, or 10 years for bankruptcies, kept or reported

EQUAL CREDIT OPPORTUNITY ACT

Gives you the right...

...to be judged on an equal basis with all other credit applicants

...to have joint accounts reported for both spouses separately after June 1977

...to have your income considered without regard to sex or marital status

...to have child support and alimony payments regularly received counted as income, if requested

...not to be asked questions about birth control or child bearing plans

...to obtain a credit card in your own name if you are a married woman

...to know the reasons you have been denied credit

FAIR CREDIT BILLING ACT

Gives you the right...

...to file a written complaint with the credit grantor within 60 days after the bill you question was mailed to you

...to receive an acknowledgement from that credit grantor within 30 days after that, and a settlement within 90 days

...to forestall collection of the account until the dispute is resolved and

...to prohibit that credit grantor from reporting negative information regarding the disputed amount to credit reporting agencies until the dispute process is completed

OTHER CREDIT REPORTING AGENCIES AND INDEPENDENT BUREAUS

TRW is one of the largest of five major, U.S. computerized credit reporting agencies. The others are TransUnion (Chicago); Credit Bureau Inc., a division of Equifax (Atlanta); Chilton (Dallas); and Pinger (Houston).

There are many more smaller, independently owned credit bureaus nationwide that provide an important service to their communities. TRW has contractual agreements with 28 such bureaus to provide them with the latest data handling technology and enhancements, while at the same time allowing them to retain independent control of their operations, as well as access TRW's data.

HB

522

February 13, 1984

Honorable Mae Tischer
Chairman, Health, Education and
Social Services Committee
Pouch V
Juneau, AK 99811

Dear Mrs. Tischer:

This letter is in regards to Bill 522.

I agree that kindergarten should be required in Alaska. However, the age (6 years) should not be changed. The year of growth between 5 and 6 will give the child a greater capacity to learn. He will be able to cope with social situations and pressures with better understanding than before.

I feel strongly that June should be the cut off date for entering school. With this requirement there should be no doubt whether a child may or may not enter school.

Thank you for your time.

Sincerely,

Sheilah D. Eral

Sheilah D. Eral
Homestead Elementary School
Eagle River, Alaska 99577

1195

February 13, 1984

Honorable Mae Tischer
Chairman, Health, Education and
Social Services Committee
Pouch V
Juneau, Alaska 99811

Dear Mrs. Tischer:

As a first grade teacher for the past twelve years, I have become convinced that most children who do not master the skills necessary to go on to second grade simply need time for maturation. I urge you to move the entry date from November 1st to June 1st. (Many parents whose children I have had said they wished they'd given them a chance to develop both mentally, physically, and emotionally before entering their child in school. Help prevent parent failure.)

Sincerely,

Marilyn D. Hahn

Marilyn D. Hahn
Homestead Elementary
Eagle River, Alaska
First Grade Teacher

February 13, 1984

Honorable Mae Tischer
Chairman, Health, Education and
Social Services Committee
Pouch V
Juneau, Alaska 99811

Dear Mrs. Tischer:

As a first grade teacher and a parent of two boys ages four and five I urge you to look at changing the school entry date.

Many children often start school in September having just turned five or at four years of age turning five by November. These children are sometimes academically ready for school but not physically or emotionally. They are often immature, have coordination problems and are really not ready for the routine of the daily classroom.

In my 14 years experience as a primary teacher I have found tnat the children who end up in modified primary or retained in 1st grade are children with summer birthdays and early fall birthdays.

My own sons are examples: Sean turned five on June 2. He is a very capable child but I felt he was too immature to start school. I have seen a great change in him and I am confident he will do well and be able to handle everyday pressures and demands better.

One more thought on this change in entry date. Think about the outside and peer pressures a child needs to cope with once in Junior High or Senior High. If a child has experienced frustration as the youngest in a class in elementary school it gets worse in Junior High or Senior High. Why not give the children a chance to be at the top of the class instead of the bottom? A chance to have a little more maturity to cope with the influence of drugs and alcohol.

I know this isn't the answer to all school failures, but it is a step in the right direction.

If you have any questions please write or call me at any time.

Sincerely,

Linda A Landers

Linda Landers
Star Route 192A
Myrtle Drive
Eagle River, Alaska 99577

Please support HB 522 with the age change

HB
530

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST:
Bill/Resolution No.: House Bill No. 530
Title: "An Act relating to waiver of juveniles as adults."
Sponsor: Rep. Pestinger
Requestor: House Judiciary Committee
Date of Request: January 25, 1984

FISCAL DETAIL:
Agency Affected: ADULT CORRECTIONS AGENCY
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Northern, Southcentral & Southeastern Regional Corrections, Admin. & Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES				1,520.1	1,611.4	1.708.0
200 TRAVEL				7.1	7.5	8.0
300 CONTRACTUAL		25.0	79.5	218.8	231.9	245.8
400 COMMODITIES		38.8	123.8	223.4	236.8	251.0
500 EQUIPMENT				6.4	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		6.0	19.1	36.0	38.2	40.4
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	69.8	222.4	2,011.8	2,125.8	2,253.2
CAPITAL	-0-	10,621.5	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	10,691.3	222.4	2,011.8	2,125.8	2,253.2
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	-0-	10,691.3	222.4	2,011.8	2,125.8	2,253.2

POSITIONS:

FULL-TIME	-0-	-0-	-0-	29	29	29
PART-TIME						
TEMPORARY						
TOTAL	-0-	-0-	-0-	29	29	29

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the bill sponsor.

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: William W. Ladwig for Roger C. Lange — Phone: 465-3376
Division: Administrative Services — Date: February 21, 1984

Approved by Commissioner: [signature] — Date: 2/21/84
Department: ADULT CORRECTIONS AGENCY

Distribution:
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency (ies)

12/1/83

ANALYSIS

A. Assumptions:

Based on FY 1982 Juvenile arrest data and the Department of Law's estimate that 45-50 juveniles will be waived into Adult Court, it is estimated that 72.75 additional beds will be needed by the Adult Corrections Agency,. A detail of this estimate is given in Attachment 1.

B. Program Summary:

1. In FY85, funds would be required to begin planning and design for construction of medium security beds. Because of the serious nature of the offenses, however, it is assumed that a significant number of the offenders would spend some time in a maximum security setting. Capital costs for medium security beds are estimated to be $146,000 per bed.

   72.75 beds @ $146,000 = $10,621,500

2. Full operating costs would not occur until FY87. It is estimated that twenty-nine (29) positions will be required to provide security and support for these beds: One (1) Correctional Officer III, twenty-six (26) Correctional Officers II and two (2) Probation Officers II. Costs for these positions will occur in FY87, the anticipated opening date for the new beds. Estimated costs are as follows:

100	Personal Services	$1,520,100
200	Travel	7,100
300	Contractual Services	218,800
400	Commodities	223,400
500	Equipment	6,400
700	Inmate Gratuities	36,000
	Total	$2,011,800

Operating cost for FY85 and FY86 are for inmate cost of food, clothing, medical, etc., for the estimated persons coming into existing facilities before the new beds can be completed.

Inflation of 6% for all expenditure object groups was assumed for subsequent fiscal years.

Attachment 1

Estimated Annual Frequency of Convictions	Presumptive Sentence	Estimated Average Sentence for 16 and 17 Year Olds Convicted as Adults	Actual Time to Serve With Credit for Good Time
*Unclassified felony (automatic waiver)			
2 murder I	20 years	15 years	11.25 x 2 = 22.5 years
1 murder II	5 years	4 years	3.0 x 1 = 3 years
1 sexual assault 1st (with firearm)	10 years	7 years	5.25 x 1 = 5.25 years
5 sexual assault 1st (without firearm)	8 years	5 years	3.75 x 3 = 11.25 2 probation
3 Class A felonies (with firearm)	7 years	6 years	4.5 x 2 = 9 years 1 probation
5 Class A felonies (without firearm)	5 years	4 years	3 x 4 = 12 years 1 probation
	Non-presumptive Range		
6 Class B felonies	0-10 years	3 years	2.25 x 4 = 9 2 probation
2 Class C felonies	0-5 years	1 year	.75 x 1 = .75 years 1 probation
			TOTAL: 72.75 person-years

HB
548

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

1/27/84 Date: March 21, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 548

" An Act relating to state assistance for community health aide programs; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 548 (HESS) [X] same title [ ] new title

and recommends that it do pass.

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

CITY OF ALEKNAGIK
P.O. Box 33
Aleknagik, AK 99555

March 8, 1984

Representative Adelheid Herrmann
House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Herrmann:

On behalf of the City of Aleknagik, the residents of South Shore, and the Aleknagik City Council, I would like to request that the Alaska State Legislature include in the Fiscal Year 1984 Legislative appropriations, funding for a new South Shore Community Health Aide Clinic facility. At the present time, the South Shore Community Health Aide, is providing medical care for the ill in her home, and has been, for the past two years.

The residents of Aleknagik consist mainly of elderly people who do not always have access to boat transportation, or vehicle transportation, because they don't know how to operate them. The only other option is air transportation, for medical care and immediate emergencies. Moreover, the elderly people don't use English as their first language and usually prefer a person who can speak their language, which is Yupik Eskimo, to tell the Community Health Aide of their medical problems.

The employment situation is also another problem that causes the income to be below average in many homes, and not all of the South Shore Aleknagik residents have access to vehicle transportation. Therefore, the people in the community reply on their Community Health Aide for medical problems, because air transportation is high. For one person to fly to Dillingham, it costs $ 40.00 one way, and that adds up, especially if the Native community mainly relies on subsistence livelihood to help meet their basic needs, such as high food costs, which are practically doubled the cost of Anchorage food prices.

The approval of a new South Shore Clinic would improve the sanitation and health/safety requirements of the Indian Health Service, by providing adequate water, sewer, heat for

the protection of the patient's medical care. Recently, during a "cold spell," the South Shore Community Health Aide's medicine froze and had to be disposed of, when at all times, she should have an adequate supply of medication on hand for basic emergency care.

Currently, the South Shore Community Health Aide has one (1) four-drawer steel file cabinet, that she keeps her medicine, in one of the drawers, medical utilities, such as thermometers, otoscopes, in another drawer, and records and other basic medical supplies in another drawer. The South Shore Community Health Aide, personally, is also keeping medication that has to be kept refrigerated, in her refrigerator, along with her food, and she doesn't approve of the idea of "mixing" food and "medication" in one mini-refrigerator. Those are the only two (2) pieces of "medical" equipment that she is equipped with, along with a telephone to take care of medical emergencies--right at home!

The South Shore Clinic would also be a benefit to the South Shore Community Health Aide's well-being. She would be more confident, knowing that adequate medical equipment, and supplies were locked up in the South Shore Clinic, and would fit the true role of a Community Health Aide in her new setting and environment.

Bob Appel, Director of Community Services, for the Bristol Bay Area Health Corporation, is proposing to submit to include South Shore Health Clinic Lease space to the Indian Health Service, for Fiscal Year 1984 Budget. If funding to build a new South Shore Clinic, and funding for clinic equipment is approved, the City of Aleknagik would like to begin construction of the South Shore Clinic facility in the Fall of 1984. It is currently estimated that the construction time span for the clinic would be approximately two (2) months. The City plans to use local people to build the clinic, and for the building materials, we are using estimate by a local supplier, Choggiung Lumber & Supply, so we wouldn't have to worry about freight expenses for the building materials. The only freight expenses would be for the new clinic equipment from American Hospital Supply, of Redmond, Washington, and from Anchorage, for office desk, chair, garbage can, and 4 waiting chairs.

Therefore, for the benefit of the local elderly's health care, and the South Shore residents of Lake Aleknagik, I again propose that the Alaska State Legislature provide funding for a new South Shore Community Health Aide Clinic Facility, and Clinic Equipment for our community. Thank you for your time and consideration.

Sincerely,

CITY OF ALEKNAGIK

Helen M. Chythlook

Helen M. Chythlook
City Administrator

cc: Senator Bob Mulcahy
Older Alaskan Commission
Senator Frank Ferguson
Senator John Sackett, Senate Finance Co-Chairman
Represenative Albert Adams, Chairman, House Finance
Robert J. Clark, Executive Director,BBAHC
Vivian M. Chythlook, South Shore Community Health Aide
Aleknagik City Council

Attached: Chog Lumbers Letter & Cost Estimates for Clinic Building Materials
Betty Knutsen's Clinic Equipment Cost Estimate List (CHAP Director, Bristol Bay Area Health Corp.)

CITY OF ALEKNAGIK
P.O. Box 33
ALEKNAGIK, ALASKA 99555
(907) 842-5953

PROPOSED SOUTH SHORE HEALTH CLINIC - FY84
SPECIFICATIONS: 20' x 24' (Minimum required by I.H.S.)
COST ESTIMATES

CLINIC EQUIPMENT COSTS:	$ 5,350.00	(w/out Freight)
EQUIPMENT FREIGHT ESTIMATE:	10,000.00	(Approximate)
BUILDING MATERIALS:	8,952.34	(Chog Lumber Quote)
Electrical Package: (Telephone Installation included) (but optional for now)	1,342.74	(Nushagak Electric)
Water & Sewer System	20,000.00	
Construction/Labor Costs (two months-three months work)	15,000.00	

TOTAL ESTIMATE COSTS: $ 60,645.00

MEMORANDUM

TO: Wassillie Ilutsik, Mayor
Aleknagik City Council

FROM: Helen W. Chythlook, City Administrator

RE: South Shore Health Clinic Equipment Estimates
(Equipment Needed by South Shore Health Clinic)

Per Telephone Conversation with Barbara Knutsen,
CHAP Director, Bristol Bay Area Health Corporation

DATE: 2 March 1984

Barbara Knutsen, CHAP Director, Bristol Bay Area Health Corporation said that Equipment Needed for the South Shore Health Clinic are as follows. These are rough estimates for now.

EQUIPMENT	COST ESTIMATE (WITHOUT FREIGHT)
Exam Table (Catalog-American Hospital Supply) (Redmond, Washington)	$ 1,300.00 (no freight)
Treatment Cabinet with Drawers (Catalog-American Hospital Supply) (Redmond, Washington)	$ 100.00 (no freight)
Storage Cabinet(Double Door that Locks) (Barrett Office Supply)/156 pounds.	$ 241.00 (without Freight)
Goose Neck Lamp (American Hospital Supply) (Redmond, Washington)	$ 54.00 (no freight)
Double Pedestial Desk (Barrett Office Supply)/135 pounds.	$ 300.00 (no freight)
Desk Chair/with Arms (Barrett Office Supply)/45 pounds (approx.)	$ 86.00 (no freight)
Swivel Desk Chair (Barrett Office Supply/43 Pounds)	$ 146.00 (no freight)
Folding Chairs (14.50 each) (Barrett Office Supply (46 pounds/4 chairs)	$ 58.00 (4 Chairs/Carton)
Refrigerator (10.4 Cubic foot) (Sears/ 154 pounds)	$ 400.00 (no freight)

EQUIPMENT	COST ESTIMATE (WITHOUT FREIGHT)
(2) Two Garbage Cans (Barr[illegible]t Office Supply)	$ 38.00 Each (no freight) ($ 76.00) FOR TWO GARBAGE CANS
Mayo Instrument Stand (American Hospital Supply)	$179.00 (no freight)
Cool-Mist Vaporizer (Sears)/ 4 pounds, 12 oz.	$ 20.00 (no freight)
Adult Scale (American Hospital Supply) (Redmond, Washington)	$265.00 (no freight)
Stainless Steel Utility Table (American Hospital Supply) (Redmond, Washington)	$400.00 (no freight)
Stainless Steel Worktable (American Hospital Supply) (Redmond, Washington)	$325.00 (no freight)
ESTIMATE TOTAL COST EQUIPMENT (FREIGHT COSTS NEED TO BE INCLUDED):	$5,350.00 (COST WITHOUT FREIGHT)

Barbara said she had other Hospital Equipment catalogs, if we would like to sit down with her sometime, at the Bristol Bay Area Hospital and go over clinic equipment catalogues with her. Barbara is "holding" an infant scale for the South Shore Clinic. The hospital potentially will be able to provide the South Shore Clinic with a short-wave radio. We will need to provide (2) two fire extinguishers.

CHOG LUMBER & SUPPLY
"The Blue Building on the Bay"
P. O. BOX 196
DILLINGHAM, ALASKA 99576
PHONE 842-1200

March 8,1984

Ms. Helen M. Chythlook
City Administrator
City of Aleknagik 99555

Dear Ms. Chythlook

Enclosed is is an itemized materials list I have estimated for the proposed South Shore Health Aide Clinic as per your letter dated 3/5/84. The price includes all materials necessary to bring the building to an operational condition. I have also included an estimation of materials and a schematic drawing for the electrical which should be installed during construction.

We certainly appreciate the opportunity to bid this project, and look foward working with our friends in Aleknagik. If I may be of further service or answer any questions concerning the enclosed estimate please contact me at Chog Lumber 842-1200.

Sincerely,

CHOG LUMBER

Jon E. Sorensen
General Manager

Enclosures

CHOG LUMBER & SUPPLY
"The Blue Building on the Bay"
P. O. BOX 196
DILLINGHAM, ALASKA 99576
PHONE 842-1200

City of Aleknagik
Proposed South Shore Health Aide Clinic

Attached is a comprehensive itemized materials list and prices for all building materials through the completion stage. You will also find a schematic drawing of an electrical system.

Building Material :	$8,952.34	F.O.B. Aleknagik North Shore
Electrical Package:	$1,342.74	" " " "

CHOG LUMBER & SUPPLY

"The Blue Building on the Bay"

P. O. BOX 196
DILLINGHAM, ALASKA 99576
PHONE 842-1200

ITEM	DESCRIPTION		EXTENTION
Foundation Girders	4 X 12 #2 D/Fir 2/16 1/20	689/M	143.31
Floor Joist - 16"o/c	2 X 10 #2 H/Fir 6/12 20/12	615/M	319.80
Subfloor/Underlayment	3/4" T & G Plywood 15pcs.	865/M	415.20
Plate - Ext. Walls	2 X 6 #2 H/Fir 6/10,6/14,6/20	533/M	140.71
Studs - " "	2 X 6 #2 H/Fir 88/92-5/8"	546/M	384.38
Headers " "	2 X 8 #2 H/Fir 3/16	748/M	47.87
Plywood Siding	4 X 9 5/8" T-1-11	805/M	753.48
15lb. Felt-roof/siding	5 rolls @ 19.00		95.00
Interior Wall Plate	2 X 4 #2 H/Fir 14/14	590/M	77.29
Interior Wall Studs	2 X 4 #2 H/Fir 70/92-5/8"	488/M	209.44
Interior Headers	2 X 6 #2 H/Fir 4/8	546/M	17.47
Ceiling Joist 24"o/c	2 X 6 #2 H/Fir 16/20	533/M	170.56
Roof Rafter 24"o/c	2 X 6 #2 H/Fir 28/12	533/M	179.08
Roof Sheathing	4 X 8 ½" CDX Plywood 20pcs.	477/M	305.28
Brown Steel Eaves Flashing	5 pcs. @ 10.00		50.00
Brown Steel Gable Flashing	4 pcs. @ 11.60		46.40
Brown Steel Roofing 12ft.	12 pcs. @ 15.00		180.00
Brown Steel Ridge	3 pcs. @ 11.00		33.00
Butyl Adhesive Tape	4 roll @ 9.00		36.00
Foam Closure Tape	2 roll @ 6.50		13.00
Brown Roofing Screws	300 screws @ .07		21.00
Sheetrock - Ceiling	4 X 12 5/8" Type X 10 pcs.	434/M	208.32
Sheetrock - Walls	4 X 8 ½" Regular 52 pcs.	355	590.72
Visqueen Vapor Barrier	10 X 100 6mil		45.00
4 gallon Sheetrock Joint Compound	6 @ 17.00		102.00
Beadex Corners	20 @ 1.50		30.00
Paper Joint Tape	3 @ 3.95		11.85

CHOG LUMBER & SUPPLY
"The Blue Building on the Bay"
P. O. BOX 196
DILLINGHAM, ALASKA 99576
PHONE 842-1200

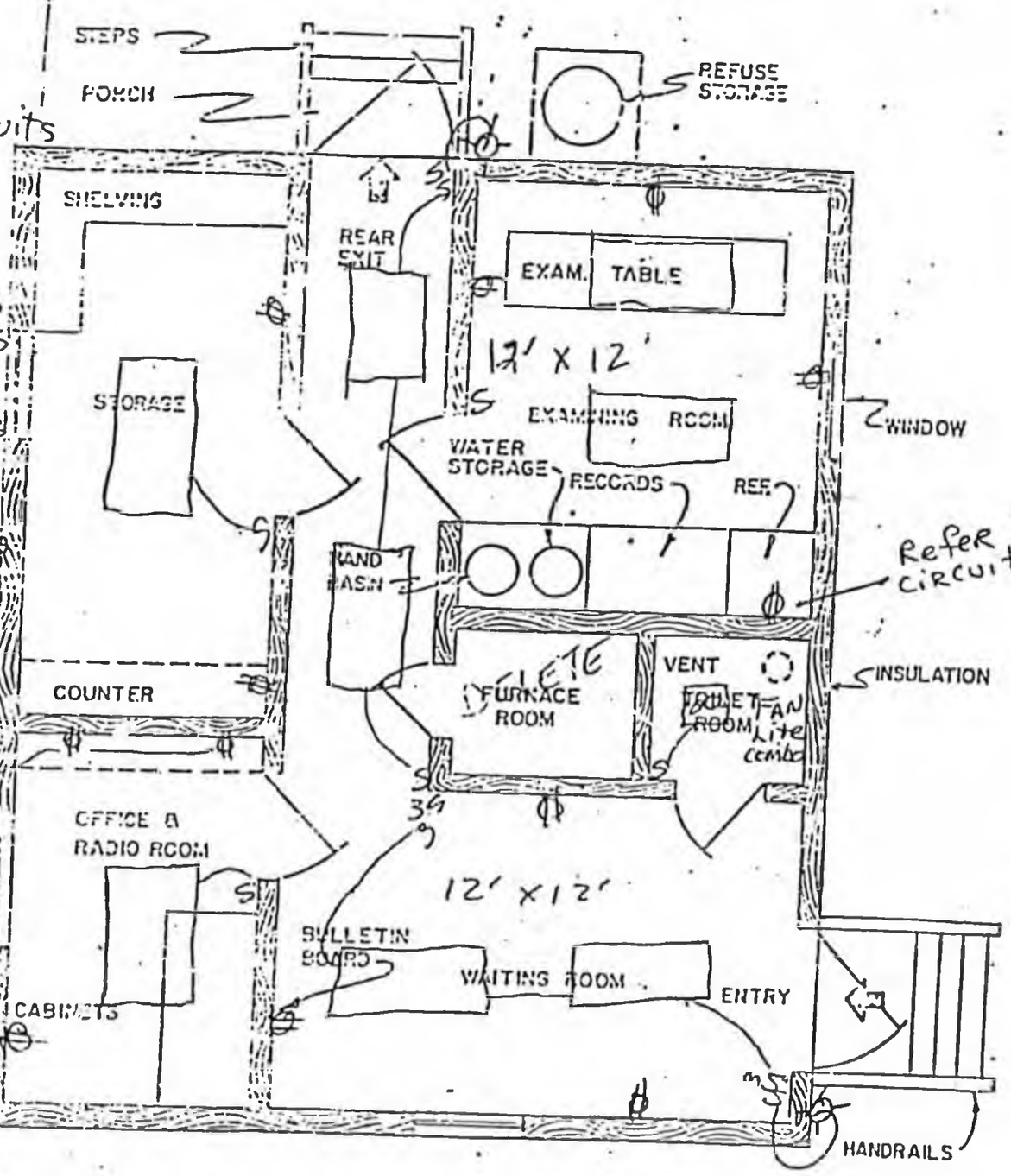
ITEM	DESCRIPTION	EXTENTION
Insulation		
Walls & Floors R-19 X 15	6 @ 72.00	432.00
Ceiling R-38 X 24	6 @ 110.00	660.00
Interior Paint		
Fuller OBrien P.V.A. Primer	2-5 gal. @ 75.00	300.00
" " Latex Enamel -	2-5 gal. @ 95.00	190.00
Exterior Stain		
Olympic Solid Oil -	1 - 5 gal. 75.00	75.00
Exterior Decks		
2 X 6 Cedar Decking and Steps 4/10, 12/8, 6/12,	546/M	113.56
2 X 10 #2 H/Fir Stair Stringers 6/12	615/M	59.02
2 X 2 TK Cedar pickets for rail 14/8		28.00
Flush 3/0 X 6/8 Outswing Insulated Steel Door	2 @ 230.00	460.00
Flush Hollow Core Mahogany 2-2/4, 1-2/0	3 @ 56.00	168.00
Pine Craft Insulated Wood Casement Windows	4 @ 230.00	920.00
Rough Opening : 3'-3-5/8" X 3-5½"		

Miscellaneous

16d Galvanized Box Nails	50lbs.	47.00
8d " " "	50lbs.	47.00
7d " Siding	25lbs.	25.00
5/8" Z- Flashing	5 @ 3.00	15.00
Sheetrock Nails	20lbs.	22.00
Pine Shelving 1 X 12 #3 Common 8/10	80 @ 1.00	80.00
2-¼" Hemlock Casing & Base Molding	200 @ .55	110.00
Preway 50,000 BTU Oil Heater w/fan		375.00
Metalbestos 6S-CSP Ceiling Support	1 @ 18.00	18.00
" 6S-30 Insulated Pipe	3 @ 45.00	135.00
" 6S-SF Special Flashing	1 @ 15.00	15.00
" 6S-SC Storm Collar	1 @ 3.60	3.60
" 6S-CT Round Top	1 @ 28.00	28.00

Minimum Dimensions 20' X 24'

ALASKA AREA CIRCULAR NO. 81-43 ATTACHMENT #2



.25 Red wirenuts
200 staples
500' 12-2

5 20amp circuits
6 Sigle gangs
3 Two gangs
1 Fan lite combo
2 plugs & plates
1 3 ways switches
. single pole "
. Two gang sw plates
single sw plates
4' 2 tube wrap
outside lites
3/p cut-in BXS
lite circuit
convenience plug circuits

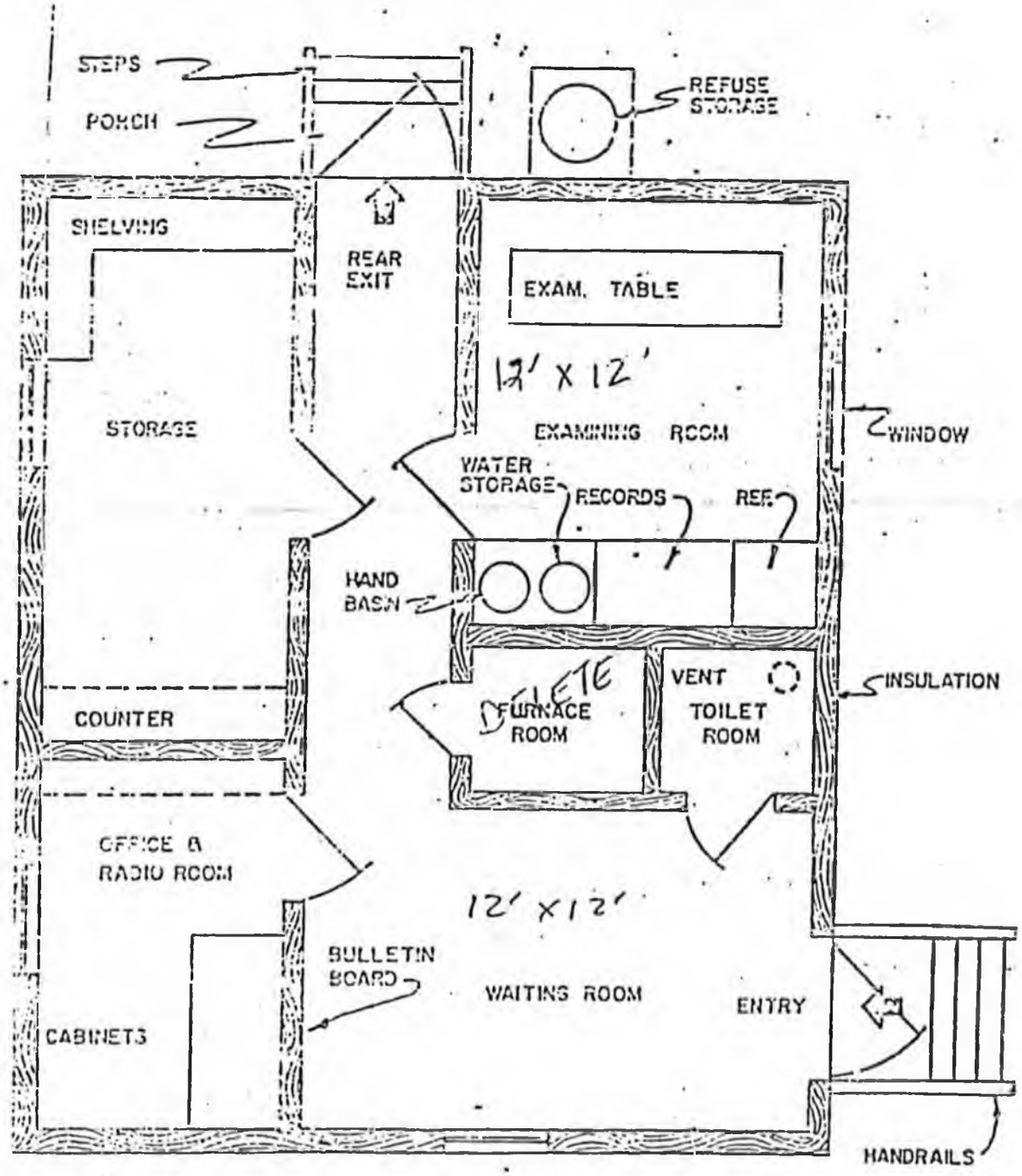
Radio Rm circuit

Service gear
125 amp panel
125 meter disconnect
grnd Rod 10' copper
Approved for buriel Grnd Clamp
10', #4 bare grnd wire
10' #2 THHN
20' #4 THHN
Weather head 2"
Steike knob 2"
--Flashing 2"

.20 3/8" 2 screw connectors
10' 2" Rigid
2 2" Plastic bushings
4 2" Lock nuts
1 2" x 5" nipple
2 7" U bolts
1 2" hub

Minimum Dimensions 20' X 24'

ALASKA AREA CIRCULAR NO. 81-43 ATTACHMENT #2



SUGGESTED BASIC CLINIC FOR VILLAGES UNDER 200 POPULATION

58 LF INT. WALL X 2

CITY OF ALEKNAGIK
P.O. Box 33
ALEKNAGIK, ALASKA 99555
(907) 842-5953

March 5, 1984

Mr. Jon Sorensen
Chog Lumber Supply
Dillingham, AK 99576

Dear Mr. Sorensen:

Enclosed is a list of building materials that the City of Aleknagik would like price estimates on for the proposed South Shore Health Aide Clinic. The minimum dimensions are: 20 foot by 24 foot.

I would like to present the enclosed figures to Representative Herrmann by Thursday of this week (March 8th). The Council would like to delete the furnace room. Therefore, there are 4 rooms:

A. Exam Room, Dimensions have to be 12 foot by 12 foot, according to the Public Health Service Requirements.

B. Waiting Room/Office - suggested dimensions are also 12 foot by 12 foot, or 12 foot by 10 foot.

C. Bathroom--for now, we are not anticipating installing water and sewage system, but we would like to reserve space for that in the near future.

D. Storage Room-This must have some shelving, and a counter with a counter top.

See attached list, and enclosures for further details.

Sincerely,

CITY OF ALEKNAGIK
Helen M. Chythlook

Helen M. Chythlook
City Administrator

Enclosures

CITY OF ALEKNAGIK
P.O. Box 33
ALEKNAGIK, ALASKA 99555
(907) 842-5953

3/5/84

SOUTH SHORE HEALTH AIDE CLINIC (Dimensions 20' x 24 ' Minimum)

PRICE ESTIMATES FOR BUILDING MATERIALS

FROM CHOG LUMBER SUPPLY

Item(s)	Quantity	Each Item Price List	Total Price
Oil Heater (non electric) (To heat clinic)	1		
30" to 42" Size Windows	4		
16" Foil Insullation (Wall Studs to 20' x 24')	For the whole Clinic		
Siding Lumber (For Outside of Building)			
Wall Paneling (For Inside)	4 Rooms		
Ceiling Tile	4 Rooms		
1" or 3/4" (Flooring)	4 Rooms		
10" Floor Goist	4 Rooms		
6" Floor Goist	4 Rooms		
1/2" Roof (CDX) Material	20' x 24' Bldg.		
Tin Roof Galvanized	20' x 24' Bldg.		

South Shore Health Aide Clinic
Price Estimates
From Chog Lumber Supply
March 5, 1984
Page Two

Item(s)	Quantity	Each Item Price List	Total Price
Metal Bestos Chimney	3 Sections		
Complete Doors w/ Door Jam & Door Locks	Two (2)		
Lumber for 2 Back Steps /handrails & Back Porch			
Lumber for 3 Front Steps /handrails & Front Porch			
Counter & Countertop	1		
Shelving (1 x 12)	1		
Electrical Outlets Minimum (2)	2		
Light Bulb Fixtures	4		
Light Switch	4		
Door Knobs	2		

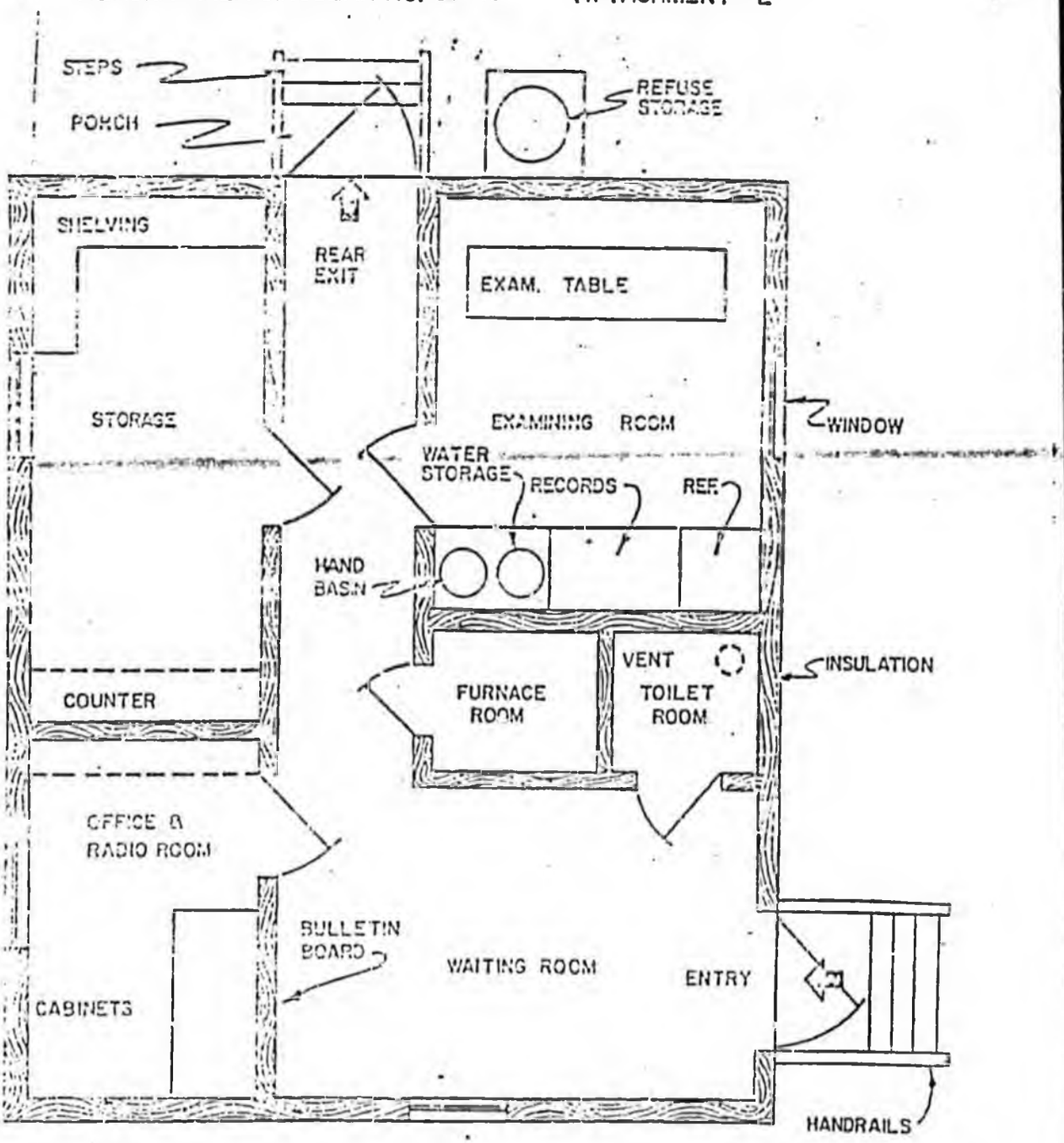
OTHER ITEMS NEEDED:

_____

_____

_____

TOTAL PRICE ESTIMATE: _____
BUILDING MATERIALS &
SUPPLIES



SUGGESTED BASIC CLINIC FOR VILLAGES UNDER 200 POPULATION

A REPORT TO THE ALASKA STATE SENATE
AND HOUSE HESS COMMITTEE
13th ALASKA STATE LEGISLATURE, 1984
PROPOSED SOUTH SHORE HEALTH CLINIC
CITY OF ALEKNAGIK- FY84

INTRODUCTION

In the December 17, 1974, Memorandum of Agreement signed by Emery A. Johnson, M.D. Assistant Surgeon General, Indian Health Service, James S. Dwight, Jr., Administrator, Social and Rehabilitation Services, and Peter F. Holmes, Director, Office for Civil Rights, there is a provision of Medical Services to Indians and other Native Americans, that state in the policy: "Indians and other Native Americans are entitled under the fifth and fourteenth amendments to the Constitution of the United States, and Title IV of the Civil Rights Act of 1964, 42 U.S.C. 200-d et, seq., to equal access to State, Local, and Federal programs to which other citizens are entitled." It also mentions that "The United States Indian Health Service is a residual rather than primary health service resource." Moreover, the Indian Health Service Policy outlines, under the provision of its approved medical assistance plan or other public assistance plans, the state agency is responsible for meeting the cost of the services provided therein for all individuals, regardless of race, who apply and are found eligible.[1]

EXISTING MEDICAL CARE (SECONDARY)

The central medical facility, is the Bristol Bay Hospital, in which the management recently was transferred to the local Bristol Bay Area Health Corporation, by the Indian Health Service. The hospital provides secondary medical service to approximately 32 villages. For major medical emergencies that cannot be treated at the Bristol Bay Hospital, they transport patients to the Alaska Native Medical Center in Anchorage.

The medical providers at the Bristol Bay Hospital communicate with the immediate health needs of each village, by the Community Health Aide Program (CHAP), which is funded by the Bristol Bay Area Health Corporation. Each day at an assigned time, the hospital doctor on duty, has "traffic hour," with the 32 villages and hears medical reports, prognosis, seen and monitored by the Community Health Aide, by VHF Radio Communications.

Thank goodness to the inventor (Alexander Graham Bell) of telephones, there are now "bush phones" in some of the villages, and the Community Health Aides can call the hospital if immediate, medical care is needed for patients. After hearing the Community Health Aides prognosis on the patient, the doctor recommends the appropriate medication treatment, and a follow-up visit to be done by the Community Health Aide. If the patient is still ill, and prescribed medical treatment isn't working, then the medical doctor will recommend that the patient be sent via airplane to the hospital for further medical treatment.

PROBLEM STATEMENT AND FACTS

If it weren't for the Community Health Aides Program in the villages, a lot of older adults and infants, who are mostly affected by illness, the death mortality rate would be higher than what it is today. Plus, it would be costing the elderly persons' and Alaska Natives, a fortune, to get to their final destination for immediate, medical attention, since most transportation is by air in the winter, and by boat in the summer. Although there is a 23 mile "dirt" road between Aleknagik and Dillingham, where the hospital is located, most elders do not drive, and they are the ones most affected by sudden illnesses and need immediate medical attention.

Therefore, I propose to the 1984 Alaska State Legislature, that a Community Health Aide Clinic be built on the South Shore of Lake Aleknagik, so that the elderly can have a closer access to quality health care. The elderly also do not operate outboard motors, and it is rather

difficult for most of them to "get around," and they mostly need "escorts" to help them get medical care, because they do not speak English, as their first language. If the New South Shore Clinic was built, this would benefit the elderly's well being, mentally, physically, and emotionally. Because, the South Shore Health Clinic would be on the same side of the lake they they live on, and they would call the Community Health Aide for immediate medical aide. She/he in turn, would contact the hospital if it was a serious emergency, and be able to drive the elder person, or infant, to the hospital, since the road is accessible on the South Shore vicinity. This medical care routine would affect persons of all ages, who need immediate medical care. For those persons who are too ill, disabled to go to the clinic, the Community Health Aide would make home visits, and follow-up visits, until the person's illness has subsided; or the person has been referred for further medical treatment at the Bristol Bay Hospital.

The approval of the South Shore Clinic, by the Alaska State Legislature would also be an improvement in the existing Community Health Aide facility, which is at the home of the South Shore Health Aide, who does not have built-in water and sewer in her home. When the weather is real cold, the existing oil heater doesn't provide adequate heat, and the medicine and supplies have frozen solid, thus having to dispose of medicine that should be locked up in an adequate medicine cabinet, and be well supplied in advance, for unexpected emergencies. The current "home clinic" equipment consists of one, four-drawer steel file cabinet, in which the Shore Shore Community Health Aide keeps her medical records in one drawer, medicine that doesn't need refrigeration in another, medical utensils, such as thermometers, stethoscope and related equipment in one drawer. The home is a small, two room, plywood built construction. The other equipment is the South Shore Community Health Aide's personal mini-refrigerator, in which she keeps her food and medicine that needs to be refrigerated.

Personally, I don't think I would like to be treating the medically ill in my home. It takes a special person with some dedication and sympathy, for the well being of others, first, to be treating the ill in his/her home.

CONCLUSION

Therefore, for the previous reasons mentioned, that for the physical, mental, and emotional well-being of the elderly, and ill, and those who need immediate medical attention, as well as for the betterment of the existing health care delivery and Community Health Aide's well being, I propose that the 13th Alaska State Legislature take all that has been said into consideration, and approve the funding of a new health clinic facility, in the South Shore vicinity of Aleknagik. Thank you for your time and consideration.

---

[1] Emory A. Johnson, M.D., Assistant Surgeon General, Indian Health Service; James S. Dwight, Jr., Administrator, Social and Rehabilitation Services, and Peter F. Holmes, Director, Office for Civil Rights, "Memorandom of Agreement: Provision of Medical Services to Indians and Other Native Americans." (Letter). United States Government, Department of Health, Education and Social Services, Washington, D.C., December 17, 1974, p. 1.

South Central
Health Planning and Development, Inc.
1135 West Eighth Avenue • Suite 1 • Anchorage, Alaska 99501
(907) 278-3631



February 29, 1984

Honorable Mae Tischer
Alaska State House of
Representatives
Pouch V
Juneau, Alaska 99811

Dear Respresentative Tischer:

Re: HB 548 Relating to Community Health Aide Training and Support

The full Board of South Central Health Planning and Development, Inc., met on February 25, 1984. The proposed bill to provide funding for Community Health Aide training was discussed fully. A motion to support the concepts of HB 548 was passed unanimously.

The Community Health Aide program continues to be the most effective, least costly, and best accepted health care service in rural Alaska. I urge you to act expediently to support this Bill.

Sincerely,

Steve Lesko
President

Attachment

SL/ab

SOUTH CENTRAL HEALTH PLANNING AND DEVELOPMENT, INC.

PRESENT STATUS OF FULL BOARD MEMBERS

Subarea #1 - Aleutian Chain

Consumer: Marie Osterback
P.O. Box 156
Sand Point, Alaska 99661
Home: 383-2363

Subarea #2 - Municipality of Anchorage

Provider: Sharon Anderson
112 Fish Hatchery Road
Eagle River, Alaska 99577
Home: 688-9064
Work: 276-1131 (ext. 330)

Consumer: Laura Lee Calhoon
Star Route A, Box 20481
Anchorage, Alaska 99507
Home: 344-7463
Work: 276-1333

Provider: Bill Faulkner
2011 Atwood Drive
Anchorage, Alaska 99503
Home: 272-5091
Work: 272-2557

Consumer: Peter Gallagher
1766 Morningtide
Anchorage, Alaska 99501
Home: 279-4187
Work: 786-1426

Provider: Steve Lesko
6419 Blackberry
Anchorage, Alaska 99502
Home: 243-7438
Work: 274-1581

Consumer: Lillie McGarvey
4230c Tahoe Drive
Anchorage, Alaska 99502
Home: 243-1078

Provider: Beth Taeschner
Box 56
Soldotna, Alaska 99669
Home: 262-4287
Work: 262-4344

Consumer: Robert Niebrugge
P.O. Box 365
Glennallen, Alaska 99588
Home: 822-3256
Work: 822-3823

Subarea #6 - Kodiak Island

Provider: Daniel Van Wieringen
P.O. Box 1187
Kodiak, Alaska 99615
Home: 486-5959
Work: 486-3281

Subarea #6 - North Pacific Rim

Provider: Jonathan Sewall
Box 1184
Seward, Alaska 99664
Home: 224-3577
Work: 224-5205 (ext. 207)

Subarea #7 - Norton Sound

Provider: Carolyn Michels
P.O. Box 966
Nome, Alaska 99762
Home: 443-2026
Work: 443-5411 (ext 202)

Subarea #9 - Yukon-Kuskokwim

Consumer: Louise Charles
P.O. Box 663
Bethel, Alaska 99559
Home: 543-2954

Provider: George Peratrovich
P.O. Box 528
Bethel, Alaska 99559
Home: 543-2476
Work: 543-3321

DEPARTMENT OF HEALTH & HUMAN SERVICES
PUBLIC HEALTH SERVICE

March 2, 1984

ALASKA AREA NATIVE HEALTH SERVICE
BOX 7-741
ANCHORAGE, ALASKA 99510

Refer to: A-D (A-CHAP)

The Honorable Mae Tischer
Alaska House of Representatives
Chairman of H. E. S. S.
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Ms. Tischer:

I have just reviewed HB 548, "An act relating to state assistance for Community Health Aide Programs; and providing for an effective date." I would like to go on record as supporting this significant legislation in terms of the Community Health Aide Program (CHAP).

As Director of the Alaska Area Native Health Service, I have come to know and appreciate the importance of the CHAP in helping to make possible an improved health status of Alaskan Natives. Community Health Aides (CHAs) are located in 171 isolated communities, from Point Hope to Kasaan. They provide year round primary health care coverage. Not only does this coverage consist of emergency and acute care, it also embraces a wide range of health surveillance and other preventive activities. Drugs may be administered by a CHA under a physician's direction. The CHA, then, represents the front line in the delivery of health care, the link between village residents and the appropriate health care backup system.

The foundation of the CHAP is formed by a consistent training program, which includes a published curriculum and skills list. Using established guidelines and tested approaches to training, health care professionals, whether in the training centers or the field, are better able to relate to training needs of the CHAs. CHA certification is offered to those CHAs who are able to acquire the skills and successfully meet other training requirements. Certification is a milestone for a CHA in the acquisition of specified competencies, and it indicates that a CHA may practice safely with an high level of independence. The term "practitioner" is often used when referring to CHAs who have reached the certificate level.

The difficulty of making appropriate health care accessible and cost-effective to sparsely populated and widely scattered villages remains an acute problem in many countries. The achievements of the CHAP in helping to reduce this health care service gap in rural Alaska has repeatedly been recognized and acknowledged by health care professionals. The CHAP has been regarded by the World Health Organization as as a model program because of its success in utilizing the village resident in improving his own health status.

With the passage of HB 548, significant resources will be made available. From the viewpoint of AANHS, the strong funding assistance proposed in the bill is welcomed and encouraged. This bill will allow not only for program maintenance but also for continued growth and improvement. Passage of this bill will also see the State of Alaska making a much-appreciated budget commitment to the overall program. It is apparent that if the configuration of well-trained CHAs providing primary health care services from small rural clinics is to be maintained and enhanced, the combined resources of the State of Alaska, the Regional Health Corporations, and AANHS will be required.

Sincerely,

G. H. Ivey
Director
Alaska Area Native Health Service

Alaska State Legislature



Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Rep. Mae Tischer Chairperson
House Health, Education
and Social Services Committee

FROM: Rep. Jack Fuller

DATE: February 24, 1984

SUBJECT: House Bill 548 - An Act relating to
State Assistance for Community
Health Aide Programs

Attached for your review and files is a letter from the Mayor of Kotlik, Joseph P. Mike, with regard to House Bill 548.

JOSEPH P. MIKE/MAYOR
Kotlik, City Council
Kotlik, Alaska 99620

February 14, 1884

JACK FULLER/REPRESENTATIVE
Pouch V
Juneau, Alaska 99811

Dear Mr. Fuller

Just recently I have received a copy of House Bill No. 548 which is introduced by Herman, Hulbert, M.W. Miller, Shultz, Fritz, BettiWorth, Gall, Zharoff and McBride.

I am in support of House Bill No. 548 which concerns about the Primary Health Aide which relates to State Assistance for Community Health Aide Programs.

Our Primary Health Aides within the A.V.C.P. Region have the lowest salary even though they have the same qualification as the other Health Corporation.

As you may not be aware our Health Aides are on call 24 hrs daily. I know the Health Aides work longer hrs in the villages because we do not have a PHS Hospital near our village.

The people in the villages depend on our Health Aides to help them with their sickness, and they do a real good job.

The Health Aides leave their families when they are asked to attend trainings in Bethel for about (2-3) weeks to improve their Health skill.

Also their are beginning to be more High School graduates who are interested in Health Fields.

They are benefiting from the training programs, and they should continue their job they can become Physician Assistant in the Health Corporation or the training will encourage them what their goals are for the future.

Since you are representing our District I once Again ask you to strive real hard to get the House Bill no. 548 to go thru legislation, this is something that is badly needed by our Health Aides

Thank you for taking your time to read the letter.

Have a nice day and do a good job.

If there should be any question do not hesitate to write to the above address or give us a call at (907) 899-4313.

Once again Thank You.

Sincerely,

Joseph P. Mike

Joseph P. Mike
Mayor

cc: George Peratrovich/YKHC
Tony Vaska /Representative
Frank Ferguson/Senator
Dorothy Schiller/YKHC

JPM/lro

municipality under this section shall be on a form furnished by the Department of Administration and shall be executed within 60 days after the effective date of the appropriation or allocation.

(b) An appropriation or allocation for a grant to a municipality for construction of a public facility lapses if substantial, ongoing work on the project has not begun within five years after the effective date of the appropriation or allocation.

(c) In accepting a grant of money for construction of a public facility, a municipality covenants with the state that it will operate and maintain the facility for the practical life of the facility and that the municipality will not look to the state to operate or maintain the facility or pay for its operation or maintenance. This requirement does not apply to a grant of money for repair or improvement of an existing facility operated or maintained by the state at the time the grant is accepted if the repair or improvement for which the grant is made will not substantially increase the operating or maintenance costs to the state.

(d) Not less than 20 percent of a grant shall be paid to a municipality within 10 days of the effective date of the agreement under (a) of this section. The remainder of the grant shall be paid either in monthly installments equal to the amount of grant money the municipality expended in the previous month or in a lump sum as determined by the Department of Administration. (§ 1 ch 156 SLA 1980; am § 1 ch 4 SLA 1982)

Effect of amendments. — The 1982 amendment in subsection (a), substituted "amount is appropriated or allocated" for "appropriation is made" in the first sentence, inserted "or allocation" in items (1) and (3) in the second sentence, and added "and shall be executed within 60 days after the effective date of the appropriation or allocation" to the end of the third sentence; redesignated the former fourth and fifth sentences of subsection (a) as subsection (d); inserted "or allocation" in two places in subsection (b); substituted "a" for "each" preceding "municipality covenants" and "the practical life of the facility and that the municipality" for "its practical life and that it" in subsection (c); added the second sentence of subsection (c); deleted the provisions of former subsections (d), (f), and (g), which may now be found in AS 37.05.316, 37.05.317, and 37.05.318, respectively; and in present subsection (d), added "under (a) of this section" to the end of the first sentence. The substance of the provisions of former subsection (e) may now be found at the end of the third sentence of subsection (a).

Sec. 37.05.316. Grants to named recipients. When an amount is appropriated or allocated to a department as a grant for a named recipient which is not a municipality, the department to which the appropriation or allocation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services specified in the appropriation act, or both, for which the appropriation or allocation is made. At the same time, the department may issue a request for proposals from other qualified persons to provide the same goods or services, or both, in the same area. The department shall contract with

the named recipient unless the Office of the Governor, with due regard for any local expertise or experience among those making proposals, determines that an award of the contract to a different party would better serve the public interest. If the contract is awarded to another party than that named by the legislature, the basis of that action shall be stated in writing at the time the grant is issued and a copy of the written statement shall be sent to the Legislative Budget and Audit Committee. A contract shall be executed within 60 days after the effective date of the appropriation or allocation. The purchase of the goods or services, or both, shall be in accordance with AS 37.05.230(1)(C). (§ 2 ch 4 SLA 1982)

Sec. 37.05.317. Grants to unincorporated communities. When an amount is appropriated or allocated as a grant under this section to an unincorporated community, it shall be disbursed as follows:

(1) Within 45 days after the effective date of the appropriation or allocation, the Department of Community and Regional Affairs shall notify the governing body of the unincorporated community, if any, that a grant is available.

(2) The Department of Community and Regional Affairs shall determine if there is a qualified incorporated entity in the community area that will agree to receive the grant and administer it, subject to terms generally applicable to private grantees. If there is more than one such entity, the Department of Community and Regional Affairs shall select the most qualified and the grant shall be awarded to that incorporated entity for the purposes specified in the appropriation act. However, the Department of Community and Regional Affairs shall give preference to a nonprofit corporation organized by a community for receipt of the grant.

(3) If there is no incorporated entity qualified to receive the grant, the Department of Community and Regional Affairs shall administer the program as specified in the appropriation act directly or through agents or contractors with whom it may contract in the community area. (§ 2 ch 4 SLA 1982)

Sec. 37.05.318. Further regulations prohibited. Notwithstanding the Administrative Procedure Act (AS 44.62), the Fiscal Procedures Act (AS 37.05), and the Executive Budget Act (AS 37.07), a state agency may not adopt regulations or impose additional requirements or procedures to implement, interpret, make specific, or otherwise carry out the provisions of AS 37.05.315 — 37.05.317 unless required by the federal government for participation in federal programs. (§ 2 ch 4 SLA 1982)

Sec. 37.05.325. Definitions for AS 37.05.315 — 37.05.317. In AS 37.05.315 — 37.05.317, "allocation" and "appropriation" have the meanings given in AS 37.07.120(2) and (3). (§ 2 ch 4 SLA 1982)

South Central
Health Planning and Development, Inc.
1135 West Eighth Avenue • Suite 1 • Anchorage, Alaska 99501
(907) 278-3631

February 13, 1984

Mae Tischer, Co-Chairperson
House Health, Education and Social
Services Committee
Pouch V
Juneau, Alaska 99811

Dear Ms. Tischer:

Re: HB 548 Regarding Community Health Aides

The delivery of primary health care in rural Alaska has long been dependent on the Community Health Aide (CHA). The development of health skills of indigenous providers has worked remarkably well for Native people in 200 sites throughout the State, and has become a model worldwide.

With the State's unprecedented population growth in the last 10 years and increasing numbers of non-natives moving to rural villages, demands on these essential health providers have also grown. The demands are constant but frequently show seasonal increases. With the growth has also come increased public expectations for new types of services from CHAs including health education, sanitation and hygiene, crisis intervention for behavioral health problems, and increasing levels of EMS interventions.

Concerns which have been brought to the attention of SCHPD during our needs assessments and plan development include high turnover and "burnout" of the primary aides; problems with recruitment, retention and adequate training of alternates; adequate continuing education for all aides; and adequate supervisory consultation for the aides. House Bill 548 addresses many of the concerns which we have emphasized. The Bill's provision for future support of aide services is essential to assure the stability of the program and the vital role CHAs play in health care in rural areas.

South Central Health Planning and Development, Inc. enthusiastically supports this bill and its intent.

Sincerely,

Barbara Berger
Program Manager

cc: Aleutian/Pribilof Islands Assoc.
Cook Inlet Native Health Dept.
Kodiak Island Native Health Auth.
Norton Sound Health Corp.
Mauneluk Association
Southeast Alaska Health Corp.
Alaska Native Health Board
Bristol Bay Area Health Corp.
Copper River Health Dept.
North Pacific Rim Native Health Dept.
Yukon-Kuskokwim Health Corp.
Tanana Chiefs Health Authority
North Slope Borough Health Dept.

MEMORANDUM

TO: Interested Parties

FROM: Adelheid Herrmann,
Representative/District 26

DATE: February 15, 1984

SUBJECT: Background on HB 548 on Health Aides

The Health Aide Bill, HB 548, is aimed at training and supervising health aides that service communities throughout the State. The bill establishes a funding formula to ensure that funding is provided to each region on an equitable basis. The formula for funding is based on the number of health aides employed in each region during the previous fiscal year.

Each of the 12 Regional Health Corporations would receive:

- $30,000 to fund a COMMUNITY HEALTH AIDE PROGRAM, and
- $8,000 which covers TRAINING AND SUPERVISING for each current community health aide, and SALARIES for alternate community health aides.

The bill would only commit an additional $1 million of State funds over the total amount allocated last year for the same programs.

On the next page, I have outlined the costs that are covered and the total amount that would be awarded to each region.

Community health aides perform important services, and their support is especially important in areas where doctors, nurses and other professionally trained medical staff are scarcely available.

FY 85 PROJECTED EXPENSES FOR EACH REGION

Region	No. of Health Aides	$ for Aides	$ for Program	Total Grant
APIA	7	56,000	30,000	86,000
Bristol Bay	37	296,000	30,000	326,000
Cook Inlet	1	8,000	30,000	38,000
Copper River	6	48,000	30,000	78,000
Kodiak	7	56,000	30,000	86,000
Maunaluk	15	120,000	30,000	150,000
North Pacific Rim	4	32,000	30,000	62,000
North Slope	12	96,000	30,000	126,000
Norton Sound	21	168,000	30,000	198,000
Southeast	15	120,000	30,000	150,000
Tanana Chief Conf.	29	232,000	30,000	262,000
Y/k	73	548,000	30,000	614,000
TOTAL:	227	1,780,000	360,000	2,176,000

FY 84 ACTUAL EXPENSES

Bristol Bay	163,000
Kodiak	60,000
Maunaluk	170,000
Norton Sound	103,300
Tanana Chiefs	348,000 (including 100,000 for leases)
Yukon Kuskokwim	142,000
Kuskokwim Community College	146,000
TOTAL:	1,132,300

The total grants awarded last year for health aide and related programs was approximately $1.2 million, but not all the regions listed above were recipients. The total projected amount granted under this bill represents about a $1 million increase over last year's funding.

AH/dlg

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

H 55

COMMUNITY HEALTH AIDE PROGRAM (CHAP)

RESOLUTION # 83-10-04

AVCP RESOLUTION IN SUPPORT OF PROPOSED LEGISLATION TO PROVIDE FUNDS FOR SALARY INCREASE AND TRAINING OF COMMUNITY HEALTH AIDES IN THE STATE OF ALASKA.....

WHEREAS, the Community Health Aide Program (CHAP) is the mainstay and the key element to an effectively functioning health system in Rural Alaska and particularly in the Yukon-Kuskokwim Delta;

WHEREAS, the Yukon Kuskokwim Health Corporation Community Health Aide Program is the largest program in the entire State of Alaska, comprised of about 130 health aides and 12 administrative/supervisory employees, serving the primary health care needs of around 13,000 inhabitants in 48 villages in the Yukon-Kuskokwim Delta, excluding Bethel;

WHEREAS, for the past fifteen years of its formal existence, the Community Health Aide Program in the Yukon-Kuskokwim Delta had distinguished itself in accomplishing the original goals and objectives aside from its being constantly aware of its original mandate and mission;

WHEREAS, the individual health aide in each Yukon-Kuskokwim village had contributed immensely and is committed to the delivery of quality primary health care to each and every villager now and in the future;

WHEREAS, the winds of change that affect us all place increasing demands on the entire health system including the Community Health Aide Program which makes it necessary to provide more stability in the administration and supervision of health aides and more training to our health aides in order to meet newer and more sophisticated demands from, wants and needs of the villagers;

WHEREAS, to accomplish the above, there is a crying need for all types of support from all of us living here in the Yukon-Kuskokwim Delta and from other sectors outside of the Delta;

WHEREAS, moral and human services support for each individual health aide are essential and are within the capabilities of each one of us:

WHEREAS, it is well documented that our health aides in the Yukon-Kuskokwim Delta are the <u>lowest</u> paid health care providers

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-2521

COMMUNITY HEALTH AIDE PROGRAM (CHAP)

RESOLUTION # 83-10-04

in the entire State of Alaska and the lowest paid health aides among the 12 native health corporation Community Health Aide Programs;

WHEREAS, The Regional Health Directors of the 12 native health corporations are in the process of developing a bill through the State legislature to address these inequities in the Community Health Aide salary structures and the Community Health Aide Training needs on a Statewide basis;

NOW THEREFORE BE IT RESOLVED that AVCP fully support the intent, the thrust and the content of the above-named legislative proposal;

AND BE IT FURTHER RESOLVED that AVCP fully support and encourages any and all individual and/or collective efforts to provide needed human services, moral, financial and other forms of support for our health aides which would surely redound to the benefit of each and every inhabitant in the Yukon-Kuskokwim Delta Region.

Passed and approved this 14 day of October, 1983

Willie Kasayulie, Chairman

10/14/83
DATE

Ivan M. Ivan, President

10/14/83
DATE SIGNED

HB 548

Regional Health Directors

Cook Inlet
Jennifer Bousquet
Kodiak
Susan Cofflard

~~Jenny~~ Denny Degross
Exec. Dir
AK Native Health
Board

Alaska Pribolof Island Assoc.
Kathleen Sutcliffe
Bristol Bay
Robert Clark
Copper River Health
Clara "Billy" Peters
North Pacific Rim & Soc Ser
Richard Solano
Manilaq Association
Howard Monroe
Norton ~~South~~ Sound
~~Ra~~ Carolyn Michael
Southeast AK Reg Health Corp.
Nils Caesar
Tanana Chiefs Health Authority
David Mathews
Yukon - Kuskowkim
Georg Peratrovich
North Slope Health
Mike Stackhouse

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

COMMITTEE SUBSTITUTE FOR HOUSE BILL No. 548 (HESS)

For "An act relating to State assistance for community health aide programs; and providing for an effective date."

This bill provides for expansion of financial assistance to non-profit health organizations for training and supervision of community health aides (CHA) or equivalently trained individuals. Funding will be provided through a two phased formula that allocates: 1) a $30,000 base for each regional corporation serving more than 4,000 square miles, plus $8,000 for each primary CHA or similar individual who averages at least 20 hours of service a week; 2) for local corporations providing services to less than 4,000 square miles, funding provided through this formula would be limited to $8,000 per CHA or similar individual.

BACKGROUND

Community Health Aide

Community health aides provide primary health care to approximately 37,000 to 40,000 people in bush communities. A CHA is a community based medical paraprofessional who provides limited diagnostic and treatment services through standing orders or in radio/telephone consultation with IHS or health corporation physicians. Health care training of a CHA is based on a standarized curriculum consisting of three basic sessions that are oriented towards utilizing the Guidelines for Primary Health Care In Rural Alaska, adopted by Alaska Area Native Health Service. Qualifications for being a primary CHA require completion of first session with certification depending upon completion of all three sessions. In addition to the requirements for basic sessions, a CHA must complete a preceptorship with a supervising physician at a medical centers and attend continuing education session that range from 1-2 days, to 1-2 weeks once a year. In addition, CHA's have periodic contact with supervisor/ instructors (S/I) employed by the corporations. The S/I are generally mid-level practitioners or registered nurses, who conduct site visits 1-3 times a year for continuing education, skills evaluation and administration. In addition, the state public health nurses provide education and support during their itinerant visits.

The number of CHAs per village varies with population size ranging from a half-time equivalent to a maximum of two. In addition to the primary community health aides, alternates are also assigned to provide relief support and coverage during absence of the primaries. Training for alternate aides varies widely with the minimum standards that range from emergency trauma technician skills to completion of the first basic session.

Historically the CHA program has been sponsored and funded by the Federal Indian Health Service (IHS). This program was formulated in 1967 although the concept and practices have a longer history. Until recent years financial support for this program rested solely with the Federal Government which contracted with regional or local corporations. Starting in FY 82, selected health corporations received designated state grants through direct legislative appropriation for

This trend has continued through the current fiscal year budget approaching $1,100.0 being allocated towards support of programs in the areas of the Bristol Bay Health Corporation, Yukon-Kuskokwim Health Corporation, Norton Sound Health Corporation, Maniilaq Association and Tanana Chiefs Conference. The FY 85 Governor's Budget maintains these services and expands assistance for training and supervision programs into the areas of Aleutian Pribilof Island Association and Southeast Regional Health Corporation. The need for State support of the CHA programs has been recognized as a means of addressing problems associated with provision of health care in rural communities. While the Federal budget supports a basic level of service there are insufficient funds to meet the demands for adequate field supervision by supervisor/instructors, training of the aides in all three basic three sessions, and salary support for alternates. In addition to an insufficient Federal budgetary base, State involvement is also based upon the issues of responsibility for rural health services. While CHAs are theoretically responsible for provision of care to IHS beneficiaries, by virtue of being the only community based primary medical provider, aides care for non-beneficiaries also.

Similarly Trained Individuals

This bill (Sec. 18.28.010 (b)) provides for support of individuals with training similar to that of a CHA as defined by the Department of Health and Social Services. It should be noted that a crucial aspect of the CHA program is its interaction with the Indian Health Services (IHS) which assures medical supervision, patient referral and quality control that are necessary elements of health care. A functional definition of a similar program must incorporate a supervisory and referral system. Duplication of the IHS system is not feasible in terms of cost and legal constraints for all parties involved. The only program that is conceptually comparable is a pilot project currently being developed by the Southeast Alaska Regional Health Corporation under a grant from this Department. While this project is not a replication of CHA services it does offer a degree of similarity in that it is a means of providing limited primary care in isolated rural communities.

RECOMMENDATIONS

Given that a similar training program and the necessary infracture do not exist, the Department anticipates to define "similar" in terms of the Health Observer Project currently being piloted by the Southeast Alaska Regional Health Corporation. Grants provided through this bill would be directed to Regional Emergency Medical Services Council or Regional Health Corporations and not directly with the individual communities. This would be necessary in order to assure cost effective utilization of the funds through economy of scale and assure continuity of service.

POSITION PAPER/Department of Health & Social Services

POSITION

The Department of Health and Social Services recognizes the value of community health aide and similar programs in providing primary medical care in rural communities and strongly supports the enhancement of supervision and training as provided by this bill.

Recommended by: E.S. Rabeau M.D.

E.S. Rabeau, M.D., Director
Division of Public Health

Date: 3-22-84

Approved by: for E.S. Rabeau

Robert London Smith, Ph.D.
Commissioner
Department of Health &
Social Services

Date: 3-22-84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date March 20 , 1984

REQUEST
Bill/Resolution No.: CSHB 548 (HESS)
Title: Assitance for Community Health Aide Program
Sponsor: Herrmann, et al
Requestor: House HESS
Date of Request: 3/20/84

II. FISCAL DETAIL
Agency Affected: Dept. Health & Social Servs.
Program Category Affected: Public Health

BRU, Program of Subprogram(s) Affected: Health Grants BRU Community Health Grants Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		1148.0	1289.4	1442.1	1514.2	1589.9
800 MISCELLANEOUS						
TOTAL OPERATING		1148.0	1289.4	1442.1	1514.2	1589.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1148.0	1289.4	1442.1	1514.2	1589.9
FEDERAL FUNDS						
OTHER						
TOTAL		1148.0	1289.4	1442.1	1514.2	1589.9

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for Analysis

Prepared By: Dwayne Peeples Phone: 465-3090
Division: Public Health Date: 3/20/84

Approved by Commissioner: for E S Rahean Date: 3/22
Agency:

Distribution (by Agency preparing fiscal note):
Legislativve Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Analysis
CSHB 548 (HESS)

"Assistance for community health aide program."

State assistance for provision of CSHB 548 (HESS) would require a total appropriation in FY 85 of $2,280.0. This calculation is based upon the following consideration.

(1) $30.0 to used for expenses of conducting a community health aide program x 12 Regional Health Corps.		360.0
(2) $ 8.0 per each primary community health aide x 230		1,840.0
(3) $80.0 Health Observer Program for 10 communities		80.0
	TOTAL	$2,280.0

The additional General Funds required to meet the obligations as proposed in CSHB 548 (HESS) in FY 85 would be $1,148.0. This projected expenditures is based upon the off set from the FY 85 Governor's budget for this program. This funding FY 85 request is as follows:

Department of Health and Social Services

Health grants BRU. Community Health Grants:	$551.4
State Health Services BRU. Public Health Administration:	263.0
	$814.4
Maniilaq BRU. Health Services	$170.0

University of Alaska

Community Colleges Kuskokwim Community College	$ 147.6
Total FY 85 Governor's Budget	$1,132.0
Total HB 548 Required	$2,280.0
<Governor's Requested>	<1,132.0>
	1,148.0

FY 86 thru FY 89 budget estimates include the Governor's FY 84 off-set, incorporates a 5% annual inflationary adjustment and an incremental growth for the Health Observer Program from $80.0 in FY 85, to $168.0 in FY 86 and $264.0 in FY 87. The proposed budget for the Health Observer Program is based upon the assumption that:

(a) approximately 30 communities would qualify for this program; and,

(b) due to the pilot nature of this project, a maximum of 10 communities would be served during FY 85 assuming demonstrated feasibility an additional 10 would be incorporated in FY 86 and with maximum community involvement not occurring until FY 87.

portunities for Indians, and state asserted no specific, legitimate regulatory interest to justify the imposition of its gross receipts tax. Ramah Navajo School Bd., Inc. v. Bureau of Revenue of New Mexico, N.M.1982, 102 S.Ct. 3394.

2. Duty of Secretary

Failure of Secretary of Interior, through Bureau of Indian Affairs subordinates, to recognize and give serious consideration in written decisions rejecting plaintiffs' lease bids on six Indian reservation grazing units to stated economic interest of Indian landowners who recommended that plaintiffs be granted lease continuances for one year to give plaintiffs time to comply with brucellosis retesting program constituted serious breach of Secretary's fiduciary duties to Indian tribes and their members and violated Congressional policy of Indian self-determination. Coomes v. Adkinson, D.C.S.D.1976, 414 F.Supp. 975.

§ 450a. Congressional declaration of policy

(a) The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.

(c) The Congress declares that a major national goal of the United States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

(Pub.L. 93-638, § 3, Jan. 4, 1975, 88 Stat. 2203.)

Historical Note

Codification. This section was not enacted as part of Title 1 of Pub.L. 93-638, which comprises this subchapter.

Legislative History. For legislative history and purpose of Pub.L. 93-638, see 1974 U.S. Code Cong. and Adm.News, p. 7775.

§ 450b. Definitions

For the purposes of this Act, the term—

(a) "Indian" means a person who is a member of an Indian tribe;

(b) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C.A. § 1601 et seq.] which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(c) "Tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefitting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant;

(d) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(f) [1] "State education agency" means the State board of education or other agency or officer primarily responsible for supervision by the State of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Pub.L. 93-638, § 4, Jan. 4, 1975, 88 Stat. 2204.)

[1] So in original. Section was enacted without a par. (e).

Historical Note

References in Text. This Act, referred to in text, is the Indian Self-Determination and Education Assistance Act, which is Pub.L. 93-638, Jan. 4, 1975, 88 Stat. 2203. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables volume.

The Alaska Native Claims Settlement Act, referred to in text, is Pub.L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (section 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43, and Tables volume.

Codification. This section was not enacted as part of Title 1 of Pub.L. 93-638, which comprises this subchapter.

Legislative History. For legislative history and purpose of Pub.L. 93-638, see 1974 U.S. Code Cong. and Adm.News, p. 7775.

Cross References

Indian tribes or tribal oreganizations as having same meaning as under this section for purposes of—
- Aid to small business, see section 632 of Title 15, Commerce and Trade.
- Alcohol and drug abuse and mental health services block grants, see section 300x-1 of Title 42, Public Health and Welfare.
- Defining local government, see section 3371 of Title 5, Government Organization and Employees.
- Food stamp program, see section 2012 of Title 7, Agriculture.
- Preventive health and health services block grants, see section 300w-1 of Title 42, Public Health and Welfare.
- Primary care block grants, see section 300y-3 of Title 42.
- Programs for older Americans, see section 3057a of Title 42.
- Review by health systems agency of proposed use of federal funds by Indian tribes, see section 300l-2 of Title 42.
- Watershed protection and flood prevention, see section 1002 of Title 16, Conservation.

Code of Federal Regulations

Additional definitions, see 34 CFR 250.4, 250.5, 408.203.
Applicability of this section to contract programs for Indian tribes, see 34 CFR 408.202.
Applications for assistance contracts, see 34 CFR 408.206.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 15, 1984

SUBJECT: Community Health Aide Programs (HB 548)

TO: The House HESS Committee

FROM: Tamara Brandt Cook
Deputy Director
Division of Legal Services

Here is the sectional analysis that you requested for HB 548.

Section 1 adds a new chapter to the statutes creating a program of state assistance for community health aide programs.

Sec. 18.28.010 A qualified health corporation may receive a grant each fiscal year of $30,000 plus $8,000 for each primary community health aide works a minimum number of hours each week. The grant is to be used for training of community health aides, supervision of community health aides, and salaries for alternate community health aides.

Sec. 18.28.020 To qualify for a grant a health corporation must be engaged in conducting a community health aide program, provide services of community health aides on a nondiscriminatory basis, apply for the grant, and supply information requested by the Department of Health and Social Services.

Sec. 18.28.030 A community health aide grant account is established in the Department of Health and Social Services. Money to carry out the program of state assistance appropriated to the account shall be distributed as grants by the department. Each fiscal year the department shall determine the amount of money needed to fund all grants for the next year and shall request an appropriation of that amount from the legislature.

Sec. 18.28.040 The department is authorized to adopt regulations to carry out the program of state assistance for community health aides.

Sec. 18.28.050 Definitions of department, health corporation, and primary health aide are provided. Under this bill only the Native regional health corporations qualify for grants.

Section 2 The Act takes effect at the beginning of the next fiscal year.

TBC:ojb
J3/099

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M

March 21, 1984



SUBJECT: Community health aides
(CSHB 548 (HESS))

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Tamara Brandt Cook TBC
Deputy Director
Division of Legal Services

You have asked whether the state could be held liable as a result of use made of money obtained from the state as a community health aide grant. Although the state has generally relinquished sovereign immunity for tortious acts under AS 09.50.250, a clearly expressed intention to retain immunity for the state in a particular situation is controlling over AS 09.50.250. CSHB 548 (HESS) contains in section 18.28.040 a provision precluding the state from liability for any injury resulting from use of money awarded as a community health aide grant. In view of that section, the state is protected from liability.

You have also asked whether the CSHB 548 (HESS) poses any discrimination problems. The bill provides for state assistance to certain health organizations to be used in community health aide programs. Sec. 18.28.020(2) requires that a health organization provide the services of community health aides on a nondiscriminatory basis for the benefit of the public if it is to qualify for a grant of state money. There is no question of state money being used to benefit one group of people to the exclusion of others. Any health organization with a qualifying program can receive a grant under AS 18.28.010(b). Only regional health organizations qualify for a grant under AS 18.28.010(a), and it is my understanding that only regional Native health corporations actually qualify for grants under that provision now. However, if a non-Native regional health organization were ever established, it too could qualify for a grant under this section. The only requirement imposed for receipt of

the grant, other than the general qualification for all recipients contained in section 18.28.020, is that the regional health organization be a nonprofit corporation that provides health services in a rural area of at least 4,000 square miles. The bill does not appear to discriminate in any way under either the state or federal constitutions.

TBC:ojb
J4/108

POSITION PAPER/Department of Health & Social Service

POSITION PAPER

HOUSE BILL No. 548

For an act "An act relating to State assistance for community health aide programs; and providing for an effective date."

This bill provides for expansion of financial assistance to the regional health corporations for community health aide (CHA) programs by subsidizing supervision and training and alternate community health aide salaries. Funding will be provided to the health corporations through a formula that allocates $30.0 base for each corporation and $8.0 for each primary community health aide who averages at least 20 hours of services a week.

BACKGROUND

Community health aides provide primary health care to approximately 37,000 to 40,000 people in bush communities. A CHA is a community based medical paraprofessional who provides limited diagnostic and treatment services under standing orders or in radio/telephone consultation with IHS or health corporation physicians. Health care training of a CHA is based on a standarized curriculum consisting of a ten week core course taught in three sessions, a preceptorship and on-the-job skills acquisition. Training is based on the Guidelines for Primary Health Care In Rural Alaska, adopted by the Alaska Area Native Health Service. An individual may begin to function as a primary CHA before completion of the entire training program, but certification is not awarded until all training requirements are met. Most corporations attempt to provide at least one continuing education or refresher course each year. CHAs have periodic contact with supervisor/instructors (S/I) employed by the corporations. The S/Is are generally mid-level practitioners or registered nurses who attempt to visit each CHA 1-3 times a year for continuing education, skills evaluation and administration. In addition, the state public health nurses provide educational and program support during their itinerant visits.

The number of CHAs per village varies with population size ranging from a half-time equivalent to a maximum of two. In addition to the primary community health aides, CHA alternates are also assigned to provide relief support and coverage during absence of the primaries. Training for alternate aides varies widely with minimum standards that range from emergency trauma technician skills to completion of the first basic session.

Historically the CHA program has been sponsored and funded by the Federal Indian Health Service (IHS). This program was formulated in 1967 although concept and practices have a longer history. Until recent years financial support for this program rested solely with the Federal Government through contracts with the regional health corporations. Starting in FY 82, selected health corporations received designated State grants through direct legislative appropriation for support of community health aide supervision and training.

This trend has continued through the current fiscal year with approximately $1,100.0 being allocated towards support of programs sponsored by the Bristol Bay Health Corporation, Yukon-Kuskokwim Health Corporation, Norton Sound Health Health Corporation, Maniilaq Association and the Tanana Chiefs Conference. The FY 85 Governor's Budget request maintains these grants and provides for expansion of training and supervision programs for organizations such as the Aleutian Pribilof Island Association and Southeast Regional Health Corporation.

The need for State support of the CHA programs has been recognized as a means of addressing problems associated with provision of health care in rural communities. While the Federal budget supports a basic level of service, there are insufficient funds to meet the demands for adequate field supervision by supervisor/instructors, training of the aides to the certification level, and salary support for alternates. State assistance to the CHA program is also based upon the fact that Federal appropriations for the program are intended to provide health care only for the Native population while, in fact, CHAs, by virtue of being the only health care providers in many bush communities, must provide primary care services to the entire population, both Native and non-Native.

RECOMMENDATIONS

While State support of this program will greatly enhance opportunities for CHAs to complete the entire training program, obtain closer supervision and increase stability through salaries for the alternates, there are several inherent problems with increasing State involvement. With the probability of increasing federal funding constraints, there is potential that as the State increases its involvement, IHS will correspondingly decrease its financial commitment for this program. In addition, there is potential for legal and ethical state responsibility for medical malpractice liability of the community health aides and alternates. Currently medical malpractice is covered through the Federal Tort Claims Act for IHS beneficiaries. The issue of liability for non-beneficiaries within the Federal structure and legal consequences of the State paying for salaries has yet to be resolved. At this time, the Department of Health and Social Services recommends the State continue its role in supervision and training, but refrain from direct involvement in salaries by deleting in Sec. 18.28.010 (a)(2) (c). It is also recommended that formula funding in (a) (1) be modified from $8.0 per primary health aide to $6.0 per aide to reflect only the costs of training and supervision.

POSITION

The Department of Health and Social Services recognizes the value of community health aide program in providing primary medical care in bush communities and supports the enhancement of supervision and training. It is in the best interest of the State that the image and status of CHAs be enhanced, but the department strongly recommends direct involvement in salaries not be pursued until the State obtains further experience with this program and the malpractice issues are clarified.

POSITION PAPER/Department of Health & Social Service

Recommended by: [signature] (Acting)
E.S. Rabeau, M.D., Director
Division of Public Health

Date: 2-10-84

Approved by: [signature]
Robert London Smith, Ph.D.
Commissioner
Department of Health &
Social Services

Date: 2/10/84

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT	DIVISION	BILL NUMBER	SPONSOR
Health & Social Servs.	Public Health	HB 548	Herrmann et. al.

DEPARTMENT POSITION: Department supports HB 548

PREPARED BY	DATE	COMMISSIONER'S SIGNATURE	DATE
Dwayne Peeples	2/6/84		2/10/84

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL
University of Alaska Alaska Area Native Health Assoc.	Regional Health Corporations (12)
ORGANIZATIONAL SUPPORT FOR BILL	**ORGANIZATIONAL OPPOSITION TO BILL**
Regional Health Corporations (12) Alaska Native Health Board	

FISCAL IMPACT: ☐ NONE ☒ FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Community Health Aides (CHA) provide primary health care to approximately 37,000 to 40,000 people in bush communities. Historically the program has been sponsored by the Federal Indian Health Service with the State gradually becoming involved in selected geographic areas. HB 548 expands the State participation in training, supervision and salary support to all 12 of the Regional Health Corporations on a formula basis.

ANALYSIS OF BILL/PROGRAM EFFECTS

The bill as proposed would increase State funding of the CHA program from the FY 85 Governor's budget of $1,132.0 to $2,176.0. The provision of the bill expands state participation beyond training and supervision into salary support for community health aide alternates. These individuals provide back-up to the primary CHAs and are often inadequately trained. While the Department recognizes the need for expanded training and supervision, there are questions concerning legal liability for malpractice. In light of this consideration, the Department recommends amending the bill to limit support for training and supervision.

AMENDMENT(S) PROPOSED

Deletion of Sec. 18.28.010 and (2) (a) "salaries for alternate community health aides; and aides."

Modification of Sec. 18.28.010 (2) from "$8,000 for each ... for" to "$6,000 for each primary community health aide." This is intended to leave funds for training only and to keep State out of salary issue.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

Fiscal Analysis
HB 548

"Assistance for community health aide program."

State assistance for community health aide as proposed in Sec. 18.28.010 (a) would require a total appropriation in FY 85 of $2,176.0. This calculation is based upon the following consideration.

(1) $30.0 to used for expenses of conducting a community health aide program x 12 Regional Health Corps.		360.0
(2) $ 8.0 per each primary community health aide x 227		1,816.0
	TOTAL	$2,176.0

The additional General Funds required to meet the obligations as proposed in HB 548 in FY 85 would be $1,044.0. This projected expenditures is based upon the off set from the FY 85 Governor's budget for this program. This funding request is as follows:

Department of Health and Social Services	
Health grants BRU. Community Health Grants:	$551.4
State Health Services BRU. Public Health Administration:	263.0
	$814.4
Maniilaq BRU. Health Services	$170.0
University of Alaska	
Community Colleges Kuskokwim Community College	$ 147.6
Total FY 85 Governor's Budget	$1,132.0
Total HB 548 Required	$2,176.0
<Governor's Requested>	<1,132.0>
	1,044.0

Estimate expenditure increase FY 86 thru FY 89 is based upon an 5% annual inflation adjustment.

If the Department recommendations concerning elimination of salary supports are adopted, the total program cost in FY 85 would be $1,722.0 Additional general fund allocations necessary in FY 85 would be $590.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 2/3 , 1984

REQUEST

Bill/Resolution No.: HB 548
Title: Assistance for Community Health Aide Program
Sponsor: Rep. Adelheid Herrmann
Requestor: House HESS & Finance
Date of Request:

II. FISCAL DETAIL

Agency Affected: Dept. Hlth. & Soc. Srvs.
Program Category Affected: Public Health

BRU, Program of Subprogram(s) Affected: Health Grants BRU, Community Health Grants Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		1044.0	1096.2	1151.0	1208.6	1269.0
800 MISCELLANEOUS						
TOTAL OPERATING		1044.0	1096.2	1151.0	1208.6	1269.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1044.0	1096.2	1151.0	1208.6	1269.0
FEDERAL FUNDS						
OTHER						
TOTAL		1044.0	1096.2	1151.0	1208.6	1269.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for Analysis

Prepared By: Dwayne Peeples Phone: 465-3090
Division: Public Health Date: 2/3/84

Approved by Commissioner: Robert London Date: 2/10/84
Agency: Dept. of Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislativve Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB
549

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 550

"An Act relating to premarital blood tests; and providing for an effective date."

This Bill amends AS 25.05.101 by adding a new subsection stating that a blood test for syphilis is not required for the issuance of a premarital certificate.

In calendar year 1983, a total of 51 cases of syphilis in all stages was reported. Of these 32 were in the infectious stage. The rate for all cases of syphilis for 1982 was about 12.2 and 10.4 for 1983. Since 1973, Alaska's syphilis rate has been consistently lower than the rate for the U.S. as a whole. The 1980 U.S. rate was 30.38.

Premarital testing is no longer an effective case finding tool. Between 1975 and 1980, a total of about 60,000 premarital specimens were tested with a yield of only two cases of previously unknown infectious syphilis. In 1982, one case was found in a total of about 12,000 premarital tests. In recent years, about 65% of new cases of syphilis in Alaska have occurred in the homosexual population, a group not ordinarily reached through a premarital testing program. Most cases are detected through self-referral of symptomatic persons or through epidemiologic investigation of sexual contacts of detected cases.

Historically, the major puprose of premarital testing was the prevention of congenital syphilis. The existing Alaska statute became effective in 1949 when syphilis was much more common with over 100 cases per year.

Passage of this Bill would have no effect on VD control efforts in the State. Prenatal testing will continue as a preventive measure for congenital syphilis. Syphilis testing will still be available to private health care providers and to the sexually transmitted disease clinics. Efforts will continue to be directed at high risk groups and known associates and contacts of person with the disease in an infectious stage.

Passage of this legislation is supported by the Alaska Public Health Association, the Alaska State Medical Association, the Alaska State Hospital Association and the Alaska Native Board of Health. Opposition has been voiced by the Faith Hospital in Glenallen.

The intent of this Bill is similar to that of SB 343. The Department of Health and Social Services prefers SB 343 because it deletes all references to the need for premarital health certificates as a condition for

POSITION PAPER/Department of Health & Social Services

the issuance of a marriage license while HB 550 leaves intact such references in AS 25. 05.091, AS 25.05.101, AS 25.05.105, AS 25.05.131, AS 25.05.141, AS 25.05. 151, AS 25.05.181, AS 25.05.201, AS 25.05.221 and AS 25.05.341.

Recommended by: (Acting) Phillip Lopez MD

E.S. Rabeau, M.D. Director
Division of Public Health

Date: 2/9/84

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 2/10/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date , 1984

REQUEST
Bill/Resolution No.: HB 550
Title: Premarital Blood Tests

Sponsor: Fritz & Szymanski
Requestor: House HESS
Date of Request: 1/31/84

II. FISCAL DETAIL
Agency Affected: Health & Social Servs.
Program Category Affected: Public Health

BRU, Program of Subprogram(s) Affected: State Health Services, Laboratory Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS ~~TO OFFSET FISCAL~~ IMPACT OF BILL:

ANALYSIS: Attach a separate page for Analysis

Prepared By: Dean Tirador /cc Phone: 465-3090
Division: Public Health Date: 2/7/84

Approved by Commissioner: Robert London Smith, M.D. Date: 2/10/84
Agency: Dept. of Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislativve Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4111

TONY KNOWLES
MAYOR

DEPARTMENT OF HEALTH AND ENVIRONMENTAL PROTECTION

January 5, 1984

Representative Milo H. Fritz, M.D.
Chairman, Health, Education
and Social Services Committee
State House of Representatives
Pouch V (Mail Stop 3100)
Juneau, Alaska 99811

Subj: Making vital statistics available to municipal health officers

Dear Representative Fritz:

Vital statistics are the basis for intelligent public health activity, yet municipal health officers are not clearly entitled to vital statistics records under AS 18.50.310.

Under the Anchorage Municipal Code (AMC 3.20.085, 15.05.020, etc.) I am responsible for the health and well being of the residents in Anchorage. It makes sense, therefore, for me to have ready access to birth certificates, death certificates, and the like. I have been unable to get copies of certificates of death and certificates of birth in Anchorage from the State.

Vital statistics collection and collation is minimal in Alaska. DHSS does produce an annual report of vital statistics, but it comes out about 2 years after the year studied. It is therefore more of historical interest than current utility. I understand that funds for this function have recently been reduced even further.

Attached is suggested language amending the statute to make it perfectly clear that a municipal health officer may have January 5, 1984 access to vital statistics documents.

Sincerely,

Rodman Wilson

Rodman Wilson, M.D.
Director, Department of Health
and Environmental Protection

Attachment

House Bill No. 549

"An Act relating to vital statistics records"

Under the Vital Statistics Act inspection of records is limited to agents of the state or federal government, acting in the performance of official duties. Amending AS 18.50.310 by adding a new section (f) would permit inspection of the records of human vital events of a particular municipality by the principal health officer or a designee.

An agreement would be required from each health officer that the information from any vital record will be used only for research and health planning, that the records remain confidential and that after use, the information is destroyed.

The Department of Health and Social Services Supports passage of HB 549.

RECOMMENDED BY: Joan P. Brooks

JOAN P. BROOKS
STATE REGISTRAR
BUREAU OF VITAL STATISTICS

DATE: February 6, 1984

APPROVED BY: Daniel J. Meddleton for

DANIEL J. MEDDLETON
DIRECTOR, DIVISION OF
PLANNING, POLICY AND
PROGRAM EVALUATION

2/7/84

DATE: February 6, 1984

APPROVED BY: Robert London Smith

ROBERT LONDON SMITH, PH.D.
COMMISSIONER

DATE: 2/7/84

POSITION PAPER/Department of Health & Social Services

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 549
Title: An Act Relating to vital statistics records
Sponsor: Fritz and Szymanski
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Department of Health & Social Services
Program Category Affected: Division of Planning Policy and Program Evaluation
BRU, Program or Subprogram(s) Affected: Bureau of Vital Statistics

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No fiscal impact

ANALYSIS: Attach a separate page for analysis

Prepared By: Dan P. Drake Phone: 465-3391
Division: P.P.&E./Bureau of Vital Statistics Date: 2/6/84

Approved by Commissioner: Robert Gordon Smith, M.D. Date: 2-17-84
Agency: Dept. of Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB
550

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 550

"An Act relating to premarital blood tests; and providing for an effective date."

This Bill amends AS 25.05.101 by adding a new subsection stating that a blood test for syphilis is not required for the issuance of a premarital certificate.

In calendar year 1983, a total of 51 cases of syphilis in all stages was reported. Of these 32 were in the infectious stage. The rate for all cases of syphilis for 1982 was about 12.2 and 10.4 for 1983. Since 1973, Alaska's syphilis rate has been consistently lower than the rate for the U.S. as a whole. The 1980 U.S. rate was 30.18.

Premarital testing is no longer an effective case finding tool. Between 1975 and 1980, a total of about 60,000 premarital specimens were tested with a yield of only two cases of previously unknown infectious syphilis. In 1982, one case was found in a total of about 12,000 premarital tests. In recent years, about 65% of new cases of syphilis in Alaska have occurred in the homosexual population, a group not ordinarily reached through a premarital testing program. Most cases are detected through self-referral of symptomatic persons or through epidemiologic investigation of sexual contacts of detected cases.

Historically, the major puprose of premarital testing was the prevention of congenital syphilis. The existing Alaska statute became effective in 1949 when syphilis was much more common with over 100 cases per year.

Passage of this Bill would have no effect on VD control efforts in the State. Prenatal testing will continue as a preventive measure for congenital syphilis. Syphilis testing will still be available to private health care providers and to the sexually transmitted disease clinics. Efforts will continue to be directed at high risk groups and known associates and contacts of person with the disease in an infectious stage.

Passage of this legislation is supported by the Alaska Public Health Association, the Alaska State Medical Association, the Alaska State Hospital Association and the Alaska Native Board of Health. Opposition has been voiced by the Faith Hospital in Glenallen.

The intent of this Bill is similar to that of SB 343. The Department of Health and Social Services prefers SB 343 because it deletes all references to the need for premarital health certificates as a condition for

POSITION PAPER/Department of Health & Social Services

the issuance of a marriage license while HB 550 leaves intact such references in AS 25. 05.091, AS 25.05.101, AS 25.05.105, AS 25.05.131, AS 25.05.141, AS 25.05. 151, AS 25.05.181, AS 25.05.201, AS 25.05.221 and AS 25.05.341.

Recommended by: (Acting) Philip Lopez M.D.
E.S. Rabeau, M.D. Director
Division of Public Health

Date: 2/9/84

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and
Social Services

Date: 2/10/84

HB
565

INTENT OF LEGISLATION

HB 565 - "An Act relating to hearsay evidence in prosecutions for sexual abuse of a minor; and amending Rules 803 and 804, Alaska Rules of Evidence."

This legislation will allow hearsay evidence of statements made by children under the age of 10 relating to sexual abuse of that child if:

1) The court determines that the circumstances indicate the statement would be reliable, and

2) The child either testifies in person or, if the child is unavailable as a witness, there is additional evidence to corroborate the statement.

We have been advised by troopers that they have videotapes of children 2½ or 3 years old where the sexual abuse is articulated clearly. However, they are unable to proceed with the grand jury indictment because these very young children often block out the experience before they are questioned in court. The sworn statement of the professional who interviewed the child, along with the videotapes, would be admissable under this act.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

HB 565

"An Act relating to hearsay evidence in prosecutions for sexual abuse of a minor and amending Rules 803 and 804, Alaska Rules of Evidence."

The Council on Domestic Violence and Sexual Assault supports the admission of hearsay evidence in child sexual assault trials. Many victims of child sexual assault are too young to withstand the rigors of a trial or to be effective witnesses. Yet their disclosure of sexual assault to police officers and other professionals in less threatening circumstances should be available to juries for consideration.

Children often block out their very negative experiences and cannot remember specifics of the experience, particularly under the pressures of a trial. These children deserve the protection of the criminal justice system as much as older, more articulate individuals.

Although the admittance of hearsay evidence is not traditional in court, there are many exceptions to the rule. This circumstance, child sexual assault, warrants another exception.

Robert Q. Sundberg
Commissioner

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 565

Support

February 7, 1984

HB 565 - "An Act relating to hearsay evidence..."

Passage of this legislation will make prosecution of cases involving sexual abuse of a minor less difficult and may reduce the emotional distress to the victim.

Robert J. Sundberg
Commissioner

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

HB 565

"An Act relating to hearsay evidence in prosecutions for sexual abuse of a minor and amending Rules 803 and 804, Alaska Rules of Evidence."

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Robert U. Sundberg
Commissioner

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

110 SEWARD #13 JUNEAU ALASKA 99801

(907)586-3650

POSITION PAPER

HB 565: An Act relating to hearsay evidence in prosecutions for sexual abuse of a minor; and amending Rules 803 and 804, Alaska Rules of Evidence

The Alaska Network on Domestic Violence and Sexual Assault, a non-profit corporation representing 20 programs statewide that provide services to victims of domestic violence and sexual assault, supports HB565, which would facilitate the prosecution of cases of child sexual assault.

As you may be aware, the Network several years ago supported legislation that permitted the videotaping of testimony of young victims (aged 10 and under) of sexual assault in order to spare them the added trauma of testifying in open court. Since its passage, that legislation has worked successfully in cases of sexual assault involving children ages 5 and over, but has had little impact on the successful prosecution of sexual assault involving very young children.

Because there has been a dramatic increase in the number of cases of child sexual assault reported to the Division of Family and Youth Services, there is a real need to address the issue of prosecution of these crimes.

A very young victim of sexual assault will often tell the non-offending parent or day care worker about the assault, but they most often will not repeatedly relate the details of the incident. Consequently, it is the parent or day care worker who reports the crime to the Division of Family and Youth Services, a sexual assault program, or a law enforcement agency.

However, because prosecutors generally do not feel that a very young child is a reliable witness and because there is rarely a witness to the crime, the testimony of the adult person to whom the child disclosed the incident is the most reliable testimony available. Since that testimony is considered hearsay evidence and is not admissable in court, these cases are not being prosecuted but are, in fact, being dropped.

Washington State has enacted legislation similar to the bill that has been introduced. It is the Network's position that an exception to the hearsay rule is more than justified in order to facilitate prosecution of these cases.

In order to protect child victims from further harm, the Network urges your support for and passage of this bill.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 565
Title: "An act relating to hearsay evidence...."
Sponsor: Representative Lacher
Requestor: House HESS
Date of Request: 2-14-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan F.C.A. Phone: 269-5691
Division: Alaska State Troopers Date: 02/07/84

Approved by Commissioner: Robert J. Sundberg Date: 2/14/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

IS THE CHILD VICTIM OF SEXUAL ABUSE TELLING THE TRUTH?

by

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I. INTRODUCTION

A question asked of child welfare workers and mental health experts in cases of child sexual abuse is whether or not a child's statement that he/she has been sexually mistreated can be taken at face value or believed. The implications for action if the child's story is trusted are far reaching for both the child and the family. Likewise, if professionals decide not to believe the child (and the allegation is true) the effect on the child will almost surely be devastating. Because of these implications, mental health professionals need guidance in assessing allegations of sexual mistreatment. For the most part, this article will focus on sexual abuse with female victims and male perpetrators and will pay special attention to the problem of substantiating allegations by young children.

II. THE PROFESSIONAL'S PROPENSITY TO DISBELIEVE

When a child reports he/she has been physically abused or neglected by a parent, (or by someone else), professionals spend little time querying whether the child is telling the truth. Not so in a case of sexual abuse. With sexual abuse reports, professionals may agonize for a very long time over whether the allegation is true or not. While the lack of physical evidence may contribute to this caution, the major obstacle for professionals and lay people alike is difficulty in coping with the fact that some adults have sexual involvement with children. For many people human sexuality in general, is an anxiety producing topic, and sexual encounters with children invoke even more psychological stress.

However, it is not sufficient for professionals who work with sexual abuse to understand these dynamics and take them into account in evaluating their own responses to a case. They still must persuade others, be they lawyers, police, judges, or treatment personnel of the veracity of the child's story.

III. WHO HAS THE MOST TO LOSE?

It is useful to frame an understanding of an allegation of sexual abuse in terms of various parties vested interest in the story being true or not true.

For the victim, she (and most reported cases are of female victims) may suffer significant losses as a result of telling. She may be rejected and ostracized by the perpetrator and also by her family. She may be "punished" by placement in foster care or an institution. The family may be torn apart and the victim may see herself as responsible for its demise. She will have to tell the intimate details of her story to many people. She frequently must tell it in the court room, to strangers and with the perpetrator facing her, and she may be subjected to harsh crossexamination by the perpetrator's attorney. Often the perpetrator will warn the victim of these consequences and tell her not to to tell. In such a situation the child feels helpless in the face of a powerful adult. Because of the anticipated consequences, victims may keep the secret for months and sometimes years.

Therefore a delay in the report of sexual abuse, particularly when there is a close personal relationship between the victim and the perpetrator, is to be expected rather than seen as a reason to question the veracity of the allegation. Similarly, it is quite common for a child to reveal that she was molested and later retract her story as she experiences the negative effects on herself and her family of telling.

In contrast, the perpetrator has everything to lose if the child's story is believed and thus in most cases will deny the allegations. The perpetrator may be rejected and extruded from the family because of the abuse. In father-daughter incest cases, divorce may ensue. The extended family may ostracize him. In some cases, his employment may be in jeopardy. He has reason to fear the Juvenile Court who may deprive him of his child, impose treatment, and intrude in other ways into the family. He has even more cause to fear the Criminal Court where he may be tried for Criminal Sexual Conduct, sent to prison, or at least placed on probation.

Because a substantial percentage of sexual abusers are to some extent character disordered, they may lie and lie convincingly, and they may lie persistently over a period of months and even years. It is not uncommon for them to continually call the caseworker insisting upon their innocence and to enlist the help of others, family and friends, in this endeavor.

Mothers, in father-daughter incest cases as well as in other types of in-household sexual abuse, may also have a lot to lose if the child's allegation is believed. Incest often develops when the sexual relationship between the perpetrator and spouse is not good, and this may happen because the mother does not wish a sexual relationship with the perpetrator. The child victim relieves the mother of that sexual responsibility, and therefore there may be costs for the mother if the incest relationship ends.

More concrete and practical problems may arise for the mother. She may be financially dependent upon the perpetrator. Therefore, if she has to expell him or he goes to prison, she must seek other means of support. This may mean going on ADC or seeking employment when she has never worked or has not worked for years.

Finally she loses the emotional support of her spouse when he leaves or is incarcerated. While he may not seem to the outsider as very supportive, frequently he is all the mother has, and she cannot imagine life without him. Often mothers of incest victims are very dependent upon their spouses, suffer from low self-esteem, and may choose their spouses over their children when they must take one side or the other.

Therefore, it is not uncommon for mothers to disbelieve their daughters allegations, to ignore them when they are made, or to try to deal with the problem without bringing in outside help. Alternatively, mothers may initially side with the child, but as they experience the practical consequences of the spouse's anger and/or loss of the spouse, may switch their loyalties and side with the perpetrator.

IV. EXAMINING THE CHILD'S STORY

We know for the reasons stated already that children do not make up stories asserting they have been sexually molested. It is not in their interests to do so. The only cases where that possibility should be considered is where an adolescent who is making an allegation appears character disordered. An angry acting-out adolescent who does not invest in people might possibly make up such a story in order to gain some immediate goal (getting back at the perpetrator, getting out of the house). However, even such cases as these reports should be taken very seriously because difficult adolescence is the frequent outcome of an experience of sexual abuse. Thus the victim in adolescence may be belligerent and aggressive, may truant from school and violate curfew, and may be sexually provocative and promiscuous.

For a long time some mental health professionals attributed children's allegations of sexual molestation to oedipal fantasies. It is easier to believe that these assertions are fantasies rather that the truth. If the report is to fit the oedipal fantasy conceptualization, it should be placed in time when the child would be four or five, and we expect the memory to be shadowy or repressed. However, today many professionals question whether there is such a phenomenon as an oedipal fantasy, and query whether we are not dealing with instances of molestation even in cases which fit the description above.

Reports of sexual abuse can usually be differentiated from fantasy by the victim's ability to report specific details (if they are willing to discuss the incident(s)). The best way to get information in cases where the child is verbal is to ask about the last time it happened. Usually considerable detail can be elicited about surrounding events so that the idiosyncratic nature of the incident is quite clear. (E.G., "It was raining and I thought my daddy was asleep so I was playing in my brother's room where I'm not supposed to play. My dad came in and I thought he would be mad at me, but he said he wouldn't be mad if I laid on the bed with him".) The child may be much more reticent about giving the detail of the sexual abuse, and may get embarrassed or agitated in answering questions about the abuse, than in giving specific events surrounding the incident.

It is important to get this specific detail if possible. Sometimes this can be effected by asking question "did he do this", "did he do that", or by relating what you think happened and asking the child to respond "yes" or "no" to each statement.* It is preferable however, to get a spontaneous statement if this is possible.

A young child may become somewhat confused about the exact sequence of events, or may forget certain parts of the story at certain times, but this should not call into question the veracity of the story. Further, children, depending upon their age, may not be able to afix dates or exact times but will be able to locate incidents of molestation in relation to significant events (E.G., birthday, the day it rained, about supper time).

Another important finding may be that he child has knowledge about sexual matters which go well beyond what can be expected of the child's age or indicates sexual information for which the family cannot explain the source (E.G., a child of four may know a penis gets big and white juice comes out of it). While it is possible that the child gained this knowledge from observation of sexual acts, it is not likely. If the observation is the source of the victim's information, there is cause to be concerned about children being exposed to sexual activity.

It is important to go beyond eliciting information about the most recent incident of sexual abuse and query whether it happened before and how often. Does the victim know whether the perpetrator ever did this kind of thing with anyone else? Thus the goal of the interview is to elicit specific detail but also to get a broader picture of the perpetrator's sexual activity.

* Note: The suggestion of the author to ask the child whether certain things have happened is <u>not</u> endorsed. There are many problems with this technique of gathering information. Generally, specific, narrow questions tend to mislead the respondent into believing you only want to hear about the things you ask about, so the respondent will not add other information. More specific to sexual abuse of young children, there are two risks. First, one important way of establishing the likelihood that abuse occurred is by showing that the child described sexual events that childrens of his or her age seldom know about unless they have been victimized. If you describe the event, the child's credibility may later be attacked by someone alleging that you planted the idea. Secondly, if the child has not experienced the activity you describe, you are further adding to whatever experiences he or she has had. This information can be very frightening to the child, even when dealt with matter-of-factly.

Myra M. Munson
Division of Family and Youth Services
Staff Development Training Center
December, 1981

V. STRATEGIES FOR CORROBORATING DIRECT STATEMENTS BY THE CHILD TO THE INTERVIEWER

A. The Child's Statement to Significant Others

As a rule a case of sexual abuse comes to professional attention because the child has made a statement to someone (other than the evaluator) about the molestation. The interviewer should talk directly with those persons to get all the information they have and to assess the reliability of these reports. Often a child will be candid with a parent or relative but will be quite reticent with a professional.

Having those persons whom the child has told tape record the child's statements can be useful. If the child has not been forthcoming during the evaluation but later talks about the incidents sometimes a parent or relative can call the evaluator on the phone and get the child to make statements over the phone. Therefore at the end of the interview, the professional should tell the caretaker to call if the child says or does anything related to the abuse after the interview.

B. Indirect Methods of Assessment

There are certain child behaviors indicative of molestation which can be used to substantiate a report of sexual abuse. One type are indirect indicators which can be elicited in doll play, drawing, story telling, and other projective techniques. Such indirect methods are much less threatening to the child, and with children who are reticent, may be the only data which can be elicited from the child in a formal evaluation. The interviewer must be patient and willing spend a fair amount of time and sometimes several sessions gathering information.

What one looks for are sexual themes in play, pictures, or stories. The interviewer allows the child to use these media in whatever way he/she wants to for a period of time, but may later structure the interaction so it focuses on the context in which the interviewer thinks the molestation took place.

For example, if a doll house and doll play are used, the interviewer will begin by allowing the child to play with the dolls in the doll house. Sometimes sexual concerns may immediately emerge. For instance, the child undresses all the dolls and looks between their legs. The worker may nevertheless want the structure the situation by focussing on the daddy doll and the little girl doll and asking "what do daddies and little girls do together?" or "what does the daddy doll do with the little girl doll?" If sexual content is elicited, for example the child puts the two dolls in the bed with the daddy doll on top of the little girl doll, it is important to then ask what the child does with her own daddy. A potential disadvantage of indirect methods of

assessment is that the evaluator may get sexual themes in play but may not be able to tie what occurs in play to the allegations. By moving gradually in play closer to the actual allegation, it is possible to make the link between the general sexual content and the reported sexual abuse. Similar strategies can be employed with picture drawing, and story telling.

We must also understand why certain children are not forthcoming about the molestation. First, most interviewers are relatively unknown to the child and usually less wellknown than the perpetrator. The child may admit the abuse to someone he/she trusts, the mother, an aunt, or friend of the family, but be much less willing to make the revelation to a stranger. A related point is that in many cases even though the child has been molested by the perpetrator, the child may be attached to him and will not want to cause him trouble. Alternatively as noted earlier, the child may fear negative consequences for the family or retribution by the perpetrator if she reveals the sexual abuse.

C. Sexual Behavior

Another source of corroborative data is sexual behavior by the child. This is somewhat different from information elicited in a structured interaction with the interviewer. It is more spontaneous and may occur in the context of the interview or in other settings. These sexual behaviors will vary with the age of the child.

Excessive masturbation is one kind of behavior to look for in young children. While all children masturbate, molested children may do so to a marked degree. Thus, they may masturbate when they are upset or when they are questioned about the sexual abuse. They do so even though an adult requests they not masturbate in public or they may injure their genitals in the course of repeated masturbation.

Young children who have been sexually molested may also initiate sexual encounters with others. In a day care or hospital setting, they may sexually accost other children. In such a context, they may take on the role of the aggressor and victimize other children, or they may persist in their victim role. They may also attempt to elicit sexual responses from adults for whom they have some affection, assuming that is the way adults and children who like one another interact. Thus, a little girl may rub a male worker's penis or wriggle her bottom on his lap. A boy who has been a victim of a female perpetrator may attempt to squeeze a nurse's breast.

Latency aged victims are often described as seductive and extremely concerned with their physical appearance. They may appear unusually feminine and coy. As they grow older and reach early adolescence, they are likely to be sexually quite active and to be described as promiscuous. The sexual encounters may be with peers or with older men. In later years victims may develop lesbian relationships. Because their heterosexual experiences have been exploitative, they look for more nurturing relationships with other women.

D. Other Behavioral Indicators

Additional supportive evidence which can complete the picture may be behaviors which indicate the child anxiety or mental state arising from the sexual abuse.

With young children regression is frequently seen as a result of the onset of sexual abuse. A child who previously was toilet trained may begin to wet the bed or may become fearful of the dark and refuse to go to bed without a trusted adult in the room when previously bedtime was not problematic. Nightmaring and night waking may also occur.

A child's fear of the perpetrator may generalize to all men (assuming the perpetrator is a man). Sometimes this fear is more apparent with other men than with the perpetrator. Often observers note a personality change in the victim, which seems to coincide with the onset of the abuse. Alternatively the symptoms occur around the incident, then diminish, and recur when another incident occurs. Thus, one victim's mother stated her daughter used to be "a motor mouth" before the molestation began but now appears shy and worried. Children may appear depressed and become withdrawn. Victims who previously did well in school sometimes present with school problems.

Adolescents may present with acting out or self-destructive behavior. Thus, the adolescent victim may run away, be aggressive toward others, be incorrigible, hating both parents, but often mother more than father, steal and shoplift, and in general appear out of control. In general, the intensity of the adolescent victim's acting out is greater than the typical adolescent rebelliousness. Professionals often suggest institutional treatment for these victims because their deviance is so severe, (frequently without comprehending the underlying cause). Self destructive patterns found in adolescent are alcoholism, drug use and addiction, self mutilation, and attempts to suicide (or success).

CONCLUSION:

If the professional takes together a child's statements which may have been made to others but not to the professional or were made at one point and later retracted and buttresses these with other information a clear picture will evolve. Supplementary data may be sexual themes in play, in picture drawing or story telling elicited in an interview, sexual behavior by the child, or non-sexual behavioral indicators that the child is under stress. Obviously, the more information from the range of areas described the evaluator has, the more convinced the evaluator will be and the more persuasive the report will be to others. However, the only information which should not be taken by itself as a sign there has been sexual abuse is the non-sexual behavioral indicators. These indicators can also be a result of problems other than sexual ones.

Rule 803. Hearsay Exceptions — Availability of Declarant Immaterial.

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) **Present Sense Impression.** A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) **Excited Utterance.** A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) **Then Existing Mental, Emotional, or Physical Condition.** A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health) offered to prove his present condition or future action, but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) **Statements for Purposes of Medical Diagnosis or Treatment.** Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) **Recorded Recollection.** A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) **Business Records.** A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnosis, made at or near the time by, or from

information transmitted by, a person with knowledge acquired of a regularly conducted business activity, and if it was the regular practice of that business activity to make and keep the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) **Absence of Record.** Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of subdivision (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) **Public Records and Reports.** (a) To the extent not otherwise provided in (b) of this subdivision, records, reports, statements, or data compilations in any form of a public office or agency setting forth its regularly conducted and regularly recorded activities, or matters observed pursuant to duty imposed by law and as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law.

(b) The following are not within this exception to the hearsay rule: (i) investigative reports by police and other law enforcement personnel; (ii) investigative reports prepared by or for a government, a public office or an agency when offered by it in a case in which it is a party; (iii) factual findings offered by the state in criminal cases; (iv) factual findings resulting from special investigation of a particular complaint, case, or incident; (v) any matter as to which the sources of information or other circumstances indicate lack of trustworthiness. Any writing admissible under this subdivision shall be received only if the party offering such writing has delivered a copy of it or so much thereof as may relate to the controversy, to each adverse party a reasonable time before

the trial, unless the court finds that such adverse party has not been unfairly surprised by the failure to deliver such copy.

(9) **Records of Vital Statistics.** Records or data compilations, in any form, of birth, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.

(10) **Absence of Public Record or Entry.** To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with Rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) **Records of Religious Organizations.** Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) **Marriage, Baptismal, and Similar Certificates.** Statements of facts contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) **Family Records.** Statements of fact concerning personal or family history contained in family bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings and urns, crypts, or tombstones, or the like.

(14) **Records of Documents Affecting an Interest in Property.** The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable

statute authorizes the recording of documents of that kind in that office.

(15) **Statements in Documents Affecting an Interest in Property.** A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) **Statements in Ancient Documents.** Statements in a document in existence twenty years or more the authenticity of which is established.

(17) **Market Reports, Commercial Publications.** Market quotations, tabulations, lists, directories, codes, standards, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) **Learned Treatises.** To the extent called to the attention of an expert witness upon cross-examination or relied upon by him in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(19) **Reputation Concerning Personal or Family History.** Reputation among members of his family by blood, adoption, or marriage, or among his associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his personal or family history.

(20) **Reputation Concerning Boundaries or General History.** Reputation in a community, arising before controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.

(21) **Reputation as to Character.** Reputation of a person's character among his associates or in the community.

(22) **Judgment as to Personal, Family, or General History, or Boundaries.** A judgment as proof of a matter of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

(23) **Other Exceptions.** A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (a) the statement is offered as evidence of a material fact; (b) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (c) the general purposes of these rules and the interest of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant. (Added by Supreme Court Order 364 effective August 1, 1979)

Rule 804. Hearsay Exceptions — Declarant Unavailable.

(a) **Definition of Unavailability.** Unavailability as a witness includes situations in which the declarant

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement; or

(2) persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so; or

(3) establishes a lack of memory of the subject matter of his statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of his statement has been unable to procure his attendance (or in the case of a hearsay exception under subdivision (b) (2), (3), (4), or (5), of this rule, his attendance or testimony) by reasonable means including process.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

(b) **Hearsay Exceptions.** The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) *Former Testimony.* Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) *Statement Under Belief of Impending Death.* A statement made by a declarant while believing that his death was

imminent, concerning the cause or circumstances of what he believed to be his impending death.

(3) *Statement Against Interest.* A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the statement unless he believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) *Statement of Personal or Family History.* (A) A statement concerning the declarant's own birth, adoption, marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statment concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(5) *Other Exceptions.* A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant. (Added by Supreme Court Order 364 effective August 1, 1979)

Changes made - CS HB565

1) Change in title from "prosecution for sexual abuse of minors" to "prosecution for certain sexual offenses."

2) Line 12 from "prosecution for the crime of sexual abuse of a minor in any degree" to "prosecution for an offense under AS 11.41.410-11.41.440 or 11.41.455."

3) Line 14 from "a child under the age of 10 describing an act of sexual contact with the child" to "a child under the age of 10 who is the alleged victim of the offense describing the conduct establishing the offense."

4) Line 24 inserts (3) "the prosecutor informs the defendant of the intention to offer the statement and the contents of the statement sufficiently before the proceedings to give the defendant a fair opportunity to respond to the statement."

5) Line 28 - defines "unavailable" and "statement"

HB

566

Introduced: 2/1/84
Referred: Health, Education &
Social Services

IN THE HOUSE

BY LACHER, PHILLIPS, FLOOD, CLOCKSIN, KOPONEN AND MCBRIDE

HOUSE BILL NO. 566

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to training of teachers and principals on the subject of sexual abuse of minors."

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

* Section 1. AS 14.03.030 is amended by adding a new subsection to read:

(b) The school term in each school district shall include two days of in-service training of teachers and principals on the subject of child abuse and sexual abuse of minors.

INTENT OF LEGISLATION

HB 566 - "An Act relating to training of teachers and principals on the subject of sexual abuse of minors."

This legislation will do much to fill the educational gap which now exists within our school districts on the topic of sexual abuse of minors. It will require teachers and principals to attend two days of mandatory in-service training each school term on the subject of sexual abuse of minors. They must be familiar with the sexual assault laws of Alaska, and be aware of their statutory responsibility to report any suspected cases of abuse.

School personnel are the most likely group of people to see physical and behavioral indicators in children which signal sexual abuse has occured. Because of the many hours children spend in the classroom, teachers are in a key position to know their students and to build relationships which would allow them to assist a child in a crisis situation.

Chapter 03. Public Schools Generally.

Section

10. Establishment of school system
20. School year
30. School term
40. Day in session
50. School holidays
60. Elementary, junior high and secondary schools
70. School age
80. Free education
83. Contracting for services
90. Sectarian or denominational doctrines prohibited
100. Use of school facilities
110. Questionnaires and surveys administered in public schools
130. Display of flag
140. Emergency drills

Collateral references. — 68 Am. Jur. 2d Schools § 1 et seq.

78 C.J.S. Schools and School Districts, §§ 1, 2, 12 et seq.

Equivalence of educational facilities extended by public school system to members of white and members of colored race. 103 ALR 713.

Residence for purpose of admission to public school. 83 ALR2d 497.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Noncustodial parent's rights as respects education of child. 36 ALR3d 1093.

Tort liability of public schools and institutions of higher learning for educational malpractice. 1 ALR4th 1139.

Sec. 14.03.010. Establishment of school system. There is established in the state a system of public schools to be administered and maintained as provided in this title. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

This title was enacted pursuant to Alaska Const., art. VII, § 1. Hootch v. Alaska State-Operated School Sys., Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

History of public education in Aluska. — See Hootch v. Alaska State-Operated School Sys., Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975).

Collateral references. — Incorporated educational body as an institution belonging to the state. 65 ALR 1394.

What is common or public school within contemplation of constitutional or statutory provisions. 113 ALR 697.

Sec. 14.03.020. School year. The school year begins on the first day of July and ends on the 30th day of June. (§ 1 ch 98 SL.. 1966)

Sec. 14.03.030. School term. The school term begins and ends on the dates fixed by the governing body of the school district. However, the term shall include not less than 180 days in session, except that, subject to the approval of the commissioner, a day used for in-service training of teachers may be substituted for a day in session, up to a maximum of 10 days. (§ 1 ch 98 SLA 1966; am § 1 ch 65 SLA 1972; am § 1 ch 137 SLA 1976; am § 1 ch 24 SLA 1979)

COMMITTEE REPORT

HOUSE

(7) FURTHER:

4
2/1/84

Date: MARCH [illegible], 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 566

"An Act relating to training of teachers and principals on the subject of sexual abuse of minors."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 566 (HESS) [ ] same title [X] new title

and recommends THAT IT DO PASS.

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[signature]	
[signature]	
[signature]	
[signature]	
[signature]	
[signature]	
[signature]	
[signature]	

[signature]
CHAIRMAN

PREVENTING SEXUAL ABUSE OF CHILDREN

A CURRICULUM FOR K-6 AND 7-12 GRADES

by
Marcia K. Morgan



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COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT
Juneau, Alaska

ASAP
ALASKA SEXUAL ABUSE PREVENTION

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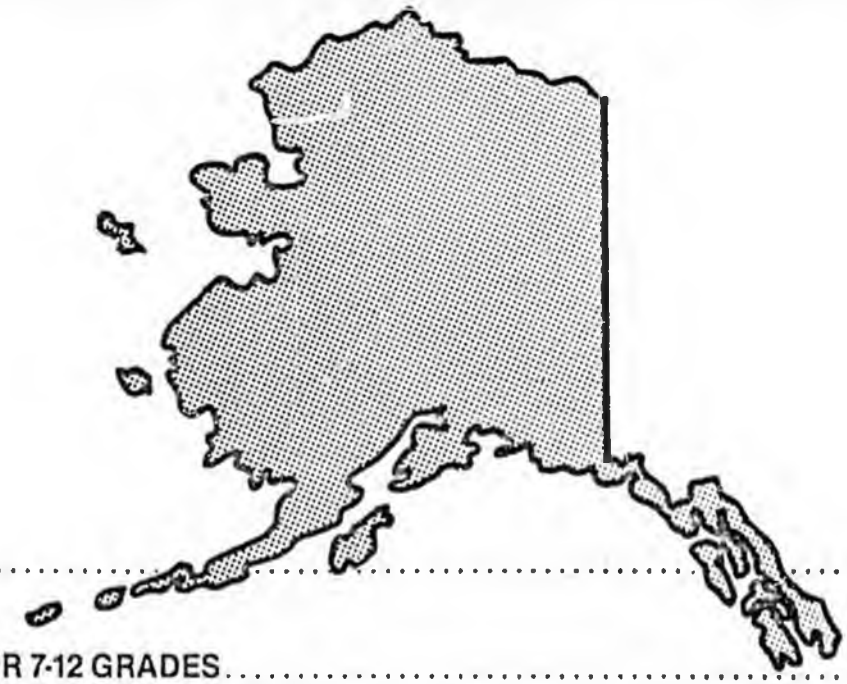

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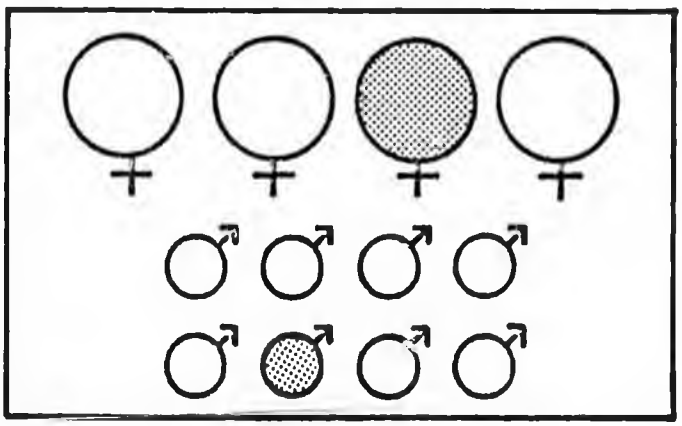
ASAAP
ALASKA SEXUAL ABUSE PREVENTION

1

INTRODUCTION

Overview of the Sexual Abuse Problem

Sexual abuse is not an easy thing to talk about. It has long been a topic filled with fear, secrecy and taboos. Yet it must be discussed. According to recorded cases, one out of every four girls and one out of every eight boys will be a victim of sexual abuse by their eighteenth birthday. Children have a right and a need to know the facts about preventing sexual abuse and what to do if it occurs.



School personnel are the most likely group of people to see physical and behavioral indicators in children which signal sexual abuse has occurred. The average child spends 18,000 hours in the classroom from kindergarten through high school. Teachers and school personnel are in a key position to know their students, observe them, build trusting relationships and assist them if a crisis emerges in their lives. Even if a troubled child is spotted, it is typically the manifestation of the problem (i.e., learning problems) rather than the origin, that becomes the focus of attention and effort.

The term sexual abuse includes any kind of sexual contact or behavior between an adult and child, such as fondling, indecent exposure and rape. All children are vulnerable to sexual abuse due to their lack of experience, awareness and information. Young people are victimized regardless of race, age, neighborhood, village, social class or family income. Most children are given basic safety tips such as "don't talk to strangers" and "avoid taking candy and gifts from people you don't know." Unfortunately, the information usually stops here. It is unfortunate because strangers only commit 10-20% of all sexual molestations. Most are committed by a person the child knows—a relative, a neighbor, a friend of the family. It is often a person who has power and control over the child. Therefore, "basic safety" tips leave the child much more vulnerable than he or she needs to be.

The Alaska Sexual Abuse Prevention program was created to fill this educational gap. It provides teachers throughout Alaska with a uniform, comprehensive program designed to give students accurate information about sexual abuse while addressing needs unique to this state. **The primary focus is on the child's skill development. Children will be taught to recognize potentially dangerous situations, to understand they have rights and that it is OK to say "NO," to identify good and bad touching, and to know who to tell about a touching problem. The offender will be viewed as the person at fault and in need of help. The child is not to blame nor made to feel guilty.**

ALASKA SEXUAL ABUSE PREVENTION

The program is to be presented in a low key, matter-of-fact fashion. There are no frightening or harsh scare tactics. Fear only tends to incapacitate children, leaving them unable to think clearly and calmly in a situation. The subject is treated seriously yet balanced with entertaining video tapes, class projects and activities all designed to make the program interesting for the student. Since this program is intended for both boys and girls, children will examine how they are socialized and how the different sex roles affect behavior. Since a high percentage of sexual abuse cases involve alcohol, its impact on decision-making will also be introduced. Alcohol use is depicted in some of the video scenes. It is not to be viewed as an excuse for committing abuse, but rather something that may affect judgment.

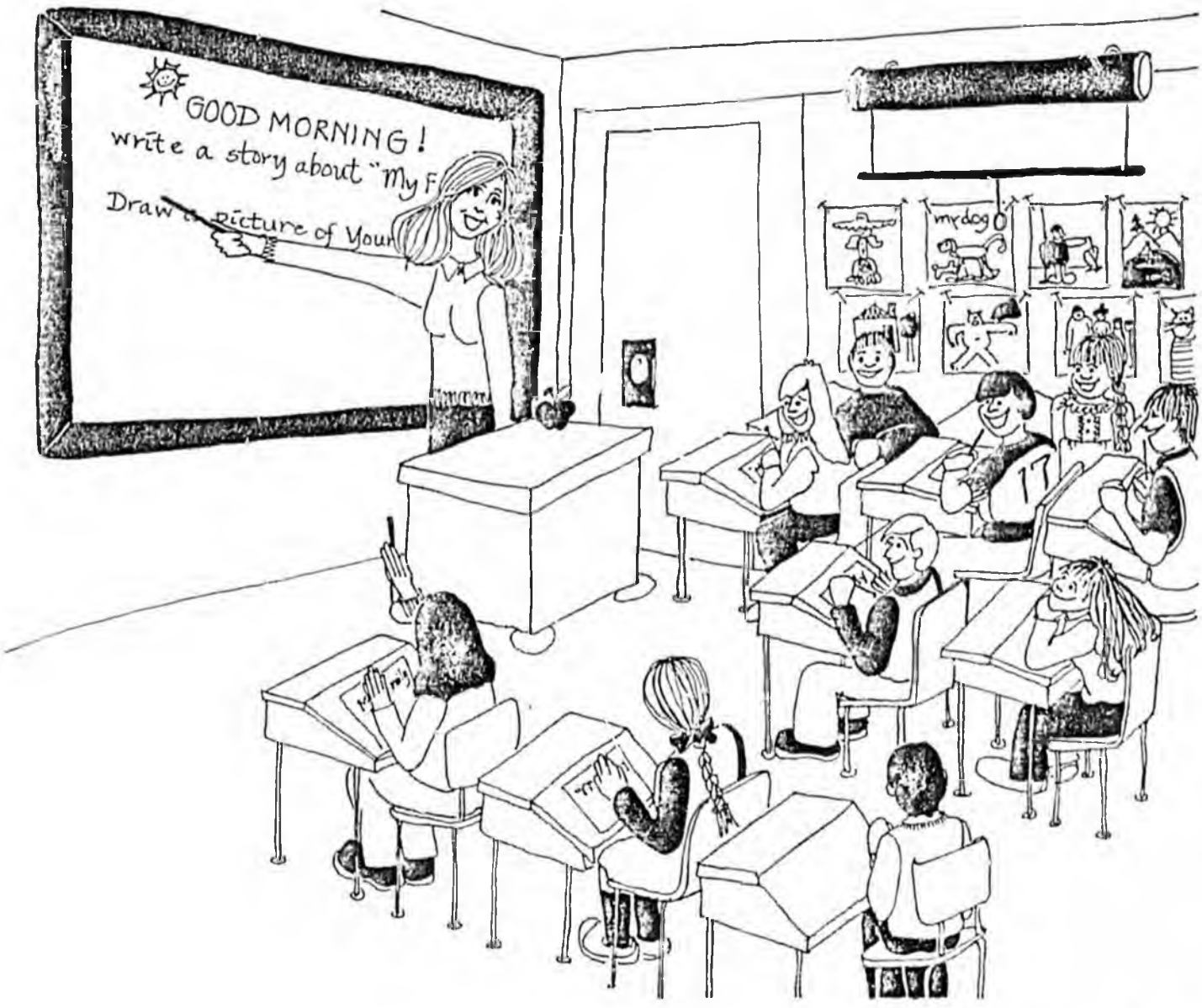
Dana was 8 years old. On Tuesdays she went to her club meeting after school. This Tuesday she stayed after the meeting because Mr. Johnson asked her to help clean up. Mr. Johnson, the club leader, was such a nice man according to all the girls in the group. Dana felt that way too and loved to sit on his lap. After they were done cleaning up, Mr. Johnson called to her to come over to him. As she was sitting on his lap, he unzipped his pants and asked her to touch him. Dana felt sort of weird and funny. She knew that that was a "private" part of the body. She got up, moved away from him, said, "NO," and went straight home. She told her mother about what had happened. Her mother hugged her, said she was glad she had told her and called the police.

Phil was 10 years old and really liked softball. One day he was walking home after a game when Joe Winston, the man who runs the store, came by on his 3-wheeler and offered to give Phil a ride. Phil didn't like Mr. Winston. He was always looking at Phil and sometimes touched him in a way that made Phil uneasy. He just didn't want to be close to Mr. Winston. So he assertively said, "No, thank you," and continued walking. Mr. Winston drove off. When Phil got home, he told his Dad about how Mr. Winston makes him feel uncomfortable. His Dad said he did the right thing by not accepting the ride and that he was glad Phil had told him.

Why were Dana and Phil successful? They were successful because they removed themselves from potentially dangerous situations. They had received enough information at school so they were prepared and not confused. They knew what to do and that their mother, father, teacher, or other adult, would want to know about the incident. Most importantly, they knew they were not at fault and that they would be believed. . .

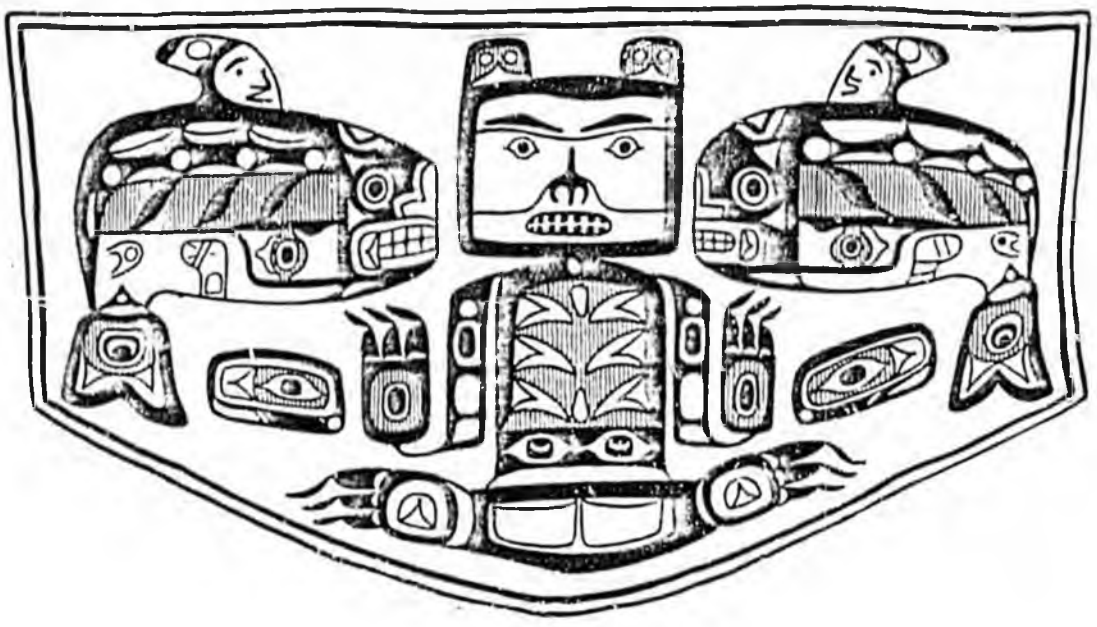
Directions on Using Teacher Guide

This guide is a compilation of suggestions and ideas from many sources: parents, teachers, and professionals in the field. It offers a variety of lesson plans and classroom activities. By reading the guide, you will get a comprehensive picture of what the Alaska Sexual Abuse Prevention program is trying to accomplish. You can then go back and assess your classroom's maturity level and needs and select the appropriate sections to use. You are also encouraged to create additional classroom assignments and visuals (i.e., bulletin boards, displays). You do not have to be an expert on the topic of sexual abuse prevention—you can work with others in presenting the material, team teach and use community resources.


GOOD MORNING!
write a story about "My F
Draw a picture of Your
mr dog
17

The first three chapters are designed to give you background information on sexual abuse—when, where, how and why it happens. You will then be ready to begin developing one of the most important skills—the use of correct terminology as it relates to sexual abuse and body parts. Learning is less of a mystery for children when they are told correct names when they are young. Definitions are covered in Chapter 4. Chapters 5 and 6 are lesson plans, divided into two groups for grades K-6 and 7-12. The lesson plans and student activities have been reviewed and tested for content and grade level appropriateness in Anchorage, Aklachak, and Ketchikan, Alaska. You may find that the student activities listed in the K-6 Chapter are excellent for your 5th graders, but not for your 2nd graders or vice versa. You be the judge. The grade level groupings are to be used as a guideline. *However, it is important not to eliminate a section due to your own personal anxiety about the topic. Children need and have a right to obtain complete information. Practice going over the difficult sections and it will probably be easier than you think.*

Chapter 8 is a resource list of assistance agencies in Alaska. Besides responding when an abuse is reported, several organizations also offer classroom speakers. A bibliography of books as well as audio visual materials is listed. The books allow you to more thoroughly examine the issues raised in this guide and are good resource materials for students. You are encouraged to do further reading, as it will enhance your classroom activities and prepare you for questions asked by students and parents. This chapter also lists places to contact for teacher aids such as anatomically correct dolls, doll patterns and pamphlets.



BREAKING SILENCE 2

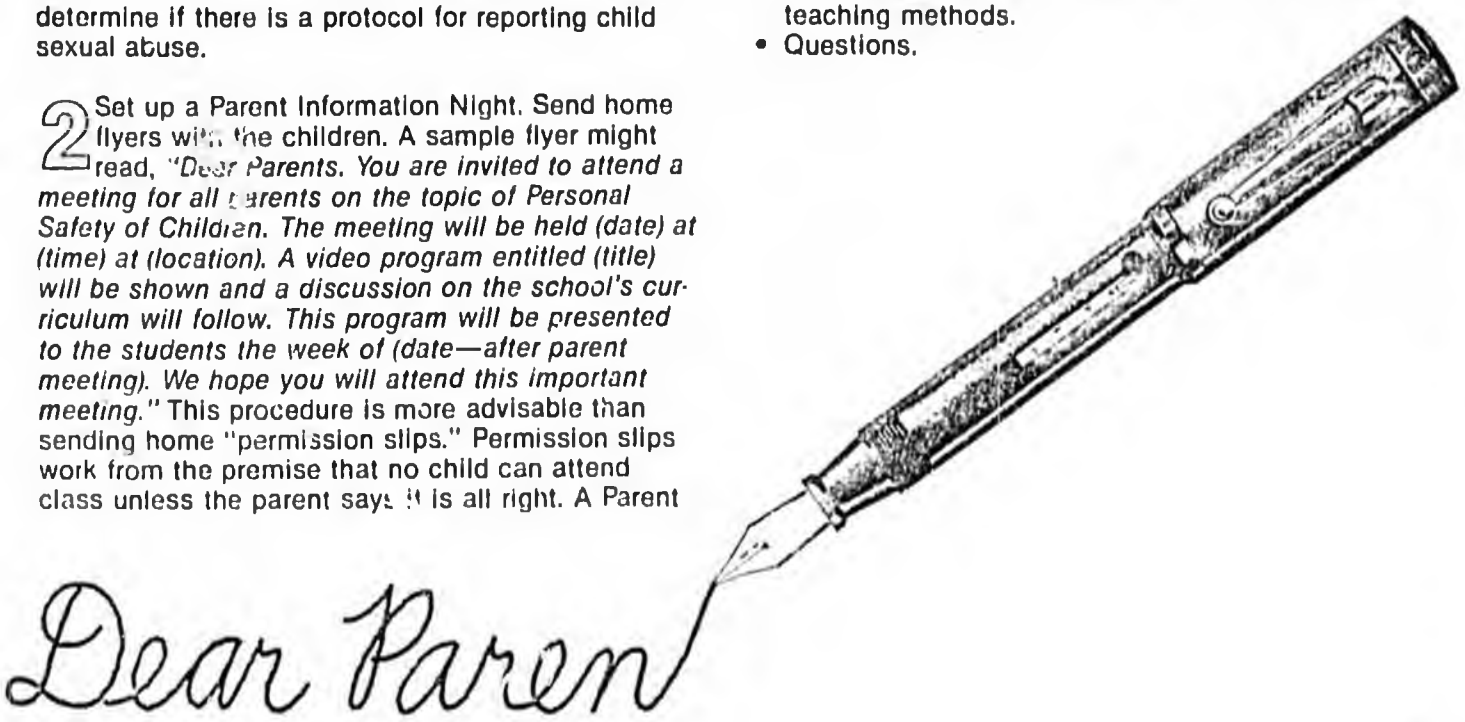
How to Set Up a Personal Safety Program

1 Meet with the Principal, School Administrator, or school board to gain their support and to discuss the curriculum. It is important to stress that sexual abuse is a personal safety issue—not an issue of sex education or sexuality. You may want to incorporate this topic into the safety/health curriculum which includes water safety, cold weather survival, fire prevention, etc. At this time, you may also want to check with the school administration to determine if there is a protocol for reporting child sexual abuse.

2 Set up a Parent Information Night. Send home flyers with the children. A sample flyer might read, *"Dear Parents. You are invited to attend a meeting for all parents on the topic of Personal Safety of Children. The meeting will be held (date) at (time) at (location). A video program entitled (title) will be shown and a discussion on the school's curriculum will follow. This program will be presented to the students the week of (date—after parent meeting). We hope you will attend this important meeting."* This procedure is more advisable than sending home "permission slips." Permission slips work from the premise that no child can attend class unless the parent says it is all right. A Parent Information Night takes a more positive approach. Parents are able to see first hand what information their children will receive and then, if they object, their children will be excused. Otherwise, all children attend the class.

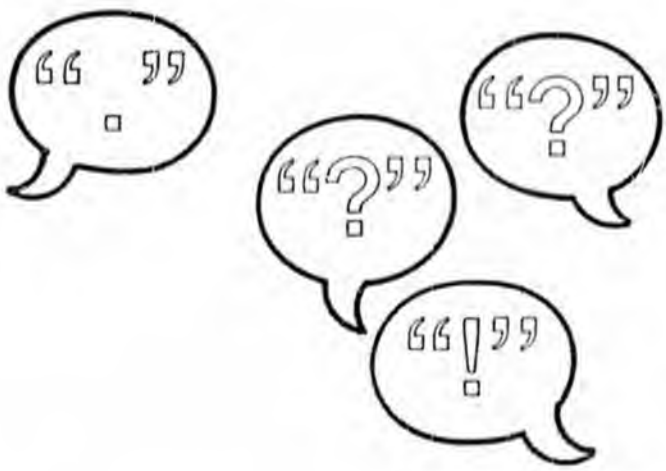
3 The Parent Information Night may be presented by the teacher or a team of teachers who will be instructing the unit. The Principal should also be present to show his/her support. The following items may be covered.

- The problem of sexual abuse of children.
- How curriculum and education can help prevent sexual abuse.
- Show video program.
- Discuss how this video is to be used and other teaching methods.
- Questions.



Parent Responses

In teaching this program, the majority of parents and school officials will be supportive of your efforts. Most are relieved that something is finally being done. But it is important to anticipate some negative reactions and statements. After studying the information outlined in this guide, you will be more prepared to respond to these comments. Know the facts about sexual abuse and how the classroom sessions are going to be conducted. Be confident yet sensitive in your answers to parents' concerns. Some possible responses are listed below.



- *"I don't want my children to be frightened."*
  (I don't either, that is why it will be presented in a positive, helpful manner.)
- *"I am a careful parent. It won't happen to my child."*
  (Unfortunately, we can't always be with our children—we can never be sure—state statistics.)
- *"I don't want to confuse her with information she is too young to understand."*
  (The program has been tested and information carefully chosen which is appropriate to your child's age.)
- *"If it's going to happen, it will."*
  (Children are less likely to be victimized the more safety information they have.)
- *"I don't believe in sex education at school."*
  (Sexual abuse prevention is a safety issue just like fire safety, water safety, crossing streets or poison prevention.)
- *"My son doesn't need to know about this."*
  (State facts about boys being victims or friends of victims.)
- *"Give children these crazy ideas and first thing you know, they won't even let us touch them at home."*
  (We discuss both nurturing and exploitive touching by both men and women. We don't discourage all touching.)
- *"Talking about sexual abuse will cause my child to form warped ideas about sex."*
  (We put all the information into perspective, emphasizing that sexual abuse is not the norm.)
- *"This just gives kids ideas—then they'll probably go out and rape someone."*
  (We teach children that sexual abuse is wrong, against the law, and it is not fun or exciting.)
- *"This is a personal subject that should be discussed at home."*
  (I wish more homes did the job. We do involve parents in an information night and encourage discussion at home to reinforce the ideas. It is also suggested to practice what you would do if someone had a problem—a Family Safety Plan.)



Role of the School Professional

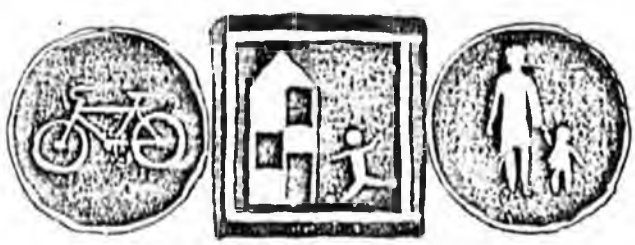
The school professional has two main responsibilities in regard to sexual abuse prevention: teaching and reporting.

TEACHING The role **you** play as a teacher is very important. With no other subject will **you** have the potential of impacting so many lives. **You** can help the students avoid dangerous and possibly psychologically damaging situations. **You** can help them develop coping and social skills that they can use throughout their lives. **You** can provide information so a student can be alert and aware, not afraid. Chances are, **you** will be an important source for students receiving accurate information about sexual abuse. Teaching this unit makes a positive step towards children overcoming their sense of helplessness as well as stopping their criminal victimization.

REPORTING Identifying physical and behavioral symptoms of sexual abuse, as covered in this chapter, is of primary concern to the educator. Because you see children daily, you are able to compare ("Is this normal for this age?") and see changes ("Her grades sure dropped suddenly."). You may be the only person to recognize that the child is in an abusive situation. Your alertness and involvement could affect a child for life both physically and mentally. When you are done reading this guide, you will know how and when to intervene.

The problems related to sexual abuse do not end with reporting. This is particularly disorienting for the child who tends to view the report as the end of the problem. Adults, whom the child perceives as having unquestionable power, are expected to take immediate and effective action. If this does not happen, the child's trust in adults is seriously diminished. Once an incident is reported, the child's protection and expectations must be considered.

In the State of Alaska, the Division of Family and Youth Services (DFYS) within the State Department of Health and Social Services is the agency where suspected child abuse is reported and investigated. DFYS works in conjunction with local law enforcement for removal and temporary placement of the child (if needed) and interrogation and arrest of the offender. They may also work with counseling agencies to assist families where abuse has occurred.

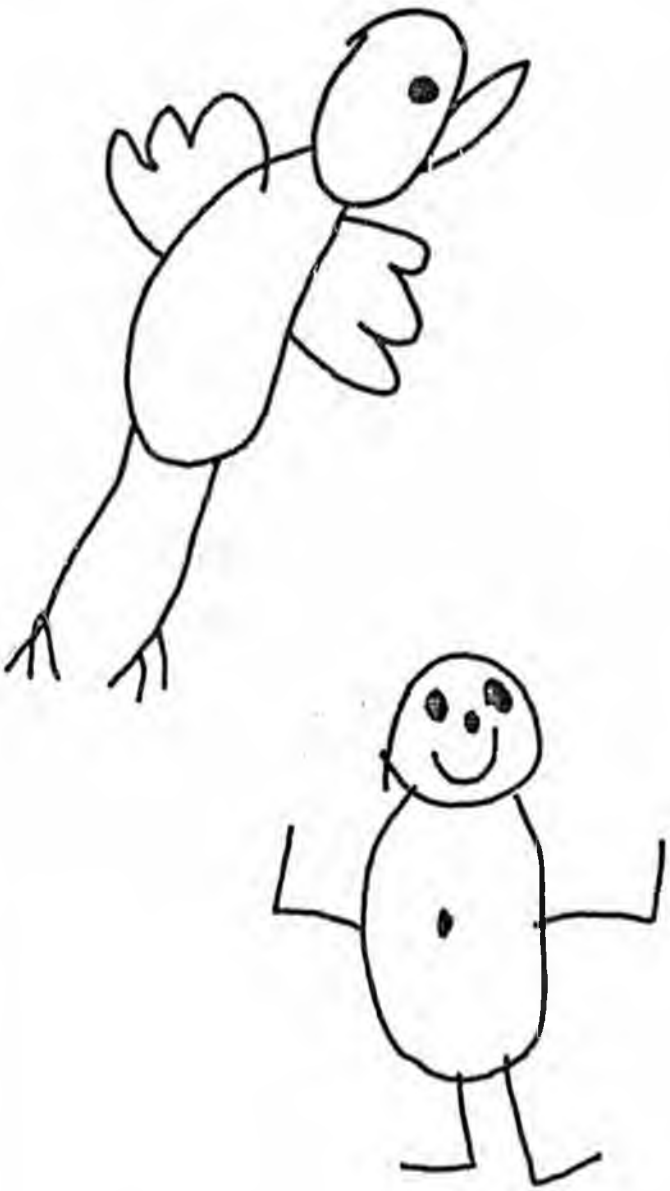


The policy regarding investigation, prosecution, and treatment of child sexual abuse cases varies from one part of the state to another, so it is a good idea for educators to become familiar with the people and processes in their own communities. It is also important to have a school protocol or established set of procedures to follow if a child is abused.

Remember, it is not your responsibility to prove or investigate sexual abuse, only to report your suspicions (See Mandatory Reporting Law, Chapter 4).

Teaching Tips

1 Determine your own personal comfort level with the topic and the materials. Sexual abuse is a sensitive issue and for some people may be difficult to discuss. In some cases, another teacher or resource speaker should be brought in.



2 Be prepared for the students' discomfort with the topic. Humor is a tension release but trivializes the subject. If students make "rape jokes," ignore them. If they persist, ask them why they feel embarrassed or uncomfortable. Generally, this is because people are just not used to discussing the topic openly. If you also joke about sexual abuse or let it persist, it may communicate to the class an uncaring feeling on your part. Statistically, in a class of 25 students, there may be 4-5 who have been sexually abused.

3 Hold class in an appropriate location. Although your regular classroom may be a good setting, some schools have special rooms which are private and more comfortable. Informal seating arrangements, such as moving chairs in a circle or having kids sit on the floor, may help facilitate discussion.

4 Limit the size of the class. If it is necessary to combine two or more classes, they should be approximately the same age level. Fifty students is a maximum with 10-25 being ideal.

5 Mixed classes of boys and girls is preferred. If classes are separated, the topic becomes different from other safety issues. Sexual abuse is not just a girls' problem.

6 Clearly introduce the topic to the class. By stating that this is a safety issue, children will see it as such. By being open and honest, the students will be less confused. For example: "Today we are going to be talking about an important topic—your safety. You all know how to cross the street safely, or what to do in case of fire, right? The type of safety we're going to talk about is what to do if someone touches you too much. We'll talk about both good kinds of touching and bad kinds of touching and how you can tell the difference."

For older students: "Today we're going to start a week long safety unit. It will specifically focus on the problem of sexual abuse or forced sexual intercourse. Just like any safety issue, you'll learn how to recognize potentially dangerous situations and how to respond."

7 Determine the students' awareness level. Do not assume students understand all the terms used. If there is any doubt, ask the students to define the word. This gives you a sense of the class' level of knowledge. It may also be an opportunity to explain what is a myth and what is valid information.

8 All questions deserve an answer. State your response as clearly and simply as possible.

9 Put information in perspective. Balance all negative examples with positive examples. "Not all adults you meet are bad," "Some touching can be good, caring, nurturing, and some touching can be bad, negative, scarey, exploitive."

10 Keep students on the topic. Children, especially K-6 grades, love to tell stories. They often confuse sexual abuse with robbery, kidnapping, theft, murder and other ideas from television and movies. Sharing short stories or examples may be useful if they can be tied into a lesson.

Why Do Victims Take So Long to Tell?

Most incidents of child sexual abuse have gone on for some time. So why does it take so long for a child to come forward and tell someone about what has occurred? In many cases, children think that they have told, either directly or indirectly. The child may have done or said something to indicate that something is wrong. Yet due to the anxiety, denial or cultural bias on the part of the observer, the "telling" is unnoticed.

Generally children will not directly tell anyone what happened to them for one or more reasons:

1. Children are afraid no one will believe them. (Children generally do not lie about abuse.)

2. Children are afraid they will get into trouble with the person they tell. They may have been doing something illegal or "wrong" at the time and feel guilty. For example: "How many times have I told you not to play in the woods alone?" or, "I don't want to hear you use words like that ever again."

3. The burden of responsibility is placed on the child, or the child fears loss of personal security. For example: Threats made by the offender to the victim, "If you tell anyone, I'll come back to [illegible] you." Disruption of the family, "If you tell, I'll go to jail, Mom will go on welfare, and you'll be taken away."

4. Children fear discontinuation of affection by the offender, "This is our secret so if anyone finds out, I won't tell you any stories or hold you on my lap anymore. I won't be your friend."

5. Children may not know 'how' to tell because they do not know the words to describe what happened. They may speak in vague terms. For example: "I don't like Uncle John anymore." "Our neighbor Mr. Thorsen wears funny looking underwear."



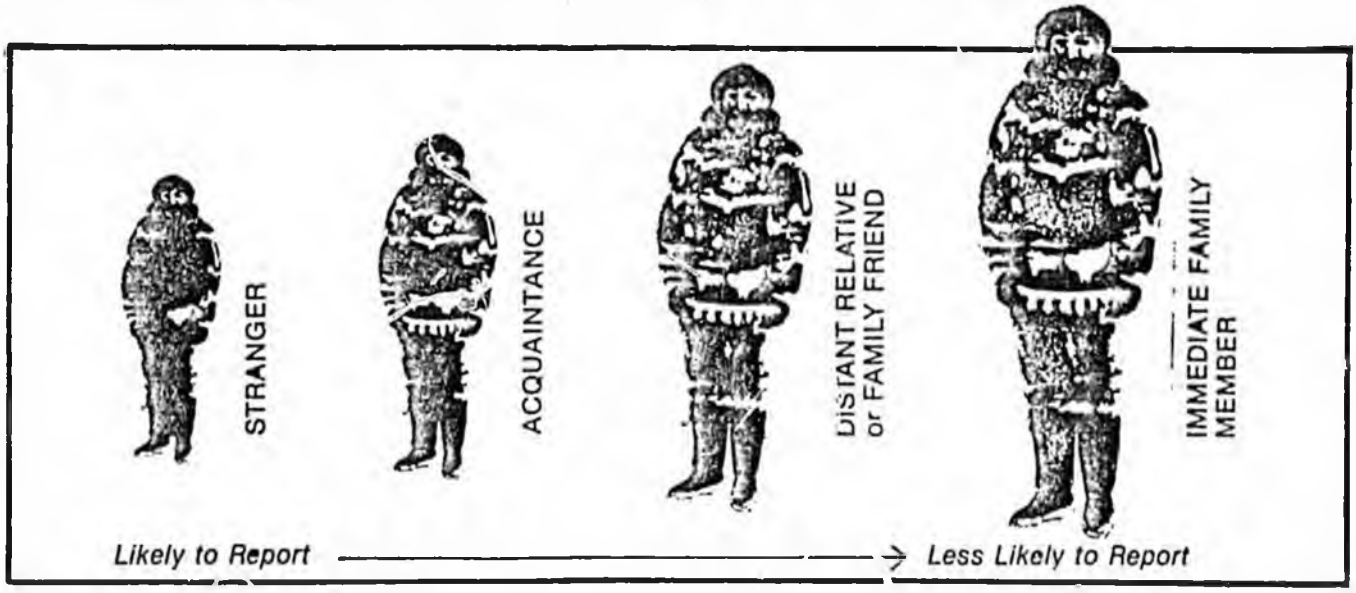
Additionally, a teenager might not tell for these reasons:

6. Teenagers fear peer pressure, reactions of friends, of being singled out, laughed at or losing popularity.

7. Teenagers fear discussing intimate details with authorities (police, teachers) about the sexual act. They are often self-conscious about the development of his/her own body.

8. (Generally male victims) A teenager may fear that his friends will think he is homosexual if he is abused by another male. Also concern that others would laugh that he was not "man enough" to take care of himself. If a female abuses a boy, people might minimize its seriousness, in fact, implying that it is desirable. There is an additional fear of lack of sensitivity.

VICTIM AND OFFENDER RELATIONSHIPS: HOW IT AFFECTS REPORTING



Why do children finally tell? There are 5 main reasons:

1. The child receives some sex education or sexual abuse prevention information and realizes that what has gone on is not normal, is wrong, and should be reported.

2. If the offender has told the child to keep the sexual abuse a secret, sometimes the child may brag or want to share the secret with a best friend.

3. The victim's younger brother or sister is now at the age when the victim first was sexually abused, and he or she does not want them to be abused as well.

4. The molestation escalates in frequency or type of behavior and alarms the child.

5. The child reaches adolescence and fears pregnancy, resents the offender's efforts to control her/his life, dating, etc.

Identifying Symptoms of Sexual Abuse

Often children will not verbalize what is wrong, but will convey the message by a change in behavior. The following indicators are helpful in identifying, but may not be isolated to, sexual abuse. Any of these signs could indicate the child is troubled in some way, so be alert, respond and seek the appropriate assistance.

PHYSICAL INDICATORS

- Genital or anal injury (swollen, bleeding, tearing)
- Venereal disease
- Genital pain and itching
- Change in neatness or appearance (torn, stained clothing)



- Gaining weight (wearing large, loose fitting clothes so as not to draw attention to their body)
- Compulsive masturbation
- Loss of appetite or sudden increase in appetite
- Altered sleep patterns (bedwetting, restlessness, nightmares, fear of sleeping alone, needing a nightlight, sleepy in class)
- Newly acquired bodily complaints, especially stomach aches

BEHAVIOR AND ATTITUDE INDICATORS

In the Classroom

- Extreme shifts in emotions/mood swings
- Fears and phobias (especially aimed at one person or location)
- Suddenly turning against one parent
- Hyperactive and restless
- Acting adultlike (i.e., appearance of overwhelming responsibilities, especially in incest cases)



- Acting childlike (clinging to an adult, sucking thumb, etc.)
- Frequent absences from school, especially if physical abuse is connected
- Overly compulsive behavior
- Learning problems (drop in grades, daydreaming)
- Irritable, short-tempered
- May ask questions or know terminology inappropriate for child's age
- Expresses affection to adults in inappropriate ways (French kissing, fondling genitals)
- Aversion towards going home at the end of the day. May arrive at school early and leave late.
- Will not undress for P.E.
- Is frustrated and confused with feelings of anger, fear, dependence and hatred
- Hostile and aggressive towards adults or overly trying to please adults
- Afraid to be alone with adult, especially a male
- Isolation (avoids eye contact, sinks down in chair, withdrawn)
- Shies away from being touched

With Other Classmates

- Low self-esteem and self-image
- Excessive curiosity about sexual matters (with people and animals)
- Precocious sexual play
- Few friends
- Not allowed to stay overnight at a friend's house

Additionally for Teenagers

- Running away from home for no specific reason

or desire to return (approximately 50% of runaways have been sexually abused)

- Delinquent behavior, especially prostitution
- May have boyfriends at school, but not allowed to date
- Rebellious acts
- Excessive sexual behavior
- Drug and alcohol abuse
- Feelings of anxiety, denial, guilt often times verbalized

Parents of children who have been sexually abused at home may also exhibit specific behavior to indicate something is wrong. In parent-teacher conferences, note any uneasiness when discussing their child. For instance, when you say, "Susie doesn't like to undress for PE", or "This past month Susie has been awfully quiet", the mother may make statements that indicate she views her daughter as a rival. The father may be overly protective and view himself as a young boyfriend. Overall, there seems to be a blurring of generational boundaries.

Procedures to Follow If a Child Has Been Abused

As soon as you begin to suspect a child may have been sexually abused, or the indicators listed previously are present, respond immediately! It is possible that when you talk to the student, this will be the first time he or she has ever mentioned the incident to anyone. In any case, your response is critical in determining the origin of the problem as well as for the child's physical and mental well-being. When the child discloses the abuse, the listening adult's reaction may either make the child open up and talk or cause a silent response. Therefore, think about your discussion strategy and practice asking questions in a sensitive way. You are not expected to be a police officer, but rather to gather some basic information.

The following guidelines will assist you in handling a suspected child sexual abuse case. Also check to see if your school has a written policy or protocol.

1. Talk to the child immediately. Occasionally a child may disclose during a class presentation that he or she is being abused. If this does occur, acknowledge what the child has said and that you appreciate him/her sharing that information: "I'm glad you told me, Bill. We'll talk about it privately after class." Use a private room where other children cannot see. Believe the child. Be calm, caring, sympathetic and matter-of-fact. A child can sense discomfort or disbelief. Listen and be supportive. Continually reinforce the child that he or she has not done anything wrong. Show understanding that this may be difficult for the child to talk about, but they are doing the right thing. Do not use leading questions, ("Did someone put his hands down your pants?"), but leave them open ended ("I noticed you've been quiet in class lately. Let's talk about it; what seems to be the matter?"). Go slowly, keeping the child's emotional and physical well being in mind. Ask age-appropriate questions using the child's terminology. Let the child know that you will help protect him/her from future abuse. If the child does not open up and discuss the matter, but you still suspect something is wrong, proceed to step two. Document the conversation with the child and the reasons you are suspicious.

2. Talk to the Principal or appropriate school official. This should be done immediately

to inform him or her in writing or in person of the situation and the fact that the police/Division of Family and Youth Services needs to be called. This step should be documented (times, dates) and a copy made of the memo written to the principal regarding this matter. If writing a memo is not appropriate, you might want to take along a fellow teacher as a witness to the session with the principal.



3. Call the police or DFYS immediately. The child's welfare and safety is everyone's primary concern. That is why by law you must report even suspected child abuse. Professionals, including teachers, can be prosecuted if it is shown that they knew about a situation but did not report it. Likewise, a teacher who reports in good faith is protected from prosecution. Assist the authorities any way you can, including testifying if the case goes to trial. Allow the child time off from school to go to the needed follow up medical exams, interviews and court appearances.

4. Respect the child's privacy. Although it is best not to discuss the child's situation with other people (i.e., in the teacher's lounge, with other students or their parents, etc.), it may be an opportune time to discuss sexual abuse prevention with other students. This is especially true if the offender is not in jail and may be an imminent threat to the safety of the other children.

5. Afterwards in the classroom. Let the student know you are open and available to talk about the situation if he or she so desires. The victim needs to know it is OK to vent feelings and that you are a friend. Do not dwell on the subject of the abuse nor pretend it never happened. Just be approachable. Expect the same classroom assignments and responsibilities from the victim as with any other student. The victim needs that stability and consistency. Treat the victim normally and not as a "freak." Be sensitive to the child's feelings and needs while maintaining the regular school routine.

3

WHAT IS SEXUAL ABUSE?



Myths and Facts About Sexual Crimes

Everyone is impressionable. We get information and images about sexual abuse from television, newspapers, movies, friends on the playground—but how do we know it is accurate? Chances are, most of what we see and hear is sensationalized, fear oriented, or only referring to a minority of the actual cases. Much of our knowledge about sexual abuse is derived from sources that are one extreme or the other: either sexual abuse is never discussed (a child's imagination can run wild with minimal facts) or it is blown out of any rational proportion. As educators, potential victims, family members of victims, and jurors, we need to evaluate and assess our knowledge and see how it affects our lifestyle, behavior, and decision-making. Our attitudes are directly transmitted onto our students.

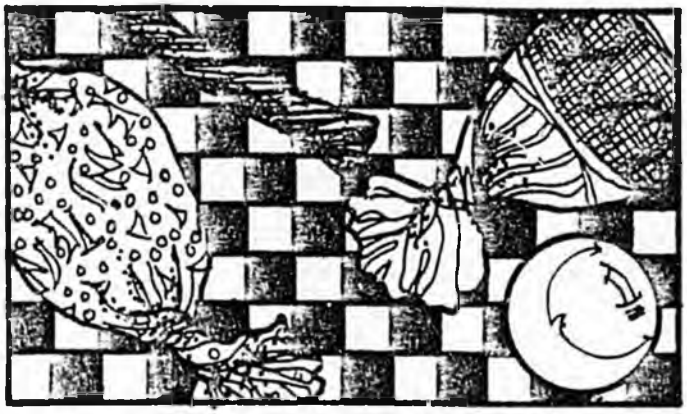
The following is a summary of the most common myths and misconceptions about the sexual abuse of children and young adults.

SEXUAL ABUSE OF CHILDREN

#1 Myth:
Strangers pose the biggest threat to children.

FACT:
Most children are told, "Don't take candy from strangers," and that is the extent of their safety instruction. The fact is, in 80-90% of the cases, children are molested by someone they know or to whom they are related. Although teaching children to avoid gifts from strangers may be sound advice, it is only addressing 10-20% of the problem. Furthermore, children often do not understand the reason

for the warning and may believe that the candy is poisoned.



#2 Myth:
The child victim initiates the sexual abuse either by seducing the offender or exaggerating the facts.

FACT:
The responsibility for sexual encounters always lies with the adult, not the child. In rare cases, a child may be "seductive" to the offender, but he or she has been taught that this is the only way to get attention and affection (basic survival needs) and special favors. The child's behavior is sometimes used as rationale for the offender's actions. For instance, if the case goes to trial, it is not unusual for the offender to try and use the defense, "but, your honor, she came on to ME." No matter what the sequence of events, the adult is the responsible party and must bear the consequences. The legal age of consent for sexual intercourse in the state of Alaska is 16 years old.

#3 Myth:
Most child molestations are violent.

FACT:
An estimated 3-4% of all child sexual abuse cases involve physical violence. Most offenders gain access to children by manipulation, coercion or trickery. The offender may state things such as "This is our little secret," "No one would believe you if you told," "I'm only doing this because I care about you," "You're my special friend," "You'll get in trouble if you tell," or "Your friends will think you're bad and dirty." Rarely is a child beaten or drug into a car as is often portrayed by the media.

#4 Myth:
Non-violent sexual abuse is not emotionally traumatic.

FACT:
Generally, the opposite is true. Statistically, violent sexual abuse is more likely to be committed by a stranger and non-violent sexual abuse by a family member or someone known to the child. There is not the emotional attachment to the stranger like there is with a relative or friend. These children have often trusted and obeyed the adult offender only to be tricked and misused psychologically and physically. Because of this, they may have more difficulty relating to people as they grow up; they might question their own self-worth and judgment as well as be laden with an intense feeling of guilt and hatred. Generally, the closer the association with the offender, the more emotionally traumatic it will be. Likewise, the closer the association, the less likely the young victim is to report.

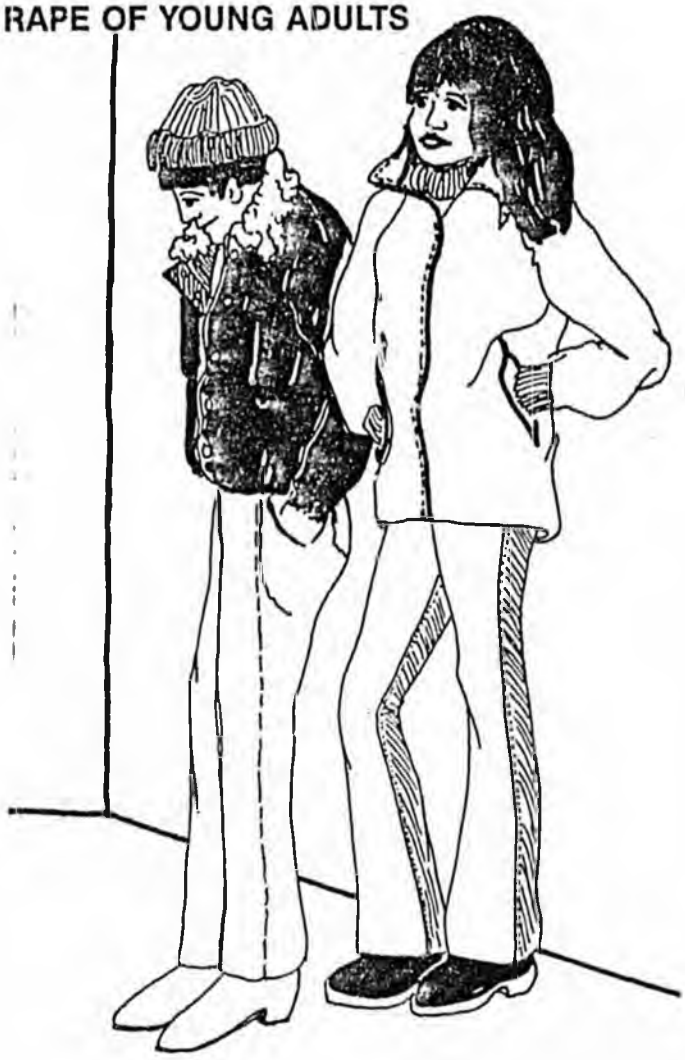
#5 Myth:
Children often fabricate these stories.

FACT:
Rarely do children lie about rape and sexual activities, so each suspicion that abuse has occurred should be treated seriously. Because sexual abuse of children is so horrifying to think about, many adults when confronted with a child's story, will rationalize it away by believing it to be just a child's "vivid imagination."

#6 Myth:
Sexual abuse only happens in low socio-economic families.

FACT:
Children from all walks of life, as well as from all parts of Alaska (rural and urban) are vulnerable to sexual abuse.

RAPE OF YOUNG ADULTS



#7 Myth:
Sometimes young women ask to be raped.

FACT:
No one "asks" to be forced or threatened into the most intimate, personal act of sexual intercourse with someone they do not know or with whom they do not wish this type of relationship. A person always has the right to say "no" and not be raped, no matter what they are wearing or where they are. A study at Atascadero prison in California showed that most rapists were not motivated to commit their crime because of the victim's clothing, but rather by the victim being alone—a crime of opportunity, not passion. The Federal Commission on Crimes of Violence reported that only 4% of reported rapes involved provocative behavior on the part of the woman (provocation being defined as gesture or way of dressing). Granted, anyone is taking a "risk" to hitchhike or walk alone at night, but they are not "asking to be raped" anymore than if they were at home reading. A man with a wallet in his back pocket is not "asking to be mugged," so why is rape looked at so differently? The blame is wrongfully shifted from the rapist to the victim.

#8 Myth:
Rape is an impulsive and spontaneous act of sexual gratification.

FACT:
Many rapists are married, have girlfriends or sexual partners. Sexual deprivation is not generally what motivates a rapist, but rather a need to humiliate, overpower and control. Many offenders have low self esteem and self-respect as well as minimal social and coping skills. To him, the victim may represent all women/men, a particular person (i.e., wife, mother) or just an object for venting his hostility. In the dating situation, some sexual offenses stem from unclear communication between the couple, mixed messages, peer pressure, selfishness and lack of respect for the other person. A rapist could be a date, a stranger, an employer, fellow student, teacher, or relative—it could be anyone who has these characteristics and acts them out.

#9 Myth:
Many rapists kill their victims.

FACT:
Although the threat and fear of death or severe bodily injury is almost always present, rarely does a rapist kill his victim. Nationally, between 4-6% rapes end in murder. Today's movies, music, and television shows often perpetuate this myth with themes that are a mixture of sex and homicidal violence. The fear generated from this information often makes it difficult for victims to think calmly and rationally when confronted by a rapist.

#10 Myth:
Women want to be raped.

FACT:
Rape is, by definition, an act committed against the will of the victim. It is not seduction. There is no tenderness in rape, no concern for the feelings of the victim. The thought that a woman could enjoy being exposed to the threat of injury or death, venereal disease and pregnancy, that she could enjoy the humiliation and fear a rapist imposes is not true.

#11 Myth:
No person can be raped unless he/she wants to be.

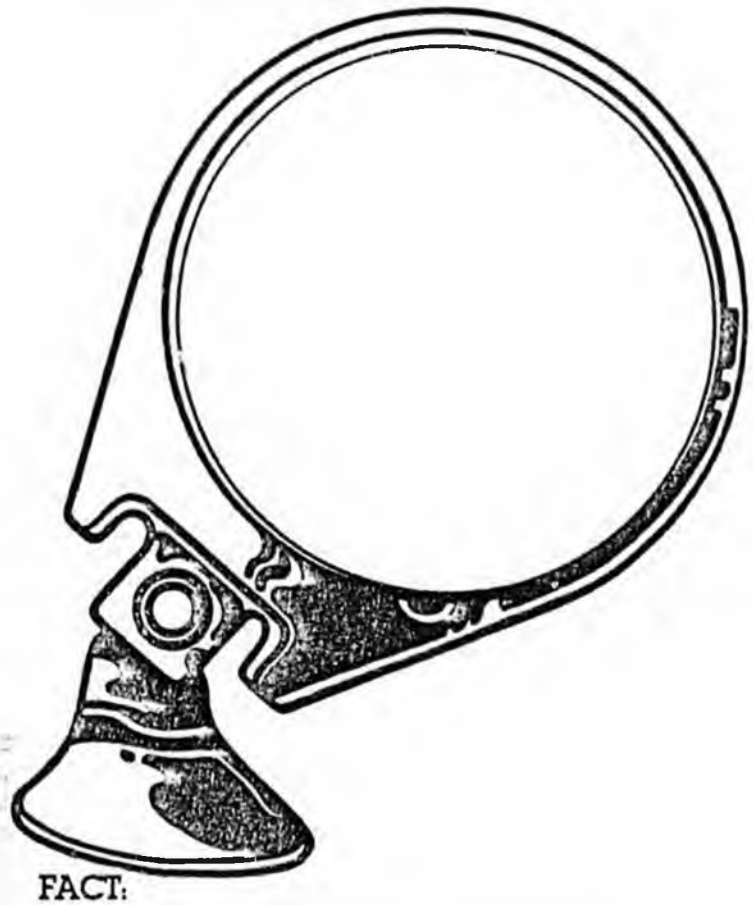
FACT:
Because of a lack of understanding of how and why rape occurs, many believe that a normal, healthy person simply cannot be raped. Often the ardent believers of this myth are women themselves, and their judgmental attitudes continue to victimize every woman who is sexually abused. Cliches such as "a woman can run faster with her skirt up than a man can with his pants down," only reflects the speaker's lack of knowledge and insensitivity to the topic. The victim's fear of being killed or injured is somehow forgotten. The decision to aggressively resist a rapist or submit with the hope of not being injured should lie solely with the victim.

#12 Myth:
Most rapes aren't "real." It's just a revengeful female trying to get back at some poor guy.

FACT:
It would be unrealistic to say that people have never falsely reported a rape to the police. However, only about 2% of the total cases reported are considered unfounded. This percentage is consistent with the number of false reports in other major crime categories. Although new laws protect the victim from embarrassing and unnecessary questions in court, it is still a difficult crime to report and discuss. Rarely does a victim lie about such a serious matter. Each incident should be called to the attention of the authorities. A teacher's legal responsibility is to report every suspected incident so that those who are trained in determining the facts can do so. If it is proven to be untrue, the victim could be charged with initiating a false report. This, however, is a rare occurrence.



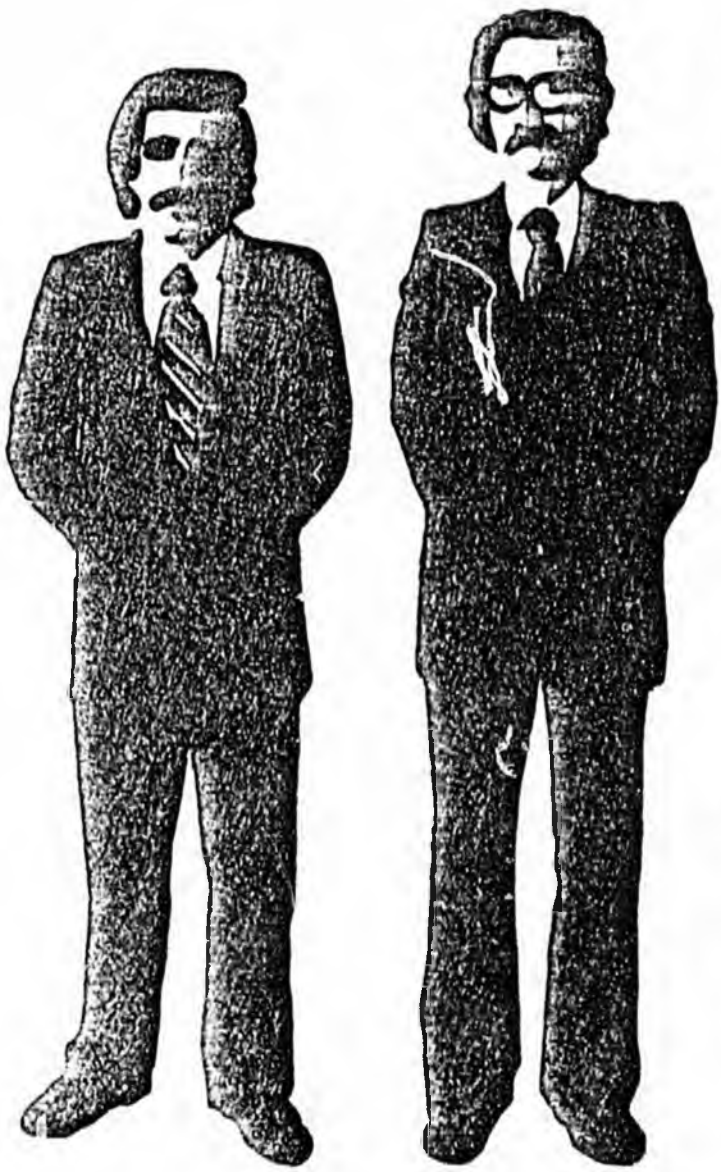
#13 Myth:
All sex offenders are drunk.



FACT:
A high percentage of sex offenses do involve alcohol; however, it is not the cause or the reason for the offense. Too often alcohol and drugs are used as an excuse for not accepting responsibility for one's behavior. Furthermore, not all people under the influence of alcohol choose to sexually abuse others. Simply treating the alcohol or drug problem will not necessarily change the violent and/or sexual problem.

#14 Myth
Rape is a woman's problem.

FACT:
Rape is a societal problem involving both men and women. Although women are more often the victims of sexual crimes, men are victimized too. Statistics show that 1 in every 8 males will be the victim of sexual abuse before they are 16 years old. Furthermore, as a husband, brother, boyfriend or father of a female, men need to understand the fears, anxieties and difficulties she may encounter if victimized. This is essential in order to be supportive and to help her adjust during a difficult and frightening time. The fear of how family and friends might react is one of the biggest concerns a victim faces following an abuse. Both men and women are also potential jury members and may someday have to make a judgment of "guilty" or "not guilty" in a sexual abuse trial. If citizens have never taken the time or had the opportunity to learn anything about rape, their knowledge will no doubt be based on myths and handed-down prejudices. Interviews with convicted rapists have shown that many felt their behavior was condoned by other men. This was reinforced by "rape jokes," and a cavalier attitude on the part of some to the seriousness of the crime. It was evident that women were doing the complaining, setting up the hotlines, crisis centers and lectures, and to the rapists, that did not mean much. The rapists still felt they had the support and power on their side. Rape and sexual abuse is truly a problem for everyone on many levels. Education must be conducted with both boys and girls at a young age in order to impact and stop this cycle of abuse. We are all potential victims, offenders and jury members. Unless women and men band together to make a statement that both sexes are against rape, people will continue to contribute unknowingly to the perpetuation of sexual abuse.





Who Are the Victims?

Most of us want to believe that sexual abuse will never happen to us, a family member or to anyone in our classroom. We want to believe that it only occurs to people in a different socio-economic bracket, another part of the state or those who obviously did something "wrong" to let it happen in the first place. We try to justify the act in our minds by looking for characteristics that separate us from the victim, offender or setting. *"I would never have let my kids stay home by themselves!"* But haven't babysitters also committed sexual abuse? *"The mother's boyfriend abused her daughter? Those type of problems happen to unstable, low-income families."* But haven't even natural fathers raped their daughters at every level of the income strata? Sexual abuse can happen to anyone.





The statistics are shocking and they only begin to convey the magnitude of the problem. As educators, it is important to first acknowledge that the problem exists. **Statistically you probably have a victim in your classroom right now. If not, several of your students may be victims before they are 18. You have the opportunity to provide information to your students that you know will be valuable.** But first let's examine the statistics:

NATIONAL

- 1 out of 4 females and 1 out of 8 males will be victims of sexual abuse by age 18
  (National Center for Child Abuse and Neglect)
- 1 in every 6 elementary students has been sexually molested by grade 6
  (Minneapolis, Minnesota Study)
- 90% female victims, 10% male victims
  (Seattle study)
- Average victim age is 8 years old at the time of first sexual abuse
  (Santa Clara, California study)
- 81% of victims were 12 years or younger, 19% over 12 years
  (Seattle study)
- Estimated 50-75% of all sexual abuse cases are reported to police
  (FBI)
- 200% increases in sexual molestations of children nationally since 1976
  (National Humane Society)
- 80-90% of all child victims are sexually abused by someone they know or to whom they are related
  (Seattle study)
- One-third of all forcible rapes happen to females under the age of 15 years
  ("Sexual Abuse on Women and Girls," *Psychology Today*, March 1980)
- 75% of all juvenile prostitutes had their first sexual experience at home with a relative
  (Minneapolis study, 1970's)
- In 1 in 20 homes incest has occurred
  (National Center for Child Abuse and Neglect)
- Average duration of a sexual abuse: 13% one time incident
  20% several incidents over period of 0-6 months

67% several incidents over a period of 1-4 years (Seattle study)

- With adolescents, dating and other social interaction may lead to what is called, "acquaintance rape." In this instance, the victim is pressured or physically coerced by his/her date into sexual intercourse. Because the experience happens in a social context, neither may view it as rape. The victim may be traumatized, yet legally it may or may not be sexual assault. Estimates are that this is one of the most common abuse situations that goes unreported involving young adults.

The impact of the sexual abuse on the child will depend on the following things:

- Age of child
- Sex of the child
- Pre-existing personality
- Nature and duration of abuse
- Family structure, support system
- Reaction of family and outsiders
- Child's relationship with the offender
- Conditions surrounding disclosure (how it came to light)
- Mode of intervention (how interview was handled. Did it relieve anxiety and tension or increase anxiety and guilt?)

If there is no professional intervention, victims may have some permanent behavior changes. They may exhibit some or all of the following traits:

- Lack of trust and respect for people
- Feelings of low self-worth and self-esteem
- Feelings of isolation in peer relationships
- Lack of concentration
- Inability to feel comfortable in intimate relationships
- Sexual dysfunction
- Internalized feelings (of anger, depression, which could lead to suicide)
- Child feels powerless and helpless

Who are the Offenders?

Ever since we have read comic books or watched cartoons on Saturday morning, we have had an image of the child molester. A bad person is easy to spot. He (we believe it is always a man) wears certain clothes to give himself away: trench coat or black cape, a dark hat that shades his eyes, dirty and disheveled. He is over 60 years old (the "dirty old man") and has a shaggy beard or mustache. We still see this image on TV, and it is vivid in every child's mind.





One of the biggest hurdles to overcome in educating children is the fact that a child abuser or rapist has no "look." He or she can be a family friend, a stranger, a club leader, a relative, a child care provider, a date or a casual acquaintance. Even community leaders and people with strong moral and religious beliefs can be offenders. Although the majority of sexual offenders are around 18-30 years old, a growing number of teenagers are also committing sex crimes. Consequently, we must learn to recognize behavioral traits and verbal clues that alert us to the fact that this person could be sexually abusive to children.

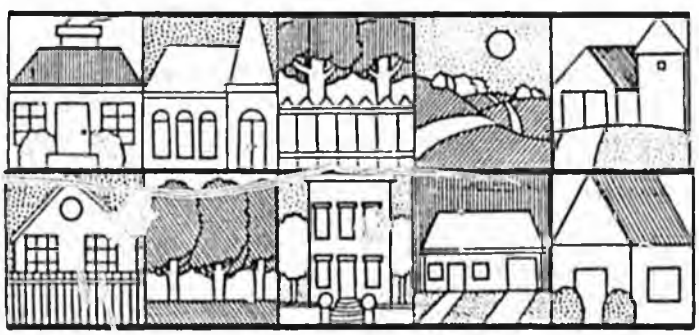
Statistically, sex offenders will continue to repeat their behavior unless they are stopped. Most will not stop voluntarily but need legal pressure. Criminal justice system involvement makes it clear that their behavior is not socially acceptable and that they will have to pay the consequences. When confronted about their actions, most offenders will deny or rationalize it. After further questioning, they may state the following:

- *"It didn't hurt the child"*
- *"It was the child's fault"*
- *"She was teasing me/she seduced me"*
- *"It's my family, I can do what I want" (incest)*
- *"He/she made up the story to get attention"*
- *"I would have stopped if she/he would have asked me to"*
- *"It's no big deal; no reason to get upset"*
- *"I was drunk/on drugs. It won't happen again"*

Why does someone want to sexually abuse a child? Unfortunately, there are no easy answers. Perhaps offenders pick children because they are naïve, vulnerable and the crime is more likely to be kept a secret. Some are immature sexually and cannot form effective social/sexual relationships with adults. The following statistics give an overview of common characteristics shared by many child sexual offenders.

- 97-98% are male offenders, 2-3% female offenders.
- Nationally ⅓ of all sexual crimes involve the offender using alcohol. In Alaska, it is over half. Young children around heavy alcohol users are at risk.
- 80% of all sexual offenders were sexually abused as children.
  (Columbia University)
- Men who batter their wives will frequently sexually abuse their children as well.
- Many have a rigid and authoritarian background (i.e., military, religious or punitive family)
- Sex offenders will generally sexually abuse someone of their own race.

The offender who abuses within the family has some unique characteristics. Incest is one of the least discussed forms of sexual abuse of children.



Incest is defined as being sexual intercourse between parents and children, between siblings, between a child and her/his grandparents, uncles, aunts, nephews or nieces. There are many reasons why incest is a crime. First, incest generally occurs between an adult and a child—an unequal power relationship. Children are told to obey adults. They are perceived as having no rights because the adult is the authority. The children are exploited because they are unaware of their options and the consequences of the act. Second, the incest victim can be physically harmed because of the difference in the adult and child's genital size. Third, incest is not a normal, nurturing, healthy love between family members. Children grow up with a distorted view of relationships. Lastly, there is an increased probability of physical deformities in the offspring of a related mother and father.

Sometimes the "force" used by a sex offender is not obvious. It may take the form of subtle coercion, bribes and psychological manipulation. The following are some typical statements made to children so they will cooperate and be silent.

Threats/Coercion

- *"I'll go to jail if you tell anyone"*
- *"I won't like you anymore"*
- *"You'll split up the family if you tell" (i.e., mom on welfare, child to foster home, divorce)*
- *"You'll get in trouble if you don't do what I tell you"*
- *"No one will believe you if you tell"*

Bribes

- *"I'll give you some money"*
- *"I'll let you stay up late and watch TV"*
- *"Come see my puppies/kittles"*

Psychological Manipulation

- *"What's wrong? Don't you like me?" (or "trust me?" "Are you prejudiced?")*
- *"I'm doing this because I love you"*
- *"I don't want you to have to learn about sex on the streets"*
- *"People don't like girls like you" (makes her feel dirty, unpopular)*
- *"What we're doing is all right. Everyone does it"*
- *"We're special friends. This is our little secret"*

Many cases of sexual abuse involve a secret between the child and the offender. Victims are often told that the activity is "our little secret," that "special friends have secrets," or "this is only for us to know." Coercion, manipulation and trickery in this fashion contribute greatly to why many children remain silent about the abuse for a long period of time.

Children should be taught the difference between

secrets and surprises; surprises with adults are OK but secrets with adults are not OK. For one thing, surprises are always told or revealed at some point, often in conjunction with a specified event or holiday such as a birthday or Christmas. A surprise may be kept silent for a short time under these conditions. A secret, on the other hand, is information kept silent forever. **Children should never have secrets with adults,** whether it be a relative, acquaintance or stranger. It is not acceptable for a child to withhold information or knowledge about certain activities for an extended period of time. Children should always tell if an adult tries to keep a secret with them.

A teacher or parent should pay particular attention to an adult who refers to a child in sexual terms or is flirtatious toward the child. For instance, referring to a little girl as a "knock out," "a fox," or "a real man charmer" may be a clue that he is involved in more than just verbal comments. If nothing else, it may be confusing for the child to understand and respond.

How do you know what is healthy sexual curiosity between two children who are exploring each other's bodies (i.e., playing doctor)? A teacher or parent should be concerned by this behavior and intervene if any exploitation is occurring, such as:

- force, coercion or a bribe is involved
- one child is much older or physically larger and stronger
- one child is told not to tell or they will get in trouble, beaten up, etc.
- when one child has some sort of responsibility for the other child (i.e., babysitter) and there is a differentiation of power.
- the child initiating the behavior is a loner who has minimal social and verbal skills and tends to communicate in a sexual fashion

Talk to the child or to his/her parents about your observations. Emphasize that taking advantage of someone is wrong whether it is in sexual play or any other behavior. This situation should be discussed openly with the child so that a solution can be reached.





DEFINITIONS

Legal Terminology

Acquittal: A "not guilty" verdict at a trial.

Alcoholic: A person who is physically and psychologically addicted to alcohol.

Caseworker: A person from Division of Family and Youth Services who is assigned to work/investigate a case of child abuse. Also known as social worker.

Crime: Something that is against the law. Some crimes are more serious than others; for example, beating someone up is more serious than taking a pencil.

Crisis center: An organization available to assist people with emergency situations that are disruptive.

Defense attorney: The legal representative of a person accused of a crime.

Exposer: A person who displays his/her genitals in order to excite him or herself or another person. Also called a "flasher," "exhibitionist."

Grand jury: A closed hearing of citizens summoned by law, to inquire into whether there is enough evidence to hold a trial.

Inner voice: A person's common sense, judgement or conscience.

Molestation: The act of sexually annoying or touching someone sexually against their will.

Obscene phone call: A telephone call made to scare or upset the person that answers the phone.

Offender: A person who violates a rule, commits a crime, or causes displeasure or annoyance to another.

Preliminary hearing: The first step in the trial process whereby evidence is evaluated and determination is made as to whether or not a trial should be held.

Private parts of the body: Those parts of the body covered by underwear or a bathing suit. This includes the genitals and buttocks of both males and females and the breasts of females.

Prosecutor: The lawyer representing the State or Federal government (and indirectly, the victim).

Public parts of the body: Locations on a person's body that are not covered by underwear or a swimsuit, parts that are okay for other people to see. This includes the head, arms, legs, etc.

Rape: A general term meaning forced sexual intercourse against a person's will.

Secret: Information kept silent forever.

Sexual abuse: A general term which includes all sexual crimes.

Sexual assault: (see laws).

Surprise: Something that is kept silent for a short period of time under the conditions of being revealed in conjunction with an event (i.e., birthday, Christmas). A surprise is always told at some point.

Trial: A judicial examination of facts relating to a criminal or civil matter.

Victim: The person on the receiving end of a crime; a person selected or injured by the offender.

Witness: A person who testifies in court as to their knowledge of a criminal incident.

Medical Terminology (and Slang)

Anus: The opening in the buttocks from which a bowel movement comes. The posterior opening of the digestive tract. Slang: asshole.

Breast: Glands on the chest of a person, located between the neck and abdomen. Slang: boobs, tits.

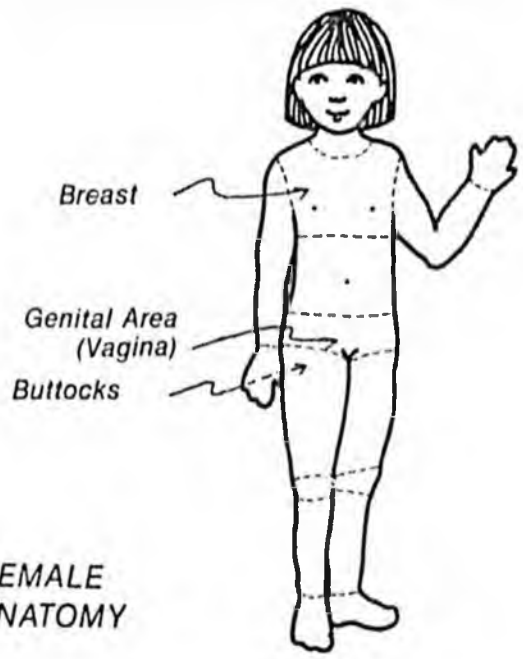
Buttocks: The rear or posterior part of a person's anatomy. Slang: ass, butt, bottom.

Genitals: The reproductive organs (generally external) on a male or female.

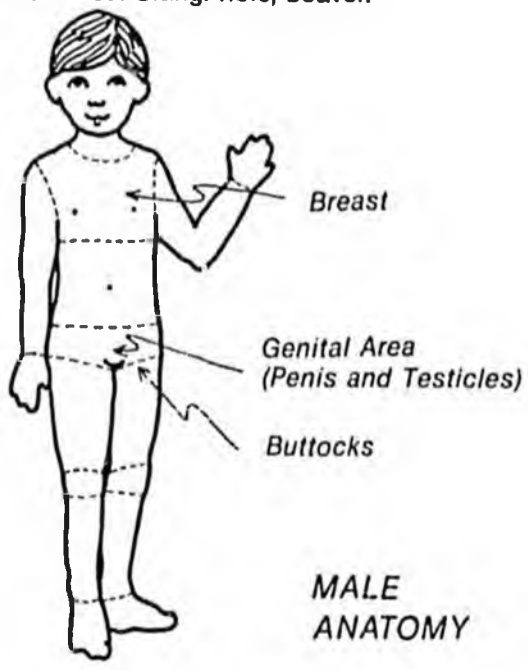
Penis: The male sexual organ used in sexual intercourse and from which a male urinates. Slang: wienie, cock.

Testicles: The two male genital glands, located behind the penis, which secrete sperm. Slang: balls, nuts.

Vagina: An opening leading from the uterus to the vulva in a female's genital area. Slang: hole, beaver.



FEMALE ANATOMY



MALE ANATOMY

Defining OK and Not OK Touching

Different types of touching are rarely discussed, consequently children grow up receiving a combination of positive, negative and double messages about touching experiences. It can be confusing for young children who are spanked yet told not to hit their siblings, warned not to touch their genitals yet taken to the doctor who touches them there, and instructed always to be nice to Uncle Ernie even though they hate it when he secretly touches their bottom and kisses them too much.



A simple way to clarify these issues for children is to give examples of many types of touching. The "Touch Continuum" created by Cordelia Kent in 1978 in Hennepin County, Minneapolis, Minnesota, is a way to explain the concepts. The basic premise is that there are many forms of touching, some good and some bad. It is important to balance your examples with both. If children feel uncomfortable with any kind of touching, they should not be forced to participate. They have a right to say no because their body is their own.

Lack of Touch: Largely derived from the work of James Prescott, Ph.D. Studies indicate that children who did not receive physical affection during their formative years tended to exhibit violent behavior later in life (Body Pleasure and the Origins of Violence, *The Futurist*, April 1975).

OK Touching: Refers to positive expressions of nurturing, caring and giving through physical communication. Most often receivers of this kind of touching feel the act was a mutual sharing experience. They do not feel scared or like their personal space or body was violated. An example might be walking hand in hand home from school with a good friend or getting a big hug from Mom or Dad for a good grade or a spelling paper.

Confusing Touching: Encompasses much of the touching people experience. It is confusing when:

1. The receiver does not understand or misinterprets the intent of the giver.
2. Double messages are perceived between the verbal and physical communication.
3. The receiver is unfamiliar or not used to this type of touching.
4. The touching does not fit or is in conflict with the attitudes, values or morals of the giver and/or the receiver.

This might include a doctor or parent touching the child's genitals when putting on medicine, seeing naked people in a movie, or someone saying nice things while being physically forceful with a child.

1	2	3	4	5	6	7	8	9	10
Lack of Touch		OK Nurturing Touch		Confusing Touch		Not OK Exploitive Touch		Lack of Touch	

NOT OK TOUCHING: Refers to any manipulative, scary, uncomfortable, or forced touching. This includes touching the private parts of the body. One of the most extreme examples of exploitive touch is sexual assault. Another is the use of children for prostitution or pornographic purposes.

Laws in Alaska

The sexual assault laws of Alaska were reformed in October 1983 to make it easier to prosecute offenders. Sexual assaults that might not have been covered in the past are now clearly illegal. Prosecution and conviction are also more likely because details of the victim's past usually cannot be brought up in court.

In general, any forced sexual contact is against the law and sexual contact with a child by an older person is also illegal.

SEXUAL ASSAULT

There are two degrees of sexual assault depending upon the type of conduct prohibited.

SEXUAL ASSAULT IN THE FIRST DEGREE is the most serious and can be committed in one of two ways:

1. By engaging in sexual penetration* without consent** of the victim--commonly referred to as rape;
2. By attempting to engage in sexual penetration without consent of the victim and causing serious physical injury.

SEXUAL ASSAULT IN THE SECOND DEGREE:

1. Sexual contact*** without consent.
2. Sexual penetration by the defendant with a person he knows is mentally incompetent or is incapacitated.

SEXUAL ABUSE OF A MINOR. There are four degrees of sexual abuse of a minor depending on the type of conduct prohibited.

SEXUAL ABUSE OF A MINOR IN THE FIPST DEGREE is the most serious and can be committed in one of two ways:

1. When a person who is 16 years of age or older engages in sexual penetration with someone under 13 years of age.
2. When a person 18 years of age or older engages in sexual penetration with a son or daughter who is under 18 years of age or someone under 18 years of age who is entrusted to the offender's care by authority of law .

SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE:

1. When a person who is 16 or older engages in sexual penetration with a person who is 13, 14, or 15 is at least 3 years younger than the defendant;
2. Sexual contact between a person 16 or older and a person under 13 or induces a person under 13 years of age to engage in sexual contact with another.
3. Sexual contact** between a person 18 or older and a son or daughter under 18 or a person who has been entrusted to the offender's care by authority of law.
4. A person 16 or older aids, induces or causes a person under 16 to engage in prohibited sexual acts in sex exploitation media.

SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE: Sexual contact between a defendant 16 or older and a victim 13, 14, or 15 who is at least 3 years younger than defendant.

SEXUAL ABUSE OF A MINOR IN THE FOURTH DEGREE: Sexual penetration or contact between defendant under 16 and victim under 13 who is at least 3 years younger than defendant.

INCEST. A person commits incest if, being 18 or older, the person engages in sexual penetration with a person who is related.

UNLAWFUL EXPLOITATION OF A MINOR. Exploitation includes using a child under 18 as the subject of pornographic material.

INDECENT EXPOSURE. Can be committed in one of two ways. The first type is the more serious crime:
1. Indecent exposure**** before a victim under 16;
2. Indecent exposure before an adult.

DISORDERLY CONDUCT. One of the many ways to commit the crime of disorderly conduct is in the intentional exposing of one's buttocks or anus with reckless disregard for the offensive effect that act has on others.

The Mandatory Child Abuse Reporting Law

Sec. 47.17.010. **Purpose.** In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical abuse or neglect or sexual abuse or sexual exploitation, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the appropriate public authorities. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of the children of this state, and to preserve family life whenever possible. (§ 1 ch 100 SLA 1971; am § 3 ch 104 SLA 1982).

Sec. 47.17.020. **Persons required to report.** (a) The following persons who, in the performance of their professional duties, have cause to believe that a child has suffered harm as a result of abuse or neglect shall immediately report the harm to the nearest office of the department:

(1) practitioners of the healing arts;

(2) school teachers and school administrative staff members

(3) social workers;

(4) peace officers, and officers of the division of corrections;

(5) administrative officers of institutions;

(6) licensed day care providers and paid staff;

(7) licensed foster care providers.

*"Sexual penetration" means genital intercourse, oral-genital contact, anal intercourse or an intrusion, however slight, of any object into the genital or anal opening of another person.

**"Without consent" means that a person with or without resisting is coerced by the use of force or threat of death, injury or kidnapping.

***"Sexual contact" means the intentional touching of the genitals, anus or female breast either directly or through clothing or the defendants causing the victim to touch the defendant's genitals, anus or female breast.

****"Indecent exposure" means the intentional exposure of defendant's genitals to the victim with reckless disregard for offensive frightening effect on the victim.



(b) This section does not prohibit the named persons from reporting cases which have come to their attention in their nonprofessional capacities nor does it prohibit any other person from reporting a child's harm which he has cause to believe is a result of abuse or neglect. These reports shall be made to the nearest office of the department.

(c) If the person making the report of harm under this section cannot reasonably contact the nearest office of the department, and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department. (§ 1 ch 100 SLA 1971; am §§ 4, 5 ch 104 SLA 1982).

Sec. 47.17.068. **Penalty for failure to report.** A person required to file a report of abuse or neglect under AS 47.17.020 who willfully or knowingly fails or refuses to report the harm required under AS 47.17.020 is guilty of a class B misdemeanor. (§ ch 104 SLA 1982).

Sec. 47.17.070. **Definitions.** As AS 47.17.010-47.17.070.

(1) "child abuse or neglect" means the physical injury or neglect, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

(2) "child" means a person under 18 years of age;

(3) "department" means the Department of Health and Social Services;

(4) "institution" means a private or public hospital or other facility providing medical diagnosis, treatment, or care;

(5) "neglect" means the failure to provide necessary food, care, clothing, shelter, or medical attention for a child;

(6) "practitioners of the healing arts" includes chiropractors, dentists, health aides, nurses, optometrists, osteopaths, physical therapists, physicians, psychiatrists, psychologists, religious healing practitioners, and surgeons;

(7) "sexual exploitation" means

(A) permission or encouragement to a child for prostitution prohibited by AS 11.66.100-11.66.150 by a person responsible for the child's welfare;

(B) permission, encouragement, or activity involved in the unlawful exploitation of a minor prohibited by AS 11.41.455 by a person responsible for the minor's welfare. (§ 1 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 3 ch 222 SLA 1976; am §§ 56, 57 ch 94 SLA 1980; am §§ 8, 9 ch 104 SLA 1982)

5

LESSON PLANS FOR K-6 GRADES

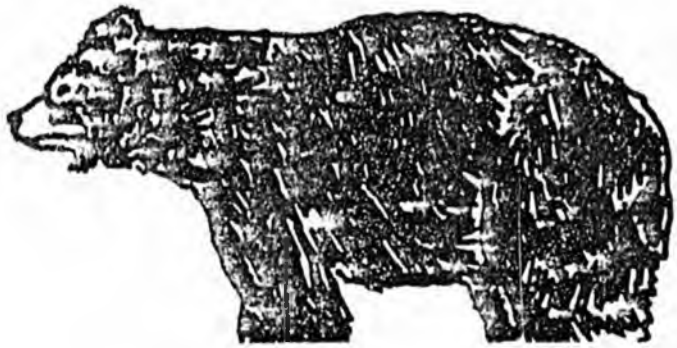
Exactly how you teach your students depends upon the children's ages, language level, maturity, community resources, the school structure and support of parents. *However, the goal is the same in each case: to provide children with enough information to recognize dangerous situations and to develop their response skills if confronted with sexual abuse.* No matter what their age, children are vulnerable and should receive as complete information as they can comprehend.



Many teachers ask, "Isn't kindergarten or first grade too young to begin talking about sexual abuse?" The answer is no. Sexual offenders often do not discriminate by age when selecting their victims and may molest a child as young as a few months old. Sexual abuse is the only safety issue in which society feels the less information a child receives, the better. No one would use that way of thinking with fire safety, water safety, or learning to cross the street!

With very young children, you may not want to use the words "rape" or "sexual abuse," unless a child brings them up. Do not be evasive or misleading, but rather spend your time on simpler concepts that are less confusing. For instance, with poison prevention you may tell a young child "Do not open or go near the cabinet under the kitchen sink." As the child gets older and develops better judgment, you might say "If you are getting something from under the kitchen sink, do not touch bottles marked poison. They are dangerous and would make you sick." As the child gains more knowledge, independence, and is a better decision-maker, you gradually increase the amount of information. Likewise, sexual abuse prevention should be handled in stages.

If young people live or camp near bears, they are taught about the dangers of bears. They learn what bears look like, how they act, the sounds they make, and how to respond if they run into bears. Traditional warnings about sexual abuse were never as specific as these safety tips. In fact, they were so vague that many times children had no idea what was being discussed. You have an opportunity to change that. The more a child knows, the less frightened he or she will be, and the better prepared to prevent abuse.



For young children, defining sexual abuse in terms of touching is a good starting place. Later, add the idea that the touching may be sexual. This transition can be made successfully when you discuss public and private parts of the body, outlined in this chapter. The more specific the information, the less confusing it will be for the child. Reinforce the idea that "my body is my own."

Throughout the week, you may want to read to the class simple examples of inappropriate touching and specific responses. Children need information on what the offender might do so they will know when and how to react. Later in the week, students will have an opportunity to practice saying no and other assertive responses. This will give them some examples to think about prior to that exercise. Examples clarify the touching problem for children while minimizing their fear of how to respond.

The following are some examples you might use:

If someone pats or rubs you on the bottom, you can tell them to stop

If someone puts their hands down your pants, tell them "no" and run away

If someone older than you wants to touch your penis, tell them "no" and leave

If a friend of the family wants you to sit on his lap and you do not like it, tell him "no, thank you"

If someone touches or hugs you a lot and it makes you feel funny or uncomfortable, tell them you do not like to be touched that way

If a relative kisses you too much, wave hello/goodbye or shake their hand

If someone asks you to touch him under his clothing, tell him, "no, I don't do that."

If someone grabs you, scream, "No, let go!" and run away

If a person you know asks you to undress in front of him or her, tell them, "No, it's against our family's rules"

If a person touches you by accident and you do not like it, it is still okay to object

If a friendly person offers you a gift if you will get in his car, you can just turn and go the other way

The list of examples goes on and on. Feel free to add situations that are relevant to your school or to an incident that has happened in your community. Reinforce to children that there are many ways to say no, verbally and non-verbally:

Verbally

- *"No"*
- *"No, thank you"*
- *"It's against my family's rules"*
- *"My mom (father, teacher, etc) told me not to"*
- *"Stop"*
- *"Don't bother me"*
- *"I don't like to be touched that way"*
- *"I don't want to"*
- *"Leave me alone"*
- *"That's not okay to do"*
- *"I'm going to tell my father (or other adult)"*

Non-verbally

- Remove the offender's hand
- Ignore the person and leave
- Run away from the person



TELL CHILDREN: YOUR BODY IS YOUR OWN. YOU HAVE A RIGHT NOT TO BE TOUCHED BY ANYONE UNLESS YOU WANT TO BE.

Outline of K-6 Grade Lesson Plans

Day One

Pre-Test

A. Teacher lecture - Introduction (K-6)
B. Video scene #1:"The Ride" (K-6)
C. Video program discussion questions (K-6)
D. "Color the Car" exercise (K-4)
E. "Identifying People" exercise (K-6)
F. "No and Go" exercise (K-6)
* If time, teacher lecture - "Safety Outdoors," Chapter 7

Preparation check list:
Order video projector ☐
Make copies of games, handouts ☐
Re-read pages ☐

Day Two

A. Teacher lecture "OK and Not OK Touching" (K-6)
B. Video scene #2: "The Tickle" (K-6)
C. Video program discussion questions (K-6)
D. "Anatomically Correct Dolls" exercise (K-6)
E. "This Is Me. I am a Girl," "This is Me. I am a Boy" exercise (K-6)
F. "Answering the Telephone" exercise (K-6)
* If time, teacher lecture, "Safety Indoors," Chapter 7

Preparation checklist:
Order video projector ☐
Make copies of games, handouts ☐
Order dolls ☐
Bring telephone ☐
Re-read pages ☐

Day Three

A. Video scene #3: "Our Little Secret" (K-6)
B. Video program discussion questions (K-6)
C. "Secret or Surprise" maze game and discussion (3-6)
D. "Say No Bingo" exercise (3-6)
E. "Suppose" game with puppets (K-6)

Preparation checklist:
Order video projector ☐
Make copies of games, handouts ☐
Order or make puppets ☐
Re-read pages ☐

Day Four

A. Video scene #4: "The Bribe" (K-6)
B. Video program discussion questions (K-6)
C. "Crossword Puzzle" (4-7)
D. "Being Forced" definition exercise (4-7)
E. Theme song "It's OK to Say No" (K-6)
F. "Connect the Dots" exercise (K-3)

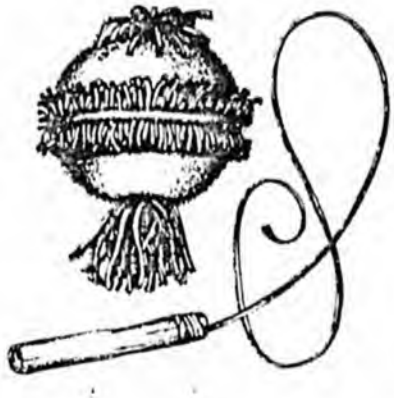
Preparation checklist:
Order video projector ☐
Make copies of games, handouts ☐
Contact music teacher or get piano ☐
Re-read pages ☐

Day Five

A. Teacher lecture/class discussion - Review of week
B. Movie "Who Do You Tell?" (K-6)
C. Speaker or field trip - Police or social service (K-6)
D. "Storytelling" (K-6)

Preparation checklist:
Order video projector ☐
Order 16mm projector ☐
Coordinate speaker/trip ☐
Make copies of post-test ☐

Post-Test



K-6 Lesson Plans

The following is a sample lesson plan for K-6 grades on the prevention of child sexual abuse. It is designed as a five day unit. This is the minimum amount of time suggested in order for students to begin to comprehend and practice the prevention concepts. Therefore, you are encouraged to extend the unit if possible and to repeat portions throughout the school year. Personal safety is not a one-time thing. It is very important to review.

Pre and Post Test



For grades K-3, read the following questions out loud. 4-6 grade students can take the test on their own. Place an "X" in the correct box that corresponds with either true or false.

		TRUE	FALSE
1.	If a stranger (someone you do not know) is at your door wanting to come inside, you should not let him in.	☐	☐
2.	If a grown-up person puts his hand down your pants, you should tell him, "No!" and leave.	☐	☐
3.	You should do everything a babysitter tells you to do like undressing in front of him/her or breaking house rules.	☐	☐
4.	Your body is your own and you have a right not to be touched if you do not want to be.	☐	☐
5.	It is okay to hitchhike or take rides from friendly looking people.	☐	☐
6.	Hang up on obscene and threatening (scary) phone calls	☐	☐
7.	Private parts of the body are covered by your underwear or a swimsuit.	☐	☐
8.	If a relative or family member touches you and you don't like it, you should tell him or her to stop and tell an adult.	☐	☐
9.	If an adult wants to have a secret with you, it is OK.	☐	☐
10.	If you have a problem or question about someone touching you, tell your teacher, mom, dad, relative, principal, nurse, doctor, counselor, minister, police or crisis center worker.	☐	☐
11.	Safety means using your head, your common sense and listening to your "inner voice."	☐	☐
12.	If a friend had a touching problem, you should not help your friend.	☐	☐
13.	If someone you know makes you touch him in a private part of his body, you should say, "No," and tell an adult.	☐	☐
14.	It is not your fault if someone touches you and you do not want them to.	☐	☐
15.	If a person gives you a gift (like candy, money) or lets you do something special (like watch TV), you have to do everthing they tell you to do.	☐	☐
16.	If you get a "funny" or "icky" feeling about someone, it is OK to leave.	☐	☐
17.	Drinking a lot of alcohol makes people act different.	☐	☐
18.	Always check to see who is at your door before opening it.	☐	☐
19.	If you tell an adult about a touching problem and they do not believe you, you should not tell anyone else about the problem.	☐	☐
20.	Know your route to and from school. Know where to run if you need help.	☐	☐

ANSWERS

1. T
2. T
3. F
4. T
5. F
6. T
7. T
8. T
9. F
10. T
11. T
12. T
13. T
14. T
15. F
16. T
17. T
18. T
19. F
20. T

Day One

Goal: To gain a basic understanding of sexual abuse and touching problems with strangers.

Activity: (K-6) Introduction (15 minutes)

Important points for class discussion:

1. Define personal safety
   - Personal safety is important, it includes water safety, fire prevention and what to do if you have a touching problem. This unit will talk about touching problems.
   - Although most people you'll meet are good people who would not bother you, there are always a few who might.
   - Recognize sexual abuse could happen to you or someone you know.
2. Overview of the offender
   - The person bothering you could be a stranger, someone you know or have seen before or someone in your family. It could be a neighbor, babysitter, uncle/aunt, grandfather, teacher or coach.
   - No matter who the offender is, your body is your own and you have a right to say, "Stop," if someone is bothering you or touching you in a way you do not like.
3. What to do

   There are 3 steps to remember.

   1. Say "no."
   2. Run away from that person.
   3. Tell an adult what happened (if they don't believe you, tell another adult, until someone does believe you).

Objective #1: Students will demonstrate their understanding of their right to say no by appropriate responses to discussion questions.

Objective #2: Students will demonstrate how and when to trust their inner voice by sharing appropriate responses to discussion questions.

Objective #3: Students will be able to recognize potentially dangerous situations involving strangers and share appropriate responses to discussion questions.

Activity: (K-6) Scene 1 "The Ride" (5 minutes). Video Discussion Questions (15 mintues).

Scene #1, "The Ride"

1. You have a right to say NO if someone tries to get you to do something you know isn't OK. When did Kyle say no?
2. In this scene, what did Kyle's inner voice tell him?
3. What is another name for the inner voice (i.e., intuition, gut feeling, conscience, common sense, guardian angel, etc.)? When have you used your inner voice ?
4. Who could you tell if something like this happened to you? (List support people on board: teacher, mother, father, nurse, doctor, police officer, counselor, principal, etc.)
5. What would you say? What would you do if the person you told (even your parents) didn't believe you?
6. Why is it important to tell? (i.e., so it won't happen again, offender needs help)
7. Who is to blame? Whose fault is it? (Not the child, even if the child was in a place he/she should not have been.)
8. Can you tell a good stranger from a bad stranger?
9. What should you do if a stranger offers you a ride, money, food, or a gift?
10. If the people had gotten out of the car and tried to grab you, what would you do? (Grades 5-6)
11. What might have happened if Kyle had gotten in the car? (5-6)

Activity: (K-3) Have students stand up, stretch and say, "My Body Belongs to Me."

Objective #4: Students will be able to recognize and describe vehicles by correctly completing the "Color the Car" exercise (Grades K-4) or by describing their own vehicle—3 wheeler, snowmobile, boat, plane, car, truck. (Grades 5-6)

Activity: (K-4) Color the Car (15 minutes)

Objective #5: Students will be able to describe people by naming at least 3 characteristics (K-3) or 6 characteristics (4-6) in the "Identifying People" game.

Activity: (K-6) Identifying People (10 minutes)

Have a person come into the classroom during class to give you an item (i.e., book, papers, apple, etc.) and then leave. After he or she has left, have the students either discuss or write down the following descriptive information about that person: male/female, age, race, height (hint: one way to judge height is to compare that person with yourself or a stationary object), weight, clothes, hair color, eye color, glasses or distinctive facial features, scars, tattoos, direction of travel, statements made by the person. End the exercise with a discussion on the importance of being alert and observant. Repeat this exercise 2-3 times throughout the week so that students can practice and assess their awareness.

Objective #6: Students will demonstrate their understanding of how to get help by listing at least 5 (K-3) or 10 (4-6) people and places in the "No and Go" game.

Activity: (K-6) "No and Go" Exercise (15 minutes or take home)

"No and Go" Game

This game is designed to teach children where they can go for help. Have the students take a piece of paper and draw a line down the middle, creating two columns. Their assignment is to make two lists on the way home from school or while walking somewhere else that day (such as to a friend's house). The first column is for "places." List all the places a child could go for help if he or she needed assistance. For example, store, church, school, restaurant, hospital, police station, block home if applicable in your area, etc.

The second column is for "people." Make a list of all the adults a child could talk to if he or she had a problem or needed help. These people are referred to as the child's support system. This might include teacher, counselor, parent, neighbor, nurse, doctor, minister, fire fighter, aunt, uncle, grandparents, police officer.

After students have completed their lists, practice the verbal skills needed to tell someone about a touching problem. For instance, what would you say to:

1. The offender who was bothering you?
2. An adult?
3. An "unbelieving" adult?
4. A friend who has a touching problem?



If you have extra time today, teach "General Outdoor Safety," Chapter 7.

Day Two

Goal: To gain a basic understanding of touching problems with adults the child knows.

Objective #1: Students will be able to state two types of OK and two types of NOT OK touching.

Activity: Teacher Lecture and Discussion on Types of Touching (see page xx in Chapter 4.)

Objective #2: Students will demonstrate an understanding that their bodies are their own, and they have a right to say no, through appropriate responses during class discussion.

Objective #3: Students will be able to list at least 3 people they could tell about a touching problem and describe how they would tell them during class discussion.

COLOR ME. . .

Just Like Your Car at Home or a Car You Like

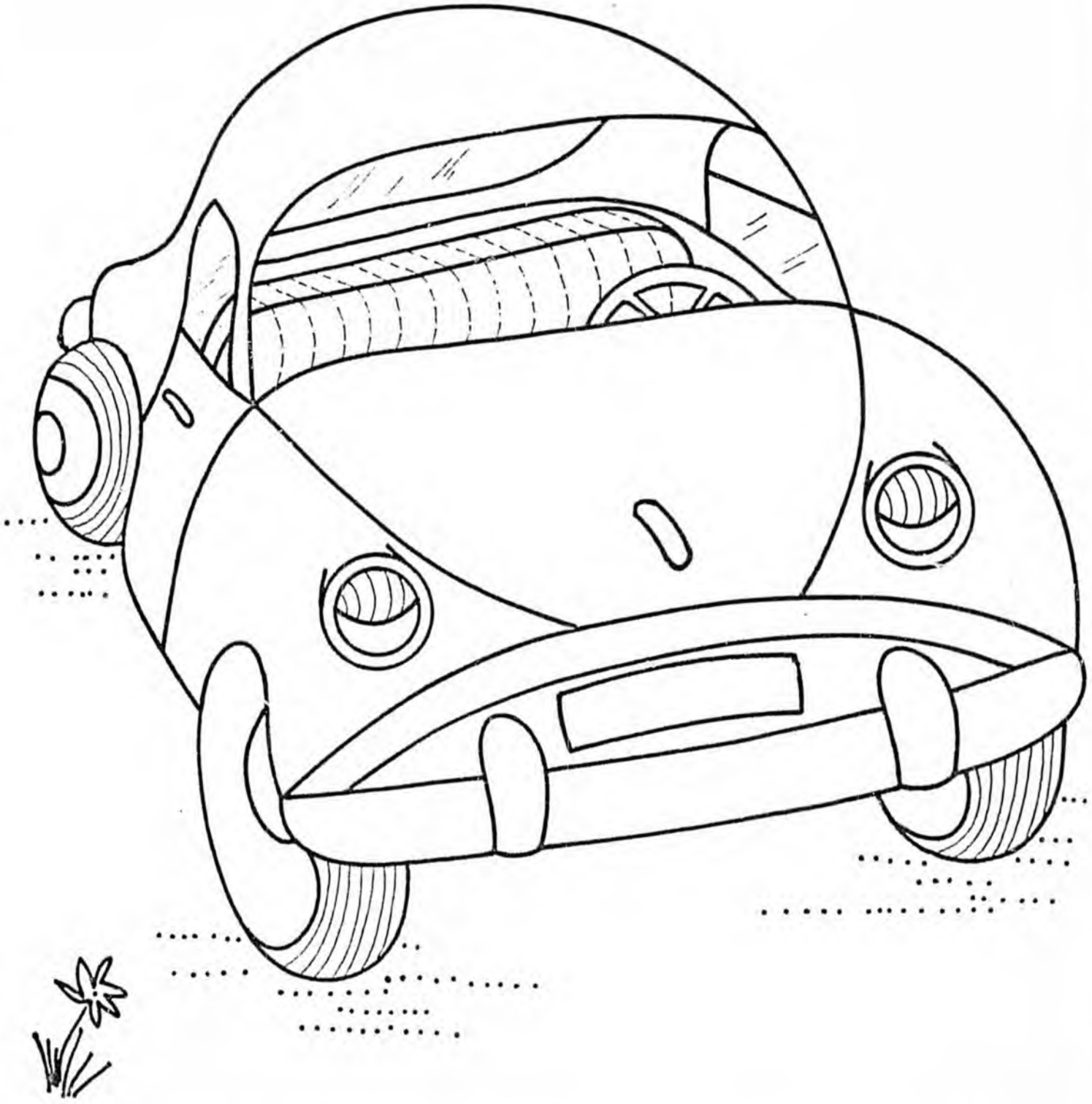
COLOR OF CAR _____

MAKE/TYPE _____

YEAR _____

LICENSE NUMBER _____

COLOR OF LICENSE PLATE _____



Objective #4: Students will be able to state at least 1 way (K-3) or 2 ways (4-6) to help a friend or relative who has a touching problem.

Objective #5: Students will be able to know how and when to listen to their inner voice by sharing appropriate responses during class discussion.

Activity: (K-6) Scene 2 "The Tickle" (5 minutes) Video Discussion Questions (15 minutes)

Scene #2, "The Tickle"

1. Was it OK for George to touch Lita when she didn't want him to? Why or why not?
2. Should Lita tell her parents what happened even though George said, "Do not tell?" Whom else might she tell?
3. If your brother, sister, or friend was being touched like this and they did not like it, what would you do?
4. Should you do everything an adult or older person tells you to do?
5. What do you do if your inner voice tells you one thing and an adult tells you something else?
6. What would you have done if George had gotten real mad or violent? (Grades 4-6)

Objective #6: Students will demonstrate the ability to discriminate between OK, Not OK and confusing touching through sharing appropriate responses in discussion of the dolls.

Objective #7: Students will demonstrate their ability to distinguish between public and private parts of the body by correctly coloring the body parts in the exercise and during discussion of the dolls.

Activity: (K-6) Anatomically Correct Dolls (20 minutes)

This exercise gives children an opportunity to clearly understand what parts of the body are public and what parts are private. This is a helpful concept in determining appropriate and inappropriate touching. The rag dolls are replicas of the human body and may be used with or without swimsuits. By using a neutral object, like the dolls, the teacher can point to the doll's body rather than to the child's or his or her own body. It is less embarrassing and more academic. Children do not have to guess or be confused by new terms and concepts.

When you first bring out the dolls, the children may giggle or laugh. That's OK. It is usually only shortlived. This is an opportunity for them to release their inhibitions about discussing the topic and to "test" you. The teacher's reaction at this point is important. Just smile and continue on in a low-key, matter-of-fact tone. If you do not let it bother you, the children will treat it seriously too.

Start by saying, these are your special dolls. They are special because they help you in talking to people about public and private parts of the body. These dolls have all the correct body parts: parts for boys (hold up the boy doll) and parts for girls (hold up the girl doll).

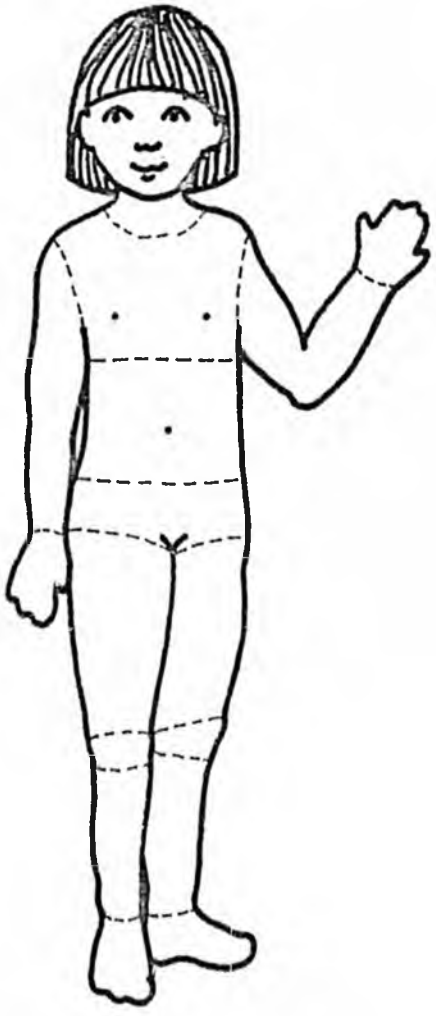
Next define public and private parts. Public means the parts of the body that are OK for the public and other people to see. This includes such parts as the head (point to the doll's head), arm, knee, toe, etc. Private means parts of the body that you keep covered by underwear or a swimsuit. This includes the genital area (point to the genitals on boy and/or girl doll), the buttocks (point to the rear of boy and/or girl doll), and the breast area of girls (point to the girl doll's breasts). Keep the tone of your voice the same whether you are saying the word knee or saying the word buttocks.

Hold up the dolls and ask the students to identify whether a part is public or private. This exercise can be done in a class discussion or you can have the children write their answers on a piece of paper. For example, "Is a leg a public or private part of the body?", "Is the ear a public or private part of the body?", "Is the penis a public or private part of the body?" With each question, hold up the dolls and point to the part to which you are referring. Always use the correct name for the body part rather than a cute or slang word. Learn the correct words yourself before you try and teach them to the children (see Chapter 4).

After the students recognize the difference between the public and private parts, incorporate the idea of assertiveness or saying no. "If someone touched you here, Susie, what would you do (pointing to the girl doll's genital area)?" Susie's response should be something similar to: "That's a private part of my body. I would tell them to stop and then run away. Then I'd tell my mom."

Be sure to balance your examples of Not OK touching (scary, bad, icky, inappropriate, funny) touching with OK

THIS IS ME. I AM A GIRL.



PARTS OF MY BODY

Breast
Foot
Arm
Genital Area (Vagina)
Leg
Head
Buttocks
Hand
Neck
Knee
Stomach

DRAW A LINE TO THE CORRECT BOX.

Private Parts

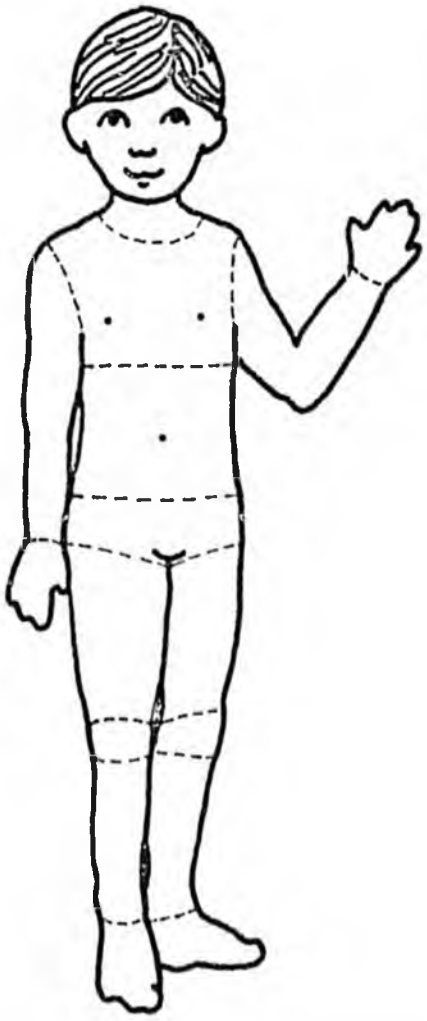
(Color box red.)

Public Parts

(Color box green.)

COLOR THE PRIVATE PARTS OF MY BODY RED
AND THE PUBLIC PARTS OF MY BODY GREEN.

THIS IS ME. I AM A BOY.



PARTS OF MY BODY

Arm
Head
Genital Area (Penis and Testicles)
Foot
Hand
Breast
Neck
Buttocks
Leg
Knee
Stomach

DRAW A LINE TO THE CORRECT BOX.

Private Parts

(Color box red.)

Public Parts

(Color box green.)

COLOR THE PRIVATE PARTS OF MY BODY RED
AND THE PUBLIC PARTS OF MY BODY GREEN.

touching (good, consentual, caring). It would be a sad state of affairs if children grew up afraid to touch. Parents fear that this might happen as well. That is why it is important to give examples of the difference between nurturing touching all the way to confusing and exploitive touching. Good touching could include walking hand-in-hand with your best friend, getting a big hug from mom or dad when you leave for school, or a pat on the back from your teacher.

Next talk about confusing touching where children get double messages and are unsure if it is OK or Not OK to touch. Explain to the children that at some time they might hurt or be sore in a private part of their body. In that case, Mom or Dad or the doctor might put medicine on it to make it feel better or look at it to determine what is wrong. Young children may also need help washing themselves in the bathtub. In any of these potentially confusing touch situations, children always have a right to say "Thank you, but I want to do it myself." If the child is still confused or feeling uncomfortable, the child should tell an adult.

Not OK touching often means the child's intuition (inner voice) is telling him or her that something is not quite right. Examples: (1) Someone rubbing the inside of their leg (not a "private" part, but it still feels funny) or (2) someone putting his or her hand down the child's pants (a private part). Act out these little scenarios using the dolls to clearly show the touching. Continue to remind the child that their body is their own, and they have a right to tell another person to stop touching them. Children will feel they have control over their lives and their own bodies.

Anatomically correct dolls not only give children the picture, they clarify the touching concepts. The dolls can be purchased ready-made or you can buy a pattern and make your own. See the resource list in the back of the teacher guide.

"THIS IS ME. I AM A GIRL." exercise (10 minutes)
"THIS IS ME. I AM A BOY." exercise (10 minutes)

Objective #8: Students will demonstrate their knowledge of telephone safety habits by correctly answering the play telephone 2 out of 3 times.

Using the Telephone-Discussion

1. Only answer the telephone if your mother or father has said it is all right.

2. Do not answer with your name (i.e."Potter residence, Susie speaking"). A simple "hello" is best.

3. Hang up immediately on obscene, dirty, frightening, or scary phone calls. Do not say anything to the person on the phone. Tell an adult immediately. If no adults are nearby, call the police or the telephone company.

4. Do not give out any information over the phone unless you know who the caller is, and your mom or dad has said it is all right. This includes your name, where you live or go to school, what clothes you are wearing, describing your body or physical features or whether you are home alone. If someone asks if your mother or father are at home and they are not, another option is to say, "He/she can't come to the phone right now. Can I take a message?" or, "They're busy." This is not forcing the child to lie by saying, "My Dad's in the shower right now," or "My Mom's asleep." Both statements are too typical and unbelievable.

5. Know how to use the telephone in case of an emergency. Have emergency numbers (police, fire, doctor) written down or nearby the phone permanently. If you can't remember or find the numbers, you can always dial "0" for operator. The operator will help you.

Activity: (K-6) "Answering the Telephone" Exercise (15 minutes)



"Answering the Telephone" Exercise

Borrow a telephone from the phone company, use a play telephone, or unplug an extension phone from home and bring it to school. Children can practice answering the telephone and telephone etiquette. Have a student make a "ring-a-ling-a-ling" sound or get a bicycle bell to simulate the phone ringing. Then have the caller (the teacher) make statements such as the ones listed below. It is also helpful to give examples of appropriate responses. The object is for the child receiving the call to handle it properly without giving out personal information. For example:

CALLER: "HI there. Is your mom home? How about your dad? Are you alone?"
CALLER: "Hello. I'm doing a survey for Acme Polls and need to know a few things about you and your family. Are you the babysitter? Where do you live?"
CALLER: "Good afternoon. My, you sound awfully young. How old are you? What's your name?"

CALLER: "Hello. Is this Tony? Oh, it's not? I must be getting you mixed up with the Moore family. Well, who is this then?"
CALLER: "Hi. This is Jerry Smith. I'm a friend of your dad's. He asked me to check up on you. You know, to see how you are doing. What are you wearing? Tell me about yourself. What do you look like?"

A variation to this exercise, "Answering the Door," or "Using the CB or Shortwave Radio,"can be structured in the same fashion with a make-believe door perpendicular to the class or an old radio/box.

If time, teacher lecture on General Safety Indoors, Chapter 7.

Day Three

Goal: To gain a basic understanding of touching problems with adults the child knows very well.

Objective #1: Students will state during class discussion that it is the offender's, not the victim's, fault if sexual abuse occurs.

Objective #2: Students will demonstrate that it is important to trust one's own feelings ("inner voice") by appropriate responses during class discussion.

Objective #3: Students will demonstrate during class discussion that it is not OK to have secrets with adults.

Objective #4: Students will demonstrate during class discussion that they have a right to say no if an adult tells them to do something they think is wrong.

Objective #5: Students will be able to recognize potentially dangerous situations involving someone they know.

Activity: (K-6) Scene 3, "Our Little Secret" (5 minutes)
Video Discussion Questions (15 minutes)

Scene #3, "Our Little Secret"

1. What did the man do that Jennifer didn't like?
2. (4-6) Whose fault is it that this situation happened? Jennifer's? The man's? Why? (K-3) What did the man do that was wrong?
3. Jennifer's inner voice told her something was wrong. Do you have a right to say "no," even if the person bothering you is an adult friend or relative?
4. Jennifer told her Mom and her Mom didn't believe her, so she told another adult. Who else would you tell?

Objective #6: Students will have the ability to discriminate between secrets and surprises by completing the maze exercise.

Activity: (3-6) "Secret or Surprise" Maze Game (20 minutes)

What is a Secret? (Discussion 10 minutes, game 10 minutes)

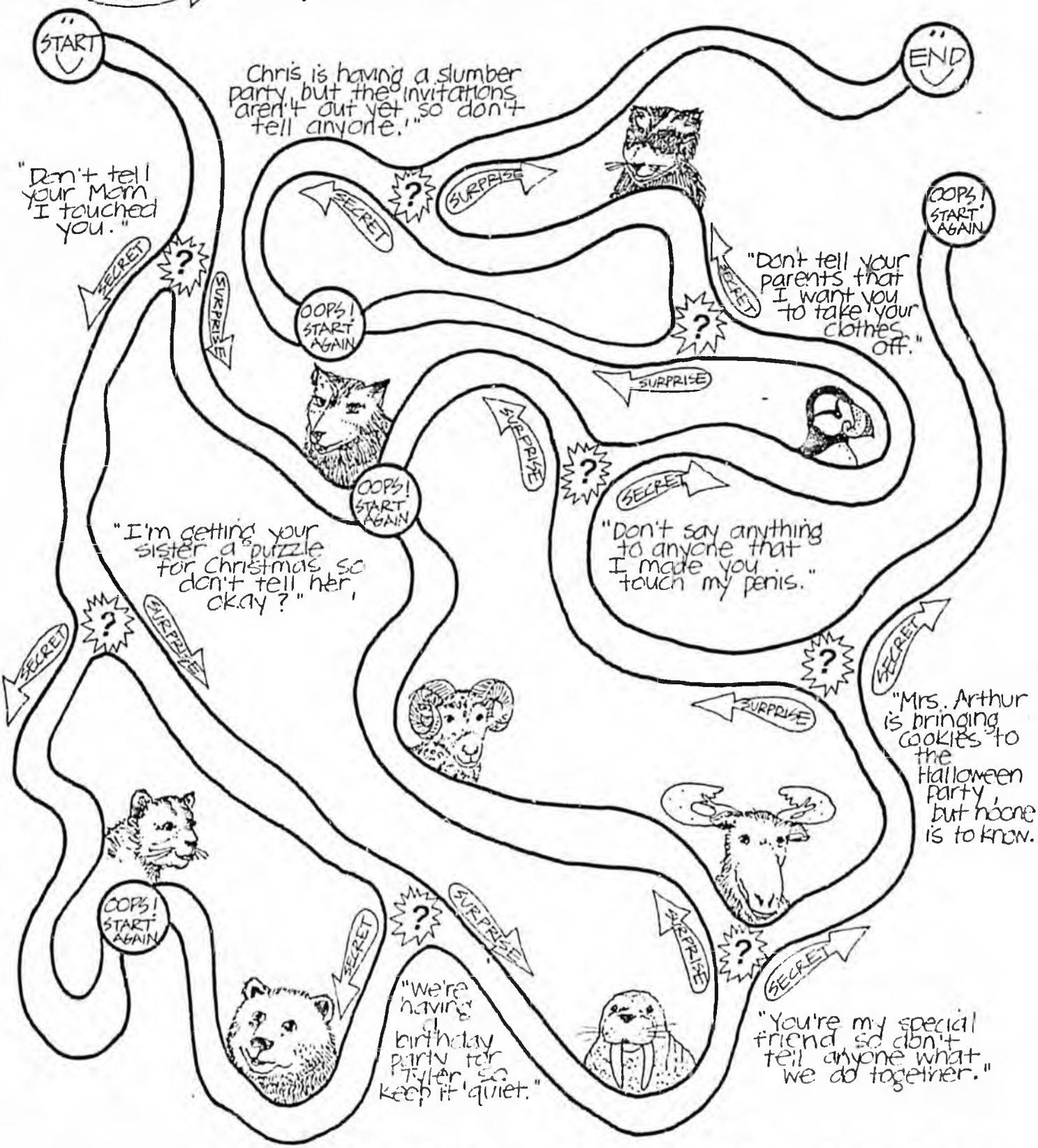
Many cases of sexual abuse involve a secret between the child and the offender. Victims are often told that the activity is "our little secret," that "special friends have secrets," or "this is only for us to know." Coercion, manipulation and trickery in this fashion contribute greatly to why many children remain silent about the abuse for a long period of time.

Children should be taught the difference between secrets and surprises; surprises are all right, but secrets are not. For one thing, surprises are always told or revealed at some point, often in conjunction with a specified event such as a birthday or holiday. A surprise may be kept silent for a short time under these conditions. A secret, on the other hand, is information kept silent forever. Children should never have secrets with adults, whether it be a relative, acquaintance or stranger. It is not acceptable for a child to withhold information or knowledge about certain activities for an extended period of time.

The "Secret or Surprise Maze" game is designed for children in grades 3-6. The objective is to recognize when an

SECRETS or SURPRISES MAZE

Follow the trail until you come to a "statement" made by an adult. ? Decide whether the statement is a surprise or a secret. If it is a secret follow the trail marked SECRET ; if it is a surprise follow the trail marked SURPRISE . See if you can reach the END of the trail.



REMEMBER ☆☆☆ *A surprise is okay for Christmas or birthday, But a secret isn't, so Just tell the adult, "No!"* ☆☆☆☆☆

SAY "NO" BINGO

Learn to Recognize Good and Bad Touching

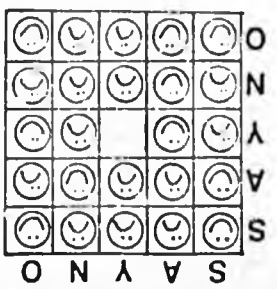
IT'S OK (Good touch)

I SAY "NO" (Bad touch)

S	A	Y	N	O
I hold hands with my friend on the playground.	An older kid at school wants me to "play doctor."	A stranger offers me a ride.	A man I know wants me to keep a secret.	Grandma hugs me.
My dog licks my toes when they are wet.	A babysitter tells me to undress in front of him.	My parent's friend touches my buttocks.	Dad carries me on his back around the house for fun.	An adult gives me a gift if I will undress with him.
Someone I know puts their hands down my pants.	I shake hands with the principal.	FREE SPACE	My friend's brother wants me to touch the private part of his body.	A doctor touches me when I'm sick.
A man in our family touches my breast.	I sit next to my mom in the car.	A relative kisses and touches me too much.	An adult takes a picture of me naked.	A kid at school hits me in the stomach.
Mom and Dad kiss me goodbye in the morning.	My teacher pats me on the head when I do well in school.	A neighbor touches a "private part" of my body.	Someone pushes me down on the ground.	I hug my best friend at school.

INSTRUCTION

The object of the game is to get all smiling or frowning faces in a straight line horizontally or diagonally. This is called a "BINGO." Children are given 5-10 minutes to complete the exercise on their own by reading each square and drawing in the correct face. As soon as a child gets a bingo, they call out, "Say no Bingo!" Discuss each space after all children have completed the exercise. Students should be able to recognize appropriate and inappropriate touching.



adult tries to involve a child in a secret or whether it is just a surprise. Students will be asked to follow the trail until they come to a "statement" made by an adult. They are to determine whether the statement is a secret or a surprise. Upon completion of the exercise, discuss the statements with the class.

Objective #7: Students will demonstrate their understanding of their right to say no by achieving a "bingo" in the exercise.

Activity: (1-6) "Say No" Bingo (15 minutes)

Objective #8: Students will demonstrate their ability to recognize potentially dangerous situations involving relatives, friends of the family, neighbors, and other adults they know well by responding appropriately in at least 3 suppose game exercises.

Activity: (K-6) "Suppose" Game with Safety Sam and Safety Shirley Puppets (15-25 minutes)

Suppose Game (K-6)

"Safety Sam" and "Safety Shirley" are two puppets that make this game fun as well as educational for children. The Suppose Game is an excellent way for kids to think quickly and plan a course of action in a variety of potentially dangerous situations. The teacher suggests a hypothetical predicament to a child and asks him or her to respond. Using the puppet that is the same sex as the child, he or she will act out what should be done. Situations can involve both Safety Sam and Safety Shirley together or alone.

The depth of the examples may vary depending upon the age and maturity of the children in the class. A critique and discussion of the child's response should follow each situation. This is an opportunity to explain the importance of awareness and good safety habits.

(K-3) • What would you do if someone stopped in a car, told you they were lost, then asked you to get in the car and direct them to a certain location?

(K-3) • What would you do if someone offered you money to go behind some bushes and asked you to pull down your pants?

(K-3) • What would you do if a man and a woman stopped in a car while you were walking home from school and said that your mother wanted them to pick you up and drive you home?

(K-3) • What would you do if a neighbor man asked you to come into his house and look at his kittens?

(K-3) • What would you do if a neighbor man you don't know very well asked you to come to his home for ice cream?

(4-6) • What would you do if your uncle was babysitting you one evening when he began tickling and touching you in a place that you didn't like?

(4-6) • What would you do if someone you know and love made you do things you didn't like, but that person said, "Don't tell, this is our little secret?"

(4-6) • What would you do if a teacher touched you in a way you didn't like while you were alone in the classroom after school?

(4-6) • What would you do if someone made you take your clothes off and said he would tell and get you in trouble if you didn't do it?

(4-6) • What would you do if someone you know very well asked you to do something you felt was wrong?

Day Four

Goal: To gain a basic understanding of a touching problem with any adult.

Objective #1: Students will demonstrate their ability to recognize potentially dangerous situations by sharing appropriate responses in class discussion.

Grades (K-6)

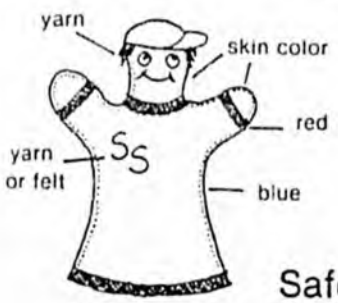
MATERIALS NEEDED

4 # 8x10" Felt Squares
(Tan-Brown for Skin, Red, Blue, Green)
Glue
Scrap Yarn for Hair
4 Wiggle Eyes

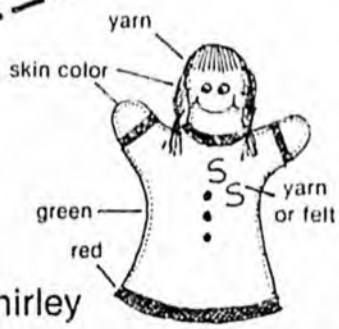
STITCH TOGETHER

PUPPET CUT-OUT

LEAVE OPEN FOR HAND



Safety Sam



Safety Shirley

Objective #2: Students will demonstrate their understanding of their right to say no by sharing appropriate responses in class discussion.

Objective #3: Students will know who, how and when to tell if a touching problem arises by expressing appropriate responses during class discussion.

Objective #4: Students will demonstrate their knowledge of how and when to trust one's own feelings ("inner voice") by sharing appropriate responses during class discussion.

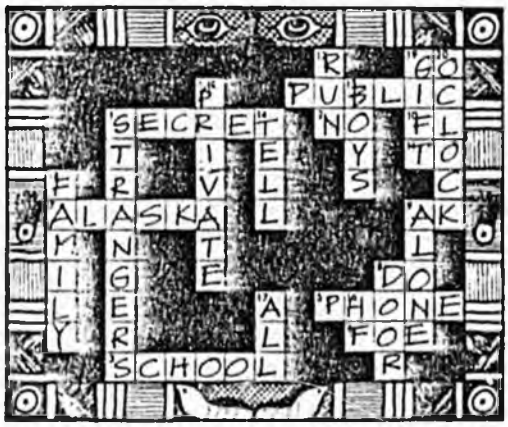
Activity (K-6) Scene 4, "The Bribe" (5 minutes)
Video Discussion Questions (15 minutes)

Scene #4, "The Bribe"

1. What is a bribe? What was the bribe in this scene? How can you tell that it is a bribe?
2. Discuss how being nice (polite and obedient) affected Jimmy's personal safety.
3. Did Jimmy listen to his "inner voice?"
4. How does alcohol affect a person's behavior?

Activity: (3-6) Crossword Puzzle (15 minutes)

Have students complete the crossword puzzle using ideas they have learned from this personal safety unit.



Objective #5: Students will be able to demonstrate their ability to recognize a bribe, trick, threat or coercion as being forced by giving at least 1 (K-3) or 3 (4-6) examples of being forced.

Activity: (4-6) "Being Forced" Definition Exercise

Defining "Being Forced" (4-6)

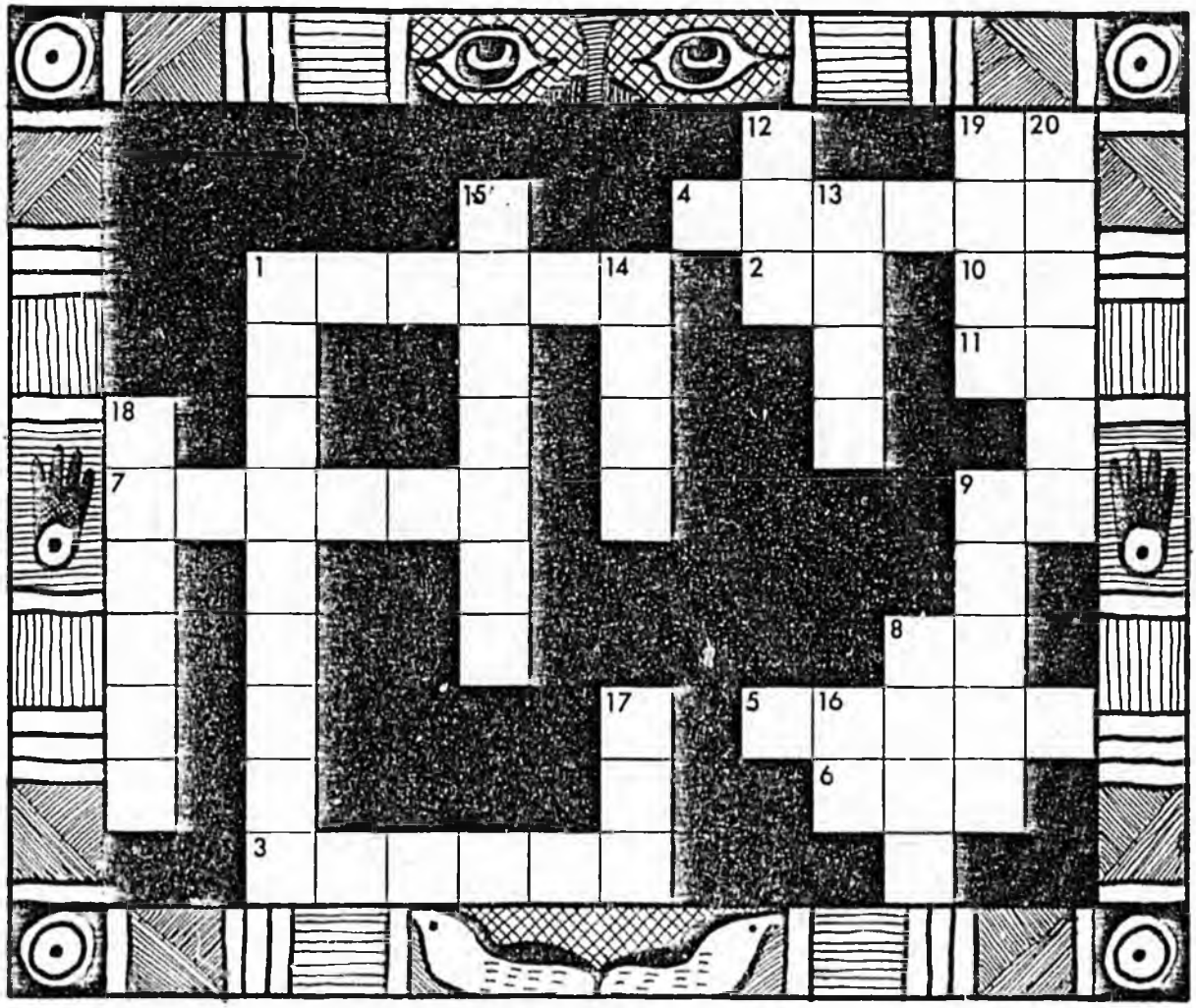
The concept of being made or forced to do something that is wrong or could be harmful needs to be clarified for children. What is forced? How do you know when it is OK or not OK? These questions can be answered by a class discussion and writing various situations in two columns on the board.

"FORCED" MEANS:	*"FORCED" DOES NOT MEAN:*
Forced to be touched or to touch another person	When you have to clean your room
Forced to kiss or be kissed	When you have to do household chores (dishes, set the table)
Forced to undress or undress another person	When you have to babysit younger siblings
Forced is giving you a gift or special privilege if you will do any of the things listed above	When you have to go to school

Activity: (K-6) Teach students the song "It's OK to Say NO." You may also want to involve the music teacher in this exercise.

Activity: (K-3) Have students connect the dots and color the picture describing who to tell if you have a touching problem.

CROSSWORD PUZZLE



ACROSS

1. A surprise with an adult is OK but a _ _ _ _ _ _ _ is not.
2. If someone touches me and I don't want them to, I say _ _!
3. I always go straight home from _ _ _ _ _ _ _.
4. The arm and hand are a _ _ _ _ _ _ _ part of the body.
5. Do not give our personal information over the _ _ _ _ _ _ unless you know who is calling.
6. "Friend or _ _ _."
7. The state where you live.
8. _ _ be aware of cars when you're walking, do not daydream.
9. Abbreviation for Alaska: _ _.
10. The sixth and twelfth letters of the alphabet.
11. If someone bothers me I run _ _ where there are other people to help me.

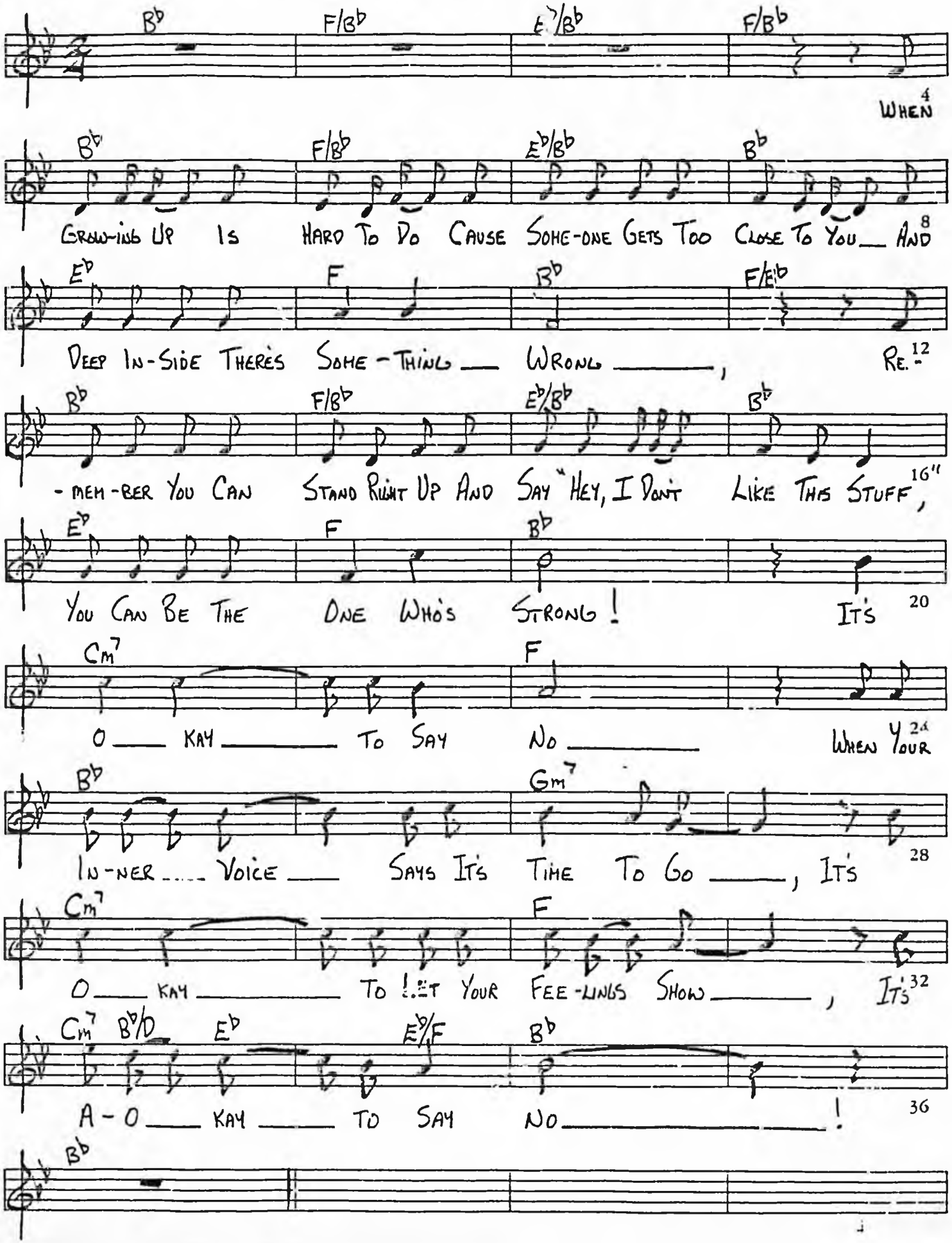
DOWN

1. I never accept rides or gifts from _ _ _ _ _ _ _ _ _ _.
8. I always check to see who is at the _ _ _ _ _ before opening it.
9. I do not wander off _ _ _ _ _ _ to play.
15. The genital area (penis or vagina) is a _ _ _ _ _ _ _ _ part of the body.
12. If someone bothers me I say no and _ _ _ away.
13. Both girls and _ _ _ _ _ need to practice safety tips.
14. If I feel confused about something that happening to me, I always _ _ _ _ an adult.
16. Initials for "Help Friends."
17. I tell _ _ _ secrets to an adult immediately.
18. A person who touches me more than I want could be a stranger, friend or member of my own _ _ _ _ _ _.
19. A person may give you a _ _ _ _ so you won't tattle on him.
20. A person might also let you stay up late, like to 11:00 _ _ _ _ _ _, so you won't tell.

IT'S OKAY TO SAY NO!

- CHORUS -

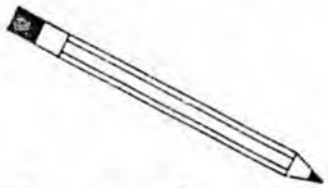
♩=104



TELL AN ADULT IF YOU HAVE A TOUCHING PROBLEM



INSTRUCTIONS:
Connect the dots and color to complete the picture.



Day Five

Goal: To know how to respond and who to tell if confronted with a touching problem.

Objective #1: Students will demonstrate their general knowledge about sexual abuse by appropriately responding during class discussion and through the post-test.

Activity: (K-3) Class Discussion—Review of Week (15 minutes)

Key concepts to review:

1. Right to say no
2. Run away from that person
3. Tell an adult

Repeat video in its entirety (14 minutes).

Objective #2: Students will demonstrate their knowledge of how to respond and who to tell if they have a touching problem by sharing appropriate responses during class.

Activity: (K-6) Speaker from or Field Trip to Police Department, Division of Family and Youth Services and/or Crisis Center (30-60 minutes).

Activity: (K-4) Movie, "Who Do You Tell?" (11 minutes)

Activity: (5-6) Have each student write down one question to ask quest speaker.

Activity: (K-6) "Storytelling" (20 minutes)

Storytelling

After a break or recess, read a story to the class. The story might involve a child confronted by an awkward or frightening experience yet the child is able to successfully get away. Examples should show a child utilizing the skills outlined in this unit and acting on his or her own behalf. One such story follows:

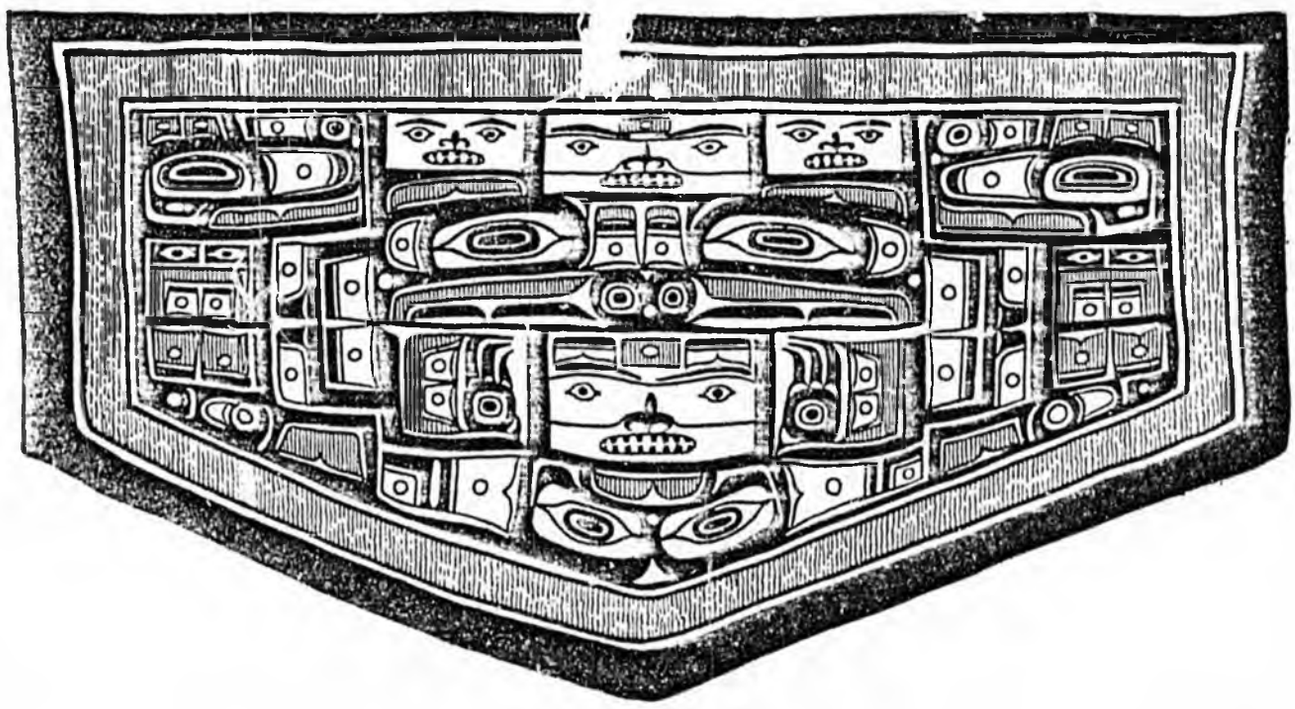
Peggy is eight years old. One night she was watching television with Dick, a 20-year old neighbor and friend of the family. He was babysitting her as he often times did. Peggy loves gymnastics and often times would tumble and wrestle with Dick. That night, Peggy and Dick were tickling and tumbling during the commercials, but things got a little carried away. Dick asked Peggy to take her clothes off. He said it would be more fun when they wrestled around. He also told her that she could stay up late and watch television, but that it would have to be kept a secret. Peggy loved getting to watch late-night TV. It was a real treat. But she started getting this strange, "icky" feeling. It wasn't like she was going to throw-up or anything. It was just sort of a funny, uncomfortable feeling. Maybe it was the way he told her to take her clothes off, or the way he touched her when they wrestled or the fact he wanted her to keep a secret. She knew she wasn't supposed to keep secrets with adults. So she told him "no," and left the room and went to bed. The next morning at the breakfast table, Peggy told her Mom, "I didn't like what Dick did last night, Mom." "Why, what happened?" said Peggy's Mom. "Well, he did those funny things that you and I have talked about. He wanted me to take off my clothes and then keep it a secret. He shouldn't do that, right?" Peggy asked. "You're right, Peggy, He shouldn't do that and he needs some help. You did the right thing, Honey. I'm glad you told me. I'll talk to him and he shouldn't bother you anymore." Peggy and her Mom gave each other a big hug.

Activity: Post test K-6 (20 minutes)

6

LESSON PLANS FOR 7-12 GRADES

The following is a sample five-day lesson plan for 7-12 grades on the topic of sexual abuse prevention. It is designed for a one to two hour block of time per day. This is the minimum amount of time suggested in order for students to begin to comprehend and practice the prevention concepts. You are encouraged to extend the unit if possible and to repeat portions throughout the school year. Talking about personal safety should not be a one-time thing. It is very important to review.



Outline of 7-12 Grade Lesson Plans

Day One

Pre-Test

A. Show video scene #2: "Getting Home"
B. Discuss video scene
C. "Mere Fear" exercise
D. Poster contest and collage exercise
* If time, teacher lecture "Prevention Techniques-Outdoors," chapter 7.

Preparation checklist:
Order video projector ☐
Make copies of Pre-Test ☐
Re-read pages ☐

Day Two

A. Show video scene #1: "New in Town"
B. Discuss video scene
C. Teacher lecture on Psychological Prevention Techniques
   1. Education—mental preparedness
   2. Assertiveness
D. "Self-Report Assertiveness Diary" exercise

Preparation checklist:
Order video projector ☐
Make copies of activity games ☐
Re-read pages ☐

Day Three

A. Show video scene #3: "In My Room"
B. Discuss video scene
C. Role-play assertiveness exercise
* If time, teacher lecture "Prevention Techniques-Indoors," chapter 7

Preparation checklist:
Order video projector ☐
Make copies of activity games ☐
Re-read pages ☐

Day Four

A. Show video scenes #4 and #5: "The Ride Home" and "Alone at Last"
B. Discuss video scenes
C. Class discussion "Effects of Alcohol on Decision Making"
D. "What is a Friend?" exercise
E. "Role Reversal" exercise

Preparation checklist:
Order video projector ☐
Make copies of activity games ☐
Re-read pages ☐

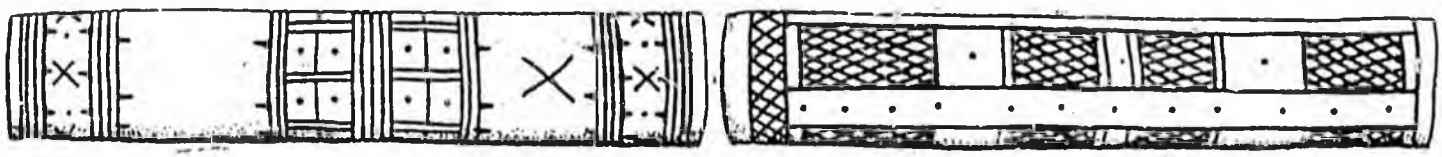


Day Five

A. Teacher lecture on "Self-Defense" options
   1. Aggressive resistance
   2. Non-aggressive resistance
B. Guest speaker from social service, crisis center or law enforcement or field trip to courtrooms, police department or crisis center.

Preparation checklist:
Arrange for speaker/field trip ☐
Make copies of post test ☐
Re-read pages ☐

Post-Test



PRE AND POST TEST

7-12 Grades

TRUE/FALSE

T 1. Most rapes and sexual crimes occur in or around a victim's home.

F 2. It is rare that a sexual abuse victim knows the person who committed the assault.

F 3. Women "ask to be raped" by the clothes they wear.

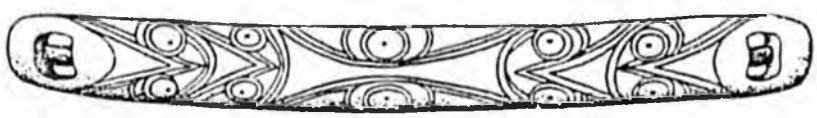
T 4. Most sexual abuse victims are abused by someone of their same race and cultural group.

T 5. If you are in your car and someone is following you, it is generally best not to drive home.

T 6. Hang up on obscene calls and report them to the police and telephone company.

T 7. People are responsible for their own behavior, even if they have been drinking alcohol.

T 8. There are two schools of thought in self-defense—aggressive and non-aggressive—either of which might work, depending on the situation.



MULTIPLE CHOICE

Write the letter of the correct answer in the blank.

d 9. Which self-defense is *not* considered aggressive?

a. chemical spray
b. screaming
c. whistle
d. talking persuasively

d 10. Some sex offenders will not be violent or forceful initially, but will try to get the victim alone by

a. bribes
b. coercion
c. manipulation or trickery
d. all of the above

c 11. If you stand up for your own rights without violating the rights of others (verbally or non-verbally) it is called

a. a passive response
b. an aggressive response
c. an assertive response
d. a violation response

a 12. Rapists are generally motivated to commit their crimes by

a. violence and opportunity
b. provocative clothing
c. sexual deprivation
d. homosexuality



c 13. Most rape victims are attacked by a male who is
   a. 40-60 years old and a "dirty old man"
   b. of a different race
   c. 18-30 years old and of the same race
   d. young and homosexual

d 14. If a stranger comes to your door asking to use your phone, the safest response is:
   a. let him in but watch him the entire time
   b. see if he looks honest and decide whether to let him in
   c. let him in and fake like there is someone else in the house
   d. make the call for him without letting him in

c 15. If you are walking alone on a city street and someone is following you, an assertive response is to:
   a. turn around, run towards the person, and pretend to grab his throat
   b. fall to your knees and start crying and pleading
   c. confidently turn around and assess the person and the situation
   d. keep looking straight ahead and ignore the person

16. A person whom you have seen several times around town comes up to you one Friday after school. You were just standing around with your friends, but end up talking for a couple of hours with this person. Everyone is ready to go home, and he offers you a ride. You politely say no thank you, but he becomes persistent. Give examples of assertive replies to his statements. Keep in mind that these statements are in sequence and should be answered as if it were a conversation.

"Oh, let me give you a ride home. It's no trouble."

"Look, your friends are leaving, and they've got a car full. Come on, I'll take you home." (He firmly grips your arm.)

"Oh, come on, what's the matter, don't you trust me?"

"See, your friends left. It's just you and me. I guess you've got no choice, honey."

Day One

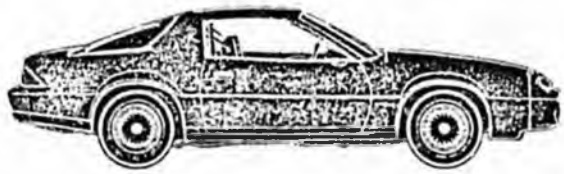
Goal: To recognize potential sexual abuse situations where the offender is a stranger.

(7-12)Activity: Teacher Lecture—Introduction to Unit

I. Define personal safety

- It includes water safety, fire prevention, sexual abuse prevention, etc. This unit will focus on sexual abuse and what to do if you have touching problems.
- Sexual abuse includes rape, touching private parts of a person's body, exposing genitals and sexual assault.
- The offender could be a stranger, casual acquaintance, "friend," date or relative.

2. Sexual abuse could happen to you, so it is important to discuss so you will be aware and not afraid.



Objective #1: Students will be able to identify potentially dangerous situations involving people in a car during participation in class discussion.

Objective #2: Students will demonstrate an understanding of trusting one's own feelings ("inner voice") during participation in class discussion.

Objective #3: Students will name 2 ways of seeking help and who to tell if confronted with a scary/dangerous situation.

(7-12) Activity: Video Program - Scene 2: "Getting Home" (5 minutes) Video Discussion Questions (15 minutes)

Video program discussion questions (7-12)

The following discussion questions correspond with each of the scenes in the 7-12 video program. Gear the extent and depth of these discussions to the maturity and grade level of your class. This is the first opportunity for the students to think through what they have observed on the screen and to formulate questions. Try to get the involvement of the entire class. Frequently at this age, there is a "class clown," or the boys may tend to predominate the conversation (often due to embarrassment or uneasiness). Involve as many students as you can in the activity. This might mean breaking into small discussion groups so everyone gets a chance to talk. Remember to be non-judgmental in responding to their answers. Focus on the part of the response that is correct or nearly correct. This encourages class participation while minimizing jokes and far-fetched answers.

Scene #1: "Getting Home"

1. Who would you tell about this situation if you were Jeff?

2. Why is the attitude, "it won't ever happen to me" dangerous? How does it affect our judgment and behavior?

3. What did Jeff's "inner voice" tell him? Give examples of when you have listened to your "inner voice."

4. What are some of the ways to get "safe" transportation rather than hitchhiking (i.e., call family, friend, bus, taxi, walk in well-lighted populated areas)?

5. How is sexual abuse difficult for the victim? Why? Are boys ever sexually abused? Is it as difficult/traumatic a situation for boys as it is for girls?

6. How did being male affect Jeff's actions and thoughts?

7. List 3 situations where sexual abuse might occur. Why are they likely to occur (i.e., isolation, victim unfamiliar with how abuses commonly occur)?

Objective #4: Students will be able to recognize their own ability to cope with frightening situations by completing this exercise.

(7-12) Activity: "Mere Fear' Exercise (15 minutes)

Mere Fear

The goal of this exercise is to have the students recognize that they have each experienced a difficult situation, they responded, and they survived. The students will also discover they learned from that experience. This gives the students a sense of confidence that they can handle other difficulties such as situations of inappropriate or scary touching.

Have students break into small groups. Each person tells about a frightening or threatening situation they have experienced. Examples: scary airplane ride, car accident, dog bite, nightmare, home alone for the first time, lost, or any other predicament. Have students answer these questions: 1) What did they do? 2) Did they learn something about themselves? 3) What resources did they use (i.e., people, places, coping skills, money, etc.)? 4) What would they have done differently?

Objective #5: Students will make a statement about sexual abuse prevention by creating a visual expression of their ideas.

7-12) Activity: Introduce Poster Contest and/or Collage Exercise

Poster Contest

An interesting way to kick off the safety unit is to have a poster contest. Posters are an effective way of visually expressing an idea. Suggested themes for the posters are prevention, general safety and positive statements about how people can work together to stop sexual abuse. Posters may be left on display following the unit to remind students of the concepts learned.

Students can use their imaginations or any other resources available to them (magazines, felt-tip pens, paints, beads, leaves, wax paper, leather, etc.). You may want to set guidelines on the size, for instance, no smaller than 8½ x 11 and no larger than 36 x 36. The project could be coordinated with the art teacher or art classes.

Each student or pair of students creates a poster. If working in pairs, you may divide the class: ⅓ boys and girls, ⅓ girls and ⅓ boys. Compare the types of messages conveyed in the posters.

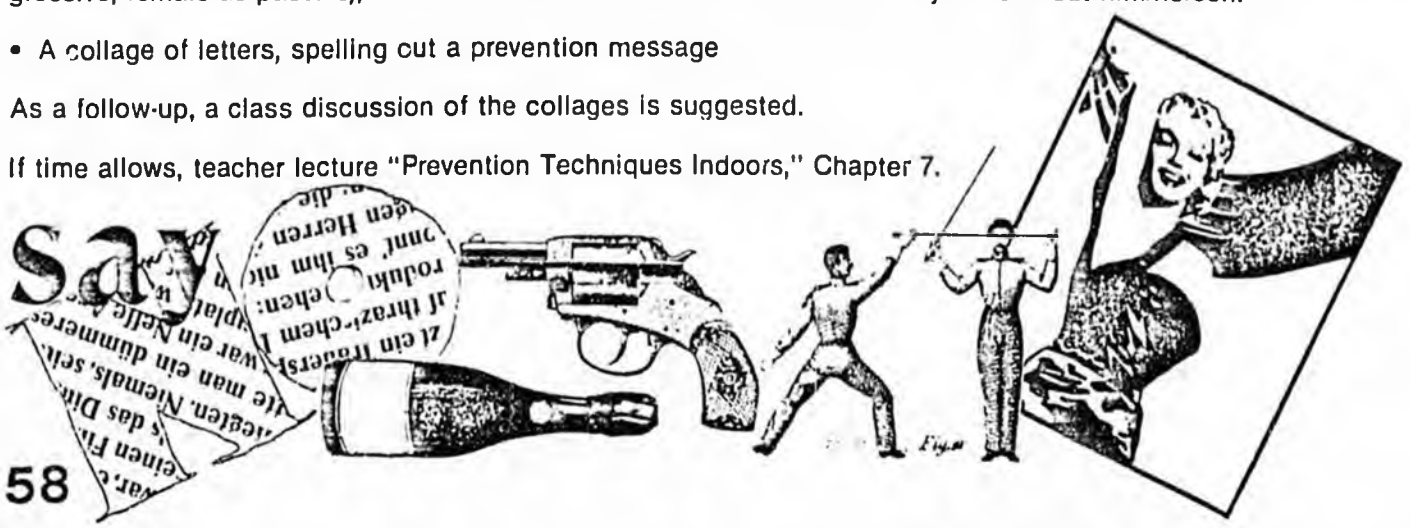
Collages

A collage is a collection of things which convey a message. In this exercise, students are asked to make a collage of pictures from magazines. The pictures and other objects can be glued in any order on to cardboard, wood or heavy paper. Themes for the collages might include:

- How advertising projects the image of sex and violence as attractive
- How advertising projects the image of sex and alcohol as attractive
- One-half of the collage can be pictures of how men or women are stereotyped in advertising (i.e., male as aggressive, female as passive), and the other half is how the student actually feels about him/herself.
- A collage of letters, spelling out a prevention message

As a follow-up, a class discussion of the collages is suggested.

If time allows, teacher lecture "Prevention Techniques Indoors," Chapter 7.



Day Two

Goal: To recognize potential sexual abuse situations where the offender is casually acquainted with the victim and to introduce assertiveness techniques.

Objective #1: Students will be able to identify potentially dangerous situations involving a stranger during participation in class discussion.

Objective #2: Students will be able to state at least one way to help another person who is being bothered or harrassed.

Objective #3: Students will demonstrate an understanding of their "inner voice" or common sense during participation in class discussion.

(7-12) Activity: Video Program - Scene 1: "New in Town" (5 minutes) Video Discussion Questions (15 minutes)

Scene #2: "New in Town"

1. Barbara was new in town in this scene. What are some of the "risks" of being in a new or unfamiliar area (i.e., unsure of people, customs, unfamiliar with high risk parts of town, places to get help, etc.)?

2. Is it all right to be pleasant with casual acquaintances or strangers? Where do you "draw the line" on how much information you give out? How did Barbara's inner voice help her "draw the line?"

3. What emotion was the man trying to make her feel when he said, "Don't you trust me?" (i.e., guilt, embarrassment, relax her defenses, etc.)

4. What should you do so that you would not get stranded somewhere (i.e., carry money for a phone call, carry family/friends telephone number(s), tell someone where you will be and when you expect to return, etc.)

5. Was it Barbara's fault that this incident occurred? Why or why not?

Objective #4: Students will analyze and evaluate the role of assertiveness in sexual abuse prevention during class discussion.

Objective #5: Students will be able to distinguish between passive, aggressive and assertive responses during participation in class discussion.

(7-12) Activity: Teacher Lecture - "Psychological Prevention Techniques"

Psychological Prevention

Most people will not be sexually abused. Yet it is important to psychologically prepare yourself and to realize that the potential does exist. After acknowledging this fact, you will be more alert to your surroundings and responsive to your common sense and judgment.

1. Education

One way to decrease your chances of becoming a victim is to learn all you can about sexual abuse. (1) Why do you think it happens (i.e., need for power, control)? (2) What are common approaches or techniques used by sex offenders (could be friendly at first, not a stranger jumping out of a bush)? (3) What locations and other setting variables (i.e., lighting, isolation from people) affect the chances of a rape occurring? Can you assess the surroundings and get a sense of the risk factor?

Changing behavior is an individual decision. Only you can decide how much freedom and mobility you are willing to exchange for increased personal safety. Being active and meeting people is important to most young adults. It only hurts us if we stop activities in order to be "safe." Therefore, if you are educated to the facts of sexual abuse, you can go on living as you are but with an increased awareness and preparedness to handle difficult situations or people. Sexual abuse can happen to you, but education will enable you to be aware, not afraid, and hopefully, not a victim

2. ASSERTIVENESS

Assertiveness, a method of simply stating what a person needs, wants or feels without putting down others, can be an effective technique in the prevention of sexual abuse. When you stand up for your-

self, when you express your true feelings, and when you stop others from taking advantage of you, then you are behaving assertively. You are generally able to get the results you want without upsetting or irritating others. If you are assertive, you can act in your own best interest and not feel guilty.

Non-verbal

Walk confidently, aware of your surroundings and at a steady pace. Give a visual impression that you are not an easy target for a purse snatch, mugging, abuse or rape. Pre-plan your route so you do not look lost and you know where to seek help if necessary. Offenders generally look for someone they think they can overpower. So your "body language" may prevent a sexual abuse from ever occurring.

Eye contact is another non-verbal, assertive behavior. When telling someone that you do not like their actions, make good eye contact. Your statement is more convincing and authoritative if you look the person directly in the eye.



Verbal

Many sex offenders attempt to manipulate, trick or "con" victims into doing something they would rather not do. Victims may be persuaded to give the offender too much personal information, accompany him to another location away from people, or be touched. Even though the victim's intuition or common sense says this could be a bad situation, many are afraid or embarrassed to refuse such requests.

Why are people afraid to be assertive?

- embarrassed
- afraid of reaction, rejection
- it is "easier" not to be assertive (initially)
- people (women in particular) are taught not to hurt feelings, to be polite, accommodating and helpful so saying "no" to someone may seem wrong
- women are often socialized to be passive and men aggressive
- children are told never to "talk back" to adults

Ask students: When is it easy for you to ask for what you want? When is it hard?

As soon as you get a "funny feeling" about someone, because of things they have said, they have gotten too close physically or touched you in an inappropriate way, an assertive response is needed. Some examples are listed.

SITUATION: If you are riding on a bus and a person you do not know or do not care for, puts his hand on your knee, an assertive response would be:

"Take your hand off my knee."

"I don't want your hand on my knee."

If it's a public place, do not be afraid to speak loud enough for others to hear. These statements should be made firmly with direct eye contact.

SITUATION: A relative comes to your home quite frequently. He's nice, but he always hugs you and gives you sloppy kisses. It makes you feel uncomfortable. An assertive response might be:

"Uncle Fred, I like you a lot, but I don't like to be kissed like that."

"Grandpa, it bothers me to be hugged (kissed) that way. Let's shake hands instead."

SITUATION: While walking home from school, a person starts following you. This goes on for at least 10 minutes and it worries you. Besides going to a house or business for assistance, an assertive response might be:

Confidently turn around and directly look at the person. Assess the distance between you and that individual (maybe it's only a postal carrier). Is there a weapon? What is the person's description? Is the person running towards you (at least you won't be taken by surprise if he is, you can get a few seconds head start)? By confidently turning around, you are giving yourself more information with which to work. You are also projecting an image of a person who can't be easily frightened, controlled or overpowered.



Sometimes it may be necessary to repeat a verbal assertive response over and over again. This technique is called "Echo talk." Echo talk may be necessary to convince the person that you are self-assured and are sincere in what you say. A common technique used by many sex offenders is to try to break down an assertive response, either by ignoring the statement, laughing or making comments such as "Oh, you don't mean it!" Just repeat your statement again. It does not have to be changed or reworded—just repeated or prefaced with, "I've said it twice..." or "I'll repeat myself again...you haven't listened." Remember, you have rights just like anyone else, so do not back down.

(7-12) Activity: Assertiveness Discussion

Have students break into small groups and talk about situations where they ended up doing something they didn't want to do. Were they pressured? How did they feel?

(7-12) Activity: Self-Report Assertiveness Diary - Due Day 4 (5-15 minutes)

After students have gained a basic understanding of assertiveness, ask them to keep a diary on their behavior for 2 days (7-9 one day, 10-12 two days). Students are to make notes of any confrontive situation and to determine whether they responded in a passive, aggressive or assertive manner. This might include asking a smoker not to puff their way, asking a sales clerk for correct change, telling a brother they do not want him to use their radio anymore, asking a fellow student to be quiet so they can hear the teacher better, asking someone for assistance, etc.

The Assertiveness Diary includes the following:

1. Briefly describe each situation. Who were the people involved (do not use names, just a general description—teacher, sister).

2. What did you say? Was it passive, aggressive or assertive? Do you tend to respond one way more than another?

3. Critique your verbal and non-verbal skills (body language).

This exercise can be graded and/or discussed in the classroom. For many students, this will be very self-revealing.

SELF-REPORT ASSERTIVENESS DIARY

Name _____ *Date* _____

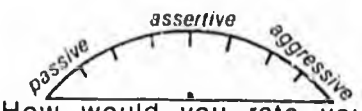
Day One

THE SITUATION:

MY RESPONSE:

(Verbal)

(Non-Verbal)



How would you rate your response? Draw an arrow from the dot on the Assert-o-Meter.

COMMENTS: (Is it easier for you to be passive, aggressive or assertive? How did you feel? How do you think the other person felt? What would you have done differently?)

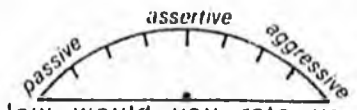
Day Two

THE SITUATION:

MY RESPONSE:

(Verbal)

(Non-Verbal)



How would you rate your response? Draw an arrow from the dot on the Assert-o-Meter.

COMMENTS:

Day Three

Goal: To recognize and practice assertive responses to potential sexual abuse situations where the offender is known to the victim.

Objective #1: During participation in class discussion, students will be able to identify potentially dangerous situations involving someone they know.

Objective #2: Students will demonstrate the importance of listening to their "inner voices" during participation in class discussion.

Objective #3: Students will demonstrate the understanding of their right to say no during class discussion.

(7-12) Activity: Video Program - Scene 3 "In My Room" (5 minutes) Video Discussion Questions (25 minutes)

Scene #3: "In My Room"

1. What was the hardest or most confusing part of this situation for Keta? Why?

2. Was Keta "seductive" in her night-gown? Whose responsibility or fault is the abuse? Does clothing (or the fact she is female) give someone the right to take advantage of her physically/sexually?

3. If this situation occurred regularly when Keta's mother was away from home, should Keta tell her mother? What if her mother doesn't believe her? Whom else might Keta tell?

4. Why did the man want to make Keta feel dirty, bad and guilty (i.e., so she wouldn't tell anyone)?

5. Who are the offenders in sex crimes? Are they more often strangers or people the victims know?

6. Does who the offender is make any difference in deciding whether or not you tell someone about the abuse?

7. Discuss sexual offense laws in Alaska. What is incest? Why is it illegal? (See Chapter 4, main point: It is illegal if someone touches your private parts and you don't want them to. This includes family, strangers or anyone.)

Objective #4: Students will be able to state the difference between passive, aggressive, and assertive responses during this exercise.

Objective #5: Students will analyze and evaluate the role of assertiveness in sexual abuse prevention.

Objective #6: Students will be able to observe and practice verbal and non-verbal communication during role play exercises.

(7-12) Activity: Review Self-Report Assertiveness Diary

(7-12) Activity: Role Play Assertiveness Exercise (25 minutes)



Role-Play Assertiveness Exercises

Students are asked to break into groups of 4 people. One student is in charge of reading the situation out loud. One student is to respond in an assertive manner (not passive or aggressive). The third student is to observe and critique the verbal response and the fourth will critique the non-verbal response. For each new situation, the students rotate roles.

SITUATION #1: You are outside in your front yard when a person comes up to you and says his car has run out of gas and he would like to use your telephone. He looks "OK" and your mom is inside taking a nap. Assertively handle this situation.

Examples: **Passive:** (avoids real issue) "I'm sorry, we don't have a phone." **Aggressive:** (verbally attack person) "Get lost creep head. You sure have a lot of nerve asking me that question!" **Assertive:** (direct and firm) "We don't let strangers in our house. There is a pay phone at the corner (or I can make the phone call for you, etc.)" Talk from a distance.

SITUATION #2: You are riding your bicycle in a residential area when it begins to rain. The faster you pedal, the wetter you get. Suddenly, you hear a "pop" and your tire goes flat. A person in a pick-up truck offers to give you and your bike a ride. You're tempted, but you really don't know this person.

Examples: **Passive:** "Gosh, I don't know, It'll stop raining soon." **Aggressive:** "Do I look helpless or something? Forget it! I don't need a ride from you!" **Assertive:** "No, thank you." or "No, but if you could make a call for me I would appreciate it."

SITUATION #3: You have many relatives that you love very much. But one uncle bothers you. He will often kiss and touch you. He jokes about your body and how much you have grown up physically. You don't like his behavior, but he is family and you hate to say anything to anyone. What might you say to your uncle directly?

Example: **Passive:** "Let's all go into the livingroom and watch TV." **Aggressive:** "You make me sick. Why don't you drop dead?" **Assertive:** "Uncle Fred, I don't appreciate being touched or talked to in that way. I love you very much, but I don't like it and I want you to stop."

SITUATION #4: You are sitting waiting for a ride, when a person comes up to you and says how nice you look. You say thank you and he asks you if you are waiting for a ride. You tell him. He asks if you go to school and where. You tell him. He then asks your name and you realize maybe you have given out enough information already. Assertively express yourself.

Examples: **Passive:** "Oh, here comes my ride." (even though it may not be). **Aggressive:** "What is this, 20 questions? Get lost you're bothering me." **Assertive:** "I don't give out my name to people I've just met."

SITUATION #5: It is Saturday afternoon and you are going for a walk with a person you love very much. This person keeps putting his hand on the inside of your leg and then tries to put his hands down your pants. Act assertively.

Examples: **Passive:** "Let's stop and get some ice cream soon." **Aggressive:** "Get your slimy hand off me, you pervert." **Assertive:** "Leave me alone. It bothers me." "I don't like that." "Stop doing that." "Stop it. This is against our family rules and I will tell my mom." "No, don't touch me. I don't want you to touch me like that."

SITUATION #6: Your parents have gone out to dinner and a movie so it is just you, your sister and your older cousin at home. Your cousin jokingly grabs you and has you sit on his/her lap. He/she keeps rubbing up against you and touching you until it makes you feel real uncomfortable. Act assertively.

Examples: **Passive:** "I want to watch TV now—Mr. Rogers, Wall Street Week, etc." **Aggressive:** "You hancho-macho. What kind of sex fiend are you anyway? Leave me alone, you animal." **Assertive:** "I don't want to sit on your lap. I don't like you rubbing up against me and touching me like that."

SITUATION #7: One afternoon at school, a person you know and see every day, asks you out for a date. He/she is someone you do not care to go out with, but you do not want to hurt his/her feelings, either. Respond appropriately.

Examples: **Passive:** "I'm late getting to class, I can't talk now." or "I'm busy that night." **Aggressive:** "Are you kidding? Go out with you? Ha-ah!" **Assertive:** "Thank you for thinking of me. You're a nice person, and I'm glad we can be friends. However, I'm not interested in dating you."

ASSERTIVENESS IS STANDING UP FOR YOUR OWN RIGHTS WITHOUT VIOLATING THE RIGHTS OF OTHERS. IT INVOLVES VERBAL AS WELL AS NON-VERBAL COMMUNICATION.

Day Four

Goal: To recognize potential sexual abuse situations where the offender is well known to the victim and to understand how alcohol affects behavior.

Objective #1: Students will demonstrate an understanding of how peer pressure affects behavior through class discussion.

Objective #2: Students will demonstrate through class discussion how to recognize potentially dangerous situations involving a peer.

Objective #3: Students will be able to state during class discussion that fault and blame lies with the offender, not the victim.

Objective #4: Students will demonstrate an understanding of the importance of stating what they think (assertiveness) and taking responsibility for one's own behavior through class discussion.

Objective #5: During class discussion, students will demonstrate the importance of trusting one's own feelings and listening to your "inner voice."

(7-12) Activity: Video Program - Scene 4 "The Ride Home" and Scene 5 "Alone at Last" (5 minutes each) Video Discussion Questions (25 minutes)

Scene #4: "The Ride Home"



1. What choices did Craig and Trisha have about drinking?
2. How does alcohol affect decision making and behavior?
3. What are the consequences of drinking and driving?
4. Define respect. How is respect shown to others? Was respect shown here between Craig and Trisha? Between Fran and Trisha?
5. What choices/decisions face us as we begin to date people? (i.e., independence from home, questions about drinking, sexual relations)
6. Should Trisha tell anyone about this incident? Whom should she tell?
7. What do you think Craig and Trisha learned from this situation? Was it anyone's "fault?"
8. Discuss the myth "when a girl says 'no,' she really means 'yes.'"
9. Discuss peer pressure. Would you be embarrassed if your friends found out what happened? How do your friends affect your decisions?
10. If this situation had continued, would it have been "rape?"
11. Discuss how each of these four people felt (Fran, Bill, Trisha, Craig) physically, emotionally, sexually.
12. How should the transportation have been worked out? Was it fair of Fran to leave Trisha?

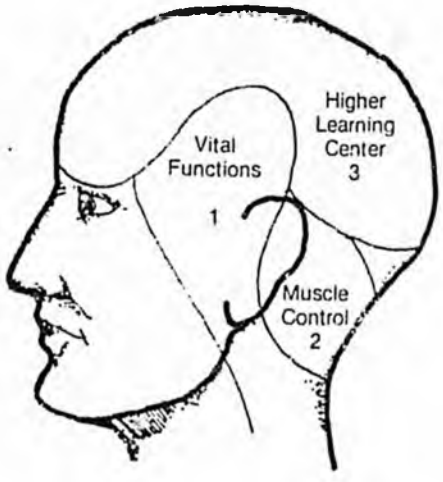
Scene #5: "Alone at Last"

1. What was Fran really trying to say when she said, "Don't you want to listen to music/TV?" Why couldn't she come right out and say it?

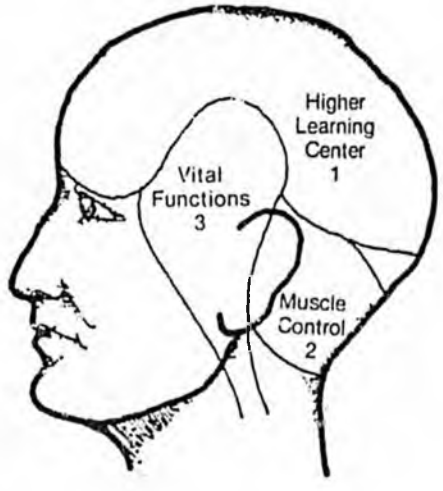
2. Describe how this scene could have been handled differently so that it was less awkward for both Fran and Bill?

3. Discuss the importance of knowing your limits prior to going on a date.

ALCOHOL AND THE BRAIN



Sequence of Normal
Mental Growth



Progression of Alcohol's
Sedative Effects

ALCOHOL'S EFFECT ON SEXUAL ABUSE

OFFENDER
If a person has been drinking, his higher learning center is the first thing impaired. He may not "look" drunk (muscle control reflexes are affected second), but his actions and behavior change. His judgment, such as what is right or wrong (physically, sexually, verbally), is altered so he is more likely to act in an inappropriate fashion. Alcohol does not cause someone to be an abuser. It may facilitate the behavior through impaired judgment.

VICTIM
A victim should be aware of the effect of alcohol on a potential offender. Likewise, if a victim is drinking alcohol, it could affect his/her common sense, judgment and assessment of the situation.

Objective #6: During class discussion, students will demonstrate their understanding of the effects of alcohol/drugs on behavior.

(7-12) Activity: Class Discussion on the Poster "Effects of Alcohol on Decision Making" (10 minutes)

(7-12) Activity: Making Decisions

Discuss how decisions are made using the following format. Write this chart on the board. Have students choose a problem situation and work it through this chart. Example: Fran's problem with Bill (Scene #5)

What is the problem?	*What information do I have?*	*What information am I missing?*
What are the long and short term consequences of this decision?	*What human factors influence my decision? my feelings? friends? family? community?*	

Objective #7: Students will understand how sex roles and their socialization affects behavior by completing and discussing the exercise.

(7-12) Activity: "What is a Friend?" Exercise (15 minutes)

What is a Friend?

Have students either individually or in small groups make a list of what things they look for in a friend. Examples: good listener, trustworthy, good sense of humor, similar interests.

Next have students make a list of what they look for in someone of the opposite sex. This list will probably include physical characteristics as well as characteristics from the first list. Examples: large chest, shapely legs, nice rear, muscular, tan, long hair. Do not tell the students ahead of time what the list might include. Let them be surprised when you point out the differences in the lists.

You now have set the stage for a class discussion on why we primarily see people of the opposite sex as one-dimensional sexual objects. Discuss the following questions:

1. Why do we think of people of the opposite sex in physical terms?

2. Is physical appearance the most important characteristic? Can you judge a person by how they look?

3. "Trustworthy" is a characteristic often listed for friends. How do friends earn our trust? How do people of the opposite sex earn our trust? Trust is not automatic but gradual. People do have control over choosing friends and deciding whom they can trust.

(7-12) Activity: Sex Role Reversal Exercise (30 minutes)

One of the best ways for boys to understand how girls feel and vice versa is to "trade places." This level of understanding is important so that communication between the sexes can be clear and not misinterpreted. Frustration and stress related to the inability to communicate effectively with people of the opposite sex is one of many factors leading to sexual abuse.

The following is an example of a sex role reversal involving a prosecution, the way rape cases used to be handled. The victim is a man. Luckily, laws in Alaska have changed to protect victims from many of these embarrassing and unnecessary questions. However, it took many years before people realized how victims were affected by these questions.

"Was He Asking for It?"

Have two students take a role and read this story out loud.

Harper's Weekly carried an item from the American Bar Association Journal declaring that few rapists were punished for their crime: only one in five rapes is reported and only one out of eight reported rapes ends in con-

viction. In a dialogue to demonstrate why most rape victims prefer not to press charges, the article asks us to imagine a robbery victim undergoing the same sort of cross-examination that a rape victim does:



"Mr. Smith, you were held up at gunpoint on the corner of First and Main?"

"Yes."

"Did you struggle with the robber?"

"No."

"Why not?"

"He was armed."

"Then you made a conscious decision to comply with his demands rather than resist?"

"Yes."

"Did you scream? Cry out?"

"No. I was afraid."

"I see. Have you ever been held up before?"

"No."

"Have you ever given money away?"

"Yes, of course."

"And you did so willingly?"

"What are you getting at?"

"Well, let's put it this way, Mr. Smith. You've given money away in the past. In fact you have quite a reputation for philanthropy. How can we be sure you weren't contriving to have your money taken by force?"

"Listen, if I wanted to..."

"Never mind. What time did this holdup take place?"

"About 11 p.m."

"You were out on the street at 11 p.m.? Doing what?"

"Just walking."

"Just walking? You know that it's dangerous being out on the street that late at night. Weren't you aware that you could have been held up?"

"I hadn't thought about it."

"What were you wearing?"

"Let's see—a suit. Yes, a suit."

"An expensive suit?"

"Well—yes. I'm a successful lawyer, you know."

"In other words, Mr. Smith, you were walking around the streets late at night in a suit that practically advertised the fact that you might be a good target for some easy money, isn't that so? I mean, if we didn't know better, Mr. Smith, we might even think you were asking for this to happen, mightn't we?"

The object of the role reversal exercise is to develop the student's sensitivity to issues surrounding sexual abuse. They should be able to understand the issues from both a male and female perspective. Have the students break up into two groups: boys and girls. Have each group make a list of the following things:

1. What things do people of the opposite sex do that bothers you? (i.e., boys are rowdy and immature on the school bus, girls are so stuck-up when you just want to get to meet them, boys/men whistle when you walk by, girls have it easy, they don't know what it's like being a guy asking girls out for dates).

2. What do you think the opposite sex is trying to say when they do these things? Why do they do them?

3. What does this behavior actually say to you?

Take about 15-20 minutes for the group to meet. Although many of the group conclusions will be generalizations, they do serve to generate discussion. Have both the boys and girls get back together and talk about the two lists. You may have students who laugh or become defensive. Point out that: (1) these lists are people's impressions based on their own personal experience, (2) not all girls or all boys act alike.

Another role reversal activity is to have the boys stand in front of the class while the girls "look them over," ask them out on a date, take charge of all decisions (where to go, what to do, etc.). This exercise serves to illustrate what it is like for a woman to be objectified, powerless and having only one way communication. It also illustrates that males are often unwillingly placed in the role of decision-maker, aggressor, initiator, etc.

Day Five

Goal: To know how to respond in case of sexual abuse, who to tell and how to support others who have been abused

Objective #1: Students will demonstrate their knowledge of self-defense options in class discussion

(7-12) Activity: Teacher Lecture (20 minutes) "Self Defense: Aggressive and Non-Aggressive Resistance"

Stages in a Rape Attack

In the 1970's, James Selkin of Denver General Hospital conducted extensive research on rapists' behavior. He concluded that there were generally five distinct stages which surrounded incidents of sexual abuse. These stages were important to identify so that potential victims could recognize them and take the appropriate preventive measures.

1. TARGET SELECTION—VULNERABILITY STAGE

When seeking for a victim, the offender would look for any of the following characteristics:

a. Physical defect
b. Mental defect
c. Appropriate location
d. Solitude
e. Easy access to victim
f. Minimal likelihood of interruption

2. TESTING STAGE

This is the point where the victim's assertive behavior stopped the abuser from going further. (Video scenes: New in Town, The Ride Home, Alone at Last)

a. Can victim be easily intimidated?
b. Is victim submissive?
c. Is victim frightened?
d. Is victim hostile, unapproachable, confident?

3. THREAT STAGE

Stage where physical and/or verbal threats occur. (Video scene: In My Room)

a. Punishment followed if she refused his demands

b. Reward for complying (i.e., he stopped hitting her)

4. SEXUAL ASSAULT STAGE

The abuse occurs at this point.

5. TERMINATION STAGE

a. Offender threatens to come back (rarely does he actually return)

b. Apologetic and guilt statements made by offender

c. Harsh treatment one last time



Self Defense

The ideas presented here are only suggestions of possible response options to use if involved in a sexual abuse. There is no "one" way to protect yourself. Since each situation is unique, each individual should respond in the way he or she feels will work at the time. By understanding all possible options, you will be able to act more calmly and logically. Your chances of getting away unharmed are greater if you are prepared and have thought about self defense techniques.

Of course, your first priority is to get away. However, if you are in a secluded spot and you do not have the ability to run, other options are still available. An immediate response is generally the most effective because it is unexpected and may throw the sex offender off guard. This may give you the needed seconds to escape.

Basically, there are two self-defense approaches: non-aggressive and aggressive resistance.

Non-Aggressive Resistance

Non-aggressive resistance is a method of self-defense which, if it fails, will generally not cause any harm to the victim. With non-aggressive resistance, your imagination is your only limit. Some of the most unusual responses have worked. The object is to "psychologically outsmart" the offender in a non-threatening manner. This can be done in a number of ways, all of which should either reduce the attacker's violence or stall for time until there is a safe time to escape. Some of the ideas are listed below:

1. TALK. Talk your way out of the situation. Examples: you have a contagious disease, someone is going to be coming by shortly ("Oh, I thought you were my Dad, he is supposed to be here by now"), a deterrent tactic ("Let's go to my house"), try to reason with the person, be assertive ("I don't wish to talk to you now"), or simply talk to calm down the tension and violence. Generally speaking, pleading does not work.

2. PRETEND ILLNESS. Examples: Pretend to faint, fake a seizure, vomit, urinate or act sick.

3. BIZARRE BEHAVIOR. Act crazy. Surprise the attacker. Examples: eat twigs, bark like a dog, mumble, go into contortions, etc.

Aggressive resistance

Aggressive resistance is designed to distract or temporarily disable the attacker. The purpose is to react immediately to startle or surprise him. If you try an aggressive movement, you must be willing to incapacitate the attacker because you only get one chance to try aggressive techniques. If you miss or only partially hurt the offender, he will be more angry than before. Aggressive resistance can be effective, but you must know what you are doing and do it effectively, the first time. The following are some aggressive resistance techniques.

1. WEAPONS. Many items you carry with you could be used as "weapons." Example: a rat-tailed comb, brush, keys, umbrella, book, pencil or other pointed object might temporarily stop the attacker if used against a vital point of his body (such as his eyes). Do not rely on items that you carry. They are not always easy to get (generally kept in a purse, backpack, pocket), and could be dropped or taken away and used against you.

Chemical sprays such as C.S. Tear Gas may be effective, but may also be taken away and used against you. The "shelf life" of many of these sprays is only one year so older cannisters may not work. There is some question as to the chemical's immediate effectiveness with people who are drunk, high on drugs or mentally unbalanced. Test the cannister to see if it works and to get a sense of its spraying capacity. Chemical sprays can affect you too it used in a confined area. Many states have banned the public from carrying these chemical sprays.

Statistics show that guns can be very dangerous if you are not proficient at using them. They can be turned and used against you. It is also illegal in Alaska to carry a hidden weapon. Other weapons that are illegal to carry include zap guns, brass knuckles, knife with blade over 3½ inches long, and a stiletto.



2. FIGHTING. Advice about whether a victim should fight back or not has come from all sides, ranging from, "Don't fight, he'll kill you!", "A child doesn't have a chance fighting", to "A woman has a right to defend herself." The decision to fight lies with the victim alone. The victim must be confident in his or her strength. If you want to learn self defense, a commitment of time and energy to learn how to fight effectively is absolutely necessary (as with learning any athletic skill such as basketball or track).

This sexual abuse prevention program is not designed to teach aggressive self-defense techniques. It is intended to provide information about this option and to encourage students to seek out additional training if desired. Aggressive self-defense not only teaches you physical skills, but it increases your confidence in your ability to deal with an attacker. It is a viable option for many people no matter what their size or if they are male or female.

3. NOISE. If you are sure help is within hearing distance and confident that the help will be immediate and sufficient, scream! If not, don't. Pressurized air horns, whistles and other noise makers may bring help, but they are less effective than a loud scream.

If you are faced with the threat of an attack, think...don't panic. Your assailant expects you to react solely out of fear—crying, pleading and ultimately submitting. Remember those are not your only options. You still have a good chance of escaping by using aggressive or non-aggressive resistance. Create that moment needed to escape any way you can.

Objective #2: During class discussion, students will be able to name who to tell if they have a touching problem, and resources for help in case of sexual abuse.

Objective #3: Students will demonstrate appropriate ways to support others who are victims of sexual abuse through class discussion.

(7-12) Activity: Guest speaker from social service, crisis center or law enforcement discussing who to tell about a sexual touching problem, what to expect psychologically and legally, and how to be supportive of someone who has been sexually abused. Possible field trip to courts, police, or crisis center. See community resources listed in the back of the guide. (30-60 minutes)

(7-12) Activity: Teacher Lecture - Wrap-up, Review, Follow-up Questions (10-30 minutes)

(7-12) Activity: Post Test

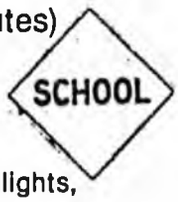
7

ADDITIONAL ACTIVITIES

K-6 Grade

Objective #1: Students will gain an understanding of good safety habits while outdoors through participation in class discussion.

Activity: (K-6) Teacher Lecture and Discussion on "General Safety Outdoors" (20 minutes)



General Safety: Outdoors

TO AND FROM SCHOOL

1. Always take the safest route to and from school (i.e., with crossing guards, lighted streets, traffic lights, populated, etc.).
2. Know your route to and from school. Think and plan where you could go for help if you needed it (i.e., store, school, church, hospital, Block Home, friend's house, etc.).
3. Walk with a friend if possible. There is safety in numbers.
4. Do not take short-cuts. Always take the same route so your mother and father or teacher know where you are and when to expect you.
5. Do not daydream. Always be alert and aware of your surroundings.
6. Walk on a sidewalk if possible, facing traffic. That way a car cannot sneak up on you from behind.
7. If riding public transportation, stay near the driver. Do not give out personal information to strangers on the bus or train.
8. Do not hitchhike. Do not accept rides from anyone unless your parents have said it is all right.

PLAYING

1. If you want to play at a friend's house or elsewhere, always get permission ahead of time. You don't want your parents to worry about you or wonder where you are.
2. Play with a friend if possible—safety in numbers once again.
3. Do not play in alleys, deserted buildings, construction sites or near restrooms. They could be dangerous and no one would be able to hear you if you needed help.
4. If someone is watching you or bothers you in any way, run and tell an adult. This might be when you are in the movies, at the park, riding your bike or walking to a friend's house.
5. Do not play in or near streets. Because you are small, a car may not be able to see you. If a stranger asks you a question from a car, for instance, directions, you may help him or her from a distance or simply do not talk to strangers.

General Safety: Basic Tips

1. Know your first name and your last name.
2. Know your street address or route (street "name and number"), and the city or village where you live.
3. Know your mother or father's name and phone number and how they can be reached.

This is important to know in case you get lost. Do not give out this information to anyone unless you are asking for help (i.e., police officer, school nurse, counselor, teacher, etc.).

Objective #2: Students will gain an understanding of good safety habits while indoors through participation in class discussion.

Activity: (K-6) Teacher Lecture and Discussion on General Safety Indoors (15 minutes)



General Safety: Indoors



IN THE HOME

1. Always check to see who is at your door before opening it. Use a peek hole or look out a window. Do not rely on chain locks. They can easily be forced open.

2. Refuse to open the door for any stranger or other person unless your parents have said it is all right. Do not let anyone in who wants to use your phone. Tell them the location of the nearest phone booth or make the call for them while they wait outside.

3. Keep doors locked when home alone. Do not "broadcast" the fact you are by yourself. Always have a phone number where your parents can be reached.

4. All exterior doors should have good locks, preferably a deadbolt lock located right above the door knob. Although the following information may be more technical than need be for this age level, students should know how to operate these locks and have a general understanding of security. This may be important if they move to other areas or travel. The doors should also be solid core, not hollow core. Deadbolts are helpful in reducing the probability of someone breaking in since it is easy to spring back the latch of the standard door knob with a knife or credit card. A single cylinder deadbolt is preferable on most doors unless there is a glass window in the door or next to the door. In this case, a double cylinder deadbolt is better since it takes a key for both the inside and the outside of the door to lock or unlock. Therefore, the intruder cannot simply break the glass and turn the latch from the inside since a key must be used. If it is the only exit from your home, a deadbolt double cylinder may not be the best choice, since it does take longer to exit the home in case of an emergency. It is important after changing any locks to practice a fire drill.

5. All exterior windows should be secured as well. Sliding glass doors and windows are particularly vulnerable. They should be secured in two ways:

   a. In the upper track, drill screws straight up so that the head is facing down. Do this all along the top, every 3-4 inches. This takes up the gap so the window can't be lifted or pried out of the track.

   b. Place a sturdy stick, dowel or metal rod in lower track. There should be no more than a 1/8" gap. Tie a bright colored piece of yarn around stick so a child can easily lift the stick out in case of emergency.

   c. Wooden frame windows can be secured by "pinning" the frame where it overlaps. At a slight downward angle, drill a hole going through the front window's frame and catching the back frame. Place a nail in the hole so it can easily be lifted out yet so that the window can't be lifted up if the nail is in place.

6. Do not hide an extra key outside. Plan ahead, or keep an extra key with a reliable neighbor.

7. If you enter your home and something doesn't seem right, as though someone has been there, leave immediately and go tell an adult.

8. When home in the evening, always close curtains so no one can watch you from outside.

9. If someone is loitering or "hanging around" near your home for no apparent reason, tell an adult immediately, i.e., your parents, neighbor, police. Try to get a description of the person and/or car.

7-12 Grade

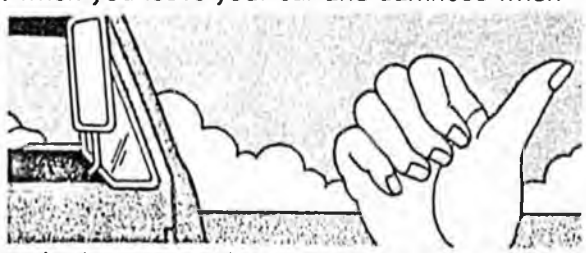
Objective #1: Students will demonstrate an understanding of good safety practices involving cars and being in public places.

Activity: (7-12) Teacher Lecture (25 minutes)
Prevention Techniques Outdoors: Car and Streets

Prevention Techniques—Outdoors

CAR

1. Lock car door at all times, day or night, whether you are in the car or out of the car. Always have your keys in hand whether you are heading to or from the car.
2. Check the back seat area and around the car before getting inside.
3. Try not to drive alone, especially at night. If you are "cruising," go with at least one friend and stay together. Do not leave separately or go off alone with other people.
4. Leave space between your car and other cars when driving or stopped. You need room to manuever and leave quickly in case of an attack.
5. Do not leave your purse, packages or other valuables in the car. If you do, put them out of sight (i.e., trunk, glove box, under the seat.
6. If you see a vehicle in distress, it may be best not to stop. Drive on and alert police or a nearby gas station. Note all details of vehicle.
7. If someone signals that something is wrong with your car, use your best judgment whether or not to stop. Try to make it to a public area and check it out.
8. Avoid parking in poorly lighted areas. Plan ahead if it is daylight when you leave your car and darkness when you return.
9. Prevent being stranded alone with a broken down vehicle:
   a. Stick to well-traveled and well-lighted highways and streets.
   b. Check your gas gauge before each trip.
   c. Know how to change a tire.
   d. Keep your car in good running order.
   e. If your car breaks down in a strange area or neighborhood, stay in the car, and keep the doors locked. When someone comes by, roll down the window just far enough to ask them to call the police, service station, or CB emergency channel for you.



10. If you suspect someone is following you or trying to run you off the road, do something to attract attention. As long as your car is operable, stay in it and keep the motor running. Drive to a fire station, police station, an all-night grocery, drug store, restaurant or anywhere that there are people to help you. It's generally best not to go home.

The best advice about hitchhiking is "Don't." There are safer and better ways to travel: buses, bicycles, carpools, cross country skiing, snowmobiles, 3-wheelers, even walking. However, since some students will accept rides from strangers, here are some suggestions. But please remember, even if you follow these suggestions, you are still placing yourself in the highest rape-risk category. When you hitchhike, you are a prime target because of your obvious vulnerability.

1. Do not hitchhike alone. Make sure two of you get in and out of the car at the same time.
2. If you think the driver has been drinking, pass up the ride.
3. Find out the driver's destination before you say where you are going.
4. Check to make sure the inside door handle is there and that it is working so you can exit quickly in an emergency. If the door handle is missing, turn down the ride.
5. If you are carrying money, do not mention it.
6. Do not answer any personal questions.
7. Most important, use your intuition. If you have any doubts or uneasiness about the driver, turn down the ride.

STREETS AND PUBLIC AREAS

WALKING

1. When possible, avoid walking alone, especially during dark hours. Walk with someone or at least in areas where other people are near.

2. Stay in well-lighted areas away from dark secluded spots, wooded areas, and alleys. Walk in the center of the sidewalk.

3. Be alert and do not daydream. Surprise is the attacker's best weapon.

4. Do not overload yourself with parcels. Keep a tight grip on valuables, such as your purse.

5. Avoid wearing expensive jewelry or carrying large sums of money.

6. Have keys ready before you arrive home so you don't fumble around at your door, unaware of your surroundings.

7. Walk on the sidewalk/side of the road facing the traffic.

8. If you think you are being followed, go to the nearest business, residence, or cross the street. Walk confidently and try to get near other people. If that person is in a car, change directions. It is much harder for a car to turn around. Now you will have a head start on getting help. Remember to get a license number if possible.

9. If a driver stops to ask you directions, avoid getting near the car.

10. Do not stop to pick up mail at night.

11. It is your right to wear anything you wish in public. However, sometimes clothing may communicate something you don't intend. Dress wisely. High heels, clogs, tight clothes, and heavy boots hinder quick movement.

12. Carry your purse, backpack or wallet close to your body. Don't flash large sums of money in public. Some sexual abuses occur in conjunction with a robbery.

13. Do not flirt with strangers at the movies, skating rink, store, bar, etc. Do not underestimate a stranger because he is nice, good looking, or appears to be honest.

14. Do not step into an elevator alone with a suspicious looking person. Always stand by the floor button controls and the emergency call button.

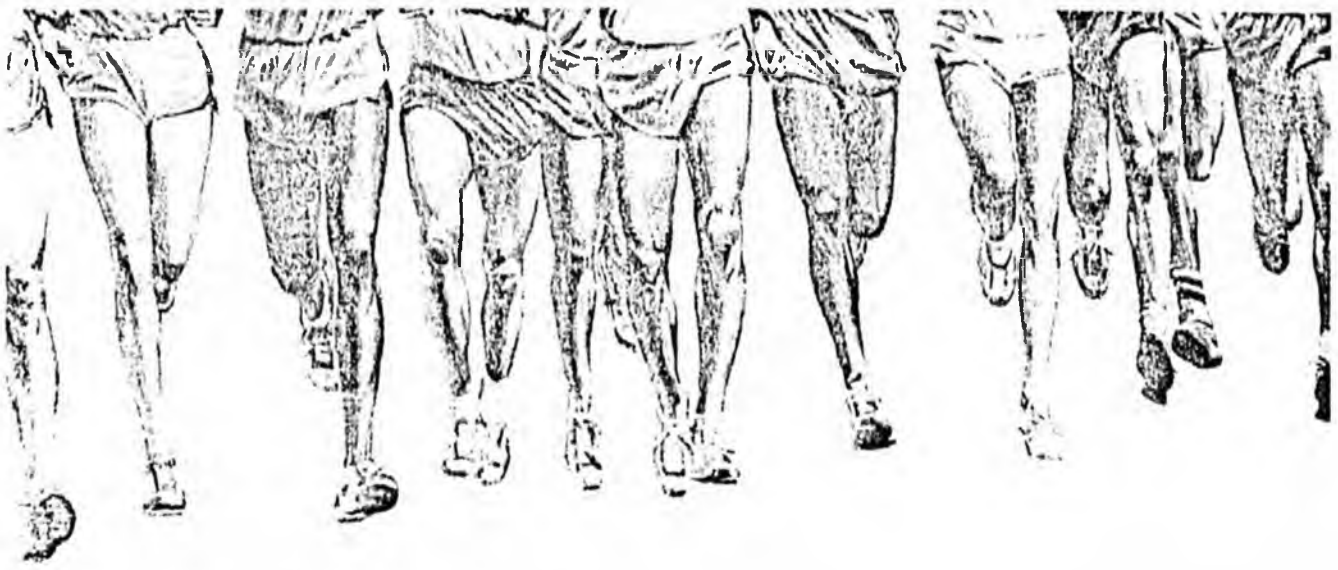
15. Do not go to laundromats alone late at night.

16. Know your date. Avoid blind dates unless you are accompanied by another person or couple. Stay out of "lover's lanes" or isolated parking spots. When first dating a person, suggest public places.

17. If riding public transportation alone, don't take back seats. Sit near the driver.

RUNNING/JOGGING

Running and jogging are increasingly popular activities in Alaska. With this rise in popularity comes an increased awareness of the problems runners and joggers face.



1. Run with a partner. It is not always possible, but remember, there is safety in numbers.

2. Let someone know where you are going to be running and when you expect to return.

3. Always lock your house or apartment. Have good exterior lighting around your residence, especially for the winter months.

4. Do warm-up exercises inside or in areas where other people are near. Avoid using isolated areas.

5. Alter your route somewhat so that there is not a distinct pattern. However, be familiar with your routes and know the safety spots along the way. If you think you are being followed, go to the nearest business or residence for help. If there are no places to go, stop another jogger and tell them.

6. Traffic problems make you want to run in isolated areas, but they can be dangerous if an emergency arises (heart attack, injury, abuse, etc.) and help is needed. One solution is to run on bike paths and sawdust trails in parks. Unfortunately, these areas have gotten the undeserved reputation as a rapist's haven and because of this, people are avoiding them. However, the fact remains that as fewer people use these facilities they become increasingly isolated, and the risk of personal abuse rises.

7. If you must run on roads, pick your route carefully. Never run on a major highway or thoroughfare. Never run on a road that does not have an escape shoulder. Run facing the traffic and wear clothing that makes you highly visible. Wear light colored clothing at dawn and dusk, reflectors at night and bright clothing during the day.

8. Remember, as a runner, you are still a pedestrian and must obey all pedestrian laws including traffic signals. Be a defensive runner. Assume all motorists do *not* see you and will *not* yield to you. If you think that intersection down there is the finish line of the 5,000 meter run, you may be in your last race. If you want to race, do it on a track.

9. Stay in well-lighted areas. Avoid bushes, alleys, entry ways, and secluded locations. Run courses that pass by open areas or near roadways where there is at least some traffic or places to which you can run if pursued.

10. Be aware of traffic, people and your surroundings at all times. Do not daydream. An attacker many times chooses people who appear disoriented, lost or who lack self-confidence and direction.

11. Runners many times feel invincible. Never assume that because you are a runner you are faster than an attacker. Almost any attacker can muster up enough speed to catch a victim. A few yards of determined energy may be all he needs.

12. During your run, do not exhaust yourself by running so hard that if you are attacked you are too weak to resist or run away.

Report and encourage other runners to report *all* incidents, even those which seem only suspicious or minor in nature, to law enforcement officials. You may prevent other joggers from becoming future victims. You have the right to pursue such activities as running and jogging and the right to pursue them without fear of attack.

Objective #2: Students will demonstrate their ability to recognize home security weaknesses and how to correct them through class discussion and by completing the take home checklist.

Activity: (7-12) Teacher Lecture
Prevention Techniques—Indoors: At Home and with the Telephone (25 minutes)



Prevention Techniques—Indoors

There are many things in your physical environment which you can control. Whether it's changing a lock on a door or changing your name in the telephone book, you can regulate a portion of your own security.

IN THE HOME

1. Keep all doors and windows locked. Install deadbolt locks on exterior doors. Be sure doors are solid core and hinges are on the inside of the house.

2. Sliding glass doors and windows should have a stick or rod in the lower track and flat headed screws in the upper track.

3. If you move to a new home or apartment, change all locks. You don't know who has duplicate keys.

4. Don't hide extra keys outside such as under a doormat.

5. Maintain good exterior lighting all around the house. Photoelectric cells are inexpensive and work well. They turn lights on and off in accordance with the daylight. Keep shrubbery and fences low so no one can hide easily behind them.

6. Purchase electric timers for inside lights. Have lights come on routinely. Always come into your home with lights on.

7. If you come home and suspect someone has entered while you were away, do not enter. Leave quickly and quietly and call the police from a neighbor's home.

8. When dark, pull all shades or drapes. Don't undress in front of an uncovered window.

9. When someone comes to your door, don't open it automatically. Check to see who is there by looking out the window or using a peek hole. Do not rely on chain locks since it takes minimal pressure on the door for the chain to come off the wall.

10. Require repairmen to show identification by slipping the card under the door. Call the business to verify his reason for being in the area. Don't call the number he has listed on his card.

11. Don't let strangers in to use your phone. Make the call for them or simply direct them to a telephone elsewhere.

12. Familiarize yourself with the position of all meters and fuse boxes in your home. If they are located outside, do not let anyone inside who needs to check them. Also, be sure they are padlocked if located outside.

13. A dog or a sign that says "Beware of Dog" may be a good deterrent.

14. Use your initials rather than your first name on your mailbox, a last name alone may be sufficient. You may want to add made-up names to give the illusion there are several living at the location.

15. Practice an "emergency" situation; for example, what would you do if someone broke into your home?

TELEPHONE

1. List your family's name in the telephone book under your last name and first two initials. You may also want to consider the option of not listing your address in the phone book.

2. Do not give out your number to someone who believes they have the wrong number. Instead, ask, "What number are you trying to call?"

3. Never tell strangers/acquaintances that you are home alone. Fake the presence of others if necessary, "I'll be right there, John," or "Would you like to speak to my father about this?"

4. Do not give name and address out to strangers over the phone.

5. Hang up immediately on obscene or threatening calls.

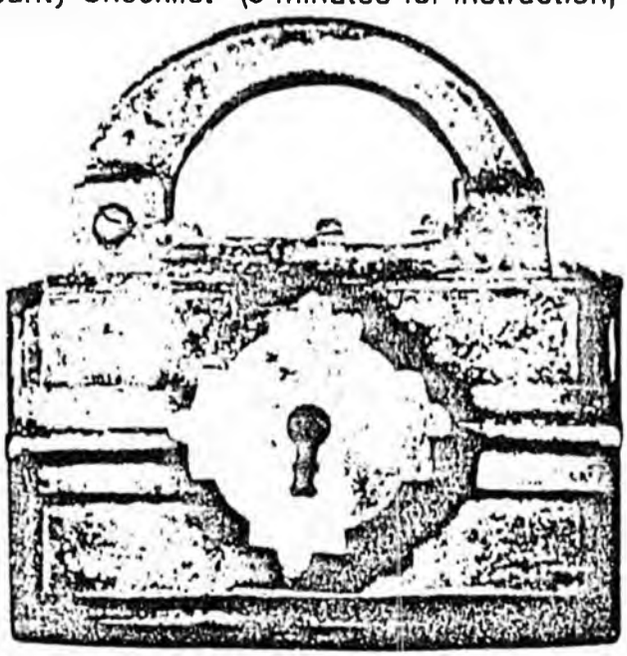
6. Report obscene or threatening calls to the police and the telephone company. Try to remember as much as you can about the voice: accent or peculiarities; where you have had your telephone number printed recently, etc.

7. Never answer the telephone with your name. Make the caller identify the name or number that he or she needs first.

8. List emergency numbers on the phone (i.e., with tape or stickers obtained from local emergency services).

9. Do not put your name and address on bulletin boards indiscriminately when advertising an item to sell. It is safest to only list your telephone number.

Activity: "Take Home Security Checklist" (5 minutes for instruction, 30 minutes at home)



Home Security Check-List



OK	Needs Change	
		DOORS
____	____	Are all your outside doors equipped with deadbolt locks? Are your door hinges the type on the outside of the house that can be lifted out?
____	____	Do your exterior doors, especially the front door, have peek holes or sight viewers?
____	____	Are you careful about lending or giving out duplicate keys? Do you know where they all are?
____	____	Are your sliding glass doors secured horizontally (stick) and vertically (screws)?
____	____	Does your bedroom door lock?
____	____	Are your exterior doors solid core, not hollow core?
____	____	Is your garage door secure?
		WINDOWS
____	____	If you have wooden, double hung windows, are they "pinned" and secured?
____	____	If you have sliding glass windows, are they secured horizontally and vertically?
____	____	Do you close your curtains at night?
____	____	Are your curtains heavy enough so no one can see in? (Check them at night.)
		LIGHTING (inside and outside)
____	____	Do you have good lighting on the front of your home? (walkways, courtyard, front door)
____	____	Do you have good lighting on the side of your home?
____	____	Do you have good lighting on the back of your home?
____	____	Are these outside lights high enough so they cannot be broken or unscrewed easily by someone at ground level?
____	____	Is your fuse box on the inside of your home? If on the outside, is it locked?
		LANDSCAPING
____	____	Is your shrubbery trimmed so that it does not hide or conceal windows?
____	____	Is your fence see through so that neighbors/police would notice a prowler?
		MISCELLANEOUS
____	____	Do you have emergency numbers printed on or next to your telephone?
____	____	Have you practiced a fire drill within the home in the last six months?
____	____	Do you avoid having identification on your keys?
____	____	Do you know your neighbors? Could you call them for help if you needed it?

List specific recommendations on back for all "Needs to be Changed" answers.

8

RESOURCES FOR TEACHING UNIT

Resources for Assistance and Speakers

Bering Sea Women's Group
P.O. Box 1596
Nome, AK 99762
443-5444

Child Sexual Abuse Project
P.O. Box 1948
Bethel, AK 99559
543-3994

Juneau Women's Resource Center
110 Seward Street
Juneau, AK 99801
586-2977

Kodiak Women's Resource & Crisis Center
P.O. Box 2122
Kodiak, AK 99615
486-6171

Alaska Women's Resource Center
204 East 5th, #224
Anchorage, AK 99501
276-0528

Aiding Women from Abuse & Rape Emergencies
(AWARE)
P.O. Box 809
Juneau, AK 99802
586-6623

Abused Women's Aid in Crisis (AWAIC)
417 West 8th
Anchorage, AK 99501
279-9581

Advocates for Victims of Violence
P.O. Box 524
Valdez, AK 99686
835-2999

Arctic Women in Crisis (AWIC)
P.O. Box 69
Barrow, AK 99723
852-4357

Emmonak Shelter
General Delivery
Emmonak, AK 99581

Kenai/Soldotna Women's Resource and Crisis Center
P.O. Box 2464
Soldotna, AK 99669
262-9378

Kotzebue Women's Crisis Project
P.O. Box 38
Kotzebue, AK 99752
442-3969

Men's Support Network
P.O. Box 101071
Anchorage, AK 99510
272-4822

Men Emerging Now, Inc. (MEN)
211 4th St., Rm. 304
Juneau, AK 99801
586-3585

Sitkans Against Family Violence
P.O Box 1573
Sitka, AK 99835
747-3370

So. Peninsula Women's Service
P.O. Box 2328
Homer, AK 99603
235-7712

Standing Together Against Rape (STAR)
P.O. Box 3356
Anchorage, AK 99510
276-7279

S.A.F.E.
P.O. Box 94
Dillingham, AK 99576
842-2316

Valley Women's Resource Center
P.O. Box 1518
Wasilla, AK 99687
376-4080

Tundra Women's Coalition
P.O. Box 1537
Bethel, AK 99559
543-3455

Women in Safe Homes (WISH)
P.O. Box 6552
Ketchikan, AK 99901
225-9474

Women in Crisis-Counseling Assistance (WIC-CA)
302 Charles Street
Fairbanks, AK 99701
452-2293

Action Resources (Where to voice your opinion)

- Television programming

Women Against Violence Against Women
543 North Fairfax
Los Angeles, California 90039

Women Against Violence in Pornography and Media
P.O. Box 14635
San Francisco, California 94114

- Laws, legislation

Contact your local legislator or an Alaskan Domestic Violence/Sexual Assault program listed above.

Teaching Aids

- Coloring and activity books for K-6

"Red Flag, Green Flag People"
Rape and Abuse Crisis Center
P.O. Box 1655
Fargo, North Dakota 58107

"My Very Own Book About Me"
Spokane Rape Crisis Center
Lutheran Social Services
North 1226 Howard
Spokane, Washington 99201

"What If I Say No!"
Bakersfield Active 20-30 Club
Bakersfield, California

"Private Zone"
Chas. Franklin Press
18409 - 90th Ave., West
Edmonds, Washington 98020



- Anatomically correct dolls and patterns

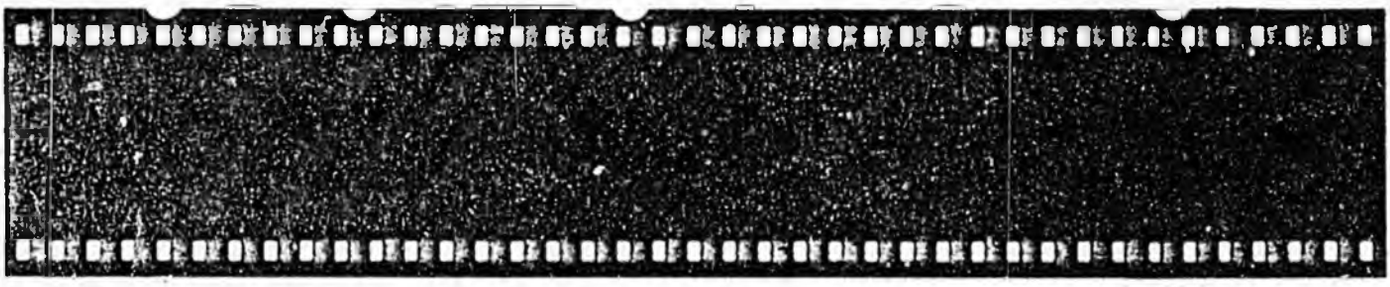
Migima Designs
P.O. Box 70064
Eugene, Oregon 97401
(503) 726-5442

- Lock displays

Local police department

Schlage Lock Company
P.O. Box 34186
San Francisco, California 94134

Kwikset Division of Emhart Industries
516 East Santa Ana
Anaheim, California 92803



Audio-visual listings

Acquaintance Rape Series. 16mm, 4 segments, 10 minutes each, Grades 7-12, ODN Productions.

Aware and Not Afraid. Video. 20 minutes. Grades 7-12. Holden-Hackney Productions. Council on Domestic Violence and Sexual Assault, Juneau.

Better Safe Than Sorry. 16mm, 14 minutes, Grades 4-7, Filmfair Communications.

For Pete's Sake Tell. Filmstrip/Tape, 6 minutes, Grades K-4, Krause House.

Incest: The Victim Nobody Believes. 16mm, 21 minutes, MTI Teleprograms.

It's OK to Say NO. Video. 14 minutes. Grades K-6. Holden-Hackney Productions. Council on Domestic Violence and Sexual Assault, Juneau.

No More Secrets. 16mm, 13 minutes, Grades K-6, ODN Productions.

No Word for Rape. 16mm, 35 minutes, Grades 7-12, Affinity Films.

Rape: Escape Without Violence. 16mm, 18 minutes, Grades 7-12, Perennial Education Films.

Speak Up, Say No. Filmstrip/Tape, 6 minutes, Grades K-4, Krause House.

Some Secrets Should Be Told. 16mm, 12 minutes, Grades K-6, MTI Teleprograms.

Sometimes Its OK to Tattle. 16mm, 12 minutes, Grades K-6, MTI Teleprograms.

Talking to a Child About Preventing Sexual Molestation. Slide/Tape, 20 minutes, for teachers and parents, Migima Designs

The Touching Problem. 16mm, or Video, 18 minutes, Grades K-6, MTI Teleprograms.

Who Do You Tell? 16mm, 11 minutes, Grades K-6, MTI Teleprograms.

Suggested Reading for Teachers and Parents

Against Rape by Medea and Thompson, 1974, Farrar, Straus & Giroux. 151 pages. $8.95 hardbound, $3.95 paperback.

Come Tell Me Right Away. Booklet. Resource Center for Parents and Children, 809 College Road, Fairbanks, Alaska 99701. (907) 456-2866.

He Told Me Not to Tell by King County Rape Relief, 1979, 28 pages. Available through the Council on Domestic Violence and Sexual Assault, Department of Public Safety, Pouch N, Juneau, Alaska 99811.

Here's Looking at You - curriculum on Alcohol and Youth, Alcohol Education Office, 7521 Old Seward Highway, Suite B, Anchorage, Alaska. (907) 349-6602 or Comprehensive Health Education Foundation, 20814 Pacific Highway South, Seattle, Washington 98188.

"No More Secrets" by Caren Adams and Jennifer Fay, 1981, Impact Publishers, 90 pages, $3.95 paperback.

"Resources Against Sexual Assault", 1983, WICCA, 702 10th Avenue, Fairbanks, AK 99701, Cost $3.00

"The Best Kept Secret--Sexual Abuse of Children" by Florence Rush, 1980, McGraw-Hill, 197 pages, $5.95 paperback.

"The Silent Children" by Linda Tschirhart Sanford, 1980, McGraw-Hill, 367 pages, $12.95 hardback, $7.95 paperback.

TEACHER EVALUATION FORM

Class Grade Level _____

Have you ever taught a sexual assault prevention unit before? _____

Will you be teaching one again? _____

What parts of the Teacher Guide did you find most helpful? _____

Least helpful? _____

What parts of the video program(s) did you find most helpful? _____

Least helpful? _____

What changes did you see in the students after teaching this unit?

Was the parent information brochure helpful/not helpful in gaining community support? In what way?

What would you like to see done differently in the sexual assault prevention unit? Please list ideas and suggestions.

Return and mail to: Council on Domestic Violence and Sexual Assault
Department of Public Safety
Pouch N
Juneau, Alaska 99811

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 566
Title: Training of teachers and principals on sexual abuse....
Sponsor: Lacher, Phillips, Flood
Requestor: House HESS
Date of Request: March 1, 1984

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: K-12 Support
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	Ø	Ø	Ø	Ø	Ø	Ø
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	Ø	Ø	Ø	Ø	Ø	Ø
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:
Fiscal impact on Department is Ø. There may be a fiscal impact to school districts which would be indeterminate at this time.

ANALYSIS: Attach a separate page for analysis

Prepared By: Alison Elgee Phone:
Division: Date:

Approved by Commissioner: Harold Reynolds Date:
Agency: Education

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Levy
3/2/84

Version I

Original sponsors: Lacher, Phillips,
Flood, et al

Tucker

IN THE HOUSE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR HOUSE BILL NO. 566 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to training of teachers and principals on the subjects of child abuse and sexual abuse of minors."

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

* Section 1. AS 14.03.030 is amended by adding a new subsection to read:

(b) The school term in each school district shall include two days of in-service training of teachers and principals on the subjects of child abuse and sexual abuse of minors.

HB

567

MEMORANDUM 3/28/84

TO: Mae
FROM: Bill
RE: HB 567 (NEA Request)

As you requested, I told Bob Manners that HB 567 would not be calendared on Friday of next week. I implied it was because of scheduling problems. I did not say whether the bill would be considered for calendaring at a later date, but he didn't ask anyway.

Since I had said I would let Anne in Lacher's office know what your decision was, I also told her that scheduling problems would make it impossible to hear the bill on Friday.

You recall she had sent a formal request for you to hear the bill. I think Barb Lacher will probably call today in regard to the bill.

/wtl

MEMORANDUM 3/28/84

TO: Mae
FROM: Bill
RE: NEA Request

I did let Bob Manners know that HB 567 may be considered for calendaring should the other bills tied in with this one show any promise of moving in other committees.

I remind you that tomorrow is the day we must submit our committee schedule for next week. I have checked with other committees to see if HCR 46 or HB 566 "show any promise of moving." To date, no committee hearing has been scheduled for either bill. Neither bill ~~has bill~~ has yet been calendared for the House floor. Please bear in mind that the day Bob would like the bills heard is Friday, April 6 -- next week. I must let the clerk know if we want to hear this bill.

/wtl

Bill
Tell Manners that
HB 567 may be
considered for calendary
should the other
bills tied in with this
one show any promise
of moving in the
committees.

MEMORANDUM

TO: Mae
FROM: Bill
DATE: March 23, 1984

RE: NEA Request

Bob Manners, Secretary of the NEA-Alaska, called and asked that you consider calendaring one of the two following bills on Friday, April 6:

HB 522 (Duncan) - Mandatory Kindergarten

HB 567 (Lacher) - Appropriation to DOE to develop a training program on sexual abuse

The NEA fly-in begins on Friday and Bob said that many of the teachers would like to hear one or both of these bills.

I said that you had announced that the HESS Committee would not be hearing any new House Bills after April 2, but that I would ask you if you wanted to allow this one exception.

If you don't want to hear one of the bills, I would like to call Bob and let him know of your decision.

Please bear in mind that Barbara Lacher has requested in writing that you hear HB 567. It might be a good idea to do so -- being careful to announce that the exception was being made only because of the unique circumstances (that is, the fly-in, Lacher's earlier request, previous passage of bills related to this appropriation). This appropriation could even be identified as a "clean-up measure," since earlier legislation will have little affect without this funding.

/wtl

HCR 46 - Rules
HB 566 - Rules

HB
570

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

2/2/84 Date: MARCH 6, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 570

"An Act making a special appropriation for payment as a grant to the Kodiak Island Borough for construction of the Kodiak auditorium and remodeling of Kodiak main elementary school; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Rick Uehling	Mel Tracker - no Rec
Dan Vestinger	
[illegible]	
[illegible]	

Mel Tracker
CHAIRMAN

Alaska State Legislature

REPRESENTATIVE
FRED F. ZHAROFF
P.O. Box 405
Kodiak, Alaska 99615
(907) 486-5254

WHILE IN JUNEAU
Pouch V
Juneau, Alaska
99811
(907) 465-4986
465-4968

House of Representatives

District 27:
Akhiok
Bells Flats
Chignik
Chignik Lagoon
Chignik Lake
Chiniak
Ivanof Bay
Karluk
Kodiak
Larsen Bay
Old Harbor
Ouzinkie
Perryville
Port Lions

MEMORANDUM

TO: Rep. Fischer, Chair
House Health, Education, and Social Services Committee

FROM: Rep. Zharoff

DATE: Febraury 9, 1984

RE: HB 570, An act making a special appropriation for payment as a grant to the Kodiak Island Borough for construction of the Kodiak auditorium and remodeling of Kodiak main elementary school; and providing for an effective date.

I wish to take this opportunity to request that the HESS Committee hold a hearing on HB 570 at the earliest possible convenience. If possible, I would request the hearing be teleconferenced to include the city of Kodiak, and other sites that may have an interest in HB 570. There are many people in my community that wish to participate in the hearing and I have been told that there may be others around the state that may wish to participate as well. (I have requested a list from the promoters of the auditorium of known supporters in other parts of the state.)

You may contact my office staff for needed back-up or to answer any questions that may arise. Thank you for your attention to this matter.

PERSEVERANCE
T·H·E·A·T·R·E

March 6, 1984

TO: Members of the House HESS Committee
SUBJ: Support for HB 570

Perseverance Theatre wishes to express our support for Rep. Zharoff's measure to build an auditorium facility in Kodiak in conjunction with the Kodiak High School.

The auditorium would benefit not only the students of Kodiak High School, but those organizations and individuals who participate in the performing arts. It would also increase the entertainment possibilities for the community. We urge its passage.

Sincerely,

Deborah B Baley

Deborah Baley
Producing Director

INTRODUCTION

The Kodiak Island Borough School District has completed several planning studies and has determined:

1. The School and Community needs are best served by the construction of a new Auditorium seating 750 people and remodeling Old Main Elementary School into support facilities for the Auditorium and other uses all on the Mill Bay School Complex Site.

2. That the Auditorium should be located to provide interior access from the Junior High School and High School without either student body crossing the others "territory" and also provide direct public access.

3. That music and some other facilities would be shared by the Junior High School and High School.

4. This new construction and remodeling would occur in the year following the remodeling of the Junior High School.

5. This project should provide a low maintenance, energy efficient educational facility that would be in architectural and fuctional harmony with the existing school buildings on this site.

6. The School District wishes to develop buildings that are a good "buy" in the opinion of the tax payers and attractive, functional buildings that are of low maintenance and energy efficient are the way to achieve this.

The intent of this education specification is to provide a sound program that defines the capabilities required of the facilities but does not dictate the design. This is particularily important in the case of the Auditorium so that the Architect can be creative in the design and perhaps provide even greater capabilities than those now required or envisioned.

This education specification is of a "streamlined" nature and relies on the master plan for the Mill Bay School Complex Site and previous educational specifications to provide a basis for this project and for such information as demographics and other community and school descriptions.

SCHOOL USES

School uses or potential school uses of Auditorium and Support Facilities are:

		Audience size or Participants:	Facility:
1.	Elementary School Music Program Concerts....	500-1,000	A
2.	High School Music Program Concerts.....	500-1,000	A
3.	High School Music Program Festival.....	500-1,000	A
4.	High School Music Program Small Group Performances.....	250-500	A
5.	High School Drama Club Workshops (Artist in Residence).....	30-50 Participants	A or DR.C.R.
6.	High School Drama Club Productions.....	250-500	A
7.	High School Drama Club Literary Contest.....	100-250	A
8.	Junior High School Drama Club Workshop (Artist in Residence).....	50-100 Participants	A or DR.C.R.
9.	Junior High School Drama Club Productions...	250-500	A
10.	Junior High School Drama Club Contest.....	100-250	A
11.	Certain Types of Assemblies for Junior High, High School and Elementary School.....	500 Max.	A
12.	Faculty Meetings.....	_____	A
13.	Parent-Teacher Association Meetings.....	_____	A
14.	School Christmas Programs.....	_____	A
15.	High School Baccalaureate Service.....	750 Max.	A
16.	Junior High School Band Instruction.....	_____	B.C.R.
17.	Junior High School Orchestra Instruction....	_____	B.C.R.
18.	Junior High School Choral Instruction.....	_____	C.C.R.

19.	High School Band Instruction.....	_____	B.C.R.
20.	High School Orchestra Instruction.....	_____	B.C.R.
21.	High School Choral Instruction.....	_____	C.C.R.
22.	Music Instruction in Music Classroom (Such as Music Appreciation).....	_____	M.C.R.
23.	Dance Instruction.....	_____	DN.C.R.
24.	Cheerleading Practice.....	_____	DN.C.R.
25.	Adaptive Physical Education (For students with physical problems).....	_____	DN.C.R.
26.	Dance Rehersal.....	_____	DN.C.R.
27.	Gymnastics.....	_____	DN.C.R.

ABBREVIATIONS

A	=	Auditorium
B.C.R.	=	Band Classroom
C.C.R.	=	Choral Classroom
DN.C.R.	=	Dance Classroom
DR.C.R.	=	Drama Classroom
G/L	=	Gallery / Lobby
M.C.R.	=	Music Classroom

COMMUNITY USES

Community uses or potential School uses of Auditorium and Support Facilities are:

		Audience Size or Participants:	Facility:
1.	Kodiak Island Artists Association Exhibits	100-250	Gallery - Lobby
2.	State Library Association Workshops	50-100 Participants	DR.C.R.
3.	Kodiak Community College Workshops	250-500	A
4.	Kodiak Island Artists Association Workshop	_____	C.C.R.
5.	U.S. Coast Guard - Center Stage Drama Workshop	_____	DR.C.R.
6.	Kodiak Baranof Productions, Inc. Workshops Given by Visiting Artists and Groups including School Workshops	500-1,000	A
7.	Kodiak Baranof Productions, Inc. Concert Series	500-1,000	A
8.	Kodiak Baranof Productions, Inc. Local Kodiak Artists Show	500-1,000	A
9.	Kodiak Russian Dancers Folk Dance Class	30-50 Participants	DN.C.R.
10.	Kodiak Russian Dancers School Performances	500-1,000	A
11.	Kodiak Russian Dancers Special Workshops by Visiting Artists	30-50 Participants	DR.C.R.
12.	Kodiak Russian Dancers Community Performance	500-1,000	A
13.	Mid-Eastern Dance Troop Classes	30-50 Participants	DN.C.R.
14.	Mid-Eastern Dance Troop Workshops	30-50 Participants	DR.C.R.
15.	Mid-Eastern Dance Troop Performance	500-1,000	A
16.	Kodiak Allemanders Square Dance Club Classes and Workshops	30-50	DR.C.R.
17.	Community Theater Workshops	30-50	DR.C.R.
18.	Community Theater School Performance	500-1,000	A
19.	Community Theater Community Performance	_____	A

20.	Children's Theater School Performances.....	500-1,000	A
21.	Kodiak Multi Cultural Council Meeting & Talent Show.....	50-100	DR.C.R.
22.	Folk Arts Program Displays, Classes & Visual Presentation.....	100-500	DR.C.R., A & G/L
23.	State Museum Traveling Collections Displays.	500-1,000	G/L
24.	Kodiak Community College Displays, Workshops, Lectures.....	30-500	A, DR.C.R.
25.	Kodiak Community College Show To Go Program.	250-500	A
26.	Kodiak Community College Drama Production...	500-1,000	A
27.	Filipino Community Classes Philippine Folk Dance.....	10-30	DN.C.R.
28.	Filipino Community Floor Show Folk Dances...	250-500	A
29.	Filipino Community Fashion Show.....	250-500	A
30.	Filipino Community Workshops - Cultural.....	10-30	DN.C.R.
31.	Filipino Community Workshops - Awareness, Sensitivity & Leadership Training.....	_____	DR.C.R.
32.	U.S. Coast Guard Center Stage Talent Show...	250-500	A
33.	Millikens Show.....	500-1,000	A
34.	Cry of the Wild Ram Rehersals.....	50-100	A
35.	Cry of the Wild Ram Fund Raising.....	250-500	A
36.	Film Lovers in Kodiak (Flik).....	100-250	A or C.C.R.
37.	Various Art Exhibits as Appropriate.....	10-1,000	G/L

See page 8 for Abbreviations.

KODIIAK AUDITORIUM AND MAIN
SCHOOL REMODEL

HB570 provides for a special appropriation to fund the Kodiak Auditorium and remodeling of the Main school. The bill is a revision to Representative Zharoff's sponsored HB269 and reduces the funding request by $386 thousand.

The Kodiak Community has identified the need for a multi-use facility for at least ten years. The facility would provide adequate stage area and seating for school and community art functions. The project has been identified in both the Kodiak City and Borough Capital Improvement Projects Plan. Additionally, The facility was also been targeted by the State Cultural Facility Council as a number one priority.

At present, the architectual and preliminary designs for the facility have been completed. A maintenance and operation budget report was prepared to indicate a cost of one quarter million dollars per year for the facility. The Borough has indicated that the current mill rates and existing levels of federal and state school funding subsidies are sufficient to cover the M & O of the facility.

HB
379

COMMITTEE REPORT

HOUSE

(7) FURTHER:

2/6/84 Date: MARCH 14, 1983

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 579

"An Act relating to Junior Reserve Officer Training Corps instructors."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 579 (HESS) [X] same title [ ] new title

and recommends THAT THE HESS CS DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Comm.ttee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

STATE OF ALASKA

CHAIRMAN,
HOUSE LABOR AND
COMMERCE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

P.O. BOX 1542
ANCHORAGE, ALASKA 99510
(907) 333-2616

REPRESENTATIVE WALT FURNACE

March 14, 1984

TO: House Health, Education, and Social Services Committee

FROM: Representative Walt Furnace

SUBJECT: House Bill 579

The purpose of this legislation is to correct an inequity existing in the Anchorage School District. Presently, all JROTC instructors regardless of educational attainment and the certification that reflects that attainment are paid at a lower level than their teacher colleagues. They are paid at 90 percent of the salary level of their teacher counterparts.

The bill in its present form grants teacher status to only certificated instructors that are charged with the direct supervision and teaching of students.

This legislation gives qualified JROTC instructors professional recognition as teachers and allows them to participate in the teachers retirement system.

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, House HESS Committee Staff
DATE: March 14, 1984

RE: Sectional Analysis of HB 579

Pursuant to your request, I have prepared the following sectional analysis of House Bill 579, "An Act relating to Junior Reserve Officer Training Corps instructors."

Section 1 includes certain Junior Reserve Officer Training Corps instructors within the definition of "teacher" contained in AS 14.20.207 (1), which applies to all of AS 14.20, "Teachers and School Officials." Junior ROTC instructors thus included would be limited to those Junior ROTC instructors who

1.) are responsible for student supervision;
2.) have direct student contact for five or more hours a day; and
3.) are certificated instructors.

Section 2 includes certain Junior Reserve Officer Training Corps instructors within the definition of "teacher or member" contained in AS 14.25.220 (38), which applies to all of AS 14.25, "Teachers' Retirement." Junior ROTC instructors thus included would be limited to those Junior ROTC instructors who

1.) are responsible for student supervision;
2.) have direct student contact for five or more hours a day; and
3.) are certificated instructors.

/wtl

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
Wednesday, 14 March 1984

Agenda

Call to Order

Comments by Representative Tischer, Chairman

Consideration of HB 549, "An Act relating to vital statistics records."

Consideration of HB 579, "An Act relating to Junior Officer Training Corps Instructors."

Comments by members

Announcements

Adjournment

MK

Position Paper

HB 579

Passage of this bill would allow Junior Reserve Officer Training Corps Instructors to participate in the Teachers' Retirement System (TRS) if they are responsible for student supervision for five hours or more each day and if they are certificated.

The Department opposes this bill. To open participation in the Teachers' Retirement System to certain individuals who happen to be certificated but for whom certification is not a condition of employment does not appear to serve any public purpose. There are undoubtedly other employees in the Public Employees' Retirement System who happen to possess a certificate and would have reason to pursue coverage under the TRS.

J. K. Humphreys for 3/13/84

J.K. Humphreys, Director, Division of Retirement & Benefits — Date

Lisa Rudd for 3/15/84

Lisa Rudd, Commissioner, Department of Administration — Date

MP

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 579
Title: "An Act relating to TRS"

Sponsor: Furnace
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: TRS Match

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts						
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match		17.5	18.9	20.4	22.0	23.8
TOTAL OPERATING		17.5	18.9	20.4	22.0	23.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		17.5	18.9	20.4	22.0	23.8
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 3-13-84

Approved by Commissioner: Lisa Rudd for Date: 3-15-84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 579
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

March 13, 1984

IV Analysis: Passage of this bill will allow Junior Reserve Officer Training Corps instructors to participate in the Teachers' Retirement System (TRS) if they are individually certificated and supervise students for five or more hours a day.

Currently there are nine positions covered by the Public Employees' Retirement System (PERS) that we estimate would qualify under this bill. Those positions are currently with the Anchorage School District, which would experience an increase in cost equal to the state match.

FY 85	FY 86	FY 87	FY 88	FY 89
17.5	18.9	20.4	22.0	23.8

The present value of this benefit is $80,000. This bill would have no perceptible effect on the funding ratio.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE



Revision Date:

REQUEST
Bill/Resolution No.: HB-579
Title: ... Junior Reserve Officer Training Instructors
Sponsor: Furnace
Requestor: Furnace
Date of Request: 3-14-84

FISCAL DETAIL
Agency Affected: Education
Program Category Affected:
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0
POSITIONS:		0	0	0	0	0
FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The bill has no fiscal impact on this department.

ANALYSIS: Attach a separate page for analysis

Prepared By: Steve Hole
Phone: 2800
Division: Commissioner's Office
Date: 3-14-84

Approved by Commissioner: Harold Reynolds, Jr.
Date: 3-14-84
Agency: Education

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

)1.05.031 and § 4,

rement fund. le at intervals valuations the ent to the leg- ll be prepared Actuaries. (§ 66 SLA 1973)

ess. (a) Bene- behalf of the axes and are assignment, tary or invol- the amount ate, alienate, ise dispose of void.

held in the xempt from xemptions), 3 ch 84 SLA

ded the subsec- substituted harge" for garnishment, rted a comma y or involun- section (a), and

lication for by July 1 nember on pplication tor within erson was

an active member, no benefits or refunds may be paid under this chapter and the member's records may be destroyed. (§ 14 ch 84 SLA 1969; am § 23 ch 13 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 14.25.210. Penalty for false statements. A person who willfully or knowingly makes a false statement, or falsifies or permits to be falsified any record of the retirement system, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $500 or by imprisonment for not more than six months, or by both, and forfeits all rights under this chapter. (§ 20 ch 145 SLA 1955)

Sec. 14.25.220. Definitions. In this chapter, unless the context requires otherwise,

(1) "active member" means a member who is employed by an employer, is receiving compensation on a full-time or part-time basis and is making contributions to the system, or a member making contributions under AS 14.20.330 or 14.20.345;

(2) "actuarial adjustment" means equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of tables adopted from time to time by the board;

(3) "administrator" means the person appointed by the commissioner of administration under AS 14.25.015;

(4) "annuitant" means a retired member or a disabled member who is receiving a benefit under this system;

(5) "average base salary" means the result obtained by dividing the sum of the member's three highest years' base salary by three, or if a member does not have three years base salary, then by dividing the sum of all base salaries by the number of years of base salary; the base salary for a year in which credit is granted for disability totaling more than one-third of a year may not be used in the computation of the average base salary; the base salary in a school year for which the member receives compensation for less than two-thirds of a year may not be used in the computation of the average base salary; if compensation is received for more than two-thirds of a year, the full base salary for that school year shall be used in the computation of the average base salary;

(6) "base salary"

(A) means the total remuneration payable under contract for a full year of membership service, including addenda to the contract;

(B) has the same meaning as "compensation" under AS 39.35.680(8) when applied to a state legislator who elects membership under AS 14.25.040(b);

(7) "beneficiary" means a person designated by a member to receive benefits that may be due from the system upon the member's death;

(8) "BIA service" means service, including partial years, as a teacher in a school operated by the Bureau of Indian Affairs in Alaska;

(9) "compensation" means the total remuneration paid under contract to a member for services rendered during a school year, including cost-of-living differentials, payments for leave that is actually used by the member, the amount by which the member's wages are reduced under AS 39.30.150(c), and the amount deferred under an employer-sponsored deferred compensation plan or the tax shelter annuity plan approved by the Department of Education, but does not include retirement benefits, welfare benefits, per diem, expense allowances, workers' compensation payments, or payments for leave not used by the member, whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins; for purposes of AS 14.25.050, compensation paid includes any payment made after June 30 of a school year for services rendered before the end of the school year;

(10) "credited service" means all membership service as provided in (20) of this section, territorial employment as defined in (41) of this section, plus outside, military, and Alaska BIA service, with outside and military service limited to 10 years except under the conditions set out in AS 14.25.100;

(11) "deferred vested member" means an inactive member who meets the service requirements of a vested member;

(12) "dependent child" means an unmarried child of a member, including an adopted child, who is dependent upon the member for support and who is either (A) less than 19 years old, or (B) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education; the age limits set out in this paragraph do not apply to a child who is totally and permanently disabled;

(13) "disabled member" means a member who is terminated, who has not received a refund from the system, and who is receiving a disability benefit from the system;

(14) "early retirement" means retirement under AS 14.25.110(b);

(15) "employer" means a public school district, the Board of Regents of the University of Alaska, the Department of Education, the National Education Association of Alaska, the Regional Resource Centers or the state legislature with respect to a state legislator who elects membership under AS 14.25.040(b);

(16) "former member" means a member who is terminated and who received a total refund of the balance of the mandatory contribution account, or who has requested in writing a refund of the balance of the mandatory contribution account;

(17) "full-time teacher" means a teacher occupying a position requiring teaching on a regular basis for the normal work period per day or week at a teaching assignment, excluding teaching as an assistant or graduate assistant or teaching on a substitute, temporary, or per diem basis;

(18) "inactive teacher or member" means a member who is terminated and who has not received a refund from the system or a member who is on leave of absence and who is not making contributions under AS 14.20.345;

(19) "member contribution account" means the total maintained by the system of the member's mandatory contributions, indebtedness principal and interest contributions, interest credited to each of those accounts, and adjustments to the account in accordance with AS 14.25.170;

(20) "membership service" means

(A) full or part-time service as a teacher in a public school in the Territory or State of Alaska, or both, under the supervision and control of the Territorial Board of Education or the Department of Education or the school board of a city, regional educational attendance area, or borough school district;

(B) full-time or part-time teaching at the University of Alaska or a full-time administrative position at the University of Alaska which requires academic standing and which has been approved for inclusion in the system by the adminstrator;

(C) any period during which the teacher receives a disability benefit under this system or is on an approved sabbatical leave granted in accordance with AS 14.20.310; or

(D) continuous service as a state legislator when performed by a state legislator who elects membership under AS 14.25.040(b), subject to the requirements of AS 14.25.040(c);

(21) "military service" means active duty in the armed forces of the United States;

(22) "nonpublic school" means a school established by an agency other than a state which is primarily supported by other than public funds, and operation of whose programs rests with other than publicly elected or appointed officials, and is state approved or accredited;

(23) "non-vested member" means an active or inactive member who does not meet the requirements of a vested member or deferred vested member;

(24) "normal retirement" means retirement under AS 14.25.110(a);

(25) "outside service" means service

(A) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment in an out-of-state public school within the United States, or in a school outside the United States supported by funds of the United States;

(B) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment in an approved or accredited nonpublic school within the United States, or in a school outside the United States supported by funds of the United States;

(C) in a full-time position requiring academic standing in an out-of-state institution of higher learning accredited by a nationally recognized accrediting agency as listed in the Education Directory — Colleges and Universities by the National Center for Education Statistics;

(D) as a full-time teacher in an approved or accredited nonpublic institution of higher learning in Alaska;

(26) "part-time teacher" means a teacher occupying a position requiring teaching on a regular basis for at least 50 percent of the normal workweek at a teaching assignment, excluding teaching as an assistant or graduate assistant, or teaching on a substitute, temporary, or per diem basis;

(27) "permanent disability" means a physical or mental condition which, in the judgment of the administrator, based upon medical reports and other evidence satisfactory to the administrator, presumably prevents a member from satisfactorily performing the member's usual duties for the member's employer or the duties of another position or job which an employer makes available for which the member is qualified by training or education;

(28) "prescribed rate of interest" means the rate of interest used for computing employer contributions, for preparing actuarial tables used by the system, for crediting interest to members' contributions, and for charging interest on members' indebtedness accounts;

(29) "public school" means a school operated by publicly elected or appointed school officials in which the program and activities are under the control of those officials and which is supported by public funds;

(30) "r red teacher or member" means a member who is terminated, who has not received a refund from the system, and who is receiving a benefit, other than disability, from the system;

(31) "retirement" means that period of time from the first day of the month following

(A) the date of termination; and

(B) application for retirement in which a person is appointed to receive a retirement benefit, other than a disability benefit;

(32) "retirement benefit" means the annuity received by a retired member from the system;

(33) "retirement fund" means the fund consisting of all matching contributions by local school districts, money made available by appropriations by the state legislature and from all contributions from whatever source, and income and interest derived from the investment of money;

(34) "Retirement System of 1945" and "Retirement Fund of 1945" or like terms mean the system and fund established in sections 37-5-21 — 37-5-35, ACLA 1949;

(35) "school year" means the 12-month period beginning July 1 of each year and ending June 30 of the following year;

(36) "supplemental contribution account" means the account maintained by the system to record the supplemental contributions of each member, including interest and adjustments to the account in accordance with AS 14.25.170;

(37) "system" means the Teachers' Retirement System of Alaska;

(38) "teacher or member" means a person eligible to participate in the system and who is covered by the system, including:

(A) a certificated full-time or part-time elementary or secondary teacher, a certificated school nurse, or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school of the state;

(B) the commissioner of education and all supervisory positions in the Department of Education;

(C) a full-time or part-time teacher of the University of Alaska or a person occupying a full-time administrative position at the University of Alaska which requires academic standing; the approval of the administrator must be obtained before an administrative position qualifies for membership in the system;

(D) a state legislator who elects membership under AS 14.25.040(b);

(39) "vested member" or "vested teacher" means an active member who has completed either

(A) 15 years of service, the last five of which have been membership service, for a member first hired before July 1, 1975; or

(B) eight years of membership service; or

(C) five years of membership and three years of BIA service;

(40) "year of service" means membership service during the dates set for a school year; partial-year service credit is given for membership service before July 1, 1969, during any school year as follows:

(A) less than 20 days, no credit;

(B) 20 days or more but less than 35 days, 0.2 years;

(C) 35 days or more but less than 49 days, 0.3 years;

(D) 49 days or more but less than 63 days, 0.4 years;

(E) 63 days or more but less than 77 days, 0.5 years;

(F) 77 days or more but less than 91 days, 0.6 years;

(G) 91 days or more but less than 105 days, 0.7 years;

(H) 105 days or more but less than 119 days, 0.8 years;

(I) 119 days or more but less than 133 days, 0.9 years;

(J) 133 days or more, 1.0 years; partial-year service credit is given for membership service after July 1, 1969, during any school year as follows:

(A) less than nine days, no credit;
(B) nine days or more but less than 27 days, 0.1 years;
(C) 27 days or more but less than 45 days, 0.2 years;
(D) 45 days or more but less than 63 days, 0.3 years;
(E) 63 days or more but less than 81 days, 0.4 years;
(F) 81 days or more but less than 100 days, 0.5 years;
(G) 100 days or more but less than 118 days, 0.6 years;
(H) 118 days or more but less than 136 days, 0.7 years;
(I) 136 days or more but less than 154 days, 0.8 years;
(J) 154 days or more but less than 172 days, 0.9 years;
(K) 172 days or more, 1.0 years; if service is performed on a part-time basis, one-half credit shall be given for each day of service.

(41) "territorial employment" means non-teaching employment with the Territory of Alaska as provided under AS 14.25.105; territorial employment is not membership service;

(42) "board" means the Alaska Teachers' Retirement Board established under AS 14.25.035. (§ 2 ch 145 SLA 1955; am § 1 ch 142 SLA 1957; am § 2 ch 89 SLA 1960; am § 7 ch 179 SLA 1960; am §§ 1, 2 ch 78 SLA 1962; am §§ 8 — 12 ch 86 SLA 1963; am § 1 ch 111 SLA 1965; am §§ 20 — 22 ch 151 SLA 1966; am § 1 ch 76 SLA 1968; am §§ 15 — 19 ch 84 SLA 1969; am § 21 ch 46 SLA 1970; am §§ 13 — 18 ch 138 SLA 1970; am §§ 3 — 5 ch 229 SLA 1970; am §§ 16 — 18 ch 32 SLA 1971; am §§ 6 — 8 ch 86 SLA 1971; am §§ 30 — 33 ch 66 SLA 1973; am § 3 ch 57 SLA 1974; am § 21 ch 127 SLA 1974; am §§ 12, 13 ch 173 SLA 1975; am §§ 1, 6 ch 155 SLA 1976; am § 5 ch 169 SLA 1976; am §§ 12, 13 ch 128 SLA 1977; am §§ 4, 5 ch 174 SLA 1978; am §§ 4 — 7 ch 82 SLA 1979; am § 24 ch 13 SLA 1980; am §§ 25 — 28 ch 137 SLA 1982)

Effect of amendments. — The 1980 amendment rewrote the section.

The 1982 amendment inserted the language beginning "including cost-of-living differentials" and ending "whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins" in paragraph (9), inserted "territorial employment as defined in (41) of this section" and substituted "Alaska BIA service" for "service not exceeding 15 years" in paragraph (10), substituted "'member contribution account'" for "'mandatory contribution account'," "total" for "account," and "of the member's mandatory contributions, indebtedness principal and interest contributions, interest credited to each of those accounts" for "to record the mandatory contributions of each member, including interest" in paragraph (19), and added paragraphs (41) and (42).

Editor's notes. — Sections 37-5-21 — 37-5-35 ACLA 1949 referred to in (34) were repealed by § 24, ch. 145, SLA 1955.

Paragraph (1) of section 51, ch. 13, SLA 1980 provides: "This Act takes effect July 1, 1980 except that (1) the definitions of 'military service' and 'outside service' contained in AS 14.25.220(21) and (25), and the definitions of 'membership service' and 'teacher or member' contained in AS 14.25.220(20) and (38) to the extent that they apply to part-time teachers at the University of Alaska, as repealed and re-enacted in sec. 24 of this Act, take effect March 22, 1980, and are retroactive to July 1, 1955."

Legislative history reports. — For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

14.18.070, and that the measures taken under (a) of this section have been ineffective, the board shall withhold state funds in accordance with AS 14.07.070. (§ 1 ch 17 SLA 1981)

Revisor's notes. -- The words "(a) of this section" were substituted for "AS 14.18.090(a)" this in subsection (b) by the revisor of statutes pursuant to AS 01.05.031.

Sec. 14.18.100. Remedies. (a) A person aggrieved by a violation of this chapter or of a regulation or procedure adopted under this chapter as to primary or secondary education may file a complaint with the board and has an independent right of action in superior court for civil damages and for such equitable relief as the court may determine.

(b) A person aggrieved by a violation of this chapter or of a regulation or procedure adopted under this chapter as to postsecondary education has an independent right of action in superior court for civil damages and for such equitable relief as the court may determine. (§ 1 ch 17 SLA 1981)

Sec. 14.18.110. Effect of chapter. This chapter is supplementary to and does not supersede existing laws relating to unlawful discrimination based on sex. (§ 1 ch 17 SLA 1981)

Chapter 20. Teachers and School Officials.

Article
1. Teacher Certification (§§ 14.20.010 — 14.20.090)
2. Employment and Tenure (§§ 14.20.095 — 14.20.210)
3. Salaries (§§ 14.20.220 — 14.20.275)
4. Sabbatical Leave (§§ 14.20.290 — 14.20.350)
5. Professional Teaching Practices Act (§§ 14.20.370 — 14.20.510)
6. Negotiation and Mediation (§§ 14.20.550 — 14.20.610)
7. Interstate Agreement on Qualification of Educational Personnel (§§ 14.20.620 — 14.20.650)

Article 1. Teacher Certification.

Section
10. Teacher certificate required
20. Requirements for issuance of certificate
30. Causes for revocation and suspension
40. Applicability of the Administrative Procedure Act
90. [Repealed]

Collateral references. — 68 Am. Jur. 2d Schools, §§ 128-143.

78 C.J.S. Schools and School Districts, §§ 154-182.

Matters proper for consideration in appointment of teachers. 94 ALR 1484

Tests of moral character of fitness as requisite to issuance of teacher's license or certificate. 96 ALR2d 536.

Bias of members of license revocation board. 97 ALR2d 1210.

Actionability of statements imputing inefficiency or lack of qualification to public school teacher. 40 ALR3d 490.

Sec. 14.20.010. Teacher certificate required. A person may not be employed as a teacher in the public schools of the state unless that person possesses a valid teacher certificate except that a person who has made application to the department for a teacher certificate or renewal of a teacher certificate which has not been acted upon by the department may be employed as a teacher in the public schools of the state until the department has taken action on the application, but in no case may employment without a certificate last longer than three months. (§ 37-5-3 ACLA 1949; am § 9 ch 98 SLA 1966; am § 1 ch 165 SLA 1976)

Editor's notes. — The words "that person" were substituted for "he" by the revisor of statutes under AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.20.020. Requirements for issuance of certificate. (a) The department shall issue a teacher certificate to every person who meets the requirements in (b) and (c) of this section.

(b) A person is not eligible for a teacher certificate unless that person has received at least a baccalaureate degree from an institution of higher education accredited by a recognized regional accrediting association or approved by the commissioner. However, this subsection is not applicable to

(1) persons employed in the state public school system on September 1, 1962;

(2) persons issued an emergency certificate during a situation which, in the judgment of the commissioner, requires the temporary issuance of a certificate to a person not otherwise qualified.

(c) The board may establish by regulation additional requirements for the issuance of certificates.

(d) The board may by regulation establish various classes of certificates. (§ 37-5-4 ACLA 1949; am § 1 ch 76 SLA 1962; am § 10 ch 98 SLA 1966; am §§ 13, 14 ch 32 SLA

Editor's notes. — In subsection (b), the words "that person" were substituted for "he" by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Legislative history reports. — For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

Sec. 14.20.030. Causes for revocation and suspension. The commissioner or the Professional Teaching Practices Commission may revoke or suspend a certificate only for the following reasons:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude;

(3) substantial noncompliance with the school laws of the state or the regulations of the department; or

(4) upon a determination by the Professional Teaching Practices Commission that there has been a violation of ethical or professional standards or contractual obligations. (§ 11 ch 98 SLA 1966; am § 1 ch 9 SLA 1975; am § 1 ch 103 SLA 1976)

NOTES TO DECISIONS

Quoted in Watts v. Seward School Bd., Sup. Ct. Op. No. 380 (File No. 427), 421 P.2d 586 (1966).

Collateral references. — Rejection of public school teacher because of disloyalty. 27 ALR2d 487.

Temporary inability of teacher without fault of school authorities to perform duty as justifying termination of contract or removal. 72 ALR 283.

Candidacy for or incumbency of public office or other political activity by teacher or other school employee as ground for dismissal or compulsory leave of absence. 136 ALR 1154.

Validity of governmental requirement of oath of allegiance or loyalty as applied to college curators. 18 ALR2d 303.

Assertion of immunity as ground for discharge of teacher. 44 ALR2d 799.

Wearing of religious garb by public-school teachers. 60 ALR2d 300.

Tests of moral character of fitness as requisite to issuance of teacher's license or certificate. 96 ALR2d 536.

Revocation of teacher's certificate for moral unfitness. 97 ALR2d 827.

Use of illegal drugs as ground for dismissal of teacher, or denial or cancelation of teacher's certificate. 47 ALR3d 754.

Dismissal of, or disciplinary action against, public school teachers for violation of regulation as to dress or personal appearance of teachers. 58 ALR3d 1227.

Sexual conduct as ground for dismissal of teacher or denial or revocation of teaching certificate. 78 ALR3d 19.

What constitutes "incompetency" or "inefficiency" as a ground for dismissal or demotion of public school teacher. 4 ALR3d 1090.

Sec. 14.20.040. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to all proceedings under AS 14.20.030, and revocations and suspensions are final and reviewable in accordance with AS 44.62.560 — 44.62.570. (§ 12 ch 98 SLA 1966; am § 2 ch 9 SLA 1975)

Sec. 14.20.090. Revocation of certificates. Repealed by § 59 ch 98 SLA 1966.

Editor's notes. — The repealed section derived from § 37-5-10 ACLA 1949; § 1, ch. 21, SLA 1965. See now AS 14.20.030.

Article 2. Employment and Tenure.

Section		Section	
95.	Right to comment and criticize not to be restricted	150.	Acquisition of tenure rights
97.	Duty-free time	155.	Effect of tenure rights
100.	Unlawful to require statement of religious or political affiliation	158.	Continued contract provisions
110.	Penalty for violation of AS 14.20.100	160.	Loss of tenure rights
120.	Statement of qualifications	165.	Restoration of tenure rights
130.	Employment of teachers and administrators	170.	Dismissal
140.	Notification of nonretention	175.	Nonretention
145.	Automatic re-employment	180.	Procedure and hearing upon notice of dismissal or nonretention
147.	Transfer of attendance area or federal agency school; absorption	185—200.	[Repealed]
148.	Intradistrict teacher reassignments	205.	Judicial review
		207.	Definitions
		210.	Authority of school board or department to adopt bylaws

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Collateral references. — 68 Am. Jur. 2d Schools, §§ 138-143, 149-214.

78 C.J.S. Schools and School Districts, §§ 154-217.

Extent of power of school district to provide for the comfort and convenience of teachers and pupils. 7 ALR 791; 52 ALR 249.

Teacher as an officer whose right may be tested by quo warranto. 30 ALR 1423.

Status of teacher as an officer or employee. 75 ALR 1552.

Teachers' tenure statutes. 110 ALR 791; 113 ALR 1495; 127 ALR 1298; 145 ALR 1078.

Schoolteacher as an employee within workmen's compensation acts. 140 ALR 1383.

Constitutionality and construction of repeal or modification by legislative action of teachers' tenure statute, as regards retrospective operation. 147 ALR 293.

Personal liability of public school officers or other employees for negligence. 32 ALR2d 1163.

Teacher's civil liability for administering corporal punishment. 43 ALR2d 469.

Right of school teacher to serve as member of school board in same school district where employed. 70 ALR3d 1188.

Who is "teacher" for purposes of tenure statute. 94 ALR3d 141.

Sec. 14.20.095. Right to comment and criticize not to be restricted. No bylaw or regulation of the commissioner, a school board, or local school administrator may restrict or modify the right of a teacher to engage in comment and criticism outside school hours, regarding school personnel, members of the governing body of any school or school district, any other public official, or any school employee, to the same extent that any private individual may exercise the right. (§ 1 ch 14 SLA 1965; am § 13 ch 98 SLA 1966)

Revisor's notes. — The words "of education" were deleted following "commissioner" by the revisor of statutes under AS 01.05.031 and 14.60.010.

NOTES TO DECISIONS

This section was not enacted to be retrospective. Watts v. Seward School Bd., Sup. Ct. Op. No. 554 (File No. 427), 454 P.2d 732 (1969), cert. denied, 397 U.S. 921, 90 S. Ct. 899, 25 L. Ed. 2d 101, rehearing denied, 397 U.S. 1071, 90 S. Ct. 1495, 25 L. Ed. 2d 695 (1970).

It applies to activities conducted outside school hours. Watts v. Seward School Bd., Sup. Ct. Op. No. 554 (File No. 427), 454 P.2d 732 (1969), cert. denied, 397 U.S. 921, 90 S. Ct. 899, 25 L. Ed. 2d 101, rehearing denied, 397 U.S. 1071, 90 S. Ct. 1495, 25 L. Ed. 2d 695 (1970).

And is directed at rules or regulations which would restrict criticism of school officials. — This section is directed at the rules or regulations of a commissioner, a local school board, or a local administrator. Watts v. Seward School Bd., Sup. Ct. Op. No. 554 (File No. 427), 454 P.2d 732 (1969), cert. denied, 397 U.S. 921, 90 S. Ct. 899, 25 L. Ed. 2d 101, rehearing denied, 397 U.S. 1071, 90 S. Ct. 1495, 25 L. Ed. 2d 695 (1970).

Sec. 14.20.097. Duty-free time. Each governing body shall allow its teachers in school facilities with four or more teachers a daily duty-free mealtime of at least 30 minutes between 11:00 a.m. and 1:00 p.m. (§ 1 ch 11 SLA 1969)

Sec. 14.20.100. Unlawful to require statement of religious or political affiliation. No school board, or member of a school board may require or compel a person applying for the position of teacher in the public schools of the state to state a religious or political affiliation. (§ 37-5-1 ACLA 1949)

Editor's notes. — The revisor of statutes substituted "a" for "his" preceding "religious or political affiliation" pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Collateral references. — Discrimination because of race, color, or creed in respect of appointment, duties, compensation, etc., of schoolteachers or other public officers or employees. 130 ALR 1512.

Validity of governmental requirement of oath of allegiance or loyalty as applied to college curators. 12 ALR2d 303.

Dismissal or rejection of public schoolteacher because of disloyalty. 27 ALR2d 487.

Sec. 14.20.110. Penalty for violation of AS 14.20.100. A person violating AS 14.20.100 is punishable by a fine of not more than $100. (§ 37-5-2 ACLA 1949)

Sec. 14.20.120. Statement of qualifications. A statement of the qualifications of each teacher and superintendent employed by the state or a school district shall be filed with the commissioner. The statement shall contain the credits earned in college, normal school, or university, and the number of years of teaching experience both in the state and elsewhere in the form and manner prescribed by the commissioner. (§ 37-6-5 ACLA 1949; am § 5 ch 179 SLA 1957; am § 12 ch 46 SLA 1970)

Sec. 14.20.130. Employment of teachers and administrators. An employer may, after January 1, issue contracts for the following

school year to employees regularly qualified in accordance with the regulations of the department. The contract for a superintendent may be for more than one school year but may not exceed three consecutive school years. (§ 1 ch 92 SLA 1960; am § 14 ch 98 SLA 1966)

NOTES TO DECISIONS

Authority of school district to employ teachers. — A school district has no authority to employ teachers except as prescribed by statute and regulation. Spicer v. Anchorage Independent School Dist., Sup. Ct. Op. No. 325 (File No. 576), 410 P.2d 995 (1966).

Letter from superintendent of schools held not to be an offer of a contract. — See Spicer v. Anchorage Independent School Dist., Sup. Ct. Op. No. 325 (File No. 576), 410 P.2d 995 (1966).

Cited in Skagway City School Bd. v. Davis, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975).

Collateral references. — Duty of teacher to perform services other than those which pertain to instruction. 38 ALR 1414.

Instruction in physical education or coaching of athletic sports as within duties assumed by, or that may be assigned to, teacher, or among the subjects in respect of which teacher applicants must qualify. 119 ALR 819.

Sec. 14.20.140. Notification of nonretention. (a) If a teacher who has acquired tenure rights is not to be retained for the following school year, the employer shall notify the teacher of the nonretention by writing, delivered before March 16, or by registered mail postmarked before March 16.

(b) If a teacher who has not acquired tenure rights is not to be retained for the following school year the employer shall notify the teacher of the nonretention by writing delivered on or before the last day of the school term or by registered mail postmarked on or before the last day of the school term. (§ 1 ch 92 SLA 1960; am § 15 ch 98 SLA 1966)

NOTES TO DECISIONS

Notice of nonretention sufficient. — See Griffin v. Galena City School Dist., Sup. Ct. Op. No. 2469 (File No. 5388), 640 P.2d 829 (1982).

Quoted in State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Collateral references. — Notice of intention to discharge teacher, or not to renew contract, sufficiency under statutes requiring such notice. 92 ALR2d 751.

Sec. 14.20.145. Automatic re-employment. If notification of nonretention is not given according to AS 14.20.140 a teacher is entitled to be re-employed in the same district for the following school year on the contract terms the teacher and the employer may agree upon, or if no terms are agreed upon, the provisions of the previous contract are continued for the following school year, subject to AS 14.20.158. The right to be reemployed according to this section expires if the teacher does not accept reemployment within 30 days after the date on which the teacher receives a contract of reemployment. (§ 16 ch 98 SLA 1966)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "a" for "his" in the second sentence.

NOTES TO DECISIONS

The purpose of tenure laws is to give job security to experienced teachers and to ensure that they will not be discharged for inadequate reasons. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

This section seeks to achieve this result by treating an improperly nonretained teacher as if the teacher had been retained, with no prejudice to result from the fact of nonretention. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

The effect of this section is to give an improperly nonretained teacher the enforceable right to a written contract of employment for the next school year containing provisions like those in the teacher's contract for the preceding year. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

This section does not automatically continue a teacher's prior contract in the event proper notice of nonretention is not given. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

The language requiring that the provisions of the previous contract are to be continued for the following school year is intended to protect the teacher's legitimate expectation of continued employment on terms no less favorable than those previously enjoyed. It is not meant to require each term of the previous contract to be continued unchanged where the result would be to unreasonably penalize either the teacher or the employer. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

No action for damages may be based on prior, expired contract. — Where the employer has refused to tender the teacher a new contract, the teacher may enforce the teacher's statutory right to be given a new contract and may then sue for breach of that contract, but an action for damages cannot be based upon a prior contract that has expired. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

Quoted in State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Sec. 14.20.147. Transfer of attendance area or federal agency school; absorption. — (a) When an attendance area is transferred from a currently operating district to, or absorbed into, a new or existing school district, the teachers for the attendance area also shall be transferred unless otherwise mutually agreed by the teacher or teachers and the chief school administrator of the new district. Accumulated or earned benefits, including but not limited to, seniority, salary level, tenure, leave, and retirement, accompany the teacher who is transferred.

(b) When a school operated by a federal agency is transferred to or absorbed into a new or existing school district the teachers shall also be transferred if mutually agreed by the teacher or teachers and the school board of the new or existing district. A teacher transferred from a federal agency school, which does not have an official salary schedule or teacher tenure in the same manner as a public school district in the state, shall be placed on a position on the salary schedule of the absorbing district; the salary may not be less than the teacher would have received in the federal agency school. If the teacher taught two or more years in the federal agency school and, at the time of transfer, had a valid Alaska teaching certificate, that teacher shall be placed on tenure in the absorbing district.

(c) On the first day of service in the absorbing school district, a teacher transferred from a federal agency school shall be allowed the actual number of days of accumulated sick leave that the teacher has earned while teaching in Alaska. Consistent with the established district policy the absorbing district may allow credit for any other type of leave. Credit for retirement shall be allowed in accordance with AS 14.25.060. (§ 1 ch 53 SLA 1972; am § 1 ch 150 SLA 1975)

Legislative history reports. — For report on ch. 150, SLA 1975 (CSSB 128 am), see 1975 Senate Journal, p. 712.

NOTES TO DECISIONS

Back pay is not a benefit for the purpose of subsection (a) of this section. Aleutian Region R.E.A.A. v. Wolansky, Sup. Ct. Op. No. 2380 (File No. 5098), 630 P.2d 529 (1981).

Quoted in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 14.20.148. Intradistrict teacher reassignments. When a teacher is involuntarily transferred or reassigned to a position for which the teacher is qualified, within the district, the teacher's moving expenses shall be paid unless the one-way driving distance is 20 miles or less from the teacher's present place of residence, or unless otherwise mutually agreed by the teacher and chief school administrator of the district. (§ 1 ch 136 SLA 1972)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "the teacher" for "he" and "the teacher's" for "his."

Collateral references. — Power of school authorities to transfer teacher from one school or district to another, 103 ALR 1382.

Sec. 14.20.150. Acquisition of tenure rights. (a) A teacher acquires tenure rights in a district when the teacher

(1) possesses a standard teaching certificate;

(2) has been employed as a teacher in the same district continuously for two full school years and is reemployed for the school year immediately following the two full school years.

(b) The tenure rights acquired under (a) of this section become effective on the first day the teacher performs teaching services in the district during the school year immediately following the two full school years. (§ 1 ch 92 SLA 1960; am § 17 ch 98 SLA 1966)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "the teacher" for "his" in the introductory language of subsection (a).

NOTES TO DECISIONS

Purpose of tenure laws. — Tenure laws are intended to give job security to experienced teachers and to ensure that they will not be discharged for inadequate reasons. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

A system of tenure has as its objective the retention of able personnel after they have undergone an adequate period of probation with the concomitant result that more talented personnel will be attracted to enter the teaching profession. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

The law does not require that teachers shall teach every day, or every hour of every day. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

The supreme court fails to find any provision of Alaska statutes concerning education which requires, or to perceive of any persuasive policy reasons why, a teacher must work full days throughout the school year in order to attain tenure rights. No legislative intent to exclude a teacher who works less than full days is manifest from a study of the applicable statutes. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Duties regular and substantial enough to afford intelligent evaluation are sufficient. — When a teacher's duties are regular and substantial enough to afford intelligent evaluation, there is little in the way of persuasive policy considerations for excluding such service from the ambit of Alaska tenure laws. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Cited in Skagway City School Bd. v. Davis, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975); Crisp v. Kenai Peninsula Borough School Dist., Sup. Ct. Op. No. 1771 (File No. 3318), 587 P.2d 1168 (1978).

Collateral references. — What amounts to waiver of status or rights under teachers' tenure statute. 145 ALR 1078.

Construction and effect of tenure provisions of contract or statute governing employment of faculty member by college or university. 66 ALR3d 1018.

Who is "teacher" for purposes of tenure statute. 94 ALR3d 141.

Sec. 14.20.155. Effect of tenure rights. (a) A teacher who has acquired tenure rights has the right to employment within the district during continuous service.

(b) A teacher who has acquired tenure rights may agree to a new contract at any time. However, if the teacher fails to agree to a new contract, the provisions of the previous contract are continued subject to AS 14.20.158. (§ 18 ch 98 SLA 1966)

Collateral references. — Compensation of tenure teacher. 145 ALR 408; 154 ALR 148.

Sec. 14.20.158. Continued contract provisions. Continuation of the provisions of a teacher's contract according to AS 14.20.145 or 14.20.155 does not

(1) affect the alteration of the teacher's salary in accordance with the salary schedule prescribed by state law, or in accordance with a local salary schedule applicable to all teachers in the district and adopted by bylaws;

(2) limit the right of the employer to assign the teacher to any teaching, administrative, or counseling position for which the teacher is qualified; or

(3) limit the right of the employer to assign the teacher, as is reasonably necessary, to any school in the district. (§ 19 ch 98 SLA 1966)

NOTES TO DECISIONS

This section puts the reemployed teacher in the same salary position he would have been in had his employment not been interrupted, regardless of his salary under his last contract. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

It further allows flexibility in the manner of reemployment where adherence to the strict terms of the prior contract would put an unreasonable burden on the employer. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802 1822), 519 P.2d 760 (1974).

Limited interpretation of section would defeat legislative intent. — A limited interpretation of this section as representing an exclusive list of the ways in which an improperly nonretaining teachers' prior contract may be varied would defeat the general intent of the legislature that an improperly nonretained teacher be returned to substantially the same position as before nonretention. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

Ways prior contract may be varied. — In assessing damages due to improper nonretention, the strict terms of a teacher's prior contract may be varied in ways not specifically enumerated in this section where such modifications are necessary to protect the reasonable expectations of the parties. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

AS 14.20.145 is expressly made subject to this section. Redman v. Department of Educ., Sup. Ct. Op. No. 1009 (File Nos. 1802, 1822), 519 P.2d 760 (1974).

Sec. 14.20.160. Loss of tenure rights. Tenure rights are lost when the teacher's employment in the district is interrupted or terminated, or when the teacher reaches the age of 65. (§ 1 ch 92 SLA 1960; am § 1 ch 104 SLA 1965; am § 20 ch 98 SLA 1966)

Sec. 14.20.165. Restoration of tenure rights. A teacher who held tenure rights and who was retired due to disability under AS 14.25.130, but whose disability (1) has been removed, and the removal of that disability is certified by a competent physician following a physical or mental examination, or (2) has been compensated for by

rehabilitation or other appropriate restorative education or training, and that rehabilitation or restoration to health has been certified by the division of vocational rehabilitation of the Department of Education, shall be restored to full tenure rights in the district from which the teacher was retired, at such time as an opening for which the teacher is qualified becomes available. (§ 1 ch 71 SLA 1975)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "the teacher" for "he" twice near the end of the section.

Sec. 14.20.170. Dismissal. (a) A teacher, including a teacher who has acquired tenure rights, may be dismissed at any time only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude; or

(3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent.

(b) A teacher may be suspended temporarily with regular compensation during a period of investigation to determine whether or not cause exists for the issuance of a notification of dismissal according to AS 14.20.180. (§ 2 ch 92 SLA 1960; am § 21 ch 98 SLA 1966; am §§ 1, 2 ch 104 SLA 1966)

Revisor's notes. — AS 14.20.170(1) and (2) are amended by ch. 98, SLA 1966, which is a revision of the education law. Chapter 104, SLA 1966, also amends paragraphs (1) and (2) to make manifest the legislative intent to specifically amend these paragraphs in relation to the Watts v. Seward School Board case. This is more fully discussed in the Legislative Committee Report, p. 988 of the 1966 House Journal.

Legislative history reports. — For report on ch. 104, SLA 1966, see 1966 House Journal, p. 988.

NOTES TO DECISIONS

In general. — See annotations under AS 14.20.095, Notes to Decisions.

Subsection (b) of this section is in a permissive form and allows temporary suspension during the investigation. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

A right of nontenured teachers to a hearing prior to dismissal for cause is not to be found in this section. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

The express language of subsection (b) of this section clearly lacks any indication that the legislature intended to provide a hearing prior to dismissal for cause of a nontenured teacher. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

Despite the reference to AS 14.20.180. — The reference to AS 14.20.180 in this section cannot reasonably be interpreted to extend the hearing rights given to tenured teachers under that section to nontenured teachers. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

The distinction in treatment between tenured and nontenured teachers is quite clear from the express terms of AS 14.20.180. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

Validity of dismissal proceedings. — When a discharged teacher had not demonstrated any way in which his dismissal was tainted by his temporary suspension with pay under subsection (b), nor any other way in which he was prejudiced by the suspension, his contention that the dismissal proceedings were void as a matter of law was found to be without merit. Renfroe v. Green, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Instructions. — There was no error in the court's inclusion of an instruction on provisions of the Professional Teaching Practices Commission Code of Ethics although there had been no determination that a dismissed teacher had violated the code by the commission when fair minded jurors, in the exercise of reasonable judgment, could differ on whether certain actions by the dismissed teacher were unethical or otherwise constituted substantial non-compliance under subsection (a) of this section. Renfroe v. Green, Sup Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Directed verdict. — When there was evidence that a dismissed teacher had verbally and physically abused another member of the teaching profession in front of students; and fair minded jurors, in the exercise of reasonable judgment, could differ on whether those actions violated provisions of the code of ethics of the Professional Teaching Practices Commission or otherwise constituted incompetency or substantial noncompliance under subsection (a) of this section, the superior court did not err in failing to direct a verdict in the dismissed teacher's favor. Renfroe v. Green, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Cited in Skagway City School Bd. v. Davis, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975).

Collateral references. — Temporary inability of teacher without fault of school authorities to perform duty as justifying termination of contract or removal. 72 ALR 283.

Marriage of teacher as ground of removal or discharge. 81 ALR 1033; 118 ALR 1092.

Candidacy for or incumbency of public office or other political activity by teacher or other school employee as ground for dismissal or compulsory leave of absence. 136 ALR 1154.

Assertion of immunity as ground for discharge of teacher. 44 ALR2d 799.

Notice of intention to discharge teacher, or not to renew contract, sufficiency under statutes requiring such notice. 92 ALR2d 751.

Right to dismiss public school teacher on ground that services are no longer needed. 100 ALR2d 1141.

What constitutes "incompetency" or "inefficiency" as a ground for dismissal or demotion of public school teacher. 4 ALR3d 1090.

Elements and measure of damages in action by schoolteacher for wrongful discharge. 22 ALR3d 1047.

Use of illegal drugs as ground for dismissal of teacher, or denial or cancelation of teacher's certificate. 47 ALR3d 754.

Dismissal of, or disciplinary action against, public school teachers for violation of regulation as to dress or personal appearances of teachers. 58 ALR3d 1227.

Sexual conduct as ground for dismissal of teacher or denial or revocation of teaching certificate. 78 ALR3d 19.

What constitutes "insubordination" as ground for dismissal of public school teacher. 78 ALR3d 83.

Dismissal of public school teacher because of unauthorized absence or tardiness. 78 ALR3d 117.

Sec. 14.20.175. Nonretention. (a) A teacher who has not acquired tenure rights is subject to nonretention for the school year following the expiration of the teacher's contract for any cause which the employer determines to be adequate. However, at the teacher's request, the teacher is entitled to a written statement of the cause for

nonretention. The boards of city and borough school districts and regional educational attendance areas shall provide by regulation or bylaw a procedure under which a nonretained teacher may request and receive an informal hearing by the board.

(b) A teacher who has acquired tenure rights is subject to nonretention for the following school year only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

(2) immorality, which is defined as the commission of an act which, under the laws of the state, constitutes a crime involving moral turpitude;

(3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent; or

(4) a necessary reduction of staff occasioned by a decrease in school attendance. (§ 22 ch 98 SLA 1966; am § 1 ch 11 SLA 1968; am § 13 ch 46 SLA 1970; am § 15 ch 124 SLA 1975)

Editor's notes. — The revisor of statutes, under the authority of AS 01.05.031 and in accordance with the directive in SLA 1982, ch. 58, § 4, substituted "the teacher's" for "his" in the first and second sentences of subsection (a), deleted "his" preceding "nonretention" in the second sentence of subsection (a), and rewrote the third sentence of that subsection.

Legislative history reports. — For report on ch. 11, SLA 1968 (HB 91 am), see 1967 House Journal, p. 160.

NOTES TO DECISIONS

Section exceeds federal constitutional requirements. — This section in requiring a statement of cause and an opportunity to be heard, exceeds federal constitutional requirements. Shatting v. Dillingham City School Dist., Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Discretion of school boards. — 4 AAC 19.010, which provides that formal evaluations shall serve as a method for gathering data relevant to subsequent employment status decisions pertaining to the person evaluated, cannot operate to limit the broad discretion that was intentionally given to local school boards by the legislature, and a school board's decision not to renew the contract of a nontenured teacher may be "for any cause which the employer determines to be adequate." Shatting v. Dillingham City School Dist., Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Despite the broad language of subsection (a), the board's discretion is subject to certain limitations; for example, a school board may not deny continued employment to a teacher because of the teacher's exercise of first amendment rights, nor may a school board deny continued employment to a teacher if to do so would deprive the teacher of other rights that are guaranteed by constitution or statute. Shatting v. Dillingham City School Dist., Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Rights of nonretained, nontenured teachers are limited. — The rights of a nontenured teacher who is simply not retained at the end of his period of employment are relatively limited. A nonretained, nontenured teacher has no constitutionally protected interest in public employment. Gorder v. Matanuska-Susitna Borough School Dist., Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973); Shatting v. Dillingham City School Dist., Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Probationary employees who are otherwise lawfully discharged cannot obtain permanent status through

grievance procedures which do not purport to modify the statutory provisions concerning tenure and termination of employees. Gorder v. Matanuska-Susitna Borough School Dist., Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

The grievance procedure may be of value to a nontenured teacher in attempting to persuade the hiring authority that he should be retained. The process might on occasion bring forth evidence and argument by which the termination of the nontenured teacher might be reconsidered. Gorder v. Matanuska-Susitna Borough School Dist., Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

But any such results and action would be a matter within the discretion of the hiring authority, and thereby a matter of grace rather than legal right. Gorder v. Matanuska-Susitna Borough School Dist., Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

Quoted in Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975); Jerrel v. Kenai Peninsula Borough School Dist., Sup. Ct. Op. No. 1458 (File No. 2901), 567 P.2d 760 (1977).

Cited in Huber v. Fairbanks N. Star Borough School Dist., Superior Court, 4th Jud. Dist., C.A. No. 72-511 (1973).

Collateral references. — Right to dismiss public school teacher on ground that services are no longer needed. 100 ALR2d 1141.

Sec. 14.20.180. Procedure and hearing upon notice of dismissal or nonretention. (a) An employer shall include in a notification of dismissal of a teacher who has not acquired tenure rights, or of nonretention or dismissal of a tenure teacher, a statement of cause and a complete bill of particulars.

(b) The tenure teacher may, within 15 days immediately following receipt of the notification, notify the employer in writing that a hearing before the school board is requested. The tenure teacher may require in the notification that the hearing be either public or private and that the hearing be under oath or affirmation. The notification may also require that the right of cross-examination be provided and that the tenure teacher be represented by counsel and have the right to subpoena a person who has made allegations which are used as a basis for the decision of the employer.

(c) Upon receipt of the notification requesting a hearing, the employer shall immediately arrange for a hearing, and shall notify the tenure teacher or administrator in writing of the date, time, and place of the hearing. A written transcript, tape, or similar recording of the proceedings shall be kept. Transcribed copies shall be furnished to the tenure teacher for cost upon request of the tenure teacher. A final decision of the school board requires a majority vote of the membership. The vote shall be by roll call. The final decision shall be written and contain specific findings of fact and conclusions of law. A written notification of the decision shall be furnished to the tenure teacher within 10 days of the date of the decision. (§ 3a ch 92 SLA 1960; am § 23 ch 98 SLA 1966; am §§ 2, 3 ch 11 SLA 1968; am § 14 ch 46 SLA 1970; am §§ 16, 17 ch 124 SLA 1975)

Editor's notes. — The revisor of statutes, under the authority of AS 01.05.031 and in accordance with the directive in SLA 1982, ch. 58, § 4, rewrote subsection (b) and in the third sentence of subsection (c), substituted "request of the tenure teacher" for "his request."

Legislative history reports. — For report on ch. 11, SLA 1968 (HB 91 am), see 1967 House Journal, p. 160.

NOTES TO DECISIONS

Section describes procedure. — This section describes the administrative procedure, which includes a hearing, when a tenured teacher has been given a notice of dismissal or nonretention. Corso v. Commissioner of Educ., Sup. Ct. Op. No. 1412 (File No. 2870), 563 P.2d 246 (1977).

Reference to section in AS 14.20.170 does not extend hearing rights to nontenured teachers. — The reference to this section in AS 14.20.170 cannot reasonably be interpreted to extend the hearing rights given to tenured teachers under this section to nontenured teachers. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

But constitutional due process requirements overcome any statutory rule. — Even though a hearing is not accorded to nontenured teachers by statute, the constitutional requirements of due process overcome any statutory rule. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

And nontenured teachers are entitled to hearing upon dismissal. — Where a mid-year dismissal is at issue, clearly the teachers have been deprived of an interest in property, namely, their present teaching post. This is an interest protected by the 14th amendment to the United States Constitution and by the first article of the Alaska Constitution, and thus they are entitled to a hearing. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

A hearing is the procedure most likely to lead to a fair determination regarding the dismissal of a nontenured teacher. The stigma which attaches to a discharge for incompetence is sufficiently injurious to call for this type of safeguard. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

A full judicial hearing is not necessary, but a hearing that allows the administrative authority to examine both sides of the controversy will protect the interests and rights of all who are involved. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

But nontenured teachers must be given opportunity to present defense by testimony. Nichols v. Eckert, Sup. Ct. Op. No. 860 (File No. 1572), 504 P.2d 1359 (1973).

When time for appeal begins to run. — In light of the provision in subsection (c) of this section that the final decision of the school board must be "written and contain specific findings of fact and conclusions of law," the time for appeal from the board's determination did not begin to run until the written decision was mailed or delivered to the teacher. Jerrel v. Kenai Peninsula Borough School Dist., Sup. Ct. Op. No. 1458 (File No. 2901), 567 P.2d 760 (1977).

Attorney's fees not allowed against teacher whose dismissal was affirmed. — See Crisp v. Kenai Peninsula Borough School Dist., Sup. Ct. Op. No. 1771 (File No. 3318), 587 P.2d 1168 (1978).

Applied in Renfroe v. Green, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Collateral references. — Request for hearing, sufficiency under statute requiring hearing on request before discharge. 89 ALR2d 1018.

Sufficiency of notice of intention to discharge teacher or not to renew contract under statutes requiring such notice. 92 ALR2d 751.

Elements and measure of damages in action by schoolteacher for wrongful discharge. 22 ALR3d 1047.

Secs. 14.20.185 — 14.20.200. Procedure and hearing; appeals. Repealed by § 59 ch 98 SLA 1966.

Editor's notes. — The repealed sections derived from §§ 3b, 3c, ch. 92, SLA 1960; § 2, ch. 41, SLA 1965.

Sec. 14.20.205. Judicial review. If a school board reaches a decision unfavorable to a teacher, the teacher is entitled to a de novo trial in the superior court. However, a teacher who has not attained tenure rights is not entitled to judicial review according to this section. (§ 24 ch 98 SLA 1966; am § 1 ch 148 SLA 1966; am § 4 ch 11 SLA 1968; am § 18 ch 124 SLA 1975)

Legislative history reports. — For report on ch. 11, SLA 1968 (HB 91 am), see 1967 House Journal, p. 160.

NOTES TO DECISIONS

This section, granting a trial de novo to teachers, does not violate the separation of powers. Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

On its face, this section bears no relation to the general provisions governing judicial appeals, which is covered by Title 22. Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

AS 22.10.020 does not supersede this section. — AS 22.10.020, which provided in § 17(1), ch. 50, SLA 1959, that "All hearings on appeal from any final order or judgment of a subordinate court or administrative agency shall be on the record unless the superior court, in its discretion, shall grant a trial de novo, in whole or in part," does not supersede this section, which expressly mandates de novo reviews for tenured teachers. Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

In reenacting AS 22.10.020 in 1970 the legislature has not unequivocally expressed any intent to deny tenured teachers de novo review. Nor was the reenactment part of a comprehensive revision. Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

Since this section and AS 22.10.020 are not irreconcilably conflicting, but can be intelligently read as conterminous expressions of a general rule and an exception to it, nothing in the edicts of statutory construction requires us to find that this section has been rendered inoperative by the reenactment of AS 22.10.020. Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

A policy factor militating in favor of a full application of this section is that a tenured teacher against whose favor a decision has been reached is faced with the loss of a very important right, his source of income. In this connection, it is not necessary to indulge in such classificatory labels as "vested right" or "property right," for it is enough that the right be recognized as important for it to act as a guide to decision in the interpretation of this section. Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

Rights of nonretained, nontenured teachers are limited. — The rights of a nontenured teacher who is simply not retained at the end of his period of employment are relatively limited because such a teacher has no constitutionally protected interest in public employment. Gorder v. Matanuska-Susitna Borough School Dist., Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

Probationary employees who are otherwise lawfully discharged cannot obtain permanent status through grievance procedures which do not purport to modify the statutory provisions concerning tenure and termination of employees. Gorder v. Matanuska-Susitna Borough School Dist., Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

The grievance procedure may be of value to a nontenured teacher in attempting to persuade the hiring authority that he should be retained. The process might on occasion bring forth evidence and argument by which the termination of the nontenured teacher might be reconsidered. Gorder v. Matanuska-Susitna Borough School Dist., Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

But any such results and action would be a matter within the discretion of the hiring authority, and thereby a matter of grace rather than legal right. Gorder v. Matanuska-Susitna Borough School Dist., Sup. Ct. Op. No. 929 (File No. 1754), 513 P.2d 1094 (1973).

Right of nontenured teacher to judicial review. — While this section does not extend the tenured teacher's right to a trial de novo to a nontenured teacher, neither does it preclude a more limited form of judicial review of the school board decision; therefore a nontenured teacher has a right to judicial review, on the record, of a school board's nonretention, and although a review on the record is all that is required, in its discretion the superior court may grant a trial de novo. Shatting v. Dillingham City School Dist., Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Courts granted fact-finding role. — While courts normally feel constrained to defer to the fact-finding role which the legislature has given to a particular agency, no such constraint logically should exist where the legislature itself has granted the courts a fact-finding role in their review of administrative action. This section seemingly does just that, for it expressly grants a tenured teacher a "trial de novo" following an unfavorable school board decision. Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

When time for appeal begins to run. — In light of the provision in AS 14.20.180(c) that the final decision of the school board must be "written and contain specific findings of fact and conclusions of law," the time for appeal from the board's determination did not begin to run until the written decision was mailed or delivered to the teacher. Jerrel v. Kenai Peninsula Borough School Dist., Sup. Ct. Op. No. 1458 (File No. 2901), 567 P.2d 760 (1977).

Attorney's fees not allowed against teacher whose dismissal was affirmed. — See Crisp v. Kenai Peninsula Borough School Dist., Sup. Ct. Op. No. 1771 (File No. 3318), 587 P.2d 1168 (1978).

Applied in Renfree v. Green, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Quoted in Sjong v. State, Dep't of Revenue, Sup. Ct. Op. No. 2269 (File No. 4255), 622 P.2d 967 (1981); Fedpac Int'l, Inc. v. State, Sup. Ct. Op. No. 2520 (File No. 6034), 646 P.2d 240 (1982).

Sec. 14.20.207. Definitions. In AS 14.20.010 — 14.20.210

(1) "teacher" means a person serving in a teaching, counseling, or administrative capacity and required to be certificated in order to hold the position;

(2) "employer" means the school board or superintendent which appoints the teacher;

(3) "school year" includes "school term" if the teacher is employed only for the period of the school term;

(4) "continuous employment" means employment which is without interruption except for temporary absences approved by the employer or its designee, or except for the interval between consecutive school terms if the teacher is employed only for the months of the school term;

(5) "nonretention" means the election by an employer not to re-employ a teacher for the school year or school term immediately following the expiration of the teacher's current contract; and

(6) "dismissal" means termination by the employer of the contract services of the teacher during the time a teacher's contract is in force,

and termination of the right to the balance of the compensation due the teacher under the contract. (§ 25 ch 98 SLA 1966; am § 15 ch 46 SLA 1970; am § 19, ch 124 SLA 1975)

Editor's notes. — In paragraph (6), "the" was substituted for "his" by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

NOTES TO DECISIONS

Applied in Griffin v. Galena City School Dist., Sup. Ct. Op. No. 2469 (File No. 5388), 640 P.2d 829 (1982).

Quoted in Begich v. Jefferson, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968); State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971); Shatting v. Dillingham City School Dist., Sup. Ct. Op. No. 2177 (File No. 4240), 617 P.2d 9 (1980).

Cited in Alaska State-Operated School Sys. v. Mueller, Sup. Ct. Op. No. 1157 (File No. 2138), 536 P.2d 99 (1975); Skagway City School Bd. v. Davis, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975); Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Collateral references. — Who is "teacher" for purposes of tenure statutes. 94 ALR3d 141.

Sec. 14.20.210. Authority of school board or department to adopt bylaws. A school board or the department may adopt teacher tenure bylaws not in conflict with the regulations of the department or state law. (§ 4 ch 92 SLA 1960; am § 26 ch 98 SLA 1966)

Article 3. Salaries.

Section

220. Minimum teachers' salary scale by area
230. Administrators' salaries

Section

240—270. [Repealed]
275. Definitions

Collateral references. — 68 Am. Jur. 2d Schools, §§ 144-148.

78 C.J.S. Schools and School Districts, §§ 218-230.

Right of teacher to compensation while school is closed. 6 ALR 742; 17 ALR 1224; 21 ALR 751.

Discrimination because of race, color, or creed in respect of appointment, duties, compensation, etc., of schoolteachers or other public officers or employees. 130 ALR 1512.

Validity of classification or grading of teachers for purposes of compensation. 133 ALR 1437.

Compensation of tenure teacher. 145 ALR 408; 154 ALR 148.

Construction and application of provision of social security or unemployment compensation acts relating to exemption of corporations or institutions of a religious, charitable, or educational character. 155 ALR 369.

Services included in computing period of service for purpose of. 2 ALR2d 1033.

Sec. 14.20.220. Minimum teachers' salary scale by area. (a) The school board of each school district shall pay a regularly qualified teacher employed by it a salary not less than that set out in this subsection plus the regional adjustments set out in (b) and (c) of this section.

(1) The base salary of a teacher with three years' training is $8,000 for a teacher with no school experience in or outside the state. The salary is augmented by $200 for each year of school experience in or outside the state up to and including four years. This paragraph applies only to teachers employed in the state before July 1, 1970.

(2) The base salary for a teacher holding a bachelor's degree and having the requisite number of hours in education is $9,500. This salary is augmented by the sum of .04 times the base for each year of school experience in the state up to and including seven years. Teachers transferring experience from outside the state are subject to (e) of this section.

(3) The base salary for a teacher having a master's degree and the required number of hours of education is $10,900. This salary is augmented by the sum of .04 times the base for each year of school experience in the state up to and including 11 years. Teachers transferring experience from outside the state are subject to (e) of this section.

(b) The school board of each school district in the Central area and in election districts 6 and 11 shall pay the amount set out in (a) of this section plus five per cent of the base salary.

(c) The school board of each school district in the Northwest area, in that part of the Central area lying north of the Arctic Circle, and in those parts of the Southcentral and Central areas lying west of 152 degrees West Longitude, excluding election districts 6 and 11, shall pay the amount set out in (a) of this section plus 10 per cent of the base salary.

(d) Repealed by § 35 ch 46 SLA 1970.

(e) For teachers holding bachelors' degrees, not more than six years of school experience outside the state may be substituted for a like period of school experience in the state when a teacher's position on the salary scale is established, and, for teachers holding masters' degrees, not more than eight years of school experience outside the state may be substituted for a like period of school experience in the state when a teacher's position on the salary scale is established.

(f) The salary for a certificated substitute teacher teaching in a public school in the state may not be less than 75 per cent of 1/180th of the base salary for the applicable area.

(g) In this section "school experience" means a full-time elementary or secondary teacher in a public or non-public school as defined in AS 14.25.220 (19) and (20). (§ 37-6-1 ACLA 1949; am § 1 ch 69 SLA 1949; am § 1 ch 104 SLA 1951; am § 1 ch 104 SLA 1953; am § 1 ch 176 SLA

1955; am § 1 ch 179 SLA 1957; am § 1 ch 51 SLA 1961; am § 1 ch 54 SLA 1963; am § 1 ch 160 SLA 1966; am §§ 1 — 3 ch 208 SLA 1968; am §§ 1, 2 ch 209 SLA 1968; am §§ 16, 35 ch 46 SLA 1970; am § 1 ch 229 SLA 1970)

Revisor's notes. — As of the date of the 1982 reprint of AS 14, this section is out-of-date and obsolete. Teachers' salaries in Alaska are established by negotiation between districts and the teachers (AS 14.20.550). The minimum salary scale in this section is no longer used but has not been repealed.

NOTES TO DECISIONS

Cited in Griffin v. Galena City School Dist., Sup. Ct. Op. No. 2469 (File No. 5388), 640 P.2d 829 (1982).

Sec. 14.20.230. Administrators' salaries. School boards of city and borough school districts and regional educational attendance areas shall pay a qualified school administrator a salary not less than the allowable amount for the school administrator's position on the teachers' scale provided in AS 14.20.220(a) — (c), plus

(1) 25 per cent for the chief school administrator of a district with an average daily membership of 500 or more;

(2) 20 per cent for the chief school administrator of a district with an ADM of less than 500;

(3) 15 per cent for a principal or other administrator;

(4) 10 per cent for an assistant principal. (§ 37-6-2 ACLA 1949; am § 2 ch 69 SLA 1949; am § 2 ch 104 SLA 1951; am § 2 ch 104 SLA 1953; am § 2 ch 176 SLA 1955; am § 2 ch 179 SLA 1957; am § 2 ch 51 SLA 1961; am § 2 ch 54 SLA 1963; am § 2 ch 160 SLA 1966; am § 17 ch 46 SLA 1970; am § 2 ch 229 SLA 1970; am § 20 ch 124 SLA 1975)

Revisor's notes. — AS 14.20.230 was amended by both § 17, ch. 46, SLA 1970 and § 2, ch. 229, SLA 1970. Although neither amendment took cognizance of the other, they appear to be compatible and are both given effect here.

This section is obsolete. See revisor's note under AS 14.20.220.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Secs. 14.20.240 — 14.20.270. Salaries; reimbursement by state to school districts; limitation on higher salaries not prohibited; determination of number of teachers, superintendents, principals and vice principals for which district entitled to reimbursement.

Repealed by § 6 ch 229 SLA 1970.

Editor's notes. — The repealed sections derived from §§ 37-6-3, 37-6-4, 37-7-4, ACLA 1949; §§ 3, 4, 6, ch. 179, SLA 1957; § 3, ch. 51, SLA 1961; § 3, ch. 54, SLA 1963; § 1, ch. 42, SLA 1965; §§ 3, 4, ch. 160, SLA 1960; § 19, ch. 46, SLA 1970.

Sec. 14.20.275. Definitions. In AS 14.20.220

(1) "Central area" means that area included within the boundaries of election districts 13, 14, 15, and 16;

(2) "Northwest area" means that area included within the boundaries of election districts 17, 18, and 19;

(3) "Southcentral area" means that area included within the boundaries of election districts 6, 7, 8, 9, 10, 11, and 12;

(4) "Southeastern area" means that area included within the boundaries of election districts 1, 2, 3, 4, and 5. (§ 5 ch 160 SLA 1966)

Revisor's notes. — The election district descriptions in this section are obsolete as a result of successive reapportionments of election districts since 1966. See also the note under AS 14.20.220.

Article 4. Sabbatical Leave.

Section
280. Basis of leave
290. Application
300. Selection of teachers
310. Amount of sabbatical leave and compensation
320. Responsibility of teacher
330. Position, tenure, and retirement
340. Military service and previous leaves of absence
345. Leave of absence without pay
350. Definition

Collateral references. — 68 Am. Jur. 2d Schools § 147.

78 C.J.S. Schools and School Districts, § 227.

Sec. 14.20.280. Basis of leave. A teacher who has rendered active service for seven or more years in a district is eligible for sabbatical leave. Sabbatical leave may be taken for educational purposes only, and for not more than one school year. (§ 1 ch 134 SLA 1962; am § 1 ch 62 SLA 1964; am § 2 ch 104 SLA 1965; am § 27 ch 98 SLA 1966; am § 1 ch 168 SLA 1968)

Collateral references. — Candidacy for or incumbency of public office or other political activity by teacher or other school employee as ground for dismissal or compulsory leave of absence. 136 ALR 1154.

Sec. 14.20.290. Application. A teacher who wishes to take sabbatical leave must apply to the governing body of the school district. The teacher must submit information showing qualifications for sabbatical leave and a plan for education during the leave. (§ 2 ch 134 SLA 1962; am § 28 ch 98 SLA 1966)

Editor's notes. — The word "his" was deleted preceding "qualification" and preceding "education" in the second sentence by the revisor of statutes under AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.20.300. Selection of teachers. (a) The governing body of the school district has the responsibility for selection of the teachers to be granted sabbatical leave.

(b) In selecting teachers for sabbatical leave, the governing body shall consider the benefit which the school district will derive from the proposed plan of the teacher for educational purposes, the field of study of the teacher, the contributions of the teacher to education in Alaska, and the seniority of the teacher. (§ 3 ch 134 SLA 1962; am § 29 ch 98 SLA 1966)

Sec. 14.20.310. Amount of sabbatical leave and compensation. (a) The number of teachers eligible for sabbatical leave which may be allowed under AS 14.20.280 — 14.20.350 is as follows:

(1) not more than one-half of one per cent of the total number of teachers from all borough and city school districts and the state-operated school district may be on state-supported sabbatical leave in any year;

(2) any number of teachers may be on sabbatical leave at school district or personal expense.

(b) A teacher on state-supported sabbatical leave is entitled to one-half of base salary to be paid by the department.

(c) A teacher on sabbatical leave at district expense is entitled to an amount of salary to be determined by the school board. (§ 4 ch 134 SLA 1962; am § 3 ch 104 SLA 1965; am § 30 ch 98 SLA 1966; am § 2 ch 168 SLA 1968)

Revisor's notes. — The reference to "state-operated school district" in (a)(1) of this section is obsolete. The state-operated school system was superseded by regional educational attendance areas in 1975. See AS 14.08.

Editor's notes. — In subsection (b), the word "of" was substituted for "his" by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.20.320. Responsibility of teacher. Upon the return of a teacher to the teaching position, the teacher shall make a report to the governing body concerning educational accomplishments. A teacher who does not serve for at least a full year after returning shall refund to the district, if the sabbatical leave was at district expense, or to the board of state-operated schools, if the sabbatical leave was state-supported, money paid to the teacher under AS 14.20.310 unless the failure to serve a full year after return is attributable to sickness, injury or death. (§ 5 ch 134 SLA 1962; am § 4 ch 104 SLA 1965; am § 31 ch 98 SLA 1966; am § 20 ch 46 SLA 1970)

Revisor's notes. — The reference to the board of state operated schools is obsolete. The state-operated school system was superseded by regional educational attendance areas in 1975. See AS 14.08.

Editor's notes — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "the" for "his" once in the first and second sentences, deleted "his" preceding "educational accomplishments" in the first sentence, substituted "returning" for "his return" in the second sentence, and substituted "the teacher" for "him" in the second sentence.

Sec. 14.20.330. Position, tenure, and retirement. (a) Unless it is otherwise agreed, a teacher returning from sabbatical leave shall return to the position occupied by that teacher when the sabbatical leave began.

(b) A sabbatical leave is not an interruption of the continuous service necessary to attain or retain tenure under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on sabbatical leave may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire tenure rights.

(c) A sabbatical leave is not a break in service for retirement purposes. Payment into the retirement fund shall be made on the basis of full salary. (§ 6 ch 134 SLA 1962; am § 32 ch 98 SLA 1966)

Editor's notes. — Subsection (a) was rewritten by the revisor of statutes under the authority of AS 01.05.031 and in accordance with the directive in § 4, ch. 58, SLA 1982. The revisor also, in subsection (b), substituted "the teacher" for "him" under the authority of AS 01.05.031 and ch. 58.

Sec. 14.20.340. Military service and previous leaves of absence. To determine eligibility for sabbatical leave, tours of military service and leaves of absence granted before July 1, 1963, are not considered years of active service. (§ 7 ch 134 SLA 1962; am § 2 ch 62 SLA 1964)

Sec. 14.20.345. Leave of absence without pay. (a) A teacher may be granted a leave of absence without pay for the purposes which may be approved by the governing body of the district if

(1) the teacher's application is approved by the governing body of the district; and

(2) the teacher agrees to return to employment in a public school not later than the beginning of the school year following termination of the period for which the leave of absence was granted.

(b) A leave of absence is not an interruption of the continuous service necessary to attain or retain retirement or tenure rights according to AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on leave of absence may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire retirement or tenure rights.

(c) The leave of absence is not a break in service for retirement purposes.

(d) The governing body of the district may agree to continue the teacher's retirement contributions if the teacher agrees to pay the required seven per cent of the salary the teacher would have received during the leave of absence and reimburse the district for the district's required retirement contribution. Each year of leave of absence then would count as a year of retirement service

(e) The governing body of the district may advance the teacher on the district salary schedule when the teacher returns to employment if the governing body determines that the teacher's leave of absence was educationally or professionally beneficial to the teacher or the district.

(f) A teacher may make contributions to the retirement fund for each year or portion of a year of leave of absence taken. The contribution shall include the required per cent of the salary the teacher would have received had the leave of absence not been taken, plus the required employer and state contributions that would have been made. Compound interest at the rate prescribed by regulation shall be added as computed from the beginning date of the leave of absence to the date the teacher pays the contribution. (§ 5 ch 104 SLA 1965; am §§ 33, 34 ch 98 SLA 1966; am § 1 ch 44 SLA 1971; am § 1 ch 184 SLA 1972; am § 2 ch 99 SLA 1974)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "the teacher's" for "his" in subsection (a)(1); substituted "the teacher" for "he" in subsections (a)(2), (d), (e), and (f); substituted "the teacher" for "him" in subsection (b); substituted "the" for "his" in subsection (d); and, in subsection (f), substituted "the leave of absence not been taken" for "he not taken the leave of absence."

Sec. 14.20.350. Definition. In AS 14.20.280 — 14.20-350 "teacher" means a certificated member of the teaching, supervisory, or administrative corps in the public schools of the state. (§ 8 ch 134 SLA 1962)

Revisor's notes. — This section was rewritten to eliminate former paragraph (2) which defined "department" by the revisor of statutes under AS 01.05.031 because of the redundancy in light of AS 14.60.010(4).

Article 5. Professional Teaching Practices Act.

Section

370. Teaching profession
380. Creation of a commission
390. Appointment and qualifications
400. Composition of the commission
410. Selection of members
420. Term of office
430. Dismissal
440. Reimbursement
450. Responsibilities of commission
460. Duties of commission
470. Powers of commission
475. Applicability of the Administrative Procedure Act
480. Effect of standards
500. Support
510. Short title

Sec. 14.20.370. Teaching profession. Teachers required by Alaska law to be certificated, instructors in institutions of higher learning, school administrators, school program administrators, and school counselors are within the teaching profession. (§ 35 ch 98 SLA 1966)

Opinions of attorney general. — Unless the duties of an employee of the department of education can be characterized as falling within one of the five categories of this section, that employee cannot be said to fall within the teaching profession for purposes of the Professional Teaching Practices Act. July 15, 1977, Op. Att'y Gen.

The only employees of the department of education who might fit into one of the categories of this section are those who are employed by the department at the Alaska Skill Center or in its centralized correspondence study program. July 15, 1977, Op. Att'y Gen.

Sec. 14.20.380. Creation of a commission. There is a commission of professional educators known as the Professional Teaching Practices Commission. (§ 35 ch 98 SLA 1966)

Sec. 14.20.390. Appointment and qualifications. The commission consists of nine members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. Each member, in addition to having been actively engaged in the teaching profession for at least five years immediately preceding appointment, shall be a citizen of the United States and a resident of the state. (§ 35 ch 98 SLA 1966)

Editor's notes. — The revisor of statutes, pursuant to § 4, ch. 58, SLA 1982 and AS 01.05.031, deleted "his" preceding "appointment" in the second sentence.

Collateral references. — Bias of members of license revocation board. 97 ALR2d 1210.

Sec. 14.20.400. Composition of the commission. The commission consists of the following members:

(1) five classroom teachers;

(2) one principal;

(3) one superintendent;

(4) one representative of the office of the commissioner;

(5) one representative of an Alaska institution of higher learning. (§ 35 ch 98 SLA 1966)

Revisor's notes. — The words "of education" were deleted following "the commissioner" by the revisor of statutes under AS 01.05.031. See AS 14.60.010.

Sec. 14.20.410. Selection of members. (a) Members of the commission shall be selected as follows:

(1) the five classroom teachers from lists of names submitted by recognized Alaska teachers' organizations, each list not to exceed 12 names; however, in lieu of one of the five, one classroom teacher may be selected from a list of not more than four names signed and submitted by not less than 25 teachers who have no affiliation with any organization qualified to submit nomination lists, with the limitation that no teacher may sign more than one list in any year;

(2) the principal from a list of three names submitted by the Alaska Principals Association;

(3) the superintendent from a list of three names submitted by the Superintendents Advisory Commission;

(4) the representative of the office of the commissioner from a list of three names submitted by the commissioner;

(5) the representative of an Alaska institution of higher learning from lists of names submitted by Alaska institutions of higher learning, each list not to exceed three names.

(b) The lists shall be submitted to the commissioner who shall submit them as a group to the governor's office.

(c) At least 30 days before a position on the commission is due to become vacant, the chairman shall cause notice of the impending vacancy to be published and to be conveyed to each organized group eligible to submit a list of nominees. (§ 35 ch 98 SLA 1966)

Editor's notes. — In subsection (a)(4), the words "of education" were deleted following "the commissioner" by the revisor of statutes pursuant to AS 01.05.031. See AS 14.60.010.

Sec. 14.20.420. Term of office. (a) The term of office for each member of the commission is three years and until a successor is appointed, except that members of the first commission shall be appointed as follows: three members for one year, three members for two years, and three members for three years. Members of the first commission shall draw by lot for the initial term of appointment.

(b) Vacancies shall be filled by appointment by the governor for the unexpired term.

(c) No individual may serve more than a total of two 3-year terms.

(d) The commission shall select a chairman from among its members. (§ 35 ch 98 SLA 1966)

Sec. 14.20.430. Dismissal. Any member may be removed by the governor for misconduct, malfeasance or nonfeasance in office, or incapacity. (§ 35 ch 98 SLA 1966)

Sec. 14.20.440. Reimbursement. Members of the commission shall receive per diem according to law and are to be granted administrative leave with full pay by their employer for time spent in the performance of official duties under AS 14.20.370 — 14.20.510. If a member is required to spend more than 15 days in a fiscal year in the performance of official duties under AS 14.20.370 — 14.20.510, the state shall reimburse the employer for costs incurred after the 15th lay. (§ 35 ch 98 SLA 1966; am § 1 ch 4 SLA 1975)

Editor's notes. — The word "his" was deleted preceding "official duties" in the second sentence by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.20.450. Responsibilities of commission. (a) The commission shall have the initial responsibility of developing, through the teaching profession, criteria of professional practices in areas including, but not limited to:

(1) ethical and professional performance;

(2) preparation for and continuance in professional services; and

(3) contractual obligations. (§ 35 ch 98 SLA 1966)

Sec. 14.20.460. Duties of commission. The commission shall

(1) establish procedures, and adopt rules to implement the purposes of AS 14.20.370 — 14.20.510;

(2) conduct investigations and hearings on alleged violations of ethical or professional teaching performance, contractual obligations, and professional teaching misconduct;

(3) review the regulations of the department as they relate to teacher certification and recommend necessary changes;

(4) review the decisions of the department regarding the issuance or denial of certificates and in its discretion recommend reversal of decisions. (§ 35 ch 98 SLA 1966)

Sec. 14.20.470. Powers of commission. (a) The commission may

(1) study proposals developed by regular committees of any existing professional organization whose members are within the teaching profession;

(2) subpoena witnesses, place them under oath, and maintain written records;

(3) warn or reprimand members of the teaching profession, if in the judgment of the commission such action is warranted;

(4) suspend or revoke the certificate of a member of the teaching profession for one of the reasons set out in AS 14.20.030 except that in the case of an administrator, the commissioner must concur;

(5) make any recommendation to the board or to school boards which will promote an improvement in the teaching profession;

(6) request assistance through any of the investigative processes of any existing professional teaching organizations when analyzing charges of breach of ethical or professional teaching practices;

(7) appoint an executive secretary, delegate those ministerial functions to executive secretary as the commission may decide and set executive secretary's compensation with a starting salary not exceeding range 26, step B of the pay plan for state employees in AS 39.27.011(a).

(b) A decision issued by the commission with the approval of the commissioner under (a)(4) of this section is final. (§ 35 ch 98 SLA 1966; am § 1 ch 77 SLA 1972; am §§ 3, 4 ch 9 SLA 1975; am § 2 ch 103 SLA 1976; am § 13 ch 94 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "the pay plan for state employees in AS 39.27.011(a)" for "AS 39.27.010" at the end of paragraph (7) of subsection (a).

Editor's notes. — The revisor of statutes, under the authority of AS 01.05.031 and § 4, ch. 58, SLA 1982, deleted "of education" following "commissioner" in subsection (a)(4) and subsection (b), and, in subsection (a)(7), substituted "executive secretary" for "him" and "executive secretary's" for "his."

Legislative history reports. — For report on ch. 77, SLA 1972 (SB 126), see 1972 House Journal, p. 1208.

Sec. 14.20.475. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to regulations and proceedings under AS 14.20.370 — 14.20.510. (§ 5 ch 9 SLA 1975)

Sec. 14.20.480. Effect of standards. Members of the teaching profession are obligated to abide by the professional teaching standards adopted by the commission. (§ 35 ch 98 SLA 1966)

NOTES TO DECISIONS

Applied in Renfroe v. Green, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Sec. 14.20.500. Support. In addition to available state funds, the commission shall also be financed by members of the profession in accordance with regulations adopted by the department including, if necessary, an increase in the fees for certificates. (§ 35 ch 98 SLA 1966; am § 1 ch 73 SLA 1973)

Revisor's notes. — The word "adopted" was substituted for "promulgated" by the revisor of statutes under AS 01.05.031.

Sec. 14.20.510. Short title. AS 14.20.370 — 14.20.510 shall be known as the Professional Teaching Practices Act. (§ 35 ch 98 SLA 1966)

Article 6. Negotiation and Mediation.

Section		Section	
550.	Negotiation with certificated employees	570.	Mediation
555.	Optional coordinated employee negotiations	580.	The mediation report
560.	Teachers' bargaining groups and meetings with the groups	590.	Grievance procedures
		600.	Individual cases
		610.	Legal responsibilities of boards

Legislative history reports. — For report on ch. 18, SLA 1970 (HB 391 am S), see 1970 Senate Journal, p. 296.

Opinions of attorney general. — While these provisions waive the state's sovereign immunity and that of its political subdivisions from having to bargain collectively with teachers in the public schools, they do not address, expressly or even impliedly, any right to strike on the part of teachers of school districts. May 19, 1977, Op. Att'y Gen.

Teachers of school districts do not presently have the right to strike because the state has not waived its or its political subdivisions' immunity from strikes by teachers. May 19, 1977, Op. Att'y Gen.

Collateral references. — 48A Am. Jur. 2d Labor and Labor Relations, §§ 1727 — 1775.

51A C.J.S. Labor Relations, § 402.

Right of school authorities to make membership or nonmembership in teachers' association or other organization a condition of employment as a teacher. 72 ALR 1225.

Bargainable or negotiable issues in state public employment labor relations. 84 ALR3d 242.

Union security arrangements in state public employment. 95 ALR3d 1102.

Sec. 14.20.550. Negotiation with certificated employees. Each city, borough and regional school board, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties. (§ 1 ch 18 SLA 1970; am § 3 ch 71 SLA 1972; am § 21 ch 124 SLA 1975)

NOTES TO DECISIONS

Constitutionality. — This section and AS 14.20.610 state two goals which apparently conflict, but since the supreme court construes this section fairly narrowly, it finds no constitutional infirmity in this section and AS 14.20.610. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Requirements of section. — This section merely requires a school board to negotiate with a union. It does not require a board to accept any particular proposal a union might offer. It does not require, and probably does not permit, a board to delegate to a union the sole power to make any decision. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

As to matters which affect educational policy and are, therefore, not negotiable, there is nevertheless implicit in the Alaska Statutes the intention that the school boards meet and confer with the unions. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Negotiable items. — Salaries, fringe benefits, the number of hours worked, and the amount of leave time are negotiable. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

The salary of teachers is a proper subject of collective bargaining under Alaska's statutes. Rouse v. Anchorage School Dist., Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Nonnegotiable items. — Such items as (1) relief from nonprofessional chores, (2) elementary planning time, (3) paraprofessional tutors, (4) teacher specialists, (5) teacher's aides, (6) class size, (7) pupil-teacher ratio, (8) a teacher

ombudsman, (9) teacher evaluation of administrators, (10) school calendar, (11) selection of instructional materials, (12) the use of secondary department heads, (13) secondary teacher preparation and planning time, and (14) teacher representation on school board advisory committees are, under the existing statutory language, nonnegotiable. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Dismissal of complaint held proper. — Change in teachers' salaries brought about by contract renegotiation did not abuse any "vested" rights entitled to judicial protection, and dismissal of the complaint for failure to state a claim for which relief could be granted was proper. Rouse v. Anchorage School Dist., Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Sec. 14.20.555. Optional coordinated employee negotiations. (a) Negotiations between the certificated employees of the regional educational attendance areas and the respective regional school boards shall be conducted by one team representing all the certificated employees, one team representing all the certificated administrative personnel if they have joined together to negotiate independently as provided in AS 14.20.560(f), and one team representing all the participating regional school boards.

(b) Each team may consist of as many members as there are regional school boards. Each board is entitled to one member on the team. However, each negotiating team shall consist of not less than five members.

(c) A regional educational attendance area board may by resolution choose to conduct its own negotiations in accordance with AS 14.20.550. (§ 22 ch 124 SLA 1975)

Sec. 14.20.560. Teachers' bargaining groups and meetings with the groups. (a) When a majority of the certificated employees in a school district have designated an educational organization of their own choosing to bargain for them, the organization shall be recognized by the school board as the bargaining agent for all the certificated staff, except superintendents of schools. The membership of any such recognized educational organization shall be composed principally of those employed in the teaching profession in Alaska.

(b) The organization representing a majority of the certificated employees of a school district shall, upon the request of the school board, submit an affidavit verifying that it does represent a majority of the certificated employees. Recognition of the employee bargaining agency by a school board is valid for one year or a term agreed upon by the two parties to an agreement, unless a majority of certified staff votes to request the termination of recognition of the employee bargaining agency. The school board is entitled to an affidavit of membership from the employee bargaining agency once each year.

(c) Upon the request of 25 per cent of the certificated employees in a district, the school board shall hold, within 20 days, an election by secret ballot of all the certificated employees in order to determine their choice of a bargaining agency. The results of this election are binding for one year.

(d) A school board shall, upon the written request of the employee bargaining organization, meet with the representative of the organization within 20 days of the request at a time and place to be mutually agreed upon. In the same manner, representatives of an employee bargaining organization are required to meet with a school board or its representatives within 20 days after receiving a written request. The school board and the employee organization may not select more than five representatives each to negotiate for them.

(e) The negotiating meeting may be held in executive session upon mutual agreement of both parties, but all final agreements shall be made at a public meeting of the school board.

(f) Nothing in this section shall be construed to prevent certificated administrative personnel groups, including principals and assistant principals, from having the right to negotiate independently of the other certificated personnel if they choose to do so as the result of a secret ballot. (§ 1 ch 18 SLA 1970; am § 1 ch 43 SLA 1971)

NOTES TO DECISIONS

Negotiable items. — The salary of teachers is a proper subject of collective bargaining under Alaska's statutes. Rouse v. Anchorage School Dist., Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Dismissal of complaint held proper. — Change in teachers' salaries brought about by contract renegotiation did not abuse any "vested" rights entitled to judicial protection, and dismissal of the complaint for failure to state a claim for which relief could be granted was proper. Rouse v. Anchorage School Dist., Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Sec. 14.20.570. Mediation. (a) Upon the written request for mediation by an employee bargaining agency or a school board, and upon certification by the requesting party that the parties cannot agree on an independent private mediator and that good faith negotiations have terminated in an impasse, the following occurs:

(1) Within seven days of the certification the requesting party shall ask the United States Federal Mediation and Conciliation Service to serve as the agency to resolve the dispute.

(2) The mediator shall chair all mediation meetings between the disputing parties and attempt to resolve the differences between the disputing parties and reach common acceptance of terms and conditions or other items in dispute wherever possible.

(3) Within 30 days of the initial meeting of the parties to the dispute the mediator shall have reduced all the agreed terms, conditions and other items to a written contract. If mutually agreed the period for reporting the contract to both parties may be extended.

(4) Each party to the dispute may select a team of not more than five persons to present the evidence, thinking and position of the group they represent, to the mediator.

(b) If the mediation meetings are held during the school day, teachers representing an employee bargaining agency shall be released from classroom or other assigned duties without penalty or loss of pay. (§ 1 ch 18 SLA 1970; am § 1 ch 201 SLA 1975)

Sec. 14.20.580. The mediation report. (a) Within 10 days each party to the dispute shall accept or reject in total the mediation report.

(b) If rejected by either party, the mediator shall have an additional five days to review the objections and prepare a final report.

(c) If the final report is rejected by either side, the governor may appoint an advisory arbitrator to review the issues and make recommendations for solution. (§ 1 ch 18 SLA 1970; am § 2 ch 201 SLA 1975)

Sec. 14.20.590. Grievance procedures. Negotiations agreements executed after July 1, 1975 shall define "grievances" and provide for grievance procedures for the certificated staff. The grievance procedures shall provide that the final step in the procedure shall be binding arbitration. The negotiations agreement shall provide a method for the selection of an arbitrator. (§ 1 ch 18 SLA 1970; am § 3 ch 201 SLA 1975)

Sec. 14.20.600. Individual cases. Nothing in AS 14.20.550 — 14.20.590 prohibits an employee from addressing a school board, as an individual, through the regular procedures of the school board for hearing individual cases. (§ 1 ch 18 SLA 1970)

Sec. 14.20.610. Legal responsibilities of boards. Nothing in AS 14.20.550 — 14.20.600 may be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board including its right to make final decisions on policies. (§ 1 ch 18 SLA 1970)

NOTES TO DECISIONS

Constitutionality. — AS 14.20.550 and this section state two goals which apparently conflict, but since the supreme court construes AS 14.20.550 fairly narrowly, it finds no constitutional infirmity in AS 14.20.550 and this section. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

As to matters which affect educational policy and are, therefore, not negotiable, there is nevertheless implicit in the Alaska Statutes the intention that the school boards meet and confer with the unions. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Negotiable items. — Salaries, fringe benefits, the number of hours worked, and the amount of leave time are negotiable. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Nonnegotiable items. — Such items as (1) relief from nonprofessional chores, (2) elementary planning time, (3) paraprofessional tutors, (4) teacher specialists, (5) teacher's aides, (6) class size, (7) pupil-teacher ratio, (8) a teacher ombudsman, (9) teacher evaluation of administrators, (10) school calendar, (11) selection of instructional materials, (12) the use of secondary department heads, (13) secondary teacher preparation and planning time, and (14) teacher representation on school board advisory committees are, under the existing statutory language, nonnegotiable. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Article 7. Interstate Agreement on Qualification of Educational Personnel.

Section
620. Entry into agreement
630. Terms and provisions of agreement
640. Designated state official to make contracts
650. Filing and publishing of contracts

Sec. 14.20.620. Entry into agreement. The interstate Agreement on Qualification of Educational Personnel is enacted into law and entered into in behalf of the State of Alaska with all other states and jurisdictions legally joining in it in a form substantially as contained in AS 14.20.630. (§ 1 ch 83 SLA 1970)

Sec. 14.20.630. Terms and provisions of agreement. The terms and provisions of the agreement referred to in AS 14.20.620 are as follows:

INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL.

ARTICLE I. PURPOSE, FINDINGS, AND POLICY.

(1) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(2) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence,

a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

ARTICLE II. DEFINITIONS.

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

(1) "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(2) "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

(3) "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(4) "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(5) "Originating state" means a state (and the subdivisions thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

(6) "Receiving state" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

ARTICLE III. INTERSTATE EDUCATIONAL PERSONNEL CONTRACTS.

(1) The designated state official of a party state may make one or more contracts on behalf of that state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which the state official finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

(2) Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

(3) No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

(4) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(5) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(6) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

ARTICLE IV. APPROVED AND ACCEPTED PROGRAMS.

(1) Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(2) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

ARTICLE V. INTERSTATE COOPERATION.

The party states agree that:

(1) They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this agreement.

(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

ARTICLE VI. AGREEMENT EVALUATION.

The designated state officials of any party states may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

ARTICLE VII. OTHER ARRANGEMENTS.

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

ARTICLE VIII. EFFECT AND WITHDRAWAL.

(1) This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

(2) Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(3) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY.

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters. (§ 1 ch 83 SLA 1970)

Editor's notes. — In article III (1) of the compact, the word "that" was substituted for "his" in the first sentence and the words "the state official" were substituted for "he" in the third sentence by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.20.640. Designated state official to make contracts. The designated state official to make contracts on behalf of the state according to Article III of the agreement shall be the commissioner. (§ 1 ch 83 SLA 1970)

Revisor's notes. — The words "of education" were deleted following "commissioner" by the revisor of statutes under AS 01.05.031. See AS 14.60.010.

Sec. 14.20.650. Filing and publishing of contracts. True copies of all contracts made on behalf of this state according to the agreement shall be kept on file in the office of the commissioner and in the office of the lieutenant governor. The Department of Education shall publish all contracts in convenient form. (§ 1 ch 83 SLA 1970)

Revisor's notes. — In the first sentence of the section, the words "of education" were deleted following "the commissioner" and "lieutenant governor" was substituted for "secretary of state" by the revisor of statutes under AS 01.05.031.

Chapter 25. Teachers' Retirement.

Section

10. Retirement system established
12. Purpose and effective date
15. Administrator
20. Powers of the administrator
22. Regulations
30. Duties of the administrator
35. Teachers' Retirement Board
40. Membership
43. Reemployment of retired members
45. Participation by National Education Association employees
50. Contributions by teachers
55. Supplemental contributions by teachers
60. Arrearage indebtedness
61. Retroactive indebtedness
62. Reinstatement indebtedness
63. Payment of indebtedness
65. Transmittal of contributions
70. Contributions by employer
80. Contributions by the state
90. [Repealed]

Section

105. Credit for service as an employee of the Territory of Alaska
107. Credit for Alaska BIA service
110. Retirement benefits
115. Unused sick leave credit
120. [Repealed]
125. Conditional service retirement benefits
130. Disability benefits
135—140. [Repealed]
142. Cost of living allowance
143. Post retirement pension adjustment
145. Interest on individual accounts
150. Refund upon termination
155. Nonoccupational death benefits
157. Occupational death benefits
160. Death benefits
162. Survivor's allowance
164. Spouse's pension
166. Designation of beneficiary
167. Joint and survivor option
168. Medical benefits
169. Duplicate benefits

HB

583

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 583

Support

The reporting of gunshot and stab wounds to law enforcement agencies by treating physicians and health care institutions is a basic tool within the criminal justice systems of most states that is not presently available to law enforcement agencies in Alaska. The absence of such a requirement under current law means that some serious assaults may never be reported to law enforcement authorities, especially in the remote villages and rural areas of the State.

Until recently, physicians and health care institutions had reported wounds of the types described in HB 583 to law enforcement agencies without being required to do so out of a desire to serve the public good. Privacy statutes and fear of litigation have virtually ended this long-standing informal relationship.

This legislation will enable timely responses from law enforcement officers to protect victims of violent crimes and to investigate the apparent commission of serious crimes. it may aid in the apprehension of the offender before he can do harm to other members of the public.



Robert J. Sundberg
Commissioner

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL NO. 583

For an Act entitled: "An Act relating to report of certain injuries."

This Act amends AS 18.20 by adding provisions requiring that health care facilities and providers report cases involving certain types of injuries to law enforcement agencies. The types of injuries include those inflicted by firearms and those which are caused by cutting or stabbing implements or which are likely to be fatal unless the cause of the injury is clearly accidental. Both immediate verbal and follow-up written reports are required. The Act also provides for civil and criminal immunity for persons making repo.ts in good faith under this requirement.

The Department of Health and Social Services endorses passage of this Bill since it clearly delineates when reports are required and provides the necessary legal protections to institutions and providers reporting such injuries. It will bring the Alaska statutes into line with those in many other states.

Recommended by: _____
E.S. Rabeau, M.D.
Director, Division of
Public Health

Date: 2-10-84

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date: 2/17/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date , 1984

I. REQUEST
Bill/Resolution No.: HB 583
Title: Report of Certain Injuries

Sponsor: Rules Committee
Requestor: House HESS
Date of Request: 2/14/83

II. FISCAL DETAIL
Agency Affected: Health & Social Servs.
Program Category Affected: Health

~~BRU, Program of Subprogram(s) Affected:~~
Public Health Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for Analysis

Prepared By: Dean Tirador for Phone: 465-3090
Division: Public Health Date: 2/15/84

Approved by Commissioner: Robert London Smith Date: 2/17/84
Agency: Dept. of Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislativve Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 583
Title: "An Act relating to reporting of certain injuries..."
Sponsor: House Rules
Requestor: House HESS
Date of Request: 2-7-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis N/A - No costs anticipated.

Prepared By: Francis C. Allan F.C.A. Phone: 269-5691
Division: Alaska State Troopers Date: 1-3-84

Approved by Commissioner: R. J. Sundberg RJS Date: 1/5/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

HB
585

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST:
Bill/Resolution No.: HB No. 585
Title: "An Act relating to the Senate Education Advisory Council..."
Sponsor: Rep. M.M. Miller
Requestor: HESS Committee
Date of Request: February 9, 1984

FISCAL DETAIL:
Agency Affected: ADULT CORRECTIONS AGENCY
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Administration and Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		60.1	63.7	67.5	71.6	75.9
200 TRAVEL		9.9	10.5	11.1	11.8	12.5
300 CONTRACTUAL		8.5	9.0	9.6	10 1	10.7
400 COMMODITIES		1.6	1.7	1.8	1.9	2.0
500 EQUIPMENT		4.0	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	84.1	84.9	90.0	95.4	101.1
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	84.1	84.9	90.0	95.4	101.1
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	-0-	84.1	84.9	90.0	95.4	101.1

POSITIONS:

FULL-TIME	-0-	1	1	1	1	1
PART-TIME	-0-	1	1	1	1	1
TEMPORARY						
TOTAL	-0-	2	2	2	2	2

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill have not been identified by the bill sponsor.

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Roger C. Lange — Roger C. Lange
Division: Administrative Services
Phone: 465-3376
Date: February 14, 1984

Approved by Commissioner: William W. Ludwig
Department: ADULT CORRECTIONS AGENCY
Date: March 5, 1984

Distribution:
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency (ies)

12/ /83

ANALYSIS

I. Assumptions:

House Bill No. 585 will create an Inmate Education Advisory Council made up of five members. The duties of the Council are to:

1. Research and make recommendations regarding inmate education in the State's prisons;
2. Coordinate a system of inmate education that is based on the individual inmate's education level;
3. Hire the staff necessary to carry out the provisions of the Act; and
4. Perform all acts necessary to carry out the purposes of the Act.

It is assumed that a staff of a full time Associate Coordinator and a half-time Clerk Typist III will be required by the Council to provide the research and support for the Council to receive adequate information to evaluate the existing education programs and then make recommendations regarding the future education programs in the State's prisons. It is also assumed that the Council will meet quarterly, with only four of the five members in attendance. As education is a statewide program, the cost estimates are based on the assumption that the Council will be appointed from the following areas of the State where prison facilities are located:

1 member - Ketchikan
1 member - Juneau
2 members - Anchorage/vicinity
1 member - Fairbanks

A 6% inflation factor was used for fiscal years subsequent to 1985.

II. Program Summary:

A. Positions:

	Associate Coordinator (12 months)	Clerk Typist III (6 months)
Annual Salary	$35,580	$ 9,588
Supplemental Benefits @ 6.13%	2,181	588
Retirement @ 13.8%	4,910	1,323
Variable Benefits @ 4.045%	1,439	388
Fixed Benefits @ $227.35/mo.	2,728	1,364
Total Personal Services	$46,835	$13,251
Travel	3,000	-0-
Contractual (communications, copying, rent)	4,500	3,000
Commodities (office supplies)	600	600
Equipment	1,500	2,500
Total Position Cost	$56,438	$19,351

B. Other Expenditures:

The following identified expenditures are for Council members travel and per diem costs, long distance telephone charges and commodities and/or supplies specific to their quarterly meetings:

Travel	$ 6,900
Contractual	1,000
Commodities	400
Total - Other Expenditures	$ 8,300

III. Economic Impact:

Enactment of this bill will not have a significant impact on the State's economy.

IV. Impact on Local Government:

This bill has no apparent impact on local government units.

1.	POSITION TITLE	RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
	Associate Coordinator	18A	GGU				
2.	TYPE OF POSITION / STAFF MONTHS / RP NUMBER / PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT / 12		Anchorage				

3. CONTINUATION LEVEL ____ ADDITION ____

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary $2,965/mo.	35,580	
6.	Benefits	6,349	
7.	Supplemental Benefits	2,181	
8.	Fixed Benefits	2,728	
9.	TOTAL PERSONAL SERVICES 01		46,838
10.	Travel 02		3,000
11.	Contractual 03		4,500
12.	Commodities 04		600
13.	Equipment 05		1,500
14.	Other		
15.	TOTAL COST		56,438

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	56,438
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
AU KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

The Associate Coordinator, at the direction of the Inmate Education Advisory Council, shall provide all necessary support services to the Council. This will include, but not be limited to, research into inmate education in the state prisons, coordination between the Director of Statewide Programs and the council; make all necessary arrangements for quarterly meetings of the Council; receive and draft responses to correspondence relating to inmate education services; make recommendations regarding budget requests for inmate education programs; represent the Council on the Contract Review Committee for purchased education services; and general administrative tasks to carry out the purposes of House Bill No. 585.

REQUEST FOR
13 NEW POSITION

AGENCY Adult Corrections
PROGRAM Offender Confinement, Reformation and Supervision
BRU Administration and Support
COMPONENT Statewide Programs

FY 85

Revised Date

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
	Clerk-Typist III				8B	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	6				Anchorage				
3.	CONTINUATION LEVEL		ADDITION							

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary $1,578/mo.	9,588	
6.	Benefits	1,711	
7.	Supplemental Benefits	588	
8.	Fixed Benefits	1,364	
9.	TOTAL PERSONAL SERVICES 01		13,251
10.	Travel 02		-0-
11.	Contractual 03		3,000
12.	Commodities 04		600
13.	Equipment 05		2,500
14.	Other		
15.	TOTAL COST		19,351

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	19,351
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR O&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

To provide clerical support for the Inmate Education Advisory Council and the program administrator. The duties would include the full gamut of Clerical Functions such as typing, filing, answering the telephone, and providing receptionist services as well as arranging for travel of the advisory council, scheduling meeting rooms, arranging for recording equipment (as necessary), etc.

REQUEST FOR
13 NEW POSITION

AGENCY Adult Corrections
PROGRAM Offender Containement, Reformation and Supervision
BRU Administration and Support
COMPONENT Statewide Programs

Revised Date

FY 85

ADULT CORRECTIONS AGENCY
Pouch T
Juneau, Alaska 99811

POSITION PAPER
House Bill No. 585

"An Act relating to the Inmate Education Advisory Council."

House Bill No. 585 would create an Inmate Education Advisory Council to coordinate inmate education services. The Council's duties would include, but not be limited to, conducting research and making recommendations regarding inmate education; coordination of an inmate education program based on individual inmate's education level; and hiring the staff necesssary to carry out the provisions of the Act.

The Adult Corrections Agency fully recognizes the value and need for input from both the community and agency staff regarding the development and administration of the inmate education program. The Adult Corrections Agency has set a high priority on the coordination of the inmate education program since the Director of Statewide Programs position was authorized and filled.

In keeping with this commitment, the Director of Statewide Programs, in conjunction with the Department of Education, has established a Corrections Education Advisory Board. The Board consists of thirteen members, who initially met December 15, 1983. The Board represents the following agencies:

University of Alaska - Anchorage, School of Justice
Anchorage Community College, Eagle River Extension
Adult Learning Programs of Alaska
University of Alaska, Rural Education
Department of Education
Hiland Mountain Correctional Center
Peninsula Learning Resources
Southeast Regional Resource Center
Fairbanks Correctional Center
Cook Inlet Pre-Trial Facility
Anchorage Community College, Adult Learning Center
Kawerak, Inc.
Human Resources Adult Education

The Board has been given the responsibility to make policy and procedure recommendations, but does not have as broad a scope of powers that House Bill No. 585 would give to the Inmate Education Advisory Council. It is felt that the Corrections Advisory Board meets the intent of the proposed legislation, while leaving the administrative responsibilities of the inmate education program to Corrections professionals.

Education is just one part of the complex incarceration/rehabilitation regimen experienced by the inmates. The Adult Corrections Agency must retain control of programs administered in the State correctional facilities to ensure that the needs of both the institution and the inmates are met.

Therefore, the Adult Corrections Agency agrees in concept with this proposed legislation, but does not support its passage.

Prepared by: Roger C. Lange

Roger C. Lange
Internal Management Administrator

Date: March 5, 1984

Approved by: William W. Ladwig

William W. Ladwig
Assistant Commissioner
for Administration
Adult Corrections Agency

Date: March 5, 1984

HB
588

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811

Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

May 9, 1984

file w/ my Bill

Senator Bill Ray, Chairman
Senate Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: CSHB 588.

Dear Bill:

I have attached Guy's research on the captioned bill. It very well explains the subject matter of the bill; I favor the legislation.

Too often people get involved in a bureaucratic maze and encounter excessive red tape and unnecessary delay. If a hearing officer, for example, knew that the state could be assessed attorneys fees and/or costs if he made a capricious or arbitrary decision, we might arrive at more efficient processing and handling of claims.

I have not talked to the prime sponsor to find out whether she has a particular target in mind, but I'd be more than happy so to do if requested by you.

Regards,

3—

Robert H. Ziegler, Sr.

RHZ:lk

Attachment

TO: SENATOR ROBERT H. ZIEGLER, SR.

FROM: GUY VAN DOREN
ADMIN. ASST.

SUBJECT: CSHB 588

CSHB 588 AN ACT PROVIDING FOR THE AWARD OF COSTS AND ATTORNEY FEES TO PERSONS WHO PREVAIL IN CERTAIN STATE ADMINISTRATIVE PROCEEDINGS AND PROVIDING FOR AN EFFECTIVE DATE

NEW SECTIONS ADDED TO 09.50

Sec. 1. ARTICLE 7 COST AND ATTORNEY FEES IN ADMINISTRATIVE PROCEEDINGS.

09.50.140 AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENTS IN ADMINISTRATIVE PROCEEDINGS.

(a) Allows a respondent, who prevails in an administrative proceeding involving a civil penalty on that person or revocation, suspension, limitation or the conditioning of a persons license or privilege, to recover from the state, the costs of defense including attorney fees.

(b) Allows respondent to recover from the state the reasonable costs of the appeal and the administrative proceedings, including reasonable attorney fees, if the origional determination imposes a civil penalty or revocation, suspension, limitation or conditioning of a right, authority, license or authority and that decision is reversed in a subsequent court proceeding.

(c) Provides that the award of attorney fees may not exceed $75 and hour for services actually rendered and the total may not exceed $10,000 unless the limitation results in the extreme hardship of the prevailing party.

(d) Provides that the award of attorney fees or costs made under this section may be appealed to Superior Court.

******(who pays for the appeal???)

(e) Provides that this provision does not apply to claims for costs or attorney fees that are specifically authorized by statute or rules of court.

(f) Defines state agency and includes the Univ. of Alaska

Section 2. Provides that the act applies only to proceedings commenced after the effective date of this act.

Section 3. Immediate effective date.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/20/84

REQUEST
Bill/Resolution No.: CSHB 588(JUD)
Title: Costs and Attorney fees, administrative proceedings
Sponsor: Tischer
Requestor: House Finance
Date of Request:

FISCAL DETAIL
Agency Affected: ADEC
Program Category Affected: All programs
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		49.5	50.1	50.7	51.3	
200 TRAVEL		10.0	10.0	12.0	15.0	
300 CONTRACTUAL		8.0	3.0	8.0	8.0	
400 SUPPLIES		1.5	1.5	1.5	1.5	
500 EQUIPMENT		2.5	.5	.5	.5	
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		50.0	75.0	100.0	125.0	
800 MISCELLANEOUS						
TOTAL OPERATING		121.5	140.1	172.7	201.3	
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		121.5	140.1	172.7	201.3	
FEDERAL FUNDS						
OTHER						
TOTAL		121.5	140.1	172.7	201.3	

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor.
If the Bill were amended, the State agency could collect its cost and attorney fees when it prevails thus offsetting the costs when the respondent prevails.

ANALYSIS: Attach a separate page for analysis

Prepared By: Billie Trent Phone: 465-2600
Division: Commissioner's Office Date: 3/20/84

Approved by Commissioner: Richard A. Neve' Date: 3/20/84
Agency: Environmental Conservation

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL ANALYSIS

CSHB 588 (Jud)

This legislation, if it becomes law, will create the need for a staff attorney/hearing officer to handle the more sophisticated proceedings which would result from the involvement of attorneys. At the very least, a contract attorney would be required to advise the commissioner.

We further believe it would be necessary to contract the services of court reporters to record the hearings and prepare transcripts which meet the more stringent expectations of an attorney.

Since hearings are requested and granted statewide, travel would be substantial in order to hold the hearings in locations most convenient to the participants.

The claims figures are based on the fact that in 1983, ten hearings were granted, only one of which could result in the reversal of an agency decision, at an estimated cost of $50,000 for costs and attorney fees.

In estimating future fiscal impact, we have assumed that passage of HB 588 would result in more hearings being requested and granted, with a similar percentage of reversals.

In truth, there is no way to accurately estimate fiscal impact. Each case is unique and could result in complications and costs even greater than anticipated herein.

1.	POSITION TITLE ATTORNEY II				RANGE/STEP 19	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION Permanent	STAFF MONTHS 12	RP NUMBER ----	PCN NUMBER pending	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 99	LEG.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	38,124	
6.	Benefits	6,282	
7.	Supplemental Benefits	2,337	
8.	Fixed Benefits	2,728	
9.	TOTAL PERSONAL SERVICES	01	49.5
10.	Travel	02	10.0
11.	Contractual	03	8.0
12.	Commodities	04	1.5
13.	Equipment	05	2.5
14.	Other		
15.	TOTAL COST		71.5

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

Should HB 588 become law, this position would be necessary to handle the more sophisticated hearings which would result.

It is also anticipated that there would be an increase in the number of hearings requested, thereby precluding the Commissioner from acting as hearing officer, even if he had the legal expertise to do so.

Since hearings are held statewide, a substantial travel increment would be required. We further believe it would be necessary to contract the recording of the hearings to court reporters rather than simple cassette recordings by persons unfamiliar with formal proceedings.

13 REQUEST FOR NEW POSITION

AGENCY Environmental Conservation

PROGRAM All

BRU

COMPONENT

Page 1 of 1

Revised Date 3/20/84

FY 85

OY 11 (7/82) - 15

POSITION PAPER

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CSHB 588 (Judiciary)

Award of Costs and Attorney Fees,
State Administrative Proceedings

While we have no problem with the concept of reimbursing reasonable costs to persons who challenge permit decisions and prove that the department erred, we believe encouraging the involvement of attorneys would complicate what is now a very simple process within our regulations and would result in an increase in hearings at great expense to the state with a disproportionate benefit to the public, given the fact that most of this department's challenged decisions have been upheld.

Our adjudicatory process was created for use by laypersons. It provides an informal forum whereby anyone may challenge a department decision and bring that challenge before the commissioner. In such cases, the Department of Law attorney assigned to defend the decision has kept a low profile with regard to strict legal procedure, keeping objections to a minimum and giving as much leeway to the layperson as possible.

Most of the adjudicatory hearings before this department have not involved attorneys. Those that have became a nightmare of motions to be decided, and extensions of time that delayed the decision many months beyond the limits set in our regulations. A formal atmosphere was created in what was intended to be a quasi-judicial setting.

Under AS 46.35.090(e), this department "need not conform to the Administrative Procedure Act" when a permit decision is adjudicated. However, when a proceeding becomes complicated with factors not anticipated when our regulations were drafted, we are forced to look elsewhere for guidance, i.e., the Administrative Procedure Act and the Alaska Rules of Court. Such complication was clearly not envisioned when the adjudicatory process was developed. If this bill becomes law, we would require a staff attorney/hearing officer or, at the very least, a contract attorney to advise the commissioner. It would also be necessary to rewrite our regulations to include more sophisticated procedures.

A memo dated July 8, 1982 from Art Peterson at Department of Law addressing award of costs and fees, states "It is difficult to relate [the concept of 'prevailing party'] to either the single-party or multi-party permit-application adjudications handled by your department."

For example, when someone challenges a permit issued for a solid waste disposal site, that challenge usually reflects the undesirability of having such a site near their home. That argument is a zoning issue beyond our jurisdiction. For that person to "prevail," we would have to withhold the permit and prevent the site from being established. What actually happens, however, when a decision is found lacking in some respect, is that the matter is remanded back to the regional office for further study or refinement. Permit conditions are sometimes amended. While that could be interpreted as a "victory" for the requestor, in the very strictest sense, it is not.

We certainly appreciate the intent of this legislation. Not many private citizens will devote the time and effort spent by Mrs. McCallon in her "successful" adjudication of the Auke Bay Breakwater permit, or by Mr. and Mrs. Allen in their "unsuccessful" adjudication of the Soldotna Landfill permit. They had no apparent difficulty with the hearing process and met most deadlines with ease.

At the other extreme we find the Cube Cove adjudication where five attorneys participated, and the Atwood adjudication with four attorneys. The Cube Cove decision was delayed for several months by complicated procedures, and the Atwood matter is still undecided nearly three years later. Costs and fees in those matters will probably amount to five figures.

While Cube Cove and Atwood would have involved attorneys with or without HB 588, that legislation will encourage even cases such as Auke Bay and Soldotna to escalate to the same unwieldy proportions.

Compliance order and emergency order hearings, on the other hand, are more formal, and more appropriately lend themselves to the presence of attorneys. This is evident from the requirement for the appointment of a formal hearing officer. Of the two types of hearings, it is suggested that adjudicatory hearings be exempted from this legislation, while compliance order and emergency order hearings be covered.

The amendment that places a ceiling on the amount that might be awarded is an improvement over the original bill, but it will still be costly for the state to bear this expense. Assessing fiscal impact is close to impossible.

We do not believe the delays inherent with a more complicated approach would serve the best interests of the public. Neither is the public well served by the state addressing increased, convoluted hearings at increased cost to the taxpayer, with no provision for reimbursement to the state from unsuccessful requestors.

If the award of attorney fees were restricted to proceedings which fall strictly under the Administrative Procedure Act (exempting our adjudicatory hearings but not our compliance hearings), while reasonable costs (excluding attorney fees but including expert witness fees--probably of far greater benefit to the requestor) were allowed for all proceedings, we believe the intent of the legislation would be carried out without jeopardizing the simple hearing process we follow.

DATED: March 20, 1984.

Richard A. Neve

Richard A. Neve
Commissioner

HB
596

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

M E M O R A N D U M

March 27, 1984

SUBJECT: CSHB 596 (HESS)

TO: Representative Mae Tischer
Chairman, HESS Committee

FROM: Richard C. Folta
Legislative Counsel

You have asked if the committee can change the title of HB 596 originally sponsored by the Rules Committee at the request of the governor and if the amendments made in CSHB 596 are germane to the subject matter of the bill.

A. TITLE

Rule 24(c) of the Uniform Rules of the Alaska State Legislature does not allow a committee of a second house to change the title of a bill as enacted in the house of origin other than to make a clerical or technical change. There is no restriction on title changes in the house of origin other than the requirement that amendments must be germane to the original subject matter.

At the present time HB 596 is in the house of origin.

B. GERMANENESS

The original bill relates to public construction generally and schools specifically. CSHB 596 (HESS) relates to legislative space or facilities public works construction and location.

A committee substitute for a bill is an amendment to the bill. Rule 35 of the Uniform Rules provides in relevant part:

> A motion or proposition on a subject may not be admitted under color of amendment if the subject matter is different from that under consideration.

This is supplemented by Mason's Manual of Legislative Procedure which provides in Sec. 402.

Sec. 402. Amendments Must Be Germane

1. Every amendment proposed must be germane to the subject of the proposition or to the section or paragraph to be amended, and an amendment is not in order which is not germane to the question to be amended. This is, basically, a phase of the rule that each proposition have but one subject and that members have the right to vote separately on each question.

2. To determine whether an amendment is germane, the question to be answered is whether the question is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal.

3. To be germane, the amendment is required only to relate to the same subject. It may entirely change the effect of the motion or measure and still be germane to the subject.

4. An entirely new proposal may be substituted by amendment so long as it is germane to the main purpose of the original proposal.

5. An amendment to an amendment must be germane to the subject of the amendment as well as to the main question.

6. No independent new question can be introduced under cover of an amendment. But an amendment may be in conflict with the spirit of the original motion, and still be germane and, therefore, in order.

7. The admissibility of an amendment should be judged from the provisions of the text, rather than from the purpose which circumstances may suggest.

8. Whether a proposed amendment is consistent with the measure, motion or question proposed to be amended, is a question to be decided by the body and not by the presiding officer.

The HESS Committee substitute is an entirely new proposal. Both versions relate to public construction; however the original bill concerns school construction primarily while the substitute relates to legislative public work construction, planning, location and other matters that could be seen as not germane to the original subject matter. Using the germaneness criteria above, it is my opinion that the committee substitute is proper.

RCF:ojb
J5/018

Rep. Mehling

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

MAR 2 8 1984

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Professional Assistant
DATE: March 27, 1984

RE: Sectional Analysis of CSHB 596 (HESS)

Pursuant to your request, I have prepared the following sectional analysis of the House HESS Committee Substitute for House Bill 596.

Section 1 inserts language allowing the legislature to convene regular legislative sessions in places besides the state capitol building. In accordance with current drafting methods, the word "that" is substituted for the word "which" throughout the existing section (Sec. 24.05.090).

Section 2 inserts language authorizing the Legislative Affairs Agency to supervise space occupied in any building by the legislature or its agencies, thereby permitting the Agency to maintain legislative space in buildings which are not state property (e.g., a private or municipal convention center). The section contains a definition which authorizes the Agency to supervise planning, construction, maintenance, occupancy, and operation of any facility, or space within any facility, for the legislature or its agencies. The agency is given specific right of prior approval before the state may acquire land, contract public works, expend state funds, or enter into a lease, if those actions relate to the legislature or its agencies (Sec. 24.05.190 (a)).

Section 3 adds new language permitting the legislature to authorize the Legislative Affairs Agency to acquire, construct or lease legislative facilities in the state capital or in any other location in the state for a regular or special session of the legislature (Sec. 24.05.190 (c)). The Agency is required to coordinate with the Department of Transportation and Public Facilities to carry out the provisions of AS 24.05.190 (Sec. 24.05.190 (d)).

Section 4 adds new language that requires appropriation bills

relating to legislative facilities or space within facilities to describe the location, purpose, and funding source for land acquisition, planning, and construction for the facility.

Section 5 inserts language requiring the Department of Transportation and Public Facilities to have the approval of the Legislative Affairs Agency before planning, or commencing construction of, legislative facilities.

Section 6 provides that the act takes effect immediately.

/wtl

Introduced: 2/9/84
Referred: Health, Education &
Social Services and State Affairs

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 596

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to public construction; and providing for an effective date."

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

Public works →

* Section 1. AS 35.15.080(d) is amended to read:

(d) Provisions of this title governing planning, design, and construction of public works by the department, and regulations adopted under those [THE] provisions, govern the administration of projects assumed by a municipality or regional educational attendance area under this section or under AS 14.11.020. For that purpose those [THE] provisions supersede any conflicting provisions of ordinance or charter of a municipality.

School facilities →

* Sec. 2. AS 35.15.080(f) is amended to read:

(f) To carry out the purpose of this section, the commissioner of transportation and public facilities shall adopt regulations relating to the application for and the making and the conditions of agreements and the local assumption of responsibilities for the planning, design and construction of public works under this section. [HE SHALL INCLUDE IN GRANT CONTRACTS TERMS AND CONDITIONS REQUIRING A REGIONAL SCHOOL BOARD AND ITS CONTRACTORS TO ADHERE TO THE PROVISIONS OF AS 36.05.010 WITH RESPECT TO THE PAYMENT OF WAGE RATES ON CONSTRUCTION PROJECTS, AND AS 36.10.010 WITH RESPECT TO EMPLOYMENT PREFERENCE, AND MAY REQUIRE DIFFERENT TERMS IN AGREEMENTS FOR DIFFERENT PROJECTS TO MEET LOCAL CONDITIONS AND UNIQUE REQUIREMENTS AND TO ASSURE COMPLIANCE WITH THE PUBLIC FACILITIES PROCUREMENT POLICIES DEVELOPED BY THE

DEPARTMENT UNDER AS 35.10.160 -- 35.10.200.] If necessary, the commissioner may require as a condition of an agreement approval of the agreement by the federal government. [REGULATIONS ADOPTED, AMENDED OR REPEALED BY THE DEPARTMENT UNDER THIS SECTION WHICH RELATE TO EDUCATION FACILITIES SHALL BE DEVELOPED IN CONJUNCTION WITH THE ALASKA ASSOCIATION OF SCHOOL BOARDS AND THE ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS AND REVIEWED BY THOSE ASSOCIATIONS BEFORE FINAL ACTION ON THE REGULATIONS IS TAKEN BY THE DEPARTMENT.]

* Sec. 3. AS 35.25.020(2) is amended to read:

(2) "department" means the Department of Transportation and Public Facilities, except that, in connection with schools, it means the assembly, council, or school board that has assumed responsibilities under AS 14.11.020;

* Sec. 4. AS 35.27.030(1) is amended to read:

(1) "department" means the Department of Transportation and Public Facilities, except that, in connection with schools, it means the assembly, council, or school board that has assumed responsibilities under AS 14.11.020;

* Sec. 5. AS 35.30.040(1) is amended to read:

(1) "department" means the Department of Transportation and Public Facilities, [AND] the University of Alaska, and, in connection with schools, the assembly, council, or school board that has assumed responsibilities under AS 14.11.020;

* Sec. 6. This Act takes effect immediately in accordance with AS 01.-10.070(c).

HB 592, (cont'd)

state or the United States."

Provides Act takes effect immediately.

Introduced February 9 and referred to Labor & Commerce.

Criminal Cases (fines imposed)

HOUSE BILL NO. 593, by Reps. Liska, Barnes and Bussell. Amends section of statute relating to fines imposed on a defendant (AS 12.55.035) by adding language that states: "(e) If a defendant is sentenced to pay a fine, the clerk of the court shall increase the fine by a penalty of 20 percent of the actual fine imposed, excluding any amount that is suspended." Section 2 of the bill spells out the Legislative intent, stating: "It is the intent of the legislature that an amount equivalent to the 20 percent penalty collected under AS 12.55.035(e) be appropriated annually to the crime victim compensation fund (AS 18.67.162)." Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced February 9 and referred to Judiciary, Finance.

Appropriation (special) (Reindeer Herders Association)

HOUSE BILL NO. 594, by Rep. Fuller. Makes an $80,400 appropriation to the Department of Fish and Game for a grant to the Reindeer Herders Association for a study of the distribution and movement of caribou near reindeer herds on the Seward Peninsula. Provides appropriation shall be disbursed in accordance with laws relating to grants. Provides Act takes effect immediately.

Introduced February 9 and referred to Resources, Finance.

Court System Administrator (retirement benefits)

HOUSE BILL NO. 595, by Reps. Bussell, Cowdery, Fritz, Furnace, Hurlbert, Lindauer, Liska, Martin, Pestinger, and Ward. Would include the Administrative Director of the Alaska court system in the Public Employees' Retirement System (the Director is currently included under the Judicial Retirement System) and entitle the Administrator to credited service for employment as Administrative Director.

Repeals AS 22.25.012 (statute enabling the Director to be included in Judicial plan) and AS 39.35.680(21)(c)(vii) (Public Employees' Retirement System. Definition. "(21) 'member' or 'employee'. . .(C) Does not include. . .(vii) the administrative director of courts. . .unless he becomes a member. . .").

Provides Act takes effect immediately.

Introduced February 9 and referred to Judiciary, Finance.

Public Construction (schools)

HOUSE BILL NO. 596, by the Rules Committee by Request of the Governor. Relates to school construction (see accompanying letter from Governor Sheffield). Provides Act takes effect immediately.

HB 596, (cont'd)

Introduced February 9 and referred to Health, Education & Social Services, State Affairs..

In his message accompanying the bill, Governor Sheffield stated:

> Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting this bill making several changes pertaining to the school construction functions of the Department of Transportation and Public Facilities (DOT/PF). This bill augments the recent amendments (ch. 92, SLA 1982). It attempts to complete the job, clarifying the responsibilities for school construction, and removes uncertainties and inconsistencies in the pertinent statutes.
>
> Sections 1 and 2 correct what seem to have been oversights in ch. 92, SLA 1982. Although secs. 5 and 6 of that Act amended AS 35.15.080(a) and (c), respectively, to delete references to educational facilities and regional educational attendance areas, so that DOT/PF would no longer have primary responsibility for school construction, similar references were left in AS 35.15.080(d) and (f). Section 1 of this bill, recognizing the changes made by the 1982 amendments, inserts in (d) a cross reference to AS 14, the education title, to make clear that the various planning, design, and construction provisions of AS 35 and regulations adopted under AS 35 apply to schools as well as other public facilities. The present reference to a regional educational attendance area (REAA) assuming responsibility under "this section" is not correct since the 1982 amendments took REAA's out of that section -- AS 35.15.080 -- and enacted provisions governing them in AS 14. Similarly, sec. 2 of this bill deletes language pertaining to the commissioner of DOT/PF specifying grant contract provisions and adopting administrative regulations on school construction. Even when the DOT/PF performs the construction functions under a reimburseable services agreement with the Department of Education, it is the latter department that is responsible for the grant contract provisions and the regulations.
>
> Section 3 amends AS 35.25.020(2), the general definition of "department" for the purposes of AS 35, "Public Buildings, Works, and Improvements." Reference to assemblies, councils, and regional school boards (i.e., school districts, under AS 14.12.010) that have assumed responsibility under AS 14.11.020 is added to this definition, with regard to schools, because ch. 92, SLA 1982 provided for school districts to assume responsibility for school construction. (See AS 14.11.020 which appeared as AS 14.07.190 in sec. 3, ch. 92, SLA 1982.) It also transferred certain responsibilities from the Department of Transportation and Public Facilities to the Department of Education. Other than AS 35.25.020(2), there is no definition of "department" that is generally applicable to AS 35.10 and 35.15 (although both chapters contain definition sections applicable to individual articles in those chapters). This amendment thus should make clear that, when a school district assumes construction responsibility under AS 14.11.020, the district rather than the Department of Transportation and Public Facilities is responsible for functions under the following statutes:
>
> -- AS 35.10.010, "Standard Plans and Specifications and Limitations on Cost," which refers to "school buildings in incorporated cities" and excludes them from certain departmental duties unless built in whole or in part with state funds;
> -- AS 35.10.180, "Physical Facility Procurement and Planning Policies," in which subsec. (a) refers to "rural schools;"
> AS 35.15.100, "Responsibility of Department," which refers to "regional educational attendance areas;"
> -- AS 35.15.110, "Title to Site and Completion of Project," which refers to "school buildings" and "regional educational attendance areas;"
> -- AS 35.15.120, "Definitions," in which para. (2) refers to "regional educational attendance areas;"

HB 596, (cont'd)

-- AS 35.27.020, "Art Requirements for Public Buildings and Facilities," in which subsec. (c) refers to "schools;" and
-- AS 35.27.030, "Definitions," in which para. (2) refers to "schools."

Section 4 amends the definition of "department" in the chapter on art works in public buildings and facilities. AS 35.27.030(1). Reference to the school districts is added to the definition for the same reasons as mentioned in connection with sec. 3, above. The definition of "building" or "facility" in AS 35.27.030(2)(A)(i) is not being amended because there is no intent to delete the requirement for art work in public buildings -- just to make the responsibility for it clear in conjunction with ch. 92, SLA 1982.

Section 5 makes a similar amendment in the definition section -- AS 35.30.040 -- for the chapter on consistency with local government plans and ordinances.

These amendments do not include references to the court system because, although ch. 160, SLA 1980 transferred construction responsibility for court facilities from DOT/PF to the supreme court (see AS 22.05.025 and AS 35.-05.010), sec. 3 of that Act, as amended by sec. 2, ch. 70, SLA 1982, terminates that transfer as of June 30, 1984.

Section 6 gives this bill an immediate effective date since these amendments simply seek to complete the job of the 1982 amendments.

I urge your favorable action to preserve the intent of ch. 92, SLA 1982 and eliminate, for the benefit of the public, cluttered, inconsistent provisions.

State Election Laws (amending)

HOUSE BILL NO. 597, by the Rules Committee by Request of the Governor. Amends state election laws (see Governor's letter). Provides Act takes effect immediately.

Introduced February 9 and referred to State Affairs, Finance.

In his message transmitting the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which amends or repeals several provisions of the state's election laws.

Sections 1 and 2 of the bill remove from the division of elections the burden of identifying and automatically reinstating the voter registration of certain felons who have been unconditionally discharged. Instead of suspending the registration of a person convicted of a felony involving moral turpitude, the division will cancel the registration until the person provides proof of unconditional discharge. Section 3 of the bill amends AS 15.-07.160, concerning unlawful acts, to conform to the changes made by secs. 1 and 2 of the bill.

Section 4 of the bill repeals AS 15.15.198(b), which allows to be counted certain questioned votes of voters whose names have been purged from the registration lists. As a result of the repeal, voters whose registrations have been cancelled under AS 15.07.130(b) will have to reregister in order to have their votes counted. Since AS 15.07.-130(b) requires the division to mail a notice of imminent registration cancellation to the affected voter, and AS 15.07.125 requires the division to post the list of registered voters 40 days before an election, a voter has adequate opportunity to preserve his or her voting rights.

Dept. of Transportation & Public Facilities

Position Paper

BILL NO: HB 596

APPROVED: DM

TITLE: Relating to Public Constuction

DATE: 3/28/84

The Department of Transportation & Public Facilities supports the purpose of House Bill 596 to clarify Ch. 98, SLA 1982 relating to the administration of school construction functions of DOT&PF and the Department of Education. This bill clarifies the responsibilities of both departments and the local school districts with regard to school construction, and would make clear that the provisions of AS35 concerning public buildings, apply to a school constructed by a local district when it has assumed responsibility for school construction just as they do to a school constructed by the DOT&PF.

The Department of Education concurs with our position on HB 596.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSHB 596 (HESS)
Title: "An Act relating to legislative space or facilities; ED."
Sponsor: Rules/Governor
Requestor: House HESS Committee
Date of Request: 3/27/84

FISCAL DETAIL
Agency Affected: LEGISLATURE
Program Category Affected: NA
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	NA	0	0	0	0	0
CAPITAL	NA	0	0	0	0	0
REVENUE	NA	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	NA	0	0	0	0	0

POSITIONS:

FULL-TIME	NA	0	0	0	0	0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

NA

ANALYSIS: This bill will have no fiscal impact.

Prepared By: Representative Mae Tischer (DOT) Phone: 465-3777
Division: House HESS Committee Date: 3/27/84

Approved by Commissioner: NA Date:
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

COMMITTEE REPORT

HOUSE

((7)

FURTHER: STATE AFFAIR

APRIL 2, 1984

2/9/84

Date: _____

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 596

"An Act relating to public construction; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 596 (HESS) [ ] same title [X] new title

and recommends THAT THE HESS CS DO PASS.

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSHB 596 (HESS)
Title: Relating to Legislative Space or Facilities
Sponsor: HESS Committee
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Attorney General and Others
Program Category Affected:
BRU, Program or Subprogram(s) Affected: Law and Others

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0		
REVENUE	0	0	0	0		

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared by: Robert J. Link Phone: 465-2250
Division: General Services and Supply Date: 4-26-84

Approved by Commissioner: Lisa Rudd Date: 4/28/84
Agency: DEPARTMENT OF ADMINISTRATION

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

1/11D3/0416-05/3

Rev. 3-20-84
19/FORMS/FN

HB
598

COMMITTEE REPORT

HOUSE

HEALTH, EDUCATIO
AND SOCIAL SERVIC

(7)

FURTHER:

2/9/84

Date: [illegible]

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 598

"An Act deleting the COLA provision in the library assistance grant program; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
[illegible]	[illegible]
[illegible]	
[illegible] DO PASS	
[illegible]	
[illegible] Miller	

[illegible] Miller
CHAIRMAN

BILL SHEFFIELD
GOVERNOR

HB 598

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 9, 1984

The Honorable Joe Hayes
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would eliminate the cost-of-living-adjustment (COLA) requirement in the library assistance grant program. This change was requested by the Department of Education, the state library, and several community libraries. Due to the uncertainty of revenues, public library funding entities are experiencing difficulty in maintaining local funding for library services. Requiring an annual cost-of-living increase in local funding jeopardizes continuation of local library support and handicaps the purpose of the Library Assistance Grant Program to help local libraries provide service.

Usually communities that can increase local support of their public libraries do so. The COLA requirement implies that all communities need to be motivated by a legal requirement when that might be needed for only a few.

Section 1 amends the first sentence of AS 14.56.330(b) to remove the COLA requirement and to make clear that, if a library did not exist in fiscal year 1980, the amount to which the prohibition on using the state money to supplant the local money applies is the amount equal to local expenditures in the first year a matching grant is awarded. Section 2 would make this change effective immediately.

The legislation creating this program in 1981 passed both houses unanimously, and I urge early passage of this bill.

Sincerely,

Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/31/84

HB ~~498~~ 598

I. REQUEST
Bill/Resolution No.: AG #377-118-84
Title: An Act deleting the COLA provision
Sponsor: Governor
Requestor: Education
Date of Request:

II. FISCAL DETAIL
Agency Affected: Education
Program Category Affected: Educ., Info., Cult
BRU, Program of Subprogram(s) Affected:
State Library & Museums-Library Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
TOTAL						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: This bill would remove the cost of living increase requirement for local expenditures for library operations. There is n fiscal impact requiring additional funds for the change. Remaining provisions for eligibility for grants under the library assistance grant program are unchanged.

IV. ANALYSIS: Attach a separate page for any Analysis See attached

Prepared By: Richard B. Engen Richard B. Engen Phone: 465-2910
Division: State Libraries and Museums Date: Jan. 31, 1984

Approved by Commissioner: Harold Raynolds Jr. Date: February 1, 1984
Department: Education

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

9/14/83

AG #377-118-84

IV. Analysis

This bill would remove from the library assistance grant program a requirement for a cost of living increase in local operating expenditures of libraries seeking grants. The requirement for COLA creates a hardship for some communities and endangers continuation of the local library service. The COLA requirement has an effect contrary to the intent to strengthen local library services with the grant program.

Increases in local expenditures for local libraries are better determined by local needs and capabilities.

class city of over 2,000 population. (§ 1 ch 42 SLA 1970; am § 27 ch. 53 SLA 1973)

Legislative history reports. — For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

Article 5. Library Assistance Grants.

Section	Section
300. Library assistance grant fund	330. Limitations
310. Eligibility	340. Regulations
320. Applications	

Sec. 14.56.300. Library assistance grant fund. There is established in the department a library assistance grant fund. From legislative appropriations to the fund, the department shall make grants to eligible libraries for public library operations or for interlibrary cooperation or for both. (§ 1 ch 36 SLA 1981)

Sec. 14.56.310. Eligibility. (a) Libraries eligible for grants under AS 14.56.300 are:

(1) public libraries operated by municipalities or by public library nonprofit corporations; and

(2) libraries sharing resources or providing services to other libraries.

(b) A library described in (a) (1) of this section is eligible for a public library assistance grant. A library described in either (a) (1) or (2) of this section is eligible for an interlibrary cooperation assistance grant. (§ 1 ch 36 SLA 1981)

Sec. 14.56.320. Applications. An eligible library may apply to the department for a grant under AS 14.56.300 — 14.56.340 in accordance with regulations adopted by the board. (§ 1 ch 36 SLA 1981)

Sec. 14.56.330. Limitations. (a) A public library assistance grant under AS 14.56.300 — 14.56.340 may not exceed $10,000 for each local public library service outlet in any one fiscal year. However, no amount over $5,000 may be granted unless it is equally matched by local money.

(b) State money granted to a library under AS 14.56.300 — 14.56.340 may not be used to supplant local money equal to local expenditures for that library in fiscal year 1980, as adjusted annually by the commissioner to conform approximately to changes in the United States Department of Labor Bureau of Labor Statistics consumer price index for Anchorage, Alaska. A library that uses state money to supplant local money forfeits eligibility for grants under AS 14.56.300 — 14.56.340 for two years. (§ 1 ch 36 SLA 1981)

Sec. 14.56.340. Regulations. The board shall adopt regulations necessary to carry out the purposes of AS 14.56.300 — 14.56.330. (§ 1 ch 36 SLA 1981)

Editor's notes. — Section 3, ch. 36, SLA 1981, provides: "Administrative regulations adopted under a provision repealed by sec. 2 of this Act remain in effect until amended or repealed by the state Board of Education."

Article 6. Public Library Construction Grants.

Section
350. Public library construction grants

Sec. 14.56.350. Public library construction grants. (a) The director of the division of state libraries shall administer a program providing for grants to municipalities in the state for the construction and equipping of libraries. To be eligible for a grant under this section a municipality shall provide not less than 40 per cent of the total cost of the project for which funds are granted. The department shall administer the funds under this section and shall adopt regulations necessary to carry out the purposes of this section.

(b) In this section "municipality" means a city or organized borough of any class. (§ 1 ch 100 SLA 1970; AS 14.56.065)

Revisor's notes. — This section derived from AS 14.56.065 and was renumbered by the revisor of statutes under AS 01.05.031.

Cross references. — As to grants for constructing and equipping libraries in rural communities, see AS 14.56.200.

Chapter 57. The State Museum.

Section
10. The state museum
20. Museum Collections Advisory Committee
30. Officers; meetings, rules of procedure, quorum
40. Compensation; per diem, travel expenses
50. Collections management; acquisitions and dispositions
60. Advisory duties
70. Conflict of interest
80. Definitions

Collateral references. — 81A C.J.S. States, § 147.

Sec. 14.57.010. The state museum. (a) The Department shall manage and have complete charge of all of the property contained in the institution known as the state museum. The museum shall be maintained in the state capital. Branch museums may be established and maintained in other localities in the state.

MEMORANDUM State of Alaska

TO: The Honorable
Mike W. Miller, Chairman
Community and Regional Affairs
Alaska House of Representatives

DATE: March 2, 1984

FILE NO:

TELEPHONE NO:

FROM: Richard B. Engen, Director
Division of State Libraries
and Museums
Department of Education

SUBJECT: HB 598

The Cost of Living Allowance or inflation percentage requirement applied to local support of the local public library as a provision for receiving a Library Assistance Grant from the State was intended to assure that local governments would increase local support of local libraries at least at the rate of inflation.

There are two main problems with the COLA provision. They are:

1. Inflexibility- even though local support were increased, it might not be increased enough to meet a fixed percentage; and,

2. Indirect control of local decision - local support beyond maintenance of local expenditures in the base year should be decided by the local community, not by a fixed grant program.

By FY 1984, the COLA provision has become a potential liability to the local libraries. In some of the smaller communities there may not be any more money available for offsetting inflation. This currently would mean loss of the grant and deterioration of the library service. Since matching grants for Public Library Assistance had to be prorated this year at 73%, the State moved into a position of requiring local governments to spend more to receive less.

This position is not supportive of the purpose of the Library Assistance Grant Program or of the local libraries. Local libraries are part of their communities. The grant program is meant to assist public libraries with their operating costs and to be part of the Alaska Library Network. In addition annual reports from the majority of libraries indicate increases in local support since 1980. The increase in the number of eligible library outlets from 64 in FY 1982 to 89 in FY 1984 shows that both the communities and grants are working positively to improve library service in Alaska.

Removal of the COLA provision represents removal of a built-in conflict which creates a negative result for library service.

Two sample letters are attached.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF EDUCATION

DIVISION OF STATE LIBRARIES AND MUSEUMS

Richard B. Engen, Director

Pouch G, Juneau, Alaska 99811
(907)-465-2910

October 26, 1983

Elva R. Scott
Eagle Public Library
P.O. Box 45
Eagle, Alaska 99738

Dear Mrs Scott:

Your Basic Public Library Assistance grant is being processed for FY 1984. I am pleased to see your plan to purchase a microfiche reader. It should be very useful to you and your library users.

Please start keeping circulation records and train volunteers to keep them, too. We use circulation statistics frequently as a mesaure of library activity and it is necessary to include Eagle.

I am concerned about your grant application for FY84 in that you request matching funds. Probably this is a repeated warning but if you start having matching for local funds, you must continue the amount plus cost of living increases or forfeit your grant for at least two years. Some libraries are running into this problem already. Since what you plan to do with your local money may relate to repairs and maintenance, I wonder if you will be able to have local money in the future. I really just want to be sure you understand the commitment you are making.

Sincerely,

Margaret

Margaret Leibowtiz
Deputy Director

cc: Audrey Kolb

Margaret - Elva is gone for the winter. From your 3rd paragraph, it sounds like we should not apply for the matching funds. So, if possible, please cancel that part of the grant.

Betty Borg, Pres

05-E10LH

vember 14, 1983

Margaret Leibowitz, Dep. Director
St. of Alaska/Dept. of Educ.
Alaska State Library
Pouch G
Juneau, Alaska 99811-0571

Dear Ms. Leibowitz:

The following information is what was requested on October 24th for our 1983 State Library Grant.

The library is kept open fifty weeks out of the year. We have $1101.94 left from the 1982 grant. The following orders are outstanding: World Book Encyclopedia @ $473.00; and Story House Corp. @ $310.00. That leaves about $319.00 to cover continues cataloging (card kits and labor) until the new grant arrives.

The library use statistics show the following community patron use: from November, 1980 to June, 1981 was 95 items - Cantwell started receiving television that year. July, 1981 to June, 1982 was 150 items. July, 1982 to June, 1983 was 300 items. July, 1983 to November, 1983 was 233 items. The library has one entire wall physically open to the main entrance hallway of the building with about only 35' of hallway reaching to the main doors. I had tried some evening hours in 1981, but haven't tried since then as I had had very little response. I'll be glad to approach the community about hiring someone as I as taking night classes. I do check books out for people any time I am in the building for classes or meetings. The school is still the major center for 95% of the meetings that are held in the community, and all of the adult education classes.

A Community of Cantwell, Inc. meeting was held November 9, 1983. It was decided that I should not apply for the matching grant monies even though the library has been designated to receive monies from them again. I was asked to get the complete procedures for the library grant and the matching grants. Margaret, this is the first time I have ever been told about the community being obligated forever and ever with cost of living increases. I would appreciate receiving ALL the information possible regarding this matter. Thank you.

Sincerely yours,
Armeda A. Bulard
Armeda A. Bulard, Librarian
Cantwell School/Community Library
P. O. Box 29
Cantwell, Alaska 99729

CC:Audrey Kolb
Cantwell Education Association
Community of Cantwell, Inc.
Cantwell School

HB

611

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE



Revision Date:

REQUEST CS
Bill/Resolution No.: HB 611 (L&C)
Title: An act relating to Dentists and Dental Hygienists
Sponsor: Representative Furnace
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Division of Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		20.8	22.3	23.8	25.5	27.3
300 CONTRACTUAL		7.0	6.4	6.8	7.3	7.8
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		27.8	28.7	30.6	32.8	35.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		27.8	28.7	30.6	32.8	35.1
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144
Division: Occupational Licensing Date: 4-23-84

Approved by Commissioner: Richard A. Lyon Date: 4/23/84
Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

CSHB 611 FISCAL IMPACT

(NOTE: 7% inflation factor projected for FY '86 through FY '89 for operating costs)

200 TRAVEL

1 staff travel to Fairbanks and Anchorage to conduct public hearings on proposed regulations:

Fairbanks:	Transportation, 1 trip	$ 450.00
	Per Diem, 2 days @ $90 ea.	180.00
Anchorage:	Transportation, 1 trip	400.00
	Per Diem, 2 days @ $80 ea.	160.00

Board Members: 7 board members/ 5 board meetings (2 days ea. @ $80 per day/ per diem = $160 x 5 x 7)	5,600.00
Transportation - 5 board mtgs @ $400 ea. x 7 board members	14,000.00
	$20,790.00

300 CONTRACTUAL

Postage, telephone, printing, publication and operating cost:	$ 3,000.00
Advertising costs for public notices of proposed regulations and public hearings: (approx) 6 major newspapers (Juneau, Ketchikan, Anchorage, Fairbanks, Kenai, Nome), one time only at $100 each (one time cost only - FY '85)	600.00
Advertising costs for quarterly publication of the summary of disciplinary actions: (approx) 6 major newspapers (Juneau, Ketchikan, Anchorage, Fairbanks, Kenai, Nome), print one time only at $100 each x 4 quarters	2,400.00
Annual membership dues to the American Association of Dental Examiners	1,000.00
	$ 7,000.00

GRAND TOTAL	$27,790.00

COMMITTEE REPORT

HOUSE

(7)

FURTHER:

4/13/84

Date: April 25, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 611

"An Act relating to dentists and dental sygienists."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[x] replace with CS for HB 611 (HESS) [x] same title [ ] new title

and recommends that the House HESS CS do pass.

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Rick Ulehlicz

T. J. Martinez

Nils Kosman

Peter Joe

Mae Tischer

Sam Pestinger

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mae Tischer

CHAIRMAN

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

4/23/84

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

HB 611, "An Act relating to dentists and dental hygienists," by Representative Walt Furnace, makes several changes to current law regarding dentists and dental hygienists. The Department of Commerce and Economic Development, Division of Occupational Licensing, estimates the fiscal impact of HB 611 to be $2,700 for FY 85, $1,300 for FY 86, $1,400 for FY 87, $1,500 for FY 88, and $1,600 for FY 89 (Please see fiscal note for greater detail).

Sections 1 - 6 of the bill amend AS 08.32, relating to the practice of dental hygienists. Many of the amendments in these sections transfer regulations applying to hygienists from AS 08.36, regulating dentists, to AS 08.32.

Sections 17 - 21 of the bill effect amendments to the practices of the Board of Dental Examiners which regulates both dentists and dental hygienists.

Sections 22 - 40 of the bill amend AS 08.36, relating to the practice of dentistry.

The bill does not provide for an effective date and would therefore become law 90 days after the Governor signs the bill.

("Sectional Analysis of CSHB 611 (Dentists and Dental Hygienists)," Teresa B. Kramer, Legislative Counsel. 4/23/84)

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM April 23, 1984

TO: Representative Mae Tischer, Chairman, House HESS
FROM: Bill Lovell, Professional Assistant

RE: CSHB 611 (HESS)

Pursuant to your direction, I have prepared a proposed House HESS Committee Substitute for House Bill 611, "An Act relating to dentists and dental hygienists."

The proposed House HESS Committee Substitute for House Bill 611 is identical to the House Labor and Commerce Committee Substitute, except that on Page 6, lines 10 - 11, of the proposed House HESS Committee Substitute, after the phrase "the direct," the words "or indirect" are inserted, so that the sentence now reads:

> "[A person licensed to practice the profession of dental hygiene in the state may,] if certified by the board and under the direct or indirect supervision of a licensed dentist, administer anesthetic agents." (Emphasis added to indicate insertion).

This language had been in the original version of the bill, but was removed in the Labor and Commerce Committee Substitute. Our office has received numerous requests from dentists, dental hygienists, and the general public to have the language reinserted.

/wtl

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 23, 1984

SUBJECT: Sectional analysis of CSHB 611
(Dentists and Dental Hygienists)

TO: Representative Mae Tischer
Chairman, Health, Education and Social Services

FROM: Teresa B. Cramer TBC
Legislative Counsel

You have asked for a sectional analysis of CSHB 611 (HESS). The bill can be considered in three parts. Sections 1 - 16 amend AS 08.32, regulating the practice of dental hygienists. Many of the amendments transfer regulations applying to hygienists but codified in AS 08.36, regulating dentists, into AS 08.32.

The second group of amendments, found in sections 17 - 21, relate to the Board of Dental Examiners which regulates both dental hygienists and dentists.

The third part of the bill amends the regulation of dentists and is contained in sections 22 - 40.

Sections Relating to Dental Hygienists

Section 1 Clarifies the requirement that a dental hygienist be registered as well as licensed.

Section 2 Corrects reference to the Joint Commission on National Dental Examinations and permits an applicant to apply before graduating from school if the applicant will have graduated by the time of the examination.

Section 3 Makes changes to correct references.

Section 4 Permits dental hygienists licensed in another state to apply for a temporary license to pending receipt of the Alaska licensing examination results.

Section 5 Adds reference to licensing by credentials, created in section 4, and corrects reference to the fee section.

Section 6 Clarifies the composition and content of the licensing examination and permits the board to administer a laboratory examination as a prerequisite to the clinical examination.

Section 7 Renewal of registration is deleted from this section because the next section addresses the subject.

Section 8 Adds a new section to AS 08.32 to transfer provisions found in AS 08.36.250 for registration requirements for dental hygienists.

Section 9 The penalty established under AS 08.01.100(b) for late renewals $10.

Section 10 Gives the board power to set licensing fees by regulation. AS 08.36.190 currently lists fees for dental hygienists and dentists.

Section 11 Paragraph (6) adds reference to the board's certification process for administering local anesthetic agents.

Section 12 Permits the board to regulate functions, both intra-oral and extra-oral, that may be performed by a licensed dental hygienists.

Section 13 Paragraph (1) adds reference to registrations. Paragraph (2) adds fraudulent billing for services as a basis for imposing discipline. Paragraph (6)(A) substitutes "dependence" for "severe dependence." Paragraph (6)(B) adds failure to keep informed of or use current professional theories and practices as a ground for imposing discipline.

Section 14 Adds a new section to AS 08.32 to transfer provisions found in AS 08.36 that apply to dental hygienists. In subsection (c), the board is given power to suspend the license of a dental hygienist who refuses to submit to a physical or mental examination.

Section 15 A class B misdemeanor is punishable by a fine of no more than $1000 (AS 12.55.035) or imprisonment for no longer than 90 days (AS 12.55.135).

Section 16 Adds new provisions modeled on AS 08.36.350, which applies to dentists only, to permit hygienists in the categories listed to practice without a state license.

Sections relating to the Board of Dental Examiners

Section 17 Requires that the dental hygienist on the Board of Dental Examiners have practiced in Alaska for five years.

Section 18 Adds language to suspend a dentist or dental hygienist from the board if an accusation is filed against the person under the Administrative Procedure Act. The suspension lasts until the decision of the board is final under AS 44.62.520.

Section 19 Permits a majority of the board to call a meeting in the absence of a call of the president.

Section 20 Adds specific authorization for the department to reimburse board members for expenses.

Section 21 Paragraph (3) expands the required content of the board's annual report. Paragraph (a)(10) requires that the board publish information about its disciplinary decisions annually. Paragraph (a)(11) allows the board to set standards for specific procedures requiring training and education beyond the basic training provided to all dental hygienists and dentists and requires the board to issue certificates or permits to those who meet the requirements. Paragraph (a)(12) clarifies existing powers of the board.

Paragraph (b)(1) allows the board to order a professional to submit to a physical or mental examination if capacity to practice safely is at issue. Paragraph (b)(2) permits the board to authorize the inspection of records to monitor compliance with the licensing chapter for dental hygienists or for dentists.

Sections relating to Dentists

Section 22 Deletes reference to permits because the section allowing dentists to practice by permit instead of by license is repealed.

Section 23 Requires that all applicants for licensing as dentists pass the national board examination before taking the state exam. It also permits applicants to apply before

graduating if they will have graduated by the time of the examination.

Section 24 Requires that applications be signed and filed 45 days before the examination is given.

Section 25 Clarifies the composition and structure of the dentist licensing examination.

Section 26 The penalty established under AS 08.01.100(b) for late renewal is $10.

Section 27 Requires that dentists licensed in another state who are seeking licensure in this state have passed the national licensing examination.

Section 28 Deletes the requirement that dentists register with the clerk of the superior court.

Sections 29 and 30 Require that applicants for specialist licenses be eligible for diplomate status with a specialty board and that a licensed specialist take part in the licensing procedures.

Section 31 Adds subsection (b) requiring that dentists who are renewing their registrations report to the board any suits filed against them based on the quality of their professional services.

Section 32 Rewrites the fee section to allow the board to set fees by regulation instead of providing specific fee amounts by statute.

Section 33 Paragraph (2) adds fraudulent billing for services as a basis for imposing discipline. Paragraph (5) deletes "intentionally or negligently" from the paragraph permitting discipline for dentists who perform patient care below minimum professional standards. Paragraph (7)(C) permits disciplining dentists whose "dependence," rather than "severe dependency", on drugs or alcohol impairs their ability to practice. Paragraph (10) permits the board to discipline a dentist who fails to report a death that occurred at the office.

Section 34 Deletes reference to imposing discipline on dental hygienists (AS 08.32) because new sections were added to that chapter relating to discipline.

Section 35 Adds language to permit the board to suspend the license of a dentist who refuses to submit to a mental or physical examination.

Section 36 A class B misdemeanor carries a maximum fine of $1000 (AS 12.55.035) or imprisonment for no more than 90 days (AS 12.55.135).

Section 37 Paragraph (a)(5) exempts from licensing requirements licensed clinicians from other states who are providing limited instruction in this state. Paragraph (a)(6) exempts dentists providing emergency care from the state licensing requirements. Subsection (b) holds dentists exempt from licensing to the same standard of care as licensed dentists.

Section 38 Paragraph (7) defines the practice of dentistry to exclude owners and managers of dental facilities.

Section 39 Adds a new section to provide rights to dentists. Paragraphs (3) and (4) permit dentists supervising research in a research institution chartered with the state or in a school accredited by the American Dental Association to perform procedures that would otherwise violate the licensing chapter. Paragraph (4) requires that the dentist notify the board of any procedures to be performed on patients. The board may disapprove the procedures.

Section 40 Repeals five sections of the law.

08.36.140 permits the board to hold a licensing examination outside the state.

08.36.150 permits students in their last year of dental school to take the licensing examination and permits the board to give the exam in an out-of- state dental school.

08.36.170 permits students who are at least 19 years old to take section I of the state examination and then take the rest of the examination after graduation.

08.36.200 permits the board to waive the state written examination for applicants who have passed the national board examination.

08.36.280 provides for temporary permits to dentists practicing in a city or village which does not have a resident licensed dentist in active general practice.

TC:ojb
J6/062

SOP 124

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSHB 611(L&C)
Title: "An Act relating to dentists & dental hygienists"
Sponsor: Rep. Furnace
Requestor: L&C & H.E.S.S
Date of Request: February 13, 1984

FISCAL DETAIL
Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		1.2	0	0	0	0
300 CONTRACTUAL		1.5	1.3	1.4	1.5	1.6
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	2.7	1.3	1.4	1.5	1.6
CAPITAL						
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	2.7	1.3	1.4	1.5	1.6
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor

ANALYSIS: Attach a separate page for analysis (see attached)

Prepared By: Darrell Miller — Phone: 465-2535
Division: Occupational Licensing — Date: 2/16/84

Approved by Commissioner: Richard A. Lyon — Date: 3/16/84
Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL ANALYSIS:

Assumptions: If adopted in its present form, this bill would require regulations be adopted to implement the provisions of Sec. 17, paragraphs (10), (12) and (13), and Sec. 27. This would be a one time cost for FY '85 only for travel and contractual costs.

Sec. 17, paragraph (11), would require a continuing contractual cost for advertising of a summary of disciplinary actions by the board.

200 TRAVEL

1 staff travel to Fairbanks and Anchorage to conduct public hearings on proposed regulations.

Fairbanks:	Transportation - 1 trip	$ 450.00
	Per Diem: 2 days @ $90.00	180.00
Anchorage:	Transportation - 1 trip	375.00
	Per Diem: 2 days @ $80.00	160.00
	Total	$1,165.00

300 CONTRACTUAL

Advertising costs for public notices of proposed regulations and public hearings; 3 major newspapers, one time only X $100.00 each. (one time cost - FY '85 only)	$ 300.00
Advertising costs for quarterly publication of the summary of disciplinary actions; 3 major newspapers, one time only X $100.00 each = $300.00 X 4 quarters=	1,200.00
(7% inflation factor projected for succeeding fiscal years) Total	$1,500.00

4/25/84

A M E N D M E N T # 2
(AS TO INTENT ONLY)

TO CSHB 611 (HESS) BY THE HESS COMMITTEE

On Page 16, Line 20

After the words "A specialist," insert "appointed by the board."

On Page 16, Line 21

Delete "participate as a voting member of the board" and substitute "assist the board."

So that the sentence would read:

"A specialist, appointed by the board and licensed in that specialty, shall assist the board in the licensing procedures."

(Proposed by the Division of Occupational Licensing)

Amendment Adopted - incorporated into HESS CS

by Lowe

Sec. 08.32.165. Limits or conditions on license; discipline. (a) In addition to action under AS 08.32.160, upon a finding that by reason of demonstrated problems of competence, experience, education or health the authority to practice dental hygiene should be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by specialty, procedure or facility, require additional education or training, or revoke or suspend a license.

(b) Repealed by § 15 ch 59 SLA 1978. (§ 7 ch 102 SLA 1976; am § 15 ch 59 SLA 1978)

Cross references. — For present provisions covering the subject matter of repealed subsection (b), see AS 08.32.185.

Effect of amendments. — The 1978 amendment repealed subsection (b), which read "The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this section."

Sec. 08.32.170. Procedure followed.
Repealed by § 15 ch 59 SLA 1978.

Cross references. — For present provisions covering the subject matter of the repealed section, see AS 08.32.185.

Editor's notes. — The repealed section derived from § 4, ch 78, SLA 1953.

Sec. 08.32.180. Violation. A person who violates this chapter or who fails to comply with the requirements of this chapter, a penalty for which is not otherwise provided, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $100. (§ 5 ch 78 SLA 1953)

Article 3. General Provisions.

Section
185. Application of Administrative Procedure Act
190. Definitions

Sec. 08.32.185. Application of Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this chapter. (§ 14 ch 59 SLA 1978)

Sec. 08.32.190. Definitions. In this chapter

(1) "board" means the Board of Dental Examiners;

(2) "dental hygienist" means a person who is licensed by the board to perform those educational, preventive, and therapeutic services and procedures that licensed dental hygienists are educated to perform;

(3) "general supervision" means the dentist has authorized the procedures and they are being carried out in accordance with the dentist's diagnosis and treatment plan;

(4) "direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient evaluates the performance of the dental hygienist;

(5) "indirect supervision" means a licensed dentist is in the dental facility, authorizes the procedures, and remains in the dental facility while the procedures are being performed by the dental hygienist. (am § 13 ch 59 SLA 1978)

Effect of amendments. — The 1978 amendment rewrote this section.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) (§ 4, Chapter 58, SLA 1982).

Chapter 36. Dentistry.

Article
1. Board of Dental Examiners (§§ 08.36.010 — 08.36.091)
2. Examination and Licensing (§§ 08.36.100 — 08.36.300)
3. Unlawful Acts (§§ 08.36.310 — 08.36.340)
4. General Provisions (§§ 08.36.350 — 08.36.370)

Cited in Allison v. State, Sup. Ct. Op. No. 1763 (File No. 3716), 583 P.2d 813 (1978).

Article 1. Board of Dental Examiners.

Section
10. Creation and membership of board
20. Appointment and term of office
25. Removal of board members
30. Election of officers
40. Meetings
50. Quorum
60. [Repealed]
70. General powers
80. Applicability of Administrative Procedure Act
90. [Repealed]
91. Records and reports

Sec. 08.36.010. Creation and membership of board. There is created the Board of Dental Examiners consisting of seven members. Four members shall be qualified resident dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, one member shall be a dental hygienist licensed under AS 08.32, and two members shall be public members. (§ 1 art II ch 186 SLA 1955; am § 2 ch 155 SLA 1968; am § 8 ch 102 SLA 1976; am § 12 ch 59 SLA 1980)

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alas. Const., art. II, § 14.

Effect of amendments. — The 1980 amendment deleted "referred to in this chapter as the board" following "Board of Dental Examiners" in the first sentence, substituted "Four" for "Five" at the beginning of the second sentence, and substituted "two members shall be public members" for "one member with no direct

financial interest in the health care industry" at the end of the second sentence.

Editor's notes. — Section 1, ch. 155, SLA 1968, provides: "**Purposes.** The practice of dentistry in the state is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified dentists be permitted to practice dentistry in the state. All provisions of this chapter relating to the practice of dentistry and dental hygiene and to the registration of dental laboratories shall be liberally construed to carry out these objects and purposes."

Sec. 08.36.020. Appointment and term of office. Members of the board are appointed by the governor, subject to confirmation by the legislature in joint session. Each board member serves for a term of four years, and until that member's successor is appointed and qualified. The term begins on February 1. An appointment to a vacancy is for the unexpired term. A person who has served two successive complete terms may not be reappointed until four years from the expiration of the second term. (§ 2 art II ch 186 SLA 1955; am § 1 ch 59 SLA 1964; am § 9 ch 102 SLA 1976; am § 13 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "four" for "five" in the second sentence, and added the present fifth sentence.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.025. Removal of board members. A member of the board may be removed from office by the governor for cause. The board may by regulation provide that unexcused absences from meetings constitute cause for removal. (§ 14 ch 49 SLA 1980)

Sec. 08.36.030. Election of officers. The board shall elect a president and a secretary from among its members, each to serve for a term not to exceed two years. (§ 3 art II ch 186 SLA 1955; am § 1 ch 121 SLA 1972)

Sec. 08.36.040. Meetings. The board shall meet as often as, and at the times and places, necessary to conduct its business. (§ 3 art II ch 186 SLA 1955)

Sec. 08.36.050. Quorum. A majority of the board constitutes a quorum for the transaction of business. (§ 4 art II ch 186 SLA 1955)

Sec. 08.36.060. Expenses and salary.
Repealed by § 3 ch 69 SLA 1966.

Editor's notes. — The repealed section derived from § 4, art. II, ch. 186, SLA 1955.

Sec. 08.36.070. General powers. The board shall have, but not by way of limitation, the following powers and duties:

(1) to examine and issue licenses to applicants;

(2) to register licensed dentists and licensed dental hygienists who are in good standing;

(3) to submit an annual report of its proceedings to the governor and to members of the Alaska Dental Society, containing a statement of money received and disbursed;

(4) to affiliate with the American Association of Dental Examiners, and pay annual dues to the association;

(5) to hold hearings, and order the disciplinary sanction of a person who violates this chapter, AS 08.32, or the regulations of the board;

(6) to supply forms for applications, licenses, permits, certificates, and other papers and records;

(7) to enforce the provisions of this chapter and AS 08.32 and adopt or amend the regulations necessary to make the provisions of this chapter and AS 08.32 effective;

(8) to adopt regulations insuring that renewal of registration is contingent upon proof of continued competency by a licensed dentist or licensed dental hygienist;

(9) to provide the department with the requirements for proof of continued competency and to request the department to make these requirements available to each licensed dentist and licensed dental hygienist at least one year before the date on which the dentist or dental hygienist must renew registration;

(10) to order a licensed dentist or licensed dental hygienist to submit to a reasonable physical examination if the dentist's or the dental hygienist's physical capacity to practice safely is at issue. (§ 5 art II ch 186 SLA 1955; am § 6 ch 69 SLA 1970; am §§ 15 — 18 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment inserted "and licensed dental hygienists who are" in paragraph (2), substituted "and order the disciplinary sanction" for "revoke, annul, or suspend the license," inserted "AS 08.32" and deleted "rules and" preceding "regulations," all in paragraph (5), inserted "and AS 08.32," twice, substituted "adopt" for "make, alter," and deleted "rules and" preceding "regulations," and "or desirable" preceding "to make the provisions" all in paragraph (7), and added paragraphs (8)-(10).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

NOTES TO DECISIONS

The function of former AS 08.36.310 [see now AS 08.36.315], which specified the grounds for disciplinary action by the board, was to detail the scope of the power to revoke, annul, or suspend licenses given to the board by paragraph (5) of this section. State v. Smith, Inop. Ct. Op. No. 1606 (File Nos. 3707, 4001), 691 P.2d 676 (1979).

Practice of dentistry by persons committing acts listed in AS 08.36.310 not per se illegal. — Under former AS 08.36.310 [see now AS 08.36.315], the board could, after a hearing, revoke a dentist's license or take other disciplinary action in the event that he conducted himself in a manner described in one of the enumerated provisions. Since the power

was discretionary and since the board could impose penalties less drastic than license revocation, it was clear that the legislature did not intend that it be per se illegal for persons who have committed the listed transgressions to continue to practice dentistry. State v. Smith, Sup. Ct. Op. No. 1838 (File Nos. 3797, 3893), 593 P.2d 625 (1979).

Sec. 08.36.080. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62).

Sec. 08.36.090. Records and reports.
Repealed by § 3 ch 59 SLA 1966.

Cross references. — For present provisions covering the subject matter of the repealed section, see AS 08.36.091.

Editor's notes. — This section derived from § 6, art. II, ch. 186, SLA 1955.

Sec. 08.36.091. Records and reports. The board shall maintain
(1) a record of its proceedings;
(2) a register containing the name, office and home addresses, and other information considered necessary by the board, of each person licensed as a dentist or dental hygienist, and a register of the licenses revoked by the board, and information on the status of each licensee. (§ 3 ch 155 SLA 1968)

Article 2. Examination and Licensing.

Section
100. License required
110. Qualifications of applicants
115. [Repealed]
120. Photograph and filing date of application
130. Examination
140. Out-of-state examination
150. Examination in out-of-state dental schools
160. Contents of examination
170. Partial examination
180. Re-examination
190. Grading of examination
200. Waiver of written examination
210 — 220. [Repealed]
230. Practice outside the state
234. Licensure by credentials
238. Exemption from license requirement
240. Issuance of license; recordation; display
244. License to practice as specialist required
246. Qualification for a specialist license
247. Limitation of special practice
248. Suspension or revocation of specialty licenses
250. Renewal of registration
260. Branch office registration
270. [Repealed]
271. Permits for isolated areas
280. Temporary permit
285. [Repealed]
290. Fees and penalties
300. [Repealed]

Collateral references. — 61 Am. Jur. 2d, Physicians, Surgeons and Other Healers, §§ 9-18.

70 C.J.S., Physicians and Surgeons, §§ 6-15.

Regulation of prosthetic dentistry. 46 A.L.R.3d 1213.

Constitutionality and construction of statutes or regulations prohibiting one who has no license to practice dentistry from owning, maintaining or operating an office therefor. 20 A.L.R.3d 808.

Sec. 08.36.100. License required. Except as provided in AS 08.36.238, a person may not practice, or attempt to practice, dentistry without a license or permit, and a current certificate of registration. (§ 1 art III ch 186 SLA 1955; am § 4 ch 155 SLA 1968; am § 19 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "Except as provided in AS 08.36.238, a person may not" for "No person, except those specifically exempted from the application of this chapter, may" at the beginning of the section.

Sec. 08.36.110. Qualifications of applicants. An applicant for a license to practice dentistry may apply to the board for an examination and license by submitting information that the applicant is a graduate of a dental college accredited by the Commission on Accreditation of the American Dental Association, or its successor agency, at the time of graduation, and holds a D.D.S. or D.M.D. degree or the equivalent. (§ 2 art III ch 186 SLA 1955; am § 1 ch 26 SLA 1965; am § 1 ch 36 SLA 1970; am § 7 ch 69 SLA 1970; am § 25 ch 245 SLA 1970; am § 10 ch 127 SLA 1974; am §§ 20, 32 ch 49 SLA 1980)

Revisor's notes. — The form of this section has been rearranged by the revisor of statutes under authority of AS 01.05.031 to conform to the style of the Alaska Statutes.

Effect of amendments. — The 1980 amendment repealed a former paragraph (2), which read: "of good moral character"; and substituted "accredited" for "approved" and "Commission on Accreditation" for "Council on Dental Education" and inserted "or its successor agency."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.115. Malpractice insurance.
Repealed by § 40 ch 177 SLA 1978.

Editor's notes. — The repealed section derived from § 10, ch. 102, SLA 1976.
For purpose of repealing act, see § 1, ch. 177, SLA 1978 as amended by § 7, ch. 46, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Sec. 08.36.120. Photograph and filing date of application. Each applicant shall submit a recent unmounted, autographed photograph of the applicant. Applications shall be filed at least 30 days before the date scheduled for an examination. (§ 2 art III ch 186 SLA 1955)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.130. Examination. An examination shall be given at least once a year and at other times and at places determined by the board to be convenient and economical for the applicants and the state. At least once each year the board shall appoint an examination committee of at least three licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment to conduct the examination for applicants for licenses to practice dentistry. The board shall also appoint an examination committee of at least two licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment and one person licensed to practice dental hygiene in the state to conduct the examination for applicants for licenses to practice dental hygiene. The examination committees shall report the results to the board for official action. (§ 3 art III ch 186 SLA 1955; am § 5 ch 155 SLA 1968; am § 21 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 08.36.140. Out-of-state examination. If an applicant requests the board to hold an examination outside the state, the board may require the applicant to pay the transportation costs to the members of the committee conducting the examination. (§ 3 art III ch 186 SLA 1955)

Sec. 08.36.150. Examination in out-of-state dental schools. The examination committee, with the approval of the board, may conduct an examination in the clinic of an approved dental school within the continental limits of the United States and admit to the examination a dental student in the student's last year of school who would otherwise be eligible for admission to examination and licensing in the state upon completion of the student's education. (§ 3 art III ch 186 SLA 1955)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.160. Contents of examination. The examination shall be clinical and written and of such a character as to test in a satisfactory manner the qualifications of the applicant to practice dentistry. The examination shall consist of the following:

(1) The subjects of the written examination shall be selected in accordance with the trend of dental education as determined by the Council of Dental Education of the American Dental Association.

(2) The applicant shall demonstrate skill in operative and prosthetic dentistry or any procedures as recommended by the American Association of Dental Examiners. (§ 4 art III ch 186 SLA 1955; am § 6 ch 155 SLA 1968)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.170. Partial examination. A student at least 19 years of age who has satisfactorily completed regular courses of instruction in dentistry in at least two different school years at an approved dental school, and who is certified by the dean of the college as having satisfactorily completed the subjects included in section I of the examination may take section I of the examination. If the student passes section I and subsequently takes the full examination, the requirements of section I are waived. (§ 5 art III ch 186 SLA 1955)

Sec. 08.36.180. Re-examination. An applicant shall pass each subject of each section of the examination with a score of at least 75 percent. If an applicant fails in one subject in each section, the applicant may be re-examined in that subject. If an applicant fails in more than one subject in any section, the applicant shall be re-examined in the whole section. If an applicant fails the examination or any section of it on two separate occasions, the board shall refuse to examine the applicant further until the applicant produces evidence satisfactory to the board that the applicant has pursued further study in preparation for the examination. (§ 6 art III ch 186 SLA 1955)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.190. Grading of examination. Upon the conclusion of the written examination and as soon as practicable, the papers shall be rated by an examiner. The examiner shall prepare a report in duplicate on each written examination and a report in duplicate on each practical examination. The examiner shall forward one copy of each report on each candidate to the secretary of the board and one copy to the division of occupational licensing. The secretary shall prepare a composite report on each applicant and file one copy of that report with the division of occupational licensing. As soon as practicable the division of occupational licensing shall notify each candidate of the results of the examination. (§ 7 art III ch 186 SLA 1955; am § 2 ch 121 SLA 1972)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.200. Waiver of written examination. The board may waive the requirement for written examination for an applicant who holds a certificate from the National Board of Dental Examiners that

the applicant has passed the theoretical or written examination given by the national board. (§ 8(a) art III ch 186 SLA 1955)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Secs. 08.36.210 — 08.36.220. Waiver of examination and issuance of license by reciprocity.

Repealed by § 32 ch 49 SLA 1980.

Cross references. — For present provisions, see AS 08.36.234.

Editor's notes. — The repealed sections derived from §§ 8(b), 9, art. III, ch. 186, SLA 1955; § 2, ch. 26, SLA 1965; § 7, ch. 155, SLA 1968; §§ 3, 4, ch. 121, SLA 1972.

Sec. 08.36.230. Practice outside the state. A dentist licensed to practice in this state and residing and practicing dentistry outside of this state, may maintain eligibility to practice in this state by registering the dentist's name and place of residence with the division of occupational licensing every four years and submitting proof of competency as required by the board. If the dentist fails to register, the board may reinstate the dentist's license without examination upon payment of a penalty of $25, payment of the delinquent registration fee under AS 08.36.290(10), presentation of proof of continued competency, and presentation of proof of active practice certified by the dental board having jurisdiction or, if there is no board with jurisdiction, by evidence satisfactory to the board. (§ 10 art III ch 186 SLA 1955; am § 5 ch 121 SLA 1972; am § 22 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment, in the first sentence, deleted "biennially" following "this state by" and added "every four years and submitting proof of competency as required by the board" at the end of the sentence, in the second sentence, substituted "the delinquent registration fee under AS 08.36.290(10), presentation of proof of continued competency" for "all delinquent registration fees," deleted "at his place of residence," following "active practice" and again following "having jurisdiction," and inserted "with jurisdiction."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.234. Licensure by credentials. The board may provide for the licensing without examination of a dentist who

(1) is a graduate of a dental college approved by the Commission on Accreditation of the American Dental Association, or its successor agency;

(2) has been licensed to practice dentistry in another state, territory, or region with licensing requirements similar to or higher than those of this state at the time of licensure;

(3) has been engaged in continuous active practice averaging at least 20 hours per week for the five years immediately preceding the application;

(4) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding undertaken by a professional dental association;

(5) has not previously had a license to practice dentistry revoked;

(6) has not failed the clinical examination of this state;

(7) is personally interviewed by the board;

(8) pays all fees required under AS 08.36.290. (§ 23 ch 49 SLA 1980)

Sec. 08.36.238. Exemption from license requirement. (a) A person enrolled as a full-time student in an accredited school of dentistry may perform procedures as part of a course of study without a license if

(1) the procedures are performed under the direct supervision of a member of the faculty who is licensed under this chapter, or under the direct supervision of a team of licensed faculty dentists, at least one of whom is licensed under this chapter; and

(2) the clinical program has received written approval from the board.

(b) A person practicing dentistry under (a) of this section is subject to all other provisions of this chapter and to other laws and regulations which apply to the practice of dentistry. (§ 23 ch 49 SLA 1980)

Sec. 08.36.240. Issuance of license; recordation; display. The board shall issue a license to each successful applicant who has paid the required fees. The holder of a license shall register it in the office of the clerk of the superior court in the judicial district of the licensee's place of residence. The licensee shall display the license in a conspicuous place where the licensee practices. (§ 11 art III ch 186 SLA 1955; am § 6 ch. 121 SLA 1972)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.244. License to practice as specialist required. A licensed dentist may not hold out to the public as being especially qualified in a branch of dentistry by announcing through the press, sign, card, letterhead or printed matter, or any means of public advertising, using such terms as "specialist," or inserting the name of the specialty, or using other phrases customarily used by qualified specialists that would imply to the public that the dentist is so qualified, without first securing a specialist's license as provided in this chapter. (§ 8 ch 155 SLA 1968)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.246. Qualification for a specialist license. (a) An applicant for a specialty license must

(1) possess a license to practice dentistry in the state, and

(2) have completed two or more academic years of advanced education in the specialty.

(b) The provision of (a) (2) of this section does not apply to dentists who have limited their practice exclusively and who ethically announced limitation of practice in accordance with American Dental Association policy before July 23, 1968. (§ 8 ch 155 SLA 1968)

Sec. 08.36.247. Limitation of special practice. (a) A specialty license may not be issued unless the applicant presents proof satisfactory to the board that the applicant is qualified to practice that specialty.

(b) This section may not be construed as limiting or preventing a licensed and qualified dentist from performing, without a specialty license, dental acts or services to the public in any of the branches of dentistry, except that no dentist may administer a general anesthetic to a patient without a valid permit as required by regulations of the dental examiners board. (§ 8 ch 155 SLA 1968)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.248. Suspension or revocation of specialty licenses. The board may suspend or revoke a specialty license upon any grounds set out in AS 08.36.315, and the procedure shall be the same as for the revocation or suspension of a license to practice dentistry. (§ 8 ch 155 SLA 1968; am § 24 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "AS 08.36.315" for "AS 08.36.310," and deleted "for suspensions and revocations" preceding "shall be the same," and "regular" preceding "license."

Sec. 08.36.250. Renewal of registration. At least 60 days before January 1 of every fourth year, the division of occupational licensing shall mail a form for renewal of registration to each licensed dentist and licensed dental hygienist. Each licensee shall complete the form and return it together with the registration fee and offer proof of continued competency as required by the board. The division of occupational licensing shall, as soon as practicable, issue a registration certificate valid for the years for which it is issued. Each licensee shall keep the registration certificate beside or attached to the licensee's

license. Failure to receive the registration form does not exempt a licensee from renewing registration. (§ 12 art III ch 186 SLA 1955; am § 9 ch 155 SLA 1968; am § 7 ch 121 SLA 1972; am § 25 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "fourth" for "other," and "renewal of" for "biennial," in the first sentence, and "licensee" for "dentist," and "renewing" for "biennial," in the last sentence, and inserted "and licensed dental hygienist," at the end of the first sentence, "and offer proof of continued competency as required by the board" at the end of the second sentence, and "it is" near the end of the third sentence.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

NOTES TO DECISIONS

Cited in State v. Smith, Sup. Ct. Op. No. 1838 (File Nos. 3797, 3893), 593 P.2d 625 (1979).

Sec. 08.36.260. Branch office registration. A licensee who practices in an established office with an address other than that address for which the licensee's registration certificate is issued shall obtain a branch office registration certificate for each office. (§ 13 art III ch 186 SLA 1955; am § 10 ch 155 SLA 1968; am § 26 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment deleted "biennial" preceding "registration certificate."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.36.270. Permits for isolated areas.
Repealed by § 3 ch 26 SLA 1965; § 5 ch 93 SLA 1965.

Cross references. — For present provisions covering the subject matter of the repealed section, see AS 08.36.271.

Editor's notes. — The repealed section derived from § 14, art. III, ch. 186, SLA 1955.

Sec. 08.36.271. Permits for isolated areas. (a) The Department of Health and Social Services shall designate as isolated areas those specific places and regions remote from major population centers which are not served by dentists licensed under this chapter and which have a geographical location which works financial hardship, extended loss of time, or arduous and costly travel upon residents needing dental care.

(b) The board shall, upon recommendation of the Department of Health and Social Services, issue an annual permit authorizing the treatment of residents in an area designated under (a) of this section, who are not entitled to dental care by the state or federal government,

by a dentist employed by the United States Public Health Service or qualified member of the armed services who serves in that area. (§ 1 ch 93 SLA 1965; am § 11 ch 155 SLA 1968; am § 6 ch 104 SLA 1971)

Sec. 08.36.280. Temporary permit. (a) The board may issue a one year temporary permit without examination to an applicant to practice dentistry in a locality requested by the applicant if the locality is of the type specified in (2) of this subsection and the applicant

(1) meets the requirements of AS 08.36.110;

(2) desires to practice dentistry in a city or rural village which does not have a resident licensed dentist in active general practice;

(3) has a license in good standing to practice dentistry in a state, territory, district or possession of the United States;

(4) tenders and pays the fee prescribed in AS 08.36.290(9).

(b) The board may authorize a temporary permittee to practice dentistry in more than one city or rural village of the type specified in (a) (2) of this section.

(c) The board may annually renew a temporary permit upon written application of an applicant and upon payment of the prescribed fee if the applicant has not committed an act which is a ground for revocation in AS 08.36.310, but in any case, within two years from issuance of the applicant's first temporary permit, the applicant must pass a board exam.

(d) A temporary permit may be revoked, suspended or annulled, or the permittee may be reprimanded, censured or disciplined by the board in the same manner and for the same cause as a licensed dentist under AS 08.36.310.

(e) The board shall grant or deny an application for a temporary permit within 60 days after it is received. (§ 15 art III ch 186 SLA 1955; am § 4 ch 26 SLA 1965; am §§ 8, 9 ch 121 SLA 1972; am § 6 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 28, 1982, substituted "AS 08.36.290(9)" for "AS 08.36.290(6)" in subsection (a)(4).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

AS 08.36.310, referred to in subsections (c) and (d), was repealed by § 32, ch. 49, SLA 1980. For present provisions, see AS 08.36.315.

Sec. 08.36.285. Licensing a permittee.
Repealed by § 10 ch 121 SLA 1972.

Editor's notes. — The repealed section derived from § 5, ch. 26, SLA 1965.

Sec. 08.36.290. Fees and penalties. The following fees and penalties shall be imposed by the board as applicable

(1) filing fee for examination and licensing application	$ 25
(2) examination fee:	
dentist	$200
dental hygienist	75
(3) credential review fee:	
dentist	$200
dental hygienist	75
(4) initial license fee:	
dentist	$ 30
dental hygienist	20
(5) registration fee (due every four years):	
dentist	$200
dental hygienist	100
(6) filing fee for reexamination application	$ 25
(7) specialty license fee	$ 30
(8) branch office registration fee	$100
(9) temporary permit to practice dentistry	$ 50
(10) delinquent registration fee	$ 10
(11) duplicate license fee	$ 10.

(§ 16 art III ch 186 SLA 1955; am § 7 ch 94 SLA 1968; am § 12 ch 155 SLA 1968; am § 27 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

NOTES TO DECISIONS

For history of taxation of profession of dentistry, see United States v. Dasher, 9 Alaska 719 (1940).

Sec. 08.36.300. Deposit of fees and payment of expenses.
Repealed by § 3 ch 59 SLA 1966.

Editor's notes. — The repealed section derived from § 17, art. III, ch. 186 SLA 1955.

Article 3. Unlawful Acts.

Section	Section
310 [Repealed]	320 Disciplinary sanctions
315 Grounds for discipline, suspension or revocation of license	325 — 330 [Repealed]
	340 Penalties

Sec. 08.36.310. Grounds for revocation of license.
Repealed by § 32 ch 49 SLA 1980.

Cross references. — For present provisions concerning grounds for discipline, suspension or revocation of license of a dentist, see AS 08.36.315.

Editor's notes. — The repealed section derived from § 1, art. IV, ch. 186, SLA 1955, §§ 13 — 15, ch. 155, SLA 1968; § 26, ch. 177, SLA 1978.

Sec. 08.36.315. Grounds for discipline, suspension or revocation of license. The board may revoke or suspend the license of a dentist, and the licensee may be reprimanded, censured, or disciplined when the board finds after a hearing that the dentist

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional dental services or engaging in professional activities;

(3) advertised professional dental services in a false or misleading manner;

(4) has been convicted of a felony or other crime which affects the dentist's ability to continue to practice dentistry competently and safely;

(5) intentionally or negligently engaged in or permitted the performance of patient care by persons under the dentist's supervision which does not conform to minimum professional standards of dentistry regardless of whether actual injury to the patient occurred;

(6) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) failure to keep informed of or use current professional theories or practices;

(C) addiction or severe dependency on alcohol or other drugs which impairs the dentist's ability to practice safely;

(D) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(9) permitted a dental hygienist who is employed by the dentist or working under the dentist's supervision to perform a dental procedure other than those permitted under AS 08.32.110. (§ 28 ch 49 SLA 1980)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.06.03(c) and § 4, Chapter 68, SLA 1982.

Collateral references. — 61 Am. Jur. 2d, Physicians, Surgeons and Other Healers, §§ 41-60.

70 C.J.S., Physicians and Surgeons, §§ 16-30.

Ground for revocation, 54 ALR 1501, 82 ALR 1184.

What amounts to conviction within statute making conviction ground for cancelling license, 143 ALR 1170.

Revocability of license for fraud or other misconduct before or at the time of its issuance, 165 ALR 1138.

Admissibility and necessity of expert evidence in proceeding for revocation of license, 6 ALR2d 675.

Nolo contendere or non volt, statute authorizing revocation of license upon conviction as applicable to conviction based on plea of, 89 ALR2d 600.

Alcoholism, narcotics addiction or misconduct with respect to alcoholic beverages or narcotics as ground for revocation or suspension of license to practice medicine or dentistry, 93 ALR2d 1398.

Revocation or suspension of dentist's license for false claims, reports or bills for services in personal injury litigation, 95 ALR2d 873.

Practicing medicine, surgery, dentistry, optometry, podiatry, or other healing arts without license as a separate or continuing offense, 99 ALR2d 651.

Cancellation or suspension irrespective of licensee's personal fault, validity of statute or rule making specified conduct or condition the ground for, 3 ALR2d 107.

Improper or immoral conduct toward female patient as ground for disciplinary measure against physician or dentist, 15 ALR3d 1179.

Professional incompetency as ground for disciplinary measure against physician or dentist, 28 ALR3d 487.

Sec. 08.36.320. Disciplinary sanctions. (a) When it finds that a dentist or dental hygienist is guilty of an offense under AS 08.32.160 or AS 08.36.315, the board may impose the following sanctions singly or in combination:

(1) permanently revoke a license to practice;

(2) suspend a license for a determinate period of time;

(3) censure a licensee;

(4) issue a letter of reprimand;

(5) place a licensee on probationary status and require the licensee to

(A) report regularly to the board upon matters involving the basis of probation;

(B) limit practice to those areas prescribed;

(C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement;

(6) impose limitations or conditions on the practice of a licensee.

(b) The board may withdraw probation status if it finds that the deficiencies which required the sanction have been remedied.

(c) The board may summarily suspend a license before final hearing or during the appeals process if the board finds that the licensee poses a clear and immediate danger to the public health and safety if the licensee continues to practice. A person whose license is suspended under this section shall be entitled to a hearing by the board no later than seven days after the effective date of the order. The licensee may appeal the suspension after a hearing to a court of competent jurisdiction.

(d) The board may reinstate a license which has been suspended or revoked if the board finds, after a hearing, that the applicant is able to practice with skill and safety.

(e) The board shall seek consistency in the application of disciplinary sanctions, and significant departure from prior decisions involving similar situations shall be explained in findings of fact or orders. (§ 5 art. IV ch. 186 SLA 1955; am § 29 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Collateral references. — Bias of members of license revocation board. 97 ALR2d 1210.

Secs. 08.36.325 — 08.36.330. Repealed by § 32 ch 49 SLA 1980.

Cross references. — For provisions concerning grounds for discipline, suspension or revocation of license of a dentist, see AS 08.36.315. For provisions concerning disciplinary sanctions which may be imposed by the board, see AS 08.36.320.

Editor's notes. — The repealed sections derived from § 7, art. IV, ch. 186, SLA 1955; § 10, ch. 102, SLA 1976.

Sec. 08.36.340. Penalties. A person who violates any provision of AS 08.32 or this chapter for which no specific penalty is provided is guilty of a class B misdemeanor. (§ 8 art IV ch 186 SLA 1955; am § 30 ch 49 SLA 1980)

Cross references. — As to punishment for misdemeanors, see AS 12.55.135.

Effect of amendments. — The 1980 amendment inserted "AS 08.32 or," deleted a comma following "is provided," and deleted "and is punishable by a fine of not more than $500, or by imprisonment for not more than six months, or by both," following "misdemeanor" at the end of the section, and inserted "class B."

Article 4. General Provisions.

Section
350. Application of chapter
360. Practice of dentistry defined
370. Definitions

Sec. 08.36.350. Application of chapter. This chapter applies to a person who practices, offers or attempts to practice dentistry in the state except

(1) dental surgeons or dentists in the military service in the discharge of official duties;

(2) Repealed by § 32 ch 49 SLA 1980.

(3) dentists in the employ of the United States Public Health Service, United States Veterans' Administration, Alaska Native Service, or Department of Health and Social Services, in the discharge of official duties;

(4) clinicians demonstrating at meetings of dentists approved by the board;

(5) physicians and surgeons;

(6) dentists in the employ of the United States Public Health Service providing care by authority of a permit issued under AS 08.36.271. (§ 2 art I ch 186 SLA 1955; am § 2 ch 93 SLA 1965; am § 6 ch 104 SLA 1971; am § 32 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment repealed paragraph (2), which read: "licensed dental hygienists in the performance of duties authorized by law."

Sec. 08.36.360. Practice of dentistry defined. A person engages in the practice of dentistry who

(1) performs or holds out to the public as being able to perform dental operations;

(2) diagnoses, treats, operates on, corrects or attempts to correct, or prescribes for, a disease, lesion, pain, injury, deficiency, deformity, or physical condition, malocclusion or malposition of the human teeth, alveolar process, gums or jaws and adjacent tissues;

(3) performs or attempts to perform an operation incident to the replacement of teeth;

(4) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth, except on prescription of a duly licensed and registered dentist and by the use of impressions or casts made by a duly licensed and registered dentist;

(5) uses the word "dentist" or "dental surgeon" or the letters D.D.S. or D.M.D. or other letter or title which represents the dentist as engaging in the practice of dentistry;

(6) extracts or attempts to extract human teeth;

(7) owns, manages or operates a place where the acts and things described in this section are performed or done. (§ 1 art I ch 186 SLA 1955)

Cross references. — For professional designation requirements for dentists, see AS 08.02.010.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Collateral references. — Dentist as within statutes pertaining to physician or surgeon. 115 ALR 261.

Sec. 08.36.370. Definitions. In this chapter, unless the context requires otherwise,

(1) "board" means the Board of Dental Examiners;

(2) "department" means the Department of Commerce and Economic Development. (§ 31 ch 49 SLA 1980)

Chapter 40. Electrical Administrators.

Article
1. Board of Electrical Examiners (§§ 08.40.005 — 08.40.080)
2. Licensing (§§ 08.40.090 — 08.40.180)
3. General Provisions (§§ 08.40.190 — 08.40.200)

Sec. 08.24.340. Statement of persons employed by agency. (a) Within 15 days after licensure under this chapter, a collection agency shall submit to the department a list of all persons employed by the agency. Thereafter, upon hiring a new employee, the collection agency shall, within 15 days after the hiring, submit to the department the name of the newly hired employee and the further information required by (b) of this section.

(b) There shall be submitted with the name of the employee employed by the collection agency the following information:

(1) the employee's residence address;

(2) the employee's length of residence in the state;

(3) a statement of the new employee's previous employment in the last year;

(4) further information which the board or department may require.

(c) The statement shall be verified by the employee before a notary public or other person authorized to administer oaths.

(d) The owner or licensed operator of the collection agency shall also state upon the form submitted the date upon which the new employee was hired and that the new employee is an employee of the collection agency at the time the form is executed. (§ 1 ch 101 SLA 1968)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.24.350. Notice of withdrawal of employees. When an employee withdraws from employment or the employee's employment with a collection agency is terminated for any reason, the agency shall, within 15 days of withdrawal or termination of employment, notify the department in writing of the employee's withdrawal from employment. (§ 1 ch 101 SLA 1968)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.24.360. Fines and penalties. A collection agency or an operator who fails on written demand to render a true and complete account to the person from whom an indebtedness was taken for collection or who fails to turn over to that person the proceeds of the collection within 30 days after written demand, or who fails to comply with any of the provisions of this chapter is punishable by a fine of not more than $500, or by imprisonment for not more than three months, or by both. (§ 1 ch 101 SLA 1968)

Sec. 08.24.370. Nonresidents. A nonresident may apply for and receive a collection agency license or an operator license or both on the same basis as a resident. The application fee for a nonresident operator

license is $100, and the biennial license fee is $200. The application fee for a nonresident agency license is $200, and the biennial license fee is $400 for the principal place of business and $400 for each branch office. (§ 1 ch 101 SLA 1968)

Sec. 08.24.380. Definitions. In this chapter

(1) "board" means the Collection Agency Board;

(2) "department" means the Department of Commerce and Economic Development;

(3) "collection agency business" means the business of engaging directly or indirectly and having as a primary or secondary object, business or pursuit the solicitation of claims for collection or repossession of collateral security or the collection of claims owed or due or asserted to be owed or due to another or the repossession of collateral security;

(A) a house, agency, firm, person, corporation or voluntary association using a name other than its own in collecting its own claims with the intention of conveying, or which tends to convey, the impression that a third party has been employed, is conducting a collection agency business within the meaning of this chapter;

(B) a person who sells, attempts to sell, gives away or attempts to give away to another person, other than a licensee under this chapter a system of collection letters, demand forms or other printed matter where the name of a person other than a creditor appears in a manner to indicate that a request or demand is being made by another person, other than the creditor, for the payment of a sum due, or asserted to be due, or who solicits or accepts accounts for collection on a contingent or percentage basis or by a fee or outright purchase for collection purposes, is considered to be in the collection agency business within the meaning of this chapter;

(4) "collection agency" means a person licensed and authorized to engage in the collection agency business;

(5) "operator" means a person having managerial control of a collection agency. (§ 1 ch 101 SLA 1968; am § 45 ch 218 SLA 1976)

Chapter 32. Dental Hygienists.

Article

1. Examination and Licensing (§§ 08.32.010 — 08.32.095)
2. Regulation of Dental Hygienists (§§ 08.32.100 — 08.32.180)
3. General Provisions (§§ 08.32.185 — 08.32.190)

Collateral references. — 61 Am Jur 2d, Physicians, Surgeons and Other Healers, §§ 4, 19, 20, 44-45.

70 C.J.S., Physicians and Surgeons, §§ 1, 6-8, 11, 16, 24.

Constitutionality, construction and application of statutes relating to dental hygienists. 11 A.L.R.4th 724.

Article 1. Examination and Licensing.

Section
10 License required
15 [Repealed]
20 Examination required
30 Licensure by credentials
40 Application and fee
50 Disposition of fees
60 Frequency and content of examination
70 Registration and licensing of dental hygienists
80 [Repealed]
81 Lapse and reinstatement of license
90 [Repealed]
95 Exemption from license requirement

Sec. 08.32.010. License required. Except as provided in AS 08.32.095, a person may not practice, offer or attempt to practice, or advertise or announce as being prepared or qualified to practice dental hygiene without a license. (§ 1 ch 78 SLA 1953; am § 1 ch 59 SLA 1978; am § 4 ch 49 SLA 1980)

Effect of amendments. — The 1978 amendment substituted "oneself" for "himself."

The 1980 amendment substituted "Except as provided in AS 08.32.095, a person may not" for "No person may" at the beginning of the section.

Editor's notes. — The words "as being" were substituted for "oneself as" by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 08.32.015. Malpractice insurance. Repealed by § 40 ch 177 SLA 1978.

Editor's notes. — The repealed section derived from § 7, ch. 102, SLA 1976, § 2, ch. 59, SLA 1978.

For purpose of repealing act, see § 1, ch 177, SLA 1978, as amended by § 7, ch. 46, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Sec. 08.32.020. Examination required. (a) An applicant for examination shall be

(1) Repealed by § 32 ch 49 SLA 1980.

(2) at least 18 years of age;

(3) a graduate of an accredited high school;

(4) a graduate of a dental hygiene school which requires at least a two-year course and is accredited by the Commission on Accreditation of Dental and Dental Auxiliary Education Programs of the American Dental Association; and

(5) an examinee who has successfully completed the National Board of Dental Examiners' written theory examination or an equivalent written examination given by the board, thereby demonstrating satisfactory theoretical knowledge of dental and basic biomedical sciences.

(b) An applicant for examination shall apply in writing to the secretary of the board at least 30 days before the date selected by the board for the examination. (§ 1 ch 78 SLA 1953; am § 1 ch 36 SLA 1969; am § 1 ch 99 SLA 1970; am § 3 ch 59 SLA 1978; am § 32 ch 49 SLA 1980)

Effect of amendments. — The 1978 amendment, in subsection (a), substituted "a dental hygiene school" for "an American training school for dental hygienists" and "by the Commission on Accreditation of Dental and Dental Auxiliary Education Programs of the American Dental Association" for "and recognized by the board" in paragraph (4), and in paragraph (5), substituted "of Dental Examiners' written theory examination or an equivalent" for "examination or the" and added the language beginning "thereby demonstrating" to the end.

The 1980 amendment repealed paragraph (1) of subsection (a), which read: "of good moral character."

Sec. 08.32.030. Licensure by credentials. The board may provide for the licensing without examination of a dental hygienist who

(1) meets the criteria of AS 08.32.020(a);

(2) has successfully passed a state or regional dental hygiene clinical examination which the board has determined is at least equivalent in scope, quality, and difficulty to the Alaska clinical examination;

(3) has been in active clinical dental hygiene practice averaging no less than 14 hours per week for the two years immediately preceding application for state licensure;

(4) has not failed the clinical dental hygiene examination of this state;

(5) has not previously had a license to practice dental hygiene issued by any state or region revoked;

(6) is personally interviewed by a board member;

(7) pays all fees required under AS 08.36.290;

(8) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding undertaken by a professional dental or dental hygienics association. (§ 1 ch 78 SLA 1953; am § 4 ch 59 SLA 1978; am § 5 ch 49 SLA 1980)

Effect of amendments. — The 1978 amendment rewrote this section.

The 1980 amendment rewrote the section.

Sec. 08.32.040. Application and fee. An application for examination or determination of qualification for licensing by credentials shall be accompanied by the applicant's certificate of graduation from an accredited dental hygiene school and the fee provided under AS 08.36.290(1). (§ 1 ch 78 SLA 1953; am § 2 ch 36 SLA 1969; am § 5 ch 59 SLA 1978; am § 6 ch 49 SLA 1980)

Effect of amendments. — The 1978 amendment substituted "examination or ensing by credentials" for "qualifi- tion" and inserted "from an accredited dental hygiene school."

The 1980 amendment inserted "determination of qualification for" and substituted "the fee provided under AS 08.36.290(1)" for "a fee of $25" at the end of the section.

Sec. 08.32.050. Disposition of fees. All fees and charges shall be deposited in the general fund of the state. (§ 1 ch 78 SLA 1953)

Sec. 08.32.060. Frequency and content of examination. The examination shall be held at the same times and places as the examination of dentists under AS 08.36.130. The examination shall cover subjects considered essential by the board for the practice of dental hygiene including a clinical examination on the removal of calcareous deposits, accretions, and stains from the exposed surfaces of the teeth beginning at the epithelial attachment by scaling and polishing techniques. (§ 1 ch 78 SLA 1953; am § 6 ch 59 SLA 1978; am § 7 ch 49 SLA 1980)

Effect of amendments. — The 1978 amendment, in the second sentence, substituted "the practice of dental hygiene including a clinical" for "a dental hygienist including a practical" and "calcareous deposits, accretions, and stains" for "deposits or stains" and added "beginning at the epithelial attachment by scaling and polishing techniques" at the end of the sentence.

The 1980 amendment deleted "once each year" following "shall be held," substituted "times and places" for "time" and added "under AS 08.36.130" all in the first sentence.

Sec. 08.32.070. Registration and licensing of dental hygienists. If the applicant passes the examination, the board shall register the applicant and issue a license upon payment of all fees required under AS 08.36.290. A licensed dental hygienist shall renew registration and offer proof of continued competency as required by regulation of the board every four years. (§ 1 ch 78 SLA 1953; am § 3 ch 36 SLA 1969; am § 7 ch 59 SLA 1978; am § 8 ch 49 SLA 1980)

Effect of amendments. — The 1978 amendment substituted "the applicant" for "him."

The 1980 amendment rewrote the section.

Sec. 08.32.080. Lapse and reinstatement of license.
Repealed by § 7 ch 94 SLA 1968.

Editor's notes. — The repealed section derived from § 4, ch. 78, SLA 1953.

Sec. 08.32.081. Lapse and reinstatement of license. The failure, neglect, or refusal of a licensed dental hygienist to pay the renewal registration fee constitutes a forfeiture of the license. The board may reinstate the license without examination within two years of the date on which payment was due upon written application, proof of continued competency, and payment of all fees required under AS 08.36.290. (§ 4 ch 36 SLA 1969, am § 8 ch 59 SLA 1978; am § 9 ch 49 SLA 1980)

Effect of amendments. — The 1978 amendment substituted "without examination within two years of the date on which payment was due" for "within three years" in the second sentence.

The 1980 amendment substituted "renewal" for "biennial" in the first sentence, inserted "proof of continued competency," and substituted "all fees required under AS 08.36.290" for "$25" in the second sentence.

Sec. 08.32.090. Temporary license.
Repealed by § 15 ch 59 SLA 1978.

Editor's notes. — The repealed section derived from § 2, ch. 78, SLA 1953; am. § 5, ch. 36, SLA 1969.

Sec. 08.32.095. Exemption from license requirement. (a) A person enrolled as a full-time student in an accredited school of dental hygiene may perform dental hygiene procedures as part of a course of study without a license if

(1) the procedures are performed under the direct supervision of a member of the faculty who is licensed under AS 08.36, or under the direct supervision of a team of licensed faculty dentists, at least one of whom is licensed under AS 08.36; and

(2) the clinical program has received written approval from the board.

(b) A person practicing dental hygiene under (a) of this section is subject to all other provisions of this chapter and laws and regulations which apply to the practice of dental hygiene by a licensed dental hygienist. (§ 10 ch 49 SLA 1980)

Article 2. Regulation of Dental Hygienists.

Section	
100	Employment of dental hygienists
110	Scope of work of dental hygienists
120	Place of employment
130	Information required
140	Supervision required
150	[Repealed]
160	Grounds for discipline, suspension or revocation of license
165	Limits or conditions on license; discipline
170	[Repealed]
180	Violation

Sec. 08.32.100. Employment of dental hygienists. A licensed dentist, incorporated eleemosynary dental dispensary or infirmary, private school or welfare center, the United States of America or the state may employ a licensed dental hygienist. (§ 3 ch 78 SLA 1953)

Sec. 08.32.110. Scope of work of dental hygienists. (a) The role of the dental hygienist is to assist members of the dental profession in providing oral health care to the public. A person licensed to practice the profession of dental hygiene in the state may

(1) remove calcareous deposits, accretions, and stains from the exposed surfaces of the teeth beginning at the epithelial attachment by scaling and polishing techniques;

(2) apply topical preventive or prophylactic agents;

(3) apply pit and fissure sealants;

(4) perform root planing and periodontal soft tissue curettage; and

(5) perform other dental operations and services delegated by a licensed dentist if the dental operations and services are not prohibited by (c) of this section.

(b) The board shall specify by regulation those additional intra-oral functions which may be performed by a licensed dental hygienist only upon successful completion of a formal course of instruction approved by the board. The board shall promulgate regulations specifying the education requirements, evaluation procedures, and degree of supervision required for each function.

(c) This section does not authorize delegation of

(1) diagnosing, treatment planning, and writing prescriptions for drugs; writing authorizations for restorative, prosthetic, or orthodontic appliances;

(2) operative or surgical procedures on hard or soft tissues except as allowed in (a)(4) of this section; or

(3) other procedures which require the professional competence and skill of a dentist. (§ 3 ch 78 SLA 1953; am § 6 ch 36 SLA 1969; am § 9 ch 59 SLA 1978)

Effect of amendments. — The 1978 amendment rewrote this section.

Sec. 08.32.120. Place of employment. A dental hygienist may practice in the office of a licensed dentist, or legally incorporated eleemosynary dental dispensary or infirmary, private school, welfare center, state or federal institution, village health facility, or in another place designated by the board. (§ 3 ch 78 SLA 1953; am § 10 ch 59 SLA 1978)

Effect of amendments. — The 1978 amendment substituted "may practice" for "may operate" near the beginning of this section and the language beginning "welfare center, state or federal institution" for "or welfare center, or in a building owned or occupied by the state and under the direct or general supervision of a licensed dentist" at the end of the section.

Sec. 08.32.130. Information required. Every dental hygienist practicing dental hygiene in the state shall furnish the board with the name and address of the dentist under whose supervision the dental hygienist is practicing. (§ 4 ch 78 SLA 1953; am § 11 ch 59 SLA 1978)

Effect of amendments. — The 1978 amendment inserted "practicing dental hygiene in the state" and substituted "The dentist under whose supervision the dental hygienist is practicing" for "his employer."

Sec. 08.32.140. Supervision required. A dental hygienist may not practice except under the general supervision of a licensed dentist or, if required by regulations issued under AS 08.32.110(b), the direct or indirect supervision of a licensed dentist. (§ 1 ch 78 SLA 1953; am § 12 ch 59 SLA 1978)

Effect of amendments. — The 1978 amendment inserted "general" and added the language beginning "or, if required by regulations" to the end of the section.

Sec. 08.32.150. Revocation of dentist's license. Repealed by § 32 ch 49 SLA 1980.

Cross references. — For provisions concerning grounds for discipline, suspension or revocation of license of a dentist, see AS 08.36.315.

Editor's notes. — The repealed section derived from § 4, ch. 78, SLA 1953.

Sec. 08.32.160. Grounds for discipline, suspension or revocation of license. The board may revoke or suspend the license of a dental hygienist, or the licensee may be reprimanded, censured, or disciplined when the board finds after a hearing that the licensee

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

(3) advertised professional services in a false or misleading manner;

(4) has been convicted of a felony or other crime which affects the licensee's ability to continue to practice competently and safely;

(5) failed to comply with this chapter, with a regulation adopted under this chapter or under AS 08.36, or with an order of the board;

(6) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) addiction or severe dependency on alcohol or other drugs which impairs the licensee's ability to practice safely;

(C) physical or mental disability;

(7) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(8) performed clinical procedures for compensation without being under the supervision of a licensed dentist. (§ 6 ch 78 SLA 1953; am § 11 ch 49 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Editor's notes. — This section was recodified by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 08.32.165. Limits or conditions on license; discipline. (a) In addition to action under AS 08.32.160, upon a finding that by reason of demonstrated problems of competence, experience, education or health the authority to practice dental hygiene should be limited or conditioned or the practitioner disciplined, the board may reprimand, censure, place on probation, restrict practice by specialty, procedure or facility, require additional education or training, or revoke or suspend a license.

(b) Repealed by § 15 ch 59 SLA 1978. (§ 7 ch 102 SLA 1976; am § 15 ch 59 SLA 1978)

Cross references. — For present provisions covering the subject matter of repealed subsection (b), see AS 08.32.185.

Effect of amendments. — The 1978 amendment repealed subsection (b), which read "The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this section."

Sec. 08.32.170. Procedure followed.
Repealed by § 15 ch 59 SLA 1978.

Cross references. — For present provisions covering the subject matter of the repealed section, see AS 08.32.185.

Editor's notes. — The repealed section derived from § 4, ch. 78, SLA 1953.

Sec. 08.32.180. Violation. A person who violates this chapter or who fails to comply with the requirements of this chapter, a penalty for which is not otherwise provided, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $100. (§ 5 ch 78 SLA 1953)

Article 3. General Provisions.

Section
185. Application of Administrative Procedure Act
190. Definitions

Sec. 08.32.185. Application of Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to any action taken by the board under this chapter. (§ 14 ch 59 SLA 1978)

Sec. 08.32.190. Definitions. In this chapter

(1) "board" means the Board of Dental Examiners;

(2) "dental hygienist" means a person who is licensed by the board to perform those educational, preventive, and therapeutic services and procedures that licensed dental hygienists are educated to perform;

(3) "general supervision" means the dentist has authorized the procedures and they are being carried out in accordance with the dentist's diagnosis and treatment plan;

(4) "direct supervision" means the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before dismissal of the patient evaluates the performance of the dental hygienist;

(5) "indirect supervision" means a licensed dentist is in the dental facility, authorizes the procedures, and remains in the dental facility while the procedures are being performed by the dental hygienist. (am § 13 ch 59 SLA 1978)

Effect of amendments. — The 1978 amendment rewrote this section.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) § 4, Chapter 58, SLA 1982.

Chapter 36. Dentistry.

Article
1. Board of Dental Examiners (§§ 08.36.010 — 08.36.091)
2. Examination and Licensing (§§ 08.36.100 — 08.36.300)
3. Unlawful Acts (§§ 08.36.310 — 08.36.340)
4. General Provisions (§§ 08.36.350 — 08.36.370)

Cited in Allison v. State, Sup. Ct. Op. No. 1703 (File No. 3716), 582 P.2d 813 (1978).

Article 1. Board of Dental Examiners.

Section
10. Creation and membership of board
20. Appointment and term of office
25. Removal of board members
30. Election of officers
40. Meetings
50. Quorum
60. [Repealed]
70. General powers
80. Applicability of Administrative Procedure Act
90. [Repealed]
91. Records and reports

Sec. 08.36.010. Creation and membership of board. There is created the Board of Dental Examiners consisting of seven members. Four members shall be qualified resident dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, one member shall be a dental hygienist licensed under AS 08.32, and two members shall be public members. (§ 1 art II ch 186 SLA 1955; am § 2 ch 155 SLA 1968; am § 8 ch 102 SLA 1976; am § 12 ch 49 SLA 1980)

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alas. Const., art. II, § 14.

Effect of amendments. — The 1980 amendment deleted "referred to in this chapter as the board" following "Board of Dental Examiners" in the first sentence, substituted "Four" for "Five" at the beginning of the second sentence, and substituted "Two members shall be public members" for "one member with no direct

MSG 84-00036318 PRTY 1 04/18/84 07:21:18 ORIG: LF01 IN= 0005 OUT= 0035
FROM: PAULA/FKS TO: JNU INFO
TARGET: LJHK SUBJ: POM

TO: REPS UEHLING, RINGSTAD, FURNACE

ALSO: HOUSE MESS
REPS TISCHER, PESTINGER, MARTIN, GOLL, KOPONEN, DAVIS

FROM: ELLEN OLSON
1347 SEARGENT CIRCLE
FAIRBANKS, AK. 99701
455-6201-W

RE: CSHB 611 (L & C) DENTISTS & DENTAL HYGENISTS

MSG: CSHB 611 (L & C) PAGE 6 LINES 10 & 11 SHOULD READ, "IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT OR INDIRECT SUPERVISION OF A LICENSED DENTIST" BY LEAVING OUT "OR INDIRECT" WOULD MAKE USAGE OF ANESTHESIA BY DENTAL HYGIENIST UNPLEASABLE AND IMPRACTICAL. I FEEL THIS WOULD BE A DISSERVICE TO ALL CLIENTS WHOM WE ARE TRYING TO SERVE BY USAGE OF ANESTHESIA.

----------EOM

TO: REPS UEHLING, RINGSTAD, FURNACE, RISCHER, FESTINGER, MARTIN, GOLL, KOPONEN, DAVIS

FROM: DR. TIM WOLLER
3529 COLLEGE RD.
FAIRBANKS, AK, 99701
479-6755-W

RE: HB 611, DENTISTS AND DENTIL HYGIENISTS

MSG: CSHB 611 PAGE 6 LINE 10 AND 11 SHOULD READ "IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT OR INDIRECT SUPERVISION OF A LICENSED DENTIST" I DO NOT FEEL THERE IS ANY PATIENT BENEFIT ON HAVING THE DENTIST CHECK THE INJECTION SITE UPON DISMISSAL.

----------EOM

MSG 84-00036602 PRTY : 04/10/84 14:02:10 ORIG: LF00 IN: 0007 OUT: 0012
FROM: PAULA/FKS TO: JNU INFO
TARGET: LJHK SUBJ: FOR

TO: REPS UEHLING, RINGSTAD, FURNACE

ALSO: HOUSE HESS
REPS TISCHER, FESTINGER, MARTIN, GOLL, KOPONEN, DAVIS

FROM: WENDY SOMERS
4400 STANFORD
FAIRBANKS, AK, 99701
479-3480-H 479-2296-W

RE: CSHB 611 (L & C) DENTISTS AND DENTAL HYGIENISTS

MSG: IN REGARD TO BILL CSHB 611 (L & C) PAGE 6 LINE 9 & 10, SHOULD READ "IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT OR INDIRECT SUPERVISION OF A LICENSED DENTIST". AN OMISSION OR AMENDMENT OF "OR INDIRECT" WOULD MAKE THIS BILL UNACCEPTABLE TO THE EXEC COUNCIL OF THE ALASKA DENTAL SOCIETY , THE BOARD OF DENTAL EXAMINERS, AND THE AK DENTAL HYGIENIST ASSOC.
----------EOM

TO: REPS RINGSTAD, UEHLING, & FURNACE

ALSO: HOUSE HESS
REPS TISCHER, FESTINGER, MARTIN, GOLL, KOPONEN, DAVIS

FROM: LEE PAYNE
1919 LATHROP
DRAWER 15
FAIRBANKS, AK, 99701
452-7007-W

RE: CS HB 611 (L & C) DENTISTS AND DENTAL HYGIENISTS

MSG: THE REASON BEHIND WAIVING THE INDIRECT SUPERVISION AS OPPOSED TO DIRECT IS BECAUSE DIRECT SUPERVISION WOULD INCREASE THE COST OF CARE TO THE PATIENT BY HAVING THE DOCTOR SPEND HIS TIME OBSERVING OR PERFORMING THE FUNCTION THE DENTAL HYGIENIST IS TRAINED TO DO. VERY STRINGENT REQUIREMENTS HAVE BEEN SET FORTH BY THE BOARD BEFORE THE HYGIENIST IS LICENSED TO ADMINISTER ANESTHESIA.----------EOM

TO: REPS UEHLING, RINGSTAD, FURNACE

ALSO HOUSE HESS
REPS TISCHER, PESTINGER, MARTIN, GOLL, KOPUNEN, DAVIS

FROM: BECKY COFER
2243 BRIDGEWATER
FAIRBANKS, AK, 99701
452-7330-H

RE: CSHB 511 (L & C) DENTISTS AND DENTAL HYGIENISTS

MSG PAGE 6 LINE 10 & 11 SHOULD READ, "IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT OR INDIRECT SUPERVISION OF A LICENSED DENTIST". AN OMISSION OF AMENDMENT OF "OR INDIRECT" WOULD MAKE THIS BILL UNACCEPTABLE TO THE EXEC COUNCIL OF THE ALASKA DENTAL SOCIETY, BD OF DENTAL EXAMINERS & THE AK DENTAL HYGIENIST ASSOC.

----------EOM

MSG 84-00036406 PRTY 1 04/18/84. 10:42:24 ORIG: LF01 IN= 0010 OUT= 0059
FROM: TRACTE/FBX TO: JNU INFO
TARGET: LJHK SUBJ: POM

TO: REPS UEHLING, KINGSTAD, FURNACE, TESCHER, PESTINGER, MARTIN, KOPONEN, DAVIS

FR: DR. DAVID SULKOSKY
515 FIFTH AVE, SUITE 220
FBX, 99701
452-8296

RE: SB611 DENTIST BILL

MSG: CSHB 611 PAGE 5 LINE 10 AND 11 SHOULD READ "IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT OR INDIRECT SUPERVISION OF A LICENSED DENTIST" REMOVAL OR CHANGE OF THE WORDING "OR INDIRECT" WOULD MAKE THIS BILL TOTALLY UNACCEPTABLE TO ME, MY HIGHLY TRAINED AND LICENSED HYGIENIST, STAFF, AND ESPECIALLY OUR CLIENTS.

---EOM

MSG 84-00936173 PRTY 1 04/17/84 15:50:29 ORIG: LF00 IN= 0025 OUT= 0164
FROM: TRACIE/FBX TO: JNU INFO
TARGET: LJHK SUBJ: POM

TO: REPS UEHLING, FURNACE, RINGSTAD, TISCHER, PESTINGER, MARTIN, GOLL, KOPONEN, DAVIS

FR: CHRISTINE AMY BAXTER, REGISTERED DENTAL HYGIENIST
PO BOX 58372
FBX, 99711
488-3637

RE: HB611 DENTIST BILL

MSG: PAGE 6 LINE 10 AND 11 SHOULD READ "IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT AND OR INDIRECT SUPERVISION OF A LICENSED DENTIST" THE OMISSION OF "OR INDIRECT" WOULD MAKE THIS BILL UNACCEPTABLE TO THE DENTAL HYGIENE ASSOC, AND THE DENTAL SOCEITY, AND THE BOARD OF DENTAL EXAMINERS.

MSG 84-00936131 PRTY 1 04/17/84 16:58:18 ORIG: LF00 IN= 0024 OUT= 0167
FROM: TRACIE/FBX TO: JNU INFO
TARGET: LJHK SUBJ: POM

TO: REPS UEHLING, FURNACE, RINGST TISCHER, PESTINGER, MARTIN, GOLL, KOPONEN, DAVIS

FR: YVETTE HALUCK
PO BOX 55053
NORTH POLE, 99705
452-7864

RE SB611 DENTIST BILL

MSG: AN OMISSION OR AMENDMENT OF "OR INDIRECT" WOULD MAKE THIS BILL UNACCEPTABLE TO THE AK DENTAL HYGIENE ASSOC, THE BOARD OF DENTAL EXAMINERS, AND THE EXECUTIVE COUNCIL OF THE AK DENTAL SOCIETY.

---FOM

MSG 84-00036124 PRTY 1 04/17/84 15:43:32 ORIG: LF00 IN= 0019 OUT= 0143
FROM: TRACIE/FBX TO: JNU INFO
TARGET: LJNK SUBJ: POM

TO: REPS UEHLING, RINGSTAD, FURNACE, TISCHER, PESTINGER, MARTIN, GOLL, KOPONEN, DAVIS.

FR: DONNA MURR, HYGIENIST
530 7TH AVE.
FBX, 99701
452-1244

RE: HB611 DENTISTS BILL

MSG: PAGE 6, LINES 10 AND 11 SHOULD READ IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT OR INDIRECT SUPERVISION OF A LICENSED DENTIST, AN OMISSION OR AMENDMENT OF "OR INDIRECT" WOULD MAKE THIS BILL UNACCEPTABLE TO 1. THE EXECUTIVE COUNCIL OF THE AK DENTAL SOCIETY, 2. THE BOARD OF DENTAL EXAMINERS, 3. THE AK DENTAL HYGIENE ASSOC.

MSG 84-00036117 PRTY 1 04/17/84 15:44:02 ORIG: LF00 IN= 0018 OUT= 0140
FROM: TRACIE/FBX TO: JNU INFO
TARGET: LJNK SUBJ: POM

TO: REPS UEHLING, RINGSTAD, FURNACE, PESTINGER, TISCHER, MARTIN, GOLL, KOPONEN, DAVIS

FR: DIANA HELMBRECHT, DDS
421 3RD ST.
FBX, 99701
456-1237

RE: HB611 DENTISTS

MSG: ON PAGE 6 LINES 10 AND 11 THEY SHOULD READ IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT OR INDIRECT SUPERVISION OF A LICENSED DENTIST, AND AN OMISSION OF "OR INDIRECT" WOULD MAKE THE BILL UNACCEPTABLE TO: 1. THE EXECUTIVE COUNCIL OF THE ALASKA DENTAL SOCIETY, 2. THE BOARD OF DENTAL EXAMINERS, 3. THE AK DENTAL HYGIENE ASSOC.

----------EOM

MSG 84-00036141 PRTY 1 04/17/84 16:01:16 ORIG: LF00 IN= 0020 OUT= 0150
FROM: TRACIE/FBX TO: JNU INFO
TARGET: LJHK SUBJ: POM

TO: REPS UEHLING, RINGSTAD, FURNACE, TISCHER, FESTINGER, MARTIN, GOLL
KOPONEN, DAVIS

FR: MARY ANN CERNEY, REGISTERED DENTAL HYGIENIST
SR 30822-E
FBX, 99701
488-2989

RE: HB611 DENTIST BILL

MSG: PAGE 6 LINE 10 AND 11, SHOULD READ "IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT OR INDIRECT SUPERVISION OF A LICENSED DENTIST". AN OMISSION OR AMENDMENT OF "OR INDIRECT" WOULD MAKE THIS BILL UNACCEPTABLE TO 1. THE AK STATE DENTAL HYGIENISTS ASSOC. 2. THE MID-NIGHT SUN DENTAL HYGIENE SOCIETY, 3. THE BOARD OF DENTAL EXAMINERS, 4. THE EXECUTIVE COUNCIL OF THE A.S.D.S.

----------EOM

MSG 84-00036095 PRTY 1 04/17/84 15:17:55 ORIG: LK00 IN= 0014 OUT= 0133
FROM: EVELYN/KETCHIKAN TO: JNU INFO
TARGET: LJHK SUBJ: FOM

TO: HOUSE HEALTH, EDUCATION, & SOCIAL SCIENCES COMMITTEE MEMBERS:REPS. MAE TISCHER, MIKE MILLER (NORTH POLE), MIKE DAVIS, PETER GOLL, NIILO KOPONEN, TERRY MARTIN, RICK UEHLING, SAM PESTINGER.

FROM: BOB BLISS PHONE (HOME): 225-5074 (WORK): 225-2920
DENTIST
306 MAIN STREET
KETCHIKAN, AK 99901

RE: HB 511 - AN ACT RELATING TO DENTIST AND DENTAL HYGIENISTS SPECIFICALLY SEC. 11. AS 08.32.110 (A) PROPOSED AMENDMENT (PART 6) "IF CERTIFIED BY THE BOARD AND UNDER THE DIRECT SUPERVISION OF A LICENSED DENTIST, ADMINISTER LOCAL ANESTHETIC AGENTS."

MESSAGE:

I DISAGREE WITH THE PART OF HB 511 THAT PROPOSES TO REQUIRE "DIRECT" SUPERVISION OF THE DENTAL HYGIENIST BY THE DENTIST. AS THE RULES STAND NOW ONLY INDIRECT SUPERVISION IS REQUIRED. I PREFER THAT THE SUPERVISION REQUIRED REMAIN "INDIRECT." PLEASE DROP THAT ONE SECTION OF THE PROPOSAL REQUIRING "DIRECT" SUPERVISION OF DENTAL HYGIENISTS.
ALTHOUGH I AGREE WITH THE OTHER PROPOSED CHANGES IN HB 511, I'D PREFER THAT ONE PORTION OF THE BILL BE DROPPED AND THE OLD RULES OF INDIRECT SUPERVISION RETAINED.

MSG 84-00036787 PRTY 1 04/13/84 16:24:42 ORIG: LF00 IN= 0013 OUT= 0159
FROM: PAUL@/FKS TO: JNU INFO
TARGET: LJUK SUBJ PDM

TO: REPS UEHLING, RINGSTAD, FURNACE

ALSO: HOUSE HESS
REPS [redacted] PESTINGER, MARTIN, UEHLING, GOLL, KOPONEN, DAVIS

FROM: DR. DENNIS ANDERSEN - (FAIRBANKS)
515 7TH AVE.
SUITE 220
FAIRBANKS, AK, 99701
452-8296-U

RE: CS HB 611, CL & COREFERENCE: PAGE 6 LINE 10 & 11

MSG: THE ABILITY OF THE HYGIENISTS TO ADMINISTER LOCAL ANESTHETIC IS PRIMARILY FOR THE PATIENTS WELLBEING IE. LEVEL OF COMFORT AND THOROUGHNESS OF THE HYGIENE SERVICE. THE ABSENCE OF INDIRECT SUPERVISION DURING ADMINISTRATION GREATLY REDUCES THE LIKELIHOOD THAT ANESTHETIC WOULD BE USED. THE FEASABILITY OF A DENTIST STANDING OVER EVERYTIME THE HYGIENIST ADMINISTERED WOULD NEGATE THE HYGIENIST HAVING THE ABILITY TO ADMINISTER THE ANESTHETIC. HYGIENISTS ARE WELL QUALIFIED TO ADMINISTER WITHOUT DIRECT SUPERVISION.

---EOM

4/25/84

A M E N D M E N T # 1
(AS TO INTENT ONLY)

TO CSHB 611 (HESS) BY THE HESS COMMITTEE

On Page 22, Line 12:

Delete "operates" and substitute "exercises control over professional dental matters or operates dental equipment in" so that the sentence would read:

"(7) [OWNS, MANAGES OR OPERATES] exercises control over professional dental matters or ~~operates~~ the operation of ~~that operates~~ dental equipment in a facility [PLACE] where the acts and things described in this section are performed or done."

Amendment to amendment

passed - unanimous consent

Amendment Adopted by unanimous consent - incorporated into HESS CS by Lewis

HB
617

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

Date: MARCH 23, 1984

2/27/84

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SSHB 617

"An Act making a supplemental appropriation to the Alaska State Council on the Arts; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS:

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mr Tucker - No rec. on F. Nt.

Mar Tucker
CHAIRMAN

PLEASE NOTE

THE ORGINAL FILE CONTAINS AN OVERSIZED DOCUMENT THAT IS UNSUITABLE FOR FILMING. PLEASE REFER TO THE ALASKA STATE ARCHIVES TO VIEW THE ORIGINAL.

POSTER

"FINE ARTS CAMP 84"

Dan L. Monroe
Box 2618
Juneau, AK 99813

March 6, 1984

Mae Tischer
Alaska State Legislature
Pouch V
Juneau, Ak
99811

Dear Representative Tischer,

I am writing to request your support of HB 617.

This bill would provide a <u>one-time</u> $180,000 appropriation to the Alaska State Council on the Arts for summer Fine Arts Camps in Sitka, Palmer, and Fairbanks.

These programs provide intensive training in visual, performing, and literary arts for more than 730 junior and senior high students from sixty-seven communities throughout the state.

<u>Problem Addressed by HB 617</u>

Fine Arts Camps are not new programs. They have been in existence for years. HB 617 is a one-time appropriation which addresses a very specific problem that cannot otherwise be easily resolved- Fine Arts Camps of necessity must take place in late June and July.

This fact creates a serious financial problem- the camps must be conducted prior to determination of State Arts Council funding due to the timing of the state's fiscal year and the Arts Council's funding cycle. While Arts Council funding ($162,032 in 1983) comprises only 38% of the total costs of the camps with the remainder coming from private-sector and program revenues, the camps cannot be operated without this support.

At present, the camps must sign contracts to provide services before they know what level of funding they will receive from ASCA. This is fiscally unteneable for both the Fine Arts Camps and ASCA.

HB 617 will provide the camps with a special forward-fund to cover start-up costs. This will avoid the necessity for camps to contract for services supported by State Arts Council before they know whether or not ASCA grants can or will cover such costs.

Why Support HB 617?

Why support HB 617 during a time when the state is experiencing decreasing revenues and is confronted with so many basic human and physical problems?

Until I had the opportunity to visit the S tka Fine Arts Camp, I had an inadequate appreciation of the exceptional value of these programs to young Alaskans. Having seen students involved in learning music, visual art, theatre, dancing, and writing with an excitement and intensity which cannot be found in schools, my estimation of

the value of these programs changed radically.

Self-expression, self-confidence, and self-esteem are irreplaceable qualities to give young Alaskans. These qualities carry over into all aspects of a students future life and career. Fine Arts Camps provide these qualities to thousands of young people over the years. They therefore deserve your full support.

I appreciate your consideration and support of HB 617. Best wishes.

Sincerely,

Dan L. Monroe

Alaska Arts Southeast INC

P.O. BOX 2133, SITKA, ALASKA 99835 · PHONE (907)747-8177



March 1, 1984

Representative Mae Tischer
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Tischer:

Enclosed is a fact sheet on the three Fine Arts Camps in Alaska and their need for passage of HB617. The measure, if successful, will allow the Alaska State Council on the Arts to overcome an awkward and inappropriate cycle of funding for the Camps.

Your support is important to the passage of HB617 and will be greatly appreciated by students, parents, and the Fine Arts Camps. If I can provide you with further information, please let me know.

Thank you.

Sincerely,

Clyde L. Carraway
Executive Director

Enclosure

FINE ARTS CAMPS -- FACT SHEET

The three Fine Arts Camps in Palmer, Sitka, and Fairbanks encourage your support and passage of HB617 on the basis of the following facts:

THE PROBLEM:

To do adequate planning, the camps must enter into contracts with faculty and staff, for facilities, food services, and materials before operating funds have been awarded. This awkward situation was created several years ago when the camps were transferred from the Department of Education's budget to the State Arts Council's budget. The timing of the transfer, the state's fiscal year, and the Council's funding cycle immediately combined to cause the problem of ASCA's reviewing camp funding requests after the camps had begun to operate.

THE SOLUTION:

HB617 provides for a <u>one time appropriation</u> that would enable the camps and the State Arts Council to establish a forward funding cycle. It would work this way: the supplemental appropriation provided by HB617 will fund this spring's start-up costs as well as the remaining costs of the 1984 camps. Both start-up and continuing costs for the 1985 camps would then be included in the State Arts Council's FY85 funding request to the legislature.

FINE ARTS CAMPS MEET A CRITICAL NEED:

These camps provide intensive arts experiences in music, theatre, dance, visual arts, and creative writing for Alaskan students who would otherwise not have them. Although some students have arts activites available in their communities, most students have their first and only opportunity to explore their talents and interests at camp. The camps also provide a valuable alternative for students who do not excel at sports or academics but who nonetheless have talents that must be developed--for their benefit and the state's.

In 1983, the three camps served a total of 731 students from 67 Alaskan communities, villages, and logging camps.

TOTAL BUDGETS AND ASCA GRANTS OF THE FINE ARTS CAMPS:

All Three Camps	1982	1983
ASCA Funds	$138,732	$162,032
Total Budget	252,198	409,408

The funds to cover the remainder of the total budget are raised from businesses, organizations, corporations, schools, individuals, and students' camp tuition.

Deducting the $205,000 specified in HB617 from ASCA's FY85 budget would perpetuate the problem, not solve it. The only solution is to establish a forward funding cycle for the Fine Arts Camps with this one-time appropriation provided by HB617.

3/8/84

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Deducting the $205,000 specified in HB617 from ASCA's FY85 budget would perpetuate the problem, not solve it. The only solution is to establish a forward funding cycle for the Fine Arts Camps with this one-time appropriation provided by HB617.

Chilkoot Indian Association
P.O. Box 210
Haines, Alaska 99827

CHILKOOT TLINGIT

CULTURAL CAMP

"A place for your children to learn to live the way your grandfathers did."

July 16 - 20, 1984
July 22 - 31, 1984

The Chilkoot Tlingit Cultural Camp will provide an opportunity for our children and our elders to live and learn together.

Classes will be offered in:

- singing
- dancing
- carving
- beading
- drum making
- story telling
- mountain safety skills
- traditional fishing
- native food preparation
- cultural history and philosophy
- informal language instruction

Camp costs:

- Partial day camp for local children, ages 5-8, $5.00 per day. July 16 - 20

- 10-days for ages 9-12 (excluding ferry transportation to and from Haines) $100.00 * July 22 - 31

* $70.00 for food, $30.00 for supplies

Items to bring for camp:

- sleeping bag
- raingear
- towel, washcloth
- toothbrush
- toothpaste
- mosquito dope
- flashlight

Please note that absolutely no alcohol or drugs of any kind will be allowed in camp.

For further information call Haines Chilkoot Indian Association at 766-2310 or Raven House 766-2606

Registration deadline: July 1, 1984

Please enroll _____, age _____, in the Chilkoot Tlingit Cultural Camp for the dates of ☐ July 16-20, 1984 or ☐ July 22-31, 1984.

☐ Enclosed is _____ at $5.00 per day for partial day camp experience, or

☐ Enclosed is our $100.00 payment for the 10-day period.

Address: _____

Telephone number: _____ (in case of an emergency)

Do you have any particular skill that you would like your child to learn from the Tlingit elders? If so, please let us know.

Does your child have any individual problems or habits we should be aware of? _____

Please return the enclosed form and camp fee to: Chilkoot Indian Association
P.O. Box 414
Haines, Alaska 99827

CHILKOOT CULTURAL CAMP

In the summer of 1982, Austin Hammond and members of Chilkoot Indian Association constructed a smokehouse at the old Chilkoot village site to teach young people how to dry fish and berries for winter food supply. An educational permit was issued by the Alaska Department of Fish and Game to take by traditional means 200 sockeye and 200 pinks from the Chilkoot River from July 1st to August 30 for this purpose. Because of the late construction of the smokehouse, no fish were taken or processed that summer.

In 1983, as soon as the snow left the ground at Chilkoot Village, Austin and members of Chilkoot Association began constructing a traditional walkway and fish boxes in the river. Twelve foot long poles with gaff hooks were made. A new educational permit was issued from the Department of Fish and Game for 200 sockeyes and 200 pinks to be taken from the river.

Platforms were built for 2 tents and an outhouse was made. The Raven's Wing building was donated and moved from the Folta house at Lutak to the campsite. This building was used for housing a caretaker, cooking and dining as well as evening storytelling.

Chilkoot Tlingit Cultural Camp was held in a 10-day session in August, 1983 , with these campers travelling from Juneau, Hoonah and Haines to attend the camp:

Participants	Sponsor
Bobby Brakes	Family
Joe Hamilton	Family
Gwen Austin	Tlingit and Haida
Rayna Serabia	SEARHC
Denise Austin	Sealaska Heritage Foundation
Aaron Greenberg	Family
Sarah Gregory	V.F.W.
Nicholas Folta	Family
Danny Hammond	Family
Michele Dalton	Family
Richard Dalton III	Family

The registration cost for each of these participants was $100.00 which covered the cost of food at $7.00/day and a supplies fee of $3.00/day.

The campers arrived by ferry and were transported by truck to Raven House to see the film "Haa Shagoon", moving then out to the campsite. Most of the camp construction was completed by this time, but the youth were challenged to make their tents homey by adding shelves, mattresses, extra blankets, mirrors, etc.

Three children from Haines attended camp on a day-camp basis. These children were:

Rob Figdor
Reed Scott
Leif Asper

Each camper made a drum with steamed wooden base and goat hide skin drum head. David Andrews helped us know how to stretch the drum heads over the frames. Some of the campers sketched their clan designs on their drums and will paint them during the winter. Several hours each day the youths practiced singing, drumming and dancing skills. They took great pride in teaching and learning from each other. Some campers who had never sung or danced before performed in Tlingit Park with the Eagle-Raven Dancers. Dixie Johnson came several afternoons to help the campers learn new songs.

Austin Hammond worked closely with each of the children, telling Raven stories, the history of Chilkoot Villate and shared "how to live" stories. This was the real magic of camp. The youth listened intently to the stories and yearned for more opportunities to learn from their elders.

Campers took part in the Deer Rock Celebration held along the Chilkoot River to commemorate the reconstruction of Deer Rock. They picked berries and made fried seaweed for the feast which followed the celebration. The campers also spent one day at the Southeast Alaska State Fair.

Each camper cut five fish to be dried in the smokehouse. The fish were donated by Fish and Game from the Chilkoot weir samples. The youth shared this fish with visitors and took some to their homes to share with their families. Some campers prepared dried berry cakes.

Although the campers fished every day, no dish were caught by gaff hooks. The Elders believe this is because the fish are not schooling after they come through the weir one by one, and the fish are moving up to the lake on the opposite side of the river.

Next year, in the early spring, more rocks will be moved when the water is low to encourage the fish to move again in their traditonal channels.

PROPOSED PLANS FOR CHILKOOT CULTURAL CAMP
FOR July and August, 1984

The Chilkoot Indian Association would like to plan two sessions for camp this summer, with the possibility of a weekend retreat for older teens and young adults.

The first session will be for young children ages 5-9, as a day-camp experience. The children will come from Haines each day for learning activities, including:

fish cutting
fire building
berry picking
making a family tree
listening to stories
making puppets to play the stories
making headbands with beaded designs

Lunch will be provided to provide opportunities for children to sample Tlingit foods. We hope to do some outdoor cooking as a part of this experience. Resource teachers who are skilled in Tlingit food preparation, stories and history , and beadwork will be hired to teach their skills for two hours in the morning and two hours in the afternoon of each of these days for a one week period. The video-equipment owned by the Chilkoot Association will record the happenings. The fee will be $50.00

The second session will be a 10-day, live-in experience for youth ages 10-14. Each family will pay $100.00 which will include food and camp expense costs. The learning activities will include:

catching fish in the river
cutting fish for drying
fire building
survival skills in the mountains and woods
making a family tree
berry picking
making berry cakes
carving skills
beading skills
drummaking
listening to stories
learning to retell stories

Teachers skilled in preparing Tlingit foods, survival skills, beading, and stories and history will be hired to teach their skills for four hours each day for ten days.

The Institute of Alaska Native Arts will provide Artist-In-Residence funds for Nathan Jackson to teach carving and design skills to the campers in the 10-day session. He will live at camp with the youth.

We have the committment of three adult volunteers who will also live at camp as counselors for the 10-day session.

We will hire a full-time cook who is skilled in preparing Tlingit camp food. We want to do some outdoor cooking this year.

We are seeking funds for the following items and we welcome your support:

- insurance
- resource teachers'salaries
- office expenses
  - telephone
  - copying
  - postage
- camp tools and equipment
- activities supplies
- cook's salary
- Raven's Wing repairs
- camper scholarships

Our 1984 budget is attached. We're looking forward to a great summer!

CHILKOOT CULTURAL CAMP -- 1984 BUDGET

ITEM	ALASKA STATE COUNCIL ON THE ARTS	J.O.M.	INSTITUTE OF ALASKA NATIVE ARTS	IN-KIND	BIA
ADMINISTRATIVE COSTS		CAMP DIRECTOR (250 hrs/$10 hr.) $2,500. EMPLOYMENT BENEFITS $377. 2 CAMP COUNSELORS (200 hrs/$10 hr.) $2,000		CHILKOOT INDIAN ASSOCIATION OFFICE SPACE & BOOKKEEPING SERV. $500. 4 VOLUNTEER CAMP COUNSELORS $19,200.	CAMP INSURANCE $1,000.
ARTISTS' FEES	2 STORYTELLERS, EACH (50 hrs./$10 hr.) 1 EAGLE CLAN 1 RAVEN CLAN $1,000. 3 BEADWORKERS, EACH (50 hrs./$10 hr.) $1,500. 1 PUPPETEER (50 hrs/$10 hr) $500. 1 DRUMMER (50 hrs/$10 hr.) $500. 1 SONG LEADER (50hrs/$10 hr.) $500 ARTIST-IN-RESIDENCE FOR WAYNE PRICE HONORARIUM $1,500.	TRADITIONAL FOOD CONSULTANT (250 hrs/$10 hr.) $2,500. SURVIVAL SKILLS CONSULTANT (80 hrs/$10 hr) $800.	ARTIST-IN-RESIDENCE FOR NATHAN JACKSON HONORARIUM $1,500.		

ITEM	ALASKA STATE COUNCIL ON THE ARTS	J.O.M.	INSTITUTE OF ALASKA NATIVE ARTS	IN-KIND	BIA
TRAVEL	ROUND TRIP, JUNEAU-HAINES BY FERRY FOR PUPPETEER $75.		ROUND TRIP, KETCHIKAN-HAINES $200.		
TRAVEL	ROUND TRIP FOR ARTIST WRANGELL-HAINES $150.				
PER DIEM	FOR WAYNE PRICE ($35/day x 14 days) $490.		FOR NATHAN JACKSON ($35/day x 14 days) $490.		
SUPPLIES	WOOD CARVING & TOOL MAKING MATERIALS $500 FELT, BEADS, DEERSKIN, DRUM HEADS, FRAMES, PUPPETRY SUPPLIES $1,000.		WOOD CARVING & TOOL MAKING MATERIALS $500.		
AUDIO-VIDEO	VIDEO TAPES $100. AUDIO TAPES $100.			VIDEO TAPE EQUIP. & OPERATOR $1,000.	
PRINTING, PHONE POSTAGE	CAMP REGISTRATIONS $500.			$300.	
CAMP BUILDINGS		FLOOR REPAIR $800.		SMOKEHOUSE CONSTUCTION $3,000. DONATION OF RAVEN'S WING COMMUNITY BLDG. $2,500.	
TOTALS	$8,415.	$8,977.	$2,690.	$26,500.	$1,000.

Alaska State Legislature

Representative Niilo Koponen

FAIRBANKS
Box 252
Fairbanks, Alaska 99707
479-6782

JUNEAU
Pouch V
Juneau, Alaska 99811
465-4992

MEMORANDUM

TO: Representative Koponen
FROM: Deborah Niedermeyer, Legialative Aide DMN
RE: Arts Camp Supplemental
DATE: 23 March, 1984

BACKGROUND

Alaska's arts camps which begin typically in early July, get a major portion of their money through grants from Alaska State Council on the Arts. The Arts Council, which gets its money from the Department of Education through the Legislature does not know what its budget for arts camps grants will be until a month or two into the new fiscal year, that is, not until the arts camps are in progress or even completely over. This has been a serious management problem.

THE BILL

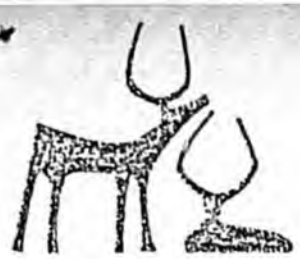
HB 617 makes an FY84 supplemental appropriation to Alaska State Council on the Arts equal to the amount the Arts Council expects to grant the arts camps in FY85. This allows the Council to hold whatever money it eventually receives from the legislature for FY85 in reserve for the beginning of FY86. The bill is thus a forward funding mechanism which allows both the camps and the Arts Council to make their budgets based on the money they have, not what they hope to get. It is a one time only appropriation.

THE BUDGET

Both the House and Senate Education Finance Subcommittees have added $180 to the FY85 Arts Council budget for the purpose of forward funding arts camps. We are extremely pleased as this would correct much of the problem after July 1985. However, only a supplemental appropriation to the FY84 budget will correct the problem in this fiscal year, in time for this summer's arts camps. In addition, the $180 appropriation is $25,000 below the figure needed for the four arts camps expected to qualify for grants from the Arts Council.

SPECIFICALLY

The U of A Fine Arts Camp in Fairbanks is requesting	$ 46,182
Alaska Arts Southeast Camp in Sitka is requesting	$ 76,650
Alaska Fine Arts Camp Inc. in Kings Lake is requesting	$ 73,500
Chilkoot Cultural Camp in Haines is requesting	$ 8,415
TOTAL:	$204,747



21 September 1983

Alison Elgee
Special Assistant to the Commissioner
Department of Education
Pouch F
Juneau, Alaska 99811

Dear Alison:

While I was in Juneau last week for budget meetings, we discussed the Fine Arts Camps in the state which receive funding through the Alaska State Council on the Arts. I mentioned that the Arts Council and the Fine Arts Camps were not satisfied with the present method of funding: grants which occur either at the beginning or end of the state's fiscal year and which do not allow for advance planning or proper cash flows. We and the camps suggested that the State Arts Council request a budget increment in our FY85 grants budget to begin forward funding for the camps.

Last week you suggested that since this would be a one time cost, a special appropriation might be a better solution than a budget increase. I am writing to say that I am in agreement and to provide you with some figures on the camps. Our goal for FY85 is to obtain funds for both the management and programs costs of the 1984 summer season as well as to grant out funds for the 1985 summer season. Program and planning costs for all three fine arts camps begin mounting up in January of a given year; Arts Council grants are not awarded until late July of the same year - after the camp season is over. The forward funding process will enable us to grant funds in July for programs and planning which will begin in January and end in mid-July. The special appropriation will enable us to "get over the hump" in terms of the extra money needed for the first year of the program.

The following figures have been provided by the three camps:

University of Alaska Fine Arts Camp, Fairbanks	$ 46,182	Request to ASCA for 1984 season
	157,182	Total budget for 1984 season
191 students at 1983 summer camp	53,725	Request to ASCA for 1985 season
	177,925	Total budget for 1985 season

Alaska State Council on the Arts
619 Warehouse Avenue, Suite 220/Anchorage, Alaska 99501/(907) 279-1558

Alaska Arts Southeast Camp, Sitka	$ 76,650	Request to ASCA for 1984 season
	201,852	Total budget for 1984 season
270 students at 1983 summer camp	74,500	Request to ASCA for 1985 season
	222,602	Total budget for 1985 season
Alaska Fine Arts Camp, Inc., Kings Lake	73,500	Request to ASCA for 1984 season
	161,000	Total budget for 1984 season
266 students at 1983 summer camp	73,500	Request to ASCA for 1985 season
	170,000	Total budget for 1985 season

Since we are attempting to overcome a lack of funds for advance planning and to begin forward funding of all three camps, I would suggest that the Legislature be approached for a special appropriation of $ 200,000.

Arts Council staff is still in the process of revising our project grant application for use by the Fine Arts Camps. As soon as that is done and the completed applications have been submitted to us, I will send copies to you. The applications will give you a detailed breakdown of what grant funds are used for, proportion of cash match, tuitions, etc.

Please contact me if you have questions. And thank you for all your help and support.

Sincerely,

Chris D'Arcy

Christine D'Arcy
Acting Executive Director

cc:State Council on the Arts
Ernest Polley
Ted DeCorso, University of Alaska Fine Arts Camp
Dewey Ehling, Alaska Fine Arts Camp, Inc.
Clyde Carraway, Alaska Arts Southeast

HB
631

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

House Bill 631, "An Act relating to runaway children," by Representative John Liska, adds a new subsection to AS 47.10.080 (Delinquent Minors and Children in Need of Aid. Judgements and Orders) that makes certain minors wards of the state if they refuse to return home, or stay at home, as ordered by a court; and requires the Department of Health and Social Services to place the child into a child care facility.

The bill also amends sections that outline legal custody, guardianship and residual rights and responsibilities by addition of language stating that a parent has no responsibility for support of a minor child who refuses to voluntarily reside with the parent and whose legal custody has been transferred from the parent by court decree, unless custody has been transferred from the parent because of abandonment, abuse, or neglect.

The bill also amends the section relating to temporary detention of a minor, providing that a peace officer, upon receiving a report that a minor is evading the person having legal custody, shall make reasonable efforts to locate and detain the minor for the sole purpose of either returning the minor to the proper custodian or taking the minor to an office specified by the Department of Health and Social Services.

The bill does not provide for an effective date and becomes law 90 days after the Governor signs the bill.

(Legislative Reporting Service, 2/20/84, pp. 361 - 362)

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
Monday, 9 April 1984

Agenda

Call to Order

Comments by Representative Tischer, Chairman

Consideration of CSHB 631, "An Act relating to runaway children."

Comments by members

Announcements

Adjournment

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Friday, April 27, 1984
1:15 p.m.
Capitol Room 112
Juneau, Alaska

A G E N D A

Call to Order

Comments by Representative Mae Tischer, Chairman

Consideration of HB 631, "An Act relating to runaway children," with a proposed House HESS Committee Substitute.

Consideration of CSSB 346 (Judiciary), amended, "An Act relating to the treatment of mentally ill persons."

Announcements

Adjournment

Do you know someone with ALS? (Lou Gehrig's disease)

If you do, then you know how devastating ALS can be. But, you may not know that throughout the country, friends and relatives of ALS patients are doing something about ALS by setting up Local Chapters of the National ALS Foundation.

Local Chapters are resource centers—places where ALS patients and their families can find out what services are available. They can get together for rap sessions, to share and ease the burden of ALS, and to find out that they are not alone.

Local Chapters can generate public awareness—raise money for the all important research—and bring us one step closer to finding a cure for ALS.

To learn how you can help set up a Local Chapter and to be part of a growing, nationwide organization that's doing something about ALS, contact the National ALS Foundation, 185 Madison Avenue, New York, NY 10016, or call (212) 679-4016.

This message contributed by Newsweek, Inc.



Back home: Darcy Reeves (front) with mother and sister

tans" who offered to take her to their house. The Port Authority police were also converging on her and won the contest; she was soon on a plane headed home. "You soon find out that all those 'good people' who want to 'help you' want something in return," says a Philadelphia 16-year-old who was not so lucky—and is now pregnant by her newfound "friend."

Pimps: Hustlers operate in a netherworld all their own. In Hollywood, for instance, there's a wage scale of sorts. Attractive new arrivals can earn top dollar ($250 or so, on up) from the homosexual "chicken hawks" who cruise Santa Monica Boulevard in search of young boys. "Everyone knows the regulars, so when they see a new face, they have to try you," explains one young denizen. "After they get to know you, though, you have to do more and more to earn your money." Times can be even tougher for girls, who usually have pimps to support, and staying straight is often well-nigh impossible. L.A. police detective Larry Broadhurst still shudders over one young victim from two years ago. "She was a real good looking blond girl," he recalls. "A pimp approached her to work for him, and she refused. Told him she didn't want to have anything to do with his business." The pimp didn't give up, he followed her and pounded on her motel door. "When she opened it, this guy just stuck a knife right through her head."

Authorities are trying to provide more effective refuge. In Boston, the vans from Bridge Over Troubled Waters roll right up to the kids on the streets, offering dentists, doctors and drug therapy. At many shelters the rules are stricter than those at the homes the kids have left: at Houston's Family Connection, residents must rise at 8:30 a.m., cook all their own meals, clean their rooms and request permission to stay out after 5:30. Generally, the shelters' goal is to identify family problems, begin counseling and return the runaways—except to parents who abuse them. The success rate runs anywhere from 50 to 70 percent. "We desperately need more places like this," says Sandra Reeves of Houston, whose 15-year-old daughter, Darcy, has run away three times, only to be reunited through family counseling. "Please tell mothers and fathers that their children *can* come home."

To help those children who resolutely won't—or can't—go home again, states and municipalities have also been changing their juvenile laws. At least a dozen states now allow courts to "emancipate" minors, so that they may hold jobs and apartments on their own; in Connecticut, a 16-year-old can effectively "divorce" abusive parents and be treated as an adult. Some law-enforcement officials are less than enthusiastic about the liberalization trend, claiming they're now unable to step in and aid troubled runaways. But some frustrated parents are saying "good riddance" to incorrigible adolescents. Toughlove, the Pennsylvania-based parents organization, suggests families lock the doors behind difficult runaways until they promise to change—while providing them with a list of other Toughlovers who will act as caretakers. In several states, wits-end parents can also ask the courts to designate perennial trouble-makers "persons in need of supervision"; they can then be picked up for running away, and a judge can impose psychiatric care or other treatment.

Rebels: To be sure, not every vagabond child can be classified as either innocent or incorrigible. Some classic rebels without cause still take off from pure pique or boredom. Beth, 16, showed up at a shelter in Prince Georges County, Md., claiming she had been maltreated by her mother; the "abuse" turned out to be a failure to provide designer jeans. But many experts say such cases represent a declining minority. "There is the child who is just too big for his britches," concedes Alice O'Shea, chief of the child-advocate unit in Philadelphia's Office of the Public Defender. "But they are the minority." Experts say only 10 percent of runaways qualify as "spoiled brats."

Authorities worry that [illegible] juvenile

Sherwood Anderson
John Ashbery
Saul Bellow
Elizabeth Bishop
Hart Crane
T.S. Eliot
Ralph Ellison
Ralph Waldo Emerson
William Faulkner
Ford Madox Ford
William Gass
Ernest Hemingway
H.D.
Erica Jong
James Joyce
Jack Kerouac
Maxine Hong Kingston
Maxine Kumin
D.H. Lawrence
Marianne Moore
Anais Nin
Joyce Carol Oates
Frank O'Hara
Katherine Ann Porter
Ezra Pound
Gertrude Stein
Wallace Stevens
Dylan Thomas
William Carlos Williams
Richard Wright

The literary magazines that first published these great writers are going out of business.

Unless you help()

[illegible]

facilities won't be able to handle an influx of teen agers who jump, or are pushed out on their own. Financing for shelters is precarious, although Congress authorized more than $20 million, the administration proposed only $6.6 million in the current budget. Several senators managed to boost the figure to $18 million. Even that amount would provide less than $18 per runaway—and the budget battle must be fought again when the current funding expires Dec. 15. "The private sector cannot and will not pick this program up," says Rep. Pat Williams of Montana. "This is a bedpan program, the kind that no one wants to get involved in, and that is why the Feds got into it in the first place."

Ultimate Rejection: Yet even if sufficient money could be found to put counselors on every street corner, more fundamental questions would remain. One's own home is, after all, supposed to be the place where they have to take you in, no matter what, being forced to leave it can be the ultimate rejection. Sister Dolores Gartanutti of New York's Noah's Ark shelter deplores "the Kleenex mentality" that brings most young charges to her door. "We live in a society where we use things and just throw them away," she says. "I swear, a lot of people have this attitude toward kids." And so the throwaway children pile up, from New York to California, to be exploited and brutalized. Sooner or later, those who cast them off must realize that children are not so neatly disposable. The longer they remain on the streets, the less chance they can ever be reclaimed—and the more they will cost everyone.

LYNN LANGWAY with RENEE MICHAEL in New York, MARY FORD in Washington, DIANNE H. McDONALD in Philadelphia, BARBARA BURGOWER in Houston, and RICK RUIZ in Los Angeles

Lookout: Father Ritter in Times Square



Alaska State Legislature

House of Representatives

John J. Liska

March 26, 1984

M E M O R A N D U M

TO: Rep. Mae Tischer, Chairman - Health, Education and Social Services

FROM: Rep. John J. Liska

SUBJECT: HB 631, "An Act relating to runaway children."

The purpose of this bill is three fold.

a. Section 1 - is an attempt to require by law a minor to be accountable to either parents at home or a guardian at a foster home or be placed in an appropriate institution.

Presently, if a minor runs away from home, and he is not breaking any laws, he is free to do as he wishes. The intention behind our bill is - The child does not have the maturity to exist in todays society without becoming a subject of prey for a variety of undesirable types of people. If you will refer to item D, Article number 1 - in your packet, it clearly describes what happens to these run away children.

While it is not the intention to violate the rights of any child, we feel it is the responsibility of either the parents of the State to be in control of the minor because at this stage in their life they are not mature enough to be able to function in society on their own.

Section C refers to a minor who refuses to reside with the parents, and who's custody has been transferred to the state, not because of abuse, neglect or abandonment, the minor has just decided he does not want to live at home. The parents of such a minor will no longer be responsible for the support of such a minor. Simply put, if the child refuses to live at home by the parents rules, the parents can legally be decleared not responsible for the support of the child. This will encourage the child to work this out with their parents. Additionally, it will encourage the Department of Health and Social Services to recommend the minors go back to their families due to additional state costs.

And the last section of the bill states that a peace officer shall make a reasonable effort to locate a minor who is evading his guardian. Presently the police can, if they want to but they don't have to, try to locate a run away child.

HB 631
Memorandum
3-26-84

Additionally, it is essential in my opinion that these children not be allowed to remain on the streets, even for a couple of days or long enough to decide at a court hearing whether or not they are to be picked up.

I refer to item D, Article number 2, the longer they are on the streets the more likely they will become involved in situations that will have a life long effect on them. We feel they are incapable of protecting themselves from this involvement and therefor it is the states responsibility to protect them.

In your packet you will find the following for your informa[illegible].

A. Copy of HB 631.

B. Position Paper from Health, Education and Social Services.

C. Memorandum from Jos Mapranath, Director-Division of Administrative Services, Department of Public Safety.

D. Article regarding runaway children.

1. From USA Today March 1979, Life in America, "The Adolescent Runaway: A national Problem"

2. Newsweek Oct. 18, 1982, Life/Style, "A Nation of Runaway Kids"

JJL/tm

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
HOUSE BILL 631

"An Act relating to runaway children."

OVERVIEW: This Bill proposes three major changes to the present statutes which deal with runaway children: 1. It adds a new subsection to Sec. 47.10.080, "Judgments and Orders," which automatically gives custody of runaway children to the Department for the purpose of institutional placement; 2. The Bill proposes relieving the parents (of runaway children) from any responsibility for support if the child is in the custody of someone other than the parent; and 3. This Bill adds to the responsibility of peace officers in two ways: (a.) the peace officer shall make efforts to locate runaway children; and (b.) the peace officer shall detain the runaway child.

STATEMENT OF THE PROBLEM

The Department of Health and Social Services provides services to runaway children through its field offices and by funding programs specifically designed to counsel runaway children and their families. These services can include placement of the runaway child; but the major goal is to reunite the family, and not support further family breakdown by premature or lengthy placement of the child. The child's action of running away from home is an indicator, a symptom of family dysfunction; the action is not criminal.

At the present time a runaway minor becomes a ward of the State under AS 47.10.010. Once a minor and his/her parents have participated in a court hearing the minor may be determined by the court to be a child in need of aid. If the court makes a child in need of aid determination, the court then orders the child committed to the Department for placement in an appropriate setting (AS 47.10.080 Judgments and Orders). The Department decides if a juvenile institution is the treatment service needed by the runaway child. If this Bill becomes law this whole procedure would be bypassed since this Bill essentially defines the runaway child as a ward of the State and then mandates the Department to place the child in a juvenile institution.

In 1977 the statutes were specifically changed to allow a runaway child to be defined as a child in need of aid and not a delinquent minor since running away from home was not defined as a crime. Before the statute changed, runaway children were detained in juvenile detention facilities; and it was recognized nationwide as an inadequate and punitive method for dealing with children and families who were in need of counseling services. With the lack of specificity in the current definition of "juvenile institution" and with the lack of definition in this proposed legislation, there is a high risk that children could/would be locked up in detention facilities with delinquents who have committed crimes.

In reference to the issue of parental support, currently when the Department of Health and Social Services is granted custody of a child, the parent remains responsible for the support of the child. The rationale for the continuation of a parent's responsibility is to encourage reunification of the family. The parents of a runaway child (who is found to be a child in need of aid and placed in the custody of the State) are not treated any differently than any other parents.

This Bill differentiates between the responsibilities of the parent of a runaway child whose custody has been given to the State as opposed to the responsibilities of the parent who has lost custody because of abuse and/or neglect. It is also conceivable that divorce custody support issues would be impacted since the wording of the Bill does not identify to whom custody has been given.

In regard to the third change which is proposed, running away is not currently defined as a crime; therefore, peace officers are not required to search for runaway children, nor are they required to detain a child when the child is located. The law enforcement agencies in the State of Alaska are not adequately staffed to assume the responsibility of even making reasonable efforts to locate runaway minors; and this law mandates peace officers to broaden their responsibility. If the Bill becomes law peace officers will also be mandated to detain minors relieving the police officer of any personal judgment in deciding whether or not a child should be detained.

RECOMMENDATION

The Department opposes this proposed legislation because: 1) It is not consistent with adjudication and dispositional statutes; 2) It appears to violate constitutional rights by excluding a hearing before granting custody to the Department; 3) It defines the placement need of the child without consideration of the individual case; 4) It provides for "special" treatment to parents of runaway children by relieving their responsibility for support; and 5) It endangers the non-criminal status of runaway children.

RECOMMENDED BY: _____
Michael L. Price, Director
Division of Family and
Youth Services

DATE: _____

APPROVED BY: Robert London Smith
Robert London Smith, Ph. D.
Commissioner
Department of Health and
Social Services

DATE: 3/6/84

MEMORANDUM State of Alaska

JAN 11 1984

TO: Jay Hogan, Associate Director
Division of Budget Review
Office of Management and Budget
Office of the Governor

DATE: January 6, 1984

FILE NO:

TELEPHONE NO: 465-4322

FROM: Jos Mapranath, Director
Division of Administrative Services
Department of Public Safety

SUBJECT: Criminally Exploited Children

We have reviewed the materials submitted on criminally exploited children in Alaska and wish to express our support for the formation of a special law enforcement unit in Anchorage to deal with this serious problem. The unit would be a joint State and local cooperative effort similar to the successful Anchorage Metro Drug Unit. The cost is estimated at $375.0 for FY 85 and would include one Anchorage P.D. Sergeant, one Anchorage Police Officer, one Anchorage clerical position, and one State Trooper Sergeant.

While we recognize the seriousness of criminal exploitation of children and that this is a growing problem, it is not feasible at this time for either the Anchorage Police Department or the Division of Alaska State Troopers to divert limited existing resources to form the proposed special unit. We would, however, be pleased to participate in such an effort if funding is provided. Therefore, I urge your support of an appropriation in the amount of $375.0 to fund a special investigative unit on criminally exploited children.

Further details are available upon request. Your consideration of the requested appropriation to deal with this problem is appreciated.

cc: Commissioner Robert J. Sundberg
Commissioner Roger Endell
Peter B. McDowell, OMB
Brian Porter, Chief, APD
Colonel Michael C. Kolivosky, AST
Marroyce Hall, AK Juvenile Crime Commission
Sandra Borbridge, Spec. Assistant to the Governor
Allen Blume, Spec. Staff Assistant to the Governor

TO: Mrs Hall

FROM: LAW ENFORCEMENT OFFICER KNOWLEDGABLE IN THE FIELD OF CHILD EXPLOITATION. OFFICERS NAME DELETED AS A POLICY OF THE ANCHORAGE POLICE DEPARTMENT

DATE: October 20, 1981

SUBJECT: Criminal Activities of Juveniles in Anchorage

The purpose of this brief letter is to state my opinion of the status of current criminal activity involving juveniles in the Anchorage area. As you know I have been a police officer for the past five plus years in the Anchorage area and hive worked for two different periods as a counselor at McLaughlin Youth Center. What I am stating here is strictly my opinion and does not represent in any way the viewpoint of my employer, the Anchorage Police Department.

During recent years Anchorage, as well as other communities within the State of Alaska, has experienced a tremendous increase in the level and depth of juvenile criminal activity. I believe that this is in part due to the tremendous growth that this community and this State have experienced in recent years and also because of the ineffectiveness of the criminal justice system to deal with the problem. My opinion of the current status of this activity has developed because of my involvement with juveniles in the community and as a result of my involvement in numerous investigations dealing with some of these problems.

What has developed in this community, as is characteristic of other communities in other States, is a network of criminal activity of which juveniles play a substantial part. This has developed to the extent that many of our young persons so exposed actually are a part of a sub-culture existing in the same space but at different times within the mainstream of our society. This subculture has a set of values and morals that are substantially different than those of the mainbody of our society and paramount within this set of values is the belief that youth equates to victimization. When a young person in our community is, for a variety and combination of reasons, forced out of the home environment and onto the "streets" (so to speak), he is subjected to an elaborate system of victimization on the part of adults within the community who, in essence, use youth to their advantage in the perpetuation of their criminal activities and personal desires.

A young person finding himself/herself within this position is necessarily forced to first, survive. In order to do this, the youth must engage in activities which an adult can support. These activities extend from theft to drug usage/sales and prostitution. Adults involved in these activities will promote the involvement of juveniles to the advantage of the adult while at the same time providing for the juvenile, as a minimum, the basic needs of food, clothing and shelter needed by the juvenile to survive. Juveniles within this community are extensively involved in theft, drugs and prostitution and these activities are promoted and supported by adults within the community. The extent of the

problem is largely unseen, even by many persons within the criminal justice system who deal with these juveniles daily as a part of their jobs, because the juvenile does not often talk about depth of involvement to anyone, other than his/her peer group and in some cases, not even to them. The system tends to look at each individual act by itself, failing to realize that there is a much greater problem, individually and collectively, lurking below the surface of the individual act.

As an example of what I have previously stated, I would estimate that about 50% of all the boys admitted to McLaughlin Youth Center have had some contact with adults of a homosexual nature. I would further estimate that in excess of 25% of these have had what could be termed deep involvement with more than one adult. Often, this kind of activity, develops in relation to other types of activity including the adult using the juvenile for drug sales and to provide merchandise for fencing operations of small and large scale. It is not surprising then, that when the juvenile so involved is picked up for a property crime or drug related offense, the depth of his involvement is never revealed to those professionals within the system that later deal with him.

Any juvenile who, for whatever reasons, spends more than a short amount of time living away from a home and on the "streets" will become involved to a greater or lesser degree in the kind of activity I have just described. Since the adult(s) involved use the juvenile for their purposes, the normal role of adult guidance in the maturing process is severely distorted which in turn perpetuates the problem as the juvenile grows older and changes from being the victim to the user. Over a period of time of involvement in these kinds of activities the youth gradually begins to believe that the only thing that will change his being used to another's advantage is age and that when that age is attained the role can be reversed.

It is virtually impossible for a young person to survive away from home without becoming involved in these kinds of activities because of the inability of a young person to legitimately obtain the basic necessities of food, clothing and shelter necessary for survival. It is further, virtually impossible, for that young person to steal enough through burglary, robbery or theft to attain these necessities. As such, the young person in that position, must turn to other more profitable activities. These activities involve drugs and prostitution. The problem is further compounded, in most cases, because of th emotional problems that the youth is experiencing as the result of his necessity to leave the home or to replace the home needs with persons met outside the home and his resultant turn towards drug useage. Drugs are expensive and not within the reach of the average young person through legitimate earnings. Adults desiring use of juveniles for sexual purposes are well aware of the juvenile's problems and will frequently provide, either the basic needs of survival, or drugs or both in return for sexual favors. In many cases, the juvenile can provide sexual favors for a much higher than could be obtained through other types of criminal activity. Adults desiring these kind of favors are very perceptive in being able to identify those juveniles that are in a position to which they would be susceptable to such propositions.

All this exists on a large scale in the Anchorage area. The extent of this existence increases steadily because of the inability of the Criminal Justice System and the community to control it. I would estimate that the extent of the

problem in Anchorage is proportionately greater than it is in other comparable communities in the United States, again for a variety of reasons. It is common knowledge that large scale fencing operations exist within the Anchorage area as is evidenced by the very small percentage of stolen property that is recovered and the relatively high frequency of recovery of stolen property from Alaska in other states. The extent of drug sales operations and drug useage amongst juveniles in the Anchorage area, again, is particularly high to the extent that it is virtually impossible for any young person not to be exposed to drugs, and not just marijuana, beginning in junior high school. The extent of juvenile prostitution activities, particularly as it involves males, is also extremely high in the Anchorage area to the degree that virtually all juveniles living out of the home are exposed and many still living at home are exposed.

There exists, in Anchorage, houses where juveniles on the run can find temporary shelter. These houses are provided either directly or indirectly by an adult. Unfortunately, there are strings attached to the use of the house by the juvenile. There have been commercial pornography operations involving sexual involvement of juveniles in the most perverted kinds of sexual activity operating in the Anchorage area. These operations have been directed by organizations from without the State of Alaska. There have been commercial prostitution operations within the Anchorage area in which juveniles were the merchandise and in which the fees paid were extremely high. There have been large scale drug operations in which juveniles, many of them going to school and living at home, were involved as the primary pushers. There have been large scale fencing operations in the Anchorage area in which merchandise stolen by juveniles was fenced by adults to create huge profits.

The depth of this whole problem is really seen when one realizes what becomes of the juvenile that is involved in these kinds of activities. All young persons growing up need adult guidance and emotional support in order that a moral and value system can develop. If the child receives, for this need, guidance and "emotional support" from persons that only wish to use him, it is understandable how we are developing a subculture of increasing size within the mainstream of our primary culture, in which the value system is as foreign as one would be from a far Eastern country. The use of youth for personal gain is as foreign to the basis of our culture as is the crime of murder and yet we are allowing this to exist, and to in fact grow, within the Anchorage area to a massive degree. Much of this problem is a criminal problem and must be solved through enforcement means. To this end we are sorely lacking.

ARTICLE NUMBER ONE

LIFE IN AMERICA

The Adolescent Runaway:

A NATIONAL PROBLEM

"No one seems willing to accept clear responsibility for the thousands of children over 15 who stand outside the jurisdiction of family courts, criminal courts, and, in large part, the child welfare system."

by Bruce Ritter, O.F.M.

OVER a decade ago I became involved almost against my will with one of the many problems of any large metropolitan area when 30 runaway children from the ages of 13 to 17 sought my help asking to sleep on the floor of an apartment in the East Village of New York City I was receiving at that time a monthly stipend to the poor. There I found that 40 children had been recruited, advised by some junkies in the neighborhood, had been burned out of the abandoned building in which they were living and before that had been forced to make a pornographic movie in order to pay for their room and board.

Because I could not find any place for them in the child welfare system I kept them. They simply moved into my apartment. So many hundreds of homeless young people began knocking on my door that I and my friends were forced to begin a new child care agency — since that time over 10 years ago Covenant House has sheltered many thousands of runaway and self emancipated kids, returning many to their homes and keeping many for long term care. Hundreds upon hundreds were victims of child abuse.

Many people are unaware of the enormous dimensions of the problem of runaways and homeless children in our society — or what can happen to them. Over 1,000,000 juveniles run away every year in this country. According to a New York City Police estimate there are at least 20,000 runaways under 16 in New York City at any one time. If you add to that number the many thousands of *self emancipated* youngsters between the ages of 16-18 and even the greater number between 19 and 21, the numbers of children on the streets are staggering.

These numbers are not just pulled out of a rhetorical hat. In the first year after the Covenant House crisis center, Under Twenty One, was opened (April 1, 1977), well over 4,000 children have sought our help: over 500 of them were 15 and under, another 900 were between 16 and 17, and over 1,500 between 18 and 20. Covenant House expects to serve about 6,000 walk in children under 18 at its Eighth Avenue center this year: who should not be on the streets, but for whom no effective programs exist. As a result these children are frequently subjected to the grossest kind of abuse. About [illegible] children under the care of [illegible] come to Under Twenty One [illegible] during 1978.

A question of responsibility

The very complex issues raised by these thousands of homeless young people cross a dozen different jurisdictions: states' rights, parents' rights, children's rights, family and criminal court questions, the nature of the child care system, etc. The thinking and practice regarding the rights of juveniles has been evolving so quickly over the past 10 years that legislators have had great difficulty keeping up with the changing status of juveniles in our country. The ambiguity and confusion and differences in statutes between one state and another and within the same state make it almost impossible on occasion to resolve the legal status of a runaway or homeless child. Until recently, the problem of runaways was always considered essentially a police matter. The juveniles were to be found and returned home. Yet, an overburdened New York City police force can not begin to cope with the huge numbers (there is a seven man unit assigned for that purpose) and the police do not have any jurisdiction over children 16 and older.

Father Bruce Ritter is the founder and director of Covenant House and the author of [illegible] *, the first book ever written on the subject of runaway children and their problems.*

...problem is especially acute for ...16 and over since the law simultaneously permits a child of 16 to ...emancipate himself and then effectively ...arc mclusives that child. For the most ...a child can not get the medical ...he or she needs, can not easily ...ality for public assistance, can not ...into contracts, and can not find a ...ful job. Children are free to wander ...streets, panhandling, exploiting, ...being exploited. No one seems ...either to accept clear responsibility for the thousands of children ...18 who stand outside the jurisdiction of family courts, criminal courts ...for large part, the child welfare system. Neither Special Services for Children, the Division for Youth, or the Department of Social Services will ...to immediate jurisdiction and responsibility for a 16 year old boy or girl ...ordering up and down 42nd Street ...ever it is manifestly not in the best interest of the child or the general public to permit this to happen. *Something* ...protection must take the clear responsibility. We operate on a principle, seemingly, of *caveat puer*: let the child ...beware. Covenant House can document ...almost endless series of children ...15 for whom it can find no one to ...accept responsibility: no court, no ...family, no part of the child welfare system. The tangle of conflicting jurisdictions, of vague and ambiguous laws, a severe fiscal crisis, and the fact that most of these kids are black and Spanish make it easy to let them fall through the cracks. Many thousands of them become willing or unwilling victims of the $1,500,000,000 sex industry that feeds on children in the Times Square area. They have few options: cold, hungry, homeless, desperate for affection, they fall easy prey to the sex merchants who know all too well how to exploit them. These children find it almost impossible to get help. Until Covenant House, with the help of the Roman Catholic Archdiocese, opened its Under Twenty One crisis center on April 1, 1977, there were absolutely no services for these thousands of children in the Times Square area. Covenant House is always understaffed, underfinanced, and overwhelmed by the numbers of children coming to us at all hours of the day and night.

During the first year that Under Twenty One was open, over 4,000 children came to us for help and over 60% of these had some contact, major or minor, with prostitution and pornography. The list of horror stories we could...

- A 14 year old boy chased into our center by his pimp, a man of 40, who had a broken bottle. The man wanted to kill the boy who had escaped after being held prisoner for six weeks in a Times Square hotel.
- A pimp who offered us $500 for a young girl in our center.
- A 16 year old call boy with a contract on him. All he wanted to do was escape. He had made the mistake of ripping off one of his johns.
- A 14 year old girl held prisoner, raped, and forced into prostitution. Her hair dyed and with a false I.D. saying she was 18, who had gotten a job in an Eighth Avenue strip joint.

They are not bad kids and it is wrong to think that they are. They are good kids whose only crime is, for the most part, to be cold, hungry and homeless, with no skills, no resources, cut off from jobs or the possibility of getting medical help or public assistance. Since they have nothing to sell except themselves, they are easily victimized and abused by the so called victimless crime of prostitution.

There are many hundreds of juveniles caught up in a vicious degrading life style that kills many of them. They are caught in a kind of quicksand and can not easily escape. Hundreds will come, have already come, to Under Twenty One this year. Under Twenty One stays open 24 hours a day and offers a kid no questions when he or she asks for help: food, shelter, protection from their pimp and exploiters, a chance to go home again if that is possible, a chance to get a job, to go to school, to begin to think that they might live. Many times I have heard a kid say: "Bruce, I'm not going to make it. I'm going to die out there, the street is going to kill me." A 17 year old boy said to me recently: "Bruce, can you give me one reason why I shouldn't jump off the Brooklyn Bridge?" It was hard for me to answer.

What can be done

Why do we permit it? Why and how can such a wholesale abuse and neglect of children happen in our society? We seem both unable and unwilling to do anything about it.

There is much that can and must be done. It would be easy and unfair to attack the police for inadequate enforcement of existing laws. The police in New York City quite clearly have limited ability to achieve effective enforcement. At the same time, however, it is quite clear that the crime of child prostitution and abuse is not a priority for our police. Neither is it a priority for our district attorneys and the Attorney General, not the judges of our criminal courts who could exercise a little more fortitude in handing out sentences, not for our politicians, who only seem to discover the problem of child abuse and prostitution at election time.

Prostitution and this loathesome child abuse are big business and are obviously protected. What other reason could explain the apparent immunity with which this blatant, sick, savage destruction of children is carried on in our society?

We not only need more effective enforcement and more vigorous prosecution of the criminals that buy and sell children and more effective community action, we also need programs to help the thousands of juveniles on the streets that turn to prostitution simply in order to survive.

As I recently stated:

Last night 60 children came to the ... looking for a bed. Because we were unable to provide one for them they slept on the ... the street or in someone else's bed. We are ... almost without funds, our resources are ... staff strained to the utmost. With the ... weather coming on, we estimate that ... runs as 80 or 100 kids a night will come ... us for help. We are committed to the ... ing a child was without a bed. [illegible] ... on a cold night. We can never forget the ... that knocked on the door, sent by ... night. One of the ... said: "Are you Bruce ... and I said I was and he said: "Do you take ... kids in?" and I said: "Yes," and he said: "Can we stay with you?" I said: "No, because we have no room," and he began to cry and he said: "Where can I go and who can I die?" I said: "You can go back into the street and look and." And he stopped crying and looked at me and said: "I can do that." He did. They both went back into the street. One boy was 15, the other was 13.

Our records can document hundreds of cases of child abuse and maltreatment, drawn at random from our files. Based on our experience at Under Twenty One, we can distinguish three broad categories of gross child abuse: abuse within a family setting, abuse on the street, and abuse by [illegible]

Abuse within a family setting

In these cases, children came to Under 21 because of abuse by parents or guardians and because they did not have any other recourse. Typically there is the tragic plight of thousands of runaway children who every year flee dangerous and primitive situations at home. This type of child abuse is not family the best known and considered ... public attention has already been focused on it. The following are typical examples:

This project was financed by the New York State Crime Control Planning Board and the New York City Board of Education.

LIFE/STYLE

A Nation of Runaway Kids

Louis 15's homelife has long been no better than many a street bounced among a drug addict mother, an indifferent father and a savage stepmother who repeatedly hit the 15-year-old boy and tried to choke him to death. Nevertheless, Louis is a most reluctant runaway. His macho mask crumples as he sits in a cheerful Houston shelter—somewhat incongruously called Family Connection—and speaks softly of those he still loves. "I didn't want to leave her, but she said to get out and don't come back," he quavers, near tears whenever he mentions the mother who finally pushed him aside. Then, as other teen-agers return within earshot, Louis recomposes his cool. "I learned the hard way," he says. "Ain't nobody going to do nothing for me but myself."

A new generation of American youngsters is on the road—often at a desperate pace. They resemble less their romantic predecessors, from Huck Finn to the flower children, than refugees fleeing the wreckage of their families. Many are more truly castaways than runaways, forced from their homes by neglect, abuse or abandonment. "These kids are running *from* something, not *to* something," says Russell Frank, director of The Runaway Place, a Boston shelter. As many as 50 percent may be fleeing physical abuse, including sexual assault. A growing number are economic refugees, evicted by jobless parents who can no longer support them. "This is one of the first times we've seen people voluntarily bringing their kids in," says Carol Frank of the Child Welfare League. "It's a dust bowl kind of thing."

Others, without being told to leave home, may be driven out by violent arguments, drinking bouts, and other recession-related strains in the family. "A 14-year-old can't understand fully that his father may be depressed over losing his job," says Washington social worker Robbie Callaway. "As economic conditions get tougher, more and more kids are going to be out on the street."

'Meat Rack': The thoroughfares they travel include the likes of the infamous Minnesota strip located near Times Square—so named for the many blond nymphets from out of town who sell themselves there—and the "meat rack" on Hollywood's Santa Monica Boulevard where boy hookers are on display. Too young to work legally, a significant number support themselves by stealing, drug dealing or peddling sex. Like apprentice derelicts they huddle in abandoned buildings, on park benches or in the warm breeze from subway gratings. Many runaway kids display a pathetic ingenuity, fearful of pimps and muggers as well as policemen, one Philadelphia youth buried himself to his chin every night in a playground sandbox. But for most of the young nomads, there may be no place to hide: some 500,000 runaways simply disappeared last year.

There's no telling where they went, since



Bus station: Seeking aid at New York bus terminal

the United States does not keep computerized track of missing children as it does missing cars. By the most conservative estimates, however, each year more than 1 million kids between 10 and 17 leave home. Until 1974 the government's main helping hand was an arrest for juvenile delinquency. Then Congress—disturbed by reports of deaths and maltreatment in jails, reform schools and other institutions—passed the Runaway and Homeless Youth Act, to establish federally funded telephone hot lines and temporary teen-age shelters. But the 166 shelters—with their hopeful names like Halcyon House or Stepping Stone—serve only 45,000 kids in a year, roughly 5 percent of the runaway population, for a maximum stay of between two weeks and 30 days; and proposed Federal budget cutbacks threaten to cramp the space still more.

Fortunately for their survival odds, most runaways are relatively timid. According to juvenile welfare experts, most flee to within a relative's or friend's and eventually return home within 48 hours. The remainder, however, seem singularly ill-equipped for even a temporary life on the road. A recent report from the U.S. Department of Health and Human Services based only on shelter admissions, indicates the average runaway is 15. That's a full two years younger than the 1976 average—and kids even younger are now turning up with alarming regularity. Most of the kids are white (70 percent) and female (56.7 percent, although the gap is closing). Forty percent are school dropouts, many of whom might have [illegible] have migrated with [illegible]. [illegible] readily available [illegible] HHS estimates that 60 percent have never been in trouble with the police, and well over half have never been arrested.

'Flirters': Left to their own devices, kids develop a defensive subculture. Part is scrupulously observed: around Boston, male prostitutes are spread thinly over the bus terminal, while many more work the suburban combat zone. Hard-core street kids are supposed to congregate on Boston Common, where the heads cost a dollar. "It's a big local joke," hangs out in Harvard Square. Some runaways develop a sense of the community of the road. Each pad, which can make room for many more, will rent a room to the first spiritual the wind blows in with drugs and food. In one northeast suburb of Philadelphia, teen transients even built their own haven in the woods with lumber stolen from construction sites, complete with escape tunnels. Survival lessons are willingly shared: to score a free restaurant meal with a minimum of hiss (a gambit sometimes known as "chew and screw") leave the waitress a tip before you walk out without paying the check.

Time seems to be the greatest divider, determining which runaways can be salvaged. "If a kid has lived in the street for a month or so, it becomes very hard to reach him," says Father Bruce Ritter, founder of New York City's Covenant House for runaway youths. "If it's been six months, we've almost lost him, and if it's a year, he's gone. The poison works very, very quickly." In many cases, it takes only two days, beyond the 48-hour mark, one in 10 teen-agers is likely to become a prostitute. Incoming naifs are quickly spotted at such entry points as New York's Port Authority Bus Terminal by pimps or their scouts, sometimes called catchers. Blue-jeaned Marcia R., 13, remembers that she was barely off the bus from Ohio before a "man in one of those hats" approached her. He was headed off by a man and woman, two self-professed "good Samari-

Alaska State Legislature

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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM April 9, 1984

TO: Representative Mae Tischer, Chairman, House HESS
FROM: Bill Lovell, Professional Assistant, House HESS

RE: Comparison of CSHB 631 (HESS) and HB 631

For your convenience, I have prepared the following comparison of the proposed House HESS Committee Substitute for House Bill 631 and the bill as originally introduced, both relating to runaway children.

Page and line citations refer to the original bill.

Page 1, lines 11 - 13, deletes "is habitually absent from the home or foster home to which the minor has been released by court order, without the consent of the minor's parent, guardian, or other legal custodian," and substitutes "habitually evades the person to whom the minor has been released by court order." This change has no substantive effect on the intent of the legislation, but may remove some possible difficulties in interpreting the bill.

Page 1, line 14, deletes "institution," and substitutes "facility." Although essentially semantic, this change makes it clear that the bill permits the Department of Health and Social Services to place children into child care services other than correctional "institutions".

Page 1, line 24, after "for" and before "support," inserts "financial." This change eliminates some ambiguity as to the precise definition of "support" by limiting the term to include financial support only.

Page 1, line 26, after "for," inserts "financial." This change, as in the previous amendment, eliminates some ambiguity as to the precise definition of "support" by limiting the term to include financial support only.

Page 2, line 17, inserts new Section 4, amending AS 47.10.120 (a), the principle effect of which is contained

in the new line 18. The amendment on new line 18 adds a proviso to the law, "Except as provided in as 47.10.084 (c)." This change eliminates an ambiguity in the law caused by the bill, whereby parents or guardians were held liable for financial support of a delinquent minor in situations which may be made exempt by the passage of this bill. The other changes to this section of the law are merely technical in nature: substituting "that" for "which" on lines 21, and 22; and in two places on line 25.

/wtl

631

Sec. 47.10.080. Judgments and orders. (a) The court, at the conclusion of the hearing, or thereafter as the circumstances of the case may require, shall find and enter a judgment that the minor is or is not a delinquent or a child in need of aid.

(b) If the court finds that the minor is delinquent, it shall

(1) order the minor committed to the Department of Health and Social Services for a period of time not to exceed two years or in any event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it; the department shall place the minor in a juvenile facility which the department considers appropriate and which may include a juvenile correctional school, detention home, or detention facility; the minor may be released from placement or detention and placed on pronation on order of the court and may also be released by the department, in its discretion, under AS 47.10.200;

(2) order the minor placed on probation, to be supervised by the department, and release him to his parents, guardian, or a suitable person; if the court orders the minor placed on probation, it may specify the terms and conditions of probation; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of supervision which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it;

(3) order the minor committed to the department and placed on probation, to be supervised by the department, and release him to his parents, guardian, other suitable person, or suitable nondetention setting such as a family home, group care facility, or child care facility, whichever the department considers appropriate to implement the treatment plan of the predisposition report; if the court orders the minor placed on probation, it may specify the terms and conditions of probation; the department may transfer the minor, in his best interests, from one of the probationary placement settings listed in this paragraph to another, and the minor, his parents or guardian and attorney are entitled to reasonable notice of the transfer; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

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(A) two-year extensions of commitment which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; or

(4) order the minor to make suitable restitution in lieu of or in addition to the court's order under (1), (2) or (3) of this subsection.

(5) order the minor committed to the Department of Health and Social Services for placement in an adventure-based education program established under AS 47.21.020 with conditions the court considers appropriate concerning release upon satisfactory completion of the program or commitment under (1) of this subsection if the program is not satisfactorily completed.

(c) If the court finds that the minor is a child in need of aid, it shall

(1) order the minor committed to the department for placement in an appropriate setting for a period of time not to exceed two years or in any event past the date the minor becomes 19 years of age, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; the department may transfer the minor, in his best interests, from one placement setting to another, and the minor, his parents or guardian and attorney are entitled to reasonable notice of the transfer;

(2) order the minor released to his parents, guardian, or some other suitable person, and, in appropriate cases, order the parents, guardian, or other person to provide medical or other care and treatment; if the court releases the minor, it shall direct the department to supervise the care and treatment given to the minor, but the court may dispense with the department's supervision if the court finds that the adult to whom the minor is released will adequately care for the minor without supervision; the department's supervision may not exceed two years or in any event extend past the date the minor reaches age 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of supervision which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; or

(3) by order, upon a showing in the adjudication by clear and convincing evidence that there is a child in need of aid under AS [illegible] disposition by clear and convincing evidence that the parental conduct is likely to continue to exist if there is no termination of parental rights, terminate parental rights and responsibilities of one or both parents and commit the child to the department or to a legally appointed guardian of the person of the child, and the department or guardian shall report annually to the court on efforts being made to find a permanent placement for the child.

(d) An order issued under (c) (3) of this section authorizes the commissioner of health and social services or his designee or the guardian of the person of the child to consent to the adoption of the child.

(e) If the court finds that the minor is not delinquent or a child in need of aid, it shall immediately order his release from the department's custody and his return to his parents, guardian, or custodian, and dismiss the case.

(f) A minor found to be delinquent or a child in need of aid is a ward of the state as long as he is committed to the department or the department has the power to supervise his actions. The court shall review an order made under (b) or (c)(1) or (2) of this section annually, and may review the order more frequently to determine if continued placement, probation, or supervision, as it is being provided, is in the best interest of the minor and the public. The department, the minor, the minor's parents, guardian, or custodian are entitled, when good cause is shown, to a review on application. If the application is granted, the court shall afford these parties and their counsel reasonable notice in advance of the review and hold a hearing where these parties and their counsel shall be afforded an opportunity to be heard. The minor shall be afforded the opportunity to be present at the review.

(g) No adjudication under this chapter upon the status of a child may operate to impose any of the civil disabilities ordinarily imposed by conviction upon a criminal charge, nor may a minor afterward be considered a criminal by the adjudication, nor may the adjudication be afterward deemed a conviction, nor may a minor be charged with or convicted of a crime in a court, except as provided in this chapter. The commitment and placement of a child and evidence given in the court are not admissible as evidence against the minor in a subsequent case or proceedings in any other court, nor does the commitment and placement or evidence operate to disqualify a minor in a future civil service examination or appointment in the state.

(h) The department shall pay all court costs incurred in all proceedings in connection with the adjudication of delinquency under this chapter, including hearings which result in the release of the minor.

(i) A minor, his parents or guardian acting on his behalf, or the department may appeal a judgment or order, or the stay, modification, setting aside, revocation, or enlargement of a judgment or order issued by the court under this chapter.

(j) Repealed by § 29 ch 63 SLA 1977.

(k) In making its order under (c) of this section, the court shall consider the fact, if it is a fact, that the minor was being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination. (§ 10(2) art I ch 145 SLA 1957; am § 2 ch 110 SLA 1960; am § 2 ch 118 SLA 1962; am § 1 ch 40 SLA 1967; am §§ 1—4 ch 27 SLA 1970; am §§ 12—15 ch 245 SLA 1970; am § 6 ch 104 SLA 1971; am §§ 6, 7 ch 1 SLA 1972; am §§ 1, 2 ch 125 SLA 1974; am §§ 14-18, 29 ch 63 SLA 1977; am § 6 ch 86 SLA 1979)

Effect of amendments. — The 1977 amendment substituted "delinquent or a child in need of aid" for "delinquent, or a child in need of supervision, or dependent minor" at the end of subsection (a), rewrote subsections (b) and (c), and in subsection (e), substituted "delinquent or a child in need of aid" for "delinquent, a child in need of supervision, or dependent," "the department's custody" for "its custody," and "dismiss" for "close." In subsection (f), the amendment substituted "delinquent or a child in need of aid" for "delinquent, a child in need of supervision, or dependent" in the first sentence, deleted "or (j)" following "under (b) or (c)(1) or (2)" and "and to determine if the minor is being treated fairly" following "and the public" in the second sentence, inserted "as it is being provided" in the second sentence, rewrote the third sentence, and inserted the present fourth sentence. The amendment also repealed subsection (j), which provided for orders of disposition when the minor was a child in need of supervision.

The 1979 amendment added paragraph (5) to subsection (b).

Editor's note. — Section 31, ch. 63, SLA 1977, provides: "Section 18 of this Act has the effect of adding to the court's responsibilities when holding a review under Rule 28, Alaska Rules of Children's Procedure, by requiring the court to hold a hearing upon a showing of good cause, give notice, and afford an opportunity to be heard."

Section 34, ch. 63, SLA 1977, in the first sentence provides: "The portions of AS 47.10.080(b) and (c) in secs. 15 and 16 of this Act which specify the length of commitment to the department or probation or supervision by the department are applicable to those minors affected under former AS 47.10.080(b), (c) and (j) before the effective date of the Act probation or supervision of minors by the department before the effective date of this Act (August 26, 1977) shall continue, but may not exceed two years from the effective date of this Act (August 26, 1977) unless two-year extensions have been granted by the court under this Act." Subsection (j) of AS 47.10.080 was repealed by § 29, ch. 63, SLA 1977.

Legislative history reports. — For report on amending bill, see 1960 House Journal, p. 494. For report on ch. 40, SLA 1967 (HB 131), see 1967 House Journal, p. 339. Chapter 245, SLA 1970 (HCSSB 399 am H), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6.

Each category of children mandates differences regarding content of dispositional orders. — Alaska's pertinent statutory provisions and procedural rules distinguish between categories of children for purposes of administering Alaska children's laws. Of controlling significance is that each class or category mandates distinct differences regarding the permissible content of any dispositional order the trial court can enter. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Where a delinquent child was sentenced for a fixed time period and ordered to an adult institution, this amounted to a penal sentence as opposed to the juvenile disposition required under subsection (b)(1). R.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

Court cannot place child in particular institution. — Under this section as amended, the court no longer has discretion to order the delinquent child placed in a particular institution. The court only has authority to commit the child to the department, which then places the child. R.A.M. v. State, Sup. Ct. Op. No. 1104 (File

Supp. Ct. Op. No. 1181 (File No. 2406), 538 P.2d 1004 (1975).

Jurisdiction dependent upon age of offender at time of act. — Juvenile jurisdiction of the superior court in delinquency proceedings is dependent upon the age of the offender at the time of the delinquent acts. Henson v. State, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).

Where a delinquent child was under the age of 18 at the time the acts of delinquency were committed, he is considered a minor for the purposes of adjudication and disposition. R.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

One who committed a crime when 18 years of age could be criminally prosecuted, as an adult, when he had been previously adjudged a delinquent minor and the court had retained supervisory jurisdiction over him until age 19. Henson v. State, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).

Section is maximum sentencing statute. — Statutes requiring release upon a specified birthday are, in effect, maximum sentencing statutes. Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

Sentence reduction to 19 years of age not retroactive. — There was nothing in the amendatory legislation to this section that indicated an intention that the sentence reduction should operate retrospectively. Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

There is no conflict between subsection (b)(1) and AS 47.10.060(d). In re F.S., Sup. Ct. Op. No. 1756 (File No. 1015), 586 P.2d 607 (1978).

Age 20 is the proper age for determining whether a minor is amenable to treatment. In re F.S., Sup. Ct. Op. No. 1756 (File No. 1015), 586 P.2d 607 (1978).

The inconsistency between AS 47.10.060(d) and subsection (b)(1) of this section that existed prior to the 1977 amendments to these sections has been eliminated in that AS 47.10.060 (d) now provides that the determinative age is 20 and subsection (b)(1) provides that the maximum limitation of confinement of minors is 20. In re F.S., Sup. Ct. Op. No. 1756 (File No. 1015), 586 P.2d 607 (1978).

The lower court erred in considering the purported consent of a minor to an additional year of supervision because: (1) the minor could withdraw his consent upon reaching maturity and (2) even assuming the minor's consent could not be withdrawn, subsection (b)(1) requires that the department petition the court and that additional commitment be in the minor's best interests before the court has jurisdiction to order the additional one-year period. In re F.S., Sup. Ct. Op. No. 1756 (File No. 1015), 586 P.2d 607 (1978).

Subsection (b)(1) requires that the department petition for an additional one-year period of supervision and that continued supervision be in the best interests of the minor before the court may order an additional year. Thus, a minor's prospective consent to additional supervision is not a material factor unless the other two conditions of the statute are fulfilled. In re F.S., Sup. Ct. Op. No. 1756 (File No. 1015), 586 P.2d 607 (1978).

This statute contemplates that the decision to extend the period of supervision be made after the initial dispositional hearing. To give effect to the minor's advance consent would thus be contrary to the apparent intent of the legislature. In re F.S., Sup. Ct. Op. No. 1756 (File No. 1015), 586 P.2d 607 (1978).

The court must choose between commitment to the Department of Health and Social Services and probation, and may not delegate the choice to the Department of Health and Social Services. This is a correct textual analysis, especially in light of the provision in subsection (b)(1) for subsequent court order for probation following placement or detention. The legislature has clearly indicated its intent to place this choice in the hands of the court. R.L.R. v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

The hearing judge erred by placing a delinquent child on probation until his 20th birthday. R.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

Petition necessary to extend probation beyond 19th birthday. — The superior court was without authority to extend probation beyond the delinquent child's 19th birthday without a petition from the department to extend the probationary period for an additional year. R.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

A minor who has been adjudged a child in need of supervision [see now child in need of aid] cannot be institutionalized under the Children's Code. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Where a runaway child is found to be a child in need of supervision [see now child

in need of aid], not a delinquent minor, no legal basis exists for his incarceration. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The only instance under Alaska children's laws authorizing institutionalization or incarceration is when the child has violated the laws of the state, or any of its political subdivisions, and in turn has been adjudged a delinquent minor. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The legislature has authorized institutionalization only where the child is found to be a delinquent minor. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Power of court under subsection (c). — Under subsection (c) of this section, the court is empowered to order the minor committed to the Department of Health and Social Services or order the minor released to his parents, guardian, or some other suitable person. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The Department of Health and Social Services does not possess the authority to institutionalize any minor, including one who has been declared a child in need of supervision [see now child in need of aid], who has been committed to its custody. It is unreasonable to construe Alaska children's statutes in a manner which would result in the grant to the Department of Health and Social Services of broader powers of commitment than possessed by the trial court. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

A child "in need of aid" appears to be the functional equivalent of a "dependent" child under AS 47.10.010 as it existed prior to its 1977 amendment. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Parental right to custody and control is not absolute. — While a parent has a right to the care, custody and control of his or her children, this right is not absolute, and "courts have become increasingly aware of the rights of children." The Alaska legislature has struck a balance between these potentially competing rights by requiring the state to prove its allegations by clear and convincing evidence in parental rights termination cases. Once this burden of proof has been met, however, the statute mandates a termination. In re D.C., Sup. Ct. Op. No. 1862 (File No. 3840), P.2d (1979).

The discretion allotted a parent in the administration of punishment is not unlimited. Clearly it does not extend to punishment regularly causing the "substantial physical harm" which under AS 47.10.010(a)(2)(C) determines that a child is in need of aid. In re D.C., Sup. Ct. Op. No. 1862 (File No. 3840), P.2d (1979).

Statutory provisions governing judgments and orders terminating parental rights have been changed. In order to terminate parental rights, the court must now find that the child is in need of aid under AS 47.10.010(a)(2) as the result of parental conduct proved by clear and convincing evidence and that the parental conduct is likely to continue to exist if there is no termination of parental rights, proved again by clear and convincing evidence. AS 47.10.080(c)(3). In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Under former AS 47.10.010(a)(5) and AS 47.10.080(a) and (c)(3)(D), in order to terminate parental rights, the superior court was required to find (1) that the child was a "dependent minor" and (2) that the parent had demonstrated by her conduct, proved by clear and convincing proof, that she was unfit to continue to exercise her parental rights and responsibilities. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Abandonment. — For cases construing former language in subsection (c) providing for termination of parental rights and responsibilities when the child had been abandoned, see D.M. v. State, Sup. Ct. Op. No. 962 (File No. 1843), 515 P.2d 1234 (1973); In re B.J., Sup. Ct. Op. No. 1110 (File No. 2161), 530 P.2d 747 (1975); In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

A rehabilitation program is not a common practice in the trial courts absent approval by a representative of the state. In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Trial court did not abuse discretion in failing to consider possibility of setting up plan for reestablishing family relationship between father and son. — See In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Role of trial court in proceeding involving termination of parental rights. — See In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Applicability of burden of proof. — A burden of proof is not applicable to a dispositive hearing other than when termination of parental rights is involved. In re S.D., Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976). See also In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Determination of the standard to be applied by the court at the dispositive phase of a child hearing was not tantamount to establishing a burden of proof requirement. Such a requirement had been set forth in former subsection (c)(3)(D) [see now subsection (c)(3)]. No such requirement had been set forth in situations such as where termination of parental rights was not involved. In re S.D., Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976).

Standard of proof held constitutional. — Allowing parental rights to be terminated based on a standard of proof less stringent than "beyond a reasonable doubt" does not violate the due process clause of the United States Constitution or the Alaska Constitution. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Since in proceedings brought to terminate parental rights, the parent is neither charged with criminal behavior nor subject to incarceration as a direct consequence of the proceeding, there is nothing in the federal constitution that compels adoption of the proof beyond a reasonable doubt standard in termination proceedings. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Clear and convincing proof is a more demanding standard than a mere preponderance of the evidence and is adequate to protect the parent's substantial interest in his or her child custody rights. This evidentiary standard balances the competing interests involved in a proceeding brought to terminate parental rights, one of which is the right of a child to an adequate home. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

The due process clause did not require a standard of proof greater than clear and convincing evidence when the state sought to terminate parental rights because of unfitness under former subsection (c)(3)(D). In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Standard of proof under former subsection (c)(3)(D) calling for "clear and convincing" evidence of the natural mother's unfitness for the care and custody of the child was held proper. In re Adoption of K.S., Sup. Ct. Op. No. 1219 (File No. 2359), 543 P.2d 1191 (1975).

Orders terminating parental rights met statutory and rule of court requirements regarding findings of fact. See In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

For reference to apparent conflict between subsection (c)(1) as it read prior to 1977 amendment and Children's Rule 22(f), see footnote 30 in In re S.D., Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976).

Peremptory challenge procedure inapplicable to juvenile proceedings. — While juvenile proceedings have some of the characteristics of both civil and criminal actions, they are basically different from both, and the words "civil or criminal" as used in AS 22.20.022 must be strictly construed. The trial judge was correct in holding that peremptory challenge procedure applied only to civil and criminal actions and not to juvenile proceedings. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Notions of benevolent protective policies cannot be used to validate departures from positive law relating to the adjudicative and dispositive phases of children's proceedings. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Nor to justify dispensing with constitutional safeguards. — The benevolent social theory supposedly underlying children's court acts does not furnish justification for dispensing with constitutional safeguards. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The right of confrontation is paramount to the state's policy of protecting a juvenile offender. Davis v. State, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

But state's interest in secrecy of juvenile adjudications need not always fall before confrontation right. — See Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512 (1974).

Prosecution witness impeachable by cross-examination for bias from probationary status as juvenile delinquent. — The confrontation clause requires that a defendant in a criminal case be allowed to impeach the credibility of a prosecution witness by cross-examination directed at possible bias deriving from the witness's probationary status as juvenile delinquent although such an impeachment would conflict with a state's asserted interest in preserving the confidentiality of juvenile adjudications of delinquency. Davis v. Alaska, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

Whatever temporary embarrassment might result to a prosecution witness or his family by disclosure of his juvenile record — if the prosecution insisted on using him to make its case — is outweighed by petitioner's right to probe into the influence of possible bias on the testimony of a crucial identification witness. Davis v. Alaska, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

The state cannot, consistent with right of confrontation, require the defendant to bear the full burden of vindicating the state's interest in the secrecy of juvenile criminal records. Davis v. Alaska, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

The United States supreme court has held that the constitutional right of confrontation required that defense counsel be allowed to investigate the potential bias of a crucial prosecution witness, even where that potential bias arose out of a juvenile adjudication and its resultant probationary status. Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

The United States supreme court concluded that Alaska's interest in protecting the anonymity of the juvenile offender was outweighed by the more critical need to afford a criminal defendant reasonable inquiry into the motives of prosecution witnesses. Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Conflict between section and decision in Davis v. Alaska is superficial. — The conflict between this section and the supreme court's decision in Davis v. Alaska, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974), is only superficial. Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Since disclosure required because of probationary status, not juvenile adjudication. — The constitutional requirement of disclosure in the facts in Davis v. Alaska, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974), is created not by the juvenile adjudication itself but by the probationary status of the juvenile at the time of Davis' trial, with its potential for motivating false testimony. Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Where the witness was not on juvenile probation, it cannot be seriously argued that the fact of previous juvenile convictions, standing alone, provided any inference of potential bias. Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

State adjudications directed solely at credibility do not conflict with confrontation right. — Juvenile adjudications which are state by Alaska's standards and directed solely at general credibility rather than bias are generally not sufficiently probative to create a genuine conflict with the defendant's right of confrontation. Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Where the attempted impeachment was of general credibility by proof of prior "convictions," the probative value of this type of evidence is considerably less than that which suggests false or distorted testimony because of bias, and the need to confront a witness with such evidence is correspondingly less. Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

As a general rule, the trial courts could properly refuse evidence of state convictions or juvenile adjudications where these were offered for the purpose of discrediting the witness generally rather than to show some specific potential for bias or prejudice toward the defendant. Thomas v. State, Sup. Ct. Op. No. 1040 (File Nos. 1888, 1854), 552 P.2d 528 (1974).

Privilege against self-incrimination. — When a person under the age of 18 years violated former AS 47.10.010(a)(1), he could be adjudged a "delinquent minor," one possible consequence of which adjudication was commitment to a juvenile facility until the age of 19 [now 20]. Moreover, if there was probable cause to believe the minor was delinquent and the court found that he was not amenable to treatment as a juvenile, he could be prosecuted as if he were an adult. Thus, there was always some danger of incarceration, or other criminal sanctions, when a child committed an act which would have been a crime if committed by an adult. Under such circumstances a child had a privilege against self-incrimination. E.L.L. v. State, Sup. Ct. Op. No. 1540 (File No. 3374), 572 P.2d 787 (1977).

A child adjudicated delinquent for selling LSD may be incarcerated, possibly even in a city jail, until age 19, which may be many years. R.L.R. v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Subsection (g) provides in part that a juvenile offender may not be considered a criminal by reason of the adjudication, nor may the adjudication be afterward deemed a conviction. Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

A judge cannot consider a juvenile offense as a criminal conviction for the purpose of prescribing a mandatory sentence. Berfield v. State, Sup. Ct. Op. No. 581 (File No. 960), 458 P.2d 1008 (1969).

The judge's consideration of factors relating to accused's life, characteristics, background and behavior prior to reaching the age of 18 years did not mean that he considered accused a criminal or that he was using the juvenile offenses as criminal convictions in determining the sentence to impose. Berfield v. State, Sup. Ct. Op. No. 581 (File No. 960), 458 P.2d 1008 (1969).

Consideration of the juvenile record is proper by the court imposing a sentence upon an adult offender. Penn v. State, Sup. Ct. Op. No. 1774 (File No. 3873), 588 P.2d 288 (1978).

Use of the juvenile history of the offender in sentencing proceedings does not amount to the use of those proceedings as evidence against the offender within the proscription of such a statute as this section. Penn v. State, Sup. Ct. Op. No. 1774 (File No. 3873), 588 P.2d 288 (1978).

When sentence determined. — The sentence which may be imposed upon a convicted adult is determined as of the time of the final judgment of conviction, or as of the time of commission of the offense. These rules have been applied to juvenile sentencing. Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

Review of custody orders. — The new children's law, as a result of the 1977 acts, provides for review of custody orders annually or more often if good cause is shown. In re J.M., Sup. Ct. Op. No. 1548 (File Nos. 3219, 3229), 573 P.2d 1376 (1978).

Appellate jurisdiction. — AS 22.05.010 places final appellate jurisdiction in all cases in the supreme court. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1521), 490 P.2d 655 (1971).

Applied in L.A.M. v. State, Sup. Ct. Op. No. 1249 (File No. 2221), 537 P.2d 827 (1976); Adams v. Ross, Sup. Ct. Op. No. 1281 (File No. 2458), 551 P.2d 948 (1976); D.H. v. State, Sup. Ct. Op. No. 1396 (File No. 2837), 561 P.2d 294 (1977).

Quoted in Davis v. State, Sup. Ct. Op. No. 816 (File Nos. 1428, 1436), 499 P.2d 1025 (1972).

Stated in In re G.K., Sup. Ct. Op. No. 796 (File Nos. 1627, 1651, 1674), 497 P.2d 914 (1972).

Cited in Ellinson v. State, Sup. Ct. Op. No. 898 (File No. 1750), 511 P.2d 1066 (1973).

Sec. 47.10.081. Predisposition hearing reports. (a) Before the disposition hearing of a delinquent minor the department shall submit a predisposition report with a recommended plan of treatment to aid the court in its selection of a disposition, and any further information which the court may request.

(b) Before the disposition hearing of a child in need of aid the department shall submit a predisposition report to aid the court in its selection of a disposition. This report shall include, but is not limited to, the following:

(1) a statement of changes in the child's or parent's behavior, which will aid the court in determining that supervision of the family or placement is no longer necessary;

(2) if removal from the home is recommended, a description of the reasons the child cannot be protected or rehabilitated adequately in the home, including a description of any previous efforts to work with the parents and the child in the home and the parents' attitude toward placement of the child;

(3) a description of the potential harm to the child which may result from removal from the home and any efforts which can be made to

(4) any further information which the court may request.

(c) The court shall inform the child, his parents and the attorneys representing the parties and the guardian ad litem that the predisposition report will be available to them not less than 10 days before the disposition hearing.

(d) For purposes of this section "parents" means the natural or adoptive parents, and any legal guardian, relative, or other adult person with whom the minor has resided and who has acted as a parent in providing for the minor for a continuous period of time before this action. (§ 26 ch 63 SLA 1977)

Sec. 47.10.082. Best interests of the child. In making its dispositional order under AS 47.10.080(b) the court shall consider the best interests of the child and the public, and in making its dispositional order under AS 47.10.080(c) the court shall consider the best interests of the child; in either case the court shall consider also the ability of the state to take custody and to care for the child to protect his best interests under AS 47.10.010 — 47.10.142. (§ 26 ch 63 SLA 1977)

Sec. 47.10.083. Review hearing information. In the case of a child in need of aid, the child shall be returned home at the review hearing under AS 47.10.080(f) unless the court finds by a preponderance of the evidence that the basis upon which the child was adjudicated under AS 47.10.010(a)(2) continues to exist. If the child is not returned home, the court shall establish on the record:

(1) why the child was removed from the home;

(2) what services have been provided to or offered to the parents to facilitate reunion;

(3) what services were utilized by the parents to facilitate reunion;

(4) the visitation history between the parents and the child;

(5) whether additional services are needed to facilitate the return of the child to his parents;

(6) when return of the child can be expected. (§ 26 ch 63 SLA 1977)

Sec. 47.10.084. Legal custody, guardianship, and residual parental rights and responsibilities. (a) When a child is committed under AS 47.10.080(b)(1) or (c)(1) to the department or released under AS 47.10.080(b)(2) or (3) or (c)(2) to his parents, guardian, or other suitable person, a relationship of legal custody exists. This relationship imposes on the department and its authorized agents or the parents, guardian, or other suitable person the responsibility of physical care and control of the child, the determination of where and with whom the child shall live, the right and duty to protect, train and discipline the child, and the duty of providing the child with food, shelter, education, and medical care. These obligations are subject to any residual parental rights and responsibilities and rights and responsibilities of a guardian if one has been appointed. When parental rights have been terminated or there are no living parents and no guardian has been appointed, the

responsibilities of legal custody include those in (b) and (c) of this section. The department or person having legal custody of the child may delegate any of the responsibilities under this section, except authority to consent to marriage, adoption, and military enlistment may not be delegated. For purposes of this chapter a person in charge of a placement setting is an agent of the department.

(b) When a guardian is appointed for the child, the court shall specify in its order the rights and responsibilities of the guardian. The guardian shall be removed only by court order. The rights and responsibilities may include, but are not limited to, having the right and responsibility of reasonable visitation, consenting to marriage, consenting to military enlistment, consenting to major medical treatment, obtaining representation for the child in legal actions, and making decisions of legal or financial significance concerning the child.

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 09.65.100, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section. (§ 26 ch 63 SLA 1977)

Sec. 47.10.085. Child in need of aid; religious treatment. In a case in which the minor's status as a child in need of aid is sought to be based on his need for medical care, the court may, upon consideration of the health of the minor and the fact, if it is a fact, that the minor is being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination, dismiss the proceedings and thereby close the matter. This may be done, in the interests of justice and religious freedom, on the court's own motion or upon the application of a party to the proceedings, at any stage of the proceedings after information is given to the court under AS 47.10.020(a). (§ 8 ch 1 SLA 1972; am § 19 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "child in need of aid" for "dependent minor" near the beginning of the first sentence.

Sec. 47.10.090. Records. (a) The court shall make and keep records of all cases brought before it. The court's official records may be inspected only with the court's permission and only by persons having a legitimate interest in them. All information and social records pertaining to a minor and prepared in the discharge of his official duty by an employee of the

court or by a federal, state or city agency are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. However, a state or city law-enforcement agency shall disclose information regarding a case which is needed by the person or agency charged with making a preliminary investigation for the information of the court. Within 30 days of the date on which a minor reaches his 18th birthday or, if the court retains jurisdiction of a minor past his 18th birthday, within 30 days of the date on which the court relinquishes jurisdiction over the minor, the court shall order sealed all the court's official records, information and social records pertaining to that minor, as well as records of all criminal proceedings against him and punishments assessed against him, except for traffic offenses. No person may use records so sealed for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court.

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause, in certain individual cases, enters an order prohibiting the disclosure.

(c) A person who violates a provision of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $500 or by imprisonment for not more than one year, or by both. (§ 10(3)(4) art I ch 145 SLA 1957; am § 1 ch 124 SLA 1972; am § 1 ch 90 SLA 1975; am § 20 ch 63 SLA 1977)

Effect of amendments. — The 1975 amendment, in subsection (b), deleted "by a newspaper, radio, or television station" following "may not be made public," substituted "unless" for "except as," and added the language beginning "except that" to the end.

The 1977 amendment substituted "delinquent child or a child in need of aid" for "delinquent or dependent child" in subsection (b).

Editor's note. — Section 2, ch. 90, SLA 1975, provides: "Section 1 of this Act changes Rule 26 of the Supreme Court Rules of Children's Procedure in that the rule now provides that the names and pictures of minors under the jurisdiction of the children's court are not to be made available to the public unless authorized by a court order which is accompanied by a written statement supporting the authorization, and sec. 1 provides that for a minor who is found for the second time to have violated a law which if committed by an adult would be a felony, the minor's name must be made public unless the court, for good cause, in certain individual cases, enters an order prohibiting the disclosure."

Purpose for enacting subsection (a). — Reading this section together with other sections of the laws relating to children's proceedings leads one to believe that subsection (a) was enacted principally for the purpose of protecting the child against the possible adverse effects an unauthorized revelation of his social record would have. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

There is no indication that subsection (a) was intended to authorize the granting of testimonial use immunity to parents. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

The supreme court could not say with certainty that this section would be construed to forbid the use, in a subsequent criminal action against a parent, of testimony that the parent gave at a children's proceeding. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

Waiver of provisions of section. — In the case of use of restraints more severe than placement in adjustment rooms (solitary confinement), the approval of the director of McLaughlin Youth Center must be obtained and a report made to the child's attorney and the family court. The provisions of this section are waived for this purpose. T.M. v. Director of McLaughlin Youth Center, Superior Court, No. 72-149 (1973).

Stated in B.L.R. v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Sec. 47.10.095. Arrest of a minor. The arrest of a minor other than for a traffic offense is not considered an arrest for any purpose except for the purpose of the disposition of a proceeding arising out of that arrest. (§ 2 ch 124 SLA 1972)

Sec. 47.10.100. Retention of jurisdiction over minor. (a) The court retains jurisdiction over the case and may at any time stay execution, modify, set aside, revoke, or enlarge a judgment or order, or grant a new hearing, in the exercise of its power of protection over the minor and for his best interest, for a period of time not to exceed two years or in any event extend past the day the minor becomes 19, unless sooner discharged by the court, except that the department may apply for and the court may grant an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it. An application for any of these purposes may be made by the parent, guardian, or custodian acting in behalf of the minor, or the court may, on its own motion, and after reasonable notice to interested parties and the appropriate department, take action which it considers appropriate.

(b) If the court determines at a rehearing that it is for the best interests of the minor that he be released to the care or custody of his parent, guardian, or custodian, it may enter an order to that effect and the minor is discharged from the control of the department.

(c) If a minor is adjudicated a delinquent or a child in need of aid before his 18th birthday, the court may retain jurisdiction over him after his 18th birthday for the purpose of supervising his rehabilitation, but the court's jurisdiction over him under this chapter never extends beyond his 19th birthday, except that the department may apply for and the court may grant an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it. The department may retain jurisdiction over a child between his 18th and 19th birthdays for the purpose of supervising his rehabilitation, if he has been placed under the supervision of the department before his 18th birthday, except that the department may apply for and the court may grant an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it. (§ 11 art I ch 145 SLA 1957; am §§ 16, 17 ch 245 SLA 1970; am § 21 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment, in subsection (a), substituted the language beginning "for a period of time not to exceed two years" for "until he becomes nineteen years of age, unless sooner discharged by the court, except that the department may petition the court for continued supervision for an additional one-year period for minors who have not responded to treatment" at the end of the first sentence, and in subsection (c), substituted "delinquent or a child in need of aid" for "delinquent, a child in need of supervision, or a dependent" in the first sentence, the language beginning "apply for and the court may grant" for "petition the court for continued supervision for an additional one-year period for minors who have not responded to treatment" in the first and second sentences, and "has been placed under the supervision" for "is committed to the custody" in the second sentence.

Legislative history report. — Chapter 245, SLA 1970 (HCSSB 399 am H), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6.

When one commits a criminal offense after reaching the age of 18 years, he is no longer entitled to claim the benefits of the Children's Code. Henson v. State, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).

Offenses to which court's jurisdiction not extended. — Neither subsection (a) nor subsection (c) purports to extend the court's juvenile jurisdiction to newly committed offenses occurring between the offender's 18th and 19th birthdays. Henson v. State, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).

Jurisdiction defeated only by expressly retroactive statute. — Once the sentencing court acquires jurisdiction over the individual, only an expressly retroactive statute could defeat its continuing jurisdiction for the duration of the sentence originally imposed. Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

Sec. 47.10.110. Appointment of guardian or custodian. When, in the course of a proceeding under this chapter, it appears to the court that the welfare of a minor will be promoted by the appointment of a guardian or custodian of his person, the court may make the appointment. The court shall have a summons issued and served upon the parents of the minor, if they can be found, in a manner and within a time before the hearing which the court considers reasonable. The court may determine whether the father, mother, or the Department of Health and Social Services shall have the custody and control of the minor. If the minor is of sufficient age and intelligence to state his desires, the court shall consider his desires. (§ 12 art I ch 145 SLA 1957; am § 6 ch 104 SLA 1971; am § 22 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote the last sentence.

Sec. 47.10.120. Support of minor. (a) When a child in need of aid is committed under this chapter, the court may, after giving the parent a reasonable opportunity to be heard, adjudge that the parent shall pay in a manner which the court directs a sum which will cover in full or in part the support of the child in need of aid. When a delinquent minor is committed under this chapter, the court shall order that the parent of the minor pay in a manner which the court directs a sum which will cover in full or in part the support of the delinquent minor.

(b) If a parent wilfully fails or refuses to pay the sum fixed, he may be proceeded against as provided by law in cases of family desertion and

(c) The sum collected from a parent under this section shall be directly credited to the general fund of the state. (§ 13 art I ch 145 SLA 1957; am § 1 ch 31 SLA 1959; am § 1 ch 141 SLA 1959; am § 23 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "child in need of aid" for "dependent minor" in two places in the first sentence of subsection (a).

Sec. 47.10.130. Detention. No minor under 18 years of age who is detained pending hearing may be incarcerated in a jail unless assigned to separate quarters so that the minor cannot communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime. When a minor is detained pending hearing, his parent, guardian, or custodian shall be notified immediately. (§ 14 art I ch 145 SLA 1957)

A detention which was twice continued by the master of the children's court for a total period of six days exemplifies a usurpation of judicial power. In re P.H., Sup. Ct. Op. No. 857 (File No. 1538), 501 P.2d 837 (1972).

Sec. 47.10.140. Temporary detention and detention hearing. (a) A peace officer may arrest a minor who violates a law or ordinance in his presence, or who he reasonably believes is a fugitive from justice. A peace officer may continue a lawful arrest made by a citizen. He may have the minor detained in a juvenile detention facility if in his opinion it is necessary to do so to protect the minor or the community.

(b) A peace officer who has a minor detained under (a) of this section shall immediately, and in no event more than 12 hours later, notify the court, the minor's parents or guardian, and the Department of Health and Social Services of the officer's action. The department may file with the court a petition alleging delinquency before the detention hearing.

(c) The court shall immediately, and in no event more than 48 hours later, hold a hearing at which the minor and his parents or guardian if they can be found shall be present. The court shall determine whether probable cause exists for believing the minor to be delinquent. The court shall inform the minor of the reasons alleged to constitute probable cause and the reasons alleged to authorize his detention. The minor is entitled to counsel and to confrontation of the witnesses against him.

(d) If the court finds that probable cause exists, it shall determine whether the minor should be detained pending the hearing on the petition or released. It may either order the minor held in detention or order him to be released to the custody of a suitable person pending the hearing on the petition. If the court finds no probable cause, it shall order the minor released and close the case.

(e) Except for temporary detention pending a detention hearing or temporary detention under (f) of this section, no minor may be detained

(f) A peace officer may detain a minor who is evading the person having legal custody of him if the minor is not otherwise subject to arrest or detention under (a) of this section, for the sole purpose of either (1) returning the minor to the person having legal custody of him or (2) if the minor prefers, taking him to an office specified by the Department of Health and Social Services, facility or contract agency of the Department of Health and Social Services where such exists in the community. Immediately upon detaining a minor under this provision, the peace officer shall advise him of his right to social services under AS 47.10.142(b), and, if known, the peace officer shall advise the person having the legal custody of the minor of his detention.

(g) No minor who is detained under (f) of this section may be detained in a jail or other facility unless kept out of contact with adult persons convicted or accused of a crime. No minor may be detained in a jail or other detention facility which has not been approved by the Department of Health and Social Services before detention of the minor. (§ 15 art I ch 143 SLA 1957; am § 3 ch 118 SLA 1962; am § 2 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am §§ 1, 2 ch 128 SLA 1972)

Detention orders neither based on competent testimony nor accompanied by the required statement of facts are invalid. In re P.H., Sup. Ct. Op. No. 857 (File No. 1538), 504 P.2d 837 (1972)

Sec. 47.10.142. Emergency custody and temporary placement hearing. (a) The Department of Health and Social Services may take emergency custody of a minor upon discovering any of the following circumstances:

(1) the minor has been abandoned;

(2) the minor has been grossly neglected by his parents or guardian, as "neglect" is defined in AS 47.17.070(5), so that immediate removal from his surroundings is, in the determination of the department, necessary to protect his life;

(3) the minor has been abused, as "abuse" is defined in AS 47.17.070(1), so that immediate medical attention is necessary, in the determination of the department.

(b) A minor who has left home and is evading the person having legal custody of him may obtain the services of the department. The department shall assess the situation and furnish the minor with the social services it considers appropriate to protect the well-being of the minor and to preserve his family life if preserving it is considered desirable under the circumstances. If, after assessing the situation, considering the wishes of the minor, and furnishing appropriate social services, the department considers it necessary, the department may take emergency custody of the minor.

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the

THE RUNAWAY YOUTH PROGRAM MODEL:

A FEDERAL, STATE, AND LOCAL PARTNERSHIP

25th DISTRICT
2401 Carter Lane
Columbia, MO 65201
(314) 874-3838

[redacted]C State Capitol
Jefferson City, MO 65101
(314) 751-2419

KEN JACOB

MISSOURI HOUSE OF REPRESENTATIVES

COMMITTEES:
EDUCATION: ELEMENTARY AND SECONDARY
EDUCATION: HIGHER
CHILDREN, YOUTH AND FAMILIES
APPROPRIATIONS: SOCIAL SERVICES AND CORRECTIONS
REVENUE AND ECONOMICS

VITAE SYNOPSIS

EDUCATION

B.S. Education, Life-time teaching certificate Social Studies and Economics, University of Missouri at Columbia.

M.Ed., Counseling and Personnel Services, University of Missouri at Columbia.

Masters in Public Administration Graduate Program, University of Missouri at Columbia.

EMPLOYMENT

1983 - Missouri State Legislator, Committees: Appropriations Social Services and Corrections, Education: Elementary and Secondary, Education: Higher, Children, Youth & Families, Revenue and Economics.

1974 to 1983 - Director or Development, Front Door Counseling and Youth Center, formerly Executive Director.

MEMBERSHIP

Member Columbia Public Schools Board of Education, Member Missouri Prevention Network.

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REVENUE AND ECONOMICS

PRESENTATION OUTLINE

1. Runaway programs in Missouri.

   a. A model on federal, state and local collaboration.
   b. Evolution and future perspectives.

2. Missouri Legislature proposals for youth.

   a. House Bill 617; Division of Children & Youth Services - creation of a new division to represent the needs of troubled youth.

   b. House Bill 256; Youth Services Commission - coordinating and networking state activities for youth.

   c. House Bill 550; Childrens Trust Fund a pot of gold for prevention.

3. Political Advocacy for services for troubled youth.

The National Youth Work Alliance
1346 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036 • (202) 785-0764

Robbie Calloway

VITAE

EMPLOYMENT HISTORY

June 1981 - present	Executive Director, National Youth Work Alliance
September 1979 - June 1981	Assistant Director, National Youth Work Alliance
January 1979 - September 1979	Juvenile Justice Specialist, National Youth Work Alliance
1977 - 1979	Director of Shelter Care - Boys and Girls Homes of Montgomery County, Inc.
1974 - 1977	Program Director, Caithness Shelter Home, Silver Spring, Maryland
1970 - 1973	Intern/Volunteer Coordinator, University of Maryland - D.C. Children's Center Program

RELEVANT COMMITTEES

Chairman - National Ad Hoc Coalition for Juvenile Justice. Over 40 members including National PTA's, American Bar Association, National Association of Counties, National Council of Jewish Women, U.S. Catholic Conference, Girl Scouts of U.S.A., Junior Leagues, etc.

Appointed Member - Maryland Governors Juvenile Justice and Delinquency Prevention Advisory Committee. Initially appointed in 1975 and reappointed by the 2 following Governors.

Appointed Member - Montgomery County Juvenile Court Committee. Initially appointed in 1977. Twice reappointed by new County Executive.

PUBLICATIONS

- Guide to the 1980 Reauthorization of the Juvenile Justice and Delinquency Prevention Act. Co-author.
- Youth Alternatives - regular contributor.
- PTA Today - Washington Update Runaway Youth in America.
- Stalking the Large Green Grant - Contributing Author.

PRIMARY AREAS OF FOCUS

- Runaway and Homeless Youth
- Juvenile Justice
- Youth Employment
- Missing Children
- Substance Abuse
- Families

THE RUNAWAY YOUTH PROGRAM MODEL

Outline of presentation by Mr. Robbie Callaway
Executive Director
National Youth Work Alliance

I. INTRODUCTION OF THE PROBLEM

II. QUIZ ON RUNAWAYS (attendees will need writing instruments)

- A. Severity of the Problem
- B. Federal Involvement
- C. State Response
- D. Local Program Activity
- E. Parental Involvement
- F. Program Specifics
- G. Prostitution Among Runaways
- H. Miscellaneous

III. FEEDBACK ON THE QUIZ

- A. Question by Question response
  1. Self-checking System
  2. Audience participation

IV. WRAP-UP

- A. What can the States do to better address the problem.

February, 1983

STATE LEGISLATIVE STRATEGIES: RUNAWAY AND HOMELESS YOUTH

I. Legislation Enacted

1. New York

In 1978, New York passed the "Runaway and Homeless Youth Act" clarifying the legal status of runaway youth and establishing both procedures and funds to expand services through the development of new programs.

- Runaways are children under 18 years of age
- Administration by State Division of Youth Services
- 30-day state limitation in emergency shelter; may extend to 60 days without court petition
- Models the federal Runaway and Homeless Youth Act
- Requires county plan and county match

II. Line-Item Appropriation

1. Florida

In 1982, the Florida legislature developed a special line-item appropriation for runaway youth programs to replace lost federal dollars.

2. Vermont

Since 1980, the Vermont legislature has supported runaway youth programs through line-item, general fund appropriations.

III. Related Legislation

1. Ohio

In 1982, Ohio passed HB440 creating a two-part, formula-based grant of state aid to counties. Grants may be used for a variety of services for "alledged or adjudicated unruly or delinquent children, or children at risk of becoming unruly or delinquent."

- Requires annual local plan developed by juvenile courts and county commissioners
- Administered by State Division of Youth

2. Louisiana

In 1980, the Louisiana legislature passed Act 452 authorizing start-up funds for new shelter care facilities. The Department of Health and Human Services establishes provider contracts of services also under this legislation.

- Recipients of services must be clients of Department of Health and Human Services

3. California

California's AB90 established the "County Justice System Subvention Programs" in 1978. The program's broad objectives encompass the development, maintenance, and expansion of a range of local, community-based justice programs, including services to juvenile and status offenders. The goal of the program is to decrease the number of state institutional commitments.

- Requires advisory group at state and local levels
- Inter-agency coordination

4. North Carolina

In 1980, the North Carolina legislature established the development of community-based alternatives to eliminate placement of status offenders in state institutions.

- Requires local-level evaluation prior to juvenile court hearing disposition
- Administered by Department of Human Resources
- Formula funding for counties on a matching basis

Related Legislation (continued)

5. Pennsylvania

In 1978, the Pennsylvania legislature established what is now known as Act 148. The basic intent of the Act is to deinstitutionalize children and youth by providing counties with financial incentive to develop and utilize community-based alternatives to institutionalization.

6. Wisconsin

In 1982, Wisconsin passed legislation that earmarks Title IVB (the federal Child Welfare program) funds for runaway youth programs. Funding replaces lost federal appropriations for YDB grantees and establishes funding for additional programs.

Wisconsin also employs what is known as 'Youth Aids'. 'Youth Aids' are capacity-building grants to counties to improve the quality and range of juvenile delinquency and related services.

IV. Other State Strategies

1. Texas

The Texas legislature supported an appropriations rider to the Texas Family Code, setting aside $4.4 million (biennium FY83/84) to the Department of Human Resources (DHR) to serve runaways and truants. Should the rider secure passage, it is likely the funds will be targeted for new and innovative programs.

Several states, through the Department of Social Services typically, contract out to community-based programs through purchase-of-service agreements for specialized services for runaway youth and their families. This is the most difficult strategy to track because state agencies may not identify such contracts specifically for the runaway youth population.

V. States Considering Runaway and Homeless Youth Legislation

Other states exploring the development of specific runaway and homeless youth legislation include:

1. Florida
2. California
3. New Jersey

For further information, including state legislation, contact:

NCSL Youth Services Project
Michele R. Magri / Mary Kay Henderson
1125 Seventeenth Street, Suite 1500
Denver, Colorado 80202
(303) 292-6600

We would also appreciate receiving information to update this report.

The Juvenile Justice and Delinquency Prevention Act of 1974

Public Law 93-415

The JJDP Act of 1974, as amended, encouraqes states, through the disbursement of federal funds, to achieve the mandates of the federal legislation. These include: deinstitutionalization of status offenders; sight and sound separation from adult criminals; the use of the 'least restrictive alternative' for juveniles; and the removal of juveniles from adult jail or lock-up. Title III of the Act, administered separately by the Youth Development Bureau within the Department of Health and Human Services, is the federal mechanism establishing community-based programs for runaways. The Act will require reauthorization in September, 1984.

TITLE III—RUNAWAY AND HOMELESS YOUTH

SHORT TITLE

SEC. 301. This title may be cited as the "Runaway and Homeless Youth Act". *(42 U.S.C. 5701 note)*

FINDINGS

SEC. 302. The Congress hereby finds that—

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

(2) the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) many such young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already

overburdened police departments and juvenile justice authorities; and

(5) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure. (*42 U.S.C. 5701*)

RULES

SEC. 303. The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") may prescribe such rules as he considers necessary or appropriate to carry out the purposes of this title. (*42 U.S.C. 5702*)

PART A—GRANTS PROGRAM

PURPOSES OF GRANT PROGRAM

SEC. 311. (a) The Secretary is authorized to make grants and to provide technical assistance and short-term training to States, localities and nonprofit private agencies and coordinated networks of such agencies in accordance with the provisions of this part. Grants under this part shall be made equitably among the States based upon their respective populations of youth under 18 years of age for the purpose of developing local facilities to deal primarily with the immediate needs of runaway youth or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grant shall be determined by the number of such youth in the community and the existing availability of services. Grants also may be made for the provision of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers. Among applicants priority shall be given to private organizations or institutions which have had past experience in dealing with such youth.

(b) The Secretary is authorized to provide supplemental grants to runaway centers which are developing, in cooperation with local juvenile court and social service agency personnel, model programs designed to provide assistance to juveniles who have repeatedly left and remained away from their homes or from any facilities in which they have been placed as the result of an adjudication.

(c) The Secretary is authorized to provide on-the-job training to local runaway and homeless youth center personnel and coordinated networks of local law enforcement, social service, and welfare personnel to assist such personnel in recognizing and providing for learning disabled and other handicapped juveniles. (*42 U.S.C. 5711*)

ELIGIBILITY

SEC. 312. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway center, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without permission of their parents or guardians or to other homeless juveniles.

(b) In order to qualify for assistance under this part, an applicant shall submit a plan to the Secretary meeting the following requirements and including the following information. Each center—

(1) shall be located in an area which is demonstrably frequented by or easily reachable by runaway youth;

(2) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient portion [1] to assure adequate supervision and treatment;

(3) shall develop adequate plans for contacting the child's parents or relatives (if such action is required by State law) and assuring the safe return of the child according to the best interests of the child, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway center, and for providing for other appropriate alternative living arrangements;

(4) shall develop an adequate plan for assuring proper relations with law enforcement personnel, social service personnel, and welfare personnel, and the return of runaway youths from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway youth and their parents within the State in which the runaway center is located and for assuring, as possible, that aftercare services will be provided to those children who are returned beyond the State in which the runaway center is located;

(6) shall keep adequate statistical records profiling the children and parents which it serves, except that records maintained on individual runaway youths shall not be disclosed without the consent of the individual youth and parent or legal guardian to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway youths;

(7) shall submit annual reports to the Secretary detailing how the center has been able to meet the goals of its plans and reporting the statistical summaries required by paragraph (6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary;

(9) shall submit a budget estimate with respect to the plan submitted by such center under this subsection; and

(10) shall supply such other information as the Secretary reasonably deems necessary. (*42 U.S.C. 5712*)

APPROVAL BY SECRETARY

SEC. 313. An application by a State, locality, or nonprofit private agency for a grant under this part may be approved by the Secretary only if it is consistent with the applicable provisions of this part and meets the requirements set forth in section 312. Priority shall be given to grants smaller than $150,000. In considering grant

[1] So in original. Apparently should be "proportion."

applications under this part, priority shall be given to organizations which have a demonstrated experience in the provision of service to runaway and homeless youth and their families. (*42 U.S.C. 5713*)

GRANTS TO PRIVATE AGENCIES, STAFFING

SEC. 314. Nothing in this part shall be construed to deny grants to nonprofit private agencies which are fully controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the runaway house. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds. (*42 U.S.C. 5714*)

REPORTS

SEC. 315. The Secretary shall annually report to the Congress on the status and accomplishments of the runaway centers which are funded under this part, with particular attention to—

(1) their effectiveness in alleviating the problems of runaway youth;

(2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

(3) their effectiveness in strengthening family relationships and encouraging stable living conditions for children; and

(4) their effectiveness in helping youth decide upon a future course of action. (*42 U.S.C. 5715*)

FEDERAL SHARE

SEC. 316. (a) The Federal share for the acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated by the Secretary, including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments. (*42 U.S.C. 5716*)

PART B—RECORDS

RECORDS

SEC. 321. Records containing the identity of individual youths pursuant to this Act may under no circumstances be disclosed or transferred to any individual or to any public or private agency. (*42 U.S.C. 5731*)

PART C—REORGANIZATION

REORGANIZATION PLAN

SEC. 331. (a) After April 30, 1978, the President may submit to the Congress a reorganization plan which, subject to the provisions of subsection (b) of this section, shall take effect, if such reorganization plan is not disapproved by a resolution of either House of the Congress, in accordance with the provisions of, and the procedures established by chapter 9 of title 5, United States Code, except to the extent provided in this part.

(b) A reorganization plan submitted in accordance with the provisions of subsection (a) shall provide—

(1) for the establishment of an Office of Youth Assistance which shall be the principal agency for purposes of carrying out this title and which shall be established—

(A) within the Office of Juvenile Justice and Delinquency Prevention in the Department of Justice; or

(B) within the ACTION Agency;

(2) that the transfer authorized by paragraph (1) shall be effective 30 days after the last date on which such transfer could be disapproved under chapter 9 of title 5, United States Code;

(3) that property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions of the Office of Youth Development within the Department of Health, Education, and Welfare in the operation of functions pursuant to this title, shall be transferred to the Office of Youth Assistance within the Office of Juvenile Justice and Delinquency Prevention or within the ACTION Agency, as the case may be, and that all grants, applications for grants, contracts, and other agreements awarded or entered into by the Office of Youth Development shall continue in effect until modified, superseded, or revoked;

(4) that all official actions taken by the Secretary of Health, Education, and Welfare, his designee, or any other person under the authority of this title which are in force on the effective date of such plan, and for which there is continuing authority under the provisions of this title, shall continue in full force and effect until modified, superseded, or revoked by the Associate Administrator for the Office of Juvenile Justice and Delinquency Prevention or by the Director of the ACTION Agency, as the case may be, as appropriate; and

(5) that references to the Office of Youth Development within the Department of Health, Education, and Welfare in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after such date, be deemed to refer to the Office of Youth Assistance within the Office of Juvenile Justice and Delinquency Prevention or within the ACTION Agency, as the case may be, as appropriate. (*42 U.S.C. 5741*)

RUNAWAY YOUTH: GOVERNMENT RESPONSE TO A NATIONAL PROBLEM

by

Michele R. Magri
NCSL Youth Services Project

This issue brief on runaway youth details federal efforts in this field, summarizes the service delivery system, and highlights the states' involvement.

HISTORY

Community-based runaway youth programs emerged in the mid-1960's in response to the needs of thousands of youth who left home and were on the move across the country. Concerned with the potential exploitation and victimization of young people while on the streets, the early programs provided neutral ground and protection unconnected with the "established systems." Emergency shelter, food, medical care, and immediate assistance were offered by volunteers, churches, and community groups through these centers.

Runaway programs provided home-like atmospheres and were located in old homes, apartments, or storefronts with open access 24-hours a day. Although their primary objective was to keep youth off the streets, these early shelters made every effort to put youth in touch with their parents and to help them return home.

A humanistic philosophy of youth's rights to self-determination and involvement guided the evolution of these centers. Program staff were committed to the concepts of trust, non-judgmental and supportive interaction, and responsiveness in service delivery to youth and to the needs of the community. Prevention and early intervention were the cornerstones of their work.

By the early 1970's, youth problems had begun to take on new dimensions. for example, the number of delinquency cases brought into the juvenile courts increased from 280,000 in 1970 to 1,112,500 in 1972, and the ratio of cases to the youth population (11 years to 18 years of age) rose from 1.6% to 3.4%.[1] Truancy and school drop-out rates also climbed dramatically. By spring 1972, the issue of runaway youth grew from a collective concern of parents and residents in certain communities to a concern of federal policymakers. Running away had become a common response to family and social pressures, reaching what a Senate Committee in 1973 called "epidemic proportions." The 1976 National Statistical Survey on Runaway Youth estimated that 733,000 young people annually leave home at least overnight without the permission of their parents or legal guardians.

THE EMERGENCE OF FEDERAL LEGISLATION: THE RUNAWAY YOUTH ACT

In the latter part of 1973, the Secretary of Health, Education and Welfare established an Intra-Departmental Committee on Runaway Youth in response to the growing national concern about the problems of runaway youth. Senator Birch Bayh, then the chairman of the U.S. Senate Judiciary Committee, was firmly committed to developing alternatives that would divert runaway youth, labeled

as status offenders. Many runaway program staff members testified before Bayh's Committee that the swelling number of runaway youth had begun to overwhelm their volunteer staffs and limited operating budgets.

As a result of these efforts, The National Runaway Youth Program was initiated under the authorization of Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (PL 93-415).

The goals of the Runaway Youth Act, as mandated by section 315, are:

(1) to meet the needs of youth during the runaway incident;

(2) to reunite youth with their families and to encourage the resolution of family problems;

(3) to strengthen family relationships and to encourage stable living goals for youth; and

(4) to help youth decide upon a future course of action.

The Juvenile Justice Delinquency Prevention Act has been amended twice since its enactment, expanding the legislative scope of the Runaway Youth Act in two areas. The first set of amendments in 1977 expanded the definition of runaway youth to include the previously unidentified and unserviced population of homeless youth. The amendments also specified that family reunification be encouraged when appropriate-- recognition of the fact that many of these youth were homeless because of parental abuse or neglect. The second set of amendments, in 1980, changed the grant funding process to a direct state allocation based on population to ensure services in each state. (See Table 1).

The Youth Development Bureau (YDB), located within the Administration for Children, Youth, and Families, Office of Human Development Services, has administered the Act since its passage. The Act authorizes grants, technical assistance, and short-term training to public and private non-profit agencies within the community. Grants are made to develop and strengthen community-based programs that provide the core services of temporary shelter, counseling, and after-care (follow-up services) to runaway, homeless youth and their families.

These services are provided both directly by the programs and through contracts established with other service providers. In addition to these grants, support is also being provided through the National Communications System, designed to serve as a neutral channel of communication between runaway youth and their families. This system also refers youth to needed services within their communities.

Even with the bipartisan support this legislation received, appropriation difficulties have plagued the program. However, in 1975, the appropriation was set at $5 million, and gradually increased to $11 million in 1978 where it remained through 1981. The appropriation for 1982 encountered difficulty, as several proposals were considered by both the Administration and the Department of Health and Human Services, including the incorporation of the Runaway Youth Act into a block grant to the states. It is anticipated that the program will

remain a categorical operation within the Youth Development Bureau of Health and Human Services for FY 83. An amendment to the Continuing Resolution for FY 1983 authorizes an increase in appropriations to $21 million. The Runaway and Homeless Youth Act, as part of the Juvenile Justice and Delinquency Prevention Act, is scheduled for reauthorization in 1984.

IMPORTANCE OF THE LEGISLATION

The Runaway and Homeless Youth Act is regarded as an important social service initiative for several reasons:

(1) Framed within the Juvenile Justice Delinquency Prevention Act, the Runaway and Homeless Youth legislation provides an impetus for the development and expansion of community-based programs designed to serve status offenders. Thus, non-violent, less serious offenders are diverted from the courts and inappropriate institutional arrangements.

(2) It is comprehensive in mandating the integration of the family into a wide network of community-based services designed to meet family needs. It requires attempts at family reunification and stabilization through individual and family counseling, and after-care services.

(3) The Runaway Youth Act provides recognition of the fact that the runaway youth problem is a national and interstate issue.

(4) The Act provides funding to ensure that programs exist in each state. These programs are linked together on a state, regional, and national level, providing a mechanism that assists youth in returning to their families. Acting under authority of the Act, the YDB facilitates and encourages information and resource sharing among the various programs.

(5) The Act provides YDB with the capability to collect data. This collection is the only source of nationwide statistical information on runaway, homeless youth and their families.

(6) Standard model regulations, developed by YDB, provide for program quality and consistency while allowing program flexibility and innovation.

(7) Programs funded by the Act are able to use YDB funds to establish credibility as recognized, federally-funded programs, using such funds as "seed money" to gather additional, broad-based support.

CHARACTERISTICS OF YOUTH SERVED

Why do youth run? There are many explanations for why youths run away from home. Although the research on this topic is fairly recent, the most comprehensive studies stress that runaways are not a homogenous group, and they examine three environments that constitute most of a youth's life experience: home, peer, and school.

A 1974 study concluded that the interaction of interpersonal, family, and school factors seems to precipitate running away from home. The most often

cited factors include the frequency of disruptive family activities, such as frequent moves, parental alcoholism, absence of one parent, little communication in the family, and physical or sexual abuse. Further studies demonstrate a correlation among alcohol abuse, drug abuse, and running away.

In short, it is important to stress that runaway and homeless youth represent two distinct categories: the former who run from a family situation that has the potential for reconciliation, and the latter in which reunification may not be possible because of family indifference.

Runaway Youth Centers are serving six distinct youth populations.

(1) Runaway Youth. Youth who are away from home without permission or legal guardians.

(2) Push-out Youth. Youth who leave home with parental encouragement.

(3) Throwaways. Youth who leave home with knowledge and approval of parents or legal guardians, and who desire to leave home.

(4) Potential Runaway Youth. Youth who are still living at home but are considering leaving home without permission.

(5) Non-crisis Youth. Youth who are living in an unstable or critical situation, but who are not planning to leave.

(6) Other. Youth who use the projects for various other purposes.

Demographics. The 1979 data base established by YDB reveals that runaways are the largest category (42%), followed by pushouts and throwaways (28%) and non-crisis youth (20%). More females than males run away in each category, with the exception of the push-outs where males predominate. The 14-17 age group represents 83% of the youth served, although programs also serve youth between the ages of 9 and 13 years (13.3%). While 72% of youth served are white/caucasian, minority youth also use these programs (16% black; 6% Hispanic).

Living situations. Of the youth who come to these shelters as runaways, the largest proportion (81.6%) had been living at home. However, the family had been typically (61.7%) headed by a single parent or stepparent.

Referrals. Youth come in contact with the runaway centers through a wide variety of referrals. The majority (19%) refer themselves for services. However, the police, courts, probation, and other juvenile justice agencies initiate 27% of all referrals--indicating that these programs, as a result of the implementation of deinstitutionalization laws, are serving as alternative service programs for status offenders. Protective services, mental health, and other public or private agencies account for 21% of the total referrals, demonstrating that these programs fill community service gaps.

PROGRAM DESCRIPTION

It is important to note that the 169 programs funded by the Runaway Youth Act do not constitute all of the runaway youth service programs in the country. The YDB programs, however, offer a successful demonstration effort which can be viewed as a model.

Runaway youth centers are diverse in terms of structure, ranging from free-standing emergency shelters to multi-purpose youth service agencies. Some have developed in response to specific community needs, while other programs have been selected as demonstration-sites to test their ability to deal more comprehensively with numerous youth problems. Examples of such problems include teenage pregnancy, school drop-outs, prostitution, youth employment, and adolescent abuse.

Despite this diversity, some common denominators exist in terms of key service components for all runaway youth programs. (All services are provided at no cost and have no eligibility requirements.) Emergency shelter is the cornerstone of the runaway program. Temporary housing is provided at the client's request on a 24-hour, 7-day-a-week basis through residences maintained by the programs, or through temporary foster homes, "host homes," and other community-based resources.

Crisis intervention counseling is another key component that assists the youth in thinking about family dynamics and the reasons for running away. This service attempts to avoid a breaking point in family communication and encourages family reunification. Other key services include outreach, information and referral, medical assistance, legal services, transportation, placement, advocacy, and after-care services. In addition to providing services directly, the projects have established solid working relationships with other institutions in the local communities, including welfare departments, juvenile justice agencies, social services programs, schools, police, and other runaway programs and crisis intervention units.

In a 1979 study, a sample of YDB funded runaway youth programs revealed that programs were operating highly complex and diversified service programs. In fact, the average YDB grant provided funding for less than half the cost of these programs. Other funds used by the programs included contracts from the Office of Juvenile Justice Delinquency Prevention, National Institute of Mental Health, Title XX, state agencies, local agencies, and private foundations. (See Table 2.) A cost analysis demonstrated that the projects generated an additional $3,000 worth of resources per month through the use of volunteers, donated resources, and in-kind services.

THE STATES' RESPONSE

The states have entered this arena by providing services to runaways, homeless youth, and their families through a variety of techniques, including specific legislation, line-item appropriations in general fund categories, and purchase of service contracts on the local level.

Because state involvement is a fairly recent activity, this section of the report is limited in scope and offers only a sample of state involvement. Further research in this area will continue through NCSL's Youth Services Project.

State Legislation. To date, New York, is the only state to have passed specific legislation related to runaway and homeless youth. Two key factors played a role in the legislation's development. (1) In 1976, Assemblyman Howard Lasher, chairman of the Assembly's Child Care Committee, held hearings to examine New York's runaway problems in light of the federally funded runaway youth programs which he perceived as useful. (2) Also in 1976, the state moved to keep status offenders out of institutions in order to comply with the Juvenile Justice Delinquency Prevention Act. Through joint hearings, committee members, police officers, and community groups developed a consensus that the best way to deal with runaways was through treatment rather than detention.

Passed in 1978, New York's law follows the Federal Runaway Youth legislation, and is administered by the Division of Youth. The statute clarifies the legal status of runaway youth and establishes both procedures and funds to expand services through the development of new programs. This provision restricts support to existing federally funded programs.

Ohio has passed legislation, HB440, that balances the goals of fair treatment for youth and protection for the public. (See "Juvenile Justice in the States: Which Way Is It Heading?" State Legislatures, January, 1982, pp. 19-24.) Administered by the Division of Youth, this legislation created a two-part, formula-based grant of state aid to counties. The grants may be used to support prevention, diversion, diagnosis, counseling, treatment, foster care, and rehabilitation programs for "alleged or adjudicated unruly or delinquent children, or children at risk of becoming unruly or delinquent." The juvenile courts and county commissioners jointly establish an annual plan of services needed at the local level.

Following an unsuccessful attempt to obtain line-item appropriation from the U.S. Department of Health and Human Services, Wisconsin passed legislation that earmarks Title IVB (the Federal Child Welfare Program) funds for runaway youth programs. For each of the next two years, $100,000 has been made available to support existing federally-funded programs. This funding replaces lost federal appropriations. Additionally, the law provides $100,000 per year for a two-year period to nonfederal programs that serve runaway youth as a portion of their overall client population. The selection of the Title IVB legislation as a potential revenue source for runaway youth programs was appealing to the legislature and to runaway programs, because the money remains administered by a state agency.

Connecticut has taken a unique approach in apssing a no-cost bill that sets a framework within which the family may be considered in need of services. This law grew out of Connecticut's efforts to deinstitutionalize status offenders.

Florida, which last year created a $307,000 line-item appropriation for runaway youth programs to replace lost federal dollars, also appointed an interim committee on status offenders within the Senate Judiciary-Criminal Committee. The committee is expected to recommend a state-local partnership in providing services to runaway youth. Legislation is being proposed in both the Florida Senate and House for Shelter programs, with the share used to purchase beds and support one-half of the operating costs of these programs.

Maryland has demonstrated its support by calling for a "sole source" 33% across the board increase to runaway youth programs. The Governor, whose approval is required, is expected to support this action.

Other State Action. Several states have responded to federal cutbacks in funding for runaway youth programs and to arguments for the cost-effectiveness of these programs by providing line-item appropriations. These states include Wisconsin, Maryland, Minnesota, California, Vermont, Florica, Ohio, and Hawaii. Other options for state support that will require review and study include: using state-formula Office of Juvenile Justice Delinquency Prevention grants; using funds available under the Social Services Block Greants; and creating various pass-through mechanisms from the state to local level that could result in purchase-of-contract services or free-for-service reimbursements.

FOOTNOTES

[1] JUVENILE COURT STATISTICS, Office of Youth Development, 1972, p. 415

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TABLE 1

RUNAWAY AND HOMELESS YOUTH CENTERS
FY '83 ALLOCATIONS BY STATE

STATE	ALLOCATION
Alabama	$299,200
Alaska	39,100
Arizona	199,750
Arkansas	170,000

American Samoa	3,400
California	1,688,100
Colorado	212,330
Connecticut	217,600
Delaware	44,200
D.C.	44,200
Florida	595,000
Georgia	408,000
Guam	15,300
Hawaii	73,100
Idaho	78,200
Illinois	858,500
Indiana	425,000
Iowa	217,600
Kansas	171,700
Kentucky	277,100
Louisiana	343,400
Maine	85,000
Maryland	304,300
Massachusetts	402,900
Michigan	725,900
Minnesota	309,400
Mississippi	214,200
Missouri	357,000
Montana	62,900
Nebraska	119,500
Nevada	54,400
New Hampshire	68,000
New Jersey	530,400
New Mexico	107,100
New York	1,276,160
North Carolina	428,400
North Dakota	51,000
Northern Marianas	1,700
Ohio	819,400
Oklahoma	215,900
Oregon	185,300
Pennsylvania	826,200
Puerto Rico	343,400
Rhode Island	64,600
South Carolina	239,190
South Dakota	54,400
Tennessee	331,500
Texas	1,086,300
Trust Territories	17,000
Utah	134,300
Vermont	37,400
Virginia	382,500
Virgin Islands	10,200
Washington	290,700
West Virginia	142,800
Wisconsin	357,000
Wyoming	37,400

SOURCE: Federal Register, March 1983, Department of Health & Human Services, Office of Human Development Services, Runaway & Homeless Youth Program; Availability of Financial Assistance.

TABLE 2

RUNAWAY AND HOMELESS YOUTH PROGRAMS REPORTING "OTHER SOURCES OF INCOME"+

SOURCE	BUDGET PERCENTAGE
FEDERAL FUNDING	
Youth Development Bureau	25%
Law Enforcement Assistance Administration/ Juvenile Justice and Delinquency Prevention Act	2%
Title XX of the Social Security Act	4%
USDA	1%
DOL/NCCAN/NDEA	1%
Other	3%
STATE FUNDING	
Dept. of Public Welfare/Social Services	10%
Dept. of Mental Health & Corrections	1%
Other	8%
CITY/TOWN/COUNTY PRIVATE FUNDS	
United Way	3%
Welfare & Mental Health	4%
Foundations & Corporations	2%
In-Kind Services	9%
Youth Bureaus or Councils	1%
Fees	2%
Donations	15%
Revenues	5%
Other	4%

+ 148 programs reporting

SOURCE: U.S. Dept. of Health & Human Services, Office of Human Development Services, Administration for Children, Youth & Families, Youth Development Bureau.

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SIDE OF LIFE

Girl on the Run: "Scared, Lonely, Scheming to Live"

UNHAPPY YOUNGSTERS who flee their families soon find that the road holds only fear, disillusionment and want. Yet taking the first step homeward is often the ultimate test.

Such was the experience of "Lisa," 17, who has a history of running away from her Maryland home. Now in a residential school, she gives this report of life on the run.

BETHESDA, Md.

I remember when my girlfriend and I hit Daytona, Fla., hopped up on "speed" that the truckers had given us, and these three guys pulled up in a car.

After two days of hitchhiking, all I wanted was a shower, so I cozied up to one of them—Michael—a 25-year-old guy from Ohio. Right off, he took me to the house he shared with the two others.

While the men were out at work rebuilding piers, I would clean and cook for them. Michael responded by protecting me from the others and keeping me away from Main Street, where drugs were dealt and people were always doing weird things. But when he asked me to marry him, I was scared because I was only 15 and I didn't really love him.

So I went to a party without him, got drunk and woke up in another house. When Michael wouldn't take me back, I started feeling desperate, went to the police and ended up in a youth shelter. In all, I had been in Florida for two weeks when my parents sent a plane ticket and I came home.

Through five years of running away, that's how it has always been: Looking for love but acting phony. Usually I'd drink or drug my way into trouble—then use seduction to get by.

The first time I ran away—when I was 13—it was because I had been drinking and stayed out late with a guy. My parents got the police involved, and things soon got so complicated I took off. A friend took me to an abandoned house in a cornfield near where he lived.

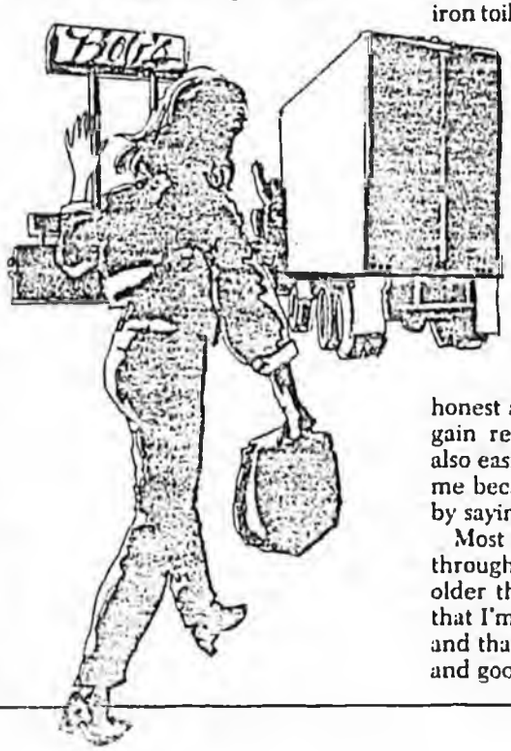
I stayed there a week, sweeping and cleaning and singing when I was lonely. I slept on the floor and tried to keep warm by wrapping myself in old sheets of plastic left over from the movers. One night a policeman—Officer Bear I called him—saw me in a parking lot and took me home. I called cops pigs then, but I loved that man because he cared enough to talk about my troubles.

That's what I was looking for—someone to care for me. At first, whenever I ran away I'd say to myself: "Wow, I'm on my own. I can drink and party all I want, take a bong hit [smoke a marijuana pipe] any time I want."

But it wasn't long before I realized how scared, lonely and totally phony I was. I was doing everything to get something—to be loved, to feel secure, to get money or food. I was using people, scheming to live. It was fun at first, but after a while you don't have any friends because people start getting back at you.

I think I ran because I was trying to get away from myself and the crazy way I was living. Also, I didn't feel loved at home, so maybe I would feel loved somewhere else.

My birth wasn't exactly welcome because my father was a chronic alcoholic. My parents divorced when I was 6 months old, and I only saw my father a couple of times before he was killed while being robbed.



My mother remarried when I was 9, but I couldn't stand my stepfather. Without giving it a chance, I downright hated the man because my mom was all I had and it seemed like he was taking her away. I felt very lonely. Both my parents are teachers, and when my mother got home from work I was buried somewhere in the four kids that came with my stepfather.

A few times our brawls were my parents' fault, but usually I'd bait my stepfather. "Come on, hit me, man," I'd say, "so I can take you to court." I was just a punk.

By eighth grade, I had run away twice, started skipping school to go partying, and, even though I have the ability to be an A student, I flunked twice before I reached 10th grade.

No paradise. I kept on running, five times in all, but my life on the road was always the same—too many trashy people, too many drugs, too much promiscuity and drinking.

Usually, when I called my mom, she'd say something like, "I don't agree with what you're doing, and I think you should come home." She was angry, but she knew she didn't have any control over me.

But this last time—six months ago—things were different. When my roommate and I went AWOL from the school where I'm living, we only got as far as Pascagoula, Miss., before the cops pulled the truck over. They arrested the driver for picking up hitchhikers and locked me in a cell that was the real thing—with only an iron toilet, a hard bed and a slot where they pushed in your food.

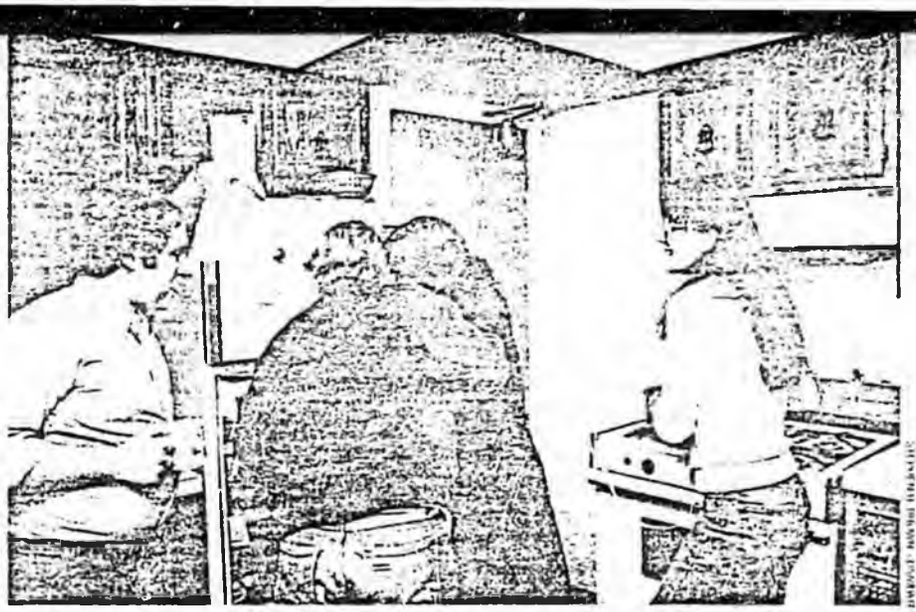
After the strip search, I was ready to come home. This time, my mother made no attempt to hide the fact that she was angry, and the counselors at the school where I stay have helped me see why I've been unhappy and how I'm responsible for my own actions.

Now I'm finally beginning to realize that I have to stop scheming and start being honest about my feelings in order to gain real love and self-respect. It's also easier to feel that my mom loves me because she now will risk a fight by saying "No."

Most of all, even though I've been through a lot, I don't want to act older than I am any more. I realize that I'm not 25—that I'm just a kid—and that I really do need my parents and good friends.

An Endless Parade of Runaway Kids

They may number 1 million a year—frightened, rebellious and often easy prey. Society is trying to help, but only a few can find safe refuge.



House parents Jerry and Sandy Girbach help a pair of young guests raid the refrigerator at the Open Door, a shelter and counseling center for runaways in Rockville, Md.

Despite scores of programs to help them, thousands of youngsters each year still are joining the rootless, troubled group known as runaway children.

The federal government's General Accounting Office estimates that at least 1 million children a year are absent from their homes. Of these, half are considered "push outs" who are not wanted by their parents. The rest are runaways who, at the average age of 15, turn their backs on anxious families to try a life full of chaos and peril.

The vast majority of runaways—80 percent, according to social workers—return home within two days, before police have included them in missing-persons reports.

Some 44,000 a year find their way to federally funded shelters, and additional thousands land in jail. Still others stay away from home for weeks, months or years and are numbered among the 18,000 juveniles who make up three quarters of the missing persons listed by the National Crime Information Center.

A drifter's life. As they move from city to city, these youngsters typically fall quickly into patterns of runaway life: Sleeping outdoors, hitchhiking, crashing parties, shoplifting, looking for odd jobs, panhandling or turning to prostitution, pornography or drugs.

"The incidence of criminal activity rises sharply with the length of time a kid is away from home," says Robbie Callaway, executive director of the National Youth Work Alliance in Washington, D.C. Although only 40 percent of runaways report legal troubles before leaving home, Callaway says, almost all children who have been gone more than two weeks get involved in crime, either as perpetrator or victim.

On the road, homeless young people tend to gravitate toward resorts or big cities: San Francisco, Los Angeles and Denver in the West, New York and Florida beach towns in the East.

Sixty percent are girls, and few have any work experience. Some earn tourist-season money at shops and restaurants, but many resort to dealing dope to friends or sex to strangers.

"What can a 13-year-old girl do besides show her body?" asks a girl at a youth shelter. "In all my trips, I had one real job: Making candles at the beach. But twice I had guys asking me to pose nude for pictures—$100 for the first shot, then a lot more later on."

In New York, runaways are the staple of the "Minnesota strip," a stretch of hookers' turf near Times Square that got its name by providing mostly out-of-state boys and girls between the ages of 10 and 20. In Chicago, recruiters at bus stations seek runaways for call-in services offering hired "companions" at rates as high as $450 a weekend for a boy in his early teens.

Although most young people return home after their first brush with trouble, dramatic incidents show how vulnerable they are. For example—

- The bones of many runaways were found among those of 27 victims linked to Elmer Wayne Henley, an 18-year-old convicted in 1974 as an operator of a homosexual torture ring in Houston.
- In 1980, Chicago handyman John Wayne Gacy was convicted of killing 33 boys and young men, many of them reported to police as runaways.
- Police are still searching for the bodies of several of the girls reported slain by Gerald Eugene Stano, who told authorities that over some 10 years he killed at least 31 females, mostly hard-to-trace young hitchhikers and prostitutes, in Florida and New Jersey.

Politicians have responded to the runaway problem by pressing for more money and manpower to locate missing children. In October, President Reagan signed a law authorizing the Federal Bureau of Investigation to take reports about absent youngsters from parents and distribute them electronically to police departments nationwide.

Congress recently increased the funding of programs aimed at runaways from 10 million dollars to 21 million. Most of the money goes for youth shelters and for telephone hot lines set up to aid young people in major cities.

Typically, a child looking for help is steered to one of the 166 federally funded shelters by the police, church or social-welfare workers. Some agencies send scouts to areas where runaways often gather, and others run newspaper ads containing a child's picture and a toll-free phone number that anyone with information can call.

Within 24 hours after a runaway arrives at a center, counselors try to contact the parents and begin negotiating as to what the young person should do next. Social workers check out with teachers and police any complaints of parental abuse. Within 30 days, the runaway must decide whether to go home, live independently or move to a longer-term institution—usually one of 300 residential schools or group houses that provide a foster-family atmosphere.

Sticking point. "The problem in getting through to runaways is that, on the surface at least, most have what look like perfectly good reasons for leaving," says Dr. Martin H. Stein, medical director of Dominion Psychiatric Treatment Center in Falls Church, Va.

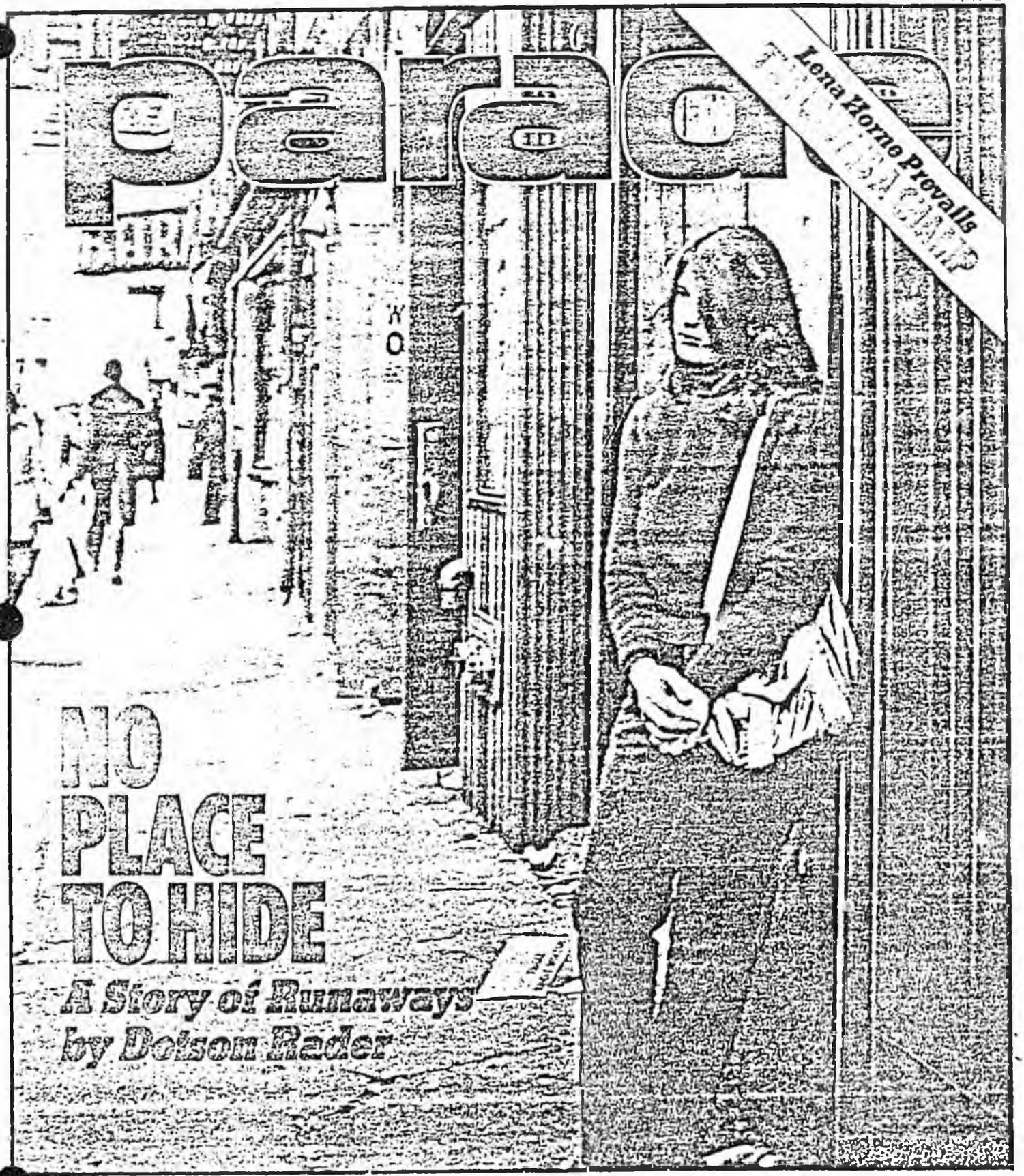
Probation officers report that well over half the fugitives who land in juvenile courts come from homes marred by alcoholism, beatings or sexual abuse by fathers or other relatives.

Even so, counselors say that they are encouraged by the progress they can make with youngsters who turn to the shelters. "Usually, running away is a sign that a kid feels a need for a change," says H. R. Kelly Kjeldsen, program coordinator of the Open Door in Rockville, Md. "If you can show them how, and sometimes get the parents involved, it's often gratifying to see the way they respond." □

By JAMES D. ANN

The Washington Post

FEBRUARY 7, 1982



NO PLACE TO HIDE

A Story of Runaways

by Dotson Rader

RUNAWAYS

The average age is 15 and most depend on prostitution or theft to survive • by Dotson Rader

Ann is a very pretty girl, with a round, childlike face, lovely smile and large brown eyes. She dresses colorfully and delights in collecting stuffed animals, bunnies mostly, and baby dolls. When she moves from one cheap hotel to another, as she frequently does, she piles her toys into two enormous plastic garbage bags and drags them with her.

Ann is 15. Like hundreds of other runaways, she hangs out around First and Post Streets in Seattle, a derelict in an area of porn shops, saloons, fleabag hotels. She sleeps late, spending her nights wandering the streets or sitting in the Donut Shop. While it's an unpleasant place, runaways feel welcome there, safe from the johns, pushers and pimps outside, and from the cops. For many, the Donut Shop is the only place they have to go.

Like Ann, all the children in this story are real. While their names have been changed, their stories are true. What they say here is typical of what hundreds of other kids told me across America, from Key West to Boston, and New York to Los Angeles.

This article centers on the runaways in Seattle and San Diego, cities chosen because they anchor the ends of U.S. I-5, the main road for kids on the run in the West. Also, they are representative places, largely middle class. These children could be from your town, from next door.

I sat opposite Ann at one of the long formica tables, under harsh fluorescent lights. I asked her why she didn't go home to her family.

"Everytime I try to go home to live, my Dad starts hitting me," she said. "Now I only go home on Christmas, Thanksgiving and on my birthday. I owe them that. I'd like to live at home again, but I know it would start all over again, Daddy drinking and beating me up. That's why I left. The first time I ran away, I was 11. When I was 12, I was gone for good. I got a job at the Exotic Body Exercise Club downtown near the Donut Shop.

"After I lost that job, I met this old man on the street. He said he needed a babysitter. I'd get paid well. He lived in a hotel in Chinatown. He had a prostitute there, and she had a baby I took care of. After a while, the old man made me a prostitute. I was 13 years old, and I had no place to go.

"The old man knew all these Japanese guys who'd come to the hotel for sex. Two or three times a week I'd turn tricks, usually five or six a night. They each paid the old man $40 for sex with me. He was good to me. Sometimes he gave me $7 to go to the disco, and $10 to spend. But I left him after nine months."

Ann glanced around the Donut Shop at the other kids. Then she leaned forward, lowering her voice, not wanting the other children to hear. Her modesty was touching and sad.

"My parents never spoke to me about sex. What I knew about it I learned at the movies," she confided. "When I first did it, I'd drink before the sex happened, and then I'd pretend it wasn't happening to me. I'd think about *pretty* things, like I wasn't even there. The first time, I was scared because I didn't know what was going to happen. Then I didn't care anymore. I really only like sex with someone I love. Other times I'm indifferent. I'm very lucky. I haven't been hurt by a trick. A lot of kids have.


Brent Petersen

"After I left the pimp," she continued, "I started mud wrestling on weekends all over the country. I was 14."

Ann told me about the mud show circuit, how she was auctioned off after each match to the highest bidder, who then had the right to bathe her down. She added that her life was okay. Anyway, what choice did she have? Nobody since she first ran away had ever tried to help her. Nobody.

We left the Donut Shop. Kids were huddled in doorways or walking back and forth to keep warm, some as young as 10, waiting around in the cold for someone to stop and buy their bodies for a few dollars or a meal or a warm place to stay. Police cars cruised by, as did johns peering through closed car windows, looking for kids to pick up.

Up to 1 million children in the United States run away from home each year, according to the federal Health and Human Services Administration. And most, after a few weeks, turn to prostitution and theft for survival. The average age of a runaway child is 15.

Forty-seven percent of runaways are girls, the agency says. More than half leave home because of child abuse. One-third are sexually abused. Of these children, 83 percent come from white families. The majority are never even reported as missing by their parents. Knowing all that, it was still disheartening to see in Seattle so many kids with nowhere to go.

As we walked, Ann introduced me to other street children, two of whom I asked to interview. Most of the runaways I met were unusually bright, attractive, lonely and hungry for adult regard and affection.

There were also johns who came up, trying to solicit Ann.

These men who have sex with children are almost entirely middle-class, usually married, and most often they have children at home about the same age as the child they violate, according to social workers. They are rarely arrested. When the police act, it is always against the children.

Before I left Ann, I asked how she envisioned her future. It was now after midnight. She stood near the entrance of a smut parlor, her small hands shoved in her jacket pockets, looking weak and defenseless. "Oh, I don't plan to be a prostitute for the rest of my life," she declared. "In Seattle, most of the runaway girls on the street end up in prostitution. It's do or die. The same with the boys. Do you know how hard it is for a kid to get a job in Seattle?" She shook her head. "If I had my life to do all over again, I wouldn't live like this. I would have stayed home. I'd rather be abused at home than this. Seriously, I would."

She paused.

"But it's too late now."

The following day I found Ann waiting in my hotel lobby with two of her friends, Daniel and Melanie.

Daniel, who just turned 15, is tall, handsome and unusually articulate. He told me about running away from home at 12, of being raped a week later by a middle-aged man in the back of a van and being too frightened to tell anybody. In almost deferential tones, he outlined his brief life—hitchhiking up and down the West Coast. His was an account of sexual abuse, drugs, desperation and an aching need to belong somewhere, to somebody. Now he was working as a busboy. He wants to be a radio announcer. Someone told him he had the voice for it.

After speaking with Daniel, I talked

"My parents never spoke to me about sex. What I knew about it I learned

COVER PHOTOGRAPH BY BRENT PETERSEN

h Melanie. She spoke rapidly, chain-smoking. There was a bravado in her manner, belied by her sorrowful gray eyes. She was 5 feet and underfed.

She told me about her parents' divorce and the death of her grandmother, whom she loved deeply. At 13 she became pregnant. She didn't know how pregnancies happened, she said. She left home when her mother forced her to abort the child. Melanie has been on the run since.

"I ran away on Christmas night, about two months after the abortion," she said. "I hated Mom after that. One night I went to downtown Seattle. I met a guy named Jim. He was 18, and he'd been a runaway since he was 14. We got an apartment together. It was really a hotel for bums. I started tricking [prostitution] to get money for us because Jim was having a hard time of it. The johns wanted younger boys, 14, 15, and Jim was too old. When I first started tricking, I didn't let Jim know. I wanted him to think I was an innocent little girl. Now it doesn't bother him."

Melanie sat by the window in my room. It was an overcast day, but you could still see past the skyscrapers to the lake beyond and, farther still, the hills of the neighborhood where she d been reared.

"I used to live over there," she remarked. "It was a nice house."

Now she lived with Jim, who was a bum dealing drugs, drinking and hanging out. She loved him, but she hated prostitution, all her years lost to the streets. She felt trapped.

"I'm so tired of sex," Melanie said wearily. "It doesn't do me any good, sex with anybody, even Jim. I don't enjoy it anymore." She is 16 now.

I suggested that she return home. If she told her parents what she had been through, they would help.

She laughed. "*My parents know I'm a prostitute*," she said. "All my father says is, don't get arrested. He doesn't want it in the newspapers."

Before I left for San Diego, I took Daniel and Ann to the restaurant at the hotel. They ate a lot and talked as children will about all they are going to do in life and what shining futures awaited them, but I knew they didn't believe a word of it.

"I'm flying to California on Tuesday to go on the roller-coaster and see a guy down there named Walt," Ann boasted. "He's a television producer."

"I've been to Disneyland!" said Daniel. "*Twice*!"

She ignored him. "I met Walt at an amusement park last year in Santa Cruz. I went to his ranch and rode horses and drank lemonade. He likes little girls. He likes me."

I asked how old he was, this man who likes little girls.

"Sixty-five," Ann said.

When they finished eating, they said they had to go to the bathroom. As I waited for them to return, I grew wary and began to suspect they were conspiring to hit me for money.

When they returned, each had a small gift for me they had bought at the hotel's gift shop. A bottle of after-shave and a souvenir mug.

For three days in San Diego, a runaway named Patrick took me to places where children on the lam gather. They're not hard to find. They sleep in the bus depot, or in the parks, particularly the area near the zoo. You find them in abandoned cars or empty houses or grouped around fires on beaches. They are everywhere.

Of the hundreds of children I met, Patrick was the most private. He was wounded inside, and the pain bred distrust and silence. He was 17, although he looked much younger. Blond, with blue-green eyes, he was small but athletic, liking gymnastics. Quiet, shy, suspicious. But despite that, he had a natural winsomeness, a ready smile and easy laugh joined by an insistent vulnerability that made him at once likable and sad. He elicited in me, as did the others, a desire to protect. But he was different, possessed by an almost palpable rage. When I first asked about his life, he angrily refused to reply. So I let it go by.



A runaway in San Diego finds a place to sleep—for a night. Steve Shames

On my second day, we drove to Chula Vista Park, where many runaways live. They survive by doing odd jobs, stealing, helping each other out.

We came to the park two days after the police had raided it, and we saw children with bruised faces and cuts on their heads. The police don't like children living in the parks.

Among the runaways I interviewed there was Steven, 15, from Ocean Beach, Cal. He ran away when he was 13, he said. Like most runaways, his chief concern was getting enough food and a dry place to sleep. He comes from a good family, but he can't go home again.

"It's frightening to be a runaway," Steven said, "because you don't know about tomorrow. You wonder where you're going to eat or live. Am I going to be all right? Will I be able to sleep somewhere other than in the park? You got nothing to grab onto because all that you own is what's on your back. Nothing is mine. When I want something to eat, I steal it.

"When you run away, you meet a lot of kids who got no place," he added.

"Why don't kids want to go home?" I asked.

"Some of them get beat up so bad," he said. "But the streets are bad too. The cops hassle you. Sometimes they beat you up.

"I don't want to go home because I really hate my mother. When I was 13, she kicked me out.

"If I had a child who ran away, I'd find him. I'd do my best. I'd sit down and ask him what was on his mind. What's troubling you, kid? And after we talked, I'd try to change the things he didn't like. We'd compromise. I want to go back home, but I can't. I see how small I am. *I'm nothing*. God, I can't live on my own. It's mad out there. It's crazy! Whew! It's scary! I can't pay my own way. And I know it."

The day I was to leave San Diego, Patrick and I went to Ocean Beach to interview more runaways. I talked to a girl and a boy who lived in a broken-down car. And to a girl of 15 with a year-old baby, and her friend of 13. They had been traveling together for two years and could not see beyond

continued

the movies. When I first did it, I'd pretend it wasn't happening to me."

The National Youth Work Alliance

1346 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036 • (202) 785-0764

THE NATIONAL YOUTH WORK ALLIANCE (NYWA) IS A PRIVATE NON-PROFIT ORGANIZATION WHICH ASSISTS IN THE ESTABLISHMENT OF RUNAWAY CENTERS AND OTHER YOUTH PROGRAMS FOR TROUBLED YOUTH. NYWA ALSO SUPPORTS EXISTING PROGRAMS THROUGH TECHNICAL ASSISTANCE, STAFF TRAINING AND PROGRAM DEVELOPMENT. BESIDES THE NATION'S 220 RUNAWAY PROGRAMS, NYWA ASSISTS HUNDREDS OF YOUTH DRUG AND ALCOHOL ABUSE PROGRAMS, JUVENILE DELINQUENCY PREVENTION PROGRAMS, YOUTH EMPLOYMENT PROGRAMS AND CRISIS COUNSELING CENTERS.

PLEASE FEEL FREE TO CONTACT US FOR FURTHER INFORMATION.

***RUNAWAYS** /continued*

tomorrow. Also, there were young runaways spaced out on drugs or staggering about on cheap booze: children obviously undernourished, unhealthy, unwanted. America's children.

As the sun began to set, Patrick and I sat on the pier watching the light fade.

"I've had a pretty hard life," Patrick suddenly said, staring at the ocean.

I replied that I knew, although I didn't.

"I don't want to tell you all of it," he said. "I was always made to feel less." He sipped a beer as he sat hunched on the pier, his feet dangling above the water. "My mom hated me," he went on, "because I reminded her of my dad. I always knew she was bad, from the first day I can remember, like when I was 2 years old. She was always doing weird things, like wanting me and my little brother to take a bath with her." He stopped. I said nothing, for I sensed Patrick was trying to tell me what he had never told any other adult.

"She tried to do sexual stuff with us, too," he began again, staring out to sea as if he were addressing the ocean and not me. "To go to bed with her. All through my growing up, she was always trying something with me, and my little brother too. She was dating a guy, and she had a girlfriend at the same time, and they were all sleeping in the same bed, running around naked all the time. It makes me sick. My own mother. I've blocked it all out. That's the only way I've survived.

"Then when I was 13, I was sent to live with my grandparents," he said. "They cheated and lied. When I was 15, they sold me to a lady for $500. I ran away. So I never had a real family. I never saw my real father. I was always lonely . . . I feel like there must be something wrong with me. How come no one ever loved me? I must be bad. I feel like I don't exist because nobody ever *loved* me.

"My mom used to beat me with boards," he continued. "You wouldn't believe some of the stuff she whipped me with. Hot Wheel tracks. And my stepfather? He whipped me 25 times on the back of the legs with a rubber hose. I tried to block it, and I got hit on the hands. I counted every swat. Twenty-five times he hit me. And now he beats my little brother. How can I get even? I *can't* get even. But I'll remember it, believe me."

I asked Patrick if that was why he ran away, because of the beatings.

He looked at me, full of anger, and then he threw his beer can into the sea. He stood. We walked on the pier.

"I didn't want to be a runaway," he said. "I had no place to go. I didn't want to steal, I didn't want to starve. I didn't want to sleep nowhere to go."

He stopped and grabbed my arm.

"No one ever helped me! Ever helped me. Help me! I need help. Someone!"

"I know," I pulled my arm free.

"There's a lot of things I don't know and I'd like to learn. I want to learn to survive legally," he went on. "I don't have my ID, and I don't know how to get it. I'm willing to learn. I don't want to be a dummy all my life. I don't want to be a bum, because I'm better than that. Do you understand where I'm coming from? I need to know things to survive! I don't know anything. I can barely *read*, to tell me honest truth. My mom never helped me with my schoolwork. They didn't care about me."

I looked at him, his eyes expressing bewilderment, pain and deep humiliation. *I can barely read.*

"Patrick," I began, and gave up. I had no answer to give him.

We walked toward the fence separating the parking lot from the beach.

"Don't you think loving is hard?" he asked.

I said nothing.

He glanced at me, and then he cleared manfully. "I never cry."

With that, Patrick rushed to the fence, climbed it, and like a circus acrobat ran along the top of it quickly—away from me.

HOW YOU CAN HELP

A national network of shelters for runaways, financed by governmental and private sources, provides temporary housing and food to homeless children. Many, such as The Bridge in San Diego and Shelter Runaway Center in Seattle, are excellent. But The Bridge has eight beds and Shelter has six. Others around the country are similarly small and poorly funded and unequipped to significantly help a growing mass of children in flight.

The shelters need help. You can get in touch with those in your community through the National Runaway Hotline (1-800-231-6946) or the National Runaway Switchboard (1-800-621-4000). Or write the National Youth Work Alliance, Dept. P, 1346 Connecticut Ave. N.W., Washington, D.C. 20036.

HB

649

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

2/13/84 Date: April 10, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 549

"An Act relating to the minimum monthly retirement benefit under the Teachers' Retirement System; and providing for an effective date."

under consideration and recommends:

[x] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mac Tucker

CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 649
Title: Minimum benefit under TRS

Sponsor: Bettisworth
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Dept. of Educ., U of A
Program Category Affected: TRS

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs		13.0				
100 Rtmnt & Bnfts		146.5	158.3	170.9	184.6	199.4
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match		872.5	942.3	1,017.7	1,099.1	1,187.0
TOTAL OPERATING		1,032.0	1,100.6	1,188.6	1,283.7	1,386.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund	-0-	1,032.0	1,100.6	1,188.6	1,283.7	1,386.4
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary		1				

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 4-9-84

Approved by Commissioner: Lisa Rudd Date: 4/10/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 649
Fiscal Note Analysis
Prepared by the Divison of Retirement & Benefits
Department of Administration

April 9, 1984

IV Analysis: We have assumed that this bill would affect 439 TRS members by increasing their benefit by $10 per month for each year of service. We have calculated that passage of this bill will increase the state's contribution rate by .23% and the TRS State Match by .23%. The present value of these costs is $19,730,000.00 and would result in a decrease in the funding ratio of 2.46%.

The estimated FY 85 State TRS salaries are $63,713,500.00 and the total estimated TRS State Match salaries are $379,349,200.00.

We have also estimated that efforts of researching and correcting the current minimum benefit recipients and those newly qualifying recipients would involve approximately 500 hours at a one year cost of $13,000.00.

Position Paper

HB 649

The Department of Administration opposes this bill. The new minimum benefit would be paid to any retiree who retired with less than a $21,000 annual salary for their high three years. The adjustment under this bill would be made and then any post retirement pension adjusments which had been granted would be added. For example, the minimum benefit under this bill granted to a member who retired in 1965 would, when combined with post retirement pension adjustments, yield a total benefit equivalant to that of a person retiring today with a final salary of $31,966.44. This seems excessive for a minimum benefit. Those retirees who have been retired longer would benefit more because of the addition of post retirement pension adjustments.

The Department feels that the current minimum benefit provision when coupled with post retirement pension adjustments is adequate.

J.K. Humphreys, Director, Division of Retirement & Benefits — Date 4/9/84

Commissioner Lisa Rudd, Department of Administration — Date 4/10/84

Post Retirement

Pension Adjustments

PERS		INFLATION*	TRS	
			7-1-67	1.5%
1-1-68		2.6%**	7-1-68	1.5%
1-1-69	1.5%	4.4%**	7-1-69	1.5%
1-1-70	1.5%	3.9%**	7-1-70	1.5%
1-1-71	1.5%	3.8%	7-1-71	1.5%
1-1-72		3.1%	7-1-72	1.5%
1-1-73	2.5%	2.6%	7-1-73	1.5%
1-1-74	3.0%	3.9%	7-1-74	3.0%
1-1-75		11.3%	7-1-75	
1-1-76		14.8%	7-1-76	
1-1-77		7.2%	7-1-77	10%
1-1-78	4.0%	7.6%	7-1-78	4.0%
1-1-79	4.0%	6.3%	7-1-79	4.0%
1-1-80	4.0%	10.0%	7-1-80	4.0%
7-1-81	4.0%	10.1%	7-1-81	4.0%
7-1-82	4.0%	7.7%	7-1-82	4.0%
7-1-83		7.1%	7-1-83	

*converted from Anchorage CPI (only for 1971 on).
**these percentages were furnished by Dept. of Labor

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

April 10, 1984

MEMORANDUM

TO: Representative Bob Bettisworth

FROM: David Teal
Legislative Analyst

RE: Adjustment of Teachers' Retirement Benefits
Research Request 84-091

Ralph Bennett, of your staff, asked us to apply inflation factors in order to determine benefit amounts that correspond to previous payments through the teachers' retirement system. The table below shows (1) previous minimum benefit amounts (in the first year in which an amount was applicable), (2) the Anchorage Consumer Price Index (CPI) in the same year, (3) the inflation factor required to bring the previous value to an equivalent value in January 1984, and (4) the minimum benefit (in 1984 dollars) that corresponds to the previous amount.

Year	Minimum Benefit*	January CPI	CPI Adjustment Factor**	1984 Minimum Benefit
1974	$15	125.6	2.16	$32.42
1975	20	142.9	1.90	38.00
1980	25	215.9	1.26	31.44

*The minimum benefit is presented as the minimum monthly payment per year of service. The floor was set at $200 per month, regardless of time served, prior to 1974.

**The CPI for January 1984 was 271.5. Adjustment to later values would increase the amount shown in column 5.

* * *

If we can be of further assistance on this or another project, please call.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811

Public Employees' Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

(907) 465-4460

January 20, 1984

RECEIVED
JAN 23 1984
BUDGET/AUDIT
COMMITTEE

Honorable Robert H. Bettisworth
Chairman
Legislative Budget & Audit Committee
Pouch V
Juneau, AK 99811

Dear Mr. Chairman:

Attached is an estimate of the fiscal impact on the Teachers' Retirement System (TRS) of your attached draft legislation. This estimate is for information purposes only and the assumptions used are outlined on the second page.

We appreciate your aide's efforts in working with this Division in drafting this legislation. When the bill is introduced, we will review it and prepare an accompanying, formal fiscal note. If we can be of any further assistance, please contact me.

Sincerely,

J.K. Humphreys

J.K. Humphreys
Director

JKH/sf
Attachments
cc: Rebecca Burch

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

DRAFT

Revision Date:

REQUEST
Bill/Resolution No.: HB Draft
Title: Minumum benefit under TRS
Sponsor: Bettisworth
Requestor:
Date of Request:

FISCAL DETAIL
Agency Affected: Dept. of Educ., U of A
Program Category Affected: TRS
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs		13.0				
100 Rtmnt & Bnfts		146.5	158.3	170.9	184.6	199.4
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match		872.5	942.3	1,017.7	1,099.1	1,187.0
TOTAL OPERATING	-0-	1,032.0	1,100.6	1,188.6	1,283.7	1,386.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund	-0-	1,032.0	1,100.6	1,188.6	1,283.7	1,386.4
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary		2				

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 1-16-84

Approved by Commissioner: Lisa Rudd Date: 1-16-84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill Draft
Fiscal Note Analysis
Prepared by the Divison of Retirement & Benefits
Department of Administration

January 16, 1984

IV Analysis: We have assumed that this bill would affect 439 TRS members by increasing their benefit by $10 per month for each year of service. We have calculated that passage of this bill will increase the state's contribution rate by .23% and the TRS State Match by .23%. The present value of these costs is $19,730,000.00 and would result in a decrease in the funding ratio of 2.46%.

The estimated FY 85 State TRS salaries are $63,713,500.00 and the total estimated TRS State Match salaries are $379,349,200.00.

We have also estimated that efforts of researching and correcting the current minimum benefit recipients and those newly qualifying recipients would involve approximately 500 hours at a one year cost of $13,000.00.

PRPA- CALL FRED ZHAROFF

TEACHERS WHO RETIRED OVER 10 YEARS AGO WHO FELL BELOW THE NEW RATES ESTABLISHED ABOUT 10 YEARS AGO.

C EMPLOYEES RETIREMENT SYSTEM / TEACHERS' RETIREMENT SYSTEM / JUDICIAL RETIREMENT SYSTEM / ELECTED PUBLIC OFFICIALS RETIREMENT SYSTEM / NATIONAL GUARD RETIREMENT SYSTEM

A COMPARISON - MAY, 1983

	PERS PO/F	PERS All Other	TRS	JRS	EPORS	NGRS
plier	2% on years 1-10 2½% on years over 10	2%	2%	5%	5% membership 2% other creditable service	$100.00 x no. of months NGRS service
	5 years	5 years	8 years	5 years	5 years	5 NG out of 20 MIL
nent	55 w/5 years service OR 20 years PO/F service	55 w/ 5 years service OR 30 years service	55 w/8 years membership service; OR 5 years membership service and 3 years AK BIA; OR 15 years credited service if hired prior to 7/1/75, last 5 years membership service; OR at any age: 20 years membership service; OR 20 years combined membership and AK BIA, last 5 years membership service; OR 25 years credited service, last 5 years membership service.	60 w/ 5 years service	60 w/ 5 years service	N/A
	55 w/2 years service if if vested in the TRS	55 w/2 years service if vested in the TRS	55 w/2 years membership service if vested in the PERS	N/A	N/A	N/A
s	5%	4.25%	7%	7% for Judges hired after 7/01/78; 0% for Judges hired before 7/01/78	7%	N/A
	22.36% consolidated rate; FY 83	12.71% consolidated rate; FY 83	8.45%; FY 83	104.78%; FY 83 and FY 84	Unfunded System, Annual Appropriation	Funded System, $1,202,000 FY 83 and FY 84
	Military (max. of 5 years) Territorial Service (must have 3 years service w/State after 1961) Temporary Service	Military (max. of 5 years) Territorial Service (must have 3 years service w/State after 1961) Temporary Service	Military (max. of 5 years) Outside (max. of 10 years; military & outside not to exceed 10 years) AK BIA (no max.)	Magistrate Pre 7/01/67 N/A N/A	PERS Covered Employment	N/A
	10% (or $50.) if domiciled in AK	10% (or $50.) if domiciled in AK	10% if domiciled in AK	NO	NO	NO
nt stments	Ad Hoc	Ad Hoc	Ad Hoc	Benefits increase with Last Position's Salary Increase	Benefits Increase With Last Positions Salary Increase	NO
nce er	Yes	Yes	Yes	Yes	Yes	NO

Appendix I

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE
ROBERT H. "BOB" BETTISWORTH

211 CUSHMAN STREET
FAIRBANKS, ALASKA 99701

April 10, 1984

M E M O R A N D U M

To: Representative Mae Tischer, Chair, House HESS Committee

From: Rep. Bob Bettisworth

Subject: HB649, "An Act relating to the minimum monthly retirement benefit under the Teachers' Retirement System; and providing for an effective date."

It has become evident that TRS retirement benefits have not kept up with inflation. This has resulted, for the most part, from the failure of post retirement pension adjustments to keep pace with actual inflation. In an attempt to partially redress this problem HB649 proposes to raise the current statutoral minimum TRS benefit for retirees under the system from $25/month/year to $35/month/year. The cost of this increase for those receiving minimum benefits would have to be borne by the state through increased annual appropriations to the TRS match.

The TRS system had no minimum or floor level for retirees until 1973 when a $200 minimum benefit per month was provided. In 1974 this was changed to $15/month/year of service and in 1975 the per month per year minimum was raised again to $20. The $20 floor remained in effect until it was raised to $25 in 1980 and it remains at that level today. DOA, Division of Retirement and Benefits has estimated that the number of retirees affected by the increased benefit would be 439.

In calculating what an appropriate increase would be the Anchorage CPI was used keeping in mind the changes over time since the first per month per year based floor was installed in 1974. A figure based on the amount of CPI change since the 1975 adjustment to $20/month/year was also calculated. Based on these two scenarios, a median figure of $35 was selected bearing in mind that the numbers were based on calculations of inflation only through January 1, 1984.

A chart showing the present minimum benefit levels for specific service longevity and the same representation for the new minimum benefit levels is provided:

Currently TRS contributors vest at eight years of service.

1.) EXISTING MINIMUM BENEFIT LEVELS FOR TRS RECIPIENTS

Eight Years	8 X $25	=	$200
Ten Years	10 X $25	=	$250
Twelve Years	12 X $25	=	$300

2.) PROPOSED MINIMUM BENEFIT LEVELS FOR TRS RECIPIENTS

Eight Years	8 X $35	=	$280
Ten Years	10 X $35	=	$350
Twelve Years	12 X $35	=	$420

An increase in minimum benefit from $25 to $35 is an increase of 40%.

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

House Bill 649, "An Act relating to the minimum monthly retirement benefit under the Teachers' Retirement System; and providing for an effective date," by Representative Bob Bettisworth, raises the minimum amount for eligible members of the Teachers' Retirement System from $25 (under current law) to $35 a month for each year of credited service, excluding adjustments.

The bill provides that the law would take effect July 1, 1984.

(Legislative Reporting Service, 2/20/84, p. 369)

person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters. (§ 1 ch 83 SLA 1970)

Editor's notes. — In article III (1) of the compact, the word "that" was substituted for "his" in the first sentence and the words "the state official" were substituted for "he" in the third sentence by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.20.640. Designated state official to make contracts. The designated state official to make contracts on behalf of the state according to Article III of the agreement shall be the commissioner. (§ 1 ch 83 SLA 1970)

Revisor's notes. — The words "of education" were deleted following "commissioner" by the revisor of statutes under AS 01.05.031. See AS 14.60.010.

Sec. 14.20.650. Filing and publishing of contracts. True copies of all contracts made on behalf of this state according to the agreement shall be kept on file in the office of the commissioner and in the office of the lieutenant governor. The Department of Education shall publish all contracts in convenient form. (§ 1 ch 83 SLA 1970)

Revisor's notes. — In the first sentence of the section, the words "of education" were deleted following "the commissioner" and "lieutenant governor" was substituted for "secretary of state" by the revisor of statutes under AS 01.05.031.

Chapter 25. Teachers' Retirement.

Section

10. Retirement system established
12. Purpose and effective date
15. Administrator
20. Powers of the administrator
22. Regulations
30. Duties of the administrator
35. Teachers' Retirement Board
40. Membership
43. Reemployment of retired members
45. Participation by National Education Association employees
50. Contributions by teachers
55. Supplemental contributions by teachers
60. Arrearage indebtedness
61. Retroactive indebtedness
62. Reinstatement indebtedness
63. Payment of indebtedness
65. Transmittal of contributions
70. Contributions by employer
80. Contributions by the state
90. [Repealed]
100. Credit for service in the armed forces
105. Credit for service as an employee of the Territory of Alaska
107. Credit for Alaska BIA service
110. Retirement benefits
115. Unused sick leave credit
120. [Repealed]
125. Conditional service retirement benefits
130. Disability benefits
135—140. [Repealed]
142. Cost of living allowance
143. Post retirement pension adjustment
145. Interest on individual accounts
150. Refund upon termination
155. Nonoccupational death benefits
157. Occupational death benefits
160. Death benefits
162. Survivor's allowance
164. Spouse's pension
166. Designation of beneficiary
167. Joint and survivor option
168. Medical benefits
169. Duplicate benefits
170. Administration

Section
173. Adjustments
175. Waiver of adjustments
177. Effect of amendments
180. Custody and investment
190. Actuarial evaluations of the retirement fund
200. Exemption from taxation and process
205. Time limit for application
210. Penalty for false statements
220. Definitions

Collateral references. — 60 Am. Jur. 2d Pensions and Retirement Funds, §§ 39-72.

78 C.J.S. Schools and School Districts, §§ 231-236.

Sec. 14.25.010. Retirement system established. A joint-contributory retirement system for teachers of the state is created. (§ 1 ch 145 SLA 1955; am § 1 ch 89 SLA 1960)

Sec. 14.25.012. Purpose and effective date. (a) The purpose of this chapter is to encourage qualified teachers to enter and remain in service with participating employers by establishing a system for the payment of retirement, disability, and death benefits to or on behalf of the members.

(b) The system created became effective as of July 1, 1955, at which time contributions by the participating employers and members began. (§ 1 ch 13 SLA 1980)

Sec. 14.25.015. Administrator. The commissioner of administration shall appoint an administrator of the system. (§ 1 ch 13 SLA 1980)

Cross references. — For definition of "administrator," see AS 14.25.22063).

Sec. 14.25.020. Powers of the administrator. (a) The administrator may

(1) formulate and recommend to the Alaska Teachers' Retirement Board regulations to govern the operation of the system;

(2) make expenditures from the retirement fund necessary to administer this chapter.

(b) The administrative expenditures permitted by (a) (2) of this section shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature. (§ 4 ch 145 SLA 1955; am § 2 ch 142 SLA 1957; am § 3 ch 89 SLA 1960; am § 1 ch 137 SLA 1982)

Effect of amendments. — The 1982 amendment, in subsection (a), rewrote paragraph (1), which formerly read "promulgate and issue appropriate regulations having the force of law to implement this chapter and to cover matters not expressly touched upon or anticipated but implied by this chapter."

Sec. 14.25.022. Regulations. Regulations adopted by the Alaska Teachers' Retirement Board under this chapter relate to the internal

(e) The governing body of the district may advance the teacher on the district salary schedule when the teacher returns to employment if the governing body determines that the teacher's leave of absence was educationally or professionally beneficial to the teacher or the district.

(f) A teacher may make contributions to the retirement fund for each year or portion of a year of leave of absence taken. The contribution shall include the required per cent of the salary the teacher would have received had the leave of absence not been taken, plus the required employer and state contributions that would have been made. Compound interest at the rate prescribed by regulation shall be added as computed from the beginning date of the leave of absence to the date the teacher pays the contribution. (§ 5 ch 104 SLA 1965; am §§ 33, 34 ch 98 SLA 1966; am § 1 ch 44 SLA 1971; am § 1 ch 184 SLA 1972; am § 2 ch 99 SLA 1974)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "the teacher's" for "his" in subsection (a)(1); substituted "the teacher" for "he" in subsections (a)(2), (d), (e), and (f); substituted "the teacher" for "him" in subsection (b); substituted "the" for "his" in subsection (d); and, in subsection (f), substituted "the leave of absence not been taken" for "he not taken the leave of absence."

Sec. 14.20.350. Definition. In AS 14.20.280 — 14.20-350 "teacher" means a certificated member of the teaching, supervisory, or administrative corps in the public schools of the state. (§ 8 ch 134 SLA 1962)

Revisor's notes. — This section was rewritten to eliminate former paragraph (2) which defined "department" by the revisor of statutes under AS 01.05.031 because of the redundancy in light of AS 14.60.010(4).

Article 5. Professional Teaching Practices Act.

Section

370. Teaching profession
380. Creation of a commission
390. Appointment and qualifications
400. Composition of the commission
410. Selection of members
420. Term of office
430. Dismissal
440. Reimbursement
450. Responsibilities of commission
460. Duties of commission
470. Powers of commission
475. Applicability of the Administrative Procedure Act
480. Effect of standards
500. Support
510. Short title

Sec. 14.20.370. Teaching profession. Teachers required by Alaska law to be certificated, instructors in institutions of higher learning, school administrators, school program administrators, and school counselors are within the teaching profession. (§ 35 ch 98 SLA 1966)

Opinions of attorney general. — Unless the duties of an employee of the department of education can be characterized as falling within one of the five categories of this section, that employee cannot be said to fall within the teaching profession for purposes of the Professional Teaching Practices Act. July 15, 1977, Op. Att'y Gen.

The only employees of the department of education who might fit into one of the categories of this section are those who are employed by the department at the Alaska Skill Center or in its centralized correspondence study program. July 15, 1977, Op. Att'y Gen.

Sec. 14.20.380. Creation of a commission. There is a commission of professional educators known as the Professional Teaching Practices Commission. (§ 35 ch 98 SLA 1966)

Sec. 14.20.390. Appointment and qualifications. The commission consists of nine members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. Each member, in addition to having been actively engaged in the teaching profession for at least five years immediately preceding appointment, shall be a citizen of the United States and a resident of the state. (§ 35 ch 98 SLA 1966)

Editor's notes. — The revisor of statutes, pursuant to § 4, ch. 58, SLA 1982 and AS 01.05.031, deleted "his" preceding "appointment" in the second sentence.

Collateral references. — Bias of members of license revocation board. 97 ALR2d 1210.

Sec. 14.20.400. Composition of the commission. The commission consists of the following members:

(1) five classroom teachers;

(2) one principal;

(3) one superintendent;

(4) one representative of the office of the commissioner;

(5) one representative of an Alaska institution of higher learning. (§ 35 ch 98 SLA 1966)

Revisor's notes. — The words "of education" were deleted following "the commissioner" by the revisor of statutes under AS 01.05.031. See AS 14.60.010.

Sec. 14.20.410. Selection of members. (a) Members of the commission shall be selected as follows:

(1) the five classroom teachers from lists of names submitted by recognized Alaska teachers' organizations, each list not to exceed 12 names; however, in lieu of one of the five, one classroom teacher may be selected from a list of not more than four names signed and submitted by not less than 25 teachers who have no affiliation with any organization qualified to submit nomination lists, with the limitation that no teacher may sign more than one list in any year;

(2) the principal from a list of three names submitted by the Alaska Principals Association;

(3) the superintendent from a list of three names submitted by the Superintendents Advisory Commission;

(4) the representative of the office of the commissioner from a list of three names submitted by the commissioner;

(5) the representative of an Alaska institution of higher learning from lists of names submitted by Alaska institutions of higher learning, each list not to exceed three names.

(b) The lists shall be submitted to the commissioner who shall submit them as a group to the governor's office.

(c) At least 30 days before a position on the commission is due to become vacant, the chairman shall cause notice of the impending vacancy to be published and to be conveyed to each organized group eligible to submit a list of nominees. (§ 35 ch 98 SLA 1966)

Editor's notes. — In subsection (a)(4), the words "of education" were deleted following "the commissioner" by the revisor of statutes pursuant to AS 01.05.031. See AS 14.60.010.

Sec. 14.20.420. Term of office. (a) The term of office for each member of the commission is three years and until a successor is appointed, except that members of the first commission shall be appointed as follows: three members for one year, three members for two years, and three members for three years. Members of the first commission shall draw by lot for the initial term of appointment.

(b) Vacancies shall be filled by appointment by the governor for the unexpired term.

(c) No individual may serve more than a total of two 3-year terms.

(d) The commission shall select a chairman from among its members. (§ 35 ch 98 SLA 1966)

Sec. 14.20.430. Dismissal. Any member may be removed by the governor for misconduct, malfeasance or nonfeasance in office, or incapacity. (§ 35 ch 98 SLA 1966)

Sec. 14.20.440. Reimbursement. Members of the commission shall receive per diem according to law and are to be granted administrative leave with full pay by their employer for time spent in the performance of official duties under AS 14.20.370 — 14.20.510. If a member is required to spend more than 15 days in a fiscal year in the performance of official duties under AS 14.20.370 — 14.20.510, the state shall reimburse the employer for costs incurred after the 15th day. (§ 35 ch 98 SLA 1966; am § 1 ch 4 SLA 1975)

Editor's notes. — The word "his" was deleted preceding "official duties" in the second sentence by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.20.450. Responsibilities of commission. (a) The commission shall have the initial responsibility of developing, through the teaching profession, criteria of professional practices in areas including, but not limited to:

(1) ethical and professional performance;

(2) preparation for and continuance in professional services; and

(3) contractual obligations. (§ 35 ch 98 SLA 1966)

Sec. 14.20.460. Duties of commission. The commission shall

(1) establish procedures, and adopt rules to implement the purposes of AS 14.20.370 — 14.20.510;

(2) conduct investigations and hearings on alleged violations of ethical or professional teaching performance, contractual obligations, and professional teaching misconduct;

(3) review the regulations of the department as they relate to teacher certification and recommend necessary changes;

(4) review the decisions of the department regarding the issuance or denial of certificates and in its discretion recommend reversal of decisions. (§ 35 ch 98 SLA 1966)

Sec. 14.20.470. Powers of commission. (a) The commission may

(1) study proposals developed by regular committees of any existing professional organization whose members are within the teaching profession;

(2) subpoena witnesses, place them under oath, and maintain written records;

(3) warn or reprimand members of the teaching profession, if in the judgment of the commission such action is warranted;

(4) suspend or revoke the certificate of a member of the teaching profession for one of the reasons set out in AS 14.20.030 except that in the case of an administrator, the commissioner must concur;

(5) make any recommendation to the board or to school boards which will promote an improvement in the teaching profession;

(6) request assistance through any of the investigative processes of any existing professional teaching organizations when analyzing charges of breach of ethical or professional teaching practices;

(7) appoint an executive secretary, delegate those ministerial functions to executive secretary as the commission may decide and set executive secretary's compensation with a starting salary not exceeding range 26, step B of the pay plan for state employees in AS 39.27.011(a).

(b) A decision issued by the commission with the approval of the commissioner under (a)(4) of this section is final. (§ 35 ch 98 SLA 1966; am § 1 ch 77 SLA 1972; am §§ 3, 4 ch 9 SLA 1975; am § 2 ch 103 SLA 1976; am § 13 ch 94 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "the pay plan for state employees in AS 39.27.011(a)" for "AS 39.27.010" at the end of paragraph (7) of subsection (a).

Editor's notes. — The revisor of statutes, under the authority of AS 01.05.031 and § 4, ch. 58, SLA 1982, deleted "of education" following "commissioner" in subsection (a)(4) and subsection (b), and, in subsection (a)(7), substituted "executive secretary" for "him" and "executive secretary's" for "his."

Legislative history reports. — For report on ch. 77, SLA 1972 (SB 126), see 1972 House Journal, p. 1208.

Sec. 14.20.475. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to regulations and proceedings under AS 14.20.370 — 14.20.510. (§ 5 ch 9 SLA 1975)

Sec. 14.20.480. Effect of standards. Members of the teaching profession are obligated to abide by the professional teaching standards adopted by the commission. (§ 35 ch 98 SLA 1966)

NOTES TO DECISIONS

Applied in Renfroe v. Green, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Sec. 14.20.500. Support. In addition to available state funds, the commission shall also be financed by members of the profession in accordance with regulations adopted by the department including, if necessary, an increase in the fees for certificates. (§ 35 ch 98 SLA 1966; am § 1 ch 73 SLA 1973)

Revisor's notes. — The word "adopted" was substituted for "promulgated" by the revisor of statutes under AS 01.05.031.

Sec. 14.20.510. Short title. AS 14.20.370 — 14.20.510 shall be known as the Professional Teaching Practices Act. (§ 35 ch 98 SLA 1966)

Article 6. Negotiation and Mediation.

Section		Section	
550.	Negotiation with certificated employees	570.	Mediation
555.	Optional coordinated employee negotiations	580.	The mediation report
560.	Teachers' bargaining groups and meetings with the groups	590.	Grievance procedures
		600.	Individual cases
		610.	Legal responsibilities of boards

HB
681

COMMITTEE REPORT

HOUSE

FURTHER: LOANS
FINANCE

(7)

2/13/84

Date: MARCH 16, 1984

The Committee on HESS has had HB 681

"An Act relating to default on and collection of student loans."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 681 (HESS) [X] same title [ ] new title

and recommends THAT THE HESS CS DO PASS.

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note
[ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bruce Truckin
CHAIRMAN

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

March 16, 1984

The Honorable Mae Tischer, Chair
Health, Education, and Social
Services Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: Draft CS for HB 681(HESS)
-- default on and collection of student loans
Our file: 377-114-84

Dear Representative Tischer:

At the request of Bill Lovell, of your staff, I have reviewed Legislative Counsel Lynn Asper's February 29, 1984 draft of a committee substitute for HB 681, which Bill delivered to me this morning. The draft CS makes no substantive change from the original HB 681, and the Department of Law has no objection to it on that basis.

The draft CS makes two minor style changes: (1) it changes the word "which" to the word "that" in two places, which is good; and (2) in the bill's sec. 2, the draft deletes our subsec. (f)'s reference to default "under (o) of this section," while adding to (f) a sentence stating that default occurs if a loan payment is 120 or more days past due. That new sentence in (f) repeats our new sentence in (o) and adds the phrase "under this subsection" in both places. Basically, that looks okay.

Regarding the latter, my only concern is that, when an identical provision is placed in two different locations in the statutes, there is always the potential for one of them to be amended in the future while the other one is overlooked; this could cause confusion and litigation. Lynn's objection to our version is based on his feeling that where our subsec. (f) refers to "default under (o) of this section" it is not really accurate since, although (o) contains what is essentially a definition of "default," default is not really occurring under that subsection. It's a fairly subtle point, but a third approach that would meet both of our concerns would be to change both (f) and (o) to refer to "default as defined in (q) of this section." Then add a new section to the bill that would add a new AS 14.43.120(q) to read "For the purposes of this section, a loan is in default if a loan

payment is 120 or more days past due." (Or perhaps this definition could be added to the definition section for AS 14.43's art. 4 -- AS 14.43.160.)

Thank you for this opportunity to comment.

Yours truly,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Arthur H. Peterson
Arthur H. Peterson
Assistant Attorney General

AHP/jb

cc: Kerry Romesburg
Executive Director
Alaska Commission on Post-secondary Education
Department of Education

Lynn Asper
Legislative Counsel
Legislative Affairs Agency

Linda Scoccia
Assistant Attorney General
Juneau

3-16-84

TO CSHB 681 (HESS):

Lines 24 - 26, Page 1

Delete "A loan is in default under this subsection if a loan payment is 120 or more days past due."

Line 29, Page 1 - Line 1, Page 2

Delete "A loan is in default under this subsection if a loan payment is 120 or more days past due."

Line 6, Page 2

AS 14.43.120 is amended by adding a new subsection to read:

"(q) For the purposes of this section, a loan is in default if a loan payment is 120 or more days past due."

Article 3. Free Tuition and Fees for Dependents.

Section

80. Free tuition and fees at state-supported educational institutions

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Revisor's notes. — This article derived from AS 14.40.920 and was renumbered by the revisor of statutes under AS 01.05.031.

Collateral references. — 15A Am.Jur.2d Colleges and Universities, §§ 19, 20.

14 C.J.S. Colleges and Universities, §§ 27, 28.

Sec. 14.43.080. Free tuition and fees at state-supported educational institutions. (a) Any dependent of a bona fide Alaska resident who, while serving during the hostilities involving the United States forces in Southeast Asia, was listed by the United States Department of Defense as a prisoner of war or missing in action in Southeast Asia may attend any state-supported educational institution without payment of tuition and fees.

(b) As used in this section, "dependent" means a dependent spouse or child. (§ 1 ch 176 SLA 1972; AS 14.40.920)

Article 4. Scholarship Loan Program.

Section

90. Scholarship revolving loan fund
95. Financial aid committee
100. Applications
105. Administration of program
110. Undergraduate loans
115. Graduate loans
120. Conditions of loans
125. Eligibility of students
130. Selection criteria
135. Discrimination prohibited
140. Enforceability of certain contracts with minors
160. Definitions

Revisor's notes. — This article derived from AS 14.40.751 — 14.40.806 and was renumbered by the revisor of statutes under AS 01.05.031.

Collateral references. — 15A Am.Jur.2d Colleges and Universities, §§ 19, 20.

14 C.J.S. Colleges and Universities, §§ 27, 28.

Absence from, or inability to attend, school or college as affecting liability for, or right to recover back payments on account of, tuition or board. 69 A.L.R. 714.

Validity and application of provisions governing determination of residency for purposes of fixing fee differential for out-of-state students in public college. 56 A.L.R.3d 641.

Increase in tuition as actionable in suit by student against college or university. 99 A.L.R.3d 885.

Absence from, or inability to attend, school or college as affecting liability for, or right to recover back payments on account of, tuition or board. 69 A.L.R. 714.

Sec. 14.43.090. Scholarship revolving loan fund. (a) There is created a scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.090 — 14.43.160. All repayments of principal and interest on scholarship loans shall be paid into the scholarship revolving fund shall be used to make new scholarship loans. If estimated funds available from scholarship loan repayments are inadequate to fully fund estimated scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) Repealed by § 31 ch 59 SLA 1982.

(c) Repealed by § 31 ch 59 SLA 1982. (§ 1 ch 98 SLA 1971; am § 1 ch 156 SLA 1972; am §§ 1, 2 ch 136 SLA 1974; am § 1 ch 136 SLA 1975; am § 31 ch 59 SLA 1982; AS 14.40.751)

Revisor's notes. — In subsection (a), AS 14.43.090 — 14.43.160 was substituted for a reference to AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1982 amendment repealed subsection (b), which provided for a tuition grant fund, and subsection (c), which provided for the transfer of unobligated funds in the tuition grant fund to the scholarship revolving loan fund.

Legislative history reports. — For report on ch. 98, SLA 1971 (CSHB 415 [Finance] am S), see 1971 House Journal, p. 935.

Sec. 14.43.095. Financial aid committee. (a) The student financial aid committee is composed of the members of the Alaska Commission on Postsecondary Education. The commission may delegate its functions under AS 14.43.090 — 14.43.160 to a committee of its members, with augmented membership as the commission considers appropriate. The executive officer of the commission is the executive secretary of the committee. The Alaska Commission on Postsecondary Education shall administer the program established by AS 14.43.090 — 14.43.160.

(b) Members of the committee serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(c) The committee shall make an annual report reviewing the work of the committee to the governor, the legislature and the private colleges and universities where students receiving tuition grants are enrolled.

(d) The committee shall meet at least once a year. The meetings shall be held at the call of the chairman or upon petition by two members. (§ 1 ch 98 SLA 1971; am § 2 ch 156 SLA 1972; am § 5 ch 78 SLA 1974; am § 3 ch 136 SLA 1974; AS 14.40.753)

Revisor's notes. — The amendments of AS 14.43.095(a) by § 5, ch. 78, SLA 1974 and § 3, ch. 136, SLA 1974, are in conflict, the first act rewriting the subsection to provide that the Alaska Commission on Postsecondary Education will act as the financial aid committee, the second act changing the name and term of members of the existing financial aid selection committee. It is considered, on the basis of the legislative history, apparent legislative intent, and later effective date of the first act, that the re-enactment by ch. 78, SLA 1974 should prevail.

The last part of subsection (c) of this section is obsolete since the tuition grant program was repealed by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

In subsection (a), AS 14.43.090 — 14.43.160 was substituted for a reference to AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Sec. 14.43.100. Applications. (a) Applications shall be submitted to the executive secretary of the committee.

(b) A person whose loan or grant application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application. (§ 1 ch 98 SLA 1971; am § 3 ch 156 SLA 1972; am § 4 ch 136 SLA 1974; AS 14.40.755)

Revisor's notes. — The reference to "grant application" in subsection (b) of this section is obsolete in light of the repeal of the tuition grant program by Chapter 94, SLA 1980 and Chapter 59, SLA 1982.

Sec. 14.43.105. Administration of program. The executive secretary shall administer the programs subject to review by the committee and in accordance with the regulations prescribed by the committee. The promulgation of these regulations is subject to the Administrative Procedure Act (AS 44.62), and a summary of the regulations shall be distributed to each applicant. (§ 1 ch 98 SLA 1971; am § 5 ch 136 SLA 1974; AS 14.40.757)

Sec. 14.43.110. Undergraduate loans. The committee may make a loan, not to exceed $6,000 in any one school year, to an undergraduate student eligible under AS 14.43.125. (§ 1 ch 98 SLA 1971; am § 6 ch 136 SLA 1974; am § 1 ch 153 SLA 1978; am § 1 ch 89 SLA 1981; AS 14.40.759)

Revisor's notes. — AS 14.43.125 was substituted for AS 14.40.765 to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1978 amendment increased the maximum amount of the loan from $2,500.00 to $3,000.00.

The 1981 amendment substituted "$6,000" for "$3,000" following "not to exceed."

Sec. 14.43.115. Graduate loans. The committee may make a loan, not to exceed $7,000 in any one school year, to a graduate student who is eligible under AS 14.43.125 and is pursuing an advanced degree. (§ 1 ch 98 SLA 1971; am § 7 ch 136 SLA 1974; am § 2 ch 89 SLA 1981; AS 14.40.761)

Revisor's notes. — AS 14.43.125 was substituted for AS 14.40.765 to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1981 amendment substituted "$7,000" for "$5,000" following "not to exceed."

Sec. 14.43.120. Conditions of loans. (a) Proceeds from scholarship loans may only be used for books, tuition and required fees, and for room and board.

(b) The loans may only be used to attend a career education program or a college or university approved by the commission, and, if the loans are federally insured, by the United States Commissioner of Education.

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a career education program, college or university designated under (b) of this section. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

(d) Scholarship loans may not be made to a student

(1) for more than five years of undergraduate study;

(2) for more than five years of graduate study;

(3) for more than a total of eight years of undergraduate and graduate study.

(e) Loans are interest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (k) of this section; however, a student is entitled to have a portion of the interest paid in accordance with (l) of this section.

(f) Interest on a loan given under AS 14.43.090 — 14.43.160 is at the rate of five per cent a year.

(g) Repayment of the principal and interest on the loan begins no later than one year after the borrower's studies are terminated. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment, except as provided in (k) and (m) of this section. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection.

(h) Security may not be required for the loans; however, provision shall be made for payment of attorney fees and costs of court if either or both are incurred in collection of the amount owed on the loan.

(i) If a loan is in default, the commission shall notify the borrower that repayment of the remaining balance is accelerated and due by sending the borrower a notice by registered or certified mail.

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 50 percent of the total loan:

(1) two — three years residence in the state, 10 percent;

(2) three — four years residence in the state, an additional 10 percent;

(3) four — five years residence in the state, an additional 10 percent;

(4) five — six years residence in the state, an additional 10 percent;

(5) over six years residence in the state, an additional 10 percent.

(k) Periodic installments of principal shall be deferred, but interest shall accrue and be paid unless the student is eligible for interest payment benefits under (l) of this section during any of the following:

(1) return to student status as provided in (c) of this section;

(2) serving on active duty as a member of the armed forces of the United States;

(3) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;

(4) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(5) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or

(6) if the borrower becomes 50 percent or more disabled as certified by competent medical authority.

(*l*) The state will pay the interest on that portion of a loan that is not federally insured during

(1) the period before the beginning of the repayment period of the loan; and

(2) deferments under (k) of this section.

(m) In case of hardship, the committee may extend repayment of a loan for an additional period of up to five years in increments no longer than 12 months each.

(n) Repealed by § 11 ch 89 SLA 1981.

(o) The provisions of (j) of this section do not apply to a loan to a borrower named in a complaint as a defendant in an action by the state or by the commission to secure payment of the unpaid balance of a loan made under AS 14.43.110 or 14.43.115.

(p) For purposes of this section, a person qualifies as a resident if the person is physically present in the state with the intent to remain permanently in the state or, if not physically present in the state, the person intends to return to the state and is absent due to military service. (§ 1 ch 98 SLA 1971; am § 4 ch 156 SLA 1972; am § 6 ch 78 SLA 1974; am § 8 ch 136 SLA 1974; am §§ 1—4 ch 99 SLA 1977; am §§ 3 — 8 ch 87 SLA 1979; am §§ 3 — 9, 11 ch 89 SLA 1981; AS 14.40.763)

Revisor's notes. — In ch. 98, SLA 1971, AS 14.43.120(j)(2) read "four — five years . . . ." This was a typographical error occurring for the first time in the enrolled version of the bill (CSHB 415 [Finance am S]) and has been corrected here.

Effect of amendments. — The 1979 amendment deleted "approved by the commission" following "career education program" and substituted the language beginning "approved by the commission" for "accredited by the accreditation association for the region in which the college or university is located" in subsection (h), substituted "interest" for "non-interest" in subsection (e), added the language beginning "however, a student shall be entitled" to the end of subsection (e), rewrote subsection (g), and in subsection (j), substituted "paid on behalf of the borrower by the state" for "considered a grant," "borrower" for "grantee," and "three years" for "two years" in the first sentence, substituted "paid by the state" for "regarded as a grant" and "interest for up to a total of 40 percent" for "accrued interest" in the introductory language of the second sentence, and substituted "an additional 10 percent" for "20 percent" in paragraph (2), for "30 percent" in paragraph (3), and for "40 percent" in paragraph (4). The amendment also rewrote subsection (k) and added subsections (*l*), (m), and (n).

The 1981 amendment, added the second sentence of subsection (c). In subsection (d), the amendment added paragraphs (1) and (2) and in paragraph (3), substituted "a total of eight" for "six" preceding "years" and added "of undergraduate and graduate study" following "years." In subsection (i), the amendment substituted "shall" for "may" and "borrower" for "student." In subsection (m), the amendment substituted "12" for "six" preceding "months" and deleted "within the 15-year requirement of (g) of this section" following "months each." The amendment also rewrote subsections (g) and (j), added subsections (o) and (p) and repealed subsection (n) which read "Each year spent attending a college or university in Alaska qualifies as a year of employment and residency under (j) of this section, if the borrower resides no less than three years in Alaska after completion of the course for which the loan was granted, and has a total Alaskan residency of ten years time."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.10.031(c) and § 4, Chapter 58, SLA 1982.

Section 8, ch. 99, SLA 1977 provides: "The change in the repayment period of student loans set out in AS 14.40.763(g) [now 14.43.120(g)] as amended by sec. 3 of this Act and the additional basis for granting a deferment of repayment of a student loan set out in AS 14.40.763(k) [now 14.43.120(k)] as enacted by sec. 4 of this Act shall, upon request of the loan recipient, be applied retroactively to the outstanding balance of principal of and accrued interest on loans made under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] as they read before the effective date of this Act."

Section 12 of ch. 89, SLA 1981, provides: "The reenactment of AS 14.40.763(j) [now 14.43.120(j)] in sec. 7 of this Act applies to any student who has obtained a scholarship loan under AS 14.40.751 — 14.40.806 [now 14.43.090 — 14.43.160] since July 1, 1971."

Legislative history reports. — For a report of legislative intent concerning the loan forgiveness provisions of ch. 89, SLA 1981 (FCCSSB 120), see 1981 Senate Journal p. 1560, 1580, 1981 House Journal p. 2289.

Sec. 14.43.125. Eligibility of students. (a) A person may apply for and obtain a scholarship loan if the person

(1) is a resident of the state at the time of application for a scholarship loan;

(2) meets the requirements of (b) of this section; and

(3) is

(A) enrolled as a full-time student in a career education or associate or baccalaureate or graduate degree program; or

(B) a graduate of a high school, or scheduled for graduation from a high school within six months, with sufficient credits to be admitted to a career education program or to an accredited college or university.

(b) In addition to the requirements of (a) of this section, to obtain a scholarship loan a person must have been a resident of the state for at least two years at the time of application for the loan. For purposes of

this subsection, a person qualifies as a resident of the state if at the time of application for the loan the person

(1) has been present in the state for at least two years unless an absence from the state during any part of the two years was due to military service; or

(2) is a person who is dependent on a parent or guardian for care, and the parent or guardian has been present in the state for at least two years. (§ 1 ch 98 SLA 1971; am § 10 ch 89 SLA 1981; AS 14.40.765)

Effect of amendments. — The 1981 amendment rewrote this section.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Sec. 14.43.130. Selection criteria. (a) The selection committee shall grant loans based on total point accumulations under the subsection with priority going to those applicants with the highest point accumulations, except as provided in (b) of this section for loan applications completed before May 15 of each year. Points shall be awarded to applicants based upon student status and continuous Alaskan residency, according to the following schedule:

(1) student status:

(A) continuing undergraduate and graduate students with existing Alaska scholarship loans . . . . . 4 points

(B) continuing undergraduate and graduate students without existing Alaska scholarship loans . . . . . 3 points

(C) freshmen . . . . . 2 points

(D) new graduate students without existing Alaska scholarship loans . . . . . 1 point

(2) continuous Alaskan residency:

(A) students with continuous Alaskan residency of 10 years or more . . . . . 3 points

(B) students with continuous Alaskan residency of at least 5 years and less than 10 years . . . . . 2 points

(C) students with continuous Alaskan residency of more than 2 years and less than 5 years . . . . . 1 point

(3) students attending Alaska colleges or universities . . 1 point

(b) In awarding loans the selection committee shall award loans to applicants based upon the earliest date of completed applications if

(1) the applicant has accumulated at least 5 points under (a) of this section; and

(2) the applicant has filed a completed application not later than May 15 of the year for which the loan is requested. (§ 1 ch 98 SLA 1971; am § 2 ch 87 SLA 1979; § 3 14.40.767)

Effect of amendments. — The 1979 amendment rewrote this section.

Editor's notes. — Section 1, ch. 87, SLA 1979 provides: "The legislature determines that

"(1) there are no incentives in the student loan program for residents of Alaska to attend colleges and universities in Alaska as compared with colleges and universities outside Alaska;

"(2) the result of the lack of incentives is that 64.9 per cent of all undergraduate student loans and 92.9 percent of graduate student loans go to students attending colleges and universities outside Alaska;

"(3) the amount of the average loan to undergraduate students attending colleges and universities in Alaska is lower than the average of similar loans in all but one of the 10 western states and the amount of the average loan for graduate students is the lowest in the West;

"(4) the funds spent on education in Alaskan colleges and universities go further than when the funds are spent out of state; and

"(5) it would be an aid to the Alaskan economy if the funds in the student loan program were spent for education in Alaskan colleges and universities."

Sec. 14.43.135. Discrimination prohibited. The student loan program shall be carried out without regard to the race, creed, sex, color, ancestry, national origin, or membership in fraternal or political organizations of the student applying for the loan. (§ 1 ch 98 SLA 1971; AS 14.40.769)

Sec. 14.43.140. Enforceability of certain contracts with minors. A written obligation entered into by a minor at least 16 years of age, evidencing a loan or other assistance received by the minor from any person for the purpose of furthering the minor's education in a career education program or an institution of higher learning, is enforceable against the minor with the same effect as if the minor were, at the time of its execution, 19 years of age, if the person making the loan has before making the loan a certification from the institution that the minor is enrolled in the institution or has been accepted for enrollment. (§ 1 ch 98 SLA 1971; AS 14.40.771)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, ch. 58, SLA 1982.

Sec. 14.43.160. Definitions. In AS 14.43.090 — 14.43.160

(1) "career education" means a course or program in vocational-technical training or education approved by the commission;

(2) "full-time student" means an undergraduate or career education student who is enrolled and is in regular attendance at classes for at least 12 semester hours of credit or the equivalent during the semester or a graduate student who is enrolled and is in regular attendance at classes for at least nine semester hours of credit or the equivalent; any combination of semester hours of credit, or the equivalent, aggregating to the requisite number of semester hours and undertaken during a semester at two or more public or private institutions of higher education operating under a consortium constitutes full-time student status;

(3) "part-time student" means a student who is enrolled and is in regular attendance at classes for at least three but less than the semester hours of credit required for full-time student status under (2) of this section during the semester;

(4) Repealed by § 11 ch 89 SLA 1981.

(5) "school year" means the period from September 1 of one year through August 31 of the following year;

"commission" means the Alaska Commission on Postsecondary Education;

(7) Repealed by § 7 ch 246 SLA 1976.

(8) "federally insured" means a loan covered by the provisions of the Guaranteed Student Loan Program of Title IV, Part B, of the Higher Education Act of 1965 (P.L. 89-329), as amended. (§ 5 ch 156 SLA 1972; am § 8 ch 78 SLA 1974; am §§ 18 — 20 ch 136 SLA 1974; am § 5 ch 136 SLA 1975; am § 7 ch 246 SLA 1976; am §§ 5 — 7 ch 99 SLA 1977; am § 9 ch 87 SLA 1979; am § 11 ch 89 SLA 1981; AS 14.40.806)

Revisor's notes. — Part-time student is defined in paragraph (3) above but is not used in the statutes.

AS 14.43.090 — 14.43.160 was substituted for AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1979 amendment added paragraph (8).

The 1981 amendment repealed paragraph (4) which defined "resident."

Editor's notes. — Title IV, Part B of the Higher Education Act of 1965, referred to in paragraph (8), may be found in 20 U.S.C. §§ 1071 et seq.

Article 5. Memorial Scholarship Revolving Loan Fund.

Section	Section
250. Declaration of purpose	310. Selection
255. Fund created	315. Discrimination prohibited
300. Limits on, conditions of loans	320. Administering authority
305. Repayment of loans	325. Funding

Revisor's notes. — This article derived from AS 14.40.810 — 14.40.845 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 14.43.250. Declaration of purpose. (a) The legislature may pay tribute to the memory of Alaskans who, by the example of their lives, or by their distinguished contribution and service to this state, their community or their profession, exemplified the best that is the challenge of "The Great Land" by the creation of memorial scholarships as a part of a general memorial scholarship revolving loan fund, setting out the purpose for which each is created, and the conditions applicable to each scholarship.

(b) The purposes of the several memorial scholarship accounts in the memorial scholarship revolving loan fund are as follows:

(1) the Michael Murphy memorial scholarship perpetuates the memory of Michael Murphy, a member of the Alaska State Troopers, who, while on leave from that division, gave his life for his adopted country in Vietnam on May 22, 1968;

(2) the Carroll L. "Butch" Swartz memorial scholarship perpetuates the memory of Carroll L. "Butch" Swartz, of Juneau, who was a student intern with the Criminal Justice Planning Agency and the Governor's Commission on the Administration of Justice during the summer months of 1972 and 1973 and whose accidental and untimely death in November 1973, occurred while he was completing his undergraduate education at Yale University, thus never realizing his educational goals or career objective;

(3) the Harvey Golub memorial scholarship perpetuates the memory of Harvey Golub, of Juneau, who was chief engineer of the bridge design section of the Department of Highways of the State of Alaska and whose accidental and untimely death September 13, 1971, cut short a widely-respected career in civil engineering; and

(4) the Robert L. Thomas memorial scholarship perpetuates the memory of Robert L. Thomas, of Juneau, who as Deputy Commissioner of Education, and for 13 years as a member of the professional staff of that department contributed significantly to the creation, operation and administration of a sound system of public education in Alaska and whose tragic and untimely death March 12, 1974, terminated a distinguished career in education and public administration that long will be exemplary for those who aspire to service in that profession. (§ 21 ch 136 SLA 1974; AS 14.40.810)

Sec. 14.43.255. Fund Created. (a) There is created a memorial scholarship revolving loan fund. The fund shall be used to provide educational scholarship loans to students selected under AS 14.43.250 — 14.43.325. All repayments of principal shall be paid into the memorial scholarship revolving loan fund and shall be used to make new scholarship loans.

(b) Each memorial scholarship, the purpose of which is set out in AS 14.43.250(b), is a separate account in the memorial scholarship revolving loan fund created under (a) of this section. (§ 21 ch 136 SLA 1974; AS 14.40.815)

Revisor's notes. — References to AS 14.40.810 — 14.40.845 and AS 14.40.810(b) were changed to AS 14.43.250 — 14.43.325 and AS 14.43.250(b), respectively, to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Sec. 14.43.300. Limits on, conditions of loans. (a) A scholarship loan to a recipient under AS 14.43.250 — 14.43.325 may not exceed $2,500 a school year for an undergraduate student or $5,000 a school

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

M E M O R A N D U M March 15, 1984

SUBJECT: CSHB 681 (HESS)
(Student loans)

TO: Representative Mae Tischer
Chairman, House Health, Education
and Social Services Committee

FROM: Linn H. Asper
Legislative Counsel

At the request of your committee I prepared a draft committee substitute for House Bill No. 1681, relating to student loans. This draft, dated February 29, 1984, makes technical changes to the original bill in order to make it more clear and to put it in the form used by this office for drafting legislation. The changes I have made do not affect the substantive provisions of the bill.

LHA:ojb
J4/092

Enclosure

HB
690

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

2/20/84 Date: MARCH 19, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 690

"An Act relating to the payment of costs of post mortem examinations; autopsies; embalming, and related services; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

[signature]

[signature]

[signature]

[signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[signature] - needs amendments.

[signature]

[signature]

[signature]

[signature]

[signature]

CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 690
Title: PAYMENT OF THE COSTS OF POST MORTEM EXAMINSTIONS
Sponsor: HOUSE FINANCE COMMITTEE
Requestor:
Date of Request: 3/16/84

FISCAL DETAIL
Agency Affected: ALASKA COURT SYSTEM
Program Category Affected: ADMINISTRATION OF JUSTICE
BRU, Program or Subprogram(s) Affected: TRIAL COURTS

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		(539.1)				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		(539.1)				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		(539.1)				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		-0-				
PART-TIME		-0-				
TEMPORARY		-0-				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: ROBERT G. FISHER Phone: 264-0561
Division: ALASKA COURT SYSTEM Date: 3/16/84

Approved by Commissioner: Date: 3/16/84
Agency: ALASKA COURT SYSTEM

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ANALYSIS:

This bill would transfer the responsibility for the payment of the cost of post mortem examinations, autopsies, and related services, including transportation and facilities usage, to the Department of Health and Social Services upon the passage of this legislation. The FY 84 operating budget for the Court System contains funding for the payment of these costs. Upon the passage of this bill, the Court System would transfer the unobligated balance of FY 84 funds to Health and Social Services. The FY 85 budget for the Court System contains $539,100 of funds for these costs. The entire amount would be transferred to the other agency.

State of Alaska
Division of Public Assistance

APPLICATION FOR FOOD STAMPS AID TO FAMILIES WITH DEPENDENT CHILDREN

(DATE STAMP HERE)

We will consider this application without regard to race, color, sex, age, handicap, religion, national origin, marital status, or political belief. If you believe you have been discriminated against, you can file a complaint with the Division of Public Assistance or the Department of Health & Social Services. Food Stamp complaints may also be sent to USDA FNS Western Region, 550 Kearney St. San Francisco, California 94108

FOR OFFICE USE ONLY:
Case No. _____ Date Received by
Decision Office _____
GR APPLICATION
☒ New ☐ Review or RC ☐ Expedited Service

INSTRUCTIONS FOR COMPLETING APPLICATION

CAREFULLY READ and complete all of the questions in the application. All of the questions must be completed before your application can be processed. If a question does not apply to your situation, write "N/A". If you don't know or don't understand what the question means, write "don't know" or "not sure". Your eligibility worker or fee agent will assist you with these questions during your interview.

We are required to take action on your application within 30 days from the time it is received in our office. If you are applying for food stamps, you will receive them for the entire month in which you first apply. Most clients have to have an interview before we can see if they are eligible, but you do not have to wait for an interview before you turn in your application.

When you are interviewed, be sure to bring with you proof of all income received by all household members; for example—pay stubs, award letters from government benefits such as Social Security income, Unemployment Insurance, BIA grants, and other similar income.

You must list the Social Security number of each person for whom you want to receive a cash payment. If someone doesn't have a Social Security number, your eligibility worker or fee agent will help you apply for one. We will also need proof of the age and relationship of the children applying for AFDC (birth certificate, baptism papers, or school records will give us the necessary information). If you are applying for food stamps, all members age 18 and over must provide a Social Security number and certain members must also complete a work registration form.

We also need the following: rent or house payment receipts, utility bills, checking or savings account statements, child care receipts and work related expense receipts.

ASSISTANCE REQUESTED: Check the boxes which match your situation:

- ☐ FOOD STAMPS ONLY (available for most low-income households)
- ☐ AFDC ONLY (a cash payment for families in which one or both parents of a child(ren) under 18 are absent, deceased, disabled, or incapacitated)
- ☐ BOTH AFDC and FOOD STAMPS

☑ GR burial application

YOUR NAME _____
(First) (Middle) (Last)
STREET ADDRESS _____ Phone where you can be reached _____
MAILING ADDRESS _____ City _____ State _____ Zip _____

Describe how to get to your home if you don't have a street address: _____

Have you applied for assistance before? ☐ No ☐ Yes Where? _____ When? _____
If yes, under what last name did you apply? _____

IF YOU NEED FOOD STAMPS RIGHT AWAY: If your household (you and the people who live and eat with you) has little or no income right now, you may be able to receive food stamps within a few days. Answer the following questions if your household has little or no income and needs food stamps right away, and then complete the application.

Has anyone in your household received any income so far this month? ☐ Yes ☐ No If yes, how much? $ _____
Did your household's entire income recently stop? ☐ Yes ☐ No When? _____
Does anyone in your household expect to receive income later this month? ☐ Yes ☐ No ☐ Don't Know
If yes, how much? $ _____ When? _____.
How much do the members of your household have in cash and savings (give your best estimate of the total)? $ _____

HOUSEHOLD MEMBERS List yourself first if you are also applying:

Name: (Last) (First) (M.I.)	Social Security Number	Relationship	Birthday Month/Day/Year	Age
1.	— —			
2.	— —			
3.	— —			
4.	— —			
5.	— —			
6.	— —			

(If you need more room, use page 8)

ADDITIONAL INFORMATION:

Are household members listed above either U.S. citizens or persons from another country residing legally in the United States? ☐ Yes ☐ No If answer is no, please explain the circumstances. _____

Are any of the persons 16 through 17 years old in school or vocational training? ☐ Yes ☐ No Are any of the persons 18 through 20 years old in school or vocational training? ☐ Yes ☐ No

If you are not working, are you receiving Unemployment benefits? ☐ Yes ☐ No List all other persons in your home who are also receiving Unemployment: _____

Has anyone in your household quit a job in the last 60 days? ☐ Yes ☐ No If yes, give date quit and explain: _____

RESOURCES:

Does anyone in your household own (or are you buying) any cars, trucks, boats, campers, motorcycles, snowmachines, airplanes, or other vehicles? ☐ Yes ☐ No If yes, please describe. _____

	MAKE	MODEL	YEAR	AMOUNT OWED	ESTIMATED VALUE
1.					
2.					
3.					

List the total amounts of money you and the members of your household have: Cash on Hand $ _____ Stocks and Bonds $ _____

Do you or anyone in your household have a bank account, savings account, checking account, or money in a savings and loan or credit union? ☐ Yes ☐ No If yes, complete the following: Type of account (checking, savings, etc.) _____
Money in the account today $ _____ Name of Bank (savings & loan, etc.) and branch _____
Name(s) on the Account _____ Account # _____

Do you or anyone in your household share a joint bank, savings and loan, or credit union account of any type with someone who is not living in your home? ☐ Yes ☐ No If yes, give names on the account, name of the bank and branch, and the amount now in that account: _____
Account # _____

Does your household own any real estate besides the home you are living in, such as land or buildings (including buildings you rent to others: ☐ Yes ☐ No If yes, you may need to provide us with information about the value of the property, any amount owed, and what the property is used for. Describe property. _____

Did you or a member of your household sell, trade, or give away anything of substantial value during the last three months? ☐ Yes ☐ No If answer is yes, explain. _____

CHAPTER 35. EMBALMING

Section
10. (Repealed)
20. (Repealed)
30. (Repealed)
40. (Repealed)
50. (Repealed)
60. (Repealed)
70. (Repealed)
80. (Repealed)
90 Care of human remains
100. Transportation of the dead
110. Requirements of funeral establishments
120. Preparation room requirements
130. Definitions

7 AAC 35.010. LICENSE REQUIRED. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.020. QUALIFICATIONS OF APPLICANTS FOR EMBALMER'S LICENSE. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.030. APPLICATION. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.040. EXAMINATION OF APPLICANTS FOR EMBALMER'S LICENSE. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.050. SCOPE AND CONDUCT OF EXAMINATION. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.060. SUCCESSFUL AND UNSUCCESSFUL APPLICANTS. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.070. REVOCATION, SUSPENSION AND REFUSAL TO ISSUE LICENSE. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.080. REPORTS BY FUNERAL ESTABLISHMENTS. Repealed. (Eff. 12/29/77, Reg. 64)

7 AAC 35.090. CARE OF HUMAN REMAINS. (a) All human remains shall be disinfected by approved disinfecting solutions so that there will be no danger of spreading disease or infection.

(b) Embalmers shall take every precaution to prevent the spread of infections from persons who have died of communicable diseases.

(c) It shall be the duty and responsibility of all physicians licensed to practice medicine in the State of Alaska who are in attendance or any physician who by virtue of his appointment as medical examiner or local health officer shall have knowledge or suspect that a person has died of a communicable disease which may reasonably constitute a threat to the health of morticians and their staffs, village officials, clergymen, and all others involved in the handling and preparation of a dead human body, to inform and counsel such individuals promptly of this hazard or potential threat to their health and safety. Appropriate precautionary measures to prevent the spread of communicable diseases from deceased human bodies to employees of mortuary establishments, persons contracted to provide services involved in the preparation and handling of dead human bodies, and to the general public, shall be undertaken at all times and shall be the responsibility of the funeral director, or in his absence, the senior village official present.

(d) When death has occurred from smallpox, plague, anthrax, diphtheria, meningococcal meningitis, cholera, epidemic typhus, or any unusual and highly communicable disease, the body shall be handled and prepared under strict quarantine regulations. If one of the above named communicable diseases occurred or was reasonably suspected to be present, the body shall be embalmed by a licensed embalmer and immediately placed in a casket or coffin which shall be permanently closed unless the Commissioner of Health and Social Services shall make a specific exception. (In effect before 7/28/59; am 2/21/71, Reg. 37)

Authority: AS 18.05.040

7 AAC 35.100. TRANSPORTATION OF THE DEAD. (a) The transportation of human remains dead of any diseases mentioned in sec. 90 of this chapter shall be permitted only under the following conditions:

(1) the body shall be thoroughly embalmed with disinfectant solution; and

(2) all orifices shall be closed with absorbent cotton; and

(3) the body shall be washed with the solution and placed immediately in an hermetically sealed casket; and

(4) the casket encased in a suitable shipping container acceptable to the Commissioner of Health and Social Services.

(b) The transportation of human remains dead of any cause other than those diseases mentioned in sec. 90 of this chapter is permitted only under the following conditions:

(1) when the destination can be reached within the state within 24 hours after death, an unembalmed body shall be thoroughly washed, all orifices shall be closed with absorbent cotton, and the body dressed in a clean sheet and placed in an hermetically sealed metal shipping container;

(2) human remains shipped into or out of Alaska must first be embalmed;

(3) when the body cannot reach its destination within 24 hours after the death, the body shall be thoroughly embalmed, and placed in a casket; the casket encased in a suitable shipping container acceptable to the Commissioner of Health and Social Services;

(4) exceptions to (b) of this section may be approved only by the Commissioner of Health and Social Services where circumstances render the provisions of (b) of this section impossible to carry out.

(c) An outside shipping container is required in all instances except when the casket is transported in a hearse. The outside container shall be of wood, canvas, reinforced nylon, composition board, or other suitable material. (In effect before 7/28/59; am 2/21/71, Reg. 37)

Authority: AS 18.05.040

7 AAC 35.110. REQUIREMENTS OF FUNERAL ESTABLISHMENTS. (a) A funeral establishment shall

(1) repealed (Eff. 12/29/77, Reg. 64);

(2) have a sanitary preparation room; and

(3) be subject to approval and inspection by the department.

(b) Repealed. (Eff. 12/29/77, Reg. 64) (Eff. 2/21/71, Reg. 37; am 12/29/77, Reg. 64)

Authority: AS 18.05.040

7 AAC 35.120. PREPARATION ROOM REQUIREMENTS. (a) The walls and ceiling of the preparation room shall be covered with tile, plaster, sheet rock, composition wall board or brick. With the exception of tile, all these materials shall be finished off with an impervious, readily washable or cleanable material.

(b) Outside ventilation shall be provided for by windows or transoms. If outside ventilation cannot be provided for by these means, an eight-inch pipe shall be installed to run from the ceiling of the room to the roof of the building, or from the side wall to the outside of the building. The installation shall be arranged so that it will not be a public health hazard.

(c) The preparation room shall be private and shall not be located near a public passageway. It shall contain only equipment necessary for preparing bodies for burial or shipment, and no toilet or commode.

(d) Windows and exterior doors shall be installed in such a way that the room shall be obstructed from view from the outside and so that fumes and odors are prevented from entering other parts of the building.

(e) The equipment for preparation rooms shall consist of the following:

(1) an operation or embalming table, which has rustproof metal or porcelain or glass top and a drainage opening at the lower end;

(2) a covered waste can, and sink with running water and backflow prevention and sewage connections;

(3) a cabinet, and instrument table, instruments, all necessary supplies including disinfectants and antiseptics, a sterilizer for instruments, and several pairs of rubber gloves;

(4) a first aid emergency kit for personal use.

(f) A water supply shall be available that complies with the Water Supply chapter of the Administrative Code.

Title 45, Code of Federal Regulations, sec. 233.90(c)(v)(1), when the 18-year-old meets all of the following criteria:

(A) was an eligible recipient of Aid to Families with Dependent Children (AFDC) assistance in the month preceding his 18th birthday;

(B) is a full-time high school student living at home with a relative specified in 45 CFR 233.90(c)(v)(1); and

(C) other children and the specified relative are in the home and continue to be eligible for AFDC; or

(2) a person who has applied for but who is not yet receiving benefits under the Adult Public Assistance, Alaska Longevity Bonus, or Supplemental Security Income programs.

(b) Persons eligible for cash payments under (a)(2) of this section may receive them for a period not to exceed six months.

(c) There are no restrictions on the use of cash payments. (Eff. 3/23/78, Reg. 65)

Authority: AS 47.05.010
AS 47.25.120

7 AAC 47.130. FUNERAL AND BURIAL EXPENSES. (a) General relief assistance payments which may not exceed $750 per deceased person will be paid to the vendor for the following funeral and burial services provided in the state:

(1) preparation and embalming;

(2) provision of a cloth-covered wooden casket with at least four handles and a padded and lined interior, which is similar to Sound Casket Company No. 199 gray domet, Puget Sound Casket Company No. 0 gray flannel square, or Casket Distributors Incorporated No. A-2 welfare regular service flannel cover;

(3) chapel service with minister;

(4) use of a hearse; and

(5) other services, facilities, and equipment necessary for a dignified burial;

(b) General relief assistance will be paid to a vendor of funeral and burial services which exceed the monetary limitation provided in (a) of this section, for the following:

(1) the cost of the least expensive municipal or private cemetery plot that is reasonably available in the state, whichever is less, or the cost of cremation if cremation is requested by the next-of-kin;

(2) the reasonable cost of opening and closing the grave;

(3) the cost of hermetic sealers, an oversized casket, clothing and extraordinarily lengthy storage of the deceased if the service is necessary and authorization is given by a regional manager of the division before the service is rendered;

(4) the cost of transporting the deceased from the place of death to the place of burial if the deceased was transported from the last place of residence to the place of death at public expense and authorization is given by a regional manager of the division before transporting the deceased person.

(c) One assistance payment will be made for services under (a) and (b) of this section. This payment will be made to the vendor that prepares the deceased person for burial. The vendor who receives payment from the division shall immediately refund to the division any amounts received from a prior resource specified in sec. 160(b) of this chapter. (Eff. 3/23/78, Reg. 65; am 11/8/80, Reg. 76)

Authority: AS 47.05.010
AS 47.25.120
AS 47.25.300

7 AAC 47.140. ELIGIBILITY. Eligibility for General Relief and General Relief Medical assistance is based upon

(1) financial need;

(2) immediate and specific need for subsistence items such as rent, food, fuel, transportation, burial, or medical supplies and services;

. (3) lack of prior resources listed in sec. 160(b) of this chapter of any kind sufficient to meet the specific need:

(4) age at which applicant may be eligible, as set out in sec. 170 of this chapter; and

(5) residence in the State of Alaska at the time of application; proof of residence may be required;

(6) registration for work with the Alaska Department of Labor and acceptance of any bona fide offer of employment. This requirement applies to all persons 18 through 59 years of age except a person

(A) who has been determined by a physician to be mentally or physically incapacitated and that incapacity prevents the person from engaging in gainful employment;

(B) who is attending high school full-time; or

(C) who is needed in the home to care for a relative who has been determined by a physician to be mentally or physically incapacitated. (Eff. 3/23/78, Reg. 65; am 5/2/79, Reg. 70; am 5/24/80, Reg. 74)

Authority: AS 47.05.010
AS 47.25.120

7 AAC 47.150. DETERMINATION OF FINANCIAL ELIGIBILITY. (a) Financial eligibility exists only if the need standard exceeds monthly net income, as determined under this section.

(b) Need is determined by use of one of the following tables:

(1) Adult-only households

Number of Adults	Need Standard (Rent Under $35/mo.)	Need Standard (Rent $35 or more/mo.)
1	$235	$300
2	335	400
3	435	500
4	535	600
5	635	700

$100 must be added for each additional adult.

(2) Households with children and adults

Number of Persons	Maximum Need Standard
Parent plus 1 child	$300
Parent plus 2 children	350
Parent plus 3 children	400
Parent plus 4 children	450
Parent plus 5 children	500
Parent plus 6 children	550
Parent plus 7 children	600

$100 must be added for each additional adult, and $50 for each additional child.

(c) Monthly net income is determined by

(1) counting all income earned or unearned, from any source, except payments made under the Alaska Native Claims Settlement Act, received during the calendar month in which application is made, and all income reasonably expected to be received in time to meet the specific needs (income received weekly is multiplied by 4.3, that received every two weeks by 2.15, that received twice monthly by 2, and that received monthly by 1);

(2) subtracting all mandatory payroll deductions (federal and state income tax, FICA, unemployment insurance, union dues, insurance premiums, and retirement); and

(3) not counting income received in the month just before the calendar month in which application is made, but considering this a resource under sec. 160 of this chapter.

(d) Persons who are included in the household, and who will therefor have their financial needs, income, and resources considered in determining financial eligibility, include the applicant, all persons related to the applicant by blood, marriage, or adoption who reside with him, and all unrelated persons whose needs are included in the request for assistance and who would benefit directly from the requested assistance, or who would benefit directly even if their needs are not included. (Eff. 3/23/78, Reg. 65)

Authority: AS 47.05.010
AS 47.25.130

7 AAC 47.160. RESOURCES. (a) General Relief or General Relief-Medical assistance may

not be granted if the applicant, despite an excess of need over income, has other resources available and adequate to meet the specific need. Resources that will affect eligibility are classified as prior or personal.

(b) Prior resources include but are not limited to

(1) coverage by Social Security, workman's compensation, or by medical and hospital insurance;

(2) eligibility for assistance from categorical programs such as Adult Public Assistance and Aid to Families with Dependent Children;

(3) qualification to receive assistance from the Veteran's Administration, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), Alaska Fisherman's Fund, U.S. Seaman's Act program, Crippled Children's Service, Office of Vocational Rehabilitation, Medicaid, Medicare, or free clinics;

(4) potential treatment or assistance from the United States Public Health Service and Bureau of Indian Affairs health care and general relief programs; and

(5) availability of cash, medical, and subsistence items and assistance from the Salvation Army, Red Cross, Lion's International, and other charitable organizations.

(c) Personal resources are

(1) liquid assets such as cash, savings, stocks, or bonds totaling more than $500;

(2) more than one each of these: automobile, snowmobile, boat, or a combination of all three, unless they are used to produce income; a combination of any two is not considered a resource for the purpose of this section;

(3) real property, except for the applicant's home and the land upon which it stands and land contiguous to it, unless the property is for sale at or below fair market value, is producing reasonable income, or is essential to the employment of the applicant;

(4) credit sufficient to directly or indirectly meet the specified need. (Eff. 3/23/78, Reg. 65)

Authority: AS 47.05.010
AS 47.25.130

7 AAC 47.170. AGE AT WHICH APPLICANT MAY BE ELIGIBLE. (a) Applicants 18 years of age or older may be found eligible for General Relief and General Relief Medical assistance.

(b) An applicant under 18 years of age may be found eligible if he meets at least one of the following requirements:

(1) is living apart from parents or guardian and managing his own financial affairs, regardless of the source of his income;

(2) is 16 years of age or older and married, living with his spouse at the time of application;

(3) is in need of assistance to pay medical expenses for the diagnosis, prevention, or treatment of pregnancy or for diagnosis, and treatment of venereal disease; or

(4) is a female seeking abortion, or treatment following an abortion. (Eff. 3/23/78, Reg. 65)

Authority: AS 09.65.100
AS 47.05.010
AS 47.25.120

7 AAC 47.180. PROVISION OF MEDICAL BENEFITS. The division shall provide a written certification of eligibility for General Relief Medical benefits upon a form or card specified by it. This certification signifies that the person or persons named on it have been found eligible for medical assistance for the period of time stated. This certification neither guarantees to the recipient that certain medical services and supplies will be furnished nor guarantees to the provider that he will receive unrestricted payment for any and all services and supplies he provides. (Eff. 3/23/78, Reg. 65; am 4/15/82, Reg. 82; am 5/25/82, Reg. 84)

Authority: AS 47.05.010
AS 47.25.170

Editor's Note: Emergency amendments of 7 AAC 43.005(c), 7 AAC 47.030, 7 AAC 47.050, 7 AAC 47.060, 7 AAC 47.070, 7 AAC 47.110, 7 AAC 47.180, 7 AAC 47.200, 7 AAC 47.210, 7 AAC 47.220 and 7 AAC 47.900, filed on 4/15/82 (effective 5/17/82), were repealed on 5/25/82 and are therefore not being printed. The text of these provisions appears as it did before the emergency amendments.

Memorandum

Alaska Court System

TO:

Alaska State Troopers, Kotzebue
Kotzebue Police Department, Kotzebue

DATE : September 17, 1982

FROM: Judge Jones and
Magistrate Sinkey

SUBJECT: Funeral expenses in
Coroner's cases

As of March 31, 1982, the Bureau of Indian Affairs and the Maniilaq Association ceased paying funeral expenses, i.e. embalming, casket and clothing, for deceased Alaska Natives taken to Anchorage for autopsy under Court Order.

The State Division of Public Assistance will now pay such funeral expenses up to $750 for persons eligible under the general relief burial requirements. The Court System will continue to pay autopsy and transportation costs.

To obtain this assistance, the deceased's family or next of kin should contact the Division's Kotzebue Office to report the name of the deceased and request burial assistance.

The Division of Public Assistance is open Monday through Friday from 8:00 a.m. to 4:30 p.m., telephone number 442-3451.

PBJ/RDS:sh

cc: Magistrates, NANA Region
Mr. Richard Holbrook, USPHS
Mr. Nathan Kotch, State Division of Public Assistance
Maniilaq Association
Kotzebue IRA
NANA Region Village Councils

Adm. F-1

Superior Court
State of Alaska
SECOND JUDICIAL DISTRICT
P.O. BOX 317
KOTZEBUE, ALASKA
99752

Chambers of
PAUL B. JONES, Judge

907-442-3208

November 26, 1982

Ms. Shirley McDonald, Cpr. Dan Weatherly, Chief Donald Buehler, Florence Jetton, Nate Kotch, Magistrate Robert D. Sinkey, Sgt. Laurence Wallace

RE: Interim Report Concerning Meeting on Coroner Cases

Dear Participants:

As you recall, we met on November 12, 1982 regarding coordinating and solving problems we all are having with coroner cases.

We are still working on an information sheet to send out or to furnish those agencies making the initial contact with families. Meanwhile, our Clerk of Court, May Pannick, found an excellent article in the Tanana Chiefs, Incorporated publication which I am enclosing. This would seem to furnish an ideal beginning for an information sheet. Perhaps this information could be published in the publications of Maniilaq, NANA, Northwest Arctic School District.

Please note that TCC has a social service representative to advise families concerning funeral and burial arrangements. It would seem that Maniilaq could provide a similar type of representative as we discussed during our meeting.

I will continue working on the various items we discussed at the meeting.

Sincerely,

Paul B. Jones

Paul B. Jones
Superior Court Judge

PBJ/sh

Enclosure

cc: File
May Pannick

Family death requires special arrangements

Though grief and shock often complicate arrangements after a relative's death, the situation can be made easier by following simple steps. TCC family services department offers the following advice:

-To avoid confusion, select one person to speak for the family in the funeral and burial arrangements. Please give TCC's social service representative the contact person's name.

-If the death was unattended by a doctor, law enforcement officials must be notified first. If an autopsy is required, those officers will arrange to transport the body. Autopsies are mandatory for all suicide and homicide deaths, and usually are required for accidental drownings or shootings, deaths unattended by a doctor or when the cause of death is unknown.

-If a person dies in a village and an autopsy is required, the state will pay to transport the body to the city and home again for burial. The state won't pay the funeral home bill unless the family qualifies for relief. If a person was taken away from home at state expense and then dies, the state will pay to transport the deceased home.

-If someone dies in a city or must be shipped to the city for an autopsy, embalming is required. Embalming also is required if the body isn't buried within 24 hours. A funeral home must be selected and authorities notified when family wants the body transported for burial preparation. State law prohibits a funeral home from keeping the body until payment is received, but the funeral home will want to arrange immediate payment.

-If the deceased was in a public assistance program or had little or no income at the time of death, the family should apply to the state's public assistance program for general relief assistance for burial expense. It is crucial to apply before making fee arrangements with the funeral home. If the deceased is eligible for general relief, the state will pay $750 for the least-expensive burial. Without the state's agreement to pay, the least expensive funeral is about $1200. If you arrange a funeral, make a partial down payment and then apply for general relief, you will be denied. Also, you can't have the state pay $750 then pay extra for a more expensive funeral.

-If you live in a village and want state aid to pay for the funeral, have your fee agent send the application immediately to Fairbanks. Or apply in person at the public assistance office. Applications are taken only between 8 and 9 a.m. weekdays.

TCC is encouraging the public assistance office to treat these cases as emergencies and see people immediately. TCC is asking public assistance to make immediate determinations so the family and funeral home will know how to plan. You can help by bringing or sending to public assistance pay stubs and other proofs of income for the deceased during the month he/she died. Incomes of family members living in the same household must also be verified.

Doyon Ltd. offers a $500 grant to the family of any deceased Doyon stockholder for the traditional potlatch following a death. Contact Kitty Harwood, 201 First Avenue., Fairbanks, 452-4755.

If the death is connected with a violent crime, the family may apply for special compensation. It is important to keep all receipts and costs and submit these with the application to Violent Crimes Compensation Board, Pouch N, Juneau, 99811. Applications must be made within two years of the violent death.

TCC no longer can financially assist with the burial. The burial procedure is complicated, so notify and work with your subregional TCC office.

Several villages are collecting reserve funds to assist families in need. These "revolving loans" are intended for cases when state public assistance and/or violent crime compensation isn't available.

TANANA CHIEFS CONFERENCE, Inc.
NOVEMBER 1982

Trial Courts
State of Alaska
SECOND JUDICIAL DISTRICT
P.O. BOX 317
KOTZEBUE, ALASKA
99752

ROBERT D SINKEY
Magistrate

907-442-3208

February 25, 1983

Ms. Delores Wilks
Coroner
Alaska Court System
303 K Street
Anchorage, Alaska 99501

RE: Frederick Weinard, deceased
Coroner Case No. 2KB-83-03cor.

Dear Ms. Wilks:

On February 17, 1983, I ordered the remains of Frederick Weinard to Witzleben Funeral Home in Anchorage for autopsy. It was the usual order for post mortem-autopsy and nothing was required by this court except the post mortem and the subsequent return of the body for ultimate family burial in the village of Candle.

Surviving members of the family wished only two small services performed by Witzleben, these were to perform basic cosmetic work and to dress the body in the clothing supply by the family. The total responsibility required of the funeral home was performed by the following services:

1. Furnish the facilities for the ordered autopsy.

2. Removal of remains from airport.

3. Dressing and cosmetic work.

4. Return of the body in the seigler case, to the airport for its ultimate return to the village of Candle.

These basic needs were conveyed to Witzleben by this court and by close family friends in Anchorage who was prepared to pay for the dressing and cosmetic work.

At about the time the autopsy was taking place, the friend of the family, Ms. Karen Upchurch, called from Anchorage and was very upset after having been informed by Witzleben that costs to the family would be in the amount of $770. Witzleben was preparing to perform and charge for the following services:

1. Basic operating fee $175.00

2. Preparation of remains $230.00

3. Dressing and cosmetology $95.00

4. The obtaining of the death certificate and "administrative costs" $70.00

5. Recording of statistical data $100.00

6. Use of operating room $100.00

For a grand total of $770.00

Mind you, these were charges and services intending to recover from the family and were over and above the usual cost to the court system for use of the facilities and transportation both ways. These charges usually run in the neighborhood of $110.00 total.

The body was still at autopsy and the listed services had not yet been performed. In order to protect the family from these charges I ordered that the body be returned without further services and that the services already performed be itemized and broken down in detail. When Witzleben discovered that they could not charge the family as anticipated, they requested permission from your office to transfer the remains to another mortuary.

Ms. Wilks, this is the third time in the period of the year where frantic and unhappy family members and relatives have approached this court concerning attempted services and charges by Witzleben. I have not yet had problems steming from any other mortuary. In my opinion, the native families of the NANA Region are being victimized by Witzleben and I will in the future, direct autopsy to other Anchorage funeral homes.

Yours very truly,

Robert D. Sinkey
District Magistrate

RDS/sh
Enclosures
cc: F.J. Witzleben, President
Hon. Paul B. Jones

MEMORANDUM

RECEIVED
OCT 14 1983
Office of Administrative Director
Alaska Court System

TO: Stephanie Cole

FROM: Karla Forsythe

DATE: October 13, 1983

SUBJECT: Suspension of funeral home

I have attached a portion of the West Virginia Board of Regents Purchasing Guidelines which discusses suspension of vendors.

As you may know, Fraya brought back the West Virginia manual from a government purchasing conference she attended. The manual is excellent, and I am using it as a basis for a first draft. However, there are several sections which are more relevant to a large government institution such as a school system, and which are not appropriate for use by the court system. The suspension provisions fall in this category.

It occurs to me that the provisions might be useful to you in developing a procedure for terminating the services of a funeral home which has been creating problems. The provisions are based on West Virginia statutes, and as far as I can tell, Alaska has no similar provisions. But they might be helpful. The procedures set forth comport with fundamental due process principles, and make sense from a practical standpoint.

Karla

ARTICLE SEVEN

SUSPENSION

In accordance with Section 5A-3-39 of the State Code, any person suspended under said provisions shall not be eligible to sell or offer to sell commodities or printing to the BOR.

SUSPENSION OF VENDORS BY BOARD OF REGENTS

In accordance with Section 18-20-10f of the State Code, the BOR shall have the power and authority to suspend, for a period of time not to exceed one year, the right and privilege of a person to bid on purchases of the board when there is reason to believe that such a person has violated any of the provisions in Section 18-26-10c through 18-26-10f of the State Code or the rules and regulations of the BOR pursuant thereto.

a. These rules and regulations require implicitly, and explicitly herein, that vendors honor and fulfill the terms and obligations imposed upon them by virtue of contracts entered into with the BOR. Adherence is hereby required to contractural provisions relating to the quantity and quality of commodities furnished or services rendered and to the price therefore and to the date(s) of delivery or performance. Further, adherence is required to all federal, state and local laws, regulations, and ordinances governing a vendor's performance or conduct, which laws apply to the vendor because of a contractural relationship with the BOR entered into pursuant to the provisions of Article 26 of Chapter 18 of the Code or these regulations.

b. The power and the authority of suspension vested in the BOR by virtue of Section 18-26-10f of the Code may be exercised when the BOR has reason to believe that:

1. A vendor has exhibited a pattern of poor performance in fulfilling his contractural obligations to the BOR in more than one contract (purchase order). "Poor performance" may include documented, repeated errors of omission or commission which constitute technical breaches of contract but which, taken individually, are insufficient to warrant termination of the relevant contract by reason of default. The essence of this ground for suspension is continued and repeated instances of a vendor proviling or furnishing commodities, materials, workmanship or services at a quantity or quality level below that which is required by generally accepted industry standards; or

2. The vendor has willfully breached any contract entered into pursuant to the provisions of Article 26 of Chapter 18 of the Code or these Regulations.

A contract shall be deemed to have been "willfully breached" in any instance wherein a vendor refuses to do or perform any act clearly required by the terms of the contract; or in any instance wherein a vendor knowingly provides or furnishes commodities, materials, workmanship, or services at a quantity or quality level below that which is specified in the contract; or in any instance wherein a vendor is given written notice that the quantity or quality level of commodities, material, workmanship, or services which he has provided is below that which is specified in the contract and such vendor, without questioning the accuracy of such notice of omission or fault, continues such omission or fault without recompense or correction for such omission or fault; or

3. A vendor has violated any provisions of the purchasing laws; or

4. A vendor has been convicted of any federal, state, or local law punishable as a felony, which conviction arises from the vendor's acts or omissions directly related to the performance of a contract entered into pursuant to Article 26 of Chapter 18 of the Code or these regulations.

c. Every person (vendor) whom the BOR has reason to believe has violated the provisions of the purchasing laws or these regulations will be notified by letter posted by registered mail of such belief and reason(s) therefore. At the same time, the vendor shall be given notice that a hearing will be held concerning the matter, if a hearing is requested within five (5) days of the vendor's receipt of the notice. The date, time, and place of the hearing will be specified in the Procurement Officer's letter to the vendor. The date and time of the hearing shall be at least ten (10) days after notice is given.

If a hearing is not requested, the vendor's right and privilege to bid on BOR purchases may be suspended for a period not to exceed one year, effective the date and time at which the hearing would have been held had one been requested. Notice of such suspension and the reason(s) therefore shall be sent to the vendor at that time by letter posted by registered mail.

d. The Chief Procurement Officer shall act as hearing examiner at any hearing held. An opportunity shall be afforded to all parties to present evidence and arguments with respect to the matters and issues involved. The affected vendor shall have the right, but shall not be required, to be represented by an official of his choice. The hearing shall be conducted in an informal manner; technical rules of evidence shall not apply. The vendor and the Chief Procurement Officer or their respective representative shall have the right to examine and

cross-examine witnesses who testify, and shall have the right to submit rebuttal evidence.

All of the testimony and evidence at any such hearing shall be reported by stenographic notes and characters or by mechanical means. All rulings on the admissibility of testimony and evidence shall also be reported. The institution involved shall prepare an official record, which shall include reported testimony and exhibits in each contested case, and all agency staff memoranda and data used in consideration of the case, but it shall not be necessary to transcribe the reported testimony unless required for purposes of rehearing or judicial review.

e. If the affected vendor or his representative does not appear at the hearing, the Chief Procurement Officer shall request such vendor's right and privilege to bid on BOR purchases be suspended for a period not to exceed one year. If approved by BOR, such suspension shall be effective immediately an' notice of such suspension and the reason(s) therefore shall be sent to the vendor by letter posted by registered mail.

Every such decision rendered by the Chief Procurement Officer in a contested case shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. Prior to the rendering of any final order or decision, any party may propose findings of fact and conclusions of law. If proposed, all parties shall be given an opportunity to accept such proposed findings and conclusions, and the final order or decisions shall include a ruling on each proposed finding. Findings of fact, if set forth in statutory language, shall be accompanied by concise and explicit statement of the underlying facts supporting the findings. A copy of the order or decision and accompanying findings and conclusions shall be served upon each party and his attorney of record, if any, in person or by registered mail.

f. Any vendor suspended in accordance with Section 18-26-10f of the State Code shall have the right to have the BOR's action reviewed in accordance with Section 5A-3-40 of the State Code by a Board composed of the Governor, Attorney General, and Auditor of the State, which Board shall have the power and the authority to set aside such suspension. If the vendor wishes such review, he shall submit a request for review and three copies to the Board of Regents. Upon request to the Chief Procurement Officer by the vendor, all reported testimony and evidence taken at previous hearings, if any, shall be transcribed, and a copy thereof furnished to the vendor at his expense. The Chief Procurement Officer shall be responsible for making arrangements for the transcription of the reported testimony and evidence taken at a previous hearing, if any, shall be transcribed, and

a copy thereof furnished to the vendor at his expense and such transcription shall be accomplished with all dispatch.

g. Requests for review shall be in narrative form explaining in detail the reasons why the review is requested. The BOR shall distribute the "requests for review" to the Governor, Attorney General, and Auditor.

h. If the vendor feels an oral presentation is necessary, he shall request a hearing and give reasons why a hearing is necessary.

M E M O R A N D U M

February 7, 1984

To: Stephanie Cole
Deputy Director of Services

Rick Barrier
Deputy Director of Operations

Bob Fisher
Fiscal Officer

RECEIVED
FEB 9 1984
Office of Administrative Director
Alaska Court System

From: Karla L. Forsythe KLF
General Counsel

Subject: SB 382 - payment for autopsies

Last week in Juneau Rick and I talked with Dr. Rabeau, director of the division of public health, and Dwayne Peeples, an analyst with the division who is preparing the fiscal note.

They wondered to what extent court involvement would continue if DHSS becomes responsible for payment. They wanted a step-by-step outline of who [illegible] They also wanted to know the number of autopsies statewide, and how many are performed in each location (Anchorage, Fairbanks, Bethel), as well as the procedure for bodies coming from southeast Alaska.

Although Bob had given a figure of $300 for embalming, this figure seemed high to Peeples who had called several mortuaries and was quoted a figure of $250. Peeples wondered if the $300 included dressing.

He also questioned the scope of "related services" under the statute, and decided it probably includes dressing and preparation.

Another question involved the use of sealer boxes, the rate of replacement and the cost. Peeples pointed out that DHSS inventory procedures are quite stringent and they will want to keep track of the boxes, although Rick noted that this is an administrative nightmare.

We all agreed that embalming would probably be needed for all the autopsies under the wording of the present bill, but that this could be modified if necessary.

Peeples asked the extent to which we become involved in complaints. Rick indicated the public health by regulation has more involvement.

He also wanted to know if we had considered bid procedures. Rick said the difficulty comes in knowing how to bid it, because the mortuaries may be willing to pay for the bodies.

They both indicated that the division needs new staff to coordinate the process, consisting of at least one clerk IV in Anchorage and probably another clerk in Fairbanks, who would work with the professional services contracts with the pathologists, with paying bills, with coordinating the process, and with enforcement of funeral home practices.

Rabeau noted that the commissioner has said that of all the DHSS offices, public health ought to have the responsibility. Basically, they don't want to become involved because they have undergone staffing cuts, and say they simply don't have anyone to do the work without additional staff.

I have not yet seen a copy of the DHSS fiscal note, but will forward it when it comes across my desk.

Please let me know if you have any questions.

KLF:smh

Attachments

cc: Arthur H. Snowden, II

ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 21, 1983

Mr. Arthur Snowden II
Administrative Director
Alaska Court System
303 "K" Street
Anchorage, AK 99501

Dear Mr. Snowden:

I have received your letter of December 13, 1983. It appears that correspondence from this department (dated December 12, 1983, from E.S. Rabeau) passed yours in the mail. I believe your concerns and the position of this Department are generally addressed in that letter.

There is only one matter which I believe needs further discussion. This department has, as yet, made no commitment to assume costs of embalming in all cases involving court ordered autopsies. We are attempting to design provisions in our General Relief Program which would permit us to pay costs of embalming in a limited number of cases, which would include some rural deaths which are not presently covered by General Relief.

Sincerely,

Robert London Smith

Robert London Smith, Ph.D.
Commissioner

RECEIVED
JAN 3 1984
Office of Administrative Director
Alaska Court System

06-F38LH

Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

December 13, 1983

Robert London Smith
Commissioner
Department of Health and Social Services
Pouch H-01
Juneau AK 99811

Reference: Problems related to autopsies mandated under Alaska law

Dear Commissioner Smith:

As you may be aware, a variety of problems relating to court-ordered autopsies have surfaced in the past few months. Court system personnel, members of your staff and other interested parties have been working together in an attempt to remedy these problems.

After considerable study, the court has concluded that some problems may be remedied by transferring certain responsibilities from the court system to your department.

Under the system currently in place, a coroner (a court employee) is contacted about a death. The coroner makes an initial determination about whether an autopsy should be ordered pursuant to the provisions of applicable state statutes and Department of Health and Social Services regulations (see AS 12 65.020, 7 AAC 05.440). If an autopsy should be ordered, the coroner contacts a medical examiner from a list provided by your department. (Your department has the responsibility for

the appointment of medical examiners. AS 12.65.110). Since Alaska has no morgue, the coroner then directs that the deceased by transported to a funeral home. The choice of the funeral home (absent a specific designation by next of kin) is made from a rotation schedule presently maintained by the court of licensed funeral homes which wish to receive these referrals.

Payment to the funeral home is complicated. Under the present system, the court pays for the transportation of the deceased to the place of autopsy and then back to the place of death or residence (whichever is less), the pathologist's bill and the preparation room fee. Funeral expenses (casket, clothing, burial plot, headstone, services and burial) are the family's responsibility. The families deal directly with the funeral homes about these issues. It appears that in most cases involving bodies from rural Alaska, your department pays burial expenses through the avenue of general assistance. 7 AAC 47.130. (Payment for embalming costs has been a hotly contested issue in the past. However, it is our understanding that your department has agreed to assume these costs in cases involving all court ordered autopsies, and is presently designing a system to implement this policy change.)

Two problems appear to be occurring. First, the court system has no formal contracts with the funeral homes on the rotating list. There have been some indications that problems have occurred between the families of the deceased and one or more of these homes. One of the concerns that we have heard expressed is that maintenance of the rotation list should include responsibility for the quality of services and the investigation of abuses. The court system is not equipped to perform these functions. First, we are not charged with regulatory and licensing functions. Also, our role as an independent dispute resolution body precludes our involvement in investigations which may end up before the court. The Department of Health and Social Services, however, does investigate, regulate and license as part of its mandated functions.

The Department of Health and Social Services already regulates certain areas relating to autopsies. It is true that the Department of Commerce, not the Department of Health and Social Services, licenses persons who engage in the practice of mortuary science and issues funeral establishment permits. See AS 08.42.020 and 08.42.100. However, the Department of Health and Social Services enacts and enforces the regulations relating to embalming and the requirements for preparation rooms. See 7 AAC 35.090 - 7 AAC 35.130. The department's regulations also mandate that autopsies be performed in certain circumstances. See 7 AAC 05.440. In that the Department of Health and Social Services is already involved in regulation in this area, it is much more qualified than the court system to evaluate the qualifications of funeral homes for inclusion on a rotation schedule.

The Department of Health and Social Services is the primary beneficiary of information discovered during autopsies. The Bureau of Vital Statistics is contained within your department. The bureau is charged with the preparation of the state's vital records, including death certificates. Information obtained from autopsies is essential to the preparation of death certificates. As primary beneficiary of the autopsy results, your department logically has a greater interest in quality control in this area.

I would propose, in conclusion, that we enter into an inter-agency agreement wherein your department assumes responsibility for the maintenance of a funeral home rotation schedule or other mechanism which you find appropriate. Your department could screen, qualify and contract with funeral homes in a manner you determine to be appropriate. Your department would then provide the court with a list or rotation schedule of funeral homes to which the coroners will send bodies for autopsy.

The second problem in this area relates to payment of the funeral homes for services rendered. Because payment for different items comes from different sources under the present system, much confusion has been created. Also, there has been some concern that no routine checking can presently be done for "double billing" - items which may be charged both to families and the court system.

If the Department of Health and Social Services assumes the responsibility for the designation of funeral homes to be used for court-ordered autopsies, your department should also assume the responsibility for processing payments for those funeral home costs the state pays.

Your department already processes and pays some funeral expenses through the avenue of general assistance. See 7 AAC 47.130. Additionally, as previously stated, it is my understanding that the department has agreed to begin paying for embalming costs associated with all court-ordered autopsies, to begin at some point in the near future. If the department assumes the responsibility for paying all funeral and autopsy expenses which the state assumes, there is less chance of confusion about who should be paying what, and there is greater probability of preventing double billings of the same items to different state agencies and families (The court would, of course, transfer the monies allocated to the court for autopsy expenses to the department.)

It would be possible to propose legislation to effect these changes. However, it appears that the necessary changes could be effected by means of an interagency agreement between the Department of Health and Social Services and the court system.

I'll be happy to talk to you about this proposed change in procedures. Also, Deputy Director Stephanie Cole and Fiscal Officer Bob Fisher are authorized to work with your staff and provide you with any information you may need.

I am optomistic that we can work together to eliminate these problem areas for the benefit of the public.

Very truly yours,

Arthur H. Snowden, II
Administrative Director

cc: Governor Bill Sheffield
Attorney General Norm Gorsuch
Assistant Attorney General Connie Sipe
Senator Frank Ferguson
Representative Al Adams
Stephanie Cole
Bob Fisher

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 12, 1983

RECEIVED
DEC 16 1983
Office of Administrative Director
Alaska Court System

Mr. Arthur Snowden II
Administrative Director
Alaska Court System
303 "K" Street
Anchorage, AK 99501

Re: Autopsy Costs-Letter of September 9, 1983

Dear Mr. Snowden:

This letter is in reply to the letter from Stephanie Cole, your Deputy Director for Services, on the same subject.

In reply to your inquiries therein, after careful consideration, I am not prepared to commit the Department of Health and Social Services to the assumption for all autopsy and related burial costs. It is still my belief as expressed at our September meeting that all such costs, including costs of embalming, should be the Court System's responsibility.

While, as you note, this department does have certain responsibilities which affect the process of doing autopsies, those responsibilities are only peripherally related to autopsies. Each is part of a duly authorized activity, well within the scope of this department's mission. This department, at present, has no mission to perform the role you describe.

The scope of this department's authority is set out at AS. 44.29.020. This department's role does not include the criminal investigatory role that court-ordered autopsies in Alaska serve. (Note AS. 12 Chapter 65.)

Our regulations related to embalming, of course, cover all deaths, not merely those in which an autopsy is done. The present regulation are disease control measures, authorized by AS. 18.05.040(1) and (7). They are in no way specific to court ordered autopsies, and carry with them no administrative apparatus to administer the performance of all court ordered autopsies.

Our vital statistics duties, again, cover all deaths, births, marriages, divorces, and adoptions in Alaska. They too do not require an administrative apparatus of the sort needed for the purchasing of services ordered by the court system in the course of autopsies.

Our authority for general relief burials, (7AAC 47.130) is found at AS 47.25.120-300. Qualifications for G.R. burials must be need-based under those sections. Our procedures for handling such burials are for the provision of public assistance to the needy.

The Commissioner's authority to appoint a medical examiner does not include with it any specific authority or responsibility after the appointment. It is simply related to this department's responsibilities as the State's health agency.

Your proposal would entail a separation of the authority to order autopsies and the transportation and handling of dead bodies, (which, by its nature, must remain with the court system), from the responsibility to pay for such handling. It would present extreme management problems and would necessitate, not only a shift of a large portion of the court system's budget over to DHSS. but also a legislative change in the fundamental functions of this department. At this time, this department does not favor such a change.

It is still our opinion, as previously expressed, that if the court system mandates an autopsy (thus necessitating the need for embalming) it should assume the responsiblity for paying for the embalming. The autopsy has removed the next of kin's option of interment without embalming.

Sincerely,

E. S. Rabeau

E. S. Rabeau, M.D.
Deputy Commissioner
for Health Services

Alaska Court System
State of Alaska
OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

September 9, 1983

E. Stuart Rabeau, M.D.
Director, Division of Public Health
Pouch H-01
Juneau, Alaska 99811

Subject: Autopsy Costs

When I returned to my office on September 8, I talked to Administrative Director Art Snowden about the matters discussed at the Thursday morning meeting.

Mr. Snowden agreed that there are several arguments in favor of the state's assumption of financial responsibility for embalming costs following a court-ordered autopsy. However, rather than simply seeking to add monies to the court system's budget to cover these costs, he would suggest that a larger examination of the system be undertaken with an eye to centralizing all responsibility for autopsy and related burial costs, and money to pay same, in the Department of Health and Social Services.

Our reasoning is as follows. The Department of Health and Social Services is the executive agency which has undertaken to regulate autopsy-related areas such as embalming (7AAC 35.010 -.130) and the requirements and procedures for the preparations of death certificates (7AAC 05.400 et.seq). Also, the Commissioner of Health and Social Services is the only official who may waive certain regulatory requirements (7AAC 35.100 (b)(4)). As discussed at our meeting, the Department of Health and Social Services already has procedures in place, through general relief programs, to handle claims for funeral and burial expenses. 7AAC 47.130.

Additionally, the Commissioner of Health and Social Services is the authority who may appoint medical examiners. AS 12.65.010.

It seems to us that the Department of Health and Social Services, as the primary regulatory agency in this area and the agency most concerned with death investigation results (re: preparation of vital records), is a more appropriate vehicle than the court system for handling expenses and billings for autopsies and related burial costs.

At present, the court system does have money budgeted for autopsy purposes. We would be willing to transfer our monies to the department should the department begin paying autopsy expenses. Then, the department could seek additional monies from the legislature to cover embalming costs.

This assumption of total responsibility, in line with existing regulatory authority, could also be extended to you in the area of funeral homes. The department could examine and contract with funeral homes in any manner it deemed appropriate, and simply provide the court system with direction as to which funeral homes to use. In that way, if abuses did occur which came to the attention of the department, the department could take whatever steps were necessary to cease dealings with a particular home. The court system would follow the department's direction in such a matter.

Please let us know your reactions to these ideas.

Very truly yours,

Stephanie J. Cole

Stephanie J. Cole
Deputy Director for Services

SJC:mjs

cc: Lewis J. Sears, Ph.D
Doctor C.S. Rabeau
Rhonda Roberts
Nadine Winters
Marty K. Rutherford
Connie Sipes
Don Burton
Dolores Wilks
Carole Baekey

Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

December 13, 1983

Robert London Smith
Commissioner
Department of Health and Social Services
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Juneau AK 99811

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the appointment of medical examiners. AS 12.65.110). Since Alaska has no morgue, the coroner then directs that the deceased by transported to a funeral home. The choice of the funeral home (absent a specific designation by next of kin) is made from a rotation schedule presently maintained by the court of licensed funeral homes which wish to receive these referrals.

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Very truly yours,

Arthur H. Snowden, II
Administrative Director

cc: Governor Bill Sheffield
Attorney General Norm Gorsuch
Assistant Attorney General Connie Sipe
Senator Frank Ferguson
Representative Al Adams
Stephanie Cole
Bob Fisher

Memorandum

Alaska Court System

TO: Art Snowden
Administrative Director

DATE : December 13, 1983

FROM: Stephanie Cole
Deputy Director for Services

SUBJECT: Autopsy problems

I have been investigating the idea of transferring our responsibility to designate specific funeral homes for autopsies to the Department of Health and Social Services. Specifically, you have asked that I consider any legislative changes which might be necessary to effect this transfer.

I have come to two conclusions: (1) Existing statutes do not require the court system to choose and designate the funeral homes to be used, and (2) It would be more appropriate to have Health and Social Services handle this task. However, I am not sure that legislation is the appropriate method of handling this change; an interagency letter of agreement may be a better way to proceed.

discussed w/Art 12/13

Adm. F-1
Rev. 2-73

The coroner's obligation

The coroner's obligation is to direct a medical examiner to perform an autopsy in appropriate cases:

> Sec. 12.65.020. Duties. When a person dies unattended by a physician, or when no physician is prepared to execute the certificate of death prescribed by the Vital Statistics Act, the coroner assigned to serve the place where the death occurs may, by written order, direct a medical examiner to view the remains of the deceased person and to perform the post mortem examination, including an autopsy, necessary to make a proper determination of the cause of death and to execute the prescribed death certificate. Upon the completion of the examination, the examiner shall, without delay, submit a report of the findings and conclusions to the coroner. The coroner shall order an inquest under this chapter if the findings and conclusions of the medical examiner, together with other information available to the coroner, warrant the inquest. Otherwise the coroner shall enter an order dispensing with the inquest and shall record the certificate of death as prescribed by law. (emphasis added)

The appointment of medical examiners is the responsibility of the commissioner of health and social services. AS 12.65.010. The statutes do not address the designation of the location for the autopsy, or the facility to be used.

As a practical matter, it is essential that the duty coroners be able to tell the state troopers or other officials who contact them about a death where the body will be taken. However, I see no reason why this information could not be provided to the court without any necessity for the court to maintain the list, receive complaints about particular cases, etc.

I tried to track down this history of the rotation list. I was only partially successful. Although some system may have been in effect prior to 1972, in March 1972 an interagency meeting was held to coordinate autopsy related activities. At that meeting, decisions were made about a rotation list, who should be on it, etc., and a decision was made to have the court provide the rotation schedule.

The arguments in favor of having the Department of Health and Social Services maintain the rotation list are as follows:

(1) <u>The court is not a regulatory and licensing agency; the Department of Health and Social Services is</u>.

One of the concerns that we have heard expressed is that maintenance of the rotation list should include responsibility for the quality of services and the investigation of abuses. The court system is not equipped to perform these functions. First, we are not usually charged with regulatory and licensing functions. Also, our role as an independent dispute resolution body precludes our involvement in investigations which may end up before the court.

The Department of Health and Social Services, however, does investigate, regulate and license as part of its mandated functions.

(2) The Department of Health and Social Services already regulates certain areas relating to autopsies.

The Department of Commerce, not the Department of Health and Social Services, licenses persons who engage in the practice of mortuary science and issues funeral establishment permits. See AS 08.42.020 and 08.42.100. However, the Department of Health and Social Services enacts and enforces the regulations relating to embalming and the requirements for preparation rooms. See 7 AAC

090 - 7 AAC 35.130. In that the Department of Health and Social Services is already involved in regulation in this area, it is much more qualified than the court system to evaluate the qualifications of funeral homes for inclusion on a rotation schedule.

(3) <u>The Department of Health and Social Services is the primary beneficiary of information discovered during autopsies</u>.

The Bureau of Vital Statistics is contained with the Department of Health and Social Services. The bureau is charged with the preparation of the state's vital records, including death certificates. Information obtained from autopsies is essential to the preparation of death certificates.

As primary beneficiary of the autopsy results, the Department of Health and Social Services logically has a greater interest in quality control in this area.

<u>Payment for funeral home services</u>

If the Department of Health and Social Services assumes the responsibility for the designation of funeral homes on a rotation schedule, the department should also assume the responsibility for processing payments for those funeral home costs the state pays.

The Department of Health and Social Services already processes and pays some funeral expenses through the avenue of general assistance. See 7 AAC 47.130. Additionally, it is my understanding that the department has agreed to begin paying for embalming costs associated with court-ordered autopsies, to begin at some point in the near future. If the department assumes the responsibility for paying all funeral and autopsy expenses which the state assumes, there is less chance of confusion about who should be paying what, and there is greater probability of preventing double billings of the same items to different state agencies.

In summary, I would suggest we ask the Department of Health and Social Services to enter into a formal interagency agreement in which the department:

> (1) agrees to provide the court with a list or rotation scheduled of funeral homes to which the court will send bodies for autopsies, and
>
> (2) agrees to begin processing and paying all bills received from funeral homes for state-assumed autopsy and burial expenses.

The court would, of course, transfer the monies allocated for autopsy expenses to the department.

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC ASSISTANCE

POUCH H-07
JUNEAU, ALASKA 99811
PHONE: 465-3355

October 20, 1983

Stephanie J. Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, AK 99501

Dear Ms. Cole:

Thank you for your letter of concern about the general assistance program for burial expenses.

Our representative in Point Hope is one of about 200 fee agents in small communities throughout the state. Fee agents are trained and paid to process applications for Food Stamps and Aid to Families With Dependent Children. However, they are often called upon to perform a good many other services as well. Because of lack of additional funding for training and compensation, fee agents are not conversant with all of the program services we offer. Thus we encourage that queries be addressed to district or regional offices, which are staffed with trained, full-time eligibility technicians.

The Commissioner of Health and Social Services has directed a full review of the fee agent system in coordination with other state agencies to explore ways in which the system can be strengthened and used more fully. Your letter further underlines this need, and we appreciate your expression of concern.

Sincerely,

Danny L. Harris

for/ Rod Betit
Director

cc: Heather Noble
Carole Baekey

06-P51LH

Alaska Court System
State of Alaska
OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

October 26, 1983

Ms. Lou Ann Cutler
1024 West Sixth Avenue
Suite 204A
Anchorage, AK 99501

Re: Autopsies

Dear Lou Ann:

I understand that Bob Fisher did call you and give you a number for the amount of court-ordered autopsies statewide per year. It is also my understanding that in FY 1983 court-ordered autopsies numbered approximately 750 (± 20).

I did have one concern. Recently I was reviewing some autopsy billings and I briefly discussed various items on them with Bob Fisher. I had told you that the cost of embalming generally runs $150-$300. From current billings it looks like $300 is the more representative figure and that it is even higher in some cases. Therefore, if you are making cost calculations, I suggest you use $300 per case as the embalming cost (or a little higher).

Enclosed please find a copy of the letter I received from the Division of Public Assistance. This may be of some interest to you.

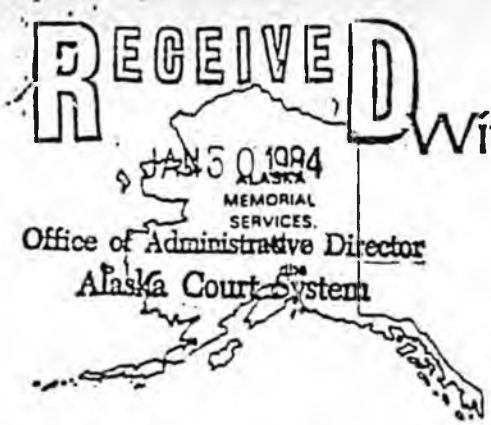
Please let me know if there is anything else I can do for you.

Very truly yours,

Stephanie

Stephanie J. Cole
Deputy Director for Services

cc: Bob Fisher, w/enclosure
Enclosure
SJC:le



Witzleben Family Funeral Homes and Crematory

P.O. Box 102351
Anchorage, Alaska 99510-2351

RECEIVED
JAN 9 1984
Office of Administrative Director
Alaska Court System

January 3, 1984

Alaska Court System
Attn: Dale Cuda
P.O. Box 130
Bethel, Alaska 99559

Re: Alaska State Trooper Belden

Dear Magistrate Cuda:

Yesterday, January 2, 1984, a Federal & State Holiday, Trooper Belden called our office wanting to know why the remains of Theresa B. Williams has not been sent back to Bethel. I informed him that it was because, up until that time, no one had contacted us regarding the remains and we had no instructions as to what to provide, to whom , or where to ship the remains. He informed me that the "Alaska Court System would pay all the charges" and that the remains was to be returned. He did not specify where, so I could only assume he meant to Bethel. As it turned out that was not the case.

Later in the day we received a call from a Mrs. Shavings of Mekoryuk requesting information and informing us that an application had been submitted to Joyce Freeman at the Division of Public Assistance, on Friday, December 30, 1983. I advised her that we had never been contacted by the family or the Division and therefore unable to do anything until Tuesday because of the holiday. I further advised her that she should contact Mrs. Freeman first thing on Tuesday morning. Mrs. Freeman called our office at 8:45 am today (Tuesday) giving approval - NOT because she had received an application (she had not), a call from Mrs. Shavings (she had not), NOR because she had been called by Trooper Belden earlier this morning, but because she knew the family and knew they qualified.

Miss Williams died December 26th. We did not receive her remains until Thursday, December 29th. The autopsy was performed the same day. However the permit you sent us gave her name as "Jane Doe" and listed "Storage in Anchorage". Even though, as Mrs. Shavings informed us, the family had been given our name and phone number, they made no effort to contact us with instructions, so the rude call from Trooper Belden on Monday morning, a legal holiday, was our first person to person contact.

Now if the court system is going to assume the responsibility of giving directions as to the disposition of a remains, then I feel it is only reasonable to expect you or someone from YOUR office to call us with that information, and tell us what you are and are not authorizing the court system to pay for. I will not take instructions from a state trooper (who represents another branch of government) since in coroner's cases I am acting under the authority of the Court System. Would you take a call from a person in the Department of Labor telling you to bill services to the Department of

of Transportation without first getting some confirmation from a representative of the Department of Transportation that they would accept such an order?

I understand and appreciate the difficulties you have with communications in the places you serve. However, it does not HELP to have troopers trying to play Funeral Director and only causing more confusion because they aren't fully informed on what responsibilities belong to the Court System (i.e. what it WILL authorize and pay for), what belong to the families and the social services agencies that serve them, and the guidelines and regulations under which we operate. What happened to the information form that the court system supposedly distributed that was to be given to the family and copied to the mortuary so that everyone would have the information they needed?

It was nice to know that Trooper Belden was working over the holiday, as we were, but that does not mean that we are able to get authorizations from a social services agency or obtain a new permit for shipment when all State and Federal Offices are closed. I would like to be able to provide those benefits to the families I serve EVERYday too. It would certainly make my life easier, since I'm working then anyway. I would hope that in the future the families will contact us in a timely manner, so that their loved ones can be sent to the appropriate place as expeditiously as possible. As a side note, the delays are also frustrating to non-bush families who want their loved ones shipped to the lower 48 but find they cannot because of airlines delays, weather, holidays, strikes, etc. Even in town the cemeteries often hold up, or force changes in a families wishes because they're closed for maintenance, weather, darkness, etc.

We both have statutes and regulations with which we have to work. Don't you think it would be helpful if we each were able to better understand the others duties and responsibilities, and not keep making it a one way street where the mortuary is ALWAYS the bad guy? Possibly as an alternative it would be beneficial for the Bethel area to consider having the pathologists come out there to perform the autopsies and then you can repair and send the bodies back to the families yourselves.

I trust that better communications can be developed so that these situations do not occur again.

Sincerely yours,

F. J. Witzleben, President

cc: Charlene Doris - Coroner
Alaska State Troopers - C.I.B. (Anchorage)
Joyce Freeman - DPA, Bethel
Trooper Belden
Commissioner of Public Safety
Court Administrator

PERMIT MUST ACCOMPANY BODY UNTIL ITS FINAL DISPOSITION

BURIAL — TRANSIT PERMIT

ALASKA DEPARTMENT OF HEALTH AND WELFARE
BUREAU OF VITAL STATISTICS
JUNEAU, ALASKA

Registration District: Bethel
CITY OR TOWN: Bethel
DEATH CERTIFICATE NO.: 83-45

FULL NAME OF DECEASED: [redacted] Doe
SEX:
RACE:
AGE:

PLACE OF DEATH: Bethel ALASKA
DATE OF DEATH: 12/26/83

FUNERAL DIRECTOR NAME: LV Stebbens 6th Ave
ADDRESS: Anch

DISPOSAL
☒ INTERMENT AT Linch and/or ☐ SHIPMENT OR REMOVAL TO and/or ☐ BURIAL ☐ CREMATION

AT (Cemetery or Crematory) LOCATED AT (City and State)

A death certificate having been filed as required by the laws of Alaska, or definite arrangements to do so having been made, permission is hereby given to dispose of the body of deceased as indicated above; provided that all other regulations of the Alaska Department of Health and Welfare relating thereto have been fulfilled.

DATE 12/27/83 SIGNATURE OF LOCAL REGISTRAR Dale O. Cude

AUTHORIZED DISPOSITION AS STATED ABOVE OCCURRED ON (DATE)

SIGNATURE OF SEXTON OR PERSON IN CHARGE

SEE OTHER SIDE FOR INSTRUCTIONS

IN THE DISTRICT COURT FOR THE STATE OF ALASKA

AT Bethel

REPORT OF CORONER CALL CASE NO. 4BE-83-40 CO

1. Name of Victim Jane Doe Soc. Sec. # _____

2. Date of Death 12/26/83 Date of Birth _____

3. Place of Death Bethel
(Address or Location)

4. Coroner informed by Belden

at approximately 3 (am) (pm) on 12/26, 19 83.

5. (check one)

☐ I visited the scene personally.

☒ I delegated (State Trooper) (City Policeman) Belden
(Name)
_____ to act in my place after informing him of what my duties in such cases are.

6. A full report of the circumstances will be forwarded to my office as soon as possible by Belden
(Name)

of AST
(Agency).

7. (check one)

☒ I ordered a post mortem-autopsy examination to be accomplished by Dr. Propst of Anchorage, Alaska, and that he submit his report without delay to my office.

☐ No autopsy or post mortem examination was authorized by me.

8. (check one)

☐ Since a near relative _____ (Name), _____ (Relation), was on hand, I left certain property in (his)(her) custody.

☐ No near relative being available, I took certain property into my custody, and an inventory will be prepared without undue delay.

9. Mortuary where body was taken Witzlebens 6th Ave

10. Next of kin will be notified by _____

11. Next of kin address _____

12. Employer _____

13. Remarks Doe burned on BIA road in Bethel. Id in question.

Memorandum

Alaska Court System

TO: Bob Fisher

DATE : January 30, 1984

FROM: Stephanie Cole
Deputy Director for Services

SUBJECT: Attached copy of bill from Chapel of Chimes re burial of John Tukle

Heather Noble from Alaska Legal Services in Barrow contacted me about this bill again. I was finally able to contact Mrs. Plummer with Chapel of Chimes in Fairbanks to explain some of the items which I felt required some further explanation. I think part of what makes this billing so hard to understand is the fact that the autopsy took place at Fairbanks Memorial Hospital. For example, the "use of operating room" cost billed at $100.00 is not for the use of that room for the autopsy, because the autopsy took place at the hospital. Rather, they are charging $100.00 for use of that room for the embalming process, although they have already charged $395.00 for the embalming (to include care and preparation for burial or cremation). Although this seems somewhat duplicative, it does seem to be a matter to be resolved between the family and the funeral home, and not by the court system.

The "outer receptacle" billed for is a wooden crate which surrounds the casket and which is apparently required by the airlines. According to Mrs. Plummer, this is not reusable and cannot be returned. Again, I would imagine that this is something with which the court system would not be concerned, because it doesn't relate to charges that we pay.

The items that are of the most direct concern to me are the two billings for transportation. According to Mrs. Plummer, these are not a "per mile" charge, but are rather a flat fee charged for any movement of the body. The funeral home has charged $85.00 for the transportation of the deceased from the hospital to the mortuary, and then an additional $85.00 for transportation of the deceased from the mortuary back to the Wien terminal for the return flight home. While this is not technically transportation "to and from the place of autopsy", I still think we should pay this amount. The "to and from place of autopsy" standard was devised to apply in the most common situation, where the autopsy actually takes place at the funeral home. In this case, it is just unfortunate that the autopsy and the funeral preparations did not take place at the same place. While the argument for paying for these

additional transportation costs is similar to the argument for our assuming embalming costs, I am still persuaded that in this case, we should pay those two costs.

In part, I am persuaded because the family in this case did not apply for public assistance monies quickly enough. Rather, they borrowed money to pay for the funeral. Therefore, even though they would qualify for general assistance under Department of Health and Social Services standards, they were unable to get the burial assistance grant because they did not apply in time. Under these circumstances, I believe that we should pick up the additional transportation charges. Please let me know what you think.

SC:tr

Enclosure

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

This memo covers the arrangements to date. PLEASE RETAIN FOR COMPARISON. Any changes will appear on the regular statement after all services are completed.

CHAPEL OF CHIMES

Alaskan Memorial Parks, Inc.
An Alaskan Corporation
D.B.A.
Chapel of Chimes

415 Illinois St.
Fairbanks, AK • 99701

Box 2670
Phone: (907) 456-5566

A. MORTUARY SERVICE CHARGE
Basic overhead expense for funeral director & staff to respond to initial request for service. Arrangement conference with responsible party to determine services desired and coordinating service plans with cemetery, crematory and/or other parties involved in the final disposition of the deceased. Charge is for any or all of the above items.

TOTAL A $ 420.00

B. PROFESSIONAL SERVICES: Technical & Personal
1. Embalming (to include care & preparation for burial or cremation) $ 395.00
2. Preparation & care other than embalming $ 0
3. Directing of services as required for chapel, church, lodge, graveside or other place • Visitation $ 0
• Funeral Service $ 0
4. Cremation $ 0
5. Other $ 0

TOTAL B $ 395.00

C. FACILITIES
1. Use of operating room $ 100.00
2. Use of chapel for services; or charge for transporting equipment to church or other place (rent or use of facilities other than mortuary must be arranged by family) $ 0
3. Use of mortuary for visitation; or charge transporting equipment to church or other place $ 0
4. Other $ 0

TOTAL C $ 100.00

D. AUTOMOTIVE EQUIPMENT (20 mile radius of mortuary)
1. Transportation of deceased to mortuary $ 85.00
2. Transportation of deceased to cemetery, crematory or common carrier terminal $ 85.00
3. Family sedan and driver $ 0
4. Transportation beyond 20 mile radius at 1.00/mile each $ 0
$ 0

TOTAL D $ 170.00

E. FUNERAL GOODS FURNISHED:
1. Casket [illegible] $ 836.00
2. Outer receptacle [illegible] $ 1[illegible]
3. Burial garments $ [illegible]
4. Memorial register book $ [illegible]
5. Memorial service folders _____ at $ _____ per 100 $ [illegible]
6. Acknowledgment cards _____ box(es) at $ _____ /box $ [illegible]
7. Other $ [illegible]

TOTAL E $ _____

CONTRACT & NOTE

THIS AGREEMENT, DATED AND SIGNED AT FAIRBANKS, ALASKA

By [illegible]

whose mailing address is [illegible] AK 99723

For funeral service of [illegible]

A. MORTUARY SERVICE CHARGE $ 420.00
B. PROFESSIONAL SERVICES $ 395.00
C. FACILITIES $ [illegible]
D. AUTOMOTIVE EQUIPMENT $ [illegible]
E. FUNERAL GOODS FURNISHED $ 9[illegible]
Total Our Charges $ 2,041.00
F. CASH ADVANCEMENTS (see attached list) $ 4.00
Total All Charges $ 2,045.00
Paid Herewith $ [illegible]
Balance Due $ 0
Subject to final audit

Balance due to be paid as per following paragraph and/or attached disclosure statement which by reference hereof is made a part hereto.

NOTICE TO CONSUMER: DO NOT SIGN THIS AGREEMENT UNTIL YOU HAVE READ IT COMPLETELY, NOR IF SPACES INTENDED FOR AGREED TERMS ARE LEFT BLANK.

1. I (we) authorize the foregoing services and agree to pay the full amounts listed for such services, including merchandise and cash advancements. I (we) presently have sufficient resources available to pay such amounts. **The liability for payment I (we) hereby assume is in addition to and independent of the liability imposed by law on the estate of the deceased or any other person to pay for such services.**

2. Payment of the total amount listed above $ 2,045.00

shall be made in full on or before [illegible] *19* ____

After thirty (30) days any amounts remaining unpaid shall bear a finance charge of 1.5% per month or fraction thereof until paid on the unpaid balance. This FINANCE CHARGE reflects an ANNUAL PERCENTAGE RATE of 18%. If this agreement should be placed in the hands of an attorney for collection of any amounts due hereunder, I (we) agree to pay the full costs of such collection, including a reasonable attorney's fee and court costs, if any.

3. I (we) hereby acknowledge receipt of a correct and complete copy of this Agreement.

4. I (we) certify that I (we) have been made aware of charges, cash advancements and was presented casket prices before making casket selection.

RESPONSIBLE PERSON(S)	RELATIONSHIP
[illegible]	[illegible]
[illegible]	
[illegible] 99723	[illegible]
Home Address	Phone
[illegible]	[illegible]
Date	Funeral Director

THE PRECEDING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

VENDOR NUMBER: CHC649

DO NOT TYPE THIS DOCUMENT

DISBURSEMENT VOUCHER

V 4127115

INVOICE DATE (DAY / YEAR)	INVOICE NUMBER OR BRIEF DESCRIPTION	ENCUMBRANCE/REFERENCE NUMBER	TRANS CODE	DEPT	PROGR	DIV	ACCOUNT	OBJECT	ACTIVITY	PROJECT	*	AMOUNT
7/23/63			361	41	63	1	400	364				1075.50

VOUCHER TOTAL: 1,075.50

NAME

ADDRESS

ADDRESS

CITY AND STATE

ZIP CODE

PREPARED BY: [signature]

DATE: 10/11/63

CERTIFICATION: I certify that the facts herein or on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation or that there is a sufficient unencumbered balance in the appropriation cited to cover this obligation.

CERTIFYING OFFICER

REMITTANCE ADVICE MEMO: USE ONLY IN AUTHORIZED SITUATIONS

[illegible] - 7/31/63

Chapter [illegible]

Funeral Home

Fred Smith, Coroner & Public Administrator
RE: Corner calls for month of August, 1983
DATE: August 31, 1983

NAME	FROM	TO	AMOUNT
Frankie Lampe	Wien	FMH	50.00
John Allen Semakem	East ramp	FMH	50.00
Sidney Budden	East ramp	FMH	50.00
John Hugo	Wien	FMH	50.00
Eward I Jenkins	Wien	FMH	50.00
Octave J. Gerou	Bassett	FMH	50.00
Howard F. Albert	Wien	FMH	50.00
John Wesley Tukle	Wien	FMH	50.00
Nicholas J. Noel	Fairbanks Inn	FMH	50.00
Frank Stallings	Healy	FMH	175.50
Jimmie Oscar Jr.	Wien	FMH	50.00
Michael Calkins	Helicopter pad	C/C	50.00
John Calkins	Metro Field	FMH	50.00
Stephen F. Wuksinich	Metro Field	C/C	50.00
Eric Voss	Wien	Bassett	50.00
Stephen Wuksinich	C/C	FMH	50.00
Herman Jackson	Bassett	FMH	50.00
Eric Voss	Bassett	FMH	50.00
Sean Thies	5190 Amhurst	FMH	50.00
			1075.50
Total coroner calls formonth of August 1983			~~1,024.50~~
		July Balance	427.00
			1,511.50

Approved for payment
September 19, 1983

Boris K. Borjesson
Deputy Coroner

456-5566 415 ILLINOIS STREET P. O. BOX 2670 FAIRBANKS, ALASKA 99707

RECEIVED

August 31, 1983

SEP 09 1983

ALASKA COURT SYSTEM
ADMINISTRATIVE

Alaska Court System
c/o Mrs. Dolores Wilks
941 West 4th Avenue
Anchorage, Alaska 99501

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

Paula C.Oskolkoff (8-15-83)

Use of Equipment, Facilities & Personnel for Autopsy $ 50.00

Kirk S. Wessells (8-11-83)

Use of Equipment, Facilities & Personnel for Autopsy $ 50.00

Total Balance Due..... $100.00

Evergreen Memorial Chapel

[illegible]

310-394 $40.00

Approved D Wilks 9-9-83

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE, ALASKA 99510

NSM MEMBER NATIONAL SELECTED MORTICIANS

for A/V.

310-394 <490.00>
345 — 110.00
115 — 90.00

RECEIVED

August 31, 1983

Alaska Court System
c/o Mrs. Dolores Wilks
941 West 4th Avenue
Anchorage, Alaska 99501

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

FARRELL, Ralph L. (8-19-83)

Use of Equipment, Facilities & Personnel for Autopsy $ 50.00

DARBY, Michael (8-20-83)

Use of Equipment, Facilities & Personnel for Autopsy $ 50.00

WALTERS, Mary (8-22-83)

Use of Equipment, Facilities & Personnel for Autopsy $ 50.00

SNEPER, Alexander H. (8-24-83)

Use of Equipment, Facilities & Personnel for Autopsy $ 50.00

WERMERS, Leonard (8-25-83)

Use of Equipment, Facilities & Personnel for Autopsy $ 50.00

WERMERS, Mark (8-25-83)

Use of Equipment, Facilities & Personnel for Autopsy $ 50.00

~~WIESINGER, WERNER (8-25-83)~~ = FAA Paying

Use of Equipment, Facilities & Personnel for Autopsy ~~$ 50.00~~ Delete

Total Balance Due.....~~$300.00~~ 250.00

approved D Wilks 9-9-83

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE ALASKA 99510

NSM MEMBER NATIONAL SELECTED MORTICIANS

These TOTAL 300.00 W/O Wiesinger

Pay 50.00 For M. Warmers — See FW for Date

August 26, 1983

Alaska Court System
c/o Mr. Mark Ells
Box 209
Dillingham, AK 99576

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

KARL SAVO

Use of Equipment, Facilities & Personnel for Autopsy..$ 50.00

Livery to and from Mortuary.....$ 60.00

Total Balance Due.....$110.00

Evergreen Memorial Chapel

RECEIVED

SEP 2 1983

Sept 12 19 83

Approved for payment in the amount of

$ 110.00 autopsy

Magistrate

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE ALASKA 99510

NSM MEMBER NATIONAL SELECTED MORTICIANS

August 26, 1983

Alaska Court System
c/o Mrs. Susan Thomsen
415 Main Street
Ketchikan, AK 99901

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

CECIL J. SECKMAN

Use of Equipment, Facilities & Personnel for Autopsy..$ 50.00

Livery to Mortuary from Airport.....$ 30.00

Total Balance Due.....$ 80.00

Evergreen Memorial Chapel

Approved for payment
Date 9/6/83 Amt. $80.00
Susan E. Thomsen
Court

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE, ALASKA 99510

NSM NATIONAL SELECTED MORTICIANS

August 31, 1983

Alaska Court System
c/o Mr. Rick Siangco
Pouch U
Juneau, AK 99811

STATEMENT OF EXPENSE FOR THE SERVICES RENDERED FOR:

Guggenbickler, Timothy (8-29-83)

Use of Equipment, Facilities & Personnel for Autopsy	$ 50.00
Livery to and from Mortuary	$ 60.00

Moss, Retha (8-29-83)

Use of Equipment, Facilities & Personnel for Autopsy	$ 50.00
Livery to Mortuary	$ 30.00

Total Balance Due.....$190.00

Evergreen Memorial Chapel

Approved for payment.
$190.00
[signature]
9/6/83

Evergreen Memorial Chapel
737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE, ALASKA 99510

NSM MEMBER NATIONAL SELECTED MORTICIANS

August 29, 1983

Mr Rick Siangco, Magistrate
Alaska Court System
Pouch U
Juneau, AK 99811

STATEMENT FOR THE SERVICES RENDERED FOR: CYNTHIA ELROD

Livery airport to mortuary	$ 30.00
Use of facility, equipment & personnel for autopsy	50.00
Livery mortuary to airport	30.00
Total Amount Due	$110.00

Approved for payment.
Richard Siangco
9/1/83

Evergreen Memorial Chapel

Evergreen Memorial Chapel

737 E STREET TELEPHONE 279-5477
P O BOX 100537 ANCHORAGE ALASKA 99510

NSM MEMBER NATIONAL SELECTED MORTICIANS

Alaska Court System
State of Alaska
OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

October 26, 1983

Ms. Lou Ann Cutler
1024 West Sixth Avenue
Suite 204A
Anchorage, AK 99501

Re: Autopsies

Dear Lou Ann:

I understand that Bob Fisher did call you and give you a number for the amount of court-ordered autopsies statewide per year. It is also my understanding that in FY 1983 court-ordered autopsies numbered approximately 750 (± 20).

I did have one concern. Recently I was reviewing some autopsy billings and I briefly discussed various items on them with Bob Fisher. I had told you that the cost of embalming generally runs $150-$300. From current billings it looks like $300 is the more representative figure and that it is even higher in some cases. Therefore, if you are making cost calculations, I suggest you use $300 per case as the embalming cost (or a little higher).

Enclosed please find a copy of the letter I received from the Division of Public Assistance. This may be of some interest to you.

Please let me know if there is anything else I can do for you.

Very truly yours,

Stephanie

Stephanie J. Cole
Deputy Director for Services

cc: Bob Fisher, w/enclosure
Enclosure
SJC:le

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC ASSISTANCE

POUCH H-07
JUNEAU, ALASKA 99811
PHONE: 465-3355

October 20, 1983

Stephanie J. Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, AK 99501

Dear Ms. Cole:

Thank you for your letter of concern about the general assistance program for burial expenses.

Our representative in Point Hope is one of about 200 fee agents in small communities throughout the state. Fee agents are trained and paid to process applications for Food Stamps and Aid to Families With Dependent Children. However, they are often called upon to perform a good many other services as well. Because of lack of additional funding for training and compensation, fee agents are not conversant with all of the program services we offer. Thus we encourage that queries be addressed to district or regional offices, which are staffed with trained, full-time eligibility technicians.

The Commissioner of Health and Social Services has directed a full review of the fee agent system in coordination with other state agencies to explore ways in which the system can be strengthened and used more fully. Your letter further underlines this need, and we appreciate your expression of concern.

Sincerely,

Denny L. Harris

for/ Rod Betit
Director

cc: Heather Noble
Carole Baekey

06-F51LH

Alaska Court System
State of Alaska
OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

October 3, 1983

Mr. Rod Betit, Director
Division of Public Assistance
Pouch H-07
Juneau, Alaska 99811

Subject: General Assistance Monies for Burial Expenses

Dear Mr. Betit:

As you may know, the Department of Health and Social Services and the court system have recently been faced with numerous problems relating to autopsy and burial expenses for deaths in rural Alaska.

Recently, a problem came to my attention. Heather Noble, an Alaska Legal Services attorney in Barrow, contacted me about possible payment for burial expenses. I told her about the general assistance program for burial expenses, and suggested to her that her client contact your local representative in Point Hope. When her client did contact the Point Hope representative, the client was told that no such program existed. Because Ms. Noble had spoken to me, she pursued the matter further in a larger city and was able to obtain the requested assistance for her client.

I think it would be helpful if you could remind your workers that the general assistance program for burial expenses does exist. Their awareness of this program may help alleviate some of the problems that we are encountering. Thank you for your help.

Very truly yours,

Stephanie J. Cole

Stephanie J. Cole
Deputy Director for Services

SJC/mjs

cc: Heather Noble, Alaska Legal Services, Barrow
Carole Baekey

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF COMMISSIONER

3601 "C" STREET · SUITE 578
POUCH 6333
ANCHORAGE, ALASKA 99502-0333

August 31, 1983

Mr. Art Snowden
Court Administrator
303 "K" Street
Anchorage, Alaska 99501

Dear Mr. Snowden:

A meeting has been arranged regarding Rural Burial Problems on behalf of the Governor and the Commissioner for the Department of Health & Social Services. The meeting will be held on Thursday, September 8, 1983 at 9:00 AM in the third floor conference room of the Frontier Building located at 3601 "C" Street.

As you know, Rural Burial Problems is a major issue for many citizens and elected officials of the State of Alaska. The agenda will cover two major topics; (1) Memorandums of Agreement between the Department and the Courts regarding burial charges by morticians that are not required by Courts and; (2) Administrative Regulations regarding same.

Your attendance and participation in this meeting will be of great value to all concerned. We look forward to seeing you.

Thank you.

Sincerely,

Lewis J. Sears, Ph.D.
Assistant Commissioner

LJS/lcb

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SEP 2 1983
Office of Administrative Director
Alaska Court System

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF COMMISSIONER

3601 "C" STREET - SUITE 578
POUCH 6333
ANCHORAGE, ALASKA 99502-0333

August 31, 1983

RECEIVED
SEP 6 1983
Office of General Counsel
Alaska Court System

Ms. Stephanie Cole
Court System
303 "K" Street
Anchorage, Alaska 99501

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Thank you.

Sincerely,

Lewis J. Sears, Ph.D.
Assistant Commissioner

LJS/lcb

Lewis J. Sears, Ph.D
Assistant Commissioner
Department of Health
and Social Services
3601 "C" Street, Suite 578
Pouch 633
Anchorage AK 99502

Lou Ann Cutler
1024 W. 6th Avenue
Suite 204A
Anchorage AK 99501

Dr. E.S. Rabeau
Deputy Commissioner
Department of Health and
Social Services
Pouch H01
Juneau AK 99811

Ms. Marty K. Rutherford
Special Assistant
Division of Municipal and
Regional Assistance
Building B, Suite 102
225 Cordova Street
Anchorage AK 99501

Ms. Rhonda Roberts
Special Assistant to the
Governor
3601 "C" Street, Suite 758
Anchorage AK 99502

Ms. Nadine Winters
Community and Regional
Affairs
Pouch B
Juneau AK 99811

Ms. Connie Sipes
Assistant Attorney General
Suite 110
1031 W. 4th Avenue
Anchorage AK 99504

Ms. Stephanie J. Cole
Deputy Director for Services
State of Alaska Court System
303 K Street
Anchorage AK 99501

Mr. Don Burton
Special Assistant to the
Commissioner - Law
Pouch H01
Juneau AK 99811

Robert J. Sundberg, Commissioner
Alaska State Troopers
Department of Public Safety
Pouch N
Juneau AK 99811

Ms. Charlene Doris
Coroner
303 K Street
Anchorage AK 99501

Heather Noble
Alaska Legal Services
P.O. Box 309
Barrow AK 99723

Janie Leusk
Alaska Federation of Natives
411 W. 4th Avenue, #1A
Anchorage AK 99501

Ms. Carole A. Baekey
Judicial Education Coordinator
State of Alaska Court System
303 K Street
Anchorage AK 99501

Superior Court
State of Alaska
FOURTH JUDICIAL DISTRICT
P.O. BOX 130
BETHEL, ALASKA
99559

CHAMBERS OF
CHRISTOPHER R. COOKE, PRESIDING JUDGE

PHONE (907) 543-2298

RECEIVED
SEP 19 1983
Office of General Counsel
Alaska Court System

September 9, 1983

Ms. Stephanie Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, Alaska 99501

RE: Coroner Functions

Dear Stephanie:

I have followed your exchange of correspondence with AVCP with interest. I have long felt that the coroner function is primarily an administrative one which should properly be placed in the executive branch. Determining cause of death, gathering evidence for use in possible criminal prosecutions, and investigating the facts and circumstances relating to unattended deaths are clearly executive branch, not judicial, functions. It is time for us to insist that these duties be handled by an executive branch agency.

Coroner's matters should be referred to the court system only when an inquest by a jury is needed to determine cause of death or, as in the case of a missing person, whether death should be presumed. Even then, the factual presentation should be made by the Department of Law, not by a judge.

On a more practical level there are a couple of other points to be considered regarding the feeling of people in the Bethel area about the need for autopsies. In the past there have been situations where bodies have not been returned for long periods of time. Sometimes this has happened because embalming charges or other related expenses are not paid and funeral homes hold the body.

Also, at least according to local rumor and belief, many villagers feel that an autopsy is some form of desecration of the body. One such story is that when an autopsy is performed the internal organs are removed and the body is filled with sawdust. While this may not be accurate, these notions affect public reaction to autopsy situations.

My own approach to many autopsy situations from the villages is to not order them even if the cause of death is somewhat uncertain if the circumstances indicate that the death is in all probability the result of accident or natural causes and where there is no likelihood that the death was caused by another person. In these cases conducting an autopsy to actually determine the cause of death is not worth all the inconvenience, expense, delay and hassles. If necessary, I will complete the death certificate based on the police report of the circumstances. However, it is still my feeling that these kinds of things are really not judicial business. Good luck.

Very truly yours,

Christopher R. Ccoke
Superior Court Judge

CRC:fs

cc: Mr. Arthur Snowden, II

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

August 4, 1983

RECEIVED
AUG 10 1983
Office of Administrative Director
Alaska Court System

Art Snowden III
Administrative Director
Alaska Court System
303 K Street
Anchorage, AK 99501

RE: Court Ordered Autopsies in the AVCP/Calista Region

Dear Mr. Snowden:

I am writing to you on behalf of the 56 Native Villages of the AVCP/ Calista Region concerning the present policy of having court ordered autopsies performed in Anchorage, outside of our Region.

Recent events in one of our villages, Kwethluk, underscore the legal and ethical limitations of removing the bodies of local residents for autopsy purposes to Anchorage. In Kwethluk, we had a serious clash of individual vs. state interests involved over the removal of the body of a local resident, Arnold Nicolai. The family of the deceased objected to the removal of the body on religious grounds and a prior adverse experience of having the body of a family member removed to Anchorage for autopsy purposes and not returned for a protracted period of time.

Although we recognize a legitimate State interest in conducting an inquiry into the cause of death, we believe that as a legal and ethical matter, the State must show a compelling reason for removing a body to Anchorage for an autopsy when fundamental First Amendment rights (i.e., Russian Orthodox and Eskimo religious practice of holding a 48 hour mourning period in the presence of the deceased and immediate burial of th untampered body thereafter) are involved.

As a matter of law, even if the State can show a compelling reason for an Anchorage autopsy (i.e., lack of facilities in Bethel and determination of the cause of death), the State is still under a burden in the face of a Fundamental Constitutional right to exercise that such an exercise would properly include holding all future court ordered autopys in Bethel.

We believe that such a change in policy will go along way towards balancing the valid but competing interests of the State and our Native Eskimo people in the Bush. It will also help to defuse volatile confrontations, such as the Kwethluk incident, through a sensitive application of State law to Native interests.

DHSS $750 embalming casket preparation

This procedural change would also rectify the additional financial burden placed on our rural families. Embalming and preparation costs directly related to the autopsy order are the responsibility of the deceased's family.

As a matter of information and courtesy, we are sending a copy of this letter to the interested parties listed below.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman

Gene Sattola for,

Ivan M. Ivan, President

- ct pays $50 facility fee for use of room

IMI:TD:my

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, parents of the deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, attorney for the Nicolai family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

Senior Voice

010501 S0384
CONSUMER PROTECTION SECTION
ATT GENERAL'S OFF
1031 W 4TH AVE SUITE 110
ANCHORAGE AK 99501

Grieving families caught in 'Catch-22'

by Liz Lauzen

When a 26-year-old Nuiqsut man fell off a perch and died recently, his body was sent to Fairbanks for an autopsy to determine the cause of death.

His mother, an unemployed woman in her 50s, is now stuck with a $2,000 bill for funeral services—much of it for state-required services which would not have been needed or desired had the person's body remained in the village for burial.

It's a situation which the state's senior citizen ombudsman, funeral directors and state officials all describe as a "Catch 22."

No one seems to know for sure how often grieving Alaskan families are caught in the squeeze between the state court system's requirement for an autopsy and the public health division's regulations concerning embalming and transportation of bodies.

But three divisions of state government and a legislative committee are currently seeking a solution aimed at relieving families of the costs of these state-mandated funeral home services.

In conversations with coroners, state court officials, funeral home directors, public health officials and attorneys, the problems surrounding autopsies were described.

State laws concerning coroner duties require an autopsy in nearly every death which is not attended by a physician.

In Alaska, this means most deaths of an accidental or violent nature, and any other death in which a physician is not following the case closely enough to feel comfortable in signing the death certificate.

Because autopsies are performed only in Fairbanks, Anchorage and Juneau, bodies must be transported from rural communities to the urban center.

At the same time, state public health laws require that the body be embalmed "when a body cannot reach its destination within 24 hours."

This time frame allows villagers to bury their dead in the village without embalming when an autopsy is not required. It does not allow for these simple burial practices when an autopsy is required.

The state court system will pay for the cost of transporting the body to the site of the autopsy; for the autopsy itself; and for the cost of returning the body to the village.

It will not pay for other

Continued on page 16

Grieving families caught in 'Catch-22'

Continued from page 1

expenses, including embalming.

The Divison of Public Health which requires embalming to control communicable diseases, does not pay for embalming. Nor does it pay the cost of transporting the body from the site of the autopsy to the funeral home, where the embalming is done. Nor does it pay the cost of a casket.

"The family is not responsible in any way for the remains being embalmed and put in a casket," said Heather Noble, attorney for Alaska Legal Services in Barrow who is investigating the problems of the Nuiqsut woman.

"I'm concerned with the money. I want the state to pick up the costs."

In some cases, the state Division of Public Assistance will pay these costs.

"People can qualify if they —or the deceased—meet resource and assets requirements," explained Public Assistance official Jim Dalman.

Generally, a family must have cash assets of less than $300 and a monthly income of less than $400 (for two adults) to qualify, Dalman said. Public Assistance recipients who die are almost always picked up.

But this is not a program which could pick up the funeral cost for every body on which an autopsy is performed and embalming is required, Dalman said.

em • balm *(em bäm'), v.t.* — to treat (a dead body) so as to preserve it, as with chemicals, drugs or balsams; to protect from decay.

"This is a state program with limited funding," he said. "We use it as a program of last resort, for use in a situation where the family must demonstrate it is without means. It is quite restrictive."

About 150 funerals are paid for by general relief each year, he explained.

One problem with the program is that it is little known in many villages

Another problem is that it must be applied for in advance, before embalming or other funeral home services are performed.

For those who do not qualify — or do not apply for — public assistance, costs for funeral services can add up rapidly.

For a grieving family, the lines between state-required services, funeral home-recommended services, and family-desired services often blur.

The Nuiqsut woman's $2,000 bill included $800 for a casket, $400 for embalming, and charges for limosine service, professional fees, clothes and flowers.

"If that body had stayed in the village, the family could have built a casket from a packing crate," explained Noble. The cost, in that case, would have been minimal.

In some villages, fear of what will happen to the body once it is removed from the village further complicates autopsy problems.

In Kwethluk, a village near Bethel, the problem recently came to a head when villagers refused to allow an Alaska State Trooper to remove the body.

Additional troopers were sent in, but villagers still opposed the removal, explained Stephanie Cole, deputy director for magistrate services for the court system.

"Apparently, someone in the past had had a negative experience in that the body had not been returned," Cole said. "That is not a common problem, but such stories do not die."

The result, said Cole, was that the villagers agreed to allow the body to be removed to Bethel, but not to Anchorage, where the autopsy would normally have been performed.

But Cole said facilities in Bethel are not sufficient for performing autopsies, so most bodies will continue to be removed to one of the state's three larger cities for autopsies.

State officials have begun to look at the problem.

Officials from the Division of Public Health, the court system, the Consumer Protection section of the Attorney Gen-

Continued on page 17

Autopsy-related fees add up

When the state requires an autopsy, and the family must then pick up fees for funeral home services, what does it cost?

Eight funeral homes provide services in Alaska: two in Fairbanks, one in Juneau and five in Anchorge. Fees vary from funeral home to funeral home. And they vary because of preference for more service or more expensive services.

One funeral home director, who asked that his firm not be named, outlined services and charges often encountered by families when an autopsy is performed.

Some of these services are not required by state public health laws, but grieving families often elect to have them performed after the body has been removed from the village for autopsy.

- Professional fees, $420- includes arrangements with families, paperwork, permits, overhead (utilities, salaries, etc.), writing obituary.
- Embalming, $395 — preparing body with chemicals for burial. (Required)
- Operating room charge, $100- restoring the body after autopsy. (Highly recommended by morticians).
- Transportation, $85- charge when autopsy is performed away from funeral home and body must be transported to funeral home for embalming. (Required, unless other arrangements can be made).
- Casket, $300 or more- (Families could elect to have body shipped back to village

for burial. (Required) in metal transfer container)

Grieving families caught in 'Catch-22' of autopsy

Continued from page 16

eral's office and the Alaska State Troopers met in September to discuss the concerns and begin to find solutions.

"There is a problem, several problems involved," said Cole.

"There are problems because there are several agencies involved, and a lot of tension focused on all of it."

Key to the discussions is who should pay for autopsy-related fees which the court system does not pick up.

Current regulations in both the Divison of Public Health and the court system do not authorize the state to pay for embalming and services incidental to autopsies.

"I personally feel the court system has the responsibility for paying the costs of embalming," said Dr. E. S. Rabeau, director of the Division of Public Health and deputy director of the Department of Health and Social Services.

"If they are taking custody of the body, then by God they should pay for it," he added.

Rep. Al Adams (D-Kotzebue) and his staff have begun to look at the problem as well.

Lack of information about how many people qualify for public assistance is one problem involved with deciding who should pay for the costs of embalming, said Lou Ann Cutler, an Adams aide.

"Personally, I feel the state should pay. But which agency?"

Another problem that can be addressed, Cutler said, is that of informing the public.

"A lot of people who do qualify don't know they qualify.

"It's not easy for the troopers and the magistrates to deal with the families. Families are upset, sometimes the troopers are under time constraints to get the body out.

"And also, there is some question perhaps whether or not some funeral homes are doing a hard sell."

Will legislation be needed to sort out the problem?

"If we have to go that route, yes. But we prefer to settle it internally, if we can," Cutler said.

Memorandum

Alaska Court System

TO: Arthur H. Snowden, II
Administrative Director

DATE : August 29, 1983

FROM: Stephanie
Stephanie J. Cole
Deputy Director for Services

SUBJECT: Letter from Ivan M. Ivan, 8/25/83

I don't know if you want me to respond to Mr. Ivan's latest letter. Since he is seeking "...a medical examiner be appointed for the Bethel Region, together with appropriate facilities, to conduct court ordered autopsies," it seems clear that his remedy is to seek help from his legislative representatives.

I could respond to his second paragraph. Although AS12.65.020 does say "may," corresponding regulations (see 7 AAC 05.440 - copy attached) make it clear that a magistrate must investigate any suspicious case. I suppose one does not have to equate "autopsy" with "investigation," but I don't how else you'd do an investigation in any thorough way.

Do you want me to respond to this point, or any portion of the letter?

No

SJC:mjs

cc: Karla Forsythe
Dori Wilks
Carole Baekey

Enclosures

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SEP 8 1983
Office of General Counsel
Alaska Court System

Adm. F-1
Rev. 2-73

possible, upon request of the State Registrar. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.230
AS 18.50.240

7 AAC 05.440. SUSPICIOUS DEATHS. When there is any question of foul play, no one shall accept a death or fetal death certificate for filing or recording, issue a burial-transit permit, or otherwise move or allow a body to be moved or molested except by order of a law-enforcement officer or court until clearance by the proper magistrate. In any case without medical attention, the magistrate may request a medical examiner to determine the cause of death and prepare a certificate. In any suspicious case, the magistrate will investigate; and if he deems it necessary, enter the case as coroner and call a coroner's jury. In all such cases, the magistrate is responsible for seeing that the certificate of death or fetal death is prepared and filed. He may require anyone concerned to furnish the necessary facts for the certificate, and any medical examiner or other physician brought into the investigation to sign the certification of cause of death. If a coroner's jury has been impanelled, the magistrate must also sign the certificate as coroner, giving the jury's findings in addition to any medical certification.

In presumptive death cases, with no body established, presumption of death must be established in accordance with the statutes. In all presumptive death cases the filing of the certificate, and the presumption about death and its cause shall be the responsibility of the appropriate court. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 12.65.020
AS 12.65.070
AS 18.50.230
AS 18.50.240

7 AAC 05.450. FETAL DEATHS. Any product of gestation of less than 20 weeks duration of pregnancy, showing no evidence of life, may have a fetal death certificate prepared, filed, recorded, and registered as required above, at the option of the parents or others concerned; such certificate is not mandatory for fetal deaths with a duration of pregnancy of less than 20 weeks. However, this regulation does not release anyone from the duty of reporting any suspicion of foul play or illegal act; nor does it except such cases from any existing burial requirements or restrictions, or other health requirements, either state or local. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.240

7 AAC 05.460. BURIAL-TRANSIT PERMITS. No dead body or fetus of 20 weeks or more gestation shall be finally disposed of, or removed from the state, until a burial-transit permit has been issued by the proper local registrar or other agent duly authorized by the State Registrar. Such burial-transit permit shall be obtained in any case within 72 hours after death (or delivery), unless an extension of time is granted under secs. 550–570 of this chapter. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.250

7 AAC 05.470. PERSONS WHO MUST OBTAIN. The funeral director, or person acting as such, who first assumes custody of a dead body or fetus shall be responsible for obtaining the burial-transit permit. For the purpose of these regulations, the person who first assumes custody shall include anyone first moving, or causing to be moved, such body or fetus for the following purposes:

(1) for final disposition;

(2) for removal from the state;

(3) for storage or other holding for a period beyond 72 hours after death;

(4) for transportation by common carrier; and

(5) for removal by any means from the registration district where death occurred.

No dead body or fetus shall be moved for any of the above purposes without being accompanied by a burial-transit permit, unless an emergency exists or the body is being moved by an established funeral director for the purpose of preparation for final disposition, and then only in accordance with these regulations and the instructions of the State Registrar; provided further that a law enforcement officer or a court may order the removal of a body when necessary for an official investigation, with a notice of such removal to the proper local

AVCP
Association of Village Council Presidents
P. O. Box 219 ○ Bethel, Alaska 99559 ○ Phone 543-3521

August 25, 1983

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AUG 2 9 1983
Office of General Counsel
Alaska Court System

Stephanie Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, AK 99501

RE: Response to Cole Letter of August 17, 1983

Dear Ms. Cole:

Thank you for your response to our August 4, 1983 letter to Mr. Snowden.

First, Alaska court officials are not mandated to order an autopsy when a physician is unwilling to sign a death certificate. AS 12.65.020 provides that a court may order a medical examination of the deceased.

Secondly, your letter does not comment on the major point raised: the religious objection of the family to the removal of the body from the Bethel Region. We believe that this objection poses a fundamental constitutional issue which your letter and State Law does not address. Unless this issue is properly addressed we will be faced with a potential crisis and court contest, similar in intensity to that of Kwethluk, each time a court ordered autopsy is attempted.

Finally, it should be pointed out that the State could provide adequate facilities in Bethel for conducting autopsies. Additionally, AS 12.65.010 provides for State appointment of a medical examiner for the Bethel area. The Commissioner of health and social services may make such an appointment when "...in his opinion, the administration of justice requires."

We believe, and hope that you concur and will support the principal, that "the administration of justice" requires that a medical examiner be appointed for the Bethel Region, together with appropriate facilities, to conduct court ordered autopsies.

By copy of this letter we ask our state representatives to assist us in implementing the above request.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman

Tom Richards Jr., for

Ivan M. Ivan, President

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vezka
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, Parent of the Deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, Attorney for the Nicolai Family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

AVCP
Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

August 25, 1983

Stephanie Cole
Deputy Director for Services
Alaska Court System
303 K Street
Anchorage, AK 99501

RE: Response to Cole Letter of August 17, 1983

Dear Ms. Cole:

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Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman

Tom Richards Jr., for

Ivan M. Ivan, President

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, Parent of the Deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, Attorney for the Nicolai Family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

Alaska Court System
State of Alaska
OFFICE OF THE ADMINISTRATIVE DIRECTOR

STEPHANIE J. COLE
DEPUTY DIRECTOR FOR SERVICES

303 K Street
Anchorage, Alaska 99501

August 17, 1983

Ivan M. Ivan, President
Association of Village Council Presidents
P.O. Box 219
Bethel, AK 99559

Dear Mr. Ivan:

Your letter to Art Snowden dated August 4, 1983, arrived in this office at a time when Mr. Snowden was out of the office. Because of the importance of your request, Mr. Snowden requested me by telephon to respond to you immediately.

Unfortunately, it is not possible to schedule all future court ordered autopsies from your region in Bethel.

As you know, the circumstances under which an autopsy must be ordered are set out in the Alaska Statutes. When a death occurs under such circumstances, court officials must order an autopsy.

Bethel does not have appropriate facilities for the performance of autopsies. The requirements for autopsy rooms are established by state regulation (see 7 AAC 35.120). There are no funeral homes in Bethel, and the Bethel hospital facilities do not conform with the state requirements for autopsy rooms. I have spoken with Dr. Propst, who performed the autopsy on Arnold Nicolai in Bethel. He told me that the facilities in Bethel are totally inadequate for autopsy purposes. (In that Bethel does not have an autopsy facility, Dr. Propst had to transport his autopsy instruments with him.)

Also, a medical examiner is not generally available to Bethel. We were very fortunate in that we were able to schedule Dr. Propst to go to Bethel for the autopsy of Mr. Nicolai. Medical examiners are not available to go to Bethel on a routine basis.

Also, the court system has no available funds which would allow us to conduct autopsies in Bethel. In the case of Mr. Nicolai, the court system chartered a plane to transport Dr. Propst to and from Bethel. The court system had to pay Dr. Propst's professional fees for his travel time, in addition to his fee for the autopsy. We have no money available in our budget to pay for these types of extraordinary expenses.

I would like to respond to two other points you made in your letter. Alaska law does require that a body be embalmed if it will not reach its final destination within 24 hours after the death. [7 AAC 35.100(b)(3)]. It is true that the embalming costs are the responsibility of the deceased's estate or the deceased's family. However, it should be noted that the state Division of Public Assistance will pay funeral expenses up to $750.00 for all persons unable to afford these costs.

Also, you noted that the Nicolai family objected to the removal of Mr. Nicolai's body because, in part, of a prior adverse experience of having the body of a family member removed to Anchorage for autopsy purposes and not returned for a protracted period of time. I understand that there have been cases in which this problem has occurred, primarily because of lack of communication between the family and the Anchorage funeral home. The funeral home will not release the body until it receives information from the family as necessary to complete the death certificate, and the funeral home needs direction from the family as to where the body should be sent. (Sometimes the required information is sent with the body.) However, in the past, some families did not know who to contact in Anchorage and a delay in the return of the body did occur. It is my understanding that the Anchorage coroner's office has been actively working to avoid any future problems in this area. Anchorage Coroner Dolores Wilks will be happy to discuss this situation with you and to give you any information you may need. You can reach her at the above address or by phone at 264-0690.

In summary, I must conclude that we are bound to our current practice because of the requirements of the Alaska Statutes and regulations, our budgetary constraints and the lack of an appropriate facility and a medical examiner in Bethel. To the extent that you may want to pursue changes in the laws that presently exist, I would suggest that you contact your legislative representatives.

AVCP
Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

August 4, 1983

RECEIVED
AUG 10 1983
Office of Administrative Director
Alaska Court System

Art Snowden III
Administrative Director
Alaska Court System
303 K Street
Anchorage, AK 99501

RE: Court Ordered Autopsies in the AVCP/Calista Region

Dear Mr. Snowden:

I am writing to you on behalf of the 56 Native Villages of the AVCP/ Calista Region concerning the present policy of having court ordered autopsies performed in Anchorage, outside of our Region.

Recent events in one of our villages, Kwethluk, underscore the legal and ethical limitations of removing the bodies of local residents for autopsy purposes to Anchorage. In Kwethluk, we had a serious clash of individual vs. state interests involved over the removal of the body of a local resident, Arnold Nicolai. The family of the deceased objected to the removal of the body on religious grounds and a prior adverse experience of having the body of a family member removed to Anchorage for autopsy purposes and not returned for a protracted period of time.

Although we recognize a legitimate State interest in conducting an inquiry into the cause of death, we believe that as a legal and ethical matter, the State must show a compelling reason for removing a body to Anchorage for an autopsy when fundamental First Amendment rights (i.e., Russian Orthodox and Eskimo religious practice of holding a 48 hour mourning period in the presence of the deceased and immediate burial of th untampered body thereafter) are involved.

As a matter of law, even if the State can show a compelling reason for an Anchorage autopsy (i.e., lack of facilities in Bethel and determination of the cause of death), the State is still under a burden in the face of a Fundamental Constitutional right to exercise that such an exercise would properly include holding all future court ordered autopys in Bethel.

We believe that such a change in policy will go along way towards balancing the valid but competing interests of the State and our Native Eskimo people in the Bush. It will alsc help to defuse volatile confrontations, such as the Kwethluk incident, through a sensitive application of State law to Native interests.

Please contact me if you have any further questions.

Very truly yours,

Stephanie J. Cole

Stephanie J. Cole
Deputy Director for Services

SJC:jm

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, parents of the deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, attorney for the Nicolai family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

bcc: Chris Cooke
Dale Cuda
Mike Hall
Karla Forsythe
Susan Miller
Carole Bockey
Bob Fisher
Rick Barrer
Art Snowden
Dolores Wilks
Judge Tunley

This procedural change would also rectify the additional financial burden placed on our rural families. Embalming and preparation costs directly related to the autopsy order are the responsibility of the deceased's family.

As a matter of information and courtesy, we are sending a copy of this letter to the interested parties listed below.

Sincerely,

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
Willie Kasayulie, Chairman

Ivan M. Ivan, President

IMI:TD:my

cc: Governor Sheffield
Senator John Sackett
Rep. Tony Vaska
John Nicori, Kwethluk Tribal Council President
Moses and Marty Nicolai, parents of the deceased
Liz Dillion, Tribal Council Member, Kwethluk
Atty Peter Ehrhardt, attorney for the Nicolai family
Commissioner of Health & Social Services
Commissioner of Public Safety
William "Spud" Williams, Tanana Chiefs Conference

Memorandum

Alaska Court System

TO: Senior Staff

DATE : August 4, 1983

FROM: Stephanie J. Cole
Deputy Director for Services

SUBJECT: Bush Autopsy

Dale Curda, the magistrate in Bethel, called me today about a coroner situation in Kwethluk that some of you may be interested in.

Someone died in Kwethluk. Dale Curda ordered an autopsy. When the troopers arrived to pick up the body to take to Anchorage, the family would not let the troopers take the body. The troopers called for reinforcements; soon they numbered seven. However, about 50 villagers stood in and around the house where the body lay and refused to allow the body to be taken.

Finally, Dale called Judge Tunley who conducted a telephonic hearing until late that night. A compromise was reached: the villagers allowed the body to be taken to Bethel (not Anchorage) for autopsy and then the body was immediately shipped back to Kwethluk. Dr. Propst made a special trip to Bethel to perform the autopsy.

The court system had to bear the expense of Dr. Propst's trip to Bethel. Dr. Propst stated that he was rarely available for such trips because of his busy schedule.

The avowed reason for the problem was that Kwethluk is a Russian Orthodox village, and that religion requires that a body be buried within 48 hours of death. However, Dale indicated that there may be some controversy on this point. He thought the refusal could be related to specific problems a villager or villagers had with bush autopsies in the past: "mangled" bodies being returned, and communication problems - the villagers not being kept informed about where the body was.

Dale was concerned that the problem may reoccur in other villages, and he suggested that the court staff might want to give the problem some thought.

SJC:jm

Adm. F-1
Rev. 2-73

Memorandum

Alaska Court System

TO: All Magistrates, District Court
Judges and Clerks of Court

DATE : June 8, 1982

FROM: Bob Martin
Magistrate Training Assistant

SUBJECT: Funeral Expenses in Coroner Cases

As of March 31, 1982, the Bureau of Indian Affairs and A.V.C.P. Social Services ceased paying for funeral expenses, i.e. embalming, casket and clothing, for deceased Alaska Natives taken to Anchorage for autopsy under court order.

The State Division of Public Assistance will now pay such funeral expenses up to $750.00 for all persons unable to afford these costs.

To obtain this assistance the decedent's family or next of kin should contact the nearest Division of Public Assistance District Office (see Attachment #1).

If the family receives welfare assistance of any kind, they are presumed eligible for burial assistance. Otherwise, a form entitled Application for Food Stamps (GEN #50) with the words "GR Burial Application" added in the middle of the first page should be completed and submitted to the nearest district office (see Attachment #2). This form is available from village fee agents. When burial assistance is requested, the Division will determine eligibility, advise the applicant whether these services will be provided and, if so, arrange payment with the funeral home.

The Court System will continue to pay autopsy and transportation costs.

Further questions on this subject should be forwarded to my office.

BM/kl

Attachments

cc: Susan Miller

Adm. F-1
Rev. 2-73

DIVISION OF PUBLIC ASSISTANCE DISTRICT OFFICES

The following is an up to date listing of all of the Division of Public Assistances offices and the decision making offices they each report to as of 6/1/82.

Southeast Region

21 Juneau
24 Petersburg

Decision Making Office

Juneau

23 Ketchikan
22 Sitka

(Are decision makers)

Northern Region

41 Fairbanks
42 Galena
* # 45 Barrow
* # 49 Minto
* # 78 Tok

Decision Making Office

Fairbanks

43 Ft. Yukon
47 Kotzebue

(Are decision makers)

Southwest Region

51 Bethel
* # 54 Mt. Village
# 55 Aniak

Decision Making Office

Bethel

46 Nome (Is D.M.O.)
48 Unalakleet (Non-D.M.O)

(Reports to Nome)

Southcentral Region

* # 70 Aleutians
# 71 Anchorage
# 72 Valdez
# 73 Dillingham
* # 74 Cordova
# 75 Kodiak
* # 81 McGrath

Decision Making Office

Anchorage

76 Kenai (Is D.M.O.)
77 Wasilla (Is D.M.O)

Note: A Wrangell office has recently opened: this office presently reports to Juneau.

A Palmer office has also opened: this office reports to Wasilla

An * represents areas where there is presently no P.A. district office.

Memorandum

Alaska Court System

TO: Susan Miller

DATE : October 8, 1982

FROM: Bob Martin
Magistrate Training Assistant

SUBJECT: Payment for Embalming on Court Ordered Autopsies

I talked with Bob Fisher this afternoon about your question regarding payment for embalming for court ordered autopsies.

Bob said that barring indigency, it is the family's responsibility to pay for embalming the body when the court has ordered an autopsy. The Division of Public Assistance will pay for embalming if the decedent's family or next of kin qualify for burial assistance.

In those cases where the FAA orders autopsies, the federal government pays the embalming costs.

BM:jm

cc: Bob Fisher
Rick Barrier

Adm. F-1
Rev. 2-73

District Court
State of Alaska
Box 270
Barrow, ALASKA 99723

April 21, 1983

F.J. Witzleben,
President
Witzleben Funeral Homes and Crematory
P.O. Box 102351
Anchorage, Ak 99510

RE: BILLY M. SHEA/RALPH NEAL HOWARD

Dear Mr. Witzleben:

I have been made aware that you have called Mr. Hall, Mr. Snowden and Mr. Barrier in Anchorage. You should be made aware that I have attempted to call you and your assistant Ms. Ellen Chiavaro-Smolenski and was not able to make contact with you, I did leave two messages. According to Ms. Chiavaro-Smolenski the messages were not passed on. I spoke to her on these matters on April 15, 1983. I tell you these things because I want you to know that I have not ignored your letters or requests.

When I spoke to Ms. Chiavaro-Smolenski I explained to her in detail why the families of the deceaseds had not received their Death Certificates as quickly as they might expect. In the case of Mr. Shea, his certificate has several errors which your assistant pointed out to this office. When those errors were reported we had to send the information to Juneau for their documents to be corrected. The certificate was then returned to our office with the errors corrected and the certificates were sent to his family. Also, in the notice sent of the errors your assistant indicated that sections 31a through 31g had not been completed. In the case of Mr. Shea there was not an accident and these sections did not need to be completed.

In Mr. Howard's case I sent a letter to Mrs. Howard and copies of the Death Certificate that we had. I pointed out to her that until the autopsy report was received and a decision was made as to whether or not an Inquest was to be held, the documents would not do her much good. This case was mainly handled in Fairbanks and I have to wait for autopsy reports (which can take up to a month) and any further information. If an Inquest had been needed in that matter it could have taken even longer for her to receive the completed certificate. If I send her copies without the necessary information contained she cannot submit them for the things she needs done.

Memorandum [illegible] Witha[illegible]
RE: Billy [illegible] Ralph Neal Howard [illegible]
April [illegible], [illegible]

Now that we have received the information on Mr. Howard we will have to submit to Juneau the new information and wait until they have the information on the original Death Certificate and return their corrections to us so that we can make the corrections on our certificate. Juneau is now about 4 to 6 weeks behind on their preparations. So, as you can see it might still be awhile before Mrs. Howard receives the corrected document. We have to wait for the corrections to be made in Juneau so that all documents correspond and their are not two different documents.

We understand the inconvenience that this puts on the families and would like to avoid the wait as much as you would, however, I don't feel that sending incorrect copies aids the families and I have ordered the staff here not to send out the copies until the corrections have been made or the additions added. Therefore, it will take quite awhile for the requests to be filled.

If you have any further questions on these matters do not hesitate to call or write our office and we will be of as much help as we possibly can.

Sincerely,

V. Jeanne Cross,
Magistrate
Acting Clerk of Court
Barrow Trial Courts

cc: Files
Mike Hall

RECEIVED
NOV 15 1983
Office of Administrative Director
Alaska Court System

RECEIVED
NOV 15 1983
In The Trial Courts
State of Alaska
Third Judicial District

November 15, 1983

The Honorable Joe Josephson
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Josephson,

Considering your options (us or public radio), thank you for spending some of your time with us Saturday. Neither Dave Franke, Dick Rome, or myself belong to the Allied Funeral Group, so we were as much in the dark about the agenda for the meeting, and the reasons for holding it, as you were.

It is our feeling that the problems alluded to at the meeting this weekend, are not so much a legislative problem as an administrative one. We believe the Alaska Court Systems unwillingness to pay for our services upon completion of an autopsy, coupled with the discontinuing of E.I.A. funding, which had historically solved this problem, and the reluctance of the Department of Health and Social Services to provide funding without the usual administrative delay is creating problems for us, State Troopers, Magistrates and families of the deceased.

We took the time to do some legal research this morning. While we are not attorneys, it seems pretty evident to us that the Department of Health and Social Services has very broad statutory powers when it comes to regulating and protecting the public health (18.05.010 and 18.15.010) and also more specific power when it comes to transporting the dead (18.05.040). Perhaps someone on your staff could research this further to verify our assumptions. We have never been told by Health and Social Services that this was not the case, but some members of the allied group said that Health and Social Services staff people had told them this.

If Health and Social Services' solution to this problem is to eliminate the requirement for embalming, we think they are making a serious mistake. Sending an autopsied and unembalmed human remains back to a family is pure foolishness. Often, the cause of death cannot be determined for several days. But when the cause is Hepatitis B, Meningitis, Tuberculosis, Etc., sending that body back unembalmed is criminal. If you feel we lack objectivity in this matter, please contact Dr. Michael T. Propst, M.D. at Humana Hospital (264-1171). He is a State

Evergreen Memorial Chapel, Inc.
737 E STREET TELEPHONE 279-5477
P O BOX 537 ANCHORAGE ALASKA

NSM

Medical Examiner and board certified in clinical and forensic pathology. The choice of the words "foolishness" and "criminal" are his as I have just talked to him about this issue. Also, sending untreated bodies that have been autopsied back to families regardless of the cause of death would set the administration of rural justice back fifty years. Problems between the police and families would multiply ten-fold.

If you desire, we can arrange for you, your colleagues, members of your staff, Health and Social Services administrators, or others with a pertinent interest in this issue to attend an autopsy at our facilities. We are not suggesting this to shock anyone, but we are willing to give you a first-hand look at what takes place at an autopsy and following the examination. We think you would then have a better understanding of the problem and perhaps a clearer idea of what can be done to solve this problem. We are going to suggest that this same opportunity be given to Magistrates of the Alaska Court System and the courts administrators.

Thank you for your interest in this issue. Please call us if you have further questions or comments.

Very Truly Yours,

Lee Moeglein
Funeral Director
Evergreen Memorial Chapel

Copy to: D. Charlene Doris
Coroner-Public Administrator
Third Judicial District

Evergreen Memorial Chapel, Inc.
737 E STREET TELEPHONE 279-5577
P O BOX 237 ANCHORAGE ALASKA

NSM MEMBER NATIONAL SELECTED MORTICIANS

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

February 17, 1982

RECEIVED
FEB 9 1982
Office of Administrative Director
Alaska Court System

F. J. Witzleben, President
Witzleben-Bruce Funeral Homes and Crematory
P. O. Box 2351
Anchorage, AK 99510-2351

Dear Mr. Witzleben:

In response to your letter of January 28, 1982 concerning the Embalming Regulations 7 AAC 35.090-130. I will attempt to respond to your comments and questions as they appear in the letter.

It is hoped you read through 7 AAC 35.090(a-d) in its entirety. Paragraph (d) begins with the sentence, "When death has occurred from smallpox, plague, anthrax, diphtheria, menningococcal meningitis, cholera, epidemic typhus, or any unusual and highly communicable disease, the body shall be handled and prepared under strict quarantine conditions." It would be unpracticable for us to attempt to list every highly or unusual communicable disease. To clear a possible misconception on your part the embalming process will not render harmless Tubercle bacillus or Hepatitis virus. The whole thrust of 7 AAC 35.090(a-d) is the importance of exercising the utmost care in the handling of the deceased, especially the mortician. Good sanitation practices cannot be stressed too highly.

As you have undoubtedly read through 7 AAC 35.100(a-c) you are aware that when a body can reach its destination within 24 hours after death and the person did not die of any of the diseases mentioned specifically or in the group "unusual and highly communicable" the body can be buried unembalmed. After the 24 hour period only the Commissioner of Health and Social Services can waiver the embalming requirement.

In the Fairbanks area we have worked out a speedy method of having a request for a waiver considered. The mortuary or relative of the deceased contacts the coroner who investigates, the coroner then contacts David Bruce, Deputy Director of the Division of Public Health. The coroner has obtained, in writing, a statement from the attending physician stating the deceased did not die from a communicable disease falling in the group listed in 7 AAC 35.090(d), or that the body in some other manner represents a threat to the health of the public. Incidentally, we will not grant a waiver unless we have the coroner's recommendation that one be given. Mr. Bruce then works with my Special Assistant to present the

information to me. If I am in travel status, my Special Assistant contacts me by phone and discusses the matter. If I am satisfied that a waiver is best for all parties concerned, the persons handling the body are not placed at risk and there is no threat to the public's health, a waiver is often granted. I would suspect in the instance of advanced decomposition it is unlikely a waiver would be granted.

Are you in violation of the code if you return the deceased after 24 hours unembalmed? While not an attorney, I would say yes you would be and thus subject to prosecution. For the remainder of the question I can only refer you to your own attorney and/or your insurance company.

Your next question concerning the metal shipping containers utilized by the Alaska Court System is difficult to answer as we have not promulgated regulations covering caskets. We can find no law mandating the use of a casket for burial unless the deceased is infected with a disease as referenced in 7 AAC 35.090(d). Our basic premise is that everyone deserves a "decent" burial. Beyond this we have not entered the arena of specifying casket requirements. What you and I determine to be a "decent burial" might be offensive to another.

If well constructed I see no reason why the court system's transfer case could not be considered both a shipping container and casket. As I have never seen one of these devices nor do I recall any dialogue on the subject, my office reserves the right to reevaluate this decision at a later date should a problem arise.

We hesitate to comment in to much detail on a portion of a proposed federal rule. However, I suspect the state regulation would supercede the federal rule especially since provision for superceding is contained in the wording.

In response to your questions concerning authorization, as we cannot interpret Federal intent again I can only refer you to your attorney. You might wish to provide comment to the Federal Trade Commission on their proposed rule.

There is one other Governmental Agency having some jurisdiction. The Federal Aviation Administration has rules and regulations covering the transportation of the dead. If their requirements are more rigid they would supercede state codes.

I hope some of your questions have been answered. For some, those outside my sphere of influence, it would be improper, have no legal standing and would only add to the confusion if I were to attempt a comment in detail.

Sincerely,

Helen D. Beirne

Helen D. Beirne
Commissioner

cc: William Nix, Commissioner, Dept. of Public Safety
Dolores Wilks, Coroner, Third Judicial District
Arthur Snowden, Court Administrator
Margaret E. Witzleben, Chairperson, Alaska Allied Funeral Services Association
Harry D. Treagor, Director, Division of Occupational Licensing Dept. of Commerce and Economic Development

Memorandum

Alaska Court System

TO:
Rick Barrier

DATE : November 9, 1982

FROM:
Karla Forsythe

SUBJECT: Payment of expenses related to autopsies

I've attached the Probate Forms and statutes which relate to presentation of claims against an estate by a creditor.

Pursuant to AS 13.16.470 (a) (2), claims for "reasonable funeral expenses" will be paid second in line, after the costs and expenses of administration. If we can't argue successfully that embalming costs are part of funeral costs, the fourth payment preference is "reasonable and necessary medical and hospital expenses of the last illness of the defendant, including compensation of persons attending him." It seems unlikely that the legislature intended to pay claims for actually burying someone, and for expenses incurred while a person is dying, but to omit related expenses such as embalming.

The procedure could work as follows:

- when the coroner arranges to ship the body to the location at which the autopsy will be performed, the next of kin should be notified that the court will be seeking reimbursement for expenses which will be incurred in embalming the body and preparing it for travel. If the next of kin want to incur additional expenses (fancier casket), they should make separate arrangements with the funeral home.
- the court system would present a claim both to the personal representative and to the court. Someone would have to represent the court system before the court if the claim is disallowed and we want to pursue it.

Do you think these estates will have sufficie to make it worthwhile?

Hope this is what you wanted -

Adm. F-1
Rev. 2-73

57. Written Statement of Claim Delivered or Mailed to Personal Representative or Filed With Court. [AS 13.16.465]

(Title of Court and Cause)

NO. _____
CLAIM AGAINST ESTATE

_____, creditor of the estate of _____, deceased, hereby states that said estate is indebted to said creditor in the amount of $_____ for _____
(set forth basis

_____
of claim; state date claim due if not yet due; if con-

_____
tingent or unliquidated, state the nature of the uncer-

_____
tainty; if secured, describe security)

DATED this _____ day of _____, 19____.

_____
Claimant

_____
Address

58. Notice of Allowance of Claim. [AS 13.16.475]

(Title of Court and Cause)

NO. _____
NOTICE OF ALLOWANCE OF CLAIM

To: _____ _____
(name) (address)

Your claim in the amount of $_____ has been allowed.

DATED this _____ day of _____, 19____.



_____
Personal Representative

_____
Address

NOTE: Failure of the personal representative to mail notice to the claimant of action on his claim for sixty days after the time for original presentation of the claim has expired has the effect of a notice of allowance. AS 13.16.475(a).

59. Notice of Disallowance of Claim. [AS 13.16.475]

NO. _____
NOTICE OF DISALLOWANCE OF CLAIM

TO: _____

1. Your claim against the above-named estate presented _____, 19____, in the amount of $_____ has been disallowed.

OR

1. Your claim against the above-named estate presented _____, 19____, in the amount of $_____ has been allowed in the amount of $_____ and disallowed in the remaining amount.

2. You are further notified that failure to protest this disallowance by filing a petition for allowance with the Court or commencing a proceeding against the personal representative within sixty days of the mailing of this notice shall result in your claim being forever barred.

DATED this _____ day of _____ ___, 19____.

_____
Personal Representative

_____
Address

65. Petition by Claimant for Allowance of Claim. [AS 13.16.475]

(Title of Court and Cause)

NO. _____
PETITION FOR ALLOWANCE OF CLAIM

Petitioner, _____, respectfully requests the Court to allow his claim against the estate of _____, deceased, and in support thereof states:

1. A written statement of petitioner's claim against said estate in the amount of $_____ was served upon the personal representative of the decedent of said estate (or filed with the Court) on _____, 19____. A copy of said written statement of petitioner's claim is attached hereto and made a part of this petition. Said claim has been disallowed by the personal representative.

2. Petitioner's claim is a valid, just debt of the estate owing to petitioner.

WHEREFORE, petitioner prays that this Court allow said claim in the amount of $_____ against the estate of _____, deceased, for legal interest thereon and costs expended herein, and for other such relief as this Court deems just and proper and to which the petitioner may be entitled.

DATED this _____ day of _____, 19____.

_____
Petitioner

_____
Address

66. Order for Notice of Petition of Personal Representative or Claimant for Allowance.

(Title of Court and Cause)

NO. _____
ORDER

The petition for allowance of the claim of _____, personal representative of the estate of _____, deceased (or claimant against the estate of _____, deceased), having come before the Court and the Court finding that notice of the hearing on this petition should be given to the following individuals:
(Names and addresses.)

_____

_____

_____

IT IS ORDERED that hearing upon said petition shall be held on the _____ day of _____, 19____, at ____.M.: and that notice of that time, place and date be given to the individuals named herein by _____.
(specify method of notice)

DATED this _____ day of _____, 19____.

_____
Judge

67. (Blank)

68. (Blank)

69. (Blank)

70. (Blank)

(Title effective January 1, 1973)

Article 5. Creditor's Claims.

Section
450. Notice to creditors
455. Statutes of limitations
460. Limitations on presentation of claims
465. Manner of presentation of claims
470. Classification of claims
475. Allowance of claims
480. Payment of claims
485. Individual liability of personal representative
490. Secured claims
495. Claims not due and contingent or unliquidated claims
500. Counterclaims
505. Execution and levies prohibited
510. Compromise of claims
515. Encumbered assets
520. Administration in more than one state; duty of personal representative
525. Final distribution to domiciliary representative

Sec. 13.16.450. Notice to creditors. Unless notice has already been given under this section, a personal representative upon his appointment shall publish a notice once a week for three successive weeks in a newspaper of general circulation in the judicial district announcing his appointment and address and notifying creditors of the estate to present their claims within four months after the date of the first publication of the notice or be forever barred. (§ 1 ch 78 SLA 1972)

Only claims for money due the claimant from the deceased require presentation to the administrator. Geist v. O'Connor, 13 Alaska 15, 92 F. Supp. 461 (D. Alas. 1950).

Am. Jur., ALR and C.J.S. references.—21 Am. Jur., Executors and Administrators, §§ 321 to 336, 341 to 408.

Sufficiency of notice of claim against decedent's estate, 74 ALR 368.

Sufficiency of notice of unmatured or contingent claim, 74 ALR 385.

Filing claim against estate of decedent as affecting or precluding other remedies against the estate, 120 ALR 1225.

34 C.J.S. Executors and Administrators §§ 367 to 481.

Sec. 13.16.455. Statutes of limitations. Unless an estate is insolvent the personal representative, with the consent of all successors, may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid. The running of any statute of limitations measured from some other event than death and advertisement for claims against a decedent is suspended during the four months following the decedent's death but resumes thereafter as to claims not barred pursuant to the sections which follow. For purposes of any statute of limitations, the proper presentation of a claim under § 465 of this chapter is equivalent to commencement of a proceeding on the claim. (§ 1 ch 78 SLA 1972)

Sec. 13.16.460. Limitations on presentation of claims. (a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision of

(Title effective January 1, 1973)

it, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) within four months after the date of the first publication of notice to creditors if notice is given in compliance with § 450 of this chapter; however, claims barred by the nonclaim statute at the decedent's domicile before the first publication for claims in this state are also barred in this state;

(2) within three years after the decedent's death, if notice to creditors has not been published.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision of it, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents

(1) any proceeding to enforce any mortgage, pledge, or lien upon property of the estate; or

(2) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which he is protected by liability insurance. (§ 1 ch 78 SLA 1972)

Am. Jur. and ALR references.—21 Am. Jur., Executors and Administrators, § 343 et seq.

Conduct of representative preventing filing of claims in time, 11 ALR 246; 66 ALR 1415.

Contingent claim, 34 ALR 372.

Executory contract for sale, 35 ALR 927.

Bar of statute of nonclaim of decedent's domicile as affecting assertion of claim elsewhere, 72 ALR 1030.

Claim for taxes, 109 ALR 1370.

Necessity of presenting claim for specific performance of a contract to make a will in favor of another or to will the latter a specified sum or property, 113 ALR 1070.

Exclusiveness of grounds enumerated in statute providing, under specified circumstances, extension of time for filing claims under decedent's estate, 37 ALR2d 1304.

Sec. 13.16.465. Manner of presentation of claims. Claims against a decedent's estate may be presented as follows:

(1) The claimant may deliver or mail to the personal representative a written statement of the claim indicating its basis, the

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name and address of the claimant, and the amount claimed, or may file a written statement of the claim, in the form prescribed by rule, with the clerk of the court. The claim is considered presented on receipt of the written statement of claim by the personal representative or on the filing of the claim with the court, whichever occurs first. If a claim is not yet due, the date when it will become due shall be stated. If the claim is contingent or unliquidated, the nature of the uncertainty shall be stated. If the claim is secured, the security shall be described. Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.

(2) The claimant may commence a proceeding against the personal representative in any court where the personal representative may be subjected to jurisdiction, to obtain payment of his claim against the estate, but the commencement of the proceeding must occur within the time limited for presenting the claim. No presentation of claim is required in regard to matters claimed in proceedings against the decedent which were pending at the time of his death.

(3) If a claim is presented under (1) of this section, no proceeding on it may be commenced more than 60 days after the personal representative has mailed a notice of disallowance; but, in the case of a claim which is not presently due or which is contingent or unliquidated, the personal representative may consent to an extension of the 60-day period, or to avoid injustice the court, on petition, may order an extension of the 60-day period, but in no event shall the extension run beyond the applicable statute of limitations. (§ 1 ch 78 SLA 1972)

Character of claim. — The claim that is to be presented to the administrator is not a claim of any peculiar or particular character, but is any claim that might be asserted as a cause of action or as a right demanded. In re Estate Gladough, 1 Alaska 649 (1902).

Am. Jur. and ALR references.—21 Am. Jur., Executors and Administrators, § 375.

Necessity of presenting claim to executor or administrator before bringing suit, 34 ALR 362.

Presentation of claim as condition precedent to action on contingent claim, 34 ALR 372.

Executor's or administrator's waiver or presentation of claim against estate before bringing action thereon, 34 ALR 393.

Presentation of claim against deceased debtor's estate as condition of action to enforce judgment lien, 114 ALR 1167.

Amendment of claim against decedent's estate, introducing new or different claim or effecting substantial change in claim, 56 ALR2d 627.

Sec. 13.16.470. Classification of claims. (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(1) costs and expenses of administration;

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(2) reasonable funeral expenses and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

(3) debts and taxes with preference under federal law or the laws of this state;

(4) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due. (§ 1 ch 78 SLA 1972)

Am. Jur. and ALR references.—21 Am. Jur., Executors and Administrators, § 385.

Vendor under executory contract for sale of land as preferred creditor in case of vendee's death, 35 ALR 929.

State's prerogative right of preference at common law, 51 ALR 1355; 65 ALR 1331; 90 ALR 184; 167 ALR 640.

Remedies of creditors of insolvent decedent's estate where other creditors have received excessive payment, 77 ALR 981.

Effect of filing claim for mortgage on real estate, as against estate of deceased mortgagor, 78 ALR 1148.

Expense of preserving assets before appointment of executor or administrator as entitled to priority, 108 ALR 393.

Sec. 13.16.475. Allowance of claims. (a) As to claims presented in the manner described in § 465 of this chapter within the time limit prescribed in § 460 of this chapter, the personal representative may mail a notice to any claimant stating that the claim has been disallowed. If, after allowing or disallowing a claim, the personal representative changes his decision concerning the claim, he shall notify the claimant. The personal representative may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has run and the claim has been barred. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than 60 days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. Failure of the personal representative to mail to a claimant notice of action on his claim for 60 days after the time for original presentation of the claim has expired has the effect of a notice of allowance.

(b) Upon the petition of the personal representative or of a claimant in a proceeding for the purpose, the court may allow in whole or in part any claim or claims presented to the personal representative or filed with the clerk of the court in due time and not barred by (a) of this section. Notice in this proceeding shall be given to the claimant, the personal representative and those other

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persons interested in the estate as the court may direct by order entered at the time the proceeding is commenced.

(c) A judgment in a proceeding in another court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(d) Unless otherwise provided in any judgment in another court entered against the personal representative, allowed claims bear interest at the legal rate for the period commencing 60 days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision. (§ 1 ch 78 SLA 1972)

Appeal. — If an administrator has any good reason to believe that the heirs of the estate are aggrieved by a decision of the court, allowing a creditor's claim previously rejected by him, and that their rights are injuriously affected by the judgment and decree of the court, upon their request it is the duty of the administrator, in their behalf, to present his application for an appeal in their interest; and in their interest such appeal may properly be allowed, if there is any reasonable ground for it whatsoever. In re Estate Gladough, 1 Alaska 649 (1902).

Interest of person seeking appeal. —The person seeking the appeal must have an interest in the subject matter of the appeal, and his interest must be adversely affected by the judgment. In re Estate Gladough, 1 Alaska 649 (1902).

Am. Jur., ALR and C.J.S. references.—21 Am. Jur., Executors and Administrators, §§ 171 to 204, 221, 361, 377, 386.

Allowance out of decedent's estate for services rendered [illegible] employed by executor, 79 ALR 521; 142 ALR 1[illegible].

Who entitled to contest, or appeal from, allowance of claim against decedent's estate, 118 ALR 743.

Executor's right to appeal from court's rejection of claim, 129 ALR 922.

Creditor's right to maintain action [illegible] interest of decedent's estate, 158 ALR 729.

33 C.J.S. Executors and Administrators §§ 129 to 140.

Sec. 13.16.480. Payment of claims. (a) Upon the expiration of four months from the date of the first publication of the notice to creditors, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for homestead, family and support allowances, for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration. By petition to the court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid as provided herein may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(b) The personal representative at any time may pay any just claim which has not been barred, with or without formal presenta-

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tion, but he is personally liable to any other claimant whose claim is allowed and who is injured by such payment if

(1) the payment was made before the expiration of the time limit stated in (a) of this section and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(2) the payment was made, due to the negligence or wilful fault of the personal representative, in such a manner as to deprive the injured claimant of his priority. (§ 1 ch 78 SLA 1972)

Sec. 13.16.485. Individual liability of personal representative. (a) Unless otherwise provided in the contract, a personal representative is not individually liable on a contract properly entered into in his fiduciary capacity in the course of administration of the estate unless he fails to reveal his representative capacity and identify the estate in the contract.

(b) A personal representative is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if he is personally at fault.

(c) Claims based on contracts entered into by a personal representative in his fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in his fiduciary capacity, whether or not the personal representative is individually liable therefor.

(d) Issues of liability as between the estate and the personal representative individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding. (§ 1 ch 78 SLA 1972)

Tort committed in course of administration.—An administrator, executor, or trustee may be sued in his representative capacity, and collection may be had from the trust assets, for a tort committed in the course of administration, if it is determined by the court that the tort was a common incident of the kind of business activity in which the administrator, executor, or trustee was properly engaged on behalf of the estate. Vance v. Estate of Myers, Sup. Ct. Op. No. 770 (File No. 1447), 491 P.2d 816 (1972).

Sec. 13.16.490. Secured claims. Payment of a secured claim is upon the basis of the amount allowed if the creditor surrenders his security; otherwise payment is upon the basis of one of the following:

(1) if the creditor exhausts his security before receiving payment, unless precluded by other law upon the amount of the claim allowed less the fair value of the security; or

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(2) if the creditor does not have the right to exhaust his security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement under which the security was delivered to the creditor, or by the creditor and personal representative by agreement, arbitration, compromise or litigation. (§ 1 ch 78 SLA 1972)

Sec. 13.16.495. Claims not due and contingent or unliquidated claims. (a) If a claim which will become due at a future time or a contingent or unliquidated claim becomes due or certain before the distribution of the estate, and if the claim has been allowed or established by a proceeding, it is paid in the same manner as presently due and absolute claims of the same class.

(b) In other cases the personal representative or, on petition of the personal representative or the claimant in a special proceeding for the purpose, the court may provide for payment as follows:

(1) if the claimant consents, he may be paid the present or agreed value of the claim, taking any uncertainty into account;

(2) arrangement for future payment, or possible payment, on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a distributee, or otherwise. (§ 1 ch 78 SLA 1972)

Sec. 13.16.500. Counterclaims. In allowing a claim the personal representative may deduct any counterclaim which the estate has against the claimant. In determining a claim against an estate a court shall reduce the amount allowed by the amount of any counterclaims and, if the counterclaims exceed the claim, render a judgment against the claimant in the amount of the excess. A counterclaim, liquidated or unliquidated, may arise from a transaction other than that upon which the claim is based. A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim. (§ 1 ch 78 SLA 1972)

Sec. 13.16.505. Execution and levies prohibited. No execution may issue upon nor may any levy be made against any property of the estate under any judgment against a decedent or a personal representative, but this section shall not be construed to prevent the enforcement of mortgages, pledges or liens upon real or personal property in an appropriate proceeding. (§ 1 ch 78 SLA 1972)

Sec. 13.16.510. Compromise of claims. When a claim against the estate has been presented in any manner, the personal representative may, if it appears for the best interest of the estate, compromise the claim, whether due or not due, absolute or contingent, liquidated or unliquidated. (§ 1 ch 78 SLA 1972)

(Title effective January 1, 1973)

Sec. 13.16.515. Encumbered assets. If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part of it, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has filed a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration. (§ 1 ch 78 SLA 1972)

Sec. 13.16.520. Administration in more than one state; duty of personal representative. (a) All assets of estates being administered in this state are subject to all claims, allowances and charges existing or established against the personal representative wherever appointed.

(b) If the estate either in this state or as a whole is insufficient to cover all family exemptions and allowances determined by the law of the decedent's domicile, prior charges and claims, after satisfaction of the exemptions, allowances and charges, each claimant whose claim has been allowed either in the state or elsewhere in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of his claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this state, the creditor so benefited is to receive dividends from local assets only upon the balance of his claim after deducting the amount of the benefit.

(c) In case the family exemptions and allowances, prior charges and claims of the entire estate exceed the total value of the portions of the estate being administered separately and this state is not the state of the decedent's last domicile, the claims allowed in this state shall be paid their proportion if local assets are adequate for the purpose, and the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this state the amount to which they are entitled, local assets shall be marshalled so that each claim allowed in this state is paid its proportion as far as possible, after taking into account all dividends on claims allowed in this state from assets in other jurisdictions. (§ 1 ch 78 SLA 1972)

Sec. 13.16.525. Final distribution to domiciliary representative. The estate of a nonresident decedent being administered by a personal representative appointed in this state shall, if there is a personal representative of the decedent's domicile willing to receive it, be distributed to the domiciliary personal representative for the

(Title effective January 1, 1973)

benefit of the successors of the decedent unless (1) by virtue of the decedent's will, if any, and applicable choice of law rules, the successors are identified under the local law of this state without reference to the local law of the decedent's domicile; (2) the personal representative of this state, after reasonable inquiry, is unaware of the existence or identity of a domiciliary personal representative; or (3) the court orders otherwise in a proceeding for a closing order under § 620 of this chapter or incident to the closing of a supervised administration. In other cases, distribution of the estate of a decedent shall be made in accordance with §§ 5—400 and §§ 535—695 of this chapter. (§ 1 ch 78 SLA 1972)

Am. Jur. and ALR references.—21 Am. Jur., Executors and Administrators, §§ 171 to 204, 221.

Accountability of domiciliary representative in respect of assets subject to ancillary administration in another state, 132 ALR 1369.

Article 9. Special Provisions Relating to Distribution.

Section
535. Successors' rights if no administration
540. Distribution; order in which assets appropriated; abatement
545. Right of retainer
550. Interest on general pecuniary devise
555. Penalty clause for contest
560. Distribution in kind; valuation; method
565. Distribution in kind; evidence
570. Distribution; right or title of distributee
575. Improper distribution; liability of distributee
580. Purchasers from distributees protected
585. Partition for purpose of distribution
590. Private agreements among successors to decedent binding on personal representative
595. Distributions to trustee
600. Disposition of unclaimed assets
605. Distribution to person under disability
610. Apportionment of estate taxes

Sec. 13.16.535. Successors' rights if no administration. In the absence of administration, the heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Devisees may establish title by the probated will to devised property. Persons entitled to property by homestead allowance, exemption or intestacy may establish title to it by proof of the decedent's ownership, his death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption. (§ 1 ch 78 SLA 1972)

Sec. 13.16.540. Distribution; order in which assets appropriated; abatement. (a) Except as provided in (b) of this section and except as provided in connection with the share of the sur-

estate or to any other person having a superior right. (§ 1 ch 78 SLA 1972)

Sec. 13.16.690. Small estates; summary administrative procedure. If it appears from the inventory and appraisal that the value of the entire estate, less liens and encumbrances, does not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled to it and filing a closing statement as provided in § 695 of this chapter. (§ 1 ch 78 SLA 1972)

Am. Jur. and C.J.S. references.—21 Am. Jur., Executors and Administrators, §§ 327, 427 to 518, 538 to 544; 40 Am. Jur., Partition, §§ 60, 61, 63, 114, 120.

34 C.J.S. Executors and Administrators §§ 432 to 535, 827 to 943.

Sec. 13.16.695. Small estates; closing by sworn statement of personal representative. (a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of § 690 of this chapter by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that

(1) to the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent;

(2) the personal representative has fully administered the estate by disbursing and distributing it to the persons entitled to it; and

(3) the personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected.

(b) If no action or proceeding involving the personal representative is pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates.

(c) A closing statement filed under this section has the same effect as one filed under § 630 of this chapter.

(d) The superior court may authorize the disposal in a manner it prescribes of personal property which has not been disposed of

Sec. 13.16.440. Proceedings for review of employment of agents and compensation of personal representatives and employees of estate.

NOTES TO DECISIONS

Estates consisting of wrongful death recovery not exempted from procedures for presentation, etc., of claims against estate. — See In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Article 8. Creditor's Claims.

Section

455. Statutes of limitations
470. Classification of claims
515. Encumbered assets

Sec. 13.16.455. Statutes of limitations. Unless an estate is insolvent the personal representative, with the consent of all successors whose interests would be affected may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid. The running of any statute of limitations measured from some other event than death and advertisement for claims against a decedent is suspended during the four months following the decedent's death but resumes thereafter as to claims not barred pursuant to the sections which follow. For purposes of any statute of limitations, the proper presentation of a claim under AS 13.16.465 is equivalent to commencement of a proceeding on the claim. (§ 1 ch 78 SLA 1972; am § 15 ch 154 SLA 1976)

Effect of amendments. — The 1976 amendment inserted "whose interests would be affected" in the first sentence.

Legislative history reports. — For report on ch. 154, SLA 1976 (SB 717), see 1976 House Journal, p. 1569.

Sec. 13.16.460. Limitations on presentation of claims.

NOTES TO DECISIONS

This section, et seq., provides detailed and explicit procedures for presentation, allowance and payment of claims against the estate. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Nothing in AS 13.16.005 — 13.16.705 exempts estates consisting in whole or in part of a wrongful death recovery. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Applied in In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Sec. 13.16.470. Classification of claims. (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(1) costs and expenses of administration;
(2) reasonable funeral expenses;
(3) debts and taxes with preference under federal law;

(4) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

(5) debts and taxes with preference under other laws of this state;

(6) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due. (§ 1 ch 78 SLA 1972; am § 16 ch 56 SLA 1973)

Effect of amendments. — The 1973 amendment rewrote subsection (a).

Legislative history reports. — For report on ch. 56, SLA 1973 (HCS SB 140), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 819.

NOTES TO DECISIONS

Alaska Statute 13.11.135(a) and subsection (a) of this section can be construed harmoniously if, and only if, family allowances are not found to be within the meaning of the word "claim" as defined in AS 13.06.050. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Alaska Statute 13.11.135(a), not subsection (a) of this section, is the statute of greater specificity. It deals only with family allowances and states that they have priority over all claims with unmistakable clarity. Subsection (a) of this section, on the other hand, is much broader. It deals with the priorities for all categories of claims. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Family allowances are not "claims". — The word "claims" as used in subsection (a) does not include family allowances. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978). Family allowances are not specifically included in the definition of "claim" in AS 13.06.050 as are, for example, expenses of administration. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

The wording of AS 13.11.135(a) itself casts doubt on whether family allowances were meant to be included within the meaning of the word "claims". It states that family allowances have priority over "all claims," not "all other claims." In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Thus, family allowances should be given priority over expenses of administration. In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Sec. 13.16.475. Allowance of claims.

NOTES TO DECISIONS

Ordinarily claims against an estate need only be proved by a preponderance of the evidence. Cavanah v. Martin, Sup. Ct. Op. No. 1792 (File No. 3867), 590 P.2d 41 (1979).

Cited in In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Sec. 13.16.480. Payment of claims.

NOTES TO DECISIONS

Applied in In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Sec. 13.16.515. Encumbered assets. If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part of it, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration. (§ 1 ch 78 SLA 1972; am § 16 ch 154 SLA 1976)

Effect of amendments. — The 1976 amendment substituted "presented a claim" for "filed a claim" near the end of the first sentence.

Legislative history reports. — For report on ch. 154, SLA 1976 (SB 717), see 1976 House Journal, p. 1569.

Article 9. Special Provisions Relating to Distribution.

Section

580. Purchasers from distributees protected
610. Apportionment of estate taxes

Sec. 13.16.560. Distribution in kind; valuation; method.

NOTES TO DECISIONS

Applied in In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Sec. 13.16.575. Improper distribution; liability of distributee.

NOTES TO DECISIONS

Applied in In re Estate of Hutchinson, Sup. Ct. Op. No. 1618 (File No. 3570), 577 P.2d 1074 (1978).

Sec. 13.16.580. Purchasers from distributees protected. If property distributed in kind or a security interest in it is acquired for value by a purchaser from or lender to a distributee who has received an instrument or deed of distribution from the personal representative,

HR

6

Introduced: 3/16/83
Referred: Health, Education &
Social Services and Finance

IN THE HOUSE BY DAVIS AND KOPONEN

SPONSOR SUBSTITUTE FOR HOUSE RESOLUTION NO. 6

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to the funding of the Emergency Medical Services System.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES:

WHEREAS the purpose of the National Emergency Medical Services System Act of 1973 is to promote a standard to assist states and local communities to upgrade their pre-hospital emergency medical services; and

WHEREAS the State of Alaska has more than 1,600 volunteer emergency medical technicians working in more than 75 volunteer ambulance services; and

WHEREAS the provision of emergency medical service pre-hospital care systems is a responsibility of local government, the legislature and the administration; and

WHEREAS the quality of service rendered to a victim of an emergency should be standardized throughout the communities of Alaska; and

WHEREAS the planning process for ambulance service operation, ambulance service manpower certification, and technical assistance to ambulance services and communities is in place and functioning; and

WHEREAS the governor is responsible for the faithful execution of the laws; and

WHEREAS AS 18.08 authorizes the adoption of regulations relating to certification and recertification of emergency medical technicians, emergency medical technician instructors and ambulances; and

WHEREAS the legislature is responsible for the promotion and protection of public health and welfare; and

WHEREAS the state Office of Emergency Medical Services, Division of

Public Health, Department of Health and Social Services is responsible for the implementation of AS 18.08 to protect the public health and welfare; and

WHEREAS the current methods of financial distribution for the Emergency Medical Services System prohibit compliance with this law; and

WHEREAS the Emergency Medical Services System is dependent on several funding sources;

BE IT RESOLVED that the Alaska House of Representatives respectfully requests that the governor include in the annual budget a permanent single-source funding strategy for the Emergency Medical Services System in the state.

STATE OF ALASKA
FISCAL NOTE | Revision Date , 1983 |

I. REQUEST
Bill/Resolution No.: Sponsor Substitute for House Resolution No.6
Title: Funding of Emergency Medical Services
Sponsor: Davis and Koponen
Requestor:

II. FISCAL DETAIL
Agency Affected: Emergency Medical Services
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Mark S. Johnson Phone: 465-3027
Division: Public Health Date: 5/5/83
Approved by Commissioner: Date: 5/6/83
Department:

Distribution:
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3/8/83

POSITION PAPER/Department of Health and Social Servi

POSITION PAPER

Sponsor Substitute for House Resolution No. 6

Relating to the Funding of the Emergency Medical Services System

Sponsor Substitute for House Resolution No. 6 recognizes the need for adequate funding of emergency medical services statewide and calls on the governor to include in his annual budget a permanent single-source funding strategy for the Emergency Medical Services System in the state.

Complicating the funding picture for EMS in the state is the $1.3 million for EMS in Alaska which is included in the U.S. Indian Health Service Budget. Although it appears at this time that this funding will be available in FY 84, it could be reduced or eliminated in the future, which would have a serious, negative impact on emergency medical service programs in native regions.

The Division of Public Health of the Department of Health and Social Services supports the general intent of this resolution. However, the department is not sure what is meant by the statement, "current methods of financial distribution for the Emergency Medical Services System prohibit compliance with. . .(AS 18.08)." This statute authorizes the department to give out grants to regions for EMS systems development, and requires the department to develop regulations for the certification of emergency medical technicians (EMT's), EMT instructors, and ambulance services. The Department of Health and Social Services has developed and implemented these regulations and grant procedures, and uses what it considers to be a fairly sophisticated methodology of distributing available funding within state budget constraints. In past years, the grant process has been complicated somewhat when some legislators put designated grants in other budget categories such as municipal grants through the Department of Administration or unincorporated community grants through the Department of Community and Regional Affairs. When this happens the EMS Section, within the Division of Public Health, is prohibited from identifying these sources of EMS funding when computing its base budget request for the following fiscal year.

Recommended by: E.S. Rabeau, M.D.

E.S. Rabeau, M.D., Director
Division of Public Health

Date: May 5, 1983

Approved by: for John R. Boy

Robert London Smith, Ph.D
Commissioner

Date: May 6, 1983

SS HR 6

Davis - Explained numerous sources of funds. Psd out cut-sheets -
FY83 Auth - 1.376
Gov - 1.376
House - 1.4 -

Purpose to draw attention to Ems. req. for funds annually - need one funding source.

Tischer - Hope that they do not lobby to increase their budget - We have telecomf now etc. Turf battle - it should go thru this entity, & we will dispurse our own funds.

Davis - Thks.

Tischer - Pg 2 l 4-25 - Whereas etc -
Your bill addresses a funding mechanism. This whereas not appropriate.

Rabeau - Easier if there was one approp. to fairly proportion the funds out but it looses a legislative perogative.
3 areas covered by So. Region = Unresolvable issue because of legislative process. Cause lobbying efforts by individual interests. Really not going to change the financing. If we could limit to 3 regions - which is possible - we could do it but reasonably fair process & their boards represent geographical areas.

Rabeau - Candidly - I think we'd get less $ from this method.
Gen Fund, Indian Health Service - provides for co-ordinators, ③ legislative add-ons - cap & spr budget.
Herrmann - Dept stand?
Rabeau - Prohibited in our budget from adding up all sources.
Herrmann - Security of IHS funds
Rabeau - IHS for Ck in 84 Budget in base budget - fairly secure.
Kopenen - Would you or your staff work w/ staff to secure some funding?
Rabeau - Yes! We'd be happy to.
Tischer - How does this res help poor mgt.
Rabeau - It would put all $ into D & HSS budget.
Cap. item - funds for an ambulance - already had one - if it would have come thru us or Council - the approp would not have been made.
Tischer - Continued libertarian comments.
Rabeau - Innocuous Resolution, don't think the Legis will ever do anything like this.
Herrmann - Back-ground of program.
Davis - 1/3 of budget comes from other sources as add ons. -
Mark Johnson - 5 sessions - defer to Dr. Rabeau - Coord & Admin of EMS

Johnson 7 staff Statewide training co-ord - 2 full time certifications. 2200 Statewide
Regions - generally in favor because of undidentifiable funding sources

Laurel Anderson SE-EMS Region - answer questions re/ operatings - never know until after budget process completed. Reality - impossible to retain existing program at this level.
In favor of bringing this problem to a head.

Fritz - Entertain Motion

Jerry McCuthen - EMT. Would like to see $ flow to lowest possible entity. ~~[illegible]~~
[illegible] No single source.



Davis - Intent to show politically influence re/ add ons - attempt to take out some of the politics in EMS.

Anderson - Mini-grants come out of Oper. Budgets.

Gall - Move -

Tischer Withdraw

Kop - Move to amend pg 2 l 5 - delete prohibit & insert "inhibit."

Tischer - Would you amend the whole Whereas -

Davis - Obj. concern w/ amendment.

Fritz - Ques on amendment. -

Herman & Tischer - questions.

Tischer - Whereas on l. 4 - 7 pg 2 should be deleted.
Statement prior of that are pertinent.
Herrmann - Whereas adds alot. - shouldn't delete
Goll - Unless also delete l 29 - Tischer's amendment.

Fritz - Ques on amendment. - 5 - 1 pass
Tischer - Only brought it up ~~for~~ for the record.
Davis - Entertain
Tischer - Move ~~to~~ C.S for SSHR 6 w/Ind

INTERIOR REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC.

P.O. BOX 2120 • FAIRBANKS, ALASKA 99707
PHONE (907) 456-3976

May 10, 1983

Representatives Milo Fritz, M.D. and Mae Tischer,
Co-Chairs House Health, Education and Social Services
Pouch V
Juneau, Alaska 99801

Dear Representatives,

As a committee who has worked together as hard and as long as you have this session, I am sure you have seen countless priorities from across the State of Alaska. Today you will be discussing Sponsor Substitute for House Resolution No. 6. This resolution discusses priorities from across the State of Alaska.

The Alaska Municipal League passed a similar resolution in November of 1982. The Governor's Advisory Council on Emergency Medical Services has approved the content of the request the FY 84. These requests came from every corner of the State of Alaska and are submitted to the Department of Health and Social Services. The communities within the State request their needs for Emergency Medical Services through this granting procedure.

The granting procedure is approved through City Councils, Village Councils, Regional delegations from health and health education advisory boards, Physician specialists, school boards, State and Federal agencies, clinics, hospitals, businesses, Legislature, and countless other citizens of the State of Alaska.

The State of Alaska has one of the finest Emergency Medical Services System in the United States. Our statues and regulations allow certification and training to primarily volunteer citizens and rescue squads throughout the State. In Alaska, the standard testing scores indicating level of knowledge and skill as Emergency Medical Technicians is above the United States average. Currently, the State is providing just over two million dollars statewide to operate the Emergency Medical Services System within the State.

The total funds have been approved through the Governor's Office and Alaska Legislature. This year appropriations through the Governor's Office and Alaska Legislature do not equal the appropriations last year. The statues and regulations require training and recertification of Emergency Medical Technicians and Emergency Medical Technician Instructors. This year Lt. Governor McAlpine signed regulations approving the certification of ambulances. The Emergency Medical Services System provides these certifications.

This certification system as well as the rescue squads, volunteers, communities, tourists, and all others will feel the appropriation cut in the event of emergencies. The appropration is different in the three budgets and this is could be alleviated if a single source funding strategy could be developed.

If the State of Alaska consolidated the source of funding it would be easier to coordinate and evaluate the program progress and priorities with the State's priority goals and objectives. Historically the Legislature has had to supplement the Governor's Budget in order to meet statewide needs. A unified funding level statewide approved by the three governing bodies would ease problems in implementing life threatening problems throughout the state. The free conference committee action would have little debate on the Emergency Medical Service funding level as all three budgets would correspond to each other.

The communities and volunteers within the Interior Region contributed and donated a documented one million dollars in calender year 1982. The documented figures are from only ten ambulance squads of the near eighty squads statewide. This region is 200,000 square miles and covers only House Districts 17, 18, 19, 20, 21 and 24. If the communities and citizens of the state are contributing this much from the Interior Region, statewide would of course be a much larger figure.

The discrepancies in the budget figures would be at the level of funding it was last year at least, if it were not for the confusing funding sources. The breath that is lost or the heart that does not beat needs immediate and precise procedures to help alleviate the problem. The funding source and priority behind it should also be as direct.

Sincerely yours,

Jeanne E. Ostnes

Jeanne E. Ostnes
Executive Director

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

MEMBERS:
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REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M

TO: House HESS Committee DATE: May 10, 1983

FROM: Linda Otey
Committee Aide

RE: Summary/ SSHR 6 "Relating to the funding of the Emergency Medical Services Systems"

The Resolution requests that the Governor include, in his annual budget for FY 84, and each year thereafter, a permanent funding strategy for the Emergency Medical Service System in Alaska.

The Resolution also states that the Office of Emergency Medical Systems, Dept. of Health & Social Services has a statutory obligation under 18.08.080 to adopt regulations for the certification and recertification of emergency medical technicians, instructors and ambulances, but is prohibited from complying with the law due to the absence of a permanent funding structure.

notes: Currently there are approximately 2200 certificated people statewide. Approximately 650 people were certificated last year alone.

problem: FY 83 operating budget for the Office of EMS, Dept. H&SS was 1.3 million. Because of numerous buget items included in various catagories such as Dept. of Admin grants or Dept. of C&RA grants which accounted for an additional 1 million dollars (approx), this additional amount cannot be identified under the necessary operating expenses of the Office of EMS. Therefore, for purposes of compiling the Governor's proposed budget, the Office is tied to the dollar amount as a base that was received the preceding year, when the actual operating expense was over 2 million dollars. The inconsistency in funding appears to be a growing problem.

folder content

left	right
bill	
position paper/Public Health	Summary
Ø fiscal note/ " "	Davis Memo
EMS Statutes Chp. 08	EMS Summary/Budgets FY83 & FY 84
Regulations re/Training	Supporting Correspondence
Regulations re/Ambulances	

ALASKA STATE LEGISLATURE

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
JOINT OIL AND GAS
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis
House District 19

MEMORANDUM

To: House HESS Committee

From: Rep. Mike Davis

Re: SSHR 6, Relating to EMS Funding

The enclosed backup on SSHR 6 is as follows:

1. Position Paper and Fiscal Note
2. Letter from Southern Region EMS Council
3. Letter from Fairbanks North Star Borough
4. Info on FY 84 .. FY 83 Operating Budgets for EMS Regional Grants

EMERGENCY MEDICAL SERVICES REGIONAL GRANTS

SUMMARY OF FY83 AND FY84 OPERATING BUDGETS

This document summarizes the FY 84 regional grant requests. It is being submitted by the regional organizations which currently have funding for coordinating EMS training, certification, communications and organization in their respective areas. It includes the requests for the entire State.

The Department of Health and Social Services, Division of Public Health, Emergency Medical Services Section has been operating a grant program since 1976. This program provides funds to regional non-profit organizations to provide training, equipment and technical assistance to the State's: 75 volunteer, and 7 paid ambulance services; 12 regional native non-profit corporations; 22 hospitals; and, the general population. The primary function of these organizations, however, is to serve the needs of the rural volunteer ambulance services and the village medical care providers.

Table 1 depicts the current year operating funds of these organizations. All columns but Project Income are State General Funds that are being used for Operating expenses. All funds are being used strictly according to legislative intent. The first column is appropriated from the FY83 operating budget at the line item "Grants - Regional Councils" of the Emergency Medical Services BRU. The next three columns are State general funds appropriated in various other locations. HB 643 was a reapproriation bill passed last session. FY83 Capital are funds appropriated in the Capital section of the FY 83 Budget. FY82 Carryover are capital budget funds appropriated in prior years.

The main point of Table 1 is to demonstrate that the actual operating budget for the current year of the regional EMS programs is $2,244,400, 63% more than the Regional Grants Operating Budget line item of $1,376,000.

Table 4 presents the grant requests which will be presented to DHSS for FY84. It then presents the funding outlook for those requests as embodied in the Governor's Budget Request for FY84 plus anticipated Project Income. It also shows the difference between what is requested and anticipated revenues, the FY84 Deficit column.

The Governor's Budget requests that funding for Regional Grants remain at the same level for FY84 as funded in the FY83 budget. The project income projections are down for FY84 because the majority of that income is from interest earned on advance payments of Grants. This year's project income was earned on operating budgets plus an additional $750,000 of capital equipment funds in an era of strong money market interest rates. The Governor has proposed 0 dollars for EMS Capital Equipment for FY84, and, the money market has weakened. This situation will result in lower project income.

The FY84 shortfall will be $1.3 million of the requested funds and $763.4 thousand short of the current year funding level.

Table 1.
FY83 EMS OPERATING FUND SOURCES
(in thousands of dollars)

REGIONS	DHSS GRANT	HB 643	FY 83 CAPITAL	FY 82 CARRYOVER	TOTAL STATE GF	PROJECT INCOME	TOTAL
North Slope	85.0				85.0		85.0
Mannilaq	77.5	15.0			92.5		92.5
Interior	323.5		66.6	124.7	514.8	16.1	530.9
Southern							
Aleutian/Prib.	10.0				10.0		10.0
Anchorage					0.0		0.0
Bristol Bay	39.4				39.4		39.4
Copper River					0.0		0.0
Kenai Penin.					0.0		0.0
Kodiak Island	3.4				3.4		3.4
Mat-Su Boro					0.0		0.0
Norton Sound		280.0			280.0		280.0
Pr. Will. Sd.					0.0		0.0
Yukon-Kusko.	30.0	80.0			110.0		110.0
Regionwide	495.2	30.0		25.0	550.2	152.0	702.2
Southern Total	578.0	390.0	0.0	25.0	993.0	152.0	1,145.0
Southeast	312.0		35.0	21.0	368.0	23.0	391.0
STATEWIDE TOTALS	1,376.0	405.0	101.6	170.7	2,053.3	191.1	2,244.4

1135 West Eighth Avenue, Suite 7 • Anchorage, Alaska 99501 • (907) 274-3651

Southern Region
EMERGENCY
Medical Services Council, Inc.

May 9, 1983

Representative Mike Davis
Alaska State Legislature
House of Representatives
Pouch V
Juneau, AK 99702

Dear Representative Davis:

The Southern Region Emergency Medical Services Council, Inc. supports House Resolution 6 for the following reasons:

1. Currently, EMS operating expenses are funded by multiple sources. Our primary source of funds for regional training facilities is the EMS Section of the Department of Health and Social Services. However, the regional organizations have also been supplemented by legislative add-ons to the capital budget with the money going through Community & Regional Affairs, Department of Administration, as well as, DHSS. As a result, the total funding for the current year EMS regional grant programs is actually 1/3 more than is reflected in the Regional Grants line item of the DHSS Operating Budget.

   The problem is that while it is clearly the legislature's intent that the regional EMS programs be funded at a level greater than the Governor's request, the message does not seem to get conveyed to the Governor. This is indicated by the fact that his request does not reflect the total prior year funding authorized by the Legislature. Consequently, the regional organizations never really know from year to year what their funding level will be other than the lower amount provided in the Governor's Budget Request.

   It is our hope that this resolution would urge the Governor to include in his annual request the total amount of funds authorized for the regional programs in all parts of the prior year budget. If that were the case, then the both the Executive and the Legislature would be able to more effectively monitor EMS program performance and make the annual funding decisions in light of the complete picture.

2. Another area of funding that should be addressed by the Department is support for the Volunteer Emergency Medical Services in the State. This is especially important in the Unorganized Borough where there is no tax base for local services to turn to. Tremendous strides have been made in the last ten years in emergency care. Emergency Medical Technicians are trained to actually stabilize the seriously injured before they take them to the hospital, not just scoop up the patient

and run. We believe this has resulted in a reduction in lives lost on our remote highway system. And while there are lots of volunteers who are willing to do this, there is a need for significant funding for training and equipping those volunteers.

The justification for the State to be involved in supporting these services is that those on the highway systems primarily serve the motoring public. The small services in such places as Willow, Trapper Creek, Tok, Healy, Cooper Landing, Ninilchik, etc. respond 75% of the time to an auto accident involving residents of some other part of the State or World. It is difficult to expect a small community to raise $6,000 to $10,000 a year to support a service that really exists to serve people from other parts of the State. And, in fact, that is exactly the case in many of these communities. The same 3-6 volunteers respond day-in and day-out to calls that no one else in the community cares about.

Until this current year, there was a separate line item in the budget which provided a $2,500 no strings attached grants to the volunteer services. However, that program was eliminated by the last Legislature. The regional programs have carried it on as part of their operating grant this year, but without increased support from the Governor we may have to cut it back in order to adequately staff the training program. Thus it is important that a stable and fair funding mechanism be developed to help the volunteer services meet their basic operating expenses.

I hope this information is useful to you. If you need any more information please do not hesitate to contact me. We look forward to supporting this legislation through the legislative process.

Sincerely,

Thomas D. Scott II
Executive Director

TDS:jf

fairbanks north star borough
p.o. box 1267 520 [illegible]

March 4, 1983

The Honorable Bill Sheffield
Governor, State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Sheffield:

I would like to express my support for the Interior Region Emergency Medical Services Council and their funding needs for 1983/84.

The EMS Council performs a vital role in many ways for the delivery and quality of EMS services within the interior. In particular, the work done by this Council in providing quality training for EMS providers and the general public could not, in my opinion, be done more efficiently or cost effectively by any other organization. In this type of training there is a particular need for standardization and consistency. The EMS Council meets these needs.

The work done by the Council in planning and supporting emergency communications development is also of the highest importance to the area which we all serve.

I solicit your support for continued funding of these activities by the Interior Region EMS Council so that they may be continued at an adequate level.

Sincerely,

B. B. Allen
Borough Mayor

BBA:RWC:hs
cc: Interior Delegation

POSITION PAPER/Department of Health and Social Services

POSITION PAPER

Sponsor Substitute for House Resolution No. 6

Relating to the Funding of the Emergency Medical Services System

Sponsor Substitute for House Resolution No. 6 recognizes the need for adequate funding of emergency medical services statewide and calls on the governor to include in his annual budget a permanent single-source funding strategy for the Emergency Medical Services System in the state.

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The Division of Public Health of the Department of Health and Social Services supports the general intent of this resolution. However, the department is not sure what is meant by the statement, "current methods of financial distribution for the Emergency Medical Services System prohibit compliance with. . .(AS 18.08)." This statute authorizes the department to give out grants to regions for EMS systems development, and requires the department to develop regulations for the certification of emergency medical technicians (EMT's), EMT instructors, and ambulance services. The Department of Health and Social Services has developed and implemented these regulations and grant procedures, and uses what it considers to be a fairly sophisticated methodology of distributing available funds within state budget constraints. In past years, the grant process has been complicated somewhat when some legislators put designated grants in other budget categories such as municipal grants through the Department of Administration or unincorporated community grants through the Department of Community and Regional Affairs. When this happens the EMS Section, within the Division of Public Health, is prohibited from identifying these sources of EMS funding when computing its base budget request for the following fiscal year.

Recommended by: E.S. Rabeau, M.D.
E.S. Rabeau, M.D., Director
Division of Public Health

Date: May 5, 1983

Approved by: for John R. Boy
Robert London Smith, Ph.D
Commissioner

Date: May 6, 1983

STATE OF ALASKA
FISCAL NOTE Revision Date , 1983

I. REQUEST
Bill/Resolution No.: Sponsor Substitute for House Resolution No.6
Title: Funding of Emergency Medical Services
Sponsor: Davis and Koponen
Requestor:

II. FISCAL DETAIL
Agency Affected: Emergency Medical Services
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Mark S. Johnson Phone: 465-3027
Division: Public Health Date: 5/5/83

Approved by Commissioner: Date: 5/6/83
Department:

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3/8/83

(B) the offices of private physicians or dentists whether in individual or group practice;

(8) "category of health services" means a major type, program, unit, division, or department of care provided through a health care facility whether inpatient or outpatient, including an outpatient department. psychiatric wing, kidney dialysis program, radiotherapy, burn unit, or newborn intensive care unit, except that "service" does not include the lawful practice of a profession or vocation conducted independently of a health care facility and in accordance with applicable licensing laws of the state;

(9) "health systems agency" means an entity organized and operated in accordance with § 1521(b), P.L. 93-641, engaging in health planning and development functions in a specified health service area of the state;

(10) "office" means the office of planning and research in the Department of Health and Social Services;

(11) "secretary" means the secretary of the United States Department of Health, Education and Welfare. (§ 2 ch 275 SLA 1976; am § 2 ch 25 SLA 1981)

Effect of amendments. — The 1981 amendment, retroactive to June 29, 1976, in paragraph (7), added the subparagraph designation (B) preceding "the offices of private physicians" and added subparagraph (A).

Editor's notes. — Section 1 of ch. 25, SLA 1981, provides: "The purpose of this Act is solely to clarify and confirm that Alaska Pioneers' Homes are not, and never have been, subject to the provisions of AS 18.07."

Section 1524, P.L. 93-641, referred to in paragraph (5), and § 1521(b), P.L. 93-641, referred to in paragraph (9), may be found in 42 U.S.C. § 300m-3 and 42 U.S.C. § 300m(b), respectively.

The United States Department of Health, Education and Welfare, referred to in paragraph (11), has been redesignated as the Department of Health and Human Services.

Chapter 08. Emergency Medical Services.

Section		Section	
10.	Administration	70.	Special committees
20.	Advisory Council on Emergency Medical Services	80.	Regulations
30.	Composition	82.	Issuance of certificates
40.	Term of office	84.	Certificate required
50.	Compensation and per diem	86.	Immunity from liability
60.	Meetings	88.	Penalty
		90.	Definitions

Collateral references. — 39 Am. Jur. 2d, Health, §§ 9-18.

39A C.J.S., Health and Environment, §§ 3-17.

Sec. 18.08.010. Administration. The department is responsible for the development, implementation and maintenance of a statewide comprehensive emergency medical services system and, accordingly, shall

(1) coordinate public and private agencies engaged in the planning and delivery of emergency medical services to plan an emergency medical services system;

(2) assist public and private agencies to deliver emergency medical services through the award of grants in aid. (§ 1 ch 100 SLA 1977)

Sec. 18.08.020. Advisory Council on Emergency Medical Services. There is established in the department an Advisory Council on Emergency Medical Services. The council shall

(1) advise the commissioner with regard to the planning and implementation of a statewide emergency medical services system;

(2) assist the Statewide Health Coordinating Council in performing its duties under AS 18.07.011 relating to emergency medical services. (§ 1 ch 100 SLA 1977)

Sec. 18.08.030. Composition. The council shall consist of 11 members appointed by the governor. Four of the members shall be consumers of emergency medical services, and one from each judicial district in the state. (§ 1 ch 100 SLA 1977)

Sec. 18.08.040. Term of office. (a) Members of the council shall be appointed for overlapping terms of four years.

(b) Of the 11 initial appointments to the council, two shall be appointed for one-year terms, three for two-year terms, three for three-year terms, and three for four-year terms. A consumer shall be appointed to each of these overlapping terms. Appointments made on the expiration of the initial appointments shall be made for four years.

(c) A vacancy occurring in the membership of the council shall be filled by appointment by the governor in the same manner as original appointments, and when a seat is vacated before expiration of a term, the vacancy shall be filled for the unexpired portion of the vacated term. (§ 1 ch 100 SLA 1977)

Sec. 18.08.050. Compensation and per diem. Members of the council receive no salary, but are entitled to per diem, reimbursement for travel, and other expenses authorized by law for boards and commissions. (§ 1 ch 100 SLA 1977)

Cross references. — As to provisions relating to per diem, travel and other expenses for members of boards and commissions, see AS 39.20.180.

Sec. 18.08.060. Meetings. The council shall meet at the call of the chairman not less frequently than twice a year. A majority of members constitutes a quorum. (§ 1 ch 100 SLA 1977)

Sec. 18.08.070. Special committees. The council may create special committees or task forces outside its membership and may appoint persons who are not members of the council to serve as advisors or consultants to any committee created to carry out the purposes of the council. (§ 1 ch 100 SLA 1977)

Sec. 18.08.080. Regulations. The department shall adopt, with the concurrence of the Department of Public Safety, regulations establishing standards and procedures for the issuance, renewal, reissuance, revocation, and suspension of certificates required under AS 18.08.084, as well as other regulations necessary to carry out the purposes of this chapter. (§ 1 ch 100 SLA 1977; am § 1 ch 78 SLA 1978)

Cross references. — As to the power of a municipality to provide emergency medical services and facilities, see AS 29.48.030 (a)(23). As to the authority of a municipality to provide emergency medical services outside its boundaries and to regulate their use and operation, see AS 29.48.037(a).

Effect of amendments. — The 1978 amendment rewrote this section.

Sec. 18.08.082. Issuance of certificates. (a) The department shall prescribe by regulation a course of training or other requirements prerequisite to the issuance of certificates which provide for the following.

(1) certifies that a person meets the training and other requirements as an emergency medical technician;

(2) authorizes an emergency medical technician certified under this chapter to provide under the written or oral direction of a physician those advanced life support services enumerated on the certificate;

(3) certifies that a person, organization, or government agency which provides an emergency medical service meets the minimum operating standards prescribed by the department; and

(4) authorizes an emergency medical service certified under this chapter to provide under the written or oral direction of a physician those advanced life support services enumerated on the certificate.

(b) The department shall be the central certifying agency for personnel certified under (a)(1) and (2) of this section and under regulations adopted under AS 18.08.080. (§ 2 ch 78 SLA 1978)

Sec. 18.08.084. Certificate required. (a) No person may represent himself, nor may an agency or business represent an agent or employee of that agency or business, as an emergency medical technician certified by the state unless the person represented is certified as an emergency medical technician under AS 18.08.082.

(b) No person, organization, or government agency may represent itself as an emergency medical service or ambulance service certified by the state unless the person, organization, or government agency is certified as an emergency medical service under AS 18.08.082.

(c) No person may provide, offer, or advertise to provide advanced life support services outside a hospital unless authorized by law.

(d) No person, organization, or government agency which provides, offers, or advertises to provide an emergency medical service may provide advanced life support services unless authorized under AS 18.08.082. (§ 2 ch 78 SLA 1978)

Sec. 18.08.086. Immunity from liability. (a) No person certified under AS 18.08.082, or person or public agency which employs, sponsors or controls the activities of persons certified under AS 18.08.082, who administers emergency medical services to an injured or sick person may be liable for civil damages as a result of an act or omission in administering those services, if done in good faith and if the life of the injured or sick person is in danger. This subsection does not preclude liability for civil damages which is the proximate result of gross negligence or intentional misconduct, nor preclude imposition of liability on a person or public agency which employs, sponsors, or controls the activities of persons certified under AS 18.08.082 if the act or omission is a proximate result of a breach of duty to act created under this chapter. For the purposes of this subsection, "gross negligence" means reckless, wilful, or wanton misconduct.

(b) No physician who in good faith arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to another hospital may be liable for civil damages as a result of arranging, requesting, recommending, or initiating the transfer if

(1) in the exercise of that degree of knowledge or skill possessed, or that degree of care ordinarily exercised by physicians practicing the same specialty in the same or similar communities to that in which the physician is practicing, the physician determines that treatment of the patient's medical condition is beyond the capability of the transferring hospital or the medical community in which the hospital is located;

(2) the physician has confirmed that the receiving facility is more capable of treating the patient; and

(3) the physician has secured a prior agreement from the receiving facility to accept and render the necessary treatment to the patient.

(c) No registered nurse or licensed practical nurse who escorts a patient in a means of conveyance not equipped as an ambulance may be liable for civil damages as a result of an act or omission in administering patient care services, if done in good faith and if the life of the injured or sick person is in danger. This subsection does not preclude liability for civil damages which are the result of gross negligence or intentional misconduct. (§ 2 ch 78 SLA 1978)

Collateral references. — Liability of hospital operating ambulance for personal injuries to person being transported. 21 ALR2d 915.

Hospital's liability as to diagnosis and care of patients brought to emergency ward. 72 ALR2d 396.

Application of rule of strict liability in tort to person or entity rendering medical services. 100 ALR3d 1205.

Sec. 18.08.088. Penalty. A person who violates a provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than 90 days, or by both. Each violation is a separate offense. (§ 2 ch 78 SLA 1978)

Revisor's notes. — The words "A person" were substituted for "Any person" at the beginning of the first sentence by the revisor of statutes pursuant to AS 01.05.031.

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Sec. 18.08.090. Definitions. In this chapter,

(1) "commissioner" means the commissioner of health and social services;

(2) "consumer of emergency medical services" means a person who is not a provider of emergency medical services as defined in this section;

(3) "department" means the Department of Health and Social Services;

(4) "emergency medical services system" means a system which provides for the arrangement of personnel, facilities and equipment for the effective and coordinated delivery of health care services under emergency conditions, occurring either as a result of the patient's condition or of natural disasters or similar situations, and which is administered by a statewide network which has the authority and resources to provide effective administration of the system;

(5) "provider of emergency medical services" means a person whose occupation or profession is, or has been, the delivery or administration of emergency medical services; a person who has a fiduciary position with, or has a fiduciary interest in, a health activity, facility or other health agency, or a legal or financial interest in the rendering of any component of emergency medical services;

(6) "Statewide Health Coordinating Council" means the council created under AS 18.07.011;

(7) "advanced life support" means emergency care techniques provided under the written or oral orders of a physician which include, but are not limited to, electric cardiac defibrillation, administration of antiarrythmic agents, intravenous therapy, intramuscular therapy, or use of endotracheal intubation devices;

(8) "ambulance" means any publicly or privately owned means of conveyance intended to be used and maintained or operated for the transportation of persons who are sick, injured, wounded, or otherwise helpless;

(9) "emergency medical care" means the services utilized in responding to the perceived individual needs for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(10) "emergency medical technician" means a person trained in emergency medical care and certified in accordance with the regulations prescribed under AS 18.08.080;

(11) "emergency medical service" means the provision of emergency medical care and transportation of the sick and injured. (§ 1 ch 100 SLA 1977; am § 3 ch 78 SLA 1978)

Effect of amendments. — The 1978 amendment added paragraphs (7) through (11).

Chapter 10. Health Units and Districts.

Article
1. Health Units and Districts (§§ 18.10.010 — 18.10.050)
2. Consolidated Health Districts (§§ 18.10.060 — 18.10.260)

Article 1. Health Units and Districts.

Section
10. Local health unit and health board
20. Health unit in incorporated city
30. Health units in native villages and communities
40. Health districts
50. Commissioner of department to supervise local health boards

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Collateral references. — 39 Am. Jur. 2d, Health, §§ 4-7.

39A C.J.S., Health and Environment, §§ 7-15.

Delegation to board or officer of police power to require vacation, destruction, or repair of individual building deemed by such officer or board unsafe or unsanitary, apart from noncompliance with specific regulations. 114 ALR 446.

Extension of police power of municipal corporation beyond territorial limits. 14 ALR2d 103.

Validity and construction of statute requiring establishment of "need" as precondition to operation of hospital or other facilities for the care of sick people. 61 ALR3d 278.

Sec. 18.10.010. Local health unit and health board. Each community or settlement outside an incorporated city is a health unit. In each health unit there shall be a board of health composed of the president of the school board and two citizens of the unit selected by the school board. At least one of the members of the health board shall, where practicable, be a licensed physician. In a health unit where there is no school board, the commissioner of the department shall appoint three residents of the unit to the local board of health, at least one member of which shall, where practicable, be a licensed physician. (§ 1 ch 118 SLA 1949)

oxygen may be drawn from any compressor or holding tank at any reasonable time by an authorized agent of the department for analysis. (Eff. 3/1/78, Reg. 65; am 9/1/82, Reg. 83)

Authority: AS 18.05.040

7 AAC 25.450. OPERATION OF COMPRESSORS. Repealed 9/1/82.

7 AAC 25.460. DEFINITIONS FOR 7 AAC 25.430 – 7 AAC 25.460. In 7 AAC 25.430 – 7 AAC 25.460

(1) "compressed oxygen" means elementary gaseous oxygen (O_2) that is free of all other substances;

(2) "department" means the Department of Health and Social Services;

(3) "registration" means notification in writing to the department's Division of Public Health regarding intent to engage in sale of compressed oxygen;

(4) "sale" means the transfer of ownership for consideration and includes the actual transmittal of money or coupons, or the supplying of compressed gases in conjunction with the sale of another product, service or membership as a bonus. (Eff. 3/1/78, Reg. 65; am 9/1/82, Reg. 83)

Authority: AS 18.05.040

CHAPTER 26.
EMERGENCY MEDICAL SERVICES

Article

1. Emergency Medical Technicians and Emergency Medical Technician Instructors (7 AAC 26.010–7 AAC 26.170)
2. Emergency Medical Services Outside Hospitals (7 AAC 26.210–7 AAC 26.290)

ARTICLE 1.
EMERGENCY MEDICAL TECHNICIANS AND EMERGENCY MEDICAL TECHNICIAN INSTRUCTORS

Section

10. Purpose
20. Application for certification
30. Qualifications for certification
40. Scope of certified activities
50. Approved training courses
60. Administration of examinations
70. Examinations for initial certification
80. Testing fees
90. Initial certification examination failure
100. Term of certification
110. Recertification
120. Examinations for recertification
130. Recertification examination failure; lapse of certification
140. Grounds for suspension, revocation or refusal to issue a certificate
150. Comity
160. Persons practicing as emergency medical technicians or instructors before July 1, 1982
170. Definitions

7 AAC 26.010. PURPOSE. The purpose of 7 AAC 26.010 –7 AAC 26.170 is to promote the health and safety of the people of Alaska by establishing uniform minimum standards for emergency medical technicians. Nothing in 7 AAC 26.010 – 7 AAC 26.170 is intended to prohibit a physician from authorizing a drug or procedure in an emergency situation which is not specifically covered by the certification of emergency medical technicians I, II, or III. (Eff. 12/31/81, Reg. 80)

Authority: AS 18.08.080

7 AAC 26.020. APPLICATION FOR CERTIFICATION. (a) A person applying for certification as an emergency medical technician I, emergency medical technician II, emergency medical technician III, emergency medical technician I instructor, emergency medical technician II instructor, or emergency medical technician III instructor shall apply in writing to the department.

(b) The application will be provided by the department and must contain the person's name, age, and mailing and geographical address (if different), evidence that the person meets the requirements of 7 AAC 26.030, and any other information the department considers necessary.

(c) A certificate for the appropriate level will be issued by the department when the person has met the requirements of the level applied for in 7 AAC 26.030. (Eff. 12/31/81, Reg. 80)

Authority: AS 18.08.080

7 AAC 26.030. QUALIFICATIONS FOR CERTIFICATION. (a) A person applying for certification as an emergency medical technician I must

(1) be 18 years of age or older;

(2) provide verification of active or intended involvement with an ambulance service, rescue service, or other organization having ancillary emergency health or patient care responsibilities, or otherwise demonstrate a need for certification;

(3) be of acceptable moral character;

(4) have successfully completed a department-approved emergency medical technician I training program; and

(5) pass, within six months after completing the training program, the written and practical examination for emergency medical technician I administered by the department.

(b) A person applying for certification as an emergency medical technician II must

(1) meet all of the qualifications for an emergency medical technician I set out in (a) of this section;

(2) have successfully completed a department-approved emergency medical technician II training program;

(3) within 30 days after completion of the course, have successfully completed 10 venipunctures, of which two must be with catheter-covered needles; all venipunctures must be witnessed by an individual above the EMT-II level who is certified or licensed to perform venipunctures; and

(4) pass, within six months after completing the training program, the written and practical examination for emergency medical technician II administered by the department.

(c) A person applying for certification as an emergency medical technician III must

(1) meet all of the qualifications for an emergency medical technician I and II as set out in (a) and (b) of this section;

(2) have successfully completed a department-approved emergency medical technician III training program; and

(3) pass, within six months after completing the training program, the written and practical examination for emergency medical technician III administered by the department.

(d) A person applying for certification as an emergency medical technician I instructor must have successfully completed a department-approved emergency medical technician I instructor training program.

(e) A person applying for certification as an emergency medical technician II instructor must be a physician, registered nurse, physician assistant, or paramedic, and have at least one year of emergency medical services teaching experience or one year of experience supervising EMTs.

(f) A person applying for certification as an emergency medical technician III instructor must be a physician, registered nurse, physician assistant, or paramedic with training in advanced cardiac life-support and have at least one year of

emergency medical services teaching experience or one year of experience supervising EMTs. (Eff. 12/31/81, Reg. 80)

Authority: AS 18.08.080

Regulations / Re - Ambulances

in topics included in the curricula for emergency medical technician I, II, or III which may be presented using critiques, didactic sessions, practical drills, workshops, or seminars; additional topics for continuing education include, but are not necessarily limited to: communications, air-ambulance emergency care, child abuse, rape intervention, industrial accidents, explosion injuries, electrical hazards, neonatal care/ sudden infant death syndrome (SIDS), battered wives, crime scene response, athletic injuries, rapelling, hazardous materials, protective breathing apparatus, farm machinery extrication, medical terminology, radioactive materials, medicolegal aspects, and special rescue (diving, aerial, mountain);

(5) "department" means Department of Health and Social Services;

(6) "direct or indirect supervision of a physician" means that a physician, who can legally practice medicine in Alaska, has authorized the medical care provided by EMTs either by direct voice contact or by written standing orders;

(7) "emergency medical technician" means a person trained in emergency medical care and certified in accordance with this chapter;

(8) "EMT" means emergency medical technician;

(9) "expert instructor" means a person with a demonstrated proficiency in an appropriate subject area, approved on an individual basis by the department (preferably a physician, nurse, physician assistant, or paramedic); an expert instructor is not necessarily a person who is certified as an EMT instructor by the department;

(10) "other organizations having ancillary emergency health or patient care responsibilities" means an organization such as, but not necessarily limited to, the United States Forest Service, a logging camp, the Alaska Railroad, or a pipeline camp, that must provide services to individuals needing immediate medical care in order to prevent loss of life or aggravation of psychological or physiological illness or injury;

(11) "refresher course" means a course, at least 24 hours in length, which includes didactic and practical skills appropriate for emergency medical technicians I, II, or III, which includes at least the following topics: cardipulmonary resuscitation (CPR), traction splinting, backboard, vital signs, patient evaluation, run reports, and updates on medical equipment information and use of oxygen equipment and bag masks. (Eff. 12/31/81, Reg. 80)

Authority: AS 18.08.080

ARTICLE 2.
EMERGENCY MEDICAL SERVICES OUTSIDE HOSPITALS

Section
210. Purpose
220. Application for certification
230. Qualifications for certification
240. Scope of certified activities
245. Reporting requirements
250. Term of initial certification
260. Recertification
270. Grounds for suspension, revocation, or refusal to issue a certificate
280. Actions not prohibited
290. Definitions

7 AAC 26.210. PURPOSE. The purpose of 7 AAC 26.210 – 7 AAC 26.290 is to promote the health and safety of the people of Alaska by setting minimum standards for an organization which provides, offers, or advertises to provide basic or advanced life-support emergency medical services outside a hospital. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

7 AAC 26.220. APPLICATION FOR CERTIFICATION. (a) An applicant for certification as an emergency medical service shall apply in writing to the department.

(b) The application form will be provided by the department and must contain the name of the organization and responsible official, the mailing address and, if different, the geographical address, evidence that the applicant meets the requirements of 7 AAC 26.230, and other information the department considers necessary.

(c) A certificate will be issued by the department if the applicant satisfies the requirements of 7 AAC 26.230. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

7 AAC 26.230. QUALIFICATIONS FOR CERTIFICATION. (a) An applicant for certification as an emergency medical service providing basic life-support outside a hospital

(1) shall list available emergency medical technicians I, and ensure that at least one emergency medical technician I, and one other person to act as driver when using a surface transportation vehicle, will be available to respond to emergencies 24 hours a day;

(2) must have a sponsoring physician;

(3) must have a direct communications capability with a physician, hospital, or mid-level practitioner such as a physician assistant or nurse practitioner, unless the department grants a waiver because of technical communications problems;

(4) must have appropriat equipment to perform basic life-support medical procedures; and

(5) must have a program of continuing education which will enable its certified emergency medical personnel to meet state recertification requirements.

(b) An applicant for certification as an emergency medical service providing advanced life-support outside a hospital

(1) shall list available, certified personnel, such as emergency medical technicians II, emergency medical technicians III, mobile intensive care paramedics, or other personnel, including registered nurses or physicians, who may respond to medical emergencies on a regular basis;

(2) must have an emergency medical technician II or III, mobile intensive care paramedic, or other medical personnel certified or licensed to provide advanced life-support (e.g., registered nurse, physician's assistant, or physician), and at least one other person trained to at least the emergency medical technician I level to act as driver when using a surface transportation vehicle, available to respond to emergency calls 24 hours a day;

(3) must have a sponsoring physician;

(4) must have a direct communications capability with a physician, hospital, or mid-level practitioner, unless the department grants a waiver because of technical communications problems;

(5) must have appropriate equipment to perform basic and advanced life-support medical procedures within the skill levels of availal e certified personnel; and

(6) must have a program of continuing educatio' which will enable the certified emergency medical personnel to meet state recertification requirements. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

7 AAC 26.240. SCOPE OF CERTIFIED ACTIVITIES. (a) A certified emergency medical service may provide, offer, or advertise to provide those basic or advanced life-support services which are within the capabilities of available certified or licensed personnel, and authorized by the sponsoring physician.

(b) Certified emergency medical services under this section may provide services on air medevacs whenever this is the most suitable means of transporting the patient. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

7 AAC 26.245. REPORTING REQUIREMENTS. (a) A certified emergency medical service providing either basic life-support or advanced life-support outside a hospital must complete an approved EMS report form for each patient treated. The report form must document vital signs and medical treatment given the patient.

(b) A copy of the completed EMS form must

(1) accompany the patient to the treatment facility;

(2) be sent to the sponsoring physician; and

(3) be kept by the EMS service as a permanent record.

(c) The sponsoring physician shall periodically review the EMS reports he or she receives to

determine the appropriateness of treatment given. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

Editor's Note: The EMS report forms referred to in 7 AAC 26.245 may be obtained from the Emergency Medical Services Section, Division of Public Health, Department of Health and Social Services, Pouch H-06, Juneau, Alaska 99811.

7 AAC 26.250. TERM OF INITIAL CERTIFICATION. An initial certification expires on December 31 of the year following the year in which it was issued. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

7 AAC 26.260. RECERTIFICATION. (a) To renew a certification, an applicant must complete and submit an application on a form provided by the department, showing that the applicant continues to meet the applicable requirements in 7 AAC 26.230.

(b) A recertification is valid for two years, and is subject to renewal under (a) of this section. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

7 AAC 26.270. GROUNDS FOR SUSPENSION, REVOCATION, OR REFUSAL TO ISSUE A CERTIFICATE. The department, after compliance with the Administrative Procedure Act (AS 44.62.), will, in its discretion, revoke, suspend, or refuse to issue a certificate

(1) for fraud or deceit in obtaining a certificate under 7 AAC 26.210 – 7 AAC 26.290;

(2) for gross misconduct by personnel of the emergency medical service providing basic or advanced life-support services;

(3) if a sponsoring physician is no longer sponsoring the emergency medical service; or

(4) for failure to maintain appropriate equipment or communications capability. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

7 AAC 26.280. ACTIONS NOT PROHIBITED. (a) Nothing in 7 AAC 26.210 – 7 AAC 26.290 prohibits a person certified above the EMT I level from using authorized skills. For example, a physician or a mobile intensive care paramedic, working with a basic life-support emergency medical service, is not precluded from using his or her skills when authorized by law.

(b) Nothing in 7 AAC 26.210 – 7 AAC 26.290 prohibits an uncertified person from responding to a medical emergency when no certified personnel or services are present or available, or when there are too many victims for available certified personnel to treat. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

7 AAC 26.290. DEFINITIONS. Unless the context indicates otherwise, in 7 AAC 26.210 – 7 AAC 26.290

(1) "advanced life-support" means emergency care and stabilization techniques provided under the written or oral orders of a physician which may include, but are not limited to, electric cardiac defibrillation, administration of anti-arrhythmic agents, intravenous therapy, intramuscular therapy, or use of endotracheal intubation devices;

(2) "air medevacs" means transporting emergency patients via fixed or rotary wing aircraft with at least one certified emergency medical responder in attendance;

(3) "appropriate equipment to perform basic life-support emergency medical procedures" means the basic ambulance equipment recommended by the American College of Surgeons (unless a specific exception is granted by the department);

(4) "appropriate equipment to perform basic and advanced life-support emergency procedures" means the basic ambulance equipment recommended by the American College of Surgeons (unless a specific exception is granted by the department), plus any additional equipment necessary to carry out the advanced life-support procedures offered by the emergency medical service including, but not necessarily limited to, esophageal obturator airways, defibrillator monitors, and intravenous supplies;

(5) "basic life-support" means noninvasive emergency care and stabilization techniques provided by emergency medical technicians under the direct or indirect supervision of a physician, either by voice contact or written standing orders;

(6) "department" means the Department of Health and Social Services;

(7) "emergency medical services" means the provision of emergency medical care and transportation of the sick and injured;

(8) "emergency medical technician" means a person trained in emergency medical care and certified in accordance with 7 AAC 26.010 – 7 AAC 26.170;

(9) "EMS" means emergency medical services;

(10) "EMS communications capability" means point-to-point voice communications between EMS responders in the field and a higher-level medical facility, including clinics with mid-level practitioners, or hospitals;

(11) "mobile intensive care paramedic" means a person trained in advanced life-support emergency medical care and certified in accordance with AS 08.64.107;

(12) "organization which provides basic or advanced life-support emergency medical services outside a hospital" means an organization, such as an ambulance service, rescue squad, fire department, medevac service, or other emergency medical service which has as one of its primary functions the provision of basic or advanced life-support emergency medical services;

(13) "responsible official" means the chief of the fire department or ambulance service, or any person who has administrative responsibility for the operations of the emergency medical service; and

(14) "sponsoring physician" means a physician who is authorized to practice medicine in the state and has agreed to be responsible for the activities of the emergency medical service including, but not necessarily limited to, approving the types of medical procedures which may be performed by the EMS service. (Eff. 3/3/83, Reg. 85)

Authority: AS 18.08.080

Editor's Note: A list of the basic ambulance equipment recommended by the American College of Surgeons, referred to in 7 AAC 26.290(3) and (4), may be obtained from the Emergency Medical Services Section, Division of Public Health, Department of Health and Social Services, Pouch H-06, Juneau, Alaska 99811.

Salaries

Statewide Certificat/Instructors $ 19, 18, 18
Range 17, (9+8)

Mark Johnson - Administrator of Office of EMS
$ 51,800

* * * * * DEPARTMENT OF HEALTH & SOCIAL SERVICES * * * * *

SHORT FORM PAGE	BUDGET COMPONENT	FY83 ATH	CONT.	GOVERNOR	GOV.AMD.	HOUSE	HOUSE - GOV.AMD. COMPARISON	
154	IMMUNIZATION	424.4	424.7	424.7	683.5	683.5		
156	EPIDEMIOLOGY	407.7	453.1	453.1	453.1	432.9	-20.2	-4.5%
	*** PROGRAM TOTAL ***	1912.7	2009.0	2009.0	2267.8	2232.2	-35.6	-1.5%
	HEALTH & SAFETY							
160	HEALTH & SAFETY	169.0	172.9	99.3	99.3	99.3		
	CHILD AND FAMILY HEALTH							
164	MATERNAL CHILD HEALTH	1449.4	1042.0	1022.0	1022.0	1090.9	68.9	6.6%
166	HANDICAPPED CHILDREN	1847.0	2000.4	2000.4	2000.4	1999.5	-0.9	0.0%
168	COMMUNICATIVE DISORDERS	715.3	716.1	654.7	654.7	710.6	55.9	8.5%
170	CHILD DEVELOPMENT SERVICE	356.8	377.7	377.7	377.7	372.5	-5.2	-1.3%
172	ADMINISTRATION	191.1	179.5	179.5	179.5	175.7	-3.8	-2.0%
174	NUTRITION	1534.6	1583.9	2033.9	2033.9	2030.3	-3.6	-0.1%
176	SPECIAL EDUCATION GRANTS	1313.1	1382.7	1309.0	1354.5	2040.7	686.2	50.6%
	*** PROGRAM TOTAL ***	7407.3	7282.3	7577.2	7622.7	8420.2	797.5	10.5%
	LABORATORIES							
180	REGIONAL LABS	1708.3	1767.9	1767.9	1893.7	1857.3	-36.4	-1.9%
182	ADMINISTRATION	163.4	168.2	168.2	168.2	165.8	-2.4	-1.3%
	*** PROGRAM TOTAL ***	1871.7	1936.1	1936.1	2061.9	2023.1	-38.8	-1.8%
	PUBLIC HEALTH ADMINISTRATION							
186	ADMINISTRATION	1186.4	1303.6	1043.0	1082.0	984.8	-97.2	-9.0%
188	HEALTH EDUCATION	503.9	470.0	470.0	495.0	469.4	-25.6	-5.1%
190	GRANT TO MUNICIPALITY OF ANCH	939.1	995.5	939.1	939.1	924.1	-15.0	-1.5%
192	ANCH PROGRAMS/HANDICAPPED	576.8	611.4		576.8		-576.8	-100.0%
194	FBKS PROGRAMS/HANDICAPPED	80.0			80.0		-80.0	-100.0%
	*** PROGRAM TOTAL ***	3286.2	3380.5	2452.1	3172.9	2378.3	-794.6	-25.0%
	EMERGENCY MEDICAL SERVICES							
198	ADMINISTRATION	428.4	439.7	439.7	439.7	429.0	-10.7	-2.3%
200	ADVISORY COUNCIL	26.9	28.5	16.2	16.2	16.1	-0.1	-0.5%
202	GRANTS-REGIONAL COUNCILS	1376.0	1458.6	1376.0	1376.0	1458.6	82.6	6.0% request 1676.5
	*** PROGRAM TOTAL ***	1831.3	1926.8	1831.9	1831.9	1903.7	71.8	3.8%
206	HEALTH CLINICS	660.3	699.9		600.0	600.0		
210	DOYON REGION CLINICS	356.0						
	ALCOHOL/DRUG ABUSE ADMIN							
214	ALCOHOL/DRUG ABUSE ADMIN	1550.6	1534.4	1534.4	1534.4	1521.8	-12.6	-0.7%
	DRUG ABUSE GRANTS							
218	DRUG ABUSE GRANTS	1550.0	1643.0	1550.0	1550.0	1550.0		
	ALCOHOL ABUSE GRANTS							
222	ALCOHOL ABUSE GRANTS	13672.8	13173.7	12513.2	12513.2	13076.2	563.0	4.5%
226	ALASKA PSYCHIATRIC INSTITUTE	11793.8	12023.4	12525.6	12525.6	13216.5	690.9	5.5%
230	FORENSIC TREAT & EVAL SERV	832.8	1097.1	2597.1	1097.1		-1097.1	-100.0%
	COMM MH SERVICES							
234	REGIONAL ADMINISTRATION	297.7	977.5	624.4	977.5	1577.5	600.0	61.3%
236	JUNEAU REGIONAL M H CLINIC	400.3						
238	COMMUNITY M H GRANTS	4167.9	4686.1	4446.2	5750.9	4604.0	-1146.9	-19.8%
	*** PROGRAM TOTAL ***	4865.9	5663.6	5070.6	6728.4	6181.5	-546.9	-8.0%

INTERIOR REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC.

P.O. BOX 2120 • FAIRBANKS, ALASKA 99707
PHONE (907) 456-3976

May 10, 1983

Representatives Milo Fritz, M.D. and Mae Tischer,
Co-Chairs House Health, Education and Social Services
Pouch V
Juneau, Alaska 99801

Dear Representatives,

As a committee who has worked together as hard and as long as you have this session, I am sure you have seen countless priorities from across the State of Alaska. Today you will be discussing Sponsor Substitute for House Resolution No. 6. This resolution discusses priorities from across the State of Alaska.

The Alaska Municipal League passed a similar resolution in November of 1982. The Governor's Advisory Council on Emergency Medical Services has approved the content of the request the FY 84. These requests came from every corner of the State of Alaska and are submitted to the Department of Health and Social Services. The communities within the State request their needs for Emergency Medical Services through this granting procedure.

The granting procedure is approved through City Councils, Village Councils, Regional delegations from health and health education advisory boards, Physician specialists, school boards, State and Federal agencies, clinics, hospitals, businesses, Legislature, and countless other citizens of the State of Alaska.

The State of Alaska has one of the finest Emergency Medical Services System in the United States. Our statues and regulations allow certification and training to primarily volunteer citizens and rescue squads throughout the State. In Alaska, the standard testing scores indicating level of knowledge and skill as Emergency Medical Technicians is above the United States average. Currently, the State is providing just over two million dollars statewide to operate the Emergency Medical Services System within the State.

The total funds have been approved through the Governor's Office and Alaska Legislature. This year appropriations through the Governor's Office and Alaska Legislature do not equal the approprations last year. The statues and regulations require training and recertification of Emergency Medical Technicians and Emergency Medical Technician Instructors. This year Lt. Governor McAlpine signed regulations approving the certification of ambulances The Emergency Medical Services System provides these certifications.

This certification system as well as the rescue squads, volunteers, communities, tourists, and all others will feel the appropriation cut in the event of emergencies. The appropration is different in the three budgets and this is could be alleviated if a single source funding strategy could be developed.

If the State of Alaska consolidated the source of funding it would be easier to coordinate and evaluate the program progress and priorities with the State's priority goals and objectives. Historically the Legislature has had to supplement the Governor's Budget in order to meet statewide needs. A unified funding level statewide approved by the three governing bodies would ease problems in implementing life threatening problems throughout the state. The free conference committee action would have little debate on the Emergency Medical Service funding level as all three budgets would correspond to each other.

The communities and volunteers within the Interior Region contributed and donated a documented one million dollars in calendar year 1982. The documented figures are from only ten ambulance squads of the near eighty squads statewide. This region is 200,000 square miles and covers only House Districts 17, 18, 19, 20, 21 and 24. If the communities and citizens of the state are contributing this much from the Interior Region, statewide would of course be a much larger figure.

The discrepancies in the budget figures would be at the level of funding it was last year at least, if it were not for the confusing funding sources. The breath that is lost or the heart that does not beat needs immediate and precise procedures to help alleviate the problem. The funding source and priority behind it should also be as direct.

Sincerely yours,

Jeanne E. Ostnes

Jeanne E. Ostnes
Executive Director

HCR

14

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY: HCR 14 Extending the life of the Regional Education Attendance Area Budget Oversight Committee

Pg. 1 L 9-13: Creation of Oversight Committee to act as a borough assembly to the unorganized borough schools to provide similar functions as in the municipal school systems.

Pg. 1 L 14-15:

Year	Total $	Balance
FY 80 Approp.	$125,000	$124,041
FY 81 Carry-over from '80	$124,041	$ 2,286 (lapsed)
FY 82 Approp.	$125,000	$ 11 (lapsed)
FY 83 Approp.	$100,000	$ 22,500 (present balance)
Additions		
FY 82 Budget Item	$170,000	$ -463 (drop out study)
FY 82 Supplemental	$125,000	$124,536 (present balance)

Pg. 1 L 16-20: Hearings held in Juneau and Anchorage.

Pg. 1 L 21-24: Reports to Legislature, Feb. 82, March 82 & Jan. 83.

Pg. 1 L 25-27: Groundwork and problem areas isolated in reports; district by district summaries; break down in detail on individual school basis.

Pg. 1 L 28-
Pg. 2 L 3: Continue existence through June 30, 1984.

Pg. 2 L 4-6: Requiring review of district operating budgets by Aug. 15.

Pg.2 L 7-9: REAA Budget Oversight shall review findings of DOE regarding district budget reports.

2/10/83

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

February 4, 1983

M E M O R A N D U M

TO: Linda Otey, Professional Assistant
House HESS Committee

FROM: Pat Williams
Legislative Finance Division

SUBJECT: Account 32-92-1-254 REAA Oversight Committee

As requested, the following is information you requested on expenditures of the REAA Oversight Committee:

FISCAL YEAR 1983 (July 1, 1982 - June 30, 1983)

	Authorization	Expenditures*	Balance
Personal Services	60,000	59,430	570
Travel	20,000	3,279	16,721
Contractual	16.000	2,041	13,959
Commodities	2,000	436	1,564
Equipment	2,000	12,264	(10,264)
	100,000	77,450	22,550

*Expenditures through 1/31/83. The current monthly payroll for this account is running approximately $9,200 per month (see attached).

FISCAL YEAR 1982 (July 1, 1981 - June 30, 1982)

Personal Services	66,000	81,516	(15,516)
Travel	20,000	20,998	(998)
Contractual	36,000	20,371	15,629
Commodities	2,000	2,104	(104)
Equipment	1,000	Ø	1,000
	125,000	124,989	11

31-Q1LH

FISCAL YEAR 1981 (July 1, 1980 - June 30, 1981)

	Authorization	Expenditures	Balance
Personal Services	99,041	98,165	876
Travel	10,000	12,282	(2282)
Contractual	15,000	9,554	5446
Commodities	ø	850	(850)
Equipment	ø	904	(904)
	124,041	121,755	2286

(This was a carry-over appropriation from HB 60 adopted in June 1980 (Fiscal Year 1980)

FISCAL YEAR 1980 (July 1, 1979 - June 30, 1980)

Personal Services	100,000	959	99,041
Travel	10,000	ø	10,000
Contractual	15,000	ø	15,000
Commodities	ø	ø	ø
Equipment	ø	ø	ø
	125,000	959	124,041

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

February 7, 1983

M E M O R A N D U M

TO: Linda Otey, Professional Assistant
House HESS Committee

FROM: Pat Williams Pat
Legislative Finance Division

SUBJECT: Study Accounts pertaining to REAA Activities

As requested, the following is a breakdown of monies expended from monies appropriated to Legislative Finance for REAA studies:

REAA DROP-OUT STUDY

FY 1982

	Authorization	Expenditures	Balance
Personal Services	122,050	125,069	(3,019)
Travel	19,910	44,636	(24,726)
Contractual	24,240	453	23,787
Commodities	4,200	453	3,747
Equipment	0	252	(252)
	170,400	170,863	(463)

In June 1982, $125,000 was appropriated to Legislative Finance for a study of REAA facility Operations and Maintenance Costs. It had a Fiscal Year 1982 effective date (June 29, 1982) and was treated for accounting purposes as a "supplemental." Thus, the appropriation was penalized the $463 overrun incurred by the Drop-Out study.

No expenditures have been made from the Operations & Maintenance study. There is a current balance of $124,536.70.

FY 1982

* * * * HOUSE ANALYSIS * * * *

GOVERNORS REC $2,290.7

OBJECT GROUP	VARIATION		DESCRIPTION: HOUSE VERSUS GOVERNOR
01 PERS. SERV.	206.2	14.9%	FUND 174.7 THREE ADDITIONAL PERMANENT STAFF, 31.5 FOR TWO ADDITIONAL TEMPORARY POSITIONS.
02 TRAVEL	7.0	24.5%	FUND 7.0 TRAVEL FOR SENATE FINANCE CO-CHAIRMAN AND VICE CHAIRMAN HOUSE FINANCE.
03 CONTRACTUAL	21.4	2.5%	FUND CONTRACTUAL ADDITIONAL 21.4 FOR OFFICE COSTS HOUSE/SENATE FINANCE.
04 COMMODITIES	4.4	44.4%	FUND COMMODITIES ADDITIONAL 4.4 FOR OFFICE COSTS HOUSE/SENATE FINANCE.
** TOTAL	239.0	10.4%	

HOUSE FIGURE $2,529.7

* * * * SENATE ANALYSIS * * * *

GOVERNORS REC $2,290.7

OBJECT GROUP	VARIATION		DESCRIPTION: SENATE VERSUS GOVERNOR
01 PERS. SERV.	206.2	14.9%	FUND 174.7 THREE ADDITIONAL PERMANENT STAFF, 31.5 FOR TWO ADDITIONAL TEMPORARY POSITIONS.
02 TRAVEL	7.0	24.5%	FUND 7.0 TRAVEL FOR SENATE FINANCE CO-CHAIRMAN AND VICE CHAIRMAN HOUSE FINANCE.
03 CONTRACTUAL	351.8	41.4%	FUND CONTRACTUAL ADDITIONAL 21.4 FOR OFFICE COSTS HOUSE/SENATE FINANCE, FUND LEGISLATIVE OVERSIGHT COMMITTEE ON IMPROVEMENTS TO AVIATION TRANSPORTATION 160.0, FUND REAA LEGISLATIVE OVERSIGHT COMMITTEE TO PURCHASE DROP-OUT STUDY OF RURAL STUDENTS 170.4.
04 COMMODITIES	4.4	44.4%	FUND COMMODITIES ADDITIONAL 4.4 FOR OFFICE COSTS HOUSE/SEANTE FINANCE.
** TOTAL	569.4	24.9%	

SENATE FIGURE $2,860.1

LEGISLATIVE INTENT:
$35,000 OF CONTRACTUAL IN THIS BUDGET IS DEDICATED TO REVISION OF THE PETROLEUM CASH FLOW MODEL.

#1

ORIGINAL APPROP.

the Alaska Native Hospital in Anchorage.

~~* Sec. 174. The sum of $268,000 is appropriated from the general fund for payment as a grant to the City of Kotzebue for a land conveyance program.~~

~~* Sec. 175. The sum of $100,000 is appropriated from the general fund for payment as a grant to the City of Kotzebue for the local government assistance program.~~

* Sec. 176. The sum of $700,000 is appropriated from the general fund to the University of Alaska for Chukchi Community College for operating expenses.

* Sec. 177. The sum of $25,000 is appropriated from the general fund for payment as a grant to the City of Nome for the medical communication contingency fund.

* Sec. 178. The sum of ~~$1,945,100~~ 1,400,000 is appropriated from the general fund for payment as a grant to the City of Kotzebue for health and social service delivery programs.

* Sec. 179. The sum of $125,000 is appropriated from the general fund to the division of legislative finance for the Regional Educational Attendance Area Budget Oversight Committee for a study on regional educational attendance area school district facility operations and maintenance costs.

* Sec. 180. The sum of ~~$1,166,000~~ 866,000 is appropriated from the general fund to the Department of Education for payment as a grant to the Kotzebue Technical Center for operating expenses.

* Sec. 181. The sum of $250,000 is appropriated from the general fund for payment as a grant to the City of Sheldon Point for a combined facility.

* Sec. 182. The sum of $280,000 is appropriated from the general fund for payment as a grant to the City of Nome for emergency medical services and equipment.

* Sec. 183. The sum of $250,000 is appropriated from the general fund for payment as a grant to the North Slope Borough for whale research.

* Sec. 184. The sum of $200,000 is appropriated from the general fund for

eff date 6/29/82
Lapse date 6/30/83

#2

SUMMARY OF REAA BUDGET OVERSIGHT COMMITTEE
REPORTS TO THE LEGISLATURE

Initial Report - February 1982:

Title: Report to the Legislature on REAA School Districts

A. Alaska State Operated Schools - ASOSS created in 1970

1) State corporation - separate from Department of Education
2) Administrative matters handled through Dept. of Administration
3) Local boards = 9 - 6 rural members

1971 - Alaska Native Claims Act
1975 - Transition to Rural Education Attendance Areas (REAA)

1) Governed by elected school boards from 5 - 11 members
2) Larger districts allowed to organize into school board sections according to population distribution, with one or more seats on the board
3) REAA powers limited - Legislature the only governing body
February 1980 - Budget Oversight Committee established by President of Senate and Speaker of House
4) New school boards obtained - same powers as municipalities and borroughs
5) Originally operated in consultation with community school committees - this was repealed to reduce differences between REAA's and other school districts

B. REAA District Profiles

C. Current Rural Education Issues

1) Maintenance & Operations
   a. $200 million - REAA school construction in 5 years
   b. 31% increase in Maintenance & Operations budget - excluding cost and salary increases
   c. high energy costs - fuel delivery and storage
   d. inefficient structures - energy waste
   e. BIA's to be transferred to State
2) Instructional television
   a. 1975 - 100 small earth stations purchased by Alaska
   b. 1980 - 81 - $15 million for instructional T.V. - funded by Legislature
3) Teacher housing
   a. some form of subsidized housing
   b. district phasing out of housing or in process of doing so
   c. some districts never involved because of:
      1. school board policy
      2. abundance of housing
   d. Adak housing provided for by Federal government; Pribilof housing provided for by National Marine Fishery Service

e. criticism regarding subsidized housing
    1. isolates teachers from community
    2. discourages locals from investing in rentals
    3. money should go directly to educating children
f. quality of teachers/teacher turnover - not adequately informed of housing situation
g. National Education Association (NEA) - Housing Task Force
h. district built 4 houses - Lower Kuskokwim - selling locally - purpose two-fold: educate students - vocational education to construct future units

4) District breakdown teacher concerns
5) School districts priorities and committments
6) Budgetary constraints regarding program development
7) Drop Out Study - by district began July 1981
    a. records from districts incomplete and in some cases nonexistant
    b. summer dropouts not recorded
    c. dropouts compared with transfers are unclear and not traceable
    d. Mr. Parrett, Univ. of Alaska Research Inst., rendered services
        1. had to rely on personal interviews as a main source of dropout information - used surveyors
    e. graduation requirements; compare suburban high school grad with REAA high school grad
        1. total number of required credits varied from 19 to 22 credits throughout districts
        2. 109 high schools (grades 7-12) 64 accredited, 45 are not
            a. Alaska schools not required to seek accreditation (voluntary on school by school basis) - Metlakatla's high academic core curriculum good example for rest of REAA's

Supplemental Report - March 1982:

Title: Supplemental Report to the Legislature on REAA School Districts

A. REAA budget management to be looked into in further detail:
    1) inadequate responses from REAA's
    2) negative press coverage of some district fund mismanagement
    3) parental requests
    4) enlighten committee and give direction to concerns re: REAA budgets

B. Resolves in Supplemental Report of March 82
    1) Resolution #1
        a. committee requested Budget & Audit to conduct audits of 21 REAA's for past 3 fiscal years (FY 81,80,79)
    2) Resolution #2
        a. all schools to pursue accreditation

b. recommend annual visitation on status of school and curriculum development - goal = minimum uniform standards
c. Department of Education - records of all graduation requirements and course offerings of each school
d. establish 13-14 level school program within REAA high schools
    1. college level courses - further understanding of prerequisites
    2. program umbrellaed by University - pilot program
        ie. Koyukon Development Corporation to be broker for post secondary education in the Koyukon Region for college credits and non-credit courses

3) Resolution #3
a. paraprofessionals work towards teacher accreditation
b. strong couselling efforts to encourage students to join teaching profession and return to their home communities
c. establishing teaching college in rural community
    1. rural students to enter teaching profession
    2. urban students to participate in endeavor to become acculturated to rural environment

January 1983 Report:

Title: Report to the Legislature - 1983

A. Background
B. Fiscal information for REAA's by district
C. Audits, Department of Education program finals
    1) Revenues and expenditures - budget comparisons
    2) Food service programs audited

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HCR - 17
Title An Act relating to the state medal for heriosm.
Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected State Libraries
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 191
Title An act relating to school board negotiations with certificated...
Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 196
Title An Act relating to provision of adequate housing for public schoo...
Requested by House HESS Date 2/16/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 194
Title An Act relating to the education of exceptional children; and...
Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 90
Title An Act transferring the administration of school or education-related...
Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected CIP Overhead
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		(59.1)	(62.7)	(66.5)		
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		(59.1)	(62.7)	(66.5)		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL		(59.1)	(62.7)	(66.5)		

POSITIONS

FULL TIME		(2)				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This reflects only the savings from transferring the function out of this department; this fiscal note does not represent the net cost of transferring the function to the Department of Transportation and Public Facilities.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HCR-14
Title Extending the life of the Regional Educ. Attendance Area Budget...
Requested by House HESS Date 2-2-83

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill has no fiscal impact on this department.

RECEIVED
FEB 3
LEGISLATIVE FINANCE

IV. DATE 2/3/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

3s- (Rev. 12/82)

OMB Reviewed by: Jerry Bryant OMB

REPRESENTATIVE DICK SCHULTZ

HCR #14

COMMENTS BEFORE HOUSE HESS

FEBRUARY 11, 1983

THE ALASKA STATE LEGISLATURE IS EMPOWERED BY ALASKA'S CONSTITUTION, ARTICLE 10, SECTION 6, TO ACT AS BOROUGH ASSEMBLY TO THE UNORGANIZED BOROUGH. THIS CREATES A PARTICULAR LEGISLATIVE RESPONSIBILITY WITH REGARD TO THE REAA SCHOOL DISTRICTS.

IN 1980, THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE SENATE APPOINTED MEMBERS TO A SPECIAL REGIONAL EDUCATION ATTENDANCE AREA BUDGET OVERSIGHT COMMITTEE. THE STATED FUNCTION OF THIS COMMITTEE WAS TO PROVIDE ACCOUNTABILITY FUNCTIONS SIMILAR TO THOSE WHICH MUNICIPALITIES EXERCISE OVER THEIR SCHOOL DISTRICTS.

THE REAA COMMITTEE HAS HELD EXTENSIVE HEARINGS DURING WHICH THE REAA SCHOOL DISTRICTS HAVE DISCUSSED FISCAL AND BUDGETARY CONCERNS.

THE COMMITTEE HAS REPORTED TO THE LEGISLATURE ON RURAL EDUCATIONAL ISSUES SUCH AS THE MONETARY AND EDUCATIONAL IMPACT OF TEACHER HOUSING AND TEACHER TURNOVER; THE COST OF SCHOOL DISTRICT COMMITMENT TO COMMUNITY AND NON-EDUCATIONAL SERVICES; BUDGETARY CONSTRAINTS ON PROGRAM DEVELOPMENT IN THE REAAS; AS WELL AS CONDUCTING ANNUAL FISCAL COMPARISONS OF THE REAAS BETWEEN FISCAL YEARS 1977 AND 1982.

AS THE NEWLY ELECTED CHAIRMAN OF THE SPECIAL JOINT REAA BUDGET OVERSIGHT COMMITTEE, I SEE AREAS IN WHICH THE COMMITTEES WORK SHOULD BE CONTINUED, AND IN SOME INSTANCES, EXPANDED.

PRESENTLY, SCHOOL DISTRICTS ARE REQUIRED TO SUBMIT THEIR FY 84 BUDGETS TO THE DEPARTMENT OF EDUCATION BY MAY 31, 1983.

THE PRESENT TIME FRAME AND THE POLICY OF THE PAST ADMINISTRATION MEANS THAT THESE BUDGETS HAVE BEEN BASICALLY CHECKED FOR ERRORS OF FORMAT AND CLERICAL ERRORS AND THEN RUBBER-STAMPED BY THE DEPARTMENT OF EDUCATION. I SEE THIS AS AN AREA IN WHICH THE COMMITTEE AND THE LEGISLATURE MUST FIND A SOLUTION.

HOUSE CONCURRENT RESOLUTION NO. 14 CONTAINS A RESOLUTION CLAUSE WHICH ASKS THE DEPARTMENT OF EDUCATION TO REVIEW AND RECOMMEND ACTION ON THE OPERATING BUDGETS OF REAAS BY AUGUST 15. THE REAA COMMITTEE WOULD THEN REVIEW THOSE FINDINGS. COMPLIANCE WITH THIS CLAUSE WOULD ALLOW THESE BUDGETS TO RECEIVE SOME SCRUTINY BY THE ADMINISTRATION.

AN ADDITIONAL CONCERN OF THE COMMITTEE IS THE BURDEN WHICH HIGH MAINTENANCE AND OPERATIONS COSTS IN THE REAAS PLACES ON THEIR INSTRUCTIONAL BUDGET AND ON THE STATE GENERAL FUND.

THE REAA COMMITTEE IS CONTINUING TO DEFINE ITS FUNCTION AND RESPONSIBILITIES IN FOLLOWING THE

INSTRUCTIONS GIVEN BY THE SPEAKER AND THE PRESIDENT IN 1980.

THANK YOU MR. CHAIRMAN.

SUMMARY OF REAA BUDGET OVERSIGHT COMMITTEE
REPORTS TO THE LEGISLATURE

Initial Report - February 1982:

Title: Report to the Legislature on REAA School Districts

A. Alaska State Operated Schools - ASOSS created in 1970

1) State corporation - separate from Department of Education
2) Administrative matters handled through Dept. of Administration
3) Local boards = 9 - 6 rural members

1971 - Alaska Native Claims Act
1975 - Transition to Rural Education Attendance Areas (REAA)

1) Governed by elected school boards from 5 - 11 members
2) Larger districts allowed to organize into school board sections according to population distribution, with one or more seats on the board
3) REAA powers limited - Legislature the only governing body
February 1980 - Budget Oversight Committee established by President of Senate and Speaker of House
4) New school boards obtained - same powers as municipalities and borroughs
5) Originally operated in consultation with community school committees - this was repealed to reduce differences between REAA's and other school districts

B. REAA District Profiles

C. Current Rural Education Issues

1) Maintenance & Operations
   a. $200 million - REAA school construction in 5 years
   b. 31% increase in Maintenance & Operations budget - excluding cost and salary increases
   c. high energy costs - fuel delivery and storage
   d. inefficient structures - energy waste
   e. BIA's to be transferred to State
2) Instructional television
   a. 1975 - 100 small earth stations purchased by Alaska
   b. 1980 - 81 - $15 million for instructional T.V. - funded by Legislature
3) Teacher housing
   a. some form of subsidized housing
   b. district phasing out of housing or in process of doing so
   c. some districts never involved because of:
      1. school board policy
      2. abundance of housing
   d. Adak housing provided for by Federal government; Pribilof housing provided for by National Marine Fishery Service

e. criticism regarding subsidized housing
   1. isolates teachers from community
   2. discourages locals from investing in rentals
   3. money should go directly to educating children
f. quality of teachers/teacher turnover - not adequately informed of housing situation
g. National Education Association (NEA) - Housing Task Force
h. district built 4 houses - Lower Kuskokwim - selling locally - purpose two-fold: educate students - vocational education to construct future units

4) District breakdown teacher concerns
5) School districts priorities and committments
6) Budgetary constraints regarding program development
7) Drop Out Study - by district began July 1981
   a. records from districts incomplete and in some cases nonexistant
   b. summer dropouts not recorded
   c. dropouts compared with transfers are unclear and not traceable
   d. Mr. Parrett, Univ. of Alaska Research Inst., rendered services
      1. had to rely on personal interviews as a main source of dropout information - used surveyors
   e. graduation requirements; compare suburban high school grad with REAA high school grad
      1. total number of required credits varied from 19 to 22 credits throughout districts
      2. 109 high schools (grades 7-12) 64 accredited, 45 are not
         a. Alaska schools not required to seek accreditation (voluntary on school by school basis) - Metlakatla's high academic core curriculum good example for rest of REAA's

<u>Supplemental Report - March 1982</u>:

Title: Supplemental Report to the Legislature on REAA School Districts

A. REAA budget management to be looked into in further detail:
   1) inadequate responses from REAA's
   2) negative press coverage of some district fund mismanagement
   3) parental requests
   4) enlighten committee and give direction to concerns re: REAA budgets

B. Resolves in Supplemental Report of March 82
   1) Resolution #1
      a. committee requested Budget & Audit to conduct audits of 21 REAA's for past 3 fiscal years (FY 81,80,79)
   2) Resolution #2
      a. all schools to pursue accreditation

b. recommend annual visitation on status of school and curriculum development - goal = minimum uniform standards
c. Department of Education - records of all graduation requirements and course offerings of each school
d. establish 13-14 level school program within REAA high schools
    1. college level courses - further understanding of prerequisites
    2. program umbrellaed by University - pilot program ie. Koyukon Development Corporation to be broker for post secondary education in the Koyukon Region for college credits and non-credit courses

3) Resolution #3
a. paraprofessionals work towards teacher accreditation
b. strong couselling efforts to encourage students to join teaching profession and return to their home communities
c. establishing teaching college in rural community
    1. rural students to enter teaching profession
    2. urban students to participate in endeavor to become acculturated to rural environment

January 1983 Report:

Title: Report to the Legislature - 1983

A. Background
B. Fiscal information for REAA's by district
C. Audits, Department of Education program finals
    1) Revenues and expenditures - budget comparisons
    2) Food service programs audited

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY: HCR 14 Extending the life of the Regional Education Attendance Area Budget Oversight Committee

Pg. 1 L 9-13: Creation of Oversight Committee to act as a borough assembly to the unorganized borough schools to provide similar functions as in the municipal school systems.

Pg. 1 L 14-15:

Year	Total $	Balance
FY 80 Approp.	$125,000	$124,041
FY 81 Carry-over from '80	$124,041	$ 2,[illegible] (lapsed)
FY 82 Approp.	$125,000	$ 11 (lapsed)
FY 83 Approp.	$100,000	$ 22,500 (present balance)
Additions		
FY 82 Budget Item	$170,000	$ -463 (drop out study)
FY 82 Supplemental	$125,000	$124,536 (present balance)

Pg. 1 L 16-20: Hearings held in Juneau and Anchorage.

Pg. 1 L 21-24: Reports to Legislature, Feb. 82, March 82 & Jan. 83.

Pg. 1 L 25-27: Groundwork and problem areas isolated in reports; district by district summaries; break down in detail on individual school basis.

Pg. 1 L 28-
Pg. 2 L 3: Continue existence through June 30, 1984.

Pg. 2 L 4-6: Requiring review of district operating budgets by Aug. 15.

Pg.2 L 7-9: REAA Budget Oversight shall review findings of DOE regarding district budget reports.

2/10/83

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

February 4, 1983

M E M O R A N D U M

TO: Linda Otey, Professional Assistant
House HESS Committee

FROM: Pat Williams
Legislative Finance Division

SUBJECT: Account 32-92-1-254 REAA Oversight Committee

As requested, the following is information you requested on expenditures of the REAA Oversight Committee:

FISCAL YEAR 1983 (July 1, 1982 - June 30, 1983)

	Authorization	Expenditures*	Balance
Personal Services	60,000	59,430	570
Travel	20,000	3,279	16,721
Contractual	16.000	2,041	13,959
Commodities	2,000	436	1,564
Equipment	2,000	12,264	(10,264)
	100,000	77,450	22,550

*Expenditures through 1/31/83. The current monthly payroll for this account is running approximately $9,200 per month (see attached).

FISCAL YEAR 1982 (July 1, 1981 - June 30, 1982)

Personal Services	66,000	81,516	(15,516)
Travel	20,000	20,998	(998)
Contractual	36,000	20,371	15,629
Commodities	2,000	2,104	(104)
Equipment	1,000	Ø	1,000
	125,000	124,989	11

31-Q1LH

FISCAL YEAR 1981 (July 1, 1980 - June 30, 1981)

	Authorization	Expenditures	Balance
Personal Services	99,041	98,165	876
Travel	10,000	12,282	(2282)
Contractual	15,000	9,554	5446
Commodities	ø	850	(850)
Equipment	ø	904	(904)
	124,041	121,755	2286

(This was a carry-over appropriation from HB 60 adopted in June 1980 (Fiscal Year 1980)

FISCAL YEAR 1980 (July 1, 1979 - June 30, 1980)

Personal Services	100,000	959	99,041
Travel	10,000	ø	10,000
Contractual	15,000	ø	15,000
Commodities	ø	ø	ø
Equipment	ø	ø	ø
	125,000	959	124,041

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH W–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

February 7, 1983

M E M O R A N D U M

TO: Linda Otey, Professional Assistant
House HESS Committee

FROM: Pat Williams
Legislative Finance Division

SUBJECT: Study Accounts pertaining to REAA Activities

As requested, the following is a breakdown of monies expended from monies appropriated to Legislative Finance for REAA studies:

REAA DROP-OUT STUDY

FY 1982

	Authorization	Expenditures	Balance
Personal Services	122,050	125,069	(3,019)
Travel	19,910	44,636	(24,726)
Contractual	24,240	453	23,787
Commodities	4,200	453	3,747
Equipment	Ø	252	(252)
	170,400	170,863	(463)

In June 1982, $125,000 was appropriated to Legislative Finance for a study of REAA facility Operations and Maintenance Costs. It had a Fiscal Year 1982 effective date (June 29, 1982) and was treated for accounting purposes as a "supplemental." Thus, the appropriation was penalized the $463 overrun incurred by the Drop-Out study.

No expenditures have been made from the Operations & Maintenance study. There is a current balance of $124,536.70.

FY 1982

* * * * HOUSE ANALYSIS * * * *

GOVERNORS REC $2,290.7

OBJECT GROUP	VARIATION		DESCRIPTION: HOUSE VERSUS GOVERNOR
01 PERS. SERV.	206.2	14.9%	FUND 174.7 THREE ADDITIONAL PERMANENT STAFF, 31.5 FOR TWO ADDITIONAL TEMPORARY POSITIONS.
02 TRAVEL	7.0	24.5%	FUND 7.0 TRAVEL FOR SENATE FINANCE CO-CHAIRMAN AND VICE CHAIRMAN HOUSE FINANCE.
03 CONTRACTUAL	21.4	2.5%	FUND CONTRACTUAL ADDITIONAL 21.4 FOR OFFICE COSTS HOUSE/SENATE FINANCE.
04 COMMODITIES	4.4	44.4%	FUND COMMODITIES ADDITIONAL 4.4 FOR OFFICE COSTS HOUSE/SENATE FINANCE.
** TOTAL	239.0	10.4%	

HOUSE FIGURE $2,529.7

* * * * SENATE ANALYSIS * * * *

GOVERNORS REC $2,290.7

OBJECT GROUP	VARIATION		DESCRIPTION: SENATE VERSUS GOVERNOR
01 PERS. SERV.	206.2	14.9%	FUND 174.7 THREE ADDITIONAL PERMANENT STAFF, 31.5 FOR TWO ADDITIONAL TEMPORARY POSITIONS.
02 TRAVEL	7.0	24.5%	FUND 7.0 TRAVEL FOR SENATE FINANCE CO-CHAIRMAN AND VICE CHAIRMAN HOUSE FINANCE.
03 CONTRACTUAL	151.0	41.4%	FUND CONTRACTUAL ADDITIONAL 21.4 FOR OFFICE COSTS HOUSE/SENATE FINANCE, FUND LEGISLATIVE OVERSIGHT COMMITTEE ON IMPROVEMENTS TO AVIATION TRANSPORTATION 160.0, FUND REAA LEGISLATIVE OVERSIGHT COMMITTEE TO PURCHASE DROP-OUT STUDY OF RURAL STUDENTS 170.4.
04 COMMODITIES	4.4	44.4%	FUND COMMODITIES ADDITIONAL 4.4 FOR OFFICE COSTS HOUSE/SENATE FINANCE.
** TOTAL	569.4	24.9%	

SENATE FIGURE $2,860.1

LEGISLATIVE INTENT:
$35,000 OF CONTRACTUAL IN THIS BUDGET IS DEDICATED TO REVISION OF THE PETROLEUM CASH FLOW MODEL.

#1

ORIGINAL APPROP.

the Alaska Native Hospital in Anchorage.

~~* Sec. 174. The sum of $266,000 is appropriated from the general fund for payment as a grant to the City of Kotzebue for a land conveyance program.~~

~~* Sec. 175. The sum of $100,000 is appropriated from the general fund for payment as a grant to the City of Kotzebue for the local government assistance program.~~

* Sec. 176. The sum of $700,000 is appropriated from the general fund to the University of Alaska for Chukchi Community College for operating expenses.

* Sec. 177. The sum of $25,000 is appropriated from the general fund for payment as a grant to the City of Nome for the medical communication contingency fund.

* Sec. 178. The sum of ~~$1,045,000~~ 1,400,000 is appropriated from the general fund for payment as a grant to the City of Kotzebue for health and social service delivery programs.

* Sec. 179. The sum of $125,000 is appropriated from the general fund to the division of legislative finance for the Regional Educational Attendance Area Budget Oversight Committee for a study on regional educational attendance area school district facility operations and maintenance costs.

* Sec. 180. The sum of ~~$1,166,000~~ 866,000 is appropriated from the general fund to the Department of Education for payment as a grant to the Kotzebue Technical Center for operating expenses.

* Sec. 181. The sum of $250,000 is appropriated from the general fund for payment as a grant to the City of Sheldon Point for a combined facility.

* Sec. 182. The sum of $280,000 is appropriated from the general fund for payment as a grant to the City of Nome for emergency medical services and equipment.

* Sec. 183. The sum of $250,000 is appropriated from the general fund for payment as a grant to the North Slope Borough for whale research.

* Sec. 184. The sum of $200,000 is appropriated from the general fund for

eff date 6/29/82
Lapse date 6/30/83

#2

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HCR-14
Title Extending the life of the Regional Educ. Attendance Area Budget...
Requested by House HESS Date 2-2-83

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

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill has no fiscal impact on this department.

RECEIVED
FEB 03
LEGISLATIVE FINANCE

IV. DATE 2/3/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
3a- Rev. 12/82)

OMB Reviewed by: Jerry Bryant

HCR

16

Hepatitis B Virus (HBV)

HBV infection is becoming a significant health problem in Alaska, especially in the highly susceptible Alaska Native community and, in particular, the Yupik Eskimo.

Hepatitis B infection is usually caused by prolonged close and intimate contact with a carrier and/or infected blood or blood products or serous discharges.

Complications of HBV infection can be many e.g. polyarteritis nodosa (serious inflamatory condition of the arteries) with a 30% mortality rate; primary hepatocellular carcinoma (PHC), has the highest incidence in the U.S.A. Estimated 10% of HBV chronic carriers will develop HPC; chronic active hepatitis with cirrhosis (CAH) will develop in 20 to 25% of chronic HBV carriers.

People at high risk include:

Yupik Eskimos and to a lesser variable extent
other Alaskan Natives
Health and hospital care providers
Hemodialysis patients
Recipients of blood products
Laboratory workers
Dentists and allied dental personnel
Gay communities
Illicit injectable drug users
Staff and patients of mentally retarded institutions
Sexual and household contacts of known carriers
Newborn infants of mothers who are HBV carriers
Southeast Asian groups

In late November 1981 a request for a supplemental appropriation of about 800,000 dollars to initiate a HBV program was sent to the Governor's Office. It never reached the legislature.

Normally the State provides and totally runs immunization programs for all State residents. Due to shortage of funds, high cost of HBV program and availability of some funds to ANHS in their budget ANHS (Alaska Native Health Service) and the State (Division of Public Health) are coordinating a joint effort. A Memorandum of Understanding has been jointly developed by both agencies covering many issues e.g.

(a) Public Health Nurses will assist ANHS personnel where possible in screening initial vaccination and particularly follow-up vaccination.

(b) If ANHS cannot hire people because of locale of fund allocation of last $500,000, they will contract with us to provide all the necessary program people and activities.

(c) In predominantly Native communities their screening teams will screen all citizens. We will be responsible for the lab testing of non-natives and will make arrangements for vaccination or replacement of vaccine if they do it.

(d) ANHS and the State will use common forms e.g. info sheet, indications for blood-testing, vaccination, refusal-for-vaccination form. These forms are being edited for both parties.

The attached report gives necessary funding for a control program.

Because of the economics, a control program rather than an eradication program is proposed at this time. The purpose of such a program is to identify foci of infection and wall it off (break the chain of infection) by vaccinating the appropriate susceptibles.

Enclosed also is a document in which the population for an urban non-military, non-native program will go hand in glove with the rural predominantly native program.

We cannot estimate the cost of vaccine down the road but guess it will drop fairly precipitously within five years.

REPORT ON HEPATITIS B

The following action program outline is of two parts; an HBV program to control non-native population, one to coordinate a joint ANHS/State program and a total for a State-wide program conducted by the State.

Personnel required to handle project for the non-native, non-military Alaska population:

Project supervisor	21A	41.7
Clerk IV	9B	19.5
Microbiologist II	16A	34.0
2 Nurse Practitioners or equiv.	18A (34 x 2)	68.0
		163.2
Computer Programmer		32.0
		195.2

4 Months Program (March thru June, 83) FY 84 Program

Personnel	48.8	195.2
PCIS	25.0	10.0
Lab	50.0	90.0
Travel	38.0	91.0
Vaccine	80.0	112.0
Equipment, Misc.	8.2	1.8
	250.0	500.0

Much of the vaccinations would be handled by PHN's, health centers and by staffs of institutions. Screening i.e. blood collection, likewise would be done by health care facilities and private practitioners to a great extent. Much of the non-native possible high risk populations may be clustered around the various cities.

These program logistics are in addition to the program proposed by the ANHS. They anticipate expenditure of one million dollars a year for three years.

The total cost of a State-wide program is about 5 3/4 million dollars through June, 1987. It is based on State funding of $250.0 balance of present fiscal year, $500.0 FY 84, $600.0 FY 85, $700.0 FY 86, $700.0 FY 87 along with the ANHS expenditure of 3 1/4 million over first three years of above activity. It is anticipated that these dollars would be turned over to the State through contract to get Alaskan Natives to a maintenance level. If, for any reason, the Federal monies were not appropriated, it would require additional State funding. ANHS received $500,000 FY 82 year end monies and they purchased vaccine sufficient for the first year of the program. They received $500.0 in their FY 83 appropriation which is $265.0 less than their indicated program need. They envision 60,000 patients screened and 19,000 vaccine recipients over the three years. They plan for a staff of 10 persons - we would reduce this to 8 persons if we do (hopefully) the program.

The following table summarizes their proposed Hepatitis B Detection Surveillance and Control Program for Alaska Natives.

3 Year Proposed Budget

Item	Year One	Year Two	Year Three	Total
Personnel	385.0	300.0	316.0	901.0
Travel	294.0	147.0	294.0	735.0
Supplies	172.0	172.0	172.0	516.0
Equipment	15.0	-0-	-0-	15.0
Vaccine	-0- already bought (with year-end FY 82 monies)	405.0	518.0	923.0
Total	766.0	1024.0	1300.0	3090.0

Population at High Risk for HBV
(excludes Military and Native Populations)

The assumptions are made that the Native population, as well as the military, will be handled by the ANHS (Alaska Native Health Service) and the military health system respectively.

Various population groups are at high risk; they may be so for a variety of reasons, ranging from geographic location, occupation, sexual practices to life style.

The following chart illustrates the types, numbers and rationales. This is followed by summary tables elaborating on numbers to be screened and numbers for potential vaccination. (numbers rounded off to nearest twenty-five for ease)

1)	EMS workers (non-native, non-military)	1500
2)	Health Care Workers (long term care)	1400
3)	Hospital staff (exc. Federal Hospitals)	3500
4)	Harborview, already screened, vacc. on 1/26/83	0
5)	Developmentally disabled (500 staff, 200 clients)	700
6)	Hemodialysis and hemophiliacs (patients & family)	200
7)	Gay community, est. 9600 (Anch., Fairbanks, Juneau)	7800
8)	Illicit injectable drug users (600-700)	650
9)	Household and sexual contacts of known carriers 2000-3000 (allowing for double reporting)	2500
10)	Corrections inmates (first study shows not at high risk)	0
11)	To identify newborn infants of mothers who are carriers	8000

EMT's	1500 x 90% =	1350
L.T. Care Workers	1400 x 90% =	1250
Hospital Workers	3500 x 90% =	3150
Dev. disabled staff & patients	700 x 80% =	550
Hemodialysis, hemophiliacs & staff	200 x 90% =	175
Gay community est. 9600 (Anch., Fairbanks, Juneau)	7800 x 20% =	1550
Illicit injectable drug users	650 x 20% =	125
Household and sexual contacts, carriers	2500 x 85% =	2125
Correction inmates	0	
Newborns of carriers	8000 x 0.3%=	25
	26,250	10,300

(rounded-off figures)

26,250 estimated to be screened (exclusive of IHS program). This will not include other people not included above who will ask for test.

39% (est. 8.700) susceptibles to be vaccinated.

The above needs to be done within the next 16 months, (FY 1984, plus last 4 months of FY 83).

APPENDIX

Methodologies Used

1) EMS population figures from Section of EMS, DPH, reduced by eliminating Natives.

   Health care workers population (long term care) taken from State Health Plan Data Appendix.

2) Hospital staffs (exclusive ANHS and Military) taken from State Health Plan Data Appendix.

3) Developmentally disabled patients and staff members given by Division of Mental Health.

   Harborview staff and clientele already done by Division of Public Health.

4) Hemodialysis patients and staff, hemophiliacs numbers supplied by Section of Family Health, DPH.

5) Gay community numbers arrived at by figuring male population (non-native and non-military) between ages of 15 and 65; taking 10% of that number. Number used was calculating numbers for Anchorage, Fairbanks and Juneau. 1980 census for numbers of sex, racial and age characteristics was used.

6) Numbers of illicit injectable drug users was furnished by Office of Alcoholism and Drug Abuse.

7) Contacts of household and sexual contacts was estimated trying to eliminate double reporting of ones that would be counted under any of the above categories.

8) Numbers of corrections' inmates is counted as zero because study we did shows them not to be at high risk at this time. We screened over 350 long term males. Many of new ones will have been screened under one of the aforementioned programs.

9) There are about 10,000 births in the State annually; 2000 of them are Native and can be excluded from this listing.

Assumptions are many --

a) It is difficult to accurately predict numbers that will accept screening and/or vaccination. Probably the screening numbers may be as much as 10-20% under our figures.

b) For vaccination the percentages used were to allow for varying numbers of susceptibles and also refusal to accept vaccine.

c) The percentage used for calculating male homosexual population was received from homosexual physician in Anchorage plus articles in medical journals.

d) This program is considerably different than any other immunization program. The cost of the test and the exorbitant cost of the vaccine makes it necessary to screen rather than to vaccinate carte blanche.

e) In addition, it is necessary to test to identify carriers (HBV surface antigen bearers) in order that testing for liver cancer can be done.

MEMORANDUM OF UNDERSTANDING

I. Statement of Introduction

The State of Alaska, Department of Health and Social Services, Division of Public Health and the United States Public Health Service, Indian Health Service, Alaska Area Native Health Service intend to enter into a memorandum of understanding to cooperatively develop and deliver a preventive program of Hepatitis B Virus infection control in Alaska.

Hepatitis B Virus (HBV) infection is a significant health problem in Alaska, especially in the highly susceptible Alaska Native Community. The recently available hepatitis B vaccine is an effective tool to control this important infection and to prevent the HBV related complications of liver cirrhosis, primary hepatic cancer and vasculitis.

A Hepatitis B Immunization and Control Program is a complicated one, and multifaceted activities are required at all organizational levels by several agencies to make it successful. Therefore, it is the desire of the Alaska Native Health Service and the Division of Public Health to coordinate available financial resources, personnel, laboratory services and professional expertise for implementation of a quality Hepatitis B Immunization and Control Program in an expeditious and cost-effective manner and to designate major administrative priority to the Program.

Implementation and accomplishment of the Heptatitis B Control Program depends upon the availability of continued State of Alaska funding and USPHS funding. Lack of funding would invalidate or necessitate modification of this understanding.

II. Areas of Agreement

A. Needs

1. At risk individuals need to be identified through expert analysis of appropriately obtained blood sera.

   a. adequate laboratory facilities and technical capabilities are necessary to perform a large number of serologic determinations.

   b. specialized personnel are necessary to obtain blood specimens from all individuals in entire rural Alaska Communities and who can separate serum, accurately identify specimens and ensure arrival at the laboratory expeditiously and intact.

2. Data systems need to be accessible and able to provide:

   a. census data

   b. demographic identification of all specimens

   c. integration of individual serological and immunization data into the medical record.

d. lists of susceptible individuals

e. lists of susceptible individuals by risk category

f. lists of individuals who are HBs Ag carriers.

g. the established data system would provide the above data on an ongoing basis.

3. As much as possible, the immunization phase of the Hepatitis B Immunnization and Control Program needs to be integrated into existing vaccine delivery programs.

a. Initially, the immunization phase needs coordinated efforts from public health nurses, specifically employed supplemental personnel, Community Health Aides and Alaska Native Health and Native Health Corporation health care providers.

b. Specialized care provided to newborns and infants of HBs Ag positive mothers needs to be provided in the hospitals at the time of delivery and the times when routine care coincides with established hepatitis B immunization protocols.

4. Sera aliquots from specimens needed by CDC need to be provided with demographic and serologic data to the CDC, Alaska Investigations Division.

a. to establish a sera bank

b. to provide cancer screening with alpha-fetoprotein determinations on all HBs Ag positive individuals.

B. Risk Priorities

1. Infants born to HBs Ag positive carriers.

2. Household contacts of HBs Ag carriers.

3. Rural Alaska communities with a HBs Ag carrier rate of 5 percent or greater.

4. Individuals and staff in institutions for the mentally retarded.

5. Renal hemodialysis patients and hemophiliacs.

6. Active male homosexuals.

7. Health care providers having frequent blood contact.

8. Identified high risk prison groups.

9. Illicit injectable drug users.

C. Agency Interactions

1. To meet the high risk needs in the Alaska Native Community, the Alaska Native Health Service intends to enter into a contract with the State of Alaska.

   a. to develop and maintain a Hepatitis B Control Program in cooperation with the AANHS Project Officer and the CDC-AID Director.

   b. to identify and vaccinate high risk Alaska Natives.

      (1) household contacts of known HBs Ag+ carriers
      (2) village residents of known villages with 5 percent or greater HBs Ag+ carriers.
      (3) high risk villages in Western Alaska with first priority to the Yukon-Kuskokwim Delta Area.

   c. the contract will be written immediately and implementation start as soon as possible.

2. Coordination of the Hepatitis B Immunization and Control Program will be cooperatively directed by the Chief, Communicable Disease Control Section and the Chief, Community Health Services.

   a. Monthly meetings involving key persons will occur

   b. Records of discussion and decision made in the monthly meetings will be appropriately distributed

   c. A periodic information circulation will be published.

3. Free access and exchange of Hepatitis B epidemiologic information will be shared between the State of Alaska, Alaska Native Health Service and the Centers for Disease Control.

D. Specific Responsibilities

1. The State of Alaska Division of Public Health will be responsible for the administration of Hepatitis B vaccine. The vaccine will be administered by public health nurses, supplemental personnel, and other health care providers as needed.

2. Initial hepatitis preventive care and care that coincides with routine preventive care of newborns and infants will be provided by the Alaska Native Service or contract physicians.

3. Sera aliquots with demographic and serologic data will be sent to CDC, Alaska Investigation division by the State Laboratory.

4. Alpha Fetoprotein determinations will be performed by the CDC, Alaska Investigations Division.

5. Serologic determinations for the clinical needs of the Alaska Native Health Service and for the prenatal screening of Alaska Native Service beneficiaries will be provided by the Clinical laboratory of the ANMC.

6. In consultation with appropriate experienced CDC persons, the Laboratory Section, Division of Public Health, State of Alaska will develop the capability and quality assurances to assume responsibility for all the serologic screening necessary to conduct the Hepatitis B Immunization and Control Program.

7. In consultation with the appropriate CDC and PCIS persons the State of Alaska will develop an accessible and acceptable computer service to conduct the Hepatitis B Immunization and Control Program in the State Northern Regional Laboratory in Fairbanks.

8. The administration of the Hepatitis B Infection and Control Program will be the responsibility of the State of Alaska.

9. Evaluation of the impact of the Hepatitis B Infection and Control Program on the beneficiaries of the Alaska Native Health Service will be a responsibility of appropriate Alaska Native Health Service personnel. The State of Alaska Division of Public Health will evaluate the effect of the Program on the overall state population.

III. Renewal/Modification Clause

This Memorandum of Understanding is in effect for three (3) years unless modification or termination is issued with thirty (30) days advance notice by the offices of the original signers.

IV. Conclusion

Although the need to begin Hepatitis B Infection prevention and control is urgent, actions in program development and delivery must hold to the following principles;

1. Cooperation and trust

2. Open communication

3. Quality assurance

4. Rational planning.

Signatures:

B. A. [illegible] January 27, 1983

Director, Alaska Area Native Health Services

E. S. Rubeau Jan. 28, 1983

Director, Division of Public Health, State of Alaska

Robert London Smith January 28, 1983

Commissioner, State of Alaska Department of Health & Social Services

IMPORTANT INFORMATION
ABOUT HEPATITIS B AND HEPATITIS B VACCINE

Please read this carefully

WHAT IS HEPATITIS B?

Although Hepatitis B is an unpredictable disease with a variety of presentations and outcomes, most patients recover. Persistence of viral infection (the chronic carrier state) occurs in 5 to 10% of persons who become infected with hepatitis B virus. Acute Hepatitis B infection may be symptomatic and can incapacitate a person for weeks to months or lead to complications or chronic sequelae. However, 50 to 60% of all Hepatitis B infections are subclinical, asymptomatic, and usually undetected. These cases have a greater risk of progression to chronic sequelae. Chronic sequelae of Hepatitis B infection include:

Chronic carrier state - develops in 6-10% of adult patients who have Hepatitis B.
Chronic persistent hepatitis - generally benign.
Chronic active hepatitis - major late complication; occurs in 3-5% of cases; often progresses to cirrhosis.
Cirrhosis - an estimated 11% of deaths due to cirrhosis are associated with Hepatitis B. (4000/year)
Liver Cancer - the relative risk for carriers is 273 times greater than for non-carriers (800 die/year from Hepatitis B related liver cancer)

There is no specific treatment and no known cure for Hepatitis B. The new vaccine can help prevent Hepatitis B.

HEPATITIS B VACCINE

The Immunization Practices Advisory Committee (ACIP) USPHS, has identified certain populations at risk of HBV infection and has recommended vaccination for appropriate members of the following groups:

ACIP recommendations for vaccination against Hepatitis B infection	
.health-care workers	.classroom contacts of deinstitutionalized mentally retarded HBV carriers who behave aggressively.
.hospital staff	.special high-risk populations from areas where Hepatitis B is highly endemic Indochinese and Haitian refugees Alaskan Eskimos
.clients and staff of institutions for the mentally retarded	.inmates of long-term correctional facilities
.hemodialysis patients	
.homosexually active males	
.illicit injectable drug users	
.recipients of certain blood products	
.household and sexual contacts of HBV carriers	

Persons at substantial risk of Hepatitis B infection who are demonstrated or judged likely to be susceptible should be vaccinated.

Division of Public Health
State of Alaska

VACCINATION: Vaccination consists of 3 intramuscular doses of vaccine. The second and third doses should be given 1 and 6 months, respectively, after the first. Vaccine doses administered at longer intervals than those stipulated provide equally satisfactory protection, but optimal protection is not conferred until after the third dose. The duration of protection and the need for booster doses have not yet been determined.

Vaccination of individuals who possess antibodies against HBV from a previous infection is not necessary but will not cause adverse effects. The vaccine produces neither therapeutic nor adverse effects in Hepatitis virus carriers.

POSSIBLE SIDE EFFECTS FROM THE VACCINES:

Adverse Reactions: Hepatitis B vaccine is generally well tolerated. No serious adverse reactions attributable to vaccination have been reported during the course of clinical trials involving administration of Hepatitis B vaccine to over 6,000 individuals. Approximately half of all reported reactions were injection-site soreness. Other less common local reactions have included erythema, swelling, warmth, or induration. These signs and symptoms of local inflammation are generally well tolerated and usually subside within 2 days of vaccination.

Low-grade fever (less than 101°F) occurs occasionally and is usually confined to the 48-hour period following vaccination. Although uncommon, fever over 102°F has been reported. Systemic complaints, including malaise, fatigue, headache, nausea, dizziness, myalgia, and arthralgia, are infrequent and have been limited to the first few days following vaccination. Rash has been reported rarely.

As with any vaccine, there is the possibility that broad use of the vaccine could reveal rare adverse reactions not observed in clinical trials.

WARNING - SOME PERSONS SHOULD NOT TAKE THIS VACCINE WITHOUT CHECKING WITH A DOCTOR:

.Hepatitis B vaccine is not known to cause special problems for pregnant women or their unborn babies. However, doctors usually avoid giving any drugs or vaccines to pregnant women unless there is a specific need. Pregnant women should check with a doctor before taking Hepatitis B vaccine.

.Those who are sick right now with something more serious with a cold.

QUESTIONS: If you have any questions about Hepatitis B vaccination, please ask us now or call your doctor or health department before taking the vaccine.

REACTIONS: Anyone receiving vaccine who gets sick and seeks medical help in the 4 weeks after vaccination should report this to the facility which provided the vaccine.

Division of Public Health
State of Alaska
January 7, 1983

STANDING ORDERS
Hepatitis B Vaccine

Type of Vaccine	Age	Dosage
Hepatitis B	3 months through life	3 doses i.m.; given on days 0, 1 month later and 6 months after 1st dose.

	Initial	1 mo.	6 mo.
3 months to 10 yrs.	0.5ml	0.5ml	0.5ml
> - 10 yrs.	1.0ml	1.0ml	1.0ml
Dialysis and Immuno-compromised	2.0ml*	2.0ml*	2.0ml*

* Two 1.0 ml doses given at different sites, i.m.

1. Store vials at 2-8°C. (35.6 - 46.4°F)
2. Shake well before using.
3. DO NOT FREEZE
4. Provide Hepatitis B Vaccine information sheet to each person before vaccination.

Centraindications: Hypersensitivity to any component of the vaccine.

Precautions:
1. Not recommended for use in pregnant women. Ask if woman is pregnant. If answer is no, vaccine may be administered.
2. Not recommended at present for use in children below the age of 3 months.

Indications:
1. Indicated for immunization against infection caused by all known subtypes of Hepatitis B virus.
2. Vaccination is recommended in persons 3 months of age or older who are at substantial risk of infection with Hepatitis B virus.
3. Groups and individuals to be vaccinated are designated by the Medical Epidemiologist, Division of Public Health or his designee..

Division of Public Health
State of Alaska
January 1983

OG-F7LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH
SECTION OF COMMUNICABLE DISEASE CONTROL

ROOM 222, MACKAY BUILDING
338 DENALI STREET – ANCHORAGE 99501

January, 1983

HEPATITIS B AND HEPATITIS B VACCINE

I certify that I have been provided information about Hepatitis B. I am aware that I may be at increased risk of contracting Hepatitis B infection because of my work or my residence. I have had an opportunity to ask questions about Hepatitis B and to discuss Hepatitis B with staff at this facility. I understand that I can have my blood tested free of charge to see if I have been infected with Hepatitis B in the past or whether I could become infected with Hepatitis B in the future. I understand that I can also be vaccinated against Hepatitis B free of charge and that vaccination can protect me from becoming infected with Hepatitis B in the future. I understand that this program is entirely voluntary but that the Division of Public Health strongly recommends that I have my blood tested and, if I have not been infected with Hepatitis B in the past, that I receive Hepatitis B vaccine.

☐ I do not wish to have my blood tested for Hepatitis B.

☐ I do not wish to be vaccinated against Hepatitis B.

_____
(Signature)

_____
(Date)

_____
(Witness)

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

WHEREAS the number of Alaskans with primary liver cancer has jumped fivefold in the past six months because of virus hepatitus B, and

WHEREAS hepatitus B has also been known to cause vasculitis and cirrhosis of the liver, and

WHEREAS hepatitus B has been declared an epidemic in several villages in southwest Alaska by the Federal Centers for disease control, and

WHEREAS in some Alaska villages, 34% of the populations are catching hepatitis B every year, and

WHEREAS the only known means of preventing hepatitus B is through an immunization program,

Be it resolved by the 13th legislative office of the State of Alaska that _____ dollars in FY 84, _____ dollars in FY 85, and _____ dollars in FY 86 be appropriated for hepatitis B screening and immunization programs in the State of Alaska, and

Be it further resolved that the State Division of Public Health and the Federal Indian Health Service officials set a course of action in the next five years to control the spread of hepatitus B within the State of Alaska.

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: January 26, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present
Into Senate

B. Welcome Those Observing
Procedure: we will hear all witness & ask them to return for Quest

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

EO 54 Creating a Department of Corrections

Other notes or reminders:

Jan 31

HOUSE HESS
COMMITTEE MEETING
AGENDA

DATE: January 31, 1983

TIME: 1:00 p.m.

I. Call Meeting to Order

A. Note Committee Members Present

B. Welcome Those Observing

C. Remind those wishing to testify to sign up, and those giving testimony to speak up and state their names.

II. Announce Legislation Under Consideration:

Hepatitis-B Briefing - Dr. Robeau, Director of Public Health

Executive Order 54 - Creating a Department of Corrections

Other notes or reminders:

Wednesday, February ?

HB 108 Inclusion in the state exempt service of licensed physicians employed by division of mental health and developmental disabilities.

HCR

17

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

CS for SS for House Bill No. 270

"An Act relating to child pornography."

CS for SS for House Bill No. 270 raises the penalty for exploitation of a minor from a Class C felony to a Class B felony in AS 11.41.455. House Bill No. 270 also adds a new section, Sec. 11.61.125, to Alaska State Statutes which makes distribution of child pornography a Class C felony. The Department estimates that one additional medium security bed will be necessary to house offenders convicted of unlawful exploitation of a minor and/or distribution of child pornography.

Recommended by: Roger C. Endell

Roger V. Endell, Director
Division of Adult Corrections

Date: 4-12-83

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date: 4/14/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No. CS for SS H.B. #270
Title:"An Act relating to child porno."
Sponsor: HESS Committee
Requestor: Judiciary Committee

II. FISCAL DETAIL

Agency Affected:Health & Social Services
Program Category Affected:Justice
BRU, Program of Subprogram(s) Affected:
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		2.4	5.1	5.4	5.7	6.1
400 COMMODITIES		2.5	5.3	5.6	6.0	6.3
500 EQUIPMENT						
600 LAND & STRUCTURES			-	-	-	-
700 GRANTS, CLAIMS, ETC		.2	.2	.3	.3	.4
TOTAL OPERATING		5.1	10.6	11.3	12.0	12.8
CAPITAL	-0-	146.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	151.1	10.6	11.3	12.0	12.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange Roger C. Lange Phone: 465-3376
Division: Adult Corrections Date: April 11, 1983

Approved by Commissioner: Robert Gordon Smith, M.D. Date: 4/14/83
Department: Health & Social Services

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS

A. Assumptions

Based on conversations with Department of Law staff, it is assumed that there will be one additional Class B felony conviction and four Class C felony convictions per year. It is assumed all will be first time offenders. Therefore it is estimated that 50% of the Class B and 20% of the Class C felony offenders will receive terms of confinement. This will result in approximately 1.5 person years per year of jail time will be served.

It is further assumed that the distributors of child pornography will remove these materials from their visible stock and convictions for distribution of child pornography will decrease from the original estimate of four per year.

Therefore, it is estimated that one additional medium security bed will be required if this proposed legislation is enacted.

B. Program Summary

1. Positions - An average of one position is required for every 2½ beds. Since only one bed is requested in the fiscal note, no positions are identified as being needed.

2. Other expenditures

a. Contractual Services
Medical care and counseling services $2400

b. Commodities
Food and clothing $2500

c. Grants
Inmate gratuities for kitchen, janitorial or other assigned tasks $200.

C. Impact

There will be no significant economic or local government as a result of passage of this bill.

FEB 23 1983

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HCR - 17
Title An Act relating to the state medal for heriosm.
Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
Agency Affected Department of Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected State Libraries
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS N/A

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole
AGENCY Education
PHONE 465-2865

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

33-001 (Rev. 12/82)

2/19 FISCAL NOTE REQUESTED - STEVE HOLE Dept ed.

Scheduled 2/28

biANNUally - SARA EPPENBACH 586-4788

HCR

38

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HCR 38
Title: ...teaching of sign language...
Sponsor: Furnace
Requestor: Rep. Furnace

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Steve Hole
Phone: 465-2875
Division: Management, Law and Finance
Date: 5/25/83

Approved by Commissioner: for Harold Reynolds, Jr.
Date: 5/25/83
Department: Education

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

enrollment. No children will be provisionally admitted except in exceptional circumstances. Where exceptions are granted, they shall be reported to and discussed with the Communicable Disease Section of the Division of Public Health, Department of Health and Social Services, who will then be responsible for determining that the required immunizations are completed during the provisional period.

(d) If a parent or guardian is unable to pay the cost of immunization, or immunization is not available in the district or community, immunization shall be provided by state or federal public health services.

(e) Immunizations shall be recorded on each pupil's permanent health record form.

(f) School districts shall initiate action to exclude from school any child to whom this section applies but who has not been immunized as required by this section. (Eff. 1/13/73, Reg. 44; am 8/28/77, Reg. 63)

Authority: AS 14.07.020(7) and (8)
AS 14.30.125

4 AAC 06.060. SUSPENSION OR DENIAL OF ADMISSION. (a) In the district schools, the superintendent or principal may suspend pupils under the provisions of AS 14.30.045, and the pupils may be reinstated by the superintendent or principal or by the school board.

(b) Expulsion or denial of admission of a pupil shall be only upon the action of the governing school board in a district school.

(c) A pupil suspended or expelled under this section may appeal to the district board. (In effect before 7/28/59; am 9/24/65, Reg. 20; am 9/8/66, Reg. 24; am 1/9/68, Reg. 26; am 5/10/78, Reg. 66)

Authority: AS 14.30.045

4 AAC 06.070. ELEMENTARY COURSE OF STUDY. The Course of Study for the Elementary Schools in Alaska, reissued by the department in 1971, is officially adopted as the standard for elementary schools. (In effect before 7/28/59; am 5/30/71, Reg. 38)

Authority: AS 14.07.020(4)

4 AAC 06.075. HIGH SCHOOL GRADUATION REQUIREMENTS. (a) Each chief school administrator shall develop and submit to the district board for approval a plan consisting of district high school graduation requirements. The plan must require, at a minimum, that before graduation a student must have earned 19 units of credit. However, any portion of the total program may be based upon competencies.

(b) Specific subject area units of credit requirements must be set out in each district plan and must require that before graduation a student must have completed no less than one unit of credit in each of the following:

(1) language arts;

(2) social studies;

(3) mathematics;

(4) science; and

(5) physical education.

(c) Districts which do not require 19 units of credit for graduation on March 1, 1978, must increase their requirements by at least one unit each school year until the number of units required attains or exceeds 19.

(d) Transfer students who have earned 10 units of credit while in attendance outside the district may, at the discretion of the district, be excused from the district subject area unit of credit requirements. (Eff. 3/1/78, Reg. 65)

Authority: AS 14.07.020(1),(2) and (4)
AS 14.07.060

4 AAC 06.080. ADMINISTRATIVE MANUAL FOR SECONDARY SCHOOLS. Repealed 3/1/78.

4 AAC 06.090. A MANUAL FOR ALASKA SCHOOL BOARDS. Repealed 9/23/78.

4 AAC 06.100. MANUAL FOR ADVISORY SCHOOL BOARDS. Repealed 12/30/77.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

M E M O R A N D U M

TO: House HESS Committee DATE: 5/26/83

FROM:. Linda Otey, Committee Aide

RE: Summary/ HCR 38 "Relating to the teaching of sign language"

The Resolution directs the Department of Education to offer sign language courses through the public schools and credite them in the same way that foreign language courses are credited.

The department has suggested that it is highly doubtful that a University would accpet a sign language course in place of a credit for a forein language.

Curriculums are established by School Districts. With this in mind perhaps the Districts should be encouraged by the Department of Education to offer sign language courses. In conversation with the Department, there a numerous ways in which this encouragement could be handled.

Also, it is more likely that a sign language course would be offered through an elective course for credits rather than through one of the five specific subject area unit requirements; 1) language arts, social studies, mathematics, science, and physical education.

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resolution	summary
fiscal note	
regulations	

HCR

46

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HCR 46
Title: Background checks on school district employees
Sponsor: Rep. Lacher
Requestor: House HESS
Date of Request: 2-22-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		25.2	25.9	26.7	27.5	28.3
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		1.0	1.0	1.1	1.1	1.2
500 EQUIPMENT		1.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		27.2	26.9	27.8	28.6	29.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		27.2	26.9	27.8	28.6	29.5
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified

ANALYSIS: Attach a separate page for analysis

Prepared By: Mari Copeland
Division: Administrative Services
Phone: 465-4343
Date: 2/27/84

Approved by Commissioner:
Agency: Public Safety
Date: 2/28/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

	POSITION TITLE				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
1.	Clerk IV				9A	GGU				
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	PFT	12	Pending	Pending	1	AWA	4			
3.	CONTINUATION LEVEL		ADDITION							

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	20,094	
6.	Benefits	3,602	
7.	Supplemental Benefits	1,232	
8.	Fixed Benefits	228	
9.	TOTAL PERSONAL SERVICES 01		25,156
10.	Travel 02		
11.	Contractual 03		
12.	Commodities 04		1,000
13.	Equipment 05		1,000
14.	Other		26,156
15.	TOTAL COST		

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	26,156
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This is a new assignment for the Records and Identification Section. The additional duties anticipated would be generated by the passage of HCR 46. Regulations set up by the Attorney General governing implementation of Chapter 66 include checking state files for prior arrests, sending fingerprint cards and $12 fee required by the Federal Bureau of Investigation to the F.B.I. for prior arrests not on file in Alaska, maintaining file of requests pending return of findings by the F.B.I., screen records for only convictions reportable per statute, directing letters reflecting results of the record checks to the employer, the applicant and the Division of Alaska State Troopers.

A Clerk IV level is requested for this confidential specialize subject area as employee will be responsible for extreme accuracy of work because of legal ramifications involved and complex duties require extensive substantial knowledge of the specialized area.

Equipment costs reflected is for the need for a typewriter to be utilized by the employee in this position. Commodities needed are normal supply items.

13 REQUEST FOR NEW POSITION

AGENCY Public Safety

PROGRAM Administration of Justice

BRU Administrative Services

COMPONENT

Page of

Revised Date

FY 85

HCR 46

Fiscal Note Analysis

The passage of HCR 46 is anticipated to generate a very substantial increase in workload in the Records and Identification Section. The regulations set up by the Attorney General governing the implementation of the provisions of Chapter 66, SLA 83, requires paperwork flow which cannot be absorbed by the current staff of the section.

The cost of the clerk is based upon a July 1984 hire. Costs after FY'85 are estimated with a 6% inflation and with no equipment costs.

INTENT OF LEGISLATION

HCR 46 - "Relating to background checks on school district employees who come into contact with children."

It has come to our attention that not all school district administrations conduct background investigations on individuals applying for employment within the school district. In positions requiring direct contact with children, this can lead to potentially dangerous situations.

Because of the ease of availability to information regarding convictions of individuals relating to sex crimes, school districts must be strongly urged to implement appropriate background checks on all school district employees who come into contact with children. While recognizing the burden this may place on some school districts, it is a necessary precaution to ensure the safety of our students.

inaccurate, incomplete or misleading, the commission shall order it to be appropriately purged, modified or supplemented by an explanatory notation. An agency or person in the state with custody, possession or control of the record shall promptly have every copy of the record altered in accordance with the commission's order. Notification of a deletion, amendment and supplementary notation shall be promptly disseminated by the commisson to persons or agencies to which records in question have been communicated, as well as to the person whose records have been altered.

(d) An agency holding or receiving criminal justice information shall maintain, for a period determined by the commission to be appropriate, a listing of the agencies to which it has released or communicated the information. These listings shall be reviewed from time to time by the commission or staff members of the commission to determine whether the provisions of this chapter or any applicable regulations have been violated.

(e) Reasonable hours and places of inspection, and any additional restrictions, including fingerprinting, that are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them may be prescribed by published rules. Fingerprints taken under this subsection may not be tansferred to another agency or used for any other purpose.

(f) A person or agency aggrieved by an order or decision of the commission under (e) of this section may appeal the order or decision to the superior court. The court shall in each case conduct a de novo hearing and may order the relief it determines to be necessary. If a person about whom information is maintained by an agency challenges the information in an action under this subsection as being inaccurate, incomplete or misleading, the burden is on the agency to prove that the information is not inaccurate, incomplete or misleading. (§ 1 ch 161 SLA 1972; am § 1 ch 66 SLA 1983)

Effect of amendments. — The 1983 amendment inserted "and in AS 12.62.035" near the beginning of subsection (a).

Sec. 12.62.035. Access to certain crime information. (a) Notwithstading any other provision of law, an interested person as defined in (e) of this section may request from the commission records of all convictions involving contributing to the delinquency of a minor and any sex crimes of a person who holds or applies for a position in which the person has or would have supervisory or disciplinary power over a minor. The commission shall authorize the disclosure of the information to the requesting interested person and shall provide a copy of the information to the person who is the subject of the request.

(b) A request for records under (a) of this section shall include within it the fingerprints of the person who is the subject of the request and

any other data specified in regulations established by the commission. The request shall be on a form approved by the commission, and the commission may charge a fee to be paid by the requesting interested person for the actual cost of processing the request. The commission shall destroy an application within six months after the requested information is sent to the requesting interested person and the person who is the subject of the request.

(c) The commission shall adopt regulations to implement the provisions of this section.

(d) If an individual is denied employment as a result of the disclosure of inaccurate or incomplete records under this section, an action may be brought against the state. No other action may be brought against the state, or an agency or employee of the state, as a result of disclosing or failing to disclose criminal justice information.

(e) As used in this section

(1) "contributing to the delinquency of a minor" means a conviction for a violation or attempted violation of AS 11.51.130(a)(1), (3), or (5) or for a violation or attempted violation of an offense committed outside the state if the offense would have been a crime in this state under AS 11.51.130(a)(1), (3), or (5) if committed in the state;

(2) "interested person" means a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person, that employs or solicits the employment of a person to serve with or without compensation in a position in which the person has or would have supervisory or disciplinary power over a minor;

(3) "Sex crime" means a conviction for a violation or attempted violation of AS 11.41.410 — 11.41.470, AS 11.61.110(a)(7), or AS 11.66.100 — 11.66.130 or for a violation or attempted violation of an offense committed outside the state if the offense would have been a crime in this state under one of the above sections if committed in the state. (§ 2 ch 66 SLA 1983)

Chapter 65. Coroner's Inquest.

Section
20. Duties
30. Coroners
40. Inquiry into cause of death
50. Summoning jurors for inquest
60. Oath of inquest jurors
70. Subpoena and examination of witnesses
80. Verdict of inquest jury
90. Notification of prosecuting attorney
100. Unclaimed bodies
110. Inventory and disposition of property

Sec. 12.65.020. Duties. When a person dies unattended by a physician, or when no physician is prepared to execute the certificate of death prescribed by the Vital Statistics Act, the coroner assigned to serve the place where the death occurs may, by written order, direct a

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HCR 46
Title: Background checks on school district employees
Sponsor: Rep. Lacher
Requestor: House HESS
Date of Request: 2-22-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		25.2	25.9	26.7	27.5	28.3
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		1.0	1.0	1.1	1.1	1.2
500 EQUIPMENT		1.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		27.2	26.9	27.8	28.6	29.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		27.2	26.9	27.3	28.6	29.5
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified

ANALYSIS: Attach a separate page for analysis

Prepared By: [signature] Phone: 465-4343
Division: Administrative Services Date: 2/27/84

Approved by Commissioner: [signature] Date: 2/28/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

1.	POSITION TITLE: Clerk IV			RANGE/STEP: 9A	BARG. UNIT: GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER: Pending	PCN NUMBER: Pending	BRU PRIORITY: 1	LOCATION: AWA	ELECTION DISTRICT: 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

	TYPE OF EXPENDITURE 1	2	AMOUNT 3
	PERSONAL SERVICES		
5.	Salary	20,094	
6.	Benefits	3,602	
7.	Supplemental Benefits	1,232	
8.	Fixed Benefits	228	
9.	TOTAL PERSONAL SERVICES	01	25,156
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	1,000
13.	Equipment	05	1,000
14.	Other		26,156
15.	TOTAL COST		

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	26,156
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER __ __ - __ __ - __ __ - __ __ - __ __

JUSTIFICATION

This is a new assignment for the Records and Identification Section. The additional duties anticipated would be generated by the passage of HCR 46. Regulations set up by the Attorney General governing implementation of Chapter 66 include checking state files for prior arrests, sending fingerprint cards and $12 fee required by the Federal Bureau of Investigation to the F.B.I. for prior arrests not on file in Alaska, maintaining file of requests pending return of findings by the F.B.I., screen records for only convictions reportable per statute, directing letters reflecting results of the record checks to the employer, the applicant and the Division of Alaska State Troopers.

A Clerk IV level is requested for this confidential specializ subject area as employee will be responsible for extreme accuracy of work because of legal ramifications involved and complex duties require extensive substantial knowledge of the specialized area.

Equipment costs reflected is for the need for a typewriter to be utilized by the employee in this position. Commodities needed are normal supply items.

13 REQUEST FOR NEW POSITION

AGENCY: Public Safety
PROGRAM: Administration of Justice
BRU: Administrative Services
COMPONENT:

Page of
Revised Date

FY 85

HCR 46

Fiscal Note Analysis

The passage of HCR 46 is anticipated to generate a very substantial increase in workload in the Records and Identification Section. The regulations set up by the Attorney General governing the implementation of the provisions of Chapter 66, SLA 83, requires paperwork flow which cannot be absorbed by the current staff of the section.

The cost of the clerk is based upon a July 1984 hire. Costs after FY'85 are estimated with a 6% inflation and with no equipment costs.

PROCEDURES FOR OBTAINING CRIMINAL BACKGROUND INFORMATION
Per Marilyn Crenshaw, Department of Public Safety

HOW: Application and two sets of fingerprints to Alaska State Troopers

COST: No charge by state, $12 by FBI

TIME: State check made same day; 3-4 week delay with FBI

Only releases information regarding these sex crimes:

Sexual Assault 1st, 2nd and 3rd degree
Sexual Abuse of Minors 1st, 2nd, 3rd and 4th degree
Incest
Unlawful Exploitation of a Minor
Indecent Exposure
Contributing to Delinquency of a Minor
Disorderly Conduct/Exposure
Prostitution
Promoting Prostitution 1st, 2nd, and 3rd degree

Also included are convictions for attempt to commit any of the above, and out of state convictions which would have been violations of one of these statutes if offense had been commited in Alaska.

STATE OF ALASKA
DEPARTMENT OF PUBLIC SAFETY

AS 12.62.035 authorizes the release of certain criminal justice information to an "interested person." "Interested person" is defined in AS 12.62.-035(e)(2) as: "a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person, that employs or solicits the employment of a person to serve with or without compensation in a position in which the person has or would have supervisory or disciplinary power of over a minor." A minor is a child under the age of 18.

PART I. REQUEST FOR CRIMINAL HISTORY INFORMATION

"Applicant" is the person requesting the criminal justice information. "Subject" is the person about whom the request is made.

1) Name of Applicant: _____

2) Position or Title: _____

3) Organization (if any): _____

4) Address: _____

5) Mailing Address: _____

6) Phone Number: _____ IRS No. (if any): _____

7) Description of applicant. Check the box which best describes the applicant:

A) ___ public school/school district
B) ___ private school
C) ___ nursery/day care center
D) ___ church/religious organization
E) ___ youth organization
F) ___ local, state or federal government agency
G) ___ private business
H) ___ individual
I) ___ other

8) If box F, G, H, or I is checked above, describe the applicant. If an organization, explain its purpose and what it does. Explain specifically the duties the subject has, or will have, which involve supervisory power over children.

_____

_____

_____

_____

_____

9) List two people who are familiar with the organization (or individual applicant) and can serve as a reference:

NAME: _____ PHONE NO: _____

NAME: _____ PHONE NO: _____

10) Name of Subject: _____

11) Residence Address: _____

12) Mailing Address: _____

13) Phone Number: _____ Security No. _____

14) DOB: _____ Driver's License No. _____

15) Sex: _____ Hgt: _____, Wt: _____, Eye Color: _____ Hair Color: _____

16) Aliases or prior names: _____

17) Position subject now occupies or is being considered for: _____

PART II. AGREEMENT FOR THE DISSEMINATION OF CRIMINAL HISTORY INFORMATION

I hereby certify that I have read the information contained on the first page of this form, and that (check one:) I am ____ or I represent ___ an "interested person" as defined in AS 12.62.035. I hereby request a record of any convictions of the above-named subject for contributing to the delinquency of a minor or a sex crime as defined in AS 12.62.035(e).

I certify that the subject of this request (check one): is employed ___ or is being considered for employment ___ (with or without compensation) in a position involving supervisory or disciplinary power over a child or children under the age of 18. I certify that employment considerations are the sole reason for this request for information.

In exchange for the release of the requested information, I agree that any information released to me will remain confidential, and will be used only to make lawful employment decisions. I agree to take all possible precautions to prevent the disclosure of this information to unauthorized persons, and agree to immediately report to the Alaska State Troopers any intentional or accidental disclosure of this information by anyone to unauthorized persons.

I understand that unauthorized dissemination or other misuse of this information will result in the denial of future requests for information and may subject me to criminal penalties, including a fine of up to $1,000, a jail sentence of up to one year, or both.

_____
Signature of Applicant

Date _____

* * * * * * * * * * * * * * * * * * * *

To be filled out by D.P.S. employee receiving this request:

Form of identification shown by applicant:

___ Driver's License No. _____

___ State I.D. Card No. _____

___ Other. Describe: _____

_____
Name of D.P.S. employee

_____
Title

_____
Date

This request is for information contained in (check only one):

____ Alaska Justice Information System - subject's fingerprint card attached.

___ FBI criminal records - subject's fingerprint card and a check for $12.00 made out to "Federal Bureau of Investigation" are attached.

HJR

27

2/8/84 JOANNE CLARKE HJR 27

FISCAL NOTE ORDERED

2/24 Indian Health Service 586-7177

586-1600 - MED. Officer → Director Pat Robert
& clinic

SEARCH Ethel Lund -
Pat Roberts

2/28/83 CS - SIXTY DAYS changed to 6 months
Passed 4-2

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

February 23, 1983

POSITION PAPER

Re: SJR 11

Sponsor: Senator Ferguson

Program Effect

Head Start grantees are required by the federal government to provide medical and dental screenings and services for all children in the program. Public Law 97-394 will greatly impact services formerly provided and will segregate Native and non-Native children, especially in the rural areas.

Comments

The Department supports the intent of Senate Joint Resolution No. 11 as the reduction of medical services entailed in PL 97-394 will severely impact Head Start children and their families.

In 1978, the U.S. Congress amended Section 518 (a) of the Economic Opportunity Act of 1964, to include "poverty of access". This amendment allows certain children, whose families exceed the poverty guidelines, to be included in the Head Start program. Thus, these families included since 1978 may now be excluded by the action of PL 97-394.

The Alaska Head Start Directors Association meeting in Juneau January 26 and 27, 1983 identified potential impacts. Quantitative data on these impacts are being developed at this time.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SJR 11 Date on Bill: 1/26/83
Title: Health care delivery to non-Native dependents
Sponsor: Ferguson
Requestor: Senate H&SS

1. Estimated fiscal impacts on: Department of Community & Regional Affairs

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-0-	-0-	-0-		
Operating				-0-	-0-	-0-		
Total				-0-	-0-	-0-		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

Resolutions by definition have no fiscal impact. This resolution, in addition, addresses a federal program.

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Richard Rainery Phone: 465-4703
Division: Commissioner's Office Date: 2/23/83

Approved by Commissioner: Date: 2/28/83
Department: Community & Regional Affairs

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/15/83

(7)

COMMITTEE REPORT

HOUSE

3/2
Rules

FURTHER:

2/7/83 Date: _____

Mr. Speaker:

The Committee on HESS has had HJR 27

Relating to health care delivery to non-Native dependents by the United States Public Health Service.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for HJR 27 (Hess) [✓] same title [ ] new title

and recommends DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

M. Miller Do Pass
Mike Dunn Do Pass
Betty Cato Do Pass
Nick Kozeman Do Pass
Tim Jones Do Pass

MEMBERS HAVING OTHER RECOMMENDATIONS:

Milo Hanley Do not Pass
Mae Fischer Do not Pass

Milo Hanley
CHAIRMAN

H 60

Introduced: 1/26/83
Referred: Health, Education and
Social Services

ANNA

IN THE SENATE BY FERGUSON

x4989

R-107

SENATE JOINT RESOLUTION NO. 11 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to health care delivery to non-Native dependents by the United States Public Health Service.

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

WHEREAS Public Law 97-394, making appropriations for the Department of Interior, was sigred by the President of the United States in December 30, 1982; and

WHEREAS Public Law 97-394 contains a provision eliminating Indian Health Services health care delivery to non-Native dependents; and

WHEREAS Public Law 97-394 became effective immediately and had an immediate and adverse effect on health care planning for Native Alaskans and their non-Native dependents;

BE IT RESOLVED that the Legislature of the State of Alaska requests the United States Congress to reinstate health care for non-Native dependents at Indian Health Service Clinics so that they may have an adequate time frame during which to find alternative health care; and be it

FURTHER RESOLVED that in the event of future curtailment or elimination of health services provided by the Indian Health Service, recipients of the care shall be notified at least sixty days in advance so that they may find alternative health care.

COPIES of this resolution shall be sent to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Memorandum

Date JAN 5 1983

From : Director, Indian Health Service

Subject : Non-Indian Eligibility - Immediate Action

To : All IHS Area/Program Directors

The fiscal year 1983 Appropriations for the Department of the Interior (P.L. 97-394) was signed by the President on December 30, 1982.

The law contains a provision restricting non-Indian eligibility as follows:

> . . . notwithstanding current regulations, eligibility for Indian Health Services shall be extended to non-Indians in only two situations: (1) a non-Indian woman pregnant with an eligible Indian's child for the duration of her pregnancy through postpartum, and (2) non-Indian members of an eligible Indian's household if the medical officer in charge determines that this is necessary to control acute infectious disease or a public health hazard . . . .

This law supersedes IHS regulations, manual provisions and policy statements granting beneficiary status to non-Indian spouses and dependent members of an Indian's household or immediate family.1/ Effective immediately, non-Indians may be regarded as beneficiaries of the Indian health program only in the two exceptional situations stated in the appropriations statute above. Additional instructions will follow dealing with the provision of services to non-Indians with acute infectious diseases or other conditions which constitute public health hazards.

Non-Indians who were regarded as beneficiaries prior to enactment of P.L. 97-394 and who are presently inpatients in IHS facilities shall continue to be hospitalized until the need for hospitalization has ended. The determination as to when hospitalization is no longer needed shall be made by the patient's physician and be based upon the medical circumstances

---

1/ See the following statements governing non-Indian eligibility for IHS services: regulations at 42 CFR 36.12(a) regarding non-Indian wives, the preamble to proposed rules at 45 Federal Register 82839 (Dec. 14, 1980) regarding non-Indian husbands; section 2-1.2C of the IHS Manual regarding dependent non-Indian members of an eligible Indian's household; and section 2-3.7E(4) regarding non-Indian members of an eligible Indian's immediate family being eligible for contract health services.

of each patient. These patients shall be notified that after discharge they will no longer be eligible for services as IHS beneficiaries and should be assisted in locating other health care providers.

Non-Indians who were regarded as beneficiaries prior to enactment of the new law and who are presently undergoing a course of outpatient treatment may not be given further treatment unless, in the judgment of the medical officer in charge, immediate termination of treatment would threaten the life of or seriously impair the health of the individual patient. In that case the individual may be treated as an emergency patient (non-beneficiary) under regulations at 42 CFR 36.14. These patients shall also be notified that they are no longer eligible for services as IHS beneficiaries and should be assisted in locating other health care providers.

After receipt of this directive, no further initial authorization of contract health services may be made for any services provided after December 30, 1982, to former non-Indian beneficiaries except for non-Indians who meet the eligibility requirements of P.L. 97-394. Non-Indians who were regarded as beneficiaries prior to enactment of P.L. 97-394 and who are presently receiving inpatient contract care authorized under regulations at 42 CFR 36.21 et seq., may be authorized additional inpatient contract health services, within medical priorities, until the need for hospitalization has ended. No outpatient contract health care shall be authorized for these non-Indians after receipt of this notice. Outpatient contract health care authorized for these non-Indians before receipt of this notice shall be honored. These patients shall be notified that after discharge or completion of their previously authorized outpatient contract health care, they will no longer be eligible for services as IHS beneficiaries and should be assisted in locating other health care providers.

P.L. 97-394 does not affect treatment of non-beneficiaries where otherwise provided for by law. For example, the IHS facilities may continue to treat non-beneficiaries in cases of emergency as authorized under section 322(b) of the Public Health Service Act, 42 U.S.C. 249(b) and regulations at 42 CFR 36.14; the Alaska Area Native Health Service may treat non-indigent non-beneficiaries on a fee basis as authorized by 48 U.S.C. 49; and IHS facilities may continue to treat beneficiaries of other Federal programs under Economy Act arrangements. There may be other valid examples since this list is not intended to be all inclusive.

Within your respective jurisdictions, immediate dissemination of this notice shall be made to: (1) all IHS facilities and personnel involved in the provision of services, the determination of eligibility for services, and the authorization of contract health services; (2) all tribal leaders and leaders of Indian organizations involved in health issues, e.g., Indian health boards, urban Indian organizations, etc.; (3) all P.L. 93-638 contractors and grantees; (4) all non-IHS health care providers who provide services to IHS beneficiaries whether under contract (including Buy Indians) or not under contract; and (5) all local agencies that provide or pay for health services to the general population.

In addition, this notice shall be posted in the public areas of all IHS facilities, whether operated by IHS or by an Indian tribe or tribal organization, and in tribal facilities providing services to IHS beneficiaries under authority of P.L. 93-638. Finally, every reasonable effort should be taken to notify the general beneficiary population with particular emphasis given to individually notifying non-Indian patients, or their guardians, who were regarded as beneficiaries prior to enactment of P.L. 97-394 and who had received services as beneficiaries.

Individuals who are denied services under P.L. 97-394 shall be denied in writing and shall be afforded the current notice and appeals procedures.

Everett R. Rhoades, M.D.
Assistant Surgeon General

Dependants

An order, effective immediately, declares that no health care will be provided to non native dependants @ IHS clinics with the exception of 4 catagories

1- non native preg women - care will be given for pre-natal & post partum care

2- Emergencies approved my Director

3- Control of contagious infections

4- If the only medical services available are IHS ~~at~~ the care will be on a fee for service bases

The problem is one of conservation - time for these non qualified persons to seek alternative health care ie - 30 - 60 days -

For more info contact -

ANS -

Thank you for your assistance

Respectfully

Jim Thorp
438 Mumford #4
[illegible]

278-940 home
279-6661 x 340 wk

FEB 24 REC'D

Honorable Senator Frank Ferguson

We, the undersigned, support Senate Joint Resolution No. 11, which requests of the United States Public Health Service, Indian Health Service to provide 60 days notice to persons whose eligibility for health care services is to be curtailed or eliminated, so that those persons may have an adequate opportunity to find alternative health care.

NAME	ADDRESS	PHONE NUMBER
Greg Wood	SRA 3154 Anch. Alaska 99502	344-1605
Pauline Greeley	SRA 1305 D Anch. Ak 99502	3496995
Dorothy E. Wimbolt	304 Adak Circle Eagle Rivers Ak	694-9726
Mari Juncombe MD	2757 E. 1st Ave Anch. Ak 99502	338-7506
Phyllis G. Wolfe ANP	3832 Young St Anch Ak 99504	562 4636
[illegible]	7349 E 17th Ave Anch Ak 99504	333 5652
A. Washington	SR2 Box 745C, Chugiak	688-3063
Stephen E. Livingston M.D.	326 E. 2nd Ave. Anchorage, Ak. 99501	274-9945
Heman F Hunter Jr	510 N. Hoyt Anchorage Ak 99504	277 1876
Laura Hunter	510 N. Hoyt Anch. AK. 99504	277-1876
Frederick C Dundas	1009 W 30th Apt. #2 Anch AK 99503	
David Thunder Eagle	8100 Boundary #3 Anchorage AK 99504	338-5114
James Patlan	001 N Klevin #3 Anchorage Alaska - 99504	274-6.32
Arlene Tophat	2304 W. 47th Ave. Anchorage, Alaska 99503	243-2470
Harriet Beleal	2705 Klamath Anchorage 99503	2436714
Ewa D. Mansfield	S.R. Box 3114-B - Anch. AK. 99502	
[illegible]	SR Box 6013 ER. AK. 99507	
[illegible]	[illegible]	[illegible]
Phil Osborn	1011 Redfra, Anch. 99501	272-4693
Kathleen Schutt	SRA 1926 Anchorage 99502	349
Sandy Malone	2903 Willow St Anchorage, AK 99503	349

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Josephson, Chairman
Senate Health, Education, and
Social Services Committee

FROM: Senator Ferguson

DATE: February 7, 1983

SUBJ: SJR 11

President Reagan signed Public Law 97-394 into law on December 30, 1982. This law had the effect of immediately restricting the eligibility of non-Native dependents for Indian Health Services health care delivery. Although PL 97-394 was signed by the President in December of 1982, Indian Health Service Area Program Directors were not notified of the immediate change in health services eligibility until January 6, 1983. Neither the IHS Area Directors nor clients of the Indian Health Service had any official advance notice of changes in eligibility.

SJR 11 would request Congress to reinstate health care for non-Native dependents at IHS clinics to allow an adequate time frame for previous clients to find alternative health care, and would request Congress to allow a similar time frame in the event of any future curtailment of services.

438 Mumford #4
Anchorage, Alaska 99504
February 21, 1983

FEB 2 3 RECD

Senator Frank Ferguson
Pouch V
Juneau, Alaska 99811

Dear Senator Ferguson

This letter is in support of Senate Joint Resolution No. 11, which addresses health care delivery to non-Native dependents by the United States Public Health Service.

I am a Registered Nurse and work at the Alaska Native Medical Center in the outpatient/emergency room department. With the passage of Public Law 97-394, which immediately instructed us not to provide health care to non-Native dependents, I have had an opportunity to witness the hardship the immediate implementation of the bill had on patients. I feel a more humane method would have been to give the patients time to find alternative health care prior to being denied health care by the Public Health Service.

I appreciate the fact that the budget cuts have played a key role in this decision but I fully support your resolution in seeking a request of the Indian Health Service to give a reasonable notice of any intent to curtail or eliminate future health care.

If I can be of any more support I would appreciate your call.

Sincerely

Joan Phair Thorp

Joan Phair Thorp, R.N., B.S.N.

POSITION PAPER/Department of Health and Social Services

POSITION PAPER

HOUSE JOINT RESOLUTION NO. 27

"Relating to health care delivery to Non-Native dependents by the United States Public Health Service."

This Resolution requests the U.S. Congress to reinstate health care services for Non-Native dependents in order to give affected individuals an adequate time frame in which to find alternative sources of health care. It also requests advance notice of 60 days in the event of any future cut-off.

The abrupt discontinuation of eligibility for health care of Non-Native dependents will undoubtedly cause hardship in many instances. Adequate lead time would have allowed for a more orderly planning process. Therefore, the Department endorses the intent of this Resolution.

Recommended by: E. S. Rabeau M.D.

E. S. Rabeau, M.D., Director
Division of Public Health

Date: Feb. 10, 1983

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 2/14/83

438 Mumford # 4
Anchorage, Alaska 99504
February 21, 1983

Representative Adelheid Herrmann
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Herrmann

This letter is in support of House Joint Resolution No. 27, which addresses health care delivery to non-Native dependents and the future curtailment or elimination of services by the United States Public Health Service.

I am a Registered Nurse and work at the Alaska Native Medical Center in the outpatient/emergency room department. With the passage of Public Law 97-394, which immediately instructed us not to provide health care to non-Native dependents, I have had an opportunity to witness the hardship the immediate implementation of the bill had on patients. I feel a more humane method would have been to give the patients time to find alternative health care prior to being denied health care by the Public Health Service.

I apprectiate the fact that the budget cuts have played a key role in this decision but I fully support your resolution in seeking a request of the Indian Health Service to give a reasonable notice of any intent to curtail or eliminate future health care.

If I can be of any more assistance please call.

Sincerely

Joan Phair Thorp

Joan Phair Thorp, R.N., B.S.N.

Honorable Representative Herrmann

We, the undersigned, support House Joint Resolution No. 27, which requests of the United States Public Health Service, Indian Health Service to provide 60 days notice to persons whose eligibility for health care services is to be curtailed or eliminated, so that those persons may have an adequate opportunity to find alternative health care.

NAME	ADDRESS	PHONE NUMBER
Pauline Grube	SRA Box 1305D Anchorage, Ak 99502	907-3496995
Greg Wood	SRA 3154 Anch Alaska	344-1605
Dorothy E. Wambolt	504 Adak Circle Eagle River Ak 99502 99577	694-9726
Peggy Cobey	4303 Garfield Anchorage 99503	562-4081
Mari Duncombe, MD	2757 E. 17th Ave Anchorage 99508	338-7500
Richard Bedal	7349 E 17th Anchorage 99503	3335652
Stephen E. Livingston M.D.	326 E. 2nd Ave. Anchorage, Ak. 99501	274-9945
Jeman F Hunter Jr	510 N Hoyt anchorage AK 99504	2771876
Laura Hunter	510 N. Hoyt Anch. Ak.	277-8776
Frederick C. Dundas	1009 W 30 Apt #2 Anch AK. 99503	278-2291
David Thunder Eagle	8100 Boundary #3 Anchorage AK 99504	338-5114
James Patlan	601 N. Klevin #3 Anchorage AK - 99504	274-6527
Arlene Taphet	2304 W. 47th Ave. Anch AK 99503	243-2470
Harriet Beleal	2705 Klamath Anchorage	243-6714
Eva D. Mirnfeld	S.K. Box 3114-B - Anch., Ak. 99502	
Eva Umidon	SR Box 6013 ER, AK 99577	
Joan Thorp	438 Mumford #4 Anch 99504	278-9401
Phil Osborn	1011 Medfra, Anch 99501	272-4693
Kathleen Schutt	SRA 192C Anchorage 99502	349
Gladys Malone	2903 Willow Ave. Anchorage 99503	4349
A. Wasker	SR2 Box 7450, Chugiak	688-3063

DEPARTMENT OF HEALTH & HUMAN SERVICES — Public Health Service

Memorandum

Date: JAN 6 1983

From: Director, Indian Health Service

Subject: Non-Indian Eligibility - Immediate Action

To: All IHS Area/Program Directors

The fiscal year 1983 Appropriations for the Department of the Interior (P.L. 97-394) was signed by the President on December 30, 1982.

The law contains a provision restricting non-Indian eligibility as follows:

> . . . notwithstanding current regulations, eligibility for Indian Health Services shall be extended to non-Indians in only two situations: (1) a non-Indian woman pregnant with an eligible Indian's child for the duration of her pregnancy through postpartum, and (2) non-Indian members of an eligible Indian's household if the medical officer in charge determines that this is necessary to control acute infectious disease or a public health hazard . . . .

This law supersedes IHS regulations, manual provisions and policy statements granting beneficiary status to non-Indian spouses and dependent members of an Indian's household or immediate family.[1/] Effective immediately, non-Indians may be regarded as beneficiaries of the Indian health program only in the two exceptional situations stated in the appropriations statute above. Additional instructions will follow dealing with the provision of services to non-Indians with acute infectious diseases or other conditions which constitute public health hazards.

Non-Indians who were regarded as beneficiaries prior to enactment of P.L. 97-394 and who are presently inpatients in IHS facilities shall continue to be hospitalized until the need for hospitalization has ended. The determination as to when hospitalization is no longer needed shall be made by the patient's physician and be based upon the medical circumstances

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1/ See the following statements governing non-Indian eligibility for IHS services: regulations at 42 CFR 36.12(a) regarding non-Indian wives, the preamble to proposed rules at 45 Federal Register 82839 (Dec. 10, 1980) regarding non-Indian husbands; section 2-1.2C of the IHS Manual regarding dependent non-Indian members of an eligible Indian's household; and section 2-3.7E(4) regarding non-Indian members of an eligible Indian's immediate family being eligible for contract health services.

of each patient. These patients shall be notified that after discharge they will no longer be eligible for services as IHS beneficiaries and should be assisted in locating other health care providers.

Non-Indians who were regarded as beneficiaries prior to enactment of the new law and who are presently undergoing a course of outpatient treatment may not be given further treatment unless, in the judgment of the medical officer in charge, immediate termination of treatment would threaten the life of or seriously impair the health of the individual patient. In that case the individual may be treated as an emergency patient (non-beneficiary) under regulations at 42 CFR 36.14. These patients shall also be notified that they are no longer eligible for services as IHS beneficiaries and should be assisted in locating other health care providers.

After receipt of this directive, no further initial authorization of contract health services may be made for any services provided after December 30, 1982, to former non-Indian beneficiaries except for non-Indians who meet the eligibility requirements of P.L. 97-394. Non-Indians who were regarded as beneficiaries prior to enactment of P.L. 97-394 and who are presently receiving inpatient contract care authorized under regulations at 42 CFR 36.21 et seq., may be authorized additional inpatient contract health services, within medical priorities, until the need for hospitalization has ended. No outpatient contract health care shall be authorized for these non-Indians after receipt of this notice. Outpatient contract health care authorized for these non-Indians before receipt of this notice shall be honored. These patients shall be notified that after discharge or completion of their previously authorized outpatient contract health care, they will no longer be eligible for services as IHS beneficiaries and should be assisted in locating other health care providers.

P.L. 97-394 does not affect treatment of non-beneficiaries where otherwise provided for by law. For example, the IHS facilities may continue to treat non-beneficiaries in cases of emergency as authorized under section 322(b) of the Public Health Service Act, 42 U.S.C. 249(b) and regulations at 42 CFR 36.14; the Alaska Area Native Health Service may treat non-indigent non-beneficiaries on a fee basis as authorized by 48 U.S.C. 49; and IHS facilities may continue to treat beneficiaries of other Federal programs under Economy Act arrangements. There may be other valid examples since this list is not intended to be all inclusive.

Within your respective jurisdictions, immediate dissemination of this notice shall be made to: (1) all IHS facilities and personnel involved in the provision of services, the determination of eligibility for services, and the authorization of contract health services; (2) all tribal leaders and leaders of Indian organizations involved in health issues, e.g., Indian health boards, urban Indian organizations, etc.; (3) all P.L. 93-638 contractors and grantees; (4) all non-IHS health care providers who provide services to IHS beneficiaries whether under contract (including Buy Indians) or not under contract; and (5) all local agencies that provide or pay for health services to the general population.

In addition, this notice shall be posted in the public areas of all IHS facilities, whether operated by IHS or by an Indian tribe or tribal organization, and in tribal facilities providing services to IHS beneficiaries under authority of P.L. 93-638. Finally, every reasonable effort should be taken to notify the general beneficiary population with particular emphasis given to individually notifying non-Indian patients, or their guardians, who were regarded as beneficiaries prior to enactment of P.L. 97-394 and who had received services as beneficiaries.

Individuals who are denied services under P.L. 97-394 shall be denied in writing and shall be afforded the current notice and appeals procedures.

Everett R. Rhoades, M.D.
Assistant Surgeon General

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Joint Resolution No. 27 Date on Bill: 2/7/83
Title: Relating to health care delivery to non-Native dependents by the U.S. Public Health Service
Sponsor: Rep. Hermann
Requestor: HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	0	0	0		
Operating			0	0	0	0		
Total			0	0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Dean Tirador Phone: 465-3090
Division: Public Health Date: 2/10/83

Approved by Commissioner: Robert Landon Smith, M.D. Date: 2/11/83
Department: Health and Social Services

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

POSITION PAPER/Department of Health and Social Services

POSITION PAPER

HOUSE JOINT RESOLUTION NO. 27

"Relating to health care delivery to Non-Native dependents by the United States Public Health Service."

This Resolution requests the U.S. Congress to reinstate health care services for Non-Native dependents in order to give affected individuals an adequate time frame in which to find alternative sources of health care. It also requests advance notice of 60 days in the event of any future cut-off.

The abrupt discontinuation of eligibility for health care of Non-Native dependents will undoubtedly cause hardship in many instances. Adequate lead time would have allowed for a more orderly planning process. Therefore, the Department endorses the intent of this Resolution.

Recommended by: E. S. Rabeau, M.D.

E. S. Rabeau, M.D., Director
Division of Public Health

Date: Feb. 10, 1983

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 2/14/83

HJR

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NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS BEEN FILMED.

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* * * * *

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Ernest W. Lefever, President
ETHICS AND PUBLIC POLICY CENTER
1211 Connecticut Avenue N.W.
Washington, D.C. 20036

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Religious Freedom and the Supreme Court

Dallin H. Oaks

Ethics and Public Policy Center • Washington, D.C.

Whereas Congress and the Legislature of the State of Alaska open their daily session with prayer and inspirational words asking for God's guidance

Whereas we do not want to deprive by court ruling our children and their teachers this freedom to pray before start of school each day

SB

18

ANCHORAGE SCHOOL PROJECTS SB 18

Health, Safety, Emergency Repairs & Other Projects:

Abbott Loop	240,000
Aurora	125,000
Baxter	65,000
Birchwood ABC	3,000
Chester Valley	4,500
Chugach Optional	45,000
College Gate	67,600
Creek Side Park	4,000
Eagle River	120,000
Early Childhood Programs	17,800
Government Hill	777,160
Homestead	56,000
John F. Kennedy	116,000
Lake Otis	91,500
Mt. Iliamna	55,500
Mt. Spurr	52,500
Mountain View	229,000
Muldoon	60,000
Northern Lights ABC	5,000
Northwood	13,000
Nunaka Valley	34,000
Orion	20,000
Rabbit Creek	9,600
Rigel	4,000
Russian Jack	118,320
Sand Lake (less $86,000 in SB 162)	6,000
Susitna	38,650
Tudor	5,800
Turnagain	94,000
Ursa Major	255,490
Ursa Minor	46,000
Williwaw	19,100
Wonder Park	80,000
Gladys Wood	45,000
Central ABC	180,000
Clark (less $50,000 in SB 162)	582,590
Romig	204,650
Wendler	1,629,600
Bartlett	130,000
Inlet View	351,370
Chugiak	206,500
Dimond (less $76,500 in SB 162)	104,000
East	69,000
Service	179,000
West	645,150

Districtwide Emergency Maintenance	30,500
Pupil Transportation (improvements, bus center)	540,400
West High Auditorium	78,000
Vocational Educational Facilities (district-wide)	2,981,530
Food Educational and Service Center	2,000,000
Computer Output Microfilm Library Conversion	130,000
TOTAL	$12,965,810

Phillips - Homestead Elementary (Expt) $298,970

Category 2 of Munci. Pg 46

CAPITAL IMPROVEMENT PROGRAM BUDGET
FY 04 CIP BUDGET REQUEST

Combined City & Borough school districts. REAA's

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
1-04	FAIRBANKS NORTH STAR SCHOOLS LIFE SAFETY/CODE UPG	1	08904	2,543.0	LIFE SAFETY UPGRADE DISTRICTWIDE
2-04	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	1	01654	48.0	MODIFY BUILDINGS TO MEET FIRE CODES
3-04	YUKON KOYUKUK DISTRICT HEALTH/LIFE SAFETY	1	00519	4,156.0	PROJECT DOCUMENTED IN DOT/PF SURVEY 83-1
4-04	BERING STRAIT DISTRICTWIDE WATER UPG	1	00252	4,150.0	GOLOVIN, TELLER, KOYUK BREVIG MISSION, SHISHMAREF WATER CONDITION UNSAFE
5-04	WRANGELL CITY SCHOOLS NEW WRANGELL HS	1	00222	5,621.0	REPLACE EXIST SCH WITH ENERGY EFFICIENT COST EFFECTIVE STRUCTURE
6-04	RAILBELT SCHOOLS TRI-VALLEY SCHOOL	1	00157	2,050.0	HEALTH LIFE/SAFETY RENOVATION OF EXISTING FACILITY 83-23
7-04	NENANA CITY SCHOOLS DISTRICTWIDE LIFE/SAFETY	1	00120	600.0	HEALTH LIFE SAFETY CODE UPGRADE
8-04	KUSPUK SCHOOLS ANIAK SCHOOL	1	00120	90.0	SAFETY FENCE PHASE I
9-04	KAKE CITY SCHOOLS KAKE HIGH SCHOOL	1	00103	520.0	HEALTH/LIFE SAFETY CODE UPG TO MEET STATE REQUIREMENTS
10-04	BERING STRAIT UNALAKLEET ELEM	1	00097	4,300.0	REPLACE EXIST SCHL CODE VIOLATIONS DOCUMENTED OLD BIA SCHL 83-4

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
11-04	HYDABURG CITY SCHOOLS HYDABURG ELEMENTARY	1	00045	256.7	HEALTH/LIFE SAFETY CODE UPG
12-04	HYDABURG CITY SCHOOLS HYDABURG HS	1	00041	84.7	FIRE/LIFE SAFETY CODE UPG
13-04	BERING STRAIT BREVIG MISSION ELEMENTARY	1	00018	3,900.0	REPLACE EXIST SCHOOL OLD [illegible] SITE LIFE SAFETY VIOLATION
14-04	ALEUTIAN REGION AKUTAN SCHOOL	1	00009	2,258.9	REPLACE, EXISTING SCHOOL TOO SMALL NO ROOM FOR EXPANSION, 03-12
15-04	ANCHORAGE SCHOOL DISTRICT MEARS JR HS	2	00823	32,600.0	NEW MEARS JR HS
16-04	ANCHORAGE SCHOOL DISTRICT SOUTHEAST ELEMENTARY	2	00602	10,108.0	NEW SECTION 16 ELEM SCHOOL
17-04	ANCHORAGE SCHOOL DISTRICT EAGLE RIVER ELEM SCHOOL	2	00537	10,108.0	NEW EAGLE RIVER ELEM SCHOOL
18-04	JUNEAU BOROUGH SCHOOLS MARIE DRAKE JR. HS	2	00375	1,607.7	ADD MEDIA CENTER
19-04	PETERSBURG CITY SCHOOLS PETERSBURG HS	2	00240	7,000.0	ADD CLASSROOM AND LIBRARY TO REPLACE EXISTING BUILDING
20-04	IDITAROD SCHOOLS MCGRATH SCHOOL	2	00118	1,200.0	PROGRAM EXPANSION LIBRARY/ MEDIA, SCIENCE BUSINESS, HOME EC

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
21-04	SOUTHWEST REGION MANOKOTAK SCHOOL	2	00104	5,930.0	SCHL ADDITIONS - CLASSES ARE BEING HELD IN LEASED AND TEMPORARY BUILD. 03-10

22-84	YAKUTAT SCHOOLS ELEM. SCHOOL	2	00009	1,196.8	ELEM. CLASSROOM ADDITIONS
23-84	KING COVE CITY SCHOOL KING COVE SCHOOL	2	00006	4,461.6	NEW ADDITION TO HOUSE ADDITIONAL STUDENTS PHASE I
24-84	KLAWOCK CITY SCHOOLS KLAWOCK ELEM SCHOOL	2	00060	630.0	PRIMARY CLASSROOM ADDITION
25-84	ALASKA GATEWAY DOT LAKE MULTIPURPOSE	2	00031	1008.0	CLSRM/MULTIPUR PE VOC ED ADDITION EXPAND 2NDARY LEVEL 83-50
26-84	IDITAROD SCHOOLS NIKOLAI SCHOOL	2	00030	1,200.0	SCHOOL REPLACEMENT PHASE II
27-84	SOUTHWEST REGION LEVELOCK SCHOOL	2	00027	4,900.0	MULTIPUR, VOC ED CLRSM ADDITIONS 83-54
28-84	IDITAROD SCHOOLS ANVIK SCHOOL	2	00026	1,200.0	SCHOOL ADDITION LAST YEARS PRIORITY 83-49
29-84	YUKON FLATS STEVENS VILLAGE ELEM/H.S.	2	00024	3,200.0	NEW SCHOOL 83-58
30-84	SOUTHEAST ISLAND SCHOOLS GILDERSLEEVE SCHOOL	2	00024	200.0	INADEQUATE SPACE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
31-84	ALEUTIAN REGION ATKA SCHOOL PHASE II	2	00023	1,913.3	COMPLETION OF ADDITIONS TO NEW SCHOOL
32-84	CHUGACH CHENEGA NEW SCHOOL	2	00020	3254.0	NEW VILLAGE SITE NO FACILITIES, LAND, OR UTILITIES OWNED

33-04	BERING STRAIT SCHOOLS WALES SCHOOL	2	00020	2,590.0	REMODEL AND ADDITION
34-04	CHATHAM SCHOOLS TENAKEE SPRINGS SCHOOL	2	00019	2,817.0	NEW SCHOOL
35-04	YUKON FLATS NORTHERN LIGHTS SCHOOL	2	00017	1,400.0	MOVE TO NEW LOCATION EXISTING SITE NO LONGER AVAILABLE FOR USE
36-04	YUKON FLATS SEVEN MILE SCHOOL	2	00016	1,400.0	EXISTING STRUCTURE IN- ADEQUATE, NOT SUFFICIENT SPACE
37-04	SOUTHEAST ISLAND SCHOOLS LONG ISLAND SCHOOL	2	00015	860.0	NEW SITE, NO ADEQUATE FACILITY AVAILABLE
38-04	ALEUTIAN REGION FALSE PASS SCHOOL	2	00014	2,774.7	K-12 ADDITIONS INCREASED ENROLLMENT NEED SPACE 2NDARY PROGRAM
39-04	SOUTHEAST ISLAND SCHOOLS PORT ALEXANDER SCHOOL	2	00013	450.0	CLASSROOM ADDITION PROJECTED ENROLLMENT INCREASE
40-04	SOUTHWEST REGION CLARKS POINT SCHOOL	2	00012	5,325.0	NEW SCHOOL - EXISTING SCHL OLD, SMALL, UNSAFE LOCATED ON FLOOD PLANE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
41-04	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE	3	00904	4,047.0	PHASE I SCHEDULED MAINTENANCE UPGRADE, SECURITY OF BUILDINGS
42-04	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	3	04109	2,120.2	DISTRICTWIDE MAJOR MAINTENANCE
43-04	MAT/SU SCHOOLS WASILLA HS	3	02105	1,413.4	HS ROOF REPLACEMENT
44-04	ANCHORAGE OR BASE SCHOOLS DISTRICTWIDE	3	02056	155.0	MODIFY BUILDINGS TO PROTECT STRUCTURES

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
45-84	NW ARCTIC KOTZEBUE ELEM/SEC	3	00601	706.0	UPGRADE PHASE II 83-19
46-84	LOWER KUSKOKWIM KILBUCK SCHOOL	3	00350	2,400.0	ROOF REPAIR AND CODE UPG 83-20
47-84	LOWER KUSKOKWIM KILBUCK SCHOOL	3	00350	360.0	STORAGE WAREHOUSE COMP CODE UPG
48-84	CHATHAM SCHOOLS DISTRICT WIDE MAJOR MAINT	3	00218	023.0	ROOF REPAIRS PLAYGROUND COVERING 84-2
49-84	NENANA CITY SCHOOLS NENANA ROOF REPLACEMENT	3	00206	1,000.0	REPLACE ROOF ON GYM MAIN BUILDING
50-84	NW ARCTIC NOATAK SCHOOL	3	00100	283.0	RELOCATION OF EXIST FUEL TANK FARM THREATENS NEW ELEM 83-24

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
51-84	NW ARCTIC AMBLER ELEM/SEC	3	00097	710.0	UPGRADE & ADDITION 83-25
52-84	ST. MARY'S SCHOOLS ELEMENTARY FIRE CODE COMP	3	00091	901.9	FIRE CODE UPGRADE ROOF REPLACEMENT
53-84	NW ARCTIC SHUNGNAK SCHOOL	3	00054	75.0	UPGRADE UTILITIES 83-26
54-84	SOUTHEAST ISLAND THORNE BAY SCHOOL	3	00050	32.0	FLOOR BUCKLING LOOSE FROM STRUCTURE
55-84	BERING STRAIT TELLER EROSION CONTROL	3	00039	1,250.0	STOP EROSION ON SCHOOL SITE 83-27
56-84	NW ARCTIC KOBUK SCHOOL	3	00019	45.0	UPGRADE UTILITIES 83-28

57-84	KUSPUK SCHOOLS UPPER KALSKAG SCHOOL	3	00018	100.0	SITE IMPROVEMENTS
58-84	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	4	04189	1,138.5	NEW ADMINISTRATION BUILDING COST SAVINGS
59-84	MAT'SU SCHOOLS SWANSON ELEM	4	02051	630.0	ROOF REPLACEMENT INSULATE GYM WALLS
60-84	MAT/SU SCHOOLS WASILLA/PALMER HS	4	02105	222.8	COMPUTERIZED ENERGY MANAGEMENT SYSTEM

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
61-84	NW ARCTIC KOTZEBUE CENTRAL WAREHOUSE	4	01470	1,550.0	OPERATING COST SAVINGS 83-65
62-84	MAT/SU SCHOOLS PALMER JR HIGH	4	01467	9,073.5	COMPLETE RENOVATION OF PALMER JR HS
63-84	LOWER KUSKOKWIM ADM/MAINT/WAREHOUSE	4	01015	5,000.0	DISTRICTWIDE ADM/MAINT/WARE HOUSE 83-84
64-84	DELTA GREELY DELTA JUNCTION ADD	4	00352	900.0	SIX CLASSROOM ADD
65-84	NW ARCTIC KOTZEBUE PROG SUPPORT CNTR	4	00601	65.0	ENERGY RETROFIT 83-67
66-84	YUKON KOYUKUK ENERGY CONSERVATION	4	00591	827.0	PHASE I 83-66
67-84	DELTA/GREELY DELTA JUNCTION SCHOOL	4	00469	770.0	CENTRAL HEATING PLANT 83-69

68-04	NOME SCHOOLS NOME ELEM. SCHOOL	4	00404	17,000.0	REMODEL,REBUILD EXISTING SCHOOL
69-04	HAINES SCHOOLS HAINES HS/ELEM	4	00393	100.0	COMPLETE INSTALLATION OF UPSIDE DOWN ROOFS
70-04	VALDEZ CITY SCHOOLS VALDEZ HS	4	00387	2,500.0	TRADES & INDUSTRY OPERATING COST SAVINGS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
71-04	AK GATEWAY SCHOOLS TOK SCHOOL	4	00238	5,382.0	SCHOOL RELOCATION PHASE II
72-04	HAINES SCHOOLS HAINES HS	4	00192	70.0	RENOVATION OF CLASSROOM AND LIBRARY
73-04	SKAGWAY CITY SCHOOL DISTRICT SKAGWAY K-12 SCHOOL	4	00192	4,100.0	REMODEL/ADDITION ENERGY EFFICIENT BUILDING
74-04	RAILBELT SCHOOLS TRI-VALLEY	4	00157	700.0	COAL CONVERSION COMPLETION 83-76
75-04	LOWER YUKON EMMONAK SCHOOL	4	00109	7,478.5	ELEM SCHL REPLACEMENT PROVIDE ENERGY EFFICIENT STRUCTURE 83-42
76-04	BRISTOL BAY SCHOOLS BRISTOL BAY HS	4	00101	2,500.0	REMODEL 2NDARY AREA
77-04	KENAIA CITY SCHOOLS KENAIA HS ADDITION	4	00086	7,130.0	REPLACE EXIST FACILITIES W/COST EFFECTIVE ENERGY EFFICIENT STRUCTURE
78-04	SOUTHEAST ISLAND SCHOOLS THORNE BAY SCHOOL	4	00050	480.0	VOC/SPEC ED SERVICES ADDITION REPLACE EXISTING SPACE
79-04	COPPER RIVER CHISTOCHINA ELEMENTARY	4	00018	534.6	REPLACE SUBSTANDARD MODULAR WITH ENERGY EFFICIENT STRUCTURE 83-52

80-84	FAIRBANKS NORTH STAR SCHOOLS HANDICAP CODE UPGRADE	5	08904	1,851.0	HANDICAP CODE UPG

DEPARTMENT OF EDUCATION
CAPITAL IMPROVEMENT PROGRAM BUDGET
FY 84 CIP BUDGET REQUEST

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
81-84	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	5	04189	48.4	SAFETY AND HANDICAP UPGRADE
82-84	FAIRBANKS NORTH STAR SCHOOLS ON BASE SCHOOLS	5	02163	405.8	CODE UPG VIOLATIONS SITED IN SURVEY BY FED. GOVERNMENT
83-84	LOWER YUKON DISTRICTWIDE FACILITIES	5	01180	3,537.9	CODE UPGRADE - DOCUMENTED DOT/PF REPORT FIRE MARSHALL REPORT
84-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	5	00890	290.0	MODIFY BUILDINGS TO MEET BUILDING CODES
85-84	ANCHORAGE SCHOOL DISTRICT BAYSHORE,NORTHWOOD ELEM	5	00804	96.1	DOOR INSTALLATION
86-84	KODIAK ISLAND HIGH SCHOOL CODE UPG	5	00527	5,441.0	DEFICIENCY CORRECTIONS
87-84	LOWER KUSKOKWIM BETHEL HIGH SCHOOL	5	00526	1,370.0	HANDICAP CODE UPGRADE
88-84	SOUTHWEST REGION PHASE II UPGRADE	5	00496	2,000.0	LIFE/SAFETY UPG 83-3
89-84	LAKE AND PENINSULA DISTRICTWIDE	5	00341	1,700.0	CODE UPGRADE PHASE II
90-84	SOUTHEAST ISLAND SCHOOLS DISTRICT REPAIR	5	00312	29.0	FIRE CODE AND MAJOR MAINTENANCE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
91-84	LOWER KUSKOKWIM MIKELNGUUT ELITNAURVIAT	5	00216	243.6	SCHOOL CODE UPG HANDICAPP UPG 83-62
92-84	HAINES SCHOOLS HAINES HS	5	00192	16.0	RETUBE BOILER
93-84	YUKON FLATS DISTRICTWIDE UPGRADE	5	00156	750.0	MAJOR MAINTENANCE CODE UPG
94-84	LOWER KUSKOKWIM NELSON ISL TOKSOOK BAY HS	5	00090	584.5	MAJOR MAINT/CODE UPG
95-84	NW ARCTIC DEERING SCHOOL	5	00043	145.0	NON-LIFE SAFETY UPGR 83-63
96-84	ANCHORAGE SCHOOL DISTRICT COMMUNICATIONS & MEDIA	6	15705	1,136.0	CONVERSION TO COMPUTER OUTPUT
97-84	ANCHORAGE SCHOOL DISTRICT VOCATIONAL EDUCATION	6	15705	951.6	ACQUIRE NEW AND REPLACEMENT EQUIPMENT FOR LABORATORIES
98-84	ANCHORAGE SCHOOL DISTRICT MANAGEMENT INFO SYSTEMS	6	15705	1,120.0	MICROCOMPUTER PROJECT PHASE I
99-0	ANCHORAGE SCHOOL DISTRICT VOCATIONAL LABORATORY	6	15705	1,790.0	JR/SR HIGH SHOPS & LABORATORIES NEED MODIFICATION
100-84	FAIRBANKS NORTH STAR SCHOOLS MAIN SCHOOL	6	00904	5,400.0	REMODEL FACILITY TO MEET NEW PROGRAM NEEDS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS

101-04	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE REPAIR	6	06704	179.0	PAVING OF PARKING LOT AND ROADWAYS
102-04	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	6	04189	735.6	PAVING COMPLETION AND REPAIR DISTRICTWIDE
103-04	MAT/SU SCHOOLS BUTTE ELEM	6	02851	49.5	SITE DEVELOPMENT
104-04	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	6	02730	5,046.0	MODIFY BUILDINGS TO IMPROVE PROGRAM QUALITY
105-04	ANCHORAGE SCHOOL DISTRICT SERVICE/HANSHEW SCHOOL	6	02569	311.0	RESURFACE RUNNING TRACK
106-04	ANCHORAGE SCHOOL DISTRICT SERVICE/HANSHEW SCHOOL	6	02569	150.7	GYM CURTAIN REPLACEMENT
107-04	ANCHORAGE SCHOOL DISTRICT WEST HS	6	01859	114.2	SCIENCE ROOM REMODELING
108-04	ANCHORAGE SCHOOL DISTRICT EAST HS	6	01806	235.2	LOCKER ROOM ALTERATIONS
109-04	ANCHORAGE SCHOOL DISTRICT CHUGIAK HS	6	01500	1,461.6	LIBRARY ADDITION
110-04	ANCHORAGE SCHOOL DISTRICT CHUGIAK HS	6	01500	109.8	SCIENCE ROOM REMODELING

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
111-04	ANCHORAGE SCHOOL DISTRICT DIMOND HS	6	01476	5,210.0	DIMOND HS AUDITORIUM
112-04	ANCHORAGE SCHOOL DISTRICT 3 SITES	6	01200	157.5	ADDITIONAL ELECTRICAL OUTLETS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
113-84	ANCHORAGE SCHOOL DISTRICT WENDLER JR HS	6	00989	143.1	MUSIC PRACTICE ROOMS
114-84	KODIAK ISLAND JR & HIGH SCHOOL AUD	6	00819	6,500.0	DISTRICT PRIORITY ONE AUDITORIUM
115-84	ANCHORAGE SCHOOL DISTRICT CENTRAL JR HS	6	00726	1,145.4	SECOND FLOOR ADDITION
116-84	ANCHORAGE SCHOOL DISTRICT ROMIG JR HS	6	00708	154.7	INSTALL 800 LOCKERS
117-84	ANCHORAGE SCHOOL DISTRICT OCEAN VIEW ELEM SCHOOL	6	00701	386.4	LUNCHROOM ADDITION
118-84	ANCHORAGE SCHOOL DISTRICT RABBIT CREEK ELEM SCHOOL	6	00677	1,148.0	MULTIPURPOSE ROOM LUNCHROOM ADDITION
119-84	ANCHORAGE SCHOOL DISTRICT SOUTHEAST ELEMENTARY	6	00601	1,530.0	MULTIPURPOSE ROOM
120-84	JUNEAU BOROUGH SCHOOLS FLOYD DRYDEN SCHOOL	6	00540	1,735.8	ADD MULTIPURPOSE ROOM FOR PROGRAM IMPROVEMENT

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
121-84	ANCHORAGE SCHOOL DISTRICT EAGLE RIVER ELEM	6	00537	2,230.0	FOUR ROOM ADDITION PLUS GYM
122-84	YUKON KOYUKUK RUBY REGIONAL VOC TECH	6	00519	6,800.0	DISTRICTWIDE VOC TECH CENTER
123-84	SOUTHWEST REGION DISTRICT OFFICE	6	00496	1,300.0	MAINTENANCE WAREHOUSE FACILITY 83-60
124-84	ANCHORAGE SCHOOL DISTRICT NORTH STAR ELEM	6	00389	11[illegible].0	SINKS & COUNTERS INSTALLATION

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
125-84	ANCHORAGE SCHOOL DISTRICT BIRCHWOOD ABC SCHOOL	6	00342	1,298.0	EXPANSION OF MULTI- PURPOSE ROOM
126-84	DELTA/GREELY FT. GREELY SCHOOL	6	00331	600.0	REMODEL OLD GYM 83-31
127-84	ANCHORAGE SCHOOL DISTRICT GOVERNMENT HILL ELEM	6	00315	378.2	MULTIPURPOSE ROOM/ LUNCHROOM ADDITION
128-84	ANCHORAGE SCHOOL DISTRICT MT. ILIAMNA ELEM SCHOOL	6	00315	191.2	STORAGE ROOM ADDITION
129-84	ANCHORAGE SCHOOL DISTRICT FAIRVIEW ELEM SCHOOL	6	00300	589.0	EXPANSION OF MULTI- PURPOSE ROOM
130-84	ADAK REGION SCHOOLS ADAK MIDDLES/HS	6	00300	11,535.7	ADDITIONS & IMPROVS 83-33 EXCEEDS SPACE GUIDELINES SHOULD BE FED FUNDED

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
131-84	PETERSBURG CITY SCHOOLS PETERSBURG HS	6	00348	1,075.0	MAJOR MAINTENANCE OF OLD BUILDING TO PRESERVE
132-84	BRISTOL BAY SCHOOLS NAKNEK SCHOOL	6	00213	25.0	GROUND DEVELOPMENT
133-84	UNALASKA CITY SCHOOLS UNALASKA VOC/ED BUILDING	6	00167	5,529.9	REPLACE EXISTING VOC/ED FACILITY
134-84	NW ARCTIC SELAWIK MULTIPURPOSE	6	00148	530.0	MULTIPURPOSE ADDITION
135-84	PRIBILOF ISLANDS ST. PAUL ISLAND SCHOOL	6	00147	3,350.0	MULTIPURPOSE FACILITY 83-01

135-84	NAKE CITY SCHOOLS NAKE ELEMENTARY	6	00112	3,425.0	MODIFY EXISTING SPACE TO INCLUDE LIBRARY/MEDIA CENTER
137-84	LOWER YUKON HOOPER BAY HS	6	00111	1,417.9	PRESENT FACILITIES EXCEED GUIDELINES ADDITIONAL INFO REQUESTED
138-84	FAIRBANKS NORTH STAR SCHOOLS SALCHA SCHOOL	6	00106	768.0	ADDITION TO MEET PROGRAMS REQUIREMENTS
139-84	ST. MARY'S SCHOOLS ST. MARY'S GROUNDS UPG	6	00091	95.0	SITE UPGRADE PLAYGROUND AREA
140-84	LOWER KUSKOKWIM KONGIGINAK SCHOOL	6	00085	480.0	REPLACE VOC. ED. FACILITY

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
141-84	AK GATEWAY SCHOOLS NORTHWAY PHASE II	6	00082	1,850.0	ELEM., SPECIAL ED & 2NDARY CLASSROOMS 83-40
142-84	LAKE AND PENINSULA NEWHALEN SCHOOL	6	00071	2,500.0	ADDITION AND REPLACEMENT
143-84	LOWER KUSKOKWIM KWETHLUK HS	6	00070	165.0	FACILITY IMPROVEMENTS
144-84	YAKUTAT SCHOOLS YAKUTAT HS	6	00066	1,672.3	HS CLASSROOM ADDITIONS
145-84	NW ARCTIC ROCKLAND SCHOOL	6	00064	195.0	REMODEL SHOP STORAGE SPACE 83-52
146-84	LOWER KUSKOKWIM KIPNUK HS	6	00060	720.0	WATER STORAGE TANK 150,000 GAL.
147-84	LOWER YUKON ALAKANUK H.S.	6	00055	921.3	CLASSROOM ADD - PRESENT FACILITY OVERSIZED ADDITIONAL INFO NEEDED

148-04	LAKE & PENINSULA CHIGNIK LAKE SCHOOL	6	00051	350.0	VOC ED SHOP PROGRAM UPGRADE
149-04	PELICAN CITY SCHOOLS JR HIGH ADDITION	6	00049	450.0	FOUR CLASSROOM ADDITION
150-04	ALASKA GATEWAY EAGLE SCHOOL	6	00044	1500.0	MOVE SCHOOL

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
151-04	LOWER KUSKOKWIM KWIGILLINGOK HS		00035	360.0	WATER STORAGE TANKS 30,000 GAL
152-04	BERING STRAIT SAVOONGA HS ADD	6	00035	1,340.0	HIGH CONSTRUCTION COST RESULTED IN DELETION OF CLASSROOM IN ORIG CONST. 03-46
153-04	COPPER RIVER GAKONA SCHOOL	6	00033	312.0	MULTIPUR REMODEL EXIST FACILITY NO MULTIPUR SPACE 03-47
154-04	LAKE & PENINSULA KOKHANOK SCHOOL	6	00032	2,300.0	ADDITION & REPLACEMENT OF EXISTING FACILITY
155-04	KUSPUK SCHOOLS STONY RIVER SCHOOL	6	00025	1,000.0	ADDITION PHASE 1 NEED ADDITIONAL INFO
156-04	CHUGACH WHITTIER CLASSROOM ADD	6	00022	1400.0	FUNCTIONAL UPG
157-04	CHUGACH WHITTIER MULTIPUR ADD	6	00022	2604.0	OLD MULTIPUR NOT SAFE
158-04	ST MARYS SCHOOLS ANDREAFSKI CAREER CENTER	6	00021	2500.0	PHASE 1 REPLACEMENT

	159-84	ALEUTIAN REGION NELSON LAGOON SCHOOL	6	00020	1,434.6	COMPLETE ADDITION NEED SHOP, SCI, HOME EC, MULTIPUR 03-53
	160-84	LOWER KUSKOKWIM PLATINUM SCHOOL	6	00018	754.0	MULTIPURPOSE ROOM

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
161-84	KUSPUK SCHOOLS RED DEVIL SCHOOL	6	00016	35.0	ELECTRICAL GENERATOR UPG NEED ADDITIONAL INFO
162-84	IDITAROD SCHOOLS GRAYLING SCHOOL	6	00015	1,500.0	SCHOOL ADDITION LAST YEARS PRIORITY 03-55 NEED SUPPLEMENTAL SPACE
163-84	LAKE AND PENINSULA IGIUGIG SCHOOL	6	00012	1,200.0	VOC-ED SHOP AND ELEM. REPLACEMENT
164-84	KUSPUK SCHOOLS CHUATHBALUK ELEMENTARY	6	00010	1,860.0	ADDITION TO EXIST SPACE IMPROVE PROGRAM
165-84	BERING STRAIT GOLOVIN HS	6	00004	1,200.0	HIGH SCHOOL ADDITION
166-84	SOUTHEAST ISLAND SCHOOLS KASAAN SCHOOL	6	00001	980.0	2NDARY ADD SHOP/GYM CLASSROOM 03-59
167-84	ANCHORAGE SCHOOL DISTRICT DISTRICTWIDE	7	15705	752.0	EXPANSION OF EMERGENCY COMMUNICATIONS SYSTEMS
168-84	ANCHORAGE SCHOOL DISTRICT COMMUNICATIONS & MEDIA	7	15705	9,815.7	INSTRUCTIONAL SUPPORT SERVICES FACILITY
169-84	ANCHORAGE SCHOOL DISTRICT FOOD SERVICE	7	15705	7,883.7	FOOD EDUCATION AND SERVICE CENTER
170-84	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE DATA PROCESSING	7	08904	200.0	DISTRICTWIDE DATA PROCESSING SYSTEM

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
171-84	MAT/SU SCHOOLS TRAPPER CREEK ELEM	7	02851	208.8	PAVE AND LIGHT DRIVEWAYS INSTALL OUTLETS
172-84	MAT/SU SCHOOLS SHERROD/SWANSON ELEM	7	02851	52.8	SCHOOL SITE DEVELOPMENT
173-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	7	02730	1,146.0	MODIFY EXISTING BUILDINGS
174-84	FAIRBANKS NORTH STAR SCHOOLS LAIHROP,N. POLE,DEN EIELSON	7	02496	975.0	4 SCHOOLS ALL WEATHER TRACK
175-84	ANCHORAGE SCHOOL DISTRICT EAST HS	7	01006	85.0	NEW ENTRANCE TO PUBLIC SWIMMING POOL
176-84	LOWER KUSKOKWIM DISTRICTWIDE MEDIA CENTER	7	01015	1,600.0	MEDIA CENTER NEED ADDITIONAL INFO
177-84	LOWER KUSKOKWIM VILLAGE SCHOOLS	7	01015	810.0	PLAY DECKS DISTRICTWIDE 83-83
178-84	LOWER KUSKOKWIM VILLAGE SCHOOLS	7	01015	1,075.0	TRAMWAYS AND BOARDWALKS 83-84
179-84	ANCHORAGE SCHOOL DISTRICT 6-SITES	7	01000	203.0	REPLACE SCHOOL INTERCOM SYSTEM
180-84	VALDEZ CITY SCHOOLS VALDEZ	7	00021	10,000.0	ATHLETIC COMPLEX

PRIORITY

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
181-84	VALDEZ CITY SCHOOLS VALDEZ DISTRICT	7	00821	1,600.0	MAINTENANCE FACILITY
182-84	LOWER KUSKOKWIM BETHEL HS	7	00694	5,300.0	BETHEL SWIMMING POOL 83-72
183-84	NW ARCTIC KOTZEBUE	7	00601	80.0	VECHICLE ACQUISITION IMPLEMENT DISTRICT PROGRAMS 83-73
184-84	BERING STRAIT DISTRICT HEADQUARTERS	7	00591	3,200.0	RELOCATE DISTRICT HEADQUARTERS TO UNALAKLEET 83-4
185-84	AK GATEWAY SCHOOLS DISTRICTWIDE	7	00484	4,664.4	SWIMMING POOL 83-74
186-84	DILLINGHAM L1/SAF IRR/MECH UPG	7	00367	4,400.0	UPGRADE MECHANICAL HEATING SYS TEM CONSTRUCT POOL
187-84	DELTA/GREELY FT. GREELY SCHOOL	7	00331	4,000.0	COMPLETE MULTIPURPOSE ROOM 83-30
188-84	KUSPUK SCHOOLS ANIAK ADMIN FACILITY	7	00324	1,200.0	DISTRICTWIDE ADMIN FACILITY
189-84	KUSPUK SCHOOLS DISTRICTWIDE	7	00324	400.0	STORAGE AND EQUIPMENT FACILITIES
190-84	KUSPUK SCHOOLS DISTRICT VOC-ED CENTER	7	00324	400.0	VOC-ED SHORTFALL

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
191-84	NW ARCTIC KOTZEBUE ACADEMIC HS	7	00239	5,060.0	COMPLETION OF PROJECT 83-78
192-84	SKAGWAY CITY SCHOOL DISTRICT K-12 FACILITIES	7	00192	3,800.0	SWIMMING POOL/WATER SAFETY FACILITY

193-84	LOWER KUSKOKWIM BETHEL JR/HI	7	00175	4,620.0	ADDITION TO EXISTING SCHL NEED INFO ON USE OF EXIST JR/HS SPACE 83-37
194-84	DELTA/GREELY DELTA JUNCTION HS	7	00174	900.0	VOC-ED COMPLETION 83-34
195-84	BERING STRAIT ST. MICHAEL, STEBBINS	7	00152	750.0	CONSTRUCTION SHORTFALL 83-85
196-84	CHATHAM SCHOOLS ANGOON SCHOOL	7	00146	106.0	PURCHASE MAINTENANCE VECHICLE CONSTRUCT GARAGE 84-4
197-84	BERING STRAIT SHISHMAREF SCHOOL	7	00121	2,012.0	FIRE RESEVOIR SWIMMING POOL 83-82
198-84	KUSPUK SCHOOLS ANIAK SCHOOL	7	00087	478.4	SHORTFALL
199-84	KUSPUK SCHOOLS ANIAK SCHOOL	7	00087	80.0	ELECTRICAL GENERATOR UPGRADE NEED IS QUESTIONABLE
200-84	KUSPUK SCHOOLS LOWER KALSKAG SCHOOL	7	00051	80.0	ELECTRICAL GENERATOR UPGRADE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
201-84	ALEUTIAN REGION COLD BAY NEW SCHOOL	7	00045	5,816.3	PHASE I K-12 REPLACEMENT MOVE TO NEW SITE, 83-13
202-84	KUSPUK SCHOOLS KALSKAG SCHOOLS	7	00036	800.0	STORAGE FACILITY
203-84	KUSPUK SCHOOLS SLEETMUTE SCHOOL	7	00029	50.0	SITE IMPROVEMENTS

204-04	KUSPUK SCHOOLS SLEETMUTE SCHOOL	7	00029	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
205-04	KUSPUK SCHOOLS CHUATHBALUK SCHOOL	7	00028	100.0	STORAGE FACILITY
206-04	KUSPUK SCHOOLS CHUATHBALUK SCHOOL	7	00028	50.0	SITE IMPROVEMENTS
207-04	KUSPUK SCHOOLS STONY RIVER SCHOOL	7	00025	50.0	SITE IMPROVEMENTS
208-04	KUSPUK SCHOOLS CROOKED CREEK SCHOOL	7	00025	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
209-04	KUSPUK SCHOOLS STONY RIVER SCHOOL	7	00025	100.0	STORAGE FACILITIES
210-04	KUSPUK SCHOOLS CROOKED CREEK SCHOOL	7	00025	540.0	SHORTFALL

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL CONDITION
211-04	KUSPUK SCHOOLS UPPER KALSKAG SCHOOL	7	00010	80.0	ELECTRICAL GENERATOR UPGRADE
212-04	KUSPUK SCHOOLS RED DEVIL SCHOOL	7	00016	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
213-04	KUSPUK SCHOOLS RED DEVIL SCHOOL	7	00016	300.0	SHORTFALL
214-04	IDITAROD SCHOOLS MINCHUMINA SCHOOL	7	00010	100.0	SITE ACQUISITION 83-06

CAPITAL IMPROVEMENT PROGRAM BUDGET

FY 84 CIP BUDGET REQUEST

Independent

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
1-84	FAIRBANKS NORTH STAR SCHOOLS LIFE SAFETY/CODE UPG	1	08904	2,543.0	LIFE SAFETY UPGRADE DISTRICTWIDE
1-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	1	01654	48.0	MODIFY BUILDINGS TO MEET FIRE CODES
2-84	WRANGELL CITY SCHOOLS NEW WRANGELL HS	1	00222	5,621.0	REPLACE EXIST SCH WITH ENERGY EFFICIENT COST EFFECTIVE STRUCTURE
3-84	NENANA CITY SCHOOLS DISTRICTWIDE LIFE/SAFETY	1	00120	600.0	HEALTH LIFE SAFETY CODE UPGRADE
4-84	KAKE CITY SCHOOLS KAKE HIGH SCHOOL	1	00103	560.0	HEALTH/LIFE SAFETY CODE UPG TO MEET STATE REQUIREMENTS
5-84	HYDABURG CITY SCHOOLS EMENTARY	1	00045	256.7	HEALTH/LIFE SAFETY CODE UPG
6-84	HYDABURG CITY SCHOOLS HYDABURG HS	1	00041	64.7	FIRE/LIFE SAFETY CODE UPG
7-84	ANCHORAGE SCHOOL DISTRICT MEARS JR HS	2	00823	32,600.0	NEW MEARS JR HS
8-84	ANCHORAGE SCHOOL DISTRICT SOUTHEAST ELEMENTARY	2	00602	10,108.0	NEW SECTION 16 ELEM SCHOOL
9-84	ANCHORAGE SCHOOL DISTRICT EAGLE RIVER ELEM SCHOOL	2	00537	10,108.0	NEW EAGLE RIVER ELEM SCHOOL

	10-84	JUNEAU BOROUGH SCHOOLS MARIE DRAKE JR. HS	2	00375	1,687.7	ADD MEDIA CENTER
	11-84	PETERSBURG CITY SCHOOLS	2	00248	7,000.0	ADD CLASSROOM
PETERSBURG HS					TO REPLACE EXISTING BUILDING	
	12-84	YAKUTAT SCHOOLS ELEM. SCHOOL	2	00089	1,196.8	ELEM. CLASSROOM ADDITIONS
	13-84	KING COVE CITY SCHOOL KING COVE SCHOOL	2	00086	4,461.6	NEW ADDITION TO HOUSE ADDITIONAL STUDENTS PHASE I
	14-84	KLAWOCK CITY SCHOOLS KLAWOCK ELEM SCHOOL	2	00068	630.0	PRIMARY CLASSROOM ADDITION
	15-84	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE	3	08904	6,847.0	PHASE I SCHEDULED MAINTENANCE UPGRADE, SECURITY OF BUILDINGS
	16-84	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	3	04189	2,128.2	DISTRICTWIDE MAJOR MAINTENANCE
	17-84	MAT/SU SCHOOLS WASILLA HS	3	02105	1,412.4	HS ROOF REPLACEMENT
	17-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	3	02056	155.0	MODIFY BUILDINGS TO PROTECT STRUCTURES
	18-84	NENANA CITY SCHOOLS NENANA ROOF REPLACEMENT	3	00206	1,000.0	REPLACE ROOF ON GYM MAIN BUILDING

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
19-84	ST. MARY'S SCHOOLS ELEMENTARY FIRE CODE COMP	3	00091	901.9	FIRE CODE UPGRADE ROOF REPLACEMENT

20-84	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	4	04189	1,138.5	NEW ADMINISTRATION BUILDING COST SAVINGS
21-84	MAT/SU SCHOOLS SWANSON ELEM	4	02851	630.0	ROOF REPLACEMENT INSULATE GYM WALLS
22-84	MAT/SU SCHOOLS WASILLA/PALMER HS	4	02105	222.8	COMPUTERIZED ENERGY MANAGEMENT SYSTEM
23-84	MAT/SU SCHOOLS PALMER JR HIGH	4	01467	9,073.5	COMPLETE RENOVATION OF PALMER JR HS
24-84	NOME SCHOOLS NOME ELEM. SCHOOL	4	00404	17,000.0	REMODEL,REBUILD EXISTING SCHOOL
25-84	HAINES SCHOOLS HAINES HS/ELEM	4	00393	100.0	COMPLETE INSTALLATION OF UPSIDE DOWN ROOFS
26-84	VALDEZ CITY SCHOOLS VALDEZ HS	4	00387	2,500.0	TRADES & INDUSTRY OPERATING COST SAVINGS
27-84	HAINES SCHOOLS HAINES HS	4	00192	70.0	RENOVATION OF CLASSROOM AND LIBRARY
28-84	SKAGWAY CITY SCHOOL DISTRICT SKAGWAY K-12 SCHOOL	4	00192	4,100.0	REMODEL/ADDITION ENERGY EFFICIENT BUILDING

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
29-84	BRISTOL BAY SCHOOLS BRISTOL BAY HS	4	00101	2,500.0	REMODEL 2NDARY AREA
30-84	NENANA CITY SCHOOLS NENANA HS ADDITION	4	00086	7,130.0	REPLACE EXIST FACILITIES W/COST EFFECTIVE ENERGY EFFICIENT STRUCTURE

PRIORITY FY-YEAR	ID DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
31-84	FAIRBANKS NORTH STAR SCHOOLS HANDICAP CODE UPGRADE	5	08904	1,851.0	HANDICAP CODE UPG
32-84	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	5	04189	48.4	SAFETY AND HANDICAP UPGRADE
33-84	FAIRBANKS NORTH STAR SCHOOLS ON BASE SCHOOLS	5	02163	405.8	CODE UPG VIOLATIONS STATED IN SURVEY BY FED. GOVERNMENT
33-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	5	00898	290.0	MODIFY BUILDINGS TO MEET BUILDING CODES
34-84	ANCHORAGE SCHOOL DISTRICT BAYSHORE,NORTHWOOD ELEM	5	00804	96.1	DOOR INSTALLATION
35-84	KODIAK ISLAND HIGH SCHOOL CODE UPG	5	00527	5,441.0	DEFICIENCY CORRECTIONS
36-84	HAINES SCHOOLS HAINES HS	5	00192	16.0	RETUBE BOILER
39-84	ANCHORAGE SCHOOL DISTRICT COMMUNICATIONS & MEDIA	6	15705	1,136.0	CONVERSION TO COMPUTER OUTPUT

PRIORITY FY-YEAR	ID DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
37-84	ANCHORAGE SCHOOL DISTRICT VOCATIONAL EDUCATION	6	15705	951.6	ACQUIRE NEW AND REPLACEMENT EQUIPMENT FOR LABORATORIES
38-84	ANCHORAGE SCHOOL DISTRICT MANAGEMENT INFO SYSTEMS	6	15705	1,120.0	MICROCOMPUTER PROJECT PHASE I
40-84	ANCHORAGE SCHOOL DISTRICT VOCATIONAL LABORATORY	6	15705	1,798.0	JR/SR HIGH SHOPS & LABORATORIES NEED MODIFICATION
41-84	FAIRBANKS NORTH STAR SCHOOLS MAIN SCHOOL	6	08904	5,400.0	REMODEL FACILITY TO MEET NEW PROGRAM NEEDS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
42-84	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE REPAIR	6	08904	179.0	PAVING OF PARKING LOT AND ROADWAYS
43-84	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	6	04189	735.6	PAVING COMPLETION AND REPAIR DISTRICTWIDE
44-84	MAT/SU SCHOOLS BUTTE ELEM	6	02851	49.5	SITE DEVELOPMENT
44-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	6	02730	5,046.0	MODIFY BUILDINGS TO IMPROVE PROGRAM QUALITY
46-84	ANCHORAGE SCHOOL DISTRICT SERVICE/HANSHEW SCHOOL	6	02569	158.7	GYM CURTAIN REPLACEMENT
45-84	ANCHORAGE SCHOOL DISTRICT SERVICE/HANSHEW SCHOOL	6	02569	311.0	RESURFACE RUNNING TRACK

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
47-84	ANCHORAGE SCHOOL DISTRICT WEST HS	6	01859	114.2	SCIENCE ROOM REMODELING
48-84	ANCHORAGE SCHOOL DISTRICT EAST HS	6	01806	235.2	LOCKER ROOM ALTERATIONS
49-84	ANCHORAGE SCHOOL DISTRICT CHUGIAK HS	6	01508	1,461.6	LIBRARY ADDITION
50-84	ANCHORAGE SCHOOL DISTRICT CHUGIAK HS	6	01508	189.8	SCIENCE ROOM REMODELING
51-84	ANCHORAGE SCHOOL DISTRICT DIMOND HS	6	01476	5,210.0	DIMOND HS AUDITORIUM

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
52-84	ANCHORAGE SCHOOL DISTRICT 3-SITES	6	01200	157.5	ADDITIONAL ELECTRICAL OUTLETS
53-84	ANCHORAGE SCHOOL DISTRICT WENDLER JR HS	6	00989	143.1	MUSIC PRACTICE ROOMS
54-84	KODIAK ISLAND JR & HIGH SCHOOL AUD	6	00819 !0	6,500.0	DISTRICT PRIORITY ONE AUDITORIUM
55-84	ANCHORAGE SCHOOL DISTRICT CENTRAL JR HS	6	00726	1,145.4	SECOND FLOOR ADDITION
62-84	ANCHORAGE SCHOOL DISTRICT ROMIG JR HS	6	00708	154.7	INSTALL 800 LOCKERS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
57-84	ANCHORAGE SCHOOL DISTRICT OCEAN VIEW ELEM SCHOOL	6	00701	386.4	LUNCHROOM ADDITION
58-84	ANCHORAGE SCHOOL DISTRICT RABBIT CREEK ELEM SCHOOL	6	00677	1,148.0	MULTIPURPOSE ROOM LUNCHROOM ADDITION
59-84	ANCHORAGE SCHOOL DISTRICT SOUTHEAST ELEMENTARY	6	00601	1,530.0	MULTIPURPOSE ROOM
60-84	JUNEAU BOROUGH SCHOOLS FLOYD DRYDEN SCHOOL	6	00540	1,735.8	ADD MULTIPURPOSE ROOM FOR PROGRAM IMPROVEMENT
61-84	ANCHORAGE SCHOOL DISTRICT EAGLE RIVER ELEM	6	00537	2,230.0	FOUR ROOM ADDITION PLUS GYM
56-84	ANCHORAGE SCHOOL DISTRICT NORTH STAR ELEM	6	00389	111.0	SINKS & COUNTERS INSTALLATION
63-84	ANCHORAGE SCHOOL DISTRICT BIRCHWOOD ABC SCHOOL	6	00342	1,298.0	EXPANSION OF MULTI-PURPOSE ROOM

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
64-84	ANCHORAGE SCHOOL DISTRICT GOVERNMENT HILL ELEM	6	00315	378.2	MULTIPURPOSE ROOM/ LUNCHROOM ADDITION
65-84	ANCHORAGE SCHOOL DISTRICT MT. ILIAMNA ELEM SCHOOL	6	00315	191.2	STORAGE ROOM ADDITICN
66-84	ANCHORAGE SCHOOL DISTRICT FAIRVIEW ELEM SCHOOL	6	00308	589.0	EXPANSION OF MULTI- PURPOSE ROOM

CAPITAL IMPROVEMENT PROGRAM BUDGET
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PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
70-84	PETERSBURG CITY SCHOOLS PETERSBURG HS	6	00248	1,075.0	MAJOR MAINTENANCE ON OLD BUILDING TO PRESERVE BUILDING
68-84	BRISTOL BAY SCHOOLS NAKNEK SCHOOL	6	00213	25.0	GROUND DEVELOPMENT
69-84	UNALASKA CITY SCHOOLS UNALASKA VOC/ED BUILDING	6	00167	5,529.9	REPLACE EXISTING VOC/ED FACILITY
67-84	KAKE CITY SCHOOLS KAKE ELEMENTARY	6	00112	3,425.0	MODIFY EXISTING SPACE TO INCLUDE LIBRARY/MEDIA CENTER
71-84	FAIRBANKS NORTH STAR SCHOOLS SALCHA SCHOOL	6	00106	768.0	ADDITION TO MEET PROGRAMS REQUIREMENTS
72-84	ST. MARY'S SCHOOLS ST. MARY'S GROUNDS UPG	6	00091	95.0	SITE UPGRADE PLAYGROUND AREA
73-84	YAKUTAT SCHOOLS YAKUTAT HS	6	00066	1,672.3	HS CLASSROOM ADDITIONS
74-84	PELICAN CITY SCHOOLS JR HIGH ADDITION	6	00049	450.0	FOUR CLASSROOM ADDITION
75-84	ST. MARY'S SCHOOLS ANDREAFSKI CAREER CENTER	6	00021	2,500.0	PHASE I REPLACEMENT

	76-84	ANCHORAGE SCHOOL DISTRICT DISTRICTWIDE	7	15705	752.0	EXPANSION OF EMERGENCY COMMUNICATIONS SYSTEMS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
78-84	ANCHORAGE SCHOOL DISTRICT FOOD SERVICE	7	15705	7,883.7	FOOD EDUCATION AND SERVICE CENTER
77-84	ANCHORAGE SCHOOL DISTRICT COMMUNICATIONS & MEDIA	7	15705	9,815.7	INSTRUCTIONAL SUPPORT SERVICES FACILITY
79-84	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE DATA PROCESSING	7	08904	200.0	DISTRICTWIDE DATA PROCESSING SYSTEM
80-84	MAT/SU SCHOOLS TRAPPER CREEK ELEM	7	02851	208.8	PAVE AND LIGHT DRIVEWAYS INSTALL OUTLETS
81-84	MAT/SU SCHOOLS SHERROD/SWANSON ELEM	7	02851	52.8	SCHOOL SITE DEVELOPMENT
80-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	7	02730	1,146.0	MODIFY EXISTING BUILDINGS
82-84	FAIRBANKS NORTH STAR SCHOOLS LATHROP,N. POLE,BEN EIELSON	7	02496	975.0	4 SCHOOLS ALL WEATHER TRACK
83-84	ANCHORAGE SCHOOL DISTRICT EAST HS	7	01806	85.8	NEW ENTRANCE TO PUBLIC SWIMMING POOL
84-84	ANCHORAGE SCHOOL DISTRICT 6-SITES	7	01000	203.0	REPLACE SCHOOL INTERCOM SYSTEM
86-84	VALDEZ CITY SCHOOLS VALDEZ	7	00821	10,000.0	ATHLETIC COMPLEX

DEPARTMENT OF EDUCATION
CAPITAL IMPROVEMENT PROGRAM BUDGET
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PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
85-84	VALDEZ CITY SCHOOLS	7	00821	1,600.0	MAINTENANCE FACILITY
VALDEZ DISTRICT					
86-84	DILLINGHAM LI/SAF TRN/MECH UPG	7	00367	4,400.0	UPGRADE MECHANICAL HEATING SYSTEM CONSTRUCT POOL
87-84	SKAGWAY CITY SCHOOL DISTRICT K-12 FACILITIES	7	00192	3,800.0	SWIMMING POOL/WATER SAFETY FACILITY

ELEMENTARY SCHOOL SPACE GUIDELINES (IN MAXIMUM GROSS SQUARE FEET OF FLOOR AREA)

	ENROLLMENT					
	10-20	21-32	33-46	47-62	63-80	81-99[5]
CLASSROOM(S)	900	1800	2400	3000	3600	4200
LIBRARY/MEDIA CNTR.	-0-	-0-	-0-	600	700	800
OFFICE(S)	-0-	-0-	-0-	100	200	300
MULTI-PURPOSE SPACE	-0-	-0-	1200	2000	2250	2500
SUPPLEMENTARY SPACE[3]	300(35%)	630(35%)	1800(30%)	2170(30%)	2025(30%)	1950(25%)
TOTAL	1200	2430	4680	5070	8775	9750

SECONDARY SCHOOL SPACE GUIDELINES (IN MAXIMUM GROSS SQUARE FEET OF FLOOR AREA)

CLASSROOM(S)	800[1]	1200[1]	1500[2]	1200	1800	2400
LIBRARY/MEDIA CNTR. (% of individual study space)	900 75%	1000 70%	1100 65%	1200 60%	1300 55%	1400 50%
SCIENCE CLASSROOM	-0-	-0-	800	900	1000	1100
OFFICE	-0-	-0-	-0-	100	150	200
BUSINESS ED.	-0-	-0-	100	300	400	600
HOME SCIENCE	-0-	-0-	-0-	400	600	700
INDUSTRIAL ED.	400	600	800	1000	1200	1500
MULTI-PURPOSE SPACE	1200	2000	2500	4200	4500	5000
SUPPLEMENTARY SPACE[4]	1155(35%)	1680(35%)	2000(30%)	2700(30%)	3285(30%)	3225(25%)
TOTAL	4455	6840	8800	11840	14235	16125

COMBINED ELEM./SEC. SCHOOL SPACE GUIDELINES (IN MAXIMUM GROSS SQUARE FEET OF FLOOR SPACE)

(TO BE USED IN PLACE OF STANDARDS IN SEPARATE ELEM. & SEC. CHARTS)

ELEMENTARY CLASSROOM(S)	900	1800	2400	3000	3600	4200
SECONDARY CLASSROOM(S)	800[1]	1200[1]	1500[2]	1200	1800	2400
LIBRARY/MEDIA[6] (% of individual study space)	1000 75%	1100 70%	1200 65%	1300 60%	1400 55%	1500 50%
SCIENCE CLASSROOM	-0-	-0-	800	900	1000	1100
INDUSTRIAL ED.	400	600	800	1000	1200	1500
BUSINESS ED.	-0-	-0-	100	300	400	600
HOME SCIENCE	-0-	-0-	-0-	400	600	700
MULTI-PURPOSE SPACE[6]	1500	2500	3500	4200	4500	5000
SUPPLEMENTARY SPACE[6]	35%	35%	30%	30%	30%	25%

[1] Include wet area for science/home economics.
[2] Include wet area for home economics.
[3] Include restrooms, storage, hallways, wall thickness, kitchens, and mechanical space. Restrooms for 20 or more should include at least one shower stall.
[4] Include restrooms, storage, hallways, wall thickness, kitchens, and mechanical space. Restrooms for 20 or more should include at least one shower stall. Provisions for washer and dryer for towels should also be considered.
[5] For elementary schools over 100 enrollment, use 100 gross square feet of floor area per student. For secondary schools over 100 enrollment, use 150 gross square feet of floor area per student.
[6] Computed on basis of combined elementary and secondary enrollment.

APPENDIX C

Department of Education Space Guidelines

DEPARTMENT OF EDUCATION
CAPITAL IMPROVEMENT PROGRAM BUDGET
FY 84 CIP BUDGET REQUEST

REAA

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
1-84	YUKON KOYUKUK DISTRICT HEALTH/LIFE SAFETY	1	00519	4,156.0	PROJECT DOCUMENTED IN DOT/PF SURVEY 83-1
2-84	BERING STRAIT DISTRICTWIDE WATER UPG	1	00252	4,150.0	GOLOVIN, TELLER, KOYUK DREVIG MISSION, SHISHMAREF WATER CONDITION UNSAFE
3-84	RAILBELT SCHOOLS TRI-VALLEY SCHOOL	1	00157	2,050.0	HEALTH LIFE/SAFETY RENOVATION OF EXISTING FACILITY 83-23
4-84	KUSPUK SCHOOLS ANIAK SCHOOL	1	00120	90.0	SAFETY FENCE PHASE I
5-84	BERING STRAIT UNALAKLEET ELEM	1	00097	4,300.0	REPLACE EXIST SCHL CODE VIOLATIONS DOCUMENTED OLD BIA SCHL 83-4
6-84	BERING STRAIT DREVIG MISSION ELEMENTARY	1	00018	3,900.0	REPLACE EXIST SCHOOL OLD BIA SITE LIFE/SAFETY VIOLATION
7-84	ALEUTIAN REGION AKUTAN SCHOOL	1	00009	2,258.9	REPLACE, EXISTING SCHOOL TOO SMALL NO ROOM FOR EXPANSION. 83-12
8-84	IDITAROD SCHOOLS MCGRATH SCHOOL	2	00118	1,200.0	PROGRAM EXPANSION LIBRARY/ MEDIA, SCIENCE BUSINESS, HOME EC
9-84	SOUTHWEST REGION NANOKOTAK SCHOOL	2	00104	5,930.0	SCHL ADDITIONS - CLASSES ARE BEING HELD IN LEASED AND TEMPORARY BUILD. 83-10
10-84	ALASKA GATEWAY DOT LAKE MULTIPURPOSE	2	00031	1008.9	CLSRM/MULTIPITUR PE VOC ED ADDITION EXPAND 2NDARY LEVEL 83-50

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
11-84	IDITAROD SCHOOLS NIKOLAI SCHOOL	2	00030	1,200.0	SCHOOL REPLACEMENT PHASE II
12-84	SOUTHWEST REGION LEVELOCK SCHOOL	2	00027	4,900.0	MULTIPUR, VOC ED CLRSM ADDITIONS 83-54
12-84	IDITAROD SCHOOLS ANVIK SCHOOL	2	00026	1,200.0	SCHOOL ADDITION LAST YEARS PRIORITY 83-49
13-84	YUKON FLATS STEVENS VILLAGE ELEM/H.S.	2	00024	3,200.0	NEW SCHOOL 83-58
14-84	SOUTHEAST ISLAND SCHOOLS GILDERSLEEVE SCHOOL	2	00024	280.0	INADEQUATE SPACE
15-84	ALEUTIAN REGION ATKA SCHOOL PHASE II	2	00023	1,913.3	COMPLETION OF ADDITIONS TO NEW SCHOOL
16-84	BERING STRAIT SCHOOLS WALES SCHOOL	2	00020	2,590.0	REMODEL AND ADDITION
17-84	CHUGACH CHENEGA NEW SCHOOL	2	00020	3254.0	NEW VILLAGE SITE NO FACILITIES, LAND, OR UTILITIES OWNED
18-84	CHATHAM SCHOOLS TENAKEE SPRINGS SCHOOL	2	00019	2,817.0	NEW SCHOOL
19-84	YUKON FLATS NORTHERN LIGHTS SCHOOL	2	00017	1,400.0	MOVE TO NEW LOCATION EXISTING SITE NO LONGER AVAILABLE FOR USE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
20-84	YUKON FLATS SEVEN MILE SCHOOL	2	00016	1,400.0	EXISTING STRUCTURE INADEQUATE, NOT SUFFICIENT SPACE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
21-84	SOUTHEAST ISLAND SCHOOLS LONG ISLAND SCHOOL	2	00015	860.0	NEW SITE, NO ADEQUATE FACILITY AVAILABLE
22-84	ALEUTIAN REGION FALSE PASS SCHOOL	2	00014	2,774.7	K-12 ADDITIONS INCREASED ENROLLMENT NEED SPACE 2NDARY PROGRAM
23-84	SOUTHEAST ISLAND SCHOOLS PORT ALEXANDER SCHOOL	2	00013	450.0	CLASSROOM ADDITION PROJECTED ENROLLMENT INCREASE
24-84	SOUTHWEST REGION CLARKS POINT SCHOOL	2	00012	5,325.0	NEW SCHOOL - EXISTING SCHL OLD, SMALL, UNSAFE LOCATED ON FLOOD PLANE
25-84	NW ARCTIC KOTZEBUE ELEM/SEC	3	00601	706.0	UPGRADE PHASE II 83-19
26-84	LOWER KUSKOKWIM KILBUCK SCHOOL	3	00350	2,400.0	ROOF REPAIR AND CODE UPG 83-20
27-84	LOWER KUSKOKWIM KILBUCK SCHOOL	3	00350	360.0	STORAGE WAREHOUSE COMP CODE UPG
28-84	CHATHAM SCHOOLS DISTRICTWIDE MAJOR MAINT	3	00218	823.0	ROOF REPAIRS PLAYGROUND COVERING 84-2
29-84	NW ARCTIC NOATAK SCHOOL	3	00100	283.0	RELOCATION OF EXIST FUEL TANK FARM THREATENS NEW ELEM 83-24

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
30-84	NW ARCTIC AMBLER ELEM/SEC	3	00097	710.0	UPGRADE & ADDITION 83-25
31-84	NW ARCTIC SHUNGNAK SCHOOL	3	00054	75.0	UPGRADE UTILITIES 83-26

32-84	SOUTHEAST ISLAND THORNE BAY SCHOOL	3	00650	32.0	FLOOR BUCKLING LOOSE FROM STRUCTURE
33-84	BERING STRAIT TELLER EROSION CONTROL	3	00039	1,250.0	STOP EROSION ON SCHOOL SITE 83-27
34-84	NW ARCTIC KOBUK SCHOOL	3	00019	45.0	UPGRADE UTILITIES 83-28
35-84	KUSPUK SCHOOLS UPPER KALSKAG SCHOOL	3	00018	100.0	SITE IMPROVEMENTS
36-84	NW ARCTIC KOTZEBUE CENTRAL WAREHOUSE	4	01470	1,550.0	OPERATING COST-SAVINGS 83-65
37-84	LOWER KUSKOKWIM ADM/MAINT/WAREHOUSE	4	01015	5,000.0	DISTRICTWIDE ADM/MAINT/WARE- HOUSE 83-04
38-84	DELTA GREELY DELTA JUNCTION ADD	4	00602	900.0	SIX CLASSROOM ADD
39-84	NW ARCTIC KOTZEBUE PROG SUPPORT CNTR	4	00601	65.0	ENERGY RETROFIT 83-67

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
40-84	YUKON KOYUKUK ENERGY CONSERVATION	4	00591	827.0	PHASE I 83-66
41-84	DELTA/GREELY DELTA JUNCTION SCHOOL	4	00469	770.0	CENTRAL HEATING PLANT 83-69
42-84	AK GATEWAY SCHOOLS TOK SCHOOL	4	00230	5,382.0	SCHOOL RELOCATION PHASE II
43-84	RAILBELT SCHOOLS TRI-VALLEY	4	00157	700.0	COAL CONVERSION COMPLETION 83-76

44-84	LOWER YUKON EMMONAK SCHOOL	4	00109	7,478.5	ELEM SCHL REPLACEMENT PROVIDE ENERGY EFFICIENT STRUCTURE 83-42
45-84	SOUTHEAST ISLAND SCHOOLS THORNE BAY SCHOOL	4	00050	480.0	VOC/SPEC ED SERVICES ADDITION REPLACE EXISTING SPACE
46-84	COPPER RIVER CHISTOCHINA ELEMENTARY	4	00018	534.6	REPLACE SUBSTANDARD MODULAR WITH ENERGY EFFICIENT STRUCTURE 83-56
47-84	LOWER YUKON DISTRICTWIDE FACILITIES	5	01180	3,537.9	CODE UPGRADE - DOCUMENTED DOT/PF REPORT FIRE MARSHALL REPORT
48-84	LOWER KUSKOKWIM BETHEL HIGH SCHOOL	5	00526	1,370.0	HANDICAP CODE UPGRADE
49-84	SOUTHWEST REGION PHASE II UPGRADE	5	00496	2,800.0	LIFE/SAFETY UPG 83-3

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
50-84	LAKE AND PENINSULA DISTRICTWIDE	5	00341	1,700.0	CODE UPGRADE PHASE II
51-84	SOUTHEAST ISLAND SCHOOLS DISTRICT REPAIR	5	00312	29.0	FIRE CODE AND MAJOR MAINTENANCE
52-84	LOWER KUSKOKWIM MIKELNGUUT ELITNAURVIAT	5	00216	243.6	SCHOOL CODE UPG HANDICAPP UPG 83-62
53-84	YUKON FLATS DISTRICTWIDE UPGRADE	5	00156	750.0	MAJOR MAINTENANCE CODE UPG
54-84	LOWER KUSKOKWIM NELSON ISL TOKSOOK BAY HS	5	00090	584.5	MAJOR MAINT/CODE UPG

55-84	NW ARCTIC DEERING SCHOOL	5	00043	145.0	NON-LIFE SAFETY UPGR 83-63
56-84	YUKON KOYUKUK RUBY REGIONAL VOC TECH	6	00519	6,800.0	DISTRICTWIDE VOC TECH CENTER
57-84	SOUTHWEST REGION DISTRICT OFFICE	6	00496	1,300.0	MAINTENANCE WAREHOUSE FACILITY 83-68
58-84	DELTA/GREELY FT. GREELY SCHOOL	6	00331	600.0	REMODEL OLD GYM 83-31
59-84	ADAK REGION SCHOOLS ADAK MIDDLES/HS	6	00300	11,535.7	ADDITIONS & IMPROVS 83-33 EXCEEDS SPACE GUIDELINES SHOULD BE FED FUNDED

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
60-84	NW ARCTIC SELAWIK MULTIPURPOSE	6	00140	530.0	MULTIPURPOSE ADDITION
61-84	PRIBILOF ISLANDS ST. PAUL ISLAND SCHOOL	6	00147	3,350.0	MULTIPURPOSE FACILITY 83-81
62-84	LOWER YUKON HOOPER BAY HS	6	00111	1,417.9	PRESENT FACILITIES EXCEED GUIDELINES ADDITIONAL INFO REQUESTED
63-84	LOWER KUSKOKWIM KONGIGINAK SCHOOL	6	00085	400.0	REPLACE VOC. ED. FACILITY
64-84	AK GATEWAY SCHOOLS NORTHWAY PHASE II	6	00082	1,050.0	ELEM., SPECIAL ED & 2NDARY CLASSROOMS 83-40
65-84	LAKE AND PENINSULA NEWHALEN SCHOOL	6	00071	2,500.0	ADDITION AND REPLACEMENT
66-84	LOWER KUSKOKWIM KWETHLUK HS	6	00070	185.0	FACILITY IMPROVEMENTS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
67-84	NW ARCTIC BUCKLAND SCHOOL	6	00064	195.0	REMODEL SHOP STORAGE SPACE 83-52
68-84	LOWER KUSKOKWIM KIPNUK HS	6	00060	720.0	WATER STORAGE TANK 150,000 GAL.
69-84	LOWER YUKON ALAKANUK H.S.	6	00055	921.3	CLASSROOM ADD - PRESENT FACILITY OVERSIZED ADDITIONAL INFO NEEDED

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
70-84	LAKE & PENINSULA CHIGNIK LAKE SCHOOL	6	00051	350.0	VOC ED SHOP PROGRAM UPGRADE
71-84	ALASKA GATEWAY EAGLE SCHOOL	6	00044	1500.0	MOVE SCHOOL
72-84	LOWER KUSKOKWIM KWIGILLINGOK HS	6	00035	360.0	WATER STORAGE TANKS 30,000 GAL
73-84	BERING STRAIT SAVOONGA HS ADD	6	00035	1,340.0	HIGH CONSTRUCTION COST RESULTED IN DELETION OF CLASSROOM IN ORIG CONST. 83-46
74-84	COPPER RIVER GAKONA SCHOOL	6	00033	312.0	MULTIPUR REMODEL EXIST FACILITY NO MULTIPUR SPACE 83-47
75-84	LAKE & PENINSULA NONHANOK SCHOOL	6	00032	2,300.0	ADDITION & REPLACEMENT OF EXISTING FACILITIES
77-84	KUSPUK SCHOOLS STONY RIVER SCHOOL	6	00025	1,800.0	ADDITION PHASE I NEED ADDITIONAL INFO
78-84	CHUGACH WHITTIER CLASSROOM ADD	6	00022	1480.0	FUNCTIONAL UPG
79-84	CHUGACH WHITTIER MULTIPUR ADD	6	00022	2684.0	OLD MULTIPUR NOT SAFE

80-84	ALEUTIAN REGION NELSON LAGOON SCHOOL	6	00020	1,434.6	COMPLETE ADDITION NEED SHOP, SCI, HOME EC MULTIPUR 83-53

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
81-84	LOWER KUSKOKWIM PLATINUM SCHOOL	6	00018	754.0	MULTIPURPOSE ROOM
82-84	KUSPUK SCHOOLS RED DEVIL SCHOOL	6	00016	35.0	ELECTRICAL GENERATOR UPG NEED ADDITIONAL INFO
83-84	IDITAROD SCHOOLS GRAYLING SCHOOL	6	00015	1,500.0	SCHOOL ADDITION LAST YEARS PRIORITY 83-55 NEED SUPPLEMENTAL SPACE
84-84	LAKE AND PENINSULA IGIUGIG SCHOOL	6	00012	1,200.0	VOC-ED SHOP AND ELEM. REPLACEMENT
85-84	KUSPUK SCHOOLS CHUATHBALUK ELEMENTARY	6	00010	1,800.0	ADDITION TO EXIST SPACE IMPROVE PROGRAM
86-84	BERING STRAIT GOLOVIN HS	6	00004	1,200.0	HIGH SCHOOL ADDITION
87-84	SOUTHEAST ISLAND SCHOOLS KASAAN SCHOOL	6	00001	980.0	2NDARY ADD SHOP/GYM CLASSROOM 83-59
88-84	LOWER KUSKOKWIM DISTRICTWIDE MEDIA CENTER	7	01015	1,600.0	MEDIA CENTER NEED ADDITIONAL INFO
89-84	LOWER KUSKOKWIM VILLAGE SCHOOLS	7	01015	800.0	PLAY DECKS DISTRICTWIDE 83-83
90-84	LOWER KUSKOKWIM VILLAGE SCHOOLS	7	01015	1,075.0	TRAMWAYS AND BOARDWALKS 83-84

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
91-84	LOWER KUSKOKWIM BETHEL HS	7	00694	5,300.0	BETHEL SWIMMING POOL 03-72
92-84	NW ARCTIC KOTZEBUE	7	00601	80.0	VECHICLE ACQUISITION IMPLEMENT DISTRICT PROGRAMS 83-73
93-84	BERING STRAIT DISTRICT HEADQUARTERS	7	00591	3,200.0	RELOCATE DISTRICT HEADQUARTERS TO UNALAKLEET 83-4
94-84	AK GATEWAY SCHOOLS DISTRICTWIDE	7	00484	4,664.4	SWIMMING POOL 83-74
95-84	DELTA/GREELY FT. GREELY SCHOOL	7	00331	4,000.0	COMPLETE MULTIPURPOSE ROOM 03-30
96-84	KUSPUK SCHOOLS ANIAK ADMIN FACILITY	7	00324	1,200.0	DISTRICTWIDE ADMIN FACILITY
97-84	KUSPUK SCHOOLS DISTRICTWIDE	7	00324	400.0	STORAGE AND EQUIPMENT FACILITIES
98-84	KUSPUK SCHOOLS DISTRICT VOC-ED CENTER	7	00324	400.0	VOC-ED SHORTFALL
99-84	NW ARCTIC KOTZEBUE ACADEMIC HS	7	00239	5,060.0	COMPLETION OF PROJECT 83-78
100-84	LOWER KUSKOKWIM BETHEL JR/HI	7	00175	4,620.0	ADDITION TO EXISTING SCHL NEED INFO ON USE OF EXIST JR/HS SPACE 83-37

PRIORITY FY-YEAR	DISTRICT	TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
101-84	DELTA/GREELY DELTA JUNCTION HS	7	00174	900.0	VOC-ED COMPLETION 83-34
102-84	BERING STRAIT S. MICHAEL, STEBBINS	7	00152	750.0	CONSTRUCTION SHORTFALL 83-85
103-84	CHATHAM SCHOOLS ANGOON SCHOOL	7	00146	106.0	PURCHASE MAINTENANCE VECHICLE CONSTRUCT GARAGE 84-4
104-84	BERING STRAIT SHISHMAREF SCHOOL	7	00121	2,012.0	FIRE RESEVOIR SWIMMING POOL 83-82
105-84	KUSPUK SCHOOLS ANIAK SCHOOL	7	00087	478.4	SHORTFALL
106-84	KUSPUK SCHOOLS ANIAK SCHOOL	7	00087	80.0	ELECTRICAL GENERATOR UPGRADE NEED IS QUESTIONABLE
107-84	KUSPUK SCHOOLS LOWER KALSKAG SCHOOL	7	00051	80.0	ELECTRICAL GENERATOR UPGRADE
108-84	ALEUTIAN REGION COLD BAY NEW SCHOOL	7	00045	5,816.3	PHASE I K-12 REPLACEMENT MOVE TO NEW SITE. 83-13
109-84	KUSPUK SCHOOLS KALSKAG SCHOOLS	7	00036	800.0	STORAGE FACILITY
110-84	KUSPUK SCHOOLS SLEETMUTE SCHOOL	7	00029	50.0	SITE IMPROVEMENTS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
111-84	KUSPUK SCHOOLS SLEETMUTE SCHOOL	7	00029	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
112-84	KUSPUK SCHOOLS CHUATHBALUK SCHOOL	7	00028	100.0	STORAGE FACILITY

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
113-84	KUSPUK SCHOOLS CHUATHBALUK SCHOOL	7	00028	50.0	SITE IMPROVEMENTS
114-84	KUSPUK SCHOOLS STONY RIVER SCHOOL	7	00025	50.0	SITE IMPROVEMENTS
115-84	KUSPUK SCHOOLS CROOKED CREEK SCHOOL	7	00025	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
116-84	KUSPUK SCHOOLS STONY RIVER SCHOOL	7	00025	100.0	STORAGE FACILITIES
117-84	KUSPUK SCHOOLS CROOKED CREEK SCHOOL	7	00025	540.0	SHORTFALL
118-84	KUSPUK SCHOOLS UPPER KALSKAG SCHOOL	7	00018	80.0	ELECTRICAL GENERATOR UPGRADE
119-84	KUSPUK SCHOOLS RED DEVIL SCHOOL	7	00016	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
120-84	KUSPUK SCHOOLS RED DEVIL SCHOOL	7	00016	380.0	SHORTFALL

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
121-84	IDITAROD SCHOOLS MINCHUMINA SCHOOL	7	00010	100.0	SITE ACQUISITION 83-86

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
King Cove School	I	King Cove City Sch.		26	8/83	9/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	2,461.6	Funding Source	Fed. Rec.	N/A	
FY 85	2,000.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	4,461.6				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	4,461.6
	G.O. Bonds	
	Total	4,461.6

Funding Information Gov. FY 84	FY	FY
2,900.0		
2900.0		

Priority:	Prior Year	Agency	Governor
	-0-	84 Education 13	84-9

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
	☐	☐	☐	☐	Yes	Yes	Yes

Project Description:

Plan, design and construct secondary school addition. This facility would be approximately 21,960 square feet.

Project Justification:

Project Need:

This facility is needed to meet secondary program needs. The district presently has no High School building and all secondary classes are being taught in the elementary building. This addition is essential in order to meet program needs.

Documentation of Estimated Capital Costs:

The district estimate of $4,461.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:

A. Continue to house high school students in existing facility. Rejected due to inability of structure to house students or program.

B. Phase I & II as identified in FY81 feasibility study study totalled $9,647,335. Rejected due to exhorbitant expens[illegible].

C. Comp[illegible]e new and separate high school facility. Rejected [illegible] to lack of space, construction and operating cos[illegible]

35a PROPOSED PROJECT

King Cove School
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM DISTRICT EDUCATION

PROPOSED FUNDING YEAR FY 84

Page 20 of 135

Revised Date

FY 84

000433

01-1143 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $65,000-85,000.

35b PROPOSED PROJECT
(Continued)

King Cove School
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM DISTRICT EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

000434

ITEM	AGENCY REQUEST			GOVERNOR'S RECOMMENDATION			EXPLANATION
	TOTAL	GF	OTHER	TOTAL	GF	OTHER	
King Cove Secondary School	4461.6	4461.6		2900.0	2900.0		Project reduced in scope based on Department of Education square foot guidelines.

AGENCY Education

CATEGORY Education

PROGRAM Elem/Sec Educ - City/Boroughs

7C ANALYSIS OF GOVERNOR'S DECISIONS

000435

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CS SB 18 (Rules) am
Title: ...elementary & Secondary Facilities..
Sponsor: Kerttula, et al
Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Elem. & Secondary
BRU, Program of Subprogram(s) Affected: CIP

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		19,983.8				
TOTAL OPERATING		-0-				
CAPITAL		69,057.8				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		69,057.8				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not provided by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Steve Hole
Phone: 465-2865
Division: Management, Law & Finance
Date: 4/27/83

Approved by Commissioner: Marshall L. Lind
Date: 4/27/83
Department: Education

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

REPRESENTATIVE
PETER GOLL

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

May 5, 1983

Rep. Milo Fritz
Rep. Mae Tischer
House Committee on Health, Education and Social Services

Following are corrections to amendment for SB18.

Decrease Klukwan to: (Chatham District)	1.913	– 9,000 sq. ft facility - dam 40 students proj based on
Add:		
Chatham School District Tenakee School Phase I	500.	– just rec'd 350,000 from SB162
Chatham School District for Gustavus shop	45.	
Southeast Island School District for Thorne Bay Vocational/Special Services Addition	480.	
Klawock Elementary School Addition for planning design and construction	230.	
Yakutat Elementary School Addition for planning design and construction	150.	
Kake School District for electrical code upgrade High School	150.	
Total unchanged:	3,468.	figures in thousands

Thank you for making these corrections.

Peter Goll

CITY AND BOROUGH OF JUNEAU SCHOOL DISTRICT
P.O. BOX 803 • DOUGLAS, ALASKA 99824

April 14, 1983

The Honorable Jan Faiks
Alaska Senate
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Faiks:

Consistent with your request for additional information on the Juneau City & Borough School District's revised CIP budget request for FY 1984, I have revised the letter written to Senator Ray on April 8, 1983. In so doing, all pertinent information will be kept in its respective category with less chance for confusion.

Originally the City & Borough of Juneau School District submitted funding requests to the 1983 Legislature in the approximate amount of $8.9 million. In the process of scaling down those funding requests, the following projects emerge as being critical with regard to student safety, program operation and public awareness of school facilities and services.

PROJECT DESCRIPTION	REQUESTED FUNDS
1. Fire Code Upgrade at Auke Bay and Glacier Valley Elementary Schools - Both of these schools require major modifications to the present fire alarm systems. These modifications will not only ensure the increased safety of the children attending those schools but will bring the systems up to existing code requirements.	(Rounded)

The fire code upgrades referred to above are in response to letters from the State Fire Marshal requiring compliance with NFPA 72 A.

Requested funding..... $50,000

Fairbanks North Star Borough School District
FY 84 Capital Improvement Request

Project: Lathrop High School Classroom Addition

FNSBSD Priority: 8

Department of Education Priority: 2) Unhoused students

Goal: To provide classrooms and physical education facilities at existing school to relieve overcrowding.

Justification: Lathrop High School is experiencing an increase in enrollment that over tacks the existing facility. The design enrollment for the school is being excluded by 200 students. This has resulted in classes being held in areas not designed for teaching activity or overcrowding of facilities designed for special classes. This project would provide for an addition to the present gym, rehabilitation of the library into an art department as a new library is being constructed. The area now being utilized by the art department would be remodeled into classroom area and the renovation of the band and music area.

Capital Cost:

The budget cost estimates for construction are:

Administration	=	$ 121,800.00
Design	=	548,100.00
Construction	=	4,878,090.00
Contingency	=	542,010.00
Project Cost Total		$6,090,000.00

Program for Progress

Project: School District Facilities - Fire/Life Safety Code Upgrades

Sponsoring Agency: Fairbanks North Star Borough

Capital Request: $2,307,000

Estimated Annual M&O Cost: No change from existing

Description/Public Benefit:

The goal of this project is to bring existing school facilities up to minimum fire and life safety code standards required by State and Federal law.

The specific components of the request have been identified by the State of Alaska Department of Transportation and Public Facilities condition survey and through inspections conducted by the Fairbanks Fire Department and the Borough's Risk Management Department. Budget level cost estimates have been developed by HMS, Inc. and the Borough Engineering Department. Projects include identification and removal of asbestos products, upgrade of exiting (stairs, corridors, doors) features, construction of fire separation walls and electrical and mechanical system rehabilitation.

This project is part of a continuing effort to bring existing facilities into code compliance, make them safer for the occupants and user groups, make major repairs and make the buildings more economical to own and operate. Whenever possible, these fire/life safety projects will be combined with funded major repair and energy management projects to maximize cost efficiency and to minimize disturbances to building use.

Due to the nature of these projects they would have a high priority for implementation as funds become available, thus full funding is requested at this time. Design for portions of this project is underway so funding of this request will permit some work to be done in the 1983 construction season. The balance of work will be designed in the fall of 1983 with construction continuing in summer 1984

(Cont.)

Contact Person

Name: Don Moore

Title: Director, Public Facilities & Services, FNSB

Phone: 452-4761

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
King Cove School	1	King Cove City Sch.		26	8/83	9/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	2,461.6	Funding Source	Fed. Rec.	N/A	
FY 85	2,000.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	4,461.6				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	4,461.6
	G.O. Bonds	
	Total	4,461.6

Funding Information Gov. FY	FY	FY

Priority:	Prior Year -0-	84 Agency Education 13	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:
Plan, design and construct secondary school addition. This facility would be approximately 21,960 square feet.

Project Justification:
Project Need:
This facility is needed to meet secondary program needs. The district presently has no High School building and all secondary classes are being taught in the elementary building. This addition is essential in order to meet program needs.

Documentation of Estimated Capital Costs:
The district estimate of $4,461.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:
A. Continue to house high school students in existing facility. Rejected due to inability of structure to house students or program.
B. Phase I & II as identified in FY81 feasibility study study totalled $9,647,335. Rejected due to exhorbitant expense.
C. Complete new and separate high school facility. Rejected due to lack of space, construction and operating costs.

35a PROPOSED PROJECT

King Cove School
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM DISTRICT EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145 17/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $65,000-85,000.

35b PROPOSED PROJECT (Continued)

King Cove School
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM DISTRICT EDUCATION

PROPOSED FUNDING YEAR FY 84

Page 21 of 135

Revised Date

FY 84

01-1142 (7/82) - 550

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Levelock Multipurpose/Voc. Ed. Addition	C	Southwest Region		26	5/84	9/85

Cash Flow		Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
FY 84	4,600.0	Funding Source	Fed. Rec.	N/A	
FY	300.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	4,900.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	4,900.0
	G.O. Bonds	
	Total	4,900.0

Funding Information Cov. FY	FY	FY

Priority:	Prior Year 83-54	84 Agency 12 Education	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Planning, designing, and constructing a multipurpose-vocational education facility (5,850 GSF) at Levelock.

Project Justification:

Project Need:

Present schools multipurpose room is too small (1,032 GSF). Moreover, there is no vocational educational space in the school. Plans include the conversion of existing multipurpose space to secondary classroom space and for constructing a separate multipurpose/industrial education building at the present school site. These additional spaces are necessary in order to accommodate the schools insturctional program.

Documentation of Estimated Capital Costs:

The estimated cost of this project was submitted by school district officials, and must be verified by a qualified A/E or by a professional cost estimator. LCC analysis has been requested.

Identification of Alternatives Considered:

Require the students to attend school at another location in the district where needed facilities exist. Rejected because neither the district nor the state can require a student to live away from home in order to complete his/her education through the twelfth grade (Tobeluk/Local Education Regulations).

35a PROPOSED PROJECT

Levelock Multipurpose/Voc. Ed. Addition
Project Title

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 46% of the district's total budget. The district estimates this project will increase their operational budget by ar unspecified amount annually.

35b PROPOSED PROJECT (Continued)

Levelock Multipurpose/Voc. Ed. Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01 1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Clarks Point School Replacement	C	Southwest Region		26	5/84	9/85

Cash Flow		Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
FY 84	5,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	325.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	5,325.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	5,325.0
	G.O. Bonds	
	Total	5,325.0

Funding Information Cov. FY	FY	FY

Priority:	Prior Year 83-57	84 Agency 24 Education	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? No	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Planning, designing, and constructing a new elementary/high school, consisting of 300 square feet of classroom space, 1,100 square feet of library/media space, 600 square feet of industrial space, 2500 square feet of multipurpose space and, 2520 square feet of supplementary space.

Project Justification:

Project Need:

The existing facility is old (1946) and would require approximately $445,000 (1982 base) to upgrade the deficiencies identified by the DOT/PF Facility Survey. This would not provide the additional instruction space needed. The school is also located approximately 225 feet from the high water line and a 1980 storm brought tidal waters onto the school site. This storm also prompted 12 HUD housing units to be constructed onto the bluff, where the proposed school would be located.

Documentation of Estimated Capital Costs:

The estimated cost of this project ($5,325.6) was submitted by school district officials, and must be verified by a qualified A/E or a professional cost estimator.

Identification of Alternatives Considered:

1. Do nothing. Rejected because health and life safety hazard to students attending school in this facility.
2. Present facility remodel/additon. Rejected because remodelling/retrofitting is the more expensive option.

35a PROPOSED PROJECT

Clarks Point School Replacement
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

3. Require the students to attend school at another location in the district where needed facilities exist. Rejected because neither the district nor the state can require a student to live away from home in order to complete his/her education through the twelfth grade (Tobeluk/Local Education Regulations).

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by $5,000 Annually.

35b PROPOSED PROJECT (Continued)

Clarks Point School Replacement
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Dot Lake Multipurpose Addition	C	Alaska Gateway		17	6/84	7/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	908.1	Funding Source	Fed. Rec.	N/A	
FY 85	100.8		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,008.9				

Funding Information		Agency FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,008.9
	G.O. Bonds	
	Total	1,008.9

Funding Information	Gov. FY	FY	FY

Priority:	Prior Year	Agency	Governor
	83-50	84-10	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

This project will provide a classroom, multipurpose room, with provision for vocational education. Wood frame on concrete foundation.

Project Justification:

Project Need:

The existing facility lacks multipurpose and library/media space. State's guidelines for a facility with 28 students would allow for approximately 2500 sq. ft.

Documentation of Estimated Operational Expenses:

Cost figures are provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

1. Continue as is. Rejected as school facility would not meet educational program standards.
2. Postpone. Rejected because of inflation.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $80,000.

35a PROPOSED PROJECT

Dot Lake Multipurpose Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

Alaska State Legislature

SENATOR
H. PAPPY MOSS
PO BOX 182
DELTA JUNCTION, ALASKA 99737
(907) 895-4364

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-4921

State Senate

MEMORANDUM

March 23, 1983

SUBJECT: Capital Projects - Education

TO: The Honorable Don Bennett
Co-Chairman of Senate Finance

FROM: Senator H. Pappy Moss HPM/kjl

Following is a prioritized list of school construction needs that have been identified within Senate District J. Form 35's have been attached as back-up, and additional information may be obtained from my office.

X (1)	Dot Lake - Multi-purpose room/code upgrade	$1,300,000
(2)	Salcha - Multi-purpose room	1,300,000
X (3)	Nenana - Code upgrade and roof repair	900,000
(4)	Healy - Tri-valley school coal conversion, code upgrade	2,150,000
(5)	Nenana - School construction, Phase II	2,500,000
(6)	Fort Greely - Multi-purpose facility, Phase II	3,950,000
X (7)	Delta Junction - Vocational education facility completion	895,000
	TOTAL:	$12,995,000

(1) Project Title	(2) Location	(3) Elect Dist	(4) Start Date	(5) Complete Date
Multi-purpose room/school-wide code upgrade	Dot Lake	17	FY 84	

(6) COST

Funding Sources

1002	Federal Receipts	
1003	G/F Match	
1004	General Fund	1300.0
1005	I/A Receipts	
1010	G.O. Bonds	
TOTAL PROJECT COST		1300.0

(7) Operating Impact

		First Op. Yr.	Ult. Annual Yr.
Funding Source	Fed. Rec.		
	Gen. Fund		
	Other		
	Total		
Positions (FTE)			

(8) APPROPRIATED TO:

[XX] State Agency
Agency Name Education
Program Alaska Gateway REAA

OR

[ ] Municipal Grant
Municipality Name

PROJECT DESCRIPTION (9)

Current facility at Dot Lake is inadequate for the number of students served. Currently there are 21 students, K-12, attending the school, with a demand for additional vocational programs to serve students ages 16 - 20. School district is sensitive to the role a school building plays in a community such as Dot Lake, and wishes to build a multi-purpose addition that is both functional and highly flexible. Additionally, the existing building is not energy-efficient, and is in need of extensive renovation and insulation.
New construction is estimated at $170/sq.ft. for 5,880 square feet, and renovation of the existing building is estimated at $80/sq.ft. for 3,840 sq. feet, for a total project cost for $1,300,000.

Operating costs are not expected to increase significantly, and may even decline as a result of increased energy efficiency.

FY 84

35 LEGISLATIVE REQUEST
PROPOSED CAPITAL

(10) CATEGORY Education

REQUESTING LEGISLATOR

(Signature)

FY-84

PRIORITY 1-A

ALASKA GATEWAY SCHOOL DISTRICT

DOT LAKE CLASSROOM

MULTI-PURPOSE ROOM WITH

VOCATIONAL AND CLASSROOM PULL-OUT AREAS

SUMMATION

Unhoused student addition	-	$1,000,000
Energy conservation, code uporade, life & health safety	-	370,000
Total:		$1,370,000

OR

If all done together	-	$1,300,000

(1) Project Title	(2) Location	(3) Elect Dist	(4) Start Date	(5) Complete Date
Nenana School Code Upgrade & Roof Repair	Nenana	17	FY 84	

(6) COST

Funding Sources

1002	Federal Receipts	
1003	G/F Match	
1004	General Fund	900.0
1005	I/A Receipts	
1010	G.O. Bonds	
TOTAL PROJECT COST		900.0

(7) Operating Impact

		First Op. Yr.	Ult. Annual Yr.
Funding Source	Fed. Rec.		
	Gen Fund		
	Other		
	Total		
Positions (FTE)			

(8) APPROPRIATED TO:

[XX] State Agency
Agency Name Education
Program Elementary/Secondary Educatio

OR

[ ] Municipal Grant
Municipality Name

PROJECT DESCRIPTION (9)

The main thrust of this request is to add to the appropriation currently in the Governor's FY 84 capital budget. $600,000 has been requested for code upgrade at Nenana School, and the school district would like to raise this amount $300,000 in order to replace the existing roof at the same time. The roof was originally constructed in 1955, and insulated in 1974 with spray-on polyurethane foam. This insulation is deteriorating and absorbing water, which adds a considerable weight load to the already marginal condition of the existing roof. The roof is leaking as is the vapor barrier, which indicates a state of high energy-inefficiency as far as existing insulation is concerned. The school district estimates that the cost of replacing the current roof with a metal structure insulated to R-76 would be approximately $300,000 if done at the same time as the code upgrade, but if done later, the cost is expected to more than double, to $750,000.

This project is expected to have a positive effect on the school district's operating costs.

FY 84

(10) CATEGORY Education

REQUESTING LEGISLATOR

35 LEGISLATIVE REQUEST
PROPOSED CAPITAL

Alaska State Legislature

SENATOR
H. PAPPY MOSS
PO BOX 182
DELTA JUNCTION ALASKA 99737
(907) 895-4384

WHILE
PO
JUNEA
99
(907) 46

State Senate

MEMORANDUM

March 23, 1983

SUBJECT: Capital Projects - Education

TO: The Honorable Don Bennett
Co-Chairman of Senate Finance

FROM: Senator H. Pappy Moss HPM/mjd

Following is a prioritized list of school construction needs that have been identified within Senate District J. Form 35's have been attached as back-up, and additional information may be obtained from my office.

X (1)	Dot Lake - Multi-purpose room/code upgrade	$1,300,000
(2)	Salcha - Multi-purpose room	1,300,000
X (3)	Nenana - Code upgrade and roof repair	900,000
(4)	Healy - Tri-valley school coal conversion, code upgrade	2,150,000
(5)	Nenana - School construction, Phase II	2,500,000
(6)	Fort Greely - Multi-purpose facility, Phase II	3,950,000
X (7)	Delta Junction - Vocational education facility completion	895,000
	TOTAL:	$12,995,000

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Ft. Greely Old Gym Remodel	1	Delta/Greely		17	5/84	9/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	600.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	600.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	600.0
	G.O. Bonds	
	Total	600.0
Priority:		Prior Year 83-31

Funding Information Gov. FY	FY	FY
84 Agency Education 58		Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

This project will provide for remodelling of old multi-purpose room into a modern kitchen cafeteria for elementary and junior high students. Project will include storage area, preparation area, serving and eating area.

Project Justification:

Project Need:
A new gym is under construction and will replace this facility. Adequate lunch facilities do not exist. This project will provide for a modern up-to-date facility complete with eating areas.

Documentation of Estimated Capital Costs:
Cost estimates provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Continue as is - rejected because of inadequate food preparation area and conflict of use of gym
2. Postpone - rejected because of inflation.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this

35a PROPOSED PROJECT

Ft. Greely Old Gym Remodel
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1143 (7/82) - 35a

M E M O R A N D U M

TO: Senate Rules Committee
FROM: Senator Joe Josephson
DATE: 3/16/83
RE: CSSB SB 18
Proposed amendement in Sec. 18.: amend $11,205,740 to read $12,965,810
* with revised letter of intent

DESCRIPTION OF CHANGES

CATEGORY 1
PRIORITY 2 (only Mears higher priority)
WENDLER JUNIOR HIGH $1,408,700
* currently 204 students over capacity
* projection of 80 additional students next year
* addition of three classrooms and library
$220,200 is for Fire Code compliance

INLET VIEW $351,370
* for classroom and office space necessary for retention of accreditation.

Matanuska-Susitna Borough School Board
District Wide Maintenance and Upgrade Priorities
March, 1983

1. Summer Maintenance $200,000

Funding is extremely important to carry out summer maintenance in the schools around the district.

2. Wasilla High School Roof Repair $1,400,000

This appropriation is necessary to prevent further deterioration of the high school roof. Engineering and architectural design will soon be completed and the project will be bid ready in June.

3. Big Lake Elementary Addition $3,750,000

This appropriation would suffice for the design and construction of a 2nd story addition to the elementary school where has been tremendous population impact in the last 3 years. Without this funding the school district would have to locate portable classrooms at the school for the coming academic term.

4. Swanson Elementary Roof and Insulation Upgrade $1,000,000

Roof repair and insulation for one wall of the structure would be supplied with this funding. The insulation sub-contract was never completed and this funding would alleviate the inadequacy. The roof repair would prevent further deterioration of the structure.

5. Computerized Energy Management System - District wide $300,000

Funding this request would result in significant savings in energy costs to the school district.

6. Palmer Area Playgrounds Upgrade $250,000

This appropriation would allow rehabilitation of playgrounds: grading, fencing and removal of boulders at the Swanson, Sherrod, Snowshoe and Butte Elementary Schools. At some of the locales, dogs have been allowed to access to the playground since there has been no fencing.

7. Susitna Valley Art Room Addition $400,000

This construction would enable this sorely needed program to be included in the curriculum.

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Skagway K-12 School	C	Skagway Schools		2	10/83	10/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	3,100.0	Funding Source	Fed. Rec.	N/A	
FY 85	1,000.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	4,100.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	4,100.0
	G.O. Bonds	
	Total	4,100.0
Priority:		Prior Year -0-

Funding Information Gov. FY	FY	FY

84 Agency 28 Education

Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? ____ Access Available?	Utilities Available? ____
	☐	☐	☐	☐		

Project Description:

Plan, design, and construct K-12 classroom additions to existing facility. Total addition adds up to 16,000 square feet.

Project Justification:

Project Need:
This project is necessary to replace existing building which is not up to code and no longer meets program needs. New facility would be an energy efficient structure. Cost of remodeling existing facility is prohibitive according to district.

Documentation of Estimated Capital Costs:
The estimate of $4,100.0 million dollars was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:
1. The alternative of continuing to use the current building. Rejected because it is so poor functionally and it does not meet modern codes.

2. Renovate the old building. Rejected due to cost estimates which make it unfeasible. Also because it would not be very functional.

35a PROPOSED PROJECT

Skagway K-12 School
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM DISTRICT EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145(7/82)-35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17. which allocates funds to districts based soley on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by $50,000.

35b PROPOSED PROJECT (Continued)

Skagway K-12 School
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM DISTRICT EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

2. Floyd Dryden Junior High Classroom Additions/Renovations

In 1980 the School district decided to make a major change in the organizational structure of the educational program within the District. Beginning with the 1984-85 school year the District's present Junior High structure (Grades 7-9) will be changed to a middle school structure (Grades 6-8). This change will relieve the present overcrowded conditions in our elementary schools, and provide, what we believe to be, a significantly improved educational system at all levels. Unfortunately it will further aggravate the already overcrowded conditions at the middle school level. The High School is presently being remodeled to accommodate the additional students expected there with the addition of the 9th grade. These conditions were all created by the very rapid and significant increase in the District's school population (4007 students in June, 1981 to the present population of 4405 students).

SUPPORTING DATA:

* Present Enrollment.....	616 Students
* Gross existing square footage.....	67,804 ft.^{2}
* Allowable square footage using old St te space guidelines.....	93,525 ft.^{2} max.
* Allowable square footage using new State space guidelines.....	89,900 ft.^{2} min. 97,400 ft.^{2} max.
*** Additional space required to bring Floyd Dryden into compliance with the recommended "minimum" State space guidelines.....	22,096 ft. ^{2}

The above figure should dramatize the crowded conditions which presently exist in this facility. It is unlikely that the requested funding will bring the facility up to the recommended minimum. However, with additions to both junior high facilities and a better balancing of enrollments overall, conditions should be significantly improved.

Requested funding..... $1,700,000

3. Marie Drake Junior High Library Addition and Renovations:

In addition to the same difficulties described at Floyd Dryden, the District's other junior high school requires considerable renovation in order for it to adequately meet needs as a middle school. The library at Marie Drake is one of the smallest in the District and cannot be expanded without major cost and a loss of already premium classroom space. The addition of a new library will also create new and needed classroom space where the present library exists. Additionally, the present shop facility needs to be converted from a metal shop to a woodworking shop to better fulfill the needs of the planned middle school program.

SUPPORTING DATA:

* Present Enrollment.....	432 Students
* Gross Existing square footage.....	72,134 ft.^{2}
* Educationally useable square footage (partial basement is counted into the gross square footage - approximately 1/3 of this area cannot be made functional for specific facility uses).....	70,243 ft.^{2}
* Allowable square footage using old State space guidelines.....	65,925 ft.^{2} max.
* Allowable square footage using new State space guidelines.....	72,500 ft.^{2} min. 80,000 ft.^{2} max.
*** Additional space required to bring Marie Drake into compliance with the recommended "minimum" State space guidelines.....	2,257 ft.^{2}

Though the square footage deficiencies in Marie Drake are considerably better than those described for Floyd Dryden, Marie Drake was constructed in 1965. Because of its older design, the comparison between the available space for educational purposes to the total space is also of concern. Fortunately, in this case, renovations are possible to increase the functionability of the existing facility, especially with the addition of an adequate library.

Requested funding..... $1.400,000

4. Major Playground Planning & Renovation

A recurring complaint of many parents within the School District is the generally poor and potentially hazardous condition of its playgrounds. (Parent groups have often wanted to purchase playground equipment for their schools through fund-raising drives). Unfortunately, many of the schools have serious drainage problems associated with their playgrounds and these must be resolved before significant money is expended on equipment and installation. Much of the existing equipment will have to be removed in order to provide for adequate drainage. The funds requested will provide for the engineering, planning, renovation and minor expansion of the existing playgrounds.

Requested funding..... $350,000

If funded, the projects described above will allow the School District to proceed with projects having major impact on the majority of our students. The needs as identified are immediate and significant and should they remain unmet, have the potential to seriously effect the programmatical goals of the School District.

Your willingness to assist us in our efforts to acquire funding for this scaled-down version of our capital improvements program is greatly appreciated. Please do not hesitate to call me if additional or more detailed information is needed by you, your staff or colleagues.

CAPSULATED BUDGET

1.	Fire Code Upgrade at Auke Bay & Glacier Valley Elementary Schools.....	$ 50,000
2.	Floyd Dryden Classroom additions/renovations...	1,700,000
3.	Marie Drake Library addition/renovations.....	1,400,000
4.	Major Playground Planning, Engineering and renovation.....	350,000
	Revised Funding Request.....	$3,500,000

Sincerely,

Michael Adams
Superintendent

cc: Senator Bill Ray
Representative Mike Miller
Representative Jim Duncan

REPRESENTATIVE
PETER GOLL

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

May 5, 1983

Rep. Milo Fritz
Rep. Mae Tischer
House Committee on Health, Education and Social Services

Following are corrections to amendment for SB18.

Decrease Klukwan to: (Chatham District)	1.913
Add:	
Chatham School District Tenakee School Phase I	500.
Chatham School District for Gustavus shop	45.
Southeast Island School District for Thorne Bay Vocational/Special Services Addition	480.
Klawock Elementary School Addition for planning design and construction	230.
Yakutat Elementary School Addition for planning design and construction	150.
Kake School District for electrical code upgrade High School	150.
Total unchanged:	3,468.

figures in thousands

Thank you for making these corrections.

Peter Goll

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Gildersleeve Elementary/Secondary School	C	Southeast Island		3	3/84	8/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	280.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	280.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	280.0
	G.O. Bonds	
	Total	280.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year -0	84 Agency 14 Education	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

Design and construct a 3,200 square foot elementary school.

Project Justification:

Project Need:
Present structure is leased and space is inadequate.. It is essential that a school be constructed to serve enhoused students.

Documentation of Estimated Capital Costs:
The district's estimate of 280.0 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Students to remain in existing trailer facility. Rejected due to inadequate space and function.
2. Facility not to provide library/media, vocational/home economics area. Rejected due to need for these programs

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district

35a PROPOSED PROJECT

Project Title: Gildersleeve Elementary/Secondary School

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

DI 1143 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

45% of the district's total budget. The district estimates this project will increase their operational budget by an unspecified amount.

35b PROPOSED PROJECT (Continued)
Northern Lights School
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01 1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Long Island Elementary/Secondary School	C	Southeast Island		3	3/84	8/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY84	860.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	860.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	860.0
	G.O. Bonds	
	Total	860.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 83-17	84 Agency 21 Education	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

This project will provide adequate space for a combination elementary/secondary school. The proposed 4300 square feet would include classroom, library/media, vocational home economics and supplementary space.

Project Justification:

Project Need;

There are twelve students residing in the area. Statutes provide for the establishment of a school. No school facility has previously existed in the area.

Documentation of Estimated Capital Costs:

Cost figures were provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered;

1. Do not establish school - rejected because of statutes.
2. Utilize leased facilities - rejected as adequate facility does not exist.
3. Postpone - rejected because of need and inflation.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates

35a PROPOSED PROJECT

Long Island Elementary/Secondary School
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

this project will increase their annual operational budget by $12,000.

35b PROPOSED PROJECT (Continued)

Project Title: Long Island Elementary/Secondary School

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Port Alexander Addition	C	Southeast Island		3	3/84	8/84

Cash Flow		Operating Impact	First Op. Yr. 84	Ult. Annual Yr.
FY 84	450.0	Fed. Rec.	N/A	
FY		Gen. Fund		
FY		Other		
FY				
FY		Total		
FY		Positions (FTE)		
TOTAL	450.0			

Funding Source

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	450.0
	G.O. Bonds	
	Total	450.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency 3	Governor
	-0-	Education	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

The planning, design and construction of a school addition consisting of the following space requirements:

Elementary classroom	800 square feet
Library/media center	300 square feet
Industrial Education	200 square feet
Business Education	200 square feet
Home Economics	200 square feet
Multipurpose	860 square feet
Supplemental	640 square feet
	3,200 square feet

Project Justification:

Project Need:
This facility is required to accomodate enrollment increase and anticipated increase. Additional space is necessary to maintain program quality.

Documentation of Estimated Capital Costs:
The district's estimate of 450.0 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Loft construction in existing school. Rejected by Fire Marshall.
2. Use of other facilities city space in poor shape and not suitable for school. No toilets or other support elements in building.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not

35a PROPOSED PROJECT

Port Alexander Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by $10,000 annually.

35b PROPOSED PROJECT (Continued)

Port Alexander Addition

Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

SB 18 BACKUP

MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT
MAINTENANCE AND UPGRADE PROJECTS

1.	Summer Maintenance	$ 200,000
	This funding is extremely important to carry out summer maintenance in the schools throughout the district.	
2.	Land Acquisition and Planning Funds	1,400,000
	Acquisition of land and planning and design monies for West Palmer Elementary and Houston Junior-Senior High.	
3.	Swanson Elementary Roof and Insulation Upgrade	1,000,000
	One wall of the structure that was not insulated under a previous contract would be completed. The roof repair would prevent further deterioration of the structure.	
4.	District-Wide Computerized Energy Management System	300,000
	This project would result in significant savings in energy costs to the district.	
5.	Palmer Area Playgrounds Upgrade	250,000
	Grading, fencing, and removal of boulders would be done at the Swanson, Sherrod, Snowshoe, and Butte Elementary Schools. At some of these schools, unleashed dogs are present at the playgrounds since there is no fencing.	
6.	Susitna Valley Art Room Addition	400,000
	With these facilities, a sorely needed program could be added to the curriculum.	
	T O T A L	$3,550,000

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MEMORANDUM MILO FRITZ

TO: HESS Committee Members

FROM: Representative Milo H. Fritz

DATE: May 5, 1983

RE: House CSSB 18

In regard to the Department of Transportation deficiencies survey, the following amounts are incorporated into HCSSB 18 to be disbursed to the Kenai Peninsula Borough for:

Homer High School	373,600
Susan B. English	563,900
Sterling Elementary	94,300
Tustumena Elementary	160,700
Total Approp.	$1,192,500

	Homer High School	Susan B English
Architectural	225,500	382,600
Fire & Life	2,000	21,900
Handicapped	135,300	82,600
Mechanical	200	35,500
Electrical	10,600	41,300
Total	373,600	563,900

	Sterling Elementary	Tustumena Elementary
Architectural	30,800	97,600
Fire & Life	15,600	20,800
Handicapped	25,000	22,500
Mechanical	8,300	11,000
Electrical	14,600	8,800
Total	94,300	160,700

CAPITAL IMPROVEMENT PROGRAM BUDGET
FY 04 CIP BUDGET REQUEST

Combined city & borough school districts. REAA's

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
1-04	FAIRBANKS NORTH STAR SCHOOLS LIFE SAFETY/CODE UPG	1	08904	2,543.0	LIFE SAFETY UPGRADE DISTRICTWIDE
2-04	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	1	01654	48.0	MODIFY BUILDINGS TO MEET FIRE CODES
3-04	YUKON KOYUKUK DISTRICT HEALTH/LIFE SAFETY	1	00519	4,156.0	PROJECT DOCUMENTED IN DOT/PF SURVEY 03-1
4-04	BERING STRAIT DISTRICTWIDE WATER UPG	1	00252	4,150.0	GOLOVIN, TELLER, KOYUK BREVIG MISSION, SHISHMAREF WATER CONDITION UNSAFE
5-04	WRANGELL CITY SCHOOLS NEW WRANGELL HS	1	00222	5,621.0	REPLACE EXIST SCH WITH ENERGY EFFICIENT COST EFFECTIVE STRUCTURE
6-04	RAILBELT SCHOOLS TRI-VALLEY SCHOOL	1	00157	2,050.0	HEALTH LIFE/SAFETY RENOVATION OF EXISTING FACILITY 03-23
7-04	NENANA CITY SCHOOLS DISTRICTWIDE LIFE/SAFETY	1	00120	600.0	HEALTH LIFE SAFETY CODE UPGRADE
8-04	KOSPUK SCHOOLS ANIAK SCHOOL	1	00120	96.0	SAFETY FENCE PHASE I
9-04	KAKE CITY SCHOOLS KAKE HIGH SCHOOL	1	00103	560.0	HEALTH/LIFE SAFETY CODE UPG TO MEET STATE REQUIREMENTS
10-04	BERING STRAIT UNALAKLEET ELEM	1	00097	4,300.0	REPLACE EXIST SCHL CODE VIOLATIONS DOCUMENTED OLD BIA SCHL 03-4

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
11-04	HYDABURG CITY SCHOOLS HYDABURG ELEMENTARY	1	00045	256.7	HEALTH/LIFE SAFETY CODE UPG
12-04	HYDABURG CITY SCHOOLS HYDABURG HS	1	00041	84.7	FIRE/LIFE SAFETY CODE UPG
13-04	BERING STRAIT DREVIG MISSION ELEMENTARY	1	00010	3,900.0	REPLACE EXIST SCHOOL OLD BIA SITE LIFE/SAFETY VIOLATION
14-04	ALEUTIAN REGION AKUTAN SCHOOL	1	00009	2,250.9	REPLACE, EXISTING SCHOOL TOO SMALL NO ROOM FOR EXPANSION, 03-12
15-04	ANCHORAGE SCHOOL DISTRICT MEARS JR HS	2	00823	32,600.0	NEW MEARS JR HS
16-04	ANCHORAGE SCHOOL DISTRICT SOUTHEAST ELEMENTARY	2	00602	10,108.0	NEW SECTION 16 ELEM SCHOOL
17-04	ANCHORAGE SCHOOL DISTRICT EAGLE RIVER ELEM SCHOOL	2	00537	10,108.0	NEW EAGLE RIVER ELEM SCHOOL
18-04	JUNEAU BOROUGH SCHOOLS MARIE DRAKE JR. HS	2	00375	1,687.7	ADD MEDIA CENTER
19-04	PETERSBURG CITY SCHOOLS PETERSBURG HS	2	00240	7,000.0	ADD CLASSROOM AND LIBRARY TO REPLACE EXISTING BUILDING
20-04	IDITAROD SCHOOLS MCGRATH SCHOOL	2	00110	1,200.0	PROGRAM EXPANSION LIBRARY/ MEDIA, SCIENCE BUSINESS, HOME EC

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
21-04	SOUTHWEST REGION MANOKOTAK SCHOOL	2	00104	5,930.0	SCHL ADDITIONS - CLASSES ARE BEING HELD IN LEASED AND TEMPORARY BUILD, 03-10

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
22-04	YAKUTAT SCHOOLS ELEM. SCHOOL	2	00009	1,196.8	ELEM. CLASSROOM ADDITIONS
23-04	KING COVE CITY SCHOOL KING COVE SCHOOL	2	00006	4,461.6	NEW ADDITION TO HOUSE ADDITIONAL STUDENTS PHASE I
24-04	KLAWOCK CITY SCHOOLS KLAWOCK ELEM SCHOOL	2	00060	630.0	PRIMARY CLASSROOM ADDITION
25-04	ALASKA GATEWAY DOT LAKE MULTIPURPOSE	2	00031	1008.9	CLSRM/MULTIPITOR PE VOC ED ADDITION EXPAND SNDARY LEVEL 03-50
26-04	IDITAROD SCHOOLS NIKOLAI SCHOOL	2	00030	1,700.0	SCHOOL REPLACEMENT PHASE II
27-04	SOUTHWEST REGION LEVELOCK SCHOOL	2	00027	4,900.0	MULTIPUR, VOC ED CLRSM ADDITIONS 03-54
28-04	IDITAROD SCHOOLS ANVIK SCHOOL	2	00026	1,200.0	SCHOOL ADDITION LAST YEARS PRIORITY 03-49
29-04	YUKON FLATS STEVENS VILLAGE ELEM/H.S.	2	00024	3,200.0	NEW SCHOOL 03-58
30-04	SOUTHEAST ISLAND SCHOOLS GILDERSLEEVE SCHOOL	2	00024	209.0	INADEQUATE SPACE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
31-04	ALEUTIAN REGION AIKA SCHOOL PHASE II	2	00023	1,913.3	COMPLETION OF ADDITIONS TO NEW SCHOOL
32-04	CHUGACH CHENEGA NEW SCHOOL	2	00020	3254.0	NEW VILLAGE SITE NO FACILITIES, LAND, OR UTILITIES OWNED

33-04	BERING STRAIT SCHOOLS WALES SCHOOL	2	00020	2,590.0	REMODEL AND ADDITION
34-04	CHATHAM SCHOOLS TENAKEE SPRINGS SCHOOL	2	00019	2,817.0	NEW SCHOOL
35-04	YUKON FLATS NORTHERN LIGHTS SCHOOL	2	00017	1,400.0	MOVE TO NEW LOCATION EXISTING SITE NO LONGER AVAILABLE FOR USE
36-04	YUKON FLATS SEVEN MILE SCHOOL	2	00016	1,400.0	EXISTING STRUCTURE IN- ADEQUATE, NOT SUFFICIENT SPACE
37-04	SOUTHEAST ISLAND SCHOOLS LONG ISLAND SCHOOL	2	00015	860.0	NEW SITE, NO ADEQUATE FACILITY AVAILABLE
38-04	ALEUTIAN REGION FALSE PASS SCHOOL	2	00014	2,774.7	K-12 ADDITIONS INCREASED ENROLLMENT NEED SPACE 2NDARY PROGRAM
39-04	SOUTHEAST ISLAND SCHOOLS PORT ALEXANDER SCHOOL	2	00013	450.0	CLASSROOM ADDITION PROJECTED ENROLLMENT INCREASE
40-04	SOUTHWEST REGION CLARKS POINT SCHOOL	2	00012	5,325.0	NEW SCHOOL - EXISTING SCHL OLD, SMALL, UNSAFE LOCATED ON FLOOD PLANE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
41-04	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE	3	00904	6,047.0	PHASE 1 SCHEDULED MAINTENANCE UPGRADE, SECURITY OF BUILDINGS
42-04	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	3	04109	3,120.2	DISTRICTWIDE MAJOR MAINTENANCE
43-04	MAT/SU SCHOOLS WASILLA HS	3	02105	1,412.4	HS ROOF REPLACEMENT
44-04	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	3	02056	155.0	MODIFY BUILDINGS TO PROTECT STRUCTURES

45-84	NW ARCTIC KOTZEBUE ELEM/SEC	3	00601	706.0	UPGRADE PHASE II 83-19
46-84	LOWER KUSKOKWIM KILBUCK SCHOOL	3	00350	2,400.0	ROOF REPAIR AND CODE UPG 83-20
47-84	LOWER KUSKOKWIM KILBUCK SCHOOL	3	00350	360.0	STORAGE WAREHOUSE COMP CODE UPG
48-84	CHATHAM SCHOOLS DISTRICTWIDE MAJOR MAINT	3	00218	023.0	ROOF REPAIRS PLAYGROUND COVERING 84-2
49-84	NENANA CITY SCHOOLS NENANA ROOF REPLACEMENT	3	00206	1,000.0	REPLACE ROOF ON GYM MAIN BUILDING
50-84	NW ARCTIC NOATAK SCHOOL	3	00100	283.0	RELOCATION OF EXIST FUEL TANK FARM THREATENS NEW ELEM 83-24

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
51-84	NW ARCTIC AMBLER ELEM/SEC	3	00097	710.0	UPGRADE & ADDITION 83-25
52-84	ST. MARY'S SCHOOLS ELEMENTARY FIRE CODE COMP	3	00091	961.9	FIRE CODE UPGRADE ROOF REPLACEMENT
53-84	NW ARCTIC SHUNGNAK SCHOOL	3	00054	75.0	UPGRADE UTILITIES 83-26
54-84	SOUTHEAST ISLAND THORNE BAY SCHOOL	3	00050	32.0	FLOOR BUCKLING LOOSE FROM STRUCTURE
55-84	BERING STRAIT TELLER EROSION CONTROL	3	00039	1,250.0	STOP EROSION ON SCHOOL SITE 83-27
56-84	NW ARCTIC KOBUK SCHOOL	3	00019	45.0	UPGRADE UTILITIES 83-28

57-84	KUSPUK SCHOOLS UPPER KALSKAG SCHOOL	3	00018	100.0	SITE IMPROVEMENTS
58-84	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	4	04189	1,138.5	NEW ADMINISTRATION BUILDING COST SAVINGS
59-84	MAT/SU SCHOOLS SWANSON ELEM	4	02851	630.0	ROOF REPLACEMENT INSULATE GYM WALLS
60-84	MAT/SU SCHOOLS WASILLA/PALMER HS	4	02105	222.8	COMPUTERIZED ENERGY MANAGEMENT SYSTEM

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
61-84	NW ARCTIC KOTZEBUE CENTRAL WAREHOUSE	4	01470	1,550.0	OPERATING COST SAVINGS 83-65
62-84	MAT/SU SCHOOLS PALMER JR HIGH	4	01467	9,073.5	COMPLETE RENOVATION OF PALMER JR HS
63-84	LOWER KUSKOKWIM ADM/MAINT/WAREHOUSE	4	01015	5,000.0	DISTRICTWIDE ADM/MAINT/WARE HOUSE 83-84
64-84	DELTA GREELY DELTA JUNCTION ADD	4	00602	900.0	SIX CLASSROOM ADD
65-84	NW ARCTIC KOTZEBUE PROG SUPPORT CNTR	4	00601	65.0	ENERGY RETROFIT 83-67
66-84	YUKON KOYUKUK ENERGY CONSERVATION	4	00591	827.0	PHASE I 83-66
67-84	DELTA/GREELY DELTA JUNCTION SCHOOL	4	00469	770.0	CENTRAL HEATING PLANT 83-69

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
68-84	NOME SCHOOLS NOME ELEM. SCHOOL	4	00404	17,000.0	REMODEL,REBUILD EXISTING SCHOOL
69-84	HAINES SCHOOLS HAINES HS/ELEM	4	00393	100.0	COMPLETE INSTALLATION OF UPSIDE DOWN ROOFS
70-84	VALDEZ CITY SCHOOLS VALDEZ HS	4	00387	2,500.0	TRADES & INDUSTRY OPERATING COST SAVINGS

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
71-84	AK GATEWAY SCHOOLS TOK SCHOOL	4	00238	5,382.0	SCHOOL RELOCATION PHASE II
72-84	HAINES SCHOOLS HAINES HS	4	00192	70.0	RENOVATION OF CLASSROOM AND LIBRARY
73-84	SKAGWAY CITY SCHOOL DISTRICT SKAGWAY K-12 SCHOOL	4	00192	4,100.0	REMODEL/ADDITION ENERGY EFFICIENT BUILDING
74-84	RAILBELT SCHOOLS TRI-VALLEY	4	00157	700.0	COAL CONVERSION COMPLETION 83-76
75-84	LOWER YUKON EMMONAK SCHOOL	4	00109	7,478.5	ELEM SCHL REPLACEMENT PROVIDE ENERGY EFFICIENT STRUCTURE 83-42
76-84	BRISTOL BAY SCHOOLS BRISTOL BAY HS	4	00101	2,500.0	REMODEL 2NDARY AREA
77-84	NENANA CITY SCHOOLS NENANA HS ADDITION	4	00086	7,130.0	REPLACE EXIST FACILITIES W/COST EFFECTIVE ENERGY EFFICIENT STRUCTURE
78-84	SOUTHEAST ISLAND SCHOOLS THORNE BAY SCHOOL	4	00050	400.0	VOC/SPEC ED SERVICES ADDITION REPLACE EXISTING SPACE
79-84	COPPER RIVER CHISTOCHINA ELEMENTARY	4	00018	534.6	REPLACE SUBSTANDARD MODULAR WITH ENERGY EFFICIENT STRUCTURE 83-54

80-84	FAIRBANKS NORTH STAR SCHOOLS HANDICAP CODE UPGRADE	5	08904	1,851.0	HANDICAP CODE UPG

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
81-84	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	5	04189	48.4	SAFETY AND HANDICAP UPGRADE
82-84	FAIRBANKS NORTH STAR SCHOOLS ON BASE SCHOOLS	5	02163	405.8	CODE UPG VIOLATIONS STATED IN SURVEY BY FED. GOVERNMENT
83-84	LOWER YUKON DISTRICTWIDE FACILITIES	5	01180	3,537.9	CODE UPGRADE - DOCUMENTED DOT/PF REPORT FIRE MARSHALL REPORT
84-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	5	00890	290.0	MODIFY BUILDINGS TO MEET BUILDING CODES
85-84	ANCHORAGE SCHOOL DISTRICT BAYSHORE,NORTHWOOD ELEM	5	00804	96.1	DOOR INSTALLATION
86-84	KODIAK ISLAND HIGH SCHOOL CODE UPG	5	00527	5,441.0	DEFICIENCY CORRECTIONS
87-84	LOWER KUSKOKWIM BETHEL HIGH SCHOOL	5	00524	1,370.0	HANDICAP CODE UPGRADE
88-84	SOUTHWEST REGION PHASE II UPGRADE	5	00496	2,000.0	LIFE/SAFETY UPG 83-3
89-84	LAKE AND PENINSULA DISTRICTWIDE	5	00341	1,700.0	CODE UPGRADE PHASE II
90-84	SOUTHEAST ISLAND SCHOOLS DISTRICT REPAIR	5	00312	29.0	FIRE CODE AND MAJOR MAINTENANCE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
91-84	LOWER KUSKOKWIM MIKELNGUUT ELITNAURVIAT	5	00216	243.6	SCHOOL CODE UPG HANDICAPP UPG 83-62
92-84	HAINES SCHOOLS HAINES HS	5	00192	16.0	RETUBE BOILER
93-84	YUKON FLATS DISTRICTWIDE UPGRADE	5	00156	750.0	MAJOR MAINTENANCE CODE UPG
94-84	LOWER KUSKOKWIM NELSON ISL TOKSOOK BAY HS	5	00090	584.5	MAJOR MAINT/CODE UPG
95-84	NW ARCTIC DEERING SCHOOL	5	00043	145.0	NON-LIFE SAFETY UPGR 83-63
96-84	ANCHORAGE SCHOOL DISTRICT COMMUNICATIONS & MEDIA	6	15705	1,136.0	CONVERSION TO COMPUTER OUTPUT
97-84	ANCHORAGE SCHOOL DISTRICT VOCATIONAL EDUCATION	6	15705	951.6	ACQUIRE NEW AND REPLACEMENT EQUIPMENT FOR LABORATORIES
98-84	ANCHORAGE SCHOOL DISTRICT MANAGEMENT INFO SYSTEMS	6	15705	1,120.0	MICROCOMPUTER PROJECT PHASE I
99-84	ANCHORAGE SCHOOL DISTRICT VOCATIONAL LABORATORY	6	15705	1,798.0	JR/SR HIGH SHOPS & LABORATORIES NEED MODIFICATION
100-84	FAIRBANKS NORTH STAR SCHOOLS MAIN SCHOOL	6	08904	5,400.0	REMODEL FACILITY TO MEET NEW PROGRAM NEEDS

PRIORITY FY YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS

101-04	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE REPAIR	6	00904	179.0	PAVING OF PARKING LOT AND ROADWAYS
102-04	JUNEAU BOROUGH SCHOOLS DISTRICTWIDE	6	04109	735.6	PAVING COMPLETION AND REPAIR DISTRICTWIDE
103-04	MAT/SU SCHOOLS BUTTE ELEM	6	02851	49.5	SITE DEVELOPMENT
104-04	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	6	02730	5,046.0	MODIFY BUILDINGS TO IMPROVE PROGRAM QUALITY
105-04	ANCHORAGE SCHOOL DISTRICT SERVICE/HANSHEW SCHOOL	6	02569	311.0	RESURFACE RUNNING TRACK
106-04	ANCHORAGE SCHOOL DISTRICT SERVICE/HANSHEW SCHOOL	6	02569	158.7	GYM CURTAIN REPLACEMENT
107-04	ANCHORAGE SCHOOL DISTRICT WEST HS	6	01859	114.2	SCIENCE ROOM REMODELING
108-04	ANCHORAGE SCHOOL DISTRICT EAST HS	6	01806	235.2	LOCKER ROOM ALTERATIONS
109-04	ANCHORAGE SCHOOL DISTRICT CHUGIAK HS	6	01568	1,461.6	LIBRARY ADDITION
110-04	ANCHORAGE SCHOOL DISTRICT CHUGIAK HS	6	01568	189.8	SCIENCE ROOM REMODELING

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
111-04	ANCHORAGE SCHOOL DISTRICT DIMOND HS	6	01475	5,210.0	DIMOND HS AUDITORIUM
112-04	ANCHORAGE SCHOOL DISTRICT 3 SITES	6	01200	157.5	ADDITIONAL ELECTRICAL OUTLETS

113-84	ANCHORAGE SCHOOL DISTRICT WENDLER JR HS	6	00989	143.1	MUSIC PRACTICE ROOMS
114-84	KODIAK ISLAND JR & HIGH SCHOOL AUD	6	00819	6,500.0	DISTRICT PRIORITY ONE AUDITORIUM
115-84	ANCHORAGE SCHOOL DISTRICT CENTRAL JR HS	6	00726	1,145.4	SECOND FLOOR ADDITION
116-84	ANCHORAGE SCHOOL DISTRICT ROMIG JR HS	6	00708	154.7	INSTALL 800 LOCKERS
117-84	ANCHORAGE SCHOOL DISTRICT OCEAN VIEW ELEM SCHOOL	6	00701	386.4	LUNCHROOM ADDITION
118-84	ANCHORAGE SCHOOL DISTRICT RABBIT CREEK ELEM SCHOOL	6	00677	1,148.0	MULTIPURPOSE ROOM LUNCHROOM ADDITION
119-84	ANCHORAGE SCHOOL DISTRICT SOUTHEAST ELEMENTARY	6	00601	1,539.0	MULTIPURPOSE ROOM
120-84	JUNEAU BOROUGH SCHOOLS FLOYD DRYDEN SCHOOL	6	00540	1,735.0	ADD MULTIPURPOSE ROOM FOR PROGRAM IMPROVEMENT

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
121-84	ANCHORAGE SCHOOL DISTRICT EAGLE RIVER ELEM	6	00537	2,230.0	FOUR ROOM ADDITION PLUS GYM
122-84	YUKON KOYUKUK RUBY REGIONAL VOC TECH	6	00519	6,000.0	DISTRICTWIDE VOC TECH CENTER
123-84	SOUTHWEST REGION DISTRICT OFFICE	6	00496	1,300.0	MAINTENANCE WAREHOUSE FACILITY 83-60
124-84	ANCHORAGE SCHOOL DISTRICT NORTH STAR ELEM	6	00389	111.0	SINKS & COUNTERS INSTALLATION

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
125-84	ANCHORAGE SCHOOL DISTRICT BIRCHWOOD ABC SCHOOL	6	00342	1,298.0	EXPANSION OF MULTI- PURPOSE ROOM
126-84	DELTA/GREELY FT. GREELY SCHOOL	6	00331	600.0	REMODEL OLD GYM 83-31
127-84	ANCHORAGE SCHOOL DISTRICT GOVERNMENT HILL ELEM	6	00315	370.2	MULTIPURPOSE ROOM/ LUNCHROOM ADDITION
128-84	ANCHORAGE SCHOOL DISTRICT MT. ILIAMNA ELEM SCHOOL	6	00315	191.2	STORAGE ROOM ADDITION
129-84	ANCHORAGE SCHOOL DISTRICT FAIRVIEW ELEM SCHOOL	6	00300	589.0	EXPANSION OF MULTI- PURPOSE ROOM
130-84	ADAK REGION SCHOOLS ADAK MIDDLES/HS	6	00300	11,535.7	ADDITIONS & IMPROVS 83-33 EXCEEDS SPACE GUIDELINES SHOULD BE FED FUNDED

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
131-84	PETERSBURG CITY SCHOOLS PETERSBURG HS	6	00240	1,075.0	MAJOR MAINTENANCE ON OLD BUILDING TO PRESERVE
132-84	BRISTOL BAY SCHOOLS NAKNEK SCHOOL	6	00213	25.0	GROUND DEVELOPMENT
133-84	UNALASKA CITY SCHOOLS UNALASKA VOC/ED BUILDING	6	00167	5,529.9	REPLACE EXISTING VOC/ED FACILITY
134-84	NW ARCTIC SELAWIK MULTIPURPOSE	6	00140	530.0	MULTIPURPOSE ADDITION
135-84	PRIBILOF ISLANDS ST. PAUL ISLAND SCHOOL	6	00147	3,350.0	MULTIPURPOSE FACILITY 83-81

136-84	KAKE CITY SCHOOLS KAKE ELEMENTARY	6	00112	3,425.0	MODIFY EXISTING SPACE TO INCLUDE LIBRARY/MEDIA CENTER
137-84	LOWER YUKON HOOPER BAY HS	6	00111	1,417.9	PRESENT FACILITIES EXCEED GUIDELINES ADDITIONAL INFO REQUESTED
138-84	FAIRBANKS NORTH STAR SCHOOLS SALCHA SCHOOL	6	00106	768.0	ADDITION TO MEET PROGRAMS REQUIREMENTS
139-84	ST. MARY'S SCHOOLS ST. MARY'S GROUNDS UPG	6	00091	95.0	SITE UPGRADE PLAYGROUND AREA
140-84	LOWER KUSKOKWIM KONGIGINAK SCHOOL	6	00085	469.0	REPLACE VOC. ED. FACILITY

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
141-84	AK GATEWAY SCHOOLS NORTHWAY PHASE II	6	00082	1,850.0	ELEM., SPECIAL ED & 2NDARY CLASSROOMS 83-40
142-84	LAKE AND PENINSULA NEWHALEN SCHOOL	6	00071	2,500.0	ADDITION AND REPLACEMENT
143-84	LOWER KUSKOKWIM KWETHLUK HS	6	00070	165.0	FACILITY IMPROVEMENTS
144-84	YAKUTAT SCHOOLS YAKUTAT HS	6	00066	1,672.3	HS CLASSROOM ADDITIONS
145-84	NW ARCTIC BUCKLAND SCHOOL	6	00064	195.0	REMODEL SHOP STORAGE SPACE 83-52
146-84	LOWER KUSKOKWIM KIPNUK HS	6	00060	720.0	WATER STORAGE TANK 150,000 GAL.
147-84	LOWER YUKON ALAKANUK H.S.	6	00055	921.3	CLASSROOM ADD - PRESENT FACILITY OVERSIZED ADDITIONAL INFO NEEDED

148-84	LAKE & PENINSULA CHIGNIK LAKE SCHOOL	6	00051	350.0	VOC ED SHOP PROGRAM UPGRADE
149-84	PELICAN CITY SCHOOLS JR HIGH ADDITION	6	00049	450.0	FOUR CLASSROOM ADDITION
150-84	ALASKA GATEWAY EAGLE SCHOOL	6	00044	1500.0	MOVE SCHOOL

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
151-84	LOWER KUSKOKWIM KWIGILLINGOK HS	6	00035	360.0	WATER STORAGE TANKS 30,000 GAL
152-84	BERING STRAIT SAVOONGA HS ADD	6	00035	1,340.0	HIGH CONSTRUCTION COST RESULTED IN DELETION OF CLASSROOM IN ORIG CONST. 83-46
153-84	COPPER RIVER GAKONA SCHOOL	6	00033	312.0	MULTIPUR REMODEL EXIST FACILITY NO MULTIPUR SPACE 83-47
154-84	LAKE & PENINSULA KOKHANOK SCHOOL	6	00032	2,300.0	ADDITION & REPLACEMENT OF EXISTING FACILITY
155-84	KUSPUK SCHOOLS STONY RIVER SCHOOL	6	00025	1,800.0	ADDITION PHASE I NEED ADDITIONAL INFO
156-84	CHUGACH WHITTIER CLASSROOM ADD	6	00022	1400.0	FUNCTIONAL UPG
157-84	CHUGACH WHITTIER MULTIPUR ADD	6	00022	2684.0	OLD MULTIPUR NOT SAFE
158-84	ST MARYS SCHOOLS ANDREAFSKI CAREER CENTER	6	00021	2500.0	PHASE I REPLACEMENT

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
159-84	ALEUTIAN REGION NELSON LAGOON SCHOOL	6	00020	1,434.6	COMPLETE ADDITION NEED SHOP, SCI, HOME EC; MULTIPUR 83-53
160-84	LOWER KUSKOKWIM PLATINUM SCHOOL	6	00018	754.0	MULTIPURPOSE ROOM

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
161-84	KUSPUK SCHOOLS RED DEVIL SCHOOL	6	00016	35.0	ELECTRICAL GENERATOR UPG NEED ADDITIONAL INFO
162-84	IDITAROD SCHOOLS GRAYLING SCHOOL	6	00015	1,500.0	SCHOOL ADDITION LAST YEARS PRIORITY 83-55 NEED SUPPLEMENTAL SPACE
63-84	LAKE AND PENINSULA IGIUGIG SCHOOL	6	00012	1,200.0	VOC-ED SHOP AND ELEM. REPLACEMENT
164-84	KUSPUK SCHOOLS CHUATHBALUK ELEMENTARY	6	00010	1,800.0	ADDITION TO EXIST SPACE IMPROVE PROGRAM
165-84	BERING STRAIT GOLOVIN HS	6	00004	1,200.0	HIGH SCHOOL ADDITION
166-84	SOUTHEAST ISLAND SCHOOLS KASAAN SCHOOL	6	00001	980.0	2NDARY ADD SHOP/G.A CLASSROOM 83-59
167-84	ANCHORAGE SCHOOL DISTRICT DISTRICTWIDE	7	15705	752.0	EXPANSION OF EMERGENCY COMMUNICATIONS SYSTEMS
168-84	ANCHORAGE SCHOOL DISTRICT COMMUNICATIONS & MEDIA	7	15705	9,015.7	INSTRUCTIONAL SUPPORT SERVICES FACILITY
169-84	ANCHORAGE SCHOOL DISTRICT FOOD SERVICE	7	15705	7,883.7	FOOD EDUCATION AND SERVICE CENTER
170-84	FAIRBANKS NORTH STAR SCHOOLS DISTRICTWIDE DATA PROCESSING	7	08904	200.0	DISTRICTWIDE DATA PROCESSING SYSTEM

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
171-84	MAT/SU SCHOOLS TRAPPER CREEK ELEM	7	02851	208.0	PAVE AND LIGHT DRIVEWAYS INSTALL OUTLETS
172-84	MAT/SU SCHOOLS SHERROD/SWANSON ELEM	7	02851	52.8	SCHOOL SITE DEVELOPMENT
173-84	ANCHORAGE ON BASE SCHOOLS DISTRICTWIDE	7	02730	1,146.0	MODIFY EXISTING BUILDINGS
174-84	FAIRBANKS NORTH STAR SCHOOLS LATHROP,N. POLE,BEN EIELSON	7	02496	975.0	4 SCHOOLS ALL WEATHER TRACK
175-84	ANCHORAGE SCHOOL DISTRICT EAST HS	7	01866	85.0	NEW ENTRANCE TO PUBLIC SWIMMING POOL
176-84	LOWER KUSKOKWIM DISTRICTWIDE MEDIA CENTER	7	01015	1,600.0	MEDIA CENTER NEED ADDITIONAL INFO
177-84	LOWER KUSKOKWIM VILLAGE SCHOOLS	7	01015	810.0	PLAY DECKS DISTRICTWIDE 83-83
178-84	LOWER KUSKOKWIM VILLAGE SCHOOLS	7	01015	1,075.0	TRAMWAYS AND BOARDWALKS 83-84
179-84	ANCHORAGE SCHOOL DISTRICT 6-SITES	7	01000	203.0	REPLACE SCHOOL INTERCOM SYSTEM
180-84	VALDEZ CITY SCHOOLS VALDEZ	7	00821	10,600.0	ATHLETIC COMPLEX

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CAPITAL IMPROVEMENT PROGRAM BUDGET
FY 84 CIP BUDGET REQUEST

PRIORITY

181-84	VALDEZ CITY SCHOOLS VALDEZ DISTRICT	7	00021	1,600.0	MAINTENANCE FACILITY
182-84	LOWER KUSKOKWIM BETHEL HS	7	00694	5,300.0	BETHEL SWIMMING POOL 83-72
183-84	NW ARCTIC KOTZEBUE	7	00601	80.0	VECHICLE ACQUISITION IMPLEMENT DISTRICT PROGRAMS 83-73
184-84	BERING STRAIT DISTRICT HEADQUARTERS	7	00591	3,200.0	RELOCATE DISTRICT HEADQUARTERS TO UNALAKLEET 83-4
185-84	AK GATEWAY SCHOOLS DISTRICTWIDE	7	00484	4,664.4	SWIMMING POOL 83-74
186-84	DILLINGHAM LI/SAF TRN/MECH UPG	7	00367	4,400.0	UPGRADE MECHANICAL HEATING SYS TEM CONSTRUCT POOL
187-84	DELTA/GREELY FT. GREELY SCHOOL	7	00331	4,000.0	COMPLETE MULTIPURPOSE ROOM 83-30
188-84	KUSPUK SCHOOLS ANIAK ADMIN FACILITY	7	00324	1,200.0	DISTRICTWIDE ADMIN FACILITY
189-84	KUSPUK SCHOOLS DISTRICTWIDE	7	00324	400.0	STORAGE AND EQUIPMENT FACILITIES
190-84	KUSPUK SCHOOLS DISTRICT VOC-ED CENTER	7	00324	400.0	VOC-ED SHORTFALL

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
191-84	NW ARCTIC KOTZEBUE ACADEMIC HS	7	00239	5,060.0	COMPLETION OF PROJECT 83-78
192-84	SKAGWAY CITY SCHOOL DISTRICT K-12 FACILITIES	7	00192	3,800.0	SWIMMING POOL/WATER SAFETY FACILITY

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
193-84	LOWER KUSKOKWIM BETHEL JR/HI	7	00175	4,620.0	ADDITION TO EXISTING SCHL NEED INFO ON USE OF EXIST JR/HS SPACE 83-37
194-84	DELTA/GREELY DELTA JUNCTION HS	7	00174	900.0	VOC-ED COMPLETION 83-34
195-84	BERING STRAIT ST. MICHAEL, STEBBINS	7	00152	750.0	CONSTRUCTION SHORTFALL 83-85
196-84	CHATHAM SCHOOLS ANGOON SCHOOL	7	00146	106.0	PURCHASE MAINTENANCE VECHICLE CONSTRUCT GARAGE 84-4
197-84	BERING STRAIT SHISHMAREF SCHOOL	7	00121	2,012.0	FIRE RESEVOIR SWIMMING POOL 83-82
198-84	KUSPUK SCHOOLS ANIAK SCHOOL	7	00087	470.4	SHORTFALL
199-84	KUSPUK SCHOOLS ANIAK SCHOOL	7	00087	80.0	ELECTRICAL GENERATOR UPGRADE NEED IS QUESTIONABLE
200-84	KUSPUK SCHOOLS LOWER KALSKAG SCHOOL	7	00051	80.0	ELECTRICAL GENERATOR UPGRADE

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
201-84	ALEUTIAN REGION COLD BAY NEW SCHOOL	7	00045	5,816.3	PHASE I K-12 REPLACEMENT MOVE TO NEW SITE, 83-13
202-84	KUSPUK SCHOOLS KALSKAG SCHOOLS	7	00036	800.0	STORAGE FACILITY
203-84	KUSPUK SCHOOLS SLEETMUTE SCHOOL	7	00029	50.0	SITE IMPROVEMENTS

204-04	KUSPUK SCHOOLS SLEETMUTE SCHOOL	7	00029	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
205-04	KUSPUK SCHOOLS CHUATHBALUK SCHOOL	7	00028	100.0	STORAGE FACILITY
206-04	KUSPUK SCHOOLS CHUATHBALUK SCHOOL	7	00028	50.0	SITE IMPROVEMENTS
207-04	KUSPUK SCHOOLS STONY RIVER SCHOOL	7	00025	50.0	SITE IMPROVEMENTS
208-04	KUSPUK SCHOOLS CROOKED CREEK SCHOOL	7	00025	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
209-04	KUSPUK SCHOOLS STONY RIVER SCHOOL	7	00025	100.0	STORAGE FACILITIES
210-04	KUSPUK SCHOOLS CROOKED CREEK SCHOOL	7	00025	540.0	SHORTFALL

PRIORITY FY-YEAR	DISTRICT	PRIORITY TYPE	ENROLLMENT	AMOUNT	GENERAL COMMENTS
211-04	KUSPUK SCHOOLS UPPER KALSKAG SCHOOL	7	00018	80.0	ELECTRICAL GENERATOR UPGRADE
212-04	KUSPUK SCHOOLS RED DEVIL SCHOOL	7	00016	100.0	STORAGE FACILITIES NEED ADDITIONAL INFO
213-04	KUSPUK SCHOOLS RED DEVIL SCHOOL	7	00016	300.0	SHORTFALL
214-04	IDITAROD SCHOOLS MINCHUMINA SCHOOL	7	00010	100.0	SITE ACQUISITION 03-06

214 RECORDS PRINTED

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
St. Mary's Fire Code Compliance	I	St. Mary's		24	6/83	9/83

Cash Flow		Operating Impact		First Op. Yr. 83	Ult. Annual Yr.
FY 84	901.9	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	901.9				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	901.9
	G.O. Bonds	
	Total	901.9
Priority:		Prior Year -0-

Funding Information	Cov. FY	FY	FY

84 Agency 19 Education

Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects
	☐	☐	☐	☐

Site Owned? Yes Utilities Available? Yes
Access Available? Yes

Project Description:

Fire code upgrade/roof replacement.

Project Justification:

Project Need:

This project is necessary to preserve existing structures and comply with existing fire code. Due to water damage the gypsum drywall has lost it's one hour rating.

Documentation of Estimated Capital Costs:

The district's estimate of 901.9 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

As scope of work mandated by fire code the only other alternatives are to:

1. Replace entire structure - too costly.
2. Close structure as school - no facility available.
3. Revise fire code

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not

35a PROPOSED PROJECT

St. Mary's Fire Code Com-
Project Title pliance

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM DISTRICT EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1143(7/82)-352

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

exceed 45% of the district's total budget. The district estimates this project will not increase or decrease their operational budget annually.

35b PROPOSED PROJECT (Continued)

Project Title: St. Mary's Fire Code Compliance

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: DISTRICT EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

01 1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Stevens Village Elementary/High School	C	Yukon Flats		24	5/84	6/85

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY84	3,000.0	Funding Source	Fed. Rec.	N/A	
FY	200.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	3,200.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	3,200.0
	G.O. Bonds	
	Total	3,200.0
Priority:		

Funding Information Gov. FY	FY	FY
Prior Year 83-58	Agency 84-13	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

This project will provide for a new elementary/high school to replace the existing facility. This will be a wood frame structure of approximately 9720 square feet. Existing facility will be maintained as teachers' quarters.

Project Justification:

Project Need:

Existing facility was constructed in late 1950's. It is small and substandard for modern educational program for 32 students in an elementary/secondary school.

Documentation of Estimated Capital Costs:

Cost figures were provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

1. Utilize portable units. Rejected as not standard or cost effective.
2. Remodel and remove teachers' quarters. Rejected as displacing teachers would have detrimental effect on educational program. No other housing available.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates

35a PROPOSED PROJECT

Stevens Village Elementary/ High School
Project Title

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

this project will increase their annual operational budget by an unspecified amount.

35b PROPOSED PROJECT (Continued)

Project Title: Stevens Village Elementary/ High School

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Northern Lights School	C	Yukon Flats		24	4/84	9/84

Cash Flow	
FY 84	1,000.0
FY 85	400.0
FY	
FY	
FY	
FY	
TOTAL	1,400.0

Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
Funding Source	Fed. Rec.	N/A	
	Gen. Fund		
	Other		
	Total		
Positions (FTE)			

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,400.0
	G.O. Bonds	
	Total	1,400.0
Priority:		Prior Year -0-

Funding Information	Gov. FY	FY	FY
Agency	84 Education	19	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects
	☐	☐	☐	☐

Site Owned? yes Utilities Available? yes
Access Available? yes

Project Description:
Construct a 4,200 square foot elementary school.

Project Justification:

Project Need:
Existing facility is located on private land. The owner will no longer lease this facility to the district. If this facility is not built there will be no school at this location.

Documentation of Estimated Capital Costs:
The estimate of 1,400.0 million was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:
No Alternatives. Facilities must be constructed on new site. Their present lease expires in one year. Relocatables can be moved to the new site if necessary, but is not cost effective or appropriate for a suitable learning environment.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to the districts based soley on student enrollment. District expenditures for administrative services, including operational expense may not exceed

35a PROPOSED PROJECT

Northern Lights School
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145(7/82) - 35a

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Seven Mile School	C	Yukon Flats		18/21	5/84	1/85

Cash Flow		Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
FY84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	400.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,400.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,400.0
	G.O. Bonds	
	Total	1,400.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 83-18	84 Agency 20 Education	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? No	Utilities Available? Yes	Access Available? Yes

Project Description:

This project will provide an elementary school for eleven students located in a state maintenance camp on the haul road. No facility exists in the area.

Project Justification:

Project Needs:

The state has established a maintenance camp at this site. An elementary school is needed for eleven elementary students. The people are all state employees.

Documentation of Estimated Capital Costs:

The funding estimate is provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

1. No nothing - rejected because no facility available.
2. Lease facility - rejected because no facility available.
3. Postpone - rejected because of need and inflation.

Analysis of Estimated Operational Expenses:

The school is operated by the school district under AS 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative service including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by an unspecified amount annually.

35a PROPOSED PROJECT

Seven Mile School
Project Title

CATEGORY Education

AGENCY Education

PROGRAM Rural Education

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
District Wide Major Maintenance	1	Yukon Flats		24	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	750.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	750.0				

Funding Information Agency FY 84		
1002	Fed. Rec.	
1004	Gen. Fund	750.0
	G.O. Bonds	
	Total	750.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency 53	Governor
	-0-	Education	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Major maintenance upgrade throughout district.

Project Justification:

Project Need:
Needed to maintain existing facilities in a proper manner. Needed to meet existing code requirements.

Documentation of Estimated Capital Costs:
The estimate of $750.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:
No additional information supplied by district.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will not adversely effect their annual operational budget.

35a PROPOSED PROJECT

District Wide Major Maintenance
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145 (7/82) - 35a

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Districtwide Life Safety Code Upgrade	1	Fairbanks Borough		18-21	6/83	6/84

Cash Flow		Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
FY84	1,543.0	Funding Source	Fed. Rec.	n/a	
FY85	1,000.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	2,543.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	2,543.0
	G.O. Bonds	
	Total	2,543.0
Priority:		Prior Year -0-

Funding Information Gov. FY	FY	FY
Agency 84 Education I		Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? yes	Utilities Available? yes	Access Available? yes
	☐	☐	☐	☐			

Project Description:
Modify district facilities to meet state life/safety code requirements.

Project Justification:
Project Need:
DOT/PF Survey documents the various code violations throughout the district.

Documentation of Estimated Capital Costs:
The estimate of $2,543.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Continue program without making required upgrade. Rejected because of the nature of code violations, risk to students and public and limitations of program.
2. Postpone - rejected as inflation in the construction field continues.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17. which allocates funds to the districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by an unspecified amount.

35a PROPOSED PROJECT

Districtwide Life/Safety Code Upgrade
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM DISTRICT EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145(7/82) - 35a

Program for Progress

Project: School District Buildings - Major Repairs and Rehabilitation

Sponsoring Agency: Fairbanks North Star Borough

Capital Request: $2,400,000

Estimated Annual M&O Cost: Reduction from existing

Description/Public Benefit:

The goal of this project is to do the major repair and rehabilitation construction necessary on School District facilities to bring them up to a maintainable standard within reasonable budgeting limits. The projects will also provide protection against the continuing deterioration of the facilities which create unaffordable maintenance situations.

Projects would be funded according to priority need with any appropriation provided. Projects would be coordinated with Fire/Life Safety Code Upgrades, energy management retrofits and handicapped access renovations. In this way maximum cost efficiency could be achieved.

The total amount requested would fund two years of a five year program of major repair projects. Some projects have been designed and some require only minimal design; construction on these projects could begin as early as the 1983 construction season.

Project Components

Project	Est. Cost
a. Lathrop - Replace Lighting System @ Hering Auditorium	$ 160,000
b. Hunter School - Corridor Ceiling Tile Replacement	$ 10,000
c. New Roofs - Barnette, Denali, Hunter, Lathrop, Ryan, Salcha, University Park	$4,603,800
d. Major Roof Repair - Hutchison, Nordale, Tanana, West Valley, Woodriver	$ 753,500

(Cont.)

Contact Person

Name: Don Moore

Title: Director, Public Facilities & Services, FNSB

Phone: 452-4761

School District Buildings - Major Repairs and Rehabilitation (Cont.)

Project Components (Cont.)

Project	Est. Cost
e. Chimney Repair - Joy, Nordale, North Pole Elementary, North Pole High	$ 177,100
f. Interior Finishes - North Pole Elementary Ryan, Salcha, & Tanana	$ 180,000
g. Exterior Finishes - Barnette, Hutchison, Joy, Main, North Pole Elementary, Ryan, Salcha, Tanana, Woodriver	$ 345,000
h. Architectural Deficiencies - Nordale, Denali, University Park	$ 116,500
i. Mechanical Deficiencies - Nordale, Denali, Barnette, Hunter, Joy, Salcha, Lathrop, Ryan, University Park, Borough School Service Facility	$ 640,000
j. Electrical Deficiencies - Nordale, Barnette, Borough School Service Facility	$ 54,000
Estimated Total	$7,040,100

DRAFT

ALASKA DEPARTMENT OF EDUCATION

ELEMENTARY/SECONDARY AND COMBINED ELEMENTARY-SECONDARY SCHOOL SPACE GUIDELINES
(IN MINIMUM, IN OPTIMUM, AND IN MAXIMUM GROSS SQUARE FEET OF FLOOR AREA)[1]

SCHOOL[2]	ENROLLMENT									
	10-20	21-32	33-46	47-62	63-80	81-99	100-199	200-299	300-399	400-499[3]
ELEMENTARY (MIN GSF)	800	1,800	4,100	6,100	7,900	9,200	9,700	19,100	27,400	34,900
ELEMENTARY (OPT GSF)	1,500	2,700	5,700	7,900	9,900	11,300	20,400	27,400	31,800	42,900
ELEMENTARY (MAX GSF)	1,600	3,000	6,300	8,700	10,900	12,400	22,500	30,100	40,000	50,000
FORMER GUIDELINE (MAX GSF)	1,200	2,430	4,680	5,070	8,775	9,750	10,000-19,900	20,000-29,900	30,000-39,900	40,000-49,900
SECONDARY (MIN GSF)	3,000	5,000	7,300	10,600	13,900	15,200	28,500	35,500	49,600	72,500
SECONDARY (OPT GSF)	5,200	7,000	9,900	13,600	16,100	18,400	35,900	50,100	65,000	75,000
SECONDARY (MAX GSF)	5,700	7,800	10,800	14,900	17,800	20,300	39,500	55,100	72,200	80,000
FORMER GUIDELINE (MAX GSF)	4,455	6,840	8,800	11,840	14,235	16,125	15,000-29,850	30,000-44,850	45,000-59,850	60,000-74,850
COMBINED E/S (MIN GSF)	3,500	5,500	8,500	11,500	14,500	16,500	30,000	37,500	52,000	74,000
COMBINED E/S (OPT GSF)	5,500	8,000	11,500	15,000	17,500	20,000	40,000	52,500	68,500	80,000
COMBINED E/S (MAX GSF)	6,300	9,800	13,500	17,000	19,500	22,500	42,500	57,000	73,500	82,500
FORMER GUIDELINE (MAX GSF)	6,210	9,720	13,390	15,990	18,850	21,250	15,000-29,850	30,000-44,850	45,000-59,850	60,000-74,850

[1] Exclude exterior wall thickness from GSF calculation

[2] For all remote schools that are supplied annually, nonassignable space shall be 35-45 percent of building's GSF.

[3] For elementary schools with a design enrollment of 500 or more, use 100 GSF per student; for secondary schools with a design enrollment of 500 or more, use 150 GSF per student.

CODE UPGRADE ESTIMATES
BIA SCHOOL CLOSURES IN 1982

	SITE EST. TOTAL @ FY 83	LESS BIA UFC PRIORITY #1 FY 82 CONTR.	LESS BIA FY 82 CIP FUNDS	NET. EST. FY 83	PRO RATED. @ .9769
• Alakanuk	63,260	264	-0-	62,996	61,545
• Gambell	471,316	20,378	-0-	450,938	440,541
Golovin	259,769	2,404	-0-	257,365	251,432
• Goodnews Bay	359,718	17,043	-0-	342,675	334,775
Klukwan	461,310	978	-0-	460,332	449,720
• Kwethluk	997,204	23,514	-0-	973,690	951,238
• Kwigllingok	930,450	30,862	-0-	889,588	878,845
Mekoryuk	974,267	4,566	-0-	969,701	947,342
• Napakiak	1,527,333	46,928	-0-	1,480,405	1,446,268
• Napaskiak	1,302,798	11,236	302,164	989,398	966,584
• Nightmute	799,627	25,153	-0-	774,474	756,616
• Oscarville	836,573	3,680	-0-	832,893	813,688
• Quinhagak	675,420	39,556	-0-	635,864	621,202
• St. Michael	1,495,355	4,508	-0-	1,490,847	1,456,470
• Scammon Bay	407,206	18,232	-0-	388,974	380,006
• Stebbins	532,499	3,749	431,664	97,086	94,850
Tununak	258,845	4,094	-0-	254,751	248,878
TOTALS	12,352,950	257,145	733,828	11,361,977	11,100,000

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Ambler Elementary/Secondary Upgrade and Addition	C, I	N.W. Arctic		23	6/83	6/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	710.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	710.0				

Funding Information			Funding Information		
Agency	FY 84		Gov. FY	FY	FY
1002 Fed. Rec.					
1004 Gen. Fund	710.0				
G.O. Bonds					
Total	710.0				

Priority:	Prior Year	84 Agency	Governor
	83-25	Education 30	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
	☐	☐	☐	☐	Yes	Yes	Yes

Project Description:

Upgrading the existing elementary/secondary schools, including modifications to air handling system, provision emergency power, heating system improvements, replacement oil fired kitchen stove, roof repair, window replacement and painting plus the addition of vocational education space (2,000 GSF) and general purpose storage space.

Project Justification:

Project Need:

Existing schools need attention in the following areas in order to preserve its useful life: hot water distribution lines (insulation), and roof (repairs), exterior (painting), windows (replacement to prevent heat loss and to conserve energy). Moreover, modification to the air handling systems of both the elementary and secondary school need to be made in order to effect operational cost savings.

Two other improvements are also needed: provision of emergency power generation and replacement of an oil fired stove in the high school's kitchen. Lastly, the addition of vocational education and general purpose space will improve the instructional program and allow for convenient, safe storage of supplies and materials.

Documentation of Estimated Capital Costs:

The estimate of $710.0 was prepared by the district. LCC Analysis has been requested.

CATEGORY EDUCATION

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by $5,500.

35b PROPOSED PROJECT
(Continued)
Ambler Elementary/Secondary
Project Title Upgrade & Addition

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 8

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Selawik School Multi-purpose Addition	C	N.W. Arctic			7/83	10/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	530.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	530.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	530.0
	G.O. Bonds	
	Total	530.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 84-6	84 Agency 60 Education	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Planning, designing and constructing a multi-purpose room addition of 2,201 GSF to the existing school.

Project Justification:

Project Need:

At the present time, the high school gym serves as a multi-purpose room/cafeteria for grades K-12. This lowers the amount of instructional space available and as a result students are forced to eat in this area at times when physical education/recreation activities are being conducted, which is hazardous from a safety standpoint. This project will enclose and adjoining porch area and convert it to a multi-purpose room/cafeteria, which will be used for elementary physical education classes.

Documentation of Estimated Capital Costs:

The estimate of $530.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:

Do nothing. Rejected because health and life safety hazard to students attending school in this facility.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely

35a PROPOSED PROJECT
Selawik School Multi-...

CATEGORY EDUCATION

AGENCY EDUCATION

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $2,000.

35b PROPOSED PROJECT (Continued)

Selawik School Multi-purpose Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Buckland School Shop Remodel/ Storage Addition	C, I	N.W. Arctic			6/83	12/83

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY84	195.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	195.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	195.0
	G.O. Bonds	
	Total	195.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 83-52	84 Agency Education 67	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

Remodeling of existing Buckland High School Shop and the addition of general purpose storage space (1000 GSF).

Project Justification:

Project Need:

This project is for upgrading the shop to eliminate electrical/ventilation deficiencies and to facilitate the use of more extensive power equipment for welding. This project will eliminate existing health/safety hazards and enable the school to expand the scope of its vocational education program. Moreover, storage space is needed to remove supplies, materials, equipment and food products from the instructional areas of the school. Adequate storage is a major problem in the remote village schools due to the necessity to acquire and to store large quantities of materials, supplies and food products at one time, as well as the provision of security to prevent loss from theft.

Documentation of Estimated Capital Costs:

The estimate of $195.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:

Do nothing. Rejected because health and life safety hazard to students attending school in this facility.

35a PROPOSED PROJECT
Buckland School Shop Remodel/ Storage Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Page 115 of 196

Revised Date

FY 84

01-1145 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $25,000.

35b PROPOSED PROJECT (Continued)

Project Title: Buckland School Shop Remodel/ Storage Addition

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Savoonga High School Addition	C	Bering Strait		23	4/83	12/83

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	340.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,340.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,340.0
	G.O. Bonds	
	Total	1,340.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 83-46	84 Agency 73 Education	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

Constructing of an addition (3,250 GSF) to the existing high school, consisting of classroom space (1,200 SF), library/media (1,300 SF) and related supplementary space (750 SF).

Project Justification:

Project Need:

Original design for the Savoonga High School included the requested classroom, library/media, and related supplementary spaces. These items, however, were deleted when the construction bids came in over estimate. The loss of these spaces has left the school without sufficient library/media and classroom spaces. Without an adequate library and sufficient class room space, the schools instructional program is diminished.

Documentation of Estimated Capital Costs:

The district's estimate of 1,340.0 million dollars was prepared by the district's consultant, a qualified A/E.

Identification of Alternatives Considered:

1. Require students to attend school at another location in the district where needed facilities exist. Rejected because neither the district nor the state can require a student to live away from home in order to complete his/her education through the twelfth grade (Tobeluk/Local Education Regulations).
2. Do nothing, rejected as being irresponsible.

35a PROPOSED PROJECT

Savoonga High School Addition
Project Title

CATEGORY: EDUCATION
AGENCY: EDUCATION
PROGRAM: RURAL EDUCATION
PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

01-1143 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $15,700.

35b PROPOSED PROJECT (Continued)

Savoonga High School Addition

Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

(11-1142 (7/82) - 35b)

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Hooper Bay High School Classroom Addition	C	Lower Yukon		23	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY84	1,276.1	Funding Source	Fed. Rec.	N/A	
FY85	141.8		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,417.9				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,417.9
	G.O. Bonds	
	Total	1,417.9

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency	Governor
	83-43	62 Education	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Construction of a 4,574 GSF addition to existing Hooper Bay High school, including classrooms, lab space, vocational education space, and related supplementary spaces.

Project Justification:

Project Need:

It is the school district's position that the existing new high school is undersized for its educational program needs. When the BIA built the new high school, the village would not accept anything but a full-size gym. Consequently, needed instructional space was sacrificed. Without the requested additional space, the district claims that the instructional program will continue to suffer.

Documentation of Estimated Capital Costs:

Cost estimate of 1,417.9 was provided by school district. LCC analysis has been requested.

Identification of Alternatives Considered:

1. Status quo. Rejected because of program needs.
2. Remodel gym to provide needed space. Rejected as unacceptable to community.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely

35a PROPOSED PROJECT

Hooper Bay High School Classroom Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their operational budget by $50,000 annually.

35b PROPOSED PROJECT (Continued)

Hooper Bay High School Classroom Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01 1142 17/021 - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Alakanuk High School Classroom Addition	C	Lower Yukon		23	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	921.3	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	921.3				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	921.3
	G.O. Bonds	
	Total	921.3
Priority:		

Funding Information Gov. FY	FY	FY
Prior Year 83-44	84 Agency 69 Education	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Construction of a 2,972 GSF addition to the existing Alakanuk High School, including a laboratory space.

Project Justification:

Project Need:

Existing school, which was built in 1974, has major design deficiencies, i.e., the building's percentage of assignable space is less than what is desirable and noise from gym is transmitted to every classroom area. The requested addition will help to remedy this situation somewhat.

Documentation of Estimated Capital Costs:

Cost estimated of $921.3 was provided by school district. LCC analysis has been requested.

Identification of Alternatives Considered:

1. Status quo. Rejected because of program and safety considerations.
2. Curtail program. Rejected as being impractical and incompatible with mission of school to provide balanced education program.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely

35a PROPOSED PROJECT

CATEGORY EDUCATION

AGENCY EDUCATION

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their operational budget by $50,000 annually.

35b PROPOSED PROJECT
(Continued)
Alakanuk High School Class

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

FY 84

ELEMENTARY FACILITY
NOME, ALASKA

1. Project Description:

In 1981, CCC Architects and Planners prepared an Inventory and Conditions survey for the Nome Elementary School. The present Nome Elementary School facility has a gross floor area of 62,060 square feet and currently accommodates approximately 443 students. The initial building construction began in 1935; major additions followed in 1955 and 1972. At least four additions occurred between 1940 and 1961.

2. Impact on the Maintenance of Life, Health and Safety:

The existing elementary school facility is severly deficient with respect to life, health and safety. The "Nome Elementary School Facility Inventory and Conditions Survey" identified many of the fire, structural, and health considerations outlined below:

a. Fire related deficiencies: There is considerable potential for a major fire in the existing facility. The 1936 portion of the building is totally non-rated combustible construction. The office of the State Fire Marshal has closed down the second floor of this portion of the building. In addition, major mechanical and electrical deficiencies, as well as dead-end corridors, lack of alternate means of egress, and non-rated door openings make the 1936 portion of the existing elementary school facility an extreme fire hazard. The existing boiler room is also non-rated and without one hour rated separation walls, and there are no draft stops in the ceiling/roof assembly.

In terms of fire hazard the 1955 section of the facility is probable the least hazardous portion of the building. This facility does, however, have major mechanical and electrical deficiencies which could start or contribute to a fire. The main corridors do not have a one hour rated ceiling/roof assembly and door openings off of the corridors are non-rated assemblies.

The 1972 building addition has severe fire related deficiencies including a combustible return-air plenum, lack of draft stops, non-rated ceiling/floor and ceiling/roof assemblies, major mechanical deficiencies, and non-rated door and window opening assemblies off of corridors.

b. Structural deficiencies: The entire existing elementary school complex has severe foundation degradation problems which can only be solved with large amounts of money and on-going monitoring and leveling of the floor systems for the duration of the life of the facility.

The foundation under the 1936 portion of the building has the most controlled foundation degradation problems but there is virtually no way to keep water from getting into the crawl space since the roads are so close to the building and are higher than the crawl space.

THERE IS A NEED FOR SEVERAL SHEAR WALLS TO TRANSFER LATERAL LOADS TO THE FOUNDATION, AND THERE IS A LIMITED AMOUNT OF ROT IN SOME STRUCTURAL MEMBERS AND IN SOME OF THE TEMPORARY WOOD PADS/SUPPORTING PARTS OF THIS PORTION OF TH BUILDING (PARTICULARLY UNDER THE BOILER ROOM AREA).

The concrete foundation underneath the 1955 portion of the facility is experiencing severe differential settlement. The worst area underneath the northeast corner of the multipurpose room shows about 5" of differential settlement from the middle of the room to the corner. The concrete slab on the metal deck in this area supports itself with the structural members another 2" to 3" below the slab. Temporary wood shims have been driven to provide some support to the concrete. The multipurpose room will need to be shut down in the near future as the problem continues to get worse. The settlement in this portion of the building is continuing to be monitored but it will be a major expense to cut the concrete piers, jack the building into level, and install steel channels on each side of the cut piers and grout them solid. If remedial action is taken this portion will still need to be monitored and releveled for the remaining life of the building.

The 1972 portion of the facility is also experiencing severe foundation degradation (pile subsidence). The crawl space is heated and has caused piling settlement in the middle of the building. The exterior entry piling shows signs of frost jacking. Water needs to be positively channeled away from these piles (and interior piles). The foundation movement in this portion of the facility is widely evidenced by cracked gypsum board walls, leaks in the roof, and cracked concrete entry landings.

The following code violations are outlined in the fire marshal's letter dated January 23, 1982. Because of cost, several major violations cannot be complied with without major renovation.

Item 1: The structure is required to be of one hour fire resistive construction (UBC Table 5-D).

Item 6: Southwest exterior exit door is not 36" wide as required by UBC Sec. 3303.

Item 15: Change in corridor floor elevation between the 1936 building and the 1955 addition is too steep and does not comply with the ramp provisions of UBC Sec. 3306.

Item 25: Book storage room and all other storage areas need to be separated from classrooms and other areas of the building by one hour fire resistive construction (UBC Sec. 802).

Item 27: The shop (rm 117) shall be separated from the rest of the building by a one hour fire resistive occupancy separation with communicating openings protected by one hour fire rated door assemblies equipped with approved self closure (UBC Sec. 806).

#3 PAGE
ITEM 33: BOILER ROOM #119 SHALL BE SEPARATED FROM THE REST OF THE BUILDING BY NOT LESS THAN A ONE HOUR FIRE RESISTIVE OCCUPANCY SEPARATION (UBC SEC. 806).

Item 42: Exit stairway from girl's locker room is 30 inches wide, has a rise of about 8½ inches, a run of 9 inches and no handrail, contrary to the requirements of UBC Sec. 3305.

Item 48: Sill height of classroom windows is 44 inches. 13 AAC 50.020 requires classrooms to have approved sprinkler system, direct exterior exit or an openable window that may be used for emergency escape having a sill height of the openable section not more than 36 inches above the floor and not more than six feet above the adjacent grade level.

Item 63: The area above the first floor suspended ceiling, including corridors, is of combustible construction and is being used as an air plenum. The area is not sprinklered.

Item 64: The floor-ceiling assembly between the first and second story and the ceiling-roof assembly are required to be one hour assemblies (UBC Tables 5-D and 17-A). The present assemblies do not have sheetrock protecting the bottom cord of the 1st floor trusses or the second story ceiling joist.

Item 76: Classroom windows of rooms 215 and 216 have a sill height of about 46" and do not open. Other windows either have a sill height exceeding 36" or do not have a clear net openable area of 5.7 square feet with a net clear opening height of 24 inches and a net clear opening width dimension of 20 inches. Sill height cannot exceed 36 inches above the floor. Direct exterior exits or an approved automatic sprinkler system throughout the building is required by 13 AAC 50.020.

Item 77: One end of the exit corridor from the home economics room and office area opens into the "open plan" concept area. A room cannot exit into a corridor and through another room to a second exit corridor and stairway (UBC Chapter 33). The corridor should be extended to connect either the southwest or southeast exit corridor and stairway.

In response to these items, Charles L. Davis, Deputy Fire Marshal, acknowledged the difficulty in his reply of December 20, 1982:

"Dear Mr. LaBolle, This will acknowledge your letter of November 30, 1982, and our conference of December 6, 1982, regarding correction of deficiencies noted in the above referenced survey report.

I agree that correction of Item 31, 6, 15, 25, 27, 30, 33, 42, 45, 63, 64, 76 and 77 will entail considerable expense necessitating legislative appropriations. Please keep us advised."

The Nome Elementary Schoo' Project was originally submitted to the Department of Education for inclusion in the Governor's Capital Improvement Budget on June 7, 1982. In October the City passed a $1 million bond for planning of the project. As a result, the planning and engineering of the project is proceeding on schedule utilizing these funds.

If the project can be funded in phases it is possible to estimate some of the costs involved in the initial phase of the project.

The City Council has identified a site located on 5th Avenue. Several test holes have been drilled on the site and geotechnical information dealing with some of the foundation needs has been prepared.

In their report of January 18, 1983, CCC Architects and Planners estimate the cost for a foundation system to be $2,240,000. If the concrete floor deck is added to the piles the total cost is estimated to be $5,160,000.

Since the City bond should be adequate for the planning and bidding phase that amount should carry the project through the winter and the early part of the 1984 construction season.

Larry LaBelle

Nome Public Schools

REPRESENTATIVE
PETER GOLL

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

May 5, 1983

Rep. Milo Fritz
Rep. Mae Tischer
House Committee on Health, Education and Social Services

Following are corrections to amendment for SB18.

Decrease Klukwan to: (Chatham District)	1.913
Add:	
Chatham School District — Tenakee School Phase I (Form 35 = 84-34)	500.
Chatham School District for Gustavus shop	45.
Southeast Island School District for Thorne Bay Vocational/Special Services Addition	480.
Independent Klawock Elementary School Addition for planning design and construction	230.
Independent Yakutat Elementary School Addition for planning design and construction	150.
Kake School District for electrical code upgrade High School	150.
Total unchanged:	3,468.

figures in thousands

Thank you for making these corrections.

Peter Goll

Project Title	Location	Elect Dist	Start Date	Complete Da
KLUKWAN NEW SCHOOL PROJECT	KLUKWAN	2	070183	060184

⑥ COST

Funding Sources

1002	Federal Receipts	
1003	G/F Match	
1004	General Fund	3,468.
1005	I/A Receipts	
1010	G.O. Bonds	
TOTAL PROJECT COST		3,468.

⑦ Operating Impact

		First Op. Yr.	Ult. Annual Yr.
Funding Source	Fed. Rec.		
	Gen. Fund		
	Other		
	Total	Not	
Positions (FTE)		applicable	

⑧ APPROPRIATED TO:

☒ State Agency
Agency Name Dept. of Education
Program Rural Schools

OR

☐ Municipal Grant
Municipality Name _____

PROJECT DESCRIPTION

⑨ THIS APPROPRIATION TO THE CHATHAM SCHOOL DISTRICT IS FOR DESIGN AND CONSTRUCTION OF THE NEW SCHOOL PROJECT. THIS PROJECT IS A NUMBER ONE PRIORITY OF THE CHATHAM SCHOOL DISTRICT. THE EXISTING FACILITY HAS BEEN OPERATING SINCE 1910, AND RENOVATION IS NOT RECOMMENDED. THE STRUCTURE IS UNSOUND, SANITATION IS INADEQUATE AND STUDENT COUNT PROJECTIONS POINT TO STEADILY GROWING ENROLLMENT, PLACING IT AT THE TOP OF THE COMMUNITY'S LIST OF CONCERNS.

KLUKWAN SCHOOL HAS BEEN OPERATED BY THE BIA IN THE PAST, AND WAS JUST RECENTLY TURNED OVER TO THE STATE.

FY 84

35 LEGISLATIVE REQUEST
PROPOSED CAPITAL

⑩ CATEGORY (Direct grant)

REQUESTING LEGISLATOR:

(Signature)

Sen. Eliason

Although the school at Klukwan may become the second largest in the District, the reality of limited funding has forced consideration of a phased funding package:

Phase I = 8,500 square feet
- 4 classrooms
- Library
- Office, Counseling, Storage
- Toilets, Circulation, Mechanical

Phase II = 6,000 square feet
- Multipurpose room
- Home Economics
- Storage-Circulation, Mechanical

Phase III = 2,500 square feet
- 2 classrooms
- Teacher Preparation
- Mechanical and Circulation

The phase package, designed to extend over a three-year period has been subjected to an inflated cost estimate which is identified below:

Phase I = 8,500 square feet

$1,445,000	= $170 per sq. ft./ construction
289,000	= Project Development Costs design equipment art in public places site development construction contingency
1984 $1,734,000	TOTAL

Phase III = 6,000 square feet

$1,020,000	= $170 per sq. ft./ construction
97,000	= 9% Inflation
223,400	= Project development Costs (identified above)
1985 $1,340,400	TOTAL

Probably the maximum amount available for replacement would be in the area of $300,000, ($361,933) a figure far too small to actually replace the facility. Other difficulties with this amount surface, as it appears the monies may only be used for "repairs" rather than the replacement of the facility.

The other apparent source for funding is through direct legislative appropriation. As submitted to the Department of Education, the request for a school at Klukwan was listed as a 1986 priority and ranked as 14th. Since that time, however, Chatham District has revised their own prioritization and made Klukwan a NUMBER ONE PRIORITY along with Tenakee. Unlike Tenakee, however, funds have not been tentatively allocated in the Governor's FY'83 budget. This may be due to several reasons--namely the fact that FY'83 is the first year Klukwan has been a part of the on-going request cycle of Chatham whereas Tenakee has been requested for three years.

The re-prioritization of the request for Klukwan is due primarily to previously undocumented enrollment projections. Based on recent awareness of an increase in students combined with the housing of the educational program in a totally obsolete facility, the District recognizes the need for immediate action.

It is the request of the Chatham District that the FY'83 Alaska State Legislature consider a direct appropriation for PHASE 1 CONSTRUCTION of 4500 SQUARE FEET IN THE AMOUNT OF $1,734,000.

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
McGrath School Addition Phase II	C	Iditarod		24	3/84	9/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY85	200.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,200.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,200.0
	G.O. Bonds	
	Total	1,200.0

Funding Information Cov. FY	FY	FY

Priority:	Prior Year	84 Agency Education 8	Governor
	-0-		

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
	[X]	[ ]	[ ]	[ ]	Yes	Yes	Yes

Project Description:

Phase II design and construction of planned addition. This addition consists of the following special use areas: Library/media Center 1500 square feet, Science room 1100 square feet, Business Education 600 square feet and Home science 300 square feet. Total 3,200 square feet.

Project Justification:

Project Need:

McGrath is a growing community. This would provide the required program for the next 10 years. This space is needed to allow for program expansion and anticipated student population growth.

Documentation of Estimated Capital Costs:

The district's estimate of 1,200.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

Do nothing. Rejected since requested funds are needed to complete projects.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense, may not exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by

35a PROPOSED PROJECT

McGrath School Addition - Phase II
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

$5,000 annually.

35b PROPOSED PROJECT (Continued)

McGrath School Addition - Phase II
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Nikolai School Replacement Phase II	C	Iditarod		24	4/83	11/83

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY85	200.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,200.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,200.0
	G.O. Bonds	
	Total	1,200.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency 11 Education	Governor
	-0-		

Special Features:	One of Several Phases [X]	External Funding Source [ ]	Funds to Enable Completion [ ]	Contingent Upon Other Projects [ ]	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:
Continuation of the design and construction of the school facility. This includes 1400 square feet of classroom space, 1092 square feet of library/media center and 700 square feet of supplemental space.

Project Justification:
Project Need:
This facility is needed to complete Phase II of the project. This facility will replace the existing structure which is old and has numerous life-safety code violations as documented by the State Fire Marshall.

Documentation of Estimated Capital Costs:
The district's estimate of 1,200.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
Do nothing. Rejected due to fire and safety hazards.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates the project will not increase or decrease their operational budget annually.

35a PROPOSED PROJECT

Project Title: Nikolai School Replacement/ Phase II

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

01 1145 (7/82) - 35a

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Stony River School Addition	C	Kuspuk Schools		24	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	800.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,800.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,800.0
	G.O. Bonds	
	Total	1,800.0
Priority:		Prior Year -0-

Funding Information Gov. FY	FY	FY
84 Agency 77 Education		Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Plan, design and construct a 3,100 square foot classroom addition to the existing facility.

Project Justification:

Project Need:
Need based on student enrollment. Existing modular unit is undersized and expensive to maintain and operate.

Documentation of Estimated Capital Costs:
The district's estimate of 1,800.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
Remodel existing facility--floor space not available.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense, may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $31,000.

35a PROPOSED PROJECT

CATEGORY EDUCATION

AGENCY EDUCATION

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Chuathbaluk Elementary Addition	C	Kuspuk Schools		24	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	800.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,800.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,800.0
	G.O. Bonds	
	Total	1,800.0

Funding Information Cov. FY	FY	FY

Priority:	Prior Year	84 Agency 85	Governor
	-0-	Education	

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

Plan, design and construct a 4,550 square feet addition to existing facility.

Project Justification:

Project Need:

District maintains that existing space is not adequate for program needs.

Documentation of Estimated Capital Costs:

The district's estimate of 1,800.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

Occupy existing building-space limitations prohibit described program. Remodel present facilities--floor space not available at present.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by $45,000 annually.

35a PROPOSED PROJECT

Chuathbaluk Elementary
Project Title Addition

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145 (7/82) - 35a

SB 18 BACKUP

MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT
MAINTENANCE AND UPGRADE PROJECTS

1.	Summer Maintenance	$ 200,000
	This funding is extremely important to carry out summer maintenance in the schools throughout the district.	
2.	Land Acquisition and Planning Funds	1,400,000
	Acquisition of land and planning and design monies for West Palmer Elementary and Houston Junior-Senior High.	
3.	Swanson Elementary Roof and Insulation Upgrade	1,000,000
	One wall of the structure that was not insulated under a previous contract would be completed. The roof repair would prevent further deterioration of the structure.	
4.	District-Wide Computerized Energy Management System	300,000
	This project would result in significant savings in energy costs to the district.	
5.	Palmer Area Playgrounds Upgrade	250,000
	Grading, fencing, and removal of boulders would be done at the Swanson, Sherrod, Snowshoe, and Butte Elementary Schools. At some of these schools, unleashed dogs are present at the playgrounds since there is no fencing.	
6.	Susitna Valley Art Room Addition	400,000
	With these facilities, a sorely needed program could be added to the curriculum.	
	T O T A L	$3,550,000

To: HESS Committee Date: May 5, 1983

From: Linda Otey, Committee Aide

Re: proposed House CS for CS for SB 18 (HESS)

The attached backup is in the order listed in the proposed legislation. Other back-up in more detail is available for review but has not been duplicated because of its bulk.

As well as the back-up provided for each school district, the following explanations are appropriate:

BIA School transfers - (List Attached) - Seventeen schools will receive $11.1 million in federal receipts to bring the sites up to State Fire-Life Safety Codes. The mechanics of the actual dollar transfer are in the process of being developed.

The BIA, DOE, and the State Fire Marshall's Office have identified specific areas in need of modification. The Dept. of Educ. will make the final decision as to how these funds will be allocated.

The final decision will be made after the budget process to enable the Department to determine remaining needs of the BIA transfer schools.

Also attached:

DOE - Elementary/Secondary and Combined Elementary-Secondary School Space Guidelines

DOE - Prioritization of Capital Projects/ Combined City & Borough - REAA School Districts

DRAFT

ALASKA DEPARTMENT OF EDUCATION

ELEMENTARY/SECONDARY AND COMBINED ELEMENTARY-SECONDARY SCHOOL SPACE GUIDELINES
(IN MINIMUM, IN OPTIMUM, AND IN MAXIMUM GROSS SQUARE FEET OF FLOOR AREA)[1]

SCHOOL[2]	ENROLLMENT									
	10-20	21-32	33-46	47-62	63-80	81-99	100-199	200-299	300-399	400-499[3]
ELEMENTARY (MIN GSF)	800	1,800	4,100	6,100	7,900	9,200	9,700	19,100	27,400	34,900
ELEMENTARY (OPT GSF)	1,500	2,700	5,700	7,900	9,900	11,300	20,400	27,400	31,800	42,900
ELEMENTARY (MAX GSF)	1,600	3,000	6,300	8,700	10,900	12,400	22,500	30,100	40,000	50,000
FORMER GUIDELINE (MAX GSF)	1,200	2,430	4,680	5,070	8,775	9,750	10,000-19,900	20,000-29,900	30,000-39,900	40,000-49,900
SECONDARY (MIN GSF)	3,000	5,000	7,300	10,600	13,900	15,200	20,500	35,500	49,600	72,500
SECONDARY (OPT GSF)	5,200	7,000	9,900	13,600	16,100	18,400	35,900	50,100	65,000	75,000
SECONDARY (MAX GSF)	5,700	7,800	10,800	14,900	17,800	20,300	39,500	55,100	72,200	80,000
FORMER GUIDELINE (MAX GSF)	4,455	6,840	8,800	11,840	14,235	16,125	15,000-29,850	30,000-44,850	45,000-59,850	60,000-74,850
COMBINED E/S (MIN GSF)	3,500	5,500	8,500	11,500	14,500	16,500	30,000	37,500	52,000	74,000
COMBINED E/S (OPT GSF)	5,500	8,000	11,500	15,000	17,500	20,000	40,000	52,500	68,500	80,000
COMBINED E/S (MAX GSF)	6,300	9,800	13,500	17,000	19,500	22,500	42,500	57,000	73,500	82,500
FORMER GUIDELINE (MAX GSF)	6,210	9,720	13,390	15,990	18,850	21,250	15,000-29,850	30,000-44,850	45,000-59,850	60,000-74,850

[1] Exclude exterior wall thickness from GSF calculation

[2] For all remote schools that are supplied annually, nonassignable space shall be 35-45 percent of building's GSF.

[3] For elementary schools with a design enrollment of 500 or more, use 100 GSF per student; for secondary schools with a design enrollment of 500 or more, use 150 GSF per student.

CODE UPGRADE ESTIMATES
BIA SCHOOL CLOSURES IN 1982

	SITE EST. TOTAL @ FY 83	LESS BIA UFC PRIORITY #1 FY 82 CONTR.	LESS BIA FY 82 CIP FUNDS	NET. EST. FY 83	PRO RATED. @ .9769
Alakanuk	63,260	264	-0-	62,996	61,545
Gambell	471,316	20,378	-0-	450,938	440,541
Golovin	259,769	2,404	-0-	257,365	251,432
Goodnews Bay	359,718	17,043	-0-	342,675	334,775
Klukwan	461,310	978	-0-	460,332	449,720
Kwethluk	997,204	23,514	-0-	973,690	951,238
Kwigllingok	930,450	30,862	-0-	889,588	878,845
Mekoryuk	974,267	4,566	-0-	969,701	947,342
Napakiak	1,527,333	46,928	-0-	1,480,405	1,446,268
Napaskiak	1,302,798	11,236	302,164	989,398	966,584
Nightmute	799,627	25,153	-0-	774,474	756,616
Oscarville	836,573	3,680	-0-	832,893	813,688
Quinhagak	675,420	39,556	-0-	635.864	621,202
St. Michael	1,495,355	4,508	-0-	1,490,847	1,456,470
Scammon Bay	407,206	18,232	-0-	388,974	380,006
Stebbins	532,499	3,749	431,664	97,086	94,850
Tununak	258,845	4,094	-0-	254,751	248,878
TOTALS	12,352,950	257,145	733,828	11,361,977	11,100,000

Planning, design and construction of an addition to the Klawock Elementary School	230,000
Yakutat School District	
Planning, design and construction of an addition to the Yakutat Elementary School	150,000
Kake City School District	
Electrical code upgrade for the high school	150,000
Kenai Peninsula Borough School District	
Handicapped, fire and life safety code upgrades of Homer High School, Susan B. English School, Sterling Elementary School, and Tustumena Elementary School	1,192,500

* Sec. 2. This Act takes effect July 1, 1983.

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Ambler Elementary/Secondary Upgrade and Addition	C, I	N.W. Arctic		23	6/83	6/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	710.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	710.0				

Funding Information			Funding Information		
Agency		FY 84	Gov. FY	FY	FY
1002	Fed. Rec.				
1004	Gen. Fund	710.0			
	G.O. Bonds				
	Total	710.0			

Priority:	Prior Year	84 Agency	Governor
	83-25	Education 30	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
	☐	☐	☐	☐	Yes	Yes	Yes

Project Description:

Upgrading the existing elementary/secondary schools, including modifications to air handling system, provision emergency power, heating system improvements, replacement oil fired kitchen stove, roof repair, window replacement and painting plus the addition of vocational education space (2,000 GSF) and general purpose storage space.

Project Justification:

Project Need:

Existing schools need attention in the following areas in order to preserve its useful life: hot water distribution lines (insulation), and roof (repairs), exterior (painting), windows (replacement to prevent heat loss and to conserve energy). Moreover, modification to the air handling systems of both the elementary and secondary school need to be made in order to effect operational cost savings.

Two other improvements are also needed: provision of emergency power generation and replacement of an oil fired stove in the high school's kitchen. Lastly, the addition of vocational education and general purpose space will improve the instructional program and allow for convenient, safe storage of supplies and materials.

Documentation of Estimated Capital Costs:

The estimate of $710.0 was prepared by the district. LCC Analysis has been requested.

CATEGORY EDUCATION

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by $5,500.

35b PROPOSED PROJECT (Continued)
Ambler Elementary/Secondary
Project Title Upgrade & Addition

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 8

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Selawik School Multi-purpose Addition	C	N.W. Arctic			7/83	10/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	530.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FIE)			
TOTAL	530.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	530.0
	G.O. Bonds	
	Total	530.0
Priority:	Prior Year 84-6	84 Agency 60 Education

Funding Information Gov. FY	FY	FY

Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

Planning, designing and constructing a multi-purpose room addition of 2,201 GSF to the existing school.

Project Justification:

Project Need:

At the present time, the high school gym serves as a multi-purpose room/cafeteria for grades K-12. This lowers the amount of instructional space available and as a result students are forced to eat in this area at times when physical education/recreation activities are being conducted, which is hazardous from a safety standpoint. This project will enclose and adjoining porch area and convert it to a multi-purpose room/cafeteria, which will be used for elementary physical education classes.

Documentation of Estimated Capital Costs:

The estimate of $530.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:

Do nothing. Rejected because health and life safety hazard to students attending school in this facility.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $2,000.

35b PROPOSED PROJECT (Continued)

Selawik School Multi-purpose Addition

Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Buckland School Shop Remodel/ Storage Addition	C, I	N.W. Arctic			6/83	12/83

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY84	195.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	195.0				

Funding Information Agency		FY 84	Funding Information Gov. FY	FY	FY
1002	Fed. Rec.				
1004	Gen. Fund	195.0			
	G.O. Bonds				
	Total	195.0			

Priority:	Prior Year 83-52	84 Agency Education 67	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Remodeling of existing Buckland High School Shop and the addition of general purpose storage space (1000 GSF).

Project Justification:

Project Need:

This project is for upgrading the shop to eliminate electrical/ventilation deficiencies and to facilitate the use of more extensive power equipment for welding. This project will eliminate existing health/safety hazards and enable the school to expand the scope of its vocational education program. Moreover, storage space is needed to remove supplies, materials, equipment and food products from the instructional areas of the school. Adequate storage is a major problem in the remote village schools due to the necessity to acquire and to store large quantities of materials, supplies and food products at one time, as well as the provision of security to prevent loss from theft.

Documentation of Estimated Capital Costs:

The estimate of $195.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:

Do nothing. Rejected because health and life safety hazard to students attending school in this facility.

35a PROPOSED PROJECT
Buckland School Shop Remodel/ Storage Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01 1143 (7/82) 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services. including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $25,000.

35b PROPOSED PROJECT
(Continued)
Buckland School Shop Remodel/
Project Title Storage Addition

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $15,700.

35b PROPOSED PROJECT (Continued)

Savoonga High School Addition

Project Title

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Hooper Bay High School Classroom Addition	C	Lower Yukon		23	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY84	1,276.1	Funding Source	Fed. Rec.	N/A	
FY85	141.8		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,417.9				

Funding Information		Agency FY 84	Funding Information		
			Cov. FY	FY	FY
1002	Fed. Rec.				
1004	Gen. Fund	1,417.9			
	G.O. Bonds				
	Total	1,417.9			
Priority:		Prior Year 83-43	84 Agency 62 Education		Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Construction of a 4,574 GSF addition to existing Hooper Bay High school, including classrooms, lab space, vocational education space, and related supplementary spaces.

Project Justification:

Project Need:

It is the school district's position that the existing new high school is undersized for its educational program needs. When the BIA built the new high school, the village would not accept anything but a full-size gym. Consequently, needed instructional space was sacrificed. Without the requested additional space, the district claims that the instructional program will continue to suffer.

Documentation of Estimated Capital Costs:

Cost estimate of 1,417.9 was provided by school district. LCC analysis has been requested.

Identification of Alternatives Considered:

1. Status quo. Rejected because of program needs.
2. Remodel gym to provide needed space. Rejected as unacceptable to community.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely

35a PROPOSED PROJECT

Project Title: Hooper Bay High School Classroom Addition

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

01-1143 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their operational budget by $50,000 annually.

35b PROPOSED PROJECT (Continued)

Project Title: Hooper Bay High School Classroom Addition

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Alakanuk High School Classroom Addition	C	Lower Yukon		23	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	921.3	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	921.3				

Funding Information			Funding Information		
Agency		FY 84	Gov. FY	FY	FY
1002	Fed. Rec.				
1004	Gen. Fund	921.3			
	G.O. Bonds				
	Total	921.3			

Priority:	Prior Year	84 Agency 69 Education	Governor
	83-44		

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
	☐	☐	☐	☐	Yes	Yes	Yes

Project Description:

Construction of a 2,972 GSF addition to the existing Alakanuk High School, including a laboratory space.

Project Justification:

Project Need:

Existing school, which was built in 1974, has major design deficiencies, i.e., the building's percentage of assignable space is less than what is desirable and noise from gym is transmitted to every classroom area. The requested addition will help to remedy this situation somewhat.

Documentation of Estimated Capital Costs:

Cost estimated of $921.3 was provided by school district. LCC analysis has been requested.

Identification of Alternatives Considered:

1. Status quo. Rejected because of program and safety considerations.
2. Curtail program. Rejected as being impractical and incompatible with mission of school to provide balanced education program.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely

35a PROPOSED PROJECT

CATEGORY EDUCATION

AGENCY EDUCATION

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their operational budget by $50,000 annually.

35b PROPOSED PROJECT (Continued)

Alakanuk High School Class

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM

FY 84

ELEMENTARY FACILITY
E, ALASKA

1. Project Description:

In 1981, CCC Architects and Planners prepared an Inventory and Conditions survey for the Nome Elementary School. The present Nome Elementary School facility has a gross floor area of 62,060 square feet and currently accommodates approximately 443 students. The initial building construction began in 1935; major additions followed in 1955 and 1972. At least four additions occurred between 1940 and 1961.

2. Impact on the Maintenance of Life, Health and Safety:

The existing elementary school facility is severly deficient with respect to life, health and safety. The "Nome Elementary School Facility Inventory and Conditions Survey" identified many of the fire, structural, and health considerations outlined below:

a. Fire related deficiencies: There is considerable potential for a major fire in the existing facility. The 1936 portion of the building is totally non-rated combustible construction. The office of the State Fire Marshal has closed down the second floor of this portion of the building. In addition, major mechanical and electrical deficiencies, as well as dead-end corridors, lack of alternate means of egress, and non-rated door openings make the 1936 portion of the existing elementary school facility an extreme fire hazard. The existing boiler room is also non-rated and without one hour rated separation walls, and there are no draft stops in the ceiling/roof assembly.

In terms of fire hazard the 1955 section of the facility is probable the least hazardous portion of the building. This facility does, however, have major mechanical and electrical deficiencies which could start or contribute to a fire. The main corridors do not have a one hour rated ceiling/roof assembly and door openings off of the corridors are non-rated assemblies.

The 1972 building addition has severe fire related deficiencies including a combustible return-air plenum, lack of draft stops, non rated ceiling/floor and ceiling/roof assemblies, major mechanical deficiencies, and non-rated door and window opening assemblies off of corridors.

b. Structural deficiencies: The entire existing elementary school complex has severe foundation degradation problems which can only be solved with large amounts of money and on-going monitoring and leveling of the floor systems for the duration of the life of the facility.

The foundation under the 1936 portion of the building has the most controlled foundation degradation problems but there is virtually no way to keep water from getting into the crawl space since the roads are so close to the building and are higher than the crawl space.

THERE IS A NEED FOR SEVERAL SHEAR WALLS TO TRANSFER LATERAL LOADS TO THE FOUNDATION, AND THERE IS A LIMITED AMOUNT OF ROT IN SOME STRUCTURAL MEMBERS AND IN SOME OF THE TEMPORARY WOOD PADS SUPPORTING PARTS OF THIS PORTION OF T BUILDING (PARTICULARLY UNDER THE BOILER ROOM AREA).

The concrete foundation underneath the 1955 portion of the facility is experiencing severe differential settlement. The worst area underneath the northeast corner of the multipurpose room shows about 5" of differential settlement from the middle of the room to the corner. The concrete slab on the metal deck in this area supports itself with the structural members another 2" to 3" below the slab. Temporary wood shims have been driven to provide some support to the concrete. The multipurpose room will need to be shut down in the near future as the problem continues to get worse. The settlement in this portion of the building is continuing to be monitored but it will be a major expense to cut the concrete piers, jack the building into level, and install steel channels on each side of the cut piers and grout them solid. If remedial action is taken this portion will still need to be monitored and releveled for the remaining life of the building.

The 1972 portion of the facility is also experiencing severe foundation degradation (pile subsidence). The crawl space is heated and has caused piling settlement in the middle of the building. The exterior entry piling shows signs of frost jacking. Water needs to be positively channeled away from these piles (and interior piles). The foundation movement in this portion of the facility is widely evidenced by cracked gypsum board walls, leaks in the roof, and cracked concrete entry landings.

The following code violations are outlined in the fire marshal's letter dated January 23, 1982. Because of cost, several major violations cannot be complied with without major renovation.

Item 1: The structure is required to be of one hour fire resistive construction (UBC Table 5-D).

Item 6: Southwest exterior exit door is not 36" wide as required by UBC Sec. 3303.

Item 15: Change in corridor floor elevation between the 1936 building and the 1955 addition is too steep and does not comply with the ramp provisions of UBC Sec. 3306.

Item 25: Book storage room and all other storage areas need to be separated from classrooms and other areas of the building by one hour fire resistive construction (UBC Sec. 802).

Item 27: The shop (rm 117) shall be separated from the rest of the building by a one hour fire resistive occupancy separation with communicating openings protected by one hour fire rated door assemblies equipped with approved self closure (UBC Sec. 508).

ITEM 33: BOILER ROOM #119 SHALL BE SEPARATED FROM THE REST OF THE BUILDING BY NOT LESS THAN A ONE HOUR FIRE RESISTIVE OCCUPANCY SEPARATION (UBC SEC. 806).

Item 42: Exit stairway from girl's locker room is 30 inches wide, has a rise of about 8½ inches, a run of 9 inches and no handrail, contrary to the requirements of UBC Sec. 3305.

Item 48: Sill height of classroom windows is 44 inches. 13 AAC 50.020 requires classrooms to have approved sprinkler system, direct exterior exit or an openable window that may be used for emergency escape having a sill height of the openable section not more than 36 inches above the floor and not more than six feet above the adjacent grade level.

Item 63: The area above the first floor suspended ceiling, including corridors, is of combustible construction and is being used as an air plenum. The area is not sprinklered.

Item 64: The floor-ceiling assembly between the first and second story and the ceiling-roof assembly are required to be one hour assemblies (UBC Tables 5-D and 17-A). The present assemblies do not have sheetrock protecting the bottom cord of the 1st floor trusses or the second story ceiling joist.

Item 76: Classroom windows of rooms 215 and 216 have a sill height of about 46" and do not open. Other windows either have a sill height exceeding 36" or do not have a clear net openable area of 5.7 square feet with a net clear opening height of 24 inches and a net clear opening width dimension of 20 inches. Sill height cannot exceed 36 inches above the floor. Direct exterior exits or an approved automatic sprinkler system throughout the building is required by 13 AAC 50.020.

Item 77: One end of the exit corridor from the home economics room and office area opens into the "open plan" concept area. A room cannot exit into a corridor and through another room to a second exit corridor and stairway (UBC Chapter 33). The corridor should be extended to connect either the southwest or southeast exit corridor and stairway.

In response to these items, Charles L. Davis, Deputy Fire Marshal, acknowledged the difficulty in his reply of December 20, 1982:

"Dear Mr. LaBelle, This will acknowledge your letter of November 30, 1982, and our conference of December 6, 1982, regarding correction of deficiencies noted in the above referenced survey report.

I agree that correction of Item 31, 6, 15, 25, 27, 28, 33, 42, 48, 63, 64, 76 and 77 will entail considerable expense necessitating legislative appropriations. Please keep us advised."

The Nome Elementary School Project was originally submitted to the Department of Education for inclusion in the Governor's Capital Improvement Budget on June 7, 1982. In October the City passed a $1 million bond for planning of the project. As a result, the planning and engineering of the project is proceeding on schedule utilizing these funds.

If the project can be funded in phases it is possible to estimate some of the costs involved in the initial phase of the project.

The City Council has identified a site located on 5th Avenue. Several test holes have been drilled on the site and geotechnical information dealing with some of the foundation needs has been prepared.

In their report of January 18, 1983, CCC Architects and Planners estimate the cost for a foundation system to be $2,240,000. If the concrete floor deck is added to the piles the total cost is estimated to be $5,160,000.

Since the City bond should be adequate for the planning and bidding phase that amount should carry the project through the winter and the early part of the 1984 construction season.

Larry LaBelle
Nome Public Schools

REPRESENTATIVE
PETER GOLL

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

May 5, 1983

Rep. Milo Fritz
Rep. Mae Tischer
House Committee on Health, Education and Social Services

Following are corrections to amendment for SB18.

Decrease Klukwan to: (Chatham District)	1.913
Add:	
Chatham School District — Tenakee School Phase I (Form 35 = 84-34)	500.
Chatham School District for Gustavus shop	45.
Southeast Island School District for Thorne Bay Vocational/Special Services Addition	480.
Independent Klawock Elementary School Addition for planning design and construction	230.
Independent Yakutat Elementary School Addition for planning design and construction	150.
Kake School District for electrical code upgrade High School	150.
Total unchanged:	3,468.

figures in thousands

Thank you for making these corrections.

Peter Goll

Project Title	Location	Elect Dist	Start Date	Complete Da
KLUKWAN NEW SCHOOL PROJECT	KLUKWAN	2	070183	060184

⑥ COST

Funding Sources

1002	Federal Receipts	
1003	G/F Match	
1004	General Fund	3,468.
1005	I/A Receipts	
1010	G.O. Bonds	
TOTAL PROJECT COST		3,468.

⑦ Operating Impact

		First Op. Yr.	Ult. Annual Yr.
Funding Source	Fed. Rec.		
	Gen. Fund		
	Other		
	Total		
Positions (FTE)		Not applicable	

⑧ APPROPRIATED TO:

☒ State Agency
Agency Name Dept. of Education
Program Rural Schools

OR

☐ Municipal Grant
Municipality Name

PROJECT DESCRIPTION

⑨ THIS APPROPRIATION TO THE CHATHAM SCHOOL DISTRICT IS FOR DESIGN AND CONSTRUCTION OF THE NEW SCHOOL PROJECT. THIS PROJECT IS A NUMBER ONE PRIORITY OF THE CHATHAM SCHOOL DISTRICT. THE EXISTING FACILITY HAS BEEN OPERATING SINCE 1910, AND RENOVATION IS NOT RECOMMENDED. THE STRUCTURE IS UNSOUND, SANITATION IS INADEQUATE AND STUDENT COUNT PROJECTIONS POINT TO STEADILY GROWING ENROLLMENT, PLACING IT AT THE TOP OF THE COMMUNITY'S LIST OF CONCERNS.

KLUKWAN SCHOOL HAS BEEN OPERATED BY THE BIA IN THE PAST, AND WAS JUST RECENTLY TURNED OVER TO THE STATE.

FY 84

35 LEGISLATIVE REQUEST
PROPOSED CAPITAL

⑩ CATEGORY (Direct grant)

REQUESTING LEGISLATOR:

(Signature)

Sen. Eliason

Although the school at Klukwan may become the second largest in the District, the reality of limited funding has forced consideration of a phased funding package:

Phase I = 8,500 square feet
- 4 classrooms
- Library
- Office, Counseling, Storage
- Toilets, Circulation, Mechanical

Phase II = 6,000 square feet
- Multipurpose room
- Home Economics
- Storage-Circulation, Mechanical

Phase III = 2,500 square feet
- 2 classrooms
- Teacher Preparation
- Mechanical and Circulation

The phase package, designed to extend over a three-year period has been subjected to an inflated cost estimate which is identified below:

Phase I = 8,500 square feet

$1,445,000	= $170 per sq. ft./ construction
289,000	= Project Development Costs design equipment art in public places site development construction contingency
$1,734,000	TOTAL

1984

Phase III = 6,000 square feet

$1,020,000	= $170 per sq. ft./ construction
97,000	= 9% Inflation
223,400	= Project development Costs (identified above)
$1,340,400	TOTAL

1985

Probably the maximum amount available for replacement would be in the area of $300,000, ($361,933) a figure far too small to actually replace the facility. Other difficulties with this amount surface, as it appears the monies may only be used for "repairs" rather than the replacement of the facility.

The other apparent source for funding is through direct legislative appropriation. As submitted to the Department of Education, the request for a school at Klukwan was listed as a 1986 priority and ranked as 14th. Since that time, however, Chatham District has revised their own prioritization and made Klukwan a NUMBER ONE PRIORITY along with Tenakee. Unlike Tenakee, however, funds have not been tentatively allocated in the Governor's FY'83 budget. This may be due to several reasons--namely the fact that FY'83 is the first year Klukwan has been a part of the on-going request cycle of Chatham whereas Tenakee has been requested for three years.

The re-prioritization of the request for Klukwan is due primarily to previously undocumented enrollment projections. Based on recent awareness of an increase in students combined with the housing of the educational program in a totally obsolete facility, the District recognizes the need for immediate action.

It is the request of the Chatham District that the FY'83 Alaska State Legislature consider a direct appropriation for PHASE 1 CONSTRUCTION of 4500 SQUARE FEET IN THE AMOUNT OF $1,734,000.

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
McGrath School Addition Phase II	C	Iditarod		24	3/84	9/84

Cash Flow	
FY84	1,000.0
FY85	200.0
FY	
FY	
FY	
FY	
TOTAL	1,200.0

Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
Funding Source	Fed. Rec.	N/A	
	Gen. Fund		
	Other		
	Total		
Positions (FTE)			

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,200.0
	G.O. Bonds	
	Total	1,200.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency 8	Governor
	-0-	Education	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects
	[X]	[ ]	[ ]	[ ]

Site Owned? Yes Utilities Available? Yes
Access Available? Yes

Project Description:

Phase II design and construction of planned addition. This addition consists of the following special use areas: Library/media Center 1500 square feet, Science room 1100 square feet, Business Education 600 square feet and Home science 300 square feet. Total 3,200 square feet.

Project Justification:

Project Need:

McGrath is a growing community. This would provide the required program for the next 10 years. This space is needed to allow for program expansion and anticipated student population growth.

Documentation of Estimated Capital Costs:

The district's estimate of 1,200.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

Do nothing. Rejected since requested funds are needed to complete projects.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense, may not exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by

35a PROPOSED PROJECT

McGrath School Addition - Phase II
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

$5,000 annually.

35b PROPOSED PROJECT (Continued)

McGrath School Addition - Phase II
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01 1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Nikolai School Replacement Phase II	C	Iditarod		24	4/83	11/83

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY85	200.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,200.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,200.0
	G.O. Bonds	
	Total	1,200.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year -0-	84 Agency 11 Education	Governor

Special Features:	One of Several Phases [X]	External Funding Source [ ]	Funds to Enable Completion [ ]	Contingent Upon Other Projects [ ]	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

Continuation of the design and construction of the school facility. This includes 1400 square feet of classroom space, 1092 square feet of library/media center and 700 square feet of supplemental space.

Project Justification:

Project Need:

This facility is needed to complete Phase II of the project. This facility will replace the existing structure which is old and has numerous life-safety code violations as documented by the State Fire Marshall.

Documentation of Estimated Capital Costs:

The district's estimate of 1,200.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

Do nothing. Rejected due to fire and safety hazards.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates the project will not increase or decrease their operational budget annually.

35a PROPOSED PROJECT

Project Title: Nikolai School Replacement/ Phase II

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

01-1145 (7/82) - 35a

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Stony River School Addition	C	Kuspuk Schools		24	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	800.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,800.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,800.0
	G.O. Bonds	
	Total	1,800.0
Priority:		Prior Year -0-

Funding Information Gov. FY	FY	FY
84 Agency 77 Education		Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
	☐	☐	☐	☐	Yes	Yes	Yes

Project Description:

Plan, design and construct a 3,100 square foot classroom addition to the existing facility.

Project Justification:

Project Need:
Need based on student enrollment. Existing modular unit is undersized and expensive to maintain and operate.

Documentation of Estimated Capital Costs:
The district's estimate of 1,800.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
Remodel existing facility--floor space not available.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense, may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $31,000.

CATEGORY EDUCATION

35a PROPOSED PROJECT

AGENCY EDUCATION

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Chuathbaluk Elementary Addition	C	Kuspuk Schools		24	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	800.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,800.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,800.0
	G.O. Bonds	
	Total	1,800.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency 85	Governor
	-0-	Education	

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

Plan, design and construct a 4,550 square feet addition to existing facility.

Project Justification:

Project Need:
District maintains that existing space is not adequate for program needs.

Documentation of Estimated Capital Costs:
The district's estimate of 1,800.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
Occupy existing building-space limitations prohibit described program. Remodel present facilities--floor space not available at present.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by $45,000 annually.

35a PROPOSED PROJECT

Chuathbaluk Elementary Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145(7/82)-35a

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Kwigillingok High School Water Tank	I	Lower Kuskokwim		25	5/83	8/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	360.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	360.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	360.0
	G.O. Bonds	
	Total	360.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency Education 72	Governor
	-0-		

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:
Add a 30,000 gallon water tank to the existing facility.

Project Justification:
Project Need:
This tank is needed to provide a sufficient supply to the school throughout the year. Tank must be filled in the fall and any additional water is collected from rain fall accumulated.

Documentation of Estimated Capital Costs:
The district's estimate of 360.0 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Provide water well and treatment to meet class A ADEC requirements--rejected cost prohibitive.
2. Not construct another water storage tank--rejected because the food services and physical education programs are impacted due to lack of portable water.

Analysis of Estimated Impact on Operating Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for adminis-

35a PROPOSED PROJECT

Kwigillingok High School
Project Title Water Tank

01-1143 (7/82) 35a

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

trative services including operational expense, may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by $4,000.

35b PROPOSED PROJECT (Continued)

Kwigillingok High School

Project Title Water Tank

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Kipnuk High School Water Tank	I	Lower Kuskokwim		25	5/83	2/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	720.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	720.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	720.0
	G.O. Bonds	
	Total	720.0
Priority:		

Funding Information Gov. FY	FY	FY

Prior Year	84 Agency 68 Education	Governor
-0-		

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:
Install a 150,000 gallon water storage tank.

Project Justification:

Project Need:
This tank is needed to provide water for school use throughout the year. Tank must be filled in the fall. Additional water is collected from run off throughout the year.

Documentation of Estimated Capital Costs:
The district's estimate of 720.0 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Provide water well and treatment to meet Class A ADEC requirements--rejected cost prohibited.
2. Not construct another water storage tank--rejected because the food service and physical education program are impacted due to lack of portable water.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense, may not

35a PROPOSED PROJECT

Kipnuk High School Water Tank
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1143 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by $6,000.

35b PROPOSED PROJECT (Continued)

Kipnuk High School Water Tank

Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Kwethluk Improvements	I	Lower Kuskokwim		25	5/83	9/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	165.0	Funding Source	Fed. Rec.	N.A	
FY			Gen. Fund		
FY			Other		
FY			.		
FY			Total		
FY		Positions (FIE)		.	
TOTAL	165.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	165.0
	G.O. Bonds	
	Total	165.0
Priority:		Prior Year -0-

Funding Information Gov. FY	FY	FY
84 Agency 66 Education		Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

To modify the existing facility as follows:

1. Construct artic entries
2. Install two-way intercom in all classrooms
3. Replace existing septic system.
4. Fence in storage areas.

Project Justification:

Project Needs:

These improvements are needed to reduce operating costs, prevent pilferage, provide for safe sewage disposal and improve interclassroom communication.

Documentation of Estimated Capital Costs:

The district's estimate of 165.0 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

No alternatives supplied by district.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense, may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by an unspecified amount.

35a PROPOSED PROJECT

Kwethluk Improvements
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Kilbuck Major Maintenance	I	Lower Kuskokwim		25	5/84	9/85

Cash Flow		Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
FY84	2,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	400.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	2,400.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	2,400.0
	G.O. Bonds	
	Total	2,400.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency 26	Governor
	83-20	Education	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects
	☐	☐	☐	☐

Site Owned? Yes Utilities Available? Yes
Access Available? Yes

Project Description:

Renovation of existing elementary school to correct life-safety, utility, architectural, and program deficiencies.

Project Justification:

Project Need:

Lower Kuskokwim School District received $1,000,000 in Chapter 82/81 SLA for districtwide major maintenance. This amount, however, was insufficient to take care of the total needs of the Kilbuck School, as well as the needs at other sites. The requested funding is for completing the renovation of this school pursuant to the deficiencies documented in the DOT/PF Inventory & Condition Survey.

Documentation of Estimated Capital Costs:

The estimate for this project ($2,400.0) was submitted by school district officials, and must be verified by a qualified A/E or by a professional cost estimator. LCC analysis has been requested.

Identification of Alternatives:

Do nothing. Rejected because of district's commitment to alleviate architectural barriers in its facilities.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely

35a PROPOSED PROJECT

Kilbuck Major Maintenance
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by $3,000.

35b PROPOSED PROJECT (Continued)

Kilbuck Major Maintenance
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
St. Mary's Fire Code Compliance	I	St. Mary's		24	6/83	9/83

Cash Flow		Operating Impact		First Op. Yr. 83	Ult. Annual Yr.
FY 84	901.9	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	901.9				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	901.9
	G.O. Bonds	
	Total	901.9

Funding Information Gov. FY	FY	FY

Priority:	Prior Year -0-	84 Agency 19 Education	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Fire code upgrade/roof replacement.

Project Justification:

Project Need:

This project is necessary to preserve existing structures and comply with existing fire code. Due to water damage the gypsum drywall has lost it's one hour rating.

Documentation of Estimated Capital Costs:

The district's estimate of 901.9 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

As scope of work mandated by fire code the only other alternatives are to:

1. Replace entire structure - too costly.
2. Close structure as school - no facility available.
3. Revise fire code

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not

35a PROPOSED PROJECT

St. Mary's Fire Code Com-
Project Title pliance

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM DISTRICT EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

exceed 45% of the district's total budget. The district estimates this project will not increase or decrease their operational budget annually.

35b PROPOSED PROJECT (Continued)

Project Title: St. Mary's Fire Code Compliance

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: DISTRICT EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date:

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Stevens Village Elementary/High School	C	Yukon Flats		24	5/84	6/85

Cash Flow		Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
FY84	3,000.0	Funding Source	Fed. Rec.	N/A	
FY	200.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	3,200.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	3,200.0
	G.O. Bonds	
	Total	3,200.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	Agency	Governor
	83-58	84-13	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
	☐	☐	☐	☐	Yes	Yes	Yes

Project Description:

This project will provide for a new elementary/high school to replace the existing facility. This will be a wood frame structure of approximately 9720 square feet. Existing facility will be maintained as teachers' quarters.

Project Justification:

Project Need:
Existing facility was constructed in late 1950's. It is small and substandard for modern educational program for 32 students in an elementary/secondary school.

Documentation of Estimated Capital Costs:
Cost figures were provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Utilize portable units. Rejected as not standard or cost effective.
2. Remodel and remove teachers' quarters. Rejected as displacing teachers would have detrimental effect on educational program. No other housing available.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates

35a PROPOSED PROJECT

Stevens Village Elementary/ High School
Project Title

CATEGORY: EDUCATION
AGENCY: EDUCATION
PROGRAM: RURAL EDUCATION
PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

this project will increase their annual operational budget by an unspecified amount.

35b PROPOSED PROJECT (Continued)

Project Title: Stevens Village Elementary/ High School

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Northern Lights School	C	Yukon Flats		24	4/84	9/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	400.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,400.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,400.0
	G.O. Bonds	
	Total	1,400.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year -0-	84 Agency Education 19	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? yes	Utilities Available? yes	Access Available? yes
	☐	☐	☐	☐			

Project Description:
Construct a 4,200 square foot elementary school.

Project Justification:
Project Need:
Existing facility is located on private land. The owner will no longer lease this facility to the district. If this facility is not built there will be no school at this location.

Documentation of Estimated Capital Costs:
The estimate of 1,400.0 million was prepared by the district LCC Analysis has been requested.

Identification of Alternatives Considered:
No Alternatives. Facilities must be constructed on new site. Their present lease expires in one year. Relocatables can be moved to the new site if necessary, but is not cost effective or appropriate for a suitable learning environment.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to the districts based soley on student enrollment. District expenditures for administrative services, including operational expense may not exceed

35a PROPOSED PROJECT

Northern Lights School
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145 (7/82) - 35a

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Seven Mile School	C	Yukon Flats		18/21	5/84	1/85

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY84	1,000.0	Funding Source	Fed. Rec.	N/A	
FY 85	400.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	1,400.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,400.0
	G.O. Bonds	
	Total	1,400.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 83-18	84 Agency 20 Education	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? No	Utilities Available? Yes	Access Available? Yes

Project Description:

This project will provide an elementary school for eleven students located in a state maintenance camp on the haul road. No facility exists in the area.

Project Justification:

Project Needs:

The state has established a maintenance camp at this site. An elementary school is needed for eleven elementary students. The people are all state employees.

Documentation of Estimated Capital Costs:

The funding estimate is provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered:

1. No nothing - rejected because no facility available.
2. Lease facility - rejected because no facility available.
3. Postpone - rejected because of need and inflation.

Analysis of Estimated Operational Expenses:

The school is operated by the school district under AS 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by an unspecified amount annually.

35a PROPOSED PROJECT

Seven Mile School
Project Title

CATEGORY Education

AGENCY Education

PROGRAM Rural Education

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
District Wide Major Maintenance	I	Yukon Flats		24	7/83	6/84

Cash Flow		Operating Impact		First Op. Yr.	Ult. Annual Yr.
FY 84	750.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	750.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	750.0
	G.O. Bonds	
	Total	750.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	84 Agency 59 Education	Governor
	-0-		

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Major maintenance upgrade throughout district.

Project Justification:

Project Need:
Needed to maintain existing facilities in a proper manner. Needed to meet existing code requirements.

Documentation of Estimated Capital Costs:
The estimate of $750.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:
No additional information supplied by district.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will not adversely effect their annual operational budget.

35a PROPOSED PROJECT

District Wide Major Maintenance
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1145(7/82) - 35a

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Districtwide Life Safety Code Upgrade	I	Fairbanks Borough		18-21	6/83	6/84

Cash Flow		Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
FY84	1,543.0	Funding Source	Fed. Rec.	n/a	
FY85	1,000.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	2,543.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	2,543.0
	G.O. Bonds	
	Total	2,543.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	Agency	Governor
	-0-	84 Education I	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
					yes	yes	yes

Project Description:
Modify district facilities to meet state life/safety code requirements.

Project Justification:
Project Need:
DOT/PF Survey documents the various code violations throughout the district.

Documentation of Estimated Capital Costs:
The estimate of $2,543.0 million dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Continue program without making required upgrade. Rejected because of the nature of code violations, risk to students and public and limitations of program.
2. Postpone - rejected as inflation in the construction field continues.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17. which allocates funds to the districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by an unspecified amount.

35a PROPOSED PROJECT

Districtwide Life/Safety Code Upgrade
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM DISTRICT EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1143 (7/82) - 35a

Program for Progress

Project: School District Buildings - Major Repairs and Rehabilitation

Sponsoring Agency: Fairbanks North Star Borough

Capital Request: $2,400,000

Estimated Annual M&O Cost: Reduction from existing

Description/Public Benefit:

The goal of this project is to do the major repair and rehabilitation construction necessary on School District facilities to bring them up to a maintainable standard within reasonable budgeting limits. The projects will also provide protection against the continuing deterioration of the facilities which create unaffordable maintenance situations.

Projects would be funded according to priority need with any appropriation provided. Projects would be coordinated with Fire/Life Safety Code Upgrades, energy management retrofits and handicapped access renovations. In this way maximum cost efficiency could be achieved.

The total amount requested would fund two years of a five year program of major repair projects. Some projects have been designed and some require only minimal design; construction on these projects could begin as early as the 1983 construction season.

Project Components

Project	Est. Cost
a. Lathrop - Replace Lighting System @ Hering Auditorium	$ 160,000
b. Hunter School - Corridor Ceiling Tile Replacement	$ 10,000
c. New Roofs - Barnette, Denali, Hunter, Lathrop, Ryan, Salcha, University Park	$4,603,800
d. Major Roof Repair - Hutchison, Nordale, Tanana, West Valley, Woodriver	$ 753,500

(Cont.)

Contact Person

Name: Don Moore

Title: Director, Public Facilities & Services, FNSB

Phone: 452-4761

School District Buildings - Major Repairs and Rehabilitation (Cont.)

Project Components (Cont.)

Project	Est. Cost
e. Chimney Repair - Joy, Nordale, North Pole Elementary, North Pole High	$ 177,100
f. Interior Finishes - North Pole Elementary Ryan, Salcha, & Tanana	$ 180,000
g. Exterior Finishes - Barnette, Hutchison, Joy, Main, North Pole Elementary, Ryan, Salcha, Tanana, Woodriver	$ 345,000
h. Architectural Deficiencies - Nordale, Denali, University Park	$ 116,500
i. Mechanical Deficiencies - Nordale, Denali, Barnette, Hunter, Joy, Salcha, Lathrop, Ryan, University Park, Borough School Service Facility	$ 640,000
j. Electrical Deficiencies - Nordale, Barnette, Borough School Service Facility	$ 54,000
Estimated Total	$7,040,100

Fairbanks North Star Borough School District
FY 84 Capital Improvement Request

Project: Lathrop High School Classroom Addition

FNSBSD Priority: 8

Department of Education Priority: 2) Unhoused students

Goal: To provide classrooms and physical education facilities at existing school to relieve overcrowding.

Justification: Lathrop High School is experiencing an increase in enrollment that over tacks the existing facility. The design enrollment for the school is being excluded by 200 students. This has resulted in classes being held in areas not designed for teaching activity or overcrowding of facilities designed for special classes. This project would provide for an addition to the present gym, rehabilitation of the library into an art department as a new library is being constructed. The area now being utilized by the art department would be remodeled into classroom area and the renovation of the band and music area.

Capital Cost:

The budget cost estimates for construction are:

Administration	=	$ 121,800.00
Design	=	548,100.00
Construction	=	4,878,090.00
Contingency	=	542,010.00
Project Cost Total		$6,090,000.00

Program for Progress

Project: School District Facilities - Fire/Life Safety Code Upgrades

Sponsoring Agency: Fairbanks North Star Borough

Capital Request: $2,307,000

Estimated Annual M&O Cost: No change from existing

Description/Public Benefit:

The goal of this project is to bring existing school facilities up to minimum fire and life safety code standards required by State and Federal law.

The specific components of the request have been identified by the State of Alaska Department of Transportation and Public Facilities condition survey and through inspections conducted by the Fairbanks Fire Department and the Borough's Risk Management Department. Budget level cost estimates have been developed by HMS, Inc. and the Borough Engineering Department. Projects include identification and removal of asbestos products, upgrade of exiting (stairs, corridors, doors) features, construction of fire separation walls and electrical and mechanical system rehabilitation.

This project is part of a continuing effort to bring existing facilities into code compliance, make them safer for the occupants and user groups, make major repairs and make the buildings more economical to own and operate. Whenever possible, these fire/life safety projects will be combined with funded major repair and energy management projects to maximize cost efficiency and to minimize disturbances to building use.

Due to the nature of these projects they would have a high priority for implementation as funds become available, thus full funding is requested at this time. Design for portions of this project is underway so funding of this request will permit some work to be done in the 1983 construction season. The balance of work will be designed in the fall of 1983 with construction continuing in summer 1984.

(Cont.)

Contact Person

Name: Don Moore

Title: Director, Public Facilities & Services, FNSB

Phone: 452-4761

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
King Cove School	I	King Cove City Sch.		26	8/83	9/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ut. Annual Yr.
FY 84	2,461.6	Funding Source	Fed. Rec.	N/A	
FY 85	2,000.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	4,461.6				

Funding Information			Funding Information		
Agency		FY 84	Gov. FY	FY	FY
1002	Fed. Rec.				
1004	Gen. Fund	4,461.6			
	G.O. Bonds				
	Total	4,461.6			

Priority:	Prior Year	84 Agency	Governor
	-0-	Education 13	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Plan, design and construct secondary school addition. This facility would be approximately 21,960 square feet.

Project Justification:

Project Need:

This facility is needed to meet secondary program needs. The district presently has no High School building and all secondary classes are being taught in the elementary building. This addition is essential in order to meet program needs.

Documentation of Estimated Capital Costs:

The district estimate of $4,461.0 was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:

A. Continue to house high school students in existing facility. Rejected due to inability of structure to house students or program.

B. Phase I & II as identified in FY81 feasibility study study totalled $9,647,335. Rejected due to exhorbitant expense.

C. Complete new and separate high school facility. Rejected due to lack of space, construction and operating costs.

35a PROPOSED PROJECT

King Cove School
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM DISTRICT EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1143 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $65,000-85,000.

35b PROPOSED PROJECT (Continued)

King Cove School
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM DISTRICT EDUCATION

PROPOSED FUNDING YEAR FY 84

Page 21 of 135

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Levelock Multipurpose/Voc. Ed. Addition	C	Southwest Region		26	5/84	9/85

Cash Flow		Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
FY 84	4,600.0	Funding Source	Fed. Rec.	N/A	
FY	300.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	4,900.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	4,900.0
	G.O. Bonds	
	Total	4,900.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 83-54	84 Agency 12 Education	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

Planning, designing, and constructing a multipurpose-vocational education facility (5,850 GSF) at Levelock.

Project Justification:

Project Need:

Present schools multipurpose room is too small (1,032 GSF). Moreover, there is no vocational educational space in the school. Plans include the conversion of existing multipurpose space to secondary classroom space and for constructing a separate multipurpose/industrial education building at the present school site. These additional spaces are necessary in order to accommodate the schools insturctional program.

Documentation of Estimated Capital Costs:

The estimated cost of this project was submitted by school district officials, and must be verified by a qualified A/E or by a professional cost estimator. LCC analysis has been requested.

Identification of Alternatives Considered:

Require the students to attend school at another location in the district where needed facilities exist. Rejected because neither the district nor the state can require a student to live away from home in order to complete his/her education through the twelfth grade (Tobeluk/Local Education Regulations).

35a PROPOSED PROJECT

Levelock Multipurpose/Voc. Ed. Addition
Project Title

01-1145 (7/82) - 35a

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 46% of the district's total budget. The district estimates this project will increase their operational budget by an unspecified amount annually.

35b PROPOSED PROJECT (Continued)

Levelock Multipurpose/Voc. Ed. Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Clarks Point School Replacement	C	Southwest Region		26	5/84	9/85

Cash Flow	
FY 84	5,000.0
FY 85	325.0
FY	
FY	
FY	
FY	
TOTAL	5,325.0

Operating Impact		First Op. Yr. 85	Ult. Annual Yr.
Funding Source	Fed. Rec.	N/A	
	Gen. Fund		
	Other		
	Total		
Positions (FTE)			

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	5,325.0
	C.O. Bonds	
	Total	5,325.0
Priority:		Prior Year 83-57

Funding Information	Gov. FY	FY	FY

84 Agency 24 Education | Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? No	Utilities Available? Yes	Access Available? Yes

Project Description:

Planning, designing, and constructing a new elementary/high school, consisting of 300 square feet of classroom space, 1,100 square feet of library/media space, 600 square feet of industrial space, 2500 square feet of multipurpose space and, 2520 square feet of supplementary space.

Project Justification:

Project Need:

The existing facility is old (1946) and would require approximately $445,000 (1982 base) to upgrade the deficiencies identified by the DOT/PF Facility Survey. This would not provide the additional instruction space needed. The school is also located approximately 225 feet from the high water line and a 1980 storm brought tidal waters onto the school site. This storm also prompted 12 HUD housing units to be constructed onto the bluff, where the proposed school would be located.

Documentation of Estimated Capital Costs:

The estimated cost of this project ($5,325.6) was submitted by school district officials, and must be verified by a qualified A/E or a professional cost estimator.

Identification of Alternatives Considered:

1. Do nothing. Rejected because health and life safety hazard to students attending school in this facility.
2. Present facility remodel/additon. Rejected because remodeling/retrofitting is the more expensive option.

35a PROPOSED PROJECT

Clarks Point School Replace-
Project Title ment

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1143 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

3. Require the students to attend school at another location in the district where needed facilities exist. Rejected because neither the district nor the state can require a student to live away from home in order to complete his/her education through the twelfth grade (Tobeluk/Local Education Regulations).

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by $5,000 Annually.

35b PROPOSED PROJECT (Continued)

Clarks Point School Replacement
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Dot Lake Multipurpose Addition	C	Alaska Gateway		17	6/84	7/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	908.1	Funding Source	Fed. Rec.	N/A	
FY 85	100.8		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FIE)			
TOTAL	1,008.9				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	1,008.9
	G.O. Bonds	
	Total	1,008.9

Funding Information Gov. FY	FY	FY

Priority:	Prior Year	Agency	Governor
	83-50	84 - 10	

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned?	Utilities Available?	Access Available?
	☐	☐	☐	☐	Yes	Yes	Yes

Project Description:
This project will provide a classroom, multipurpose room, with provision for vocational education. Wood frame on concrete foundation.

Project Justification:
Project Need:
The existing facility lacks multipurpose and library/media space. State's guidelines for a facility with 28 students would allow for approximately 2500 sq. ft.

Documentation of Estimated Operational Expenses:
Cost figures are provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Continue as is. Rejected as school facility would not meet educational program standards.
2. Postpone. Rejected because of inflation.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will increase their annual operational budget by $80,000.

35a PROPOSED PROJECT

Dot Lake Multipurpose Addition
Project Title

CATEGORY: EDUCATION
AGENCY: EDUCATION
PROGRAM: RURAL EDUCATION
PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

01-1143(7/82)-35a

Alaska State Legislature

SENATOR
H. PAPPY MOSS
P.O. BOX 182
DELTA JUNCTION, ALASKA 99737
(907) 895-4364

WHILE IN JUNEAU
POUCH V
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99811
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State Senate

MEMORANDUM

March 23, 1983

SUBJECT: Capital Projects - Education

TO: The Honorable Don Bennett
Co-Chairman of Senate Finance

FROM: Senator H. Pappy Moss HPM/kjl

Following is a prioritized list of school construction needs that have been identified within Senate District J. Form 35's have been attached as back-up, and additional information may be obtained from my office.

X (1)	Dot Lake - Multi-purpose room/code upgrade	$1,300,000
(2)	Salcha - Multi-purpose room	1,300,000
X (3)	Nenana - Code upgrade and roof repair	900,000
(4)	Healy - Tri-valley school coal conversion, code upgrade	2,150,000
(5)	Nenana - School construction, Phase II	2,500,000
(6)	Fort Greely - Multi-purpose facility, Phase II	3,950,000
X (7)	Delta Junction - Vocational education facility completion	895,000
	TOTAL:	$12,995,000

(1) Project Title	(2) Location	(3) Elect Dist	(4) Start Date	(5) Complete Dat
Multi-purpose room/school-wide code upgrade	Dot Lake	17	FY 84	

(6) COST

Funding Sources

1002	Federal Receipts	
1003	G/F Match	
1004	General Fund	1300.0
1005	I/A Receipts	
1010	G.O. Bonds	
TOTAL PROJECT COST		1300.0

(7) Operating Impact

		First Op. Yr.	Ult. Annual Yr.
Funding Source	Fed. Rec.		
	Gen. Fund		
	Other		
	Total		
Positions (FTE)			

(8) APPROPRIATED TO:

[XX] State Agency
Agency Name Education
Program Alaska Gateway REAA

OR

[ ] Municipal Grant
Municipality Name

PROJECT DESCRIPTION (9)

Current facility at Dot Lake is inadequate for the number of students served. Currently there are 21 students, K-12, attending the school, with a demand for additional vocational programs to serve students ages 16 - 20. School district is sensitive to the role a school building plays in a community such as Dot Lake, and wishes to build a multi-purpose addition that is both functional and highly flexible. Additionally, the existing building is not energy-efficient, and is in need of extensive renovation and insulation.
New construction is estimated at $170/sq.ft. for 5,880 square feet, and renovation of the existing building is estimated at $80/sq.ft. for 3,840 sq. feet, for a total project cost for $1,300,000.

Operating costs are not expected to increase significantly, and may even decline as a result of increased energy efficiency.

FY 84

35 LEGISLATIVE REQUEST
PROPOSED CAPITAL

(10) CATEGORY Education

REQUESTING LEGISLATOR

(Signature)

FY-84

PRIORITY 1-A

ALASKA GATEWAY SCHOOL DISTRICT

DOT LAKE CLASSROOM

MULTI-PURPOSE ROOM WITH

VOCATIONAL AND CLASSROOM PULL-OUT AREAS

SUMMATION

Unhoused student addition	-	$1,000,000
Energy conservation, code uporade, life & health safety	-	370,000
Total:		$1.370.000

OR

If all done together	-	$1.300.000

(1) Project Title	(2) Location	(3) Elect Dist	(4) Start Date	(5) Complete Date
Nenana School Code Upgrade & Roof Repair	Nenana	17	FY 84	

(6) COST

Funding Sources

1002	Federal Receipts	
1003	G/F Match	
1004	General Fund	900.0
1005	I/A Receipts	
1010	G.O. Bonds	
TOTAL PROJECT COST		900.0

(7) Operating Impact

		First Op. Yr.	Ult. Annual Yr.
Funding Source	Fed. Rec.		
	Gen. Fund		
	Other		
	Total		
Positions (FTE)			

(8) APPROPRIATED TO:

[XX] State Agency
Agency Name Education
Program Elementary/Secondary Educatio

OR

[ ] Municipal Grant
Municipality Name

PROJECT DESCRIPTION (9)

The main thrust of this request is to add to the appropriation currently in the Governor's FY 84 capital budget. $600,000 has been requested for code upgrade at Nenana School, and the school district would like to raise this amount $300,000 in order to replace the existing roof at the same time. The roof was originally constructed in 1955, and insulated in 1974 with spray-on polyurethane foam. This insulation is deteriorating and absorbing water, which adds a considerable weight load to the already marginal condition of the existing roof. The roof is leaking as is the vapor barrier, which indicates a state of high energy-inefficiency as far as existing insulation is concerned. The school district estimates that the cost of replacing the current roof with a metal structure insulated to R-76 would be approximately $300,000 if done at the same time as the code upgrade, but if done later, the cost is expected to more than double, to $750,000.

This project is expected to have a positive effect on the school district's operating costs.

FY 84

35 LEGISLATIVE REQUEST
PROPOSED CAPITAL

(10) CATEGORY Education

REQUESTING LEGISLATOR

(Signature)

Alaska State Legislature

SB 18

SENATOR
H. PAPPY MOSS
P.O. BOX 182
DELTA JUNCTION, ALASKA 99737
(907) 895-4354

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-4921

State Senate

MEMORANDUM

March 23, 1983

SUBJECT: Capital Projects - Education

TO: The Honorable Don Bennett
Co-Chairman of Senate Finance

FROM: Senator H. Pappy Moss HPM/kjd

Following is a prioritized list of school construction needs that have been identified within Senate District J. Form 35's have been attached as back-up, and additional information may be obtained from my office.

X (1)	Dot Lake - Multi-purpose room/code upgrade	$1,300,000
(2)	Salcha - Multi-purpose room	1,300,000
X (3)	Nenana - Code upgrade and roof repair	900,000
(4)	Healy - Tri-valley school coal conversion, code upgrade	2,150,000
(5)	Nenana - School construction, Phase II	2,500,000
(6)	Fort Greely - Multi-purpose facility, Phase II	3,950,000
X (7)	Delta Junction - Vocational education facility completion	895,000
	TOTAL:	$12,995,000

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Ft. Greely Old Gym Remodel	1	Delta/Greely		17	5/84	9/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	600.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	600.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	600.0
	G.O. Bonds	
	Total	600.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 83-31	84 Agency 58 Education	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

This project will provide for remodelling of old multi-purpose room into a modern kitchen cafeteria for elementary and junior high students. Project will include storage area, preparation area, serving and eating area.

Project Justification:

Project Need:
A new gym is under construction and will replace this facility. Adequate lunch facilities do not exist. This project will provide for a modern up-to-date facility complete with eating areas.

Documentation of Estimated Capital Costs:
Cost estimates provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Continue as is - rejected because of inadequate food preparation area and conflict of use of gym
2. Postpone - rejected because of inflation.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this

35a PROPOSED PROJECT

Ft. Greely Old Gym Remodel
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM RURAL EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

M E M O R A N D U M

TO: Senate Rules Committee
FROM: Senator Joe Josephson
DATE: 3/16/83
RE: CSSB SB 18
Proposed amendement in Sec. 18.: amend $11,205,740 to read $12,965,810
* with revised letter of intent

DESCRIPTION OF CHANGES

CATEGORY 1
PRIORITY 2 (only Mears higher priority)
WENDLER JUNIOR HIGH $1,408,700
* currently 204 students over capacity
* projection of 80 additional students next year
* addition of three classrooms and library
$220,200 is for Fire Code compliance

INLET VIEW $351,370
* for classroom and office space necessary for retention of accreditation.

ANCHORAGE SCHOOL PROJECTS SB 18

Health, Safety, Emergency Repairs & Other Projects:

Abbott Loop	240,000
Aurora	125,000
Baxter	65,000
Birchwood ABC	3,000
Chester Valley	4,500
Chugach Optional	45,000
College Gate	67,600
Creek Side Park	4,000
Eagle River	120,000
Early Childhood Programs	17,800
Government Hill	777,160
Homestead	56,000
John F. Kennedy	116,000
Lake Otis	91,500
Mt. Iliamna	55,500
Mt. Spurr	52,500
Mountain View	229,000
Muldoon	60,000
Northern Lights ABC	5,000
Northwood	13,000
Nunaka Valley	34,000
Orion	20,000
Rabbit Creek	9,600
Rigel	4,000
Russian Jack	118,320
Sand Lake (less $86,000 in SB 162)	6,000
Susitna	38,650
Tudor	5,800
Turnagain	94,000
Ursa Major	255,490
Ursa Minor	46,000
Williwaw	19,100
Wonder Park	80,000
Gladys Wood	45,000
Central ABC	180,000
Clark (less $50,000 in SB 162)	582,590
Romig	204,650
Wendler	1,629,600
Bartlett	130,000
Inlet View	351,370
Chugiak	206,500
Dimond (less $76,500 in SB 162)	104,000
East	69,000
Service	179,000
West	645,150

Districtwide Emergency Maintenance	30,500
Pupil Transportation (improvements, bus center)	540,400
West High Auditorium	78,000
Vocational Educational Facilities (district-wide)	2,981,530
Food Educational and Service Center	2,000,000
Computer Output Microfilm Library Conversion	130,000
TOTAL	$12,965,810

Matanuska-Susitna Borough School Board
District Wide Maintenance and Upgrade Priorities
March, 1983

1. Summer Maintenance $200,000

Funding is extremely important to carry out summer maintenance in the schools around the district.

2. Wasilla High School Roof Repair $1,400,000

This appropriation is necessary to prevent further deterioration of the high school roof. Engineering and architectural design will soon be completed and the project will be bid ready in June.

3. Big Lake Elementary Addition $3,750,000

This appropriation would suffice for the design and construction of a 2nd story addition to the elementary school where has been tremendous population impact in the last 3 years. Without this funding the school district would have to locate portable classrooms at the school for the coming academic term.

4. Swanson Elementary Roof and Insulation Upgrade $1,000,000

Roof repair and insulation for one wall of the structure would be supplied with this funding. The insulation sub-contract was never completed and this funding would alleviate the inadequacy. The roof repair would prevent further deterioration of the structure.

5. Computerized Energy Management System - District wide $300,000

Funding this request would result in significant savings in energy costs to the school district.

6. Palmer Area Playgrounds Upgrade $250,000

This appropriation would allow rehabilitation of playgrounds: grading, fencing and removal of boulders at the Swanson, Sherrod, Snowshoe and Butte Elementary Schools. At some of the locales, dogs have been allowed to access to the playground since there has been no fencing.

7. Susitna Valley Art Room Addition $400,000

This construction would enable this sorely needed program to be included in the curriculum.

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Skagway K-12 School	C	Skagway Schools		2	10/83	10/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	3,100.0	Funding Source	Fed. Rec.	N/A	
FY 85	1,000.0		Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	4,100.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	4,100.0
	G.O. Bonds	
	Total	4,100.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year -0-	84 Agency 28 Education	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? ____ Access Available?	Utilities Available? ____

Project Description:

Plan, design, and construct K-12 classroom additions to existing facility. Total addition adds up to 16,000 square feet.

Project Justification:

Project Need:
This project is necessary to replace existing building which is not up to code and no longer meets program needs. New facility would be an energy efficient structure. Cost of remodeling existing facility is prohibitive according to district.

Documentation of Estimated Capital Costs:
The estimate of $4,100.0 million dollars was prepared by the district. LCC Analysis has been requested.

Identification of Alternatives Considered:
1. The alternative of continuing to use the current building. Rejected because it is so poor functionally and it does not meet modern codes.

2. Renovate the old building. Rejected due to cost estimates which make it unfeasible. Also because it would not be very functional.

35a PROPOSED PROJECT

Skagway K-12 School
Project Title

CATEGORY EDUCATION
AGENCY EDUCATION
PROGRAM DISTRICT EDUCATION
PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1143 (7/82) - 35a

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17. which allocates funds to districts based soley on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates this project will decrease their annual operational budget by $50,000.

35b PROPOSED PROJECT (Continued)

Skagway K-12 School
Project Title

CATEGORY: EDUCATION
AGENCY: EDUCATION
PROGRAM: DISTRICT EDUCATION
PROPOSED FUNDING YEAR FY: 84

Revised Date

FY 84

01-1142 (7/82) - 35b

CITY AND BOROUGH OF JUNEAU SCHOOL DISTRICT
P.O. BOX 808 • DOUGLAS, ALASKA 99824

April 14, 1983

The Honorable Jan Faiks
Alaska Senate
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Faiks:

Consistent with your request for additional information on the Juneau City & Borough School District's revised CIP budget request for FY 1984, I have revised the letter written to Senator Ray on April 8, 1983. In so doing, all pertinent information will be kept in its respective category with less chance for confusion.

Originally the City & Borough of Juneau School District submitted funding requests to the 1983 Legislature in the approximate amount of $8.9 million. In the process of scaling down those funding requests, the following projects emerge as being critical with regard to student safety, program operation and public awareness of school facilities and services.

PROJECT DESCRIPTION	REQUESTED FUNDS
1. Fire Code Upgrade at Auke Bay and Glacier Valley Elementary Schools - Both of these schools require major modifications to the present fire alarm systems. These modifications will not only ensure the increased safety of the children attending those schools but will bring the systems up to existing code requirements.	(Rounded)

The fire code upgrades referred to above are in response to letters from the State Fire Marshal requiring compliance with NFPA 72 A.

Requested funding..... $50,000

2. Floyd Dryden Junior High Classroom Additions/Renovations

In 1980 the School district decided to make a major change in the organizational structure of the educational program within the District. Beginning with the 1984-85 school year the District's present Junior High structure (Grades 7-9) will be changed to a middle school structure (Grades 6-8). This change will relieve the present overcrowded conditions in our elementary schools, and provide, what we believe to be, a significantly improved educational system at all levels. Unfortunately it will further aggravate the already overcrowded conditions at the middle school level. The High School is presently being remodeled to accommodate the additional students expected there with the addition of the 9th grade. These conditions were all created by the very rapid and significant increase in the District's school population (4007 students in June, 1981 to the present population of 4405 students).

SUPPORTING DATA:

* Present Enrollment.....	616 Students
* Gross existing square footage.....	67,804 ft.²
* Allowable square footage using old State space guidelines.....	93,525 ft.² max.
* Allowable square footage using new State space guidelines.....	89,900 ft.² min. 97,400 ft.² max.
*** Additional space required to bring Floyd Dryden into compliance with the recommended "minimum" State space guidelines.....	22,096 ft.²

The above figure should dramatize the crowded conditions which presently exist in this facility. It is unlikely that the requested funding will bring the facility up to the recommended minimum. However, with additions to both junior high facilities and a better balancing of enrollments overall, conditions should be significantly improved.

Requested funding..... $1,700,000

3. Marie Drake Junior High Library Addition and Renovations:

In addition to the same difficulties described at Floyd Dryden, the District's other junior high school requires considerable renovation in order for it to adequately meet needs as a middle school. The library at Marie Drake is one of the smallest in the District and cannot be expanded without major cost and a loss of already premium classroom space. The addition of a new library will also create new and needed classroom space where the present library exists. Additionally, the present shop facility needs to be converted from a metal shop to a woodworking shop to better fulfill the needs of the planned middle school program.

SUPPORTING DATA:

* Present Enrollment	432 Students
* Gross Existing square footage	72,134 ft.²
* Educationally useable square footage (partial basement is counted into the gross square footage - approximately 1/3 of this area cannot be made functional for specific facility uses)	70,243 ft.²
* Allowable square footage using old State space guidelines	65,925 ft.² max.
* Allowable square footage using new State space guidelines	72,500 ft.² min. 80,000 ft.² max.
*** Additional space required to bring Marie Drake into compliance with the recommended "minimum" State space guidelines	2,257 ft.²

Though the square footage deficiencies in Marie Drake are considerably better than those described for Floyd Dryden, Marie Drake was constructed in 1965. Because of its older design, the comparison between the available space for educational purposes to the total space is also of concern. Fortunately, in this case, renovations are possible to increase the functionability of the existing facility, especially with the addition of an adequate library.

Requested funding..... $1.400,000

4. Major Playground Planning & Renovation

A recurring complaint of many parents within the School District is the generally poor and potentially hazardous condition of its playgrounds. (Parent groups have often wanted to purchase playground equipment for their schools through fund-raising drives). Unfortunately, many of the schools have serious drainage problems associated with their playgrounds and these must be resolved before significant money is expended on equipment and installation. Much of the existing equipment will have to be removed in order to provide for adequate drainage. The funds requested will provide for the engineering, planning, renovation and minor expansion of the existing playgrounds.

Requested funding..... $350,000

If funded, the projects described above will allow the School District to proceed with projects having major impact on the majority of our students. The needs as identified are immediate and significant and should they remain unmet, have the potential to seriously effect the programmatical goals of the School District.

Your willingness to assist us in our efforts to acquire funding for this scaled-down version of our capital improvements program is greatly appreciated. Please do not hesitate to call me if additional or more detailed information is needed by you, your staff or colleagues.

CAPSULATED BUDGET

1.	Fire Code Upgrade at Auke Bay & Glacier Valley Elementary Schools.....	$ 50,000
2.	Floyd Dryden Classroom additions/renovations...	1,700,000
3.	Marie Drake Library addition/renovations.....	1,400,000
4.	Major Playground Planning, Engineering and renovation.....	350,000
	Revised Funding Request.....	$3,500,000

Sincerely,

Michael Adams
Superintendent

cc: Senator Bill Ray
Representative Mike Miller
Representative Jim Duncan

REPRESENTATIVE
PETER GOLL



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

May 5, 1983

Rep. Milo Fritz
Rep. Mae Tischer
House Committee on Health, Education and Social Services

Following are corrections to amendment for SB18.

Decrease Klukwan to: (Chatham District)	1.913
Add:	
Chatham School District Tenakee School Phase I	500.
Chatham School District for Gustavus shop	45.
Southeast Island School District for Thorne Bay Vocational/Special Services Addition	480.
Klawock Elementary School Addition for planning design and construction	230.
Yakutat Elementary School Addition for planning design and construction	150.
Kake School District for electrical code upgrade High School	150.
Total unchanged:	3,468.

figures in thousands

Thank you for making these corrections.

Peter Goll

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Gildersleeve Elementary/Secondary School	C	Southeast Island		3	3/84	8/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY 84	280.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	280.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	280.0
	G.O. Bonds	
	Total	280.0
Priority:		

Funding Information Gov. FY	FY	FY

Prior Year	84 Agency 14 Education	Governor
-0-		

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

Design and construct a 3,200 square foot elementary school.

Project Justification:

Project Need:
Present structure is leased and space is inadequate. It is essential that a school be constructed to serve unhoused students.

Documentation of Estimated Capital Costs:
The district's estimate of 280.0 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Students to remain in existing trailer facility. Rejected due to inadequate space and function.
2. Facility not to provide library/media, vocational/home economics area. Rejected due to need for these programs

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district

35a PROPOSED PROJECT

Project Title: Gildersleeve Elementary/Secondary School

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

45% of the district's total budget. The district estimates this project will increase their operational budget by an unspecified amount.

35b PROPOSED PROJECT (Continued)

Northern Lights School

Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

01-1142 (7/82) - 35b

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Long Island Elementary/Secondary School	C	Southeast Island		3	3/84	8/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY84	860.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	860.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	860.0
	G.O. Bonds	
	Total	860.0

Funding Information Gov. FY	FY	FY

Priority:	Prior Year 83-17	84 Agency 21 Education	Governor

Special Features:	One of Several Phases	External Funding Source	Funds to Enable Completion	Contingent Upon Other Projects	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes
	☐	☐	☐	☐			

Project Description:

This project will provide adequate space for a combination elementary/secondary school. The proposed 4300 square feet would include classroom, library/media, vocational home economics and supplementary space.

Project Justification:

Project Need;

There are twelve students residing in the area. Statutes provide for the establishment of a school. No school facility has previously existed in the area.

Documentation of Estimated Capital Costs:

Cost figures were provided by the district. LCC analysis has been requested.

Identification of Alternatives Considered;

1. Do not establish school - rejected because of statutes.
2. Utilize leased facilities - rejected as adequate facility does not exist.
3. Postpone - rejected because of need and inflation.

Analysis of Estimated Impact on Operation Expenses:

The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not exceed 45% of the district's total budget. The district estimates

35a PROPOSED PROJECT

Long Island Elementary/Second-
Project Title ary School

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

this project will increase their annual operational budget by $12,000.

35b PROPOSED PROJECT (Continued)

Project Title: Long Island Elementary/Secondary School

CATEGORY: EDUCATION

AGENCY: EDUCATION

PROGRAM: RURAL EDUCATION

PROPOSED FUNDING YEAR: FY 84

Revised Date

FY 84

Project Title	Type	Location	Agency ID #	Elect Dist	Start Date	Complete Date
Port Alexander Addition	C	Southeast Island		3	3/84	8/84

Cash Flow		Operating Impact		First Op. Yr. 84	Ult. Annual Yr.
FY84	450.0	Funding Source	Fed. Rec.	N/A	
FY			Gen. Fund		
FY			Other		
FY					
FY			Total		
FY		Positions (FTE)			
TOTAL	450.0				

Funding Information Agency		FY 84
1002	Fed. Rec.	
1004	Gen. Fund	450.0
	G.O. Bonds	
	Total	450.0

Funding Information Cov. FY	FY	FY

Priority:	Prior Year -0-	84 Agency 23 Education	Governor

Special Features:	One of Several Phases ☐	External Funding Source ☐	Funds to Enable Completion ☐	Contingent Upon Other Projects ☐	Site Owned? Yes	Utilities Available? Yes	Access Available? Yes

Project Description:

The planning, design and construction of a school addition consisting of the following space requirements:

Elementary classroom	800 square feet
Library/media center	300 square feet
Industrial Education	200 square feet
Business Education	200 square feet
Home Economics	200 square feet
Multipurpose	860 square feet
Supplemental	640 square feet
	3,200 square feet

Project Justification:

Project Need:
This facility is required to accomodate enrollment increase and anticipated increase. Additional space is necessary to maintain program quality.

Documentation of Estimated Capital Costs:
The district's estimate of 450.0 thousand dollars was prepared by the district. LCC analysis has been requested.

Identification of Alternatives Considered:
1. Loft construction in existing school. Rejected by Fire Marshall.
2. Use of other facilities city space in poor shape and not suitable for school. No toilets or other support elements in building.

Analysis of Estimated Impact on Operation Expenses:
The school is operated by the school district under A.S. 14.17 which allocates funds to districts based solely on student enrollment. District expenditures for administrative services, including operational expense may not

35a PROPOSED PROJECT

Port Alexander Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

PROJECT DESCRIPTION (CONTINUED):

PROJECT JUSTIFICATION (CONTINUED):

exceed 45% of the district's total budget. The district estimates this project will increase their operational budget by $10,000 annually.

35b PROPOSED PROJECT (Continued)

Port Alexander Addition
Project Title

CATEGORY EDUCATION

AGENCY EDUCATION

PROGRAM RURAL EDUCATION

PROPOSED FUNDING YEAR FY 84

Revised Date

FY 84

Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366

While In Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MEMORANDUM

MILO FRITZ

TO: HESS Committee Members

FROM: Representative Milo H. Fritz

DATE: May 5, 1983

RE: House CSSB 18

In regard to the Department of Transportation deficiencies survey, the following amounts are incorporated into HCSSB 18 to be disbursed to the Kenai Peninsula Borough for:

Homer High School	373,600
Susan B. English	563,900
Sterling Elementary	94,300
Tustumena Elementary	160,700
Total Approp.	$1,192,500

	Homer High School	Susan B English
Architectural	225,500	382,600
Fire & Life	2,000	21,900
Handicapped	135,300	82,600
Mechanical	200	35,500
Electrical	10,600	41,300
Total	373,600	563,900

	Sterling Elementary	Tustumena Elementary
Architectural	30,800	97,600
Fire & Life	15,600	20,800
Handicapped	25,000	22,500
Mechanical	8,300	11,000
Electrical	14,600	8,800
Total	94,300	160,700

SB

19

SB 19

Gilman - Data - 3 yrs - KPCC Housing

1) discrepency - based on Sen. HESS Committee
2) 580,000 - Sen HESS - 1982 $ - now - 650,000 in CS.
3) Oil Tech Center for State
4) 40% outside of area necessitate housing
5) land was inheritance - Damon Memorial Tract - 160 acres next to campus
6) KPCC. 1982 - 6 yr. plan built in 1987 - that year no others were included - policy was that no other housing included - except in Flks.
7) $ psd both houses in bonds last year - all Vetoed by Governor.

W. Redman - Changed from "dorm" to "housing complexes"

Decisions made on each campus based on need.

1) Plans based on need of area
Flks. multiple types of housing
2) Intent - no Common feeding

SB 229

Rep. Martin - Amendment circulated - gone thru Univ process - Chancellor - Board of Regents

SB 162 - picked up other cip's.

CSSB 19

Wendy Redman —

Spoke Re Sect. 1 9.9 for land acquisition.

- Goll - how does it compare with assessed value.

- WR - Slightly higher. Been in negotiations but no agreements were made

Sect 2: Rec'd $ 500,000 in FY82 for design - bond vetoed & Wks highest priority.

Yak Estates - shells donated by ARCO - Uni finished & mainted - not student facility. ARCO also provided other mobile unit facilities. Trying to move faculty & staff housing off campus.

Sect 3 - 500,000 UAJ new item Jnu Bor donated land & $ is for access. 10 acreas / access & road const. & utility lines. Distance

Goll - Has DOT - Wants full scale bid information

Sect 4 - Can't speak to NW Arctic School District.

Fritz - Move CS for SB 19 - No Obj. - so moved

Sect 5 - Kiskovski - Fed Cali.

Miller - Concept? Student Housing in all Comm Colleges?

WR - Boards position - Housing will be assessed on case by case. Comm College Housing not a priority: FY82 Bond - Five year plan.

Petro Tech program draws from all over

the state.

Tischer - documentation as to maintenance & operation costs of each project

W. Redman - Univ Board Reg. has those included operated information. Additional projects coming thru elsewhere do not provide this info.

Hermann - Univ's $1 mill for planning & ACC planning $1 mill was funded in supplemental bill.

Davis - Why no planning $ of 2.2 for Kuskokwim approp.

W.R - Enuff planning that the can begin construction.

Sect 6 - $107,000

~~Sect 7~~ -

~~Fischer~~ -

Doll - Move bill with recom. do pass.

Davis - Object. to recom do pass

Doll - Move HCS SB SB 9 (HESS) w/ Ind. Rec.

SB 229

WR - are of Martin's Amendments are priorities of UAA & ACC

Miller - Went to UAF - damages are effected by the Chancellors of the school. Applaud O'Rourk

Fritz - Any student housing run by private enterprise.

WR - No - Anch & Fbks landlords rent but not in low rent catagory

WR - All const projects are ready to build & have had $ for design.

Sect 1 - 94,000 sq. ft. / 1 mill for ACC not prior planning $. Should seperate into 2 items. "ACC for planning & design

Davis - Why direct approp instead of bond issue.

WR - Duckering Bldg. explanation - needed additional 2.3 mill

Tischer - Sect 8 - Why code deficiencies on campus?

WR -

~~Sect.~~

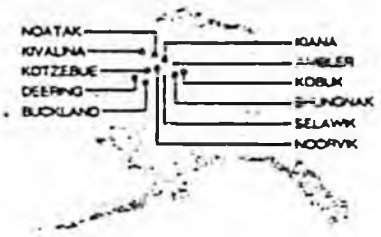
Tischer Entertain motion to inc. Martin Amendments.

Fritz - So move.

Davis - Move CS for SB 227

Northwest Arctic School District

BOX 51
KOTZEBUE, ALASKA 99752
(907) 442-3472



January 28, 1983

James E. Tozer
Facilities Coordinator
Department of Education
Pouch F
Juneau, Alaska 99811

Dear Jim:

In reference to the January 19, 1983 Memorandum from Wanda Cooksey, Acting Director Division of Management Law & Finance, I am enclosing a request for funding of a student dormitory at the Kotzebue Technical Center. If we had to place this on our Priortized Capital Improvement request we would have to put it as priority # 3 with the rest being dropped down one.

I am submitting this proposal pending Board approval. The Northwest Arctic School District Board will be meeting on February 15, 1983 and will address the proposal at that time. I will notify you of the Boards action concerning this request.

If you need any further information, please contact me at your convenience.

Sincerely,

John L. Rogers
Assistant Superintendent:
Administrative Services

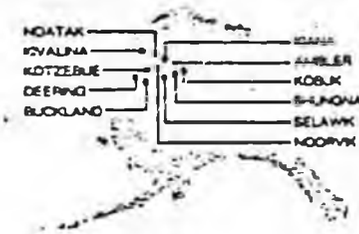
JLR/isj
cc. Wayne B. Fagg, Superintendent
Senator Frank Ferguson
Representative Al Adams

Northwest Arctic School District

BOX 51
KOTZEBUE, ALASKA 99752
(907) 442-3472

KOTZEBUE TECHNICAL CENTER

DORMITORY



The Northwest Arctic School District is presently operating the Kotzebue Technical Center, an Adult Vocational Educational Facility, which serves adult Alaskans from the entire State.

The Kotzebue Technical Center Staff and Students are presently moving into a facility which has just recently been completed. At the present time we have an enrollment of approximately 65 students but with the completion of the new facility we have the capacity to serve as many as 200 students. The Technical Center Staff is receiving request for information on the Programs offered by the Technical Center daily and we have a minimum of 500 people who have expressed an interest in enrolling in the Technical Center.

At this time the Kotzebue Technical Center has an agreement with the Nul-Luk-Vik Hotel to house students who do not live in Kotzebue. This arrangement is adequate for the small enrollment we have now, but as our enrollment increases there will not be adequate room to handle all the students. Kotzebue does not have any other facility available to house students so the Northwest Arctic School District is requesting funds to build a Dormitory for the Technical Center Students.

The Dormitory would be an approximate 20,000 square foot building whose main components would be sleeping and study rooms. The building would not require any food service facilities because it would be built on the Technical Center site and the cafeteria in the Technical Center would be used to feed the students staying in the Dormitory.

The estimated cost for this facility is $6.6 million dollars. If approved and funds appropriated we anticipate the design phase to start in August of 1983 and construction completed by July 1985.

Operating and maintenance costs would be incorporated into the operational budget request of the Kotzebue Technical Center which is submitted to the Department of Education yearly.

With the ability to house additional students this would create an expanded program at the Kotzebue Technical Center. This would provide some additional employment at the Kotzebue Technical Center, but the type and number of additional positions is unknown at this time.

Another area that needs addressing is the possibility of a joint use facility with Chukchi Community College. We foresee the possibility that in the future Chukchi Community college might be in need to house students who are enrolled in their programs. Through the cooperation of both the Kotzebue Technical Center and Chukchi Community College these needs could be addressed on a space available basis.

JLR/isj

Alaska State Legislature
Senate

OFFICIAL BUSINESS

RULES COMMITTEE

JAN FAIKS
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3770

MEMORANDUM

March 10, 1983

To: Senate Finance Committee Members

From: Senator Jan Faiks

RE: SB 19, Student Housing and Land Acquisition for UAA

The following materials are contained in your packet for SB 19:

1. SB 19 Original
2. Hess Committee Substitute
3. Hess Committee Letter of Intent
4. Hess Committee Recommendations
5. Proposed Finance Committee Substitute
6. SB 19 Analysis
7. Copy of Option to Purchase APU Land

Additional back-up material such as housing studies, student petitions, and resolutions from municipal bodies are available in my office.

Enrollment

Numbers for credit courses only (toward accredited degree or program).

KPCC Fall '82	Fulltime	329
	Part time	1008
	TOTAL	1237
Kuskokwim	Full time	41
	Part time	609
	TOTAL	650
UAJ	Full time	303
	Part time	2036
	TOTAL	2339

NOTE:

Of these three schools, KPCC had the highest full time enrollment figures for credit offered courses.

Priorities KPCC

KPCC was listed in fiscal year 1982 CREE priorities six year plan to be built in 1987 at $5 million. In this year no other community college or U of A campus, except Fairbanks, was set out in CREE or the regent's six year plan. The during policy period was to allow no other student housing except Fairbanks. KPCC was the first exception to this in CREE priorities following extensive public hearings and participation by KPCC president, Wilsey, and faculty member John Williams.

The study and hearings for housing resulted in a detailed study plan and needs assessment which set out housing needs against a dramatic shortage of housing available in the Kenai/Soldotna area for students.

University of Alaska

DRAFT

DESIGN ALTERNATIVES

KUSKOKWIM COMMUNITY COLLEGE

STUDENT HOUSING

Community Colleges, Rural Education
& Cooperative Extension

Facilities Planning & Construction
Southcentral Region
Anchorage



February 1983

This profile was developed by the Kuskokwim Community College staff and the University of Alaska Facilities Planning and Construction Department, Southcentral Region.

KUSKOKWIM COMMUNITY COLLEGE

STUDENT HOUSING

INDEX

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PREFACE

Two design alternatives were considered by the committee as valid methods of providing student housing for the Kuskokwim Community College students. Design concept drawings were developed by Facilities Planning and Construction. Construction models were developed, estimated, and the operation budgets constructed for each alternative.

The duplex will house 48 students in 11,168 square feet of space or 232 square feet per student. The capital cost to construct 4 duplex units will be $2,494,052 or $51,959.41 per student. The 1985 operations budget will be $87,660 or $1,826 per student. The dormitory will house 42 students in 10,430 square feet of space or 248 square feet per student. The capital cost to construct the dormitory will be $2,238,416 or $53,295.61 per student. The 1985 operations budget will be $80,522 or $1,917 per student.

The duplex will require an increase of capital of $255,636 and an increase in the operations budget of $55,347 over the next 6 years.

INTRODUCTION

This feasibility study is based on a development plan that is both comprehensive and long range in scope. The plan considers the relationship of the facilities with the Lower Kuskokwim/Delta Communities and the wide range of forecasted conditions.

The forecasted student housing requirements was based on previous research by the Kuskokwim Community College, the Lower Kuskokwim School District, with population and employment projections supplied by the State of Alaska Department of Commerce and Economic Growth.

The method used in the economic analysis was based on the design team developing two separate student housing concepts. A model of each concept was constructed expressing the space requirements, the construction techniques, and the forecasted operating costs. The models were then compared to each other using a common 20-year life.

The purpose of this study is to compare alternative housing concepts.

THE NEED

The Kuskokwim Community College mission was and will continue to enroll students from the villages within our service area. In order to provide an environment for our students, the College leased an apartment building owned by the Bethel Native Corporation. The apartments were not designed for dormitory use and would require major architectural modifications to meet the minimum requirements. There are a number of management problems that exist with this arrangement. The apartment building is located some distance from the campus making transportation for the students difficult. Rental costs for the apartment building had escalated to the point where financial aid was not sufficient to cover the housing cost. Therefore, the lease that was entered into between the Bethel Native Corporation and the College in 1975 was terminated in 1980.

Currently, village students must live with relatives or in boarding homes. The Kuskokwim Community College Student Services Division has found a limited number of acceptable boarding homes in Bethel. This limited housing has adversely effected the Community College student enrollment.

When the apartment building was being used as a student dormitory, the Community College enrolled between 70 to 100 full time students. To date, there are between 30 to 40 boarding homes in the Bethel area and our present full time student enrollment is between 40 and 50.

Students living in boarding homes often confront problems that hinder their ability to study and remain in school. Many of the boarding homes are small and a space for quiet study is not available. Meal times and other household schedules and requirements can conflict with the class schedules and needs of the student. Additionally, many boarding homes are some distance from the main campus which makes transportation difficult.

Many parents in the Delta are also reluctant to have their children attend school in Bethel because of student housing problems. Parents would like the College to guarantee that their children will be housed in a comfortable environment where personal security and group discipline are ensured. Public meetings have been held throughout the lower Kuskokim region by the Community College. The parents have stated that they would feel comfortable sending their children to college in Bethel if well maintained housing

were available. It is our judgement that constructing of University-owned and maintained housing on the campus in Bethel is the most effective method of providing the residential and learning environment desired by students and parents of this region.

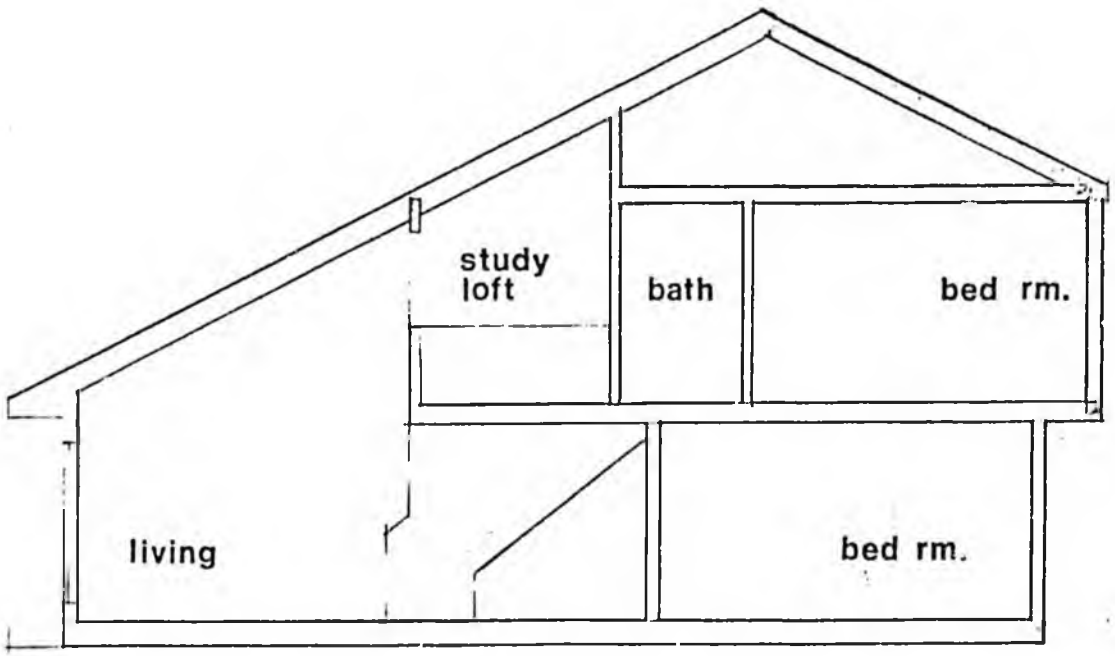
The proposal to build student housing on the College campus has received broad support throughout the Delta.

The forecasted growth for student housing is based on the 1982 census data for the Bethel, area. The report indicates the 1982 population of 3536 people will grow to 5579. Based on the research by the Community College staff, it is our recommendation that student housing be provided for 40-50 students by the fall term of 1984, with an additional facility for 40 to 50 students by 1990.

DUPLEX

PLANNING CONSIDERATIONS

The design concept of the proposed duplex units is to provide student housing by means of 3-bedroom units housing as many as six students per unit or 12 per duplex unit. They are highly efficient in terms of space utilization and provide a study loft overlooking the living room. The ceiling of the living room is vaulted to add more feeling of open space. Standard residential construction adapted to the Kuskokwim delta climate would insure low initial cost. These units would easily adapt to married faculty or student housing as needs changed. The problem of supervision or student advisor would have to be solved as an administrative problem. As in the dormitory proposal, food preparation would be done in the unit but a greater need would result for a future Student Center Facility. This Student Center would provide lounge space for students to mix and socialize as well as other official functions. A small cafeteria or food service program for hot meals and snacks would be a great compliment to this housing program.



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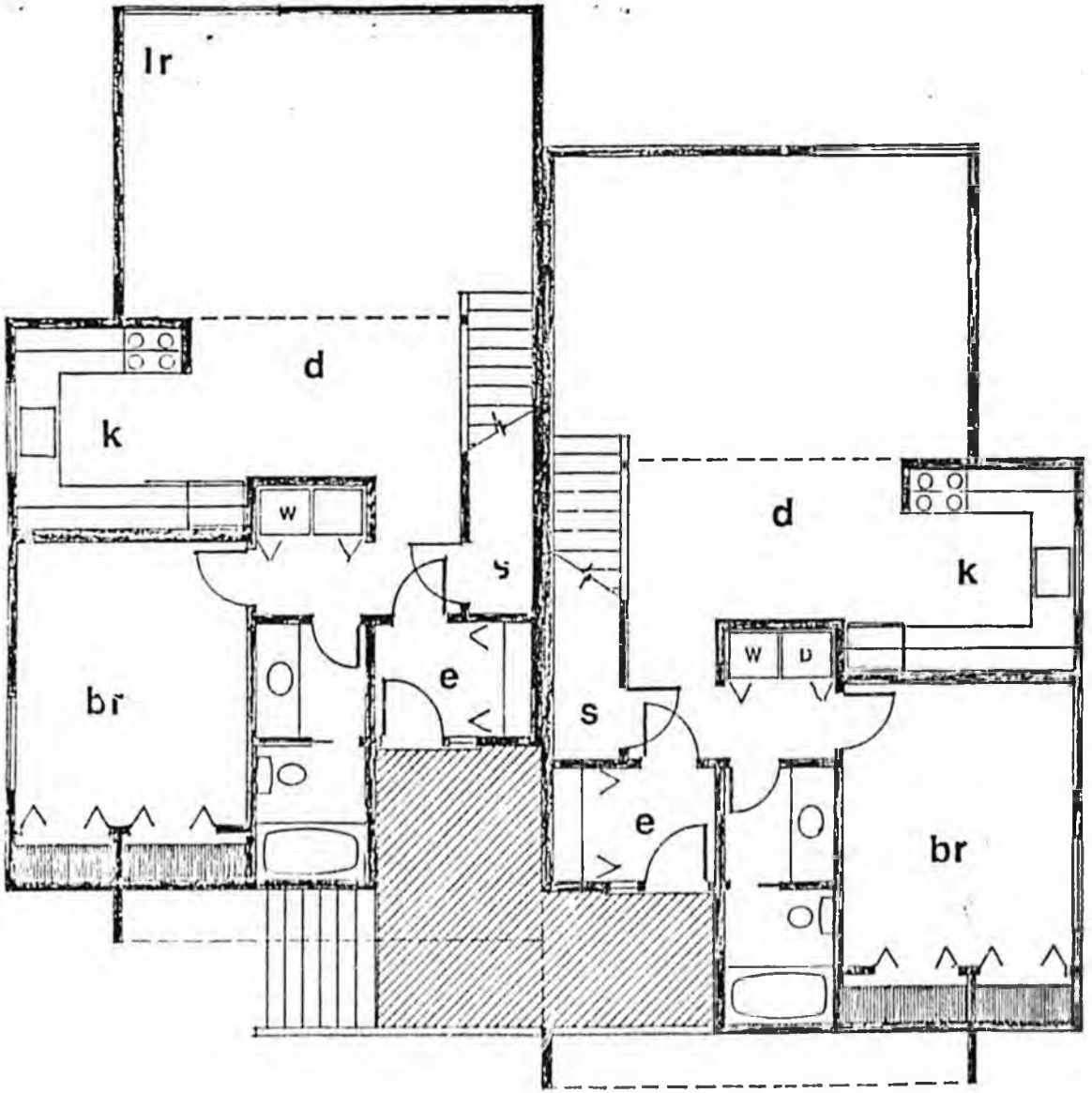
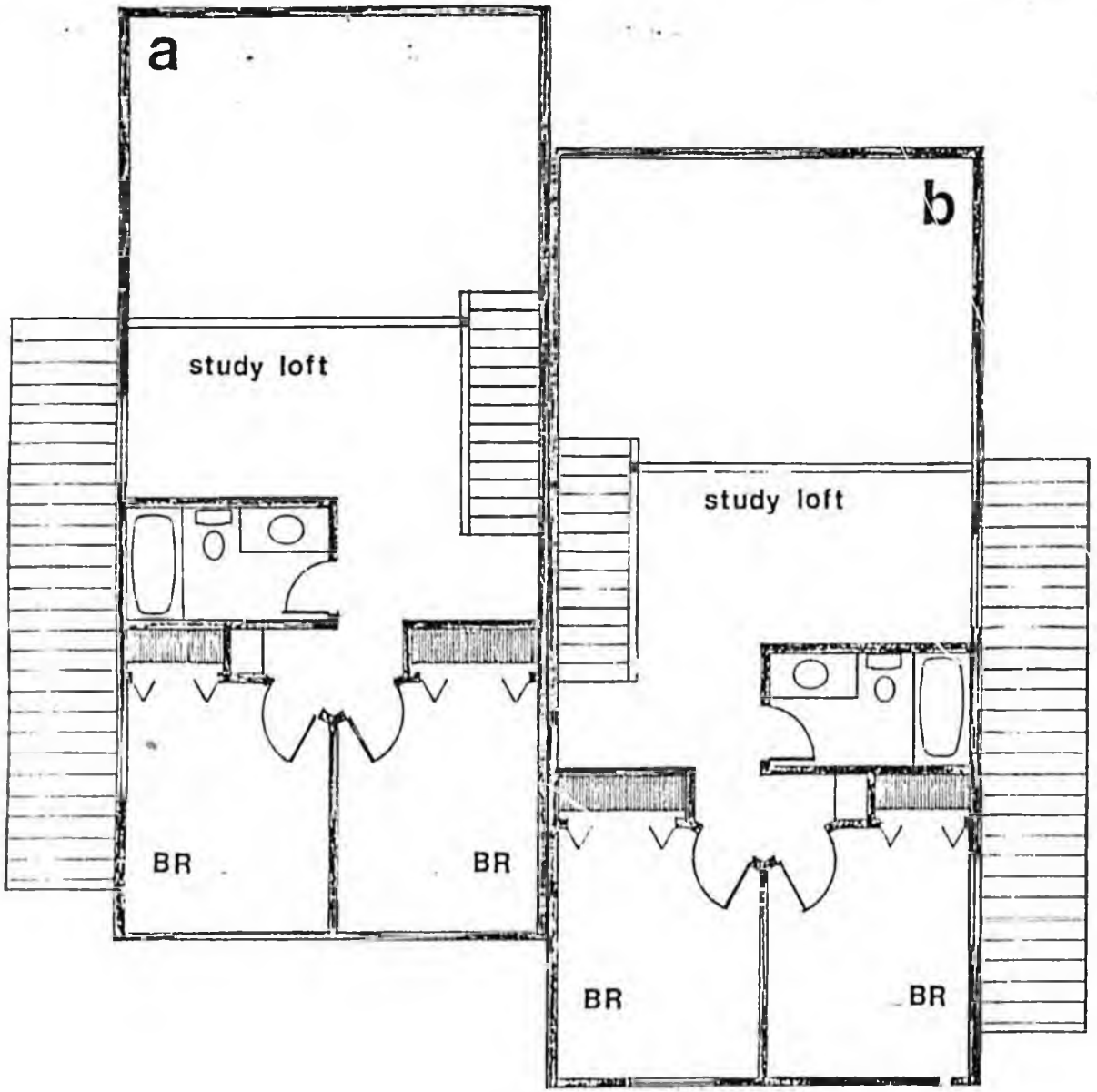
DUPLEX UNIT



first floor plan

PROPOSED STUDENT HOUSING
DUPLEX UNIT

CHARLES E. HAWKES, A.I.A.
REGIONAL ARCHITECT
UNIV. OF ALASKA, F.P.&C.

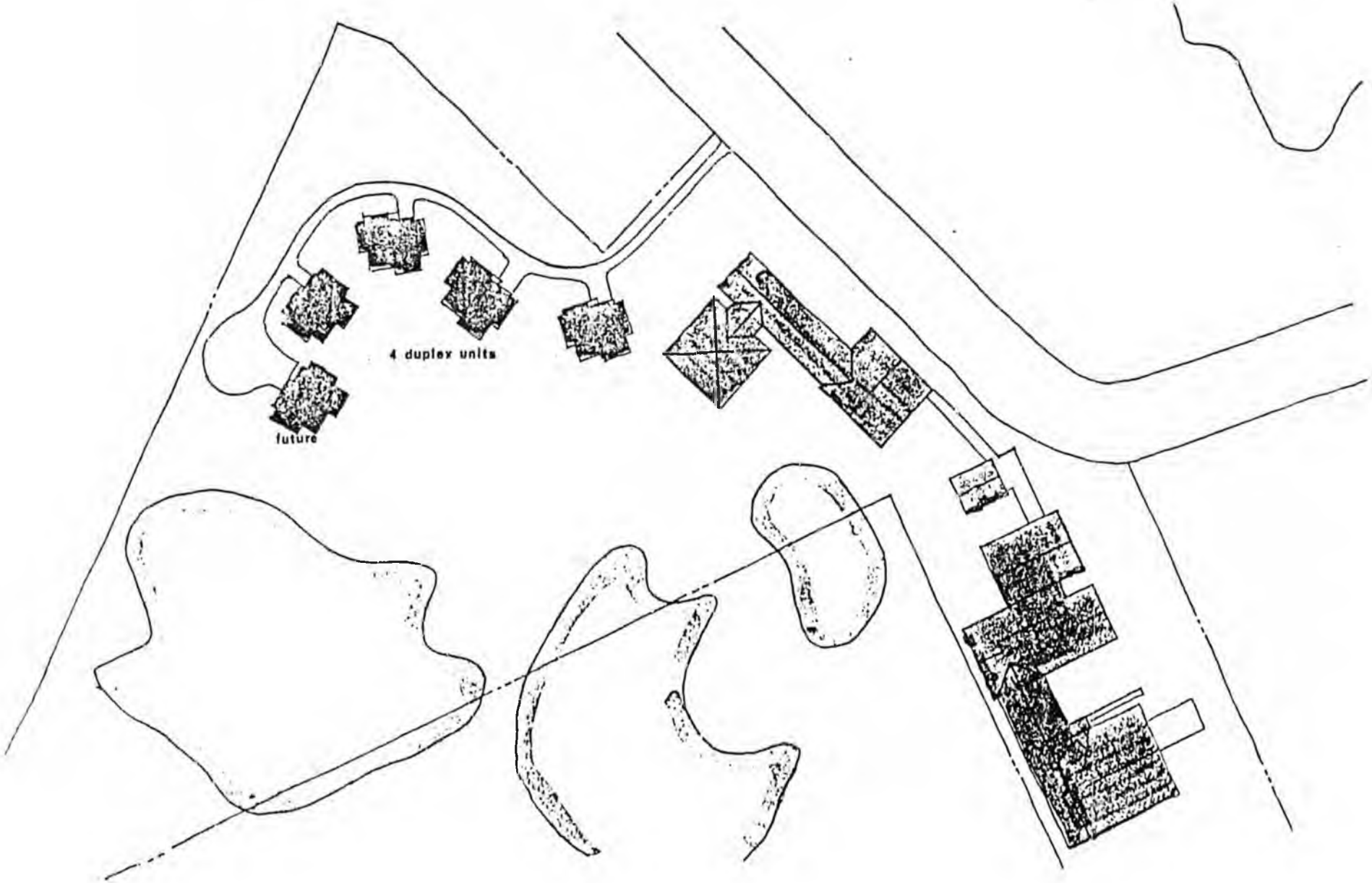


second floor plan

Unit A floor area 1,396 sf
Unit B floor area 1,396 sf

PROPOSED STUDENT HOUSING
DUPLEX UNIT

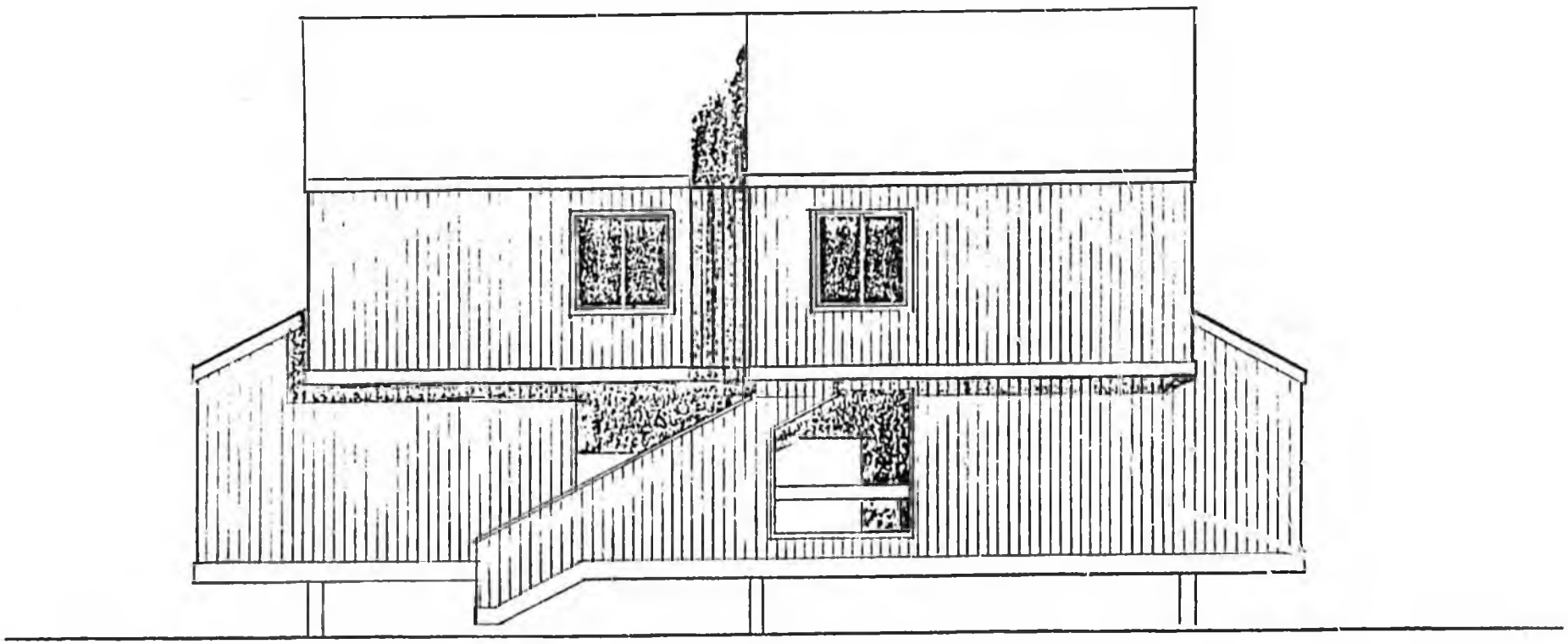
CHARLES E. HAWKES, A.I.A.
REGIONAL ARCHITECT
UNIV. OF ALASKA, F.P.&C.


4 duplex units
future



side

DUPLEX UNIT



front

DUPLEX UNIT

CONSTRUCTION CONSIDERATIONS

SITE

The duplex housing has been sited on the Kuskokwim Community College Campus property and located northwest of the existing facilities and west of the future Student Union and future classroom expansion sites.

Site preparation will consist of providing unclassified fill material to raise the building site, road, and parking to divert surface water.

UTILITIES

The above ground Municipal owned and maintained sewage system will be intercepted at the site. Electrical service from City Electric will be served from their system to one weatherhead and meter for each duplex. The transformer, power pole, and secondary wiring from the transformer to the weatherhead will be provided by the Municipal Power. Water will be provided from the 2" water main located at the existing site will be intercepted and routed to each of the duplexes.

FOUNDATION

The buildings will be constructed on wood pilings with freeze back inserts. The estimate is based on setting the piling during the winter of 1983-1984.

Framing

The duplex will be construction with a TJI framing system, with 2"x6" exterior studs, and 2x4 interior studs. The exterior will be type 303 surface T-1-11 plywood siding.

Finishes

R-19 insulation, vapor barrier and 5/8 gypsum board. Roof system will be 12" TJI systems, 1/2" COX 4-ply sheeting with metal roof with R-38 insulation.

Interiors

Interior walls will be 5/8" gypsum board painted except in living room, which will have 1/4" panelling. All floor surfaces will be carpeted except the bathroom and kitchen areas which will be treated with sheet vinyl.

Electrical

Each unit in the duplex will be served from a 100 amp service. All receptacles are added to the study area and kitchen.

Mechanical

A two pump above grade sewage pumping station will be provided for each duplex. The main sewage line was upsized to a 4" pipe and is to be installed at

maximum slope. Each unit in the duplex will be served by an oil fired 50% glycol filled hydronic hot water system. The 1000 gallon fuel tank will be located above grade with an automatic transfer two pump system servicing the boiler.

The single loop hydronic baseboard system will serve each of two zones from a two-pump manifold through line voltage actuated control valves. The domestic hot water will be served from a single oil-fired 80 gallon hot water heater.

Fire Management

Smoke and heat detectors will be connected to the main panel located in Phase III of the main campus. Automatic alarm to 24-hour surveillance.

Appliances

Each unit will be furnished with a clothes washer and dryer, electrical kitchen stove and 18 cubic foot refrigerator.

Furniture

Each unit will be furnished with a living room couch, chairs, table, and table lamp. The bedroom will be furnished with beds and night stand. The study area will be furnished with desks and chairs.

PROJECT BUDGET

Construction Estimate:	Cost/Duplex	Total	Man Days
General Requirements	46,707.75	186,831.00	
Site Work	77,585.25	301,341.00	83
Wood and Plastic	136,741.20	432,443.95	121
Thermal and Moisture Protection	35,365.70	141,462.80	100
Doors and Windows	32,037.02	128,148.05	36
Finishes	69,924.06	279,696.25	120
Equipment	23,387.32	93,549.28	
Furnishings	12,000.00	96,000.00	8
Mechanical	56,416.13	225,664.52	180
Electrical	24,197.56	96,790.23	120
Total Construction Contract	$467,400.94	$1,981,927.03	776
Construction Contingency of 10%		198,000.00	
Design			
o Survey		6,000.00	
o Soil Survey		8,000.00	
o Architectural @ 8%		158,000.00	
Legal			
o Administration @ 6%		118,915.00	
o Art in Public Places @ 1%		19,810.00	
TOTAL PROJECT COST		$2,494,052.00	

DUPLEX - OPERATING COST - VALUE ENGINEERING MODEL

Utilities

Water

The domestic water will be supplied by the Municipality at a 1983 base cost of $12.50 per 1000 gallons. The esculation figure of 6% per year is based on a labor intensive service with system growth funded by non-rate capital .

Annual Consumption 550×10^3

Annual Cost $6,875

Sewage

The sewage will be maintained by the Municipality at a 1983 base cost of $10.00 per 1000 gallons. The esculation figure of 6% per year is based on a labor intensive service with system growth funded by non-rate capital.

Annual Consumption 605×10^3

Annual Cost $6,050

Electricity

The electric power will be supplied by City Electric at a 1983 base cost as follows:

KWH	$
1-5	.216
51-450	.163
451-2500	.145
2501-22,000	.135
22,001-25,000	.130

The escalation figure of 10% per year is based on a fossil fuel energy system with comparative high labor cost.

Water Consumption

	Gal/Day/Student	Student	Total
Sink	4	12	48
Water Closet	9	12	108
Shower	16	12	184
Kitchen	6	12	72
Washing Machine	8	12	96
	TOTAL GALLONS PER DAY		508

508 gals/day x 30 days/month x 9 months per yr.

137,160 gals/yr

4 duplex units 548,640 gals/yr

550×10^3

Base 12.50/1000 gal x 550×10^3 = $6875/year

Sewage Consumption

Water Consumption plus 10%

605×10^3 gal x $10.00/1000 gal = $6050/year

ENERGY CONSUMPTION:

Degree day method was used in calculating the probable energy consumption for one duplex unit. The total amount of energy for the duplex units was derived by multiplying the units. The analysis procedure disregarded the change in the orientation angle.

Climatic Conditions

Winter	Design Dry Bulb	-30
Latitude		60°
Longitude		156°

Design Heat Loss - $q = AU(t_i - t_o)$

q= heat transfer

A= area

U= air-to-air heat transfer

t_i= indoor temperature

t_o= outdoor temperature

Indoor Design Condition - 72°F

Item	Operation L	Area	U Factor	Total BTUH
Wall	North	604	.05	3080
	East	658	.05	3355
	South	222	.05	1132
	West	658	.05	3355
Roof	-	2792	.03	8544
Floor	-	2792	.05	14240
Window	North	48	.55	2692
	East	64	.55	3590
	South	98	.55	5498
	West	64	.55	3490
Door	North	21	1.0	2142
			TOTAL	48,426

Infiltration - The volume of outdoor air entering per hour depends on wind speed and direction, width of cracks, or size of openings.

Density of the air is based on .075 lb/ft.

q_s= $0.18V(t_i - t_o)$ per hour V= 1/4 air change

Volume of air per hour= 11,168

q_s= 205,044 BTUH

DESIGN= 253,470 BTUH

Degree Days Per Year	14,100
Boiler Efficiency in %	52
Design Temperature Difference in °F	102°
Heating Value of Oil MBH	140

Gallons of Oil per Year	6,006
1983 Cost of Oil per Gal.	1.287
Total Cost Per Year (1983)	$7,729.72

4 Duplex Heating	30,918
4. Duplex Hot Water	1,868
	$32,786

HOT WATER CONSUMPTION

Forecasted Useage of Hot Water (140°F)

		Gal.
Food Preparation		6
Automatic Dishwasher		30
Cloths Washer		42
Shower		30
Face & Hand Washing		4
Hand Dishwashing		8
	Maximum	120
	Average	84

Consumption

Gallons Oil=

$$\frac{84 \times 8.33 \times (140 - 40) \times 30}{140{,}000 \times .52} = 28 \text{ gals.}$$

Heat Loss from Stand-By=

$$\frac{682{,}600}{140{,}000 \times .52} = 9.4 \text{ gals.}$$

Occupied	37.4x9=	336	
Unoccupied (cleaning)	10x3=	30	366 gals.

Annual Cost (1983 @ $1.287 per gal.)= $467.18

ELECTRIC ENERGY CONSUMPTION:

	KW	Load Factor	Occupied KWH	Unoccupied
Light	4	.3	864	300
Power	1	.1	72	60
Pump	1	.6	432	400
Cooking	6	.1	432	
Dishwasher	2	.05	72	
Dryer	8.4	.2	1209	
Washer	1	.1	72	
Refrigerator	1.5	.05	54	30
			3207	720

Load Factor= $\frac{720 \text{ hrs} \times \text{demand}}{\text{KWH}}$

Occupied Cost Per Month 14.3¢/KWH(1983) $458.60

Unoccupied Cost Per Month 16.3¢/KWH(1983) $117.36

Annual Occupied	$4,127.40
Annual Unoccupied	352.08
	$4,479.48

ELECTRICAL MAINTENANCE:

Annual maintenance is based on replacing electrical circuit components and fire management control repairs. It is invisioned a licenced electrician will be called twice a year per duplex and spend 1.5 hours per call. The electrician rate is based on Davis-Biggs requirement plus overhead and profit at 25%.

Rate:

29.30 x 1.25= $36.62 x 3 hours= 109.86

OIL FIRED HOT WATER HEATER:

Hot water maintenance is based on preventative maintenance inspections made twice a year and one emergency repair call. Detailed maintenance task in appendix.

Preventative Maintenance = 3 hours

$26.99/hr x 1 x 3 x 1.25= $101.22

Material = 30.00

$131.22

MECHANICAL MAINTENANCE:

Mechanical maintenance costs are based on emergency maintenance of plumbing equipment and

MECHANICAL MAINTENANCE - Continued

preventative and emergency maintenance of hot water heater and boiler.

Plumbing - Based on 2 service calls per year

1.5 hours per call

$26.99 x 1.5 x 2 x 1.25= $101.25

Material = 100.00

$201.25

Boiler Maintenance:

Boiler maintenance is based on a preventative maintenance inspection during the last week of August and the second week of March and emergency maintenance.

The assigned tasks are detailed in the appendix.

Preventative Maintenance Craft Hours - 4 hrs.

Rate - $26.99

26.99 x 4 x 2 x 1.25= $269.90

Material = 50.00

Emergency Calls (1 @ 2 hrs.) = 67.50

$387.40

CLEANING:

The carpets will be steam cleaned during summer break and commercial vacuumed during winter break. All appliances, vinyl floors, walls, doors, win-

CLEANING Continued:

dows, and furniture will be cleaned during summer break and winter break.

Steam Cleaning 500 Sq.Yds. @ $5/SY	= 2500
Commercial vacuum 500 Sq. Yds. @ $1/SY	= 500
Complete Cleaning 2 cycles of 2-mandays @ $100/manday	= 400
	$3400
4 Duplex at $3,400	$13,600

ADMINISTRATION:

The budget is based on providing staff, records, admission control, and building services control. The budget figure is $0.58 per square foot per year.

0.58 x __ 2792 x 4 = $6,477.44

APPLIANCES

Type	Amount	Annual Mainte. Budget	Major Replacement Budget	Replacement Cycle
Cooking Range	2	17.50	1088	7
Refrigerator	2	17.50	1616	7
Washer	2	48.00	1324	5
Dryer	2	48.00	1124	5
Dishwasher	2	16.00	1540	7
Garbage Disposal	2	12.00	310	5
		$159.00	$7002	

APPLIANCES Continued:

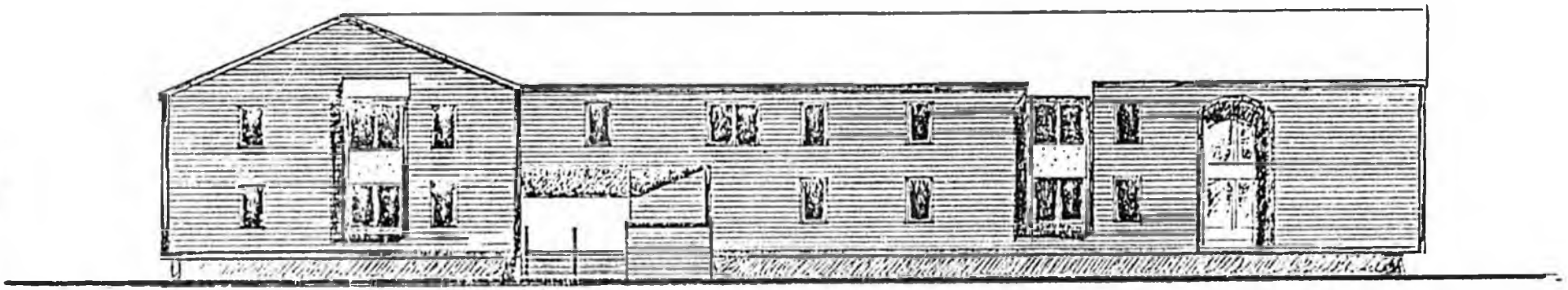
Cost of Capital @ 10%

5 year Replacement	$7003
7 year Replacement	4244
20 year Life	

DORMITORY

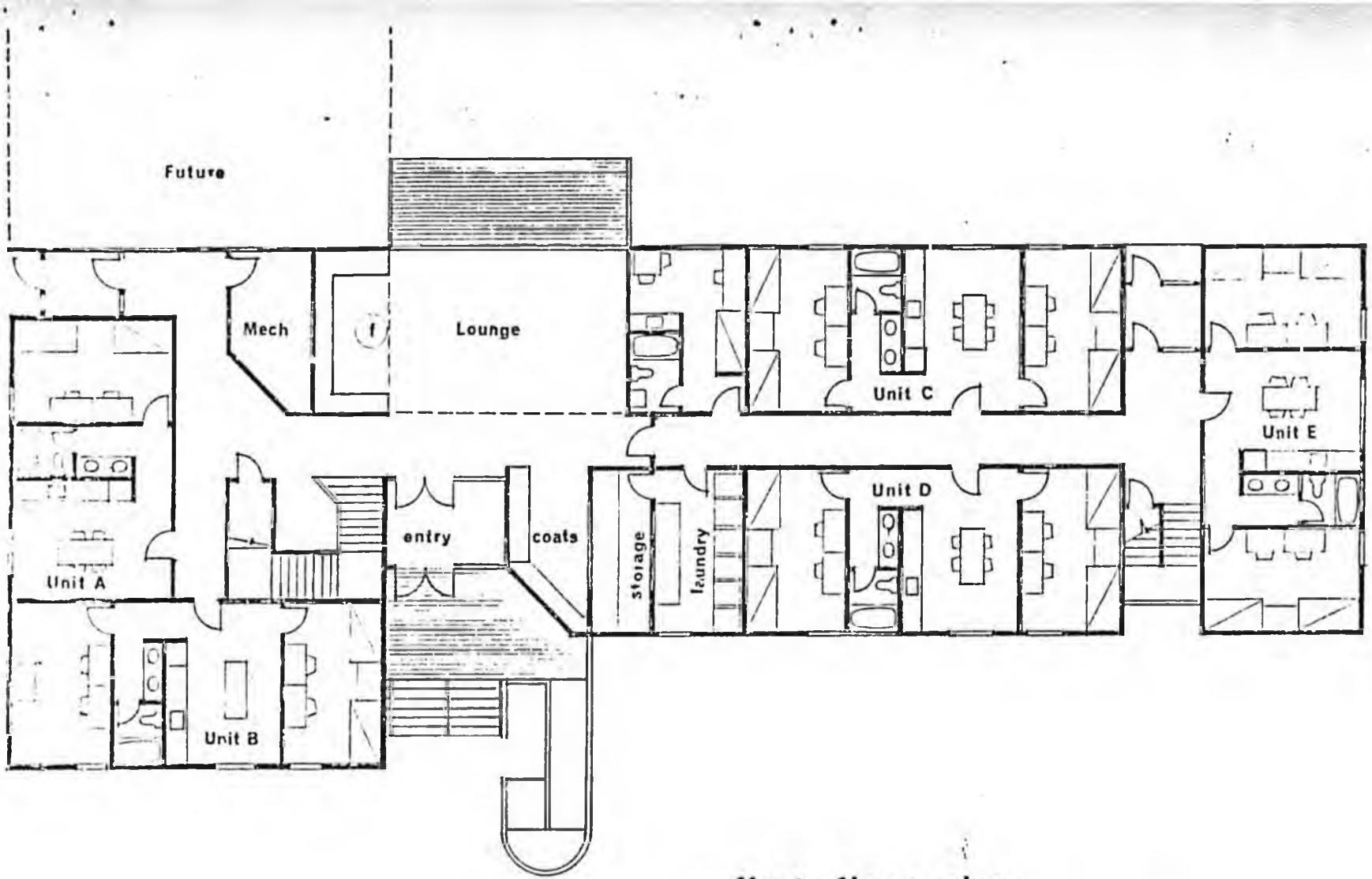
PLANNING CONSIDERATIONS

In an attempt to produce a design concept that is both energy efficient, attractive, in symphony with the existing community college buildings, and yet residential in character and scale, the dormitory has taken the following form. The basic living component or unit is roughly 16' x 38' and is divided into two sleeping/study rooms each housing two students per room. These four students share a bathroom with 2 lavatories each, a pullman kitchen (11' in length) and an eating space. There would be a central lounge area with books, T.V., and fireplace on the first floor. A laundry room and storage room would be shared by all students. There would be an advisor on each floor to assist in maintaining an orderly life style and sufficient opportunity for the development of academic growth. Although the initial program does exclude married students, it would be easily possible to convert the basic unit to a comfortable one bedroom apartment with 608 sq. ft. by eliminating one interior partition. The dormitory is designed to allow future expansion.



DORMITORY

PROPOSED STUDENT HOUSING



first floor plan

scale: 1/8" - 1'-0"

1st floor area 5,407
2nd floor area 5,023
total 10,430 sf

42 students
248 sf per student

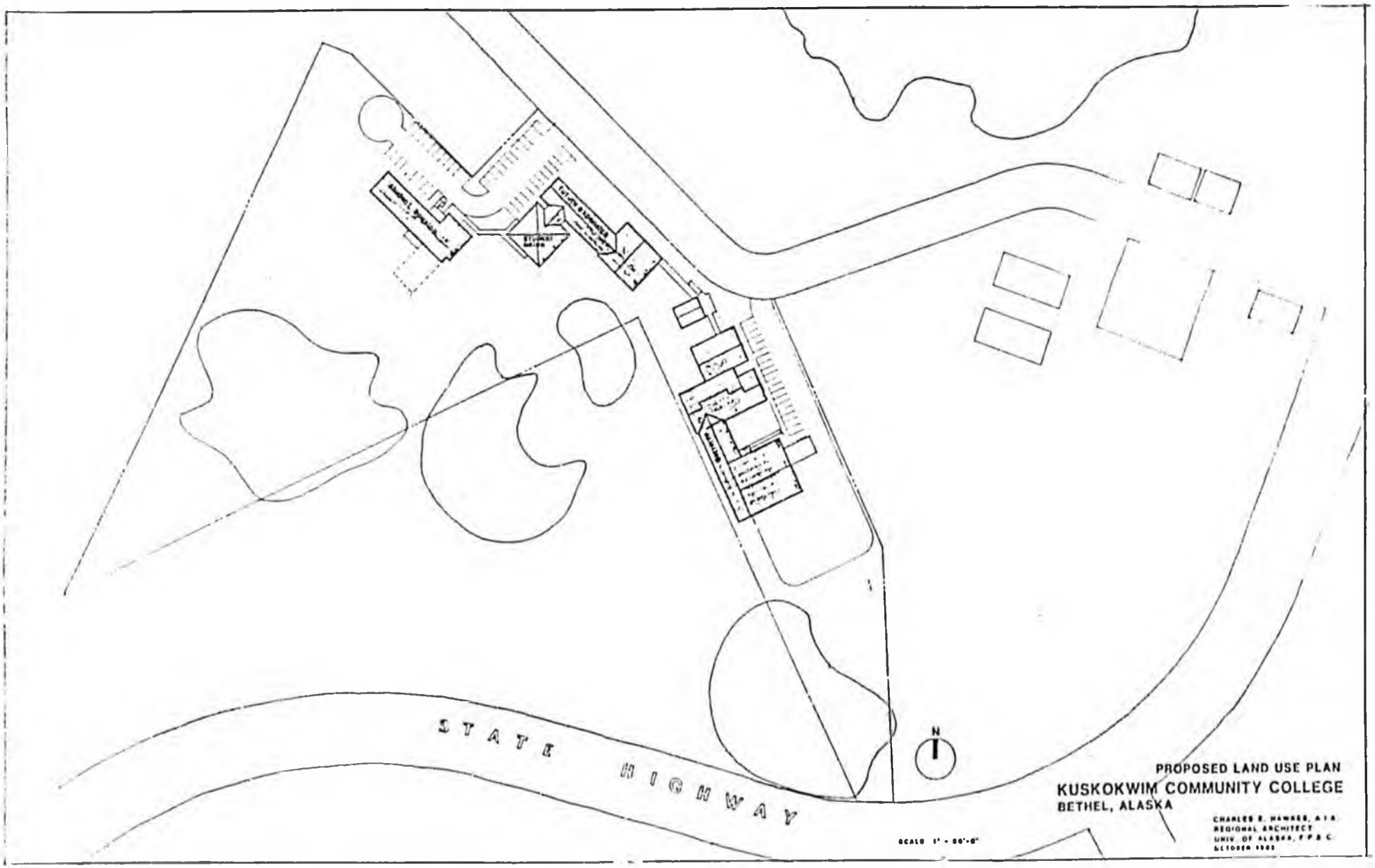
DORMITORY

PROPOSED STUDENT HOUSING

KUSKOKWIM COMMUNITY COLLEGE

BETHEL, ALASKA

CHARLES E. HAWKES, A.I.A.
REGIONAL ARCHITECT
UNIV. OF ALASKA, F.P.&C.


STATE HIGHWAY
N
PROPOSED LAND USE PLAN
KUSKOKWIM COMMUNITY COLLEGE
BETHEL, ALASKA
CHARLES E. HAWKES, A.I.A.
REGIONAL ARCHITECT
UNIV. OF ALASKA, F.P.&.C.
OCTOBER 1968

CONSTRUCTION CONSIDERATIONS

SITE

The dormitory housing has been sited on the Kuskokwim Community College Campus property and located northwest of the existing facilities and west of the future classroom expansion sites.

Site preparation will consist of providing unclassified fill material to raise the building site, road, and parking to divert surface water.

UTILITIES

The above ground Municipal-owned and maintained sewage system will be intercepted at the site. Electrical service from City Electric will be served from their system through one meter. The transformer, power pole, and secondary wiring from the transformer to the weatherhead will be provided by the Municipal Power. Water will be provided from a new 6" water main to serve the domestic water and sprinkler system.

FOUNDATION

The buildings will be constructed on wood pilings with freeze back inserts. The estimate is based on setting the piling during the winter of 1983-1984.

The single loop hydronic baseboard system will serve each of two zones from a two-pump manifold through line voltage actuated control valves. The domestic hot water will be served from a single oil-fired 80 gallon hot water heater.

Fire Management

Smoke and heat detectors will be connected to the main panel located in Phase III of the main campus. Automatic alarm to 24-hour surveillance. A complete sprinkler system will be provided.

Appliances

Each unit will be furnished with a clothes washer and dryer, electrical kitchen stove and 18 cubic foot refrigerator.

Furniture

Each unit will be furnished with a living room couch, chairs, table, and table lamp. The bedroom will be furnished with beds and night stand. The study area will be furnished with desks and chairs.

Framing

The dormitory will be a construction with a TJI framing system, with 2"x6" exterior studs, and 2x4 interior studs. The exterior will be cedar siding.

Finishes

R-19 insulation, vapor barrier and 5/8 gypsum board. Roof system will be 12" TJI systems, 1/2" COX 4-ply sheeting with metal roof with R-38 insulation.

Interiors

Interior walls will be 5/8" gypsum board painted except in living room, which will have 1/4" panelling. All floor surfaces will be carpeted except the bathroom and kitchen areas which will be treated with sheet vinyl.

Electrical

The dormitory will be served from a 400 amp 120/240 volt single phase service.

Mechanical

A two pump above grade sewage pumping station will be provided for each duplex. The main sewage line was upsized to compensate for deviations from changes in the piling system. The dormitory will

be served by an oil fired 50% glycol filled hydronic hot water system. The 1000 gallon fuel tank will be located above grade with an automatic transfer two pump system servicing the boiler.

DORMITORY HOUSING - PROJECT BUDGET

Project Costs:

Description	Cost	Man Days
General Conditions	175,857.00	
Site Conditions	264,020.12	55
Wood and Plastic	292,616.11	188
Thermal & Moisture Protection	79,905.04	50
Doors and Windows	70,110.55	27
Finishes	113,050.27	118
Equipment	77,319.33	8
Furnishings	167,043.25	40
Mechanical	328,204.96	225
Electrical	90,394.17	100
Construction Contract	$1,658,520.35	
Contingency	165,852.00	
	$1,824,372.35	
Survey	8,000	
Soil Test	6,000	
Legal	2,000	
Architectural Design @ 8%	132,681	
Administration @ 6%	99,511	
Art in Public Places	165,852	
TOTAL PROJECT COST		$2,238,416

DORMITORY - OPERATING COST

Utilities

Water

The domestic water will be supplied by the Municipality at a 1983 base cost of $12.50 per 1000 gallons. The esculation figure of 6% per year is based on a labor intensive service with system growth funded by non-rate capital .

Annual Consumption 464×10^3

Annual Cost $5,800

Sewage

The sewage will be maintained by the Municipality at a 1983 base cost of $10.00 per 1000 gallons. The esculation figure of 6% per year is based on a labor intensive service with system growth funded by non-rate capital.

Annual Consumption 510×10^3

Annual Cost $5,100

Electricity

The electric power will be supplied by City Electric at a 1983 base cost as follows:

KWH	$
1-5	.216
51-450	.163
451-2500	.145
2501-22,000	.135
22,001-25,000	.130

The escalation figure of 10% per year is based on a fossil fuel energy system with comparative high labor cost.

Water Consumption

	Gal/Day/Student	Student	Total
Sink	4	40	160
Water Closet	9	40	360
Shower	16	40	640
Kitchen	6	40	240
Washing Machine	8	40	320
	TOTAL GALLONS PER DAY		1720

1720 gals/day x 30 days/month x 9 months per yr.

464,400 gals/yr

464×10^3

Base 12.50/1000 gal x 464×10^3 = $5800/year

Sewage Consumption

Water Consumption plus 10%

510×10^3 gal x $10.00/1000 gal = $5100/year

APPLIANCES

Type	Amount	Annual Mainte. Budget	Major Replacement Budget	Replacement Cycle
Cooking Range	14	262.50	7616	7
Refrigerator	14	262.50	7616	7
Washer	4	96.00	2648	5
Dryer	4	96.00	2248	5
		$717.00	$20128	

Cost of Capital @ 6%

MECHANICAL MAINTENANCE:

Mechanical maintenance costs are based on emergency maintenance of plumbing equipment and preventative and emergency maintenance of hot water heater and boiler.

Plumbing - Based on 4 service calls per year

1.5 hours per call

$26.99 x 1.5 x 4 x 1.25= $202.00

Material = 200.00

$402.00

Boiler Maintenance:

Boiler maintenance is based on a preventative maintenance inspection during the last week of August and the second week of March and emergency maintenance.

The assigned tasks are detailed in the appendix.

Preventative Maintenance Craft Hours - 4 hrs.

Rate - $26.99

26.99 x 4 x 2 x 1.25= $269.90

Material = 100.00

Emergency Calls (1 @ 2 hrs.) = 67.50

$487.40

ELECTRICAL MAINTENANCE:

Annual maintenance is based on replacing electrical circuit components and fire management control repairs. It is invisioned a licenced electrician will be called four times a year and spend 1.5 hours per call. The electrician rate is based on Davis-Biggs requirement plus overhead and profit at 25%.

Rate:

29.30 x 1.25= $36.62 x 6 hours= 219.75

OIL FIRED HOT WATER HEATER:

Hot water maintenance is based on preventative maintenance inspections made twice a year and one emergency repair call. Detailed maintenance task in appendix.

Preventative Maintenance 3 hours

$26.99/hr x 1 x 3 x 1.25= $101.22

Material = 30.00

$131.22

HOT WATER CONSUMPTION

Forecasted Useage of Hot Water (140°F)

	Gal.
Food Preparation	80
Automatic Dishwasher	60
Cloths Washer	80
Shower	240
Face & Hand Washing	20
Hand Dishwashing	12
Maximum	
Average	492

Consumption

Gallons Oil=

$$\frac{492 \times 8.33 \times (140 - 40) \times 30}{140{,}000 \times .52} = 169 \text{ gals.}$$

Heat Loss from Stand-By=

$$\frac{1{,}363{,}200}{140{,}000 \times .52} = 18.8 \text{ gals.}$$

Occupied 187.8x9= 1690.2

Unoccupied (cleaning) 20x3= 60 1750 gals.

Annual Cost (1983 @ $1.287 per gal.)= $2,252.25

ELECTRIC ENERGY CONSUMPTION:

	KW	Load Factor	Occupied KWH	Unoccupied
Light	12	.3	2592	881
Power	4	.1	888	603
Pump	4	.6	1728	1597
Cooking	28	.1	2016	1394
Dishwasher	8	.05	1152	
Dryer	16.8	.125	2570	
Washer	2	.1	144	
Refrigerator	7	.05	252	144
			11342	6216

Load Factor= $\frac{720 \text{ hrs} \times \text{demand}}{\text{KWH}}$

Occupied Cost Per Month 13.5¢/KWH(1983) $1531.17

Unoccupied Cost Per Month 13.5¢/KWH(1983) $839.16

Annual Occupied	$13,780.53
Annual Unoccupied	2,517.48
	$16,298.01

ENERGY CONSUMPTION:

Degree day method was used in calculating the probable energy consumption for one duplex unit. The total amount of energy for the duplex units was derived by multiplying the units. The analysis procedure disregarded the change in the orientation angle.

Climatic Conditions

Winter	Design Dry Bulb	-30
Latitude		60°
Longitude		156°

Design Heat Loss - $q = AU(t_i - t_o)$

q= heat transfer

A= area

U= air-to-air heat transfer

t_i= indoor temperature

t_o= outdoor temperature

Indoor Design Condition - 72°F

Item	Operation L	Area	U Factor	Total BTUH
Wall	North	2068	.05	10546
	East	786	.05	4008
	South	2048	.05	10444
	West	726	.05	3733
Roof	-	5407	.03	16545
Floor	-	5407	.05	27575
Window	North	312	.55	17503
	East	60	.55	6336
	South	294	.55	16492
	West	72	.55	4039
Door	North	42	1.0	4284
	East	21	1.0	2142
	South	21	1.0	2142
			TOTAL	125,789

Infiltration - The volume of outdoor air entering per hour depends on wind speed and direction, width of cracks, or size of openings.

Density of the air is based on .075 lb/ft.

q_s= $0.18V(t_i - t_o)$ per hour V= 1/4 air change

Volume of air per hour= 21,628

q_s= 397,090 BTUH

DESIGN= BTUH

Degree Days Per Year 14,100

Boiler Efficiency in % 52

Design Temperature Difference in °F 102°

Heating Value of Oil MBH 140

Gal.= $\frac{522,879 \times 14171 \times 24}{140,000 \times .52 \times 102}$ = $23,948.00

FORECASTED 6 YEAR OPERATIONS CASH FLOWS

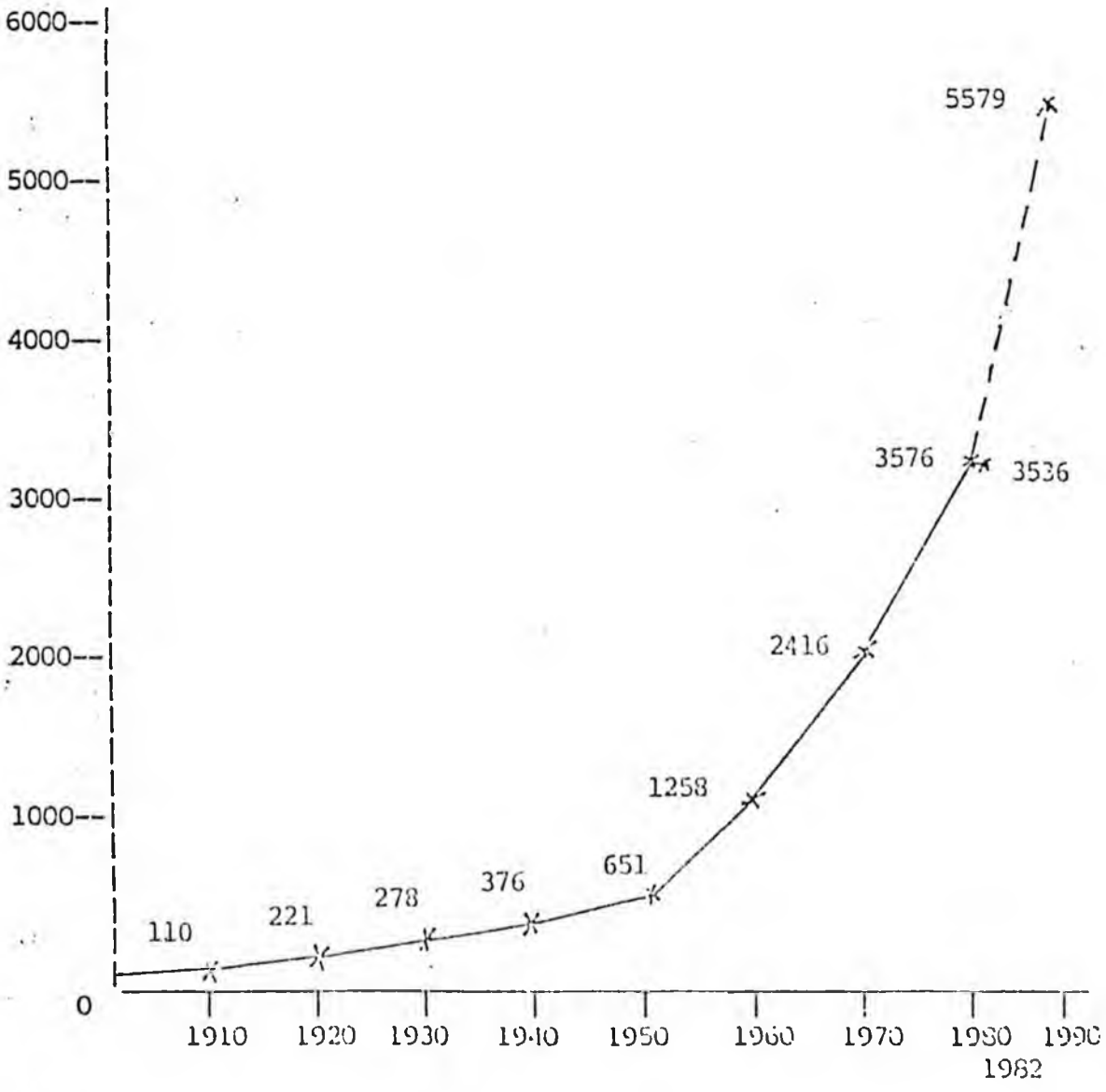
Year	1985	1986	1987	1988	1989	1990
Duplex	87,660	94,948	102,876	102,876	120,892	131,115
Dormitory	80,522	87,081	94,207	112,907	110,367	119,519
	[7138]	[7867]	[8669]	[9552]	[10525]	[11596]

55,347 in additional operating costs are required to maintain the Duplex over a 6 year period.

APPENDIX

		Page
1.	Bethel Population Trends	1
2.	Maintenance Task - Oil Fired Hot Water Heater	2 & 3
3.	Maintenance Task - Oil Fired Boiler	4 & 5
4.	Cash Flow - Duplex Model	
5.	Cash Flow - Dormitory Model	

Bethel Population Trend Since 1910



Source: U.S. Census and Darbyshire and Associates

PREVENTATIVE MAINTENANCE TASKS:

Oil-Fired Hot Water Heater

Item	Description of Work	Est. Craft Hours
1	Check for water leaks to tank and piping. Check for fuel system leaks.	.063
2	Adjust pilot fire on oil burner.	.209
3	Check pilot on oil burner. Adjust if required	.056
4	Adjust oil burner flame.	.206
5	Check oil burner flame. Adjust if required.	.123
6	Check operation and condition of relief valve.	.008
7	Check automatic controls for proper operation (temperature regulators, thermostatic devices, automatic fuel shut off valve, etc.).	.042
8	Check fuel strainer element on oil burner.	.052
9	Check fuel level in tank. Check tank, fill pipe and fuel lines and connections for damage.	.017
10	Inspect, clean, and adjust electrodes and nozzles on oil burners. Inspect fire box and flame detection scanner.	.194
11	Check electrical wiring for fraying and loose connections on oil burner.	.051
12	Check for proper water temperature setting. Adjust as required.	.002
13	Clean fire box.	.444
14	Check for proper draft adjustment. Adjust draft meter if necessary.	.004

PREVENTATIVE MAINTENANCE TASKS:

Oil-Fired Hot Water Heater

Item	Description of Work	Est. Craft Hours
15	Check condition of flue pipe, damper, and chimney.	.113
16	Drain and flush tank (average 75 gal.)	1.013
17	Clean up area around unit.	.051
18	Check operation and condition of safety pressure relief valve.	.083
19	Check operation of boiler low-water cut-off devices (per device).	.043
20	Check pressure gauges	.064
21	Inspect and clean water column sight glass (or replace).	.102
22	Clean fire side of water jacket boiler	.333
23	Perform exterior inspection on water tube boiler. Includes foundation, doors, lagging, leakages, and area.	.546
24	Check and operate fuel oil	.25
25	Lubercate, check and operate glycol hot water pump.	.045
26	Test Ph factor and specific.	.50
27	Gravity of glycol air bleed hydronic system.	.25
28	Fill out maintenance reports.	.017

PREVENTATIVE MAINTENANCE TASKS:

Oil-Fired Hydronic Low Pressure Boiler

Item	Description of Work	Est. Craft Hours
1	Check combustion chamber for air or gas leaks.	.063
2	Inspect and clean oil burner gun and ignition assembly.	.396
3	Inspect fuel system for leaks.	.012
4	Change fuel filter element for oil burning equipment.	.067
5	Check tank fuel level. Check tank, lines, and connections for damage.	.017
6	Check for proper operational response of burner to thermostat controls.	.093
7	Check and lubricate oil burner/blower.	.062
8	Check main flame failure protection, include full cycle operation.	.095
9	Check main flame detection scanner on boiler equipped with spark ignition.	.085
10	Check flame detection scanner (main and pilot) includes full cycle burner check.	.194
11	Check electrical wiring to burner controls and blower.	.057
12	Clean fire box (sweep and vacuum)	.444
13	Check operation of mercury control switches (i.e. steam pressure, hot water temperature limit, atomizing or combustion air proving, etc.)	.084
14	Check condition of flue pipe, damper and exhaust stack.	.113
15	Clean up boiler room (per 100 sq. ft.).	.051

PREVENTATIVE MAINTENANCE TASKS:

Oil-Fired Hydronic Low Pressure Boiler

Item	Description of Work	Est. Craft Hours
16	Check draft diverter and clear openings if clogged (gas burners).	.021
17	Inspect and operate circulating pump.	.025
18	Fill out maintenance record/report.	.017
		1.896 hrs.

KUSKOKWIM DUPLEX CASH FLOW MODEL

ITEM	BASE	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
UTILITY																		
Water	6875	7288	7725	8188	8680	9200	9752	10337	10958	11615	12312	13051	13834	14664	15544	16476	17465	18513
Sewage	6050	6413	6798	7206	7638	8096	8582	9097	9643	10221	10835	11485	12174	12904	13678	14499	15369	16291
Elect.	17920	19712	21683	23852	26237	28860	31746	34921	38413	42254	46480	51128	56241	61865	68051	74856	82342	90576
Tel	32786	36065	39671	43638	48002	52802	58082	63891	70280	77308	85038	93542	102897	113186	124505	136955	150651	165716
MAINT.																		
Elect.	440	466	494	524	555	589	624	662	701	743	788	835	885	938	995	1054	1118	1185
Comb.	804	852	903	958	1017	1076	1140	1209	1281	1358	1440	1526	1618	1715	1818	1927	2042	2165
Other	1548	1641	1739	1844	1954	2072	2196	2328	2467	2615	2772	2939	3115	3302	3500	3710	3932	4168
Hot Water	524	555	589	624	662	701	743	788	835	885	938	995	1054	1118	1185	1256	1331	1411
Appliance	636	674	715	757	803	851	902	956	1041	1075	1139	1207	1280	1357	1438	1524	1616	1713
Heating	13600	14416	15281	16198	17170	18200	19292	20449	21676	22977	24356	25817	27366	29008	30748	32593	34549	36622
ADMIN.	6477	6866	7278	7714	8177	8668	9188	9739	10323	10943	11599	12295	13033	13815	14644	15523	16454	17441
REPAIR				10957						17227			18510		55000	11052	55000	26256
TOTAL	87660	94948	102876	122459	120892	13115	142249	154377	167592	199222	197697	214820	252006	253871	331105	322426	381869	382057

KUSKOKWIM DORMITORY MODEL

ITEM	BASE	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
UTILITY																		
ater	5800	6148	6517	6908	7322	7762	8227	8721	9244	9799	10387	11010	11671	12371	13113	13900	14734	15618
ewage	5100	5406	5730	6074	6439	6825	7234	7669	8129	8616	9133	9681	10262	10878	11531	12222	12956	13733
ect.	16298	17928	19721	21693	23862	26248	28873	31769	34936	38430	42273	46500	51150	56265	61892	68081	74889	82378
A	26900	29590	32549	35804	39384	43323	47655	52420	57663	63429	69772	76749	84424	92866	102153	112368	135965	135965
MENT.																		
ect.	220	233	247	262	278	294	312	331	351	372	394	418	443	469	497	527	559	592
sh.	402	426	452	479	508	538	570	604	641	679	720	763	809	857	909	963	1021	1082
ler	487	516	547	580	615	652	691	732	776	823	872	924	980	1039	1101	1167	1237	1311
Water	131	139	147	156	165	175	186	197	209	221	235	249	264	279	296	314	333	353
llance	707	749	794	842	893	946	1003	1063	1127	1194	1266	1342	1423	1508	1598	1694	1796	1904
ential	18000	19080	20225	21438	22725	24088	25533	27065	28689	30411	32235	34169	36220	38393	40696	43138	45726	48470
ING.	6477	6866	7278	7714	8177	8668	9188	9739	10323	10943	11599	12295	13033	13815	14644	15523	16454	17441
PAIR				10957						17227			18510		55000	22052	55000	16256
TAL	80522	87081	94207	112907	110367	119519	129473	140302	152088	182144	178886	194101	229187	228741	303430	291950	348310	345104

February 16, 1983

HESS Committee Letter of Intent

Subject: CSSB 19 (Appropriations to University of Alaska for Student Housing and Land Acquisition)

Mr. President:

Your Committee on Health Education and Social Services has had Senate Bill 19 under consideration, and the Committee recommends that the Bill be replaced by Committee Substitute for Senate Bill 19, and that the Committee Substitute (CSSB 19) do pass.

The HESS Committee intends to reflect, through CSSB 19, a commitment that student housing on the Anchorage, Fairbanks, Juneau and Kenai campuses will be provided as expeditiously and cost-effectively as possible.

CSSB 19 contemplates that the University will expedite housing construction. Because architectural and engineering work for the Fairbanks (College) campus has been performed, actual construction at that location could begin during the 1983 construction season.

On the other campuses mentioned, architectural and engineering work is required to be done. Funds for that purpose are made available in CSSB 19. In addition, however, appropriations are also provided for construction at Anchorage, Juneau, and Kenai with an appropriation effective date of May 1, 1984. In this way, we avoid having to legislate for student housing appropriations in two separate measures and we stress our commitment to this program.

The May 1, 1984 appropriation effective date has another purpose. It permits the University to analyze, and to report to the second session of the Thirteenth Legislature in January, 1984 with respect to, the possibility of other funding options for student housing construction. For example, some mixture of revenue bonds, appropriations from the general fund, and private sector investment, might be appropriate in one or more of these cases and might provide student housing at housing rates affordable to Alaska students. If those possibilities can be demonstrated to exist, the second session of the Thirteenth Legislature could make necessary adjustments. If not, the appropriations for housing construction at Anchorage, Juneau and Kenai would be in place without the necessity of additional action by the Legislature.

Joseph P. Josephson

_____ _____

_____ _____

_____

COMMITTEE REPORT

SENATE

1/18/83

FURTHER: FINANCE

Date: 16 Feb, 1983

Mr. President:

The Committee on HEALTH, ED. & SOC. SERV has had SENATE BILL NO. 19

An Act making appropriations to the University of Alaska for construction of dormitory complexes: eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for SB 19 (HESS) with [ ] same title [X] new title

and recommends may do pass

[X] AND with attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

V. Fischer

H Pappy Moss

Rick Halford

MEMBERS HAVING OTHER RECOMMENDATIONS:

Jee P. Josephson do pass
CHAIRMAN

S 60 (Rev. 12/78)

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
STATEWIDE PRIORITIZATION

Priority	Campus	Title of Capital Project Proposal	Project Cost	Cumulative Costs	
MASTER PLANNING AND NEEDS ASSESSMENT					
84-1	SW	Campus Master Planning	$ 1,350.0		
	UAF	Development Needs Assessment/Planning	1,500.0		
	UAA	Needs Assessment and Pre-Program Building Design	750.0		
	UAJ	Campus Development Needs Assessment	150.0		
	ACC	Campus Development Needs Assessment	100.0		
	CCREE	Campus Development Needs Assessment, various campuses	210.0		
		Subtotal	4,060.0	$ 4,060.0	
MAJOR REPAIR AND RENOVATION					
84-2	UAF	Student Housing Renovations	4,000.0		
	UAA	Repair and Renovation/CAS Building	1,500.0		
		Subtotal	5,500.0	9,560.0	
GENERAL REPAIR AND RENOVATION					
84-3	UAF	Native Studies/Fine Arts Instructional Space	1,151.0		Section 7 (229)
	UAF	Repair and Renovations	703.0		
	UAF	Code Deficiencies Corrections	2,747.0		Section 8 (229)
	UAF	Handicapped Barrier Removal	254.0		
	UAA	Repair and Renovations	884.8		
	UAJ	Vocational Education Shop and Equipment	800.0		
	UAJ	Remodeling of Counseling and Admissions	68.0		
	UAJ	Repair and Renovations	367.0		
	ACC	Repair and Renovations	1,040.0		
	ACC	Faculty Offices	11.6		
	ACC	Telephone Lines Six Year Maintenance Program	250.0		
	CCREE	Repair/Renovation, various campuses	1,023.9		
	CCREE	Building Code Corrections	670.0		
	CCREE	Handicapped Barrier Removal, various campuses	197.0		
		Subtotal	10,167.3	19,727.3	

Statewide Budget Office
September 30, 1982

Board of Regents Priorities

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
STATEWIDE PRIORITIZATION

Priority	Campus	Title of Capital Project Proposal	Project Cost	Cumulative Costs	
ESSENTIAL OBLIGATIONS					
84-4	UAF	Seward Dock Cathodic Protection	$ 435.0	$ 20,162.3	
NEW STRUCTURES (PREVIOUSLY REQUESTED AND UNDER DEVELOPMENT)					
84-5	UAJ	Student Housing	13,200.0		
84-6	UAA	Classroom/Lab/Office	25,300.0		Section 1 (229)
~~84-7~~	~~UAF~~	~~Student Housing~~	~~11,000.0~~		~~Section 2 (SB19)~~
84-8	SW	Statewide Services Building	18,800.0		
84-9	UAF	Classroom/Lab/Office	20,000.0		Section 4 ÷ 7.5% (229)
		Subtotal	88,300.0	108,462.3	
ESSENTIAL EQUIPMENT					
84-10	UAF	Instructional and Research Equipment	1,617.0		
	UAA/ACC	Bookstore Fixtures	330.0		
	UAA	Administrative/Classroom Building Furnishings Shortfall	350.0		
	UAJ	Marine and Technology Center Equipment	500.0		
	ACC	Equipment/Applied Science	548.4		
		Subtotal	3,345.4	111,807.7	
SITE DEVELOPMENT, CAMPUS IMPROVEMENTS, LAND ACQUISITIONS					
84-11	UAF	Grounds Improvements and Landscaping	250.0		
	UAF	Campus, Paving, Signals, Lighting	520.0		
	~~UAA~~	~~Land Acquisitions~~	~~9,900.0~~		~~Section 1 (SB19)~~
	ACC	Pedestrian Circulation Improvements	250.0		
	CCREE	Roads/Streets, Parking	910.0		
	KECC	Land Acquisitions	90.0		
	NWCC	Land Acquisitions	450.0		
	PWSCC	PWSCC Classroom, Lab, Office Design	450.0		Section 3 (229)
	TVCC	TVCC Campus Facility Phase II Design	1,500.0		Section 9
		Subtotal	14,320.0	126,127.7	

Statewide Budget Office
September 30, 1982

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
STATEWIDE PRIORITIZATION

Priority	Campus	Title of Capital Project Proposal	Project Cost	Cumulative Costs
NEW STRUCTURES				
84-12	ACC	Classroom/Administration	10,600.0	
84-13	UAA/ACC	Campus Housing - Plan, Design and Build Pilot Modules	5,000.0	
84-14	SCC	Sitka Phase II	6,500.0	
		Subtotal	22,100.0	148,227.7
COMMON USE INFORMATION EQUIPMENT				
84-15	SW	Statewide Computer Hardware Acquisition	1,085.0	
	SW	Statewide Systems Software Development	1,100.0	
	UAA/ACC	Library Books	788.6	
	UAJ	Library Material Media Equipment	194.0	
		Subtotal	3,167.6	151,395.3
EQUIPMENT				
84-16	UAF	Instructional and Support Equipment	1,623.0	
	UAA	Instructional/Research/Support Equipment	1,002.9	
	UAA	Student Services/Athletics/PE Sport Center	100.0	
	UAJ	Fine Arts Program Equipment	186.0	
	ACC	Instructional Telecommunications Development	310.0	
	ACC	Instructional Equipment	145.0	
	CCREE	Instructional and Telecommunications Support	1,517.2	
		Subtotal	4,884.1	156,279.4

Section 11.(229)

Statewide Budget Office
September 30, 1982

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
STATEWIDE PRIORITIZATION

Priority	Campus	Title of Capital Project Proposal	Project Cost	Cumulative Costs
FISHERIES RESEARCH AND INSTRUCTION				
84-17	UAJ	Seawater Circulation System Phase II	175.0	
	UAJ	Fisheries Science Center Equipment	210.0	
		Subtotal	385.0	156,664.4
ADMINISTRATIVE EQUIPMENT				
84-18	SW	Facilities Blueprint Microfilming	215.0	
	UAA	Administration Services Equipment	70.9	
	UAA/ACC	Physical Plant Equipment	627.3	
		Subtotal	913.2	157,577.6
ENERGY CONSERVATION				
84-19	UAF	Coal Handling Facility	1,400.0	
	UAA/ACC	Building Modifications	995.5	
		Subtotal	2,395.5	
		TOTAL		$ 159,973.1

* Note all figures are in thousands.

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84-1 MASTER PLANNING AND NEEDS ASSESSMENT $ 4,060.0

Each year the University receives many questions concerning the eventual developmental plans for a campus. There is need for a substantial amount of funds to perform the long-range campus development plans, especially in response to a detailed needs assessment for each location. The campus development plans and needs assessment processes must be under the control of the University architect and must be performed in a rigorous manner. This is the highest priority of the University of Alaska system.

84-2 UA/FAIRBANKS MAJOR REPAIRS AND RENOVATION $ 4,000.0

The dormitories located at the University of Alaska Fairbanks campus, after several years of insufficient maintenance funds, are in need of substantial repairs and renovations. These renovations include upgrading heating systems, replacement and upgrade of kitchen equipment, renovation of student rooms, replacement of dormitory room doors, conversion of storage space to laundry rooms, and upgrade a variety of apartment furnishings.

84-3 GENERAL REPAIR AND RENOVATION $ 11,667.3

The University has historically been underfunded in terms of receiving funds to maintain current physical plant. All units of the University have a substantial need for funds to repair facilities to protect the buildings from the weather,

improve the efficiency of the energy systems, and renovate existing spaces to make them more usable for current programs. The amount to be allocated to each unit depends on a formula utilizing total square footage available, age of buildings, number of people using the facilities, location, and type of structure.

84-4 UA/FAIRBANKS - ESSENTIAL OBLIGATIONS $ 435.0

This project will provide cathodic protection for the dock at the Seward Marine Education Center. Specifically, the repairs will include the bulk head and cells at the dock approach, west end abutment, southwest corner of the warehouse and the bull rail on the west end of the old rail bulkhead. Without this protection, electrolysis will occur and deteriorate the steel pilings with an ultimate result in the loss of the dock.

84-5 UAJ STUDENT HOUSING $ 13,200.0

This project is for student housing which will provide students with low-cost room and board while attending the University of Alaska, Juneau. The addition of this facility is considered essential by the regional accreditation organization. The proposed building(s) will have a total area of 65,823 square feet and will house 200 single students in dormitory-type buildings which will include common recreational, cafeteria, study room areas, computer room; laundry room and resident manager's quarters. Also included will be housing for 50 married students which will feature individual kitchenettes, common recreational and study room areas, computer room, laundry room, and manager's quarters. Parking

is included in the project. The proposed facility will be a ten minute (appproximate) walk from the Auke Lake Campus.

84-6 UAA CLASSROOM/LABORATORY/OFFICE BUILDING $ 25,300.0

This project will provide a 84,000 square foot facility on the Anchorage campus to provide classsroom, laboratories and faculty offices for expanding enrollments in the College of Arts and Sciences and parking spaces as required by code. An FY82 appropriation for $786,700 was to permit the initial design and engineering for this project.

84-7 UAF STUDENT HOUSING $ 11,000.0

The student housing complex will be designed to accommodate single students and student families. A $500,000 appropriation was received in FY82 for dormitory design (student residencies). The building program will require each living unit to be an apartment which will accommodate four single students or a student family. Approximately eighty living units are planned. Each living unit will have a kitchen, a living room, two bedrooms and one bathroom. The units will be furnished. A central facility for mail, laundry and storage is also planned. There will not be a food service facility. The project will be located in the vicinity of the existing student family housing facilities on the campus. The June 1982 "On-campus student housing market analysis" feasibility study by housing consultant Ira Fink, recommends construction of 175 housing units by UAF. This request for funds in the amount of $11 million is to construct Phase I of a larger total project.

84-8 STATEWIDE SERVICES BUILDING $ 18,800.0

The project will be an office structure of 64,000 gross square feet (50,000 NASF) to house all the University of Alaska Statewide Administrative Service functions, including support spaces, i.e., conference rooms, storage areas, work rooms, computer facilities, etc. required for their functioning. $604,500 was appropriated in FY82 to perform the initial design and engineering work, and this work will be awared this fall.

84-9 UAF CLASSROOM/LABORATORY/OFFICE $ 20,000.0

The purpose of this capital request is to obtain space for research and graduate training at the Fairbanks campus. $500,000 was appropriate in FY82 for the initial planning and design of the facility. Lack of space is now the most restrictive factor on research and student training. This request is for an extension to the (existing) C. T. Elvey Building on the West Ridge of campus. Though an extension to the Geophysical Institute itself is an important aspect, the purpose is to provide for further development of all research undertaken by the University, and to provide for the offices of state and federal government which have close scientific connection with the university. The total gross area for the addition would be approximately 56,200 square feet. The estimated net assignable area would be approximately 35,300 net square feet.

84-10 ESSENTIAL EQUIPMENT $ 3,345.4

UA/Fairbanks requires a substantial infusion of new equipment to accommodate a recurring need as a result of expanded enrollment and technological improvements. This project will purchase shelving fixtures to complete the UAA bookstore facility for full use. Without these funds there would be an inadequate amount of shelving to display items the bookstore is selling. Funds are included to purchase the furnishings necessary to complete the UAA administration/classroom building. The location of this facility was moved due to the wetland issue. This resulted in additional costs and surveys, soil testing, and administrative and expense fees. Without this additional funding, the administration building will not be totally operational. Additional items to be funded include equipment for the UA/Juneau Marine and Technology Center and for Anchorage Community College's Applied Science Building.

84-11 SITE DEVELOPMENT, CAMPUS IMPROVEMENTS, LAND ACQUISITIONS $ 14,320.0

The individual projects included in this category are usually preliminary to building new facilities or funds to improve surrounding areas. Funds are being requested to design the campus at Tanana Valley Community College, purchase land at UA/Anchorage, Northwest Community and Ketchikan Community College, improve pedestrian walkways at Anchorage Community College, a variety of roads and streets and parking improvements in the community college division and grounds improvement and landscaping at UA/Fairbanks.

84-12 ANCHORAGE COMMUNITY COLLEGE CLASSROOM/ADMINISTRATION BUILDING $ 10,600.0

Anchorage Community College requests a new building to replace three temporary, relocatable structures currently housing instructional programs and support services. The current temporary structures are unsafe and have been condemned by the Anchorage Fire Marshal. This building would permit centralization of administration and student service departments. It will also provide space for instructional programs, computer labs and conference rooms. Programs and functions that will be programmed into or accommodated by Phase I are: Home Economics, Computer Assisted Instructional Labs, Chancellor and Deans, Public Affairs, Business, Personnel, Accounting, Payroll, Purchasing and Public Safety.

84-13 UA/ANCHORAGE CAMPUS HOUSING $ 5,000.0

This request will provide campus housing for 100 students. The housing will consist of a series of units within a structure which would provide for single or married students without remodeling construction. The units will have self-contained bath, dining and sleeping areas for a small group or family. Site work will include utilities, roads, walkways, lighting and landscaping. The facilities will be located in the vicinity of an existing shopping center on the south side of the campus. The projected building site is currently owned by Alaska Pacific University and leased for purchase by the University.

84-14 CCREE - SITKA PHASE II $ 6,500.0

This request is for the second building (Phase II) for the Sitka Community College Campus. It will contain vocational shops, general classrooms, offices, storage, and community service rooms. It includes permanent and operational equipment.

84-15 COMMON USE INFORMATION EQUIPMENT $ 3,167.6

Equipment in this category includes such items as computer hardware for the computer network, development of new systems for use by the whole University system, and library books and media equipment at UA/Anchorage and UA/Juneau. This equipment is used by a wide variety of people. The computer equipment in particular needs to be purchased to permit a continued and planned upgrade of the facilities from year-to-year as a result of changing technology.

84-16 EQUIPMENT $ 4,884.1

There is an ongoing need to purchase instructional, research, and direct support equipment throughout the University system. This is all in excess of replacement equipment funds which are normally available in the operating budget. The university has greatly expanded its programs and the amount of equipment purchased has lagged behind. Major upgrades in the area of instructional telecommunications and high technology areas require something more substantial than simple replacement.

84-17 FISHERIES RESEARCH AND INSTRUCTION AT UA/JUNEAU $ 385.0

These funds would be used to complete Phase II of the seawater circulation system at UA/Juneau which would include a permanent pumphouse and reservoirs, supply pumps, filters and headtanks. The seawater system is used for holding marine animals and plants for teaching and research purposes at UA/Juneau. Phase I has already been completed. Additionally, this relatively new program has expanded into the new third floor addition of the Fishery Science Building and the facility needs a variety of equipment to be operational. Some examples of equipment include a freezer/dryer, ultracentrifuge, computer terminals, chromatograph, and aquariums.

84-18 ADMINISTRATIVE EQUIPMENT $ 913.2

Funds are being requested for Statewide Administration to microfilm and store all pertinent design and construction drawings for all University facilities. This would permit better recordkeeping and be a more secure way of keeping track of our facilities. Funds are also being requested for UA/Anchorage to purchase physical plant equipment for snow removal, general maintenance, ground maintenance, and equipment for the maintenance shop. Additional equipment including word processors and computer terminals are also needed.

ENERGY CONSERVATION $ 2,395.5

The UA/Fairbanks coal handling facility project would improve the efficiency of handling 75,000 tons of coal per year at the UA/Fairbanks heating plant. The proposal is for building a heated enclosure large enough to hold ten railroad cars of coal. The structure would be designed so that coal can be thawed from waste heat from the power plant which would result in more efficient burning of the coal in the furnaces. At present, up to five men must be utilized to help with coal handling. This structure would permit the reduction to one or two persons. UA/Anchorage building modifications for energy and safety is being requested for the modification of the energy modules to heat supply and combustion air when the ambient condition is below freezing. Funding for a building automation system for the UAA/ACC campus is also requested. This system would permit monitoring of campus energy utilities and energy user systems in each facility. Control would be provided for each of the fire zones in each campus facility.

Total $ 159,973.1

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UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
MAU PRIORITIES

MAU PRIORITY	TITLE	AMOUNT	TOTAL
STATEWIDE ADMINISTRATION			
84-1	Statewide Services Building	$ 18,800.0	
84-2	Campus Master Planning	1,100.0	
84-3	Facilities Blueprint Microfilming	215.0	
84-4	Life Cycle Costing	250.0	
84-5	Computer Hardware Acquisitions	1,085.0	
84-6	Statewide Systems Software Development	1,100.0	
	Subtotal Statewide		$ 22,550.0
UA/FAIRBANKS			
84-1	Student Housing Complex Phase I	11,000.0 — SB 19	
84-2	Classroom/Laboratory/Office Building	20,000.0 — SB 18* 1,200.	
84-3	Instructional and Support Equipment #1	3,240.0 — SB 162 - 1,623	
84-4	Repairs and Renovations	703.0 —	
84-5	Code Deficiencies Corrections	2,747.0 - SB 18*	
84-6	Seward Dock Cathodic Protection	435.0 — ~~SB~~ 600. 500.0	
84-7	Student Housing/Renovations	4,000.0	
84-8	Development Needs Assessment/Planning	1,500.0	
84-9	Native Studies/Fine Arts Instructional Space	1,151.0 — SB 18*	
84-10	Campus Paving, Traffic Signals and Lighting	520.0 — SB 162 - 133.00	
84-11	Grounds Improvements and Campus Landscaping	250.0	
84-12	Coal Handling Facility	1,400.0	
84-13	Architectural Barrier Removal	254.0 — SB 162	
	Subtotal UA/Fairbanks		47,200.0

SW - R/R 4,000.

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
MAU PRIORITIES

MAU PRIORITY	TITLE	AMOUNT	TOTAL
UA/ANCHORAGE			
84-1	Classroom/Lab/Office Building	$ 25,300.0	
84-2	Needs Assessment and Pre-program Building Design	750.0	
84-3	Repair and Renovation/CAS Building	1,500.0	
84-4	Campus Housing	5,000.0	
84-5	Bookstore Fixtures	330.0	
84-6	Administrative Furnishing Shortfall	350.0	
84-7	Physical Plant Equipment	627.3	
84-8	Administrative Services Equipment	70.9	
84-9	Instruction/Research/Support Equipment	1,002.9	
84-10	Library Books	788.6	
84-11	Student Services/Athletics/PE Sports Center	100.0	
84-12	Building Modifications for Safety and Energy	995.5	
84-13	Repairs and Renovations	884.8	
84-14	Land Acquisition	9,900.0	
	Subtotal UA/Anchorage		47,600.0
UA/JUNEAU			
84-1	Student Housing Phase I	13,200.0	
84-2	Campus Development Needs Assessment	150.0	
84-3	Vocational Ed. Shop and Equipment	800.0	
84-4	Library Materials and Media Equipment	194.0	
84-5	Marine & Technology Center Equipment	500.0	
84-6	Seawater Circulation System Phase II	175.0	
84-7	Fisheries Science Center Equipment	210.0	
84-8	Fine Arts Program Equipment	186.0	
84-9	Remodeling of Counseling and Admissions	68.0	
84-10	Repairs and Renovations	367.0	
	Subtotal UA/Juneau		15,850.0

Statewide Budget Office
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UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
MAU PRIORITIES

MAU PRIORITY	TITLE	AMOUNT	TOTAL
ANCHORAGE COMMUNITY COLLEGE			
84-1	Classroom/Administrative Building Phase I	$ 10,600.0	
84-2	Equipment/Applied Science	548.4	
84-3	Telephone Lines-Six Year Maintenance Plan	250.0	
84-4	Instructional Telecommunications Development	310.0	
84-5	Instructional Equipment	145.0	
84-6	Pedestrian Circulation Improvement	250.0	
84-7	Faculty Offices	11.6	
	Repair and Renovations	1,040.0	
	Campus Needs Assessment and Planning	100.0	
	Subtotal Anchorage Community College		13,255.0
CCREE			
84-1	Building Code Corrections	670.0	
84-2	Handicapped Barrier Removal	197.0	
84-3	TVCC Campus Facility Phase II (Planning and Design)	1,500.0 — SB 18	
84-4	Repairs and Renovations	1,023.9	
84-5	Sitka Community College Phase II	6,500.0	
84-6	PWSCC Classroom/Laboratory/Office Building (Planning and Design)	450.0	
84-7	Campus Development Needs Assessment/Planning	210.0	
84-8	Total Equipment: Instructional/Institutional Telecommunications and Support	1,517.2	
84-9	Land Acquisition for Campus Development	450.0	
84-10	Roads, Streets and Parking	910.0	
84-11	KECC Land and Building Acquisition Elimination of Access Problem	90.5	
	Subtotal CCREE		13,518.1
	TOTAL UNIVERSITY OF ALASKA		$ 159,973.1

and (2) the original obligation date is not more than two years from the requested date of disbursement. (§ 1 ch 113 SLA 1962)

Sec. 37.25.020. Unexpended balances of appropriation for capital projects. An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years. Between July 1 and August 31 of each fiscal year, a statement supporting the amount of the unexpended balance required to complete the projects for which the initial appropriation was made and the amount that may be lapsed shall be recorded with the Department of Administration. (§ 2 ch 113 SLA 1962)

Chapter 30. Local Government Bonding.

Article
1. Anticipatory Borrowing (Repealed)
2. Restrictions on Sale of Bonds and Bond Anticipation Notes (§ 37.30.100)

Article 1. Anticipatory Borrowing.

Section
10—90. [Repealed]

Secs. 37.30.010 — 37.30.090.
Repealed by § 1 ch 118 SLA 1972.

Editor's note. — The repealed article derived from § 1, ch. 117, SLA 1964; § 1, ch. 189, SLA 1970.

Article 2. Restrictions on Sale of Bonds and Bond Anticipation Notes.

Section
100. Prohibited bidding on bonds

Sec. 37.30.100. Prohibited bidding on bonds. (a) No person who provides financial programming or marketing assistance to a political subdivision of the state, whether home rule or otherwise, in connection with the issuance or sale of general obligation bonds, revenue bonds or bond anticipation notes of the political subdivision may bid on the bonds or notes if offered at public sale, or negotiate for their purchase if sold at private sale.

(b) The sale of general obligation, revenue bonds or bond anticipation notes of a political subdivision to a person prohibited from bidding on, or negotiating for the sale of bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker. (§ 2 ch 102 SLA 1974)

Chapter 35. Alask
Sim

Section
10. Legislative intent
20. Creation and duties of pa
reduction coordinator
30. Compliance by agencies

Editor's note. — Section 2, effective June 19, 1977, provides: "expires on July 1, 1979."

Sec. 37.35.010. Legislati chapter is declared to be as f of the state government ha placed an unprecedented businesses. It is hereby dec simplify and minimize th necessitate to the fullest gathering data sufficient to of the necessary programs o be a comprehensive and procedures of the state paperwork burden in order t on a continuing basis. (§ 1

Legislative committee reports. report on ch. 147, SLA 1977 (SB 1977 Senate Journal, p. 420. For

Sec. 37.35.020. Creation coordinator. Within 15 days a person within the Office reduction coordinator. The governor and may be re coordinator shall establi management program wh government. In so doing, t

(1) make an inventory of a brief statement of the au

(2) assign a number t authorized, needed and us

(3) direct the destructio determined not to be prop

Prepared March 9, 1983

Senator Faiks

SB 19 began as a $30 million dollar appropriation for construction of UAA dormitory complexes at Anchorage and Fairbanks.

There is a HESS committee substitute and Letter of Intent. The substitute raises the appropriation to $53,250,000, and expands the bill to include a land purchase in Anchorage, construction money for student housing for Fairbanks, and planning and construction money for student housing in Anchorage, Juneau, and Kenai. The construction appropriations for Anchorage, Kenai and Juneau have an effective date of May 1, 1984. In this way, the necessity of legislating for student housing appropriations in two separate measures is avoided, and commitment to the program is stressed.

The Letter of Intent explains that the effective date of May 1, 1984 for construction funds also allows time for other means of funding to be explored, such as a mixture of revenue bonds, private sector investment and general fund monies. If those possibilities exist, adjustments can be made in the second session of the legislature; if they do not exist, the money is in place for construction.

Section 1: Land Purchase

It is suggested that a Finance Committee substitute be adopted incorporating the following wording:

" The sum of $9,900,000 is appropriated from the general fund to the University of Alaska for acquisition of approximately 40 acres of land from Alaska Pacific University under an option to purchase agreement executed in June, 1982."

The change in wording of this section is to further define the land purchase.

In 1982, an option to purchase approximately 40 acres of APU land for 10.9 million dollars was negotiated. The option to purchase cost one million dollars per year for three years. The cost of the option reduces the purchase price of the land. The previous legislature appropriated 1 million dollars for the option with the hope and expectation that this year sufficient funds for the complete purchase might be appropriated. Section 1 of the bill does just that.

Section 2 and Section 6: Anchorage

Appropriates 1 million for planning, including preparation of engineering plans, and $10 million for construction of student housing at UAA and ACC in Anchorage. The housing will be built on land purchased by Section 1.

In 1974, ASHA did a study and estimated housing requirements for students in Anchorage would reach 800-1200 students by the early 1980's. In 1981, a pre-registration sample at UAA indicated a need for housing for 410 students. ACC's enrollment is three times that of the University, but has a smaller percentage of students who desire housing. The University feels that the 800+ number estimated by ASHA is valid.

The University Office of Facilities Planning Construction in Fairbanks has determined, based on other construction and cost per square foot formulas, that the Anchorage housing will cost $10 million to build. Pre-planning, soils work and architectural work generally runs 10% to 20% of the construction cost.

Planning and actual site work can begin immediately, and some housing can be completed in time for occupancy by September, 1984.

About 800 students can be housed in this facility. Each individual unit will have self-contained bath, dining and sleeping areas for a small group or family. There will be no common food service - it is felt to be a greater economy to provide cooking facilities in the individual

units, or let students purchase meal tickets [illegible]

It is hoped that fees can be established that will cover the maintenance costs, so that the housing is self-sustaining once it is built.

(Information furnished by Lee Piccard, Vice Chancellor of Campus Affairs, 786-1588).

Section 3: Fairbanks

Appropriates $11 million for housing construction at UAA in Fairbanks.

Design and engineering work is done, but a portion of the architectural and administrative costs are not paid. $8.8 million will be used for actual construction, the rest for administration, fees, furnishings, art and miscellaneous expenses for the project.

This phase of construction will contain 61 units of two bedroom apartments, housing four students each; the total facility will house 254 students. Market survey feasibility studies done in 1982 indicate a demand for 175 units.

Fairbanks projected rent charge is $150 per student per month for housing. It is hoped this will cover operation and maintenance so that the housing is self-sustaining.

(Information provided by Jerry Neubert, Office of Facilities, Planning and Construction, 474-7591).

Section 4 and Section 7: Juneau

Appropriates $1 million for planning and $13.2 million for construction of housing at UAA Juneau.

Several studies have been done over the past years to determine the need for student housing in Juneau. In 1981, the Student Housing Committee of UAJ conducted a survey among high school students in

Southeast Alaska. This survey indicated a need for housing for approx. 750 students over the next few years. This funding will provide housing for the first phase of 250 students. The need for housing will be reconfirmed out of money appropriated for planning. An official study will be done out of the $1 million dollar planning appropriation.

The City and Borough of Juneau has agreed to donate the land to the University for the student housing. The University does not at this time hold title to the land, but the mechanics to accomplish this is in process.

The proposed building will either be a dormitory-type building which will include common recreational, cafeteria, study room areas, computer room, laundry room and resident manager's quarters, or individual units like those planned in Anchorage and Fairbanks, or a combination of the two plans.

No rent charges have been established as yet.

(Information provided by Gerry Neubert, Office of Facilities, Planning and Construction, UAA, 474-7591).

Section 5 and Section 8: Kenai

Appropriates $650,000 for planning and 6½ million for construction of student housing at Kenai Community College.

A study conducted in 1981 by John Williams of the Kenai Faculty indicated a need for housing 156 students. By the fall of 1984 there is a projected need for housing for 238 students. No additional growth factor was added for the additional student body expected to occupy the new Vocational Training Center so the housing need figure is considered to be conservative.

The bond package that was vetoed by the Governor in 1982 contained a section for an appropriation to the Kenai Peninsula Community College for $580,000 for engineering and architectural design of student

housing. This is apparently the basis for the $650,000 request of this year, with an inflation factor, and projects out to $6,500,000 for the construction phase.

There is sufficient land available on the campus to accomodate the proposed housing.

Section 9:

Money for the land purchase in Anchorage lapses into the general fund July 1, 1984.

Section 10:

Appropriations 2-8 are for capital projects and subject to AS 37.25.020.

Section 11:

Appropriations for the land purchase, planning at Anchorage, Juneau and Kenai and construction at Fairbanks take effect immediately.

Section 12:

Construction appropriations for Anchorage, Juneau and Kenai take effect May 1, 1984.

EXCLUSIVE OPTION TO PURCHASE REAL PROPERTY

THIS AGREEMENT is made and entered into this 17th day of June, 1982, by and between Alaska Pacific University, an Alaska non-profit corporation (hereinafter referred to as "Optionor") whose address of record is President's Office, Alaska Pacific University, E. Wesley Drive, Anchorage, Alaska 99504, and the University of Alaska, a constitutional corporation (hereinafter referred to as "Optionee") whose address of record is President's Office, University of Alaska, 101 Bunnell Building, 303 Tanana Drive, Fairbanks, Alaska 99701.

WHEREAS, the parties were unsuccessful in their attempts to secure $10,900,000 from the 1982 Legislature to effect an immediate sale of the following described real property, and

WHEREAS, the parties believe it is to their mutual advantage to secure the Optionee's right to purchase that property at a given price within a time certain in the future;

NOW, THEREFORE, the parties mutually agree as follows:

1. Exclusive Option to Purchase

Subject to the terms and conditions contained herein, Optionor grants Optionee an exclusive option to purchase that certain real property (hereinafter referred to as "Property") described as follows:

> A portion of Section 28, Township 13 North, Range 3 West, Seward Meridian, Alaska, more particularly described as follows:
>
> That portion of the Northeast quarter of the Southeast quarter and the Southeast quarter of the Northeast quarter of Section 28 lying west

9/28/82 XC CHRIS ATTY

of Bragaw Street centerline and south of University Avenue centerline containing approximately 40 acres.

2. Term

The term of this agreement shall be two (2) years and one (1) month, commencing on July 1, 1982, and terminating on July 31, 1984. Optionee, in its sole discretion, has the right (but no obligation) to purchase the Property in accordance with the terms and conditions stated hereafter at any time during the term of this agreement.

3. Consideration

Optionee shall pay to Optionor the sum of One Million Dollars ($1,000,000) for the first year and an additional sum of One Million Dollars ($1,000,000) for the succeeding thirteen months, as good and valuable consideration for this exclusive option. Payment in full for the first year shall be due and payable upon execution and delivery of this agreement. Payment in full for the succeeding thirteen months shall be due and payable on or about July 1, 1983, but in no event later than July 31, 1983. The total amount of consideration paid shall be deducted from the purchase price if the option is exercised.

4. Purchase Price

The purchase price of the Property shall be Ten Million Nine Hundred Thousand Dollars ($10,900,000).

5. Eminent Domain

In the event any part of the Property is condemned by a public entity in the lawful exercise of its power of eminent domain,

the purchase price shall be reduced pro tanto by the total amount of compensation paid to Optionor for the property taken.

6. Exercise of Option

Optionee shall exercise its exclusive option by giving written notice of its intent to do so not less than ten (10) days prior to the proposed closing date. At the time of closing, Optionee shall deliver to Optionor a sum of money equal to the purchase price, less any prior remittances of consideration (including option payments and compensation paid for takings, if any, by way of eminent domain). At the time of closing, Optionor shall deliver to Optionee a recordable statutory warranty deed conveying fee title to the Property.

7. Title Conveyed

(a) Title to the Property will be conveyed subject to the following matters or encumbrances:

(1) Reservations, exceptions and conditions in U.S. Patent(s);

(2) Easements and permits of record, including but not limited to telephone, natural gas pipeline, water, sewer, drainage and gas;

(3) Agreement dated March 21, 1979, between the U.S. Department of Interior ("BLM") and Alaska Pacific University, recorded March 29, 1979, in Volume 389 at Page 768;

(4) Contemplated realignment of the South Fork of Chester Creek pursuant to a plan approved by the Army Corps of Engineers with the realigned creek running or passing through the southeasterly corner or segment of the Property.

(b) In the event Optionor is unable to convey title to the Property to Optionee at the closing, in accordance with

this agreement, Optionor may adjourn the closing for up to 180 days during which time Optionor will use its best efforts to cure any and all title or other defects; provided, however, Optionee may accept such title as Optionor is able to convey, without any claim by Optionee for abatement of the purchase price.

(c) If the closing is adjourned pursuant to subsection (b, and the Optionor at the end of such 180 day period is still unable to convey title as contemplated herein, (i) the Optionor shall refund to the Optionee all option payments made hereunder, (ii) this option agreement shall terminate forthwith, and (iii) neither party shall have any further rights or obligations of any kind under this agreement.

8. Closing in Escrow

Either party has the right, on five (5) days' notice to the other party, to close this sale through an escrow with the Alaska Title Guaranty Co., in accordance with the usual form of deed and money escrow agreement then in use by that company.

9. Closing Costs

The costs of closing shall be borne by the party incurring them, except that Optionor expressly assumes the cost of document preparation.

10. Failure to Remit Consideration; Failure to Exercise Option

In the event that Optionee fails to timely remit payment of any consideration due or to timely exercise its exclusive option, then this agreement shall terminate forthwith and neither party shall have any further rights or obligations of any kind under this agreement.

11. General Conditions

Recording--Either party has the right to record this agreement.

Amendments--This agreement sets forth the entire agreement and understanding between the parties and may not be modified except by a writing signed by both parties hereto.

Successors in Interest--The terms, covenants, and conditions contained herein shall be binding upon and inure to the benefit of the parties' heirs, successors, and assigns.

Representation as to Authority--Each party represents and warrants that it has the authority to enter into this agreement and that the persons signing for each are expressly authorized to do so by their respective governing boards.

Notices--Any notices permitted or required hereunder shall be delivered or mailed postage prepaid with return receipt requested, and delivered or addressed to the following:

President Jay Barton
University of Alaska
101 Bunnell Building
303 Tanana Drive
Fairbanks, AK 99701

President Glenn Olds
Alaska Pacific University
University Drive
Anchorage, Alaska 99504

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

OPTIONOR:

Alaska Pacific University

By _____
Glenn A. Olds
President

OPTIONEE:

University of Alaska

By _____
Jay Barton
President

ACKNOWLEDGEMENTS

THIS IS TO CERTIFY, that on this 24th day of June, 1982, before me, the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared JAY BARTON, to me known to be the President of the UNIVERSITY OF ALASKA, a constitutional corporation, and who acknowledged to me that he executed the within agreement on behalf of said corporation as such officer thereof, by authority of its Board of Regents, as the voluntary act and deed of said corporation, for uses and purposes therein mentioned.

_____
Notary Public in and for Alaska
My commission expires: 8/10/85

THIS IS TO CERTIFY, that on this 17th day of June, 1982, before me, the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared _____, to me known to be the President of ALASKA PACIFIC UNIVERSITY, an Alaska non-profit corporation, and who acknowledged to me that s/he executed the within agreement on behalf of said corporation as such officer thereof, by authority of its governing body, as the voluntary act and deed of said corporation, for uses and purposes therein mentioned.

_____
Notary Public in and for Alaska
My commission expires: 5-1-86

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

SUMMARY:

TO: House HESS Committee

FROM: Linda Otey, Committee Aide

DATE: April 30, 1983

RE: CSSB 19 (Fin)

The University of Alaska FY 84 Board of Regents Capital Request Statewide Prioritization document is also included as reference for this bill. The sections relate to those items listed on the report in green when applicable. Backup is in order by sections in folders. Senate backup is attached. Backup for Kenai Peninsula Community College is included.

SECTIONAL ANALYSIS:

Section 1: 9.9 million for land acquisition of 40 to be transferred from APU to the Anchorage campus. 84-11 page 33, Form 35 attached. Copy of agreement included.

Section 2: 11.0 million University of Fairbanks construction of student housing. Priority 84-7 page 33, Form 35 included.

Section 3: 500,000 for access acquisition and road construction for student housing at University of Juneau. Backup narrative attached.

Section 4: 6.6 million to N.W. Arctic School District for construction at Kotzebue Technology Center. No Form 35. Backup narrative attached.

Section 5: 2.2 million construction for student housing at Kuskokwim Community College. No Form 35. Backup narrative attached.

Section 6: 107,000 to move office building in Bethel to the Kuskokwim Community College. Backup from college attached.

Section 7: Section 1. Lapse date of June 30, 1984.

Section 8: Appropriation of Sections 2-6 subject to 37.25.020. Copy attached.

Sec. 1 SB 19

Project Title	Location(s)	Election Districts Served	Start Date	Completion Date
UAA Land Acquisition	Anchorage	0-20	July 1, 1983	July 1, 1983

AGENCY REQUEST			Operational Cost & No. Personnel (Increase -- (Decrease))		First Operating Year	Ultimate Annual Year	GOVERNOR'S REQUEST			
							Approved	Deferred	Disapproved	
1002	Federal Receipts		Funding Source	Federal Receipts		0	1002	Federal Receipts		
1003	G/F Match			General Fund		0	1003	G/F Match		
1004	General Fund (D.A.)	9,900.0					1004	General Fund (D.A.)		
1005	I/A Receipts						1005	I/A Receipts		
	G.O. Bonds		Total Annual Operational Cost			0		G.O. Bonds		
			Position (FTE)			0				
			Previous Year Priority	Agency Priority 84-11		Governor's Priority				
	Total	9,900.0						Total		

PROJECT DESCRIPTION

This will complete the purchase of land from Alaska Pacific University which was initiated July 1, 1982 with a payment of $1,000,000.00. This request is for the balance due July 1, 1983.

This land is adjacent to University of Alaska land and land owned by Providence Hospital. It is bordered to the north by University Drive (UAA border), to the east by Bragaw Street, and to the west by Providence Hospital property.

PROJECT DESCRIPTION – PROPOSED CAPITAL

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date 9-82

FY 84

00139

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering							
Land	9,900.0	9,900.0					
Construction							
Equipment							
Administration and Other							
Total Annual Expenditure (Capital Cost)	9,900.00	9,900.0					

Project Justification

This will allow the University of Alaska, Anchorage to build campus housing in the vicinity of an existing shopping center to the south of the campus. It will also provide for the construction of future facilities close to the existing campus with a minimum impact on campus wetlands.

Project Type

- ☐ Building Construction (C)
- ☐ Other Improvement (I)
- ☐ Equipment (E)
- ☑ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

Project Characteristics

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☑ Supplement Previously Authorized
- ☐ Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☐ Other

Site Features

NO	YES	
☒	☐	Site Currently Owned?
☐	☒	All Utilities Available?
☐	☒	Access Already Available?

PROJECT TITLE UAA Land Acquisition

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date 9-82

35b PROPOSED CAPITAL PROJECT

FY 84

00131

Project Title	Location(s)	Election Districts Served	Start Date	Completion Date
TVCC CAMPUS FACILITY PHASE II PLANNING & DESIGN	Fairbanks	20	FY84	FY85

AGENCY REQUEST			Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year ____	Ultimate Annual Year ____	GOVERNOR'S REQUEST Approved	Deferred	Disapproved
1002	Federal Receipts		Funding Source	Federal Receipts			1002	Federal Receipts	
1003	G/F Match			General Fund			1003	G/F Match	
1004	General Fund (D.A.)	1,500.0					1004	General Fund (D.A.)	
1005	I/A Receipts						1005	I/A Receipts	
	G.O. Bonds		Total Annual Operational Cost					G.O. Bonds	
			Position (FTE)						
			Previous Year Priority	Agency Priority 84-11		Governor's Priority			
	Total	1,500.0						Total	

PROJECT DESCRIPTION

This project will provide funds to complete the planning and design of a total campus facility for Tanana Valley Community College. Planning for the campus was begun in fiscal year 1982 in conjunction with the schematics for the first building funded under a 1978 obligation bond. Of necessity, planning and design for the campus had to be severely limited due to both the intent of the authorization and the amount of funding available. A Users Committee, which was appointed for the planning of a master plan and the Phase I building, and the TVCC Community College Council have endorsed a concept for future campus development which has been approved by the Board of Regents. The Regents have also dedicated a parcel of land to TVCC for use for the campus.

The first building (Phase I) will house Student Services (admissions, records, registration and counseling), Business Services (purchasing, payables, receivables, and personnel) and the Campus President's office. Funding is now needed to complete the planning and design of the remainder of the campus (Phase II and III). These future facilities will house the instructional programs and academic support offices, shops and storage areas, study areas, classrooms and laboratories. The total size of Phase II and III is 140,195 gross square feet.

Tanana Valley Community College does not presently have any physical facilities of its own nor any facilities under its direct control. There is confusion in the service area over where people and programs are located, and there is inconvenience to the students in attending classes and obtaining information. The completion of planning and design for the campus is an important step toward the realization of the goal of providing a totally comprehensive campus and in providing an identity and definite location for the college.

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering	1,500.0	1,500.0					
Land							
Construction							
Equipment							
Administration and Other							
Total Annual Expenditure (Capital Cost)	1,500.0	1,500.0					

Project Justification

Tanana Valley Community College, established in July 1974 and having no facilities of its own, utilizes space on the University of Alaska Fairbanks campus for administrative support services, student services, specific instructional activities and programs and for general classroom use. Limited space has also been obtained at the Hutchison Career Center for specific programs and technical support services and other space in the community is leased for program and activity use.

Space for the programs, offices and support services on the Fairbanks campus is at a premium as both TVCC and UAF are experiencing enrollment increases and program expansion. With this expansion and increased enrollment comes the need for additional classrooms, laboratories, storage space and offices. This space is not available for either institution and often overcrowded conditions exist.

As TVCC becomes more comprehensive, enrollment in present programs is expected to increase and requests for additional instructional services will be forthcoming. Planning and design funds for the campus mean a step toward the construction of a total facility which will enable the college to be adaptable and flexible, serving its constituency quickly and effectively.

Project Type

- ☐ Building Construction (C)
- ☐ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☒ Professional Services (P)
- ☐ Other (O)

Project Characteristics

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized
- ☐ Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☒ Other

Site Features

NO	YES	
☐	☐	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

PROJECT TITLE TVCC CAMPUS FACILITY PHASE II PLANNING & DESIGN

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

35b PROPOSED CAPITAL PROJECT

Revised Date

FY 84

00144

Project Title	Location(s)	Election Districts Served	Start Date	Completion Date
UAF Student Housing Complex -- Phase I	Fairbanks	0-20	July 1983	June 1985

AGENCY REQUEST			Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year FY84	Ultimate Annual Year FY85	GOVERNOR'S REQUEST Approved	Deferred	Disapproved
1002	Federal Receipts		Funding Source	Federal Receipts			1002	Federal Receipts	
1003	G/F Match			General Fund	30.0	30.0	1003	G/F Match	
1004	General Fund (D.A.)	11,000.0			150.0	175.0	1004	General Fund (D.A.)	
1005	I/A Receipts						1005	I/A Receipts	
	G.O. Bonds		Total Annual Operational Cost		180.0	205.0		G.O. Bonds	
			Position (FTE)		2	2			
			Previous Year Priority: 83-18	Agency Priority: 84-7		Governor's Priority:			
	Total	11,000.0						Total	

PROJECT DESCRIPTION

The student housing complex will be designed to accommodate single students and student families. A $500,000 appropriation was received in FY82 for dormitory design (student residences). The building program will require each living unit to be an apartment which will accommodate four single students or a student family. Approximately eighty living units are planned. Each living unit will have a kitchen, a living room, two bedrooms and one bathroom. The units will be furnished. A central facility for mail, laundry and storage is also planned. There will not be a food service facility. The project will be located in the vicinity of the existing student family housing facilities on the campus. The June 1982 "on-campus student housing market analysis" feasibility study recommends construction of 175 housing units by UAF. This request for funds in the amount of $11 million is to construct Phase I of a larger total project.

35a PROJECT DESCRIPTION - PROPOSED CAPITAL PROJECT

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date

FY 84

00098

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering	880.0	350.0	350.0	180.0			
Land							
Construction	8,140.0		4,070.0	4,070.0			
Equipment	1,100.0		550.0	550.0			
Administration and Other	880.0	290.0	300.0	290.0			
Total Annual Expenditure (Capital Cost)	11,000.0	640.0	5,270.0	5,090.0			

Project Justification

Project Need:

The University of Alaska, Fairbanks is experiencing a period of substantial full-time enrollment growth and a coincidental housing occupancy increase. In FY82 about 200 residence hall applicants and 100 student family housing applicants cannot be accommodated. It is anticipated that this growth will continue.

The proposed complex will accommodate either or both single students or students with families. The flexibility inherent in the design will permit the University to respond to disproportionate demand by either group. If this proposal is not funded the consequent housing shortage will adversely affect University full-time enrollment. Enrollment growth is currently projected to be at 4.8% annually for the next five years.

Documentation of Estimated Capital Costs:

The costs of the project have been estimated by the Office of Facilities, Planning and Construction and a cost consultant. Included in the estimate are fixtures, furniture and equipment required for occupancy of the facility.

Analysis of Estimated Impact on Operating Expenses:

The operation of the complex will require a $175,000 increase in the housing operating budget derived from program receipts (rent collections). In addition the need for a resident advisor and four student advisors, a total of two, full-time employment positions, will require a $30,000 increase in the Student Affairs operating budget derived from State general funds.

Identification of Alternatives Considered:

The availability of off-campus rental housing facilities in Fairbanks has been examined. A housing office survey of 27 privately operated complexes with a total of 1891 units revealed only 13 vacancies for September 1981. A study conducted by Northwest Pipeline revealed a similar finding.

Project Type

- [X] Building Construction (C)
- [ ] Other Improvement (I)
- [ ] Equipment (E)
- [ ] Land (L)
- [ ] Professional Services (P)
- [ ] Other (O)

Project Characteristics

- [X] Totally New Facility
- [ ] Addition to Existing Facility
- [ ] Renovation of Existing Facility
- [ ] Major Maintenance or Repair
- [ ] Supplement Previously Authorized
- [ ] Funds to Enable Completion
- [ ] One of Several Phases
- [ ] Major External Funding
- [ ] Other

Site Features

NO	YES	
[ ]	[X]	Site Currently Owned?
[ ]	[X]	All Utilities Available?
[ ]	[X]	Access Already Available?

PROJECT TITLE: UAF Student Housing Complex - Phase I

CATEGORY: EDUCATION

AGENCY: UNIVERSITY OF ALASKA

PROGRAM: ADULT AND POSTSECONDARY EDUCATION

35b PROPOSED CAPITAL PROJECT

Revised Date

FY 84

00099

PROJECT TITLE:

Bid Date: 1983	Budget Request:	FY of Request FY84
Occupancy Date: N/A	General Fund: $	Project Category 5; Site Development
ASF N/A NSF: N/A	Other Fund:	Category Priority
	Total $ 500,000	Campus Priority

Project Description:

CATEGORY 5: LAND ACQUISITION AND SITE DEVELOPMENT

ACCESS ROADS

1. Construct an access road to the Student Housing site.	$ 450,000
CONSTRUCTION TOTAL	450,000
Contingency	50,000
Project Total	$ 500,000

Project Justification:

Sites for student housing are currently not accessible. A student housing facility is being requested under a separate appropriation. Development of new areas of the campus necessitates major investments in the infra-structure which are far beyond costs normally covered by an appropriation for a new building. Constructing access prior to beginning the construction of the housing units is a necessary and logical sequence to avoid further delays in completion of the work.

Engineering and administration for this project will be conducted under a separate appropriation for design of student housing.

Project Title	Location(s)	Election Districts Served	Start Date	Completion Date
UAJ Student Housing - Phase I	Juneau	1-4 A-C	November 1984	August 1986

AGENCY REQUEST			Operational Cost & No. Personnel Increase - (Decrease)		First Operating Year 86	Ultimate Annual Year 87/	GOVERNOR'S REQUEST Approved	Deferred	Disapproved
1002	Federal Receipts		Funding	Federal Receipts			1002 Federal Receipts		
1003	G/F Match			General Fund			1003 G/F Match		
1004	General Fund (D.A.)	13,200.0	Source	Room/Board Student Fees	590.0	590.0	1004 General Fund (D.A.)		
1005	I/A Receipts						1005 I/A Receipts		
	G.O. Bonds		Total Annual Operational Cost		590.0	590.0	G.O. Bonds		
			Position (FTE)		13.0	13.0			
			Previous Year Priority	Agency Priority	Governor's Priority				
	Total	13,200.0	83-1	84-5			Total		

PROJECT DESCRIPTION

This project is for student housing which will provide students with low-cost room and board while attending the University of Alaska, Juneau. The proposed building(s) will have a total area of 65,824 sq. ft. and will house 200 single students in a dormitory-type building which will include common recreational, cafeteria, study room areas, computer room, laundry room and resident manager's quarters. Also included will be housing for 50 married students which will feature individual kitchenettes, common recreational and study room areas, computer room, laundry room, and manager's quarters. Parking is also included in the project. The proposed facility will be a 10 minute (approximate) walk from the Auke Lake Campus.

35a PROJECT DESCRIPTION - PROPOSED CAPITAL BUDGET

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date

FY 84

00093

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering	1,250.0	700.0	550.0				
Land							
Construction	10,175.0	3,250.0	6,925.0				
Equipment	1,045.0		1,045.0				
Administration and Other	730.0	400.0	330.0				
Total Annual Expenditure (Capital Cost)	13,200.0	4,350.0	8,850.0				

Project Justification

Affordable housing is essential to UAJ students seeking an education. Results of a national survey reported in The Chronicle of Higher Education (2/9/81) showed that over half of 1980 entering freshmen expected to live in some form of campus housing. UAJ cannot currently fulfill that expectation. The visiting evaluation team of the Northwest Association of Schools and Colleges Commission found the lack of student housing in Juneau serious enough to comment on in their exit interview. The recommendation took this form: "The Committee believes that the current lack of living facilities for students seriously inhibits the realization of the full potential of UAJ. We recommend most urgently that the University press toward the development in Juneau of housing and dining facilities appropriate to its student clientele and in keeping with the unique Southeast Alaska environment." In their official accreditation report, the NWASC further stated, "The University of Alaska, Juneau should take steps to increase the number of full-time resident students." It is essential that UAJ provide low-cost housing to accommodate the needs of the students it is serving, and to help it meet accreditation standards.

Project Type

- [X] Building Construction (C)
- [ ] Other Improvement (I)
- [ ] Equipment (E)
- [ ] Land (L)
- [ ] Professional Services (P)
- [ ] Other (O)

Project Characteristics

- [X] Totally New Facility
- [ ] Addition to Existing Facility
- [ ] Renovation of Existing Facility
- [ ] Major Maintenance or Repair
- [ ] Supplement Previously Authorized
- [ ] Funds to Enable Completion
- [ ] One of Several Phases
- [ ] Major External Funding Source
- [ ] Other

Site Features

NO	YES	
[X]	[ ]	Site Currently Owned?
[ ]	[ ]	All Utilities Available?
[ ]	[ ]	Access Already Available?

PROJECT TITLE UAJ Student Housing
Phase I

35b PROPOSED CAPITAL PROJECT

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date

FY 84

00094

KUSKOKWIM COMMUNITY COLLEGE
University of Alaska
P.O. Box 368 907 - 543-2621
Bethel, Alaska 99559

Representative Anthony Vaska
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Tony:

As we have discussed on numerous occasions, student housing is the single most important need at Kuskokwim Community College. The ability of the College to meet the post-secondary educational needs of this region is dependent upon the provision of stable, student housing in Bethel. Your support for our student housing project is greatly appreciated.

Over the past two months I have been working with local contractors and the University's Division of Facilities Planning to develop cost estimates for the proposed housing complex. We are still working with two design concepts: duplexes or a single dormitory building. Our Community College Council will make a final decision on the type of housing desired following further discussion with faculty, students, and community members. In the interim, we have developed cost estimates that would allow for the construction of a single dormitory or duplexes to house approximately 40-45 students. These costs are as follows:

Design planning and engineering	$185,000.00
Construction	1,807,500.00
Equipment and occupancy costs	97,500.00
Construction management costs	110,000.00
TOTAL COST	$2,200,000.00

Life cycle cost information, comparing duplex vs. dormitory construction, is being developed by the Division of Facilities Planning. This information will be used by the College Council in making a final decision on the design of the housing project.

If you have any questions regarding the cost estimates or if you need additional information, please contact me.

Sincerely,

Fred Ali, Campus President

mm

FEB 7 1983

KUSKOKWIM COMMUNITY COLLEGE
University of Alaska
P.O. Box 368 907 - 543-2621
Bethel, Alaska 99559

February 2, 1983

Senator John Sackett
Alaska State Legislature
Pouch U
Juneau, Alaska 99811

Dear John:

In January I forwarded a letter to your office outlining preliminary cost estimates for student housing in Bethel. The purpose of this letter is to provide you with additional information on our student housing request.

Kuskokwim Community College has always enrolled students from the villages within its service area. From 1975 to 1980 the College leased an apartment building owned by the Bethel Native Corporation for student housing. A number of problems were associated with this arrangement. The building was not designed as a dormitory and major architectural changes would have been necessary to efficiently house students. Rental costs had escalated to the point where financial aid was not sufficient to cover housing costs. Finally, the building was located some distance from the College making transportation for students difficult, especially in inclement weather. In 1980, therefore, the College cancelled its lease of the building.

There is no doubt that the absence of a student housing facility in Bethel has adversely effected student enrollment. Currently, village students must live with relatives or in boarding homes. Our Student Services Division finds that there are a limited number of acceptable boarding homes in Bethel, approximately 30 to 35. Therefore, full-time student enrollments are restricted by the lack of acceptable housing in Bethel. When the apartment building was being used as a student dormitory, the College enrolled between 70 to 100 full-time students. Currently, full-time student enrollment averages between 40 and 50.

Based on existing instructional and student financial aid resources available to the College and its students, a full-time student population of between 65-70 students appears optimum. The College's student housing proposal envisions construction of a facility that would house between 40-45 students. The balance of the full-time students would either be Bethel residents or continue to live in boarding homes. Discussions with students on campus indicate that a small percentage would prefer to remain in boarding homes even with the availability of University-owned housing.

KUSKOKWIM COMMUNITY COLLEGE
University of Alaska

In addition to allowing the College to increase its full-time enrollment, there are other reasons that support the request for student housing in Bethel. Students living in boarding homes often confront problems that hinder their ability to study and remain in school. Many of the boarding homes are small and a space for quiet study is not available. Meal times and other household schedules and requirements can conflict with the class schedules and needs of the student. Additionally, many boarding homes are some distance from the main campus which makes transportation difficult.

Many parents in the Delta are also reluctant to have their children attend school in Bethel because of student housing problems. Parents would like the College to guarantee that their children will be housed in a comfortable environment where personal security and group discipline are ensured. In public meetings throughout the region, I have repeatedly been told by parents that they would feel comfortable sending their children to college in Bethel if well maintained housing were available. It is our judgement that construction of University-owned and maintained housing on our campus in Bethel is the most effective method of providing the residential and learning environment desired by students and parents of this region.

The proposal to build student housing on the College campus has received broad support throughout the Delta. Enclosed are resolutions and letters of support for student housing received by the College during the past two years. I am also forwarding copies of floor plans developed by the University's Division of Facilities Planning and Construction. As we have discussed, the College is considering two design concepts for student housing: duplexes or a single dormitory building. The drawings outline floor plans for each of these concepts.

As we develop additional information on the student housing proposal, I will forward it to your office. If you have any questions or need specific information, please contact me.

Sincerely,

Fred Ali
Campus President

FA:mw

Enclosures

CITY OF BETHEL
P.O. Box 388 • Bethel, Alaska 99559
543-2297—Area Code 907

March 16, 1982

The Honorable Nels Anderson
Senator, State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Senator Anderson:

At its February 8, 1982 City Council meeting, a resolution was passed in support of a college dormitory for the Kuskokwim Community College in Bethel. As Mayor of Bethel, I would encourage your support for this project.

The Kuskokwim Community College has struggled with fluctuating student enrollments for the past several years, due not only to program needs but even more critically, housing. As an observer of this situation over the last several years, I have watched K.C.C. attempt to resolve its housing in several unsuccessful ways. A student dormitory, on campus, appears to be the most viable solution. Students from regional villages need the stability, companionship and continuity that an on-campus dormitory can provide.

Thank you for your continued support,

Sincerely,

John Guinn,
Mayor

JG:kcc

RESOLUTION # 366

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BETHEL SUPPORTING THE KUSKOKWIM COMMUNITY COLLEGE'S EFFORTS TO OBTAIN A STUDENT DORMITORY IN BETHEL.

WHEREAS, KUSKOKWIM COMMUNITY COLLEGE PROVIDES VALUED POSTSECONDARY EDUCATIONAL PROGRAMS TO BETHEL AND THE YUKON/KUSKOKWIM DELTA, AND

WHEREAS, THE COLLEGE PROVIDES PROGRAMS WHICH ENHANCE THE DEVELOPMENT OF LOCAL COMMUNITIES, AND

WHEREAS, THE COLLEGE PROVIDES A FORUM FOR THE INVESTIGATION AND SHARING OF COMMUNITY CONCERNS, AND

WHEREAS, THERE IS AT PRESENT NO STABLE PROVISION FOR STUDENT HOUSING: AND

WHEREAS, STUDENT HOUSING WILL BECOME A MAJOR FACTOR IN THE CONTINUED ACCREDITATION OF KUSKOKWIM COMMUNITY COLLEGE.

NOWTHEREFORE BE IT RESOLVED, THAT THE CITY OF BETHEL SUPPORTS KUSKOKWIM COMMUNITY COLLEGE'S EFFORT TO OBTAIN A STUDENT DORMITORY FOR THE HOUSING OF STUDENTS WHO COME INTO THE COLLEGE FROM THE 57 VILLAGES OF THE YUKON-KUSKOKWIM DELTA.

PASSED AND APPROVED:

Mayor

ATTEST:

City Clerk / 2/8/82

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

RESOLUTION 82-28

WHEREAS the Board of the Association of Village Council Presidents formed the AVCP Committee on Educational Development to advise the Board on matters educational and

WHEREAS the AVCP Committee on Educational Development requires, with rare exception, that first-year College students spend at least one semester at Kuskokwim Community College and

WHEREAS the majority of students funded by AVCP are from villages outside of Bethel and

WHEREAS housing for students in Bethel is extremely limited and

WHEREAS the Board and the President of Kuskokwim Community College are submitting a proposal to the Alaska State Legislature to appropriate funds to build a badly needed dormitory for our students:

NOW THEREFORE BE IT RESOLVED that the full Board of the Association of Village Council Presidents give its full support to the efforts of KCC to acquire funding for the dormitory.

ATTEST: Edward Hoffman Sr. CHAIRMAN

Alexie [illegible] SECRETARY

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

RESOLUTION 82-28

WHEREAS the Board of the Association of Village Council Presidents formed the AVCP Committee on Educational Development to advise the Board on matters educational and

WHEREAS the AVCP Committee on Educational Development requires, with rare exception, that first-year College students spend at least one semester at Kuskokwim Community College and

WHEREAS the majority of students funded by AVCP are from villages outside of Bethel and

WHEREAS housing for students in Bethel is extremely limited and

WHEREAS the Board and the President of Kuskokwim Community College are submitting a proposal to the Alaska State Legislature to appropriate funds to build a badly needed dormitory for our students:

NOW THEREFORE BE IT RESOLVED that the full Board of the Association of Village Council Presidents give its full support to the efforts of KCC to acquire funding for the dormitory.

ATTEST: Edward Hoffman Sr CHAIRMAN

Moses Lane SECRETARY

Lower Kuskokwim School District Resolution

82-03

WHEREAS, Kuskokwim Community College provides valued postsecondary educational programs to Bethel and the Yukon/Kuskokwim Delta; and

WHEREAS, the college provides programs which enhance the development of local communities; and

WHEREAS, the college provides a forum for the investigation and sharing of community concerns; and

WHEREAS, there is a severe housing shortage in Bethel; and

WHEREAS, there is at present no stable provision for student housing; and

WHEREAS, student housing will become a major factor in the continued accreditation of Kuskokwim Community College;

THEREFORE, BE IT RESOLVED that the Lower Kuskokwim School District Board of Education supports Kuskokwim Community College's efforts to obtain a student dormitory for the housing of students who come into the college from the 57 villages of the Yukon/Kuskokwim Delta.

Chairman, LKSD Board — 1-22-82 Date

Superintendent, LKSD — 22 Jan 82 Date

TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON THE UNIVERSITY BUDGET, FEBRUARY 1, 1983

Good morning Chairman Martin and members of the Subcommittee. My name is Moses Ayagalria. I am a full-time student at Kuskokwim Community College. I have been coming to school here since the Fall Semester. KCC is called a community college but the students here come from 50 villages scattered over 100,000 square miles. We all need suitable housing in order to get a good education. Just like all KCC students, I have been living in a boarding home. To live in a boarding home is no fun. It is no fun because it not only puts a burden on that family, but also on the student. The students suffer countless problems living in a boarding home, some of which are:

*Housing in Bethel is inadequate. Families are large. Even when homes are suitable, there is no privacy.

*The student can't burn midnight oil if he wants.

*Young children in the boarding home are distracting for students doing homework.

*Some boarding homes are a long distance from the College.

*Students miss out on the social benefits of dormitory living.

What I would like to stress is that this institution is growing and is in need of student housing to accommodate that growth. The student housing will give a tremendous amount of encouragement to the students and to the potential students. A college education is becoming very important to young people in this region. However, many parents will not let their children come here to College because of the poor living situations they would encounter. I do not want to make myself too long on this subject lest our true need be obliterated. I only ask that our plea be considered for us and the future generation. Thank you.

Respectfully submitted,

Moses Ayagalria

F/KCC

KUSKOKWIM COMMUNITY COLLEGE
University of Alaska
P.O. Box 368 • Bethel, Alaska 99559
(907) 543-2621

February 18, 1983

Senator John Sackett
Alaska State Legislature
Pouch U
Juneau, Alaska 99811

Dear John:

I am writing to update you on the status of the office building released by the Department of Administration to the Community College.

We have had difficulty in obtaining cost estimates to move the building from its present location at the old PHS Hospital site to the College. The contractors that we have contacted in Bethel have indicated the building is oversized and, therefore, will be costly to move. To date we have not been able to secure detailed cost estimates from the local contractors.

Working with the University's Division of Facilities Planning, we have, however, developed the following estimates to relocate the building to our campus.

Site Work		
Fill with Classified - 900 cu. yd. @ $10/yd.		$ 9,000
Install Freeze Back Piling - 14 @ $1,200 ea.		16,800
Install 12x12 Beams - 4 @ $750 each		3,000
		$ 28,800
Move Building		
Disconnect Utilities -		
Electrical	4 hrs. @ $50/hr.	200
Plumbing (sewage)	8 hrs. @ $60/hr.	480
Plumbing (water)	4 hrs. @ $60/hr.	240
Mechanical (oil)	1 hr. @ $50/hr.	50
		$ 970

Disconnect Sections		
Labor	80 hrs. @ $45/hr.	$ 3,600
Move Sections to Site	1000/Section	5,000
Set Sections on Site	80 hrs. @ $45/hr.	3,600
Rent Crane	80 hrs. @ $100/hr.	8,000
		$ 20,200
Install New Roof		
Labor/Material	2200 SF @ $6/SF	$ 13,500
Mechanical		
Sewage Connection -		
Labor	40 hrs. @ $60/hr.	$ 2,400
Material		2,000
Install Oil Tank		1,000
Water		
Labor	20 hrs. @ $60/hr.	$ 1,200
Trench/Labor/Material	200' @ $12.50/ft.	5,000
Power		
Connect New Service		$ 500
New Ground System		1,000
Exterior Modifications		
Install New Entry	60 hrs. @ $50/hr.	$ 3,000
Install New Ramp	200 SF @ $40/SF	8,000
		$ 11,000
Interior Modifications		
Carpet	2200 SF @ $3.40/SF	$ 7,480
Base	700 LF @ $2/LF	1,400
		$ 8,880
	Sub Total	$ 96,450
	Contingency @ 10%	9,645
	TOTAL	$ 106,095

Sorry for the delay in getting this information to you. Obtaining good cost data has been much more difficult than expected.

If you need additional information, please contact me.

Sincerely,

Fred Ali
Campus President

FA:mw

CORRECTION

Discard CSSB 19(FIN)(TITLE CHNG)(EFDFLD)

and retain this corrected version.

Offered: 3/25/83
Referred: Rules

Original sponsors: Kerttula, Sturgulewski, Josephson, et al

Student housing

Funding Information

General Fund	$30,307,000
Other Funds	-0-
	$30,307,000

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 19(Finance)(title change)(efd failed)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making special appropriations for postsecondary education, capital projects and land acquisition for educational purposes."

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

* Section 1. The sum of $9,900,000 is appropriated from the general fund to the University of Alaska for acquisition of approximately 40 acres of land from Alaska Pacific University under an option to purchase agreement executed in June 1982 for the Anchorage campus.

* Sec. 2. The sum of $11,000,000 is appropriated from the general fund to the University of Alaska for construction of student housing at the Fairbanks campus.

* Sec. 3. The sum of $500,000 is appropriated from the general fund to the University of Alaska for access acquisition and road construction for student housing at the Juneau campus.

* Sec. 4. The sum of $6,600,000 is appropriated from the general fund to the Northwest Arctic School District for construction of student housing at the Kotzebue Technical Center.

* Sec. 5. The sum of $2,200,000 is appropriated from the general fund to the University of Alaska for the construction of student housing at the Kuskokwim Community College campus.

* Sec. 6. The sum of $107,000 is appropriated from the general fund to the University of Alaska to be used to move an office building in Bethel to the Kuskokwim Community College campus.

* Sec. 7. The appropriation made by sec. 1 of this Act lapses into the

COMMITTEE REPORT

SENATE

1/18/83

FURTHER: FINANCE

Date: 16 Feb, 1983

Mr. President:

The Committee on HEALTH, ED. & SOC. SERV has had SENATE BILL NO. 19

An Act making appropriations to the University of Alaska for construction of dormitory complexes: eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for SB 19 (HESS) with [ ] same title [X] new title

and recommends may do pass

[X] AND with attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

V. Fischer

H Pappy Moss

Rick Halford

MEMBERS HAVING OTHER RECOMMENDATIONS:

Joe P. Josephson. do pass

CHAIRMAN

S 60 (Rev. 12/78)

February 16, 1983

HESS Committee Letter of Intent

Subject: CSSB 19 (Appropriations to University of Alaska for Student Housing and Land Acquisition)

Mr. President:

Your Committee on Health Education and Social Services has had Senate Bill 19 under consideration, and the Committee recommends that the Bill be replaced by Committee Substitute for Senate Bill 19, and that the Committee Substitute (CSSB 19) do pass.

The HESS Committee intends to reflect, through CSSB 19, a commitment that student housing on the Anchorage, Fairbanks, Juneau and Kenai campuses will be provided as expeditiously and cost-effectively as possible.

CSSB 19 contemplates that the University will expedite housing construction. Because architectural and engineering work for the Fairbanks (College) campus has been performed, actual construction at that location could begin during the 1983 construction season.

On the other campuses mentioned, architectural and engineering work is required to be done. Funds for that purpose are made available in CSSB 19. In addition, however, appropriations are also provided for construction at Anchorage, Juneau, and Kenai with an appropriation effective date of May 1, 1984. In this way, we avoid having to legislate for student housing appropriations in two separate measures and we stress our commitment to this program.

The May 1, 1984 appropriation effective date has another purpose. It permits the University to analyze, and to report to the second session of the Thirteenth Legislature in January, 1984 with respect to, the possibility of other funding options for student housing construction. For example, some mixture of revenue bonds, appropriations from the general fund, and private sector investment, might be appropriate in one or more of these cases and might provide student housing at housing rates affordable to Alaska students. If those possibilities can be demonstrated to exist, the second session of the Thirteenth Legislature could make necessary adjustments. If not, the appropriations for housing construction at Anchorage, Juneau and Kenai would be in place without the necessity of additional action by the Legislature.

Joseph P. Vogler

Offered: 3/25/83
Referred: Rules

Original sponsors: Kerttula, Sturgulewski, Josephson, et al

Funding Information

General Fund	$30,307,000
Other Funds	-0-
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* Sec. 7. The appropriation made by sec. 1 of this Act lapses into the

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 11, 1983

MEMORANDUM

To: Senator Joe Josephson
Chairman
Senate HESS Committee

From: Senator Don Orman

Subject: Requested Amendment to SB 19
(U of A Dormitory Complexes, ED)

I am requesting an amendment to SB 19 for design and engineering money for student housing at Kenai Peninsula Community College (KPCC)

KPCC offers many programs which attract students statewide. Research has shown that over 40% of full-time students come from outside the Kenai/Soldotna area. Housing shortages in the area necessitate student housing to become part of the KPCC facilities.

The many attached resolutions show wide support from the large area which KPCC serves. I have also provided the Committee with copies of the housing study prepared in 1981-1982 which resulted in local hearings in which strong support was expressed for this project. These hearings took place January 22, 1982 when the Board of Regents Community College Subcommittee met with the Community College Council, Chancellor Bickerstaff, Dr. Vierro, representatives of Kenai City Council, Soldotna City Council, Kenai Peninsula Borough, and several private businesses and individuals.

was a Third Priority
on crime in 1982 - has
now been taken off list

I would offer the following language for:

New Section 3

"The sum of $580,000 is appropriated to the University of Alaska for Kenai Peninsula Community College student housing for engineering and architectural design."

This language is identical to that in CCSSB 876 which passed both Houses last session. As you will recall, this bill was vetoed by Governor Hammond.

KPCC → 442 average credit hours per full-time faculty → best in the University system

2/25/83

DIVISION OF COMMUNITY COLLEGES, RURAL EDUCATION AND EXTENSION

FALL 1982 ENROLLMENT UPDATE – NOT FOR GENERAL DISTRIBUTION

(DEGREE CREDITS ONLY)

	Closing Fall 82 Data				Closing Fall 1981 Data		
Unit	# P/T Students	# F/T Students	Total Headcount	Student Credit Hours Total	Total Headcount	Credit Hours	% Chg. SCH, Fall 82 Current vs Fall 81 Closing
KPCC	1,008	329	1,337	8,207	1,118	7,063	16.2
KECC	631	50	681	2,554	576	2,252	13.4
KOCC	639	19	658	2,079	582	2,135	-2.6
KUCC	609	41	650	2,527	571	1,941	30.2
MSCC	654	149	803	4,233	609	3,213	31.7
NWCC*	373	3*	376	1,303	291	1,235	5.5
PWSCC	576	15	591	1,533	478	1,372	11.7
SCC	663	39	702	2,095	441	1,519	37.9
TVCC	1,972	211	2,183	9,074	2,217	9,551	-5.0
RE	1,413	24	1,437	4,530	1,484	4,716	-3.9
CCC	16	0	16	39	**********CLOSED**********		
		Community College Total		33,644		30,281	11.1
		CCREE Total	9,434	38,174		34,997	9.1
UAA	2,092	1,488	3,580	30,216	3,620	27,719	9.0
UAF	2,273	3,071	5,344	54,063	5,574	50,247	7.6
UAJ	2,036	303	2,339	10,960	2,460	10,771	1.8
ACC	7,889	1,725	9,614	55,357	8,744	52,196	6.1
		Total U of A	30,311	188,770	28,765	175,930	7.3

50% credit hrs
20% Budget

19,048 67%

*Not on semester system, quarter system, F/T student at 9 credits at NWCC but definitions based on 12.

11/2/81
JES:jes

CITY OF SEWARD, ALASKA
RESOLUTION NO. 81- 52

A RESOLUTION OF THE SEWARD CITY COUNCIL,
SUPPORTING ON-CAMPUS HOUSING FOR
KENAI PENINSULA COMMUNITY COLLEGE

WHEREAS, the City of Seward recognizes the contributions toward education that Kenai Peninsula Community College has made, and

WHEREAS, the citizens of Seward from time to time wish to become students at the Kenai Peninsula Community College, and

WHEREAS, the distance from Seward to Kenai Peninsula Community College presents difficulties in attending classes and taking part in the Kenai Peninsula Community College educational process, and

WHEREAS, the Kenai Peninsula Community College has no on-campus housing to provide shelter to those who must come from the outlying areas;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that the Council hereby goes on record as supporting the addition of on-campus housing at the Kenai Peninsula Community College campus.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, this 9 day of November, 1981.

CITY OF SEWARD, ALASKA

Donald W. Cripps
Mayor

AYES: Burgess, Campbell, Cripps, Meehan, O'Brien, Soriano, Swartz
NOES: None
ABSENT: None

ATTEST:

JoAnne E. Shanley, CMC
City Clerk

(City Seal)

APPROVED AS TO FORM:

HUGHES, THORSNESS, GANTZ, POWELL & BRUNDIN
Attorneys for the City of Seward, Alaska

Fred B. Arvidson

I, JoAnne E. Shanley, City Clerk of the City of Seward, Alaska, do hereby certify that this is a true and correct copy of the document as it appears of record in my office.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Seward, Alaska, this 10th day of November, 1981.

RESOLUTION #81-21

A RESOLUTION OF THE CITY OF SELDOVIA SUPPORTING THE ADDITION OF ON-CAMPUS HOUSING AT KENAI PENINSULA COMMUNITY COLLEGE.

WHEREAS, the City of Seldovia recognizes the contributions being made toward the education of its citizens by the Kenai Peninsula Community College, and

WHEREAS, the location of the Kenai Peninsula Community College makes daily access to its facilities impossible for our citizens, and

WHEREAS, the additional cost of securing full-time housing when available for Seldovia citizens to attend Kenai Peninsula Community College works a financial hardship on those citizens, and

WHEREAS, the Kenai Peninsula Community College does not now have on-campus housing to accomodate those citizens wishing to attend Kenai Peninsula Community College,

NOW, THEREFORE, BE IT RESOLVED that the City of Seldovia does go on record as supporting the addition of on-campus housing at the Kenai Peninsula Community College campus.

PASSED AND APPROVED this 11 day of November, 1981

APPROVED:

Darlene Crawford

Darlene Crawford
Mayor

ATTEST:

Elaine M. Giles

Elaine M. Giles
City Clerk

CITY OF SOLDOTNA

RESOLUTION 81-38

A RESOLUTION BY THE CITY OF SOLDOTNA URGING FUNDING FOR ON-CAMPUS STUDENT HOUSING AT KENAI PENINSULA COMMUNITY COLLEGE IN FISCAL YEAR 1982-83

WHEREAS, Credit hours, courses and student attendance have increased steadily and noticeably at Kenai Peninsula Community College in the last five years, and

WHEREAS, The unique instructional fields of oil petroleum, industry and mining offered at the local community college and an expanding statewide industrial base have comfortably joined to produce a dependable, steady portion of the local institutional growth, and

WHEREAS, more and more students are also electing to spend their first two years of college at the local educational institution, and

WHEREAS, The addition of a new 26,000 square foot Vocational Training Center soon will greatly accelerate student enrollment, and

WHEREAS, Peninsula students would choose to stay on campus instead of traveling endless hours on hazardous Borough roads, and

WHEREAS, A recent Housing Survey (October 1981) has shown an undeniable need for on-campus housing, and

WHEREAS, Tight money and high interest rates in the private sector have discouraged construction of multiunit, low to medium income rentals in the local area, and

WHEREAS, The community College Council is chaired by Hazel Heath and George Day, and the Vocational Advisory Board and the College Council have approved the concept of on-campus housing, now therefore

BE IT RESOLVED THAT the City Council of the City of Soldotna urges the Alaska Legislature to appropriate $5,200,000 in fiscal year 1982-1983 that will fund on-campus Student Dormitory Housing.

BE IT FURTHER RESOLVED THAT The City of Soldotna send copies of this resolution to Mr. Jay Hammond, Governor of the State of Alaska; Dr. Patrick O'Rourke, Chancellor, Community College, Extension and Rural Education; Mr. Edward B. Rasmusson, President, University of Alaska Board of Regents; Mr. Ed Dankworth

and Mr. Don Bennett, Co-chairmen, Finance Committee, Alaska Senate; Mr. Albert Adams, Chairman, Finance Committee, Alaska House of Representatives; Mr. Don Gilman, District 13 Senator, Alaska Senate; Mr. Hugh Malone and Mr. Pat O'Connell, District 13 Representatives, Alaska House of Representatives; and Mrs. Betty Cato, District 5 Representative, Alaska House of Representatives.

ADOPTED This 19th day of November, 1981.

Justin Ahmaogak
Mayor

ATTEST:

Patricia C. Burdick
City Clerk

CITY OF KENAI

RESOLUTION NO. 81-107

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, EXPRESSING SUPPORT FOR THE KENAI PENINSULA COMMUNITY COLLEGE'S ENDEAVOR TO PROVIDE ON CAMPUS LOW-COST HOUSING FOR STUDENTS ENROLLED IN THE COLLEGE'S CURRICULUM.

WHEREAS, the Kenai Peninsula Community College has embarked upon a program to increase the number of faculty members to cope with the increased number of students attending the College, and

WHEREAS, increasing numbers of students are in desperate need of low-cost housing to be in economic position to pursue their academic goals, and

WHEREAS, the Kenai Peninsula Community College is a growing economic and academic facility that is extremely beneficial and supportive of local industry and local commercial enterprises and,

WHEREAS, the Board of Regents for the University of Alaska has authorized on-campus housing as one of their priorities for the Kenai Peninsula Community College.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that said Council is on record in support of the Kenai Peninsula Community College's effort to provide low-cost housing for the students attending the college.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 8th day of November, 1981.

Vincent O'Reilly

VINCENT O'REILLY, MAYOR

ATTEST:

Janet Whelan

Janet Whelan, City Clerk

CITY OF HOMER
HOMER, ALASKA

RESOLUTION 81-92

A RESOLUTION SUPPORTING KENAI PENINSULA COMMUNITY COLLEGE OBTAINING ON-CAMPUS HOUSING.

WHEREAS, the Kenai Peninsula Community College has served the educational needs of the City of Homer and its citizens for a number of years, and;

WHEREAS, many residents of the City of Homer wish to participate in full-time college studies offered at the main campus of Kenai Peninsula Community College, and;

WHEREAS, the distance from Homer to the Kenai Peninsula Community College is in excess of 150 miles round trip by a sometimes very hazardous road system, and;

WHEREAS, the availability of student housing is nearly non-existent thus creating a great hardship on those Homer students wishing to further their education, and;

WHEREAS, the Kenai Peninsula Community College has embarked upon a program to obtain on-campus housing for students from outlying areas,

NOW THEREFORE, BE IT RESOLVED that the Common Council of the City of Homer and its citizens go on record as supporting Kenai Peninsula Community College in its efforts to obtain funding for this project.

CITY OF HOMER

Leo Rhode

Leo Rhode, Mayor

ATTEST:

Kathleen F. Herold

Kathleen F. Herold, City Clerk

Introduced by: Mayor
Date: December 15, 1981
Vote: Unanimous
Action: Adopted

KENAI PENINSULA BOROUGH

RESOLUTION 81-195

DECLARING THE ASSEMBLY'S SUPPORT FOR THE PROVISION OF STUDENT HOUSING FACILITIES ON THE CAMPUS OF THE KENAI PENINSULA COMMUNITY COLLEGE.

WHEREAS, the Assembly and the Borough administration recognize the need for post secondary education on the Kenai Peninsula; and

WHEREAS, the Assembly and the Borough administration also recognize the important educational purpose of the Kenai Peninsula Community College and its important service to all the citizens of the Borough as well as other citizens from around the state and elsewhere; and

WHEREAS, the lack of student housing curtails the opportunities of the college and the student body; and

WHEREAS, the lack of student housing precludes the opportunity of this educational program to persons in remote locations and prevents many students from attending the community college on a full time basis; and

WHEREAS, the Kenai Peninsula Community College has recognized this need and intends to pursue funding and construction of on-campus student housing; and

WHEREAS, the Assembly and the Borough administration fully support on-campus student housing at the Kenai Peninsula Community College;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Borough Assembly and the Borough administration record their support and endorsement for the provision of student housing facilities on the campus of the Kenai Peninsula Community College;

BE IT FURTHER RESOLVED that the Assembly and the Borough administration urge the Twelfth Alaska Legislature, Second Session, to provide funds in the next fiscal year for the provision of on-campus student housing at the Kenai Peninsula Community College.

Section 2. That the Clerk shall serve a copy of this resolution upon the Honorable Jay S. Hammond, Governor of the State of Alaska; upon the Honorable Jalmar Kerttula, President of the State Senate; upon the Honorable Joe L. Hayes, Speaker of the State House; upon the Honorable Donald E. Gilman, State Senator; upon the Honorables Bette Cato, Hugh Malone, and Pat O'Connell, State Representatives.

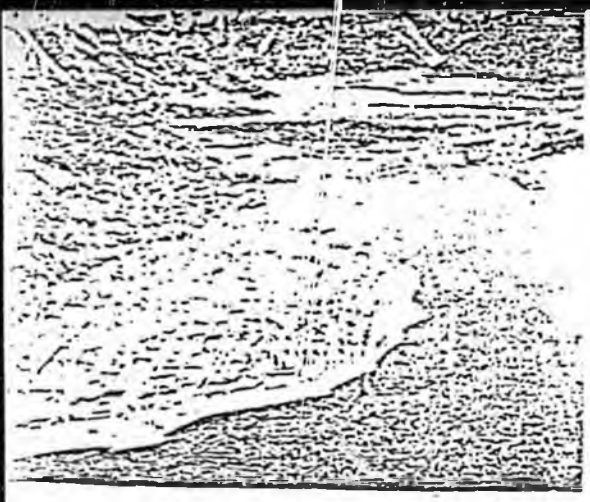
Section 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 15th DAY OF December, 1981.

John C. Davis, Assembly President

ATTEST:

Borough Clerk



SEWARD

CHAMBER of COMMERCE

"FUN CAPITAL OF ALASKA"

SEWARD
All America City
1963 - 1965

BOX 756 SEWARD, ALASKA 99664

RESOLUTION

A RESOLUTION OF THE SEWARD CHAMBER OF COMMERCE, SUPPORTING ON-CAMPUS HOUSING FOR KENAI PENINSULA COMMUNITY COLLEGE

WHEREAS, the Seward Chamber of Commerce recognizes the contributions toward education that Kenai Peninsula Community College has made, and

WHEREAS, the citizens of Seward from time to time wish to become students at the Kenai Peninsula Community College, and

WHEREAS, the distance from Seward to Kenai Peninsula Community Collge presents difficulties in attending classes and taking part in the Kenai Peninsula Community College educational process, and

WHEREAS, the Kenai Peninsula Community College has no on-campus housing to provide shelter to those who must come from the outlying areas;

NOW, THEREFORE, BE IT RESOLVED BY THE SEWARD CHAMBER OF COMMERCE OF SEWARD, ALASKA, that the Chamber hereby goes on record as supporting the addition of on-campus housing at the Kenai Peninsula Community College.

ADOPTED BY SEWARD CHAMBER OF COMMERCE this 16th day of November, 1981.

Brent Whitmore, President
Seward Chamber of Commerce

Homer Chamber of Commerce

November 16, 1981

Members of the Alaska State Legislature
Juneau, Ak. 99801

Sirs:

The Board of Directors of the Homer Chamber of Commerce would like to voice unanimous support for the requested legislative appropriation of $5,200,000 for the construction of housing units for the Kenai Peninsula Community College.

The Kenai Community College serves the Soldotna/Kenai area, the remainder of the Peninsula and many students from other areas of the state and even "outside". Their unique course offering, including instruction in the fields of oil, industry, mining and secretarial sciences attracts students from many geographic locations. As the state's industrial base continues to grow, so to will the Kenai Peninsula Community College.

There are many factors leading to the need for college housing at the facility. There is a housing shortage in the Kenai/Soldotna area. Thus students are often forced to take isolated or sub-standard housing situations. More likely, they are discouraged from even considering attendance due to the problems of finding suitable housing. The housing that is available, because of the shortage, is expensive and this puts an additional burden on the student. There is no public transportation so the students who are able to secure housing must also invest in a car.

Campus housing would alleviate these problems. It would encourage attendance by those who have stayed away because of the housing situation. It would facilitate students from Homer, Anchor Point and other out-lying areas of the Peninsula in obtaining their core education. Dormitory housing on the campus would be of benefit to every peninsula community and many other communities not within our borough. We have reviewed the findings by the College staff and feel that they have proven that the housing would be used to capacity and that it is a needed addition to continue the growth and service of the college.

We urge that the appropriation be passed during the upcoming legislative session.

Sincerely,

HOMER CHAMBER OF COMMERCE

Gil Russell
President

Post Office Box 541 • Homer, Alaska 99603 • (907) 235-7740

Kenai Chamber of Commerce
Box 497
Kenai, Alaska 99611
(907) 283-7989

KCC

RESOLUTION 81-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE KENAI CHAMBER OF COMMERCE EXPRESSING SUPPORT FOR THE KENAI PENINSULA COMMUNITY COLLEGE'S ENDEAVOR TO PROVIDE ON CAMPUS LOW-COST HOUSING FOR STUDENTS ENROLLED IN THE COLLEGE'S CURRICULUM.

WHEREAS, the Kenai Peninsula Community College has embarked upon a program to increase the number of faculty members to cope with the increased number of students attending the college, and

WHEREAS, increasing numbers of students are in desperate need of low-cost housing to be in economic position to pursue their academic goals, and

WHEREAS, the Kenai Peninsula Community College is a growing economic and academic facility that is extremely beneficial and supportive of local industry and local commercial enterprises, and

WHEREAS, the Board of Regents for the University of Alaska has authorized on-campus housing as one of their priorities for Kenai Peninsula Community College.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KENAI CHAMBER OF COMMERCE, that said directors, is on record in support of the Kenai Peninsula Community College's effort to provide low-cost housing for the students attending the college.

PASSED BY THE DIRECTORS OF THE KENAI CHAMBER OF COMMERCE AD KENAI, ALASKA, this 4th day of December, 1981.

Harry Gaines

HARRY GAINES, PRESIDENT
Kenai Chamber of Commerce

DISTRIBUTION LIST

1. Dr. Jay Barton, President, University of Alaska
2. Dr. Ed Biggerstaff, Chancellor, C.R.E.E.
3. Members, University of Alaska Board of Regents
4. Dr. Lester Vierra, President, Kenai Peninsula Community College
5. Tom Wagoner, Dean of Academic Affairs, Kenai Peninsula Community College
6. Dr. Margo Zuelow, Dean of Outreach, Kenai Peninsula Community College
7. Governor J. Hammond, State of Alaska
8. Representative Hugh Malone, House District 5 Legislative Delegate
9. Representative Pat O'Connell, House District 5 Legislative Delegate
10. Senator Don Gilman, Senate District A Legislative Delegate
11. Members, Alaska State Senate
12. Members, Alaska State House of Representatives
13. Mayors, Peninsula Communities
14. All Presidents of All Chambers of Commerce on the Kenai Peninsula
15. Members, News Media

KENAI PENINSULA COMMUNITY COLLEGE COUNCIL
Minutes of January 13, 1983 Meeting

Meeting called to order at 7:05 P.M. by Chairman Heath.

MEMBERS PRESENT: LeRoy Barton, Charlotte Calhoun, John Douglas, George Ford, Hazel Heath, Marion Hylen, Debra Mullins, Jason Roth, Alex Shadura, Donnis Thompson, Walter Ward. Ex-Officio: Les Vierra, Tom Wagoner, Kate O'Dell, Kate Fenton, Bonnie Heimbuch.

MEMBERS ABSENT: Roger Holl. Ex-Officio: Michael Beck, Nancy DuPaul.

GUESTS: Dottie Krzyzanoski, Ethel Clausen, Patricia Morris.

AGENDA: Agenda approved as submitted.

MOTION: By Hylen, seconded by Thompson, passed unanimously.

That the Minutes of the December 9, 1982 meeting be approved as submitted with the correction made under Chairman's Report that she had traveled to Juneau for the Older Alaskans Commission.

REPORTS: Chairman. Read letter received from President Barton concerning his informative meeting with the Council. Reported that KPCC's Homer Branch open house had been successful.

President. Reported that UA has submitted 1984 Budget to the Governor; the February 1 audio conference for defense of Budget; Council members encouraged to attend and speak; Carolyn Cannava from Kenai Peninsula Borough School District (KPBSD) will speak on behalf of KPCC; KPCC starting FY-85 Budget process within next few weeks; projected enrollment for 1992 is 1200 FTES; projections to be mailed to Council as soon as completed; hope to involve everyone who is interested in FY-85 Budget; after prioritization, will be presented to Council for adoption; KPCC has requested continuation budget from KPBSD; student body will be coming to Council for request of increase in student activity fee and student budget, will be presented at next meeting; Chancellor Melican and Vice Chancellor Bomotti will be in attendance at next Council meeting to speak regarding the machinist-millwright instructional position; two proposals received on Student Housing thus far.

Dean, Support Services. Reported that KPCC is in process of doing final spring reconciliation (budget) to determine what our status is; Spring registration duplicated headcount as of January 13 is 2,242

Dean, Academic Affairs. Reported that letter had been sent to Chancellor to eliminate Industrial Electronics degree program; John Rogers hearing scheduled on this campus on February 8; possibility of facility being donated for Homer Branch, is in preliminary talking stage; new facility (Phase V) basically 98% complete and we are utilizing space this semester

MOTION: 83-17

By Barton, seconded by Ward.

Move that the Council concur with the decision to eliminate the Industrial Electronics degree program based on the enrollments presented at this meeting.

MOTION WITHDRAWN.

Suggestions: That this matter be brought before Council at next meeting; that more information on the second year offerings be presented; obtain reaction from industry; advertise more widely for this program.

REPORTS: (CONTINUED)

Dean, Student Services. Reported that Student Body Officers, Dean and President would have audio-conference with Chancellor on January 25 (9:00 A.M.) regarding Student Constitution - Council members encouraged to attend; reported enrollments in Learning Skills Center; 295 state loans awarded as of December 10, 7 of the 42 students who applied for state incentive grants were awarded, 395 KPCC students have applied for state/federal financial aid grants; announced hiring of new personnel: Sharon Williams as Media Services Technician, Dodie Smith as Arm Chair College Facilitator.

Council Members. Thompson requested that there be a presentation of Arm Chair College at future meeting; questioned whether Senator Fischer and Representative Malone had been apprised of happenings at meeting with local legislators. Mullins questioned if we keep Representative Cato informed of KPCC happenings. Calhoun stated that Homer residents are aware that KPCC Homer Branch has moved into new location; questioned if Homer and Seward students charged student activity fee, what would be the benefit, suggested that student newspaper would be one way; suggested that KPCC register the logo as adopted by the Council and if royalities ever received could they be dedicated to scholarship account.

Faculty, Students and Staff. No reports.

Public. No reports.

DISCUSSION:

Community College Council Handbook. The complete handbook is to be handed out at the next meeting. This document will be single spaced and paginated. Questioned how changes in the handbook would be brought about. Suggested that blanket statement regarding Council's acceptance of Board of Regents policies be placed in front of the handbook as well as referrals to BOR policies at appropriate sections. Recommended that personal pronouns reflect both gender. Questioned was whether or not faculty, staff and students can feel free to go to Council members without

permission of College administration, or whether Council members can go directly to faculty, staff and students with concerns.

Advisory Committee Handbook. Concern as to how advisory committees were to bring back information to the Council, Council to receive copies of minutes from all committees. Recommended that information regarding termination of committee members be recommended to the Council be placed in handbook. With consent of Council, this item will be brought back to the Council at their next meeting for approval.

MOTION: 83-18

By Hylen, seconded by Douglas, passed unanimously.

That the Administration present a continuation budget request to the Kenai Peninsula Borough School District to reflect programs related directly to the agreement with the District.

NEXT MEETING: The next meeting of the Council will be held February 10, 1983 at 7:00 P.M. on campus. Chancellor Melican and Vice Chancellor Bomotti will be in attendance.

ADJOURNMENT: Meeting adjourned at 9:45 P.M.

Respectfully submitted,

Gwen Freeman--
Recroding Secretary

Cook
4-29-83

Original sponsors: Kerttula, Sturgulewski, Josephson, et al

Funding Information

General Fund	$30,957,000
Other Funds	-0-
	$30,957,000

IN THE SENATE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 19 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making special appropriations for postsecondary education, capital projects and land acquisition for educational purposes."

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

* Section 1. The sum of $9,900,000 is appropriated from the general fund to the University of Alaska for acquisition of approximately 40 acres of land from Alaska Pacific University under an option-to-purchase agreement executed in June 1982 for the Anchorage campus.

* Sec. 2. The sum of $11,000,000 is appropriated from the general fund to the University of Alaska for construction of student housing at the Fairbanks campus.

* Sec. 3. The sum of $500,000 is appropriated from the general fund to the University of Alaska for access acquisition and road construction for student housing at the Juneau campus.

* Sec. 4. The sum of $650,000 is appropriated from the general fund to the University of Alaska for planning, including preparation of engineering plans, for student housing at the Kenai Community College campus.

* Sec. 5. The sum of $2,200,000 is appropriated from the general fund to the University of Alaska for the construction of student housing at the Kuskokwim Community College campus.

* Sec. 6. The sum of $107,000 is appropriated from the general fund to the University of Alaska to be used to move an office building in Bethel to the Kuskokwim Community College campus.

* Sec. 7. The sum of $6,600,000 is appropriated from the general fund

to the Department of Education for payment of a grant to the Northwest Arctic School District for construction of student housing at the Kotzebue Technical Center.

* Sec. 8. The appropriation made by sec. 1 of this Act lapses into the general fund July 1, 1984.

* Sec. 9. The appropriations made by secs. 2 - 7 of this Act are for capital projects and are subject to AS 37.25.020.

HCS CSSB 19 (HESS)

Enrollment

Numbers for credit courses only (toward accredited degree or program).

KPCC Fall '82	Fulltime	329
	Part time	1008
	TOTAL	1237
Kuskokwim	Full time	41
	Part time	609
	TOTAL	650
UAJ	Full time	303
	Part time	2036
	TOTAL	2339

NOTE:

Of these three schools, KPCC had the highest full time enrollment figures for credit offered courses.

Priorities KPCC

KPCC was listed in fiscal year 1982 CREE priorities six year plan to be built in 1987 at $5 million. In this year no other community college or U of A campus, except Fairbanks, was set out in CREE or the regent's six year plan. The policy period during was to allow no other student housing except Fairbanks. KPCC was the first exception to this in CREE priorities following extensive public hearings and participation by KPCC president, Wilsey, and faculty member John Williams.

The study and hearings for housing resulted in a detailed study plan and needs assessment which set out housing needs against a dramatic shortage of housing available in the Kenai/Soldotna area for students.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

SUMMARY:

TO: House HESS Committee

FROM: Linda Otey, Committee Aide

DATE: April 30, 1983

RE: CSSB 19 (Fin)

The University of Alaska FY 84 Board of Regents Capital Request Statewide Prioritization document is also included as reference for this bill. The sections relate to those items listed on the report in green when applicable. Backup is in order by sections in folders. Senate backup is attached. Backup for Kenai Peninsula Community College is included.

SECTIONAL ANALYSIS:

Section 1: 9.9 million for land acquisition of 40 to be transferred from APU to the Anchorage campus. 84-11 page 33, Form 35 attached. Copy of agreement included.

Section 2: 11.0 million University of Fairbanks construction of student housing. Priority 84-7 page 33, Form 35 included.

Section 3: 500,000 for access acquisition and road construction for student housing at University of Juneau. Backup narrative attached.

Section 4: 6.6 million to N.W. Arctic School District for construction at Kotzebue Technology Center. No Form 35. Backup narrative attached.

Section 5: 2.2 million construction for student housing at Kuskokwim Community College. No Form 35. Backup narrative attached.

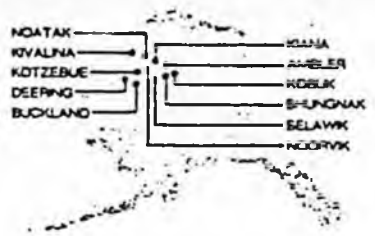
Section 6: 107,000 to move office building in Bethel to the Kuskokwim Community College. Backup from college attached.

Section 7: Section 1. Lapse date of June 30, 1984.

Section 8: Appropriation of Sections 2-6 subject to 37.25.020. Copy attached.

Northwest Arctic School District

BOX 51
KOTZEBUE, ALASKA 99752
(907) 442-3472



January 28, 1983

James E. Tozer
Facilities Coordinator
Department of Education
Pouch F
Juneau, Alaska 99811

Dear Jim:

In reference to the January 19, 1983 Memorandum from Wanda Cooksey, Acting Director Division of Management Law & Finance, I am enclosing a request for funding of a student dormitory at the Kotzebue Technical Center. If we had to place this on our Priortized Capital Improvement request we would have to put it as priority # 3 with the rest being dropped down one.

I am submitting this proposal pending Board approval. The Northwest Arctic School District Board will be meeting on February 15, 1983 and will address the proposal at that time. I will notify you of the Boards action concerning this request.

If you need any further information, please contact me at your convenience.

Sincerely,

John L. Rogers
Assistant Superintendent:
Administrative Services

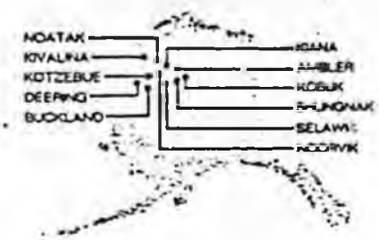
JLR/isj
cc: Wayne B. Fagg, Superintendent
Senator Frank Ferguson
Representative Al Adams

Northwest Arctic School District

BOX 51
KOTZEBUE, ALASKA 99752
(907) 442-3472

KOTZEBUE TECHNICAL CENTER

DORMITORY



The Northwest Arctic School District is presently operating the Kotzebue Technical Center, an Adult Vocational Educational Facility, which serves adult Alaskans from the entire State.

The Kotzebue Technical Center Staff and Students are presently moving into a facility which has just recently been completed. At the present time we have an enrollment of approximately 65 students but with the completion of the new facility we have the capacity to serve as many as 200 students. The Technical Center Staff is receiving request for information on the Programs offered by the Technical Center daily and we have a minimum of 500 people who have expressed an interest in enrolling in the Technical Center.

At this time the Kotzebue Technical Center has an agreement with the Nul-Luk-Vik Hotel to house students who do not live in Kotzebue. This arrangement is adequate for the small enrollment we have now, but as our enrollment increases there will not be adequate room to handle all the students. Kotzebue does not have any other facility available to house students so the Northwest Arctic School District is requesting funds to build a Dormitory for the Technical Center Students.

The Dormitory would be an approximate 20,000 square foot building whose main components would be sleeping and study rooms. The building would not require any food service facilities because it would be built on the Technical Center site and the cafeteria in the Technical Center would be used to feed the students staying in the Dormitory.

The estimated cost for this facility is $6.6 million dollars. If approved and funds appropriated we anticipate the design phase to start in August of 1983 and construction completed by July 1985.

Operating and maintenance costs would be incorporated into the operational budget request of the Kotzebue Technical Center which is submitted to the Department of Education yearly.

With the ability to house additional students this would create an expanded program at the Kotzebue Technical Center. This would provide some additional employment at the Kotzebue Technical Center, but the type and number of additional positions is unknown at this time.

Another area that needs addressing is the possibility of a joint use facility with Chukchi Community College. We foresee the possibility that in the future Chukchi Community college might be in need to house students who are enrolled in their programs. Through the cooperation of both the Kotzebue Technical Center and Chukchi Community College these needs could be addressed on a space available basis.

JLR/isj

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 11, 1983

MEMORANDUM

To: Senator Joe Josephson
Chairman
Senate HESS Committee

From: Senator Don Orman

Subject: Requested Amendment to SB 19
(U of A Dormitory Complexes, ED)

I am requesting an amendment to SB 19 for design and engineering money for student housing at Kenai Peninsula Community College (KPCC)

KPCC offers many programs which attract students statewide. Research has shown that over 40% of full-time students come from outside the Kenai/Soldotna area. Housing shortages in the area necessitate student housing to become part of the KPCC facilities.

The many attached resolutions show wide support from the large area which KPCC serves. I have also provided the Committee with copies of the housing study prepared in 1981-1982 which resulted in local hearings in which strong support was expressed for this project. These hearings took place January 22, 1982 when the Board of Regents Community College Subcommittee met with the Community College Council, Chancellor Bickerstaff, Dr. Vierro, representatives of Kenai City Council, Soldotna City Council, Kenai Peninsula Borough, and several private businesses and individuals.

was a Third Priority
on area in 1982 - has
now been taken off list

I would offer the following language for:

New Section 3

"The sum of $580,000 is appropriated to the University of Alaska for Kenai Peninsula Community College student housing for engineering and architectural design."

This language is identical to that in CCSSB 876 which passed both Houses last session. As you will recall, this bill was vetoed by Governor Hammond.

KPCC → 4/42 average credit hours per full-time faculty → best in the University system

2/25/83

DIVISION OF COMMUNITY COLLEGES, RURAL EDUCATION AND EXTENSION

FALL 1982 ENROLLMENT UPDATE - NOT FOR GENERAL DISTRIBUTION

(DEGREE CREDITS ONLY)

	Closing Fall 82 Data				Closing Fall 1981 Data		
Unit	# P/T Students	# F/T Students	Total Headcount	Student Credit Hours Total	Total Headcount	Credit Hours	% Chg. SCH, Fall 82 Current vs Fall 81 Closing
KPCC	1,008	329	1,337	8,207	1,118	7,063	16.2
KECC	631	50	681	2,554	576	2,252	13.4
KOCC	639	19	658	2,079	582	2,135	-2.6
KUCC	609	41	650	2,527	571	1,941	30.2
MSCC	654	149	803	4,233	609	3,213	31.7
NWCC*	373	3*	376	1,303	291	1,235	5.5
PWSCC	576	15	591	1,533	478	1,372	11.7
SCC	663	39	702	2,095	441	1,519	37.9
TVCC	1,972	211	2,183	9,074	2,217	9,551	-5.0
RE	1,413	24	1,437	4,530	1,484	4,716	-3.9
CCC	16	0	16	39	**********CLOSED**********		
		Community College Total		33,644		30,281	11.1
		CCREE Total	9,434	38,174		34,997	9.1
UAA	2,092	1,488	3,580	30,216	3,620	27,719	9.0
UAF	2,273	3,071	5,344	54,063	5,574	50,247	7.6
UAJ (Juneau)	2,036	303	2,339	10,960	2,460	10,771	1.8
ACC	7,889	1,725	9,614	55,357	8,744	52,196	6.1
		Total U of A	30,311	188,770	28,765	175,930	7.3

50% credit hrs
20% Budget
19,018 67%

*Not on semester system, quarter system, F/T student at 9 credits at NWCC but definitions based on 12.

11/2/81
JES:jes

CITY OF SEWARD, ALASKA
RESOLUTION NO. 81- 52

A RESOLUTION OF THE SEWARD CITY COUNCIL,
SUPPORTING ON CAMPUS HOUSING FOR
KENAI PENINSULA COMMUNITY COLLEGE

WHEREAS, the City of Seward recognizes the contributions toward education that Kenai Peninsula Community College has made, and

WHEREAS, the citizens of Seward from time to time wish to become students at the Kenai Peninsula Community College, and

WHEREAS, the distance from Seward to Kenai Peninsula Community College presents difficulties in attending classes and taking part in the Kenai Peninsula Community College educational process, and

WHEREAS, the Kenai Peninsula Community College has no on-campus housing to provide shelter to those who must come from the outlying areas;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that the Council hereby goes on record as supporting the addition of on-campus housing at the Kenai Peninsula Community College campus.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, this 9 day of November, 1981.

CITY OF SEWARD, ALASKA

Donald W. Cripps
Mayor

I, JoAnne E. Shanley, City Clerk of the City of Seward, Alaska, hereby certify that this is a true and correct copy of the resolution as it appears of record in my office.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Seward, Alaska, this 10th day of November, 1981.

AYES: Burgess, Campbell, Cripps, Meehan, O'Brien, Soriano, Swartz
NOES: None
ABSENT: None

ATTEST:

JoAnne E. Shanley, CMC
City Clerk

(City Seal)

APPROVED AS TO FORM:

HUGHES, THORSNESS, GANTZ, POWELL & BRUNDIN
Attorneys for the City of Seward, Alaska

Fred B. Arvidson

RESOLUTION #81-21

A RESOLUTION OF THE CITY OF SELDOVIA SUPPORTING THE ADDITION OF ON-CAMPUS HOUSING AT KENAI PENINSULA COMMUNITY COLLEGE.

WHEREAS, the City of Seldovia recognizes the contributions being made toward the education of its citizens by the Kenai Peninsula Community College, and

WHEREAS, the location of the Kenai Peninsula Community College makes daily access to its facilities impossible for our citizens, and

WHEREAS, the additional cost of securing full-time housing when available for Seldovia citizens to attend Kenai Peninsula Community College works a financial hardship on those citizens, and

WHEREAS, the Kenai Peninsula Community College does not now have on-campus housing to accomodate those citizens wishing to attend Kenai Peninsula Community College,

NOW, THEREFORE, BE IT RESOLVED that the City of Seldovia does go on record as supporting the addition of on-campus housing at the Kenai Peninsula Community College campus.

PASSED AND APPROVED this 11 day of November, 1981

APPROVED:

Darlene Crawford

Darlene Crawford
Mayor

ATTEST:

Elaine M. Giles

Elaine M. Giles
City Clerk

CITY OF SOLDOTNA

RESOLUTION 81-38

A RESOLUTION BY THE CITY OF SOLDOTNA URGING FUNDING FOR ON-CAMPUS STUDENT HOUSING AT KENAI PENINSULA COMMUNITY COLLEGE IN FISCAL YEAR 1982-83

WHEREAS, Credit hours, courses and student attendance have increased steadily and noticeably at Kenai Peninsula Community College in the last five years, and

WHEREAS, The unique instructional fields of oil petroleum, industry and mining offered at the local community college and an expanding statewide industrial base have comfortably joined to produce a dependable, steady portion of the local institutional growth, and

WHEREAS, more and more students are also electing to spend their first two years of college at the local educational institution, and

WHEREAS, The addition of a new 26,000 square foot Vocational Training Center soon will greatly accelerate student enrollment, and

WHEREAS, Peninsula students would choose to stay on campus instead of traveling endless hours on hazardous Borough roads, and

WHEREAS, A recent Housing Survey (October 1981) has shown an undeniable need for on-campus housing, and

WHEREAS, Tight money and high interest rates in the private sector have discouraged construction of multiunit, low to medium income rentals in the local area, and

WHEREAS, The community College Council is chaired by Hazel Heath and Georoe Day, and the Vocational Advisory Board and the College Council have approved the concept of on-campus housing, now therefore

BE IT RESOLVED THAT the City Council of the City of Soldotna urges the Alaska Legislature to appropriate $5,200,000 in fiscal year 1982-1983 that will fund on-campus Student Dormitory Housing.

BE IT FURTHER RESOLVED THAT The City of Soldotna send copies of this resolution to Mr. Jay Hammond, Governor of the State of Alaska; Dr. Patrick O'Rourke, Chancellor, Community College, Extension and Rural Education; Mr. Edward B. Rasmusson, President, University of Alaska Board of Regents; Mr. Ed Dankworth

and Mr. Don Bennett, Co-chairmen, Finance Committee, Alaska Senate; Mr. Albert Adams, Chairman, Finance Committee, Alaska House of Representatives; Mr. Don Gilman, District 13 Senator, Alaska Senate; Mr. Hugh Malone and Mr. Pat O'Connell, District 13 Representatives, Alaska House of Representatives; and Mrs. Betty Cato, District 5 Representative, Alaska House of Representatives.

ADOPTED This 19th day of November, 1981.

Justin Brown
Mayor

ATTEST:

Patricia C. Burdick
City Clerk

CITY OF KENAI

RESOLUTION NO. 81-107

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, EXPRESSING SUPPORT FOR THE KENAI PENINSULA COMMUNITY COLLEGE'S ENDEAVOR TO PROVIDE ON CAMPUS LOW-COST HOUSING FOR STULENTS ENROLLED IN THE COLLEGE'S CURRICULUM.

WHEREAS, the Kenai Peninsula Community College has embarked upon a program to increase the number of faculty members to cope with the increased number of students attending the College, and

WHEREAS, increasing numbers of students are in desperate need of low-cost housing to be in economic position to pursue their academic goals, and

WHEREAS, the Kenai Peninsula Community College is a growing economic and academic facility that is extremely beneficial and supportive of local industry and local commercial enterprises and,

WHEREAS, the Board of Regents for the Uni ersity of Alaska has authorized on-campus housing as one of their priorities for the Kenai Peninsula Community College.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that said Council is on record in support of the Kenai Peninsula Community College's effort to provide low-cost housing for the students attending the college.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 8 th day of November, 1981.

VINCENT O'REILLY, MAYOR

ATTEST:

Janet Whelan, City Clerk

CITY OF HOMER
HOMER, ALASKA

RESOLUTION 81-92

A RESOLUTION SUPPORTING KENAI PENINSULA COMMUNITY COLLEGE OBTAINING ON-CAMPUS HOUSING.

WHEREAS, the Kenai Peninsula Community College has served the educational needs of the City of Homer and its citizens for a number of years, and;

WHEREAS, many residents of the City of Homer wish to participate in full-time college studies offered at the main campus of Kenai Peninsula Community College, and;

WHEREAS, the distance from Homer to the Kenai Peninsula Community College is in excess of 150 miles round trip by a sometimes very hazardous road system, and;

WHEREAS, the availability of student housing is nearly non-existent thus creating a great hardship on those Homer students wishing to further their education, and;

WHEREAS, the Kenai Peninsula Community College has embarked upon a program to obtain on-campus housing for students from outlying areas,

NOW THEREFORE, BE IT RESOLVED that the Common Council of the City of Homer and its citizens go on record as supporting Kenai Peninsula Community College in its efforts to obtain funding for this project.

CITY OF HOMER

Leo Rhode

Leo Rhode, Mayor.

ATTEST:

Kathleen F. Herold

Kathleen F. Herold, City Clerk

Introduced by: Mayor
Date: December 15, 1981
Vote: Unanimous
Action: Adopted

KENAI PENINSULA BOROUGH

RESOLUTION 81-195

DECLARING THE ASSEMBLY'S SUPPORT FOR THE PROVISION OF STUDENT HOUSING FACILITIES ON THE CAMPUS OF THE KENAI PENINSULA COMMUNITY COLLEGE.

WHEREAS, the Assembly and the Borough administration recognize the need for post secondary education on the Kenai Peninsula; and

WHEREAS, the Assembly and the Borough administration also recognize the important educational purpose of the Kenai Peninsula Community College and its important service to all the citizens of the Borough as well as other citizens from around the state and elsewhere; and

WHEREAS, the lack of student housing curtails the opportunities of the college and the student body; and

WHEREAS, the lack of student housing precludes the opportunity of this educational program to persons in remote locations and prevents many students from attending the community college on a full time basis; and

WHEREAS, the Kenai Peninsula Community College has recognized this need and intends to pursue funding and construction of on-campus student housing; and

WHEREAS, the Assembly and the Borough administration fully support on-campus student housing at the Kenai Peninsula Community College;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Borough Assembly and the Borough administration record their support and endorsement for the provision of student housing facilities on the campus of the Kenai Peninsula Community College;

BE IT FURTHER RESOLVED that the Assembly and the Borough administration urge the Twelfth Alaska Legislature, Second Session, to provide funds in the next fiscal year for the provision of on-campus student housing at the Kenai Peninsula Community College.

Section 2. That the Clerk shall serve a copy of this resolution upon the Honorable Jay S. Hammond, Governor of the State of Alaska; upon the Honorable Jalmar Kerttula, President of the State Senate; upon the Honorable Joe L. Hayes, Speaker of the State House; upon the Honorable Donald E. Gilman, State Senator; upon the Honorables Bette Cato, Hugh Malone, and Pat O'Connell, State Representatives.

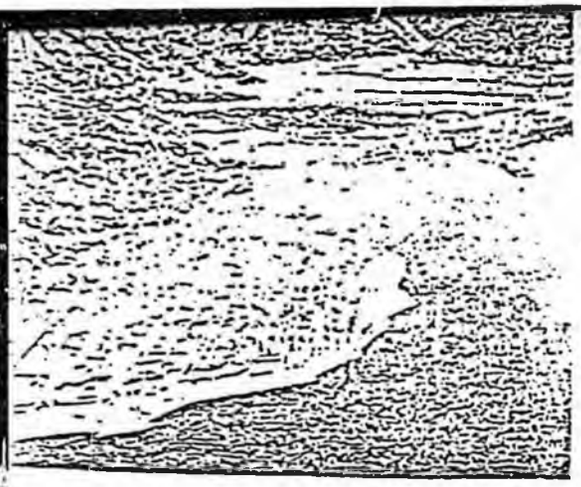
Section 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 15th DAY OF December, 1981.

John C. Davis, Assembly President

ATTEST:

Borough Clerk



SEWARD
CHAMBER of COMMERCE

"FUN CAPITAL OF ALASKA"

SEWARD
All America City
1963 - 1965

BOX 756 SEWARD, ALASKA 99664

RESOLUTION

A RESOLUTION OF THE SEWARD CHAMBER OF COMMERCE, SUPPORTING ON-CAMPUS HOUSING FOR KENAI PENINSULA COMMUNITY COLLEGE

WHEREAS, the Seward Chamber of Commerce recognizes the contributions toward education that Kenai Peninsula Community College has made, and

WHEREAS, the citizens of Seward from time to time wish to become students at the Kenai Peninsula Community College, and

WHEREAS, the distance from Seward to Kenai Peninsula Community Collge presents difficulties in attending classes and taking part in the Kenai Peninsula Community College educational process, and

WHEREAS, the Kenai Peninsula Community College has no on-campus housing to provide shelter to those who must come from the outlying areas;

NOW, THEREFORE, BE IT RESOLVED BY THE SEWARD CHAMBER OF COMMERCE OF SEWARD, ALASKA, that the Chamber hereby goes on record as supporting the addition of on-campus housing at the Kenai Peninsula Community College.

ADOPTED BY SEWARD CHAMBER OF COMMERCE this 16th day of November, 1981.

Brent Whitmore, President
Seward Chamber of Commerce



November 16, 1981

Members of the Alaska State Legislature
Juneau, Ak. 99801

Sirs:

The Board of Directors of the Homer Chamber of Commerce would like to voice unanimous support for the requested legislative appropriation of $5,200,000 for the construction of housing units for the Kenai Peninsula Community College.

The Kenai Community College serves the Soldotna/Kenai area, the remainder of the Peninsula and many students from other areas of the state and even "outside". Their unique course offering, including instruction in the fields of oil, industry, mining and secretarial sciences attracts students from many geographic locations. As the state's industrial base continues to grow, so to will the Kenai Peninsula Community College.

There are many factors leading to the need for college housing at the facility. There is a housing shortage in the Kenai/Soldotna area. Thus - students are often forced to take isolated or sub-standard housing situations. More likely, they are discouraged from even considering attendance due to the problems of finding suitable housing. The housing that is available, because of the shortage, is expensive and this puts an additional burden on the student. There is no public transportation so the students who are able to secure housing must also invest in a car.

Campus housing would alleviate these problems. It would encourage attendance by those who have stayed away because of the housing situation. It would facilitate students from Homer, Anchor Point and other out-lying areas of the Peninsula in obtaining their core education. Dormitory housing on the campus would be of benefit to every peninsula community and many other communities not within our borough. We have reviewed the findings by the College staff and feel that they have proven that the housing would be used to capacity and that it is a needed addition to continue the growth and service of the college.

We urge that the appropriation be passed during the upcoming legislative session.

Sincerely,

HOMER CHAMBER OF COMMERCE

Gil Russell

Gil Russell
President

Post Office Box 541 • Homer, Alaska 99603 • (907) 235-7740

Kenai Chamber of Commerce
Box 497
Kenai, Alaska 99611
(907) 283-7989

KCC

RESOLUTION 81-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE KENAI CHAMBER OF COMMERCE EXPRESSING SUPPORT FOR THE KENAI PENINSULA COMMUNITY COLLEGE'S ENDEAVOR TO PROVIDE ON CAMPUS LOW-COST HOUSING FOR STUDENTS ENROLLED IN THE COLLEGE'S CURRICULUM.

WHEREAS, the Kenai Peninsula Community College has embarked upon a program to increase the number of faculty members to cope with the increased number of students attending the college, and

WHEREAS, increasing numbers of students are in desperate need of low-cost housing to be in economic position to pursue their academic goals, and

WHEREAS, the Kenai Peninsula Community College is a growing economic and academic facility that is extremely beneficial and supportive of local industry and local commercial enterprises, and

WHEREAS, the Board of Regents for the University of Alaska has authorized on-campus housing as one of their priorities for Kenai Peninsula Community College.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KENAI CHAMBER OF COMMERCE, that said directors, is on record in support of the Kenai Peninsula Community College's effort to provide low-cost housing for the students attending the college.

PASSED BY THE DIRECTORS OF THE KENAI CHAMBER OF COMMERCE AD KENAI, ALASKA, this 4th day of December, 1981.

Harry Gaines

HARRY GAINES, PRESIDENT
Kenai Chamber of Commerce

DISTRIBUTION LIST

1. Dr. Jay Barton, President, University of Alaska
2. Dr. Ed Biggerstaff, Chancellor, C.R.E.E.
3. Members, University of Alaska Board of Regents
4. Dr. Lester Vierra, President, Kenai Peninsula Community College
5. Tom Wagoner, Dean of Academic Affairs, Kenai Peninsula Community College
6. Dr. Margo Zuelow, Dean of Outreach, Kenai Peninsula Community College
7. Governor J. Hammond, State of Alaska
8. Representative Hugh Malone, House District 5 Legislative Delegate
9. Representative Pat O'Connell, House District 5 Legislative Delegate
10. Senator Don Gilman, Senate District A Legislative Delegate
11. Members, Alaska State Senate
12. Members, Alaska State House of Representatives
13. Mayors, Peninsula Communities
14. All Presidents of All Chambers of Commerce on the Kenai Peninsula
15. Members, News Media

KENAI PENINSULA COMMUNITY COLLEGE COUNCIL
Minutes of January 13, 1983 Meeting

Meeting called to order at 7:05 P.M. by Chairman Heath.

MEMBERS PRESENT: LeRoy Barton, Charlotte Calhoun, John Douglas, George Ford, Hazel Heath, Marion Hylen, Debra Mullins, Jason Roth, Alex Shadura, Donnis Thompson, Walter Ward. Ex-Officio: Les Vierra, Tom Wagoner, Kate O'Dell, Kate Fenton, Bonnie Heimbuch.

MEMBERS ABSENT: Roger Holl. Ex-Officio: Michael Beck, Nancy DuPaul.

GUESTS: Dottie Krzyzanoski, Ethel Clausen, Patricia Morris.

AGENDA: Agenda approved as submitted.

MOTION: By Hylen, seconded by Thompson, passed unanimously.

That the Minutes of the December 9, 1982 meeting be approved as submitted with the correction made under Chairman's Report that she had traveled to Juneau for the Older Alaskans Commission.

REPORTS: Chairman. Read letter received from President Barton concerning his informative meeting with the Council. Reported that KPCC's Homer Branch open house had been successful.

President. Reported that UA has submitted 1984 Budget to the Governor; the February 1 audio conference for defense of Budget; Council members encouraged to attend and speak; Carolyn Cannava from Kenai Peninsula Borough School District (KPBSD) will speak on behalf of KPCC; KPCC starting FY-85 Budget process within next few weeks; projected enrollment for 1992 is 1200 FTES; projections to be mailed to Council as soon as completed; hope to involve everyone who is interested in FY-85 Budget; after prioritization, will be presented to Council for adoption; KPCC has requested continuation budget from KPBSD; student body will be coming to Council for request of increase in student activity fee and student budget, will be presented at next meeting; Chancellor Melican and Vice Chancellor Bomotti will be in attendance at next Council meeting to speak regarding the machinist-millwright instructional position; two proposals received on Student Housing thus far.

Dean, Support Services. Reported that KPCC is in process of doing final spring reconciliation (budget) to determine what our status is; spring registration duplicated headcount as of January 13 is 2,242.

Dean, Academic Affairs. Reported that letter had been sent to Chancellor to eliminate Industrial Electronics degree program; John Rogers hearing scheduled on this campus on February 8; possibility of facility being donated for Homer Branch, is in preliminary talking stage; new facility (Phase V) basically 98% complete and we are utilizing space this semester.

MOTION: 83-17

By Barton, seconded by Ward.

Move that the Council concur with the decision to eliminate the Industrial Electronics degree program based on the enrollments presented at this meeting.

MOTION ITHDRAWN.

Suggestions: That this matter be brought before Council at next meeting; that more information on the second year offerings be presented; obtain reaction from industry; advertise more widely for this program.

REPORTS: (CONTINUED)

Dean, Student Services. Reported that Student Body Officers, Dean and President would have audio-conference with Chancellor on January 25 (9:00 A.M.) regarding Student Constitution - Council members encouraged to attend; reported enrollments in Learning Skills Center; 295 state loans awarded as of December 10, 7 of the 42 students who applied for state incentive grants were awarded, 395 KPCC students have applied for state/federal financial aid grants; announced hiring of new personnel: Sharon Williams as Media Services Technician, Dodie Smith as Arm Chair College Facilitator.

Council Members. Thompson requested that there be a presentation of Arm Chair College at future meeting; questioned whether Senator Fischer and Representative Malone had been apprised of happenings at meeting with local legislators. Mullins questioned if we keep Representative Cato informed of KPCC happenings. Calhoun stated that Homer residents are aware that KPCC Homer Branch has moved into new location; questioned if Homer and Seward students charged student activity fee, what would be the benefit, suggested that student newspaper would be one way; suggested that KPCC register the logo as adopted by the Council and if royalities ever received could they be dedicated to scholarship account.

Faculty, Students and Staff. No reports.

Public. No reports.

DISCUSSION:

Community College Council Handbook. The complete handbook is to be handed out at the next meeting. This document will be single spaced and paginated. Questioned how changes in the handbook would be brought about. Suggested that blanket statement regarding Council's acceptance of Board of Regents policies be placed in front of the handbook as well as referrals to BOR policies at appropriate sections. Recommended that personal pronouns reflect both gender. Questioned was whether or not faculty, staff and students can feel free to go to Council members without

permission of College administration, or whether Council members can go directly to faculty, staff and students with concerns.

Advisory Committee Handbook. Concern as to how advisory committees were to bring back information to the Council, Council to receive copies of minutes from all committees. Recommended that information regarding termination of committee members be recommended to the Council be placed in handbook. With consent of Council, this item will be brought back to the Council at their next meeting for approval.

MOTION: 83-18

By Hylen, seconded by Douglas, passed unanimously.

That the Administration present a continuation budget request to the Kenai Peninsula Borough School District to reflect programs related directly to the agreement with the District.

NEXT MEETING: The next meeting of the Council will be held February 10, 1983 at 7:00 P.M. on campus. Chancellor Melican and Vice Chancellor Bomotti will be in attendance.

ADJOURNMENT: Meeting adjourned at 9:45 P.M.

Respectfully submitted,

Gwen Freeman
Recroding Secretary

SB
26

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE

P.O. BOX 643
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Sen. Bill Ray, Chair
Senate Judiciary Committee

FROM: Sen. Dick Eliason

DATE: May 18, 1983

RE: SB 26 - "An Act providing for immunity from civil liability for certain persons who render services in response to hazardous materials emergencies."

As requested, I have reviewed the above-referenced legislation and I am now reporting my findings to you.

SB 26, introduced by Senators Ziegler and Halford, would add a new section to the "Alaska Good Samaritan Act" to include civil liability cases involving a person responding to a hazardous materials emergency. This legislation would grant immunity from civil liability to those individuals who render assistance during a hazardous materials emergency at the request of trained professionals. It does not guarantee immunity in cases of gross negligence or intentional misconduct.

Distributed by Senator Ziegler

SB 26 - IMMUNITY FROM CIVIL LIABILITY TO PERSONS RESPONDING TO HAZARDOUS MATERIALS EMERGENCIES.

SECTION 1

(a) GRANTS CIVIL LIABILITY EXEMPTION TO A PERSON REQUESTED TO RESPOND TO A HAZARDOUS MATERIALS EMERGENCY FOR AN ACT OR OMISSION WHILE GIVING AID.

(b) DOES NOT PRECLUDE LIABILITY FOR A PERSON RENDERING AID IF THAT PERSON CAUSES DAMAGES THROUGH GROSS NEGLIGENCE, RECKLESS OR INTENTIONAL MISCONDUCT; OR THROUGH SIMPLE NEGLIGENCE IN THE ORDINARY CONDUCT OF THAT PERSON'S BUSINESS(EXCEPT FOR THOSE REQUIRED TO RESPOND TO AN EMERGENCY BY THEIR PROFESSION); OWNS, LEASES OR CONTROLS THAT WHICH IS INVOLVED IN THE ACCIDENT; OR A PERSON EXPECTING REIMBURSEMENT FOR SERVICES.

(c) IMMUNITY GRANTED IN (a) EXTENDS TO THE PERSON'S EMPLOYER OR ANY PERSON OR ENTITY RESPONSIBLE FOR THE PERSON RESPONDING TO THE EMERGENCY FOR ACTS OR OMISSIONS OF THE PERSON.

(d) DEFINES HAZARDOUS MATERIAL AS A SUBSTANCE CLASSIFIED AS HAZARDOUS BY THE STATE OR FEDERAL GOVERMENTS OR A CHEMICAL, PETROLEUM PRODUCT, GAS, OR OTHER SUBSTANCE THAT IS LIKELY TO CAUSE HARM IF RELEASED

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

☒ Expenditure Type
☐ Revenue Type

I. REQUEST
Bill/Resolution No. SB 26
Title "...immunity from civil liability..."
Requested by Senate HSS Date

II. FISCAL DETAIL
Agency Affected Department of Public Safety
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected Alaska State Troopers
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	0	0			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0			

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No fiscal impact is anticipated.

RECEIVED
FEB 8 1983
LEGISLATIVE FINANCE

IV. DATE January 19, 1983 PREPARED BY Francis C. Allan Phone 269-5691
DIVISION State Troopers Initials mcK
DEPARTMENT OF PUBLIC SAFETY Initials

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

ALASKA STATE FIREFIGHTERS ASSOCIATION
CASTINEAU CHAPTER
LEGISLATIVE COMMITTEE
P.O. Box 187 Juneau, Alaska 99802

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Hearing on Senate Bill No. 26 "Providing for Immunity from Civil Liability for Certain Persons who Render Service in Response to Hazardous Materials Emergencies"

May 2, 1983

Mr. Chairman:

My name is E. Robert Haag representing the Alaska State Firefighters Association and the Alaska Fire Chiefs Association.

We wish to speak in favor of Senate Bill No. 26 now before your Committee. Our two Associations, at their annual meetings last October 1982, passed a number of resolutions pertaining to the Fire Service. One of the resolutions concerned supporting of a State enacted "Hazardous Materials Good Samaritan Act".

Senate Bill No. 26 would provide for a new section to AS 09.65 to add to the "Alaska Good Samaritan Act" (AS 09.65.090) a section "Civil Liability for Responding to Hazardous Material Emergency". The existing AS 09.65.090 covers only "Civil Liability for Emergency Aid". A copy of this section is enclosed for your general information. It covers "a person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person....".

Alaska Fire Chiefs and Firefighters are concerned since incidents involving hazardous materials are happening with increased frequency in all areas of the State of Alaska. These incidents often require immediate assistance of

persons with technical expertise to advise the Fire Service as to how to deal with the hazardous materials accident or spill. Many persons, outside of the Fire Service, who are technical experts, are reluctant to provide advice because of fear of legal liability.

Take an example of a Fire Chief in a small community who encounters a hazardous materials accident. When he arrives on the scene he finds a powdered substance spilled from a container. He does not know what it is and the container is not marked. His quick reaction is to call the local high school chemistry teacher to see if he can possibly identify the powder. That teacher could refuse to make a test in fear of a civil liability. If the proposed Statute were law, that same teacher would feel more at ease to make the test since he could be protected under the "Civil Liability Act".

A number of States have enacted "Good Samaritan Acts" similar to the proposal before your Committee.

Mr. Chairman and members of the Committee, we strongly urge your "DO PASS" on this Bill so that it may proceed through the Senate and the House to become a valuable Statute. The saving of even one life, by the passage of this Bill, would make you feel proud that you had an important part in its becoming law.

Mr. Chairman, if we can provide you with any information to assist in the Bill's passage, please let us know.

We thank you for your valuable time in allowing us to testify.

Alaska Fire Chiefs' Association



RESOLUTION No. 82-3

WHEREAS incidents involving hazardous materials are happening with increased frequency in all areas of the State of Alaska; and

WHEREAS these incidents often require assistance of persons with technical expertise to help with their management; and

WHEREAS many persons outside of the fire service are reluctant to provide this advice because of legal liability,

NOW, THEREFORE, BE IT RESOLVED that the Alaska Fire Chiefs' Association support the concept of a State enacted "Hazardous Materials Good Samaritan Act" patterned on similar acts recently enacted in other states; and

BE IT FURTHER RESOLVED that the Alaska Fire Chiefs' Association urges the Alaska State Legislature to pass such a law in the next legislative session.

APPROVED in conference October 20, 1982 in Ketchikan, Alaska.

_____

BASIL J. SANDS, Jr., President

ALASKA STATE FIREFIGHTERS ASSOCIATION

RESOLUTION No. 82-16

WHEREAS incidents involving hazardous materials are happening with increased frequency in all areas of the State of Alaska; and

WHEREAS these incidents often require assistance of persons with technical expertise to help with their management; and

WHEREAS many persons outside of the fire service are reluctant to provide this advice because of legal liability,

NOW, THEREFORE, BE IT RESOLVED that the Alaska State Firefighters Association support the concept of a State enacted "Hazardous Materials Good Samaritan Act" patterned on similar acts recently enacted in other states; and

BE IT FURTHER RESOLVED that the Alaska State Firefighters Association support and assist the Alaska Fire Chiefs' Association in this regard.

ACTION Passed DATE: October 3, 1982

Leigh Gallagher

LEIGH GALLAGHER, President, ASFA

Sec. 09.65.090. Civil liability for emergency aid. (a) A person at a hospital or any other location who renders emergency care or emergency counseling to an injured, ill, or emotionally distraught person who reasonably appears to the person rendering the aid to be in immediate need of emergency aid in order to avoid serious harm or death is not liable for civil damages as a result of an act or omission in rendering emergency aid.

(b) This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct. (§ 1 ch 52 SLA 1967; am § 1 ch 119 SLA 1971; am § 38 ch 102 SLA 1976)

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alas. Const., art. II, § 14.

Effect of amendments. — The 1976 amendment rewrote subsection (a) and deleted the second sentence of subsection (b) which read "Gross negligence means reckless, wilful, or wanton misconduct."

SB

72

COMMITTEE REPORT

HOUSE

(7)

FURTHER: FINANCE

Date: 4/30/84

3/22/84

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSSSSB 72(HESS)am

"An Act relating to sexual assualt investigations."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[x] replace with HCS for CSSSSB 72 (HESS) [x] same title [ ] new title

and recommends "do pass."

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Rick Clefly

T. M. Martin

Mike Davis

Nita Kopman

Robert Jones

Sam Pestinger

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mal Tischer - no Rec.

Mal Tischer
CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: CSSSSB72(HESS)am

Title: "An act relating to sexual assault investigation."

Sponsor: Senator Kerttula

Requestor: House HESS

Date of Request: 4/13/84

FISCAL DETAIL

Agency Affected: Public Safety

Program Category Affected: Administration of Justice

BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		5.0				
200 TRAVEL		70.0				
300 CONTRACTUAL		38.0				
400 SUPPLIES		9.0				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		122.0	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE			-0-			

FUNDING: (Thousands of Dollars)

GENERAL FUND		122.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jos Mapranat'i Phone: 465-4336

Division: Administrative Services Date:

Approved by Commissioner: Robert J. Sundberg Date: 4/13/84

Agency: Public Safety

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

CSSSB 72 (HESS) am
FISCAL NOTE
FY 85

100 - Personal Services - 10 hours of overtime per month for an Alaska State Trooper, Sergeant, 78K (Note: Much of this training involving the legal implication of sexual assault investigations will need to be provided by a lawyer from the Department of Law.)		$4,979
200 - Travel		
a) Travel & Per Diem must be provided for the Registered Nurse who will train medical institutions throughout the State in the use of the sexual assault kits.	$14,000	
b) Travel & per diem must be provided for a three man team which will train all state and local law enforcement officers with training in witness/victim interviews, victim sensitivity, crisis intervention and serological and biological evidence gathering.	$56,000	- $70,000
300 - Contractual - Personal Services contract with Registered Nurse to train medical facilities throughout the State in the use of the sexual assault examination kits.		$38,000
400 - Commodities - We would need approximately 600 kits the first year to replace all of the kits now in use and for training purposes. The cost is estimated to be about $15.00 for each kit.		$9,000
Total		$121,979

Note: These costs are needed in the first year only. Replacement costs for the kits are budgeted in the operating budget of the Crime Lab.

Alaska State Legislature

Senate

Office of the President

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

RECEIVED
APR 1984

MEMORANDUM

TO: Mae Tischer, Chair
House HESS Committee

FROM: Senator Jay Kerttula

SUBJECT: SSSB 72, "An act relating to sexual assault investigations"

DATE: April 5, 1984

Attached is back-up for SB 72, which provides for a statewide protocol and training for use by professionals of sexual assault examination kits. SB 72 also stipulates that sexual assault examinations be performed at no charge to the alleged victim.

If you need further information on this legislation, please don't hesitate to contact my office.

Introduced: 2/1/84
Referred: Health, Education and Social Services and Finance

IN THE SENATE

BY KERTTULA, V.FISCHER AND JOSEPHSON

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 72

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to sexual assault investigations."

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

* Section 1. AS 18 is amended by adding a new chapter to read:

CHAPTER 68. SEXUAL ASSAULT INVESTIGATIONS.

Sec. 18.68.010. SEXUAL ASSAULT EXAMINATION KIT. (a) The Department of Public Safety in conjunction with the Department of Law and the Department of Health and Social Services shall develop a uniform sexual assault examination kit.

(b) Under protocols developed under AS 18.68.020

(1) the Department of Public Safety shall distribute the kits throughout the state; and

(2) peace officers and health care providers shall use the kits for the gathering of evidence in cases of suspected sexual assault.

(c) The appropriate person under the protocols developed under AS 18.68.020 shall provide a sexual assault examination kit at no charge to an alleged victim of a sexual assault.

Sec. 18.68.020. SEXUAL ASSAULT INVESTIGATIONS PROTOCOLS. (a) The Department of Public Safety in conjunction with the Department of Law and the Department of Health and Social Services shall develop a manual of protocols governing the distribution and use of the sexual assault examination kit developed under AS 18.68.010.

(b) The Department of Public Safety shall distribute copies of the protocol manual developed under this section to the appropriate

FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SSSB 72
Title: "An Act relating to sexual assault investigations."
Sponsor: Sen. Kerttula
Requestor: Senate Hess
Date of Request: 2/2/84

FISCAL DETAIL
Agency Affected: Department of law
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		49.6	52.6	55.8	59.1	62.6
200 TRAVEL		7.5	8.0	8.5	9.0	9.5
300 CONTRACTUAL		24.8	10.4	11.0	11.7	12.4
400 SUPPLIES		4.5	3.2	3.4	3.6	3.8
500 EQUIPMENT		1.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	87.9	74.2	78.7	83.4	88.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	87.9	74.2	78.7	83.4	88.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	1	1	1	1	1
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: 2-6-84
Approved by Commissioner: Norman C. Gorsuch Date: 2-6-84
Agency: Department of La

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Fiscal Note
Analysis
SSSB 72

February 3, 1984

This bill provides that the Department of Public Safety, in conjunction with the Department of Law and the Department of Health and Social Services shall develop and distribute a uniform sexual assault examination kit. The bill further provides that these departments shall develop a manual of protocols governing the distribution and use of the sexual assault examination kit.

The Department of Law will have primary responsibility for developing the manual of protocols. Some preliminary work in this project has already been accomplished as an outgrowth of the establishment of specialized sexual assault prosecution units and the use of victim/witness assistance paralegals in several of the department's District Attorney offices. In addition to developing protocols that enhance the preservation and protection of evidence, and writing protocols that deal with victims in a sympathetic and supportive manner, the department believes that it will be necessary to develop training packages for police officers. These training packages would then be incorporated into the regular police training curriculum and be available to Village Public Safety Officers, local police agencies and the Alaska State Troopers.

The biggest single obstacle to be cleared in making the sexual assault examination kit program work is the training of health care providers and private medical practitioners who examine and treat rape victims, in the preservation of evidence and the handling of victim/witnesses. There is no mechanism to command the attendance of health care providers at standardized training courses, nor would such a mechanism be a practical solution. Consequently, the department believes that this critical link in the chain of evidence can be best assured by providing on-site training and consultation to health care providers on a recurring basis. Recurrent on-site training will also be of vital importance for the staffs of the Department of Health and Social Services and the Council on Domestic Violence and their contractors who assist victims of sexual assault and particularly victims of child sexual abuse.

The Department of Law therefore requests sufficient funds to hire an Associate Attorney II who will be responsible for writing and revising the protocols for the distribution and use of the sexual assault examination kit. This position will also be responsible for developing police agency training packages and the position will develop and provide ongoing training for health and social services care providers. Funds are also requested for the printing of training materials and protocol manuals.

The Associate Attorney will be located with the Violent Crimes/Sexual Assault supervisor in the Office of the Chief Prosecutor.

FISCAL ANALYSIS - SSSB 72

This analysis is based upon establishing an Associate Attorney II position at Juneau. It provides for usual position support cost. Travel is set at a higher than usual level to allow for the training of rural health care and social services care providers. Ongoing costs include $400 per month for communications and copying, and $250 per month for office and library supplies. One-time expenses include $1,500 in new position office commodities and $1,500 in new position equipment. Another one-time expense is for the printing of protocol manuals, as well materials for and printing of training manuals. These costs are estimated at $20,000, in the first year, and $5,000 per year, thereafter. These costs have been estimated on the basis of similar projects requiring training efforts such as the criminal code revision. Costs beyond FY 85 include a 6% inflation factor.

1st Year Costs (FY 85)

	Associate Attorney II
Personal Services	49.6
Travel	7.5
Contractual	
Communications & Copying	4.8
Protocol/training materials	20.0
Commodities - ongoing	
Office Supplies	1.8
Library Materials	1.2
Commodities - single time	
New position supplies	1.5
Equipment - single time	
New position equipment	1.5
Total	87.9

1.	POSITION TITLE: ASSOCIATE ATTORNEY II			RANGE/STEP: 19A	BARG. UNIT: PX	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP
2.	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION: Juneau	ELECTION DISTRICT: 4	LEG.		
3.	CONTINUATION LEVEL		ADDITION						

4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 3,193/mo.	38,316	
6.	Benefits	6,284	
7.	Supplemental Benefits	2,349	
8.	Fixed Benefits	2,630	
9.	TOTAL PERSONAL SERVICES	01	49,579
10.	Travel	02	7,500
11.	Contractual	03	24,800
12.	Commodities	04	4,500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		87,900

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.		General Funds	1004	87,900
19.		I-A Receipts	1005	
20.		Program Receipts	1020	
21.		Other		

FOR O&M USE ONLY
4A KEY NUMBER — — - — — - — — - — — - — —

JUSTIFICATION

This position is required to develop and revise protocols for the distribution and use of a sexual assault examination kit. The position will also develop and write training guides for police officers to be incorporated in various training programs used by the Village Public Safety Officers, local police departments, and the Alaska State Troopers. The position will also provide recurrent on-site consultation for health care and social services care providers who assist the victims of sexual assault, particularly the victims of child sexual abuse. The position will interpret the legal requirements for safeguarding the evidence of sexual assault by health care and social services care providers such as hospitals, private medical practitioners, domestic violence shelters and village health aides.

13 REQUEST FOR NEW POSITION

AGENCY DEPARTMENT OF LAW

PROGRAM DUE PROCESS

BRU PROSECUTION

FY 85

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSSSB72(HFSS)
Title: "An act relating to sexual assault investigation."
Sponsor: Senator Kerttula
Requestor: Senate Finance
Date of Request: 2-15-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		5.0				
200 TRAVEL		70.0				
300 CONTRACTUAL		38.0				
400 SUPPLIES		9.0				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		122.0	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		122.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan
Division: Alaska State Troopers
Phone: 269-5691
Date: 02/06/84

Approved by Commissioner: Robert J. Sundberg
Agency: Public Safety
Date: 2/6/84

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

CSSSSB 72 (HESS)
FISCAL NOTE
FY'85

100 -	Personal Services - 10 hours of overtime per month for a Alaska State Trooper, Sergeant, 78K (Note - Much of this training involving the legal implications of sexual assault investigations will need to be provided by a lawyer from the Department of Law.)		$ 4,979
200 -	Travel		
	a) Travel & Per Diem must be provided for the Registered Nurse who will train Medical Institutions throughout the state in the use of the sexual assault kits.	$14,000	
	b) Travel & Per Diem must be provided for a three man team which will train all state and local law enforcement officers with training in witness/victim interviews, victim sensitivity, crisis intervention and serological and biological evidence gathering.	$56,000	
			$ 70,000
300 -	Contractual - Personal Services contract with Registered Nurse to train Medical Facilities throughout the state in the use of the sexual assault examination kits.		$ 38,000
400 -	Commodities - We would need approximately 600 kits the first year to replace all of the kits now in use and for training purposes. The cost is estimated to be about $15.00 for each kit.		$ 9,000
		Total	$121,979

Note - These costs are needed in the first year only. Replacement costs for the kits are budgeted in the operating budget of the Crime Lab.

FEB 2 1984

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - CS SS SB 72 (HESS)

Support

February 6, 1984

CS SS SB 72 (HESS) - "An Act relating to sexual assault investigations."

By making the sexual assault examination kits universal and by providing sufficient training in their use, a significant increase in the number of sexual assault convictions is expected.

Robert J. Sundberg
Commissioner

OSITION PAPER/Department of Health and Social Servic

POSITION PAPER

SENATE BILL NO. 72

"An Act relating to free emergency medical examinations of victims of sexual offenses."

This Bill adds a new section to the statute governing the Violent Crimes Compensation Board which provides that the victim of sexual assault or, in the case of a minor, a victim of sexual abuse may request and shall receive free emergency medical examination at a public or private hospital or other emergency medical facility so that evidence may be gathered to assist in the possible prosecution of the offender. The Bill also provides that the Board may reimburse the hospital or emergency facility for the reasonable costs of the examination. It further provides for retroactive payment to the victim or parent if the victim agrees to aid in the prosecution of the offender.

The Department of Health and Social Services endorses measures which assist in law enforcement. Costs of examinations for victims are coverable under the state's Medicaid program at present and under many health insurance pr[illegible] We have no means to estimate how this Bill would affect the costs [illegible] the Violent Crimes Compensation Board. We do not anticipate any increased costs to the medical assistance programs administered by this Department.

It is noted that no provision is made for reimbursement of costs to physicians or other health care providers who may be involved in such examinations.

Recommended by: E. S. Rabeau, M.D.

E. S. Rabeau, M.D., Director
Division of Public Health

Date: Feb 12, 1983

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Servic

Date: 2/14/83

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

110 SEWARD #13 JUNEAU ALASKA 99801

(907)586-3650

POSITION PAPER: SSSB72
AN ACT RELATING TO SEXUAL ASSAULT INVESTIGATIONS

The Alaska Network on Domestic Violence and Sexual Assault, representing twenty member programs statewide providing services to victims of domestic violence and sexual assault, supports sponsor substitute for Senate Bill 72, An Act Relating to Sexual Assault Investigations.

The Network's primary area of concern is provision of comprehensive, sensitive, and timely services to victims. In cases of sexual assault, this concern involves assuring the victim that all necessary evidentiary information will be gathered in order to facilitate a successful prosecution. For that reason, it is imperative that uniform kits are provided for use statewide, that protocols be developed for use and distribution of the kits, that protocols address needs of both rural and urban areas, and that training be provided in both the use of the protocol and the kit to peace officers, District Attorneys, other appropriate law enforcement agencies, health care providers, and sexual assault program personnel.

Uniformity of kits is necessary in order to insure that evidence is gathered properly and that all necessary materials are available for a complete and thorough examination.

The development of protocols that address that unique and specific needs of rural areas is necessary because the level of health care provision may differ from that available in urban areas and because law enforcement personnel may not be immediately available.

It is the Network's position that training in the protocol and the use of the kit is primary. Availability of the kits is incidental if health care providers and criminal justice personnel are unaware of their availability and untrained in their use. Sexual Assault examinations can be an additional trauma to the victim, and so should be done in a sensitive and efficient manner. Training in performing sexual assault examinations is necessary in order to accomplish this aim.

In cases of sexual assault investigation and prosecution, collection of evidence plays a crucial role. In the opinion of the Network, more efficient, timely, and sensitive performance of sexual assault examinations can be accomplished by the provision of uniform kits, development of protocols, and provision of training to involved personnel in their use.

February 1983

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

POUCH N
ROOM 312, GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

PHONE: 465-4356

November 4, 1983

Elizabeth J. Hickerson
Senior Advisor
Senate Advisory Council
1024 W. 6th Avenue, Suite 203
Anchorage, Alaska 99501

Dear Elizabeth:

I just received your letter and am planning to be out of town for the beginning of next week for regional provider meetings, so I wanted to contact you regarding rape kits. For your information, I have attached some research Susan McInnis in Fairbanks did on the status of rape kits in the Fairbanks area.

I certainly am not locked into developing any sort of task force and am anxious to explore other options. However, I want to state that I feel the Council is not the appropriate group to develop specific rape kit materials and protocols. The development of those items will require legal, medical and law enforcement expertise not present on the Council. I agree that we are the appropriate agency to oversee coordination of other agencies with specific expertise as that is mandated in our legislation. I also think it is appropriate that we establish and implement a system to assure humane and adequate collection of evidence.

I will call you when I return to the office, so we can discuss possibilities. Now that I am more aware of what is happening statewide, I should be of more help.

Sincerely,

Barbara

Barbara Miklos
Executive Director

Enclosure

12-L16LH

WICCA

OCT 28 1983

Barbara Miklos
CDVSA
Pouch N
Juneau, Alaska
99811

October 24, 1983

Dear Barbara,

Enclosed you'll find comments from the Troopers, D.A.'s office, and Alaska Native Health Service doctors. I called each, asked how well they felt medical rape exams were being performed; asked about problems encountered and possible solutions. You'll be interested, I'd think, in the responses. I paraphrased in most cases, caught a quote or two, and tried to preserve the integrity of the responses throughout.

Interesting assignment. If notes from these people inspire more questions, I have permission from each to call again. Feel free to ask.

I'd be interested in your and Elizabeth's thoughts after reading the enclosed. I passed copies to Ruth.

Stay well.

Susan McInnis

postscript: Barbara, you'll notice that the different points of view are interpreting 'reality' differently. I suspect we'd get differing points of view from any number of people queried.

Troopers:

First Sergeant Close, in Fairbanks; supervisor for Interior Troopers.

There are health clinics in all sub-regional centers (eg: Galena, Tok, Ft. Yukon, etc.). Staffed by physician, health aide, physician's assistant, or paramedic. For the most part Close thinks they do a pretty good job. Troopers know which health aides are capable of doing the work and which are not --because they work with them daily. When the health aide (p.a., paramedic, etc) is incapable, Troopers do their best to get the victim to a better staffed clinic. Not always possible. Where there is no clinic, Troopers will try to get the victim to a subregional center where she can receive an exam.

Troopers responsible (DPS is) for cost of rape exam, for providing rape kits, for securing the evidence and transporting it to Fairbanks. Because chain of evidence is their responsibility, they try to assure an effective exam.

Close feels reporting is pretty good overall in the bush. Lots of attempted reports, and of child sexual assault. Fewer actuals. Attempteds and child sexual assaults may not necessitate exams as often as sexual assault 1.

Says their greatest problems are weather and funding. A man died in Huslia the other day --from a gunshot wound to the head-- because Troopers could not get in to airvac him. Autopsy shows he probably would have died anyway, but it shows that AST is crippled by adverse weather conditions. Had Huslia had the proper equipment for guiding a plane, they might have been able to land. Same problem besets them when there is a reported sexual assault. May always be a problem in rural Alaska. Here, funding (for equipment) might help; might not.

Because AST is responsible for securing evidence, the lack of sufficient funding for rape kits is a real problem. If they can't afford to make up the kits, they can't oversee proper collection of evidence. ... As well, transportation of victims to a clinic or hospital, and paying for the exam when it's done, are both stymied by insufficient funds.

District Attorney's office:

Terry Foster, past Assistant D.A. in charge of the special assault unit.

Medical Exams from the bush are simply not up to snuff. There are logistical, emotional and training problems not encountered in urban areas. These prohibit uniform and effective collection of medical evidence. In Terry's opinion, a new law won't help.

Some of the problems:

There is much late reporting in bush communities. A sexual assault may be reported 2, 3, 4 days after taking place. Community education, a concerned and effective medical/law enforcement team could increase timely reports.

Police officers (both troopers and VPSOs) tend to minimize the importance of the rape exam. Don't effectively oversee thorough exam.

eg: If a victim says, "Hey, I'm fine. I don't need to go see the doctor (especially if seeing the doctor requires a trip to town). I just want to go home and take a bath," the p.o. is likely to let her go home. Often this is out of a desire to be sensitive to her needs, but it thwarts the collection of evidence.

eg: She related a case where the p.o. had the woman go into another room and clip her own pubic hair. Undoubtedly out of modesty or sensitivity to her modesty, but it again thwarted the collection of legal evidence. ...Another sample case, the p.o. asks the woman to brush off her own coat for evidence. Just doesn't work legally.

There is often more violence associated with a sexual assault in the bush. When this is the case, the medical exam often takes a lower priority than necessary attention to other injuries. It is excluded or only partially completed.

Health aides, paramedics, doctors, and physician's aides in the bush just aren't as sophisticated as their urban counterparts. They may do the vaginal smear, but not know to have the woman undress over a sheet of paper to catch falling fibers, blood, etc. May not do pubic combings, nail clipping, etc. This is a problem of ignorance and of staff turnover. One MD (health aide, etc.) may be very well trained, but may only stay 6 months. Replacement never receives adequate training.

In areas where there is no clinic or where it is felt that the clinic personnel cannot do a good exam, the victim may not receive an exam. She may be transported to an urban or subregional clinic. In this case, AST faces weather problems, and the problem of separating the woman from her support group at a time she most needs support. Here the state faces a dilemma: separation from her support group may

create problems for the victim but guarantee legal evidence. Not separating her from her support group means a loss of evidence for the case. Transporting the victim can also mean a delay in time which will mean loss of evidence.

Another example of the problems created by distance and weather: A woman was assaulted in Kaltag shortly after Terry became a d.a. At the time, she wanted to report, she had support from the community. Troopers were called, but it took them two days to get there. Meanwhile supportive villagers were protecting the victim from the assailant, but "that maniac was still running around loose and by the time they got there the evidence was lost."

In Terry's mind, sexual assault and child sexual assault in the bush " are the prime unmet issues in law in Alaska." Because of the idiosyncracies in the bush, no system can be effectively applied over time. Each case must be dealt with individually.

Nonetheless, she would oppose new laws. Laws, she says, are to enforce what the people refuse to do on their own. Law enforcement officers, health aides, etc., are not refusing to do their job. They don't know what to do... Or they don't know why they are being asked to do it. (Terry says the latter may be the greatest problem. The explanation sheet with the exam tells what to do --it doesn't tell the officer or medical person WHY he/she is being asked to do it. So, they get lax). In some cases an experienced person (eg: Trooper) is frustrated in his/her work by an inexperienced person (generally the health aide, p.a., md, etc.) No law will rectify that situation.

Finally, emotional ties in the bush often preclude effective exams. The health aide is the assailant's aunt... has a bit of a feud going with the victim's family... has been told to steer clear of either family, etc.... Small bush communities are family-oriented communities. Where that creates a problem for effective medical exams or collection of evidence, no law will offer a solution.

Terry does agree that a simplified protocol which could be followed by a partially educated medical person or law enforcement officer might help. Standardized rape kits, readily available and understood by police and medical personnel would help. Education about sexual assault generally, legal aspects, emotional aspects, medical aspects --in the community and particularly for those legally involved--would help. Laws won't do it.

Pat Duggan, Assistant District Attorrey, Fairbanks. In charge of the Barrow area.

Pat feels that medical rape exams are done pretty well. No significant problems.

He does encounter a bureaucratic problem with the Public Health Service from time to time. They have been reluctant in certain cases to do rape exams to collect evidence. Most recently, doctors' supervisors have been reluctant to have the physicians, physician and patient records subpoened. He has worked with them and settled the problem.

Non-native patient/victims may be a problem. Although the Barrow hospital is the only available health service, it is a native facility and non-natives can be refused service such as a rape exam. (Pat hadn't any specific problems or complaints in this area --was simply saying that it could be a problem).

No, says Duggan, a law would not help the effectiveness of rape exams. In Barrow, as in all Indian Native Health Service communities, the staff is made up of federal employees. No state statute would govern their provision of care. They now perform rape exams at the request of the state --but exams for the purpose of collecting evidence would not be considered a medical service.

Pat believes that where there is reluctance to collect evidence, it would be exacerbated by a state law. The federal facility might just refuse.

At this point he usually speaks with a new physician, discusses the state's needs and gains the doctor's willingness to assist. Good rapore between the government agencies seems the better route.

Dr. Ron Gould: Director of Patient Care Services. Supervises health aides in 23 villages.

Referred me to Dr. Pete Marshall, but did give the following comments:

Villages of a size to have a health aide would usually transport the patient to a subregional center for the exam. By and large they are not trained in gyn: pelvics, paps, etc.

Dr. Gould suspects there is little call for rape exams in health-aide staffed villages. He believes he would be getting calls from health aides seeking assistance or to check on their work were there more exams being given.

When asked if the health care system in villages should be upgraded to include training and protocol for rape exams, he said: It would be reasonable, but must take into account the varying levels of sophistication among health aides, and the family ties in villages. Any confrontation requiring medical assistance places the health aide in jeopardy. "A health aide would rather 'seal off' from all that to protect herself." Giving a rape exam could be a sign of taking sides in a confrontation which also included sexual assault.

Dr. Peter Marshall --Alaska Native Health Service; Clinical Director (over health care in regional/subregional centers)

Dr. Marshall sees that the bureaucratic system is in place: things flow well from village to subregional or regional center --but it doesn't work. He does not feel that laws or regulations will help it function any better.

In Marshall's experience and belief, there is an "incredible range of assaults and abuses taking place, but no complaints."

"You can see why when you know what happens when someone does complain..." In Stevens Village, for example, a woman was raped by two men. The health aide reported the incident and the woman was transported to Fairbanks (regional center for S.V.). The men were identified, taken to Fbx for arraignment, and released on bail within 24-hours. They returned to Stevens Village to threaten the health aide for having reported the incident. In addition to threats, the men shot at her house with a rifle. She has since (because of that and other incidents) resigned and left the village.

Marshall believes that the reality of the village situation lags far behind the hopes of anyone who wants to improve care (legal/medical) to individuals there. There is an intense distrust of any interference in local relationships or problems.

'We recognize the rights of the accused (and have a system to protect him/her, as well as the victim and the state), but you can't convince small villages of that. 110 people living in a scattered cluster of cabins spread over a remote area are totally interdependent. When one of those people commits what we see as a crime, even when we protect his/her rights, we are still seen as ripping him away from his people and his position in the community. To the villagers, the person who complains is at fault --and at risk of retribution.'

Indirectly, I think Dr. Marshall is making a bid for education and altered services over any laws you might propose. He suggests --as concerns the whole range of child abuses-- that the system be decriminalized. The state or feds could 'encourage people to come forth because the act in question is not good for the people or for the village. Then help them work out an in-place solution.' When asked if he suggests that same altered system when it comes to sexual assault of adults, he said: "We're not getting anywhere with the current system. A changed one might work better."

Marshall

He cited the example of the state regs re child abuse (etc.): They allow the state to remove children from a home which neglects or abuses them. The federal regs now require that children of Natives be returned to the immediate family, extended family or tribe as soon as possible. The difference between the two laws puts health care providers in a bind. As a result, he says, they have had to take a closer look at counseling/working with the families, in order to facilitate a speedy return of the child. In cases where the state has been able to make a good placement (in a native home) of the abused/neglected child, and give excellent counseling to the problem parent --as well as other family members-- they are finding that the family can recover and change.

He feels that if the state concentrates on the possible consequences of laws (more laws regarding reporting would result in an uproar --and danger to those who would report, collect evidence, etc.), and on improving the outcome for people, there may be a better result.

At this point, however, he agrees with Terry Foster that matters having to do with crimes in villages will have to be taken case by case --suspending system to work with the idiosyncracies of village life.

Dr. Marshall had some thoughts on alcohol during the conversation. Venetie is and has been a dry community. In the four years Dr. M. has been traveling to Ft. Yukon and its near villages, "the worst thing that ever happened in Venetie was when a Ft. Yukon man came in, beat up old Mr. Christian (who was 90) and killed him." In Stevens Village --a wet village-- assaults and abuses, and murders, happen all the time. People are drunk all the time. "In Venetie, people live normal lives. There is very little violence." It's a tangent, but a thoughtful one, yes?

SB 72: BACKGROUND INFORMATION

It appears that payment for emergency medical examinations for victims of sexual offenses has at times varied throughout the state. The following supports this statement.

Anchorage, Bethel, Barrow, Fairbanks and Juneau police departments were asked how these exams were paid for in their areas. The following is information gathered from those departments.

Anchorage - When a victim of sexual assault is taken by the city police to the hospital and an exam is administered, the police department pays for the exam with department funds which essentially come from the Municipality of Anchorage.

Bethel - In Bethel the police department stated that the majority of sexual offense victims in their area are native and would be taken to the native hospital in Bethel where there would be no charge to the native victim (hospital is federally funded). But in the case of a nonbeneficiary (non-native) the victim would be personally responsible for the payment of the exam.

Barrow - In Barrow the same standards are followed as in Bethel.

Fairbanks - The police department in Fairbanks stated that if the city police take a sexual assault victim to the hospital and the victim undergoes an exam, the expense of the exam is the responsibility of the investigating agency, in this case the city police department would pay for the exam with funds from their operating budget. In a case outside of the city limits where the State Troopers were called, the exam would be paid by the State Troopers with state funds which come from the Department of Public Safety.

Juneau - As far as the Juneau police department knew, the victims of sexual assault would be responsible for the expense of an exam given.

Nola Capp, administrator to the Violent Crimes Compensation Board, stated that awards of compensation for emergency medical examinations have been made both to a provider via the victim and also to the victim who had previously paid at the time of the exam.

According to the Network on Domestic Violence and Sexual Assault, the payment for these examinations have been a problem in past years. It seems that on occasions an examination would not be administered unless payment was made. This seems to have been generally corrected. Incest victims, however, have been treated differently. According to the Network often the incest victim must be reimbuirsed through the board which causes financial hardship.

Given the different procedures utilized throughout the state for these examinations, it is in the best interest of the state to enact a uniform law.

SB 72 adds a new section to AS 18.67 "Violent Crimes Compensation Board" and provides that emergency examinations for victims of sexual offenses will be provided at no cost to the victim when the purpose of the examination is to gather evidence to assist in the possible prosecution of the offender.

As the evidence gathered is used only for the benefit of prosecution there is no justification for a victim having to pay for this examination, even if later reimbursed by the board.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 72 Date on Bill: 1/25/83
Title: "An Act relating to free emergency medical examinations of victims of sexual offenses"
Sponsor: Sens. Kerttula, V. Fischer and Josephson
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	0	0	0		
Operating			0	0	0	0		
Total			0	0	0	0		

b. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by the OMB in the Office of the Governor. It not represent the policy of the Sheffield Administration or the final estimate of fi impact.

Prepared By: Dean Tirador Phone: 465-3090
Division: Public Health Date: 2-10-83

Approved by Commissioner: Date: 2/10/83
Department: Health and Social Services

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

SB

78

REPRESENTATIVE
BETTE CATO
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Alaska State Legislature

House of Representatives

COMMITTEES
CHAIRMAN
HOUSE TRANSPORTATION
MEMBER
HOUSE COMMUNITY AND
REGIONAL AFFAIRS

M E M O R A N D U M

April 9, 1984

TO: Representative John Cowdery
Chairman, House Labor & Commerce

FROM: Representative Bette Cato BC

SUBJECT: CSSB 78(HESS)am. "Relating to teachers' collective bargaining agreements; and providing for an effective date."

In reading over this bill, I have one question and that is, throughout the bill it has referred to "educational employees labor relations agency", is this NEA?

If so, I want to amend this entire bill to include the AFT as well. If this is not I would like to propose the following amendment:

> Page 10, lines 17-19: DELETE: "one each from lists of nominees submitted by the National Education Association of Alaska and the Alaska Association of School Boards"

There are two unions in Alaska and they are the Alaska Federation of Teachers and the National Education Association, therefore, I want AFT included.

With this amendment, I respectfully request that this bill be heard in your committee at your earliest convenience.

Thank you.

cc: Representative Mae Tischer

SB
96

3/14 3766 called Sackett for backup

3/21 PASSED OUT

POSITION PAPER

SENATE BILL NO. 96

"An Act making a special appropriation to the Department of Health and Social Services for innoculations for hepatitis B; and providing for an effective date."

Sponsor: Sackett

This bill appropriates $250,000 SGF to the Department of Health and Social Services for innoculations for hepatitis B and provides for an immediate effective date.

Background

A. The Disease

Hepatitis B is a disease caused by a virus. Disease severity can range from inapparent infection to a fulminating process leading quickly to death. There is currently no specific treatment against the virus.

Once infected, individuals may become chronic carriers of the virus, i.e., continue to be infected and to be able to spread infection to others. Moreover, chronic carriers of hepatitis B virus (HBV) are subject to complications including primary liver cancer with a nearly 100% mortality rate unless detected early or polyarteritis nodosa, a serious inflammatory disease of arteries with a 30% mortality rate. It is estimated that 20-25% of chronic HBV carriers will develop chronic active hepatitis with cirrhosis.

B. Prevalence

Both the rates of infection and the rates of chronic HBV carriers are known to be very high in certain Native groups in Alaska, particularly the Yupik-speaking groups in the Bethel area. In some villages which have been surveyed, the infection rate has been found to be as high as 73.1%.

Less is known about prevalence in other Native groups but there are reasons to suggest that rates are probably higher than among non-natives.

Other groups at high risk of HBV infection include: health and hospital care providers; hemodialysis patients; recipients of blood products, laboratory workers; dentists and allied dentist personnel; homosexuals; illicit users of injected drugs; staff and residents in institutions for the mentally retarded; sexual and household contacts of HBV carriers; newborn infants whose mothers are HBV carriers; and immigrants from geographic areas with a high incidence of HBV such as Southeast Asian refugees.

C. Vaccine

In November, 1981 a vaccine against hepatitis B was licensed for use in individuals 3 months of age or older. Vaccine is administered to high risk groups in three doses over a six month period. The vaccine is estimated to be 80-95% effective in protecting susceptible individuals. Duration of protection, and consequently the need for booster doses, is not known.

The vaccine is expensive (current cost is $95.55 for sufficient vaccine for the three-dose course for one individual). Because of the high vaccine cost and because the vaccine is of no value to individuals already infected, pre-vaccination blood testing of potential recipients is recommended. Cost of blood testing is estimated at $10-15 per test. To these costs must be added cost of vaccine distribution and administration plus data processing.

D. Existing programs

In the current fiscal year, DHSS undertook screening and vaccination of high risk groups in state institutions including Harborview Developmental Center, The Alaska Psychiatric Institute and State Correctional Centers.

The Alaska Native Health Service (ANHS) in cooperation with the federal Center for Disease Control has undertaken a vaccination program in the Bethel area villages where prevalence studies have been conducted. They have also used federal fiscal year-end monies ($500,000 for FFY 1982) to purchase additional vaccine.

Proposed program

The proposed activities during FY 83 involve close correlation with the Alaska Native Health Service hepatitis B program. Emphasis will be placed on screening of the highest risk population who will not be reached by the ANHS. Susceptibles will receive vaccine.

Position

The Department is strongly supportive of funding in FY 83 which would permit intensification of the program in the current fiscal year. However, the Governor's Office is submitting a delete-add supplemental for $250.0 utilizing funds already appropriated for Permanent Fund Hold Harmless. Thus, costs of HBV program activities in FY 83 could be absorbed without additional appropriation.

Recommended by: E.S. Rabeau, M.D./DB
E. S. Rabeau, M.D., Director
Division of Public Health

Date: Feb 3, 1982.

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 2/7/83

OSHA NON PAPER/Department of Health and Social Servic

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

1/31/83

Date: 2/7/83

Mr. President:

The Committee on HESS has had SENATE BILL NO. 96

Special appropriation to the Department of Health and Social Services for inoculations for hepatitis B; eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[/] do pass (maj) [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
Carl Josephson	2 Rick Halford No Rec.
1 V. Fischer	
1 Carl Fischer	

1 Carl Josephson
CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

SENATOR
John C. Sackett
CO-CHAIRMAN
SENATE FINANCE COMMITTEE
MEMBER
COMMUNITY & REGIONAL AFFAIRS COMMITTEE
LABOR & COMMERCE COMMITTEE
BUDGET & AUDIT COMMITTEE
REGULATION REVIEW COMMITTEE

Senate

HOME ADDRESS
P.O. BOX 11
RUBY, ALASKA 99768

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

March 4, 1983

The Honorable Ted Stevens
United States Senate
147 Russel Office Building
Washington, D.C. 20510

Dear Senator Stevens:

As you are aware Alaska faces a very serious problem because of the increasing numbers of people who either have or are susceptible to hepatitis. The State Department of Health and Social Services in conjunction with the Alaska Native Health Service has outlined a detection, surveillance and control program which will be administered by the State over the next four-five years. The program includes inoculation for those determined to have a high risk of contracting the disease. By 1987 the State Department of Health experts to have the problem under control and will continue monitoring the population as part of their regular programming.

The joint venture will cost an estimated $5.75 million over the life of the program. The State anticipates providing $2.75 million in funds and the Alaska Native Health Service will request federal funds of $2 million through FY84 and FY85, in addition to $500,000 which has already been received through ANHS, and another $500,000 of FY82 year-end ANHS funds which were used to purchase vaccine for the inoculation program.

This letter is to call your attention to the fact it appears only $500,000 has been proposed in the federal FY84 budget. (See attachment). It is important every effort be made to secure the full $1 million in funds to augment state funding so the detection and inoculation program may continue on schedule.

Funding of $250,000 from the state is in the process of being authorized by the State Legislature and the Governor for FY83, and an additional $500,000 is expected to be approved for FY84. State health officials note it is vitally important that the program be kept on schedule so the "chain of infection" will be broken reducing the high-risk factor that faces so many Alaskans, particularly Native Alaskans.

Your help in securing the needed funds from the federal government for the coming fiscal year would be greatly appreciated. Please feel free to contact me, or my assistant, Max Gifford, if more information is needed. We can be reached in Juneau at: 465-3753.

Thank you very much for your attention to this important matter.

Very Sincerely,

JOHN C. SACKETT
State Senator

JCS/mg
enclosures
cc: The Honorable Frank Murkowski
The Honorable Don Young

also: Governor
Roberts
Banks
[illegible]
KUAC

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 17, 1983

Gene Dusek, Associate Director
Office of Management and Budget
Office of the Governor

Dear Gene:

Attached is a copy of the proposed committee substitute for SB 96, reducing the Permanent Fund hold-harmless appropriation by $250,000 and reappropriating those funds to the Department of Health and Social Services to fund the hepatitis B inoculations program.

Senator Sackett, the original sponsor of the legislation, would very much appreciate a letter from you or the appropriate spokesperson in the Governor's office acknowledging that this approach for funding the inoculation program meets with the Governor's approval.

Use of the committee substitute for SB 96, as opposed to introducing new legislation, should expedite the bill through the legislative process so that it can be transmitted to the Governor quickly.

Although no date for hearing the substitute in committee has been set your participation at the hearing would be appreciated.

Thanks for your help. Please call me if you have any questions.

Sincerely,

Max Gifford
Administrative Aide

attachment: CSSB 96 (Finance)

FEB 23 1983

BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 24, 1983

The Honorable John C. Sackett
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Sackett:

The proposed approach for funding the hepatitis B inoculations program contained in CSSB 96 should expedite approval of the funding for this important program. Accordingly, we will delete this item from the FY 83 appropriations transfer bill the Administration is preparing.

The identification of the funding sources for appropriation bills is a vital element in our State government's demonstration of fiscal responsibility. Thank you for your help.

Sincerely,

Bill Sheffield
Governor

From The

SENATE FINANCE COMMITTEE

TO: House HESS

Subject: CSSB-96, hepatitis inoculation, $250.0 for FY83.

Here is the back-up material assembled by Senate Finance.

If you need more information or need points of clarification, please call Max Gifford, A.A., to Senator Sackett.

Thank you,

MG

x3753

John Meaney

Preliminary FY 84 Budget

Line 100 Personnel Costs

A.	1 Medical Officer (project coordinator) Base 4885.00 mo. + benefits at 27% = 6203.95 mo. x 12 mo.	74,447.40
B.	1 PHN Base 2838.00 mo. + benefits at 27% = 3604.26 x 12 mo.	43,251.12
C.	1 Microbiologist 2 Base 2838. mo + benefits at 27% x 12 mo.	43,251.12
D.	1 Programmer Base 2838. mo + benefits at 27% x 12 mo.	43,251.12
E.	1 Lab Technician Base 1673. mo + 27% benefits x 12 mo.	25,496.52
F.	1 Publications Specialist II-Base 2463. mo + benefits x 12 mo.	37,536.12
	Total Line 100	$267,233.40

(All salaries based on current salary schedule in effect on 12/30/82)

Line 200 TRAVEL AND PER DIEM

Screening

Assume 50 Urban/Rural Communities
Average cost of Round trip ticket $400.00
# of days per visit (2)
per diem- $90.00 per nite x 1.5 nights x 2 nurses

Travel $400.00 per trip x 2 PHN's x 50 communities x 1 trip	40,000.00
Per diem $90.00 x 1.5 x 2 nurses x 50 communities	13,500.00
Travel for Training 10 trips @ 400.00 round trip ticket + 3 days per diem per trip @ 80.00 per day	6,400.00
Screeni	59,900.00

Vaccination

50 Urban/Rural Communities @ 400.00 ticket cost 1 Nurse
3 trips to administer vaccine for each patient (3 doses)
1 night per diem at each community

50 communities x $400.00 x 1 nurse x 3 trips	60,000.00
Per diem 1 nurse x 90.00 night x 1.5 nights x 150 villages x 3 trips to administer 3 doses	20,250.00
VACCINATION	80,250.00
TOTAL LINE 200	140,150.00

Line 300 Contractual

Telephone		6,250.00
Data Hardware leasing costs		12,000.00
Printing Costs (Brochures, pamphlets, letters, etc.)		10,000.00
Shipping for supplies		
$50.00 each shipment x 150 villages x 3 shipments of vaccine and 1 shipment of testing equipment	$30,000.00	
Less supplies that could be hand carried by nurses on their trips	20,000.00	10,000.00
Postage		5,000.00
Advertising (radio, newspaper)		12,500.00

Hepatitis Laboratory equipment leasing costs $600.00 mo x 12 mo.	7,200.00
1 Contract Public Health Nurse	40,000.00
TOTAL LINE 300	102,950.00

Line 400 Commodities

Supplies	
Initial Screening	
$10.00 per test for supplies x 10,000 patients, ~~x 3~~ tests per person	100,000 ~~$300,000.00~~
Vaccine $90.00 per person x 9,000 persons	810,000.00
Blood Drawing Supplies $2.50 per person x 10,000 persons	25,000.00
Office Supplies	2,600.00
TOTAL LINE 400	$1,137,600.00

LINE 500 Equipment

1 Freezer for storing serum	4,000.00
2 refrigerators for storing vaccine	4,000.00
3 Centrifuges	1,500.00
1 IBM selectric typewriter	1,000.00
Total Line 500	10,500.00

TOTAL ESTIMATED COST--ALL LINES -FY 84	$1,458,433.40

(e) Hepatitis B Screening and Immunization Program (Alaska)

(Dollars in thousands)

	Actual Obligations 1982 Amount	Amount Available 1983 Amount	Estimate 1984 Amount	Increase (+) Decrease (-) Amount
Direct Appropriation..	$ ---	$500	$500	$---
Reimbursements..	---	---	---	---
Total	$ ---	$500	$500	$---

The funding in FY 1983 for the Hepatitis B Screening and Immunization Program will allow partial completion of a three year program to deliver comprehensive hepatitis B control services in Alaska. Funds will allow staff to deliver services to the Alaska Natives at risk or suffering from hepatitis. Supplies will include the blood drawing and testing kits necessary for screening patients and supplies for administering hepatitis B vaccine.

The program will collect approximately 20,000 blood samples for hepatitis B screening and epidemiological studies and immunize approximately 3,000 people in 1983. People primarily targeted for this program, in order of priority, include: newborns whose mothers are hepatitis B surface antigen (HBsAg) positive or who will be living in villages where the prevalence of HBsAg is 5% or greater; new Alaska Area Native Health Service and Native Corporation employees who are both susceptible to hepatitis and providing direct health care services; household members where another member is HBsAg positive; and residents of communities where the prevalence of HBsAg is 5% or greater.

The epidemiological studies will provide a better understanding of the risk of sequelae of hepatitis B and to better determine where at-risk populations reside so future vaccination programs can be efficiently targeted.

The proposed funding of $500,000 in FY 1984 will allow a continuation of the program efforts started in FY 1983. Approximately 25,000 blood samples for hepatitis B screening will be collected and approximately 4,000 people will be vaccinated. The screening and epidemiological studies will be continued.

From Indian Health Service

Administration FY 84 Budget Document

Hepatitis B Virus (HBV)

HBV infection is becoming a significant health problem in Alaska, especially in the highly susceptible Alaska Native community and, in particular, the Yupik Eskimo.

Hepatitis B infection is usually caused by prolonged close and intimate contact with a carrier and/or infected blood or blood products or serous discharges.

Complications of HBV infection can be many e.g. polyarteritis nodosa (serious inflamatory condition of the arteries) with a 30% mortality rate; primary hepatocellular carcinoma (PHC), has the highest incidence in the U.S.A. Estimated 10% of HBV chronic carriers will develop PHC; chronic active hepatitis with cirrhosis (CAH) will develop in 20 to 25% of chronic HBV carriers.

People at high risk include:

Yupik Eskimos and to a lesser variable extent
other Alaskan Natives
Health and hospital care providers
Hemodialysis patients
Recipients of blood products
Laboratory workers
Dentists and allied dental personnel
Gay communities
Illicit injectable drug users
Staff and patients of mentally retarded institutions
Sexual and household contacts of known carriers
Newborn infants of mothers who are HBV carriers
Southeast Asian groups

In late November 1981 a request for a supplemental appropriation of about 800,000 dollars to initiate a HBV program was sent to the Governor's Office. It never reached the legislature.

Normally the State provides and totally runs immunization programs for all State residents. Due to shortage of funds, high cost of HBV program and availability of some funds to ANHS in their budget ANHS (Alaska Native Health Service) and the State (Division of Public Health) are coordinating a joint effort. A Memorandum of Understanding has been jointly developed by both agencies covering many issues e.g.

(a) Public Health Nurses will assist ANHS personnel where possible in screening initial vaccination and particularly follow-up vaccination.

(b) If ANHS cannot hire people because of locale of fund allocation of last $500,000, they will contract with us to provide all the necessary program people and activities.

(c) In predominantly Native communities their screening teams will screen all citizens. We will be responsible for the lab testing of non-natives and will make arrangements for vaccination or replacement of vaccine if they do it.

(d) ANHS and the State will use common forms e.g. info sheet, indications for blood-testing, vaccination, refusal-for-vaccination form. These forms are being edited for both parties.

The attached report gives necessary funding for a control program.

Because of the economics, a control program rather than an eradication program is proposed at this time. The purpose of such a program is to identify foci of infection and wall it off (break the chain of infection) by vaccinating the appropriate susceptibles.

Enclosed also is a document in which the population for an urban non-military, non-native program will go hand in glove with the rural predominantly native program.

We cannot estimate the cost of vaccine down the road but guess it will drop fairly precipitously within five years.

REPORT ON HEPATITIS B

The following action program outline is of two parts; an HBV program to control non-native population, one to coordinate a joint ANHS/State program and a total for a State-wide program conducted by the State.

Personnel required to handle project for the non-native, non-military Alaska population:

Project supervisor	21A	41.7
Clerk IV	9B	19.5
Microbiologist II	16A	34.0
2 Nurse Practitioners or equiv.	18A (34 x 2)	68.0
		163.2
Computer Programmer		32.0
		195.2

4 Months Program (March thru June, 83) FY 84 Program

Personnel	48.8	195.2
PCIS	25.0	10.0
Lab	50.0	90.0
Travel	38.0	91.0
Vaccine	80.0	112.0
Equipment, Misc.	8.2	1.8
	250.0	500.0

Much of the vaccinations would be handled by PHN's, health centers and by staffs of institutions. Screening i.e. blood collection, likewise would be done by health care facilities and private practitioners to a great extent. Much of the non-native possible high risk populations may be clustered around the various cities.

These program logistics are in addition to the program proposed by the ANHS. They anticipate expenditure of one million dollars a year for three years.

The total cost of a State-wide program is about 5 3/4 million dollars through June, 1987. It is based on State funding of $250.0 balance of present fiscal year, $500.0 FY 84, $600.0 FY 85, $700.0 FY 86, $700.0 FY 87 along with the ANHS expenditure of 3 1/4 million over first three years of above activity. It is anticipated that these dollars would be turned over to the State through contract to get Alaskan Natives to a maintenance level. If, for any reason, the Federal monies were not appropriated, it would require additional State funding. ANHS received $500,000 FY 82 year end monies and they purchased vaccine sufficient for the first year of the program. They received $500.0 in their FY 83 appropriation which is $265.0 less than their indicated program need. They envision 60,000 patients screened and 19,000 vaccine recipients over the three years. They plan for a staff of 10 persons - we would reduce this to 8 persons if we do (hopefully) the program.

- ANHS.

The following table summarizes their proposed Hepatitis B Detection Surveillance and Control Program for Alaska Natives.

3 Year Proposed Budget

Item	Year One	Year Two	Year Three	Total
Personnel	385.0	300.0	316.0	901.0
Travel	294.0	147.0	294.0	735.0
Supplies	172.0	172.0	172.0	516.0
Equipment	15.0	-0-	-0-	15.0
Vaccine	-0- already bought (with year-end FY 82 monies)	405.0	518.0	923.0
Total	766.0	1024.0	1300.0	3090.0

Population at High Risk for HBV
(excludes Military and Native Populations)

The assumptions are made that the Native population, as well as the military, will be handled by the ANHS (Alaska Native Health Service) and the military health system respectively.

Various population groups are at high risk; they may be so for a variety of reasons, ranging from geographic location, occupation, sexual practices to life style.

The following chart illustrates the types, numbers and rationales. This is followed by summary tables elaborating on numbers to be screened and numbers for potential vaccination. (numbers rounded off to nearest twenty-five for ease)

1)	EMS workers (non-native, non-military)	1500
2)	Health Care Workers (long term care)	1400
3)	Hospital staff (exc. Federal Hospitals)	3500
4)	Harborview, already screened, vacc. on 1/26/83	0
5)	Developmentally disabled (500 staff, 200 clients)	700
6)	Hemodialysis and hemophiliacs (patients & family)	200
7)	Gay community, est. 9600 (Anch., Fairbanks, Juneau)	7800
8)	Illicit injectable drug users (600-700)	650
9)	Household and sexual contacts of known carriers 2000-3000 (allowing for double reporting)	2500
10)	Corrections inmates (first study shows not at high risk)	0
11)	To identify newborn infants of mothers who are carriers	8000

EMT's	1500 x 90% =	1350
L.T. Care Workers	1400 x 90% =	1250
Hospital Workers	3500 x 90% =	3150
Dev. disabled staff & patients	700 x 80% =	550
Hemodialysis, hemophiliacs & staff	200 x 90% =	175
Gay community est. 9600 (Anch., Fairbanks, Juneau)	7800 x 20% =	1550
Illicit injectable drug users	650 x 20% =	125
Household and sexual contacts, carriers	2500 x 85% =	2125
Correction inmates	0	
Newborns of carriers	8000 x 0.3% =	25
	26,250	10,300

(rounded-off figures)

INDIAN Health Service

26,250 estimated to be screened (exclusive of IHS program). This will not include other people not included above who will ask for test.

39% (est. 8.700) susceptibles to be vaccinated.

The above needs to be done within the next 16 months, (FY 1984, plus last 4 months of FY 83).

APPENDIX I

Methodologies Used

1) EMS population figures from Section of EMS, DPH, reduced by eliminating Natives.

   Health care workers population (long term care) taken from State Health Plan Data Appendix.

2) Hospital staffs (exclusive ANHS and Military) taken from State Health Plan Data Appendix.

3) Developmentally disabled patients and staff members given by Division of Mental Health.

   Harborview staff and clientele already done by Division of Public Health.

4) Hemodialysis patients and staff, hemophiliacs numbers supplied by Section of Family Health, DPH.

5) Gay community numbers arrived at by figuring male population (non-native and non-military) between ages of 15 and 65; taking 10% of that number. Number used was calculating numbers for Anchorage, Fairbanks and Juneau. 1980 census for numbers of sex, racial and age characteristics was used.

6) Numbers of illicit injectable drug users was furnished by Office of Alcoholism and Drug Abuse.

7) Contacts of household and sexual contacts was estimated trying to eliminate double reporting of ones that would be counted under any of the above categories.

8) Numbers of corrections' inmates is counted as zero because study we did shows them not to be at high risk at this time. We screened over 350 long term males. Many of new ones will have been screened under one of the aforementioned programs.

9) There are about 10,000 births in the State annually; 2000 of them are Native and can be excluded from this listing.

Assumptions are many --

a) It is difficult to accurately predict numbers that will accept screening and/or vaccination. Probably the screening numbers may be as much as 10-20% under our figures.

b) For vaccination the percentages used were to allow for varying numbers of susceptibles and also refusal to accept vaccine.

c) The percentage used for calculating male homosexual population was received from homosexual physician in Anchorage plus articles in medical journals.

d) This program is considerably different than any other immunization program. The cost of the test and the exorbitant cost of the vaccine makes it necessary to screen rather than to vaccinate carte blanche.

e) In addition, it is necessary to test to identify carriers (HBV surface antigen bearers) in order that testing for liver cancer can be done.

MEMORANDUM OF UNDERSTANDING

I. Statement of Introduction

The State of Alaska, Department of Health and Social Services, Division of Public Health and the United States Public Health Service, Indian Health Service, Alaska Area Native Health Service intend to enter into a memorandum of understanding to cooperatively develop and deliver a preventive program of Hepatitis B Virus infection control in Alaska.

Hepatitis B Virus (HBV) infection is a significant health problem in Alaska, especially in the highly susceptible Alaska Native Community. The recently available hepatitis B vaccine is an effective tool to control this important infection and to prevent the HBV related complications of liver cirrhosis, primary hepatic cancer and vasculitis.

A Hepatitis B Immunization and Control Program is a complicated one, and multifaceted activities are required at all organizational levels by several agencies to make it successful. Therefore, it is the desire of the Alaska Native Health Service and the Division of Public Health to coordinate available financial resources, personnel, laboratory services and professional expertise for implementation of a quality Hepatitis B Immunization and Control Program in an expeditious and cost-effective manner and to designate major administrative priority to the Program.

Implementation and accomplishment of the Heptatitis B Control Program depends upon the availability of continued State of Alaska funding and USPHS funding. Lack of funding would invalidate or necessitate modification of this understanding.

II. Areas of Agreement

A. Needs

1. At risk individuals need to be identified through expert analysis of appropriately obtained blood sera.

   a. adequate laboratory facilities and technical capabilities are necessary to perform a large number of serologic determinations.

   b. specialized personnel are necessary to obtain blood specimens from all individuals in entire rural Alaska Communities and who can separate serum, accurately identify specimens and ensure arrival at the laboratory expeditiously and intact.

2. Data systems need to be accessible and able to provide:

   a. census data

   b. demographic identification of all specimens

   c. integration of individual serological and immunization data into the medical record.

d. lists of susceptible individuals

e. lists of susceptible individuals by risk category

f. lists of individuals who are HBs Ag carriers.

g. the established data system would provide the above data on an ongoing basis.

3. As much as possible, the immunization phase of the Hepatitis B Immunnization and Control Program needs to be integrated into existing vaccine delivery programs.

a. Initially, the immunization phase needs coordinated efforts from public health nurses, specifically employed supplemental personnel, Community Health Aides and Alaska Native Health and Native Health Corporation health care providers.

b. Specialized care provided to newborns and infants of HBs Ag positive mothers needs to be provided in the hospitals at the time of delivery and the times when routine care coincides with established hepatitis B immunization protocols.

4. Sera aliquots from specimens needed by CDC need to be provided with demogrephic and serologic data to the CDC, Alaska Investigations Division.

a. to establish a sera bank

b. to provide cancer screening with alpha-fetoprotein determinations on all HBs Ag positive individuals.

E. Risk Priorities

1. Infants born to HBs Ag positive carriers.

2. Household contacts of HBs Ag carriers.

3. Rural Alaska communities with a HBs Ag carrier rate of 5 percent or greater.

4. Individuals and staff in institutions for the mentally retarded.

5. Renal hemodialysis patients and hemophiliacs.

6. Active male homosexuals.

7. Health care providers having frequent blood contact.

8. Identified high risk prison groups.

9. Illicit injectable drug users.

1. To meet the high risk needs in the Alaska Native Community, the Alaska Native Health Service intends to enter into a contract with the State of Alaska.

   a. to develop and maintain a Hepatitis B Control Program in cooperation with the AANHS Project Officer and the C C-AID Director.

   b. to identify and vaccinate high risk Alaska Natives.

      (1) household contacts of known HBs Ag+ carriers
      (2) village residents of known villages with 5 percent or greater HBs Ag+ carriers.
      (3) high risk villages in Western Alaska with first priority to the Yukon-Kuskokwim Delta Area.

   c. the contract will be written immediately and implementation start as soon as possible.

2. Coordination of the Hepatitis B Immunization and Control Program will be cooperatively directed by the Chief, Communicable Disease Control Section and the Chief, Community Health Services.

   a. Monthly meetings involving key persons will occur

   b. Records of discussion and decision made in the monthly meetings will be appropriately distributed.

   c. A periodic information circulation will be published.

3. Free access and exchange of Hepatitis B epidemiologic information will be shared between the State of Alaska, Alaska Native Health Service and the Centers for Disease Control.

D. Specific Responsibilities

1. The State of Alaska Division of Public Health will be responsible for the administration of Hepatitis B vaccine. The vaccine will be administered by public health nurses, supplemental personnel, and other health care providers as needed.

2. Initial hepatitis preventive care and care that coincides with routine preventive care of newborns and infants will be provided by the Alaska Native Service or contract physicians.

3. Sera aliquots with demographic and serologic data will be sent to CDC, Alaska Investigation division by the State Laboratory.

4. Alpha Fetoprotein determinations will be performed by the CDC, Alaska Investigations Division.

5. Serologic determinations for the clinical needs of the Alaska Native Health Service and for the prenatal screening of Alaska Native Service beneficiaries will be provided by the Clinical Laboratory of the ANMC.

6. In consultation with appropriate experienced CDC persons, the Laboratory Section, Division of Public Health, State of Alaska will develop the capability and quality assurances to assume responsibility for all the serologic screening necessary to conduct the Hepatitis B Immunization and Control Program.

7. In consultation with the appropriate CDC and PCIS persons the State of Alaska will develop an accessible and acceptable computer service to conduct the Hepatitis B Immunization and Control Program in the State Northern Regional Laboratory in Fairbanks.

8. The administration of the Hepatitis B Infection and Control Program will be the responsibility of the State of Alaska.

9. Evaluation of the impact of the Hepatitis B Infection and Control Program on the beneficiaries of the Alaska Native Health Service will be a responsibility of appropriate Alaska Native Health Service personnel. The State of Alaska Division of Public Health will evaluate the effect of the Program on the overall state population.

III. Renewal/Modification Clause

This Memorandum of Understanding is in effect for three (3) years unless modification or termination is issued with thirty (30) days advance notice by the offices of the original signers.

IV. Conclusion

Although the need to begin Hepatitis B Infection prevention and control is urgent, actions in program development and delivery must hold to the following principles;

1. Cooperation and trust

2. Open communication

3. Quality assurance

4. Rational planning.

Signatures:

S. A. Foley January 27, 1983
Director, Alaska Area Native Health Services

E. S. Rubenstein Jan. 28, 1983
Director, Division of Public Health, State of Alaska

Robert London Smith January 28, 1983
Commissioner, State of Alaska Department of Health & Social Services

IMPORTANT INFORMATION
ABOUT HEPATITIS B AND HEPATITIS B VACCINE

Please read this carefully

WHAT IS HEPATITIS B?

Although Hepatitis B is an unpredictable disease with a variety of presentations and outcomes, most patients recover. Persistence of viral infection (the chronic carrier state) occurs in 5 to 10% of persons who become infected with hepatitis B virus. Acute Hepatitis B infection may be symptomatic and can incapacitate a person for weeks to months or lead to complications or chronic sequelae. However, 50 to 60% of all Hepatitis B infections are subclinical, asymptomatic, and usually undetected. These cases have a greater risk of progression to chronic sequelae. Chronic sequelae of Hepatitis B infection include:

Chronic carrier state - develops in 6-10% of adult patients who have Hepatitis B.
Chronic persistent hepatitis - generally benign.
Chronic active hepatitis - major late complication; occurs in 3-5% of cases; often progresses to cirrhosis.
Cirrhosis - an estimated 11% of deaths due to cirrhosis are associated with Hepatitis B. (4000/year)
Liver Cancer - the relative risk for carriers is 273 times greater than for non-carriers (800 die/year from Hepatitis B related liver cancer)

There is no specific treatment and no known cure for Hepatitis B. The new vaccine can help prevent Hepatitis B.

HEPATITIS B VACCINE

The Immunization Practices Advisory Committee (ACIP) USPHS, has identified certain populations at risk of HBV infection and has recommended vaccination for appropriate members of the following groups:

ACIP recommendations for vaccination against Hepatitis B infection	
.health-care workers	.classroom contacts of deinstitutionalized mentally retarded HBV carriers who behave aggressively.
.hospital staff	.special high-risk populations from areas where Hepatitis B is highly endemic
.clients and staff of institutions for the mentally retarded	Indochinese and Haitian refugees
.hemodialysis patients	Alaskan Eskimos
.homosexually active males	.inmates of long-term correctional facilities
.illicit injectable drug users	
.recipients of certain blood products	
.household and sexual contacts of HBV carriers	

Persons at substantial risk of Hepatitis B infection who are demonstrated or judged likely to be susceptible should be vaccinated.

Division of Public Health
State of Alaska

VACCINATION: Vaccination consists of 3 intramuscular doses of vaccine. The second and third doses should be given 1 and 6 months, respectively, after the first. Vaccine doses administered at longer intervals than those stipulated provide equally satisfactory protection, but optimal protection is not conferred until after the third dose. The duration of protection and the need for booster doses have not yet been determined.

Vaccination of individuals who possess antibodies against HBV from a previous infection is not necessary but will not cause adverse effects. The vaccine produces neither therapeutic nor adverse effects in Hepatitis virus carriers.

POSSIBLE SIDE EFFECTS FROM THE VACCINES:

Adverse Reactions: Hepatitis B vaccine is generally well tolerated. No serious adverse reactions attributable to vaccination have been reported during the course of clinical trials involving administration of Hepatitis B vaccine to over 6,000 individuals. Approximately half of all reported reactions were injection-site soreness. Other less common local reactions have included erythema, swelling, warmth, or induration. These signs and symptoms of local inflammation are generally well tolerated and usually subside within 2 days of vaccination.

Low-grade fever (less than 101°F) occurs occasionally and is usually confined to the 48-hour period following vaccination. Although uncommon, fever over 102°F has been reported. Systemic complaints, including malaise, fatigue, headache, nausea, dizziness, myalgia, and arthralgia, are infrequent and have been limited to the first few days following vaccination. Rash has been reported rarely.

As with any vaccine, there is the possibility that broad use of the vaccine could reveal rare adverse reactions not observed in clinical trials.

WARNING - SOME PERSONS SHOULD NOT TAKE THIS VACCINE WITHOUT CHECKING WITH A DOCTOR:

.Hepatitis B vaccine is not known to cause special problems for pregnant women or their unbor babies. However, doctors usually avoid giving any drugs or vaccines to pregnant women unless there is a specific need. Pregnant women should check with a doctor before taking Hepatitis B vaccine.

.Those who are sick right now with something more serious with a cold.

QUESTIONS: If you have any questions about Hepatitis B vaccination, please ask us now or call your doctor or health department before taking the vaccine.

REACTIONS: Anyone receiving vaccine who gets sick and seeks medical help in the 4 weeks after vaccination should report this to the facility which provided the vaccine.

Division of Public Health
State of Alaska
January 7, 1983

STANDING ORDERS
Hepatitis B Vaccine

Type of Vaccine	Age	Dosage
Hepatitis B	3 months through life	3 doses i.m.; given on days 0, 1 month later and 6 months after 1st dose.

	Initial	1 mo.	6 mo.
3 months to 10 yrs.	0.5ml	0.5ml	0.5ml
> - 10 yrs.	1.0ml	1.0ml	1.0ml
Dialysis and Immuno-compromised	2.0ml*	2.0ml*	2.0ml*

* Two 1.0 ml doses given at different sites, i.m.

1. Store vials at 2-8°C. (35.6 - 46.4°F)
2. Shake well before using.
3. DO NOT FREEZE
4. Provide Hepatitis B Vaccine information sheet to each person before vaccination.

Contraindications: Hypersensitivity to any component of the vaccine.

Precautions:
1. Not recommended for use in pregnant women. Ask if woman is pregnant. If answer is no, vaccine may be administered.
2. Not recommended at present for use in children below the age of 3 months.

Indications:
1. Indicated for immunization against infection caused by all known subtypes of Hepatitis B virus.
2. Vaccination is recommended in persons 3 months of age or older who are at substantial risk of infection with Hepatitis B virus.
3. Groups and individuals to be vaccinated are designated by the Medical Epidemiologist, Division of Public Health or his designee..

Division of Public Health
State of Alaska
January, 1983

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH
SECTION OF COMMUNICABLE DISEASE CONTROL

ROOM 222, MACKAY BUILDING
338 DENALI STREET - ANCHORAGE 99501

January, 1983

HEPATITIS B AND HEPATITIS B VACCINE

I certify that I have been provided information about Hepatitis B. I am aware that I may be at increased risk of contracting Hepatitis B infection because of my work or my residence. I have had an opportunity to ask questions about Hepatitis B and to discuss Hepatitis B with staff at this facility. I understand that I can have my blood tested free of charge to see if I have been infected with Hepatitis B in the past or whether I could become infected with Hepatitis B in the future. I understand that I can also be vaccinated against Hepatitis B free of charge and that vaccination can protect me from becoming infected with Hepatitis B in the future. I understand that this program is entirely voluntary but that the Division of Public Health strongly recommends that I have my blood tested and, if I have not been infected with Hepatitis B in the past, that I receive Hepatitis B vaccine.

☐ I do not wish to have my blood tested for Hepatitis B.

☐ I do not wish to be vaccinated against Hepatitis B.

_____
(Signature)

_____
(Date)

_____
(Witness)

EPIDEMIOLOGY & COMMUNICABLE DISEASE BULLETIN
DIVISION OF PUBLIC HEALTH
STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
EPIDEMIOLOGY OFFICE
3601 - C Street
Anchorage, Alaska 99502-0333
(907) 561-4406

APR 22 1983

Bill File

BULLETIN NUMBER 7 WEEK ENDING APRIL 8, 1983
HEPATITIS B SEROSURVEY RESULTS

Since November 1982, the Division of Public Health systematically has been testing certain populations suspected to be at increased risk of hepatitis B virus infection. The preliminary results presented here provide overall prevalence data of hepatitis B infection for the groups listed. More detailed analyses to derive age, sex, and race specific attack rates will not be possible unless computer data processing becomes available.

Group Tested	HbsAg	(%)	HbcAb	(%)	Total Tested
State Public Health Nurses	0	(0)	7	(10.3)	68
State Laboratory Employees	0	(0)	4	(14.3)	28
Harborview Developmental Center, Valdez					
Staff	4	(2.5)	20	(12.7)	158
Patients	21	(24.4)	77	(89.5)	86
Alaska Psychiatric Institute Patients	0	(0)	16	(16.5)	97
Corrections - Long-term Inmates	3	(0.8)	80	(22.5)	356
Seward Hospital Staff and Wesleyan Nursing Home	1	(1.0)	9	(9.2)	98
Wrangell Hospital Staff	0	(0)	3	(7.3)	41
Nuiqsut (young adults only)	0	(0)	2	(3.2)	62

Group Tested	HbsAg	(%)	HbsAb	(%)	HbcAb	(%)	Positive For Any Marker	(%)	Total Tested
Rural School Teachers (637 person-years exposure)	0	(0)	4	(4)	4	(4)	6	(6)	100
Stony River	9	(12.7)	6	(8.5)	14	(19.7)	18	(25.4)	71
Sheldon's Point	16	(15.5)	39	(37.9)	59	(57.3)	61	(59.2)	103
Russian Mission	21	(11.6)	67	(37.0)	86	(47.5)	89	(49.2)	181
Marshall	24	(10.1)	55	(23.1)	85	(35.7)	88	(37.0)	238

As expected from previous epidemiological studies, the prevalence of hepatitis B virus infection varied widely among these high risk populations. Because of the sporadic distribution of hepatitis B virus infection, it is impossible to predict accurately the prevalence of hepatitis B infection in any population or in population subgroups.

Results of serosurveys can provide accurate information on the prevalence of infection among many subpopulations within high risk groups. Individuals can then make an informed choice about whether or not to receive hepatitis B vaccine based on their community, occupation, and lifestyle, taking into account the documented prevalence of infection in their group.

(Reported by Gerard Lowder, M.D., South Baltimore General Hospital, Epidemiology Office, and Don Ritter, Northern Regional Laboratory, Section of Laboratories, State of Alaska.)

SB

97

5/11 Called Norma Lang for a DHSS position paper.

5/12 Contacted Max in Sen. Sackett's Ofc for back-up

5/12 Called John Pugh, DHSS, relation between HB383 + SB97

Bethel Social Services, Inc.
• A PRIVATE NON-PROFIT CORPORATION •

November 5, 1982

Senator John Sackett
P. O. Box 29
Ruby, Alaska 99678

Dear Senator Sackett:

This letter is to follow-up on our recent conversation regarding the cost of care dilemma that the Bethel Receiving Home is now in.

Bethel Social Services, Inc., opened the original Receiving Home in 1969 in an old B.I.A. building. This project was closed on 1976 as the building was simply not licensable. At the request of many State agencies, especially the Department of Corrections, Bethel Social Services, Inc., built a new receiving home with a combination of borrowed funds and Criminal Justice monies. This facility was constructed at great financial risk to the Corporation with assurances from the State that it would be fully utilized.

Our cost of care was set at $55.63 based on the proposed budget divided by 75% of the number of licensed beds. Thus began the cost of care rat race of having to lose money to get the cost of care rate up to make money. The following circumstances have prevailed at the Bethel Receiving Home in regard to the cost of care:

1. When the new home was opened in 1980, the cost of care rate was set too low because the anticipated usage AS ESTIMATED BY THE STATE fell below the actual usage.

2. With the exception of one facility which has donated labor, the Bethel Receiving Home has had the lowest cost of care rate throughout the State.

3. The Bethel Receiving Home has lost money each year. It failed to lose enough money, however, to raise the cost of care rate substantially to make money.

4. We have always been opposed to the cost of care method of setting rates. It rewards the inefficient. However, the interim method of freezing the rates will cause the Bethel Receiving Home to close. Our rate has been frozen

at the lowest receiving home rate in the State with the exception of the Sitka Home which has donated labor, we understand.

5. We were not aware that there had even been a change in the process until three months after it went into effect.

6. We are requesting the legislature set a cost of care rate for the Bethel Receiving Home at $115.00 per day. Our current rate is $75.52 per day. The $115.00 is the average rate taken from averaging the rates from the receiving homes in Anchorage, Juneau, Nome and the North Slope. In essence we are saying that it should cost us an average of what the other facilities are providing care for. With sound management, this rate will allow the Bethel Receiving Home to provide care and reduce it's indebtedness.

Just to clarify the relationship between Bethel Social Services, Inc. and the Bethel Receiving Home, Inc. --- Bethel Social Services, Inc. operated the old receiving home. The building was owned by the Bureau of Indian Affairs. Bethel Social Services, Inc. built and owns the new receiving home and is the parent corporation and registered agent for Bethel Receiving Home, Inc., which operates the Bethel Receiving Home. (Without the two separate entities, there is no provision for paying the lease on the building under cost of care regulations.)

We are also enclosing a copy of the current rates for facilities throughout the State and a table of information pertinent to the Bethel Receiving Home's operations during the past three fiscal years. We have been in contact with John Pugh, Division of Youth & Family Services, and are trying to keep him abreast of our request through the legislature.

Please let us know if we can provide you with any additional information.

Sincerely,

Loreen Foster
Administrative Director

cc: John Pugh, Director, Div. of Youth & Family Services
Chet Adkins, President, Board of Directors

Encl: (2)

SUMMARY OF OPERATIONS
BETHEL RECEIVING HOME
FEBRUARY, 1980—JUNE, 1982

PERIOD	TOTAL EXPENDITURES	EXCESS OF EXPENDITURES OVER REVENUES	TOTAL KID DAYS	COST OF RATE	ACTUAL COST OF CARE
Feb - June, 1980	$39,728.	($8,883.) (Losses covered by Criminal Justice Start-up Funds)	695 (audited)	$53.63	$57.16
July, 1980-June, 1981	$126,061.	($3,520.)	1,903	$64.02	$66.24
July, 1981-June, 1982	$131,768.	($28,121.)	1,350	$75.52	$97.61

IN-STATE INSTITUTIONAL CARE RATES

PROVIDER	NAME	FY83 RATE	EFFECTIVE DATE	PROVISIONAL FY82 RATE	FY82 AUDITED
004996	ALASKA BAPTIST FAM SVS CTR	$117.02	7/1/82	$117.02	
232007	ACS RECEIVING HOME	149.85	7/1/82	149.85	$189.44
001455	ACS AQUARIUS HOUSE	107.60	7/1/82	107.60	106.61
002122	ACS COLLETTI HOUSE	117.51	7/1/82	117.51	118.79
001394	ACS JESSE LEE	165.46	7/1/82	165.46	134.70
001398	ACS RABBIT CREEK	166.40	7/1/82	166.40	168.84
001098	ACS NORTH STAR	103.55	7/1/82	103.55	102.61
004227	BETHEL GROUP HOME	59.06	7/1/82	59.06	57.72
231001	BETHEL RECEIVING HOME	75.52	7/1/82	75.52	
003339	BOOTH MEMORIAL	146.90	7/1/82	146.90	
001404	COVENANT HIGH SCHOOL	51.16	7/1/82	43.26	
004287	HILLTOP HOME	85.53	7/1/82	85.53	
001409	JUNEAU RECEIVING HOME	106.17	7/1/82	106.17	
004404	KENAI COMM CARE CTR	91.74	7/1/82	91.74	
236007	KETCH. INTENSIVE CARE UNIT	152.56	7/1/82	152.56	
004594	KETCHIKAN TEEN HOME I	74.26	7/1/82	74.26	69.59
236001	KETCHIKAN TEEN HOME II	81.61	7/1/82	81.61	69.59
001843	KODIAK BAPTIST MISSION	61.61	7/1/82	61.61	61.43
001037	KODIAK BAPTIST MISSION	61.61	7/1/82	61.61	61.43
005412	NOME RECEIVING HOME	116.97	7/1/82	116.97	109.20
233001	NORTH SLOPE BOROUGH REC HME	168.35	7/1/82	170.80	170.80
001004	NORTH STAR CHILDRENS HOME	62.25	7/1/82	62.25	
004247	PRESBYTERIAN HOSPITALITY HSE	111.98	7/1/82	111.98	
232005	"R" HOUSE			111.98	
001414	ST. MARYS MISSION			8.33	
005398	ST. JUDE CENTER, INC.	72.33	7/1/82	72.33	
005556	SITKA RECEIVING HOME	40.66	7/1/82	40.66	
001918	TURNING POINT BOYS RANCH	105.37	7/1/82	105.37	

Bethel Receiving Home



Superior Court
State of Alaska
FOURTH JUDICIAL DISTRICT
P.O. BOX 130
BETHEL, ALASKA
99559

CHAMBERS OF
CHRISTOPHER R. COOKE, PRESIDING JUDGE

PHONE: (907) 543-2298

November 1, 1982

Mr. John Pugh, Director
Division of Family and
Youth Services
Pouch H-05
Juneau, Alaska 99811

Re: Bethel Receiving Home

Dear Mr. Pugh:

It has come to my attention that the Bethel Receiving Home is in serious financial trouble. The home is operating at a substantial loss and will soon be forced to close unless additional revenue can be secured.

The Receiving Home provides temporary shelter for juveniles detained in delinquency proceedings and emergency foster care for children in need of aid. Loss of the Receiving Home would have a great adverse impact upon the Alaska Court System and this region since it is the only facility of its type in this area.

Without the Receiving Home, juveniles detained in delinquency proceedings would have to be housed in the substandard Bethel City Jail and, at great expense and inconvenience, McLaughlin Youth Center in Anchorage. Emergency foster homes for neglected or abused children would have to be found on a case-by-case basis. This would constitute a giant step backward for the juvenile justice system in this region and for the local and regional operations of your department.

One reason for the Receiving Home's financial plight is the cost of care rate paid by your department. Currently that rate is $75.52 per day while comparable facilities in Nome, Juneau and Anchorage receive

$116.97, $106.17 and $149.85, respectively. The Receiving Home would be financially viable if their daily rate were in the vicinity of $100.00 or if bed space could be provided to your agency on a monthly retainer basis.

I would appreciate your prompt attention to this situation. If the Bethel Receiving Home is forced to close, this community, the 56 villages of our region, and both our agencies will suffer. With your cooperation I hope that such a drastic result can be avoided.

Very truly yours,

Christopher R. Cooke
Superior Court Judge

CRC/bn

cc: Senator John Sackett
Representative Tony Vaska
David E. Arnold
Gloria Hawkins
Bob Buttcane
Loreen Foster
Don Constantine
Jim Shanks
Laurie Otto

JAN 27 1983

Mat
Back-up

Bethel Social Services, Inc.

• A PRIVATE NON-PROFIT CORPORATION •

December 7, 1982

Mr. Lee Stoops
Aide to Senator Sackett
Pouch V
Juneau, Alaska 99811

Dear Lee,

As per our phone conversation on December 3, 1982, please find enclosed the letter which we delivered to Senator Sackett on November 5, 1982 when he was visiting in Bethel. I will attempt to clarify the urgent request from the legistlature for a supplemental budget request for the Bethel Receiving Home. With the constant escalation of real operational costs, it has been a battle trying to achieve a cost of care level that allows us to recoup the true costs of the program. We feel we have reached our limit on how much we can jeopordize the corporation for one project.

As you can see from the summary of operations table, we have lost a total of $31,680. on this project as of June 1982. We had hoped to have the cost of care rate raised this fiscal year and were unaware of the freeze that is now in effect. I have requested an audit from the Dept. to get the cost of care rate raised, but that request was denied. It seems that we are audited bi-annually and this is not our year.

If our rate for FY'83 were $115 , which is the average rate in this state for comparitable services, we could recoup some of this money and would not be faced with the possibility of closing this facility. We believe that the Receiving Home does play an important role in Bethel, and without it many children would have to be placed outside the area and at a much higher cost to the state.

If there is anything further you require, please contact me. We are anxiously awaiting an answer to this dilemma.

Sincerely,

Loreen M. Foster
Administrative Director
Bethel Social Services, Inc.

P.O. Box 271 • Bethel, Alaska 99559 • (907) 543-2840 or 543-3447

		Address	Phone	Director	Licensed Capacity	Days of Care	FY '83 Budget	Capital Investment
1.	Alaska Children's Services, Inc.	1200 E. 27th Ave Anchorage, Ak. 99504	(907) 276-4515	John C.Garvin	107	27,468/07	467,100 $5,000,000	$6,000,000
2.	Alaska Baptist Family Service Center	SRA Box 1791A	(907) 349-2222	Gordon Lantrip	12	3,216	$ 406,000.	$750,000 - Lan $500,000 - Bld equ
3.	North Slope Receiving Home	Box 371 Barrow, Ak. 99723	(907) 852-7007	Charles Tadgerson	10			
4.	Bethel Group Home, Inc.	Box 385 Bethel, Ak. 99559	(907) 543-2846	Kent R. Kaltenbacher	8	1,692	$8/120,000	$200,000
5.	Salvation Army Booth Memorial Home	Pouch SA 3-063 Anchorage, Ak. 99501	(907) 279-0522	Lt. Gene Ragan	18		$1,100,000	
6.	Presbyterian Hospitality House, Inc.	1401 Kellum St. Fairbanks, Ak. 99701	(907) 456-6445	Linden Staciokas	28	3,524	$ 870,000	
7.	Juneau Receiving Home	P.O. Box 2839 Juneau, Ak. 99803	(907) 789-7610	Dale Voltz	12	4,123	$ 435,000	
8.	Kenai Peninsula Community Care Center	Drawer 3573 Kenai, Ak. 99611	(907) 283-7635	Billie Hardy	10	2,847	$ 276,000	$ 480,000
9.	Ketchikan Children's Home	P.O. Box 6555 Ketchikan, Ak. 99901	(907) 225-2360	Carl Robins	23	6,580	$ 717,709	$ 8,000
10.	Kodiak Baptist Mission, Inc.	Box 785 Kodiak, Ak. 99615	(907) 486-5181	David Cook	30	6,112	$ 400,000	$2,000,000
11.	Nome Receiving Home, Inc.	P. O. Box 1033 Nome, Ak. 99762	(907) 443-2154	Bill Webb	5	1,170	$ 168,438	
12.	Crossroads Youth Center	P.O. Box 1349 Delta Junction, Ak.99737	(907) 895-4521	Duane Schlekau	5		$ 129,298	$ 29,410
13.	Turning Point Boys Ranch	Box 1070 Willow, Ak. 99688	(907) 495-6241	Ilene Hahn	40		$1,200,000	$1,400,000
14.	Sitka Receiving Home	Box 664 Sitka, Ak. 99688	(907) 747-3682	Dave Dapcevich (Bd. member)	308			

Alaska Youth Village - Juneau - Accepts private placements only Hilltop Home for Boys - Purchased by Alaska Children's Services

	Date Founded	Board of Directors	No. of Staff	% of State Cost of Care	Amount of Endowment	Related to	Accreditation/Affiliation
Alaska Children' Services, Inc.	1970	18 members	150	94%	$1,900,000	United Methodist/ American Baptist/ American Lutheran/ Disciples of Christ/ Community	Council on Accreditation Child Welfare League of Amer United Way
Alaska Baptist Family Service Center	1973	9 members	8.5	70%	$ 950,000	Southern Baptist	National Assn. of Homes for Children
North Slope Receiving Home						City of Barrow	
Bethel Group Home, Inc.	1972	7 members	5	100%		Community	Natl. Assn. Homes for Childr
Salvation Army Booth Memorial Home		18 member Council	26	80%		Salvation Army	United Way Natl. Assn. Homes for Childr
Presbyterian Hospitality House, Inc.	1957	12 members	25	90%		United Presbyterian Church	United Way Natl. Assn. Homes for Childr
Juneau Receiving Home	1961	11 members	12	95%		Community	
Kenai Peninsula Community Care Center	1973	9 members	7 full 2 pt	98%		Community	
Ketchikan Children's Home	1957	11 members	17	95-100%			Natl. Assn. Homes for Childr
Kodiak Baptist Mission, Inc.	1893	12 members	14	80%		American Baptist Church	Natl. Assn. Homes for Childr American Baptist Homes and Hospitals
Nome Receiving Home, Inc.	1977	7 members	4	100%		Community	Natl. Assn. Homes for Childr
Crossroads Youth Center	1982	10 members	6	100%		Community	
Turning Point Boys Ranch	1970	12 members	35	85-90%		Community	American Corrections Assn.
Sitka Receiving Home						Community	

SB 97 TITLE & SPONSOR SUMMARY 09:41 5/11/83 PAGE 1 OF 3

AMENDED TITLE:
AN ACT MAKING A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT
OF HEALTH AND SOCIAL SERVICES FOR PAYMENT AS A
GRANT TO BETHEL SOCIAL SERVICES, INC.; AND PROVIDING FOR
AN EFFECTIVE DATE

GENERAL DOLLARS: $65,000 (SUPPL)

PRIME SPONSOR: SACKETT.

OTHER DOLLARS: $0

CO-SPONSORS:
CURRENT STATUS: 4/06/83 IN (H) HESS REFERRAL: FINANCE

SB 97 SENATE ACTION 09:42 5/11/83 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/31/83	01	0102	FIRST READING --- COMMITTEE REPORTS
03/08/83	02	0338	HESS --- DP03
03/16/83	03	0402	FIN --- DP05, NR01
04/04/83	04	0566	RLS --- OTHER03
04/05/83	05	0581	SECOND READING
04/05/83	06	0581	ADVANCED TO 3RD READING BY UNAN CONSENT
04/05/83	07	0581	THIRD READING
04/05/83	08	0581	PASSED BY DIV 19-00-01
04/05/83	09	0581	EFFECTIVE DATE VOTE SAME AS PASSAGE
*****	**	**	*** *** ***

SB 97 HOUSE ACTION 09:42 5/11/83 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/06/83	10	0744	FIRST READING --- COMMITTEE REPORTS
			HESS
			FINANCE
			RULES
*****	**	**	*** *** ***

AN ACT

Relating to vision and hearing screening examinations, public assistance, and other assistance provided by the state; and providing for an effective date.

---

* Section 1. FINDINGS. The legislature finds that the present method for establishing payment rates under AS 47.40 for residential child care services is inadequate. The Department of Health and Social Services shall conduct a study of alternatives to the method of establishing payment rates under AS 47.40. The study shall be conducted by a committee of five members appointed by the commissioner of the Department of Health and Social Services. Three members of the committee shall be employees of the Department of Health and Social Services and two members shall be providers of residential child care services. The study shall contain, among other matters determined by the department, a suggested redefinition of the manner in which rates for residential child care services are calculated, a consideration of the method and amount of reimbursement for capital costs of residential child care facilities, and the availability and use of other sources of money to finance residential child care services and to finance the construction of residential child care facilities. The committee shall report its findings to the legislature on or before the 30th day of the Second Session of the Thirteenth Legislature. The legislature further finds that the rates established under AS 47.40 should be suspended from June 30, 1982 to July 1, 1984.

* Sec. 2. The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the

period of suspension, payment for services provided by residential child care facilities shall be made solely in accordance with the provisions of secs. 3 and 4 of this Act.

* Sec. 3. For fiscal year 1983, the payment authorized per day for each child placed by the Department of Health and Social Services in an existing residential care facility is:

Alaska Children's Services Receiving Home (Anchorage)	$149.85
Alaska Children's Services Jesse Lee Home (Anchorage)	165.48
Alaska Children's Services Rabbit Creek Group Home (Anchorage)	166.40
Alaska Children's Services North Star Home (Anchorage)	103.55
Alaska Children's Services Aquarius House (Anchorage)	107.60
Alaska Children's Services Colletti House (Anchorage)	117.51
Alaska Baptist Family Service Center (Anchorage)	117.02
Booth Memorial Home (Anchorage)	146.90
Hilltop Home, Inc. (Anchorage)	85.53
Kenai Peninsula Community Care Center (Kenai)	91.74
Kodiak Baptist Mission (Kodiak)	61.61
Turning Point Boys Ranch (Willow)	105.37
North Star Children's Home (Dot Lake)	62.25
Presbyterian Hospitality House (Fairbanks)	111.98
Juneau Receiving Home (Juneau)	106.17
St. Jude Center, Inc. Receiving Home (Juneau)	72.33
Nome Receiving Home (Nome)	116.97
Manillaq Group Home (Kotzebue)	167.00
North Slope Borough Children's Receiving Home (Barrow)	168.35
Ketchikan Teen Home I (Ketchikan)	74.26
Ketchikan Teen Home II (Ketchikan)	81.61
Ketchikan Children's Home Intensive Treatment Unit (Ketchikan)	152.56
Sitka Receiving Home (Sitka)	40.66

Bethel Receiving Home (Bethel)	75.52
Bethel Group Home (Bethel)	59.06
Covenant High School (Unalakleet)	51.16

* Sec. 4. For fiscal year 1984 the payment rates for residential child care services shall be the amounts set out in sec. 3 of this Act increased by five percent.

* Sec. 5. For fiscal years 1983 and 1984 the Department of Health and Social Services may contract for residential child care services with a facility not listed in sec. 3 of this Act at a rate to be determined by the department.

* Sec. 6. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.075. VISION AND HEARING SCREENING EXAMINATIONS. (a) A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.

(b) The Department of Health and Social Services shall

(1) set standards for the performance of vision and hearing screening;

(2) train and certify public health nurses and school district employees to conduct hearing and vision screening tests;

(3) assist with referral and follow-up of children needing professional examination or treatment; and

(4) assist with maintenance and repair of screening equipment.

* Sec. 7. AS 44.29.020 is amended to read:

Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health and Social Services shall administer the state programs of public health and social services, including: (1) maternal and child health services;

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

SENATE BILL NO. 97
PAGE 1

"An Act making a supplemental appropriation to the Department of Health and Social Services for payment as a grant to Bethel Social Services, Inc.; and providing for an effective date."

Senate Bill No. 97 makes an appropriation of $65,000 to the Department in the form of a grant designated for Bethel Social Services, Inc. to operate the Bethel Receiving Home during the remainder of the current fiscal year.

There are a variety of problems inherent in operating such facilities in Bush communities which are either unique to those facilities or exaggerated because of their location. For example, initial start-up and ongoing operating costs of such facilities are usually greater than for urban facilities.

In addition, smaller facilities located in rural areas generally have less predictable resident populations and suffer from cash flow problems.

The number of emergency placements has declined in the Bethel area as it has statewide. This decline has resulted from changing needs of children and more effective efforts to comply with the Indian Child Welfare Act, which mandates preferential placement of Native children in the homes of relatives or in Native foster homes. This has proven particularly problematic, however, to those facilities, such as the Bethel Receiving Home, operating in areas in which the majority or a very large percentage of the population is Native. Thus, while staffing is generally maintained at levels adequate to provide for the average population of the facility and for emergency circumstances the actual number of residents is often below the level required to provide fiscal support for the facility's operation. Since contracting for a number of beds is not allowable under existing purchase of services law, the facility cannot be assured of income necessary for operation during those periods when few or no placements are made.

In summary, the Department is supportive of maintaining facilities such as the Bethel Receiving Home which serve as necessary placement resources for abused or neglected children and for delinquent youth who do not require detention. Maintenance of such facilities in rural areas is critical due to the general paucity of alternative resources. Without such resources many children and youth would necessarily be placed in urban facilities far from the systems of support provided in their communities and separated from their families. Such separation at times nullifies efforts to resolve the precipitating social or family problems and may prevent reunification of the child and family or rehabilitation of delinquent youth.

The intended method of disbursement of grant funds would be more clearly stated if Section 2, Lines 15 and 16 of the Bill were amended to include only the specific statutory citation for disbursing grants to named recipients other than a municipality. The appropriate wording would be:

> "Sec. 2. The appropriation made by this act shall be disbursed in accordance with AS 37.05.316."

RECOMMENDED: Yvonne Elder Walker
Yvonne Elder Walker
Acting Director
Division of Family and
Youth Services

DATE: February 8, 1983

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

DATE: 2/9/83

POSITION PAPER/Department of Health & Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 97
Title "An Act making a supplemental appropriation as a grant to Bethel Social Svcs."
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Social Services
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Senate Bill No. 97 has no fiscal impact on the Department of Health and Social Services.

IV. DATE February 8, 1983 PREPARED BY Yvonne Elder Walker, Acting Director 2/9/83
AGENCY Division of Family and Youth Services
PHONE 465-2102

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

33-001 (Rev. 12/82)

2

John Pugh -

How is the daily cost of care rate arrived at?

Comparison	DCC	Licensed Capacity	Days of care	# of staff
AK Children's Services Receiving Home (Anch)	149.85			
Juneau Receiving Home (Juneau)	106.17	12	4,123	12
St. Jude Center, Inc. Receiving Home (Juneau)	72.33			
Nome Receiving Home (Nome)	116.97	5	1,170	4
N. Arctic Borough Children's Rec Hm (Barrow)	168.35	12		6
Sitka Receiving Home (Sitka)	40.66			
Bethel Receiving Home (Bethel)	75.52	16	1,316	
~~PHH~~ Pres. Hosp. House Rec'g Hm (Fbks)	111.98			

What's the formula of days of care?

Definition of 'receiving home'?

How different from a group home? emergency shelter?

John Garvin 101-276-4515

monthly retainer basis?

Payment Rate Study Committee

115.00 = avg. rate from receiving home rates in Anchorage, Juneau, Nome, & the North Slope

Bethel Social Services, Inc built and owns Bethel Receiving Home [redacted]; also the parent corporation and registered agent for BRH, Inc. which operates BRH.

BRH operating at a substantial loss - lost # 31,641 (40,524) since opening in 1980 will soon have to close [redacted] unless additional revenues are secured.

BRH - provides temp. shelter for juveniles detained in delinquency proceedings, & emergency foster care for children in need of aid (abused & neglected children) BRH the only facility of its type in the Bethel area.

[redacted] loss of BRH would have an adverse impact on the AK Court System - juveniles detained in delinquency programs would have to be housed in the substandard Bethel City Jail and at McLaughlin Youth Center (Anch) emerg. foster homes would have to be found on a case by case basis - would constitute a giant step backwards for the

juvenile justice dept, + local + regional DHSS operations.

BRH would be financially viable if their daily rate were in the vicinity of $100.00 or if bed space could be provided to Div of Fam + Yth Services on a monthly retainer basis. (?)

Christopher R. Cooke
Superior Court Judge
4th Judicial District
Bethel, AK
543-2298

History -

- original Receiving Home opened by BSS Inc in 1969
- closed in 1976 - bldg not licensable.
- at the request of many state agencies, esp the Dept of Corrections, BSS, Inc built a new BRH w/ borrowed funds + Crim. Justice monies - constructed at great financial risk to the corporation w/ State assurances that it would be fully utilized. (?)

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

SENATE BILL NO. 97
PAGE 1

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In addition, smaller facilities located in rural areas generally have less predictable resident populations and suffer from cash flow problems.

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In summary, the Department is supportive of maintaining facilities such as the Bethel Receiving Home which serve as necessary placement resources for abused or neglected children and for delinquent youth who do not require detention. Maintenance of such facilities in rural areas is critical due to the general paucity of alternative resources. Without such resources many children and youth would necessarily be placed in urban facilities far from the systems of support provided in their communities and separated from their families. Such separation at times nullifies efforts to resolve the precipitating social or family problems and may prevent reunification of the child and family or rehabilitation of delinquent youth.

POSITION PAPER/Department of Health & Social Ser

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> "Sec. 2. The appropriation made by this act shall be disbursed in accordance with AS 37.05.316."

RECOMMENDED: Yvonne Elder Walker
Yvonne Elder Walker
Acting Director
Division of Family and
Youth Services

DATE: February 8, 1983

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

DATE: 2/9/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

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Bill/Resolution No. Senate Bill No. 97
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Requested by _____ Date _____

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BRU, Program, Or Subprogram(s) Affected _____
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EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
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700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Senate Bill No. 97 has no fiscal impact on the Department of Health and Social Services.

[signature]

STATE
of ALASKA

MEMORANDUM

TO: Hon. Marshall Lind, Commissioner
Department of Education

ATTN: William D. Thomson
Deputy Commissioner

DATE: September 20, 1979

FILE NO: J-66-171-80

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

By:
Rodger W. Pegues
Assistant Attorney General

SUBJECT: Refunding bonds as old debt

You have asked whether refunding existing indebtedness for school construction amounts to incurring a new debt under AS 43.18.100(a). In our view, the answer is no.

The Municipality of Anchorage proposes to refund existing indebtedness for school construction dating from 1970-1971. Under AS 43.18.100(a)(1), the municipality is entitled to total reimbursement for payments made on debts incurred prior to July 1, 1977. Under AS 43.18.100(a)(3), the municipality is entitled to reimbursement of 80 percent of payments made on debts incurred after June 30, 1978. The question is whether refunding the old indebtedness, i.e., issuing refunding bonds, constitutes "indebtedness incurred after June 30, 1978," within the meaning of the statute.

Analogizing from cases on legal limitations on incurring debt which holds -- most universally -- that refunding bonds do not constitute new debt, the municipality posits that the same should be true here, i.e., that the act of refunding indebtedness does not constitute incurring new debt within the meaning of AS 43.18.100(a). We agree.

The cases cited by the municipality are persuasive. The refunding merely reduces the old indebtedness, it does not create a new debt. We are buttressed in this view by article IX, sec. 11, of the Alaska Constitution which provides that restrictions on indebtedness do not apply to "refunding indebtedness of the State or its political subdivisions." This is an obvious acceptance of the view expressed in the cases relied upon by the municipality, i.e., refunding does not constitute new debt. Accordingly, it is our view that, for purposes of reimbursement under AS 43.18.-100(a), refunded indebtedness should not be considered as a new debt.

RWP/pjg

PACKET CONTENTS:

Left Side:

Copy of bill
DHSS position paper
Fiscal note

Loose:

Staff rep rt
Statutes
Chapter 138

Right Side:

Summary of BSS operations
In-state cost of care rates
Letters - Bethel Social Services
Judge Cristopher Cooke

TO: HESS Committee Members

FROM: Heidi H. Borson

RE: Bill Overview - SB 97 - An act making a supplemental appropriation to the Department of Health and Social Services for payment as a grant to Bethel Social Services, Inc.

Bill analysis: If enacted, SB 97 would appropriate $65,000 to the Department of Health & Social Services for payment as a grant to Bethel Social Services, Inc. for the operation of the Bethel Receiving Home. According to information received from Sen. Sackett's office, the figure was arrived at by multiplying an average 1,025 child care days for FY '83 by the difference between the existing daily cost of care rate ($75.52) and the proposed rate ($115.00). To date, Bethel Receiving Home has had 1,579 child care days in FY '83.

Background information: At the request of several state agencies, Bethel Social Services, Inc. opened the new Bethel Receiving Home in 1980. It currently owns Bethel Receiving Home and is the parent corporation for Bethel Receiving Home, Inc. which operates the receiving home.

Bethel Receiving Home provides short term shelter for juveniles detained in delinquency proceedings, and emergency foster care for abused and neglected children.

Currently, Bethel Receiving Home is operating at a loss. Since its opening in 1980, the receiving home has lost approximately $32,000. According to a superior court judge in Bethel and the administrative director of Bethel Social Services, Inc., a major reason for the receiving home's financial problems is the inadequate cost of care rate paid to Bethel Receiving Home by the Department of Health & Social Services. According to the director of Bethel Social Services, Inc., the rate was set too low when the home opened because the state's estimation of the anticipated usage was low. Superior Court Judge Christopher Cook maintains that the receiving home would be financially viable if their daily rate was approximately $100.00.

Department's position: The Department of Health & Social Services is generally supportive of maintaining placement facilities for abused and neglected children and delinquent youth especially in rural areas where alternative placement resources are scarce. The department also recognizes the high costs inherent in operating receiving home facilities in rural areas. However, under Chapter 138 of the statutes, the department is required to pay Bethel Receiving Home a daily cost of care rate of $75.52.

Issues worthy of closer consideration:

1) The Department of Health & Social Services recommends amending Section 2, lines 15 and 16 in order to clarify the intended method of grant disbursement. The proposed wording is as follows:

"Section 2. The appropriation made by this act shall be disbursed in accordance with AS 37.05.316." (please refer to attached statutes)

2) What is the actual intent of the appropriation? According to representatives from the Department of Health & Social Services, the attorney general has ruled that it is illegal to give grants for prior expenditures. The grant in SB 97 is designated for the operation of the Bethel Receiving Home during the fiscal year ending June 30, 1983. On the other hand, grants to improve programs and facilities are acceptable.

3) The daily cost of care rate is usually figured from the past year's expense budget which a program submits to the Department of Health and Social Services. Bethel Social Services arrived at their request for $115.00 per day by averaging the rates paid to receiving homes in Anchorage, Juneau, Nome and the North Slope.

4) If enacted, HB 383 "An act relating to payments authorized for residential child care services" will increase the cost of care rate paid to Bethel Receiving Home by 2.5%. The Department of Health & Social Services agrees that the increase would help reduce present problems somewhat, but will not reimburse the home for past losses nor prevent the home from operating at a loss in the future.

Department of Transportation and Public Facilities. All bids with the names of the bidders and the amounts of the bids, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the department for three years, unless reproduced by microfilming and these files or records are open to public inspection at all reasonable times. An aggrieved bidder may within five days after an award of contract appeal to the department for hearing, with notice to interested parties, for redetermination and final award in accordance with law.

(b) A contract for professional services shall be awarded in accordance with AS 24.23 or AS 36.98. (§ 4 art IV ch 82 SLA 1955; am § 1 ch 64 SLA 1976; am Executive Order No. 39, § 11 (1977); am § 9 ch 144 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 22, 1982, designated the former provisions of this section as subsection (a), and in that subsection, added "Except as otherwise provided in AS 37.05.230" to the beginning, deleted "taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids" from the end of the first sentence, and substituted the present second, third, and fourth sentences for those set out in the main pamphlet. The amendment also added subsection (b).

Article 5. General Provisions.

Section
315. Grants to municipalities
316. Grants to named recipients
317. Grants to unincorporated communities
318. Exemption from regulations
319. Definitions

Sec. 37.05.300. Interpretation of AS 37.05.010 — 37.05.330.

Opinions of attorney general. — As to applicability of the chapter to the University of Alaska, see notes under this catchline following chapter heading.

Sec. 37.05.315. Grants to municipalities.

(a) When an amount is appropriated or allocated as a grant to a municipality, the Department of Administration shall promptly notify the municipality of the availability of the grant. When the Department of Administration receives an agreement executed by the municipality which provides that the municipality (1) will spend the grant for the purposes specified in the appropriation or allocation, (2) will allow, on request, an audit by the state of the uses made of the grant; and (3) assures that, to the extent consistent with the purpose of the appropriation or allocation, the facilities and services provided with the grant will be available for the use of the general public, the Department of Administration shall pay the grant directly to the municipality. The agreement executed by a municipality under this section shall be on a form furnished by the Department of Administration and shall be executed within 60 days after the effective date of the appropriation or allocation.

(b) An appropriation or allocation for a grant to a municipality for construction of a public facility lapses if substantial, ongoing work on the project has not begun within five years after the effective date of the appropriation or allocation.

(c) In accepting a grant of money for construction of a public facility, a municipality covenants with the state that it will operate and maintain the facility for the practical life of the facility and that the municipality will not look to the state to operate or maintain the facility or pay for its operation or maintenance. This requirement does not apply to a grant of money for repair or improvement of an existing facility operated or maintained by the state at the time the grant is accepted if the repair or improvement for which the grant is made will not substantially increase the operating or maintenance costs to the state.

(d) Not less than 20 percent of a grant shall be paid to a municipality within 10 days of the effective date of the agreement under (a) of this section. The remainder of the grant shall be paid either in monthly installments equal to the amount of grant money the municipality expended in the previous month or in a lump sum as determined by the Department of Administration. (§ 1 ch 156 SLA 1980; am § 1 ch 4 SLA 1982)

Effect of amendments. — The 1982 amendment, effective January 16, 1982, in subsection (a), substituted "amount is appropriated or allocated" for "appropriation is made" in the first sentence, inserted "or allocation" in items (1) and (3) in the second sentence, and added "and shall be executed within 60 days after the effective date of the appropriation or allocation" to the end of the third sentence; redesignated the former fourth and fifth sentences of subsection (a) as subsection (d); inserted "or allocation" in two places in subsection (b); substituted "a" for "each" preceding "municipality covenants" and "the practical life of the facility and that the municipality" for "its practical life and that it" in subsection (c); added the second sentence of subsection (c); deleted the provisions of former subsections (d), (f), and (g), which may now be found in AS 37.05.316, 37.05.317, and 37.05.318, respectively; and in present subsection (d), added "under (a) of this section" to the end of the first sentence. The substance of the provisions of former subsection (e) may now be found at the end of the third sentence of subsection (a).

Sec. 37.05.316. Grants to named recipients.

When an amount is appropriated or allocated to a department as a grant for a named recipient which is not a municipality, the department to which the appropriation or allocation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services specified in the appropriation act, or both, for which the appropriation or allocation is made. At the same time, the department may issue a request for proposals from other qualified persons to provide the same goods or services, or both, in the same area. The department shall contract with the named recipient unless the Office of the Governor, with due regard for any local expertise or experience among those making proposals, determines that an award of the contract to a different party would

better serve the public interest. If the contract is awarded to another party than that named by the legislature, the basis of that action shall be stated in writing at the time the grant is issued and a copy of the written statement shall be sent to the Legislative Budget and Audit Committee. A contract shall be executed within 60 days after the effective date of the appropriation or allocation. The purchase of the goods or services, or both, shall be in accordance with AS 37.05.230(1)(C). (§ 2 ch 4 SLA 1982)

Effective dates. — Section 3, ch. SLA 1982, provides that this section take effect January 16, 1982, in accordance with AS 01.10.07(c).

Editor's notes. — The provisions of this section were formerly contained in AS 37.05.315(d) as it existed prior to the 1982 amendment of that section.

Sec. 37.05.317. Grants to unincorporated communities. When an amount is appropriated or allocated as a grant under this section to an unincorporated community, it shall be disbursed as follows:

(1) Within 45 days after the effective date of the appropriation or allocation, the Department of Community and Regional Affairs shall notify the governing body of the unincorporated community, if any, that a grant is available.

(2) The Department of Community and Regional Affairs shall determine if there is a qualified incorporated entity in the community area that will agree to receive the grant and administer it, subject to terms generally applicable to private grantees. If there is more than one such entity, the Department of Community and Regional Affairs shall select the most qualified and the grant shall be awarded to that incorporated entity for the purposes specified in the appropriation act. However, the Department of Community and Regional Affairs shall give preference to a nonprofit corporation organized by a community for receipt of the grant.

(3) If there is no incorporated entity qualified to receive the grant, the Department of Community and Regional Affairs shall administer the program as specified in the appropriation act directly or through agents or contractors with whom it may contract in the community area. (§ 2 ch 4 SLA 1982)

Effective dates. — Section 3, ch. 4, SLA 1982, provides that this section take effect January 16, 1982, in accordance with AS 01.10.07(c).

Editor's notes. — The provisions of this section were formerly contained in AS 37.05.316(f), which was deleted by the 1982 amendment.

Sec. 37.05.318. Exemption from regulations. Notwithstanding the Administrative Procedure Act (AS 44.62), the Fiscal Procedures Act (AS 37.05), and the Executive Budget Act (AS 37.07), a state agency may not adopt regulations or impose additional requirements or procedures to implement, interpret, make specific, or otherwise [illegible] the provisions of AS 37.05.315 — 37.05.317 unless required

by the federal government for participation in federal programs. (§ 2 ch 4 SLA 1982)

Effective dates. — Section 3, ch. 4, SLA 1982, provides that this section take effect January 16, 1982, in accordance with AS 01.10.07(c).

Editor's notes. — The provisions of this section were formerly contained in AS 37.05.316(g), which was deleted by the 1982 amendment.

Sec. 37.05.319. Definitions. In AS 37.05.315 — 37.05.317, "appropriation" and "allocation" have the meanings set out in AS 37.07.120(4) and (5). (§ 2 ch 4 SLA 1982)

Effective dates. — Section 3, ch. 4, SLA 1982, provides that this section take effect January 16, 1982, in accordance with AS 01.10.07(c).

Chapter 07. Executive Budget Act.

Section		Section	
10.	Statement of policy	60.	Governor's recommendation
20.	Responsibilities of the governor	70.	Legislative review
40.	Division of budget and management	80.	Program execution

NOTES TO DECISIONS

The University of Alaska is subject to the provisions of this chapter. February 28, 1977, Op. Att'y Gen.

There is no constitutional obstacle to making the University of Alaska subject to the provisions contained in this title. February 28, 1977, Op. Att'y Gen.

Sec. 37.07.010. Statement of policy. It is the purpose of this chapter to establish a comprehensive system for state program and financial management which furthers the capacity of the governor and legislature to plan and finance the services which they determine the state will provide for its citizens. The system shall include procedures for

(1) the orderly establishment, continuing review, and periodic revision of the program goals and policies of state agencies and financial goals and policies of the state;

(2) the development, coordination and review of long-range program and financial plans that will implement established state goals and policies;

(3) the preparation, coordination, analysis, and enactment of a budget which is organized to focus on the services provided by state agencies and on the cost of those services and which provides for implementation of policies and plans in the succeeding budget period;

Chapter 138

AN ACT

Relating to vision and hearing screening examinations, public assistance, and other assistance provided by the state; and providing for an effective date.

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* Section 1. FINDINGS. The legislature finds that the present method for establishing payment rates under AS 47.40 for residential child care services is inadequate. The Department of Health and Social Services shall conduct a study of alternatives to the method of establishing payment rates under AS 47.40. The study shall be conducted by a committee of five members appointed by the commissioner of the Department of Health and Social Services. Three members of the committee shall be employees of the Department of Health and Social Services and two members shall be providers of residential child care services. The study shall contain, among other matters determined by the department, a suggested redefinition of the manner in which rates for residential child care services are calculated, a consideration of the method and amount of reimbursement for capital costs of residential child care facilities, and the availability and use of other sources of money to finance residential child care services and to finance the construction of residential child care facilities. The committee shall report its findings to the legislature on or before the 30th day of the Second Session of the Thirteenth Legislature. The legislature further finds that the rates established under AS 47.40 should be suspended from June 30, 1982 to July 1, 1984.

* Sec. 2. The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the

period of suspension, payment for services provided by residential child care facilities shall be made solely in accordance with the provisions of secs. 3 and 4 of this Act.

* Sec. 3. For fiscal year 1983, the payment authorized per day for each child placed by the Department of Health and Social Services in an existing residential care facility is:

Alaska Children's Services Receiving Home (Anchorage)	$149.85
Alaska Children's Services Jesse Lee Home (Anchorage)	165.46
Alaska Children's Services Rabbit Creek Group Home (Anchorage)	166.40
Alaska Children's Services North Star Home (Anchorage)	103.55
Alaska Children's Services Aquarius House (Anchorage)	107.60
Alaska Children's Services Colletti House (Anchorage)	117.51
Alaska Baptist Family Service Center (Anchorage)	117.02
Booth Memorial Home (Anchorage)	146.90
Hilltop Home, Inc. (Anchorage)	85.53
Kenai Peninsula Community Care Center (Kenai)	91.74
Kodiak Baptist Mission (Kodiak)	61.61
Turning Point Boys Ranch (Willow)	105.37
North Star Children's Home (Dot Lake)	62.25
Presbyterian Hospitality House (Fairbanks)	111.98
Juneau Receiving Home (Juneau)	106.17
St. Jude Center, Inc. Receiving Home (Juneau)	2.33
Nome Receiving Home (Nome)	116.97
Manilaq Group Home (Kotzebue)	167.00
North Slope Borough Children's Receiving Home (Barrow)	168.35
Ketchikan Teen Home I (Ketchikan)	74.26
Ketchikan Teen Home II (Ketchikan)	81.61
Ketchikan Children's Home Intensive Treatment Unit (Ketchikan)	152.56
Sitka Receiving Home (Sitka)	40.66

Bethel Receiving Home (Bethel)	75.52
Bethel Group Home (Bethel)	59.06
Covenant High School (Unalakleet)	51.16

* Sec. 4. For fiscal year 1984 the payment rates for residential child care services shall be the amounts set out in sec. 3 of this Act increased by five percent.

* Sec. 5. For fiscal years 1983 and 1984 the Department of Health and Social Services may contract for residential child care services with a facility not listed in sec. 3 of this Act at a rate to be determined by the Department.

* Sec. 6. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.075. VISION AND HEARING SCREENING EXAMINATIONS. (a) A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.

(b) The Department of Health and Social Services shall

(1) set standards for the performance of vision and hearing screening;

(2) train and certify public health nurses and school district employees to conduct hearing and vision screening tests;

(3) assist with referral and follow-up of children needing professional examination or treatment; and

(4) assist with maintenance and repair of screening equipment.

* Sec. 7. AS 44.29.020 is amended to read:

Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health and Social Services shall administer the state programs of public health and social services, including: (1) maternal and child health services;

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

SENATE BILL NO. 97
PAGE 1

"An Act making a supplemental appropriation to the Department of Health and Social Services for payment as a grant to Bethel Social Services, Inc.; and providing for an effective date."

Senate Bill No. 97 makes an appropriation of $65,000 to the Department in the form of a grant designated for Bethel Social Services, Inc. to operate the Bethel Receiving Home during the remainder of the current fiscal year.

There are a variety of problems inherent in operating such facilities in Bush communities which are either unique to those facilities or exaggerated because of their location. For example, initial start-up and ongoing operating costs of such facilities are usually greater than for urban facilities.

In addition, smaller facilities located in rural areas generally have less predictable resident populations and suffer from cash flow problems.

The number of emergency placements has declined in the Bethel area as it has statewide. This decline has resulted from changing needs of children and more effective efforts to comply with the Indian Child Welfare Act, which mandates preferential placement of Native children in the homes of relatives or in Native foster homes. This has proven particularly problematic, however, to those facilities, such as the Bethel Receiving Home, operating in areas in which the majority or a very large percentage of the population is Native. Thus, while staffing is generally maintained at levels adequate to provide for the average population of the facility and for emergency circumstances the actual number of residents is often below the level required to provide fiscal support for the facility's operation. Since contracting for a number of beds is not allowable under existing purchase of services law, the facility cannot be assured of income necessary for operation during those periods when few or no placements are made.

In summary, the Department is supportive of maintaining facilities such as the Bethel Receiving Home which serve as necessary placement resources for abused or neglected children and for delinquent youth who do not require detention. Maintenance of such facilities in rural areas is critical due to the general paucity of alternative resources. Without such resources many children and youth would necessarily be placed in urban facilities far from the systems of support provided in their communities and separated from their families. Such separation at times nullifies efforts to resolve the precipitating social or family problems and may prevent reunification of the child and family or rehabilitation of delinquent youth.

POSITION PAPER/Department of Health & Social Ser

The intended method of disbursement of grant funds would be more clearly stated if Section 2, Lines 15 and 16 of the Bill were amended to include only the specific statutory citation for disbursing grants to named recipients other than a municipality. The appropriate wording would be:

> "Sec. 2. The appropriation made by this act shall be disbursed in accordance with AS 37.05.316."

RECOMMENDED: Yvonne Elder Walker
Yvonne Elder Walker
Acting Director
Division of Family and
Youth Services

DATE: February 8, 1983

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

DATE: 2/9/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 97
Title "An Act making a supplemental appropriation as a grant to Bethel Social Svcs."
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Social Services
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Senate Bill No. 97 has no fiscal impact on the Department of Health and Social Services.

[illegible] 2-4-1.

SB

129

STATE OF ALASKA

CHAIRMAN,
HOUSE LABOR AND
COMMERCE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

P.O. BOX 1542
ANCHORAGE, ALASKA 99510
(907) 333-2616

REPRESENTATIVE WALT FURNACE

To: Representative Mae Tischer, Chairman
House Health, Education and Social Services Committee

From: Representative Walt Furnace

Date: January 30, 1984

RE: CS SB 129 (Rules)

Attached please find an amendment which I feel would strengthen CS SB 129 (Rules). Specifically it establishes a standard by which CPR classes should be taught.

Additionally, for the Alaska Chapter of the National Heart Association, February 13th begins National Heart Month. This might be an appropriate date for a hearing on CS SB 129 (Rules).

P.S. Mae — this amendment is a recommendated by the American Heart association.

JAN 1984
RECEIVED

Hein✓

A M E N D M E N T

Offered in the HOUSE By Furnace

TO: CSSB 129(Rules)

At line 17, after "services." insert:

"Cardiopulmonary resuscitation instruction should be taught in accordance with standards established by the American Heart Association or the American Red Cross."

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811

Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

FEB 1984
RECEIVED

February 21, 1984

Representative Mae Tischer, Chairman
Health, Education & Social Services Committee
House of Representatives
Alaska State Legislature
Juneau, Alaska

HESS

Dear Representative Tischer:

At the risk of bugging you, I'd ~~like to~~ reiterate my request of February 7th. You remember I asked you to move CSSB 129 if you found it within yourself so to do? From what you told me in the hall the other day, I assumed that it was just a question of time.

Time becomes a little more critical now, inasmuch as the Senate passed the companion appropriation bill SB 130 on the morning of February 21st.

Thanks again for any consideration you may show us.

Regards,

RHZ

Robert H. Ziegler, Sr.

RHZ:lk

Scheduled for, 84
March 7
instead of SB 26

SB

130

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811

Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

March 6, 1984

TO: Representative Mae Tischer,
Chairman - Health, Education &
Social Services Committee

FROM: Senator Robert H. Ziegler, Sr.

RE: CPR Bills, SB 129 and SB 130.

Committee substitute for SB 129 adds CPR and cancer training to programs which schools are encouraged to include in their curriculum. SB 130 provides funds for purchase of manikins and films for CPR training.

The purpose of the original bills was to encourage CPR training by providing the training-manikins which the school district may otherwise not be able to afford.

As the bill is currently written, the school district is not required to implement a CPR program before receiving a manikin. Perhaps a letter of intent should be included with the bill stating that unless a school implements an approved CPR program, they are not eligible to receive the manikins.

On separate paper, I have taken the liberty to provide a draft of the letter for your consideration.

RHZ:lk

3

LETTER OF INTENT

It is the intent of the House in passing SB 129 and SB 130 that in order to receive a CPR manikin, a school district must include a program approved by the American Heart Association or American National Red Cross in the school curriculum.

To the extent possible, the Department of Health and Social Services shall arrange for technical assistance to help establish an approved CPR training program.

In the event any school district chooses not to develop a CPR program or accept funds for a manikin or training films, a manikin or films may be purchased for any other school district which documents a need for additional CPR training aids.

SB 129, WHICH INCLUDES CPR TRAINING AS A PROGRAM SCHOOL DISTRICTS ARE ENCOURAGED TO INCLUDE IN THEIR CURRICULUM, AND SB 130, WHICH PROVIDES FUNDS TO PURCHASE MANIKINS FOR SCHOOL DISTRICTS WHICH INCLUDE CPR TRAINING IN ~~THE~~ their CURRICULUM AND TO PROVIDE EMERGENCY FILMS FOR THE TRAINING, WAS INTRODUCED LAST YEAR IN ORDER TO ASSIST SCHOOL DISTRICTS IN TEACHING CPR TO ALASKAN STUDENTS.

IT HAS BEEN PROVEN, AS YOU SENATORS GRAPHICALLY HAVE WITNESSED, THAT CPR, WHEN ADMINISTERED IMMEDIATELY AFTER AN EMERGENCY SITUATION, SAVES [redacted] LIVES.

JUST RECENTLY, A YOUNG BOY WHO WAS UNDER WATER FOR 20 MINUTES, WAS SAVED AFTER ALMOST AN HOUR OF CPR PRIOR TO TRANSPORTATION TO A HOSPITAL FOR MORE ADVANCED TREATMENT.

ONE OF THE BASIC PROBLEMS IN ALASKA THAT HAS THWARTED UNIVERSAL CPR TRAINING, ESPECIALLY IN THE RURAL AREAS, IS THE LACK OF ENOUGH MANIKINS FOR STUDENTS TO PRACTICE ON.

THROUGH THESE TWO BILLS, IF A SCHOOL DISTRICT INCLUDES CPR TRAINING IN THE SCHOOL CURRICULUM, THE DISTRICT WILL BE ENTITLED TO RECEIVE A MANIKIN AND THE USE OF TRAINING FILMS. IF A DISTRICT ALREADY HAS A MANIKIN, IT CAN EITHER ORDER ANOTHER ONE OR A "BABY MANIKIN" FOR USE IN TRAINING for INFANT CPR.

THERE ARE 53 SCHOOL DISTRICTS IN THE STATE AND THE AMOUNT REQUESTED WILL COVER THE COSTS OF THE MANIKINS AND SOME EXTRA MONIES FOR THE PURCHASE OF AND SHIPPING COSTS FOR EMERGENCY EDUCATIONAL FILMS.

THE AMOUNT BEING REQUESTED IS A SMALL PRICE TO PAY FOR SUCH AN IMPORTANT PROJECT, ONE WHICH CAN SAVE LIVES THROUGHOUT ALASKA.

Southeast Region Emergency Medical Services Council

BOX 2170

SITKA, ALASKA 99835

TELEPHONE 747-8005
747-6370

December 16, 1982

Senator Richard Eliason
P.O. Box 143
Sitka, Alaska 99835

Dear Senator Eliason:

I'm really pleased that you are interested in promoting the inclusion of CPR in school curricula. I consider knowledge of the technique to be critical for anyon living in Alaska. CPR has to be started within 4 - 6 minutes once the heartbeat stops if the victim is to survive which isn't enough time for an ambulance to arrive.

I think that the most exciting news in emergency medicine in the past few years, and particularly relevant to Southeast Alaska, is that people who drown in cold water can be resuscitated with no resulting brain damage even after submersion for long periods. Cases have been documented after submersion for up to 45 minutes. As soon as the victim is pulled out of the water, however, CPR must be initiated immediately. Just a few years ago, rescuers would not have known to try resuscitation on such victims. We have an excellent videotape on this topic that we show in all CPR classes. If you have a chance before the session begins, you may want to stop by our office to see it.

As we discussed, I found through speaking to several people from the State Department of Education that Alaska has a fairly strong policy of local determination over school curricula. The enclosed statute, however, provides a very appropriate place to add cardiopulmonary resuscitation as a health related subject that school districts should be encouraged to provide. I understand that when this paragraph was first added, it led to the Department's development of health education curricular materials for use by school districts. The addition of CPR to this paragraph should help us in establishing this as a priority subject for their attention.

In order to teach CPR, school districts must have available a certified CPR instructor, an adult mannikin, a baby mannikin and a film depicting the technique.

Our office, over the past few years, has been training CPR instructors and now have instructors available in most Southeast communities. We have used part of our operating grant funds to cover travel costs to provide this training. EMS programs that parallel ours in other

regions of the State have been doing the same to varying degrees.

One of the obstacles encountered by these volunteer instructors is the availability of the mannikins and film. In the past, we have loaned out mannikins but availability as well as the cost of shipping them (they are quite heavy) posed a problem. With some of the capitol funds you helped to provide last session, we were able to provide matching funds for several communities but gaps remain, especially on a Statewide basis.

In talking to teachers and administrators, I found little resistance to offering CPR as long as they could work out the logistics of having the instructor and training equipment available. I think that an effective approach would be to provide, as an incentive, a CPR mannikin, torso style, for any school district that incorporates CPR into it's curriculum.

There are 53 school districts in the State. Safety Inc., an Anchorage supplier, quote the price after April 1, 1983 of $420 per mannikin plus shipping which I consider a good price. The maximum cost for the program, allowing $30 per mannikin for shipping, would be $23,850. If a school district had already purchased an adult mannikin, they could use the funds instead to buy a baby mannikin ($350) or a second adult as it is much easier if more than one is available for students to practice on.

The film we can loan from our office. We already have two copies but they are booked up for months in advance so I'll be requesting a couple more copies in our agency's capitol budget request this session. I will also talk to the other EMS programs to make sure they have it available to loan.

I think that this approach is one that for a relatively small amount of State funds, a great deal of local commitment might be generated. Since Regional EMS programs are involved in CPR instruction and coordination, I think that the funds would best be allocated to us through the State EMS Office. As we receive copies of all CPR class rosters, we can easily identify which schools are offering CPR or, for school districts that are not, we can assist them in getting programs started.

I just wrote a memo to our Board members on some of our current projects which I've enclosed for your information.

Hope you have a nice Christmas.

Yours Truly,

Laurel

Laurel Anderson
Executive Director

POSITION PAPER/Department of Health and Social Services

POSITION PAPER

Senate Bill No. 129

"An Act relating to cardiopulmonary resuscitation (CPR) instruction in the ublic schools "

This bill would amend AS. 14.30.360 (a) to add instruction in cardiopulmonary resuscitation (CPR) to health education programs which are encouraged by the state to be taught in public schools.

The Division of Public Health of the Department of Health and Social Services strongly supports this bill for the following reasons:

1) Numerous national studies have shown that if a victim of cardiac arrest receives basic CPR within four minutes of collapse and advanced cardiac life support within eight minutes, the victim has a good chance of survival;

2) CPR is the basic, initial recommended treatment for any condition resulting in cardiac arrest, including severe trauma, drowning, or electric shock;

3) Medical experts in the Division of Public Health believe that, if all able bodied citizens are trained in CPR, numerous lives can be saved each year; and

4) One good way to ensure that large numbers of citizens receive CPR instruction is to include it in school curricula.

Recommended by: E. S. Rabeau, M.D.
E.S. Rabeau, M.D., Director
Division of Public Health

Date: Feb. 23, 1983

Approved by: Robert London Smith
Robert London Smith
Commissioner

Date: 2/25/83

Sec. 14.30.360. Curriculum. (a) Each district in the state public school system shall be encouraged to initiate and conduct a program in health education for kindergarten through grade 12. The program should include instruction in physical health including alcohol and drug abuse education, dental health, family health, environmental health, and appropriate use of health services.

(b) The state board shall establish by regulation guidelines for a health education program. A school health education specialist position shall be established and funded in the department to coordinate the program statewide. Adequate funds to enable curriculum and resource development, adequate consultation to school districts, and a program of teacher training in health education shall be provided. (§ 1 ch 188 SLA 1976; am § 1 ch 106 SLA 1978)

Revisor's notes. — The words "of education" were deleted following "board" and "department" by the revisor of statutes under AS 01.05.031 and 14.60.010.

Effect of amendments. — The 1978 amendment inserted "including alcohol and drug abuse education" in the second sentence of subsection (a).

Editor's notes. — Section 2, ch. 106, SLA 1978, provides: "It is the intent of the legislature that public school systems implement a program of alcohol and drug abuse education in coordination with other health education programs."

Sec. 14.30.370. Evaluation. Health education programs conducted under AS 14.30.360 shall be evaluated by the department in the same manner as other curriculum programs are evaluated, except that the evaluation shall also include changes in the health status of the pupils as determined by physical and dental examinations conducted under AS 14.30.070 and 14.30.120. (§ 1 ch 188 SLA 1976)

Revisor's notes. — The words "of education" were deleted following "department" by the revisor of statutes under AS 01.05.031.

Article 5. Bilingual — Bicultural Education.

Section

400. Bilingual-bicultural education
410. Bilingual-bicultural education fund

Collateral references. — 68 Am. Jur. 2d Schools, §§ 283-289.

79 C.J.S. Schools and School Districts, §§ 484-492.

Validity of statute or other regulations as to the use, or teaching, of foreign languages in schools. 7 ALR 1695, 29 ALR 1452.

WRANGELL EMERGENCY MEDICAL SERVICES COUNCIL
P.O. Box 1192
WRANGELL, ALASKA 99929

Senator Bob Ziegler
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Ziegler,

We want to take this opportunity to thank you for your continued support of E.M.S. programs in Southeast Alaska.

It has come to our attention that you and Senator Eliason are proposing legislation to encourage CPR and First Aide instruction in the schools. We heartily lend our support toward this endeavor, and would ask you to also seek changes through the Board of Education that would require teachers to be certified in CPR and First Aide in order to meet requirements for recertification. This could be accomplished through inservice, utilizing local instructors, and we feel it is important that those who deal every day with large numbers of children should have these skills.

Wallace "Butch" Schmidt, Wrangell High School Science and Computer teacher, become a CPR instructor in 1982 and certifed seventy-three High School students in CPR from among his classes. Butch plans to become a First Aide instructor and is very enthusiastic about teaching these skills.

He has asked the Wrangell School Board to set aside funds in the 1983/84 Budget that he may continue to offer these skills to the students. He has proposed that funding be used for equipment needs and also that one period a day be funded to teach the skills. Butch would like to see ALL public school employees certified in First Aide and CPR.

The Wrangell EMS Council has also applied for grant monies to cover fifty percent of some equipment which can be used both for public school and Community classes.

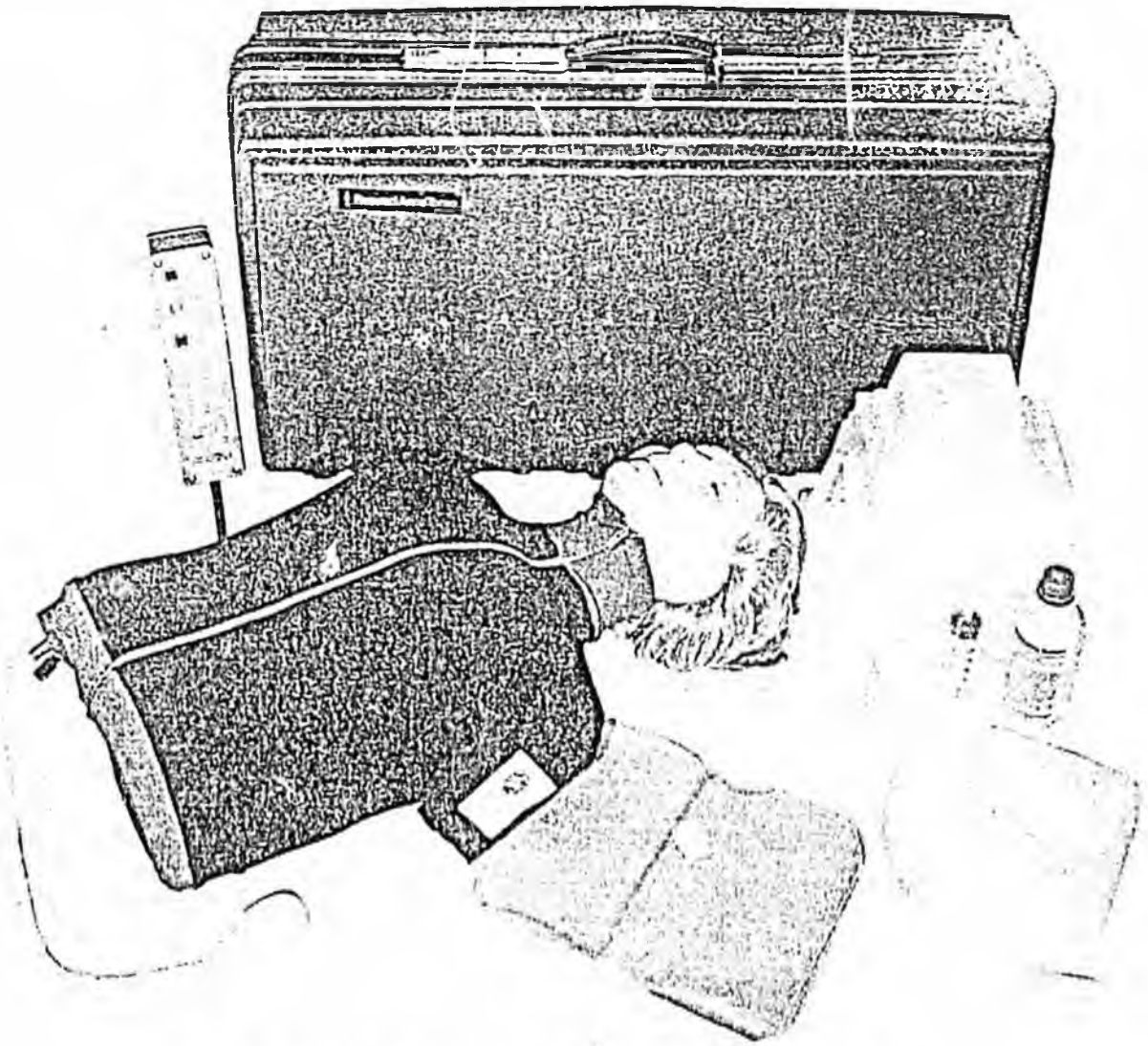
We hope that you will continue to support us in this worthwhile effort. If you have any questions, please do not hesitate to contact either Butch or myself.

Sincerely,

Trudy Johnson RN

Trudy Johnson, R.N.
Wrangell EMS Council

GSJ/skj



RESUSCI ANNE TORSO

Resusci Anne Torso has most of the features of the full-sized Resusci Anne. The manikin, which comes without arms and legs, is lightweight, easy to maintain and economically priced. It is an ideal companion to full-sized CPR manikins like Resusci Anne and Recording Resusci Anne. Resusci Anne Torso comes with the same accessories as the full-sized Resusci Anne, and is available both with and without the signal box (same box used for Resusci Anne).

PART No. 5411101
Resusci Anne Torso complete with electronics, in a sturdy, plastic molded carrying case, disinfection kit, spare lungs and instruction manual. $435.00

(last year's catalog price. Has increased).

PART No. 5402001
Resusci Anne Torso Practice without electronics, in a sturdy, plastic molded carrying case, disinfection kit, spare lungs and instruction manual. $290.00

To Convert Torso Models: To full body models

PART No. 5411240
Signal Box and Electronics (For Torso Practice Models) $229.50

PART No. 5411255
Full-Body Kit (Arms, Legs, and Trousers) $160.00

PART No. 5411210
Full Body Carrying Case $113.50

Community EMT Classes - Although we are working with communities the size of Craig & larger to develop their own EMT Instructor capabilities; our staff expects to continue to provide EMT classes for the very small communities. During January, Donna will be teaching in Elfin Cove & Tenakee, We are also expecting to offer an EMT class in Meyers Chuck this winter, and Port Alexander this Spring.

Thorne Bay Ambulance - The now completed Green Lakes Hydro Project donated to us their ambulance which we, in turn, donated to the newly incorporated town of Thorne Bay. Through fundraising events & matching funds from our office, Thorne Bay now has the ambulance equipped & in service. Since Thorne Bay is connected by road to a physician staffed clinic in Craig, the ferry terminal in Hollis, and several logging camps; an ambulance based there should prove valuable.

In-Service Coordinators Meeting - Nursing In-service Coordinators from Southeast Hospitals met with Cindy Jimmerson in Anchorage the evening before the Symposium. One of the topics discussed was the planned EMT course for nurses to be provided at each hospital this winter. In-service Coordinators plan to explore with local fire depts. the possibility of their observing during runs as a follow up to the training.

Introduction to Legislators - Letters introducing our program have been sent to newly elected legislators in Southeast. Programs being offered in their district this winter were summarized.

Prince of Wales EMT - During October, Steve Tuthill & Donna Limbeam offered an EMT Class in Klawock. Trainees from Southeast, primarily from Prince of Wales communities & logging camps, attended. Instructional assistance was provided by Dr. Gary Carlson from Ketchikan; Joan Nugent, Itinerant PHN; and Kurt Welser, RN (though not presently employed as such) from Thorne Bay. John Saito from SEARHC concurrently offered an EMT refresher class for Craig & Klawock EMT's. Steve & Donna also trained a few Craig & Klawock residents as CPR Instructors during their visit.

CPR in the Schools - Next weeks, I will be offering a presentation on CPR curricula for the schools at the "Small Schools Conference" in Anchorage. Barbara Johnson of the Heart Association will be assisting & Gloria Way of the State EMS Office will introduce a packet she developed on watersafety instruction. The conference will include administrators & teachers from small schools throughout Alaska. Senator Eliason has expressed an interest in introducing legislation geared toward encouraging CPR inclusion in school curricula. This conference should offer an opportunity to find out how widespread CPR in the schools is at present, & what obstacles are being encountered.

EMS Supplement - We plan to put together a news supplement on EMS in Southeast during January. Cindy will be serving as editor for this collection of articles which will then be inserted in all Southeast newspapers. If you have ideas for good articles or are willing to write one, please contact Cindy.

SB

229

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: House H.E.S.S.

FROM: Linda Otey, Committee Aide

DATE: April 30, 1983

RE: SB 229, "An Act Making a Special Appropriation to the University of Alaska for certain Capital Projects and Planning."

LEGISLATIVE HISTORY:

SB 229 is a product of the Senate Finance Committee. When studying capital project requests for the University, that committee separated the capital projects into two pieces of legislation. SB 229 became the vehicle for classroom facilities through all stages of planning, design, renovations, and construction.

CSSB 19 (Fin) (Title change) (efd fld) is the vehicle used for capital project requests for the University specifically dealing with land acquisition, planning, design, and construction of student housing.

SECTIONAL ANALYSIS: SB 229

Section 1:

Make 2 sections only if necessary

25.3 million for University of Alaska - Anchorage classrooms. 1.0 million for Anchorage Community College - 26.3 million. Form 35-A (attached), page 33, and page 38 of Prioritization Paper from University, 84-6.

Section 2:

3.8 million for construction of an agriculture classroom facility at Mat-Su Community College, no Form 35 available. See backup from Senator Kerttula.

Section 3:

450,000 for design of classroom, lab, and office facility at Prince William Sound Community College. Form 35-A attached. Backup from Representative Cato available. (84-11 pg. 33 & 40.)

Section 4:

1.5 million for design of classroom facilities at Fairbanks - University of Fairbanks. Form, 35-A (attached) shows 20 million dollars. The formula used for design and planning costs is 7.5% of the total cost = 1.5 million (7.5 x 20 million) 8[illegible] page 39.

Section 5:

600,000 design for petro engineering/geology building at University of Fairbanks. This is part of a five-year plan. No current Form 35 available. No further information or backup available.

Section 6:

2.3 million for Duckering Building addition at Fairbanks - UAF. Continuation of project funded last year. No further information or backup available.

Section 7:

1.150 million to University of Alaska - Fairbanks for Fine Arts Instructional Space/Native Facility. 84-3 page 32 of priority list from University. No Form 35 available. Page 36 for description.

Section 8:

2.747 million for building deficiencies at University of Alaska - Fairbanks. No Form 35 available. Priority 84-3 page 32 and 36.

Section 9:

1.5 million for phase II design for Tanana Valley Community College. Form 35 (attached) page 33 and 40, 84-11.

Section 10:

4.1 million for construction of a forestry sciences lab at the University of Alaska - Juneau. Part of the five-year plan. Received planning money last year. See backup per Representative Duncan (attached).

Section 11:

570,000 for phase II design of classroom facility at Sitka Community College. Not ready for construction 84-14 page 34 and 42. Sitka concurred. Form 35 attached.

Section 12:

Appropriation subject to capital projects 37.25.020.

Section 13:

Immediate effective date.

Project Title	Location(s)	Election Districts Served	Start Date	Completion Date
UAA Classroom/Laboratory/Office Building	Anchorage	E-J, 7-12	FY 84	FY 86

AGENCY REQUEST			Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year 86	Ultimate Annual Year FY 87	GOVERNOR'S REQUEST Approved X	Deferred	Disapproved
1002	Federal Receipts		Funding Source	Federal Receipts			1002 Federal Receipts		
1003	G/F Match			General Fund	660.0	726.0	1003 G/F Match		
1004	General Fund (D.A.)	25,300.0					1004 General Fund (D.A.)	25,300.0	
1005	I/A Receipts						1005 I/A Receipts		
	G.O. Bonds		Total Annual Operational Cost		660.0	726.0	G.O. Bonds		
			Position (FTE)						
			Previous Year Priority	Agency Priority	Governor's Priority				
	Total	25,300.0	83-2	84-6	84-5		Total	25,300.0	

PROJECT DESCRIPTION

This project will provide an approximately 94,000 SF new facility on the University of Alaska, Anchorage, campus to provide classrooms, laboratories, laboratory theatre, and offices to accomodate expanding enrollments in the College of Arts and Sciences.

The facility will be located on the UAA campus to the east of the existing library building.

The facility shall be compatible with existing campus structures, campus master planning elements, and the natural environment. Development of required on-site parking areas and finish landscaping are to be included in the project.

Approximate distribution of proposed space: (SF)

Laboratory Theatre/Lecture Hall	4,840	Janitorial	940
Recital Hall/Stage Area	5,173	Mechanical	7,520
Theatre and Speech Labs	12,872	Restrooms	1,800
Music Labs	9,263	Circulation	15,040
Art Labs	20,229	Wall Space	4,700
General Classrooms	6,612	Net Non-Assignable	30,000
Faculty Offices	3,800		
Administrative Offices	1,211		
Subtotal Net Assignable SF =	64,000	Total Gross SF	94,000

35a PROJECT DESCRIPTION – PROPOSED CAPITAL PROJECT

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date 9/82

FY 84

00095

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering	2,530.0	303.6	1,897.5	328.9			
Land							
Construction	18,975.0	2,277.0	14,231.25	2,466.75			
Equipment	2,530.0			2,530.0			
Administration and Other	1,265.0	151.8	948.75	164.45			
Total Annual Expenditure (Capital Cost)	25,300.0	2,732.4	17,077.5	5,490.1			

Project Justification

Project Need

UAA has experienced rapid growth since its inception. Despite the necessity of turning away qualified students for lack of space, credit hour production has increased steadily. Local public schools, and other inadequate facilities have been utilized in lieu of University facilities.

The Board of Regents has adopted instructional space utilization standards for urban campuses of 30 hours per week for average scheduled classrooms and 20 hours per week for average scheduled laboratory use. UAA has exceeded this recognized standard by more than 10%.

Additional instructional space is no longer obtainable. Temporary faculty offices are inadequate and separated from instructional facilities.

Identification of Alternatives Considered

The alternative to housing UAA in adequate facilities is to delay its development into an adequate four year institution in Anchorage (Southcentral Alaska).

Estimated Costs

Costs have been estimated by a consultant hired by the Department of Facilities Planning and Construction projected for a bid date in FY 83 with 10% added for increased construction costs in FY 84.

Project Type

- [X] Building Construction (C)
- [ ] Other Improvement (I)
- [ ] Equipment (E)
- [ ] Land (L)
- [ ] Professional Services (P)
- [ ] Other (O)

Project Characteristics

- [X] Totally New Facility
- [ ] Addition to Existing Facility
- [X] Renovation of Existing Facility
- [ ] Major Maintenance or Repair
- [ ] Supplement Previously Authorized
- [ ] Funds to Enable Completion
- [ ] One of Several Phases
- [ ] Major External Funding Source
- [ ] Other

Site Features

NO	YES	
[ ]	[X]	Site Currently Owned?
[ ]	[X]	All Utilities Available?
[ ]	[X]	Access Already Available?

PROJECT TITLE: UAA Classroom/Laboratory Office Building

CATEGORY: EDUCATION

AGENCY: UNIVERSITY OF ALASKA

PROGRAM: ADULT AND POSTSECONDARY EDUCATION

35b PROPOSED CAPITAL PROJECT

Revised Date

FY84

00096

In addition to construction of the new facility noted on the previous page, this project will also provide for renovation of existing spaces which will be vacated and re-occupied as a result of movement to the new facility.

Funding Approval:	July, 1983
Building Design Complete:	January, 1984
Bids Received:	April, 1984
Construction Complete:	June, 1986

CONTINUATION FORM

CATEGORY EDUCATION AGENCY UNIVERSITY OF ALASKA PROGRAM ADULT AND POSTSECONDARY EDUCATION

PROJECT TITLE UAA Classroom/Laboratory/ Office Building

REVISED DATE

00097

01-1033 (7/79)

Section 9
SB 229

SB18

March 28, 1983

TO: Senator Jay Kerttula

FROM: Jay Barton, President, University of Alaska

RE: Proposed $3.8 million building at Mat-Su

I have discussed the Mat-Su agricultural building with the Regents since it was first proposed some months ago. There is a general feeling that the building would be highly appropriate and would fit in with long-term plans of the University for agricultural education and research.

There is no way that the Regents have to assign a formal priority order to the building at this time. The next meeting to the Board will not be until April 14-15. However, we are all in agreemnt that the building will provide much needed classroom, laboratory and shop space for existing programs in agricultural science, as well as provide some general classrooms for Mat-Su Community College. The building will be located with other buildings on the community college campus. However, the new building will be used not only by the community college but also for cooperative extension and rural education programs.

The building will provide about 23,750 gross square feet and 15,450 square feet of new net assignable space. It will significantly strengthen and improve existing programs. Presently, for example, Mat-Su Community College does not have such things as plant sciences and soils laboratories with suitable equipment, which the new structure will provide.

The building will be unitquely placed for the University and the State since it will permit use of existing personnel at the research farm and plant materials center. They are currently located about 1/2 mile from the community college campus where the new building will be placed.

JB:eb

cc: Board of Regents

SB 18

Matanuska-Susitna Community College

OF THE

UNIVERSITY OF ALASKA

P.O. BOX 899
PALMER, ALASKA 99645

(907) 745-4255

The proposed agricultural/classroom building will provide the much needed facilities for the program in agricultural science, as well as general classrooms for academic use.

Mat-Su Community College is located in the heart of the Matanuska Valley which has been long recognized for its agricultural activity. The college has offered various courses in agriculture through the years, but is now expanding its curriculum which will lead to an associate degree in agricultural science. It is anticipated that the associate degree program will be approved this spring by the University of Alaska Board of Regents.

The college program in agriculture is strengthened considerably because of its proximity to the agricultural experimental station and the plant materials center. The experimental station has many professional individuals who teach a number of courses in the agricultural curriculum at the college. These individuals have the current expertise which is important in presenting accurate information peculiar to the Alaskan environment. Also, the physical location of their activities is in close proximity to the college and field trips which witness first hand observations enhances the quality of the entire agriculture program. The plant materials center also offers first hand practical observations to our students.

Interest in agriculture courses is evident by the increasing number of students that are enrolling in various agriculture subjects which are presently being offered at the college. During 1982 spring semester, the college enrolled seventy individuals in various agriculture courses. Many of these individuals were enrolled for more than one agricultural course. There are one hundred and sixty enrollents in agriculture classes during the 1983 spring semester. This has not included the non-credit agricultural symposiums which are done in cooperation with the Cooperative Extension Service. These symposiums are conducted during the latter part of each semester and will attract approximately one hundred additional people.

There have been numerous inquiries both in person and by phone about agriculture courses. Until recently, there was no attempt to keep track of how many since these inquiries were received by several different individuals at the college. These inquiries seem to fall into three categories. They are:

1. individuals interested in degree program in agriculture
2. individuals interested in selective courses for personal use
3. teachers interested in upgrading their knowledge in agriculture

An interest survey to initiate a two-year associate degree program in agriculture and horticulture or in animal science to be offered in the Matanuska Valley and Anchorage area was conducted during the 1980 Alaska State Fair. The survey yielded approximately one hundred and seventy five signatures and mailing addresses of prospective students. A copy of this survey is on file in the Agriculture Coordinator's office at the Matanuska-Susitna Community College.

(Continued)

Many individuals in the community who are now employed in some areas of agriculture have expressed a desire to enroll in courses which would update their skills and knowledge.

Mat-Su Community College is the only community college in the state offering a full-time program in agriculture. Thus, it is imperative that adequate facilities are available for instructional and demonstration purposes. There are presently no existing facilities at the college designed specifically for this program. There is an office currently being used for two full-time faculty memebers and the existing biology laboratory is utilized for some of the classes. However, a biology laboratory is not suitable for a long-range agricultural laboratory. Therefore, the new building which includes both plant and animal labs is essential.

PRELIMINARY PROJECT BUDGET

Total Project Income: $3,800,000.00 Direct Appropriation

Site Survey and Topo	$ 8,000
Soils Study	6,000
Architect	250,000
Legal	3,000
Construction Testing	10,000
Moveable Equipment	194,615
Furnishings	142,800
Make Ready - Move In	5,000
Telephone Installation	2,000
Art In Public Places	25,000
Administrative	190,000
Construction (including contingency)	2,963,585

Sec 3 (SB259)

Extension Centers at:
Cordova
Copper Basin

Telephone
(907) 835-2539

PRINCE WILLIAM SOUND COMMUNITY COLLEGE

P.O. Box 590
Valdez, Alaska 99686

January 10, 1983

Alaska State Legislature
Juneau, Alaska

Greetings:

Attached you will find Prince William Sound Community College's 1983 Progress Report. This report is presented in support of our need for a campus building. We are a rapidly growing community college and in need of adequate space to meet accreditation requirements. We have made a number of requests for facilities in the past four years. Prince William Sound Community College is the only community college with no laboratory facilities and no permanent facility.

Thank you for any support you can give us in acquiring a campus building.

Sincerely,

John Devens, Ph.D.
President
Prince William Sound
Community College

JD:kw
Attachments

PRINCE WILLIAM SOUND COMMUNITY COLLEGE
ENROLLMENT STATISTICS

Credit Hours

	Valdez		Copper Basin		Cordova		Subtotals		Total
	P/T	F/T	P/T	F/T	P/T	F/T	P/T	F/T	
Spring 1980	524	108	288		22		834	108	942
Fall 1980	500		237		178		915		915
Spring 1981	724	411	218		306		1248	411	1659
Fall 1981	735	125	241		320		1296	125	1421
Spring 1982	797	258	291		279	12	1367	270	1637
Fall 1982	680	190	335	24	337		1352	214	1566

Non-Credit Contact Hours

	Valdez		Copper Basin		Cordova		Subtotals		Total
	NCR	CR	NCR	CR	NCR	CR	NCR	CR	
Spring 1980	493.6	71.7	231.6	26.9	11	1	756.2	99.6	855.8
Fall 1980	1721.1	152.4	194.4	10.9	19.3	5	1934.8	168.3	2103.1
Spring 1981	556.1	178.4	173.2	9.2	28.8	5.6	758.1	193.2	951.3
Fall 1981	687.2	81.2	5.9	2.7			693.1	83.9	777
Spring 1982	618.7	157.4	73.1	21	1693.6	276.2	2385.4	454.6	2840
Fall 1982	826.1	124.9	102.5	21.4			928.6	146.3	1074.9

EXPLANATIONS:

1) "NCR" indicates that these are the course contact hours of those students represented in the non-credit headcount; "CR" indicates that these are the course contact hours of those students represented in the credit headcount who were involved in non-credit activity.
2) When the statistics for the Cordova Extension non-credit activity become available, they will affect the non-credit contact hours for the Fall 1982 semester.
3) One additional note: There is still some light credit and non-credit activity at all three units, so the Fall 1982 data is subject to possible changes.

PRINCE WILLIAM SOUND COMMUNITY COLLEGE
ENROLLMENT STATISTICS

Credit Headcount

	Valdez		Copper Basin		Cordova		Subtotals		Total
	P/T	F/T	P/T	F/T	P/T	F/T	P/T	F/T	
Spring 1980	186	7	162		19		367	7	374
Fall 1980	166		139		106		411		411
Spring 1981	283	26	141		160		584	26	610
Fall 1981	210	9	141		130		481	9	490
Spring 1982	234	20	156		125	1	515	21	536
Fall 1982	232	13	165	2	150		547	15	562

Non-Credit Headcount

	Valdez	Copper Basin	Cordova	Total
Spring 1980	299	117	11	427
Fall 1980	361	84	38	483
Spring 1981	209	147	48	404
Fall 1981	279	11		290
Spring 1982	373	83	449	905
Fall 1982	346	88		434

EXPLANATIONS:

1) Any student taking at least one credit is counted as a credit student, even though he/she may be involved in non-credit activity; the non-credit headcount is restricted to those students taking only non-credit courses. The two headcounts added together will give an unduplicated student count.
2) "P/T" indicates a part-time student, taking less than 12 credits; "F/T" indicates a full-time student, taking 12 or more credits in a semester.
3) The Cordova Extension has had non-credit activity in the Fall 1982 semester, but the statistics are not available at this time. Those non-credit students will affect the non-credit headcount for the Fall 1982 semester.

Project Title	Location(s)	Election Districts Served	Start Date	Completion Date
UAF Classroom/Laboratory/Office Building	Fairbanks	0-20	July 1983	June 1987

AGENCY REQUEST			Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year FY87	Ultimate Annual Year FY87	GOVERNOR'S REQUEST Approved	Deferred	Disapproved X
1002	Federal Receipts		Funding Source	Federal Receipts			1002	Federal Receipts	
1003	G/F Match			General Fund	416.0	416.0	1003	G/F Match	
1004	General Fund (D.A.)	20,000.0					1004	General Fund (D.A.)	
1005	I/A Receipts						1005	I/A Receipts	
	G.O. Bonds		Total Annual Operational Cost		416.0	416.0		G.O. Bonds	
			Position (FTE)		25				
			Previous Year Priority	Agency Priority 84-9		Governor's Priority			
	Total	20,000.0						Total	

PROJECT DESCRIPTION

The purpose of this capital request is to obtain space for research and graduate training at the Fairbanks campus. Lack of space is now the most restrictive factor on research and student training. This request is for an extension to the (existing) C. T. Elvey Building on the West Ridge of campus. Though an extension to the Geophysical Institute itself is an important aspect (see later), the main purpose is to provide for further development of all research undertaken by the University, and to provide for the offices of state and federal government which have close scientific connection with the University.

The proposed extention of the Elvey Building entails the construction of a three-story wing north of the existing main block of the Elvey Building. The total gross area for the addition would be approximately 56,200 square feet. The estimated net assignable area would be approximately 35,300 net square feet. (The lowest floor of the extention should match the second floor (mall level) of the Elvey Building.) In addition, the ground level (presently the parking lot level north of the Elvey Building) will require expenditures for surfacing, lighting, etc.

Assignment of areas would be approximately as follows.

Conference room and associated services areas, projection room, etc.			3,500 net square feet
Library:	Stacks	7,500 square feet	
	Study area	2,200 square feet	
	Offices and work area	1,000 square feet	
	Microfile and reading area, etc.	300 square feet	11,000 net square feet
Archives and associated areas			4,000 net square feet

35a PROJECT DESCRIPTION – PROPOSED CAPITAL PROJECT

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date

FY 84

00103

University staff offices and laboratories			
Laboratory space (two)	3,700 square feet		
Office space (ten)	250 square feet		9,900 net square feet
Federal and/or State agencies:			
Laboratory space (seven)	1,100 square feet		
Office space (twelve)	250 square feet		6,200 net square feet
Observers quarters			700 net square feet
Computer Annex:			
Offices	720 square feet		
Interactive picture system	200 square feet		
User area and computer terminal	600 square feet		
Documentation files and supplies	380 square feet		1,900 net square feet
		Total:	41,700 net square feet

The extension should be architecturally consistent with the existing Elvey Building, both in construction details (first floor of extension at the same level as the second floor of the main block, Elvey Building; second floor of the extension at the same level as the third floor of the main block, etc.). It should also be aesthetically consistent in style and appearance.

35a PROPOSED CAPITAL PROJECT DESCRIPTION
Archives

UAF Classroom/Laboratory Office Building

CONTINUATION FROM: 35a PROJECT DESCRIPTION -- PROPOSED CAPITAL PROJECT

FY 84

00104

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering	1800.0	500.0	500.0	400.0	400.0		
Land							
Construction	15,500.0		6,000.0	5,000.0	4,500.0		
Equipment	1,500.0			800.0	700.0		
Administration and Other	1,200.0	300.0	300.0	300.0	300.0		
Total Annual Expenditure (Capital Cost)	20,000.0	800.0	6,800.0	6,500.0	5,900.0		

Project Justification

The most restrictive factor in any further growth or Organized Research on the Fairbanks campus is the lack of office and laboratory space for the faculty engaged in research and the students who are candidates for advanced degrees. This is now the primary factor influencing the appointment of any new members of faculty (new fields of investigations). It also affects the acceptance of graduate students.

Need for additional space is most severe on the West Ridge area of the campus where the major research institutes are located. The factor that the Environmental Protection Agency has closed the Arctic Environmental Research Laboratory (regrettable though this was) and that the space became available to the University is the only reason the Institute of Marine Science, the Institute of Arctic Biology and the Agricultural Experiment Station have been able to make any new appointments to their staff and to accept more graduate students. This unexpected circumstance gave a reprieve but space that became available is now heavily used. We again face severe problems when considering any new programs or staff appointments -- where to put the people, where to install their equipment.

There are eight facets to this particular request to expand the Elvey Building which should be stated in order that the concept can be understood in its entirety.

1) Floor loading in the library and archives area (fifth floor) of the Geophysical Institute (Elvey Building) is excessive and far beyond the design figures. The library and archives have to be moved. The eophysical Institute library is outstanding as a specialized library and the archived records and data are unique. It is proposed to relocate them in the extension to the Elvey Building.

Project Type

- [X] Building Construction (C)
- [ ] Other Improvement (I)
- [ ] Equipment (E)
- [ ] Land (L)
- [ ] Professional Services (P)
- [ ] Other (O)

Project Characteristics

- [ ] Totally New Facility
- [X] Addition to Existing Facility
- [ ] Renovation of Existing Facility
- [ ] Major Maintenance or Repair
- [ ] Supplement Previously Authorized
- [ ] Funds to Enable Completion
- [ ] One of Several Phases
- [ ] Major External Funding Source
- [ ] Other

Site Features

NO	YES	
[ ]	[X]	Site Currently Owned?
[ ]	[X]	All Utilities Available?
[ ]	[X]	Access Already Available?

PROJECT TITLE UAF Classroom/Laboratory/ Office Building

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

35b PROPOSED CAPITAL PROJECT

2) Moving the library and archives to the (proposed) extension of the Elvey Building with proper provision for their expansion -- and, of course, with engineering provisions for the anticipated weight -- would free space in the Elvey Building for other uses (office and laboratory) by the Geophysical Institute. (See also point 7 below concerning modification to the existing Elvey Building.) This, plus the allocation of certain additional space in the proposed extension, is expected to accommodate the needs of the Geophysical Institute for about five years from 1981.

3) Most specialized libraries on the West Ridge would be combined in the one area, centralized in the proposed extension to the Elvey Building. By freeing space in other buildings, this would help to meet the need for office and laboratory space on the West Ridge.

4) The conference room in the annex of the Elvey Building seats less than 100 persons and is used frequently to meet the needs for lectures, conferences, seminars, workshops, etc. Quite apart from the demand for lecture and seminar rooms in the ordinary course of research and instruction, the University is increasingly being invited to host national and international meetings, some of which involve large numbers of people.

5) The need for additional office and laboratory space is felt by all major research and teaching units on the West Ridge and is critical even now in many cases, quite apart from future projections. Those affected are the Institute of Marine Science, Institute of Arctic Biology, Geophysical Institute, the Cooperative Units, the Agricultural Experiment Station and the Mineral Industry Research Laobraotry. Much of the space in the new extension would be used to meet this need. (Some institutes might be moved entirely, but detailed allocations of space have not been developed at this stage.)

6) Many state and federal agencies, some of which are already located on campus, need new space (or additional space) on the Fairbanks campus and have asked for it. There are mutual benefits in having University and agency staffs working in close cooperation in all the main areas of research, instruction and public service. It is proposed that part of the new extension be made available on a rental basis (or through memoranda or agreement in which services are rendered to the University by the staffs of agencies). Potential tenants are: (1) State -- Department of Natural Resources, Department of Environment Conservation, Department of Transportation and Department of Fish and Game; and (2) Federal -- U.S.G.S. Alaska Geology Branch, U.S.G.S. Water Resources and Bureau of Mines. Some of these agencies already occupy space in various buildings on the Fairbanks campus; the space now occupied by them would be freed for other users of the respective buildings.

7) The substantial move of personnel from other buildings to the new extension implies renovation of the vacated areas, e.g. the present library and archives space in the Elvey Building would have to be refitted for office and laboratory use. The cost of renovations should be included in this proposal in order to meet the needs of users of all buildings affected.

8) Geophysics is becoming an increasingly quantitative science requiring large scale data processing and numerical modeling. For this reason the Geophysical Institute's computer facilities have been increased substantially with the addition of a new VAX 11-780 computer with terminals. The growing use of the equipment, projected additions and an increasing staff of computer programmers and operators necessitate additional space. An addition to the annex will provide the space with minimal disruption and cost since it can be constructed on the existing patio of the north of the annex.

The above eight factors express the need for the proposed extension to the Elvey Building and the consequences for building renovation elsewhere on the Fairbanks campus. This proposal is independent of, and does not conflict with, the Geophysical Institute's proposed modifications to the existing (eastern) annex of the Elvey Building. The proposal may conflict with requests for other new buildings or modifications on the West Ridge, e.g. Institute of Marine Science, Institute of Arctic Biology, Geophysical Institute, the Cooperative Units, the Agricultural Experiment Station and the Mineral Industry Research Laboratory.

There are two other aspects of the present proposal which should be considered. Both are put forward tentatively as reminders rather than as fully established needs which have been well considered (points 1 through 8 above). (1) Food services (especially lunch) are desirable somewhere on the West Ridge for the entire year. This area is heavily occupied by staff and students; driving to the central (lower) campus and parking are difficult, if not impossible, especially in winter. One option would be to include kitchen and dining facilities in the extension to the Elvey Building. The other option would be to modify and continue using the existing kitchen of the Arctic Health Research Center, extend its dining room to allow for more users, and provide for year round service. (2) The proposed extension to the Elvey Building would be built above the parking lot behind the Elvey Building, thereby providing sheltered (winter) parking for official University vehicles and the opportunity for more comfortable maintenance of vehicles operated by the West Ridge divisions and institutes.

Documentation of Estimated Capital Costs:
The estimated cost of construction and construction contingency of the new wing on the Elvey Building is approximately $15.5 million which has been determined with the advice of Facilities, Planning and Construction Office personnel. It is assumed that this amount will cover the cost of making the connection between the existing building and this proposed addition, and some modifications to the existing building. It is assumed that this amount will cover the costs of landscaping and extending the north driveway to the new addition from the O'Neill Resources Building parking areas.

Analysis of Estimated Impact on Operating Expenses:
Operating costs of the extension to the Elvey Building assuming a gross area of 56,200 square feet are expected to be approximately $416,100 in the first year of operation.

Identification of Alternatives Considered:
There are several alternative approaches to providing more space for research, instruction and public service functions on the West Ridge. They vary in policy as well as architecture.

1) Add two floors on top of the main block of the existing Elvey Building. The foundation of the main structure (not the eastern annex) were designed to accommodate two more floors. This would provide an additional gross space of 18,400 square feet (net assignable about 15,000 square feet). A drawback to this approach is the serious distruption to the work of the Geophysical Institute while construction is in progress. The unit (square foot) cost is also likely to be higher. Location of the enlarged conference room on a higher floor would be inconvenient. Relation of the (heavy) library archives on a high floor would present engineering problems and also locate them inconveniently for West Ridge users. This approach would probably realize less than the proposed assignable area, 35,300 net square feet.

2) Construct an entirely new building for research, instruction, library, archives, conferencing, cafeteria and rental by state and federal agencies, etc. on the West Ridge. Doing this would enable a longer range planning, provision for more space (approximately 90,000 net square feet), but correspondingly increased cost.

3) Curtail all growth of research and advanced education of the University of Alaska, Fairbanks; hold all such activities to their present spaces and budgets. This will be inexpensive in the short-term. On the longer haul, however, other universities and agencies will do the work that has to be done in Alaska on ecology, the environment, sea and land resources, the atmosphere, seismic and volcanic risks, etc.

4) Temporarily accommodate needs by installing and equipping house trailers as laboratories and offices. This could be done more cheaply than constructing permanent buildings. This was common practice on the central Fairbanks campus during the 1960's.) Such temporary structures are unsightly, only partially satisfactory to staff and students, cannot accommodate the library, archival and conference room equipment, and have to be disposed of subsequently. This is merely a device for "buying time" prior to a more permanent solution.

5) Alternative to the computer annex include decentralizing the computing facilities. However, this would require the programming staff to relocate to various parts of the building remote from each other, the computer and its terminals resulting in inefficient operations and additional costs. A second option would be to convert existing storage space to office needs, but costs would then approximate the costs of the addition, create a critical storage problem and be in violation of fire and safety regulations.

UAF Classroom/Laboratory/
Office Building

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECORDARY EDUCATION

FY 84

00108

CONTINUATION
FROM: 35b PROPOSED
CAPITAL PROJECT

01 1147

Project Title	Location(s)	Election District Served	Start Date	Completion Date
TVCC CAMPUS FACILITY PHASE II PLANNING & DESIGN	Fairbanks	20	FY84	FY85

AGENCY REQUEST			Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year ____	Ultimate Annual Year ____	GOVERNOR'S REQUEST Approved / Deferred / Disapproved		
1002	Federal Receipts		Funding Source	Federal Receipts			1002	Federal Receipts	
1003	G/F Match			General Fund			1003	G/F Match	
1004	General Fund (D.A.)	1,500.0					1004	General Fund (D.A.)	
1005	I/A Receipts						1005	I/A Receipts	
	G.O. Bonds		Total Annual Operational Cost					G.O. Bonds	
			Position (FTE)						
			Previous Year Priority	Agency Priority	Governor's Priority				
	Total	1,500.0		84-11				Total	

PROJECT DESCRIPTION

This project will provide funds to complete the planning and design of a total campus facility for Tanana Valley Community College. Planning for the campus was begun in fiscal year 1982 in conjunction with the schematics for the first building funded under a 1978 obligation bond. Of necessity, planning and design for the campus had to be severely limited due to both the intent of the authorization and the amount of funding available. A Users Committee, which was appointed for the planning of a master plan and the Phase I building, and the TVCC Community College Council have endorsed a concept for future campus development which has been approved by the Board of Regents. The Regents have also dedicated a parcel of land to TVCC for use for the campus.

The first building (Phase I) will house Student Services (admissions, records, registration and counseling), Business Services (purchasing, payables, receivables, and personnel) and the Campus President's office. Funding is now needed to complete the planning and design of the remainder of the campus (Phase II and III). These future facilities will house the instructional programs and academic support offices, shops and storage areas, study areas, classrooms and laboratories. The total size of Phase II and III is 140,195 gross square feet.

Tanana Valley Community College does not presently have any physical facilities of its own nor any facilities under its direct control. There is confusion in the service area over where people and programs are located, and there is inconvenience to the students in attending classes and obtaining information. The completion of planning and design for the campus is an important step toward the realization of the goal of providing a totally comprehensive campus and in providing an identity and definite location for the college.

35a PROJECT DESCRIPTION — PROPOSED CAPITAL PROJECT

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date

FY 84

00143

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering	1,500.0	1,500.0					
Land							
Construction							
Equipment							
Administration and Other							
Total Annual Expenditure (Capital Cost)	1,500.0	1,500.0					

Project Justification

Tanana Valley Community College, established in July 1974 and having no facilities of its own, utilizes space on the University of Alaska Fairbanks campus for administrative support services, student services, specific instructional activities and programs and for general classroom use. Limited space has also been obtained at the Hutchison Career Center for specific programs and technical support services and other space in the community is leased for program and activity use.

Space for the programs, offices and support services on the Fairbanks campus is at a premium as both TVCC and UAF are experiencing enrollment increases and program expansion. With this expansion and increased enrollment comes the need for additional classrooms, laboratories, storage space and offices. This space is not available for either institution and often overcrowded conditions exist.

As TVCC becomes more comprehensive, enrollment in present programs is expected to increase and requests for additional instructional services will be forthcoming. Planning and design funds for the campus mean a step toward the construction of a total facility which will enable the college to be adaptable and flexible, serving its constituency quickly and effectively.

Project Type

- ☐ Building Construction (C)
- ☐ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☒ Professional Services (P)
- ☐ Other (O)

Project Characteristics

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized
- ☐ Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☒ Other

Site Features

NO	YES	
☐	☐	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

PROJECT TITLE TVCC CAMPUS FACILITY PHASE II PLANNING & DESIGN

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

35b PROPOSED CAPITAL PROJECT

Revised Date

FY 84

00144

(1) Project Title	(2) Location(s)	(3) Election Districts Served	(4) Start Date	(5)
Forestry Sciences Laboratory UAJ Phase I	Juneau	4	Immediate	7 84

(6) AGENCY REQUEST			(7) Operational Cost & No. Personnel Increase – (Decrease)		First Operating Year ____	Ultimate Annual Year ____	GOVERNOR'S REQUEST Approved	Deferred	Disapproved
1002	Federal Receipts			Federal Receipts			1002	Federal Receipts	
1003	G/F Match		Funding	General Fund	0	0	1003	G/F Match	
1004	General Fund	4100.0	Source				1004	General Fund	
1005	I/A Receipts						1005	I/A Receipts	
	G.O. Bonds		Total Annual Operational Cost		0	0		G.O. Bonds	
			Position (FTE)						
			Previous Year Priority	Agency Priority	Governor's Priority				
	Total	4100.0						Total	

PROJECT DESCRIPTION (8)

All planning, design, architectural and engineering for the Forestry Sciences Lab. have been completed. This request will secure right of way and an access road from the back loop road as well as site preparation, excavation, installation of utilities, building foundation, and a parking lot for the 29,000 sq. ft. (8,500.0) facilitywhich will empoly approximately 40 persons when completed. Operation and maintenance of the facility will be the responsibility of the U.S.Forest Service who will occupy a portion of the building.

The research branch of the Forest Service has maintained for several years a small staff headquart ered at Juneau, which operates throughout coastal Alaska. This research staff while making good progre on field studies, has been seriously handicapped by the lack of laboratory facilities. The Forest Service is expanding substantially its Juneau research unit, in order to accelerate solutions to the many high prioritity laboratory facilities is increasingly critical.

The laboratory plans include about 800 square feet for University staff. Close proximity of the laboratory to the University will facilitate the participation of Forest Service scientists in teachin and student guidance roles, studen use of Forest Service library, as well as the potential for Univers students to secure temporaty or permanent employment, and do graduate work in cooperation with the Forestery Sciences Laboratory.

An adjacent 7.51 acre parcel of Forest Service land will be make available to the University at completion of the laboratory. The Forest Service will lease the laboratory from the University.

(Prepared by Rep Duncan Staff)

LEGISLATIVE MEMBER'S SIGNATURE:

CATEGORY (9)

AGENCY

PROGRAM

Page of

Revised Date

FY

135 LEGISLATIVE REQUEST PROPOSED CAPITAL

March 1, 1982

A FORESTRY SCIENCES LABORATORY AT THE AUKE LAKE CAMPUS OF THE UNIVERSITY OF ALASKA

PRESENT STATUS

The 1981 Alaska Legislature appropriated $875,000 for planning a Forestry Sciences Laboratory on the University of Alaska campus at Juneau. The Architectural and Engineering plans are well along to completion. Construction costs of the laboratory are estimated at $8.78 million if funds are appropriated by the 1982 legislature. Construction could begin by fall, 1982, with completion and occupancy of the facility by spring, 1984.

Statistics for the laboratory are:

- Gross space - 29,000 square feet
- Planning costs A&E, etc. - $875,000 (appropriated 1981)
- Estimated construction costs (if bid summer, 1982) - $8,780,000
- Total staff (including 18 scientists) - Approximately 40
- Estimated completion and occupancy - 1984

WHY THE LABORATORY IS NEEDED

Southeast Alaska is beautiful, and rich in natural resources. These resources--including timber, fish, and wildlife--are important contributors to the economy of Southeast Alaska. Demands for the commercial and recreational use of the resources will continue to increase as the population of the area grows and markets expand. Proper management of resources, while protecting the beauty and uniqueness, requires new knowledge; results of research conducted elsewhere cannot be safely applied to the ecosystems of southeast Alaska. Research is needed to increase the productivity of Alaska's forests. Equally needed is new information for protecting and enhancing other forest resources including recreation, fish, wildlife and esthetic values.

The Research branch of the Forest Service has maintained for several years a small staff headquartered at Juneau, which operates throughout coastal Alaska. This research staff, while making good progress on field studies, has been seriously handicapped by the lack of laboratory facilities. The Forest Service is expanding substantially its Juneau research unit, in order to accelerate solutions to the many high priority forest and related resource problems in S.E. Alaska. Thus, the need for laboratory facilities is increasingly critical.

While the research is directed at solving on-the-ground field problems, laboratory facilities are required to analyze soil, water, and plant samples; determine habitat requirements of anadromous fish; learn to suppress forest insects and diseases; and conduct a variety of controlled experiments. A laboratory and associated facilities is an essential base of operations for field work.

The staff of the Forestry Sciences Laboratory now makes do with offices and makeshift laboratory rooms on the sixth floor of the Federal Office Building in Juneau. An office building is unsuitable as a laboratory. It is not possible to grow plants, rear animals, conduct controlled environment experiments, or engage in other activities normally conducted in biological laboratories. There is no safe place to store or use volatile chemicals and it is not possible to vent fumes. As a result, the research staff must either limit or cancel urgently needed work in order to avoid unsafe conditions.

A laboratory is urgently needed that would provide the facilities, equipment and space to conduct the research needed to understand the complex interactions of plants and animals of the coastal ecosystems and their physical environment. Field studies would be supplemented and extended by laboratory facilities. Work presently planned could be done more quickly. Important work now foregone because of the lack of laboratory facilities could be done.

FOREST SERVICE - UNIVERSITY OF ALASKA ARRANGEMENTS

The laboratory plans include about 800 square feet for University staff. Close proximity of the laboratory to the University will facilitate the participation of Forest Service scientists in teaching and student guidance roles, as well as the potential for university students to secure temporary or permanent employment, and do graduate work in cooperation with the Forestry Sciences Laboratory.

An adjacent 7.51-acre parcel of Forest Service land will be made available to the University at completion of the laboratory. The Forest Service will lease the laboratory from the University. (See enclosed Agreement)

Project Title	Location(s)	Election Districts Served	Start Date	Completion Date
SITKA COMMUNITY COLLEGE-PHASE II BUILDING	SITKA	B-3	July 1984	Fall 1987

AGENCY REQUEST			Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year FY87	Ultimate Annual Year	GOVERNOR'S REQUEST		
							Approved	Deferred	Disapproved
									X
1002	Federal Receipts		Funding Source	Federal Receipts			1002	Federal Receipts	
1003	G/F Match			General Fund	95.0		1003	G/F Match	
1004	General Fund (D.A.)	6,500.0					1004	General Fund (D.A.)	
1005	I/A Receipts						1005	I/A Receipts	
	G.O. Bonds		Total Annual Operational Cost		95.0			G.O. Bonds	
			Position (FTE)		3				
			Previous Year Priority	Agency Priority 84-14		Governor's Priority			
	Total	6,500.0						Total	

PROJECT DESCRIPTION

This request is for the second building (Phase II for the Sitka Community College Campus. It will contain vocational shops, general classrooms, offices, storage, and community service rooms.

Approximate Distribution of Proposed Space is as follows: (assignable square feet)

Three general classrooms @ 400 sq ft	1,200 sq ft
One fisheries technology instructional lab	1,200 sq ft
One marine maintenance technology shop	3,200 sq ft
One general shop for welding, metals, woods, including project storage	4,000 sq ft
One administration office	150 sq ft
Foue faculty offices @ 100 sq ft d	400 sq ft
Clerical office and work area	150 sq ft
One student lounge/study area	600 sq ft
Storage area	1,200 sq ft
Hazardous materials storage area	150 sq ft
Community service work area	450 sq ft
Mechanical area, restrooms, corridors	1,300 sq ft
Learning Center	600 sq ft
Other	

PROJECT DESCRIPTION - PROPOSED CAPITAL

CATEGORY EDUCATION

AGENCY UNIVERSITY OF ALASKA

PROGRAM ADULT AND POSTSECONDARY EDUCATION

Revised Date 8/25/82

FY 84

00150

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
lanning and Engineering							
and							
onstruction							
quipment							
dministration and Other							
otal Annual Expenditure (Capital Cost)	6,500.0						

oject Justification

Currently only one building exists on the Sitka Community College campus, allowing a total of 5,700 gross square feet. This will not even accommodate the college staff and allow for 2-3 general classrooms. During the spring semester of 1982, over 700 students enrolled in coursework through Sitka Community College. With the exception of the office occupations, all vocational courses and programs are limited to being taught only on an evening basis. This building will enable students to enroll in certain programs on a full rather than half-time basis. These include Welding and Marine Maintenance Technology as well as enable expansion of the fisheries instruction coursework. Classes in these subjects are consistently full.

Currently there is a shortage of two faculty offices for Collective Bargaining Unit member faculty. The new building will provide for these as well as eventual faculty expansion.

The present Phase I building has no storage space other than in cabinets located in classrooms; consequently, it is necessary to lease additional space off campus.

The new building will enable a student center area for study or meeting place. Additionally, the new building will provide a support/office area for local cultural organizations. The building should be one story, but designed to accommodate a second level in the future.

Alternatives Considered

There does not exist any adequate rental space in the Sitka area that would accommodate the academic and vocational programs needs of the campus. Acquisition of temporary facilities has been considered, but this offers only some short term assistance, and (continued)

Project Type

- [X] Building Construction (C)
- [ ] Other Improvement (I)
- [ ] Equipment (E)
- [ ] Land (L)
- [ ] Professional Services (P)
- [ ] Other (O)

Project Characteristics

- [X] Totally New Facility
- [ ] Addition to Existing Facility
- [ ] Renovation of Existing Facility
- [ ] Major Maintenance or Repair
- [ ] Supplement Previously Authorized
- [ ] Funds to Enable Completion
- [ ] One of Several Phases
- [ ] Major External Funding Source
- [ ] Other

Site Features

NO	YES	
[ ]	[X]	Site Currently Owned?
[ ]	[X]	All Utilities Available?
[ ]	[X]	Access Already Available?

PROJECT TITLE: SITKA COMMUNITY COLLEGE - PHASE II BUILDING

CATEGORY: EDUCATION

AGENCY: UNIVERSITY OF ALASKA

PROGRAM: ADULT AND POSTSECONDARY EDUCATION

35b PROPOSED CAPITAL PROJECT

Revised Date: 8/25/82

FY 84

00151

PROJECT JUSTIFICATION (continued)

the needed vocational space cannot be accommodated with such structures.

Estimated Operational Cost

It is estimated that the operational costs for the new facility will total $95,000 per year, which would include maintenance/janitorial.

CONTINUATION FORM

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
STATEWIDE PRIORITIZATION

Priority	Campus	Title of Capital Project Proposal	Project Cost	Cumulative Costs	
MASTER PLANNING AND NEEDS ASSESSMENT					
84-1	SW	Campus Master Planning	$ 1,350.0		
	UAF	Development Needs Assessment/Planning	1,500.0		
	UAA	Needs Assessment and Pre-Program Building Design	750.0		
	UAJ	Campus Development Needs Assessment	150.0		
	ACC	Campus Development Needs Assessment	100.0		
	CCREE	Campus Development Needs Assessment, various campuses	210.0		
		Subtotal	4,060.0	$ 4,060.0	
MAJOR REPAIR AND RENOVATION					
84-2	UAF	Student Housing Renovations	4,000.0		
	UAA	Repair and Renovation/CAS Building	1,500.0		
		Subtotal	5,500.0	9,560.0	
GENERAL REPAIR AND RENOVATION					
84-3	UAF	Native Studies/Fine Arts Instructional Space	1,151.0		Section 7 (229)
	UAF	Repair and Renovations	703.0		
	UAF	Code Deficiencies Corrections	2,747.0		Section 8 (229)
	UAF	Handicapped Barrier Removal	254.0		
	UAA	Repair and Renovations	884.8		
	UAJ	Vocational Education Shop and Equipment	800.0		
	UAJ	Remodeling of Counseling and Admissions	68.0		
	UAJ	Repair and Renovations	367.0		
	ACC	Repair and Renovations	1,040.0		
	ACC	Faculty Offices	11.6		
	ACC	Telephone Lines Six Year Maintenance Program	250.0		
	CCREE	Repair/Renovation, various campuses	1,023.9		
	CCREE	Building Code Corrections	670.0		
	CCREE	Handicapped Barrier Removal, various campuses	197.0		
		Subtotal	10,167.3	19,727.3	

Statewide Budget Office
September 30, 1982

Board of Regents Priorities

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
STATEWIDE PRIORITIZATION

Priority	Campus	Title of Capital Project Proposal	Project Cost	Cumulative Costs	
ESSENTIAL OBLIGATIONS					
84-4	UAF	Seward Dock Cathodic Protection	$ 435.0	$ 20,162.3	
NEW STRUCTURES (PREVIOUSLY REQUESTED AND UNDER DEVELOPMENT)					
84-5	UAJ	Student Housing	13,200.0		
84-6	UAA	Classroom/Lab/Office	25,300.0		Section 1 (229)
84-7	UAA	Student Housing	11,000.0		Section 2 (SB19)
84-8	SW	Statewide Services Building	18,800.0		
84-9	UAF	Classroom/Lab/Office	20,000.0		Section 4 ÷ 7.5% (229)
		Subtotal	88,300.0	108,462.3	
ESSENTIAL EQUIPMENT					
84-10	UAF	Instructional and Research Equipment	1,617.0		
	UAA/ACC	Bookstore Fixtures	330.0		
	UAA	Administrative/Classroom Building Furnishings Shortfall	350.0		
	UAJ	Marine and Technology Center Equipment	500.0		
	ACC	Equipment/Applied Science	548.4		
		Subtotal	3,345.4	111,807.7	
SITE DEVELOPMENT, CAMPUS IMPROVEMENTS, LAND ACQUISITIONS					
84-11	UAF	Grounds Improvements and Landscaping	250.0		
	UAF	Campus, Paving, Signals, Lighting	520.0		
	UAA	Land Acquisitions	9,900.0		Section 1 (SB19)
	ACC	Pedestrian Circulation Improvements	250.0		
	CCREE	Roads/Streets, Parking	910.0		
	KECC	Land Acquisitions	90.0		
	NWCC	Land Acquisitions	450.0		
	PWSCC	PWSCC Classroom, Lab, Office Design	450.0		Section 3 (229)
	TVCC	TVCC Campus Facility Phase II Design	1,500.0		Section 9
		Subtotal	14,320.0	126,127.7	

Statewide Budget Office
September 30, 1982

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
STATEWIDE PRIORITIZATION

Priority	Campus	Title of Capital Project Proposal	Project Cost	Cumulative Costs
NEW STRUCTURES				
84-12	ACC	Classroom/Administration	10,600.0	
84-13	UAA/ACC	Campus Housing - Plan, Design and Build Pilot Modules	5,000.0	
84-14	SCC	Sitka Phase II	6,500.0	
		Subtotal	22,100.0	148,227.7
COMMON USE INFORMATION EQUIPMENT				
84-15	SW	Statewide Computer Hardware Acquisition	1,085.0	
	SW	Statewide Systems Software Development	1,100.0	
	UAA/ACC	Library Books	788.6	
	UAJ	Library Material Media Equipment	194.0	
		Subtotal	3,167.6	151,395.3
EQUIPMENT				
84-16	UAF	Instructional and Support Equipment	1,623.0	
	UAA	Instructional/Research/Support Equipment	1,002.9	
	UAA	Student Services/Athletics/PE Sport Center	100.0	
	UAJ	Fine Arts Program Equipment	186.0	
	ACC	Instructional Telecommunications Development	310.0	
	ACC	Instructional Equipment	145.0	
	CCREE	Instructional and Telecommunications Support	1,517.2	
		Subtotal	4,884.1	156,279.4

Statewide Budget Office
September 30, 1982

Section II. (229)

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
STATEWIDE PRIORITIZATION

Priority	Campus	Title of Capital Project Proposal	Project Cost	Cumulative Costs
FISHERIES RESEARCH AND INSTRUCTION				
84-17	UAJ	Seawater Circulation System Phase II	175.0	
	UAJ	Fisheries Science Center Equipment	210.0	
		Subtotal	385.0	156,664.4
ADMINISTRATIVE EQUIPMENT				
84-18	SW	Facilities Blueprint Microfilming	215.0	
	UAA	Administration Services Equipment	70.9	
	UAA/ACC	Physical Plant Equipment	627.3	
		Subtotal	913.2	157,577.6
ENERGY CONSERVATION				
84-19	UAF	Coal Handling Facility	1,400.0	
	UAA/ACC	Building Modifications	995.5	
		Subtotal	2,395.5	
		TOTAL		$ 159,973.1

* Note all figures are in thousands.

Statewide Budget Office
September 30, 1982

84-1 MASTER PLANNING AND NEEDS ASSESSMENT $ 4,060.0

Each year the University receives many questions concerning the eventual developmental plans for a campus. There is need for a substantial amount of funds to perform the long-range campus development plans, especially in response to a detailed needs assessment for each location. The campus development plans and needs assessment processes must be under the control of the University architect and must be performed in a rigorous manner. This is the highest priority of the University of Alaska system.

84-2 UA/FAIRBANKS MAJOR REPAIRS AND RENOVATION $ 4,000.0

The dormitories located at the University of Alaska Fairbanks campus, after several years of insufficient maintenance funds, are in need of substantial repairs and renovations. These renovations include upgrading heating systems, replacement and upgrade of kitchen equipment, renovation of student rooms, replacement of dormitory room doors, conversion of storage space to laundry rooms, and upgrade a variety of apartment furnishings.

84-3 GENERAL REPAIR AND RENOVATION $ 11,667.3

The University has historically been underfunded in terms of receiving funds to maintain current physical plant. All units of the University have a substantial need for funds to repair facilities to protect the buildings from the weather,

improve the efficiency of the energy systems, and renovate existing spaces to make them more usable for current programs. The amount to be allocated to each unit depends on a formula utilizing total square footage available, age of buildings, number of people using the facilities, location, and type of structure.

84-4 UA/FAIRBANKS - ESSENTIAL OBLIGATIONS $ 435.0

This project will provide cathodic protection for the dock at the Seward Marine Education Center. Specifically, the repairs will include the bulk head and cells at the dock approach, west end abutment, southwest corner of the warehouse and the bull rail on the west end of the old rail bulkhead. Without this protection, electrolysis will occur and deteriorate the steel pilings with an ultimate result in the loss of the dock.

84-5 UAJ STUDENT HOUSING $ 13,200.0

This project is for student housing which will provide students with low-cost room and board while attending the University of Alaska, Juneau. The addition of this facility is considered essential by the regional accreditation organization. The proposed building(s) will have a total area of 65,823 square feet and will house 200 single students in dormitory-type buildings which will include common recreational, cafeteria, study room areas, computer room; laundry room and resident manager's quarters. Also included will be housing for 50 married students which will feature individual kitchenettes, common recreational and study room areas, computer room, laundry room, and manager's quarters. Parking

is included in the project. The proposed facility will be a ten minute (appproximate) walk from the Auke Lake Campus.

84-6 UAA CLASSROOM/LABORATORY/OFFICE BUILDING $ 25,300.0

This project will provide a 84,000 square foot facility on the Anchorage campus to provide classroom, laboratories and faculty offices for expanding enrollments in the College of Arts and Sciences and parking spaces as required by code. An FY82 appropriation for $786,700 was to permit the initial design and engineering for this project.

84-7 UAF STUDENT HOUSING $ 11,000.0

The student housing complex will be designed to accommodate single students and student families. A $500,000 appropriation was received in FY82 for dormitory design (student residencies). The building program will require each living unit to be an apartment which will accommodate four single students or a student family. Approximately eighty living units are planned. Each living unit will have a kitchen, a living room, two bedrooms and one bathroom. The units will be furnished. A central facility for mail, laundry and storage is also planned. There will not be a food service facility. The project will be located in the vicinity of the existing student family housing facilities on the campus. The June 1982 "On-campus student housing market analysis" feasibility study by housing consultant Ira Fink, recommends construction of 175 housing units by UAF. This request for funds in the amount of $11 million is to construct Phase I of a larger total project.

84-8 STATEWIDE SERVICES BUILDING $ 18,800.0

The project will be an office structure of 64,000 gross square feet (50,000 NASF) to house all the University of Alaska Statewide Administrative Service functions, including support spaces, i.e., conference rooms, storage areas, work rooms, computer facilities, etc. required for their functioning. $604,500 was appropriated in FY82 to perform the initial design and engineering work, and this work will be awared this fall.

84-9 UAF CLASSROOM/LABORATORY/OFFICE $ 20,000.0

The purpose of this capital request is to obtain space for research and graduate training at the Fairbanks campus. $500,000 was appropriate in FY82 for the initial planning and design of the facility. Lack of space is now the most restrictive factor on research and student training. This request is for an extension to the (existing) C. T. Elvey Building on the West Ridge of campus. Though an extension to the Geophysical Institute itself is an important aspect, the purpose is to provide for further development of all research undertaken by the University, and to provide for the offices of state and federal government which have close scientific connection with the university. The total gross area for the addition would be approximately 56,200 square feet. The estimated net assignable area would be apprc imately 35,300 net square feet.

84-10 ESSENTIAL EQUIPMENT $ 3,345.4

UA/Fairbanks requires a substantial infusion of new equipment to accommodate a recurring need as a result of expanded enrollment and technological improvements. This project will purchase shelving fixtures to complete the UAA bookstore facility for full use. Without these funds there would be an inadequate amount of shelving to display items the bookstore is selling. Funds are included to purchase the furnishings necessary to complete the UAA administration/classroom building. The location of this facility was moved due to the wetland issue. This resulted in additional costs and surveys, soil testing, and administrative and expense fees. Without this additional funding, the administration building will not be totally operational. Additional items to be funded include equipment for the UA/Juneau Marine and Technology Center and for Anchorage Community College's Applied Science Building.

84-11 SITE DEVELOPMENT, CAMPUS IMPROVEMENTS, LAND ACQUISITIONS $ 14,320.0

The individual projects included in this category are usually preliminary to building new facilities or funds to improve surrounding areas. Funds are being requested to design the campus at Tanana Valley Community College, purchase land at UA/Anchorage, Northwest Community and Ketchikan Community College, improve pedestrian walkways at Anchorage Community College, a variety of roads and streets and parking improvements in the community college division and grounds improvement and landscaping at UA/Fairbanks.

84-12 ANCHORAGE COMMUNITY COLLEGE CLASSROOM/ADMINISTRATION BUILDING $ 10,600.0

Anchorage Community College requests a new building to replace three temporary, relocatable structures currently housing instructional programs and support services. The current temporary structures are unsafe and have been condemned by the Anchorage Fire Marshal. This building would permit centralization of administration and student service departments. It will also provide space for instructional programs, computer labs and conference rooms. Programs and functions that will be programmed into or accommodated by Phase I are: Home Economics, Computer Assisted Instructional Labs, Chancellor and Deans, Public Affairs, Business, Personnel, Accounting, Payroll, Purchasing and Public Safety.

84-13 UA/ANCHORAGE CAMPUS HOUSING $ 5,000.0

This request will provide campus housing for 100 students. The housing will consist of a series of units within a structure which would provide for single or married students without remodeling construction. The units will have self-contained bath, dining and sleeping areas for a small group or family. Site work will include utilities, roads, walkways, lighting and landscaping. The facilities will be located in the vicinity of an existing shopping center on the south side of the campus. The projected building site is currently owned by Alaska Pacific University and leased for purchase by the University.

84-14 CCREE - SITKA PHASE II $ 6,500.0

This request is for the second building (Phase II) for the Sitka Community College Campus. It will contain vocational shops, general classrooms, offices, storage, and community service rooms. It includes permanent and operational equipment.

84-15 COMMON USE INFORMATION EQUIPMENT $ 3,167.6

Equipment in this category includes such items as computer hardware for the computer network, development of new systems for use by the whole University system, and library books and media equipment at UA/Anchorage and UA/Juneau. This equipment is used by a wide variety of people. The computer equipment in particular needs to be purchased to permit a continued and planned upgrade of the facilities from year-to-year as a result of changing technology.

84-16 EQUIPMENT $ 4,884.1

There is an ongoing need to purchase instructional, research, and direct support equipment throughout the University system. This is all in excess of replacement equipment funds which are normally available in the operating budget. The university has greatly expanded its programs and the amount of equipment purchased has lagged behind. Major upgrades in the area of instructional telecommunications and high technology areas require something more substantial than simple replacement.

Statewide Budget Office
September 30, 1982

84-17 FISHERIES RESEARCH AND INSTRUCTION AT UA/JUNEAU $ 385.0

These funds would be used to complete Phase II of the seawater circulation system at UA/Juneau which would include a permanent pumphouse and reservoirs, supply pumps, filters and headtanks. The seawater system is used for holding marine animals and plants for teaching and research purposes at UA/Juneau. Phase I has already been completed. Additionally, this relatively new program has expanded into the new third floor addition of the Fishery Science Building and the facility needs a variety of equipment to be operational. Some examples of equipment include a freezer/dryer, ultracentrifuge, computer terminals. chromatograph, and aquariums.

84-18 ADMINISTRATIVE EQUIPMENT $ 913.2

Funds are being requested for Statewide Administration to microfilm and store all pertinent design and construction drawings for all University facilities. This would permit better recordkeeping and be a more secure way of keeping track of our facilities. Funds are also being requested for UA/Anchorage to purchase physical plant equipment for snow removal, general maintenance, ground maintenance, and equipment for th maintenance shop. Additional equipment including word processors and computer terminals are also needed.

84-19 ENERGY CONSERVATION $ 2,395.5

The UA/Fairbanks coal handling facility project would improve the efficiency of handling 75,000 tons of coal per year at the UA/Fairbanks heating plant. The proposal is for building a heated enclosure large enough to hold ten railroad cars of coal. The structure would be designed so that coal can be thawed from waste heat from the power plant which would result in more efficient burning of the coal in the furnaces. At present, up to five men must be utilized to help with coal handling. This structure would permit the reduction to one or two persons. UA/Anchorage building modifications for energy and safety is being requested for the modification of the energy modules to heat supply and combustion air when the ambient condition is below freezing. Funding for a building automation system for the UAA/ACC campus is also requested. This system would permit monitoring of campus energy utilities and energy user systems in each facility. Control would be provided for each of the fire zones in each campus facility.

Total $ 159,973.1

Statewide Budget Office
September 30, 1982

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
MAU PRIORITIES

MAU PRIORITY	TITLE	AMOUNT	TOTAL
STATEWIDE ADMINISTRATION			
84-1	Statewide Services Building	$ 18,800.0	
84-2	Campus Master Planning	1,100.0	
84-3	Facilities Blueprint Microfilming	215.0	
84-4	Life Cycle Costing	250.0	
84-5	Computer Hardware Acquisitions	1,085.0	
84-6	Statewide Systems Software Development	1,100.0	
	Subtotal Statewide		$ 22,550.0
UA/FAIRBANKS			
84-1	Student Housing Complex Phase I	11,000.0 — SB 19	
84-2	Classroom/Laboratory/Office Building	20,000.0 — SB 18* 1,200.	
84-3	Instructional and Support Equipment #1	3,240.0 — SB 162 — 1,623	
84-4	Repairs and Renovations	703.0 —	
84-5	Code Deficiencies Corrections	2,747.0 — SB 18*	
84-6	Seward Dock Cathodic Protection	435.0 — ~~SB~~ 500. 500.0	
84-7	Student Housing/Renovations	4,000.0	
84-8	Development Needs Assessment/Planning	1,500.0	
84-9	Native Studies/Fine Arts Instructional Space	1,151.0 — SB 18*	
84-10	Campus Paving, Traffic Signals and Lighting	520.0 — SB 162 — 135.00	
84-11	Grounds Improvements and Campus Landscaping	250.0	
84-12	Coal Handling Facility	1,400.0	
84-13	Architectural Barrier Removal	254.0 — SB 162	
	Subtotal UA/Fairbanks		47,200.0

SW - R/R - 4,000

Statewide Budget Office
September 30, 1982

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
MAU PRIORITIES

MAU PRIORITY	TITLE	AMOUNT	TOTAL
UA/ANCHORAGE			
84-1	Classroom/Lab/Office Building	$ 25,300.0	
84-2	Needs Assessment and Pre-program Building Design	750.0	
84-3	Repair and Renovation/CAS Building	1,500.0	
84-4	Campus Housing	5,000.0	
84-5	Bookstore Fixtures	330.0	
84-6	Administrative Furnishing Shortfall	350.0	
84-7	Physical Plant Equipment	627.3	
84-8	Administrative Services Equipment	70.9	
84-9	Instruction/Research/Support Equipment	1,002.9	
84-10	Library Books	788.6	
84-11	Student Services/Athletics/PE Sports Center	100.0	
84-12	Building Modifications for Safety and Energy	995.5	
84-13	Repairs and Renovations	884.8	
84-14	Land Acquisition	9,900.0	
	Subtotal UA/Anchorage		47,600.0
UA/JUNEAU			
84-1	Student Housing Phase I	13,200.0	
84-2	Campus Development Needs Assessment	150.0	
84-3	Vocational Ed. Shop and Equipment	800.0	
84-4	Library Materials and Media Equipment	194.0	
84-5	Marine & Technology Center Equipment	500.0	
84-6	Seawater Circulation System Phase II	175.0	
84-7	Fisheries Science Center Equipment	210.0	
84-8	Fine Arts Program Equipment	186.0	
84-9	Remodeling of Counseling and Admissions	68.0	
84-10	Repairs and Renovations	367.0	
	Subtotal UA/Juneau		15,850.0

Statewide Budget Office
September 30, 1982

UNIVERSITY OF ALASKA
FY84 CAPITAL REQUEST
MAU PRIORITIES

MAU PRIORITY	TITLE	AMOUNT	TOTAL
ANCHORAGE COMMUNITY COLLEGE			
84-1	Classroom/Administrative Building Phase I	$ 10,600.0	
84-2	Equipment/Applied Science	548.4	
84-3	Telephone Lines-Six Year Maintenance Plan	250.0	
84-4	Instructional Telecommunications Development	310.0	
84-5	Instructional Equipment	145.0	
84-6	Pedestrian Circulation Improvement	250.0	
84-7	Faculty Offices	11.6	
	Repair and Renovations	1,040.0	
	Campus Needs Assessment and Planning	100.0	
	Subtotal Anchorage Community College		13,255.0
CCREE			
84-1	Building Code Corrections	670.0	
84-2	Handicapped Barrier Removal	197.0	
84-3	TVCC Campus Facility Phase II (Planning and Design)	1,500.0 — SB.18	
84-4	Repairs and Renovations	1,023.9	
84-5	Sitka Community College Phase II	6,500.0	
84-6	PWSCC Classroom/Laboratory/Office Building (Planning and Design)	450.0	
84-7	Campus Development Needs Assessment/Planning	210.0	
84-8	Total Equipment: Instructional/Institutional Telecommunications and Support	1,517.2	
84-9	Land Acquisition for Campus Development	450.0	
84-10	Roads, Streets and Parking	910.0	
84-11	KECC Land and Building Acquisition Elimination of Access Problem	90.0	
	Subtotal CCREE		13,518.1
	TOTAL UNIVERSITY OF ALASKA		$ 159,973.1

Introduced: 4/5/83
Referred: Finance

Classrooms

Funding Information
General Fund $45,017,000
Other Funds -0-
$45,017,000

IN THE SENATE BY THE FINANCE COMMITTEE

SENATE BILL NO. 229

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making special appropriations to the University of Alaska for certain capital projects and planning; and providing for an effective date."

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

* Section 1. The sum of $26,300,000 is appropriated from the general fund to the University of Alaska for construction of classroom facilities at the Anchorage campus and the Anchorage Community College campus.

* Sec. 2. The sum of $3,800,000 is appropriated from the general fund to the University of Alaska for construction of an agricultural classroom ~~facility~~ at the Matanuska-Susitna Community College.

* Sec. 3. The sum of $450,000 is appropriated from the general fund to the University of Alaska for design of a classroom, laboratory and office facility at the Prince William Sound Community College.

* Sec. 4. The sum of $1,500,000 is appropriated from the general fund to the University of Alaska for design of classroom facilities at the Fairbanks campus.

* Sec. 5. The sum of $600,000 is appropriated from the general fund to the University of Alaska for engineering and design for the petroleum engineering/geology building at the Fairbanks Campus.

* Sec. 6. The sum of $2,300,000 is appropriated from the general fund to the University of Alaska for construction of the Duckering Building addition at the Fairbanks campus.

* Sec. 7. The sum of $1,150,000 is appropriated from the general fund to the University of Alaska for the Fine Arts Instructional Space/Native

Studies Facility at the Fairbanks campus.

* Sec. 8. The sum of $2,747,000 is appropriated from the general fund to the University of Alaska for correction of building code deficiencies at the Fairbanks campus.

* Sec. 9. The sum of $1,500,000 is appropriated from the general fund to the University of Alaska for phase II design for a campus facility for Tanana Valley Community College.

* Sec. 10. The sum of $4,100,000 is appropriated from the general fund to the University of Alaska for construction of a forestry sciences laboratory at the Juneau campus.

* Sec. 11. The sum of $570,000 is appropriated from the general fund to the University of Alaska for phase II design of a classroom facility at Sitka Community College.

* Sec. 12. The appropriations made by this Act are for capital projects and are subject to AS 37.25.020.

* Sec. 13. This Act takes effect immediately in accordance with AS 01.-10.070(c).



Forestry Sciences Laboratory

Juneau, Alaska

(1) Project Title	(2) Location(s)	(3) Election Districts Served	(4) Start Date	(5) Completion Date
Forestry Sciences Laboratory UAJ Phase 1	Juneau	4	Immediate	7-84

(6) AGENCY REQUEST			(7) Operational Cost & No. Personnel Increase – (Decrease)		First Operating Year	Ultimate Annual Year	GOVERNOR'S REQUEST Approved	Deferred	Disapproved
1002	Federal Receipts		Funding Source	Federal Receipts			1002 Federal Receipts		
1003	G/F Match			General Fund	0	0	1003 G/F Match		
1004	General Fund	4100.0					1004 General Fund		
1005	I/A Receipts						1005 I/A Receipts		
	G.O. Bonds		Total Annual Operational Cost		0	0	G.O. Bonds		
			Position (FTE)						
			Previous Year-Priority	Agency Priority		Governor's Priority			
	Total	4100.0					Total		

PROJECT DESCRIPTION (8)

All planning, design, architectural and engineering for the Forestry Sciences Lab. have been completed. This request will secure right of way and an access road from the back loop road as well as site preparation, excavation, installation of utilities, building foundation, and a parking lot for the 29,000 sq. ft. (8,500.0) facilitywhich will empoly approximately 40 persons when completed. Operation and maintenance of the facility will be the responsibility of the U.S.Forest Service who will occupy a portion of the building.

The research branch of the Forest Service has maintained for several years a small staff headquartered at Juneau, which operates throughout coastal Alaska. This research staff while making good progres on field studies, has been seriously handicapped by the lack of laboratory facilities. The Forest Service is expanding substantially its Juneau research unit, in order to accelerate solutions to the many high prioritity laboratory facilities is increasingly critical.

The laboratory plans include about 800 square feet for University staff. Close proximity of the laboratory to the University will facilitate the participation of Forest Service scientists in teaching and student guidance roles, studen use of Forest Service library, as well as the potential for Universi students to secure temporaty or permanent employment, and do graduate work in cooperation with the Forestery Sciences Laboratory.

An adjacent 7.51 acre parcel of Forest Service land will be make available to the University at completion of the laboratory. The Forest Service will lease the laboratory from the Universty.

(Prepared by Rep Duncan Staff)

LEGISLATIVE MEMBER'S SIGNATURE:

CATEGORY (9)

AGENCY

PROGRAM

Page of

Revised Date

FY 8

35 LEGISLATIVE REQUEST PROPOSED CAPITAL

March 1, 1982

A FORESTRY SCIENCES LABORATORY AT THE AUKE LAKE CAMPUS OF THE UNIVERSITY OF ALASKA

PRESENT STATUS

The 1981 Alaska Legislature appropriated $875,000 for planning a Forestry Sciences Laboratory on the University of Alaska campus at Juneau. The Architectural and Engineering plans are well along to completion. Construction costs of the laboratory are estimated at $8.78 million if funds are appropriated by the 1982 legislature. Construction could begin by fall, 1982, with completion and occupancy of the facility by spring, 1984.

Statistics for the laboratory are:

- Gross space - 29,000 square feet
- Planning costs A&E, etc. - $875,000 (appropriated 1981)
- Estimated construction costs (if bid summer, 1982) - $8,780,000
- Total staff (including 18 scientists) - Approximately 40
- Estimated completion and occupancy - 1984

WHY THE LABORATORY IS NEEDED

Southeast Alaska is beautiful, and rich in natural resources. These resources--including timber, fish, and wildlife--are important contributors to the economy of Southeast Alaska. Demands for the commercial and recreational use of the resources will continue to increase as the population of the area grows and markets expand. Proper management of resources, while protecting the beauty and uniqueness, requires new knowledge; results of research conducted elsewhere cannot be safely applied to the ecosystems of southeast Alaska. Research is needed to increase the productivity of Alaska's forests. Equally needed is new information for protecting and enhancing other forest resources including recreation, fish, wildlife and esthetic values.

The Research branch of the Forest Service has maintained for several years a small staff headquartered at Juneau which operates throughout coastal Alaska. This research staff, while making good progress on field studies, has been seriously handicapped by the lack of laboratory facilities. The Forest Service is expanding substantially its Juneau research unit, in order to accelerate solutions to the many high priority forest and related resource problems in S.E. Alaska. Thus, the need for laboratory facilities is increasingly critical.

While the research is directed at solving on-the-ground field problems, laboratory facilities are required to analyze soil, water, and plant samples; determine habitat requirements of anadromous fish; learn to suppress forest insects and diseases; and conduct a variety of controlled experiments. A laboratory and associated facilities is an essential base of operations for field work.

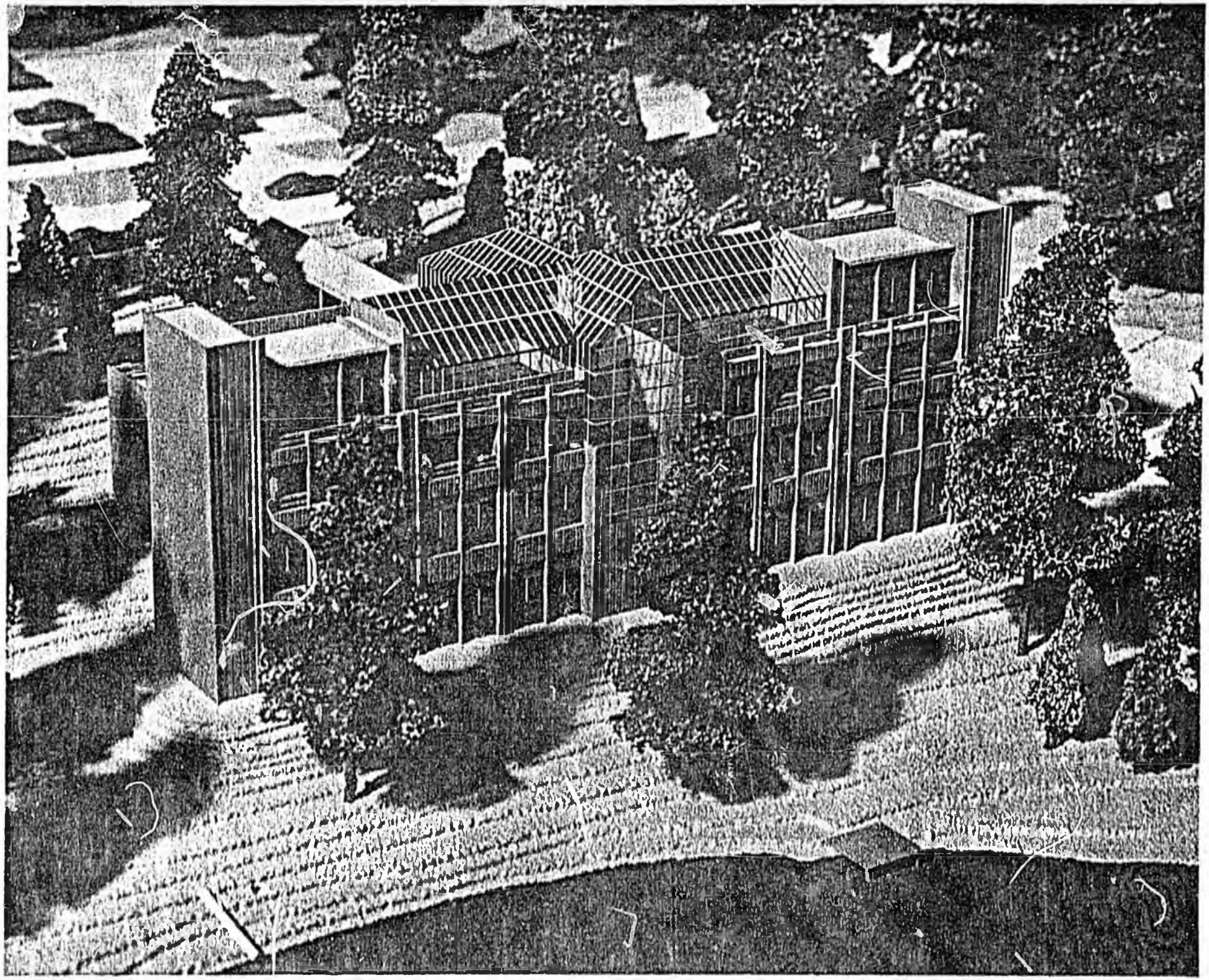
The staff of the Forestry Sciences Laboratory now makes do with offices and makeshift laboratory rooms on the sixth floor of the Federal Office Building in Juneau. An office building is unsuitable as a laboratory. It is not possible to grow plants, rear animals, conduct controlled environment experiments, or engage in other activities normally conducted in biological laboratories. There is no safe place to store or use volatile chemicals and it is not possible to vent fumes. As a result, the research staff must either limit or cancel urgently needed work in order to avoid unsafe conditions.

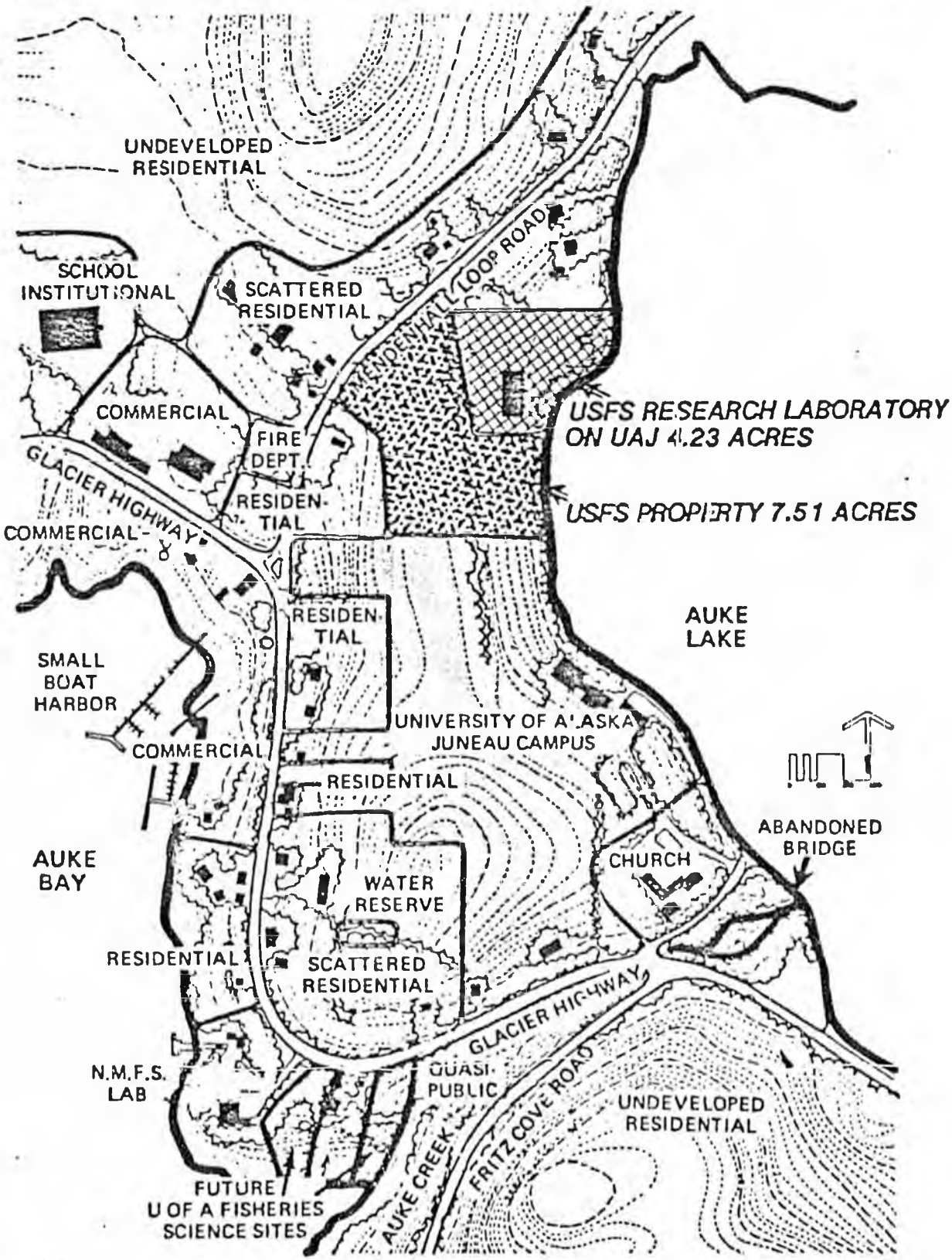
A laboratory is urgently needed that would provide the facilities, equipment and space to conduct the research needed to understand the complex interactions of plants and animals of the coastal ecosystems and their physical environment. Field studies would be supplemented and extended by laboratory facilities. Work presently planned could be done more quickly. Important work now foregone because of the lack of laboratory facilities could be done.

FOREST SERVICE - UNIVERSITY OF ALASKA ARRANGEMENTS

The laboratory plans include about 800 square feet for University staff. Close proximity of the laboratory to the University will facilitate the participation of Forest Service scientists in teaching and student guidance roles, as well as the potential for university students to secure temporary or permanent employment, and do graduate work in cooperation with the Forestry Sciences Laboratory.

An adjacent 7.51-acre parcel of Forest Service land will be made available to the University at completion of the laboratory. The Forest Service will lease the laboratory from the University. (See enclosed Agreement)





LABORATORY SITE AND ADJACENT LAND USE

AGREEMENT

This Agreement is made and entered into this 2nd day of March, 1983, by and between the University of Alaska, a constitutional corporation organized and existing under the laws of the State of Alaska, (hereinafter referred to as "University") and the United States Forest Service, Department of Agriculture, United States of America (hereinafter referred to as "Government").

WITNESSETH:

WHEREAS, Government desires the construction by University of a Forestry Sciences Laboratory, necessary utility hook-ups and access roads (hereinafter referred to as "Facility") on certain real property in Juneau, Alaska, owned by University and described in Exhibit A, attached hereto and by this reference made a part hereof; and

WHEREAS, such a facility has been designed from funds appropriated by the 1981 State of Alaska Legislature; and

WHEREAS, Government desires to lease the Facility for the uses and purposes provided for in the Lease attached hereto as Exhibit D and by this reference made a part hereof; and

WHEREAS, University supports the furthering of knowledge regarding the management and protection of Alaska's forest resources; and

WHEREAS, University desires to obtain title to that certain real property in Juneau, Alaska, described in Exhibits B and B1, attached hereto and by this reference made a part hereof, for the purpose of enhancing the campus of the University of Alaska, Juneau; and

WHEREAS, the real property described in Exhibits B and B1 is presently reserved by Government for research purposes; and

WHEREAS, the purposes to be accomplished by the research reservation can be accomplished at the Facility; and

WHEREAS, Government desires to obtain title to certain real property located near the Wrangell Narrows in Southeastern Alaska, more specifically described in Exhibit C, attached hereto and by this reference made a part hereof, for forestry nursery and related research purposes; and

WHEREAS, University and Government are willing to enter into an agreement to specify the actions and achieve the results desired by both parties.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties do hereby agree as follows:

1. The term of this Agreement shall commence upon execution by both parties and shall run for a period of twenty (20) years thereafter unless sooner terminated according to the terms and conditions set forth below.

2. University agrees to design and build the Facility upon its real property described in Exhibit A for the use and benefit of Government in accordance with the provisions of this paragraph 2 and paragraph 5 below; provided, however, that the following conditions have first been met:

A. The State of Alaska Legislature shall have appropriated sufficient funding to design and build the Facility. (It shall not be the responsibility of the University to seek said funding.); and

B. Government shall have issued such letters of approval or other documents as may be required by the Bureau of Land Management (hereinafter referred to as "BLM"), to accept or approve University's "Application for Land for Recreation or

Public Purposes" in order to classify, lease and patent to University the real property described in Exhibit B. (Said letters of approval or other documents may contain the stipulation that BLM not issue a "Recreation or Public Purpose Lease" until the State of Alaska Legislature has appropriated sufficient funding to design and build the Facility.) And provided further that Government shall not have revoked its withdrawal (PLO 2068) of the real property described in Exhibit B or consented to the disposal of said property to any third party without the prior written consent of University at any time before 1) said property is classified for recreation or public purposes, or 2) this Agreement is terminated, whichever occurs first; and

C. Government shall have granted and conveyed to University, within ninety (90) days after the effective date of an Act appropriating funds for the Facility, a thirty (30) year "Special Use Permit" with one hundred percent (100 %) fee waiver for University's exclusive use and occupancy for educational purposes of the real property described in Exhibits B and B1; said permit to terminate should the University exercise any option to terminate this Agreement; and

D. BLM shall have approved University's Application to classify the real property described in Exhibit B for recreation or public purposes, and the property is so classified; and

E. Government shall have reviewed and approved the site survey, schematic plans and working drawings for the Facility (hereinafter referred to as the "Plans"). And provided further that should any conflict arise between 1) the provisions of the approved Plans for the Facility and 2) the provisions set forth

in Schedules A and B attached to the Lease set forth in Exhibit D, the approved Plans shall prevail.

3. University may, at its sole option, terminate this Agreement at the end of two years after the effective date hereof for any or all of the following reasons: a) failure of State of Alaska Legislature to appropriate sufficient funding to build the Facility; b) Government's failure or refusal to grant University the "Special Use Permit" referred to in paragraph 2.C. above; or c) BLM's failure or refusal to classify the real property described in Exhibit B for recreation or public purposes.

4. If the conditions set forth in paragraph 2 above are met or if University elects, pursuant to paragraph 3 above, to continue this Agreement notwithstanding the lack of complete satisfaction of all conditions precedent, then University and Government shall mutually select a portion of the real property described in Exhibit C, to be exchanged for the real property described in Exhibit B1. Said exchange shall be effectuated by the delivery to University by Government of a warranty deed to the real property described in Exhibit B1 and by the delivery to Government by University of a quitclaim deed to the selected portion of the real property described in Exhibit C. Government shall pay all fees and costs required by the Government for the exchange, including, but not limited to, survey costs.

5. If the conditions set forth in paragraphs 2 and 4 above are met or waived, and upon substantial completion of the Facility, University shall let and lease to Government and Government shall take and lease from University the real property described in Exhibit A, including the Facility, for an initial five (5) year term with ten (10) one (1) year optional renewals in accordance with the terms and conditions contained in the Lease set forth in Exhibit D; provided, however, that University reserves the sole right to terminate the Lease at the end of the initial term or any one (1) year renewal thereof on account of BLM's continued failure or refusal to grant University a "Recreation or Public Purpose Lease" to the real property described in Exhibit B.

Government agrees to submit for University's countersignature, two original signed copies of the Lease set forth in Exhibit D within thirty (30) days after University shall have notified Government of substantial completion of the Facility. University agrees to return one fully executed original copy of said Lease to Government within thirty (30) additional days thereafter. The term of said Lease shall commence upon the date of its execution by University.

6. Upon University's receipt of patent title to the land described in Exhibit B and upon reimbursement to University by Government of all fees and costs paid by University to BLM to acquire said patent title, University shall, by quitclaim deed, convey to Government the real property described in Exhibit C, together with affixed improvements, except for that portion selected for exchange as described in paragraph 4 above.

7. This Agreement cannot be sold, assigned or otherwise transferred by either party without the prior written consent of the other party.

8. All notices shall be either hand delivered or sent, return receipt requested, through the United States mail to the parties at the addresses shown below:

UNIVERSITY	GOVERNMENT
Director Statewide Office of Land Management 3354 College Road Fairbanks, Alaska 99701	Robert L. Ethington Station Director 809 N.E. Sixth Avenue Portland, Oregon 97232

9. Government agrees to indemnify and save harmless University, its Board of Regents, officers, agents and employees from and against all claims, demands, judgments, costs and expenses (including reasonable attorney's fees) which may arise by reason of injury to or death of any person or damage to any property occurring on the real property described in Exhibits A, B, B1 and C when such injury, death or damage is attributable to the negligent or wrongful acts of Government, its agents, employees or representatives. Provided, however, Government shall be bound only to the extent that funds are appropriated for such purposes and to the extent that such obligation is authorized by law.

10. The failure of either party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach thereof shall not constitute a waiver by said party of any such provision, right, power, remedy, breach or subsequent breach of the same or any other provision.

11. The failure by either party to perform any duty imposed on it by this Agreement or the failure to conform its conduct to the standards imposed by this Agreement and all applicable statutes, regulations, ordinances, rules and codes shall be deemed a default under this Agreement.

In the event of default and except as otherwise provided above, the aggrieved party shall provide the defaulting party with thirty (30) days written notice of default and the opportunity to cure. If after thirty (30) days have expired and the defaulting party has failed to cure the default, the aggrieved party may, at its sole option, terminate this Agreement. In addition, the parties shall be entitled to any and all remedies provided by law.

12. Government agrees that, in the performance of its obligations pursuant to this Agreement, it will exercise its best, good faith efforts.

13. Except as otherwise provided above, Government and University agree to execute, without charge therefore, any additional documents necessary to perform their respective obligations arising pursuant to this Agreement.

14. Each party warrants that it has the authority to enter into this Agreement and that the persons signing for each are expressly authorized to do so. Government warrants further that the United States of America is the owner of record to the real property described in Exhibits B and B1 of this Agreement.

15. Time is of the essence in this Agreement.

16. Nothing in this Agreement shall be construed so as to render University in any way or for any purpose liable as a partner or joint venturer of Government, or in any way as creating a relationship of principal and agent between the parties hereto and neither party shall have the power to bind or obligate the other except as set forth in the Agreement.

17. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, successors and assigns.

18. If any provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such provision shall not be affected thereby.

19. This Agreement sets forth all of the terms, conditions, convenants and agreements of the parties relative to the subject matter hereof and supersedes any and all former agreements, oral or written, which upon the execution and delivery hereof are hereby terminated and of no further force and effect. There are no terms, conditons, convenants or agreements with respect hereto except as herein provided. This Agreement may be modified by a document in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

UNIVERSITY OF ALASKA

By: _____
Jay Barton
President

THE UNITED STATES OF AMERICA,
DEPARTMENT OF AGRICULTURE,
FOREST SERVICE

By: _____
Robert L. Ethington, Director
Pacific Northwest Forest and
Range Station,
Forest Service,
Department of Agriculture

_____
John Sandor
Regional Forester,
Region 10, Forest Service,
Department of Agriculture

Approved as to form:

_____

ACKNOWLEDGMENTS

STATE OF Alaska)
: ss
JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 2nd day of March, 1983, before me, the undersigned Notary Public, in and for the State of Alaska, duly commissioned and sworn as such, personally appeared to me Robert L. Ethington, to me known to be the Director of the Pacific Northwest Forest and Range Experiment Station, Forest Service, United States Department of Agriculture, and who acknowledged to me that he executed the within Agreement on behalf of the United States of America, as said Director of the Pacific Northwest Forest and Range Experiment Station, by and through a proper delegation of authority, as the voluntary act and deed of the United States of America, for the uses and purposes therein mentioned.

Zrinka I Dzinich
Notary Public in and for Alaska
My commission expires: 4-1-86

STATE OF Alaska)
: ss
JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 2nd day of March, 1983, before me, the undersigned Notary Public, in and for the State of Alaska, duly commissioned and sworn as such, personally appeared to me John Sandor, to me known to be the Regional Forester, Region 10, Forest Service, United States Department of Agriculture, and who acknowledged to me that he executed the within Agreement on behalf of the United States of America, as said Regional Forester of the Forest Service, by and through a proper delegation of authority, as the voluntary act and deed of the United States of America, for the uses and purposes therein mentioned.

Zrinka I. Dzinich
Notary Public in and for Alaska
My commission expires: 4-1-86

STATE OF ALASKA)
: ss
FOURTH JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 2nd day of March, 1983, before me the undersigned Notary Public, in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Jay Barton, to me known to be the President of the University of Alaska, a constitutional corporation organized and existing under the laws of the State of Alaska, and who acknowledged to me that he executed the within Agreement on behalf of said corporation as such officer thereof, by authority of its Board of Regents, as the voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

Zrinka I Dzinich
Notary Public in and for Alaska
My commission expires: 4-1-86

Extension Centers at:
Cordova
Copper Basin

Telephone
(907) 835-2539

PRINCE WILLIAM SOUND COMMUNITY COLLEGE

P.O. Box 590
Valdez, Alaska 99686

January 10, 1983

Alaska State Legislature
Juneau, Alaska

Greetings:

Attached you will find Prince William Sound Community College's 1983 Progress Report. This report is presented in support of our need for a campus building. We are a rapidly growing community college and in need of adequate space to meet accreditation requirements. We have made a number of requests for facilities in the past four years. Prince William Sound Community College is the only community college with no laboratory facilities and no permanent facility.

Thank you for any support you can give us in acquiring a campus building.

Sincerely,

John Devens, Ph.D.
President
Prince William Sound
Community College

JD:kw
Attachments

PRINCE WILLIAM SOUND COMMUNITY COLLEGE
1983 PROGRESS REPORT

I appreciate this opportunity to present highlights regarding the Prince William Sound Community College program. As many of you know, the Prince William Sound Community College program dates back to 1971 when concerned citizens of the city of Valdez petitioned the University of Alaska to establish an extension office in Valdez to offer post-secondary programming. As an extension of the University of Alaska, Fairbanks, the Valdez Learning Center offered its first courses in 1971. All of these early courses were taught by part time instructors and the program was headed by a part-time coordinator. The program continued to grow throughout the pipeline era and in 1975 the local Policy Advisory Council petitioned the Board of Regents to allow the Valdez Learning Center community college status. This request for community college status was denied in 1975.

Community college status was granted in July of 1978 and the Valdez Learning Center officially became Prince William Sound Community College with extension centers in Copper Basin and Cordova.

Currently, Prince William Sound Community College maintains its administrative offices and full-time faculty at its Valdez center and has full-time extension center programs in Copper Basin and Cordova. Instructional programming is also provided in other communities in the service region including Tatitlek, Whittier, Kenny Lake, Copper Center, Glennallen, Lake Louise and Chitina. Eight full-time instructors and approximately 30 part-time instructors offer in excess of 60 courses per semester throughout the Prince William Sound region. A 71% increase in credit hour production since the fall semester of 1980 is an excellent indication of the acceptance of this program.

Today, Prince William Sound Community College has 28 staff members and a student enrollment of 1,000. Current facilities in Valdez include three buildings, formerly used as housing by the State of Alaska. These buildings were designed as small apartments and were never intended for use as administrative or instructional facilities. Class size is often limited because of the small size of the rooms used as classrooms.

There are no laboratories of any kind. This severely limits the programs and courses that can be offered as the most fundamental and basic science course requires practical laboratory experience.

Other facilities include the loan of warehouse space at the City dock which temporarily houses the welding program and some of the marine technology courses. Rented office space houses the media services department and provides one classroom, space is also on loan from the State of Alaska in the State Court and Office Building which contains the media services studio.

In Copper Basin, leased space provides for two offices and two classrooms and in Cordova, space rented from the school district provides one office and one classroom. At all three sites, school district facilities are used extensively to augment the physical classroom space.

Preliminary architectural studies have been conducted with local community members, students, faculty and staff. A two phase plan has resulted from these meetings. The first phase provides administrative and classroom space as well as specialized areas for the TV studio, marine technology and office occupations programs. The second phase would follow in the next budget year and would include shop facilities in a separate building.

In February and March of 1982, a comprehensive needs assessment was done in the Prince William Sound Community College region. The needs assessment was undertaken to determine: 1) the educational interests of graduating high school students; 2) the courses, programs and services desired by permanent area residents; 3) the knowledge area residents had of the college and its programs; 4) the preferred sources of information regarding the college; and 5) the barriers that prevented adults from continuing their learning activities.

The survey indicated that slightly over 50% of the high school students viewed Prince William Sound Community College as a place to take classes that would prepare them for jobs. High school students indicated they preferred courses in the area of business administration, electronics and office occupations.

Of the adult population surveyed, 96% believed the college should offer courses of study to prepare students for employment through vocational, technical or occupational areas. 89% believed the students should receive courses in preparation for transfer to a four year institution and 70% believed PWSCC should provide entertainment programs, public lectures and recreational opportunities for the community residents. The adult population indicated they desired courses in the areas of business administration, computer science, welding, commercial fishing technology, electronics, marine technology, office occupations and petroleum technology.

Everyone surveyed was aware of the existence of the college and 85% of the individuals surveyed were aware of the programs and services offered by the college. Over 50% of the people surveyed were planning to take courses at the college within the near future. Only 3% of the individuals indicated they had never recieved advertisements or information about the college.

Various problems were sighted as barriers preventing continuing education for adults. Of the barriers sighted, job responsibilities, scheduling, and child care problems were major obstacles. A lack of basic skills was listed by 5% of the individuals as problems preventing them from taking advantage of the college programs.

The most important result of the survey is a clear indication of the support for PWSCC. 90% of the individuals surveyed believed the adult education programs are worthy of the investment of their tax dollars, an attitude reflected by the continuing financial support offered the college by the City of Valdez. Respondents demonstrated their confidence in the future of the college by expressing interest in programs or classes not yet offered.

Based on the [illegible] of the community-wide needs assessment and a self study completed in January, 1982, PWSCC is currently working towards a number of objectives including: 1) accreditation; 2) enhancement of the Community College Council; 3) the development of more resources for the outreach programs; 4) development of adequate facilities to service the individuals in the PWSCC region.

ACCREDITATION: Although PWSCC received community college status in July of 1978, we have delayed applying for candidacy for accreditation until recently due to our lack of solid funding, faculty, library and library resources, and adequate facilities. With the completion of our consortium library agreement with the City of Valdez, the increase in our staff to include eight full-time faculty members and a Coordinator of Student Services capable of providing counseling services, and the increase in our budget to the approximate amount suggested by the Board of Regents for a startup community college, we feel we are ready to go forward for accreditation. The current schedule includes hiring a consultant to work with us in preparation of our application for the June 1983 meeting of the Northwest Association of Schools and Colleges, with the anticipated visit of the evaluation team during the fall of 1983, and the Northwest Association's decision regarding our candidacy to come at their December, 1983 meeting.

COMMUNITY COLLEGE COUNCIL: The Prince William Sound Community College has a nine member Regional Community College Council and a number of vocational and academic advisory committees. The Community College Council is made up of two

representatives from the Copper Basin area, five individuals from the Valdez area, and two individuals from the Cordova area. The members of the Community College Council are extremely supportive of the college and provide a wide representation of our region.

In addition to the Community College Council, advisory committees have been formed in each of the three major areas. The advisory committees in the Copper Basion region and in Cordova respond directly to the Extension Coordinator with recommendations regarding programming needs in the respective areas. Valdez has several advisory committees which work with the Campus President or the Director of Vocational Programs. The Campus President has lunch with the Valdez Advisory Committee every other Monday. These lunch meetings are used to share information regarding the college and to receive input regarding the community's perception of the college.

During the coming year, new by-laws will be developed with regard to the regionwide Community College Council. The Community College Council has expressed strong interest in being involved in the accreditation process, facilities planning and in the budget process.

PROGRAM REVIEW: With the expansion of educational offerings and services provided by Prince William Sound Community College has come a welcome growth in our student body. During the past year, Prince William Sound Community College has experienced a move towards the development of a more traditional, full-time student body.

During the past two years, Prince William Sound Community College has acquired eight full-time faculty and has developed a number of programs. We feel the following programs and areas of emphasis deserve mention within this report:

Alaska Studies: In the area of history and the social sciences, Dr. John Bury has firmly established the Center for Alaska Studies as an integral part of the PWSCC instructional program. During this past year, the program received the Ester Billman Certificate of Excellence from the Alaska Historical Society. This resulted, in part, from the establishment of a nautical archaeology program and the direction of over 14 different oral history and research projects on Prince William Sound which are to be published. In addition, the program offered over 35 courses in Alaska history, wildlife, arts, and literature and also worked with establishing PWSCC as a part of the Nationwide Elderhostel-Chautauqua Program. This program, which works with senior citizens who wish to continue their education,

saw 104 students over the age of 60 attend college level classes for credit at PWSCC. During the summer of 1983, the program has booked 240 students over the age of 60 to participate in six separate programs.

Developmental Disabilities: In January of 1982, Janis Johnson became the faculty member teaching in the developmental disabilities program. Ms. Johnson came to Prince William Sound Community College from the Parsons Program in Kansas where she served as a program coordinator. During the past year the Associate of Arts program in Developmental Disabilities has been revised and PWSCC will be seeking permission to change the Associate of Arts program to an Associate of Applied Science in Developmental Disabilities. The State of Alaska Department of Education has recently provided a grant to the employees at the Harborview Developmental Center to pay for their involvement in the PWSCC Developmental Disabilities program. This is the only program of its kind in the State of Alaska and one of only a few other such programs in the country.

Welding Programs: In January of 1982, Rick Watson joined the PWSCC staff as a welding instructor. Mr. Watson received his training and much of his experience in ship building yards on the west coast. Mr. Watson has developed a number of courses in welding which serve the needs of our local fishermen and employees at the Alyeska Pipeline Service Company, as well as offering the standard courses in shielded metal arc welding and gas welding. Our courses in welding are usually limited to 12 individuals and almost without exception are full.

Office Occupations: Kristen Forrester was moved from part-time instructor to full-time faculty member in the office occupations area in January of 1982. Since that time Ms. Forrester has continued to work very hard towards establishing an office occupations laboratory on campus. A special appropriation from the State Legislature has made it possible to develop a laboratory and purchase the needed office occupations equipment to promote this program which is also offering the National Certified Professional Secretary Program.

Fisheries: During this past year, Dr. Philip Chung has joined Kevin Hekrdle as an instructor for the marine program at Prince William Sound Community College. Dr. Chung specializes in seafood technologies and has been very instrumental in research and development projects with local fishermen and local fish processors. With the advent of the Statewide FITC program, Prince William Sound Community College is re-evaluating its role in delivery of fisheries courses to the Prince William Sound region.

Liberal Arts: The liberal arts program has been instrumental in the development of the regional publication "Soundings" and our English and humanities instructor, Gail Renardson, coordinated the efforts to present a writer's workshop during the past year which brought Pulitzer Prize winning novelist, Michael Shaara, and Alaska's Poet Laureate, Richard Dauenhauer to Valdez as instructors.

Student Services: Student services is a new department which was formed when PWSCC hired Linda Fossen as the Coordinator of Student Services in September of 1982. Since her arrival in Valdez, Ms. Fossen has developed a program to provide counseling to PWSCC students in the areas of financial aid, career planning, and academic and personal counseling. She has also developed a program of testing and referral services and job placement assistance for our students. Other projects which will be undertaken by the student services department include working with the PWSCC staff towards accreditation for the college and working directly with the student body in setting up a student government organization on the PWSCC campus.

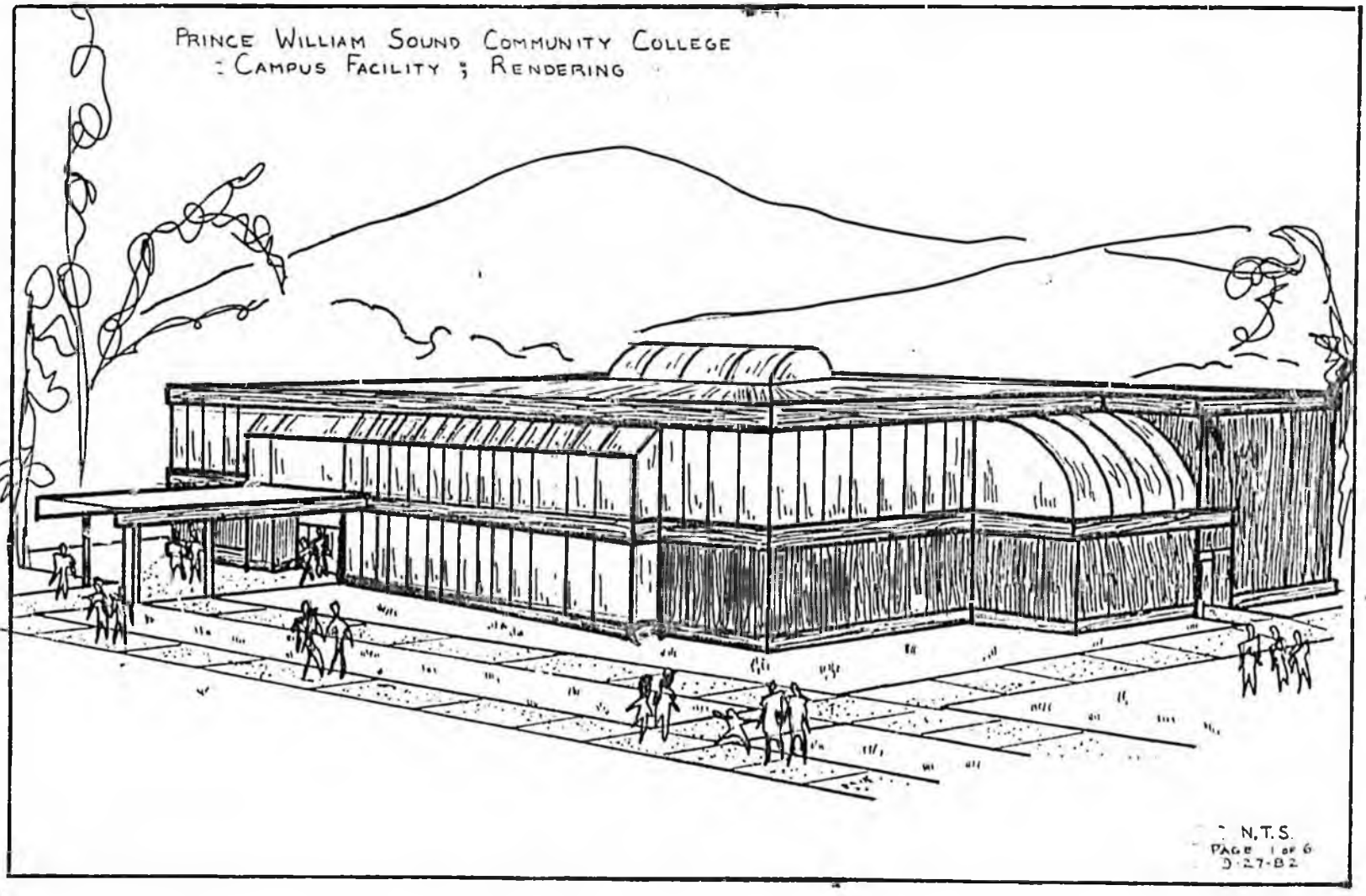
Media Services: Media Services has greatly expanded its offerings over the past year. Tom Van Brocklin, Coordinator of Media Services, has initiated the offering of media production courses to augment the darkroom and photography classes usually offered at PWSCC. Television production courses have been used to provide a "stringer" service to KTUU, Channel 2 News, which airs nightly over the satellite to the entire state. As a result of this service, seven tapes have been provided on specific news stories from the Valdez area. Media services has also recently completed a video production called "Interior Alaska: A Land of Extremes". This 14-minute bilingual video production was prepared for the Copper River Native Association and funded from grant monies provided by the Department of Education.

Adult Basic Education: Adult Basic Education has long been and continues to be one of the main thrusts of community service for PWSCC. The ABE department is headed by Coordinator, Susan Bury, formerly the State Director for ABE in Iowa before coming to Valdez. Since January of 1982, the ABE program has provided 12,636 contact hours working with 188 students. Since January, 42 students have received GED diplomas and 83 others are currently making progress towards their GED. Through the ABE program, 60% of the students who were unemployed when they started the program are now employed. Five students have been helped in receiving their U.S. citizenship. The average student graduating from the PWSCC G.E.D.

program scores in the low 70's when compared to a national average of 58 on the national test.

Outreach Programming: PWSCC's extension centers in the Copper Basin area and in Cordova have continued to grow at a rapid rate. Additional growth in the outreach areas will be dependent upon the resources which can be applied to setting up programs in the smaller communities which are currently not being fully served. During the past year, PWSCC has expanded into offering course work in the village of Tatitlek and has received requests for increased work in Whittier and the Lake Louise area. Growth in the Copper Basin area has been steady with a dramatic increase in the number of native students taking college level courses. Meetings with the Advisory Committee in the Copper Basin area suggest a strong desire for the development of a program which supports the cottage industries associated with arts and crafts. The Cordova program continues to show strong emphasis in courses which support the fisheries industry.

GROWTH PROJECTIONS: Currently, PWSCC is serving 11% of the population in the service region. Comparing the current Fall semester with the Fall semester of 1980, we can see that PWSCC has had a 71% increase in credit hour production. This same increase is evident in our unduplicated head count and in the number of full time students. We anticipate continued growth, however, it will probably be at a somewhat slower rate than it has been during the past several years. Our growth is limited to the funds available for outreach programs and our lack of facilities both in Valdez and at our Extension Centers.


PRINCE WILLIAM SOUND COMMUNITY COLLEGE
: CAMPUS FACILITY ; RENDERING
N.T.S.
PAGE 1 OF 6
3-27-82

PRINCE WILLIAM SOUND COMMUNITY COLLEGE
ENROLLMENT STATISTICS

Credit Headcount

	Valdez		Copper Basin		Cordova		Subtotals		Total
	P/T	F/T	P/T	F/T	P/T	F/T	P/T	F/T	
Spring 1980	186	7	162		19		367	7	374
Fall 1980	166		139		106		411		411
Spring 1981	283	26	141		160		584	26	610
Fall 1981	210	9	141		130		481	9	490
Spring 1982	234	20	156		125	1	515	21	536
Fall 1982	232	13	165	2	150		547	15	562

Non-Credit Headcount

	Valdez	Copper Basin	Cordova	Total
Spring 1980	299	117	11	427
Fall 1980	361	84	38	483
Spring 1981	209	147	48	404
Fall 1981	279	11		290
Spring 1982	373	83	449	905
Fall 1982	346	88		434

EXPLANATIONS:

1) Any student taking at least one credit is counted as a credit student, even though he/she may be involved in non-credit activity; the non-credit headcount is restricted to those students taking only non-credit courses. The two headcounts added together will give an unduplicated student count.
2) "P/T" indicates a part-time student, taking less than 12 credits; "F/T" indicates a full-time student, taking 12 or more credits in a semester.
3) The Cordova Extension has had non-credit activity in the Fall 1982 semester, but the statistics are not available at this time. Those non-credit students will affect the non-credit headcount for the Fall 1982 semester.

PRINCE WILLIAM SOUND COMMUNITY COLLEGE
ENROLLMENT STATISTICS

Credit Hours

	Valdez		Copper Basin		Cordova		Subtotals		Total
	P/T	F/T	P/T	F/T	P/T	F/T	P/T	F/T	
Spring 1980	524	108	288		22		834	108	942
Fall 1980	500		237		178		915		915
Spring 1981	724	411	218		306		1248	411	1659
Fall 1981	735	125	241		320		1296	125	1421
Spring 1982	797	258	291		279	12	1367	270	1637
Fall 1982	680	190	335	24	337		1352	214	1566

Non-Credit Contact Hours

	Valdez		Copper Basin		Cordova		Subtotals		Total
	NCR	CR	NCR	CR	NCR	CR	NCR	CR	
Spring 1980	493.6	71.7	251.6	26.9	11	1	756.2	99.6	855.8
Fall 1980	1721.1	152.4	194.4	10.9	19.3	5	1934.8	168.3	2103.1
Spring 1981	556.1	178.4	173.2	9.2	28.8	5.6	758.1	193.2	951.3
Fall 1981	687.2	81.2	5.9	2.7			693.1	83.9	777
Spring 1982	618.7	157.4	73.1	21	1693.6	276.2	2385.4	454.6	2840
Fall 1982	826.1	124.9	102.5	21.4			928.6	146.3	1074.9

EXPLANATIONS:

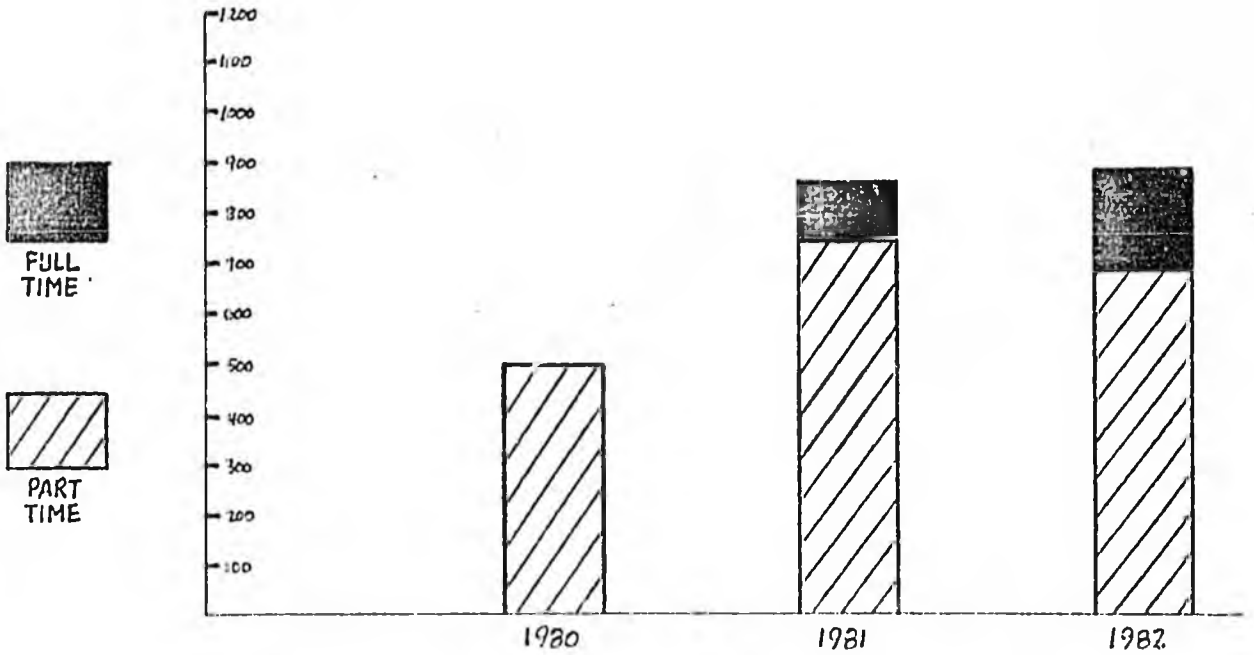
1) "NCR" indicates that these are the course contact hours of those students represented in the non-credit headcount; "CR" indicates that these are the course contact hours of those students represented in the credit headcount who were involved in non-credit activity.
2) When the statistics for the Cordova Extension non-credit activity become available, they will affect the non-credit contact hours for the Fall 1982 semester.
3) One additional note: There is still some light credit and non-credit activity at all three units, so the Fall 1982 data is subject to possible changes.

Prince William Sound Community College

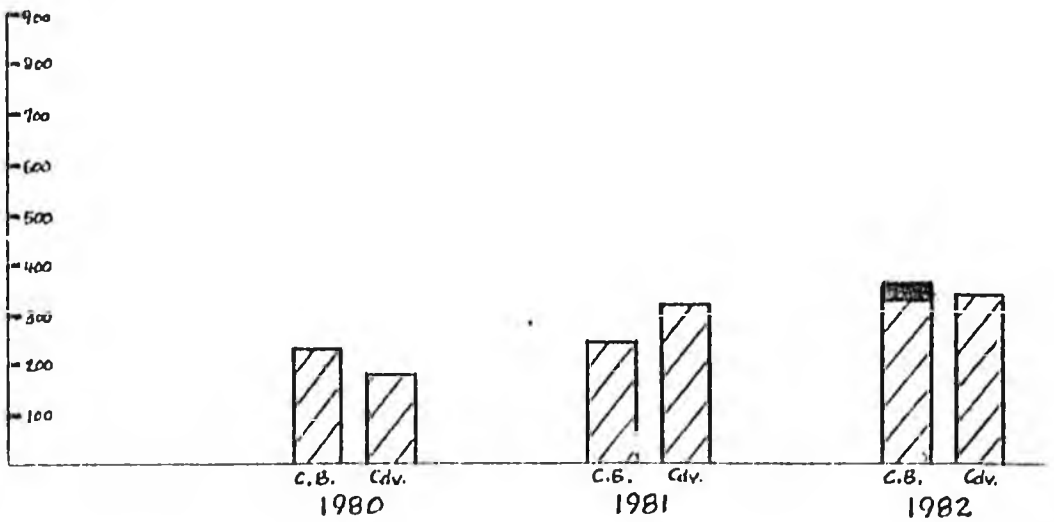
ENROLLMENT TRENDS

Credit Hours - Fall Semesters

VALDEZ



EXTENSIONS: Copper Basin & Cordova

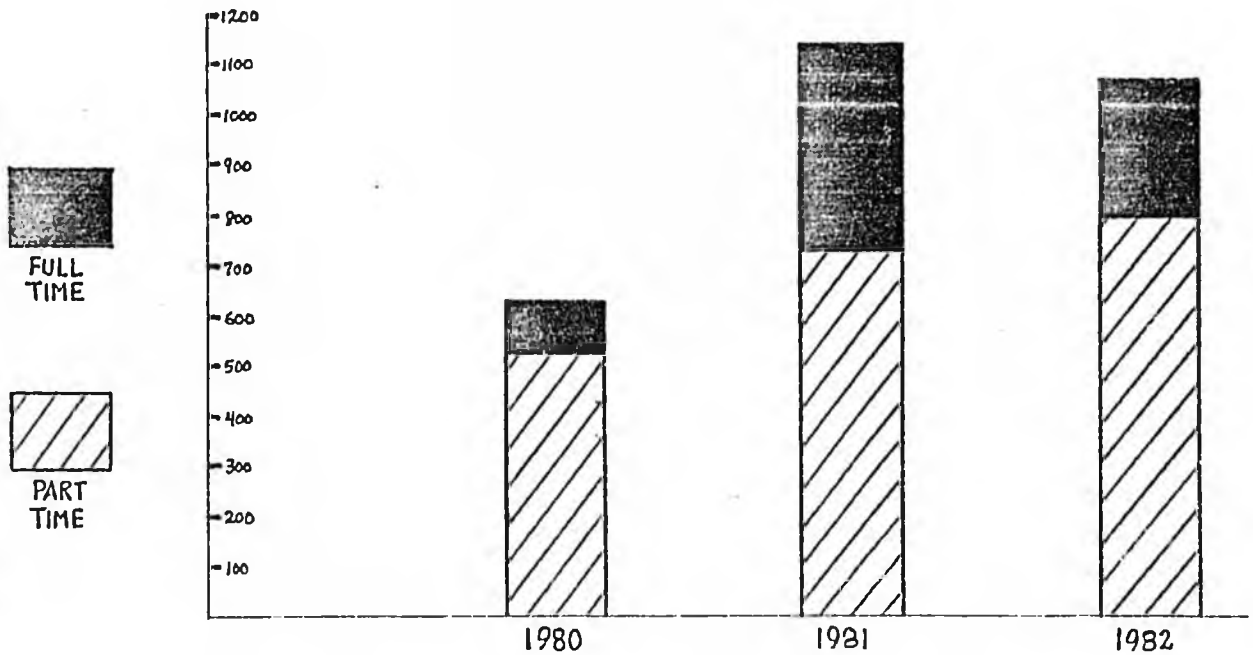


Prince William Sound Community College

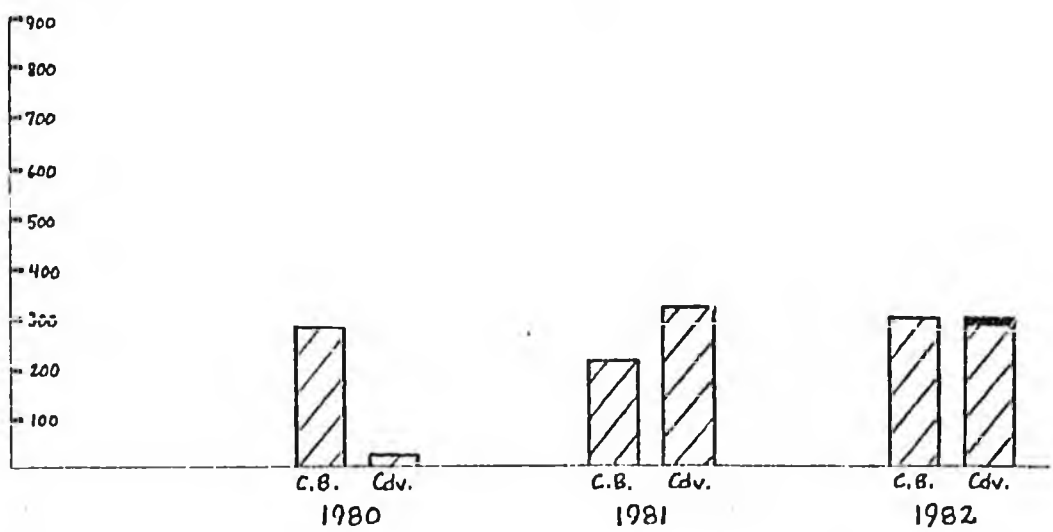
ENROLLMENT TRENDS

Credit Hours - Spring Semesters

VALDEZ



EXTENSIONS: Copper Basin & Cordova

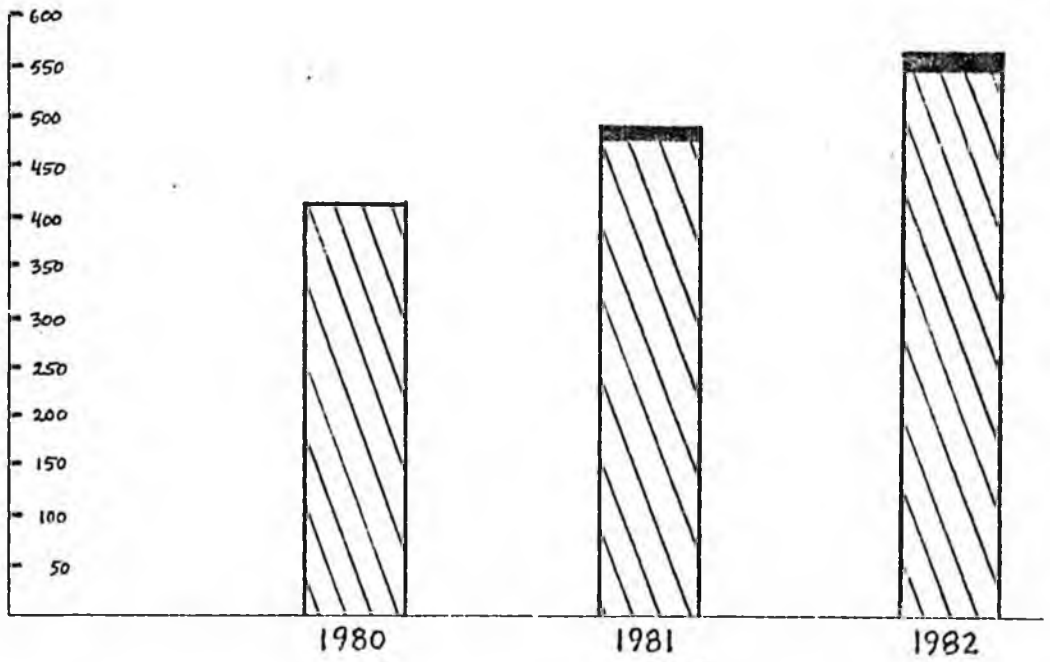


Prince William Sound Community College

ENROLLMENT TRENDS

Combined Credit Headcount - Valdez, Copper Basin & Cordova

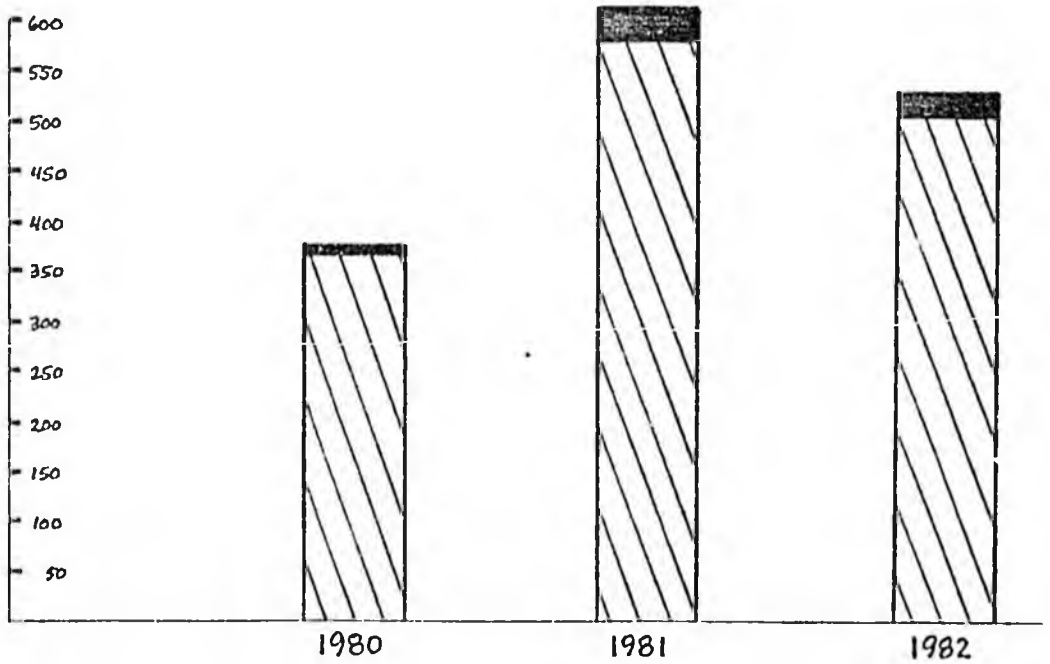
FALL SEMESTERS



FULL TIME

PART TIME

SPRING SEMESTERS

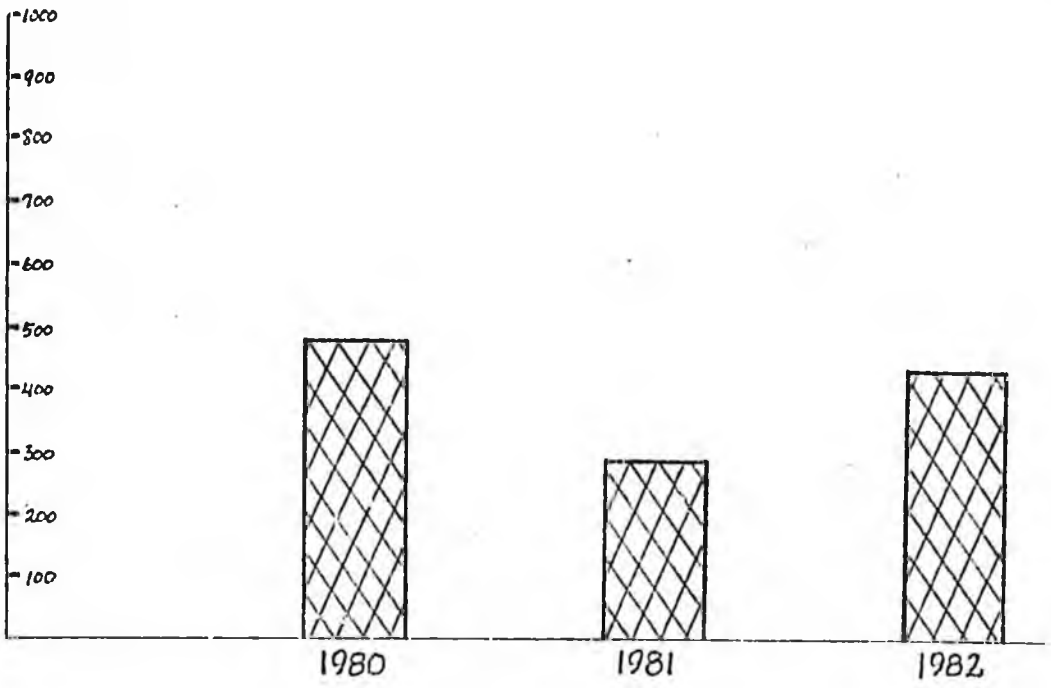


Prince William Sound Community College

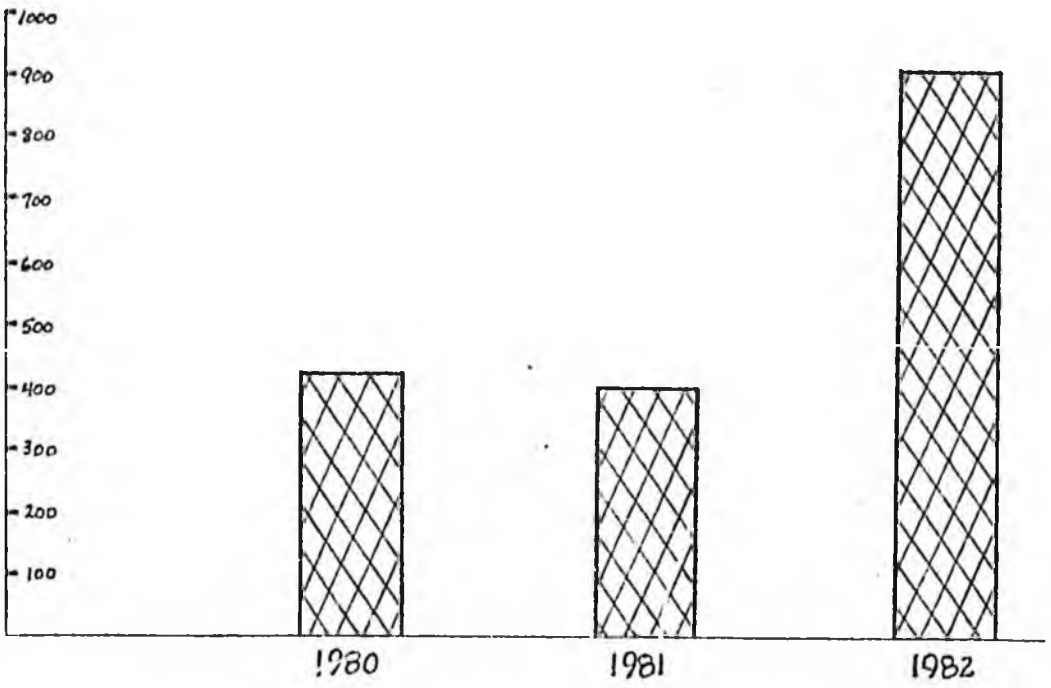
ENROLLMENT TRENDS

Combined Non-Credit Headcount - Valdez, Copper Basin & Cordova

FALL SEMESTERS



SPRING SEMESTERS

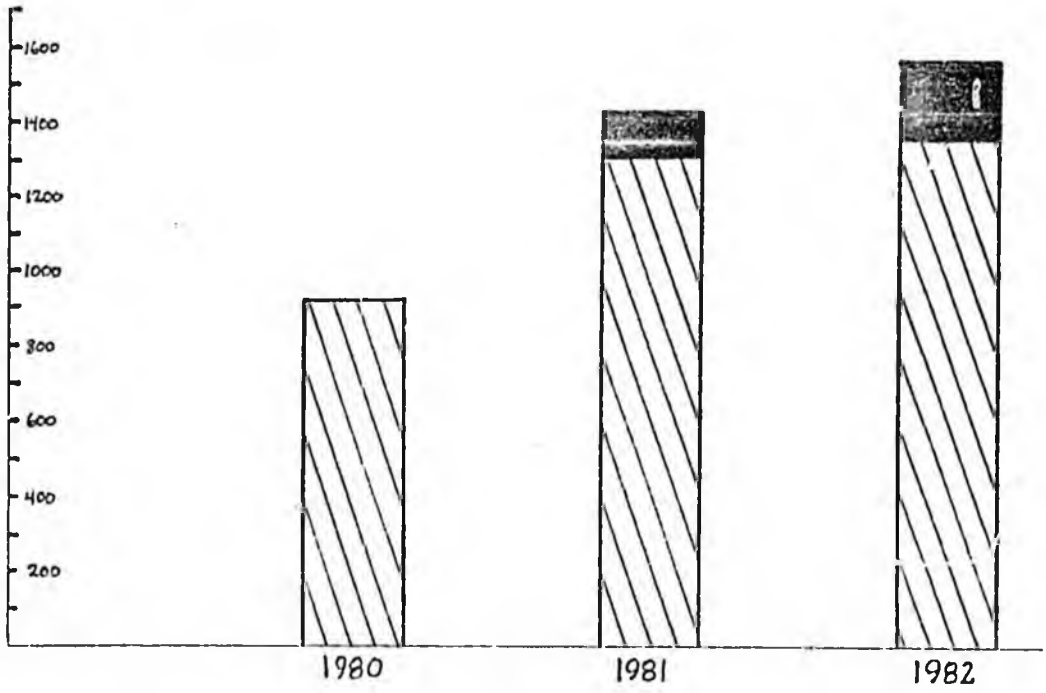


Prince William Sound Community College

ENROLLMENT TRENDS

Combined Credit Hours - Valdez, Copper Basin & Cordova

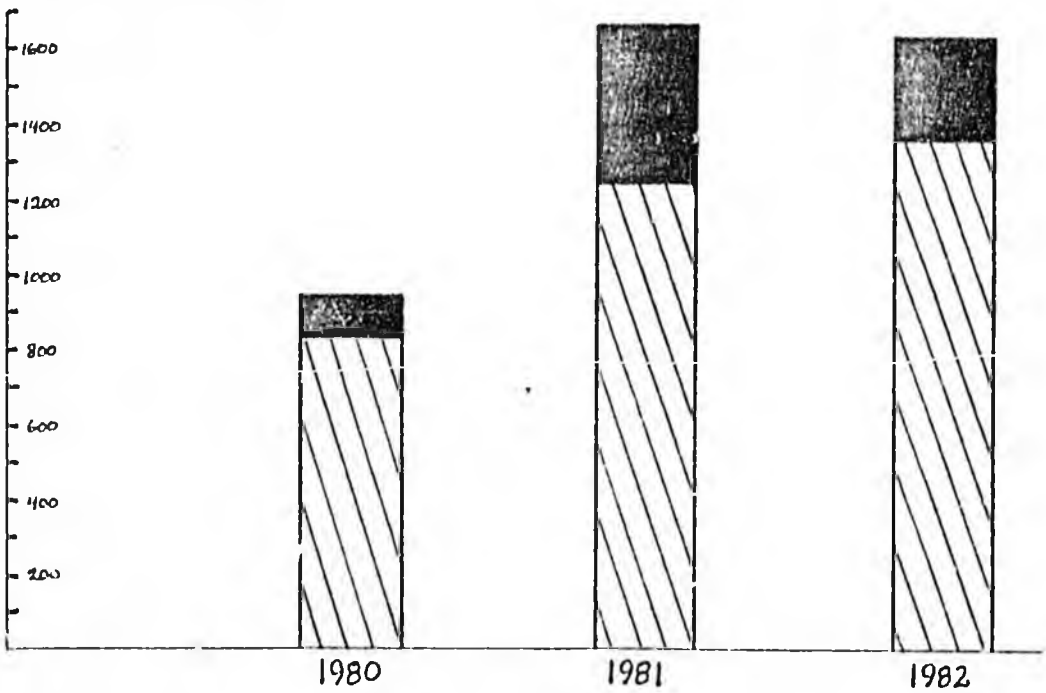
FALL SEMESTERS



FULL TIME

PART TIME

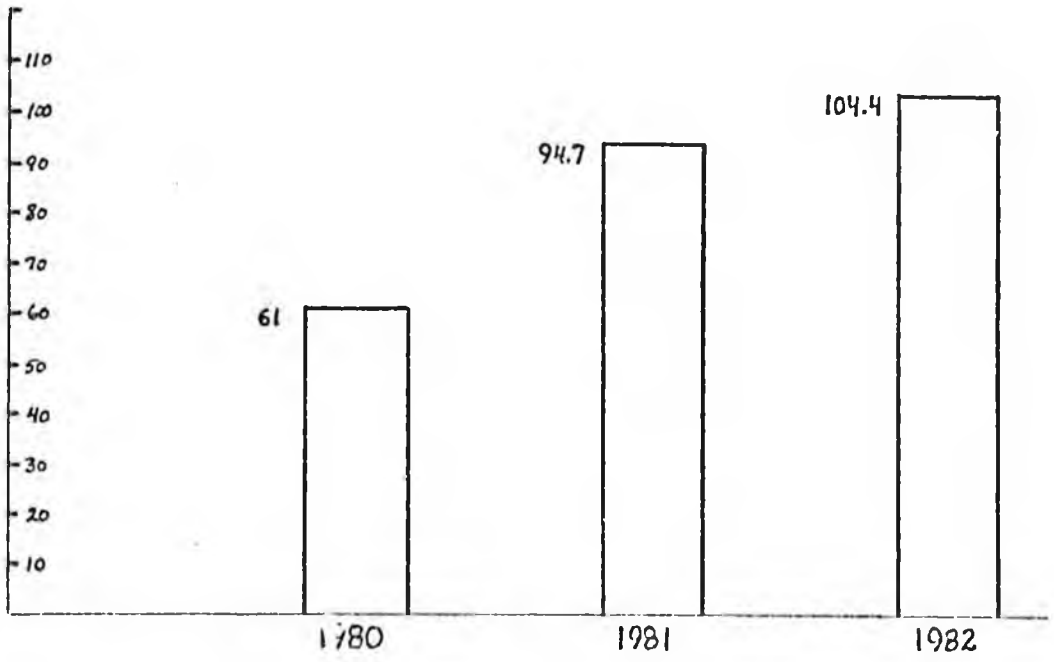
SPRING SEMESTERS



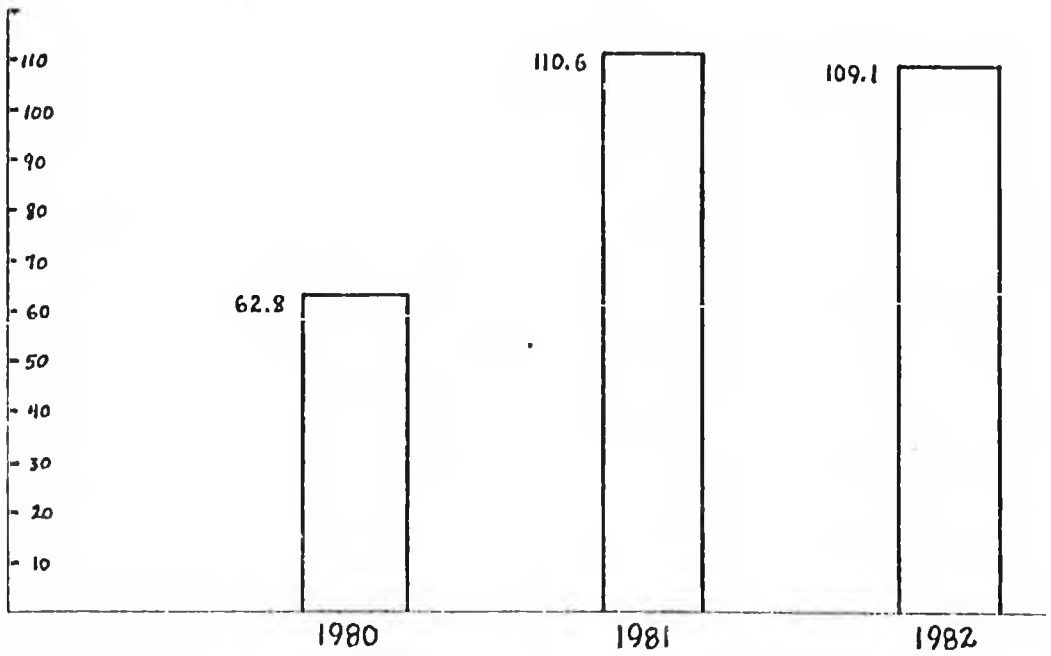
Prince William Sound Community College

ENROLLMENT TRENDS
F.T.E. (Full-Time Equivalent)

FALL SEMESTERS



SPRING SEMESTERS



Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3759

Representative Mae Tischer

May 4, 1983

Ms. Anita Fisher
3-461 ECB
Anchorage, Alaska 99501

Dear Ms. Fisher

I am writing in response to your Public Opinion Message regarding SB 229.

On May 2, 1983, the House Health, Education and Social Services Committee held a public hearing on SB 229, and passed the bill out of committee.

Senate Bill 229 is now referred to the Finance Committee.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/cw

MEMBER: Rules
CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Corrections

MESS. #9695 JUDY/MATSU, 4/18/83

TO: REPRESENTATIVES TISCHER, FRITZ, AND A. ADAMS

APR 19 1983

FROM: ANITA FISHER
3-461 ECB
ANCHORAGE 99501 PH. 745-6275

AS A STUDENT, TAXPAYER, AND REGISTERED VOTER I WOULD APPRECIATE A VOTE FOR SB229. IT WILL FILL A GAP IN THE EDUCATIONAL SYSTEM OF ALASKA BY PROVIDING A FACILITY FOR FUTURE AGRICULTURAL PROGRAMS.

****

Done -
do you
know about
SB229

SB
241

House Health, Education & Social Services Committee
April 30, 1984
CS for Sponsor Substitute for SB241 (Jud)am

Analysis
Alaska Chapter, National Association of Social Workers

Section 1 -Provides that a court order is required for inspection of adoption records and deletes the State Registrar's authority to adopt regulations with respect to such inspection. (It is currently the practice of the State Registrar to release original birth certificates by regulation although the Statutes prohibit such release.)

Section 2 -Provides for access to adoption information and requires the State Registrar to notify biological parents by certified mail (addressee only) of a request for identifying information made by adult adoptees.
-Permits release of identifying information to adult adoptee unless State Registrar has received a written objection to the release from the biological parent.
-Permits the release of eight items of non-identifying information to adoptive parents and/or adoptees 18 years of age or older.
-Requires that after the effective date of the Act the State shall provide the non-identifying information on a standard form.
-Requires the State Registrar to attach to the original birth certificate the name and address of the adoptee and or the biological parent should they so request and then enables release of the name and address of the adoptee to the biological parent and the biological parent to the adoptee.
-Requires that anyone placing a child for adoption after the effective date provide the eight items of non-identifying information to the State Registrar.
-Requires that the Department of Health and Social Services attempt to obtain the eight non-identifying information items upon request for adoptions occurring before January 1 1984.
-Requires maintenance of records.

Section 3 -Amends A.S.25.23.060 to provide that consent to adoption forms must state the person's right to withdraw the consent and also that a copy of the consent form be provided to the person.

Section 4 -Clarifies access to adoption records under A.S.25.23.150 and provides for release of non-identifying information on request and for identifying information with consent.

Section 5 -Clarifies language prohibiting release of identifying information on adoption.

Section 6 -Prohibits the disclosure of the name of either an adoptee or a biological parent.

Section 7 -Requires persons or agencies placing children for adoption to obtain for the State Registrar the eight items of non-identifying information and a statement that the biological parent is aware of the release of information proceedures and that the State Registrar must attach current information on them and on the adoptee to the original birth certificate at any time.
-Requires that the non-identifying information shall be attached to the original birth certificate.
-Requires that the biological parent must be given a copy of their completed consent form.

The Alaska Chapter, National Association of Social Workers believes that CSSSSB 241 addresses the interests of both adoptees and biological parents and provides a balance between their needs. Furthermore, CSSSSB241 provides for a change in adoption record keeping for the future in order to address a fundamental injustice which has heretofore been done adoptees by denying them access to information about themselves.

Cecilia Kleinkauf, MSW,ACSW
Alaska Chapter, National Association of Social Workers
April 30, 1984

Adoption Records: Open or Closed

by
Cecilia "Pudge" Kleinkauf, MSW, ACSW
Associate Professor, Dept. of Social Work
University of Alaska-Anchorage

Should adoption records be sealed? That question has been undergoing significant debate in the legislature of virtually every state in the United States during the last five years. The secrecy with which our society has surrounded adoption in modern times is no longer blindly accepted, but has emerged from the shadows into the light of painful re-examination. Legislators, judges and attorneys, as well as adoptees, biological parents, researchers and mental health professionals, are finally considering whether such secrecy really serves the best interests of all the parties to adoption.

History

Adoption, a legal and social avenue to parenthood, is as old as recorded history. The ancient Greeks, Egyptians and Romans all had specific methods by which adults assumed parenthood for children not born to them. Most cultures also sanction arrangements of various kinds for the establishment of other than biological parenthood. Originally adoption served mainly to meet the needs of adults, both those who were childless and those who were unwilling or unable to raise a child, modern adoption practices, except for grey or black market adoptions, focus on meeting the needs of children.

From colonial times until the latter half of the 19th century, indenture arrangements by orphanages and various forms of foster or work-home placements served to substitute for the adoption of many children. Individual children could still be adopted, however, through the passage of a specific act of adoption by the appropriate legislative body. Following the passage of a general adoption law in Massachusetts in 1851, other states also enacted laws, which at first mainly provided for a legal record of the transfer of the child. Not until the '30's did laws begin to reflect the requirement for the sealing of records and the issuance of a new birth certificate.[1] The intent behind such provisions were a wish to "erase" the social stigma of illegitimacy, protection of adoptive parents from intrusion by biological parents, denial of the differences between biological and adoptive parenthood and a disregard of the adoptee's interest in knowing his or her origins.

Contributing Social Forces

"Within the past twenty years, however, five trends emerged that have had a decided impact on the adoption issues we confront today. They are: a declining birth rate,[2] changing sexual mores, increasing concern about the rights of minority groups, mounting interest in personal genealogy, and an increasing

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oncern about the rights of minority groups, mounting interest in personal genealogy, and an increased tendency to view the courts as the final arbiter of all disputes."[2]

While a decline in the birth rate has meant fewer children available for adoption, and the turning of many prospective adoptive parents to the black or grey market,[3] it has probably also contributed (at least in part) to the increasing numbers of couples investigating alternate avenues to parenthood, such as artificial insemination, "test-tube" pregnancies, and surrogate arrangements. A reduction in the availability of adoptable infants, coupled with an increase in the availability of older or "hard to place" children, has undoubtedly encouraged both adoption agencies and adoptive parents to re-examine preferences and practices.

Sexual mores have changed, and single parenthood — with or without marriage — is an accepted fact of modern life. Increased awareness and utilization of a variety of methods of contraception, together with safe and legal abortions, have reduced the numbers of unwanted children available for adoption. Marriages which are childless by choice contribute to some reduction in the numbers of prospective adoptive couples.

The '60's and '70's have been characterized by numerous "rights" movements by varied minority groups. Adoption has been affected by efforts to ensure that Black, Chicano, and Indian children are placed with families who can ensure the transmission of racial and cultural heritage as well as by the women's movement focus on the issue of choice as it relates to childbearing. Adoptees and biological parents have also established a variety of organizations to further their rights as minority groups.

Interest in one's "roots" is hardly limited to adoptees although their "searches" have received more publicity than those of others, · except perhaps for Alex Haley.[4] Because of the secrecy of adoption records and thus the difficulty in obtaining information, adoptees are often left with

incomplete information about their biological heritage, blood siblings, medical and genetic history and racial background. The wish to know one's heritage, coupled with the belief that discrimination results from laws which deny only adoptees access to information about themselves have provided the greatest impetus to the open records movement.[5]

Groups and organizations comprised of adoptees, biological parents and adoptive parents have also formed to affect adoption practices as well as to advocate, and educate the parties to adoption in everything from legislative action, and judicial reform to methods and skills for "the search".

The courts, while identified in most state statutes as the avenue through which adoptees can have their records opened, have proven unresponsive to the petitions for access to information, whether the basis has been medical, emotional or financial.[6] The fact that most statutes direct the courts to base the decision on "good cause" which is an overly vague term, has also contributed to efforts to enact legislation providing for more identifiable criteria, especially where more universal access to information is desired.

Adoption Agency Practices

The procedures of adoption agencies are beginning to change in light of the current efforts toward open adoption records. The Child Welfare League of America, recognized as the national standard-setter for adoption and other child welfare services, recommends that the adoption agencies carefully gather significant information so that it will be available in the future, inform parties to the adoption that firm guarantees of confidentiality can no longer be made because of changing laws, and assist the biological parent(s) to consider whether or not they will be willing to be contacted by the adoptee when he/she attains adulthood.[7]

The increase in adoption of older children, where maintenance of confidentiality is neither wise nor possible,[8] has also contributed to re-examination of current adoption practice, as has a proposal for "open adoption" by Baran, Pannor and Sorosky. Open adoption is "an adoption in which the birth parents meet the adoptive parents, participates in the separation and placement process, relinquishes all legal,

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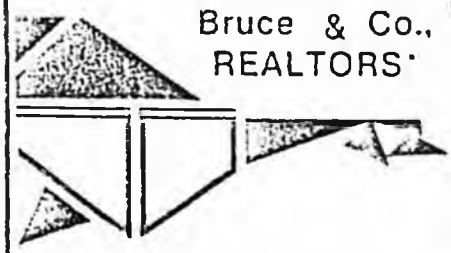

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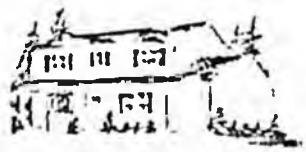

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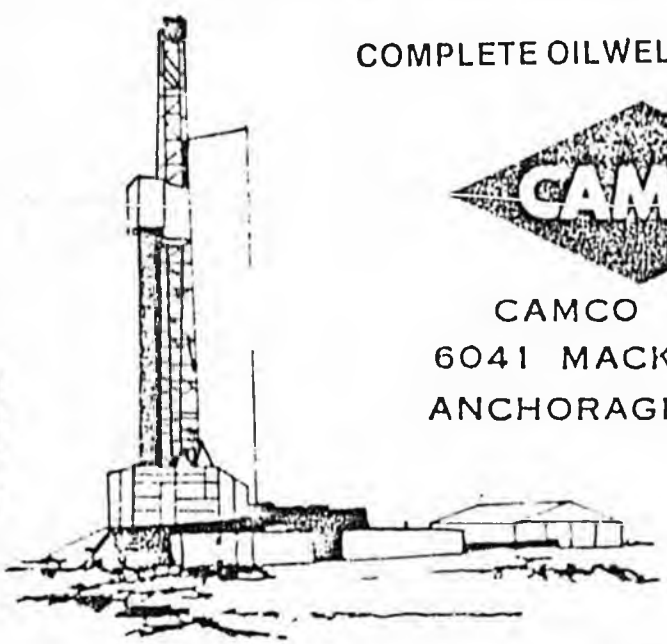

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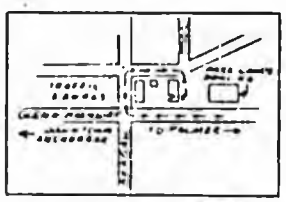

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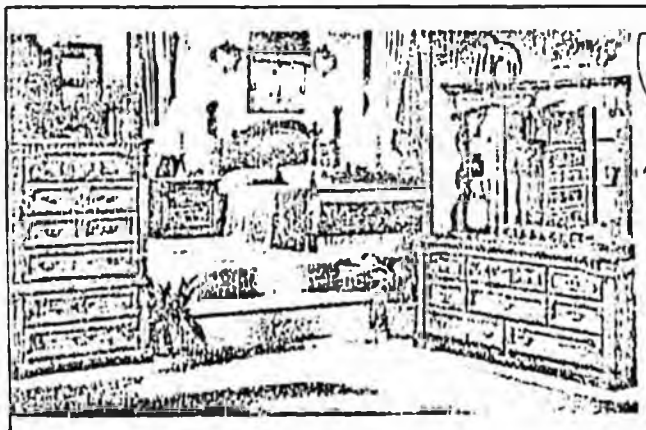

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oral, and nurturing rights to the child, but retains the right to continuing contact and to knowledge of the childs' whereabouts and welfare."[9]

Psychological Issues

The dilemma of conflicting "rights" and "needs", however, provides the backdrop for all efforts to revise sealed adoption records laws. While some take the position that "needs" are not to be equated with legal rights,[10] that issue will not be debated here. The adoption triangle, so well described by Sorosky, Baran and Pannor,[11] consists of three parties (five individuals usually) each with separate but intertwining needs—the biological or birth parent(s), the adoptee, and the adoptive parents. Meeting the need of the adoptee to know his origins, violates, in the minds of many, the need of the biological parent to maintain anonymity. It is also seen by some as violating the need of the adoptive parents to maintain distance between themselves and the biological parent. In the reverse, the need of the biological parents' need to remain anonymous violates the adoptees' need for information.

Attitudes of the parties to the adoption triangle regarding access to information are changing.[12] A survey undertaken in Alaska during 1980 by this author revealed that adoptees, biological and adoptive parents overwhelmingly believed adoptees should have access to non-identifying information. Over 80% of the adoptees and biological parents, and 65% of the adoptive parents believed identifying information (names) should be released if that person's consent had been obtained.[13]

Searching

It must be noted, that not all requests for information or "searching" are for the purpose of obtaining names and seeking reunion. The fact that Scotland (as well as England, Finland, and Israel) permits access to adoption records enabled Triseliotis in 1973 to inter-

view 70 Scottish adoptees who had requested information during 1969-70. About one-third only wanted background information.[14] Weidells' study of the results of the first 13 months of Minnesota's open records law also revealed requests for information on genetic history and birth relatives.[15] Court requests for access to records have also been made for everything from medical history to the establishment of inheritance.[16]

Adoptees who "search" in an attempt to locate biological parents do so for a variety of reasons. The completion of an identity, and the establishment of "wholeness" like everyone else seem to be the most universal motivation.[17] In almost every study done, female adoptees are much more desirous than male adoptees of learning more about their birth parents and more about their biological heritage and are more anxious to make contacts with the birth parents. It is suggested that women, as child bearers, are more concerned with their genetic heritage, are freer to acknowledge the complex feelings associated with adoptive status, are more likely to define themselves in terms of family, and may have more identity conflicts in our society."[18] Sorosky, et. al., also provide an excellent review of other research related to the psychological and social issues in adoption as they pertain to the various developmental stages in the life as an adoptee, male or female.[19]

Kadushin, after having reviewed the available research related to "searching", concludes that, "when adoptees meet their biological parents, in 80 percent of the cases or better, the meeting proves to be successful and satisfying to the participants."[20]

Federal Open Records Legislation

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Indian children—even though adopted—had a right to participation in their tribe prompted passage of the Indian Child Welfare Act by Congress in 1978. This act gives Indian adoptees 18 years of age or older access to information about the tribal affiliation of their biological parents.

Federal legislative efforts have generally centered on (1) a national registry system to facilitate contact between adoptees and biological parents, (2) a system of intermediary contact to obtain consents or (3) a release of all information on request. Because of the fact that many adoptions involve the laws of more than one state, "a proposal for such a federally sponsored but not necessarily federally operated-national adoptee-birthparent registry was introduced in the U.S. Senate in April, 1980 by Senator Carl Levin (D-Mich.). The proposal (S2561) died in committee."[21]

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State Open Records Legislation

During 1977, Connecticut and Minnesota became the first states to enact legislation, permitting access to identifying information with the consent of the person to be identified. North Dakota followed in 1979. Michigan passed such legislation in 1980 as did Florida and Nebraska, while Iowa amended its adoption statues to provide for the release of non-identifying a registry to facilitate reunions.[22]

Modeled generally after Minnesota and Connecticut, legislation to increase access to adoption records was introduced in Alaska in the 1980 legislative session by Representative Terry Gardiner (HB 792) and in the 1981 session by Senators Rodey, Sturgulewski, and Stimpson (SB 399) but neither bill has, as yet, passed. Both bills initially provided for:

1. Establishment of an intermediary system whereby the state would attempt to make contact with a biological parent to obtain a release of the original birth certificate when the adult adoptee had requested such information.
2. Establishment of a list of items (taken from Connecticut laws) constituting non-identifying information which could be released on request of the adult adoptee.

In addition to releasing non-identifying information, the 1981 version of the bill also included provisions for *gathering* specific non-identifying information (i.e. medical) and the attachment of such information to the original birth certificate. Adult adoptees would be provided such non-identifying information on request. Additionally the original birth certificate would be accompanied by an affidavit signed by the biological parent(s) which either granted or denied access to the original certificate by the adoptee upon her/his attaining the age of majority. Affidavits could be changed at any time.

The 1981 version of the bill was pending in the Senate Judiciary Committee at the conclusion of the 1981 legislative session, and will be carried over into the 1982 session when it is expected to receive additional attention.

The examination of Alaska's adoption statutes, prompted by the study of these bills, revealed that while present law clearly seals adoption records and prohibits the release of original birth certificates, the Bureau of Vital Records, within the Alaska Department of Health and Social Services, had promulgated regulations for itself which permitted release of original birth certificates. When this discrepancy came to light, legislative committees became extremely concerned about a governmental unit's authority to enable itself to act counter to the statutes.

As a result of this statute versus regulation, issue, debate on the bills expanded from consideration of whether or not to provide mechanisms for adult adoptees to learn their origins, and whether this provision was a valid function of government, to how to amend the law in order to control development of regulations which contradicted it. Concerns were also raised about state liability as the result of violation of privacy laws.

As of this writing (July 1981) the present version of the CSSB 399 does not contain a requirement that the State of Alaska establish an intermediary system whereby biological parents could be located and their consent obtained (or refused) for the release of the original birth certificate. Prohibition on the release of identifying information is maintained and the court is reaffirmed as the only avenue of gaining access.

CSSB 399 if passed, would, however, require certain non-identifying information and an affidavit permitting or denying access to the birth certificate to be attached to the certificate at the time of adoption. The non-identifying information would be available to the adult adoptee on request as would the certificate if the biological parent has consented.

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Conclusion

The fundamental issues of the adoptee's "right to know" versus the biological parents' "right to privacy" will not be resolved easily, but the debate will continue in 1982. Many believe that the creation of an adoption registry through which adult adoptees and biological parents willing to have their names released could register to locate each other may be at least part of the answer since no state intercession or mediation between the parties is required. Others contend that a mediator system is necessary in order to notify biological parents that their child wants to contact them and provide assistance to all parties.

The dilemmas in adoption will not be resolved by avoidance or by stubbornly clinging to the status quo. Only open debate and examination of the issues will further the "search" for answers. Alaska, like other states, is embarking on that journey.

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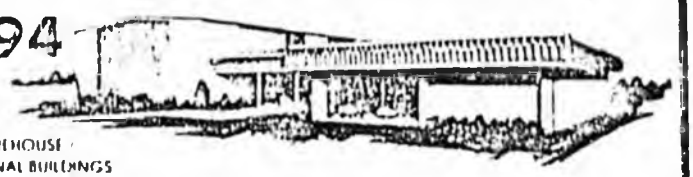
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Deletes the authority by regulation to disclose information concerning adoption or legitmation.

SECTION 2

Provides for access to adoption records and sets the procedure for the notifying of the biological parent. Permits the release of eight items of non-identifying information to adoptive parents and/or adoptees 18 years or older. Requires that after the effective date of the act the State shall provide the non-identifying information on a standard form. Requires that anyone placing a child for adoption after the effective date, provide the ten items on non-identifying information to the State Registrar. Requires that the Department of Health and Social Services attempt to obtain the ten non-identifying information items upon request for adoptions occuring before January 1, 1985. Requires maintenance of records.

SECTION 3

Consent to adoption forms must state the person's right to withdraw the consent and also that a copy of the consent form be provided to the person.

SECTION 4

Non-Identifying information shall be filed with the clerk of the court

SECTION 5

Clarifies language prohibiting release of identifying information on adoption

SECTION 6

Clarifies language on the release of information concerning disclosure or identity of adoptive children or adoptive parents.

SECTION 7

Adds the requirement for the inclusion of non-identifying information to the documents which must be provided to the court. Also adds the requirement of a statement that the biological parent is aware of the procedures of the release of adoption information

SECTION 8

Effective date clause

POSITION PAPER/Department of Health & Social Services

AMENDED POSITION PAPER
CSSS SB 241 (Jud) am

"An Act relating to adoption; and providing for an effective date."

CSSS Senate Bill 241 (Jud) amends the Vital Statistics Act and the adoption statute pertinent to access to adoption records and consent procedures. The Bill has the effect of denying persons adopted in Alaska prior to enactment of this Bill access to their original birth certificates, which is presently permitted by regulation. The Bill provides that, for adoption which occurred prior to January 1, 1985, the State Registrar may not release any information on the biological parent named on the certificate without that person's permission. However, it does allow for a biological parent to file a statement with the Bureau of Vital Statistics permitting access. This Bill reflects the view that the present practice does not protect the confidentiality of the biological parents since their names are made available without their consent or knowledge. While this position may have merit, persons adopted prior to the enactment of this proposed legislation would argue that since the State did not provide a mechanism for collection and retention of non-identifying information before January 1, 1985, they should not be denied access to the information which is presently on file, namely, the original birth certificate.

Even though the Bill provides a means of sending notice of the request by certified mail to the biological parents, the problem of what would happen if one parent agreed to disclosure and the other did not is not addressed.

The Division of Family and Youth Services receives numerous inquiries every year from parents who have relinquished a child and from adult adoptees wanting to locate their biological families. CSSS SB 241 (Jud), as written, would deny access to any identifying information, unless specific instructions are left on record by the biological parent. The national trend is moving more toward open adoption records. While the Division of Family and Youth Services would support the collection of non-identifying information it would recommend considering access to identifying information where available.

CSSS SB 241 (Jud) states the State registrar shall provide the adoptive parents and the adoptee who is age 18 years or older, certain non-identifying information, to wit: age of biological parent, nationality, ethnic background, race, health history, education, physical appearance, talents, existence of other children, religion and type of termination of parental rights. The Division of Family and Youth Services supports the collection of such information because it believes that such facts are necessary for an adopted person to have, as they are responsive to the human need to know "who I am".

POSITION PAPER/Department of Health & Social Services

AMENDED POSITION PAPER

CSSS SB 241 (Jud) am
PAGE 2

When the Division of Family and Youth Services is the agency involved in a placement, most of this information is collected, if available. All closed adoption files of the Division are on microfilm and total about 5,500.

CSSS SB 241 (Jud) makes it incumbent on the Commissioner of the Department of Health and Social Services to obtain this information on all other adoption placements, which include those made by private agencies and independent adoptions. The majority of the adoptions in Alaska are by private agencies or are independent. In 1983 the Division handled only one-sixth (1/6) of the total. In past years it was only one-ninth (1/9) of the total.

The Bill also amends the adoption statute to provide that a consent to adoption is not valid unless the consent form states that the person has a right to withdraw the consent and is provided with a copy of the consent. The Department would support the amendment.

RECOMMENDED BY: Michael L. Price, Director
for Michael L. Price, Director
Division of Family and Youth Services

DATE: 4-23-84

RECOMMENDED BY: Joan P. Brooks
Joan Brooks, State Registrar
Bureau of Vital Statistics

DATE: April 23, 1984

APPROVED BY: Robert London Smith, Ph.D.
for Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

DATE: 5/1/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: CSSS SB 241(Jud) am
Title: Relating to Adoptions

Sponsor: Kerttula
Requestor: Kerttula
Date of Request:

FISCAL DETAIL

Agency Affected: Dept. of Health & Social Services
Program Category Affected: Social and Economic Assistance for the General Population
BRU, Program or Subprogram(s) Affected:
Social Services BRU: Direct Service Delivery Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		50.4	52.9			
200 TRAVEL		5.0	5.3			
300 CONTRACTUAL		15.0	15.8			
400 SUPPLIES		.8	.9			
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		71.2	74.9			
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		71.2	74.9			
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY		2.0	2.0			

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Michael T. Price, Director
Division: Family & Youth Services
Phone: 465-3170
Date:

Approved by Commissioner: for Dr. Pym
Agency: Department of Health & Social Services
Date: 5/11/84

Distribution (by Agency preparing fiscal note):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

CSSS SB 241 (Jud) am

Assumptions

The Division of Family and Youth Services is assuming that the research work will take only two years with one Social Worker III and a half-time Clerk Typist II. This Division is involved in only about one-sixth of the adoptions in this State. The Social Worker III will need to travel to research the remaining five-sixths of the adoption records throughout the State. Travel, Contractual Services and Commodities are estimates. An inflation factor of 5% is used for the succeeding year.

Program Summary

Positions: There will be two positions necessary to do the research work, one full-time Social Worker III and a part-time Clerk Typist II.

Other Expenditures:

Travel will be necessary for the Social Worker III to research the adoption files in each district court.

Contractual services will be necessary to cover the costs of duplication and lease of equipment.

Commodities will be necessary for clerical/office supplies.

Funding: The funding will be from general funds.

Computations

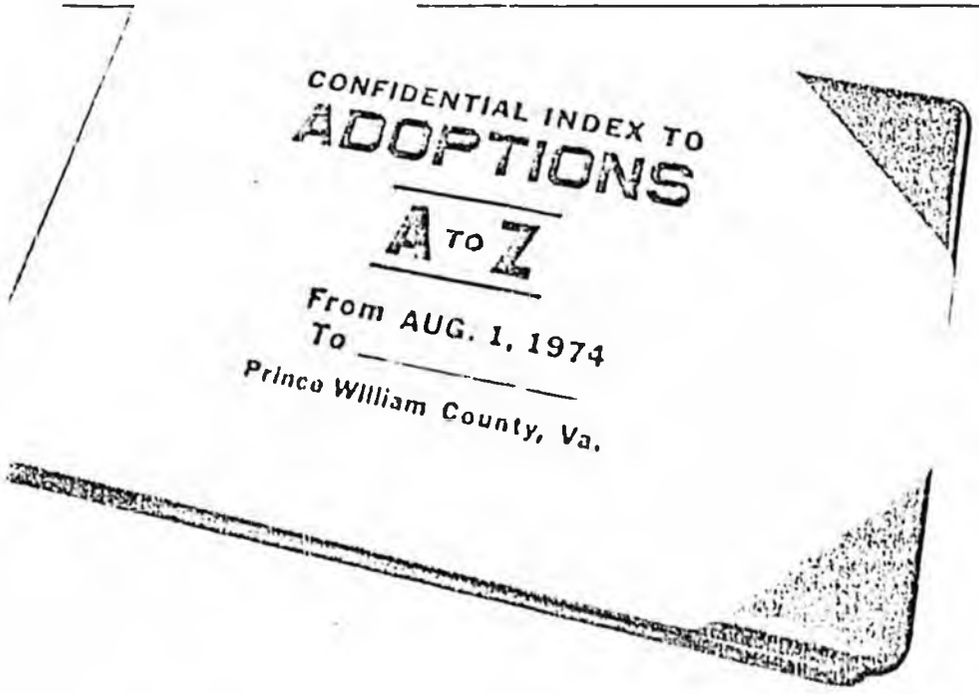
Travel is computed at an average trip cost of $840 for six trips.

Contractual services is computed at $7,000 for equipment rental, $3,000 for telephone and postage, $4,000 for printing and copying charges and $1,000 for miscellaneous expenses.

Commodities is computed at $400 per position.

Discrimination Against the Adoptee

BY JOANNE W. SMALL



Only adoptees are denied their genealogy by law. Likewise, only adopted citizens are issued a birth certificate that represents a legalized fraud.

Joanne W. Small, M.S.W., is a founder of Adoptees in Search (P.O. Box 41016, Bethesda, Maryland 20014), an organization that supports the opening of adoption records to adult adoptees. She is an adoptee and has been successful in finding her birth family.

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[T]here are certain rights which belong to a man independent of his position in a civil society. Since society does not bestow these rights, it cannot justifiably take them away . . . such rights are inalienable.

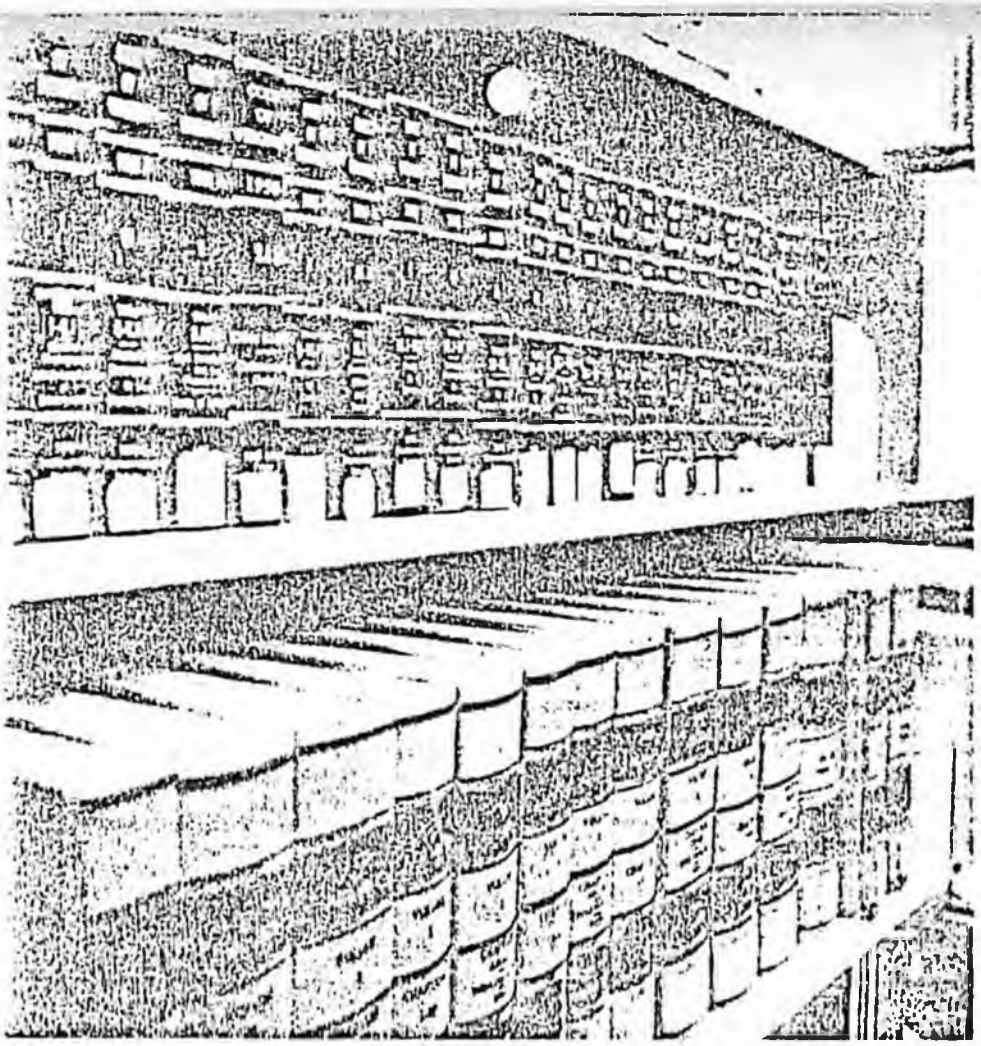
—Edward H. Madden, "Civil Disobedience"

Within the next five years an estimated one half million adopted children in the United States will attain majority.[1] They will have achieved the right to vote, to marry without parental consent, and to enter into contracts. They will have attained full adult status in every respect except one. These same adult citizens will be deprived of the right to direct access to information concerning their genetic heritage, their ethnic background, their biological parentage, and their name—all in accordance with American adoption policy which is sanctioned by law and instituted to protect them as children. The scope for this policy extends to almost every adopted person—child or adult—whether they are adopted by relative or nonrelatives, and whether they are adopted as children or as adults.

In the 1940s states began to enact legislation designed to keep an adoptee's biological origins confidential by sealing their birth and adoption records and issuing new birth certificates on which the names of the adoptive parents were substituted for the names of the biological parents. The amended certificate became the only proof of birth available for public inspection. Access to the original birth certificate could be gained only by court order and for "good cause." But such court orders are rarely granted: courts are reluctant not to follow legislatively established mandates.[2]

One purpose of the sealed records laws, which were made to apply retroactively, was to remove the stigma of illegitimacy from the public record.

Adult adoptees are the victims of discrimination. In all but seven states adult adopted citizens are currently denied access to their original birth record when all other citizens have that right.



A 1977 study indicates that the sealed records laws have been successful. Of those adult adoptees surveyed, a sample possessed virtually no information concerning their genetic origins.

Yet, prior to the 1940s there was no sealed records policy. Undoubtedly, most children adopted before World War II were born out of wedlock. The fact that sealed records are a relatively recent phenomenon is confirmed by the fact that adopted persons who are now in their thirties represent the first generation to have had their birth records sealed at adoption.

A 1977 study indicates that the sealed records laws have been successful. Of those adult adoptees surveyed, a sample possessed virtually no information concerning their genetic origins. Adult adoptees reported that they knew an average of three out of twenty-two items of information concerning their national, ethnic, and religious backgrounds as well as the physical, occupational, health, educational, or personality characteristics of their genetic forebears. It was clear that the question, "Who am I?" could not be answered by adoptees in terms of their genetic identity.[3]

The rationales underlying the enactment of the original sealed records legislation are increasingly being called into question. Yet, many state legislatures are refusing to pass proposed legislation that would allow adult adopted citizens direct access to their original birth records at the age of majority. When open records legislation was enacted in Minnesota in 1978, the principle of granting adult adopted citizens the right to direct access to their original birth records at majority was compromised: the adult adoptee's biological parents were granted an ascendant right to a veto. Such a restriction is analogous to compromising a citizen's right to vote by requiring payment of a poll tax or passing a literacy test.

Discrimination is defined as making a distinction ". . . in favor of or against a person or thing on the basis of the group, class, or category to which the person or thing belongs, rather than according to actual merit."[4] Adult adoptees are the victims of such discrimination. In all but seven states adult adopted citizens are currently denied access to their original birth record, and, consequently, to knowledge of their genetic origins when all other citizens have that right. That is discrimination.

The estimated five million adoptees in the United States comprise a minority, a "social group in some way distinct from the dominant, more influential group in the society."[5] It is the fact of having been adopted, or having become members of a family through a legal rather than a biological process, that distinguishes adoptees from the dominant, non-adopted population. A person does not generally choose to become a member of the adoptee minority; membership is usually attained by means of a legal process in which the person involved has had no voice.

Why Most Adoptees Choose to Remain Closeted

Adoptees are not highly visible, as are members of some minorities, e.g., blacks, Indians, hispanics. It is their status, not their color or ethnicity, that sets them apart. They are stigmatized by negative attitudes toward illegitimacy whether they were born "illegitimate" or not. The media have contributed substantially to raising public consciousness concerning matters of adoption within the last couple of years. There have been reports of court cases, legislative activities, adoptee activist groups, stories of searches for genetic roots, and dramatizations portraying the

personal concerns for identity as in *Roots* and *Superman*. The vast majority of adoptees, however, chooses to remain closeted. The following examples tell why.

A happily married father of four and editor of a national magazine had just discovered, at the age of forty-five, that he had been adopted in infancy. He reacted with feelings of shock, anger, disbelief, and disconnectedness. The news created for him an identity crisis of major proportion. Fortunately, he had read about Adoptees in Search in the *Washington Post* only a month before his discovery. Such a group that might be able to help him unravel the mystery of his origins appeared to him as nothing less than a lifesaver.

This man chose to tell only a few of his closest and dearest friends of his unhappy discovery, or, to put it another way, of his newfound status, for he had become, through a momentary slip of his elderly aunt's tongue, an adoptee. And what was the reaction of these few, longtime friends? It went something like this: "Oh, gee, John. What a surprise. Well, look, it's really ok. . . . That is . . . we mean . . . we still like you."

During an interview for a program on adoption, a Silver Spring, Maryland radio announcer confessed that when he was a child, the cruelest, the most devastating, the worst possible thing that he could think to do to get even with his sister was to tell her that she had been adopted. As a matter of fact, she was not adopted.

Standing before the Maryland legislature a year ago, an impassioned state senator, motioning toward a group of adopted adult citizens who had come to testify as proponents of open records legislation, vehemently declared that adoptees had sordid origins; that a number of these "kids" were "born as a result of incest, murder, rape, and robbery"; that the damage done by opening records could be "astronomical." In apparent agreement with his viewpoint, another senator stated that there could be no question that where babies were given up for adoption, some of the facts are very grim, that there can be no excuse for disrupting a family years later by resurrecting the grim facts.

> Adoptees are stigmatized by negative attitudes toward illegitimacy whether they were born "illegitimate" or not.

Last fall, a major District of Columbia newspaper editorialized that placing a child for adoption seldom, if ever, is a matter that does not involve grievous personal burdens, guilts, and apprehensions, and that birth mothers who have made so painful a decision ought not to have to confront this "terrible circumstance" in the future.

Even some adoptive parents seem to demean their adopted children. The president of a local private adoption foundation, an adoptive parent, said, "I am opposed to efforts . . . to open adoption records . . . without minimal safeguards, such as screening the motives of the adoptees. . . . Giving a hunting license usually portends ill for the quarry."

A few years ago, a national magazine carried an article by a child psychologist, an adoptive parent, who had written a number of United States government pamphlets advising adoptive parents on a variety of adoption subjects. She declared that adult adoptees who search appear to lack impulse control, not unlike thieves. In the same vein, a young lawyer testified that records ought not to be opened to adult adoptees: there might be an adoptee who would use that information to find and murder his biological parent.

A District of Columbia City Council member and a Maryand state senator, both adoptive parents, are credited with leading the opposition that killed open records legislation in these jurisdictions. Legislators report also that some adoptive parents have registered their opposition to open records legislation, frequently citing the privacy of the birth parent as their basis of concern.

A colleague and fellow adoptee recently sought nonidentifying family background information from a Catholic adoption agency. She was subjected to an hour-and-a-half interview. Sensitive as to the nature of the worker's questions, she finally asked the worker, "Are you giving me a mental status exam?" "I would if I could," answered the worker.

The District of Columbia City Council has even considered raising the age of majority of its adopted citizens from eighteen to thirty-five. It was also proposed that before adult citizens born and adopted in the District of Columbia could view their original birth certificate they would first have to obtain the permission of both adoptive parents and both birth parents regardless of their age and status. It was also suggested that adult adopted citizens seeking birth records and information in the District of Columbia must be in need of psychological counseling. The messages communicated were blatantly discriminatory. One can only wonder whether society really is safe with adoptees on the loose.

The Roots of Attitudes Toward Adopted Persons

The above examples reflect the views of legislators, lawyers, mental health professionals, adoption social workers, media personnel, and the man on the street. They represent extremely negative, hostile, and punitive attitudes toward adopted people. They seem to spring from deeply held religious, sexual, economic, and social values that have their roots in sixteenth century England. Pinchbeck and Hewitt describe the transition in public attitudes:

> [U]ntil the sixteenth century, bastardry had not been thought of as any great shame. Men took care of their bastards, were indeed often proud of them, and in many cases brought them home to their wives or mothers to be brought up. Children born out of wedlock were thus found to be

growing up in their father's house with their half-brothers and sisters without a hint of disgrace either to themselves or to their natural parents.[6]

The Poor Law of 1576 indicates a substantial shift in attitude:

> First, concerning Bastards begotten and born out of lawful Matrimony (an Offence against Gods law and Mans Lawe) the said bastards now lette to be kepte at the chardge of the Parishe where they bee borne, to the greate Burden of the same Parishe and in defrauding of the Reliefe of the impotent and aged true Poor of the same Parishe, and to the evil Example and Encouradgement of lewde Lyef. . . .[7]

The association of adoption with illegitimacy is not without substance. Illegitimate children have been, by far, the principal source of children for adoption by adults to whom they were not biologically related. In fact, the Children's Bureau of the U.S. Department of Health, Education, and Welfare estimates that in the early 1970s illegitimate children accounted for 87 percent of all nonrelative adoptions. The circumstances of the child's origins and relinquishment, it seems, are seen as so undesirable that the information must be locked away—and for all time. The societally sanctioned sealing of birth and adoption records perpetuates discrimination against a minority. The very fact of sealing records reinforces the enduring and widespread public notions about adoptees. The prejudice and stereotypes generated and sustained by those attitudes are extremely resistant to modification or eradication.

A syndicated columnist recently wrote, "The image of the unwed father was always a seedy one. He was a man who skipped town one step ahead of the shotgun. He left behind a woman 'in trouble,' and a child who grew up a swearword."[8] Another author wrote, "Many of the children given up for adoption are illegitimate, and many more are born to teenage mothers ill-equipped to care for them." These mothers "should have a chance to build a new life without remaining vulnerable to possible embarrassment and recrimination," and "may not care to be confronted with [their] shame decades later."[9] Continuing public association of adoption with swearwords and shame can only reinforce existing prejudice.

> In most states adults adopted as children remain forever children in terms of adoption law and practice.

A major problem for adopted persons is that legislation and practice have failed to take account of the fact that children grow up. In most states adults adopted as children remain forever children in terms of adoption law and practice. As adults, adoptees ought not to be subjected to legislation enacted to protect them as children. Nor should these adopted adults continue to be referred to by the media as "adopted children."

Adoptees Are Stigmatized As Being Different, Inferior

Arguments that deny an adult adopted citizen direct access to his or her original birth record—arguments attesting to need for confidentiality, protection, freedom from shame of illegitimacy and questionable origins, etc.— become rationalizations in defense of discrimination. The adoptee becomes identified with a group that is stigmatized not only as different, but inferior. Paradoxically, the primary recipient of adoption services, the individual whom the adoption establishment exists to serve, finds himself or herself in an adversary role when asking for that which is granted to all nonadopted persons.

It is important to understand that the state, in accordance with the principle of *parens patriae*, is parent to all children and is obligated to protect its children through the exercise of legislative and regulatory powers embodied in adoption statutes and regulations.[10] Statutes providing for the issuance of new birth certificates and the sealing of the original records were based on recommendations of adoption workers. These recommendations provided the basis for the standards set by the Child Welfare League of America in 1938.[11] The social agencies and the courts represent the state in carrying out their protective roles through child welfare services and functions. Thus the state has founded and maintains an adoption "establishment." Social agencies, courts, and special interest subgroups represent the establishment—the "in group."

Many who make their living off the adoption industry seem to be threatened by suggestions, criticisms, and demands of those who must live within the adoption system. A number of adoption agency representatives and special interest subgroups (professionals rendering adoption-related services) argue that release of birth records to adult adoptees would increase abortions and decrease adoptions. Such arguments, unsubstantiated in open records states, appear to be directed toward maintenance of personal and/or institutional livelihood.

Arguments that deny an adult adopted citizen direct access to his or her original birth records, i.e., protection of birth and adoptive parents and confidentiality, actually seek to protect the perceived interests of the establishment at the expense of the adoptee—the primary client of adoption services. These arguments enable

> Arguments that deny an adult adopted citizen direct access to his or her original birth record become rationalizations in defense of discrimination.

The societally sanctioned sealing of birth and adoption records perpetuates discrimination against a minority.

the "in group" to maintain control over the adoptee minority: to keep them "in their place," retained in a secondary position, dependent on and subject to agency authority. Yinger says that "critical to the whole idea of social discrimination is the fact that it is embedded in social structures and sustained by group practices."[12]

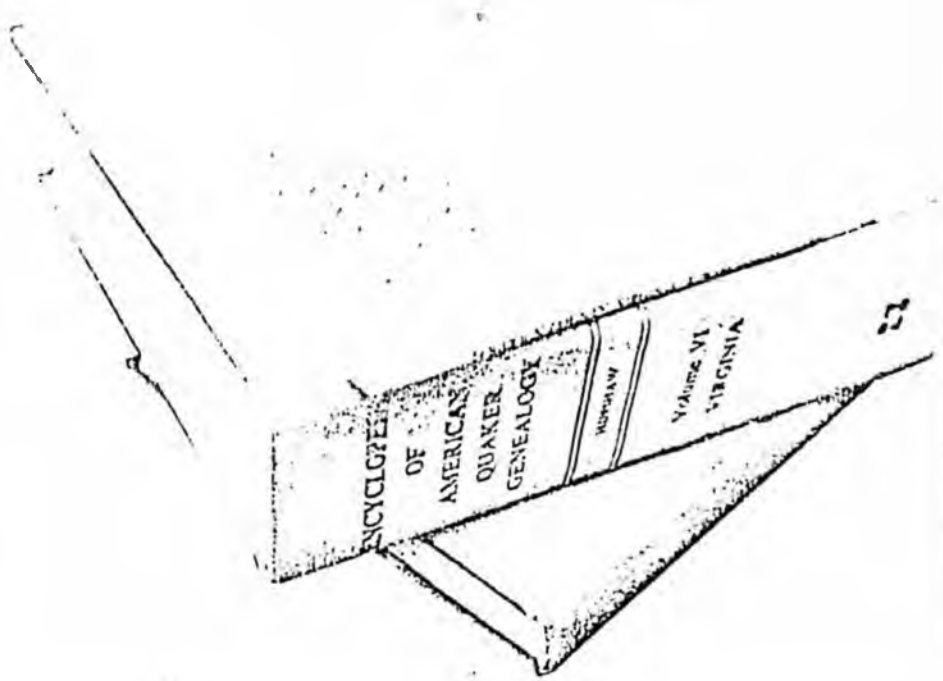
The adoptive status carries with it social disgrace, disapproval, and legally sanctioned discrimination that, in effect, deny first-class citizenship to adopted persons. Only adoptees are denied their genealogy by law. Likewise, only adopted citizens are issued a birth certificate that represents a legalized fraud.

An adoptee is the product of the adoption industry which bestows special rights on adoptive and birth parents. In becoming a product, certain rights are abrogated for the adoptee: the right to one's birth name and the record of one's birth.

The denial of this basic right is not appreciated by such as the District of Columbia council member who said of open records legislation:

> [It] is lopsided to the pinnacle of selfishness. The stated primary aim of the bill is to afford adult adoptees the opportunity "to determine their self-identity for purposes of self-fulfillment. . . ."
>
> The selfishness of this is blatantly horrible. The members of the council should recognize this bill for what it is: legislation to give a small group of people with selfish interests what they want—whatever that is.[13]

These kinds of remarks illustrate the reactions elicited when adult adoptees seek to obtain what all others already possess.



At one time few people identified differential treatment of blacks as discrimination. If we were to delete the word "adoptee" from proposed open records legislation—especially where it includes provisions for veto by biological and/or adoptive parents, for psychological counseling, for waiting periods, for advanced age of majority, etc.—and insert the word "Jew," "black," "Indian," "Catholic," or "woman" in its place, more people might understand why many adult adopted citizens object so strongly to such proposals.

Arguments put forward to deny adult adopted citizens that which all other citizens have—direct access to their original birth records and the right to know their origins—are rationalizations in defense of discrimination.

PW

Notes and References

1. Ursula Gallagher and Adelle Rasock, private interview with author held at U.S. Department of Health, Education, and Welfare, Children's Bureau, Washington, D.C., March, 1975.

2. Maryland, Senate, Judicial Proceedings Committee, Hearing on Senate Bill No. 837, position paper "Adult Adoptees Sealed Birth Records" by Joseph Harrington, Joseph Saba, and Judith Folkenberg presented by Adoptees in Search, Inc., at Annapolis, Maryland, March 6, 1979.

3. Joanne W. Small, "A Comparison of Genetic Identity Indicators Between Adopted and Non-Adopted Adults" (Master's thesis, The Catholic University of America, 1977), p. 54.

4. *Random House Dictionary of the English Language*, unabridged ed., s.v. "discrimination."

5. David Dressler, *Sociology: The Study of Human Interaction* (New York: Alfred A. Knopf, 1969), p. 516.

6. Ivey Pinchbeck and Margaret Hewitt, *Children in English Society* (London: Kegan Paul, Trench, Trubner & Co., 1969), p. 301.

7. Ibid., pp. 206-220.

8. Ellen Goodman, "A New Look at Adoption," *Washington Post*, 20 February 1979, p. A15.

9. Marianne Means, "Keep Records Closed on Child Adoption," New York: King Features Syndicate, 1978.

10. Alfred Kadushin, *Child Welfare Services* (New York: Macmillan, 1974), pp. 11-12.

11. Harrington, Saba, and Folkenberg, "Adult Adoptees Sealed Birth Records."

12. J. Milton Yinger, "Prejudice: Social Discrimination," in *International Encyclopedia of Social Sciences*, vol. 12, ed. by David L. Sills (New York: Macmillan, 1968), p. 449.

13. Willie L. Hardy, "Pinnacle of Selfishness," *Washington Post*, 24 April 1979, p. A18.

March 2, 1984

Mae Tisher
Pouch V
Juneau, Alaska 99811

Dear Ms. Tisher:

As a constituent in your district, I am hoping you will support and move CSSB 241. I feel adult adoptees deserve to have rights to their records and this bill will help balance out other legislation regarding adoptees. Please move this bill which will resolve the dilemma of adoption records once and for all. Thank you.

Sincerely,

Carol Sullivan

Carol Sullivan
3332 Iliamna Ave.
99503

February 24, 1984

Representative Mae Tischer

Pouch V

Juneau, Alaska 99811



Dear Representative Tischer,

CSSB 241 which is now before the House Health, Education and Social Services Committee addresses a crucial need on the part of adult adoptees for information about themselves. Further it provides realistic balances between the rights of adoptees and the rights of biological parents. Section 7 also corrects the problem adult adoptees find themselves in presently by establishing mechanisms for maintainence of information for adoptions which take place in the future.

CSSB 241 deserves your support. I urge you to hear the Bill as soon as possible and to move it on to the House Judiciary Committee in the very near future.

Thank you for your attention to this important legislation.

Sincerely,

Cecilia Kleinkauf

Cecilia Kleinkauf, MSW,ACSW

Associate Professor of Social Work

University of Alaska, Anchorage

3221 PROVIDENCE DR.

ANCHORAGE, ALASKA 99508

786-1725 or 786-1714

cc. Representatives Uehling, Pestinger

Martin

Senate Judiciary Committee
Letter of Intent

CSSSSB 241 (Judiciary)

It is the intent of the Judiciary Committee that the right of privacy of the biological parents of an adopted child shall be recognized as preferential when said parent or parents have consented to an adoption, as contra-distinguished from the adopted person's "right to know." Furthermore, it is the intent of the committee, when requests for identifying information are made by an adopted person, that notice of such requests must be given each biological parent insofar as possible. However, on behalf of an adopted person who is seeking genealogical identification of his or her biological parents, this legislation provides - and this committee intends - that such information may be divulged provided that no objection to the release of the same has been filed by that biological parent.

Bill Ray

Senator Bill Ray, Chairman
Senate Judiciary Committee

Adopted 1/25/84

603 West 12th
Juneau, Alaska 99801

May 3, 1983

Senator Bill Ray, Chairman
Members, Senate Judiciary Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Chairman and Members of the Committee:

Because I may be unable to attend the meeting tomorrow, I have requested Jan Ivey to deliver this letter concerning SSSB 241 and I would appreciate having it read into the record.

It is obvious that much careful thinking and craftsmanship have gone into the development of this legislation. As an adoptive parent, I particularly appreciate the care that has gone into the development of Sec. 18.50.500 (c), providing for a substantial amount of information to be made available to adoptive parents and adoptees. However, I am very concerned about the provisions of Sec. 18.50.500 (a), which provide for the sealing of adoption records.

I can well understand the distress and concern on the part of biological parents which must have led to the inclusion of this section in the legislation. People who have made the very painful decision to part with a child have often done so in part because of the fear of society's rejection of them for an "error" in either morals, judgment, or caution. The fear of having this painful episode in their pasts "catch up" to them is real and is understandable. Nonetheless, they <u>are</u> parents; having relinquished a child does not wipe out the reality that they have borne or fathered a child. And that fact sets a chain of events in motion which may include a communication from or meeting with that child 18 years down the line. Those of us who are parents of adoptees have an absolute responsibility to teach our children the importance of respecting the rights, feelings, and confidentiality of our children's bio-parents. We owe these first parents that and must make every attempt to pass that caring on to our children. But our children have a right, if it is important to them in adulthood (and it is neither a sign of failure nor of success of the adoption if they decide to seek their bio-parents) to have access to that very significant information about their own lives. It's wonderful to provide adoptees with information about their bio-parents appearance, heritage, hobbies, etcetera. But knowing that your bio-father played the guitar or your mother was a basketball captain does not answer the question "who was he? who was she?".

I am particularly concerned about the fact that this legislation is written so that action is required on the part of bio-parents in order to allow access to information so that in fact it will take an active step by bio-parents to allow their children to have access to this information. This further weights things against the adopted child who reaches the age of majority and desires the information. If his or her bio-parents never heard of this legislation or never got around to filing a certificate, the case is closed.

I just read this bill today, so I have not had time to carefully research or document my thinking about the rights of adoptees. I believe there is a whole body of research and study on this very controversial subject, and my recollection is that most states are moving toward more openness rather than closure of records. I believe that England has for ten years or more had a procedure which allows adoptees access to their adoption records when they have reached the age of majority. I want our Alaskan adoptees to have the same right.

I will close by explaining that I am an adoptive mother. My daughter will have access to the information on her biological parents regardless of the action taken on this bill, because we have the information for her already and will provide it to her when she is older. My husband and I plan to adopt again, however, and have many friends who have adopted children or are adoptees, and for all of those people we believe it is important that there be access to original adoption records. I have also discussed this with friends who have relinquished children, and although reactions are mixed (fear, excitement, curiosit desire to "just forget", worry about adoptee's reaction), the three people I talked with acknowledged the right of their children to this information. I hope that the members of this committee will also acknowledge that right and amend SSSB 241 accordingly.

Sincerely,

Susi L. Gregg-Fowler

plication to State Organization Act of 1959, onferred by ch 64 SLA 1959 is subject to this ch 1) ch 143 SLA 1959)

ot possible to 64 SLA 1959 rule-making scattered ever, most of part 2 of this

ort. — For original bill, 394-397. the Alaska laska State Op. No. 793 (1972). e adhered exclusion of ty from the ASHA is bound to adhere to the provisions of this chapter. ASHA's separate corporate nature does not detract from this conclusion. The legislature may have had a special reason for choosing the corporate vehicle; e.g., to insulate the state from potential liabilities. Alaska State Housing Auth. v. Dixon, Sup. Ct. Op. No. 793 (File No. 1529), 496 P.2d 649 (1972).

Cited in Pan American Petroleum Corp. v. Shell Oil Co., Sup. Ct. Op. No. 553 (File No. 918), 455 P.2d 12 (1969); Coghill v. Boucher, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973); In re Application of Sullivan, Sup. Ct. Op. No. 1274 (File No. 2783), 551 P.2d 531 (1976).

Am. Jur. 2d reference. — 1 and 2 Am. Jur. 2d, Administrative Law, § 1 et seq.

ority to adopt, administer, or enforce

the authority conferred upon the lieutenant — 44.62.170, AS 44.62.010 — 44.62.320 do or augment the authority of a state agency enforce a regulation. To be effective, each e within the scope of authority conferred and ards prescribed by other provisions of law. A 1959)

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Attorney general could not save provisions of former AS 30.25 from unconstitutionality under Alas. Const. art. IX, § 7, by directing promulgation of regulations inconsistent with statute. — See Chevron U.S.A., Inc. v. Hammond (A77-195 Civil), F. Supp. (D. Alas. 1978).

Judicial review of administrative regulation. — Where an administrative regulation has been adopted in accordance with the procedures set forth in the Administrative Procedure Act, and it appears that the legislature has intended to commit to the agency discretion as to the particular matter that forms the subject of the regulation, the supreme court will review the regulation in the following manner. First, it will ascertain whether the regulation is consistent with and reasonably necessary to carry out the purposes of the statutory provisions conferring rule-making authority on the agency. This aspect of review insures that the agency has not exceeded the power

delegated by the legislature. Second, the supreme court will determine whether the regulation is reasonable and not arbitrary. This latter inquiry is proper in the review of any legislative enactment. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Standard of review. — This section and AS 44.62.020 provide guidance as to the standard of review for regulations adopted pursuant to an administrative agency's quasi-legislative rule-making function. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Sec. 44.62.030. Consistency between regulation and statute. If, by express or implied terms of a statute, a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent with the statute and reasonably necessary to carry out the purpose of the statute. (§ 5 art I (ch 1) ch 143 SLA 1959)

Statute prevails over conflicting regulation. — The statute delegating its law-making power to government agencies to make law through regulations defines the agency's authority to promulgate regulations and thus if there is a conflict between the statute and a regulation, the statute prevails. Chevron U.S.A., Inc. v. Hammond (A77-195 Civil), F. Supp. (D. Alas. 1978).

Attorney general could not save provisions of former AS 30.25 from unconstitutionality under Alas. Const., art. IX, § 7, by directing promulgation of regulations inconsistent with statute. — See Chevron U.S.A., Inc. v. Hammond (A77-195 Civil), F. Supp. (D. Alas. 1978).

Regulation accorded presumption of validity. — An administrative regulation must be accorded a presumption of validity, and the challenger of the regulation must demonstrate its invalidity. Union Oil Co. v. State, Sup. Ct. Op. No. 1563 (File No. 2650), 574 P.2d 1266 (1978).

Judicial review of administrative regulation. — Where an administrative regulation has been adopted in accordance with the procedures set forth in the Administrative Procedure Act, and it appears that the legislature has intended to commit to the agency discretion as to the particular matter that forms the subject of the regulation, the supreme court will review the regulation in the following manner. First, it will ascertain whether the regulation is consistent with and reasonably necessary to carry out the purposes of the statutory provisions conferring rule-making authority on the agency. This aspect of review insures that the agency has not exceeded the power delegated by the legislature. Second, the court will determine whether the regulation is reasonable and not arbitrary. This latter inquiry is proper in the review of any legislative enactment. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

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Article 2. Submission, Filing and Publication of Regulations.

Section	
40.	Submitting regulations
50.	Style and forms
60.	Preparation and filing
70.	Fees
80.	Endorsement and file
90.	[Repealed]
100.	Presumptions from filing
110.	Presumptions from publication
120.	Voluntary submitting and publication
125.	Regulations attorney

ADMINISTRATION PAPER/Department of Health & Social Serv

"An Act relating to adoption; and providing for an effective date."

Senate Bill No. 241 amends the Vital Statistics Act and the adoption statute pertinent to access to adoption records and consent procedures. The Bill has the effect of denying persons adopted in Alaska prior to enactment of this Bill access to their original birth certificates, which is presently permitted by regulation. The Bill provides that, for adoption which occurred prior to January 1, 1984, the State Registrar may not release any information, on the biological parent named on the certificate without that person's permission. However, it does allow for a biological parent to file a statement with the Bureau of Vital Statistics permitting access. This Bill reflects the view that the present practice does not protect the confidentiality of the biological parents since their names are made available without their consent or knowledge. While this position may have merit, persons adopted prior to the enactment of this proposed legislation would argue that since the State did not provide a mechanism for collection and retention of non-identifying information before January 1, 1984, they should not be denied access to the information which is presently on file, namely, the original birth certificate.

The Division of Family and Youth Services receives numerous inquiries every year from parents who have relinquished a child and from adult adoptees wanting to locate their biological family. Senate Bill 241, as written, would deny access to any identifying information, unless specific instructions are left on record by the biological parent. The national trend appears to be moving more toward open adoption records and for older children, the biological parent often remains active in his child's life, even after parental rights are terminated. While the Division of Family and Youth Services would support the collection of non-identifying information it would recommend considering access to identifying information where available.

For adoptions occurring after January 1, 1984, information on the biological parents including race, physical characteristics, religion, health history, and existence of another child or children will be collected, and this non-identifying information may be provided to adoptive parents and to adopted persons 18 years of age or older. The Bill also recommends that information be collected on the legal relationship, if any, between the biological parents. The Department would question whether it is necessarily in the best interests of the child to collect this information (for example, when the child is the result of an incestuous relationship) and would recommend removal of that item.

Minor changes are also recommended in three additional areas:

- Page 2, line 3: "prepared by the commissioner" be removed to make the Bill consistent with other areas of AS 18.50. The Registrar of Vital Statistics would normally be the person with the responsibility for preparing new forms.

Page 3, line 12: "and a person..." be changed to "or a person..." as it is necessary for only one of the sources mentioned to provide necessary information to the State Registrar.

Page 3, lines 18 and 19: omit the words "request the commissioner" to make the sentence more consistent with present procedure.

The Bill also amends the adoption statute to provide that a consent to adoption is not valid unless the consent form states that the person has a right to withdraw the consent and is provided with a copy of the consent. The Department would support the amendment.

RECOMMENDED: _____
Michael L. Price, Director
Division of Family and
Youth Services

DATE: April 27 1983

RECOMMENDED: _____
Joan Brooks, State Registrar
Bureau of Vital Statistics

DATE: April 27 1983

APPROVED BY: _____
for Robert London Smith, Ph.D.
Commissioner

DATE: May 6, 1983

OPINION PAPER/Department of Health & Social

STATE OF ALASKA

FISCAL NOTE | Revision Date

I. REQUEST

Bill/Resolution No.: ssSB 241

Title: Adoptions

Sponsor: Kerttula

Requester: Kerttula

II. FISCAL DETAIL

Agency Affected: H&SS

Program Category Affected:

ORU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY ...
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: [illegible] for Michael Pierce Phone: 465-3170

Division: Family and Youth Services Date: 4/27/83

Approved by Commissioner: [signature] Date: 5/6/83

Department: DH&SS

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (For legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

Copy to Requester (if different from Sponsor)

3/

February 28,1984

Carol Johnson, ACSW
4113 Jack Street
Fairbanks, Alaska 99701

Mae Tischer - Representative
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer,

This letter is sent in support of Senate Bill 241 and House Bill 427 both of which address the issue of adoption.

Senate Bill 241 is one of the most comprehensive bills in relation to adoption which I have seen. It provides for non-identifying background in information to be given to adult adoptees. All adoptees should have access to it if they wish. Bill 241 also allows for consenting adult adoptees and birth mothers to find each other by attaching their names and current addresses on the original birth certificate (in sections 18.50.500 (d) and (e)).

I am, however, confused about 18.50.500 (a) in which identifying data appears to be available to an adult adoptee "if certified mail.....is returned to the state registrar undelivered." Does this mean that if the biological parent has moved (perhaps 10 or 15 years earlier) and the registrar doesn't have the current address, that the biological parent has no choice in the matter? Or can the stipulation of the "written objection from a biological parent" be one which was written and filed with the registrar at or after the time of relinquishment? I favor granting the biological parent more latitude in filing her (or his) objection to such disclosure.

House Bill 427 provides that home studies be completed prior to the placement of a child in an adoptive home. This bill is important because of the emotional trauma which could happen to all parties if a child is placed in a home which is later found to be unsuitable, resulting in the subsequent removal of the child. The State Dept of Family & Youth Services can provide the court with a list of agencies and individuals who are well qualified to complete these studies.

Thank you for consideration of these matters.

Very Truly yours,

Carol Johnson

Carol Johnson, ACSW



4505 Dredge Lake Rd.
Juneau, Alaska 99801
April 13, 1984

The Honorable Mae Tischner
Chairwoman - House HESS
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischner:

I am opposed to CSSSSB 241 (Jud) am, an act relating to adoption, because it will restrict my adopted son's access to his original birth certificate which names his biological parents.

I offer you solutions to this problem and the many others this bill generates. Please see the testimony which I plan to present before your committee when you hold a public hearing.

There is no great urgency to pass this bill because the present process of adult adoptee access to the original birth certificate is legal, is working well, and the law does not need changing. Non-identifying information is already being gathered by Health and Social Services.

I urge you NOT to calender this bill unless you and all members of the HESS committee have the time and interest to study all the issues carefully. It is better for all adoptees to let this bill die in your committee than to pass it out as now written.

Thanking you,

Joyce E. Lanier

Joyce E. Lanier
586-7701 (office)
789-0515 (home)

Encl:
Testimony
letter from Jud Lanier
letter from Attorney General
applicable statutes & regulation
CSSSSB 241 (Jud) my changes marked

Testimony on CSSSSB 241 (Jud) am, an act relating to adoption
by Joyce Lanier 4505 Dredge Lake Rd., Juneau, AK 99801
12th Legislature 2nd session 1984

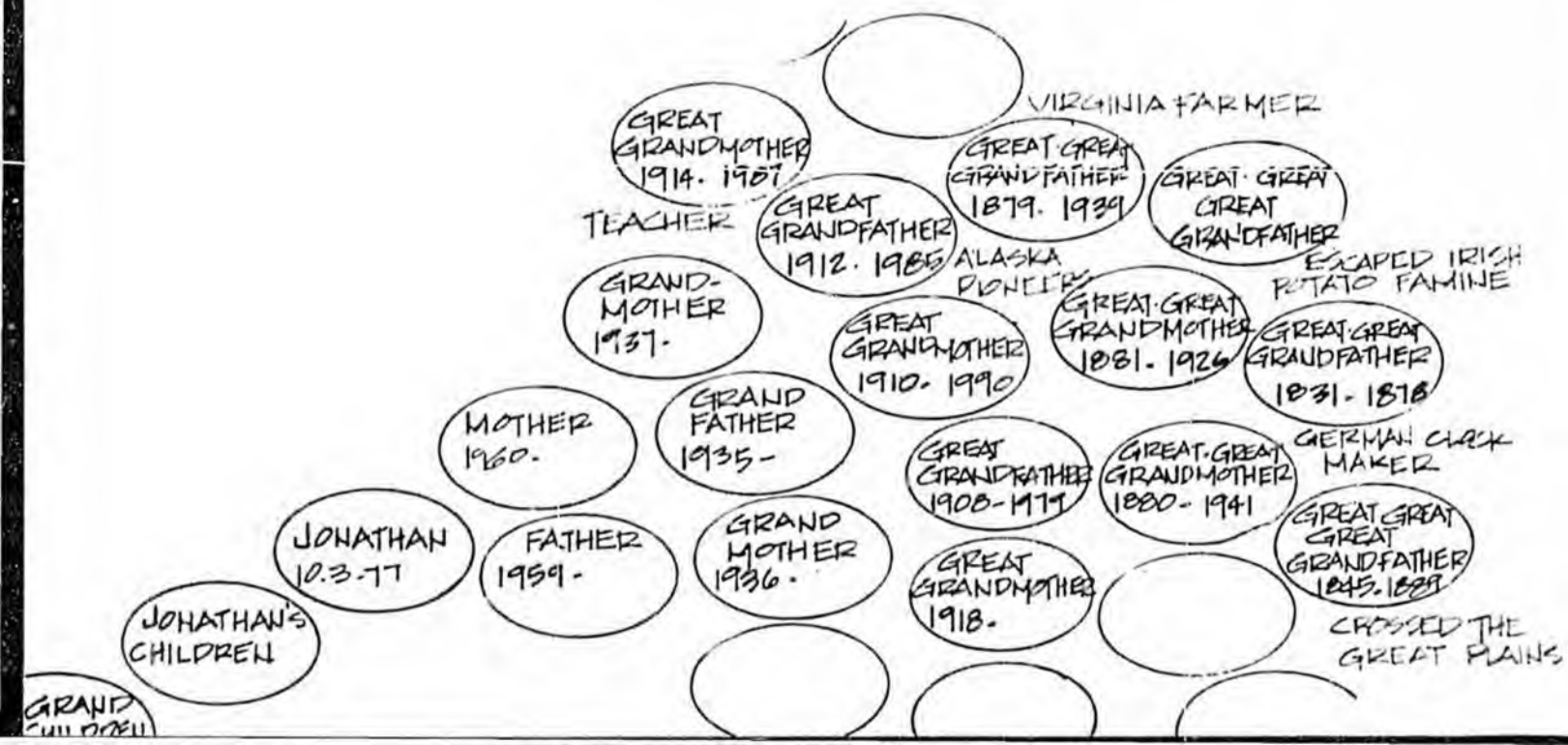
INTRODUCTION

I am the adoptive mother of Jonathan who is 6 years old. Because of him, I oppose this bill as well as the intent of the bill as set forth by the Senate Judicary Committee.

I believe the most important person in the adoption triangle is the adoptee for he had no voice in the adoption process. An adoptee's right to the truth of his origins is more important than the birth parent's wish for privacy. The adoptee was severed from his birth parents through no fault of his own. Birth parents choose to relinquish the child; adoptive parents choose to adopt the child. I am not saying these were easy decisions, but our prime reponsibilities are for the adoptee.

We study the past to see the future. At the present time, an adoptee age 18 or older, may study his history by obtaining unconditionally his original birth certificate which names his biological parents. Knowing the names of those parents will provide an avenue for the adoptee to seek answers to such questions as:

Who am I? Where did I come from? Who do I look like? What am I worth if I was given away?



PROBLEMS WITH CSSSSB 241 (Jud) am, an act relating to adoption
by Joyce Lanier 4505 Dredge Lake Rd. Juneau, Ak. 99801

1. It repeals the current statutes and regulation which now allow an adult adoptee unconditional access to his original birth certificate, which names his birth parents. The present process is legal and is working well.

2. It gives the birth parent all the power over the release of the original birth certificate, and thereby reverses the original intent of Alaska's sealed record laws. It contends that the birth parent's wish for privacy is more important than his/her responsibility to provide the adoptee the truth of his beginnings.

3. It allows all of us, birth parents, adoptive parents, the legislature, and the general public to shirk our reponsibilites to the adoptee.

4. There are no provisions in this bill or the current statutes to allow an adult adoptee's descendants access to the adoptee's original birth certificate. Generations to come are adversely affected.

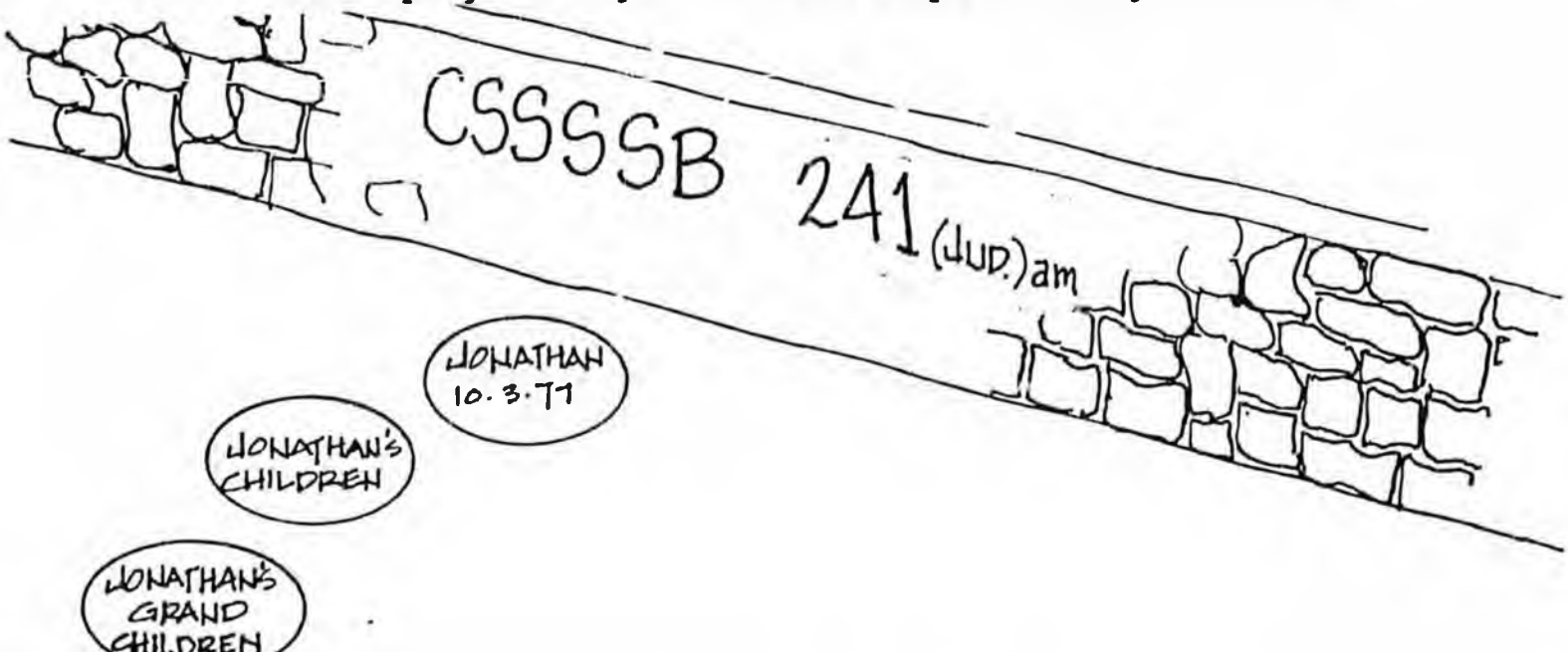
5. It discriminates against adoptees who are not 18 before the effective date of the bill and against adoptees as opposed to non-adoptees.

6. There are no provisions to allow birth parents to update background information or to change statements they may file with the Registrar.

7. Hobbies, special interests and occupations are not included in the list of non-identifying information.

8. Adoptive parents are not officially informed of the adoptee's rights to background information and the original birth certificate at age 18.

9. There are no provisions to allow birth parents to receive unidentifable progress reports on the adoptee during childhood.



EXPLANATION OF MAJOR PROBLEMS

PRESENT PROCESS IS WORKING WELL

Adoptees in Alaska have always had access to their original birth cerificates.

The statutes (21-3-20) of 1947 which sealed original [illegible] certificates and issued substitute birth certificat[illegible] stipulated that the registrar shall open the birth certificate to the adoptee of legal age. The [illegible] intent of the act was to protect the name and status of the CHILD. Nothing was said about protecting the name and status of the ADULT, whether it be the adopted person in adulthood or the birth parent. Such protection is a burden for the adult adoptee and I suspect the lawmakers of 1947 maintained access to the original birth certificate for adoptees for that reason.

In a 1951 amendment describing the substitute birth certificate the statute stated, "The intent of this section is to enable the preparation of a birth certificate for the adopted CHILD as nearly as possible like that of other CHILDREN." The adult adoptee was treated like an adult. He could still obtain a birth certificate like that of other adults - that is, one that named the biological parents.

Over the years the statutes have been amended but always the ADULT adoptee has retained the right to the original birth certificate. The present process is working well. It has withstood a test of 37 years. There have been no complaints to the State Registrar. No birth parents have testified at any of the three hearings I have attended on this legislation. I have also listened to tapes of hearings on SB 399, a similar bill in the last legislature. No birth parent or birth parent group testified in favor of restricted access to the original birth certificate.

PRESENT PROCESS IS LEGAL

Today AS 18.50.220 New Certificate of Birth,and 7 AAC 05.730 Filing of Certificate govern. The birth certificate is treated separately in the statutes, apart from adoption proceedings and court hearings. In fact, a new certificate of birth is an option of the adoptive parents and is not part of adoption proceedings; it is not issued until after the adoption becomes final.

The statutes and regulations do not conflict. To confirm that legality, I quote from an Attorney General's opinion of March 1, 1979, to the State Registrar of Vital Statistics:

> "This will confirm our oral advice to you that the Bureau of Vital Statistics must provide a copy of his original birth

certificate to an adopted child who has attained the age of 18 years and requested it, if the copying cost is paid....."

"....AS 18.50.220 (b) (1) apparently sets up a separate procedure for the certificate after the adoption."

PRIVACY NOT PROMISED IN STATUTES OR REGULATIONS

The state is NOT subject to any liability in releasing original birth certificates to adoptees because privacy has not been promised in the statutes or regulation. To further support that contention, please consider this from the draft version of the Model Adoption Act:

> Privacy is not promised in states that allow records to be opened by court order for good cause. Therefore, there could could be no enforceable contract of secrecy between birth parents and the state. (Alaska is one of these states.)
>
> Biological parent and child are considered co-owners of birth information, and thus, there can be no legally protected interest in keeping one's identity secret from the adoptee.
>
> Adoption was created for the benefit of the adoptee and the states cannot sanction an agreement - namely sealed record laws which have proven NOT to be in the adoptee's best interests.
>
> A birth parent's interest in reputation is not alone deserving of constitutional protection. Cf. Paul v. Davis 424 U.S. 693 (1976)
>
> An adoptee's right to information regarding his origins must prevail over the birth parent's presumed interest in anonymity.
>
> in re Adoption of Female Infant 107 Wash. L. Rep 337 (D.C. Super Ct. Jan 31, 1979) 5 Family Law Rep. 2311 BNA (Feb. 20, 1979)
>
> The interests of adoptive & birth parents and the state in keeping records sealed are of less importance than the adoptee's interest in personal growth and identity which can result from his meeting a birth parent - a reunion made easier by the adoptee's access to the original birth certificate.

<u>BILL GIVES BIRTH PARENTS CONTROL OVER THE ORIGINAL BIRTH CERTIFICATE</u>

Even though over 90% of birth parents will probably give permission to release the original birth certificate to the adoptee, the fact that their consent is required is degrading to the adoptee.

I grew up in the South when Black people had to sit at the back

of the bus. They weren't allowed to sit at the front. Times have changed. Today Blacks are allowed to sit at the front of the bus. But, what if they were required today to ask permission from the driver to sit at the front? Even though 95% of the drivers would say "yes" wouldn't it be humilating to the Black person to have to ask? Wouldn"t that place all the power in the hands of the bus drivers?

Now would this legislature ever dream of passing a law requiring any minority or class of citizens to ask permission to sit in the front of the bus? No, this legislature would not. But essentially that is what this bill would be doing to adoptees- allowing them in the front of the bus only with permission, allowing them access to information about themselves only with permission,
forcing some of them to the back where they're unable to see where they're going, denying some of them information and therefore, stifling them.

OUR REPONSIBILITIES

As mentioned previously, adoption was instituted for the benefit of the adoptee - A child who had no voice in the process. In any discussion of the balancing of rights we must remember that our responsibilities to the adoptee are more important than any one parent's rights, whether they be birth parents or adoptive parents.

All of us involved in the adoption process have a responsibility to provide the adoptee with an avenue to seek his true personal identity:

BIRTH PARENTS REPONSIBILITIES
To provide for the CHILD - background information such as biographical sketches, physical descriptions, sibling existance, medical history - and to update them regularly.

(Health & Social Services in recent years has been collecting background information for the adoptive parents, but this was probably not done in the late 60's and early 70's. My attorney gave us information on our son's birthmother. Birth parents who don't want to be contacted should realize that the more background information they give, the less likely the adoptee may want to contact them.)

To provide for the ADULT adoptee- communication with the adoptee if he/she requests so that the adoptee may complete his picture of himself.

THE LEGISLATURE'S REPONSIBILITIES
To maintain the laws and regulations that allow adult adoptees to learn the names of the biological parents through access to the original birth certificate.

ADOPTIVE PARENTS' REPONSIBILITIES

To recognize the importance to the adoptee of his true heritage and to provide the background information to the child when they judge he/she is ready for it.

To provide support to the adult adoptee in his search for the biological parents.

To lobby for adoption laws that are in the adoptees best interests.

Our meeting our reponsibilities will serve notice to the public that it is indeed the adoptee's RIGHT TO KNOW which takes precedence in all cases, so that the public will have empathy with the adoptee's problems, will understand the adoptee's need to search for his birth parents, will be more helpful to him in that search, and will support open adoption record laws. And so that someday there will be no controversy.

The consequences of our NOT meeting these responsibilites may indeed be grave. Studies show adolescent adoptees have more trouble in life, that they face more obstacles than normally experienced. Without a background on which to build an ego they are more apt to be dependent, fearful, slow learners, under achievers, run aways and vandals. Adoptees comprise about 13% to 16% of psychiatry patients but only about 2% of the general population.

Many adult adoptees who don't know their past history suffer "genealogical bewilderment." They are denied the opportunity that millions of people pursue who are consumed with a passion to search the past for their ancestors. Thousands of ancestor hunters join descendant societies such as the Sons & Daughters of the American Revolution. An ancestor search begins with one's self and that is the stumbling block adoptees face. The first unknown on an adoptee's family tree is himself.

ADOPTEE'S DESCENDANTS ADVERSELY AFFECTED

The descendants of the adoptee who is denied his original birth certificate will also face a stone wall in their ancestor searches. There will be no stepping stones to the past for them. So a hundred years from now the repercussions of this bill will still be felt.

DISCRIMINATION

This bill will discriminate against adoptees who are under 18 before the effective date of the bill. They cannot get a copy of their original birth certificates before the law is changed. The law at the time of their adoption did not provide a collection system for background information. Adoptees who expected to get but are denied the original birth certificate under the provisions of this bill will have nothing - no original birth

certificate and no background information.

Essentially this bill will be changing the rules in the middle of the game for them. I don't believe the members of this legislature want to do that. After all, when you raised the drinking age from 19 to 21, you inserted a clause allowing those who were already 19 to drink.

The bill also discriminates against adopotees as opposed to non-adoptees. Non-adoptees don't have to get permission form their parents to get their birth certificates.

PROPOSED AMENDMENTS

While I believe no parent has the right to deprive the adoptee to the knowledge of his true heritage and that the adoptee's need for that information takes precedence over any parent's desire for privacy, I am not completely unfeeling for those birth parents who wish to remain strangers to their off-spring. I have a done a lot of research and I propose amendments which treat all sides is of the adoption triangle with respect and compassion.

1. Maintain the present process of adoptee access to the original birth certificate and additionally allow an adoptee's adult descendants access. The generations to come are also adversely affected by sealed records.
Strengthen the present process by writing it in the statutes.

2. Allow the biological parent to place a statement with the original birth certificate as to whether she/he would WELCOME contact with the ADULT ADOPTEE. I believe most adoptees would respect that wish. There are many adoptee groups who provide support and advice on birth parent search and contact.

(From what I read most adoptees are very discreet when they do contact a birth parent. They do not suddenly appear on the birth parent's doorstep, but most often telephone, making sure it is a good time to talk.)

(Most adoptees are not looking for a long term relationship with the birth parents. They only want their questions answered.)

I think such a system would be for the adoptee's advantage as well. They would know ahead of time just how the birth parent would feel about a reunion.

3. Allow and encourage birth parents to update background information and to change statements.

- Many inheritable problems in a birth parent's family may not occur until many years after the adoption. Newsweek magazine recently reported that there are over 3,000 genetic diseases. Adoptees who are deprieved of communication with the birth family may also be deprieved unnecessarily of the benefits of genetic engineering- the wave of the future in disease prevention and health care.

-Birth parents are usually very young when they relinquished the child and have not developed the interests and careers that the adoptee may be interested in knowing about. They may have other children after the adoption which would be the adoptee's siblings.

4. Insert hobbies, special interests and occupation in the list

of background information collected. This may suggest to enlightened adoptive parents the activities to attempt or to stress.

5. Inform adoptive parents of the adoptee's rights so that there will be no surprises when the adoptee wants to find his birth parents.

-This would emphasize the importance of the adoptee's very own identity. Some adoptive parents do not tell the child he is adopted and would not give him the background information. If they knew he could get it anyway when he became 18 they would be more apt to give it to him when he really needed it, and they would be more apt to support him ina search for the birthparents. For having a background on which to build an ego will help the adoptee to become a more mature and well adjusted adult.

6. Request the adoptive parents prepare a progress report on the adopted child every few years and attach to the original birth certificate or made available by other means to the birth parents.

-Birthparents usually never forget the adoptee. This would help the birthparents cope with the tragedy and perhaps guilt of having surrendered a child to some stranger.

SUMMARY:

1. The present system of releasing the original birth certificate is LEGAL and we have had no problems with it.

2. An adoptee's information on his true heritage is very important to his psycholgical well-being.

3. A birth parent's responsibility to provide background information and to be available to the adult adoptee is more important than the birth parent's right to privacy.

4. No adoptee should have to seek permission from anyone to obtain information about himself.

5. Background information is being collected NOW and the law does not need changing regarding access to the original birth certificate. Therefore, there is no great urgency to pass this bill the way it is written now.

SO PLEASE CONSIDER THIS BILL CAREFULLY.
Over 15,000 adoptions have already taken place in Alaska. PLease continue to allow ALL adoptees unconditional access to their original birth certificates. Please, leave stepping stones to the past for our adoptees, not stone walls.

4505 Dredge Lake Rd.
Juneau, Alaska 99801
February 17, 1984

The Honorable Milo Fritz
The Honorable Mae Tischer
Co-chairmen, House HESS Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Representatives Fritz & Tischer:

CSSSSB 241 (Jud), an act relating to adoption, seeks to amend AS 18.50.220 and thus delete the regulation 7 AAC 05.730 which now allows an adult adoptee unconditional access to his original birth certificate. The requestor of this legislation contends that privacy is promised biological parents in adoption proceedings and that is not now being honored since Vital Statistics releases the original birth certificate to the adult adoptee upon request.

After reviewing the statutes - Title 25, chapter 23 adoption and AS 18.50.210 and AS 18.50.220 New Certificate of Birth I find that:

-The statutes treat birth certificates separately from adoption proceedings. It is the adoption proceedings - court hearings and related records that are confidential as per AS 25.23.150. Birth certificates are not part of the adoption proceedings. In fact, a new certificate of birth (which names adoptive parents) is not prepared until AFTER an adoption decree becomes final. (AS.23.170)

-An adoption can take place without the issue of a substitute birth certificate because a substitute certificate is an option adoptive parents can choose. (AS 25.23.170)

-The present practice of releasing original birth certificates is legal. AS 18.50.220,New Certificate of Birth,allows regulations to be written concerning the inspection of the original birth certificate. The regulation 7 AAC 05.730 authorizes the Registrar to do so.

-The statutes and regulations also provide that records may be opened by order of the court. Thus, there exists another method by which confidentially is not assured to any party involved.

The issue of privacy is a moot point in this proposed legislation.

Sincerely,

Judson Lanier
Member, Alaska Bar Association

STATE
of ALASKA

MEMORANDUM

MAR 07 1979

TO Ms. Joan Brooks, State Registrar
Bureau of Vital Statistics
Department of Health and Social Services

DATE March 1, 1979

FILE NO

TELEPHONE NO.

FROM AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT Copying of Original Birth Certificate when a New Certificate has been Issued

By:
Richard L. Peter
Assistant Attorney General

This will confirm our oral advice to you that the Bureau of Vital Statistics must provide a copy of his original birth certificate to an adopted child who has attained the age of 18 years and requested it, if the copying cost is paid. The copy should be identified however by a notice that a new certificate has been issued for the subject.

Because of some apparent inconsistencies we will recapitulate the statutes and regulations providing for inspection of records involved in an adoption.

AS 20.15.150 provides in pertinent part:

> (b) All papers and records pertaining to the adoption . . . are subject to inspection only on consent of the court and all interested persons.
>
> (c) Except as authorized in writing by the adopted child if 14 or more years of age, or by the adoptive parent . . . no person is required to disclose the name or identity of either an adoptive parent or an adopted child.

And 7 AAC 05.670 provides: "All reports of . . . adoption proceedings . . . are open to the public only under order of the Superior Court." These apparently refer to materials relating to the adoption with the exception of the original birth certificate, because while AS 20.15.080 requires that a "certified copy of the birth certificate . . . if available . . . shall be filed with the clerk" of court, AS 18.50.220(b)(1) apparently sets up a separate procedure for handling the certificate after the adoption. It provides that a new certificate shall be substituted for the original and

> Thereafter the original certificate and the evidence of adoption [reported by the court] . . . are not subject to inspection except upon order of the superior court or as provided by regulation;

This is implemented by 7 AAC 05.730 which provides: "The State Registrar may open all or part of such sealed file for inspection by the person whose record it is, if of legal age."

This authority refers to inspection of such records by its language, but two sections of AS 09.25 extend the access to copying them. AS 09.25.110 provides:

> Unless specifically provided otherwise, The books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record.

And AS 09.25.120 provides in pertinent part:

> Every public officer having custody of the records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original.

These sections equate copying with inspection, and impose the duty of making copies available at cost.

However, the concern you have expressed over the copying of an original birth certificate which has been -- at least temporarily -- superseded by a new certificate of birth, is reasonable, but has not been addressed by either the legislature or your department's regulations.

Therefore, we would suggest that when you copy an original birth certificate for which a new certificate has been issued, this fact should be displayed upon the face of the copy, either by typing upon the copy: "A New Certificate of Birth has Been Issued", or by duplicating such a notice by placing it on an unused portion of the document when the copy is made. This will prevent the copy being used as the only or latest evidence of birth, and keep the original clean should it be necessary to restore it to the public file on vacation of the adoption, as provided by AS 18.50.220.

Because such a procedure will affect the general public we suggest that you adopt regulations providing for it under the Alaska Administrative Code. We are prepared to assist you in drafting them so please call upon us.

RLP:vr

Church supports rights of adoptee to find roots

OVERTURE 39
a resolution for open records
by The UNITED PRESBYTERIAN CHURCH
1981

The U.S. Presbyterian Church's Northern wing is the first American denomination to say adult adoptees should legally be able to learn the names of their natural parents.

The United Presbyterian Church, U.S.A. Wednesday called for an "open records policy" which would allow adopted persons, once adults, to gain access to their birth records, currently sealed at the time of adoption.

Their resolution says, "Permanent sealed records have created a mythology about adoption, which is that adopted persons have only one set of parents. The surrender paper in effect becomes a certificate attesting to the death of any relationship at any time between the original parent and child, thus creating for the child a pair of ghost parents who are not in their graves but who may live in the next town, or have hereditary illnesses that do not surface until they are in the middle years and whose children, born later, may unknowingly risk incest with when they attend college or work in the same work places with their half-sisters or half-brothers."

The Rev. Susan Andrews, pastor of Kuchell Memorial Presbyterian Church in East Hanover, N.J., and a sponsor of the resolution, said the church must debate moral issues involved in the debate.

She said she became interested in the issue when a parishioner unsuccessfully searched for her birth mother. "She had an issue of human rights as well as one of pastoral rights," said Ms. Andrews.

The issue of "open records" for adult adoptees has been a legal battle between adoptee rights groups and state governments, which currently seal the records.

CHRONICLE —Houston, TEXAS
May 28, 1981

"Every great and commanding movement in the annals of the world is the triumph of enthusiasm. Nothing great was ever achieved without it." - Ralph Waldo Emerson

Once a year, 650 delegates from United Presbyterian Churches across the country meet to consider theological and social matters of importance to the church's ministry. In May, this body - the General Assembly - met in Houston, and one of the issues considered was that of supporting the rights of adult adoptees to the truth of their origins as outlined in Title V of the Model State Adoption Act.

Overture 39, the text of which follows, was channeled to the Social Justice and Rights of Persons Committee, and passed by that committee upon recommendation of a sub-committee which spent three hours discussing the issues with adoptees and adoptive parents present. When the Overture came up on the floor of the General Assembly, there was a thirty-minute debate, followed by a vote of approximately 600 - 25 in favor of the Overture. We are printing it for you in hopes that (a) you will be encouraged by it and (b) that you might consider submitting a similar document to your worshipping community for consideration and action. Judeo-Christian history has had a powerful impact on people the world over, and continues to do so. As religious bodies work for national and international peace, let us urge them to work on this area of peacemaking within and among persons on all sides of the adoption triangle.

OVERTURE ON RECOGNIZING THE RIGHT OF ADULT ADOPTEES TO KNOWLEDGE OF THEIR ORIGINS BY ALLOWING THEM ACCESS, UPON REACHING THE AGE OF MAJORITY, TO THEIR ORIGINAL BIRTH CERTIFICATES, COURT AND AGENCY RECORDS...ALSO ON RECOGNIZING THE NEED OF ORIGINAL PARENTS OF ADULT ADOPTEES TO HAVE SOME MEANS TO COMMUNICATE THEIR DESIRES FOR CONTACT WITH THEIR RELINQUISHED SON OR DAUGHTER.

Whereas God our Creator saw fit to use an adult adoptee who was well aware of the truth of his origins to deliver the Israelites from bondage to the Egyptians; and

Whereas the Psalmist acknowledged the Presence of God in the creation of every individual when he said, "You created every part of me; you put me together in my mother's womb...When I was growing there in secret, you knew that I was there—you saw me before I was born"; and

Whereas Isaiah affirmed the unlikelihood of a mother's ability to erase the memory of a child she birthed when he said, "So the Lord answers, 'Can a woman forget her own baby and not love the child she bore?' Even if a mother should forget her child, I will never forget you"; and

Whereas Jesus said,"You will know the truth, and the truth will set you free"; and

Whereas the sealed records laws instituted in the last five decades have prevented adopted persons, over whom a contract is made in their infancy when they are helpless to participate in it, from ordinarily knowing the truth of their origins by permanently sealing original birth certificates, agency and court records pertaining to their adoption; and

Whereas any non-adopted person in the United States has the absolute right to obtain personal vital statistics for a minimal fee, an adoptee must go to court—however expensive and unsuccessful the process—to request a judge to issue a "good cause" order to know the simple truth of who gave birth to her or him; and

Whereas because of permanently sealed records, adoptees have no medical, cultural or religious history and often experience emotional anguish; and

Whereas permanently sealed records have created a mythology about adoption, which is that adopted persons have only one set of parents; the surrender paper in effect becomes a certificate attesting to the death of any relationship at any time between the original parent and child, thus creating for the child a pair of ghost parents who are not in their graves but who may live in the next town, or have hereditary illnesses which do not surface until they are in their middle years (long after any medical history taken at the time of the child's birth), and whose children, born later, may unknowingly risk incest when they attend college or work in the same work places with their half sisters or brothers; and

Whereas our Lord spoke often of acceptance, forgiveness and reconciliation as qualities desirable for believers to experience daily in their human and spiritual growth; and

Whereas the Department of Health and Human Services now has before it the proposed Model State Adoption Act which includes "Title V. Records," which would grant adult adoptees the right of access to their original records to learn their identity at birth and that of their natural parents, and which would grant original parents of adult adoptees the right to ask the agency which handled the adoption to contact the adult adoptee to notify her/him that the original parent desires contact; a section supported in testimony by the National Association of Social Workers, "Not all adoptees will wish to know the birth parent, nor to meet her/him, but surely the option should be there as opposed to a rigid secrecy which can leave adoptees feeling that there is some monstrous secret in their past."

Therefore, the Presbytery of Newton, The United Presbyterian Church in America, sitting in regular session on 3/10/81 in Madison, N. J., does hereby overture the 193rd General Assembly of the United Presbyterian Church in the U.S.A. meeting in Houston, Texas, May 19-25, 1981:

That it go on record as supporting the rights of adult adoptees to receive, upon request, copies of their original birth certificates, court and agency records pertaining to their adoption;

That it support Title V of the Model State Adoption Act and Procedures prepared under section 202 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, which would grant adult adoptees the aforementioned information, and which would grant natural parents a more limited right as explained above;

That it act through the General Assembly Mission Council...in encouraging and stimulating synods, presbyteries and local churches to take the following types of action in supporting adoptees who have reached adulthood, in their desire to know the truth of their origins;

1) Send letters of support of Title V of the Model State Adoption Act to congresspersons and to the President of the U.S.;
2) Write letters to the editors of local newspapers and national magazines expressing support of open records;
3) Work to help all persons involved in the adoptive triangle—natural and adoptive parents and adoptees, who comprise 10% of our population—face the reality of their situations with honesty, openness and compassion for one another.

(b) The petitioner or his attorney shall furnish with the petition for adoption information in the possession of the petitioner necessary to prepare the adoption report. The social, welfare agency or other person concerned shall supply the court with additional information in his possession necessary to complete the report. The furnishing of the information is a prerequisite to the issuance of a final decree in the matter.

(c) Whenever an adoption decree is amended or vacated, the court shall prepare a report on a form prescribed and furnished by the bureau. The report shall include the facts necessary to identify the original adoption report and the facts amended in the adoption decree necessary to properly amend the original report, or the new certificate of birth if already established.

(d) Before the 11th day of each calendar month, the court shall forward to the bureau reports of decrees of adoption, including those vacated or amended, which were entered in the preceding month, together with the related reports the bureau requires.

(e) When the bureau receives a report of an adoption, or vacation or amendment of an adoption from a court for a person born outside the state, a copy shall be made for the bureau's files and the original shall be forwarded to the appropriate registration authority in the state of birth. (§ 17 ch 118 SLA 1960)

Am. Jur. reference. — 1 Am. Jur., Adoption of Children, § 49.

Sec. 18.50.220. New certificate of birth. (a) The state registrar shall establish a new certificate of birth for a person born in the state, upon proper request that the certificate be made, and upon receipt of

(1) an adoption report as provided in § 210 of this chapter, or a certified copy of the decree of adoption from a court of competent jurisdiction in another state, together with the information necessary to identify the original certificate of birth and to establish the new certificate of birth; however, a new certificate of birth may not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person if he is of legal age; or

(2) the evidence required by law and regulation proving that the person has been legitimated.

(b) When a new certificate of birth is established, the actual place and date of birth shall be shown. The new certificate shall be substituted for the original certificate of birth, and

(1) thereafter, the original certificate and the evidence of adoption or legitimation are not subject to inspection except upon order of the superior court or as provided by regulation; however, the regulation shall allow inspection by an agent of the state or federal government acting in the performance of his official duties;

(2) upon receipt of a report that an adoption has been vacated, the original certificate of birth shall be restored to its place in the files and

Alaska, upon adoption or legitimation and the submission of the required documents and other necessary information as required by the State Registrar; provided that such new certificate of birth shall not be established in cases of adoption if such negative request be received from the court decreeing the adoption, the person himself if of legal age, or from the adoptive parents. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.710. REQUEST. Proper request for a new certificate shall be considered a written and signed request: in the case of adoption, from the adoptive parents, or from the adopted person if of legal age; and in the case of legitimation, from one of the parents, or from the legitimated person if of legal age. The form and type of request acceptable shall be determined by the State Registrar. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.720. FORM OF CERTIFICATE. The new birth certificate shall be prepared upon the same type of form, and look as much like a regular birth certificate as possible. Nothing on it shall state or refer to the fact that it is a new certificate. The actual date and place of birth shall be shown, and any question of legitimacy shall be answered in the affirmative. The name on the birth certificate shall be as ordered in the decree, if so specified; otherwise as requested by the parents. The name of the attendant or other person signing the original certificate shall be copied on the new certificate. The personal particulars shall reflect as much as possible the new situation of adoption or legitimation, and these and any other items shall be completed as specified by the State Registrar. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.730. FILING OF CERTIFICATE. When the new certificate of birth has been established, it shall be substituted in place of the original certificate. All references to the original certificate shall be removed or deleted from the regular indexes, and from any other source to which the public might have access. The original certificate, any attachments thereto, and all correspondence, decrees, adjudications, or other reference to the adoption or legitimation shall be sealed away from any inspection except upon order of a superior court; provided that the State Registrar may open all or part of such sealed file for inspection by the person whose record it is, if of legal age; by an agent of the state or federal government acting in the performance of official duties; or for any necessary administrative purpose within the bureau. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.740. PROCEDURE ON ADOPTION. Upon receipt of a report that an adoption has been vacated, the original certificate of birth shall be restored to its place in the files; and the new certificate together with all evidence and related material shall be sealed away from inspection except upon order of a superior court, or for administrative inspection by the State Registrar. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.750. NEW ORIGINAL CERTIFICATE. If no certificate of birth is on file for the person for whom a new certificate is to be established, an original certificate must be prepared and registered in accordance with the provision of the Vital Statistics Act, these regulations, and the instructions of the State Registrar before a new certificate of birth may be established. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.760. SEALING OF COPIES. When a new certificate of birth is established in the bureau, the State Registrar shall direct that any local copies of the original record in the custody of local recorders be sealed away from inspection except upon order of a superior court or demand of the State Registrar. Upon the vacation of any adoption, the State Registrar shall direct the proper disposition of any pertinent local records. The State Registrar may supply a copy of the new certificate to the same local recorder to substitute in place of the

visions of Section 9 hereof before becoming absolute. This decree so entered shall contain an order granting custody of the child to the adoptive parent or parents, and, if same has been requested, the issuance and filing of a substitute birth certificate as hereinafter provided.

to parent.

SECTION 9. FINAL DECREE ABSOLUTE, WHEN. Within six months after the entry of the final decree any parent who has not received actual notice of the adoption proceeding in time to appear or object thereto may move to vacate the decree, and for an award of the custody of the adopted child to him; providing, that such motion shall not be entertained unless accompanied by an affidavit disclosing good grounds for objection to the adoption. If it appears to the satisfaction of the Court that there are good grounds and sufficient reasons for setting aside the adoption if the allegations of the affidavit are true, the Court may order a hearing upon said motion, fix a time and place therefor, specify the parties to be notified which shall include all interested parties present at the original proceeding with ample time for their appearance, and upon such hearing the Court may deny the motion or grant the same by setting aside the adoption and make a re-determination of who shall have the custody of said child. No such motion shall be granted unless the person filing the same is a fit and proper person and otherwise entitled to the exclusive custody of such child as shown by the evidence at such hearing. Appeal may be taken as from a final decree.

ns to set

SECTION 10. SUBSTITUTE BIRTH CERTIFICATE. (a) Whenever six months has expired after a final decree of adoption and change of name has been entered in any Court of competent jurisdiction within the Territory of Alaska and no proceedings have been started to set same aside, or if the adoption is otherwise finally sustained, said Court shall, upon request by a proper party, send a certified copy of said decree to the Registrar of Vital Statistics who shall, upon receipt thereof, prepare and issue a substitute certificate of birth of the child so adopted. This certificate shall contain all of the information required in an original certificate of birth, except that it shall show the new name of the child so adopted instead of the old, although the true date of the child's birth shall be retained, and shall give the statistical particulars of the foster parents in the place and in the stead of the natural parents and shall make no reference to the natural parents of the said child, and the statement pertaining to legitimacy shall in all such cases be shown in the affirmative. The Registrar shall strike out the words, "Attendant's Own Signature" on the substitute record and insert in their stead the words, "Territorial Registrar" and sign as such, and all dates of recording are to be left as on the original.

Form of certificate.

(b) The Registrar of Vital Statistics immediately upon completion of such substitute certificate shall seal his original record of the birth, and file in its stead the substitute birth certificate, and thereafter said original record so sealed may be opened by the Registrar only upon demand of the child so adopted upon his having attained his majority, or upon order of any Court of competent jurisdiction. Thereupon the Registrar shall send a certified copy of the substitute birth certificate to the Commissioner and/or recorder having on file the adopted child's original certificate of birth. Such recording officer shall forthwith enter the substitute copy in his files in the place and stead of the original copy on file. Upon such filing of the substitute birth certificate, said officer shall seal the original birth certificate and it may thereafter be opened only upon the same conditions as hereinabove prescribed for the Registrar.

Sealing of records.

(c) Upon request for issuance of a certified copy of a birth certificate after substitute certificate has been filed, the Commissioner, Recorder or Registrar, as the case may be, shall, as a matter of course, issue a certified copy of

Certified copies issued.

CHANGES PROPOSED BY JOYCE LANIER FEB 1984

Offered: 1/26/84
Referred: Rules

Original sponsors: Kerttula, Rodey, Ray, et al

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 241 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to adoption; and providing for an effective date."

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

* Section 1. AS 18.50.220(b)(1) is amended to read:

(1) thereafter, the original certificate and the evidence of adoption or legitimation are not subject to inspection except upon order of the superior court; ~~however, the state registrar [OR AS PROVIDED BY REGULATION, HOWEVER, THE REGULATION]~~ BY THE ADOPTED PERSON AGE 18 OR OLDER & HIS/HER DESCENDANTS AGE 18 OR OLDER AND shall allow inspection by an agent of the state or federal government acting in the performance of the agent's [HIS] official duties;

* Sec. 2. AS 18.50 is amended by adding new sections to read:

ARTICLE 6. ACCESS TO ADOPTION INFORMATION.

Sec. 18.50.500. ACCESS TO ADOPTION INFORMATION. (a) Upon receipt by the state registrar of a request by an adopted person 18 years or older for information identifying the adopted person's biological parents, the state registrar shall give notice of the request to the biological parents by certified mail, deliverable to the addressee only. Information identifying a biological parent shall be disclosed to an adopted person 18 years or older if certified mail sent to a biological parent is returned to the state registrar undelivered or if the state registrar has not received a written objection from a biological parent under this section.

(b) If a written objection by a biological parent is received by the state registrar within 30 days of the notice required under (a) of

18.50.500 (a) A BIOLOGICAL PARENT NAMED ON THE ORIGINAL BIRTH CERTIFICATE MAY FILE WITH THE STATE REGISTRAR A STATEMENT AS TO WHETHER HE/SHE WOULD WELCOME CONTACT WITH THE ADOPTED PERSON AGE 18 OR OLDER.

(6) THE STATE REGISTRAR SHALL DISCLOSE INFORMATION IDENTIFYING THE BIOLOGICAL PARENTS OF AN ADOPTED PERSON WHO IS 18 YEARS OLD OR OLDER AND THE STATEMENTS OF THE BIOLOGICAL PARENTS AS DESCRIBED IN (a) OF THIS SECTION.

this section, the state registrar may not disclose the identifying information on that biological parent to an adopted person unless disclosure is ordered by the court under AS 25.23.150.

(c) The state registrar shall provide the adoptive parents of a person adopted after January 1, 1985, and an adopted person who is 18 years of age or older after January 1, 1985, the following nonidentifying information on a standard form prepared by the commissioner regarding each biological parent named on the original certificate of birth if the information is available:

(1) the age of the biological parent at the birth of the adopted person but not the birth date of the biological parent;

(2) the heritage of the biological parent, including:

(A) national origin;

(B) ethnic background; and

(C) race and tribal membership;

(3) the health history of the biological parent and of blood relatives of the biological parent;

(4) education, which is the number of years of school completed by the biological parent at the time of the birth of the adopted person;

(5) general physical appearance of the biological parent at the time of the birth of the adopted person in terms of height, weight, color of hair, eyes, skin, and other information of a similar nature;

(6) the existence of another child or children of the biological parent;

(7) whether the biological parents were alive at the time of adoption;

(8) the religion of the biological parent;

(10) OCCUPATION
(11) HOBBIES, TALENTS, SPECIAL INTERESTS

(9) whether the adopted person was legitimate at the time of adoption.

(d) The state registrar shall, on the request of an adopted person over the age of 18 years, attach to the original birth certificate of the adopted person the current address and name of the adopted person. The information provided under this subsection may be released to the biological parent of the adopted person.

(e) The state registrar shall, on the request of a biological parent, attach to the original birth certificate of the child of the biological parent the current address and name of the biological parent. The information provided under this subsection may be released to the child of the biological parent.

Sec. 18.50.510. MAINTENANCE OF RECORDS. (a) The commissioner, a child adoption agency, and a person authorized by law or regulation to place a person for adoption shall furnish the state registrar the information concerning biological parents required under AS 18.50.500(c) for all adoptions that occur after January 1, 1985. If the information concerning biological parents required under AS 18.50.500(c) is requested but is not available for adoptions that occurred before January 1, 1985, the state registrar shall request the commissioner to attempt to obtain the required information from the child adoption agency, records of the commissioner, or court adoption records, or a person authorized by law or regulation to place a person for adoption.

(b) A child adoption agency licensed under AS 47.35.100 and a person authorized by law or regulation to place a person for adoption shall maintain records required under AS 18.50.500(c) and by the regulations of the commissioner. If a child adoption agency or a person authorized by law or regulation to place a person for adoption

ceases to place persons for adoption, it shall transfer its records to the commissioner.

Sec. 18.50.520. DEFINITIONS. In AS 18.50.500 - 18.50.520

(1) "adoptive parent" means a parent who adopted a person under AS 25.23;

(2) "biological parent" means a birth parent who is named on the original certificate of birth of an adopted person;

(3) "child adoption agency" means a child adoption agency licensed under AS 47.35.100;

(4) "commissioner" means the commissioner of health and social services;

(5) "state registrar" means the state registrar appointed under AS 18.50.030.

* Sec. 3. AS 25.23.060(a) is amended to read:

(a) The required consent to adoption shall be executed at any time after the birth of the child in the presence of the court or in the presence of a person authorized to take acknowledgements. The consent is not valid unless

(1) the consent form states that the person required to consent to adoption under AS 25.23.040 has the right to withdraw that consent as provided in AS 25.23.070(b); and

(2) the person signing the consent is provided with a copy of the consent.

* Sec. 4. AS 25.23.080(c) is amended to read:

(c) A certified copy of the birth certificate or verification of the birth record of the person to be adopted, if available, the non-identifying information specified in AS 18.50.500(c), if available, and the required consents, relinquishments, and termination orders shall be filed with the clerk.

* Sec. 5. AS 25.23.150(b) is repealed and reenacted to read:

(b) The papers and records relating to the adoption that are a part of the permanent record of the court are subject to inspection only upon consent of the court. The papers or records relating to the adoption that are in a file in the department or in an agency are subject to inspection only with consent of all interested persons or by order of the court for good cause shown. Except as provided in this section, adoption records of the Bureau of Vital Statistics established under AS 18.50 are subject to inspection under the provisions of AS 18.50.

* Sec. 6. AS 25.23.150(c) is amended to read:

(c) Except as authorized in writing by the adopted child if 14 or more years of age, or by the adoptive parent, or upon order of the court for good cause shown [IN EXCEPTIONAL CASES], a [NO] person may not [IS REQUIRED TO] disclose the name or identity of either an adoptive parent or an adopted child.

* Sec. 7. AS 25.23 is amended by adding a new section to read:

Sec. 25.23.185. RECORDS AND INFORMATION. (a) A person or agency petitioning for adoption, the department, or a person placing a child for adoption shall obtain from each known biological parent of the adopted person for the state registrar

(1) the information listed in AS 18.50.500(c) on a form prepared by the department;

(2) a statement ~~that the biological parent is aware of the procedure set out in AS 18.50.500(a) and (b)~~ AS TO WHETHER THE BIOLOGICAL PARENT WISHES TO HAVE CONTACT WITH THE ADOPTED PERSON WHEN THE ADOPTEE IS AGE 18 OR OLDER.;

(3) a statement that indicates the biological parent has been informed that the state registrar must attach the biological parent's current name and address to the original birth certificate at any time the biological parent wishes to have a current address

attached.

(b) The statement and the information provided by a biological parent under (a) of this section shall be attached to the original birth certificate of the adopted person.

(c) The biological parent shall be given a copy of a statement provided under (a)(2) of this section.

* Sec. 8. This Act takes effect January 1, 1985.

(d) THE BIOLOGICAL PARENT MAY CHANGE A STATEMENT FILED UNDER (a)(2) OF THIS SECTION AND MAY UPDATE FACTS FILED UNDER (a)(1) OF THIS SECTION AT ANY TIME AND THIS OPTION OF THE BIOLOGICAL PARENT SHALL BE STATED ON THE COPY OF THE STATEMENT PROVIDED TO THE BIOLOGICAL PARENT UNDER (c) OF THIS SECTION.

(e) THE ADOPTIVE PARENTS SHALL BE ADVISED IN WRITING ON A FORM PROVIDED BY THE COMMISSIONER THAT THE ADOPTEE AT AGE 18 MAY OBTAIN A COPY OF THE ORIGINAL BIRTH CERTIFICATE ALONG WITH THE BACKGROUND INFORMATION DESCRIBED UNDER (a)(1) OF THIS SECTION AND THE STATEMENTS OF THE BIOLOGICAL PARENTS DESCRIBED IN (a)(2) OF THIS SECTION

(f) THE COMMISSIONER SHALL REQUEST ON A PERIODIC BASIS THAT THE ADOPTIVE PARENTS PROVIDE TO THE DEPARTMENT A PROGRESS REPORT ON THE CHILD'S HEALTH, SOCIAL & PHYSICAL DEVELOPMENT. THE REPORT SHALL BE ATTACHED TO THE ORIGINAL BIRTH CERTIFICATE & SHALL BE AVAILABLE TO THE BIOLOGICAL PARENTS UPON REQUEST.

January 17, 1984

M E M O R A N D U M

TO: Senator Bill Ray, Chairman
Senate Judiciary Committee
Senator Joe Josephson
Senator Richard Eliason
Senator Fritz Pettyjohn
Senator Robert Ziegler, Sr.

FROM: Karla Forsythe KF
General Counsel
Alaska Court System

SUBJECT: SS for SB 241, an act relating to adoption.

The Alaska Court System appreciates this opportunity to bring to your attention court-related concerns about SS for SB 241, an act relating to adoption.

Under section six of the proposed legislation, the clerk of the superior court, the department of health and social services, or the person placing a child for adoption is required to obtain from each known biological parent a variety of nonidentifying information, as well as statements about access to identifying information. It is the position of the court system that the reference to the clerk of the superior court should be deleted.

The practical effect of including the court as one of the information-gathering agencies is to add a new and inappropriate clerical procedure to the work of the courts. The implication of this section is that if an agency or the

department is not involved in an adoption, the court should obtain the information. In almost all step-parent adoptions, an agency or the department is not involved, so the court would have to collect the information from the biological parent. These types of adoptions comprise a substantial portion of the court's adoption workload. Moreover, in these situations the biological parent is often difficult to contact. Therefore the court will spend a great deal of time obtaining this information, which will likely require additional staff in major court locations. This investigatory function is not compatible with the court's adjudicatory role.

An easier and more appropriate way to obtain this information in step-parent adoptions is for the person petitioning for adoption and not the court to furnish it to the registrar. If the phrase "person placing a child for adoption" is intended to include these petitioners, the court's concerns with section six can be remedied simply by deleting the reference to the clerk of the superior court. However, if petitioners in step-parent adoptions are not meant to be included in the phrase, they should be specifically mentioned. If this is the case, the court system suggests that lines 10-12, page five of the proposed bill, should read: "The person petitioning for the adoption, the department, or the person placing a child for adoption shall obtain from each known biological parent of the adopted person for the state registrar . . . ."

Deleting the reference to the court comports with the apparent intent of the legislation. Proposed section 18.50.510 requires the commissioner, an adoption agency, or a person placing an adoptee, and not the court, to provide information to the registrar. It is inconsistent to then require the court to obtain the information under the adoption provisions of title 25. Also, a reference to the court implies that inability or failure to obtain the information will affect the court's review of the adoption. However, it is clear from proposed section 18.50.500 that the missing information results not in denial of the adoption, but in nondisclosure.

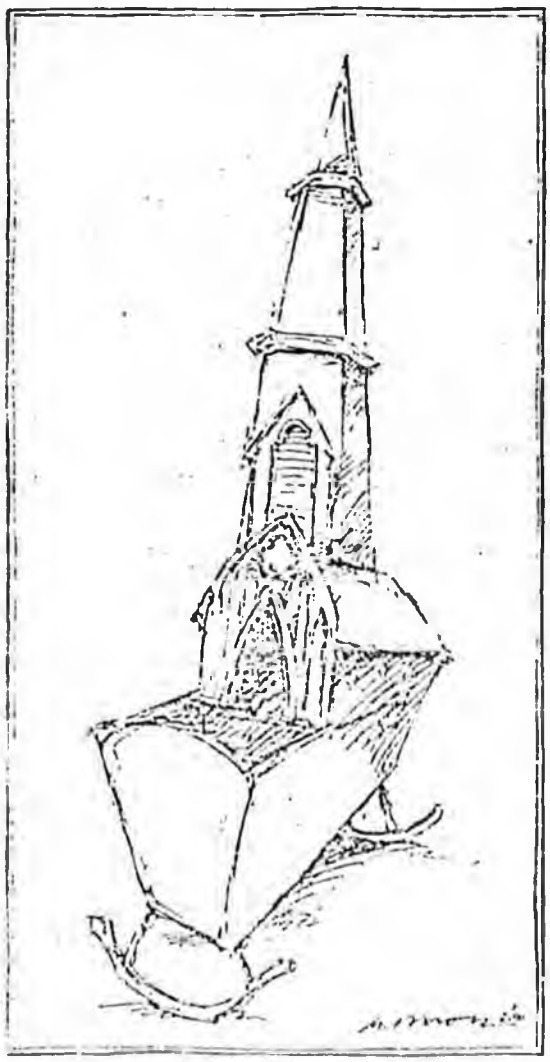
In summary, the court system recommends deletion of the reference to the "clerk of the superior court" from section six.

cc: Senator Kerttula
Senator Rodey
Senator Sturgulewski
Senator Fahrenkamp
Senator Halford
Senator P. Fischer
Senator Moss
Paula Scavera
Arthur H. Snowden, II

Anchorage Daily News - 1: 3-80

Public opinion favors opening adoption records

By CECILIA F. LEINKAUF



Throughout the winter and spring of 1980, the subject of "opening" adoption records in Alaska received a good deal of attenion.

A public forum, sponsored by the League of Women Voters, the National Associaiton of Social Workers and the Social Work Department at the University of Alaska generated much discussion and a series of resolutions supporting opening records for release of non-identifying information (i.e. — medical, racial data) and opening records for release of identifying information with the consent of the individual whose name is released. Legislation was also introduced in the 11th Alaska Legislature to amend the Alaska statutes to provide for open records but did not pass.

In order to determine the opinions of the general public regarding adoption issues, the Social Work Department at the University of Alaska agreed to undertake a research survey of public opinion and make the results available to the legislature and the public at large.

Both KIMO-TV, Channel 13, and the Anchorage Daily News provided assistance by actually publicizing the short questionnaire, thus assuring participation by the general public.

The survey asked the following questions:

1) Whether responents believed that non-identifying information should be available to adult adoptees without a court order.

2) Whether respondents believed that identifying information (names) should be accessible to adult adoptees, adoptive and biological parents —

a) Only with written consent of the person to be adopted;

b) Only with a court order and the written consent of the person to be adopted;

c) Only with a court order;

d) Not at all;

3) Whether adoptions should be done by a licensed adoption agency or the state – except for relative or step-parent adoptions.

One hundred forty-two (142) individuals responded to the brief questionnaire. Of this number — 19 were adopted persons, 37 were adoptive parents, 22 were biological parents of a child released for adoption, 18 were professional and 46 were classified "other." composite breakdowns of their responses are as follows:

1) Those believing that non-identifying information should be available to adult adoptees without a court order —

Yes.....89 percent
No.....6 percent
Don't Know.....4 percent

2) Those believing that identifying information (names) should be accessible to adult adoptees, adoptive and biological parents —

Written consent.....77 percent
Court order & written consent.....15 percent
Only with court order.....2 percent
Not at all.....4 percent
Don't know.....1 percent

3) Those believing that adoptions should be done by a licensed adoption agency or the state – (except for relative or stepparent adoptions)

Yes.....65 percent
No.....17 percent
Don't Know.....18 percent

Contrary to what might be expected, when the responses are broken down by adoptees, adoptive parents and biological parents, the support for open records remains strong within each discrete group.

Of those respondents who were ADOPTIVE PARENTS, 67 percent believed that access to identifying information should be granted with the consent of the person to be identified. Ninety-five percent believed adult adoptees should have access to non-identifying information without a court order. Fifty-one percent of the adoptive parents believed adoptions should be done by a licensed agency or the state and 35 percent disagreed. Fourteen percent weren't sure.

Of those respondents who were the BIOLOGICAL PARENT of a child released for adoption, 82 percent believed that access to identifying information should be granted with the written consent of the person to be identified. Ninety-one percent believed adult adoptees should have access to non-identifying information without a court order. Forty-five percent of the biological parents believed adoptions should be done by a licensed agency or the state. Forty-one percent weren't sure and 14 percent disagreed.

Of the respondents who were ADOPTEES, 81 percent believed that access to identifying information should be provided with the written consent of the person to be identified. Ninety-five percent believed that access to non-identifying information should be possible without a court order, and 84 percent believed adoptions should be done by a licensed agency or the state. Eleven percent disagreed and five percent weren't sure.

Of the remaining respondents, 80 percent believed that written consent should be required for the release of identifying information, 87 percent believed that access to non-identifying information should be possible without court order and 74 percent believed a licensed agency or the state should do the adoptions.

Survey results such as these give clear indicatons of changing social attitudes about adoption and about "secret" adoptive records.

It is obvious that the majority of respondents in this survey believe that Alaska should "open" adoptive records. It remains to be seen whether the 12th Alaska Legislature will agree.

Cecilia "Pudge" Kleinkauf is a faculty member of the University of Alaska, Anchorage with the Department of Social Work.

Oklahoma Law Review Summary

Attacks on the sealed record laws spread nationwide in the 1970's as activists for adoptees' rights began lobbying legislators to amend laws that prevented adopted persons from finding out the circumstances of their own adoption. Challenges to the laws began to be voice in state and federal courts with plintiffs claiming that such laws violated constitutional rights. Among rights adoptees assert are violated by the closure statutes are a first amendment right to receive significant personal information, a ninth amendment right to personhood and privacy, and denial of equal protection of the law under the fourteenth amendment. State courts have uniformly upheld sealed record laws against all such attacks. The U.S. Supreme court has not yet decided the constitutionality of sealed record laws.

Modern adoption procedures are primarily designed to protect the welfare of the adoptee, they simutaneously safeguard the rights of the biological and adoptive parents. Like other aspects of family law, adoption is governed by state rather than federal rules. In most jurisdictions, adoption proceedings are closed and records are sealed to protect rights of the parties involved.

** Pro sealed records: One court reasoned that sealed record laws offer assurance to a biological mother that instead of haphazardly placing the child herself, she can allow desirous and qualified persons to adopt the infant. She will be protected in the process so that no one will ever know by means of the adoption proceedings that the child was illegitimate, if such is the case. The statutes further purport to assure the adoptive parents that the child may be treated as their own and that they need not fear the adoption records will hurt the child or their relationship with the child. Sealed record laws were enacted basically to protect the adoptee from any possible stigma of illegitimacy they might bear, to allow a parent-child relationship to form in the adoptive family without the threat of interference from the biological parents, and to afford the biological mother a chance to make a new life for herself, secure in the knowledge that this phase of her life would not be revealed. Most sealed record laws were enacted in an era when illegitimacy carried a devastating legal and social stigma.

** The sudden appearance of the child years later could be a shocking experience. Traditionally, when a parent places a child for adoption, that parent is given a promise of anonymity. Opening adoption records might be humiliating to a mother who surrendered a child years ago, and who would not want to confront a part of her life long buried in the past.

** Adoptive parents fear that the liberalization of sealed record laws would lead to the loss of their adopted child to the biological parent, once the child and parent locate each other.

** With a scarcity of babies available to adopt, many fear a powerful black market will emerge. Perhaps legislators and courts believe that statutes that deny confidentiality in adoption procedures would be another factor that might force biological parents covertly to surrender a child they cannot support.

** Con sealed records: With maturation, many adoptees experience identity crises, health problems that possibly have a genetic connection, and curiosity about their biological heritage. One study of the psychological status of adults revealed that only a small portion of adoptees become well-adjusted adults. Other studies show adoptees are prone to emotional and psychological problems, all traceable to a lack of identity. One psychologist notes that one's identity has to do with immediate life involvements (the adoptive family) and a larger sense of heritage. It is in the latter category that adoptees feel identity-deficient. Without this sense of heritage, psychologist reson, adoptees have no sense of continuity, wholeness, or fidelity, all of which are important to identify formation. Thus, the conspiracy of silence against the adult adoptee prevents the development of a full self-identity. While confidentiality may serve its purposes in the adoptee's young life when the parent-child relationship is forming, it is questionable whether insistence upon such a policy remains in a adoptee's best interests once adulthood is reached, the "best interests" rationale should extend into the life of the adult adoptee.

** A relationship between parent and child that has developed throughout the adoptee's young life is not easily endangered by outside persons or influences. While adoptive parents have a valid interest in keeping adoption records sealed during the adoptee's youth, that interest decreases after the parent-child relationship has blossomed. Furthermore, one commentator suggest that most adoptees experience a deeper sense of love and appreciation for the adoptive parents as a result of establishing a relationship with biological relatives. It is reasonable to believe that revealing the information sought by adoptees concerning their identity would lead to their mental health and happiness.

** States must consider the mental health of those persons for whose adoptions they are responsible. Medical studies reveal that some adoptees who are denied the opportunity to seek out biological parents or genealogical history have suffered severe psychological stress. A suggestion was made that states should establish some provision in their adoption laws to help these adoptees overcome their disorder and thus keep that person from becoming a burden on the state.

** Adoption laws are drafted to result in the best interests of the adoptee, in many cases, revealing information about the adoption process is in the best interest of the adoptee.

Among the avenues of constitutional argument open to an adoptee seeking access to birth records or adoption proceedings is the challenge that sealed record laws violate first amendment rights. One theory supporting the purpose of the first amendment is that it promotes a "marketplace of ideas" concept that allows the free exchange of information, enabling all person to participate knowledgeably in government and society. Sealed adoption laws that are the cause of psychological stress on adoptees arguably frustrate one of the basic premises of the first amendment. The Supreme Court has extended the first amendment beyond its literal terms. On numerous occasions, the Court has held that the amendment protects the right to receive information. It has been argued that this includes information about the adoption process, but courts have rebuffed that argument. Another court faced with a challenge to sealed record laws noted that no constitutional or personal rights were unconditional and absolute to the exclusion of the rights of all other. That court thought that the conditional limitation (the good cause requirement) of the challenged statute promoted a valid state policy of protecting privacy rights. Applying a balancing test, the court found that the adoptees' first amendment rights were outweighed by the countervailing rights of the other interested parties.

A plaintiff's attempt to invoke the right to receive information in this context would seem to be an overly broad extension of the right and an unprecedented interpretation of the first amendment. But a general conclusion that all biological and adoptive parents wish to keep adoption information confidential once the adoptee reaches adulthood should not be made. In those cases where all parties are amenable to releasing the information, the adoptee should have the right to view adoption records.

Although the Constitution does not explicitly mention a right to privacy, such a fundamental right has been found to exist in the penumbras of the first, third, fourth, fifth, and ninth amendments. The definition of privacy and the nature of the interests it encompasses have not clearly been set forth. The Supreme Court has deemed fundamental two types of privacy interests: those involving traditional family ties and decisions about control over one's own body. The privacy right limits governmental interference into individual decisions regarding these issues deemed fundamental. Adoptees allege that the right to know genealogical identity is similar to areas in which privacy has been held to apply. (extended to such areas as abortion, marriage, contraception, procreation, child rearing, and education) The privacy right arguably could encompass an adoptee's right to view birth records because the ability to make decisions involving fundamental rights is likely influenced by identity formation gained through those records. Preventing access to information about an adoptee's genetics may hamper the decision-making process concerning such things as procreation and contraception. Without such genealogical facts, the adoptee has no information upon which to base intelligent decisions. Thus, sealed record laws prevent adoptees from fully exercising fundamental rights by deterring dissemination of information needed to make decisions protected by the right to privacy. Such a governmental intrusion is forbidden

by the Constitution. One court has held that information regarding heritage and heredity, while it may be important to forming identity, is nevertheless not so intimately personal as to fall within the zones of privacy implicitly protected by the Bill of Rights penumbras. The penumbral rights that adoptees use to assert a right of access to files is the same right opponents assert to keep the files closed.

Establishing a fundamental privacy right to birth records would entitle adoptees to strict scrutiny of the closure laws. The state would have to show that a compelling interest is served by the statute and that less intrusive alternatives are unavailable. Although the purposes served by sealed record statutes are important, arguably even compelling, there are less intrusive means of achieving the goals such laws are aimed to meet. Procedures could be developed to contact birth parents through a liaison. If the parent refused to cooperate, privacy rights would still be protected and parents would be able to appear and meet with the adoptee if neither party wanted to remain silent.

Suggested Reforms

Under most current sealed record laws, an adoptee must make a showing of some form of good cause in order to inspect records. However, what constitutes good cause is left to the subjective discretion of the judge and is nowhere defined in most state statutes. A suggestion offered by the Superior Court of New Jersey in Mills v. Atlantic City Department of Vital Statistics. The court held that when an adoptee seeks access to adoption records during minority, the minor must satisfy the good cause requirement. When the adoptee reaches majority, the burden of proof shifts to the state to show an absence of good cause. If biological parents consent to disclosure, the records may be opened on demand.

A court-supervised intermediary process would offer another solution that would be consistent with the rights of all parties involved. A person appointed by the court to act as an intermediary could seek out the biological parents and inform them of the adoptee's desire to meet them.

Court and legislators should abandon the popular all or nothing approach to adoption record laws in an effort to best serve the needs of all persons involved. Courts thus far have not taken he incentive; thus it falls to the state legislatures to initiate this desirable change.

Rewriting the Adoption Story

The Old Version Was Based on More Fiction Than Fact—the Belief that Law Could Mirror Biology. Today's Adoption Procedures Are More Realistic

Who may adopt? Who may be adopted? How important is it to match religion or race? When is a birth parent's consent unnecessary to complete adoption? Under what circumstances can a birth mother revoke her consent after she has relinquished her child? These questions of the '60s were based on traditional thinking of adoption. Today's questions are not only based on changes in family patterns but on a new way of thinking about the concept of adoption.

The institution of adoption was incorporated into U.S. law in 1851, when Massachusetts enacted the first American adoption statute that provided for judicial supervision over adoptions. In other states, adoption was a private legal act, like a conveyance of real estate or a commercial contractual transaction. Before 1851, other state statutes merely authenticated and made a public record of private agreements.

For the past century, our adoption laws and practices have followed the Roman legal tradition of attempting to make law mirror biology. This tradition was based on the notion that the adopted child, by physical appearance alone, could have been the birth child of the adoptive parents. The adoptive parents were supposed to be people who, by appearance and age, could have conceived the infant. Thus, adoption laws were designed to imitate nature.

Throughout history, a birth mother has had two options: she could choose the adoptive parents and relinquish her child to them--often without going to court; or she could leave the decision to a licensed private or public social service agency that would receive the child, obtain the relinquishment, and then place the child—usually with a childless couple. Most American adoptions consisted of unwed mothers, whose newborn or infant children were released directly from a hospital nursery or a special short-term foster home. For an unwed mother, adoption was a socially acceptable alternative.

But times have changed. The patterns of earlier years are now the exception, not the rule. Today, adoption is usually the end of a process that began as a child neglect or abuse proceeding. While there are still some newborns being placed for adoption, the typical profile of the adoptive child in the '80s is a three-to-five-year-old youngster who has lived with his or her birth mother, then with a series of foster parents, and has lacked a permanent home for at least a year. The birth mother usually has failed to rehabilitate herself, and the most likely candidates to adopt the child are the child's foster parents.

Foster care has become a first step toward adoption. In the past, foster parents often were excluded as candidates because of the matching physical requirements and factors such as financial eligibility. Now, foster parents often are given priority because they have formed strong emotional bonds with the child. They have become the child's "psychological parents."

Government-subsidized adoption programs, which provide the financial support for children to be adopted by their foster parents, was an idea in the '60s. It became a reality in the '70s and is being implemented in the '80s.

CHILDREN BORN OUT OF WEDLOCK

During these 20 years, there has been a great deal of litigation over the status and rights of children born out of wedlock. The U.S. Supreme Court has moved in the direction of declaring illegitimacy a suspect classification under the Equal Protection Clause of the Constitution. The legal distinction between legitimate and illegitimate

BY SANFORD N. KATZ

births has been blurred, and some state statutes have eliminated the distinction altogether—stating that all children are legitimate. But the highest court in the land has not gone that far.

This new attempt to give illegitimate children the same rights as legitimate children has encouraged legislative change, particularly in the area of parental consent. For years, the child born out of wedlock was considered the child of the mother. And unless an unwed father acknowledged paternity or was declared the father through judicial proceedings, he was virtually a legal nonentity. Not only did the father have no rights to the custody of his illegitimate children, but the children had no rights to the companionship of their unwed father.

Although *Stanley v. Illinois*, 405 U.S. 645 (1972), was not an adoption case but a case of neglect and dependency, it had a major effect on adoption law. *Stanley* held that an unwed father who had sired and lived with his three children and their mother intermittently for 18 years was, upon the mother's death, entitled to a hearing before his children could be removed for reasons of neglect. Under Illinois law, Mr. Stanley was not considered a "parent" and thus was not entitled to due process of law because he was not married to his children's mother. The Supreme Court stated in a footnote that its decision also affected adoption.

This case and many that followed it, such as *Rothstein v. Lutheran Social Services*, 405 U.S. 1051 (1972), where the father's rights were considered, have had an impact on all state adoption statutes. In most instances, fathers of children born out of wedlock now must be accorded the opportunity to consent to the adoption of their biological offspring. But there are practical problems in providing this opportunity. Procedures to implement *Stanley* are still being worked out by states to ensure fairness to the biological father without jeopardizing the adoption of the child.

OPEN ADOPTION

"Open adoption" is a concept of the 1980s that represents a new idea about adoption. It is the antithesis of the Roman ideal—it does not seek to imitate nature and makes no attempt to be a fiction. The essence of open adoption is to provide the child with the opportunity to maintain ties with his or her biological family.

Traditionally, adoption required the complete termination of the biological parent-child relationship, for both legal and practical reasons. Once adoption was decreed, the child was no longer considered the child of the birth parents. Ties with the biological family were severed, unless the child's adoptive parents chose to continue some contact, usually in intra-family adoptions.

Today, most adoptees are older children who have memories of their earlier childhood and have some contact, if minimal, with their birth families. In cases where contact has been beneficial, but not so positive as to demand return to their birth parents, some courts have made allowances in the decree for visitation by certain members of the biological family. This is usually done only if the child desires it.

Open adoption is controversial because it challenges the basic goal of adoption—to accomplish a complete transplant of a child from the birth family to the adoptive family. Some opponents prefer that contact with the biological family be accomplished voluntarily, without decreeing it, or that guardianship be used rather than adoption.

With open adoption, the mystery of biological birth is eradicated. The price, however, is that it creates a different model for the parent-child relationship. The question is whether society is ready for it.

LOOKING AHEAD

During the next decade, states that forbid private adoptions are likely to reexamine that policy and the roles of professionals in the adoption process. I anticipate that our legislatures will ask whether it is fair to give agencies a monopoly in the placement of children for adoption of newborns or whether birth parents should be allowed to choose a suitable family for their child.

Other questions facing us in the '80s include: In states that do not allow private adoptions, how can adoptive applicants be assured of fair treatment? Is surrogate motherhood a socially acceptable alternative to traditional adoptive placement? Should there be state regulation of this newly adapted scientific method, or should women and physicians alone be the sole decision makers?

The open records controversy will continue. The debate over whether adoptive children have the legally protected right to inspect their adoption records should prompt states to reevaluate their legislation. The open records issue is an emotional one that needs rethinking. By changing the laws to allow free access to the records by anyone in the adoption triad, we will radically alter adoption in America.

Because adoption has existed in essentially one form for over one and one-half centuries, changes that affect underlying assumptions and strongly felt social values have been, and will continue to be, slow in coming. Those involved in adoption reform must be patient.

The Family Law Section's Adoption Committee is developing a new Model Adoption Act. The Committee is trying to propose an act that takes into account what adoption of children means in the '80s and how it can be accomplished with fairness to all the participants.

In any discussion of adoption, however, we must not lose sight of its primary goal: to provide a permanent, secure, and loving home for a child whose birth parents are unable or unwilling to meet the child's needs. Throughout the process of change, we must never cease to ask the basic question: "Is it well with the child?" ■

Sanford N. Katz, professor of law at Boston College Law School, is a past chairman of the Family Law Section. He is editor-in-chief of the Family Law Quarterly *and president of the International Society on Family Law.*

Alaska State Legislature

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp

Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907)465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Kerttula

FROM: Elizabeth J. Hickerson

RE: Adoption Legislation

DATE: March 14, 1983

Last year SB 399 was introduced and passed the Senate with a committee substitute out of Judiciary. This session a very similar bill has been drafted regarding the issue of non-identifying information for adoptees and their adopted parents. Also included in the bill is a procedure whereby an adoptee or the biological parents can attach information to the original birth certificate with identifying information.

The primary intent of the adoption bill is to provide vital non-identifying information to adoptees. Basically, adult adoptees have stated that they feel a void in their lives due to the fact that information regarding their biological parents is missing. Not only is access to medical history vital, but adult adoptees have stated repeatedly that additional non-identifying information is essential to knowing oneself and past roots.

This bill would provide a means of collecting non-identifying information at the time of adoption and attaching this to the birth certificate. No identifying information as to the biological parent is included.

In addition this bill provides an optional mechanism whereby either the biological parent or the adoptee upon reaching 18 years of age can provide identifying information to the other party. The bill provides that at any time a biological parent can attach identifying information (name, address, etc.) to the child's birth certificate for release. This can be revoked at any time by the biological parent. At the same time the adult adoptee can attach similar information to his/her birth certificate. This basically provides a mechanism whereby the parties can establish direct contact with one another.

Neither of these two sections permits identification of the parties being released unless they so request. The parties must take affirmative steps for identifying information to be released. The state would merely establish a registry to assist those wishing to release identifying information.

As it is today children are born, biological parental rights are terminated and adoption takes place without the benefit of background information on the biological parent being preserved. With passage of this bill, non-identifiable information will be preserved and accessible, and a mechanism will be created to aid those wishing to identify themselves.

SB

346

COMMITTEE REPORT

HOUSE

(7) FURTHER: JUDICIARY

4/11/84 Date: May 24, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSSB 346(Jud)am

"An Act relating to the treatment of mentally ill persons."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with HCS for CSSB 346 (HESS) [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mae Fischer

MEMBERS HAVING OTHER RECOMMENDATIONS:

Rich Kelly (NO REC.)

T.H. Martin (No Rec)

Mike Davis NO REC

Nick Kopman no rec.

Peter Dale needs amendment

Sam Pestinger no rec.

Mae Fischer
CHAIRMAN

Liability of hospital for negligence of nurse assisting operating surgeon. 29 ALR3d 1065.

Hospital's liability for injury or death to patient resulting from or connected with administration of anesthetic. 31 ALR3d 1114.

Liability of hospital for refusal to admit or treat patient. 35 ALR3d 841.

Attending physician's liability for injury caused by equipment furnished by hospital. 35 ALR3d 1068.

Hospital's liability to patient injured going to or using bathroom or toilet facilities. 36 ALR3d 1235.

Liability for negligence in diagnosing or treating aspirin poisoning. 36 ALR3d 1358.

Liability of one releasing institutionalized mental patient for harm he causes. 38 ALR3d 699.

Medical malpractice in connection with diagnosis, care, or treatment of diabetes. 42 ALR3d 482.

Hospital's liability for injury allegedly caused by improper diet or feeding of patient. 42 ALR3d 736.

Liability for injury allegedly resulting from negligence in making hypodermic injection. 45 ALR3d 731.

Liability for injury or death from blood transfusion. 45 ALR3d 1364.

Liability of hospital for injury caused through assault by a patient. 48 ALR3d 1288.

Hospital's liability to patient for injury allegedly sustained from absence of particular equipment used in diagnosis or treatment of patient. 50 ALR3d 1141.

Hospital's liability for negligence in selection or appointment of staff physician or surgeon. 51 ALR3d 981.

Liability for injuries or death resulting from physical therapy. 53 ALR3d 1250.

Liability of hospital, or medical practitioner, under doctrine of strict liability in tort, or breach of warranty, for harm caused by drug, medical instrument, or similar device used in treating patients. 54 ALR3d 258.

Liability of physician or hospital in the performance of cosmetic surgery upon the face. 54 ALR3d 1255.

Liability of hospital, other than mental institution, for suicide of patient. 60 ALR3d 880.

Validity and construction of contract between hospital and physician providing for exclusive medical services. 74 ALR3d 1268.

Tort liability of physician or hospital in connection with organ or tissue transplant procedures. 76 ALR3d 890.

Recovery for mental or emotional distress resulting from injury to, or death of, member of plaintiff's family arising from physician's or hospital's wrongful conduct. 77 ALR3d 447.

Malpractice in connection with diagnosis of cancer. 79 ALR3d 915.

Patient tort liability of rest, convalescent, or nursing homes. 83 ALR3d 871.

Arbitration of medical malpractice claim. 84 ALR3d 375.

Malpractice in connection with electroshock treatment. 94 ALR3d 317.

Application of rule of strict liability in tort to person or entity rendering medical services. 100 ALR3d 1205.

Sec. 18.20.020. License required. No person or government unit, except the federal government, acting severally or jointly with another person or governmental unit may establish, conduct or maintain a hospital in the state without a license. (§ 40-6-2 [illegible] 1949; am § 3 ch 112 SLA 1957)

Cross references. — As to requirement for certificate of need to construct or alter a health care facility, see AS 18.07.011 — 18.07.111.

Opinions of attorney general. — A nursing home is considered a hospital for the purpose of the licensing provisions. 1963 Op. Att'y Gen., No. 7.

If a person establishes a hospital which gives general and medical treatment and in addition provides nursing service, both aspects of hospital operation are nonetheless within the same hospital, and there is no justification for breaking up the operations of one hospital into separable units for licensing purposes; therefore, one license should be required for the entire hospital operation. 1963 Op. Att'y Gen., No. 7.

Collateral references. — Licensing and regulation of nursing or rest homes. 97 ALR2d 1187.

Sec. 18.20.030. Application and fees. Application for a license shall be made to the department upon a form provided by it, and shall contain the information the department requires, which may include affirmative evidence of ability to comply with the reasonable standards, rules and regulations prescribed under AS 18.20.060 — 18.20.080. Each application for a license shall be accompanied by a license fee of $10. The department shall deposit all fees received in the state treasury. (§ 40-6-4 ACLA 1949)

Sec. 18.20.040. Issuance and renewal of license and posting. Upon receipt of an application for license and the license fee, the department shall issue a license if the applicant meets the requirements established under AS 18.20.060 — 18.20.080. If the applicant does not meet the requirements established under AS 18.20.060 — 18.20.080 but makes continued efforts to comply with them, the department may grant him a temporary or provisional license for a reasonable period of time. A license, unless suspended or revoked, is renewable annually without charge upon filing by the licensee, and approval by the department of an annual report on the uniform date and containing the information in the form the department prescribes by regulation. Each license issued is for the premises and person or governmental unit named in the application and is not transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises. (§ 40-6-5 ACLA 1949; am § 4 ch 112 SLA 1957)

Sec. 18.20.045. Insurance required.

Repealed by § 40 ch 177 SLA 1978.

Editor's notes. — The repealed section derived from § 39, ch. 102, SLA 1976.

As to purpose of repealing act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Sec. 18.20.050. Denial, suspension or revocation of license. The department may deny, suspend or revoke a license in a case in which it finds that there has been a substantial failure to comply with the requirements established under AS 18.20.060 — 18.20.080. (§ 40-6-6 ACLA 1949)

Sec. 18.20.060. Regulations and standards. The department shall adopt, amend, and enforce rules, regulations and standards for all hospitals designed to further the accomplishment of the purposes of AS 18.20.010 — 18.20.130 in promoting safe and adequate treatment of individuals in hospitals in the interest of public health, safety and welfare. (§ 40-6-7 ACLA 1949)

Sec. 18.20.070. Compliance with regulations. Each hospital in operation at the time the department adopts rules and regulations or

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 346
Title: "An act relating to the treatment of mentally ill persons."
Sponsor: Sen. Josephson & Halford
Requestor: Senate HESS
Date of Request: 1-20-84

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

This Bill provides law enforcement officers with the latitude to protect both the mentally ill person and the public from the actions of the mentally ill.

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan G.C.A. mck Phone: 269-5691
Division: Alaska State Troopers Date: 01/19/84

Approved by Commissioner: Robert A. Sundberg Date: 1-26-84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

JUSTICE - Andy/SS

12/1/83

FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 346
Title: "An Act relating to the treatment of mentally ill persons."
Sponsor: Sen. Josephsen
Requestor: Senate HESS
Date of Request: 1/17/84

FISCAL DETAIL
Agency Affected: Department of Law
Program Category Affected: General Government
BRU, Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS:

This act amends the state's statutes covering the treatment of mentally ill persons. The amendment clarify existing law and provide additional safeguards for the general public and the relatives of mentally ill persons, while seeking to protect the legal rights of persons suffering from mental illness. The amendments will not require any additional legal services, over those currently being provided, and their enactment will not have a fiscal impact on the department's operations.

Prepared By: Richard I. Pegues / Director — Phone: 465-3672
Division: Administrative Services — Date: 1-18-84
Approved by Commissioner: Richard I. Pegues for Norman C. Gorsuch — Date: 1-18-84
Agency: Department of Law

Zero LAW-Analysis

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 346
Title: An Act relating to the treatment of mentally ill persons
Sponsor: Josepnson and Halford
Requestor:
Date of Request: 1-11-84

FISCAL DETAIL
Agency Affected: Division of Mental Health and Developmental Disabilities
Program Category Affected: API
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis * See Attached

Prepared By: James L Scoles (PS) (RR) Phone: 465-3370
Division: Mental Health & Developmental Disabilities Date: 1-20-84

Approved by Commissioner: Robert London Smith Date: 1/30/84
Agency: Dept of Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HEALTH-ANALYSIS
12/1/83

The Division of Mental Health and Developmental Disabilities does not foresee any increase or decrease in expenditures as a result of the passage of SB 346 at this time. The primary purpose of this bill is mainly directed at reducing the procedural requirements of A.S. 47.30.655 - 47.30.915, changing the age of majority from 14 to 18 years of age, changing the period of time for the initial commitment from 21 to 30 days and the third period of commitment from 120 to 180 days, expanding the definition of peace officers to include mental health professionals, and slightly relaxing the standards for commitment.

We do not believe that any of these proposed amendments will increase or decrease the number of mentally ill persons that will require hospitalization. The amendments should, however, make it easier to commit the mentally ill which should result in more professional staff time available to provide direct patient care and treatment rather than excessive time being expended in the commitment process.

Council under § 1524(c)(2)(A) of P.L. 93-641, and only after consideration of comment and advice of the Advisory Board on Alcoholism. In awarding grants, the department shall further consider the amount of money that is available for all applications and whether an application would contribute to the wise development of a comprehensive program of alcoholic rehabilitation and prevention.

(c) Grants shall be awarded in a ratio of 90 percent state money to 10 percent community money for the costs of providing staff and limited improvement, renovation or new construction of facilities for alcoholic detoxification, rehabilitation or "half-way house" care. The department may waive all or part of the requirement that state money be matched by community money if the department finds that community money is unavailable and waiver of the requirement is in the best interests of the state. No grant for improving, renovating or constructing may exceed $50,000 except when there is a lack of applicants for available money and then only with the approval of the Review Board on Alcoholism. The department is not required to award all money available under this program, or the full percentages specified in this subsection, when another source of money is available or could reasonably be made available to the applicant.

(d) Money used by the applicant to qualify for state money may be from any source other than the state. The cost of developing an application is not reimbursable from the grant. The value of real property to be used directly in conjunction with the grant may be used in calculating the required amount of community money, as allowed by regulations of the department.

(e) No grant may be awarded under this section unless the application includes a plan which provides for

(1) the expenditure of grant money for education and other preventative measures, or the treatment of alcoholics;

(2) the reception of advice and comment from a local advisory board, or, if a local advisory board cannot be formed because the area is sparsely populated, from the governing bodies of private nonprofit health organizations, regarding the design, implementation, and evaluation of the plan and action to be taken;

(3) goals, expressed in quantifiable terms that express the intended impact of the assistance provided under the plan upon the number of individuals needing or utilizing such assistance;

(4) coordination with the goals and objectives of the health systems plan developed by the health systems agencies under § 1513(b)(2) of P.L. 93-641.

(f) The department shall monitor the implementation of the plan required under (e) of this section, and shall terminate payment of grant money if the plan is not implemented or approval of the program as a public or private treatment program under AS 47.37.110 is not granted within one year of the award of the grant, or is suspended, revoked, limited or restricted. Modification of the plan required by (e) of this section must be approved by the department before implementation of the modification.

(g) The department shall provide management training for persons administering a program receiving grant money under this section.

(h) If the department determines, after the award of a grant under (c) of this section, that the community is capable of bearing a greater portion of the cost of a program than originally determined, the department may

(1) reduce the award by that portion of the cost of a program which the department subsequently determined the community could bear; or

(2) terminate payment of the grant entirely. (§ 2 ch 101 SLA 1970; am § 1 ch 126 SLA 1975; am §§ 1, 2 ch 116 SLA 1978; am § 33 ch 168 SLA 1978; am § 1 ch 150 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "90" for "75", and "10" for "25", deleted "except that in communities designated as poverty areas the ratio shall be 80 percent state money to 10 percent community money" following "community money" near the beginning of subsection (c), inserted the second sentence of subsection (c), and substituted "Review" for "Advisory" near the end of the third sentence of subsection (c).

Article 6. Mental Health Program.

Section
655. Purpose
660. Powers and duties of department

Sec. 47.30.655. Purpose. The purpose of this major revision of Alaska civil commitment statutes (AS 47.30.660 — 47.30.915) is to more adequately protect the legal rights of persons suffering from mental illness. The legislature has attempted to balance the individual's constitutional right to physical liberty and the state's interest in (1) protecting society from persons who are dangerous to others; and (2) protecting persons who are dangerous to themselves, by providing due process safeguards at all stages of commitment proceedings. In addition, the following principles of modern mental health care have guided this revision:

(1) that persons be given every opportunity to accept voluntary treatment before involvement with the judicial system;

(2) that persons be treated in the least restrictive alternative environment consistent with their treatment needs;

(3) that treatment occur as promptly as possible and as close to the individual's home as possible;

(4) that a system of mental health community facilities and supports be available;

(5) that patients be informed of their legal rights and be informed of and allowed to participate in their treatment program as much as possible;

(6) that persons who are mentally ill but not dangerous to others be committed only if there is a reasonable expectation of improving their mental condition. (§ 1 ch 84 SLA 1981)

Editor's notes. — The parenthetical expression in the first sentence was added by the revisor of statutes pursuant to AS 01.05.031.

Sec. 47.30.660. Powers and duties of department. The department is the mental health authority of the state and shall

(1) administer a comprehensive program for the prevention of mental illness and the care and treatment of the mentally ill, including inpatient and outpatient care and treatment and the procurement of services of specialists or other persons on a contractual or other basis;

(2) take the actions and undertake the obligations which are necessary to participate in federal grants-in-aid programs and accept federal or other financial aid from whatever sources for the study, examination, care, and treatment of the mentally ill;

(3) administer AS 47.30.660 — 47.30.915;

(4) designate, operate, and maintain treatment facilities equipped and qualified to provide inpatient and outpatient care and treatment for the mentally ill;

(5) provide for the placement of mentally ill patients in designated treatment facilities;

(6) enter into arrangements with governmental agencies for the care or treatment of the mentally ill in facilities of the governmental agencies in the state or in another state;

(7) enter into contracts with treatment facilities for the custody and care or treatment of the mentally ill;

(8) enter into contracts which incorporate safeguards consistent with AS 47.30.660 — 47.30.915 and the preservation of the civil rights of the patients with another state for the custody and care or treatment of patients previously committed from this state under 48 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70 Stat. 709;

(9) prescribe the form of applications, records, reports, requests for release, and consents to medical or psychological treatment required by AS 47.30.660 — 47.30.915;

(10) require reports from the head of a treatment facility concerning the care of patients;

(11) visit each treatment facility at least annually to review methods of care or treatment for patients;

(12) investigate complaints made by a patient or an interested party on behalf of a patient;

(13) delegate upon mutual agreement to another officer or agency of it, or a political subdivision of the state, or a treatment facility designated, any of the duties and powers imposed upon it by AS 47.30.660 — 47.30.915; and

(14) adopt regulations to implement the provisions of AS 47.30.660 — 47.30.915. (§ 1 ch 84 SLA 1981)

Editor's notes. — Section 6, ch. 84, SLA 1981, provided: "Except as provided in this Act, the provisions of AS 47.30.660 — 47.30.815 enacted by sec. 1 of this Act do not in themselves impair any action taken in a proceeding pending under statutes in effect before October 1, 1981, nor do they apply retroactively to terminate the detention of a person previously committed under statutes in effect before October 1, 1981. However, 90 days after October 1, 1981, the provisions of this Act apply to all persons committed under statutes in effect before October 1, 1981."

Article 7. Voluntary Admission for Treatment.

Section		Section	
670.	Standards for voluntary admission	690.	Admission of minors under 14 years of age
675.	Notice of rights	695.	Notice of request for release of minors under 14 years of age from detention and commitment
680.	Discharge of voluntary patients		
685.	Notice of intent to leave facility; commitment		

Editor's notes. — Section 6, ch. 84, SLA 1981, provided: "Except as provided in this Act, the provisions of AS 47.30.660 — 47.30.815 enacted by sec. 1 of this Act do not in themselves impair any action taken in a proceeding pending under statutes in effect before October 1, 1981, nor do they apply retroactively to terminate the detention of a person previously committed under statutes in effect before October 1, 1981. However, 90 days after October 1, 1981, the provisions of this Act apply to all persons committed under statutes in effect before October 1, 1981."

Sec. 47.30.670. Standards for voluntary admission. A person 14 years of age or older may be voluntarily admitted to a treatment facility if he is suffering from mental illness and he voluntarily signs the admission papers. (§ 1 ch 84 SLA 1981)

Sec. 47.30.675. Notice of rights. (a) Upon the application of a person for voluntary admission, or at the time a person admitted under AS 47.30.690 reaches the age of 14, he shall be given a copy of the following documents which shall be explained to him as necessary:

(1) notice of rights as set out in AS 47.30.825 — 47.30.865 and an explanation of any document served upon him; and

(2) notice that should he desire to leave at a time when the treatment facility determines that he is mentally ill and as a result is likely to cause serious harm to himself or others or to gravely disabled, the facility could initiate commitment proceedings against him.

(b) If an applicant for voluntary admission does not understand English, the explanation shall be given in a language he understands. (§ 1 ch 84 SLA 1981)

Sec. 47.30.680. Discharge of voluntary patients. A patient who no longer meets the standards established in AS 47.30.670 shall be discharged from the treatment facility. (§ 1 ch 84 SLA 1981)

Sec. 47.30.685. Notice of intent to leave facility; commitment. A voluntary patient who is 14 years of age or older and who desires to leave a treatment facility must submit to the facility a written notice of intent to leave on a form provided to him by the facility. Upon immediate investigation, the patient shall be evaluated in writing and discharged immediately or given written notice that involuntary commitment proceedings will be initiated against him. The treatment facility may detain the patient for no more than 48 hours after receipt of the patient's notice of intent to leave in order to initiate involuntary commitment proceedings. (§ 1 ch 84 SLA 1981)

Sec. 47.30.690. Admission of minors under 14 years of age. (a) A minor under the age of 14 may be admitted for 21 days evaluation, diagnosis, and treatment at a designated treatment facility if his parent or guardian signs the admission papers and if, in the opinion of the professional person in charge,

(1) he is gravely disabled or is suffering from mental illness and as a result he is likely to cause serious harm to himself or others;

(2) there is no less restrictive alternative available for his treatment; and

(3) there is reason to believe that the patient's mental condition could be improved by the course of treatment.

(b) The minor may be released by the treatment facility at any time during the 21-day period if the professional person in charge or his designated mental health professional determines the minor would no longer benefit from continued hospitalization and the minor is not dangerous. The minor's parents or his guardian must be notified by the facility of the contemplated release and that, unless they initiate involuntary commitment proceedings, the minor will be released. (§ 1 ch 84 SLA 1981)

Sec. 47.30.695. Notice of request for release of minors under 14 years of age from detention and commitment. The parent or guardian of a minor who is less than 14 years of age may request and obtain immediate release of the minor at any time, unless as the result of mental illness, the minor is likely to cause serious harm to himself or others (§ 1 ch 84 SLA 1981)

Article 8. Involuntary Admission for Treatment.

Section		Section	
700.	Initiation of involuntary commitment procedures	760.	Placement at closest facility
705.	Emergency detention for evaluation	765.	Appeal
710.	Examination	770.	Additional 120 day commitment
715.	Acceptance of order	775.	Commitment of minors
720.	Release before expiration of 72-hour period	780.	Early discharge
725.	Commitment proceeding rights; notification	785.	Authorized absences
730.	Procedure for 21-day commitment; petition for commitment	790.	Return from unauthorized absence
735.	21-day commitment	795.	Involuntary outpatient care for committed persons
740.	Procedure for 90-day commitment following 21-day commitment	800.	Conversion of involuntary outpatient treatment to inpatient commitment
745.	90-day commitment hearing rights	805.	Computing periods of time
750.	Conduct of hearing	810.	Habeas corpus
755.	Court order	815.	Limitation of liability; penalty for false application

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Editor's notes. — Section 6, ch. 84, SLA 1981, provided: "Except as provided in this Act, the provisions of AS 47.30.660 — 47.30.815 enacted by sec. 1 of this Act do not in themselves impair any action taken in a proceeding pending under statutes in effect before October 1, 1981, nor do they apply retroactively to terminate the detention of a person previously committed under statutes in effect before October 1, 1981. However, 90 days after October 1, 1981, the provisions of this Act apply to all persons committed under statutes in effect before October 1, 1981."

Sec. 47.30.700. Initiation of involuntary commitment procedures. (a) Upon petition of any adult, a judge shall immediately conduct a screening investigation or direct a local mental health professional employed by the department or by a local mental health program that receives money from the department under AS 47.30.520 — 47.30.620 or another mental health professional designated by the judge, to conduct a screening investigation of the person alleged to be mentally ill and, as a result of that condition, alleged to be gravely disabled or to present a likelihood of serious harm to himself or others. Within 48 hours after the completion of the screening investigation, a judge may issue an ex parte order orally or in writing, stating that there is probable cause to believe the respondent is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to himself or others. The court shall provide findings on which the conclusion is based, appoint an attorney to represent the respondent, and may direct that a peace officer take the respondent into custody and deliver him to the nearest appropriate facility for emergency examination or treatment. The ex parte order shall be provided to the respondent and made a part of the respondent's clinical record. The court shall confirm an oral order in writing within 24 hours after it is issued

(b) The petition required in (a) of this section shall allege that the respondent is reasonably believed to present a likelihood of serious harm to himself or others or is gravely disabled as a result of mental illness and shall specify the factual information on which that belief is based including the names and addresses of all persons known to the petitioner who have knowledge of those facts through personal observation. (§ 1 ch 84 SLA 1981)

Sec. 47.30.705. Emergency detention for evaluation. A peace officer who has probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to himself or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, may cause the person to be taken into custody and delivered to the nearest evaluation facility. A correctional facility may be used as an emergency evaluation facility if an evaluation facility is not available. Upon arrival at the evaluation facility, the peace officer shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the facility. (§ 1 ch 84 SLA 1981)

Sec. 47.30.710. Examination. (a) A respondent who is delivered under AS 47.30.700 to 47.30.705 for emergency examination and treatment to an evaluation facility shall be examined and evaluated as to his mental and physical condition by a mental health professional and by a physician within 24 hours after arrival at the facility.

(b) If the mental health professional who performs the emergency examination has reason to believe that the respondent is (1) mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to himself or others, and (2) is in need of care or treatment, the mental health professional may hospitalize him, or arrange for hospitalization, on an emergency basis. If a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing hospitalization for evaluation. (§ 1 ch 84 SLA 1981)

Editor's notes. — The word "respondent" was substituted for the word "person" in the first sentence of subsection (b) by the revisor of statutes pursuant to AS 01.05.031.

Sec. 47.30.715. Acceptance of order. When a facility receives a proper order for evaluation, it must accept the order and the respondent for an evaluation period not to exceed 72 hours. The facility shall promptly notify the court of the date and time of the respondent's arrival. The court shall set a date, time and place for a 21-day commitment hearing, to be held if needed within 72 hours after the respondent's arrival, and the court shall notify the facility, the respondent, his attorney, and the prosecuting attorney of the hearing;

arrangements. Evaluation personnel, when used, shall similarly notify the court of the date and time when they first met with the respondent. (§ 1 ch 84 SLA 1981)

Sec. 47.30.720. Release before expiration of 72-hour period. If at any time in the course of the 72-hour period the mental health professionals conducting the evaluation determine that the respondent does not meet the standards for commitment specified in AS 47.30.700, the respondent shall be discharged from the facility or the place of evaluation by evaluation personnel and the petitioner and the court so notified. (§ 1 ch 84 SLA 1981)

Sec. 47.30.725. Commitment proceeding rights; notification. (a) When a respondent is detained for evaluation under AS 47.30.660 — 47.30.915, he shall be immediately notified orally and in writing of his rights under this section. Notification shall be in a language understood by the respondent. His guardian, if any, and if the respondent requests, an adult designated by the respondent, shall also be notified of the respondent's rights under this section.

(b) Unless a respondent is released or voluntarily admits himself for treatment within 72 hours of his arrival at the facility or, if he is evaluated by evaluation personnel, within 72 hours from the beginning of his meeting with evaluation personnel, he is entitled to a court hearing to be set for not later than the end of that 72-hour period to determine whether there is cause to detain him after the 72 hours have expired for up to an additional 21 days on the grounds that he is gravely disabled or mentally ill and as a result presents a likelihood of serious harm to himself or others. The facility or evaluation personnel shall give notice to the court of the releases and voluntary admissions under AS 47.30.700 — 47.30.820.

(c) The respondent has a right to communicate immediately, at the department's expense, with his guardian, if any, or an adult designated by the respondent and the attorney designated in the ex parte order, or an attorney of the respondent's choice.

(d) The respondent has the right to be represented by an attorney, to present evidence, and to cross-examine witnesses who testify against him at the hearing.

(e) The respondent has the right to be free of the effects of medication and other forms of treatment to the maximum extent possible before the 21-day commitment hearing; however, the facility or evaluation personnel may treat him with medication under prescription by a licensed physician or by a less restrictive alternative of his preference if, in the opinion of a licensed physician in the case of medication, or of a mental health professional in the case of alternative treatment, the treatment is necessary to

(1) prevent bodily harm to the respondent or others;

(2) prevent such deterioration of the respondent's mental condition that subsequent treatment might not enable him to recover; or

(3) allow the respondent to prepare for and participate in the proceedings.

(f) A respondent, if he is represented by counsel, may waive, orally or in writing, the 72-hour time limit on the 21-day commitment hearing and have the hearing set for a date no more than seven calendar days after his arrival at the facility. The respondent's counsel shall immediately notify the court of the waiver. (§ 1 ch 84 SLA 1981)

Sec. 47.30.730. Procedure for 21-day commitment; petition for commitment. (a) In the course of the 72-hour evaluation period, a petition for commitment to a treatment facility may be filed in court. The petition must be signed by two mental health professionals who have examined the respondent, one of whom is a physician. The petition must

(1) allege that the respondent is mentally ill and as a result is likely to cause harm to himself or others or is gravely disabled;

(2) allege that the evaluation staff has considered but has not found that there are any less restrictive alternatives available that would adequately protect the respondent or others; or, if a less restrictive involuntary form of treatment is sought, specify the treatment and the basis for supporting it;

(3) allege with respect to a gravely disabled respondent that there is reason to believe that the respondent's mental condition could be improved by the course of treatment sought;

(4) allege that a specified treatment facility or less restrictive alternative that is appropriate to the respondent's condition has agreed to accept the respondent;

(5) allege that the respondent has been advised of the need for, but has not accepted, voluntary treatment, and request that the court commit the respondent to the specified treatment facility or less restrictive alternative for a period not to exceed 21 days;

(6) list the prospective witnesses who will testify in support of commitment or involuntary treatment;

(7) list the facts and specific behavior of the respondent supporting the allegation in (1) of this subsection.

(b) A copy of the petition shall be served on the respondent, his attorney, and his guardian, if any, before the 21-day commitment hearing. (§ 1 ch 84 SLA 1981)

Sec. 47.30.735. 21-day commitment. (a) Upon receipt of a proper petition for commitment, the court shall hold a hearing at the date and time previously specified according to procedures set out in AS 47.30.715.

(b) The hearing shall be conducted in a physical setting least likely to have a harmful effect on the mental or physical health of the

respondent, within practical limits. At the hearing, in addition to other rights specified in AS 47.30.660 — 47.30.915, the respondent has the right

(1) to be present at the hearing; this right may be waived only with the respondent's informed consent; if the respondent is incapable of giving informed consent, the respondent may be excluded from the hearing only if the court, after hearing, finds that the incapacity exists and that there is a substantial likelihood that the respondent's presence at the hearing would be severely injurious to his mental or physical health;

(2) to view and copy all petitions and reports in the court file of his case;

(3) to have the hearing open or closed to the public as he elects;

(4) to be proceeded against according to the rules of evidence applicable to civil proceedings;

(5) to have an interpreter if he does not understand English;

(6) to present evidence on his behalf;

(7) to cross-examine witnesses who testify against him;

(8) to remain silent.

(c) At the conclusion of the hearing the court may commit the respondent to a treatment facility for not more than 21 days if it finds, by clear and convincing evidence, that the respondent is mentally ill and as a result is likely to cause harm to himself or others or is gravely disabled.

(d) If the court finds that there is a viable less restrictive alternative available and that the respondent has been advised of and refused voluntary treatment through the alternative, the court may order the less restrictive alternative treatment for not more than 21 days if the program accepts the respondent.

(e) The court shall specifically state to the respondent, and give him written notice, that if commitment or other involuntary treatment beyond the 21 days is to be sought, the respondent shall have the right to a full hearing or jury trial. (§ 1 ch 84 SLA 1981)

Sec. 47.30.740. Procedure for 90-day commitment following 21-day commitment. (a) At any time during the respondent's 21-day commitment, the professional person in charge, or his professional designee, may file with the court a petition for a 90-day commitment of that respondent. The petition must include all material required under AS 47.30.730(a) except that references to "21 days" shall be read as "90 days"; and

(1) allege that the respondent has attempted to inflict or has inflicted serious bodily harm upon himself or another since his acceptance for evaluation, or that he was committed initially as a result of conduct in which he attempted or inflicted serious bodily harm upon himself or another, or that he continues to be gravely disabled, or that he demonstrates a current intent to carry out plans of serious harm to himself or another;

(2) allege that the respondent has received appropriate and adequate care and treatment during his 21-day commitment;

(3) be verified by the professional person in charge, or his professional designee, during the 21-day commitment.

(b) The court shall have copies of the petition for 90-day commitment served upon the respondent, his attorney, and his guardian, if any. The petition for 90-day commitment and proofs of service shall be filed with the clerk of the court, and a date for hearing shall be set, by the end of the next judicial day, for not later than five judicial days from the date of filing of the petition. The clerk shall notify the respondent, his attorney, and the petitioner of the hearing date at least three judicial days in advance of the hearing.

(c) Findings of fact relating to the respondent's behavior made at a 21-day commitment hearing under AS 47.30.735 shall be admitted as evidence and may not be rebutted except that newly discovered evidence may be used for the purpose of rebutting the findings. (§ 1 ch 84 SLA 1981)

Sec. 47.30.745. 90-day commitment hearing rights. (a) A respondent subject to a petition for 90-day commitment has, in addition to the rights specified elsewhere in AS 47.30.350 — 47.30.915, or otherwise applicable, the rights enumerated in this section. Written notice of these rights shall be served on the respondent, his attorney, his guardian, if any, and may be served on an adult designated by the respondent at the time the petition for 90-day commitment is served. An attempt shall be made by oral explanation to insure that the respondent understands the rights enumerated in the notice. If the respondent does not understand English, the explanation shall be given in a language he understands.

(b) Unless the respondent is released or voluntarily admits himself following the filing of a petition and before the hearing, he is entitled to a judicial hearing within five judicial days of the filing of the petition as set out in AS 47.30.740(b) to determine if he is mentally ill and as a result is likely to cause harm to himself or others, or if he is gravely disabled. If the respondent voluntarily admits himself following the filing of the petition, the voluntary admission constitutes a waiver of any hearing rights under AS 47.30.740 or under AS 47.30.685. If at any time during the respondent's voluntary admission under this subsection, the respondent submits to the facility a written notice of intent to leave, the professional person in charge may file with the court a petition for 120 day commitment of the respondent under AS 47.30.770. The 120-day commitment hearing shall be scheduled for a date not earlier than 90 days after the respondent's voluntary admission.

(c) The respondent is entitled to a jury trial upon request filed with the court if the request is made at least two judicial days before the hearing. If the respondent requests a jury trial, the hearing may be

continued for no more than 10 calendar days. The jury shall consist of six persons.

(d) If a jury trial is not requested, the court may still continue the hearing at the respondent's request for no more than 10 calendar days.

(e) The respondent has a right to retain an independent licensed physician or other mental health professional to examine him and to testify on his behalf. Upon request by an indigent respondent, the court shall appoint an independent licensed physician or other mental health professional to examine him and testify on his behalf. The court shall consider an indigent respondent's request for a specific physician or mental health professional. A motion for the appointment may be filed in court at any reasonable time before the hearing and shall be acted upon promptly. Reasonable fees and expenses for expert examiners shall be determined by the rules of court.

(f) The proceeding shall in all respects be in accord with constitutional guarantees of due process and, except as otherwise specifically provided in AS 47.30.700 — 47.30.915, the rules of evidence and procedure in civil proceedings.

(g) Until the court issues a final decision, the respondent shall continue to be treated at the treatment facility unless the petition for 90-day commitment is withdrawn. If no decision has been made within 20 days of filing of the petition, not including extensions of time due to jury trial or other requests by the respondent, he shall be released. (§ 1 ch 84 SLA 1981)

Sec. 47.30.750. Conduct of hearing. The hearing under AS 47.30.745 shall be conducted in the same manner, and with the same rights for the respondent, as set out in AS 47.30.735(b). (§ 1 ch 84 SLA 1981)

Editor's notes. — The words "under AS 47.30.745" was added following "hearing" by the revisor of statutes pursuant to AS 01.05.031.

Sec. 47.30.755. Court order. (a) After the hearing and within the time limit specified in AS 47.30.745, the court may commit the respondent to a treatment facility for no more than 90 days if the court or jury finds by clear and convincing evidence that the respondent is mentally ill and as a result is likely to cause harm to himself or others, or is gravely disabled.

(b) If the court finds that there is a less restrictive alternative available and that the respondent has been advised of and refused voluntary treatment through the alternative, the court may order the less restrictive alternative treatment after acceptance by the program of the respondent for a period not to exceed 90 days. (§ 1 ch 84 SLA 1981)

Sec. 47.30.760. Placement at closest facility. Treatment shall always be available at a state operated hospital, however, if space is

available and upon acceptance by another treatment facility, a respondent who is committed by the court shall be placed by the department at the designated treatment facility closest to his home unless the court finds that

(1) another treatment facility in the state has a program more suited to the respondent's condition, and this interest outweighs the desirability of the respondent being closer to home;

(2) another treatment facility in the state is closer to the respondent's friends or relatives who could benefit him through their visits and communications; or

(3) the respondent wants to be further removed from his home, and the mental health professionals who sought his commitment concur in the desirability of removed placement. (§ 1 ch 84 SLA 1981)

Sec. 47.30.765. Appeal. The respondent has the right to an appeal from any order of involuntary commitment. The court shall inform the respondent of this right. (§ 1 ch 84 SLA 1981)

Sec. 47.30.770. Additional 120-day commitment. (a) The respondent shall be released from involuntary treatment at the expiration of 90 days unless the professional person in charge files a petition for a 120-day commitment conforming to the requirements of AS 47.30.740(a) except that all references to "21-day commitment" shall be read as "the previous 90-day commitment" and all references to "90-day commitment" shall be read as "120-day commitment".

(b) The procedures for service of the petition, notification of rights, and judicial hearing shall be as set out in AS 47.30.740 — 47.30.750. If the court or jury finds by clear and convincing evidence that the grounds for 90-day commitment as set out in AS 47.30.755 are present, the court may order the respondent committed for an additional treatment period not to exceed 120 days from the date on which the first 90-day treatment period would have expired.

(c) Successive 120-day commitments are permissible on the same ground and under the same procedures as the original 120-day commitment. An order of commitment may not exceed 120 days.

(d) Findings of fact relating to the respondent's behavior made at a 21-day commitment hearing under AS 47.30.735, a 90-day commitment hearing under AS 47.30.750, or a previous 120-day commitment hearing under this section shall be admitted as evidence and may not be rebutted except that newly discovered evidence may be used for the purpose of rebutting the findings. (§ 1 ch 84 SLA 1981)

Sec. 47.30.775. Commitment of minors. The provisions of AS 47.30.700 — 47.30.815 apply to minors. However, all notices required to be served on the respondent in AS 47.30.700 — 47.30.815 shall also be served on the parent or guardian of a respondent who is a minor, and parents or guardians of a minor respondent shall be notified that they may appear as parties in any commitment proceeding concerning the

minor and that as parties they are entitled to retain their own attorney or have one appointed for them by the court. A minor respondent has the same rights to waiver and informed consent as an adult respondent under AS 47.30.660 — 47.30.915; however, he shall be represented by counsel in waiver and consent proceedings. (§ 1 ch 84 SLA 1981)

Sec. 47.30.780. Early discharge. The professional person in charge shall at any time discharge a respondent on the ground that the respondent is no longer gravely disabled or likely to cause serious harm as a result of mental illness. A certificate to this effect shall be sent to the court which shall enter an order officially terminating the involuntary commitment. (§ 1 ch 84 SLA 1981)

Sec. 47.30.785. Authorized absences. A respondent undergoing involuntary treatment on an inpatient basis under AS 47.30.700 — 47.30.815 may be authorized to be absent from the treatment facility during times specified by the professional person in charge, or his professional designee, when an authorization to be absent is in the best interests of the respondent and he is not likely to cause harm to himself or others. (§ 1 ch 84 SLA 1981)

Sec. 47.30.790. Return from unauthorized absence. When a respondent undergoing involuntary treatment on an inpatient basis is absent from the treatment facility without, or in excess of, authorization under AS 47.30.785, the professional person in charge, or his professional designee, may contact the appropriate peace officers who shall take the respondent into custody and return him to the treatment facility. If it is determined by the professional person in charge to be necessary, a member of the treatment facility staff shall accompany the peace officers when they take the respondent into custody. (§ 1 ch 84 SLA 1981)

Sec. 47.30.795. Involuntary outpatient care for committed persons. (a) A respondent who was originally committed to involuntary inpatient care under AS 47.30.700 — 47.30.915 may be released before the expiration of his commitment period if a provider of outpatient care accepts him for specified outpatient treatment for a period of time not to exceed the duration of his commitment, and if the professional person in charge, or his professional designee, finds that

(1) it is not necessary to treat the respondent as an inpatient to prevent him from harming himself or others; and

(2) there is reason to believe that the respondent's mental condition would improve as a result of the outpatient treatment.

(b) A copy of the conditions for early release shall be given to the respondent, his attorney, his guardian, if any, the provider of outpatient care, and the court.

(c) If during the commitment period the provider of outpatient care determines that the respondent can no longer be treated on an

outpatient basis because he is likely to cause harm to himself or others or is gravely disabled, the provider shall give the respondent oral and written notice that he must return to the treatment facility within 24 hours, with copies to the respondent's attorney, his guardian, if any, the court, and the inpatient treatment facility. If the respondent fails to arrive at the treatment facility within 24 hours after receiving the notice, the professional person in charge may contact the appropriate peace officers who shall take the respondent into custody and transport him to the facility. If it is determined by the professional person in charge to be necessary, a member of the treatment facility staff shall accompany the peace officers when they take the respondent into custody.

(d) If the provider of outpatient care determines that the respondent will require continued outpatient care after the expiration of his commitment period, the provider may initiate further commitment proceedings as if he were the professional person in charge, and the provisions of AS 47.30.660 — 47.30.915 apply, except that provisions relating to inpatient treatment shall be read as applicable to outpatient treatment. (§ 1 ch 84 SLA 1981)

Sec. 47.30.800. Conversion of involuntary outpatient treatment to inpatient commitment. (a) A respondent ordered by the court under the provisions of AS 47.30.700 — 47.30.915 to receive involuntary outpatient treatment may be required to undergo inpatient treatment when the provider of outpatient care finds that (1) the respondent is mentally ill and is likely to cause serious harm to himself or others or is still gravely disabled; (2) the respondent's behavior since the hearing resulting in court-ordered treatment indicates that he now needs inpatient treatment to protect himself or others; (3) there is reason to believe that the respondent's mental condition will improve as a result of inpatient treatment; and (4) there is an inpatient facility appropriate to the respondent's need which will accept him as a patient. Treatment for these respondents shall be available at state-operated hospitals at all times.

(b) Upon making the findings specified in (a) of this section, the provisions of AS 47.30.795(b) relating to notice and AS 47.30.745 relating to hearing apply. (§ 1 ch 84 SLA 1981)

Sec. 47.30.805. Computing periods of time. (a) Except as provided in (b) of this section,

(1) computations of a 72 hour evaluation period do not include Saturdays, Sundays, legal holidays, or any period of time necessary to transport the respondent to the treatment facility;

(2) a 21-day commitment period expires at the end of the 21st day after the 72 hours following initial acceptance;

(3) a 90 day commitment period expires at the end of the 90th day after the expiration of a 21 day period of treatment;

(4) a 120-day commitment period expires at the end of the 120th day, after the expiration of a 90-day period of treatment or previous 120-day period, whichever is applicable.

(b) When a respondent has failed to appear or absented himself contrary to any order properly made or entered under AS 47.30.660 — 47.30.915, the relevant commitment period shall be extended for a period of time equal to the respondent's absence if written notice of absence is promptly provided to the respondent's attorney and his guardian, if there is one, and if, within 24 hours after the respondent has returned to the evaluation or treatment facility, written notice of the corresponding extension and the reason for it is given to the respondent, his attorney, his guardian, if any, and to the court. (§ 1 ch 84 SLA 1981)

Sec. 47.30.810. Habeas corpus. Nothing in AS 47.30.660 — 47.30.915 may be construed as limiting a person's right to a writ of habeas corpus. (§ 1 ch 84 SLA 1981)

Sec. 47.30.815. Limitation of liability; penalty for false application. (a) A person acting in good faith upon either actual knowledge or reliable information who makes application for evaluation or treatment of another person under AS 47.30.700 — 47.30.915 is not subject to civil or criminal liability.

(b) The following persons may not be held civilly or criminally liable for detaining a person under AS 47.30.700 — 47.30.915 or for releasing a person under AS 47.30.700 — 47.30.915 at or before the end of the period for which the person was admitted or committed for evaluation or treatment if the persons have performed their duties in good faith and without gross negligence:

(1) an officer of a public or private agency;

(2) the superintendent, the professional person in charge, the professional designee of the professional person in charge, and the attending staff of a public or private agency;

(3) a public official performing functions necessary to the administration of AS 47.30.700 — 47.30.915;

(4) a peace officer responsible for detaining a person under AS 47.30.700 — 47.30.915.

(c) A person who wilfully initiates an involuntary commitment procedure under AS 47.30.700 without having good cause to believe that the other person is suffering from a mental illness and as a result is gravely disabled or likely to cause serious harm to himself or others, is guilty of a felony. (§ 1 ch 84 SLA 1981)

Article 9. Patient Rights.

Section	Section
825. Patient rights: Medical	845. Confidential records
840. Prohibition of experimental treatments	850. Expungement of records
835. Civil rights not impaired	855. Posting of rights
840. Right to privacy and personal possessions	860. Notices in languages other than English
	865. Discrimination prohibited

Sec. 47.30.825. Patient rights: Medical. Each patient who is receiving services under AS 47.30.660 — 47.30.915 has the following rights:

(1) A patient, or his counsel, guardian, or the adult designated in accordance with AS 47.30.725 if the patient is mentally incapable of participation, is entitled to participate in formulating his individualized treatment plan and to participate in the evaluation process as much as possible, at minimum to the extent of requesting specific forms of therapy, inquiring why specific therapies are or are not included in his treatment program, and being informed as to his present medical and psychological condition and prognosis. The treating physician may not withhold any of this information from the patient.

(2) A patient has the right to know the name of medication that he is asked to take, what its purpose is, and what side effects may occur with this medication. If the patient is incapable of understanding the purpose and side effects of the medication, the treating physician or mental health professional shall explain it to the patient's counsel or guardian or, if there is no guardian, the adult designated in accordance with AS 47.30.725.

(3) A locked quiet room, or other form of physical restraint, may not be used, except as provided in this paragraph, unless a patient is likely to physically harm himself or others unless restrained. The form of restraint used shall be that which is in the patient's best interest and which constitutes the least restrictive alternative available. When practicable, the patient shall be consulted as to his preference among forms of adequate, medically advisable restraints including medication, and his preference shall be considered. Nothing in this section is intended to limit the right of staff to use a quiet room at the patient's request or with his knowing concurrence when considered in the best interests of the patient. Patients placed in a quiet room or other physical restraint shall be checked at least every 15 minutes or more often if good medical practice so indicates. Patients in a quiet room must be visited by a staff member at least once every hour and must be given adequate food and drink and access to bathroom facilities. At no time may a patient be kept in a quiet room or other form of physical restraint against his will longer than necessary to accomplish the purposes set out in this paragraph. All uses of a quiet room or other restraint shall be recorded in the patient's medical record, the information including but not limited to the reasons for its use, the duration of use, and the name of the authorizing staff member.

(4) A patient has the right to be free from unnecessary or excessive medication. Psychotropic medication shall be administered only on the order of a licensed physician when the physician determines that such medication is in the best interest of the patient or will prevent serious harm to others.

(5) A patient capable of giving informed consent has the absolute right to accept or refuse electro-convulsive therapy or aversive conditioning. A patient who lacks substantial capacity to make this decision may not be given such therapy or conditioning without a court order.

(6) In no event may treatment include psychosurgery, lobotomy, or other comparable form of treatment without specific informed consent of the patient, including a minor unless he is clearly too young or disabled to give an informed consent in which case the consent of his legal guardian is required. In addition, such treatment may not be given without a court order after hearing compatible with full due process.

(7) When, in the written opinion of a patient's attending physician, a true medical emergency exists and a surgical operation is necessary to save the life, physical health, eyesight, hearing or member of the patient, the professional person in charge, or his professional designee, may give consent to the surgical operation if time will not permit obtaining the consent of the proper relatives or guardian or appropriate judicial authority. However, an operation may not be authorized if the patient is not a minor and knowingly withholds consent on religious grounds.

(8) A patient upon discharge shall be given a discharge plan specifying the kinds and amount of care and treatment he should have after discharge and such other steps as he might take to benefit his mental health after leaving the facility. The patient shall have the right to participate, as far as practicable, in formulating his discharge plan. A copy of the plan shall be given to the patient, his guardian, the court if appropriate, and any follow-up agencies. (§ 1 ch 84 SLA 1981)

Sec. 47.30.830. Prohibition of experimental treatments. (a) Experimental treatments involving any significant risk of physical or psychological harm may not be administered to a patient.

(b) If the personnel of an evaluation or treatment facility are uncertain as to whether a proposed treatment is experimental or is experimental as applied to a particular patient or would involve a significant risk of mental or physical harm to the patient, the matter may be referred to the commissioner for a determination. The patient, his attorney, his guardian, if any, and an adult designated by the patient, shall, simultaneously with the referral to the commissioner, be provided with copies of all the documents by which the referral is made and shall have the opportunity to provide evidence to the commissioner on the question.

(c) A determination by the commissioner that a treatment is experimental and entails significant risks of mental or physical harm is binding upon all persons involved in the administration of treatment to a patient. (§ 1 ch 84 SLA 1981)

Sec. 47.30.835. Civil rights not impaired. (a) A person may not deny to a person who is undergoing evaluation or treatment under AS 47.30.660 — 47.30.915 a civil right, including but not limited to, the right to free exercise of religion and the right to dispose of property, sue and be sued, enter into contractual relationships, and vote. A person who violates this subsection commits the crime of interference with constitutional rights under AS 11.76.110.

(b) Court-ordered evaluation or treatment under AS 47.30.660 — 47.30.915 is not a determination of legal incapacity under AS 13.26.005 — 13.26.330. (§ 1 ch 84 SLA 1981)

Sec. 47.30.840. Right to privacy and personal possessions. A person undergoing evaluation or treatment under AS 47.30.660 — 47.30.915 shall

(1) not be photographed without his consent and that of his guardian if a minor, except that he may be photographed upon admission to a facility for identification and for administrative purposes of the facility; all photographs shall be confidential and may only be released by the facility to the patient or his designee unless a court orders otherwise;

(2) at the time of admission to an evaluation or treatment facility, have reasonable precautions taken by the staff to inventory and safeguard his personal property; a copy of the inventory signed by the staff member making it shall be given to the patient and made available to his attorney and any other person authorized by the patient to inspect the document;

(3) have access to an individual storage space for his private use while undergoing evaluation or treatment;

(4) be permitted to wear his own clothing, to keep and use his own personal possessions including his toilet articles if they are not considered unsafe for him or other patients who might have access to them, and to keep and be allowed to spend a reasonable sum of his own money for his own needs and comfort;

(5) be allowed to have visitors at reasonable times;

(6) have ready access to letter writing materials, including stamps, and have the right to send and receive unopened mail;

(7) have reasonable access to a telephone, both to make and receive confidential calls. (§ 1 ch 84 SLA 1981)

Sec. 47.30.845. Confidential records. Information and records obtained in the course of a screening investigation, evaluation, examination, or treatment are confidential and are not public records, except as the requirements of a hearing under AS 47.30.660 — 47.30.915 may

necessitate a different procedure. Information and records may be copied and disclosed under regulations established by the department only to

(1) a physician or a provider of health, mental health, or social and welfare services involved in caring for, treating, or rehabilitating the patient;

(2) the patient or an individual to whom the patient has given written consent to have information disclosed;

(3) a person authorized by a court order;

(4) a person doing research or maintaining health statistics, if the anonymity of the patient is assured, and the facility recognizes the project as a bona fide research or statistical undertaking;

(5) the division of corrections in a case in which a prisoner confined to the state prison is a patient in the state hospital on authorized transfer either by voluntary admission or by court order;

(6) a governmental or law enforcement agency when necessary to secure the return of a patient who is on unauthorized absence from a facility where the patient was undergoing evaluation or treatment. (§ 1 ch 84 SLA 1981)

Sec. 47.30.850. Expungement of records. Following the discharge of a respondent from a treatment facility or the issuance of a court order denying a petition for commitment, the respondent may at any time move to have all court records pertaining to the proceedings expunged on condition that he file a full release of all claims of whatever nature arising out of the proceedings and the statements and actions of persons and facilities in connection with the proceedings. (§ 1 ch 84 SLA 1981)

Sec. 47.30.855. Posting of rights. The rights set out in AS 47.30.825 — 47.30.855 shall be prominently posted in all treatment facilities in places accessible to all patients. A patient who does not understand English shall have his rights explained to him in a language he understands. (§ 1 ch 84 SLA 1981)

Sec. 47.30.860. Notices in languages other than English. When practicable all documents and notices required by AS 47.30.660 — 47.30.915 to be served on a respondent, or on his parents, guardian or adult designee, shall be explained in a language the person understands if he is not competent in English. (§ 1 ch 84 SLA 1981)

Sec. 47.30.865. Discrimination prohibited. (a) The fact that a person is or has been evaluated or treated for mental illness may not be a basis for discrimination in

(1) seeking employment;

(2) beginning or continuing professional practice or previous occupation.

(3) obtaining or retaining housing;

(4) obtaining or retaining licenses or permits, including but not limited to a motor vehicle license, motor vehicle operator's and chauffeur's license, and a professional or occupational license.

(b) Applications for positions, licenses, and housing may not contain requests for information concerning evaluation or treatment experiences.

(c) It is unlawful for a person to aid, abet, incite, compel, or coerce the doing of an act forbidden under this section or to attempt to do so. (§ 1 ch 84 SLA 1981)

Article 10. Miscellaneous Provisions.

Section
870 Transportation
875 Nonresident patients
880 Interstate compact
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Sec. 47.30.870. Transportation. When a person is to be involuntarily committed to a facility, the department shall arrange, and is authorized to pay for, the person's necessary transportation to the designated facility accompanied by appropriate persons and if necessary by a peace officer. The department shall pay return transportation of a person, his escorts, and if necessary a peace officer, after a determination that the person is not committable, at the end of a commitment period, or at the end of a voluntary stay at a treatment facility following an evaluation conducted in accordance with AS 47.30.715. When advisable, one or more relatives or friends shall be permitted to accompany the person. The department may pay necessary travel, housing, and meal expenses incurred by one relative or friend in accompanying the person if the department determines that the person's best interests require that he be accompanied by the relative or friend and the relative or friend is indigent. (§ 1 ch 84 SLA 1981)

Sec. 47.30.875. Nonresident patients. (a) The admission papers of a person who is admitted to a treatment facility under AS 47.30.660 — 47.30.915 shall include a statement as to his residence. The department may return a patient who is not a resident of the state to the state of his residence with court approval if the person has been committed. If the state in which he has residence does not accept him as a patient, the person shall be treated as a resident of this state under the provisions of AS 47.30.660 — 47.30.915.

(b) To facilitate the return of nonresident patients the department may enter into a reciprocal agreement or compact with another state providing for the prompt return under appropriate supervision of residents of that state who are mentally ill. A mentally ill resident of this state who has been placed in a facility outside this state may be admitted with the approval of the department to a treatment facility in the state designated by the department. The department may enter into reciprocal agreements or contracts with another state providing for custody, care or treatment, or return of mentally ill residents of this state by the other state and for the custody and care or treatment of mentally ill residents of that state by this state on a reimbursable basis. A resident of this state who has been committed in another state and is returned in accordance with this section shall, within 72 hours of his admission to the designated facility, be examined. After examination the mental health professional in charge shall release him or shall petition for involuntary commitment as prescribed in AS 47.30.740.

(c) In taking action under (a) and (b) of this section, consideration shall be given to the best interests of the patient, particularly to the relationship of the patient to his family, legal guardian, or friends to maintain relationships and encourage visits beneficial to the patient. (§ 1 ch 84 SLA 1981)

Sec. 47.30.880. Interstate compact. This state ratifies and adopts by reference "The Interstate Compact on Mental Health" consisting of 14 articles approved on September 30, 1955, by the Northeast State Governments Conference on Mental Health. The department is designated as compact administrator with full power to carry out the purpose of the compact and to make all necessary regulations to implement the compact. (§ 1196 ch 87 SLA 1957; added by § 11 ch 127 SLA 1969; AS 47.30.180)

Editor's notes. — This section derives from former AS 47.30.180 and was renumbered by the revisor of statutes under AS 01.05.031 to accord with the revision of the mental health statutes in Chapter 84, SLA 1981.

Sec. 47.30.885. Rights outside state. Nothing in AS 47.30.660 — 47.30.915 alters or impairs the application or availability to a patient, while hospitalized in another state under contractual arrangements entered in accordance with AS 47.30.660 — 47.30.915, of the rights, remedies or safeguards provided by the laws of this state. (§ 1 ch 84 SLA 1981)

Sec. 47.30.890. Provision for personal needs upon discharge. The department shall insure that

(1) a patient is not discharged from a treatment facility without suitable clothing; and

(2) a discharged indigent patient is furnished

(A) suitable transportation to his permanent residence in this state or to another suitable place at the discretion of the department; and

(B) a reasonable amount of money to meet his immediate needs. (§ 1 ch 84 SLA 1981)

Sec. 47.30.895. Disposition of personal property and unclaimed money. (a) Articles of personal property and unclaimed money in the custody of a treatment facility that belong to a patient who dies before discharge, or to a patient who leaves the hospital without authority, if unclaimed by the patient or his legal heirs or representatives within one year after the death or departure of the patient, shall be disposed of in the manner prescribed by the department and the proceeds shall be deposited in the state treasury.

(b) If a mentally ill individual has died in a foreign facility and the department desires to recover the patient's personal property under this section, the commissioner or his designated representative may secure the property and for that purpose only is designated the decedent's administrator. Property so recovered shall be disposed of as provided by law. (§ 1 ch 84 SLA 1981)

Sec. 47.30.900. Disposition of money and personal property subject to claim. The department shall make diligent inquiry in every instance after departure without authority or death of a patient, to ascertain the whereabouts of the patient or that of his legal heirs or representatives, and shall turn over to the proper person the money or articles of personal property in the custody of the facility to the credit of the patient. Claims to the money or articles of personal property, including claims by the state, may be presented to the department at any time. If a claim other than by the state is established by clear and convincing evidence more than one year after the death or departure without authority of a patient, it shall be certified to the legislature for consideration and the legislature may pay the claim. (§ 1 ch 84 SLA 1981)

Sec. 47.30.905. Fees and expenses for judicial proceedings. (a) The witnesses, expert witnesses, and the jury in commitment proceedings under AS 47.30.660 — 47.30.915 are entitled to the fees, compensation, and mileage established by the administrative rules of court for other jurors and witnesses. Compensation, mileage, fees, transportation expenses for a respondent, and other expenses arising from evaluation and commitment proceedings shall be audited and allowed by the superior court of the judicial district in which the proceedings are held. To the extent that services of a peace officer are used to carry out the provisions of AS 47.30.660 — 47.30.915, he is entitled to fees and actual expenses from the same source and in the same manner as for his other official duties.

(b) An attorney appointed for a person under AS 47.30.660 — 47.30.915 shall be compensated for his services as follows:

(1) the person for whom an attorney is appointed shall, if he is financially able under standards as to financial capability and indigency set by the court, pay the costs of the legal services;

(2) if the person is indigent under those standards, the costs of the services shall be paid by the state. (§ 1 ch 84 SLA 1981)

Sec. 47.30.910. Liability for expense of placement in a treatment facility. (a) A patient, or his legal representative acting in a representative capacity, or his spouse, or his parents if the patient is under the age of 18, shall pay or contribute to the payment of the charges for the care, transportation, and treatment of the patient when hospitalized under AS 47.30.660 — 47.30.915. Charges assessed after an order for commitment for treatment is issued and charges assessed when a patient is hospitalized at a facility operated by the department, or under a contract for services with the department, may not exceed the actual cost of the care and treatment. The department may order payment by the patient or by the person responsible for payment for the patient's care and treatment under this subsection, according to ability to provide for payment. The department may make necessary investigations to determine the ability to pay and may require sworn statements of income by the patient, or his legal representative acting in a representative capacity, or his spouse or parent. In the exercise of his discretion, the commissioner may impose full liability for the patient's actual cost of care and treatment on the patient, his legal representative, his spouse, or parent for refusal to supply a sworn statement of income. An order for payment shall be issued by the department within six months after the date on which the charge was incurred. The order shall remain in full force and effect unless modified by subsequent court or department order. Liability under this subsection shall be determined as follows: A patient hospitalized under AS 47.30.660 — 47.30.915, or the person responsible for payment of charges for the patient, may be required to pay according to his ability to provide for payment, and in the manner and proportion which the department finds is not detrimental to the patient's rehabilitation. The department shall, at any time that it determines the action will serve the best interests of the state and the patient or the person responsible for payment, relieve the patient or the person responsible for payment from liability for charges for the care, transportation, and treatment of the patient.

(b) As used in (a) of this section, the term "actual cost of the care and treatment" means either the rate provided for by a contract entered into under AS 47.30.660 — 47.30.915, or, in the absence of a contract, a daily rate approved by the department.

(c) The department may charge, or accept from a person money or property, for the care or treatment of an inpatient or outpatient or for

other purposes, even if the payment is not required by an order of the department, so long as the total payments received do not exceed the actual cost of care or treatment.

(d) All money paid by the patient or on his behalf to the department under this section shall be deposited in the state treasury.

(e) If an order for payment is entered by the department under this section, and delinquency in the payment of any amount due the state under the order continues for a period of more than 30 days after the notification to the patient or the legal representative, spouse, or parent of the patient by the department, the state may proceed to collect the amounts due by appropriate proceedings. An action to enforce the collection of payments may only be brought within three years after the date of notification of a delinquent payment.

(f) The orders of the department issued under this section may relate only to charges incurred after October 1, 1981. (§ 1 ch 84 SLA 1981)

Sec. 47.30.915. Definitions. In AS 47.30.660 — 47.30.915

(1) "commissioner" means the commissioner of health and social services;

(2) "court" means a superior court of the state;

(3) "department" means the Department of Health and Social Services;

(4) "designated treatment facility" means a hospital, clinic, institution, center, or other health care facility that has been designated by the department for the treatment or rehabilitation of mentally ill persons and for the receipt of these persons by court-ordered commitment, but does not include correctional institutions;

(5) "evaluation facility" means a health care facility that has been designated or is operated by the department to perform the evaluations described in AS 47.30.660 — 47.30.915; or a medical facility licensed under AS 18.20.020;

(6) "evaluation personnel" means mental health professionals designated by the department to conduct evaluations as prescribed in AS 47.30.660 — 47.30.915 who conduct evaluations in places in which no staffed evaluation facility exists;

(7) "gravely disabled" means a condition in which a person as a result of mental illness, is in danger of physical harm arising from such complete neglect of basic needs for food, clothing, shelter, or personal safety as to render serious accident, illness or death highly probable if care by another is not taken;

(8) "inpatient treatment" means care and treatment rendered inside or on the premises of a treatment facility, or a part or unit of a treatment facility, for a continual period of 24 hours or longer;

(9) "least restrictive alternative" means mental health treatment facilities and conditions of treatment which are

(A) no more harsh, hazardous, or intrusive than necessary to achieve the treatment objectives of the patient; and

(B) involve no restrictions on physical movement nor supervised residence or inpatient care except as reasonably necessary for the administration of treatment or the protection of the patient or others from physical injury;

(10) "likely to cause serious harm" means a person who

(A) poses a substantial risk of imminent and substantial bodily harm to himself, as manifested by recent attempts at suicide or bodily harm;

(B) poses a substantial risk of imminent and substantial bodily harm to one or more other persons as manifested by behavior causing or attempting harm, including, in regard to evaluations, at least one incident within 30 days before the filing of a petition for emergency hospitalization; or

(C) demonstrates a current intent to carry out plans of serious harm to himself or another;

(11) "mental health professional" means a psychiatrist or physician who is licensed to practice in this state or employed by the federal government; a clinical psychologist licensed by the state Board of Psychologists and Psychological Associate Examiners; a psychological associate with a clinical psychology or counseling specialty licensed by the Board of Psychologists and Psychological Associate Examiners; a registered nurse with a master's degree in psychiatric nursing, licensed by the State Board of Nursing; and a social worker with a master's degree in social work and experience in the field of mental illness;

(12) "mental illness" means an organic, mental, or emotional impairment that has substantial adverse effects on an individual's ability to exercise conscious control of his actions or ability to perceive reality or to reason or understand; mental retardation, epilepsy, drug addiction, and alcoholism do not per se constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness;

(13) "peace officer" includes a state police officer, municipal or other local police officer, state, municipal, or other local health officer, public health nurse, United States marshal or deputy United States marshal, or a person authorized by the court;

(14) "provider of outpatient care" means a mental health professional or hospital, clinic, institution, center, or other health care facility designated by the department to accept for treatment patients who are ordered to undergo involuntary outpatient treatment by the court or who are released early from inpatient commitments on condition that they undergo outpatient treatment;

(15) "screening investigation" means the investigation and review of facts which have been alleged to warrant emergency examination or treatment, including interviews with the persons making the allegations, any other significant witnesses who can readily be contacted for interviews, and if possible, the respondent, and an investigation and evaluation of the reliability and credibility of persons

providing information or making allegations;

(16) "state" means a state of the United States, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico, and, with the approval of the United States Congress, Canada;

(17) "professional person in charge" means the senior mental health professional at a facility or his designee; in the absence of a mental health professional it means the chief of staff or a physician designated by the chief of staff. (§ 1 ch 84 SLA 1981)

Chapter 35. Private Institutions.

Article 1. Foster Homes, Boarding Homes and Institutions.

Section
20 License or permit required
40 Licensing
50 [Repealed]
55 Provisional license
80 Definitions

Sec. 47.35.020. License or permit required. No person may, without a license or permit to do so,

(1) maintain or conduct, for more than 90 days, a boarding home, foster home, group home, institution, or other place for the regular reception or care of children under 16 years of age, or a foster home, group home, or institution for the care of dependent adults; or

(2) engage in the business of receiving or caring for children under 14 years of age, with or without compensation, in a nursery in which five or more children not related by blood or marriage, or legal adoption, to the owner, operator or manager of the business are lodged. (§ 3 ch 17 SLA 1951; am § 3 ch 42 SLA 1973; am § 3 ch 253 SLA 1976; am § 2 ch 45 SLA 1977; am § 1 ch 97 SLA 1982)

Effect of amendments. — The 1982 amendment inserted "for more than 90 days" near the beginning of paragraph (1) and made minor changes in style.

Sec. 47.35.040. Licensing. (a) The department shall issue a license to a facility if it determines that the facility has met the standards for operation set out in AS 47.35.010 — 47.35.080 and the regulations adopted under AS 47.35.010 — 47.35.080.

(b) A license is valid for two years after the date of issuance unless it is revoked or modified. The department may revoke a license or modify a license to provisional status if it determines that a facility is not in compliance with AS 47.35.010 — 47.35.080 or the regulations adopted under AS 47.35.010 — 47.35.080.

(c) The department may waive compliance with a standard set out in regulations adopted under AS 47.35.010 — 47.35.080 if an acceptable alternative is established that meets the purpose of the provision and reasonably assures the well-being of persons in care.

(d) A license may not be transferred to a different facility or owner.

(e) The department shall give written notice of revocation or modification under (b) of this section 30 days before the effective date of the action. However, if the health or well-being of children or dependent adults is in jeopardy, the revocation or modification action is effective immediately upon the issuance of written notice by the department. (§§ 5, 8 ch 17 SLA 1951; am § 4 ch 42 SLA 1973; am § 2 ch 97 SLA 1982)

Effect of amendments. — The 1982 amendment substituted the present provisions of the section for the provisions set out in the main pamphlet.

Sec. 47.35.050. Duration of license or permit.

Repealed by § 5 ch 97 SLA 1982.

Cross references. — For present provisions covering the subject matter of the repealed section, see AS 47.35.040(b) and (e).

Editor's notes. — The repealed section derived from § 6, ch 17, SLA 1951; § 5, ch 42, SLA 1973; § 3, ch 45, SLA 1977.

Sec. 47.35.055. Provisional license. (a) The department shall issue a provisional license to a new facility if the facility submits to the department an acceptable plan for operation that is in conformity with the provisions of AS 47.35.010 — 47.35.080 and the regulations adopted under AS 47.35.010 — 47.35.080. After the department determines that the new facility is operating in conformity with the provisions of AS 47.35.010 — 47.35.080 and the regulations adopted under AS 47.35.010 — 47.35.080, the department shall issue a license under AS 47.35.040 to the facility.

(b) The department may issue a provisional license to a facility that is licensed under AS 47.35.040 but is temporarily unable to conform to the provisions of AS 47.35.010 — 47.35.080 or the regulations adopted under AS 47.35.010 — 47.35.080.

(c) The department may issue a provisional license under (b) of this section only if the facility submits to the department an acceptable plan to bring the facility into conformity with the provisions of AS 47.35.010 — 47.35.080 and the regulations adopted under AS 47.35.010 — 47.35.080 within the time specified in the provisional license.

(d) A provisional license is valid for a period not exceeding one year from the date of issuance. The department may renew a provisional license for an additional period not to exceed one year. (§ 3 ch 97 SLA 1982)

Sec. 47.35.080. Definitions. In AS 47.35.010 — 47.35.100

(1) "boarding home or foster home" means an establishment providing regular care for less than six children not related by blood or marriage to the foster parents;

April 6, 1984

Dear Rep. Davis

I wish to write and voice my support for CSSB 346 which I understand the senate has sent to the House this week.

My first husband suffers from chronic manic depressive illness. His initial break down was a nightmare for myself and his family - and I believe for him. Although he was obviously seriously disoriented we were not able to get help for him against his will. He had to do serious bodily harm to someone else before he could be treated involuntarily. As a result, I had to spend time hiding from him until he finally injured someone. As I was pregnant at the time and caring for our older small child, I could not risk being the person he would injure.

A few years later, he returned to Fairbanks when our oldest child was critically ill in the hospital - and chose that time to experiment with his mental stability by not taking his medication. Knowing he was at risk for another breakdown, I refused to let him visit his son unsupervised. He became angry and later did indeed have another breakdown in the course of which he was jailed twice and finally sent to API.

When he was released from API,

they notified me that he was be[illegible]
released and that he intended to
leave for Seattle BUT they made it
clear that they had only notified me
because he had given his permission
as IN THEIR OPINION he was no threat
to any of his family members. I
thanked them for notifying me, but
told them that in light of the then
recent Charles Meach murders their
opinion of who was and was not
dangerous did not have much credibility.

Although our situation resolved
itself without anyone being injured,
our family experienced a very tense
summer with one child in the
hospital and the other not allowed
to play outside without constant direct
adult supervision. I believe that
patients do have rights, but I also
believe that their family members
have rights as well. Living with
a mentally ill family member can
be exhausting, frustrating, frightening
and dangerous, especially when the
law offers no protection from the patient.

Thank you for your time.

James Carson-Sellin
455-6099
P.O. Box 1699
Fairbanks Alaska 99707

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M May 1, 1984

TO: All Members of the House HESS Committee
FROM: Representative Mae Tischer, Chairman, House HESS

RE: CSSB 346 (Judiciary), Amended: Presentation by Dr. Linus Pauling

The House HESS Committee will continue its hearings on the Senate Judiciary Committee Substitute for Senate Bill 346, Amended, "An Act relating to the treatment of mentally ill persons," on Wednesday, May 2, at 1:15 p.m., in the House Resources Committee Room (C-118), with a special teleconference presentation by Dr. Linus Pauling on the subject of nutritional therapy for the treatment of mentally ill persons.

As earlier correspondence has indicated, Dr. Pauling is regarded as an expert on this issue. The attached information from Who's Who in America will shed some light on his background.

I ask that you review the attached background material in preparation for this hearing. Your cooperation will make Dr. Pauling's presentation more understandable and useful.

Attachments

ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT G - ANCHORAGE
1526 F STREET
ANCHORAGE, ALASKA 99501
(907) 277-4419

COMMITTEES
HEALTH, EDUCATION & SOCIAL SERVICES (CHAIR)
JUDICIARY (VICE-CHAIR)
FINANCE
MAJORITY CAUCUS (CHAIR)

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4907
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April 12, 1984

The Honorable Mae Tischer
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Tischer:

SB 346, relating to the treatment of mentally ill persons has passed the Senate and has been referred to your committee.

This bill is the result of a year and a half of work by the Senate, and addresses the concerns of all who testified in the many hearings conducted around the state.

I was pleased to incorporate your amendment for the right to a nutritionally sound and medically appropriate diet (Section 21). A significant amount of new patients' rights will be added to the mental health commitment law with the passage of this bill.

My interest in this legislation was sparked by input from family grounds of the chronically mentally ill, the Alaska Mental Health Association and the Alaska Psychiatric Association. The major revision in the law of 1981 brought about dramatic changes in the treatment of the mentally ill, and I see SB 346 as a refinement of those provisions.

I am enclosing some backup material on this legislation for your perusal. I know this is a difficult and emotional issue, but I find that this bill has a broad base of support.

I will be happy to meet with you at any time to discuss this issue.

With best wishes, I am

Sincerely,

Joe P. Josephson

JPJ/ndc

Enclosure

treatment services under the following categories: inpatient hospital, physician services, and nonphysician services, respectively.

• Almost every state has placed limitations on psychologists' services. In **GEORGIA**, for example, psychological services cannot exceed five hours of evaluation and testing, and therapy per recipient per calendar year; **INDIANA** requires prior approval for ongoing psychotherapy. In **MINNESOTA**, up to ten hourly sessions per recipient a year are covered; and **NEBRASKA** limits psychotherapy to $500 per patient a year except by prior authorization.

• Two states, **OREGON** and **WISCONSIN**, provide direct reimbursement to other mental health professionals. In **OREGON**, registered social workers can be paid for preauthorized diagnostic services within the scope of their licenses, while certain masters level mental health clinicians (masters of social work, psychology, and psychiatric nurses) may be reimbursed for psychotherapy in **WISCONSIN**.

WAIVERS

• Two states, **MICHIGAN** and **WISCONSIN**, have received waivers to provide mental health services under Section 2175 of the Omnibus Reconciliation Act of 1981 (OBRA). Both states received approval to implement mental health care case-management arrangements which restrict the providers from whom the recipient may obtain services.

• Four states, **CALIFORNIA, COLORADO, RHODE ISLAND** and **VERMONT**, have received waivers under Section 2176 of OBRA to implement home- and community-based programs for the mentally ill.

COPAYMENTS

• Six states (**GEORGIA, KANSAS, NEVADA, NORTH CAROLINA, VIRGINIA** and **WISCONSIN**) require that recipients contribute to the cost of various types of mental health services.

Federal and State officials may obtain one copy of the survey free of charge. Others may obtain a copy by sending $9 to IHPP.

Children's Mental Health Services

MICHIGAN's legislature is considering a proposal (HB 4358) that creates a new section of the Mental Health Code, specifically focusing on emotionally disturbed children. The bill consolidates and modifies existing sections of the code (procedures for admissions, objections and prerelease planning) and creates several new sections that recognize the special needs and status of children. The bill has passed the House and is being considered by the Senate.

HB 4358 establishes a single-entry system through **MICHIGAN's** community mental health boards for those children in the public mental health system. It requires a certified diagnostic and treatment service to determine a minor's suitability for public mental health services, and a prerelease or postrelease plan for each minor leaving hospitalization. HB 4358 also requires the Department of Mental Health to promulgate rules concerning the admission and discharge procedures for children entering the specialized treatment unit for state wards from the Department of Social Services. The measure would permit a minor 14 years or older to request hospitalization, although consent by a parent or guardian continues to be required for treatment of a minor while hospitalized. However, the provisions of the bill allow minors 14 or older to receive mental health services on an outpatient basis, without the consent or notification of their parents.

MASSACHUSETTS is considering a bill (S 742) which would permit minors age 12 and older to receive mental health treatment or counseling on an outpatient basis without the consent of their parents or legal guardians. Although **WASHINGTON** failed to pass a similar measure, legislators agreed to establish a study committee on children's mental health services with the following objectives: 1) to perform a program, management, and fiscal review of existing publicly funded children's mental health and related children and family services; 2) to determine the extent to which certain laws have been implemented (e.g., continuum of care, prevention, early intervention, and diversion from involuntary commitment; and 3) to determine the need for and type of children's mental health and related services focusing on such categories as those mentioned above. The final report must be submitted to the legislature by December 15, 1984, and will include budgetary and statutory recommendations.

At the federal level, the Office of State and Community Liaison, National Institute of Mental Health, has received a total of 44 grant applications under the

Child and Adolescent Service System Program (CASSP). Grants will be awarded to approximately eight states to develop state-level foci for planning, service-system improvement strategy development, and the initiation of community-level demonstrations of service system development. Approximately $1.5 million is available for this program. An independent committee will meet March 21-23 to review the proposals. Its recommendations will be presented at the May meeting of the National Advisory Mental Health Council. Officials anticipate that awards will be made in July.

Dedicated Taxes

A number of so-called dedicated tax bills are currently under consideration in several legislatures. An **IDAHO** bill (HB 464) would create an alcohol awareness account to be financed by a portion of the state tax on liquor and beer. The account would support the operation of the governor's commission on alcohol awareness and training. **MASSACHUSETTS** is considering a measure (S 1769) would add a surtax on alcoholic beverages and direct the funds to alcoholic rehabilitation centers or for matching federal grants designated for prevention of alcohol abuse and alcoholism. A **SOUTH CAROLINA** proposal (H 3459) would levy a 10 percent surtax on all taxes imposed on beer and wine and require that 75 percent of the revenue generated be returned to the counties on a per capita basis to be used for prevention and treatment of alcoholism and drug abuse.

A proposal (SB 3617) under consideration in the **WASHINGTON** state senate would dedicate a portion of the state's highway safety funds derived from penalty assessments on drunk drivers to the operation of an alcohol awareness program. The alcohol awareness program would be directed toward teenage drivers and young adults up to age 25. It would include presentations and educational curricula designed to illustrate the dangers of alcohol misuse, the effects and impairments of alcohol on the body, and to prevent drunk driving. A separate bill in the **WASHINGTON** House (HB 1701) would assess an additional tax of 6.5 cents per liter on wine not bottled in the state and an additional $3.30 per barrel of beer and deposit the funds in a Drunk Driving Deterrence and Victims Compensation Account. The bill provides that the funds shall be distributed in the following manner: (1) $2 million per biennium to the state patrol to be used for educational programs in public schools concerning alcohol and drug abuse and traffic safety; (2) a sufficient amount for the Crime Victims Compensation Account to pay claims by those injured by intoxicated drivers; and (3) $3 million per biennium to the Department of Social and Health Services' Alcohol Treatment Programs.

MISSOURI's SB 514 seeks to create an alcoholism and drug abuse treatment and rehabilitation trust fund by applying a surcharge of 20 cents per gallon on the sale of spirituous liquors. The monies will go for funding community alcoholism and drug abuse treatment and rehabilitaion services. Similarly, a **PENNSYLVANIA** proposal (H 1740) would increase the state tax on liquor and devote 10 percent of the revenue derived from the increase to a Drug and Alcohol Programs Augmentation Account. The purpose of the account is to support alcohol rehabilitation and treatment programs, as well as promote education, prevention and early intervention programs designed to eliminate alcohol abuse and drug addiction.

An **OHIO** bill (HB 654) would increase the state's sales tax on liquor by 2 cents a gallon and earmark the additional revenues for adolescent alcohol drug abuse treatment programs. A separate **OHIO** measure (HB 628) would levy an additional 2 cent tax on beer, wine and liquor. Forty percent of the revenues must go to the counties' alcohol and drug abuse treatment and prevention distribution fund; 10 percent would go to the Department of Mental Health's drug abuse special account and 10 percent to the Department of Health's alcoholism special account.

In the past few years, **MAINE, UTAH,** and **KANSAS** enacted statutes requiring that a certain portion of their states' taxes on liquor be dedicated to alcohol and drug abuse prevention activities.

A new statute in **NEW JERSEY** establishes the Alcohol Education Rehabilitation and Enforcement Fund (A 3468, Chapter 53). The law increases the wholesale tax on alcohol from 6.5 percent to 7.3 percent, and devotes approximately 11 percent of the revenue generated by the increase to the new Alcohol

MEMORANDUM State of Alaska

TO: Philip Shapiro, M.D.
Director

DATE: April 25, 1984

FILE NO:

TELEPHONE NO: 465-3370

FROM: James L. Scoles
Alternative Care Coordinator
Division of Mental Health
and Developmental Disabilities

SUBJECT: Notification of Parent or Guardian

#1

The following language is suggested in order to satisfy the request by Representative Tischer for assurance that parents or guardians are notified when a minor presents himself for inpatient psychiatric hospitalization.

Page 3, line 14 add a new section (b) to read:

(b) The parent or guardian of a minor under the age of 18 that presents himself at a designated treatment facility must be notified immediately by the facility of the minor's whereabouts.

Existing subsections (b) and (c) should be changed to (c) and (d).

JLS/vlh

1 dau., Nancy Marie. With Aerospace Corp., El Segundo, Calif., 61—, head space particles and fields dept., 1968, dir. space sci. lab., 1968-81, v.p., 1981—, mem. various ad hoc coms. Nat. Acad. Scis., 1970, 73, 79, 80, mem. com. solar and space physics, 1977-80; adv. council geophysics U. Calif., 1973-75, exec. com. space sci. lab. U. Calif., Berkeley, 1978—; sci. adv. bd. USAF, 1975—; cons. Lawrence Berkeley Lab., 1961-66, Office Space Scis., NASA, 1975—. Recipient Aerospace Corp. Trustees Disting. Achievement award, 1980. Fellow Am. Phys. Soc.; mem. AIAA (chmn. tech. com. space sci. and astronomy 1976-77), Am. Geophys. Union, Sigma Xi. Author papers in field; asso. editor Jour. Geophys. Research, 1972-75. Home: 1837 Addison Rd Palos Verdes Estates CA 90274 Office: 2350 E El Segundo Blvd El Segundo CA 90245

PAULIN, HENRY SYLVESTER, antiques dealer, cinnamus educator; b. Cleve., Nov. 8, 1927; s. Sylvester and Mary (Zimmerman) P.; B.S. in Edn., Kent (Ohio) State U., 1955, M.A., Ohio State U., 1958, Ph.D., 1964; m. Florence Caroline Schwegman, Aug. 30, 1952; Tchr. indsl. arts Brimfield Jr.-Sr. High Sch., Kent, 1954-55, Zanesville (Ohio) High Sch., 1955-57; instr. ceramics Art Inst., Zanesville, 1956-57; asst. prof., then assoc. prof. indsl. arts State U. Coll., Oswego, N.Y., 1956-63; instr. Ohio State U., 1961-63; asso. prof., coordinator indsl. Arts Div., Kent State U., 1963-67; prof. and chmn. dept. design and industry San Francisco State U., 1967-80, prof. emeritus, 1980—; propr. Paulin Place, Fine Antiques and Paintings, Oxford, Ohio, 1980—; vis. prof. Sc. Ill. U., summer 1965; served with AUS, 1946-48. Mem. Am. Indsl. Arts Assn., Calif. Tchrs. Assn., Oxford C. of C., Epsilon Pi Tau, Phi Delta Kappa. Home: 117 W High St Oxford OH 45056 Office: 115 W High St Oxford OH 45056

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ORTHOMOLECULAR PSYCHIATRY

TREATMENT OF SCHIZOPHRENIA

EDITED BY

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Preface

In the article *Insanity* in the ninth edition of the Encyclopaedia Britannica (1881) insanity is defined as a chronic disease of the brain inducing chronic disordered mental symptoms. The author of the article (J. Batty Tuke, M.D., Lecturer on Insanity, School of Medicine, Edinburgh) then stated that this definition

> possesses the great practical advantage of keeping before the student the primary fact that insanity is the result of disease of the brain, that it is not a mere immaterial disorder of the intellect. In the earliest epochs of medicine the corporeal character of insanity was generally admitted, and it was not until the superstitious ignorance of the Middle Ages had obliterated the scientific, though by no means always accurate, deductions of the early writers that any theory of its purely psychical character arose. At the present day it is unnecessary to combat such a theory, as it is universally accepted that the brain is the organ through which mental phenomena are manifested, and therefore that it is impossible to conceive of the existence of an insane mind in a healthy brain.

By 1929, when the fourteenth edition of the Encyclopaedia Britannica was published, the situation had changed, largely because of the development of psychoanalysis by Sigmund Freud. The earlier definition of insanity was deleted, and replaced by discussions from two points of view: the point of view of the materialistic school

> that though in many states of insanity no observable structural changes are found, they exist all the same, only they are such that our imperfect methods cannot detect them, and in time they will be discovered . . .

and the point of view of the psychogenic school,

> that though mental disease may arise secondarily to physical disorder, the symptoms are psychological reverberations of that disorder and the body of an individual must be regarded as environmental to the ego. . . . The many structural changes which are found in certain forms of insanity should be reviewed as probably secondary to a perverted mentality.

Psychoanalysis has failed, and psychiatry is now rapidly returning to the scientific approach, the recognition of the corporeal character of mental disease, with manifestations determined to some extent by environmental stress and past experience. Supportive psychotherapy has great value—an example is the explanation to the schizophrenic patient and his family that his disturbed behavior and thinking are the result of an imbalance in the molecular composition of his body, and that this imbalance can be corrected (Hawkins, Chapter 29 of this volume). The recognition of the effectiveness of phenothiazines and other drugs (and the ineffectiveness of psychoanalysis) has accelerated the reacceptance of the concept that mental disease is disease of the brain, and that the brain itself needs to be treated, by changing its molecular composition.

The relation of vitamins to mental disease became evident as soon as vitamins were discovered. One manifestation of pellagra is psychosis. Pellagra is a vitamin-deficiency disease, and the psychosis is cured (averted) by the provision of an adequate intake of the vitamin (niacin). It is estimated that in the first decades of this century 10 percent of the persons in psychiatric hospitals were pellagrins (Kety, 1970). The discovery in 1937 that niacin is the pellagra-preventing vitamin soon led to its trial in controlling mental disease in patients not suffering from pellagra. Cleckley et al. (1939) and Sydenstricker and Cleckley (1941) reported some success in treating 48 subjects with acute mental illness of one sort or another by use of moderately large doses of niacin (300 to 1,500 mg per day, as compared with the pellagra-preventing intake of about 12 mg per day).

In 1943 Kaufman described the deterioration in mental and physical health of 150 patients with a disease to which he gave the name aniacinamidosis, and in 1949 he published a larger book on this subject, with discussion of 455 patients. Measurements of impairment of joint mobility and increase in blood sedimentation rate gave objective information about the progress of the disease. He found that most of the patients improved greatly on a regime of 1 to 5 g of niacinamide per day, in divided doses (6 to 16 per day), continuing for as long as nine years (Kaufman, 1955). He observed no untoward reactions from niacinamide in several thousand patient-years of continuous use. His recommended intake of niacinamide for treatment of restricted mobility of joints and other manifestations of aniacinamidosis is 4 or 5 g per day. Many of his patients showed striking improvement in mental health as well as physical health on this regime.

The effective introduction of megavitamin therapy for schizophrenia came in the period from 1952 on through the work of Hoffer and Osmond, as described in several chapters of this book. After making some studies on a few patients with encouraging results, they carried out several double-blind and blind comparisons of niacin, niacinamide, and a placebo. A study with 171 subjects (73 receiving 3 g of niacin per day for all or part of the period of study, 98 receiving a placebo) gave a statistically significant difference in the number transferred to the mental hospital and a difference in the number of suicides (0 and 4, respectively) with borderline statistical significance (Hoffer et al., 1957). Another study with 82 subjects (43 receiving 3 g of niacin per day and 39 receiving a placebo) gave a difference with high statistical significance in the number classified as improved or unimproved (Hoffer, 1962).

It is evident from the published accounts of these studies that amounts larger than 3 g per day of niacin or niacinamide are needed for a pronounced therapeutic effect for many schizophrenic patients. Hoffer and Osmond had in fact observed that daily amounts of niacin or niacinamide larger than 6 g seemed to be required by some patients, and also that many patients benefited from receiving 3 to 6 g per day of ascorbic acid. Other vitamins, especially pyridoxine in amounts 600 mg to 1,500 mg per day, have been found to be beneficial. In addition, many schizophrenics, probably more than 80 percent, suffer from hypoglycemia, which needs to be corrected, as described in some chapters in this book. The orthomolecular treatment of schizophrenia includes more than the routine administration of 3 g of niacin or niacinamide per day.

The importance of good nutrition to good health cannot be denied. There is much evidence to support the thesis that for most people the optimum daily intake of ascorbic acid is far larger than the usually recommended daily allowance (Pauling, 1970): 3 to 6 g per day, the amount customary in megavitamin treatment of schizophrenia, may well be only the average optimum for most human beings. Little effort has been expended in the study of the amounts of vitamins required for optimum health. The decision by most psychiatrists who do not accept the principles of orthomolecular psychiatry to restrict the intake of vitamins by their patients to certain arbitrary levels, without checking the possible benefit for the patient of an increased intake, cannot be justified.

Part of the resistance to megavitamin therapy is based on the idea that an increased intake of a vitamin should be subjected to as thorough testing as a new synthetic drug. This is nonsense; the vitamins are substances to which the human body has long been accustomed, and the toxicities of the water-soluble vitamins are known to be low and the side effects few. Another part of the resistance is the result of a misunderstanding of the meaning of statistical significance. Investigations described as attempts to replicate Hoffer and Osmond's results are reported to have failed to show a statistically significant difference between the subjects receiving niacin or niacinamide and those receiving a placebo. This conclusion is then incorrectly interpreted as meaning

that the investigations have shown niacin or niacinamide to have no greater value than a placebo.

For example, Hoffer had reported that mentally ill children receiving niacinamide and ascorbic acid benefited more than those receiving a placebo. Greenbaum (1970) then reported that he was unable to confirm the claimed value of niacinamide in his double-blind study of 17 children receiving niacinamide (1000 mg per day per 50 lb. body weight) and 24 children receiving a placebo (also 16 receiving niacinamide and a tranquilizer). The principal criterion was the increase during the six months of the study in the score on a clinical scale of observable behavior categories. Greenbaum reported that "there was no significant difference attributable to niacinamide." This statement is seriously misleading. The average improvement in the score was in fact 4.0 units for the niacinamide group and 2.6 units for the placebo group. The difference between 4.0 and 2.6 is reported as not statistically significant. But we see that Greenbaum found 54 percent greater improvement in the niacinamide group than in the placebo group. From Greenbaum's result we can say that it is more likely that niacinamide has an effect (54 percent greater than the placebo) than that it has no effect, but it is not 20 times more likely ($P < 0.05$, accepted as statistically significant).

The statistical significance is determined by the design of the investigation. If Greenbaum had got the same result (54 percent more improvement for the niacinamide group than for the placebo group) with a larger number of subjects the null hypothesis of equal effect of niacinamide (in the dosage used) and placebo could have been rejected with statistical significance ($P < 0.05$).

Ban (1971) states that "The hypothesis, based on these findings [by Hoffer], that nicotinamide therapy is useful in childhood schizophrenia was not verified by Greenbaum in a carefully designed—placebo controlled—study." I consider this statement to be wrong. Greenbaum found 54 percent more improvement in the niacinamide group than the placebo group. Surely 54 percent more improvement is useful. The amount of improvement, 54 percent, is unreliable, but that is what he found.

I have discussed this matter in some detail because much of the objection to the use of orthomolecular methods in psychiatry is based upon similar misrepresentations of the reported studies.

Another investigation that is quoted as having provided evidence against the hypothesis that niacin or niacinamide has value in the treatment of schizophrenia was published by Ananth et al. in 1970, with the title "Nicotinic acid in the prevention and treatment of artificially induced exacerbation of psychopathology in schizophrenics." It is known that a substance, such as the amino acid methionine, whose molecules can donate methyl groups to other molecules has the property of exacerbating the mental illness of schizophrenics when it is ingested, and it has been suggested that the effectiveness of niacin and niacinamide in controlling schizophrenia results from the action of their molecules as methyl acceptors—that is, they remove methyl groups

om some methylated compounds in the body that may be causing the mental illness. n the investigation by Ananth et al. schizophrenia patients were given daily doses of ethionine. Some of the patients also were given niacinamide. All of the patients owed a pronounced exacerbation of their mental illness. The result has been terpreted as showing that niacinamide does not neutralize the methyl-donating fect of methionine in exacerbating schizophrenia by virtue of its function as a methyl ceptor. This conclusion is, however, not justified, because there was a serious flaw the design of the experiment. The patients were given 20 g of methionine per day. er 16 g of niacinamide per day would be required to accept the methyl groups nated by 20 g of methionine, but the patients were given only 3 g. It could have en predicted that the experiment would fail.

There is thoroughly convincing evidence that the methods of orthomolecular sychiatry discussed in this book have great value. Some aspects of the scientific asis of these methods are presented in the earlier chapters. Some of the chapters are most interest to biochemists. Most of the chapters can, I believe, be read with derstanding and profit by physicians and by laymen who have some acquaintance ith the terminology of chemistry and other sciences. Despite the progress that has en made in controlling it, mental illness is still the cause of a tremendous amount of ffering. The work of Hoffer, Osmond, Hawkins, and others has shown that the ethods of orthomolecular psychiatry can be used to decrease the amount of this ffering. I join my co-editor, Dr. David Hawkins, and the other contributors to this ook in expressing the hope that it will be found useful not only by scientists and hysicians but also by those who suffer from schizophrenia and by their families.

I thank Dr. Gustav Albrecht for his help.

ugust 1972 *Linus Pauling*

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1

Orthomolecular Psychiatry

LINUS PAULING

INTRODUCTION

The methods principally used now for treating patients with mental disease are psychotherapy (psychoanalysis and related efforts to provide insight and to decrease environmental stress), chemotherapy (mainly with the use of powerful synthetic drugs, such as chlorpromazine, or powerful natural products from plants, such as reserpine), and convulsive or shock therapy (electroconvulsive therapy, insulin coma therapy, pentylenetetrazol shock therapy). I have reached the conclusion, through arguments summarized in the following paragraphs, that another general method of treatment, which may be called orthomolecular therapy, may be found to be of great value, and may turn out to be the best method of treatment for many patients.

Orthomolecular psychiatric therapy is the treatment of mental disease by the provision of the optimum molecular environment for the mind, especially the optimum

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concentrations of substances normally present in the human body.[1] An example the treatment of phenylketonuric children by use of a diet containing a smaller tha normal amount of the amino acid phenylalanine. Phenylketonuria (Folling, 193· results from a genetic defect that leads to a decreased amount or effectiveness of th enzyme catalyzing the oxidation of phenylalanine to tyrosine. The patients on a nor mal diet have in their tissues abnormally high concentrations of phenylalanine an some of its reaction products, which, possibly in conjunction with the decreased cor centration of tyrosine, cause the mental and physical manifestations of the diseas (mental deficiency, severe eczema, and others). A decrease in the amount of phenyl alanine ingested results in an approximation to the normal or optimum concentra tions and to the alleviation of the manifestations of the disease, both mental an physical.

The functioning of the brain is dependent on its composition and structure; that is on the molecular environment of the mind. The presence in the brain of molecules o N,N-diethyl-D-lysergamide, mescaline, or some other schizophrenogenic substanc is associated with profound psychic effects (see, for example, Woolley, 1962). Cher kin has recently pointed out (1967) that in 1799 Humphry Davy described simila subjective reactions to the inhalation of nitrous oxide. The phenomenon of genera anesthesia also illustrates the dependence of the mind (consciousness, ephemeral memory) on its molecular environment (Pauling, 1961; Miller, 1961).

The proper functioning of the mind is known to require the presence in the brain of molecules of many different substances. For example, mental disease, usually associated with physical disease, results from a low concentration in the brain of any one of the following vitamins: thiamine (B_1), nicotinic acid or nicotinamide (B_3), pyridoxine (B_6), cyanocobalamin (B_{12}), biotin (H), ascorbic acid (C), and folic acid. There is evidence that mental function and behavior are also affected by changes in the concentration in the brain of any of a number of other substances that are normally present, such as L(+)-glutamic acid, uric acid, and γ-aminobutyric acid.[2]

OPTIMUM MOLECULAR CONCENTRATIONS

Several arguments may be advanced in support of the thesis that the optimum molecular concentrations of substances normally present in the body may be different from the concentrations provided by the diet and the gene-controlled synthetic

[1] I might have described this therapy as the provision of the optimum molecular composition of the brain. The brain provides the molecular environment of the mind. I use the word mind as a convenient synonym for the functioning of the brain. The word orthomolecular may be criticized as a Greek-Latin hybrid. I have not, however, found any other word that expresses as well the idea of the right molecules in the right amounts.

[2] The literature is so extensive that I refrain from giving references here.

echanisms, and, for essential nutrilites (vitamins, essential amino acids, essential ty acids) different from the minimum daily amounts required for life or the "recommended" (average) daily amounts suggested for good health. Some of these arguments are presented in the following paragraphs.

EVOLUTION AND NATURAL SELECTION

The process of evolution does not necessarily result in the normal provision of optimum molecular concentrations. Let us use ascorbic acid as an example. Of the mammals that have been studied in this respect, the only species that have lost the power to synthesize ascorbic acid and that accordingly require it in the diet are man, other Primates (rhesus monkey, Formosan long-tail monkey, and ring-tail or brown capuchin monkey), the guinea pig, and an Indian fruit-eating bat (*Pteropus medius*).[3] Presumably the loss of the gene or genes controlling the synthesis of the enzyme or enzymes involved in the conversion of glucose to ascorbic acid occurred some 20 million years ago in the common ancestor of man and other Primates, and occurred independently for the guinea pig and for one species of bat and one bird, in each case in an environment such that ascorbic acid was provided by the food. For a mutation rate of 1/20,000 per gene generation and for even a very small advantage for the mutant (0.01 percent more progeny) the mutant would replace the earlier genotype within about 1 million years. The advantage to the mutant of being rid of the ascorbic-acid-synthesis machinery (decrease in cell size and energy requirement, liberation of machinery for other purposes) might well be large, perhaps as much as 1 percent; a disadvantage nearly as large (less by 0.01 percent) resulting from a less than optimum supply of dietary ascorbic acid would not prevent the replacement of the earlier species by the mutant. Hence, even if the amount of the vitamin provided by the diet available at the time of the mutation were less than the optimum amount, the mutant might still be able to replace its predecessor. Moreover, it is possible that the environment has changed during the last 20 million years in such a way as to provide a decreased amount of the vitamin. Even a serious disadvantage of the changed environment would not lead to a mutation restoring the synthetic mechanism within a period of a few million years, because of the small probability of such mutations, far smaller than of those resulting in loss of function.

Moreover, the process of natural selection may be expected later on to lead to the survival of a species or strain that synthesizes somewhat less than the optimum amount of an autotrophic vital substance rather than of the species or strain that synthesizes the optimum amount. To synthesize the optimum amount requires

[3] For references, see Stone (1965). The only other vertebrates known to require exogenous ascorbic acid are the red-vented bulbul, *Pycnonotus cafer*, and related passeriform birds.

about twice as much biological machinery as to synthesize half the optimum amount. As suggested in Figure 1-1, the evolutionary disadvantage of synthesizing a less than

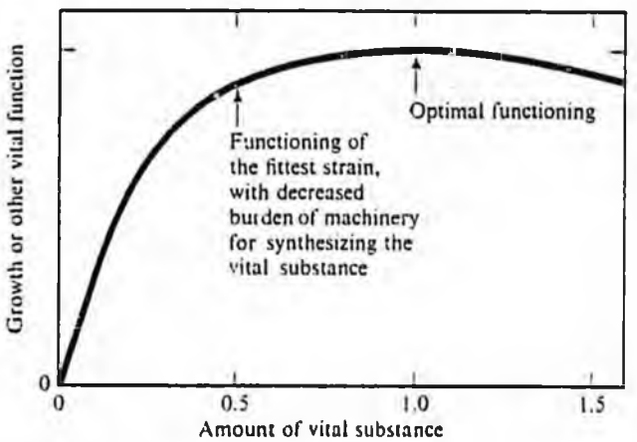


FIGURE 1-1.
Diagrammatic representation of growth rate or other vital property of an organism as function of the concentration of vital substance in the organism, showing the concentration at which the differential advantage of an increased amount of vital substance is just balanced by the differential disadvantage resulting from an increased amount of machinery for synthesis, and the concentration that gives optimum functioning without consideration of the burden of the machinery for synthesis.

optimum amount of the vital substance may be small, and may be outweighed by the advantage of requiring a smaller amount of biological machinery. Evidence from the study of microorganisms is discussed in the following paragraphs.

EVIDENCE FROM MICROBIOLOGICAL GENETICS

Many mutant microorganisms are known to require, as a supplement to the medium in which they are grown, a substance that is synthesized by the corresponding wild-type organism (the normal strain). An example is the pyridoxine-requiring mutant of *Neurospora sitophila* reported by G. W. Beadle and E. L. Tatum in their first *Neurospora* paper, published in 1941.

Several species of *Neurospora* that have been extensively studied are known to be able to grow satisfactorily on synthetic media containing inorganic salts, an inorganic source of nitrogen, such as ammonium nitrate, a suitable source of carbon, such as sucrose, and the vitamin biotin. All other substances required by the organism

e synthesized by it. Beadle and Tatum found that exposure to x-radiation produces utant strains such that one substance must be added to the minimum medium in rder to permit the growth at a rate approximating that of the normal strain. Their yridoxine-requiring mutant was found to grow on the standard medium at a rate nly 9 percent of that of the normal strain. When pyridoxine (vitamin B_6) is added to :e medium, the rate of growth of this strain at first increases nearly linearly with the oncentration of the added pyridoxine and then increases less rapidly, as shown in igure 1-2.[4] The growth rate of the normal strain without added pyridoxine is equal) that of the mutant with about 10 micrograms of the growth substance per liter in ie medium. At a concentration about four times this value (40 micrograms per liter) he growth rate of the mutant strain reaches a value 7 percent greater than that of the ormal strain without added pyridoxine.

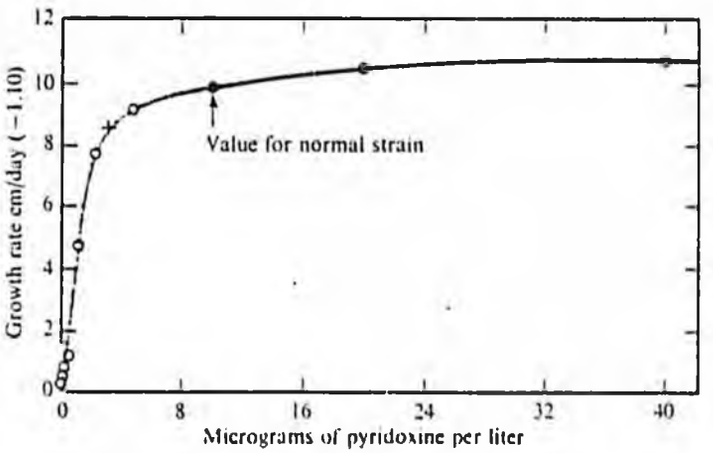


FIGURE 1-2.
The observed rate of growth of a pyridoxine-requiring *Neurospora* mutant (Beadle and Tatum, 1941), as function of the concentration of pyridoxine in the medium.

The point of maximum curvature of the curve in Figure 1-2, at about 3.2 micrograms of pyridoxine per liter (indicated by a cross), may be reasonably considered to mark the division between the region of vitamin deficiency (to the left) and the region of normal vitamin supply (to the right), such as might permit the mutant to compete with the wild type, which has the growth rate represented by the filled circle in Figure 1-2. The point marked by the cross might well correspond to an "adequate" or "recommended" amount of the vitamin, in that the growth rate of the mutant is only

[4] The points in Figure 1-2 represent my measurement of the slopes of the growth curves shown in Figure 1 of Beadle and Tatum (1941). They agree closely with the points of their Figure 2, except for one point, that for 1.2 μg/liter, which may have been misplotted.

12 percent less than that of the wild strain, and that the amount of the vitamin would have to be increased threefold to make up this 12 percent.[5]

As shown in Figure 1-2, quadrupling the concentration of pyridoxine that gives the mutant a growth rate equal to that of the wild type causes a further increase in growth rate by nearly 10 percent. The growth rates of the mutant and the wild type at very large concentrations of the vitamin have not been measured, so far as I know, and the optimum concentration is not known. From the work of Beadle and Tatum (1941) the optimum concentration may be taken to be greater than 40 micrograms per liter; that is, more than ten times the "adequate" concentration for the mutant and more than four times the concentration equivalent to the synthesizing capability of the wild type. The growth rate of the mutant at the optimum concentration is more than 22 percent greater than that at the "adequate" concentration and more than 9 percent greater than that of the normal strain.

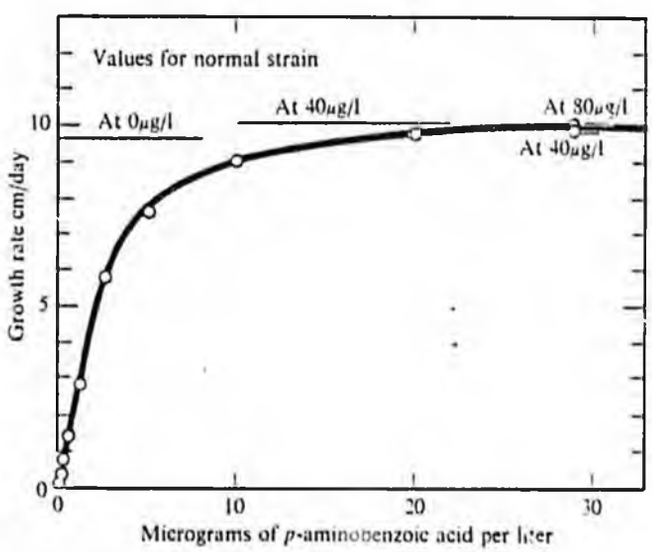


FIGURE 1-3.
The observed rate of growth of a *p*-aminobenzoic-acid-requiring *Neurospora* mutant (Tatum and Beadle, 1942), as function of concentration of the growth substance in the medium.

Similar results have been reported for other mutants of *Neurospora*. The values found by Tatum and Beadle (1942) for a *p*-aminobenzoic-acid-requiring mutant of *Neurospora crassa* as a function of the concentration of *p*-aminobenzoic acid added to the standard medium are shown in Figure 1-3. The growth-rate curve is similar in

[5] The reported growth rate for the normal strain in a medium with 40 μg of added pyridoxine per liter is 3 percent greater than that for the basic medium, as shown by the slopes of the lines in Figure 1 of Beadle and Tatum (1941).

shape to that for the pyridoxine-requiring mutant. The value of the growth rate for the normal strain of *Neurospora crassa* with no added *p*-aminobenzoic acid is equal to that for the mutant at a concentration of added *p*-aminobenzoic acid of about 15 micrograms per liter. A value about 4 percent greater is found for the normal strain at 80 micrograms per liter and for the mutant strain at 80 micrograms per liter, as indicated in Figure 1-3.

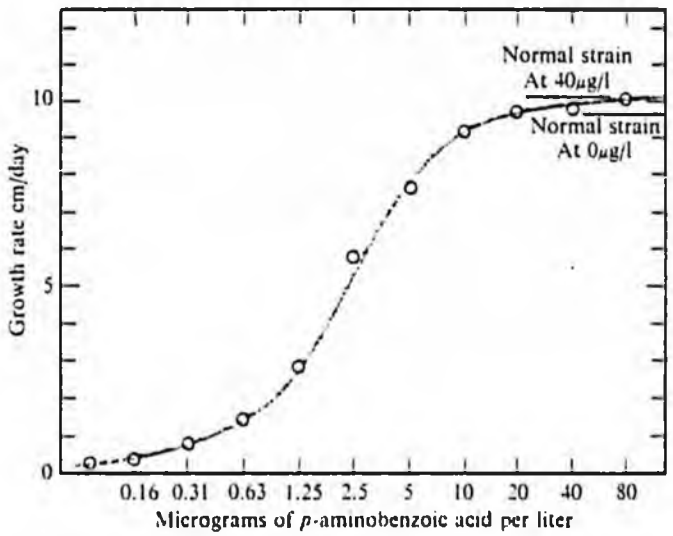


FIGURE 1-4.
Observed rate of growth of a *p*-aminobenzoic-acid-requiring *Neurospora* mutant as function of the logarithm of the concentration of *p*-aminobenzoic acid.

It is customary to plot values of the growth rate against the logarithm of the concentration of the growth substance, as shown in Figure 1-4. The amount of increase accompanying a doubling in the concentration of the growth substance is a maximum at 1.25 to 2.5 micrograms per liter, and decreases thereafter to about half the value for each successive doubling.

From these two examples we see that there may be a significant increase in rate of growth of the normal strain through addition of some of the growth substance that it synthesizes to the medium in which it is grown; that is, that the amount of the growth substance that is synthesized by the normal strain is not the optimum amount, but is somewhat less, leading to a rate of growth approximately 7 percent less than the maximum in the case of pyridoxine (with the normal strain of *Neurospora sitophila*) and 4 percent less for *p*-aminobenzoic acid (with the normal strain of *Neurospora crassa*). Many other examples are known of microorganisms that grow more

abundantly in a medium containing vitamins, amino acids, or other substances that they are able to synthesize than on a minimum medium.

Evidence supporting the above arguments has been presented recently by Zamenhof and Eichhorn (1967) in a paper entitled "Study of microbial evolution through loss of biosynthetic functions: Establishment of 'defective' mutants." These authors carried out experiments involving competitive growth in a chemostat of an auxotrophic mutant (a mutant requiring a nutrilite) and a prototrophic parent in a medium of constant composition containing the nutrilite. They found that the "defective" mutant has a selective advantage over the prototrophic parental strain under these conditions. For example, an indole-requiring mutant of *Bacillus subtilis* was found to show a strong selective advantage over the prototrophic back-mutant when the two were grown together in a medium containing tryptophan: the relative number of cells of the latter decreased 10^6-fold in 54 generations. They also found that greater advantage to the auxotroph accompanies a greater number of biosynthetic steps that have been dispensed with (earlier block in a series of reactions), with the final metabolite available. They point out that a mutant with a gene deletion would be at a distinct selective advantage over a point mutant, in that not only the synthesis of the metabolite, but also that of the structural gene, the messenger RNA, and perhaps the inactive enzyme itself would be dispensed with, and that accordingly the mutant with a deletion would replace the point mutant in competition. They mention evidence that some of the "defective" strains occurring in nature have lost one or more of their structural genes by deletions, rather than by point mutations.

MOLECULAR CONCENTRATIONS AND RATE OF REACTION

Most of the chemical reactions that take place in living organisms are catalyzed by enzymes. The mechanisms of enzyme-catalyzed reactions in general involve (1) the formation of a complex between the enzyme and a substrate molecule, and (2) the decomposition of this complex to form the enzyme and the products of the reaction. The rate-determining step is usually the decomposition of the complex to form the products or, more precisely, the transition through an intermediate state of the complex, characterized by activation energy less than for the uncatalyzed reaction, to a complex of the enzyme and the products of reaction, with a rapid dissociation. Under conditions such that the concentration of the complex corresponds to equilibrium with the enzyme and the substrate, the rate of the reaction is given by the following equation (the Michaelis–Menten equation; Michaelis and Menten, 1913):

$$R = \frac{d[S]}{dt} = \frac{kE[S]}{[S] + (1/K)}. \tag{1}$$

In this equation $[S]$ is the concentration of the substrate, E is the total concentration of enzyme (present both as free enzyme and enzyme complex), K is the equilibrium constant for formation of the enzyme complex ES, and k is the reaction-rate constant for decomposition of the complex to form the enzyme and reaction products. This equation corresponds to the case in which there are no enzyme inhibitors present.

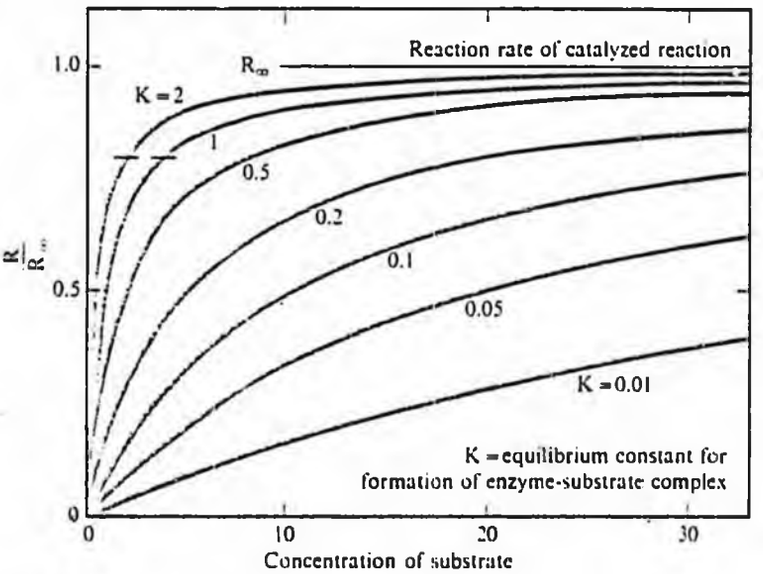


FIGURE 1-5.
Curves showing calculated reaction rate R/R_∞ of catalyzed reaction as function of the concentration of the substrate, for different values of the equilibrium constant K for formation of the enzyme-substrate complex.

Values of the reaction rate calculated from this equation for different values of K are shown in Figure 1-5. The curves are similar in shape to those of Figures 1-2 and 1-3. At concentrations much smaller than K^{-1} the reaction rate is proportional to the concentration of substrate. At larger concentrations, as the amount of enzyme complex becomes comparable to the amount of free enzyme, the reaction rate changes from the linear dependence. At substrate concentration equal to K^{-1} the slope of the curve is one-quarter of the initial slope, and the value is one-half of the value corresponding to saturation of the enzyme by the substrate.

The similarity of the curves of Figures 1-2 and 1-3 to appropriate curves in Figure 1-5 suggests that the growth substance may be involved in an enzyme-catalyzed reaction in which it serves as the substrate. The normal strain of the organism manufactures an amount of the substrate such as to permit the reaction to take place at what

may be considered a normal rate, 90 or 95 percent of the maximum rate, wh sponds to saturation of the enzyme. As described above, the gain in rea associated with the manufacture of a larger amount of the substrate, witl sponding advant ge to the organism, might be balanced by the disadvant organism associated with the upkeep of the larger amount of machinery re manufacture the increased amount of substrate. An increase in rate of this could also be achieved by an increase in the amount of the enzyme synthesiz organism. Here, again, the advantage to the organism resulting from this may be overcome by the disadvantage associated with the increase in the ar machinery required for the increased synthesis. During the process of evolut has presumably been selection of genes determining the concentrations of zymes catalyzing successive reactions such as to achieve an approximatio optimum reaction rate with the smallest amount of disadvantage to the org

The rate of an enzyme-catalyzed reaction is approximately proportiona concentration of the reactant, until concentrations that largely saturate the are reached. The saturating concentration is larger for a defective enzyme v creased combining power for the substrate than for the normal enzyme. For defective enzyme the catalyzed reaction could be made to take place at or normal rate by an increase in the substrate concentration, as indicated in Fig The short horizontal lines intersecting the curves indicate what may be cal "normal" reaction rate, 80 percent of the maximum. For $K = 2$ the "normal" achieved at substrate concentration $[S] = 2$. At this substrate concentrati reaction rate is only 29 percent of the maximum and 35 percent of "normal" mutated enzyme with $K = 0.2$; it could be raised to the "normal" value by a t increase in the substrate concentration, to $[S] = 20$. Similarly, the still great advantage of low reaction rate for a mutated enzyme with K only 0.01 could be come by a 200-fold increase in substrate concentration, to $[S] = 400$. This me ism of action of gene mutation is only one of several that lead to disadvanta manifestations that could be overcome by an increase, perhaps a great increase, concentration of a vital substance in the body. These considerations obviously gest a rationale for megavitamin therapy.

MOLECULAR CONCENTRATIONS AND MENTAL DISEASE

The functioning of the brain and nervous tissue is more sensitively dependent or rate of chemical reactions than the functioning of other organs and tissues. I bel that mental disease is for the most part caused by abnormal reaction rates, as de mined by genetic constitution and diet, and by abnormal molecular concentration essential substances. The operation of chance in the selection for the child of hal

complement of genes of the father and mother leads to bad as well as to good genotypes, and the selection of foods (and drugs) in a world that is undergoing rapid scientific and technological change may often be far from the best. Significant improvement in the mental health of many persons might be achieved by the provision of the optimum molecular concentrations of substances normally present in the human body. Among these substances, the essential nutrilites may be the most worthy of extensive research and more thorough clinical trial than they have yet received. One important example of an essential nutrilite that is required for mental health is vitamin B_{12}, cyanocobalamin. A deficiency of this vitamin, whatever its cause (pernicious anemia; infestation with the fish tapeworm *Diphyllobothrium*, whose high requirement for the vitamin results in deprivation for the host; excessive bacterial flora, also with a high vitamin requirement, as may develop in intestinal blind loops), leads to mental illness, often even more pronounced than the physical consequences. The mental illness associated with pernicious anemia (a genetic defect leading to deficiency of the intrinsic factor [a mucoprotein] in the gastric juice and the consequent decreased transport of cyanocobalamin into the blood) often is observed for several years in patients with this disease before any of the physical manifestations of the disease appear (Smith, 1950). A pathologically low concentration of cyanocobalamin in the serum of the blood has been reported to occur for a much larger fraction of patients with mental illness than for the general population. Edwin et al. (1965) determined the amount of B_{12} in the serum of every patient over 30 years old admitted to a mental hospital in Norway during a period of 1 year. Of the 396 patients, 5.8 percent (23) had a pathologically low concentration, less than 101 picograms per milliliter, and the concentration in 9.6 percent (38) was subnormal (101 to 150 picograms per milliliter). The normal concentration is 150 to 1300 picograms per milliliter. The incidence of pathologically low and subnormal levels of B_{12} in the serums of these patients, 15.4 percent, is far greater than that in the general population, about 0.5 percent (estimated from the reported frequency of pernicious anemia in the area, 9.3 per 100,000 persons per year). Other investigators[6] have also reported a higher incidence of low B_{12} concentrations in the serums of mental patients than in the population as a whole, and have suggested that B_{12} deficiency, whatever its origin, may lead to mental illness.

Nicotinic acid (niacin), when its use was introduced, cured hundreds of thousands of pellagra patients of their psychoses, as well as of the physical manifestations of their disease. For this purpose only small doses are required; the recommended daily allowance (National Research Council) is 12 milligrams per day (for a 70-kilogram male). In 1939 Cleckley et al. reported the successful treatment of 19 patients, and

[6] Hansen et al. (1966) report serum B_{12} concentration below 150 pg/ml in 13 of 1,000 consecutive patients admitted to a Copenhagen psychiatric clinic. Henderson et al. (1966) report that 9 of 1,012 unselected psychiatric patients in a region in Scotland were found to have B_{12} deficiency, in addition to 5 pernicious anemia patients in the group.

in 1941 Sydenstricker and Cleckley[7] reported similarly successful treatment of 29 patients with severe psychiatric symptoms by use of moderately large doses of nicotinic acid (0.3 to 1.5 grams per day). None of these patients had physical symptoms of pellagra or any other avitaminosis. More recently many other investigators have reported on the use of nicotinic acid and nicotinamide for the treatment of mental disease. Outstanding among them are Hoffer and Osmond, who since 1952 have advocated and used nicotinic acid in large doses, in addition to the conventional therapy, for the treatment of schizophrenia (Hoffer et al., 1957; Hoffer, 1962, 1966; Osmond and Hoffer, 1962; Hoffer and Osmond, 1964). The dosage recommended by Hoffer is 3 to 18 grams per day, as determined by the response of the patient, of either nicotinic acid or nicotinamide, together with 3 grams per day of ascorbic acid. Nicotinic acid and nicotinamide are nontoxic (the lethal dose, 50 percent effective [LD_{50}], is not known for humans, but probably it is over 200 grams; the LD_{50} for rats is 7.0 grams per kilogram for nicotinic acid and 1.7 grams per kilogram for nicotinamide), and their side effects, even in continued massive doses, seem not to be commonly serious. Among the advantages of nicotinic acid, summarized by Osmond and Hoffer (1962), are the following: it is safe, cheap, and easy to administer, and it is a well-known substance that can be taken for years on end, if necessary, with only small probability of incidence of unfavorable side effects.

Another vitamin that has been used to some extent in the treatment of mental disease is ascorbic acid, vitamin C. A sometimes-recommended daily intake of ascorbic acid is 75 milligrams for healthy adults. Some investigators have estimated that the optimum intake is much larger (Kyhos et al., 1945), perhaps 3 to 15 grams per day, according to Stone (1966, 1967). Williams and Deason (1967) have emphasized the variability of individual members of a species of animals; they have reported their observation of a 20-fold range of required intake of ascorbic acid by guinea pigs, and have suggested that human beings, who are less homogeneous, have a larger range.

Mental symptoms (depression) accompany the physical symptoms of vitamin-C deficiency disease (scurvy). In 1957, Akerfeldt reported that the serum of schizophrenics had been found to have greater power of oxidizing N,N-dimethyl-*p*-phenylenediamine than that of other persons. Several investigators then reported that this difference is due to a smaller concentration of ascorbic acid in the serum of schizophrenics than of other persons. This difference has been attributed to the poor diet and increased tendency to chronic infectious disease of the patients (Benjamin, 1958; Kety, 1959), and has also been interpreted as showing an increased rate of metabolism of ascorbic acid by the patients (Hoffer and Osmond, 1960; Briggs, 1962). It is my opinion, from the study of the literature, that many schizophrenics have an increased metabolism of ascorbic acid, presumably genetic in origin, and that the

[7] References are given in this paper to some earlier work on nicotinic acid therapy.

gestion of massive amounts of ascorbic acid has some value in treating mental disease.

Other vitamins (thiamine, pyridoxine, folic acid) and other substances (zinc ion, magnesium ion, uric acid, tryptophan, L(+)-glutamic acid, and others) influence the functioning of the brain. I shall review work on L(+)-glutamic acid as a further example. L(+)-Glutamic acid is an amino acid that is present at rather high concentration in brain and nerve tissue and plays an essential role in the functioning of these tissues (Weil-Malherbe, 1936). It is normally ingested (in protein) in amounts of 5 to 10 grams per day. It is not toxic; large doses may cause increased motor activity and nausea. In 1943 Price et al. reported favorable results for glutamic acid therapy of convulsive disorders (benefit to one out of three or four patients with petit mal epilepsy; Waelsch, 1948). Zimmerman and Ross (1944) then reported an increase in maze-running learning ability of white rats given extra amounts of glutamic acid. Zimmerman and many other investigators then studied the effects of glutamic acid on the intelligence and behavior of persons with different degrees and kinds of mental retardation. L(+)-Glutamic acid is apparently more effective than its sodium or potassium salts. The effective dosage is usually between 10 and 20 grams per day (given in three doses with meals), and is adjusted to the patient as the amount somewhat less than that required to cause hyperactivity. Several investigators[a] have reported an improvement in personality and increase in intelligence (by 5 to 20 I.Q. points) for many patients with mild or moderate mental deficiency.

LOCALIZED CEREBRAL DEFICIENCY DISEASES

The observation that the psychosis associated with pernicious anemia may manifest itself in a patient for several years before the other manifestations of this disease become noticeable has a reasonable explanation: the functioning of the brain and nervous tissue is probably more sensitively dependent on molecular composition than is that of other organs and tissues. The observed high incidence of cyanocobalamin deficiency in patients admitted to a mental hospital, mentioned above, suggests that mental disease may rather often be the result of this deficiency, and further suggests that other deficiencies in vital substances may be wholly or partly responsible for many cases of mental illness.

The foregoing arguments suggest the possibility that under certain circumstances a deficiency disease may be localized in the human body in such a way that only some of the manifestations usually associated with the disease are present. Let us consider, for example, a vitamin or other vital substance that is normally metabolized by the

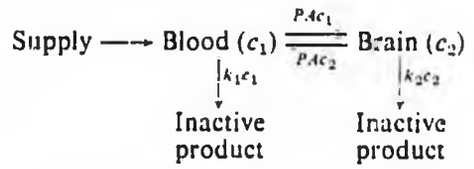
[a] A recent survey of the role of glutamic acid in cognitive behaviors has been published by Vogel et al. (1966). Many references to earlier work are given in this paper.

catalytic action of an enzyme normally present in the tissues and organs of the body In a person of unusual genotype there might be an especially great concentration of this enzyme in one body organ, with essentially the normal amount in other organs. Through the action of this enzyme in especially great concentration the steady-state concentration of the vital substance in that organ might be decreased to a level much lower than that required for normal function. Under these circumstances there would be present a deficiency disease restricted to that organ.

An especially important case is that of the brain. We may, as a rough model of the human body, consider two reservoirs of fluid, the blood and lymph, with volume V_1, and cerebrospinal fluid, the extracellular fluid of the brain and spinal column, with volume V_2. We assume that a vital substance is destroyed in each of these reservoirs at a characteristic rate, corresponding to the rate constants k_1 and k_2, that it diffuses across the blood-brain barrier at a rate determined by the product of the permeability and area of the barrier and the difference $c_2 - c_1$ of the concentrations in the two reservoirs, and that it is introduced from the gastrointestinal tract into the first reservoir at a constant rate. The steady-state concentrations are then in the ratio

$$c_1/c_2 = 1 + (k_2V_2/PA)$$

where PA is the product of permeability and the area of the blood-brain barrier. The steady state corresponds to the following system:



From this equation it is seen, as shown also in Figure 1-6, that for small values of k_2V_2/PA the difference in steady-state concentrations in the cerebrospinal fluid and the blood is small, but that through either decrease in permeability of the barrier or increase in the metabolic rate constant k_2 the steady-state concentration in the brain becomes much less than that in the blood.

This simple argument leads us to the possibility of a localized cerebral avitaminosis or other localized cerebral deficiency disease. There is the possibility that some human beings have a sort of cerebral scurvy, without any of the other manifestations, or a sort of cerebral pellagra, or cerebral pernicious anemia. It was pointed out by Zuckerkandl and Pauling (1962) that every vitamin, every essential amino acid, every other essential nutrilite represents a molecular disease (Pauling et al., 1949) which our distant ancestors learned to control, when it began to afflict them, by selecting a therapeutic diet, and which has continued to be kept under control in this way. The localized deficiency diseases described above are also molecular diseases, compound molecular diseases, involving not only the original lesion, the loss of the ability to

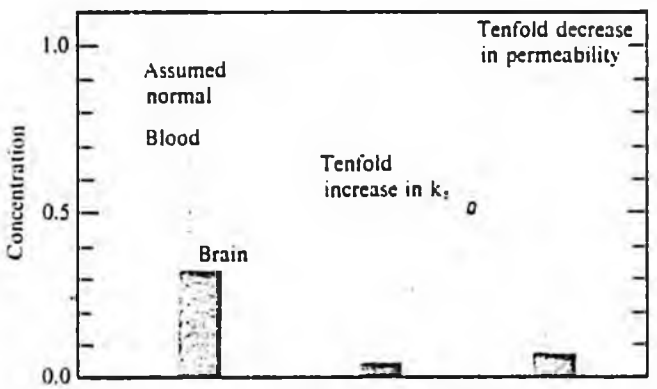


FIGURE 1-6.
Values of the concentration of a vital substance in the blood and in the cerebrospinal fluid for three different assumed sets of values of blood-brain barrier permeability and rate of destruction in the cerebrospinal fluid.

nthesize the vital substance, but also another lesion, one that causes a decreased e of transfer across a membrane, such as the blood-brain barrier,[9] to the affected gan, or an increased rate of destruction of the vital substance in the organ, or some her perturbing reaction.

It has been suggested by Huxley et al. (1964), partially on the basis of the observations of Böök (1953, 1958) and Slater (1958) on the incidence of schizophrenia in atives of schizophrenics, that schizophrenia is caused by a dominant gene with incomplete penetrance. They suggested that the penetrance, about 25 percent, may in me cases be determined by other genes and in some cases by the environment. I ggest that the other genes may, in most cases, be those that regulate the metabolism of vital substances, such as ascorbic acid, nicotinic acid or nicotinamide, yridoxine, cyanocobalamin, and other substances mentioned above. The reported success in treating schizophrenia and other mental illnesses by use of massive doses of me of these vitamins may be the result of successful treatment of a localized cerebral deficiency disease involving the vital substances, leading to a decreased penetrance of the gene for schizophrenia. There is a possibility that the so-called gene for schizophrenia is itself a gene affecting the metabolism of one or another of these vital substances, or even of several vital substances, causing a multiple cerebral deficiency.

I suggest that the orthomolecular treatment of mental disease, to be successful, should involve the thorough study of and attention to the individual, such as is

[9] It has been suggested by Melander and Martens (1958, 1959) and by Hoffer and Osmond (1966) that the effects of taraxein (Heath et al., 1958) may result from changing the permeability of the blood-brain barrier.

customary in psychotherapy but less customary in conventional chemotherapy. the course of time it should be possible to develop a method of diagnosis (measu ment of concentrations of vital substances) that could be used as the basis for det mining the optimum molecular concentrations of vital substances for the individ patient and for indicating the appropriate therapeutic measures to be taken. My workers and I are carrying on some experimental studies suggested by the forego considerations, and hope to be able before long to communicate some of our resu

SUMMARY

The functioning of the brain is affected by the molecular concentrations of many su stances that are normally present in the brain. The optimum concentrations of the substances for a person may differ greatly from the concentrations provided by h normal diet and genetic machinery. Biochemical and genetic arguments support t idea that orthomolecular therapy, the provision for the individual person of t optimum concentrations of important normal constituents of the brain, may be t preferred treatment for many mentally ill patients. Mental symptoms of avitaminos sometimes are observed long before any physical symptoms appear. It is likely th the brain is more sensitive to changes in concentration of vital substances than a other organs and tissues. Moreover, there is the possibility that for some persons th cerebrospinal concentration of a vital substance may be grossly low at the same tim that the concentration in the blood and lymph is essentially normal. A physiologic abnormality such as decreased permeability of the blood-brain barrier for the vit substance, or increased rate of metabolism of the substance in the brain, may lead to cerebral deficiency and to a mental disease. Diseases of this sort may be called local ized cerebral deficiency diseases. It is suggested that the genes responsible for abnor malities (deficiencies) in the concentration of vital substances in the brain may b responsible for increased penetrance of the postulated gene for schizophrenia, and that the so-called gene for schizophrenia may itself be a gene that leads to a localized cerebral deficiency in one or more vital substances.

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Orthomolecular Psychiatry: Treatment of Schizophrenia

DAVID HAWKINS

INSTRUCTIONS TO THE PATIENT

Education of the Patient: Explanation of the Illness and Test Results

Subsequent to the completion of tests and the diagnostic interview, the patient is given an interpretation of all the test findings and the diagnosis, including a biochemical explanation of his illness. It is explained to him how the HOD test reveals faulty perception, and he is told his exact HOD score and its correlation with his symptoms. It is then explained that a medical regimen will be prescribed that is designed to correct the brain's faulty perceptual functioning. An adequate understanding of the illness frequently relieves irrationality rapidly.

Similarly, when it is explained to the patient that paranoia is a result of faulty brain chemistry and it is labeled "paranoia" he becomes less paranoid and more rational. Unless the condition is of considerable duration, so that it has become

systematized with many attendant secondary gains, paranoid symptoms usually diminish rapidly. An adequate explanation to the patient of his illness is an extremely important therapeutic procedure and sets the stage for all the treatment procedures that follow.

We use the term "metabolic dysperception" (see Chapter 19 by Kowalson and Chapter 26 by Robie) to most accurately describe the patient's condition, and we explain that metabolic dysperception, if it gets bad enough, can produce overt clinical schizophrenia. We have yet to see a patient who has rejected this explanation, if expressed correctly. Many of the patients respond very positively and will state that this is the first time a psychiatrist has ever been honest with them.

Telling the patient that he has a specific illness allows him to assume the sick role with all the attendant benefits that accrue in our society, as have been well described by Siegler and Osmond (1969). Once the patient and family understand the nature of the illness they are usually willing to accept it and do something about it. The family no longer has to utilize denial or reaction formation to handle their guilt, anger, and other emotional reactions which automatically stem from psychological formulations of the illness. Under these conditions, families readily assent to counselling in those instances where disturbed family interaction is apparently impeding the patient's progress.

General Medical Regimen

The patient is told that he will be placed on a regimen consisting of diet, megavitamins, medications, and prescribed periods of exercise, rest, and sleep. No more than 8 hours of sleep is advised as more has been shown to increase fatigue and disability (Globus, 1969). Daily physical exercise is prescribed for its physiological benefit. Anxiety in mental patients has been demonstrated to be accompanied by elevated lactate levels as a result of altered energy systems (Pitts and McClure, 1967; Beebe and Wendell, 1968; also see Chapter 21 by Beebe and Wendell). The beneficial effect of exercise has also been reported by members of Schizophrenics Anonymous; they claim that of all the forms of exercise, swimming is the most subjectively beneficial.

Patients are advised to avoid excessive fatigue and stress and they are placed on a hypoglycemic diet which consists primarily of the avoidance of sugar and sweets, reduction of starch, and elimination of caffeine. Because there is an increasing interest in functional hypoglycemia there are a number of recent books available to the patient (see Chapter 22 by Meiers). A booklet "Hypoglycemia and Me" by the Hypoglycemic Foundation[1] is excellent and provides all the information needed.

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[1] Available from Adrenal Metabolic Research Society of the Hypoglycemia Foundation, P.O. Box 48, Fleetwood, Mount Vernon, New York, N.Y. 10552.



Patient self-help groups such as Health Frontiers[2] hold regular meetings, distribute educational literature, and sponsor informative lectures by endocrinologists.

The use of adrenal cortical extract (ACE) in the alleviation of hypoglycemic episodes is occasionally necessary. Our experiences have indicated that in certain patients it can be demonstrated to have a marked benefit and in several instances, the use of the ACE injections has made it unnecessary to hospitalize patients who had precipitated relapses by going off their diets. "Physicians Guidelines to Diagnosis and Treatment of Hypoglycemia or the Hypoadrenocortical State" and "Hypoadrenocorticism" are available from the Hypoglycemia Foundation to physicians only.[3]

We also advise patients that strong aged cheeses such as Roquefort and Camembert should be avoided as these have been reported by the members of SA to aggravate their symptoms.

Patients appreciate the reasons for all of these instructions and are far more cooperative when the rationale is given. It is useful to clarify the difference between a vitamin *deficiency* disease and a vitamin *dependency* disease (Rosenberg, 1970) in which vitamins are being used in pharmacologic rather than replacement doses. To aid in their understanding of the illness, educational literature is made available and most patients and families find helpful the educational package which is available from the Schizophrenia Association of Long Island.[4] In our experience, the more the patient and family know about the illness, the better the result.

Joining Schizophrenics Anonymous is recommended when it appears the patient would benefit, and we suggest to family members that they join one of the schizophrenia associations, become acquainted with the other families, and attend the educational lectures. Many patients become interested in the hypoglycemic aspect of the illness and appreciate being referred to patient self-help groups concerned with this illness.

With the alcoholic-schizophrenic patients, treatment is first concentrated on the schizophrenia and they are referred to SA. In each of the SA groups, there are also members of Alcoholics Anonymous and, as the patient improves, these recovered alcoholics introduce the patient to AA. If the patient is not going to SA then he is referred directly to AA after his HOD score has gone down and the schizophrenic process has abated. Surprisingly, at that point the schizophrenic-alcoholic usually abruptly stops drinking without the prolonged struggle and battle typical of the nonschizophrenic alcoholic. The patient frequently attends both SA and AA groups and as the schizophrenic process dissolves, he usually drifts away from SA and continues in just AA.

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[2] Available from Health Frontiers Foundation, 149 Spindle Road, Hicksville, New York 11801.

[3] Adrenal Metabolic Research Society of the Hypoglycemia Foundation, P.O. Box 98, Fleetwood, Mt. Vernon, New York.

[4] Long Island Schizophrenia Association, 1691 Northern Blvd., Suite No. 203, Manhasset, New York 11030.

MEDICATION

Psychotropic Drugs

The academic drug researcher operates at a distinct disadvantage—he cannot employ the great variety of techniques which the clinician utilizes almost automatically in his daily practice. Also, the researcher can only handle very limited data and the number of controlled variables must of necessity include only those that are most obvious and that lend themselves to data collection and processing. The parameters of research designs are, therefore, arbitrarily quite limited, as are the results. Unfortunately, the results of such studies are often extrapolated beyond the confines of the data and the results are stated in terms which do not limit the results to the conditions of the study. Because he is unencumbered by such limitations, it is usually possible for the clinician to accomplish more with any given drug than the literature infers. The more complex the illness being treated, the more this general principle holds true, and it is especially so in schizophrenia.

Correct sequencing of medications is important in the psychopharmacology of schizophrenia. By changing the sequence it is often possible to obtain results with the same drug to which the patient was previously unresponsive. A similar observation has also been made by Kline (1969), who noted, in doing cross-over studies, that patients may react differently to the same dose of the same drug when it is later re-introduced and that this phenomenon creates a previously unrecognized problem for drug research. We have learned that this can be done deliberately—a patient can be "set up" to respond to a drug that we intend to administer at a later date. In doing this, advantage can be taken of certain readily observable principles of central nervous system activity such as the rebound phenomenon. For instance, a patient will often readily respond to an "up" drug if it is rapidly introduced during the immediate period following cessation of a "down" drug and vice-versa. Brain function, as a general rule, tends to be compensatory, and this natural tendency can be used to purposely "sensitize" a patient to the effect of the same or another drug. In attempting to induce this reaction, the action of the "sensitizing" drug should be in the opposite direction from the drug whose response we later need to effect a recovery.

Researchers who are not clinically experienced are often puzzled by the "polypharmacy" that they come across, because, from the limitations of a theoretical viewpoint, it "doesn't make sense." The clinician, however, often follows by "intuition" certain principles in drug usage which have been learned by experience. Besides sequencing, these include: utilization of mutual synergisms and antagonisms, balancing off of side effects, purposely utilizing desired side effects, extending dosage ranges by concurrent use of antagonists, calculating onsets and durations of action, predicting progressive loss of response, predicting development of tolerance or loss

of tolerance, estimating effective dosage ranges at different stages of the illness, and predicting phases of drug responses. Because of all these clinically important factors, which are not included in research designs, it is common for clinicians to obtain quite different results from those that are received from academic studies. In daily practice the clinician automatically compensates for biological individuality (Williams, 1971) and the difference between patients, which in psychiatric conditions are more marked than in other kinds of illness. In psychiatry it is common for patients to require 10 to 100 times the "average dose" of a given substance before they respond favorably.

Additional reasons for the traditional "town versus gown" difference in the results of treatment between clinicians and academic researchers are provided by understanding Joseph Wilder's "Law of Initial Value," which states that the pre-stimulus state of the organism determines the response as much as does the nature of the stimulus itself. The chemical importance of this concept has been reviewed by Lesse (1971). Because of the antipsychotic effect of the phenothiazines, all patients are placed on either a suitable phenothiazine or other antipsychotic medication if this has not been done previously. According to Hollister (1971), antipsychotic drugs "contribute the most therapeutic benefits in schizophrenia—there is little direct evidence that traditional therapies add more," and all antipsychotics produce a postsynaptic dopamine receptor blockade leading to stabilization of the membrane at the receptor site.

The site of action may also be an enzymatic protein in the presynaptic membrane adjacent to the intersynaptic cleft (Teller and Denber, 1968). They point out that the defective protein at the synaptic site is probably quite small and that the antipsychotic drugs are capable of changing protein structure even in minute doses. The change in structure then causes change in functioning of the enzymatic activity. Utilizing a "framework molecular model" (available from Prentice-Hall, Inc., Englewood Cliffs, N.J.) they demonstrated, for instance, that the "architectural" characteristic of chlorpromazine and mescaline allowed for a demonstration of their mutually antagonistic action by action at the cell's protein membrane discs.

Spontaneous disinhibition of neuronal circuits, because they are connected in series rather than parallel, can result in clinically significant symptoms even though only a few sites are involved. This may lead to production of reverberative circuits in which apparent perceptions may occur, for instance, without external stimulation. Also, in chronic schizophrenia there is a disturbance of internal inhibitory activity (Saarma, 1968), and Saarma and Vasar (1970) have demonstrated that this disturbance is positively influenced by nicotinic acid. Teller and Denber conclude that the symptoms resulting from the endogenous genetic defect in schizophrenics are similar, from the viewpoint of molecular biology, to those that are exogenously caused by the psychotomimetic drugs. Bradley and Johnston made a valuable contribution to future research in this area in their work on "The Molecular

Pharmacology of Hallucinogens" (1968). Animal research until this time had been based only on gross behavioral changes in response to the drugs being investigated. Bradley and Johnston introduced the use of operant conditioning techniques to determine more subtle behavioral changes in response to a series of possible psychotogens. By correlating these more subtle responses to a series of structural changes in the molecules being studied, they have come closer to approximating the human condition in drug research with experimental animals.

It is explained to the patient that the phenothiazines are being prescribed, not as tranquilizers, but for their effect in reducing the HOD score and for their antischizophrenic action. Intelligent patients appreciate a brief explanation of the action of the phenothiazines so that they get to know that chlorpromazine has a "down" action and is, therefore, useful when they are agitated, or upset, or have insomnia, whereas fluphenazine, especially in lower doses, has an "up" action. An explanation is given of extra-pyramidal side effects and the reason for prescribing anti-Parkinsonian medication.

Patients are told that if they get blurred vision, the anti-Parkinsonian drug dose is too high, and that if they get restless legs or cannot sit still, it is too low. An explanation is given that the phenothiazines are not properly called tranquilizers and that that term should be reserved for drugs of the meprobamate type. This removes the common prejudice against taking tranquilizers. Many patients are either fearful of tranquilizers or they have reaction formations against them and do not want to become dependent on them. Clarification of this issue is often of considerable importance because some patients will discontinue antipsychotic drugs, with dire results, for these reasons.

The dose of phenothiazines is reduced as the patient improves and his medication is shifted from one end of the phenothiazine spectrum to the other, depending on what phase of illness or recovery he is in currently. We have seen many patients whose impairment was impeded by their being kept on the wrong phenothiazine due to the mistaken notion that all phenothiazines are interchangeable. As an example:

> A 28-year-old schizophrenic man was admitted to a hospital with paranoid symptoms. He was placed on 600 mg of chlorpromazine, following which the paranoid symptoms disappeared. He then became depressed and apathetic. During the next year-and-a-half he had psychotherapy three times a week, but did not improve and so was discharged at the end of that time as having achieved maximum hospital benefit. Medication remained the same throughout the entire hospital stay and he was discharged on the same dosage.
>
> When seen at the clinic, he was still "down," apathetic, listless, and indifferent. The notes in the patient's hospital record indicated that this was thought to be due to the schizophrenic process. At the first visit, his medication was changed from 600 mg chlorpromazine to 5 mg fluphenazine three times daily. Within 24 hours the entire symptom constellation disappeared. He became alert, responsive, and energetic, and eventually recovered.

The best clinical principle is that the patient should be on the right dosage of the right phenothiazine at the right time. We tell the patient that as he recovers the dosage will be reduced, but that he will be kept on a small, perhaps "bed-time only" maintenance dose for its beneficial chemical effect even though he has long since not needed a tranquilizer. This again demonstrates to the patient that the phenothiazine is not being used as a tranquilizer, but for its biochemical effect. This explanation results in increased patient cooperativeness.

Antidepressants may be necessary in this connection. We have found that activation of the tricyclic antidepressants by thyroid medication may bring about a prompt response. This has been recently reported by Prange et al. (1969) and Earle (1970). It is important, as mentioned before, that the patient's euthyroid status be ascertained prior to placing him on this combination of medications. The patient's active symptoms should always be first brought under control with a phenothiazine before the antidepressant is introduced.

Another medication which is useful in the treatment of schizophrenia is methylphenidate hydrochloride (Ritalin®). If the depression is not too severe, 10 to 20 mg three times per day before meals will alleviate fatigue and depression, as well as any sedation effects from the phenothiazines. This medication at times has relieved depressions of suicidal degree in less than an hour and helps to tide the patient over until his basic condition improves sufficiently that the depression passes. Overreliance on this medication can lead to a diminution of effect. It can be used to potentiate the effects of the tricyclic antidepressants. This synergistic effect results in an increase of blood levels of the antidepressants through enzyme inhibition (Wharton et al., 1971). Overusage by schizophrenic patients is rare, and in our experience has occurred only in those who have a problem with multiple drug abuse.

An additional use for thyroid medication in the euthyroid schizophrenia patient is in the treatment of periodic catatonia. In this condition, between upsets, the patient's HOD score may be within the normal range, and when an attack occurs the score rises precipitously. The typical response to 3 or 4 grains of thyroid daily is exemplified by the following case:

> A 41-year-old housewife had been hospitalized *15 times* in the last seven years for recurrent acute schizophrenic episodes uncontrolled by massive doses of chlorpromazine. When seen in the office between attacks, her HOD score was only 10. The attacks were always preceded by a period of insomnia and often occurred during the pre-menstrual period. In addition to megavitamins and a hypoglycemic diet, she was placed on 4 grains of Proloid® daily at the first visit. Since then she has not had a single recurrence—she feels and functions as though she had never been ill. She returns to the clinic for follow-up visits every three months.

Although the successful use of thyroid in treating schizophrenia has been the subject of many papers in psychiatry for more than 40 years, apparently many



clinicians do not think of using it because schizophrenics are usually euthyroid. The periodic catatonic is a readily recognizable subgroup of the schizophrenias and the value of using thyroid in this condition has been reported by many researchers, including Gjessing (from 1932 on, but recently see 1964, 1967, 1969), Danziger (1958), Danziger and Kindwall (1953, 1954), Gunne and Gemzell (1958), Sourkes (1962, 1970), Lochner et al. (1963), Minde (1966), Cookson et al. (1967), Jenner (1967), Vestergaard (1969), and Hoffer (1967). Thyroid can be used in treatment of the recurrently ill schizophrenic as well as for other types of schizophrenia.

Hoffer and Osmond (1967) reviewed the literature and noted that the average dose of thyroid used was 5 grains daily. Danziger and Kindwall (1953, 1954) gave doses of 2 to 20 grains but found that few patients required more than 10 grains. All researchers have commented on the considerable resistance of the schizophrenic to thyroid hormone and in our own work we have observed the same phenomenon. Our most common dose is 3 to 5 grains daily, and many patients who were previously unresponsive to treatment will recover when this amount of thyroid is added. Many of these are patients who do not present the classic periodic pattern; one will be described later.

Megavitamins

We routinely use mega doses of four vitamins for a variety of reasons in treating schizophrenic patients, and this has resulted in increased rates of recovery. It is still not possible to predict exactly which patients will benefit by megavitamins and it remains for future researchers to give us the useful clinical indicators to identify these patients in advance. Work supported by the Canadian Mental Health Association (Ban, 1969; Ananth et al., 1969; Ban and Lehmann, 1970) is proceeding in that direction and preliminary results indicate that there is a segment of the schizophrenic population that responds to either nicotinic acid and pyridoxine or pyridoxine alone and may eventually be identifiable.

Ananth, Ban, and Lehmann report (1972) that the therapeutic effect of nicotinic acid in chronic schizophrenics is potentiated by pyridoxine. This was demonstrated in a 48-week double blind control study in which pyridoxine alone, nicotinic acid alone, or the two together were demonstrated to have a statistically significant therapeutic effect. The therapeutic effect was demonstrable even though the patients had been hospitalized for an average of 10.9 years, were not on hypoglycemic diets, and the doses of both pyridoxine (75 mg daily) and vitamin B3 (3 g a day) were considerably below the dosages we routinely prescribe.

In general, it can be said from our own experience that the higher the patient's HOD score, the greater the likelihood of response to an overall megavitamin treatment regimen. The schizophrenic patient whose illness could be called "metabolic

rception" responds the best. The grown-up childhood schizophrenic with the OD score, postural stigmata of propioceptive deficit, and primarily visual per-al distortions is the least likely to benefit. The most significant visual perceptual tion in this group of patients is loss of depth. This particular distortion, even it is induced hypnotically in normal subjects, produces a schizophreniform nse with primitivization and regression, as has been shown by Aaronson in al studies (1967a, b, 1968). This type of patient appears to belong to a different iemical subcategory of the subtypes of the schizophrenias.

e megavitamins and the phenothiazines act clinically as though they had a gistic action, and for that reason patients are kept on a low daily dose of a othiazine prophylactically even after they have recovered. Sainz (1964) has onstrated that the phenothiazines elevate blood ascorbic acid levels, and there be a variety of synergistic effects such that the antipsychotic action of the pheno-ines may be augmented by the megavitamins. Demonstration of the effective-of the combination requires correction of co-existing functional hypoglycemia. any patients, in our experience, recovery was prevented by lack of adherence to ypoglycemic diet. As an example:

> A 26-year-old unemployed schizophrenic man had been ill for several years and had been hospitalized several times, during which he had had shock treatment and all other available forms of therapy. By the time he came to the clinic, he was surly, uncooperative, paranoid, and obese. The Glucose Tolerance Test revealed definite functional hypoglycemia and he was placed on the usual regimen of megavitamins, phenothiazines, and a hypoglycemic caffeine-free diet.
>
> For the next one-and-a-half years no progress was achieved and during visits he was highly uncommunicative, despite high doses of vitamins and phenothiazines. It was then discovered from his family that he was drinking at least half a case of a cola beverage per day and on week-ends he usually drank a whole case daily. Cessation of the cola ingestion resulted in rapid, progressive improvement with noticeable changes in behavior, communicability, and relationship with the family. His inappropriateness and surly, gauche manner disappeared and he is continuing to improve.

When we first began using megavitamins in treating childhood schizophrenics we re unaware of the importance of ameliorating the hypoglycemia and, therefore, r first reports on the use of nicotinamide in schizophrenic children stated that . . niacin and niacinamide were found to be relatively ineffective in childhood izophrenics and less effective in adult schizophrenics with childhood onset" awkins, 1967, 1968b). Similar negative experiences have been reported by Roukema d Emory (1970) and Greenbaum (1970b), who also demonstrated that nicotina-ide alone in the treatment of childhood schizophrenia, except for improvement in me individual cases, did not produce statistically significant results. It was Cott 969) who pointed out that recovery of childhood schizophrenics on megavitamins as not possible until the hypoglycemia was corrected, and that unless this was



done it was useless to proceed. The importance of this concept cannot be overemphasized, as in this group as well as certain other patient groups no recovery at all is possible unless the hypoglycemia is corrected.[5] In this connection it might be well to emphasize again that recovery after the acute phase is over can be delayed for long periods of time if the patient is allowed to sleep beyond 8 hours a day. The apathy and lassitude which ensue from prolonged oversleep can negate attempts at rehabilitation.

Our initial combination of megavitamins usually consists of 1 gram niacinamide, 1 gram ascorbic acid, 50 mg pyridoxine, and 400 I.U. of natural vitamin E, repeated four times daily. Although occasionally an adolescent girl will develop nausea as a result of this dose of niacinamide and require a reduction of dosage, this combination is tolerated by the majority of patients without any side effects. The most frequent complaints are about the nuisance of taking the pills and, occasionally, difficulty in swallowing them.

For a time, we hypothesized that the difficulty in swallowing, especially in adolescent girls, was hysterical in origin, but we discovered this was often due to esophageal dysfunction associated with schizophrenia as reported by Hussar and Bragg (1969, 1970). Their study on the swallowing functioning in schizophrenics using cineradiographic techniques demonstrated that almost half of the schizophrenic patients showed various degrees of swallowing abnormalities and that chlorpromazine medication had no effect on the swallowing mechanism. The conclusion of their study was that "these results contribute to an understanding of the not infrequent tragic episodes of asphyxiation on food among chronic schizophrenic patients often incorrectly ascribed to tranquilizer medication."

Both niacinamide and ascorbic acid are available in capsules, which are more easily swallowed than pills. The ascorbic acid available in crystalline form can be mixed easily with orange juice.

The maximum therapeutic dose of niacin or niacinamide is about 1 gram per day below the nausea-inducing dose. We routinely begin by using niacinamide and later switch the patient to niacin if there are specific indications to do so, such as the existence of concomitant alcoholism, elevated cholesterol, or hypoglycemia, or if the schizophrenic has been precipitated by LSD. Although the flushing side-effect of niacin can be controlled by cyproheptidine (Periactin®) 4 mg four times daily (Robie, 1967), the flush unnecessarily alarms patients even when it has been previously explained to them. Niacin also appears to be more beneficial than niacinamide in treating the alcoholic-schizophrenic, although we do not have statistical studies to prove that this is so.

Recent studies (Davis and Walsh, 1970; Lieber and DeCarli, 1970) have demonstrated metabolic pathways in alcoholics which may account for nicotinic acid's

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[5] Hypoglycemic episodes, for instance, will trigger post-LSD "flashbacks."

action in this disorder. Thus, alcohol, by way of its primary metabolite, acetaldehyde, competitively inhibits nicotinamide-adenosine-dinucleotide-linked aldehyde dehydrogenase, which interferes with the metabolic disposition of the biogenic amine dopamine, producing aberrant metabolites. Prolonged consumption of alcohol enhances the activities of the enzyme-reduced nicotinamide-adenosine-dinucleotide phosphate oxidase. In this connection, alcoholics have also been demonstrated to have a deficiency of vitamin C as exemplified by a lower level leukocyte ascorbic acid in control groups (G. . Iberg, 1970).

Although Saarma and Vasar (1970) report that with nicotinic acid there is an appearance of clinical improvement between the fourth and sixth week of treatment, in our experience the response to the megavitamins is generally more delayed and not discernible until the third to sixth month. A very noticeable or marked degree of improvement as compared to patients who are treated with just phenothiazines is most obvious by the end of the first year.

Improvement can be speeded up by the use of parenteral injections of the megavitamins, in which case a noticeable improvement begins within a few weeks (see Chapter 25 by Cott). Patients who have been on adequate oral doses for a considerable length of time without improvement will often suddenly respond when switched to parenteral administration. The ability of the intestinal tract to handle a given compound is not the same in all persons (Faloon, 1970). Some patients may have a defect in transport enzyme systems so that a patient may have been on a high dosage of ascorbic acid for some time and yet still show a subnormal blood ascorbic acid level. This level then suddenly increases to normal when much smaller doses of ascorbic acid (500 mg) are given by injection.

Multiple modes of action of nicotinic acid in schizophrenia have been described (see Chapter 11 by Hoffer), including the recent work of Galzigna (1969, 1970) and Galzigna and Rizzoli (1970) showing that nicotinamide reacts rapidly with the aminochromes, reducing them. In the absence of nicotinamide in the brain tissue, the aminochromes react with acetylcholine to form a stable complex which acts as an endogenous hallucinogen. They conclude that "if we consider adrenochrome reduction derivatives as non-toxic excretion products of the psychotogen aminochromes, a rationale for the clinical use of nicotinamide in mega doses as a therapy for mental illness is provided." Further work is in progress to demonstrate the nature of this interaction with ascorbic acid which is central to the authors' "short circuit" theory of the onset of mental illness.

Nicotinic acid has nonspecific properties of blocking the production of stress-induced gastric ulcers in laboratory animals and it also blocks the L-dopa-induced exacerbation of symptoms in schizophrenic Parkinsonian patients (Yaryura-Tobias, 1971). Research is currently being done to determine the effect of nicotinamide in reducing the stress responses (cold pressor test) of normal students to final examinations (Bovard, 1971, personal commun.). The contraindications for using nicotinic

acid have been described by Hoffer and Callbeck (1959), Hoffer (1962, 1969), Hoffer and Osmond (1966), Mosher (1970), and Newbold (1970), and have been reviewed in other chapters. The four main contraindications to niacin are those of peptic ulcer, hypertension, diabetes, and gout. The niacin-induced hyperglycemia may alter insulin requirements in diabetics. The histamine-release, which produces the flush, results in hyperchlorhidria in ulcer patients. The elevation of uric acid may precipitate gout attacks, and if the hypertensive patient is on a reserpine-type anti-hypertensive agent, the patient may possibly go into shock. The cholesterol-lowering effect has been demonstrated in long-term heart studies and the heart studies have discovered the same contraindications (Boyle, 1968). Here, obviously, the lowering of blood cholesterol is sought, and it is a side benefit when niacin is taken by schizophrenics.

In the review articles mentioned earlier concerning the possible side effects of nicotinic acid, several cases of possible hepatic toxicity were reported. When the effect of nicotinic acid in producing false positive liver enzyme tests is discounted, these appear to be questionable. We have not seen any cases of noninfectious jaundice which did not clear up when the phenothiazine was discontinued. In addition, we have seen several cases of intercurrent infectious hepatitis as demonstrated by liver function tests and liver biopsy. The majority of patients who develop phenothiazine jaundice were continued on the megavitamins and the jaundice cleared up with no difficulty. In a few cases, because of the isolated reports in the literature, megavitamins were discontinued along with all other medications, and the patients were subsequently replaced on nicotinamide with no recurrence of jaundice. At this time, we consider that jaundice due to nicotinic acid, although unlikely, may be a remote possibility and treatment will depend upon the judgment of the attending internist.

We explain to patients that both vitamin E and ascorbic acid are prescribed for their antioxidant effects. Ascorbic acid alone has been shown in controlled studies to benefit psychiatric patients as evidenced by improvements in their Wittenborn and MMPI scores (Milner, 1963). The effect of vitamin C in preventing the common cold has been reviewed by Pauling (1970), and this is of benefit to schizophrenic patients, who characteristically show a clinical worsening and an increase of perceptual difficulties as a response to viral infections. For those patients in whom this has been a problem, we recommend the sustained-action form of ascorbic acid in capsule granulated form, which sustains ascorbic acid blood levels during sleep (Riccitalli, 1972) and thereby eliminates recurrent colds in the majority of patients. We frequently have observed minor relapses and setbacks in recovered patients in response to upper respiratory virus infections and a possible mechanism for this observation has been described by Teller and Denber (1968) related to abnormal protein structure (such defects can occur genetically, or be caused by malnutrition, avitaminosis, infection, toxins, or immunologic reactions). The greater retention of

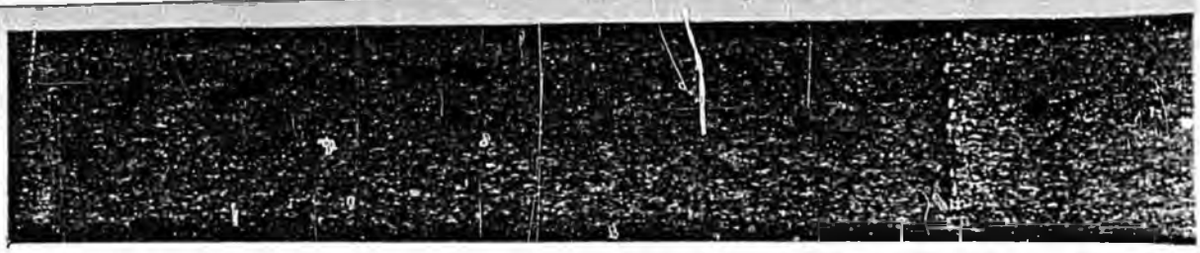
rbic acid in schizophrenic patients has been shown by Cowan et al. (1970) and iously by Herjanic and Herjanic (1969) and VanderKamp (1966). Current es by Pauling and Robinson and by Herjanic are reported in Chapters 2 and 14 his volume.

igh doses of ascorbic acid may occasionally cause mild diarrhea in some viduals and it may cause false positive urine tests in diabetics who use commercial e test kits. A case is also reported in which ascorbic acid shortened the prombia time in a patient who was receiving a Warfarin (Coumadin®) anticoagulant senthal, 1971). In treating over 5,000 patients with 4 grams or more of ascorbic per day, however, we have not had a single instance of any serious side effects.

/e explain to patients that vitamin B6, pyridoxine, is necessary as a precursor of tinic acid. It is an intermediary step in the biotransformation of tryptophan to tinic acid where it is required for the hydroxylation of kynurenine (derived from tophan) to 3-OH-kynurenine and for the further metabolism of 3-hydroxykynine to 3-hydroxyanthranilic acid (immediate precursor to nicotinic acid; Gibbs Walshe, 1969). Vitamin B6 deficiency interferes with the metabolism of amino s, proteins, and biogenic amines, and causes abnormalities of nervous system vity in man, where the pathological effects of deficiency are most marked on the loping brain. Abnormalities of vitamin B6 metabolism have been associated not / with schizophrenia but also with a variety of other abnormalities of the central /ous system, and B6 deficiency at the subcellular level may be produced by a ıber of antimetabolites (Knapp, 1966; Coursin, 1969). The antagonism between min B6 and L-dopa is a recent illustration (Duvoisin et al., 1969; Cotzias and avasilion, 1971). Pyridoxine in high doses has been used by Cott (1969) in the tment of childhood schizophrenia. The role of pyridoxine in psychiatric disorders recently been summarized by Ananth, Ban, and Lehmann (1972) in their paper tled "Potentiation of Therapeutic Effects of Nicotinic Acid by Pyridoxine in onic Schizophrenics" presented at the Canadian Psychiatric Convention in ntreal, June 8, 1972. This paper states that pyridoxine potentiates the action of tinic acid, possibly by opening up the kynurenine cycle of tryptophan metabolism thereby decreasing the formation of indoles. In their study, already referred to, doxine alone had a therapeutic effect in schizophrenics as well. In more than 0 patients we have not observed a single side effect from pyridoxine administra- of 200 mg daily.

is best to write down the medication schedule and the recommendations for p and diet on a card and give it to the patient at the initial visit. It is also advisable dicate to the pharmacist that all medications be labelled to show the name and age size. Unless this is done, there will be mistakes and many call-backs as most ents are perceptually disordered and unable to remember verbal instructions.

n summary, the addition of megavitamins is inexpensive and safe, and very itively influences the long-term outcome. Side effects of a serious nature are quite



rare and easily avoided. The occurrence of even the most mild side effects is avoided by giving niacinamide instead of niacin. Precise identification of those patients most likely to respond is not yet possible but, in general, the more elevated the HOD, the more likely the response, provided however, that concomitant hypoglycemia is also corrected.

INVOLVEMENT OF THE PATIENT IN AN INTEGRATED COMMUNITY TREATMENT SYSTEM

Because of the severity of a patient's condition or situation, hospitalization may either be required or elective. The average length of hospitalization for intensive hospital treatment (which may or may not include a course of ECT) in our series of patients over the last five years is eight weeks. Ten to twelve weeks may be necessary however, if the patient has been taking large doses of methedrine (speed). ECT rapidly reduces the HOD score, and this effect is most marked in the younger age groups, as will be discussed later.

If the schizophrenia has been exacerbated by LSD or methedrine to the degree that the patient is psychotic, then ECT, in our experience, is often necessary, as the psychosis otherwise tends to persist. It is also very effective with the depressive aspect of the patient's illness, which may be creating a suicidal risk. The response to ECT is different if the patient has been preparatorily pretreated. If, while in the hospital, the patient receives high-dosage megavitamins both orally and parenterally and is on phenothiazines and a hypoglycemic diet, the relapses following cessation of ECT formerly seen in schizophrenics seldom occur and the improvement is maintained following discharge.

Curiously, annoying side effects from medication seldom occur in a hospital setting. The patient who had side effects from practically every medication tried as an outpatient will probably have none from much higher doses of the same medication if he is hospitalized. In the hospital, patients are given 500 mg of ascorbic acid and 200 mg of niacinamide intramuscularly three times weekly in addition to the usual oral doses. Few patients fail to improve from intensive hospital treatment and even many of the severe chronic patients improve sufficiently so that they can be discharged and treated as outpatients.

Patients who appear shaky at the time of discharge or have difficult home situations or who have become disabled by the long duration of their illness benefit considerably from a convalescent period in a halfway house where they can be maintained on the same therapeutic regimen with monthly visits for changes of medication and evaluative follow-up. The use of SA, family groups, day activities programs, and

involvement with other supportive units of a treatment complex are described in Chapters 28 and 29.

Patients' self-help groups, such as Recovery, can also be of benefit to certain patients who have residual symptoms, so that, no matter what the family's financial limitations are, a great deal of supportive help and definitive group psychotherapy is available to both patient and family at no cost.

Pathological family interaction in which abnormal pressures are exerted on the patient by his family, or where there is a disturbed family situation that can impede his recovery, may require either family group therapy or parent counselling to facilitate the patient's recovery. This can be suspected as an operative factor when the patient's HOD score decreases progressively but is not accompanied by a return to normal function. The disability may then be stemming from an overprotective parent who infantilizes the patient rather than from the previously active schizophrenic process, and this pattern may require therapeutic intervention. At times this may be actively resisted by the dominant parent, who has unwittingly utilized the patient's illness for secondary gain or for other pathologic reasons.

Highly specialized group therapy may be necessary for the patient who has become heavily involved with the drug culture because unless this is done he tends to fall back into the same drug usage which precipitated his schizophrenia. In this type of group therapy, we have found that a straight chemical approach brings the best response. In this group setting, which differs markedly from the traditional analytically oriented group therapy, there is considerable discussion of drugs and their biochemical effects and especially the effects of drugs on the HOD score. The therapist needs to have knowledge of the current drug scene and the whole psychedelic subculture, especially language, life styles, and an awareness of what has recently been termed Consciousness III (Reich, 1970).

Once the patients learn that mescaline, psylocybin, LSD, STP and methedrine elevate the HOD score—with the risk of "freaking out"—they begin leaving these dangerous drugs alone. They learn that these drugs are truly psychotogens for them and that many of them have had to be hospitalized for LSD- or speed-precipitated schizophrenia psychoses. Patients inevitably discover that neither marijuana nor hashish has a residual effect on their HOD score and, therefore, for a period of time, excessive use of these two drugs may replace their former involvement with the more dangerous drugs that are likely to precipitate hospitalization and psychosis. As their HOD scores come down, the use of marijuana diminishes and they begin to function again and return to school or to work.

Prolongation of the excessive marijuana smoking may be associated with altered time perception, which should then be tested for with a timing device such as an electronic metronome (see Chapter 18 on Cyschronia). Until this specific schizophrenic syndrome is alleviated, attempts to dissuade the patient from excessive pot smoking are almost always unsuccessful.

PSYCHOTHERAPY

From the model of schizophrenia which we have described, and the description of the diagnostic process, it is apparent that the patient has already been oriented to his illness and that this has been augmented by explanations of the meaning of the laboratory and perceptual test results. In addition to an explanation of the biochemical and perceptual aspects of the illness an explanation is given of how these interfere with functioning, feeling, and relating to others.

Although the illness intensifies pre-existent psychological conflicts and personality problems, it is explained to the patient that the initial phase of therapy will be devoted to medical recovery from the illness and that coexistent psychological problems will not be dealt with primarily until the HOD score is within the normal range. The explanation given for this is that impaired brain function causes so many different kinds of symptoms and effects on the personality that there would be no way of knowing, until the patient gets better, which of them are results of the patient's own personal problems and which are manifestations of an active disease process. The analogy given here is similar to a toxic brain syndrome. A more common example is that of the alcoholic who when actively drinking may develop an enormous range of pathologic symptoms and behavior and when sober may have only mild or no indications for psychotherapy.

Most patients readily concur with this treatment plan. The majority of patients will have already undergone previous psychotherapy, often of a prolonged and intensive nature with a number of therapists, so that they are seldom motivated to take part in any kind of formal psychotherapy. Many patients are actively opposed to psychotherapy as well as being bitter about such previous experiences.

The resentment of patients and families and the turmoil ensuing from previous experience with psychotherapy were responsible for much of the bitter comment about traditional methods of psychiatric treatment for schizophrenia which appeared in the early issues of the *Newsletter* of the American Schizophrenia Association. This same conflict and disillusionment has been reported by professionals themselves when a member of their family has become ill. For example, a Professor of Psychiatry reported his own disheartening experience with this dilemma (Kysar, 1968).

At the North Nassau Mental Health Center, five years of experience using the orthomolecular approach were compared with the previous five years when traditional psychiatry approaches were used. This comparison showed that dynamically based psychotherapy was of very limited benefit in schizophrenia. Although parent counselling and educational and supportive therapy were demonstratively beneficial, and often critically so, therapies based on theories of a psychodynamic etiology of the patient's schizophrenia brought questionable benefit (Hawkins, 1969). Whether psychotherapy or pharmacotherapy was more important was glaringly demonstrated

by the disastrous consequences which occurred when patients discontinued medication. Most patients relapsed upon termination of medication, but showed little response to termination of psychotherapy. One of the most common reasons for hospitalization was discontinuance of medication, yet hospitalization was never required because of a therapist's absence or termination of psychotherapy. Hospitalization was in fact more often preceded and precipitated by the patient's decision to "go for analysis." Those patients placed on the orthomolecular program who continued in psychotherapy with their previous analyst did considerably less well than those patients in whom psychotherapeutic intervention was kept to an absolute minimum.

The clinic's conclusions have been corroborated by similar findings from large-scale research studies done elsewhere as well as by the collective experience of patients and their families.

Information about the value of psychotherapy in schizophrenia can be obtained from three additional decisive areas: (1) controlled studies in the scientific literature: (2) reports from therapists in institutions who have had extensive, long-term experience with the use of psychoanalytic psychotherapy in the treatment of schizophrenia; and (3) the experiences of large numbers of patients and their families.

During recent years, there have been several large-scale authoritative studies on the value of psychotherapy in schizophrenia, the most extensive being that of May (1968, 1969), in which a comparison was made of five different treatment methods in schizophrenia. This study was so extensive and included so many collaborators that a research project of its magnitude on the value of psychotherapy will probably never be duplicated. The study was supported by the State of California Department of Mental Hygiene, U.S. Department of Health, Education and Welfare, U.S. Public Health Service, the National Institute of Mental Health, the University of California Health Services, and the research committee of the Los Angeles Psychoanalytic Society, and there was collaboration with many other authorities too numerous to mention.

In review of this work, Barnes (1971) considers the study to be the most meticulous, intensive, complex, and comprehensive research design in the field of psychiatric therapy. He notes that many will disbelieve the results but

> more for emotional reasons than on the basis of any critical analysis of the work . . . these findings are of the greatest importance both to clinical psychiatry and to mental health program administration . . . it also leads us to wonder about the efficacy of the various therapies used in out-patient work with ambulatory patients, both schizophrenics and others.

The conclusions of this immense study were that medication alone, whether combined with psychotherapy or not, was the most effective and efficient treatment for most patients. Electroconvulsive therapy was the second most effective treatment.

Individual psychotherapy and milieu therapy were found to be the least effective, most expensive, and most time consuming.

Another series of important studies on the value of psychotherapy in the treatment of schizophrenia was reported from the Department of Psychiatry, Harvard Medical School, at the Massachusetts Mental Health Center. The conclusion from these computerized studies was that psychotherapy alone, even with experienced psychotherapists, did little or nothing for chronic schizophrenic patients, even over two years time (Grinspoon et al., 1967, 1968). In another study by the same researchers (Grinspoon et al., 1969) the same conclusions were reached: medication with or without psychotherapy had the most marked benefits. These studies confirm the earlier findings of May and Tuma (1965) that psychotherapy alone does not improve the schizophrenic patient's chances for improvement. In a further study by Shaffer et al. (1971) the authors conclude that there was no demonstrable difference in the results whether a patient received psychotherapy by either a "Type A" or a "Type B" therapist.

The findings of these extensive studies are supplemented by the 10-year study done by the American Psychoanalytic Association, in which data supplied by 386 analysts on over 3,000 patients reported an overall rate of symptom cure for schizophrenia of 9 percent (1968).

The second area of informative data is supplied by those institutions with long-term intensive experience in the use of psychoanalytic therapy with schizophrenia. Of these, Chestnut Lodge in Rockville, Maryland, is probably the best known. Two recent books from that institution indicate the failure of this method of treatment. In *Schizophrenia and the Need-Fear Dilemma* (Burnham et al., 1969) the psychoanalytic theory of schizophrenia is deftly presented together with an explanation of the lack of positive clinical results obtained. As a matter of fact, all of their case histories end with the patient either dead or still sick with schizophrenia. In the second book, *Conflicts and Reconciliation: A Study on Human Relations in Schizophrenia* (Stierlan, 1969), a similar lack of clinical results is reported.

Gray (1970) points out in a review article that "Sigmund Freud always held that schizophrenia was not amenable to psychoanalytic cure" and that "the challengers of this statement have failed to disprove the truth of it."

The clinic has had the opportunity to provide treatment for a number of patients who had prior long-term in-patient psychoanalytic treatment. In almost every case these patients who had been unresponsive to intensive, long-term psychoanalytic therapy promptly responded to a medical regimen. After 8 weeks of medication and/or ECT in a hospital, the majority had recovered. They are now employed, or back in college, able to socialize and some married. The following case is illustrative:

> This 24-year-old man had been ill with schizophrenia for six years and for the last two years had been in the hospital for psychoanalysis during which time he received no drugs of any kind. The family was alarmed at his deteriorating condition as he had



decided to commit suicide by not eating and the institution refused to use any medications. The family experienced great difficulty in getting the patient transferred to a medically oriented hospital and finally had to threaten legal action to obtain his release. The patient was so disturbed that the hospital had to wrap him in wet sheets mummy fashion and move him by ambulance because of their refusal to use tranquilizer medication.

On admission to the Brunswick Hospital, the patient was mute, withdrawn, severely depressed, negativistic, and uncooperative. After 8 weeks of intensive hospital treatment he recovered sufficiently to be discharged. Within a few months, he was gainfully employed, and was taking college courses in the evening. He then moved away from his family, became independent, and subsequently married.

The foregoing would tend to augment the findings of Will (1970), who concludes an article on psychotherapy in schizophrenia with the statement "*few schizophrenic patients will be helped in this prolonged, expensive and largely unattainable treatment.*"

The general consensus of many schizophrenic patients also has been that the results of psychotherapy were disappointing. Not only are their experiences discussed at meetings of Schizophrenics Anonymous and the various schizophrenia associations throughout the United States, but their collective experience also was expressed resentfully in the first few volumes of the *Newsletter* of the American Schizophrenia Association, as was previously mentioned. Autobiographies by former patients or their families reflect the same attitudes. *In Search of Sanity* by Gregory Stefan (1966) and *Gone is Shadow's Child* (Foy, 1970) are typical examples.

From the foregoing survey of important sources of information, the evidence is that psychotherapy based on psychoanalytic formulations of schizophrenia is of no statistically demonstrable benefit to patients. When done by therapists who are less than expert, psychotherapy may well be deleterious. Therefore, the requests of patients and their families for the inclusion of medication in the patient's treatment is hardly irrational, nor does it constitute "uninformed lay opinion." Many families, especially those who belong to a schizophrenia association, are very well informed and have read extensively. Dr. May's book, for instance, among many others, is for sale at association meetings. (One of the families of the Long Island Schizophrenia Association recently co-sponsored a major professional symposium on Gilles de la Tourette's Syndrome—which indicates a rather high degree of sophistication.)

In the clinic's experience, most patients do not desire or require formal psychotherapy once their HOD scores have returned to normal. During the initial period of the illness, while the patient's HOD score is still elevated, the less interference the patient experiences from the psychiatrist, the better will be the result. Patients who continue in dynamically oriented psychotherapy during this phase recover much slower and to a lesser degree. This conclusion became apparent after several years of experience with patients who were in therapy elsewhere and who were allowed to continue in therapy while the clinic handled their medications. As a group, these patients recovered to such a noticeably lesser degree that the clinic finally had to



recommend that patients discontinue that type of psychotherapy until they had medically recovered from the worst of their illness. When this practice was followed, results were much better—when patients did resume therapy, it was usually for far different reasons than the ones for which they had originally sought it.

After the initial diagnostic visit, patients are usually seen weekly to adjust medications until an effective regimen has been established. This usually occurs by the end of the first month and visits during the second and third months are usually bi-weekly. The average patient is then seen monthly for the remainder of the first year. During the second year patients are usually seen every two or three months, and during the third year they are seen every three or four months.

Inasmuch as the patients go through various stages of recovery, the problems that they present during these periods of time will vary. Initially, the patient needs an explanation and interpretation of the illness followed by support and encouragement. During the first year, the main concerns are associated with symptoms, but these progressively diminish, so that by the end of the first year problems relating to returning to functioning in the various areas of life will be presented. The second year is devoted primarily to the problems of re-entry into a social life, returning to work, or returning to school, and there is a desire to become independent of the family who has supported the patient during the illness. Dependency conflicts become almost routinely manifest and at times family therapy or parental counselling may be required to handle the family's matching anxieties regarding resolution of this conflict. Adolescent-type problems then typify the second stage of recovery, which constitutes the "re-entry" phase.

During the third year, many patients will have grown and progressed beyond the level of functioning which preceded their illness. Many will state that they are "weller" than they were before they became ill, and at this time the actual onset of the illness will be dated retrospectively. This will almost always precede the previously accepted date of onset. This occurs because the patients never knew what it was to feel and function well, and now that they experience this, they will frequently give the exact time in their lives when the internal change had occurred which signalled the real beginning of the illness. Many function with perceptual impairment for years; one characteristic of this state is the subjective certainty that one has "always been this way." Patients may need practical advice as they enter areas of life in which they have never before ventured.

During the second and third years of treatment, when some patients marry and begin having children, their questions concern genetic predisposition and pertain to what percentage of their children may be expected to develop the same illness. Almost routinely, newly married recovered schizophrenics want to know if there are any ways in which they can prevent the occurrence of schizophrenia in their children or detect it early. It is important to advise the women to stay on the medical regimen during pregnancy to prevent post-partum relapses.

Some patients, especially if they became ill during early adolescence, will have developed sizeable, secondary neurotic gains—especially the fulfillment of dependency wishes—and will continue to display immature child-like behavior even though their HOD scores have returned to normal. Some will tenaciously cling to the sick role even though it is no longer appropriate and they may require both explanation of what they are now doing as well as firm encouragement in a more mature direction. Often, these problems become disguised by the patient's adoption of self-serving interpretations of the youth culture "drop-out" pattern. Group therapy techniques are often useful to overcome these delayed maturational problems.

The adolescent rebellion pattern may coexist or predominate, instead of the passive dependent style. As is well known, this may also be a reaction formation. These conflicts associated with the dependence-independence growth phase may require adroit handling, as well as considerable forbearance. Families forget that schizophrenics can demonstrate the same problems that other young people do in our culture and that the problems that they are having with the patients are not all due to schizophrenia. It is frequently necessary to reorient families to this fact, as they lose their perspective from living so intimately with the illness.

In summary, during the acute phase of the illness, when the patient's HOD score is elevated, the most effective psychotherapy is an educational approach, which is of considerable benefit to both patient and family. This is followed by supportive practical advice as the patient recovers and goes through the successive stages of recovery, during which time he may have changing symptoms, which merely indicate that he is passing through a different phase, rather than getting worse, as he may erroneously conclude. The well-known appearance of depression following disappearance of the paranoid and hallucinatory symptoms is an example, and the patient needs to be reassured that the depression symptom will also pass and respond to treatment as did the previous phase.

After the patient's HOD score has returned to normal, specific conflicts may be handled either by supportive, individual therapy or group therapies. At this stage, recurrence of symptoms accompanied by elevation in HOD score indicates that the cause is biochemical and should be treated by a change in the medical regimen. Symptoms unaccompanied by a rise in the HOD score, on the other hand, are probably stemming from interpersonal or psychological conflicts and are, therefore, treated psychotherapeutically.

The approach to the patient during the initial phase of the illness has certain parallels with handling the psychedelic experience, in that every effort is made to influence favorably the patient's set and setting (which includes the therapeutic setting) so that the patient will be subject to benign experiences as much as possible. Following this principle will greatly increase the likelihood of recovery and the prevention of unfortunate sequellae. The importance of respecting the patient's extreme vulnerability when his defenses are inoperative is paramount. Analogies

between the schizophrenic and psychedelic experiences have been made by many authors, including Silverman (1968), Hoffer and Osmond (1967), and Laing (1967).

If the altered biochemistry of some people spontaneously sends them on a "voyage of discovery into inner space" then their experiences should be made as positive as is possible. This is also emphasized by Dabrowski (1964) in his book, *Positive Disintegration*, which demonstrates the possibility of reintegration at a higher level of functioning, as so many of our patients actually do.

In our view it is a serious misunderstanding to consider, as Laing has done, that if some people are defined as having schizophrenia the word itself is an epithet or a damaging "label." A vase can be used to hit someone over the head, but that does not mean that vases are inherently damaging or evil. *All* labels are potentially damaging—the fact that a person is labelled as American, Catholic or Protestant, black or white, rich or poor, educated or whatever, will put that person in very serious trouble in certain social circumstances. Some groups in society will negatively use any label that can be thought of. We should see to it the word schizophrenia is not used in that way against our patients, but the dilemma is not solved by pretending that the condition does not exist.

Although from a theoretical viewpoint the schizophrenic experience can be made a positive one, it should not be allowed to last indefinitely. Even a voluntary psychedelic experience is emotionally exhausting and the subject is relieved when it is over. Because the situation in which the schizophrenic experience occurs is seldom favorable for any length of time, the "voyage" of the schizophrenic illness is endlessly painful. We have never known a patient to have regrets that the experience was finally over—the plunge into another experiential world was involuntary. Even those patients who became schizophrenic following the intentional use of psychedelics did not intend to go that far—they meant to only spend a day that way—not years or maybe forever.

RESULTS AND RESPONSE TO TREATMENT

General Problems in Evaluating Treatment Results in Schizophrenia

Once it becomes known that a particular institution is using a new or helpful approach to an illness it tends to attract a distorted sample of patients. A progressively increasing percentage is made up of difficult and intractable cases. Determining the results of treatment then becomes more difficult and interpretation of statistics is less and less meaningful. Reporting of results in schizophrenia is notoriously fraught with

almost impossible obstacles, so that no matter how carefully research designs have been devised they are still subject to criticism in some area. Each professional discipline has its own criteria of what is meaningful. Control groups can also be grossly misleading, as the variables which one researcher considers essential to control are ignored by another. As Williams (1971) has shown, even identical twins are not biochemically nor even anatomically equal. Matching groups of patients with schizophrenia as to age, classical diagnosis, sex, or occupational group may actually be of minimal importance.

Of considerably more clinical significance would be the matching of groups of patients who are identical with respect to HOD score, incidence and severity of hypoglycemia, type of previous treatment, and favorability of life circumstances. Of importance also are the patient's degree of knowledge of his illness and the manner in which it has been presented to him. The use of the medical model itself, for instance, has an effect in that the patient is allowed to be ill when he is ill. The nonspecific effects of Selye's general adaptation syndrome also have to be taken into account, as the response of the patient during the alarm reaction can be quite different from the response of a patient when he is in the stage of chronic resistance or exhaustion.

We would also have to know whether the average HOD scores in the contrasting groups, even though numerically equal, were on the rise, indicating a worsening of the condition, or were falling, indicating a process of remission. We could not, for example, compare pneumonia patients based just on their temperature. A temperature of 102° might occur because the patient is in the process of going into a fulminating crisis where the temperature might eventually reach 107°, or because his temperature has been previously higher, which would indicate that he is in the process of getting well.

Evaluations of drug responses are difficult to assess, as many such studies utilize fixed dosages instead of the *optimal* dosages which take into account individual variation. Fixed-dosage-schedule studies, therefore, give only mathematical probability figures and fail to indicate the real clinical usefulness of a given medication when used in the proper dosage and in the proper sequence.

Because of the impossibility of meeting all these crucial requirements, results of any treatment method in schizophrenia are probably most usefully conveyed to clinicians by giving as detailed and accurate a description of the clinical response as is possible, so that the results could be duplicated. The average busy clinician is interested in treatment methods that are practical and produce observable results. In daily practice, he tends to be pragmatic and unimpressed by the polemics of theoreticians. Most physicians are aware that the ultimate scientific explanation of most of the treatments they use in daily practice will not be forthcoming in the near future. Practical considerations prevail when the physician is confronted by the sick patient.

Practical Factors: Acceptability, Applicability, Cost, and Safety

The orthomolecular approach circumvents most of the public's objections to psychiatric treatment. Psychiatry has generally been accused of developing treatments which are totally impractical in that they are either extremely time consuming, expensive, and drastic, they produce serious side effects, they fail to produce results, or they are so objectionably named as to cause them to be rejected and resisted. In addition, many of the treatment modalities require a high degree of motivation, sophistication, verbal ability, and insight, and the absence of factors which would result in their not being accepted for a particular treatment. Intensive psychotherapy, for instance, exemplifies many of these objections, and in addition often results in alienation of the patient from the family, which in itself is an extremely serious side effect.

"Shock" treatment, by its very name, has such dread connotations that its applicability and acceptability have been seriously curtailed. Long-term hospitalizations for psychodynamic therapies are extraordinary in cost and disappointing in results. Imprudent publicity and actions by some agencies have caused many patients to be more concerned with side effects than they are with getting well. This has reached such a degree that recently a depressed patient who wanted to commit suicide was reluctant to take antidepressants because they might cause side effects! She was not even aware of the absurdity of her position, so deeply had this fear been embedded in her mind. Another block in reaching large numbers of patients is the idea that all psychotherapy is "Freudian." Schizophrenic patients especially are not enthusiastic about the prospect of having their personal privacy invaded by interrogation, especially when it does not pertinently relate to what they are experiencing.

In our experience with the orthomolecular–medical model-approach to a wide variety of patients representing the whole socio-economic scale, this treatment method has been extremely well accepted. The involvement of patients and their families in an integrated community system allows them to compare notes, observe results, and compare experiences of different treatment methods. This has had a remarkable effect on morale and cooperation and it results in a beneficial increase in education of both patients and their families.

Because return visits are widely spaced and diminish in frequency with time, this treatment method is economically feasible and compares favorably with more traditional ones. Patients feel that their illness is being monitored by some objective means rather than by just the subjective opinion of the psychiatrist or family.

The treating psychiatrist has objective data upon which to base treatment and verify results so that this treatment method is also well accepted by the professional. In addition, the treatment method can be used in private, hospital, and clinic practice

and is suitable for treating large numbers of patients at significant savings in cost and manpower.

The safety factor is considerable, and this is important in our present society. Because psychotherapy with this treatment system is aimed primarily at educating and increasing the understanding of patient and family, disruption of the family is not a side effect of treatment. Patients are not advised to leave the family unit, because the family is not viewed as pathogenic. A recovered patient may decide to leave a family unit because he feels that the particular family structure is deleterious to his recovery, but that is an individual matter which may be handled by family therapy. In our experience with this method, in the majority of instances when the patient leaves the family unit it is because he is well enough to make it on his own. As patients recover, they develop insight into the fact that the illness caused perceptual distortions, and that many of their perceptions of family interaction were distorted and subsequently remained in that form in their memories. Recognition of this results in reconciliation with the family more frequently than disruption. The storing up of distorted memories of a family interaction has been described by others, including Rubinfine (1971), who stated that

> schizophrenics suffer impairment of consciousness from infancy onward so that percepts are registered in this altered state and memories from this state of infancy onward are impaired. These distorted perceptions become openly evident in the decompensated state and treatment requires correcting these altered percepts.

The side effects that we have observed in treating over 5,000 patients with megavitamins have been minimal and minor. We have seen no side effects from vitamin E except for loose stools in one patient. Pyridoxine has not produced side effects in any case. Vitamin C in in the routine dosage of 4 grams a day has not resulted in discernible side effects. Although loose stools are supposedly a possibility, we have not observed this. We have three patients with a history of gout on 4 grams per day and there has been no increase in uric acid level, nor attacks of gouty arthritis. There is serious doubt as to whether ascorbic acid produces any significant incidence of side effects. This was reviewed in an article on the subject in World Medical News, Vol. 12, Issue No. 8, February 26, 1971. Patients who were pregnant were continued on megavitamins with no untoward effects on either the mother or the baby.

Niacinamide in a dosage of 4 grams a day can produce nausea in a few patients, usually adolescent girls. This can be circumvented by the use of buffered niacinamide in capsule form, the addition of one tablet per day of meclazine (Bonine®), or by lowering the dosage.

The side effects of niacin have been extensively reviewed in articles by Hoffer (1969), Mosher (1970), and Boyle (1968); the contraindications remain those of duodenal ulcer, hypertension, gout, and diabetes. If niacin is not used in these conditions (although it can be with adequate medical controls) the only side effects seen are those

of the initial flush and occasional nausea. The flush can be diminished by taking the full starting dosage of 1 gram four times a day with meals and a glass of cold milk in the evening, or by premedicating the patient with cyproheptadine (Periactin®). The flush disappears in 24 to 36 hours and is hastened by raising the dosage rather than by lowering it (on a low dosage, patients will continue to flush indefinitely). Inasmuch as the flush is due to a release of histamine from the mast cells, the histamine is sufficiently "washed out" after a day so that insufficient histamine is released by subsequent doses to cause further flushing. Nausea can be controlled by the same measure as with niacinamide. An inositol salt of nicotinic acid, available in Canada as Linodil®, also effectively circumvents nausea. Young patients, especially those with red hair and fair complexions are least tolerant of niacin and may develop a recurrent itchy rash requiring its discontinuance. The niacin flush may also produce heartburn or other gastrointestinal symptoms in a minority of cases, also requiring its discontinuance. Niacin may also give false positive liver enzyme tests and should be discontinued two days prior to the testing procedure. It will also cause hypoglycemic changes in the glucose tolerance curve, and accordingly should not be given for 48 hours before that test.

We have seen patients who have taken 20 to 40 grams of niacin daily for prolonged periods with no adverse effect. In general, as both Hoffer and Mosher conclude, and our experience corroborates, niacin appears to be relatively harmless as long as due caution is taken in avoiding its use in the presence of the aforementioned contraindications.

Administratively, the orthomolecular approach provides several sizable advantages. The cost, waiting time, and professional manpower for psychodiagnostic testing are greatly reduced. Psychiatrists can handle large numbers of patients without any special equipment, although having one's own biochemical laboratory is a distinct advantage. Continuity of treatment is not interrupted when there is a change of doctors, which is a frequent circumstance in clinics and hospitals and one that poses difficulties if the therapy is based primarily on psychotherapy. The treatment method results in enormous economic advantages in that seeing a patient once a month costs about one-twelfth as much as seeing patients three times weekly for long-term therapy.

Joining Schizophrenics Anonymous and taking part in the activities of the schizophrenia associations further reduces costs in that they supply specific group therapy at no cost to the patient. When the cost of treatment in the average case is prorated over a three-year period the annual cost of treatment itself will amount to only a few hundred dollars, which compares very favorably with any other available treatment system. Even in those cases where hospitalization is necessary the comparative cost is still relatively low because the average duration of hospitalization with this treatment method is only 8 weeks, and rehospitalization is seldom necessary except in a very chronic and severe case where the patient has been ill since childhood.

Because this treatment method utilizes objective monitoring of the patient's response, it facilitates reporting of improvement by treatment agencies, and this may become of progressive importance. In New York City, for instance, all mental health agencies contracting with the City's Funding Agency must now demonstrate tangible outcome of treatment to justify funding. With this treatment system, response to treatment in individuals or groups can be demonstrated even before the patient's behavior begins to reflect that improvement. The following case is an illustrative example:

> A 34-year-old housewife developed schizophrenia postpartum. She had been hospitalized and then treated unsuccessfully for two years. When the patient applied for treatment at the clinic she was depressed and relatively immobilized, with a HOD score of 110. On a treatment regimen of megavitamins, hypoglycemic diet, phenothiazines, antidepressants, and supportive therapy, she clinically remained essentially the same, with neither symptomatic nor behavioral improvement.
>
> Serial HOD testing showed, however, that the score was coming down progressively. It was not until the fourteenth month of treatment, when the HOD score got down to 30, that her symptoms finally disappeared and she resumed total functioning. Two months prior to her behavioral recovery the question of hospitalization had arisen. Because of the trend of the HOD scores, however, hospitalization was not advised, as it appeared to be only a matter of time before the HOD score would finally reach the level where recovery would occur.

In this case, several important things were demonstrated. First, an unnecessary hospitalization was avoided, but had it occurred her recovery two months later would have been falsely attributed to it. Second, a behavior rating scale or multiple interviewing techniques would have erroneously concluded at the end of the first year of treatment that she was no better, when in fact the basic disease process was considerably improved. The obverse is also true, in that, for instance, many patients have worked the very day they committed suicide, and the HOD score could have picked up the increasing severity of their illness despite behavioral status quo. The pressures in our society toward normal behavior are so enormous that relatively normal behavior may still occur in the face of *serious* degrees of illness.

Evaluation of Effectiveness

In view of the previously described difficulties in evaluating treatment results in schizophrenia, a variety of ways of demonstrating the effectiveness of this treatment approach can be described in terms that are appropriate for different settings.

OFFICE PRACTICE

The only absolute control which meets all of the essential criteria is the utilization of the patient as his own control. This also eliminates the problem of placebo or transference responses. In this regard, it is useful for the physician to select from his own practice patients with whom he has become familiar, whose failure to recover despite all previous treatments had been personally observed, and about whom he has collected a great deal of subtle and usually unreported data. A change in the patient's response then becomes readily apparent even though transmission of this observation to others may only sound anecdotal and be difficult to demonstrate convincingly. The following two cases are illustrative:

Case No. 1: This 33-year-old housewife and mother of three young children had been overtly and severely psychotic with schizophrenia for five years. The family had unlimited means and provided her with the best of professional help. She had been in a number of hospitals and was treated by many highly qualified psychiatrists. She had had all the psychotropic drugs in massive doses and in multiple combinations, as well as several courses of electroshock therapy. Despite all this, her condition became progressively worse. She was openly delusional, suicidal, out of contact, and irrational.

Because of the hopelessness and severity of her condition, a prefrontal lobotomy was finally advised and it was scheduled to be performed. At this point, the family asked if she could be given a trial of megavitamin therapy before resorting to the drastic surgical procedure. The reply was "Lobotomy, yes—niacin, no!" The family then had the patient transferred, against medical advice, out of the hospital and had her admitted to the Brunswick Hospital. The patient was not at all happy about the transfer; she did not like the new hospital, did not believe any treatment would help, and did not like the new doctor—she did, however, agree to take the prescribed medications.

On a combination of megavitamins, thyroid, hypoglycemic diet, and a small dose of tranquilizers, she recovered in 10 weeks. She was discharged from the hospital 4 years ago and during the intervening time has returned to full normalcy, including taking care of her children, running her household, and becoming active in the PTA and other social activities. In addition, she is working at a part-time job. She is seen for after-care visits at the clinic every four months. She looks well, feels well, and has no symptoms. During February 1971, she was interviewed by a correspondent on CBS News on nationwide television and she gave no sign of ever having been ill.

Case No. 2: A 24-year-old unmarried, unemployed young woman with a diagnosis of borderline paranoid schizophrenia had spent 10 years in weekly psychotherapy during which time she had three different therapists. Despite everything, she remained "half well" in that her borderline paranoia prevented her from holding a job, keeping a boyfriend, or making close friends. She stayed home and bemoaned her fate that she would always be disabled and would never be able to get married. She felt herself to be a social fifth wheel and an embarrassment to her family, who belonged to a subculture in which for a young woman of her age to be unmarried was a social disgrace. All of the psychodynamic possibilities had been repeatedly explored, but her condition remained static. In addition to different phenothiazines, a variety of medications had

been tried. She usually had unpleasant side effects and her attitude toward medications was suspicious.

At this point, the therapist put her on a sugar-free diet with no explanation, except that it might help her to take off weight. She was also placed on the megavitamin regimen with the explanation that vitamins might give her more energy. Because she suffered from apathy, listlessness, and hypochondriasis, she agreed. Within a few months she began to demonstrate a different emotional tone and lost the hostile, paranoid edge in her interactions with others, so that for the first time in her life she made a friend. Soon after, also for the first time, she was able to keep a boyfriend (prior to this time she had gone out with many young men but she was so hypercritical that seldom did they call her for a second date).

She now was able for the first time to hold a job and get along with her superiors. In the past she had always become paranoid and had either been fired or quit in a huff. She subsequently married, now has two children, and functions normally as a housewife. All medications were prophylactically temporarily increased after the birth of each child to prevent a postpartum episode.

To the clinician then, the efficacy of a new treatment method is most convincingly evidenced by a clinical response in patients who have failed to recover by all previously tried methods.

HOSPITAL PRACTICE

Changes in the collective HOD scores of groups of patients demonstrate the effectiveness of a given procedure. A research project done at the Brunswick Hospital demonstrated the usefulness of this method in determining the effect of ECT in the treatment of schizophrenia (Chiossone et al., 1969). In this study, all patients were given both the HOD and OIT tests on admission and again on discharge. The same patients were also evaluated on a clinical rating scale and although there was no statistically significant difference between the two groups at the time of their discharge as far as their degree of recovery, suitability for discharge, and scores on the rating scale, the HOD scores demonstrated that there had been a marked difference in response to treatment.

All patients were treated with phenothiazines, megavitamins, accessory symptomatic medications, group therapy, and all the other usual adjunctive measures, with the exception that 85 patients received ECT and 55 served as controls. When the results were tabulated and graphed, the very significant effect of ECT was observable. This was most marked in the younger age groups (Fig. 30-1).

Figure 30-2 shows the effect of ECT as compared to the control group by graphing only improvement in the percentage of scores above the median on the perceptual subscale of the HOD test.

Figure 30-3 graphs the same results, except that the improved scores have been obtained by totalling the paranoid and perceptual subscales. The purpose of comparing these subscales with the total scores is to eliminate the effect of improvement

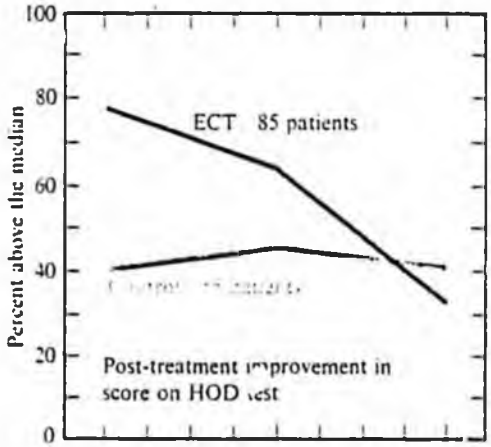


FIGURE 30-1.

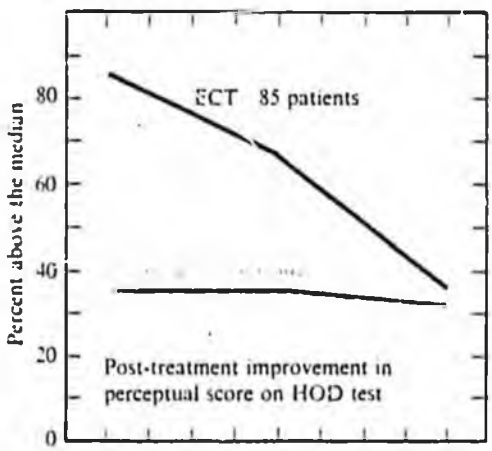


FIGURE 30-2.

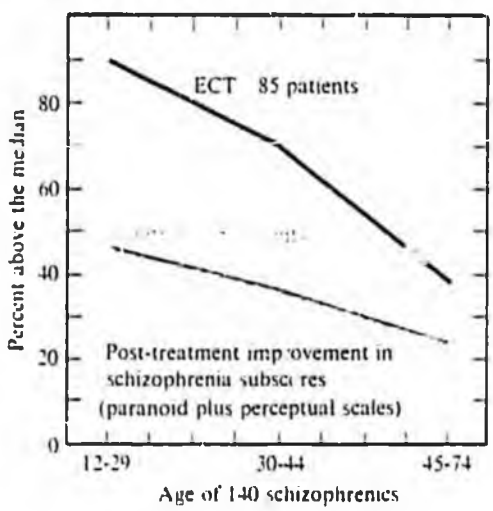


FIGURE 30-3.

in the patient's depressive susbcales, as depression in and of itself is not intrinsic to the schizophrenic process and is often only reactive. By eliminating the depressive subscale, comparison of the two groups demonstrates the substantial benefit of ECT in the young schizophrenic and it demonstrates that this is not due to the alleviation of any accompanying depression, but rather to an alleviation of the schizophrenic process itself.

Without the use of the HOD test, this marked difference could not have been demonstrated as rating scales based on behavior showed no difference between the two groups. This study again supports the view that schizophrenia is both an inner experience and a perceptual disorder and not just abnormal behavior, arbitrarily labeled as schizophrenia.

In reporting the above data, a method was selected to by-pass rater bias and to demonstrate that behavioral rating scales would have been grossly misleading. Also, it was assumed for purposes of this study that the patients were in a worsening condition with a rising HOD score at the time of their admission to the hospital. In addition, all patients were on the same diet and all patients were seriously ill. This type of reporting of data is suitable for evaluation of the effectiveness of a treatment which has a rapid response. During a short-term hospital stay it would be impossible to evaluate the effects of other treatment measures such as the use of thyroid or megavitamins, which usually take a few months or even six months to a year to demonstrate results.

A follow-up study was conducted at the Brunswick Hospital during a two-year period to determine the effects of the continuance of megavitamins on the recovery rate (Hawkins et al., 1970). So that results of the study would be comparable to other follow-up studies reported in the literature, it was arbitrarily decided to use the rehospitalization rate as evidence of response, as that is the most frequently cited criterion. The pros and cons of utilization of rehospitalization rates have been well discussed over the years and will not be cited here except to say that in a practical way it represents the resultant of many factors, including social survival. The study included 140 patients who had been hospitalized because of severe schizophrenia, during which time the patients were hospitalized for an average length of 8 weeks. While in the hospital, all patients received phenothiazines, megavitamins, and adjunctive therapy. The diagnoses were confirmed by HOD testing and no cases were included in which there was doubt about the diagnosis. At the time of discharge from the hospital megavitamins were discontinued in 85 patients. The remaining patients were subdivided into subgroups taking the megavitamins for periods of three months or for one year. Tabulation of the rates of rehospitalization (to any hospital) over the two-year period of study revealed that among the control group, in whom megavitamins were discontinued, 35 percent were rehospitalized. Of patients who continued on the megavitamins for three to six months, 25 percent were rehospitalized. The rehospitalization rate for the patients who stayed on megavitamins for one year

or more was 16 percent (9 of 57 patients). The χ^2 score value for this comparison is in excess of the 5.99 required for a significance at the 0.05 level, indicating a definite correlation between the continuation of the megavitamin therapy and a 50 percent lower readmission rate than for the patients in the control group.

CLINIC PRACTICE

In a clinic setting it is possible to follow large numbers of patients for a considerable length of time and also to observe subgroups in which schizophrenia is associated (for example, with alcoholism, drug abuse or homosexuality). In evaluating a new treatment method, several of the most common sources of evaluative error need to be eliminated—rater bias, placebo reaction, and positive transference "cures."

Placebo effect can be eliminated by studying patients who have had many trials over the years on multiple drugs without success and also by waiting for a year to pass before evaluating results. Rater bias can be bypassed by objective testing, such as the HOD test. Other objective data can also be used, such as achievement of sobriety by the alcoholic, discontinuance of drug abuse, cessation of homosexual activity, return to college, or whatever criteria are appropriate to the sample being studied.

Positive transference reactions can be eliminated by a variety of techniques which are also applicable to private practice. Using patients as their own controls is obviously the best. Looking for a difference in recovery rates between patients who have a positive transference and those who have a negative transference is another commonsense approach. In actual practice, treating large numbers of patients who are chronically ill and who have had a number of therapists and many different drugs eliminates most doubts, as it is obvious that if they were prone to placebo or transference cures they would not still be ill. There is really no answer to the question of spontaneous remissions except that in the comparison of large groups of patients over many years it can be assumed that the spontaneous remission rates in both groups will have equalized.

One criterion for the effectiveness of a medical regimen is the response of the patient when it is discontinued. Another way of ascertaining the specificity of a treatment modality is to determine the type of case or disease entity where it does not work. In schizophrenia, which is most likely a group of different biochemical illnesses, evaluation of drug studies requires clinical interpretation. As an example, if the effectiveness of a given antibiotic in treating pneumonia is reported in percentages, it can well be that of all pneumonias treated by a given drug, only 10 percent might respond. This might be taken to mean that the antibiotic is only 10 percent effective, and therefore hardly warrants marketing. The clinical fact may be, however, that the 10 percent represents a particular type of pneumonia for which the particular antibiotic is close to 100 percent effective and is in fact specific for that type of pneumonia but not for others. It would appear that in the psychiatric



literature similar conditions prevail. The importance of some of these factors was pointed out by Fritz Freyhan in his presidential address to the American Psychopathological Association. The influence of the double-blind study on the actual practice of clinical psychiatry has been curiously nil. Not a single treatment used in psychiatry was discovered by the use of the double-blind method, with one single exception—the first double-blind study done in psychiatry (actually it was a triple-blind study), devised by Hoffer and Osmond to study the effect of niacin in schizophrenia, and the results of this meticulous, long-term study were generally ignored for some years (see Chapter 10 by Osmond on the history of the niacin treatment).

In reporting data, then, the clinical researcher is confronted by a communications problem (Heston, 1970). We have found that the most useful style of reporting results to other clinicians is in terms of definite observations that include enough data about the circumstances to allow the results to be duplicated. To report the total clinical experience of treating 5,000 schizophrenic patients with a new treatment method involving a new conceptual framework over a five-year period presents sizeable difficulties. Because the setting itself influences treatment results, some general description of the situation in which a clinical experience takes place will be described.

The clinic itself is situated in a very informal setting, above a set of stores, and is innocuous and unforbidding in appearance. Each office is decorated differently so that a schizophrenic patient is unlikely to feel depersonalized or lost. The informality extends to the waiting room which lends itself to conversation and is friendly rather than institutional in style and atmosphere. It is not the kind of place where a patient is likely to feel like a number. Each patient and family becomes aware that specific arrangements are being made for them individually. Over the years, many of the families and clinic staff have had meetings under a variety of circumstances and have developed a certain community feeling and mutual concern. To some degree, the well-being of each patient then subsequently becomes part of the total community concern, so that if a given patient is not doing well there is an immediate feedback. This is a unique situation and although it exerts considerable pressure on the staff, it also results in a certain enthusiasm and a heightened therapeutic intention. There is an expectation that every patient is going to improve sooner or later, therefore any self-fulfilling prophecies that occur are likely to do so to the patient's benefit.

The patient most likely to respond to this overall treatment regimen has an elevated HOD score and a discernible perceptual dysfunction. These represent the majority of patients and most of these patients will have improved or recovered by the end of a year. The patients who fail to improve are, as stated previously, usually those in whom the onset was in early childhood, and they are further characterized by low HOD scores, primarily visual distortions, and the stilted postural attitudes indicative of an underlying proprioceptive disorder of long duration. This latter group constitutes the

minority of patients, and of them only about half will improve.[5] Also, they do not show the complete recovery which frequently occurs in the more favorable group. Even so, the improvement may be in areas which are extremely important to patient and family, so that limited improvement may still be of considerable importance. The following case is an example:

> A 30-year-old chronic schizophrenic patient was brought to the clinic after having had 15 years of continuous prior treatment, including six hospitalizations where she had a full course of insulin shock treatment plus a total of 125 electroshock treatments. The family indicated that this was to be the last trial of treatment before they would reluctantly have to accept permanent state hospital placement for the patient. The family reported that she was incontinent, refused to wear her false teeth, constantly rocked, and was uncommunicative. She therefore presented a considerable nursing problem for her parents.
>
> The patient was placed on an overall treatment regimen of hypoglycemic diet, megavitamins, phenothiazines, and thyroid. She responded very slowly, but by the end of two years her appearance was markedly improved, she used make-up, wore her teeth, spoke politely, had stopped rocking, and had long since been continent. The family was able to take her on social family visits, and could travel in public with her.
>
> This patient was far from recovered, however, in that her affect was flat, her behavior was still moderately inappropriate, and her overall style was awkward and somewhat stilted, but her family was extremely pleased. The treatment also had been based on bi-monthly and then tri-monthly visits, which were within the family's financial capacity.

The megavitamin approach is effective in other conditions associated with an elevated HOD score, such as alcoholism or post-psychedelic drug reactions. It is the most effective treatment for post-LSD "flashbacks" of the type reported by Horowitz (1969) and far more efficient than psychotherapy (Hoffer, 1972). It also is of benefit to some hyperkinetic children and also to some with learning disorders (Rossi, 1967; Green, 1970, 1971). There are many adolescent patients who present a clinical picture of pseudo-psychopathic behavior due to an underlying, unrecognized schizophrenia disorder, and in these patients the behavior improves on the overall megavitamin regimen.

We have not observed any benefit from megavitamins on convulsive disorders but the hypoglycemic diet has helped several. Megavitamins are also ineffective in manic-depressive or other psychoses. They are also ineffective in the psychoneuroses. (Many "neurotic" patients, however, are greatly helped by the hypoglycemic diet—especially depressed, anxious, phobic, fatigued, irritable, or hypochondriacal patients. In many of these, the diet eliminated the need for psychotherapy.) We have

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[5] These results were confirmed by a research study conducted by the Institute for Child Behavior Research in which it was reported that 50 percent of the children responded to megavitamins (Rimland, 1970, 1972, and Chapter 24 of this book).

treated six patients with prior lobotomies and none of them responded to the treatment although their diagnosis was definitely that of schizophrenia.

The homosexual schizophrenic patient responds quite favorably, and by the end of the first year of treatment the majority report the disappearance of the supposed homosexuality. In these cases, no discussion of the homosexual pattern was entered into during the entire year and the recoveries from these patterns were reported spontaneously. It would seem that the perceptual disorganization impairs the self-image, including sexual identity. This was accompanied in these patients by regression and the development of pseudo-homosexuality, as has been described by Ovesey (1954, 1955a, 1955b). This was most likely to occur with male schizophrenics. Several female schizophrenic patients who were also alcoholic continued a homosexual life style despite abatement of the schizophrenic process.

Postpartum psychotic episodes were completely eliminated in our schizophrenic patients with this treatment method. By prophylactically increasing doses of medications immediately following delivery, this complication was prevented, which was in marked contrast to clinical experience of years past. On the other hand, several patients who had previously recovered and then stopped all medication became pregnant and did have postpartum relapses.

Therapeutic results do not depend on a positive transference. Its presence, however, is helpful, not so much to the eventual outcome as to the ease of clinical management of the case. We have treated a number of patients via family members and also by mail with results equal to those for patients seen in the clinic. The following case is an example:

> A 44-year-old man with chronic paranoid schizophrenia of 10-years duration had been given up as hopeless after many years of treatment. The family kept him home in an upstairs room where his condition was disturbed and dishevelled. He screamed obscenities at his hallucinatory enemies, refused to change clothes, refused to take any medication, and exhibited no interest in external events. The family came to the clinic, learned of the megavitamin treatment and worked out a combination of vitamins titrated with bicarbonate of soda and flavored with chicory, which was then placed surreptitiously in all of his beverages.
>
> After a few months he began to respond and improve, and at that point a small dose of thioridazine in liquid form was added to his formula. By the end of the year he had become a clothes dandy, carried on a normal conversation, was no longer hallucinating, was calm, read a daily paper, watched television, and answered the telephone. Two years later he continues to do well and is planning to live on his own, which has created apprehension with the family, as they are still reluctant to inform him of their secret treatment. When they finally tried to persuade him to take megavitamins he said he didn't think he needed them as he had been doing pretty well on his own for the last few years!

Getting patients to take the medication and stay on it is seldom a problem, especially after they have had an opportunity to experience subjective improvement.

A few patients who have recovered will feel so well that they will experiment with discontinuance of the therapeutic regimen and promptly relapse. One reason this occurs is that in altered states of consciousness there is difficulty in remembering what one has learned in another state of consciousness. This has also been demonstrated experimentally in animals and is a common clinical observation. This phenomenon does not appear to be attributable to the mechanism of denial, although that, too, may at times play a role. Recovery from relapses unfortunately is usually slower and more difficult than was the original recovery. This is more true in children than adults, however, and has been reported also by Cott (1969).

As patients recover, certain questions tend to recur. Many of these relate to the ability to concentrate and the question of when to return to college or work. Initially, when the patient's HOD score is high, his ability to concentrate is markedly impaired, and we usually ask patients if they are able to follow a story on television. When the HOD score is close to 100 this is usually not possible, but as the patients recover they will report that they are now able to follow the story, so this is a favorable indicator. It is usually some months and, in many cases, close to the end of the first year of treatment, before concentration returns to the point that the patient is able to remember what he has read, and we advise him not to return to college until this capacity has returned. We recommend that the patient take 6 credits the first semester and if that goes well, that he take 12 credits the following semester and then 15 credits thereafter. Allowing patients to return to school prematurely invites failure and discouragement.

Return to work, on the other hand, is quite different and this may occur almost immediately or as soon as the patient feels "up to it." It is a common observation then that the patient is capable of returning to work sometimes the very day following discharge from the hospital and yet he is unable to take evening college courses for a whole year.

As has been pointed out previously, we avoid invading the patient's personal privacy when his HOD score is elevated and interpersonal contact is painful. This saves a great deal of reparative work later which would otherwise become necessary to undo the deleterious effects of such intrusions. Where the patient has already had this unfortunate prior experience, some reparative therapy to the patient's damaged self-esteem may become necessary as he recovers. A patient's resentment over having had this experience forced upon him in the past can be amazingly severe.

Lastly, it is on the administrative level that the effect of the orthomolecular treatment approach first becomes most strikingly apparent. There is an almost immediate disappearance of waiting lists. There is a marked reduction of diagnostic testing costs and time. There is a progressive increase in the case load within the same budget and manpower limitations, and there is an overall improvement in treatment results which is expressed in a very positive feedback. The level of functioning in group therapy with schizophrenic patients increases noticeably to a higher level and the

percentage of patients who are capable of such interaction also increases greatly. The preoccupation is no longer with "keeping the patient out of the hospital" but rises to the level of counselling him about the advisability of seeking a better job at this time, or on the timing of an impending marriage.

Another response noticeable to administration is that sizeable numbers of patients who were on welfare at the time they began treatment will be off welfare by the end of a year, since their social disablement stemmed from a previously undiagnosed perceptual disorder.

GROUP AND HALFWAY HOUSE EXPERIENCE

All of the Schizophrenics A onymous groups that did not use the orthomolecular-megavitamin approach soon failed and all the groups that were successful had taken the orthomolecular approach. In Alcoholics Anonymous, many members were unable to stay sober until they were placed on a sugar-free diet with megavitamins. In 1972, an estimated 20,000 to 25,000 alcoholics were taking megavitamins.

This approach is an integral part of the therapeutic regimen in many alcoholic rest homes. Of these, the most comprehensive and intensive therapeutic regimen is the one in use at Guest House, Lake Orion, Michigan, for alcoholic priests. In their experience, high-dosage megavitamins and hypoglycemic diets are critically essential in the recovery of a sizeable percentage of their alcoholics. It is notable that they achieve an overall recovery rate of 80 percent (Ripley, 1969, personal commun.).

A more elaborate study by Smith (1971) included 4,243 alcoholics. Of these, a group of 507 patients had been carefully followed for five years. All were long-time-treatment failures, and 400 of the 507 cases had been sober for two years and more, which is quite remarkable considering the severity of their condition. A formal cross-over double-blind study of two sanitarium groups will be completed in 1972. A full report of 3,673 patients will also be forthcoming. In this study, it can already be reported that niacin was superior in effectiveness to niacinamide.

Similar positive results were reported by Hawkins (1967) in the first group of clinic patients treated with this method. In that group there were 53 alcoholic-schizopnrenic patients. By the end of a year, 41 patients were active in AA and 36 had achieved sobriety.

When the HOD test was given to residents at a halfway house for soft drug users (Kinsman Hall, New York), almost two-thirds were found to have abnormally elevated scores and they were unresponsive to the intensive therapy until placed on megavitamins (Palmer, 1970; Hepper, 1970, personal commun.). The experience of this halfway house could be expected from the work already done on the use of the HOD test with psychedelic-drug users by the LSD Rescue Service which is in operation in major cities throughout the United States (Peters, 1971, personal commun.).

The LSD Rescue Service has for years relied primarily on giving megavitamin doses and on attempting to raise blood sugar level to counteract adverse psychedelic drug reactions. It is notable that they have discovered that high doses of thiamine hydrochloride have been found to be beneficial in reducing the craving and return to the use of methedrine (speed).

The use of niacin and niacinamide in ameliorating LSD reactions is well known among the more knowledgeable members of the drug subculture and has been reported widely in the underground newspapers. *The Hippy's Handbook* (Bronsteen, 1967) details this use under "Rx for a Bad Trip" and also has this to say about psychiatry, "Without one single exception, every hippy interviewed had, at one point, gone to a therapist—in every single case the experience was negative . . . modern psychiatry is out of touch with young people. . . ." The "Practical Advice" section of Abbie Hoffman's *Revolution for the Hell of It* (1968) includes similar advice to avoid the psychiatric establishment and to use niacin or niacinamide for "freak-outs." The use of megavitamins for the "drug wipeout" is described in the Do It Now Foundation's *Conscientious Guide to Drug Abuse* (Pawlick, 1971).

The evidence then for the effectiveness of the combination of megavitamins and hypoglycemic diets in correcting perceptual disorders, whether they are associated with outright schizophrenia, alcoholism, or drug use, is derived from widespread experience in a variety of patient population groups and settings.

We can compare the results of this treatment with statistics as given by authorities in the field of schizophrenia. For instance, the Chief of the Center for Studies of Schizophrenia for the National Institute of Mental Health, Dr. Lorin Mosher, indicates that only 30 percent of the patients who develop schizophrenia are able to return to work, and according to Caffey et al. (1970) only 15 percent of patients who had been hospitalized for any appreciable length of time ever function in a completely normal way thereafter. Statistics from the New York State Department of Mental Hygiene indicate that 55 percent of patients hospitalized for schizophrenia are readmissions and in this percentage are many patients with multiple rehospitalizations. As compared to these overall large-scale statistical guidelines, it would appear beyond any doubt that the orthomolecular psychiatric approach offers substantial and valid hope to patients and family. As the number of patients increases, the development of an integrated community system for the treatment of schizophrenia evolves to meet the growing needs of the patient population. The strength of the system, however, relies entirely on demonstrable results.

SUMMARY

Following the diagnostic process, the patient is given the results of the tests and the diagnosis, along with an explanation of his illness based on the orthomolecular

medical model and the significance of his perceptual disorder. The patient is then placed on a medical regimen consisting of a hypoglycemic diet, prescribed rest and exercise, phenothiazines, and other ancillary medications and megavitamins. The importance of detecting and treating functional, relative, or absolute hypoglycemia is stressed.

While the HOD score is elevated, psychotherapeutic intervention is kept to an absolute minimum. Those problems that still remain after the HOD score has returned to normal may be dealt with by psychotherapy if the patient is so motivated. Recovery is facilitated by the use of ancillary measures such as SA, group therapy, family therapy, AA, halfway houses, or specialized drug groups. Case histories and vignettes are used to explain and illustrate many of these principles. Evidence is reviewed to corroborate the experience that psychodynamically oriented psychotherapy does not influence the basic disease process itself to any statistically demonstrable degree.

The patient group most responsive to the orthomolecular approach is identified by an elevated HOD score, which demonstrates perceptual dysfunction. The majority of these patients recover by the end of the first year, re-enter life's activities during the second year, and in the third year are able to function on a higher level than they were before they became ill. We have not seen this response with any other treatment method.

The general problems inherent in evaluating the results of treatment in schizophrenia have been briefly surveyed and an attempt made to report a huge mass of data in terms which are useful to the clinician.

The orthomolecular approach is very practical. There is a high degree of acceptability and it is suitable for a wide range of applications in a variety of settings such as private practice, hospital, clinic, halfway house, and a diversity of groups. Because patient visits are widely spaced, there is a great saving in cost, not only to the patient, but also to the institution. With proper safeguards, there is an ample safety factor. Medical contraindications to the use of certain vitamins in high dosage are enumerated and toxicity is reviewed. The positive safety and cost factors are augmented by the establishment of a specialized laboratory.

We have described the effectiveness of this overall treatment approach with several thousand patients over a five-year period. Its evaluation in private practice has been with an emphasis upon using the patient himself as the ideal control, and we have also discussed how this overall system is used in hospital practice. We included the results of a study utilizing group improvements in HOD scores to demonstrate the effectiveness of ECT. This study demonstrated the defect of behavioral rating scales and the marked effectiveness of ECT in amelioration of the schizophrenic process especially in the younger patient. The results of a two-year follow-up study to evaluate the effect of continuance of megavitamins on the relapse rate have been reported. Using the rehospitalization rate as the criteria of effectiveness, the control group had twice the relapse rate of the megavitamin group.

The patients most likely to respond to this treatment have elevated HOD scores associated with schizophrenia, or schizophrenia plus homosexuality, psychedelic drug abuse, or alchoholism. Although each requires different handling, the overall results are promising and the degree of positive response in the majority of cases was responsible for the development of an integrated community system for the treatment of schizophrenia. The system is related to a variety of other treatment settings where a large body of positive results with this approach have been reported over the years.

The overall results from such a wide range of clinical experience correlates with both theoretical formulations and laboratory research to establish a broad foundation for the concept of orthomolecular psychiatry.

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Mental Health

NUTRITION AND ORTHOMOLECULAR THERAPY

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NUTRITION AND ORTHOMOLECULAR THERAPY

Nutrition is a branch of biology which studies the requirements for foods, their composition, and the processes by which they are converted into energy and the tissue growth and repair required for health and life. Prior to about 1750, nutrition was naturalistic and ethno-pharmacological. Plant and animal foods of unknown chemical composition were eaten in diets which varied greatly from culture to culture. Centuries of trial and error had demonstrated their value or danger. Certain foods were designated by Hippocrates to have special curative properties which were useful in the treatment of many of man's illnesses. Others were poisonous or tabooed for unknown reasons. In the period from 1750 to 1900, as chemistry developed, foods were simply classified chemically as carbohydrates, proteins, fats and the non-combustible ash. Attempts to raise animals on diets containing only these quickly showed the inadequacy of this simple classification. The golden age of nutrition occurred between 1900 and 1950. When the need for micronutrients was discovered, a conceptual revolution occurred with the insight that much of man's illness resulted from the absence of significant dietary constituents. To the established infectious and toxic theories of illness were added the deficiency diseases. With the discovery of vitamins, essential amino acids and trace elements, the nature of common diseases like pellagra, beri beri, scurvy, nutritional anemia and protein malnutrition were quickly understood. The development of quantitative standards for daily requirements of these nutrients for man, animals, and plants stimulated revolutionary changes in food production and several major public health triumphs. It is difficult to recognize that less than 50 years ago there were more than 200,000 cases of pellagra annually in this country. Mortality from this illness averaged 33% and about 10% of the beds in insane asylums

the country were occupied by demented patients with this illness. In the South, where pellagra was endemic because of the staple diet of corn, fatback and molasses, from 1/3 to 1/2 of the state mental hospital population had physical symptoms of pellagra and dementia (1). Pellagra was also very common among sharecroppers and in prisons, orphanages, and other state institutions. The discovery in 1937 that vitamin B_3 (niacin) was the antipellagra vitamin and the subsequent fortification of most cereal products with this vitamin made pellagra virtually absent in this country. Clinical nutritional research was greatly accelerated in World War II because of the need to develop adequate military rations. It led to the semi-quantitative determination of human needs for most nutrients. It was so successful that World War II was the first war in which more combat troops died from war injuries than from malnutrition and infection (2). The spin-offs to civilian nutrition were large. Today, nutritional science is sufficiently advanced so that, in this country, malnutrition is uncommon and when it does occur, it is likely a function of poverty, alcoholism, or self-selected inadequate diets. This is not true in the Third World where millions of children are stillborn, retarded, or die within the first few years of life because of the unavailability of adequate calories, protein, or micronutrients (3). In the world as a whole, malnutrition today remains as large a public health problem as infectious disease with which it constantly interacts.

In the richer, industrialized world, research in nutrition has moved into more specialized areas. In medicine, there have been significant advances in the study of the nutritional needs of special populations like pregnant women, premature infants, and the elderly. Vitamin requirements have been shown to increase when some drugs are administered for treatment of tumors, convulsions,

or even contraceptive purposes (4). Great advances have been made in furnishing the nutritional requirements of postsurgical patients or those with severe burns by total parenteral feeding. Specialized nutritional needs have been found for some patients with ophthalmological or dermatological disease. Genetic illnesses, like phenylketonuria, have been found to be clinically responsive to minimizing the intake of the amino acid phenylalanine. Rare genetic autosomal recessive illnesses characterized by mental retardation and multiple somatic defects have been found. These can be prevented or cured by the daily administration of very large quantities of particular vitamins (3,5,6).

Nutritional theories of the etiology of common mental illness and behavior disorders and treatments based on these theories are very controversial. Nevertheless, new diagnostic methods have shown that several psychiatric illnesses may be complicated by nutritional deficiency and may respond to nutritional supplementation. We shall discuss these below. These are all reviewed in an excellent text, Nutritional Support of Medical Practice (7). A comprehensive review is offered in the five volumes entitled Nutrition and the Brain (8).

Many natural foods, especially those from plants, contain chemicals which are biologically active and may be either toxic or therapeutically useful. Many of these substances have been identified and isolated in pure form and now are useful products in our pharmacological armamentarium. In the industrialized world, food chemists supplement natural foods with nutrients and also with natural and synthetic additives which enhance the taste and appearance of foods and diminish spoilage, thus enhancing their useful distribution. Residues from synthetic herbicides and insecticides used to increase crop production and steroids and

antibiotics used to increase animal food production may appear in our food. Because of this, there has arisen the quasi-nutritional subspecialty of nutritional toxicology designed to protect the public from foods which might contain dangerous chemicals like mercury in fish or selenium in wheat or foods to which chemicals are purposely added during processing. There has also been increasing interest in what might be called nutritional pharmacology. Selected, specific nutrients like the amino acids tyrosine and tryptophan or the quaternery ammonium compound choline can be fed in doses greatly above their usual intake levels in order to elevate neurotransmitters in the brain. Such precursor therapy is actively under investigation and its interest to psychiatry will be discussed below. Although the substances used are natural and even essential in our daily diet in small quantities, quantities employed in precursor therapy are so much greater than are ordinarily required that we choose to call the use of the substances in these quantities "pharmacological." Moreover, their biological effects at high concentrations may be different from and unrelated to their primary action. For example, nicotinic acid and nicotinamide have identical nutritional value as vitamin B_3. In very high doses, nicotinic acid causes vasodilation and lowers blood cholesterol; nicotinamide does not. These actions of nicotinic acid at high doses are considered pharmacological (9).

There is also included under the rubric of nutrition, the study of food allergy and hypersensitivity to either specific foods or to commercial additives. Reactive hypoglycemia, generally attributed to the use of high carbohydrate diets which result in the over-production of insulin which, in turn, leads to hypoglycemia has also been studied in relation to clinical states as diverse as panic disorders, depression, and aggression leading to crime and delinquency (10,11).

Along with the slow, cautious, and steady advances in nutrition, there continues to be what we call "pseudonutrition". Nutritional fads have been promulgated in the lay press, in books, and in a few journals. These attribute many common somatic and psychiatric complaints to inadequate or toxic diets. They promise much: enhancing longevity, diminishing the risk of, or improving the treatment of cancer, heart disease, and the major mental illnesses with appropriate dietary therapies. These generally unproven treatments are especially popular among those with illnesses which are chronic and for which conventional medical or psychiatric treatment is slow, not yet fully adequate, and often, expensive. Patients with cancer and mental illness seem to be extraordinarily susceptible to seduction by these claims. Substantial efforts and quantities of time and money have been spent in scientific trials to test the claims of nutritional faddists. Despite many negative results, the claims persist. We shall, therefore, devote some time and space to a discussion of the theory which underlies the claims of the therapeutic value of orthomolecular psychiatry, additive free diets, hypoglycemic diets, and diets designed to eliminate substances to which patients claim to be hypersensitive and which they feel may cause the major mental illnesses.

Nutritional Principles

Man, as an evolutionary product of the animal kingdom, has nutritional needs similar to those of other mammals. The complex foods he eats are digested to simpler molecules which are then absorbed and resynthesized under genetic interactions to the multitude of compounds of which he is made. Maintenance of body temperature, movement, growth, repair and reproduction require energy supplied mainly by the oxidation and carbohydrate and fat. Metabolic end products like exhaled carbon dioxide or urinary nitrogen metabolites need constant replacement from dietary intake. Even the body minerals are constantly turning over metabolically and must be replaced by ingested food. For growth and development, a positive balance of calories and essential nutrients must be supplied. For adult maintenance the balance should be zero. Control of appetite and food intake involves a complex set of sensors and feedback systems in the brain and endocrine organs which are beyond the scope of this chapter.

Despite the capacity of each species to synthesize the myriad of compounds unique to it, some things must be supplied in the diet. These include water, the major anions and cations of the cellular fluids and skeleton, and trace elements like copper, manganese, cobalt, fluorine, vanadium, selenium, and zinc. Ten amino acids cannot be synthesized and must be furnished. They are needed for the synthesis of proteins and other nitrogenous compounds. Thirteen vitamins are required, four of these are fat soluble, eight are members of the vitamin B complex and vitamin C is uniquely required by man, primates, the guinea pig, an East Indian bat, and a bird. It is a remarkable testimony to the synthetic capacities of the body that the thousands of compounds of which we are made can all be synthesized from approximately two dozen organic compounds furnished in the diet.

Several features of man's nutrition deserve comment. First, as mentioned previously, he is quite rare in requiring vitamin C. The evolutionary purpose of this is not known. Second, he is an omnivore who eats a greater variety of foods than any other known species except perhaps the rat. Undoubtedly, this offers a great evolutionary advantage since it permits man to survive on the indigenous food of any region on earth. Third, he is apparently the only species whose choice of diets is determined by taste, smell, color, appearance, and even texture. He is the only animal for whom eating is both a necessity and an aesthetic experience. In contrast to most animals who eat the same food every day of their lives, man constantly seeks variety and, whenever possible, gets it. The aesthetic qualities of food have had interesting social consequences. For example, it may be argued that Columbus discovered America while looking for food additives; that is, the spices that help to preserve food and enhance its taste and color. In the industrialized United States, food companies compete vigorously to produce products which are more attractive than their competitors even though they are nutritionally equivalent. This is done with food additives. Many of the food fads are based upon presumed, but unproven, hazards created by commercial food processing. Man still attributes to foods magical properties which can hurt or help him.

Fourth, the precise nutritional requirements for man are less well known than they are for the domesticated animals which supply his food. There are several reasons for this. Experiments can be done on food animals which cannot be done safely with man. Animals are bred to be genetically homogeneous and efficient in their conversion of food to milk, eggs, or edible animal protein. Their daily activities and energy output are much more closely regulated than are those

of man. Finally, the economics of the food industry make it essential to know the minimum food requirements of animals for maximum growth and marketability. Despite the difficulties in precisely determining the nutritional requirements of man, reasonable estimate have been made since 1941, by the Food and Nutrition Board, National Research Council of the National Academy of Sciences. These are revised every five years; the 9th edition (121) was published in 1980. It offers recommended daily allowances (RDA) for calories, protein, minerals, and vitamins for men, women, and children. The RDA are not minimal requirements. Recognizing substantial variance in man's nutritional needs because of genetic heterogeneity and living habits, they are calculated by the Board to exceed average nutritional needs by a "safe margin" allowing for individual differences in a basically healthy population. The magnitude of the safety factor is substantial. For example, the minimal requirement for folic acid is estimated to be about 50micrograms per day; the RDA is 400micrograms. The RDA has been accepted by the American Medical Association (122) and is used by the Food and Drug Administration for food labelling. It is also the basis on which the Department of Agriculture and the United States Public Health Service established national food programs and nutritional educational programs. The RDA can be found in most standard texts of medicine, pharmacology, and biochemistry (3,4,7).

In an affluent society, man's omnivorous appetite and his wish for variety makes it easy to obtain a nutritionally sound, balanced diet. RDA requirements are generally met by diets which offer a mixture of four food groups in adequate proportions. These groups are (1) Fruits, vegetables, and fruit juices; (2) Grains and grain products; (3) Meats and meat products; (4) Milk and milk products.

Such diets offer adequate nutrients as well as taste and variety. When they are consumed, vitamin or mineral supplementation is not required. Impoverished populations here or abroad who subsist largely on grain and who have no variety in their diets generally need supplementation with vitamins, minerals, and other proteins.

Under special conditions of illness, severe dieting, heavy alcohol consumption, stress, pregnancy or lactation, supplementation may be desirable with modest quantities of vitamins. Massive supplementation with megadoses of vitamins is required only in three conditions. (1) In the genetic vitamin dependency or insufficiency illnesses, (2) When there are transport difficulties for nutrients in the gut or across other cell membranes, and (3) When antivitamin antimetabolites are used as in the treatment of cancer.

Some orthomolecular psychiatrists believe that the brain may have nutritional requirements so much larger than the other body tissues that cerebral avitaminosis may exist and may account for much major mental illness.

But, malnutrition generally produces mental changes along with somatic changes like weight loss or anemia. In early or minimal nutritional deficiences mental changes may occasionally appear before readily observable physical changes ensue. But, careful examination will reveal lowered blood or tissue levels of vitamins or minerals. The mental changes associated with vitamin deficiency are nonspecific. Perusal of the literature shows that weakness, irritability, anxiety, anorexia, lassitude, depression, apathy, anergia, headache, dizziness and inability to concentrate have been reported in subjects or patients with mild deficiency of any of the water soluble

vitamins. When the deficiency is severe, memory loss, disorientation, delusions, hallucinations, and other signs of dementia may appear.

Clinical ecologists, advocates of the Feingold diet, and some orthomolecular psychiatrists believe that in some individuals, the brain may be uniquely allergic or hypersensitive to certain foods, food additives, or other environmental chemicals. Such hypersensitivity is considered by them to be related to hyperkinesis in children and a variety of illnesses including schizophrenia, depression, anxiety, drug addiction and antisocial behavior.

But, allergy or hypersensitivity when it exists involves the whole body and is manifested by physical symptoms like asthma and urticaria as well as by nonspecific mental complaints.

In the following sections we shall discuss: Consequences of protein calorie malnutrition, psychiatric manifestations of deficiencies of some of the B complex vitamins and the use of amino acids in pharmacological doses as precursors of neurotransmitters. Finally, we shall devote the remainder of the chapter to an examination of what we call "pseudonutrition" in relation to psychiatric practice.

Protein Calorie Malnutrition

Many studies conducted in impoverished socities have shown that severe, prolonged protein calorie malnutrition is especially devastating to infants and children and that the consequences are prolonged and likely irreversible. The results of such studies have been summarized in several excellent monographs derived from international conferences on this subject (12,13). The reasons for this high vulnerability is the rapid growth of the human brain in infancy and the effects of malnutrition on its growth and development. Winnick (14) has shown that, in the human, the number of brain cells increases linearly from gestation until birth and then more slowly until about 10 months of age, at which time it virtually stops. Cell size, in contrast to cell number, continues to increase for several years. Myelination occurs rapidly at birth and is still occurring at two years. The weight of the brain increases rapidly through gestation and the first two years of life, its rate of growth diminishes thereafter, but adult weight is not reached until adolescence. Studies on the brains of children who have died from malnutrition show that children dying from marasmus in the first two years of life have from 15 to 50% fewer brain cells than normal children of comparable age. Children with kwashiorkor who become malnourished after being taken off the breast in the second or third year of life have a normal number of brain cells, but the size of the cells is diminished (15). Studies of the behavior of children who survive early malnutrition show that such children have profound disturbances in the acquisition of language, motor skills, interpersonal relationships, and adaptive and motivational behavior. Memory defects have also been found (12,14). Most of these studies have been limited to children studied only a few years after recovery from malnutrition. However,

an ongoing longitudinal study by Cravioto and DeLicardi (16) should ultimately give an answer to the question of whether or not the damaging consequences of early malnutrition are truly irreversible. If they are, it would lead to a vicious cycle in which malnutrition during infancy results in a large pool of poorly functioning people who, because of their poor level of functioning, rear their children under conditions destined to produce a new generation of malnourished people (14,16). Children born in the poverty that leads to malnutrition also live in social and family environments which are themselves capable of retarding mental and behavioral development. Some ingenious experiments on rats, conducted by Francova (13) have shown that protein deficient rats, raised with their mothers and litter mates show about 20% decrement in exploratory activity. Rats on normal diets that have restricted optical and acoustical stimuli show about a 30% decrement in exploratory activity. Rats deprived of both protein and environmental stimuli show a 90% decrement. The effects of both types of deprivation simultaneously are thus more than additive; they are synergistic. The introduction of an "aunt," a nonpregnant virgin female, into the cages of protein deprived infant rats elevated their performance to that of normal rats, even though such a "mother's helper" did not lactate and was unable to offer food. She did, however, stimulate them by grooming and retrieving them. DeLicardi and Cravioto have conducted experiments which led to similar conclusions in impoverished children from an agricultural community in Central America. In this population, 83% of the children showed no clinical signs of malnutrition, 11% showed mild and moderate malnutrition, and 5% showed severe malnutrition. Yet, the families of all of the children had approximately equal incomes, land, and food. Therefore, no correlation could be established between the amount of food available to the

families of these children and the level of malnutrition. However, a significant correlation was found by psychologists who studied this cohort of children while unaware of their nutritional antecedents. They found that the degree of psychological stimulation offered at age six months to those children who later developed severe malnutrition was significantly lower than that of controls from the same population matched by age and birth weight. In children whose diets are marginal nutritionally, psychosocial deprivation predisposes them to severe malnutrition. Malnutrition, in turn, diminished activity, motivation, exploratory behavior, and those complex signals that ordinarily elicit a stimulating and gratifying response from adult parents. A vicious cycle is thus set up in which the effects of malnutrition synergize with those of environmental deprivation. The consequences may lead to irreversible emotional and mental disorders of development. The interaction between nutrition and psychosocial stimulation is not unique to rats or man. All species that have been studied show the same interaction (13).

Vitamin Deficiency States

Vitamin Requirements

Several methods have traditionally been used to determine the vitamin requirements of human subjects. One, employed commonly with conscientious objectors during World War II was the deliberate production of nutritional deficiency followed by the measurement of the quantity of nutrient required to eliminate the signs and symptoms of the deficiency and to maintain health. This quantity was then considered the recommended dietary allowance, and was added to the K rations of our troops. Variations on this strategy use populations in which nutritional deficiency is endemic. Another approach is to measure abnormal metabolites of carbohydrate and protein known to exist in specific deficiencies in the blood and urine. For example, elevated blood lactate and pyruvate occurs in thiamine deficiency. The dose of a specific vitamin required to correct this biochemical abnormality is considered to be the daily requirement. The third approach is the direct measurement of the vitamin in the blood and urine by chemical or microbiologic means. "Normal" levels have been established. This strategy involves the use of large populations of healthy subjects of different age, sex, and race in order to obtain normative data. Recently a new approach to the measurement of vitamin requirements has been proposed. This is based on the assumption that the enzymes requiring cofactors should be fully saturated with cofactor at all times and that a vitamin deficiency exists if they are unsaturated. For example, serum or erythrocyte glutamic-oxalacetic transaminase activity is measured with and without added pyridoxalphosphate, the cofactor. If activity is greater with added cofactor, the enzyme is unsaturated and a

deficiency is said to exist. This method is somewhat controversial but it may be useful in detecting cases of vitamin deficiency and vitamin insufficiency illnesses (17).

Using such methods, a number of vitamin deficiency states relevant to psychiatry have been found; usually they are secondary to the use of pharmacological agents. They most commonly follow the long term use of antituberculosis drugs, anticonvulsants, oral contraceptives, and anti-tumor drugs (18).

The functions of the water soluble vitamins in the nervous system, the manifestations of deficiency and their therapeutic utility has recently been reviewed in great detail (8.19). The following emphasizes features unique to psychiatry:

Vitamin B_6

Vitamin B_6 has many neurobiological functions. It is the precursor of a coenzyme required for more than 50 enzymes in the body. It is so widely distributed in our food supply that it has not been found to occur in populations throughout the world. It has been produced experimentally. Mental symptoms associated with deficiency include lassitude, weakness, depression, anorexia, and confusion. Somatic symptoms include a microcytic anemia which fails to respond to iron but improves dramatically following treatment with small doses of the vitamin. Isoniazide and cycloserine form carboxyl addition compounds with pyridoxal or pyridoxal phosphate that make it unable to function as a cofactor in the approximately 50 enzymes with which it is associated. The administration of vitamin B_6 supplement along with antituberculosis medication reveals that both neurologic and psychiatric symptoms disappear when supplementary vitamin is given in appropriate quantities (20). Estrogens have been shown to compete with pyridoxal phosphate for binding sites among its numerous apoenzymes. High estrogen levels which

occur during pregnancy or the use of oral contraceptives seem to increase the requirements for vitamin B_6. In therapeutic trials on women who developed depression during pregnancy or while taking oral contraceptives, vitamin B_6 supplementation has been reported to improve mood and to correct the abnormal urinary excretion of tryptophan metabolites (21,22,23). Based on such findings some investigators recommend the inclusion of supplemental B_6 into oral contraceptive preparations (22). In Spain, manufactured oral contraceptives contain 25mg of pyridoxine and the combination is reported to produce fewer side effects (24). The RDA for vitamin B_6 for adults is 2.0mg/day. Doses 10 times this are safe and can prevent deficiencies due to drugs administered for other purposes. Although vitamin B_6 is not very toxic, doses several hundred or thousand times of the estimated daily requirement have been reported to cause convulsions and liver hypertrophy (

Vitamin B_3

Vitamin B_3 (niacin, niacinamide, nicotinic acid, nicotinamide) is combined with adenine, ribose and phosphoric acid in the body cells to form nicotinamide adenine dinucleotide (NAD). This is a cofactor for many enzymes which catalyze oxidation reduction reactions which are involved in energy release from carbohydrate, the synthesis of fatty acids, steroid metabolism, etc. Niacin in the judgment of some is not truly a vitamin because limited quantities can be synthesized from the metabolism of the essential amino acid tryptophan (26). While this is correct, historical usage, plus the fact that niacin deficiency can be produced on diets ordinarily adequate in tryptophan seem to us to warrant continued classification as a vitamin. Corn, which is deficient in both tryptophan and niacin, is the common food staple in countries where pellagra was common and where it continues to exist. Hartnup's disease is an autosomal recessive disease characterized by diminished absorption of neutral amino acids including tryptophan. Some of its

symptoms resemble pellagra and these respond to niacin (27). The recommended daily allowance of niacin is 6.6mg/1000 calories of food or about 10-20mg/day. The requirement increases during pregnancy and lactation (27).

Pellagra is characterized by a triad of symptoms - dermatitis, diarrhea, and dementia. In early deficiency, psychiatric symptoms are diffuse and include apathy, depression, anxiety and memory deficits. In severe pellagra, mania, delirium, organic dementia, bulbar palsy, and visual field deficits may be present. The EEG has excessive theta and delta activity. This returns to normal after niacin treatment. Routine manufacture of wheat flour and all cereal products supplemented with niacin has caused pellagra to virtually disappear in the U.S. Niacin deficiency in the brain, without deficiency in other tissues, has been claimed by orthomolecular psychiatrists to account for schizophrenia and other mental disturbances. This will be discussed later.

In pharmacological doses of 10-30grams/day, nicotinic acid, but not nicotinamide, lowers blood cholesterol and causes transient cutaneous vasodilation manifested by a flush (19). Nicotinamide, but not nicotinic acid, at doses of 250mg/day tranquilizes rodents and diminishes locomotor activity in gerbils (28). At similar doses, it increases REM sleep and it has been reported to be of benefit to some insomniacs (29). Nicotinamide also binds weakly to the benzodiazepine receptor (30). At ordinary dietary doses, the brain concentrations of nicotinamide are likely to be too low for biologically significant binding to this receptor, but at megadoses, this might occur. At such doses, niacinamide might have anxiolytic properties like the benzodiazepines. This has not been tested. Nicotinic acid and nicotinamide are identical as vitamins; the different properties of the two compounds occur only at pharmacological doses. Thus,

there is no evidence to relate their pharmacological properties shown at high doses to their classical vitamin action as precursors of NAD. Niacin and niacinamide are not very toxic even in megadoses, but in view of their use in orthomolecular psychiatry at doses 100-500 times higher than the average nutritional requirement, it is worth noting that reported side effects include hepatoxicity (31), hypotension, tachycardia, and hyperglycemia (32). There is a very recent report of severe sensory neuropathy from pyridoxine abuse at doses of 2-6mg/day for several months (158,159). These toxic must be balanced against any presumed therapeutic utility.

Vitamin B_{12}

Vitamin B_{12} (cyanocobalamin) is unique in three regards. It is the only vitamin containing a mineral (cobalt) as part of its chemical structure; it is not found in plants and its absorption from the gut requires a highly specialized mechanism the failure of which results in pernicious anemia. The RDA is about 3.0mg/day. 1micro daily causes remission of pernicious anemia. The vitamin is involved in transmethylation reactions, the synthesis of amino acids, purines and pyrimidines. It is vital for blood formation and the maintenance of neuronal integrity.

A number of studies have shown that 25-30% of patients with untreated pernicious anemia have either major or minor psychiatric problems (33). These include depression and apathy, irritability, confusion, and paranoid states. Neurological symptoms results from demyelination of the dorsal columns of the pyramidal tracts and result in the syndrome known as combined system disease. As many as 60% of untreated pernicious anemia patients have been found to have an abnormal EEG (33,34). Deficiencies of vitamin B_{12} may arise from strict vegetarian diets, but more often follow failure to absorb the vitamin as when there is lack of the gastric intrinsic factor or in ileitis and following bowel surgery. It may also follow chronic ingestion of alcohol or after the administration of neomycin, para-amino salicyclic acid or colchicine. There is an increased requirement for vitamin B_{12}

during pregnancy. Since folic acid is required for the absorption of B_{12}, folate deficiency may be accompanied by B_{12} deficiency (35,36).

Although a large percentage of patients with hematologic and neurologic findings of vitamin B_{12} deficiency also have psychiatric symptoms,

> in a significant number of patients the psychiatric manifestations may be the first symptoms and can antedate anemia or spinal cord disease. A recent report (37) presents two cases of organic psychosis without anemia or spinal cord symptoms that responded dramatically to the appropriate administration of intramuscular B_{12}. It is noteworthy that both patients had normal hematologic profiles. Diagnosis was made by finding low serum levels of B_{12}. With restoration of appropriate B_{12} levels, the presenting symptoms disappeared. Evans et al. (37) recommends consideration of B_{12} deficiency and serum B_{12} determination of all patients with organic psychiatric symptoms whose cause is not clearly known. Even more recently, Van Tiggelem et al. (38) have suggested that blood levels of B_{12} may not always correlate with cerebrospinal fluid levels and that the latter may be much lower.

Folic Acid

Folic acid (pteroyl glutamic acid) is involved in: hydroxylation reactions required for norepinephrine and serotonin synthesis, transmethylation reactions, the synthesis of the purine bases, adenine and guanine, and the pyrimidine base thymine. Folic acid is, therefore, indispensible for the production of DNA and RNA. Transmethylation reactions are involved in myelin synthesis and in the inactivation of the neurotransmitters norepinephrine and serotonin. The RDA is less than 0.5mg/day. It doubles during pregnancy. Serum concentrations in man range from 5-30ng/ml. Folate deficiency has been produced in experimental animals. Diminished learning capacity and EEG changes have been reported in rat pups born of mothers with folate deficiency.

Folic acid, as the name implies, is present in leafy green vegetables and in meats. In man, folate deficiency occurs endemically in severely malnourished populations. It can be produced experimentally in volunteers on folate deficient diets and iatrogenically in marginally nourished people by the administration of anticonvulsants like diphenylhidantoin, oral contraceptives, or the antifolates used in the treatment of malignancy. In experimental folate deficiency, forgetfulness and insomnia appear at the same time as megaloblastic anemia and can be quickly reversed by the vitamin. In less pure deficiency states, occurring among the aged or chronically institutionalized patients, the spectrum of mental disorders includes apathy, irritability, depression, psychosis, delirium and dementia (39).

Folate deficiency can readily be determined by measurement of blood levels. When this is done, as many as 30% of psychiatric admissions have been reported to be deficient (39). Of a sample of admissions to a psychogeriatric ward, 67% have been reported to be folate deficient (40). Carney and Sheffield found that

about 25% of 432 psychiatric admissions have low blood folate levels. Folate treated patients with organic psychoses, endogenous depression and schizophrenia had shorter hospital stays and left in better clinical state than untreated patients (36).

An association between folate deficiency and gestational difficulties has been recognized for many years. Population surveys have shown that about 15% of women, especially among the poor, have marginal or deficient blood levels. Deficiency during pregnancy is associated with an increase in prematurity and teratogenicity.

In the last few years, evidence has accumulated which tends to relate folic acid deficiency during early gestation to neural tube defects and to the Fragile X syndrome of mental retardation. Both of these are polygenic illnesses in which the phenotypic expression of the genotypic defect is apparently determined by the nutritional state of the uterine environment. Smythells (42) has found that when 493 women who had already given birth to a child with neural tube defect gave birth to a second child, 23 of these had children with such a defect. In 397 similar women who were given a vitamin supplement containing folic acid prior to conception and through the first menstrual period, only 3 had such recurrences. This strikingly significant difference cannot be readily explained except by a direct prophylactic effect of vitamin supplementation very early after conception.

The Fragile X chromosome is a relatively newly discovered cause of mental retardation. The fragility of the X chromosome can be rectified <u>in vitro</u> by folic acid (43). Lejeune (44) has reported that the administration of folic acid greatly reduced symptoms of autism and psychotic complications of mental retardation in 7 out of 8 such patients.

Both of these interesting findings clearly require confirmation. If confirmed, they will represent a major advance in the understanding and treatment of two devastating illnesses of concern to neurologists, psychiatrists, and pediatricians through appropriate nutritional supplementation early in conception. A series of studies have shown that folic acid can be added to staple foods, as nicotinic acid commonly is, and that such fortification is feasible, safe, and effective (155). Until this is done, oral administration of folic acid tablets at a level of 0.5mg/day to pregnant women, especially those living in poverty, appears to be prudent (155).

A genetic vitamin dependency illness which required about 20mg of folic acid daily has been reported. These rare cases presented with homocystinuria. One such patient showed mild mental retardation with symptoms of schizophrenia which improved after folate administration and recurred 6 months after the supplementary vitamin was dicontinued (41).

Quasi-Nutrition

Precursor Therapy

Communication between neurons in the central nervous system, it is generally accepted, is overwhelmingly chemical. Neurotransmitters synthesized in presynaptic neurons are extruded into the synaptic cleft when the neuron fires. They then engage specific receptors on post synaptic neurons and initiate a series of metabolic steps which may excite, inhibit, or modulate their activity. More than 20 neurotransmitters are thought to exist; they range in composition from simple amino acids to complex polypeptides. The classical neurotransmitters, dopamine, norepinephrine, serotonin, and acetylcholine have been the most studied. The paradigm for precursor therapy is the use of L-DOPA in Parkinson's disease. The enzyme for the conversion of tyrosine to L-DOPA is lacking in the striatal neurons of the brain from patients with this disease. But, the decarboxylation of L-DOPA to dopamine can still take place. Hence, L-DOPA in pharmacological doses permits the synthesis of sufficient dopamine to be therapeutically effective for several years.

More than a decade ago, it was discovered by Wurtman and his coworkers (45) that the synthesis and release of several neurotransmitters in presynaptic neurons can be influenced by the concentration of precursors offered to them. The amino acids tryptophan and tyrosine are the precursors of serotonin and norepinephrine respectively. Choline is the precursor for the synthesis of acetylcholine. The conversion of precursors to active neurotransmitters is enzymatic. When saturating concentrations of the precursors are available, the rate at which transmitters can be synthesized is limited by the enzymatic capacity. But, concentrations of the dietary precursors in the blood is not constant and under some conditions the rate limiting enzymes may not be saturated, but can become so if

large doses of precursors are administered. Precursor therapy is relatively safe, because feedback inhibition and other neuronal control mechanisms prevent the synthesis of more transmitter than is needed by the neuron at any particular time. Consequently, few side effects are noted when subjects are given pharmacological doses of tyrosine, tryptophan (46), or choline (47,48) that is, amounts much greater the quantities usually ingested in the diet.

The finding that levels of neurotransmitters in the brain can be altered by experimentally manipulating the quantity of ingested precursor had led to considerable basic research as well as clinical research on both normal volunteers and patients in whom there is reason to believe that there may be a neurotransmitter deficiency.

Dietary precursors must be absorbed from the gut, transported in the blood, penetrate the blood brain barrier, and finally enter into appropriate neurons. These are complex processes which depend initially on the quantity of the precursor in the diet, the effectiveness of the gut in absorbing them, and the transport mechanisms within the blood. Circulating amino acids then compete with each other for active transport through the blood brain barrier into the brain (45,49). The ratio of plasma tryptophan, for example, to the sum of the concentration of other neutral amino acids like tyrosine, phenylalanine, leucine, isoleucine, and valine determines the penetrability of tryptophan into the brain, and, hence, the brain serotonin concentration. Thus, a high protein meal in which many amino acids compete for transport into the brain depresses serotonin synthesis in the rat brain (45,50). A high carbohydrate, low protein meal raises brain serotonin because it elicits the secretion of insulin which lowers the blood levels of other neutral amino acids without affecting tryptophan. Doses of tryptophan as large as 10-15grams would be

more likely to diminish transport of other amino acids into the brain than doses of 1-3grams.

Tryptophan and Tyrosine

Tryptophan, administered at a dose of 50mg/kg to healthy young men in the morning, significantly increased self reports of fatigue and inertia and reduced vigor and activity (46). It is interesting to note that in this same experiment, tyrosine at 100mg/kg had undetectable effects. It is also worth noting that tryptophan did not cause depression, anxiety, confusion, nor anger in this experiment.

Tryptophan has also been used in the treatment of insomnia with apparent favorable effects. Doses of 1 to 5 grams before bedtime have been reported to reduce sleep latency without producing distortions of physiological sleep as measured by EEG recordings (51). Doses of 10-15 grams cause EEG changes but these are less pronounced than those resulting from the use of hypnotics. The mechanism for the effectiveness of tryptophan in insomnia is presumed to be due to its effects on serotonin levels in the brain stem (52). The use of L-tryptophan for the treatment of insomnia is still experimental even though the amino acid is available for sale in health food stores. The current literature suggests that it would have substantial advantages over conventional hypnotics, but it appears not to be uniformly effective for insomniacs. Furthermore, the long term effects of doses of 5-15grams per day require further investigation.

Serotonin deficits have been implicated in some depressions and mania and clinical trials with tryptophan were conducted with mixed results (53,54). Since tryptophan is rapidly catabolized enzymatically by liver pyrollase, the idea occurred that the concomitant administration of an inhibitor could more effectively

raise brain serotonin. Nicotinic acid and nicotinamide are both pyrollase inhibitors and in a preliminary report, encouraging results were obtained with the combination of tryptophan and nicotinamide in the treatment of depression (55). These results have not been confirmed. In very recent work, it has been reported that tryptohan diminishes sensitivity to mild pain and in people over forty increases the likelihood of errors in performance tasks (56).

The administration of tyrosine can, under certain circumstances, elevate levels of brain catecholamines (45,57). It has been reported to help some patients with depression (58) and mild Parkinson's disease (57). Continued clinical research in which tyrosine or tryptophan is used with depressed patients might help to distinguish depressions in which norepinephrine is involved from those in which the defect may be in serotonin metabolism.

Choline and Lecithin

Several studies have shown that the administration of choline or lecithin, the precursors of acetylcholine, increased cholinergic function in the brain (59). On the basis of this finding, clinical research has been conducted in which there is a possible disorder in acetylcholine metabolism. Tardive dyskinesia is one such disorder Presumably the disorder arises because of prolonged administration of neuroleptics, wh chronically block striatal dopamine receptors, cause these receptors to become supersensitive to dopamine (60). Some dopamine receptors are present on cholinergic neurons and their supersensitivity probably causes a chronic decrease in the release of acetylcholine by decreasing the firing rates of the cholinergic neurons. Davis et al. (61) reported marked clinical improvement after giving oral choline to a patient with tardive dyskinesia. Several additional studies have confirmed this (62,63). Unfortunately, large doses of choline have undesirable side effects.

including a socially unacceptable odor which results from the degradation of ingested choline to trimethylamine by intestinal bacteria. Lecithin, a phosphatidyl choline, is the most common source of our dietary choline. Lecithin is more effective than choline in raising plasma choline levels (64). Several reports suggest that it, too, is effective in diminishing symptoms of tardive dyskinesia (65,66). A review of the literature suggests that there is modest improvement in the motor function of about 1/2 of the patients who receive lecithin. Interestingly, the antipsychotic action of neuroleptics has not been reported to be diminished by the administration of either choline or lecithin.

Choline has been administered to schizophrenic subjects and failed to modify their clinical symptoms (67). Lecithin has been administered to manic patients with encouraging results (68). Disorders in acetylcholine function have been suggested in Huntington's Disease, Friedrich's Ataxia, and Tourette Syndrome. The results of therapeutic trials with choline or lecithin in those illnesses are equivocal. They have been reviewed by Growden et al. (69).

Alzheimer's disease, the most common cause of dementia among the elderly, is characterized by impaired functioning of cholinergic neurons. On autopsy, the brains of such patients show a dramatic loss of brain choline acetyltransferase (71,70,45). Memory deficits are characteristic of Alzheimer's disease and many studies have been conducted to measure the effects of acethylcholine precursors in normal people and in patients with Alzheimer's disease (48,72). These studies have not convincingly demonstrated any enhancement of memory after treatment with acetylcholine precursor.

Alternative methods for enhancing cholinergic activity include the use of choline esterase inhibitors and cholinergic agonists. Physostigmine, a reversible

short acting choline esterase inhibitor and arecoline, a short acting cholinergic agonist, improve memory when given in low doses to healthy young adults (73,74). Physostigmine, in a double blind experiment, enhanced the memory processes of patients with Alzheimer's disease for brief periods (75).

It is curious that physostigmine, which enhances cholinergic function by inhibiting the enzyme which destroys acetylcholine, should be more effective than precursors which increase the concentration of this neurotransmitter. The reason is not known, but it immediately raises the question of whether a combination of a precursor and a choline agonist or choline esterase inhibitor might be additive or synergistic. To the best of our knowledge, this has not yet been tested.

The precursor strategy with tryptophan, tyrosine, and choline has thus far yielded results which are of great research interest but have only preliminary and uncertain clinical utility. This type of research is young, and vigorous. We may hazard a guess that greater clinical effects from precursors may be achieved when they are combined with other types of psychotronic drugs. Tryptophan or tyrosine combined with tricyclics might accelerate the therapeutic process or decrease the required dose in depression. Stern and Mendels have reviewed the literature on the use of such combinations in the treatment of refractory depression (76). A recent report suggests that the combination of physostigmine and lecithin improves memory in Alzheimer's disease (75).

Pseudo-Nutrition

Food Additives and Hyperkinesis

In 1975, the late Dr. Ben F. Feingold, a pediatrician and allergist, proposed that some children have a central nervous system variant that predisposes them to sensitivity to synthetic food additives, particularly to food colors and the antioxidants butylated hydroxyanisole (BHA) and butylated hydroxytoluene (BHT). He claimed that in such children hyperkinetic behavior results from the ingestion of these additives. The use of an additive free diet which he developed led to dramatic improvement or even cure in from 50-70% of hyperkinetic/learning disabled children. He stated that 75% of children who had been treated with stimulant medication could discontinue the treatment (77). The diet, he claimed, became effective in several days to several weeks and the younger the patient, the more rapid and complete his response. Total and permanent adherence to the diet is mandatory, Feingold insisted, because even a minor infringement produces a return of symptoms within about 3 hours, which may persist as long as 72 hours. Feingold based his findings on extensive clinical experience in open studies. He did not conduct controlled, double blind trials to test his hypothesis. The Feingold dietary treatment gained considerable popularity among the lay public and more than 20,000 families of hyperkinetic children were reported to adhere to the diet and to advocate its use (78). Feingold urged that labelling of additives be mandatory and the immediate clinical application of an additive free diet in school food programs to a congressional committee by stating: "it is not necessary to await the availability of basic data, it has been demonstrated that these children respond to dietary intervention" (79). Several uncontrolled clinical studies supported Feingold. Rigorous double blind studies, conducted in 7 centers and involving about 200 children have generally failed to replicate his findings (84).

Two types of controlled studies have been conducted. Harley et al. (80) offered families with hyperactive children two different diets blindly at weekly intervals. One was a conventional diet; the other was prepared solely from foods recommended by Feingold. In 36 school age boys, based on teacher and objective ratings, no significant differences in behavior occurred with the diet. With these school age children, a few parents reported a significant improvement when the additive free diet followed the controlled diet, but they were unable to detect differences when the order was reversed. In preschool age children, where only parental ratings were available, a few parents were able to consistently detect differences with the additive free diet compared to the usual diet.

Most of the double blind studies have been challenge trials; that is, children, who ate additive free diets because their parents believed that they improved on them, were blindly "challenged" by the addition of cookies or drinks which contained food color additives. About 200 children have been tested in several studies conducted throughout the U.S. (81,82,83). A summary of these experiments and the results and conclusions has been reported (84). The National Institutes of Health (88) and the American Council on Science and Health (85) have concurred. The data from these studies have recently been examined statistically by an independent group who have come to the same conclusions (86). The conclusions from these many studies are that Feingold's claims that 50-70% of children improve dramatically on an additive free diet and deteriorate rapidly after minor infractions from the diet cannot be supported in careful double blind trials. At most, 3 of the 200 children were reported by their mothers to deteriorate significantly when challenged with food colors. In these 3 children, objective tests and/or outside observers were not used. The Nutrition Foundation Report (84) concluded that there was

insufficient evidence to require a special symbol on food labels indicating the presence or absence of these food additives for the purpose of treating these behavioral disorders. There is also insufficient evidence to suggest a ban on food containing artificial food colorings in federally supported school programs.

Rimland, Vice President of the Academy of Orthomolecular Psychiatry, has challenged the methods, results, and conclusions of those who failed to confirm Feingold's results (87).

Food and Environmental Allergy and Hypersensitivity

The notion that hypersensitivity or allergy to foods or other environmental agents like gasoline fumes, soaps, or hydrocarbons results in medical or psychiatric illness is subscribed to by what Brodsky calls a "medical subculture" (89). Clinical ecologists and some orthomolecular physicians are among those who support this view. It has been popularized extensively by books and in the media (90,91,92,93). Symptoms which have been related to such sensitivity or allergy include lethargy, depression, palpitations, sleep disturbance, mood swings, poor concentration, anxiety attacks, aggressiveness, and delinquent behavior. The Feingold hypothesis (77) that hyperactivity and learning disability in children is related to the ingestion of common synthetic food additives seems to be a specific variant of the food hypersensitivity thesis which focuses on synthetic food additives and natural salicylates. Hoffer (94) has claimed that many of his schizophrenic patients who failed to respond favorably to megavitamins do respond to five days of starvation followed by diets in which single items of food to which the patients are not sensitive are carefully introduced.

Pierson et al. recently sought objective evidence for the role of food hypersensitivity in 23 patients who attributed a wide variety of their physical and psychological symptoms to food allergies (95). These patients were seen independently for initial diagnosis by a psychiatrist who withheld his findings from the other investigating physicians. The allergists assessed the patients by medical and dietary history, a physical examination, and skin tests for common inhalant and food antigens. The patients were then put on exclusion diets consisting of uncommon foods to which they had no alleged hypersensitivity. All the patients improved. Single foods which the patients had themselves incriminated were then

added openly. Many patients became ill with their initial complaints. Blind tests were then performed using the same foods, freeze dried, and in opaque capsules. The investigators found that only four of the 23 patients had true food hypersensitivity. None of these four had significant psychiatric symptoms and all of them had physical symptoms characteristic of atopy, i.e., allergic rhinitis, urticaria, asthma or atopic eczema which appeared even when the offending foods were given blindly. The 19 in whom food hypersensitivity could not be confirmed in the blind trials had physical and psychological symptoms not characteristic of the atopic syndrome; 18 of these 19 patients had been diagnosed by the intake psychiatrist as having significant psychiatric illness; 10 of these were considered neurotically depressed, the remainder had other neuroses and personality disorders but none were psychotic. The authors conclude that psychogenic reactions to food are very common and that some form of double blind testing is the only certain means by which the diagnosis of food hypersensitivity can be established. They note that "since the dangers of unwise dietary restriction are real, patients should not be encouraged to restrict their diet without specialist, dietetic advice and without objective confirmation of food hypersensitivity."

There have been claims that food allergies are responsible for delinquency and criminal behavior (96,97,98). Statements are made that food allergies are common in delinquents but prevalance rates are not given. The only reported double blind studies of behavioral change in relation to food allergy have used sublingual testing, a method whose validity is considered doubtful (99).

Clinical ecologists go farther. Patients are initially tested for dietary sensitivity and are placed on elimination diets. If these are not helpful, they are placed in a "chemical free" environment in a hospital. If they improve in

that environment, they are then treated by prescribed avoidance of environments which include the common substances like perfume, smoke, etc. to which they claimed sensitive. Such avoidance inevitably leads to major changes in their lives including a move to a "clean climate". Patients may also receive injections of the indicted substances in order to desensitize themselves. According to Brodsky (89) they spend much of their time on diets, tests for sensitivity, reading about allergies, participating in a support group of similar patients, and tending to worker's compensation claims.

Schizophrenia and Gluten

In 1966, Dohan suggested that peptides derived from cereal grain glutens may play an important role in the pathogenesis of schizophrenia in genetically predisposed people. This proposal was based on the observations of considerably higher than chance occurance of celiac disease in schizophrenics as well as schizophrenia among adults with celiac disease. In addition, both schizophrenia and celiac disease have been reported to be three times more prevalent in Ireland than in England and Wales. Dohan also found a strong correlation between a change in rates of admission of female patients with schizophrenia to psychiatric institutions and a change in wheat consumption during World War II among five

countries (USA, Canada, Finland, Sweden, and Norway) variously affected by the war. Following these observations, he and his colleagues studied the effects of milk free and cereal free diet on schizophrenic patients. 47 schizophrenic patients randomly assigned to a cereal free diet showed a significant increase in rate of release from hospitals compared to 55 patients on a high cereal diet. No differenc was found when wheat gluten was added to the cereal free diet in a subsequent double blind study (100).

Singh and Kay (101) found that schizophrenic patients who received neuroleptics and a cereal free, milk free diet showed a significant decline when challenged with wheat gluten in a double blind manner. They suggested that clinical improvement on a gluten free diet and subsequent deterioration on gluten challenge may be related to a gluten mediated decrease in neuroleptic absorption. In support of this, Fried et al. (102) found that wheat gluten given to mice 20 minutes before a 1mg/kg dose of haloperidol reduced the amount of neuroleptic absorbed into the blood stream. Recently, however, Osborne et al. (103) found that 5 chronic schizophrenic patients did not improve on a gluten free diet; furthermore, the gluten free diet had no effect on blood levels of butaperazine, which had been administered in constant doses throughout the study. The study, however, selected patients who had failed to respond to traditional neuroleptic therapy and who thus might represent an atypical subpopulation. Also, as the authors note, their patients were on the special diet for 36 weeks. Dohan and Grassberger (104) stressed that chronic patients may require months or years of gluten free diets before significant results are achieved.

Potkin et al. (105) studied 8 chronic schizophrenic patients who were maintained on a diet free of gluten, cereal grains and milk and who were challenged

in a double blind manner with dietary wheat gluten and placebo. They found no deterioration in clinical status (as measured by the BPRS) on gluten challenge; however, Singh and Kay (106) have pointed out that with an N of 8, the authors' chances of detecting a true small or medium effect of gluten would be only 7% and 15%, respectively.

Hallert (107) who has studied many celiacs in Sweden where it has a relatively high prevalence rate found no schizophrenia in adult celiacs, but did find significant depression. He suggests that celiac disease is not an appropriate model. Dohan recently (108) reviewed the evidence supporting the model and suggests approaches for further study.

Recently, Zioudrous et al. (109) reported that gluten peptides have naloxone-reversible endorphin activity at brain opiate receptor sites. This finding might explain a link between gluten free diets and clinical response in a subpopulation of schizophrenics. However, such a relationship has yet to be consistently demonstrated and the important observations of Dohan's group and Singh and Kay merit further exploration.

"Reactive, Relative, or Postprandial Hypoglycemia"

In animals and man, food intake is intermittent and yet the blood sugar levels, except for transient rises after eating, remains relatively constant. Such homeostasis requires the synchronized participation of the liver, muscles, pancreas, other endocrine organs and the central nervous system. Most body tissues can tolerate fluctuations in blood sugar but the brain, which is unable to store glucose or glycogen in significant quantities and which uses glucose as its primary fuel, requires a constant supply. In the resting state, the brain accounts for 80% of the glucose consumed by the body.

Glucose homeostasis is remarkably effective. In a normal population, fasting levels of plasma glucose range from 50-115mg/dc. Such levels occur 5-6 hours after feeding and do not change significantly overnight. In well nourished individuals, blood glucose levels change very little after several days of fasting. Many physical illnesses like diabetes or islet cell tumors of the pancreas can either elevate or lower the fasting blood sugar (110,111).

Reactive, relative, or postprandial hypoglycemia is an abnormal degree of depression of the extracellular glucose concentration reflected in the plasma, without a well defined cause. When plasma levels fall below 50mg/dc or blood levels below 40mg/dc, symptoms and signs of adrenergic hyperactivity or nervous system depression or a combination of the two usually appear. Hypoglycemic activation of the adrenergic system causes tremulousness, anxiety, hunger, sweating, palpitations, and tachycardia. Central nervous system hypoglycemia causes perturbations of cortical and subcortical functions with symptoms of fatigue, headache, weakness, diplopia, confusion, amnesia, incoordination, seizures and coma. There is substantial variation in the cluster of symptoms of hypoglycemia from patient to patient.

Several of the symptoms of hypoglycemia resemble those with which anxious, depressed, and hypochrondiacal patients present. Consequently, some patients may diagnose themselves as having hypoglycemia. The tendency to do this is augmented by popular books in the lay press which have featured hypoglycemia as a global cause for a welter of illnesses and antisocial behavior like "nervous breakdown", alcoholism, juvenile delinquency, drug dependence, inadequate sexual performance, and overt aggression in prisoners (112,113,114).

Some orthomolecular physicians and clinical ecologists are among the physician groups who attribute much mental illness and antisocial behavior to hypoglycemia and who treat this condition with low carbohydrate, high protein diets. Psychotropic drugs are frequently added but this is not usually acknowledged. While the majority of endocrinologists, psychiatrists, and criminologists have not accepted nutritional theories and dietary treatments of neurotic and antisocial behavior, these theories have, nonetheless, had an impact on prisons, probation departments, and school systems. The Los Angeles County Probation Department, for example, banned the consumption of chocolates, other sweets, and refined sugar products from juvenile facilities and is attempting to reduce consumption of processed and additive-containing foods in prisons (115). There have also been malpractice suits in which patients have claimed that their physicians missed the diagnosis of reactive hypoglycemia and, therefore, mistreated them.

The concept that postprandial or reactive hypoglycemia is common in the population has not been generally accepted by the medical profession. The American Diabetes Association (116), in collaboration with other societies, has published statements to downplay the prominence of the misattribution of hypoglycemia as a cause of multiple illness. Yager and Young (117) have referred to the epidemic

proportions of the incorrect diagnosis of hypoglycemia as a cause for multiple psychiatric and somatic complaints. Too often the diagnosis is made without a glucose tolerance curve at all. Diagnosis by questionnaires which attempt to relate symptoms to eating habits is inadequate. Many patients who have affective, somatization or anxiety disorders report a relationship of symptoms to food intake which is not borne out in a glucose tolerance test (110,118,119).

The reasons for the conflict between those who emphasize hypoglycemia as a major contributor to multiple psychiatric illnesses and those who discount it lie largely in the rigor with which a 5 hour glucose tolerance test is conducted and in how it is interpreted. In this test, the patient should be prepared by eating a diet containing about 250gm of carbohydrate daily for three days. He is then fasted overnight, and is given 50-100gms of sugar orally in solution. Alterations in plasma or blood glucose are monitored at half hour intervals for the ensuing five hours, while subjective symptoms are recorded. The typical normal glucose tolerance curve shows a rise of 60-70mg/dc in the first 30-60 minutes; this is the period when glucose enters the circulation from the gastrointestinal tract. In normal persons, increasing glucose concentration, abetted by cholinergic signals, stimulate insulin secretion. The increased circulating insulin in conjunction with declining glucagon production results in decreasing hepatic glucose output and a fall of blood glucose to levels approximating or slightly lower than the fasting state over the next four hours. By the fifth hour, there is usually recovery to base levels. At its peak, blood glucose levels in normal subjects seldom exceeds 160mg/dc. Higher levels suggest diabetes. At the nadir, glucose levels below 50mg/dc should raise the suspicion of reactive hypoglycemia. For a definitive diagnosis to be made, the low blood sugar values should coincide in time with the symptoms of adrenergic activation and central nervous system hypoglycemia referred to above. The diagnosis

should not be made on the basis of a low blood sugar without clinical symptoms or on symptoms alone without a low blood sugar. Many patients report symptoms and signs of anxiety with blood sugar levels above 70; others may have the blood sugar fall to levels of below 40 without manifest symptoms or signs of hypoglycemia (118). Since the glucose tolerance test may vary from day to day in any patient, borderline tests should be repeated. Orthomolecular psychiatrists interpret the results of glucose tolerance tests differently from endocrinologists. An example of orthomolecular interpretation is shown in the work of Meiers who claims that 70% of schizophrenics have relative hypoglycemia (123).

The notion that hypoglycemia is related to panic attacks, reported by patients, has recently been tested by Gorman et al. (11). These investigators measured the blood sugar in ten patients who met DSM III criteria for panic disorder or agorophobia at the moment when panic was experienced by the patient during an infusion of 0.5molar sodium lactate under single blind conditions. They found that, on the average, such patients had a fasting blood sugar of 98mg/dc and at the moment of panic it was 94mg/dc. None of these patients had serum glucose levels even close to hypoglycemic levels. These findings demonstrate that hypoglycemia is not a necessary condition for panic attacks, but do not, of course, prove that hypoglycemia may not cause panic attacks. To determine the latter, it may be necessary to experimentally lower blood sugar in such patients by an insulin tolerance test and then determine whether it triggers panic and whether the blood sugar levels correlate well with the onset of panic. It is also now possible for patients who suspect that they have hypoglycemia related to panic, or to any other clinical symptoms to screen themselves at home by collecting capillary blood on impregnated filter paper. They can measure the blood sugar levels themselves or send it to a laboratory for analysis (120). In either type of experiment, a close correlation between clinical symptoms and blood sugar

values must be found in order to designate hypoglycemia as a proximate cause of the symptoms. It seems likely that such research will be conducted in the near future.

In summary, there is little evidence from carefully conducted research to support the concept that reactive hypoglycemia is a common condition and that it is causally related to psychiatric or behavioral disorders. Nonetheless, some professionals and patients are convinced a priori that emotional illness and inappropriate behavior is caused by postprandial or relative hypoglycemia which follows a high dietary intake of carbohydrates. Individuals who choose to believe this may alter their diets to diminish intake of simple sugars and to increase protein and complex carbohydrates with little danger or expense. But, the translation of hypoglycemic mythology into dietary regulation on a mass scale in schools or prisons is not justified.

Orthomolecular Psychiatry

> "Psychiatry seems unusually vulnerable to almost any fad which happens to drift into its amoeboid maw."
> (Osmond, 1982)

The theory, practice, and clinical value of megavitamin therapy and orthomolecular psychiatry has been the subject of debate for almost twenty years. An American Psychiatric Association Task Force reviewed the evidence thoroughly in 1973 and was very critical (124). Orthomolecular psychiatrists responded (125), calling the Task Force Report biased, unfair, and full of errors. Pauling (126) was also critical. His criticisms were answered by Klein (127) and Wyatt (128). A book Orthomolecular Psychiatry: Treatment of Schizophrenia which details their theory and practice was published in 1973 (129). A detailed update of the APA Task Force critique which included a review of the role of the water soluble vitamins in the nervous system was published in 1979 (130). The present chapter summarizes some older reviews of this subject and adds material published since that time.

Orthomolecular Theory

The term "megavitamin therapy" was coined in the early 1950s to describe a treatment for acute schizophrenia that employed doses of vitamin B_3 (nicotinic acid or nicotinamide) in the dose range of 3-30 grams daily. The theoretical basis for this treatment was initially pharmacological, not nutritional. The originators of megavitamin therapy attributed the pathogenesis of schizophrenia to the endogenous formation of adrenochrome and adrenolutein whichare hallucinogenic condensation products of oxidized adrenaline. Adrenaline is formed by methylation of noradrenaline and in schizophrenia the formation was thought to be excessive. hese products caused pe ceptual distortions which were the primary causes of schizophrenia. The perceptual defects could be detected and quantified by a psychological card sorting test called Hoffer-Osmond Diagnostic Test (

They see schizophrenia as primarily a perceptual disorder. For example, Hawkins, co-editor of the book Orthomolecular Psychiatry (129,p627) says, "Clinically, the illness begins as altered subjective experiences associated with changes in perception and these may or may not in time result in the observable changes upon which a diagnosis or schizophrenia has hitherto been based .... At this stage of the illness, the diagnosis may be made by interviewing techniques focused on detection of these subjective changes. The perceptual changes may also be detected by objective measures such as the HOD and EWI tests which parallel changes in the severity of the illness. The stage of the illness may be called metabolic disperception. It precedes the appearance of overt clinical schizophrenia -- the signs and symptoms of schizophrenia are secondary to the perceptual disorders and these in turn precede the tertiary impairments in social functioning." Hawkins then presents evidence to support the proposition that all of the manifestations of schizophrenia can be produced by perceptual changes alone. The HOD score is described by him as being more accurate than the usual clinical criteria in evaluating the degree of the patient's illness and response to treatment. He say (129,p617), "The majority of patients that we see with schizophrenia are not overtly psychotic. Although schizophrenia is technically classified as a psychosis, the development of irrationality indicates an advanced degree of the state of the illness. We, therefore, view schizophrenia as a disease process which is capable of producing psychosis." He continues (129,p602 "The HOD test consists of 145 true-false questions, read and answered by the patient which are designed to measure visual, auditory, olfactory, touch, taste, and time perception as well as thought and mood disturbances. Underlying this work is the assumption now supported by substantial experimental evidence that there is a genetic predisposition in schizophrenics which under certain conditions leads to errors in metabolism resulting in the formation of chemicals that may interfere with the function of the central nervous system which is responsible for maintaining perceptual abilities."

Kelm (129,p327-342) defines metabolic disperception as "people who suffer from varying degrees of abnormal perception, with corresponding changes in thought, mood

and behavior who respond favorably to megavitamin B_3 and allied therapy if treated before irreversible damage has developed." Subclinical pellagra is defined as "a deficiency syndrome characterized by the presence of perceptual changes affecting any or all of the five senses associated with neurasthenia. The HOD and related tests can measure the degree of perceptual abnormality and changes in thought and mood."

Hawkins (129,p620) continues, "For routine use, the HOD test. . . .is the most useful test, not only to confirm the diagnosis, but also to determine the degree of illness and to monitor the response to treatment. Beneficial measures are followed by a reduction of the HOD score and deleterious measures or an increase in the illness are followed by an increase. It can be administered and scored by anyone in the office. Shock treatment brings the most rapid reduction in the HOD score, the phenothiazines will also lower the score considerably, but usually not to within normal range. The patient can take the test retroactively; that is, he can answer the question according to how he felt when most ill or at any specified time in the past."

Hoffer remains committed to nicotinic acid deficiency as the primary cause of of schizophrenia, which he sees as cerebral pellagra. He says (129,p250), "If all the vitamin B_3 were removed from our food, everyone would become psychotic within 1 year. This pandemic psychosis would resemble pellagra and it would resemble schizophrenia. It could not be called pellagra, because none of the antecedents of that disease would exist."

"Schizophrenia and pellagra are not identical since they require different quanitities of vitamin B_3. Most symptoms of pellagra are alleviated by doses of vitamin B_3 below 1 gram/day, but a small proportion may need many times as much. Most schizophrenia respond to 3 to 6 grams, but a small proportion may require more than 20 grams per day" (129,p251).

But, Hoffer also believes in the use of ECT in the treatment of schizophrenics who do not respond to megavitamins. Commenting on the failure of others to confirm megavitamin therapy, he says (129,p206), "Several experiments are underway, but they are testing only 1 part of the program. For example, they do not use ECT. It is, therefore, necessary to reiterate that the megavitamin program is not one which can be completed in a single month or six months or a year. Time alone is no criterion. One starts with the simplest therapy that is chemotherapy alone using megavitamin doses plus all the other chemotherapies available to psychiatry as indicated in each case. The patients who recover are maintained on the program in order to keep them well. Patients who do not recover within 3 months are then given a series of ECT in addition to the chemotherapy. They may require a second or even a third series. With any acute series, using ECT if there is insufficient improvement within three months of beginning chemotherapy, one can expect a recovery rate of over 90% within one year and improvement in the other 10%."

He also says (129,p559), "All patients were treated with phenothiazines, megavitamins, accessory symptomatic medication, group therapy and all the other usual adjunctive measures. The exception was that 85 patients received ECT and 55 served as controls. When the results were tabulated and graphed, the very significant effect of ECT was observable. This was most marked in the younger age groups."

To prevent or treat schizophrenia, it was thoug necessary to reduce adrenaline formation. Since adrenaline was formed by methylation of noradrenaline, a means to diminish methylation was sought.

When nicotinic acid or nicotinamide are administered in large doses n-methyl-nicotinamide is formed and is rapidly excreted; hence, both compounds are methyl acceptors. Since they are relatively non-toxic in large doses, they were chosen as competitive inhibitors of the methylation of noradrenaline. It is worth emphasizing that they were not chosen as nutrients; indeed, in a 1957 publication advocating the use nicotinic acid in the treatment of schizophrenia, Hoffer et al. (131) speculated about the mechanism of therapeutic action of nicotinic acid. They chose as the most likely mechanism the ability of nicotinic acid to be a methyl acceptor which would reduce the formation of the endogenous hallucinogen adrenochrome. They rejected its role as a vitamin, saying, "psychosis (sic) association with pellagra does in many ways resemble the schizophrenic psychosis except that it contains qualities of toxic confusion. However, the incidence of avitaminosis among schizophrenic persons is no greater than among the general population. Doses adequate to treat any unknown deficiency are without affect on schizophrenia; it may, therefore, be concluded that this factor is unimportant." (131)

In 1968, Pauling (132) published a theoretical paper in which he suggested that some forms of mental illness might be due to deficiencies in essential nutrients occurring in susceptible individuals eating an ordinarily adequate diet. Man's genetic heterogeneity leads to biochemical individuality with large variations in the need for essential nutrients, especially vitamins (132). The brain might differ from other organs in its nutritional requirements so that localized cerebral deficiency could occur. Pauling named his concept "orthomolecular psychiatry" and he defined it as "the treatment of mental disease by the

provision of the optimum molecular environment for the mind, especially the optimum concentration of substances normally present in the human body." With the publication of this interesting theoretical paper, clinicians who had been practicing megavitamin therapy quickly adopted Pauling's concept and claimed that what they had been practicing from 1952 to 1968 was, indeed, orthomolecular psychiatry. This conceptual shift from the transmethylation hypothesis in which nicotinic acid was a pharmacological methyl acceptor to a nutritional hypothesis in which schizophrenia was cerebral pellagra treatable by nicotinic acid functioning as a true vitamin was accompanied by the formation of an Academy of Orthomolecular Psychiatry and a name change of their journal from the Journal of Schizophrenia to the Journal of Orthomolecular Psychiatry. With this shift in theory, many other vitamins and hormones were added to their therapeutic armamentarium. The scope of the conditions which orthomolecular psychiatrists treat has also been expanded to include autism, hyperkinesis, depression, anxiety, alcoholism, drug addiction, delinquency, etc. Their current practice is perhaps best described by Hawkins. "Clinicians practicing orthomolecular psychiatry are using a combination approach which varies from patient to patient depending upon the biochemical peculiarities of a given case and which often includes high doses of niacin or niacinamide, ascorbic acid, pyridoxine, vitamin E, thyroid, vitamin B_{12}, hypoglycemic diets, cereal free diets, daily physical exercise, lithium, the phenothiazines, and also the commonly used tranquilizers and antidepressants."(133). Electroconvulsive shock therapy is still frequently used (125). The current theory is expressed by Hoffer (134), "There is a simple message: The most important treatment for psychosis is nutritional. Other treatments which are considered THE treatment by the American Psychiatric Association are merely palliative."

The change in the theory of schizophrenic pathogenesis from excessive transmethylation to nutritional deficiency broadened the therapeutic ingredients of orthomolecular practice greatly. With the first theory, there was a pharmacological need for nicotinic acid as a methyl acceptor and no special needs for other vitamins and nutrients. With the nutritional theory there is room for the addition of many other micronutrients to the therapeutic program. In current practice, many nutrients are added in megadoses simultaneously. Nonetheless, nicotinic acid seems to be always included in the therapeutic cocktail for schizophrenia and this is because that illness continues to be looked at as cerebral pellagra. Hoffer says, "It is clear that there are no clinical grounds for separating the two diseases. A distinction is artificial". He also says, "schizophrenia is a vitamin B_3 dependent condition or an NAD deficiency disease" (135). Nonetheless, other water soluble vitamins and minerals are also used in megaquantities.

The concept of reactive hypoglycemia and of food or environmental allergy as causative agents in many types of mental illness and behavioral disorders has also been adopted (136). Orthomolecular psychiatrists who originally rejected psychotropic drugs as unnecessary poisons imposed on the medical profession and patients by heavy industrial advertising is now accepted as sometimes useful adjunctive therapy. Characteristic of orthomolecular psychiatry is the absence of psychological or social causes for mental illness or aberrent behavior. Nor is there any admission of a useful role for psychological treatment, although halfway houses and self help groups are used.

The transmethylation hypothesis is testable and has been tested by many investigators over the past 20 years. No evidence of any excess transmethylation

has been found. If anything, there may be diminished transmethylation (137,143). There is also neither clinical nor laboratory evidence for a metabolic defect similar to that found in pellagra in any of the schizophrenias. This subject was thoroughly reviewed a decade ago in the APA Task Force Report (124) and no evidence to the contrary has appeared since that time.

The Pauling statement that there is an optimum molecular environment for the neurons in the brain is probably true, but it is not testable, because optimum, especially for any single individual, cannot be defined nor determined. It is like saying that there should be an optimum income, education, and degree of health and freedom for every citizen. There would be enormous arguments by people of different political persuasions about the meaning of the term. Pauling noted that optimum intake of phenylalanine should be very low for the patient with phenylketonuria. But, in general he tended to view optimum as very much larger than the RDA. He suggested that genetic variance in the transport of vitamins across the blood brain barrier might, in selected individuals, result in a cerebral avitaminosis despite normal blood and other tissue levels of these nutrients. He also felt that the protein apoenzymes for which vitamins or their derivatives function as coenzymes might be genetically defective so that much higher concentrations of coenzymes were necessary in order for the enzymes to function. He stated that "the so-called gene for schizophrenia may itself be a gene that leads to a localized cerebral deficiency in one or more vital substances" (126,132).

Roger Williams (138), more than 30 years ago, had presented evidence for a degree of variability within a species which he called biochemical individuality that might account for differences in nutritional requirements. Pauling's hypothesis was an elaboration of Williams' thesis. Williams' thesis is also not arguable in principle, but the quantitative aspects

need empirical testing. We all readily accept biochemical individuality for things like height, weight, hemoglobin, intelligence, caloric needs, metabolic rate, etc., but generally speaking, such variability is seldom more than 15%. Orthomolecular theory suggests that differences in vitamin requirements might be as great as several thousand percent. Some evidence has been found in rare genetic diseases to support this. There are about 25 known genetic "vitamin-responsive in-born errors of metabolism"(139). These disorders are genetic autosomal recessives and are so rare that a total of less than 1,000 cases have been described in the world literature. All of the water soluble B vitamins except niacin and riboflavin have been implicated. Vitamin dependency illnesses are characterized by an increase in the requirement for a specific vitamin that ranges from 10 to several hundred times the RDA. This is because they have mutant apoenzymes which require high concentrations of cofactor to function. Vitamin dependency illnesses are manifest at birth or in early childhood and they are generally associated with mental retardation as well as with multiple somatic disorders ranging from convulsions to severe anemias. Patients with these illnesses show demonstrable abnormalities in circulating amino acids or other metabolites. Unless they are treated with megadoses of the appropriate vitamin early in life such patients show retardation in growth and development and usually die in childhood. Orthomolecular psychiatrists apparently believe that the large differences in nutritional needs which occur in the rare genetic vitamin dependency illnesses are common in psychiatric patients of all types. Hoffer, for example, believes that schizophrenia is a vitamin B_3 dependent condition or an NAD deficiency disease (135). Since schizophrenia fails to meet the many other criteria established for the definition of autosomal recessive genetic diseases, it becomes necessary for him to postulate that the vitamin dependency characteristic is localized to the brain.

There is another genetic variant less severe than the vitamin dependency illnesses which Blass calls "vitamin insufficiency illness" (140). This occurs in that small fraction of alcoholics who develop Wernicke-Korsakoff syndrome. Such patients are apparently able to grow normally to adulthood on ordinary daily requirements of thiamine and an average diet, but under the unusual circumstances of heavy alcohol consumption when the vitamin intake diminishes and the vitamin requirement may increase, the syndrome develops. This condition can be detected by measurement of a thiamine dependent protein apoenzyme called transketolase which in Wernicke patients requires a much higher concentration of thiamine pyrophosphate in order to function adequately. Folkers et al. (141) have reported that patients with carpal tunnel syndrome may also have a vitamin insufficiency syndrome because their erythrocyte glutamate oxaloacetate transaminase (EGOT) is unsaturated at normal dietary levels of pyridoxine. At megadoses the enzyme becomes saturated and new enzyme synthesis is induced. Of interest to psychiatry has been the report of Rimland et al. (142) who recently found that massive doses of pyridoxine could improve the symptoms of about 30% of autistic children and that in such children pyridoxine causes a drop in the urinary excretion of homovanillic acid, a major metabolite of dopamine. It is, therefore, possible that a subgroup of autistic children may have a vitamin B_6 insufficiency illness. Detection of this particular subgroup can thus far not be made clinically or biochemically. Moreover, even though some improvement occurs when these children are given pyridoxine, they are still very far from being psychologically well.

The possibility that schizophrenia or even a significant subgroup of the schizophrenias is a vitamin dependency illness must be considered very remote. They have multiple somatic abnormalities which have not been found in schizophrenics.

They are generally mentally retarded and they have distinct biochemical abnormalities in the blood or urine which are detectable at birth or in early infancy. They respond quickly and dramatically to large doses of the single vitamin required to remedy their genetic metabolic abnormality. Schizophrenia fails to meet any of these criteria.

Is schizophrenia a vitamin insufficiency illness which resembles the Wernicke-Korsakoff syndrome? Again, it is very unlikely. A vitamin dependent specific enzyme defect has not been found, nor is there any evidence of a metabolic abnormality.

Recent Studies:

Some literature has appeared in the last several years dealing with megavitamin therapy and orthomolecular princples in autism, learning disability and mental retardation. Rimland et al. conducted a double blind crossover study of the effects of high doses of vitamin B_5 on autistic children (142). LeLord has studied the effects of high doses of vitamin B_6 and magnesium on autistic children (145) Both groups have reported positive findings. The results suggest that in a heterogeneous illness like autism there may be a subgroup that responds to this treatment. The degree of response is modest but statistically significant.

Kershner and Hawke (146) studied the efficacy of adding megavitamins to a diet low in carbohydrates high in protein with 20 learning disabled children who carried diagnoses of hyperactivity, minimal brain dysfunctions, or both. After a double blind six month period of treatment, the addition of megavitamins failed to produce any significant improvement when compared to the diet alone on a variety of intellectual, school achievement, perceptual, and behavioral measures. The efficacy of the diet alone could not be assessed because no dietary control group was employed. The parents of 18 of these children reported improvement in their children on this diet regardless of whether megavitamins or placebo were added. As the authors cautiously point out, this may reflect parent enthusiasm and/or the child's maturation rather than dietary effects.

In 1981, Harrell et al. (147) reported the results of a study in which 16 children (age range 5-15) with either Down's syndrome or unclassified mental retardation (IQ 17-70) received either placebo or a supplement containing 11 vitamins and 8 minerals for a four month period. All subjects were also placed on diets which restricted the intake of "sugary foods and soft drinks" and encouraged consumption of fruits and milk. All but one of the subjects were also given thyroid hormone because of low morning axial temperatures. At the end of four months,

the children were evaluated by 2 of 7 psychologists who did not all use the same IQ testing instruments. One of the psychologists, the principle investigator, was not blind to the conditions of the experiment. During the first four months of treatment, the five children who received supplemental vitamins increased their average IQ by 5-9.6 points and the 11 subjects on placebo showed negligible change. In a second phase of the experiment, all 16 of the subjects received vitamin supplements and the 11 subjects who had been on placebo in the first phase showed an average IQ increase of 10 points. The Harrell study has received considerable attention because of the implications of its conclusions. However, it has also received much criticism because of the weakness of its design and methodology.

Coburn et al. (157) carried out a replication study using mentally retarded young adults. This experiment was conducted entirely on a double blind basis with a uniform IQ testing procedure. None of the subjects, including those on the Harrell supplementation, showed any improvement in performance on the Stanford Binet test at 10 and 20 weeks. Admittedly, the Coburn study examined mentally retarded patients who were older than those studied by Harrell et al. Possibly, improvement in IQ may be limited to very young subjects. However, given the methodological weaknesses in the Harrell study and the absence of confirmatory replication studies at this point, there is reason to skeptical. Replication studies are required for both professional responsbility and in the public interest.

Conclusion:

The history of medicine clearly shows that theory and practice are often dissociated. Regardless of the weaknesses of orthomolecular theory, the question may be asked, Does it work? The APA Task Force addressed this question by translating the hypotheses into testable questions. In doing so, they focused only on the testing of the value of nicotinic acid in the treatment of schizophrenia. It was felt that this was justified because nicotinic acid was the cornerstone of megavitamin and, later on, orthomolecular theory and because the original publications for therapeutic efficacy used only this vitamin. The results of studies by many investigators who did double blind controlled studies are given in detail by the Task Force Report (124). The results were negative. Nicotinic acid as the sole medication for newly admitted schizophrenics was no better than an inactive placebo. As an adjuvant medication to phenothiazines it was worse and increased the duration of hospital stay and the amount of neuroleptic required. For chronic patients receiving neuroleptics, it was also worse than placebo. The Task Force was critical of the use of the Hoffer-Osmond card sorting test for perceptual difficulties which was the primary instrument for diagnosing schizophrenia and for measuring change with megavitamin therapy.

Since the publication of the APA Task Force Report in 1973, many other professional, academic organizations have reviewed the field of orthomolecular psychiatry and have arrived at similar conclusions. The Royal Australian and New Zealand College of Psychiatrists concluded that orthomolecular medicine has "no status in the practice of medicine or psychiatry. Its clinical role is unproven and the pathology tests cannot be justified for the rational practice of internal medicine or psychiatry". The Canadian Mental Health Association collaborative study indepndently investigated some of the underlying

hypotheses supporting orthomolecular psychiatry and obtained negative results. The American Academy of Pediatrics' Committee on Nutrition, looking specifically at the published evidence on megavitamn therapy for childhood psychoses and learning disabilities, concluded that "megavitamin therapy as a treatment for learning disabilities psychoses in children including autism is not justified on the basis of documented clinical results" (144).

The reply of Hoffer and Osmond to the APA Task Force Report was published in 1976 by the Canadian Schizphrenia Foundation of which Hoffer is President (125). The authors are careful to say that it does not necessarily represent the opinion of the Directors nor all the members of the Foundation. It is 121 pages long; more than twice as long as the Task Force Report. The interested reader should examine it carefully.

Hoffer and Osmond (125) state that the Task Force Report and the data upon which it was based were grossly unfair and biased. They have many objections: (1) Fixed doses of nicotinic acid at 3 grams/day were used; some patients require 20 to 30 grams; (2) Orthomolecular claims were for acute schizophrenics; the so-called attempts at replication employed chronic schizophrenics; (3) Megavitamin practitioners use ECT as an adjuvant when necessary; it was not used in the replication experiments, which they feel should not be called "replication"; (4) The double blind trials which counted heavily in the Task Force judgment were unnecessary and restrictive. Criticism of megavitamin therapy research which failed to do control studies is unfair becuase it is unethical for practitioners to withhold treatment which they know is effective;(5) The Task Force Report based its judgment solely on research on vitamin B_3; megavitamin therapy has evolved to a much more complex therapeutic program which now uses other vitamins, minerals, psychotropic drugs, hormones, and other procedures; (6) The NAD experiments were

were done with a preparation which was not enterically coated. Hoffer had the megavi used with specially coated tablets which resisted digestive enzymes; (7) The Task Force selected from the literature all negative reports and did not adequately weigh the confirmatory reports.

At a more political level, Hoffer and Osmond feel the report is biased because (1) Dr. Lipton, the Chairman, was an avowed opponent, (2) at least two of the other members were opponents for different reasons, (3) no orthomolecular practitioners were on the Task Force, (4) The Task Force used pejorative adjectives in describing the work of the megavitamin therapists.

Most of the work of the orthomolecular psychiatrists is printed in their Journal of Orthomolecular Psychiatry, which is published quarterly by the Academy of Orthomolecular Psychiatry and the Canadian Schizophrenia Foundation. The Journal averages about 75 pages in each issue. It is not indexed in many major citation services, such as Index Medicus, and few medical school or university libraries in this country subscribe to it. . . .

In a one year period (4th quarter 1981 to 4th quarter 1982), half of the full length articles were essays or reviews (15) with an additional 3 editorials, 5 case reports, 14 pages of Letters to the Editor, and 8 pages of book reviews. Only 10 articles presented data, and the vast majority of these were so flawed in methodology and so confused and confusing in purpose so as to prohibit labeling them as scientific reports.

The essays and reviews cover such topics as "Principles of Bio-Ecologic Medicine", "Towards the Orthomolecular Environment" ["We have seen how the migration of our species into space may bring us into the environment that most closely approximates the optimum for human beings, the ortho-environment. . ." (156)], "Allergies and Schizophrenia", and "Stigma and Mental Illness: Theory versus Reality."

Several of the papers and Letters to the Editor make imaginative and, perhaps, correct statements. For example, we are told that Lactobacillus Casei in the

human gut serves as an antidepressant and mild euphoriant since their cell walls contain phenylethylamine" (150). The use of mercury amalgams for filling teeth may result in chronic mercury poisoning (151). Manganese and nicotinic acid supplementation prevents tardive dyskinesia in patients receiving neuroleptics (152). Nearly 100,000 schizophrenic patients have been treated in the past 20 years. There is no doubt in the mind of every physician who has used these vitamins as part of a sophisticated treatment approach that it is remarkably beneficial (153). But data are seldom given, at most there will be an anecdotal case report.

The orthomolecular psychiatry may be called a belief system or subculture. It is not cautious and self correcting as a science should be.

It should be apparent that few, if any. research psychiatrists would agree with the orthomolecular definition of psychiatric disorders., their conc its pathogenesis, and the psychological instruments they use to measure its severity or its change with treatment. Given these vast differences, it is easy to understan why systematic attempts using research criteria to replicate their work invariably fail.

Orthomolecular psychiatrists say that clinical experience is enough to validate their procedures and that controlled blind studies are unethical. There may be other reasons, such as orthomolecular psychiatrists who are mainly in pri practice. Only a few hold academic or research positions.

Few psychiatric patients have unique nutritional requirements. Nutritional research in relation to psychiatry continues at a steady, if not spectacular pace. The pharmacological use of nutrients as in precursor therapy shows considerable promise. The special nutritional requirements of the early fetus and of geriatric patients are receiving constant attention and it seems very likely that these will be better understood and treated.

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

Senate Bill No. 346

"An Act relating to the treatment of mentally ill persons."

In October, 1981, Chapter 84, SLA 1981 became effective. This act completely revised Alaska's involuntary commitment laws for mentally ill persons that required involuntary hospitalization or treatment. Upon its effective date, there was considerable concern that the Act was procedurally cumbersome, which would require that an excessive amount of professional treatment staff time be consumed in filling out forms, testifying in court, and other non-treatment related activities. While the Act has proven workable and involuntary commitment of the mentally ill have continued to occur, there are a number of areas in the Act that have proven repeatedly troublesome since its effective date. Senate Bill 346 is an attempt to amend some of those troublesome provisions that have tended to inhibit or hamper the treatment of the involuntarily committed mentally ill patient.

The majority of the amendments that are proposed in Senate Bill 346 are technical rather than substantive in nature, a number of the amendments are intended to change the Act in a way that is seen by many as improving its effectiveness. Those amendments that are considered to require clarification are discussed below:

Page 1, Section 1, Line 20:

During the period of time the Act has been in effect, many areas have applied literal interpretation to the requirement that "every" opportunity be afforded to respondents to accept voluntary treatment. The result has been instances in which a prospective involuntary patient has repeatedly refused to accept voluntary treatment until the court hearing is actually in progress or about to begin and then suddenly decides he will accept voluntary treatment. The court proceedings cease and the petition for commitment is dismissed. If, prior to arrival to API for involuntary admission, the patient changes his mind and again refuses voluntary treatment (as has been the case), the entire involuntary commitment process must be started anew.

This has been cause for considerable concern and confusion. The amendment offered would change "every" opportunity to "reasonable" opportunity to accept voluntary treatment. This would allow for some discretion in its interpretation. Thus, if a patient repeatedly refused voluntary treatment, the commitment process would proceed even if the patient requested voluntary treatment at a later time. This would insure that treatment would be possible and the expensive commitment process would not have to be repeated unnecessarily.

Page 2, Section 2. Line 7:

Under the Act, the age of majority for purposes of accepting or rejecting voluntary treatment without the consent of a parent or guardian was set at 14 years old. This has created a number of difficulties especially for those children between the ages of 14 and 18 years of age.

For example, a 14 year old child could present himself at API and request admission without the knowledge or approval of the parent or guardian. As A.S. 47.30.845 (Confidential Records) does not give the hospital the authority to release any information to the parents or guardians of a person 14 years of age or older without the permission of the patient, it may not be legal for us to tell parents or guardians the whereabouts or condition of their child.

Also, a 14 year old child that would benefit from evaluation or treatment at API but does not meet involuntary civil commitment standards may not be admitted at the request of the parents or guardian unless the child voluntarily agrees to accept treatment. Thus, some mentally ill children may not receive necessary mental health care and treatment even though their parents or guardian attempt to provide these services for them. In cases such as this, it becomes even more ludicrous if the Division of Family and Youth Services attempts to file a petition to have the court find the youth as a child in need of aid by alleging that the child's medical needs are being neglected. If the parents or guardian sought voluntary hospitalization of the child that is 14 years old but the child refused treatment, then parental neglect, which would support a finding of a child in need of aid status, is not possible.

The amendment proposed would change the age of majority under this section from 14 to 18 years of age. This would be consistent with other statutes that govern the care of treatment of these children and adolescents as well as correct these legal anomalies.

Page 3, Section 5, Line 12

This would increase the period of time for voluntary hospitalization of a minor by 9 days (from 21 to 30 days). This additional time will increase the ability of the hospital to provide a more thorough and comprehensive evaluation and treatment program for mentally ill children.

Page 3, Section 5, Line 22-23,

This language would broaden the circumstances under which a minor may be accepted for admission at the hospital if the professional person in charge believes that hospitalization is necessary on a voluntary basis. This added provision could prove very helpful in addressing the treatment needs of mentally ill children and adolescents who are at risk of further deterioration and need hospitalization. Under the existing statutes, unless improvement in their condition can be reasonably expected, admission may not be possible. We believe this added provision will prove helpful in providing necessary care and treatment for this group of patients.

Page 4, Section 6, Lines 6-26

The addition of this language provides needed clarification regarding the circumstances and procedures for releasing or retaining mentally ill minors with or without the consent of the parent or guardian. It is especially pertinent as there have been occasions when the safety of the child or others was questionable and the child was not committable but the parents or guardian have demanded immediate release of the child. This amendment will make it possible to insure the safety of all concerned prior to release of the minor.

Page 5, Section 7, Line 3

By granting mental health professionals the authority to take mentally ill persons into custody under an emergency situation and deliver them to an evaluation facility, a number of problems will be alleviated. Under the existing statutes, if a physician in an emergency room examines an individual that is brought to the hospital by relatives or friends, and the patient is clearly mentally ill and is in need of immediate hospitalization, the physician may have to call the police in order to have a peace officer take the patient into custody and sign an application for the patient's examination. This situation may occur in any hospital in Alaska including API.

Under the proposed amendment, the physician or any other health care professional that is included in the definition of a mental health professional under A.S. 47.30.915(11), can sign the application for examination under A.S. 47.30.705 and have the patient held in custody pending completion of the exam and receipt of an ex part order.

Page 5, Section 7, Lines 9-12

As written, this proposed amendment, if strictly interpreted, could tend to prohibit the completion of examination or evaluations of patients that were detained in jails or correctional centers even if qualified evaluation personal were available. We certainly agree in principle that jails and correctional centers should not be used to hold the non-criminal, mentally ill; however, in practice, we have found that under certain exceptional circumstances, a jail or correctional center may be the only facility available to detain the patient at the local level for purposes of evaluation and insure the safety of the patient and the community.

It has been our experience that the utilization of there types of facilities is neither widespread nor indiscriminate and is used only on a very short-term basis. Nevertheless, when it is necessary to house patients in jails or correctional centers, we proceed with the examination, evaluation, and involuntary commitment process when the necessary resources are locally available. The time spent by these

patients under these circumstances is then counted for purposes of the 24 hour and 72 hour time limit that is required for examinations and evaluations to occur by mental health professionals. This tends to insure that patients are not detained longer than necessary and treatment, if indicated, can commence immediately.

Consequently, we recommend that this amendment be deleted and that the existing language in A.S. 47.30.705 on lines 12-15 (in brackets) should be retained.

Page 5, Section 7, Line 24

This amendment would change the period of time for the first involuntary commitment from 21 to 30 days and is repeated throughout Senate Bill 346. The additional 9 days would tend to reduce the administrative workload of our treatment staff while having little or no effect on the period of time patients are actually involuntarily hospitalized.

Rather than interrupt treatment on the 21st day in order to undergo the 90-day commitment process, treatment could continue for an additional 9 days if necessary. This would allow medications and other forms of therapy an additional period of time to stabilize the patient, possibly resulting in a discharge of the patient between the 21st and 30th day.

Page 9, Section 10, Lines 17-19

This amendment is designed to insure that a less formal courtroom atmosphere is possible during the involuntary civil commitment process. This should make the commitment proceedings less painful and frightening to the mentally ill respondent.

Page 9, Section 10, Lines 27-28

The addition of this provision to allow a respondent to call his own experts or other witnesses to testify on his behalf is not seen as necessarily having an impact on the Division of Mental Health and Developmental Disabilities unless the respondent decides to call experts from API to testify on his behalf. It may, however, have a financial impact on the Alaska Court System if the respondent is indigent and the court has to pay the expenses of the experts and other witnesses called by the respondent on his behalf.

Page 12, Section 13, Line 7

This amendment would change the 120-day commitment to 180 days and is repeated throughout the bill. This change will reduce the administrative and procedural requirements necessary for the long-term, chronic mentally ill patients that require extended periods of involuntary hospitalization.

Page 13, Section 16, Lines 23-26

This additional requirement for notification of a patients family or guardian as well as any person known to been threatened by the patient of his unauthorized absence from the treatment facility is supported by the Division of Mental Health and Developmental Disabilities. We feel that this is an appropriate and necessary measure in cases such as this.

Page 14, Section 18, Lines 8-9

The addition of this language is seen as necessary and will correct what appears to have been an oversight when the he Act was drafted. It simply makes specific that computations of time for a patient being evaluated or a patient being detained for evaluation do not include Saturdays. Sundays, legal holidays, or transportation time and are not to be included in the 72 or 48 hour time limitation prescribed by the Act.

Page 15, Section 19, Lines 6-7

This adds mental health professionals among those that may not be held civilly or criminally liable for detaining and transporting a person, under the Act. This amendment is consistent with this section of the Act.

Page 15, Section 20, Lines 15-17

This amendment will require that an adult designated by the respondent must give informed consent in cases in which the patient is unable to give informed consent prior to certain treatments being authorized. We feel this is an appropriate addition to the Act.

Page 15, Section 21, Lines 28-29

This simply requires that an adult designated by the patient must be provided a copy of the patient's discharge plan. This is consistent with A.S. 47.30.845 under the existing statutes regarding confidential information.

Page 17, Section 24, Lines 6-8

This proposed amendment would clarify the circumstances under which the hospital may release confidential information and records to law enforcement agencies when they are concerned that a patient or ex-patient may present as an imminent danger to the community. Under certain circumstances, we feel it is in the best interests of the community and the patient to take such action.

Page 17, Section 24, Line 13

The addition of this language will include hospitals operated by the federal government, such as the PHS facilities, for use as evaluation facilities for purposes of the Act. Under the existing statutes, these facilities are not included in the definition of an evaluation facility and some of these federal facilities have not been able or willing to be utilized in this capacity.

Page 17, Section 24, Lines 21-25

This addition to the definition of a gravely disabled person will significantly clarify and improve our position with respect to the involuntary care and treatment of these patients. An additional period of hospitalization may help prevent further deterioration of gravely disabled persons in order to avoid or reduce the risk of further tragedy and/or agony.

Page 18, Section 27, Line 1

This amendment offered in the bill will reduce the standard upon which a potentially suicidal person may be taken into custody and involuntarily committed. It is our belief that this is both necessary and appropriate given our current rate of death by suicide in Alaska.

Page 18, Section 27, Lines 5-8

As in the previous section, this language will alter the standard for involuntary hospitalization of a person that may present as a danger to others or to the property of others. This may allow some seriously mentally ill persons to be involuntarily committed before they actually harm another person or another person's property.

Page 18, Section 28, Lines 17-20

This simply requires that a psychologist or a psychological associate must be trained specifically in clinical psychology in order to be considered a mental health professional for purposes of screening, examination, and evaluation under the Act.

Page 18, Section 28, Lines 22-24

This amendment is intended to include in the definition of mental health professionals those registered nurses that have experience in psychiatric nursing in a JCAH accredited psychiatric hospital for purposes of screening, examination, and evaluation under the Act. This is considered an appropriate addition to this definition.

POSITION PAPER/Department of Health & Social Services

The Department of Health and Social Services generally supports the amendments contained in Senate Bill 346 and endorses its passage with the exceptions noted above.

Recommended by: Philip Shapiro

Philip Shapiro, M.D.,
Director, Division of Mental Health and Developmental Disabilities

Date: 1/30/84

Approved by: Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date: 1/30/84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 346
Title: An Act relating to the treatment of mentally ill persons
Sponsor: Josephson and Halford
Requestor:
Date of Request: 1-11-84

FISCAL DETAIL
Agency Affected: Division of Mental Health and Developmental Disabilities
Program Category Affected: API
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis * See Attached

Prepared By: James L. Scoles (PS) (PR) Phone: 465-3370 cc
Division: Mental Health & Developmental Disabilities Date: 1-20-84

Approved by Commissioner: Robert London Smith Date: 1/30/84
Agency: Dept of Health & Social Services

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

The Division of Mental Health and Developmental Disabilities does not foresee any increase or decrease in expenditures as a result of the passage of SB 346 at this time. The primary purpose of this bill is mainly directed at reducing the procedural requirements of A.S. 47.30.655 - 47.30.915, changing the age of majority from 14 to 18 years of age, changing the period of time for the initial commitment from 21 to 30 days and the third period of commitment from 120 to 180 days, expanding the definition of peace officers to include mental health professionals, and slightly relaxing the standards for commitment.

We do not believe that any of these proposed amendments will increase or decrease the number of mentally ill persons that will require hospitalization. The amendments should, however, make it easier to commit the mentally ill which should result in more professional staff time available to provide direct patient care and treatment rather than excessive time being expended in the commitment process.

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PART-TIME						
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SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis * See Attached

Prepared By: James L. Scoles (PS) (Pr) Phone: 465-3370
Division: Mental Health & Developmental Disabilities Date: 1-20-84

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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

WITNESS REGISTER

BILL NUMBER Mental Health Commitment Law DATE Oct. 14, 1983 (Anchorage)

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Natalie Gottstein	AMHA	2611 Fairbanks St	276-1705
Jay Verkozen	Self	309 G Street, Anch. Ak	272-0200
Gladys Biasle	Anch. Com. Mental Health Comp.	1577 C St Anch	278-4558
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MENTAL HEALTH COMMITMENT LAW

Senate HESS 9/23/83

Attendance: Josephson, P. Moss. Sens. V. Fischer, P. Fischer, and Halford excused.

018 Josephson convened meeting regarding mental health commitment law testimony.

093 Josephson: Our purpose today is to receive testimony on the question of mental health commitment. I think our purpose would be better served if those wishing to testify could talk to how you evaluate the existing law, what changes you would like to see, rather than to address any specific work draft as a mark-up vehicle.

120 Sonya Benson, representing Representative Niilo Koponen: I don't have any specific testimony at this time.

129 Mrs. Ann Denardo, Family of Chronically Ill Victims, Fairbanks: Our son is schizophrenic and housed at A.P.I. We've had a lot of experience of with this commitment act and we find it to be burdensome, vague, and emotional. We feel families should have a great role in commitment procedures. A broader criteria for commitment should be studied based on ability to function with thought processes.

198 Denardo: Under paragraph 7, 'gravely disabled' means a condition in which a person is a result of mental illness. We would like to add 'or is not receiving such care in mental medical treatment as is necessary for health and safety' or 'a person who thought processes, perception of reality or judgment is substantially impaired'.

230 Josephson: Has this language been used anywhere else?

273 Denardo: I've studied other acts from other states, and this language comes from a combination of law in two or three other states. We also suggest that a study be done of other commitment acts.

299 Denardo: Commitment procedures should be redefined, with a view to creating a less adversarial situation and family. Court procedures are either civil or criminal. Commitment comes under civil procedure. In civil procedure, there has to be cross-examination and rules of evidence presented. This puts family members in the position of testifying against their child. I would like to suggest that the legislature study the possibility of another procedure, not civil and not criminal, but a procedure just for mental commitments.

335 Denardo: Mentally ill patients should receive better continuity of care as they move from hospital to community. Commitment procedures should reflect this need. We feel that the courts should be better apprised to the mental health system and the whole problem of severe mental illness.

374 Josephson: What do families experience in Fairbanks, being far from API? What happens as the family member enters the system?

389 Denardo: First of all, there aren't very many involuntary commitments from Fairbanks because we do all we can to convince the patient that they should go in on a voluntary admission. It's emotionally easier because the court procedures are skipped. We then have to pay for transportation to A.P.I. I think this is a legislative oversight. When there is an involuntary commitment, the patients airfare is paid to Anchorage. We have asked for designated beds. We desperately need a psychiatric unit here in Fairbanks. There are approximately 200 chronically mental ill people in this area. We have no half-way houses or programs. The Community Mental Health Center struggles along on a few dollars. They have a small day treatment program, but it's insufficient for the needs of the community.

421 Denardo: Because of the high cost of travel, meals, hotel accommodations, rent-a-cars, etc., I am only able to visit my son once a month. We feel that the most important part of treatment for the patient is proximity to family and friends.

477 Denardo: Twenty years down the line, we will look at the neuroleptic medications as pharmaceutical labotomies. With this medication, the patients are not cured. They are put into a medicated miasthma. They can't move. Patients say that the medication makes them feel unpleasant, sick, and tired. My own son was taken off the medication because he couldn't get out of bed. This is the condition in which he returns home.

510 Josephson: For the schizophrenic, is it the only thing we have?

559 Denardo: There are no other therapies that professionals are using at this point. At this time, more than 20% of the patients don't respond to this medication. Some patients do come out of their psychotic state, but many others fall into the pharmaceutical labotomies. Eventually, all patients develop a nervous disorder, which is totally irreversable. In many cases, the liver of the patient is ruined.

601 Josephson: Do you have any anxiety that the language, 'a person whose thought processes, perception of reality or judgment is substantially impaired', could be abused by commiting people who are eccentric, etc.?

610 Denardo: No. The screening process is cumbersome and is so comprehensive that I can't see an eccentric person being committed.

621 Josephson: Is your organization part of a national group?

629 Denardo: We are part of The National Alliance for the Mentally Ill.

683 Denardo: There is inappropriate jailing of mental ill patients. People having psychotic crisis are treated as criminals. Once they get into the criminal system, it is quite hard for them to get out of it. They get on probation, they get put into A.P.I. and know that when they are released, they have to return to jail for breaking probation. They, in turn, have no incentive to be released for A.P.I.

740 End of Side A. Turned to Side B

001 Cathleen Nixer, Nurse Manager, Psychiatric Inpatient Unit, Fairbanks Memorial Hospital: Many of the problems we face with the mental health system, is based on a premise that the mental health service delivery system in Alaska is decentralized, when in fact, it is not. When the Mental Health Law was passed in 1981, there was only one in-patient treatment facility in the state, A.P.I. Today, there still remains only one designated in-patient treatment facility in the state.

103 Nixer: The easiest way for a mentally ill person to receive treatment would be through the commitment process. They at least receive care why the legal process is taking place. It's sort of a Catch-22 situation, since we encourage people to accept voluntary treatment, yet we provide no funding for this treatment.

210 Moss: What is the average number of patients in the Fairbanks facility?

216 Nixer: Our average daily count runs around 7 to 8 patients. We have an 11 bed in-patient unit, with a proposal for 1985 for 17 beds.

270 Josephson: What is the longest patient stay you've experienced?

274 Nixer: Approximately 30 days.

305 Moss: Will the 17 beds be additional beds?

308 Nixer: Yes.

318 Moss: Are you receiving any federal funding?

326 Nixer: Sometimes patients are eligible for the standard medicaid programs. We would like to see patients who may voluntarily elect to seek their treatment after a commitment process in Fairbanks, which is close to their home.

458 Maureen Phillips, Board of NARA: The designated bed problem has come up in a recent meeting with the NARA Board. The University of Alaska health coverage for mental illness does not allow for patients to be admitted to anything other than a "designated mental facility", not designated medical floor a hospital. I feel it is important that something be done about the designated bed situation here in Fairbanks.

491 Josephson: That appears to conclude the testimony this afternoon. We will make minutes of this meeting available to our colleagues who are absent today. Thank you very much for coming.

538 Meeting adjourned.

Senate Health, Education & Social Services Committee
October 14, 1983
Anchorage

TOPIC: Mental Health Commitment Bill (Work draft of "An Act relating to the treatment of mentally ill persons.")

ATTENDANCE: Senators J. Josephson (Chairman), R. Halford
Excused - P. Fischer; Absent - V. Fischer, H. Moss

The hearing was commenced at 9:15 by Chairman Josephson.

Introductory remarks by Chairman Josephson:

Previously we've heard testimony in Anchorage and recently in Fairbanks on this issue.

This new draft incorporates ideas from Department of Health and Social Services, family groups and others, particularly those who work with troubled children.

New draft incorporates these changes: involvement of correction system is reduced in terms of dealing with the mentally ill; age change from 14 to 18; time computations changed from 21-90-120 days to 30-90-180 days for commitment periods; commitment period for minors changed from 21 to 30 days; records can be made available to law enforcement agency if substantial concern over any danger to community; qualifier added to right to privacy and personal possessions - if professional in charge determines not in the best interest of patient or will pose a threat to safety, visitors and telephone calls can be denied; approval of psychologist would be added requirement for patient wanting to change from involuntary to voluntary; court proceeding would be as informal as possible; family and guardians would be notified if patient is absent without leave; form consent required of parent or guardian of patient's right relating to alternative treatments; and notification of parent or guardian of discharge plan.

Other areas you may wish to consider today; hearings for minors; equal protection of the law relating to minors; time period commitment for minors; designated facilities; involuntary outpatient commitment; use of correctional system for mentally ill; and transportation costs for voluntary committed people where costs are paid for as required by statutes.

40 Jerry L. Schraider, M.D., Alaska Psychiatric Association

Appreciate the hearing being held, general reaction to working draft is supportive.

Have often been frustrated and confused over commitment law, mental health professionals are not all legalistically minded, don't have available legal counsel when working in these situations (often crisis situation) and must proceed best we can in interest of patient. Because of confusion, believes there's been some people that should've been committed who were not.

Will study draft further and hopes it will be submitted as legislation.

170 Ed Essa, Staff, Rep. Mae Tischer

Submitted letter addressed to Senator Josephson by Rep. Tischer stating that extensive research has suggested that nutritional deficiencies have a correlation with mental illness and that when deficiencies are identified and treated, improvements in the mental health of clients are made. Propose that the draft bill require extensive and mandatory nutritional analysis of each client be made upon admittance. This way the client is treated both mentally and physically.

190 Deborah B. Geeseman, M.D., private psychiatrist (formerly did work with children at API)

Supports most of what's in the bill. Suggested minor changes - 1) Pg 5, ln 19; instead of "21 days" should be 30 days. 2) Pg 4, ln 7; "the person" should be self.

Need a better working relationship with police force and understanding of what goes on with commitment laws.

Admission of minors - child under 14 cannot remain in hospital for evualation or treatment for no more than 21 days (under current law) without having a commitment hearing. An adult who wants to be voluntary committed may stay in hospital as long as they want or treatment facility deems necessary. Then if they want to leave hospital, it becomes a legal issue.

For children, often a good evualation cannot be made until after 3-4 weeks. Limited resources are available for treatment of children in Alaska. Only have one facility for extensive psychiatric treatment. Have some facilities for conduct and behavorial management of children (but full and have a waiting list).

260 Supports change in age from 14-18.

Pg 2, lns 23-29; not sure you need any of these three criteria, one just needs to make sure the person is mentally ill or gravely disabled. Or if it remains in #3 (pg 3, ln 1) should be "deteriorate further if" not "treated" (add not to sentance).

290 Sen. Josephson - While at API you noted that severe psychosis does not appear that often below the age of 14, correct?

Yes.

Sen. Josephson - What additional facilities do you feel Alaska needs for young children?

Difficult in state with our small population and distance from other states (where we could jointly share use of facilities). Presently we don't have a sizeable population of psychiatric young children. When we do, they will need a place, the only facility we have now is API. Would like to see other facilities that would address more extensively psychiatric needs of children.

PART II

As draft now stands, court has to get involved in 30 days, recommends 30 days be taken out, child could be a voluntary patient.

Many times children need evualation when they encounter some trauma (ex: divorce of parents). If that evualation goes beyond the time limit set, they could end up with commitment as legal statement on their record. If it remains on their record, can hamper their future.

Pg 3, Section 47.30.695; support it but has trouble with the wording. #2, lns 18-21, part (a)(b) (lns 22-29) - believes it to imply if child is dangerous, can still discharge them against medical advice. Dosen't feel its consistant. #2, ln 18; should read "treating physician," release of (should be added) "the minor" would be seriously detrimental to child's health that (should be added) "the treating physician may". (b) lns 26-29 the minor is likely to cause serious harm to self or others, or there's reason to believe the release could place the minor in immediate danger (should be added) "refuse to discharge".

60 Joseph Reum, Handicapped Services Coordinator, Municipality of Anchorage

Pg 4, ln 26 - "commitment hearing, to be held if needed", Who determines need?

Sen. Josephson - Depends whether patient is voluntary or involuntary.

80 Dr. Conrad, Superintendent, API

Submitted memorandum on admission statistics for FY'83.

Out of 1013 admissions, 500 were voluntary, 36% came involuntary under Title 47. Out of 100 involuntary patients, 73% have dropped out of involuntary channel before 72 hour limit.

Agree with Dr. Geeseman's comment on page 3 that paragraph 2a is inappropriate, not allowed that option with an adult.

Under present statute, cannot release information on history of violence to law enforcement agencies. In our judgement, release of this information (when there's concern about safety) might be helpful.

140 Patient would be better served by expeditious entry into treatment using physician's certificate. Most times used is after a suicide attempt.

150 Sen. Halford - In analysis of American Psychiatric Association guidelines, we don't allow certain types of evidence, we protect communication between patient and docto.. What kind of a problem does this bring up in involuntary commitment?

Has caused a problem by not allowing hearsay evidence at commitment hearing. Often it's highly relevant and meaningful evidence but due to rules of evidence not allowed because it's hearsay.

180 Often relatives and other people are frightened to testify for fear the person being committed will hold a grudge or seek revenge later. Also consider some people (to testify) live far away (would be expensive for transportation cost).

200 Sen. Josephson - What happens during, example a domestic conflict and people exaggerate testimony or state it falsely?

When it does occur, then don't rely on element of danger but fall back on object of evidence of mental illness. Do not proceed to commitment hearing if lacking evidence of mental illness.

210 In vast majority of cases, most do not go forward to hearing, and where there is mental illness, majority of patients accepts need for treatment. When cases do go to court, public defenders and probate masters become very involved.

240 Sen. Josephson - What is treated as confidential?

Commitment hearing itself is confidential.

260 David D. Samson, M.D., Psychiatric Supervisor, Anchorage Community Mental Health Center.

Mentally ill are more prone to be brought in for disturbing peace, public nuisance kinds of things, where their liberties are not essentially protected.

Concept of outpatient commitment should be addressed. What do you do when outpatients don't show up for their scheduled appointments?

Generally supportive of draft and comments that have also been made.

PART III

Voluntary medication on outpatient is a problem. Sometimes people are crafty enough to manipulate the system and be released (these are the dangerous ones).

30 Natelie Gottstein, Executive Director, Alaska Mental Health Association

Commends Committee for making changes, particularly inclusion of physician to be able to institute commitment procedures and redifinition of gravely disabled.

Pg 2, ln 10; concerned about definition of "timely", what's considered timely?

Dr. Conrad - Would interpret to be 8-12 hours.

70 N. Gottstein - Pg 16, ln 5; definition of mental health professional - important people working in the bush (social workers, etc) be included in this definition. A further clarification of social worker might be in order due to so many areas of social work.

90 Sen. Josephson - There's another bill on licensing of social worker and we may run into some difficulty with that.

100 Sen. Josephson - Is there an official position by Mental Health Association on this?

Not on this, but we will make recommendations before January.

110 Sen. Halford - What does Association think in terms of communication between doctor and patient, should be available in commitment hearings or not?

Don't have an official position. My opinion - if hearings are closed, then in very specific and well defined instances, that privilege should be opened. In individuals right to receive treatment, the doctor's opinion certainly is an important matter.

150 Sen. Josephson - Question of changing or relaxing rule of confidentiality, would it have the effect of causing people not to tell doctors what they would otherwise say? Or would it have a useful affect in bringing these matters out into the commitment hearing? The real danger would be if patients refused to give information to their doctors for fear it would be used against them (in court). That people shouldn't be afraid to see a psychiatrist when they have problems.

These relaxations in confidentiality need to be carefully worded, possibly be limited to psychiatric people for involuntary commitment.

200 Dr. Jay Verkozen, clinical psychologist (private practice)

Pg 13, lns 27-28; issue of psychosurgery, lobotomy, or other comparable forms of treatment. Not specific with other comparable forms. Consider these types of barbarisms and should be done away with. Psychosurgery has been abused.

PART IV

80 Sen. Josephson - (to Dr. Conrad) Has there been any record keeping in Alaska of psychosurgery or lobotomy given?

Dr. Conrad - No, the only way would be to ask all the neurosurgeons. Electroshock - no one to my knowldege at API has been administered with it.

J. Verkozen - But it does go on regularly at Providence.

Pg 14, lns 19-23; suspension of people's rights; if you're going to do something to someone, need to be clear about it with the person and if it's not in their interest to know about it, then it shouldn't be done.

150 You can't treat people psychologically unless you get them involved in it. If somebody might be better off with something, it doesn't mean you can force it on them.

170 Pg 8, ln 20 (#4) "efficient" - efficient for what? For commitment? For civil liberty?

250 Pg 8, ln 15 (#2); Right to view and copy all petitions - they should be given copies and helped to understand it.

Pg 12, lns 25-27; good point that family or guardian be notified on patient's absence.

Pg 11, ln 14; Disagree with 180 days for commitment, more advantageous for longer length of time.

Pg 5, ln 22; "gravely disabled" - too broad.

Pg 6, lns 4-5; replace "maximum extent possible" with absent of violence.

PART V

Dr. Conrad - Two cases of patients at API treated involuntary: 1. if violent to themself or to others; 2. severly catonic people (who don't eat or drink)

J. Verkozen - Pg 6; objects to (e)(2) and (3), lns 14-18; aren't necessary.

Pg 13, ln 9; objects to 72 hours, procedure should be speeded up rather than be long.

Pg 4; notion of deputizing all physicians in state so they can commit someone. This authority should stay with the police. All physicians shouldn't have this type of power. You're just making a cosmetic change, you're still locking someone up.

Dr. Glade Birch, Acting Director, Anchorage Community Mental Health Center

It's a good document.

Balance of right of people to receive treatment and their civil liberties. That's the balance we're maintaining.

Regarding who has the authority to commit someone, remember we're talking about all Alaska (including the bush). Physician does have degree of training in recognizing mental illness, where police officer dosen't. To protect civil liberties of people, it's better for at least someone qualified in mental health to make determination of commitment.

As a neuropsychologist, be very careful before you write into statute prohibitation against treatments.

Individuals released as outpatients from API, isn't a comfortable solution to it. You may consider transitional living (intermediate type of commitment). (A transitional facility where they could receive supervision.)

Has reservations about having licensed social workers being able to commit someone (pg 4). You may get a social worker who has no actural diagnostic abilities.

Topic of confidentiality. Two solutions: 1) treatment (must maintain confidentiality in this); 2) examination with notice for commitment (person knows it is commitment, does not have to disclose information, takes away effectiveness of examination).

Sen. Josephson - What a person discloses when he wants treatment is going to be in stream of what is revealed in commitment process, no way to unlearn that material.

That's why I tried to make the distinction. The disclosure of patient's statement when presenting himself for treatment needs to be protected. If someone is going to testify at commitment proceeding, may have to be a separate examination by another person.

200 Steve Harrison, Regional Administrator for South Central Region, Division of Mental Health

Agrees with Dr. Birch in including mental health professional in emergency detention. If we use a mental health professional, we should use those with national accreditation for social workers.

Law is workable, changes are good.

240 Frances Purdy, Mental Health Program Coordinator, Behavorial Health Division, Municipality of Anchorage

Thanks for nonsexist law.

Pg 3, Part a; lns 22-25 should be deleted, they should not be able to release someone who is dangerous.

Pg 12, lns 25-27; good idea to notify parents or guardians of patient's absence. May also want to add anyone that has been threatened by patient, also may add immediate notification instead of 3 hours.

Pg 14, lns 24-27; good idea.

Consider what other states have done with mental health professional being the office of involuntary commitment. Probably more important for Anchorage than for the bush. Impractical to have officer in bush for involuntary commitment. In Anchorage, specifically we're beginning to need an area of expertise in just emergency cases. Check into Washington state statutes. They have designated person who is trained to do reading of rights, is impartial, not hired by institution or other agency.

PART VI

Jim Parsons, Manager, Behavorial Health Division, Municipality of Anchorage (former member of licensing board of psychologists)

Concurs with Purdy's opinion of release of minors when we don't do that with adults.

Most of my concerns have been covered.

Pg 16; licensing law for psychiatrist is generic rather than speciality. There are some psychologist trained in areas other than clinical who may not have expertise in mental illness at all. May be a good idea to say licensed by state with adequate clinical training or something similar rather than clinical psychologist since we don't license in that sense.

Mention of social workers appears to be too broad. Perhaps should use national accreditation with it. Too broad to say experienced in field of mental illness rather than having some type of specific training in that area.

30 Cecilia Kleinkauf, Alaska Chapter, National Association of Social Workers

Pg 16; issue of professional social work, as included in definition of "mental health professional" - just received the draft copy and will have to be reviewed by board before Assoc. takes a position on it and makes recommendations.

Admission of minors at API - the bill, as it is, would constitute age discrimination on state in regards to minors. Minor has a constitutional right to liberty equal to adults. Unconstitutional to deprive minor of right to liberty for a greater amount of time than an adult (in institutionalizing). We have repeated this point at every hearing.

One item not covered in bill is protection of court for child's right regardless of his/her parent's right. Does not provide the child the right to a court hearing which court then hears evidence as to institutionalize the child. The bill leaves the right to child's parents and to mental health professional. Sometimes parents don't act in best interest of their children.

There are a number of children institutionalized at API whom mental health professionals say these children are not probably mentally ill but "there's no place else to put them".

The previous director of State Division of Mental Health testified at Senator Parr's Committee stating it is frequently difficult, if not impossible, to make definitive diagnosis with respect to mental illness in children.

Sen. Josephson - Which is an explanation as to why we have a longer period to evualate. I don't think the Constitution requires that you cannot make classification if there is a rational basis for it.

Why is it ok to institutionalize a child without court's protection in mental illness, and in statutes of state, it's not ok to institutionalize without court's protection when it comes to delinquincy?

PART VII

Grandfathering clause on social worker - the language and amendments proposed by National Association Social Work Chapter. Only spoke to baccalaureate level of social work. Individuals will not be grandfathered at master's level of social work with training in any other field. Anyone who is grandfathered, who wishes to be called a social worker and be licensed under social work law, could at maximum, only be licenses as a baccalaureate level. Only level grandfather amendments refer to.

Meeting was adjourned by Chairman Josephson at 12:50 pm.

BARANOF MENTAL HEALTH CLINIC

POST OFFICE BOX 1180
SITKA, ALASKA 99835
(907) 747-8994

STANLEY T. LAUGHRIDGE, PH.D.
CLINICAL PSYCHOLOGIST

12-16-83

Honorable Joe Josephson
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Josephson:

I have read the proposed draft bill that you are submitting to the legislature in the forth coming session. It contains precisely those very important amendments and stipulations that I have been trying to encourage for a number of years regarding mental health commitments.

If you will check the admission record of Sitka over the past six and a half years, that our clinic has been here; you will see that we have an extremely low admission rate. This is because we have treated people in our local hospitals rather than sending them to API. Often in doing so we have had great difficulty getting under the 72 hour limit before having to go into the court room. Usually within 72 hours, I am able to obtain the person's voluntary commitment but on those few cases where I am not able to do so we end up sending some to API that we could very easily have treated in our local hopitals.

Your bill will very nicely resolve that problem and should, if we in the mental health field do our part, reduce the admission rate to API dramatically.

Congratulations on your good work.

Cordial regards,

Stanley T. Laughridge, Ph. D.
Clinical Psychologist

cc: Joe Adelmeyer, ACSW Supervisor
Susan Will, R.N., M.S.

Give to Nancy

CORDOVA COMMUNITY HOSPITAL
MENTAL HEALTH AND ALCOHOL CLINIC

P.O. Box 160 **Phone: (907) 424-7131**
CORDOVA, ALASKA 99574

Senator Joe Josephson
Alaska State Legislature
Senate
Pouch V.
State Capitol
Juneau, AK 99811

Oct. 27, 1983

RE: THE MENTAL HEALTH COMMITMENT LAW

Dear Senator Josephson:

We urge you to incorporate the changes proposed by the Department of Health and Social Services and the Alaska Psychiatric Association and in particular the amendment to add licensed psychologists in changing procedures for emergency detention for evaluation in Sec.47.30.705.

In our experience the present state of things in which a peace officer must be convinced that there is probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to himself or others and should be taken into custody for evaluation is highly precarious. Just recently we had a case of a possible suicide and homocide situation in which help was delayed past a critical point because the peace officier did not believe the physician and licensed psychologist who were urging intervention. When it's a matter of arranging a flight before dark every minute is crucial. It is perhaps unfair to expect a peace officer to understand the dynamics of depression or paranoia without any particular training when years of post-graduate training and supervised experience are needed for a psychologist to do so. It is time Alaska made better use of the unique qualifications that psychologists do provide for intervention in and prevention of tricky situations.

Sincerely,

Judy Ringenson-Knutsson

Judy Ringenson-Knutsson, Ph.D.
Clinical Psychologist



The Cordova Community Hospital

Central Peninsula Mental Health Center
P.O. Box 4683 • Kenai, Alaska 99611 • (907) 283-7501

February 1, 1984

Senator Joe Josephson
Alaska Senate
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Josephson,

I am writing relative to Senate Bill No.346 related to certain revisions of Title 47 of the Civil Commitment Statutes.

I am strongly in favor of the revisions relative to admission of minors, changing the age from 14 to 18 years of age.

The procedure for emergency detention for evaluation is improved by allowing the mental health professional in addition to a police office to have an individual taken into custody. The procedure relative to placement or utilization of the jail for protective custody and holding prior to transportation is appropriate and is an accurate description of the need for rural areas such as Kenai.

I am also in favor of the use of a 30 day as opposed to a 21 day commitment procedure.

I sincerely appreciate the opportunity to comment on the revisions in this Statute.

Respectfully Submitted,

Paul E. Turner, Ph.D.
Clinical Psychologist
Program Director

PET/jvh

Ann DeNardo
Families of Chronically Mentally Ill
Victims
SR Box 30754
Fairbanks, Alaska 99701

Senator Joe Josephson, Chariman
Health, Education and Social Services Committee
Pouch V
Juneau, Alaska 99811

RE: Chronic Mental Ilness

Dear Senator Josephoson:

The enclosed article tells you who I am and what I am about.

During last week's teleconference with our Fairbanks legislators, I addressed short comings in Chapter 84, Laws of Alaska, relating to mentally ill persons.

1. Families should have a greater role in and be consulted with regard to commitment procedures.

2. A broader criteria for commitment should be studied, based on ability to function rather than just being a danger to self or others.

3. Commitment and guardianship procedures should be redefined with a view to creating a less adversarial situation between patient and family.

4. Mentally ill patients should receive better continuity of care as they move from hospital to community and commitment procedures should reflect this need.

In this week's teleconference we will address the glaring lack of hospital space for our chronically mentally ill relatives. While other states are grappling with problems of closed wards and community acceptance, Alaska struggles to get patients out of the corridors and into the wards! The only State facility, Alaska Psychiatric Institute, is perpetually overcrowded.

The Fairbanks Memorial Hospital is willing and able to become a designated treatment facility for psychiatric patients. I don't understand the mechanisms involved in such a designation and would appreciate your telling me. I do understand the urgent need for such a facility in the Interior.

I urge you to work toward this goal as a positive step toward a better mental health delivery system for the entire State of Alaska.

Sincerely,

Ann F. DeNardo
Families of Chronically Mentally Ill Victims

Enclosure

AD:aw

Families of CMI Victims
SR Box 30737
Fairbanks, Alaska 99701

RECOMMENDATIONS FOR AMENDMENTS TO ALASKA'S COMMITMENT ACT

The Commitment Act, Chapter No. 84, Laws of Alaska, has caused a great deal of pain to families already engulfed in an ultimate tragedy--the loss of a loved-one; loss through the ravages of a disease as old as mankind, and for which we know no cause or cure.

We are familiar with the Commitment Act on a experiential level and on paper and make the following recommendations for amendments:

1. Families should have a greater role in and be consulted with regard to commitment procedures.

2. A broader criteria for commitment should be studied, based ability to function when thought processes, perception of reality or judgement is substantially impaired.

3. Commitment procedures should be redefined with a view to creating a less adversarial situation between patient and family.

4. Mentally ill patients should receive better continuity of care as they move from hospital to community and commitment procedures should reflect this need.

5. The courts, the judiciary, should be better apprised of the mental health system.

The above five points are overall conclusions. Some specific changes by page, section, and line were given in testimony before Senators Josephson and Fisher of the Hess Committee in Anchorage on March 19, 1983.

The above five points are still pertinent and present a good summary of the attached material presented in testimony before the HESS committee on September 23, 1983, in Fairbanks, Alaska.

TESTIMONY BEFORE THE SENATE HESS COMMITTEE
Re: Mental Health Commitment Law
September 23, 1983 - Fairbanks, Alaska

The families of severely mentally ill victims have worked with the Mental Health Commitment Law for two years. We wish to convey our position regarding the bill.

Section 47.30.660. This section sets out the powers and duties of the Department of Health and Social Services. Paragraph (4) of this section calls for the Department to designate, operate and maintain treatment facilities...to provide...care and treatment for the mentally ill. A treatment facility is defined in 47.30.915(15). In spite of the directive to designate treatment facilities, the API remains Alaska's only such facility.

Section 47.30.670. This section sets out standards for voluntary admission. A patient who accepts voluntary admission can leave the hospital anytime "against medical advice," or AMA. This is why there are so many voluntary admissions as opposed to involuntary. A psychiatrist might do a screening at this point to determine a patient's ability to function and make these decisions.

Section 47.30.705. This section addresses emergency detention for evaluation. It states that a police officer"...may cause the person to be taken into custody and delivered to the nearest evaluation facility. A correctional facility may be used as an emergency evaluation facility if an evaluation facility is not available... (and) the peace officer shall...be interviewed by a mental health professional at the facility." There are no mental health professionals at the correctional facilities.

Section 47.30.710. Examination. This section states that a person so placed in a correctional facility shall be examined and evaluated within 24 hours. This puts a person in jail for 24 hours because of an illness he cannot control. There is no other illness where, due to the illness itself, a person is incarcerated!

Section 47.30.715. Acceptance of Order. In this section the court is ordered to set a date for hearing and notify the respondent's attorney. There is no directive for the attorney to make an effort to see the respondent. Often the first contact the respondent has with his attorney is in the courtroom itself, immediately preceeding the hearing.

Section 47.30.735. This section sets out the civil procedure for a 21 day commitment. These procedures should be redefined in order to create a less adversarial situation between patient and family. Families become the caretakers following hospitalization in 50-55% of the cases. It is important to understand that hospitals do not cure patients. They are only stabilized with neuroleptic medications and returned to the family with their illness in tact, and the added belief that the family has turned against them.

Judicial procedures are either civil or criminal. Commitment procedures are civil. Families feel it might be possible to create a new area within which commitments could be handled. We request the Judiciary Committee to study this concept with a view toward lessening the adversarial approach.

Section 47.30.790. This section deals with absence without leave. If a patient is absent from a treatment facility without authorization a peace officer is instructed to take the patient into custody and return him to the treatment facility. This section should include a provision that the family or guardian be notified of such absence with a specified time, say 3 hours.

Section 47.30.795. This section addresses involuntary outpatient care. Paragraph (c). It states that if it is determined that respondent needs inpatient care due to a critical condition, oral and written notice that he must return to a treatment facility within 24 hours must be given him. If the patient is experiencing thought disorder this gives him 24 hours to get out of town. This section further states a police officer shall pick up the patient if he has not complied with the notice. The respondent is not a criminal, to be served and treated as a criminal. We object to the constant posture of addressing mental disease as criminal.

Section 47.30.825. This section deals with patient rights. Paragraph (6) of this section prevents psychosurgery, lobotomy, or other form of treatment without specific, informed consent of the patient and a court order. We would like to see a provision included that would also require specific informed consent given by "an adult designated in accordance with 47.30.725". (This is an adult designated by the respondent.)

Again, paragraph (8) of this section should insure a copy of the discharge plan is given to "an adult designated in accordance with 47.30.725". Families rarely know of any discharge plan and it is the nature of the disease that patients will not follow through without help.

Section 47.30.845. This section deals with confidential records. Paragraph (2) of this section makes it possible for an individual to whom the patient has given written consent to receive records and information on the patient. This release of records should be dated within a specified time period,-say-one year. This release of records to a designated individual should not be open-ended, but lapse within a restricted time frame.

Section 47.30.870. This section deals with transportation of patient and escort to the designated facility following involuntary commitment. (In this State, of course, this means a trip to Anchorage.) There is provision authorizing the Department to pay for transportation of patient and escort the API for INVOLUNTARY commitments only. Provision should be made to authorize payment of transportation costs for VOLUNTARY commitments as well. At present the family, or the patient, must bear this cost. This creates a continuing financial burden for families trying to remain "case manager" over the years. The continuing financial burdens encourage families to give up attempts to maintain relationships beneficial to the patient.

Section 47.30.875. This section addresses nonresident patients and the return of a mentally ill resident of this state who has been placed in a facility outside of this state. Paragraph (c) of this section is the only section of this Act which mentions the importance of maintaining family relationships and encouraging visits beneficial to the patient. It is ironic that this important approach to treatment is mentioned only under such subtitle as "nonresident patients". We would like to see the encouragement of more family involvement.

Section 47.30.915. Definitions. Paragraph (7) defines "gravely disabled" and paragraph (10) defines "likely to cause serious harm". It is the contention of everyone involved with this Act that these definitions must be broadened. This is such a complicated and emotional issue that agreement is difficult. As a consequence many people who need mental health treatment desparately are not being served. Instead of waiting for a person to commit a crime, or attempt to commit a crime, we recommend the following criteria to enlarge the definition of a mentally ill person for purposes of providing treatment:

(7) "gravely disabled" means a condition in which a person, as a result of mental illness,...
(b) or is not receiving such care and mental medical treatment as is necessary for health and safety, or a person whose thought processes, perception of reality or judgement is substantially impaired.

We would like to see a study of other states' commitment laws in reference to their criteria for commitment.

ALASKA PSYCHIATRIC ASSOCIATION

ALASKA DISTRICT BRANCH
of
AMERICAN PSYCHIATRIC ASSOCIATION

February 4, 1983

Senator Joseph Josephson
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson:

The Alaska District Branch of the American Psychiatric Association is a professional organization which represents the majority of the physicians in Alaska who are specialist in the field of psychiatry. The membership is composed of psychiatrists who work in both the private and public sector. The members of our organization have an ongoing interest in any subject which affects the treatment of mentally ill individuals. As a result of this interest we were actively involved in the development and passage of the Alaska Statute for the Civil Commitment of the Mentally Ill (AS 47.30). Our national organization has also been very active in monitoring the subject of civil commitment and has recently developed guidelines on this subject which we recently provided you.

The Alaska District Branch supports fully the objectives of the current Alaska Statute on Civil Commitment of the Mentally Ill which became law in October of 1981. After the first year of experience with this new law and after discussion with judicial and civic leaders, we wish to recommend certain amendments to the law which we believe will assure that its worthwhile goals are more effectively achieved. These amendments are provided in the enclosed material.

The experience during the past year has indicated to us that the following refinements are needed:

1. The Definition of "Gravely Disabled" needs to be expanded to recognize that some patients, if left untreated, will needlessly lose their capacity to be self-reliant.

2. There are many instances when physicians have clearly psychotic or suicidal persons under care in an emergency setting, and need to arrange for their hospitalization at the Alaska Psychiatric Institute. The current requirement that a peace officer be called to form an independent judgement and duplicate work already accomplished is unnecessarily cumbersome. Allowing the physician the authority to arrange for emergency detention would simplify this procedure. When family and friends are willing and able to transport the patient, the peace officer would be free for more serious business.

3. The patient and society could be better served if the rules governing evidentiary and procedural matters at commitment hearings under this law were promulgated so as to facilitate a more informal and efficient presentation of all the relevant facts.

4. The definition of "likely to cause harm to self and others" has set such a rigid standard that some of the most dangerous clients have not been committed. The issue of dangerousness is a complex one and the judge must be given the opportunity to weigh both the magnitude of the risk and the magnitude of the harm. Also, the law needs to recognize that harm to others may include property.

5. An unanticipated consequence of the current law, has created an undue hardship in the care and treatment of children under the age of 14. The right to be voluntarily hospitalized and treated, which is available to everyone over the age of 14, is curtailed for children and limited to 21 days. After 21 days, even if the parents, the child, and the treating physician agree that continued treatment is needed, the law forces them to obtain an involuntary commitment.

6. Since very few persons actually require involuntary commitment, it would facilitate their care and treatment if the law recognized that patients in this group lack the necessary understanding to accept treatment voluntarily, and authorize the use of medications and other treatments under the direction of a licensed physician subject to the medical rights already guaranteed the patients in Article 9 of Section 47.30.

7. In some instances the law requires the staff of the hospital to respond "immediately" when, in practice, a "timely" response is all that is practical or needed.

As we gain experience with the new commitment statute, I am sure we will have other suggested changes. However, for the present time, we feel these changes are urgently needed to iron out some of the procedural problems and to improve the care and treatment of the mentally ill. We would be happy to provide any additional documentation you may need. We hope you will consider putting the attached amendments in bill form and submitting them to the Legislature.

Sincerely,

Carla Hellekson, M.D.
President
Alaska Psychiatric Association

CH:mm

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

October 12, 1983

The Honorable Joe Josephson
Member of the Alaska State Senate
Anchorage, Alaska 99501

Dear Senator Josephson:

Thank you for your kind offer to submit a suggestion to your committee during deliberations on the "Mental Health Commitment Law," scheduled for Thursday, October 13.

I am sorry that House HESS hearings in Fairbanks prevent my discussing this matter with your committee personally; however, I have asked Ed Essa to present this letter to you for your consideration.

In recent years, medical science has come a long way in better understanding mental illness. Research has uncovered some very interesting facts. Perhaps the most intriguing discoveries relate to the effects vitamin and other nutritional deficiencies have on our mental well-being. Extensive research has suggested that nutritional deficiencies have a correlation with mental illness, and that when deficiencies are identified and treated with vitamin therapy, some startling improvements in the mental health of clients are made.

Given this information and with the knowledge that our mental health is tied intricately to our physical health, I am proposing that the draft bill you are considering be adapted to require an extensive and mandatory nutritional analysis of each client upon admittance; and that these findings be used as the basis for appropriate intensive theraputic treatment, along with other applied therapy. In this way, the whole client is treated -- both mentally and physically.

Your favorable consideration of this suggestion may well serve to improve the methods of treating many Alaskans who want to be healthy, while helping to induce a marked decrease in the recurrence of mental illness.

Senator Josephson, thank you for extending me the courtesy to be heard today. I join with many others in seeking a continued dialogue on this encouraging new approach to a long-standing and seemingly worsening

problem that faces our state and our nation.

Respectfully,

Mae

Mae Tischer
State Representative

MMT:wtl

End to Nancy ✓

Central Peninsula Mental Health Center

P.O. Box 4683 • Kenai, Alaska 99611 • (907) 282-7501

October 25, 1983

Senator Joe P. Josephson
1526 "F" Street
Anchorage, Alaska 99501

Dear Senator Jcsephson,

I am writing to you relative to recent Senate HESS Committee Hearings on the Title 47 Commitment Statute.

I am writing to request that licensed psychologists be given the same prerogatives as physicians within the Statute. For example in 47.30.705, the recommended change is that emergency detention for evaluation can be made by a police office or a physician. Generally, however, licensed psychologists are much more able in terms of training, expertise, education and practice to be able to make determinations of need for emergency detention. It would seem wise to include this independent profession in this activity. There are also other sections that are being amended in Title 47 adding the medical profession as the identified entity, for example 47.30.815(b)(4). In those instances I think that clinical psychologists should also be included.

Thank you very much for this opportunity to correspond with you relative to this issue.

Respectfully,

Paul E. Turner, Ph.D.

Paul E. Turner, Ph.D.
Clinical Psychologist
Program Director

PET/jvh

Send to Juneau

Oliver Osborn, M.D.
Cordova Medical Clinic
Box 310
Cordova, Alaska 99574

Nov. 5, 1983

Senator Joe Josephson
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson,

I am writing in regard to the proposed changes to the Mental Health Commitment Law. My concern is that the proposed law will not allow a licensed psychologist in Alaska to initiate emergency detention for evaluation (under sec. 47.30.705).

Here in Cordova, our health team includes a licensed psychologist working in a mental health clinic which is a department of the hospital. The psychologist is often the person most immediately involved with patients who might be a danger to themselves or to others. It is imperative that this professional be allowed to initiate emergency detention for evaluation in cases with serious potential. It has been our experience that the psychologist often works closely with the local police department to defuse crisis situations in Cordova.

Thank you for your attention.

Sincerely,

Oliver S. Osborn MD

Oliver S. Osborn, M.D.
Member, Cordova City Council

COMMUNITY MENTAL HEALTH CENTER

Box 2274
Homer, Alaska 99603-2274
(907) 235-7701



October 25, 1983

Senator Joe Josephson
1526 "F" Street
Anchorage AK 99501

Dear Senator Josephson:

It has come to my attention that the Senate Health Education and Social Services Committee is reviewing Alaska's Mental Health Commitment Law of 1981 (SP100). I am essentially in support of the changes which have been proposed.

Under Section 47.30.705 regarding emergency detention for evaluation, I would recommend the following addition to the revised statute:

> "A peace officer or a physician licensed in this state or a psychologist licensed in this state who has probable cause to believe that a person is suffering from a mental illness and is likely to cause serious harm to the person or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, may cause the person to be taken into custody and delivered to the nearest evaluation facility. A person taken in to custody for emergency evaluation may not be placed in a jail or other correctional facility except for protective custody purposes and only while needing transportation to a treament facility. The peace officer or physician or psychologist shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the facility."

In addition, I would recommend that AS 47.30.815(b) (4) be further ammended to read:

> "A peace officer or physician or psychologist responsible for detaining or transporting a person under AS 47.30.700-47.30.915."

Alaska has a pool of well qualified psychologists whose competency and training have been carefully scrutinized by the Board of Psychologists and Psychological Associate Examiners as well as the Division of Occupational Licensing. Insofar as many rural mental health practitioners in the state are licensed psychologists, it would seem appropriate and expedient to include this professional group in the emergency detention clause. With regard to

familiarity with psychiatric disorders, conducting mental status evaluations, and determining the appropriateness of civil commitment, licensed psychologists are well prepared to handle the responsibilities involved in civil commitment in a professional manner.

Thank you for considering this input to the legislative process. I appreciate your consideration.

Paul L. Craig, Ph.D.
Psychologist, Director

PLC: cjs

ALASKA PSYCHIATRIC ASSOCIATION

ALASKA DISTRICT BRANCH
of
AMERICAN PSYCHIATRIC ASSOCIATION

February 15, 1984

The Honorable Joseph Josephson
Alaska State Senator
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson:

At a recent meeting of the Executive Committee of the Alaska District Branch of the American Psychiatric Association this group voted to support your bills regarding changes in the involuntary hospitalization statutes and also the bill which you have submitted requiring parity coverage for psychiatric services by insurance companies doing business in the State of Alaska. It was the wish of the Executive Committee that I write you and notify you that we strongly support you on both these issues.

Thank you very much for introducing this much needed legislation.

Sincerely yours,

Irvin A. Rothrock, M.D.
President, Alaska District Branch
American Psychiatric Association

IAR:bw

ALASKA MENTAL HEALTH ASSOCIATION

2611 Fairbanks Street, Suite A
Telephone 276-1705

Anchorage, Alaska 99503

A Division of the National Mental Health Association

March 6, 1984

RECEIVED

MAR 19 1984

Josephson,

Senator Joe Josephson
Pouch "V"
Juneau, Alaska 99811

Dear Senator Josephson:

The Alaska Mental Health Association commends the Senate HESS committee for undertaking the review of the Mental Health Commitment Statute. As you know, implementation of the current Statute which was enacted in 1981 has revealed some major problems which the current bill addresses. We wholeheartedly support this effort.

Our concern is that the mentally ill of Alaska receive the best available treatment in a timely manner, in their home community or as close as possible. We believe the procedures established by this Statute must protect individual civil/human rights AND provide for the protection of society. These goals must be accomplished in a manner that recognizes that the primary purpose of this statute is to enable individuals who are mentally ill to receive appropriate treatment. On the whole we believe the Bill does this quite well.

When we consider that mental disease is today's most common disabling condition, one of its least understood, one of its most difficult to treat and yet, the major disease group we spend the least amount of research dollars to study, we can see why the central purpose of the Statute must be to provide care and treatment.

We believe that the current Statute needed to be reviewed and improved. Before commenting specifically on the proposed changes in the Statute, we would offer the following proposal:

> Since one of the original purposes of the Statute was to provide for evaluation and treatment as close to the individual's home as possible, we suggest the Legislature conduct a study of the commitments during the past year to determine whether or not this purpose is being met. Another important purpose the Statute attempted to include was to provide for a timely judicial review and supervision of the commitment process. The study should also focus on the actual length of time required for judicial involvement.

With respect to some of the specific proposed changes, in AS 47.30.655-915 we have the following comments and suggestions:

#1 AS 47.30.690 Admissions of minors, line 12:

The limitation on the involuntary admission of a minor should be increased to 60 days. It is generally recognized that therapy with minors, when hospitalization is necessary, requires a longer average length of stay than do adults. Even this requirement will place a needless burden on the facility and the parents if they live in remote portions of Alaska.

#2 Sec. 47.30.705 Emergency detention for evaluations - Line 3:

The extension of the emergency detention's powers to all "mental health professionals" has both advantages and disadvantages. It greatly expands the numbers of people who will have the power in the bush areas. This will create the kind of flexibility that is needed to provide timely and local action. The disadvantage is that many, if not most, non-medical mental health professionals have not received training or experience in the legal and clinical issues involved in the commitment process. As a consequence, we recommend that these powers be somewhat more limited. The law should limit this power to (i) peace officers and (ii) physicians and mental health professionals who have had sufficient training to properly perform this function. In conjunction with this, we would like to see the establishment of a system to train and designate "mental health professionals" who will have the expertise to exercise this function. Although this will require an additional state expenditure, it should not be prohibitive.

#3 AS 47.30.730(b) - 30 day commitment, line 26:

The extension of the commitment to provide 30 days of treatment is recommended because it is a reasonable length of time considering the seriousness of these disorders.

#4 AS 47.30.735(b)(4):

The attorney member of our Board of Directors informs us this section does not make sense because the rules of civil procedure and evidence would not be "informal but efficient presentation of evidence" in that they are formal rules. It appears the intent is for the respondent to be given a choice between (i) the formal rules of evidence and the rules of Civil Procedure and (ii) an informal set of rules. The draft we have reviewed does not make this at all clear.

#5 AS 47.30.845(7) - Confidential Records, Line 7:

We feel that the "presumed mentally ill person" standard is (i) not defined and (ii) too broad. "Presumed" by whom? What does "presumed mentally ill" mean anyway? If the intent is to release records of former mental patients, that is what should be stated. If the intent is something else, that should be stated. In any event, the standard should be in language that is susceptible to clear interpretation and implementation.

#6 AS 47.30915 (7) - Definition of "gravely disabled":

We strongly support the passage of this amended language as many psychotic patients' symptoms prevent them from seeking the treatment which may restore them to a nearly normal state of mind.

#7 AS.47.30.915 (10) - Definition of likely to cause serious harm:

We strongly recommend the amendments to this section since, in our opinion, the former language created a "standard" which was too restrictive and led to persons being released who were actually dangerous.

Sincerely

Dr. Jerry Schrader
President

ALASKA MENTAL HEALTH ASSOCIATION

2611 Fairbanks Street, Suite A Anchorage, Alaska 99503
Telephone 276-1705

A Division of the National Mental Health Association

February 29, 1984

Senator Joe Josephson
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Josephson:

On February 15, 1984, I was involved in an emergency commitment situation which occurred at approximately 4:30 p.m., and which I think exemplifies one of the basic problems with the current commitment law. A patient came to the Fairbanks Community Mental Health Center for treatment and expressed an intent to kill herself. After evaluating her, the mental health professional called Carol Davis, the Probate Clerk who ordinarily handles these cases for the Magistrate. Ms. Davis stated she could not order an involunatry emergency commitment after hours because she could not do the paperwork. She would give the order if a physician at the hospital requested it. She advised the Center to call the police and have them exercise their authority to Emergency Commit the patient.

When the municipal police arrived, they said they knew they could commit, but refused to exercise their power because it is their agency's policy to avoid this responsibility except when they "encounter" a person in the usual course of their duties. They appeared to feel that the court system was "dumping" the responsibility on their shoulders after hours.

As you know, under current law, neither the mental health professional or a physician can act in this type of situation alone. In fact, the policemen involved were aware of this and also aware that they were the only ones empowered to act alone. Needless to say, this stalemate tied up the mental health professional - who was forced to cancel other patients - the court representative, and the police. It was finally resolved by an extra-legal (in my opinion) act. The police officer said that he would transport the patient to the Fairbanks hospital emergency room if the emergency room doctor would agree to see her and, in effect, authorize the involuntary transport. This freed the Center to resume its activities and seemed to shift the responsibility to the hospital.

I think you can see that the Mental Health Center and the patients are caught in a kind of territorial dispute between the municipal police and the court

system. Since both of these systems feel free to operate independently, the "system" of care breaks down. It results in one emergency commitment system for 9:00 a.m. to 5:00 p.m., and another for 5:01 p.m. to 8:59 a.m. A similar stand-off has occurred in Anchorage, although the situation in Fairbanks is more complicated because the system must depend upon a private hospital.

The provision in the revised commitment bill which reinstates the physician certificate (or mental health professional certificate) would alleviate this this problem.

It would also be alleviated if the courts and the police would work cooperatively.

Sincerely,

Jerry L. Schrader, M.D.
President, Alaska Mental Health Association

cc: Chief Mathew Kiernan
Charles M. Mac Gibson
Phyllis Vanairsdale

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

POUCH H 04
JUNEAU, ALASKA 99811
PHONE:

DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

March 6, 1984

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Dear Governor Sheffield:

Your Mental Health Advisory Council has been following the developments of Senate Bill Number 346 amending an Act entitled: "An act relating to the treatment of mentally ill persons." We are aware that many public hearings have occurred prior to its introduction January 11, 1984 by Senators Josephson and Halford. Additionally, individual professionals, the Alaska Psychiatric Association and the Alaska Psychological Association have had consultation and input into these revisions with strong support for these amendments. These amendments are thought to represent improvements in the treatment of adolescents and adults from the standpoint of both providers and consumers.

Your advisory Council heard today that this bill is being held "hostage" pending untold bargaining possibilities. Since these amendments would improve the quality of care and likely result in more efficiently and less cost for both the Mental Health and Judicial Divisions, it seems unfortunate to delay its enactment.

Your Mental Health Advisory Council recommends your support for the quick passage of this act. On behalf of all Council Members thank you for your consideration.

Sincerely,

Herbert G.W. Bischoff, Ph.D.
Chairperson

Council Members
David R. Samson, M.D.
Anchorage, Vice Chairperson
Ann Egrass, McGrath
Mabel Rosvold, Petersburg
Alice Wardlow, Bethel
Barbara T. Wihloborg, Fairbanks
Robert Hunter, M.D., Mt. Edgecumbe
Kevin C. Ritchie, Juneau

cc: Bill Ray, Chairman, Judiciary Committee
All Judiciary Committee Members
HGWB/dmb

06-F100LH

American Psychiatric Association

1700 Eighteenth Street, N.W., Washington, D.C. 20009 • Telephone: (202) 797-4900
Melvin Sabshin, M.D., Medical Director

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Past Speaker
Robert J. Campbell, M.D.
Parliamentarian
Henry H. Work, M.D.
Deputy Medical Director

Alaska Psychiatric Association
4001 Dale Street, Suite 101
Anchorage, Alaska 99508

February 28, 1984

Senator Josephson
Pouch V
Juneau, Alaska 99801

Dear Senator Josephson:

The Legislative Committee of the Alaska Psychiatric Association has reviewed Senate Bill 346 -"An Act relating to the treatment of the mentally ill." We support the proposed amendments. We have one additional suggestion pertaining to page 18, line 24. We believe the inclusion of a period of experience for psychiatric nurses is a good idea, but we do not believe this should serve to eliminate a Masters Degree in Psychiatric Nursing from the list of mental health professionals. A simple "or" in line 24, page 18 would suffice to change this.

Thank you once again for your efforts on the behalf of the mentally ill.

Sincerely,

Jerry L. Schrader, M.D.
Legislative Representative
Alaska Psychiatric Association

JLS/saw
Enc.

MEMORANDUM State of Alaska

TO: Nancy Deitrick
Aide to Senator Josephson
Alaska State Senate

DATE: April 4, 1984

FILE NO:

TELEPHONE NO:

FROM: Jennifer Strickler
Management Analyst
Division of Occupational Licensing
Department of Commerce and Economic Development

SUBJECT: SB 303 and SB 346

This is to inform you that at a meeting held on March 13, 1984, the Board of Psychologist and Psychological Associates reviewed SB 303, "An Act relating to the practices of social work and establishing the Board of Social Worker Examiners; and providing for an effective date"; and, also, SB 346, "An Act relating to the treatment of mentally ill persons."

Determinations were made by the Board to support both SB 303 and SB 346.

JS/shA/20-3
4484a

Fairbanks Memorial Hospital
1650 Cowles Street, Fairbanks, Alaska 99701

April 6, 1983

Dennis DeWitt
Alaska Hospital Association
319 Seward Street
Juneau, Alaska 99801

Dear Dennis,

I have reviewed the work draft that would amend the current act relating to the treatment of the mentally ill persons and have the following comments.

Much of this work draft simply cleans up the language of the current legislation. (Apparently the law is going to allow for those rare instances when a female is mentally ill!)

Several areas in the work draft propose significant content changes. In all cases these content changes would significantly improve the current legislation.

1. AS 47.30.915 (7) and AS 47.30.915 (10) change the definition of 'gravely disabled' and 'likely to cause serious harm.' The proposed changes in these definitions, if enacted, would greatly improve the ability of the legal system and providers of mental health care to intervene appropriately in situations where emergency detention is in the best interest of the patient.
2. Section 47.30.705 This proposed change allows a physician to initiate the involuntary commitment procedures. This is an essential addition to the current legislation and entirely appropriate.
3. The other content changes (dealing with the detention and commitment of minors, etc.) also upgrade the current legislation and make it more workable.

Overall there are no objections in the changes proposed by this work draft. The content changes deserve support and would markedly improve the current legislation governing the treatment of the mentally ill.

I would reccommend that the Alaska Hospital Association support a bill that reflects the content and intent of the work draft.

Sincerely,

M. J. Emmert, R.N.
Director of Nursing Service

MJE:mc

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

April 14, 1983

Document No. 83-152

The Honorable Joe Josephson
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Josephson:

RE: AS 47.30.655 - 47.30.915
(Involuntary Commitment Act for Mentally Ill Persons)

We appreciate the work you are undertaking and would like to add our comments to those you have already received regarding possible amendments to Alaska's recently enacted civil commitment statutes for mentally ill persons. As you know, the Division of Mental Health and Developmental Disabilities supports the general intent of the Act but feels it is procedurally too cumbersome. This seems to have resulted in treatment staff wasting their time in complying with procedures and filling out numerous forms rather than providing treatment for mentally ill persons.

I have enclosed a copy of our earlier suggested amendments that were prepared during the previous administration. The status of these suggested amendments is unknown to us. Upon review, however, I believe that you will agree that they are primarily designed to facilitate treatment. In addition, I am confident that the Attorney General's Office will be able to assist your staff in determining which forms, notices and procedures that are presently required can be deleted while still protecting the rights of the mentally ill.

Another area of extreme importance in the successful implementation of this Act has been the availability, or lack thereof, of detoxification facilities and other alcohol and substance abuse programs and services. Experience has shown that the emergency involuntary hospitalization at API of persons with a primary diagnosis of alcoholism has increased dramatically since the new Act became effective. This is cause for considerable concern to us as our bed space for legitimate psychiatric emergency cases is in extremely short supply. We believe that if additional alcoholism and substance abuse programs offering emergency

inpatient care were available, especially in Anchorage, that the number of referrals of intoxicated persons to API would be substantially reduced. You may be interested to know that the provisions of the Uniform Alcoholism and Intoxification Treatment Act (AS 47.37.010 - 47.37.270) have never been fully implemented, partially as a result of a lack of inpatient facilities that offer various types of alcoholism services and treatment.

The most utilized provision of the Uniform Alcoholism and Intoxification Treatment Act seems to have been what is called the "12-hour drunk law." This provision allows persons that are seriously incapacitated as a result of alcohol to be placed in a local jail or state correctional center for up to 12 hours with no criminal charges being filed. In the past, this has permitted law enforcement agencies the opportunity to take intoxicated persons into custody and house them in a jail or correctional center until the person has regained sobriety and is no longer in danger of harm as a result of his inebriated condition.

Unfortunately, as a consequence of the extreme shortage of bed space in all of Alaska's correctional centers, law enforcement agencies are no longer able to deliver these incapacitated persons to correctional facilities and have them held in custody until they are no longer incapacitated by alcohol. More simply put, as a result of serious overcrowding in our correctional systems, drunks are being taken to API and kept there until they sober up sufficiently to make a diagnosis. More often than not, the diagnosis reveals that they are suffering primarily from alcoholism and not a major mental illness. At that point they are discharged and referred elsewhere. This results in a serious misuse of the few psychiatric resources we have. It is our position that these limited resources should be exclusively available to the seriously mentally ill person that presents himself, or is presented, to Alaska's only designated psychiatric hospital.

In addition to the recommended amendments contained in the enclosure, as well as the previously mentioned concerns, we have listed below a number of other changes to the Act that we would like to support:

1) We recommend that the period of commitment be changed from 21 days, 90 days, and 120 days to 30 days, 90 days, and 180 days. It is our opinion that this would reduce the administrative workload of our treatment staff while having little or no effect on the period of time patient's are actually involuntarily committed.

   Rather than interrupt treatment after 21 days in order to undergo the 90-day commitment process, treatment could continue for an additional 9 days if necessary. This would allow medications and other forms of therapy some additional time to stabilize the patient, possibly resulting in a discharge between the 21st and 30th day. The change from 120

days to 180 days is simply to reduce the administrative and procedural requirements necessary for the long-term, chronic metally ill patients that require extended periods of hospitalization.

2) We propose that all references to a minor child be changed from age 14 to age 18 throughout the Act. Numerous situations have arisen as a consequence of this provision that indicate it has fostered confusion as well as placing young people and API in an awkward position with regard to their status. It is also not in concert with other provisions of Title 47 that address the care and treatment of minors in Alaska.

3) Under AS 47.30.730(a)(3), we recommend that the following language be added with regards to gravely disabled: "... or that painful or dangerous regression could be prevented and the respondent could maintain the capacity for self-reliance;...". It has been our experience that some gravely disabled individuals may not be expected to actually improve during hospitalization, but if left untreated can be expected to suffer substantially, even to the point of requiring permanent institutionalization as a result.

4) Under AS 47.30.840(4), (5), (6), and (7), we suggest that provision be made to restrict these rights in unusual circumstances in which harm to the patient or others may result if these rights are exercised. We propose adding "... unless the professional person in charge determines it is not in the best interests of the patient and will pose a threat to the safety or well being of the patient or others;..." to these sections.

5) We recommend that AS 47.30.845 be amended to add a provision that would allow confidential information or records to be disclosed to law enforcement agencies in emergency situations involving a current or former patient. In order to restrict this disclosure we suggest the following section be added: "(7) a law enforcement agency when there is substantiated concern over imminent danger to the community by a presumed mentally ill person."

This would allow the disclosure of information to law enforcement agencies that may be helpful in preventing needless injury or death occurring as a result of the actions of a mentally ill persons during an emergency situation.

6) An additional area that, in our opinion, should be revised is the area of involuntary outpatient commitment. Thusfar, there have only been a limited number of these types of commitments. It seems, however, that none have proven successful for various reasons. While the idea of involuntary outpatient

commitment appears sound, the provisions of the Act appear to militate against the successful utilization of this less restrictive alternative. Perhaps your proposed revision to the definition of "likely to cause serious harm" will have a positive influence on the successful use of outpatient commitment.

It should be noted, with regards to outpatient treatment, that AS 47.30.800(a) requires persons seeking conversion from involuntary outpatient commitment to inpatient commitment must have direct knowledge that the respondent is mentally ill or gravely disabled. If the respondent fails to report to the provider of service, than the provider will be unable to substantiate the allegations necessary to convert the commitment to inpatient treatment.

7) In AS 47.30.745(b), the last sentence should read "... not later than 90 days..." rather than "... not earlier ...." as it currently reads.

8) The final area in which we would recommend revision is the requirement that all patients be given the opportunity to be voluntarily admitted. We do not dispute the value of this option in the vast majority of cases that require psychiatric hospitalization; there are, however, instances in which it may not be wise or prudent to be required to offer or allow the voluntary admission of some patients to the hospital. Certainly, the substitution of "reasonable" for "every" in Section 1 of your draft is a step in the right direction. We would hope that it would be interpreted to mean in cases in which it was deemed unreasonable, that involuntary commitment proceedings would commence.

While I am confident that these recommendations for amendments do not represent a panacea for all that is wrong with such a complicated set of laws, I am certain that these, along with many other suggestions that you have received, represent a substantial improvement in providing for the care and treatment of Alaska's mentally ill. Again, I would like to thank you and your staff for giving this information your review and consideration. My staff and I look forward to working with you and other members of the Legislature in revising our civil commitment laws.

Sincerely,

Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Enclosure

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

February 3, 1984

DOCUMENT #84-32

The Honorable Joe Josephson
Alaska State Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Josephson:

RE: Senate Bill 346
(Suggested Amendment)

The language listed below is suggested as an amendment to Senate Bill 346 to allow persons under the age of 18 to be voluntarily hospitalized by their parents or guardians for additional 30 day periods. Under the existing statute, children and adolescents may not be voluntarily hospitalized by their parents or guardians for a period longer than 21 days even if they meet the criteria for hospitalization under A.S. 47.30.690. The amendment would rectify this oversight.

On page 4, line 3, Section 5 of Senate Bill 346, we recommend that the following subsection be included:

> "(c) Additional 30-day voluntary admissions of a minor under the age of 18 may be sought by parents or guardians if, in the opinion of the professional person in charge, the conditions under subsections (1), (2), and (3) continue to exist."

This amendment is considered especially important, even critical, in providing the necessary and appropriate level of care for this oftentimes fragile group of patients.

We will be happy to provide you or other members of the Senate Health, Education, and Social Services Committee with any additional information you may require concerning this proposed amendment as well as any questions you may have regarding our Position Paper which was submitted earlier.

Sincerely,

Robert London Smith

Robert London Smith, Ph.D.
Commissioner

06-F38LH

MSG 84-00028880 PRTY 1 03/27/84 16:24:35 ORIG: LA01 IN= 0007 OUT= 0115
FROM: KAREN, ANC LIO TO: POM - JUNEAU INFO
TARGET: LJHK SUBJ: POM

TO: ALL SENATORS

FROM: G. KENT EDWARDS
2113 DUKE DRIVE
ANCHORAGE, AK. 99508
H. 276-1664; W. 274-3576

MARGARET BROWN, 2957 EMORY, ANCHORAGE, AK. 99508
H. 272-6039; W. 272-3454

RECEIVED
MAR 23 1984
Josephson

I URGE YOUR SUPPORT OF SB 346,, THE MENTAL HEALTH BILL.
SECTIONS 26 AND 27 ARE ESPECIALLY IMPORTANT SINCE CURRENT
DEFINITIONS ARE INADEQUATETO DEAL WITH MANY
MENTALLY ILL PATIENTS WHO MAY CAUSE BODILY HARM.

3/28/84, SHIRLEE ANC LIO, 29182

TO: ALL MEMBERS
ALASKA SENATE

[RECEIVED]

MAR 28 1984

Josephson.

FROM: PAT EDWARDS
2113 DUKE DRIVE
ANCHORAGE, AK 99508
(H) 276-2264 (W) 271-3735

SUBJ: SENATE BILL 346 (TREATMENT OF MENTALLY ILL PERSONS)

I URGE YOUR SUPPORT OF SENATE BILL 346, ESPECIALLY SECTION 27. PSYCHOTIC HISTORIES AND ACTS OF VIOLENCE TOWARDS PROPERTY MUST BE CONSIDERED WHEN EVALUATING MENTAL PATIENTS.

****

RECEIVED

MAR 30 1984

Josephson.

MSG 84-00029328 PRTY 1 03/28/84 14:47:49 ORIG: LA09 IN= 0005 OUT= 0105
FROM: KIM / ANCH LIO TO: POM / JNU INFO
TARGET: LJHK SUBJ: P O M

TO: ALL SENATORS

FROM: JOHN BROWN, 1936 BEAVER PLACE, ANCHORAGE 99504
H 337-2755 W 272-3454

SB 346, TREATMENT OF MENTALLY ILL PERSONS

URGING YOUR SUPPORT, SPECIFICALLY SECTIONS 26 AND 27. MY FAMILY HAS BEEN PLAGUED BY A PARANOID SCHIZOPHRENIC. HE'S BEEN IN AND OUT OF API FOR THE PAST 8-10 YEARS. HE'S 6'4, 300 POUNDS PLUS AND I AM AN EX-STATE HEAVYWEIGHT WRESTLING CHAMP WHOM HE TOSSED AROUND LIKE A RAGDOLL LAST CHRISTMAS EVE.

FROM: LINDA THAGGARD
4701 CANTERBURY WAY
ANCHORAGE, AK. 99503Q
561-8085

I URGE YOU TO SUPPORT SB 443 BRINGING POWER LINES TO THE CASWELL LAKE AREA.

MSG 84-00030841 PRTY 1 04/03/84 09:14:09 ORIG: LF01 IN= 0003 OUT= 0027
FROM: PAULA/FKS TO: JNU INFO
TARGET: LJHK SUBJ: POM

TO: ALL MEMBERS OF THE SENATE

FROM: JEANETTE GRAFTO
SR 20633
FAIRBANKS, AK, 99701
455-6212-H

RE: SB 346, MENTALLY ILL

MSG: I SUPPORT SB 346. I HAVE A MENTALLY ILL BROTHER AND I BELIEVE HIS RIGHT TO TREATMENT IS VERY IMPORTANT. CIVIL RIGHTS ARE NOT EVEN RELATIVE WHEN YOU CANNOT TAKE CARE OF YOURSELF AND PEOPLE IN THE STREET ARE TAKING ADVANTAGE OF YOU.

----------EOM

TO: ALL MEMBERS OF THE SENATE

FROM: DOROTHY SIELLA
335 IDITAROD
FAIRBANKS, AK. 99701
456-1454-H 372-4265-W

RE: SB 346, TREATMENT OF MENTALLY ILL

MSG: TO CONTINUE TO DENY TREATMENT OF THE CHRONICALLY MENTALLY ILL MIGHT HAVE SERIOUS LEGAL RAMIFICATIONS. SUPPORTING BILL 346 AS PRESENTED WOULD ELIMINATE DEPRIVATION OF MEDICAL CARE TO THESE INDIVIDUALS.

----------EOM

MSG 84-00030806 PRTY 1 04/03/84 08:45:59 ORIG: LF01 IN= 0002 OUT= 0019
FROM: PAULA/FKS TO: JNU INFO
TARGET: LJHK SUBJ: POM

TO: ALL MEMBERS OF THE SENATE

FROM: MR. & MRS. AARON, MEMBERS OF FKS ALLIANCE FOR THE MENTALLY ILL
P.O. BOX 74132
FAIRBANKS, AK, 99707-4132
[illegible]-4407-H

RE: SB 346

MSG: FOR THOSE HELPLESSLY SUFFERING THE UNCONTROLLED DEPRIVATIONS OF SEVERE PSYCHOTIC DELUSIONS AND DEPRESSIONS, THE MOST URGENT CIVIL RIGHT IS THE RIGHT TO HAVE PROPER CARE AND TREATMENT, ESPECIALLY WHEN THE VICTIM IS TOO DISTURBED TO REALIZE THE NEED FOR HELP AND MAY BE STARVING FOR EXAMPLE. YES TO SB 346.
----------EOM

MSG 84-00030851 PRTY 1 04/03/84 09:32:01 ORIG: LF01 IN= 0004 OUT= 0031
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJHK SUBJ: POM

TO: ALL SENATORS

FROM: PHYLLIS VAN ARISDALE
141 STEEL HEAD ROAD
FAIRBANKS 99701
HOME 479-3071

RE: SB346, MENTAL ILLNESS

IT IS VITAL THAT YOU DO PASS SB346. THE MOST DIFFICULT PROBLEM IN THE MENTAL ILLNESS PROCESS IS GETTING TREATMENT WHEN A PSYCHOTIC BREAK OCCURS. THE MOST IMPORTANT CIVIL RIGHT OF MENTALLY ILL PEOPLE TODAY IS THE RIGHT TO TREATMENT. DENIAL OF TREATMENT WAS A CAUSE OF OUR SON'S DEATH.

6

----------EOM

TO: SENS RAY, ELIASON, PETTYJOHN, ZEIGLER, JOSEPHSON

FR: RICHARD H. RUSSELL
MEMBER OF FBX ALLIANCE FOR THE MENTALLY ILL
304 12TH AVE. #3
FBX, 99701
452-5664

RE: [redacted] TREATMENT OF THE MENTALLY ILL

MSG: THIS IS NECESSARY AND LONG OVERDUE LEGISLATION. WHILE OUR SON WAS AT API, I BECAME QUITE FAMILIAR WITH ALASKA'S COMMITMENT ACT. IT IS UNNECESSARILY VAGUE AND OFTEN MISLEADING. SB346 IS AN IMPORTANT ADJUSTMENT.

----------EOM

FR: TOM MINCEN
FBX MEMORIAL HOSPITAL
1650 COWLES
FBX, 99701
452-2101 EXT 305

RE: [redacted] TREATMENT OF MENTALLY ILL

MSG: URGE YOUR SUPPORT OF SB 346.

----------EOM

FROM: GERALDINE HARRINGTON
1820 CHEROKEE WAY
ANCHORAGE, AK. 99504
333-9252

SUPPORT [redacted] THE MENTAL HEALTH BILL. I'M A DIAGNOSED MANIC DEPRESSIVE, HOSPITALIZED SEVERAL TIMES DURING THE PAST 10 YEARS.

FROM A PATIENT'S VIEWPOINT, IT IS CRUCIAL THAT A TRAINED PROFESSIONAL BE IN THE POSITION TO TREAT THE INDIVIDUAL WHOSE JUDGEMENT CANNOT BE RELIED UPON AT THE MOMENT TREATMENT IS NEEDED MOST.

MSG 84-00023748 PRTY 1 03/13/84 12:28:17 ORIG: LS01 IN= 0004 OUT= 0019
FROM: SITKA TO: JUNEAU
TARGET: LJHK SUBJ: POM

TO: SENATORS JOSEPHSON, RAY, ELIASON, PETTYJOHN, AND ZIEGLER

FROM: STAN LAUGHRIDGE, BARANOF MENTAL HEALTH CLINIC
BOX 1180
SITKA, AK 99835

RE: [redacted] TREATMENT OF MENTALLY ILL PERSONS

I AM A PROFESSIONAL MENTAL HEALTH WORKER AND I STRONGLY SUPPORT THE PROVISIONS OF SB 346.

###SITKA LIO, 3/13, 23748##

MSG 84-00023914 PRTY 1 03/13/84 15:05:07 ORIG: LF00 IN= 0009 OUT= 0070
FROM: TRACIE/FBX TO: JUN INFO
TARGET: LJHK SUBJ: POM

TO: SENS RAY, JOSEPHSON, ELIASON, ZIEGLER, PETTYJOHN, RAY, BENNETT,
FAHRENKAMP, MOSS
REPS DAVIS, BETTISWORTH, KOPONEN, RINGSTAD, M.W. MILLER

FR: JANET WHITE, IMMACULATE CONCEPTION COMMUNITY SERVICES DIRECTOR
PO BOX 81652
FOX, 99708
488-0646-H
456-4918-W

RE: [redacted]EATMENT OF THE MENTALLY ILL

MSG. FAMILIES OF THE MENTALLY ILL SUPPORT SB346. THIS BILL IS A TESTIMONY FOR THE IMPROVEMENT OF THE CONDITIONS FOR SUFFERING FAMILIES AND THEIR LOVED ONES, IE THE PATIENT.

----------EOM

TO: SENATORS JOSEPHSON, RAY, ELIASON, PETTYJOHN, AND ZEIGLER

FROM: RANDY HURST
BOX 4310
MT. EDGECUMBE, AK. 99835 966-2438 (W)

RE: [redacted]

I'M WRITING IN SUPPORT OF SB 346. THE LONGER TIME FRAMES, THE FOCUS ON LEAST RESTRICTIVE ENVIRONMENTS, AND ABILITY TO INITIATE PETITIONS BY MENTAL HEALTH PROFESSIONALS ARE VERY IMPORTAN INCLUSIONS. I WISH THE INITIAL TIME FRAME OF 30 DAYS COULD BE MADE LONGER, ESPECIALLY SINCE MEDICATION STABILIZATION TAKES AT LEAST THAT LONG IN MANY CASES.

----------SITKA LIO, 3-12-84----------

MSG 84-00023818 PRTY 1 03/13/84 13:39:52 ORIG: LJ01 IN= 0006 OUT= 0041
FROM: ELAINE, SITKA TO: JUNEAU
TARGET: LJHK SUBJ: POMS

TO: SENATORS JOSEPHSON, RAY, ELIASON, PETTYJOHN, AND ZIEGLER

FROM: DR. SUSAN CARLSEN
BOX 4575
MT. EDGECUMBE, AK. 99835 747-6474

RE: [redacted]ENTAL HEALTH ILLNESS

I URGE SUPPORT OF THE MENTAL HEALTH BILL, SB 346, WHICH WOULD FACILITATE MENTAL HEALTH TREATMENT LOCALLY AND ALLOW MENTAL HEALTH WORKERS IN SITKA TO WORK WITH THOSE WHO ARE IN INVOLUNTARY COMMITMENT.

----------SITKA LIO, 3-13-84 23818----------

file SB 354 - Mental Health

ATTACHMENT 1
Speaker/Speaker-Elect
Report to Reference Commit
and Board

American Psychiatric Association

GUIDELINES FOR LEGISLATION ON THE PSYCHIATRIC HOSPITALIZATION OF ADULTS[1]

These Guidelines Deal With:

Emergency Psychiatric Evaluation
Voluntary Admission
Involuntary Hospitalization
Right to Treatment
Right to Refuse Treatment
Patients' Rights
Legal Immunity for Mental Health Personnel

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[1] These Guidelines for Legislation on the Psychiatric Hospitalization of Adults have been prepared and approved by the American Psychiatric Association in order to assist psychiatrists, legislators and the public in considering possible revisions of civil commitment laws. The American Psychiatric Association believes that these Guidelines constitute a responsible set of proposals which would improve the process of psychiatric hospitalization in many states. However, because local laws, community conditions, and medical practices vary, state and local psychiatric associations and individual psychiatrists may properly support provisions which differ in many respects from these general Guidelines.

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ADDENDUM A-1

Section 1. SHORT TITLE

These provisions governing the psychiatric hospitalization of adults may be cited as Title I of the Mental Health Code.[1]

Section 2. LEGISLATIVE PURPOSES

This Act is intended to achieve and shall be construed so as to promote these legislative purposes:

-- To make available psychiatric evaluation, care and treatment to all persons who suffer from severe mental disorders and can benefit from treatment, and to encourage voluntary rather than involuntary admission whenever hospitalization is necessary;

-- To safeguard the legal rights of patients in a manner which will advance and not impede the therapeutic and protective purposes of psychiatric hospitalization;

-- To provide workable procedures for obtaining consent to and administering medications and other treatments;

-- To provide legal immunity for reasonable, good-faith efforts to implement this Act, and legal penalties for knowing, willful efforts to subvert the processes in this Act; and

-- To provide a statutory framework for the promulgation of regulations by the Department of Mental Health.

Section 3. DEFINITIONS

As used in this Act, the terms below shall have the meanings indicated:

"aversive therapy" means any treatment or procedure which, because it is believed to be painful or physically uncomfortable to the patient, is administered in order

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[1] These Guidelines deal only with persons who may be hospitalized for psychiatric care and treatment under the civil commitment process; they do not deal with persons who may be confined for forensic evaluation or other purposes under the criminal justice process.

to reduce the frequency or intensity of a behavior; except that aversive therapy does not refer to verbal therapies, seclusion or physical restraints used in conformity with Section 10.F., or psychotropic medications which are not used for purposes of aversive conditioning.

"consistent with the least restrictive alternative principle" means that (1) each patient committed solely on the ground that he is likely to cause harm to himself or to suffer substantial mental or physical deterioration shall be placed in the most appropriate and therapeutic available setting, that is, where treatment provides the patient with a realistic opportunity to improve, and which is no more restrictive of his physical or social liberties than is believed conducive to the most effective treatment for the patient; and (2) each patient committed solely or in part on the ground that he is likely to cause harm to others shall be placed in a setting in which treatment is available and the risks of physical injury or property damage posed by such placement are warranted by the proposed plan of treatment.

"court" means the court or judicial officer designated under the laws of this State for the discharge of the functions described in this Act.

"emergency situation" means a situation in which the patient exhibits substantial behavior which is self-destructive, assaultive, or threatens significant damage to the property of others, or which indicates that the patient is suffering extreme anxiety amounting to panic, or sudden exacerbation of his severe mental disorder.

"experimental treatment" means any treatment other than one which is commonly accepted for treatment of the mental disorder involved or is supported by widely accepted scientific studies, and is provided by a qualified health professional; if such treatment poses a significant risk of harm to the patient.

"informed consent to treatment" means a knowing and voluntary decision to undergo treatment, evidenced in writing, and made by a person who has the capacity to make an informed decision, after the treatment facility has explained to the person the nature and effects of the proposed treatment.

"lacks capacity to make an informed decision concerning treatment" means that the person, by reason of his mental disorder or condition, is unable despite

conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment, or is unable to engage in a rational decisionmaking process regarding such hospitalization or treatment as evidenced by inability to weigh the possible risks and benefits.

"likely to cause harm to himself or to suffer substantial mental or physical deterioration" means that as evidenced by recent behavior, the person (1) is likely in the near future to inflict substantial physical injury upon himself, or (2) is substantially unable to provide for some of his basic needs such as food, clothing, shelter, health or safety, or (3) will if not treated suffer or continue to suffer severe and abnormal mental, emotional or physical distress, and this distress is associated with significant impairment of judgment, reason or behavior causing a substantial deterioration of his previous ability to function on his own.

"likely to cause harm to others" means that as evidenced by recent behavior causing, attempting or threatening such harm, a person is likely in the near future to cause physical injury, physical abuse, or substantial property damage to another person.

"patient" means any person receiving evaluation, care or treatment under this Act, except that "patient" for purposes of the rights provided in Section 10 shall refer only to persons in residential treatment programs.

"person" means for purposes of any provision of this Act authorizing the commitment or treatment of a "person," an individual aged eighteen years or more.[2]

"psychosurgery" means any procedure which by direct access to the brain, removes, destroys, or interrupts the continuity of brain tissue which is histologically normal (as distinguished from normal in its physiological or psychological functioning) for the primary purpose of altering behavior or treating a mental disease or disorder. Psychosurgery includes the implantation of electrodes with such an effect and

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[2] For provisions concerning persons under the age of eighteen, refer to the American Psychiatric Association's "Guidelines for Psychiatric Hospitalization of Minors" (1981).

for such a purpose, with or without subsequent electrocoagulation. Psychosurgery does not include neurosurgical procedures designed to treat reliably diagnosed intractable physical pain or epilepsy.

"severe mental disorder" means an illness, disease, organic brain disorder, or other condition which (1) substantially impairs the person's thought, perception of reality, emotional process, or judgment, or (2) substantially impairs behavior as manifested by recent disturbed behavior.[3]

"treatment facility" means a community mental health facility, a general medical facility providing psychiatric services, or other psychiatric facility or program meeting applicable licensing standards, which has been approved for the provision of services under this Act by the Department of Mental Health; provided that no jail or other correctional facility shall be approved as a treatment facility for any persons other than those who could otherwise lawfully be detained there.

Section 4. EMERGENCY PSYCHIATRIC EVALUATION

4.A. Detention by a Police Officer

1. A police officer may take a person into custody, and transport the person to a treatment facility for emergency psychiatric evaluation if and only if:

a. the person would otherwise be subject to lawful arrest and the police officer believes that the person is in need of emergency psychiatric treatment; or

b. the police officer has probable cause to believe that the person has attempted suicide within the last 48 hours; or

c. the police officer has probable cause to believe, based on his personal observation and investigation, or based on the petition of any interested adult under subsection

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[3] Mental retardation, epilepsy, or other developmental disabilities do not, in themselves, constitute a severe mental disorder. States may wish to provide by other provisions of law for persons whose use of or addiction to intoxicating substances warrants hospitalization.

4.C. and such corroboration as the police officer deems necessary in the circumstances, that the person is suffering from a severe mental disorder as a result of which he is likely to cause harm to himself or to others or is manifestly unable to care for some of his basic needs, and that immediate hospitalization is necessary to prevent harm to the person or to others; or

d. he is acting upon the certification of a licensed physician under subsection 4.B.

2. Any person taken into custody pursuant to this subsection shall be presented promptly to a treatment facility. Correctional facilities shall not be used as temporary shelter for such persons except for the protective custody of the person pending transportation to a treatment facility.

3. Upon or shortly after taking a person into custody, the police officer shall take reasonable precautions to safeguard and preserve the personal property of the person unless a guardian or responsible relative is able to do so. Upon presenting a person to a treatment facility the police officer shall inform the staff in writing of the facts which caused him to take the person into custody, and specifically state whether the person is otherwise subject to arrest.

4.B. Certification by a Licensed Physician

A person may be taken into custody by a police officer, or accepted by an ambulance service, and transported and presented to a treatment facility for emergency psychiatric evaluation, when a licensed physician certifies in writing that he has examined the patient in the last 72 hours, or that he has ongoing medical responsibility for the person and has knowledge of his current condition, and on such basis he has probable cause to believe that such person is suffering from a severe mental disorder as a result of which: he lacks capacity to make an informed decision concerning treatment; and he is (1) likely to cause harm to himself or to suffer substantial mental or physical deterioration, or (2) likely to cause harm to others; and immediate hospitalization is necessary to prevent such harm.

4.C. Petition by Any Interested Adult

Any interested adult may petition for, or present a person for, emergency psychiatric evaluation by alleging based on personal observation that he has probable cause to believe that such person is suffering from a severe mental disorder as the result of which: he is likely to cause harm to himself or to others or is manifestly unable to care for some of his basic needs; and immediate hospitalization is necessary to prevent harm to the person or to others.

4.D. Treatment Facility Determination

1. Upon the presentation of a person to a treatment facility pursuant to this Section 4, the facility shall accept the person and shall promptly examine him to determine whether he meets the criteria for emergency evaluation and treatment set forth in subparagraph 2.

2. The person shall be admitted for emergency evaluation and treatment only if the examining psychiatrist determines that there is probable cause to believe that the person suffers from a severe mental disorder as the result of which: he lacks capacity to make an informed decision concerning treatment; and he is (1) likely to cause harm to himself or to suffer substantial mental or physical deterioration, or (2) likely to cause harm to others; and immediate hospitalization is necessary to prevent such harm.

3. If the examining psychiatrist determines that there is not probable cause to believe that the person meets the criteria for emergency evaluation and treatment, the person shall be released. If a person was presented to the treatment facility by a police officer and was otherwise subject to lawful arrest, he shall continue under the custody of police officers.

4.E. Advice of Rights

The treatment facility shall advise any person admitted for emergency evaluation and treatment of the purposes and possible duration of emergency evaluation, and of his rights under this Act, as soon after admission as his medical condition permits.

4.F. Hearing on Emergency Evaluation

1. Each person who is admitted to a treatment facility shall receive a preliminary hearing before the court within five business days of admission or be discharged, unless he has, after consultation with counsel, executed a written waiver of such hearing. The hearing shall be informal and subject to such rules as the court sets consistent with fundamental fairness.

2. The court shall determine at the close of the hearing, or within five business days of the patient's admission, whether he should be discharged. A patient shall then be discharged, unless the court determines that there is probable cause to believe that he satisfies the criteria for thirty-day commitment provided in Section 6, and unless within two business days of the court's decision a petition for such commitment is filed with the court.

4.G. Duration of Emergency Evaluation and Treatment

The period of emergency evaluation and treatment shall in no case exceed fourteen days.

Section 5. VOLUNTARY ADMISSION

5.A. Admission

1. A treatment facility may admit a person if after examining the patient a psychiatrist [or: "a physician"]* on the staff or with privileges at the treatment facility believes the person is mentally ill and in need of hospitalization, and if the person gives written consent to admission. Prior to such admission, the person shall be advised orally and given a written statement of his rights under this Act; provided that if his condition upon admission makes such advice infeasible and the medical reasons are entered in the record, such advice may be deferred until the patient's medical condition permits, for not more than 48 hours. Each patient shall be asked to sign an acknowledgement that he has been so advised and has consented to voluntary admission for treatment.

2. Initial consent to voluntary admission for treatment shall be valid for sixty days. Thereafter,

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* Optional provision.

a patient may remain at the treatment facility for periods of up to one hundred eighty days each upon a signed consent executed after the patient has had an opportunity to consider with such persons as he wishes his need for continued hospitalization and treatment.

3. If the responsible psychiatrist [or: "the responsible physician"][5] has substantial reason to believe that a person seeking to admit himself or to consent to further hospitalization lacks capacity to make an informed decision concerning treatment, he shall obtain in addition to the consent of the patient, the informed consent of the patient's next of kin or guardian. The responsible psychiatrist [or: "the responsible physician"][6] shall renew his effort to obtain the informed consent of the patient if the patient regains the capacity to make an informed decision concerning treatment.

5.B. Discharge or Petition for Thirty-Day Commitment

Any patient who is voluntarily admitted to a treatment facility shall be discharged within five business days of his written request for discharge (and any patient who indicates his desire to be discharged but is unable to write shall be assisted to put his request in writing), unless a petition for thirty-day commitment is filed within that period by the treatment facility or the patient's next of kin or guardian.

5.C. Conversion from Involuntary to Voluntary Status

A patient who is subject to involuntary hospitalization pursuant to Sections 4, 6, or 11 of this Act may at any time convert to voluntary status if the responsible psychiatrist [or: "the responsible physician"][7] agrees that such conversion is made in good faith and that the patient is an appropriate patient for voluntary hospitalization.

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[5] Optional provision.

[6] Optional provision.

[7] Optional provision.

Section 6. THIRTY-DAY COMMITMENT

6.A. Petition

1. Persons who are present at a treatment facility under voluntary admission but have requested discharge, and persons present at a treatment facility for emergency psychiatric evaluation, may be committed involuntarily for a period of up to thirty days upon a petition filed by the treatment facility or by the next of kin or guardian; and other persons may be so committed upon a petition filed by any interested adult. The petition shall allege that such person meets the criteria set forth in subsection 6.C. The petition shall set forth the facts supporting the allegations, and, in the case of petitions filed by a treatment facility, describe why the patient requires treatment. The petition shall be filed with the court, which shall have copies promptly served upon the patient, the next of kin or guardian, and the patient's attorney if known.

2. The copies of the petition served by the court shall be accompanied by a notice advising of the person's rights concerning the proceeding.

6.B. Summons for Evaluation; Psychiatric Report

1. Upon the filing of a petition for thirty-day commitment of a person who is not currently under emergency evaluation or voluntary admission, the court shall issue a summons to the person to submit to an examination (on an outpatient basis) conducted by a psychiatrist at a treatment facility or a private psychiatrist. The examining psychiatrist shall promptly prepare a report on his examination and file it with the court. The court shall have copies promptly served upon the patient, the next of kin or guardian, and the patient's attorney if known.

2. A person served with a summons to submit to a psychiatric examination may in lieu of such examination submit a report of a psychiatrist stating that he has recently examined the person, or has ongoing medical responsibility for the person and knowledge of his current condition, and that in his opinion the person does not meet the criteria for involuntary commitment. The petition for commitment may then be dismissed by the court, or continued.

6.C. Criteria for Thirty-Day Commitment[4]

A person may be involuntarily committed for a period of up to thirty days if, after the hearing provided in Section 6.D., the court determines, based upon clear and convincing evidence, that:

1. the person is suffering from a severe mental disorder; and

2. there is a reasonable prospect that his disorder is treatable at or through the facility to which he is to be committed, and such commitment would be consistent with the least restrictive alternative principle; and

3. the person either refuses or is unable to consent to voluntary admission for treatment; and

4. the person lacks capacity to make an informed decision concerning treatment; and

5. as the result of the severe mental disorder, the person is (1) likely to cause harm to himself or to suffer substantial mental or physical deterioration, or (2) likely to cause harm to others.

6.D. Hearing on Thirty-Day Commitment

1. Every person as to whom a petition for thirty-day commitment has been filed shall be notified by the court sufficiently in advance to be able to prepare for the hearing, and shall receive a prompt hearing. For persons confined for emergency psychiatric evaluation, or currently under voluntary admission, this hearing shall take place within three business days of the filing of the petition.

2. The respondent shall be present at the hearing unless the court finds (1) that he has knowingly and voluntarily waived such right after consulting with counsel, or (2) that because his behavior at the hearing

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[4] Refer to the Commentary for a discussion of the disposition of various types of persons who do not meet the criteria in Section 6.C.

is so disruptive, it cannot reasonably continue in his presence. Hearings shall be held in the treatment facility wherever feasible given the other functions of the court.

3. Any respondent who is unable to pay for counsel shall have the right to be provided with counsel to prepare for and represent him at the hearing. [Any respondent who is unable to pay for an examination for purposes of the hearing shall have the right to be provided with one examination by a licensed psychiatrist, at the expense of the (state or local government).][9]

4. The District Attorney or County Counsel shall represent the interests of the State at the hearing. [If the District Attorney or County Counsel fails to proceed with the commitment, the next of kin or a petitioning party may retain counsel to do so in his stead, and the reasonable costs of such counsel shall be paid by the (state or local government).][10]

5. The rules governing evidentiary and procedural matters at hearings under this Act shall be promulgated so as to facilitate informal, efficient presentation of all relevant, probative evidence and resolution of issues with due regard to the interests of all parties. Hearsay evidence may be received, and experts and other witnesses may, consistent with law, testify to any relevant and probative facts at the discretion of the court.

6. Patients shall not have a "right to remain silent" at a psychiatric examination or hearing conducted pursuant to this Act; provided that no patient shall be held civilly or criminally liable for not speaking or testifying. Any information obtained from or disclosed by the patient during the course of evaluation or treatment is admissible in any hearing provided in this Act without regard to whether it would otherwise be privileged; provided that no disclosure made by the patient during the course of evaluation or treatment or in any proceeding conducted under this Act, and no opinion testimony based on such disclosures, may be admitted against the patient on the issue of guilt in a criminal proceeding unless he places his mental condition in issue in such proceeding, and the disclosure or opinion is relevant to such an issue raised by him.

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[9] Optional provision.

[10] Optional provision.

7. The hearing shall be closed to the public, unless the respondent requests that it be open, or the court determines for other good cause that the hearing should be open. The court shall keep a complete record, written or recorded, of every hearing.

8. At the conclusion of the hearing, or within one business day thereafter, the court shall make its findings, including specific findings as to whether the commitment is warranted because the person is (a) likely to cause harm to others, or (b) likely to cause harm to himself or to suffer substantial mental or physical deterioration, or (c) both (a) and (b). As to any person found likely to cause harm to himself or to suffer substantial mental or physical deterioration, the court shall further make findings as to whether commitment is warranted because the person (1) is likely in the near future to inflict substantial physical injury upon himself, or (2) is substantially unable to provide for some of his basic needs such as food, clothing, shelter, health or safety, or (3) will, if not treated, suffer severe and abnormal mental, emotional or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior causing a substantial deterioration of his previous ability to function on his own.

9. The court shall enter an order discharging the person unless it finds by clear and convincing evidence that the person satisfies all of the criteria for commitment in Section 6.C., in which event it shall enter an order committing the person for evaluation and treatment for a period of "up to thirty days." If at any time during thirty-day (or any subsequent) commitment a patient is absent without permission, the order of commitment constitutes a continuing authorization to the treatment facility and to any police officer to procure his return.

Section 7. INFORMED CONSENT TO MEDICATION OR OTHER TREATMENT -- VOLUNTARY PATIENTS

7.A. Informed Consent

Except in an emergency situation, a treatment facility shall, prior to beginning any course of medication or other treatment for a patient who is subject to voluntary admission under Section 5, obtain informed consent to treatment. If the patient does not lack

capacity to make an informed decision concerning treatment, the consent shall be his own. If he does lack such capacity, the consent shall be that of his next of kin or guardian, provided that such a patient may receive appropriate medications or other treatments, except as limited by Section 8.C., until such time as the consent or refusal to consent of such next of kin or guardian can be obtained.

7.B. Revocation of Consent

A voluntary patient (or the next of kin or guardian who consented to treatment on his behalf) may revoke consent to treatment at any time by a reasonably clear statement in writing (and patients who indicate a desire to revoke consent but are unable to write shall be assisted to put their statement in writing). If such consent is revoked, the treatment shall be promptly discontinued, provided that a course of treatment may be concluded or phased out where necessary to avoid the harmful effects of abrupt withdrawal.

7.C. Refusal to Consent

Except in an emergency situation, any voluntary patient (himself or through his next of kin or guardian) shall have the right to refuse any and all medications or other treatments. If appropriate medications or treatments are refused, the facility may then discharge the patient, and shall not be liable in any respect for such action.

Section 8. INFORMED CONSENT TO MEDICATION OR OTHER TREATMENT -- INVOLUNTARY PATIENTS

8.A. Consent During Emergency Evaluation

Following admission and during the period of emergency evaluation provided in Section 4, the treatment facility may administer medications or other treatments, except as limited by Section 8.C., to a patient consistent with good medical practice and without the informed consent of the patient or his next of kin or guardian. However, prior to administering any such medication or other treatment, the staff shall explain the purposes, nature, and effects of the treatment and shall request the patient's consent to it, unless the responsible

psychiatrist [or: "the responsible physician"][11] determines that the patient's condition makes doing so infeasible or harmful to him, and enters the reasons for not doing so in the record.

8.B. Consent During Thirty-Day or Subsequent Commitments

It being a prerequisite to involuntary commitment that the person lacks capacity to make an informed decision concerning treatment, the treatment facility shall be authorized to administer medications or other treatments, except as limited by Section 8.C., to such persons consistent with good medical practice without their consent. Although consent to treatment is not required, during the course of treatment the responsible psychiatrist [or: "the responsible physician"][12] shall consult with the patient and his next of kin or guardian, and give consideration to the views they express concerning treatment and any alternatives.

8.C. Special Therapies

Notwithstanding subsections A. and B. above, a treatment facility shall not administer aversive therapy, experimental treatment, psychosurgery, or any other special therapy designated by the Department of Mental Health except as provided by law or in regulations promulgated by the Department of Mental Health.

8.D. Other Medical/Surgical Treatments

Consent for other medical/surgical treatments not intended primarily to treat a patient's mental disorder shall be obtained in accordance with applicable law.

Section 9. PROVISION OF TREATMENT

9.A. General Duty To Provide Treatment

Every patient shall be provided with prompt, competent and appropriate treatment, which offers him a realistic prospect of improvement. Patients shall be afforded treatment by sufficient numbers of duly qualified personnel, in facilities which meet applicable

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[11] Optional provision.

[12] Optional provision.

licensing and accreditation standards, which conform to applicable regulations of the Department of Mental Health, and which are able adequately to care for and treat the patients they serve.

9.B. Individual Treatment Plan

1. A written individual treatment plan shall be prepared, with the participation of the patient to the extent he is able, during voluntary admission or emergency psychiatric evaluation, or if a person has been subject to neither, then within seven days of a patient's thirty-day commitment. The individual treatment plan shall be approved by the responsible psychiatrist [or: "the responsible physician"],[13] and the course of treatment actually administered shall conform to the plan.

2. The patient's progress in attaining the objectives in the treatment plan shall be noted in his records and revisions in the plan shall be made as appropriate. The patient, and if the patient desires, the next of kin or guardian, shall be afforded an opportunity to participate in considering any substantial change in the treatment plan.

3. The individual treatment plan shall be available upon request to the patient, and to any other person designated by him, provided that the responsible psychiatrist [or: "the responsible physician"][14] may preclude disclosure of the individual treatment plan to the patient or others for a period not to exceed seven days from the request, if he states in writing why disclosure would be harmful to the patient.

9.C. Administration of Medications and Other Treatments

1. Medications and other treatments shall only be prescribed, ordered and administered in conformity with accepted clinical practice. Medication shall be administered only in accordance with the written order of a physician or upon a verbal order, noted in the patient's medical record and subsequently signed by the physician. Medication shall be administered only by a qualified physician, or qualified nurse, or by

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[13] Optional provision.

[14] Optional provision.

qualified other persons pursuant to procedures approved by the Department of Mental Health. The attending physician shall review regularly the drug regimen of each resident patient under his care and shall monitor any symptoms of harmful side effects. Prescriptions for psychotropic medications shall be written with a termination date not exceeding thirty days thereafter, but may be renewed.

2. Medications and other treatments shall be administered in accordance with all applicable law.

3. If a patient is given any psychotropic or other medication which has an effective duration of action including the day of a court hearing, the facts concerning its administration and effects, and the patient's mental status and behavior in the absence of medication, shall be brought to the attention of the court.

9.D. Other Medical/Surgical Care

All patients shall be provided with prompt, regular and competent medical care for physical ailments under the supervision of a licensed physician. Every patient shall have a reasonably complete physical examination at appropriate intervals.

Section 10. RIGHTS OF PATIENTS

10.A. Preservation of Rights

No right of any person (including but not limited to the right to register and vote at elections; rights to acquire, use and dispose of property including contractual rights; rights to sue and be sued; rights relating to licenses, permits, privileges and benefits under law; and rights concerning domestic relations) shall be denied or reduced solely by reason of his having been evaluated, committed or treated under this Act, except as otherwise specifically provided herein or in other applicable law. A finding of lack of capacity to make an informed decision concerning treatment under Section 5 shall not alone establish lack of competence for any other purpose. A treatment facility may for clinical reasons preclude a patient who is believed to lack competence from making substantial dispositions of his property until his competence can be decided by a court.

10.B. Right to Treatment

Patients shall have a right to treatment to the extent provided in Sections 9, 10.C., and 10.D.

10.C. Healthful and Humane Environment

Every patient shall have the right to a healthful and humane environment. Every treatment facility shall provide a clean, sanitary, safe and comfortable environment in a structure which complies with applicable licensing requirements governing physical facilities, nutrition, health and safety, and medical services, and for aspects of care for which there are not mandatory requirements, with generally accepted professional standards. In addition, every patient shall have a right to a humane psychological environment which protects him from harm or abuse, provides reasonable privacy, promotes personal dignity and provides opportunity for improved functioning.

10.D. Least Restrictive Alternative and Leaves of Absence

1. Every patient shall have the right to treatment consistent with the least restrictive alternative principle.

2. Leaves of absence may be granted in appropriate cases at the discretion of the treating facility. Police officers shall be authorized to and shall, at the request of a treatment facility, take into custody and return to the treatment facility any person who has been committed there and leaves without proper authorization or does not return at the end of an authorized leave of absence.

10.E. Institutional Labor

1. Patients have a right to perform labor as part of a therapeutic program.

2. Patients may not be required to perform labor, except that to the extent they are able, they may be required to perform (1) tasks necessary to care for their personal possessions, (2) routine, nondegrading housekeeping tasks necessary to maintain their living quarters, or (3) other tasks which the responsible

psychiatrist [or: "the responsible physician"][15] approves and which are monitored as part of a therapeutic program for the patient. No patient shall be subjected to any loss of any right under this Act (as distinguished from a privilege which is conferred as part of a therapeutic program) because of his refusal to perform such tasks.

3. Any patient labor which confers an economic benefit upon the institution beyond merely supplementing employee performance of housekeeping tasks shall be compensated on a reasonable basis in accordance with applicable law, and the proceeds of such labor shall be paid to the patient or his designee.

10.F. Restraints and Seclusion[16]

1. Restraints and seclusion may be of therapeutic benefit to some patients and therefore may be administered in conformity with good medical practice.

2. Every patient shall have the right to be free from unwarranted or inappropriate restraints or seclusion.

3. A patient shall be physically restrained or placed in seclusion only at the written order of a physician or upon a verbal order noted in the patient's record and subsequently signed by the physician.

4. During any period in which a patient is restrained or secluded, he shall be periodically checked and cared for properly to assure his well-being.

10.G. Corporal Punishment

Every patient shall have the right to be free from corporal punishment.

10.H. Nutrition

Every patient shall have the right to a nutritionally sound and medically appropriate diet.

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[15] Optional provision.

[16] These provisions establish only a basic framework for the use of restraints and seclusion. More detailed guidelines are being prepared by the American Psychiatric Association to deal with the many subtle problems which arise.

10.I. Exercise and Recreation

Every patient shall have reasonable opportunities for physical and outdoor exercise and access to recreational areas and equipment. Reasonable limitations may be set by general rules or, for clinical reasons, in particular cases.

10.J. Visitors

Every patient has the right to receive visitors of his choosing with reasonable privacy. Reasonable limitations on access of visitors may be set by general rules or, for clinical reasons, in particular cases.

10.K. Communications

1. Every patient shall have the right to send and receive mail. Reasonable rules governing inspection (but not reading) of incoming mail may be enforced, provided that they are necessary to substantial health care purposes and that they preserve the patient's privacy rights to the extent compatible with his clinical status.

2. Every patient shall have the right to reasonably private access to telephones, including the right to make long-distance calls to the extent he can arrange for payment for such calls.

3. A treatment facility shall provide reasonable assistance to patients in exercising their communication rights. Reasonable limitations on use of the mails and telephones may be set by general rules or, for clinical reasons, in particular cases.

10.L. Practice of Religion

Every patient shall have the right to practice or refrain from practicing religion, and pressure shall in no event be placed on those who do not wish to practice religion. The treatment facility shall provide appropriate assistance so that patients wishing to practice a religion have a reasonable opportunity to do so.

10.M. Personal Possessions

Every patient shall have the right to keep, use and store personal possessions and to maintain and use

bank accounts or other sources of personal funds, unless precluded from doing so by order of a court. Reasonable limitations may be set by general rules or, for clinical reasons, in particular cases.

10.N. Notice of Rights

As soon after admission as his medical condition permits, a patient shall be advised orally and given a written statement of his rights under this Act, and such a statement of rights shall be posted so that it is available to patients.

10.O. Non-Retaliation

No patient shall be retaliated against or subjected to any adverse change of conditions or treatment solely because of his having asserted his rights.

10.P. Access to Counsel

A patient may at any time have a telephone conversation with or be visited by his lawyer.

Section 11. SUCCESSIVE PERIODS OF COMMITMENT

11.A. Sixty-Day Re-Commitment

1. Any person who has been subject to a thirty-day commitment pursuant to Section 6, may be re-committed for up to sixty days upon a petition by the treatment facility or by the next of kin or guardian. The petition may be filed with the court at any time prior to the expiration of the thirty-day commitment. The petition shall include a statement of the treatment facility as to why the person still meets the criteria for involuntary commitment; what treatment has been provided and what progress has been made; why a further period of commitment is warranted; and the identity of the person who has knowledge concerning the case. The petition shall be promptly served by the court on the patient, the next of kin or guardian, and the patient's attorney.

2. The patient shall be entitled to a hearing before the court on the petition on or before the first business day following the expiration of the thirty-day commitment, and shall have all other rights to which he was entitled at the hearing on thirty-day commitment.

3. The court shall order that the person be discharged unless it determines (a) by clear and convincing evidence that the person still satisfies the criteria for involuntary commitment, and (b) that there is a reasonable prospect that a substantial therapeutic purpose would be served by a further period of commitment.

11.B. One Hundred Eighty-Day Re-Commitments

1. Any person who has been subject to sixty-day re-commitment pursuant to Section 11.A. may be re-committed for up to one hundred eighty days upon a petition filed with the court by the treatment facility or by the next of kin or guardian. The petition shall include a statement of the treatment facility as to why the person still meets the criteria for involuntary commitment; what treatment has been provided and what progress has been made; why a further period of commitment is warranted; and the identity of the person who has knowledge concerning the case. The petition shall be promptly served by the court on the patient, the next of kin or guardian, and the patient's attorney.

2. The patient shall be entitled to a hearing before the court on the petition on or before the first business day following expiration of the operative period of commitment and shall have all other rights to which he was entitled at the hearing on thirty-day commitment.

3. The court shall order that the person be discharged unless it determines (a) by clear and convincing evidence that the person still satisfies the criteria for involuntary commitment, and (b) that there is a reasonable prospect that a substantial therapeutic purpose would be served by a further period of commitment.

4. Additional re-commitments for periods of up to one hundred eighty days each may be ordered in accordance with Section 11.B.1-3 when warranted.

11.C. Waiver of Hearings

A patient may waive any hearing to which he is entitled under this Section 11 upon a written waiver which the court finds is knowingly and voluntarily executed by the patient.

Section 12. DISCHARGE

12.A. The responsible psychiatrist [or: "the responsible physician"][17] shall review periodically whether a patient still meets the criteria for lawful commitment, and if he concludes that the patient does not, he shall undertake discharge procedures as provided herein.

12.B. As to a patient committed because he was likely to cause harm to himself or to suffer substantial mental or physical deterioration, if the responsible psychiatrist [or: "the responsible physician"][18] concludes that the patient no longer meets the criteria for lawful commitment, he may discharge the patient directly.

12.C. As to a patient committed solely because, or partly because, he was likely to cause harm to others, if the responsible psychiatrist [or: "the responsible physician"][19] concludes that the patient no longer meets the criteria for lawful commitment, or that the patient's treatment program has been completed or is unlikely to provide further benefits, he shall apply to the court for an order discharging or transferring the patient, as may be appropriate. The application shall set forth the relevant facts. The court may conduct an informal hearing, subject to such procedures as the court sets. Nothing in this subsection shall reduce any rights to hearings which patients have pursuant to other provisions of this Act.

12.D. Discharge of any patient may be delayed for a reasonable period of time in order to arrange transportation or lodging for the patient, or for other good cause.

12.E. A person who has been discharged from emergency evaluation, thirty-day commitment or a subsequent period of commitment may be re-committed only pursuant to the same procedures provided in this Act and upon a showing of some new circumstances warranting such commitment which were not known at the time of discharge.

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[17] Optional provision.

[18] Optional provision.

[19] Optional provision.

12.F. The responsible psychiatrist [or: "the responsible physician"][28] may, as part of an individual treatment plan for a patient who is involuntarily committed, release such patient to outpatient treatment upon the condition that if the patient fails to follow through with or respond acceptably to such outpatient treatment, he may be returned to inpatient treatment for the remainder of the operative period of commitment.

12.G. Nothing in this Act shall limit any other legal rights or remedies concerning discharge which a patient may have or acquire pursuant to law, regulation or policy, including the right to petition for a writ of habeas corpus.

Section 13. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

[This Section adopts the American Psychiatric Association's "Model Law on Confidentiality of Health and Social Service Records."]

Section 14. REPRESENTATION OF PATIENTS

14.A. Right to Counsel at Hearings

Every patient shall have a right to counsel to represent him at court hearings under this Act, except that a patient need not be provided with counsel for the preliminary hearing on emergency evaluation provided in Section 4.F.

14.B. Resolution of Grievances in Treatment Facilities

Every treatment facility shall establish a fundamentally fair procedure for the assertion, resolution, and redress of patients' grievances, and shall have a patients' representative or similar person who shall hear patients' grievances, attempt to resolve problems, and protect patients' interests.

14.C. Representation by Next of Kin or Guardian

Any right of patients provided in this Act may be exercised on behalf of a patient who is unable to exercise such right by a next of kin or guardian, in accordance with State law.

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[28] Optional provision.

Section 15. TRANSPORTATION

Whenever a patient is to be brought to or from a treatment facility, or is to be transferred to another facility or to a home, the court may direct the sheriff, state police or other appropriate authorities to furnish suitable transportation.

Section 16. NON-DEROGATION OF PATIENTS' RIGHTS

Rights conferred upon patients by this Act shall be in addition to, and nothing in this Act shall revoke or reduce, any rights, privileges or immunities which a patient may have or acquire by law, regulation or policy.

Section 17. COSTS OF CARE

In accordance with law, indigent public patients shall receive care and treatment under this Act without charge to them. Patients committed under this Act who are able to pay may be required to pay some reasonable costs of care and treatment, and to that end treatment facilities and the State shall be authorized to recover such costs from them or their estate, their family, custodians of their property, or third parties liable for the costs of their care or treatment, in conformity with law. The liability of patients, their families, and others for the long term care of patients committed as likely to cause harm to others shall be specially limited by regulations of the Department of Mental Health.

Section 18. IMMUNITIES AND PENALTIES

18.A. Immunities

1. In the absence of willful misconduct or gross negligence, no officer, director, staff member or employee of a treatment facility shall be liable for acts or omissions within the scope of his employment related to admission, evaluation, care, treatment, nonadmission, transfer, removal of restrictions upon, or discharge of a person, pursuant to this Act.

2. No other person who, acting in good faith and with a reasonable basis, participates in any of the processes provided in this Act shall be liable for such actions.

3. Notwithstanding any other provision of this Act, no police officer, no officer, director, staff member or employee of a treatment facility, and no other person or entity performing actions pursuant to this Act, shall be liable for any action of a patient who is discharged from or is absent from a treatment facility pursuant to this Act.

4. Under no circumstances shall any person performing actions pursuant to this Act have a duty to, or be liable for failing to, notify, advise or warn anyone concerning the non-admission, transfer, removal of restrictions on, or discharge of any person.

18.B. Penalties

1. Any person who knowingly and willfully gives substantial, false information or takes other wrongful action for the purpose of distorting, corrupting or interfering with the processes provided in this Act shall be subject to a civil fine, and shall be liable for injunctive relief and money damages, in addition to any other liability under law.

2. Any person who takes into custody, admits for evaluation or commitment, detains for a further period of time, discharges, or administers medication or treatment to a patient, or takes other action affecting the substantial rights of a patient, doing so knowingly and willfully in substantial violation of this Act, shall be subject to a civil fine, and shall be liable for injunctive relief and money damages, in addition to any other liability under law. This subsection shall not be invoked in cases of minor, merely technical, or otherwise justifiable breaches of the provisions of this Act.

Section 19. REGULATIONS

The Commissioner of Mental Health is empowered to promulgate regulations to implement this Act which are consistent with its provisions.

Section 20. CONSTRUCTION

20.A. Gender and Number

As used in this Act, pronouns shall refer to both male and female persons equally, and articles shall refer to singular and plural references equally.

20.B. Severability

If any provision of this Act or its application to any person or circumstance is held invalid, it is the legislative intent that such invalidity not affect other provisions or applications which can be given effect apart from that which is invalidated, and to this end the provisions of this Act shall be deemed severable.

20.C. Construction Against Implied Repeal

This Act is intended as a unified, general Act covering its subject matter, and accordingly none of its provisions shall be deemed impliedly repealed by subsequent legislation if such a construction reasonably can be avoided.

ADDENDUM

This addendum contains Guidelines for states which do not wish to undertake a comprehensive revision of their civil commitment laws, but do wish to add provisions for the commitment of persons who are likely to "suffer substantial mental or physical deterioration."

* * *

DEFINITIONS

As used in this Act, the terms below shall have the meanings indicated:

* * *

"consistent with the least restrictive alternative principle" means that (1) each patient committed solely on the ground that he is likely to cause harm to himself or to suffer substantial mental or physical deterioration shall be placed in the most appropriate and therapeutic available setting, that is, where treatment provides the patient with a realistic opportunity to improve, and which is no more restrictive of his physical or social liberties than is believed conducive to the most effective treatment for the patient; and (2) each patient committed solely or in part on the ground that he is likely to cause harm to others shall be placed in a setting in which treatment is available and the risks of physical injury or property damage posed by such placement are warranted by the proposed plan of treatment.

* * *

"lacks capacity to make an informed decision concerning treatment" means that the person, by reason of his mental disorder or condition, is unable despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment, or is unable to engage in a rational decisionmaking process regarding such hospitalization or treatment as evidenced by inability to weigh the possible risks and benefits.

"likely to cause harm to himself or to suffer substantial mental or physical deterioration" means that as evidenced by recent behavior, the person (1) is likely in the near future to inflict substantial physical injury upon himself, or (2) is substantially unable to provide for some of his basic needs such as food, clothing, shelter, health or safety, or (3) will if not treated suffer or continue to suffer severe and abnormal mental, emotional or physical distress, and this distress is associated with significant impairment of judgment, reason or behavior causing a substantial deterioration of his previous ability to function on his own.

* * *

"severe mental disorder" means an illness, disease, organic brain disorder, or other condition which (1) substantially impairs the person's thought, perception of reality, emotional process, or judgment or (2) substantially impairs behavior as manifested by recent disturbed behavior.[1]

* * *

EMERGENCY PSYCHIATRIC EVALUATION

Detention by a Police Officer

A police officer may take a person into custody, and transport the person to a treatment facility for emergency psychiatric evaluation if:

* * *

-- the police officer has probable cause to believe, based on his personal observation and investigation, or based on the petition of any interested adult and such corroboration as the police officer deems necessary in the circumstances, that the person is suffering from a severe mental disorder as a result of which he is likely to cause harm to himself or others or is manifestly unable to care for some of his basic needs, and that immediate hospitalization is necessary to prevent harm to the person or to others;

* * *

Certification by a Licensed Physician

A person may be taken into custody by a police officer, or accepted by an ambulance service, and transported and presented to a treatment facility for emergency psychiatric evaluation when a licensed physician certifies in writing that he has examined the patient

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[1] Mental retardation, epilepsy, or other developmental disabilities do not, in themselves, constitute a severe mental disorder. States may wish to provide by other provisions of law for persons whose use of or addiction to intoxicating substances warrants hospitalization.

in the last 72 hours or that he has ongoing medical responsibility for the person and has knowledge of his current condition, and on such basis he has probable cause to believe that such person is suffering from a severe mental disorder as the result of which: he lacks capacity to make an informed decision concerning treatment; and he is (1) likely to cause harm to himself or to suffer substantial mental or physical deterioriation, or (2) likely to cause harm to others; and immediate hospitalization is necessary to prevent such harm.

* * *

Treatment Facility Determination

Upon the presentation of a person to a treatment facility, the facility shall accept the person and shall promptly examine him to determine whether he meets the criteria for emergency evaluation and treatment set forth below.

The person shall be admitted for emergency evaluation and treatment only if the examining psychiatrist determines that there is probable cause to believe that the person suffers from a severe mental disorder as the result of which: he lacks capacity to make an informed decision concerning treatment; and he is (1) likely to cause harm to himself or to suffer substantial mental or physical deterioration, or (2) likely to cause harm to others; and immediate hospitalization is necessary to prevent such harm.

* * *

CRITERIA FOR COMMITMENT

A person may be involuntarily committed for a period of up to ( )[2] days if after the hearing the court determines, based upon clear and convincing evidence, that:

1. the person is suffering from a severe mental disorder; and

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[2] Insert the time period under existing law.

2. there is a reasonable prospect that his disorder is treatable at or through the facility to which he is to be committed, and such commitment would be consistent with the least restrictive alternative principle; and

3. the person either refuses or is unable to consent to voluntary admission for treatment; and

4. the person lacks capacity to make an informed decision concerning treatment; and

5. as the result of the severe disorder, the person is (1) likely to cause harm to himself or to suffer substantial mental or physical deterioration, or (2) likely to cause harm to others.

* * *

INFORMED CONSENT TO MEDICATION OR OTHER TREATMENT -- INVOLUNTARY PATIENTS

* * *

It being a prerequisite to involuntary commitment that the person lacks capacity to make an informed decision concerning treatment, the treatment facility shall be authorized to administer medications or other treatments, except special therapies which are subject to particular laws or regulations, to such persons consistent with good medical practice without their consent. Although consent to treatment is not required, during the course of treatment the responsible psychiatrist shall consult with the patient and his next of kin or guardian, and give consideration to the views they express concerning treatment and any alternatives.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

September 9, 1983

SUBJECT: Mental health commitment laws
(Work Order No. 13-1516)

TO: Senator Joe Josephson
Chairman, Senate Health, Education and
Social Services Committee

FROM: Edward H. Hein EHA
Legislative Counsel

You have asked for a comparison of the American Psychiatric Association's draft guidelines for psychiatric hospitalization of adults with Alaska's mental health commitment laws (AS 47.30.655 - 47.30.915). I have enclosed a section-by-section comparison, with the APA guidelines on the left-hand pages and the corresponding Alaska statutes on the right-hand pages. My comments follow.

In general, there are many similarities between the APA guidelines and Alaska law. Both provide for emergency or involuntary commitments, voluntary commitments, initial periods of detention followed by longer periods of extension, standards, hearings, patient rights, immunities for mental health professionals, and penalties for bad faith commitments. In most cases Alaska law appears to provide equal or better patient protections than those recommended by the APA.

The major specific differences between the guidelines and the statutes are as follows:

1. Emergency detention. Under APA section 4.A.2. a person taken into custody for emergency evaluation may not be placed in a jail or other correctional facility, except for protective custody purposes and only while awaiting transportation to a treatment facility. Under AS 47.30.705. a correctional facility may be used as an emergency evaluation facility if a regular evaluation facility is unavailable.

2. Petition for invcluntary commitment. Under APA section 4.C. any "interested adult" may petition for an emergency psychiatric evaluation of another person. The APA does not define what "interested" means. Under AS 47.30.700 "any adult" may petition for involuntary commitment of another person.

3. Deadline for emergency examination. Under APA section 4.D.1. a treatment facility must examine a person under emergency detention "promptly" after arrival at the facility. Under AS 47.30.710 the examination and evaluation must be completed within 24 hours of arrival.

4. Advisement of rights. Under APA section 4.E. a treatment facility must notify a person admitted for emergency evaluation of the purposes and possible duration of the evaluation, as well as the person's legal rights relating to commitment. Under AS 47.30.725 there is no specific requirement of notice relating to the purposes and duration of evaluation. But the Alaska statute requires that notice be both oral and written and in a language the person understands.

5. Hearing after emergency detention. Unde APA section 4.F. a person under emergency detention must receive a hearing before a court within five business days after being admitted to a facility. This right to a hearing may be waived in writing upon advice of counsel. The hearing is informal and is conducted under rules set by the court consistent with "fundamental fairness". After the hearing a person may be discharged by the court or committed for 30 days. Under AS 47.30.725 a person under emergency or involuntary detention has a right to a hearing within 72 hours of arrival at the facility. The person may not waive the right to a hearing, but may waive the 72-hour limit if the person is represented by counsel. However, the hearing must be held within seven calendar days of the person's arrival at the facility. The person has a right to communicate, immediately after arrival at the facility, with a guardian or other adult and with an attorney. At the hearing the person has a right to be represented by an attorney, to present evidence and to cross-examine witnesses. Subject to specified exceptions, the person has a right to be free of the effects of medicine or treatment before the hearing. After the hearing the person may be discharged or committed for a period of 21 days. Additional hearing rights are

specified elsewhere in the APA guidelines and the Alaska statutes.

6. Voluntary admission. Under APA section 5.A. a person believed to be mentally ill and in need of hospitalization may be admitted voluntarily if the person consents in writing after being advised of rights. The consent is effective for 60 days, but may be renewed for an unlimited number of periods of up to 180 days each. Under AS 47.30.670 the only requirements are that the person (1) in fact be suffering from mental illness, (2) be 14 years old or older, and (3) "voluntarily" signs the admission papers. A person under 14 years of age may be "voluntarily" admitted for a period of 21 days if (1) the minor's guardian or parent signs the admission papers and (2) the senior mental health professional at the facility concludes that specified criteria are met. Presumably the minor is automatically released after 21 days unless the minor is admitted again under the same requirements as for initial admittance.

7. Discharge from voluntary admission. Under APA section 5.B. any person voluntarily admitted must be discharged within five business days after submitting a written request for discharge, unless the treatment facility or the person's guardian files a petition for 30-day commitment. Under AS 47.30.685 - 47.30.695 a person who was voluntarily admitted to a treatment facility shall be discharged immediately upon submitting a written notice of intent to leave the facility. However, the treatment facility may hold the person for 48 hours after receiving an intent to leave notice in order to initiate involuntary commitment proceedings. In that case, the facility must give the person written notice of its intent to initiate the proceedings by the time the person would otherwise be released. A person who is under 14 years of age must be discharged immediately upon the request of the parent or guardian, unless the minor, if released, is likely to cause serious harm to himself or another as a result of a mental illness.

8. Conversion of status. Under APA section 5.C. a person who was committed involuntarily may change to a voluntary admitee with a psychiatrist's approval. No comparable provision exists in Alaska law.

9. Further periods of commitment. The APA guidelines provide for 30-day, 60-day, 90-day, and 180-day commitments. Alaska law provides for 21-day, 90-day, and 120-day

commitments. Each period of commitment is to be preceded by a hearing under both the APA guidelines and the Alaska statutes. The patient's rights at the hearing vary considerably, however, under the two different schemes. The most noticeable differences are that (1) the APA guidelines allows the use of hearsay evidence so long as it is relevant, while Alaska requires the use of civil rules of evidence; (2) the APA denies a patient's Fifth Amendment right to remain silent, while Alaska law specifically recognizes it; and (3) the APA does not allow the exclusion from evidence of privileged communications between the patient and psychiatrist or physician made during the course of evaluation or treatment, whereas Alaska law recognizes such an evidentiary privilege.

10. Petitions for further periods of commitment. Under both the APA guidelines and Alaska law, all commitments are initiated by the filing of a petition. Under APA section 6.A. a petition for a 30-day commitment of a person already at a treatment facility may be filed by the facility or by the person's "next of kin" or guardian. If the person is not currently committed, any "interested adult" may file a petition for a 30-day commitment of the person. The language of the guidelines does not make clear whether additional petitions may be filed for successive commitments of 30-days each. Under APA section 11.A. a person who "has been subject to" a 30-day commitment may be recommitted for an additional 60-day period upon a petition filed by the treatment facility or the person's "next of kin" or guardian. (The drafting here is imprecise and ambiguous. The phrase "has been subject to" could mean "has ever been subject to" or it could mean "is currently under" or it could mean "has met the criteria for".) Under APA section 11.B., a person committed for any period of time and who is dangerous to himself or herself may be committed for one additional period of "up to 90 days" upon a petition filed by the treatment facility or by the person's next of kin or guardian at any time before the current period of commitment expires. Under APA section 11.C., a person who "was committed for up to 30 days and is subject to 60-day recommitment" and who is likely to harm others may be committed for successive additional periods of 180 days each upon a petition filed by the person's next of kin or guardian, or by the state "upon advice of the treatment facility". Under AS 47.30.730, a petition for a 21-day commitment must be signed by two mental health professionals who have examined the person. It is not clear who may file

the petition. Under AS 47.30.740, a petition for a 90-day commitment may be filed by "the professional person in charge" while the person is under a 21-day commitment. Under AS 47.30.770 the "professional person in charge" may file a petition for a 120-day commitment of a person who is under a 90-day commitment. Successive commitments of 120 days each are authorized.

11. Informed consent. Under APA section 7, a treatment facility must obtain a patient's informed consent before administering medicine or treatment to a voluntary admitee in a non-emergency situation, unless the person lacks capacity to consent. A voluntary admitee may revoke consent in writing at any time except in an emergency. Under APA section 8, an involuntary admitee, or a voluntary admitee in an emergency, may be treated or given medicine without informed consent. Under AS 47.30.825, every mental patient has the right to know the name, purpose and side effects of medicine to be administered. In a "true medical emergency", surgery to save the "life, physical health, eyesight, hearing or member of the patient" may be performed without the consent of the patient, guardian or court. The law specifically recognizes an adult patient's right to not be operated on if the patient knowingly withholds consent on religious grounds.

12. Special therapies. Under APA section 8.C. experimental treatments, psychosurgery, aversive therapy or other special therapy designated by the appropriate state department may not be administered, except as provided by law or regulation. AS 47.30.825 provides that a lobotomy or psychosurgery may not be performed without specific informed consent, a full due process hearing, and a court order. Electro-convulsive therapy or aversive conditioning requires informed consent or, if the patient lacks substantial capacity to give informed consent, a court order. Under AS 47.30.830 experimental treatments involving any significant risk of physical or psychological harm are prohibited.

13. Patient rights. This is one area where the APA guidelines are more thorough than Alaska law. Under both schemes patients have rights to privacy, property, civil rights such as voting, mail, access to attorneys and visitors, and treatment consistent with the "least restrictive alternative" principle. APA section 10, however, also provides a right to "nutritionally sound and medically appropriate diet", a right to exercise and recreation, a

right to perform labor, and a right to be free from corporal punishment.

14. Discharge. Under APA section 12.F. a person may, as part of an individual treatment plan, be released from commitment at a facility to outpatient treatment. The person may, however, be returned to inpatient treatment for failure to comply with the outpatient treatment program requirements. APA section 15 provides that law enforcement or other appropriate authorities shall provide transportation of patients to and from a treatment facility. Under AS 47.30.825, a person upon discharge from a facility must be given a discharge plan suggesting, but not requiring, the kinds and amounts of treatment the person should have to maintain mental health. The person has a right to participate in formulating the discharge plan. Also, under AS 47.30.890 a person is entitled to "suitable clothing" upon discharge, and if indigent, to transportation to the person's permanent residence in the state and "a reasonable amount of money to meet immediate needs". See also AS 47.30.795.

15. Confidentiality. The APA guidelines adopt by reference the "Model Law on Confidentiality of Health and Social Service Records". AS 47.30.845 provides that patient records are confidential and not public records, and specifies the persons or agencies to whom records and information may be disclosed.

16. Grievance procedures. APA section 14.B. requires that treatment facilities establish "fundamentally fair" procedures for patients' grievances. Alaska statutes have no similar provision.

17. Immunities. Under APA section 18.A. employees of a treatment facility are not liable for acts or omissions within the scope of employment, absent willful misconduct or gross negligence. Other persons who act in good faith and with a reasonable basis are not liable for actions provided for under the guidelines. The guidelines disclaim any liability for actions by a patient who is absent from a treatment facility or who has been discharged. Finally, the guidelines disclaim any liability for failure to warn or notify anyone of a patient's discharge. Immunity under Alaska law is much more limited. Under AS 47.30.815 a person is not subject to criminal or civil liability for petitioning for evaluation or treatment of another person in

good faith and upon actual knowledge or reliable information. Also, four classes of officials may not be held civilly or criminally liable for detaining or releasing a person "at or before the end of" the period for which the person was committed, so long as the official acted in good faith and without gross negligence.

18. Penalties. APA section 18.B. provides that a civil fine, injunctive relief and money damages may be imposed or granted if a person (1) "knowingly and willfully gives substantial, false information or takes other wrongful action for the purpose of distorting, corrupting or interfering with the processes provided in this Act" or (2) commits, detains, discharges, or treats a patient, or otherwise affects a patient's "substantial rights" knowingly and willfully in substantial violation of the guidelines. AS 47.30.915 makes it a class C felony to willfully initiate an involuntary commitment procedure without good cause.

19. Miscellaneous provisions. The last four pages of the comparison booklet (enclosed) consist of provisions of Alaska law for which there are no corresponding provisions in the APA guidelines. Note especially AS 47.30.760, providing for placement at the closest facility; AS 47.30.765, providing for appeal of involuntary commitment orders; AS 47.30.875, providing for handling of nonresident patients; AS 47.30.880, adopting the Interstate Compact on Mental Health; and AS 47.30.895 - 47.30.900, disposition of personal property and money of patients who die while in custody or who leave a facility without authority. Note one error: AS 47.30.795, relating to outpatient care and appearing among the miscellaneous provisions, actually corresponds with APA section 12.F. and should have appeared opposite that section.

If you have any questions or comments, feel free to contact me at your convenience.

EHH:ljb

Enclosure
29/002

GIVEN TO PATIENTS AT API
(MUST BE IN A LANGUAGE UNDERSTOOD BY PATIENT)

PATIENT'S RIGHTS

Your legislators have tried to protect your rights to freedom and at the same time protect everyone from dangerous people and protect people who are harmful to themselves because of mental illness.

The following are your rights according to law:

1. You may join in developing your treatment plan, and you are entitled to be informed of your medical and psychological condition and prognosis.

2. You will be told the name, purpose, and side effects of any medication you are asked to take.

3. No unnecessary or excessive medication will be given to you. All medication will be given only on the order of a licensed physician.

4. Physical restraint will not be used on you unless you behave in a manner harmful to yourself or others.

5. You will not receive electroconvulsive therapy, aversive conditioning, experimental treatment or psychosurgery.

6. You will be given a discharge plan outlining the kind and amount of care and treatment you should have after discharge.

7. Your civil rights will not be impaired.

8. Your hospital record and I.D. photograph will be confidential.

9. Unless you sign a release of responsibility, your personal property will be inventoried and safe-guarded and returned to you at discharge.

10. You will have private storage space, and will be allowed to wear your own clothing, and keep certain personal possessions and a reasonable amount of your own spending money.

11. You may have visitors during visiting hours.

12. You will have access to letter writing materials and stamps, and may send and receive unopened mail.

13. You will have reasonable access to a phone and may make and receive confidential calls.

14. After discharge you may move to have all court records pertaining to your care expunged.

Under the law certain rights may be restricted by your doctor when it is necessary for the protection of yourself or others.

The following additional information will help you better understand your care here. If you still have questions, ask your nurse or social worker:

1. No matter what your legal status is, the more you want to help yourself and work with the staff in an honest, open manner, the quicker and more effective will be your recovery.

2. You do not have the right to do the following:

   - Injure or threaten others.

   - Damage property

   - Intrude on the rights of others, such as rudeness, shouting, or excessive noise that you can control.

   - Make messes for others to clean up.

   - Bring or use drugs, alcohol or weapons.

   - Do illegal acts (break the law). This includes writing threatening letters or making threatening or obscene phone calls.

If you feel you are being treated unfairly or improperly, please follow these steps:

1) Bring it up in the community meeting.

2) If you are not satisifed with the results of that action, bring it up with your nursing advisor, doctor, or any member of the treatment team.

3) If not satisfied, write down your problem and complaint and forward it to the Superintendent.

4) You always have the right to write to your attorney, the State Ombudsman, the Commissioner of the Department of Health and Social Services, or the Superior Court which may have been involved in your hospitalization.

If you feel you've been discriminated against in any way because of race, color, sex, religion, age, or national origin, you may file a complaint with the Civil Rights Commission. You can get the forms from the Administrator's Office. If you need help in filling them out, see your nurse advisor or the Hospital Administrator's Office.

/cjb/vnc

HALOPERIDOL (Systemic)

Haloperidol (ha-loe-PER-i-dole) is used to treat nervous, mental, and emotional conditions. It is used also to control nausea and vomiting and the effects of Gilles de la Tourette's disease. Haloperidol is available only with your doctor's prescription.

Before Using This Medicine

In order to decide on the best treatment for your medical problem, your doctor should be told:

—if you have any of the following medical problems:

- Alcoholism
- Blood disease
- Epilepsy
- Glaucoma
- Heart or circulation disease
- Kidney disease
- Liver disease
- Lung disease
- Overactive thyroid
- Parkinson's disease
- Prostate enlargement
- Severe mental depression
- Stomach ulcers
- Urination problems

—if you are now taking any of the following medicines or types of medicine:

- Amphetamines
- Anticonvulsants (seizure medicine)
- Antihypertensives (high blood pressure medicine)
- Asthma medicine
- Epinephrine
- Ulcer medicine

—if you are now taking central nervous system (CNS) depressants such as:

- Antihistamines or medicine for hay fever, other allergies, or colds
- Barbiturates
- Narcotics
- Prescription pain medicine
- Sedatives, tranquilizers, or sleeping medicine
- Tricyclic antidepressants (medicine for depression)

Proper Use of This Medicine

Use this medicine only as directed by your doctor. Do not use more of it, do not use it more often, and do not use it for a longer period of time than your doctor ordered.

If this medicine upsets your stomach, it may be taken with food or milk to lessen stomach irritation.

If you miss a dose of this medicine, take it as soon as possible unless it is within 6 hours of your next scheduled dose. Do not double doses. Instead, go back to your regular dosing schedule. If you have any questions about this, check with your doctor.

Precautions While Using This Medicine

Your doctor should check your progress at regular visits, especially for the first few months you take this medicine.

Sometimes haloperidol must be taken for several days to several weeks before its full effect is reached in the treatment of certain mental and emotional conditions.

Do not suddenly stop taking this medicine without first checking with your doctor. Your doctor may want you to reduce gradually the amount you are taking before stopping completely.

This medicine will add to the effects of alcohol and other medicines that slow down the nervous system such as: antihistamines or medicine for hay fever, other allergies, or colds; barbiturates; medicine for seizures; narcotics; prescription pain medicine; sedatives, tranquilizers, or sleeping medicine; or tricyclic antidepressants (medicine for depression). ***Check with your doctor before taking any of the above while you are taking this medicine.***

This medicine may cause some people to become drowsy or less alert than they are normally, especially as the amount of medicine is increased. Even if you take this medicine at bedtime, you may feel drowsy or less alert on arising. ***Make sure you know how you react to this medicine before you drive, use machines, or do other jobs that require you to be alert.***

Although not a problem for many patients, dizziness, light-headedness, or fainting may occur, especially when getting up from a lying or sitting position. Getting up slowly may help. However, if the problem continues or gets worse, check with your doctor.

Side Effects of This Medicine

Along with its needed effects, a medicine may cause some unwanted effects. Although not all of these side effects appear very often, when they do occur they may require medical attention. Check with your doctor if any of the following side effects occur:

More common

- Shuffling walk
- Stiffness of arms and legs
- Tic-like, jerky movements of head, face, mouth, and neck
- Trembling and shaking of hands and fingers

Less common

- Difficulty in urination
- Dizziness, light-headedness, or fainting
- Fine, worm-like movements of tongue
- Skin rash

Rare

- Sore throat and fever
- Yellowing of eyes and skin

Other side effects may occur which usually do not require medical attention. These side effects may go away during treatment as your body adjusts to the medicine. However, check with your doctor if any of the following side effects continue or are bothersome:

More common

- Blurred vision
- Constipation
- Dry mouth

TRICYCLIC ANTIDEPRESSANTS (Systemic)

Applies to:
Amitriptyline (a-mee-TRIP-ti-leen)
Desipramine (dess-IP-ra-meen)
Doxepin (DOX-e-pin)
Nortriptyline (nor-TRIP-ti-leen)
Imipramine (im-IP-ra-meen)

Does *not* apply to:
Protriptyline

This medicine belongs to the group of medicines known as tricyclic antidepressants or "mood elevators." It is used to relieve mental depression and depression that sometimes occurs with anxiety. One form of this medicine (imipramine) may be used to treat enuresis (bedwetting). Tricyclic antidepressants are available only with your doctor's prescription.

Before Using This Medicine

In order to decide on the best treatment for your medical problem, your doctor should be told:

—if you have experienced an allergic reaction to other tricyclic antidepressants.

—if you have any of the following medical problems:

Alcoholism	Heart disease
Asthma (history of)	High blood pressure
Difficult urination	Liver disease
Enlarged prostate	Overactive thyroid
Glaucoma	Stomach or intestinal problems

—if you are now taking any other medicines, including over-the-counter (OTC) or nonprescription medicine, especially the following:

Allergy medicine	Other medicine for depression
Antihistamines	Pain medicine
Barbiturates	Sedatives
Blood pressure medicine	Seizure medicine
Cold remedies	Sleeping medicine
Hay fever medicine	Tranquilizers
Narcotics	

—if you are now taking or have taken within the past 2 weeks monoamine oxidase (MAO) inhibitors such as:

Isocarboxazid	Phenelzine
Pargyline	Tranylcypromine

Proper Use of This Medicine

Take this medicine only as directed by your doctor.

To lessen stomach upset, take this medicine with food, unless your doctor has told you to take it on an empty stomach.

Sometimes this medicine must be taken for several weeks before you begin to feel better.

Keep this medicine out of the reach of children since overdose is especially dangerous in young children.

If you miss a dose of this medicine, take it as soon as possible and then go back to your regular dosing schedule. However, if a once-a-day bedtime dose is missed, do not take that dose in the morning. Instead, check with your doctor.

Precautions While Using This Medicine

It is very important that your doctor check your progress at regular visits.

Do not stop taking this medicine without first checking with your doctor. Your doctor may want you to reduce gradually the amount you are using before stopping completely.

Before having any kind of surgery (including dental surgery) or emergency treatment, tell the doctor or dentist in charge that you are using this medicine.

This medicine will add to the sedative effects of alcohol and other medicines that slow down the nervous system such as antihistamines or medicines for hay fever, other allergies, or colds; barbiturates; medicine for seizures; narcotics; other medicine for depression; prescription pain medicine; sedatives, tranquilizers, or sleeping medicine. *Check with your doctor before taking any of the above while you are taking this medicine and also for several days after you stop taking it.*

This medicine may cause some people to become drowsy or less alert than they are normally. *Make sure you know how you react to this medicine before you drive, use machines, or do other jobs that require you to be alert.*

Dizziness, lightheadedness, or fainting may occur, especially when getting up from a lying or sitting position. Getting up slowly may help. If this problem continues or gets worse, check with your doctor.

Side effects of this Medicine

Along with its needed effects, a medicine may cause some unwanted effects. Although not all of these side effects appear very often, when they do occur they may require medical attention. Check with your doctor if any of the following side effects occur:

More common

Blurred vision	Irregular heartbeat (pounding, racing, skipping)
Constipation	Problems in urinating

Less common

Eye pain	Hallucinations (seeing, hearing, or feeling things that are not there)
Fainting	Shakiness
	Unusually slow pulse

Rare

Seizures	Sore throat and fever
Skin rash and itching	Yellowing of eyes and skin

LITHIUM (Systemic)

Lithium (LI-thee-um) is a medicine used in the treatment of certain mental and emotional conditions. Lithium is available only with your doctor's prescription.

Before Using This Medicine

In order to decide on the best treatment for your medical problem, your doctor should be told:

—if you are pregnant or if you intend to become pregnant while using this medicine.

—if you are breast-feeding an infant.

—if you have any of the following medical problems:

Heart disease	Severe infection
Kidney disease	Thyroid disease
Parkinson's disease	

—if you drink large amounts of coffee or tea.

—if you are on a low-salt diet.

—if you are now taking any of the following medicines or types of medicine:

Asthma medicine	Haloperidol
Caffeine	Potassium iodide
Chlorpromazine	Sodium bicarbonate (baking soda)
Diuretics (water pills, especially thiazide-type)	

Proper Use of This Medicine

Take this medicine exactly as directed. Do not take more of it, do not take it more often, and do not take it for a longer period of time than your doctor ordered.

Sometimes this medicine must be taken for 1 to several weeks before you begin to feel better.

While taking this medicine, *drink 2 or 3 quarts of water or other fluids each day*, and use a normal amount of table salt in your food, unless otherwise directed by your doctor.

Take this medicine immediately after meals or with food or milk to lessen stomach upset, unless otherwise directed by your doctor.

If you miss a dose of this medicine, take it as soon as possible unless it is 2 hours or less until your next scheduled dose. Do not double doses. Instead, go back to your regular dosing schedule. If you have any questions about this, check with your doctor.

Precautions While Using This Medicine

Your doctor should check your progress at regular visits to make sure that the medicine is working properly and that possible side effects are avoided.

This medicine may cause some people to become drowsy or less alert than they are normally. *Make sure you know how you react to this medicine before you drive, use machines, or do other jobs that require you to be alert.*

Use extra care in hot weather and during activities that cause you to sweat heavily, such as hot baths, saunas, or exercising. The loss of too much water and salt from your body may lead to serious side effects from this medicine.

Do not drink large amounts of caffeine-containing beverages, such as coffee, tea, or colas, while taking this medicine. Since lithium is lost from the body through the urine, the increased urine flow caused by caffeine may lessen the medicine's effect.

Side Effects of This Medicine

Along with its needed effects, a medicine may cause some unwanted effects. Although not all of these side effects appear very often, when they do occur they may require medical attention. Check with your doctor if any of the following side effects occur:

More common

Nausea and vomiting
Shakiness and tremor

Less common

Drowsiness	Swelling of feet and lower legs
Mental confusion	Weakness
Pains in lower Stomach	Slurred speech

Rare

Blurred vision	Jerking of arms and legs

Other side effects may occur which usually do not require medical attention. These side effects may go away during treatment as your body adjusts to the medicine. However, check with your doctor if any of the following side effects continue or are bothersome:

More common

Decreased sexual ability	Dry mouth
Diarrhea	Increased thirst
Dizziness	Increased urination

Less common

Skin eruption or rash

Signs of low thyroid function

Coldness of fingers and toes	Menstrual changes
Constipation	Muscle aches
Dry, puffy skin	Sleepiness
Headache	Tiredness
	Unusual weight gain

BENZTROPINE (Systemic)

Benztropine (BENZ-troe-peen) is a medicine used to treat Parkinson's disease, sometimes referred to as "shaking palsy." By improving muscle control, benztropine allows more normal movements of the body as the disease symptoms are reduced. Benztropine is available only with your doctor's prescription.

Before Using This Medicine

In order to decide on the best treatment for your medical problem, your doctor should be told:

—if you have any of the following medical problems:

Asthma	High blood pressure
Bronchitis	Intestinal blockage
Difficult urination	Kidney disease
Emphysema	Liver disease
Enlarged prostate	Myasthenia gravis
Glaucoma	Overactive thyroid
Hiatal hernia	Severe ulcerative colitis

—if you are taking any of the following medicines or types of medicine:

Amantadine	Medicine for diarrhea
Antacids	Medicine for Parkinson's disease
Antihistamines or medicine for hay fever, other allergies, or colds	Medicine for sleep
Haloperidol	Nerve medicine
Heart medicine	Sedatives or tranquilizers
	Ulcer medicine

—if you are now taking or have taken within the past 2 weeks monoamine oxidase (MAO) inhibitors such as:

Isocarboxazid	Phenelzine
Pargyline	Tranylcypromine

Proper Use of This Medicine

Take this medicine only as directed by your doctor To lessen stomach upset, take this medicine immediately after meals or with food, unless your doctor has told you to take it on an empty stomach.

If you miss a dose of this medicine, take it as soon as possible. If it is within 8 hours of your next dose, do not take the missed dose at all and do not double the next one. Instead, go back to your regular dosing schedule. If you have any questions about this, check with your doctor.

Precautions While Using This Medicine

This medicine will add to the effects of alcohol and other medicines that slow down the nervous system such as antihistamines or medicine for hay fever, other allergies, or colds; barbiturates; medicine for depression; medicine for seizures; narcotics; prescription pain medicine; sedatives, tranquilizers, or sleeping medicine. *Check with your doctor before taking any of the above while you are taking this medicine.*

Do not take this medicine within 1 hour of taking antacids or medicine for diarrhea. Taking them too close together will make benztropine less effective.

This medicine may cause your eyes to become more sensitive to light than they are normally. Wearing sunglasses may help lessen the discomfort from bright light.

This medicine may cause some people to become drowsy, dizzy, or less alert than they are normally. *Make sure you know how you react to this medicine before you drive, use machines, or do other jobs that require you to be alert.*

Benztropine will often reduce your tolerance of heat, since it makes you sweat less, causing your body temperature to increase. *Use extra care not to become overheated during exercise or hot weather while you are taking this medicine, as this could possibly result in heat stroke.*

Your mouth, nose, and throat may feel very dry while you are taking this medicine. *To help relieve mouth dryness, chew sugarless gum or dissolve bits of ice in your mouth.*

Check with your doctor if you develop intestinal problems such as constipation. This is especially important if you are taking other medicine while taking benztropine, because if the problems are not corrected serious complications may result.

Side Effects of This Medicine

Along with its needed effects, a medicine may cause some unwanted effects. Although not all of these side effects appear very often, when they do occur they may require medical attention. Check with your doctor if any of the following side effects occur:

More common

Constipation

Less common

Difficult urination

Rare

Eye pain
Skin rash

THIOXANTHENES *(Systemic)*

Applies to:
Chlorprothixene (klor-proe-THIX-een)
Thiothixene (thye-oh-THIX-een)

This medicine belongs to the general family of medicines known as thioxanthenes. It is used in the treatment of nervous, mental, and emotional conditions. This medicine is available only with your doctor's prescription.

Before Using This Medicine

In order to decide on the best treatment for your medical problem, your doctor should be told:

—if you have ever had any unusual reaction to other thioxanthene or phenothiazine medicines.

—if you have any of the following medical problems:

- Alcoholism
- Blood disease
- Glaucoma
- Heart or circulation disease
- Liver disease
- Lung disease
- Parkinson's disease
- Stomach ulcers
- Prostate enlargement
- Urination problems

—if you are now taking any of the following medicines or types of medicine:

- Amphetamines
- Anticonvulsants (seizure medicine)
- Epinephrine
- Guanethidine (high blood pressure medicine)
- Levodopa
- Ulcer medicine

—if you are now taking central nervous system (CNS) depressants such as:

- Antihistamines or medicine for hay fever, other allergies, or colds
- Barbiturates
- Narcotics
- Prescription pain medicine
- Sedatives, tranquilizers, or sleeping medicine
- Tricyclic antidepressants (medicine for depression)

—if you are now taking or have taken within the past 2 weeks monoamine oxidase (MAO) inhibitors such as:

- Isocarboxazid
- Pargyline
- Phenelzine
- Tranylcypromine

Proper Use of this Medicine

Do not take more of this medicine or take it more often than your doctor ordered. This is particularly important when it is given to children, since they may react very strongly to the effects of the medicine.

This medicine may be taken with food or a full glass (8 ounces) of water or milk to reduce stomach irritation.

Sometimes this medicine must be taken for several weeks before its full effect is reached in the treatment of certain mental and emotional conditions.

If you miss a dose of this medicine, take it as soon as possible. If it is two hours or less until your next dose, do not take the missed dose at all and do not double the next one. Instead, go back to your regular dosing schedule. If you have any questions about this, check with your doctor.

Precautions While Using This Medicine

Your doctor should check your progress at regular visits, especially for the first few months you take this medicine.

Do not stop taking this medicine without first checking with your doctor. Your doctor may want you to reduce gradually the amount you are taking before stopping completely.

This medicine will add to the effects of alcohol and other medicines that slow down the nervous system such as: antihistamines or medicine for hay fever, other allergies, or colds; barbiturates; medicine for seizures; narcotics; prescription pain medicine; sedatives, tranquilizers, or sleeping medicine; or tricyclic antidepressants (medicine for depression). *Check with your doctor before taking any of the above while you are taking this medicine.*

This medicine may cause some people to become drowsy or less alert than they are normally, especially during the first few weeks the medicine is being taken. Even if you take this medicine only at bedtime, you may feel drowsy or less alert on arising. *Make sure you know how you react to this medicine before you drive, use machines, or do other jobs that require you to be alert.*

Dizziness, lightheadedness, or fainting may occur, especially when getting up from a lying or sitting position. Getting up slowly may help. If the problem continues or gets worse, check with your doctor.

Sometimes, patients may show signs of restlessness and excitement after taking this medicine. If this occurs, stop taking the medicine and check with your doctor.

This medicine will often make you sweat less, causing your body temperature to increase. Use extra care not to become overheated during exercise or hot weather while you are taking this medicine, since overheating could possibly result in heat stroke. Also, hot baths or saunas may make you feel dizzy or faint while you are taking this medicine.

A few people who take this medicine may become more sensitive to sunlight than they are normally. When you first begin taking this medicine, avoid too much sun or too much use of a sunlamp until you see how you react. If you have a severe reaction, check with your doctor.

Do not take this medicine within an hour of taking antacids or medicine for diarrhea. Taking them too close together may make this medicine less effective.

Side Effects of This Medicine

Along with its needed effects, a medicine may cause some unwanted effects. Although not all of these side effects appear very often, when they do occur

ANTIHISTAMINES (Systemic)

Applies to:
Azatadine (a-ZA-ta-deen)
Bromodiphenhydramine (broe-moe-dye-fen-HYE-dra-meen)
Brompheniramine (brome-fen-EER-a-meen)
Carbinoxamine (kar-bi-NOX-a-ameen)
Chlorpheniramine (klor-fen-EER-a-meen)
Dexchlorpheniramine (dex-klor-fen-EER-a-meen)
Dimethindene (dye-meth-IN-deen)
Diphenylpyraline (dye-fen-il-PEER-a-leen)
Doxylamine (doxe-ILL-a-meen)
Pyrilamine (peer-ILL-a-meen)
Tripelennamine (tri-pel-E.NN-a-meen)
Triprolidine (trye-PROE-li-deen)

Does not apply to:
Cyproheptadine
Dimenhydrinate
Diphenhydramine
Hydroxyzine
Promethazine
Trimeprazine

Antihistamines are used to relieve or prevent the symptoms of hay fever and other types of allergy. Certain antihistamine preparations are available only with your doctor's prescription. Others are available without a prescription; however, your doctor may have special instructions on the proper dose of the medicine for your medical condition.

Before Using This Medicine

In order to decide on the best treatment for your medical problem, your doctor should be told:

—if you are breast-feeding an infant.

—if you have any of the following medical problems:

Enlarged prostate	Overactive thyroid
Heart disease	Stomach ulcer
High blood pressure	Urinary tract blockage
Increased eye pressure	

—if you are now taking any central nervous system (CNS) depressants such as:

Barbiturates	Prescription pain medicine
Medicine for seizures	Sedatives, tranquilizers, or sleeping medicine
Narcotics	Tricyclic antidepressants (medicine for depression)
Other antihistamines or medicine for hay or colds	

—if you are now taking or have taken within the past two weeks monoamine oxidase (MAO) inhibitors such as:

Isocarboxazid	Phenelzine
Pargyline	Tranylcypromine

Proper Use of This Medicine

Antihistamines are used to relieve or prevent the symptoms of your medical problem. Take them only as directed. Do not take more of them or take them more often than your doctor ordered.

Take this medicine with food or a glass of water or milk to lessen stomach irritation.

If you are taking the long-acting tablet form of this medicine, the tablets are to be swallowed whole. Do not break, crush, or chew before swallowing.

Do not give this medicine to premature or newborn infants, unless otherwise directed by your doctor.

Precautions While Using This Medicine

Antihistamines will add to the effects of alcohol and other medicines that slow down the nervous system, such as anesthetics, including dental anesthetics; tranquilizers; medicine for depression; narcotics; prescription pain medicine; medicine for seizures; sleeping medicine; sedatives; or medicine for hay fever, other allergies, or colds. *Check with your doctor before taking any of the above while you are taking this medicine.*

This medicine may cause some people to become drowsy or less alert than they are normally. Even if taken at bedtime, it may cause some people to feel drowsy or less alert on arising. *Make sure you know how you react to this medicine before you drive or do other jobs that require you to be alert.*

Side Effects of This Medicine

Along with its needed effects, a medicine may cause some unwanted effects. The following side effects may go away during treatment as your body adjusts to the medicine; however, check with your doctor if they continue or are bothersome:

More common

Dizziness	Upset stomach or stomach pain
Drowsiness	
Thickening of the bronchial secretions	

Less common or rare

Blurred vision	Nervousness, restlessness, or trouble in sleeping(especially in children)
Difficult or painful urination	
Dryness of mouth, nose, and throat	Skin rash
Headache	Unusual increase in sweating
Loss of appetite	Unusually fast heartbeat

Other side effects not listed above may also occur in some patients. If you notice any other effects, check with your doctor.

PHENOTHIAZINES (Systemic)

Applies to:
Acetophenazine (a-set-oh-FEN-a-zeen)
Butaperazine (byoo-ta-PAIR-a-zeen)
Carphenazine (kar-FEN-a-zeen)
Chlorpromazine (klor-PROE-ma-zeen)
Fluphenazine (floo-FEN-a-zeen)
Perphenazine (per-FEN-a-zeen)
Piperacetazine (pi-per-a-SET-a-zeen)
Prochlorperazine (proe-klor-PAIR-a-zeen)
Promazine (PROE-ma-zeen)
Thioridazine (thye-oh-RID-a-zeen)
Trifluoperazine (trye-floo-oh-PAIR-a-zeen)
Triflupromazine (trye-floo-PROE-ma-zeen)

Does *not* apply to:
Ethopropazine
Methdilazine
Methotrimeprazine
Promethazine
Propiomazine
Thiethylperazine
Thiopropazate
Trimeprazine

Phenothiazines (fee-noe-THYE-a-zeens) are a family of medicines used to treat nervous, mental, and emotional conditions; some are used also to control anxiety, nausea and vomiting, and severe hiccups. Phenothiazines are available only with your doctor's prescription.

Before Using this Medicine

In order to decide on the best treatment for your medical problem, your doctor should be told:

—if you have ever had any unusual reaction to any of the phenothiazine medicines.

—if you are pregnant or if you intend to become pregnant while using this medicine.

—if you are breast-feeding an infant.

—if you have any of the following medical problems:

Alcoholism	Lung Disease
Blood disease	Parkinson's disease
Glaucoma	Prostate enlargement
Heart or circulation disease	Stomach ulcers
Liver disease	Urination problems

—if you are now taking any of the following medicines or types of medicine:

Amphetamines	Guanethidine (high blood pressure medicine)
Anticonvulsants (seizure medicine)	Levodopa
Asthma medicine	Ulcer medicine
Epinephrine	

—if you are now taking central nervous system (CNS) depressants such as:

Antihistamines or medicine for hay fever, other allergies, or colds	Prescription pain medicine
Barbiturates	Sedatives, tranquilizers, or sleeping medicine
Narcotics	Tricyclic antidepressants (medicine for depression)

—if you are now taking or have taken within the past two weeks monoamine oxidase (MAO) inhibitors such as:

Isocarboxazid	Phenelzine
Pargyline	Tranylcypromine

Proper Use of This Medicine

Do not take more of this medicine or take it more often than your doctor ordered. This is particularly important when it is given to children, since they may react very strongly to the effects of the medicine.

Sometimes this medicine must be taken for several weeks before its full effect is reached in the treatment of certain mental and emotional conditions.

Do not stop taking this medicine without first checking with your doctor. Your doctor may want you to reduce gradually the amount you are taking before stopping completely.

If you miss a dose of this medicine and your dosing schedule is one dose to be taken:

Once a day— Take the missed dose as soon as possible. Then go back to your regular dosing schedule. But if you do not remember the missed dose until the next day, do not take it at all and do not double the next one. Instead, go back to your regular dosing schedule.

Two times a day— Take the missed dose as soon as possible. Then go back to your regular dosing schedule. However, if it is almost time for your next dose, do not take the missed dose at all and do not double the next one. Instead, go back to your regular dosing schedule.

More than two times a day— If you remember within an hour or so of the missed dose, take it right away. Then go back to your regular dosing schedule. But if you do not remember until later, do not take the missed dose at all and do not double the next one. Instead, go back to your regular dosing schedule.

If you have any questions about this, check with your doctor.

Precautions While Using This Medicine

Your doctor should check your progress at regular visits, especially for the first few months you take this medicine.

This medicine will add to the effects of alcohol and other medicines that slow down the nervous system

such as: antihistamines or medicine for hay fever, other allergies, or colds; barbiturates; medicine for seizures; narcotics; prescription pain medicine; sedatives, tranquilizers, or sleeping medicine; or tricyclic antidepressants (medicine for depression). *Check with your doctor before taking any of the above while you are taking this medicine.*

This medicine may cause some people to become drowsy or less alert than they are normally, especially during the first few weeks the medicine is being taken. Even if you take this medicine only at bedtime, you may feel drowsy or less alert on arising. *Make sure you know how you react to this medicine before you drive, use machines, or do other jobs that require you to be alert.*

Dizziness, lightheadedness, or fainting may occur, especially when getting up from a lying or sitting position. Getting up slowly may help. If the problem continues or gets worse, check with your doctor.

Sometimes, patients may show signs of restlessness and excitement after taking this medicine. If this occurs, stop taking the medicine and check with your doctor.

This medicine will often make you sweat less, causing your body temperature to increase. *Use extra care not to become overheated during exercise or hot weather while you are taking this medicine,* since overheating could possibly result in heat stroke. Also, hot baths or saunas may make you feel dizzy or faint while you are taking this medicine.

A few people who take this medicine may become more sensitive to sunlight than they are normally. When you first begin taking this medicine, avoid too much sun or too much use of a sunlamp until you see how you react. If you have a severe reaction, check with your doctor.

Side Effects of This Medicine

Along with its needed effects, a medicine may cause some unwanted effects. Although not all of these side effects appear very often, when they do occur they may require medical attention. Check with your doctor if any of the following side effects occur:

More common (occurring with increase of dosage)

Muscle spasms, especially of neck and back	Tic-like (jerky) movements of head, face, mouth, and neck
Restlessness	Trembling and shaking of hands and fingers
Shuffling walk	

Less common

Fainting	Skin rashes
Fine, worm-like movements of tongue	

Rare

Eye problems	Yellowing of eyes and skin
Sore throat and fever	

Other side effects may occur which usually do not require medical attention. These side effects may go away during treatment as your body adjusts to the medicine. However, check with your doctor if any of the following side effects continue or are bothersome:

More common

Blurred vision	Dry mouth
Constipation	Increased sensitivity of skin to sun
Decreased sweating	Nasal congestion
Dizziness	Unusually fast heartbeat
Drowsiness	

Less common

Changes in menstrual period	Difficult urination
Decreased sexual ability	Swelling of breasts

This medicine may cause the urine to turn pinkish red to red or reddish brown; this is harmless and may be expected. If you have questions about this, ask your doctor or pharmacist.

Other side effects not listed above may also occur in some patients. If you notice any other effects, check with your doctor.

ADDITIONAL INFORMATION

For patients taking this medicine by mouth

This medicine may be taken with food or a full glass (8 ounces) of water or milk to reduce stomach irritation.

Do not take this medicine within an hour of taking antacids or medicine for diarrhea. Taking them too close together may make this medicine less effective.

If you are taking a liquid form of this medicine, try to avoid getting it on your skin or clothing because it may cause a skin rash or other irritation.

If your medicine comes in a dropper bottle, it must be diluted before you take it. Just before taking, measure each dose with the specially marked dropper and dilute it in ½ glass (4 ounces) of tomato or fruit juice, water, soup, coffee, tea, milk, or carbonated beverage.

For patients taking the extended-release tablet form of this medicine

The extended-release tablets or capsules are to be swallowed whole. Do not break, crush, or chew before swallowing.

For patients using the suppository form of this medicine

How to insert suppository: First remove the foil wrapper and moisten the suppository with water. Lie down on side and push the suppository well up into the rectum with finger.

If the suppository is too soft to insert because of storage in a warm place, before removing the foil wrapper chill the suppository in the refrigerator for 30 minutes or run cold water over it.

For patients receiving this medicine by injection

The effects of the long-acting injection form of this medicine may last for up to 6 weeks. The precautions and side effects information for this medicine applies during this period of time.

Article 9. Patient Rights.

Section		Section	
825	Patient rights: Medical	845	Confidential records
830	Prohibition of experimental treatments	850	Expungement of records
835	Civil rights not impaired	855	Posting of rights
840	Right to privacy and personal possessions	860	Notices in languages other than English
		865	Discrimination prohibited

Sec. 47.30.825. Patient rights: Medical. Each patient who is receiving services under AS 47.30.660 — 47.30.915 has the following rights:

(1) A patient, or his counsel, guardian, or the adult designated in accordance with AS 47.30.725 if the patient is mentally incapable of participation, is entitled to participate in formulating his individualized treatment plan and to participate in the evaluation process as much as possible, at minimum to the extent of requesting specific forms of therapy, inquiring why specific therapies are or are not included in his treatment program, and being informed as to his present medical and psychological condition and prognosis. The treating physician may not withhold any of this information from the patient.

(2) A patient has the right to know the name of medication that he is asked to take, what its purpose is, and what side effects may occur with this medication. If the patient is incapable of understanding the purpose and side effects of the medication, the treating physician or mental health professional shall explain it to the patient's counsel or guardian or, if there is no guardian, the adult designated in accordance with AS 47.30.725.

(3) A locked quiet room, or other form of physical restraint, may not be used, except as provided in this paragraph, unless a patient is likely to physically harm himself or others unless restrained. The form of restraint used shall be that which is in the patient's best interest and which constitutes the least restrictive alternative available. When practicable, the patient shall be consulted as to his preference among forms of adequate, medically advisable restraints including medication, and his preference shall be considered. Nothing in this section is intended to limit the right of staff to use a quiet room at the patient's request or with his knowing concurrence when considered in the best interests of the patient. Patients placed in a quiet room or other physical restraint shall be checked at least every 15 minutes or more often if good medical practice so indicates. Patients in a quiet room must be visited by a staff member at least once every hour and must be given adequate food and drink and access to bathroom facilities. At no time may a patient be kept in a quiet room or other form of physical restraint against his will longer than necessary to accomplish the purposes set out in this paragraph. All uses of a quiet room or other restraint shall be recorded in the patient's medical record, the information including but not limited to the reasons for its use, the duration [illegible] and the name of the [illegible]

(4) A patient has the right to be free from unnecessary or excessive medication. Psychotropic medication shall be administered only on the order of a licensed physician when the physician determines that such medication is in the best interest of the patient or will prevent serious harm to others.

(5) A patient capable of giving informed consent has the absolute right to accept or refuse electro-convulsive therapy or aversive conditioning. A patient who lacks substantial capacity to make this decision may not be given such therapy or conditioning without a court order.

(6) In no event may treatment include psychosurgery, lobotomy, or other comparable form of treatment without specific informed consent of the patient, including a minor unless he is clearly too young or disabled to give an informed consent in which case the consent of his legal guardian is required. In addition, such treatment may not be given without a court order after hearing compatible with full due process.

(7) When, in the written opinion of a patient's attending physician, a true medical emergency exists and a surgical operation is necessary to save the life, physical health, eyesight, hearing or member of the patient, the professional person in charge, or his professional designee, may give consent to the surgical operation if time will not permit obtaining the consent of the proper relatives or guardian or appropriate judicial authority. However, an operation may not be authorized if the patient is not a minor and knowingly withholds consent on religious grounds.

(8) A patient upon discharge shall be given a discharge plan specifying the kinds and amount of care and treatment he should have after discharge and such other steps as he might take to benefit his mental health after leaving the facility. The patient shall have the right to participate, as far as practicable, in formulating his discharge plan. A copy of the plan shall be given to the patient, his guardian, the court if appropriate, and any follow-up agencies. (§ 1 ch 84 SLA 1981)

Sec. 47.30.830. Prohibition of experimental treatments. (a) Experimental treatments involving any significant risk of physical or psychological harm may not be administered to a patient.

(b) If the personnel of an evaluation or treatment facility are uncertain as to whether a proposed treatment is experimental or is experimental as applied to a particular patient or would involve a significant risk of mental or physical harm to the patient, the matter may be referred to the commissioner for a determination. The patient, his attorney, his guardian, if any, and an adult designated by the patient, shall, simultaneously with the referral to the commissioner, be provided with copies of all the documents by which the referral is made and shall have the opportunity to provide evidence to the commissioner on the question.

(c) A determination by the commissioner that a treatment is experimental and entails significant risks of mental or physical harm is binding upon all persons involved in the administration of treatment to a patient. (§ 1 ch 84 SLA 1981)

Sec. 47.30.835. Civil rights not impaired. (a) A person may not deny to a person who is undergoing evaluation or treatment under AS 47.30.660 — 47.30.915 a civil right, including but not limited to, the right to free exercise of religion and the right to dispose of property, sue and be sued, enter into contractual relationships, and vote. A person who violates this subsection commits the crime of interference with constitutional rights under AS 11.76.110.

(b) Court-ordered evaluation or treatment under AS 47.30.660 — 47.30.915 is not a determination of legal incapacity under AS 13.26.003 — 13.26.330. (§ 1 ch 84 SLA 1981)

Sec. 47.30.840. Right to privacy and personal possessions. A person undergoing evaluation or treatment under AS 47.30.660 — 47.30.915 shall

(1) not be photographed without his consent and that of his guardian if a minor, except that he may be photographed upon admission to a facility for identification and for administrative purposes of the facility; all photographs shall be confidential and may only be released by the facility to the patient or his designee unless a court orders otherwise;

(2) at the time of admission to an evaluation or treatment facility, have reasonable precautions taken by the staff to inventory and safeguard his personal property; a copy of the inventory signed by the staff member making it shall be given to the patient and made available to his attorney and any other person authorized by the patient to inspect the document;

(3) have access to an individual storage space for his private use while undergoing evaluation or treatment;

(4) be permitted to wear his own clothing, to keep and use his own personal possessions including his toilet articles if they are not considered unsafe for him or other patients who might have access to them, and to keep and be allowed to spend a reasonable sum of his own money for his own needs and comfort;

(5) be allowed to have visitors at reasonable times;

(6) have ready access to letter writing materials, including stamps, and have the right to send and receive unopened mail;

(7) have reasonable access to a telephone, both to make and receive confidential calls. (§ 1 ch 84 SLA 1981)

Sec. 47.30.845. Confidential records. Information and records obtained in the course of a screening investigation, evaluation, examination, or treatment are confidential and are not public records, except to the requirements of a hearing under AS 47.30.660 — 47.30.915 may

necessitate a different procedure. Information and records may be copied and disclosed under regulations established by the department only to

(1) a physician or a provider of health, mental health, or social and welfare services involved in caring for, treating, or rehabilitating the patient;

(2) the patient or an individual to whom the patient has given written consent to have information disclosed;

(3) a person authorized by a court order;

(4) a person doing research or maintaining health statistics, if the anonymity of the patient is assured, and the facility recognizes the project as a bona fide research or statistical undertaking;

(5) the division of corrections in a case in which a prisoner confined to the state prison is a patient in the state hospital on authorized transfer either by voluntary admission or by court order;

(6) a governmental or law enforcement agency when necessary to secure the return of a patient who is on unauthorized absence from a facility where the patient was undergoing evaluation or treatment. (§ 1 ch 84 SLA 1981)

Sec. 47.30.850. Expungement of records. Following the discharge of a respondent from a treatment facility or the issuance of a court order denying a petition for commitment, the respondent may at any time move to have all court records pertaining to the proceedings expunged on condition that he file a full release of all claims of whatever nature arising out of the proceedings and the statements and actions of persons and facilities in connection with the proceedings. (§ 1 ch 84 SLA 1981)

Sec. 47.30.855. Posting of rights. The rights set out in AS 47.30.825 — 47.30.855 shall be prominently posted in all treatment facilities in places accessible to all patients. A patient who does not understand English shall have his rights explained to him in a language he understands. (§ 1 ch 84 SLA 1981)

Sec. 47.30.860. Notices in languages other than English. When practicable all documents and notices required by AS 47.30.660 — 47.30.915 to be served on a respondent, or on his parents, guardian or adult designee, shall be explained in a language the person understands if he is not competent in English. (§ 1 ch 84 SLA 1981)

Sec. 47.30.865. Discrimination prohibited. (a) The fact that a person is or has been evaluated or treated for mental illness may not be a basis for discrimination in

(1) seeking employment;

(2) resuming or continuing professional practice or previous occupation;

(3) obtaining or retaining housing;

(4) obtaining or retaining licenses or permits, including but not limited to a motor vehicle license, motor vehicle operator's and chauffeur's license, and a professional or occupational license.

(b) Applications for positions, licenses, and housing may not contain requests for information concerning evaluation or treatment experiences.

(c) It is unlawful for a person to aid, abet, incite, compel, or coerce the doing of an act forbidden under this section or to attempt to do so. (§ 1 ch 84 SLA 1981)

Article 10. Miscellaneous Provisions.

Section	Section
870. Transportation	900. Disposition of money and personal property subject to claim
875. Nonresident patients	905. Fees and expenses for judicial proceedings
880. Interstate compact	910. Liability for expense of placement in a treatment facility
885. Rights outside state	915. Definitions
890. Provision for personal needs upon discharge	
895. Disposition of personal property and unclaimed money	

Sec. 47.30.870. Transportation. When a person is to be involuntarily committed to a facility, the department shall arrange, and is authorized to pay for, the person's necessary transportation to the designated facility accompanied by appropriate persons and if necessary by a peace officer. The department shall pay return transportation of a person, his escorts, and if necessary a peace officer, after a determination that the person is not committable, at the end of a commitment period, or at the end of a voluntary stay at a treatment facility following an evaluation conducted in accordance with AS 47.30.715. When advisable, one or more relatives or friends shall be permitted to accompany the person. The department may pay necessary travel, housing, and meal expenses incurred by one relative or friend in accompanying the person if the department determines that the person's best interests require that he be accompanied by the relative or friend and the relative or friend is indigent. (§ 1 ch 84 SLA 1981)

Sec. 47.30.875. Nonresident patients. (a) The admission papers of a person who is admitted to a treatment facility under AS 47.30.660 — 47.30.915 shall include a statement as to his residence. The department may return a patient who is not a resident of the state to the state of his residence with court approval if the person has been committed. If the state in which he has residence does not accept him as a patient, the person shall be treated as a resident of this state under the provisions of AS 47.30.660 — 47.30.915.

(b) To facilitate the return of nonresident patients the department may enter into a reciprocal agreement or compact with another state providing for the prompt return under appropriate supervision of residents of that state who are mentally ill. A mentally ill resident of this state who has been placed in a facility outside this state may be admitted with the approval of the department to a treatment facility in the state designated by the department. The department may enter into reciprocal agreements or contracts with another state providing for custody, care or treatment, or return of mentally ill residents of this state by the other state and for the custody and care or treatment of mentally ill residents of that state by this state on a reimbursable basis. A resident of this state who has been committed in another state and is returned in accordance with this section shall, within 72 hours of his admission to the designated facility, be examined. After examination the mental health professional in charge shall release him or shall petition for involuntary commitment as prescribed in AS 47.30.740.

(c) In taking action under (a) and (b) of this section, consideration shall be given to the best interests of the patient, particularly to the relationship of the patient to his family, legal guardian, or friends to maintain relationships and encourage visits beneficial to the patient. (§ 1 ch 84 SLA 1981)

Sec. 47.30.880. Interstate compact. This state ratifies and adopts by reference "The Interstate Compact on Mental Health" consisting of 11 articles approved on September 30, 1955, by the Northeast State Governments Conference on Mental Health. The department is designated as compact administrator with full power to carry out the purpose of the compact and to make all necessary regulations to implement the compact. (§ 1 [9(e)] ch 87 SLA 1957; added by § 11 ch 127 SLA 1959; AS 47.30.180)

Editor's notes. — The section derives from former AS 47.30.180 and was renumbered by the revison of statutes under AS 01.05.031 to accord with the revision of the mental health statutes in Chapter 84, SLA 1981.

Sec. 47.30.885. Rights outside state. Nothing in AS 47.30.660 — 47.30.915 alters or impairs the application or availability to a patient, while hospitalized in another state under contractual arrangements entered in accordance with AS 47.30.660 — 47.30.915, of the rights, remedies or safeguards provided by the laws of this state. (§ 1 ch 84 SLA 1981)

Sec. 47.30.890. Provision for personal needs upon discharge. The department shall insure that

(1) a patient is not discharged from a treatment facility without suitable clothing; and

(b) The petition required in (a) of this section shall allege that the respondent is reasonably believed to present a likelihood of serious harm to himself or others or is gravely disabled as a result of mental illness and shall specify the factual information on which that belief is based including the names and addresses of all persons known to the petitioner who have knowledge of those facts through personal observation. (§ 1 ch 84 SLA 1981)

Sec. 47.30.705. Emergency detention for evaluation. A peace officer who has probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to himself or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, may cause the person to be taken into custody and delivered to the nearest evaluation facility. A correctional facility may be used as an emergency evaluation facility if an evaluation facility is not available. Upon arrival at the evaluation facility, the peace officer shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the facility. (§ 1 ch 84 SLA 1981)

Sec. 47.30.710. Examination. (a) A respondent who is delivered under AS 47.30.700 to 47.30.705 for emergency examination and treatment to an evaluation facility shall be examined and evaluated as to his mental and physical condition by a mental health professional and by a physician within 24 hours after arrival at the facility.

(b) If the mental health professional who performs the emergency examination has reason to believe that the respondent is (1) mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to himself or others, and (2) is in need of care or treatment, the mental health professional may hospitalize him, or arrange for hospitalization, on an emergency basis. If a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing hospitalization for evaluation. (§ 1 ch 84 SLA 1981)

Editor's notes. — The word "respondent" was substituted for the word "person" in the first sentence of subsection (a) by the revisor of statutes pursuant to AS 01.05.031.

Sec. 47.30.715. Acceptance of order. When a facility receives a proper order for evaluation, it must accept the order and the respondent for an evaluation period not to exceed 72 hours. The facility shall promptly notify the court of the date and time of the respondent's arrival. The court shall set a date, time and place for a 21 day commitment hearing, to be held if needed within 72 hours after the respondent's arrival, and the court shall notify the facility, the respondent, his attorney, and the prosecuting attorney of the hearing arrangements. Evaluation personnel, when used, shall similarly notify the court of the date and time when they first met with the respondent. (§ 1 ch 84 SLA 1981)

Sec. 47.30.720. Release before expiration of 72-hour period. If at any time in the course of the 72-hour period the mental health professionals conducting the evaluation determine that the respondent does not meet the standards for commitment specified in AS 47.30.700, the respondent shall be discharged from the facility or the place of evaluation by evaluation personnel and the petitioner and the court so notified. (§ 1 ch 84 SLA 1981)

Sec. 47.30.725. Commitment proceeding rights; notification. (a) When a respondent is detained for evaluation under AS 47.30.660 — 47.30.915, he shall be immediately notified orally and in writing of his rights under this section. Notification shall be in a language understood by the respondent, his guardian, if any, and if the respondent requests, an adult designated by the respondent, shall also be notified of the respondent's rights under this section.

(b) Unless a respondent is released or voluntarily admits himself for treatment within 72 hours of his arrival at the facility or, if he is evaluated by evaluation personnel, within 72 hours from the beginning of his meeting with evaluation personnel, he is entitled to a court hearing to be set for not later than the end of that 72-hour period to determine whether there is cause to detain him after the 72 hours have expired for up to an additional 21 days on the grounds that he is gravely disabled or mentally ill and as a result presents a likelihood of serious harm to himself or others. The facility or evaluation personnel shall give notice to the court of the releases and voluntary admissions under AS 47.30.700 — 47.30.820.

(c) The respondent has a right to communicate immediately, at the department's expense, with his guardian, if any, or an adult designated by the respondent and the attorney designated in the ex parte order, or an attorney of the respondent's choice.

(d) The respondent has the right to be represented by an attorney, to present evidence, and to cross-examine witnesses who testify against him at the hearing.

(e) The respondent has the right to be free of the effects of medication and other forms of treatment to the maximum extent possible before the 21 day commitment hearing; however, the facility or evaluation personnel may treat him with medication under prescription by a licensed physician or by a less restrictive alternative of his preference if, in the opinion of a licensed physician in the case of medication, or of a mental health professional in the case of alternative treatment, the treatment is necessary to

(1) prevent bodily harm to the respondent or others;

(2) prevent such deterioration of the respondent's mental condition that subsequent treatment might not enable him to recover; or

(3) allow the respondent to prepare for and participate in the proceedings.

(f) A respondent, if he is represented by counsel, may waive, orally or in writing, the 72-hour time limit on the 21-day commitment hearing and have the hearing set for a date no more than seven calendar days after his arrival at the facility. The respondent's counsel shall immediately notify the court of the waiver. (§ 1 ch 84 SLA 1981)

Sec. 47.30.730. Procedure for 21-day commitment; petition for commitment. (a) In the course of the 72-hour evaluation period, a petition for commitment to a treatment facility may be filed in court. The petition must be signed by two mental health professionals who have examined the respondent, one of whom is a physician. The petition must

(1) allege that the respondent is mentally ill and as a result is likely to cause harm to himself or others or is gravely disabled;

(2) allege that the evaluation staff has considered but has not found that there are any less restrictive alternatives available that would adequately protect the respondent or others; or, if a less restrictive involuntary form of treatment is sought, specify the treatment and the basis for supporting it;

(3) allege with respect to a gravely disabled respondent that there is reason to believe that the respondent's mental condition could be improved by the course of treatment sought;

(4) allege that a specified treatment facility or less restrictive alternative that is appropriate to the respondent's condition has agreed to accept the respondent;

(5) allege that the respondent has been advised of the need for, but has not accepted, voluntary treatment, and request that the court commit the respondent to the specified treatment facility or less restrictive alternative for a period not to exceed 21 days;

(6) list the prospective witnesses who will testify in support of commitment or involuntary treatment;

(7) list the facts and specific behavior of the respondent supporting the allegation in (1) of this subsection.

(b) A copy of the petition shall be served on the respondent, his attorney, and his guardian, if any, before the 21-day commitment hearing. (§ 1 ch 84 SLA 1981)

Sec. 47.30.735. 21-day commitment. (a) Upon receipt of a proper petition for commitment, the court shall hold a hearing at the date and time previously specified according to procedures set out in AS 47.30.715.

(b) The hearing shall be conducted in a physical setting least likely to have a harmful effect on the mental or physical health of the

respondent, within practical limits. At the hearing, in addition to other rights specified in AS 47.30.660 — 47.30.915, the respondent has the right

(1) to be present at the hearing; this right may be waived only with the respondent's informed consent; if the respondent is incapable of giving informed consent, the respondent may be excluded from the hearing only if the court, after hearing, finds that the incapacity exists and that there is a substantial likelihood that the respondent's presence at the hearing would be severely injurious to his mental or physical health;

(2) to view and copy all petitions and reports in the court file of his case;

(3) to have the hearing open or closed to the public as he elects;

(4) to be proceeded against according to the rules of evidence applicable to civil proceedings;

(5) to have an interpreter if he does not understand English;

(6) to present evidence on his behalf;

(7) to cross-examine witnesses who testify against him;

(8) to remain silent.

(c) At the conclusion of the hearing the court may commit the respondent to a treatment facility for not more than 21 days if it finds, by clear and convincing evidence, that the respondent is mentally ill and as a result is likely to cause harm to himself or others or is gravely disabled.

(d) If the court finds that there is a viable less restrictive alternative available and that the respondent has been advised of and refused voluntary treatment through the alternative, the court may order the less restrictive alternative treatment for not more than 21 days if the program accepts the respondent.

(e) The court shall specifically state to the respondent, and give him written notice, that if commitment or other involuntary treatment beyond the 21 days is to be sought, the respondent shall have the right to a full hearing or jury trial. (§ 1 ch 84 SLA 1981)

Sec. 47.30.740. Procedure for 90-day commitment following 21-day commitment. (a) At any time during the respondent's 21-day commitment, the professional person in charge, or his professional designee, may file with the court a petition for a 90-day commitment of that respondent. The petition must include all material required under AS 47.30.730(a) except that references to "21 days" shall be read as "90 days"; and

(1) allege that the respondent has attempted to inflict or has inflicted serious bodily harm upon himself or another since his acceptance for evaluation, or that he was committed initially as a result of conduct in which he attempted or inflicted serious bodily harm upon himself or another, or that he continues to be gravely disabled, or that he demonstrates a current intent to carry out plans of serious harm to himself or another

(2) allege that the respondent has received appropriate and adequate care and treatment during his 21-day commitment;

(3) be verified by the professional person in charge, or his professional designee, during the 21-day commitment.

(b) The court shall have copies of the petition for 90-day commitment served upon the respondent, his attorney, and his guardian, if any. The petition for 90-day commitment and proofs of service shall be filed with the clerk of the court, and a date for hearing shall be set, by the end of the next judicial day, for not later than five judicial days from the date of filing of the petition. The clerk shall notify the respondent, his attorney, and the petitioner of the hearing date at least three judicial days in advance of the hearing.

(c) Findings of fact relating to the respondent's behavior made at a 21-day commitment hearing under AS 47.30.735 shall be admitted as evidence and may not be rebutted except that newly discovered evidence may be used for the purpose of rebutting the findings. (§ 1 ch 84 SLA 1981)

Sec. 47.30.745. 90-day commitment hearing rights. (a) A respondent subject to a petition for 90-day commitment has, in addition to the rights specified elsewhere in AS 47.30.350 — 47.30.915, or otherwise applicable, the rights enumerated in this section. Written notice of these rights shall be served on the respondent, his attorney, his guardian, if any, and may be served on an adult designated by the respondent at the time the petition for 90-day commitment is served. An attempt shall be made by oral explanation to ensure that the respondent understands the rights enumerated in the notice. If the respondent does not understand English, the explanation shall be given in a language he understands.

(b) Unless the respondent is released or voluntarily admits himself following the filing of a petition and before the hearing, he is entitled to a judicial hearing within five judicial days of the filing of the petition as set out in AS 47.30.740(b) to determine if he is mentally ill and as a result is likely to cause harm to himself or others, or if he is gravely disabled. If the respondent voluntarily admits himself following the filing of the petition, the voluntary admission constitutes a waiver of any hearing rights under AS 47.30.740 or under AS 47.30.785. If at any time during the respondent's voluntary admission under this subsection, the respondent submits to the facility a written notice of intent to leave, the professional person in charge may file with the court a petition for 120-day commitment of the respondent under AS 47.30.770. The 120-day commitment hearing shall be scheduled for a date not earlier than 90 days after the respondent's voluntary admission.

(c) The respondent is entitled to a jury trial upon request filed with the court. If the request is made at least two judicial days before the hearing. If the respondent requests a jury trial, the hearing may be

continued for no more than 10 calendar days. The jury shall consist of six persons.

(d) If a jury trial is not requested, the court may still continue the hearing at the respondent's request for no more than 10 calendar days.

(e) The respondent has a right to retain an independent licensed physician or other mental health professional to examine him and to testify on his behalf. Upon request by an indigent respondent, the court shall appoint an independent licensed physician or other mental health professional to examine him and testify on his behalf. The court shall consider an indigent respondent's request for a specific physician or mental health professional. A motion for the appointment may be filed in court at any reasonable time before the hearing and shall be acted upon promptly. Reasonable fees and expenses for expert examiners shall be determined by the rules of court.

(f) The proceeding shall in all respects be in accord with constitutional guarantees of due process and, except as otherwise specifically provided in AS 47.30.700 — 47.30.915, the rules of evidence and procedure in civil proceedings.

(g) Until the court enters a final decision, the respondent shall continue to be treated at the treatment facility unless the petition for 90-day commitment is withdrawn. If no decision has been made within 20 days of filing of the petition, not including extensions of time due to jury trial or other requests by the respondent, he shall be released. (§ 1 ch 84 SLA 1981)

Sec. 47.30.750. Conduct of hearing. The hearing under AS 47.30.745 shall be conducted in the same manner, and with the same rights for the respondent, as set out in AS 47.30.735(b). (§ 1 ch 84 SLA 1981)

Editor's notes. — The word "under AS" was added by the revisor of statutes pursuant to AS 44.62.125 following "hearing" in 01.05.031.

Sec. 47.30.755. Court order. (a) After the hearing and within the time limit specified in AS 47.30.745, the court may commit the respondent to a treatment facility for no more than 90 days if the court or jury finds by clear and convincing evidence that the respondent is mentally ill and as a result is likely to cause harm to himself or others, or is gravely disabled.

(b) If the court finds that there is a less restrictive alternative available and that the respondent has been advised of and refused voluntary treatment through the alternative, the court may order the less restrictive alternative treatment after acceptance by the program of the respondent for a period not to exceed 90 days. (§ 1 ch 84 SLA 1981)

Sec. 47.30.760. Placement at closest facility. Treatment shall always be available at a state-operated hospital; however, if space is

(5) that patients be informed of their legal rights and be informed of and allowed to participate in their treatment program as much as possible;

(6) that persons who are mentally ill but not dangerous to others be committed only if there is a reasonable expectation of improving their mental condition. (§ 1 ch 84 SLA 1981)

Editor's notes. — The parenthetical expression in the last sentence was added by the revisor of statutes pursuant to AS 01.05.031.

Sec. 47.30.660. Powers and duties of department. The department is the mental health authority of the state and shall

(1) administer a comprehensive program for the prevention of mental illness and the care and treatment of the mentally ill, including inpatient and outpatient care and treatment and the procurement of services of specialists or other persons on a contractual or other basis;

(2) take the actions and undertake the obligations which are necessary to participate in federal grants-in-aid programs and accept federal or other financial aid from whatever sources for the study, examination, care, and treatment of the mentally ill;

(3) administer AS 47.30.660 — 47.30.915;

(4) designate, operate, and maintain treatment facilities equipped and qualified to provide inpatient and outpatient care and treatment for the mentally ill;

(5) provide for the placement of mentally ill patients in designated treatment facilities;

(6) enter into arrangements with governmental agencies for the care or treatment of the mentally ill in facilities of the governmental agencies in the state or in another state;

(7) enter into contracts with treatment facilities for the custody and care or treatment of the mentally ill;

(8) enter into contracts which incorporate safeguards consistent with AS 47.30.660 — 47.30.915 and the preservation of the civil rights of the patients with another state for the custody and care or treatment of patients previously committed from this state under 48 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70 Stat. 709;

(9) prescribe the form of applications, records, reports, requests for release, and consents to medical or psychological treatment required by AS 47.30.660 — 47.30.915;

(10) require reports from the head of a treatment facility concerning the care of patients;

(11) visit each treatment facility at least annually to review methods of care or treatment for patients;

(12) investigate complaints made by a patient or an interested party on behalf of a patient;

(13) delegate upon mutual agreement to another officer or agency of it, or a political subdivision of the state, or a treatment facility designated, any of the duties and powers imposed upon it by AS 47.30.660 — 47.30.915; and

(14) adopt regulations to implement the provisions of AS 47.30.660 — 47.30.915. (§ 1 ch 84 SLA 1981)

Editor's notes. — Section 6, ch 84, SLA 1981, provided "Except as provided in this Act, the provisions of AS 47.30.660 — 47.30.915 enacted by sec. 1 of this Act do not in themselves impair any action taken in a proceeding pending under statutes in effect before October 1, 1981, nor do they apply retroactively to terminate the detention of a person previously committed under statutes in effect before October 1, 1981. However, 90 days after October 1, 1981, the provisions of this Act apply to all persons committed under statutes in effect before October 1, 1981."

Article 7. Voluntary Admission for Treatment.

Section		Section	
670	Standards for voluntary admission	690	Admission of minors under 14 years of age
675	Notice of rights	695	Notice of request for release of minors under 14 years of age from detention and commitment
680	Discharge of voluntary patients		
685	Notice of intent to leave facility; commitment		

Editor's notes. — Section 6, ch 84, SLA 1981, provided "Except as provided in this Act, the provisions of AS 47.30.660 — 47.30.915 enacted by sec. 1 of this Act do not in themselves impair any action taken in a proceeding pending under statutes in effect before October 1, 1981, nor do they apply retroactively to terminate the detention of a person previously committed under statutes in effect before October 1, 1981. However, 90 days after October 1, 1981, the provisions of this Act apply to all persons committed under statutes in effect before October 1, 1981."

Sec. 47.30.670. Standards for voluntary admission. A person 14 years of age or older may be voluntarily admitted to a treatment facility if he is suffering from mental illness and he voluntarily signs the admission papers. (§ 1 ch 84 SLA 1981)

Sec. 47.30.675. Notice of rights. (a) Upon the application of a person for voluntary admission, or at the time a person admitted under AS 47.30.690 reaches the age of 14, he shall be given a copy of the following documents which shall be explained to him as necessary:

(1) notice of rights as set out in AS 47.30.825 — 47.30.865 and an explanation of any document served upon him; and

(2) notice that should he desire to leave at a time when the treatment facility determines that he is mentally ill and as a result is likely to cause serious harm to himself or others or is gravely disabled, the facility could initiate commitment proceedings against him.

(b) If an applicant for voluntary admission does not understand English, the explanation shall be given in a language he understands. (§ 1 ch 84 SLA 1981)

Sec. 47.30.680. Discharge of voluntary patients. A patient who no longer meets the standards established in AS 47.30.670 shall be discharged from the treatment facility. (§ 1 ch 84 SLA 1981)

Sec. 47.30.685. Notice of intent to leave facility; commitment. A voluntary patient who is 14 years of age or older and who desires to leave a treatment facility must submit to the facility a written notice of intent to leave on a form provided to him by the facility. Upon immediate investigation, the patient shall be evaluated in writing and discharged immediately or given written notice that involuntary commitment proceedings will be initiated against him. The treatment facility may detain the patient for no more than 48 hours after receipt of the patient's notice of intent to leave in order to initiate involuntary commitment proceedings. (§ 1 ch 84 SLA 1981)

Sec. 47.30.690. Admission of minors under 14 years of age. (a) A minor under the age of 14 may be admitted for 21 days evaluation, diagnosis, and treatment at a designated treatment facility if his parent or guardian signs the admission papers and if, in the opinion of the professional person in charge,

(1) he is gravely disabled or is suffering from mental illness and as a result he is likely to cause serious harm to himself or others;

(2) there is no less restrictive alternative available for his treatment; and

(3) there is reason to believe that the patient's mental condition could be improved by the course of treatment.

(b) The minor may be released by the treatment facility at any time during the 21 day period if the professional person in charge or his designated mental health professional determines the minor would no longer benefit from continued hospitalization and the minor is not dangerous. The minor's parents or his guardian must be notified by the facility of the contemplated release and that, unless they initiate involuntary commitment proceedings, the minor will be released. (§ 1 ch 84 SLA 1981)

Sec. 47.30.695. Notice of request for release of minors under 14 years of age from detention and commitment. The parent or guardian of a minor who is less than 14 years of age may request and obtain immediate release of the minor at any time, unless as the result of mental illness, the minor is likely to cause serious harm to himself or others. (§ 1 ch 84 SLA 1981)

Article 8. Involuntary Admission for Treatment.

Section		Section	
700	Initiation of involuntary commitment procedures	760	Placement at closest facility
705	Emergency detention for evaluation	765	Appeal
710	Examination	770	Additional 120 day commitment
715	Acceptance of order	775	Commitment of minors
720	Release before expiration of 72 hour period	780	Early discharge
725	Commitment proceeding; rights; notification	785	Authorized absences
730	Petition for 21 day commitment; petition for commitment	790	Return from unauthorized absence
735	21 day commitment	795	Involuntary outpatient care for committed persons
740	Procedure for 90 day commitment following 21 day commitment	800	Conversion of involuntary outpatient treatment to inpatient commitment
745	90 day commitment hearing rights	805	Computing periods of time
750	Conduct of hearing;	810	Habeas corpus
755	Court order	815	Limitation of liability; penalty for false application

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Editor's notes. Section 6, ch 84, SLA 1981, provided: "Except as provided in this Act, the provisions of AS 47.30.660 — 47.30.915 enacted by sec. 1 of this Act do not invalidate or impair any action taken in a proceeding pending under statutes in effect before October 1, 1981, nor do they apply retroactively to terminate the detention of a person previously committed under statutes in effect before October 1, 1981. However, 90 days after October 1, 1981, the provisions of this Act apply to all persons committed under statutes in effect before October 1, 1981."

Sec. 47.30.700. Initiation of involuntary commitment procedures. (a) Upon petition of any adult, a judge shall immediately conduct a screening investigation or direct a local mental health professional employed by the department or by a local mental health program that receives money from the department under AS 47.30.520 or 47.30.620 or another mental health professional designated by the judge, to conduct a screening investigation of the person alleged to be mentally ill and, as a result of that condition, alleged to be gravely disabled or to present a likelihood of serious harm to himself or others. Within 48 hours after the completion of the screening investigation, a judge may issue an ex parte order orally or in writing, stating that there is probable cause to believe the respondent is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to himself or others. The court shall provide findings on which the conclusion is based, appoint an attorney to represent the respondent, and may direct that a peace officer take the respondent into custody and deliver him to the nearest appropriate facility for emergency examination or treatment. The ex parte order shall be provided to the respondent and made a part of the respondent's clinical record. The court shall confirm an oral order in writing within 24 hours after it is issued.

outpatient basis because he is likely to cause harm to himself or others or is gravely disabled, the provider shall give the respondent oral and written notice that he must return to the treatment facility within 24 hours, with copies to the respondent's attorney, his guardian, if any, the court, and the inpatient treatment facility. If the respondent fails to arrive at the treatment facility within 24 hours after receiving the notice, the professional person in charge may contact the appropriate peace officers who shall take the respondent into custody and transport him to the facility. If it is determined by the professional person in charge to be necessary, a member of the treatment facility staff shall accompany the peace officers when they take the respondent into custody.

(d) If the provider of outpatient care determines that the respondent will require continued outpatient care after the expiration of his commitment period, the provider may initiate further commitment proceedings as if he were the professional person in charge, and the provisions of AS 47.30.660 — 47.30.915 apply, except that provisions relating to inpatient treatment shall be read as applicable to outpatient treatment. (§ 1 ch 84 SLA 1981)

Sec. 47.30.800. Conversion of involuntary outpatient treatment to inpatient commitment. (a) A respondent ordered by the court under the provisions of AS 47.30.700 — 47.30.915 to receive involuntary outpatient treatment may be required to undergo inpatient treatment when the provider of outpatient care finds that (1) the respondent is mentally ill and is likely to cause serious harm to himself or others or is still gravely disabled; (2) the respondent's behavior since the hearing resulting in court-ordered treatment indicates that he now needs inpatient treatment to protect himself or others; (3) there is reason to believe that the respondent's mental condition will improve as a result of inpatient treatment; and (4) there is an inpatient facility appropriate to the respondent's need which will accept him as a patient. Treatment for these respondents shall be available at state operated hospitals at all times.

(b) Upon making the findings specified in (a) of this section, the provisions of AS 47.30.795(b) relating to notice and AS 47.30.745 relating to hearing apply. (§ 1 ch 84 SLA 1981)

Sec. 47.30.805. Computing periods of time. (a) Except as provided in (b) of this section,

(1) computations of a 72-hour evaluation period do not include Saturdays, Sundays, legal holidays, or any period of time necessary to transport the respondent to the treatment facility;

(2) a 21-day commitment period expires at the end of the 21st day after the 72 hours following initial acceptance;

(3) a 90-day commitment period expires at the end of the 90th day after the expiration of a 21-day period of treatment;

(4) a 120-day commitment period expires at the end of the 120th day, after the expiration of a 90-day period of treatment or previous 120-day period, whichever is applicable.

(b) When a respondent has failed to appear or absented himself contrary to any order properly made or entered under AS 47.30.660 — 47.30.915, the relevant commitment period shall be extended for a period of time equal to the respondent's absence if written notice of absence is promptly provided to the respondent's attorney and his guardian, if there is one, and if, within 24 hours after the respondent has returned to the evaluation or treatment facility, written notice of the corresponding extension and the reason for it is given to the respondent, his attorney, his guardian, if any, and to the court. (§ 1 ch 84 SLA 1981)

Sec. 47.30.810. Habeas corpus. Nothing in AS 47.30.660 — 47.30.915 may be construed as limiting a person's right to a writ of habeas corpus. (§ 1 ch 84 SLA 1981)

Sec. 47.30.815. Limitation of liability; penalty for false application. (a) A person acting in good faith upon either actual knowledge or reliable information who makes application for evaluation or treatment of another person under AS 47.30.700 — 47.30.915 is not subject to civil or criminal liability.

(b) The following persons may not be held civilly or criminally liable for detaining a person under AS 47.30.700 — 47.30.915 or for releasing a person under AS 47.30.700 — 47.30.915 at or before the end of the period for which the person was admitted or committed for evaluation or treatment if the persons have performed their duties in good faith and without gross negligence:

(1) any officer of a public or private agency;

(2) the superintendent, the professional person in charge, the professional designee of the professional person in charge, and the attending staff of a public or private agency;

(3) a public official performing functions necessary to the administration of AS 47.30.700 — 47.30.915;

(4) a peace officer responsible for detaining a person under AS 47.30.700 — 47.30.915.

(c) A person who willfully initiates an involuntary commitment procedure under AS 47.30.700 without having good cause to believe that the other person is suffering from a mental illness and as a result is gravely disabled or likely to cause serious harm to himself or others, is guilty of a felony. (§ 1 ch 84 SLA 1981)

Detaining the Insane

Detention Hospitals, Mental Health, and Frontier Politics in Alaska, 1910-1915

Thomas G. Smith

The strong interest in social history during the last decade has produced several studies on the care and treatment of disadvantaged, dependent, and deviant persons. Significant general works have been undertaken, but local, state, and institutional studies, especially ones set in the 20th century are lacking. This essay explores the efforts of Alaskans to establish detention hospitals for the mentally ill between 1910 and 1915. Although students of Alaskan history point to poor treatment of the insane as evidence of the federal government's neglect of and indifference toward Alaska, the study reveals that Alaskans themselves must share the blame. In addition, the essay provides insights into mental health policy, Alaskan politics, and federal-territorial relations during the period.[1]

By the turn of the century, the prevalence of mental illness was a growing concern among many Alaskans. As the population surged due to the gold rushes of the 1890s, so did the number of insane. The arduous journey, excruciating work, harsh climate, loneliness, and dashed hopes sometimes proved more than pioneers could endure. In 1900 nine Alaskans were adjudged insane. By 1910 the number had climbed to 130, and a decade later the figure reached 217. Responding to pleas for assistance from Alaskans, the federal government provided for the care of the mentally ill in the civil government bill of 1900. That measure made insanity a criminal offense. The person accused in a written complaint was arrested by the marshal, brought before a district commissioner, and tried by a six-man jury. If found guilty, he was committed to an asylum. Since Alaska had no mental hospital, the governor was empowered to contract with the lowest-bidding institution west of the Rocky Mountains for the care of the insane. From 1904 to 1956 the Morningside Sanitarium (formerly Mount Tabor), near Portland, Oregon, held the contract.[2]

The contract system came under severe attack by residents of Alaska. They complained that it was an archaic and inhumane practice not followed by any other American state or territory. Noncontiguous dependencies such as Hawaii, Puerto Rico, and the Philippines all had asylums that were built and maintained at local or territorial expense. Not until 1912, however, did Alaska win territorial status and its own government; in the meantime, it had to rely on the federal government to care for the insane.[3]

Alaskans also decried the practice of incarcerating the afflicted in jails until they could be transported to Oregon. In interior Alaska the mentally ill often had to spend as long as six months in jail until weather conditions permitted transportation to the "outside." An Alaska asylum was the solution, but Congress rejected the proposal for such an institution because of cost ($75,000 for the building alone). Alaskans next implored the government to establish small hospitals in which the mentally afflicted could be temporarily detained pending removal to Morningside.[4]

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1. See, for example, Gerald Grob, *Mental Institutions in America* (New York, 1973); Blake McKelvey, *American Prisons* (Montclair, N.J., 1977); David Rothman, *The Discovery of the Asylum* (Boston, 1971), and *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America* (Boston, 1980). For criticisms of the way the federal government dealt with Alaska's insane, see *Alaska Daily Empire* (Juneau), Nov. 6, Dec. 6, 30, 1912; Ernest Gruening, *The State of Alaska* (New York, 1968), 280.

2. For the early treatment of Alaska's insane, see Thomas G. Smith, "The Treatment of the Mentally Ill in Alaska, 1884-1912: A Territorial Study," *PNQ*, Vol. 65 (1974), 17-28. Also see Claus-M. Naske, "Bob Bartlett and the Alaska Mental Health Act," *ibid.*, Vol. 71 (1980), 31-39.

3. Apparently Alaskans were not troubled by assigning criminal status to the insane, indigent sick, elderly, etc., lacking asylums, almshouses, old folks homes, and local charities; they classified social dependents as criminals in order to assure them of government care. The federal government also maintained Indians who were mentally ill (a government asylum was established in 1898 at Canton, S.D.). Canada, like Alaska, transported its insane from remote and sparsely populated areas to provincial hospitals rather than build mental institutions in the Yukon and Northwest Territories. See Henry Hurd, ed., *The Institutional Care of the Insane in the United States and Canada*, 4 vols. (Baltimore, 1916-17), III, 630-32, 871-80; IV, 2-25, 228-36.

4. For introduction of these two measures, see *Congressional Record*, 61st Cong., 2d Sess., 1910, pp. 1498 (H.R. 20111), 5243 (H.R. 24833); for the texts of these bills, *ibid.*, 6853, and 61st Cong., 2d Sess., House Document 637, p. 2 (Serial 5836).

The need for some type of "holding tank" or detention center seemed obvious to the residents of interior Alaska. Detailed descriptions of mental breakdowns appeared frequently in the press. "DANGEROUS LUNATIC NOW AT LARGE" ran a Nome *Nugget* headline in October 1908. The escaped "lunatic" threatened to kill the district judge, marshal, and commissioner. In Fairbanks, a "crazed" woman shot to death the police chief in 1908. A year later in the same city a "madman" tried to kill the proprietor of the Pioneer Hotel by hurling a boulder through the window, and a knife-wielding, "blood-seeking headhunter" went berserk in Dempsey Lewis's saloon before being felled by a pool cue. In Fairbanks, the roster of persons taken into custody included the president of the Washington-Alaska Bank, an Indian woman, a prospector who repeatedly tried to commit suicide, a sourdough who imagined he was being run over by automobiles, and a woodchopper from Fox City who broke down when fire destroyed 12 cords of firewood. The Fairbanks *Daily News-Miner* pointed out that the number of insane in that community in 1909 had doubled over the previous year.[5]

Alarmed by the increasing frequency of insanity, Fairbanksans called for proper detention facilities for the afflicted. The federal jail lacked sufficient space to accommodate both prisoners and mental patients. Attempts to integrate criminals and the insane resulted in "pandemonium." On one occasion an insane man "kept everyone awake . . . by praying loudly and the noise was well calculated to make the rest of the prisoners nervous." The *News-Miner* noted that the number of insane was increasing at such a rapid rate that "separate quarters must necessarily be provided for them." The grand jury of the fourth judicial division at Fairbanks concurred.[6]

James Wickersham, Alaska's delegate to Congress, also advocated proper facilities for the care of the insane. Wickersham was a fiery progressive from Fairbanks who had served as a federal district judge at Eagle, Nome, and Fairbanks before being elected delegate in 1908. In February 1910, he tried to convince Congress to appropriate money for a permanent insane asylum in southeastern Alaska (HR 20111). When that effort failed, he introduced new legislation in April calling for an appropriation of $50,000 to build detention hospitals at Fairbanks and Nome for the temporary care of the insane (HR 24833). The House Committee on Territories recommended passage of the measure, declaring that the mentally afflicted "are entitled to the most scrupulous care, and should not be subjected to commitment in an ordinary jail." With an eye for economy, however, the committee recommended $25,000 instead of $50,000 for the project. The Senate Committee on Territories also approved the measure. Despite stiff opposition from some economy-minded congressmen, the bill was passed into law "In the interest of humanity."[7]



James Wickersham, who wrote the defective hospitals bill, blamed others for the delay in construction. (Whalen Collection, University of Alaska Archives, Fairbanks)

Specifically, the measure called for the establishment of a detention hospital in the second judicial division at Nome and in the fourth judicial division at Fairbanks. Insane persons would receive temporary care in a detention center until trails and waterways thawed sufficiently to permit the U.S. marshal to transport them to the Morningside Sanitarium in Oregon. Each hospital was to cost no more than $12,500. The marshal, the governor of Alaska, and the U.S. district judge, acting as a board of governors, would call for bids and award a contract for construction. Once completed, the detention houses would be administered and maintained by the Department of Justice.[8]

From the beginning, the detention hospitals project encountered difficulties. Although the bill became law on June 25, 1910, the summer expired without any attempt to implement it. Pressed for an explanation by the *Alaska Citizen*, Governor Walter E. Clark stated that, after reading the measure carefully, he had discovered a shortcoming which made it "practically inoperative." According to the governor, the law was defective because it failed to provide for the acquisition of sites on which to build the hospitals. John Rustgard, U.S. district attorney at Juneau, supported the governor's interpretation of the bill and advised him not to proceed without instructions from the Justice Department. Judicial officers from Nome expressed similar views.[9]

But U.S. District Judge Peter D. Overfield of Fairbanks voiced a different opinion. He favored prompt implementation of

5. Nome *Nugget*, July 17, Oct. 21, Nov. 2, 1908, Fairbanks *Daily News-Miner*, April 12 (headhunter), 14, May 4, Oct. 29, 1909 (hereafter cited as *News-Miner* with appropriate date).

6. *News-Miner*, Aug. 6, 1909.

7. 61st Cong., 2d Sess., 1910, House Report 1238, p. 2 (first quotation) (Serial 5593); *Congressional Record*, (1st Cong., 2d Sess., 1910, pp. 6053-58 (6056, last quotation), *Care of the Insane in Alaska: Statements of Hon. James Wickersham, Delegate from Alaska, Hon. W. R. Ellis, M.C., Mr. George Coe, Stanfield, Oregon, March 4 and April 1, 6, and 20, 1910*. House Committee on the Territories (Washington, D.C., 1910), 19, 26-28, 31-32.

8. 36 Stat. 852 (1910). In 1910 Alaska was divided into four judicial divisions; in the second and fourth, waterways froze and land routes were virtually impassable for seven or eight months of the year.

9. *Alaska Citizen* (Fairbanks), July 10, 1910; John Rustgard to Walter E. Clark, Oct. 3, 1910, Clark to Peter D. Overfield, Oct. 8, 1910, Overfield to Clark, Oct. 8, 1910, Box 564, File 4-7-2-1, Record Group 129, Department of Justice (DJ), National Archives.

the law and accused Clark and Rustgard of pettiness and needless delay. Although Wickersham had failed to provide for hospital sites when he drafted the bill, the oversight could be remedied, Overfield held, by securing donated land. Residents of Fairbanks were eager to have a detention hospital and would furnish land to the government free of charge. Nome residents would probably follow suit. Clark rejected Overfield's suggestion because he doubted the legality of accepting land as a gift on behalf of the federal government.[10]

Pointing out that on several occasions in the past the federal government had accepted "gratuitous deeds of lands for public purposes," Overfield urged the governor to seek the advice of the U.S. attorney general; if land donation proved unacceptable, Congress might be asked to remedy the problem by authorizing the acquisition of land or by permitting the hospitals to be built as additions to the Fairbanks and Nome jails.[11]

Although the governor agreed to consult the attorney general, he did not agree to present the case objectively. Indeed, besides underscoring the law's legal defects, Clark assured the attorney general that the detention hospitals were "entirely unnecessary" because adequate provisions had been made "for the temporary care of the insane in the modern jails erected at Nome and Fairbanks two years ago." He denounced Overfield's dogged support for the detention houses as political loyalty to Wickersham, who was responsible for the judge's appointment, and he also censured Overfield for showing disrespect for the governor's office by "his conspicuous absence without excuse from a public dinner in my honor at Fairbanks."[12]

In October 1910 the Justice Department declared the hospitals act defective because it lacked provision for the acquisition of land; hence, it found that Governor Clark had properly delayed construction of the hospitals. Since the federal government did not own land in Fairbanks and Nome appropriate for hospital sites, the attorney general recommended referring "the matter back to Congress for a further expression of its wishes." Inexplicably, he failed to rule on whether the federal government could accept hospital sites as a gift from the residents of Fairbanks and Nome.[13]

Governor Clark's objections to the detention hospital law were guided by political as well as legal considerations. Clark and Wickersham were bitter political enemies despite being members of the Republican party. Republicans in Alaska and around the nation were divided into regular and progressive factions. Clark and Lewis W. Shackleford, Alaska's Republican national committeeman, headed the regulars; Wickersham, the progressives.

Disturbed by his independence, GOP regulars referred to Wickersham as a "political harlot" and in the delegate race of 1910 nominated Edward S. Orr, a businessman from Fairbanks, to oppose him. The Socialists also entered a candidate, William O'Connor, a newspaper editor from Tanana. The Democrats, a minority party in Alaska, refused to run a candidate. When the votes were counted, the incumbent, Wickersham, easily retained his seat.[14]

Although the detention hospitals were not an issue in that election, residents of interior Alaska were growing increasingly irritated by the lack of action on the project. In March 1911 the grand jury of the fourth judicial division reported that the federal jail at Fairbanks was "inadequate for the proper care and detention of insane persons, of whom there are several now in custody." Due to overcrowding, it was necessary to confine the sane and insane in the same room. The grand jury found that practice unacceptable from a humanitarian standpoint and urged immediate construction of a detention center.[15]

In May the town council of Fairbanks passed a resolution offering the federal government free of charge a parcel of land on which to erect a detention hospital. Noting that the residents of Fairbanks "are pressing me pretty hard," Governor Clark forwarded the resolution to Attorney General George Wickersham (no relation to the delegate) for an opinion. At the same time, Clark recommended that the detention center be erected as an addition to the Fairbanks jail instead of as a separate facility.[16]



Even as he obstructed implementation of the hospitals act, Governor Walter Clark blamed Wickersham for the delay. (Bunnell Coll., University of Alaska Archives)

10. Overfield to Clark, Oct. 14, 15, 1910, Clark to Overfield, Oct. 17, 1910, Box 564, File 4-7-2-1, RG 129, DJ; Rustgard to Clark, Oct. 17, 1910, Box 768, Alaska Governors Papers (AGP), Alaska State Archives, Juneau.

11. Overfield to Clark, Oct. 18, 1910, Box 564, File 4-7-2-1, RG 129, DJ; Overfield and Henry K. Love to Clark, Oct. 19, 1910, Box 244, File 9-1-10, Office of the Territories (OT), National Archives; Overfield to Clark, Oct. 20 (quotation), Nov. 14, 1910, Box 768, AGP.

12. Clark to George Wickersham, Oct. 4, 19 (quotations), 1910, Box 564, File 4-7-2-1, RG 129, DJ.

13. Acting attorney general to Clark, Oct. 18, 1910 (quotation), Box 768, AGP; attorney in charge of titles to attorney general, Nov. 1, 1910, Box 564, File 4-7-2-1, RG 129, DJ.

14. *Nome Nugget*, June 17 (harlot), July 13, Aug. 4, 1910; Fairbanks *Sunday Times*, Oct. 22, 1911; Evangeline Atwood, *Frontier Politics: Alaska's James Wickersham* (Portland, 1979), 225-34, 300.

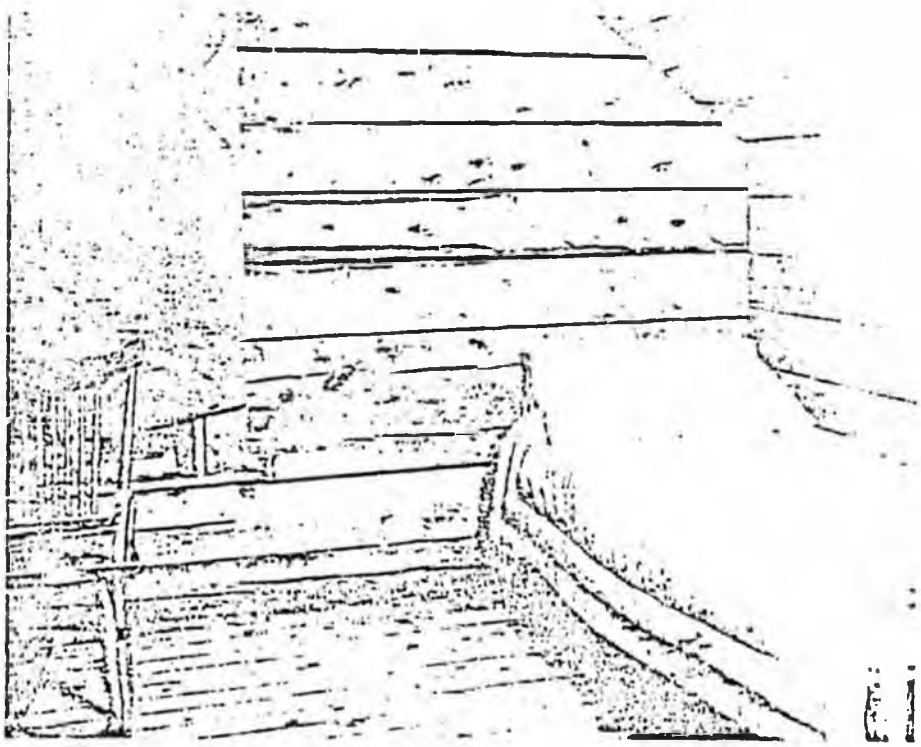
15. Overfield to Clark, Jan. 7, 1911, Box 768, AGP; grand jury of the fourth division to Overfield, March 23, 1911, Box 244, File 9-1-10, OT; *News-Miner*, Jan. 6, 1911.

16. Fairbanks town council to Clark, May 5, 1911, F. S. Gordon to Clark, June 3, 1911, Clark to attorney general, June 21, 1911, Box 768, AGP.

Nearly two months elapsed without a decision. Numerous Fairbanksans seethed over the delay and sought scapegoats. Some considered the lack of progress another example of federal indifference toward Alaska. Others, particularly the Republican press in Fairbanks, faulted Wickersham for having drafted a defective bill. In an editorial entitled "Our Detained Hospital," the Fairbanks *Daily Times* criticized the delegate for failing to follow the "businesslike course" of admitting his mistake and introducing legislation to rectify it. Had he introduced corrective legislation, the community "would have a detention hospital built and running today." Wickersham had rejected that course of action, the editor opined, because as a politician he was concerned mainly with retaining office. "He is making political capital out of the fact that the hospital is not built," the newspaper charged. "Such political capital is worth more to him than the hospital would be, so he has deliberately failed to remedy the matter."[17]

Wickersham himself blamed the delay on Governor Clark and District Attorney Rustgard. The delegate claimed that he had purposely omitted provision for the purchase of land sites in the bill because he planned to build the centers on public land. The public domain, he stated, had been utilized in the past for jails, courthouses, and telegraph offices. It could also be used for detention centers. "It would have been considered silly," he explained to the Fairbanks Commercial Club, "for the United States to appropriate money out of its own treasury to buy its own land in Alaska for a United States hospital. Nobody but Governor Clark and Mr. John Rustgard would have ever thought of such a foolish proposition, and they would not have thought of it except for the fact that they wished to make the law a failure."[18]

Pro-Wickersham newspapers such as the *Alaska Citizen* echoed the delegate's charges. The *Citizen* held that there was "no one to blame for the delay" but Clark, who had advanced "the ridiculous proposition that the government could not accept a donated site." That view, the paper continued, was based on Clark's "bitter opposition to the delegate, and his determination that Wickersham shall get nothing for the territory that could in any way enhance his prestige."[19]



The federal jail at Fairbanks housed both prisoners and the insane: the women slept in this 12-by-14-foot room with a sloping ceiling and one window. (National Archives)

Nonetheless, the argument in defense of the law was weak. If the hospitals were to be erected on public land, the act should have so specified. Moreover, its author should have realized that public land was unavailable in Fairbanks and Nome: once a patent is granted for a townsite, the land is no longer public. Instead of introducing corrective legislation, Wickersham stubbornly defended a defective law and blamed his political enemies for sabotaging the hospitals. As the Fairbanks *Daily Times* remarked, "the delegate overlooked an important detail in his bill, and in trying to cover it up is attempting to unload upon the governor whatever blame exists."[20]

In August 1911 the attorney general instructed Governor Clark to proceed with the construction of the Fairbanks hospital. Instead of being constructed on a donated site, the facility would be erected on top of the federal jail. Such a plan would minimize delay and save expense by using the same personnel to operate both institutions.[21]

But the instructions sparked a heated protest from Wickersham. Addressing the Fairbanks Commercial Club on September 28, he ridiculed the idea of housing "poor crazy people" above the "dirty old rotten jail." His plan, he reminded the town's businessmen, was to build the hospitals on public land. Appealing to their booster spirit, he informed his listeners that the Fairbanks detention facility was part of a larger plan to secure a permanent insane asylum in the town. That larger effort would be stymied, he warned, unless Alaskans insisted upon

17. Fairbanks *Daily Times*, Oct. 28, 1911 (hereafter cited as *Times* with appropriate date).

18. *Ibid.*, July 15, 1911.

19. *Alaska Citizen*, July 10 (quotations), 17, 1911.

20. *Times*, July 15, 1911.

21. C. H. McGlassan to attorney general, June 28, Aug. 7, 1911, Box 564, File 4-7-2-1, RG 129, DJ; attorney general to Clark, Aug. 8, 1911, Box 768, AGP.

construction of detention centers separate from the jails at Fairbanks and Nome.[22]

Urged on by Wickersham, the commercial club branded the Justice Department's plan to build the hospital as an addition to the jail "unsafe, unsanitary, and undesirable generally." It forwarded to Washington a petition signed by more than 900 residents protesting the proposal as "an act of injustice." The petitioners demanded a separate facility for the temporary care of the mentally ill.[23]

Other Fairbanks civic groups joined the protest. The Tanana Valley Democratic Club unanimously adopted a resolution condemning the governor for concocting a scheme whereby the "prisoners will be a nuisance to the sick, and the insane a nuisance to the prisoners." Moreover, the town council of Fairbanks announced its displeasure with the proposal by passing an ordinance forbidding the detention of the insane "upon the upper, second or higher story" of any wooden building. The Fairbanks press also lambasted the plan, calling it a "sorry makeshift." To accept a portion of the appropriation and build the hospital above the jail, said the *Daily Times*, would qualify Fairbanksans "to become the first inmates of such a hospital." The editor of the *Daily Times* urged the governor to build a hospital on a donated site and worry later about the legal consequences. Such a move, he declared, "would be worthy [of] the red blood of the pioneer."[24]

The strong protest from Fairbanks brought results. In October 1911, the Justice Department decided to "suspend action" on the construction of the hospital as an upper story to the jail. More than a year passed without further developments.[25]

Meanwhile, the issue continued to provoke controversy between Clark and Wickersham. The delegate repeatedly blamed the absence of a detention center on "one petty man, with a wooden nutmeg heart." Appealing to the emotions of a Fairbanks audience, Wickersham pointed out that if one's mother or wife were arrested because she was mentally ill, she would be confined in a "dirty jail" because the governor was so "spiteful" he refused to spend the money Congress had appropriated for a modern detention facility.[26]

Predictably, Clark denied Wickersham's charges. He reiterated the fact that his position was based not on politics but on his interpretation of the law, an interpretation supported by the Justice Department. It would be foolish, he stated, to proceed with the construction of the hospital on a donated site without prior approval from the federal government. What contractor, he asked, would build a hospital without official authorization? Neither Clark nor Wickersham explained why he did not push for an official decision on the legality of building on a donated site.[27]

Wickersham's opponents used the defective hospitals act against him in the delegate election of 1912 but without effect. Indeed, his successful efforts to obtain for Alaska an elective territorial government more than offset any loss of votes caused by his mishandling of the detention hospitals affair. Running as an independent "Bull Mooser," he was reelected, defeating a regular Republican, a Socialist, and two Democrats.[28]

On the national level, the Republican party, split between regulars and progressives, lost the White House to Woodrow Wilson. Although he was disappointed that Theodore Roosevelt, his idol, had lost, Wickersham was confident that he would be able to cooperate with the new president. And he was encouraged when Wilson's secretary of the interior, Franklin K. Lane, invited his opinions on Alaskan issues, including the appointment of a new governor.[29]

Created in August 1912, Alaska's first territorial legislature took the lead in securing construction of the detention centers, though prohibited by law from dealing with the insane. The territorial government act had left to the federal government responsibility for the care of the mentally ill, which meant that vic-



This cartoon depicts the Fairbanks view of Governor Strong's arrival in Alaska—a long-awaited hospital under each arm. (Alaska Citizen, Aug. 4, 1913)

22. *Alaska Citizen*, Oct. 2, 1911.

23. Fairbanks Commercial Club to attorney general, Oct. 4, 1911 (injustice), Box 564, File 4-7-2-1, RG 129, DJ; *Times*, Sept. 29 (first quotation), Oct. 5, 1911.

24. *Times*, Sept. 30 (last three quotations), Oct. 1 (nuisance), 8 (second quotation), 1911.

25. *News-Miner*, Oct. 5, 1911.

26. Fairbanks *Sunday Times*, Oct. 22, 1911.

27. *Times*, Jan. 24, 1912; *Alaska Citizen*, Feb. 5, 1912; Clark to secretary of the interior, Dec. 22, 1911, Box 564, File 4-7-2-1, RG 129, DJ.

28. *News-Miner*, Oct. 8, 1912; *Alaska Citizen*, Aug. 12, 1912.

29. Atwood, 247-65, 271.

tims would continue to be farmed out to Morningside Sanitarium and that patients in interior Alaska would be held in jails until detention facilities were constructed. But in April 1913, Alaskan legislators forwarded to Congress a joint memorial protesting the practice of detaining the insane in jails and requesting an appropriation of $4,000 to buy land on which to build two detention houses. The memorial went unheeded.[30]

Despite the lack of congressional action, supporters of the detention hospitals were encouraged when President Wilson named John F. A. Strong to succeed Walter Clark as governor of Alaska. Born in New Brunswick in 1859, Strong had been in Alaska since 1897. He had engaged briefly in mining, then entered the newspaper business, and was editor of the Democratic Juneau *Daily Empire* at the time of his appointment.[31]

In June 1913, the new governor and Wickersham met with Secretary of the Interior Lane to discuss the detention hospitals. Sympathetic, Lane agreed to build the hospitals promptly if Strong could secure donated land. Within three months, the governor had obtained the sites, and Lane had authorized him to advertise for construction bids. Strong's success convinced some Alaskans that the previous delay had been "for political and personal reasons only." It also showed that Washington could be moved to action when Alaskans put aside politics and united behind a project.[32]

Construction of both hospitals began in September and concluded in December 1913. After a delay of more than three years, then, the communities of Fairbanks and Nome possessed detention hospitals. The Fairbanks facility was a 2-story wooden building, 42 feet square, located on 1.25 acres of land at the corner of Turner Street and Tenth Avenue. It had a porch that ran along the full front of the first floor and a large second-story balcony. The first story contained a kitchen, oak-paneled dining room, seven rooms, a bath, and a padded cell. On the second floor were four rooms, one ward, a shower-bath, and two padded cells. The facility had electric lights and steam heat and could accommodate 15 male and 5 female patients. Local residents described the building as "a thing of



Within six months of assuming office, J. F. A. Strong had delivered the Nome and Fairbanks hospitals; opening them was the next step. (Bunnell Coll., Univ. of Alaska Archives)

beauty" that was "equipped with all modern conveniences." The Nome hospital was similarly appointed, though lacking the large front porch and balcony. The Nome *Nugget* described it as a "monument" to the builder. In Juneau, the *Alaska Daily Empire* editorialized that the "construction of these institutions marks a step forward in caring for unfortunate men and women of the Territory."[33]

Financial considerations, however, prompted Washington to reevaluate its decision to open the hospitals. The money to maintain the centers was to come from an appropriation of $500,000 for support of prisoners in all the states and territories. Marshal Emmet R. Jordan of Nome informed the Justice Department in early 1914 that it would cost $17,500 a year to maintain each of the detention hospitals. The attorney general balked at spending $35,000 yearly to provide temporary care for a handful of patients. It cost only twice that amount, including transportation, to maintain 150 Alaska patients at the Morningside Sanitarium in Oregon.[34]

Marshal Lewis T. Erwin of Fairbanks, who had replaced Henry Love in 1913, took issue with Jordan's figures. Erwin estimated that operation of the Fairbanks hospital would cost only $7,500 per year. Because the two estimates differed so significantly, the Justice Department refused to open the facilities until accurate figures had been secured. On the recommendation of the U.S. superintendent of prisons, the attorney general sent an inspector to Alaska to determine the cost of running the hospitals and the necessity of opening them.[35]

Proud of their new facilities, residents of Fairbanks and Nome were distressed to learn that neither structure might be utilized. "Loss of the detention hospital" would "be a serious blow" to the community, declared the Fairbanks *Daily Times*; "It means that we will be right back where we were before the building of the hospital was authorized, except that we have the structure to remind us of the long fight made to secure the hospital." There was a pressing need for the centers, according to that paper, and townspeople "have every reason to expect the terms of the bill to be carried out, for, after all, the cost of maintenance is a question which should have been investigated before the money for the building was appropriated."[36]

30. [Alaska] Senate Joint Memorial Number 17 to Congress, April 11, 1913, Box 244, File 9-1-10, OT; *Times*, May 2, 1913.

31. Juneau *Daily Empire*, July 29, 1929 (obituary); Gruening, 166.

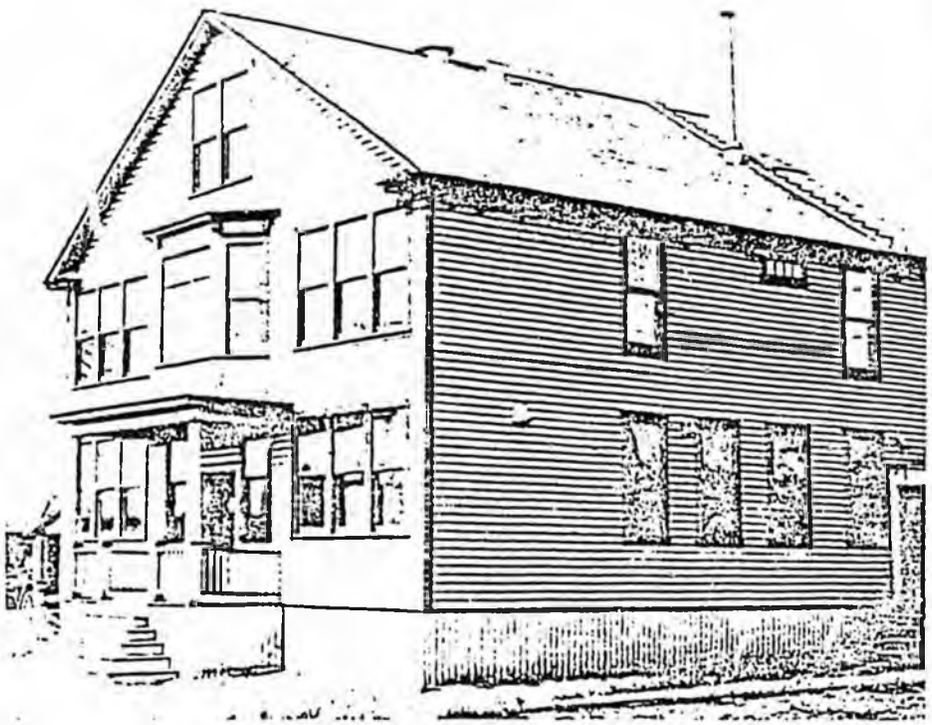
32. J. F. A. Strong to secretary of the interior, June 11, 12, 16, Aug. 5, 1913, secretary of the interior to Strong, June 12, 1913, Box 244, File 9-1-10, OT; *Alaska Citizen*, July 28, 1913 (quotation).

33. *News-Miner*, June 17, Sept. 3, Nov. 17, 1913; *Times*, Aug. 7, Sept. 3, Dec. 27 (quotations), 1913; *Alaska Daily Empire*, Nov. 21, 1913, Nome *Nugget*, Sept. 12, 15, Nov. 5 (quotation), 25, 26, 1913.

34. Superintendent of prisons to attorney general, April 1, 1914, Box 565, File 4-7-2-1, RG 129, DJ.

35. *Ibid.*; L. T. Erwin to assistant attorney general, Feb. 20, 1914, Box 564, File 4-7-2-1, RG 129, DJ.

36. *Times*, Dec. 13, 1913; *Alaska Citizen*, Dec. 15, 1913.



Equipped with electric lights, steam heat, and other conveniences, the Nome facility was hailed as a step forward in the care of the insane. (National Archives)

Meanwhile, Governor Strong, Delegate Wickersham, and Marshal Erwin of Fairbanks pushed Attorney General T. W. Gregory to open the detention hospitals. Erwin was especially insistent. On March 5, he had wired the Justice Department: "Have now three insane, jail not proper place." Four days later he had telegraphed: "Have just taken into custody insane woman in addition to three insane men reported. Hospital much needed." On June 2 he sent yet another message informing the attorney general that he had 14 prisoners in the jail, including two women. One of the women was insane. "No place to keep women except jail attic. Roof covered with tin. Fear women cannot live in such quarters during warmest summer weather. No toilet except men's department. Women taken ladies toilet courthouse. Makes it bad handling raving maniac. Condition insane woman requires three matrons eight-hour shifts." The marshal asked permission to transfer both women to the detention hospital where they could receive proper care. The attorney general refused the request and advised the marshal to install toilet facilities in the jail, fix the roof, and transport the insane woman to Morningside.[37]

That same month, R. J. W. Brewster, the Justice Department's investigator, arrived to inspect the hospitals. After examining the facilities, he recommended against opening them. His reason: expense. He estimated that the yearly operating costs of each institution, including heat, light, food, guards, a cook, repairs, and sundry expenses, would exceed $7,000.

The number of insane in interior Alaska was not large enough to justify the expense of operating two detention centers, Brewster advised. At Nome only three people were adjudged insane during fiscal year 1913-14, and these victims were housed in the jail for a total of 45 days; since the hospital would stand empty most of each year, Brewster recommended that the building be transferred to another government department and put to better use. At Fairbanks he found that 21 individuals had been adjudged insane in fiscal year 1913. "This hospital," he declared, "should never have been built, and although there is more reason for its opening than there is for the opening of the Nome institution, I do not see the *real* necessity which would warrant the expense of operation." To those who argued that modern mental health care practice called for separate facilities for the sane and insane, he replied that the "theory may be beautiful but would be expensive to carry out."[38]

The delay over opening the detention hospitals became a campaign issue in the delegate election of 1914. Running as a "Woodrow Wilson Progressive," Wickersham sought his fourth term as delegate. He was opposed by John M. Brooks, a Socialist from Jack Wade Creek, and Charles E. Bunnell, a Democrat from Valdez who had the support of the Wilson administration. Alaska Republicans did not nominate a candidate.[39]

Throughout the campaign Wickersham reminded his constituents of his past accomplishments, including passage of the territorial government act, the Alaska railway bill, and the detention hospitals measure. That the hospitals remained closed, he asserted, was the fault of Marshal Erwin, a Democrat and political enemy. Wickersham accused Erwin of obstructing efforts to open the hospitals, and he asked Alaskans to consider the "inhumanity of an officer who keeps a sick prisoner in the attic of that dirty, filthy jail when you have a fine detention hospital where she should be kept."[40]

Wickersham's charges against Erwin were unwarranted. The Justice Department advised the marshal to issue a statement "disclaiming all responsibility for the failure to open and occupy the de-

37. Quoted in *Times*, Feb. 11, 1915.

38. Superintendent of prisons to attorney general, July 11, 31, Oct. 14, 1914, and R. J. W. Brewster to attorney general, Sept. 19, 1914 (quotations), Boxes 564, 565, File 4-7-2-1, RG 129, DJ; *News-Miner*, July 27, Aug. 1, 1914. The Justice Department was also reluctant to go to the expense of opening the Nome hospital because the population of that town had declined steadily since the boom days of the early 1900s.

39. Atwood, 277-87.

40. Quoted in Erwin to attorney general, Nov. 14, 1914, Box 564, File 4-7-2-1, RG 129, DJ.

tention hospital." Opponents of Wickersham were probably correct when they declared that his attack on the marshal was a smokescreen to cover up his own ineptness. The Democratic Fairbanks *Daily Times* reminded readers that the law "was so clumsily drawn that the hospital never would have been built but for the efforts of Governor Strong and the Democrats of Fairbanks." Despite Wickersham's irresponsible charges, he was reelected with votes to spare.[41]

After his reelection, Wickersham continued to lash out against Erwin for failing to utilize the hospitals. In mid-November 1914, he informed the press that the marshal permitted the caretaker to use the Fairbanks institution as a "chicken coop." Producing a photograph that showed chickens hanging lifeless by their feet from a rope stretched across the hospital's balcony, Wickersham urged Fairbanksans to petition the Justice Department to use the hospital for needy mental patients not dead chickens.[42]

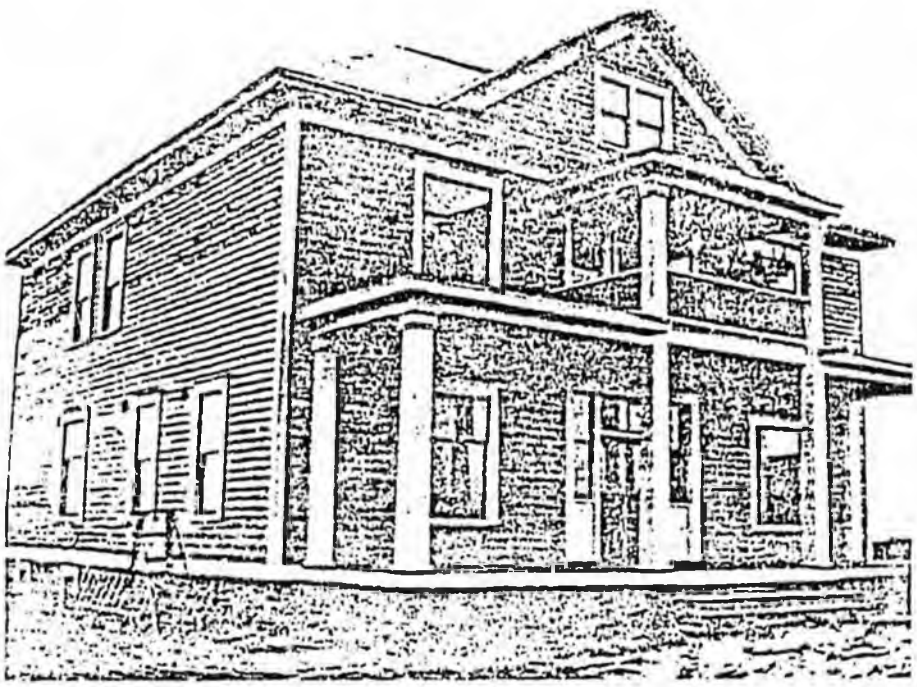
The delegate also censured the Justice Department for its indifference. He informed the Fairbanks Commercial Club on November 9 that "there is no reason in the world why the Department of Justice should not make the necessary appropriation to maintain the institution." Instead of utilizing a modern facility, he noted, the federal government is confining the insane in a "hellhole." He implored club members "to get busy, to do something to force the proper parties to open the hospital and I pledge myself to do all I can to help."[43]

Wickersham made good his promise. On January 6, 1915, he sent a long letter to the attorney general lamenting the policy of holding Alaska's insane in "dirty foul-smelling old jails." He enclosed three photographs taken by the Fairbanks health officer, Dr. J. A. Sutherland, showing the "exact condition of the room in the attic" of the Fairbanks jail where insane women were housed. "In this stinking hole the United States of America keeps the insane women who fall into their clutches," the delegate wrote. "It is a disgrace to the Department of Justice that such a condition may continue to exist." He reminded the attorney general that the detention hospitals act was intended to prevent the "vile arrangement" of housing the mentally ill in jails. Failure to open the institutions for financial reasons, he believed, was unjustified. According to section 2 of the act, the hospital expenses were to be paid "from the same fund as the expenses of the United States jails under the same marshal." Enclosing the "chicken coop" photograph, Wickersham informed the attorney general that the hospital at Fairbanks was being used to accommodate slaughtered chickens instead of mentally afflicted human beings. He exhorted the Justice Department to make proper use of the Nome and Fairbanks structures at once.[44]

Wickersham's hard-hitting letter to Washington was not entirely accurate. He had written on the photograph that the jail was a "dirty-hole," a description that was exaggerated, as Erwin, Dr. Sutherland, and several newspapers pointed out. Yet the delegate's main point was on the mark—namely, that the detention hospitals and not jails should be used for the temporary confinement of the mentally afflicted and that the government, in delaying the opening of the facilities, had failed to execute the law. Responding to Wickersham's letter, the attorney general stated that the issue was "under consideration" and would be resolved soon.[45]

Actually, the Justice Department was working diligently to rid itself of both buildings, to "turn them loose" on other government departments. The Bureau of Education in the Interior Department wanted the Nome building as a medical facility for Indians. The deal fell through though when the Justice Department insisted that the Interior Department take

This photograph of the Fairbanks hospital, its balcony festooned with dead chickens, no doubt furthered the campaign to open the facility. (National Archives)



41. Assistant attorney general to Erwin, Dec. 14, 1914, Box 565, File 4-7-2-1, RG 129, DJ; *Times*, Nov. 1, 1914.

42. *Times*, Nov. 10, 1914.

43. Ibid.; George C. Bruce to Wickersham, Nov. 16, 1914, Box 565, File 4-7-2-1, RG 129, DJ.

44. Wickersham to attorney general, Jan. 6, 1915, Box 564, File 4-7-2-1, RG 129, DJ.

45. *Times*, Feb. 10, 11, 12, 1915; Fairbanks Weekly Times, Feb. 15, 1915; assistant attorney general to Wickersham, Jan. 12, 1915, Box 565, File 4-7-2-1, RG 129, DJ.

both "white elephants"; having no use for the Fairbanks facility, the secretary of the interior refused the offer.[46]

Residents of Fairbanks were enraged when they learned of the Justice Department's attempts to unload their hospital. The mayor, marshal, district judge, and district attorney sent wires to the attorney general reminding him that the Fairbanks City Council had donated land for a "detention hospital only" and would oppose using the building and grounds for any other purpose. One Fairbanks citizen scored the federal government for being parsimonious toward a land "which has returned so much more than it cost to the government which owns it." The three local newspapers pushed hard for the cause by running editorials that supported the opening of the detention hospital.[47]

The strong protest brought results. In March 1915, nearly five years after Congress passed Wickersham's bill, the attorney general instructed Erwin to open the Fairbanks hospital immediately. That message elicited "great joy" among Alaska's territorial officials. Nomites, on the other hand, had little to cheer about; their facility remained closed. Inspired by the Fairbanks success, however, Nome residents, including the mayor, city council, Western Federation of Miners, and several fraternal organizations, petitioned Washington in June and repeatedly during the next year, but without results. In 1921 the Justice Department transferred the building to the Bureau of Education for use as a residence for teachers.[48]

In Fairbanks the triumph was short lived. Within five months of the hospital's opening, high operating costs caused the Justice Department to contemplate closing it again. Governor Strong admitted that the building required around-the-clock caretakers and that it would "always be a source of continued expense to the Government, whether occupied or not." Yet he advised against shutting down the institution because a "considerable percentage of the patients would recover, and the expense of their transportation to Morningside Sanitarium and their maintenance there would be avoided." Wickersham sided with Strong and blamed the high maintenance costs on the extravagance of Erwin, whom he accused of using the hospital as a place of residence.[49]

Wickersham's charges prompted an investigation by the Department of Justice. Asked for a response, Erwin maintained that he was making every effort to keep expenses at a minimum. He reported that from the opening of the hospital in March 1915 through August, a total of seven patients had been detained for 114 days at a cost of $2,000. Admitting that he lived at the hospital, he claimed that his presence saved the government money by obviating the need for a guard and custodian to watch the patients. He paid his own board and maintained a garden on the grounds that brought the government $625 worth of produce. He also economized by feeding the inmates fish, moose, and mountain sheep, which he provided free of charge. "I have attempted to economize and save the Government all I could at the same time rendering a good service but not a wasteful one," Erwin declared.[50]

Erwin's report convinced the Justice Department that the operation of the facility "has been economical and careful under the circumstances." Yet the paucity of inmates and high cost of their care (approximately $15 per day for each) did not seem to warrant keeping the hospital open on a permanent basis. Nonetheless, the attorney general decided to "continue its operation during the closed period of this winter in order to get a complete list of the cost of its maintenance."[51]

The Justice Department's position proved "disquieting" to Wickersham. Moreover, he continued to attack the marshal for extravagance. In December 1915, he wrote a scathing letter to the attorney general accusing Erwin of reckless spending and graft. He pointed out that for much of the year the hospital contained no patients, yet the cost of a building caretaker and electricity totaled $1,260. This money could have been saved, the delegate contended, had the facility been closed when it was unoccupied. The only reason for a caretaker, he declared, was that the marshal "wants the use of this nice, warm, new, handsome, well lighted building as a private residence: he needs the caretaker and his wife as servants, and he is annoyed that insane persons are intruded upon his privacy."[52]

Once again Wickersham's charges were groundless and probably sparked by political animosity. As most federal officials in Fairbanks realized, the hospital required the services of a permanent caretaker to protect the building and grounds from vandalism. It was necessary to heat the structure to prevent burst pipes and frost damage. Moreover, the institution might be needed at any time to detain an individual who suddenly became insane. To shut down the facility when it was unoccupied seemed senseless. Judge Charles Bunnell and District Attorney R. J. Roth both believed that the marshal's residence in the hospital re-

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46. Memorandum (from "W.C.F.") to attorney general, Nov. 12, 1914, attorney general to secretary of the interior, Nov. 12, 1914, and assistant secretary of the interior to attorney general, Dec. 9, 1914, Box 565, File 4-7-2-1, RG 129, DJ; assistant secretary of the interior to attorney general, Sept. 17, 1914, File 6—51, Bureau of Education, Hospital Service, Nome, Alaska, part 1, RG 48, National Archives (hereafter cited BE-Nome, RG 48).

47. Charles Bunnell et al to attorney general, March 10, 12, 1915, Box 565, File 4-7-2-1, RG 129, DJ; *News-Miner*, March 11 (first quotation), 12, 13 (last quotation), 1915; *Times*, March 13, 1915; *Alaska Citizen*, March 15, 1915.

48. Attorney general to Erwin, March 12, 1915, and to Wickersham, March 16, 1915, Box 565, File 4-7-2-1, RG 129, DJ; *Times*, March 16, 1915 (great joy); Nome Residents Petition for Attorney General, June 8, 1915, Box 769, AGP; Nome *Nugget*, Aug. 20, 1915, April 10, Sept. 19, 1916; assistant secretary of the interior to attorney general, Oct. 11, 1922, attorney general to secretary of the interior, Oct. 16, 1922, File 6—51, BE-Nome, RG 48.

49. Wickersham to attorney general, July 9, 1915, and Strong to attorney general, Aug. 27, 1915, Box 564, File 4-7-2-1, RG 129, DJ.

50. Attorney general to Erwin, Aug. 14, 1915, Erwin to attorney general, Sept. 22, 1915, *ibid.*

51. Assistant attorney general to attorney general (memorandum), Oct. 30, 1915 (first quotation), attorney general to Erwin, Nov. 1, 1915, and to Wickersham, Nov. 1 (last quotation), Dec. 11, 1915, *ibid.*

52. Wickersham to attorney general, Dec. 27, 1915, *ibid.*

sulted in an efficient and economical operation. To avoid the appearance of impropriety and to silence Wickersham, however, they recommended that the marshal cease living there. The attorney general agreed.[53]

To secure the permanent operation of the detention hospital, Wickersham stressed the need for humane care of the mentally ill and for following the dictates of Congress. He emphasized that in 1910 Congress passed legislation establishing detention hospitals for patients in interior Alaska who could not be promptly shipped stateside. "Now what authority has an Attorney General, the Marshal, or any one else," he asked, "to disregard and violate that law?" Will the Justice Department return to the archaic practice of keeping the mentally ill in jails? he queried. He advised the attorney general to continue the operation of the institution and to adhere to "humane methods for the care and protection of the insane sick entrusted to your care, as you are instructed to do by Congress."[54]

Wickersham's appeal proved persuasive. The detention hospital was not shut down, and it remained in operation for two decades. In the 1930s the facility served as both a detention hospital and jail until a new federal building was erected in 1933.

Although Alaskans in 1910 sought to provide humane care for the insane by maintaining them in detention centers rather than jails, they achieved modest success only after five years of delay caused by indifference and parsimony at the federal level and political factionalism within Alaska itself. When territorial officials at last united behind Governor Strong in 1913 and 1915, they got two hospitals built and one operating; the second—for lack of patients and excessive maintenance costs—never opened. The detention center episode was one of the early fights in the long crusade for mental health care in Alaska; it would take another 40 years for Alaskans to obtain a permanent asylum. □

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53. R. J. Roth to attorney general, Jan. 7, 1916, Bunnell to attorney general, Feb. 18, 1916, and attorney general to Erwin, March 17, 1916, Box 565, File 4-7-2-1, RG 129, DJ.

54. Wickersham to attorney general, Dec. 27, 1915, *ibid.*

E. T. Barnette

E. T. Barnette: The Strange Story of the Man Who Founded Fairbanks. By Terrence Cole. (Anchorage: Alaska Northwest, 1981. ix, 163 pp. Illustrations, notes, selected bibliography, index. $7.95)

Terrence Cole has put flesh on a phantom. The year of Barnette's birth is uncertain. When, or where, or from what cause he died is unknown. There are, apparently, only two probable Barnette photographs. In one his face is obscured, and in the other a fur hat and a bushy moustache hide his hairline and mouth. Paradoxically, Barnette was as substantial as he was phantasmal.

Cole's study of the real Barnette is a fine historical narrative and investigation. Barnette established a trading post on the Chena River in 1901. The trading post became Fairbanks, while Barnette became a prosperous merchant, miner, and banker. He was a large man, ambitious, gregarious, and plausible. He invested much of his money in a Kentucky farm and a Mexican plantation. Affable though he was, court suits and controversy swirled round him. He throve until his bank collapsed in 1911, a few months after he had resigned its presidency and left town. The bank failure was the beginning of the end of Barnette's fortune. His Mexican property suffered from the turmoil of revolution, his wife divorced him and won a large property settlement, and his comeback attempts were ineffectual.

Such schemes and adventures call for placement in the context of western and Alaskan history, yet Cole's interpretations rarely venture beyond the judgments of contemporaries. Those judgments were possibly too particularistic and severe, delivered as they were from a provincial "sourdough" perspective. For instance, Barnette's manufactured rush to Fairbanks certainly duped some gullible miners. Nevertheless, it was in the tradition of western boom-town promotionalism. Interpretive lacunae aside, Cole writes with verve. He skillfully relates Barnette to the development of Fairbanks and the Alaska-Yukon interior. His book is nicely composed, with many pertinent maps and photographs. Best of all, Cole, a widely published Alaska historian, is not yet out of his twenties. Therefore we may look forward to many more worthwhile studies from the author of *E. T. Barnette*. □

William H. Wilson
North Texas State University

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M May 16, 1984

TO: All Members of the House HESS Committee
Senator Joe Josephson, Sponsor, SB 346
Senator Jan Faiks, Sponsor, SB 346
Dr. Phil Shapiro, Director, Division of Mental Health and Developmental Disabilities
All Interested Persons

FROM: Representative Mae Tischer, Chairman, House HESS MT

RE: Version 3, Proposed House CS for CS for Senate Bill 346 (HESS)

Attached please find a copy of Version 3 of a proposed House HESS CS for CS for Senate Bill 346, "An Act relating to the treatment of mentally ill persons."

The amendments to the bill, indicated with blue highlighting on the attached draft, are found on the pages and lines indicated below. A brief explanation of the effect of each amendment is provided. Please note that page and line references are to Version 3, House CS for CS for Senate Bill 346 (HESS), dated May 15, 1984.

1. Page 1, line 20: This phrase was slightly reworded so as to give added emphasis to the requirement that persons be given ample opportunity to accept voluntary treatment.

2. Page 3, lines 24 - 26: This sentence was rewritten so as to accommodate a couple of substantive and technical amendments: (a) at the request of the Court System, the words "under AS 25.24.310" (circled on line 25 of the draft) were inserted in order to clarify the legal mechanics for the appointment of guardians ad litem as described in this section; (b) the words "as soon as possible" (circled on line 26 of the draft) were inserted so as to require the prompt appointment of a guardian ad litem for each minor.

3. Page 3, lines 28 and 29: As in amendment 2(a) above, the words "under AS 25.24.310" were inserted at the request of the Court System in order to clarify the legal mechanics for the appointment of guardians ad litem under this section.

4. Page 4, lines 11 - 15: This amendment would require a treatment facility to inform as soon as possible the parent or guardian of a minor under 18 years of age if the minor is detained at or admitted or committed to the treatment facility.

5. Page 13, lines 27 and 28: The catch line for AS 47.30.790 was changed so as to more accurately reflect the contents of the section.

6. Page 16, lines 4 - 16: This set of amendments would require a treatment facility to evaluate all patients present in the facility for more than 72 hours to determine if any individual patients have nutritional deficiencies. In conjunction with the original requirement that the treatment facility provide a nutritionally sound diet, this amendment further requires the facility to take appropriate steps to correct any identified deficiencies.

7. Page 20, line 11: This amendment merely returns the language in the bill to the way it appears in present law, deleting the reference to "a psychologist trained in clinical psychology."

8. Page 20, lines 17 - 18: This amendment inserts the word "substantial" before the word "experience," the effect of which would be the application of a higher standard (requiring substantial experience, instead of some possibly lesser degree of experience) when determining the kind of social worker who would be qualified to act as a "mental health professional."

9. Page 20, line 18: This amendment, meant as a purely technical amendment, changes the phrase "experience in the field of mental illness" to "experience in the field of mental health."

10. Page 20, lines 27 - 29; Page 21, lines 1 - 3: This amendment inserts temporary law requiring the division of mental health and developmental disabil-

ities to review the literature concerning orthomolecular psychiatric methods (nutritional therapy) in order to determine their potential uses in the treatment and diagnosis of mentally ill persons in the state; and to submit the report to the legislature by February 1, 1985.

Amendments 1, 2(b), 5, 7, 8 and 9 are found in Version 3 of the proposed House HESS Committee Substitute only. Amendments 2(a), 3, 4, 6 and 10 (in substance) have appeared in one or more of the earlier versions of the proposed House HESS Committee Substitute.

Please review this proposed CS and share your suggestions or comments with me as soon as possible. If there are no additional suggestions or comments, this will be the Version of the bill which we will discuss and hopefully move out during our next HESS meeting. I would appreciate receiving your response as soon as possible.

Attachment

SECTIONAL ANALYSIS OF CSSB 346 (JUD)am - AN ACT RELATING TO THE TREATMENT OF MENTALLY ILL PERSONS BY Josephson and Faiks.

NOTE: Throughout the bill, the age of majority has been changed from 14 to 18, commitment time periods have been from 21, 90 and 120 days to 30, 90, and 180 days, and neutral words have been substituted for gender pronouns.

Section 1 — Provides a word change ("every" to "reasonable") to limit the endless paperwork from patients transferring in and out of voluntary status.

Section 2-5 — Changes the age of majority under the title from 14 to 18 to make this statute consistent with others dealing with juveniles. Section 4 also changes the term "immediate" to "timely" in order to avoid the inoperable situations caused by literal interpretation of the language.
Section 5(b) provides for the appointment of a guardian ad litem for each minor to monitor appropriateness of placement. Subsection (3) adds language to admission procedures to allow treatment of those minors whose condition could worsen if untreated.

Section 6 — Provides options for the release of a minor, and options to keep a minor in danger of harming self or others. (Statutory basis for procedure currently used at A.P.I.)

Section 7 — Adds "mental health professional" to current law allowing peace officers to take someone into custody for emergency evaluation. It also limits the use of a correctional facility for the mentally ill, providing only emergency protective custody while awaiting transportation to an evaluation facility.

Section 8-9 and 10 — Technical amendments concerning time computations and neutral language to comply with other sections of this bill.

Section 11 — Adds to respondents rights in a 30 day commitment hearing; that the rules of evidence and civil procedure be applied in an informal way;
that experts and other witnesses may testify on the respondent's behalf.

Section 12, 13 and 14 — Time computation changes.

Section 15 — Adds a new section providing that medication and treatment may be administered to an involuntarily committed patient in compliance with patient's rights.

Section 16 — Provides new language to the statute dealing with unauthorized absences providing that a parent, guardian or a person known to have been threatened by the patient will be immediately notified.

Section 17 — Adds a new section to the statute relating to the change of status from involuntary to voluntary, providing that the physician must agree that the transfer is appropriate and must be made in good faith.

Section 18 — Provides that acceptance of order, and 48 hour detention period time computations will not include weekends and holidays.

Section 19 — Amends liability section to include a mental health professional who detains and transports a patient.

Section 20 — Provides that an adult designated as a guardian shall be provided with a copy of a patient's discharge plan.

Section 21 — Adds a new section to the law providing that a patient has the right to a nutritionally sound and medically appropriate diet.

Section 22 — Adds to the patient's rights section of law, additional rights to:
be free of corporal punishment;
exercise and recreation;
at any time have a visit or phone conversation with an attorney;
not be retaliated against for assertion of rights.

Section 23 — Allows for temporary suspension of certain patient rights (wearing personal clothing, phone calls, visitors and recreation) only after the initial evaluation period, if there is a threat to the patient or others.

Section 24 — Allows access to confidential records by a law enforcement agency if there is substantial concern over imminent danger from a presumed mentally ill person.

Section 25 — Includes federal facilities in the definition of "evaluation facility".

Section 26 — Expands the definition of "gravely disabled" to include persons who are not in imminent danger, but whose lack of treatment would cause deterioration of their condition.

Section 27 — Expands the definition of "likely to cause serious harm" beyond recent attempts to include threats and likelihood of injury in the near future.

Section 28 — Changes language relating to psychologists and psychological associates, to be consistent with their licensing statute, which indicates that they do not have a "specialty designation" but have training in clinical psychology.

Section 29 — Definition of mental illness.

SB

354

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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465-3603

January 23, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Re: CSHB 514 (HESS)

Dear Representative Tischer:

You have asked that we indicate whether CSHB 514 (HESS) remedies the equal protection problems which we identified last year during consideration of HB 357. We believe that it does. For additional detail, please refer to our review of SCS CS HB No. 357 (Rls) am S, a copy of which is enclosed.

If you have other questions, do not hesitate to contact this office.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: [signature]
Thomas H. Robertson
Assistant Attorney General

THR:jal

Enclosure

03-C5LH

July 19, 1983

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Re: SCS CSHB 357(Rls) am S -- state regulation of religious schools
Our file: 388-095-83

Dear Governor Sheffield:

At the request of Emil Notti on your behalf, we have reviewed SCS CSHB 357(Rls) am S which addresses the degree to which certain religious schools are to be regulated by the state.

This bill diminishes the authority of executive agencies over all religious pre-elementary schools and over religious elementary and secondary schools which elect to comply with various requirements. The provisions of the bill, and the constitutional issues which they generate, are discussed below. We do not believe that the constitutional issues are sufficiently clear to require veto of this bill.

In order to qualify for the protections afforded by this bill, a school must be operated by a church or other nonprofit religious organization that is exempt from federal taxation and does not receive direct state or federal funding. It is therefore possible that, except with respect to licensure of pre-elementary schools, executive authority over some religious schools would remain unchanged even if this bill becomes law.

Section 1 of the bill amends AS 14.07.020(8) which currently requires the Department of Education (DOE), in cooperation with the Department of Health and Social Services (DHSS), to "exercise general supervision" over public and private pre-elementary schools. The bill would delete reference to DHSS, would prohibit licensing of any pre-elementary schools, and would

eliminate authority to supervise the "educational component" of pre-elementary schools operated by a church or other qualifying religious organization.

Section 2 of the bill makes it clear that the system of voluntary accreditation of elementary and secondary schools established by AS 14.07.020(10) does not vest authority in DOE to "license" schools operated by a church or other qualifying religious organization.

Section 3 of the bill adds an exemption from compulsory public school attendance for children who attend an educational program operated by a church or other qualifying organization which meets the requirements set out in sections 4 -- 8 of the bill. The compulsory education statute, AS 14.30.010, which would be amended by sec. 3, currently exempts children who attend private schools which employ certificated teachers, who are tutored by certificated tutors, or who attend private schools in which the average student proficiency is not less than that found in nearby public schools, as measured by national achievement tests.

Sections 4 -- 8 of the bill would amend AS 14.45 to provide a means through which elementary and secondary schools operated by churches or other qualifying religious organizations can become partially exempt from state regulation. The exemption would not extend to laws relating to physical health, fire safety, sanitation, immunization, and physical examinations.

The requirements for exemption are set out in new AS 14.45.030 -- 14.45.040. New AS 14.45.030 requires that the religious school maintain monthly attendance records for each student, operate on a regular schedule for a school year of at least 180 days, and annually report to DOE the number of students in each grade and the school calendar. In addition, the parents of each child must file an annual notice of enrollment, signed by the parent and school administrator, with the local public school superintendent. The religious school most notify the superintendent if the child leaves school. New AS 14.45.035 requires that the religious schools administer at least one nationally standardized test, selected by the school from a list compiled by DOE, to children in grades 1, 3, 6, and 9. The test must measure achievement in English grammar, reading, spelling, and mathematics. The results must be maintained by the school and be made available to the child's parent or guardian and "authorized representatives" of the state. New AS 14.45.040 requires that the religious schools maintain "adequate" student records,

including records of immunizations, physical examinations, testing, and courses taken.

Finally, sec. 9 repeals AS 14.45.020 which authorizes DOE to provide final exam questions and diplomas for eighth graders in private and denominational schools. Apparently, this authority has not been exercised since well before statehood.

In general, SCS CSHB 357(Rls) am S would establish two categories of private schools, those which are operated by a church or other qualifying religious organization and those which are not. This gives rise to the legal question of whether or not the disparate treatment afforded each category is in keeping with the equal protection clauses of the state and federal constitutions.

Although courts have developed separate tests under each, the state and federal constitutions both require that there be reasons for treating these categories of private schools differently. The bill itself does not contain a statement of purpose. However, it has been characterized by supporters as an effort to accommodate the free exercise of religion.

The free exercise of religion is protected by the First Amendment to the United States Constitution and by art. 1, sec. 4, of the Alaska Constitution. Courts have developed a threefold test to determine whether state educational requirements impermissibly limit the free exercise of religion: (1) whether the regulated activity is motivated by and rooted in a legitimate and sincerely held religious beliefs; (2) the degree to which the parties' free exercise of religion has been burdened; and (3) whether the state has a compelling interest in the regulation which justifies the burden. Wisconsin v. Yoder, 406 U.S. 205, 32 L.Ed.2d 15, 92 S.Ct. 1526 (1972). The focus of this test is on the exercise of religion; "[t]he religious character of an organization does not provide a shield from regulation which no way affects religious beliefs or acts." In re Rabbinical Seminary Netzach Israel Ramailis, 450 F.Supp. 1078, 1081 (E.D. N.Y. 1978).

Unfortunately, the limits of permissible regulation have not been clearly established. On one hand, courts have acknowledged that religious schools combine religious and secular education and have invalidated state regulations which unreasonably interfered with the former. E.g., Lemon v. Kurtzman, 403 U.S. 602, 29 L.Ed.2d 745, 91 S.Ct. 2105, reh den 404 U.S. 876, 30 L.Ed.2d 123, 92 S.Ct. 24 (1971); State v. Whisner, 351 N.E.2d 750 (Ohio 1976). On the other hand, courts have acknowledged that

"if the state must satisfy its interest in secular education through the instrument of private schools, it has a proper interest in the manner in which those schools perform their secular educational function." Board of Education v. Allen, 392 U.S. 236, 247, 20 L.Ed.2d 1060, 88 S.Ct. 1923 (1968). For example, state regulations requiring certified teachers, a minimum curriculum, and state licensure have been approved. E.g., New Jersey State Board of Higher Education v. Board of Directors of Shelton College, 448 A.2d 988 (N.J. 1982); State v. Faith Baptist Church, 301 N.W.2d 571 (Neb. 1981), app. dism. 454 U.S. 803, 70 L.Ed.2d 72, 102 S.Ct. 75 (1982); State v. Shaver, 294 N.W.2d 883 (N.D. 1980). See also Pierce v. Society of Sisters, 268 U.S. 510, 69 L.Ed.2d 1070, 45 S.Ct. 571 (1925).

This is also an area in which courts may defer to the legislature. In State v. Rivinius, 328 N.W.2d 220, 231 (N.D. 1982), the Supreme Court of North Dakota, after approving a teacher certification requirement, indicated that "[w]e are not implying or intimating that the legislature may not work out a system that will be satisfactory to both sides -- meaning the state and the defendants -- and still accomplish the constitutional mandate." See also West Virginia State Board of Education v. Barnette, 319 U.S. 624, 638, 87 L.Ed. 1628, 63 S.Ct. 1178 (1943).

Because the United States Supreme Court has yet to resolve some of these issues, we cannot state with certainty that SCS CSHB 357(Rls) am S provides protections to religious schools beyond those which are constitutionally required. However, since it precludes various means of regulation which, at least for elementary and secondary schools, have been approved by lower courts, we believe this result to be likely. If this is true, the legislation would fall on equal protection grounds unless other reasons based on actual differences between the two categories of private schools could be found to support it. In addition, it would be subject to challenge as an aid to religion under the establishment clauses of the state and federal constitutions.

It is noteworthy that present regulatory requirements of DOE are minimal and that this bill is based on legislation, enacted in North Carolina in 1972, which has not been challenged in court. N.C. Gen. Stat. § 115-257.1, et seq. (Cum. Supp. 1979). We also acknowledge that substantial arguments can be made in its support. See generally "State Regulation of Private Religious Schools in North Carolina -- A Model Approach," 16 Wake Forest Law Review 405 (1980). Accordingly, we do not believe that veto on constitutional grounds is required.

Except as noted, this bill presents no constitutional or other major legal problems. It is possible, however, that problems of statutory interpretation could arise as DOE attempts to exercise its remaining authority in this area.

Sincerely,

Norman C. Gorsuch
Attorney General

NCG:THR:jal

To: Legislators and interested others
From: League of Women Voters, AAUW (American Association of University Women), NAEYC (National Association for the Education of Young Children), the Alaska Women's Lobby

Re: SB 354, HB 514 An Act relating to the regulation of private schools.

Requesting: An ammendment defining the term "pre-elementary school" in Sec. 2. AS 14.07.020. (8)..."pre-elementary schools is this paragraph means schools for children ages three through five years when the schools' primary function is educational and the program operates for four or fewer hours per day."

Problem: Without this ammendment a loophole is created in Alaska statute that permits any program offering care to children up to 10 hours or more a day to exempt itself from health and safety regulations governing all Alaskan day care centers - even though that program is not functionally different from a day care program.

Issues: (1) Education of pre-elementary children is different than the academic emphasis of elementary education, due to shorter attention spans and the need for more physical movement.

(2) All quality childcare programs at the pre-elementary level have educational components which include teaching basic life skills including self-sufficiency, socialization, and basic cognitive skills. Based on content there is no functional difference between a full day "pre-school" and a good day care center.

(3) When a young child is in care for all day every day, the program ceases to be solely a "school" and must include attention to nutritional needs, health of the staff, supervision with at least one staff person to 10 pre-schoolers so that the staff can attempt to meet the individual needs of each child, and enough space to meet the needs to be physically active.

(4) Most legitimate pre-schools operate from two and a half to four hours a day. Even kindergarten limits 6 year olds to two and a half to three hours. Elementary and high school kids attend only 6 hours, yet we permit a three year old to attend "school" 10 hours a day!

For more information call:

L.W.V.	Paula Ziegler	586-9439/586-2660(h)
AAUW	Susan R. Clark	586-6952
NAEYC	Marjorie Fields	789-4408/789-0109(h)
Ak. W.L.	Jana Varnati	364-3487(h)

BILL SHEFFIELD, GOVERNOR

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PHONE: (907) 465-3600

465-3603

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 10, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Re: HCS CSSB 354 (Rules)

Dear Representative Tischer:

You have asked that this office review the constitutionality of proposed HCS CSSB 354 (Rules).

We believe that proposed HCS CSSB 354 (Rules) presents no significant constitutional problems. For a discussion of relevant constitutional principles, please refer to our July 19, 1983, review of SCS CSHB 357 (Rules) am S.

Please let us know if you have further questions in this regard.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Thomas H. Robertson
Assistant Attorney General

THR:jca

03-C5LH

July 19, 1983

x

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Re: SCS CSHB 357(Rls) am S -- state regulation of religious schools
Our file: 388-095-83

Dear Governor Sheffield:

At the request of Emil Notti on your behalf, we have reviewed SCS CSHB 357(Rls) am S which addresses the degree to which certain religious schools are to be regulated by the state.

This bill diminishes the authority of executive agencies over all religious pre-elementary schools and over religious elementary and secondary schools which elect to comply with various requirements. The provisions of the bill, and the constitutional issues which they generate, are discussed below. We do not believe that the constitutional issues are sufficiently clear to require veto of this bill.

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Sincerely,

Norman C. Gorsuch
Attorney General

NCG:THR:jal

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
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JUNEAU, ALASKA 99811
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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

February 22, 1984

SENATE BILL 354
MEMBER'S FLOOR FILE
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/wtl

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

MEMORANDUM February 16, 1984

SUBJECT: Sectional analysis of HCS CSSB 354 (Rules)

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested a sectional analysis of HCS CSSB 354 (Rules), "An Act relating to the regulation of private schools." The main thrust of the bill is to allow religious and other private schools to opt out of the general laws and regulations applicable to private schools if they agree to comply with certain minimal requirements.

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion while at the same time ensuring the quality of all education in the state and allowing diversity in education by encouraging private education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). It provides that the department will consult with the state fire marshall and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of pre-elementary schools and nurseries except for those pre-elementary schools that receive direct state or federal funding. Supervision over public pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Section 2 also makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is

not authorized to require private schools to be licensed (AS 14.07.020(10)). Finally, section 2 defines "pre-elementary schools" for the purpose of this section (AS 14.07.020(b)).

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5, below) satisfies the compulsory education requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. This exemption is only available to religious and other private schools that do not receive state of federal funding and only applies to compulsory school age children. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and the school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the

Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the result of which are also public (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify under oath or by affirmation to the Department of Education that these records are being maintained (AS 14.45.130). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140), and "private school" is defined as any school that does not receive direct state or federal funding.

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

KBL:ojb
J3/106

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM February 11, 1984

SUBJECT: Health and safety regulation of private pre-elementary schools (HCS CSSB 354 (Rules))

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Keith B. Levy
Legislative Counsel

You have requested an opinion on the implication of HCS CSSB 354 (Rules) with respect to health and safety regulation of private pre-elementary schools. The bill, while removing the supervision of private pre-elementary schools from the Department of Education, in no way removes the power of the Department of Public Safety to regulate these schools with respect to fire safety or the Department of Health and Social Services to regulate with respect to health standards. In fact, several sections in the bill as well as other provisions of law make it clear that private pre-elementary schools may be regulated with respect to health and safety.

To begin with, AS 14.07.020(7), as amended by section 2 of the bill, provides that the Department of Education shall:

> prescribe by regulation, after consultation with the state fire marshal and the state sanitarian, standards that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in pre-elementary schools.

That section applies general health and safety standards to all the public and private schools in the state, including the pre-elementary schools. It also imposes a specific requirement of physical examinations and immunizations on pre-elementary schools. In other words, all pre-elementary

schools are subject to health and safety regulations generally under the bill.

Moreover, Title 18 of the Alaska Statutes sets out provisions for health and safety, all of which, if appropriate, apply to pre-elementary schools unless some specific exemption exists. There is no such exemption in HCS CSSB 354 (Rules). Specifically, AS 18.70.080 provides for the Department of Public Safety to adopt regulations for fire safety applicable to all public buildings. "Buildings" is defined very broadly in AS 18.70.300 and would clearly apply to pre-elementary schools.

In conclusion, HCS CSSB 354 (Rules), while providing that private pre-elementary schools are no longer subject to general regulation by the Department of Education, has no effect on the ability of that department and other departments to regulate these schools with respect to health and safety.

KBL:ojb
J3/079

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM February 16, 1984

SUBJECT: Regulation of private schools: comparison of HCS CSSB 354 (Rules) with CSSB 354 (Jud) am

TO: Representative Mae Tischer
Chairman, Health, Education, and
Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested a comparison of CSSB 354 (Jud)am, the Senate version, with HCS CSSB 354 (Rules), the House version of an act relating to the regulation of private schools. The House and Senate versions are essentially the same, with only a few substantive differences. The two bills differ as follows:

(1) In the Senate version, AS 14.07.020(7) is amended to clarify the fact that the Department of Education may regulate health and safety standards in all public and private schools, including certain specific requirements in "private pre-elementary" schools. In the House version, the word "private" is removed. This is merely a technical change since under either version the department would have this power with respect to both public and private pre-elementary schools. In other words, it does not alter the department's statutory powers in this regard.

(2) The Senate version amends AS 14.07.020(8) to provide that the Department of Education has general supervision over public pre-elementary schools and those private pre-elementary schools "that are not in facilities associated with an elementary school that operates grades one through three." The House version differs in that it gives this general supervisory power to the department only with respect to pre-elementary

schools "that receive direct state or federal funding." In other words, the House version limits the department's general supervisory powers to public pre-elementary schools, and any pre-elementary school that receives money from the state or federal government.

(3) The House version removes the definition of "pre-elementary school" from AS 14.07.020(8) and places it in a new subsection (b), having the effect of applying the definition to the entire section. This is not a substantive change, but merely clarifies the fact that the definition applies throughout AS 14.07.020.

(4) The Senate version provides that the exemption provided for in AS 14.45, added by the bill, does not apply to "a facility which serves children under the age of six years and which receives state payments or subsidies" (AS 14.45.100). That sentence was removed from the House version. For several reasons, however, that sentence had no real substantive effect. To begin with, the exemption provided for in AS 14.45.100 applies only to children of compulsory school age, i.e., from 7 to 16 years of age (see AS 14.45.110). Thus, the exemption could not apply to children under the age of six. Moreover, the House version adds a definition of "private school" under AS 14.45, indicating that a private school is one that does not receive direct state or federal funding (AS 14.45.140(1)). Thus, the exemption could not apply to a school that receives government money anyway. Therefore, the removal of the second sentence of AS 14.45.100 in the House version has no substantive effect with respect to the Senate version.

(5) The Senate version requires standardized testing of certain schools for students enrolled in grades two, four, six, and ten (AS 14.45.120(a)). The House version changes the requirement to apply to students in grades four, six, and eight.

(6) The Senate version requires the chief administrative officer of certain private schools to certify that records are being maintained. The House version makes clear that this certification must be made to the Department of Education.

KBL:ojb
J3/102

Effect of amendments. — The 1979 amendment substituted "or offense specified in AS 18.67.101" for "specified in AS 18.67.100" in paragraph (5).

Chapter 70. Fire Protection.

Article
1. Prevention and Investigation (§§ 18.70.010 — 18.70.100)
2. Fire Escapes (Repealed)
3. Mutual Fire Aid Agreements (§§ 18.70.150 — 18.70.160)
4. General Provisions (§ 18.70.300)

Article 1. Prevention and Investigation.

Section
10. General function of Department of Public Safety with respect to fire protection
20. Duties of Department of Public Safety
30. Investigation of fires resulting from crime
40. Cooperation with fire insurance companies
50. Power of department to inspect buildings
60. Removal of property from fire
70. Abatement of fire hazards
75. Authority of municipal fire department officers and their personnel
80. Regulations
81. Approval of fire protection systems
82. Remote housing facilities
84. Standard fire hose and hydrant threads required
85. Sale of nonstandard equipment
90. Enforcement of regulations
95. Smoke detection devices
100. Violation

Collateral references. — 13 Am. Jur. 2d, Buildings, §§ 18-28, 35 Am. Jur. 2d, Fires, §§ 1-4.

39A C.J.S., Fires, §§ 15-18; 39A C.J.S., Health and Environment, §§ 28, 29, 47.

Fire department as pertaining to the governmental or to the proprietary branch of municipality. 9 A.L.R. 143, 33 A.L.R. 686; 84 A.L.R. 514.

Duty and liability of owner or occupant of premises to fireman or policeman coming thereon in discharge of his duty. 13 A.L.R. C37, 86 A.L.R.2d 1205.

Police power as authorizing statute imposing upon owner or occupant liability for expense of fighting fire starting on his land or property. 90 A.L.R.2d 876.

Liability of one negligently causing fire for injuries sustained by person other than firefighter in attempt to control fire or to save life or property. 91 A.L.R.3d 1202.

Sec. 18.70.010. General function of Department of Public Safety with respect to fire protection. The Department of Public Safety shall foster, promote, regulate, and develop ways and means of protecting life and property against fire, explosion, and panic. (§ 1 ch 66 SLA 1955)

NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — Whether or not the state had a statutory duty to take action concerning hazards discovered at a hotel, where the state fire officials undertook to inspect a hotel for fire hazards, and in doing so they discovered a series of conditions constituting an "extreme life hazard," and there was evidence that they discussed some of these hazards with the manager of the hotel, promised him a more formal notification of fire code violations, and took no further action, the state fire officials had a duty to proceed further with regard to the recognized hazards, since the state assumed a common-law duty, owed to the victims of the fire, by its affirmative conduct. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Where the state had not undertaken to inspect a hotel and eliminate the fire hazards, it did not assume any common law duty. State v. Jennings, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2423), 555 P.2d 248 (1976).

Duty to exercise reasonable care in conducting inspections. — Once an inspection has been undertaken the state has a further duty to exercise reasonable care in conducting fire safety inspections, and liability will attach where there is a negligent failure to discover fire hazards which would be brought to light by an inspection conducted with ordinary care. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

What constitutes reasonable care will vary with the circumstances and hazards involved. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Sec. 18.70.020. Duties of Department of Public Safety. The Department of Public Safety shall aid in the enforcement of all laws and ordinances and the rules and regulations adopted under AS 18.70.010 — 18.70.100 and all other laws relating to fires or to fire prevention and protection, and shall encourage the adoption of fire prevention measures by means of education, and shall prepare or have prepared for dissemination information relating to the subject of fire prevention and extinguishment. (§ 2 ch 66 SLA 1955)

NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — *See* note to AS 18.70.010.

Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Sec. 18.70.030. Investigation of fires resulting from crime. If there is reason to believe that a fire has resulted from crime or that a crime has been committed in connection with a fire, the Department of Public Safety shall report that fact in writing to the district attorney of the judicial district in which the fire occurred. If the fire occurred in an incorporated city with a regularly organized fire department, the investigation and report shall be made in conjunction with the fire official of that area. (§ 3 ch 66 SLA 1955)

Sec. 18.70.040. Cooperation with fire insurance companies. The Department of Public Safety may assist, receive assistance from, and otherwise cooperate with an investigator or agent employed by a fire insurance company licensed to do business in the state, or with an investigator or agent employed by an association of insurance companies licensed to do business in the state. (§ 4 ch 66 SLA 1955)

Sec. 18.70.050. Power of department to inspect buildings. The Department of Public Safety may enter any building subject to regulation under AS 18.70.080 during reasonable hours for the sole purpose of inspecting the property or abating a fire hazard. (§ 5 ch 66 SLA 1955; am § 3 ch 176 SLA 1968)

NOTES TO DECISIONS

Purpose of fire inspection is to protect life and property from fire. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Fire inspector must obtain warrant. — Defendant could not be prosecuted for exercising his constitutional right to insist that the fire inspector obtain a warrant authorizing entry upon defendant's locked warehouse. See v. City of Seattle, 387 U.S. 541, 87 S. Ct. 1737, 18 L. Ed. 2d 943 (1967).

Sec. 18.70.060. Removal of property from fire. During a fire and in the absence of the owner or claimant, the Department of Public Safety may protect personal property affected by removing it. If the owner or claimant does not take charge of the property within 24 hours the Department of Public Safety may store it at the owner's or claimant's expense. (§ 1 ch 66 SLA 1955)

Sec. 18.70.070. Abatement of fire hazards. The Department of Public Safety may require the owner of a commercial business or public property to abate a fire hazard which exists in violation of law or regulations, and the Department of Public Safety may take appropriate action to assure such abatement. (§ 7 ch 66 SLA 1955)

NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Sec. 18.70.075. Authority of municipal fire department officers and their personnel. (a) An officer of a municipal fire department or his authorized representative, while providing fire protection services, has the authority to

(1) control and direct activities at the fire;

(2) order a person to leave a building or place in the vicinity of the fire, for the purpose of protecting the person from injury;

(3) blockade a public highway, street, or private right-of-way temporarily while at a fire;

(4) trespass upon property at or near the scene of a fire at any time of the day or night;

(5) enter a building, including a private dwelling, or upon premises where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, for the purpose of extinguishing the fire;

(6) enter a building, including a private dwelling, or premises near the scene of the fire for the purpose of protecting the building or premises or for the purpose of extinguishing the fire which is in progress in another building or premises;

(7) upon 24-hour notice to the owner or occupant, inspect for preplanning all buildings, structures, or other places within the municipality, except the interior of a private dwelling, where combustible material is or may become dangerous as a fire menace to the building;

(8) direct the removal or destruction of a fence, house, motor vehicle, or other thing which he may judge necessary to remove or destroy to prevent the further spread of the fire.

(b) An owner or occupant of a building or place specified in this section or any other person on the site of a fire or other emergency who refuses to obey the order of an officer of a municipal fire department or his authorized representative in the exercise of his official duties is guilty of a misdemeanor, and upon conviction, is punishable by imprisonment for one year, or by a fine of not more than $1,000, or by both.

(c) In this section, "inspect for preplanning" means to conduct limited inspections for purposes of preparing a fire attack plan in the event of a future emergency, but does not include inspections for purposes of determining compliance with statutory or municipal fire code requirements. (§ 2 ch 215 SLA 1975)

Sec. 18.70.080. Regulations. The Department of Public Safety shall adopt rules and regulations for the purpose of protecting life and property from fire and explosion by establishing minimum standards for

(1) fire detection and suppression equipment;

(2) fire and life safety criteria in commercial, industrial, business, institutional or other public building, and buildings used for residential purposes containing four or more dwelling units;

(3) any activity in which combustible or explosive materials are stored or handled in commercial quantities;

(4) conditions or activities carried on outside a building described in (2) or (3) of this section likely to cause injury to persons or property. (§ 8 ch 66 SLA 1955; am §§ 1, 2 ch 176 SLA 1968; am § 1 ch 23 SLA 1971)

NOTES TO DECISIONS

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 235 (1976).

Sec. 18.70.081. Approval of fire protection systems. Before October 30 of each year the Department of Public Safety shall prepare and make available a list of approved fire protection systems to the Department of Community and Regional Affairs, the Department of Commerce and Economic Development, and the public. (§ 1 ch 46 SLA 1980)

Sec. 18.70.082. Remote housing facilities. Any construction camp, logging camp, cannery, or oil or mining camp that has buildings not in a fire department service area in which persons are housed in dormitories or similar facilities shall be equipped with an automatic fire detection system in that portion of the building used for living or sleeping purposes. In this chapter an automatic fire detection system means a type of automatic fire detection system approved by the state fire marshal. (§ 1 ch 65 SLA 1970)

Sec. 18.70.084. Standard fire hose and hydrant threads required. All fire protection equipment to be purchased by state and municipal authorities, or any other authority having charge of public property, shall be equipped with national standard fire hose threads for fire hose couplings and hydrant fittings as adopted by the state fire marshal under AS 18.70.080. (§ 1 ch 48 SLA 1970)

Sec. 18.70.085. Sale of nonstandard equipment. No person may sell or offer for sale in Alaska any fire engine, fire hose, hydrant, or other equipment for fire protection purposes unless the equipment is fitted and equipped according to minimum standards adopted by the state fire marshal under AS 18.70.080. Fire equipment for special purposes or research programs, or special features of fire protection equipment found appropriate for uniformity within a particular protection area, may be exempted from this requirement by the state fire marshal. (§ 1 ch 48 SLA 1970)

Sec. 18.70.090. Enforcement of regulations. The Department of Public Safety and the chief of each city fire department and their authorized representatives in their respective areas may enforce the regulations adopted by the Department of Public Safety for the prevention of fire or for the protection of life and property against fire or panic. All state peace officers may assist the Department of Public Safety in the enforcement of AS 18.70.010 — 18.70.100 and the regulations adopted under it. The authority conferred in AS 18.70.010 — 18.70.100 extends to the enforcement of the provisions of AS 11.46.400 — 11.46.430. (§ 9 ch 66 SLA 1955; am § 8 ch 117 SLA 1968; am § 20 ch 166 SLA 1978)

Effect of amendments. — The 1978 amendment deleted "rules and" preceding "regulations" in the first and second sentences and substituted "AS 11.46.400 — 11.46.430" for "AS 11.20.010 — 11.20.050, and 11.20.070" at the end of the third sentence.

NOTES TO DECISIONS

City fire chief can enforce standards without delegation by state fire marshal. — The language of this section would indicate that the fire chief in each city can enforce state fire standards independently of any delegation by the state fire marshal's office. State v. Jennings, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2420, 555 P.2d 248 (1976).

State not liable for city's negligence. — Where the state fire marshal's office, in accordance with its policy, had deferred to the city's fire prevention agency for the purposes of fire prevention and inspection within the city limits, and, thus, the state fire marshal referred complaints about the hotel to the city fire marshal for action; and the city conducted inspection and initiated enforcement, there is no principal-agent relationship between the state and the city which would justify holding the state vicariously liable for the city's negligence. State v. Jennings, Sup. Ct. Op. No. 1319 (File Nos. 2322, 2420, 555 P.2d 248 (1976).

Common-law duty to take action concerning fire hazards after inspection. — See note to AS 18.70.010. Adams v. State, Sup. Ct. Op. No. 1318 (File No. 2326), 555 P.2d 245 (1976).

Collateral references. — Power to require closing of place of amusement or other place of public assembly because of fire hazard or unsanitary conditions. 140 A.L.R. 1048.

Destruction of building in emergency. 14 A.L.R.2d 78.

Sec. 18.70.095. Smoke detection devices. Smoke detection devices shall be installed in all living units built, manufactured or sold in the state. The devices shall be of a type and deployed in a manner approved by the state fire marshal. (§ 1 ch 148 SLA 1975)

NOTES TO DECISIONS

Applied in Northern Lights Motel, Inc. v. Sweeney, Sup. Ct. Op. No. 1386 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

Sec. 18.70.100. Violation. (a) A person who violates any provision of AS 18.70.010 — 18.70.100 or the published rules and regulations or orders adopted under it from which no appeal has been taken within 30 days after the issuance of a final order is, severally, for each violation, guilty of a misdemeanor, and is punishable by a fine of not more than $500, or by imprisonment for not more than six months, or by both. A person aggrieved by a final order of the Department of Public Safety may appeal to the superior court within 30 days after the issuance of the order. The imposition of one penalty for a violation does not excuse the violation and a person guilty of a violation shall correct the violation within a reasonable time. When not otherwise specified, each 10 days that a prohibited condition is maintained is a separate offense.

(b) The application of the penalty prescribed in (a) of this section does not prevent the Department of Public Safety from enforcing the removal of the prohibited conditions. (§ 10 ch 66 SLA 1955; added by § 1 ch 113 SLA 1957)

Collateral references. — Giving false fire alarm by telephone as minor criminal offense. 97 A.L.R.2d 510.

Article 2. Fire Escapes.

Section
110—140 [Repealed]

Secs. 18.70.110 — 18.70.140.

Repealed by § 2 ch 23 SLA 1971.

Editor's notes. — The repealed article derived from § 40-4-1, ACLA 1949 to § 40-4-3, ACLA 1949; § 40-4-6, ACLA 1949.

Article 3. Mutual Fire Aid Agreements.

Section
150 Adoption of mutual fire aid agreements
160 Agreement not to affect insurance rates or liability

Collateral references. — 35 Am. Jur. 2d, Fires, §§ 1-4.

36A C.J.S., Fires, §§ 15, 16

Constitutionality of statute or ordinance requiring proprietor of place of amusement to furnish fire or police protection at his own expense. 8 A.L.R. 1628.

Fire department as pertaining to the governmental or to the proprietary branch of municipality. 9 A.L.R. 143; 33 A.L.R. 688; 84 A.L.R. 614.

Statute relating to municipal fire departments as interference with local self government. 100 A.L.R. 1076; 141 A.L.R. 903.

Police power as authorizing statute imposing upon owner or occupant liability for expense of fighting fire starting on his land or property. 90 A.L.R.2d 875.

Sec. 18.70.150. Adoption of mutual fire aid agreements. A city, other incorporated entity, and other fire protection groups may organize a mutual-aid program by adopting an ordinance or resolution authorizing and permitting their fire department, fire company, emergency relief squad, fire police squad or fire patrol to go to the aid of another city, incorporated entity, or fire protection group, or territory outside of it. While extending aid under AS 18.70.150 and 18.70.160 the fire department, company, squad, or patrol has the same privileges and immunities it possesses when it performs the same functions in its own area. The ordinance or resolution may authorize the heads of the fire department to extend aid, subject to conditions and restrictions prescribed in the ordinance or resolution. (§ 1 ch 92 SLA 1957)

NOTES TO DECISIONS

This section represents an erroneous belief that cities are not liable in tort for negligence connected with fire-fighting activities. City of Fairbanks v. Schaible, Sup. Ct. Op. No. 97 (File Nos. 112, 113), 375 P.2d 201 (1962).

As a city which maintains a fire department may be held liable for injuries resulting from negligence connected with the department's firefighting activities. City of Fairbanks v. Schaible, Sup. Ct. Op. No. 97 (File Nos. 112, 113), 375 P.2d 201 (1962). See contra: City of Fairbanks v. Gillettson, 16 Alaska 590 (1957), aff'd, 262 F.2d 734 (9th Cir. 1959), where § 56-2-2 ACLA 1949 (now AS 09.65.070) was ignored by both the district court and the Court of Appeals.

Collateral references. — Fire departments as pertaining to the governmental or to the proprietary branch of municipality. 9 A.L.R. 143; 33 A.L.R. 688; 84 A.L.R. 614.

Sec. 18.70.160. Agreement not to affect insurance rates or liability. An agreement made under AS 18.70.150 and 18.70.160 shall be carried out in a manner which does not raise insurance rates. An agreement may not reduce the liability of an insurance company in case of loss during the absence of men and equipment. (§ 1 ch 92 SLA 1957)

Article 4. General Provisions.

Section
300 Definition of building

Sec. 18.70.300. Definition of building. In this chapter "building" means a structure, installation, facility, or edifice erected or in the process of being erected and which is used or intended for use as a commercial, industrial, business, institutional, other public building, or residential building containing four or more dwelling units. (§ 4 ch 176 SLA 1968; am § 27 ch 32 SLA 1971)

Revisor's notes. — In ch. 176, SLA 1968, this section was numbered 18.70.165.

Chapter 72. State Regulation of Fireworks.

Section
10 Regulation of sale of dangerous fireworks
20 Regulation of sale of salable fireworks
30 Fireworks wholesaler's license
40 Violation
50 Definitions
60 Application of chapter

Section
56. Alaska School Activities Association
59. Alaska school activities fund
60. Regulations
70. Withholding state funds

Collateral references. — 68 Am. Jur. 2d Schools, §§ 5-7, 37-55.
78 C.J.S. Schools and School Districts, §§ 83-91.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Sec. 14.07.010. Department of Education. The Department of Education includes the commissioner of education, the state Board of Education, and the staff necessary to carry out the functions of the department. (§ 1 ch 98 SLA 1966)

NOTES TO DECISIONS

Quoted in Begich v. Jefferson, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

Cited in Tunley v. Municipality of Anchorage School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 617 P.2d 490 (1980).

Sec. 14.07.020. Duties of the department. The department shall

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

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

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

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the Department of Health and Social Services, standards that will assure healthful and safe conditions in the public and private schools of the state; the standards for private schools may not be more stringent than those for public schools;

(8) in cooperation with the Department of Health and Social Services, exercise general supervision over public and private pre-elementary schools and over the educational component of nurseries as defined in AS 47.35.080(4); pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private elementary and secondary schools which request accreditation and which meet accreditation standards prescribed by regulation by the department;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

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

(13) administer the grants awarded under AS 14.11.020. (§ 1 ch 98 SLA 1966; am § 2 ch 69 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 190 SLA 1975; am § 6 ch 50 SLA 1977; am §§ 1-3 ch 126 SLA 1978; am § 10 ch 147 SLA 1978; am § 1 ch 86 SLA 1979; am § 24 ch 59 SLA 1982; §§ 1, 2 ch 92 SLA 1982)

Revisor's notes. — A reference to AS 14.11.020 was substituted for a reference to AS 14.07.190 in paragraph (13) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of that section.

Effect of amendments. — The first 1978 amendment deleted "private, and denominational" preceding "schools" near the beginning of paragraph (6), inserted "and private" preceding "schools" in paragraph (7), added the langunge beginning "the standards for private schools" to the end of paragraph (7), and added paragraph (10).

The second 1978 amendment added paragraph (11).

The 1979 amendment added paragraph (12).

The first 1982 amendment substituted "of" for "and" preceding "new public elementary" in paragraph (11).

The second 1982 amendment substituted "'plans' include" for "a 'plan' includes" in paragraph (11), inserted "and approve" and "the" preceding "purposes of this paragraph" in that same paragraph, and added paragraph (13).

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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☐ 1st NATIONAL CENTER
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SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

☒ POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 6, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Re: HCS CSSB 354 (HESS)

Dear Representative Tischer:

You have asked whether HCS CSSB 354 (HESS) presents legal problems.

The line between legal issues and policy issues is often unclear in controversial areas of the law. We have reviewed HCS CSSB 354 (HESS) with an eye toward the former. Accordingly, we express no view on the overall wisdom of this legislation.

HCS CSSB 354 (HESS) is structurally similar to CSHB 514 (HESS) which we addressed in our letter to you of January 23, 1984. Each bill avoids the equal protection problems which we identified during our review of SCS CSHB 357 (RIs) am S.

Although we believe that HCS CSSB 354 (HESS) presents no significant constitutional problems, there are at least two questions of statutory interpretation which could arise as this legislation is implemented.

The first question is whether the definition of pre-elementary school contained in proposed AS 14.07.020(8) adequately distinguishes between pre-elementary education and child care. We are informed that these categories are factually very similar. Child care is subject to regulation by the Department of Health and Social Services under AS 47.35.

The second question concerns the meaning of the second sentence of proposed AS 14.45.100. This sentence states that certain private pre-elementary schools are not eligible for the general exemption from state regulation contained in the first sentence of AS 14.45.100. However, this exception appears to be

superfluous since, as a result of changes made in AS 14.07.020, regulation of private pre-elementary schools would be limited to health and safety matters which the first sentence of AS 14.45.100 does not affect.

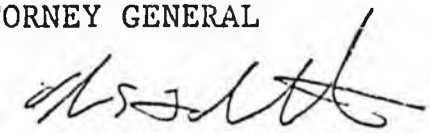
It appears that the second sentence of proposed AS 14.45.100 is intended, in part, to assure that the exemption is not available to private schools which receive public funds. If this is the case, an issue arises as to why it is limited to facilities which serve children under six years of age. We suggest that you consider deleting the phrase "which serves children under the age of six years and" or, alternatively, deleting this sentence in its entirety and adding to proposed AS 14.45.140 a definition of "private school" which addresses this issue.

We note that the addition of a definition of "private school" to AS 14.45.140 could also be used to limit coverage of AS 14.45 to elementary and secondary schools. This seems to be the intent of language which was added to proposed AS 14.45.110(a), the effect of which is limited to that subsection. As we have indicated, coverage of pre-elementary schools seems unnecessary since agency authority to regulate them is restricted by changes made in proposed AS 14.07.020.

We have previously discussed each of these questions with your staff. If you have additional questions, please do not hesitate to contact this office.

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Thomas H. Robertson
Assistant Attorney General

THR:jal

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff
DATE: February 20, 1984

RE: Comparison of HCS CSSB 354 (HESS) and HCS CSSB 354 (Rules)

I have prepared the following comparison of the HESS Committee version and the Rules Committee version of a House Committee Substitute for Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

Section 1 of the House Rules Committee Substitute contains no variations from the House HESS version.

Section 2 of the House Rules Committee Substitute contains six variations from the House HESS version. On the page and line(s) indicated, the House Rules Committee Substitute makes the following changes:

Page 1, line 22, creates a new subsection (a), including language currently in AS 14.07.020, except for the repositioning of the definition of "pre-elementary schools" and other changes indicated below. This change is only technical, allowing the definition of "pre-elementary schools" to be included in a new subsection (b) described below.

Page 2, line 19, deletes "private" before the phrase "pre-elementary schools" on lines 19 and 20. This change is basically technical. Since the law already mandates that standards for private schools may not be more stringent than those for public schools, it follows that similar physical examinations and immunizations must be required of both public and private pre-elementary schools. Deleting the word "private," as indicated above, clarifies this intent.

Page 2, line 23, deletes "public" after the phrase "supervision over." This change becomes basically technical when taken in conjunction with the next change in this paragraph as explained on page 2 of this analysis.

Page 2, line 24, inserts "that receive direct state or federal funding" after the phrase "pre-elementary schools." This change extends Department of Education supervisory authority to include, not only public pre-elementary schools, but all pre-elementary schools, public or private, that receive any direct state or federal funding.

Page 2, lines 26 - 28, deletes the definition of "pre-elementary schools." This definition is contained substantively in the new subsection (b) below.

Page 3, lines 21 - 23, creates a new subsection (b) that includes the definition of "pre-elementary schools" previously contained substantively in AS 14.07.020 (8), except that the definition in (b) now applies to all of AS 14.07.020, where it had previously applied only to paragraph (8).

Section 3 of the House Rules Committee Substitute contains no variations from the House HESS version.

Section 4 of the House Rules Committee Substitute contains no variations from the House HESS version.

Section 5 of the House Rules Committee Substitute contains two variations from the House HESS version. On the page and line(s) indicated, the House Rules Committee Substitute makes the following changes:

Page 5, line 25, deletes "A facility that serves children under the age of six years and receives state payments is not eligible for the exemption provided by this section." In his review of the House HESS Committee Substitute for CSSB 354, Assistant Attorney General Rick Robertson advised that the sentence indicated above was ambiguous and should be substantively modified, or deleted with subsequent changes to other related sections of the bill. Briefly, Mr. Robertson noted that the bill did not at that time authorize the Department of Education to supervise any private pre-elementary schools, beyond basic health and safety; therefore, there were no regulations from which private pre-elementary schools could be exempt. The Rules Committee Substitute deletes the indicated statement; adds a new definition of private schools which prohibits exemption by pre-elementary schools that receive direct state or federal funding; and explicitly extends Department of Education authority to include pre-elementary schools that receive direct state or federal funding.

Page 7, lines 18 - 19, inserts a definition of "private school"

for these sections. This definition effectively prohibits a school that receives any direct state or federal funding from being exempt from Department of Education regulation. The addition of this definition requires the drafter to put the definition of "private school" into a new paragraph (1) and the definition of "religious school," also contained in the House HESS version, into a new paragraph (2).

A copy of the Rules Committee Substitute with highlighted changes is being provided to each interested member of the House.

WTL:cas

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff
DATE: February 20, 1984

RE: Analysis of HCS CSSB 354 (Rules)

I have worked with Keith Levy of the Division of Legal Services to prepare the following analysis of the House Rules Committee Substitute for Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion or with the right of parents to choose to have their children attend private schools while at the same time ensuring the quality of all education in the state and encouraging diversity in education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). The bill creates a new subsection (a) in the law, including language currently in AS 14.07.020, except for the repositioning of the definition of "pre-elementary schools" and other changes indicated below. New language provides that the department will consult with the state fire marshal and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It states that the department must require physical examinations and immunizations in pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is authorized to supervision only those pre-elementary schools which receive direct state or federal funding. Supervision of pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)). A new subsection (b) defines pre-elementary schools, as used in this section, as schools for children ages three through five years when the schools are primarily educational in purpose.

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS

14.45 (see section 5 below) satisfies compulsory attendance requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the school calendar and the number of students enrolled in each grade (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the tested student's parent or guardian. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the results of which are also public information (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify to the department, under oath or affirmation, that these records are being maintained (AS 14.45.130). "Private school," as used in these sections, is defined as a school that does not receive direct state or federal funding. (AS 14.45.140 (1)). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140(2)).

It should be kept in mind that these provisions are not mandatory unless

the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

KBL:WTL:cas

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: All Members of the House
FROM: Representative Mae Tischer
DATE: February 15, 1984

RE: HCS CSSB 354 (Rules)

Attached please find a copy of the House Rules Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

My staff has done a considerable amount of preparation on this important legislation and I would be more than happy to have them provide you with any back-up material you might need.

For any additional information, please contact the House HESS Committee staff at 465 - 3777.

MMT:wtl

Attachment

DRAFT

13-1739
Levy
1/12/84

IN THE HOUSE BY TISCHER

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of private schools." Purpose clause here

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

* Section 1. AS 14.07.020 is amended to read:

Sec. 14.07.020. DUTIES OF THE DEPARTMENT. The department shall

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

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

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

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in

by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], standards that will assure healthful and safe conditions in the public and private schools of the state; the standards for private schools may not be more stringent than those for public schools;

(8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES,] exercise general supervision over public [AND PRIVATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in this section [PARAGRAPH] means schools for children ages three through five years when the schools' primary function is educational;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private ~~elementary and secondary~~ schools which request accreditation and which meet accreditation standards prescribed by regulation by the department; nothing in this paragraph authorizes the department to require private ~~sectarian and nonsectarian~~ religious schools to be licensed;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

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

(13) administer the grants awarded under AS 14.11.020;

goes to item (7) (14) require physical examinations and immunizations in private ~~sectarian and nonsectarian~~ pre-elementary schools.

* Sec. 2. AS 14.30.010(b) is amended to read:

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; [OR]

(C) attendance at a private school in which the average student proficiency is not less than the ~~average~~ proficiency found in the public schools in the area as measured by national achievement tests; the board [DEPARTMENT] with assistance from representatives of the private schools shall adopt [PROMULGATE] regulations defining the subject areas to be tested and the minimum average scores to be achieved; or

Clarify matter (D) attendance at an educational program operated in religious or other compliance with AS 14.45 by a private ~~sectarian or nonsectarian~~ school;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement

authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school which the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends.

* Sec. 3. AS 14.45.030 is amended to read:

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. (a) Teachers and others in charge of private sectarian ~~or nonsectarian~~ [OR DENOMINATIONAL] schools not operated in compliance with this ~~chapter~~ article are not exempt from laws and regulations relating to education, and

shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 4. AS 14.45 is amended by adding new sections to read:

ARTICLE 2. EXEMPT PRIVATE ~~SECTARIAN~~ Religious SCHOOLS.

Sec. 14.45.100. EXEMPTION. A private ~~sectarian~~ religious school that complies with AS 14.45.100 - 14.45.130 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent or guardian of a child enrolled in a private ~~sectarian~~ Religious school that complies with AS 14.45.100 - 14.45.130 shall file an annual notice of enrollment in the school for the child with the local public school superintendent for the area in which the child resides on a form provided by the department. The form shall be signed by the parent or guardian and the chief administrative officer of the school and returned to the local public school superintendent by the parent or guardian. The school shall notify the local public school superintendent within a reasonable time if the child is no longer enrolled in or attending the school.

(b) A private ~~sectarian~~ Religious school that elects to comply with AS 14.45.100 - 14.45.130 shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall make an annual report to the commissioner of the number of students in each grade and the school calendar.

Sec. 14.45.120. STANDARDIZED TESTING REQUIREMENTS. (a) A private ~~sectarian~~ religious school that elects to comply with AS 14.45.100 -

14.45.130 shall administer a nationally standardized test selected by the chief administrative officer of the school to all students enrolled in grade; ~~one, three~~ 4, six, and ~~nine~~ 8 at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A private ~~sectarian~~ religious school that elects to comply with AS 14.45.100 - 14.45.130 shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student. Each school shall make composite test results for the school available annually to an authorized representative of the department. The composite test results of a private ~~sectarian~~ or ~~nonsectarian~~ school operated in compliance with this chapter are not public information unless each public school is also required to administer a nationally standardized test Refer to (b) and the composite test results for each public school are public information.

Sec. 14.45.130. RECORDS. A private ~~sectarian~~ school that elects to comply with AS 14.45.100 - 14.45.130 shall maintain student permanent records reflecting immunizations, physical examinations, standardized testing, academic achievement and courses taken at the school. The chief school will certify the records as being kept

ARTICLE 3. EXEMPT PRIVATE NONSECTARIAN SCHOOLS.

Sec. 14.45.150. EXEMPTION. A private nonsectarian school that complies with AS 14.45.150 - 14.45.180 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

Sec. 14.45.160. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent or guardian of a child enrolled in a private nonsectarian school that complies with AS 14.45.150 - 14.45.180 shall file an annual notice of

enrollment in the school for the child with the local public school superintendent for the area in which the child resides on a form provided by the department. The form shall be signed by the parent or guardian and the chief administrative officer of the school and returned to the local public school superintendent by the parent or guardian. The school shall notify the local public school superintendent within a reasonable time if the child is no longer enrolled in or attending the school.

(b) A private nonsectarian school that elects to comply with AS 14.45.150 - 14.45.180 shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall make an annual report to the commissioner of the number of students in each grade and the school calendar.

Sec. 14.45.170. STANDARDIZED TESTING REQUIREMENTS. (a) A private nonsectarian school that elects to comply with AS 14.45.150 - 14.45.180 shall administer a nationally standardized test selected by the chief administrative officer of the school to all students enrolled in grades one, three, six, and nine at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A private nonsectarian school that elects to comply with AS 14.45.150 - 14.45.180 shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student. Each school shall make composite test results for the school available annually to an authorized representative of the department. The composite test results of a private sectarian or nonsectarian school operated in compliance with

this chapter are not public information unless each public school is also required to administer a nationally standardized test and the composite test results for each public school are public information.

Sec. 14.45.180. RECORDS. A private nonsectarian school that elects to comply with AS 14.45.150 - 14.45.180 shall maintain student records reflecting immunizations, physical examinations, standardized testing, and courses taken at the school.

* Sec. 5. AS 44.27.020 is amended to read:

Sec. 44.27.020. DUTIES OF DEPARTMENT. The Department of Education shall

(1) administer the state's program of education at the elementary, secondary, and adult levels, including, but not limited to, programs of vocational education and training, vocational rehabilitation, library services, correspondence courses, adult basic education, and fire-service training, but not including degree programs of postsecondary education or an educational program operated in compliance with AS 14.45 by a private sectarian or nonsectarian school;

(2) administer the historical library;

(3) plan, finance and operate related school and educational activities and facilities.

* Sec. 6. AS 14.45.020 is repealed.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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☒ *POUCH K - STATE CAPITOL*
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

January 11, 1984

The Honorable Jan Faiks
Alaska State Senate
Pouch V
Juneau, AK 99811

Re: Sectarian and Nonsectarian Schools

Dear Senator Faiks:

Enclosed, pursuant to your request of this afternoon, is a revision of the draft legislation you provided this office on November 17, 1983. This revision resolves the constitutional issues which we have discussed. I must emphasize, despite the fact that some changes have been made, that our efforts should not be construed as expressing support for this legislation as a matter of policy.

If you have questions in this regard, please do not hesitate to let me know.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Thomas H. Robertson
Assistant Attorney General

THR:jal
Enclosure

03-C5LH

BY _____

IN THE _____

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of private sectarian and nonsectarian schools."

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

* Section 1. The purpose of this Act is to eliminate unnecessary state involvement in the affairs of private schools and to protect religious freedom as expressed through affiliation with sectarian educational institutions.

* Sec. 2. AS 14.07.020(7) is amended to read:

DRAFT

(7) prescribe by regulation, after consultation with the State fire marshall + STATE SANITARIAN ~~Department of Health and Social Services~~, standards that will assure healthful and safe conditions in the public and private pre-elementary, elementary, and secondary schools of the state; the standards for private schools may not be more stringent than those for public schools;

* Sec. 3. AS 14.07.020(8) is amended to read:

(8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES,] exercise general supervision over public [AND PRIVATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

* Sec. 4. AS 14.07.020(10) is amended to read:

(10) accredit private pre-elementary, elementary, and secondary schools which request accreditation and which meet

accreditation standards prescribed by regulation by the department;

* Sec. 5. AS 14.30.010(b)(1) is amended to read:

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certified according to AS 14.20.020;

(B) tutoring by personnel certified according to AS 14.20.020; or

(C) attendance at private sectarian or nonsectarian school operated in compliance with AS 14.45 [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE AVERAGE STUDENT PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFICIENCY FOUND IN THE PUBLIC SCHOOLS IN THE AREA AS MEASURED BY NATIONAL ACHIEVEMENT TESTS; THE DEPARTMENT WITH ASSISTANCE FROM REPRESENTATIVES OF THE PRIVATE SCHOOLS SHALL PROMULGATE REGULATIONS DEFINING THE SUBJECT AREAS TO BE TESTED AND THE MINIMUM AVERAGE SCORES TO BE ACHIEVED];

** Sec. 6. AS 14.45.020 ~~and AS 14.45.030~~ are repealed.

* Sec. 7. AS 14.45 is amended by adding new sections to read:

CHAPTER 45. PRIVATE [AND DENOMINATIONAL] SCHOOLS

ARTICLE 1. GENERAL PROVISIONS

Sec. 14.45.030. ATTENDANCE AND ANNUAL REPORTS REQUIRED. Teachers and others in charge of private [OR DENOMINATIONAL] schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 8. AS 14.45 is amended by adding new sections to read:

ARTICLE 2. EXEMPT SCHOOLS

Sec. 14.45.100. EXEMPTION FROM EDUCATION LAWS. A private sectarian or nonsectarian school operated in compliance with

AS 14.45.100 -- 14.45.140 is exempt from other provisions of state law and regulations relating to education except laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

Sec. 14.45.110. ATTENDANCE REPORTS OF EXEMPT SCHOOLS. (a) The parent or guardian of a child enrolled in a private sectarian or nonsectarian school that elects to comply with AS 14.45.100 -- 14.45.140 shall file with the superintendent of the public school district in which the child resides a notice of enrollment within 30 days after enrollment of the child in the school on a form provided by the department. The form must be signed by the parent and the chief administrative officer of the school.

(b) A private sectarian or nonsectarian school that elects to comply with AS 14.45.100 -- 14.45.140 shall notify the superintendent if the child is no longer enrolled in or attending the school.

CALENDAR(?)

Sec. 14.45.120. PROGRAM REQUIREMENTS OF EXEMPT SCHOOLS. A private sectarian or nonsectarian school that elects to comply with AS 14.45.100 -- 14.45.140 shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall report to the department the school calendar and the number of students in each grade within 30 days after the start of each school year.

Sec. 14.45.130. STUDENT RECORDS OF EXEMPT SCHOOLS. (a) A private sectarian or nonsectarian school that elects to comply with AS 14.45.100 -- 14.45.140 shall maintain permanent student records, including records of daily attendance, immunizations, physical examinations, testing, courses taken at the school, and grades received.

(b) Upon reasonable notice the school shall make student records maintained under this section available for inspection by the

department.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 6, 1984



SUBJECT: Attorney General's analysis of HCS CSSB 354 (HESS)

TO: Representative Mae Tischer
Chairman, Health, Education, and
Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested an analysis of a letter from the Attorney General concerning the latest draft of HCS CSSB 354(HESS). The Attorney General's letter indicates that the bill presents no significant constitutional problems, an opinion with which I agree. The criticisms of the bill in the Attorney General's letter only relate to potential problems of statutory interpretation and style. They are, for the most part, matters of clarity which could be adopted, but are probably not essential.

First, the Attorney General notes that the bill does not adequately distinguish between pre-elementary schools and child care. As amended by the bill, AS 14.07.020(7) provides that the Department of Education, after consultation with the state fire marshall and the state sanitarian, regulates the health and safety aspects of private schools, including pre-elementary schools. Under AS 47.35, however, the Department of Health and Social Services regulates nurseries (child care centers). The Attorney General apparently feels that AS 14.07.020(7) should contain a clear definition of pre-elementary schools so that a nursery or pre-elementary school could not choose between the Department of Education and the Department of Health and Social Services simply by calling itself a nursery or a pre-elementary school.

While I agree that there is some potential confusion here, it is my opinion that a change is not essential. AS 47.35.080(4) defines nursery rather clearly and excludes

establishments "whose primary function is educational," i.e., pre-elementary schools. Accordingly, it is clear that D.H.S.S regulates nurseries, while D.O.E regulates the health and safety aspects of all public and private schools, including pre-elementary schools. In other words, the confusion that the Attorney General is concerned with is insignificant when the bill is read in conjunction with AS 47.35.080(4).

The second question raised by the Attorney General has to do with the second sentence of AS 14.45.100, in section 5 of the bill. That sentence, which was added as a Senate floor amendment, provides that "a facility that serves children under the age of six and receives state payments is not eligible for the exemption provided by this section."

The Attorney General points out that the sentence is superfluous since the exemption provided for in that section does not affect programs for children under compulsory school age anyway. This observation is correct, and moreover, private schools are ineligible to receive direct state aid under Art. VII, sec. 1 of the state constitution. Therefore, I agree that the sentence is unnecessary and could be removed entirely. However, since the sentence neither adds nor subtracts substantively from the bill, removing or amending it is not essential.

Finally, the Attorney General notes that the Senate amended AS 14.45.110(a) in section 5 of the bill to make clear that the section only applies to children of compulsory school age. The Attorney General points out that all of AS 14.45 was intended to apply only to compulsory school age children, and therefore this distinction should be made throughout AS 14.45, or a definition added to clarify the point.

Again, I agree with the Attorney General's analysis. It is true that some language indicating that the provisions of AS 14.45 apply only to compulsory school age children would add clarity to the bill. However, the change is not essential since the provisions of AS 14.45 indicate implicitly that they apply only to school age children. This is indicated by section 3 of the bill which amends the compulsory school attendance law to provide that compliance with AS 14.45 satisfies the compulsory attendance requirement. It also follows from the fact that a private school may elect to comply with AS 14.45 or not, as it chooses.

In conclusion, I agree with the Attorney General's criticisms of HCS CSSB 354(HESS) insofar as the changes suggested would add clarity to the bill. However, these changes are not essential to the bill from a legal standpoint.

KBL:ojb
J3/056

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY



MEMORANDUM January 31, 1984

SUBJECT: Sectional analysis of HCS CS SB 354 (HESS)

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested a sectional analysis of HCS CS SB 354 (HESS), "An Act relating to the regulation of private schools." The main thrust of the bill is to allow religious and other private schools to opt out of the general laws and regulations applicable to private schools if they agree to comply with certain minimal requirements.

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion while at the same time ensuring the quality of all education in the state and allowing diversity in education by encouraging private education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). It provides that the department will consult with the state fire marshall and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in private pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of private pre-elementary schools and nurseries. Supervision over public pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)).

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5, below) satisfies the compulsory education requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100). The exemption is also not available to schools that serve children under the age of six and receive state funds.

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and the school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the result of which are also public (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify under oath or by affirmation to the Department of Education that these records are being maintained (AS 14.45.130). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140).

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

KBL:ojb
J3/022

COMMITTEE REPORT

HOUSE

(7) FURTHER:

1/24/84 Date: 1-30-84

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSSB 354(Jud)am

"An Act relating to the regulation of private schools."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with HCS for CSSB 354 (HESS) [X] same title [ ] new title

and recommends THAT THE CS DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

x Rich [illegible]

M. W. Miller

Terry Martin

Mark Fischer

MEMBERS HAVING OTHER RECOMMENDATIONS:

[illegible] PASS SENATE VERSION

[illegible] pass senate version

Mike Davis PASS SENATE VERSION

Mark Fischer

CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB 514
Title: Regulation of Private Schools
Sponsor: Rep. Tischer
Requestor: House HESS
Date of Request: 1-20-84

FISCAL DETAIL
Agency Affected: Public Safetv
Program Category Affected: Life and Protection
BRU, Program or Subprogram(s) Affected: Fire Prevention

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No fiscal impact

ANALYSIS: Attach a separate page for analysis

Prepared By: Gordon Brunton Phone: 465-4331
Division: Fire Prevention Date: 1-20-84

Approved by Commissioner: Robert J. Sundberg Date: 1-20-84
Agency: Public Safetv

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff
DATE: January 30, 1984

RE: Comparison of SCS SB 354 (Judiciary) am, and HCS SB 354 (HESS)

For your convenience, I have compared the House HESS Committee Substitute of Senate Bill 354 to the version passed by the Senate.

Page 2, lines 23 - 25 After the word "schools," delete underlined material: "and private pre-elementary schools that are not in facilities associated with an elementary school that operates grades one through three".

Page 5, line 24 Delete "or subsidies."

Page 5, line 27 After the word "child," insert "of compulsory school age".

Page 5, line 29 - Page 6, line 1 Delete "of compulsory school age".

Page 6, line 19 After the word "grades," substitute "four, six and eight" for existing language "two, four, six, and ten".

Page 7, line 15 After the word "affirmation," insert "to the department".

/wtl

minimum standards

definition of pre-school -

unol

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: H.B. 514
Title: An Act relating to the regulation of private schools
Sponsor: Tischer, et al
Requestor:
Date of Request: 1/23/84

FISCAL DETAIL
Agency Affected: Environmental Conservation
Program Category Affected: NRMEC
BRU, Program or Subprogram(s) Affected: Environmental Quality Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		0	0	0		
200 TRAVEL		0	0	0		
300 CONTRACTUAL		0	0	0		
400 SUPPLIES		0	0	0		
500 EQUIPMENT		0	0	0		
600 LAND & STRUCTURES		0	0	0		
700 GRANTS, CLAIMS		0	0	0		
800 MISCELLANEOUS		0	0	0		
TOTAL OPERATING		0	0	0		
CAPITAL		0	0	0		
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0		
FEDERAL FUNDS		0	0	0		
OTHER		0	0	0		
TOTAL		0	0	0		

POSITIONS:

FULL-TIME		0	0	0		
PART-TIME		0	0	0		
TEMPORARY		0	0	0		

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Joe Cladouhos, Director Phone: 465-2640
Division: Environmental Quality Management Date: 1/23/84

Approved by Commissioner: Richard Neve' Date: 1/23/84
Agency: Environmental Conservation

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: HB-514
Title: ...regulation of private schools
Sponsor: Tischer
Requestor: Hess
Date of Request: 1-19-84

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: Elementary & Secondary Education
BRU, Program or Subprogram(s) Affected: School Improvement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard Luther, Director Phone:
Division: Education Program Support Date:

Approved by Commissioner: Harvold Reynolds, Jr. Date: 1-20-84
Agency: Education

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
326 Fourth St., Suite #510 Juneau, Alaska 99801 586-9702

an organization of Alaskan School Administrators

January 24, 1984

The Honorable Mae Tischer
House of Representatives
Chairman, Health, Education
and Social Services
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

The Alaska Council of School Administrators would like to go on record as supporting H.B. 514 as amended. We are particularly pleased that the bill calls for a process of notifying local school districts about enrolled or non-enrolled students as found in Sec. 14.45.110. This bill enables the chief administrative officer of a district to fulfill his requirements under the compulsory attendence law AS Sec. 14.30.030.

Once again, we support the bill as written and urge its adoption.

Sincerely,

Don MacKinnon
Executive Secretary

DM:clc

American Association of University Women
Alaska State Division

Susan R. Clark, State Legislative Chair
1109 C Street, Juneau, Ak. 99801
(907) 586-6952

23 January 1984

The Alaska Division of AAUW would like to go on record in support of an amendment to HB 519/SB 354, relating to the regulation of private schools. On page two of the bill (in Sec. 2. AS 14.07.020.) we would recommend that (8) read as follows: "...pre-elementary schools in this paragraph means schools for children ages three through five years when the school's primary function is educational and the program operates for four or fewer hours a day." Of specific concern to us is the health and safety of pre-elementary children ages 3 through 5 who spend from five to 10 or more hours daily in care outside their home.

Without this ammendment a loophole is created or rather maintained in Alaska statute that permits any program offering care to children up to 10 hours or more a day to exempt itself from health and safety regulations governing all Alaskan day care centers - even though that program is not functionally different from a day care program. The Dept. of Education has been called to task over the last several years by both the State Division of Internal Audit and the Federal Office of Child Development for the lack of a clear definition. Says the latter: "Your statute is indeed weak, allowing for confusion and almost any interpretation..." The Dept. audit found that "neither of the statutes [D.O.E.'s wording nor D.H.S.S's AS 47.35.010-80] set criteria nor define what is to be considered a primarily educational facility versus a child care facility;" and "because primarily educational has not been defined, neither the regulato: Departments, the facilities themselves, nor the public has a positive definition to use in deciding whether or not a program is a preschool or daycare program. As a result, any facility may choose to be classified as a preschool, and avoid the requirement to comply with daycare standards."

One of the issues involved here is that education of pre-elementary children is different than the academic emphasis of elementary education, due to shorter attention spans, the need for more physical movement (and the need for physical rest), and the underlying necessity of children needing to learn pre-academic skills. Goals for a pre-schooler are different than those for an older child, and Early Childhood educators set out the following as desirable outcomes of a preschool education:

a. Development of a positive self-concept, a sense of self-worth that comes from experiencing success, and a growing awareness of one's strengths as well as one's weakness.
b. Achievement of independence in decision making and a sense of mastery over one's environment (buttons, bows and zippers...); plus an achievement of mutual interdependence - a sense of responsibility for self and others within a community or group.
c. Movement from preoccupation with one's own biological and

psychological needs toward involvement in outside interests and activities; finding pleasure from human interaction; seeking problems and finding satisfaction in solving them.

d. Internalizing the concepts of problem solving abilities.
e. Coping with change and wider relationships.

Parents overwhelmingly want the option of an enrichment program for their children - the inclusion of life-expanding experiences not normally available in the home - and early enrichment has been shown to be important to the full development of all types and classes of children. Because of these factors all quality childcare programs at the pre-elementary level have (and all programs are encouraged to have) educational components teaching the basic life skills of self-sufficiency, socialization, and basic cognitive skills. Parents and community are no longer willing to accept custodial childcare or "warehousing" of kids as acceptable. Thus based on educational content there is no functional difference between a full day "preschool" and a good day care center. In fact in the D.O.E. audit, "of the 19 daycare programs surveyed, 18 stated they offered a preschool program." Ironically in Alaska while parents are lured by the term "preschool" into thinking they are doing better by their children, the standards for preschools are considerably lower than for daycare centers. [See attachment for comparison.]

When a young child is in care for all day every day, the program ceases to be solely a "school" and must include attention to nutritional needs, rest, staff health, adequate supervision with enough staff to attempt to meet the individual needs of each child, and enough space to meet the need to be physically active. Quality childcare is commonly described in national studies as having a tight child/staff ratio (a small number of children to each staff member). Safety in emergencies is a factor, but in normal times children under five need more individual attention than they will ever need at any other time. To form strong and positive self-concept, children need to be listened to, supported and encouraged. A large number of children can be tolerated in "school"-like situations for short periods during the day when activities are highly structured, but the emphasis must necessarily be on control. On a full time basis that can contribute to degrees of "maternal deprivation" resulting from the lack of a strong, rewarding relationship in the early years with a single close adult. "Preschools" have no child/staff ratio requirements. Similarly "pre-schools" have no minimum space requirements although the D.O.E. audit pointed out that adequate space is "absolutely necessary to ensure a quality, developmentally-orientated child care program":

> "the higher the quality of space in a center, the more likely were teachers to be sensitive and friendly in their manner toward children, to encourage children in their self-chosen activities and to teach consideration for the rights and feelings of self and others. Where spatial quality was low, children were less likely to be involved and interested, were more likely to exhibit agressive behavior, and teachers more likely to be neutral and insensitive in their manner, to use large amounts of guidance and restriction, and to teach arbitrary rules of social living."

There can be a workable definition of "pre-elementary school". Most legitimate pre-schools operate from two and a half to three

hours a day, as do most kindergartens for 6 year olds. Even elementary and high school kids do not attend school longer than about 6 hours a day, yet we permit three year olds to attend "school" 10 hours a day. We expect pre-schools to offer a fairly highly structured program for children and often the child/staff ratio is large (20 or more youngsters to 1 adult), but on a short time basis this can be acceptable. Beyond four hours the needs of small children demand more nurturing and less structured care, more space and less control, provision for a nutritional meal and snacks, a time for rest and naps, and the assurance that staff are not carriers of T.B., and assurance that an emergency plan is operable After four hours children need more individual attention.

All 50 states regulate full-day child care, though in many states it took a tragedy to enact licencing laws. Without this amendment, Alaska is the only state not regulating full day programs which are funtionally identical to day care centers.
The results are a "risk to children", says the D.O.E. audit, for "programs quickly call themselves pre-elementary schools when they learn that is a means of escaping regulations." Please don't let tragedy have to happen first, before we correct what no other state will tolerate.

Preschool Standards are Lower Than Daycare Standards

In Alaska, the Department of Education's standards for preschools are lower than the Department of Health and Social Services standards for daycare centers. For example, the only preschool standard equal to daycare standards is the immunization standard as shown in the following table.

COMPARISON OF DAYCARE AND PRESCHOOL STANDARDS

STANDARD	DAYCARE	PRESCHOOLS
License Renewal	Annual	5 yrs.
Agency Review	Annual	5 yrs.
Staff Pupil Ratio	1-10	no standard
** Indoor Space	35 sq. ft.per child	no standard
Outdoor space	75 sq. ft.per child	no standard
Fire Inspection	Annual	5 years
Sanitation Inspection	Annual	5 years
Health Program	required	no standard
Prone Rest	required	no standard
Immunizations	required	required
Nutrition Program	required	no standard
* Corporal Punishment	regulated	no standard

The Department of Health and Social Services also requires that daycare programs provide opportunities and experiences to promote the individual child's physical, emotional, social and intellectual growth, as outlined below:

- -- opportunities for balance of active/quiet play, group and individual, and indoor and outdoor play;
- -- opportunities for individual self expression in conversation. imaginative play and creative expressions;
- -- use of games, toys, books, sand, puzzles, for intellectual and social development;
- -- walking excursions/field trips; and
- -- equipment and furniture be of sufficient quality and quantity and appropriate to a child's use.

* The regulation reads: "Satisfactory compliance with this subsection requires that ... (7) caregivers not use any form of corporal punishment unless otherwise approved in writing by the parent of the child, and that they not use any other technique which is humiliating, shaming, frightening, or otherwise damaging to a child."

** "Several studies have found that most social involvement appears to occur at medium density (35-50 sq. ft. per child), while agressiveness occurs at higher densities (below 35 sq. ft.) and random behavior occurs in large undifferentiated settings (over 50 sq. ft.)."

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

TO: Representative Mae Tischer
FROM: Bill Lovell, Staff
DATE: February 9, 1984

RE: Analysis of HCS CSSB 354 (Rules)

For your convenience, I have prepared the following analysis of the House Rules Committee Substitute for Committee Substitute for Senate Bill 354, "[a]n Act relating to the regulation of private schools."

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion or with the right of parents to choose to have their children attend private schools while at the same time ensuring the quality of all education in the state and encouraging diversity in education.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). The bill creates a new subsection (a) in the law, including all language currently in AS 14.70.020. New language provides that the department will consult with the state fire marshal and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of pre-elementary schools that receive state or federal funding. Supervision of pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)). A new subsection (b) defines pre-elementary schools as being for children ages three through five years and primarily educational in purpose.

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5 below) satisfies compulsory attendance requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and

regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child of compulsory school age enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades four, six, and eight at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the results of which are also public (AS 14.45.120(c)).

The exempt schools are also required to maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school. The administrator of the school must certify to the department, under oath or affirmation, that these records are being maintained (AS 14.45.130). "Private school," as used in these sections, is defined as a school that does not receive direct state or federal funding. (AS 14.45.140 (1)). Finally, "religious school," as used in these sections, is defined as a private school operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140(2)).

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

MMT:WTL:cas

DATABANK

State Education Statistics

PERFORMANCE OUTCOMES[1]

See notes on pages 10 and 11.

State and year		ACT (scores for 28 states)					SAT (scores for 22 states)					Graduation rate		Pupil/teacher ratio		Average teacher salary
		ACT score (1)	Rank[2] out of 28 (2)	% of h.s. seniors taking test (3)	Score change 1972-82 (4)	Ranking of score change[4] (out of 28) (5)	SAT score (6)	Rank[2] out of 22 (7)	% of h.s. seniors taking test (8)	Score change 1972-82 (9)	Ranking of score change (out of 22) (10)	% (11)	Rank[2] out of 51 (12)	pupils/ teacher (13)	Rank[2] out of 51 (14)	Salary ($) (15)
Alabama	1982	17.2	26.0	55.2	-1.1	16.0	–	–	–	–	–	67.1	[illegible]	20.7	43.0	15,413
	1972	18.3	25.5	49.6	–	–	–	–	–	–	–	65.4		23.9	42.0	7,737
Alaska	1982	18.7	13	31.4	-0.9	10.0	–	–	–	–	–	71.0	[illegible]0	16.0	8.5	29,000
	1972	19.6	15.5	33.6	–	–	–	–	–	–	–	[illegible]	25.0	21.0	16.0	14,124
Arizona	1982	18.7	13.5	41.2	-0.6	4.0	–	–	–	–	–	72.4	33.0	19.8	37.0	17,359
	1972	19.3	17.5	55.5	–	–	–	–	–	–	–	73.8	37.0	22.2	25.5	10,136
Arkansas	1982	17.7	20.0	56.3	-0.9	10.0	–	–	–	–	–	74.7	30.0	18.8	29.0	13,270
	1972	18.6	22.0	40.4	–	–	–	–	–	–	–	68.9	45.0	23.4	40.5	7,021
California	1982	–	–	–	–	–	899	4.0	38.4	-56.0	20.0	68.9	39.0	23.1	50.0	19,648
	1972	–	–	–	–	–	957	2.0	31.6	–	–	79.9	22.0	24.1	43.0	11,300
Colorado	1982	19.6	5.0	66.7	-0.3	1.5	–	–	–	–	–	78.3	22.0	18.7	30.0	17,734
	1972	19.9	11.5	80.2	–	–	–	–	–	–	–	84.8	9.0	22.5	31.5	9,088
Connecticut	1982	–	–	–	–	–	896	6.5	69.0	-49.0	16.0	71.2	37.0	15.0	1.5	17,440
	1972	–	–	–	–	–	945	4.0	70.7	–	–	83.4	12.0	19.4	5.0	10,079
Delaware	1982	–	–	–	–	–	897	5.0	49.3	-46.0	11.5	81.8	9.0	17.0	22.5	18,025
	1972	–	–	–	–	–	943	5.0	87.2	–	–	78.0	29.0	22.3	38.0	10,211
District of Columbia	1982	–	–	–	–	–	821	21.0	53.4	18.0	1.0	55.6	50.0	18.5	27.0	22,883
	1972	–	–	–	–	–	803	22.0	68.2	–	–	54.8	51.0	21.2	20.0	11,022
Florida	1982	–	–	–	–	–	889	9.5	37.5	-52.0	18.0	65.4	46.0	19.9	36.5	15,563
	1972	–	–	–	–	–	941	6.0	26.8	–	–	72.1	39.0	22.7	34.0	9,020
Georgia	1982	–	–	–	–	–	823	20.0	43.0	-11.0	2.0	–	–	18.8	31.5	15,444
	1972	–	–	–	–	–	834	20.0	55.0	–	–	64.8	49.0	25.2	50.0	7,710
Hawaii	1982	–	–	–	–	–	867	18.0	47.3	-64.0	22.0	84.2	4.0	22.7	46.0	20,993
	1972	–	–	–	–	–	921	14.5	52.9	–	–	89.1	4.0	22.3	38.0	10,523
Idaho	1982	18.9	10.5	55.3	-1.0	13.0	–	–	–	–	–	78.9	19.0	20.9	45.0	15,146
	1972	19.9	11.5	45.2	–	–	–	–	–	–	–	84.7	10.0	22.6	33.0	7,392
Illinois	1982	18.8	16.0	67.4	-1.2	18.5	–	–	–	–	–	74.8	28.0	18.6	27.0	19,518
	1972	19.8	13.0	62.1	–	–	–	–	–	–	–	78.0	26.0	22.5	31.5	10,882
Indiana	1982	–	–	–	–	–	860	17.0	47.0	-46.0	11.5	76.9	21.0	20.0	40.0	16,876
	1972	–	–	–	–	–	906	18.0	50.4	–	–	78.1	34.0	24.6	45.5	9,605
Iowa	1982	20.3	2.0	54.6	-1.7	27.0	–	–	–	–	–	86.6	3.0	18.5	11.5	16,150
	1972	22.0	1.0	49.0	–	–	–	–	–	–	–	89.5	3.0	20.2	11.5	8,638
Kansas	1982	18.9	10.5	60.8	-1.1	16.0	–	–	–	–	–	80.9	11.0	15.7	4.5	15,250
	1972	20.0	9.5	56.2	–	–	–	–	–	–	–	82.8	15.0	19.8	8.0	8,254
Kentucky	1982	17.5	23.5	63.7	-0.9	10.0	–	–	–	–	–	68.9	44.0	20.8	44.0	15,580
	1972	18.4	23.5	45.1	–	–	–	–	–	–	–	70.4	42.0	23.2	37.0	7,444
Louisiana	1982	16.7	27.0	60.8	-1.3	20.5	–	–	–	–	–	64.0	48.0	19.6	35.0	14,900
	1972	18.0	27.0	56.7	–	–	–	–	–	–	–	66.5	47.0	22.4	30.0	8,849
Maine	1982	–	–	–	–	–	890	8.0	46.5	-41.0	8.5	72.1	34.0	18.0	24.0	13,994
	1972	–	–	–	–	–	931	11.0	44.2	–	–	80.9	18.0	22.2	26.5	8,750
Maryland	1982	–	–	–	–	–	839	9.5	50.3	-47.0	14.0	75.6	24.0	18.5	27.0	19,286
	1972	–	–	–	–	–	936	8.0	51.4	–	–	80.2	21.0	22.1	24.0	10,463
Massachusetts	1982	–	–	–	–	–	896	11.5	65.6	-45.0	10.0	75.9	23.0	16.0	8.5	18,258
	1972	–	–	–	–	–	933	10.0	66.2	–	–	77.9	30.0	21.2	30.0	9,200
Michigan	1982	18.7	13.5	51.4	0.4	3.0	–	–	–	–	–	72.7	32.0	22.9	49.0	21,057
	1972	19.1	19.0	74.4	–	–	–	–	–	–	–	81.0	17.0	24.8	48.0	11,300
Minnesota	1982	20.2	3.0	28.9	-1.2	18.5	–	–	–	–	–	89.2	1.0	17.1	16.0	17,182
	1972	21.4	2.0	44.3	–	–	–	–	–	–	–	91.5	1.0	20.6	17.0	10,255
Mississippi	1982	15.5	28.0	74.5	0.6	7.0	–	–	–	–	–	63.0	49.0	19.3	34.0	13,000
	1972	16.3	28.0	78.5	–	–	–	–	–	–	–	57.6	50.0	23.1	36.0	6,520
Missouri	1982	18.7	13.5	45.2	-1.4	23.0	–	–	–	–	–	75.4	23.0	17.0	15.0	15,422
	1972	20.1	8.0	21.1	–	–	–	–	–	–	–	77.5	31.0	22.3	25.0	8,805
Montana	1982	19.5	8.0	49.3	-1.6	26.0	–	–	–	–	–	82.2	8.0	18.5	11.5	15,967
	1972	21.1	3.0	48.5	–	–	–	–	–	–	–	79.0	27.0	21.2	20.0	–
Nebraska	1982	19.9	4.0	72.6	-0.7	8.0	–	–	–	–	–	83.6	6.0	15.7	4.5	14,675
	1972	20.6	6.0	27.1	–	–	–	–	–	–	–	86.9	7.0	19.9	9.5	7,661
Nevada	1982	16.3	18.0	44.5	-1.0	13.0	–	–	–	–	–	75.3	26.0	21.1	46.0	17,700
	1972	19.3	17.5	51.3	–	–	–	–	–	–	–	75.0	35.0	24.6	45.5	10,200
New Hampshire	1982	–	–	–	–	–	925	1.0	66.2	-47.5	14.0	78.3	13.0	16.8	13.5	13,273
	1972	–	–	–	–	–	972	1.0	52.1	–	–	80.7	18.0	20.6	14.5	8,685
New Jersey	1982	–	–	–	–	–	869	15.0	64.7	-47.0	14.0	78.1	15.0	15.9	7.0	18,300
	1972	–	–	–	–	–	916	17.0	71.1	–	–	70.7	23.0	19.6	6.5	9,500
New Mexico	1982	17.8	21.5	66.6	-0.8	7.0	–	–	–	–	–	71.8	36.0	18.8	31.5	16,948
	1972	18.4	23.5	51.2	–	–	–	–	–	–	–	76.9	32.0	23.3	39.5	8,486
New York	1982	–	–	–	–	–	890	6.5	61.6	-59.0	21.0	66.3	45.0	17.6	21.0	20,400
	1972	–	–	–	–	–	955	3.0	60.2	–	–	74.7	30.0	19.3	4.0	11,400
North Carolina	1982	–	–	–	–	–	827	19.0	46.6	-27.0	3.0	68.4	41.0	19.9	38.5	15,856
	1972	–	–	–	–	–	849	19.0	47.4	–	–	66.6	46.0	23.3	38.5	8,183
North Dakota	1982	17.8	18.0	64.6	-1.6	28.0	–	–	–	–	–	87.3	2.0	16.6	13.5	14,661
	1972	19.6	15.5	67.3	–	–	–	–	–	–	–	89.0	6.0	19.9	9.5	7,386
Ohio	1982	19.0	9.0	40.2	-1.0	13.0	–	–	–	–	–	77.5	18.0	19.7	36.0	16,200
	1972	20.0	9.5	36.2	–	–	–	–	–	–	–	80.3	20.0	24.4	44.0	9,050
Oklahoma	1982	17.6	21.5	51.4	-1.1	16.0	–	–	–	–	–	77.6	17.0	17.2	17.5	14,640
	1972	18.7	21.0	58.5	–	–	–	–	–	–	–	79.3	24.0	23.0	35.0	7,900
Oregon	1982	–	–	–	–	–	906	2.0	41.7	-50.0	4.0	71.7	35.0	20.3	41.0	16,500
	1972	–	–	–	–	–	938	2.0	38.8	–	–	78.2	26.0	20.7	46.0	9,465
Pennsylvania	1982	–	–	–	–	–	885	13.0	51.4	-41.0	8.5	78.8	12.0	17.3	19.5	17,690
	1972	–	–	–	–	–	926	13.0	55.2	–	–	85.0	8.0	21.6	22.0	9,900
Rhode Island	1982	–	–	–	–	–	877	14.0	60.7	-50.0	17.0	72.9	31.0	18.1	10.0	19,803
	1972	–	–	–	–	–	927	12.0	59.8	–	–	81.1	16.0	20.6	14.5	10,000
South Carolina	1982	–	–	–	–	–	700	22.0	49.2	-33.0	7.0	64.3	47.0	19.0	33.0	14,106
	1972	–	–	–	–	–	823	21.0	50.0	–	–	60.2	44.0	20.2	11.5	7,300
South Dakota	1982	19.2	9.1	8.0	81.9	-1.5	25.0	–	–	–	–	–	83.9	6.0	15.8	6.0
	1972	20.6	8.0	55.0	–	–	–	–	–	–	–	90.8	2.0	18.7	3.0	7,757
Tennessee	1982	17.5	23.5	60.3	-0.8	7.0	–	–	–	–	–	68.9	40.0	20.5	42.0	14,073
	1972	18.3	25.5	52.6	–	–	–	–	–	–	–	72.4	38.0	24.7	47.0	7,970
Texas	1982	–	–	–	–	–	868	18.0	32.4	-63.0	19.0	66.2	42.0	18.4	25.0	16,715
	1972	–	–	–	–	–	921	14.5	32.2	–	–	70.2	43.0	22.0	23.0	8,376
Utah	1982	18.4	17.0	66.4	.3	20.5	–	–	–	–	–	81.4	10.0	27.4	51.0	16,612
	1972	19.7	14.0	62.5	–	–	–	–	–	–	–	83.3	13.0	25.3	51.0	8,538
Vermont	1982	–	–	–	–	–	904	3.0	54.3	-31.0	6.5	77.7	16.0	15.3	3.0	13,235
	1972	–	–	–	–	–	935	9.0	60.5	–	–	70.9	41.0	17.1	1.0	8,850
Virginia	1982	–	–	–	–	–	868	11.5	51.0	-31.0	5.5	75.0	27.0	17.6	22.5	14,649
	1972	–	–	–	–	–	919	16.0	54.3	–	–	76.4	33.0	20.5	13.0	9,100
Washington	1982	–	–	–	–	–	–	–	–	–	–	76.9	20.0	21.7	47.0	20,702
	1972	–	–	–	–	–	–	–	–	–	–	83.9	11.0	25.1	49.0	10,178
West Virginia	1982	17.4	25.0	48.4	-1.4	23.0	–	–	–	–	–	74.8	29.0	17.3	19.5	14,946
	1972	18.8	20.0	43.4	–	–	–	–	–	–	–	71.9	40.0	23.4	40.5	7,976
Wisconsin	1982	20.4	1.0	32.0	-0.3	1.5	–	–	–	–	–	83.4	7.0	17.2	17.5	20,062
	1972	20.7	4.0	40.7	–	–	–	–	–	–	–	89.1	8.0	19.6	8.5	10,370
Wyoming	1982	19.2	7.0	51.8	-1.4	23.0	–	–	–	–	–	78.3	14.0	15.0	1.5	20,436
	1972	20.6	6.0	53.8	–	–	–	–	–	–	–	83.1	14.0	18.5	2.0	9,215
U.S. average	1982	18.4	–	–	-0.7	–	893	–	–	-44.0	–	72.8	–	18.9	–	17,560
	1972	19.1	–	–	–	–	937	–	–	–	–	77.2	–	22.3	–	9,615

State Performance Outcomes, Resource Inputs, and Population Characteristics, 1972 and 1982[1]

RESOURCE INPUTS								POPULATION CHARACTERISTICS									
Average teacher salary	Federal funds as % of school revenues			Current expenditures per pupil		Expend. as % of income per capita		Per capita income		% poverty ages 5–17		Median years education of adults		Minority % of enrollment		Handicapped % of enrollment	
Rank[2] out of 51 (16)	% (17)	Rank[2] out of 51 (18)	State comp ed program[3] (19)	Expenditure $ (20)	Rank[2] out of 51 (21)	% (22)	Rank[2] out of 51 (23)	Income ($) (24)	Rank[2] out of 51 (25)	% (26)	Rank[2] out of 51 (27)	years (28)	Rank[2] out of 51 (29)	% (30)	Rank[2] out of 51[1] (31)	% (32)	Rank[2] 51 (33)
35.0	18.6	2.5	NO	1,[illegible]	48.5	21.2	32.0	8,649	48.0	23.1	3.5	12.2	45.0	37.0	13.0	9.5	20.0
42.0	18.3	3.0	–	5,13	50.0	15.9	50.0	3,423	49.0	29.5	4.0	10.8	43.0	34.5	7.0	–	–
1.0	9.5	22.5	NO	5,369	1.0	33.0	1.0	16,257	1.0	11.4	36.0	12.8	2.0	22.5	26.0	8.2	34.0
1.0	17.4	4.0	–	1,441	2.0	27.3	3.0	5,285	4.0	14.8	21.0	12.4	4.5	16.3	24.0	–	–
21.0	12.9	11.0	YES	2,305	26.0	22.7	21.0	10,173	33.0	15.8	17.0	12.6	15.5	29.8	18.0	9.3	23.0
14.0	8.4	23.5	–	911	22.0	21.3	17.0	4,285	30.0	17.5	18.0	12.3	10.5	27.2	13.0	–	–
49.0	16.8	2.5	NO	1,713	50.0	20.2	40.0	8,479	50.0	22.7	8.0	12.2	45.0	30.2	17.0	8.7	15.0
49.0	17.3	5.0	–	801	49.0	18.4	42.0	3,268	50.0	31.6	2.0	10.5	48.5	29.4	10.0	–	–
10.0	10.1	19.0	YES	2,427	22.0	19.3	46.0	12,567	5.0	14.2	22.0	12.7	6.5	45.9	6.0	8.0	39.0
3.5	6.1	36.5	–	932	20.0	18.4	41.0	5,062	10.0	12.1	26.0	12.4	4.5	27.6	12.0	–	–
17.0	5.9	45.5	NO	2,708	15.0	22.0	28.0	12,302	8.0	10.8	41.0	12.8	2.0	23.1	34.0	7.2	45.0
25.0	8.5	21.0	–	905	23.0	19.8	29.0	4,574	14.0	12.3	24.0	12.4	4.5	16.4	21.0	–	–
20.0	6.2	41.5	YES	2,683	17.0	19.5	45.0	13,748	3.0	10.4	44.0	12.6	15.5	23.0	25.0	11.2	3.0
15.0	3.1	49.5	–	1,110	7.0	20.3	21.0	5,464	2.0	7.2	51.0	12.2	18.0	13.0	29.0	–	–
18.0	11.3	13.0	NO	3,125	5.0	28.6	8.0	11,731	14.0	14.6	20.0	12.5	28.0	29.0	23.0	10.9	5.0
11.0	7.1	30.5	–	1,097	8.0	21.3	18.0	5,143	9.0	12.0	28.0	12.1	29.0	21.3	20.0	–	–
2.0	–	–	NO	3,441	3.0	23.6	18.0	14,550	2.0	26.3	2.0	12.7	6.5	96.4	1.0	1.6	51.0
5.0	14.1	8.0	–	1,063	11.0	18.7	39.0	5,870	1.0	23.2	12.0	12.2	18.0	86.5	1.0	–	–
32.0	10.3	17.0	YES	2,278	27.0	20.7	37.0	10,978	21.0	17.8	16.0	12.5	28.0	32.0	16.0	8.8	28.0
27.0	9.7	19.0	–	861	28.0	19.4	31.0	4,434	28.5	18.9	16.0	12.1	29.0	28.0	11.0	–	–
33.0	13.9	8.0	YES	1,721	49.0	18.0	49.0	9,583	37.0	20.4	9.0	12.2	45.0	37.2	12.0	9.6	14.0
43.0	10.8	15.0	–	788	37.0	20.0	23.0	3,931	36.0	24.4	9.0	10.8	43.0	33.7	8.0	–	–
4.0	15.8	5.0	YES	2,604	20.0	22.1	25.0	11,652	15.0	11.7	36.0	12.7	6.5	75.2	2.0	6.9	46.0
7.0	8.4	23.5	–	1,020	13.5	20.0	25.0	5,107	9.0	9.7	41.0	12.3	10.5	–	–	–	–
37.0	10.3	17.0	NO	1,878	44.0	20.8	35.0	9,059	43.0	13.4	26.0	12.6	15.5	8.6	45.0	7.6	40.0
46.0	12.2	12.0	–	732	39.0	18.7	40.0	3,906	37.0	12.0	28.0	12.3	10.5	4.5	44.0	–	–
11.0	7.1	35.5	YES	2,720	14.0	22.5	23.0	12,100	10.0	14.1	23.0	12.5	28.0	39.8	10.0	10.1	8.0
6.0	4.9	42.5	–	986	16.0	19.2	34.0	5,135	8.0	10.7	35.0	12.1	29.0	24.9	15.0	–	–
24.0	8.4	40.0	YES	2,008	39.0	20.0	41.0	10,021	35.0	11.0	39.0	12.4	37.5	17.3	31.0	8.3	33.0
19.0	5.4	39.5	–	837	34.0	19.3	32.0	4,329	24.0	9.0	45.0	12.1	29.0	11.3	30.0	–	–
27.0	8.1	43.5	NO	2,343	24.0	21.7	29.0	10,791	25.0	10.8	41.0	12.5	28.0	8.0	46.0	9.4	22.0
18.0	2.5	51.0	–	970	18.0	22.0	14.0	4,415	23.0	9.8	38.5	12.2	18.0	2.8	46.0	–	–
36.0	6.2	41.5	NO	2,251	29.0	19.1	47.0	11,765	13.0	10.7	43.0	12.6	15.5	17.2	32.0	8.9	27.0
36.0	6.6	32.5	–	854	30.0	18.8	38.0	4,549	15.0	11.5	30.5	12.3	10.5	10.3	31.0	–	–
31.0	16.0	4.0	NO	1,835	46.5	20.5	39.0	8,934	44.0	21.2	7.0	12.1	50.0	12.2	38.0	8.7	37.0
45.0	16.5	6.5	–	850	44.5	18.1	45.0	3,686	45.0	25.1	7.0	9.9	51.0	9.8	32.0	–	–
39.0	12.7	12.0	NO	2,002	40.5	19.8	44.0	10,231	32.0	23.1	3.5	12.2	45.0	43.4	7.0	8.7	30.0
29.0	12.5	10.0	–	867	26.0	24.8	5.0	3,489	48.0	30.1	3.0	10.8	43.0	41.0	5.0	–	–
46.0	9.0	24.0	NO	1,985	42.0	22.0	27.0	9,042	42.0	15.1	18.5	12.5	28.0	1.2	50.0	9.9	1.0
31.0	7.3	29.0	NO	793	36.0	21.4	15.0	3,707	42.0	14.2	22.0	12.1	29.0	0.7	49.0	–	–
12.0	8.2	31.0	YES	2,998	7.0	24.5	13.0	12,238	9.0	11.9	35.0	12.5	28.0	33.6	14.0	11.1	4.0
8.0	7.1	30.5	–	962	19.0	19.4	30.0	4,953	11.0	11.6	30.5	12.1	29.0	24.8	16.5	–	–
18.0	6.8	46.5	YES	2,964	10.0	24.5	12.0	12,088	11.0	12.3	33.0	12.8	15.5	18.4	23.0	11.4	2.0
23.0	4.7	44.0	–	1,020	13.5	20.6	18.0	4,948	12.0	8.4	49.0	12.2	18.0	6.5	33.0	–	–
3.0	7.0	37.5	YES	2,652	19.0	24.2	15.0	10,956	22.0	12.4	32.0	12.5	28.0	29.1	19.0	6.9	49.0
3.5	3.8	48.0	–	1,175	5.0	24.5	7.0	4,706	13.0	9.1	44.0	12.1	29.0	16.2	25.0	–	–
22.0	7.0	37.5	YES	2,698	18.0	24.1	18.0	11,175	18.0	9.5	46.0	12.6	18.5	7.8	43.5	9.1	23.0
10.0	4.6	45.5	–	1,134	6.0	25.6	4.0	4,434	20.5	9.6	42.0	12.2	18.0	2.8	45.0	–	–
51.0	24.3	1.0	NO	1,685	51.0	21.7	30.0	7,778	51.0	30.3	1.0	12.2	45.0	51.9	4.0	9.5	18.0
50.0	20.0	1.0	–	634	48.0	20.6	18.0	3,071	51.0	41.5	1.0	10.7	45.0	51.1	2.0	–	–
34.0	9.6	21.0	YES	2,197	31.0	21.6	31.0	10,170	34.0	14.0	24.5	12.4	37.5	20.7	29.0	10.8	8.0
30.0	6.8	32.5	–	845	33.0	19.9	27.0	4,241	32.0	14.8	20.0	11.8	36.0	16.9	22.0	–	–
28.0	9.8	20.0	NO	2,727	13.0	28.5	4.0	9,580	38.0	12.7	30.0	12.6	15.5	12.3	36.5	7.8	39.0
–	8.5	21.0	–	–	–	–	–	4,092	33.0	12.9	23.0	12.3	10.5	6.9	36.0	–	–
11.0	8.7	27.5	YES	2,445	21.0	22.9	20.0	10,683	29.0	11.8	37.0	12.6	18.5	12.3	36.5	10.0	11.0
44.0	8.4	34.0	–	856	29.0	19.2	35.0	4,469	19.0	12.0	28.0	12.2	18.0	8.1	34.0	–	–
19.0	7.2	34.0	NO	2,069	35.0	17.3	51.0	11,981	12.0	9.4	49.0	1.6	15.5	19.1	30.0	7.1	47.0
12.0	5.0	38.0	–	917	21.0	17.8	47.0	5,148	6.0	8.8	46.0	12.4	4.5	14.2	29.0	–	–
48.0	5.3	48.0	NO	2,256	28.0	21.0	33.0	10,729	27.0	8.9	50.0	12.6	18.5	1.6	49.0	8.6	50.0
32.0	8.0	41.0	–	847	32.0	19.9	28.0	4,258	31.0	7.7	50.0	12.2	18.0	0.9	48.0	–	–
14.0	8.1	43.5	YES	3,265	4.0	25.1	9.0	13,019	4.0	13.3	27.0	12.5	28.0	37.7	11.0	12.3	1.0
20.0	4.3	47.0	–	1,219	4.0	22.7	12.0	5,3[illegible]	3.0	8.7	47.5	12.1	29.0	21.6	18.5	–	–
23.0	18.0	7.0	NO	2,178	33.0	23.7	17.0	9,190	40.0	21.7	6.0	12.8	15.5	57.2	3.0	8.1	38.0
34.0	18.5	2.0	–	849	31.0	23.0	9.0	3,593	44.0	26.3	6.0	12.2	18.0	47.3	3.0	–	–
7.0	7.1	35.5	YES	3,769	2.0	30.6	2.0	12,314	7.0	17.9	14.0	12.5	28.0	42.9	8.0	7.5	42.0
2.0	5.4	39.5	–	1,466	1.0	27.9	2.0	5,260	5.0	12.2	25.0	12.1	29.0	26.7	14.0	–	–
28.0	–	–	YES	2,033	36.0	22.5	24.0	9,044	41.0	17.8	15.0	12.2	45.0	32.4	15.0	9.5	19.0
37.0	11.7	13.0	–	883	43.0	18.3	43.0	3,789	39.0	24.0	11.0	10.6	47.0	39.6	9.0	–	–
40.0	11.0	15.0	NO	2,002	40.5	18.4	48.0	10,878	24.0	14.0	24.5	12.5	28.0	4.5	48.0	7.5	41.0
47.0	10.0	17.5	–	740	38.0	17.0	48.0	4,351	26.0	16.7	19.0	12.0	36.5	2.4	47.0	–	–
26.0	8.5	29.0	YES	2,321	26.0	21.7	28.0	10,677	30.0	12.2	34.0	12.4	37.5	22.3	27.8	9.8	15.0
26.0	8.2	30.0	–	871	25.0	19.3	33.0	4,505	17.0	9.8	38.5	12.1	29.0	14.0	27.0	–	–
43.0	13.6	9.0	NO	2,237	30.0	19.7	43.0	11,370	18.0	15.1	18.5	12.5	28.0	24.3	23.0	9.7	16.0
40.0	11.6	14.0	–	686	44.0	18.2	44.0	3,772	40.0	19.5	14.0	12.1	29.0	16.4	23.0	–	–
13.0	2.4	30.0	YES	3,130	5.0	30.3	3.0	10,335	31.0	10.9	41.0	12.7	8.5	9.3	41.0	8.1	36.0
21.0	4.6	45.5	–	979	17.0	22.5	13.0	4,146	17.0	10.3	37.0	12.3	10.5	4.6	43.0	–	–
19.0	8.9	25.5	YES	2,641	11.0	25.9	7.0	10,655	23.0	13.2	28.0	12.4	37.5	22.3	27.5	8.6	31.0
17.0	4.9	42.5	–	1,073	9.0	24.0	8.0	4,47[illegible]	18.0	10.6	36.0	12.0	36.5	13.3	28.0	–	–
9.0	8.1	27.5	YES	2,996	9.0	27.9	8.0	10,723	28.0	12.6	31.0	12.3	41.0	11.7	39.0	10.0	9.0
18.0	7.8	28.0	–	1,023	12.0	23.1	18.0	4,429	22.0	11.0	34.0	11.8	41.0	5.1	41.0	–	–
41.0	–	–	NO	1,916	43.0	22.5	22.0	8,502	49.0	7.[illegible]	8.0	12.1	50.0	42.0	9.0	10.0	10.0
44.0	18.5	6.5	–	700	42.0	20.1	22.0	3,490	47.0	19.1	5.0	10.5	40.5	41.2	4.0	–	–
47.0	13.0	10.0	NO	2,018	37.0	20.9	34.0	9,666	36.0	9.4	11.0	12.6	28.0	11.4	40.0	7.2	46.0
41.0	10.0	17.5	–	796	36.0	20.4	28.0	3,893	38.0	8.3	18.0	12.1	29.0	8.4	40.0	–	–
45.0	15.6	6.0	NC	1,831	46.0	20.6	38.0	8,906	45.0	20.2	10.0	12.2	45.0	28.8	21.0	10.5	7.0
39.0	13.3	9.0	–	659	45.0	18.8	46.0	3,664	43.0	24.8	8.0	10.6	47.0	21.6	18.5	–	–
30.0	11.1	14.0	YES	2,012	36.0	17.6	50.0	11,419	17.0	18.1	12.0	12.4	37.5	46.0	5.0	8.1	37.0
36.0	8.5	31.0	–	660	46.5	16.3	49.0	3,991	34.0	21.5	13.0	11.8	40.0	36.0	6.0	–	–
25.0	8.1	32.0	YES	1,842	45.0	20.8	36.0	8,875	40.0	9.8	46.0	12.8	2.0	7.6	43.5	9.4	21.0
33.0	7.9	35.0	–	707	41.0	19.0	37.0	3,730	41.0	10.0	38.0	12.5	1.0	8.2	39.0	–	–
50.0	7.4	31.0	NO	2,365	23.0	24.9	10.0	11,507	39.0	13.0	29.0	12.4	18.5	1.1	51.0	8.8	29.0
28.0	8.1	36.5	–	1,232	3.0	31.2	1.0	3,947	35.0	11.4	32.0	12.2	18.0	0.5	50.0	–	–
42.0	10.3	17.0	NO	2,193	32.0	19.8	42.0	11,095	20.0	14.4	21.0	12.4	37.5	28.2	22.0	8.5	32.0
24.0	10.6	16.0	–	875	24.0	20.0	24.0	4,373	25.0	18.2	17.0	11.7	39.0	24.8	16.5	–	–
8.0	8.8	28.5	YES	2,670	18.0	23.2	19.0	11,560	18.0	10.3	45.0	12.7	8.5	15.0	34.0	7.3	44.0
13.0	7.7	27.0	–	866	27.0	19.1	38.0	4,325	16.0	9.3	43.0	12.4	4.5	7.0	36.0	–	–
38.0	9.5	22.5	NO	2,173	34.0	24.8	11.0	8,769	47.0	18.2	13.0	12.1	50.0	4.9	47.0	9.2	24.0
38.0	12.4	11.0	–	713	40.0	19.9	26.0	3,577	46.0	24.3	10.0	10.6	47.0	4.9	42.0	–	–
8.0	6.6	30.0	YES	2,759	12.0	25.8	8.0	10,774	26.0	9.6	47.0	12.5	28.0	14.2	36.0	7.3	43.0
9.0	3.1	49.5	–	1,089	10.0	24.8	8.0	4,314	29.0	8.7	47.5	12.1	29.0	8.7	37.0	–	–
6.0	5.5	47.0	NO	2,997	8.0	24.2	14.0	12,372	6.0	7.5	51.0	12.7	9.5	8.7	42.0	9.0	26.0
22.0	7.6	28.0	–	1,001	15.0	22.8	11.0	4,395	24.0	11.2	33.0	12.4	4.5	9.3	33.0	–	–
–	9.3	–	–	2,473	–	22.3	–	11,107	–	18.3	–	12.5	–	26.7	–	9.0	–
–	7.1	–	–	904	–	20.7	–	4,515	–	14.8	–	12.1	–	22.1	–	–	–

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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M E M O R A N D U M

February 6, 1984



SUBJECT: Attorney General's analysis of HCS CSSB 354 (HESS)

TO: Representative Mae Tischer
Chairman, Health, Education, and Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested an analysis of a letter from the Attorney General concerning the latest draft of HCS CSSB 354(HESS). The Attorney General's letter indicates that the bill presents no significant constitutional problems, an opinion with which I agree. The criticisms of the bill in the Attorney General's letter only relate to potential problems of statutory interpretation and style. They are, for the most part, matters of clarity which could be adopted, but are probably not essential.

First, the Attorney General notes that the bill does not adequately distinguish between pre-elementary schools and child care. As amended by the bill, AS 14.07.020(7) provides that the Department of Education, after consultation with the state fire marshall and the state sanitarian, regulates the health and safety aspects of private schools, including pre-elementary schools. Under AS 47.35, however, the Department of Health and Social Services regulates nurseries (child care centers). The Attorney General apparently feels that AS 14.07.020(7) should contain a clear definition of pre-elementary schools so that a nursery or pre-elementary school could not choose between the Department of Education and the Department of Health and Social Services simply by calling itself a nursery or a pre-elementary school.

While I agree that there is some potential confusion here, it is my opinion that a change is not essential. AS 47.35.080(4) defines nursery rather clearly and excludes

establishments "whose primary function is educational," i.e., pre-elementary schools. Accordingly, it is clear that D.H.S.S regulates nurseries, while D.O.E regulates the health and safety aspects of all public and private schools, including pre-elementary schools. In other words, the confusion that the Attorney General is concerned with is insignificant when the bill is read in conjunction with AS 47.35.080(4).

The second question raised by the Attorney General has to do with the second sentence of AS 14.45.100, in section 5 of the bill. That sentence, which was added as a Senate floor amendment, provides that "a facility that serves children under the age of six and receives state payments is not eligible for the exemption provided by this section."

The Attorney General points out that the sentence is superfluous since the exemption provided for in that section does not affect programs for children under compulsory school age anyway. This observation is correct, and moreover, private schools are ineligible to receive direct state aid under Art. VII, sec. 1 of the state constitution. Therefore, I agree that the sentence is unnecessary and could be removed entirely. However, since the sentence neither adds nor subtracts substantively from the bill, removing or amending it is not essential.

Finally, the Attorney General notes that the Senate amended AS 14.45.110(a) in section 5 of the bill to make clear that the section only applies to children of compulsory school age. The Attorney General points out that all of AS 14.45 was intended to apply only to compulsory school age children, and therefore this distinction should be made throughout AS 14.45, or a definition added to clarify the point.

Again, I agree with the Attorney General's analysis. It is true that some language indicating that the provisions of AS 14.45 apply only to compulsory school age children would add clarity to the bill. However, the change is not essential since the provisions of AS 14.45 indicate implicitly that they apply only to school age children. This is indicated by section 3 of the bill which amends the compulsory school attendance law to provide that compliance with AS 14.45 satisfies the compulsory attendance requirement. It also follows from the fact that a private school may elect to comply with AS 14.45 or not, as it chooses.

In conclusion, I agree with the Attorney General's criticisms of HCS CSSB 354(HESS) insofar as the changes suggested would add clarity to the bill. However, these changes are not essential to the bill from a legal standpoint.

KBL:ojb
J3/056

SB 354

BILL SB0354
PAGE 01765
DATE 01/13/84
CHAMBER SENATE
TEXT SENATE BILL NO. 354 by Senators Faiks, Kerttula, Bennett, Ferguson, Ray, Moss, Pettyjohn, Halford, P. Fischer, Gilman and Kelly, entitled:

"An Act relating to the regulation of private schools."

was read the first time and referred to the Judiciary Committee.

BILL SB0354
PAGE 01782
DATE 01/17/84
CHAMBER SENATE
TEXT President Kerttula stated that SENATE BILL NO. 354 (regulation of private schools) would have an additional referral to the Health, Education and Social Services Committee. SENATE BILL NO. 354 was referred to the Judiciary Committee and the Health, Education and Social Services Committee.

BILL SB0354
PAGE 01798
DATE 01/19/84
CHAMBER SENATE
TEXT The Judiciary Committee considered SENATE BILL NO. 354 (regulation of private schools) and recommended it be replaced with

CS FOR SENATE BILL NO. 354 (JUD)

Senator Ray, Chairman and Senator Ziegler signed "no recommendation". Senators Pettyjohn and Eliason signed "do pass". SENATE BILL NO. 354 was referred to the Health, Education and Social Services Committee.

BILL SB0354
PAGE 02348
DATE 01/24/84
CHAMBER HOUSE
TEXT COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (Judiciary) amended, by the Judiciary Committee, entitled:

"An Act relating to the regulation of private schools."

was read the first time and referred to the Health, Education & Social Services Committee.

The Health, Education and Social Services Committee considered SENATE BILL NO. 354 (regulation of private schools). Senator Josephson, Chairman, signed "do pass if amended". Senator Paul Fischer signed "do pass". Senator Halford signed "do pass when amended". Senator Vic Fischer signed "do not pass unless amended".
The committee attached a zero fiscal note.
SENATE BILL NO. 354 was referred to the Rules Committee.

The Rules Committee considered SENATE BILL NO. 354 (regulation of private schools) and a majority of the committee recommended it be placed on the January 24 supplemental calendar. The report was signed by Senator Faiks, Chairman and concurred in by Senators Ferguson, Ray and Kelly.

SENATE BILL NO. 354 (regulation of private schools) was read the second time.

Senator Ray moved and asked unanimous consent that the Judiciary Committee Substitute offered on page 1798 be adopted. Without objection, §CS FOR SENATE BILL NO. 354 (JUD)¶ was adopted.

CS FOR SENATE BILL NO. 354 (JUD) was read the second time.

Senator Vic Fischer offered the following Amendment No. 1:

Page 2, line 23: following "pre-elementry schools" insert: "§and private pre-elementary schools that are¶ §not in facilities associated with an elementary school¶ §operating grades one through three¶"

Senator Vic Fischer moved that Amendment No. 1 be adopted.

Senator Ray offered the following amendment to Amendment No. 1:

Delete "operating" and insert "that operates"

Senator Ray moved for the adoption of the amendment to Amendment No. 1. Senator Gilman objected, then withdrew his objection. Senator Rodey asked unanimous consent. There being no further objection, the amendment to Amendment No. 1 was adopted.

Senator Vic Fischer moved and asked unanimous consent that Amendment No. 1 as amended be adopted. Senator Ferguson objected.

The question being: "Shall Amendment No. 1 as amended be adopted?" The roll was taken with the following result:

CS SB 354 (JUD) Am #1 as amended

Yeas:	14	Fahrenkamp, Faiks, Fischer Vic, Gilman, Halford, Josephson, Kelly, Kerttula, Mulcahy, Pettyjohn, Ray, Rodey, Sackett, Ziegler
Nays:	2	Ferguson, Fischer Paul
Excused:	4	Bennett, Eliason, Moss, Sturgulewski

and so, Amendment No. 1 as amended was adopted.

Senator Josephson offered the following Amendment No. 2:

Page 5, line 20: Add the following sentence to Sec. 14.45.100. "A facility which serves children under the age of six years and which receives state payments or subsidies is not eligible for the exemption provided by this section."

Senator Josephson moved and asked unanimous consent that Amendment No. 2 be adopted. Senator Pettyjohn objected, then withdrew his objection. There being no further objection, Amendment No. 2 was adopted.

Senator Josephson offered the following Amendment No. 3:

Page 5, line 24: after "child" insert "of compulsory school age"

Senator Josephson moved and asked unanimous consent that Amendment No. 3 be adopted. Without objection, Amendment No. 3 was adopted.

Senator Josephson offered the following Amendment No. 4:

Page 6, line 14: delete "one, three, six, and nine" and insert "two, four, six and ten"

Senator Josephson moved and asked unanimous consent that Amendment No. 4 be adopted. Senator Ferguson objected, then withdrew his objection. There being no further objection, Amendment No. 4 was adopted.

Senators Halford and Josephson offered the following Amendment No. 5:

Page 7, lines 9-10: delete "under oath to the department"

Senator Halford moved and asked unanimous consent that Amendment No. 5 be adopted. Senator Ray objected.

Senator Halford moved and asked unanimous consent that Amendment No. 5 be withdrawn. Without objection, Amendment No. 5 was withdrawn.

Senators Josephson and Halford offered the following Amendment No. 6:

Page 7, lines 9-10: after "under oath" insert "by affirmation" and delete "to the department"

Senator Josephson moved and asked unanimous consent that Amendment No. 6 be adopted. Without objection, Amendment No. 6 was adopted.

Senator Ray moved and asked unanimous consent that §CS FOR¶ §SENATE BILL NO. 354 (JUD) am¶ be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 354 (JUD) am was read the third time.

Senator Ferguson moved and asked unanimous consent that his name be deleted as a co-sponsor on the original bill. Without objection, it was so ordered.

The question being: "Shall CS FOR SENATE BILL NO. 354 (JUD) am (regulation of private schools) pass the Senate?" The roll was taken with the following result:

CS SB 354 (JUD) am 3RD

Yeas:	15	Fahrenkamp, Faiks, Fischer Paul, Fischer Vic, Gilman, Halford, Josephson, Kelly, Kerttula, Mulcahy, Pettyjohn, Ray, Rodey, Sackett, Ziegler
Nays:	1	Ferguson
Excused:	4	Bennett, Eliason, Moss, Sturgulewski

and so, CS FOR SENATE BILL NO. 354 (JUD) am passed the Senate.

CS FOR SENATE BILL NO. 354 (JUD) am was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

BILL SB0354
PAGE 02411
DATE 02/01/84
CHAMBER HOUSE
TEXT The Health, Education & Social Services Committee has had COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (Judiciary) amended (relating to the regulation of private schools) under consideration, recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (HESS) (same title) and reports it back as follows: Tischer (Chairman), Uehling, M. W. Miller and Martin recommend do pass; Goll, Koponen and Davis recommend "pass Senate version".
CSSB 354(Jud)am was referred to the Rules Committee for placement on the calendar.

BILL SB0354
PAGE 02617
DATE 02/16/84
CHAMBER HOUSE
TEXT The Rules Committee has had COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (Judiciary) amended (relating to the regulation of private schools) under consideration and recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 354 (Rules) (same title), and reports it back as follows: Fuller (Chairman), Barnes, Phillips, Liska, Tischer and M. M. Miller recommend do pass.
CSSB 354(Jud)am was returned to the Rules Committee for placement on the calendar.

Regulation of Religious Schools

SENATE BILL NO. 354, (see page 18). The five-day hearing notice rule was waived on January 16 so the bill could be heard in Judiciary. January 17 a Health, Education & Social Services referral was added. Reported back from Judiciary on January 19 with the committee recommending it be replaced with a CS and as follows: Ray (Chairman) and Ziegler signed "no recommendation"; Pettyjohn and Eliason signed "do pass." To Health, Education & Social Services.

Note: A corrected version of SB 354 was printed on Monday, January 16. The bill that we summarized in last week's report (p. 18) was printed by mistake. The following is a sectional analysis of the bill, prepared by Keith B. Levy, Legislative Counsel:

You have requested a sectional analysis of SB 354, "An Act relating to the regulation of private schools." The main thrust of the bill is to allow religious and other private schools to opt out of the general laws and regulations applicable to private schools if they agree to comply with certain minimal requirements.

Section 1 states that the purpose of the bill is to guarantee that the state will not interfere with the constitutional right of freedom of religion while at the same time ensuring the quality of all education in the state.

Section 2 amends the duties of the Department of Education with respect to private education (AS 14.07.020). It provides that the department will consult with the state fire marshall and the state sanitarian rather than the Department of Health and Social Services on matters of health and safety (AS 14.07.020(7)). It clarifies that the department must require physical examinations and immunizations in private pre-elementary schools (AS 14.07.020(7)). Section 2 also provides that the department is no longer responsible for the general supervision of private pre-elementary schools and nurseries. Supervision over public pre-elementary schools will no longer be done in cooperation with the Department of Health and Social Services (AS 14.07.020(8)). Finally, section 2 makes clear that the department may provide voluntary accreditation for any private school that requests it, although the department is not authorized to require private schools to be licensed (AS 14.07.020(10)).

Section 3 amends the state's compulsory education law (AS 14.30.010) to provide that attendance at a school operating in compliance with AS 14.45 (see section 5, below) satisfies the compulsory education requirements.

Section 4 provides that a private school that does not choose to comply with AS 14.45 (see section 5, below), is not exempt from other laws and regulations relating to education and must make attendance reports in the same manner as public schools.

Section 5 provides the minimum requirements a religious or other private school must meet if it elects to be exempt from other provisions of law and regulations. However, even these schools are subject to laws and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations (AS 14.45.100).

The parent or guardian of a child enrolled in an exempt school must file an annual notice of enrollment with the local public school superintendent on a form signed by the school administrator and the parent (AS 14.45.110(a)). The school must notify the local public school superintendent if the child is no longer attending or enrolled in the school. The exempt school must maintain monthly attendance records, operate on a regular schedule of at least 180 days, and report to the commissioner of education annually the number of students enrolled in each grade and the school calendar (AS 14.45.110(b)).

An exempt school must also administer a nationally standardized test to all students in grades one, three, six, and nine at least once each school year (AS 14.45.120(a)). The test must measure achievement in English grammar, reading, spelling, and mathematics (AS 14.45.120(b)). The school must maintain records of the results of these tests and make them available to the parent or guardian of the student. The school is required to make composite test results available annually to an authorized representative of the Department of Education, but these results are not public information unless each public school is subject to similar testing requirements, the result of which are also public (AS 14.45.120(c)).

Regulation of Pvt. Schools

CS FOR SENATE BILL NO. 354 (JUD)(AM), (see pages 18;74;133). Received in the House January 24 and referred to Health, Education and Social Services.

Regulation of Private Schools

CS FOR SENATE BILL NO. 354 (JUDICIARY)(AMENDED), (see pages 18;74). Before the Senate on January 24. The Judiciary CS was adopted by unanimous consent. The following amendments were adopted:

--Am. No. 1 as amended. Original amendment by Vic Fischer, amended by Ray, and adopted, 14-2. Nays: Ferguson & Paul Fischer. Changes language in Sec. 2 to direct the Dept. of Education to "... exercise general supervision over public pre-elementary schools and private pre-elementary schools that are not in facilities associated with an elementary school that operates grades one through three." Underlined material added by amendment. Currently DOE, in cooperation with the Dept. of H&SS, exercises general supervision over both public and private pre-elementary schools, as well as over the educational component of nurseries.

--Am. No. 2 by Josephson, by unanimous consent. Adds to section granting exemption from school laws to private schools that comply with certain health and safety laws: "A facility which serves children under the age of six years and which receives state payments or subsidies is not eligible for the exemption provided by this section."

--Am. No. 3 by Josephson, by unanimous consent. Amends "Requirements of Exempt Schools" to read: "The parent or guardian of a child enrolled in a religious or other private school that complies with AS 14.45.100 - 14.45.140 shall file an annual notice of enrollment in the school for the child of compulsory school age with the local public school superintendent ...." (Underlined material added.)

--Am. No. 4 by Josephson, by unanimous consent. Requires exempt religous and private schools to comply with standardized testing requirements--administering a nationally standardized test to all students enrolled in grades two, four, six, and ten (was "grades one, three, six, and nine" in Judiciary CS).

--Am. No. 6 by Josephson and Halford, by unanimous consent. Amends section on records to read: "The chief administrative officer of a school that elects to comply with AS 14.45.100 - 14.45.140 shall certify under oath by affirmation [TO THE DEPARTMENT] that the records required under (a) of this section are being maintained." (Underlined material added, bracketed material deleted from Judiciary version by Am. 6.)

operated by a church or other religious organization that does not receive direct state or federal funding (AS 14.45.140).

It should be kept in mind that these provisions are not mandatory unless the private school chooses to exempt itself from other laws and regulations relating to education. Also, this option is available to all private schools, religious and otherwise.

The Senate Judiciary Committee made two additions to the "Purpose" in Sec. 1: "In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and the State of Alaska and in recognition of the right of parents to choose to have their children educated in private schools, it is the purpose of this Act ... (3) to allow diversity in education by encouraging private education." (Underlined material added by Judiciary.)

Regulation of Private Schools

CS FOR SENATE BILL NO. 354 (JUD)(AM), (see pages 18;74;133; 143). Reported back to the Senate on February 1 by Health, Education & Social Services with a majority recommending it be replaced with a House HESS CS and that it do pass. Concurring: Tischer (Chmn.), Uehling, M. W. Miller and Martin. Goll, Koponen and Davis recommended "pass Senate version." To Rules.

The House HESS CS makes the following changes to the Senate version:

--Deletes Senate floor amendment relating to general supervision by DOE over private pre-elementary schools that are not in facilities associated with an elementary school that operates grades one through three (Am. No. 1 as amended, page 133).

--Deletes "or subsidies" from Am. No. 2 adopted by the Senate (see page 134).

--Changes "of compulsory school age" (added by Am. No. 3, page 134) to more logical place in sentence: "The parent or guardian of a child of compulsory school age enrolled in a religious or other private school that complies with AS 14.45.100 - 14.45.140 shall file an annual notice of enrollment in the school for the child with the local public school superintendent ...."

--Changes grades for administering standardized tests to grades four, six and eight (was two, four, six and ten--see Am. No. 4, page 134).

--Amends section on records to read: "The chief administrative officer of a school that elects to comply with AS 14.45.100 - 14.45.140 shall certify to the department under oath or by affirmation, that the records required under (a) of this section are being maintained." (Underlined material added by House HESS CS--same section amended by the Senate, see Am. No. 6, page 134.)

PROPOSED AMENDMENT TO

CS FOR SENATE BILL 354 (Judiciary)

*Section 1. PURPOSE. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and the State of Alaska; and in recognition of the right of parents to choose to have their children educated in private schools, it is the purpose of this Act

(1) to ensure that in matters of education by religious organizations, the state shall not control or interfere with the rights of conscience and religious liberty; and

(2) to further the state's legitimate interest in ensuring the quality of all education, and

(3) to allow diversity in education by encouraging private education.

Levy
1/18/84

BY TISCHER, FURNACE, LINDAUER, BARNES, SZYMANSKI, ABOOD, BETTISWORTH, BUSSELL, CATO, COWDERY, DUNCAN, FLOOD, FRITZ, FULLER, HERRMANN, LARSON, LISKA, MARTIN, M.M.MILLER, M.W.MILLER, PESTINGER, PHILLIPS, RINGSTAD, SHULTZ, WARD AND HAYES

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 514

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of private schools."

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

* Section 1. PURPOSE. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and the State of Alaska and in recognition of the right of parents to choose to have their children educated in private schools, it is the purpose of this Act

(1) to ensure that in matters of education by religious organizations the state shall not control or interfere with the rights of conscience and religious liberty;

(2) to further the state's legitimate interest in ensuring the quality of all education, including private education; and

(3) (to allow diversity in education by) encouraging (minimizing STATE regulation of) private education. State involvement in the affairs of

* Sec. 2. AS 14.07.020 is amended to read:

Sec. 14.07.020. DUTIES OF THE DEPARTMENT. The department shall

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

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

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

(4) prescribe by regulation a minimum course of study for the public schools;

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

(6) accredit those public schools which meet accreditation standards prescribed by regulation by the department; these regulations shall be adopted by the department and presented to the legislature during the first 10 days of any regular session, and become effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house;

(7) prescribe by regulation, after consultation with the state fire marshal and the state sanitarian [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], standards that will assure healthful and safe conditions in the public and private schools of the state including a requirement of physical examinations and immunizations in private pre-elementary schools; the standards for private schools may not be more stringent than those for public schools;

(8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES,] exercise general supervision over public [AND PRIVATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in this paragraph means schools for children ages three through five years when the schools' primary function is educational;

(9) provide accredited elementary and secondary correspondence study programs available to any Alaskan through a centralized office of correspondence study;

(10) accredit private [ELEMENTARY AND SECONDARY] schools which request accreditation and which meet accreditation standards prescribed by regulation by the department; nothing in this paragraph authorizes the department to require religious or other private schools to be licensed;

(11) review plans for construction of new public elementary and secondary schools and for additions to and major rehabilitation of existing public elementary and secondary schools and, in accordance with regulations adopted by the department, determine and approve the extent of eligibility for state aid of a school construction project begun after July 1, 1978; for the purposes of this paragraph, "plans" include educational specifications, schematic designs, and final contract documents;

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

(13) administer the grants awarded under AS 14.11.020.

* Sec. 3. AS 14.30.010(b) is amended to read:

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at an educational program operated in compliance with AS 14.45.100 - 14.45.140 by a religious or other private school [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE

AVERAGE STUDENT PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFICIENCY FOUND IN THE PUBLIC SCHOOLS IN THE AREA AS MEASURED BY NATIONAL ACHIEVEMENT TESTS; THE DEPARTMENT WITH ASSISTANCE FROM REPRESENTATIVES OF THE PRIVATE SCHOOLS SHALL PROMULGATE REGULATIONS DEFINING THE SUBJECT AREAS TO BE TESTED AND THE MINIMUM AVERAGE SCORES TO BE ACHIEVED];

(2) attends a school operated by the federal government;

(3) has a physical or mental condition which a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school which the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends.

* Sec. 4. AS 14.45.030 is amended to read:

Sec. 14.45.030. NON-EXEMPT SCHOOLS [ATTENDANCE AND ANNUAL REPORTS REQUIRED]. Teachers and others in charge of religious or other private [OR DENOMINATIONAL] schools not operated in compliance with AS 14.45.100 - 14.45.140 are not exempt from laws and regulations relating to education. Non-exempt schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

* Sec. 5. AS 14.45 is amended by adding new sections to read:

ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS.

Sec. 14.45.100. EXEMPTION. A religious or other private school that complies with AS 14.45.100 - 14.45.140 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent or guardian of a child enrolled in a religious or other private school that complies with AS 14.45.100 - 14.45.140 shall file an annual notice of enrollment in the school for the child with the local public school superintendent for the area in which the child resides on a form provided by the department. The form shall be signed by the parent or guardian and the chief administrative officer of the school and returned to the local public school superintendent by the parent or guardian. The school shall notify the local public school

superintendent within a reasonable time if the child is no longer enrolled in or attending the school.

(b) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.140 shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall make an annual report to the commissioner of the number of students in each grade and the school calendar.

Sec. 14.45.120. STANDARDIZED TESTING REQUIREMENTS. (a) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.140 shall administer a nationally standardized test selected by the chief administrative officer of the school to all students enrolled in grades four, six, and eight at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.140 shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student. Each school shall make composite test results for the school available annually to an authorized representative of the department. The composite test results of a religious or other private school operated in compliance with AS 14.45.100 - 14.45.140 are not public information unless each public school

(1) is also required to administer a nationally standardized test that measures achievement in English grammar, reading, spelling, and mathematics; and

(2) the composite test results for each public school are public information.

Sec. 14.45.130. RECORDS. (a) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.140 shall maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school.

(b) The chief administrative officer of a school that elects to comply with AS 14.45.100 - 14.45.140 shall certify under oath to the department that the records required under (a) of this section are being maintained.

Sec. 14.45.140. DEFINITION. In this chapter

(1) "religious school" means a private school operated by a church or other religious organization that does not receive direct state or federal funding.

* Sec. 6. AS 14.45.020 is repealed.

Joanne Wallington, M.D.

Pediatric Cardiology

"Children's Heart Disease"

Suite 209
4001 Dale Street
Anchorage, Alaska 99504
(907) 278-1915

January 30, 1984

Representative Walt Furnace
Pouch V
Juneau, AK 99811

Dear Mr. Furnace:

I would like to express my support for Senate bill 129 and Senate bill 130 which will provide for the teaching of cardiopulmonary resuscitation in the schools and provide funds for the necessary instructional materials. I believe this life saving information should be known by as many people as possible. Providing this instruction in the schools will give a large and ever growing number of individuals capable of providing resuscitation and I think the cost is quite small compared to the benefits.

Sincerely,

Joanne Wallington, M.D.

JW:ken

cc: Senator Ziegler
Senator Eliason
Senator Ferguson

Dear Jep Fischer: Jen Ziegler thought this additional backup might be helpful to you

Landa Rossa

SB 130

January 18, 1984

I want to thank the sponsors of HB 514 and Senate Bill 354 for their attitude, concern, and intentions. The purpose of this legislation as expressed is excellent. The assurance of religious liberty and a child's education without conflict is supported by most of us. However, there is an incongruence in the bill as written. Section I subsection (1) states that "the state shall not control or interfere with the rights of conscience and religious liberty;". Yet, in this bill churches seeking exemptions have to meet conditions and file reports to the state.

I am the Minister of Education for Glacier Valley Baptist Church, in Juneau. As a church we can not request or accept an exemption from the Department of Education. Exemptions can only be granted to a lesser by a greater power. We can not take an easy way out from possible confrontations if that way involves denial of the Sovereignty of our Lord.

The state can still meet its obligations of ensuring that a child receives an education that prepares him as a viable member of society, by placing the primary responsibility of education where it belongs, on the parent. The parent should be responsible for the reports to the state if he elects to educate his child in a program other than the public schools, or state controlled alternatives.

In view of the purpose of this legislation, please see my enclosure for the suggested changes.

Thank you.

Sincerely,

William E. Brown

William E. Brown
Minister of Education

Page 1 line 16 DELETE "all" from all education. In line 19 one example is given that voids the "all" aspect.

Section 14.45.030. page 5 lines 3-9 DELETE If you don't meet the requirements of the exemption (voluntary or otherwise) you are under Department of Education's control.

Section 14.45.100. page 5 lines 11-16 DELETE Asking for an exemption implies recognition of control or higher authority. This is incongruent to the stated purpose of the legislation in Section I subparagraph (1) and (2)

Page 5 lines 25, 26, 27 recognizes the local public school superintendent as in authority over the church school.

Page 5 lines 28, 29 Page 6 lines 1-5 Entangles the church school unnecessarily and once again places the school as answerable to the state.

Page 6 lines 6-11 Testing requirements DELETE (a) A religious or other private school" Excessive entanglement.

Page 6 lines 14-19 Subsection (c) DELETE

CHANGES

Article 2 Section 14.45.100. Children Enrolled In Private and Religious Schools.

Parents choosing to enroll their children in schools where the laws and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations are not applicable must file notice of enrollment with their local public school district.

Section 14.45.110 Parental Responsibilities concerning non licensed education.

Page 5 lines 18-24 Remain

line 25 DELETE school shall notify, add "the parent shall notify."

Page 6 lines 6-11 change "a religious or other private school" to "a parent"

Page 6 line 8 change "shall administer" to "shall submit the results"

Page 6 line 14-19 Subsection (C) change line 19 from "the composite test results" to "the student test results from a non licensed school utilized by parents in compliance with AS 14.45.100-AS 14.45.140"

Page 6 lines 28-29

A parent or guardian that elects to comply with AS 14.45.100-14.45.140 shall file an annual report reflecting standardized test scores, past year's grades, and approaching year's course of study, no later than October 1. Students enrolled for the first time in a non licensed church or private school will not be required to report previous year's performance.

Page 7 lines 1-3 DELETE. Insert A student that transfers from an alternative education covered by AS 14.45.100-14.45.140 to a public school shall have records that reflect immunizations, physical examinations, standardized testing, academic achievement, and courses attended.

Page 7 lines 4-7 DELETE - excessive entanglement

NOTICE OF ENROLLMENT IN A NON-LICENSED SCHOOL

198__ SCHOOL YEAR

STUDENT'S NAME _____ AGE ____ GRADE ____

SCHOOL PROVIDING SERVICES _____ CITY _____

COURSE OF STUDY FOR THIS ACADEMIC YEAR

_____ _____ _____ _____

_____ _____ _____ _____

_____ _____ _____ _____

REST OF FORM IS TO BE COMPLETED FOR STUDENTS CONTINUING IN A NON-LICENSED SCHOOL.

COURSES TAKED PRIOR ACADEMIC YEAR. LIST GRADES EARNED.

_____ ____ _____ _____ _____

_____ _____ _____ _____

_____ _____ _____ _____

IF A CHILD WAS IN GRADES ONE, THREE, SIX, OR NINE, COMPLETE THE FOLLOWING STANDARDIZED TEST INFORMATION.

ME OF TEST	DATE ADMINISTERED	PCTL SCORES ENGLISH GRAMMAR	READING	SPELLING	MATHEMATICS

PARENTS OR GUARDIAN'S SIGNATURE _____

ADMINISTRATOR'S SIGNATURE OF SERVICING SCHOOL _____

American Association of University Women
Alaska State Division

Susan R. Clark
Division Legislative Chair
1109 C Street, Juneau, Alaska
(907) 586-6952

30 January 1984

SB 354 relating to regulation of private schools:

Members of House HESS Committee, I am here today representing both the State Division of the American Association of University Women at the direction of our State President Evelyn Bonner of Sitka, and the State League of Women Voters at the direction of Paula Ziegler who is today in Ketchican and cannot attend herself.

Both organizations believe in quality child care for children of pre-elementary age, and that care given any child outside his or her home should provide enriching and varied experiences with parental involvement strongly encouraged. While the bill before you speaks to the education of children from age three through grade 12, we are confining our remarks to the pre-kindergarten child, whose need for individual attention from adults is higher than at any other time in that child's life, and who is particularly vulnerable when receiving care from persons other than her or his family.

We realize that this bill is going to pass, but because it deals with the Dept. of Education statutes that have been found to be inadequate by the State Dept. of Internal Audit as well as the Federal Office of Child Development, we feel obligated to bring these problems to your attention. Of highest concern is that there is no definition of the word "preschool" in the statute. Currently there are aproximately 250 unlicensed/uncertificated "preschools" operating in the state and about 100 of these are functionally identical to licensed day care centers. When this bill is enacted, Alaska will be the only state in the Union that does not regulate programs that operate full day (up to 10 hours or more) care of pre-school children. In states other than Alaska, preschools are considered to be of short hour duration which generally concentrate on structured planned activities. Parents overwhelmingly want enrichment/education programs for their children, and believe that by sending their children to preschool programs they are doing the best for their children. However most are unaware that the Division of Internal Audit and the Senate Advisory Council's Day Care Status Report found that "standards for preschool certification were significantly lower than standards for day care center licensure," and under this bill would be practically non-existant.

Citizens and parents have come to rely on certain consumer protection standards that they believe are in place concerning basic health and safety at the very least. Most parents assume that the Fire Marshall's inspection includes a requirement that there be a minimum number of staff to care for the children under emergencies. It does not, although the Senate Advisory Report points out that the 1982 Natl. Fire Code utilized by Alaska determines that a minimum staff to child ratio of 1 to 10 is necessary for an acceptable

SB354 (The Private School Bill) passed the state senate on Tuesday, January 24th. The bill will go a long way in protecting the liberty of parents to send their child to a religious or private school.

Six amendments were added to the bill during the senate floor debate just prior to passage. They are listed below along with comments about their effect upon the bill.

AMENDMENT #1

Sec. 2. AS 14.07.020 (Para. 8)
Page 2 lines 23-25

"and private pre-elementary schools that are not in facilities associated with an elementary school that operates grades one through three"

There has been controversy over the difference between a child care center and a "pre-school." An attempt was made to say that a program was a "pre-school" if the children aged 3-5 attended less than 4 hours a day. That approach should be resisted. Parents should decide how long they want their children in a particular program.

A second approach was the one found in this amendment. It could create some serious problems. A church in a community with no public-school kindergarten may wish to have a church kindergarten, but be denied the right unless it was also willing to have a Christian school--at least for grades 1-3.

This could lead to an "equal protection" problem for the church and in the eyes of the Attorney General's office. The church could sue the state to indicate that it was being denied the right to have a Christian kindergarten. The administration may find in this Amendment #1 all it needs to veto the entire bill. The concept of Amendment #1 was not in the agreement that was made between legislators and the administration when they agreed to the legislation this year.

There is a third approach that could solve the problem and yet remain within the spirit of the legislative-administration decision. All child-care centers receive state funds for monetary help to parents that qualify as low-income. It amounts to thousands of dollars. None of the groups that wish to be exempt under this bill receive nor wish these funds. Separate the two groups on the basis of FUNDING. This also fits the definition section on page 7 of the bill.

Additional reasons for rejecting Amendment #1

1). ...not in facilities...Some church schools have more than one facility either on the same property or at different locations. If interpreted in a narrow fashion, some groups that deserve the exemption may find it denied. 2). What about a school for grades above third grade. Will they qualify?

SUGGESTED SOLUTION

A new amendment needs to be substituted by the House. Suggested wording:

"and private pre-elementary schools that receive direct state funding."

A second less-desirable amendment could read--

"and private pre-elementary schools that are associated with an elementary or secondary school program."

AMENDMENT #2

Sec. 5 14.45.100
Page 5 lines 22-25

"A facility which serves children under the age of six years and which receives state payments or subsidies is not elgible for the exemption provided by this section."

The overall thrust of this amendment is appropriate except for two words--"or subsidies." There is a growing number of people that classify a tax-exemption as a "subsidy." These two words must be removed lest a few years from now the whole purpose of the bill be lost as far as the church schools being exempt.

AMENDMENT #3
Sec. 5 14.45.110
Page 5 line 29

"of compulsory school age"

This is a good amendment that will eliminate a lot of paperwork for both the schools and government. This section is in the bill to satisfy the Compulsory School Law. However the law applies to children above the pre-school age. Therefore parents of these children should not have to notify the local school district that their pre-school child is attending a private or church school.

AMENDMENT #4
Sec. 4 14.45.120
Page 6 line 19

"two, four, six and ten"

It is difficult to test children in grade 2 on the subject of "English grammar." The state tests the public schools on an "Assessment Test" in grades 4 and 8. I would suggest that the following be substituted for Amendment #4.

Substitute - "four, six, and eight" OR "four, six, eight, and ten."

AMENDMENT #5 and 6
Sec.5 14.45.130 (Para. b)
Page 7 Lines 14-15

"or by affirmation ~~to the department~~"

One amendment adds three words
the other deletes three words

These two amendments are probably workable and don't need changing unless the administration threatens to veto the bill because "to the department" is deleted. That is something that should be investigated.

This position paper has been prepared
by Pastor Burton Carney of the
Harvester Christian Church and Academy

9101 Brayton Drive
Anchorage, AK 99507
344-0528

THE DEPARTMENT OF EDUCATION NEEDS TO IMPROVE MANAGEMENT OF PRESCHOOL PROGRAMS

FEBRUARY 1982

STATE OF ALASKA
OFFICE OF THE GOVERNOR
DIVISION OF INTERNAL AUDIT



05-41

SUMMARY

The Department of Education is responsible for preschool programs in the State of Alaska. There are at least 185 early childhood programs in the state that provide preschool services.

This report shows that the Department of Education needs to better manage preschools, and needs to define which early childhood programs should be classified as preschools. The report also shows that the Department needs to set standards for preschools.

BETTER MANAGEMENT OF PRESCHOOL PROGRAMS IS NEEDED

The Department has certified only 28 early childhood programs as preschools, and has monitored even fewer. Historically, the Department has placed little emphasis on preschools. In addition, deciding which early childhood programs actually are preschools is difficult because the Department has not provided a definition of preschools. The lack of a definition causes confusion for those attempting to manage other child care programs.

STANDARDS FOR PRESCHOOLS SHOULD BE IMPROVED

The Department has not developed adequate preschool standards. And, although Alaska Statutes require that the Department of Education cooperate with the Department of Health and Social Services in regulating preschools, there has been little cooperation. Inadequate standards lead to inconsistent care for similar populations in preschool and daycare centers, and lessens the value of the preschool certification process.

RECOMMENDATIONS

To assure that the Department of Education meets their management responsibilities for preschools, we recommend the Commissioner require that:

- -- preschool programs in Alaska are regulated; and
- -- preschool programs are monitored to assure compliance with requirements.

To help eliminate the confusion in determining which early childhood programs are preschools, we recommend the Commissioner provide a definition of which early childhood programs are preschools.

To assure that the similar populations in preschool and daycare programs receive consistent care, we recommend the Commissioner of the Department of Education cooperate with the Commissioner of the Department of Health and Social Services in developing health, safety and developmental standards for preschools. We also recommend the Commissioner of the

Department of Education develop standards for the educational component of preschools.

DEPARTMENT COMMENTS

In response to our draft report, the Commissioner of the Department of Education and the Commissioner of the Department of Health and Social Services agreed with our recommendations and are taking action to improve management of early childhood programs. (See Appendices I and II)

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INTRODUCTION

There are at least 37,000 children 6 years old or younger in Alaska. Many of these children spend part of their time in organized early childhood programs, such as preschools. Research has produced abundant evidence that a good child development program has significant short and long term effects. Early childhood programs have been found to have a positive effect on a child's self respect, proficiency at learning, achievement and intelligence test scores, reduction of grade failure, and social development. According to a major economic study the benefits of a quality child development program provide a 248 percent return on the original investment.

In the State of Alaska, the Department of Education is responsible for setting preschool standards for a level of care that will insure safety, reduce predictable harm, and provide developmental opportunities. The Department of Health and Social Services is similarly responsible for daycare programs.

DEPARTMENT OF EDUCATION RESPONSIBILITIES

Alaska Statute 14.07.020 provides that the Department of Education, in cooperation with the Department of Health and Social Services, exercise general supervision over public and private preschools and over the educational component of daycare centers, and prescribe regulations that will assure healthful and safe conditions in the schools. The Departments' responsibility is defined in Section 4 of the Alaska Administrative Code 60.010 which requires the Department issue a certificate of approval after:

- conducting an investigation of preschool applicants;
- reviewing the proposed plan of education, mode of operation and supervision of children; and
- investigating whether the programmatic objectives of the preschool are being met.

This regulation also requires that preschools have:

- a valid Department of Education certificate displayed with effective dates;
- insurance;
- a Cumulative Health Record Form and records of immunization of children;
- records of physical exam and records of immunization for staff and volunteer workers;
- a disaster plan;
- documentation, on file with the Department of Education, showing inspections for public safety were made before certification and;
- provided programmatic requirements to the Department of Education.

DEPARTMENT OF HEALTH AND SOCIAL SERVICE RESPONSIBILITIES

The role of the Department of Health and Social Services is to license, investigate and supervise daycare centers; and to issue and enforce regulations. Facilities that are primarily educational are exempt from Department of Health and Social Service regulation.

OTHER STATE INVOLVEMENT IN PRESCHOOL AND DAYCARE PROGRAMS

The Department of Community and Regional Affairs contracts with local communities to provide daycare assistance to enable parents to work or enter training. In addition, the State, through the Department, provides funds to Federal Head Start programs in Alaska.

The Department of Commerce and Economic Development provides a revolving loan fund to enable daycare facilities to obtain loans when necessary to meet licensing standards.

In addition, the Department of Environmental Conservation and the Department of Public Safety review early childhood programs for compliance with fire and sanitation standards.

SCOPE OF THE REVIEW

We performed the following steps in reviewing Department of Education's role in exercising general supervision of Alaska's preschools:

- -- reviewed applicable statutes and administrative procedures;
- -- interviewed educators, Departmental administrators, and early childhood learning center staff;
- -- visited preschools;
- -- reviewed and analyzed documents of the Department of Education and preschools; and
- -- gathered information by questionnaires to similar programs in other states, and to preschool and daycare centers in Alaska.

BETTER MANAGEMENT OF PRESCHOOL PROGRAMS IS NEEDED

Historically, the Department of Education has taken little action to manage preschools and has not allocated resources for managing preschools. As a result, the Department has certified and monitored few preschools, which could expose the State to liabilities. In addition, the Department's failure to develop a definition which distinguishes between child care programs and preschools results in confusion for those attempting to manage other child care programs.

THE DEPARTMENT OF EDUCATION MAKES LITTLE EFFORT TO MANAGE PRESCHOOLS

Little staff time or funds are allocated to performing the Department's statutory obligation in early childhood education. The Department staff member responsible for early childhood education programs is also responsible for guidance and counseling, and private and denominational schools. Only about one eighth of her staff time is allocated to the early childhood program. In addition, the Department of Education budgets show that no funds have been allocated to early childhood programs in the last 5 years.

FEW PROGRAMS ARE CERTIFIED

The Department of Education certifies few preschool programs. Responses to questionnaires from 41 of Alaska's 52 school districts showed that there are at least 167 preschool programs in the State. Yet, during the past 5 years the Department of Education has certified only 28 programs. In addition, many of the 28 certificates were given without the necessary documentation on file in the Department. For example, of the 28 programs certified, the Department did not have a fire and sanitation inspection report on file for 12 of the programs, did not have documentation of insurance for 18 programs and did not have programmatic requirements for 18 of the programs.

In addition, many daycare centers are offering preschool programs without Department of Education supervision over the educational component. For example, of the 19 daycare programs surveyed, 18 stated they offered a preschool program but were not certified by the Department of Education.

FEW PROGRAMS ARE MONITORED

The Department is not making onsite visits to monitor the safety, medical records, insurance records or to see if the school is actually implementing a curriculum. The Department has made only about 15 onsite visits in the last 5 years. The early childhood coordinator stated that seven of the onsite visits occurred as a result of a crisis situation and the other reviews were performed on lunch hours while traveling for other reasons.

LIABILITY EXISTS FOR NONPERFORMANCE OF STATUTORY RESPONSIBILITY

The concept of "State Certification" implies to the public that:

-- the preschool is, in fact, an education institution; and

-- the State, through the appropriate agency, has determined the preschool to be in compliance with appropriate laws and regulations.

In a November 1980 memo to the Department of Law, the Commissioner of Health and Social Services expressed concern about the number of unregulated preschools. The Commissioner stated in the memo that the problem of unregulated preschools causes unequal application of the law and has the following results.

1. Lowering respect for Alaska statutes in general.

2. Enforcement problems for this Department. Programs quickly call themselves pre-elementary schools when they learn that is a means of escaping regulations.

3. Risk to children in unregulated pre-elementary schools.

4. A large early childhood population subject to immunization regulations but not receiving the immunizations.

In response, the Department of Law noted that:

> "This office understands that the Department of Education does not now investigate facilities applying for certification and does not supervise the physical examination of immunization requirements. Nor is the department involved in monitoring of other health and safety codes.
>
> Even assuming that there are no certifiable pre-elementary schools in Alaska, the department's records should reflect that applications have been submitted and that investigations have taken place sufficient to determine that the Department of Education finds that no facility is a pre-elementary school or a day care facility with an education component."

The Department of Laws' advisor to the Department of Education told us that the Department of Education has been designated to perform a responsibility and currently is not performing it. Failure to perform where there is a duty to perform, can place the State in a position of exposure to liability.

PRESCHOOLS ARE NOT DEFINED

Alaska Statute 14.07.020 (8) provides that the Department of Education "...exercise general supervision over public and private pre-elementary

schools...when the school's primary function is educational." Alaska Statute 47.35.010-80 provides that the Department of Health and Social Services license..."an establishment providing care and services for any part of the 24-hour day for a child... but does not include any establishment whose primary purpose is educational." Neither of the statutes set criteria nor define what is to be considered a primarily educational facility versus a child care facility.

In 1975, the Department of Health, Education and Welfare (Federal Office of Child Development) commented in a letter to the Department of Health and Social Services that "Your statute is indeed weak, allowing for confusion and almost any interpretation..." The letter said that the most difficult job for the two Departments was the formulation of a clear and full definition of a facility whose function is "primarily educational", and the Departments should work towards better statutes and a clarification of the primarily educational function. The letter said a definition is needed so each applicant will know whether or not the law applied to their program and so each Department has a positive definition to use in deciding whether or not a facility is in their area of responsibility.

Even though the statute is weak, the Department could take action to establish standards and a definition of preschools, but they have not done so. In 1971, the Attorney General stated that a determination must be made whether a given school is actually primarily educational, and the "Department of Education...may define what type of program or programs is primarily educational."

RESPONSIBILITY FOR REGULATION IS NOT CLEAR

Because primarily educational has not been defined, neither the regulatory Departments, the facilities themselves, nor the public has a positive definition to use in deciding whether or not a program is a preschool or daycare program. As a result, any facility may choose to be classified as a preschool, and avoid the requirement to comply with daycare standards. For example, 8 of the 28 certified preschools provide daycare services but do not have to comply with daycare standards because they chose to be certified as preschools.

This problem also creates confusion for regulatory agencies. At locations where both preschool and daycare services are provided, the Department of Health and Social Services has found it difficult to determine compliance because two different standards are used. For example, children in the Department of Education regulated preschool program often intermingle with children in the Department of Health and Social Services regulated daycare program, thereby changing the acceptable staff pupil ratio.

In addition, the Municipality of Anchorage also has difficulty issuing accurate, legal and meaningful permits because some child care centers are providing services regulated by their ordinance and services regulated by the Department of Education.

The Department of Health and Social Services and the Municipality of Anchorage told us that the regulatory confusion also results in some early childhood programs being unregulated. For example, we found 36 early childhood programs unregulated by either the Department of Health and Social Services or the Department of Education.

STANDARDS FOR PRESCHOOLS SHOULD BE IMPROVED

The Department of Education's preschool standards do not assure that certified preschools provide quality educational programs in a safe and healthy setting. Alaska Statutes require that the Department of Education cooperate with the Department of Health and Social Services in regulating preschools, but cooperation has not occurred. In addition, the statutes do not give the Department authority to enforce standards. Inadequate standards lead to inconsistent care for similar populations in preschools and daycare centers. Also, the value of the preschool certification process is questionable because of the inadequate standards.

PRESCHOOL STANDARDS IN ALASKA ARE INADEQUATE

Preschool standards should assure that certified preschools provide quality educational programs in a safe and healthy setting. But, the Department of Education has not established educational standards for preschools. In addition, the Departments health and safety standards for preschools are lower than the standards the Department of Health and Social Services has established for daycare centers.

Standards are Needed to Assure Quality Preschool Programs

According to Federal and national association authorities in the field of child care and development, there are two levels of standards. First, there is licensing, which is the base level and assures that a program or facility meets health, safety and child development standards.

The second level generally supplements basic licensing and is designed to assure quality where a specialized service, such as education, is being offered. Thus, a facility providing child care should be licensed, while a facility operating as a preschool should have a child care license plus be certified as a preschool.

Educational Standards Have Not Been Developed

The Department of Education has not developed specific educational standards for preschools. The Department only requires that preschools provide written information concerning the schools philosophy and goals. Examples of standards that many states have set for preschools are those relating to teacher certification and space requirements.

Teacher Certification

According to education authorities the quality of the staff determines, to a high degree, the excellence of an educational program. For example, The Teacher Education Committee of the Association for

Childhood Education International has recommended that teachers of children three through eight years of age:

-- should have study in the areas of physical and biological sciences, mathematics and philosophy, language and literature, the social and behavioral sciences, and the fine arts.

-- should have a minimum of twenty-four semester hours of professional preparation in the field of early childhood education,

-- should have supervisory experience with young children, and

-- should be required to take refresher courses and to keep active affiliation with professional organizations.

In a recent survey of 26 states, 17 said they require separate certification, four said they require a separate early childhood endorsement, and five said they currently have no requirement on early childhood teacher certification.

Alaska is one of the five states surveyed that does not require any early childhood training as a prerequisite for teaching children under age six. The Department of Education allows any person 19 years old or over, or any student who is age 16 and enrolled in a training program, to be a staff member.

Space

National experts advise that an adequate amount of space available for children's activities is absolutely necessary to ensure a quality, developmentally-orientated child care program. For example, research has shown that space effects the quality of living and learning within a center:

> "the higher the quality of space in a center, the more likely were teachers to be sensitive and friendly in their manner toward children, to encourage children in their self chosen activities, and to teach consideration for the rights and feelings of self and others. Where spatial quality was low, children were less likely to be involved and interested, and teachers more likely to be neutral and insensitive in their manner, to use large amounts of guidance and restriction, and to teach arbitrary rules of social living."

In addition, tendencies towards social versus aggressive behavior has been found to be effected by space and according to a research study report:

"Several studies have found that most social involvement appears to occur at medium density (35-50 sq. ft.), while aggressiveness occurs at higher densities (below 35 sq. ft.) and random behavior occurs in large, undifferentiated settings (over 50 sq. ft. per child)."

Eight of the ten states who responded to our survey on this question required a minimum of 35 square feet per child. The Department of Education has not established space requirements for preschools in Alaska.

Preschool Standards are Lower Than Daycare Standards

In Alaska, the Department of Education's standards for preschools are lower than the Department of Health and Social Services standards for daycare centers. For example, the only preschool standard equal to daycare standards is the immunization standard as shown in the following table.

COMPARISON OF DAYCARE AND PRESCHOOL STANDARDS

STANDARD	DAYCARE	PRESCHOOLS
License Renewal	Annual	5 yrs.
Agency Review	Annual	5 yrs.
Staff Pupil Ratio	1-10	no standard
Indoor Space	35 sq. ft.per child	no standard
Outdoor space	75 sq. ft.per child	no standard
Fire Inspection	Annual	5 years
Sanitation Inspection	Annual	5 years
Health Program	required	no standard
Prone Rest	required	no standard
Immunizations	required	required
Nutrition Program	required	no standard
Corporal Punisnment	regulated	no standard

The Department of Health and Social Services also requires that daycare programs provide opportunities and experiences to promote the individual child's physical, emotional, social and intellectual growth, as outlined below:

- -- opportunities for balance of active/quiet play, group and individual, and indoor and outdoor play;
- -- opportunities for individual self expression in conversation. imaginative play and creative expressions;
- -- use of games, toys, books, sand, puzzles, for intellectual and social development;
- -- walking excursions/field trips; and
- -- equipment and furniture be of sufficient quality and quantity and appropriate to a child's use.

COOPERATION IN DEVELOPING PRESCHOOL STANDARDS HAS NOT OCCURRED

Alaska Statutes require that the Department of Education cooperate with the Department of Health and Social Services in the general supervision

THE VALUE OF ALASKA'S PRESCHOOL CERTIFICATION PROCESS IS QUESTIONABLE

Those who are aware of the Department of Education's standards for preschools generally consider the preschool certification process to be meaningless. For example:

-- Many of the early childhood educators we interviewed said that because of the Department's inadequate standards, the preschool certificates issued by the Department do not assure a quality preschool program. Certification is, in fact, misleading to parent consumers.

-- We interviewed instructors of two early childhood training programs and both teach their students that the Department's standards are not an acceptable standard to assure a quality preschool program.

-- We visited one two-hour a day educationally oriented program that chose to be licensed as a day care center rather than a preschool because they thought parents would have no assurance of a quality preschool program if it only complied with the the Department's preschool standards.

-- The legislature recently mandated that eligibility for a child care grant program is dependent on compliance with day care licensing standards. Those preschools certified by the Department of Education are not eligible for the grants unless they also have a daycare license.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

The Department of Education needs to better manage preschool programs. During the past 5 years, the Department certified only 28 preschools and visited for monitoring purposes only 15 preschools. But, our analysis shows that there are at least 167 preschools. And, 18 of 19 daycare programs surveyed said they provided preschool services. In addition, because the Department of Education has not provided a definition of preschools there is confusion for those attempting to manage other early childhood programs.

The Department of Education has not cooperated with the Department of Health and Social Services in developing standards for preschool programs. Currently, there is inconsistent care for similar populations in preschools and daycare programs because preschool standards are lower than daycare standards. Preschools programs should meet daycare standards and should meet additional standards for education.

RECOMMENDATIONS

To assure that the Department of Education meets their management responsibilities for preschools, we recommend the Commissioner require that:

-- preschool programs in Alaska are regulated; and

-- preschool programs are monitored to assure compliance with requirements.

To help eliminate the confusion in determining which early childhood programs are preschools, we recommend the Commissioner provide a definition of which early childhood programs are preschools.

To assure that the similar populations in preschools and daycare programs receive consistent care, we recommend the Commissioner of the Department of Education cooperate with the Commissioner of the Department of Health and Social Services in developing health, safety and developmental standards for preschools. We also recommend the Commissioner of the Department of Education develop standards for the educational component of preschool.

DEPARTMENT COMMENTS

Both the Department of Education and Department of Health and Social Services responded to a draft of this report. Their comments are summarized below and are included as appendices I and II of this report.

Department of Education

The Commissioner of the Department of Education agreed with our recommendations and listed actions the Department has taken or will take to resolve the problems associated with managing preschool programs. The actions include:

-- Developing a tentative agreement with the Department of Health and Social Services and the Department of Community and Regional Affairs for coordination of early childhood programs.

-- Introducing a request for statutory change to require all child care programs be licensed by the Department of Health and Social Services for base level standards.

-- Development of standards for a voluntary education certification process in addition to the mandatory base level licensing.

-- Establishing on site reviews for evaluation of the educational component of certified preschools. (See Appendix I)

Department of Health and Social Services

The Commissioner of the Department of Health and Social Services agreed with our recommendations and is also in agreement with the plans for improvement as presented by the Department of Education. (See Appendix II)

MEMORANDUM State of Alaska

TO: John O'Meara, Director
Division of Internal Audit
Office of the Governor

DATE: February 2, 1982

FILE NO:

TELEPHONE NO: 465-2800

FROM: Marshall L. Lind, Commissioner
Department of Education

SUBJECT: Response to Draft Report

Attached is our response to your draft report titled "The Department of Education Needs to Improve Management of Preschool Programs". As you will note in our response, we are planning a series of actions which will address the conditions described in your report.

You and your staff are to be complimented for the professional manner in which the review was conducted and the report presented. The findings and recommendations are proving useful to us in planning how to better meet our responsibilities for preschool programs.

RECEIVED
FEB 5 1982
Office of the Governor
Division of Internal Audit

RESPONSE TO
THE DEPARTMENT OF EDUCATION NEEDS TO IMPROVE MANAGEMENT OF PRESCHOOL PROGRAMS

FEBRUARY 1982

STATE OF ALASKA
DEPARTMENT OF EDUCATION

INTRODUCTION:

The Department of Education is in basic agreement with the findings of the report by the Division of Internal Audit titled "The Department of Education Needs to Improve Management of Preschool Programs". In responding, therefore, we will make no effort to counter any of the findings of the report. We also believe that nothing would be gained by attempting to present reasons for our past activities in the management of preschool programs. Rather, we will present those actions which have been taken and those planned to address the conditions described in the report.

ACTIONS TAKEN:

During the past two months we have met several times with a representative from Health and Social Services and once with a representative from Community and Regional Affairs. These meetings have resulted in a tentative agreement between the three departments for the coordination of early childhood programs. We have also met with representatives from the Alaskan chapters of the National Association for the Education of Young Children to discuss plans for the role these chapters might play in the management of preschool programs. A presentation has also been made before the State Board of Education. At this meeting the board voted unanimously to endorse the early childhood education career ladder certification concept. The Board was also advised of tentative plans for carrying out Department of Education responsibilities for preschools.

ACTIONS PLANNED:

The tentative plan for managing preschool programs consists of the following steps. The conditions from the report, which will be addressed by each step, are presented following the description of each step.

PROPOSED STEP I:

All day care programs, including those claiming to be preschool programs, will be licensed by the Department of Health and Social Services. This base level of licensing will be mandatory and no programs should be exempt from the licensing requirement.

CONDITIONS ADDRESSED:

Requiring that all programs which provide services for preschool age children be licensed by Health and Social Services will clear up the confusion which currently exists for regulating agencies, and for the care providers. It will not be necessary to make a predetermination of whether or not a program is "primarily education." Programs will not be able to avoid basic licensing requirements by claiming to be educational programs. The plan will insure that all programs meet basic health, safety and child development standards, and will eliminate instances of inconsistent care for similar populations of children and differential treatment of care providers.

The plan will also negate the need for the Department of Education to obtain the enforcement authority giving it the power to close schools which do not meet basic health and safety standards, since Health and Social Services already has this authority and will be responsible for base level licensing which will insure adequate health and safety standards.

Implementing Step I of the plan will necessitate a change in statute. The Departments of Health and Social Services and Education are currently working cooperatively to determine those required changes. We anticipate that we will be introducing requests for statutory changes during this legislative session.

The change in licensing requirements will also greatly increase the staff load for Department of Health and Social Services licensing personnel. This will not correspond with a decrease for Department of Education personnel, since Department of Education personnel are not currently involved in licensing. Successful implementation will, therefore, require an increase in the Department of Health and Social Services licensing budget.

PROPOSED STEP II:

Day care centers wishing to have their educational programs certified will, on a voluntary basis, notify the Department of Education. An on-site review of these facilities will be conducted using a criteria for preschool programs. Those programs successfully meeting the criteria will be certified by the Department of Education.

CONDITIONS ADDRESSED:

This step will satisfy the Department of Education's statutory responsibility for certifying preschool programs. It will also provide a definition for preschool programs without making it a condition for base level licensing.

Since the certification process is voluntary only those programs choosing to go beyond base level licensing will do so.

It is anticipated that certification will be at two levels, a basic acceptance level and an exemplary level. We plan to develop an on-site review process which will involve persons from the regional chapters of the National Association for the Education of Young Children as members of the review teams. This will result in a peer monitoring process administered by the Department of Education.

The standards for preschool programs which will be used as the criteria for certification will be developed by a Task Force during the Spring of this year. The Task Force will be made up of persons from the state who are knowledgable in the area of preschool education and who represent the various groups who will be impacted by the plan for managing preschool programs.

CONCLUSION:

These, then are the activities which have taken place and the plans for future activities which will enable the Department of Education to better manage preschool programs.

We feel that the plans represent a cooperative inter-departmental effort which will result in the coordination and better management of preschool programs as well as early childhood programs in general.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

February 8, 1982

RECEIVED
FEB 8 1982
Office of the Governor
Division of Internal Audit

John O'Meara, Director
Division of Internal Audit
Office of the Governor
Pouch AU
Juneau, Alaska 99811

Dear Mr. O'Meara:

This is in response to your draft report titled "The Department of Education Needs to Improve Management of Preschoo Programs." The Department of Health & Social Services is in general agreement with the findings of the audit. The document captures the essence of a serious problem and we are hopeful that the plan developed between the Departments--of Education and Health & Social Services will provide corrective action. We have received the Department of Education's response to the audit which outlines that plan.

The Department of Health & Social Services is pleased to have been a participant in recent meetings between representatives of the Departments of Education, Community & Regional Affairs, and Health & Social Services. The dialogue which has begun is extremely useful and the tentative inter-departmental agreement establishes a new precedent of coordinating between three departments around concerns for young children and their families.

The Department of Health & Social Services is in full agreement with proposed Step 1 of the Department of Education's response, that all child care facilities now called Day Care Centers, Family Day Care Homes, and Preschools be licensed under one standard by the Department of Health & Social Services. A recognized principle of government is responsibility to provide equal protection and opportunity to all citizens. For young children who spend part of the day away from their families, the State fulfills this responsibility in part, through licensing to assure a basic level of care and protection, adequate program, and opportunity for development. Licensing under one standard will eliminate the disparity between the care children receive in day care facilities and preschools.

The Department of Health & Social Services is in full agreement that a change of statute is necessary to implement Step 1. In the ten years since the statutes were changed, the disparity has increased rather than decreased. A clear legislative mandate is required to correct a problem of this long standing.

The Department of Health & Social Services will require an increase in staff to perform the licensing studies. Without additional staff the Department of Health & Social Services could not accept the responsibility for an estimated 167 additional programs.

The Department is aware that some programs not now regulated may be fearful that Department of Health & Social Services regulation would result in closure of needed programs. The Department, should it receive the authority, fully intends to implement carefully and in as a supportive manner as possible. Every person or organization whose activities are regulated through licensing has the right to notice of the requirements and an opportunity to comment on them. When there are findings of non-compliances, information for correcting areas of non-compliance will be provided and reasonable time limits for meeting the new standards will be established. It is the Departments' belief that in regulating a new area, two years may be required for full implementation.

The Department of Health & Social Services believes that proposed Step 2 in the Department of Education's response, the certification of educational programs on a voluntary basis, will be well received by providers of early childhood programs. Our experience with day care centers is that directors want to have the educational component of their programs recognized. We are also in agreement that peer monitoring through regional chapters of the National Association for the Education of Young Children is an appropriate role for a professional organization to take and are therefore, in agreement with the Department of Education's plan to use this model.

It is the intent of the Department of Health & Social Services to fully cooperate with the Department of Education in implementing the proposed plan in a timely manner. It is also our intent to continue work on the inter-departmental agreement between the Departments of Education, Community & Regional Affairs, and Health and Social Services for the coordination of Early Childhood programs.

The Division of Internal Audit is to be commended for the careful study given to this important area.

Sincerely,

Helen D. Beirne

Helen D. Beirne
Commissioner

(20)

7-5-83

STATE OF MICHIGAN

IN THE COURT OF APPEALS

SHERIDAN ROAD BAPTIST CHURCH; FIRST BAPTIST CHURCH BRIDGEPORT; REVEREND GERALD SOMERO; REVEREND RENE B. OUELLETTE; RONALD MUNSON and JANICE MUNSON, his wife; WILLIAM L. SWAIN and SHARON SWAIN, his wife; and MRS. SUSANNE KWAITOWSKI,

Plaintiffs-Appellees,

versus

STATE OF MICHIGAN, DEPARTMENT OF EDUCATION; and PHILLIP E. RUNKEL, SUPERINTENDENT OF PUBLIC INSTRUCTION,

Defendants-Appellants.

Court of Appeals No. 69050

Ingham County Circuit Court
No. 80-26205-AZ

AMICUS CURIAE BRIEF

OF CATHOLIC LEAGUE FOR RELIGIOUS & CIVIL RIGHTS

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ATTORNEYS FOR CATHOLIC LEAGUE
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STATEMENT OF QUESTIONS INVOLVED

Catholic League for Religious and Civil Rights concurs with the Counter-Statement of Questions Involved which Appellees presented.

STATEMENT OF FACTS

Catholic League for Religious and Civil Rights concurs with the Counter-Statement of Facts Appellees presented.

ARGUMENT

I.

THE CIVIL AND RELIGIOUS RIGHTS OF PARENTS IN THE EDUCATION OF THEIR CHILDREN ARE VALUES STRONGLY RECOGNIZED BOTH IN THE PRONOUNCEMENTS OF THE CATHOLIC CHURCH AND THE UNITED STATES SUPREME COURT'S INTERPRETATION OF THE UNITED STATES CONSTITUTION.

This case requires this court to determine the extent to which a state may limit the fundamental right of parents to educate their children in accordance with their religious beliefs.

The Catholic Church recognizes a primary and most significant role which parents must play in the education of their children. For example, the Second Vatican Council stated:

> [S]ince parents have conferred life on their children, they have a most solemn obligation to educate their offspring. Hence, parents must be acknowledged as the first and foremost educators of their children. Their role as educators is so decisive that scarcely anything can compensate for their failure in it. For it devolves on parents to create a family atmosphere so animated with love and reverence for God and others that a well-rounded personal and social development will be fostered among the children. Hence, the family is the first school of those social virtues which every society needs.
>
> SECOND VATICAN ECUMENICAL COUNCIL, DECLARATION ON CHRISTIAN EDUCATION, GRAVISSIMUM EDUCATIONIS (1965), no. 3.

In a recent pronouncement Pope John Paul II elaborated on the nature of this primary parental role and explained that it could never be completely alienated to others:

> The right and duty of parents to give education is essential, since it is connected with the transmission of human life; it is original and primary with regard to the educational role of others, on account of the uniqueness of the loving relationship between parents and children; and it is irreplaceable and inalienable, and therefore incapable of being entirely delegated to others or usurped by others.
>
> POPE JOHN PAUL II, APOSTOLIC EXHORTATION, THE ROLE OF THE CHRISTIAN FAMILY IN THE MODERN WORLD, FAMILIARIS CONSORTIO (1981) (hereinafter "FAMILIARIS CONSORTIO"), at no. 36 (emphasis in original).

The significance of the right and duty of Christian parents to educate their children in a manner comporting with their faith led the Pope to state that the "rights of parents to choose an education in conformity with their religious faith must be absolutely guaranteed." FAMILIARIS CONSORTIO at no. 40.

Interestingly the concerns the Catholic church has expressed have been mirrored to a large extent by the pronouncements of the United States Supreme Court in cases involving constitutional challenges to state statutes impinging upon parents' religiously motivated choices in the education of their children. The first case lending support to this conclusion is Pierce v. Society of Sisters, 268 U.S. 510 (1925). There the Supreme Court upheld a challenge to a law forbidding attendance at private schools on the basis of a "liberty" interest which the Court felt inhered in the Due Process Clause, U.S. CONST., amend. XIV. The Court noted that there was a "liberty of parents and guardians to direct the upbringing and education of children under their control." 268 U.S. at 534-535. The Court further observed, "The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." 268 U.S. at 535.

Although Pierce was decided under a "substantive due process" rationale, which fell out of favor for a time before making a powerful return in the "personal privacy" cases of the last two decades, the same basic right of parental educational direction was reaffirmed, primarily on the basis of the Free Exercise Clause, U.S. CONST., amend. I, in Wisconsin v. Yoder, 406 U.S. 205 (1972). There the Court concluded that enforcement of Wisconsin's compulsory education statute would impinge upon Amish parents' rights to direct their children's religious upbringing. See Id. at 215-219. The Court's holding further determined that the involved State interests in compulsory education could not, override the parents' legitimate claims under the Free Exercise Clause. See Id. at 219-236.

The above discussion demonstrates most clearly that Catholic parents place a great value on their right and responsibility to educate their children in a manner comporting with their religious faith. They recognize that this right and responsibility is primarily theirs, cannot be completely alienated to another entity, requires careful and deliberate exercise and should be protected against any deleterious state action. They further recognize that this right and responsibility is not a creation of a Church, but a basic trait of parenthood. Accordingly, Baptist parents enjoy the same basic right and responsibility in the education of their children and this right and responsibility must be protected from adverse state interference. The above discussion further demonstrates that the United States Supreme Court has recognized the basic right and responsibility parents have for the education of their children in accordance with their religious beliefs as inhering in the Constitution and subject to State interference only when necessary to protect a compelling state interest. With this background we now consider the sectarian school systems which have arisen from the exercise of constitutionally protected parental educational

choice and the particular examples of State interference with these sectarian schools which are alleged to infringe upon this parental choice.

II.

CONSTITUTIONALLY PROTECTED CATHOLIC PARENTAL EDUCATIONAL CHOICES, LIKE CONSTITUTIONALLY PROTECTED PROTESTANT EDUCATIONAL CHOICES, HAVE RESULTED IN SECTARIAN SCHOOLS WITH DIFFERENT EDUCATIONAL PURPOSES AND REGIMENS THAN PUBLIC SCHOOLS. THUS, TEACHER OR CURRICULUM REQUIREMENTS TAILORED FOR PUBLIC SCHOOLS ARE UNSUITABLE FOR SECTARIAN SCHOOLS AND CAN IMPAIR CONSTITUTIONALLY PROTECTED PARENTAL EDUCATIONAL CHOICES.

In efforts to exercise their constitutional rights to educate their children in accordance with their religious beliefs, Catholic and Protestant parents have each formed school systems which serve as alternatives to the public school system. In their brief and the trial record, the Plaintiff-Appellees have made this court aware of the pervasively Christian character of the Fundamentalist Protestant school. It is interesting to note that the Catholic school, like the Fundamentalist Protestant school, is founded upon a distinctly Christian approach to education.

A description of the distinctly Christian approach of the Catholic school may be found in The Sacred Congregation for Catholic Education's document, THE CATHOLIC SCHOOL, issued March 19, 1977. The Sacred Congregation makes clear that the distinctive feature of a Catholic school is "its reference to a Christian concept of life centered on Jesus Christ." SACRED CONGREGATION FOR CATHOLIC EDUCATION, THE CATHOLIC SCHOOL (1977), at no. 33. "Christ is the foundation of the whole educational enterprise in a Catholic school," Id. at no. 34, and "The Catholic School is committed . . . to the development of the whole man, since in Christ, the Perfect Man, all human values find their fulfillment and unity." Id. at no. 35. The goal at which the Catholic school aims is "forming in the Christian those particular virtues which will enable him to live

a new life in Christ and help him to play faithfully his part in building up the Kingdom of God." Id. at no. 36. Based on these premises the Catholic school has the tasks of synthesizing culture and faith and faith and life. Id. at no. 37. "The first [of these two tasks] is reached by integrating all the different aspects of human knowledge through the subjects taught, in the light of the Gospel; the second in the growth of the virtues characteristic of a Christian." Id.

This description of the Catholic school, like the descriptions of the Baptist schools this Court has been provided with in Plaintiffs' briefs and the trial record, requires one clear conclusion. That is that private sectarian schools, including Catholic schools, have as their central purpose to "instruct a child in the way he should go"[1] through bringing a child to a point of informed adherence to and practice of basic Christian values. Accordingly, a private sectarian school, like a Catholic school, will fundamentally differ from a public school by including the instruction of Christian values as they relate to every phase of the curriculum. The important presence of Christian values in sectarian school courses means that these courses may often not clearly resemble courses taught in a public school. Further, the qualifications necessary to teach these value laden subjects in a sectarian school will differ from those needed to teach the same type of courses in a public school in which transmission of religious values is forbidden. This means that the constitutional guarantee of parental educational choice can only be preserved if parents opting for sectarian education are permitted to choose sectarian schools which have teachers and curricula which may substantially differ from those found in public schools. State regulations which attempt to require private schools to

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[1] Proverbs 22:6.

conform to requirements which may be appropriate for public schools, thus, can significantly impair the constitutionally protected parental choice of sectarian education. As will be seen more fully in succeeding pages, the state requirements at issue in this case have this unconstitutional effect.

III.

THE REQUIREMENT OF 1921 MICH. PUB. ACTS 302, SECTION 3, MICH. COMP. LAWS ANN. § 388.553 (1976), THAT TEACHERS IN PRIVATE SCHOOLS HOLD A TEACHING CERTIFICATE EQUIVALENT TO THAT REQUIRED OF PUBLIC SCHOOL TEACHERS IS AN IMPINGEMENT UPON PARENTS' CONSTITUTIONALLY PROTECTED RIGHTS TO EDUCATE THEIR CHILDREN IN ACCORDANCE WITH THEIR RELIGIOUS BELIEFS WHICH DOES NOT ADVANCE A COMPELLING STATE INTEREST NOR CONSTITUTE THE LEAST RESTRICTIVE MEANS TO ACHIEVE ANY ARGUABLY PRESENT STATE INTEREST.

In 1921 P.A. 302, Section 3, MICH. COMP. LAWS ANN. § 388.553 (1976), the State has enacted a "certification" requirement for private school teachers, which reads in relevant part:

> No person shall teach or give instruction in any private, denominational or parochial school within this state who does not hold a certificate such as would qualify him or her to teach in like grades of the public schools of the state . . . .

In approaching the issue of whether this proposal unconstitutionally interferes with rights guaranteed by the Free Exercise Clause of the U.S. CONST., amend. I, it is first necessary to examine whether there exists any burden on the free exercise of religion. See Sherbert v. Verner, 374 U.S. 398, 403 (1963). The free exercise right involved is that of parents of private school children to effectively exercise their constitutionally protected right to choose a sectarian education for their children. If this right is burdened by the state regulation, the State will be required to prove that this regulation implements a compelling state interest, and that the regulation is the means placing the least restriction on parents' free exercise rights which can implement this interest. See Sherbert, 374 U.S. at 406-408.

Addressing the question of whether the proposal burdens free exercise requires a further examination of the role of the teacher in the sectarian school context. As Plaintiffs' brief and trial testimony makes clear, a teacher in the Baptist schools is involved in a ministry in which he or she is shaping young people in accordance with Christian values. The teacher in the Catholic school has this same responsibility. In the first of the two tasks of the Catholic school explained supra, the integration of faith and culture, the teacher plays a critical role. The Sacred Congregation for Catholic Education noted in this respect:

> Since the educative mission of the Catholic school is so wide, the teacher is in an excellent position to guide the pupil to a deepening of his faith and to enrich and enlighten his human knowledge with the data of the faith. While there are many occasions in teaching when pupils can be stimulated by insights of faith, a Christian education acknowledges the valid contribution which can be made by academic subjects towards the development of a mature Christian. The teacher can form the mind and heart of his pupils and guide them to develop a total commitment to Christ, with their whole personality enriched by human culture.
>
> SACRED CONGREGATION FOR CATHOLIC EDUCATION, THE CATHOLIC SCHOOL (1977), at no. 40.

The specific qualifications and duties of the teacher in the sectarian Christian school have been further explained by the Sacred Congregation in these manners:

> The school considers human knowledge as a truth to be discovered. In the measure in which subjects are taught by someone who knowingly and without restraint seeks the truth, they are to that extent Christian. Discovery and awareness of truth leads man to the discovery of Truth itself. A teacher who is full of Christian wisdom, well prepared in his own subject, does more than convey the sense of what he is teaching to his pupils. Over and above what he says, he guides his pupils beyond his mere words to the heart of total Truth.
>
> The cultural heritage of mankind includes other values apart from the specific ambient of truth. When the Christian teacher helps a pupil to grasp, appreciate and assimilate these values, he is guiding him towards eternal realities. This movement towards the Uncreated Source of all knowledge highlights the importance of teaching for the growth of faith.
>
> Id. at nos. 41, 42.

Finally, the Sacred Congregation emphasized the crucial role of the teacher in the process of integrating faith and culture:

> The achievement of this specific aim of the Catholic school depends not so much on the subject matter or methodology as on the people who work there. The extent to which the Christian message is transmitted through education depends to a very great extent on the teachers. The integration of culture and faith is mediated by the other integration of faith and life in the person of the teacher. The nobility of the task to which teachers are called demands that, in imitation of Christ, the only Teacher, they reveal the Christian message not only by word but also by every gesture of their behaviour. That is what makes the difference between a school whose education is permeated by the Christian spirit and one in which religion is only regarded as an academic subject like any other.
>
> Id. at no. 43.

Although the Sacred Congregation places special emphasis on the Catholic school teacher's critical role in the pupils' integration of faith and culture, it emphasizes that the teacher's role also extends into the very central matter of the pupils' integration of faith and life: "The fundamental aim of teaching is the assimilation of objective values, and, when this is undertaken for an apostolic purpose, it does not stop at an integration of faith and culture but leads the pupil on to a personal integration of faith and life." Id. at no. 44. More specifically, the Sacred Congregation directs:

> The Catholic school should teach its pupils to discern in the voice of the universe the Creator Whom it reveals and, in the conquests of science, to know God and man better. In the daily life of the school, the pupil should learn that he is called to be a living witness to God's love for men by the way he acts, and that he is part of that salvation history which has Christ, the Saviour of the world, as its goal.
>
> Id. at no. 45.

This background of the Catholic school, as part of the species of sectarian schools this proposal attempts to regulate, illustrates the absolutely crucial role of the unabashedly Christian teacher to the successful working of the school. Thus, any state regulation which would restrict this pool of Christian

teachers will burden religious protections guaranteed by the Free Exercise Clause, U.S. CONST., amend. I. By substantially diminishing the pool of available teachers with the requisite Christian qualifications, the State's certification requirement impedes the carrying out of sectarian school parents' Free Exercise right to select the teachers who would most effectively fulfill the crucial role of a sectarian school teacher. More specifically, the sectarian school is required to forego the services of many teachers who would superiorly transmit to students the authentic Christian approach to both religious and secular subjects. Instead, the school is required to select teachers who are less capable, and perhaps almost unqualified, on the important basis of their religious convictions, but who possess valid teaching certificates which, even in secular subjects, bear little relationship to their ability to effectively teach. Thus, when sectarian schools choose to comply with the type of certification requirements found in this case, the result can be a lessening of the schools' ability to effectively transmit Christian values to students. Because transmission of these values constitutes the central and unique mission of the sectarian school, and the purpose for which parents would choose a sectarian school to effectuate their Free Exercise rights to educate their children in accordance with their religious beliefs, the statute's impairment of the sectarian school's ability to effectively transmit Christian values is an unconstitutional interference with these parents' rights, under the Free Exercise Clause, U.S. CONST., amend. I.

While the teacher certification requirement wreaks havoc with parents' rights to effectively choose a sectarian school for their children, it is not an appropriate means to accomplish any interests the State may have in insuring that sectarian school children receive a proper education. Although the State may have a compelling interest in compulsory school attendance generally, it

does not follow that the state has carried its burden of proving that its certification requirements achieve this interest in the manner least restrictive to parental rights to educate their children in accordance with their religious beliefs. Initially, the fact that only a handful of the states have been shown to require certification for private school teachers is strong evidence that a certification requirement is unnecessary to satisfy the educational interests all states share. Further, the State has offered little clear empirical evidence to demonstrate that a certification requirement is necessary to guarantee high quality education. Finally, there are undoubtedly means which place fewer restrictions on free exercise rights, such as requiring parents to educate their children, requiring schools to provide the acknowledged universal "basics" of education and limiting any gross parental abuse of their educational duty through child abuse statutes, which could effectively monitor and guarantee the reception of quality education. Accordingly, the requirement for certification of private school teachers is an unconsitutional infringement upon sectarian school parents' rights to educate their children in accordance with their religious beliefs.

IV.

THE REQUIREMENT OF 1921 MICH. PUB. ACTS 302, SECTION 1, MICH. COMP. LAWS ANN. § 388.551 (1976), THAT COURSES OF STUDY IN PRIVATE SCHOOLS BE OF THE SAME STANDARD AS THOSE PROVIDED BY THE GENERAL SCHOOL LAWS OF THE STATE IMPERMISSIBLY IMPINGES UPON PARENTS' FREE EXERCISE RIGHTS UNDER THE U.S. CONST., AMEND. I, TO EDUCATE THEIR CHILDREN IN ACCORDANCE WITH THEIR RELIGIOUS BELIEFS, IS NOT NECESSITATED BY A COMPELLING STATE INTEREST AND IS NOT THE METHOD TO ACHIEVE ANY PURPORTED GOVERNMENTAL INTEREST WHICH HAS THE LEAST EFFECT UPON THE PROTECTED RIGHTS.

The curriculum regulations present much the same problems as the teacher certification requirements, and are unconstitutional for very similar reasons.

Curriculum, like teacher qualities, is a central feature distinguishing sectarian private schools from public schools and parental preferences for a private school are often based upon this distinction. It is well known that public schools are generally restricted in their ability to transmit Christian values. See Abington Township School District v. Schempp, Murray v. Curlett, 374 U.S. 203 (1963) (Prohibiting Bible reading in public schools except when studied as literature); Engel v. Vitale, 370 U.S. 421 (1962) (Prohibiting recitation of government composed prayer in public schools). In sharp contrast, sectarian schools are very concerned with the transmission of these values. In the case of Catholic schools it has been noted:

> The specific mission of the school, then, is a critical, systematic transmission of culture in the light of faith and the bringing forth of the power of Christian virtue by the integration of culture with faith and of faith with living. Consequently, the Catholic school is aware of the importance of the Gospel-teaching as transmitted through the Catholic Church. It is, indeed, the fundamental element in the educative process as it helps the pupil towards his conscious choice of living a responsible and coherent way of life.
>
> SACRED CONGREGATION FOR CATHOLIC EDUCATION, THE CATHOLIC SCHOOL (1977), at no. 49.

The pervasive importance of gospel teaching is further emphasized in its lack of confinement to specific religion courses in a sectarian school and its role in insuring that students obtain more than a mere intellectual appreciation of the truths of Christ:

> Without entering into the whole problem of teaching religion in schools, it must be emphasized that, while such teaching is not merely confined to "religious classes" within the school curriculum, it must, nevertheless, also be imparted explicitly and in a systematic manner to prevent a distortion in the child's mind between general and religious culture. The fundamental difference between religious and other forms of education is that its aim is not simply intellectual assent to religious truths but also a total commitment of one's whole being to the Person of Christ.
>
> Id. at no. 50.

Obviously, sectarian schools, including Catholic schools, must have significant latitude in the development of their curricula if they are to serve as effective objects of parents' constitutionally protected rights to educate their children in accordance with their religious beliefs. However, the framework of state regulation of private school curricula in this case has great potential to impair this required freedom. The "same standard" language of the involved statute is construed to require comparison to the local public school curriculum,[2] but is sufficiently vague to permit a number of different modes of enforcement. If the enforcing entity were to interpret this language only to require a review of course titles to see that the sectarian school curriculum included instruction in the acknowledged universal "basics" of education, there would normally not be significant impairment of religious freedom. But, even under this minimal review there would be a potential for significant potentially objectionable courses in areas such as sex education or "values clarification" which can be found in many public school curricula.

Further, the language of the involved statute does not require the enforcing entity to limit its inquiry into whether private schools are of the "same standard" as public schools to an examination of course titles. If an enforcing entity were to determine that the "same standard" requirement extended to the content of courses in each school, significant infringement of parental rights would result. This would occur because the content of a sectarian school course, in which the Gospel should be emphasized, could differ in major respects from similar courses in public schools in which the Gospel is not emphasized.

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[2] See Sheridan Road Baptist Church v. State, No. 80-26205-A2, slip op. at 7 (Ingham Co. Cir. Ct. Dec. 29, 1982).

Thus, the ambiguous language of the statute, standing alone, results in great potential for infringement of parental rights under the Free Exercise Clause to educate their children in accordance with their religious beliefs. However, the significant difficulties inherent in this ambiguous statute are aggravated by the fact that the body enforcing the statute is not an "impartial" governmental body. Instead, the superintendent of the school district in which the sectarian school is located has enforcement responsibilities. See Sheridan Road Baptist Church v. State, No. 80-26205-A2, slip op. at 7 (Ingham Co. Cir. Ct. Dec. 29, 1982). It is not difficult to imagine the potential for abuse which may exist when a public school superintendent, whose system is losing students and state aid by the presence of vibrant sectarian schools, is given the responsibility to enforce the standards these sectarian schools must meet. Accordingly, the statute in this case represents a significant infringement of parents' constitutional rights to educate their children in accordance with their religious beliefs.

Although the statute significantly infringes upon parents' constitutional rights, there exists little relationship between the statute and the state's expressed purpose of "quality education." Initially, the trial judge correctly noted that the statute does not guarantee quality education on a state-wide basis, but instead merely insures that the private school will match the quality of the local public school. Further, if the statute only requires an inspection of course titles, it is difficult to see what major positive or negative impact it would have on the quality of education. Finally, if the statute requires a significant conformity between the content of private and public school courses, it could actually have the effect of reducing educational quality by forcing superior sectarian school courses to resemble inferior public school courses. In any event it is clear that the statute is neither an appropriate means to

achieve the stated purpose of quality education nor the "least restrictive means" to achieve this end. Accordingly, the statute is an unconstitutional infringement of sectarian school parents' Free Exercise rights to educate their children in accordance with their religious beliefs.[3]

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[3] Although this brief's focus has been on parental Free Exercise rights to educate their children in accordance with their religious beliefs, it appears that both the teacher certification and curriculum requirements create an unconstitutional excessive entanglement between government and sectarian schools. In noting that a more indirect regulation, involving sectarian school teachers' collective bargaining rights, could pose "entanglement" problems, the United States Supreme Court noted:

> "Whether the subject is 'remedial reading,' 'advanced reading,' or simply 'reading,' a teacher remains a teacher, and the danger that religious doctrine will become intertwined with secular instruction persists." Meek v. Pittenger, 421 U.S. 349, 370 (1975). Cf. Wolman v. Walter, 433 U.S. 229, 244 (1977). Good intentions by government --or third parties--can surely no more avoid entanglement with the religious mission of the school in the setting of mandatory collective bargaining than in the well-motivated legislative efforts consented to by the church-operated schools which we found unacceptable in Lemon, Meek, and Wolman.
>
> NLRB v. Catholic Bishop of Chicago, 440 U.S. 490, 501-502 (1979).

The thrust of the Catholic Bishop language would appear to be that, even if government regulation of sectarian school teacher qualifications and curricula did not impinge upon parental Free Exercise rights, pervasive regulation of these matters, which appears to be actually or potentially present in this case, could present an unconstitutional "excessive entanglement" between the state and sectarian schools. It would further appear that this rationale formed much of the basis of the ruling under review in this matter.

RELIEF

Based upon the foregoing discussion, the Catholic League for Religious and Civil Rights requests that this Court rule that 1921 Mich. Pub. Acts 302, Sections 1 and 3, MICH. COMP. LAWS. ANN. §§ 388.551 and 388.553 (1976), violate the Free Exercise Clause of the U.S. CONST., amend. 1, and award the Plaintiff-Appellees any relief to which they are entitled in this action.

Respectfully submitted, this 5th day of July, 1983.

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ATTORNEYS FOR CATHOLIC LEAGUE
FOR RELIGIOUS AND CIVIL RIGHTS

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DEC 2 [illegible]
BY:
DEPUTY CLERK

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BANGOR CHRISTIAN SCHOOLS,
GRACE BAPTIST CHURCH,
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FIRST UNITED BAPTIST CHURCH,
LEE CHRISTIAN SCHOOLS,
VICTORY BAPTIST CHURCH,
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SEBEC CORNER CHRISTIAN CHURCH,
SEBEC CHRISTIAN ACADEMY,
CHURCH OF THE OPEN BIBLE,
ATHENS CHRISTIAN ACADEMY,
CHURCH OF THE BLESSED HOPE
OF JESUS CHRIST,
NEW LIFE ACADEMY,
WINDHAM ASSEMBLY OF GOD,
WINDHAM ASSEMBLY CHRISTIAN ACADEMY,
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REVEREND JEFFREY CLARK,
JOHN D. LINNEHAN, JR. and
HEATHER M. LINNEHAN,
ALFRED R. ROUSSEL and
LIANNE M. ROUSSEL,
THOMAS M. OBEY and MARY L. OBEY,
DAVID LAVWAY,
BONNIE C. BOYINGTON,
EUGENE ST. CLAIR, JR., and MAINE
ASSOCIATION OF CHRISTIAN SCHOOLS,

Plaintiffs;[1]
Defendants in
Counterclaim

CIVIL NO. 81-0180-B

vs.

STATE OF MAINE, DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES, COMMISSIONER OF EDUCATIONAL AND CULTURAL SERVICES and MEMBERS OF THE MAINE STATE BOARD OF EDUCATION,

Defendants;
Counterclaimants

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

CYR, C.J.

The plaintiffs challenge the constitutionality of various Maine statutes and regulations governing compulsory education and the approval of private schools. The counterclaim against the ten church schools and their pastors or administrators demands a judicial declaration that their failure or refusal to provide defendants with school approval information violates Maine law, and permanent injunctive relief requiring plaintiffs to provide the information "as a condition to continued operation of their respective schools with compulsory school age children" during the hours such children would otherwise be attending an approved school. Partial summary judgment has been granted in favor of the defendants. See Bangor Baptist Church v. State of Maine, 549 F. Supp. 1208, 1232 (D. Me. 1982).

On the stipulations of the parties and on the exhibits[2] and the testimony received during the eight-day trial the Court makes the findings of fact and conclusions of law contemplated by Fed. R. Civ. P. 52(a).

I. History of Present Dispute

The earliest evidence of the present dispute is a March 24, 1977 letter from the administrator of Bangor Christian Schools (Bangor Christian) requesting the Maine Department of Educational and Cultural Services (Department) to exempt Bangor Christian from a Department regulation requiring private schools to submit a five-year plan for basic approval. Describing Bangor Christian as an integrated auxiliary of the Bangor Baptist Church, the administrator informed the Department that Bangor Christian believed that the regulation requiring the submission of a five-year plan went "beyond the legitimate responsibility of the State to see that each municipality provides suitable education for their [sic] youth." The administrator represented that Bangor Christian, an approved school,[3] had "always adhered to . . . governmental control" respecting the maintenance of certain minimal standards "in order to qualify as a safe, healthful, bona fide school," but that it objected to "the increasing involvement of government in the lives of private individuals and private institutions." Expressing concern that the request would "eventually

involve" unnecessary and unacceptable state "control [of] religious instruction" and that the "humanistic and secular approach of the public education system" is diametrically opposed to the "integrated, Christian approach" at Bangor Christian, the administrator asked that Bangor Christian be permitted to control its own educational planning and direction.

Plaintiff Maine Association of Christian Schools (MACS) was founded in the spring of 1979 to promote and improve Christian school education in Maine and to defend Christian schools against perceived encroachments by state regulation.[4] Plaintiff Herman C. Frankland, the pastor of Bangor Baptist Church, became President of MACS, and Ralph Yarnell became its Executive Director.

On May 15, 1979, MACS called a general meeting of its member schools to discuss the "right position of Christian Schools in Maine" with respect to state approval. Defendants' Exhibit 1. At that meeting MACS members[5] voted to pay $1,200 to have two lawyers and an educator address them the following month and "to give . . . counsel with regard to philosophy, strategy etc.," id. Meanwhile, MACS members unanimously voted to take no official position regarding state approval. Schools choosing "to buck state approval in the meantime would be doing so without any backing from MACS." Id.

On June 8, 1979 John McLario, Esq., a Wisconsin attorney specializing in the representation of Christian schools, addressed the MACS Board of Directors and the MACS constituency. On June 23, 1979

Dr. Paul Cates, an evangelist and former vice president of the American Association of Christian Schools (AACS), addressed the administrators and pastors of all MACS-member schools, as well as many church aud church school-board members. On June 29, 1979 the group was addressed by David Gibbs, Esq., of Gibbs & Craze (Cleveland), which specializes in representing religious schools involved in disputes with state regulators. These three individuals informed the MACS administrators and pastors as to the constitutional standards governing state regulation of church schools.

On August 1, 1979 Wallace LaFountain, a consultant to the Department, invited the administrators of all Christian schools in Maine to an August 13, 1979 conference to discuss the certification of Christian-school principals, the approval of Christian-school curricula and the church-school approval process itself. As of August 5, 1979 all Christian schools known to be operating in Maine with compulsory-school-age children in attendance during normal public-school hours had obtained state approval.[6] At that time several new Christian schools proposed to operate during the 1979-80 school year without obtaining state approval.

On August 5, 1979 Reverend Frankland notified all MACS-member pastors and administrators of an emergency meeting to be held August 10, 1979 for the purpose of determining the position MACS should take at a meeting scheduled with state officials for August 13.

On August 7, 1979 the MACS Board of Directors drafted a four-point

plan for presentation to the Department as an alternative to formal school approval of the eight new Christian schools scheduled to open that fall. The plan called for a one-year moratorium on the state school-approval requirements, during which the new Christian schools would

1. receive the approval of the Department of Public Safety and the Department of Human Services prior to opening;

2. permit Department officials to conduct on-site observation of the schools in operation;

3. teach a "bona fide curriculum" meeting the requirements of Maine law; and

4. employ teachers qualified for state certification.

During the one-year moratorium MACS would seek legislative exemption from the statutory requirement of school approval. Tr. at 66.

On August 8, 1979 Department consultant LaFountain met with MACS representatives to determine their position regarding state approval of church schools. MACS officials informed LaFountain that their church schools were integral parts of their religious ministries and not susceptible, either on constitutional or biblical authority, to state control, because acquiescence to any form of state approval of church-school teachers, principals or curricula would violate their biblically-based religious conviction that Christ, not the state, is sole sovereign in such matters. The MACS representatives announced that the as-yet unapproved church schools would reject state approval

because acquiescence to state approval might imply a state right-of-control, and because acquiescence might later be used in court to demonstrate that their professed religious beliefs regarding state control were based on nonreligious preferences, rather than religious conviction. LaFountain was then informed of the MACS four-point plan. See Defendants' Exhibit 4.

The factors which influenced plaintiffs to adopt the position taken at the August 8, 1979 meeting included: (1) a January 1978 statement issued by NERAACS, setting forth objections to state approval; (2) an increase in the number of requirements for school approval; (3) the nationwide growth of the teaching program known as Accelerated Christian Education (ACE);[7] (4) a growing awareness that fundamentalist Christians in other states were involved in challenges to similar statutes; (5) a concern that the approval laws were vague; and (6) a maturation of fundamentalist Christian convictions regarding the total sovereignty of Christ over the church and its ministries. Tr. at 20-21, 219-21, 241-43, 504-13.

When the unapproved church schools planning to open in the fall of 1979 expressed their desire to join MACS, but advised that they could not accept state approval, the members of MACS decided to stand beside the new church schools in opposition to state approval. Tr. at 221.

On August 13, 1979, 88 Christian educators and pastors attended a conference with Department officials, who expressed satisfaction with the request that Christian school principals not be required to obtain state certification.

On August 16, 1979, MACS officials met with the newly-appointed Commissioner of Education, Harold Raynolds (Commissioner), and presented a more detailed version of their four-point plan for dealing with the new unapproved church schools during the 1979-80 school year. See Defendants' Exhibit 9. The MACS proposal stated that MACS would (1) act as a catalyst to have new MACS-member schools inspected for health and safety purposes prior to opening; (2) arrange visitations to MACS-member schools by Department officials; (3) assure the Department that each MACS-member school was presenting a bona fide curriculum consistent with state requirements; and (4) assure the Department that each MACS-member school employed teachers who were qualified for state certification. These proposals were intended as an interim substitute for state approval while MACS pursued a legislative resolution of the problem.

Plaintiff Frankland wrote the Associate Commissioner of the Department on August 16, 1979 in response to a request for an explanation of the religious objection to state approval. Reverend Frankland described the church schools as the teaching arms of the Church, integrally connected with it. He characterized state licensure of church schools, their curriculum or their staff as tantamount to licensing the churches, their ministers and the subject matter taught in church, stating that to permit such regulation would be to render unto Caesar that which belongs to God. In order to avoid having their religious conviction regarding state regulation diluted in the eyes of

the law to a mere preference, wrote Reverend Frankland, the churches must object to state regulation of their schools.[8]

On August 30, 1979 the Commissioner informed MACS of the Department's position that the minimum standards required of public and private schools "do not impose an onerous burden upon schools which seek approval." The Commissioner described as "reasonable" the regulations requiring minimum hours of instruction, employment of only "qualified instructors" and instruction in prescribed subjects. The Commissioner advised that the Department would -

> carry out its mandate to approve public and non-public schools in accordance with the laws of the State of Maine [and] . . . only consider waiving part or all of the minimum standards utilized in the approval process if it can be established that the standards in question violate an individual's constitutionally protected rights and that the State's interest in adhering to those standards is not of sufficient magnitude to override the claimant's rights.

The Commissioner went on to say that "[u]nder no circumstances will the Department waive the requirement that all public and non-public schools be approved in order to be able to operate as schools in the State of Maine." (Emphasis added.)

On September 11, 1979, after meeting with representatives of MACS, the Department issued a press release captioned, "Statement Regarding the Approval of Private Schools," which asserts that the Department "is presently reviewing the curriculum, the educational programs, and the credentials of the teachers of certain private schools which

object on constitutional grounds to the formal school approval mandated by law." The press release further stated -

> [i]t is the Department's position that during the school year 1979-80 each of these schools will meet the minimum standards for approval required by law. If the Department is satisfied that the schools have met the minimum standards for approval, then the Department will treat these schools as having been approved for attendance purposes during the school year 1979-80.

Defendants' Exhibit 10. When this press release was issued MACS was informed that the four new schools would "not risk truancy litigation" provided the requirements outlined in the press release were satisfied.

On September 12, 1979, in response to a request from the Department, MACS agreed to submit sanitation information regarding three schools and to update the sanitation and fire safety information relating to a fourth school. MACS agreed to answer all questions on the school approval form as to which there were no constitutional objections.

On September 17, 1979, MACS notified its members of a "sensitive . . . meeting" scheduled for September 21, 1979 with Charles Craze, Esq., of Gibbs & Craze.[9] MACS members were advised that they must "decide what their convictions are regarding state approval in advance of the meeting." The letter instructed MACS members to read the enclosed articles regarding religious convictions and state licensure of Christian schools. One article, by Paul Cates, states that its purpose is to enable the reader "to give Biblical explanations for the

stand you take" against state regulation of religious entities. The article emphasizes that in order for beliefs to be constitutionally protected they must be convictions as opposed to preferences.

The second article MACS members were asked to read before the September 21, 1979 meeting described constitutional, educational and scriptural reasons for opposing state licensure of Christian schools. The article identifies the following risks of state regulation:

1. the state will impose its "child-centered" teaching methodology upon church-school students in contravention of the "subject-centered . . . methodology" of the Christian schools;

2. the state will impose a secular humanist philosophy upon the church schools;

3. the state will mandate sex education courses and other programs and approaches offensive to Christian values;

4. the state will ban the types of student discipline required by the Bible; and

5. the state will prescribe textbooks of poor quality.

The scriptural bases for opposing state licensure were stated as follows:

> The responsibility for training a child is first laid on the parents (Pro. 22:6 and Eph. 6:4). Human government is ordained by God to suppress those who work violence and evil in society (Rom. 13:3-4). The mission of the church is clearly to preach and teach. The home, church and state must maintain their proper roles.
>
> . . . .
>
> Christians are certainly commanded to obey laws of their nation (I Pet. 2:13). Advocates of civil disobedience find little encouragement in scripture. The only

> scriptural justification for a Christian to disobey his government would be in the case where the law of Caesar conflicts with the law of God. Yet, one might point out that Paul faced jail and punishment by the state in most of his ministry. Again, however, his offence was only preaching and teaching, and he obeyed God rather than Caesar.

At the September 21, 1979 meeting with Attorney Craze, separate letters were drafted in behalf of 19 MACS-member schools[10] for delivery to the Commissioner, each letter advising in substance that after much contemplation the church-school authorities had concluded that their biblical convictions compelled them to reject state regulation of their schools and teachers, which are integral and inseparable parts of the religious ministry of their churches.

On September 28, 1979, Department officials met with MACS representatives and Attorney Gibbs, and the 19 letters were presented to the Commissioner. In anticipation of a legislative resolution of the problem in 1980 the Commissioner assured MACS that the new church schools could continue to operate during the 1979-80 school year without fear of state action.

On October 11, 1979, MACS advised all of its members of the identity of the 19 MACS-member schools which had already submitted letters to the Commissioner, and urged five other MACS-member schools to submit letters.[11]

During November and early December, 1979, six more churches operating Christian schools wrote the Commissioner, rejecting state approval. See Defendants' Exhibits 15a - 15f.

In 1980, MACS drafted and sponsored two bills for presentation to the 109th Maine Legislature. Both bills provided that church schools which declare their religious convictions against state approval would be exempt from state approval requirements. The legislature rejected both bills in March 1980.

After the defeat of these bills, MACS formally prohibited its members from accepting or retaining school approval.

The Department wrote the unapproved church schools requesting the information needed to determine their eligiblility for approval.

On May 29, 1980, MACS' new attorney, William Ball, Esquire, wrote the Commissioner requesting information concerning the Maine compulsory education statutes and regulations. Attorney Ball asked the Commissioner to explain the statutory basis for regulations requiring private schools, as a prerequisite to approval, to submit a statement of (1) educational philosophy, goals and objectives, and a plan for accomplishing the same; (2) the "methods and procedures" to be utilized to measure attainment of school goals; (3) financial position and policies; and (4) the program of instruction. Attorney Ball asked if the Commissioner interpreted the state regulations as requiring that private schools request an inspection of their facilities, curricula and staff qualifications prior to commencement of operations. Attorney Ball inquired whether the Department regulation prohibiting the operation of unapproved schools was directed only at public schools and, if not, what the statutory basis was for such a regulation, pointing out that though Maine statutes do provide for penalties

against parents who enroll their children in a school not approved for attendance purposes, there were no statutes "directed at schools" and no statutes forbidding the operation of unapproved private schools.

During the 1980-81 school year the dispute between the church schools and the defendants remained at a standoff. The Department attempted to obtain compliance, clarify the approval application form, and determine whether any particular requirement burdened any school. MACS failed to respond to any of defendants' requests for substantive comments on how the approval regulations could be made less offensive to the religious beliefs of its constituency.

In September, 1980 the Commissioner advised the appropriate public school superintendents that nine Christian schools had opened without state approval. "In order to prevent the students from becoming victims [of the] approval controversy" (Defendants' Exhibit 35), the Commissioner recommended that the superintendents forward to those unapproved church schools, on request, copies of the necessary student records in the possession of the public schools, but retain the original student records.

On October 14, 1980 the Commissioner instructed all public school superintendents to indicate separately in their 1980-81 enrollment reports those students residing within their school administrative districts who were attending unapproved schools. The Commissioner concluded his letter by stating - "[u]ntil you hear further from this office, you should not take any legal steps to enforce the truancy

laws against students attending these unapproved schools." See Defendants' Exhibit 36.

On October 9, 1981 the Commissioner formally advised nine unapproved church schools[12] of the Department's intention to "commence a legal action" in state court unless certain information was furnished by October 20, 1981. The Commissioner insisted that "a private school may provide education to children of compulsory school age during hours of the day when such children would otherwise be attending public schools only if it is approved by the Commissioner." The Commissioner stated that approval must be obtained in accordance with the rules adopted by the Department, copies of which had been sent to the schools on September 25, 1981. Enclosing an application form, the Commissioner informed the church schools that the minimum information required to obtain Department approval to operate consisted of evidence that the school

> 1. has been inspected by the Department of Human Services for compliance with state health and sanitation standards;
>
> 2. has been inspected by the Fire Marshal for compliance with the Life Safety code;
>
> 3. offers a course of study meeting the minimum curriculum requirements;
>
> 4. has an instructional staff which is either certified or qualified for certification; and
>
> 5. maintains and safeguards adequate attendance, health and academic records.

The Commissioner allowed that the required information could be provided by authorizing Department representatives to visit the schools, observe their operations and inspect their records.

The original complaint in this action was filed on October 16, 1981.[13] The complaint was amended on October 28, 1981 by adding, as plaintiffs: Bangor Christian, Grace Baptist Church Schools, five churches and the five affiliated unapproved church schools which had received the Commissioner's letter of October 9, 1981.

On October 30, 1981, defendants agreed to refrain from undertaking any enforcement action against the five church schools added as plaintiffs two days earlier.

On November 20, 1981, defendants withdrew their earlier motion that this Court abstain from hearing this case.

On December 4, 1981, defendants filed their answer and a counterclaim against the five plaintiff church schools which had received letters from the Commissioner, as well as four nonplaintiff church schools which had received letters. Plaintiffs joined the latter four church schools as plaintiffs on December 28, 1981.

Prior to trial the parties agreed that although the provisions of Title 20-A of the Maine Revised Statutes Annotated were not to become effective until July 1, 1983, plaintiffs' claims and defendants' counterclaim were to be adjudicated as if those provisions were in effect at the time of trial, since Title 20-A was merely a recodification of pertinent provisions of Title 20.[14]

II. Counterclaim

The counterclaim presents the ripest controversy and its resolution controls the context in which the Court must determine the ripeness and substance of the claims asserted by the plaintiffs.

The counterclaim alleges that each plaintiff church school: (1) is operating with compulsory-school-age children in attendance, and without state approval; (2) has failed or refused in the past and will refuse in the future to respond to Department requests for information needed to determine its approvability; and (3) if unapprovable, is threatening the health, physical safety and welfare of the children in attendance.

Defendants demand that the Court (1) declare that the failure or refusal to complete and submit the 'Basic School Approval' application or to provide the information requested thereon in some other manner is violative of Maine law; and (2) enjoin the church schools from operating with compulsory-school-age children in attendance during normal public school hours until the church schools submit or make available to the Commissioner the information necessary to demonstrate compliance with state school-approval requirements.

Plaintiffs admit that the plaintiff church schools are unapproved and operating with compulsory-school-age children in attendance, but deny that they have failed or refused to respond to requests for information relating to school health, sanitation and fire safety.[15]

Plaintiffs affirmatively assert that defendants have an adequate remedy at law and that several of plaintiffs' constitutional claims, including their constitutional claim that various state regulations are ultra vires, bar relief under the counterclaim.

Consideration of the counterclaim begins with an examination of the relationship between the Maine statutes governing school attendance, Chapter 211 of Part 3 of Title 20-A, as amended by P.L. 1983 c. 435, 1983 Me. Legis. Serv. 2583-93, and the statutes relating to private schools, Chapter 117 of Part 2 of Title 20-A.

Compulsory Attendance and Private Schools

The core requirement of the compulsory attendance section (§5001) of Chapter 211 of the Maine education statutes is that persons age seven or older must attend a public school during its regular annual session until they reach age 17. 20-A M.R.S.A. §5001(1), as amended by P.L. 1983 c. 485 §21, 1983 Me. Legis. Serv. at 2590-91. Exemption from the public-school attendance requirement is accorded students who obtain "equivalent instruction in a private school . . . and if the equivalent instruction is approved . . ." 20-A M.R.S.A. §5001(2)(D)(1) (emphasis added), provided that the appropriate local public school officials receive a certificate reflecting the name and residence of the student seeking exemption and the name of the private school the student is attending, signed by the person or persons in charge of the private school.[16] 20-A M.R.S.A. §5001(2)(D)(2).

Local public school officials make the initial determination as to whether a student is receiving equivalent instruction in a private school. If local public school officials deny the exemption because the private school instruction is not considered "equivalent," an appeal may be taken to the Commissioner. Id. §5001(2)(D)(2).

In order to come within the relevant [paragraph (D)(1)] statutory exception to the compulsory public-school education requirement, a child must not only receive equivalent instruction, but the instruction must be "approved by the Commissioner."[17] An "approved private school" is defined in Title 20-A, section 1(2), as "a private school approved for attendance purposes under chapter 117," 20-A M.R.S.A. §1(2) (1983); a reference to section 2901, where it is provided that -

> [a] private school may operate as an approved private school for meeting the requirement of compulsory school attendance under section 5001 if it:
>
> 1. Hygiene, health, safety. Meets the standards for hygiene, health and safety under Titles 22 and 25; and
>
> 2. Is either:
>
> A. Currently accredited by the New England Association of Colleges and Secondary Schools; or
>
> B. Meets the department's requirements for approval for attendance purposes under section 2902.[18]

20-A M.R.S.A. §2901 (1983).

Under a delegation of authority from the Maine Legislature, see 20-A M.R.S.A. §405(3)(E), the Board of Education (Board) has promulgated regulations expressly made applicable to "[p]rivate schools approved for attendance purposes by the department . . ." by section 2902 of Title 20-A.[19]

Informed by the statutory definition of the term "approved private school" appearing in sections 2901 and 2902, the Board promulgated a new regulation during the course of the trial of the present action.

> A private elementary or secondary school shall not operate for purposes of meeting the statutory compulsory school attendance requirements unless it has been approved by the Commissioner of Educational and Cultural Services prior to commencing operation with students present.

05-071 CMR 125, section 1-A, subsection (A)(1) (as amended February 10, 1983) (Defendants' Exhibits 72 & 100-102) (emphasis added).

The Board regulations further provide that:

> Nine months preceding the day on which the school plans to begin operations, it shall file with the Commissioner a notice of intent to operate a school for purposes of meeting the compulsory school attendance requirements.

Id., subsection (A)(2) (emphasis added).

The Board regulations relating to private-school health and safety requirements provide that:

> A private school may not operate unless it complies with the health and safety requirements of Maine law applicable to schools generally, including the standards for hygiene, health, and safety under Titles 22 and 25 of the Maine Revised Statutes Annotated.[20]

Id., subsection (D)(1) (emphasis added).

Subsection I(4) of the Board regulations provides:

> Whenever the Commissioner determines that a private school is operating with compulsory school-age children in attendance and (a) does not meet the requirements for approval, or (b) has failed or refused to provide information for approval, he may institute proceedings in a court of competent jurisdiction to seek injunctive relief to prevent the non-public school from operating until such time as it meets the requirements for approval or provides information sufficient to demonstrate that it meets the requirements for approval.

Id., subsection (I)(4).

Defendants rely upon Title 20-A, the Board regulations and the equity powers of the Court in support of their requests for declaratory and injunctive relief.

A. Application of the Erie Doctrine

Although the counterclaim invokes the Court's ancillary, rather than its diversity, jurisdiction, the choice of law is governed by the Erie doctrine, see Erie R. Co. v. Tompkins, 304 U.S. 64 (1938).

> [I]t is the source of the right sued upon, and not the ground on which federal jurisdiction over the case is founded, which determines the governing law. . . . Thus, the Erie doctrine applies, whatever the ground for federal jurisdiction, to any issue or claim which has its source in state law. . . . Likewise, the Erie doctrine is inapplicable to claims or issues created and governed by federal law, even if the jurisdiction of the federal court rests on diversity of citizenship.

19 Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction §4515, at 275 (1982), quoting Maternally Yours, Inc. v. Your Maternity Shop, Inc., 234 F.2d 538, 540 n.1 (2d Cir. 1956) [emphasis in original; elipses by Wright, Miller & Cooper]. Maine law

is the source of the rights asserted in the counterclaim.

According to the great weight of authority,[21] absent a contrary federal constitutional or statutory provision, see Skelly Oil Co. v. Phillips Petroleum Co., 339 U.S. 667, 674 (1949) [availability of declaratory relief in diversity case is controlled by 28 U.S.C. §2201], federal rule, see Hanna v. Plumer, 380 U.S. 460 (1965), or some overriding federal policy, see Byrd v. Blue Ridge Rural Electric Cooperative, Inc., 356 U.S. 525, 533-40 (1958) [invoking strong federal policy favoring jury trial], federal courts should afford whatever equitable remedy would be available in state court for the enforcement of a right created by state law. See System Operations, Inc. v. Scientific Games Devel. Corp., 555 F.2d 1131, 1143 (3d Cir. 1977); Franke v. Wiltschek, 209 F.2d 493, 494-95 (2d Cir. 1953); Transcontinental Gas Pipe Line Corp. v. Gault, 198 F.2d 196 (4th Cir. 1952); 2 Moore, Federal Practice ¶2.09, at 2-58 (1983); 19 Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction §4513, at 214.

Since in this instance the standards governing the appropriateness of equitable relief are essentially similar under Maine law and federal law,[22] no important federal policy and no federal statute or rule will be contravened as a result of the choice of Maine law.

B. Relief Under Statutory and Regulatory Provisions

Defendants apparently contend that section 2901 empowers the Court to enjoin the operation of the plaintiff church schools during normal

public-school hours, regardless of whether injunctive relief would be appropriate under the Court's inherent equity powers. The Maine Law Court recognizes, see Town of Shapleigh v. Shikles, 427 A.2d 460, 464 (Me. 1981), that where "a statute provides for injunctive relief upon the showing of a violation, the party seeking such relief need not make a showing of irreparable harm in the normal equity sense," UV Industries, Inc. v. Posner, 466 F. Supp. 1251, 1255 (D. Me. 1979). But since the "historic injunctive process has been one of great flexibility in administering practical equity, . . . [such a provision] should not be lightly implied by the court in construing legislation." Town of Shapleigh v. Shikles, 427 A.2d at 464. Cf. Norfolk Redevelopment & Housing Authority v. Chesapeake & Potomac Telephone Co., ___ U.S. ___, 52 U.S.L.W. 4007, 4009 (November 1, 1983) ["the common law ought not to be deemed repealed, unless the language of a statute be clear and explicit for this purpose"].

Sections 2901 and 2902 neither impose nor delegate the power to impose direct sanctions against unapproved private schools, nor do the compulsory attendance provisions of Chapter 211 purport to empower direct action against unapproved private schools.[23] The plain legislative design of the Maine Education Law is to ensure that each child attends public school or obtains an equivalent education. One means[24] of obtaining an equivalent education is to attend an approved private school, that is, a private school which has demonstrated that it is in compliance with sections 2901 and 2902.[25]

Administrative Interpretation of Approval Requirements

The unmistakable import of the statutory school-approval scheme notwithstanding, the defendants have insisted from the outset[26] that it is implicit in the language of section 2901, which provides that a private school "may operate as an approved private school for meeting the requirements of compulsory school attendance. . . ," that an unapproved private school may not operate at all during normal public school hours with compulsory-school-age children in attendance. See Defendants' Memorandum Regarding Ultra Vires Issue, at 6.

Although courts do "not lightly disregard the interpretation given a statute by those charged with its administration, an administrative construction is not conclusive." Soucy v. Board of Trustees, 456 A.2d 1279, 1281 (Me. 1983). "[S]uch deference 'must yield to the fundamental approach of determining the legislative intent, particularly as it is manifest in the language of the statute.'" Central Maine Power Co. v. Maine Public Utilities Commission, 458 A.2d 739, 741 (Me. 1983), quoting Central Maine Power Co. v. Maine Public Utilities Commission, 436 A.2d 880, 885 (Me. 1981). An administrative agency construction, even one put forth by those who participated in drafting the statute, may be rejected upon consideration of the plain language of the statute, "the context in which it must be read," Stewart v. Inhabitants of Durham, 451 A.2d 308, 310 (Me. 1982), or the fact that a different construction will avoid "constitutional difficulties,"[27] id. [construction of grandfather clause by town selectmen conflicted with

plain meaning and with overall purpose of mobile home ordinance and gave rise to "serious constitutional questions"]. See also Clardy v. Town of Livermore, 403 A.2d 779, 782 (1979) [ordinance construed by court contrary to interpretation of town officials since it was "fairly open to an interpretation making decision (of the constitutional question) unnecessary"]; Farmington Dowel Products Co., Inc. v. Forster Manufacturing Co., Inc., 153 Me. 265, 272 (1957) [Law Court avoids constitutional question by concluding that a ten-word phrase "crept into the law by some inadvertence. . ."].

The plain language of section 2901 is entirely consistent with its long legislative history,[28] leaving no room for an administrative interpretation at odds with both.

Language of Statute

If the legislature had meant to ban the operation of unapproved private schools, "it would have said so in clear and unmistakable language. It is not for [the Court] to read into the statute an intent which is obviously not there," Squires v. Inhabitants of Augusta, 155 Me. 151, 167 (1959). Especially in view of the fact that the present action was commenced months before the 110th Legislature completed its debate on the recodification of the Education Laws,[29] i.e., Title 20-A, it would not have been difficult to draft section 2901 so as to provide that "no private school may operate with

compulsory-school-age children in attendance unless it meets the private-school approval requirements."[30]

The defendants essentially invite the Court to ignore all language in the opening clause of section 2901 following the phrase "[a] private school may operate. . . ."[31] "Nothing in a statute may be treated as surplusage if a reasonable construction supplying meaning and force is otherwise possible." Labbe v. Nissen Corp., 404 A.2d 564, 567 (Me. 1979). But cf. Farmington Dowel Products Co., Inc. v. Forster Manufacturing Co., Inc., supra. All of the language rendered mere surplusage under defendants' interpretation becomes imbued with both "meaning and force" by construing section 2901 as a description of the criteria prescribed for private schools which may be considered adequate alternatives to public schools for compulsory attendance purposes.

The Statutory Scheme

The Maine statutory scheme of compulsory education is an historically enlightened legislative response to the important parental and public interests inherent in the education of the young; one not lightly to be disregarded by courts, see Squires v. Inhabitants of Augusta, 155 Me. at 167, by municipalities, see id., or by administrators, cf. Central Maine Power Co. v. Public Utilities Commission, 458 A.2d at 741; Maine School Administrative District No. 15 v. Raynolds, 413 A.2d 523, 529-31 (Me. 1980). See Squires v.

Inhabitants of Augusta, 155 Me. at 159 ["The State educational policy cannot and must not be interfered with by any subordinate governing body."] In order to determine the legislative intent in relation to a particular section of a comprehensive statute, courts should consider the statutory scheme in its entirety and "interpret[] [the] statute . . . so that all of its provisions are read in harmony and are effectuated." Seven Islands Land Company v. Maine Land Use Regulation Commission, 450 A.2d 475, 480 (Me. 1982). Yet defendants' construction of section 2901 ill serves, indeed it dramatically alters, the long-standing legislative scheme underlying compulsory education in Maine.[32]

Compulsory-school-age children who fail to establish their entitlement to an exemption from the requirement of public school attendance are considered "habitual truants" if "[a]bsent from school without excuse for the equivalent of 10 full days, or for at least 1/2 day on 7 consecutive days, within any 6-month period." 20-A M.R.S.A. §5051(1). Any person who has control over an habitual truant and bears primary responsibility for that truancy is guilty of a "civil violation" and "shall be punished by a forfeiture of not more than $200," 20-A M.R.S.A. §5053(4)(A)(1), payable "to the treasurer of the school administrative unit in which the offense was committed for the support of its public schools." 20-A M.R.S.A. §5053(4)(B).

The Maine Legislature has prescribed detailed procedural safeguards and placed primary reliance upon local public school officials for the conciliation of truancy disputes and for the enforcement of

the truancy laws. Local public school officials are directed, under the Commissioner's guidance, to promulgate reasonable rules for the enforcement of the truancy laws. 20-A M.R.S.A. §5003.

It is the statutory duty of the public school principal to report an habitual truant to the public school superintendent, whose statutory duty it is to attempt to resolve the problem informally and, if unsuccessful, to refer the matter to the local school board, together "with the principal's report and any other useful information." 20-A M.R.S.A. §5051(2)(A)-(B). It is the duty of the school board to hear the matter after giving seven days' written notice to the parent or guardian of the alleged truant, stating the date, time and purpose of the hearing, the necessity that parents and child attend, and the right to inspect the child's attendance records and the principal's report. 20-A M.R.S.A. 5051(2)(C).

After considering the facts and discussing the matter with the child and with the parent or guardian, the local board is required either (1) to direct the child to attend school as required by statute and inform the parent or guardian of the legal responsibility to assure the child's attendance, or (2) to waive the compulsory attendance requirement, provided the child is at least 14 years old. 20-A M.R.S.A. §5051(2)(D).

A decision adverse to the parent or guardian may be appealed to the Commissioner, who is required to appoint "a fair hearing officer" to hear the appeal and report on the testimony presented, recommending

a disposition to the Commissioner, who is required to affirm, modify or reverse the decision of the local school board.[33] 20-A M.R.S.A. §5051(2)(E).

Attendance officers elected yearly by the school board are required to investigate alleged habitual truancies and report to the school board. Upon the written direction of the school board or the superintendent, attendance officers are required to file a complaint in Maine district court seeking imposition of the forfeitures prescribed by section 5053. 20-A M.R.S.A. §5052(2).

Defendants' interpretation of the education laws would arrogate to the Commissioner the powers and responsibilities entrusted by the legislature to local public school authorities, see 20-A M.R.S.A. §2 (1981), and eliminate entirely the sensitive administrative safeguards of notice, hearing and conciliation which are prerequisite to the commencement of any judicial proceeding for the enforcement of the truancy laws.

The 110th Legislature recodified, without substantive change,[34] the various long-standing statutory provisions prescribing truancy sanctions against parents, see 20-A M.R.S.A. §§2901, 2902, 5001(1), (2)(D), & 5051-53, notwithstanding the fact that plaintiffs' present counsel pointed out to the Commissioner as early as May 1980 that there did not appear to be any statutory basis for prohibiting the operation of unapproved schools.

Under its scheme for the governance of compulsory education the 110th Legislature has mandated that local public school officials

make every reasonable effort at conciliation with the parents of alleged truants prior to the commencement of administrative action. Next, the legislature has prescribed several levels of administrative proceedings in advance of any recourse to judicial action. Nowhere in this elaborate statutory scheme is there the slightest indication that the legislature meant to permit the circumvention of these procedural requirements merely because the Commissioner or any other defendant may consider the closing of private schools more appropriate than truancy-law enforcement against parents.

Inviting Unnecessary Constitutional Issues

Defendants' construction is not only at odds with the legislative scheme, it gratuitously raises grave constitutional problems. See United States v. Lee, 455 U.S. 252, 257-58 (1982) [limitations on religious liberty must be "essential to accomplish an overriding governmental interest"]; Johnson v. Robison, 415 U.S. 361, 384-86 (1974) [distinguishing between direct and indirect burdens on religion]; Braunfeld v. Brown, 366 U.S. 599, 605-07 (1961) [plurality opinion] [regulation of secular activity, so as indirectly to make religious practice more expensive, "wholly different" from legislative attempts to make religious practice unlawful]; Pierce v. Society of Sisters, 268 U.S. 510, 534-35 (1925) [statute seriously (though indirectly) impairing value of property of private schools, held unconstitutional]. See also Southeastern Promotions, Ltd. v. Conrad,

420 U.S. 546, 558-59 (1975) ["presumption against prior restraints is heavier - and the degree of protection broader - than that against limits on expression imposed by criminal penalties"]; Kunz v. New York, 340 U.S. 290, 293-95 (1951) [ordinance giving police commissioner unbridled discretion to grant or refuse permits to speak on religious matters in public streets was invalid prior restraint on exercise of First Amendment rights]; Martin v. City of Struthers, 319 U.S. 141, 146-49 (1943) [ordinance forbidding knocking on doors or ringing doorbells in order to distribute handbills or circulars was invalid as applied to Jehovah's Witness seeking to advertise religious meeting, despite state claim of nuisance]. See generally Jeffries, Rethinking Prior Restraint, 92 Yale L.J. 409 (1983).

Legislative Acquiescence

Struggling against the clear language, history and legislative scheme of the compulsory education statutes and disregarding the serious constitutional difficulties raised by their efforts to close church-affiliated schools, defendants contend that their construction of section 2901 is binding on the Court because the 109th Legislature acquiesced in their construction.

Legislative acquiescence offers a precarious perch from which to construe a statute even in the best of circumstances. Legislative acquiescence is "significant" in assessing the intent of a Maine legislature, if the administrative interpretation is reasonable, has

been called to the attention of a legislature subsequent to the enacting legislature and if it is reasonably inferable that the administrative interpretation was recognized by the later legislature as a valid construction. See In re Spring Valley Development, 300 A.2d 736, 743-45 (Me. 1973) [after attention of 105th Legislature had been specifically directed to administrative interpretation of bill enacted by 104th, actions of 105th became "significant" in assessing intent of 104th]. See also Androscoggin County Savings Bank v. Campbell, 282 A.2d 858, 865 (Me. 1971) [ambiguous statutory amendments in 1969 not to be construed as contrary either to 1917 Attorney General's opinion or to interpretation given by banking commissioners since 1917].

MACS sponsored two bills before the 109th Legislature (L.D. 1817 and L.D. 1980) to exempt church-sponsored schools from the school approval requirements. Since each bill stated that it was designed to "make approval optional for church-sponsored schools," and would have exempted these schools from approval and their students from compliance with the compulsory public-school attendance law, it is fair to infer either that someone involved in drafting these bills knew of the Commissioner's interpretation or that the drafter thought that approval was or might be considered a condition precedent to the lawful operation of a private school. But both the trial record and the legislative record make clear that these bills were sponsored, and, at least initially, probably drafted, by MACS, which was well

aware of the Commissioner's consistent contention that an unapproved private school cannot operate at all with compulsory-school-age children in attendance, see, e.g., pp. 13-15 supra. See 1980 Me. Leg. Rec. 387 (House, March 10, 1980) [Senator Trotzky stating, "This bill was brought in by (MACS)"].

Much of the floor debate centered on the right and duty of the state to influence or control sectarian schools, see id., at 344-50 (House, March 10, 1980); id., at 386-87 (Senate, March 11, 1980), but it does not follow that the legislature was aware that the Commissioner considered Department approval to be a precondition for lawful operation.[35] Certainly, subjecting the parents of children attending church schools to truancy actions (the legislatively-contemplated response to nonapproval, which has only since been disavowed by the Commissioner) would have a significant affect on the schools, thereby affording the state substantial de facto control over the church schools. Furthermore, there is not the slightest indication in the record of this case or in the legislative record from which it reasonably could be inferred that the 109th Legislature recognized the Commissioner's interpretation as valid.

In the context of the present case there is no ambiguity requiring resort to "legislative" acquiescence, no pertinent administrative interpretation was called to the attention of the 109th Legislature and its reasons for rejecting L.D. 1817 and L.D. 1980 were unrelated to whether the Commissioner is or ever has been empowered by statute to close unapproved private schools.

The Court is therefore satisfied that neither section 2901 nor any other statutory provision prohibits private schools from operating merely because they are unapproved or refuse to seek or accept approval. A fortiori, no statutory provision requires the Court to fashion injunctive remedies against the operation of unapproved private schools without due regard for the public and private interests involved.

The Regulatory Scheme

Subsection I(4) of the regulations purports to authorize the Commissioner to "seek" injunctions against the operation of unapproved private schools. The Board regulations neither expressly prohibit nor purport to empower injunctive relief against the operation of unapproved private schools; any such regulation would be invalid.

A "legislative" rule[36] is valid only if the legislature has authorized its promulgation. Anheuser-Busch, Inc. v. Walton, 135 Me. 57 (1937). See Maine School Admin. Dist. No. 15 v. Raynolds, 413 A.2d at 529; State v. Dube, 409 A.2d 1102, 1104 (Me. 1979); Frank v. Assessors of Skowhegan, 329 A.2d 167, 170 (Me. 1974). Thus a legislative rule is void if it extends, modifies or conflicts with the enabling statute. Anheuser-Busch, Inc. v. Walton, 135 Me. at 66-68; 1 Cooper, State Administrative Law 254 (1965). See Frank v. Assessors of Skowhegan, 329 A.2d at 170. The relevant enabling statute, see 20-A M.R.S.A. §405(3)(E), merely directs the Board to "[a]dopt or

amend rules on requirements for approval and accreditation of elementary and secondary schools." 20-A M.R.S.A. §405(3)(E). The statutory directive to adopt rules governing "approval" and "accreditation" is designed to ensure greater definition of the criteria for exemption from compulsory public school attendance available to students attending approved private schools, and forms a comfortable fit within the legislative scheme of the compulsory education laws, by focusing enforcement efforts upon the individual student and parent.

The defendants apparently assert that the Board is empowered to authorize the Commissioner to bypass the elaborate truancy-law enforcement scheme put in place by the legislature by proceeding directly to court for injunctive relief against the operation of unapproved private schools. Although the defendants may consider the closing of unapproved private schools in these circumstances a more efficient and expeditious means of securing compliance with the compulsory education laws on the part of private school students and their parents,[37] it is not for the defendants, but for the legislature, if and when it chooses, to do so, and the legislature has not chosen to do so.

In its recent recodification of the education laws the 110th Legislature manifested no intention to redirect enforcement sanctions from the parents of students attending unapproved private schools to

the unapproved private schools themselves. See pp. 26-30 supra. As the Law Court has held in an analogous context:

> [The Commission's] power to make rules and regulations extends only to such details of administration as are necessary to carry out and enforce the mandate of the legislature. What the [Commission] has attempted to do in this instance constitutes a flagrant usurpation of a prerogative which belongs to the legislature, and is subversive of those principles which are the foundation of orderly government. The regulations in question are invalid. . . .

Anheuser-Busch, Inc. v. Walton, 135 Me. at 67-68 [involving rules and regulations of State Liquor Commission].

Similarly, to the extent that the board regulations attempt to institute a scheme whereby private schools can operate only if approved, the Board has exceeded its power and its regulations are invalid.[38]

C. Relief Under the Inherent Equity Powers of the Court

Requests for injunctive relief are addressed "to the conscience of the chancellor. . . ," Town of Shapleigh v. Shikles, 427 A.2d at 465, who is guided by the balance between the needs of the party requesting injunctive relief and the hardship which injunctive relief would visit upon the party enjoined, Town of Shapleigh v. Shikles, 427 A.2d at 464; Natale v. Kennebunkport Board of Zoning Appeals, 363 A.2d 1372, 1377 n.9 (Me. 1976), and by the public interest, see Ingraham v. University of Maine at Orono, 441 A.2d 691, 693 (Me. 1982);[39] Note, Developments In The Law - Injunctions, 78 Harv. L. Rev. 994, 1001

(1965). The Law Court "has always been conservative" in its approach to the appropriateness of injunctive relief, Haskell v. Thurston, 80 Me. 129, 132 (1888), which is "extraordinary [relief] only to be granted with the utmost caution when justice urgently demands it and the remedies at law fail to meet the requirements of the case." Bar Harbor Banking & Trust Co. v. Alexander, 411 A.2d 74, 79 (Me. 1980). Thus, the need for injunctive relief is per se insufficient, unless the moving party "show[s] plainly that [his] right is clear," Haskell v. Thurston, 80 Me. at 132, and that absent injunctive relief the violation of that right will cause irreparable injury, Bar Harbor Banking & Trust Co. v. Alexander, 411 A.2d at 79.

Defendants' Need

(i) The Right Violated

The contention that the operation of unapproved private schools contravenes section 2901 must fail for the reasons previously discussed. The other relevant respect in which the plaintiff church schools are alleged to have acted unlawfully is by "inducing habitual truancy."

The defendants assert that "the record evidence . . . demonstrates beyond any question that . . . [the ten church schools and the pastors and administrators in charge of these schools] induce their students to attend their unapproved schools." Defendants' Memorandum Regarding Ultra Vires Issue, at 10. On the basis of the entire record in this

case there appear to be but two plausible forms which any such "inducement" of habitual truancy might take: first, that the very operation of an unapproved church school with compulsory-school-age children in attendance constitutes an inducement of habitual truancy; and second, that the pastors or administrators induce students to attend their church schools by communicating their religious belief that the Bible commands Christians to establish schools in order to instill biblical principles and that Christ is the sole sovereign in such matters. See Plaintiffs' Proposed Findings, ¶¶11, 13, 17, 21-25, 27, 31, 63-64, and transcript citations therein.

Title 20-A M.R.S.A. §5053(1)(B) provides that it shall be a "civil violation" to induce a student to violate section 5051, subsection 1 (defining habitual truancy). See State v. McDonough, Doc. No. Pen-83-252 slip op., at 8 n.5 (Me. December 8, 1983) [offense of being primarily responsible for the habitual truancy of a student under one's control is a civil violation]. "A person guilty of" inducing habitual truancy "shall be punished by a forfeiture of not less than $500," 20-A M.R.S.A. §5053(4)(A)(2), payable "to the treasurer of the school administrative unit in which the offense was committed for the support of its public schools," id. §5053(4)(B). (Emphasis added.)

Under Maine law the operation of an unapproved church school attended by compulsory-school-age children does not constitute an inducement of habitual truancy. The Maine Supreme Judicial Court authoritatively defines the term "induce" as follows:

> Webster's New International Dictionary, 2d Ed., defines 'induce' as 'to bring on or about; to effect; cause.' Black's Law Dictionary, 4th Ed., defines 'induce' as 'to bring on or about, to effect, cause to influence to an act or course of conduct, lead by persuasion or reasoning, incite by motives, prevail on.' The term induce signifies a successful persuasion; that the act has been effective and the desired result obtained. State v. Stratford, 55 Idaho 65, 37 P.2d 681 (1934); Hautau v. Kearney & Trecker Corporation, 179 F. Supp. 490 (D.C. 1959); Vol. 21 Words and Phrases, Permanent Ed., p. 481.

State v. Miller, 252 A.2d 321, 324-35 (Me. 1969) [inducing one to take indecent liberties means that persuasion has resulted in the doing of the indecent act]. Other courts similarly hold that to "induce" requires some form of persuasion. International Brotherhood of Electrical Workers v. National Labor Relations Board, 341 U.S. 694, 701-04 & n.7 (1951) ["induce" in N.L.R.A. means to lead on; to influence; to prevail on; to move by persuasion or influence]; United States v. Burkley, 591 F.2d 903, 917 (D.C. Cir. 1978) [relative to entrapment defense, inducement refers to government persuasion, harassment or other pressure on defendant to commit the crime]; Fromberg, Inc. v. Thornhill, 315 F.2d 407, 411 (5th Cir. 1963) [under statute forbidding active inducement of patent infringement, inducement "has connotations of active steps knowingly taken . . . as distinguished from accidental or inadvertent]; In the Matter of Kearney Chemicals, Inc., 468 F. Supp. 1107, 1111 (D. Del. 1979) [in tort case for inducing breach of contract, "induce" refers to causing one by persuasion or intimidation to choose one course of conduct over another].

These judicial definitions conform to the meaning commonly given the term "induce," which involves some form of persuasion or influence as an essential element.

The fact that "inducing" habitual truancy carries a substantially more stringent penalty (forfeiture of not less than $500) than does the offense of being primarily responsible for the truancy of a child under one's control (forfeiture of not more than $200) makes clear that the legislature considers inducing habitual truancy to be a more serious matter than "being responsible" for truancy. Indeed, the Statement of Fact accompanying the 1981 bill, which reduced the penalties for these offenses, stated, "This bill . . . would change the penalty section for a parent responsible for truancy to a civil violation punishable by either a $200 or a $500[40] forfeiture, depending on the nature of the offense." 110th Me. Leg., H.P. 1177, L.D. 1401, [emphasis added], enacted as amended P.L. 1981 c. 391 §1, 1981 Laws of Maine at 620. An interpretation removing the element of persuasion from the ordinary meaning of "induce" would disregard the clear legislative directive that the penalty for "inducing" habitual truancy should apply only to conduct more severe than merely "being responsible" for truancy.

In recognition of the judicial "obligation to avoid constitutional decisions when other grounds are available," Morris v. Travisono, 707 F.2d 28, 33 (1st Cir. 1983), the Court concludes that mere operation of these unapproved church schools with compulsory-school-age children

in attendance does not constitute an inducement of habitual truancy.[41] Indeed, since defendants allege that the plaintiffs "operate schools for compulsory school age children . . . and . . . induce their students to attend," Defendants' Memorandum Regarding Ultra Vires Issue, at 10, it is not entirely clear that defendants contend that the mere operation of an unapproved school constitutes an "inducing." And, even assuming the contrary, under the equities of this case injunctive relief is inappropriate.

Irreparable Injury

There can be no irreparable injury where adequate relief is available at law. Bar Harbor Banking & Trust Co. v. Alexander, 411 A.2d at 79; 11 Wright and Miller, Federal Practice and Procedure §2944, at 392 (1973). "If the legal remedy available to the plaintiff would be as effective as . . . [injunctive] relief, there is no need for the court to invoke its equity jurisdiction."[42] Id. at 396.

An available legal remedy generally is considered inadequate if it can be secured only through a multiplicity of actions, as when the conduct is likely to be of a recurring nature. Id. at 397-98. But even if the operation of unapproved schools does constitute an inducement of habitual truancy, there is no reason to suppose that prosecutions under section 5053(1)(B) would be inadequate or need be multiplicitous. It does not appear that the authorized penalty, i.e., a forfeiture of not less than $500, is inadequate to prevent recurring

violations. Cf. City of Tupelo v. Walton, 237 Miss. 892, 116 So.2d 808 (1960) [owner enjoined from operating store in violation of Sunday closing law where authorized fine was insignificant, and owner had 75 prior convictions and statute authorized injunction]; State v Preuss, 217 Minn. 100, 13 N.W.2d 774 (1944) [25 prior convictions].

There are two principal reasons advanced in explanation of the customary judicial reluctance to enjoin the commission of a crime, see, e.g., United States v. Zenon, 711 F.2d 476, 479 (1st Cir. 1983); Dommer v. Crawford, 638 F.2d 1031, 1047 (7th Cir. 1980); United States v. Jalas, 409 F.2d 358, 360 (7th Cir. 1969); 11 Wright & Miller, Federal Practice and Procedure §2942, at 386 (1973); Note, Developments in the Law - Injunctions, 78 Harv. L. Rev. at 1013. The first reason, i.e., "concern for rights [of the alleged offender] to the safeguards of criminal procedure," United States v. Zenon, 711 F.2d at 479, has been criticized, with some justification, as illogical,[43] and, in any event, may be inapposite here.[44] But the second justification: to prevent frustration of the legislatively-prescribed sanction and circumvention of prosecutorial discretion, 11 Wright & Miller, Federal Practice and Procedure §2942, at 386 (1973); Note, Developments in the Law - Injunctions, 78 Harv. L. Rev. at 1016, relates to the adequacy of the available legal remedy. The complex enforcement scheme crafted by the legislature and the great latitude left to "prosecutors" under that scheme, see pp. 28-29 supra, speak forcefully in favor of a finding that the sanction selected by the

legislature is adequate, regardless of whether inducing habitual truancy be deemed a criminal or civil violation.

Burden of Injunctive Relief on Plaintiffs

There is a strong presumption against the constitutional validity of any restraint of future expression. Bantam Books, Inc. v. Sullivan, 372 U.S. 58, 70 (1963). See also Near v. Minnesota, 283 U.S. 697, 713-23 (1931) [statute permitting public officials to bring publisher before judge to obtain injunction against publication of scandalous and defamatory matter was an unconstitutional prior restraint].

Religious worship and discussion, integral aspects of the curricula of the plaintiff church schools, constitute forms of speech and association entitled to full First Amendment protection. Widmar v. Vincent, 454 U.S. 263, 269-70, n.6 (1981) [state-university regulation prohibiting use of facilities for religious worship and teaching was content-based discrimination against religious speech, not narrowly drawn to serve a compelling state interest]. "[T]he regulation of a communicative activity . . . must adhere to more narrowly drawn procedures than is necessary for the abatement of an ordinary nuisance." Vance v. Universal Amusement Co., Inc., 445 U.S. 308, 315 (1980) [per curiam]. "[T]he burden of supporting an injunction against a future [communication] is even heavier than the burden of justifying the imposition of a criminal sanction for a past

communication." Id. at 315-16. "[A] free society prefers to punish the few who abuse rights of speech after they break the law than to throttle them and all others beforehand." Id. at 316 n.13 [emphasis in original].[45]

At first glance it may seem superficial to draw a distinction between closing down unapproved church schools, on the one hand, and multiple truancy prosecutions against the parents of unapproved church-school students, on the other. But aside from the singularly sufficient reason that the Maine Legislature has mandated truancy-law enforcement and has never authorized the closing of a private school by courts or administrators for any reason relevant to the present action, there is a vital difference between the two approaches and it goes to the heart of the plaintiffs' objections in this case.

Defendants claim a right to close[46] schools which plaintiffs assert are "pervasively sectarian" institutions, Cuesnongle v. Ramos, 713 F.2d 881, 883 (1st Cir. 1983),[47] in order to protect the state's interest in the compulsory education of Maine children. Without a doubt the closing of a "pervasively sectarian" school would burden the First Amendment rights of more individuals (those teaching and preaching at, and those supporting and attending, the institution) in a more direct and substantial manner than truancy actions against the parents or guardians of the "habitual truants" whose education the state seeks to promote.[48] Therefore, the requested injunctive relief raises far more problematic constitutional questions than those

brought into play by the truancy-prosecution scheme prescribed by the legislature.

And from a purely practical perspective as well injunctive relief would impose substantially greater burdens on all of the plaintiffs, the churches, schools, parents and staff, than would enforcement under the legislative scheme. The requested injunctive relief (apparently) would prohibit the operation of an unapproved church school during public school hours if a single compulsory-school-age child were in attendance, in derogation of the religious liberties of the nonschool-age students and despite the fact that the school-age child might be otherwise exempt from the requirement of compulsory attendance at a public school. For example, the local school board may excuse compliance with the compulsory education laws for students 14 years of age or older. 20-A M.R.S.A. §§5002(1)(E), 5051(2)(D)(2). Alternatively, a compulsory-school-age child attending an unapproved church school may have obtained an exemption by establishing that the school (which may be unapproved solely because it refused to seek approval) provides "equivalent instruction," or by establishing that the child receives "equivalent instruction" "in any other manner" for which the approval of the Commissioner has been obtained. 20-A M.R.S.A. §5001(2)(D).[49]

The Public Interest

The Maine legislature perceives the public interest as requiring that truancy-law enforcement be commenced at the local level by local officials who are directed to consider and address the needs of the individual student, whereas the requested injunctive relief would relegate the individual student to the backgr und of the constitutional controversy between church and state.

It does not appear that the plaintiff church schools have acted unlawfully;[50] if they have acted unlawfully, it does not appear that defendants' remedy at law is inadequate; and injunctive relief would pose a severe risk of burdening protected First Amendment rights. Accordingly, injunctive relief against the church schools is not warranted.

D. Dismissal of Counterclaim

There being no relevant legislative prohibition and no legislative delegation of the power to prohibit the operation of private schools, the defendants are no more entitled to the requested declaratory relief than to injunctive relief. There being no obligation to seek approval, the plaintiff church schools are not required to provide the information n cessary to obtain approval. Whether unapproved schools may be required to furnish to the state the names, addresses and attendance records of their students is not before the Court, since it

does not appear that there has been any attempt to impose such a requirement.[51]

Except for possible prosecution under the truancy laws, nonapproval is the only direct consequence of the failure or refusal of the plaintiff church schools to provide the school approval information demanded by the Department.

The counterclaim is therefore DISMISSED.

III. COMPLAINT

There being no legislative license to close unapproved private schools, the Court must next determine whether the complaint presents a "case or controversy."

Article III, section 2, of the United States Constitution restricts the exercise of the judicial power of the United States to "[c]ases . . . [and] [c]ontroversies." U. S. Const. art. III, §2, cl. 1.

A. Ripeness of Claim for Relief Enjoining Truancy Actions Against Parents[52]

The doctrine of "ripeness" has undergone significant transformation from the days when the term "advisory opinion" was afforded a sweeping definition. See International Longshoreman's and Warehousemen's Union v. Boyd, 347 U.S. 222 (1954). Since the watershed decision in Abbott Laboratories v. Gardner, 387 U.S. 136

(1967), ripeness jurisprudence has assumed a decidedly practical bent.[53] Absent congressional action curtailing jurisdiction, "[t]he problem [of the ripeness of a challenge to a statute, regulation or rule] is best seen in a twofold aspect, requiring . . . evalua[tion of] both the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." Id. at 149.

Fitness of Issues for Judicial Decision

The existence of a sufficiently developed factual record is essential to any determination that problematic constitutional issues are ripe for judicial review. Babbitt v. United Farm Workers National Union, 442 U.S. 289, 301, 304 (1979); Abbott Laboratories v. Gardner, 337 U.S. at 149; American Committee for Protection of Foreign Born v. Subversive Activities Control Board, 380 U.S. 503, 505 (1965) [per curiam]. Due to the fact-specific nature of the constitutional claim asserted by the parent-plaintiffs, Bangor Baptist Church v. State of Maine, 549 F. Supp. at 1216-20, their claim cannot be considered ripe without a fully developed record, cf. Abbott Laboratories v. Gardner, 387 U.S. at 149 [sparse factual record no obstacle to ripeness where "issue tendered is a purely legal one"]. Although the parties have labored to develop the record, most of their efforts have focused upon whether the state's interest in either "licensing" or closing the various plaintiff church schools overrides the plaintiffs' religion-

based interest in insulating their church schools from the state approval requirement. Much of that evidence is rendered valueless since Maine law simply establishes a private-school approval scheme for the purpose of determining the eligibility of private school students to an exemption from the public-school compulsory attendance requirement. What remains to be decided under the parent-plaintiffs' request that the defendants be enjoined from prosecuting parents under the truancy laws is whether the compulsory education law, despite its flexibility and myriad exceptions, impermissibly burdens the exercise of the religious beliefs of the plaintiff-parents.[54] The present record relevant to these issues is extraordinarily sparse.

The very existence of this flexible, in some respects fairly new, and largely untested, statutory scheme, itself militates against judicial review. Although the Board's present approach to the implementation of the statutory scheme implicates serious First Amendment concerns, those constitutional concerns are mooted by the Court's ruling that the Board's present approach is invalid under the statutory scheme. See p. 36 supra. Presumably, new Board regulations implementing a different approach will follow. How the new Board regulations may comport with the statutory scheme and affect plaintiffs' constitutional rights are questions which time, not speculation, can best answer. See California Bankers Association v. Shultz, 416 U.S. 21, 55-56 (1974) [challenge to statutory record-keeping requirement, on grounds that it "could possibly be used to obtain" protected information, held nonjusticiable].

Hardship To The Parties

Affecting both the fitness of the challenge for judicial review and the hardship to the parties in the absence of judicial review, the likelihood of enforcement is central to the ripeness of an anticipatory challenge to a statute prohibiting conduct arguably entitled to constitutional protection.

> A plaintiff who challenges a statute must demonstrate a realistic danger of sustaining a direct injury as a result of the statute's operation or enforcement. O'Shea v. Littleton, 414 U.S. 488, 494 (1974). But '[o]ne does not have to await the consummation of threatened injury to obtain preventive relief. If the injury is certainly impending that is enough.' Pennsylvania v. West Virginia, 262 U.S. 553, 593 (1923); see Regional Rail Reorganization Act Cases, 419 U.S. 102, 143 (1974); Pierce v. Society of Sisters, 268 U.S. 510, 526 (1925).
>
> When contesting the constitutionality of a criminal statute, 'it is not necessary that [the plaintiff] first expose himself to actual arrest or prosecution to be entitled to challenge [the] statute that he claims deters the exercise of his constitutional rights.' Steffel v. Thompson, 415 U.S. 452, 459 (1974); see Epperson v. Arkansas, 393 U.S. 97 (1968); Evers v. Dwyer, [358 U.S. 202,] at 204. When the plaintiff has alleged an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by a statute, and there exists a credible threat of prosecution thereunder, he 'should not be required to await and undergo a criminal prosecution as the sole means of seeking relief.' Doe v. Bolton, 410 U.S. 179, 188 (1973). But 'persons having no fears of state prosecution except those that are imaginary or speculative, are not to be accepted as appropriate plaintiffs.' Younger v. Harris, 401 U.S. 37, 42 (1971); Golden v. Zwickler, 394 U.S. 103 (1969). When plaintiffs 'do not claim that they have ever been threatened with prosecution, that a prosecution is likely, or even that a prosecution is remotely possible,' they do not allege a dispute susceptible to resolution by a federal court. Younger v. Harris, [401 U.S.] at 42.

Babbitt v. United Farm Workers National Union, 442 U.S. at 298-99 (1979).[55]

The First Circuit recently found no "case or controversy" where a juvenile brought a First and Fourteenth Amendment facial challenge against a city curfew ordinance directed against persons under age 16. McCollester v. City of Keene, 668 F.2d 617, 621-22 (1st Cir. 1982). The court considered the action unripe because the juvenile plaintiff failed to allege the conduct in which she intended to engage and because the challenged ordinance was susceptible to an interpretation by local officals which would limit its reach to after-curfew conduct posing a risk of injury or disturbance to others. Id. at 620-21. The First Circuit said that "there is no case or controversy unless the plaintiff is subject to something more than a speculative risk of prosecution." Id. at 621.

> There must be 'a credible threat of prosecution' of the plaintiff personally, Babbitt, supra, which means, in the words of Justice Brennan - a justice whose opinion in Steffel shows him sympathetic to a broad construction of Article III in connection with complaints seeking a federal court declaratory judgment with respect to the constitutionality of state statutes - a 'likelihood that a prosecution will actually ensue.' Regional Rail Reorganization Act Cases, supra.

Id. at 621. See also City of Los Angeles v. Lyons, ___ U.S. ___, 103 S.Ct. 1660, 51 U.S.L.W. 4424, 4426-28 (1983); Munoz-Mendoza v. Pierce, 711 F.2d 421, 426-30 (1st Cir. 1983); High Ol' Times, Inc. v. Busbee, 621 F.2d 135, 139 (5th Cir. 1980) [plaintiff must demonstrate "a genuine threat of imminent prosecution"]; Bickham v. Lashof, 620 F.2d

1238, 1247 (7th Cir. 1980) ["case or controversy" requirement satisfied by showing that state intended to prosecute act plaintiff expressed intention to commit]; St. Martins' Dress, Inc. v. Carey, 605 F.2d 41, 44-45 (2d Cir. 1979) [no "case or controversy" in challenge to child pornography statute where prosecutors declared that they would not enforce statute in regard to the book which was the object of plaintiff's complaint]; Rincon Band of Mission Indians v. County of San Diego, 495 F.2d 1, 4-6 (9th Cir.), [absent some relevant history of prosecution, statements made by deputy sheriffs to Indians, that gambling ordinance was applicable to all in the county, and by the sheriff, that all laws would be enforced, were insufficient threats of prosecution to give rise to "case or controversy" in challenge to enforcement of ordinances on Indian reservations], cert. denied, 419 U.S. 1008 (1974). See generally Comment, Threat of Enforcement - Prerequisite to a Justiciable Controversy, 62 Colum. L. Rev. 106 (1962).

There is no threat by any state or local official to enforce the truancy laws against any of these plaintiff parents. The record reveals that defendants expressly disavow any intention to institute, encourage or permit truancy actions against the parents of church-school students. See Babbitt v. United Farm Workers National Union, 442 U.S. at 302. The Commissioner testified that, if it were held that truancy actions against the parents of children attending unapproved church-schools offered the only means of enforcing the

school approval laws and regulations, he would "act through the courts" rather than institute truancy actions, Tr. at 1085, 1139, and that before he could pursue truancy actions against parents he would first have to obtain legislative authorization for additional funding and staff, id. at 1144.[56] Enforcement of the truancy laws against the parents of children attending unapproved church-schools was characterized by the Commissioner as a "misuse" of the truancy laws, and "inappropriate, if not harmful," Tr. at 1139-41. The trial testimony was corroborative of an earlier affidavit in which the Commissioner stated that he had "discouraged" local officials from undertaking truancy enforcement against the parents of the students of these unapproved church schools.[57] Second Supplementary Affidavit of Commissioner Raynolds, ¶13 (filed April 20, 1982). On October 14, 1980 the Commissioner instructed school superintendents that, "[u]ntil [they] hear from . . . [the Commissioner's] office, [they] should not take any legal steps to enforce the truancy laws against students attending these unapproved schools." Defendants' Exhibit 36.

These representations by the Commissioner, together with the position consistently taken throughout these proceedings by the defendants, through their counsel, see, e.g., Defendants' Post-Trial Brief, at 59 ["truancy actions are an inappropriate, ineffective and unacceptable . . . way of dealing with the issues in this case"], demonstrate that the defendants do not contemplate, even if they are empowered to pursue or "direct,"[58] truancy prosecutions against the

parents of children attending the plaintiff church schools.

Furthermore, the record is devoid of evidence that a truancy proceeding has ever been commenced, even to this day, against a parent or guardian of any child attending any unapproved private school, much less one of the unapproved plaintiff church schools. Moreover, there is no evidence that there has ever been a threat, by local public school officials or by any of the defendants, to bring, encourage or permit any such truancy action. Instead, the record reveals: (1) repeated disavowals by the Commissioner of any intention to proceed with truancy actions against either students or parents; (2) instructions by the Commissioner to all public school superintendents to refrain from truancy actions against those students and parents "until [the Superintendents] hear from . . . [the Commissioner's] office;" (3) uniform compliance by local public school officials with the instructions of the Commissioner; (4) uncontradicted evidence that, before resorting to truancy actions against the parents of students attending these unapproved schools, the Commissioner would first have to obtain legislative authorization for additional staff and funding; and (5) no intimation whatever that any of the defendants would resort to truancy actions to enforce the compulsory education laws once it had been finally determined by the courts that direct action to close unapproved private schools is ultra vires.

Finally, the complaint does not allege and the record does not indicate that any potential truancy-action prosecution against the

plaintiff parents has chilled the exercise of their First Amendment rights or affected the actions of those parents or any other plaintiff. See Doe v. Bolton, 410 U.S. at 188-89 [challenge to Connecticut abortion statute justiciable since doctors alleged that the statute "chilled and deterred" practice of their profession].

Since the defendants deny any intention to institute truancy actions against the parents of students attending these unapproved church schools, neither plaintiffs nor defendants can point to any relevant hardship resulting from the Court's refusal to enjoin.

B. Claim for Relief Enjoining Actions Against Schools for Inducing Truancy by Mere Operation

In dismissing defendants' counterclaim, the Court has held that mere operation of an unapproved private school does not violate the prohibition against inducing habitual truancy. See pp. 36, 46-47 supra. Accordingly, and in view of the judicial obligation to avoid serious constitutional issues when other grounds are available, p. 40 supra, the Court does not reach the issue as to whether a statute authorizing such an action would violate the constitutional rights of the plaintiffs. Moreover, the Court is satisfied that enjoining the defendants from instituting such actions under the current statute would be inappropriate.[59] "[T]here is no evidence before [the Court] that would indicate that defendants will not accept in good faith" the Court's holding as to the meaning of the word "induce." Wulp v. Corcoran, 454 F.2d 826, 835 (1st Cir. 1972).

C. The Claim for Relief
Enjoining Actions Against Pastors

Ripeness

The only other credible prospect of truancy prosecution which might be considered sufficient to present a "case or controversy" under the complaint in this action results from the absence of any express disavowal of an intention to commence actions against the plaintiff pastors for inducing habitual truancy in violation of 20-A M.R.S.A. §5053(1)(B). See Babbitt v. United Farm Workers National Union, 442 U.S. at 302. Although the Commissioner did not actually threaten any such prosecution of the pastors in the letters which precipitated the present action, the language of those letters, see Defendants' Exhibits 46a-i [Attorney General will "commence legal action"], is broad enough to encompass an action under the "inducing" statute, and, as of February 16, 1983, defendants' attorneys considered the statute applicable to the conduct of at least some of the plaintiffs. See Defendants' Memorandum Regarding Ultra Vires Issue, at 10-11. Moreover, actions against the plaintiff pastors would fit neatly into the strongly held view of the Commissioner, see pp. 52-53 supra, and defense counsel, see p. 53 supra, that enforcement of the compulsory education laws should be directed at the plaintiff schools, rather than at their students or the parents of their students. Indeed, defendants' threatening assertion, that "the plaintiffs . . . induce their students to attend their unapproved schools," [Defendants Memorandum Regarding Ultra Vires Issue, at 10], appears to refer to

the religious edification of parishioners by the plaintiff pastors. The record is adequately developed as to the nature and basis of this religious instruction. There can be little doubt that in every sense of the word pastors do "induce" parishioners to send their children to church-affiliated schools . that the threatened enforcement actions raise serious constitutional questions.

Accordingly, the claim for injunctive relief protecting the right of the pastors to preach the Gospel is ripe.

Merits

Prosecution of the pastors or the administrators of church schools for inducing truancy, whether in sermons or in other communications with students or parents in the congregation, would raise fundamental free speech and free exercise concerns.[60]

In 1945 the Supreme Court observed that in establishing the boundary "where the individual's freedom ends and the State's power begins . . . the usual presumption supporting legislation is balanced by the preferred place given in our scheme to the great, the indispensable democratic freedoms secured by the First Amendment." Thomas v. Collins, 323 U.S. 516, 529-30 (1945). When First Amendment rights are implicated,

> [t]he rational connection between the remedy provided and the evil to be curbed, which in other contexts might support legislation against attack on due process grounds, will not suffice. These rights rest on firmer foundation. Accordingly, whatever occasion would restrain orderly discussion and persuasion, at appropriate time and place, must have clear support in public danger, actual or impending. Only the gravest abuses, endangering paramount interests, give occasion

> for permissible limitation. It is therefore in our tradition to allow the widest room for discussion, the narrowest range for its restriction, particularly when this right is exercised in conjunction with peaceful assembly.

Id. at 530. "For these reasons any attempt to restrict those liberties must be justified by clear public interest, threatened not doubtfully or remotely, but by clear and present danger." Id. See also id., at 532 (intrusion permitted "only if grave and impending public danger requires" it). "The substantive evil must be extremely serious and the degree of imminence extremely high before utterances can be punished." Landmark Communications, Inc. v. Virginia, 435 U.S. 829, 845 (1978). Government authorities may not "forbid or proscribe advocacy of the use of force or law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." Brandenburg v. Ohio, 395 U.S. 444, 447 (1969) (footnote omitted) [per curiam]. See also Hess v. Indiana, 414 U.S. 105 (1973) [disorderly conduct statute unconstitutionally applied to anti-war protester since there could be no rational inference "that his words were intended to produce, and likely to produce imminent disorder"]. Courts must balance the magnitude and imminence of the danger posed by the speech, against "the need for free and unfettered expression," as well as the "possibility that other measures will serve the State's interests." Landmark Communications, Inc. v. Virginia, 435 U.S. at 843. See also State v. John W., 418 A.2d 1097, 1102 (Me. 1980) [constitutionality of

disorderly conduct conviction must be tested by balancing magnitude and character of evil, as well as its likelihood, against need for free and unfettered expression].

Any action brought against plaintiff pastors, administrators or church schools for inducing truancy by "preaching" that the Bible commands fundamentalist Christians to send their children to schools regulated solely by fundamentalist Christians would certainly "restrain orderly discussion and persuasion," Thomas v. Collins, 323 U.S. at 530. Such a restraint would also hinder the right of assembly and the free exercise of religion. Defendants have not suggested any "grave[] abuses, endangering paramount interests," id., which would justify the threatened restraints. Clearly, there are other, less problematic measures, i.e., enforcement of the truancy laws, which would serve the state interests involved.

Plaintiffs therefore are entitled to declaratory and injunctive relief[61] precluding defendants from bringing actions against them on the grounds that they induce truancy through their statements to parents that the education of their children is a religious duty and that the state should have no role in regulating the education of Christian children.

Dated at Bangor, Maine this 20th day of December, 1983.

United States District Judge

1/The plaintiffs are: ten independent fundamentalist Christian churches and their affiliated schools and pastors; the chief administrators of four of the plaintiff church schools; four parents whose children attend either Bangor Christian Schools or the Grace Baptist Church Schools; two parents of pupils attending Ellsworth Christian School, which is a member of plaintiff Maine Association of Christian Schools (MACS); a Bangor Christian Schools teacher and its principal; a Grace Baptist Church Schools teacher; and MACS.

Calvary Foursquare Church and Gardiner Christian Academy appear to have been omitted from the Second Amended Complaint through inadvertence, after having been added as plaintiffs on December 28, 1981. The chief administrator of Gardiner Christian Academy (Reverend Allen) was named as a plaintiff in the Second Amended Complaint. After defendants counterclaimed against Gardiner Christian Academy, it responded and Gardiner Christian Academy is treated as a plaintiff in the trial stipulation filed with the Court on January 30, 1983. Accordingly, the pleadings are hereby amended to conform to the evidence, pursuant to Fed. R. Civ. P. 15(b).

Also dropped as a party plaintiff is Reverend William Greenwood, the administrator of Kingfield Christian Academy, which has ceased operations and was dropped as a party, along with its affiliate, First Baptist Church, on January 25, 1983.

2/Plaintiffs' 'Revised List of Exhibits,' as supplemented at trial, contains 98 exhibits. Defendants' 'Final Revised List of Exhibits,' as supplemented at trial, contains 102 exhibits. All exhibits were admitted into evidence, except plaintiffs' Exhibit 38, which was withdrawn, and defendants' Exhibits 89 and 90.

3/See note 6 infra.

4/Prior to the spring of 1979 many of the schools which founded MACS belonged to its regional predecessor, Northeast Region American Association of Christian Schools [NERAACS], an organization of Christian schools in New England and New York. NERAACS was gradually phased out of existence as its members formed state associations.

5/Thirteen of the 23 Christian school members of MACS in 1979 are no longer members:

South Hope Christian School
Clinton Christian School
Blaisdell Baptist Academy
Lisbon Falls Christian Academy
Penobscot Valley Christian Academy

Tabernacle Christian Academy
Heritage Christian Academy
Mid-Coast Christian School
Hermon Christian School
Limestone Christian Academy
Enfield Christian School
Central Maine Christian School
Ossippee Valley Christian School.

The ten schools which have remained MACS members since 1979 are

Bangor Christian Schools
Grace Baptist Church Schools
Wayside Christian School
Downeast Christian School
Ellsworth Christian School
West Sumner Christian School
Calvary Christian Academy (Turner)
Kennebec Valley Christian School
Northwoods Christian School
Wiscasset Christian Academy.

Of these, only Bangor Christian and Grace Baptist Church Schools are plaintiffs in this action.

The following seven schools, the first five of which are plaintiffs, have since joined MACS:

Falls Road Christian School
Lee Christian Schools
Victory Christian Schools
Sebec Christian Academy
Athens Christian Academy
Calvary Hill Christian School
Hartland Christian School.

6/Bangor Christian, which began operating in 1970, obtained state approval for each of its first eight years of operation and in 1978 received a five-year approval certificate which expired in June, 1983. Until at least 1975 Bangor Christian displayed its certificate of state approval in the school catalogs and expressed pride in having achieved the academic quality evidenced by state approval. See Defendants' Exhibit 67. Reverend Frankland testified that the certificate was displayed in order to demonstrate to parents that "we weren't some fly-by-night organization." Tr. at 285.

Grace Baptist Church Schools obtained initial state approval in 1976 and renewed approval in 1977 and 1978.

7/The ACE teaching program, marketed by a Texas-based company, consists of a series of booklets on various subjects, each of which is called a Packet of Accelerated Christian Education (PACE). Each PACE contains Bible-oriented instructional information and self-test questions on a particular subject. Students work at their own speed in each subject. After completing the booklet and passing the self-test and a supervised test, students move on to the next sequentially-numbered PACE until they reach the twelfth level of achievement. The supervisors who administer the tests do not teach regularly, but remain available to maintain discipline and to assist students on request.

8/Reverend Frankland wrote as follows:

> This brings us to the crux of the matter. The United States Constitution and the Maine Constitution guarantees (sic) us certain religious liberties under the First Amendment, if these beliefs and practices are convictions on our part and not preferences. In order for the courts to rule it is a conviction rather than preference, we must be willing to go to jail for, or die for said beliefs.
>
> Some judges and state agencies are asking, 'Why was this not an issue 10 years ago?' Our reply is, 'We were in unchartered waters endeavoring to be good citizens and actually not aware we were rendering unto Caesar that which belongs to God.' After 200 successful court cases across the nation and a refining of our own philosophy, we are forced to act immediately, or we have no guarantees under the First Amendment. In the judge's eyes, these things are not a conviction with us if we continue allowing the State to have jurisdiction in this area, when we know in our heart it is wrong. Therefore, we have several new schools starting this fall which believe this to the point they are willing to go to jail for their convictions, and we who had previously accepted basic approval and state licensure are convinced we must stand with them.

Defendants' Exhibit 8.

9/The notice states that it is late in going out "because MACS has been waiting for the tape and the sample letter from David Gibbs." It goes on to state "that the tape will be made while Charles Craze is here. The letters will be drafted at the same time."

10/The ten schools which have belonged to MACS since 1979, see n.5 supra, were among the 19 schools whose pastors or administrators wrote letters to the Commissioner.

11/These five schools were located in Hermon, Canaan, Limerick, Clinton and North Whitefield. The latter three were described as "not [having] a conviction against state approval."

12/These nine schools were Kingfield Christian Academy, Farmington Christian School, Lee Christian Schools, Sebec Christian Academy, Victory Christian Schools, Athens Christian Academy, Gardiner Christian Academy, New Life Academy and Windham Assembly Christian Academy. Eight of these schools are plaintiffs in this action. Kingfield Christian Academy has ceased operations. Farmington Christian School is now known as Falls Road Christian School, a plaintiff.

13/The original plaintiffs were Bangor Baptist Church and Grace Baptist Church, the pastor of each church, four parents whose children were attending either Bangor Christian or Grace Baptist Church Schools, the principal of Bangor Christian, one teacher from Bangor Christian and one from Grace Baptist Church Schools, and MACS. Bangor Christian and Grace Baptist Church Schools were added as plaintiffs on October 28, 1981.

14/Disputes as to the constitutionality of legislative enactments are not necessarily unripe merely because the enactments are not effective as of the commencement of the action, see Colautti v. Franklin, 439 U.S. 379, 383 (1979) [permitting challenge of abortion statute before statute became effective]; Blanchette v. Connecticut General Insurance Corp., 419 U.S. 102, 142-43 (1974); Pierce v. Society of Sisters, 268 U.S. 510, 535-36 (1925); Arizona v. Atchison, T. & S. F. R. Co., 656 F.2d 398, 402-03 (9th Cir. 1981), rather their ripeness is determined by considering whether, in view of the need for judicial economy, the surrounding circumstances warrant judicial relief, see Blanchette v. Connecticut General Insurance Corp., 419 U.S. at 144-48. Of the many factors militating in favor of interpreting and testing the constitutionality of the provisions of Title 20-A, the most significant is that the provisions of Title 20-A went into effect on July 1, 1983. The Supreme Court has considered, as relevant to the issue of ripeness, events which took place after the entry of a judgment by a circuit court of appeals. Buckley v. Valeo, 424 U.S. 1, 115-17 (1976). A fortiori, events occurring after the commencement of an action and before any decision by the trial court are appropriate for consideration in testing ripeness. See Lynch v. Dukakis, No. 82-1884 slip op., at 10 (October 12, 1983) [district court acted permissibly in finding that defendant "would not comply" with, and in conforming equitable relief to, strictures of statute effective 11 days after the entry of the court's order].

Furthermore, from the outset of this action the validity and intendment of various regulations and statutes, both those which were

then, and those which are now, in force, have affected the ongoing relationship between the plaintiff church schools and the defendants. See Blanchette v. Connecticut General Insurance Corp., 419 U.S. at 144. Finally, the parties have developed the present record in light of the strictures of Title 20-A. See id., at 143.

Accordingly, the Court is satisfied that the mere fact that Title 20-A went into effect following the commencement of this suit does not bar judicial review of its provisions. Of course, this does not mean that the Court should or must resolve all disputes arising under Title 20-A. "'Even where some of the provisions of a comprehensive legislative enactment are ripe for adjudication, portions of the enactment not immediately involved are not thereby thrown open for a judicial determination of constitutionality.'" Id. at 145-46, quoting Communist Party v. SACB, 367 U.S. 1, 71 (1961).

In reviewing the provisions of Title 20-A the Court will consider the clarifying amendments made by P.L. 1983 c. 485, 1983 Me. Legis. Serv. 2583, which became effective on June 24, 1983.

15/It was stipulated at trial that all of the plaintiff schools are now in compliance with all Maine laws regarding health, sanitation and safety. Tr. III, at 469.

16/Also exempt from compulsory attendance at public schools are:

(1) persons who graduate from high school before age 17, see 20-A M.R.S.A. §5001(2)(A);

(2) persons who have (a) completed the 9th grade (or reached age 15), (b) obtained their parents' and their school board's permission to leave school [denial by the board is appealable to the Commissioner, see 20-A M.R.S.A. §5001(3)], and (c) agreed in writing to meet annually until age 17 to review educational needs, 20-A M.R.S.A. §5001(2)(B);

(3) persons who obtain "equivalent instruction . . . in any other manner arranged for by the school committee or the board of directors," provided such instruction is approved by the Commissioner, 20-A M.R.S.A. §5001(2)(D);

(4) persons age 14 or older participating in a "suitable program of work, work study or training" who have the consent of their parents or guardians and the approval of their principal (appealable to the school board), 20-A M.R.S.A. §§5001(2)(E), as amended by P.L. 1983 c. 485, §21, 1983 Me. Legis. Serv. at 2591, & 5002; and

(5) persons age 14 or older as to whom the local school board has waived the compulsory education requirement, 20-A M.R.S.A. §§5001(2)(E), as amended by P.L. 1983 c. 485 §21, supra, & 5051(2)(D)(2).

17/As originally adopted 20 M.R.S.A. §5001(2) provided as follows:

> 2. Exceptions. Compulsory attendance shall not apply to the following:
>
> A. Persons who graduate from high school before their 17th birthday;
>
> B. Persons who have:
>
> (1) Reached the age of 15 or completed the 9th grade;
>
> (2) Permission to leave school from their parent or legal guardian;
>
> (3) Permission to leave school from the school board or its designee; and
>
> (4) Agreed in writing with their parent or legal guardian and the school board or its designee to meet annually until their 17th birthday to review their educational needs;
>
> C. Students who obtain equivalent instruction in an approved private school shall be credited with attendance at a private school only if a certificate showing their names, residence and attendance at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the students reside;
>
> D. Equivalent instruction is as follows:
>
> (1) A child shall be excused from attending a public day school if he obtains equivalent instruction in a private school or in any other manner arranged for by the school committee or the board of directors and if the equivalent instruction is approved by the commissioner; and

(2) If any request to be excused is denied by a local school committee or board of directors, an appeal may be filed with the commissioner. The commissioner shall review the request to be excused to determine whether the local school committee or board of directors has been correct in its finding that no equivalent instruction is available. If the commissioner finds that equivalent instruction is available to the child, he shall approve the request to be excused; or

E. Children shall be credited with attendance at a private school only if a certificate showing their names, residence and attendance at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit to which the children reside.

Chapter 485, section 21, of the Maine Public Laws (1983), supra, however, repealed paragraph (C) [without relettering paragraphs (D) or (E)]. The amendment also added to subsection (2) new paragraph (E), which makes clear that the compulsory attendance requirement shall not apply to "[a] person whose absence is excused under section 5002 or 5051."

18/Private schools approved for attendance purposes by the department shall:

1. Immunization. Comply with the immunization provisions under section 6351;

2. Language of instruction. Use English as the language of instruction except as specified under section 4602;

3. Courses required by statute. Provide instruction in history as specified under section 4601, subsection 1 and English as specified in section 4601, subsection 2;

4. Commissioner's basic curriculum. Provide instruction in the basic curriculum established by rule by the commissioner under section 4601, subsection 4;

5. Certified teachers. Employ only certified teachers;

6. Secondary schools. For private secondary schools:

A. Meet the requirements of a minimum school year under section 4801;

B. Provide a school day of sufficient length to allow for the operation of its approved education program;

C. Have a student-teacher ratio of not more than 30 to one;

D. Include not less than 2 consecutive grades from 9 to 12; and

E. Maintain adequate, safety (sic) protected records; and

7. State board rules. Meet the requirements applicable to the approval of private schools for attendance purposes established by the state board pursuant to section 405, subsection 3, paragraph E.

20-A M.R.S.A. §2902 (1983).

19/Section 2902, subsection 7, requires that

> [p]rivate schools approved for attendance purposes by the department shall:
>
> . . . .
>
> Meet the requirements applicable to the approval of private schools for attendance purposes established by the state board pursuant to section 405, subsection 3, paragraph E.

20-A. M.R.S.A. §2902(7) (emphasis added). Not surprisingly and as expressly stated in the statute itself (see italics), "private schools approved for attendance purposes by the Department" must meet the Board requirements "applicable to . . . approval of private schools for attendance purposes. . . . (Emphasis added.)

20/There appears to be statutory authority for forbidding the operation of schools which are not in compliance with state health, safety and hygiene standards.

Title 25, section 2392 of Maine Revised Statutes Annotated authorizes the State Fire Marshal or state fire inspectors to "forbid the use of any building or other structure which, (sic) does not conform to the laws, ordinances, rules and regulations promulgated by the Commissioner of Public Safety . . . [and] which creates a danger to other property or to the public." (Supp. 1982-83). An order to repair, remove or vacate a structure must be in writing, state a reasonable time within which to undertake such action and be served on the owner and the occupant. 25 M.R.S.A. §2392. The owner or occupant may within 24 hours of receiving such an order appeal to the Commissioner of Public Safety who is required to hold a hearing regarding the order and render a final decision on the issue within 30 days after such hearing. Failure to comply with a final order is a Class E crime punishable by a fine of not less than $100. See also 25 M.R.S.A. §§2357, 2358, 2360 [building inspectors, fire inspectors, municipal officers may order removal or rectification of inflammable conditions dangerous to safety of a building or surrounding premises].

Title 22, section 42(3), authorizes the Department of Human Services to seek to enjoin violations of its rules and regulations relating to plumbing and subsurface sewage disposal.

The local health officer is authorized by statute to require occupants to quit any dwelling place which is unfit for occupancy due to "want of cleanliness or other cause" and which is a cause of sickness to the occupants or the public. 22 M.R.S.A. §461. He may close the premises until restored to a sanitary condition, id., and in doing so, if he seeks the assistance of "any constable, that constable is required to render assistance." 22 M.R.S.A. §462. See also 22 M.R.S.A. §1015 [district and superior court judges authorized to issue any order necessary for proper enforcement of statutes and rules relating to communicable diseases]; 22 M.R.S.A. §1016 [Department of Health and Human Services authorized to order dismissal of all students and employees of any school in the event of an actual or threatened outbreak of communicable disease]; 22 M.R.S.A. §1561 [local health officer may order removal or discontinuance of any source of filth deemed potentially injurious to health].

21/Forty-five years after the Supreme Court decided Erie, uncertainty still exists as to the extent to which state law controls the power of the federal courts to enjoin violations of state substantive law. Indeed, Guaranty Trust Company v. York, 326 U.S. 99 (1945), which interpreted Erie as requiring a federal court to apply a state statute of limitations to an equitable claim arising under state law, provides seemingly conflicting directives. York declares that in resolving disputes in diversity actions the federal court is, "in effect, only another court of the State [and] cannot afford recovery if the right to recover is made unavailable by the State, nor can it substantially

affect the enforcement of the right as given by the state." Id. at 108-09 [emphasis added]. It can scarcely be doubted that the availability of alternative or additional equitable remedies in federal, as opposed to state, court may "substantially affect the enforcement of the right." Yet York contains the following dictum which may be read as divorcing equitable remedies from rights, leaving only the latter to be controlled by state law:

> This does not mean that whatever equitable remedy is available in a State court must be available in a diversity suit in a federal court, or conversely, that a federal court may not afford an equitable remedy not available in a State court. Equitable relief in a federal court is of course subject to restrictions: the suit must be within the traditional scope of equity as historically evolved in the English Court of Chancery; a plain, adequate and complete remedy at law must be wanting; explicit Congressional curtailment of equity powers must be respected; the constitutional right to trial by jury cannot be evaded. That a State may authorize its courts to give equitable relief unhampered by any or all such restrictions cannot remove these fetters from the federal courts. State law cannot define the remedies which a federal court must give simply because a federal court in diversity jurisdiction is available as an alternative tribunal to the State's courts. Contrariwise, a federal court may afford an equitable remedy for a substantive right recognized by a State even though a State court cannot give it.

Id. at 105-06 [citations omitted].

That dictum has confounded a number of commentators, see 19 Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction, §4513, at 208, and notes and comments cited therein.

22/As is the case under Maine law, see pp. 22-23, 36-37 infra, absent a contrary statute a request for injunctive relief under federal law implicates the court's discretion and is to be granted only if no adequate remedy at law exists and the competing interests of the parties so indicate, and generally only if the right to relief is clear. See 11 Wright & Miller, Federal Practice and Procedure §2942, at 367-68 (1973). However, the reluctance to grant injunctive relief, still prevalent in federal courts, see id. at 369-78, appears yet greater in the Maine judicial system. See p. 37 infra. Whereas the parameters of judicial discretion to enjoin "crimes" are relatively well defined in the First Circuit, see United States v. Zenon, 711 F.2d 476, 479 (1st Cir. 1983), the Court is unaware of any instance in which the Maine Law Court has addressed this issue.

23/The failure or refusal of a private school to obtain Department approval is not necessarily without indirect consequences, since in some instances nonapproval could deter attendance.

24/See n. 16 supra.

25/Additional approval requirements apply to private schools receiving public funds, see 20-A M.R.S.A. §§2951-55; to those serving only nonresidents, see 20-A M.R.S.A. §3051; and to those offering special or vocational education programs, 20-A M.R.S.A. §3001-02. The plaintiff church schools do not come within any of these special provisions.

26/Defendants were clearly informed of the Court's concern as to the sufficiency of the statutory basis for the Board regulations no later than October 26, 1982, when the Court denied their motion for summary judgment:

> These [Board] regulations may have transformed the scheme selected by the Legislature for the enforcement of the compulsory education laws, i.e., the truancy laws, into an unauthorized administrative system for the licensing of private schools.

Bangor Baptist Church v. State of Maine, 549 F. Supp. 1208, 1231-32 (D. Me. 1982).

27/"Courts must construe legislative enactments so as to avoid the danger of unconstitutionality . . . [since] [t]he cardinal principle of statutory construction is to save, not to destroy," State v. Davenport, 326 A.2d 1, 5-6 (Me. 1974); a principle "fully consistent with the general rule" of giving effect to legislative intent, since drafters of laws are assumed to have intended those laws to have constitutional sway, Stewart v. Inhabitants of Durham, 451 A.2d 308, 311 (Me. 1982).

28/The legislative history reveals that "the Education Committee [meant] to make [no] . . . substantive changes at all in this recodification." 1982 Me. Leg. Rec. 315, 539-40 (House, March 23, 1982 & April 5, 1982) (comments of Rep. Connolly - Chairman of Education Committee). See also id. at 315 (comments of Rep. Murphy) [during drafting process, any proposed change that any member of public thought would possibly change meaning was left in its original language]; id. at 483-84, 533-34 (Senate, March 31, 1982 & April 1, 1982) (comments of Sen. Trotzky - Chairman of Joint Standing Committee on Education) [no substantive changes were made during drafting process]; id. at 539 (House, April 5, 1982) (comments of Rep. Thompson - member of Education Committee) [all agree that the

recodification makes no substantive changes]. In fact, in response to objections made to the 110th Legislature by Christian schools, it was specifically stated by legislative leaders that the recodification did not alter the governance of state approval of private schools, id. at 315 (comments of Rep. Connolly), and that the recodification was "not intend[ed] to affect the consideration of issues in [this action]," id. at 532 (comments of Sen. Trotsky).

See also n.32 infra.

29/See 1982 Me. Leg. Rec. 540 (House, April 5, 1982).

30/Instead, the terminology used in section 2901 contrasts sharply with that used in the statutes enacted in 1975 regulating day care facilities and nursery schools. See 22 M.R.S.A. §§7801-04, 8301, 8404. Whereas section 2901 provides that "[a] private school may operate as an approved private school. . . ," the statutes regulating day care facilities and nursery schools provide that "[n]o person, firm, corporation or association shall operate a nursery school [or day care facility] without having . . . a written license therefor from the Department of Human Services." 22 M.R.S.A. §§7801, 8402.

Also conspicuously absent from the subchapter of the statutes governing basic approval of private schools are provisions limiting administrative discretion in prescribing licensing requirements, see 22 M.R.S.A. §8402(1), requiring prompt issuance of licenses, see 22 M.R.S.A. §8402(4), setting license fees and terms, see 22 M.R.S.A. §§7801(2), 8303, 8402(2) & (5), authorizing the issuance of temporary or conditional licenses, see 22 M.R.S.A. 7802(2)-(4), authorizing hearings under the Maine Administrative Procedure Act for any person whose initial application for a license has been denied, see 22 M.R.S.A. §7802(c) (compare 20-A M.R.S.A. §§2904-05 [hearings for nonrenewal and removal of approval], with 05-071 CMR 125 section 1-A (I)(2) [Commissioner makes final determination as to initial approval]), requiring an Administrative Court proceeding prior to suspension or revocation of a license, see 22 M.R.S.A. §7803(1); 5 M.R.S.A. §10051(2), and granting regulators the right of entry to inspect licensed facilities for compliance, see 22 M.R.S.A. §7804.

A comparison of the elaborate protective provisions in the statutes governing day care facilities and nursery schools further demonstrates that Chapter 117, subchapter 1, of the education laws was not viewed by the legislature as establishing a private-school licensing scheme. Had such a licensing scheme been intended by the legislature it seems inconceivable that something at least remotely similar to the restrictive language and procedural safeguards of Title 22 would not have been used.

31/Defendants would read section 2901 as though written: "A private school may operate ~~as an approved private school for meeting the requirement of compulsory school attendance under section 5001~~ if it: . . ."

32/Defendants' construction of section 2901 is also at odds with the crystal clear language of the private-school approval section as it existed from its legislative inception in 1955 until the recodification of the education statutes in 1982. As originally enacted, see P. L. 1955, c. 369, §1, and as it remained through 1981, the approval section read "no school shall be given basic approval for attendance, tuition or subsidy purpose . . . unless it meets the following requirements. . . ." See 20 M.R.S.A. §1281 (1982-83 Supp.) (emphasis added). There was not the slightest legislative intimation that this provision empowered the closing of any unapproved school by anyone, whether administrator or judge.

The 1982 recodification separated the matter contained in 20 M.R.S.A. §1281 into five sections of title 20-A. See 20-A M.R.S.A. §§2901, 2951, 4401, 4404, 4801. Section 1281 was amended, by section 2901, to read: "A private school may operate as an approved private school for meeting the requirement of compulsory school attendance under section 5001 if it. . . ." 20-A M.R.S.A. §2901 (1981). There is not a whisper in its legislative history which would hint that this amendment represented a departure from the legislative intent of section 1281 as it had existed for over 25 years. See, e.g., n.28 supra. Similarly, the preamble to P.L. 1983 c. 485, indicates that the amendments made by that law were intended to resolve "existing ambiguities."

33/There is no right of appeal to the Commissioner if the local board waives the compulsory attendance requirement.

34/See nn.28 & 32 supra.

35/The following paragraph from the statement submitted to the Education Committee by the Department contains the only hint in the legislative history of these bills that the legislature may have been aware of the Commissioner's interpretation of the compulsory education laws:

> In conclusion, the Department recognizes that private, religious schools have a place in the State and that they provide a legitimate alternative to public schools. However, the Department also feels it is essential that these schools meet the minimum standards required by the Maine Constitution and by the Legislature which all schools must abide by to be able to operate in the State of Maine.

But since the statutory provisions then in force provided absolutely no basis for the power the Commissioner claims to have had (and still have), see n.32 supra, it is inconceivable that the legislature understood and accepted the full import of this assertion, without discussion. Indeed, the remainder of the Department's Statement indicates that the Department understood the approval scheme to mean only that "if non-public, private schools are going to be used to satisfy the compulsory attendance law, then these schools must comply with certain minimum standards and be approved. . . ." (Emphasis added.)

The statement by the Commissioner before the Education Committee on February 14, 1980 likewise indicates that the proposed amendments were an effort to chart an optional path for certain church-affiliated schools to qualify as suitable alternatives to public day schools, rather than to repeal any existing law which might be perceived as authorizing direct action to close unapproved private schools. See Defendants' Exhibit 19, Statement of Commissioner Raynolds (February 14, 1980) [in order to satisfy compulsory attendance requirement through attendance at private school, the private school must meet certain standards].

Moreover, had the 109th Legislature understood, agreed with and "acquiesced" in the Commissioner's interpretation, the 110th Legislature could have adopted unambiguous language to that effect as part of its recodification of the education laws, without doing violence to its policy of making no substantive change, see nn.28 & 32 supra. Instead, the wording of sections 403(3)(E), 2901, 2902, 5001(1) and 5051-53 of new Title 20-A makes clear that private school "approval" is, as it has always been, merely the means of satisfying one of the exceptions to compulsory public school attendance. See n.16 supra & p. 45 infra. Under these circumstances a finding of "legislative acquiescence" would represent a reckless approach to statutory construction.

36/Legislative rules are products of the exercise of delegated power to create law through rules. 2 K. Davis, Administrative Law Treatise §7:8 (2d ed. 1979). If valid, legislative rules are binding on courts. On the other hand, interpretative rules, which merely represent the administering agency's interpretation of existing law, may issue without an express delegation of authority. Id.

37/The Commissioner states that although children attending unapproved private schools may be considered habitual truants, he has discouraged local school superintendents from truancy actions, because their parents might be acting in the "good faith belief that their children [were] receiving the benefits and protections of the State's compulsory education laws," and because truancy actions on a broad scale would be "unduly burdensome" and expensive for local school officials,

the Department and the courts. See Affidavit of Commissioner Raynolds, dated April 20, 1982, at 5.

38/If considered interpretative, as opposed to legislative, the regulations, of course, are not binding on the Court. See Soucy v. Board of Trustees, 456 A.2d 1279, 1281 (Me. 1983); General Electric Co. v. Gilbert, 429 U.S. 125, 141 (1976); Skidmore v. Swift & Co., 323 U.S. 134, 140 (1944); 2 Davis, Administrative Law Treatise §7:10, supra. Cf. Maine School Admin. Dist. No. 15 v. Raynolds, 413 A.2d 523, 531 (Me. 1980) [indicating that an administrator's interpretation of regulation does not bind courts].

39/The Ingraham court stated,

> Before granting a preliminary or permanent injunction, the Court must find that four criteria are met:
>
> (1) that plaintiff will suffer irreparable injury if the injunction is not granted,
>
> (2) that such injury outweighs any harm which granting the injunctive relief would inflict on the defendant,
>
> (3) that plaintiff has exhibited a likelihood of success on the merits (at most, a probability; at least, a substantial possibility),
>
> (4) that the public interest will not be adversely affected by granting the injunction.

Ingraham v. University of Maine at Orono, 441 A.2d 691, 693 (Me. 1982). But although the Law Court referred to "preliminary" and "permanent" injunctions, it does not appear that Ingraham establishes a four-point talismanic test for determining the propriety of permanent injunctive relief. Rather, the court was defining the test controlling its power to grant injunctions under Me. R. Civ. P. 62(g). This conclusion finds support in the Law Court's citation to Women's Community Health Center v. Cohen, 477 F. Supp. 542, 544 (D. Me. 1979), which summarized the test in the First Circuit for granting a preliminary injunction, and further support in the reference to "a likelihood of success on the merits." (Emphasis added.)

40/L.D. 1401 prescribed forfeitures of not less than $200 and not less than $500, but was changed by Committee Amendment A, 110th Me. Leg., Filing No. H-396, to provide that the penalty for being responsible for a child's truancy is a forfeiture of "not more than $200."

41/Whether the plaintiff-pastors in some other way may have induced habitual truancy within the meaning of the statute is irrelevant to this counterclaim. "The 'principles of equity jurisprudence' suggest that 'the scope of injunctive relief is dictated by the extent of the violation established . . . [and] the relief afforded [may not be] more burdensome than necessary to redress the complaining parties.'" Lynch v. Dukakis, supra at 21, quoting Califano v. Yamasaki, 442 U.S. 682, 702 (1979). See Town of Shapleigh v. Shikles, 427 A.2d at 464. Enjoining the operation of unapproved church schools would be an overbroad response to the transgressions of individuals encouraging attendance at those schools.

42/Of course, the state need not show the inadequacy of a criminal law remedy were it to appear that the legislature has authorized civil injunctive relief against future violations of the substantive law. United States v. Cappetto, 502 F.2d 1351, 1358-59 (7th Cir. 1974).

43/The nature of the sanction is central to the determination as to whether a proceeding is criminal. See n.44 infra. Obviously, injunctive relief is not a sanction endemic to criminal law. Nothing is gained by noting that violation of the injunction may lead to a finding of contempt and to eventual imprisonment, for that is so irrespective of the nature of the conduct (civil or criminal) forming the basis for the injunction.

> The argument [that the constitutional rights of criminal defendants preclude injunctions against crimes] contains a more fundamental weakness: it assumes that one of the purposes in enacting a criminal statute is to give special protection to the defendant or to the conduct the statute proscribes. Suppose, for example, that state A makes criminal the maintenance of a certain nuisance and that state B does not, but will issue an injunction against it. It is anomalous that state A, which has manifested its policy by penal legislation, should be thought to be more solicitous of the defendant's welfare than state B, whose legislature has not acted. Yet, according to the argument, a court of state A should be disabled from enjoining the nuisance. Assuming, arguendo, that trial by jury would be a desirable feature of either the civil or criminal aspects of injunction procedure, it is hard to see why the injunction defendant whose conduct is also criminal has a greater claim to jury trial than an injunction defendant whose conduct is not criminally proscribed.

Note, Developments in the Law - Injunctions, 78 Harv. L. Rev. 994, 1019 (1965).

44/Whether conduct proscribed by statute is "criminal," thereby implicating the protections of criminal procedure, is, in the first instance, a matter of statutory construction to be determined conformably with the legislative intent. State v. Anton, 463 A.2d 703, 705 (Me. 1983). See United States v. Ward, 448 U.S. 242, 248-49 (1980). Where the legislature intends the offense to be considered civil, courts must inquire further whether the statutory scheme is "so punitive either in purpose or effect as to negate that intention." State v. Anton, 463 A.2d at 706, quoting United States v. Ward, 448 U.S. at 249.

The 1981 amendment [ch. 391, 1981 Me. Laws 620] to the predecessor of section 5053, i.e., 20 M.R.S.A. §911, may have been designed to constitute the proscribed conduct (i.e., inducing habitual truancy) a civil violation rather than a criminal offense.

Prior to 1981, inducing habitual truancy had been considered a criminal offense. See Shaw v. Small, 124 Me. 36, 40 (1924). However, the relevant portion of chapter 391 amended 20 M.R.S.A. §911(8), as follows:

> Any person who induces a chil to absent himself from school, or harbors or conceals such child when he is absent ~~shall be punished by a fine of not more than $25 or by imprisonment for not more than 30 days for each offense If the~~ commits a civil violation for which a forfeiture of not less than $500 shall be adjudged. The court ~~imposes a sentence of probation, it~~ may ~~in its sentence, as a condition of probation~~ require that the ~~convicted~~ person receive professional counseling by a qualified professional counselor who shall be selected by the convicted person, with the approval of the court, or by the court.

The Statement of Fact accompanying the bill, L.D. 1401 (1981), provided in part, "This bill . . . would change the penalty section for a parent responsible for truancy to a civil violation punishable by either a $200 or $500 forfeiture, depending on the nature of the offense."

In the process of recodifying the education laws, the legislature inserted the words "guilty" and "punishable," language which might suggest that inducing habitual truancy was to be considered a criminal offense. See State v. Clayton, 584 P.2d 1111, 1113 (Alaska 1978). Clayton is clearly distinguishable. The Alaska legislature had declared that certain traffic infractions are "not considered criminal." But by focusing on, inter alia, the use of certain criminal phraseology in the relevant provisions, the Clayton court

concluded that the legislature intended the infractions to be "quasi-criminal offenses," not "civil in nature." State v. Clayton, 584 P.2d at 1113. Section 5053 expressly declares that inducing habitual truancy is a "civil violation." In short, the language embodied in and accompanying the 1981 amendment to 20 M.R.S.A. §911, the fact that section 5053 declares the "offenses" listed therein to be "civil violations" and the further fact that the subsequent recodification was not intended to effect substantive change, nn.28 & 32 supra, may well warrant the conclusion that the Maine legislature intended that inducing habitual truancy be considered a civil violation.

If so, the safeguards of criminal procedure apply in prosecutions for inducing habitual truancy only if "the statutory scheme . . . is 'so punitive in purpose or effect as to negate [the legislature's] intent.'" State v. Anton, 463 A.2d at 706, quoting United States v. Ward, 448 U.S. at 248. The considerations used to determine whether constitutional guarantees apply to 'civil' penalty provisions include:

> Whether the sanction involves an affirmative disability or restraint, whether it has historically been regarded as a punishment, whether it comes into play only on a finding of scienter, whether its operation will promote the traditional aims of punishment — retribution and deterrence, whether the behavior to which it applies is already a crime, whether an alternative purpose to which it may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned.

Id. at 706, quoting Kennedy v. Mendoza-Martinez, 372 U.S. 144, 168-69 (1963). Thus, the degree of severity of the penalty is important. Id. In addition to these factors, courts consider "the nature of the conduct, whether adverse collateral consequences may arise and whether there exists the possibility of pretrial arrest and detention." Id. Finally, legislative "use of terminology associated with the criminal law" may undercut the intent to create a civil offense. Id. at 708.

Sanction

Although inducing habitual truancy is no longer punishable by incarceration, it is at least arguable that the authorized "forfeiture" (minimum of $500; with no maximum) is "so unreasonable or excessive that it transform[s] what was clearly intended to be a civil penalty into a criminal penalty." State v. Anton, 463 A.2d at 707. Certainly the threat of an unlimited fine provides significant deterrence, a "traditional aim[] of punishment," id. at 706.

Scienter

As previously discussed, the term "induce," both in legal and lay parlance, connotes intent. Therefore, scienter appears to be an element of the offense of inducing habitual truancy. See pp. 38-40 supra. On the other hand, since it does not appear that an inducement of truancy violates any other "criminal" statute, the conduct to which the prescribed "forfeiture" applies is not "already a crime."

Statutory Language

The incorporation in section 5053 of the terms "guilty" and "punishment" arguably evidences a legislative determination that inducing habitual truancy is to be condemned, a concept endemic to criminal and not civil law. Brown v. Multnomah County Dist. Court, 570 P.2d 52, 59 (Or. 1977). See State v. Anton, 463 A.2d at 708.

Arrest and Detention

Although 20-A M.R.S.A. §5053(3) makes reference to "[w]arrants and legal process" for the enforcement of section 5053, it does not appear that arrest warrants may issue against persons who induce habitual truancy, see Me. R. Crim. P. 1, 4 & 9 and Me. R. Crim. P. (district court) 1 & 4. For the purpose of obtaining credible identification, a law enforcement officer may detain a person the officer has probable cause to believe has committed a civil violation. 17-A M.R.S.A. §17. But a formal arrest is permitted only if the person refuses or intentionally fails to supply credible identification. Id.

Thus, the factors relevant to determining whether a person charged with inducing habitual truancy is entitled to the protections of criminal procedure do indeed "point in different directions," State v. Anton, 463 A.2d at 706.

The fact that the offense of being primarily responsible for the habitual truancy of a child who is under one's control has been held to be a civil violation, State v. McDonough, Doc. No. Pen-83-252 slip op. at 8 n.5 (Me. December 8, 1983), is not dispositive of the characterization of the offense of inducing habitual truancy. Although both offenses are defined in 20 M.R.S.A. §5053, the offense of "inducing" habitual truancy carries a much more stringent sanction ("forfeiture" of not less than $500) than the offense of being primarily responsible for habitual truancy ("forfeiture" of not more than $200), and scienter appears to be an element of inducing, but perhaps not of being primarily responsible for, habitual truancy. Therefore, the characterization of the offense, a matter which was neither raised nor

briefed by the parties, is better left to the state courts. For present purposes it is sufficient to note that the possibility that inducing habitual truancy is a "crime" provides yet another reason to withhold injunctive relief.

45/See also Hunter, Toward a Better Understanding of the Prior Restraint Doctrine: A Reply to Professor Mayton, 67 Cornell L. Rev. 283, 284-87, 292-96 (1982).

46/Of course, the defendants do have the right to request the courts to close unapproved schools, both by virtue of their "standing" in the present action and by virtue of a Board regulation, see 05-071 CMR 125, section I-A, subsection I(4) (as amended Feb. 10, 1983). Thus viewed, however, their assertion of right is without that legislative sanction which would reduce the heavy burden of proof incumbent upon any private litigant seeking similar drastic relief in the face of severe equitable and constitutional obstacles.

47/In order to be considered "pervasively sectarian" a school must not only be run directly by a church, but have "attributes such as integration of secular and religious education, mandatory religious instruction, religious based admission policies [and have] as a central purpose the inculcation of religious values [or the preparation of] students for a religious career." Cuesnongle v. Ramos, 713 F.2d 881, 883 (1st Cir. 1983).

48/A burden on the free exercise of religion may be justified only "by showing that it is the least restrictive means of achieving some compelling state interest," Thomas v. Review Board of Indiana Employment Security Division, 450 U.S. 707, 718 (1981). Although it is unnecessary to decide on the present record (there being no authority for defendants' attempt to close the church-schools), the closing of pervasively religious institutions does not appear to be "the least restrictive means" of achieving the state's interest in assuring that children between 7 and 17 attend adequate schools for a minimum number of hours during 175 days per year or obtain equivalent instruction in some other manner. While administrative convenience has at times justified some burdens on religious exercise, see United States v. Lee, 455 U.S. 252, 259-61 (1982) [inconvenience of accommodating "the comprehensive social security system with myriad exceptions flowing from a wide variety of religious beliefs"], it is highly unlikely that the administrative burden of pursuing numerous prosecutions under an existing truancy system could be considered sufficient justification for directly burdening these plaintiffs, particularly since it is not unreasonable to expect that the general deterrent effect likely to flow from the initiation of exemplary prosecutions against a few truancy law violators may well promote improved compliance with the compulsory school attendance laws.

49/Of course, injunctive relief would have to be limited so as to reflect these possibilities. See Lynch v. Dukakis, No. 82-1884 slip op. at 21 (1st Cir. October 17, 1983). But drafting such an injunction would be a cumbersome and perilously difficult undertaking. Certainly the defendants' proposal is overbroad. More importantly, injunctive relief would burden the plaintiff church schools with the task of determining which students are (and perhaps which students may be) exempt from the compulsory attendance requirement. Finally, since the essence of their free exercise claim is that plaintiffs should not be made to answer to the state for their ("biblically-mandated") educational activities, any requirement that the plaintiff schools assume an active role in the enforcement of the truancy laws against the parishioners of their affiliated churches would heighten significantly the threatened intrusion upon plaintiffs' asserted religious convictions.

50/The Maine compulsory education scheme differs importantly from that considered in State ex rel. Douglas v. Faith Baptist Church, Neb., 301 N.W.2d 571 (1981), appeal dismissed sub nom. Faith Baptist Church v. Douglas, 454 U.S. 803 (1981), where the Nebraska Supreme Court upheld a judgment enjoining the operation of a church school for refusal to comply with statutory requirements imposed upon "[a]ll private, denominational, and parochial schools in the State of Nebraska. . . ," Neb. Rev. Stat. §79-1701. The Nebraska statutes governing private schools provide that "[a]ny person violating any of the provisions of [Article 17, governing private, denominational and parochial schools] shall be guilty of a Class III misdemeanor." The Nebraska Supreme Court held that injunctive relief was not foreclosed merely because state law prescribed penal sanctions. 301 N.W.2d at 575. The United States Supreme Court summarily dismissed the appeal. 454 U.S. 803. The essential distinction here is that Maine law neither requires private schools to obtain approval as a condition precedent to their right to operate nor does it imply any sanction (except possible prosecution for inducing habitual truancy) for operating as an unapproved school.

51/Private schools which seek approval are required to disclose their "policy with respect to" attendance records. Regulations under the heading "Procedures and Standards for Basic School Approval of Private Schools" provide that "[t]he school shall maintain a register of the daily attendance of all pupils throughout the school year . . . [and] notify the superintendent of [local] schools . . . if a pupil withdraws from school or is habitually truant from school." 05-071 CMR 125, section 1-A, subsection (F)(1)(3), as amended February 10, 1983. The regulations apparently impose no such requirement on schools which do not seek approval.

52/The second Second Amended Complaint prays for a declaration that the requirements of the compulsory education law and school approval

scheme are contrary to the First, Ninth and Fourteenth Amendments to the Constitution, and for relief enjoining "defendants . . . from taking any action in an attempt to impose upon plaintiffs [those requirements]." [Emphasis added.] It has been clear throughout that plaintiffs' primary concern is with the state's alleged right to license or close unapproved schools. That concern is answered by the Court's holding that Maine law establishes only an optional approval system, not a licensing scheme. Therefore, in determining whether the complaint raises any justiciable issues the Court must consider seriatim the other "actions" which defendants conceivably could take "in an attempt to impose upon the plaintiffs [the requirements of the compulsory education law and the school approval scheme].

Title 20-A M.R.S.A. section 13003(2) provides that a person teaching at a public school without a teacher's certificate "shall be barred from receiving pay or wages for that teaching." No penalty is prescribed for teaching at a private school without a certificate.

Plaintiff teachers have not even alleged, much less "demonstrate[d,] a realistic danger of sustaining a direct injury as a result of the . . . enforcement," Babbitt v. United Farm Workers National Union, 442 U.S. at 298, of any statutory or regulatory provision other than those directed against the church-schools. See n.55 infra.

53/For a discussion of the development of the law of ripeness, see 4 K. Davis, Administrative Law Treatise 349-93 (2d ed. 1983).

54/The justiciability of plaintiffs' request to enjoin actions against schools and pastors for inducing habitual truancy is considered below. See pp. 55-59 infra.

55/On occasion the Supreme Court has found the likelihood of enforcement of a challenged statute too remote to give rise to a "case or controversy." See Poe v. Ullman, 367 U.S. 497 (1961) [challenge to legislation prohibiting use of, or giving medical advice as to, contraceptive devices was nonjusticiable, because no one had been prosecuted since its enactment in 1879 despite open and notorious sales of contraceptives]; United Public Workers v. Mitchell, 330 U.S. 75, 88-89 (1947) [action by federal employees challenging constitutionality of Hatch Act prohibition of political activity was nonjusticiable, since plaintiffs merely alleged their desire to engage in politics and their fear of dismissal, but failed to allege an actual violation or an actual threat of disciplinary action].

56/This testimony reflects the Commissioner's consistent misconception as to the legislative placement of primary responsibility for the enforcement of the truancy laws. It is clear beyond doubt from the statutes that the Maine legislature has imposed that responsibility

primarily upon local public school officials. See 20-A M.R.S.A. §§5051, 5052 & 5053. See nn.57 & 58 infra.

57/Subchapter I of Chapter 211 of Title 20-A, M.R.S.A., dealing with compulsory attendance (§5001), alternate programs (§5002) and administration (§5003), expressly provides that the local public school boards "shall administer" subchapter I, see §5003(1), and adopt rules "to carry out this subchapter," see §5003(2). Subsection (3) of section 5003 provides that "[t]he Commissioner shall guide school boards in adopting these rules." 20-A M.R.S.A. §5003(3).

58/Section 254 provides:

> The Commissioner shall have the following duties.
>
> 1. General duty. The commissioner may inspect and have general supervision over all public schools and shall advise and direct superintendents and school boards in the discharge of their duties, by circular letters and personal conferences.

20-A M.R.S.A. §254.

The Court need not decide whether section 254 empowers the Commissioner to "direct superintendents and school boards" to refrain from "the discharge of their duties," as well as "direct" those officials "in the discharge of their duties." If the Commissioner does not have the authority to direct superintendents and school boards to refrain from truancy actions, those officials who might pose more than a speculative risk of prosecution to the plaintiffs (i.e., local superintendents and school boards) are not before the Court.

59/No declaratory relief is granted on this point because none is requested.

60/The principles applicable to speech in general are clearly applicable as well to religious speech. "[S]peech about religion is speech entitled to the general protections of the First Amendment." Widmar v. Vincent, 454 U.S. 263, 269 n.6 (1981). See also Heffron v. International Society for Krisna Consciousness, Inc., 452 U.S. 640, 647 (1981).

61/The right of these pastors to preach their interpretation of the Bible is clear. The requested injunction would ensure the preservation of that right and protect the pastors (and the public) from the expense of presenting (and resolving) this same constitutional claim as a defense to a state court action for "inducing" habitual truancy. On the other hand, injunctive relief will impose no burden on the

defendants, who remain free to pursue legislatively-prescribed means for the protection of the interests of the state. Accordingly, injunctive relief is appropriate under the standards relevant to this federal claim, see n.22 supra.

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

DEC 23 11 28 AM '83

BY:

DEPUTY CLERK

BANGOR BAPTIST CHURCH, ET AL.,
Plaintiffs

v.

STATE OF MAINE, ET AL.,
Defendants

CIVIL 81-0180-B

JUDGMENT

In accordance with the Court's Order for Entry of Judgment entered this date in the above matter,

JUDGMENT is hereby entered (1) for the defendants against the plaintiffs on plaintiffs' claims for declaratory and injunctive relief, except as otherwise provided in clauses (3) and (4) hereof; and (2) dismissing plaintiffs' claims, except as otherwise provided in clauses (3) and (4) hereof; (3) for the plaintiffs as against the defendants on plaintiffs' claim for a judicial declaration that the bringing of actions against the plaintiff pastors, administrators or church schools on the ground that they have induced habitual truancy through their statements to parents that the education of their children is a religious duty and that the state should have no role in regulating the education of Christian children would violate the rights secured to the plaintiffs by the First and Fourteenth Amendments of the United States Constitution; (4) for the plaintiffs against the defendants on plaintiffs' claim for injunctive relief enjoining the defendants from bringing actions against the plaintiff pastors, administrators or schools on the ground that they have induced habitual truancy through their statements to parents that the education of their children is a religious duty and that

the state should have no role in regulating the education of Christian children; (5) for the plaintiffs as against the defendants on defendants' counterclaim; and (6) dismissing the counterclaim.

Dated at Bangor, Maine this 20th day of December, 1983.

WILLIAM S. BROWNELL, CLERK

By Linda L. Jacobson
Linda L. Jacobson
Deputy Clerk

A TRUE COPY
ATTEST: William S. Brownell, Clerk
By _____
Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DEC 29 11 21 AM '83
BY:
DEPUTY CLERK

BANGOR BAPTIST CHURCH, et al.,

Plaintiffs

vs.

STATE OF MAINE, et al.,

Defendants

CIVIL NO. 81-0180-B

ORDER FOR ENTRY OF JUDGMENT

In accordance with the Court's 'Findings of Fact and Conclusions of Law', entered this date, judgment shall enter: (1) for the defendants against the plaintiffs on plaintiffs' claims for declaratory and injunctive relief, except as otherwise provided in clauses (3) and (4) hereof; and (2) dismissing plaintiffs' claims, except as otherwise provided in clauses (3) and (4) hereof; (3) for the plaintiffs as against the defendants on plaintiffs' claim for a judicial declaration that the bringing of actions against the plaintiff pastors, administrators or church schools on the ground that they have induced habitual truancy through their statements to parents that the education of their children is a religious duty and that the state should have no role in regulating the education of Christian children would violate the rights secured to the plaintiffs by the First and Fourteenth Amendments of the United States Constitution; (4) for the plaintiffs against the defendants on plaintiffs' claim for injunctive relief ENJOINING the defendants from bringing actions against the

plaintiff pastors, administrators or schools on the ground that they have induced habitual truancy through their statements to parents that the education of their children is a religious duty and that the state should have no role in regulating the education of Christian children; (5) for the plaintiffs as against the defendants on defendants' counterclaim; and (6) dismissing the counterclaim.

SO ORDERED.

Dated at Bangor, Maine this 20th day of December, 1983.

Edward Gignoux
Chief Judge

A TRUE COPY
ATTEST: William S. Brownell, Clerk
By _____
Deputy Clerk

SB
362

4/11

COMMITTEE REPORT

HOUSE

HEALTH, EDUCAT
AND SOCIAL SERVIC

(6)

FURTHER:

2/22/84

Date: 4/10/84

The Committee on HOUSE SPECIAL COMMITTEE ON STATE LOANS has had SB 362

"An Act relating to the applicability of the scholarship loan program to students attending more than one postsecondary educational institution; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Rick Uehling
Walt Furnace
Nils Kopasen
Ron Wendt
Sam Pestinger

MEMBERS HAVING OTHER RECOMMENDATIONS:

Rick Uehling
CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 362
Title: Re: Scholarship Loans

Sponsor: Kerttula
Requestor: Senate HESS
Date of Request: 2/1/84

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: Postsecondary Education Commission
BRU, Program or Subprogram(s) Affected: Student Loans

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kerry D. Romesburg Phone: 465-2854
Division: Commission on Postsecondary Education Date: 2/2/84

Approved by Commissioner: Date:
Agency:

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

4/30/84

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

SB 362, "An Act relating to the applicability of the scholarship loan program to students attending more than one postsecondary educational institution; and providing for an effective date," introduced by Senator Kerttula, makes a change in AS 14.43.160 (2), the Scholarship Loan Program, that allows students attending more than one postsecondary educational institution, one or more of which may not be associated with an eligible consortium of postsecondary education institutions, to be eligible to particpate in the state's student loan program.

The bill provides for an immediate effective date.

SB
373



Asbestos: Still a Danger in Schools

By Elaine S. Knapp, editor

For Phyliss Adams and Ann Gibbs the last year has been a frustrating one—trying to get their local school board to remove asbestos from the school their children attend.

"It's frustrating, our children are being poisoned and there's not anything we can do," Mrs. Gibbs declared. What the Lexington, Kentucky, housewife has done is work through the PTA, form a group of concerned parents, go door-to-door telling parents of the danger, gather hundreds of signatures on petitions, read volumes on asbestos, call and write federal agencies and confront the school administrator and board.

After a year of parental pressure being applied and at least a decade after school authorities knew of the asbestos hazard, Mrs. Gibbs said, "We don't think anything will be done until the government makes them (the school board)." School authorities maintain the asbestos will be cleaned up if money is available for renovation next year.

Ironically, the major government effort to control asbestos lies in Mrs. Gibbs and others like her. Telling parents and teachers that their school has asbestos and relying on them to pressure local action is the heart of the U.S. Environmental Protection Agency's (EPA) strategy to rectify the nationwide problem of asbestos in the schools.

No effective federal program exists to protect school children from asbestos, state efforts vary widely and local schools often ignore the danger due to the cost of cleanup.

Asbestos Dangers

[redacted] exposure to asbestos in[redacted] some health [redacted] according to the Congress, the EPA and the scientific community. Children are especially vulnerable, according to the EPA guidance document on asbestos sent to schools. [redacted] remaining life-expectancy provides the 20 or 30 years it takes for disabling and fatal asbestos-related diseases to develop.

Large numbers of children may be exposed in a contaminated school and exposure is continuous during the school year. Children are active and breathe more frequently than adults possibly inhaling more asbestos fibers. Smoking can increase the cancer risk due to asbestos exposure.

Most hazardous is friable asbestos that can be crumbled. It sends deadly fibers into the air which may lodge in the lungs indefinitely, according to EPA's guidance document. Asbestos workers often develop a chronic and debilitating lung disease called asbestosis. Lower and shorter exposures are linked to lung and other cancers. Even brief exposure can result in death many years later.

Asbestos diseases include: 1) asbestosis, a disease in which asbestos clogs the lungs, 2) pleural calcification, a deposit of calcium salts in the lung lining, 3) malignant tumors of the lung, 4) mesothelioma, a rapid and fatal cancer of the lung, and 5) intestinal and uterine cancers.

Where It Is, What to Do

Use of asbestos materials was common in schools and other buildings from the mid-1940s until EPA banned sprayed asbestos in 1973. Friable (or soft) asbestos-containing material was used for fireproofing,

insulation or decoration. It was usually sprayed on overhead surfaces, steel beams, ceilings, walls and pipes.

As friable asbestos material ages, it breaks down and releases fibers into the air. School activities can damage or disturb asbestos, such as a ball hitting a gym ceiling. Asbestos material can be disturbed by maintenance activities, vandalism, water damage or vibration from people or machinery and release fibers into the air.

Many experts believe removal of asbestos is the only final and satisfactory solution to asbestos exposure. However, removal may cost more initially and be more complicated. Temporary measures include encapsulation by spraying asbestos with a sealant or enclosing the asbestos. EPA and other experts warn that such temporary measures make removal more difficult and dangerous later on, and must be constantly monitored.

The EPA guidelines call for asbestos work only after construction of sealed containment barriers and worker protection as mandated by OSHA. All but asbestos workers should be kept out of the sealed area and worker change rooms are required.

Hot Potato

Asbestos in the schools has been a "hot potato" tossed among various levels of government and federal agencies. One reason is that removal of asbestos can be quite expensive, especially if large areas of buildings are affected. Funding is basically up to local schools as is asbestos detection and control. No federal funds are available and state aid varies.

The U.S. EPA requires schools to inspect for asbestos and notify parents and employees of asbestos hazards. The EPA doesn't require removal or abatement. "The theory is that PTAs and employees would pressure local districts to take remedial action," said Terrell Hunt, assistant to EPA Deputy Administrator Alvin Alm.

However, a recent internal EPA report found that many schools did not meet EPA's June 1983 deadline for asbestos detection, record keeping and notification.

No Federal Funds

Federal funds of $172 million authorized by the Asbestos School Hazard Detection and Control Act of 1980 were never appropriated. Grants were promised for schools to identify asbestos hazards and loans for mitigation of asbestos hazards. But funds were never requested by the Department of Education, reported John Bennett, aide to U.S. Rep. George Miller, D-California, who sponsored the act. In 1983, a $50 million recommendation by the House was omitted in a House-Senate conference.

The U.S. Department of Education had a task force which set standards for state grants in 1980, according to W. Stanley Kruger, deputy director for state and local education programs. However, when the program wasn't funded, the department "deferred to EPA," Kruger said.

Under pressure from Congress, the department reactivated its task force in October 1983 and is gathering information on asbestos to send to chief state school officials, Kruger said. The department also reactivated its requirement that states file plans for asbestos in the schools' programs and report on their progress every six months. All but two states have filed.

EPA's Program

The federal effort has largely been a requirement by the EPA that schools inspect for asbestos hazards, sample and analyze material to determine if asbestos is present, keep records of the inspection, post notices, and notify parents and employees if asbestos is found. Although schools were to comply with the rule by June 1983, the EPA doesn't know how many did. It does not require schools to report to it and must send federal inspectors to schools to check their records. EPA staff said when the EPA regulation was written that the administration opposed imposing a data reporting requirement. The EPA recently doubled its field force of inspectors by adding 16 people through a contract with the American Association of Retired Persons, Hunt said. These include retired architects and engineers. Primarily, EPA staff look at school records and physically inspect some schools. However, there's not enough inspectors to cover but a small portion of the nation's schools.

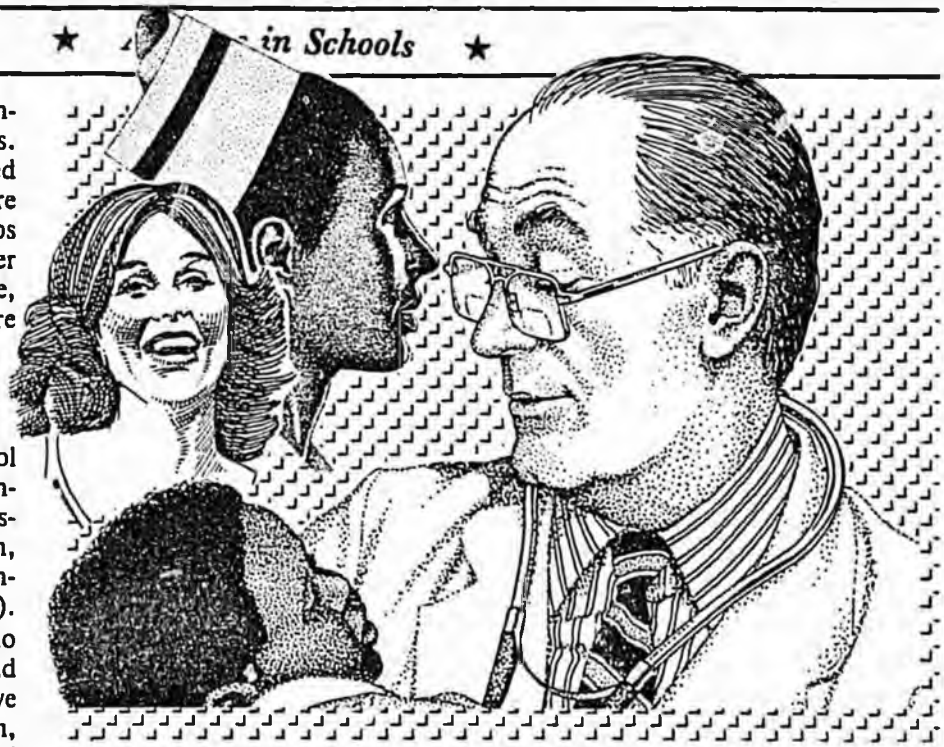
In providing technical advice, EPA can help schools determine the best strategy for evaluating the risk and responding to asbestos, Hunt said. He said that anything short of removal is considered a short-term solution.

Connie Derocco, environmental protection specialist with EPA, said that out of 1,527 schools inspected in 468 districts, some 60 percent did not comply with EPA rules. Most failed

cont'd pg. 6



to notify and warn PTAs and employees of asbestos materials. Schools know they will be pressured once the word is out, and they are hesitant to deal with the asbestos problem, Derocco explained. After receiving a notice of noncompliance, schools have 30 days to act before the EPA files a civil complaint.



Labor Union Concern

An estimated 3.24 million school children and 648,000 school employees are potentially exposed to asbestos, according to Kitty Conlan, research analyst with the Service Employees International Union (SEIU).

The SEIU is lobbying Congress to fund the 1980 act for grants and loans to schools. Schools don't have the money to cleanup on their own, Conlan said. "It's definitely a federal responsibility," Conlan said. "It's a nationwide problem which affects the health of millions of people."

SEIU is suing the EPA to require schools to cleanup flaking asbestos. "Schools say if EPA thinks asbestos is so bad, then EPA would require them to get rid of it," Conlan commented.

EPA does give schools good technical advice on how to get rid of asbestos, Conlan noted. But some schools accept the lowest bid rather than follow EPA guidelines. If the cleanup is not done right, the asbestos danger can be worsened.

Conlan said SEIU doesn't think suing asbestos' manufacturers is worthwhile, citing lack of action on suits filed by asbestos workers. "We're hesitant to have our members litigate themselves to death," she said.

Conlan added that school districts can also be held responsible for asbestos. "They can face a big liability," she commented.

Lawsuits Filed

A number of lawsuits on behalf of school boards and building owners in Kentucky, Mississippi, New Hampshire, Florida, South Carolina, Alabama and Tennessee, have been filed by a South Carolina law firm.

Daniel Speights noted that legal theories available to school boards against manufacturers of asbestos include: contract (the products were not fit for the uses intended), negligence (the manufacturers were negligent in informing users of the risks associated with the products), strict liability (manufacturers should be strictly liable for failing to warn of asbestos hazards), and restitution (manufacturers have a duty to abate the hazard).

A civil action filed on behalf of the Barnwell, South Carolina, school district notes that school districts and public officials could be held liable for failing to abate a health hazard.

A September 1981 report by the U.S. attorney general to Congress recommended that school authorities seek to recover asbestos abatement expenses from asbestos manufacturers. The report said federal litigation would be inefficient unless Congress imposed liability on asbestos manufacturers.

Asbestos manufacturers are being sued by at least 20,000 people on the grounds that the companies knew of asbestos hazards and covered them up, according to a September article in the *National Journal*.

A 1983 report from the Rand Institute says that asbestos litigation and compensation has cost an estimated $1 billion over the past decade. Only 37 cents of every dollar went for actual compensation to plaintiffs. Estimates of the number of deaths due to asbestos over the next 30 years range from 74,000 to 265,000.

Future Problems

Generally, 15-40 years can elapse between asbestos exposure and manifestation of certain diseases. For instance, shipyard workers exposed during World War II may only now be filing claims, according to the Rand study. Despite this knowledge, no attempt is being made to monitor school children exposed to asbestos.

An internal EPA memo written in November 1978 called for long-term surveillance of children who are exposed. The memo noted that when they reach adulthood these children could then be informed and notified of their childhood exposure. They could be medically examined more frequently for respiratory diseases and cancer.

EPA Regions, States

Because no one tracks data on asbestos in the schools on a national basis, *State Government News* interviewed asbestos coordinators in five of the 10 EPA regions and several state asbestos coordinators.

Generally, the federal regional EPAs have switched their emphasis from providing technical assistance on identifying and dealing with asbestos in the schools to checking school records on asbestos inspections. Most found a high percentage of schools either had not inspected or had not notified parents and employees of asbestos in the schools as required by the EPA.

State programs differ widely in scope and authority. While a few states fund asbestos removal and cleanup, most simply help schools identify asbestos or provide other technical assistance.

Region I

"Compliance is terrible," said Paul Heffernan, asbestos coordinator for EPA Region I covering Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

Five full-time EPA inspectors have visited 160 districts covering 400 schools and issued 58 notices of noncompliance. Of the EPA violations, 37 percent had not even inspected and 53 percent had not notified parents or employees of asbestos found. Many school administrators didn't want to be "bothered," others had not read the regulation and others simply refused to post a warning in the building.

Oddly enough, schools in states which had asbestos programs in the late 1970s were most difficult to convince they needed to inspect for asbestos in ways not done in earlier years. For instance, the latest regulations require insulation of pipes and boiler rooms.

With 3,300 school districts in the region, there is no way EPA can inspect them all, Heffernan said. However, press releases announce schools found in violation, so the hope is that other schools will inspect rather than see themselves in the headlines.

Asbestos abatement efforts vary widely even in the same school district and among neighboring school districts, Heffernan said. He said West Haven, Connecticut, had an effective program while North Haven, next door, had none. While Hartford, Connecticut, spent $6 million on big problems in five schools, it had not tackled "mini-disasters" in 37 others. The same situation existed in Boston.

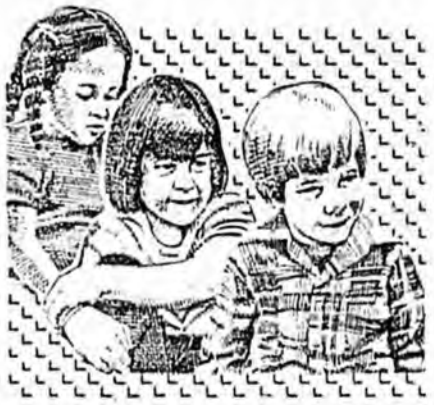
In the region, New Hampshire sent a checklist of EPA requirements plus abatement actions to help schools comply with the EPA.

Connecticut has granted $6.5 million since 1976 to localities for asbestos control in schools, reported Richard Krissinger, coordinator of school facilities, state Department of Education. State grants range from 40 to 80 percent of cost, depending on the aid formula the town qualifies for. If asbestos is found, the "chances are good it will be removed," Krissinger said. "We treat it as a health violation."

The state "accepts encapsulation" as an abatement measure, but doesn't encourage it. Krissinger said, "We believe removal is the only answer."

Al Siniscalchi, acting chief of the toxic hazard section of the Connecticut Department of Health Services and Education, noted that the state also provides technical assistance to schools. Schools were sent EPA guidelines and seminars were co-hosted by the state and EPA Region I.

A job freeze has reduced a former staff of nine to four and most inspections are now done by local health departments. Connecticut does follow-up inspections after asbestos removal to make sure the school is safe. Safe disposal of large amounts of asbestos is supervised by the state Department of Environmental Protection.



Maine is in good shape, according to Roy Nisbett, director of the Division of School Facilities. Most of the asbestos found was confined to pipe wrapping and boiler rooms. The state notified schools of the EPA rule and 90 percent complied with inspection requirements, Nisbett said. The Division of Industrial Safety trained school personnel to conduct asbestos inspections.

A proposed bill in Maine would authorize a bond issue to reimburse local schools for the cost of asbestos removal and repair.

In spite of the fiscal contraints caused by Proposition 2 1/2, public pressure has spurred asbestos abatement in Massachusetts, said Mike Malchik, assistant engineer, Division of Occupational Hygiene. "Parents and teachers are adamant about getting it (asbestos) down," Malchik said. The legislature allocated $2 million in 1983-84 to repay part of school removal costs if removal is recommended by the state.

Massachusetts inspects public buildings and schools, samples, analyzes samples and recommends abatement measures. There are at least five engineers and a project engineer available. The schools are being re-surveyed based on new guidelines, as inspections in 1978 only covered sprayed-on asbestos in public areas.

Region II

EPA Region II asbestos coordinator, Arnold Freiberger, has seven inspectors to check some 3,000 schools in New York and New Jersey. Out of 108 districts inspected, only 13 were in compliance with EPA rules, 32 had minor violations and 63 had either failed to inspect or identify asbestos or to post notices and notify parents and teachers.

New York has provided funds for asbestos control, reported Henry Binzer, associate in school business management, state Department of Education. In addition to state grants of $1.75 million annually for the past four years, school districts may tap state building aid for asbestos control.

An annual state survey of schools revealed 509,000 square feet of potentially hazardous asbestos.

The New York State School Asbestos Safety Act of 1979 required schools to identify asbestos and, if it is hazardous, take control measures. Encapsulation is most popular with schools. "The problem is that still has to be watched," Binzer noted. Removal is permanent, but expensive.

The state does not give advice on specific jobs, but provides an educational program for contractors and information to schools.

cont'd pg. 8

New Jersey doesn't provide specific aid for asbestos removal, but schools can get assistance through the foundation aid program, said Dr. Irving M. Peterson, manager, Facility Planning Services, state Department of Education.

In 1979, a governor's Task Force on Asbestos set minimum specifications for removal of friable asbestos. The specifications, which contractors must follow, require notification of state and federal agencies prior to the start of a project, require documentation of the contractor's qualifications, and require the contractor to follow stringent procedures for removal. The standards do not permit encapsulation (by coating the asbestos-containing layer) in New Jersey.

The state must approve all construction projects, plans, make field inspections to assure the work area is set up properly so contamination doesn't spread and check at the end of the project. Contractors, agents and workers must all attend a one-day state-EPA seminar and carry certification cards on the job.

Out of 2,400 public schools in New Jersey, asbestos removal projects have been approved in 350. Costs have totaled $46 million, for an average of $131,000 per school. It's up to local districts to remove the asbestos and as many as 100 more may not have acted yet.

Region IV

EPA doesn't have the resources to inspect school compliance with asbestos regulations, declared Dwight Brown, asbestos coordinator for Region IV covering Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

Most commonly, schools have either failed to inspect or to notify parents, Brown noted. He added that common law requires building owners to identify and notify occupants of hazards, and to provide medical surveillence if there is evidence of exposure.

Region IV also provides technical assistance and its intensive seminars on asbestos are attended by many from outside the region.

Most of the asbestos found in Georgia schools was in boiler rooms or pipe wrapping and has been corrected, said Lovett Fletcher, asbestos coordinator. State environmental, health and education departments worked with the U.S. EPA to provide information and hold seminars for superintendents. In addition, 70 environmental health specialists were trained to assist local systems. Schools with acute problems could get matching state aid through the state capital outlay, Fletcher said.

Kentucky helps schools comply with EPA inspection requirements, but has no money to aid them, said Jim Judge, unit director of property insurance, Department of Education. Asbestos cleanup was estimated to cost $26 million last year, but a survey now underway could change that estimate. Judge noted that the EPA doesn't require removal and many schools "are hesitant to post a warning." Asbestos problems in the state's 180 districts range from major ones with ceilings to boiler rooms.

Affected schools mostly include those built from World War II to the early 1970s. Judge said certain architects used lots of asbestos while others didn't.

South Carolina selected the critical points of EPA's regulations in requiring public and private schools to inspect, sample and analyze for asbestos, said Lee Bacot, asbestos coordinator, Department of Health and Environment. Results of the school surveys and health hazard assessments were required to be publicized in meetings and by notifying parents.

Out of 1,200 public schools, 1,080 or 90 percent complied with EPA's rule and 270 found friable asbestos. Only about 30 percent of the 450 private schools complied.

Asbestos inspectors must be certified by the state and must send survey results to the state. A one-day course is offered by the state to consultants and state and local staff. Schools are provided information, but the state does not provide specific advice or any funds.

Tennessee had a governor's task force on asbestos in 1978, according to Robert Foster, chief, technical services, Division of Air Pollution Control, Bureau of the Environment.

Out of 1,773 schools, 150 reported potentially hazardous asbestos.

The state provides free analysis of suspected asbestos materials, provides information to schools, and conducts training sessions. Because there is a shortage of EPA inspectors, Tennessee Gov. Lamar Alexander wrote the EPA offering to help enforce the inspections. However, EPA has not responded. The state plans to proceed to develop the data anyway, Foster said.

"We're convinced asbestos in the schools is one of the more important health problems," Foster declared. "It's an absolute human carcinogen. It causes serious irreversible health effects. Even brief exposure can cause painful disease. Children are



EPA's new rule requiring parental notice "triggered a lot of work," Peterson said. As many projects were approved last year as in the previous four years.

even at more risk."

The goal should be to eliminate the hazard, Foster continued, while the EPA only requires inspections and warnings which can lead to panic and make schools vulnerable to unscrupulous contractors. People need to be educated on how to abate the hazard, he said. He added that although "most want to do the best, it's hard to convince them that a little dust out of the ceiling will kill them."

"I've gone in schools where the material (asbestos) was hanging off chairs," Foster said. In that case the superintendent closed the schools upon the state's recommendation. More troublesome are marginal situations, Foster noted, where schools don't understand the potential hazard. "They look to the state or federal government," he said. "But hope for federal or state aid is a loser."

Region V

"There's quite a few violations of EPA's rule," said Anthony Restaino, asbestos coordinator for Region V covering Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.

Many school officials thought asbestos "was a low priority, didn't take time to inspect, didn't touch asbestos-materials to see if it crumbled or didn't notify parents or employees," Restaino said. Out of 43 school districts inspected, 29 were in violation. The Region V inspection staff was recently doubled to eight.

Illinois treats asbestos as a health and public safety issue, said Ralph Morrisette, architect, school facilities and organization section, State Board of Education.

Under Illinois law, school boards can hire an architect to determine if school building conditions endanger lives. After a survey of the cost to remove the asbestos, the local district can levy a tax for the amount without a referendum. Because schools are able to raise the funds, most of those with asbestos are having it removed, Morrisette said.

Most Wisconsin schools have inspected for asbestos, reported Nori Roden, school asbestos program coordinator, Department of Health and Social Services.

Out of 3,027 schools, 3,006 inspected and 1,089 found friable asbestos. Corrective action was taken by 583: 395 rewrapped pipes, 94 removed asbestos, 33 enclosed it and 61 encapsulated it.

Wisconsin has had an asbestos program since 1980. The Department of Industrial Labor and Human Relations conducted asbestos inspections when it conducted fire and other safety inspections. Samples were analyzed by the state lab. The Department of Public Institutions targeted schools for the free inspections, helped with record keeping, and provided technical assistance and consultation services. The health department computerized and coordinated the data and consults on health effects of asbestos.

A position paper being developed by the health department will most likely recommend removal of all friable asbestos, Roden said. "We're cautious of encapsulation and enclosure," she said. Advantages of the temporary measures include less cost and time, but the disadvantage is the "asbestos is still in the building," Roden said.

Minnesota in 1983 authorized a $25 per pupil unit capital expenditure levy and aid for asbestos removal or encapsulation and PCB cleanup with Department of Education approval.

Region VIII

The major violation found in Region VIII is that schools "aren't willing to put up notices," said Steve Farrow, EPA asbestos coordinator for Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. Instead, schools are trying to remove or encapsulate the asbestos first, he said.

Of the states, Farrow said that Utah's problems were with pipes and boiler rooms, North Dakota was making progress and Wyoming had few major problems.

Chuck Johanningmeier, technical advisor for the region, said, "Many people hoped it would go away. Medically, it is just getting worse." A Fargo teacher had contacted the EPA after discovering asbestos debris left in a school storeroom. Not long afterwards, the lawyer for the teacher's estate reported the man had died of mesothelioma (a rare cancer associated with asbestos exposure).

Unqualified contractors can do more damage than if the asbestos was left alone, Johanningmeier said. A proposed measure before the Colorado Legislature will require contractors to be certified to work on asbestos.

In another case, a contractor left asbestos which students and teachers dusted up. As a result the EPA is helping write specifications in a contract for cleanup which will be available to others as well.

There are some bright spots as well. Johanningmeier praised the work of Gill Johnson, the asbestos coordinator for a Jefferson County, Colorado, district. Johnson overcame school resistance and succeeded in cleaning up the asbestos in the district's schools.

No Cavalry in Sight

Although asbestos was recognized as a nationwide health problem by the Congress in 1980, there's no real federal effort to protect the health of exposed school children. Even though most states have asbestos coordinators, few states mandate cleanup or provide funds for removal. Essentially, asbestos removal or cleanup is left up to local school districts. Local school officials may not be willing or understand how to inspect for asbestos. Some may not understand the health dangers or legal liability they incur by allowing asbestos to remain. Apparently, many refuse to adequately notify parents or teachers if asbestos is found. Even then, students have no choice but to attend the school and teachers may be fearful of retribution if they take action. Many schools don't have or don't want to spend the money it takes to remove or cleanup asbestos.

Alvin L. Alm, deputy administrator of the EPA, recently acknowledged that the agency was reconsidering its approach to asbestos in the schools.

* * *

ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT G - ANCHORAGE
1526 F STREET
ANCHORAGE, ALASKA 99501
(907) 277-4419

COMMITTEES
HEALTH, EDUCATION & SOCIAL SERVICES (CHAIR)
JUDICIARY (VICE-CHAIR)
FINANCE
MAJORITY CAUCUS (CHAIR)

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4907
(907) 465-4525

May 22, 1984



Speaker Joe Hayes
Representative Ramona Barnes
Representative Mae Tischer
House of Representatives
Pouch V
State Capitol Building
Juneau, Alaska 99811

Re: Asbestos Abatement

Dear Colleagues:

1. Today, I informed Tom Freeman of the Anchorage School District (ASD) of the status of SB 373, amended, relating to the asbestos abatement program and the issue of a shortened school term temporarily for Bartlett High School.

2. ASD, through Peter Partnow, its lawyer, and a Washington, D.C. law firm, is preparing to join in a suit brought by school districts against asbestos manufacturers (see enclosed newspaper article). SB 373 could be amended in the House to include a provision that any school district getting state financial aid would reimburse the state, to the extent of litigation proceeds, out of any proceeds of such litigation. Thus the state would be subrogated to the interests of the school district where proceeds are collected to the extent of the state's aid for asbestos abatement. This seems to be a fair proposition which ASD, according to Mr. Freeman, would be willing to support, and which would perhaps make it easier to move appropriations through this legislature. I have already discussed this proposal with Senator Sackett.

3. Senator Sackett asks that SB 373, as amended by the House, also direct the Department of Labor and/or the Department of Law to survey all public facilities of the state regarding asbestos problems, and to report to the next

legislature with regard to its findings regarding the asbestos hazards in all facilities, not just schools; the issue of public liability if the hazards are not abated; the probable cost of abatement; a timetable for abatement; and the possibility of the state recouping some of the abatement costs through litigation like that described in paragraph 1 above and the enclosed news article. I strongly concur. I would be glad to assist either with additional information or in drafting amendments.

With best wishes, I am

Sincerely,

Joe P. Josephson
State Senator

JPJ:rak
Enclosure

cc: Senator John Sackett

35 U.S. School Boards Sue to Force Manufacturers to Remove Asbestos

By JAMES BARRON

With the Environmental Protection Agency stepping up its campaign against asbestos in schools, more than 35 school boards around the nation have filed lawsuits to get asbestos manufacturers to pay for removing the potentially hazardous material from their buildings.

The agency says 62 percent of the school districts it has inspected violate some of the Federal regulations that require local school officials to inspect and report on asbestos. Alvin Alm, Deputy Administrator of the E.P.A., said the figure dropped as low as 50 percent earlier in the year but climbed recently as the inspections continued.

To improve the compliance rate, the environmental agency has proposed fines of more than $300,000 against 16 school districts where Federal inspectors found problems.

Four of the school districts fined were in New Jersey: Brick Township, South Orange, Springfield Township and Dumellen. The largest fine was $102,000 against the Waterbury public schools in Connecticut. There, the agency said it had found that 16 of 26 schools contained asbestos that could become airborne.

Some Call E.P.A. Rules Vague

Some local school officials say the agency's rules are vague and subjective and its inspectors interpret them arbitrarily. But others have turned to the courts because of the high cost of removing asbestos, more than $100,000 a school by some estimates.

One case in South Carolina was settled last month when U.S. Gypsum agreed to pay $875,000 to the school district in Lexington County. One in Pennsylvania may be used as the basis for a suit that would consolidate all the claims against manufacturers by school boards around the country.

Asbestos was widely used as fireproofing insulation between World War II and the late 1970's. It has since been found to pose a threat of a variety of serious diseases, including mesothelioma, a cancer of the lining of the lungs that is often fatal.

The E.P.A. says it cannot estimate how many children face possible future health problems from attending classes in schools containing asbestos or how much exposure causes a health hazard. The National Education Association, which maintains that children are more susceptible to asbestos-related diseases than adults, says there are asbestos problems in 14,000 schools. The teachers' union has threatened to make asbestos removal a bargaining issue this year.

Under the Federal rules, more than 121,000 public and private schools with more than 50 million pupils are required to notify parents and school employees if asbestos is found by inspectors. In most cases, there are two types of asbestos in schools: asbestos in ceiling insulation and asbestos wrapping on plumbing and heating equipment.

The environmental agency's inspectors are supposed to check for asbestos that crumbles or can be pulverized at a touch, but they may also cite school districts for failing to keep detailed records on their own inspections.

"The unsettling thing is I'm afraid that is sidetracking the E.P.A.'s attention from the real issue, which is what's hazardous," said William Anderson, a lawyer who represents the National Association of School Boards. "It's also creating an adversarial situation. The E.P.A. is making enemies of many school districts as a result of what the schools see as nit-picking and unfair enforcement."

The Syracuse public schools complied with New York state regulations before the Federal environmental inspectors arrived. Ernest Rookie, the system's facilities supervisor, said the Federal inspectors questioned whether there was asbestos in an auditorium ceiling at Fowler High School.

"We had already taken samples in nine different spots," he said. "They were proved to be not asbestos. The E.P.A. came through and demanded a lab analysis. It cost $450, and we were sure that stuff wasn't asbestos."

Fine Is Called 'Unreasonable'

In Waterbury, Thomas G. Parisot, an assistant corporation counsel, called the proposed fine "unreasonable" and questioned how the agency had determined it. Long before the Federal inspectors showed up, he said, Waterbury made plans to have the asbestos removed.

"The E.P.A. inspected only four schools before it lowered the boom," he said. "They were not really familiar with the makeup of our school system when they issued their complaint. We say any asbestos-containing material is limited in comparison to other districts. We don't have any spray-on beam insulation, wall insulation, or the kinds of materials that are a great deal more friable."

He said samples taken before the E.P.A. inspection "indicated there was no exposure problem for airborne concentrations."

Many school boards are divided on how to proceed with the suits, stalled since Federal District Judge James M. Kelly ruled in Philadelphia that all the cases should be combined and tried there.

After lawyers representing many of the other districts with pending cases protested, he scheduled a hearing on whether to go ahead with the merged legal actions. The case before him originally concerned only the schools in Lancaster, Pa., which had sued the Lake Asbestos Company, a Canadian company, among others.

"To require thousands of lawsuits to be tried in one forum means that each individual school district will be lost in the mass," said Daniel Speights, a Hampton, S.C., lawyer handling more than a dozen cases. Historically, parties in a class action do not get the amount in damages that they would get if they tried their cases separately. Many of them could file locally and try the case in a year or less."

David Berger, one of the lawyers who represented the Lancaster districts when the case began, said individual trials would prove "costly, repetitive and duplicative."

"If everyone operates independently," he said, "that might make it impossible for anyone to recover. There is no way this industry could withstand $4 billion or $5 billion in judgments relating to school claims, which is what would happen if we used the tremendously ineffective case-by-case basis."

Ruckelshaus En

By PHILIP SHABECOFF

Special to The New York Times

WASHINGTON, May 19 — One year after his return as Administrator of the Environmental Protection Agency, William D. Ruckelshaus is widely credited with restoring morale, stability, purpose and credibility to an agency he found in a state of chaos.

But his critics, including members of Congress and environmentalists, charge that he has failed in leadership on such important environmental issues as emissions into the air of sulfur and nitrogen oxides that fall in particles called acid rain, killing aquatic life and threatening forests; that he is seeking to weaken environmental regulation by weighing risks to health against other social values; that he is serving as a benign front for what the critics call the anti-environmental policies of the Reagan Administration.

In an interview in his office overlooking the Potomac, Mr. Ruckelshaus denied that the Administration was anti-environment.

"It is a fair criticism of this Administration that the environment is not one of its high priorities — it has not been a high priority of the President in his career," he said. But he added that "this Administration has much more sympathy for the environment than the Nixon Administration," though many major environmental laws were passed during that Administration's tenure. IN th

ALASKA STATE SENATE

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22 May 1984

Honorable Mae Tischer
Chair
Committee on Health, Education and Social Services
House of Representatives
Alaska State Legislature
Juneau, Alaska

Dear Mae:

Re: SB 346; SB 373

In the light of our common interest in the problems of the mentally ill, and all of the work our committees have done on this subject, I am hopeful that your committee will soon submit its report on SB 346. I believe the bill will pass the House if the House has the opportunity. In addition, I do not object to your amendment, if I understand it rightly, about nutritional testing and programs, and I would urge the Senate to concur if the House passes SB 346 with that amendment.

On another subject, the Senate has passed SB 373 relating to asbestos abatement. An amendment I offered on the Senate floor is designed to avoid double-shifting of Bartlett High School students, by giving the Commissioner of Education the authority to ease the 180-day school term requirement if the school district submits a plan for a shorter term (not less than 150 days) which will give approximately equal education, e.g., by lengthening the school day. This would permit work to be done at Bartlett High School during interims between the spring and fall terms, so that double-shifting will not be necessary. Superintendent Gene Davis has asked for this. I am hopeful, again, that the House of Representatives will have an opportunity to consider SB 373 as amended. If you need additional information, please advise.

Sincerely,

Joe

Joe P. Josephson

Mae- As per our chat this a.m. Thanks. JPJ

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

M E M O R A N D U M May 24, 1984

TO: Members of the House HESS Committee
FROM: Representative Mae Tischer, Chairman, House HESS MT

RE: Proposed House CS for CS for Senate Bill 373 (HESS)

Attached please find a copy of the proposed House CS for CS for Senate Bill 373 (HESS), "An Act establishing an asbestos health hazard abatement program; and providing for an effective date."

The proposed amendments to the bill, indicated on the attached draft, are found on the pages and lines indicated below. Please note that, for the ease of the members, page and line references are to CS for Senate Bill 373 (Finance), amended, offered May 3, 1984. A brief explanation of the effect of each amendment is provided.

1. Page 1, line 9: The catch line for Section 1 of the bill is amended by deleting "FINDINGS AND" in order to reflect changes made to this section in amendment 2.

2. Page 1, lines 9 - 25: This amendment deletes the "Findings" portion of Section 1 of the bill, leaving only the "Purpose" portion. Legal counsel has advised that this amendment will have no legal effect on the bill.

3. Page 3, line 24: In conformity with amendment 4, this amendment deletes paragraph 9 of the new AS 18.28.020 and renumbers the remaining paragraphs accordingly.

4. Page 4, line 4 - Page 5, line 5: This amendment deletes establishment of the proposed Department of Labor Certification Programs, and renumbers remaining sections of the Act accordingly.

5. Page 6, line 15: This amendment inserts new language to read:

> "Sec. 18.28.080. RIGHT TO SUBROGATION. When the state has expended funds to abate asbestos health hazards under AS 18.28.030, the state shall be subrogated to all of the rights of a municipality or borough to recover damages for asbestos health hazards in a school building. The right to subrogation is limited to the amount of funds the state has expended to abate asbestos health hazards in a school building that is the subject of a legal action by a municipality or borough seeking to recover damages. A municipality or borough shall deposit in the general fund, to the extent of the related state expenditures on its behalf, damages awarded in a legal action under this section."

The amendment, suggested by Senator Josephson, would require school districts which successfully sue for costs associated with abatement and which get state financial aid to reimburse the state, to the extent of litigation proceeds, out of any proceeds of such litigation; thereby "subrogating the state to the interests of the school district where proceeds are collected, to the extent of the state's aid for asbestos abatement."

/wtl

BACKGROUND ON ASBESTOS HEALTH HAZARDS

FOLLOWING WORLD WAR II, ASBESTOS WAS RECOGNIZED AS THE "MIRACLE" MATERIAL - NOT ONLY AN EXCELLENT INSULATOR BUT ALSO FIREPROOF. THEREFORE, IT WAS WIDELY USED IN ALL CONSTRUCTION PROJECTS.

ASBESTOS WAS KNOWN TO BE DANGEROUS LONG BEFORE IT CAME TO THE NOTICE OF THE PUBLIC IN THE EARLY SEVENTIES. CONGRESS HAD NUMEROUS HEARINGS ON THE HEALTH ASPECTS OF ASBESTOS, AND PASSED IN 1980, LEGISLATION TO REMOVE ASBESTOS FROM SCHOOLS BECAUSE IT WAS RECOGNIZED ~~TO~~ THAT CHILDREN ARE MORE SUSEPTIBLE TO THE INGESTION OF ASBESTOS FIBERS THAN THE GENERAL PUBLIC. CASES WERE DOCUMENTED WHERE ASBESTOSIS WAS CONTRACTED BY PEOPLE LIVING IN PROXIMITY TO FACTORIES AND SHIPYARDS WHERE ASBESTOS WAS IN HEAVY USE, AND BY FAMILY MEMBERS OF ASBESTOS WORKERS. HEALTH RELATED DISEASE DOES NOT APPEAR FOR 20 - 40 YEARS AND IS ALWAYS TERMINAL.
THE FEDERAL LAW REQUIRING ASBESTOS IDENTIFICATION AND REMOVAL IN SCHOOL BUILDINGS, UNFORTUNATELY, WAS NOT ACCOMPANIED BY ANY APPROPRIATION TO AID SCHOOLS IN CARRYING OUT THE MANDATE. THE E.P.A. PUT OUT REGULATIONS REQUIRING IDENTIFICATION AND TESTING OF ASBESTOS BY SCHOOLS BY JUNE 30, 1983. DWIGHT BROWN, DIRECTOR OF THE E.P.A.'S ASBESTOS IN SCHOOLS PROJECT APPEARED ON CNN TWO WEEKS AGO, STATING THAT THE E.P.A. HAS DONE VERY LITTLE, AND WHAT HAS BEEN DONE IS INEFFECTIVE.

SCHOOLS CONTACTING OUR OFFICE ABOUT THESE BILLS, AND PARTICULARLY THOSE IN RURAL AREAS, STATED THAT THEY HAD DIFFICULTY GETTING ASSISTANCE FROM THE E.P.A. AND ATTEMPTED TO CARRY OUT THE REGULATIONS AS BEST AS POSSIBLE WITH VERY LITTLE INFORMATION. THE E.P.A. HAS .1 PERSON WORKING ON ASBESTOS IN ALASKA.

THE LAW ALSO REQUIRED SCHOOLS TO NOTIFY PARENTS AND EMPLOYEES OF ASBESTOS LOCATED IN BUILDINGS - PLACING THE SCHOOLS IN A PRECARIOUS POSITION BY RAISING PUBLIC CONCERN ABOUT AN OBVIOUS HAZARD THAT, FINANCIALLY, THEY WERE IN NO POSITION TO ADDRESS.

THESE BILLS ARE AN ATTEMPT TO PROVIDE FUNDING FOR ASBESTOS REMOVAL IN SCHOOLS IN A SAFE, ORDERLY FASHION THAT WILL GUARANTEE THE PROTECTION OF THOSE EMPLOYED TO REMOVE THE MATERIAL.

THE SUPERINTENDENT FROM KODIAK CONTACTED ME WITH AN ISSUE NOT ADDRESSED IN THE BILL, AND THAT IS THE DIFFICULTY OF FINDING A PLACE TO DUMP THE ASBESTOS AFTER REMOVAL. HE STATED THAT THEY HAD RENOVATED THEIR JUNIOR HIGH SCHOOL AND DUMPED THE MATERIAL IN A COAST GUARD AREA WHICH HAS NOW BEEN CLOSED. PERHAPS THE DEPARTMENT OF LABOR WOULD BE ABLE TO ADVISE SCHOOLS ON THIS MATTER.

MEMORANDUM

TO: JOE JOSEPHSON
FROM: NANCY DEITRICK
RE: SB 374 - ASBESTOS ABATEMENT APPROPRIATION BILL

E.P.A. REQUIREMENTS

The E.P.A. regulations mandated: (47 FR 23360-23389)

1. Testing for asbestos in every school district by June 30, 198
2. Notification of parents and school board about asbestos healt hazards discovered.
3. Notification of school employees of hazards with instructions on how to minimize exposure to asbestos.
4. Maintenance of records on asbestos testing and notification.

Since 1979, the EPA has put forth technical assistance to districts concerning asbestos hazards and abatement. This has consisted of manuals and workshops for school officials in the major areas of the state. Kathy Pazera, of the Juneau EPA office, told me that the EPA has so far applied sanctions in two states for non-compliance with these regulations, and that there is heavy public pressure concerning a more aggressive stance on asbestos in schools. The EPA has just rewritten regulations for demolition and renovations of asbestos containing materials.

Although the $172 million authorized for the Asbestos School Hazard Detection and Control Act of 1980 was never appropriated, there is speculation that the regulations requiring public knowledge of asbestos hazards were designed to bring pressure on states for funding asbestos removal.

A civil suit filed on behalf of a South Carolina school district notes that school districts and public officials could be held liable for failure to abate a health hazard.

Tues. 5-15-84

JOHN:

re: Asbestos Health Hazard problem (SB-373, SB-374)

Per your request, I have talked with Alison Elgee in Dept. of Education.

In general the problem is a recent one in terms of public awareness of the potential hazards of asbestos materials used in construction of school and public buildings.

In Alaska only Anchorage and to some degree Fairbanks have been able to identify asbestos hazards in their schools. Anchorage has done the most extensive survey of hazards.

In Anchorage, for example, their first estimate of removal of asbestos from Bartlett High School was roughly $6 million. TODAY, the business manager for the school district reports the estimate has now shot up to somewhere between $13 and $22 million. Bartlett's problems are that when the school was constructed asbestos was sprayed on the walls as a fire safety/prevention measure. This type of asbestos is called "friable" and means that the substance releases fibers in the air which are breatheable by humans and subsequently can cause health hazards (cancer, lung problems, etc.). The Bartlett case is a little unique in that apparently the federal government would provide for some funds necessary to remove the hazardous asbestos, but their is a question as to how much the feds would put up.

Other school districts HAVE NOT identified their asbestos hazards either because they lack the necessary funding, expertise and/or personnel to do the job...or simply have not been made aware of the serious nature of the problem and as a result have felt no (or little) pressure to act on the matter.

DOE received $2.5 million in HB-691, passed earlier this year, to survey the asbestos hazard problems throughout the public school system (i.e., the more rural school districts).

Getting a handle on the overall costs to remove hazardous asbestos in schools is not easy because it is a new problem, there is insufficient data from all school districts and estimates seem to vary from week-to-week, as in the case of Bartlett school in Anchorage.

MORE DETAILED INFORMATION could possibly be provided from D.O.E if they were permitted to use the $2.5 million they already have to identify the problem areas and report back to the legislature with funding requests for next year.

DOE says that their cost estimates to remove hazardous asbestos would far exceed the $17 million currently proposed in SB-374, which is a companion to SB-373, creating an asbestos health hazard program to remove hazards... but they cannot give a relatively accurate figure until they've had time to assess the problems throughout Alaska.

MG

ASBESTOS IN SCHOOLS

The following needs have been identified from the Senate HESS Committee's request for information:

Kodiak	$1,138,507	
Petersburg	107,000	
Delta Greely	99,700	
Cordova	120,000	(In progress)
Nenana	15,000	($5,000 already spent)
Anchorage	14 - 16.6 million	($6,101,300 in SB 403)
Fairbanks	1,385,000	($1,385,000 in SB 403)
Skagway	25,000	
Kuspuk	5,296	
Mat-Su	105,959	(expended)
Ketchikan	5,000,000	(estimate)
Juneau	300,000	(expended, estimate several million)

**There is $2,500,000 in HB 691 for statewide asbestos removal

The Department of Labor has estimated that there are 220 schools that remain to be tested. They estimate the cost for sampling and testing to be $296,100 for those schools, this amount has been included in SB 374.

5/2 4:45pm. Mike Scott said they will do a Finance CS with these amendments

Mick Coltran, of the Laborers Union, has requested more stringent sanctions for violations. A memo from Vic Fischer was sent to Senator Ferguson, but I don't know if these recommendations are to be included in a Finance CS. They are:

Insert page 4, line 14:

(e) A contractor who violates (b) of this section is guilty of a class A misdemeanor.

(f) A contractor who violates (c) of this section is guilty of a class B misdemeanor.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M May 28, 1984

SUBJECT: Emergency closure days (AS 14.03.030(2))

TO: Representative Mae Tischer
Chairman, House HESS Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have asked whether AS 14.03.030(2) permits a school district to use an "emergency closure day" to conduct an asbestos abatement program. AS 14.03.030 provides that the school term is at least 180 days in session, except that, subject to the approval of the Commissioner of Education,

> ...an "emergency closure day" may be substituted for a day in session because of conditions posing a threat to the health or safety of students.

The answer to your question turns on whether the condition sought to be remedied by the asbestos abatement program poses a threat to the health or safety of students.

I have reviewed the memo you received from Ron Lorenson of the Department of Law as well as the memo from William Thompson of the Department of Education. The Department of Education memo concludes that if an inspector certifies that a building should not be occupied because the asbestos poses a threat to the health or safety of the children, an emergency closure day is authorized. The Department of Law disagrees to the extent that it believes an emergency closure day is authorized only if it is the result of "bona fide emergency situations which school officials could not reasonably anticipate in advance." In other words, under the Department of Law's interpretation, emergency closure days are not authorized for a planned abatement program, even if the program presents a threat to the health or safety of students.

Although the Department of Law's interpretation of AS 14.03.030(2) is not unreasonable, I disagree that the statute does not authorize emergency closure days for asbestos abatement programs. Although the statute uses the word "emergency," the plain language of the definition does not require anything but a threat to the health or safety of the students. If an abatement program is used to remedy conditions posing such a threat, it would appear to authorize an emergency closure under AS 14.03.030(2).

It should be noted, however, that under AS 14.03.030(2), all emergency closure days are "subject to the approval of the commissioner." Therefore, even if an emergency closure is authorized under AS 14.03.030(2), the Commissioner of Education has the power to veto a school district's determination that an emergency closure day is called for.

If I may be of further assistance, please contact me.

KBL:ojb
J8/009

MEMORANDUM State of Alaska

TO: The Honorable Representative Mae Tischer
Alaska State Legislature
House of Representatives

DATE: May 25, 1984

FILE NO: 4203M

TELEPHONE NO: 465-2865

SUBJECT: Emergency Closure/
Shortened School Year



FROM: William D. Thomson, Director
Management, Law and Finance
Department of Education

Per our telephone conversation this morning, the 1983 Legislature amended AS 14.03.030. School Term by adding a section where an emergency closure day may be substituted for a day in session because of conditions posing a threat to the health or safety of students.

If an inspector certifies that because of friable asbestos a threat to the health of children occupying a school exits, therefore, the building should not be occupied, this would constitute an "emergency closure day" until the condition could be corrected, if alternate arrangements for the childrens' education could not be accomodated.

If you have further questions, please feel free to call.

of concern your legal liability as "owner" of your school buildings. Following federal regulations scrupulously won't protect your schools against a potential lawsuit if an asbestos removal worker should die from cancer, so you should be very careful in hiring a contractor, says attorney Luis Nido, of Brace and Patterson, a Washington, D.C., law firm that does asbestos work. Hire a highly specialized firm whose technicians are able to testify in court, adds attorney James B. Bedingfield of Coos Bay, Ore., who represents several school systems involved in asbestos abatement. And keep careful daily records to document your efforts to ensure the safety of workers, as well as students and staff, while asbestos abatement work is being done in your schools. On these and other issues related to asbestos, "Uncovering the Asbestos Hazard," published by the National School Boards Association's Council of School Attorneys, provides comprehensive legal, legislative, and medical background on asbestos in the schools. (It's available for $100 by writing to the council at 1055 Thomas Jefferson St. N.W., Washington, D.C. 20007.)

And, perhaps most important, know what you're getting into before you launch a program of asbestos containment or removal. George Harris, assistant superintendent in Montgomery, Ala., advises setting up an interdisciplinary team composed of board members, administrators, your school attorney, perhaps parents or other community members, and the architect and engineer you select to help do the job. (See article below.) Asbestos expert Dwight Brown suggests that this interdisciplinary team (or at least one member of it) should attend one of the seminars on asbestos in the schools conducted by E.P.A. and private consulting groups. These seminars have as speakers doctors, engineers, architects, attorneys, contractors, and others knowledgeable about asbestos. (For more information, contact Brown at A.H.P. Research, Inc., 3763 Vineyard Way, Marietta, Ga. 30062; 404/973-8689.)

Asbestos in schools is a wrenching, emotional issue—and it no longer is lying dormant. School board members and school administrators need to take action and take action *now*. □

Sidestep asbestos hysteria: Explain the risk (and your response) to the public

By George Harris

WE ALL WANT safe schools, but when it comes to the risky business of removing asbestos, school board members and school administrators sometimes bear the brunt of community criticism. At least, that's what happened in the Montgomery County (Alabama) Public Schools (K-12; enr.: 35,000) when we were faced with the difficult task of removing asbestos from about half of our 52 schools. Perhaps there's a lesson for you in the way we handled this emotional issue.

We knew little about asbestos until we read *Asbestos in schools: Walls and halls of trouble*, in the November 1978 issue of the JOURNAL. We knew even less about potential asbestos hazards in our own schools, other than that asbestos-containing materials had been required by the architects who designed many of our buildings. Consultation with those architects revealed that Yes, the ceilings in most of the classrooms were coated with cementitious, sprayed-on asbestos products. Materials used in the walls and halls of the schools we were so proud of when they were built in the 1950s and '60s were fireproof, attractive, and acoustically satisfactory. They also were potential causes of cancer and other life-threatening diseases.



'Our slide show and public talks about asbestos set the stage for a calm resolution of the problem'

We immediately began to gather samples from some of our buildings with sprayed-on ceilings. Laboratory tests confirmed what we had not wanted to believe: We had asbestos in our buildings—in far greater amounts than we had suspected. By January 1979, we knew we had more than 300,000 square feet of the stuff only a few feet above the heads of approximately 15,000 students. By this time, other school systems in Alabama were becoming aware of the problem, and the state superintendent of education called for a statewide report on asbestos in schools.

Publicity was widespread, and within months, we began to feel the uncomfortable effects of public awareness. The state PTA president wrote to local PTA officials, urging their support of federal legislation to provide funding to help school systems inspect buildings for asbestos-containing materials. With our local PTAs alerted to the danger of asbestos, we soon were receiving letters from legislators and from worried parents who wanted to know what the Montgomery schools were doing to protect their children. Public criticism peaked when a local newspaper published an editorial entitled "Silent Death." Next to the editorial was a cartoon showing a distressed mother sending her children off to school with gas masks on their faces. From then on, I knew the asbestos problem had to be Number One on my agenda. We had been waiting to see if any state agencies would

George Harris is assistant superintendent in Montgomery, Ala.



Schools are required to post warnings wherever friable asbestos exists. When asbestos is removed, areas are quarantined and workers wear protective suits.

recommend a course of action, but now we knew we were on our own.

In January 1982, the Montgomery school board passed a resolution making asbestos cleanup a matter of top priority and directing the staff to develop an asbestos control program immediately. We formed a committee composed of the superintendent, the board attorney, two board members, and me. Here, briefly, is how our committee confronted the issue:

Our first step was to request proposals from architectural firms. After carefully interviewing all the applicants, we chose an architectural/engineering firm that had proven experience in asbestos abatement and removal. We then presented our selection to the board, which approved our recommendation.

Before we could begin actually solving our problem, though, we needed more background on the hazards of asbestos and the medical and legal risks of removing it from our buildings. So we attended a seminar on asbestos in schools held in Atlanta. The seminar was conducted by, among others, the regional asbestos coordinator for the Environmental Protection Agency (E.P.A.). Seminars like the one we attended are a good source of comprehensive, accurate information on such matters as how to approach specific asbestos problems, how to hire a competent lab to test samples, and how to inspect and monitor the asbestos contractor's work to ensure a safe and thorough job.

Not long after we returned from the Atlanta seminar, the situation heated up at home. Several PTA members at one school began distributing leaflets urging parents to call and find out when asbestos abatement contracts would be awarded and when the asbestos-containing materials would be removed from their schools. The group broadcast their concerns over local radio stations, intensifying the pressure on us to speed up the process.

By early summer 1982, the surveys confirmed that a total of 24 school sites (some with more than one building) contained more than 500,000 square feet of dangerous, friable (or loose, crumbling) asbestos-containing materials. The boiler coverings, water heater jackets, and pipe coverings in these schools and 16 others were coated with asbestos that would have to be removed. We had hoped to award cleanup contracts for a number of the schools that summer; unfortunately, although a bond issue for school construction already had been approved by the state legislature, the funds were not made available to local school systems because of the state's tight economic situation. It became clear we couldn't complete the work by the opening of the 1982-83 school year. The local news media incited a public outcry with charges that the schools were moving too slowly, suggesting we somehow were negligent in solving the crisis.

The board and administration decided positive public relations measures were in order, so I put together a slide presentation illustrating how the Montgomery schools had responded to the asbestos hazard since we first became aware of it. The 40-minute, narrated presentation explained why asbestos posed health risks, where it had been found in our schools, how the press and community had reacted to the discovery of hazardous materials, and what we were doing to make the schools safe. One of our board members presented the slide show, along with a speech on the school board's responsibility in removing asbestos, at a regional school board association meeting. The presentation was such a success that we used the slide show at subsequent PTA and community group meetings. These discussions have gone a long way in garnering support for our efforts and reassuring parents, staff, and community members that we are, indeed, on top of the problem—and moving as quickly as possible to make schools safe.

Community support is important, but it takes money to get the job done, so we continued to fight for funding from the state. Finally, in January 1983, we received more than $1 million from the state for asbestos abatement. We immediately awarded contracts for asbestos removal in four schools, to be completed during the spring recess. Soon after, we received an additional $2.4 million in state bond money; that amount should allow us to complete the project. By the end of last summer, we successfully had removed 360,000 square feet of asbestos-containing materials from 17 schools. We currently are advertising for bids on the abatement jobs yet to be done, and we anticipate that the Montgomery schools will be completely free of asbestos-containing materials and their accompanying hazards by this summer.

Our slide presentation, meanwhile, has traveled many miles. In the past year, I've shown it at seminars conducted at several universities and at a National School Boards Association Council of School Attorneys' asbestos seminar held last summer.

If your schools haven't yet dealt with the asbestos problem, it's time you did. It's an emotional issue, and it requires delicate handling if you want to avoid hysterical accusations from the community. We've found that our slide show and discussions with the community have helped set the stage for a calm and constructive resolution of the problem.

If you'd like more information on how to put together a presentation for parents and community members on asbestos abatement, write to me at the Montgomery Public Schools, P.O. Box 1991, Montgomery, Ala. 36197. □

HB 246

CS FOR HOUSE BILL NO. 246 (L&C) by the Labor and Commerce Committee, entitled:

"An Act relating to the deregulation of interest rates; and providing for an effective date."

was read the first time and referred to the Labor and Commerce Committee and the Judiciary Committee.

STANDING COMMITTEE REPORTS

SB 79

The Resources Committee considered SENATE BILL NO. 79 (toxic and hazardous substances in the workplace) and recommended it be replaced with

CS FOR SENATE BILL NO. 79 (RES)

with a majority do pass. The report was signed by Senator Fahrenkamp, Chairman and concurred in by Senators Vic Fischer, Eliason, Ziegler, Paul Fischer and Sturgulewski. Senator Mulcahy signed "no recommennation".

The committee attached:

SENATE RESOURCES COMMITTEE
LETTER OF INTENT, SB 79

The purpose of this legislation is to inform employees of the identity of and the health hazards and proper handling procedures for hazardous and toxic substances in their workplace through a communication and safety education program adopted by employers. While this legislation is designed to cover most employers in the state utilizing substances defined in the bill, it is not the intent to require employers to be responsible for the generation or creation of the information required to be posted or communicated to employees. Rather, the bill is designed under the assumption that federal regulations will be promulgated in the near future by the Occupational Safety and Health Administration (OSHA) which will require manufacturers to develop and distribute information for all the substances covered by the bill. The provision requiring that such information accompany substances imported into the state and the provision requiring the State Department of Labor to keep information on file for all substances covered by the bill are designed to aid employers in readily obtaining the required information.

ADEC NEWS

PRESS RELEASE FROM THE PUBLIC INFORMATION OFFICE
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
JUNEAU, ALASKA 99811 (907) 465-2606

Bill Sheffield, Governor Richard A. Nevé, Commissioner
Joe Ferguson, Information Officer

FOR IMMEDIATE RELEASE April 20, 1983

ASBESTOS IN ALASKA
by Jana Baumann, Information Officer
Department of Environmental Conservation

JUNEAU--Twenty years ago the word "asbestos" meant progress, indestructibility; a nearly perfect component for building materials to insulate and to fireproof.

Today the mention of asbestos may bring a grim response and thoughts of cancer and lung diseases. What was once thought of as a miracle material is now known to be extremely harmful, especially when it is dispersed into the air and inhaled.

What is asbestos?

Asbestos is a naturally occurring mineral that can be separated into fibers. It is very lightweight and nearly industructible. Before the early 1970s, asbestos was widely used as a component in thermal, electrical, and acoustical insulation, fireproofing, ceiling tiles, and decoration. These applications were most cost effective in large buildings like schools, factories and office buildings.

What are the harmful effects of asbestos?

The danger to human health from asbestos occurs when minute fibers are breathed and become lodged in the lungs. Asbestos containing materials are often friable which means the fibers can be readily separated from the material in which it is

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used and become airborne. Fireproofing or insulation which is damaged and crumbling can release invisible asbestos fibers into the air.

Cancers of the chest and lungs and other organs have been positively associated with asbestos exposure. There is no known "safe" exposure. Even brief contact could result in irreversible damage that may not be detected until many years after exposure.

When the health effects of asbestos exposure were documented, many corrective programs were initiated for workers who handle it and for the public who may be unknowingly exposed at their school or workplace. In Alaska, several state and federal agencies regulate asbestos exposure, handling and disposal. Following is a brief summary of agency responsibilities.

Schools and Public Buildings

The U.S. Environmental Protection Agency regulates inspection of schools for identifying asbestos containing materials. The superintendent of each school district in Alaska has been instructed to inspect all school buildings in the district for friable asbestos by June 23, 1983. Each type of friable material located in the school buildings must be tested for asbestos content. Samples must be tested using Polarized Light Microscopy.

School districts are required to keep a record of all the inspections and results from each school building. If asbestos containing material is found in a school, additional information on the location and quantity of this material must be kept on file at the administrative office of the school and at the school district office. The school district must notify employees and the parent-teacher association about the presence of asbestos containing materials.

Instruction is available on how to inspect public buildings and schools which may contain friable asbestos. Booklets and video tapes may be borrowed from the Alaska Operations Office of the U.S. Environmental Protection Agency in Juneau or from the Alaska State Library.

Asbestos emissions to the air inside the work place

The Alaska Department of Labor, Division of Occupational Safety and Health, regulates exposure of workers to airborne asbestos fibers inside the work place. The regulations also govern asbestos exposure during demolition and renovation work.

The regulations set standards for exposure levels of asbestos fibers in the air, and specify work practices such as ventilation and clothing and engineering controls for most workers in the state. Exposure criteria for federal employees and workers on offshore oil rigs or seafood processors are regulated by the U.S. Department of Labor, Occupational Safety and Health.

Questions regarding asbestos exposure or work practices in the work place should be directed to Alaska Department of Labor, Division of Occupation Safety and Health. Sampling of our materials in the work place is also done by this agency.

Asbestos emissions to the outside air

The U.S. EPA has established standards to limit emissions of asbestos to the outside air. These rules govern manufacturing plants which produce cement, fireproofing materials, insulation, and other materials which include asbestos as a component. The rules also govern materials used in roadway surfacing and emissions from asbestos milling operations. These regulations also limit release of asbestos to the air during renovation and demolition activity and fabricating operations that utilize commercial asbestos.

Asbestos Disposal

The U.S. EPA has regulations which regulate handling and disposal of asbestos. Materials containing friable asbestos must be specially contained and wetted. Landfills or disposal sites must meet certain specifications in order to accept the material. Operators of the disposal site must cover it and post warning signs.

Following is a list of agencies which regulate some aspect of asbestos in Alaska, the situations for which they are responsible, and the person to contact.

Responsible Agency	Asbestos Situation
U.S. Environmental Protection Agency Alaska Operatoins Office 3200 Hospital Drive, Suite 101 Juneau, Alaska 99801 Phone: 586-7619 Contact: Kathy Pazera or Steve Torok	Emission to the outside air Disposal of materials containing friable asbestos Rules for landfill or disposal site handling Exposure in public buildings and schools
U.S. Department of Labor Occupational Safety and Health Administration Federal Building and U.S. Courthouse 701 C Street Box 29 Anchorage, Alaska 99513 Phone: 271-5125 Contact: Leonardo Limitiaco	Federal employees Offshore oil rig or floating seafood processor employees
Alaska Department of Labor Division of Occupational Health and Safety 3301 Eagle Street, Suite 303 Pouch 7-022 Anchorage, Alaska 99510 Phone: 264-2597 Contact: Stan Godsoe	Asbestos in the air at the work place Work practices for handling asbestos

PRIVATE LABORATORIES WHO TEST SAMPLES FOR FRIABLE ASBESTOS

NHS Incorporated
Environmental Health Sciences Lab
805 Goethals Avenue
Richland, Washington 99352
Phone: (509) 376-6980

Chemical & Geological Labs of Alaska
5633 B Street
Anchorage, Alaska 99502
Phone: (509) 562-2343

Microlab Northwest
7609 140th Place, N.E.
Redmond, Washington 98502
Phone: (206) 885-9419

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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION X
ALASKA OPERATIONS OFFICE
3200 HOSPITAL DRIVE
SUITE 101
JUNEAU, ALASKA 99801

REPLY TO
ATTN OF:

February 1, 1984

Joe Cladouhos, Director
Division of Environmental Quality Management
Alaska Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811

RE: Senate Bill No.'s 373 and 374 introduced on 1/25/84

Dear Mr. Cladouhos:

As a result of a request by your staff, we have provided a review of the current asbestos regulations and our comments on Senate Bills 373 and 374. We strongly support the concept of both these Bills. The EPA Alaska Operations Office (AOO) has been actively involved in 1) providing guidance to schools on school regulation 40 CFR Part 763, 2) providing information to contractors conducting demolition/renovation of friable asbestos, 3) inspecting asbestos demolition/renovation projects and 4) responding to all complaints in this area. The AOO also notifies the State Department of Labor (SDoL) on each demolition/renovation asbestos project for which we receive a notification.

Our staff in Alaska is limited to .1 of a person year for asbestos activities; therefore, we strongly support efforts from state agencies which supplement our efforts. We feel that Senate Bill 373 in conjunction with the present EPA, U. S. Department of Labor (DoL), and SDoL regulation would provide for a more complete asbestos program for Alaska; however, appropriations in Bill 374 may not be adequate to fulfill all the designated tasks for the asbestos program.

Background:

At the present time the U. S. Environmental Protection Agency (EPA) requires the identification of friable asbestos in schools in accordance with regulations (40 CFR Part 763) promulgated under the Toxic Substance Control Act (TSCA). In addition, all projects involving the demolition and/or renovation of friable asbestos in buildings are regulated by EPA in accordance with 40 CFR Part 61, Subpart B. These regulations were promulgated under the authority provided to EPA in the Clean Air Act (CAA). The U. S. Department of Labor and the SDoL also have regulations addressing removal and demolition of asbestos from structures (29 CFR 1910.1001 and OH&EC 04.0102 respectively).

Unlike regulations promulgated under the CAA, the school regulations promulgated in accordance with TSCA cannot be delegated to state or local governing agencies. This does not prevent a state or local governing agency from developing its own asbestos program for schools. For the most part Senate Bill 373 would supplement the present EPA school regulations; however, some overlap occurs in the requirement to establish guidelines for schools to identify asbestos health hazards [18.28.050 (5)]

Detailed Comments:

According to Section (1) (b) of Senate Bill 373 there are three main purposes for the Act. Our comments on each of these is discussed in the following text:

1) We support the testing and analysis of friable materials for asbestos content. According to the Bill, the Alaska Department of Environmental Conservation (ADEC) would provide this service. In accordance with EPA regulations (40 CFR Part 763) all local education agencies were to complete the following tasks by June 28, 1983:

-conduct inspections of schools for friable materials

-collect samples of all materials identified as friable.

-have each sample analyzed by Polarized Light Microscopy (PLM) for asbestos content.

During 1984 the EPA will be conducting inspections of three major school districts in Alaska; however, there have been no inspections of Alaska schools conducted to date. As a result it is not known which schools in Alaska are in compliance with the EPA regulation and therefore some schools may require sampling.

There are approximately 550 schools in Alaska. Each specific friable material type is required to be sampled in three separate areas. Assuming only one type of asbestos is present in each school, 1,650 samples would be representative of the total schools. The information that schools have voluntarily supplied to EPA on their compliance status indicates that schools have more than one type of friable material. Depending on the laboratory, sample analysis costs range from $25.00 to $45.00 per sample. Based on this information the appropriation of $75,000.00 to ADEC may not be adequate to accomplish the analysis of samples from schools and public facilities in Alaska if commercial laboratories are utilized.

2) We support the dissemination of information pertaining to friable asbestos material. Both U. S. Department of Labor and EPA have information and videotapes available that pertain to identification and removal of friable asbestos. The U. S. Department of Health and Human Services has information available on the health effects resulting from asbestos exposure. There is a need for coordinating the distribution of the current and newly generated asbestos publications to the public. Again, the present Bill assigns this responsility to ADEC but the $75,000.00 allocation may be inadequate.

3) Section 18.28.050 (5) of Senate Bill 373 requires ADEC to establish quidelines for determining asbestos health hazards. These quidelines would be used by school officials to establish a sampling plan for friable asbestos. This overlaps with EPA requlations 40 CFR 763.105 and 763.107 on the inspection and sampling of friable material.

We support the correction of identified asbestos health hazards in schools and public facilities. Senate Bill 373 goes one step beyond the EPA school regulations by requiring schools that have the potential to release asbestos fibers, to eliminate friable asbestos material . (It is our understanding that elimination includes an action which would correct the asbestos hazard, but does not necessarily require removal).

We strongly support the appropriations to the Department of Community and Regional Affairs (CRA) for correcting identified asbestos hazards in schools and public facilities. The EPA has not been successful in acquiring an appropriation from Congress for schools requesting financial support for abatement of friable astestos.

If you should have any questions on our comments please contact Kathryn Pazera of my staff.

Sincerely,

Ronald A. Kreizenbeck, Director
Alaska Operations Office

cc: S. Hungerford ✓

JUNEAU EMPIRE - MAY 22, 1984

Asbestos fibers temporarily halt work at Baranof

By CHRISTOPHER JARVIS
The Juneau Empire

Repair work at Juneau's historic Baranof Hotel was halted May 11 so state inspectors could be sure no hazardous amounts of asbestos fibers were floating in the air.

Work resumed last week after tests on air samples taken from the hotel revealed the amount of asbestos was far below minimum state safety standards, said state Department of Labor Safety Consultant Douglas Wahto.

In fact, Wahto said the amount of asbestos fiber floating in the air in Los Angeles probably far exceeds the amount found at the Baranof.

The Division of Labor Standards and Safety of the state Department of Labor was asked to evaluate the amount of asbestos by Wick Construction, the firm hired to repair damage caused in an April 27 fire that gutted most of the hotel's main floor.

Minimal safety levels for airborne asbestos fibers is .2 percent per square centimeter, Wahto said, and air samples taken from the basement of the hotel resulted in levels of .005 percent of asbestos, "which is absolutely nothing, minimal," Wahto said. The basement had the highest level of airborne fibers, Wahto said.

Asbestos in building materials was banned by the federal Environmental Protection Agency in 1978, said Richard Arab, deputy director of the Division of Occupational Safety and Health.

Construction materials made in part with asbestos is common in buildings constructed or remodeled prior to 1978, Arab said.

The Baranof work stoppage was "a precaution you have to take in any of these old buildings," Wahto said. Asbestos is frequently found when doing any renovation or demolition work in older buildings, Wahto said, and materials containing asbestos are either disposed of by following federal guidelines or are "encapsulated" using a sealer "that's indestructible, practically," Wahto said.

RESOLUTION No. 84 - 10:

SUBJECT: ASBESTOS ABATEMENT IN ALASKA SCHOOLS

WHEREAS, friable asbestos, similar to that which was discovered in schools in the Anchorage School District, exists in numerous other schools in school districts throughout the State; and

WHEREAS, an Asbestos Technical Panel, convened in Anchorage by the Anchorage School Board, reviewed thoroughly health hazards associated with asbestos in Anchorage schools; and, as a result, recommended that friable asbestos be removed from Anchorage schools as an unacceptable health hazard[1]; and

WHEREAS, many Alaskan school children in school districts other than Anchorage may be exposed to health hazards from asbestos that are preventable; therefore

BE IT RESOLVED, that the Anchorage Medical Society urges passage of Senate Bills 373 and 374; and

BE IT FURTHER RESOLVED, that the Anchorage Medical Society urges the Governor to form a special task force with representatives of Department of Health and Social Services, Department of Labor, Department of Education, Department of Transportation and Public Facilities, Department of Environmental Conservation, parents of school children, and teachers to implement an asbestos abatement program in all Alaskan schools in accordance with recognized standards for asbestos abatement[2]; and

BE IT FURTHER RESOLVED, that the Anchorage Medical Society urges implementation of an asbestos abatement program which will include the following tasks:

1. Implement and insure completion of a comprehensive survey to identify and categorize asbestos in all Alaskan schools.
2. Evaluate health hazards associated with any asbestos (friable asbestos and asbestos in other forms) discovered in the survey and make recommendations for appropriate medical surveillance of students, teachers and workers exposed to asbestos.
3. Insure notification of teachers, parents, and students of the presence of friable asbestos identified in Alaskan schools in accordance with guidelines established by the EPA.
4. Recommend a plan for removal of friable asbestos, where necessary, and develop appropriate bid specifications and guidelines so that school districts can be assured that asbestos will be removed according to established standards which protect workers, students, parents and teachers during the removal process as well as insure that asbestos is removed totally and is adequately disposed of in approved sites.
5. Increase awareness of the health hazards associated with asbestos and protect against future problems by making sure that asbestos containing materials are not used in new construction.

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1. Asbestos Technical Advisory Panel Recommendations, ASD Memorandum #534(82-83), Anchorage School District, Anchorage, Alaska, May 23, 1983.
2. Asbestos-Containing Materials in School Buildings: A Guidance Document, Part 1 and 2. U.S. EPA, Office of Toxic Substances, Washington, D.C., March 1979.

ASBESTOS

The clock is ticking in your schools, and inaction could prove to be devastating

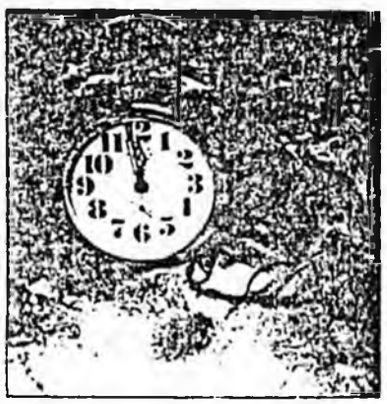
By Kathleen McCormick

ALL TALK AND no action: That's the way the asbestos-in-schools game has been played in the past several years by the federal government and thousands of U.S. school systems. It's time—past time—to respond to the potentially fatal hazards of asbestos in our schools. The ante has been raised in recent months, and from the look of things, school boards that haven't complied yet with federal regulations concerning inspection, notification, and record keeping could be in for a rough time. And even if you *have* made the inspections, posted the required notices, and notified parents and staff of potential health risks in your schools, you still might be the target of a lawsuit should a student or staff member become ill or die because of an asbestos-related disease.

That's not exactly reassuring news, but you can take some steps to meet federal regulations and protect your students and staff. Prudent school leaders would do well to consider carefully some of the recent developments in medical research, federal enforcement, and legal actions. Read on:

The medical risks

As far back as the 1930s, manufacturers of asbestos knew the substance was a killer. But the American public first became aware of the hazard when the Environmental Protection Agency (E.P.A.) banned some uses of sprayed-on asbestos in 1973, after research concluded that thousands of shipyard workers who had handled the substance during World War II were dying (or had died) of asbestos-related diseases. Five years later, an award-winning article in this magazine broke the disconcerting news to school



The asbestos ante has been raised in recent months, and boards that don't respond could be in for trouble

leaders that U.S. schoolchildren faced imminent danger from asbestos. In schools built between 1946 and 1973, tens of thousands of tons of asbestos products were used for fireproofing, soundproofing, and insulating ceilings, walls, pipes, and boilers. As friable (loose or flaking) asbestos materials age, they release tiny particles into the air; if enough particles are inhaled, they can cause cancer and a variety of respiratory ailments. And if these materials get wet (say, from a roof that leaks) or are disturbed (perhaps by maintenance workers who fix electrical wiring in the ceiling), countless particles are dispersed, presenting an even greater health hazard.

What are the risks? Cancer, for starters! The most common form of asbestos-related cancer is lung cancer. Next is mesothelioma, a rare and fatal tumor of the membrane linings in the chest or abdominal cavities; its only known cause is asbestos. Exposure to the deadly mineral filaments released by asbestos also has been proved to cause cancers of the colon, rectum, stomach, esophagus, kidney, larynx, and pharynx. An associated disease is asbestosis, a scarring of the lungs that progressively robs the victim of breath and sometimes of life. The effects of asbestos are pervasive even among people who don't work directly with the stuff: Research has shown that among the immediate families of asbestos workers, 1 percent of the family members died from an asbestos-related cancer, and one-third were afflicted with asbestosis.

The number of airborne asbestos particles in your schools, of course, is considerably smaller than what asbestos workers once were exposed to on a daily basis. But that doesn't reduce the overall risk—nor does it absolve you from the responsibility of dealing with the problem. Dr. Edwin C. Holstein, clinical assistant professor at the Environmental Science Laboratories of Mount Sinai School of Medicine in New York, explains: "All scientific evidence suggests there is no safe dose of asbestos. Any exposure, no matter how small, will increase the risk of cancer." Dr. Holstein and his colleagues at Mt. Sinai, the preeminent U.S. institution for medical research on asbestos, have concluded the substance is a public health problem that must be remedied as soon as possible.

"For any one person, the risk is low," says Dr. Holstein. "But for a school system, sheer numbers tell you that you have a problem. It's like the half-full/half-empty glass of water," he notes. "The optimists say the health risks of asbestos are tiny; the pessimists—including public health authorities—know some people are going to die from exposure to asbestos."

Kathleen McCormick is assistant editor of the JOURNAL.

OPINIONS EXPRESSED BY THE JOURNAL OR ANY OF ITS AUTHORS DO NOT NECESSARILY REFLECT POSITIONS OF THE NATIONAL SCHOOL BOARDS ASSOCIATION

And they'd like to see schools help prevent those deaths—no matter how few—by removing the risk.

It could be many years before we're able to draw conclusions on the effects of asbestos exposure in schools. The risks vary, of course, depending on individual people, the condition and location of asbestos materials in school buildings, and the amount and duration of exposure. The appalling truth, according to Dr. Holstein: "It's false reassurance if no one is sick [now], because they might be sick by 1990 and dead by 1992." But despite the tendency for people to personalize this kind of highly emotional, life-and-death issue, he says, school board members and administrators should assure concerned parents that "there's no need to get hysterical; it's a problem that can be remedied."

The remedy

At the very least, you already should have complied with all federal regulations pertaining to asbestos in schools. Three sets of regulations have been issued. First, Department of Education (ED) regulations specify *how* states must distribute information on asbestos to schools, according to the Asbestos School Hazard Detection and Control Act of 1980. Second, Occupational Safety and Health Administration regulations detail procedures for the protection and decontamination of asbestos abatement workers and for measuring airborne asbestos. Schools engaged in containing and removing the friable fibers must comply with these procedures. Third—and more to the point—are the E.P.A. regulations: As of June 1983, you're responsible for having met the requirements of Section 6(a) of the Toxic Substances Control Act (T.S.C.A.), which were specified in "Friable Asbestos-Containing Materials in Schools; Identification and Notification Rule" (47 *Federal Register* 23360, May 27, 1982).

E.P.A. issued this rule because its Technical Assistance Program (TAP), launched in 1978, had limited success in getting schools to comply voluntarily with previous E.P.A. inspection and record-keeping guidelines. The T.S.C.A. rule applies to all elementary and secondary schools, except those built after December 31, 1978, and those that can document they already have checked buildings and either found no friable asbestos or satisfactorily dealt with the material. Schools were given one year to comply with the requirements.

(1) *Inspection.* You must inspect each building for friable materials.

(2) *Sampling.* If you find friable materials, you must take samples, following E.P.A. instructions.

(3) *Analysis.* A qualified laboratory must perform an analysis using polarized light microscopy, a sophisticated (and expensive) technique for measuring the amount of asbestos fibers in asbestos-containing materials.

(4) *Warnings and notifications.* You must post warning signs wherever you find friable asbestos-containing materials in schools—and send written notification to the staff and the P.T.O. of each school involved, specifying where the hazardous materials are located.

Note that the T.S.C.A. rule does *not* require you to remove, cover, or encapsulate the asbestos; it's up to individual school systems to decide how to dispense with the offending material. The rule also doesn't require you to report your findings to E.P.A., although you *do* need to keep complete and detailed records documenting your compliance with the T.S.C.A. rule.

Once you've found asbestos in your schools, you have a choice of four acceptable ways to resolve the problem: (1) removing the material altogether; (2) enclosing the areas containing asbestos to prevent fibers from escaping; (3) encapsulating completely the area that contains or is coated with asbestos; and (4) observing and maintaining the affected surfaces to avoid any damage that could cause the release of more fibers. Experts say removal is the only surefire way to rid your schools finally and completely of asbestos hazards. But the removal process itself is an extremely dangerous undertaking; a faulty or incomplete removal job could present even greater health hazards to your students and staff, as well as to asbestos abatement workers. So before you contract for any asbestos containment or removal work, refer to the technical advice presented in the E.P.A. document, "Guidance for Controlling Friable Asbestos-Containing Materials in Buildings," published in March 1983. And even though other measures might work in some schools, many school systems have found that public pressure is brought to bear on the school board to remove asbestos completely—regardless of expense.

The cost

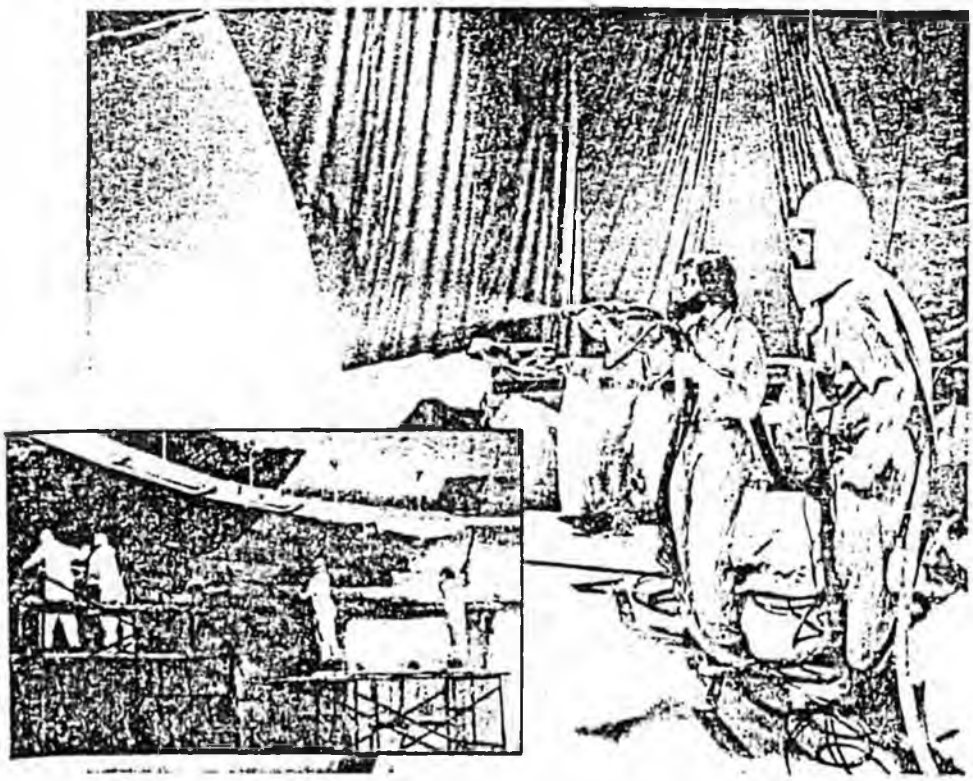
E.P.A. estimates that as many as 14,000 U.S. schools might contain dangerous friable material composed of more than 1 percent asbestos—which means more than 3 million students and 250,000 staff members are at risk right now. The agency estimates the total cost of asbestos abatement at $1.4 billion nationwide, or $100,000 per school building. Some school systems already have spent millions. According to Dwight Brown, formerly asbestos coordinator for E.P.A. Region IV in Atlanta, schools can expect to pay between $3 and $10 per square foot for asbestos removal—and the price can go as high as $28 per square foot. What drives the cost so high is the need for sophisticated analysis equipment and clothing to protect workers, Brown explains. Analysis of asbestos samples using an electron microscope goes for between $200 and $500 per sample—and you might need scores of samples to determine the hazard level in only one school.

Without a doubt, asbestos is a financial burden for school systems. At President Reagan's behest, Congress repeatedly has refused to provide funds to accompany the federal regulations it requires schools to obey. Part of the Asbestos School Hazard Detection and Control Act of 1980, for example, called for $700 million in grants and interest-free loans to help state and local education agencies identify and correct asbestos hazards in schools; no appropriations were made. Don't count on E.P.A. for changes in the funding situation, either: Officials there say they have no plans to request or provide money for school systems to deal with asbestos problems.

School systems in several states are fortunate to be reimbursed for expenses they incur in removing asbestos. In the past four years, for example, New York has given more than $12 million in grants and state building aid to help local asbestos removal programs. And in the same period, Florida has appropriated $10.5 million for asbestos removal. These are notable exceptions, however. Most school leaders have to dig into general operating budgets to come up with the funds. Such cost considerations, along with federal regulations that are at once technical and vague, have caused many school leaders to avoid the issue of asbestos altogether. But ducking the issue can only bring harm to your schools.

The consequences

Forewarned is forearmed: E.P.A. is stepping up its monitoring of schools' compliance. Although the agency has no conclusive statistics, E.P.A. officials say the rate of noncompliance by schools is high. Proferred proof: An E.P.A. staff



Space-age procedures are needed to eliminate asbestos from schools. Here, abatement workers wet down and remove the substance from a school gymnasium.

memorandum in August 1983 indicated that 80 percent of a sample of 167 schools were in violation of the E.P.A. inspection rule. And, according to E.P.A.'s compliance monitoring office, inspections conducted in 275 school systems since June 1983 show that 190—nearly 70 percent—had not complied with E.P.A. regulations on obtaining asbestos samples, notifying parents, keeping records, and so forth. The 275 school systems inspected include approximately 80 of the 100 largest school systems in the U.S.

Now something is being done about that kind of slackness: In fact, E.P.A. inspectors could come knocking on your door any day, asking to see your records. You could be cited for violations of T.S.C.A. on these grounds: failure to inspect schools; failure to sample friable materials; failure to analyze asbestos samples; failure to notify parents and staff; and failure to keep records.

Depending on the number and type of violations, your schools could be fined as much as *$25,000 per day per violation*—an amount that quickly could snowball into an outrageous sum. Here's how the fine system works: If E.P.A. finds you haven't complied with T.S.C.A., your central office will be given 30 days to certify compliance in writing. If certification isn't received within 30 days, E.P.A. files a civil complaint against your schools. Agency officials then will ask to see a compliance schedule as a demonstration of your good intentions. If these negotiations fail—if you don't cooperate—E.P.A. will attempt to collect the fines it has levied against your schools.

If you think the E.P.A. is making idle threats, think again: Under the direction of old/new Director William Ruckleshaus, E.P.A. has become more vigilant and is going after asbestos in schools as one of its Top Ten priority items. E.P.A.'s design in these aggressive actions is to force schools into compliance through pressure from the community, according to Connie DeRocco, a specialist in E.P.A.'s asbestos enforcement program. It stands to reason that school board members and administrators would tend to choose compliance over the chance that a concerned parent might blow the whistle on the schools' negligence.

Other signs that E.P.A. means business: The agency is doubling its monitoring staff for fiscal year 1985. And then there's the Philadelphia case: E.P.A. has threatened to set a precedent by filing a civil complaint for noncompliance against the Philadelphia schools, to the tune of $378,000 in fines ($6,000 for each of 63 nursery and day care centers housed in buildings leased by the school system that weren't inspected for asbestos). School officials are trying to head off the complaint by inspecting the buildings; E.P.A. officials say they are willing to negotiate as long as the Philadelphia schools can show they mean to comply fully with E.P.A. regulations.

But public pressure also is mounting on E.P.A. itself to issue more stringent and specific regulations on asbestos in schools. In response to a petition filed last November by the Service Employees International Union—prompted by the asbestos-related death of a school custodian—E.P.A.'s Ruckleshaus announced in late February that the agency will set formal standards for schools to remove or seal crumbling asbestos materials.

The legal ramifications

Before you make any decisions about asbestos in your schools, consult your school attorney. Advice from Dwight Brown, who has conducted seminars on asbestos in schools for the past five years: Devise a three-part legal action plan with your attorney concerning cost recovery, tort claim defense, and the process of administering contracts for removing and disposing of asbestos.

One legal question on everyone's mind: Can you recover costs of removing asbestos from the manufacturers of the material? "The Attorney General's Asbestos Liability Report to the Congress," published in September 1981, says schools should have a good chance of recovery in court. The bankruptcy last year of a major asbestos producer, Johns Manville Co., cast a pallor over what some school attorneys had held were excellent chances to recover costs. But in February, Lexington County School District No. 5 in South Carolina brought suit against U.S. Gypsum Co. to recover approximately $300,000—the cost of removing asbestos from Irmo High School. (The potentially precedent-setting case was about to come to trial as the JOURNAL went to press.) The school system is being represented by Daniel A. Speights of Hampton S.C. Speights anticipates having filed as many as 30 asbestos-related lawsuits against U.S. Gypsum Co., National Gypsum Co., and W.R. Grace & Co. by July on behalf of school systems in Florida, Alabama, Mississippi, New Hampshire, and other states. He says these cases stand a "good chance" of winning. The Lexington suit, too, could open the floodgates for thousands of lawsuits against asbestos manufacturers.

Other legal issues you should be aware

(2) Requiring the owner or operator of a stationary source, other than a stationary source owned or operated by the United States, to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of such source.

[Sec. 116, Clean Air Act as amended (42 U.S.C. 7416)]

[38 FR 8826, Apr. 6, 1973, as amended at 43 FR 8800, Mar. 3, 1978]

61.17 Circumvention.

No owner or operator subject to the provisions of this part shall build, erect, install, or use any article machine, equipment, process, or method, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with a visible emissions standard, and the piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

[40 FR 48299, Oct. 14, 1975]

Subpart B—National Emission Standard for Asbestos

61.20 Applicability.

The provisions of this subpart are applicable to those sources specified in 61.22.

61.21 Definitions.

Terms used in this subpart are defined in the act, in Subpart A of this part, or in this section as follows:

(a) "Asbestos" means actinolite, asbestite, anthophyllite, chrysotile, crocidolite, tremolite.

(b) "Asbestos material" means asbestos or any material containing asbestos.

(c) "Particulate asbestos material" means finely divided particles of asbestos material.

(d) "Asbestos tailings" means any solid waste product of asbestos mining or milling operations which contains asbestos.

(e) "Outside air" means the air outdoors.

(f) "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate asbestos material.

(g) "Asbestos mill" means any facility engaged in the conversion of any intermediate step in the conversion of asbestos or into commercial asbestos. Outside storage of asbestos materials is not considered a part of such facility.

(h) "Commercial asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

(i) "Manufacturing" means the combining of commercial asbestos, or in the case of woven friction products the combining of textiles containing commercial asbestos, with any other material(s), including commercial asbestos, and the processing of this combination into a product as specified in § 61.22(c).

(j) "Demolition" means the wrecking or taking out of any load-supporting structural member and any related removing or stripping of friable asbestos materials.

(k) "Friable asbestos material" means any material that contains more than 1 percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder, when dry, by hand pressure.

(l) "Control device asbestos waste" means any asbestos-containing waste material that is collected in a pollution control device.

(m) "Renovation" means the removing or stripping of friable asbestos material used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member. Operations in which load-supporting structural members are wrecked or taken out are excluded.

(n) "Planned renovation" means a renovation operation, or a number of such operations, in which the amount of friable asbestos material that will be removed or stripped within a given period of time can be predicted. Operations that are individually non-scheduled are included, provided a number of such operations can be predicted to occur during a given period of time

(o) "Emergency renovation" means a renovation operation that results from a sudden, unexpected event, and is not a planned renovation. Operations necessitated by non-routine failures of equipment are included.

(p) "Adequately wetted" means sufficiently mixed or coated with water or an aqueous solution to prevent dust emissions.

(q) "Removing" means taking out friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member from any building, structure, facility, or installation.

(r) "Stripping" means taking off friable asbestos materials from any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member.

(s) "Fabricating" means any processing of a manufactured product containing commercial asbestos, with the exception of processing at temporary sites for the construction or restoration of buildings, structures, facilities or installations.

(t) "Inactive waste disposal site" means any disposal site or portion thereof where additional asbestos-containing waste material will not be deposited and where the surface is not disturbed by vehicular traffic.

(u) "Active waste disposal site" means any disposal site other than an inactive site.

(v) "Roadways" means surfaces on which motor vehicles travel including, but not limited to, highways, roads, streets, parking areas, and driveways.

(w) "Asbestos-containing waste material" means any waste which contains commercial asbestos and is generated by a source subject to the provisions of this subpart, including asbestos mill tailings, control device asbestos waste, friable asbestos waste material, and bags or containers that previously contained commercial asbestos.

(x) "Structural member" means any load-supporting member, such as beams and load supporting walls; or any non-load-supporting member, such as ceilings and non-load-supporting walls.

[38 FR 8826, Apr. 6, 1973, as amended at 39 FR 15398, May 3, 1974; 40 FR 48299, Oct. 14, 1975; 42 FR [illegible]]

§ 61.22 Emission standard.

(a) Asbestos mills: There shall be no visible emissions to the outside air from any asbestos mill except as provided in paragraph (f) of this section.

(b) Roadways: The surfacing of roadways with asbestos tailings or with asbestos-containing waste that is generated by any source subject to paragraphs (c), (d), (e) or (h) of this section is prohibited, except for temporary roadways on an area of asbestos ore deposits. The deposition of asbestos tailings or asbestos-containing waste on roadways covered with snow or ice is considered "surfacing."

(c) Manufacturing: There shall be no visible emissions to the outside air, except as provided in paragraph (f) of this section, from any of the following operations if they use commercial asbestos or from any building or structure in which such operations are conducted.

(1) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.

(2) The manufacture of cement products.

(3) The manufacture of fireproofing and insulating materials.

(4) The manufacture of friction products.

(5) The manufacture of paper, millboard, and felt.

(6) The manufacture of floor tile.

(7) The manufacture of paints, coatings, caulks, adhesives, sealants.

(8) The manufacture of plastics and rubber materials.

(9) The manufacture of chlorine.

(10) The manufacture of shotgun shells.

(11) The manufacture of asphalt concrete.

(d) Demolition and renovation: The requirements of this paragraph shall apply to any owner or operator of a demolition or renovation operation who intends to demolish any institutional, commercial, or industrial building (including apartment buildings having more than four dwelling units), structure, facility, installation, or portion thereof, which contains any pipe,

(i) or coated with friable asbestos material, except as provided in paragraph (d)(1) of this section; or who intends to renovate any institutional, commercial, or industrial building, structure, facility, installation, or portion thereof where more than 60 meters (ca. 260 feet) of pipe covered or coated with friable asbestos material is stripped or removed, or more than 15 square meters (ca. 160 square feet) of friable asbestos material used to cover or coat any duct, boiler, tank, reactor, turbine, furnace, or structural member are stripped or removed.

(ii) The owner or operator of a demolition operation is exempted from the requirements of this paragraph: *Provided*, (A) the amount of friable asbestos material in the building or portion thereof to be demolished is less than 80 meters (ca. 260 feet) used to insulate pipes, and less than 15 square meters (ca. 160 square feet) used to insulate or fireproof any duct, boiler, tank, reactor, turbine, furnace, or structural member, and (B) the notification requirements of paragraph (d)(2)(ii) are met.

(2)(i) Written notification shall be postmarked or delivered to the Administrator at least 20 days prior to commencement of demolition and shall include the information required by paragraph (d)(2) of this section, with the exception of the information required by paragraphs (d)(2)(iii), (vi), (vii), (viii), and (ix), and shall state the measured or estimated amount of friable asbestos materials which is present. Techniques of estimation shall be explained.

(ii) Written notice of intention to demolish or renovate shall be provided to the Administrator by the owner or operator of the demolition or renovation operation. Such notice shall be postmarked or delivered to the Administrator at least 10 days prior to commencement of demolition, or as early as possible prior to commencement of emergency demolition subject to paragraph (d)(6) of this section, and as early as possible prior to commencement of renovation. Such notice shall include the following information:

(A) Name of owner or operator.

(B) Description of the building, structure, facility, or installation to be demolished or renovated, including the size, age, and prior use of the structure, and the approximate amount of friable asbestos materials present.

(C) Address or location of the building, structure, facility, or installation.

(D) Scheduled starting and completion dates of demolition or renovation.

(E) Nature of planned demolition or renovation and method(s) to be employed.

(F) Procedures to be employed to meet the requirements of this paragraph and paragraph (j) of this section.

(G) The name and address or location of the waste disposal site where the friable asbestos waste will be deposited.

(H) Name, title, and authority of the State or local governmental representative who has ordered a demolition which is subject to paragraph (d)(6) of this section.

(3)(i) For purposes of determining whether a planned renovating operation constitutes a renovation within the meaning of this paragraph, the amount of friable asbestos material to be removed or stripped shall be:

(A) For planned renovating operations involving individually nonscheduled operations, the additive amount of friable asbestos material that can be predicted will be removed or stripped at a source over the maximum period of time for which a prediction can be made. The period shall be not less than 30 days and not longer than one year.

(B) For each planned renovating operation not covered by paragraph (d)(3)(i)(A), the total amount of friable asbestos material that can be predicted will be removed or stripped at a source.

(ii) For purposes of determining whether an emergency renovating operation constitutes a renovation within the meaning of this paragraph, the amount of friable asbestos material to be removed or stripped shall be the total amount of friable asbestos material that will be removed or stripped as

event that necessitated the renovation.

(4) The following procedures shall be used to prevent emissions of particulate asbestos material to outside air:

(i) Friable asbestos materials, used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member, shall be removed from any building, structure, facility or installation subject to this paragraph. Such removal shall occur before wrecking or dismantling of any portion of such building, structure, facility, or installation that would break up the friable asbestos materials and before wrecking or dismantling of any other portion of such building, structure, facility, or installation that would preclude access to such materials for subsequent removal. Removal of friable asbestos materials used on any pipe, duct, or structural member which are encased in concrete or other similar structural material is not required prior to demolition, but such material shall be adequately wetted whenever exposed during demolition.

(ii) Friable asbestos materials used on pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members shall be adequately wetted during stripping, except as provided in paragraphs (d)(4)(iv), (d)(4)(vi) or (d)(4)(vii) of this section.

(iii) Pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members that are covered or coated with friable asbestos materials may be taken out of any building, structure, facility, or installation subject to this paragraph as units or in sections provided the friable asbestos materials exposed during cutting or disjointing are adequately wetted during the cutting or disjointing operation. Such units shall not be dropped or thrown to the ground, but shall be carefully lowered to ground level.

(iv) The stripping of friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member that has been removed as a unit or in sections as provided in paragraph (d)(4)(iii) of this section shall be performed in accordance with paragraph (d)(4)(ii) of this section. Rather than comply with the wetting

ventilation and collection system may be used to prevent emissions to the outside air. Such local exhaust ventilation systems shall be designed and operated to capture the asbestos particulate matter produced by the stripping of friable asbestos material. There shall be no visible emissions to the outside air from such local exhaust ventilation and collection systems except as provided in paragraph (f) of this section.

(v) All friable asbestos materials that have been removed or stripped shall be adequately wetted to ensure that such materials remain wet during all remaining stages of demolition or renovation and related handling operations. Such materials shall not be dropped or thrown to the ground or a lower floor. Such materials that have been removed or stripped more than 50 feet above ground level, except those materials removed as units or in sections, shall be transported to the ground via dust-tight chutes or containers.

(vi) Except as specified below, the wetting requirements of this paragraph are suspended when the temperature at the point of wetting is below 0°C (32°F). When friable asbestos materials are not wetted due to freezing temperatures, such materials on pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members shall, to the maximum extent possible, be removed as units or in sections prior to wrecking. In no case shall the requirements of paragraphs (d)(4)(iv) or (d)(4)(v) be suspended due to freezing temperatures.

(vii) For renovation operations, local exhaust ventilation and collection systems may be used, instead of wetting as specified in paragraph (d)(4)(ii), to prevent emissions of particulate asbestos material to outside air when damage to equipment resulting from the wetting would be unavoidable. Upon request and supply of adequate information, the Administrator will determine whether damage to equipment resulting from wetting to comply with the provisions of this paragraph would be unavoidable. Such local exhaust ventilation systems shall be designed and operated to capture the as-

stripping and removal of friable bestos material. There shall be no ible emissions to the outside air m such local exhaust ventilation d collection systems, except as pro- d in paragraph (f) of this section.

5) Sources subject to this paragraph exempt from the requirements of 61.05(a), 61.07, and 61.09.

6) The demolition of a building, ucture, facility, or installation, pur- nt to an order of an authorized rep- entative of a State or local govern- ntal agency, issued because that ilding is structurally unsound and in ger of imminent collapse is exempt m all but the following require- nts of paragraph (d) of this section:

i) The notification requirements cified by paragraph (d)(2) of this ction;

ii) The requirements on stripping of able asbestos materials from previ- ly removed units or sections as cified in paragraph (d)(4)(iv) of is section;

iii) The wetting, as specified by ragraph (d)(4)(v) of this section, of able asbestos materials that have n removed or stripped;

iv) The portion of the structure ng demolished that contains friable bestos materials shall be adequately tted during the wrecking operation.

c) Spraying: There shall be no visi- emissions to the outside air from e spray-on application of materials ntaining more than 1 percent asbes- s, on a dry weight basis, used on uipment and machinery, except as ovided in paragraph (f) of this sec- n. Materials sprayed on buildings, uctures, pipes, and conduits shall ntain less than 1 percent asbestos on y weight basis.

1) Sources subject to this paragraph exempt from the requirements of 61.05(a), § 61.07, and § 61.09.

2) Any owner or operator who in- nds to spray asbestos materials ich contain more than 1 percent as- stos on a dry weight basis to insu- e or fireproof equipment and ma- inery shall report such intention to e Administrator at least 20 days ior to the commencement of the raying operation. Such report shall clude the following information:

(i) Amount of asbestos material.

(ii) Address of owner or operator.

(iii) Location of spraying operation.

(iv) Procedures to be followed to meet the requirements of this paragraph.

(3) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of paragraphs (e) and (e)(2) of this section.

(f) Rather than meet the no-visible-emission requirements as specified by paragraphs (a), (c), (d), (e), (h), (j), and (k) of this section, an owner or operator may elect to use the methods specified by § 61.23 to clean emissions containing particulate asbestos material before such emissions escape to, or are vented to, the outside air.

(g) Where the presence of uncombined water is the sole reason for failure to meet the no-visible-emission requirement of paragraphs (a), (c), (d), (e), (h), (j), or (k) of this section, such failure shall not be a violation of such emission requirements.

(h) Fabricating: There shall be no visible emissions to the outside air, except as provided in paragraph (f) of this section, from any of the following operations if they use commercial asbestos or from any building or structure in which such operations are conducted.

(1) The fabrication of cement building products.

(2) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.

(3) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and ceilings for marine construction; and flow control devices for the molten metal industry.

(i) Insulating: Molded insulating materials which are friable and wet-applied insulating materials which are friable after drying, installed after the effective date of these regulations, shall contain no commercial asbestos. The provisions of this paragraph do not apply to [illegible] materials which are spray applied; such materials are regulated under § 61.22(e).

(j) Waste disposal for manufacturing, fabricating, demolition, renovation and spraying operations: The owner or operator of any source covered under the provisions of paragraphs (c), (d), (e), or (h) of this section shall meet the following standards:

(1) There shall be no visible emissions to the outside air, except as provided in paragraph (j)(3) of this section, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos-containing waste material which is generated by such source.

(2) All asbestos-containing waste material shall be deposited at waste disposal sites which are operated in accordance with the provisions of § 61.25.

(3) Rather than meet the requirement of paragraph (j)(1) of this section, an owner or operator may elect to use either of the disposal methods specified under (j)(3) (i) and (ii) of this section, or an alternative disposal method which has received prior approval by the Administrator:

(i) Treatment of asbestos-containing waste material with water:

(A) Control device asbestos waste shall be thoroughly mixed with water into a slurry and other asbestos-containing waste material shall be adequately wetted. There shall be no visible emissions to the outside air from the collection, mixing and wetting operations, except as provided in paragraph (f) of this section.

(B) After wetting, all asbestos-containing waste material shall be sealed into leak-tight containers while wet, and such containers shall be deposited at waste disposal sites which are operated in accordance with the provisions of § 61.25.

(C) The containers specified under paragraph (j)(3)(i)(B) of this section shall be labeled with a warning label that states:

CAUTION

Contains Asbestos

Avoid Opening or

Breaking Container

Breathing Asbestos is Hazardous

to Your Health

Alternatively, warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.93a(g)(2)(ii) may be used.

(ii) Processing of asbestos-containing waste material into non-friable forms:

(A) All asbestos-containing waste material shall be formed into non-friable pellets or other shapes and deposited at waste disposal sites which are operated in accordance with the provisions of § 61.25.

(B) There shall be no visible emissions to the outside air from the collection and processing of asbestos-containing waste material, except as specified in paragraph (f) of this section.

(4) For the purposes of this paragraph (j), the term all asbestos-containing waste material as applied to demolition and renovation operations covered by paragraph (d) of this section includes only friable asbestos waste and control device asbestos waste.

(k) Waste disposal for asbestos mills: The owner or operator of any source covered under the provisions of paragraph (a) of this section shall meet the following standard:

(1) There shall be no visible emissions to the outside air, except as provided in paragraph (k)(3) of this section, during the collection, processing, packaging, transporting or deposition of any asbestos-containing waste material which is generated by such source.

(2) All asbestos-containing waste material shall be deposited at waste disposal sites which are operated in accordance with the provisions of § 61.25.

(3) Rather than meet the requirement of paragraph (k)(1) of this section, an owner or operator may elect to meet the following requirements in paragraphs [illegible]

ceived prior approval by the Administrator:

(i) There shall be no visible emissions to the outside air from the transfer of control device asbestos waste to the tailings conveyor, except as provided in paragraph (f) of this section. Such waste shall be subsequently processed either as specified in paragraph (k)(3)(ii) of this section or as specified in paragraph (j)(3) of this section.

(ii) All asbestos-containing waste material shall be adequately mixed, with a wetting agent recommended by the manufacturer of the agent to effectively wet dust and tailings, prior to disposition at a waste disposal site. Such agent shall be used as recommended for the particular dust by the manufacturer of the agent. There shall be no discharge of visible emissions to the outside air from the wetting operation except as specified in paragraph (f) of this section. Wetting may be suspended when the ambient temperature at the waste disposal site is less than −9.5° C (ca. 15° F). The ambient air temperature shall be determined by an appropriate measurement method with an accuracy of ±1° C (±2° F) and recorded at least at hourly intervals during the period that the operation of the wetting system is suspended. Records of such temperature measurements shall be retained at the source for a minimum of 2 years and made available for inspection by the Administrator.

(j) The owner of any inactive waste disposal site, which was operated by sources covered under § 61.22(a), (c) or (e) and where asbestos-containing waste material produced by such sources was deposited, shall meet the following standards:

(1) There shall be no visible emissions to the outside air from an inactive waste disposal site subject to this paragraph, except as provided in paragraph (j)(5) of this section.

(2) Warning signs shall be displayed at all entrances, and along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material was deposited, at intervals of 100 m (ca. 330 ft) or less, except as specified in paragraph (j)(4) of this section. The signs shall be posted in such a manner and location that a person may easily read the legend. The warning signs required by this paragraph shall conform to the requirements of 20" x 14" upright format signs specified in 29 CFR 1910.145(d)(4) and this paragraph. The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to those specified in this paragraph.

LEGEND

ASBESTOS WASTE DISPOSAL SITE

DO NOT CREATE DUST

Breathing Asbestos is Hazardous to Your Health

Notation

1" Sans Serif, Gothic or Block

¼" Sans Serif, Gothic or Block

14 Point Gothic

Spacing between lines shall be at least equal to the height of the upper of the two lines.

(3) The perimeter of the site shall be fenced in a manner adequate to deter access by the general public, except as specified in paragraph (j)(4) of this section.

(4) Warning signs and fencing are not required where the requirements of paragraphs (j)(5) (i) or (ii) of this section are met, or where a natural barrier adequately deters access by the general public. Upon request and supply of appropriate information, the Administrator will determine whether a fence or a natural barrier adequately deters access to the general public.

(5) Rather than meet the requirement of paragraph (j)(1) of this section, an owner may elect to meet the requirements of this paragraph or may use an alternative control method for emissions from inactive waste disposal sites which has received prior approval by the Administrator.

(i) The asbestos-containing waste material shall be covered with at least 15 centimeters (ca. 6 inches) of compacted non-asbestos-containing material, and a cover of vegetation shall be

adequate to prevent exposure of the asbestos-containing waste material; or

(ii) The asbestos-containing waste material shall be covered with at least 60 centimeters (ca. 2 feet) of compacted non-asbestos-containing material and maintained to prevent exposure of the asbestos-containing waste; or

(iii) For inactive waste disposal sites for asbestos tailings, a resinous or petroleum-based dust suppression agent which effectively binds dust and controls wind erosion shall be applied. Such agent shall be used as recommended for the particular asbestos tailings by the dust suppression agent manufacturer. Other equally effective dust suppression agents may be used upon prior approval by the Administrator. For purposes of this paragraph, waste crankcase oil is not considered a dust suppression agent.

[38 FR 8826, Apr. 6, 1973, as amended at 39 FR 15398, May 3, 1974; 40 FR 48299, Oct. 14, 1975; 43 FR 26374, June 19, 1978]

§ 61.23 Air-cleaning.

If air-cleaning is elected, as permitted by §§ 61.22(f) and 61.22(d)(4)(iv), the requirements of this section must be met.

(a) Fabric filter collection devices must be used, except as noted in paragraphs (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than 4 inches water gage, as measured across the filter fabric. The airflow permeability, as determined by ASTM method D737-69, must not exceed 30 $ft^3/min/ft^2$ for woven fabrics or 35 $ft^3/min/ft^2$ for felted fabrics, except that 40 $ft^3/min/ft^2$ for woven and 45 $ft^3/min/ft^2$ for felted fabrics is allowed for filtering air from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces and be at least one-sixteenth inch thick throughout. Synthetic fabrics must not contain fill yarn other than that which is spun.

(b) If the use of fabric filters creates a fire or explosion hazard, the administrator may authorize the use of wet collectors designed to operate with a unit contacting energy of at least 40 inches water gage pressure.

(c) The administrator may authorize than that described in paragraphs (a) and (b) of this section if the owner or operator demonstrates to the satisfaction of the administrator that the filtering of particulate asbestos material is equivalent to that of the described equipment.

(d) All air-cleaning equipment authorized by this section must be properly installed, used, operated, and maintained. Bypass devices may be used only during upset or emergency conditions and then only for so long as it takes to shut down the operation generating the particulate asbestos material.

[38 FR 8826, Apr. 6, 1973, as amended at 40 FR 48302, Oct. 14, 1975]

§ 61.24 Reporting.

The owner or operator of any existing source to which this subpart is applicable shall, within 90 days after the effective date, provide the following information to the administrator:

(a) A description of the emission control equipment used for each process;

(b) If a fabric filter device is used to control emissions, the pressure drop across the fabric filter in inches water gage.

(1) If the fabric filter device utilizes a woven fabric, the airflow permeability in $ft^3/min/ft^2$ and, if the fabric is synthetic, indicate whether the fill yarn is spun or not spun.

(2) If the fabric filter device utilizes a felted fabric, the density in oz/yd^2, the minimum thickness in inches, and the airflow permeability in $ft^3/min/ft^2$.

(c) For sources subject to §§ 61.22(j) and 61.22(k):

(1) A brief description of each process that generates asbestos-containing waste material.

(2) The average weight of asbestos-containing waste material disposed of, measured in kg/day.

(3) The emission control methods used in all stages of waste disposal.

(4) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.

(d) For sources subject to § 61.22(k)

(2) The method or methods used to comply with the standard, or alternative procedures to be used.

(c) Such information shall accompany the information required by § 61.10. The information described in this section shall be reported using the format of Appendix A of this part.

[Sec. 114, Clean Air Act as amended (42 U.S.C. 7414)]

[38 FR 8826, Apr. 6, 1973, as amended at 40 FR 48302, Oct. 14, 1975; 43 FR 8800, Mar. 3, 1978]

§ 61.25 Waste disposal sites.

In order to be an acceptable site for disposal of asbestos-containing waste material under § 61.22(j) and (k), an active waste disposal site shall meet the requirements of this section.

(a) There shall be no visible emissions to the outside air from any active waste disposal site where asbestos-containing waste material has been deposited, except as provided in paragraph (e) of this section.

(b) Warning signs shall be displayed at all entrances, and along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material is deposited, at intervals of 100 m (ca. 330 ft) or less except as specified in paragraph (d) of this section. Signs shall be posted in such a manner and location that a person may easily read the legend. The warning signs required by this paragraph shall conform to the requirements of 20" × 14" upright format signs specified in 29 CFR 1910.145(d)(4) and this paragraph. The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to those specified in this paragraph.

LEGEND

ASBESTOS WASTE DISPOSAL SITE

Do Not Create Dust

Breathing Asbestos is Hazardous to Your Health

Notation

1" Sans Serif, Gothic or Block

½" Sans Serif, Gothic or Block

14 Point Gothic

Spacing between lines shall be at least equal to the height of the upper of the two lines.

(c) The perimeter of the disposal site shall be fenced in order to adequately deter access to the general public except as specified in paragraph (d) of this section.

(d) Warning signs and fencing are not required where the requirements of paragraph (e)(1) of this section are met, or where a natural barrier adequately deters access to the general public. Upon request and supply of appropriate information, the Administrator will determine whether a fence or a natural barrier adequately deters access to the general public.

(e) Rather than meet the requirement of paragraph (a) of this section, an owner or operator may elect to meet the requirements of paragraph (e)(1) or (e)(2) of this section, or may use an alternative control method for emissions from active waste disposal sites which has received prior approval by the Administrator.

(1) At the end of each operating day, or at least once every 24-hour period while the site is in continuous operation, the asbestos-containing waste material which was deposited at the site during the operating day or previous 24-hour period shall be covered with at least 15 centimeters (ca. 6 inches) of compacted non-asbestos-containing material.

(2) At the end of each operating day, or at least once every 24-hour period while the disposal site is in continuous operation, the asbestos-containing waste material which was deposited at the site during the operating day or previous 24-hour period shall be covered with at least 15 centimeters (ca. 6 inches) of compacted non-asbestos-containing material, except for the uppermost 15 centimeters (ca. 6 inches) of asbestos-containing material which shall be covered at the end of each operating day.

(3) Rather than meet the requirements of paragraphs (e)(1) and (e)(2) of this section, an owner or operator may elect to cover asbestos-containing waste material with at least 60 centimeters (ca. 2 feet) of compacted non-asbestos-containing material, if he also compacts each layer of asbestos-containing waste material before covering it with non-asbestos-containing material.

(4) Rather than meet the requirements of paragraphs (e)(1), (e)(2), and (e)(3) of this section, an owner or operator may elect to cover asbestos-containing waste material with a resinous or petroleum-based dust suppression agent which effectively binds dust and controls wind erosion. Such agent shall be used as recommended for the particular dust by the dust suppression agent manufacturer. Other equally effective dust suppression agents may be used upon prior approval by the Administrator. For purposes of this paragraph, waste crankcase oil is not considered a dust suppression agent.

[40 FR 48302, Oct. 14, 1975]

Subpart C—National Emission Standard for Beryllium

§ 61.30 Applicability.

The provisions of this subpart are applicable to the following stationary sources:

(a) Extraction plants, ceramic plants, foundries, incinerators, and propellant plants which process beryllium ore, beryllium, beryllium oxide, beryllium alloys, or beryllium-containing waste.

(b) Machine shops which process beryllium, beryllium oxides, or any alloy when such alloy contains more than 5 percent beryllium by weight.

§ 61.31 Definitions.

Terms used in this subpart are defined in the act, in subpart A of this part, or in this section as follows:

(a) "Beryllium" means the element beryllium. Where weights or concentrations are specified, such weights or concentrations apply to beryllium only, excluding the weight or concentration of any associated elements.

(b) "Extraction plant" means a facility chemically processing beryllium ore to beryllium metal, alloy, or oxide, or performing any of the intermediate steps in these processes.

(c) "Beryllium ore" means any naturally occurring material mined or gathered for its beryllium content.

(d) "Machine shop" means a facility performing cutting, grinding, turning, honing, milling, deburring, lapping, electrochemical machining, etching, or other similar operations.

(e) "Ceramic plant" means a manufacturing plant producing ceramic items.

(f) "Foundry" means a facility engaged in the melting or casting of beryllium metal or alloy.

(g) "Beryllium-containing waste" means material contaminated with beryllium and/or beryllium compounds used or generated during any process or operation performed by a source subject to this subpart.

(h) "Incinerator" means any furnace used in the process of burning waste for the primary purpose of reducing the volume of the waste by removing combustible matter.

(i) "Propellant" means a fuel and oxidizer physically or chemically combined which undergoes combustion to provide rocket propulsion.

(j) "Beryllium alloy" means any metal to which beryllium has been added in order to increase its beryllium content and which contains more than 0.1 percent beryllium by weight.

(k) "Propellant plant" means any facility engaged in the mixing, casting, or machining of propellant.

§ 61.32 Emission standard.

(a) Emissions to the atmosphere from stationary sources subject to the provisions of this subpart shall not exceed 10 grams of beryllium over a 24-hour period, except as provided in paragraph (b) of this section.

(b) Rather than meet the requirement of paragraph (a) of this section, an owner or operator may request approval from the Administrator to meet an ambient concentration limit on beryllium in the vicinity of the stationary source of 0.01 $\mu g/m^3$, averaged over a 30-day period.

(1) Approval of such requests may be granted by the Administrator provided that:

(i) At least 3 years of data is available which in the judgment of the Administrator demonstrates that the future ambient concentrations of beryllium in the vicinity of the stationary source will not exceed 0.01 $\mu g/m^3$, averaged over a 30 day period. Such 3-year period shall be the 3 years ending 30 days before the effective date of this standard.

(ii) The owner or operator requests

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Volume 330

HEALTH HAZARDS OF ASBESTOS EXPOSURE

Edited by Irving J. Selikoff and E. Cuyler Hammond



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ASBESTOS CONTAMINATION IN UNITED STATES SCHOOLS FROM USE OF ASBESTOS SURFACING MATERIALS*

William J. Nicholson, Edward J. Swoszowski, Jr. Arthur N. Rohl, James D. Todaro, and Antoinette Adams

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Until recently there was only limited awareness of the extent of asbestos use in public school buildings. Reports existed of damaged asbestos surfaces in a grade school in Wyoming,[1] a university dormitory in California,[2] and in the Yale School of Arts and Architecture in New Haven, Connecticut.[3] In each case, public concern [illegible] the removal of the asbestos material. In both the Wyoming school and the [illegible] Library, air measurements by optical microscopy showed asbestos concentrations that in some circumstances exceeded 5 f/ml, the time-weighted-average occupational standard in effect at the time. In the fall of 1976, flaking of sprayed-on asbestos was reported in a school in Howell Township, New Jersey, leading to its removal and to further concern about the presence of deteriorating asbestos in other school buildings in New Jersey. As a consequence, the New Jersey Department of Education requested that the school administrators report the presence and condition of asbestos surfaces in all school buildings within the state. Responses revealed that 265 (of approximately 2400) schools in all 142 districts in the State had nearly three million square feet of what they considered to be asbestos material in classrooms, auditoriums, hallways and other rooms accessible to pupils.

Asbestos Surfacing Materials in New Jersey Schools

In cooperation with the Department of Education of New Jersey, the Environmental Sciences Laboratory of Mount Sinai School of Medicine undertook an investigation of the asbestos use in New Jersey schools.[4] All of the schools with asbestos surfacing material in twenty-one districts were selected for study. The selection was accomplished using random numbers, but also employed a weighting factor to include more of those school districts which had reported greater use of asbestos. In all, forty-eight schools were visited and samples were taken of the material thought to be asbestos. These were analyzed for their asbestos content and for the presence of other mineral materials. Areas such as classrooms, hallways, auditoriums, cafeterias and locker rooms were priority locations for sampling, since they are used by large numbers of students as well as by faculty. In general the suspect materials were on ceilings, although they might also have been applied to walls. Of 64 samples collected, 50 were in such areas, the remainder being from custodial or boiler rooms.

During visual inspection of these schools and the analysis of collected samples, three general types of asbestos containing material were found. One was a friable,

*This research was supported by Contract N01-ES-7-2113 of the National Institute of Environmental Health Sciences.

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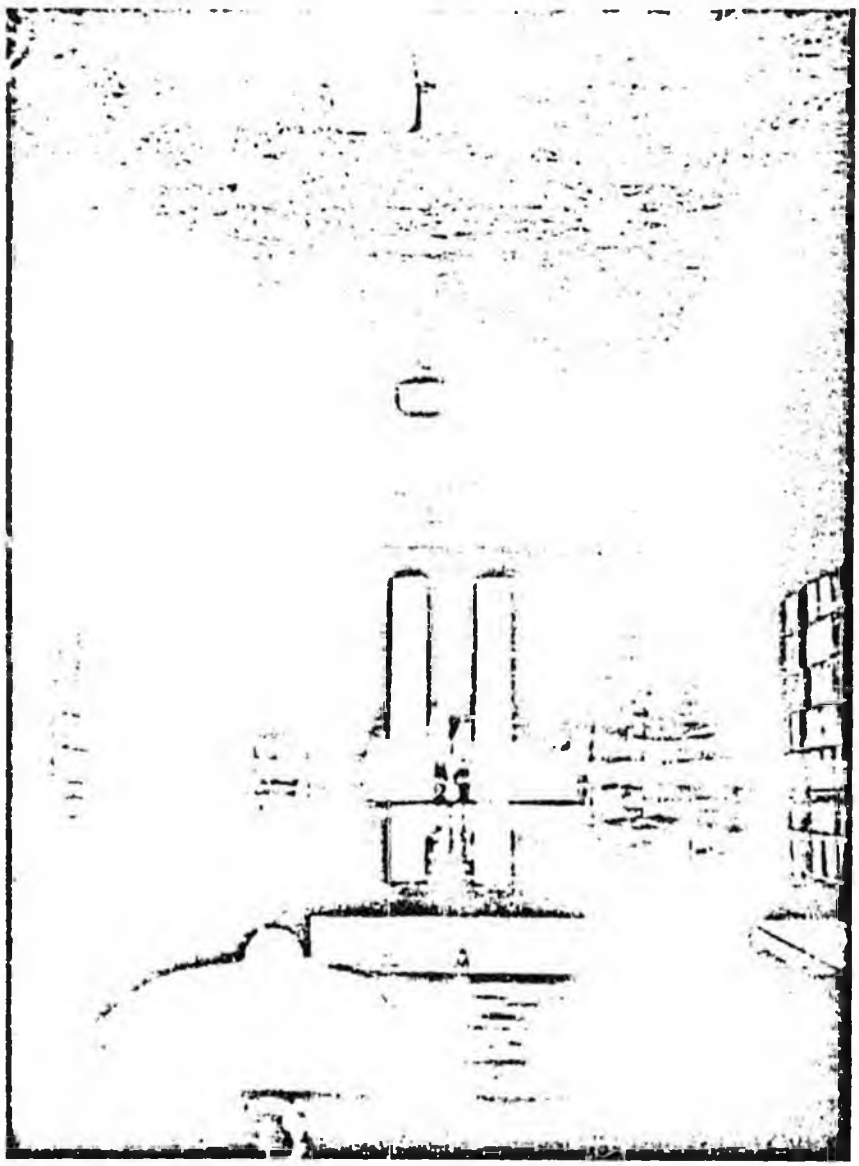

FIGURE 1. Damage to asbestos materials sprayed on a hallway ceiling. This was easily reached by students and extensive damage was present throughout the length of the hallway.

loosely bonded, fibrous mat approximately one-half inch thick. The mat had been applied by blowing a mixture of asbestos, mineral (rock) wool, clay binders (as, bentonite), adhesives, synthetic resins and other proprietary agents through a two- to four-inch diameter hose. Upon leaving the hose, the material passed through a water spray which activated the adhesives and binders. The applied material would then

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have been tamped and often sprayed with emulsion type sealers—latex or acrylic paints. Most material of this type observed in this survey was readily damageable and could also break loose from the underlying surface because of the inadequacy of the bi..ers. In the schools visited, the most troublesome problems were those seen with ..ais type of material and its application. FIGURES 1 and 2 illustrate extreme examples of damaged and deteriorating sprayed-on asbestos ceilings. Approximately one-third of the schools visited had this type of material applied. Its use in boiler rooms and custodial areas was more frequent, however.

A second type of coating material was a dense, compactible mixture of asbestos and other products, such as vermiculite. This would have been applied in the wet state to walls and ceilings, compacted and formed into a relatively smooth matrix. This material would also usually be over-painted, either shortly following application or subsequently. In the schools we visited, spontaneous disintegration of such materials was not seen. However, in areas accessible to students, various degrees of abuse were observed. Severe damage of such m: terial is shown in FIGURES 3 and 4.

Thirdly, asbestos was found incorporated in cementitious or plaster-like matrices. These were applied as slurries to w..lls and ceiling: forming a textured surface of considerable hardness which would usual.. be over-painted. Such plasters or textured paints have considerable stability and ..re unlikely to allow the release of asbestos fibers through erosion. Although damage to these surfaces can occur from physical abuse or abrasion, this was infrequently seen.

In each school visited the asbestos material was categorized as above and an estimate made of damage or deterioration. The results are outlined in TABLE 1.

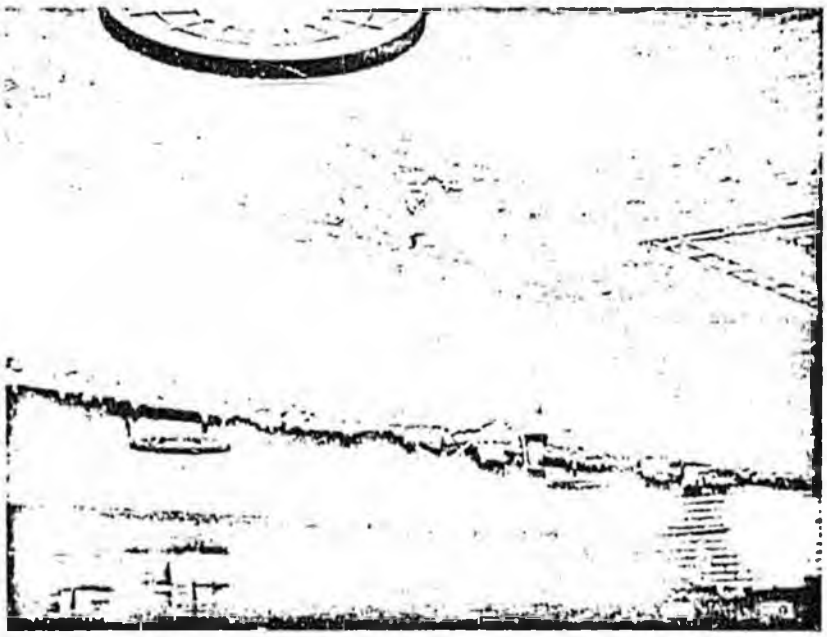

FIGURE 2. Disintegration of fibrous spray material in a building storage area. The conditions seen occurred spontaneously, with no evidence of external abuse.

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FIGURE 3. Damage to cementitious asbestos spray in a school hallway. Some of the indentations occurred from flagpoles inadvertently striking the ceiling during color guard practice.

Overall, two-thirds of schools with asbestos surfaces had some visible evidence of damage to the material.

The x-ray analysis of materials, by and large, confirmed the presence of asbestos in those schools that had reported its use. Such was the case in 97% of the schools that believed their sprayed-on material contained asbestos. In only two schools was the reported presence of asbestos not confirmed by x-ray diffraction analysis of the sampled material. On the other hand, this survey did not provide information on the number of schools that may have been mistaken in their belief that they had no asbestos in surfacing material, and, as a result, did not report its presence. That this possibility exists is exemplified by one instance in which a school official stated that his administration had been told by its architect that the sprayed-on plaster material in their school was asbestos free. An analysis of the material, however, revealed that it contained about 2% chrysotile. Further, many schools did not report the presence of asbestos in school areas not used by pupils, such as boiler rooms where extensive use of asbestos occurs. While not accessible to students, the possibility exists that such asbestos could be dislodged and transported into student use areas.

Similar data from other areas indicate the use in New Jersey is fairly typical. New York City has reported asbestos surfaces to be present in 351 of approximately 1100 schools in the city.[5] Massachusetts found asbestos in student areas of 138 of 1200 schools surveyed.[6] Widespread use of asbestos has also been reported in schools in Indiana, Kentucky and other states.[7] If the estimates from those states surveyed are applicable to the entire nation, two to six million pupils may be attending schools with asbestos surfaces in pupil areas.[1] An additional 100,000 to 300,000 teachers would also be exposed.

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Asbestos Concentrations in Schools and in the Ambient Air

Air samples have been taken in ten schools in which asbestos materials were used as surface coatings in halls, cafeterias, libraries and other pupil-use areas. Three of the schools were located in surburban areas of New Jersey and Massachusetts, and seven

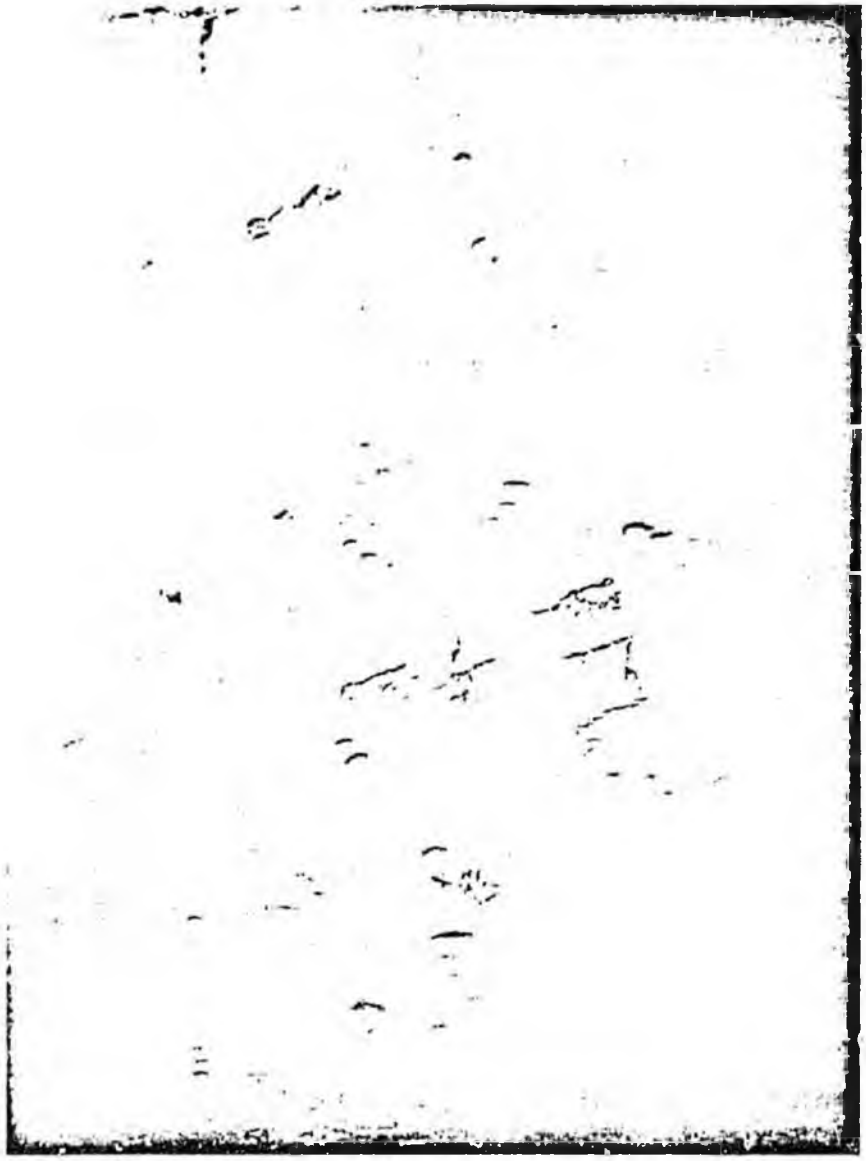

Figure 4. Further damage to cementitious ceiling material. Here evidence exists that some students wished to be remembered beyond their stay at the school.

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TABLE 1
CONDITION OF ASBESTOS SURFACES IN 64 NEW JERSEY SCHOOLS

Type of Asbestos Material	Intact Undamaged	Minimum Damage, No Deterioration	Localized Damage or Deterioration	Severe Damage or Deterioration	Totals
Loose, friable fibrous asbestos spray material	4 (18%)	10 (45%)	5 (23%)	3 (14%)	22
Moderately dense asbestos spray material, often in association with vermiculite or perlite	15 (42%)	13 (36%)	4 (11%)	4 (11%)	36
Plaster or textured paint material with asbestos binder	4 (67%)	1 (17%)	1 (17%)	0 (0%)	6
Totals	23 (36%)	24 (38%)	10 (16%)	7 (11%)	64

in urban centers of New York and New Jersey. The schools were selected for air sampling because of visible damage in some of the asbestos surfaces. The samples were collected on 0.8 μm pore size membrane filters and analyzed using electron microscopic techniques that determined the amount of chrysotile asbestos in each specimen. This variety of asbestos was quantitated because it could easily be identified on the basis of its unique tubular structure. Amphibole asbestos (either amosite or crocidolite) could also be present in the air of schools or in the ambient air, but is much less commonly found. For example, only seven of 64 bulk material samples in schools contained either of these minerals. However, if present in the air sampled, such asbestos would add to those concentrations measured.

To prepare a sample for analysis, a portion of the sample, mounted on a microscope slide, was ashed in a low temperature-activated oxygen furnace for approximately four hours. This served to remove the membrane filter material, all organic material in the collected sample, soot and other carbonaceous material. The residue, consisting mostly of fly ash and mineral matter, was dispersed on microscope slides in a solution of 1% nitrocellulose in amyl acetate. Upon evaporation o[illegible] amyl

TABLE 2
DISTRIBUTION OF CHRYSOTILE ASBESTOS CONCENTRATIONS IN 4- TO 8-HOUR SAMPLES TAKEN IN PUBLIC SCHOOLS WITH DAMAGED ASBESTOS SURFACES

Electron Microscopic Analysis		
Asbestos Concentration (ng/m^3) Less than	Number of Samples	Percentage of Samples
20	1	3.7
50	6	22.2
100	12	44.4
200	19	70.4
500	25	92.6
1000	26	96.3
2000	27	100.0

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acetate, the dispersal was scanned for uniformity and representative areas were chosen for transfer to electron microscope grids for scanning. The samples thus prepared were scanned at magnification of 20,000X. Typically, four to eight 100 μm squares of separate grids from each sample were scanned, and the mass of chrysotile fibers was determined by sizing each individual fiber. Control blank filters were processed with each set of four samples and background levels of chrysotile determined from them subtracted from that found on sample filters.

TABLE 2 lists the distribution of chrysotile concentrations found in samples taken over four to eight hours in these ten schools. Chrysotile asbestos concentrations ranged from 9 nanograms/cubic meter of sampled air (ng/m^3) to 1950 ng/m^3 with an average of 217 ng/m^3. Outside air samples at three of the schools varied from 3 ng/m^3 to 30 ng/m^3 with an average of 14 ng/m^3. In all samples but two (which measured 320 ng/m^3 and 260 ng/m^3) no asbestos was visible on the floor of the area sampled although surface damage was generally present near the area sampled. The highest value (1950 ng/m^3) was in a sample following routine sweeping of a hallway in a school with water damage to the asbestos surface. However, no asbestos was visible on the floor prior to sweeping.

TABLE 3

DISTRIBUTION OF 24-HOUR CHRYSOTILE ASBESTOS CONCENTRATIONS IN THE AMBIENT AIR OF UNITED STATES CITIES[8]

Electron Microscopic Analysis		
Asbestos Concentration (ng/m^3) Less than	Number of Samples	Percentage of Samples
1.0	61	32.6
2.0	119	63.6
5.0	164	87.7
10.0	176	94.2
20.0	184	98.5
50.0	185	99.0
100.0	187	100.0

These concentrations in schools with damaged asbestos surfaces can be compared with those found in other circumstances. Asbestos of the chrysotile variety has been found to be a ubiquitous contaminant of ambient air. A study of 187 quarterly composite samples collected in 48 United States cities during 1969 to 1970 showed chrysotile asbestos to be present in virtually all metropolitan areas.[8] TABLE 3 lists the distribution of values obtained in that study. Each value is from a composite of five to seven 24-hour samples and thus averages over possible peak concentrations which could occur periodically or randomly. It is noteworthy that 98.5% of these ambient air samples had concentrations less than 20 ng/m^3, a value *exceeded* by 96% of the school samples.

In a study of the ambient air of New York City, in which samples were taken only during daytime working hours, higher values than those mentioned above were obtained.[9] These were six- to eight-hour samples collected between 8:00 A.M. and 5:00 P.M., and reflect what could be intermittently higher concentrations during those hours compared to night time periods, for example. TABLE 4 records the chrysotile

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content of 22 samples collected in the five boroughs of New York. It should be noted that the samples analyzed in all of the studies discussed above were taken during a period when fireproofing highrise buildings by spraying asbestos-containing material was permitted. The practice was especially common in New York City. While no sampling station was known to be located adjacent to an active construction site, unusually high levels could nevertheless have resulted from the procedure. The highest concentration measured in these samples, 65 ng/m^3, was exceeded by 70% of the school samples and the average of all 26 school samples (217 ng/m^3) was more than 10 times the average of the New York City samples (17 ng/m^3).

Of particular relevance to the current study are the analyses for chrysotile of 116 samples of indoor and outdoor air collected in or near 19 buildings in five United States cities.[10] The buildings sampled included those in which various asbestos minerals had been applied as fireproofing material to the steelwork or for acoustic or decorative purposes. Average values for the air inside buildings ranged from 2.5 ng/m^3 to 200 ng/m^3, with individual measurements ranging from 0 to 800 ng/m^3.

For outside air the variation for the average concentration at a given site extended from 0 to 48 ng/m^3. Little contamination was found in buildings utilizing cementitious

TABLE 4

CHRYSOTILE CONTENT OF AMBIENT AIR IN NEW YORK CITY BY BOROUGH (6- TO 8-HOUR DAYTIME SAMPLES)[9]

Sampling Locations	Number of Samples	Asbestos Concentration (ng/m^3)	
		Range	Average
Manhattan	7	8–65	30
Brooklyn	3	6–39	19
Bronx	4	2–25	12
Queens	4	3–18	9
State.. Island	4	5–14	8

material but 47% of buildings with friable asbestos materials, either on room surfaces or in return air plenums, had air concentrations in excess of 20 ng/m^3 versus 14% of all outside control samples. Twenty-four samples were taken in buildings with asbestos applied to wall and ceiling surfaces for decorative or acoustic purposes. Of these, three showed concentrations exceeding 100 ng/m^3 in areas where the asbestos was damaged. However, in the absence of damage, air concentrations similar to background were observed.

The majority of the data on asbestos concentrations in schools were obtained in circumstances in which damage had occurred to friable, noncementitious asbestos-containing sprayed material with consequent dislodgement of asbestos fibers. In general, when significant levels were found, physical deterioration of the surface of the material was evident. While fewer data exist regarding air concentrations associated with damage to cementitious asbestos-containing sprayed material, the finding of higher chrysotile concentrations in one school with such material raises the same question here as well. Thus, the conclusions that can be drawn from these data include the following.

1. If visible damage to or erosion of any asbestos-containing sprayed material is evident, increased asbestos air concentrations would have existed at the time of damage and may still persist.

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2. As such damage is likely to recur or to continue, asbestos air concentrations in excess of background (50 ng/m^3) may be expected in the future.
3. Where visible damage or erosion is not evident, asbestos air concentrations are likely to be little different from background, but the possibility of later damage and future asbestos fiber release with concomitant increased air concentrations cannot be excluded.

Environmental Asbestos Health Effects

Serious asbestos disease associated with direct[11-13] or indirect[14] occupational exposure to asbestos has been extensively documented. Of increasing importance, are the findings of asbestos disease in other than occupational circumstances. In 1960 Wagner reviewed 47 cases of mesothelioma found in the Northwest Cape Province, South Africa in the previous five years.[15] Of this number, roughly half were in people who had worked with asbestos. Virtually all of the rest were in individuals who had, decades before, simply lived or worked in an area of asbestos mining (one lived along a roadway in which asbestos fibers were shipped). This germinal observation demonstrated that asbestos exposure of limited intensity, often intermittent, could cause mesothelioma. The hazard was further pointed by the findings of Newhouse,[16] who showed that mesothelioma could occur among people whose potential asbestos exposure consisted of their having resided near an asbestos factory or in the households of asbestos workers. Twenty of 76 cases from the files of the London Hospital were the result of such exposure, 31 were occupational in origin and asbestos exposure was not identified for 25.

A recent extensive study of the effects of household exposure has been conducted by Dr. Henry Anderson and his colleagues of the Mount Sinai School of Medicine.[17] In a clinical survey of 679 family contacts of former asbestos factory workers, it was found that the x-rays of 35% of these individuals showed abnormalities characteristic of asbestos exposure. It did not matter greatly what the relationship to the worker was; the asbestos dust in the household could effect any resident—wife, sons, daughters, parents. While almost all were currently asymptomatic, and while most would perhaps suffer no impairment from their past exposure, others may be stricken with an asbestos-related cancer as a result of past household asbestos exposure. (During this continuing survey, five deaths of mesothelioma have already been identified in this group of family contacts.)

Unfortunately, no exposure data exist on the concentrations of asbestos dust to which these various populations were exposed 20, 30, or 40 years ago. Thus, direct dose-response data on asbestos health effects in environmental circumstances do not exist. However, recent measurements of asbestos concentrations in the homes of workers, around sites where asbestos materials were sprayed as fireproofing or in the neighborhood surrounding uncontrolled asbestos-processing facilities, usually yield values in the hundreds of ng/m^3, with concentrations only rarely exceeding 1000 ng/m^3.[18] This suggests that the long-term exposure of many children to concentrations above 100 ng/m^3 may not be without later risk of asbestos disease.

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LAWS OF ALASKA

1983

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Chapter No.

93

AN ACT

Relating to toxic and hazardous substances in the workplace; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

Approved by the Governor: July 25, 1983
Actual Effective Date: Sections 1, 3, and 4 take effect July 26, 1983; and Section 2 takes effect July 1, 1984



Chapter 93

AN ACT

Relating to toxic and hazardous substances in the workplace; and providing for an effective date.

* Section 1. AS 18.60.030 is amended by adding new paragraphs to read:

(12) annually publish a list of toxic and hazardous substances;

(13) maintain a current set of OSHA form 20's or equivalent information for toxic and hazardous substances, and other information relevant to toxic and hazardous substances;

(14) assist employers, upon request, to identify and obtain information on toxic and hazardous substances and develop employee safety education programs.

* Sec. 2. AS 18.60 is amended by adding new sections to read:

Sec. 18.60.065. IMPORTATION OF TOXIC AND HAZARDOUS SUBSTANCES. Toxic and hazardous substances imported into the state shall be accompanied by a federal Occupational Safety and Health Administration (OSHA) form 20 or equivalent information. This requirement does not apply to a substance for which the in-state purchaser has already received the most current information.

Sec. 18.60.066. EMPLOYEE SAFETY EDUCATION PROGRAMS. (a) An employer shall conduct a safety education program for an employee before the employee performs a new work assignment that may result in the employee being exposed to a toxic or hazardous substance for which the employee has not received safety instruction as provided under (b



of this section.

(b) An employee safety instruction program shall inform the employee of

(A) the location, properties, and known or suspected acute and chronic health effects of the hazardous or toxic substances to which the employee is exposed in the workplace;

(B) the nature of the operations that could result in exposure to hazardous or toxic substances, as well as any necessary handling or hygienic practices or precautions; and

(C) the location, purpose, proper use, and limitations of personal protective equipment used in the workplace.

Sec. 18.60.067. INFORMATION PROVIDED ON EMPLOYEE'S REQUEST. (a) An employer shall make available to an employee on request a copy of the most recent OSHA form 20 or equivalent written information for a toxic or hazardous substance to which the employee may be exposed. If the employer does not have the copy or information requested, the employer shall request a copy from the department or the manufacturer of the substance within three state government working days after receiving the request.

(b) If the copy or information requested under (a) of this section is not made available to the employee within 15 calendar days after the request is received, the employer shall take measures to assure that employees are not exposed to the substance to which the copy or information pertains until the copy or information is made available to the employee who made the request. This subsection applies only to substances for which an OSHA form 20 or equivalent information is required under OSHA regulations. This subsection does not alter, deny, or abrogate any right an employee may have under law to refuse to work under hazardous circumstances.





Chapter 93

Sec. 18.60.068. POSTING OF INFORMATION IN WORKPLACE. (a) The department shall print and make available to employers posters that contain notice of the provisions of this chapter relating to toxic and hazardous substances.

(b) An employer whose employees are or may be exposed in the workplace to a toxic or hazardous substance shall display the following information in a manner designed to notify the employees:

(1) a poster printed by the department under (a) of this section; and

(2) an OSHA form 20 or equivalent information for each toxic or hazardous substance to which an employee may be exposed in the workplace

(A) under normal conditions of work; or

(B) during a reasonably foreseeable emergency, including equipment failure and rupture of containers.

(c) Instead of posting the information required under (b)(2) of this section, an employer may post a list of the chemical name and product name of each toxic or hazardous substance to which an employee may be exposed in the workplace, together with an identification of a location, in or near the workplace and accessible to employees, where an employee may inspect the information listed under (b)(2) of this section.



* Sec. 3. AS 18.60.105 is amended by adding new paragraphs to read:

(6) "be exposed" means to ingest, inhale, or absorb through the skin or eyes a substance, or fumes or other potentially harmful aspect of a substance;

(7) "OSHA" means the federal Occupational Safety and Health Administration;

(8) "toxic or hazardous substance" includes

(A) a chemical listed in 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, "General Industry Standards", Occupational Safety and Health Administration;

(B) a chemical listed in "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment", American Conference of Governmental Industrial Hygienists (Latest Edition);

(C) a substance for which an OSHA form 20 or equivalent information is required under OSHA regulations; and

(D) a substance determined by the department, in accordance with the Administrative Procedure Act (AS 44.62), to be a health hazard to an employee who is exposed to the substance, including a carcinogen, reproductive toxin, irritant, corrosive, sensitizer, hepatotoxin, nephrotoxin, neurotoxin, agent that acts on the hematopoietic system, agent that damages the lungs, a cutaneous hazard and an eye hazard;

(9) "toxic or hazardous substance" does not include

(A) substances that because of their physical state, volume, or concentration do not pose a health hazard upon exposure;

(B) substances that are goods, food, drugs, cosmetics, or tobacco products intended for personal consumption; or

(C) substances in transit;

(10) "transit" means conveyed in a sealed or unopened container by a mode of transportation.

* Sec. 4. AS 18.60.105 is amended by adding a new subsection to read:

(b) In AS 18.60.030(14), 18.60.065 - 18.60.068, and 18.60.105-(a)(9)

(1) "employee" means a person who works for an employer,



but not in a place used primarily as a personal residence;

(2) "employer" means a person, including the state and a political subdivision of the state, who has one or more employees working in a place not used primarily as a personal residence.

(3) "health hazard" means a substance capable of causing acute or chronic adverse effects to health;

(4) "workplace" means a place of employment other than a place used primarily as a personal residence.

* Sec. 5. Sections 1, 3, and 4 of this Act take effect immediately in accordance with AS 01.[illegible].070(c).

* Sec. 6. Section 2 of this Act takes effect July 1, 1984.



News Miner
2/1/84

EPA: schools ignore law about asbestos warnings

WASHINGTON (AP)—Local school officials, worried about their budgets or about "panic and hysteria," are widely ignoring a federal law requiring parents to be notified about dangerous asbestos in their school buildings, a government study says.

The study by the Environmental Protection Agency said that study said.

In many cases, the study said, school officials did not want to notify parents because of the money the school district would have to spend if forced to clean up the asbestos hazard.

School officials "are reluctant to notify parents because they believe this will result in a redirection of limited operating funds and-or create unnecessary panic and hysteria," the study said.

But whatever the reason, the EPA study added, it is undermining the program to get rid of hazards from asbestos that face millions of schoolchildren.

"The success or failure of the asbestos in schools rule, which relies heavily upon public involvement, is the degree to which information is communicated to the public," the study said. "Poor public awareness has resulted in only slight activity on the part of the parent groups in schools."

The finding are included in an internal program review requested by EPA Deputy Administrator Al Alm and completed in December. A copy was obtained by The Associated Press.

The study involves asbestos insulation that once was widely used in schools and other public buildings. Health officials now say that some types of asbestos can flake into microscopic particles that can be inhaled, causing lung cancer or other lung diseases. There is no known safe exposure level.

Under federal law, school officials are required to inspect their buildings for hazardous asbestos and to notify parents and school employees if it is found. It is then up to the local officials to decide what to do.

The law covers more than 37,000 public, private and parochial school systems with more than 50 million students.

The EPA study was intended to find out how well the program was working. Some of its findings, including the conclusion that two-thirds of the nation's schools are in violation of some part of the law, have been reported earlier.

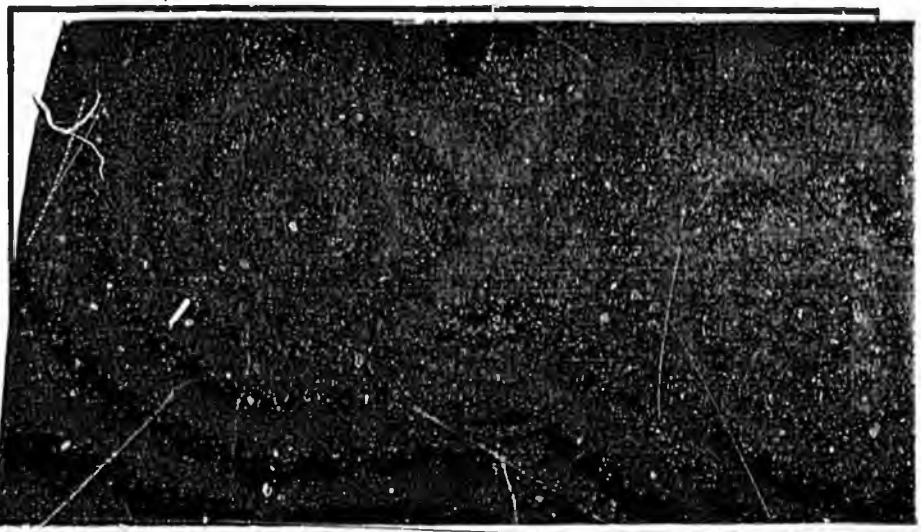
The EPA study did not blame school officials alone. It also found that the agency itself needed to devote more money and people to the program, including more than doubling the EPA inspection program.

"The agency has not issued a high-level statement detailing the risks of exposure to asbestos and the importance of considering various abatement options," the study said. "The regions and the public have not been made fully aware and have received mixed signals on the seriousness of asbestos health hazards."

The congressional author of the asbestos in schools law, Rep. George Miller, D-Calif., focused on those shortcomings in his analysis of the report.

"This document, drafted by EPA's own experts, again confirms the shocking inadequacy of this administration's approach to a threat that endangers the health of millions of school children," Miller said. "It is apparent that at least some officials within EPA are trying to warn their agency about the consequences of the current policies."

Whatever the failings of the agency, however, the study indicated that school officials have not endorsed the program wholeheartedly.



Funding limits asbestos removal

Associated Press

Washington — Local school officials, worried about their budgets or about "panic and hysteria," are widely ignoring a federal law requiring parents to be notified about dangerous asbestos in their school buildings, a government study says.

The study by the Environmental Protection Agency said that of 275 schools inspected by EPA, 190 were found to be violating the federal law on asbestos insulation. Of those 190, the EPA said, 134 had violated the requirement that parents be notified of the excess levels.

"Consequently, we can conclude that the parents of students exposed are in many cases unaware of the existence of such a hazard," the study said.

In many cases, the study said, school officials did not want to notify parents because of the money the school district would have to spend if forced to clean up the asbestos hazard.

School officials "are reluctant to notify parents because they believe this will result in a redirection of limited operating funds and-or create unnecessary panic and hysteria," the study said.

But whatever the reason, the EPA study added, it is undermining the program to get rid of hazards from asbestos that face millions of schoolchildren.

"The success or failure of the asbestos in schools rule, which relies heavily upon public involvement, is the degree to which information is communicated to the public," the study said. "... Poor public awareness has resulted in only slight activity on the part of the parent groups in schools."

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The law covers more than 37,000 public, private and parochial school systems with more than 50 million students.

Whatever the failings of the agency, however, the study indicated that school officials have not endorsed the program wholeheartedly.

Federal funds to help remove asbestos

by Stephen J. Dowries 2/9/84
Times Writer

The federal government has offered at least $2.1 million to help remove asbestos at Bartlett High School, a school district official said Wednesday.

And federal dollars will also pay for removing asbestos at Mount Spurr Elementary School, said assistant superintendent Tom Freeman.

Freeman said the federal Department of Education made the offer in a letter received by the district Tuesday, after three months of lobbying by the school district and members of the school board.

The district wanted the federal government to pay a portion of the bill for the schools because they are both on federal land.

About 35 acres of Bartlett is on federal land and technically belongs to the federal government, Freeman said. The other 113 acres have been deeded to the municipality, he said. The district operates the whole school.

Mount Spurr is on Elmendorf Air Force Base. The school district estimates it will cost $80,000 to remove asbestos at the school.

Negotiations between the district and the DOE that might result in even more money being obtained are still continuing. The district is seeking additional funds because cost estimates for Bartlett are increasing, Freeman said.

The $2.1 million represents 38 percent — the federal government's share — of what the district originally believed the Bartlett project would cost: $5.5 million.

"We've informed them that it may be more," Freeman said.

Howard Games, a DOE project engineer in Seattle, said a request for the money would go to DOE offices in Washington as soon as the school district provides a revised estimate of the cost. The estimate could come as early as next week.

Construction firms will be asked to come up with estimated costs of removing asbestos at Bartlett. The firms will also seek a way to complete the work without disrupting the school year, which could mean higher costs.

The federal Environmental Protection Agency has linked exposure to asbestos with lung cancer and other diseases. The Anchorage School Board last year ordered asbestos removed from all district buildings.

The state legislature is now considering a district request for $10 million to remove asbestos from six schools, among them Bartlett and Mount Spurr. Bartlett is the top priority and has by far the most asbestos.

Anchorage lawmakers have already proposed $8.7 million for Anchorage asbestos removal.

DOE representatives will come to Anchorage in the next couple of weeks to advertise for bids on the Mount Spurr project, Freeman said.

The bid specifications will be drawn up by Gobbell, Hays and Pickering, the firm evaluating the asbestos problem for the school district.

Another DOE official, Jim Ishihara, said the federal government is also paying for asbestos removal on other Alaska schools: a $2.2 million project at Reeve Junior and Senior High School in Adak and a $250,000 project at nine schools in Fair-

Sent to all school districts and private schools

Note: Under TAP, in 1979 all schools were sent copies of Document 1 & 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 10 1982

THE ADMINISTRATOR

Dear School Administrator:

On May 27, 1982, the Environmental Protection Agency (EPA) published a rule in the Federal Register (47 FR 23360-23399) requiring all public and private elementary and secondary schools in the United States to identify friable asbestos-containing materials, maintain records, and notify employees of the location of the friable materials which contain asbestos. When friable asbestos-containing materials are found, schools must provide the employees with instructions on reducing exposure to asbestos, and notify the school's parent-teacher association.

Since 1979, EPA has operated a Technical Assistance Program (TAP) to help schools identify and correct potential hazards due to asbestos in schools. However, many schools did not respond to EPA's effort under the TAP. EPA is now requiring all schools to identify friable asbestos-containing materials and notify employees and parent-teacher organizations of their presence. These actions must be completed by June 28, 1983.

To assist schools in complying with the rule, we are enclosing a copy of the rule along with copies of "Asbestos-Containing Materials in School Buildings: A Guidance Document, Parts 1 and 2." Should you need a copy of any forms for this rule or other general information, please contact the Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M Streets, S.W., Washington, D.C. 20460. Phone: Toll free, 800-424-9065. In Washington, D.C., call 544-1404. Outside the Continental U.S., call Operator-202-554-1404. If you need technical assistance, please contact the appropriate Regional Asbestos Coordinator listed in the rule on page 23361.

RECEIVED
AUG 1 - 1982
COMPLIANCE BRANCH
EPA - REGION X

Sincerely,

Douglas G. Bannerman
Acting Director,
Industry Assistance Office

Date

ROUTING AND TRANSMITTAL SLIP

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. ~~Jane Goodale~~		
2. Andy Christensen		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	For Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

~~Attached~~ are schools in Alaska which were sent the schools Rule package. Also, attached is an address change.

RECEIVED
SEP 13 1982

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Dave Mayer EPA	Phone No.

5041-102

Dave Mayer, EPA, WASH. D.C.
Acting Team leader for Asbestos

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

SUPERINTENDENT
ADAK REGION SCHOOLS
FPO SEATTLE AK 96791

SUPERINTENDENT
BRISTOL BAY BOROUGH SCH D
NAKNEK AK 99633

SUPERINTENDENT
ALASKA GATEWAY SCH DIST
TOK AK 99760

SUPERINTENDENT
CRAIG CITY SCH DIST
CRAIG AK 99921

SUPERINTENDENT
DELTA GREELY SCH DIST
DELTA JUNCT AK 99737

SUPERINTENDENT
GATEWAY BOROUGH SCH DIST
KETCHIKAN AK 99901

SUPERINTENDENT
ANCHORAGE SCH DIST
ANCHORAGE AK 99502

SUPERINTENDENT
HAINES BOROUGH SCH DIST
HAINES AK 99627

SUPERINTENDENT
HOONAH CITY SCH DIST
HOONAH AK 99829

SUPERINTENDENT
KENAI PENINSULA BOROUGH S
SOLDOTNA AK 99669

SUPERINTENDENT
KING COVE CITY SCH DIST
KING COVE AK 99612

SUPERINTENDENT
LAKE AND PENINSULA SCH DI
NAKNEK AK 99633

SUPERINTENDENT
LOWER KUSKOKWIM SCH DIST
BETHEL AK 99559

SUPERINTENDENT
ISLANDS SCH DIST
MCGRATH AK 99627

SUPERINTENDENT
ANNETTE ISLAND SCH DIST
METLAKATLA AK 99926

SUPERINTENDENT
NORTH STAR BOROUGH SCH DI
FAIRBANKS AK 99701

SUPERINTENDENT
NORTH SLOPE BOROUGH SCH D
BARROW AK 99723

SUPERINTENDENT
PETERSBURG CITY SCH DIST
PETERSBURG AK 99833

SUPERINTENDENT
PRIBILOF ISLAND SCH DIST
ST PAUL AK 99660

SUPERINTENDENT
ALEUTIAN REGION SCH DIST
ANCHORAGE AK 99503

SUPERINTENDENT
BERING STRAIT SCH DIST
NOME AK 99762

SUPERINTENDENT
CORDOVA CITY SCH DIST
CORDOVA AK 99574

SUPERINTENDENT
COPPER RIVER REAA SCH DI
GLENNALLEN AK 99588

SUPERINTENDENT
DILLINGHAM CITY SCH DIST
DILLINGHAM AK 99576

SUPERINTENDENT
GALENA CITY SCH DIST
GALENA AK 99741

SUPERINTENDENT
JUNEAU BOROUGH SCHOOLS
DOUGLAS AK 99824

SUPERINTENDENT
SITKA BOROUGH SCH DIST
SITKA AK 99835

SUPERINTENDENT
HYDABURG CITY SCH DIST
HYDABURG AK 99922

SUPERINTENDENT
KAKE CITY SCH DIST
KAKE AK 99830

SUPERINTENDENT
KLAWOCK CITY SCH DIST
KLAWOCK AK 99925

SUPERINTENDENT
KODIAK ISLAND BOROUGH SC
KODIAK AK 99615

SUPERINTENDENT
LOWER YUKON SCH DIST
MT VILLAGE AK 99632

SUPERINTENDENT
MATANUSKA-SUSITNA BOR S
PALMER AK 99645

SUPERINTENDENT
NENANA CITY SCH DIST
NENANA AK 99760

SUPERINTENDENT
NOME CITY SCH DIST
NOME AK 99762

SUPERINTENDENT
NORTHWEST ARCTIC SCH DIST
KOTZEBUE AK 99752

SUPERINTENDENT
PELICAN CITY SCH DIST
PELICAN AK 9983

SUPERINTENDENT
SAINT MARYS CITY SCH DIST
ST MARYS AK 99658

SUPERINTENDENT
SAND POINT SCHOOLS
SAND POINT AK 99661

SUPERINTENDENT
SOUTHWEST REGION SCH DIST
DILLINGHAM AK 99576

SUPERINTENDENT
UNALASKA CITY SCH DIST
UNALASKA AK 99685

SUPERINTENDENT
RAIL BELT SCHOOL DISTRICT
CLEAR AK 99704

SUPERINTENDENT
YUKON FLATS SCH DIST
FORT YUKON AK 99740

SUPERINTENDENT
WRANGELL CITY SCH DIST
WRANGELL AK 99929

SUPERINTENDENT
YAKUTAT CITY SCH DIST
YAKUTAT AK 99689

SUPERINTENDENT
SKAGWAY CITY SCH DIST
SKAGWAY AK 99840

SUPERINTENDENT
SOUTHEAST ISLAND SC
KETCHIKAN AK
99901

SUPERINTENDENT
CHATHAM REGION SCHOOLS
ANGOON AK 99820

SUPERINTENDENT
KUSPUK SCHOOL DIST
ANIAK AK
99557

SUPERINTENDENT
VALDEZ CITY SCH DIST
VALDEZ AK 99686

SUPERINTENDENT
CHUGACH SCH DIST
WHITTIER AK
99693

Private schools for requests

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Office copy

DATE: 2 August, 1982

SUBJECT: Identification and Notification requirements for Friable Asbestos-Containing Materials in Schools

FROM: A. B. Christensen, Asbestos Technical Advisor, Region X

A B Christensen

TO:

Each public school district has been mailed a separate package containing copies of "Asbestos-Containing Materials in School Buildings: A Guidance Document", Parts I & II (the orange colored booklets) and the new Regulation dated Thursday May 27, 1982, "Friable Asbestos-Containing Materials in Schools: Identification and Notification" (which requires inspection of all public and private schools for the presence of friable asbestos-containing material).

The responsibility for compiling and maintaining records in each school district (Local Education Agency) is placed on the individual districts. This mailing is designed to assist you to fulfill the requirements. You may find much of the work was already accomplished under the "Voluntary Asbestos Survey Program".

To assist each district and school have in their file the required information, we have made up some "check-off" lists for your use. One blank copy for the district and blank copies for the individual schools in the district are attached. For those districts and schools that are not complicated by the presence of any friable materials it will be a simple matter to fill in the blanks which apply. Those districts and schools which have friable materials are, obviously, required to complete inspections and analysis and to comply with the additional requirements of the rule as outlined on the "check-off" list and spelled out in the regulation. Please retain a copy of the "check-off" list with your file.

The check lists are made out to try to cover every situation so please bear with the seeming duplication on the second page of each list.

Should you require copies of any of the following reference materials:

(1) Guidance Documents, Parts I & II,
(2) Mathematical formula referred to in Part I, Chapter 7, page 14 (The Algorithm),
(3) Polarized Light Microscopy (PLM) laboratory listing,
(4) Any other pertinent information, please call or write direct to:

Environmental Protection Agency
School Asbestos Program M/S 524
1200 Sixth Avenue
Seattle, WN 98101 / ~~(206) 442-1255~~ 586-7619

3200 Hospital Dr
Suite 101
Juneau, AK 99801

Your assistance to complete the identification of friable asbestos-containing materials in your school district is appreciated.

Recordkeeping required by Chapter 1 of Title 40, Code of Federal Regulations, Part 763 - ASBESTOS Subpart F - Friable Asbestos-Containing Materials in Schools; Identification and Notification

Cover Sheet

LOCAL EDUCATION AGENCY
INSPECTION FOR FRIABLE ASBESTOS-CONTAINING MATERIALS

Cover Sheet

Name and Address of the Agency (School District)

Local Education Agencies shall inspect each school building which they lease, own, or otherwise use as a school building, to locate all friable material. Inspection shall consist of looking for and touching all suspect material, including surfaces behind suspended ceilings or other non-permanent structures which may be entered during normal building maintenance or remairs.

Listing of All Schools Under Agency Authority	Inspected for Friable Materials		Contains Friable Materials	
	Yes	No	Yes	No
1.				
2.				
3.				
4.				
5.				
6.				

(Attach additional listing to include all schools in agency)

Record of Friable Materials in schools which were sampled and analyzed

School	Sampled (Yes or NO) / Analyzed (Yes or No)	Analysis Results	Total Area Analyzed Material (Friable A...)
1.			
2.			
3.			
4.			
5.			
6.			

(Attach additional listing to include all schools in Agency which contain Friable Asbestos-Containing Materials)

For each school which contains friable asbestos-containing materials, the total number of school employees who regularly work in that school

Administrative	Faculty	Custodial

Continued Next Page

Warnings and Notifications

(a) Local Education Agencies shall post in the primary administrative and custodial offices and in the faculty common rooms of each school under their authority a completed copy of the Notice to School Employees unless no friable asbestos-containing material is present in the school. The Notice shall remain posted indefinitely in any school which has friable asbestos-containing material.

Date Posted _____ Copies Attached - Yes_____ No_____

(b) Local Education Agencies shall provide to all persons employed in school buildings under their authority which contain friable asbestos-containing materials a written Notice of the location, by room or building area, of all friable asbestos-containing materials in the school

Date Notice Provided _____ Copies Attached - Yes_____ No_____

(c) "A Guide for Reducing Asbestos Exposure", shall be provided to all custodial or maintenance employees.

Date Guide Provided _____

(d) Local Education Agencies shall provide notice of the results of inspections and analysis in each school in which friable asbestos materials are found to the appropriate parent-teacher association of that school. If there is no parent-teacher association for the school, the Local Education Agency shall notify directly the parents of the pupils.

Date Notice Provided to: PTA_____ Parents _____

(e) Each Local Education Agency shall complete and retain in the administrative office of the Local Education Agency the form "Inspections for Friable Asbestos-Containing Materials".

Copy Completed - Yes_____ No_____

CERTIFICATION:

I hereby certify that this Agency has complied with the EPA Regulation 40 CFR, 763.100 through 763.117, "Asbestos-Containing Materials in Schools; Identification and Notification", and that the information on this form is, to the best of my knowledge, true and complete.

Signature	Typed or Printed Name
Typed or Printed Title	Date

Please send copies of this form completed to:

(1) State Department of Education, Pouch F, Juneau, AK 99811, ATTEN: Facilities

(2) EPA ~~M/S 524~~ EPA-900
1200 ~~6th~~ Ave.
Seattle, WN 98101

3200 Hospital DR.
Suite 101
Juneau, AK 99801

Recordkeeping required by Chapter 1 of Title 40, Code of Federal Regulations, Part 763-ASBESTOS Subpart F - Friable Asbestos-Containing Materials in Schools; Identification and Notification

Cover Sheet

INDIVIDUAL SCHOOL INSPECTION FOR FRIABLE ASBESTOS-CONTAINING MATERIALS

Cover Sheet

Name and Address of the School

Local Education Agencies shall inspect each school building which they lease, own, or otherwise use as a school building, to locate all friable material. Inspection shall consist of looking for and touching all suspect material, including surfaces behind suspended ceilings or other non-permanent structures which may be entered during normal building maintenance or repairs.

Listing of All Buildings Used by School	Inspected For Friable Materials	Friable Materials Present/ Not Present
1.		
2.		
3.		
4.		
5.		
6.		

(Attach additional listing to include all buildings - (§763.103 (h))

FOR EACH SCHOOL BUILDING WHICH CONTAINS FRIABLE MATERIALS, THE FOLLOWING INFORMATION MUST BE MAINTAINED IN THAT SCHOOL'S ASBESTOS FILE:

1. A blueprint, diagram, or written description of the building which identifies clearly the location(s) and approximate area(s) in square feet of each sampling area of such material(s), the locations at which samples were taken, and the identification number of each sample, and which shows clearly whether each sampling area of friable material contains asbestos, including an estimate of its percent asbestos content as determined by calculating the average of the percent asbestos content of all samples taken in the area.

2. A copy of all laboratory reports and all correspondence with laboratories concerning the analysis of samples taken.

3. For each school, copies of the "Guide for Reducing Asbestos Exposure", and one copy of "Asbestos-Containing Materials in School Buildings: A Guidance Document, Parts 1 & 2.

Continued Next Page

Warnings and Notifications

(a) Local Education Agencies shall post in the primary administrative and custodial offices and in the faculty common rooms of each school under their authority a completed copy of the Notice to School Employees unless no friable asbestos-containing material is present in the school. The Notice shall remain posted indefinitely in any school which has friable asbestos-containing material.

Date Posted _____ Copies Attached - Yes _____ No _____

(b) Local Education Agencies shall provide to all persons employed in school buildings under their authority which contain friable asbestos-containing materials a written Notice of the location, by room or building area, of all friable asbestos-containing materials in the school.

Date Notice Provided _____ Copies Attached - Yes _____ No _____

(c) "A Guide for Reducing Asbestos Exposure", shall be provided to all custodial or maintenance employees.

Date "Guide" Provided _____

(d) Local Education Agencies shall provide notice of the results of inspections and analysis in each school in which friable asbestos-containing materials are found to the appropriate parent-teacher association of that school. If there is no parent-teacher association for the school, the Local Education Agency shall notify directly the parents of the pupils.

Date Notice Provided To: PTA _____ Parents _____

CERTIFICATION:

I hereby certify that this school has complied with the EPA Regulation 40 CFR 763.100 through 763.117, "Asbestos-Containing Materials in Schools; Identification and Notification", and that the information on this form is, to the best of my knowledge, true and complete.

Signature	Typed or Printed Name
Typed or Printed Title	Date

copy of the friable-asbestos results of any Alaska school that complies with the present regulation.

5) List of those schools represented at your presentation in Anchorage and Fairbanks.

Thank you for your time and effort.

September 17, 1982

Sincerely,

Chris Christensen, Asbestos Technical Advisor
EPA/Region X
1200 Sixth Avenue
Seattle, Washington 98101

Dear Christensen
A. Smith

The EPA-AOO, Juneau would like to express their appreciation for your presentation on the May 27, 1982 Regulation on Friable Asbestos-Containing Materials in Schools conducted in Juneau (9/13), Anchorage (9/14), and Fairbanks (9/15) for all Alaska school district representatives. I think this explanation, and clarification of the relatively new rule will help to promote Alaska schools to comply with the regulation.

As we discussed, you are planning to distribute a letter explaining the new friable-asbestos regulation to each Alaska school district and private school. Hopefully, this will clarify the regulation for those school representatives who were unable to attend your presentation and encourage each school to comply with the regulation in a timely manner. If we can be of any assistance to you in notifying Alaska schools of their responsibility in identifying friable-asbestos materials in their schools, please contact us.

In order to complete our records concerning this project would you please send us a copy of the following material:

1) The 1982 cover letter that accompanied the new regulation and Guidance Document distributed to all school districts and private schools.

2) The follow-up letter (yellow) and attachments you will be distributing to school districts and private schools.

3) Copy of the friable-asbestos results of all Alaska schools that complied with the volunteer program.

4) Copy of the friable-asbestos results of any Alaska school that complies with the present regulation.

5) List of those schools represented at your presentation in Anchorage and Fairbanks.

Thank you for your time and effort.

Sincerely,

[illegible]

Kathy Pazera
Environmental Scientist

cc: J. Halterman
A. Smith

ATTENDANCE TO CHRISTENSEN'S 7
PRESENTATION IN ANCHORAGE 9/14/82

TOM BIBEAU Risk Manager Anchorage School Dist.
Bob THORNTON MAINT DEPT. ANCHORAGE School DIST.
BOB ELLISON MAINT + OPERATIONS DIR. KODIAK SCHOOL DIST.
DAN R. SHERK PLANT MANAGER NORTH Slope Borough Sch DIST.
LUDWIC C. OSOWIECKI DEPUTY SUPER OF MAIN KENAI PENINSULA BORO
JAMES WM. ELLIOTT DOE (SEA) ANCHORAGE
PATRICK A. DAY DIR. FACILITIES VALDEZ CITY SCHOOLS VALDEZ
James C. Hunsicker DIR operation & Maintenance MAT SU School DIST.
JAN D. AFFINITO, Ass't CONTRACT ADMINISTRATOR, MATANUSKA-SUSITNA BOROUGH
STEVE ZIRAKE AK DEPT. OF ENV. CONS. ~~ANCH, AK~~
437 E ST., SUITE 200
ANCH., AK 99501

PLEASE SEND 10 COPIES OF MATERIAL LISTED ON
2 AUG. 1982 MEMORANDUM. THANK YOU.

Need copy of model specifications for development of asbestos removal contracts.

ATTN: JAN AFFINITO

MATANUSKA-SUSITNA BOROUGH
P.O. Box B
PALMER, AK
99645

Please send set of specs to PLM Lab
Tom Bibeau Risk Manager
Anchorage School Dist.
Pouch 6-614
Anchorage, AK 99503

Attendance to Christensen's presentation in Fairbanks 9/15/82.

List

+ * Donna Higdon — S.D. Warehouse. 1300 Minnie St FBKS. {P.O Box 1250 FBKS. AK 99707

+ * Michael D. Pinon FAIRBANK NSBSD
Dir. Maint + OPS.

+ Nancy R Napolilli
Dept of Environmental Conservation
Pouch 1601
Fairbanks, AK 99707

+ Bid B. Irwin
Alaska Gateway School District
PO Box 226 TOK Alaska 99780

+ Ray L. Huntley
Delta/Greely School Dist.
PO Box 527 Delta Jct. AK 99737

+ Jim Elliott
DOE 650 W. Intnl Airpt Rd
Anch 99502

+ Harry Purdy
Alaska Rural School District

* James Howard
maint Foreman
FBKS North Star Borough School Dist.
PO Box 1250 - 99701

ANCHORAGE SCHOOL DISTRICT

PRELIMINARY CAPITAL IMPROVEMENT SUMMARY SHEET

CATEGORY 1

ESSENTIAL FOR THE HOUSING OF STUDENTS

PRIORITY	PROJECT	ESTIMATED COST
1	Asbestos removal.	10,000,000
2	Eagle River - Four-room addition, site improvements, lands purchase.	4,918,020
3	Fire Lake Elementary School.	10,114,700
4	Section 16 Elementary School.	10,402,600
5	Chugiak High - 22-classroom and library addition.	13,304,600
6	School Site Acquisition Program - Phase II.	6,200,000
7	Maintenance Requests - Roofing repairs.	7,901,301
8	Microcomputer Project.	1,500,000
9	Food Education and Service Center.	3,641,800
10	Emergency communication system.	385,000
11	Denali Fundamental - Heating system renovation.	550,000
	SUBTOTAL (CATEGORY 1)	$ 68,918,521

ANCHORAGE
SCHOOL DISTRICT
4600 DeBarr Avenue
Pouch 6-614
Anchorage, Alaska 99502
[907] 333-9561

RECEIVED
MAY 17 1984
Josephson,

SCHOOL BOARD
Jean Buchanan
President
Brent Wadsworth
Vice-President
Vi Schellenberg
Clerk
Cathye Davis
Clerk Pro Tem
Alyce Hanley
Treasurer
Jim Robinson
Assistant Treasurer
Past President
Lee Gorsuch
Parliamentarian
Immediate Past President
SUPERINTENDENT
E.E. (Gene) Davis, Ed.D.

May 14, 1984

The Honorable Joe P. Josephson
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson:

The Anchorage School District has been monitoring the asbestos fiberous material that is located within 55 schools since 1979. This requirement was federally mandated by the Environmental Protection Agency (EPA). In June, 1983, we were again mandated by the EPA to post each school that contained asbestos and to notify all occupants of the building of its location.

The Anchorage School District structured a formal process by which prequalified bidders were selected and given the opportunity to bid on six abatement projects. Bartlett-Begich Junior/Senior High School was a separate item due to the magnitude of asbestos within the school. The five other schools were bid as a unit which includes West, East, and Dimond High Schools, Clark Junior High School, and Mt. Spurr Elementary School.

The bids were opened on Wednesday, May 9, 1984. The base bid for Bartlett had a low $13,005,300 and a high of $22,166,000. We received three bids for this project. We received two bids for the five school project with a high of $1,980,000 to a low of $1,538,240.

We will be approximately $10 million short from awarding a contract for the removal of asbestos at Bartlett. At the present time the District is very appreciative of the approximately $6.5 million which was awarded in HB 403.

The low bid, if accepted, is $14,543,540. This bid indicates that Bartlett would have to be closed for at least one semester. The District is analyzing some of the options for Bartlett's 2,000 students which would not impact on the educational program.

If Bartlett was to be completed over two summers, it would require an additional $4 million. This, however, does not include storage for all of the furniture and equipment housed in Bartlett's 324,000 square feet.

The options available to us is to reject all bids, rebid the five schools by themselves, or reject Bartlett because of lack of funds. This question comes to the School Board on May 21, 1984, and it is imperative that the District receive the funding for this very important program.

We have appreciated all your efforts on behalf of the Anchorage community, its children, and their future.

Sincerely,

E. E. (Gene) Davis

E. E. (Gene) Davis, Ed.D.
SUPERINTENDENT

cl
CIP.3

cc Bill Miles

P.S. Enclosed is an article from "What's Happening In Washington", published by The National PTA.

TARGET VOL. 13 APRIL-MAY '84 NO. 5

Authority: "To secure adequate laws for the care and protection of children and youth."
National PTA Bylaws, Article II.c

Asbestos: Still a danger in schools

by Elaine S. Knapp

For Phyllis Adams and Ann Gibbs the last year has been a frustrating one—trying to get their local school board to remove asbestos from the school their children attend.

"It's frustrating, our children are being poisoned and there's not anything we can do," Mrs. Gibbs declared. What the Lexington, Kentucky, housewife has done is work through the PTA, form a group of concerned parents, go door-to-door telling parents of the danger, gather hundreds of signatures on petitions, read volumes on asbestos, call and write federal agencies and confront the school administrator and board.

After a year of parental pressure being applied and at least a decade after school authorities knew of the asbestos hazard, Mrs. Gibbs said, "We don't think anything will be done until the government makes them (the school board)." School authorities maintain the asbestos will be cleaned up if money is available for renovation next year.

Ironically, the major government effort to control asbestos lies in Mrs. Gibbs and others like her. Telling parents and teachers that their school has asbestos and relying on them to pressure local action is the heart of the U.S. Environmental Protection Agency's (EPA) strategy to rectify the nationwide problem of asbestos in schools.

No effective federal program exists to protect schoolchildren from asbestos, state efforts vary widely and local schools often ignore the danger due to the cost of cleanup.

Asbestos dangers

Any exposure to asbestos involves some health risk, according to the Congress, the EPA and the scientific community. Children are especially vulnerable, according to the EPA guidance document on asbestos sent to schools. Their remaining life expectancy provides the 20 to 40 years it takes for disabling and fatal asbestos-related diseases to develop. Large numbers of children may be exposed in a contaminated school and exposure is continuous during the school year. Children are active and breathe more frequently than adults, possibly inhaling more asbestos fibers. Smoking can increase the cancer risk due to asbestos exposure.

Most hazardous is friable asbestos that can be crumbled. It sends deadly fibers into the air which may lodge in the lungs indefinitely, according to EPA's guidance document. Asbestos workers often develop a chronic and debilitating lung disease called asbestosis. Lower and shorter exposure can result in death many years later.

Asbestos diseases include: 1) asbestosis, a disease in which asbestos clogs the lungs, 2) pleural calcification, a deposit of calcium salts in the lung lining, 3) malignant tumors of the lung, 4) mesothelioma, a rapid and fatal cancer of the lung and 5) intestinal and uterine cancers.

Hot potato

Asbestos in the schools has been a "hot potato" tossed among various levels of government and federal agencies. One reason is that removal of asbestos can be quite expensive, especially if large areas of buildings are affected. Funding is basically up to local schools as is asbestos detection and control. No federal funds are available and state aid varies.

The U.S. EPA requires schools to inspect for asbestos and notify parents and [school] employees of asbestos hazards. The EPA doesn't require removal or abatement. "The theory is that PTAs and employees would pressure local districts to take remedial action," said Terrell Hunt, assistant to EPA Deputy Administrator Alvin Alm.

However, a recent internal EPA report found that many schools did not meet EPA's June 1983 deadline for asbestos detection, record keeping and notification.

No federal funds

Federal funds of $172 million authorized by the Asbestos School Hazard Detection and Control Act of 1980 were never appropriated. Grants were promised for schools to identify asbestos hazards and loans for mitigation of asbestos hazards. But funds were never requested by the Department of Education, reported John Bennett, aide to U.S. Representative George Miller, D-Calif., who sponsored the act. In 1983, a $50 million recommendation by the House was omitted in a House-Senate conference.

The U.S. Department of Education had a task force which set standards for state grants in 1980, according to W. Stanley Kruger, deputy director for state and local programs. However, when the program wasn't funded, the department "deferred to EPA," Kruger said.

Under pressure from Congress, the department reactivated its task force in October 1983 and is gathering information on asbestos to send to chief state school officials, Kruger said. The department also reactivated its requirement that states file plans for asbestos in the schools' programs and report on their progress every six months. All but two states have filed.

EPA's program

The federal effort has largely been a requirement by the EPA that schools inspect for asbestos hazards, sample and analyze material to determine if asbestos is present, keep records of the inspection, post notices, and notify parents and employees if asbestos is found. Although schools were to comply with the rule by June 1983, the EPA doesn't know how many did. It does not require schools to report to it and must send federal inspectors to schools to check their records. EPA staff said when the EPA regulation was written that the administration op-

This is a reprint of a portion of an article appearing in State Government News, *March 1984. It is authored by and printed with permission of Elaine S. Knapp, its editor.*

posed imposing a data reporting requirement. The EPA recently doubled its field force of inspectors by adding 16 people through a contract with the American Association of Retired Persons, Hunt said. These include retired architects and engineers. Primarily, EPA staff look at school records and physically inspect some schools. However, there are not enough inspectors to cover but a small portion of the nation's schools.

In providing technical advice, EPA can help schools determine the best strategy for evaluating the risk and responding to asbestos, Hunt said. He said that anything short of removal is considered a short-term solution.

Connie Derocco, environmental protection specialist with EPA, said that out of 1,527 schools inspected in 468 districts, some 60 percent did not comply with EPA rules. Most failed to notify and warn PTAs and employees of asbestos materials [manufacturers]. Schools know they will be pressured once the word is out, and they are hesitant to deal with the asbestos problem, Derocco explained. After receiving a notice of noncompliance, schools have 30 days to act before the EPA files a civil complaint.

Labor union concern

An estimated 3.24 million schoolchildren and 648,000 school employees are potentially exposed to asbestos, according to Kitty Conlan, research analyst with the Service Employees International Union (SEIU).

The SEIU is lobbying Congress to fund the 1980 act for grants and loans to schools. Schools don't have the money to clean up on their own, Conlan said. "It's a nationwide problem which affects the health of millions of people."

SEIU is suing the EPA to require schools to clean up flaking asbestos. "Schools say if EPA thinks asbestos is so bad, then EPA would require them to get rid of it," Conlan commented.

EPA does give schools good technical advice on how to get rid of asbestos, Conlan noted. But some schools accept the lowest bid rather than follow EPA guidelines. If the cleanup is not done right, the asbestos danger can be worsened.

Conlan said SEIU doesn't think suing asbestos' manufacturers is worthwhile, citing lack of action on suits filed by asbestos workers. "We're hesitant to have our members litigate themselves to death," she said.

Conlan added that school districts can also be held responsible for asbestos. "They can face a big liability," she commented.

Lawsuits filed

A number of lawsuits on behalf of school boards and building owners in Kentucky, Mississippi, New Hampshire, Florida, South Carolina, Alabama and Tennessee have been filed by a South Carolina law firm.

Daniel Speights (a school board attorney) noted that legal theories available to school boards against manufacturers of asbestos include: contract (the products were not fit for the use intended), negligence (the manufacturers were negligent in informing users of the risks associated with the products), strict liability (manufacturers should be strictly liable for failing to warn of asbestos hazards), and restitution (manufacturers have a duty to abate the hazard).

A civil action filed on behalf of the Barnwell, South Carolina, school district notes that school districts and public officials could be held liable for failing to abate a health hazard.

A September 1981 report by the U.S. attorney general to Congress recommended that school authorities seek to recover asbestos abatement expenses from asbestos manufacturers. The report said federal litigation would be ineffective unless Congress imposed liability on asbestos manufacturers.

Asbestos manufacturers are being sued by at least 20,000 people on the grounds that the companies knew of asbestos hazards and covered them up, according to a September article in the *National Journal*.

A 1983 report from the Rand Institute says that asbestos litigation and compensation has cost an estimated $1 billion over the past decade. Only 37 cents of every dollar went for actual compensation to plaintiffs. Estimates of the number of deaths due to asbestos over the next 30 years range from 74,000 to 265,000.

What you should do about asbestos in your school

Given current asbestos rules and regulations, PTAs should check on the following:

1. Was each school in your district inspected for friable asbestos? If not, request this action immediately.
2. Was an analysis of asbestos samples, using polarized light microscopy, conducted?
3. Are records of the asbestos inspection on file in the school district?
4. Does the PTA have a copy of the report in its records?

In schools where asbestos was found, has the school complied with the following:

1. Did the school district notify the children's parents, either directly or through the PTA?
2. Were school employees notified of the location of the materials?
3. Did the school post a standard form in administrative and custodial areas?
4. Are measures being taken, if not already completed, to remove asbestos in the school?
5. Did the school district provide maintenance and custodial employees with instructions for reducing exposure to asbestos?

If asbestos was found in your school, but corrective measures are not being taken, the following steps should be pursued:

1. The PTA should work with the school to affect removal or abatement. Invite parents, teachers, employees of the building, the school principal, and the superintendent to a PTA meeting. Request information about the degree of the asbestos problem and what plans are being developed for cleanup.

2. If plans are not under way or seem unsatisfactory, contact the school board to inform it of your concern. If informal discussions do not produce results, get the issue on the agenda of the next school board meeting. Be prepared to provide the facts, including the inspection reports and the cost of abatement, to school board members.

3. Meanwhile, inform your state legislature and the U.S. Congress about the problems and the degree of difficulty there is in terms of cleanup.

4. If the school board is unable or unwilling to ameliorate the problem, one resort would be a lawsuit. Be sure that you have tried every alternative before taking this step.

Fairbanks North Star Borough - Program for Progress

Project Title

Fairbanks Schools Asbestos
Identification and Removal Project

☒ Equipment ☐ Road
☒ Structure ☐ Utility
☐ Service

Capital Request $1,385,000

Estimated Annual M & O Cost No Increase in Annual M & O Costs.

Description, Objectives and Public Benefit

During November 1983, sixteen school facilities of the Fairbanks North Star Borough were surveyed by a professional consultant for the presence and extent of asbestos. Asbestos was found in thirteen of the sixteen schools surveyed. This asbestos is "friable" or in a condition to release small fibers into the air. Non-friable asbestos was also found in these schools, usually in a cement-like compound on pipe elbows and fittings.

Friable asbestos is associated with a number of serious illnesses; consequently, the Federal government has issued strict regulations governing the use of asbestos and occupational exposure to airborne asbestos fibers.

The objective of this project is to protect the health of all Borough school building users by the removal or encapsulization of the asbestos materials.

The asbestos hazards were assessed and prioritized in order of the most serious potential risks of exposure. These priorities are:

URGENT:	Requires immediate attention to eliminate or reduce the risk of severe exposure to asbestos fibers.
PRIORITY ONE:	The facility contains friable asbestos which is accessible to all building occupants.
PRIORITY TWO:	The facility contains asbestos which is accessible to maintenance and custodial personnel.

A summary of asbestos findings and cost estimates for removal are given in Table 1.

Project Schedule

Encapsulization began December 1983 with local fund appropriation. Removal scheduled for summer 1984.

Project Contact

Larry Crouder, FNSB, Department of Public Works
Borough Engineer

TABLE I

SUMMARY OF ASBESTOS FINDINGS AND COST ESTIMATES

SCHOOL	EXPOSURE	CONDITION	PRIORITY	REMOVAL COST
Barnette Elementary	Maintenance	Friable	P-TWO	$134,390
Denali Elementary	Public	Friable	URGENT	118,512
Hunter Elementary	Maintenance	Friable	P-TWO	137,455
Hutchison Career Center	Public	Friable	URGENT	21,474
Joy Elementary	Public	Friable	URGENT	35,264
Lathrop High School	Public	Friable	URGENT	309,954
Nordale Elementary	Public	Friable	P-ONE	158,502
North Pole Elementary	Public	Friable	URGENT	37,245
North Pole Jr/Sr High	None	NO ASBESTOS FOUND		-0-
Ryan Jr. High	Maintenance	Friable	P-TWO	86,704
Salcha Elementary	Maintenance	Friable	P-TWO	2,741
Tanana Jr. High	None	NO ASBESTOS FOUND		-0-
University Park Elementary	Maintenance	Friable	P-TWO	22,531
West Valley High School	Public	Friable	P-ONE	4,675
Woodriver Elementary	NONE	NO ASBESTOS FOUND		-0-
		SUBTOTAL		1,069,447
		CONTINGENCY		128,333
		DESIGN		117,637
		ADMINISTRATION,DP,ACCOUNTING		69,514
		TOTAL		$1,384,931



Asbestos hazards have been identified in thirteen Borough schools

HA/WK Attachment I

A JOINT VENTURE OF
HOLDEN & ASSOCIATES AND
WILLIAM J. KING &
ASSOCIATES

January 31, 1984

Mr. Harry Rogers, Superintendent
Petersburg City Schools
P.O. Box 329
Petersburg, Alaska 99833

RE: Petersburg High School
Asbestos Removal

Per your request we have evaluated the quantity and cost of removal of the asbestos pipe insulation in the 1951 portion of the Petersburg High School.

Per your testing information, the known area of asbestos is confined to the heating supply and return mains, and the insulation of the old boiler. We assume that vertical piping in walls or classes would not be removed. The cost of removing the horizontal runs and the boiler insulation is $107,000.

We have assumed that pieces would be removed in 5' to 10' lengths and properly disposed of according to State and Federal law.

Sincerely,

W. Keith Gerken

cc: Twyla Coughlin, Southeast Regional Resource Center (SERRC)
John Danielsen, City Engineer

PLEASE RESPOND TO:

☐ JUNEAU: MERCHANT'S WHARF, SUITE 225
#14 MARINE WAY
JUNEAU, ALASKA 99801

☐ ANCHORAGE: SUITE 211
750 W. 2ND AVENUE
ANCHORAGE, ALASKA 99501

☐ FAIRBANKS: BOX 80667
FAIRBANKS, ALASKA 99708
907-479-6474

CHEMICAL & GEOLOGICAL LABORATORIES OF ALASKA, I

P.O. BOX 4-1276
Anchorage, Alaska 99509

TELEPHONE (907) 562-2343

ANCHORAGE INDUSTRIAL CE
5633 B Street

ANALYTICAL REPORT

From Petersburg Public Schools Product Bulk Insulation Samples

Address Petersburg, Alaska Date August 6, 1983

Other Pertinent Data ANALYSIS BY POLARIZING LIGHT MICROSCOPY.

Analyzed by DB Date August 22, 1983 Lab No. 3080

REPORT OF ANALYSIS
BULK INSULATION SAMPLES
PETERSBURG, ALASKA

Samples received August 6, 1983

FINDINGS:	.....BOILER ROOM..... PIPE - OLD BOILER	OLD BOILER
ASBESTOS PRESENT:	CHRYSOTILE-15% AMOSITE -15%	CHRYSOTILE-15% AMOSITE -15%
OTHER FIBROUS MATERIAL:	NONE SEEN	NONE SEEN
NON-FIBROUS MATERIAL:	CALCIUM CARBONATE-70%	CALCIUM CARBONA 70%

CONCLUSION: THE U.S.ENIVRONMENTAL PROTECTION AGENCY HAS DETERMINED THAT A SAMPL WITH AN ASBESTOS CONTENT GREATER THAN ONE PERCENT BY WEIGHT, IS POSITIVE.

CHEMICAL & GEOLOGICAL LABORATORIES OF ALASKA, I.

P.O. BOX 4-1276
Anchorage, Alaska 99509

TELEPHONE (907) 562-2343

ANCHORAGE INDUSTRIAL CE
5633 B Street

ANALYTICAL REPORT

From Petersburg Public Schools Product Bulk Insulation Samples

Address Petersburg, Alaska Date August 6, 1983

Other Pertinent Data ANALYSIS BY POLARIZING LIGHT MICROSCOPY

Analyzed by DB Date August 22, 1983 Lab No. 3080

REPORT OF ANALYSIS
BULK INSULATION SAMPLES
PETERSBURG, ALASKA

Samples received August 6, 1983.

FINDINGS:	OLD HIGH SCHOOL PIPE CRAWL WAY	OLD GYM HOT WATER TANK
ASBESTOS PRESENT:	CHRYSOTILE-45%	CHRYSOTILE-60%
OTHER FIBROUS MATERIAL:	CELLULOSE -45%	NONE SEEN
NON-FIBROUS MATERIAL:	SILICATES -10%	SILICATES - 5% UNKNOWN BINDER-3

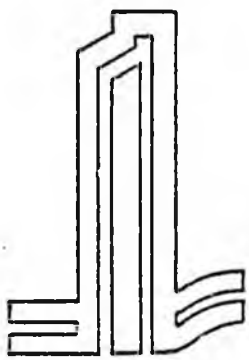
CONCLUSION: THE U.S.ENVIRONMENTAL PROTECTION AGENCY HAS DETERMINED THAT A SAMPLE WITH AN ASBESTOS CONTENT GREATER THAN ONE PER CENT BY WEIGHT, IS POSITIVE.

KODIAK ISLAND BOROUGH

SCHOOL DISTRICT

ASBESTOS ABATEMENT COST ESTIMATE

January 13, 1984



Kodiak Island Borough
RECEIVED
JAN 19 1984
P M

ARCHITECTS ENGINEERS PLANNERS

GOBBELL HAYS PICKERING

821 S. Barksdale, Memphis, Tennessee 38114 (901) 726-0810

GOBBELL HAYS PICKERING

Jan. 16, 1984

Mr. Ray Camardella
Kodiak Island Borough School District
P.O. Box 886
Kodiak, Alaska 99615

Dear Mr. Camardella:

Enclosed is the cost estimate for the asbestos abatement of the spray-applied material in Kodiak High School. We have included our recommendation for abatement, approximate cost and time figures, and phasing possibilities to allow for portions of the building to remain in use during the abatement.

If you have any questions concerning this report or would like to continue on with plans and specifications, please feel free to contact me.

We look forward to working with you on your asbestos abatement problems.

Sincerely,

GOBBELL·HAYS·PICKERING

William L. Wagner

WLW/cr

Enclosures

KODIAK ISLAND BOROUGH SCHOOL DISTRICT

INTRODUCTION

This report was prepared in response to the Kodiak Island Borough School District's request for the proper selection of appropriate abatement measures and cost estimates. Enclosed are Gobbell·Hays·Pickering's recommendations for abatement and approximate construction cost.

VIEWING THE PROBLEM

Asbestos abatement selection is a highly subjective and often difficult process. There are no standards, governmental or otherwise, which provide for clear-cut choices. Abatement costs must be balanced against present and future building use, building life, health considerations, and legal liability; abatement solutions must take into account that balance.

GOBBELL·HAYS·PICKERING feels it is necessary for all concerned to evaluate the level of existing exposure and chance for potential exposure prior to choosing an abatement method. We consider it our professional responsibility in dealing with this problem to provide recommendations toward establishing a safe environment which functions as originally intended or better. The Attorney General's Asbestos Liability Report to the Congress contains the statement that there is no known safe lower limit of exposure to asbestos fibers. We feel that exposure should be eliminated if at all practical for health reasons and legal ramifications to the owner. Here, too, cost is a factor. For example, one lawsuit in the future could cost the owner more than a more expensive, but possibly better, original abatement choice.

SELECTION OF A CORRECTIVE ACTION

The following is the United States Environmental Protection Agency's comparison of asbestos abatement alternatives for encapsulation and removal, which we feel are the only two appropriate abatement measures for this application. Outlined with each method are their opinions as to some of the advantages and disadvantages and their thoughts as to when the methods are appropriate or inappropriate. Our abatement recommendation is made with these considerations in mind, and also with practical, health and legal considerations tempered with architectural and engineering experience in asbestos abatement projects.

Method: REMOVAL

Advantages of Method

Eliminates asbestos source

Eliminates need for special operations and maintenance program

Disadvantages of Method

Replacement with substitute material may be necessary

Porous surface also may require encapsulation

Improper removal may raise fiber levels

Appropriate Applications

Always

Inappropriate Applications

Never

General Comments

Containment barriers needed

Worker protection required

Wet removal is required for all types of asbestos

Disposal may be a problem in some areas

Unusual circumstances, complex surfaces, and the presence of utilities may require special removal techniques

Method: ENCAPSULATION

Advantages of Method

Reduces asbestos fiber release from material

Initial cost may be lower than removal

Does not require replacement of material

Disadvantages

Asbestos source remains and must be removed later

If material is not in good condition, sealant may cause material to delaminate

Periodic reinspection required to check for damage or deterioration

Repair of damaged or deteriorated encapsulated surfaces required

Encapsulated surface is difficult to remove and may require dry techniques for eventual removal

Long-term cost may be higher than removal

Appropriate Applications

Material still retains bonding integrity

Damage to material not likely

Material not highly accessible

Material granular cementitious

Inappropriate Applications

Material does not adhere well to substrate

Material is deteriorating or damaged, or damage is likely

Water damage is evident

Material is fibrous, fluffy

General Comments

Containment barriers needed

Worker protection needed

Airless sprayers should be used

Damaged pipe insulation may be taped but not sprayed

Previously encapsulated materials may have to be re-encapsulated

With our previous experience and the United States Environmental Protection Agency's opinions in mind, we have selected removal of all asbestos-containing spray-applied material in the high school. With encapsulation cost exceeding 70% of removal cost and still requiring a costly maintenance program because the material and owner liability still exist, we feel removal is the optimum solution.

PHASING

We have divided the school into two areas we feel can be done in phases to help keep part of the building open during abatement. Phase I includes the major portion of the affected areas, including the multi-purpose entry, library and classrooms of both levels. Phase II would include the corridor outside the gym and pool and two fan rooms on either side of the gym. The first and second floors were not separated due to complications in access to the stairwell during abatement and with the height of the ceiling in the multi-purpose entry.

KODIAK ISLAND BOROUGH SCHOOL DISTRICT
KODIAK HIGH SCHOOL

TABLE A

Removal/Replacement Cost - Phase I

Item	Quantity	Cost/Item	Total
Demolition			
Dropped Ceiling Removal	24,855 S.F.	2.10	$ 52,195.50
Asbestos Removal			
Decon Set Up	1 S-up	3,500.00	3,500.00
Fireproofing Removal	42,785 S.F.	13.00	556,205.00
Waste Transportation & Disposal	372 BLS	30.00	11,160.00
Post Removal Encapsulant	42,785 S.F.	0.70	29,949.50
			$ 600,814.50
Replacement			
New Fireproofing	42,785 S.F.	6.15	263,127.75
Dropped Ceiling Replacemt.	24,855 S.F.	4.38	108,864.90
			$ 371,992.65
	Phase I Construction Cost		$1,025,002.65
	Estimated Time for Completion		60 Days
	Air Monitoring Cost 50 days @ $650/day		$ 32,500.00
	Phase 1 Total Cost*		$1,057,502.65

Estimated costs are excluding A/E fees

KODIAK ISLAND BOROUGH SCHOOL DISTRICT
KODIAK HIGH SCHOOL

TABLE B

Removal/Replacement Cost - Phase II

Item	Quantity	Cost/Item		Total
Demolition				
Dropped Ceiling Removal	1,730 S.F.	2.10	$	3,633.00
Asbestos Removal				
Decon Set Up	1 S-up	3,500.00		3,500.00
Fireproofing Removal	2,970 S.F.	13.00		38,610.00
Waste Transportation & Disposal	28 BLS	30.00		840.00
Post Removal Encapsulant	2,970 S.F.	0.70		2,079.00
			$	45,029.00
Replacement				
New Fireproofing	2,970 S.F.	6.15		18,265.50
Dropped Ceiling Replacemt.	1,730 S.F.	4.38		7,577.40
			$	25,842.90
	Phase I Construction Cost		$	74,504.90
	Estimated Time for Completion			14 Days
	Air Monitoring Cost 10 days @ $650/day		$	6,500.00
	Phase II Total Cost*		$	81,004.90

Estimated costs are excluding A/E fees

KODIAK ISLAND BOROUGH SCHOOL DISTRICT
KODIAK HIGH SCHOOL

Cost Summary

Demolition		
Phase I		$ 52,195.50
Phase II		3,633.00
		$ 55,828.50
Asbestos Removal		
Phase I		$ 600,814.50
Phase II		45,029.00
		$ 645,843.50
Replacement		
Phase I		$ 371,992.65
Phase II		25,842.90
		$ 397,835.55
	Construction Total	$1,099,507.55
	Air Monitoring Total	39,000.00
	Total Project Cost*	$1,133,507.55

*Estimated costs are **excluding** A/E fees

NOTE 1: The asbestos removal figures have been developed using wage rates for asbestos workers instead of general laborers. Prices could be reduced if the Department of Labor approves the use of general laborers and does not require asbestos workers for the removal of the fireproofing.

DRAFT

SECTION 1

EXECUTIVE SUMMARY

Swearingen Associates surveyed two school facilities at Delta Junction and Fort Greely which are operated by the Delta/Greely School District, REAA #15. These schools were surveyed for the presence and extent of asbestos. On December 20 and December 21, 1983, the following facilities were evaluated:

Delta Junction	Fort Greely
1. Delta Junction School	1. Greely School
2. Univ. of Alaska Bldg.	
3. Metals and Ag. Shop	
4. Class Module 1, 2, 3, 4, 5	
5. Support Module A, B, C	

Asbestos was found in the Delta Junction and Greely schools and in the five (5) class modules. No asbestos-containing materials were identified in the University Building, the Shop Building, or in the three Support Modules.

The asbestos found in these facilities was generally in a sound, cement-like compound used as thermal insulation. In several locations, however, "friable" asbestos was identified: asbestos which is in a condition to release microscopic particles into the air. (Examples of friable asbestos include sprayed-on materials and materials which have been physically damaged.)

Friable asbestos, when inhaled or ingested, is associated with a number of serious illnesses; consequently, the Federal government, mainly the Environmental Protection Agency and the Occupational Safety and Health Administration, have issued strict and comprehensive reg-ulations governing the use of asbestos and the limits of occupational exposure to airborne asbestos fibers.

We have prioritized our findings in order of the most serious potential risks of exposure. These priorities are:

PRIORITY ONE: The facility contains friable asbestos which is accessible to all building occupants.

PRIORITY TWO: The facility contains friable asbestos which is accessible to maintenance and custodial personnel only.

PRIORITY THREE: The facility contains only non-friable asbestos which is accessible to all building occupants.

DRAFT

PRIORITY FOUR: The facility contains only non-friable asbestos accessible to maintenance personnel only.

The facilities which have a Priority One asbestos hazard are:

The five Classroom Modules at the Delta Junction School

The facilities which have a Priority Two asbestos hazard are:

Delta Junction School
Fort Greely School

No facilities were identified with only a Priority Three asbestos hazard.

No facilities were identified with only a Priority Four asbestos hazard.

The five Classroom Modules have sprayed-on accoustical ceilings which had been previously sampled and found to contain approximately five percent (5%) asbestos. Air monitoring in each of these modules conducted as part of this survey established that air borne fiber count was less than four percent (4%) of the allowable limit. (Note that the EPA standard test for air borne fibers includes all fibers--lint, dust, asbestos, and animal--not just asbestos.)

There are several techniques which are used to reduce the risks of exposure to asbestos fibers. These include removal of the asbestos containing material, sealing or encapsulating the asbestos-containing material to prevent fiber release, enclosing or barricading the asbestos-containing material so that contact with it is unlikely, and administrative controls and procedures. The latter three, encapsulation, enclosing and administrative controls, all require extensive record keeping and periodic re-inspection. They also will seriously impact future facility modifications as well as retaining a potential hazard in the event of a fire or earthquake. Asbestos removal is generally considered to be the most desireable abatement procedure for schools. The initial costs are higher than the alternatives; however, the potential for future damages are gone as are the administrative requirements for record maintenance.

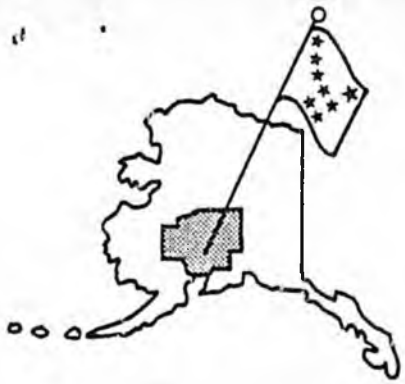
Swearingen Associates developed a cost estimate for the asbestos removal in the facilities schools identified above: The estimated cost of $99,700 includes asbestos removal and disposal, surface refinishing or insulating, preparation of removal specifications and contract, and, performance verification and certification.

TABLE I

SUMMARY OF ASBESTOS FINDINGS AND COST ESTIMATES

FACILITY	EXPOSURE	CONDITION	PRIORITY	ABATEMENT COST*
DELTA JUNCTION SCHOOL	MAINTENANCE	FRIABLE	P - TWO	$ 8,910
UNIVERSITY OF ALASKA BLDG./	NONE	N/A	N/A	NONE
METALS & AG. SHOP	NONE	N/A	N/A	$ NONE
CLASS MODULES 1, 2, 3, 4, 5	PUBLIC	FRIABLE	P-ONE	$ 70,920
SUPPORT MODULES A, B, C	NONE	N/A	N/A	$ NONE
FORT GREELY SCHOOL	MAINTENANCE	FRIABLE	P-TWO	$ 19,870
			TOTAL	$ 99,700

*Abatement costs include asbestos removal and disposal, surface refinishing or new insulation, removal specifications and contract preparation, and final project acceptance and certification.



MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT

BOX AB ● PALMER, ALASKA 99645-1646 ● PHONE 745-4822

GORDON C. TOPE
SUPERINTENDENT OF SCHOOLS

March 19, 1984

The Honorable Joe P. Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Senator Josephson:

Attached you will find a copy of the amount of money expended on asbestos removal in the Matanuska-Susitna Borough School District, as requested by your office.

If you have any further questions please contact my office.

Sincerely,

Norm Palenske

Norm Palenske
Director of Planning & Facilities

fc
Enc: Memorandum from Borough

RECEIVED

MAR 2 1 1984

Josephson.

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

March 14, 1984

TO: Norm Palenske, Director of Planning and Facilities

FROM: Jan Affinito, Contract Administrator JA

SUBJECT: ASBESTOS ABATEMENT-
Financial Record as of March 13, 1984

ENCUMBERANCES:

Sampling and analysis by testing lab =	$5,000

EXPENDED:

Contractor payments = (Remove and replace asbestos containing insulation at 3 schools)	94,302
Testing Laboratory = (Air quality monitoring)	3,967
Film and Development =	78
Mat-Su Borough Engineering Department Labor =	2,285
Courier Sevice =	168
Special Equipment =	159
TOTAL	$105,959

MAR 14 1983

Valdez City Schools

Office of the Superintendent

Box 398
Valdez, Alaska 99686
Phone: (907) 835-4357

RECEIVED

MAR 2 1

Josephson

March 20, 1984

Joe P. Josephson
State Senator
State Capitol
Pouch V
Juneau, AK 99811

Dear Senator Josephson:

The Valdez City Schools has been inspected and does not contain an airborne asbestos condition. Any asbestos is incapsulated and does not contain a condition which is hazardous to students and/or employees or public as caused by asbestos fibers.

I appreciate your efforts in providing financial support to eliminate any hazard which may be caused by airborne asbestos. My only recommendation would be to develop criteria which would assist school districts in applying for the monies. I feel that the costs involved may be tremendously varied pending individual districts' plans for removing asbestos; particularly in the case of demolition and rebuilding.

Thank you for the opportunity to provide input.

Sincerely,

GEORGE MAYKOWSKYJ
Superintendent

ASSOCIATION OF ALASKA SCHOOL BOARDS
326 Fourth St., Suite 510 • Juneau, Alaska 99801 • (907) 586-1083

ASBESTOS SURVEY

School District	Information Gathered
Adak	Removal project will be under way this summer through H.H.S. at a total cost of $120,000 which included capsulating the pipes earlier this school year.
Alaska Gateway	No asbestos problem
Aleutian Region	No asbestos problem
Anchorage	Approximately $10 million dollars. Asbestos expert, Wayne Tenzel, will be available for testimony January 24 and 25 as well as the first part of February. (Written report will be mailed to AASB.)
Chatham	No asbestos problem
Copper River	No asbestos problem
Cordova	Cost estimates range from $34,000-$38,000 bid (direct contact with contractors) to $80,000 estimates from engineers who will set up removal plans. Usual engineering costs 10-15% of the contract price. Additional factor replacement of material removed - $20,000-$40,000.
Fairbanks	Total cost for all 21 schools in the Fairbanks area is $1,568,045.00. (Written report will follow via mail.)
Galena	No asbestos problem
Haines	No asbestos problem
Kenai	No asbestos problem
King Cove	No asbestos problem
Lake and Peninsula	No asbestos problem
Nenana	No dollar amount has been determined to date.
Nome	No asbestos problem
North Slope	No asbestos problem

ASBESTOS SURVEY
Page two

School District	Information Gathered
Pribilof Islands	Entire outer skin of school is made of asbestos, but no cost estimates yet. In process of building new school, so hopefully it won't be a problem anyway.
Railbelt	No asbestos problem
Sitka	Only in boiler room of Etolin High School. (Sitka did not report cost estimates)
Skagway	No asbestos problem
Southeast Islands	No asbestos problem
Valdez	No asbestos problem
Yukon Koyukuk	No asbestos problem

NO RESPONSE TO DATE FROM:

Annette Island
Bering Strait
Bristol Bay
Chugach
Craig
Delta/Greely
Dillingham
Hoonah
Hydaburg
Iditarod
Juneau
Kake
Ketchikan
Klawock
Kodiak
Kuspuk
Lower Kuskokwim
Lower Yukon
Mat Su
Northwest Arctic
Pelican
Petersburg
St. Marys
Sand Point
Southwest Region
Tanana
Unalaska
Wrangell
Yakutat
Yukon Flats

ASBESTOS
SAFETY AND HEALTH WORK PRACTICES GUIDE



A Safety Service of the:

Alaska Chapter Associated General Contractors
3201 Spenard Road
P.O. Box 4-2500(99509)
Anchorage, Alaska
(907) 561-5354

In conjunction with:

OSH
Alaska Department of Labor
3301 Eagle Street
Pouch 7-022,(99510)
Anchorage, Alaska
(907) 264-2599

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Milwaukee Construction Industry Safety Council
2733 W. Wisconsin Avenue
P.O. Box 08374
Milwaukee, WI 53208
(414) 933-7661

Respirator use, allowed under this section, is on a sliding scale according to exposure levels. Respirator use is allowed as follows, provided that they have NIOSH and MSHA approval:

1. Any respirator must be an approved type. Approval currently is a combined MSHA/NIOSH designation, which means that respiratory equipment is jointly approved by the Mine Safety and Health Administration and the National Institute of Occupational Safety and Health. In the future, it is possible that respirators will be approved only by NIOSH. All approved respirators carry an approval number. Respirators are approved only for specific types of hazard and within certain contamination limits. Make sure that respirators you are using are designed and approved for the hazard encountered and the concentration at which it is encountered.

2. Re-usable or single-use air purifying respirators for use in atmospheres with exposure up to 10 times that limit of 2 fibers per cubic centimeter (cc) of air for an 8-hour exposure or 10 times the limit of 10 fibers per cc for a short exposure.

3. Powered air purifying respirators for up to 100 times the limit.

4. Type C supplied air or pressure demand type respirators where the exposure exceeds 100 times the limit.

Disposable clothing is suggested for employees working in asbestos atmospheres(See Appendix C). In addition, monitoring of exposure levels on both an initial and continuing basis must be performed. Caution signs are required in work areas and all debris must be bagged and labeled before disposal in accordance with the provisions of 04.0102. Medical monitoring is another important part of the program. Every employee exposed to asbestos in concentrations greater than 0.1 fiber per cubic centimeter (f/cc) must have a medical examination made available to him within 30 days of his first exposure and annually thereafter. If an employee terminates his employment, or is terminated, a medical exam must be available to him within 30 days of the termination. All medical records must be retained by employer for 20 years.

APPLICATION OF STANDARDS

The OSH code as written is extremely hard to comply with in the construction industry. They were written for static industrial applications. The entire 04.0102 asbestos standard is part of the 01.0101 verticalized standard and must be adhered to. The effects of asbestos do not show until as late as 20 years after the initial exposure. The legal and moral ramifications of not providing proper protection for employees are enormous. Liability suits in the millions of dollars have already been awarded to exposed employees and their associated costs far overshadow OSH penalties. We are then faced with a two-fold problem in construction operations. First and foremost is whether or not employees are adequately protected and secondarily, are we in compliance with OSH standards? Since the existence of asbestos cannot be determined in the field, and many construction operations which come in contact with asbestos are of short duration we have a difficult time gaining 100% compliance with OSH regulations. This policy can only be a guide to initial employee protection and seeks a method of safeguarding the employee and OSH compliance.

This document is intended to aid in short term, small or low exposure routine situations. It is not intended for use on abatement projects where the scope of the project is solely to remove asbestos from a structure. Because of the many other factors involved in abatement work like EPA regulations, protection of the owners future interest, etc., monitoring should always be conducted for abatement projects.

ASBESTOS POLICY AND SAFE WORKING PRATICES

For the purpose of simplification, we are dividing this sub-section into three areas we have been able to identify where the construction process comes into contact with asbestos.

Notify him that because he had taken these actions you will consider his rights waived unless he informs you within 5 days that he will take a physical. This notice should also be certified mail or personal service with certification. If you use our data base concept you will almost always have a provide medical monitoring since it is extremely unlikely that exposures would fall under the 0.1 fiber limit. If you do not use the data base you will have to air monitor to determine whether or not medical surveillance is required.

EMPLOYEE TRAINING

An important part of any asbestos program must be employee hazard awareness. Employees likely to be exposed must be told about what produces asbestos dust, such as cutting. While all of us are aware of the health hazard, many of us fail to realize that it is so abundant in repair, remodeling, and emergency work. We must instruct our employees in safe working practices, covering thoroughly the following topics:

1) The health hazard.

2) The areas of work most likely to have exposure problems.

3) The importance and proper use of respiratory protection.

4) The importance of treating all suspect material as asbestos until proven otherwise.

5) The importance of having all suspect material tested.

6) The importance of having air tests made.

7) A thorough understanding of OSH regulations.

8) A thorough knowledge of techniques for limiting airborne concentrations.

9) A thorough understanding of personal protective equipment.

DATA BASE CONCEPT

One way to handle the problem of air monitoring is to use a data base concept. The OSH standard is loosely worded about actual monitoring requirements and hard to apply to construction operations.

We feel that the monitoring requirements can be technically met if each company does air monitoring for a range of examples of exposures it deals with. This data could then be applied to different projects with similar circumstances and materials. Each company can in effect establish a data base of probable concentrations for each type of exposure and rpotect their employees accordingly.

Many contractor air samples indicate properly handled asbestos will be below two fibers, the current OSH respirator requirement level. In spite of this we feel that respirators are absolutely required for any work with asbestos containing materials. While the current OSH level is 2 fibers per cubic centimeter, we have reason to believe it will soon be lowered. It is only prudent to provide respiratory protection for all exposures including those assumed to be reasonably low. While it is possible to make an informed decision that air monitoring is not required, we do not feel that the same can be said for the use of respirators. It is a keystone of the data base concept that employee protection be supplied and used for the so called low level exposures (those below current OSH respiratory requirement limits).

When an asbestos exposure situation is encountered you have two choices: monitor or use the data base concept. If you use data basing, review your file for similar situations. Make an informed decision based on past exposure experience. Be sure to allow an adequate safety factor when deciding on a respirator type. If your expected exposure is near the top of the allowable limits for the respirators you have selected, go to the next type up the protective ladder.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

ASBESTOS
SAFETY AND HEALTH WORK PRACTICES GUIDE



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04.0102 —ASBESTOS

(a) Definitions.

For the purpose of this section.

(1) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.

(2) "Asbestos fibers" means asbestos fibers longer than 5 micrometers.

(b) Permissible exposure to airborne concentrations of asbestos fibers.

(1) Standard effective July 7, 1972. The 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed five fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(2) Standard effective July 1, 1976. The 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed two fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(3) Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(c) Methods of compliance.

(1) Engineering methods.

(i) Engineering controls. Engineering controls, such as, but not limited to, isolation, enclosure, exhaust ventilation, and dust collection, shall be used to meet the exposure limits prescribed in paragraph (b) of this section.

(ii) Local exhaust ventilation.

(a) Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2–1971, which is incorporated by reference herein.

(b) See § 1910.6 concerning the availability of ANSI Z9.2–1971, and the maintenance of a historic file in connection therewith. The address of the American National Standards Institute is given in § 1910.100.

(iii) Particular tools. All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems in accordance with subdivision (ii) of this subparagraph.

(2) Work practices.

(i) Wet methods. Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in paragraph (b) of this section, unless the usefulness of the product would be diminished thereby.

(ii) Particular products and operations. No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in paragraph (b) of this section.

(iii) Spraying, demolition, or removal. Employees engaged in the spraying of asbestos, the removal, or demolition of pipes, structures, or equipment covered or insulated with asbestos, and in the removal or demolition of asbestos insulation or coverings shall be provided with respiratory equipment in accordance with paragraph (d)(3)(iii) of this section and with special clothing in accordance with paragraph (d)(3) of this section.

(d) Personal protective equipment.

(1) Compliance with the exposure limits prescribed by paragraph (b) of this section may not be achieved by the use of respirators or shift rotation of employees, except:

(i) During the time period necessary to install the engineering controls and to institute the work practices required by paragraph (c) of this section;

(xi) Laundering:

(a) Laundering of asbestos contaminated clothing shall be done so as to prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(b) Any employer who gives asbestos-contaminated clothing to another person for laundering shall inform such person of the requirement in (a) of this subdivision to effectively prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(c) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with paragraph (g) of this section.

(e) *Method of measurement.*

All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400–450 × (magnification) (4 millimeter objective) with phase contrast illumination.

(f) *Monitoring.*

(1) Initial determinations. Within 6 months of the publication of this section, every employer shall cause every place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee's exposure to asbestos fibers is below the limits prescribed in paragraph (b) of this section. If the limits are exceeded, the employer shall immediately undertake a compliance program in accordance with paragraph (c) of this section.

(2) Personal monitoring.

(i) Samples shall be collected from within the breathing zone of the employees, on membrane filters of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) Sampling frequency and patterns. After the initial determinations required by subparagraph (1) of this paragraph, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees. In no case shall the sampling be done at intervals greater than 6 months for employees whose exposure to asbestos may reasonably be foreseen to exceed the limits prescribed by paragraph (b) of this section.

(3) Environmental monitoring.

(i) Samples shall be collected from areas of a work environment which are representative of the airborne concentrations of asbestos fibers which may reach the breathing zone of employees. Samples shall be collected on a membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) Sampling frequency and patterns. After the initial determinations required by subparagraph (1) of this paragraph, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than 6 months for employees whose exposures to asbestos may reasonably be foreseen to exceed the exposure limits prescribed in paragraph (b) of this section.

(4) Employee observation of monitoring. Affected employees, or their representatives, shall be given a reasonable opportunity to observe any monitoring required by this paragraph and shall have access to the records thereof.

(g) Caution signs and labels.

(1) Caution signs.

(i) Posting. Caution signs shall be provided and displayed at each location where airborne concentrations of asbestos fibers may be in excess of the exposure limits prescribed in paragraph (b) of this section. Signs shall be posted at such a distance from such a location so that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. Signs shall be posted at all approaches to areas containing excessive concentrations of airborne asbestos fibers.

(ii) Sign specifications. The warning signs required by subdivision (i) of this subparagraph shall conform to the requirements of 20" x 14" vertical format signs

(3) Annual examinations. On or before January 41, 1973, and at least annually thereafter, every employer shall provide, or make available, comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers. Such annual examination shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(4) Termination of employment. The employer shall provide, or make available, within 30 calendar days before or after the termination of employment of any employee engaged in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(5) Recent examinations. No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with this paragraph within the past 1-year period.

(6) Medical records.

(i) Maintenance. Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be retained by employers for at least 20 years.

(ii) Access. The contents of the records of the medical examinations required by this paragraph shall be made available, for inspection and copying, to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of NIOSH, to authorized physicians and medical consultants of either of them, and, upon the request of an employee or former employee, to his physician. Any physician who conducts a medical examination required by this paragraph shall furnish to the employer of the examined employee all the information specifically required by this paragraph, and any other medical information related to occupational exposure to asbestos fibers.

APPENDIX A

THE NEW OSH STANDARD

On Friday November 4, 1983 OSHA issued an Emergency Temporary Standard (ETS) on asbestos. These emeregency requirements will remain in effect for six months under the rules governing the issuance of Emeregency Temporary Standards. This means that it will be in effect until May 4, 1984.

During this time period we expect OSHA to go through the formal rule making process in order to cause a permanent change in the existing standard. We would be very much surprised if this formalization process resulted in a final standard with provisions much different than those outlined in the ETS.

The complete text of the Emergency Temporary Standard is printed after this explanation.

The ETS does not effect the data base concept since we are providing employee protection from zero exposures on up. It does, however, reduce the margin of error and place an even greater emphasis on careful work procedures.

It requires additional employee training and lowers the permissable exposure level (PEL) to .5 fibers from the current 2 fibers per cc of air. This is a 75% reduction in the amount of asbestos that an employee can be exposed to without respiratory protection. The .1 fiber action level for medical surveillance remains unchanged.

In addition the approval level for each type of respirator is reduced to a multiple of the new lower PEL.

Single use repirators have a maximum concentration approval of 5 fibers per cc (10 times .5) rather than 20 fibers (10 times 2) for as long as the ETS is in effect. Our data base indicates that about 5% of all construction exposures could exceed the 5 fiber limit on single use respiators.

Full face piece purifying and powered air purifiers are approved up to 50 fibers per cc (100 times .5) rather than up to 200 fibers (100 times 2). Any concentration over 50 fibers requires the use of airline respirators.

Appendix B

RESPIRATOR PROGRAM FOR USE IN CONJUNCTION WITH POSSIBLE ASBESTOS EXPOSURE

Because of the possibility of asbestos exposure during repair, remodeling and emergency work, we recommend that the following items be part of the equipment furnished crews involved in these projects:

1. Respirators
2. Disposal Bags and Decals
3. 20" x 14" Caution Sign
4. Protective Clothing

The most important part of this entire program is the immediate use of respiratory protection by personnel contacting possible asbestos containing materials.

Steps to be followed in respirator use:

1. Select a respirator designed for use in asbestos atmospheres and carrying a NIOSH-MSHA approved number.
2. Instruct and train employees in:
   a. The asbestos health hazard
   b. The use of respirator stressing the importance of a tight fit.
   c. Respirator maintenance and cleaning.
3. Set up a procedure for Respirator Use and Work Area Surveillance. These duties can best be assigned to the crew foreman on most construction activities.

OSH requires a written respiratory protection plan whenever respirators are in use. Your company can establish such a program by reviewing the requirements of OSH code 04.0102.

A publication of the Milwaukee Construction Industry Safety Council entitled "Contractors Guide to Respirator Use and Written Respirator Programs" will be useful in your fu[illegible] efforts.

Appendix C

SIGNS AND PROTECTIVE CLOTHING

Areas where work with possible asbestos containing materials must be marked by 20" x 14" Caution Signs (yellow, with black letters) containing the exact wording called for in the standards. Contact us or your trade association for help in obtaining these signs.

A label must be attached to all bags containing asbestos material before disposal. Help in obtaining these labels is available from many trade associations.

Protective clothing can also be of the disposable type and offer several advantages:

1. Low initial cost
2. Ease of storage
3. No laundering costs
4. No danger of contamination during laundry operations
5. Ease of disposal

For more information contact:

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3201 Spenard Road
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DOSH
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CONTRACTORS GUIDE TO RESPIRATOR USE
AND
WRITTEN RESPIRATOR PROGRAMS



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With co-operation and
technical assistance from:

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Innovative Safety for an Innovative Industry

I-RESPIRATOR TYPES

A respirator is a device designed to ensure the wearer of a breathable non-contaminated supply of air. There are two basic types of respirators, those that purify the existing atmosphere by filtering contaminants out and those that provide clean air from an outside source. There are several types of respirators within each of the above categories. A basic respirator program starts with a thorough understanding of the respirators available and the uses and limitations of each.

Air-Purifying Respirators remove the contaminants from air before breathing by filtering out contaminants, such as dust, fumes and mists. The simplest form of respirator in this category is commonly known as a single use or disposable respirator. These units are low cost and offer protection for certain types of low level exposures. They are generally used for dusts and fiber removal. As with all types of respirators, each manufacturer's product is approved for only certain types of contaminants and specific exposure levels.

The next most complicated type of air-purifying respirators is also designed for dusts and mists and features removable purifying elements. It is reusable as long as the elements are changed and it is properly maintained and cleaned. It is generally approved for higher concentrations than the single-use respirator. It can be purchased in quarter-mask, half-mask and full-face piece styles. Each style offers, successively, more protection with the full-face piece offering some protection for the eyes as well.

Closely related to the above respirator style are chemical cartridge and cannister respirators for gases and fumes. These respirators feature replaceable filter units and come in quarter, half and full-face styles. The filters remove harmful gases and vapors by way of a chemical reaction that absorbs or renders them harmless. Each filter element is effective only against a specific hazard or class of hazards. Filter cartridges are color coded according to a universal scheme, enabling the user to positively identify the proper cartridge for the hazard present.

The last type of respirator, in the air-purifying class, is known as a powered air purifying unit. This is a high efficiency mechanical unit. Powered air purifies come in half-mask and full-face mask or hood styles. A fan forces contaminated air through a filter and pure air into the face piece. Depending on the approved cartridges used, they can be effective for particles and gases or vapors.

It is important to note that none of the air-purifying respirators can be used in oxygen deficient atmospheres, since they do not supply air. They are also only effective against the particular contaminant and the concentration they are approved for.

The second major category of respirators are termed air supply units. As the name implies, they provide their own source of air from an outside supply. They can be used in high concentrations of most any type of hazardous substance.

The values, we have been discussing, represent a term in Industrial Hygiene known as a TLV or threshold limit value. When we say carbon monoxide is regulated by OSHA at concentrations of 50 PPM, we mean that it has a TLV of that amount. A TLV is the concentration value below which workers, exposed for extended periods of eight hour days, are assumed to suffer no ill effects. Concentrations above the TLV are considered dangerous and require contractor action either in the form of engineering or administrative controls. TLV's are also referred to as PEL's (Permissable Exposure Limits) when talking in terms of OSHA compliance.

Another commonly used term in Industrial Hygiene is TWA or Time Weighted Averages. PEL's are usually expressed in terms of Time-Weighted Averages. A time-Weighted Average is simply an average of the various exposures occuring during a normal work day. Using a TWA and carbon monoxide as an example an exposure of 4 hours at 75 PPM and 4 hours at 25 PPM yields a time-weighted average of 50 PPM or no excessive employee exposures. Occasionally, hazardous substances, which are regulated on the basis of Time-Weighted Averages, have upper exposure limits (UEL) which cannot be exceeded without proper employee protection.

IV TESTING EQUIPMENT AND METHODS

Effective health protection requires that monitoring of concentration levels be done. No effective program can exist without an accurate idea of the contaminant levels present in the work environment. Since respirators are only approved and effective for specific concentrations, the hazard concentration must be established even to make an accurate selection. The types and methods of air monitoring are varied, ranging from simple units for spot checks to sophisticated continuous monitors. Equipment suppliers can help you choose the exact type of monitoring equipment for your needs and the hazards you are encountering. Most of the time, they will train your employees in the use and maintenance of the equipment. It is important to know exactly the kind and extent of service the manufacturer will provide before purchasing any monitoring equipment. It is also possible to have monitoring handled by an outside consultant.

V ENGINEERING vs ADMINISTRATIVE CONTROL

The cornerstone of any Construction Program, involving Industrial Hygiene, Respirator Protection and Hazardous Substance Control, is an understanding of the relationship between Engineering and Administrative Controls. OSHA law requires that Engineering Control be applied first, wherever possible, to hazardous-substance situations. Engineering controls are methods of reducing the amount of contaminants in the work environment by controlling and modifying the source of the contaminant. They include such things as isolation, enclosure, ventilation and dust collection. Perhaps the most feasible administrative control for construction operations is substitution. Wherever possible, non-hazardous and non-toxic substances should be substituted for harmful ones. This truly limits the hazard at the source. The Construction Health Specialist is always alert for ways and places to substitute.

For example, the problem caused by asbestos has been virtually eliminated in new construction, through the use of new materials. The application of engineering controls can also be effectively achieved in many cases by changes in the work processes. The use of engineering controls require imaginative and innovative thought.

These basic elements must be covered in detail in your respiratory protection program. The writing of a program for your company is a major undertaking. Each company encounters different hazards in their day to day operation. Before beginning preparation of a written program:

1. Identify the hazards found in your activities. This can best be done by obtaining data sheets on all materials used. Someone must be responsible for obtaining this basis information.

2. Take every available option to eliminate the use of known hazardous substances.

3. Determine the exposure levels of hazardous substances that are in use. This can only be done through accurate monitoring.

4. Investigate the types of respiratory equipment, specifically designed and approved for the hazard encountered. Before buying any respiratory equipment, find out what services the seller supplies with his equipment. Will he help train and fit? Does he have specific and detailed use instructions?

5. Because construction operations are diverse, complex, and widespread, you must establish an internal notice of use of hazardous substances system. Make someone (job superintendent) responsible for notifying safety personnel of intended usage.

6. Set up a specific training and fitting program for respirator use. No one can tell for certain in construction, when and where in the construction process, hazardous substances will be encountered. Because of the high turnover, periodic general training of employees may not be sufficient. A training program, done immediately before respirator use, appears to be the only effective way to combat infrequent use of regulated hazardous substances.

7. Make one individual responsible for administering your program, keeping your records, and inspecting your equipment. Provide him with all the training possible.

8. Plan for every contingency. Be thoroughly prepared and avoid future trouble.

9. Establish a working relationship with a doctor or clinic familiar with industrial medicine and respirator use.

Having done the required "homework" you can now begin to draft your company's respiratory use program

VIII SAMPLE RESPIRATORY PROGRAM

A.

It is the intended purpose of _____ company to provide a safe and healthful workplace environment for all employees. To further this purpose we have established this respirator use program. The requirements of this program are binding on all employees.

4. Wherever possible, respirators will be assigned to individual workers for their exclusive use. Workers will be responsible for maintenance and sanitation of respirators assigned to them. Periodic and frequent spot checks will be made by supervisory personnel to insure compliance. Respirators, for the exclusive use of an individual, will be cleaned at least once a day at the end of the shift. Respirators, used by more than one worker, shall be cleaned and disinfected after each use. Respirators will be stored in a clean, sanitary place on the jobsite reserved solely for that purpose. No respirators may be removed from any jobsite except on written authorization from the Safety Director. If respirators are individually assigned, they shall bear the name of the person to whom they are assigned.

5. Areas, where respirators are in use, shall be closely monitored to insure compliance and safe conditions. Unauthorized and untrained personnel will be prohibited from entering these areas. Crew sizes for work, requiring respiratory protection, will be kept to the smallest practical size and the makeup, for short-duration operations, will not be changed unless absolutely necessary.

6. This program will be under constant review to determine that it meets its stated goal of providing maximum employee protection. Suggestions for improvement of this program should be submitted to _____ at _____ and are openly encouraged. Questions should also be referred to _____.

7. _____ Company has made arrangements with _____ (Doctor or Clinic) to handle medical requirements for respirator use. Employees will be required to furnish medical information in order to be sure that respirator use will not, in itself, be detrimental to their health.

This policy will be amended, from time to time, to improve it's performance. The proper use of respirators requires the active participation of all employees. The _____ Company is making a commitment to a healthful work environment for the good of us all.

_____

President (etc.)

USING THE MODEL PROGRAM

OSHA regulations were designed for General Industry which is more static in nature. The work process and materials used change very seldom and with longer planning times in general industry. Construction is different altogether. The products we use are specified by owners and architects, and we have no control over them. Each construction project is unique and uses different materials. We do not have the luxury of knowing exactly what chemical hazards we may encounter down the road. This changeable nature makes respiratory protection programs hard to formulate. We cannot begin the selection process until we are able to identify the hazardous components of each project.

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

MATERIAL SAFETY DATA SHEET

SUBSTANCE (Chemical Name)

NO.

PRODUCT NAME, NUMBER, SYNONYM	COMMON OR TRADE NAME

MANUFACTURER'S NAME AND ADDRESS	TELEPHONE NUMBER

HEALTH HAZARDS

HAZARD RATING ( ) DANGER ( ) WARNING ( ) CAUTION

TYPE OF HAZARD

SYMPTOMS OF EXPOSURE

EFFECTS OF EXPOSURE

EMERGENCY FIRST AID

FIRE, EXPLOSION, AND REACTIVITY DATA

EXTINGUISHING AGENTS AND FIRE FIGHTING METHODS

FLASH POINT		FLAMMABLE OR EXPLOSIVE LIMIT	
OPEN CUP ° C	CLOSED CUP °C	LOWER %	UPPER %
IGNITION TEMPERATURE °C		AUTO-IGNITION TEMPERATURE	°C

PRODUCTS FORMED BY FIRE OR EXCESSIVE HEAT

CONDITIONS TO AVOID

STABILITY ( ) Stable ( ) Unstable -- Explain Conditions

INCOMPATIBLE MATERIALS AND REACTIONS

PRODUCTS OF DECOMPOSITION

HAZARDOUS POLYMERIZATION ( ) Will not occur ( ) May occur — Explain Reaction and Products

PROTECTION EQUIPMENT

PERSONAL PROTECTION

VENTILATION

ADDITIONAL PROTECTIVE EQUIPMENT

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

Form Approved
OMB No. 44-R1387

MATERIAL SAFETY DATA SHEET

Required under USDL Safety and Health Regulations for Ship Repairing, Shipbuilding, and Shipbreaking (29 CFR 1915, 1916, 1917)

SECTION I

MANUFACTURER'S NAME	EMERGENCY TELEPHONE NO.

ADDRESS (Number, Street, City, State, and ZIP Code)

CHEMICAL NAME AND SYNONYMS	TRADE NAME AND SYNONYMS

CHEMICAL FAMILY	FORMULA

SECTION II - HAZARDOUS INGREDIENTS

PAINTS, PRESERVATIVES, & SOLVENTS	%	TLV (Units)	ALLOYS AND METALLIC COATINGS	%	TLV (Units)
PIGMENTS			BASE METAL		
CATALYST			ALLOYS		
VEHICLE			METALLIC COATINGS		
SOLVENTS			FILLER METAL PLUS COATING OR CORE FLUX		
ADDITIVES			OTHERS		
OTHERS					

HAZARDOUS MIXTURES OF OTHER LIQUIDS, SOLIDS, OR GASES	%	TLV (Units)

SECTION III - PHYSICAL DATA

BOILING POINT (°F.)		SPECIFIC GRAVITY (H_2O=1)	
VAPOR PRESSURE (mm Hg.)		PERCENT, VOLATILE BY VOLUME (%)	
VAPOR DENSITY (AIR=1)		EVAPORATION RATE (_____ =1)	
SOLUBILITY IN WATER			

APPEARANCE AND ODOR

SECTION IV - FIRE AND EXPLOSION HAZARD DATA

FLASH POINT (Method used)	FLAMMABLE LIMITS	LEL	UEL

EXTINGUISHING MEDIA

SPECIAL FIRE FIGHTING PROCEDURES

UNUSUAL FIRE AND EXPLOSION HAZARDS

SAMPLE P.O. CLAUSES

It is a direct condition of the term of this order that the vendor shall supply the purchaser with the information required on the Material Data Sheet attached hereto. In addition the vendor shall supply any material related to the safe use of this material and hazards associated with its use including but not limited to installation procedures and personnel protective equipment requirements. All hazardous components shall be identified. Data requested shall be furnished with the material shipment and a copy sent to this office at

_____

_____

_____

No material will be accepted for delivery without the required information.

04.0101(e) TABLE 1-1

1910.1001	Asbestos.
1910.1002	Coal tar pitch volatiles; interpretation of term.
1910.1003	4-Nitrobiphenyl.
1910.1004	alpha-Naphthylamine.
1910.1005	4, 4'-Methylene bis(2-chloroaniline).
1910.1006	Methyl chloromethyl ether
1910.1007	3, 3'-Dichlorobenzine (and its salts)
1910.1008	bis-Chloromethyl ether.
1910.1009	beta-Naphthylamine.
1910.1010	Benzidine.
1910.1011	4-Aminodiphenyl.
1910.1012	Ethyleneimine.
1910.1013	beta-Propiolactone.
1910.1014	2-Acetylaminofluorene.
1910.1015	4-Dimethylaminoazobenzine.
1910.1016	N-Nitrosodimethylamine.
1910.1017	Vinyl Chloride.
1910.1018	Inorganic arsenic.
1910.1028	Benzene.
1910.1029	Coke Oven Emissions
1910.1043	Cotton dust.
1910.1044	1,2 - dibromo - 3 - chloropropane.
1910.1045	Acrylonitrile.
1910.1046	Exposure to cotton dust in cotton gins.

Substance (Note 1)	ppm	mg/M³ (Note 2)
Coal tar pitch volatiles, Ea[illegible] phenanthrene, acridine, chrysene		
Cobalt, metal fume & dust		0.1
Copper fume		0.1
Dusts and Mists		1
Corundum Al2O3 (Note 4)		
Cotton dust, raw—See §1910.1043 and (Note 7)		1
Crag herbicide		15
Cresol (all isomers)-Skin	5	22
Crotonaldehyde	2	6
Cumene-Skin	50	245
Cyanide (as CN)-Skin		5
Cyanogen	10	
Cyclohexane	300	1,050
Cyclohexanol	50	200
Cyclohexanone	50	200
Cyclohexene	300	1,015
Cyclopentadiene	75	200
2,4-D		10
DDT-Skin		1
DDVP, see Dichlorvos		
Decaborane-Skin	0.05	0.3
Demeton-Skin		0.1
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	50	240
1,2-Diaminoethane, see Ethylene-diamine		
Diazomethane	0.2	0.4
Diborane	0.1	0.1
C 1,2-Dibromoethane (ethylene dibromide)-Skin	25	190
Dibutyl phosphate	1	5
Dibutylphthalate		5
C Dichloroacetylene	0.1	0.4
C o-Dichlorobenzene	50	300
p-Dichlorobenzene	75	450
Dichlorodifluoromethane	1,000	4,950
1,3-Dichloro-5,5-dimethyl hydantoin		0.2
1,1-Dichloroethane	100	400
1,2-Dichloroethane	50	200
1,2-Dichloroethylene	200	790
C Dichloroethyl ether-Skin	15	90
Dichloromethane, see Methylene-chloride		
Dichloromonofluoromethane	1,000	4,200
C 1,1-dichloro-1-nitroethane	10	60
1,2-Dichloropropane, see Propylenedichloride		
Dichlorotetrafluoroethane	1,000	7,000
Dichlorvos (DDVP)-Skin		1
Dieldrin-Skin		0.25
Diethylamine	25	75
Diethylaminoethanol-Skin	10	50
C Diethylene triamine-Skin	10	42
Diethylether, see Ethyl ether		
Difluorodibromomethane	100	860
C Diglycidyl ether (DGE)	0.5	2.8
Dihydroxybenzene, see Hydroquinone		
Diisobutyl ketone	50	290
Diisopropylamine-Skin	5	20
Dimethoxymethane, see Methylal		
Dimethyl acetamide-Skin	10	35
Dimethylamine	10	18
Dimethylaminobenzene, see Xylidene		
Dimethylaniline (N-dimethylaniline)-Skin	5	25
Dimethylbenzene, see Xylene		
Dimethyl 1,2-dibromo-2,2-dichloroethyl phosphate, (Dibrom)		3
Dimethylformamide-Skin	10	30
2,6-Dimethylheptanone, see Diisobutyl ketone		
1,1-Dimethylhydrazine-Skin	0.5	1
Dimethylphthalate		5
Dimethylsulfate-Skin	1	5
Dinitrobenzene (all isomers)-Skin		1
Dinitro-o-cresol-Skin		0.2
Dinitrotoluene-Skin		1.5
Dioxane (Diethylene dioxide-Skin	100	360
Diphenyl	0.2	1
Diphenyl amine		10
Diphenylmethane diisocyanate (see Methylene bisphenyl isocyanate MDI)		
Dipropylene glycol methyl ether-Skin	100	600
Di-sec. octyl phthalate (Di-2-ethylhexylphthalate)		5
Emery (Note 4)		
Endosulfan (Thiodan®)-Skin		0.1
Endrin-Skin		0.1
Epichlorhydrin-Skin	5	19
EPN-Skin		0.5
1,2-Epoxypropane, see Propylene-oxide		
2,3-Epoxy-1-propanol, see Glycidol		
Ethane (Note 3)		
Ethanethiol, see Ethylmercaptan		
Ethanolamine	3	6
2-Ethoxyethanol-Skin	200	740
2-Ethoxyethyl acetate (Cellosolve acetate)-Skin	100	540
Ethyl acetate	400	1,400
Ethyl acrylate-Skin	25	100
Ethyl alcohol (ethanol)	1,000	1,900
Ethylamine	10	18
Ethyl sec-amyl ketone (5-methyl-3-heptanone)	25	130
Ethyl benzene	100	435
Ethyl bromide	200	890
Ethyl butyl ketone (3-Heptanone)	50	230
Ethyl chloride	1,000	2,600
Ethyl ether	400	1,200
Ethyl formate	100	300
Ethyl mercaptan	0.5	1
Ethyl silicate	100	850
Ethylene (Note 3)		
Ethylene chlorohydrin-Skin	5	16
Ethylenediamine	10	25
Ethylene dibromide, see 1,2-Dibromoethane		
Ethylene dichloride, see 1,2-Dichloroethane		
C Ethylene glycol dinitrate and/or Nitroglycerine-Skin (Note 8)	0.2	
Ethylene glycol monomethyl ether acetate, see Methyl cellosolve acetate		
Ethylene imine-Skin	0.5	1
Ethylene oxide	50	90
Ethylidine chloride, see 1,1-Dichloroethane		
N-Ethylmorpholine-Skin	2 0	94
Ferbam		15
Ferrovanadium dust		1
Fibrous glass (Note 4)		
Fluoride (as F)		2.5
Fluorine	0.1	0.2
Fluorotrichloromethane	1,000	5,600
C Formaldehyde	5	6
Formic acid	5	9
Furfural-Skin	5	20
Furfuryl alcohol	50	200
Gasoline (Note 9)		
Glycerine mist (Note 4)		
Glycidol (2,3-Epoxy-1-propanol)	50	150
Glycol monoethyl ether, see 2-Ethoxyethanol		
Graphite, (Synthetic) (Note 4)		
Guthion, see Azinphosmethyl		
Gypsum (Note 4)		
Hafnium		0.5
Helium (Note 3)		
Heptachlor-Skin		0.5
Heptane (n-heptane)	500	2,000
Hexachloroethane-Skin	1	10
Hexachloronaphthalene-Skin		0.2

ment shall be cleaned and disinfected immediately after each use.

The following requirements from 29 CFR Part 1910 (General Industry) have been identified as applicable to construction (29 CFR 1926.103 *Respiratory protection*), in accordance with their respective scope and definitions.

§ 1910.94 Ventilation.

(a) *Abrasive blasting.*—(1) *Definitions applicable to this paragraph* • • •

(ii) *Abrasive-blasting respirator.* A continuous flow air-line respirator constructed so that it will cover the wearer's head, neck, and shoulders to protect him from rebounding abrasive.

• • • • •

(5) *Personal protective equipment.* (i) Only respiratory protective equipment approved by the Bureau of Mines, U.S. Department of the Interior (see 30 CFR Part 11) shall be used for protection of personnel against dusts produced during abrasive-blasting operations.

(ii) Abrasive-blasting respirators shall be worn by all abrasive-blasting operators: • • •

(B) When using silica sand in manual blasting operations where the nozzle and blast are not physically separated from the operator in an exhaust ventilated enclosure.

• • • • •

(8) *Scope.* This paragraph (a) applies to all operations where an abrasive is forcibly applied to a surface by pneumatic or hydraulic pressure, or by centrifugal force. It does not apply to steam blasting, or steam cleaning, or hydraulic cleaning methods where work is done without the aid of abrasives.

• • • • •

§ 1910.134 Respiratory protection.

(a) *Permissible practice.* (1) In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, the primary objective shall be to prevent atmospheric contamination. This shall be accomplished as far as feasible by accepted engineering control measures (for example, enclosure or confinement of the operation, general and local ventilation, and substitution of less toxic materials). When effective engineering controls are not feasible, or while they are being instituted, appropriate respirators shall be used pursuant to the following requirements.

(2) Respirators shall be provided by the employer when such equipment is necessary to protect the health of the employee. The employer shall provide the respirators which are applicable and suitable for the purpose intended. The employer shall be responsible for the establishment and maintenance of a respiratory protective program which shall include the requirements outlined in paragraph (b) of this section.

(3) The employee shall use the provided respiratory protection in accordance with instructions and training received.

(b) *Requirements for a minimal acceptable program.* (1) Written standard operating procedures governing the selection and use of respirators shall be established.

(2) Respirators shall be selected on the basis of hazards to which the worker is exposed.

(3) The user shall be instructed and trained in the proper use of respirators and their limitations.

(4) Where practicable, the respirators should be assigned to individual workers for their exclusive use.

(5) Respirators shall be regularly cleaned and disinfected. Those issued for the exclusive use of one worker should be cleaned after each day's use, or more often if necessary. Those used by more than one worker shall be thoroughly cleaned and disinfected after each use.

(6) Respirators shall be stored in a convenient, clean, and sanitary location.

(7) Respirators used routinely shall be inspected during cleaning. Worn or deteriorated parts shall be replaced. Respirators for emergency use such as self-contained devices shall be thoroughly inspected at least once a month and after each use.

(8) Appropriate surveillance of work area conditions and degree of employee exposure or stress shall be maintained.

(9) There shall be regular inspection and evaluation to determine the continued effectiveness of the program.

(10) Persons should not be assigned to tasks requiring use of respirators unless it has been determined that they are physically able to perform the work and use the equipment. The local physician shall determine what health and physical conditions are pertinent. The respirator user's medical status should be reviewed periodically (for instance, annually).

(11) Approved or accepted respirators shall be used when they are available. The respirator furnished shall provide adequate respiratory protection against the particular hazard for which it is designed in accordance with standards established by competent authorities. The U.S. Department of Interior, Bureau of Mines, and the U.S. Department of Agriculture are recognized as such authorities. Although respirators listed by the U.S. Department of Agriculture continue to be acceptable for protection against specified pesticides, the U.S. Department of the Interior, Bureau of Mines, is the agency now responsible for testing and approving pesticide respirators.

(c) *Selection of respirators.* Proper selection of respirators shall be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2-1969.

(d) *Air quality.* (1) Compressed air, compressed oxygen, liquid air, and liquid oxygen used for respiration shall be of high purity. Oxygen shall meet the requirements of the United States Pharmacopoeia for medical or breathing oxygen. Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G-7.1-1966. Compressed oxygen shall not be used in supplied-air respirators or in open circuit self-contained breathing apparatus that have previously used compressed air. Oxygen must never be used with air line respirators.

(2) Breathing air may be supplied to respirators from cylinders or air compressors.

(i) Cylinders shall be tested and maintained as prescribed in the Shipping Container Specification Regulations of the Department of Transportation (49 CFR Part 178).

(ii) The compressor for supplying air shall be equipped with necessary safety and standby devices. A breathing air-type compressor shall be used. Compressors shall be constructed and situated so as to avoid entry of contaminated air into the system and suitable in-line air purifying sorbent beds and filters installed to further assure breathing air quality. A receiver of sufficient capacity to enable the respirator wearer to escape from a contaminated atmosphere in event of compressor failure, and alarms to indicate compressor failure and overheating shall be installed in the system. If an oil-lubricated compressor is used, it shall have a

cleaning procedure and be assured that he will always receive a clean and disinfected respirator. Such assurances are of greatest significance when respirators are not individually assigned to workers. Respirators maintained for emergency use shall be cleaned and disinfected after each use.

(4) Replacement or repairs shall be done only by experienced persons with parts designed for the respirator. No attempt shall be made to replace components or to make adjustment or repairs beyond the manufacturer's recommendations. Reducing or admission valves or regulators shall be returned to the manufacturer or to a trained technician for adjustment or repair.

(5) (i) After inspection, cleaning, and necessary repair, respirators shall be stored to protect against dust, sunlight, heat, extreme cold, excessive moisture, or damaging chemicals. Respirators placed at stations and work areas for emergency use should be quickly accessible at all times and should be stored in compartments built for the purpose. The compartments should be clearly marked. Routinely used respirators, such as dust respirators, may be placed in plastic bags. Respirators should not be stored in such places as lockers or tool boxes unless they are in carrying cases or cartons.

(ii) Respirators should be packed or stored so that the facepiece and exhalation valve will rest in a normal position and function will not be impaired by the elastomer setting in an abnormal position.

(iii) Instructions for proper storage of emergency respirators, such as gas masks and self-contained breathing apparatus, are found in "use and care" instructions usually mounted inside the carrying case lid.

(g) *Identification of gas mask canisters.* (1) The primary means of identifying a gas mask canister shall be by means of properly worded labels. The secondary means of identifying a gas mask canister shall be by a color code.

(2) All who issue or use gas masks falling within the scope of this section shall see that all gas mask canisters purchased or used by them are properly labeled and colored in accordance with these requirements before they are placed in service and that the labels and colors are properly maintained at all times thereafter until the canisters have completely served their purpose.

(3) On each canister shall appear in bold letters the following:

(i)—

Canister for _____
(Name for atmospheric contaminant)

or

Type N Gas Mask Canister

(ii) In addition, essentially the following wording shall appear beneath the appropriate phrase on the canister label: "For respiratory protection in atmospheres containing not more than _____ percent by volume of _____."

(4) Canisters having a special high-efficiency filter for protection against radionuclides and other highly toxic particulates shall be labeled with a statement of the type and degree of protection afforded by the filter. The label shall be affixed to the neck end of, or to the gray stripe which is around and near the top of, the canister. The degree of protection shall be marked as the percent of penetration of the canister by a 0.3-micron-diameter dioctyl phthalate (DOP) smoke at a flow rate of 85 liters per minute.

(5) Each canister shall have a label warning that gas masks should be used only in atmospheres containing sufficient oxygen to support life (at least 16 percent by volume), since gas mask canisters are only designed to neutralize or remove contaminants from the air.

(6) Each gas mask canister shall be painted a distinctive color or combination of colors indicated in Table I-1. All colors used shall be such that they are clearly identifiable by the user and clearly distinguishable from one another. The color coating used shall offer a high degree of resistance to chipping, scaling, peeling, blistering, fading, and the effects of the ordinary atmospheres to which they may be exposed under normal conditions of storage and use. Appropriately colored pressure sensitive tape may be used for the stripes.

TABLE I-1

Atmospheric contaminants to be protected against	Colors assigned*
Acid gases	White.
Hydrocyanic acid gas	White with ½-inch green stripe completely around the canister near the bottom.
Chlorine gas	White with ½-inch yellow stripe completely around the canister near the bottom.
Organic vapors	Black.
Ammonia gas	Green.
Acid gases and ammonia gas	Green with ½-inch white stripe completely around the canister near the bottom.
Carbon monoxide	Blue.
Acid gases and organic vapors	Yellow.
Hydrocyanic acid gas and chloropicrin vapor	Yellow with ½-inch blue stripe completely around the canister near the bottom.
Acid gases, organic vapors, and ammonia gases	Brown.
Radioactive materials, excepting tritium and noble gases	Purple (Magenta).
Particulates (dusts, fumes, mists, fogs, or smokes) in combination with any of the above gases or vapors	Canister color for contaminant, as designated above, with ½-inch gray stripe completely around the canister near the top.
All of the above atmospheric contaminants	Red with ½-inch gray stripe completely around the canister near the top.

*Gray shall not be assigned as the main color for a canister designed to remove acids or vapors.

Note: Orange shall be used as a complete body, or stripe color to represent gases not included in this table. The user will need to refer to the canister label to determine the degree of protection the canister will afford.

Federal Regulations Affecting Asbestos

U.S. Dept. of Labor
OSHA

- Code of Fed. Regulations (CFR)
  Title 29 Part 1910
- Work practices & worker protection
- Industrial exposure

EPA
Toxic Substances Control Act (TSCA)
Asbestos in Schools Rule

- CFR Title 40 Part 763
- Identifying friable asbestos containing material
- Employee & parent notification
- Record Keeping

EPA
Clean Air Act (CAA) Section 112
National Emission Standards for Hazardous Air Pollutants (NESHAPS)
(asbestos, beryllium, mercury, vinyl chloride)

- CFR Title 40 Part 61 Subpart A
  Subpart B replaced by Subpart M
  on 4/5/84 Fed Reg. Vol. 49 No. 67
- Standards for mills, roadways
  manufacturing, demolition, renovation,
  [illegible]

Demolition / Renovation of Friable Asbestos Material
CFR Title 40 Part 61 Subpart M Sections 61.140; 61.141,
61.145 - 61.147, 61.152, 61.154 and 61.156

Definitions - CFR 40 Part 61 Section 61.141

Friable asbestos material - any material containing more than 1 percent asbestos by weight that hand pressure can crumble, pulverize or reduce to powder when dry

Renovation - altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or taken out are excluded

Demolition - wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations.

Visible emissions - emissions containing particulate asbestos material that are visually detectable without the aid of instruments. Excludes condensed uncombined water vapor.

Facility Component - pipe, duct, boiler, tank, reactor, turbine, furnace or structural member

Demolition / Renovation of Friable Asbestos

Applicability Categories Section 61.145

61.145(a) Demolition ≥ 260 lin. feet (pipes) or ≥ 160 sq. ft other fac. comp.

Notification Req. Section 61.146

Written notification to EPA required.
Postmark/Deliver 10 days prior to demolit.

(1) Name/addr. of owner/op. of rem./dem. firm
(2) Bldg. description (size, age, prior use)
(3) Amount of asb. in facility

(4) Fac. location for dem./renov.
(5) Start date / Completion date
(6) Descrip. of dem./renov. and methods
(7) Procedures followed in dem./renov. to comply with Subpart M
(8) Name & location of waste disp. site

Emission Control Proced. Section 61.147

(a) Remove asb. before wrecking or dismantling that would break asb. mat. or preclude access. Exception – demolition
- Asb. on fac. component encased in concrete
- Wet wherever asb. is exposed while dem.

(b) Removal of facility component w/ asbestos in sections
- Wet the areas to be cut
- Do not drop – lower the units to ground

(c) Removing/stripping asb. from intact facility components

Notification Req. Section 61.146

SEND NOTIFICATIONS TO:

EPA
Alaska Operations Office
3200 Hospital Dr.
Suite 101
Juneau, AK 99801
ATTN: KATHRYN PAZERA

Emission Control Proced. Section 61.147

(d) After removing facility component w/ asb.
- Wet during stripping -OR-
- Use local exhaust vent. & collection (NO V.E. or designed & oper. 61.154)

(e) All asbestos removed or stripped
- Asb. must remain wet until contained for disposal
- Do not drop - lower material to ground
- Dust-tight chutes or containers if > 50 feet above ground - Exception: 61.147 (b)

(f) Temp. at wetting point < 32°F
- Comply w/ (d) and (e) - no other wetting requirements

Demolition / Renovation of Friable Asbestos

- Applicability Categories Section 61.145

61.145(b) Demolition < 260 ln. feet (pipes) or < 160 sq. ft. other fac. comp.

Notification Req. Section 61.146

Written notification to EPA required

Postmark/deliver 20 days prior to demolit

(1) Name/add. of owner/op. of rem./dem. firm
(2) Bldg. description (size, age, prior use)
(3) Amount of asb. in facility
- Explain techniques of estimation
(4) Fac. location for dem./renov.
(5) Start date / Completion date

Emission Control Proced. Section 61.147

Not required by EPA regulations

But recommend follow 61.147 a-g

Demolition / Renovation of Friable Asbestos

Applicability Categories Section 61.145

61.145(c) Demolition – ORDERED by State or local govt., facility structurally unsound and in danger of imminent collapse
≥ 260 lin.ft. (pipe) or ≥ 160 sq.ft. other fac. comp.

Notification Req. Section 61.146

Written notification to EPA required as early as possible prior to demolit. Recommend at least 10 days

1. Name/add. of owner/op. of rem./dem. firm
2. Bldg. description (size, age, prior use)
3. Amount of asb. in facility
4. Fac. location for dem./renov.
5. Start date / Completion date
6. Descrip. of dem./renov. and methods
7. Procedures followed in dem./renov. to comply with Subpart M
8. Name & location of waste disp. site

Emission Control Proced. Section 61.147

Notification Req. Section 61.146

(9) Name, title and authority of State/local govt. rep. ordering demolition.

SEND NOTIFICATIONS TO:

EPA

Alaska Operations Office

3200 Hospital DR

Suite 101

Juneau, AK 99801

ATTN: KATHRYN PAZERA

FAX - 7410

Emission Contm' Proced. Section 61.147

(d) After removing facility component wash.
- Wet during stripping -OR-
- Use local exhaust vent. & collection (NO V.E. or designed & oper. 61.154)

(e) All asbestos removed or stripped
- Asb. must remain wet until contained for disposal
- Do not drop - lower material to ground
- Dust-tight chutes or containers if > 50 feet above ground - Exception: 61.147 (b)

(f) Temp. at wetting point < 32°F
- Comply w/ (d) and (e) - no other wetting requirements
- Remove facility components in [illegible]

Demolition / Renovation of Friable Asbestos

Applicability Categories Section 61.145

61.145(d) Renovation ≥ 260 lin.ft. (pipes) or ≥ 160 sq.ft. other fac. comp

Notification Req. Section 61.146

Written notification to EPA required.
as early as possible prior to renov
Recommend at least 10 days

(1) Name/add. of owner/op. of rem./dem. firm
(2) Bldg. description (size, age, prior use)
(3) Amount of asb. in facility

(4) Fac. location for dem./renov.
(5) Start date / Completion date
(6) Descrip. of dem./renov. and methods
(7) Procedures followed in dem./renov. to comply with Subpart M
(8) Name & location of waste disp. site

Emission Control Proced. Section 61.147

(a) Remove asb. before wrecking or dismantling that would break friable asb. mat. or preclude access

(b) Removal of facility component w/ asbestos in sections
- Wet the areas to be cut
- Do not drop - lower the units to ground

(c) Removing/stripping asb. from intact facility components

Notification Req. Section 61.145

SEND NOTIFICATIONS TO:

EPA

ALASKA Operations Office

3200 Hospital Dr.

Suite 101

Juneau, AK 99801

ATTN: KATHRYN PAZERA

Emission Control Proced. Section 61.147

Exception: unavoidable damage to equipment

- Request EPA to make determination
- If damage unavoidable, must use exhaust ventilation & collection sys. (No V.E. or designed & oper. 61.154)

(d) After removing facility component n.a.s.b.

- Wet during stripping —OR—
- Use local exhaust vent. & collection (No V.E. or designed & oper. 61.154)

(e) All asbestos removed or stripped

- Asb. must remain wet until contained for disposal
- Do not drop - lower material to ground
- Dust-tight chutes or containers if > 50 feet above ground - Exception: 61.147 (b)

(f) Temp. at wetting point < 32°F

- Comply w/ (d) and (e) - no other wetting requirements
- Remove facility components [illegible]

Demolition / Renovation Projects

Standards for Waste Disposal of Friable Asbestos *

61.152

(a) Deposit all asbestos waste (friable & control equip) at waste disposal site operated by 61.158

(b) No visible emissions (collection, process, packaging, transport, deposit)

-OR-

1) Treat asb. waste with water (No V.E. or use Air cleaning 61.154)

- Seal wet asbestos in leak-tight containers (suggest 6 mil bag)
- Label containers (61.152(b)(1)iii OR 29CFR 1910.1001(g)(2)(vii))

-OR-

2) Process asbestos waste into non-friable forms (no V.E. or use Air cleaning 61.154)

-OR-

3) Submit alternative disposal to EPA for approval

* Demolition/Renovation projects < 260 lin.ft. or < 160 sq.ft. of friable asb are excluded from EPA waste disposal requirements but are not excluded from DofL or ADEC regulations.

Demolition / Renovation Projects
Active Waste Disposal
61.156

a) No V.E. from waste disposal site

b) Natural barrier or warning signs & fencing

c) Instead of a) and b) at least once every 24 hours newly deposited asbestos waste covered with a minimum of 6 inches of compacted non-asbestos-containing material.

MEMORANDUM State of Alaska

TO: Dick Stokes, SERO
Bob Flint, SCRO
Pete McGee, NRO

DATE: October 12, 1983

FILE NO:

TELEPHONE NO:

FROM: Stanley W. Hungerford, Chief
Air and Solid Waste Management
SWH for

SUBJECT: Waste Asbestos Disposal Responsibilities

There seems to be some confusion concerning our role and responsibility in asbestos disposal. Specifically, what laws address asbestos, what permits are required, and who issues them. Dick Williams and Dave Estes have compiled a list of the pertinent laws and policies on asbestos acttivities. Please circulate copies to your staff for their reference.

I. ASBESTOS IS NOT A HAZARDOUS WASTE UNDER RCRA.

RCRA covers ignitable, corrosive, reactive, EP toxic, and listed wastes. It does not recognize long-term health effects as a separate criteria.

II. ASBESTOS IS A HAZARDOUS AIR POLLUTANT UNDER NESHAPS.

Federally, asbestos is an air pollutant addressed by 40 CFR 61. These regulations address air emissions from activities that involve asbestos, and specify operating procedures that should prevent hazardous emissions.

ADEC has not taken on that part of NESHAPS, and any situation encountered should be referred to EPA, Alaska Operations Office, Juneau.

III. NO FEDERAL PERMITS APPLY TO ASBESTOS DISPOSAL AT ALASKAN LANDFILLS.

IV ASBESTOS IS A HAZARDOUS WASTE UNDER OUR SOLID WASTE REGULATIONS, 18 AAC 60.

18 AAC 60.910.(11)...' "hazardous waste" means a solid waste or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or biological characteristics may cause or significantly contribute to

(a) an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(b) a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.'

Diseases caused by breathing asbestos dust, such as lung cancer and asbestosis, definitely increase mortality.

V. ASBESTOS DISPOSAL REQUIRES AN ADEC WASTE DISPOSAL PERMIT.

Asbestos is a solid waste and, therefore, requires a Waste Disposal Permit under AS 46.03.100 and 18 AAC 60.200.(a).

Asbestos is also "hazardous" and requires "specific approval" from the department according to 18 AAC 60.087.(a).

"Specific Approval" should be given via conditions in a new permit or an amendment of an existing permit.

Approvals should be granted for an overall operation, not for each bag, barrel or truckload.

V. ASBESTOS DISPOSAL PROCEDURES.

All the solid waste disposal standards in 18 AAC 60 apply to asbestos disposal. In addition, the following requirments must also be met:

a. Waste asbestos must be thoroughly wetted and placed in a water-tight container before burial. Containers may be barrels, drums, or double -four mil or thicker- plastic bags.
or Single six mil

b. All containers shall have a warning label attached that states:

CAUTION

CONTAINS ASBESTOS

AVOID OPENING OR BREAKING CONTAINER

BREATHING ASBESTOS IS HAZARDOUS
TO YOUR HEALTH

c. Apply 2 FEET of cover soil to the wastes at the end of each operating day, or if cover is not applied

1. install fencing or provide other approved access controls, and
2. post signs at site entrances and at 100 foot intervals along the site boundary that state in one inch or taller lettering:

ASBESTOS WASTE DISPOSAL SITE

DO NOT CREATE DUST

BREATHING ASBESTOS IS
HAZARDOUS TO YOUR HEALTH

VI. ASBESTOS REMOVAL AND HANDLING PROCEDURES ARE OSHA AND EPA CONCERNS.

ADEC should refer the public to these agencies when appropriate. We are not authorized or trained to interpret and enforce their regulations. Also, we lack the staff and funding needed to take on any more programs.

Conclusion:

Asbestos is a "hazardous solid waste" under Alaskan Law. We regulate its disposal with the Solid Waste Management Regulations, 18 AAC 60, and the Waste Disposal Permit program. All disposal must be approved in writing, i.e., by permit condition. Disposal activities must comply with departmental standards and procedures. Signs and fences are NOT required if the waste is covered on the day of deposition. All removal, handling, and air pollution control activities are EPA concerns and must be referred to them.

Please call Dick or Dave if you have any questions or corrections.

cc : Keith Kelton

RTW:SH:tz

ALASKA CHAPTER A.G.C.
EDUCATION COMMITTEE

presents a

CONSTRUCTION INDUSTRY SEMINAR
"ASBESTOS REMOVAL"

A timely safety seminar for:

- *GENERAL CONTRACTORS
- *SAFETY PROFESSIONALS
- * SUBCONTRACTORS
- *INSURANCE BROKERS
- * PUBLIC ADMINISTRATORS
- *BUILDING OWNERS

*NOTE: Date change Anchorage only

HOTEL CAPTAIN COOK
ANCHORAGE, ALASKA
APRIL 18, 1984

FAIRBANKS INN
FAIRBANKS, ALASKA
APRIL 20, 1984

SEMINAR OBJECTIVE:

THIS SEMINAR IS PRESENTED FOR GENERAL CONTRACTORS, SUBCONTRACTORS, SAFETY PROFESSIONALS, PUBLIC ADMINISTRATORS, BUILDING OWNERS AND OTHERS INVOLVED IN OR CONSIDERING ASBESTOS REMOVAL WORK. PARTICIPANTS WILL LEARN ASBESTOS HEALTH HAZARDS, ASBESTOS REGULATIONS, ABATEMENT PROCEDURES, PROTECTIVE EQUIPMENT, MONITORING, EMPLOYEE TRAINING, SIGNING AND WASTE DISPOSAL PROCEDURES.

MATERIALS:

COPY OF THE ASBESTOS REGULATIONS, SAMPLE PERMIT FORMS AND RESPIRATOR USAGE CHART, BIDDER PREQUALIFICATION FORMS. REQUIRED BY SOME OWNERS, EPA SCHOOL ASBESTOS REMOVAL PROGRAM.

REGISTRATION FORM

We will attend the Asbestos Abatement Procedures Seminar in _____ Anchorage - April 18

_____ Fairbanks - April 20

The following people will be attending from our company:

_____

_____

_____

Registration Fee: $25 per person
(Includes Lunch)

Check enclosed in the amount of $_____ for 0_____ registrations.

Signature: _____

Company: _____

RETURN TO:
Alaska Chapter, A.G.C.
P. O. Box 4-2500
Anchorage, Alaska 99509
Attn: Eddie

Or call Eddie at the A.G.C. office - 561-5354

AGENDA:

11:30 to 12:00 - Registration
12:00 to 12:30 - Lunch
12:30 PROGRAM

I. Asbestos in the Workplace
   a. Source
   b. Uses
II. Standards
III. Health Hazards
IV. Locations
V. Survey
VI. Identification
VII. Abatement Procedures and Removal Techniques
   a. Types
   b. Design
   c. Procedures
VIII. Monitoring
   a. Why
   b. How
   c. Standards
IX. Personal Protective Equipment
   a. Clothing
   b. Respirators
      1. Types
      2. Demonstration
X. Employee Training
XI. Legal Liability
XII. Insurance
XIII. EPA Demolition and Renovation Regulations
XIV. Waste Disposal Procedures and Permits
XV. Contractor Prequalification Requirements
XVI. Pending Legislation
XVII. Questions and Answers

COORDINATOR:

William E. Schneider, Assistant Manager, Alaska Chapter, A.G.C.

SPEAKERS:

Wayne Tansil
Project Manager
Gobbell, Hays, Pickering
Memphis, Tennessee

) , Lauinger
Training Director
Alaska Laborers Training School
Anchorage, Alaska

Steve Zrake
Environmental Field Officer
Alaska State Department
of Environmental Conservation

Max Andrews
Environmental Consultant
Department of Occupational Safety
and Health
Alaska State Department of Labor

Kathy Pazera
Environmental Protection Specialist
U. S. Environmental Protection Agency
Juneau, Alaska

04.0102 Asbestos. (a) Definitions, for the purpose of 04.0102.

(1) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.

(2) "Asbestos fibers" means asbestos fibers longer than five micrometers.

(b) Permissible exposure to airborne concentrations of asbestos fibers.

(1) Standard effective July 7, 1972. The 8-hour time weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed five fibers, longer than five micrometers, per cubic centimeter of air, as determined by the method prescribed in 04.0102(e).

(2) Standard effective July 1, 1976. The 8-hour time weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed two fibers, longer than five micrometers, per cubic centimeter of air, as determined by the method prescribed in 04.0102(e).

(3) Ceiling concentration. No employee shall be exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers, longer than five micrometers, per cubic centimeter of air, as determined by the method prescribed in 04.0102(e).

(c) Methods of compliance.

(1) Engineering methods.

(A) Engineering controls. Engineering controls, such as, but not limited to, isolation, enclosure, exhaust ventilation, and dust collection, shall be used to meet the exposure limits prescribed in 04.0102(b).

(B) Local exhaust ventilation.

(i) Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1971, which is incorporated by reference herein.

(ii) See 1910.6 of the Federal Occupational Safety and Health Act concerning the availability of ANSI Z9.2-1971, and the maintenance of a historic file in connection therewith. The address of the American National Standards Institute is given in 04.0109.

(C) Particular tools. All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in 04.0102(b), such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems in accordance with 04.0102(c)(1)(B).

(2) Work practices.

(A) Wet methods. Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in 04.0102, unless the usefulness of the product would be diminished thereby.

(B) Particular products and operations. No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in 04.0102.

(C) Spraying, demolition, or removal. Employees engaged in the spraying of asbestos, the removal, or demolition of pipes, structures, or equipment covered or insulated with asbestos, and in the removal or demolition of asbestos insulation or coverings shall be provided with respiratory equipment in accordance with 04.0102(d)(2)(C) and with special clothing in accordance with 04.0102(d)(3).

(d) Personal protective equipment.

(1) Compliance with the exposure limits prescribed by 04.0102(b) may not be achieved by the use of respirators or shift rotation of employees, except:

(A) During the time period necessary to install the engineering controls and to institute the work practices required by 04.0102(c),

(B) In work situations in which the methods prescribed in 04.0102(c) are either technically not feasible or feasible to an extent insufficient to reduce the airborne concentrations of asbestos fibers below the limits prescribed by 04.0102(b); or

(C) In emergencies.

(D) Where both respirators and personnel rotation are allowed by 04.0102(d)(1)(A), (B) or (C), and both are practicable, personnel rotation shall be preferred and used.

(2) Where a respirator is permitted by 04.0102(d)(1), it shall be selected from among those approved by the Bureau of Mines, Department of the Interior, or the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare, under the provisions of 30 CFR Part 11 (37 F.R. 6244, Mar. 25, 1972), and shall be used in accordance with 04.0102(d)(2)(A), (B), (C) and (D).

(A) Air purifying respirators. A reusable or single use air purifying respirator, or a respirator described in 04.0102(d)(2)(B) or (C), shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in 04.0102(b), when the ceiling or the 8-hour time weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed no more than 10 times those limits.

(B) Powered air purifying respirators. A full facepiece powered air purifying respirator, or a powered air purifying respirator, or a respirator described in 04.0102(d)(2)(C), shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in 04.0102(b), when the ceiling or the 8-hour time weighted average concentrations of asbestos fibers are reasonably expected to exceed 10 times, but not 100 times, those limits.

(C) Type "C" supplied-air respirators, continuous flow or pressure-demand class. A type "C" continuous flow or pressure demand, supplied-air respirator shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in 04.0102(b), when the ceiling or the 8-hour time weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed 100 times those limits.

(D) Establishment of a respirator program.

(i) The employer shall establish a respirator program in accordance with the requirements of the American National Standards Practices for Respiratory Protection, ANSI Z88.2–1969, which is incorporated by reference herein.

(ii) See 1910.6 of the Federal Occupational Safety and Health Act concerning the availability of ANSI Z88.2–1969 and the maintenance of a historic file in connection therewith. The address of the American National Standards Institute is given in 04.0109.

(iii) No employee shall be assigned to tasks requiring the use of respirators if, based upon his most recent examination, the examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by his use of a respirator. Such employee shall be rotated to another job or given the opportunity to transfer to a different position whose duties he is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay he had just prior to such transfer, if such a different position is available.

(3) Special clothing. The employer shall provide, and require the use of, special clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos fibers, which exceed the ceiling level prescribed in 04.0102(b).

(4) Change rooms.

(A) At any fixed place of employment exposed to airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in 04.0102(b), the employer shall provide change rooms for employees working regularly at the place.

(B) Clothes lockers. The employer shall provide two separate lockers or containers for each employee, so separated or isolated as to prevent contamination of the employee's street clothes from his work clothes.

(C) Laundering.

(i) Laundering of asbestos contaminated clothing shall be done so as to prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in 04.0102(b).

(ii) Any employer who gives asbestos-contaminated clothing to another person for laundering shall inform such person of the requirement in 04.0102(d)(4)(C)(i) to effectively prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in 04.0102(b).

(iii) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with 04.0102(g).

(e) Method of measurement. All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400–450 X (magnification) (4 millimeter objective) with phase contrast illumination.

(f) Monitoring.

(1) Initial determinations. Within six months of the publication of 04.0102 every employer shall cause every place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee's exposure to asbestos fibers is below the limits prescribed in 04.0102(b). If the limits are exceeded, the employer shall immediately undertake a compliance program in accordance with 04.0102(c).

(2) Personal monitoring.

(A) Samples shall be collected from within the breathing zone of the employees, on membrane filters of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(B) Sampling frequency and patterns. After the initial determinations required by 04.0102(f)(1), samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees. In no case shall the sampling be done at intervals greater than six months for employees whose exposure to asbestos may reasonably be foreseen to exceed the limits prescribed by 04.0102(b).

(3) Environmental monitoring.

(A) Samples shall be collected from areas of a work environment which are representative of the airborne concentration of asbestos fibers which may reach the breathing zone of employees. Samples shall be collected on a membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(B) Sampling frequency and patterns. After the initial determinations required by 04.0102(f)(1), samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than six months for employees whose exposures to asbestos may reasonably be foreseen to exceed the exposure limits prescribed in 04.0102(b).

(4) Employee observation of monitoring. Affected employees, or their representatives, shall be given a reasonable opportunity to observe any monitoring required by 04.0102 and shall have access to the records thereof.

(g) Caution signs and labels.

(1) Caution signs.

(A) Posting. Caution signs shall be provided and displayed at each location where airborne concentrations of asbestos fibers may be in excess of the exposure limits prescribed in 04.0102(b). Signs shall be posted at such a distance from such a location so that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. Signs shall be posted at all approaches to areas containing excessive concentrations of airborne asbestos fibers.

(B) Sign specifications. The warning signs required by 04.0102(g)(1)(A) shall conform to the requirements of 20 inches by 14 inches vertical format signs specified in 01.1202(d)(4), Subchapter 1, General Safety Code, AOSAHS, and to 04.0102(g)(1)(B). The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to that specified in 04.0102(g)(1)(B).

Legend	Notation
Asbestos	1 in. Sans Serif, Gothic or Block
Dust hazard	3/4 in. Sans Serif, Gothic or Block
Avoid breathing dust	¼ in. Gothic
Wear assigned protective equipment	¼ in. Gothic
Do not remain in area unless your work requires it	¼ in. Gothic
Breathing asbestos dust may be hazardous to your health	14 point Gothic

Spacing between lines shall be at least equal to the height of the upper of any two lines.

(2) Caution labels.

(A) Labeling. Caution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have been modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in 04.0102(b) will be released.

(B) Label specifications. The caution labels required by 04.0102(g)(2)(A) shall be printed in letters of sufficient size and contrast as to be readily visble and legible. The label shall state:

CAUTION

Contains Asbestos Fibers
Avoid Creating Dust
Breathing Asbestos Dust May Cause
Serious Bodily Harm

(h) Housekeeping.

(1) Cleaning. All external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if, with their dispersion, there would be an excessive concentration.

(2) Waste disposal. Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, which may produce in any reasonably foreseeable use, handling, storage, processing, disposal, or transportation, airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in 04.0102(b), shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(i) Recordkeeping.

(1) Exposure records. Every employer shall maintain records of any personal or environmental monitoring required by 04.0102. Records shall be maintained for a period of at least 20 years and shall be made available upon request to the Commissioner of Labor, the Director of the Division of Occupational Safety and Health, and to authorized representatives of either.

(2) Employee access. Every employee and former employee shall have reasonable access to any record required to be maintained by 04.0102(i)(1) which indicates the employee's own exposure to asbestos fibers.

(3) Employee notification. Any employer found to have been exposed at any time to airborne concentrations of asbestos fibers in excess of the limits prescribed in 04.0102(b) shall be notified in writing of the exposure as soon as practicable but not later than five days of the finding. The employee shall also be timely notified of the corrective action being taken.

(j) Medical examinations.

(1) General. The employer shall provide or make available at his cost, medical examinations relative to exposure to asbestos required by 04.0102(j).

(2) Preplacement. The employer shall provide or make available to each of his employees, within 30 calendar days following his first employment in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination, which shall include, as a minimum, a chest roentgenogram (posterior–anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at one second ($FEV_{1.0}$).

(3) Annual examinations. On or before January 31, 1973, and at least annually thereafter, every employer shall provide, or make available, comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers. Such annual examination shall include, as a minimum, a chest roentgenogram (posterior–anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at one second ($FEV_{1.0}$).

(4) Termination of employment. The employer shall provide, or make available, within 30 calendar days before or after the termination of employment of any employee engaged in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination which shall include, as a minimum, a chest roentgenogram (posterior–anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at one second ($FEV_{1.0}$).

(5) Recent examinations. No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with 04.0102(j) within the past one-year period.

(6) Medical records.

(A) Maintenance. Employers of employees examined pursuant to 04.0102(j) shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be retained by employers for at least 20 years.

(B) Access. The contents of the records of the medical examinations required by 04.0102(j) shall be made available, for inspection and copying, to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of NIOSH, to authorized physicians and medical consultants of either of them, and, upon the request of an employee or former employee, to his physician. Any physician who conducts a medical examination required by 04.0102(j) shall furnish to the employer of the examined employee all the information specifically required by 04.0102(j) and any other medical information related to occupational exposure to asbestos fibers.

SB
384

COMMITTEE REPORT

HOUSE

(7)

FURTHER: JUDICIARY

Date: April 24, 1984

4/13/84

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had CSSB 384(HESS)

"An Act relating to food banks."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [X] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mal Fischer

Rick Uel

T.H. Martin

Mike Davis

Wilson Kopman

Peter Jones

Sam Pestinger

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mal Fischer
CHAIRMAN

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

4/23/84

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

CS FOR SB 384 (HESS), "An Act relating to food banks," by Senators Ferguson, Kelly, Rodey, et al, amends the Alaska Food, Drug and Cosmetic Act (AS 17.20) by adding language relating to the liability of food banks and individual donors. CSSB 384 (HESS) is identical to CSHB 496 (HESS) by Representatives Koponen and Miller. The Department of Environmental Conservation, Division of Environmental Quality Management, estimates the fiscal impact of CSSB 384 (HESS) to be Zero for FY 85, FY 86, and FY 87 (Please see fiscal note for greater detail).

The bill provides that a donor to a food bank is not subject to civil or criminal liability arising from an injury or death attributable to the condition of donated food if the injury or death is not a result of the gross negligence, recklessness, or intentional misconduct of the donor. The bill specifically states that nothing in the bill prohibits the donation of canned goods with misbrands or missing labels, and food that would not be readily marketable because of appearance or grade, or because it is surplus.

The bill provides that a food bank is not liable for injury or death attributable to the condition of donated food if the food bank inspects the food received in a reasonable manner and if the injury or death is not the direct result of the negligence, recklessness, or intentional misconduct of the food bank. Food banks may accept misbranded food or food with missing labels, or food that would not be readily marketable because of appearance or grade, or because it is surplus.

"Donor" is defined in such a way as to exclude a person who acts in a commercial capacity as a manufacturer, packer, processor, bottler, or similar entity, if that activity is the person's primary activity.

The bill does not provide for an effective date and would therefore become law 90 days after the Governor signs the bill.

(Legislative Reporting Service, 1/30/84, p. 122, and 1/16/84, pp. 44 - 45)

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM April 23, 1984

TO: Representative Mae Tischer
FROM: Bill Lovell, Professional Assistant, HESS Committee

RE: Analysis of CSSB 384 (HESS)

I have prepared the following analysis of the Senate HESS Committee Substitute for Senate Bill 384, "[a]n Act relating to food banks."

CSSB 384 (HESS) amends AS 17.20 (Alaska Food, Drug and Cosmetic Act) by adding new sections, the effects of which are described below.

Sec. 17.20.345 provides that a donor to a food bank is not subject to civil or criminal liability for damages resulting from the consumption of donated food, unless such damages are the result of extreme negligence, recklessness, or misconduct by the donor. In other words, gross negligence, recklessness, or misconduct must be proven before a food bank donor is held civilly or criminally liable for damages attributable to the consumption of donated food. This provision subjects food bank donors to a more stringent test than food bank operators when determining negligence, recklessness, or misconduct.

The bill specifically states that nothing in this section prohibits the donation of apparently suitable goods solely because of missing labels, appearance, or lower grade or marketability.

Sec. 17.20.346 provides that a food bank is not subject to civil or criminal liability for damages resulting from the consumption of goods received and distributed by the food bank if, prior to distribution, the food bank had inspected the food in a reasonable manner; if the food bank had had no actual or constructive knowledge that the food was adulterated, tainted, or contaminated; and if the aforementioned damages were not the result of negligence, recklessness, or misconduct by the operators of the food bank. In other words, simple negligence, which is more easily proven than

gross negligence, must be proven before a food bank operator can be held civilly or criminally liable for damages attributed to the consumption of food distributed by the food bank. This provision of the bill subjects food bank operators to a less stringent test than donors when determining negligence, recklessness, or misconduct.

The bill specifically states that nothing in this section prohibits a food bank from distributing apparently suitable food solely because of missing labels, appearance, or lower grade or marketability.

Sec. 17.20.347 defines "donor," as used in AS 17.20.345 and 17.20.346, as including a person, farmer, retailer, slaughter-house under state supervision, freight company, distributor, wholesaler, or similar entity. This provision specifically permits operators of state supervised slaughter-houses to donate suitable meats to food banks.

The section specifically excludes from the definition of "donor," any person who acts in a commercial capacity as a manufacturer, packer, processor, bottler, or similar entity, if that activity is the person's primary activity.

This section further provides that "food bank" means an organization recognized by the state or federal government as a nonprofit organization and that operates principally to collect, inspect, and salvage donated food for free distribution to needy persons.

/wtl

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Representative Mae Tischer, Chair
House Health, Education, and Social
Services Committee

FROM: Senator Frank Ferguson

DATE: April 23, 1984

SUBJ: Senate Bill 384

In Nome, Barrow and Kotzebue we have food donors and banks at many of our churches who, under current law, run the risk of civil and criminal liability for any injury or death arising out of the use of any donated food.

This bill provides protection for honest, civic minded individuals and businesses who wish to donate edible foodstuffs for those less fortunate. However, should the donor provide food knowing that it could cause injury or death, they would face both criminal and civil liability.

Revision Date: February 15, 1984

REQUEST
Bill/Resolution No.: CSSB 384(HESS)
Title: An Act relating to food banks

Sponsor: FERGUSON
Requestor:
Date of Request: 2/10/84

FISCAL DETAIL
Agency Affected: Environmental Conservation
Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected:
Environmental Quality Mgmt.

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		0	0	0		
200 TRAVEL		0	0	0		
300 CONTRACTUAL		0	0	0		
400 SUPPLIES		0	0	0		
500 EQUIPMENT		0	0	0		
600 LAND & STRUCTURES		0	0	0		
700 GRANTS, CLAIMS		0	0	0		
800 MISCELLANEOUS		0	0	0		
TOTAL OPERATING		0	0	0		
CAPITAL		0	0	0		
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0		
FEDERAL FUNDS		0	0	0		
OTHER		0	0	0		
TOTAL		0	0	0		

POSITIONS:

FULL-TIME		0	0	0		
PART-TIME		0	0	0		
TEMPORARY		0	0	0		

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Joe Cladouhos, Director Phone: 465-2640
Division: Environmental Quality Management Date: 2/15/84

Approved by Commissioner: Richard A. Neve' Date: 2/15/84
Agency: Environmental Conservation

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

COMMITTEE REPORT

HOUSE

(7)

FURTHER: JUDICIARY

1/9/84

Date: 2-8-84

Mr. Speaker:

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had HB 496

"An Act relating to food banks."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 496 (HESS) [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mae Tucker

Terry Martin

Rich Uehly

Sam Restinger

Otto Kopperman

Mike Davis

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mae Tucker
CHAIRMAN

H 60 (Rev. 3/81)

HOUSE HESS - HB 496/SB 384

Chapter 10. Uniform Narcotic Drug Act.

[Repealed, § 26 ch 45 SLA 1982. For current law, see AS 11.71 and 17.30.]

Cross references. — For transition provisions, see secs. 23 and 24, ch. 45, SLA 1982 in the Temporary and Special Acts.

Chapter 12. Depressant, Hallucinogenic and Stimulant Drugs.

[Repealed, § 26 ch 45 SLA 1982. For current law, see AS 11.71 and 17.30.]

Cross references. — For transition provisions, see secs. 23 and 24, ch. 45, SLA 1982 in the Temporary and Special Acts.

Chapter 15. Drugs.

[Repealed, § 26 ch 45 SLA 1982. For current law, see AS 11.71 and 17.30.]

Cross references. — For transition provisions, see secs. 23 and 24, ch. 45, SLA 1982 in the Temporary and Special Acts.

Chapter 20. Alaska Food, Drug and Cosmetic Act.

Article
1. Food (§§ 17.20.010—17.20.075)
2. Drugs and Devices (§§ 17.20.080—17.20.135)
3. Cosmetics (§§ 17.20.140—17.20.155)
4. False Advertising (§§ 17.20.160—17.20.175)
5. Enforcement (§§ 17.20.180—17.20.280)
6. Prohibited Acts and Penalties (§§ 17.20.290—17.20.330)
7. General Provisions (§§ 17.20.340—17.20.380)

Opinions of attorney general. — The Department of Health and Social Services has the authority to regulate the sanitary practices of canneries even though the products manufactured in the canneries are solely for export to a foreign country. 1974 Op. Att'y Gen. No. 3, withdrawing its opinion of June 21, 1971.

Collateral references. — What is a "drug," "device," and "new drug" within the definitions of these terms in § 201(g)(1), (h), and (p) of the Federal Food, Drug, and Cosmetic Act as amended (21 USC § 321(g)(1), (h), and (p)). 3 ALR Fed. 803.

Article 1. Food.

Section
10. Definitions and standards for food
20. Adulterated food
30. Tolerances for added poisonous ingredients
40. Misbranded foods
45. Misbranding halibut
50. Emergency permit control
60. Suspension and reinstatement of emergency permit
70. Inspection by department
72. Enforcement authority
75. Definitions

Collateral references. — 35 Am. Jur. 2d, Food, § 3 et seq.
36A C.J.S., Food, § 9(2).

Sec. 17.20.010. Definitions and standards for food. When, in the judgment of the commissioner, honest and fair dealing in the interest of consumers will be promoted, the department shall adopt regulations fixing and establishing, for food or class of food a reasonable definition and standard of identity, a reasonable standard of quality, and reasonable standards of fill of container. In prescribing a definition and standard of identity for food or class of food in which optional ingredients are permitted, the department shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards adopted shall conform as far as practicable to the definitions and standards adopted under authority of the federal act. The department shall establish a mobile canned food inspection service available upon request to food packers or processors inside the state. (§ 9 ch 129 SLA 1949; am § 1 ch 125 SLA 1955)

Sec. 17.20.020. Adulterated food. (a) Food is adulterated if

(1) it bears or contains a poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance the food is not considered adulterated under this paragraph if the quantity of the substance does not ordinarily render it injurious to health;

(2) it bears or contains added poisonous or added deleterious substance which is unsafe within the meaning of AS 17.20.030;

(3) it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;

(4) it has been produced, prepared, packed, or held under unsanitary conditions in which it may have become contaminated with filth, or in which it may have been rendered diseased, unwholesome, or injurious to health;

(5) it is, in whole or in part, the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse;

(6) its container is composed, in whole or in part, of a poisonous or deleterious substance which may render the contents injurious to health.

(b) Food is adulterated if

(1) a valuable constituent has been omitted or abstracted in whole or part;

(2) a substance has been substituted in whole or part for a valuable constituent;

(3) damage or inferiority has been concealed;

(4) a substance has been added or mixed or packed with it to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) Confectionery is adulterated if it bears or contains an alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one per cent, harmless natural wax not in excess of four-tenths of one per cent, harmless natural gum, and pectin. This subsection does not apply to confectionery containing less than one-half of one per cent by volume of alcohol derived solely from the use of flavoring extracts, or to chewing gum containing harmless nonnutritive masticatory substances.

(d) Food is adulterated if it bears or contains a coal tar color other than one from a batch which has been certified under authority of the federal act. (§ 10 ch 129 SLA 1949)

Collateral references. — Trichinosis, proofs, 11 Am. Jur. POF, pp. 373-417. botulism poisoning, 16 Am. Jur. POF, pp. 243-271.

Liability of packer, foodstore, or restaurant for causing trichinosis, 96 ALR3d 451.

Sec. 17.20.030. Tolerances for added poisonous ingredients. A poisonous or deleterious substance added to food, except where the substance is required in the production of food or cannot be avoided by good manufacturing practice, is unsafe for purposes of the application of AS 17.20.020(a)(2). When the substance is required or cannot be avoided, the department shall adopt regulations limiting the quantity of it to the extent necessary for the protection of public health. A quantity exceeding the limits fixed is unsafe for purposes of the application of AS 17.20.020(a)(2). While a regulation limiting the quantity of a substance in the case of any food is in effect, the food is not, by reason of bearing or containing an added amount of the substance, adulterated within the meaning of AS 17.20.020(a)(1). In determining the quantity of the added substance to be tolerated in or on food, the department shall consider the extent to which the use of the substance is required or cannot be avoided in the production of each article and the other ways in which the consumer may be affected by that or other poisonous or deleterious substances. (§ 11 ch 129 SLA 1949)

Sec. 17.20.040. Misbranded foods. Food is misbranded if

(1) its labeling is false or misleading in any particular;

(2) it is offered for sale under the name of another food;

(3) it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated;

(4) its container is made, formed, or filled so as to be misleading;

(5) it is in package form unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; however, under (B) of this paragraph reasonable variations are permitted, and exemptions for small packages shall be established by regulations prescribed by the department;

(6) a word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed with the conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in terms which make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by AS 17.20.010, unless (A) it conforms to the definition and standard, and (B) its label bears the name of the food specified in the definition and standard and the common names of optional ingredients other than spices, flavoring, and coloring present in the food as required by regulation;

(8) it purports to be or is represented as (A) a food for which a standard of quality has been prescribed by regulations, and its quality falls below that standard, unless its label bears, in the manner and form the regulations specify, a statement that it falls below that standard; or (B) a food for which a standard of fill of container has been prescribed by regulation as provided by AS 17.20.010 and it falls below the applicable standard of fill of container, unless its label bears, in the manner and form as the regulations specify, a statement that it falls below that standard;

(9) it is not subject to the provisions of (7) of this section, unless it bears labeling clearly giving (A) the common or usual name of the food, if any, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that however spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; however, to the extent that compliance with the requirements of (B) of this paragraph is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the department, but the requirements of (B) of this paragraph do not

apply to food products which are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with regulations adopted by the department;

(10) it purports to be or is represented for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties the commissioner determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for those uses;

(11) it bears or contains artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; however, to the extent that compliance with the requirements of this paragraph is impracticable, exemption shall be established by regulations adopted by the department. (§ 11 ch 129 SLA 1949)

Collateral references. — Validity and construction of regulations dealing with misrepresentation in the sale of Kosher food, 52 ALR3d 959.

Sec. 17.20.045. Misbranding halibut. No person may label or offer for sale any food fish product designated as halibut, with or without additional descriptive words, unless the food fish product is Hippoglossus or Hippoglossus Stenolepsis. A person who violates this section is guilty of misbranding food under provisions of this chapter. (§ 1 ch 59 SLA 1968)

Sec. 17.20.050. Emergency permit control. When the department finds after investigation that the distribution in the state of a class of food may, by reason of contamination with microorganisms during the manufacture, processing, or packing, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered commerce, it, in that case only, shall adopt regulations providing for the issuance of permits to manufacturers, processors, or packers of that class of food, to which shall be attached the conditions governing the manufacture, processing, or packing of that class of food, for a temporary period of time as may be necessary to protect the public health. After the effective date of the regulations, and during the temporary period, no person may introduce or deliver for introduction into commerce the food so manufactured, processed or packed by any manufacturer, processor, or packer unless the manufacturer, processor, or packer of it holds a permit issued by the commissioner. (§ 12(a) ch 129 SLA 1949)

Sec. 17.20.060. Suspension and reinstatement of emergency permit. The commissioner may suspend immediately upon notice a permit issued under AS 17.20.050 if it is found that the conditions of the permit have been violated. The holder of a suspended permit may apply for the reinstatement of the permit, and the commissioner, immediately after prompt hearing and an inspection of the establishment, shall reinstate the permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit as originally issued or as amended. (§ 12(b) ch 129 SLA 1949)

Sec. 17.20.070. Inspection by department. An officer or employee designated by the commissioner shall have access to a factory or establishment, the operator of which holds a permit from the commissioner, for the purpose of ascertaining whether or not the conditions of the permit are being complied with. Denial of access for inspection is ground for suspension of the permit until access is freely given. (§ 12(c) ch 129 SLA 1949)

Sec. 17.20.072. Enforcement authority. The commissioner is responsible for enforcing AS 17.20.010 — 17.20.075, and may delegate that authority as appropriate. This section does not limit the authority of peace officers. (Executive Order No. 51, § 19 (1981))

Sec. 17.20.075. Definitions. In AS 17.20.010 — 17.20.075,

(1) "commissioner" means the commissioner of environmental conservation;

(2) "department" means the Department of Environmental Conservation. (Executive Order No. 51, § 19 (1981))

Article 2. Drugs and Devices.

Section
80. Adulterated drugs and devices
90. Misbranded drugs and devices
100. Exemptions in case of drugs and devices
105. Preparation of drug prescription by pharmacist
110. Sale of new drugs
120. Application for sale of new drugs
130. Exemptions
132. Enforcement authority
135. Definitions

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 18 et seq., 28 et seq., 59.

Aspirin poisoning, 25 Am. Jur. POF, pp. 725-761.

Negligence in use of diet and weight control drugs in treatment of obesity, 23 Am. Jur. POF2d, pp. 293-344; barbiturate poisoning, 29 Am. Jur. POF2d, pp. 199-222.

28 C.J.S., Drugs and Narcotics Supplement, § 100 et seq.

Hospital's liability for negligence in connection with preparation, storage, or dispensing of drug or medicine, 9 ALR3d 870.

Liability of manufacturer or seller for injury or death allegedly caused by use of contraceptive, 70 ALR3d 315.

Administering or prescribing drugs for weight control, 1 ALR4th 230.

Administering or prescribing birth control pills or devices, 9 ALR4th 372.

Validity of inspection conducted under provisions of Federal Food, Drug, and Cosmetic Act (21 USCS § 374(a)) authorizing FDA inspectors to enter and inspect food, drug or cosmetic factory, warehouse, or other establishment, 18 ALR Fed. 734.

Validity, construction, and application of provision of § 507(f) of Federal Food, Drug, and Cosmetic Act (21 USCS § 357(f)) requiring person objecting to

proposed repeal or amendment of regulation providing for certification of antibiotic drugs, to state "reasonable grounds" therefor, 22 ALR Fed. 883.

Sec. 17.20.080. Adulterated drugs and devices. (a) A drug or device is adulterated if

(1) it consists in whole or in part of a filthy, putrid, or decomposed substance;

(2) it has been produced, prepared, packed, or held under insanitary conditions in which it may have been contaminated with filth, or in which it may have been rendered injurious to health;

(3) it is a drug and its container is composed, in whole or in part, of poisonous or deleterious substance which may render the contents injurious to health; or

(4) it is a drug and it bears or contains, for purposes of coloring only, a coal tar other than one from a batch certified under the authority of the federal act.

(b) A drug is adulterated if it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below the standard set forth in the compendium. The determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the compendium, or in the absence or inadequacy of tests or methods of assay, those prescribed under authority of the federal act. A drug defined in an official compendium is not adulterated under this subsection because it differs from the standard of strength, quality, or purity set forth in the compendium, if its difference in strength, quality, or purity is plainly stated on its label. When a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it is subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it is subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

(c) A drug is adulterated if it is not subject to the provisions of (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) A drug is adulterated if a substance has been

(1) mixed or packed with it to reduce its quality or strength; or

(2) substituted wholly or in part for it. (§ 14 ch 129 SLA 1949)

Sec. 17.20.090. Misbranded drugs and devices. A drug or device is misbranded

(1) if its labeling is false or misleading in any particular;

(2) if it is in package form unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms

of weight, measure, or numerical count; however, under (B) of this paragraph reasonable variations shall be permitted and exemptions for small packages shall be established by regulations adopted by the department;

(3) if a word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed with conspicuousness as compared with other words, statements, designs, or devices, in the labeling and in terms which render it likely to be read and understood by the ordinary individual under customary conditions of the purchase and use;

(4) if it is for use by man and contains a quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or a chemical derivative of any of them, which has been by the commissioner after investigation found to be and by regulations under this chapter designated as habit forming; unless its label bears the name, and quantity or proportion of the substance or derivative and in juxtaposition with it the statement "Warning—May be habit forming";

(5) if it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (A) the common or usual name of the drug; and (B) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of alcohol, and including, whether active or not, the name and quantity or proportion of bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis glucosines, mercury, quabain, strophanthin, strychnine, thyroid, or derivative or preparation of any of these substances contained in them; however, to the extent that compliance with the requirements of (B) of this paragraph is impracticable, exemptions shall be established by regulations adopted by the department;

(6) unless its labeling bears (A) adequate directions for use; and (B) adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in the manner and form necessary for the protection of users; however, where a requirement of (A) of this paragraph as applied to a drug or device is not necessary for the protection of the public health, the department shall adopt regulations exempting the drug or device from these requirements;

(7) if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed in the compendium; however, the method of packing may be modified with the consent of the commissioner, and when a drug is recognized

in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it is subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States; and not to those of the United States Pharmacopoeia;

(8) if it has been found by the commissioner to be a drug liable to deterioration, unless it is packaged in the form and manner and its label bears a statement of the precautions the department by regulation requires as necessary for the protection of public health; and no regulation shall be established for a drug recognized in an official compendium until the commissioner has informed the appropriate body charged with the revision of the compendium of the need for packaging or labeling requirements and that body has failed within a reasonable time to prescribe the requirements;

(9) if it is a drug and its container is made, formed, or filled so as to be misleading or if it is an imitation of another drug; or if it is offered for sale under the name of another drug;

(10) if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in its labeling;

(11) if (A) it is a drug sold at retail and contains any quantity of aminopyrine, barbituric acid, cinchophen, pituitary, thyroid, or their derivatives, or (B) it is a drug or device sold at retail and its label as originally packed bears a statement that it is to be dispensed or sold only by or on the prescription of a physician, dentist or veterinarian, unless it is sold on a written prescription signed by a member of the medical, dental, or veterinary profession licensed by law to administer the drug or device, and its label as dispensed bears the name and place of business of the seller, the serial number and date of the prescription, and the name of the member of the medical, dental or veterinary profession, and the prescription shall not be refilled except on the written authorization of the prescribing physician, dentist or veterinarian. (§ 15 ch 129 SLA 1949)

Collateral references. — Failure to warn as basis of liability under doctrine of strict liability in tort. 51 ALR3d 239.

Liability of manufacturer or seller for injury or death allegedly caused by failure to warn regarding danger in use of vaccine or prescription drug. 91 ALR3d 748.

Sec. 17.20.100. Exemptions in case of drugs and devices. A drug sold on a written prescription signed by a member of the medical, dental, or veterinary profession, except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail, is exempt from the requirements of AS 17.20.030(2) and (b) if (1) the member of the medical, dental, or veterinary profession is licensed by

law to administer the drug, and (2) the drug bears a label containing the name and place of business of the seller, the serial number and date of the prescription, and the name of the member of the medical, dental, or veterinary profession. (§ 16 ch 129 SLA 1949)

Sec. 17.20.105. Preparation of drug prescription by pharmacist. (a) In preparing a drug prescription a pharmacist shall indicate on the drug container the name and strength of the drug contained in it, unless specifically directed otherwise by the prescribing physician, osteopathic physician, dentist or veterinarian. If a drug is a mixture of pharmacologically active substances, only the name of the mixture need be indicated on the container, or in the absence of a name, the term "physician's mixture" may be used.

(b) In preparing a prescription, a pharmacist may not substitute a drug for a registered brand or trade name product specified unless the pharmacist obtains permission from the author of the prescription; but if the prescribing physician, osteopathic physician, dentist or veterinarian is temporarily unavailable, the pharmacist may, if unable to supply the drug requested, substitute a drug or preparation of approximately equal therapeutic value so long as the pharmacist notifies the author of the prescription at an early opportunity. (§ 1 ch 17 SLA 1971)

Sec. 17.20.110. Sale of new drugs. A person may not sell, deliver, offer for sale, hold for sale or give away a new drug unless

(1) an application for it has become effective under the federal act, or

(2) when not subject to the federal act unless the drug has been tested and has not been found to be unsafe for use under the conditions prescribed, recommended, or suggested in the labeling of it, and before selling or offering it for sale there has been filed with the commissioner an application setting out

(A) full reports of investigations which have been made to show whether or not the drug is safe for use;

(B) a full list of the articles used as components of the drug;

(C) a full statement of the composition of the drug;

(D) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the drug;

(E) samples of the drug and articles used as components of it which the commissioner requires; and

(F) specimens of the labeling proposed to be used for the drug. (§ 17(a) ch 129 SLA 1949)

Collateral references. — Right of medical patient to obtain, or physician to prescribe, Laetrile for treatment of illness — state cases. 6 ALR4th 219

Sec. 17.20.120. Application for sale of new drugs. The application provided for in AS 17.20.110 is effective on the 60th day after the filing of it. If the commissioner finds, after notice to the applicant and providing an opportunity for a hearing, that the drug is not safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling, the commissioner shall, before the effective date of the application, issue an order refusing to permit the application to become effective. An order refusing an application to become effective may be revoked by the commissioner. (§ 17(b) (d) ch 129 SLA 1949)

Sec. 17.20.130. Exemptions. AS 17.20.110 does not apply to a drug (1) intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety in drugs provided the drug is plainly labeled "for investigational use only"; or (2) licensed under the V[illegible], Serum, and Toxin Act of July 1, 1902 (U.S.C. 1934 ed. title 42, chap. 4). (§ 17(c) ch 129 SLA 1949)

Editor's notes. — The Virus, Serum, and Toxin Act has been superseded by 42 U.S.C. 262.

Sec. 17.20.132. Enforcement authority. The commissioner is responsible for enforcing AS 17.20.080 — 17.20.135, and may delegate that authority as appropriate. This section does not limit the authority of peace officers. (Executive Order No. 51, § 19 (1981))

Sec. 17.20.135. Definitions. In AS 17.20.080 — 17.20.135,

(1) "commissioner" means the commissioner of health and social services;

(2) "department" means the Department of Health and Social Services. (Executive Order No. 51, § 19 (1981))

Article 3. Cosmetics.

Section	Section
140 Adulterated cosmetics	152 Enforcement authority
150 Misbranded cosmetics	155 Definition

Sec. 17.20.140. Adulterated cosmetics. A cosmetic is adulterated if

(1) it bears or contains a poisonous or deleterious substance which may render it injurious to a user under the conditions of use prescribed in the labeling or advertisement of it, or under conditions of use which are customary or usual; however, this provision does not apply to coal tar hair dye, the label of which bears the following legend conspicuously displayed: "Caution — this product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness." and the labeling of which bears adequate directions for preliminary testing, and for the purposes of this paragraph and (5) of this section the term "hair dye" does not include eyelash dyes or eyebrow dyes;

(2) it consists in whole or in part of a filthy, putrid, or decomposed substance;

(3) it has been produced, prepared, packed, or held under insanitary conditions by which it may have become contaminated with filth or made injurious to health;

(4) its container is composed, in whole or in part, of a poisonous or deleterious substance which may make the contents injurious to health;

(5) it is not a hair dye and it bears or contains a coal tar color other than one from a batch which has been certified under authority of the federal act. (§ 18 ch 129 SLA 1949)

Collateral references. — Liability of seller of cosmetics for injuries on theory of breach of warranty as affected by buyer's or user's allergy or unusual susceptibility to injury from article. 26 ALR2d 969.

Sec. 17.20.150. Misbranded cosmetics. A cosmetic is misbranded if

(1) its labeling is false or misleading in any particular;

(2) it is in package form unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; however, under (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations adopted by the department;

(3) a word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on it with conspicuousness as compared with other words, statements, designs, or devices, in the labeling, and in terms which make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(4) the container is made, formed, or filled so as to be misleading. (§ 19 ch 129 SLA 1949)

Sec. 17.20.152. Enforcement authority. The commissioner of environmental conservation is responsible for enforcing AS 17.20.140 — 17.20.155, and may delegate that authority as appropriate. This section does not limit the authority of peace officers. (Executive Order No. 51, § 19 (1981))

Sec. 17.20.155. Definition. In AS 17.20.140 — 17.20.155, "department" means the Department of Environmental Conservation. (Executive Order No. 51, § 19 (1981))

Article 4. False Advertising.

Section
160. False advertising generally
170. Specified false advertising
172. Enforcement authority
175. Definitions

Collateral references. — 3 Am. Jur. 2d, Advertising, §§ 2, 4 et seq., 37 Am. Jur. 2d, Fraud and Deceit, § 561.

What constitutes "false advertising" of food products or cosmetics within §§ 5 and 12 of the Federal Trade Commission Act (15 USCS §§ 45, 52), 50 ALR Fed. 16.

Sec. 17.20.160. False advertising generally. An advertisement of a food, drug, device, or cosmetic is false if it is false or misleading in any particular. (§ 20(a) ch 129 SLA 1949)

Sec. 17.20.170. Specified false advertising. The advertisement of a drug or device representing that it has an effect on albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, or venereal disease is false advertising. An advertisement not in violation of AS 17.20.160 is not false under this section if it is disseminated only to members of the medical, dental, or veterinary profession, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of the drug or device. However, when the commissioner determines that an advance in medical science has made a self medication safe as to any of the diseases named in this section, the department shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for the disease, subject to the conditions and restrictions the commissioner considers necessary in the interests of public health. This section shall not be construed as indicating that self medication for diseases other than those named in this section is safe or efficacious. (§ 20(b) ch 129 SLA 1949)

Sec. 17.20.172. Enforcement authority. The commissioner is responsible for enforcing AS 17.20.160 — 17.20.175, and may delegate that authority as appropriate. This section does not limit the authority of peace officers. (Executive Order No. 51, § 19 (1981))

Sec. 17.20.175. Definitions. In AS 17.20.160 — 17.20.175,

(1) "commissioner" means the commissioner of health and social services;

(2) "department" means the Department of Health and Social Services. (Executive Order No. 51, § 19 (1981))

Article 5. Enforcement.

Section
180. Regulations
190. Hearings
200. Inspections and examinations
210. Reimbursement for expenses
220. Publication of reports and information
230. Detention or embargo of goods
240. Petition for libel for condemnation
250. Destruction of adulterated or misbranded goods
260. Exemption from destruction
270. Immediate destruction of contaminated food
280. Injunction proceedings

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 7 et seq., 28 et seq., 35 Am. Jur. 2d, Food, § 63 et seq.

Seizure of food, 9 Am. Jur. Trials, pp. 59-130.

Sec. 17.20.180. Regulations. The Department of Environmental Conservation and the Department of Health and Social Services may adopt regulations for the efficient enforcement of their respective portions of this chapter. Each department may make the regulations conform, in so far as practicable, with those adopted under the federal act. (§ 21(a) ch 129 SLA 1949; am Executive Order No. 51, § 20 (1981))

Effect of amendments. — The 1981 amendment substituted "Department of Environmental Conservation and the Department of Health and Social Services" for "department," substituted "adopt" for "promulgate" preceding "regulations" and added "of their respective portions" following "efficient enforcement" in the first sentence. In the second sentence, the amendment substituted "each" for "the" preceding "department" and substituted "adopted" for "promulgated" following "with those."

Sec. 17.20.190. Hearings. Hearings authorized or required by this chapter shall be conducted under the provisions of the Administrative Procedure Act (AS 44.62). (§ 21(b) ch 129 SLA 1949)

Sec. 17.20.200. Inspections and examinations. (a) The commissioner of environmental conservation or an agent shall have free access at reasonable hours to a factory, warehouse, or establishment in which foods or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter a vehicle being used to transport or hold these foods or cosmetics in commerce, in order to

(1) inspect a factory, warehouse, establishment, or vehicle to determine if the provisions of the commissioner's respective portions of this chapter are being violated, and

(2) secure samples or specimens of a food or cosmetic after paying or offering to pay for the sample.

(b) The commissioner of environmental conservation shall make or have made examinations of samples secured under this section to determine whether or not a provision of the commissioner's respective portions of this chapter is being violated.

(c) The commissioner of health and social services has the same powers and duties with respect to drugs and devices as the commissioner of environmental conservation has with respect to food and cosmetics under (a) and (b) of this section. (§ 22 ch 129 SLA 1949; am § 1 ch 80 SLA 1957; am Executive Order No. 51, § 21 (1981))

Effect of amendments. — The 1981 amendment added "of environmental conservation" following "the commissioner" and deleted "drugs, devices" following "food" twice in the introductory language of subsection (a). Also in subsection (a), the amendment added "of his respective portions" following "if the provisions" in paragraph (1) and deleted "drug, device" following "food" in paragraph (2). In subsection (b), the amendment added "of environmental conservation" following "commissioner" and added "of his respective portions" following "not a provision." The amendment also added subsection (c).

Collateral references. — Validity of inspection conducted under provisions of Federal Food, Drug, and Cosmetic Act (21 USCS § 374(a)) authorizing FDA inspectors to enter and inspect food, drug or cosmetic factory, warehouse, or other establishment, 18 ALR Fed. 734.

Sec. 17.20.210. Reimbursement for expenses. The Department of Environmental Conservation and the Department of Health and Social Services may make expenditures from money appropriated for the administration of their respective portions of this chapter to reimburse authorized employees or agents for amounts expended without receipt, covering purchases or services obtained in securing evidence of a violation of their respective portions of this chapter, upon vouchers certified by the disbursing and certifying officers of the appropriate department. Disbursement shall not exceed $800 in any biennium. (§ 22 ch 129 SLA 1949; am § 1 ch 80 SLA 1957; am Executive Order No. 51, § 22 (1981))

Effect of amendments. — The 1981 amendment substituted "Department of Environmental Conservation and the Department of Health and Social Services" for "department" near the beginning of the first sentence, added "their respective portions of" preceding "this chapter" twice in the first sentence and added "appropriate" preceding "department" near the end of the first sentence.

Sec. 17.20.220. Publication of reports and information. (a) The commissioner of environmental conservation and the commissioner of health and social services may have published from time to time reports summarizing judgments, decrees, and court orders which have been rendered under their respective portions of this chapter, including the nature of the charge and the disposition of it.

(b) The commissioner of environmental conservation may have disseminated information regarding food and cosmetics which the commissioner considers necessary in the interest of public health and the protection of the consumer against fraud. This section does not prohibit the commissioner from collecting, reporting, and illustrating the results of the commissioner's investigations.

(c) The commissioner of health and social services has the same power with respect to drugs and devices as the commissioner of environmental conservation has with respect to food and cosmetics under (b) of this section. (§ 23 ch 129 SLA 1949; am Executive Order No. 51, § 23 (1981))

Effect of amendments. — The 1981 amendment added "of environmental conservation and the commissioner of health and social services" following "the commissioner" and added "their respective portions" following "rendered under" in subsection (a). The amendment also added "of environmental conservation" following "commissioner" and deleted "drugs, devices" following "regarding food" in subsection (b) and added subsection (c).

Sec. 17.20.230. Detention or embargo of goods. (a) Whenever the commissioner of environmental conservation finds or has probable cause to believe that a food or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of this chapter, the commissioner shall affix to it a tag or other appropriate marking, giving notice that it is or is suspected of being adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of it by sale or otherwise until permission for removal or disposal is given by the commissioner or the court. A person may not remove or dispose of a detained or embargoed article by sale or otherwise without this permission.

(b) The commissioner of health and social services has the same duty with respect to drugs and devices as the commissioner of environmental conservation has with respect to food and cosmetics under (a) of this section. (§ 6(a) ch 129 SLA 1949; am Executive Order No. 51, § 24 (1981))

Effect of amendments. — The 1981 amendment designated the existing section as subsection (a) and added subsection (b). In subsection (a), the amendment added "of environmental conservation" following "the commissioner" and deleted "drug, device" following "food" in the first sentence.

NOTES TO DECISIONS

Cited in State, Comm'r of Dep't of Health & Social Servs. v. Seward Marine Serv., Inc., Sup. Ct. Op. No. 2113 (File No. 2113), 612 P.2d 1010 (1980).

Sec. 17.20.240. Petition for libel for condemnation. When an article detained or embargoed under AS 17.20.230 has been found by the commissioner of environmental conservation or the commissioner

of health and social services, as the case may be, to be adulterated or misbranded, the appropriate commissioner shall petition the superior court for a libel for condemnation of the article. When that commissioner finds that a detained or embargoed article is not adulterated or misbranded, the commissioner shall remove the tag or other marking. (§ 6(b) ch 129 SLA 1949; am Executive Order No. 51, § 25 (1981))

Effect of amendments. — The 1981 amendment added "of environmental conservation or the commissioner of health and social services, as the case may be" preceding "to be adulterated" in the first sentence and substituted "that" for "the" preceding "commissioner" in the second sentence.

Sec. 17.20.250. Destruction of adulterated or misbranded goods. If the superior court finds that a detained or embargoed article is adulterated or misbranded, it shall, after entry of the decree, be destroyed at the expense of the claimant, under the supervision of the commissioner of environmental conservation or the commissioner of health and social services, as the case may be. Court costs and fees and storage and other proper expenses shall be taxed against the claimant of the article. (§ 6(c) ch 129 SLA 1949; am Executive Order No. 51, § 26 (1981))

Effect of amendments. — The 1981 amendment added "of environmental conservation or the commissioner of health and social services, as the case may be" at the end of the first sentence.

Sec. 17.20.260. Exemption from destruction. When the adulteration or misbranding can be corrected by proper labeling or processing of the article, and after entry of the decree and after costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the article will be properly labeled or processed has been executed, the court may order that the article be delivered to the claimant for labeling or processing under the supervision of the commissioner of environmental conservation or the commissioner of health and social services, as the case may be. The claimant shall pay the expense of supervision. The bond shall be returned to the claimant of the article on representation to the court by the appropriate commissioner that the article is no longer in violation of this chapter, and that the expenses of supervision have been paid. (§ 6(c) ch 129 SLA 1949; am Executive Order No. 51, § 27 (1981))

Effect of amendments. — The 1981 amendment added "of environmental conservation or the commissioner of health and social services, as the case may be" following "the commissioner" near the end of the first sentence and added "appropriate" preceding "commissioner" in the third sentence.

Sec. 17.20.270. Immediate destruction of contaminated food. Meat, seafood, poultry, vegetable, fruit, or other perishable article in

any room, building, vehicle of transportation or other structure which is unsound, or contains filthy, decomposed, or putrid substance, or a substance that may be poisonous or deleterious to health or otherwise unsafe, is a nuisance. Whenever the commissioner of environmental conservation finds such an article, the commissioner shall immediately condemn or destroy it or in any other manner render it unsalable as human food. (§ 6(d) ch 129 SLA 1949; am Executive Order No. 51, § 28 (1981))

Effect of amendments. — The 1981 amendment added "of environmental conservation" following "the commissioner" in the second sentence.

Sec. 17.20.280. Injunction proceedings. The commissioner of environmental conservation and the commissioner of health and social services may apply to the superior court for, and the court has jurisdiction to grant, a temporary or permanent injunction restraining a person from violating their respective portions of AS 17.20.290. (§ 4 ch 129 SLA 1949; am Executive Order No. 51, § 29 (1981))

Effect of amendments. — The 1981 amendment added "of environmental conservation and the commissioner of health and social services" following "commissioner" and added "their respective portions of" following "person from violating."

Article 6. Prohibited Acts and Penalties.

Section	Section
290. Prohibited acts	320. Effect of written guaranty
300. Determination of misleading labeling or advertisement	330. Liability for dissemination of false advertising
310. Penalties	

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, § 40 et seq; 35 Am. Jur. 2d, Food, §§ 63 et seq., 74 et seq.

Sec. 17.20.290. Prohibited acts. (a) The following acts and the causing thereof are prohibited:

(1) the manufacture, or sale, or delivery, holding, or offering of sale of food, drug, device, or cosmetic that is adulterated or misbranded;

(2) the adulteration or misbranding of food, drug, device or cosmetic;

(3) the receipt in commerce of food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery of them for pay or otherwise;

(4) the sale, delivery for sale, holding for sale, or offering for sale of an article in violation of AS 17.20.050 — 17.20.070 and 17.20.100,

(5) the dissemination of a false advertisement;

(6) the refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by AS 17.20.200;

(7) the giving of a guaranty or undertaking which is false, except by a person who relied on a guaranty or undertaking to the same effect signed by and containing the name and address of the person residing in the state from whom the person who relied on the guarantee or undertaking received the food, drug, device, or cosmetic in good faith;

(8) the removal or disposal of a detained or embargoed article in violation of AS 17.20.230 — 17.20.270;

(9) the alteration, mutilation, destruction, obliteration, or removal of the whole or part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if the act is done while the article is held for sale and results in the article being misbranded;

(10) forging, counterfeiting, simulating, or falsely representing, or without proper authority using a mark, stamp, tag, label or other identification device authorized or required by regulations adopted under AS 17.20.230 — 17.20.270;

(11) the using, on the labeling of a drug or in an advertisement relating to a drug, of a representation or suggestion that an application with respect to the drug is effective under AS 17.20.110 or that the drug complies with the provisions of that section;

(12) the sale or offering for sale of frozen fish as fresh fish;

(13) the improper labeling and drug substitution by pharmacists under AS 17.20.105.

(b) The commissioner of environmental conservation or a designee of the commissioner is responsible for enforcing the provisions of paragraphs (a)(1), (2), (3), (4), (6), (7), (8), (9), and (10) of this section, if the subject of the prohibited act involves food or cosmetics, and the provisions of paragraph (a)(12) of this section. This subsection does not limit the authority of peace officers.

(c) The commissioner of health and social services or a designee of the commissioner is responsible for enforcing the provisions of paragraphs (a)(1), (2), (3), (4), (6), (7), (8), (9), and (10) of this section, if the subject of the prohibited act involves drugs or devices, and the provisions of paragraphs (a)(5), (11), and (13) of this section. This subsection does not limit the authority of peace officers. (§ 3 ch 129 SLA 1949; am § 1 ch 119 SLA 1967; am § 2 ch 17 SLA 1971; am Executive Order No. 51, § 30 (1981))

Cross references. — For adulteration of food and its sale, see AS 17.05.020.

Effect of amendments. — The 1981 amendment added subsections (b) and (c).

Sec. 17.20.300. Determination of misleading labeling or advertisement. If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false

because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account among other things representations made or suggested by statement, word, design, device, sound or combination of them, and the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement or under customary or usual conditions of use. (§ 201 ch 129 SLA 1949)

Collateral references. — Products liability of manufacturer or seller for injury or death allegedly caused by failure to warn regarding danger in use of vaccine or prescription drug, 91 ALR3d 748.

Promotional efforts directed towards prescribing physician as affecting prescription drug manufacturer's liability for product-caused injury, 91 ALR3d 1080.

What constitutes "false advertising" of food products or cosmetics within §§ 5 and 12 of the Federal Trade Commission Act (15 USCS §§ 45, 52), 50 ALR Fed 16.

Sec. 17.20.310. Penalties. A person who violates the provisions of AS 17.20.290, upon conviction, is punishable by imprisonment for not more than six months, or by a fine of not more than $500, or by both. If the violation is committed after a conviction under this section has become final, the person is punishable by imprisonment for not more than one year, or by a fine of not more than $500, or by both. (§ 5(a) ch 129 SLA 1949)

Sec. 17.20.320. Effect of written guaranty. A person is not subject to the penalties of AS 17.20.310 for having violated AS 17.20.290(1) or (3) if that person establishes a guaranty or undertaking signed by and containing the name and address of the person residing in the state from whom the article was received in good faith, to the effect that it is not adulterated or misbranded within the meaning of this chapter. (§ 5(b) ch 129 SLA 1949)

Sec. 17.20.330. Liability for dissemination of false advertising. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, is liable under AS 17.20.310 for the dissemination of the false advertisement, unless the publisher, licensee, agency or medium has refused the request of the commissioner of health and social services to furnish the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state who caused dissemination of the advertisement. (§ 5(c) ch 129 SLA 1949; am Executive Order No. 51, § 31 (1981))

Effect of amendments. — The 1981 amendment deleted "on" preceding "the request of," added "of health and social services" following "the request of the commissioner" and deleted "the commissioner" preceding "the name and post office address."

Collateral references. — What constitutes "false advertising" of food products or cosmetics within 21 § 5 and 12 of the Federal Trade Commission Act (15 USCS §§ 45, 52), 50 ALR Fed. 16.

Article 7. General Provisions.

Section	Section
340. Scope of provisions dealing with sale	370. Definitions
350. Report of minor violations	380. Short title
360. Hearing before report of criminal violation	

Sec. 17.20.340. Scope of provisions dealing with sale. The provisions of this chapter regarding the sale of food, drugs, devices, or cosmetics include the manufacture, production, processing, packing, exposure, offer, possession, and holding of them for sale; the sale, dispensing, and giving of them, and the supplying or applying of them in the conduct of a food, drug, or cosmetic establishment. (§ 2(q) ch 129 SLA 1949)

Sec. 17.20.350. Report of minor violations. Nothing in this chapter requires either the commissioner of environmental conservation or the commissioner of health and social services, as the case may be, to report minor violations of their respective portions of this chapter for prosecution, or for the institution of libel or injunction proceedings, when that commissioner believes that the public interest will be adequately served by a suitable written notice or warning. (§ 8 ch 129 SLA 1949; am Executive Order No. 51, § 32 (1981))

Effect of amendments. — The 1981 amendment added "either" following "chapter requires," added "of environmental conservation or the commissioner of health and social services, as the case may be" following "the commissioner," added "of their respective portions" following "report minor violations" and substituted "that" for "the" preceding "commissioner believes that."

Sec. 17.20.360. Hearing before report of criminal violation. The attorney general, to whom the commissioner of environmental conservation or the commissioner of health and social services, as the case may be, reports a violation of this chapter, shall institute appropriate proceedings in the superior court without delay and prosecute them in the manner required by law. Before a violation of this chapter is reported to the attorney general, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to respond to the appropriate commissioner, orally or in writing, in person or by attorney, with regard to the contemplated proceeding. (§ 7 ch 129 SLA 1949; am Executive Order No. 51, § 3 (1981))

Effect of amendments. — The 1981 amendment added "of environmental conservation or the commissioner of health and social services, as the case may be" following "commissioner" in the first sentence and added "appropriate" preceding "commissioner" in the second sentence.

Sec. 17.20.370. Definitions. In this chapter

(1) "advertisement" means a representation disseminated, other than by labeling, for the purpose of inducing, or which is likely to induce directly or indirectly the purchase of food, drugs, devices or cosmetics;

(2) "antiseptic", in the labeling or advertisement of a drug, is a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(3) "contaminated with filth" means food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as necessary by all reasonable means, from foreign or injurious contamination;

(4) "cosmetic" means an article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance, and an article intended for use as a component of an article enumerated in this paragraph; except that the term does not include soap intended for cleansing purposes only;

(5) "device" except when used in AS 17.20.040(6), 17.20.090(3), 17.20.150(3), 17.20.290(10) and 17.20.300 means an instrument, apparatus, and contrivance, including its components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animal, or to affect the structure or function of the body of man or animal;

(6) "drug" means an article recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary; an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animal; an article other than food, intended to affect the structure or function of the body of man or animal; and an article intended for use as component of an article specified in this paragraph but does not include devices or their components, parts, or accessories;

(7) "federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 — 392; 52 Stat. 1040 — 1059;

(8) "food" means an article used for food or drink for man or animal, chewing gum, and articles used for components of either of them;

(9) "immediate container" does not include a package liner;

(10) "label" means a display of written, printed or graphic matter upon the immediate container of an article; however, a requirement made by or under authority of this chapter that a word, statement, or other information appear on the label is not complied with unless the

word, statement, or other information also appears on the outside container or wrapper of the retail package, if there is one, or is easily legible through the outside container or wrapper;

(11) "labeling" means the label and other written, printed or graphic matter upon an article or its container or wrapper accompanying the article;

(12) "new drug" means a drug the composition of which is such that it is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling of it; or a drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in these investigations, been used to a material extent or for a material time under those conditions;

(13) "official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or supplements to them. (§ 2(a) — (k) (m) — (p) (r) ch 129 SLA 1949; am § 6 ch 104 SLA 1971; am § 14 ch 208 SLA 1975; am Executive Order No. 51, § 41 (1981))

Revisor's notes. — This section was reorganized in 1983 to alphabetize the words defined.

Effect of amendments. — The 1981 amendment repealed former definitions of "commissioner" and "department."

Collateral references. — Marijuana, psilocybin, peyote or similar drugs of vegetable origin as narcotics for purposes of drug prosecution, 50 A.L.R.3d 1164.

Sec. 17.20.380. Short title. This chapter may be cited as the Alaska Food, Drug and Cosmetic Act. (§ 1 ch 129 SLA 1949)

Chapter 30. Controlled Substances.

Article
1. Regulation of Manufacture, Distribution, Prescription, and Dispensing of Controlled Substances (§§ 17.30.010 — 17.30.080)
2. Enforcement, Forfeiture and Review Provisions (§§ 17.30.100 — 17.30.130)
3. Education and Research (§ 17.30.140)
4. General Provisions (§§ 17.30.150 — 17.30.900)

Cross references. — For transitional provisions, see sec. 24, ch. 45, SLA 1982 in the Temporary and Special Acts; for declaration of legislative purpose, see sec. 1, ch. 45, SLA 1982 in the Temporary and Special Acts.

Collateral references. — 28 C.J.S., Drugs and Narcotics Supplement, § 1 et seq.

Construction or provision of Uniform Narcotic Drug Act or similar statute dealing with obtaining or procuring the administration of a narcotic drug by fraud or deceit, 25 A.L.R.3d 1118.

Article 1. Regulation of Manufacture, Distribution, Prescription, and Dispensing of Controlled Substances.

Section
10. Regulations
20. Registration requirements
30. Registration
40. Denial, revocation, and suspension of registration
50. Order to show cause
60. Records of registrants
70. Order forms; prescriptions
80. Unlawful administration, prescription and dispensation of controlled substances

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 7 et seq., 28 et seq.

Sec. 17.30.010. Regulations. (a) The Board of Pharmacy shall adopt regulations under the Administrative Procedure Act (AS 44.62) which are necessary for the administration of this chapter, and may charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances as authorized by federal law in the state.

(b) Regulations adopted under this chapter by the board shall be patterned after federal law so that the legitimate manufacture, distribution, and dispensing of controlled substances is subject to regulations regarding registration, record-keeping, order forms and prescription requirements that are identical to those required by federal law or regulations. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for furnishing false or fraudulent information in or omitting material information from any application, report, record, or other document required to be kept or filed under this chapter, see AS 11.71.040(a)(8). For penalty for failure to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter, see AS 11.71.030(a)(4).

Editor's notes. — Section 24, ch. 45, SLA 1982 provides: "Orders issued and regulations adopted under a law amended or repealed by this Act and in effect on January 1, 1983, and not in conflict with this Act continue until amended or repealed."

Sec. 17.30.020. Registration requirements. (a) A person who manufactures, distributes, dispenses, or conducts research with a controlled substance in the state or who proposes to manufacture, distribute, or dispense a controlled substance in the state, shall register annually with the board in accordance with regulations adopted under AS 17.30.010.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
January 28, 1984
10:15 a.m.

Members Present: Rep. Tischer, Chairman
Rep. M.W. Miller, Vice-Chair
Rep. Martin
Rep. Uehling
Rep. Goll
Rep. Koponen
Rep. Davis

Members Absent: None.

COMMITTEE CALENDAR

HB 496 "An Act relating to food banks".

HB 32 "An Act making a special appropriation to the University of Alaska for construction of dormitories at the Anchorage Campus; and providing for an effective date."

HB 514 "An Act relating to the regulation of private schools".

CSSB 354 (Jud) am "An Act relating to the regulation of private schools".

WITNESS REGISTER

Carl Larson
General Manager
Food Bank of Alaska
Juneau, Alaska 99801
Position Statement: In support of HB 496.

Gary Newman
Fairbanks, Alaska
Position Statement: Suggested changes in HB 496.

Barbara Smith
FISH Organization
Anchorage, Alaska
Position Statement: In favor of HB 496.

Connie Wallace
Executive Director
Fairbanks Food Bank
Fairbanks, Alaska
Position Statement: Noted concerns with some of the language in

HB 496.

Barbara Burke
Abused and Aide Shelter
Anchorage, Alaska
Position Statement: In support of HB 496.

Bill Barker
Bean's Cafe
Anchorage, Alaska
Position Statement: Didn't state position on HB 496.

Michael McQuinn
Student
University of Alaska, Anchorage
Position Statement: In favor of HB 32.

David Alcott
Chancellor
University of Alaska, Anchorage
Position Statement: In favor of HB 32.

Ed Bickerstaff
Chancellor
University of Alaska, Anchorage
Position Statement: In support of HB 32.

Roger Wordsley
Student Services
Anchorage Community College
Position Statement: In support of HB 32.

Sandy Berkie
Student
ACC/UAA
Position Statement: Urged passage of HB 32.

Bob Baldwin
Chairman
UAA Citizen's Advisory Committee
Position Statement: In support of HB 32.

Carol Lund
Director of Student Activities
Position Statement: Urged passage of HB 32.

Harry Nichols
Dean of Students
UAA
Position Statement: Supports HB 32.

Lee Pickard
Campus Affairs
UAA

Position Statement: In support of HB 32.

John Herring
Student
UAA
Position Statement: Urged passage of HB 32.

Ramona Suetopka-Duerre
President
Alaska Native Education Association
Position Statement: Strongly supports HB 32.

John O'Shea
UAA Alumni Association
Position Statement: Representing Alumni Association, he urged passage of HB 32.

Mary M. Wilson
Montessori Creative Training Center
1422 O Street
Anchorage, Alaska 99501
276-2971
Position Statement: Supports HB 514.

Fae Scott
Secretary to Ms. Green
Tom Thumb Montessori School
1831 Bunker
Anchorage, Alaska 99503
Position Statement: Supports HB 514 without amendments.

Safiyyah Shaheed
Montessori School
1224 Richardson Vista
#350
Anchorage, Alaska
279-1247
Position Statement: Supports HB 514 without amendments.

Katherine Miller
Tom Thumb Montessori
5915 Doncaster Dr.
Anchorage, Alaska
337-5006
Position Statement: In favor of HB 514.

Margaret Green
Director
Tom Thumb Montessori
1901 Spenard Drive
Anchorage, Alaska 99503
Position Statement: Supports HB 514.

Harry Bates

SR 2, Box 4110
Chugiak, Alaska
688-2242
Position Statement: In favor of CSHB 514.

Mac Culver
Hillcrest Christian School
SR 3 Box 5946
Chugiak, Alaska
688-3813
Position Statement: In favor of CSHB 514.

Burt Carney
P.O. Box 10-1779
Anchorage, Alaska
Position Statement: Supports SB 354, concerned with CS.

Daniel Glover
Church Christian Harvester
9109 Brayton Drive
344-2244
Position Statement: Supports SB 354.

Kalen Saxton
Position Statement: Supports HB 354.

Mary Beth Juday
Position Statement: In favor of CSSB 354.

Tim Ewell
Position Statement: In support of SB 352.

Joan Hurst
Position Statement: Opposed HB 354 and SB 352.

Sister Eileen Brown
Fairbanks, Alaska
Position Statement: Questioned language in HB 354.

Patty Meritt
Position Statement: Opposes both HB 354 and SB 352.

Doug Schmedlen
Position Statement: Favored HB 514.

Lloyd Bellamy
Position Statement: In support of CSSB 354.

Edwin Rinner
Position Statement: In support of CSSB 354.

Jerry Wainscott
Position Statement: Urged passage of CSSB 354.

Robert Alley
Position Statement: Supports CSSB 354.

Robert Byron
Position Statement: In support of CSSB 354.

Walt Arden
Abott Loop Christian Center
Position Statement: Supports CSSB 354.

PREVIOUS ACTION

HB 496	1/9/84 - First Reading.
	Committee Referrals - HESS, Judiciary and Rules.
	No previous action in HESS Committee.
HB 32	1/17/83 - First Reading.
	Committee Referrals - HESS, Finance and Rules.
	See HESS minutes of January 27, 1984.
HB 514	1/13/84 - First Reading.
	Committee Referrals - HESS and Rules Committees.
	See HESS minutes of January 23, 1984.
CSSB 354 (Jud) am	1/13/84 - First Reading on Senate Floor.
	Committee Referrals - HESS, Judiciary and Rules Committees.
	1/19/83 - See Senate Journal page 1798 for Judiciary Committee Report.
	1/24/83 - See Senate Journal page 1835 for HESS Committee Report.
	1/14/83 - See Senate Journal pages 1835, 1838 -1841 for Senate floor action.
	1/24/84 - First Reading on House floor.
	Committee referrals - HESS and Rules Committees.
	No previous action in HESS Committee.

ACTION NARRATIVE

TAPE#1, Side A

Recording Number 0001 — Chairman Tischer called the meeting to order at 10:15 a.m., acknowledged members present and introduced HB 496 to the committee.

Number 0017 — Rep. Koponen, sponsor of HB 496 comes to the stand to testify. He said the bill intended to exempt food banks and doners from liability. Alaska is one of three states without this legislation. Significant difference between this bill and similar legislation was vetoed by the 11th Legislature under Governor Hammond. This bill excludes commercial foods. This bill maintains standards for the food.

Number 0070 — Rep. Koponen: We will be looking at changes in this bill which will provide restrictions.

Number 0080 — Chairman Tischer: We ought to look at provisions which allow the giving away of food. Referred to example.

Number 0104 — Chairman Tischer: I've seen folks dig in garbage behind retail grocers and pull out perfectly good food. Seems more humane to let them be given food out of back of a truck.

Number 0114 — Rep. Koponen: I agree, it's a tremendous waste. We want to come up with a bill which will take care of this waste, but provide some standards for this food.

Number 0130 — Rep. Koponen: Food banks are co-op ventures of Salvation Army and other groups. We want looser language which will permit easier distribution of food.

Number 0143 — Chairman Tischer: Cited another example: Got from store food they were going to throw away. Can we provide this legality again?

Number 0166 — Rep. Koponen: Stores discourage that because of liability. Different stores have different policies.

Number 0198 — Carl Larson of Juneau, General Manager of Food Bank Alaska: Thanks for the chance to testify. Many organizations rely on food

banks and food donations for their food. This bill would help incentive to donate. People and commercial organization don't donate for fear of liability.

Number 0250 — Ward of Food Bank said he gives to organizations such as Bean's Cafe and it is tax deductible. These provisions deal with food from surplus.

Number 0273 — Rep. Larson: Trying to determine value of giving away hard to access.

Number 0284 — Rep. Ward: If I were a fisherman with extra fish; could I give them to food bank and deduct from taxes their full value?

Number 0318 — Chairman Tischer: How does your organization function? Are you paid?

Number 0327 — Carl Larson: Food bank started in 1979. We get "Request for Proposal" grants from the municipality, plus others. I get $1400 a month and our driver gets $7.50 an hour.

Number 0412 — Rep. Ward: How many people served last year?

Number 0420 — Mr. Larson: We estimated 6500.

Number 0420 — Rep. Ward: We aren't coordinating what we're trying to do.

Number 0463 — Mr. Larson: There are 10 different Salvation Army Programs, 8 different children's organization and others. We always try to recruit.

Number 0468 — Chairman Tischer: What criteria to get food from you?

Tape 1, Side B
Recording
Number 0006 — Gary Newman from Fairbanks: This bill will allow food to be given to animals too, rather than wasted. Suggested change; we need to be more specific in certain people's exclusion.

Number 0045 — Barbara Smith, Anchorage from FISH Organization: We're emergency food distribution agency staffed by volunteers. We receive food from food bank. We also distribute. We re-package some foods, so

we're concerned about our liability.

Number 0092 — Barbara Smith: We have been serving about 110 families per month. There is no means test, $6,480 of meals per month. This month we have seen a great increase in number of needy families.

Number 0124 — Rep. Ward: Do you have a problem with people getting tax credit for donating?

Number 0140 — Barbara Smith: We encourage our doners to take a tax credit. There are two types: Food of marginal quality and food simply out of date.

Number 0185 — Chairman Tischer: It's incomprehensible for hungry person who receives free food to criticize that food. Maybe we ought to void responsibility of giver. Food receivers eat at their own risk.

Number 0206 — Barbara Smith: I think this bill addresses that. The bill makes it clear that the food bank makes every effort to provide sanitation for its food.

Number 0242 — Rep. Koponen: This bill was vetoed when we had our canned fish problem in Alaska. Canned food probably should not be included in this bill.

Number 0254 — Barbara Smith: We do not accept home canned food. We cannot trust it. We are careful.

Number 0290 — Connie Wallace, Executive Director of Fairbanks Food Bank: We work with several agencies and every church in town. People who need short-term help concern me. That's why we work with pastors.

Number 0343 — 1976 Tax Reform Act addresses Rep. Ward's tax deduction question.

Number 0363 — Connie Wallace; about animal food. In Fairbanks we can use food for animals so that nothing goes to waste.

Number 0424 — Connie Wallace: botulism problem, we make use of city sanitarian. We have people who know lots about food handling. Urge change in excluding manufactures. This will need to be changed in next couple of years.

Tape 2, Side A

Recording Number 0001	Rep. Ward: Enough salmon rot on beaches in Alaska to feed everyone in the state. Please comment.
Number 0015	Connie Wallace: I share your concern. Nationally, 137 million tons of food are wasted yearly. There's no reason for anyone in America to be hungry.
Number 0041	Chairman Tischer: In California, tons of oranges rot each year when there's a bumper crop to help the price up. Anything subsidized by government will do this.
Number 0055	Beverly Burke from Anchorage: Representing the Abuse, and Aid Shelter; $1000 a month in for those people, 25% food from food bank. This bill is a good balance.
Number 0090	Bill Barker from Anchorage for Bean's Cafe: Bean's Cafe cooks for 200 people twice daily for street people of Anchorage. The main donator is the food bank.
Number 0120	Rep. Ward: There's no criteria for price on raw salmon. That's why so much waste. Can't get a tax deduction for giving fish away because of the lack of criteria.
Number 0141	Bill Barker: Bean's Cafe gets salmon from sport fishermen who empty last year's catch from freezer.
Number 0154	Rep. Davis: I'm a commercial fisherman. So much goes to waste because it rots so fast. Agree it is a waste, but how to solve is an answered question.
Number 0171	Chairman Tischer: It seems a simple matter to save this food for hungry people and save liability suits from flying everywhere, we should pass a bill like this.
Number 0204	Testimony on HB 406 concluded.
Number 0239	Chairman Tischer introduces HB 32 and welcomes all sites.
Number 0261	Rep. Furnace: We have obligation to provide student housing for Anchorage City College and University of Alaska, Anchorage. Long-standing agreement with campuses. This bill

calls for $15 million on first come first serve basis.

Number 0293 — Rep. Furnace: Let me repeat. We have an obligation and a long-standing agreement.

Number 0301 — Rep. Ward: This bill is contrary to capital request budget which provides for Juneau campus housing. The design of dorms are very large.

Number 0316 — Rep. Furnace: I hope message is clear to pass this legislation, lets not let this die because of quality of design.

Number 0348 — Rep. Martin: Juneau housing is a gimmick to attract students to that campus. The Anchorage campus needs housing, it has for 11 years. We should be flexible on design. Priority is a question. I hope students will have input about what is priority for who gets housing; rural students, etc. Maybe not first come, first serve, but these details unimportant compared to getting legislation passed.

Number 0429 — Michael McQuinn on behalf of UAA/ACC students: I work primarily with rural students as Orientation Officer at Anchorage Community College. Housing is a primary reason there's a high drop-out rate of Native students.

Tape 2, Side B
Recording
Number 0001 — Michael McQuinn: Help make cultural transition if the Natives could live on campus.

Number 0020 — Rep. Koponen: Have you decided how to split use of housing between ACC/UAA?

Number 0025 — Mr. McQuinn: Seems to be good communication between both Chancellors.

Number 0048 — Rep. Martin: Cost to students in borrowing for loan. Students with available housing to borrow for less than those without housing. We could save $6 million a year by providing housing. Within three years, savings will pay for this new housing.

Number 0078 — Rep. Ward asks Rep. Martin: What will the

on going operation cost of this be if approved?

Number 0082 — Rep. Martin: I could not answer. Addition in operation would be small.

Number 0099 — Mr. McQuinn: Concerned with equal opportunity education for handicapped, from to physically handicapped. My greatest concern.

Number 0110 — David Alcott, Chancellor at University of Alaska, Anchorage: Very pleased with testimony. Concerned with accessibility to education. The money; $15 million to provide housing for 350 students. Type of housing; concerned to provide maximum for minimum dollars. Least operating costs too.

Number 0153 — David Alcott. Hope for $250 a month for student housing.

Number 0168 — Rep. Ward: How many students would utilize dorms if available?

Number 0173 — Mr. Alcott: Housing needs will be between 900 and 1400 students. We will make these figures available. No risk that we'll build too many rooms.

Number 0194 — Ed Bickerstaff, Chancellor at Anchorage Community College; joint partnership is growing between two campuses. Same set of standards for both schools in priority who gets housing.

Number 0270 — Chairman Tischer: Legislature sees duplication of effort from architects in school design. Why not use the functional design already designed?

Number 0293 — Mr. Bickerstaff: Students requests; privacy and cheap cost. Universities are moving increasingly away from traditional housing. Operating costs will fall almost one-half if we go from traditional dorm to the apartment style housing.

Number 0349 — Chairman Tischer: Do we have to have the ancillary help? Can't the students take the place of janitors, etc? Can we take away the frills?

Number 0388 — Rep. Ward: What about the provision for 1%

cost going to art-work? Will this hinder?

Number 0400 — Mr. Bickerstaff: I think some of the art around is an asset. I'm pleased. The art is complimentary to the brick and concrete buildings. If I had choice, I'd rather put that 1% to student housing.

Number 0428 — Rep. Martin: Anchorage has stereotype of students who are older, married and have housing. More freshmen coming, but leaving because of the lack of housing. We want these freshmen.

Tape 3, Side A
Recording
Number 0001 — Chairman Tischer asks the witnesses to keep their testimony short. Offers to accept testimony in writing.

Number 0009 — Roger Wordsley, Vice-Chair of Student Services at ACC: Our housing is not designed for older married students. Rural students coming to ACC is our highest priority.

Number 0024 — Mr. Wordsley: Dorms versus apartment type, we don't plan to furnish extras. We will provide some sort of food service.

Number 0045 — Sandy Berkie, Student at ACC/UAA; urged passage of HB 32. To hold on to our students, we must build housing, education is our best natural resource.

Number 0066 — Rep. Ward: Student Loan Program; should that loan be made if those courses are offered here?

Number 0073 — Sandy Berkie; it should be restricted. Keep resources in this state.

Number 0079 — Chairman Tischer repeats Rep. Ward's question.

Number 0083 — Rep. Ward: I agree with trying to help our students here.

Number 0090 — Bob Baldwin, Chairman of UAA Citizen's Advisory Committee: The priorities are; classroom space and planning money to lay out campus.

Number 0110 — Mr. Baldwin: Student housing; a roadblock in developing the campuses. Regret the Governor's empty promise to support this in his capital budget. The designs are not extravagant, art in public places we strongly support. We have barren campuses.

Number 0161 — Rep. Ward: Public art, optional or mandatory?

Number 0183 — Mr. Baldwin: Committee has no position on that.

Number 0188 — Carol Lund, Director of Student Activities: Students and I support HB 32, cited popularity of bill from last year.

Number 0110 — Harry Nichols, Dean of Students, UAA: Count me as another member of University community who supports this legislation. If the campus will be seen as University, housing must be provided.

Number 0235 — Lee Pickard, Vice-Chairman of Campus Affairs, UAA: I support this bill, I'd like to answer any questions.

Number 0254 — Chairman Tischer: If bill goes, would you need more support staff?

Number 0269 — Lee Pickard: No extra staff required, you can't realistically expect students to do their own cleaning.

Number 0301 — John Herring, Student at UAA; strongly supports HB 32.

Number 0334 — Rep. Ward: Do you know any students who transferred out because of lack of dorms?

Number 0337 — John Herring: I almost transferred because of that.

Number 0370 — Ramona Suetopka-Duerre, President of Alaska Native Education Association: We're very concerned with the problem of the dorms. We strongly support HB 32.

Number 0400 — John O'Shea, Representing UAA Alumni Association: I affirm all prior testimony, rural students are being discriminated against because of lacking housing.

Tape 3, Side B

Recording	
Number 0001	Chairman Tischer: Introduc s HB 514 and clarifies the committee is not addressing day care centers and witnesses should confine testimony to specific legislation by name.
Number 0047	Mary Wilson, Teacher, Montessori School: Limit for preschool to (4) hours (in SB 354) has our parents mad. Support HB 514.
Number 0066	Fae Scott, Secretary, Montessori School: She was against the (4) hour limitation. Our schools are very good, a good atmosphere for the citizens of tomorrow.
Number 0093	Fae Scott: We want HB 514 without amendments.
Number 0105	Safiyyah Shaheed, Teacher, Montessori: Supports HB 514 without amendments.
Number 0115	Katherine Miller: In support of HB 514 as is. The (4) hour limit not germane, it's a poor criteria. Recommended deleting amendment on Page 2, Lines 22-25.
Number 0157	Margaret Green, Director, Montessori School: Our paperwork is the same as that for the University. Very controlled. I represent parents of 650 children, the (4) hour limit is unfounded. Susan Clark's past testimony did not represent the University Women. The (4) hour limit do disservice to our school.
Number 0212	Ms. Green: We do have fire safety and other health codes. Please burry this legislation it has taken much time already.
Number 0221	Rep. Koponen: (4) hour limitation never offered by either house.
Number 0230	Rep. Uehling: Please comment later on your feelings toward SB 354.
Number 0281	Harry Bates, Principle: In favor of CSHB 514 and am against amendments 1 and 2 of CSSB 354.
Number 0332	Mac Culver: Thanked committee for interest and agreed with Mr. Bates' testimony. Substantive changes might negate agreement with Governor and Attorney General.

Number 0378 — Burt Carney, Pastor: Handed out a document which he read as testimony to the committee. He supported SB 354 and was concerned with amendment 1 of CSSB 354.

Tape 3, Side B
Recording
Number 0011 — Rep. Koponen: We should discuss with the Attorney General to see what the changes will be.

Number 0017 — Rep. Uehling: Last three amendments are fine with you? (Yes).

Number 0041 — Daniel Glover: Agreed with Mr. Carney's testimony. Parents who go to the trouble of placing their children in these private schools do care about their children, and are capable of choosing wisely for their children.

Number 0084 — Kalen Saxtor: In support of SB 354 with exception of amendments.

Number 0135 — Mary Beth Juday: Concerned that children in day-care facilities have their needs met. children don't belong in academic programs all day long. They won't learn to be children, such as play and socialize, when they are in school all day. In favor of CSSB 354.

Number 0159 — Chairman Tischer: Do you want always to reserve the right to choose for your own children? (Yes).

Number 0187 — Ms. Juday: Its the government's responsibility to ensure safety and other standards for our children.

Number 0220 — Tim Ewell: Restated Mr. Carney's testimony.

Number 0260 — Joan Hurst: As a private citizen; she opposed both HB 514 and SB 354. The state is obliged to watch out for school's health and safety, including child/staff ratio. She said she objects to certain school exemptions.

Number 0349 — Sister Eileen Brown: Agreed with most of Ms. Juday's testimony, and asked for some clarification with the language on Page 2, Line 8.

Number 0376 — Rep. Koponen clarifies the language.

Number 0422 — Sister Eileen Brown: We are in favor of the government's health and safety requirements and thanks the committee.

Number 0453 — Patty Meritt: Both bills will increase inconsistency in regulations. She was against both bills.

Tape 4, Side A
Recording
Number 0016 — Patty Meritt: Teacher with certain training should be able to teach with bigger ratios of students.

Number 0028 — Rep. Koponen: Any suggestions for regulations?

Number 0032 — Ms. Meritt: Look at other states, many schools have bigger ratio allowances. Age makes a difference to ratio; so does teacher qualification.

Number 0052 — Doug Schmedlen: Agreed with Mr. Carney's testimony. emphasized that amendments 1 and 2 need attention, the original bill HB 514 was a good bill. Referred to concerns about subsidies.

Number 0074 — Lloyd Bellamy: Agreed with Mr. Carney's testimony.

Number 0080 — Edwin Rinner: As parent of four children, he believed this bill is appropriate. Appreciated the Governor's interest and that of the legislators, and also agreed with Mr. Carney's suggestions for changing the amendments.

Number 0100 — Jerry Wainscott: Concurred with Mr. Carney's testimony. Thanked the committee for their work and urged passage of the bills.

Number 0115 — Robert Alley: Concurred with Mr. Carney's statement and thanked the committee members.

Number 0145 — Robert Bryon, Wasilla Children's Center: He supported Mr. Carney's testimony and sending 18 students from Wasilla to Peter's Creek. Next year we hope to help them in our own school in Wasilla, there will be about 40 children.

Number 0166	Walt Arden: Endorses Mr. Carney's testimony.
Number 0183	Chairman Tischer thanked the witnesses for coming to the hearing and the committee will soon put the bill on the floor.
Number 0190	No further business to come before the committee, Chairman Tischer adjourned the meeting at 3:04 p.m.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
February 8, 1984
1:20 p.m.

Members Present: Rep. Tischer, Chairman
Rep. Pestinger, Vice-Chair (late)
Rep. Martin
Rep. Davis
Rep. Koponen
Rep. Uehling (late)

Members Absent: Rep. Goll

COMMITTEE CALENDAR

HB 496 "An Act relating to food banks."

WITNESS REGISTER

Joe Cladouhos
Director
Division of Environmental Quality Management
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811
465-2640
Position Statement: Department supports the bill.

Elizabeth Shaw
Assistant Attorney General
Department of Law
Pouch K
465-3603
Position Statement: Supports the HESS CS for HB 496.

PREVIOUS ACTION

HB 496 1/9/84 - First Reading.

Committee Referrals - HESS, Judiciary and Rules Committees.

See HESS minutes of January 28, 1984.

ACTION NARRATIVE

TAPE#1, Side A
Recording
Number 0001 Chairman Tischer called the meeting to order

at 1:20 p.m., and recognized the members present. She announced the committee calendar, welcomed all teleconference sites and stated her intent to move the bill out of committee.

Number 0022 — Rep. Martin moved that CSHB 496 (HESS) be brought up for consideration. No objection, so ordered.

Number 0026 — Chairman Tischer called the first witness to testify, Rep. Koponen who is the sponsor of the bill.

Number 0037 — Rep. Koponen stated that the liability is limited to constructive knowledge of any type of fraud. The committee substitute defines liability as gross negligence rather than legal negligence. The law is written in one section of the bill so people don't have to pick around. The donor section defines donor as farmer, retailer, wholesale, freight company, etc. It excludes manufactures of canned foods, said Rep. Koponen.

Number 0078 — Chairman Tischer asks if Matanuska Maid made sour cream and something happened so the package didn't look good, could they give that to a food bank?

Number 0102 — Rep. Koponen responds yes, that is better than the indigents picking through the garbage bins.

Number 0110 — Joe Cladouhos from the Department of Environmental Conservation stated that the Department supports HB 496 and they had no problems with the present language.

Number 0122 — Representatives Pestinger and Uehling are now present for the committee meeting.

Number 0129 — Elizabeth Shaw from the Department of Law is the next witness to testify. She defines liability of donors; one of the problems for the original bill was that it didn't change the standards that applied to food donors. We wanted the new bill to define standards of negligence, said Ms. Shaw.

Elizabeth Shaw said theory or negligence presupposes a standard of behavior and that's the reasonable and prudent person

standard. The juries use that standard to determine negligence, they want people to act reasonably and prudently at all times - doing what a reasonable and prudent person would do. This encourages donors to give to food banks and this donor would not be liable if he acted reasonably and prudently.

Ms. Shaw continues. This bill has two categories; one is a donor which excludes those of commercial capacities. Retailers, however, would be considered a donor.

Page 1, line 13: previous draft stated injury not be attributed to donor if not a direct result. We questioned the use of direct, said Ms. Shaw.

Page 2, line 7: The in food bank, injury or death is not a direct result. There is an intentional difference between the two standards.

Number 0230 — Chairman Tischer asks for questions.

Number 0233 — Rep. Pestinger moved that CSHB 496 (HESS) be passed out of committee with individual recommendations. No objections, so ordered. Representatives Tischer, Pestinger, Martin, Uehling, Davis and Koponen signed a "do pass" recommendation.

Number 0254 — No further business to come before the committee, Chairman Tischer adjourned the meeting at 1:58 p.m.

SB 384/HB 496

465-3600

June 30, 1980

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: SCS CSHB 686 am S
(limiting liability of
donors of food)
Our File: J-88-146-80

Dear Governor Hammond:

This office has reviewed SCS CSHB 686 am S, the principal thrust of which relieves a person donating food to a nonprofit organization of any civil or criminal liability flowing from any adulteration or misbranding of the food, unless the alteration is the result of intentional or grossly negligent conduct on the part of the donor.

"Grossly negligent conduct" is defined as "the intentional failure to perform a duty with reckless disregard of consequences that affect the life or property of another." (The legislature forgot the comma after "duty," thus changing the literal meaning, but we assume that we know what was intended.) A donee may ask the commissioner of health and social services to inspect the food to determine if it is adulterated or misbranded.

The commissioner may delegate this inspection duty, and a broad range of other enforcement and inspection duties, to the Department of Environmental Conservation.

This bill is apparently well intentioned; it is designed to encourage the donation of food to nonprofit

organizations for their use or distribution--presumably to needy persons. However, it exacts too great a price from prospective donees as a reward for the eleemosynary conduct.

The bill's failure to distinguish between donors who are manufacturers, packers, or bottlers and those who are not is, we think, a fatal flaw. It is a well-established principle of law that manufacturers, bottlers, and packers are liable for damages resulting from a failure to exercise that degree of care required to insure that the product is fit for use and is free from taint. See 32A C.J.S. Food, sections 59-60. This bill would relieve those manufacturers from liability for negligence for illness caused by unfit food when they give away rather than sell their products. While it is admirable to encourage the donation of food to needy causes, it is unwise to eliminate the ordinary standard of care and its attendant liability. We can, for example, imagine a manufacturer whose warehouse is laden with food of marginal fitness who would like to donate it for a tax deduction. We do not think it proper to eliminate this person's liability for negligence should one of the donees become ill from adulterated or unfit food. Poor people receiving donated food should have no less protection than people who buy food from the donor.

The class of persons who manufacture food should be held to a uniform standard of care regardless of whether the food is sold or given away. To do otherwise would be to encourage socially irresponsible conduct disguised as beneficent bounty. We would suggest that you veto this bill.

Sincerely,

Wilson L. Condon
Attorney General

WLC:ml:MRL

GARY C. NEWMAN
S.R. BOX 51233
FAIRBANKS, ALASKA 99701

SB 384/HB 496

January 23, 1984

House FESS Committee

I am in support of House Bill 496, relating to food banks.

This bill would remove the impediment of liability from the donation by food vendors of surplus or waste food. By doing so, it would allow the use of tons of food for human or animal consumption that is presently being destroyed by the vendors.

For one who has had animals such as pigs, chickens and cows, this bill would allow them to have the waste that is presently thrown away by food vendors. At present, the vendors won't give away food which is waste by their standards even for animal use because there is the chance that the food would really be used for human consumption and they are concerned about the liability question, as I stated earlier.

While this issue may affect only a small proportion of our state's population, it would allow the use of tons of resources that are expensively imported into our state for use for something other than landfill.

I urge your support of this bill.

Gary C. Newman

FOOD BANK OF ALASKA

P.O. Box 3324, Anchorage, Ak 99510
1025 Orca Street, # N8, Anchorage
907-276-4776

JAN 1984 RECEIVED

SB 384/
HB 496

January 5, 1984

Dear Friends:

The holidays are over and we have all of you to thank for your support during the 1983 year. It has been a very good year for the Food Bank. I can't give all the details on this short letter, but I will be glad to do so at the Annual Meeting Friday, February 3rd, 1984 at 6:30 pm. The First Christian Church at 3031 LaTouche street will host the meeting. It will begin with dinner. The public is invited to share in the report of 1983 activities. Please phone the Food Bank, 276-4776, with your reservations. Donation for the dinner will be $7.50. Ballots will be mailed to all individuals that have donated $10.00 to the Food Bank and all Agencies that have donated $25.00 during 1983.

The Bureau of Land Management recently had a canned food drive with interdepartmental competition. The total poundage donated to the Food Bank was a shade under 500 lbs. That makes it the largest single food drive in recent history! Thanks to all the employees of the BLM.

The Food Bank has finally bought a Kerosun Heater!! No more freezing in the office for the volunteers or staff. We still need a nice, well running 4X4 to pick up the overflow for the High Cube van. If any one knows of a bargain let us know. (Or if you know of someone who would be willing to donate one)

In the last newsletter I let it be known that we needed snow tires. Well the plea did not go unheard. I would like to thank the Salvation Army for donating two studded tires and the Firestone store on Post Rd for donating three tires and mounting. The Firestone donation was arranged by Allen Bentson of Alaska Sales and Service. Thank you Allen, Salvation Army and Firestone.

The Food Bank is having an activity called "Can Skate" if you can skate then come to the Anchorage Roller Rink on January 24, 1984 with two cans of food and you can skate for free! This has been arranged in cooperation with Mark Dade of the Anchorage Roller Rink. We are hoping for a very good turnout. If you can't skate you can drop of donations there on the 24th anyway.

I hope to see each of you at the annual meeting and at the skating rink. I thank each and everyone of you for your support during the 1983 year and look forward to your continued support.

Sincerely,

Carl M. Larsen
General Manager

P.S. Please RSVP by January 31 for the Annual Meeting.

"Cache and Share / Don't Waste Food"

SB 384 / HB 496

Gleaners fight hunger, salvage food in 11 states

In produce fields and fruit groves scattered across America, hard-pressed Americans are increasingly using a concept as old as the Bible to fight hunger. It is gleaning, the salvaging of food that otherwise would rot in the fields, whether inadvertently left behind or discarded because of blemishes, bruises, or low prices.

Gleaners are gathering some of that food through privately organized efforts in at least 11 states: Arizona, California, Colorado, Florida, Kansas, Maryland, Michigan, Missouri, Oregon, Texas, and Washington. They help fill what Congress' General Accounting Office calls "an unmet need" for food assistance among those not qualifying for government food programs, and GAO says states can help increase the amount of gleaned food.

California and Oregon, for example, give state tax deductions to farmers for the value of food gleaned from their fields. First passed in 1977, California's A.B. 120 this year was extended through 1984.

"It's an incentive for churches and other groups to go out and get the produce and say to a store or grower that he can get a tax deduction," says California Assemblyman David Kelly, who sponsored the renewal. Stores and growers can claim a charitable deduction — in addition to the business expense — for the value of gleaned or discarded food. A study is underway to determine the amount of lost taxes on such food.

In addition, the Food Marketing Institute says that 34 states have passed "Good Samaritan" laws limiting the liability of food donors. Ohio's is illustrative: "No person who in good faith donates perishable food to an agency is liable in civil damages for injury, death, or loss to persons or property that arises because that perishable food . . . is not fit for human consumption," if the food was reasonably considered safe at the time it was donated.

Tax deductions and Good Samaritan laws, the GAO said, are "positively affecting the amount of food being donated."

Gleaning takes its cue from Leviticus 19:9-10: "When you harvest the produce of your field, do not completely mow the edge of your field or gather the gleanings of your harvest . . . leave them for the poor." Today food is also gleaned from supermarket waste.

Gleaners are the needy or volunteers gathering food for others. The needy keep what they can use with the excess going to such places as food banks. "It's not a freebie program — you work for what you get," says Judi Amos, of Everett, Wash., who has labored as a gleaner among potatoes and peaches.

"The program's really helped out my budget," adds Rachel Brown, who supports three children on welfare and food stamps. After years of dependence on others, she says with pride, "I'm helping myself and helping others."

—Bill Curry



Los Angeles Times photo by Bob Grieser

GLEANING HARVEST — Rachel Brown and her nephew, Anthony Miller, stand next to boxes of pears and vegetables that were her share for a day's work of gleaning in Washington state.

In-state preference laws enacted to govern public contract awards

One sidelight of the recent recession is that several legislatures are worried about state and local government contracts being awarded to out-of-state firms. As a consequence, at least 21 legislatures have enacted in-state preference laws.

The "Buy Minnesota" law passed last May, for example, has received nationwide publicity reflecting the generic pros and cons of implementing such protectionist legislation. (These laws differ from "Buy American" laws requiring the purchase of American-made goods and services over those from foreign countries — which don't specify whether they must come from in-state firms.)

According to the author of the Minnesota legislation, State Representative Pat Beard, the law was intended to improve in-state employment and thus increase state tax revenues.

Beard found that 13 other states exercise in-state preference laws that include a 2-15 percent break in bidding on public works jobs against out-of-state contractors. States exercising preference are Alaska, Arizona, Arkansas, Hawaii, Louisiana, Maine, Montana, New Mexico, Oklahoma, South Carolina, Washington, West Virginia, and Wyoming. Among them, the preference law may apply only to state agencies or extend also to municipalities and school districts.

The Minnesota law includes a provision that says any contract awarded by a state agency for engineering services, erection, construction, alteration or repair of any public building or structure, or for any public work improvement, when competitive bidding is not required, must be awarded to a Minnesota resident.

"If competitive bidding is required by law," the statute continues, "the contract must be

To: House H.E.S.S.

Re: H.B. 496 – Food Banks

fm. Rep. Niilo Koponen

Waste not, want not

WASHINGTON, DC

How are America's poor to eat when their unemployment pay runs out, or when they can no longer make do on food stamps and welfare? The recession has provided an answer: a jerry-built, but enviably efficient, system of emergency food centres. This network stretches across the nation, using food that would otherwise go to waste, and shunts it quickly and in large quantities from grower or manufacturer to the various centres that feed the hungry. It is a charitable operation which employs only a few hundred people and is completely decentralised. It has grown with such speed that it has already left the agriculture department's much criticised surplus commodity programme, ensnarled in red tape, far behind.

The emergency food system has its origins in the soup kitchens of the depression and before, but its growth in the past few years has been startling. Although all involved would like to consider it a temporary institution, there is a growing belief that it is here to stay and, if anything, will grow much larger.

Sixty-one regional food banks are the system's backbone. Each consists of a large warehouse equipped with freezers and usually manned by a small, paid staff supplemented by volunteers. These food banks are connected through Second Harvest, a non-profit-seeking organisation, which acts as a food broker. From its base in Phoenix, Arizona, Second Harvest approaches farmers and food manufacturers for donations and then shunts this food through three regional offices out to its members. The member food banks, either individually or through pools, pay the cost of transport, which is also sometimes donated. Once the food reaches a food bank, it is then given out to hundreds of the bank's members: churches, day centres for infants and the elderly, soup kitchens and various other organisations.

The member groups, which would previously have bought food on the open market, now support their food bank by paying a tax of between five and 12.5 cents a pound for the food they take. In this way the budget of the food bank, usually running anywhere from $100,000-250,000 a year, is covered. In some instances food banks are paid for by small donations. In Oklahoma, 600 people send in cheques of from $5 to $25 a month to keep the major local food banks going.

The entire system is private and non-profit seeking. To make sure it stays that way for tax purposes, Second Harvest certifies its member banks, inspects their operations, ensures that they charge no more than 12.5 cents a pound in taxes, and satisfies itself that the bank members in turn are charitable organisations as defined under the tax laws.



No shortage of takers

Second Harvest began as an experimental arm of the now defunct Community Services Administration in the Carter era. Last year it handled 600m lb of food. This year the volume is expected to exceed 100m lb. Much of the food consists of products that would otherwise be thrown out by the manufacturer, not because they are bad, but because they cannot be sold for other reasons: for example, discolouration or misspelled labels. When a Middle Eastern food broker went out of business, a trailer of macaroni with Arabic labeling was given to a food bank in New Jersey. Second Harvest dispensed 32 train carloads of a cereal which its manufacturer thought too oddly-flavoured to sell. The companies can deduct cost and half the unrealised profit from their taxes when they make such donations.

Some food banks rely heavily on farm surpluses. In northern California, where there are five large food banks, the banks collaborate to find out what crops are in surplus and to carry out exchanges between different areas. The bank in Watsonville, for example, supplies tons of artichokes and lettuce and gets, in exchange, peaches from the bank in Santa Clara and tomatoes from the bank in Sacramento. Farmers give food that would otherwise go to waste. What is left in the fields after harvest is also, in many cases, gathered in by teams of volunteer gleaners who take their pickings to the banks for sorting, cleaning and packing.

A report by a research group in Washington noted a dramatic increase in people coming to programmes served by the food banks. More than half the 181 programmes surveyed said that provision of free meals or food baskets had increased by more than half between February, 1982, and February, 1983. The Community Food Bank of New Jersey in Newark provides a good indication of the trend. Last autumn the bank was handling 10,000 lb of food a month. Now it distributes 200,000 lb a month across the state to 300 different groups which provide food to 30,000 people every day.

Some food banks in the Second Harvest system also distribute federal surplus foods under the government's programme. For the most part these consist of butter, cheese and non-fat dry milk from the government's huge surpluses. But some food banks refuse to handle federal foods on the ground that it involves too much paper work. In certain states food banks say they have been deliberately denied federal food shipments, which instead have been handed out through local politicians as patronage.

Salvation Army aims to replenish dwindling food bank



DAVID CLITHEROE
'We don't turn anyone away'

by Chriss Swaney
Times Writer

4/20/84

When a boxer goes down for the 10 count, he usually gets saved by the gong or the referee. That's not the case, however, for the emergency food bank at the Salvation Army's McKinnell House.

The food bank is going down for a 10 count and Salvation Army officials say they don't have the money to revive it.

"We're in bad shape. Our food supplies are so low now that we're trying to decide how long we can stretch things out," said Capt. David Clitheroe, director of social services.

Clitheroe said dwindling emergency food supplies are the result of a 51 percent increase in walk-in clients in the past three years and a 37 percent decrease in food funding.

Normally, the Salvation Army spends $80,000 on its emergency food program. But inflation and an increased number of needy families in Anchorage have whittled funds to $50,000.

Because of the decreases, the normal three-day food box which includes nine meals for a family of four has been cut back to a one-day box of food. There are also serious shortages in meat, dairy products and canned goods.

"These are things we generally try to supply needy families with," Clitheroe said. The flood of needy families has been so great that the Army's food policy of assisting families once every 90 days is frequently extended. "We don't turn anyone away," Clitheroe said. The cost of feeding people has also risen from $7.14 per person in 1982 to $10.50 per person in 1984.

McKinnell House, a short-term shelter for families and an emergency food repository located at 546 E 15th Ave., is operated by the Salvation Army Emergency Services Program. It served more than 9,000 people last year.

"We expect to see even more people this year. But I'm worried about how we can adequately help them," Clitheroe said.

He attributes the massive influx of needy families to three overriding problems: the shaky economy, tighter food stamp regulations and increased migration of younger families to Anchorage.

"Many are still coming to find the great American dream. But once they get here, they're finding the job situation is tight," Clitheroe said.

Take the Bearfield family of Juneau, for example. They came to Anchorage for a better way of life. But they ended up standing in food stamp lines and filling out yards of eligibility forms.

"We applied for food stamps Dec. 5 but didn't get any until February. If it hadn't been for the Salvation Army emergency food program my family would have starved," Bearfield said. The Bearfields have three children: Pamela, 3, Christina, 5, and Wanda, 14.

"We waited months before we got any permanent help," Bearfield said.

For some families, Clitheroe said, the food stamp vigil continues. The Meyer family, who still relies heavily on the Salvation Army emergency food program, applied for food stamps March 8. "We still haven't received any yet," said Sandy Meyer.

"We're living on navy bean soup and the generosity of the Salvation Army," she said. The Meyer family has two children: Brandi, 1, and Marie, 3.

Salvation Army officials claim current overloads are due in part to the lengthy and complex food stamp application process. Legally, the state can spend up to 30 days verifying need.

Jan Hanson, regional manager for southcentral division of public assistance, said applications for food stamps are up. "We're seeing more applications because building starts are down and the fishing industry has been unpredictable for the past two seasons," she said.

Hanson also said that there seems to be a misunderstanding about the entire food stamp program. "We're not an emergency relief service. We are committed to giving long-term assistance. That's why we send people to emergency shelters like McKinnell House," Hanson said.

The overload at McKinnell House is only the tip of the iceberg. Other emergency food providers like St. Francis House at 817 W. Sixth Ave. and Bean's Cafe at 425½ E. Fifth Ave. are seeing more needy people as a result of the already overworked Salvation Army emergency food program.

"I have drawers full of referrals. The only immediate answer is to cut back services. I hope we never get to the point where we can't help at all. Hunger and homelessness in America have reached epidemic levels," Clitheroe said.

SB
446

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

CS for SENATE BILL 446 (Rls) am

The Council on Domestic Violence and Sexual Assault supports the CS for SB 446. "An Act relating to a personal safety curriculum in public schools." The Council supported the original legislation because it is important to teach children that they have a right to protection from sexual assault or domestic violence. The Council also supports the change in the original bill that the Council participate in the review and development of personal safety curriculum.

In developing the curriculum, it is important that attention be placed on the existing sexual assault/domestic violence curricula as developed by the Council on Domestic Violence and Sexual Assault, Standing Together Against Rape in Anchorage or the Youth Network in Juneau. In FY 83, the Council contracted with Migima, Inc. to develop a curriculum for child sexual assault. A manual and two video tapes were developed and one copy of the manual was sent to most school districts in the state. The Council does not have sufficient funds to further reproduce or disseminate the materials. Also, Standing Together Against Rape in Anchorage has developed a sexual assault curriculum which has been implemented in the Anchorage school district; and the Youth Network in Juneau, which includes the Aiding Women from Abuse and Rape Emergencies and Men Emerging Now, both Council funded programs, has developed a comprehensive behavioral health curriculum that includes domestic violence and sexual assault components. The Youth Network's curriculum has been accepted and used in the Juneau school district. In developing a statewide public safety curriculum, existing curricula need to be reviewed and considered. Implementation plans need to address existing approaches. Also, since the topics are so sensitive, child sexual assault and domestic violence information must be presented in a sensitive manner by trained professionals.

The Council's involvement in this process will not require additional resources.

Robert J. Sundberg
Commissioner

4-12-84

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB 446 (RIS)
Title: Personal Safety Curriculum

Sponsor: Kerttula/Hallord
Requestor: House HESS
Date of Request: 4/30/84

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: Education
BRU, Program or Subprogram(s) Affected: Education Program Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Alison Elgee Alison M. Elgee Phone: 465-2800
Division: Commissioner's Office Date: 4/30/84

Approved by Commissioner: Harold Reynolds Date: 4/30/84
Agency: Education

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Alaska State Legislature

Senate

Office of the President

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811



MEMORANDUM

TO: Mae Tischer, Chair
House HESS

FROM: Senator Jay Kerttula

SUBJECT: CSSB 446 (Rules), an act relating to personal safety curriculum in public schools.

DATE: April 5, 1984

Attached is back-up for CSSB 446 (Rules). The intent of this legislation is to provide children with education necessary to identify and report child abuse, sexual abuse and domestic violence.

CSSB 446 has been endorsed by the Alaska Network on Domestic Violence and Sexual Assault, the Alaska Women's Commission, Anchorage and several individuals who work in the health, education and social service professions.

If you need further information on this legislation, please don't hesitate to contact my office.

ALASKA NETWORK ON DOMESTIC
VIOLENCE AND SEXUAL ASSAULT
110 Seward #13 Juneau Alaska 99801
(907)586-3650

POSITION PAPER

SB 446: An Act relating to public safety curriculum in public schools

The Alaska Network on Domestic Violence and Sexual Assault, a non-profit corporation representing 20 programs statewide that provide services to victims of domestic violence and sexual assault, supports SB446, which requires school districts to provide a curriculum for grades K through 12 on the prevention of child abuse, sexual assault, and domestic violence.

Because incidences of child sexual assault are so high, it is crucial that children, parents, and educators be provided with prevention information. Three Network member programs (STAR in Anchorage and AWARE and MEN in Juneau) have developed and implemented curricula on these issues which are being utilized in Anchorage and Juneau schools. Other Network member programs have provided in-service training to educators and presentations to school groups and classes on child sexual assault. Additionally, the Council on Domestic Violence and Sexual Assault has developed a curriculum for classroom use on this issue.

It is the Network's opinion that these existing Alaska-specific materials be reviewed and, if necessary, modified for implementation on a statewide basis.

It is important to realize that providing children with information concerning child sexual assault and domestic violence will result in an increased rate of disclosure of such incidences and the need to provide services to child victims and parents. Trained professionals should present this information in order to sensitively and effectively handle disclosures. To that end, the Network recommends that domestic violence and sexual assault program staff people, who have been trained in provision of direct services to child victims and non-offending parents, participate in curriculum development, implementation, and presentation.

BILL SHEFFIELD
GOVERNOR

PHONE
(907) 561-4227

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET - SUITE 742
ANCHORAGE, ALASKA 99503

March 21, 1984

Senator J. M. Kerttula
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Kerttula:

The Alaska Women's Commission is committed to supporting all efforts made at preventing and aiding the victims of domestic violence, sexual assault and child abuse. We wish to take this opportunity to thank you for sponsoring the following bills this session that address these issues:

SCR 37, SB 477, SB 472, SB 446 and SB 445

We appreciate your continued concern for the welfare of Alaska's women and children. If the Women's Commission can be of any assistance in supporting your efforts, please don't hesitate to contact us.

Sincerely,

Kathy Marshall

Kathy Marshall
Executive Director

March 20, 1984

Senator Jay Kertulla
Pouch V
Juneau, AK 99811

Dear Senator Kertulla:

I wanted to write and tell you your efforts are appreciated, at least by me in your support of children's issues.

I was recently informed that you were the prime Senate sponsor of SCR 37, SB 445, SB 446, and SB 447. Believe me, our state needs to be aware of our child abuse problem. With particular reference to expanding curriculum and teacher in-service within our school system, I want to commend your efforts. Hopefully, someday soon the community will realize that children don't learn because of problems within their personal life; be it child abuse, domestic violence, alcholic/addicted parents, or their chemical dependency. Although I cannot speak for the educators, ones who have come to know me are ecstatic about your involvement and support of their betterment as the "direct line" to our children.

Thank you again and keep up the good work! If I can be of assistance, feel free to contact me.

Sincerely,

Marguerite

Marguerite T. Lupori
2917 W. 34th. #2
Anchorage, AK 99503

(Parents United - Anchorage)

FRONTIERSMAN 1/12/84

Wake up about sexual abuse

SPECIAL EDITORIAL

During the past year, the Frontiersman has reported sexual abuse and assault cases involving children as young as 2 and as old as 15.

Sexual crimes against children are the most prevalent and serious of felony crimes in the Matanuska-Susitna Valley.

According to Alaska State Trooper statistics, 45 Valley children were the victims of reported sexual crimes in 1983.

Most sexual abuse remains unreported for months, years, sometimes forever.

National statistics indicate that one in four people will be sexually abused or assaulted in their lifetime.

Our children are being attacked by thieves who steal sexual gratification, who plunder innocence, who leave behind pain. Sometimes the thieves are the children's own parents, sometimes a friend of the family or a relative.

The pain remains far longer than the actual memory. Different children handle it in different ways. Some may appear to be unaffected by an adult's intrusion of their bodies; 20 years later they may awaken to a screaming nightmare of childhood.

Other children may fear adults, or men, or women. Incest victims may engage in lengthy internal battles, vacillating between love and loathing, trying to separate affection from humiliation, anger from hate, forgiveness from martyrdom.

We are shocked when we hear of the violation of a child. We want to think of the perpetrators as "animals" or "psychos." We want to believe that the friend, neighbor, relative or member of the community who's convicted of sexual abuse or assault is some kind of aberrant human being. But there's only one thing that seems to commonly set "them" apart from "us."

Many of the perpetrators of sexual crimes against children were victims themselves. It's no excuse for their crime. But it indicates a pattern that must be broken now.

It's not enough that the Valley has one of the best teams in the state for dealing with sexual assaults.

We are educating ourselves and each other. We share the outrage and h[illegible] when we learn of abused children. But why have we left the potential victims in the dark?

We need a system for the early identification of sexual abuse. Now.

Children must know that sexual abuse is most often perpetrated by someone they know, not a stranger in a sedan offering candy.

An enlightened approach by the school district would help.

Children need to know what abuse is. They should be encouraged to report it, no matter who the perpetrator is. They deserve the right to have a safe place to go, a safe person to tell.

It has nothing to do with "sex education."

It has to do with the knowledge that could save them. Children have a right in our society to be educated. When that education could save them, the right becomes an imperative.

STATE SCHOOL HEALTH EDUCATION PROGRAM

STATE SCHOOL HEALTH EDUCATION PROGRAM

State	Health Education	Drugs, Tobacco Alcohol	Venereal Disease	Nutrition	Mental Health	Env. Health	Family Life/ Sex Education	Personal Health	Anatomy Physiology	Safety	First Aid	CPR	Diseases	Comm. Health	Dental Health and Oral Hygiene	Health Careers	Consumer Health	Growth and Development
Alabama		M		M	M	M	M	M		M	M		M		M		M	
Alaska	G	Same as Kansas																
Arizona		O		O	O	O	O		O	O		O	O					G
Arkansas		M	M		M	M				M	M		M		M			
California	G	M	M	O	O	O	O	M	O	M	M	M	O	M	O	O	O	O
Colorado	G	M	O	O	C	O	O	O	O	O	O	O	O	O	O	O	O	O
Connecticut		M																
Delaware	G	M	O	O	O	O	O	O	M	O	O		M	O	O	O	O	
Dist.of Columbia	C	M	M	M	M	M	M	M		M	M	M	M	M	M	O	M	M
Florida	C	M	M	M	M	M	O	M	M	M	O	O	M	M	M	M	M	M
Georgia	G	M	O	O	O	O	M-S; O-E	M-S; O-E	O	M-S;O-E	M-S;O-E	O	O	O	O	O	O	O
Hawaii	C	M	M	M	O	M	M	M		M	O		M	M	M	M	M	M
Idaho +		M	O	O	O	O	O	O	O	O	O		O	O	O	O	O	O
Illinois	C	M	M	M	M	M	O	M	M	M	M	O	M	M	M	M	M	M
Indiana		M						M		M								
Iowa		M	M							M			M					
Kansas	Health education is not required; however, one unit of physical education is required for graduation of which one half unit may be health education.																	
Kentucky	G-E	M		O	O	O	O			O			O	O				
Louisiana	G	M	O	M	M	M	M*	M	O	O	O		O	O	O	O	O	
Maine	G	Subject offerings are option of local school district.																
Maryland	M	M	M				M											
Massachusetts	G			M	M	M			M					M	M		M	
Michigan	C	M	M	O	O	O	O	O		M	O		M	O	M		O	O
Minnesota		M	O	O	O	O	O	O	O	M	O	O	O	O	O	O	O	O
Mississippi	M	M	O	O	O	O	O	O										
Missouri	C-G	O		O	O	O	O	O		O	O	O	O	O	O		O	
Montana	G																	
Nebraska	C	M																
Nevada	One Half unit of health education is required for graduation.																	
New Hampshire		M	M	M														
New Jersey	G	M-S	O	O	O	O	M	O	O	O	O		O	O	O	O	O	O
New Mexico	C	M	M	M	M	M	M	M	O	O	O		O	O	O	O	O	O
New York	C-E	M		O	O	O				M	O		O		O		O	
North Carolina	C-E	M	O	O	O	O	O	O	M	M	M		M	M	M	M	M	M
North Dakota		M						M	M				M					
Ohio	C	M	M	M						M-E								
Oklahoma	Although no separate program exists, health education content is taught in conjunction with other subject areas																	
Oregon	C	M																
Pennsylvania		M																
Rhode Island		M	One hundred minutes of instruction in health and physical education per week is required for all students, K-12.															
South Carolina	C*	M	O	O	O	O	O	O	O	O	O		O	O	O	O	O	O
South Dakota	No formal program at state level.																	
Tennessee		M	M	M		M												
Texas	G	M																
Utah	C	M	O	M	M	M	O	M	M	M	O		M	O	O	O	M	M
Vermont	O	M	O	O	O		O	O		O				O			C	O
Virginia	C	M	G	M	M	M	G	M		M	M	O	M		M	O	M	M
Washington	G	M																
West Virginia	One unit of health education is required for graduation emphasis on nutrition, drug abuse, ecology, survival skills and consumer health.																	
Wisconsin	G	M			M				O	O								
Wyoming	Health education is taught according to local education mandates.																	

M = Mandated O = Optional/Permissive S = Secondary School Level E = Elementary School Lev
Unless otherwise noted, programs refer to both elementary and secondary levels.
+ Fitness is mandated.
** See section 6c of New Mexico state data sheet.
G = General; local option for selection of content and when offered.
C = Comprehensive; specified content areas for each grade level.
* Sex education is a separate law by parish choice.



SENATORS KERTTULA, [illegible]

FROM: [illegible]
[illegible]
[illegible]
[illegible]

RE: SB 446

WE HAVE NO CHOICE AS A SOCIETY BUT TO EDUCATE YOUNG PEOPLE AT THE EARLIEST TIME ABOUT THE WORLD THEY WILL LIVE IN. I TEACH [illegible] AT WASILLA [illegible] THE BENEFITS TO STUDENTS WHO LEARN THE MATERIAL [illegible] INCALCULABLE. I [illegible] WITH VICTIMS ALL THE TIME AND THEY NEED THE [illegible]

MSNG [illegible] PARTIE/MATSU 2/29

TO: SENATORS JOSEPHSON, V. FISCHER, P. FISCHER, HALFORD, AND MOSS

FROM: [illegible]
[illegible]
WASILLA 99687

RE: SB 446

PLEASE SUPPORT SB 446, THE PUBLIC HEALTH CURRICULUM [illegible] VOLTS [illegible] EXTREMELY IMPORTANT IN PROMOTING GOOD [illegible] TO ENSURE SUCCESS OF THIS BILL, ADEQUATE FUNDING [illegible] PROVIDE THE RESOURCE TRAINING FOR SCHOOL PERSONNEL.
THANK YOU.

[illegible]

MSNG [illegible] PARTIE/MATSU 2/29

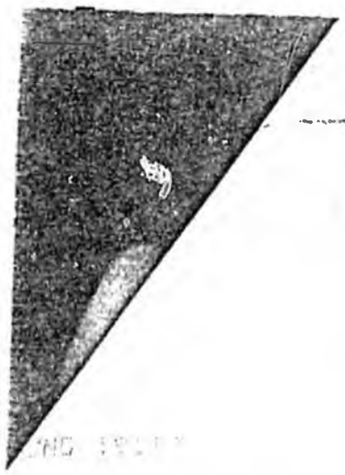
TO: SENATORS JOSEPHSON, V. FISCHER, P. FISCHER, HALFORD, AND MOSS

FROM: MARGIE CAMPBELL
PO BOX 871865
WASILLA 99687

RE: SB 446

I URGE PASSAGE OF SB 446, THE PUBLIC SAFETY CURRICULUM FOR THE PUBLIC SCHOOL

[illegible]



[illegible] MARY/MATSU [illegible]

TO: SENATORS KERTTULA, JOSPERSON, V. FISCHER, HALFORD, A. FISCHER, MOSS

FR: GORDON C TOPE, SUPERINTENDENT
MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT
P O BOX AB
PALMER 99645 MAR [illegible]

RE: SB 446 -PERSONAL SAFETY CURRICULUM, PUBLIC SCHOOLS
THE MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT SUPPORTS THE AMENDMENT RECOMMENDED BY SENATOR JAY KERTTULA AND SENATOR RICK HALFORD FOR SB 446. HOWEVER, THIS DISTRICT WOULD EXPECT THE LEGISLATOR TO ADDRESS FUNDING OF ANY MONEIES WHICH MAY BE REQUIRED FOR PUBLIC SCHOOL DISTRICT TO CARRY OUT THIS LAW.

****

Out of District

2/20/04, SHIRLEE ANC LIO. 19225

3

TO: SENATORS HALFORD AND VERITULA

FROM: BETTY TENDER
936 WEST 11TH AVENUE, APT. 10
ANCHORAGE, AK 99501
(H) 274-8095 (W) 274-4561

I SUPPORT SENATE BILL 446, PARTICULARLY ADDING DUTY NO. 14 RELATING TO PUBLIC SCHOOL CURRICULUM IN GRADES K-12 BECAUSE I BELIEVE IT IS A STEP IN BREAKING THE GENERATIONAL CYCLE IN DOMESTIC AND SEXUAL ASSAULT BY EDUCATING CHILDREN, AS WELL AS MAKING IT POSSIBLE FOR CHILDREN TO PROTECT THEMSELVES AND GAIN ASSISTANCE WHEN THEY ARE VICTIMS THEMSELVES.

****

[redacted]

[redacted]

[redacted]

TO: ALL SENATORS

FROM: [redacted]

I ASK FOR YOUR SUPPORT OF SB 482 WHICH LICENSES FAMILY THERAPISTS.

[redacted]

THANK YOU FOR A JOB WELL DONE. I AM PLEASED THAT [redacted] PASSED ON THE FLOOR. THANK YOU FOR YOUR SPEEDY SUPPORT OF THE PRIVATE SCHOOLS THESE TWO SESSIONS. NOW LET'S GET HB39 PASSED AND ALLOW A FEW MORE BABIES THE CHANCE TO ENJOY LIFE IN THIS GREAT STATE.

FROM: BEVERLY WILMOTH
5001 EAST 6TH, SP#224
ANCHORAGE, AK 99504
(H) 333-9759 (W) 564-1718

I AM IN SUPPORT OF SB 446, SPONSORED BY KERTTULA AND HALFORD, ESPECIALLY THE ADDITION OF DUTY 14. I BELIEVE THAT THE CHILDREN NEED TO BE EDUCATED ABOUT ABUSE IN THE PUBLIC SCHOOLS.

****

EOM

[illegible] MARTIE MATSU [illegible]

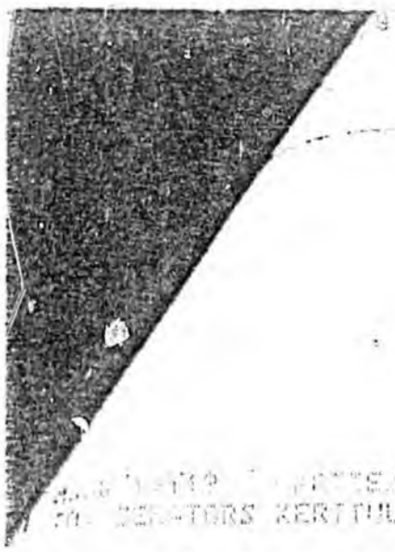
TO: [illegible] JOSEPHSON AND KERTTULA

FROM: VIVIAN FINLAY
PO BOX 872[illegible]
WASILLA 99607 [illegible]
(H)892-6177
(W)376-8402

RE: SB 446 [illegible]

I SUPPORT SB 446 TO DEVELOP AND FUND PERSONAL SAFETY [illegible] IN SCHOOLS. HOWEVER, INSTEAD OF FOCUSING ON TRAINING TEACHERS TO PROVIDE [illegible] I RECOMMEND UTILIZING ALREADY TRAINED COUNSELORS FOR THE PURPOSE. [illegible] COUNSELORS ARE NEEDED IN ELEMENTARY SCHOOLS.

[illegible]



[illegible] PRIZE/MATSU 3/29
TO: SENATORS KERTTULA, JOSEPHSON, V. FISCHER, P. FISCHER, HALFORD, AND MOSS

FROM: CAROLYN COVINGTON, PRES. BOARD OF DIRECTORS VALLEY WOMEN'S RESOURCE CENTER
3RD BOX [illegible]
PALMER [illegible] [illegible] [illegible]
745-3365

RE: SB 446

I AM SUPPORTING SB 446 MANDATING A PUBLIC SAFETY CURRICULUM FOR PUBLIC SCHOOLS

%$@%&()%$@)(%&%$@*&)(%$@)(*&%$@)(*&@%$@)*(&@%$@*&)(%$@)(*&@%$@*&)(*

Jay's bill

SB
508

COMMITTEE REPORT

HOUSE

(7) FURTHER: FINANCE

4/13/84 Date: April 30, 1984

The Committee on HEALTH, EDUCATION AND SOCIAL SERVICES has had SB 508

"An Act making supplemental appropriations to the Department of Health and Social Services for payment as grants to Bethel Social Services, Inc. and Sitka Youth Advocates, Inc.; and providing for an effective date."

under consideration and recommends:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Mae Fischer

T. H. Martin

Mike Davis

Pete Jones

Rick Aeby

Nick Kozak

Dan Pestinger

MEMBERS HAVING OTHER RECOMMENDATIONS:

Mae Fischer
CHAIRMAN

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Monday, April 30, 1984

M E M O R A N D U M

TO: REP. MAE TISCHER
Chair - House HESS

FROM: Max Gifford, A.A. Mike
SENATOR JOHN SACKETT

Subj: SB-508, supplemental funding for Bethel Social Services and Sitka Youth Services

Please let me apologize for having left our meeting so abruptly this morning.

Attached is the backup material and a copy of our earlier memo (dated: 4-19-84) concerning SB-508.

The attachments will explain the funding figures and how the figures were calculated.

Your question, with respect to encumbered funds in the Department of Health is a good one and should be answered by the Department. I do not know why the department would choose to encumber funds while apparently ignoring the needs of these two service organizations that were under funded when the "full cost of care" funding mechanism was suspended for FY83 and FY84.

When I discussed the issue of a supplemental with Senator Sackett, earlier this session, he preferred that a bill providing supplemental funding be drafted rather than using the reappropriation bill to fund the Bethel and Sitka shortfalls.

Per your request, I am trying to get answers about encumbered funds by the Department of Health and Social Services. I will do my best.

* Copy sent to your staff. Max

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 19, 1984

MEMORANDUM

To: Representative Mae Tischer
Chair, House HESS Committee

From: Senator John Sackett JCS

Subject: Calendaring of SB 508, supplemental appropriations for Bethel Social Services and Sitka Youth Services

In 1982, the Legislature suspended the "full cost of care" funding mechanism for residential child care and established an interim frozen rate schedule. Because of the cyclical nature of the figures used as a base in establishing those rates, the Bethel and Sitka programs have suffered unfair funding shortfalls every year since then.

I have attached additional backup information and am requesting that you calendar SB 508 as soon as possible. Thank you in advance.

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM APR 09 1984

TO: Members, SENATE FINANCE COMMITTEE

FROM: Senator John Sackett JCS

Subj: SB-508, supplemental appropriations for Bethel Social Services and Sitka Youth Advocates.

Amount: $166,510

Attached are the current daily rates established by Ch. 138, SLA 1982, for residential care facilities when a child is placed by the Department of Health and Social Services.

As you know, it is acknowledged that both rate schedules for Bethel and Sitka were miscalculated.

SB-508 provides funding to correct the inequity in the daily rate.

Attached also, are a memo from Senator Eliason explaining the method of calculating the Sitka shortfall and a memo from Bethel Social Services, Inc. fully detailing their funding shortfall.

A supplemental was offered last year to offset funding shortfalls for Bethel (SB-97), and Senator Eliasion was able to reappropriate funds to cover the Sitka shortfall. This is the last year a supplemental should be necessary as legislation creating a new funding system for care facilities is now pending before the Legislature (SB-431).

period of suspension, payment for services provided by residential child care facilities shall be made solely in accordance with the provisions of secs. 3 and 4 of this Act.

* Sec. 3. For fiscal year 1983, the payment authorized per day for each child placed by the Department of Health and Social Services in an existing residential care facility is:

Alaska Children's Services Receiving Home (Anchorage)	$149.65
Alaska Children's Services Jesse Lee Home (Anchorage)	165.44
Alaska Children's Services Rabbit Creek Group Home (Anchorage)	166.4[illegible]
Alaska Children's Services North Star Home (Anchorage)	103.55
Alaska Children's Services Aquarius House (Anchorage)	107.6[illegible]
Alaska Children's Services Colletti House (Anchorage)	117.31
Alaska Baptist Family Service Center (Anchorage)	117.0[illegible]
Booth Memorial Home (Anchorage)	146.9[illegible]
Hilltop Home, Inc. (Anchorage)	85.5[illegible]
Kenai Peninsula Community Care Center (Kenai)	91.7[illegible]
Kodiak Baptist Mission (Kodiak)	61.6[illegible]
Turning Point Boys Ranch (Willow)	105.1[illegible]
North Star Children's Home (Dot Lake)	62.3[illegible]
Presbyterian Hospitality House (Fairbanks)	111.9[illegible]
Juneau Receiving Home (Juneau)	106.1[illegible]
St. Jude Center, Inc. Receiving Home (Juneau)	72.1[illegible]
Nome Receiving Home (Nome)	116.9[illegible]
Manilaq Group Home (Kotzebue)	167.0[illegible]
North Slope Borough Children's Receiving Home (Barrow)	168.1[illegible]
Ketchikan Teen Home I (Ketchikan)	74.3[illegible]
Ketchikan Teen Home II (Ketchikan)	81.4[illegible]
Ketchikan Children's Home Intensive Treatment Unit (Ketchikan)	157.5[illegible]
Sitka Receiving Home (Sitka)	40.6[illegible]

Bethel Receiving Home (Bethel)	75.52
Bethel Group Home (Bethel)	59.06
Covenant High School (Unalakleet)	51.16

* Sec. 4. For fiscal year 1984 the payment rates for residential child care services shall be the amounts set out in sec. 3 of this Act increased by five percent.

* Sec. 5. For fiscal years 1983 and 1984 the Department of Health and Social Services may contract for residential child care services with a facility not listed in sec. 3 of this Act at a rate to be determined by the Department.

* Sec. 6. AS 14.30 is amended by adding a new section to read:

Sec. 14.30.075. VISION AND HEARING SCREENING EXAMINATIONS. (a) A vision and hearing screening examination shall be given to each child attending school in the state. The examination shall be made when the child enters school or as soon thereafter as is practicable, and at regular intervals specified by regulation by the governing body of the district.

(b) The Department of Health and Social Services shall

(1) set standards for the performance of vision and hearing screening;

(2) train and certify public health nurses and school district employees to conduct hearing and vision screening tests;

(3) assist with referral and follow-up of children needing professional examination or treatment; and

(4) assist with maintenance and repair of screening equipment.

* Sec. 7. AS 44.29.020 is amended to read:

Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health and Social Services shall administer the state programs of public health and social services, including (1) maternal and child health services;

Chapter 138

AN ACT

Relating to vision and hearing screening examinations, public assistance, and other assistance provided by the state; and providing for an effective date.

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* Section 1. FINDINGS. The legislature finds that the present method for establishing payment rates under AS 47.40 for residential child care services is inadequate. The Department of Health and Social Services shall conduct a study of alternatives to the method of establishing payment rates under AS 47.40. The study shall be conducted by a committee of five members appointed by the commissioner of the Department of Health and Social Services. Three members of the committee shall be employees of the Department of Health and Social Services and two members shall be providers of residential child care services. The study shall contain, among other matters determined by the department, a suggested redefinition of the manner in which rates for residential child care services are calculated, a consideration of the method and amount of reimbursement for capital costs of residential child care facilities, and the availability and use of other sources of money to finance residential child care services and to finance the construction of residential child care facilities. The committee shall report its findings to the legislature on or before the 30th day of the Second Session of the Thirteenth Legislature. The legislature further finds that the rates established under AS 47.40 should be suspended from June 30, 1982 to July 1, 1984.

* Sec. 2. The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE

P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Senator John Sackett

FROM: Senator Dick Eliason

DATE: February 21, 1984

RE: Supplemental appropriation for Sitka Receiving Home

Due to the exceptional low daily rate allowed the Sitka Receiving Home ($42.70 per "provider day") over the last two fiscal years there is a critical, and unfair shortfall in the Home's operating budget. Sitka, like Bethel, received a small supplemental grant last session to help them over the FY 83 shortfall but we need to provide coverage for FY 84. Hopefully, legislation will pass this session which will finally correct the inequity in funding for these homes and both Bethel and Sitka will be self-sustaining on their allowed payments after this year.

It would seem reasonable to figure Sitka at the same level of funding as the Juneau Receiving Home. Sitka has been at $42.70 while Juneau is at $111.48. The difference per day of care is then $68.78. In FY 33 Sitka provided 967 days of care. FY 84 is likely to be at about that same level. Therefore a reasonable supplement amount to include for the Sitka Receiving Home now for FY 84 would be $66,510 ($68.78, the difference betwe.n the Sitka rate and the Juneau rate, multiplied by the estimated number of days of care provided.)

I would very much appreciate any help you could provide in getting this funding in.



Bethel Social Services, Inc.

• A PRIVATE NON-PROFIT CORPORATION •

Hon. Senator John Sackett
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

Here is the information your aide, Max Gifford, requested of us for the supplemental appropriation for the operation of the Bethel Receiving Home.

As you already know, there was a freeze imposed on the cost of care rates two years ago. We were not aware of this freeze and at that time were expecting our rate at the Receiving Home to increase following an audit that we requested. The audit was denied by the State, and we were told we would have to make do with the existing rate.

To prepare the figure we are requesting for the supplemental, I have taken an average of the rates paid to the residential child care centers in the State of Alaska (Anchorage, Willow, Fairbanks, Barrow, Bethel, and Nome) and subtracted our rate from the average. I then multiplied this figure by the number of child care days. As you will see we had a great number of child care days, and that in itself should show you how valuable this project is to the Delta region. The facility has been greatly utilized this past year and with this additional operational monies, we will be able to make the Bethel Receiving Home a First rate facility to house the children of the Delta.

Sincerely,

Loreen M. Foster

Loreen M. Foster
Administrative Director, B.S.S.

P.O. Box 271 • Bethel, Alaska 99559 • (907) 543 - 2840 or 543 - 3447

ACS Receiving Home, Anchorage	$ 149.85
ACS Aquarius House, Anchorage	149.85
ACS Colletti House, Anchorage	117.51
ACS Jesse Lee, Anchorage	165.46
ACS North Star, Anchorage	103.55
ACS Rabbit Creek Grp. Hm,, Anch.	166.40
Booth Memorial Home, Anchorage	146.90
Hilltop Home, Inc., Anchorage	85.53
Turning Point Boys Ranch, Willow	105.37
PHH-Receiving Home, Fairbanks	111.98
PHH-Treatment Unit, Fairbanks	111.98
North Slope Borough Rec. Hm., Barrow	170.80
Bethel Receiving Home, Bethel	79.30
Bethel Group Home, Bethel	59.06
Nome Receiving Home, Nome	109.20
TOTAL	$1832.74

$1832.74 divided by 15 centers is an average rate of $122.18 per day.

The Bethel Receiving Home's rate is $79.30, subtracted from the average gives us a deficit of $42.88.

The Bethel Receiving Home had a total of 2,369 provider days last FY year ('83).

2369 multiplied by $42.88 is a total supplimental request of $ 101,582.72

TOTAL SUPPLEMENTAL REQUEST - $ 101.582.72

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

POUCH H-05
JUNEAU, ALASKA 99811
PHONE: (907) 465-3170

DIVISION OF FAMILY AND YOUTH SERVICES

April 27, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

You had asked for responses to three questions regarding the Governor's Symposium on Child Abuse and Neglect for Southeast Alaska to be held in Sitka on May 16, 17, 18, 19, 1984.

1. You were concerned about why you had not been invited to the Symposium. Your invitation was mailed from Anchorage two weeks ago by the University of Alaska which is the contractor facilitating the logistical planning for the Symposium. Since you have not received it, I am happy to extend a personal invitation for you to attend. I have enclosed the registration material for your convenience. I have also included information about the child abuse and neglect conference we are co-sponsoring with the Center for Children and Parents in Anchorage, AK. I think both of these conferences are offering excellent topics which may be of interest to you.

2. You had expressed concern about whether or not this type of training would be available in the rest of the State. We are very hopeful that we will have funding in FY 85 which will enable us to sponsor similar projects in our other Regions using Southeast as a model. The Southeast Symposium is designed to interface with two training grants which were made to two Southeast agencies for improving community coordination of services to families. The goal of the training grants is to establish a team in each community who will advocate and assist in providing services to abused and neglected children and their families. If funding is available, we will duplicate this total project in each Region.

3. You wanted to know how the Symposium is being funded. At the end of FY 83 lapsing funds were identified and addressed through SCS 2d SCHB J309 309 (3d Fin) am S, Chapter No. 106. I have attached the pertinent Sections of that Act and as you can see there is conflict between Section 89 and Section 271 as to the status of those funds.

   James Baldwin, Assistant Attorney General, determined that the lapsing funds from FY 83 would be available through June 30,

1984. (See enclosed). I have also included a copy of the memorandum which identifies the legislative intent for the funds. The Symposium has been allocated $75,000 and the major part of that funding is being utilized to pay the travel cost for people from Southeast Alaskan communities to attend and participate.

We certainly would welcome your attendance. If you have any other question, please feel free to contact me at 465-3170.

Sincerely,

Michael L Price

Michael L. Price
Director

Enclosures

MLP:MAG:wb

MEMORANDUM State of Alaska

TO: Mike Price, Director
Div. of Youth and Family Services
Dept of Health & Social Services

DATE: September 8, 1983

FILE NO: 366-126-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Lapse date for FY 83 juvenile custody appropriation

By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

You have asked whether the governor's veto of sec. 89, ch. 106, SLA 1983 also deleted the lapse date extension contained in sec. 271 of that chapter for the appropriation amended by sec. 89. The governor's veto of sec. 89 was intended to return the juvenile custody appropriation initially enacted in sec. 79, ch. 101, SLA 1982 to the amount originally appropriated without reduction. Governor's veto message (Exhibit I).

The lapse date extension for sec. 89 is inartfully drafted because it provides that the appropriation "made" in sec. 89 is extended. However, the effect of sec. 89 is to reduce an existing operating appropriation by $25,000 not to reenact the FY 83 juvenile custody appropriation. The intent of sec. 271 appears to be to extend the lapse date for the unobligated balance of the juvenile custody appropriation enacted in ch. 101, SLA 1982.

Department of Health and Social Services records disclose that as of the effective date of ch. 106, the unobligated balance of the appropriation was $554,493. There is no evidence of legislative intent to make the extension of the lapse date for the juvenile custody appropriation contingent on enactment of the reduction vetoed by the governor.

We believe that the reappropriation, transfer, or amendment of an existing appropriation makes the entire unexpended balance of the original appropriation subject to the governor's legislative power to veto. However, the veto of sec. 89 did not affect the existence of the juvenile custody appropriation, only the attempt to reduce the authorized amount.

Absent clear evidence of legislative intent to the contrary, we believe that the lapse date for the juvenile custody appropriation enacted in sec. 79, ch. 101, SLA 1982, p. 32, lines

18 and 19 is June 30, 1984. We hope this memorandum answers your question.

JLB/pjg

cc: Hon. Peter Goll
Representative
Alaska State Legislature

Allan Blume, Special Assistant
Office of the Governor

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE

P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Sen. Frank Ferguson

FROM: Sen. Dick Eliason

DATE: May 12, 1983

RE: Request for amendment to SB 158

Part of Sec. 38 of CSSB 158(HESS) extends the lapse date for Sec. 79, ch. 101, SLA 1982, page 32, line 19, until June 30, 1984.

This language was added in HESS at my request. It was to enable the Div. of Family and Youth Services to utilize the unexpended portion of the original $4,586,500 social services appropriation to establish a child abuse social worker position on Prince of Wales Island and a child abuse training program in rural Southeast.

Since the time that amendment was made, both the House and Senate Finance Committees included a new social worker for Prince of Wales in their DHSS operating budgets. Now a portion of the approximately $200,000 in unlapsed funds is available for other related and pressing needs.

I now request that Sec. 38 in the HESS CS be left intact and that the following language be added to SB 158:

Sec.___. Sec. 79, Chapter 101, Lines 18 and 19 are amended to read:

	Allocation	Appropriation	Gen. Fund
Social Services, Foster Care	$4,561,500 (4,586,500)	$15,501,200 (15,526,200)	$15,501,200 (15,526,200)

Sec.___. The sum of $25,000 is appropriated from the general fund to the Dept. of Health and Social Services for payment as a grant to the Sitka Receiving Home for operating expenses.

These changes will result in a zero fiscal impact as we simply returned $25,000 of unexpended money to the general fund from the original Foster Care appropriation and re-appropriated the same amount for the Sitka Receiving Home. I have back-up information on the need for this funding for the Home if it is needed and this appropriation is supported by the Administration.

The remaining funds will not lapse until June 30, 1984, as per Sec. 38 of CSSB 158 HESS.

It is my intent, and I request that the Finance Committee attach to the bill as its intent, that those remaining unlapsed funds be used as follows:

> The Division of Family and Youth Services will use the remaining and unlapsed funds to contract for training programs in rural Southeast Alaska dealing with identification, prevention, and treatment of child abuse and neglect.

I appreciate your consideration of my request and hope that my proposed amendments and intent language will be included in the Finance CS for SB 158. If further information is needed please contact me.

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

POUCH H-05
JUNEAU, ALASKA 99811
PHONE: (907) 465-3170

DIVISION OF FAMILY AND YOUTH SERVICES

April 9, 1984

Dear Alaskan Legislator:

You are cordially invited to attend the Governor's Symposium on Child Abuse and Neglect being held in Sitka on May 16, 17, and 18, 1984. The Division of Family and Youth Services is extremely pleased to be able to offer this program on coordination and networking services in Southeast Alaska and we are very hopeful that you will be able to attend.

The enclosed agenda describes the workshops being presented and we think every one of them will offer some new ideas and perspectives. It is a limited registration, so be sure and complete the form as soon as possible. If you have any questions regarding the symposium, please feel free to contact me at 465-3170.

Hope to see you there!

Sincerely,

Michael L. Price

Michael L. Price
Director

Enclosure

MLP:MAG:jsd

LAWS OF ALASKA

1983

Source

SCS 2d CSHB 309(3d Fin) am S

Chapter No.

106

AN ACT

Making reappropriations and transfers among appropriations and extending the lapse date of certain appropriations; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 11.

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved with Item Vetoes: July 29, 1983
Actual Effective Date: July 29, 1983

114, line 10 does not lapse until the term or agreement of the lease, or lease purchase expires.

* Sec. 269. The appropriations made by secs. 11, 14, 27, 28, 38, 39, 43, 56, 57, 64, 70, 72 - 75, 92, 95, 101, 117, 126, 151(b), 152, 161, 162, 164, 167 - 171, 187, 191, 193, 205, 230, and 234 - 237 of this Act are for capital projects and are subject to AS 37.25.020.

* Sec. 270. The appropriations made by secs. 1, 4, 6 - 9, 16, 18, 19, 21 - 26, 29 - 31, 33 - 37, 42, 44, 46, 48, 50, 51 - 55, 65 - 68, 81, 83, 85, 96, 99, 114 - 116, 121, 123, 125, 128, 130, 133, 135 - 147, 149, 150, 153 - 155, 159, 163, 186, 188, 189, 194, 195, 197 - 200, 202, 204, 207, 214, 216, 218, 219, 226, 228, 232, 242 - 255, 261, 265, and 268 of this Act shall be disbursed in accordance with AS 37.05.315 - 37.05.319.

* Sec. 271. The unexpended and unobligated portions of the appropriations made in secs. 40, 71, 77, 89, 90, 93, 157, 158, 212, 238, and 257 of this Act lapse into the general fund June 30, 1984.

* Sec. 272. This Act takes effect immediately in accordance with AS 01.10.070(c).

	ITEMS	
Anchorage-Minnesota-Hillcrest/		
Tudor Bike Trail (ED 7)	320,000	320,000
	(370,000)	(370,000)

* Sec. 87. Section 286, ch. 50, SLA 1980, page 59, line 24, is amended to read:

	APPROPRIATION ITEMS	GENERAL FUND
Anchorage-Bike Trail Tudor-Minnesota to C Street (ED 7)	195,000	195,000
	(320,000)	(320,000)

* Sec. 88. Section 30, ch. 82, SLA 1981, page 178, lines 22 and 23 is amended to read.

	APPROPRIATION ITEMS	GENERAL FUND
Repairs [REPAIR LAUNCHING RAMPS] at Douglas, Harris and Amalga Harbors	400,000	400,000

* Sec. 89. ~~Section 79, Ch. 101, SLA 1982, page 32, lines 18 and 19 is amended to read.~~

~~ALLOCATION APPROPRIATION GENERAL FUND~~
~~ITEMS~~
~~Juvenile Custody 15,501,200 15,501,200~~
~~(15,506,200) (15,320,200)~~
~~Social Services, 4,561,500~~
~~Foster Care (4,566,500)~~

* Sec. 90. The sum of ~~$25,000~~ 19,300 is appropriated from the general fund to the Department of Health and Social Services for payment as a grant to the Sitka Receiving Home for program services.

* Sec. 91. Section 29, ch. 82, SLA 1981, page 110, lines 20 - 21 as

AUTHENTICATION

The following officers of the Legislature certify that the attached enrolled bill, Senate CS for 2d CS for House Bill No. 309(3d Finance) amended in the Senate, consisting of 48 pages, was passed in conformity with the requirements of the constitution and laws of the State of Alaska and the Uniform Rules of the Legislature.

Passed by the House June 26, 1983

Speaker of the House

ATTEST:

Chief Clerk of the House

Passed by the Senate June 21, 1983

President of the Senate

ATTEST:

Secretary of the Senate

Keep the way A.!

ACTION BY GOVERNOR

With wire Vetos + Reductions

Approved by the Governor July 28 1983

Governor of Alaska

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

4/30/84

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

Senate Bill 508, "An Act making supplemental appropriations to the Department of Health and Social Services for payments as grants to Bethel Social Services, Inc. and Sitka Youth Advocates, Inc.; and providing for an effective date," introduced by the Senate Finance Committee, makes the following appropriations, totalling $166,510:

--$100,000 to the Department of Health and Social Services for a grant to Bethel Social Services, Inc. for the operation of the Bethel Receiving Home during fiscal year 1984.

--$66,510 to the Department of Health and Social Services for a grant to Sitka Youth Advocates, Inc. for the operation of the Sitka Receiving Home during fiscal year 1984.

The bill provides for an immediate effective date.

(Legislative Reporting Service, 2/27/84, p. 405)

SB

519

907-826-3274

CRAIG SCHOOL DISTRICT

Wm. D. Millhorn
Superintendent
Robert W. Love

JANUARY 31, 1984



THE HONORABLE MAE TISCHER
HOUSE OF REPRESENTATIVES
CAPITOL, ROOM 110
POUCH V
JUNEAU, AK 99811

DEAR MADAM:

THE CRAIG CITY SCHOOL DISTRICT IS INTERESTED IN SOLICITING YOUR SUPPORT TO RECTIFY AN ERROR IN OUR SCHOOL DISTRICT'S FUNDING. I HAVE ENCLOSED MY LETTER OF NOVEMBER 17, 1983 TO THE COMMISSIONER OF EDUCATION, HAROLD REYNOLDS, JR. AND HIS RESPONSE TO THIS LETTER DATED JANUARY 25, 1984. I BELIEVE BOTH LETTERS ARE SELF-EXPLANATORY AND SPEAK FOR THEMSELVES.

PLEASE NOTE OUR EXISTING LOSS FOR SCHOOL YEAR 1983-84 (APPROXIMATELY $92,000), AND AGAIN OUR LOSS FOR THE 1984-85 SCHOOL YEAR (APPROXIMATELY $92,000), WILL BE SUBSTANTIAL AND UNRECOVERABLE UNLESS LEGISLATIVE ACTION IS TAKEN DURING THIS SESSION.

YOUR ATTENTION TO THIS MATTER IS APPRECIATED. IF YOU WISH, PLEASE CONTACT ME FOR FURTHER INFORMATION.

SINCERELY,

WILLIAM D. MILLHORN
SUPERINTENDENT

WDM:ES
ENCLOSURES 2

CRAIG SCHOOL DISTRICT

NOVEMBER 17, 1983

COMMISSIONER HAROLD REYNOLDS, JR.
POUCH F
JUNEAU, ALASKA 99811

DEAR COMMISSIONER REYNOLDS:

THIS LETTER IS INTENDED TO EXPLAIN A FINANCIAL SITUATION IN CRAIG SCHOOL DISTRICT WHICH CREATES AN INEQUITY THAT NEEDS TO BE RECTIFIED IF OUR SCHOOL SYSTEM IS TO RECEIVE EQUAL CONSIDERATION IN FUNDING.

AS CURRENTLY APPLIED, THE FORMULA FOR APPORTIONMENT WILL GREATLY REDUCE OUR ALLOCATION. THIS PRIMARILY DOES NOT REFLECT A LOSS OF STUDENTS. INSTEAD, THE REDUCTION OCCURS BECAUSE THE FINAL FIGURE USED DID NOT INCLUDE A UNIT FOR OUR BILINGUAL PROGRAM.

OUR ALLOCATION WITH ADM FUNDING IS $6,734; HOWEVER, OUR NEIGHBORING DISTRICTS--KLAWOCK, $7,417; HYDABURG, $9,163; AND THORNE BAY, $9,669--RECEIVE CONSIDERABLY MORE. YET OUR PROGRAMS, NEEDS, AND COSTS ARE VERY SIMILAR. IN ADDITION, IT IS MY UNDERSTANDING THAT NONE OF THE OTHER DISTRICTS IN THE STATE WILL UNDERGO THIS TYPE OF UNDERFUNDING WHEN THE FORMULA IS APPLIED.

IN THE PAST, OUR DISTRICT'S RELATIONSHIP WITH THE DEPARTMENT OF EDUCATION HAS BEEN EXCELLENT: INTERNAL MATTERS HAVE BEEN RESOLVED THROUGH GOOD COMMUNICATION AND COOPERATION. I HAVE EVERY CONFIDENCE THAT THIS CIRCUMSTANCE WILL CONTINUE.

HOWEVER, I HAVE BEEN ADVISED BY DOE OFFICIALS THAT THE OVERSIGHT IN OMITTING OUR DISTRICT'S BASE FIGURE CANNOT BE CORRECTED THROUGH THEIR OFFICES. INSTEAD, ONLY THE LEGISLATURE, WHICH ESTABLISHED THE ALLOCATION LEVELS, CAN RECTIFY THE OVERSIGHT.

THEREFORE, I REQUEST THAT OUR DISTRICT'S BASE FIGURE BE RECONSIDERED, NOW TAKING INTO ACCOUNT THE BILINGUAL PROGRAM WHICH WAS OMITTED, AND A READJUSTMENT BE DONE TO CORRECT THE INEQUITY.

IT IS MY HOPE THAT BY BRINGING THIS FINANCIAL SITUATION TO YOUR ATTENTION NOW, IT CAN BE REVIEWED AND RECTIFIED PRIOR TO THE NEXT LEGISLATIVE SESSION, A TIME WHEN YOU WILL BE CONCENTRATING YOUR FULL EFFORTS UPON OTHER STATE-WIDE, REGIONAL, AND DISTRICT PRIORITIES.

SINCERELY,

WDM/LS

WILLIAM D. MILLBORN
SUPERINTENDENT

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

GOLDBELT PLACE
801 WEST 10th STREET
POUCH F
JUNEAU, ALASKA 99811

January 25, 1984

JAN 30 1984

William Milhorn, Superintendent
Craig City Schools
Box 71
Craig, Alaska 99921

Dear Mr. Milhorn:

In response to your letter of November 17, 1983, expressing your concerns regarding the Craig City School District's allocation under Chapter 92, SLA 1983, you are correct that the interim funding scheme as a substitute for the Public School Foundation Program formula did not take into account your district's loss of students.

AS 14.17.031(d) provides for a "hold harmless" clause which was based on loss of instructional units from year-end to year-end. Clearly, using the base year of 1982, the Craig District lost a sufficient number of students/instructional units to trigger the "hold harmless" clause.

The Legislature, in arriving at its per ADM amount by district, did not take into account the loss of students, since, apparently, they used the 1st quarter revised reports and a percentage of that amount in setting the ADM number.

Including the loss of students under "hold harmless", the Craig City District's entitlement under a revised calculation scheme, treated similarly to other districts, would be in the neighborhood of $7,300 per ADM.

The bilingual program for your district was not approved until after the 1st quarter of 1983; therefore, the claiming of that instructional unit was not reflected until the year-end final foundation report and did not reflect in the determination of the ADM dollar estimate. This also holds true for other school districts which may have had increases in special education, vocational education, or bilingual education between the first quarter and year end.

You are correct that only the Legislature can correct the problem, since each district's ADM amount is established in statute.

Please feel free to contact us for any support you may need in this matter.

Sincerely,

Harold Raynolds, Jr.
Commissioner

95 1 1LH

COPY

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

REVISED

MEMORANDUM

TO: Members of the House
FROM: Representative Mae Tischer
DATE: June 21, 1983

RE: Conference Committee Substitute for House Bill 251

The following is an analysis of Conference Committee Substitute for House Bill 251.

Section 1 provides for payment of up to 90% for:

(A) current year bond repayments made by a municipality on indebtedness incurred after December 31, 1981, and authorized before July 1, 1983;

(B) cash repayments made by a municipality after June 30, 1982, and before July 1, 1983, during the fiscal year two years earlier (the two-year lag is a result of the delay in the Department of Education receiving audits; and

(C) school construction debt payments for bonds that are submitted to the Department of Education for approval before July 1, 1983, and are authorized by the voters before October 15, 1983, not to exceed $6,600,000 if the annual ADM growth rate is between 7 percent and 12 percent, or $20,000,000 if the annual ADM growth rate exceeds 12 percent. Any payments beyond those amounts are subject to the new 50 percent reimbursement rate contained in Section 2.

Section 1 of the bill is taken from the Senate version, except that paragraph (C) is added.

Section 2 provides for payment of 50% for:

(A) bond repayments made by a municipality on indebtedness incurred after June 30, 1983; and

(B) cash repayments made by a municipality after June 30, 1983, during the fiscal year two years earlier.

Section 2 is taken from the Senate version, unchanged.

Section 3 provides that the state may not allocate money to a municipality for a school construction project that has not been approved by the Commissioner of Education. In approving the project, the commissioner shall require full information on the bonding issue to be subsequently approved by the voters; no call-back options; a minimum pay-back period of ten years; and a demonstration of need. Section 3 is taken from the Senate version, except for two technical changes to the requirements for the approval of bond issues, as recommended by bond counsel.

Section 4 states the findings of the legislature and the legislature's intent to provide an alternative mechanism for public funding of schools in Alaska. Section 4 is taken from the House version, unchanged.

Section 5 suspends from July 1, 1983, through June 30, 1984, the operation of pertinent statutes affecting the current foundation funding formula; retains the Hold-Harmless Clause of AS 14.17.031(d) -- i.e. if the ADM decreases by 10% during the period of suspension, the previous year's ADM figures are used for calculating instructional units (in order to provide for drastic declines in school enrollments due to economic reasons). This section specifically suspends the following statutes:

AS 14.17.021 (a)	Basic state aid formula (Instructional unit x Unit allotment)
AS 14.17.022	Funds for Centralized Correspondance Study
AS 14.17.023	Supplemental Equalization Aid (Adjusts the allotments with respect to local tax contributions with the Department of Community and Regional Affairs determining the amount).
AS 14.17.031 (a), (b), (c), and (e)	Instructional units (IU's) - Total number of IU's within each school district in regard to various types of schools and program components.
AS 14.17.041	Tables of allowable instructional units
AS 14.17.051	Instructional Unit Allotment - dollar amount provided for each Instructional Unit
AS 14.17.056	Definition of Base Instructional Unit Value ($42,450)
AS 14.17.082	Fund balance changes in school operating fund; audited by Legislative Budget and Audit by

	April 15 of each year
AS 14.17.160	Allocation of funds on preliminary computation
AS 14.17.180	Payment under final computation
AS 14.17.225 (b)	Proration of funds proscribed by AS 14.17.010.

Section 5 is taken from the House version, unchanged.

Section 6 sets the dollar amount per ADM for each school district and for centralized correspondance study. These figures are based on 97.23% of full entitlement as exists presently for funds provided in FY 83 plus the supplemental appropriation of HB 73. Subject to adjustment under AS 14.17.021 (b), REAA's do not reflect reduction for PL 874 funds; those deductions will be made pursuant to Section 5. Section 6 was taken from the House version, unchanged.

Section 7 states the determination of state aid based on reports submitted under AS 14.17.170 (payment under adjusted computations). Payment distribution is set to replace AS 14.17.160. This section is taken from the House version.

Section 8 states the funds necessary for increased enrollments based on last quarter count (November 1983) will be placed into the supplemental program account and distributed per ADM's in Section 6. Available funds will be distributed on a prorata basis among school districts with increases in average daily membership. This section is taken from the House version.

Section 9 states that continuation level funding will be maintained for certain programs -- bilingual, special education, and vocation education programs. This section is taken from the House version, unchanged.

Section 10 requires the Commissioner of Education to recommend to the legislature by January 9, 1984, a method of revising and improving the public school foundation program. This section is taken from the Senate version, except that references to instructional unit calculations are changed to conform with the House formula which is based on average daily membership calculations.

Sections 11 and 12 are the effective date clauses. Specifically, Section 11 provides that Sections 1 - 3 of the bill, the school construction debt provisions, take effect July 1, 1983. Section 12 provides that Sections 4 - 10 of the bill, the new educational funding provisions, take effect immediately. These two sections differ from the effective dates in either the Senate version and the House version in that they apply different effective dates to different sections of the bill.

Section 13 provides that Sections 4 - 10, all of the bill except for the school construction debt provisions, are repealed June 30, 1985. This section is not contained in either the House or Senate versions.

/wtl

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

4/16/84

STAFF REVIEW

Senate Bill 519, "An Act relating to state support for education; and proving for an effective date," introduced by the Senate Finance Committee, amends portions of Chapter 82, SLA 1983 (Conference Committee Substitute for House Bill 251). SB 519 extends last year's suspension of the Foundation Program for education funding, through June 30, 1985. The amounts of state aid per student would be the amounts established last year for FY 84 relating to state support for education, adjusted for cost-of-living changes and multiplied by the average daily membership reported by each district for 1984.

The bill provides for an immediate effective date.

(Legislative Reporting Service, 3/12/84, p. 495)

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 16, 1984

SUBJECT: Sectional analysis of SB 519; state support for education

TO: Representative Mae Tischer
Chairman, Health, Education, and Social Services Committee

FROM: Keith B. Levy KBL
Legislative Counsel

You have requested a sectional analysis of SB 519, relating to state support for education. SB 519 amends a number of sections from ch. 82, SLA 1983. Chapter 82, SLA 1983 suspended many of the provisions of the foundation funding formula (AS 14.17) for fiscal year 1984, including AS 14.17.160. It contained a provision allowing the state aid for fiscal year 1984 to be adjusted in a manner substantially similar to that provided in AS 14.17.160 (see sec. 7, ch. 82). Chapter 82 also provided that if the Commissioner of Education did not submit to the legislature a method of revising the formula by January 9, 1984, then an alternative formula would be used for fiscal year 1985, "the provisions of AS 14.17 notwithstanding" (sec. 10, ch. 82, SLA 1983). Thus, while sec. 7 of ch. 82 provides for the adjustments to state aid for fiscal year 1984, it does not provide for those adjustments for fiscal year 1985. SB 519 amends ch. 82, SLA 1983, to clarify how the funding formula is to be adjusted for fiscal year 1985.

Section 1 amends sec. 5, ch. 82, SLA 1983, to suspend certain provisions of the foundation formula through the end of fiscal year 1985.

Section 2 amends sec. 10, ch. 82, SLA 1983, to provide that state aid for fiscal year 1985 is to be based on the amounts used in fiscal year 1984, adjusted by the average daily membership figures reported by each district for fiscal year

1984. The state aid for fiscal year 1985 is to be further adjusted to reflect the revised average daily membership figures reported by each district under AS 14.17.170 for fiscal year 1985. AS 14.17.170 requires periodic updating of the average daily membership figures to make the funding calculations more accurate.

Section 3 provides for an immediate effective date.

KBL:ojb
J6/046

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

POUCH H-05
JUNEAU, ALASKA 99811
PHONE: (907) 465-3170

DIVISION OF FAMILY AND YOUTH SERVICES

April 27, 1984

The Honorable Mae Tischer
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Tischer:

You had asked for responses to three questions regarding the Governor's Symposium on Child Abuse and Neglect for Southeast Alaska to be held in Sitka on May 16, 17, 18, 19, 1984.

1. You were concerned about why you had not been invited to the Symposium. Your invitation was mailed from Anchorage two weeks ago by the University of Alaska which is the contractor facilitating the logistical planning for the Symposium. Since you have not received it, I am happy to extend a personal invitation for you to attend. I have enclosed the registration material for your convenience. I have also included information about the child abuse and neglect conference we are co-sponsoring with the Center for Children and Parents in Anchorage, AK. I think both of these conferences are offering excellent topics which may be of interest to you.

2. You had expressed concern about whether or not this type of training would be available in the rest of the State. We are very hopeful that we will have funding in FY 85 which will enable us to sponsor similar projects in our other Regions using Southeast as a model. The Southeast Symposium is designed to interface with two training grants which were made to two Southeast agencies for improving community coordination of services to families. The goal of the training grants is to establish a team in each community who will advocate and assist in providing services to abused and neglected children and their families. If funding is available, we will duplicate this total project in each Region.

3. You wanted to know how the Symposium is being funded. At the end of FY 83 lapsing funds were identified and addressed through SCS 2d SCHB J309 309 (3d Fin) am S, Chapter No. 106. I have attached the pertinent Sections of that Act and as you can see there is conflict between Section 89 and Section 271 as to the status of those funds.

   James Baldwin, Assistant Attorney General, determined that the lapsing funds from FY 83 would be available through June 30,

1984. (See enclosed). I have also included a copy of the memorandum which identifies the legislative intent for the funds. The Symposium has been allocated $75,000 and the major part of that funding is being utilized to pay the travel cost for people from Southeast Alaskan communities to attend and participate.

We certainly would welcome your attendance. If you have any other question, please feel free to contact me at 465-3170.

Sincerely,

Michael L Price

Michael L. Price
Director

Enclosures

MLP:MAG:wb

MEMORANDUM State of Alaska

TO: Mike Price, Director
Div. of Youth and Family Services
Dept of Health & Social Services

DATE: September 8, 1983

FILE NO: 366-126-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Lapse date for FY 83 juvenile custody appropriation

By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

You have asked whether the governor's veto of sec. 89, ch. 106, SLA 1983 also deleted the lapse date extension contained in sec. 271 of that chapter for the appropriation amended by sec. 89. The governor's veto of sec. 89 was intended to return the juvenile custody appropriation initially enacted in sec. 79, ch. 101, SLA 1982 to the amount originally appropriated without reduction. Governor's veto message (Exhibit I).

The lapse date extension for sec. 89 is inartfully drafted because it provides that the appropriation "made" in sec. 89 is extended. However, the effect of sec. 89 is to reduce an existing operating appropriation by $25,000 not to reenact the FY 83 juvenile custody appropriation. The intent of sec. 271 appears to be to extend the lapse date for the unobligated balance of the juvenile custody appropriation enacted in ch. 101, SLA 1982.

Department of Health and Social Services records disclose that as of the effective date of ch. 106, the unobligated balance of the appropriation was $554,493. There is no evidence of legislative intent to make the extension of the lapse date for the juvenile custody appropriation contingent on enactment of the reduction vetoed by the governor.

We believe that the reappropriation, transfer, or amendment of an existing appropriation makes the entire unexpended balance of the original appropriation subject to the governor's legislative power to veto. However, the veto of sec. 89 did not affect the existence of the juvenile custody appropriation, only the attempt to reduce the authorized amount.

Absent clear evidence of legislative intent to the contrary, we believe that the lapse date for the juvenile custody appropriation enacted in sec. 79, ch. 101, SLA 1982, p. 32, lines

18 and 19 is June 30, 1984. We hope this memorandum answers your question.

JLB/pjg

cc: Hon. Peter Goll
Representative
Alaska State Legislature

Allan Blume, Special Assistant
Office of the Governor

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE

P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Sen. Frank Ferguson

FROM: Sen. Dick Eliason

DATE: May 12, 1983

RE: Request for amendment to SB 158

Part of Sec. 38 of CSSB 158(HESS) extends the lapse date for Sec. 79, ch. 101, SLA 1982, page 32, line 19, until June 30, 1984.

This language was added in HESS at my request. It was to enable the Div. of Family and Youth Services to utilize the unexpended portion of the original $4,586,500 social services appropriation to establish a child abuse social worker position on Prince of Wales Island and a child abuse training program in rural Southeast.

Since the time that amendment was made, both the House and Senate Finance Committees included a new social worker for Prince of Wales in their DHSS operating budgets. Now a portion of the approximately $200,000 in unlapsed funds is available for other related and pressing needs.

I now request that Sec. 38 in the HESS CS be left intact and that the following language be added to SB 158:

Sec.___. Sec. 79, Chapter 101, lines 18 and 19 are amended to read:

	Allocation	Appropriation	Gen. Fund
Social Services, Foster Care	$4,561,500 (4,586,500)	$15,501,200 (15,526,200)	$15,501,200 (15,526,200)

Sec.___. The sum of $25,000 is appropriated from the general fund to the Dept. of Health and Social Services for payment as a grant to the Sitka Receiving Home for operating expenses.

These changes will result in a zero fiscal impact as we simply returned $25,000 of unexpended money to the general fund from the original Foster Care appropriation and re-appropriated the same amount for the Sitka Receiving Home. I have back-up information on the need for this funding for the Home if it is needed and this appropriation is supported by the Administration.

The remaining funds will not lapse until June 30, 1984, as per Sec. 38 of CSSB 158 HESS.

It is my intent, and I request that the Finance Committee attach to the bill as its intent, that those remaining unlapsed funds be used as follows:

> The Division of Family and Youth Services will use the remaining and unlapsed funds to contract for training programs in rural Southeast Alaska dealing with identification, prevention, and treatment of child abuse and neglect.

I appreciate your consideration of my request and hope that my proposed amendments and intent language will be included in the Finance CS for SB 158. If further information is needed please contact me.

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

POUCH H-05
JUNEAU, ALASKA 99811
PHONE: (907) 465-3170

April 9, 1984

Dear Alaskan Legislator:

You are cordially invited to attend the Governor's Symposium on Child Abuse and Neglect being held in Sitka on May 16, 17, and 18, 1984. The Division of Family and Youth Services is extremely pleased to be able to offer this program on coordination and networking services in Southeast Alaska and we are very hopeful that you will be able to attend.

The enclosed agenda describes the workshops being presented and we think every one of them will offer some new ideas and perspectives. It is a limited registration, so be sure and complete the form as soon as possible. If you have any questions regarding the symposium, please feel free to contact me at 465-3170.

Hope to see you there!

Sincerely,

Michael L. Price

Michael L. Price
Director

Enclosure

MLP:MAG:jsd

LAWS OF ALASKA

1983

Source

SCS 2d CSHB 309(3d Fin) am S

Chapter No.

106

AN ACT

Making reappropriations and transfers among appropriations and extending the lapse date of certain appropriations; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 11.

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved with Item Vetoes: July 28, 1983
Actual Effective Date: July 29, 1983

114, line 10 does not lapse until the term or agreement of the lease, or lease purchase expires.

* Sec. 269. The appropriations made by secs. 11, 14, 27, 28, 38, 39, 43, 56, 57, 64, 70, 72 - 75, 92, 95, 101, 117, 126, 151(b), 152, 161, 162, 164, 167 - 171, 187, 191, 193, 205, 230, and 234 - 237 of this Act are for capital projects and are subject to AS 37.25.020.

* Sec. 270. The appropriations made by secs. 1, 4, 6 - 9, 16, 18, 19, 21 - 26, 29 - 31, 33 - 37, 42, 44, 46, 48, 50, 51 - 55, 65 - 68, 81, 83, 85, 96, 99, 114 - 116, 121, 123, 125, 128, 130, 133, 135 - 147, 149, 150, 153 - 155, 159, 163, 186, 188, 189, 194, 195, 197 - 200, 202, 204, 207, 214, 216, 218, 219, 226, 228, 232, 242 - 255, 261, 263 and 265 of this Act shall be disbursed in accordance with AS 37.05.315 - 37.05.319.

* Sec. 271. The unexpended and unobligated portions of the appropriations made in secs. 40, 71, 77, 89, 90, 93, 157, 158, 212, 238, and 257 of this Act lapse into the general fund June 30, 1984.

* Sec. 272. This Act takes effect immediately in accordance with AS 01.10.070(c).

	ITEMS	
Anchorage-Minnesota-Hillcrest/		
Tudor Bike Trail (ED 7)	320,000	320,000
	(370,000)	(370,000)

* Sec. 87. Section 28(c), ch. 50, SLA 1980, page 59, line 24, is amended to read:

	APPROPRIATION ITEMS	GENERAL FUND
Anchorage-Bike Trail Tudor-Minnesota to C Street (ED 7)	195,000	195,000
	(320,000)	(320,000)

* Sec. 88. Section 30, ch. 82, SLA 1981, page 178, lines 22 and 23 is amended to read.

	APPROPRIATION ITEMS	GENERAL FUND
Repairs [REPAIR LAUNCHING RAMPS] at Douglas, Harris and Amalga Harbors	400,000	400,000

* Sec. 89. ~~Section 70, Ch. 101, SLA 1982, page 32, lines 18 and 19 is amended to read:~~

~~ALLOCATION APPROPRIATION GENERAL FUND~~
~~ITEMS~~
~~Juvenile Custody 15,501,200 15,501,200~~
~~(15,526,200) (15,526,200)~~
~~Social Services, 4,551,500~~
~~Foster Care (4,576,500)~~

* Sec. 90. The sum of ~~$25,000~~ 19,300 is appropriated from the general fund to the Department of Health and Social Services for payment as a grant to the Sitka Receiving Home for program services.

* Sec. 91. Section 29, ch. 82, SLA 1981, page 110, lines 20 - 21 as

AUTHENTICATION

The following officers of the Legislature certify that the attached enrolled bill, Senate CS for 2d CS for House Bill No. 309(3d Finance) amended in the Senate, consisting of 43 pages, was passed in conformity with the requirements of the constitution and laws of the State of Alaska and the Uniform Rules of the Legislature.

Passed by the House June 26, 1983

Speaker of the House

ATTEST:

Chief Clerk of the House

Passed by the Senate June 21, 1983

President of the Senate

ATTEST:

Secretary of the Senate

Keep the U of A!

ACTION BY GOVERNOR

Approved with Vetoes & Reductions by the Governor July 28 1983

Governor of Alaska

SR

9

3/7

Send cc's Jan
Al, ~~[illegible]~~
highlighting Para III
on their cc.
MJ

& drop Joe
a note that
we'll be hearing
the HR13 on DD's
in Anchorage Mar 17.

SENATE RESOLUTION 9 by the Senate HESS Committee Relating to a state policy for the developmentally disabled.

This resolution was developed by the Committee following a joint hearing of the House and Senate HESS Committees with the Governor's Council for the Handicapped and Gifted at the end of January.

The Governor's Council explained their funding priorities, needs assessment and long range plans as they have in the past. The plan for 1984-86 was divided into regions of the state, with detailed information on the population, current service levels and needs.

The many advocacy and family groups involved with the Governor's Council feel that the needs for services within the community for the developmentally disabled are long overdue. Plans of service have been developed for six years - but are not implemented. Institutional care continues to absorb most of the developmentally disabled dollars, while many people remain unserved.

For this reason, the HESS committee has introduced SR 9, requesting the Governor and his departments to present to the legislature in 1985 a comprehensive plan for the developmentally disabled that will advance the following goals:

*improve their innate dignity, value and rights.

*expand their opportunities in employment, education and community living.

*the delivery of social services in the least restrictive manner

*the exploration of community based alternatives to institutionalization.

(J) programs which train persons to work with or assist older Alaskans;

(K) transportation services;

(L) educational activities; and

(M) employment services;

(4) "sponsor" means the provider of one or more service programs or pilot projects for the benefit of older Alaskans, including

(A) a municipality of the state; and

(B) a nonprofit corporation organized under the laws of the state.

(C) an educational institution.

(5) "commission" means the Older Alaskans Commission established in AS 44.21.200. (§ 1 ch 152 SLA 1980; am §§ 10-12 ch 79 SLA 1981)

Effect of amendments. — Section 10, ch. 79, SLA 1981 added subparagraph (C) in paragraph (4). Section 11 of ch. 79 added paragraph (5). Section 12 of ch. 79 repealed paragraph (1) which defined the office on aging.

Chapter 80. Persons with Handicaps.

NOTES TO DECISIONS

Purpose of chapter. — The purpose of AS 47.80.010 through 47.80.900 is to provide affirmative services to the handicapped. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).

Minimal institutionalization a goal. — A fundamental goal of AS 47.80.010 through 47.80.900 is to minimize institutionalization in the habilitation of handicapped individuals. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981). See AS 47.80.110.

No authority to involuntarily commit the handicapped. — The statutory scheme of AS 47.80.010 through 47.80.900 does not give the courts authority to involuntarily commit the handicapped. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).

AS 47.80.010 through 47.80.900 contains no implicit authority for the involuntary commitment of those handicapped individuals who fall within its scope. In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).

Article 1. Rights.

Sec. 47.80.010. Rights of persons with handicaps.

NOTES TO DECISIONS

Quoted in In re K.M.L., Sup. Ct. Op. No. 2325 (File No. 4708), 626 P.2d 574 (1981).

Sec. 47.80.020. Protection and advocacy of rights.

NOTES TO DECISIONS

This section was enacted in response to a federal statute, 42 U.S.C. § 6012(a), providing for joint federal and state protection and advocacy of the rights of

South Central
Health Planning and Development, Inc.
1135 West Eighth Avenue • Suite 1 • Anchorage, Alaska 99501
(907) 278-3631

February 29, 1984

Honorable Joe Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson:

Re: SR 9 Proposed Policy for the Developmentally Disabled

The full Board of South Central Health Planning and Development, Inc., met on February 25, 1984. This proposed resolution establishing a policy for development of a comprehensive program of services for developmentally disabled Alaskans was discussed fully. A motion to support SR 9 was passed unanimously.

The situation for developmentally disabled Alaskans has reached crisis levels. This resolution establishes a direction to begin addressing the solutions in an effective, organized fashion. I urge you to support this resolution and the tenets it espouses.

Sincerely,

Steve Lesko
President

Attachment

SL/ab

RECEIVED

Josephson,

GOVERNOR'S COUNCIL FOR THE HANDICAPPED AND GIFTED

1984 LEGISLATIVE PRIORITIES

In accordance with the Council's responsibilities under Alaska Statute 47.80 to "advise the executive and legislative branches on programs and policies regarding these citizens", the Governor's Council for the §handicapped and Gifted makes the following recommendations for consideration during the 1984 session of the Alaska Legislature. Included for each of the six priority programs are estimated funding levels required to meet full service needs, Council recommendations for F85 program funding and the Governor's proposed budget figures.

INFANT LEARNING PROGRAMS

Increase Required to Meet Full Service Need (Provide service to and additional 141 children in unserved areas at approximately $3000/child.)	+423.0
F85 Recommended Funding Level	2,514.0
Governor's Proposed F85 Budget	2,091.0
INCREASE OVER PROPOSED F85 BUDGET	+423.0

RESPITE AND DAY CARE

Increase Required to Meet Full Service Need (30-40 hours/day added to existing programs, 85-100 hours/day in unserved areas)	+ 320.0
F85 Recommended Funding Level	1,041.6
Governor's Proposed F85 Budget	889.4
INCREASE OVER PROPOSED F85 BUDGET	+152.2

PERSONAL AIDES AND ATTENDANTS

Increase Required to Meet Full Service Need (Approximatley 25 persons in need of service at $21,900/person/year.)	+547.5
F85 Recommended Funding Level	660.0
Governor's Proposed F85 Budget	330.0
INCREASE OVER PROPOSED F85 BUDGET	+330.0

HOMEMAKER SERVICES

Increase Required to Meet Full Service Need (15 hours/week for an additional 250 handicapped children and adults.)	+2,831.3
F85 Recommended Funding	2,409.6
Governor's Proposed F85 Budget	2,234.6
INCREASE OVER PROPOSED F85 BUDGET	+175.0

COMMUNITY LIVING SERVICES

Increase Required to Meet Full Service Need (An array of vocational services and residential support and training for 77-81 individuals presently on program waiting lists.)	+3,480.0
F85 Recommended Funding	5,194.3
Governor's Proposed F85 Budget	4,610.6
INCREASE OVER PROPOSED F85 BUDGET	+583.7

GIFTED/TALENTED SPECIAL EDUCATION

Increase Required to Meet Full Service Need (Funding the Honor's Institute, one FTE position for G/T in DOE, support of program field	+251.0
F85 Recommended Funding	251.0
Governor's Proposed F85 Budget	0
INCREASE OVER PROPOSED F85 BUDGET	+251.0

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF MENTAL HEALTH AND
DEVELOPMENTAL DISABILITIES

POUCH H 04
JUNEAU, ALASKA 99811
PHONE: 465-3370

October 12, 1983

Mr. David F. Maltman
Executive Director
Protection and Advocacy
for the Developmentally Disabled
325 East 3rd, 2nd Floor
Anchorage, AK 99501

Dear Mr. Maltman:

In some ways your letter of September 22 is difficult to answer because we do not have all of the reliable information we would like. In addition, future needs in Alaska depend on the growth of the state and the nature of that growth as well as the kind of innovation that take place within the field.

However, with the above conditions and in an attempt to be clear and brief, the list of needed services based on current verified client demand for programs of the type administered by the Developmental Disabilities Section are as follows:

Verified Client Need By Program	Estimated Yearly Operational Cost
Respite Care Services	
30 - 40 hours per day added to existing programs	$ 70,000
85 - 100 hours per day for new families mainly in non-urban areas statewide	250,000
Vocational Training Services	
50 persons verified on waiting lists of existing programs in Anchorage, Ketchikan, Juneau, Kodiak and Fairbanks	500,000
25 persons waiting for program development in the Kenai, Southeast Alaska, and Bethel	200,000

Residential Support and Training	
38 persons on waiting lists for existing services - - - - - - - - - - - - - - -	1,200,000
15 persons in need of new in-home support services and group homes in Kenai and Anchorage - - - - - - - - - - - -	300,000
8 persons with Autism having highly specialized needs - - - - - - - - - - - - - - -	300,000
16 - 20 mentally retarded/emotionally disturbed persons needing highly specialized services (Anchorage, Valdez, and Kodiak) - - - - - - - - - - - - - - -	900,000

Again, the data regarding clients is based on our best judgement of client needs that have been verified by the Division. The estimated figures for yearly operational costs are based on a good deal of experience with the cost of community programs in Alaska. Except for a portion of the final program listing (i.e. MR/ED programs in Valdez) the list is composed of estimates of need for community based programs as opposed to institutional programs. Also, the list assumes that existing programs would generally remain to meet needs of the currently served population.

One final caveat is that the cost estimate should not imply the ability of the State Division of Mental Health and Developmental Disabilities to fund programs. In fact, State revenues have for the past two years precluded the possibility of adding to most programs administered by the Department of Health and Social Services, including those to developmental disabled persons. It appears that the future revenue picture is bleak, also.

With the conditions described, I believe you will find the list accurate. If not, or if you have questions or concerns, please do not hesitate contacting me. You may wish also to contact the Governor's Council for the Handicapped and Gifted. The descriptions of need found in the Council's recently developed State Plan may provide a more comprehensive statement.

Sincerely,

Robert P. Gregovich, Ph.D.
Program Administrator
Developmental Disabilities

cc: Lee Killgore
Dr. Philip Shapiro

ASSOCIATION FOR RETARDED CITIZENS OF ALASKA
P.O. BOX 4-BBB ANCHORAGE, ALASKA 99509

March 3, 1984

State of Alaska
Department of Health and Social Services
204 Alaska Office Building
Pouch H-01
Juneau, Alaska 99811
Attention Robert London Smith PH.D.
Commissioner

Dear Dr. Smith

I am appalled that you (your department) would instruct Dr. Gregovich to stand up in front of the Senate and ask that they vote down Senate Resolution - 9.

How can you take this position? What in the resolution; which simply calls for the recognition of the rights and dignity of nature for the developmentally disabled, can be so offensive to you?

It is apparant to me, that Greek letters of learning after a person's name do not remove the shrouds of ignorance and prejudice. It is ironic that a Dr. of Philosophy would stand in front of the Senate and speak using the tenat of argument - "AD IGNORANTUM". This same tenat he would then take to his students and berate its principal of argument as fallacious.

There is a statement that "history repeats itself," perhaps it is so. Approximately 115-125 years ago, ignorant people decried a proclamation put forth by a man named Lincoln, it was entitled the "Emancipation Proclamation". Would you have stood up then Dr. and called for it to be voted down? 200 Hundred years ago when men argued the rights and dignity of man, a bill came forth, it was called "The Bill of Rights", would you have stood up then and decried that this bill be voted down?

The language in Sr-9, to most degree, is no different in context then in a reply sent by the Governor to House Majority Leader Ramona Barnes. This resolution as passed by the Senate is going to be introduced by the House.

How can you set yourself above the Governor, the Legislature, and most importantly the people to run in opposition to those directions mandated of you and your department to take?

Dr. Rabbeau was asked in the HESS Finance subcommittee meeting what position your department took in planning for the Developmentally Disabled? His response was that this issue was not an issue, not a priority. He intimated no planning is being done or will be done.

Let me assure you Dr. we will write the plan for you and hopefully in its writing will determine a means to exclude your need or your department's need for continuence.

I commend the Governor and the Legislature for their understanding and support of the concerns of Developmentally Disabled People. I commend the Governor in his proclamation calling this the decade of the disabled. I commend the Governor for opening his home here in Anchorage for a reception for Special Olympics to support Developmentally Disabled People. I commend the Legislature both House and Senate for their tremendous support this year.

I ask of the Governor and the Legislature how we, all of us, can continue to allow you and your department to run in direct opposition to us?

Respectfully

Joseph H. Laird
President - Association Retarded Citizens of Alaska

CC. Governor Bill Sheffield
Alaska State Legislature
Anchorage Times
Anchorage Daily News

ASSOCIATION FOR RETARDED CITIZENS OF ANCHORAGE, INC.
(907) 277-6677 • P.O. BOX 4-BBB • Anchorage, Alaska 99509 • 2211 Arca Drive

March 5, 1984

Representative Mae Tischer
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mae

I wish to express my deepest appreciation in all that you have done to assist us in meeting the needs of the developmentally disabled. We are not through the woods but you and others like you give a beacon to light our path. I give you my sincere pledge that the things promoted to you will be accomplished to the best of my ability and while I can still draw a breath.

As a business person, I have experienced first hand what can be done in a shared partnership with government, people, business, and the community working together. Mary Jane speaks of you with pride and reverence, I see now that her judgement is well placed.

I firmly believe that community programs are most cost effective and with the full utilization of the partnership can continue to remain that way. Assuming all things planned for our recreation center can be brought forth, I envision the soon to be realized ability to make our program totally self sufficient. If we are able to bring in the rental incomes available in our overall program, we may never need State or Municipal assistance, while providing tremendous programs for the developmentally disabled.

Thank you again, If down the road I may assist you in any way, please call on me.

Respsectfully

Joseph H. Laird

Joseph H. Laird
President - Board of Directors
Association for Retarded Citizens of Anchorage

3/17/84

JUNEAU Ass'n. FORGET ME NOT Retarded Children

J.A.R.C.

P.O. Box 1495
JUNEAU, ALASKA
99802

Juneau Association for Retarded Citizens

"Retarded Children CAN Be Helped"

I'm Pam Wills Peters, the President of the Juneau Association for Retarded Citizens. The Juneau ARC is in favor of House Resolution 13, as we believe this is a basic statement of Human Rights for Alaskans who have developmental disabilities.

Also, we would like to urge you to increase the budget for community services that Governor Sheffield has already adopted. There are families in the Juneau ARC that have needed community services for years. A 3.6 million dollar increase will meet the current needs for community services throughout Alaska, including Juneau. We appreciate your interest in the ~~developmentally disabled~~ developmentally disabled population in Alaska.

Pamela Ann Wills Peters

SCR
12

Ken Humphrey's / DIR - Retir & Benefits —

Resol was amended in Senate HESS & we can now support this.

Tischer - Expanded bill
McMillen - ~~$~~ amt for Health Insurance
Humph - Gen. gov't members. = 217 per mo —
all employees - 40 million per yr.

① Gone to bid to see what market is willing to offer. Very comp health plan — benefits are extraordinary. The best avail for public employees anywhere. Therefore Realistic price for coverage.

PERS & JRS - Same health benefit system = 157.00 per mo.
① difference = audio visual dental not included
McMillen - $50 deductible - 90% up to 1950 then 100%

① Not fully self-insured — experience writed — level of premium dictated incidents.

Tischer: Why - need for Resolution —

Humphrys - We will pursue in any event - 1 the comp review rather than ongoing report.

Intent - Suggested by a gentleman who wanted to sell a "staywell" plan to the state.

Health Costs: 3rd party payments - no cost containment.

① Expand role of SBS - more basic level of underlying coverage. It would not go to annuity account.

Labor Relations w/in DOA does negotiating.

Fritz - Hold action on HB 225 until he can return even if it tomorrow —

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CSSCR 12
Title: Health Insurance Task Force
Sponsor: Josephson
Requestor:

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Cen. Admin. Service
BRU, Program of Subprogram(s) Affected:
Retirement & Benefits

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		25.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		25.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		25.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: J.K. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 5-18-83

Approved by Commissioner: Lisa Rudd, Commissioner Date: 5-18-83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

State of Alaska

Fiscal Note

CSSCR 12

IV Analysis: The $25.0 expenditure is for benefit consultation and research.

Alaska State Legislature

REP. MAE TISCHER
CO-CHAIRMAN

REP. MILO FRITZ
CO-CHAIRMAN

MEMBERS:
REP. MIKE MILLER
VICE CHAIRMAN
REP. BETTE CATO
REP. MIKE DAVIS
REP. PETER GOLL
REP. NIILO KOPONEN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

To: House HESS Committee Date: 5/16/83

From: Linda Otey, Committee Aide

Re: Summary/ CSSCR 12 (HESS) "Requesting the governor to direct that a study be conducted by the Dept. of Administration to investigate cost control alternatives for state employee health insurance plans".

The Senate HESS CS requests the Governor to direct that a study be conducted by the Dept. of Administration to investigate cost control alternatives and design modifications for state employee health insurance plans, including institution of a "stay well" health insurance plan for state employees.

The original resolution requested the Governor to establish a special task force to study the question. This version requires the Dept. of Admin. to report its findings to the Governor and the Legislature by Jan 16, 1984.

folder content

left	right
Resolution	Summary
Fiscal Note DHSS	Ak. State Hosp. Assoc.
Position Paper/DHSS	Amerigard-alternative approach

alaska state hospital association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

Chairman of the Board
Ronald A. Pavellas
Humana Hospital Alaska
Anchorage

Chairman-Elect
Mark Hawkins
Sitka Community Hospital
Sitka

Immediate Past Chairman
Tom Mingen
Fairbanks Memorial Hospital
Fairbanks

Secretary/Treasurer
Edward Zeine
Cordova Community Hospital
Cordova

Delegate to the American Hospital Association
Al M. Camasso
Providence Hospital
Anchorage

Alternate Delegate to the American Hospital Assoc.
Michael Lockwood
Central Peninsula Hospital
Soldotna

Delegate to the American Health Care Association
Jack Guck
St. Ann's Nursing Home
Juneau

Alternate Delegate to the American Health Care Association
Emma G. Ivy
Wrangell General Hospital
Wrangell

Delegate to the Association of Western Hospitals
Michael Herring
South Peninsula Hospital
Homer

Alternate Delegate to the Association of Western Hospitals
Daniel Van Wieringen
Kodiak Island Hospital
Kodiak

Trustee Delegate to the American Hospital Assoc.
Moe Kadish
Trustee, Providence Hospital
Anchorage

Alternate Trustee Delegate to American Hospital Association
Robert Jensen
Central Peninsula Hospital
Soldotna

Physician Member of the Board
Keith Brownsberger, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

April 1, 1983

The Honorable Joe Josephson
Senator
Pouch V
Juneau, Alaska 99811

Subject: SCR 12.

Dear Senator Josephson:

The Alaska State Hospital Association has reviewed SCR 12 and wishes to inform you of our support.

The "stay well" program proposed in this measure has the potential to draw the consumer back into a consideration of the economics of seeking health care services. This will, in our judgement begin to address the problem of ever increasing utilization in general and specifically such problems as inappropriate use of hospital emergency rooms. When the consumer feels no economic difference in the use of a physician's office or an emergency room, all too often the consumer opts for the one most likely available at the consumer's convenience, the emergency room. When insurance pays for either the physician or emergency room visit there is no effective difference to the consumer. The "stay well" program you suggest would offer some incentive, even if minor and indirect, it would be a great improvement.

While there are many facets to the cost of health care, the misuse and over use by the consumer is a major part of the problem. We believe that SCR12 begins to address that part of the problem. We are anxious to help secure its passage.

Sincerely,

Dennis L. DeWitt
President

DLD:hb

Amerigard inc.

520 SW YAMHILL ST., SUITE 424 PORTLAND, OREGON 97204 503/224-2555

AMERIGARD'S "STAY WELL" PROGRAM

An alternative approach for providing Health Care Benefits.

INTRODUCTION

The Amerigard STAY WELL program is one which puts the responsibility for the use and administration of health care funds back where it belongs -- with the employee.

By dividing the usual expenditures for health care benefits between special Amerigard accounts and premiums for a high deductible major medical policy, the cost to an organization for providing these benefits may be substantially reduced. This is accomplished by

- offering incentives to employees for staying well
- allowing employees to administer their own health care funds
- eliminating much of the paperwork required by traditional health insurance programs.

FACTS about the current situation

- Health insurance costs are exploding upward
- The associated administrative burden is also increasing
- Business and industry are caught between increasing employee demand for health care coverage and soaring costs

To cope with this situation, most organizations are pursuing one or more of the following options:

- Continuing "business as usual" and absorbing the added costs.
- Tightening controls on current programs by making staff cuts, etc.
- Deferring additional benefits and cutting existing programs.
- Seeking alternatives to traditional health care programs.

Amerigard's Stay Well program is NOW AVAILABLE and provides the alternative that many managers have been looking for. Amerigard is a not-so-traditional program whose features include:

- Sharing responsibility with employees for their own health care plan.
- Providing incentives to employees to stay well and on the job.
- Simplifying the administrative system so that paying for care received is as simple as writing a check.

The Bottom Line Results

- Reduces costs, administrative burden, and time away from work (as much as 40% in some cases).
- Provides an improved benefit plan with first dollar coverage.
- Boosts worker and organization productivity.
- Improves employee morale.

Why Does Amerigard Work?

Amerigard's STAY WELL program is NOT another insurance program. It invokes a different principle, that of Free Enterprise. Everyone benefits when costs are reduced and employees are kept on the job.

In traditional programs, the only way to get anything out of the benefit is to use it! The more you use it, the more you gain! With Amerigard's STAY WELL Program, participants have first dollar coverage when they need it and are given cash back when they do not.

Does Amerigard keep people from going to the doctor when they are sick? Newsweek doesn't think so. Nor does Larry Parcell, Vice President of Blue Shield of California, who holds that "(STAY WELL) is probably the most innovative concept since major medical insurance caught on in the 1950's." (Newsweek, August 25, 1980)

Savings accrue with the reduction of unnecessary doctor visits, which health economists agree is at least 50%.

The results with Amerigard are:

- Much less time lost due to "illness".
- Substantial savings to the organization.
- First dollar coverage when needed.
- Cash back to the participant for staying well.

How Amerigard Works

In traditional programs, all premiums paid are lost; all fees paid go directly to the insurance carriers. Such programs are usually accompanied by lots of forms, many restrictions and hassles in payments to the concerned parties.

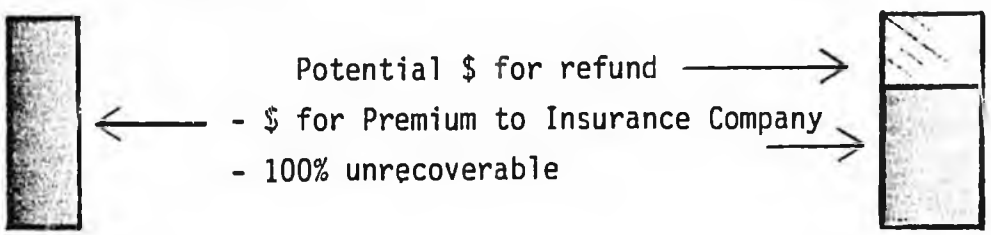
With the Amerigard Program, the usual expenditure is divided-- with a portion, the employer pays for a high deductible major medical policy which is less expensive. The balance is deposited into special accounts that have been established, by Amerigard, for each participant. Especially prepared checks, designed so that they can be used only for medically related expenses, are given to each participant. The participants "administer" THEIR OWN account just as they do their personal checking account.

- When services, such as doctors visits, medication, laboratory and x-ray procedures, are received, they are paid for by check from the Amerigard account. PAYMENT IS IMMEDIATE, WITHOUT FORMS.
- Should charges reach the deductible limit, the participant follows the procedure established by the major medical carrier.
- Cancelled checks and monthly statements provide proof of payment toward the deductible limit.
- Funds remaining in the Amerigard accounts at the end of the year are returned to the employer and employee in the manner determined when the program is established.

TYPICAL EXAMPLES

Traditional Program

Amerigard Program





Example 1

No benefit used. Amerigard account balance is divided between employer and participant.

Major Medical Premium. Fixed cost; unrecoverable



Example 2

Balance in account after a portion of the account has been used. Divided and refunded.

Portion used for medical care. Unrecoverable.

Major Medical Premium. Fixed Cost; unrecoverable.



Example 3

Account balance entirely used; unrecoverable.

Major Medical Premium. Fixed Cost; unrecoverable.

What are the other benefits?

In addition to the benefits that were listed previously, consider the fact that:

- The local economy is stimulated. Amerigard account funds are deposited by the employer in local banks just as regular deposits are, thus increasing local capital reserve and allowing banks to be of greater service to businesses and individuals in the community.

- There is no reward for fraud. Participants who do not cheat get money back anyway!

- With no third party involvement, medical matters are private once more, between the physician and the patient.

- By keeping employees well and on the job, productivity gains may well surpass the premium savings realized.

- And remember, none of those time consuming forms are necessary!

Who likes Amerigard?

Employees like it because of the first dollar coverage; cash back if they stay well; they manage the program; medical matters are kept confidential.

Employers like it because it saves money; increases productivity by keeping people on the job; cuts down on administrative burden; it makes employees happy.

Doctors like Amerigard because bills are paid immediately (most spend one third of their money collecting the other two thirds); there are no forms so their administrative burden is reduced too; and, almost all patients they see are those who are really sick.

Does anyone Not like Amerigard?

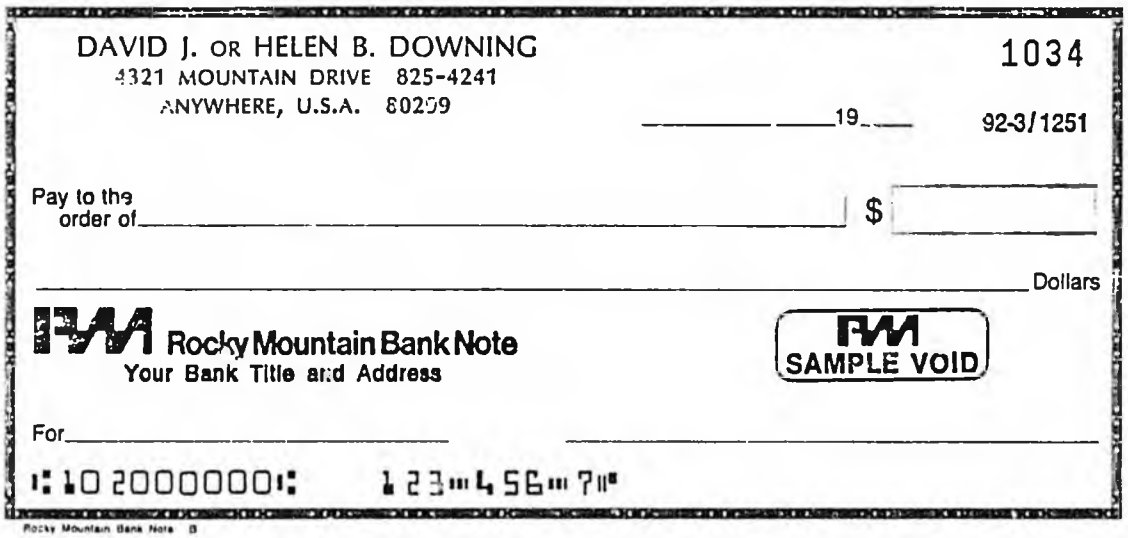
So far, we have not heard of anyone who dissapproves of the idea of saving money while providing improved benefits to their employees; or of a doctor who does not care to be paid promptly.

How much does the Amerigard service cost?

We charge an initial enrollment fee of $10.00 per employee plus an annual fee of $10.00 per participating employee thereafter. That is the total charge for our services.

Health care costs in America are going to be controlled. We believe strongly that control should come by way of the FREE ENTERPRISE system and WITHOUT GOVERNMENT INTERVENTION which is our only alternative.

APPENDIX



Rocky Mountain Bank Note B

PICTOGRAM®

Exploding Cost of Health Care

There's no letup in sight to the spiraling cost of preventing and treating Americans' illnesses and injuries.

New government projections show that the per capita cost of medical care, estimated at $1,078 this year, will almost triple to $3,057 by 1990. From 4.5 percent of the nation's total output of goods and services in 1950, medical costs have grown to 9.5 percent today and could reach 11.5 percent a decade hence.

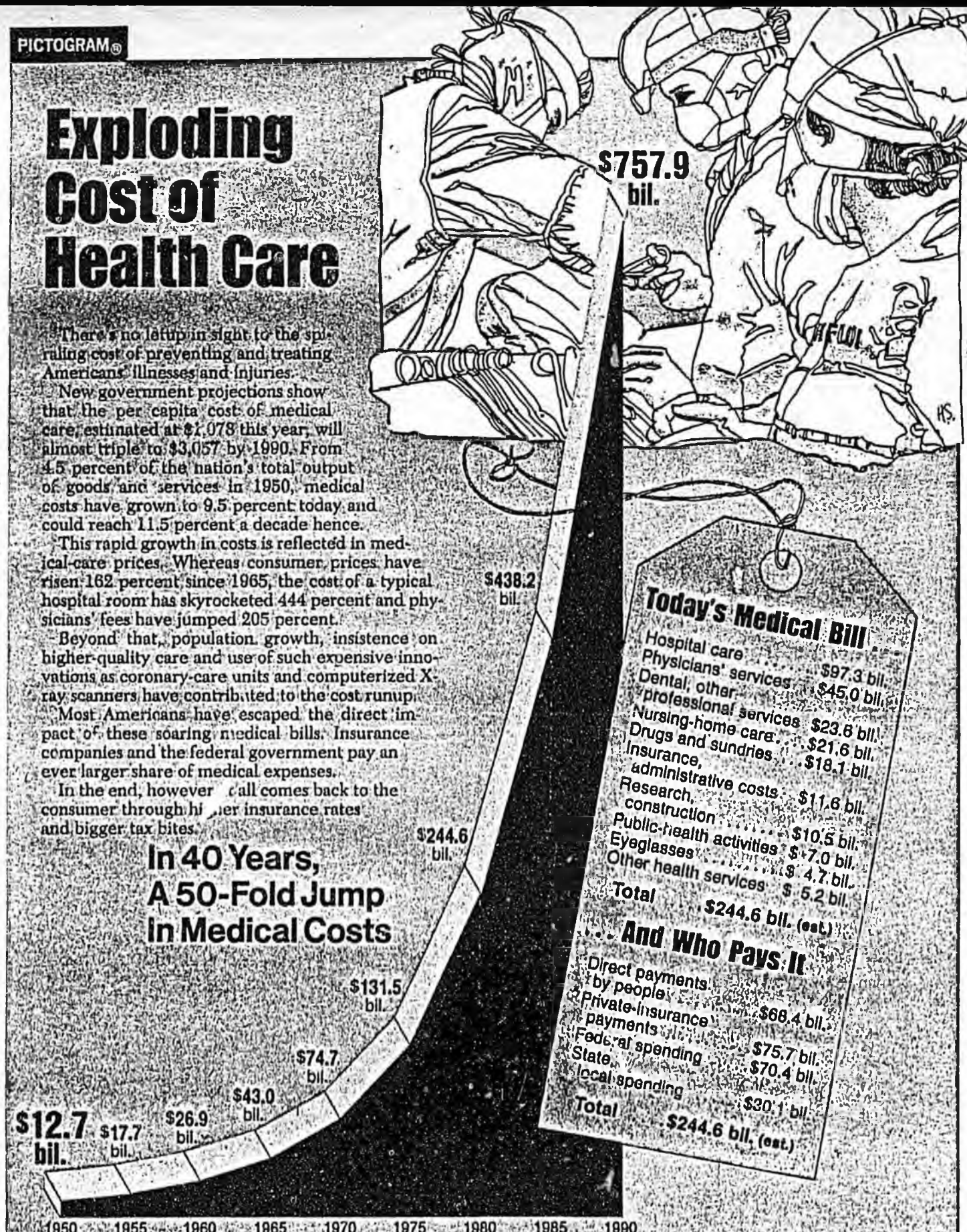
This rapid growth in costs is reflected in medical-care prices. Whereas consumer prices have risen 162 percent since 1965, the cost of a typical hospital room has skyrocketed 444 percent and physicians' fees have jumped 205 percent.

Beyond that, population growth, insistence on higher-quality care and use of such expensive innovations as coronary-care units and computerized X-ray scanners have contributed to the cost runup.

Most Americans have escaped the direct impact of these soaring medical bills. Insurance companies and the federal government pay an ever larger share of medical expenses.

In the end, however, all comes back to the consumer through higher insurance rates and bigger tax bites.

In 40 Years, A 50-Fold Jump in Medical Costs



Today's Medical Bill . . .

Hospital care	$97.3 bil.
Physicians' services	$45.0 bil.
Dental, other professional services	$23.6 bil.
Nursing-home care	$21.6 bil.
Drugs and sundries	$18.1 bil.
Insurance, administrative costs	$11.6 bil.
Research, construction	$10.5 bil.
Public-health activities	$ 7.0 bil.
Eyeglasses	$ 4.7 bil.
Other health services	$ 5.2 bil.
Total	$244.6 bil. (est.)

. . . And Who Pays It

Direct payments by people	$68.4 bil.
Private-insurance payments	$75.7 bil.
Federal spending	$70.4 bil.
State, local spending	$30.1 bil.
Total	$244.6 bil. (est.)

Medical costs account for an increasingly large share of the economy—almost $1 of every $10 spent today, compared with $1 of every $20 in 1960—and that share is expected to keep expanding.

USN&WR chart—Basic data: U.S. Dept. of Health & Human Services

An Idea Whose Time Has Come

- As the originators of MasterCharge, electronic calculators, and Xerox can tell you, even the best ideas meet some resistance. "Stay Well" is so simple, it's hard to understand, and people may have to hear it several times before the light comes on.

- Blue Cross, Blue Shield, and major insurance companies are trying to hold down health costs by attempting to influence the provider side of the equation by reducing the length of hospital stays, encouraging the pooling of expensive medical equipment, and providing health-related literature to their members.

- Amerigard applauds their efforts on the provider side but sees real benefit from influencing the demand side as well by seeking to reduce unnecessary lost time due to illness at the source, and by greatly simplifying the administrative system.

- Currently, Blue Shield, several major insurance companies, and even Crocker Bank of San Francisco are experimenting with variations of a "Stay Well" idea. They are learning what Amerigard knows--"Stay Well" works.

Newsweek, August 25, 1980

Making Good Health Pay Off—in Cash

The more people go to doctors, the higher the health-insurance premiums their employers must pay. Until last year health insurance ranked second only to salaries in the budget of the Mendocino County, Calif., Office of Education. But a new "stay well" plan that provides a cash incentive to avoid unnecessary doctor bills might help trim the exorbitant cost of health care.

Under the plan, employees are paid to stay away from doctors. The California agency used to spend $105 a month for each of its 218 employees for insurance to cover nearly all medical expenses. The new plan eliminates this coverage and instead provides a $500-deductible Blue Shield policy that costs the county $65 for each employee. In addition, another $40 a month is set aside to provide a pool to cover the first $500 of the employee's bills. If the employee spends less than $500 in any year, he can collect the difference in cash when he leaves his job. A worker who spent only $100 annually for two years would collect $800. "It's so simple that it's screwy nobody ever thought of it before," says Assistant Superintendent Ed Nickerman.

The idea seems to be working. After eleven months, nearly 100 employees had incurred no medical bills, 47 had spent less than $200 and only 22 had exceeded their $500 limit. "Before, I kind of overdid it," says teacher Dan Raner. "Now I feel I have an investment in my own health." Partly as a result of the plan, the county doesn't face a premium increase this year. "I think this is probably the most innovative concept since major-medical insurance caught on in the 1950s," says Larry Parcell, vice president of Blue Shield of California.

The stay-well plan promises to spread throughout California. Other school districts, the state administration and private businesses all are considering versions. The Bank of America, for example, soon hopes to start a pilot program among some of its 63,000 employees, who now contribute from $10 to $25 out of their own paychecks for health insurance. Under the bank's plan, employees who file no health-insurance claims during one year would get free coverage the next. None of the plans, experts seem to agree, would discourage anyone who is really sick from going to the doctor. But, health economists say, at least half of all physician visits are unnecessary.

THE SUNDAY OREGONIAN
MAY 17, 1981

Health insurance plan rewards well patients

A Beaverton doctor who sees "about 10,000 patients a year" has come up with a new health care insurance plan that "pays people not to be sick."

"My office is loaded with people who come in and the company says they are sick and have to see a doctor before they can come back to work," Dr. Charles K. Chapman said in an interview. "Individuals take sick leave and use their medical insurance at a cost to both the individual and the company. It costs the individual sick-leave time and the company the loss of the employee's services for a day."

Noting that most health insurance is prepaid, Chapman said: "The only way to derive benefit from the prepaid plan is to use the benefits, whether needed or not. 'It's paid for, so I may as well use it' seems to be the all too-human response."

Chapman has a program called the *Americare Plan, which "rewards you for being well." Basically, the plan returns a part of the premium to the individual for not using the insurance.

Using $1,000 in premiums as an example, Chapman explained that it is divided into two $500 parts. The first part of the premium is used to purchase a $500 deductible major medical plan from any major insurance program. "This functions as any standard insurance plan would," he said, "covering costs in excess of $500."

The remaining $500 is deposited in a local bank as a "pool." This, according to Chapman, is the key to the plan because "the consumption or maintenance of these monies is in the hands of the patient." If the insured does not use any of the "pool" fund, he receives $250 back in cash the first of December, the anniversary date of the plan.

"Thus, his self-restraint is rewarded in the most tangible form that Americans understand — cash payment," the doctor said.

If the insured used $120 for health expenses, he would be returned $190 in cash or 50 percent of the $360 unused in the pool fund.



DR. CHARLES K. CHAPMAN

Money in the pool is used first. When that is exhausted, the major-medical part is tapped. If the pool is used completely, the insured does not receive any "reward."

Each participant is issued a credit card that is used when there are medical expenses.

"Charges at the doctor's office, lab costs and other expenses are charged against the account and the doctor is paid immediately," he said. "No forms. No hassles."

The company realizes productivity gains, he said. "With up to 50 percent less lost time due to illness, the potential impact to worker and organization productivity is staggering. The premium savings could be a drop in the bucket compared with the money made here."

It also represents a boost to the local economy because the program funds are held in local banks.

*Prior to July 1981, Amerigard Inc. was known as Americare Inc.

Department of Administration to report its findings to the governor and the legislature before January 16, 1984.

A COPY of this resolution shall be sent to the commissioner of the Department of Administration.

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SCR 12
Title: Health Insurance Task Force
Sponsor: Josephson
Requestor:

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Gen. Admin. Servs.
BRU, Program of Subprogram(s) Affected: Retirement & Benefits

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		25.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		25.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS: NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: J.K. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 4-7-83

Approved by Commissioner: Lisa Rudd, Commissioner Date: 4-7-83
Department: Administration

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

State of Alaska

Fiscal Note

SCR 12

IV Analysis: It is assumed that organizations represented on the task force would have Juneau representatives and there would be no travel and per diem expenses.

The $25.0 expenditure is for benefit consultation and research.

Position Paper

Senate Concurrent Resolution No. 12

The Department of Administration is aware of so-called "stay well" programs and has already done some preliminary research on the feasibility of similar plans for the State of Alaska. We believe that SCR 12 might be fruitful if it were amended.

First, rather than establishing a task force to perform the original research work and develop alternatives, we suggest that this department develop the report which then could be circulated among and discussed with all concerned parties. Second, it is important that the scope of the report be broadened to include other possible cost containment alternatives such as modifying our existing cafeteria style Supplemental Benefits System. The approach should be well integrated and take into account possibilities such as federal taxation of employer-paid health insurance premiums and consider the tax consequences of any cash distributions under the program.

The department could support such an amended resolution but cannot support the existing version. Technical groundwork must be laid before informed decisions on alternatives can be made.

J.K. Humphreys, Director
Division of Retirement & Benefits — 4/8/83 Date

Lisa Rudd, Commissioner of Administration — 4/8/83 Date

SCR

26

SPEECH
May 18, 1983

SENATE CONCURRENT RESOLUTION NO. 26
Local School Advisory Boards

SCR 26 IS AN EFFORT TO ENABLE TEACHERS THE OPPORTUNITY TO PROVIDE INPUT TO THE DECISION MAKING PROCESS AND POLICIES OF LOCAL SCHOOL BOARDS. AS IT IS NOW, TEACHERS HAVE VERY LITTLE ACCESS TO THE DECISIONS MADE ON PROGRAM, CURRICULUM, AND EVEN TEACHING MATERIALS AND TEXTBOOKS THAT ARE USED IN THE CLASSROOM.

LEGISLATION COULD PROVIDE A PROCESS WHEREBY TEACHERS, ADMINISTRATION, AND THE COMMUNITY ALL HAVE A SAY IN THE QUALITY OF EDUCATION THAT STUDENTS WILL RECEIVE.

IT IS REASONABLE TO ASSUME THAT TEACHERS HAVE KNOWLEDGE AND EXPERTISE IN THE AREA OF EDUCATION, AND THAT THEIR DIRECT DEALING WITH STUDENTS GIVES THEM THE ADDITIONAL ADVANTAGE OF BEING AWARE OF STUDENTS NEEDS AND CAPABILITIES. BECAUSE OF THIS ADVANTAGE, TEACHERS WOULD BE AN INVALUABLE ASSET ON A LOCAL ADVISORY BOARD, WHICH WOULD REPORT TO LOCAL

SCHOOL BOARDS, AND THEREBY HAVE A MORE DIRECT EFFECT ON POLICIES THAT AFFECT THEM AND STUDENTS.

THE QUALITY OF EDUCATION NEEDS TO BE A HIGH PRIORITY WITH THIS LEGISLATURE AND PROVIDING FOR LOCAL SCHOOL ADVISORY BOARDS IS ONE STEP IN THE RIGHT DIRECTION.

NEA - ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

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Juneau Office

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Anchorage Office

Dianne Anderson
Field Staff
Anchorage Office

Steve Pulkkinen
Field Staff
Anchorage Office

Mary Ann Eininger
Deputy Executive Secretary
Fairbanks Office

May 4, 1983

Senator Frank Ferguson
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Frank,

Thanks for your call inviting a response and suggestions (legislative and otherwise) to the National Commission on Excellence in Education report: "A Nation at Risk". I have attached a copy of the report because my comments and suggestions are specifically referenced to it.

Our Board will be discussing the Report at our meeting in Juneau, 13 and 14 May, and you are more than welcome to participate at anytime your schedule permits.

Absent a specific policy statement from our Board I can comfortably predict an extremely positive response from the Board and from teachers generally to the Report since so much of it keys in on specific concerns that we have perceived as serious problems for quite some time. The bottom line is that "quality education costs money" and the federal government has had a substantial obligation to help. Their current effort is only 7.4 cents out of each dollar spent for education.

If we could achieve Congressional support (including our delegation) for the American Defense Educational Act, that figure would rise substantially.

Re: The Report....

1. We agree with the need for fundamental reform. The point on page 2 relative to public education having to deal with personal, social and political problems not being resolved at home and by other institutions is a very serious one. This suggests that it is incumbent on all of us to better articulate the role of public education to the public, and enlist their support.

2. The statistical data on pages 4 and 5 is not defensible and can be changed....with a broad base of support. The point on page 8 that teachers become the scapegoats is well taken and clearly demonstrates the need for better understanding and a broader commitment to support public education. We have no problem with accountability if we could have a more meaningful role in certification, determination of the substance of teacher preparation programs, determination of who enters the profession, and use and disbursement of resources.

3. We agree with the general conclusion that standards and expectations have become minimal requirements rather than guidelines toward excellence. Expectations and aspirations need reinforcement from all segments of the education/public community.

4. I personally think the results of the Gallup poll referenced on page 12 suggest that the general public is willing to make meaningful commitments, including financial, to public education. Someone needs to make the "call" for the support and commitment - perhaps you are the one to do it.

5. More specifically, regarding findings:

a) Teachers have little, if any, access to decisions on substance; program, curriculum, even teaching materials and textbooks. Legislation could make this a trilateral process: the public(community), the profession (teachers) and the administration/board.

b) Teachers have a lot more to offer on expectations than is currently being realized but whatever the suggestions that are made, they must receive support and reinforcement from boards/administration and from parents.

c) Teachers desperately want more time to teacher and be freed from administrative tasks and other minutiae which seem to increase yearly. A partial answer is to legislate that class size, load, pupil-teacher ratios and "other" assignments are negotiable issues.

d) In terms of making the teaching profession more attractive, while it is true that our salaries are higher than "outside", I think there is still need for concern in that they don't seem to be attractive enough for Alaskans to make the commitment to teaching as a career/profession and at the entry levels they still require part-time jobs to supplement income. Additionally, legislation can provide teachers a more meaningful role in professional decision making. The policy statement in the Public Employees Relation Act: AS 23.40.070 - with meaningful implementation would bring a better focus to this issue.

6. Relative to the recommendations, we concur in whole or in part with nearly all of them and this is the general area which probably represents the greatest legislative potential. The only real caution is that we really can't legislate "attitudes" and this component will require everyone working more closely to goals and objectives defined through a common effort.

a) Tougher standards in high school require State Board direction, State Department of Education assistance, and public support. NEA and teachers concur. The American Defense Education Act also addresses this issue.

b) We support higher standards for college admission but caution against nationwide standardized tests as a primary criteria. We should use a variety of diagnostic measures which uniquely address our circumstance here in Alaska.

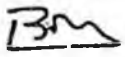
c) We support the need to look at alternatives attendant to the use of time, the school day and the school year. Again, the options must address the unique circumstances here in Alaska.

d) Needless to say, we support the call for higher salaries as an incentive to make the profession more attractive to quality people. However, salaries alone won't do it. There must be a greater role for teachers in professional decision making as there is in other professions. Point 4 on page 25 seems to be a key. In my opinion this represents an area for greater activity on the part of our Department of Education.

NEA and NEA-Alaska have a lot of human and professional resources, resources to put into a common effort and we are prepared to do so. While we are an interest group with responsibility to advocate the interests of our members we also are committed to quality public education and will embrace the opportunity to have a greater and more meaningful role in working to achieve it.

Frank, I would really appreciate the opportunity for further discussion of this Report and its potential. Thanks.

Sincerely,



Robert Manners
Executive Secretary

RM/st

enclosure

Embargoed until 26 April, 4:00 PM

PREPUBLICATION COPY

April 19, 1983

An Open Letter to the American People

A NATION AT RISK:

THE IMPERATIVE FOR EDUCATIONAL REFORM

A Report to the Nation

and the

Secretary of Education
United States Department of Education

by

The National Commission on Excellence in Education

April 1983

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NOTE: Page numbers on appendices will change since report ran longer with additions.

MEMBERS OF THE NATIONAL COMMISSION ON EXCELLENCE IN EDUCATION

David P. Gardner (Chair)
President
University of Utah and
President-Elect
University of California
Salt Lake City, Utah

Yvonne W. Larsen (Vice-Chair)
Immediate Past-President
San Diego City School Board
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William O. Baker
Chairman of the Board (Retired)
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National Teacher of the Year, 1981-82
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Richard Wallace
Principal
Lutheran High School East
Cleveland Heights, Ohio

INTRODUCTION

Secretary of Education T. H. Bell created the National Commission on Excellence in Education on August 26, 1981, directing it to examine the quality of education in the United States and to make a report to the Nation and to him within 18 months of its first meeting. In accordance with the Secretary's instructions, this report contains practical recommendations for educational improvement and fulfills the Commission's responsibilities under the terms of its charter.

The Commission was created as a result of the Secretary's concern about "the widespread public perception that something is seriously remiss in our educational system." Soliciting the "support of all who care about our future," the Secretary noted that he was establishing the Commission based on his "responsibility to provide leadership, constructive criticism, and effective assistance to schools and universities."

The Commission's charter contained several specific charges to which we have given particular attention. These included:

- assessing the quality of teaching and learning in our Nation's public and private schools, colleges, and universities;
- comparing American schools and colleges with those of other advanced nations;
- studying the relationship between college admissions requirements and student achievement in high school;
- identifying educational programs which result in notable student success in college;
- assessing the degree to which major social and educational changes in the last quarter century have affected student achievement; and
- defining problems which must be faced and overcome if we are successfully to pursue the course of excellence in education.

The Commission's charter directed it to pay particular attention to teenage youth, and we have done so largely by focusing on high schools.

Selective attention was given to the formative years spent in elementary schools, to higher education, and to vocational and technical programs. We refer those interested in the need for similar reform in higher education to the recent report of the American Council on Education, To Strengthen the Quality of Higher Education.

In going about its work the Commission has relied in the main upon five sources of information:

- papers commissioned from experts on a variety of educational issues;
- administrators, teachers, students, representatives of professional and public groups, parents, business leaders, public officials, and scholars who testified at eight meetings of the full Commission, six public hearings, two panel discussions, a symposium, and a series of meetings organized by the Department of Education's Regional Offices;
- existing analyses of problems in education;
- letters from concerned citizens, teachers, and administrators who volunteered extensive comments on problems and possibilities in American education; and
- descriptions of notable programs and promising approaches in education.

To those public-minded citizens who took the trouble to share their concerns with us--frequently at their own expense in time, money, and effort--we extend our thanks. In all cases, we have benefited from their advice and taken their views into account; how we have treated their suggestions is, of course, our responsibility alone. In addition, we are grateful to the individuals in schools, universities, foundations, business, government, and communities throughout the United States who provided the facilities and staff so necessary to the success of our many public functions.

The Commission was impressed during the course of its activities by the diversity of opinion it received regarding the condition of American education and by conflicting views about what should be done. In many ways, the membership of the Commission itself reflected that diversity and difference of opinion

during the course of its work. This report, nevertheless, gives evidence that men and women of good will can agree on common goals and on ways to pursue them.

The Commission's charter, the authors and topics of commissioned papers, a list of the public events, and a roster of the Commission's staff are included in the appendices which complete this volume.

PREPUBLICATION COPY April 19, 1983

A NATION AT RISK

Our Nation is at risk. Our once unchallenged preeminence in commerce, industry, science, and technological innovation is being overtaken by competitors throughout the world. This report is concerned with only one of the many causes and dimensions of the problem, but it is the one that undergirds American prosperity, security, and civility. We report to the American people that while we can take justifiable pride in what our schools and colleges have historically accomplished and contributed to the United States and the well-being of its people, the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people. What was unimaginable a generation ago has begun to occur--others are matching and surpassing our educational attainments.

If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves. We have even squandered the gains in student achievement made in the wake of the Sputnik challenge. Moreover, we have dismantled essential support systems which helped make those gains possible. We have, in effect, been committing an act of unthinking, unilateral educational disarmament.

Our society and its educational institutions seem to have lost sight of the basic purposes of schooling, and of the high expectations and disciplined effort needed to attain them. This report, the result of 18 months of study, seeks to generate reform of our educational system in fundamental ways and to renew the Nation's commitment to schools and colleges of high quality throughout the length and breadth of our land.

That we have compromised this commitment is, upon reflection, hardly surprising, given the multitude of often conflicting demands we have placed on

our Nation's schools and colleges. They are routinely called on to provide solutions to personal, social, and political problems that the home and other institutions either will not or cannot resolve. We must understand that these demands on our schools and colleges often exact an educational cost as well as a financial one.

On the occasion of the Commission's first meeting, President Reagan noted the central importance of education in American life when he said: "Certainly there are few areas of American life as important to our society, to our people, and to our families as our schools and colleges." This report, therefore, is as much an open letter to the American people as it is a report to the Secretary of Education. We are confident that the American people, properly informed, will do what is right for their children and for the generations to come.

The Risk

History is not kind to idlers. The time is long past when America's destiny was assured simply by an abundance of natural resources and inexhaustible human enthusiasm, and by our relative isolation from the malignant problems of older civilizations. The world is indeed one global village. We live among determined, well-educated, and strongly motivated competitors. We compete with them for international standing and markets, not only with products but also with the ideas of our laboratories and neighborhood workshops. America's position in the world may once have been reasonably secure with only a few exceptionally well-trained men and women. It is no longer.

The risk is not only that the Japanese make automobiles more efficiently than Americans and have government subsidies for development and export. It is not just that the South Koreans recently built the world's most efficient steel mill, or that American machine tools, once the pride of the world, are being displaced by German products. It is also that these developments signify

a redistribution of trained capability throughout the globe. Knowledge, learning, information, and skilled intelligence are the new raw materials of international commerce and are today spreading throughout the world as vigorously as miracle drugs, synthetic fertilizers, and blue jeans did earlier. If only to keep and improve on the slim competitive edge we still retain in world markets, we must rededicate ourselves to the reform of our educational system for the benefit of all--old and young alike, affluent and poor, majority and minority. Learning is the indispensable investment required for success in the "information age" we are entering.

Our concern, however, goes well beyond matters such as industry and commerce. It also includes the intellectual, moral, and spiritual strengths of our people which knit together the very fabric of our society. The people of the United States need to know that individuals in our society who do not possess the levels of skill, literacy, and training essential to this new era will be effectively disenfranchised, not simply from the material rewards that accompany competent performance, but also from the chance to participate fully in our national life. A high level of shared education is essential to a free, democratic society and to the fostering of a common culture, especially in a country that prides itself on pluralism and individual freedom.

For our country to function, citizens must be able to reach some common understandings on complex issues, often on short notice and on the basis of conflicting or incomplete evidence. Education helps form these common understandings, a point Thomas Jefferson made long ago in his justly famous dictum:

> I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them but to inform their discretion.

Part of what is at risk is the promise first made on this continent: All, regardless of race or class or economic status, are entitled to a fair chance and to the tools for developing their individual powers of mind and spirit to the utmost. This promise means that all children by virtue of their own efforts, competently guided, can hope to attain the mature and informed judgment needed to secure gainful employment, and to manage their own lives, thereby serving not only their own interests but also the progress of society itself.

Indicators of the Risk

The educational dimensions of the risk before us have been amply documented in testimony received by the Commission. For example:

- International comparisons of student achievement, completed a decade ago, reveal that on 19 academic tests American students were never first or second and, in comparison with other industrialized nations, were last seven times.
- Some 23 million American adults are functionally illiterate by the simplest tests of everyday reading, writing, and comprehension.
- About 13 percent of all 17-year-olds in the United States can be considered functionally illiterate. Functional illiteracy among minority youth may run as high as 40 percent.
- Average achievement of high school students on most standardized tests is now lower than 26 years ago when Sputnik was launched.
- Over half the population of gifted students do not match their tested ability with comparable achievement in school.
- The College Board's Scholastic Aptitude Tests (SAT) demonstrate a virtually unbroken decline from 1963 to 1980. Average verbal scores fell over 50 points and average mathematics scores dropped nearly 40 points.
- College Board achievement tests also reveal consistent declines in recent years in such subjects as physics and English.
- Both the number and proportion of students demonstrating superior achievement on the SAT's (i.e., those with scores of 650 or higher) have dramatically declined.
- Many 17-year-olds do not possess the "higher order" intellectual skills we should expect of them. Nearly 40 percent cannot draw

inferences from written material; only one-fifth can write a persuasive essay; and only one-third can solve a mathematics problem requiring several steps.

- There was a steady decline in science achievement scores of U.S. 17-year-olds as measured by national assessments of science in 1969, 1973, and 1977.

- Between 1975 and 1980, remedial mathematics courses in public 4-year colleges increased by 72 percent and now constitute one-quarter of all mathematics courses taught in those institutions.

- Average tested achievement of students graduating from college is also lower.

- Business and military leaders complain that they are required to spend millions of dollars on costly remedial education and training programs in such basic skills as reading, writing, spelling, and computation. The Department of the Navy, for example, reported to the Commission that one-quarter of its recent recruits cannot read at the ninth grade level, the minimum needed simply to understand written safety instructions. Without remedial work they cannot even begin, much less complete, the sophisticated training essential in much of the modern military.

These deficiencies come at a time when the demand for highly skilled workers in new fields is accelerating rapidly. For example:

- Computers and computer-controlled equipment are penetrating every aspect of our lives--homes, factories, and offices.

- One estimate indicates that by the turn of the century millions of jobs will involve laser technology and robotics.

- Technology is radically transforming a host of other occupations. They include health care, medical science, energy production, food processing, construction, and the building, repair, and maintenance of sophisticated scientific, educational, military, and industrial equipment.

Analysts examining these indicators of student performance and the demands for new skills have made some chilling observations. Educational researcher Paul Hurd concluded at the end of a thorough national survey of student achievement that within the context of the modern scientific revolution "We are raising a new generation of Americans that is scientifically and technologically illiterate." In a similar vein, John Slaughter, a former Director of the National Science Foundation, warned of "a growing chasm between

a small scientific and technological elite and a citizenry ill-informed, indeed uninformed, on issues with a science component."

But the problem does not stop there, nor do all observers see it the same way. Some worry that schools may emphasize such rudiments as reading and computation at the expense of other essential skills such as comprehension, analysis, solving problems, and drawing conclusions. Still others are concerned that an over-emphasis on technical and occupational skills will leave little time for studying the arts and humanities that so enrich daily life, help maintain civility, and develop a sense of community. Knowledge of the humanities, they maintain, must be harnessed to science and technology if the latter are to remain creative and humane, just as the humanities need to be informed by science and technology if they are to remain relevant to the human condition. Another analyst, Paul Copperman, has drawn a sobering conclusion. Until now, he has noted:

> Each generation of Americans has outstripped its parents in education, in literacy, and in economic attainment. For the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach, those of their parents.

It is important, of course, to recognize that the average citizen today is better educated and more knowledgeable than the average citizen of a generation ago--more literate, and exposed to more mathematics, literature, and science. The positive impact of this fact on the well-being of our country and the lives of our people cannot be overstated. Nevertheless, the average graduate of our schools and colleges today is not as well-educated as the average graduate of 25 or 35 years ago, when a much smaller proportion of our population completed high school and college. The negative impact of this fact likewise cannot be overstated.

Hope and Frustration

Statistics and their interpretation by experts show only the surface dimension of the difficulties we face. Beneath them lies a tension between hope and frustration that characterizes current attitudes about education at every level.

We have heard the voices of high school and college students, school board members, and teachers; of leaders of industry, minority groups, and higher education; of parents and State officials. We could hear the hope evident in their commitment to quality education and in their descriptions of outstanding programs and schools. We could also hear the intensity of their frustration, a growing impatience with shoddiness in many walks of American life, and the complaint that this shoddiness is too often reflected in our schools and colleges. Their frustration threatens to overwhelm their hope.

What lies behind this emerging national sense of frustration can be described as both a dimming of personal expectations and the fear of losing a shared vision for America.

On the personal level the student, the parent, and the caring teacher all perceive that a basic promise is not being kept. More and more young people emerge from high school ready neither for college nor for work. This predicament becomes more acute as the knowledge base continues its rapid expansion, the number of traditional jobs shrinks, and new jobs demand greater sophistication and preparation.

On a broader scale, we sense that this undertone of frustration has significant political implications, for it cuts across ages, generations, races, and political and economic groups. We have come to understand that the public will demand that educational and political leaders act forcefully

and effectively on these issues. Indeed, such demands have already appeared and could well become a unifying national preoccupation. This unity, however, can be achieved only if we avoid the unproductive tendency of some to search for scapegoats among the victims, such as the beleaguered teachers.

On the positive side is the significant movement by political and educational leaders to search for solutions--so far centering largely on the nearly desperate need for increased support for the teaching of mathematics and science. This movement is but a start on what we believe is a larger and more educationally encompassing need to improve teaching and learning in fields such as English, history, geography, economics, and foreign languages. We believe this movement must be broadened and directed toward reform and excellence throughout education.

Excellence in Education

We define "excellence" to mean several related things. At the level of the individual learner, it means performing on the boundary of individual ability in ways that test and push back personal limits, in school and in the workplace. Excellence characterizes a school or college that sets high expectations and goals for all learners, then tries in every way possible to help students reach them. Excellence characterizes a society that has adopted these policies, for it will then be prepared through the education and skill of its people to respond to the challenges of a rapidly changing world. Our Nation's people and its schools and colleges must be committed to achieving excellence in all these senses.

We do not believe that a public commitment to excellence and educational reform must be made at the expense of a strong, public commitment to the equitable treatment of our diverse population. The twin goals of equity and high-quality schooling have profound and practical meaning for our economy and society, and we cannot permit one to yield to the other either in principle or in practice.

To do so would deny young people their chance to learn and live according to their aspirations and abilities. It would also lead to a generalized accomodation to mediocrity in our society on the one hand or the creation of an undemocratic elitism on the other.

Our goal must be to develop the talents of all to their fullest. Attaining that goal requires that we expect and assist all students to work to the limits of their capabilities. We should expect schools to have genuinely high standards rather than minimum ones, and parents to support and encourage their children to make the most of their talents and abilities.

The search for solutions to our educational problems must also include a commitment to life-long learning. The task of rebuilding our system of learning is enormous and must be properly understood and taken seriously: Although a million and a half new workers enter the economy each year from our schools and colleges, the adults working today will still make up about 75 percent of the workforce in the year 2000. These workers, and new entrants into the workforce, will need further education and retraining if they--and we as a Nation--are to thrive and prosper.

The Learning Society

In a world of ever-accelerating competition and change in the conditions of the workplace, of ever-greater danger, and of ever-larger opportunities for those prepared to meet them, educational reform should focus on the goal of creating a Learning Society. At the heart of such a society is the commitment to a set of values and to a system of education that affords all members the opportunity to stretch their minds to full capacity, from early childhood through adulthood, learning more as the world itself changes. Such a society has as a basic foundation the idea that education is important not only because of what it contributes to one's career goals but also because of the value it adds to the

general quality of one's life. Also at the heart of the Learning Society are educational opportunities extending far beyond the traditional institutions of learning, our schools and colleges. They extend into homes and workplaces; into libraries, art galleries, museums, and science centers; indeed, into every place where the individual can develop and mature in work and life. In our view, formal schooling in youth is the essential foundation for learning throughout one's life. But without life-long learning, one's skills will become rapidly dated.

In contrast to the ideal of the Learning Society, however, we find that for too many people education means doing the minimum work necessary for the moment, then coasting through life on what may have been learned in its first quarter. But this should not surprise us because we tend to express our educational standards and expectations largely in terms of "minimum requirements." And where there should be a coherent continuum of learning, we have none, but instead an often incoherent, outdated, patchwork quilt. Many individual, sometimes heroic, examples of schools and colleges of great merit do exist. Our findings and testimony confirm the vitality of a number of notable schools and programs, but their very distinction stands out against a vast mass shaped by tensions and pressures that inhibit systematic academic and vocational achievement for the majority of students. In some metropolitan areas basic literacy has become the goal rather than the starting point. In some colleges maintaining enrollments is of greater day-to-day concern than maintaining rigorous academic standards. And the ideal of academic excellence as the primary goal of schooling seems to be fading across the board in American education.

Thus, we issue this call to all who care about America and its future: to parents and students; to teachers, administrators, and school board members;

to colleges and industry; to union members and military leaders; to governors and State legislators; to the President; to members of Congress and other public officials; to members of learned and scientific societies; to the print and electronic media; to concerned citizens everywhere. America is at risk.

We are confident that America can address this risk. If the tasks we set forth are initiated now and our recommendations are fully realized over the next several years, we can expect reform of our Nation's schools, colleges, and universities. This would also reverse the current declining trend--a trend that stems more from weakness of purpose, confusion of vision, underuse of talent, and lack of leadership, than from conditions beyond our control.

The Tools at Hand

It is our conviction that the essential raw materials needed to reform our educational system are waiting to be mobilized through effective leadership:

- the natural abilities of the young that cry out to be developed and the undiminished concern of parents for the well-being of their children;
- the commitment of the Nation to high retention rates in schools and colleges and to full access to education for all;
- the persistent and authentic American dream that superior performance can raise one's state in life and shape one's own future;
- the dedication, against all odds, that keeps teachers serving in schools and colleges, even as the rewards diminish;
- our better understanding of learning and teaching and the implications of this knowledge for school practice, and the numerous examples of local success as a result of superior effort and effective dissemination;
- the ingenuity of our policymakers, scientists, State and local educators, and scholars in formulating solutions once problems are better understood;
- the traditional belief that paying for education is an investment in ever-renewable human resources that are more durable and flexible than capital plant and equipment, and the availability in this country of sufficient financial means to invest in education;
- the equally sound tradition, from the Northwest Ordinance of 1787 until today, that the Federal government should supplement State, local, and other resources to foster key national educational goals; and

- o the voluntary efforts of individuals, businesses, and parent and civic groups to cooperate in strengthening educational programs.

These raw materials, combined with the unparalleled array of educational organizations in America, offer us the possibility to create a Learning Society, in which public, private, and parochial schools; colleges and universities; vocational and technical schools and institutes; libraries; science centers, museums, and other cultural institutions; and corporate training and retraining programs offer opportunities and choices for all to learn throughout life.

The Public's Commitment

Of all the tools at hand, the public's support for education is the most powerful. In a message to a National Academy of Sciences meeting in May, 1982, President Reagan commented on this fact when he said:

> This public awareness--and I hope public action--is long overdue. . . . This country [illegible]n American respect for education. . . . Our challenge now is to create a resurgence of that thirst for education that typifies our Nation's history.

The most recent (1982) Gallup Poll of the Public's Attitudes Toward the Public Schools strongly supported a theme heard during our hearings: People are steadfast in their belief that education is the major foundation for the future strength of this country. They even considered education more important than developing the best industrial system or the strongest military force, perhaps because they understood education as the cornerstone of both. They also held that education is "extremely important" to one's future success, and that public education should be the top priority for additional Federal funds. Education occupied first place among 12 funding categories considered in the survey--above health care, welfare, and military defense, with 55 percent selecting public education as one of their first three choices. Very clearly, the public understands the primary importance of education as the foundation

for a satisfying life, an enlightened and civil society, a strong economy, and a secure Nation.

At the same time, the public has no patience with undemanding and superfluous high school offerings. In another survey, more than 75 percent of all those questioned believed every student planning to go to college should take 4 years of mathematics, English, history/U.S. government, and science, with more than 50 percent adding 2 years each of a foreign language and economics or business. The public even supports requiring much of this curriculum for students who do not plan to go to college. These standards far exceed the strictest high school graduation requirements of any State today, and they also exceed the admission standards of all but a handful of our most selective colleges and universities.

Another dimension of the public's support offers the prospect of constructive reform. The best term to characterize it may simply be the honorable word "patriotism." Citizens know intuitively what some of the best economists have shown in their research, that education is one of the chief engines of a society's material well-being. They know, too, that education is the common bond of a pluralistic society and helps tie us to other cultures around the globe. Citizens also know in their bones that the safety of the United States depends principally on the wit, skill, and spirit of a self-confident people, today and tomorrow. It is, therefore, essential--especially in a period of long-term decline in educational achievement--for government at all levels to affirm its responsibility for nurturing the Nation's intellectual capital.

And perhaps most important, citizens know and believe that the meaning of America to the rest of the world must be something better than it seems to many today. Americans like to think of this Nation as the preeminent country for generating the great ideas and material benefits for all mankind. The citizen

is dismayed at a steady 15-year decline in industrial productivity, as one great American industry after another falls to world competition. The citizen wants the country to act on the belief, expressed in our hearings and by the large majority in the Gallup Poll, that education should be at the top of the Nation's agenda.

Findings

We conclude that declines in educational performance are in large part the result of disturbing inadequacies in the way the educational process itself is often conducted. The findings that follow, culled from a much more extensive list, reflect four important aspects of the educational process: content, expectations, time, and teaching.

Findings Regarding Content

By content we mean the very "stuff" of education, the curriculum. Because of our concern about the curriculum, the Commission examined patterns of courses high school students took in 1964-69 compared with course patterns in 1976-81. On the basis of these analyses we conclude:

- Secondary school curricula have been homogenized, diluted, and diffused to the point that they no longer have a central purpose. In effect, we have a cafeteria-style curriculum in which the appetizers and desserts can easily be mistaken for the main courses. Students have migrated from vocational and college preparatory programs to "general track" courses in large numbers. The proportion of students taking a general program of study has increased from 12 percent in 1964 to 42 percent in 1979.

- This curricular smorgasbord, combined with extensive student choice, explains a great deal about where we find ourselves today. We offer intermediate algebra, but only 31 percent of our recent high school graduates complete it; we offer French I, but only 13 percent complete it; and we offer geography, but only 16 percent complete it. Calculus is available in schools enrolling about 60 percent of all students, but only 6 percent of all students complete it.

- Twenty-five percent of the credits earned by general track high school students are in physical and health education, work experience outside the school, remedial English and mathematics, and personal service and development courses, such as training for adulthood and marriage.

Findings Regarding Expectations

We define expectations in terms of the level of knowledge, abilities, and skills school and college graduates should possess. They also refer to the time, hard work, behavior, self-discipline, and motivation that are essential for high student achievement. Such expectations are expressed to students in several different ways:

- by grades, which reflect the degree to which students demonstrate their mastery of subject matter;
- through high school and college graduation requirements, which tell students which subjects are most important;
- by the presence or absence of rigorous examinations requiring students to demonstrate their mastery of content and skill before receiving a diploma or a degree;
- by college admissions requirements, which reinforce high school standards; and
- by the difficulty of the subject matter students confront in their texts and assigned readings.

Our analyses in each of these areas indicate notable deficiencies:

- The amount of homework for high school seniors has decreased (two-thirds report less than 1 hour a night) and grades have risen as average student achievement has been declining.
- In many other industrialized nations, courses in mathematics (other than arithmetic or general mathematics), biology, chemistry, physics, and geography start in grade 6 and are required of all students. The time spent on these subjects, based on class hours, is about three times that spent by even the most science-oriented U.S. students, i.e., those who select 4 years of science and mathematics in secondary school.
- A 1980 State-by-State survey of high school diploma requirements reveals that only eight States require high schools to offer foreign language instruction, but none requires students to take the courses. Thirty-five States require only 1 year of mathematics, and 36 require only 1 year of science for a diploma.
- In 13 States, 50 percent or more of the units required for high school graduation may be electives chosen by the student. Given this freedom to choose the substance of half or more of their education, many students opt for less demanding personal service courses, such as bachelor living.

- "Minimum competency" examinations (now required in 37 States) fall short of what is needed, as the "minimum" tends to become the "maximum," thus lowering educational standards for all.

- One-fifth of all 4-year public colleges in the United States must accept every high school graduate within the State regardless of program followed or grades, thereby serving notice to high school students that they can expect to attend college even if they do not follow a demanding course of study in high school or perform well.

- About 23 percent of our more selective colleges and universities reported that their general level of selectivity declined during the 1970s, and 29 percent reported reducing the number of specific high school courses required for admission (usually by dropping foreign language requirements, which are now specified as a condition for admission by only one-fifth of our institutions of higher education).

- Too few experienced teachers and scholars are involved in writing textbooks. During the past decade or so a large number of texts have been "written down" by their publishers to ever-lower reading levels in response to perceived market demands.

- A recent study by Education Products Information Exchange revealed that a majority of students were able to master 80 percent of the material in some of their subject-matter texts before they had even opened the books. Many books do not challenge the students to whom they are assigned.

- Expenditures for textbooks and other instructional materials have declined by 50 percent over the past 17 years. While some recommend a level of spending on texts of between 5 and 10 percent of the operating costs of schools, the budgets for basal texts and related materials have been dropping during the past decade and a half to only 0.7 percent today.

Findings Regarding Time

Evidence presented to the Commission demonstrates three disturbing facts about the use that American schools and students make of time: (1) compared to other nations, American students spend much less time on school work; (2) time spent in the classroom and on homework is often used ineffectively; and (3) schools are not doing enough to help students develop either the study skills required to use time well or the willingness to spend more time on school work.

- In England and other industrialized countries, it is not unusual for academic high school students to spend 8 hours a day at school, 220

DAYS PER YEAR. IN THE UNITED STATES, BY CONTRAST, THE TYPICAL SCHOOL DAYS LAST 6 HOURS AND THE SCHOOL YEAR IS 180 DAYS.

- O IN MANY SCHOOLS, THE TIME SPENT LEARNING HOW TO COOK AND DRIVE COUNTS AS MUCH TOWARD A HIGH SCHOOL DIPLOMA AS THE TIME SPENT STUDYING MATHEMATICS, ENGLISH, CHEMISTRY, U.S. HISTORY, OR BIOLOGY.
- O A STUDY OF THE SCHOOL WEEK IN THE UNITED STATES FOUND THAT SOME SCHOOLS PROVIDED STUDENTS ONLY 17 HOURS OF ACADEMIC INSTRUCTION DURING THE WEEK, AND THE AVERAGE SCHOOL PROVIDED ABOUT 22.
- O A CALIFORNIA STUDY OF INDIVIDUAL CLASSROOMS FOUND THAT BECAUSE OF POOR MANAGEMENT OF CLASSROOM TIME, SOME ELEMENTARY STUDENTS RECEIVE ONLY ONE-FIFTH OF THE INSTRUCTION OTHERS RECEIVED IN READING COMPREHENSION.
- O IN MOST SCHOOLS, THE TEACHING OF STUDY SKILLS IS HAPHAZARD AND UNPLANNED. CONSEQUENTLY, MANY STUDENTS COMPLETE HIGH SCHOOL AND ENTER COLLEGE WITHOUT DISCIPLINED AND SYSTEMATIC STUDY HABITS.

FINDINGS REGARDING TEACHING

THE COMMISSION FOUND THAT THAT NOT ENOUGH OF THE ACADEMICALLY ABLE STUDENTS ARE BEING ATTRACTED TO TEACHING; THAT TEACHER PREPARATION PROGRAMS NEED SUBSTANTIAL IMPROVEMENT; THAT THE PROFESSIONAL WORKING LIFE OF TEACHERS IS ON THE WHOLE UNACCEPTABLE; AND THAT A SERIOUS SHORTAGE OF TEACHERS EXISTS IN KEY FIELDS.

- O OO MANY TEACHERS ARE BEING DRAWN FROM THE BOTTOM QUARTER OF GRADUATING HIGH SCHOOL AND COLLEGE STUDENTS.
- O THE TEACHER PREPARATION CURICULUM IS WEIGHTED HEAVILY WITH COURSES IN "EDUCATIONAL METHODS" AT THE EXPENSE OF COURSES IN SUBJECTS TO BE TAUGHT. A SURVEY OF 1,350 INSTITUTIONS TRAINING TEACHERS INDICATED THAT 41 PERCENT OF THE TIME OF ELEMENTARY SCHOOL TEACHERS CANDIDATES IS SPENT IN EDUCATION COURSES, WHICH REDUCES THE AMOUNT OF TIME AVAILABLE FOR SUBJECT MATTER COURSES.

- THE AVERAGE SALARY AFTER 12 YEARS OF TEACHING IS ONLY $17,000 PER YEAR, AND MANY TEACHERS ARE REQUIRED TO SUPPLEMENT THEIR INCOME WI PART-TIME AND SUMMER EMPLOYMENT. IN ADDITION, INDIVIDUAL TEACHERS HAVE LITTLE INFLUENCE IN SUCH CRITICAL PROFESSIONAL DECISIONS AS, FOR EXAMPLE, TEXTBOOK SELECTION.
- DESPITE WIDESPREAD PUBLICITY ABOUT AN OVERPOPULATION OF TEACHERS, SEVERE SHORTAGES OF CERTAIN KINDS OF TEACHERS EXIST: IN THE FIELD OF MATHEMATICS, SCIENCE, AND FOREIGN LANGUAGES; AND AMONG SPECIALISTS IN EDUCATION FOR GIFTED AND TALENTED, ALNGUAGE MINORITY, AN HANDICAPPED STUDENTS.
- THE SHORTAGE OF TEACHERS IN MATHEMATICS AND SCIENCE IS PARTICULARLY SEVERE. A 1981 SURVEY OF 45 STATES REVEALED SHORTAGES OF MATHEMATICS

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teachers in 43 States, critical shortages of earth sciences teachers in 33 States, and of physics teachers everywhere.

- Half of the newly employed mathematics, science, and English teachers are not qualified to teach these subjects; fewer than one-third of U.S. high schools offer physics taught by qualified teachers.

Recommendations

In light of the urgent need for improvement, both immediate and long term, this Commission has agreed on a set of recommendations that the American people can begin to act on now, that can be implemented over the next several years, and that promise lasting reform. The topics are familiar; there is little mystery about what we believe must be done. Many schools, districts, and States are already giving serious and constructive attention to these matters, even though their plans may differ from our recommendations in some details.

We wish to note that we refer to public, private, and parochial schools and colleges alike. All are valuable national resources. Examples of actions similar to those recommended below can be found in each of them.

We must emphasize that the variety of student aspirations, abilities, and preparation requires that appropriate content be available to satisfy diverse needs. Attention must be directed to both the nature of the content available and to the needs of particular learners. The most gifted students, for example, may need a curriculum enriched and accelerated beyond even the needs of other students of high ability. Similarly, educationally disadvantaged students may require special curriculum materials, smaller classes, or individual tutoring to help them master the material presented. Nevertheless, there remains a common expectation: We must demand the best effort and performance from all students, whether they are gifted or less able, affluent or disadvantaged, whether destined for college, the farm, or industry.

Our recommendations are based on the beliefs that everyone can learn, that everyone is born with an urge to learn which can be nurtured, that a solid high

school education is within the reach of virtually all, and that life-long learning will equip people with the skills required for new careers and for citizenship.

RECOMMENDATION A: CONTENT

We recommend that State and local high school graduation requirements be strengthened and that, at a minimum, all students seeking a diploma be required to lay the foundations in the Five New Basics by taking the following curriculum during their 4 years of high school: (a) 4 years of English; (b) 3 years of mathematics; (c) 3 years of science; (d) 3 years of social studies; and (e) one-half year of computer science. For the college bound, 2 years of foreign language in high school are strongly recommended in addition to those taken earlier.

Whatever the student's educational or work objectives, knowledge of the New Basics is the foundation of success for the after-school years, and, therefore, forms the core of the modern curriculum. A high level of shared education in these Basics, together with work in the fine and performing arts and foreign languages, constitutes the mind and spirit of our culture. The following Implementing Recommendations are intended as illustrative descriptions. They are included here to clarify what we mean by the essentials of a strong curriculum.

Implementing Recommendations

1. The teaching of English in high school should equip graduates to: (a) comprehend, interpret, evaluate, and use what they read; (b) write well-organized, effective papers; (c) listen effectively and discuss ideas intelligently; and (d) know our literary heritage and how it enhances imagination and ethical understanding, and how it relates to the customs, ideas, and values of today's life and culture.

2. The teaching of mathematics in high school should equip graduates to: (a) understand geometric and algebraic concepts; (b) understand elementary probability and statistics; (c) apply mathematics in everyday situations; and (d) estimate, approximate, measure, and test the accuracy of their calculations. In addition to the traditional sequence of studies available for college-bound students, new, equally demanding mathematics curricula need to be developed for those who do not plan to continue their formal education immediately.

3. The teaching of science in high school should provide graduates with an introduction to: (a) the concepts, laws, and processes of the physical and biological sciences; (b) the methods of scientific inquiry and reasoning; (c) the application of scientific knowledge to everyday life; and (d) the social and environmental implications of scientific and technological development. Science courses must be revised and updated for both the college-bound and those not intending to go to college. An example of such work is the American Chemical Society's "Chemistry in the Community" program.

4. The teaching of social studies in high school should be designed to: (a) enable students to fix their places and possibilities within the larger social and cultural structure; (b) understand the broad sweep of both ancient and contemporary ideas that have shaped our world; (c) understand the fundamentals of how our economic system works and how our political system functions; and (d) grasp the difference between free and repressive societies. An understanding of each of these areas is requisite to the informed and committed exercise of citizenship in our free society.

5. The teaching of computer science in high school should equip graduates to: (a) understand the computer as an information, computation, and communication device; (b) use the computer in the study of the other Basics and for personal and work-related purposes; and (c) understand the world of computers, electronics, and related technologies.

In addition to the New Basics, other important curriculum matters must also be addressed.

6. Achieving proficiency in a foreign language ordinarily requires from 4 to 6 years of study and should, therefore, be started in the elementary grades. We believe it is desirable that students achieve such proficiency because study of a foreign language introduces students to non-English-speaking cultures, heightens awareness and comprehension of one's native tongue, and serves the Nation's needs in commerce, diplomacy, defense, and education.

7. The high school curriculum should also provide students with programs requiring rigorous effort in subjects that advance students' personal, educational, and occupational goals, such as the fine and performing arts and vocational education. These areas complement the New Basics, and they should demand the same level of performance as the Basics.

8. The curriculum in the crucial eight grades leading to the high school years should be specifically designed to provide a sound base for study in those and later years in such areas as English language development and writing, computational and problem solving skills, science, social studies, foreign language, and the arts. These years should foster an enthusiasm for learning and the development of the individual's gifts and talents.

9. We encourage the continuation of efforts by groups such as the American Chemical Society, the American Association for the Advancement of Science, the Modern Language Association, and the National Councils of Teachers of English and Teachers of Mathematics, to revise, update, improve, and make available new and more diverse curricular materials. We applaud the consortia of educators and scientific, industrial, and scholarly societies that cooperate to improve the school curriculum.

RECOMMENDATION B: STANDARDS AND EXPECTATIONS

We recommend that schools, colleges, and universities adopt more rigorous and measurable standards, and higher expectations, for academic performance and student conduct, and that 4-year colleges and universities raise their requirements for admission. This will help students do their best educationally with challenging materials in an environment that supports learning and authentic accomplishment.

Implementing Recommendations

1. Grades should be indicators of academic achievement so they can be relied on as evidence of a student's readiness for further study.

2. Four-year colleges and universities should raise their admissions requirements and advise all potential applicants of the standards for admission in terms of specific courses required, performance in these areas, and levels of achievement on standardized achievement tests in each of the five Basics and, where applicable, foreign languages.

3. Standardized tests of achievement (not to be confused with aptitude tests) should be administered at major transition points from one level of schooling to another and particularly from high school to college or work. The purposes of these tests would be to: (a) certify the student's credentials; (b) identify the need for remedial intervention; and (c) identify the opportunity for advanced or accelerated work. The tests should be administered as part of a nationwide (but not Federal) system of State and local standardized tests. This system should include other diagnostic procedures that assist teachers and students to evaluate student progress.

4. Textbooks and other tools of learning and teaching should be upgraded and updated to assure more rigorous content. We call upon university scientists, scholars, and members of professional societies, in collaboration with master teachers, to help in this task, as they did in the post-Sputnik era. They should assist willing publishers in developing the products or publish their own alternatives where there are persistent inadequacies.

5. In considering textbooks for adoption, States and school districts should: (a) evaluate texts and other materials on their ability to present rigorous and challenging material clearly; and (b) require publishers to furnish evaluation data on the material's effectiveness.

6. Because no textbook in any subject can be geared to the needs of all students, funds should be made available to support text development in "thin-market" areas, such as those for disadvantaged students, the learning disabled, and the gifted and talented.

7. To assure quality, all publishers should furnish evidence of the quality and appropriateness of textbooks, based on results from field trials and credible evaluations. In view of the enormous numbers and varieties of texts available, more widespread consumer information services for purchasers are badly needed.

8. New instructional materials should reflect the most current applications of technology in appropriate curriculum areas, the best scholarship in each discipline, and research in learning and teaching.

RECOMMENDATION C: TIME

We recommend that significantly more time be devoted to learning the New Basics. This will require more effective use of the existing school day, a longer school day, or a lengthened school year.

Implementing Recommendations

1. Students in high schools should be assigned far more homework than is now the case.

2. Instruction in effective study and work skills, which are essential if school and independent time is to be used efficiently, should be introduced in the early grades and continued throughout the student's schooling.

3. School districts and State legislatures should strongly consider 7-hour school days, as well as a 200- to 220-day school year.

4. The time available for learning should be expanded through better classroom management and organization of the school day. If necessary,

additional time should be found to meet the special needs of slow learners, the gifted, and others who need more instructional diversity than can be accommodated during a conventional school day or school year.

5. The burden on teachers for maintaining discipline should be reduced through the development of firm and fair codes of student conduct that are enforced consistently, and by considering alternative classrooms, programs, and schools to meet the needs of continually disruptive students

6. Attendance policies with clear incentives and sanctions should be used to reduce the amount of time lost through student absenteeism and tardines

7. Administrative burdens on the teacher and related intrusions into the school day should be reduced to add time for teaching and learning.

8. Placement and grouping of students, as well as promotion and graduation policies, should be guided by the academic progress of students and their instructional needs, rather than by rigid adherence to age.

RECOMMENDATION D: TEACHING

This recommendation consists of seven parts. Each is intended to improve the preparation of teachers or to make teaching a more rewarding and respected profession. Each of the seven stands on its own and should not be considered solely as an implementing recommendation.

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1. Persons preparing to teach should be required to meet high educational standards, to demonstrate an aptitude for teaching, and to demonstrate competence in an academic discipline. Colleges and universities offering teacher preparation programs should be judged by how well their graduates meet these criteria.

2. Salaries for the teaching profession should be increased and should be professionally competitive, market-sensitive, and performance-based. Salary, promotion, tenure, and retention decisions should be tied to an effective evaluation system that includes peer review so that superior teachers can be rewarded, average ones encouraged, and poor ones either improved or terminated.

3. School boards should adopt an 11-month contract for teachers. This would ensure time for curriculum and professional development, programs for students with special needs, and a more adequate level of teacher compensation.

4. School boards, administrators, and teachers should cooperate to devel p career ladders for teachers that distinguish among the beginning instructor, the experienced teacher, and the master teacher.

5. Substantial nonschool personnel resources should be employed to help solve the immediate problem of the shortage of mathematics and science teachers. Qualified individuals including recent graduates with mathematics and science degrees, graduate students, and industrial and retired scientists could, with appropriate preparation, immediately begin teaching in these fields. A number of our leading science centers have the capacity to begin educating and retraining teachers immediately. Other areas of critical teacher need, such as English, must also be addressed.

6. Incentives, such as grants and loans, should be made available to attract outstanding students to the teaching profession, particularly in those areas of critical shortage.

7. Master teachers should be involved in designing teacher preparation programs and in supervising teachers during their probationary years.

RECOMMENDATION E: LEADERSHIP AND FISCAL SUPPORT

We recommend that citizens across the Nation hold educators and elected officials responsible for providing the leadership necessary to achieve these reforms, and that citizens provide the fiscal support and stability required to bring about the reforms we propose.

Implementing Recommendations

1. Principals and superintendents must play a crucial leadership role in developing school and community support for the reforms we propose, and school boards must provide them with the professional development and other support required to carry out their leadership role effectively. The Commission stresses the distinction between leadership skills involving persuasion, setting goals and developing community consensus behind them, and managerial and supervisory skills. Although the latter are necessary, we believe that school boards must consciously develop leadership skills at the school and district levels if the reforms we propose are to be achieved.

2. State and local officials, including school board members, governors, and legislators, have the primary responsibility for financing and governing the schools, and should incorporate the reforms we propose in their educational policies and fiscal planning.

3. The Federal government, in cooperation with States and localities, should help meet the needs of key groups of students such as the gifted and talented, the socioeconomically disadvantaged, minority and language minority students, and the handicapped. In combination these groups include both national resources and the Nation's youth who are most at risk.

4. In addition, we believe the Federal government's role includes several functions of national consequence that States and localities alone are unlikely to be able to meet: protecting constitutional and civil rights for students and school personnel; collecting data, statistics, and information about education generally; supporting curriculum improvement and research on teaching, learning, and the management of schools; supporting teacher training in areas of critical shortage or key national needs; and providing student financial assistance and research and graduate training. We believe the assistance of the Federal government should be provided with a minimum of administrative burden and intrusiveness.

5. The Federal government has the primary responsibility to identify the national interest in education. It should also help fund and support efforts to protect and promote that interest. It must provide the national leadership to ensure that the Nation's public and private resources are marshaled to address the issues discussed in this report.

6. This Commission calls upon educators, parents, and public officials at all levels to assist in bringing about the educational reform proposed in this report. We also call upon citizens to provide the financial support necessary to accomplish these purposes. Excellence costs. But in the long run mediocrity costs far more.

America Can Do It

Despite the obstacles and difficulties that inhibit the pursuit of superior educational attainment, we are confident, with history as our guide, that we can meet our goal. The American educational system has responded to previous challenges with remarkable success. In the 19th century our land-grant colleges and universities provided the research and training that developed our Nation's natural resources and the rich agricultural bounty of the American farm. From the late 1800s through mid-20th century, American schools provided the educated workforce needed to seal the success of the Industrial Revolution and to provide the margin of victory in two world wars. In the early part of this century and continuing to this very day, our schools have absorbed vast waves of immigrants and educated them and their children to productive citizenship. Similarly, the Nation's Black colleges have provided opportunity and undergraduate education to the vast majority of college-educated Black Americans.

SCR

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Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

S-25-84

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

Senate Concurrent Resolution 47, relating to new minimum requirements for graduation from a public high school, by the Senate Rules Committee, requests that the State Board of Education make the new minimum requirements for graduation from a public high school effective after the 1984 - 1985 school year. Citing numerous reasons, contained in the resolution's nine "whereas" clauses, the resolution contends that the new minimum graduation requirements would force a considerable hardship on students who are currently juniors in high school and on the staff of the effected schools.

ACSA
• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
9115 Minor Ct. Juneau, Alaska 99801
an organization of Alaskan School Administrators

May 22, 1984

The Honorable Jan Faiks
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Faiks:

The Alaska Council of School Administrators urges the adoption of Senate Concurrent Resolutions No. 47 as a reasonable solution to the problem created by the new regulations on High School Graduation requirements adopted by the State Board. The additional procedures adopted by the Department of Education in Numbered Memorandum 84-24 and 27 have confused the process enough, so we urge the adoption of the resolution.

I have enclosed a letter on the subject, that I have transmitted to Commissioner Reynolds, for your information.

Sincerely,

Don MacKinnon

Don MacKinnon
Executive Director

DM:clc

Enclosure

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •
9115 Minor Ct. Juneau, Alaska 99801

an organization of Alaskan School Administrators

May 22, 1984

Harold Raynolds, Commissioner
Department of Education
Pouch F
Juneau, AK 99811

Dear Commissioner Raynolds:

This letter is a follow-up seeking clarification to your statement at the May 8 State Board meeting about the Department's appeal process for students from school districts for the year 1984-85. It was my understanding, and those districts present, that it was the Department's intent to deal with the exceptions on a district-by-district basis or at least, group like students and not have the department rule on each individual case.

It now appears that D.O.E. No. Memorandum 84-27, dated May 4, in effect runs counter to our understanding of your intent at the State Board meeting. The memo clearly states that waivers will be handled on a student-by-student basis.

The reason that you did not hear additional concerns from both Juneau and Fairbanks school districts at the board meeting was because your answer satisfied their concerns. Both districts, however, were prepared to present their arguments to the State Board urging the Department not to treat the waivers on an individual student basis.

It is our belief you have created a paper nightmare for the Department and allowed little time for districts to react to the individual cases before school is out. This, in fact, will create a hardship on students who by now have planned their next years schedule.

Introduced in Senate Rules is Concurrent Resolution No. 47 which may, in fact, be the best solution to the entire problem. The effect of

this resolution would be to exempt the class of 1984-85 from the new requirements and eliminate the problem if the State Board was to concur.

Your consideration on the matter would be appreciated.

Sincerely,

Don MacKinnon
Executive Director

DM:clc

cc: Ernestine Griffen, Pres. State Board
Mike Adams, Supt. Juneau Schools
Ken Burnley, Supt. Fairbanks Schools

SJR

/

File with Bill SB63

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LEGISLATIVE PLATFORM

Alaska Commission on the Status of Women

February 1983

Introduction

The Alaska Commission on the Status of Women commits itself to **legislative action** and **advocacy** to secure equal opportunity, equal access, and equal treatment for women in all areas. Women's issues are no longer secondary concerns to be shunted aside when state and national leaders develop and implement public policy. The **economy, education, housing, jobs, criminal justice**, and **peace** are all women's issues, as well as the traditional areas of equal rights, reproductive rights, health, and the elimination of poverty and hunger. The following statements represent the Commission's principles for action on state and national legislative issues. Implied in each statement is support for effective administration, citizen participation, and adequate budget appropriations to secure these objectives.

The positions are based on Commission study and testimony provided by women throughout the state at conferences, meetings, and teleconference hearings.

Advocacy

The work of advocating for women's issues must continue. The majority of those who have addressed their concerns to this Commission have testified to the importance of having a voice for women in Alaska. Consequently, the Alaska Commission on the Status of Women formally proposes and supports the continuation of a women's commission in this state beyond the current termination date of June 30, 1983.

Equity

The Commission is committed to equity for women in all areas. In keeping with this position it supports:

- passage of the Equal Rights Amendment;
- an end to discrimination on the basis of parenthood, marital status, or sexual preference;
- curtailment of veterans' preferences which result in discrimination against women and obstruct equal access to employment, housing, credit, or other essential services and opportunities; and
- legislative reform at the national and state level to prohibit discrimination on the basis of sex or marital status in insurance access, rates, benefits, or coverage.

The Commission opposes budget cuts at the state or federal level which impoverish social programs that have proven effective in assisting women to escape poverty.

Women in Public Life

Women can and must assume the responsibility of leadership roles in the public policy and judicial positions of our state and nation. The Commission therefore supports:

- appointment of more women and minorities to judgeships and policy-making positions throughout the public sector;
- appointment of officials who have an understanding of and a demonstrated commitment to improving the status of women;
- encouragement, recruitment, and training of women as candidates for elected and appointed positions; and
- recognition of women's accomplishments through declaration of Women's History Month at the national level.

Children and Youth

The Commission supports a national and statewide policy on child care, with accompanying legislation and adequate appropriations to address the vital need for quality, affordable, accessible care for children of employed parents and for respite care for developmentally disabled and handicapped children. The Commission supports legislation and policy directives which would:

- address the pressing Alaskan problem of insufficient and inadequate child care facilities and child care programs, and fund an adequate administrative capacity at the state level to review and monitor both;
- establish meaningful state licensing standards for child care facilities and caregivers;
- provide continuing training for caregivers;
- establish an ongoing state office to address the needs of children and youth; and,
- provide for child care facilities in state office buildings.

In addition to the above the Commission urges the introduction of legislation or directives to:

- require withholding of wages by employers under direction of the Child Support Enforcement Agency, and withholding of tax refunds by the Internal Revenue Service for child support payments;
- permit granting of sick leave for parents when children are ill;
- permit granting of leave to new parents for childrearing purposes without loss of seniority or benefits;
- permit state board and commission members to pay for child care as a per diem type expense; and
- require public and private agencies to supply medical information regarding genetic disorders and diseases to prospective adoptive parents, to physicians, and to the individual who is the offspring of an incestuous union.

The Commission supports the use of public funds for child care programs, tax incentives for employers who provide child care as a benefit, and encouragement of the development of private, non-profit child care programs.

The Commission also supports development of adequate programs to deal with runaway youths.

Health

The Commission will continue its efforts to focus attention on health needs of women, and on health education in the schools. In addition the Commission will continue to support:

- protection of women's rights to privacy and freedom of choice regardless of age;
- state funding for abortion for low income women;
- increased funding for reproductive health services including family planning, pre- and postnatal care, abortion, alternative birthing centers, and community health clinics;
- comprehensive sex education programs;
- legislation to license social workers;
- legislation to establish health and welfare safeguards related to the workplace, such as protection for operators of video display terminals (VDTs);
- protection of health programs jeopardized by federal cutbacks and policy changes; and
- establishment of a state health insurance program to provide for the health needs of residents who have no access to other insurance coverage.

Minority and Rural Women

Minority and rural women face unique circumstances in Alaska. Cultural and geographical conditions require special sensitivity and awareness on the part of policy makers. Through the sponsoring of regional women's conferences, the Commission has attempted to assist rural and minority women to identify their needs and strengths, and to communicate their concerns to policy makers and administrators. The Commission will continue its efforts to ensure employment of women, especially rural, Native, and other minority women on major Alaskan projects. In addition it supports:

- protection of the subsistence lifestyle and the fish and game resources necessary to support it;
- increased communication between Native and non-Native women to promote an understanding of each other's lifestyles;
- networking among women's groups of diverse backgrounds and perspectives; and
- protection and strengthening of culturally sensitive programs for all minority groups.

Homemakers

The Commission continues to support:

- full funding of displaced homemakers programs, other education and training programs for displaced homemakers, and Women's Resource and Crisis Centers;
- economic security for a spouse who chooses to work solely in the home; and
- national, state, and local laws and policies which protect and reflect the contribution of the homemaker.

Employment

The Commission is committed to increasing women's employment opportunities, to fighting discrimination in employment and training, and to full funding of child care assistance to enable parents to support their families or to seek employment. The Commission specifically supports improvement of the state's own personnel record in the following areas:

- increasing access for women to higher paying positions in state government;
- developing career ladders for women to enable them to move out of dead end jobs;
- requiring the use of the "5+5" personnel procedure (This procedure allows a manager to select from not only the top five scorers in a class, but from the top five qualified women and minorities as well. Because the veterans' preference of adding five points to their score has aided primarily white men, this procedure opens up access to employment for qualified women and minorities.) in departments where woman and minorities are underutilized;
- assuming a leadership role in raising and addressing the issues of pay equity and comparable worth; and
- increasing women's access to training opportunities within departments.

The Commission is committed to making employment arenas free of sex bias and discrimination. In accordance with this it will continue its efforts to ensure employment of women, especially rural, Native, and other minority women, on major Alaskan projects and in major Alaskan industries. The Commission supports:

- the use of written affirmative action programs, with goals and time-tables for hiring and promotion of women and minorities;
- the elimination of job segregation and the establishment of the principle of equal pay for work for comparable value; and
- federal, state, and local laws prohibiting sexual harrassment.

The Commission will continue to support employment training and vocational education programs which:

- provide training for traditional and non-traditional employment with a special emphasis on better paying jobs for women;
- mandate the elimination of sex stereotyping and sex discrimination in access to training and placement; and
- provide participant stipends, transportation, child care, and other support services needed by trainees.

Education

All legislation, regulatory reform, and enforcement activity relating to sex equity in education are of primary importance to the Commission. Working in concert with other women's rights and educational organizations the Commission supports:

- vigorous implementation and enforcement of the Alaska statute prohibiting sex discrimination in education (AS 14.18). (Particular concern has been expresed about non-compliance at the University level.);
- increased availability of higher educational opportunities in rural Alaska which are geared to the needs and interests of the community. Courses and programs should not be altered without input from the community; and
- efforts of the Alaska Native Women's Statewide Organization to make bilingual classes mandatory where desired by the parents.

Criminal Justice

The Commission supports full funding of domestic violence and sexual assault programs. It supports adequate funding for rehabilitation programs for perpetrators of violence. The Commission supports more training for judges, attorneys, and other criminal justice system personnel in matters relating to domestic violence and sexual assault. This is especially critical in areas of rural Alaska.

The Commission supports:

- legislation to provide for mandatory participation in treatment and rehabilitation programs as part of sentencing for convicted sex offenders. Such treatment should be in addition to and not in lieu of time to be served;
- legislation to repeal limitations on awarding compensation to victims of violent crimes when the perpetrator is a relative or member of the same household; and
- funding of legal assistance for low income women, particularly through adequate funding of the Alaska Legal Services Corporation.

The Commission also supports a review of state laws which affect victims of violent crimes to determine if they are adequate to protect the victims' constitutional rights. Particular concern has been expressed by the Alaska Native Women's Statewide Organization about implementation and enforcement of AS 12.25.030(B).

Finally, the Commission supports development of an Alaskan correctional system which is adequate to house and rehabilitate persons convicted of violent crimes, and which provides appropriate, equal, and adequate provision for women as well as for men.

Peace

As representatives of women we are keenly aware that no issue is or has ever been more important to women than concern for life. We are also concerned that military spending increases are continually made at the cost of social programs. As women constitute a disproportionate share of the poor, the elderly, and the vocationally untrained, they are unduly affected by such decisions.

For these reasons the Commission:

- urges the Alaska Legislature to establish a ballot initiative calling for bilateral nuclear freeze; and
- supports the concept of a National Peace Academy.

Economics

The Commission supports:

- aggressive efforts to ensure equal access for women to consumer and commercial credit;
- increased availability of loan programs for women starting or running their own businesses;
- enforcement of government regulations designed to increase federal, state, and local procurement efforts with women-owned firms; and
- improvements in public and private pension systems necessary to ensure that women reach retirement age with economic security.

Commission Members

Barbara Schuhmann, chair, Fairbanks
Barbara Dale, vice chair, Juneau
Evalee Azar, Anchorage
Pat Berkley, Anchorage
Dorothy Jones, Eagle River
Roxane Lee, Petersburg
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"No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin."
Article I, Section 3
of the Alaska Constitution

ADDRESS CORRECTION REQUESTED

February 3, 1983

REPORT OF THE SENATE COMMITTEE ON HEALTH, EDUCATION AND SOCIAL SERVICES RE SJR 1.

Mr. President:

The Committee on Health, Education and Social Services has had under consideration SJR 1, by Senator Vic Fischer and other senators. The majority of the Committee recommends that SJR 1 do pass.

Recently, the Committee has received hundreds of messages and has heard public testimony, pro and con, for approximately two and one-half hours.

While testimony before the Committee was divided, messages of support were delivered on behalf of numerous organizations with large Alaska memberships, including NEA-Alaska, the American Association of University Women (Alaska Chapter), the League of Women Voters, and Alaska components of the National Organization of Women (NOW).

ERA is not a new issue in Alaska, despite the recent rush of public input. This legislature was one of our nation's first to ratify the originally submitted ERA. And, in 1972, Alaska voters approved our "little ERA" -- the alaska constitutional amendment which prohibits discrimination on the basis of sex.

As noted in SJR 1, the daily lives of Alaskans show no evidence of ills or evils, attributable to the people's approval of the State constitutional ban on sex-based discrimination, which ERA opponents foresee for the nation if ERA becomes part of the national Constitution.

Some opponents of SJR 1 say that further consideration of the issue would be "a waste of time and money."

Your Committee respectfully disagrees with that view. Any assumption that legislative inaction on ERA would quell further consideration of this vital issue is false. This issue is not going away; it should not go away. In the Congress, over 200 representatives have co-sponsored a House joint resolution providing for the resubmittal of a national ERA to the state legislatures for ratification. Across the country, ERA proponents are redoubling their efforts. They see a changed legislative landscape -- a landscape which finds new faces in state legislatures following the defeat or retirement of many key legislators who opposed ERA in the past.

Opponents argue that the goal of equal rights for women, however laudatory, can be attained through other means, e.g., through a piece-by-piece modification of state and federal laws and regulations which discriminate, or permit discrimination, against women. Your Committee finds that such attempts, piece-by-piece, to ameliorate the problem of sex-based discrimination are bound to be unsatisfactory.

In the words of a leading treatise on ERA:

> Over the years, some proponents of women's rights have thought that discrimination could be ended most effectively if legislatures prepared men and women gradually for equality by a series of step-by-step reforms. . . However such suggestions unrealistically assume a delicacy and precision in the legislative process which has no relationship to actual legislative capability. More importantly, the process is unlikely to be completed within the lifetime of any woman now alive. Such a method requires multiple actions by fifty legislatures and the federal congress, by the courts and executive agencies in each one of these jurisdictions, and by similar government authorities in numerous political subdivisions as well. The government machinery would have to be mobilized to repeal or modify the statutes and practices in scores of different areas where unequal treatment now prevails. To be comprehensive such efforts would require a tremendously expensive, sophisticated, and sustained political organization, both nationally and within every state and locality. Campaigns to change the laws one by one could drag on for many years, and perhaps in some areas never be finished. "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women", by Barbara A. Brown, Thomas I. Emerson, Gail Falk, and Ann E. Freedman, 80 Yale Law Journal 871, 833 (1972).

The authors of the quoted treatise went on to point out the "need for a single coherent theory of women's equality before the law, and for a consistent nationwide application of this theory", and found that "(t)his is scarcely possible through legislative change alone." Ibid.

We Americans have inherited from our nation's founders the federal constitutional amending process. It provides for the

incorporation, into our national Charter, of changes in the basic governing assumptions of our country. The use of this process to record and symbolize such changes, and to help make those changes tangible in the lives of our people, is well understood insofar as the right of every American to be free from discrimination on the basis of race, color, religion or national origin is concerned. The use of the same process in the case of sex-based discrimination thus fits comfortably into our American constitutional tradition.

In our judgment, some opponents of ERA and SJR 1 grossly overstate their case and adopt an alarmist tone not supported by reason or experience.

For example, they have asserted that ERA will deprive people of privacy in the performance of personal bodily functions.

However, under the federal and state constitutions, an independent right of privacy has been recognized. At the federal level, the right of privacy was recognized by the Supreme Court of the United States in Griswold v. Connecticut and other decisions. The federal right of privacy is derived from a combination of various more specific rights in the First, Third, Fourth, Fifth and Ninth Amendments. In Alaska, the right of privacy rests upon an explicit State constitutional amendment approved directly by vote of the people.

The independent privacy right permits the separation of sexes in public rest rooms, in the sleeping quarters of prisons or other public institutions, and in other situations which involve disrobing, sleeping or the performance of personal bodily functions. Police practices by which a search involving the removal of clothing could only be performed by a police officer of the same sex would remain permissible.

ERA opponents have also made exaggerated claims that ERA will cause husbands to stop supporting their wives, or compel women who choose to be homemakers to change their lifestyles, or eliminate any right to alimony in divorce decrees, or the right to child support.

Again, neither reason nor history supports these claims. For example, nothing in ERA would prohibit an award of alimony to a spouse of either sex who has been out of the labor force for a long time in order to make a non-compensated contribution to the well-being of the family unit. Nothing in ERA would prohibit a court from ordering child support to the spouse having custody of a dependent child.

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influences upon actual behavior are the social customs, economic realities, religious traditions and practices, and individual preferences and economic status of the people involved. ERA would not regulate such voluntary behavior of individuals in their private lives. The Alaska experience since 1972 proves this.

In summary, both the research and the history of the State amendment since 1972 make manifest that opponents have exaggerated alarmingly the claims of ERA's effect in areas traditionally protected through the constitutional concept of privacy or with regard to personal lifestyle choices of free Americans.

If one compares the history of ERA with the long struggle for women's suffrage, or the longer struggle -- still in progress -- against race-based discrimination, the ERA movement is relatively young. Resubmission by the Congress of ERA, for consideration by state legislatures, would be appropriate. This issue is not fading away; if anything, momentum for the amendment appears to be growing. Legislatures in the '80s should have an opportunity to consider this vital issue, without being restricted by a few adverse decisions in certain states in the past. As a leader in the efforts to bring sex-based discrimination to an end, Alaska can cite its own experience and memorialize the Congress to give state legislatures a new opportunity to ratify ERA.

Respectfully submitted,

Joe P. Josephson, Chairman

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Dear Mr. President:

The undersigned Senators who are members of the Senate Committee on Health, Education and Social Services have carefully considered the implications of SJR 1 to the state of Alaska and its citizens and submit this minority report recommending that SJR 1 does not pass.

Even though Alaska was among the first states to ratify the first Equal Rights Amendment, we believe that events since that time demand that this body re-examine carefully the implications of that amendment to Alaska, the legislature and Alaskan citizens. We submit that the law has changed substantially since the article cited by the majority report was published in 1972, the same year that the amendment was passed out of the Congress and ratified by Alaska.

As correctly noted in the majority report, Alaska in 1972 amended its state constitution to specifically prohibit discrimination on the basis of sex. Therefore, clearly Alaskans do not need the additional protection of the Equal Rights Amendment in the federal constitution. And while as the majority report states, no particular problems have developed from this addition to our state constitution, it cannot be analogized to the federal constitution as will become evident in the following discussion.

The Equal Rights Amendment is unnecessary. Since 1971, the United States Supreme Court has routinely applied the protections of the 5th and the 14th Amendments to women and to gender based discrimination to invalidate many state and federal actions.[1] For example, the United States Supreme Court recently invalidated a Louisiana law that gave a husband exclusive control over the disposition of property owned by both spouses during the marriage

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on the basis that it violated the Equal Protection Clause of the 14th Amendment.[2] It held that gender-based discrimination is unconstitutional absent a showing that the classification furthers an important governmental interest. To more fully understand this standard, the Court's ruling in Michael M. v. Superior Court of Sonoma County,[3] is important. This case involved an appeal by a young man who had been convicted of statuatory rape. He argued that the statute unlawfully discriminated against him on the basis of gender since men alone were liable. The Court said that where gender classifications realistically reflected the fact that the sexes were not similarly situated, such laws do not violate the Constitution.

In addition to the direct Consctitutional protections, the courts have also applied the protections of the Title VII of the Civil Rights Act of 1964 to prevent sex discrimination.[4] Title VII states that it is unlawful to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, sex, or national origin. Congress was able to apply its provisions to state actions by relying on its authority guaranteed by the 14th Amendment. There are other important laws which currently guarantee women's rights.

Title IX of the Civil Rights Act of 1964 which applies to all public education requires it to be free from discrimination based upon sex. The Equal Employment Opportunity Act of 1972 likewise prohibits sex discrimination and applies to all employers of at least 15 employees who are engaged in businesses affecting interstate commerce. States are prohibited from denying equal educational opportunities on the basis of sex by the Equal Educational Opportunities Act of 1974. The Equal Pay Act of 1963 applies to all federal and state employers, as well as to employers engaged in interstate commerce. The Equal Credit Opportunity Act of 1974 applies to all creditors and prevents discriminatory credit practices. For these federal laws to be enforceable against states and employers engaged in interstate commerce, the Congress must have Constitutional authority to enact them. In all of these cases, the courts have uniformly upheld Congress' authority.

This becomes important to our position, because even if the Equal Rights Amendment was to be ratified, the laws implementing it would still need to be enacted by Congress. It is difficult to imagine what other areas important to the majority of Alaskans would become law as a result of the Equal Rights Amendment.

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In our opinion, these arguments miss the point. The fact that recognized authorities of the Constitution and the United States Supreme Court can entertain such diametrically opposing views of the same language demonstrates that it is impossible to give a confident interpretation until the amendment's ratification and subsequent judicial interpretations. Such judicial pronouncements may take literally hundreds of years.[6]

One important consequence that cannot be ignored is that the judiciary makes mistakes. If mistakes are made at the level of the Congress or the state legislatures, they can be rectified by the appropriate body. Where, however, mistakes are made in a judicial interpretation of a Constitutional provision the effects are drastic. Such mistakes can only be corrected by the death, the retirement, or change of mind of the Supreme Court justices, or by constitutional amendment. It is highly unlikely that any of these might occur.

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arguments against supporting SJR 1 and the Equal Rights Amendment; shifting legislative power to the federal judiciary and shifting states' rights to the federal government.

Passage of the Equal Rights Amendment would further erode the checks and balances originally built into the United States Constitution. Our founders established 3 branches of government and created a system of checks and balances to prevent the executive, the legislature or the judiciary from becoming too powerful. In recent years, the judiciary has usurped the authority of the legislature.[7] By definition, a constitutional amendment which limits what government can do places limitations on the legislature, because normally it is the legislature that has policy making authority. But constitutional amendments can only be interpreted by the judiciary. We believe that our constituency would find us more responsive to them than a small group of lawyers who are appointed to lifetime positions.

More importantly to us as Alaskans is that not only would the governmental power shift from the legislature to the judiciary, but it would also shift from the state to the federal government. This would be accomplished by section 2 of the amendment. The basic premise of the Constitution is to ensure that the people have as direct a say in the government as possible. It is our view that this can be best accomplished by leaving the most authority possible within the state legislature.

As elected state senators, we are particularly concerned over the amendment's encroachment on our legislative authority and on the shifting of governmental power from the states to the federal government and judiciary. While politically it is hard to oppose the Equal Rights Amendment, we do not believe that we can betray the trust that our constituency placed in us to be mindful of federal intrusions upon our authority. We believe that the protections sought by the majority of people are already included in the federal constitution, as evidenced by the recent United States Supreme Court decisions discussed briefly above and in the numerous laws already enacted by the Congress and applicable to the states. We further believe that any additional protection that our constituency identifies as necessary can be best addressed at the state level.

[7] Even the Alaska Supreme Court has decided issues that many believe belong to the legislature by deciding, for example, that Alaskans have the right to marijuana for personal use. If citizens are unhappy with that decision, there is literally nothing they can do, because the court has decided that this activity is protected by the Alaska Constitution. Whereas, if the decision had been made by the legislature, the citizens could speak on the issue. In a sense, this means that rather than Alaskans being governed by themselves, they are governed by an elite few.

February 3, 1983

REPORT OF THE SENATE COMMITTEE ON HEALTH, EDUCATION AND SOCIAL SERVICES RE SJR 1.

Mr. President:

The Committee on Health, Education and Social Services has had under consideration SJR 1, by Senator Vic Fischer and other senators. The majority of the Committee recommends that SJR 1 do pass.

Recently, the Committee has received hundreds of messages and has heard public testimony, pro and con, for approximately two and one-half hours.

While testimony before the Committee was divided, messages of support were delivered on behalf of numerous organizations with large Alaska memberships, including NEA-Alaska, the American Association of University Women (Alaska Chapter), the League of Women Voters, and Alaska components of the National Organization of Women (NOW).

ERA is not a new issue in Alaska, despite the recent rush of public input. This legislature was one of our nation's first to ratify the originally submitted ERA. And, in 1972, Alaska voters approved our "little ERA" -- the alaska constitutional amendment which prohibits discrimination on the basis of sex.

As noted in SJR 1, the daily lives of Alaskans show no evidence of ills or evils, attributable to the people's approval of the State constitutional ban on sex-based discrimination, which ERA opponents foresee for the nation if ERA becomes part of the national Constitution.

Some opponents of SJR 1 say that further consideration of the issue would be "a waste of time and money."

Your Committee respectfully disagrees with that view. Any assumption that legislative inaction on ERA would quell further consideration of this vital issue is false. This issue is not going away; it should not go away. In the Congress, over 200 representatives have co-sponsored a House joint resolution providing for the resubmittal of a national ERA to the state legislatures for ratification. Across the country, ERA proponents are redoubling their efforts. They see a changed legislative landscape -- a landscape which finds new faces in state legislatures following the defeat or retirement of many key legislators who opposed ERA in the past.

Opponents argue that the goal of equal rights for women, however laudatory, can be attained through other means, e.g., through a piece-by-piece modificatior of state and federal laws and regulations which discriminate, c. permit discrimination, against women. Your Committee finds that such attempts, piece-by-piece, to ameliorate the problem of sex-based discrimination are bound to be unsatisfactory.

In the words of a leading treatise on ERA:

> Over the years, some proponents of women's rights have thought that discrimination could be ended most effectively if legislatures prepared men and women gradually for equality by a series of step-by-step reforms. . . However such suggestions unrealistically assume a delicacy and precision in the legislative process which has no relationship to actual legislative capability. More importantly, the process is unlikely to be completed within the lifetime of any woman now alive. Such a method requires multiple actions by fifty legislatures and the federal congress, by the courts and executive agencies in each one of these jurisdictions, and by similar government authorities in numerous political subdivisions as well. This government machinery would have to be mobilized to repeal or modify the statutes and practices in scores of different areas where unequal treatment now prevails. To be comprehensive such efforts would require a tremendously expensive, sophisticated, and sustained political organization, both nationally and within every state and locality. Campaigns to change the laws one by one could drag on for many years, and perhaps in some areas never be finished. "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women", by Barbara A. Brown, Thomas I. Emerson, Gail Falk, and Ann E. Freedman, 80 Yale Law Journal 871, 833 (1972).

The authors of the quoted treatise went on to point out the "need for a single coherent theory of women's equality before the law, and for a consistent nationwide application of this theory", and found that "(t)his is scarcely possible through legislative change alone." Ibid.

We Americans have inherited from our nation's founders the federal constitutional amending process. It provides for the

incorporation, into our national Charter, of changes in the basic governing assumptions of our country. The use of this process to record and symbolize such changes, and to help make those changes tangible in the lives of our people, is well understood insofar as the right of every American to be free from discrimination on the basis of race, color, religion or national origin is concerned. The use of the same process in the case of sex-based discrimination thus fits comfortably into our American constitutional tradition.

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In our opinion, these arguments miss the point. The fact that recognized authorities of the Constitution and the United States Supreme Court can entertain such diametrically opposing views of the same language demonstrates that it is impossible to give a confident interpretation until the amendment's ratification and subsequent judicial interpretations. Such judicial pronouncements may take literally hundreds of years.[6]

One important consequence that cannot be ignored is that the judiciary makes mistakes. If mistakes are made at the level of the Congress or the state legislatures, they can be rectified by the appropriate body. Where, however, mistakes are made in a judicial interpretation of a Constitutional provision the effects are drastic. Such mistakes can only be corrected by the death, the retirement, or change of mind of the Supreme Court justices, or by constitutional amendment. It is highly unlikely that any of these might occur.

Two remaining areas concern us and are the strongest

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In summary, we ask that the Senate carefully weigh the true import of SJR 1 and not pass it.

Respectfully submitted,

Paul Fischer

SJR

26

Official Business

Alaska State Legislature

Senate

Office of the President

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Rep. Mae Tischer, Chair
House HESS Committee

From: Senator Jay Kerttula
Senate President

Subject: SJR 26, WAMI medical school positions

Date: March 20, 1984

Because of the increase in Alaska's population and the increase in qualified applicants for the WAMI program, it is necessary to increase Alaska's quota in this medical training program from 10 to 15.

Attached please find back-up information for Senate Joint Resolution 26.

WAMI Medical Education Program

Initial letter to selected legislators. Sen. Kerttula expanded by introducing SJR 26

Applicant pressure has further increased since the graph was drawn

UNIVERSITY OF ALASKA, FA
Fairbanks, Alaska 99701

April 25, 1983

Dear ( )

This is to solicit your support for increasing the number of WAMI medical school positions for Alaskan students from 10 to 15 positions per year.

Since 1975 the WAMI Program has provided a mechanism through which Alaska contracts for 10 positions for Alaskan students in each entering class of the University of Washington School of medicine. These ten Alaskan medical students take their first year of medical school on the Fairbanks campus. They then join their classmates from Washington, Montana and Idaho in Seattle for the second, third and fourth years of medical school. Parts of the third and fourth year curricula are taught in Anchorage and Ketchikan.

Each year Alaska ranks at or near the bottom of the national listings of the numbers of medical education openings per capita (see attachment #1). The number of Alaskan applicants to the program continues to increase. (See attachment #2) This year 49 students are contending for 10 places.

The present 10 positions per year will provide only half the number of new physicians needed to simply replace physicians leaving Alaskan practice through normal attrition (600 m.d.s with 30 years practice duration = 20 replacements needed per year). Population growth will of course add to this requirement.

The University of Washington School of Medicine is, for the first time since 1975, in a position to accept more Alaskans. We can add more students to the first year class in Fairbanks without additional cost. This is true because our faculty needs are based on the range of subjects taught, not on class size. If we accept more Alaskans into the program we must, however, be prepared to pay the University of Washington for teaching these student in the second, third and fourth years. The cost per student year will be approximately $30,000. Thus the added costs of moving from 10 to 15 positions per year are as follows as the four year medical school program is filled.

Additional Students

Fiscal Year	University of Alaska	University of Washington	Additional Cost
F.Y.84	5	0	$ 0
F.Y.85	5	5	$150,000
F.Y.86	5	10	$300,000
F.Y.87 (and succeeding years)	5	15	$450,000

We now have accepted our authorized class of 10 students for the coming academic year. We have, in addition, designated 7 fully qualified alternates.

We could admit up to 5 of these alternates to the coming year's program without an appropriation. We would, however, be incurring a major financial commitment in succeeding years. We thus feel we must have some substantive action by the State government endorsing this program expansion and, insofar as possible, committing future support.

Senator Kerttula has agreed to sponsor a resolution along these lines. I hope you will be able to support this effort.

Sincerely,

Wayne W. Myers, M.D.
Director, WAMI Program

Attch: 2
WWM/ch

1980-81
ENTRANCE TO MEDICAL SCHOOL
BY STATE OF RESIDENCE

RANK #	STATE	ENTRANCE PER 100,000 POPULATION	
		ALL SCHOOLS	STATE SCHOOLS
1	NEBRASKA	12.2	9.5
2	SOUTH DAKOTA	11.6	9.6
3	NORTH DAKOTA	11.3	9.8
4	NEW YORK	11.1	3.2 *
8	MINNESOTA	8.6	6.6
11	OHIO	8.0	6.4
44	MAINE	4.9	0 +
44	WASHINGTON	4.9	2.9
46	FLORIDA	4.8	2.1
	MONTANA	4.7	2.5
48	ARIZONA	4.5	3.2
49	ALASKA	4.0	2.5
50	IDAHO	3.7	2.1
51 **	NEW HAMPSHIRE	2.4	0 ‡

* NEW YORK HAS 4 STATE SCHOOLS, BUT ALSO PROVIDES STATE $ TO SEVERAL PRIVATE SCHOOLS IN RETURN FOR ADMITTING NEW YORK RESIDENTS.

\+ MAINE HAS NO MEDICAL SCHOOL, BUT ARRANGES FOR VERMONT AND TUFTS TO TAKE MAINE RESIDENTS (APPROX. 3.1 PER 100,000 POP.)

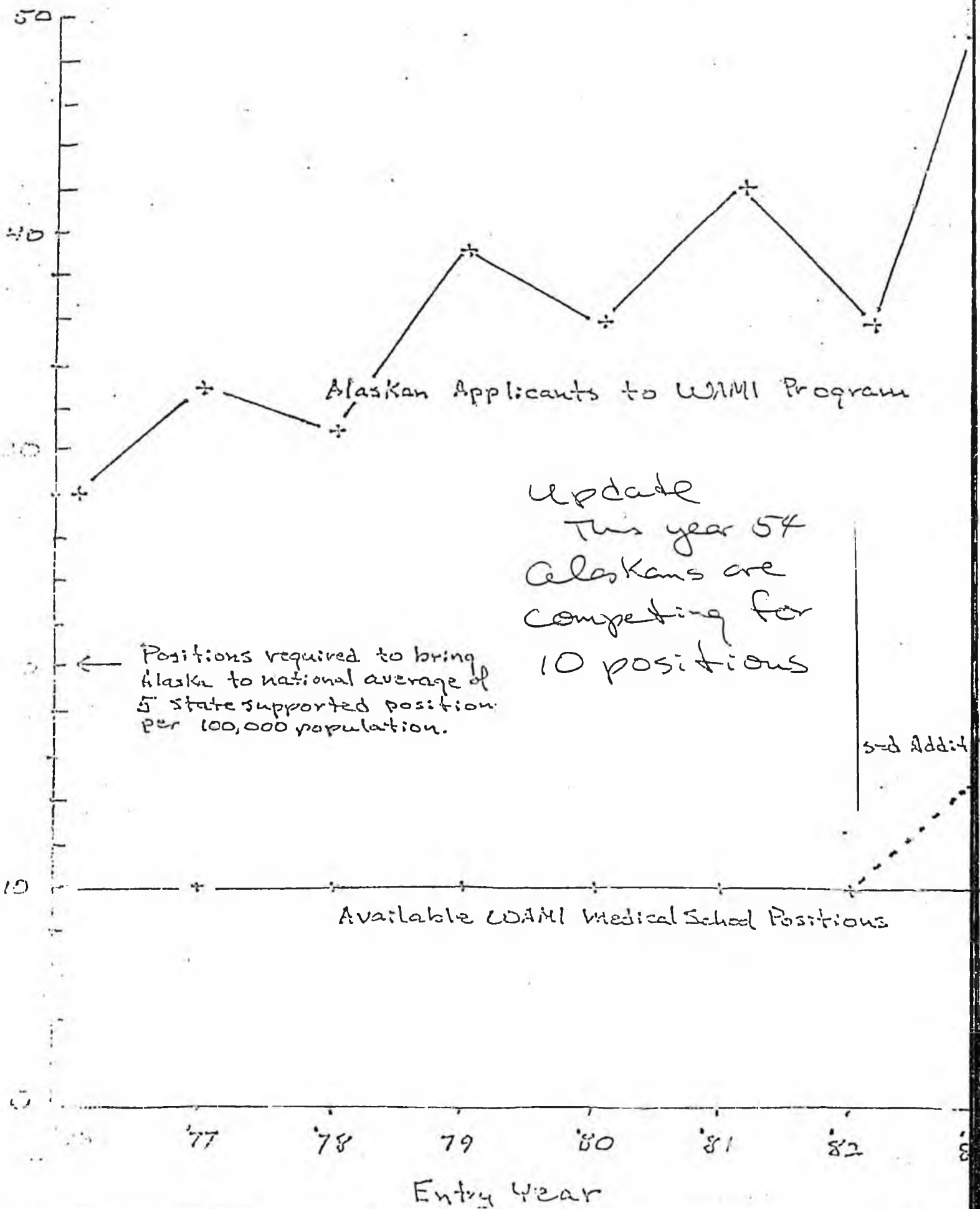
‡ NEW HAMPSHIRE HAS NO STATE SCHOOL, BUT 1.3 PER 100,000 POP. IN NEW HAMPSHIRE RESIDENTS ENTERED DARTMOUTH THIS YEAR.

PUERTO RICO WITH THREE MEDICAL SCHOOLS, FALLS IN THE MIDRANDGE AS A 51ST "STATE".

SOURCE: JAMA, Vol. 246, No. 25, December 25, 1981. 1981 Annual

WAMI Program

Alaskan Applicants and Positions



BILL SHEFFIELD
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 12, 19

Inquiry from Harry Crawford and response.
Response indicates that cost of $30,000 per student-year is an upper limit figure - actual cost would be slightly lower.

Wayne W. Myers, M.D.
Director, WAMI Program
University of Alaska, Fairbanks
Fairbanks, AK 99701

Dear Dr. Myers:

Thank you for your letter soliciting the Governor's support for increasing the number of WAMI medical school positions for Alaskans.

As I understand this program, Alaska currently contracts for 10 students per year. Now, the University of Washington is proposing to increase our "quota" to 15, and you are requesting our support for this increase. I have a few questions for which I would appreciate answers before I can formulate a recommendation on this issue. I requested information on WAMI costs and have been provided the figures listed below.

1982-83 Costs

(i) Student Fees (Paid to U of W)

Student Level	Per Student Fee
1st Year	at Fairbanks
2nd Year	$25,737
3rd Year	$25,416
4th Year	$16,988

(ii) Administrative Cost (Paid to U of W)

Overall Program Administration	$ 91,531
Clinical Site Cost (Travel)	48,896
U of W Faculty Support	46,903
	$187,330

(iii) University of Fairbanks costs cannot be identified specifically for these students.

If these are incorrect, please correct them; if you can expand upon them, please do so.

You have indicated that the per year cost of these new students is approximately $30,000 each. How does that relate to the breakout above? Will the 2nd year cost be increasing for U of W or will the administrative costs increase due to the increased number of students? Are these administrative costs fixed by the WAMI contract or do they change annually? How are they set? Similarly, do the per student fees change or have we always paid $16,988 per 4th year student, for example? If they do change, how are they set?

Finally, I would like to know how successful our eight years of WAMI participation have been. Specifically, how many Alaskan WAMI students have graduated and returned to practice medicine in Alaska?

Provided with these answers and information, I will be much better able to make a recommendation on your request. Thank you again for calling this to our attention.

Sincerely,

Larry Crawford

Larry Crawford
Chief of Staff

May 20, 1983

Larry Crawford
Chief of Staff
Office of the Governor
State of Alaska
Juneau, AK 99811

Dear Mr. Crawford:

Thank you for your letter of 12 May regarding WAMI medical student positions. Before moving to more detailed information, I should make clear that the figure of $30,000 per student year which I quoted was a simplified upper limit figure, taking into account probable inflation over the proposed transition period of at least four years. The intent was to avoid any later impression that this program expansion had been sold on less than full revelation of the overall cost.

Charges by the University of Washington to Alaska for educating its medical students are based on a cost study by Kasonic, Chavelle & Associates submitted in 1974. Since then, Mr. Kasonic has periodically updated the original figures to consider inflation. The full cost study has not been repeated. A copy of the original cost finding procedures, the most recent inflation update and our FY83 bill from the U of W are attached.

Costs of training second year, third year and fourth year students are developed as noted above. Resident tuition and fees paid by Alaska WAMI students to the U of W are subtracted. We are billed for the difference. Tuition and fees are set by the Washington State legislative process and hence difficult to predict.

The items designatd in your letter as "Clinical site cost (Travel)" represents the extra expense of operating obstetrics/gynecology, family medicine and psychiatry training units in Anchorage and a family medicine training unit in Ketchikan, compared to the cost of operating similar units in Seattle. If we are to increase Alaskan class size it may become highly desirable to develop a fifth clinical training site in the state. This would add $10,000 to $15,000 to our annual bill.

Finally, I have attached our most recent data on the whereabouts of WAMI graduates. After graduation from medical school, M.D.s spend three or more years in internship and residency training. There are no such training programs in Alaska. Also, some students assume military or National Health Service Corps obligations in return for scholarships in medical school. Of twenty-one Alaskans who have completed their training and service obligations, nine are practicing in Alaska. Thirty-nine are still in medical school. Thirty-three are in internships, residency training, or fulfilling federal service obligations.

Another indictor of success of the program is to recognize it as a four state network which includes medical school internships and residencies. The WAMI Program, as thus defined, has helped train about half the family physicians who have entered practice in Alaska in the past 10 years.

I appreciate your interest in this matter. Please let me know what additional information might be useful

Sincerely,

Wayne W. Myers, M.D.
Director, WAMI Program

WWM/bm
Enclosures

Selected Responses

Note supporting resolution from the State medical Society

Alaska State Legislature

CO-CHAIR
HEALTH, EDUCATION & SOCIAL SERVICES
VICE-CHAIR
COMMUNITY & REGIONAL AFFAIRS
FINANCE SUBCOMMITTEES
HEALTH & SOCIAL SERVICES
RURAL EDUCATION BUDGET OVERSIGHT
CORRECTIONS
MEMBER
RULES

Representative Mae Tisch

13 May 1

Wayne W. Myers, M.D.
Director, WAMI Program
University of Alaska, Fairbanks
Fairbanks, AK. 99701

Dear Dr. Myers:

It's nice to hear from you again. It's been a number of years since we corresponded while I was District Director of Muscular Dystrophy Association.

Regarding your request for increasing medical school positions, the House members will very shortly be acting on the State operating budget, which has already gone through the hearing process including the U of A budget.

Representative Terry Martin, Chairman of Finance Subcommittee, has received a copy of your letter from me and if there are any revisions to be made, he will be recommending them.

The WAMI program has been a great success for our students and merits our support.

Thanks again for writing. It was good to hear from you.

Sincerely,

Mae Tischer

Representative Mae Tischer
District 11

MT/sew

ALASKA STATE LEGISLATURE

INTERIM OFFICE:
P.O. BOX 81435
FAIRBANKS, ALASKA 99708

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4930/4941

Representative Mike Davis
House District 19

CHAIRMAN
1983 INTERIOR DELEGATION

MEMBER
TRANSPORTATION
HEALTH, EDUCATION AND SOCIAL SERVICES
LABOR SUBCOMMITTEE
JOINT OIL AND GAS
RURAL EDUCATION ATTENDANCE AREAS

May 4, 1983

Wayne Myers, M.D.
Director, WAMI Program
University of Alaska
Fairbanks, Alaska 99701

Dear Dr. Myers,

Thank you for your recent letter regarding the WAMI program.

I am pleased to learn that an opportunity presently exists for additional Alaskan students to enter the WAMI medical program, and I believe that this situation should be taken full advantage of.

Alaska has traditionally experience a great deal of attrition in many professional areas, including the field of medicine, and I believe that by allowing 15 students per year to enter the WAMI medical school it will be possible to achieve a greater degree of stability in this field.

You have my support for the resolution which Senator Kerttula will be introducing during this legislative session.

Sincerely,

Mike

Rep. Mike Davis

SENATOR
ARLISS STURGULEWSKI

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99503
SENATE DISTRICT F, SEAT A

Alaska State Legislature

State Capitol
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3719

Senate

M E M O R A N D U M

May 5, 1983

TO: Senator Jalmar Kerttula
President of the Senate

FROM: Senator Arliss Sturgulewski
Senate District F, Seat A

RE: WAMI Medical School Positions

I understand that serious consideration is being given by the University of Alaska to increase the number of WAMI medical school positions for Alaskan students from 10 to 15 per year. I am attaching a copy of the material I received from Wayne Myers, M.D., Director of the WAMI program. Over the past years, it has been extremely difficult for qualified Alaskans to enter this program due to the limited number of positions available. I am delighted to hear that you have agreed to sponsor a resolution supporting additional slots for the WAMI program. I would be pleased to co-sponsor your resolution.

Enclosure

cc: Dr. Wayne Myers
Dr. Jeanne Bonner

ALASKA STATE MEDICAL ASSOCIATION
4107 Laurel Street • Suite 1 • Anchorage, Alaska 99504 • (907) 562-2662

ADOPTED BY THE ALASKA STATE MEDICAL ASSOCIATION HOUSE OF DELEGATES AT ITS ANNUAL MEETING IN CORDOVA, ALASKA MAY 28, 1983

RESOLUTION NO. 83 - 20

SUBJECT: Support for WAMI Program Increase

WHEREAS, the State of Alaska supports Alaskan residents participating in the WAMI Medical Education Program; and

WHEREAS, the number of qualified applicants has increased and available positions remained the same (10 students); and

WHEREAS, other states support over three times as many state supported medical students as Alaska; and

WHEREAS, Alaska's population is increasing;

THEREFORE BE IT RESOLVED, that the ASMA support an increase in the number of WAMI students entering the program from 10 to 15.

DISTRIBUTION: Governor
Legislature
Dept. Of Health & Social Services
Pres. Local Societies
Local Legislative Chairmen
Rick Urion
AK State Hospital Assoc.
AK Medicine
Wayne Myers, Univ. of Alaska
University of Washington

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2301 HHESS SJR 26 - SJR 27

2301

Alaska State Legislature

Senate

May 3, 1983

OFFICIAL BUSINESS

CHAIRMAN
RULES COMMITTEE

JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Wayne W. Myers, M.D.
Director, WAMI Program
University of Alaska, Fairbanks
Fairbanks, Alaska 99701

Dear Dr. Myers:

Thanks for providing me with information on need for additional WAMI medical school positions for Alaskan students.

While I believe WAMI is an excellent program and I support the opportunities it provides our students with career choices they may not otherwise have, I'm afraid that the financial reality of declining state revenues is forcing the Legislature to make some pretty tough decisions. We are having to reduce and make substantial funding changes in many programs -- and it seems there is always someone there with good reasons why we shouldn't take such action. At the same time, it would be extremely difficult to justify any increases in an existing programs -- such as WAMI.

I regret I can't support your request at this time. You have my support, but unfortunately I just don't believe we can afford the additional positions at this time.

Sincerely,

Jan Faiks
Senator

JF:cf

ALASKA RESIDENT WAMI MEDICAL STUDENTS CURRENT STATUS (MARCH 84)

ENTRY YEAR	MED SCHOOL	INTERN or RESIDENT	PRACTICE		
			U.S. OUT.	ALASKA	ELSEWHERE or UNKNOWN
83	10				
82	10				
81	10				
80	9				
79	2	8			
78		8		1	
77		10			
76		1	1	2	6
75				4	6
74		1		3	
73			1		2
72				1	2
71				1	4
	41	28	2	13	20

STUDENTS AND RESIDENTS WHO HAVE SETTLED IN ALASKA SINCE 1971

Name	Student/ Resident	Practicing City	Specialty
Emmel, Alfred	R	Elmendorf AFB	FP
Freudenthal, Allen	S	Bethel	FP
Isto, Sarah	*S/R	Juneau	FP
Kruse, Donald	*S	USPHS-Bethel	FP
Marx, Bill	*S	Mt. Edgecumbe	FP
McCreight, William	R	Juneau	FP
Highswander, Thomas	R	Anchorage	FP
Olsen, Eric	S/R	Juneau	FP
Seaman, Jill	S	Bethel	FP
Spencer, John	*S	Anchorage	FP
Todd, Kathleen	R	Valdez	FP
Tooney, Kathleen	R	Kotzebue	FP
Ude, Marianne J.	*S	Kodiak	FP
Vaught, Rodney	S/R	Sitka	FP
Wilbur, Jean	*S	Fairbanks	FP
Wood, Tom	S	Petersburg	FP
Worrall, William	*S	Anchorage	FP
Barrett, David	R	Anchorage	IM
Bell, William H.	*S	Homer	IM
Bing, Kenneth	R	Anchorage	IM
Boyle, Loueen	S	Juneau	IM
Cole, William	Fac.	Juneau	IM
Garrett, David	R	Anchorage	IM
Mues, John	*S	Anchorage	IM
Kulin, Stephen D.	*S	Anchorage	Anesthes
McGuire, Jim	R	Anchorage	Psych
Poppin, John	R	Anchorage	Psych
Winslow, Dick	S	Anchorage	Psych
Brennan, Ron	S	Bethel	Peds
Briggs, James D.	*S	Fairbanks	Peds
Egan, Harwood	R	Fairbanks	Peds
Emerson, Susan	S	Anchorage	Peds/Ob
Johnson, Dave	R	Ketchikan	Peds
Schultz, Nancy	R	Fairbanks	Peds
LaMagie, Susan	*S	Wasilla	Ob/Gyn
Cox, James	R	Anchorage	Ophth
Tokar, Ronald Lee	S/R	Juneau	Ophth
Dohan, Peter	R	Anchorage	Path
Levengston, Robert	R	Anchorage	Rad
Moeller, David	R	Anchorage	Rad

* Student spent the first year of training at the University of Alaska

Jan Carline's Handout Material
Attachment "B"

Home Towns of Alaska Students Entering UWSM
1971 to 1983

Home Town	Number of Students
Anchorage	36
Chugiak	1
College	2
Dillingham	1
Fairbanks	36
Homer	1
Hoonah	1
Juneau	8
Kasilof	1
Ketchikan	2
Kodiak	2
Meyers Chuck	1
Mt. Edgecumbe	1
Ninilchik	1
Nome	2
Seward	2
Sitka	3
Sleetmute	1
Unalakleet	1
Wasilla	1
Wrangell	1

Alaska Practice Locations: Graduates of UWSM M.D. Program and Residency Programs, 1971 to Present

Practice Location	Number of Physicians
Anchorage	16
Bethel	4
Elmendorf AFB	1
Fairbanks	4
Homer	1
Juneau	5
Ketchikan	2
Kodiak	1
Kotzebue	1
Mt. Edgecumbe	1
Petersburg	1
Sitka	3
Valdez	1
Wasilla	1

SJR

27

change in penalties under the AECA would be retroactive and to allow adequate time to implement the change in pricing for training. All other sections would be effective on October 1, 1983.

S. 638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Security Cooperation Act of 1983".

MILITARY SALES AND RELATED PROGRAMS

SEC. 101. (a) In addition to amounts otherwise made available for the fiscal year 1983 for loan guaranties under section 24(a) of the Arms Export Control Act, $425,000,000 of loan principal are authorized to be so guaranteed during such fiscal year.

(b) In addition to amounts otherwise made available for the fiscal year 1983 to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, there is authorized to be appropriated $142,000,000 to carry out such provisions for such fiscal year.

ECONOMIC SUPPORT FUND

SEC. 102. In addition to amounts otherwise authorized to be appropriated for the fiscal year 1983 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, there is authorized to be appropriated $82,000,000 to carry out such provisions for such fiscal year.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 103. In addition to amounts otherwise made available for the fiscal year 1983 to carry out the provisions of chapter 3 of part I of the Foreign Assistance Act of 1961, there is authorized to be appropriated for the fiscal year 1983 $4,500,000 to carry out such provisions, for payment to the International Atomic Energy Agency.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED SPECIAL SECURITY COOPERATION ACT OF 1983

I. INTRODUCTION

The proposed Special Security Cooperation Act of 1983 contains freestanding provisions in order to authorize supplemental international security assistance to meet urgent needs for fiscal year 1983.

II. PROVISIONS OF THE BILL

Section 101. Military sales and related programs

This section authorizes an increase of $425,000,000 in the limit established in P.L. 97-377 on the total principal amount of loans for which guaranties may be issued during fiscal year 1983 under section 24(a) of the AECA.

In addition, this section authorizes an increase in appropriations of $142,000,000 above the amount made available in P.L. 97-377 for fiscal year 1983 to carry out the military assistance program. Although the President's budget for fiscal year 1984 requested a supplemental appropriation of $167,000,000 to carry out the military assistance program for fiscal year 1983, section 506(c) already provides authorization to appropriate that part of the budget request ($25,000,000) which is proposed to be used for reimbursement to the Department of Defense for defense articles, defense services and military education and training previously drawn down pursuant to section 506(a).

Section 102. Economic support fund

The President's budget for fiscal year 1984 requested a supplemental appropriation of $344,500,000 for the Economic Support Fund for fiscal year 1983. This section increases by $82,000,000 the authorization of appropriations for fiscal year 1983 for this Fund, made by P.L. 97-113. The amounts appropriated in P.L. 97-377 for this Fund for fiscal year 1983 were $62,500,000 less than the amount authorized by P.L. 97-113.

Section 103. International organizations and programs

This section authorizes an increase in appropriations of $4,500,000 above the amount made available in P.L. 97-377 for fiscal year 1983 to carry out Chapter 3 of part I of the Foreign Assistance Act of 1961, as amended. These funds will be used for payments to the International Atomic Energy Agency.

S. 639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. This Act may be cited as the "Lebanon Emergency Assistance Act of 1983".

ECONOMIC SUPPORT FUND

SEC. 2. (a) It is hereby determined that the national interests of the United States would be served by the authorization and appropriation of additional funds for economic assistance for Lebanon in order to promote the economic and political stability of that country and to support the international effort to strengthen a sovereign and independent Lebanon.

(b) Accordingly, in addition to amounts otherwise authorized to be appropriated for fiscal year 1983 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, there is authorized to be appropriated $150,000,000 to carry out such provisions.

(c) The amounts appropriated pursuant to this section are authorized to remain available until expended.

MILITARY SALES AND RELATED PROGRAMS

SEC. 3. (a) In order to support the rebuilding of the armed forces of Lebanon, the Congress finds that the national security interests of the United States would be served by the authorization and appropriation of additional funds to provide training for the Lebanese armed forces and to finance procurements by Lebanon of defense articles and defense services for its security requirements.

(b) In addition to amounts otherwise made available for the fiscal year 1983 to carry out the provisions of chapter 5 of part II of the Foreign Assistance Act of 1961, there are authorized to be appropriated for the fiscal year 1983 $1,000,000 to carry out such provisons.

(c) In addition to amounts otherwise made available for the fiscal year 1983 for loan guarantees under section 24(a) of the Arms Export Control Act, $100,000,000 of loan principal are authorized to be so guaranteed during such fiscal year.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED LEBANON EMERGENCY ASSISTANCE ACT OF 1983

I. INTRODUCTION

The proposed Lebanon Emergency Assistance Act of 1983 ("the Bill") contains freestanding provisions in order to authorize supplemental international security assistance for the fiscal year 1983 for Lebanon. The amounts which would be authorized in the Bill represent the total amounts which are proposed to be allocated to Lebanon in fiscal year 1983 from amounts made available pursuant to this Bill and Public Law 97-377 for the Economic Support Fund, the International Military Education and Training program, and the Foreign Military Sales Credit program.

II. PROVISIONS OF THE BILL

Section 1. Short title

This section provides that the Bill may be cited as the "Lebanon Emergency Assistance Act of 1983".

Section 2. Economic support fund

This section consists of three subsections, as follows:

(a) This subsection states the determination of Congress that the national interests of the United States would be served by the authorization and appropriation of additional funds for economic assistance to promote the economic and political stability of Lebanon and to support the international effort to strengthen its sovereignty and independence.

(b) This subsection authorizes the appropriation of $150,000,000 for economic support pursuant to chapter 4 of Part II of the Foreign Assistance Act, in addition to amounts otherwise authorized for that chapter by Public Law 97-133.

(c) This subsection provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 3. Military sales and related programs

This section consists of three subsections as follows:

(a) This subsection is a finding by the United States Congress, in support of the rebuilding of the armed forces of Lebanon, that the authorization and appropriation of supplemental funds for military sales and related programs would serve the national security interests of the United States. These additional funds would be used to provide training for the Lebanese armed forces and to finance procurements by Lebanon of defense articles and defense services for its security requirements.

(b) This subsection authorizes the appropriation of an additional $1,000,000 for the fiscal year 1983 for the International Military Education and Training (IMET) program. This authorization is in addition to the amounts made available for the IMET program by Public Law 97-377.

(c) This subsection authorizes an increase of $100,000,000 is the limit established in Public Law 97-377 on the total principal amount of loans for which guaranties may be issued during fiscal year 1983 under section 24(a) of the Arms Export Control Act.

By Mr. DOLE (by request):

S. 640. A bill to amend the Internal Revenue Code of 1954 to provide for the inclusion of certain employer contributions to health plans in an employee's gross income; to the Committee on Finance.

S. 641. A bill to provide for voluntary private alternative coverage for medicare beneficiaries, and for other purposes; to the Committee on Finance.

S. 642. A bill to restructure the medicare hospital insurance program; to the Committee on Finance.

S. 643. A bill to make improvements in the medicare and medicaid programs, and for other purposes; to the Committee on Finance.

HEALTH INCENTIVES REFORM LEGISLATION

• Mr. DOLE. Mr. President, I am introducing today, at the request of the administration, the major components of the health incentives reform program. There are five components of the package, one of which—the pro-

posed Medicare Prospective Payment Rates Act—was introduced on February 23, 1983.

The following four bills are those that are being introduced today: First, limitation on exclusion for employer health plan payments; second, the Medicare Voucher Act of 1983; third, the Medicare Catastrophic Hospital Cost Protection Act; and, fourth, the Health Care Financing Amendments of 1983.

NEED FOR ACTION

As many of my colleagues are aware, health care costs continue to escalate at an alarming rate, far exceeding the increase in prices overall.

This year the Federal Government will spend approximately $57 billion on the medicare program. At the same time, we expect to spend $19 billion on services for the poor under the medicaid program.

Rising health care costs are a problem that affects all of us. As the President pointed out in the letter of transmittal accompanying the health incentives reform program, increasing costs affect the elderly who are covered by medicare, and face the threat of increasing out of pocket costs. The poor continue to see medicaid coverage reduced as States and the Federal Government are forced by rising costs to make cutbacks. Workers with employment-based health insurance have received lower cash wages because of the unchecked cost increases for health benefits.

The President's package of health care program reform measures is designed to address each of these areas. The Senator from Kansas is particularly pleased to note the inclusion of the provision limiting the exclusion for employer health plan payments.

Under the proposal contained in the administration's fiscal year 1984 budget, employer contributions to accident or health plans for an employee would be included in the employee's income to the extent they exceed, first, $175 per month—$2,100 per year—if the plan covers the employee and his family, or second, $70 per month—$840 per year—if the plan covers only the employee. The provision would apply for taxable years beginning after December 31, 1983. The $175 and $70 amounts would be indexed to adjust for inflation.

Amounts included in the employee's income under the proposals would also be subject to social security taxes.

There would be a transition rule to exempt premiums paid under collective-bargaining agreements signed before January 31, 1983.

The total exclusion from employees' income for employer paid medical coverage is the second largest, statutory fringe benefit in the Tax Code. The largest is the exclusion from income of pension contributions and earnings.

The revenue loss estimate for this total exclusion from income is estimated to be $18.6 billion in fiscal year 1983 and $21.3 billion in fiscal year 1984.

The administration's proposal would reduce this revenue loss by $2.3 billion in fiscal year 1984 and $4.4 billion in fiscal year 1985. Therefore, even after a cap on the exclusion, the tax benefit for receiving part of your compensation in the form of health care would be very substantial.

Many experts believe that our present tax treatment of employer provided health benefits has been a contributing factor in the trend toward excessive coverage and escalating medical costs.

We will have to examine whether a dollar cap on the exclusion from an employee's income will change consumer behavior in a desirable way. For example, will a cap encourage copayments and more efficient health care, or will some workers, such as low-income individuals receive insufficient coverage?

Even if we decide to limit employer paid tax free medical insurance, there are still a number of questions to be resolved with respect to a so-called tax cap. These include the level at which the cap is set. For instance, should there be a national cap or one which varies in different areas of the country, thereby recognizing differing costs of care; how often should the limit be updated; and how do we prevent adverse selection—the case where all the healthy choose low option insurance and the sick, high option. Another obvious question is how to deal with self-insured plans which are increasing in number.

It is not likely that we on the Federal level would attempt to establish a minimum benefits package in conjunction with a tax cap. That is clearly the jurisdiction of the State insurance commissioners and in the lands of labor and business.

CONCLUSION

Medicare is a program which has grown at an alarming rate since its creation 17 years ago. The trust fund is rapidly approaching a period of time in which it will no longer have sufficient funds to finance program expenditures. Something must be done to prevent this potential insolvency. The President's proposals are an attempt to address this problem and others. The Senator from Kansas urges his colleagues to give these bills their serious consideration.

Mr. President, I request that a summary of each bill be included in the record following my comments.

There being no objection, the summaries were ordered to be printed in the RECORD, as follows:

S. 640—LIMITATION ON EXCLUSION FOR EMPLOYER HEALTH PLAN PAYMENTS

GENERAL EXPLANATION

Current law

All employer contributions to health insurance plans for employees are excluded from the employees' income and wages for purposes of income and employment taxes. This tax treatment generally applies to all insurance coverage, regardless of cost, and to all medical benefits, no matter how extensive. The same rule generally applies to amounts paid by an employer to or on behalf of an employee under a self-insured medical plan.

Reasons for change

Excluding employer contributions to health plans from gross income creates an inequity between individuals covered by employer health plans and those who are not so covered. The latter group must pay for their health care with after tax dollars, while the health care of the former group is provided with before tax dollars. For example, an employee with $23,000 of total compensation consisting of $20,000 of cash wages and $3,000 of health insurance coverage will pay $804 less in Federal income and Social Security taxes than one with $23,000 of cash wages.

The preferential treatment of employer paid health benefits encourages employees to receive large amounts of their compensation in that form. This has led to a significant decline in the amount of compensation subject to tax and indirectly has led to higher tax rates on cash wages.

From a health policy viewpoint, many employees have such generous insurance plans that they bear very little, if any, of the cost of doctors' visits or hospital services. They therefore tend to overuse doctor and hospital services and medical tests. The very rapid increase in health care costs in recent years can be attributed at least in part to this tax-induced incentive to demand additional health care with little or no regard to its actual costs.

Proposal

Employer contributions to a health plan would be includible in gross income to the extent that they exceed $70 per month ($840 per year) for an individual employee, or $175 per month ($2,100 per year) for family coverage.

The proposal will generally be effective January 1, 1984. However, in order to allow renegotiation of existing contracts, the proposal will not be effective with respect to employer contributions to employer health plans, the amounts of which are fixed by a legally binding contract entered into on or before January 31, 1983, until the earlier of January 31, 1986, or the first date after January 31, 1983 on which such amounts cease to be fixed by the contract.

Effects of proposal

The amount of employer contributions is determined, in the case of an insured plan, on the basis of the premiums charged for such insurance. The insurance premiums paid by the employer on behalf of employees will be divided by the number of covered employees. If the employer maintains different plans covering different groups of employees, each plan will be treated separately in determining employer costs per employee.

In the case of noninsured plans, the amount of the employer contributions will be based on the costs of providing coverage under the plan. Costs of providing coverage may be determined based on reasonable estimates of such costs.

To the extent that employer contributions exceed the $70 individual/$175 family monthly ceilings, the excess would be includible in the income of the covered employee. Even if employer health plan payments exceed the $70 individual/$175 family monthly amounts, only the excess will be included in the employee's gross income. For example, if the employer paid $185 per month for family health coverage for an

employee, $10 per month would be included in the employee's gross income. Thus, $10 would be subject to income tax and FICA and FUTA taxes (if applicable). Most current employees will pay no additional tax because these employees have insurance coverage costing less than the applicable ceiling amount.

Revenue estimate

Fiscal years:	Billions
1984	$2.1
1985	4.3
1986	6.0
1987	8.0
1988	10.7

LIMITATION ON EXCLUSION FOR EMPLOYER HEALTH PLAN PAYMENTS

TECHNICAL EXPLANATION

Summary of the proposal

Employer contributions to a health plan would be includible in gross income to the extent that they exceed $70 per month ($840 per year) for an individual employee, or $175 per month ($2100 per year) for family coverage.

Detailed description

Under the proposal, the amount of any excess employer contributions to a health plan with respect to coverage of an employee during the payroll period will be included in the employee's gross income. Employer contributions for a payroll period are excess employer contributions to the extent they exceed the monthly dollar limit for such employee, prorated to reflect the length of the payroll period. For 1984, the monthly dollar limit is $70 for an employee with individual coverage under the plan and $175 for an employee with family coverage under the plan. For years after 1984, the monthly dollar limit will be adjusted to reflect changes in the Consumer Price Index. An employee will be treated as having individual coverage unless the employee has a spouse or a dependent who is covered under the plan.

The employer contribution to a health plan with respect to an employee will be the cost of coverage of the employee under the plan reduced by the amount of the employee's contributions for such coverage. The annual cost of coverage with respect to an employee will be the aggregate annual cost of providing coverage for all employees with the same type of coverage (individual or family) under the plan as that of the employee, divided by the number of such employees. The cost of coverage with respect to an employee for a payroll period will be the annual cost of coverage prorated to reflect the length of the payroll period. Any cost of providing coverage under a plan which is allocable to workmen's compensation or to a purpose other than providing medical care is not taken into account in determining the cost of coverage under the plan.

The annual cost of providing coverage under an insured plan (or any insured part of a plan) will be determined based on the net premium charged by the insurer for such coverage. The annual cost of providing coverage under a noninsured plan (or any noninsured part of a plan) will be based on the costs incurred with respect to the plan, including administrative costs. In lieu of using actual administrative costs, an employer may treat 5 percent of the plan's incurred liability for benefit payments as the administrative costs with respect to the plan. A plan will be a noninsured plan to the extent the risk under the plan is not shifted from the employer to an unrelated third party.

The cost of coverage under the plan must be determined in advance of the payroll period and must be redetermined not less often than once every 12 months. The cost of coverage must be redetermined whenever there are significant changes in the coverage provided under the plan or in the composition of the group of covered employees. The cost of coverage is determined separately for each separate plan of the employer. Coverage of a group of employees is a separate plan if such coverage differs from the coverage of another group of employees. Where the actual cost of coverage cannot be determined in advance, reasonable estimates of the expected cost of coverage are to be used. Where the cost of coverage fluctuates each year depending on the experience of the employer under the plan, an average annual cost of coverage will be used.

If an estimate is determined not to be a reasonable estimate, the employer will be liable for the income taxes (at the maximum rate applicable to individuals) and the employment taxes (both the employer's and the employee's share) that would have been imposed on the additional amount that would have been included in the income of employees as excess employer contributions if the actual cost of coverage had been used to determine the amount of excess employer contributions.

In the case of multiemployer plans to which an employer makes contributions, the multiemployer plan is to be treated as the employer for purposes of determining the cost of coverage and the liability for errors in estimates of the cost of coverage. Each employee's excess employer contributions will be determined based on this cost of coverage. However, for purposes of the employer's obligations to withhold from wages and to pay employment taxes, the amount of excess employer contributions will be considered to be a portion of each contribution made by the employer to the plan. The portion of each contribution to be treated as an excess employer contribution will be based on the ratio of the plan's excess employer contributions per employee per month to the total monthly employer contribution per employee.

Effective date

In general, the proposal would apply to employer contributions made with respect to payroll periods beginning after December 31, 1983. However, the proposal will not apply to employer contributions to employer health plans, the amounts of which are fixed by a legally binding contract entered into on or before January 31, 1983, until the earlier of January 31, 1986, or the first date after January 31, 1983 on which such amounts cease to be fixed by the contract.

S. 641—SUMMARY OF PROPOSED MEDICARE VOUCHER ACT OF 1983

Section 1 would assign the draft bill the short title "Medicare Voucher Act of 1983".

Section 2 would permit the Secretary to contract with health benefits organizations (HBOs) (a broad range of health insurers and health services providers, including health maintenance organizations (HMOs) and competitive medical plans (CMPs)) to provide private alternative coverage for Medicare beneficiaries (other than individuals suffering from end-stage renal disease, or who are working and are 65 years of age or older but under 70) who chose to participate in such a private plan. Section 2 would also enact additional amendments to current provisions of law concerned with Medicare contracts with such organizations to—

Establish a single, coordinated open enrollment period during August and September of each year (but only for that number of new enrollees, in order of applications filed, previously specified by an HBO); and to enable the Secretary, to the extent feasible, to provide for individuals who move from the area served by one HBO to an area served by another (similar to the system used by the health benefits program for Federal employees);

Preclude new enrollments for individuals receiving only Supplementary Medical Insurance (SMI) benefits;

Preclude new cost-based contracts;

Permit HBOs to offer separate benefit packages for employer-based groups;

Permit HBOs to offer one or more benefit packages as long as each package covered at least those services for which Medicare pays and covered inpatient hospital services for every day of hospitalization, which benefit levels, coinsurance, and deductibles to be set by the HBO;

Eliminate current requirements as to premium levels and benefits, and require only that the average cost-sharing for the portion of benefits for which Medicare pays not exceed the average cost-sharing (including amounts above the Medicare reasonable charge) under Medicare;

Permit HBOs to provide annual rebates of up to $500 (instead of charging premiums), not consider those rebates as income for purposes of Medicaid, Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, Low-Income Home Energy Assistance, or low-income housing programs, and treat those rebates as Social Security benefits for purposes of the Federal income tax laws; and

Preempt provisions of State or local law requiring benefits more extensive that those under section 2.

Section 3 would enact conforming amendments that would—

Repeal the requirement for the Secretary to conduct a study of additional benefits that are required under existing law (but not under the provisions of section 2); and

Require payments to HBOs under section 2 to take into account services furnished by physician assistants or nurse practitioners if Medicare would pay for those services when furnished by a physician.

Section 4 would make the provisions of section 2 applicable to services furnished after 1984. Section 4 would also—

Retain the transitional provisions enacted in 1982 when Congress amended the provisions of law providing for payments to HMOs;

Permit any enrollee of an HMO or CMP at the end of 1984 not already covered by those earlier transition provisions to continue his enrollment under the provisions of law then current if either the HMO or CMP had a cost-based contract with the Secretary or if the enrollee was enrolled for Medicare SMI (but not Hospital Insurance (HI) benefits), unless the Secretary found that the new provisions should apply to all members of an HMO or CMP because of administrative costs or other administrative burdens; and

Apply the provisions of section 2 to enrollees who also receive benefits under Medicaid only after the Secretary finds that it is administratively feasible.

S. 642—SUMMARY OF PROPOSED MEDICARE CATASTROPHIC HOSPITAL COST PROTECTION ACT

Section 1 would assign the draft bill the short title "Medicare Catastrophic Hospital Cost Protection Act".

Section 2 would restructure benefits under the Medicare Hospital Insurance program. Under current law, Medicare covers only the first 90 days of a hospitalization during any spell of illness, plus a lifetime reserve of 60 additional days. An inpatient hospital de-

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811



January 25, 1984

Memorandum

TO: REPRESENTATIVE MAE TISCHER
Chair - House HESS

FROM: Max Gifford
Administrative Assistant
Senator John Sackett

Subj: SJR 27 (Sackett) Health Cost Containment Act

The matter of the proposed Health Cost Containment Act pending before the U.S. Congress was brought to Senator Sackett's attention late last session. It was pointed out that while the federal legislation was an effort to hold the line on health care costs in the United States, what was being proposed would result in roughly $500 to $600 per year in taxable employer health benefit contributions for about 13,000 state employees in Alaska. The employer contributions would, in part, be seen as part of the employees gross income and subsequently t[illegible]d accordingly. Of particular note for Alaskans was that the dollar limitations were based on lower 48 standards thus resulting in higher federal tax withholding for Alaskans. Of significance, too, was the claim by the proponents that their legislation would reduce health costs. No evidence was offered that such would be the case in Alaska.

As a result, Senator Sackett introduced SJR-27, opposing the Health Cost Containment Tax Act, June 3, 1983. The resolution passed the Senate, June 26, 1983, but clearly did not reach the House of Representatives in time to be acted upon.

Since that time, I have learned that most experts feel the Health Cost Containment Act will not pass the current session of Congress. I am told, but without letters of substance, that the legislative package received less than enthusiastic reception from Members in the U.S. Senate and that the Administration has also dropped the matter.

I understand that other states have voiced their opposition to the Cost Containment Act. Senator Sackett agrees that it would not hurt to add Alaska's objections to the proposal and would welcome favorable action on SJR-27, by the State House of Representatives.

Should you have more questions please do not hesitate to contact Senator Sackett's office at 465-3753. I will do my best to find any information you might need.

SJR 26 (27)

98TH CONGRESS
1ST SESSION

S. 640

To amend the Internal Revenue Code of 1954 to provide for the inclusion of certain employer contributions to health plans in an employee's gross income.

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 28), 1983

Mr. DOLE (by request) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1954 to provide for the inclusion of certain employer contributions to health plans in an employee's gross income,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Cost Containment Tax Act of 1983".

SEC. 2. CERTAIN EMPLOYER HEALTH PLAN CONTRIBUTIONS INCLUDED IN INCOME.

(a) INCLUSION IN INCOME.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in

gross income) is amended by adding at the end thereof the following new section:

"SEC. 87. EXCESS EMPLOYER CONTRIBUTIONS TO HEALTH PLANS.

"(a) GENERAL RULE.—

"(1) INCLUSION IN INCOME.—If an employee is covered by an employer health plan at any time during a payroll period and there is an excess employer contribution to such plan with respect to coverage of the employee during such payroll period, then an amount equal to such excess employer contribution shall be included in the gross income of the employee for such payroll period.

"(2) TREATMENT OF AMOUNT INCLUDED.—For purposes of this title, any amount included under paragraph (1) in an employee's gross income for a payroll period shall be treated as compensation paid to the employee in cash on the earliest date on which any other compensation for such payroll period is paid to the employee or included in the employee's gross income.

"(b) EXCESS EMPLOYER CONTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess employer contribution' means, with respect to coverage of an employee during a payroll period, the excess of—

"(A) the employer contributions made by a single employer to one or more plans with respect to coverage of the employee during the payroll period, over

"(B) the applicable monthly dollar limit for coverage of such employee multiplied by a fraction, the numerator of which is 12 and the denominator of which is the number of payroll periods in a calendar year.

"(2) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—If an employer makes contributions with respect to an employee for a payroll period to a health plan which is, or is part of, a multiemployer plan, then solely for purposes of the employer's obligations under subtitle C, the excess employer contribution shall be considered to be an amount equal to the employer's actual contributions to the plan multiplied by a fraction, the numerator of which is the excess employer contributions, determined as provided in paragraph (1), for 1 month with respect to coverage of all employees under the plan, and the denominator of which is the total monthly employer contributions, determined as provided in subsection (d), for 1 month with respect to coverage of all employees under the plan. For purposes of this paragraph only, the excess employer contribu-

tions under the plan may be determined on the basis of a single cost of coverage for both individual and family coverage (as provided in subsection (c)(1)) and a single monthly dollar limit (as provided in subsection (c)(3)).

"(c) MONTHLY DOLLAR LIMITS.—

"(1) MONTHLY DOLLAR LIMITS FOR 1984.—The applicable monthly dollar limit for coverage of an employee during any payroll period beginning in calendar year 1984 shall be—

"(A) $70 for coverage of an individual employee, or

"(B) $175 for coverage of an employee and one or more members of the employee's family.

"(2) MONTHLY DOLLAR LIMITS FOR YEARS AFTER 1984.—The monthly dollar limits for coverage of an employee during any payroll period beginning in a calendar year after 1984 shall be the monthly dollar limit provided in paragraph (1) multiplied by a fraction, the numerator of which is the Consumer Price Index for the 12-month period ended June 30 of the calendar year immediately preceding the calendar year in which the payroll period begins, and the denominator of which is the Consumer Price Index for the 12-month period ended June 30, 1983. Each monthly dollar limit so determined shall be rounded to the nearest whole

dollar. For purposes of this paragraph, the Consumer Price Index for a 12-month period shall mean the average of the Consumer Price Indexes for All Urban Consumers published by the Department of Labor for each month in the 12-month period.

"(3) SINGLE MONTHLY DOLLAR LIMIT.—In the case of a health plan which is, or is part of, a multiemployer plan, the multiemployer plan may apply a single dollar limit to coverage of all employees under the plan for purposes of applying the special rule in subsection (b)(3). The single monthly dollar limit shall be a weighted average determined, in the manner prescribed by the Secretary in regulations, based on the applicable monthly dollar limits provided in paragraph (1) or (2) and the percentage of employees having each type of coverage.

"(d) EMPLOYER CONTRIBUTIONS.—The employer contributions to any health plan with respect to coverage of an employee for a payroll period shall be the cost of coverage of the employee for such payroll period reduced by any contributions made by the employee for such coverage.

"(e) COST OF COVERAGE.—

"(1) COST PER EMPLOYEE.—The cost of coverage shall be determined separately for individual coverage and family coverage under each plan of the em-

ployer, except that for purposes of applying the special rule in subsection (b)(2), a single cost of coverage may be determined for individual and family coverage. Such single cost of coverage shall be a weighted average determined, in the manner prescribed by the Secretary in regulations, based on the cost of coverage for each type of coverage separately and the percentage of employees having each type of coverage. The annual cost of coverage of an employee shall be determined by dividing the aggregate annual cost of providing coverage for all employees who are covered under the plan and who have the same type of coverage (individual or family) as the employee, by the number of such employees. In making such determination, accounts shall be taken into account with respect to any employee only for periods during which such employee is covered by the plan. The cost of coverage of an employee for a payroll period shall be the annual cost of coverage for the employee multiplied by a fraction, the numerator of which is 1 and the denominator of which is the number of payroll periods in a calendar year.

"(2) TIME FOR DETERMINING COST OF COVERAGE.—The cost of coverage under a plan for a payroll period shall be determined prior to the beginning of the payroll period and shall be redetermined not less often

than once every 12 months. The cost of coverage shall be redetermined whenever there are significant changes in coverage or in the composition of the group of employees covered.

"(8) DETERMINATION OF COST OF COVERAGE.—The annual cost of providing coverage under a plan shall be based on the cost to the employer of insurance for any insured coverage under the plan, plus all costs incurred with respect to noninsured coverage under the plan. Where the cost to the employer of insurance reflects the employer's prior experience under the plan, an average cost of such insurance, based on premiums for the three immediately preceding years (adjusted to reflect changes in the cost of health insurance), may be used. The cost of providing noninsured coverage shall equal the liability incurred for benefit payments under the plan plus all other costs, including administrative costs, incurred with respect to the plan. In lieu of determining the actual amount of other costs (costs other than the liability incurred for benefit payments), an employer may treat an amount equal to 7 percent of the liability incurred for benefit payments as equal to such other costs. In the case of a health plan that is, or is part of, a multiemployer plan, the cost of coverage

under the plan shall be determined as if the multiemployer plan were the employer.

"(4) ESTIMATION OF COSTS.—Where the actual cost of providing coverage cannot be determined in advance, the cost of coverage shall be based on a reasonable estimate that takes into account such factors as the Secretary may prescribe in regulations.

"(5) ESTIMATE NOT REASONABLE.—If the cost of coverage under a plan for any payroll period is determined on the basis of estimates, and such estimates are determined not to be reasonable, then the employer or, in the case of a plan which is, or is part of, a multiemployer plan, the multiemployer plan shall be liable for the taxes that would have been imposed under this title with respect to all employees on the amount by which the excess employer contribution for each employee, determined on the basis of the actual cost of coverage, exceeds the amount of such excess employer contribution, determined on the basis of the estimated cost of coverage, if such excess amount had been included, for the calendar year in which the payroll period begins, in the taxable income of each employee and—

"(A) each employee was subject to the maximum rate of tax imposed on individuals under section 1,

"(B) the remuneration of each employee for employment (including such excess) for the calendar year did not exceed the contribution and benefit base amount for such year (as determined under section 230 of the Social Security Act), and

"(C) the remuneration of each employee for employment (excluding such excess) for the calendar year exceeded $6,000.

"(6) AMOUNTS NOT FOR MEDICAL CARE.—Any cost of providing coverage under a plan which is properly allocable to—

"(A) workmen's compensation, or

"(B) a purpose other than the providing of medical care,

shall not be taken into account in determining the cost of coverage for purposes of this section.

"(f) INDIVIDUAL COVERAGE.—In any case where an employee has coverage other than individual coverage, and the employee has no spouse or dependent who is actually covered by reason of the employee's coverage, then the employee must notify the employer (or the multiemployer plan in the case of a plan which is, or is part of, a multiemployer

plan) of such fact. Such an employee shall be treated for all purposes under this section as having individual coverage.

"(g) INFORMATION REPORTS BY MULTIEMPLOYER PLANS.—Each multiemployer plan which includes an employer health plan with respect to which there are excess employer contributions for a calendar year must, prior to February 1 of the succeeding calendar year, provide an information report to each employee with respect to whom contributions to the plan were made during the calendar year. Such information report shall include the following:

"(1) The amount of the excess employer contributions with respect to the employee for such calendar year, and

"(2) The amount of employer contributions to the plan that were treated by employers under section 87(b)(2) as excess employer contributions included in the gross income of the employee.

"(h) LIABILITY FOR OVERESTIMATES.—No employer or multiemployer plan shall be subject to any liability by reason of a determination that the cost of coverage determined by the employer or the multiemployer plan exceeded the actual cost of coverage.

"(i) DEFINITIONS.—For purposes of this section—

"(1) EMPLOYER HEALTH PLAN.—The term 'employer health plan' means an arrangement to which the

employer makes contributions to provide (directly or through insurance, reimbursement, or otherwise) medical care for employees and their families in the event of personal injury or sickness. The term 'employer health plan' does not include any arrangement for the provision of medical care for individuals in active service in the Armed Forces of the United States or for the families of such individuals.

"(2) SEPARATE PLANS.—

"(A) DIFFERENT COVERAGE FOR SEPARATE GROUPS.—If a group of one or more employees receives coverage which differs from the coverage received by a second group of one or more employees, each such group shall be treated as covered by a separate plan. Individuals whose primary health insurance coverage is coverage under title XVIII of the Social Security Act shall be treated as receiving different coverage from individuals whose primary health insurance coverage is other than coverage under title XVIII of the Social Security Act.

"(B) EMPLOYER DETERMINATION.—The determination of whether two groups of one or more employees receiving identical coverage shall each be treated as covered by a separate plan shall be

made by the employer except as otherwise prescribed by the Secretary in regulations.

"(3) EMPLOYEE.—The term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(4) FAMILY.—The term 'family' means, with respect to an employee, the employee's spouse and any dependents of the employee.

"(5) MEDICAL CARE.—The term 'medical care' has the meaning given such term by paragraph (1) of section 213(e).

"(6) NONINSURED COVERAGE.—The term 'noninsured coverage' means any coverage, the risk of which is not shifted from the employer to an unrelated third party. All other coverage is insured coverage.

"(7) MULTIEMPLOYER PLAN.—The term 'multiemployer plan' means an employee welfare benefit plan (within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974)—

"(A) to which more than one employer is required to contribute, and

"(B) which is maintained pursuant to one or more collective bargaining agreements between

one or more employee organizations and more than one employer."

"(8) PAYROLL PERIOD.—The term 'payroll period' has the meaning provided such term in section 3401(b).

"(9) SINGLE EMPLOYER.—The term 'single employer' shall mean a single employer determined under rules similar to the rules provided by subsections (b), (c), and (m) of section 414.".

(2) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following:

"Sec. 87. Excess employer contributions to health plans.".

(b) EXCLUSION FROM INCOME.—Section 106 is amended by striking the word "Gross" at the beginning thereof and inserting in lieu thereof the words "Except as provided in section 87 with respect to excess employer contributions, gross".

(c) EMPLOYMENT TAX AMENDMENTS.—

(1) FEDERAL INSURANCE CONTRIBUTIONS ACT AMENDMENTS.—Section 3102 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR EXCESS EMPLOYER CONTRIBUTIONS.—

"(1) In the case of excess employer contributions (within the meaning of section 87(b)) which constitute

wages, subsection (a) shall be applicable only to the extent that collection can be made by the employer, at or after the date on which such excess employer contributions are treated as paid to the employee under section 87(a)(2) and before the close of the 30th day following such date, by deducting the amount of the tax from such wages of the employer (excluding excess employer contributions, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

"(2) If the tax imposed by section 3101, with respect to excess employer contributions (within the meaning of section 87(b)), exceeds the wages of the employee (excluding excess employer contributions) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer, on or before the 30th day following the date on which the excess employer contributions are treated as paid to the employee under section 87(a)(2), an amount of money equal to such excess.

"(3) If the tax imposed by section 3101 with respect to excess employer contributions which constitute wages exceeds the portion of such tax which can be collected by the employer from the wages of the em-

ployee pursuant to paragraph (1), such excess shall be paid by the employee.".

(2) RAILROAD RETIREMENT TAX ACT AMENDMENTS.—Section 3202 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULES FOR EXCESS EMPLOYER CONTRIBUTIONS.—

"(1) In the case of excess employer contributions (within the meaning of section 87(b)) which constitute wages, subsection (a) shall be applicable only to the extent that collection can be made by the employer, at or after the date on which such excess employer contributions are treated as paid to the employee under section 87(a)(2) and before the close of the 30th day following such date, by deducting the amount of the tax from such wages of the employee (excluding excess employer contributions, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

"(2) If the tax imposed by section 3201, with respect to excess employer contributions (within the meaning of section 87(b)), exceeds the wages of the employee (excluding excess employer contributions) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the

employer, on or before the 30th day following the date on which the excess employer contributions are treated as paid to the employee under section 87(a)(2), an amount of money equal to such excess.

"(3) If the tax imposed by section 3201, with respect to excess employer contributions which constitute wages exceeds the portion of such tax which can be collected by the employer from the wages of the employee pursuant to paragraph (1), such excess shall be paid by the employee.".

(3) COLLECTION OF INCOME TAX AT SOURCE AMENDMENTS.—Section 3402 is amended by adding at the end thereof the following new subsection:

"(s) EXCESS EMPLOYER CONTRIBUTIONS.—In the case of excess employer contributions (within the meaning of section 87(b)) which constitute wages, subsection (a) shall be applicable only to the extent that the tax can be deducted and withheld by the employer, at or after the date on which such excess employer contributions are treated as paid to the employee under section 87(a)(2) and before the close of the calendar year in which such date occurs, from such wages of the employee (excluding excess employer contributions, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the employer. Such tax shall not at any

time be deducted and withheld in an amount which exceeds the aggregate of such wages and funds (including funds turned over under section 3102(d)(2) or section 3202(d)(2)) minus any tax required by section 3102(a) or section 3202(a) to be collected from such wages and funds.".

(4) GENERAL RULE.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3508. TREATMENT OF EXCESS EMPLOYER CONTRIBUTIONS.

"(a) For purposes of this subtitle, any amount required to be included in the gross income of an employee under section 87(c) shall not be treated as a payment under a plan or system established by the employer on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability.

"(b) In the case of an employer who makes contributions to a health plan that is, or is part of, a multiemployer plan, then the amount of the excess employer contribution for purposes of the employer's liabilities and obligations under sections 3102, 3111, 3202, 3221, 3301, and 3401 shall be the amount determined under section 87(b)(2).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3508. Treatment of excess employer contributions.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to payroll periods beginning after December 31, 1983, in taxable years ending after such date.

(2) EMPLOYMENT TAXES.—The amendments made by subsection (c) shall take effect January 1, 1984.

(3) LEGALLY BINDING CONTRACTS.—The amendments made by this section shall not apply with respect to employer contributions to an employer health plan, the amounts of which are fixed by the terms of a legally binding contract in effect on January 31, 1983, prior to the earlier of January 31, 1986, or the first date on which the amounts of such employer contributions cease to be fixed by the terms of such a contract. For purposes of this paragraph the amounts of employer contributions cease to be fixed by the terms of a contract on the earliest of the date the contract terminates, the date the contract is extended, the date the contract is reopened or renegotiated, the date any

terms of the contract are altered, amended, or otherwise changed, or the date any party to the contract has a right to terminate either the entire contract or that portion of the contract relating to the employer health plan.

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